

CALIFORNIA COASTAL COMMISSION

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Filed: 5/1/02
49th Day: 6/19/02
Open & Cont. 6/11/02
Staff: AM-LB AM
Staff Report: 7/25/02
Hearing Date: August 6, 2002
Commission Action:

**RECORD PACKET COPY****Tu 14c****STAFF REPORT: APPEAL/SUBSTANTIAL ISSUE**

LOCAL GOVERNMENT: City of Los Angeles

LOCAL DECISION: Approval with Conditions

APPEAL NUMBER: A-5-PPL-02-162

APPLICANT: Bel Air Bay Club, Ltd.

AGENT: The McGregor Co. – William McGregor/Charles F. Cowley
McCabe Company – Susan McCabe
Latham and Watkins – Dale Neal/Rick Zbur
P.C.R. Services Corporation – Luci Hise/Margaret Shekell

PROJECT LOCATION: 16800 Pacific Coast Highway, Pacific Palisades,
City of Los Angeles.

PROJECT DESCRIPTION: Appeal of City of Los Angeles approval of coastal development permit for the demolition of 30,701 square feet of the existing 51,120 square foot Lower Bel Air Bay Club Facility, construction of 40,709 square feet resulting in a 61,128 square foot Lower Club Facility, a new sea wall, and a realignment of the PCH/Bay Club Drive interchange. The proposed project is located seaward of Pacific Coast Highway adjacent to and on the sandy beach.

APPELLANTS: Martin J. Murphy;
Harold Tuchyner and Robert Locker, representing
Pacific Palisades Residents Association;
Coastal Commission Executive Director, Peter Douglas

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission, after public hearing, determine that **a substantial issue exists** with respect to the proposed project's conformance with the Chapter 3 policies of the Coastal Act for the following reasons:

The local coastal development permit does not adequately analyze and mitigate the potential impacts that the construction of the proposed project may have on coastal access and recreation, scenic public views, and the character of the surrounding area. The local coastal development permit also does not adequately analyze the potential impacts of developing in an area subject to flooding and erosion from wave impact and storm events and the effects of a seaward encroachment of a new seawall on sand processes and beach erosion.

The motion to carry out the staff recommendation is **on Page Eight**.

SUBSTANTIVE FILE DOCUMENTS:

1. City of Los Angeles Local Coastal Development Permit No. 2000-0648 (CDP)
2. City of Los Angeles Planning Department, Administrative Record for 2000-0648 (CDP)
3. Coastal Development Permit Application 5-02-099 (Bel Air Bay Club)
4. Coastal Development Permit No. 5-92-108 (Bel Air Bay Club) as amended

I. APPELLANTS' CONTENTIONS

City of Los Angeles Local Coastal Development Permit No. 2000-0648 (CDP) approved by the West Los Angeles Area Planning Commission on December 19, 2001, has been appealed by the Martin J. Murphy, Harold J. Tuchyner and Robert Locker of the Pacific Palisades Residents Association, and Coastal Commission Executive Director, Peter Douglas

As summarized below, the grounds for the appeal by the Martin J. Murphy (see Exhibit #4) are:

- The local coastal development permit approved development that will block views from Pacific Coast Highway to the beach and ocean.
- The cabañas at the Malibu (west) end of the "Club" lack required Coastal Commission approval.
- These cabañas impede access to the sea.

As summarized below, the grounds for the appeal by Harold Tuchyner and Robert Locker, representing the Pacific Palisades Residents Association (see Exhibit #5), are:

1. The West Los Angeles Area Planning Commission did not adequately address the existing, non-conforming conditions on the project site.
 - The "Club" has erected a chain link fence approximately 140 feet onto the public property (east side) with private property signs. The appellants further contend

that large palm frond beach umbrellas, volleyball courts, and trash cans have been placed on the public beach with "Bel Air Bay Club" displayed on them. The appellants also state that the "Club" stores boats, tractors, a lifeguard station, and other equipment near the chain link fence on public property.

- The appellants note that the West Los Angeles Planning Commission (WLAAPC) conditioned the project to place a fence around the private property so the public would know where the public beach is located. The WLAAPC did not take an action to eliminate the existing public encroachments
 - Public access is limited at the west end of the "Club" by a concrete wall, fence, and a rock berm. This requires pedestrian traffic to walk along PCH, which is dangerous due to the narrow shoulder.
 - The WLAAPC approved project would allow further encroachments onto the sandy beach, reducing the width of the public lateral passageway.
 - The fence and vegetation along PCH block public views from PCH and other public streets to the ocean. Even though the WLAAPC required, as a condition of their approval, the vegetation be maintained at 6 feet, the appellants state that views from PCH to the ocean and beach are blocked.
 - Lights that are used in the "Club" parking lot are not adequately shielded and illuminate many of the surrounding homes, creating glare that is a public nuisance.
2. The appellants further contend that, as approved by the West Los Angeles Area Planning Commission, the project would be non-conforming with the Coastal Act.
- Contrary to the WLAAPC, the project would be detrimental to the character of the neighborhood. It is the only private facility with in Will Rogers State Beach. The project would increase from a single-story complex to a two-story (with a three story tower) complex.
 - The WLAAPC did not consider the fact that the proposed 18 to 37-foot structure would permanently block public scenic views from PCH if the fence along PCH were returned to a transparent design.
 - The WLAAPC did not consider further encroachment toward the public beach. This would detract from the public's enjoyment of the beach, keeping the public from using the public beach directly in front of the "Club".
 - The 37-foot high tower structure is not necessary for a stairway to the second floor and inconsistent with the character of this beach area.

- The location at which the heights were measured from is vague. The WLAAPC accepted that all heights would be measured from grade, which in this case is the sand. Sand is a variable and unreliable datum source. The City did not request additional specific inputs from the Bel Air Bay Club to better define this.
- A significant portion of the proposed seawall would be located in a new location on the sand, closer to the ocean. There is uncertainty as to the long-term effect of the proposed seawall on the beach.
- The increased use of the "Club" will result in more "Club" related pedestrian and vehicular traffic crossing, entering, and leaving the intersection of PCH and Bel Air Bay Club Drive.

As summarized below, the grounds for the appeal by the Executive Director (see Exhibit #6) are:

- The local coastal development permit does not adequately analyze and mitigate the potential impacts of the proposed project as it relates to public access and recreation (Section 30210, 30211, 30213, and 30220 of the Coastal Act). The proposed project extends seaward the existing structure's location on the sandy beach and would require further protective devices, which may impact public access along the beach and public use of the beach.
- The local coastal development permit does not adequately analyze and mitigate the potential impacts of the proposed project in allowing development seaward of the existing structure in an area that is regularly inundated with wave run-up from winter storm surf (Section 30253 of the Coastal Act).
- The proposed project is located seaward of the first public road (PCH), on a sandy beach, and adjacent to Will Rogers State Beach. The proposed project includes adding a second story above existing one-story cabanas, raising the parking lot elevation, and constructing a 30-foot high (with a 37-foot high tower element) addition to the existing club facility. The proposed development, adjacent to a State Beach, is highly visible and would impact public views, the visual quality of the coastal area, and would not be sited and designed to prevent impacts on views from a public park and recreation area or from PCH to the beach and ocean.

II. LOCAL GOVERNMENT ACTION

The development approved by the City of Los Angeles Local Coastal Development Permit No. 2000-0648 (CDP) is for the demolition of 30,701 square feet of the existing 51,120 square foot Lower Bel Air Bay Club Facility, construction of 40,709 square feet of new floor area resulting in a 61,128 square foot Lower Club Facility, a new sea wall extending seaward of the existing location, and a realignment of the PCH/Bay Club Drive interchange

(Exhibit #7). The proposed project is located seaward of Pacific Coast Highway adjacent to and on the sandy beach.

The City of Los Angeles Planning Department, Office of Zoning Administration held public hearings for the proposed project and Local Coastal Development Permit No. 2000-0648 on May 24 and July 16, 2001. On September 24, 2001, the Zoning Administrator issued a determination of approval for Local Coastal Development Permit 2000-0648 with special conditions.

On October 9, 2002, Robert Locker and Martin J. Murphy filed appeals of the Zoning Administrator's approval of Local Coastal Development Permit ZA-2000-0648 to the West Los Angeles Area Planning Commission. On December 5 and 19, 2001 and January 16, 2002, the West Los Angeles Area Planning Commission denied both appeals, sustained the Zoning Administrator's action, and granted Local Coastal Development Permit ZA-2000-0648 with modified conditions (Exhibit #7).

On April 30, 2002, a valid Notice of Final Local Action for Local Coastal Development Permit No. ZA-2000-0648 was received in the Commission's South Coast District office in Long Beach, and the Commission's required twenty working-day appeal period commenced.

Appeals were filed on May 1, 2002, by Martin J. Murphy, May 14, 2002, by Harold Tuchyner and Robert Locker, representing the Pacific Palisades Residents Association, and May 29, 2002, by the Executive Director of the Coastal Commission. The Commission's required twenty working-day appeal period closed on May 29, 2002.

The Commission opened and continued the public hearing for the appeal of Local Coastal Development Permit No. ZA-2000-0648 at its June 11, 2002 meeting in Long Beach.

Because the proposed project is located in the City and Commission's "Dual Permit Jurisdiction" area (see Section IV on Page #7), the applicant has submitted a separate coastal development permit application to the Commission for the proposed development (Coastal Development Permit Application 5-02-099). Coastal Development Permit Application 5-02-099 is currently incomplete pending the submittal of additional material requested by the Commission's South Coast District office.

If possible, the public hearings and actions for both the de novo portion of this appeal (if the Commission finds that a substantial issue exists) and Coastal Development Permit Application 5-02-099 will be combined and scheduled for concurrent action at the same future Commission meeting in Southern California.

III. APPEAL PROCEDURES

Section 30600(b) of the Coastal Act provides that prior to certification of its Local Coastal Program (LCP), a local jurisdiction may, with respect to development within its area of

jurisdiction in the coastal zone and consistent with the provisions of Sections 30604, 30620 and 30620.5, establish procedures for the filing, processing, review, modification, approval or denial of a coastal development permit. Pursuant to this provision, the City of Los Angeles developed a permit program in 1978 to exercise its option to issue local coastal development permits.

Sections 13302-13319 of Title 14 of the California Code of Regulations provide procedures for issuance and appeals of locally issued coastal development permits. Section 30602 of the Coastal Act allows *any* action taken by a local government on a coastal development permit application to be appealed to the Commission. Pursuant to Section 30604(a) of the Coastal Act, the standard of review for such an appeal is the Chapter 3 policies of the Coastal Act.

After a final local action on a coastal development permit, the Coastal Commission must be noticed within five days of the decision (Section 30620.5(c) of the Coastal Act). After receipt of such a notice that contains all the required information, a twenty working-day appeal period begins during which any person, including the applicant, the Executive Director, or any two members of the Commission, may appeal the local decision to the Coastal Commission (Section 30602 of the Coastal Act).

The appeal and local action are then analyzed to determine if a substantial issue exists as to the conformity of the project to Chapter 3 of the Coastal Act [Section 30625(b)(1)]. If the Commission finds that the appeal raises a substantial issue, the Commission then holds a public hearing in which it reviews the coastal development permit as a de novo matter.

In this case, a valid Notice of Final Local Action was received on April 30, 2002. The appeals were filed on May 1, 14, and 29, 2002. Section 30621 of the Coastal Act states that the appeal hearing must be scheduled within 49 days of the receipt of a valid appeal unless the applicant waives the 49-day requirement. In this case, the Commission opened and continued the public hearing on the appeal on June 11, 2002 (within 41 days after the receipt of the first appeal), at its meeting in Long Beach.

At this point, the Commission may decide that the appellants' contentions raise no substantial issue as to conformity with the Coastal Act, in which case the action of the local government stands, or the Commission may find that a substantial issue exists with respect to the conformity of the action of the local government with the Coastal Act if it finds that the appeal raises a significant question regarding consistency with the Chapter 3 policies of the Coastal Act. If the Commission finds that a substantial issue exists, then the hearing will be continued as a de novo permit request. Section 13321 of the Coastal Commission regulations specifies that de novo actions will be heard according to the procedures outlined in Section 13114 and 13057-13096 of Title 14 of the California Code of Regulations.

IV. DUAL PERMIT JURISDICTION

Section 30601 of the Coastal Act states:

Prior to certification of the Local Coastal Program and, where applicable, in addition to a permit from local government pursuant to subdivision (b) or (d) of Section 30600, a coastal development permit shall be obtained from the Commission for any of the following:

- (1) Developments between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.*
- (2) Development not included within paragraph (1) located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream or within 300 feet of the top of the seaward face of any coastal bluff.*
- (3) Any development which constitutes a major public works project or a major energy facility.*

Within the areas specified in Section 30601, which is known in the City of Los Angeles permit program as the *Dual Permit Jurisdiction* area, the Coastal Act requires that any development that receives a local coastal development permit also obtain a "dual" coastal development permit from the Coastal Commission. For projects located inland of the areas identified in Section 30601 (*Single Permit Jurisdiction*), the City of Los Angeles' local coastal development permit is the only coastal development permit required.

The proposed development is located seaward of Pacific Coast Highway (the first public road inland of the beach), on the beach, and adjacent to Will Rogers State Beach. This area is located within the coastal zone area of the City of Los Angeles that has been designated in the City's permit program as the "*Dual Permit Jurisdiction*" area pursuant to Section 13307 of Title 14 of the California Code of Regulations.

The Commission's standard of review for the proposed development in the *Dual Permit Jurisdiction* area of Los Angeles is the Chapter 3 policies of the Coastal Act. The City of Los Angeles does not have a certified Land Use Plan for the Pacific Palisades.

In regards to this appeal, if the Commission finds that a substantial issue exists with respect to the City's approval of the Local Coastal Development Permit No. ZA-2000-0648, the subsequent *de novo* action on the local coastal development permit will be combined with the required "dual" Coastal Commission coastal development permit application (Coastal Development Permit Application 5-02-099). The Commissions' *de novo* review of the appeal of this local permit and Coastal Development Permit application 5-02-099 will ensure that the proposed project will protect public access and recreation, coastal views, and community character as required by the Coastal Act.

If the Commission finds that no substantial issue exists in regards to the City's approval of the local coastal development permit, then the local coastal development permit approved

by the City will be final, and the Commission will act on the required "dual" Coastal Commission coastal development permit application as a separate agenda item at a later Commission hearing (Coastal Development Permit Application 5-02-099).

V. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that a substantial issue exists with respect to whether the approval of the project is consistent with the provisions of Chapter 3 of the Coastal Act (commencing with Section 30200), pursuant to Public Resources Code Section 30625(b)(1).

Staff recommends a **NO** vote on the following motion:

MOTION

*"I move that the Commission determine that Appeal No. A-5-PPL-02-162 raises **NO** substantial issue with respect to conformity with the Chapter 3 policies of the Coastal Act."*

A majority of the Commissioners present is required to pass the motion.

Resolution to Find Substantial Issue

The Commission hereby finds that Appeal No. **A-5-PPL-02-162** presents a substantial issue with respect to conformity with the Chapter 3 policies of the Coastal Act.

VI. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description

The West Los Angeles Area Planning Commission's approved local coastal development permit is for the demolition of 30,701 square feet of the existing 51,120 square foot Lower Bel Air Bay Club Facility, construction of 40,709 square feet of new area resulting in a 61,128 square foot Lower Club Facility, a new sea wall, and a realignment of the PCH/Bay Club Drive interchange (Exhibit #2 and #3). The proposed project will result in the demolition of most of the main building and the one-story cabañas east of the main building (Exhibit #2). The proposed new cabañas east of the main building would be two-stories. The new main building will be constructed to a maximum height of 30 feet above the existing grade with a 37-foot high tower element.

The proposed project is located seaward of Pacific Coast Highway, on the sandy beach, and adjacent to Will Rogers State Beach (on the east and west facing sides of the property) (Exhibit #1). Depending on tides and beach sand conditions (typically the beach sand is eroded in the winter season and returns in the summer season) the existing facility is between a few feet (at the western end of the property in the winter months) to approximately 250 feet (at the eastern end of the property in the summer months) from the surfline and wet sandy beach. Currently, waves and high tides from winter storms overtop the existing seawall and inundate the lower club facility with seawater (Exhibit #12). The proposed main building, terraces and paving, and new seawall would be located seaward of the existing main building, terraces, and seawall (Exhibit #3). The new two-story cabañas would be located in approximately the same location as the existing cabañas.

C. Factors to be Considered in the Substantial Issue Analysis

Section 30625(b)(1) of the Coastal Act states that the Commission shall hear an appeal of a local government action carried out pursuant to Section 30600(b) unless it finds that no substantial issue exists as to conformity with Chapter 3 of the Coastal Act. The term "*substantial issue*" is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission's regulations simply indicates that the Commission will hear an appeal unless it "finds that the appellant raises no significant questions". In previous decisions on appeals, the Commission has been guided by the following factors.

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and
5. Whether the appeal raises local issues, or those of regional or statewide significance. (See A-5-PPL-99-225, A-5-PPL-00-028, A-5-PDR-077, A-5-VEN-01-262, A-5-PDR-01-442)

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing a petition for a writ of mandate with the appropriate court pursuant to Code of Civil Procedure, Section 1094.5.

Staff is recommending that the Commission find that a **substantial issue** does exist with respect to whether the approval of the project is consistent with the provisions of Chapter 3 of the Coastal Act for the reasons set forth below.

D. Substantial Issue Analysis

As stated in Section III of this report, the standard of review for an appeal of a coastal development permit issued by the local government prior to certification of its Local Coastal Program (LCP) are the Chapter 3 policies of the Coastal Act. Any such local government coastal development permit may be appealed to the Commission. The Commission shall hear an appeal unless it determines that no substantial issue exists as to conformity with the Chapter 3 policies of the Coastal Act. In this case, staff has recommended that the Commission find that a substantial issue does exist.

The appellants contend that the local coastal development permit does not adequately analyze and mitigate the potential impacts of the proposed project on, among other things, scenic coastal views, the character of the surrounding area, public access and recreation, and shoreline sand supply (as it may be affected by the siting of development in an area subject to hazards from wave run-up and flooding and the related imposition of a shoreline protective device). The appellants further contend that the local coastal development permit violates Sections 30210, 30211, 30213, 30220, 30240, 30251, and 30253 of the Coastal Act.

Three appeals were received by the Commission's South Coast District office alleging that the West Los Angeles Area Planning Commission's approved Local Coastal Development Permit No. ZA-2000-0648 is inconsistent with the Chapter 3 policies of the Coastal Act. Because similar Chapter 3 policies were raised by each appellant, the below analysis combines those arguments. Such issues that were raised that are not analogous to the other appeals will be analyzed separately.

1. Coastal Access and Recreation

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

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.

Section 30213 of the Coastal Act states, in part:

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

Section 30220 of the Coastal Act states:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

The proposed project, as approved by the City of Los Angeles, extends seaward of the existing structure's location on the sandy beach. During winter months, the beach is eroded to within close proximity of the existing Bel Air Bay Club structure, in some cases limiting access along the beach completely (Exhibit #12). The new development may further impede public access along the beach. While Condition #28 of the City's approval states that the applicant "shall provide improved public access at or near the mean high tide line along the north westerly ownership....", there is no indication how this access will be improved. The City's findings state, "The project will provide a minimum of 70 feet of lateral access from the seawall to the mean high tide for public access." The City's condition does not require signage or demarcation of this 70-foot boundary line. Also, the current width of the beach between the seawall and the physical mean high tide line varies. Often, even in the summer months, the distance from the development to the inundated land is as narrow as 15 to 20 feet. During average winter storm events (as seen during the mild winter of 2001) winter waves and tides reach the seawall and, at times overtop the wall into the "Club" facility. As mentioned, the proposed project extends seaward of the existing location, thus lessening the available beach sand that the public could use to pass laterally across the beach. The City's approved permit did not analyze this issue.

The City's permit also does not explicitly state how the applicant would improve public access along this stretch of coastline. The findings in the City's report states, "the remodeling and expansion of the existing Club facility will have no negative impact on existing public access laterally across the beach. In fact, the required staking of the property will assure the public and the applicant where the true property lines are located."

The appellants contend that the applicant posts private property signs on the beach seaward of the sea wall and the applicant's mapped boundary, stores small boats and other private recreational equipment, and prevents access on dry sand which the applicant's maps show as state property. In support of this contention, the opponents have provided surveys, photographs and other evidence concerning the location of the applicant's boundaries on the property and the location of numerous private activities (such as a flagged rope extending onto State property, blocking lateral access) (Exhibit #5, pages 21 thru 26). In response to these issues the West Los Angeles Area Planning Commission required the east and west property lines to be marked, but did not require any signs or other communications to the public identifying the location of the seaward line, nor did they require the applicant to cease flagging public property, private storage on the public beach, or otherwise identifying areas seaward of its seaward property line as private.

The applicant has provided a map showing the location of a fixed seaward (southern) property line, which it asserts marks its seaward property line in lieu of an ambulatory line such as the mean high tide line. During many seasons of the year this seaward line is several feet under water. However, during the summer months the line is significantly landward of the surfline at low tide. There are currently fences on both the east and west property lines that extend seaward of the line that the applicant indicates is the boundary between public and private property, blocking lateral access along public tidelands.

The City's condition #21, which relates to these public access findings, requires the applicant to "establish boundary markers [poles, flags, fence, or other acceptable structure] and signs along at least the east and west property lines to the written satisfaction of the Coastal Commission...." The City did not require this southern property line, facing the ocean to be marked under this condition. Section 30210 of the Coastal Act requires that maximum access "be conspicuously posted" and "recreational opportunities... be provided for all the people consistent with the public safety needs and the need to protect public rights, rights of private property owners, and natural resource area from overuse". Will Rogers State Beach is located to the east and west of the applicant's property as well as immediately seaward (south) of the southern property line. An approximately 250-foot wide beach area, most of which is the public beach, fronts the eastern end of the property (Exhibit #2). However, the appearance of a large private club facility (with fencing and private property signs on the public beach) could dissuade the public from using this section of the State Beach. The proposed project, as conditioned by the City, would further dissuade the use of this beach by authorizing the seaward encroachment of the proposed facility without addressing the exact demarcation of the applicant's property lines (especially of the southern edge) and the private property signs and fences on the public beach.

In addition, Section 30220 of the Coastal Act requires that "coastal areas suited for water oriented recreational activities... be protected for such use". A portion of the beach (between the applicant's property line and the ocean) is public beach that is suited for recreational activities, such as swimming, surfing, walking, or sunbathing. The City's coastal development permit did not adequately address the issue of the proposed development preventing recreational activities in front of the Bel Air Bay Club. Therefore, the City's method of addressing the preservation of public access and coastal recreation raises a substantial issue with the access and recreation policies of the Coastal Act.

Regardless of these boundary markers, the seaward encroachment of development, including the construction of a new seawall (as discussed in the following paragraph) raises a substantial issue with Coastal Act policies that require public access to and along the shoreline.

The City-approved project includes a new seawall seaward of the existing seawall. This new seawall could lead to increased beach scour and erosion, thereby decreasing the small amount of sand that the public uses to pass this location between the new facility and the water. The findings in the City's report state, "There is nothing in the public record which indicates that the seawall would substantially alter natural landforms along bluffs or

cliffs or contribute significantly to erosion." As discussed in the "Hazards" section of this report, shoreline protective devices (such as seawalls) could have myriad impacts to sand processes.

Finally, the City-imposed conditions of approval include no method to determine compliance – it provides no measure of how the City would determine whether the applicant has in fact "improved public access". Therefore, for the above reasons, the City's approved coastal development permit No. ZA-2000-0648 raises substantial issues as to conformity with the public access policies within Chapter 3 of the Coastal Act.

Both Martin J. Murphy and Harold Tuchyner and Robert Locker, representing the Pacific Palisades Residents Association also contend, beyond what was discussed above, that certain aspects of the existing project were constructed without benefit of a coastal development permit and continue to be inconsistent with the public access policies of the Coastal Act.

The appellants contend that 1) the western cabañas were temporary canvas structures that were converted and reconstructed as permanent structures in the late 1970's, after passage of the Coastal Act. Such construction would have required a Coastal development permit, but they contend none was received. If the cabañas had been evaluated under the Coastal Act, their impacts on public views and public access would have been evaluated. In addition, they contend, the seawall protecting the cabañas, which also required a coastal development permit, may not have been approved since it would not have been able to be approved legally to protect existing structures. The cabaña and the seawall in front of the cabañas obstruct public access along the beach and must be evaluated as part of this coastal development permit application. 2) The fence and vegetation placed by the "Club" on Pacific Coast Highway and the fence perpendicular to the ocean at the eastern property line located on public property obstruct scenic coastal views, prevent safe pedestrian and bicycle access along Pacific Coast Highway and limit access to and along the coastline. 3) The storage of boats, tractors, a lifeguard station and the placement of palm frond palapas, beach volleyball courts, "Club" trash cans, and "Club" member canvas beach umbrellas located on public property restricts public access. 4) The private property signs located on fences along the eastern and western property lines dissuade the public from using the public beach area in front of the "Club".

In support of these contentions, the opponents have provided photographs and documents. The documents include correspondence from a 1979 dispute between the Club and the City of Los Angeles Department of Building and Safety in which the club operators stated that the cabañas had been temporary canvas-sided structures, allowed to exist on a year to year basis since the 1930's and that the Fire Department requirements to reconstruct them as permanent fire-safe structures would result in permanent development that would require a coastal development permit (Exhibits #8 thru #11). If a coastal development permit were needed, the standard of review would be the Coastal Act.

The West Los Angeles Area Planning Commission did not investigate the validity of these allegations, analyze these contentions in their findings, nor did the WLAAPC require the removal of any alleged unpermitted development. The allegations raise issues of inconsistencies with the access policies of the Coastal Act. Based on the issues discussed above, the Commission finds the West Los Angeles Area Planning Commission's approval of Coastal Development Permit No. ZA-2000-0648 raises a substantial issue of consistency with the public access and recreation policies of the Coastal Act.

2. Hazards

Section 30253 of the Coastal Act states:

New development shall:

- (1) Minimize the risk to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along coastal bluffs.*

The proposed project is located on the sandy beach in close proximity to the water line. This area between the development and the water is commonly inundated with wave run-up from winter storm surf (as the applicant has acknowledged in several coastal development permit applications for temporary sand berms during the winter to protect the Bay Club facility (see, coastal development permit 5-92-108 as amended)). The proposed project includes, in part, the demolition of a large portion of the main building and the one-story cabañas east of the main building and construction of a new main building area seaward of the existing location with a new seawall and two-story cabañas to the east of this location (Exhibits #2 and #3). The proposed development would be located in an area subject to hazards from flooding, which would require protective devices and could possibly lead to increased erosion.

In numerous cases, the Commission has analyzed evidence of the impacts of shoreline protection devices on shoreline erosion. In these cases, the Commission has found that shoreline protective devices can result in a number of adverse effects on the dynamic shoreline system and the public's beach ownership interests. First, shoreline protective devices can cause changes in the shoreline profile, particularly changes in the slope of the profile resulting from a reduced beach berm width. This may alter the usable area under public ownership. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines. This reduces the actual area in which the public can pass on public property.

The second effect of a shoreline protective device on access is through a progressive loss of sand as shore material is not available to nourish the bar. The lack of an effective bar

can allow such high wave energy on the shoreline that materials may be lost far offshore where it is no longer available to nourish the beach. A loss of area between the mean high water line and the actual water is a significant adverse impact on public access to the beach.

Third, shoreline protective devices such as revetments and bulkheads cumulatively affect shoreline sand supply and public access by causing accelerated and increased erosion on adjacent public beaches. This effect may not become clear until such devices are constructed individually along a shoreline and they reach a public beach. The Commission notes that if a seasonal eroded beach condition occurs with greater frequency due to the placement of a shoreline protective device on the subject site, then the subject beach would also accrete at a slower rate.

Fourth, if not sited in a landward location that ensures that the seawall is only acted upon during severe storm events, beach scour during the winter season will be accelerated because there is less beach area to dissipate the wave's energy. Finally, revetments, bulkheads, and seawalls interfere directly with public access by their occupation of beach area that will not only be unavailable during high tide and severe storm events, but also potentially throughout the winter season.

The City did not consider these past Commission actions and the evidence presented to the Commission at those hearings. Instead, the West Los Angeles Area Planning Commission found that the development would not have an impact on shoreline processes based on the lack of evidence in the public record. Siting development in an area subject to hazards from wave run-up and flooding, which necessitates the construction of a seawall for its protection would cause erosion. Construction of development and its associated shoreline protective device or seawall that causes erosion is inconsistent with Section 30253 (2) of the Coastal Act. The City's approved coastal development permit No. ZA-2000-0648, as conditioned, does not analyze available reports and studies on this issue. Therefore, the City's approved coastal development permit raises issues of consistency with Section 30253 of the Coastal Act (as also described in the "Access" section above.

3. Scenic Resources – Development Adjacent to Parks and Recreation Facilities

Section 30251 of the Coastal Act states:

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, to minimize the alteration of natural land forms, to be visually compatible with the character of the surrounding areas, and, where feasible, to restore and enhance the visual quality in visually degraded areas.

Section 30240 of the Coastal Act states:

- (a) *Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.*
- (b) *Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.*

The Coastal Act protects the scenic and visual quality of coastal areas and requires that projects be sited and designed to protect the surrounding coastal resources. The proposed project is located seaward of the first public road, on the sandy beach and adjacent to Will Rodgers State Beach. The proposed project includes new two-story cabañas (to a height of approximately 20 feet) east of the main building. In addition the project includes a new main building with a tower element that is shown as 37 feet above grade (the City stated that the main building itself is 28 feet high). Finally, the proposed project would extend development seaward of its current location. Although the City's approved coastal development permit conditioned the project not to exceed a 30-foot height limit except for one tower element 37 feet high, the City did not analyze impacts on views from the highway, along the beach front, from public areas on each side of the property or from the public beach seaward of the project.

The City findings state, "the proposed project... will not negatively alter the existing views of the ocean from Pacific Coast Highway in any substantial manner in either the eastbound or westbound directions by motorists, pedestrians or cyclists, nor will it substantially alter the existing views of the bluffs from the public beach." Because of the project's location to the public beach, increasing the heights of the buildings would alter and impact the views to the beach and ocean. It is unclear how the City determined that an increase in the heights of the "Club" would "not negatively alter the existing views of the ocean from [PCH]...."

Additionally, the City findings state, "The [Interpretive] Guidelines do not provide rights to 'white water views'." The interpretive guidelines do not preclude the City (or the Commission) from assessing the impact of the proposed development on views of whitewater as part of the assessment of the impacts of development on scenic and visual qualities of a coastal area and, thus, the consistency of the development with Section 30251 of the Coastal Act. Section 30251 of the Coastal Act requires "permitted development ... [to] be sited and designed to protect views to and along the ocean and scenic coastal areas...." Therefore, this project must be sited and designed to protect the views to and along the ocean, which includes the City's interpretation of "white water". The project, as approved by the City, could impact views to and along the ocean by allowing seaward encroachment of the new facility and an increased height of the facility.

The proposed development on the sandy beach and adjacent to Will Rogers State Beach is highly visible and could impact public views, the visual quality of the coastal area, and would not be sited and designed to prevent impacts on views from public park and recreation areas or from Pacific Coast Highway.

As mentioned in the "Access" section above, Martin J. Murphy and Harold Tuchyner and Robert Locker, representing the Pacific Palisades Residents Association have cited additional allegations, beyond what was discussed above, that certain aspects of the existing project were constructed without benefit of a coastal development permit and continue to be inconsistent with the Coastal Act. The appellants contend that the fence and vegetation placed by the "Club" along Pacific Coast Highway and the fence perpendicular to the ocean at the western property line are located on public property and obstructs scenic coastal views to and along the coastline. The City stated in their findings, "The Zoning Administrator has reviewed, in the case file, a survey conducted by the State Department of Transportation, Engineering Services Branch, on December 13, 2000. The survey shows that all the fences along the Club/Caltrans common property line are on State Lands, except for some fences in the eastern 200 feet of the site. The zoning Administrator cannot require the applicant to remove or reconstruct fences on publicly owned land."

While the fences and landscaping, which significantly block any scenic views from PCH to the beach and ocean, were constructed and planted by the Bel Air Bay Club, they are located on State Lands, as stated by the City, and would therefore require the approval of CalTrans to remove such items. The City continues in their findings by stating, "Despite claims that ocean views will be blocked by the project, much of the blocked views already exist with the status quo. Whether the fence, fabric, and landscaping along Pacific Coast Highway are 6 feet in height [as shown in the City's condition #27] or whether the building is one story in height, or both, views from the Highway of the beach and ocean have been and will continue to be diminished."

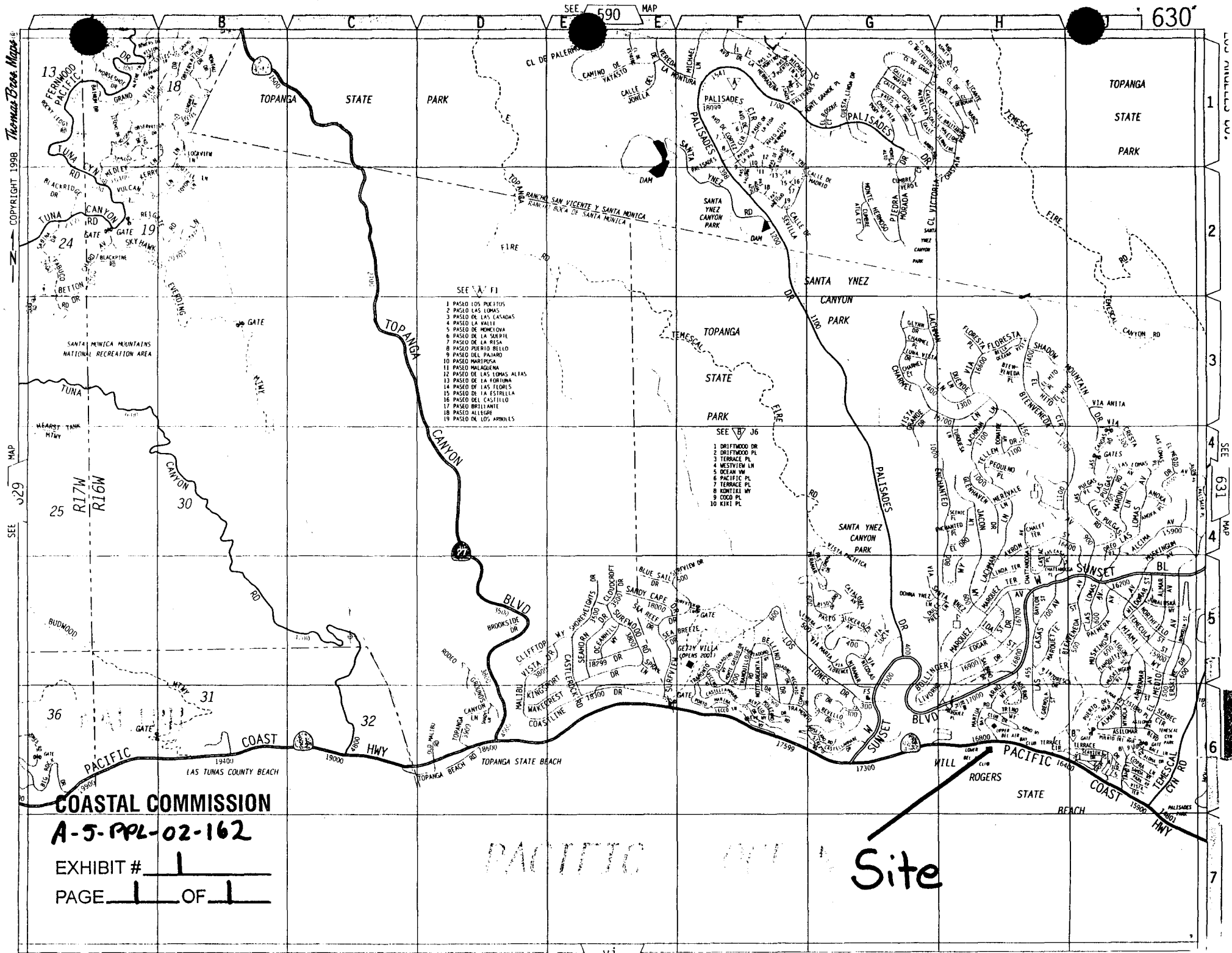
The fence, fabric, and landscaping were placed on public property by the "Club". Therefore, at some later date, CalTrans or other authorized agency could remove these elements to allow for the construction of the future proposed extension to the Marvin Braude Regional Bike Path and/or the California Coastal Trail. In addition, the City states that a one-story in height structure would block views from the highway to the beach and ocean and that views will continue to be blocked. This argument is not consistent with Section 30251 or 30240(b) of the Coastal Act. The City approved a two-story 30 to 37-foot high structure on the beach and adjacent to Will Rogers State Beach. The City based its approval, in part, on the fact that an alleged unpermitted fence and landscaping on public property and the existing one-story structure already block existing public views to the coast and therefore, a two story structure with a 37-foot high tower element would not be inconsistent with Section 30251 of the Coastal Act.

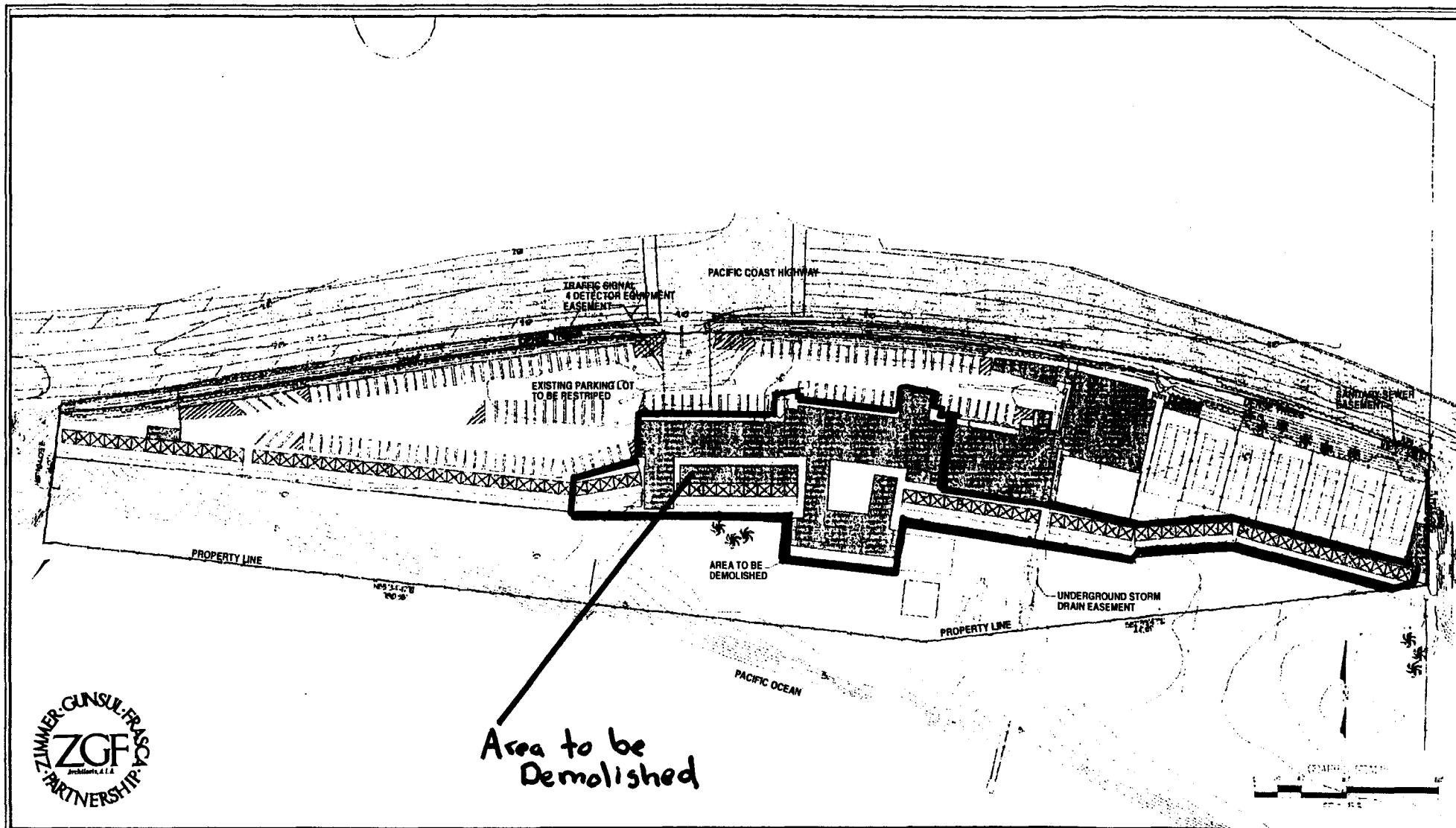
The proposed development on the sandy beach will be highly visible from the Will Rogers State Beach and Pacific Coast Highway. The locally issued coastal development permit does not adequately analyze or prevent potential impacts on public views, the visual quality of the coastal area, or the character of the surrounding community. Therefore the Commission finds that the City-issued coastal development permit raises a substantial issue of consistency with sections 30251 and 30240 (b) of the Coastal Act.

E. Conclusion

Because of the importance of the Coastal Act issues raised by the appellants, the proposed project must be reviewed and considered by the Commission pursuant to the Chapter 3 policies of the Coastal Act. The Commission finds that a substantial issue exists with respect to the proposed project's conformance with the Chapter 3 policies of the Coastal Act because the local coastal development permit does not adequately analyze and mitigate the potential impacts of the proposed project on public access to and along the coast, the public views of scenic coastal areas, the character of the surrounding community, and development on lands that are subject to natural hazards.

End/am





Area to be
Demolished

Figure 2
Existing Site Plan

Source: Zimmer Gunsul Frasca Partnership, December 1999

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Existing lower Bel Air Bay Club

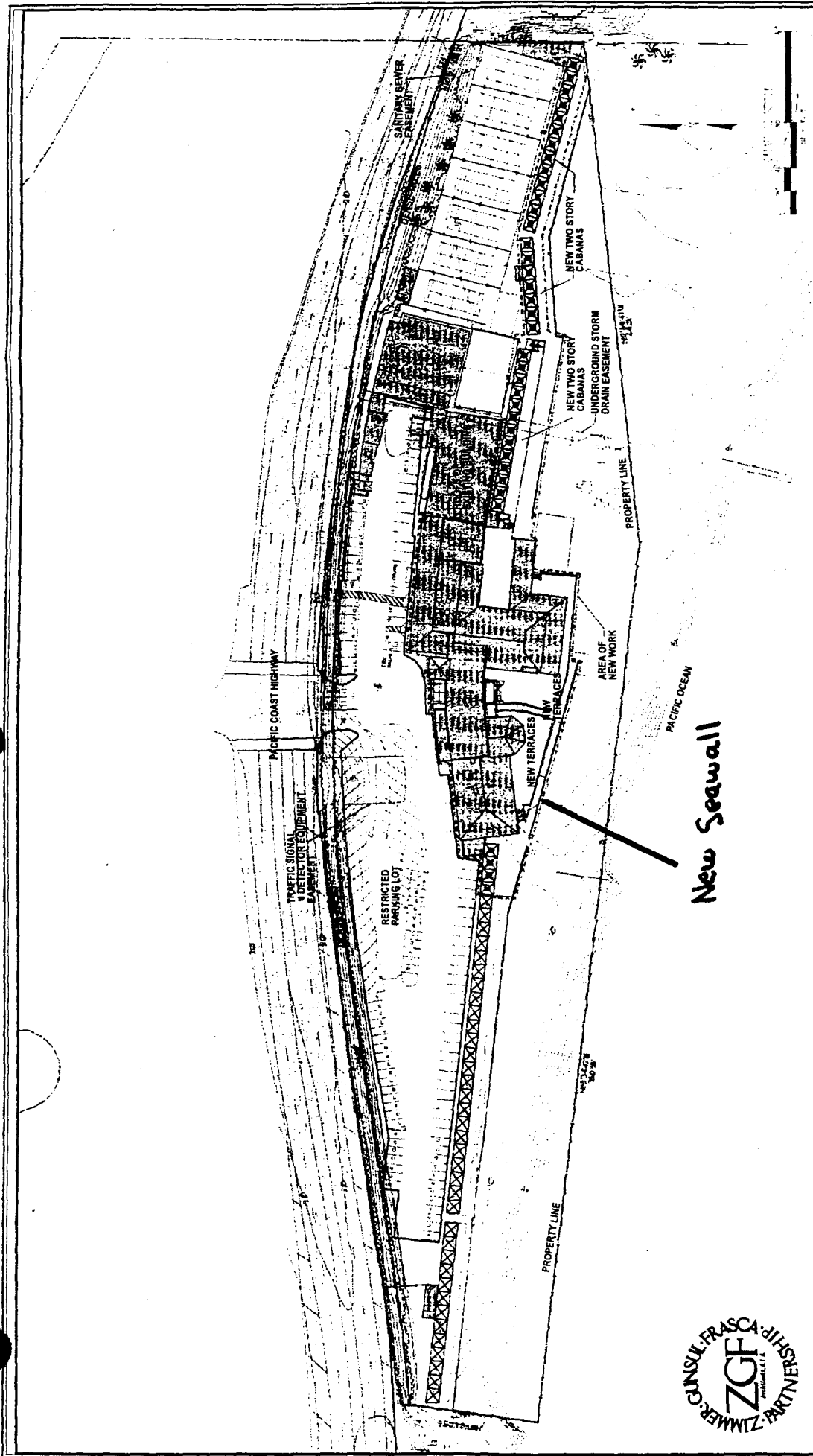


Figure 3
Proposed Site Plan

Source: Zimmer Gunsul Frasca Partnership, December, 1999

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1 Air Bay Club



California Coastal Commission
South Coast District Office
Appeal by Martin J. Murphy
West Los Angeles Area Planning Commission
CP Case No. ZA 2000-0648 (CDP)
Applicant: Bel Air Bay Club, Ltd.
16800 Pacific Coast Highway
Pacific Palisades

I. The Proposed Development will Block Views from Pacific Coast Highway

The Bel Air Bay Club's proposed 28 feet high development will permanently block views from Pacific Coast Highway to the beach and Pacific Ocean. Dense brush temporarily conceals these magnificent scenic views. This dense brush is on California State land that slopes steeply down hill from the fence along Pacific Coast Highway to the lower Club. California owns this ten feet wide strip of land along 1000 feet of the 1200 feet boundary between Pacific Coast Highway and the Club. (See State of California Department of Transportation November 7, 2000 Survey). The lower Club property line is ten feet from the fence along Pacific Coast Highway and six feet below the highway. (See Figure 1, showing Club property line and elevation).

The Club argues that the fence and dense brush on California State land already obstruct the view from Pacific Coast Highway. But the fence and dense brush, unlike the Club's proposed project, are temporary. The State of California plans to remove the fence and dense brush to build a multipurpose trail along Pacific Coast Highway. The multipurpose trail will probably cantilever over the lower Club parking lot. The lower Club property line is six feet below Pacific Coast Highway. Thus, when the State moves its six feet high fence down hill to the lower Club property line, the public will enjoy magnificent scenic views Pacific Coast Highway. The State now uses barriers along the rest of Pacific Coast Highway that permit cyclists, pedestrians and motorists to enjoy scenic views of the Pacific Ocean.

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The State plans to use its land between the fence along Pacific Coast Highway and the lower Club property line for a multipurpose trail. The multipurpose trail is particularly necessary because an unstable landslide caused dangerous constriction of Pacific Coast Highway at the Santa Monica end of the lower Club. This constriction of Pacific Coast Highway makes public access to the beach difficult and dangerous. The multipurpose trail will replace the dense brush on the ocean side Pacific Coast Highway and cantilever over the lower Club parking lot. Consequently, pedestrians, cyclists and motorists will enjoy scenic views from Pacific Coast Highway and the multipurpose trail to the beach and Pacific Ocean.

The lower Club parking lot is ten feet below Pacific Coast Highway. Pacific Coast Highway is about twenty feet above sea level. State land slopes steeply down hill to lower Club, which is about ten feet above sea level. Most of the lower Club buildings are less than twelve feet high and thus do not block views from Pacific Coast Highway of the beach and Pacific Ocean. Consequently, scenic views of the beach and Pacific Ocean presently exist from California State land beside Pacific Coast Highway.

The City erroneously concluded that the public would have to purchase a view easement from the Club to preserve scenic views from Pacific Coast Highway. In fact, the California Coastal Act prohibits development on the beach that blocks scenic views. The Club can only build on the beach if it complies with a variance from the zoning code. The Club received a variance in 1934 variance but this variance requires the Club to obtain both City planning and building permits for any addition. In 1934, the City required the Club to obtain a variance for

Club use so that it could strictly control future development by requiring the Club to obtain both planning and building permits for future development. The 1934 City Planning Commission particularly wanted to prevent the Club from obstructing the view from Pacific Coast Highway. (See Bel Air Bay Club, Ltd. Floor Area Permits, tab 2, Bel Air Bay Club Variance).

II. The Cabins at the Malibu End of the Lower Club Impede Access to the Sea

The Club cabins at the Malibu end of the Club impede public access to the sea. These cabins lack required California Coastal Commission permits. The cabins at the Malibu end of the lower Club sit on a narrow strip of beach behind a sea wall. Aerial photographs show that the beach here has eroded since 1934. (See Aerial photographs). As a result of this erosion, the Malibu end of the lower Club property extends into the Pacific Ocean. (See Figure 1, showing Club property line extends beyond the mean high tide line on the Malibu end of its property). At high tide, waves break against the sea wall and block beach access. (See Photographs of pedestrian trapped between waves and sea wall while attempting walk along the beach in front of lower Club).

The Club claims that its sea wall did not cause the beach erosion. Nonetheless, beach erosion narrowed the beach since 1928. The Club's cabins at the Malibu end of the lower Club now interfere with the public's right of access to the sea. Consequently, the Club should either restore the public beach or remove the cabins built without coastal development permits.

The California Coastal Act requires:

- a. Public access from the nearest public roadway to the shoreline and along the coast be provided in new development, Section 30212;
- b. Development not interfere with the public's right of access to the sea, Section 30211; and
- c. Maximum access be provided, Section 30210.

At the Malibu end of the lower Club, the proposed development interferes with the public's right of access to the sea. The development will enhance private access by Club members to the beach but makes no provision to enhance public access.

III. The Proposed Development Doubles the Permitted Floor Area

The Club claims that its proposed development will expand the floor area by 20% from an existing "as built" 51,120 square feet to 61,128 square feet. In fact, the proposed Club development will increase the area with City permits from 41,487 square feet to 61,128 square feet. The proposed development will about double the area that requires coastal development permits, from 30,112 square feet to 61,128 square feet.

a. Some Current Lower Club Development Lacks All Permits

Los Angeles City issued permits to the Club for 41,487 square feet of floor area. (See Bel Air Bay Club, Ltd. Floor Area Permits, Summary Spreadsheet with attached tabulated copies of Los Angeles City permits). But the Club's "as built" survey shows 51,120 square feet of floor. (See Bel Air Bay Club, Ltd. Floor Area Permits, tab 31, Club's Floor Area Analysis).

Thus, about 9,633 square feet of lower Club floor are appears to lack both Los Angeles City planning permits and coastal development permits.

During the City hearings, the Club speculated that Los Angeles City must have lost its records. For this to be true, both the Los Angeles Department of City Planning and the Department of Building and Safety would have had to have lost or destroyed records they are required by law to preserve. The Club offered no evidence to explain the absence of permits for 9,633 square feet of floor area.

b. 88 Cabins Lack Required Coastal Development Permits

In addition to the 9,633 of floor area without any permits, 11,375 square feet of floor are lacks required coastal development permits. On August 12, 1981, the Club received Los Angeles City planning permission for 86 cabins with a total floor area of 11,375 square feet. The Club actually built 88 cabins, but failed to obtain required coastal development permits for any cabins. (See Bel Air Bay Club, Ltd. Floor Area Permits: tab 28, Los Angeles City permits for 86 cabins; tab 31, Club's Floor Area Analysis showing 88 cabins). In 1981, any development on the beach required California Coastal Commission approval.

The Club did not obtain required planning and building permits for any cabins from Los Angeles City before California first required coastal development permits on February 1, 1973. As previously discussed, the 1934 variance permits Club use on the beach but requires the Club to obtain both planning and building permits for all development. (See Bel Air Bay Club, Ltd. Floor Area Permits, tab 2, Bel Air Bay Club Variance). Aerial photographs establish that the

Club built the cabins after this variance required both planning and building permits. (See Aerial photographs dated 1928, May 22, 1938 and March 5, 1940).

City records show that the Club failed to obtain require planning and building permits for the cabins before the 1973 coastal permit requirement. In 1956, Los Angeles City's Chief Zoning Administrator advised the Club that its cabins had never been specifically approved since they were considered as temporary summer shelters. (See Bel Air Bay Club, Ltd. Floor Area Permits, tab 15, February 1956 correspondence between Club and City). Eleven years later, on February 23, 1977, Club representative Robert Draine requested more time from the Los Angeles City Department of Building & Safety to obtain permits for the cabins. Mr. Draine wrote that the Club was concerned that if it applied for building permits for the cabins that it would run afoul of the Coastal Commission. As a result, the Los Angeles City Department of Building & Safety granted the Club further extensions of time to obtain required permits and approvals. (See Bel Air Bay Club, Ltd. Floor Area Permits: tab 22, February 23, 1977 letter from Robert Draine to Walter A. Brugger, Department of Building & Safety; tabs 23 & 24, correspondence and extension of time to obtain required permits).

In 1979, the Club applied for planning and coastal development permits for cabins as part of a proposed two-story development on the beach. An associate zoning administrator approved the Club's application. But the Los Angeles City Board of Zoning Appeals did not approve the Club's application. The Board of Zoning Appeals referred the Club's application to the Environmental Review Committee for study. (See Bel Air Bay Club, Ltd. Floor Area

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Permits, tab 25, August 15, 1979 Board of Zoning Appeals Case No. CP17). The Club received no permits from its 1979 application.

In 1981, Los Angeles City issued permits (but not coastal permits) for 86 cabins. The City permits cited the Club's sworn affidavit that Club use of the property had been in existence since June 2, 1927. (See Bel Air Bay Club, Ltd. Floor Area Permits, tab 26, permits for 86 cabins, Affidavit). This affidavit is misleading because aerial photographs establish that the Club built the cabins after 1940. (See Aerial Photographs).

The Club is not exempt from the requirement to obtain a Coastal Development Permit for the cabins on the basis of construction prior to 1973. Both good faith and lawfulness are required conditions for exemption from the coastal zone permit requirement on the basis of construction commenced prior to February 1, 1973, the date the Coastal Zone Conservation Act required a coastal permit for construction; "lawful" means all other requirements of law have been met. No Oil, Inc. v. Occidental Petroleum Corp., 123 Cal. Reporter 589, 50 Cal. App. 3d 8 (1975).

The Club built cabins on the beach without required permits after the 1934 variance required both planning and building permits. The Club failed to obtain required planning and building permits prior to the 1973 coastal development permit requirement. Consequently, the Club does not meet the lawfulness condition for exemption from the coastal zone permit requirement on the basis of construction commenced prior to February 1, 1973.

The Club also fails the good faith requirement for exemption from the coastal zone permit requirement. The Club knew that it had to obtain planning permission to build on the beach. On nine occasions from 1938 to 1965, the Club applied for and received Los Angeles City planning and building permits for developments, other than cabins. Further, the Club knew that it had to obtain coastal development permits for the cabins. Robert Draine's February 23, 1977 letter says that the Club was concerned that it might run afoul of the Coastal Commission. (See Bel Air Bay Club, Ltd. Floor Area Permits, tab 22, February 23, 1977 letter from Robert Draine to Walter A. Brugger, Department of Building & Safety). Further, the Club's unsuccessful 1979 application for a Coastal Development Permit shows its knowledge of the requirement to obtain Coastal Commission approval for beach development. Consequently, the Club must now apply for new coastal development permits for the 88 existing as well as proposed additional cabins.

IV. Conclusion

The proposed lower Club development will block scenic views. The cabins at the Malibu end of the Club impede public access to the sea. The cabins that impede public access to the sea lack required coastal development permits. Consequently, the Club must apply for new coastal development permits for both the existing and proposed additional cabins. The Club's application for a coastal development permit should be denied because the proposed development violates the Coastal Act by blocking scenic views and impeding access to the sea.

ATTACHMENT

APPEAL FROM COASTAL PERMIT DECISION
OF LOCAL GOVERNMENT (WEST LOS ANGELES
AREA PLANNING COMMISSION).

TO: CALIFORNIA COASTAL COMMISSION
SOUTH COAST DISTRICT OFFICE

APPEAL BY:

ROBERT LOCKER AND HAROLD TULCHYNE
ON BEHALF OF THE PACIFIC PALISADES
RESIDENTS ASSOCIATION

CP CASE NO. ZA 2000-0648 (CDP)

APPLICANT: BEL AIR BAY CLUB, LTD
16800 PACIFIC COAST HIGHWAY
PACIFIC PALISADES, CA 90272

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South Coast Region

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(A) EXISTING NON-CONFORMING CONDITIONS — (1)

- (1) ENCROACHMENT ON TO THE PUBLIC BEACH — (1)
- (2) OVERLOADING OF THE PUBLIC BEACH — (4)
- (3) RESTRICTION OF PUBLIC ACCESS — (4)
TO/ACROSS THE PUBLIC BEACH
- (4) REDUCTION OF LATERAL PUBLIC — (5)
ACCESS ACROSS THE BEACH
- (5) SCENIC VIEW OBSCURING FENCES — (6)
ALONG PCH
- (6) HIGH INTENSITY LIGHT GLARE — (9)
- (7) OTHER SCENIC VIEW OBSCURING — (9)
FENCES
- (8) SAFETY NEEDS SHOULD STAND ALONE — (10)

(B) ADDITIONAL EXPECTED NON-CONFORMING- (11)
CONDITIONS

- (1) DETRIMENTAL TO CHARACTER OF — (11)
THE NEIGHBORHOOD
- (2) PERMANENT LOSS OF PCH — (11)
SCENIC VIEWS
- (3) CLOSENESS OF TALL BUILDINGS — (12)
TO THE PUBLIC BEACH
- (4) FALSE RATIONALE FOR 37 FT TOWER — (12)
- (5) UNCERTAINTY OF PROPOSED — (13)
BUILDING HEIGHTS
- (6) UNCERTAINTY OF PROPOSED — (14)
SEA WALL EFFECTS
- (7) LOSS OF PUBLIC OCEAN VIEWS — (15)
- (8) TWO STORIES ARE NOT NECESSARY — (16)

EXHIBIT # 5

PAGE 3

OF

THE PROPOSED DEVELOPMENT OF THE
BEL AIR Bay CLUB (BABC) BEACH FRONT SITE
AS APPROVED BY THE WEST LOS ANGELES
AREA PLANNING COMMISSION (WLAAPC) DOES
NOT IN MANY WAYS CONFORM TO THE
STANDARDS NOTED IN THE COASTAL ACT. IN
THIS REGARD, THERE ARE EXISTING CONDITIONS
AT THIS BABC SITE THAT HAVE BEEN, AND
STILL ARE, NON-CONFORMING (WITH THE COASTAL
ACT). THE WLAAPC DID NOT ADEQUATELY
ADDRESS THESE EXISTING CONDITIONS. IN ADDITION,
IF THIS PROPOSED BABC PROJECT WERE REALIZED
IT WOULD FURTHER EXASPERBATE EXISTING
NON-CONFORMING CONDITIONS AND ADD NEW
NON-CONFORMING CONDITIONS AS WELL.

(A) EXISTING NON-CONFORMING CONDITIONS
INCLUDE THE FOLLOWING, MUCH OF WHICH
HAS BEEN GOING ON FOR MORE THAN 20 YEARS.

(1) THE WLAAPC DID NOT ADEQUATELY
ADDRESS THE OVERALL ENCROACHMENT ONTO THE
PUBLIC BEACH BY THE BABC AT THIS SITE. THE
BABC HAS, AND CONTINUES TO, ENCROACH ONTO THE
ADJACENT PUBLIC BEACH SECTION OF THE WILL
ROGERS STATE BEACH. IN THE IMMEDIATE AREA
OF THIS BABC SITE, THIS PUBLIC BEACH SECTOR
EXTENDS FOR ABOUT HALF THE EAST-WEST (PARALLEL
TO THE SURF LINE) EXTENT OF THE BABC BEACH
SITE, DECREASING IN WIDTH (PERPENDICULAR TO THE

EXHIBIT # 5 SURF LINE) GOING TOWARDS THE WEST, I.E. TOWARDS
PAGE 4 OF 31 MALIBU. SEE ENCLOSED FIGURE, THE ORIGINAL OF

WHICH WAS SUBMITTED BY THE BABC AND IS INCLUDED IN THE LOS ANGELES DEPARTMENT OF CITY PLANNING REPORT "RESPONSE TO COMMENTS ON THE PROPOSED MITIGATED NEGATIVE DECLARATION", APRIL 19, 2001 (MND REPORT). PERTAINING TO THIS ENCROACHMENT, NOTE THE FOLLOWING:

(a) THE BABC ERRECTED AND MAINTAINS A PERMANENT FENCE WHICH EXTENDS SOME 140 FEET ONTO THE PUBLIC BEACH AT THE EASTERN SIDE OF THE BABC SITE. THE BABC HAS MOUNTED TWO PRIVATE PROPERTY-NO TRESPASSING SIGNS ON THIS ILLEGAL FENCE. THESE SIGNS ALSO MAINTAIN THAT THE PUBLIC MAY TRAVERSE THIS BEACH BUT ONLY AT THE WATERLINE, EVEN IN THE PUBLIC SECTOR. SEE ENCLOSED PHOTOS.

(b) THE BABC PERMANENTLY STORES A LARGE AMOUNT OF ITS PROPERTY (BOATS, TRACTORS, LIFE GUARD STATION, ETC) ALONGSIDE THIS FENCE NOTED IN (a) ABOVE, ALL ON THE PUBLIC BEACH. SEE ENCLOSED PHOTOS.

(c) THE BABC HAS PERMANENTLY INSTALLED LARGE PALM LEAF BEACH UMBRELLAS ON THE PUBLIC BEACH. SEE ENCLOSED PHOTOS.

(d) THE BABC HAS PERMANENTLY INSTALLED VOLLEY BALL NET SUPPORTS AND NETS (WITH "BEL AIR BAY CLUB" PROMINANTLY DISPLAYED ON THEM) ON THE PUBLIC BEACH. SEE ENCLOSED PHOTOS.

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(c) THE BABC PUTS THEIR OWN BEACH

TRASH CANS ON THE PUBLIC BEACH. THESE CANS LOOK DISTINCTIVELY DIFFERENT FROM THE PUBLIC CANS WHICH ARE NORMALLY ELSEWHERE ON THE BEACH.

THE OVERALL EFFECT OF THIS BLATANT ENCROACHMENT IS TO GENERATE A TENDENCY ON THE PART OF THE PUBLIC TO REFRAIN FROM USING THIS PART OF THE PUBLIC BEACH, SINCE THE PRESENCE OF A LARGE AMOUNT OF IN-PLACE BABC PROPERTY, THE PERMANENT FENCE AND THE SIGNS ON THIS FENCE, LEADS THE PUBLIC TO ERRONEOUSLY THINK THAT THIS PORTION OF THE PUBLIC BEACH IS PRIVATE PROPERTY. EVEN THE WILL ROGERS BEACH MAINTENANCE TRACTORS AND LIFE GUARD PATROL TRUCKS DO NOT ENTER THIS SECTION OF THE PUBLIC BEACH, BUT TURN AROUND WHEN THEY APPROACH IT! THIS SITUATION WORSENS DURING THE GOOD BEACH WEATHER SEASON WHEN A LARGE NUMBER OF BABC MEMBERS AND GUESTS PITCH THEIR BABC BLUE CANVAS BEACH UMBRELLAS ON THE SAND WITHIN THIS PUBLIC SECTOR.

THE WLAAPC "SOLUTION" TO THIS ENCROACHMENT PROBLEM WAS TO REQUIRE THE ERECTION OF A SOFT "FENCE" (EG. FLAGS) SO THE PUBLIC WOULD KNOW WHERE THE PUBLIC/PRIVATE BOUNDARY WAS.

HOWEVER, NO ACTION WAS TAKEN BY THE WLAAPC TO ELIMINATE THE EXISTING ENCROACHMENT PER SE, LEAVING IN PLACE ALL OF THE BABC PROPERTY,

EXHIBIT # 9 FENCE AND SIGNS NOTED ABOVE.PAGE 6 OF 31

(2) THE WLAAPC DID NOT TAKE INTO CONSIDERATION THAT THIS ENCROACHED SECTOR IS OFTEN HEAVILY OCCUPIED BY BABC MEMBERS AND THEIR GUESTS, NOTICABLE BY THE LARGE NUMBER OF BLUE CANVAS BABC BEACH UMBRELLAS. THIS OVERLOADING EFFECT WILL BECOME EVEN MORE SEVERE IF THE PROPOSED PROJECT WERE APPROVED, SINCE EVEN THO THE OVERALL BABC MEMBERSHIP MAY NOT INCREASE, IT STANDS TO REASON THAT MORE OF THE BABC MEMBERS AND THEIR GUESTS WILL BE USING THE NEW, IMPROVED AND LARGER BEACH FACILITY, AND MORE OFTEN. THE WLAAPC TOOK THE ERRONEOUS POSITION THAT THIS PROJECT WOULD NOT OVERLOAD NEARBY RECREATIONAL AREAS WHILE IGNORING THE HIGHER USE FACTOR OF THE NEW, IMPROVED AND LARGER FACILITY, AND THE FACT THAT ONCE THE ENCROACHMENT IS ENDED, MORE OF THE PUBLIC WILL BE COMPETING WITH MORE OF THE BABC MEMBERS AND GUESTS FOR USE OF THIS SECTION OF THE BEACH.

(3) NOT ONLY IS THE PUBLIC'S ACCESS TO AND ALONG THE BEACH RESTRICTED AT THE EASTERN END OF THE BABC BY THE FENCE AND SIGNS NOTED ABOVE, BUT PUBLIC ACCESS TO THE BEACH AT THE WESTERN END OF THE BABC IS ALSO RESTRICTED BY A SIMILAR SIGN, AS WELL AS BY SUBSTANTIAL PHYSICAL BARRIERS, I.E. A CONCRETE

WALL, A FENCE AND A ROCK BERM, COLLECTIVELY FORMING A BARRICADE EXTENDING FROM THE MOST WESTERN BABC CABANA AND EXTENDING INTO THE OCEAN. SEE ENCLOSED PHOTOS. THE BARRIER IS FORMIDABLE FOR ALL BUT THE VERY AGILE. HOWEVER, THE WLAAPC ONLY REQUIRED THAT THE CONCRETE WALL SHOULD BE REMOVED IF FEASIBLE, RATHER THAN TO REQUIRE A REASONABLE PUBLIC PASSAGE OVER, THRU OR AROUND THIS BARRIER. THAT REMOVAL OF THE CONCRETE WALL IS PROBABLY THE LEAST FEASIBLE AND LEAST APPEALING SOLUTION TO THE BABC, THEREBY ASSURING THAT THIS PARTICULAR SOLUTION WILL NOT BE FEASIBLE AND THEREFORE NOT BE IMPLEMENTED, THEREBY LEAVING THE BARRIER AS IS. ALL THIS, NOTWITHSTANDING THE FACT THAT THERE ARE OTHER LESS DRASTIC APPROACHES WHICH COULD HAVE BEEN REQUIRED THEREBY ASSURING THAT A REASONABLE SOLUTION WOULD BE IMPLEMENTED. FOR EXAMPLE: PROVIDE STEPS OVER THE DRY PORTION OF THE WALL OR REMOVE A PORTION OF THE FENCE AND PROVIDE STEPS OVER THE WALL. IN ADDITION, THE WLAAPC DID NOT REQUIRE REMOVAL OF NO TRESPASSING - PRIVATE PROPERTY SIGN, WHICH IS MOUNTED ON THAT PORTION OF THE FENCE WHICH IS LOCATED ON PUBLIC LAND.

(4) THE WLAAPC ACCEPTED THE BABC STATEMENT THAT THE PROJECT WILL PROVIDE A

EXHIBIT # 3PAGE 8OF 31

MINIMUM OF 70 FEET OF LATERAL PUBLIC ACCESS FROM THE (NEW) SEA WALL TO THE MEAN HIGH TIDE LINE. THIS AMOUNT OF PUBLIC LATERAL ACCESS EXISTS TODAY BUT ONLY IN A PORTION OF THE ENCRoACHED PUBLIC BEACH AREA, WHICH IN TURN DOES NOT EXTEND ACROSS THE ENTIRE BEACH IN THIS LOCALE. BEYOND THIS PUBLIC BEACH AREA THE EXISTING ACCESS WIDTH VARIES FROM ABOUT 40 TO 70 FEET (MAX) WITHIN THE BABC PROPERTY BOUNDS. THE FACT OF THE MATTER IS THAT THIS PROJECT WILL FURTHER REDUCE THE WIDTH OF THIS PUBLIC PASSAGEWAY, AS THE PROPOSED PROJECT WILL MOVE THE EXISTING FACILITY (INCLUDING THE SEAWALL) EVEN CLOSER TO THE OCEAN, UP TO ABOUT 60 FEET CLOSER.

(5) THERE IS A FENCE ALL ALONG, BORDERING THE EXISTING BABC BEACH FACILITY. THIS FENCE IS COMPOSED OF TWO SECTIONS SIGNIFICANTLY SMALLER SECTION IS AT THE EASTERN END OF THE FACILITY. IT IS MADE PARTLY OF WOOD AND IS LOCATED ON BABC PROPERTY. THE MUCH LARGER SECTION IS ALL ON PUBLIC PROPERTY AND TODAY IS COMPOSED OF A SIX FOOT TALL CHAIN LINK FENCE, COVERED WITH AN OPAQUE PLASTIC FABRIC AND BACKED (ON THE OCEAN FACE) WITH A CONTINUOUS SPREAD OF DENSE (OPAQUE) VEGETATION REACHING A HEIGHT OF UP TO ABOUT 20 FEET. IN ADDITION, THERE ARE

EXHIBIT # 5 TWO PROMINANT MASONARY BABC PILASTERS.

PAGE 9 OF 31 LOCATED ON PUBLIC LAND AT THE ENTRANCE/EXIT OF THE BABC PRIVATE PARKING LOT. THIS CHAIN LINK FENCE SECTION WAS ORIGINALLY AN OPEN, ESSENTIALLY TRANSPARENT, FENCE WITHOUT AN OPAQUE PLASTIC COVERING AND WITHOUT A BACKING OF DENSE VEGETATION, AS NOTED IN THE ENCLOSED PHOTO. HOWEVER, AFTER THE INITIAL INSTALLATION OF THE FENCE THE BABC INSTALLED THE OPAQUE PLASTIC COVERING (WITHOUT CALTRANS PERMISSION AS NOTED IN THE ENCLOSED DOCUMENT). IT WAS THE BABC WHO ALSO PLANTED AND NURTURED THE NOW DENSE VEGETATION, LOCATED ENTIRELY ON PUBLIC PROPERTY. NOTE THAT THE OPAQUE FENCE ELEMENTS ARE ON PUBLIC PROPERTY, BUT THEY WERE PUT THERE (AND MAINTAINED) BY THE BABC!

THIS OPAQUE FENCE AND THE SHORTER WOODEN FENCE (WHICH IS ALSO OPAQUE) BLOCK THE PUBLIC'S SCENIC VIEW TOWARDS THE OCEAN AND THE COAST, FROM PCH. SEE ENCLOSED PHOTOS. IF THIS CHAIN LINK FENCE (AND THE WOODEN FENCE) WERE TRANSPARENT, I.E. THE CHAIN LINK FENCE WERE IN ITS ORIGINAL TRANSPARENT STATE, THE HORIZON, THE OCEAN AND THE COAST LINE AREA WOULD BE VIEWABLE TO WALKERS, BIKERS AND MOTORISTS ALONG PCH. HOWEVER, THE NLAAPC TOOK THE POSITION THAT THE ^{WOOD, THE} OPAQUE COVERING AND DENSE VEGETATION COULD REMAIN

EXHIBIT # 5 IF THE VEGETATION WAS LOWERED TO THE HEIGHTPAGE 10 OF 31 OF THE CHAIN LINK, I.E. SIX FEET. UNFORTUNATELY,

THIS DOES ABSOLUTELY NOTHING TO RESTORE THESE SCENIC VIEWS TO THE PUBLIC, SINCE THE TOP OF THE RESULTING OPAQUE FENCE WOULD STILL BE ABOVE THE LINES OF SIGHT OF WALKERS, BIKERS AND MOTORISTS. THIS OVERSIGHT WAS BROUGHT TO THE ATTENTION OF THE WLAAPC, AS WAS THE SUGGESTION OF MOVING THE SIX FOOT TALL FENCE DOWN HILL (TOWARDS THE OCEAN) SO THAT IT WOULD ALL BE ON BABC PROPERTY AND LOW ENOUGH SO THAT THE TOP OF THE FENCE WOULD BE BELOW THE SIGHT LINES FROM PCH. IT WAS POINTED OUT THAT REMOVAL OF THE OPAQUE ELEMENTS OF THE FENCE (I.E. PLASTIC COVERING AND DENSE VEGETATION), AND/OR MOVING IT DOWNHILL STILL PROVIDED THE SAME DEGREE OF PROTECTION AS THE BASIC CHAIN LINK ELEMENT. THE WLAAPC DID NOT ACCEPT THIS INPUT.

TODAY, THE OPAQUE FENCE ESSENTIALLY SHIELDS THE BABC PARKING FROM VIEWING ALONG PCH. THE BABC STRUCTURES ADJACENT TO THIS LOT HAVE VERY FEW WINDOWS FACING PCH AND THESE ARE ALL RELATIVELY SMALL AND COULD EASILY BE ADEQUATELY COVERED IF NEEDED BE.

SINCE THE OPAQUE NATURE OF THIS VIEW BLOCKING FENCE SHOULD BE CONSIDERED AS NON-CONFORMING WITH THE COASTAL ACT, THE FENCE SHOULD BE BROUGHT BACK TO ITS ORIGINAL TRANSPARENT

EXHIBIT # 5 STATE, AND/OR MOVED DOWNHILL AS NOTED ABOVE.
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NOTE: CONSTRUCTION OF THE PROPOSED TWO STORY (PLUS TOWER) BUILDINGS WILL MAKE THIS PUBLIC VIEW BLOCKING SITUATION PERMANENT, NO MATTER HOW TRANSPARENT THE FENCE MAY BECOME NOW OR IN THE FUTURE!

(6) TODAY THE BABC USES MULTIPLE HIGH INTENSITY LIGHTING IN ITS BEACH FACILITY PARKING LOT. SOME OF THESE LIGHTS WERE INSTALLED AFTER THE WLAAPC ISSUED ITS DETERMINATION IN THIS CASE. THESE LIGHTS ARE NOT ADEQUATELY SHIELDED AND THEREFORE ILLUMINATE MANY OF THE SURROUNDING HILLSIDE HOMES. AS SUCH, THIS GLARE IS A PUBLIC NUISANCE. THIS GLARE PROBLEM WAS BROUGHT UP DURING THE HEARINGS OF THIS CASE AND THE WLAAPC SHOULD HAVE REQUIRED THE BABC TO ADEQUATELY SHIELD THE LIGHTS TODAY AND IN THE FUTURE.

(7) THERE IS A BABC FENCE ALONG THE EASTERN SIDE OF THE BABC PROPERTY AND CONTINUING ONTO THE PUBLIC BEACH. THIS FENCE RUNS SOUTH FROM PCH AND EVENTUALLY BECOMES THE 140 FOOT ENCROACHMENT MENTIONED ABOVE. MUCH OF THIS FENCE, EVEN A PORTION ON THE PUBLIC BEACH, IS ALSO COVERED WITH AN OPAQUE PLASTIC FABRIC. AS A RESULT THIS FENCE OBSCURES A PORTION OF THE PUBLIC'S SCENIC VIEWS

EXHIBIT # 5

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FROM THE ADJACENT PUBLIC PARKING LOT, FROM THE ADJACENT PEDESTRIAN PUBLIC WALKWAY ALONG THE BEACH FRONT AND FROM THE WESTBOUND PCH ENVIRONS. IF THE TWO STORY CABANAS ARE BUILT, AS PROPOSED BY THE BABC, THIS SITUATION WILL WORSEN. REMOVAL OF THE OPAQUE ELEMENTS OF THIS FENCE AND ELIMINATING THE TWO STORY HEIGHT OF THESE CABANAS WAS NOT CONSIDERED BY THE WLAAPC. SEE ENCLOSED PHOTOS.

(8) VEHICULAR ACCESS TO/FROM THE PRIVATE BABC PARKING LOT WILL BE IMPROVED BY REALIGNMENT OF THE BABC PRIVATE DRIVEWAY, AS PROPOSED BY THE BABC. THIS MUST BE DONE IN THE INTEREST OF PUBLIC SAFETY. HOWEVER, THE BABC STATES THAT IT WILL NOT MAKE THESE SAFETY IMPROVEMENTS UNLESS THEIR PROPOSAL IS APPROVED OVERALL. SINCE THIS IS A KNOWN, ACKNOWLEDGED AND LONG STANDING PUBLIC SAFETY HAZARD, THE WLAAPC SHOULD HAVE DIRECTED THE BABC TO MAKE THESE PUBLIC SAFETY IMPROVEMENTS, NO MATTER WHAT DETERMINATION MAY BE MADE IN THIS CASE.

(B) CONDITIONS WHICH WOULD BE NON-CONFORMING RELATIVE TO THE COASTAL ACT RESULTING AS A CONSEQUENCE OF THE BABC IMPLEMENTING ITS PROPOSED DEVELOPMENT OF ITS BEACH SITE, INCLUDE

EXHIBIT # 5
PAGE 13 OF 31

THE FOLLOWING :

(1) CONTRARY TO THE POSITION TAK BY THE WLAAPC, THE PROPOSED PROJECT WOULD BE MATERIALLY DETRIMENTAL TO THE CHARACTER OF THE NEIGHBORHOOD. THIS BABE BEACH COMPLEX IS THE ONLY PRIVATE FACILITY WITHIN THE ENVIRONS OF THE WILL ROGERS STATE BEACH ALONG THE 2.3 MILE OF PCH, LYING BETWEEN THE SANTA MON CITY LIMIT ON THE EAST AND THE INTERSE OF SUNSET BLVD WITH PCH ON THE WEST. TODAY, THIS BABE BEACH SITE IS ESSENTIAL A SINGLE STORY COMPLEX. HOWEVER, THE PROPOSED TWO STORY DESIGN (PLUS WHAT AMO TO A DOMINANT THREE STORY TOWER) WOULD RESULT IN A COMPLEX WHICH WOULD BE OF CHARACTER WITH THE PRISTINE BEACH ENVIR ALONG THIS 2.3 MILE STRETCH.

(2) THE WLAAPC DID NOT ALLOW THE FACT THAT THE PROPOSED 18 TO 37 FOOT TALL STRUCTURES WOULD PERMANENTLY BLOCK PUBLIC SCENIC VIEWS FROM PCH, EVEN IF THE FENCE ALONG PCH WERE RETURNED TO ITS ORIGIN TRANSPARENT STATE, WHICH BY ALL RIGHTS IT M BE IN ORDER TO PRESERVE THE PUBLIC'S VIE ALONG PCH, A DESIGNATED SCENIC HIGHWAY.

(3) THE WLAAPC DID NOT CONSIDER THE FOLLOWING. THE PROPOSED NEW BUILDINGS EXT FROM THE CENTRAL AREA OF THE BEACH COMPLEX

EXHIBIT # 5 GOING TOWARDS THE EASTERN END OF THE SITEPAGE 14 OF 31
WOULD ALL BE VERY CLOSE TO THE PUBLIC

BEACH. SEE ENCLOSED DRAWING. THE PROPOSED COMPLEX IS LESS THAN A FEW FEET FROM THE PUBLIC BEACH AT THE EASTERN END, INCREASING TO ABOUT 60 FEET IN THE CENTRAL SECTOR. THE CLOSENESS OF THE PROPOSED 18 TO 37 FOOT TALL BUILDINGS (LOOKING DIRECTLY DOWN ONTO THE BEACH IN MANY CASES) WILL CERTAINLY DETRACT FROM THE PUBLIC'S ENJOYMENT OF THIS BEACH DUE TO THE INTIMIDATION EFFECT, LOSS OF PRIVACY AND THE LOSS OF SOME OF THE SCENIC VIEWS OF THE NEARBY HILLS AS SEEN FROM THE SAND.

SEE ENCLOSED PHOTOS. AS PREVIOUSLY NOTED, EVEN TODAY THE PUBLIC TENDS TO STAY OFF THE SAND IN THIS PUBLIC SECTOR DIRECTLY IN FRONT OF THE BABC BEACH FACILITY.

(4) THE HEIGHT OF THE 37 FOOT TALL TOWER WAS RATIONALIZED BY THE BABC AS BEING NEEDED AS A TYPE OF "ROOF HOUSING" TO HOUSE A STAIRWAY GOING FROM THE GROUND LEVEL TO THE SECOND FLOOR, THEREBY ALLOWING THE BABC TO EXCEED THE CODE HEIGHT LIMIT OF 30 FEET. THE WLAAPC ACCEPTED THIS BABC RATIONALE. HOWEVER, IT IS NOT VALID SINCE A STAIRWAY TO THE SECOND FLOOR DOES NOT REQUIRE GOING THRU THE CEILING OF THE SECOND FLOOR! THEREFORE A ROOF MOUNTED HOUSING (IN THIS CASE THE TOWER)

EXHIBIT # 5 IS NOT REQUIRED FOR THIS STAIRWAY. EVEN IF A
PAGE 15 OF 31
SINGLE STORY ELEVATOR WERE PROPOSED, IT WOULD
BE OF THE "PUSH-UP" TYPE, RATHER THAN THE
"PULL-UP" TYPE (PER CONVERSATIONS WITH
RESIDENTIAL AND COMMERCIAL ELEVATOR
CONTRACTORS) AND THEREFORE AGAIN WOULD NOT
REQUIRE A ROOF MOUNTED HOUSING. IN
ADDITION, THERE IS NO REASONABLE RATIONALE
FOR AN INTERNAL STAIRWAY TO THE SLOPED
TILE ROOF, THEREFORE, ALLOWING A HEIGHT
OF 37 FEET FOR A TOWER WHOSE ONLY
PURPOSE IS DECORATIVE IN NATURE IS NOT
JUSTIFIED (OR LEGAL), PARTICULARLY IN LIGHT
OF THE FACT THAT THIS RELATIVELY MASSIVE,
TALL TOWER, WOULD BE AN OBVIOUS OUT OF
CHARACTER ARCHITECTURAL FEATURE ALONG THE
2.3 MILES OF BEACH FRONT. AGAIN, NOTE THE
PREVIOUSLY MENTIONED NEGATIVE ASPECT WITH
REGARD TO THE PUBLIC USING THE PUBLIC
BEACH IN THE "SHADOW" OF THIS TOWER.

(5) THE BABC SUBMITTED DATA
CLEARLY ILLUSTRATES THAT THE BASE OF THE
PROPOSED CENTRAL BUILDING IS TO BE FLUSH
WITH THE NEW ADJACENT PARKING LOT,
WHICH IN TURN WOULD BE RAISED 5 FEET
IN THIS AREA. THE WLAPC ACCEPTED THE
BABC VERBAL INPUT THAT ALL HEIGHTS
WOULD BE MEASURED FROM GRADE, WHICH IN
THIS CASE WOULD BE THE SAND SINCE THE

EXHIBIT # 5 EXISTING PARKING LOT SURFACE WILL BEPAGE 16 ³¹ REMOVED. UNFORTUNATELY THE SAND IS A

VERY VARIABLE, UNRELIABLE DATUM. THE WLAAPC DID NOT REQUEST ADDITIONAL SPECIFIC INPUTS FROM THE BABC TO BETTER DEFINE THIS DATUM. THEREFORE AT PRESENT THERE IS A SOMEWHAT VAGUE DEFINITION AS TO THE HEIGHTS OF THE PROPOSED BUILDINGS, AN UNCERTAINTY OF AT LEAST 5 FEET! IT WOULD BE APPROPRIATE IF THIS HEIGHT DATUM WAS THE GRADE OF THE ADJACENT PCN OR THE EQUIVALENT. SEE ENCLOSED PHOTOS.

(6) THE PROPOSED SEA WALL CHANGE IS MUCH MORE THAN JUST A REALIGNMENT AS STATED BY THE BABC AND APPARENTLY ACCEPTED BY THE WLAAPC. A SIGNIFICANT PORTION OF THE PROPOSED SEA WALL WILL BE LOCATED IN A NEW POSITION ON THE SAND VERY MUCH CLOSER TO THE OCEAN, I.E. ABOUT 60 FEET CLOSER. SEE ENCLOSED DIAGRAM. THE EXISTING LOCAL GROINS WOULD NOT BE PARTICULARLY CLOSE TO THE PROPOSED SEA WALL. THEREFORE, THERE IS STILL SOME UNCERTAINTY AS TO THE LONG TERM EFFECT OF THE PROPOSED SEA WALL ON THE BEACH.

(7) THE WLAAPC AGREED WITH THE BABC THAT THIS PROJECT MAINTAINS SIGNIFICANT

OCEAN VIEWS. HOWEVER, THIS IS NOT THE CASE IN TOTAL. RECALL THE ABOVE ARGUMENT PERTAINING TO THE FENCE ALONG PCH. IN ADDITION, THERE IS A LOSS OF WHITE WATER VIEW FROM LOCAL PUBLIC STREETS. SEE ENCLOSED PHOTOS.

(B) THE BABC ARGUMENT THAT THE PROPOSED PROJECT WOULD IMPROVE THE OVERALL ESTHETICS OF THE SITE, IMPROVE PUBLIC SAFETY AND ALLOW FOR A FUTURE BIKE PATH ALONG PCH IS VALID. EXCEPT FOR THE FACT THAT ALL OF THIS, AND MODERNIZATION OF THE BABC BEACH FACILITY, CAN BE ACCOMPLISHED WITHOUT GOING TO A TWO STORY DESIGN (PLUS THREE STORY TOWER)! IT SEEMS THAT THIS FACT MAY HAVE BEEN OVERLOOKED BY THE WLAAPC.

EXHIBIT # 5
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H. TUCHYNER
324 ADERNO WAY
PACIFIC PALISADES, CA 90272
MAY 23, 2002

CALIFORNIA COASTAL COMMISSION
SOUTH COAST AREA OFFICE
200 OCEANGATE, 10TH FLOOR
LONG BEACH, CA 90802

RECEIVED
South Coast Region
MAY 28 2002

CALIFORNIA
COASTAL COMMISSION

REF: CP CASE No. ZA 2000-0648(CDP)
APPLICANT: BEL AIR BAY CLUB, LTD (BABC)
16800 PACIFIC COAST HIGHWAY
PACIFIC PALISADES, CA 90272

ATTENTION: MR. AARON McLENDON

DEAR MR. McLENDON,

THE FOLLOWING ADDITIONAL INFORMATION
IS TO BE INCLUDED AS PART OF THE MAY 10, 2002
APPEAL OF THE PERMIT DECISION OF THE WEST
LOS ANGELES AREA PLANNING COMMISSION PERTAINING
TO THE ABOVE REFERENCED CASE.

① THE INCREASED USE FACTOR, AS OUTLINED
IN THE MAY 10, 2002 APPEAL, WILL RESULT IN MORE
BABC RELATED PEDESTRIAN AND VEHICULAR TRAFFIC
CROSSING, ENTERING AND LEAVING PCH AT THE
BABC/PCH INTERSECTION. SINCE THE TRAFFIC LIGHT
THERE IS OF THE DEMAND TYPE (GOES RED AGAINST
PCH TRAFFIC WHENEVER A PEDESTRIAN OR

EXHIBIT # 5 VEHICLE 'CALLS' FOR IT) THIS INCREASED BABC

PAGE 19 OF 31 TRAFFIC CAN SIGNIFICANTLY DELAY PCH TRAFFIC, WHICH IS NOTED BY CALTRANS TO AVERAGE ABOUT 70,000 VEHICLES DAILY. DURING MODERATE TRAFFIC CONDITIONS THIS RED LIGHT AGAINST PCH TRAFFIC HAS BEEN OBSERVED TO CAUSE ABOUT 50 TO 100 CARS (OR MORE AT TIMES) TO STOP AT THIS INTERSECTION. NOTE THAT THIS TRAFFIC LIGHT SERVES NO OTHER PURPOSE THAN TO ALLOW TRAFFIC TO ENTER OR LEAVE THE BABC BEACH FACILITY OR ^{BABC} ROAD.

② PEDESTRIAN TRAFFIC IS RESTRICTED FROM PASSING THE BABC, AS NOTED IN THE MAY 10, 2002 APPEAL. THE ALTERNATE PASSAGE WOULD BE TO GO ALONG PCH. THIS IS VERY DANGEROUS AT THE EASTERN END (SANTA MONICA SIDE) OF THE BABC SINCE THERE IS ALMOST NO SHOULDER ALONG PCH AT THAT LOCALE. IT IS ALSO DIFFICULT FOR THOSE IN LESS THAN GOOD PHYSICAL CONDITION TO ENTER OR LEAVE THE BEACH AT THE WESTERN END (MALIBU SIDE) OF THE BABC DUE TO BOULDERS AND THE STEEP INCLINE AT THAT LOCALE.

③ THE BABC OPAQUE WOODEN FENCE ALONG THE NORTH-EAST SECTION OF THE BABC FACING PCH WAS NOTED IN THE MAY 10, 2002 APPEAL. IT MUST BE POINTED OUT THAT THIS FENCE IS ABOUT 7 TO 8 FEET TALL AND WAS NOT REFERED TO BY THE WEST LOS ANGELES AREA PLANNING

COMMISSION WHEN THEY ASKED THAT THE
MAXIMUM HEIGHT OF THE FENCE AND VEGETATION
ALONG PCH BE LIMITED TO 6 FEET. IN ADDITION,
THE OPAQUE FENCE ALONG THE EASTERN SIDE
OF THE ZABC IS APPRECIABLY HIGHER STILL,
AND MUCH OF IT LIES ON STATE PROPERTY.

YOURS TRULY,

H. Tuchyner

H. TUCHYNER

COASTAL COMMISSION
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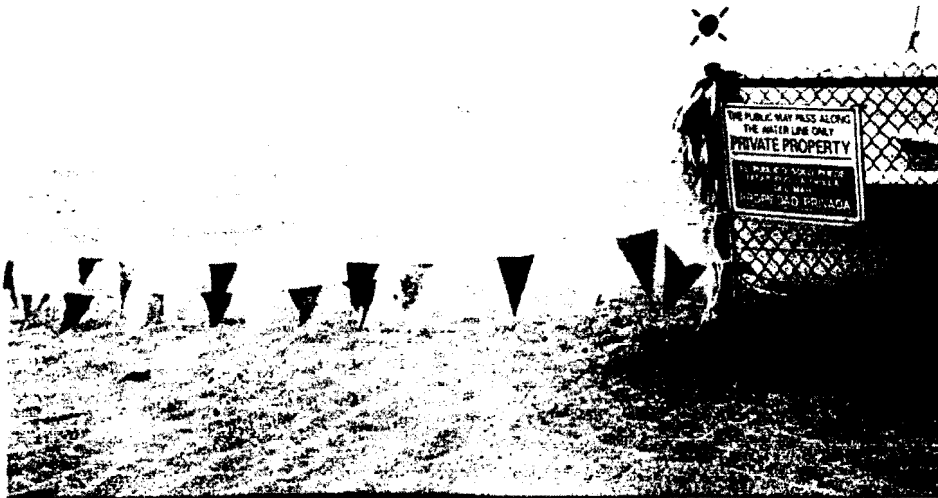
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South Coast Region

MAY 14 2002

CALIFORNIA
COASTAL COMMISSION

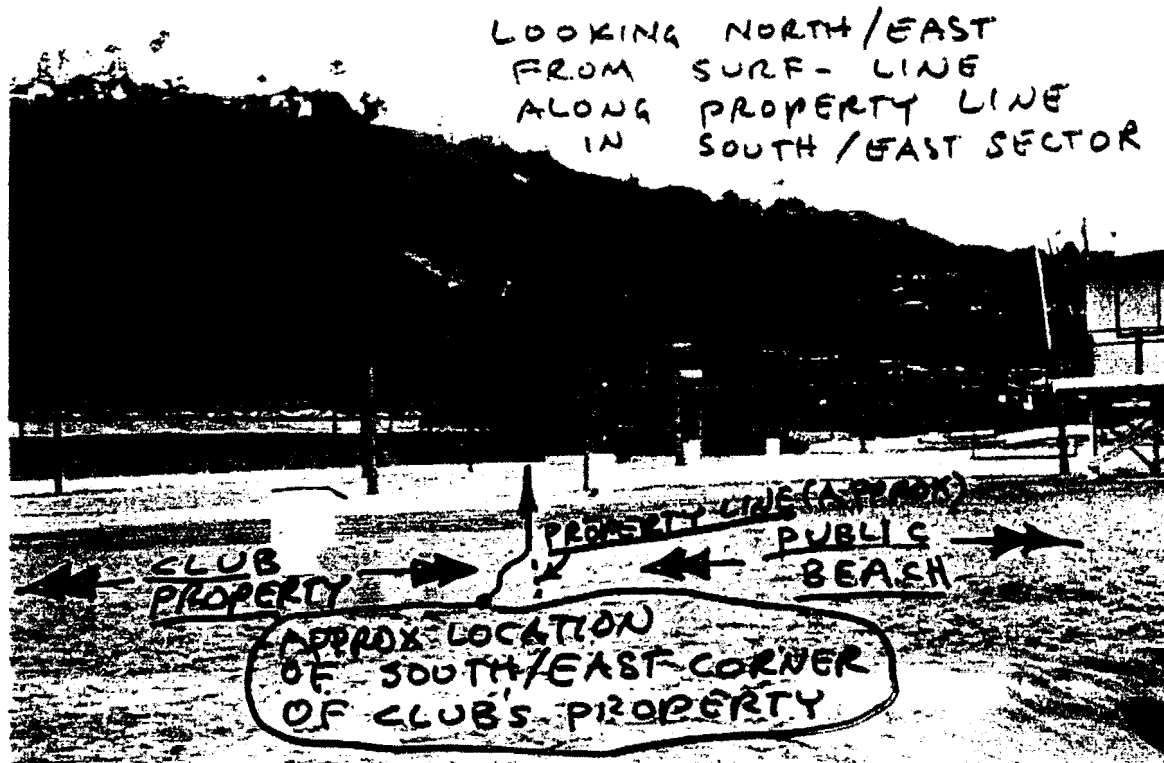


EASTERN
CLUB
BOUNDARY

FENCE GOES
140 FEET TO BABC
PROPERTY
LINE. THIS
140 FEET IS ON
STATE PROPERTY



CLUB POSTED SIGN AND BARRIERS (FENCE/FLAGS
UP TO SURF) BLOCKING LATERAL
ACCESS TO BEACH (RESTRICTED BY BABC)



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LOOKING SOUTH/WEST
FROM S/E CORNER OF
CLUB'S PROPERTY



CLUB'S ENCROACHMENT ON-TO PUBLIC
BEACH IN THEIR SOUTH/EASTERN SECTOR

BABC'S
VOLLEY BALL NETS
AND UNMANNED
LIFEGUARD STATION
ON THE PUBLIC
BEACH

NEW PALM LEAF
BEING ERECTED ON THE
PUBLIC BEACH (OCT, 2001)

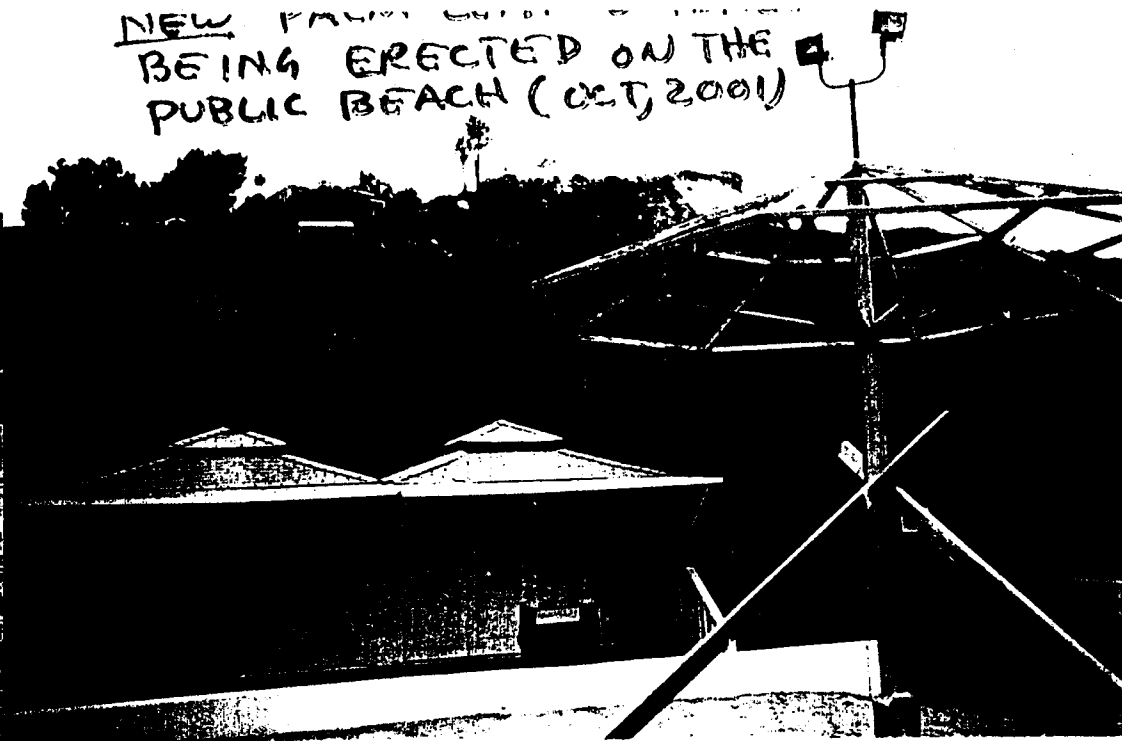


EXHIBIT # _____
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BABC'S VOLLEY BALL NETS
(WITH THEIR NAME) AND
OLD/NEW PALM LEAF
UMBRELLAS ON THE
PUBLIC BEACH (OCT, 2001)



BABC PROPERTY
STORED ON THE
PUBLIC BEACH
(OCT, 2001)
BABC FENCE ON
PUBLIC BEACH





EAST



WEST

CLUB POSTED SIGNS AT EASTERN
COASTAL COMMISSION WESTERN BORDERS BLOCKING
A-5-PPL-02-162 LATERAL ACCESS TO BEACH.

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BABC PRIVATE PROPERTY
SIGN (ON STATE
PROPERTY)

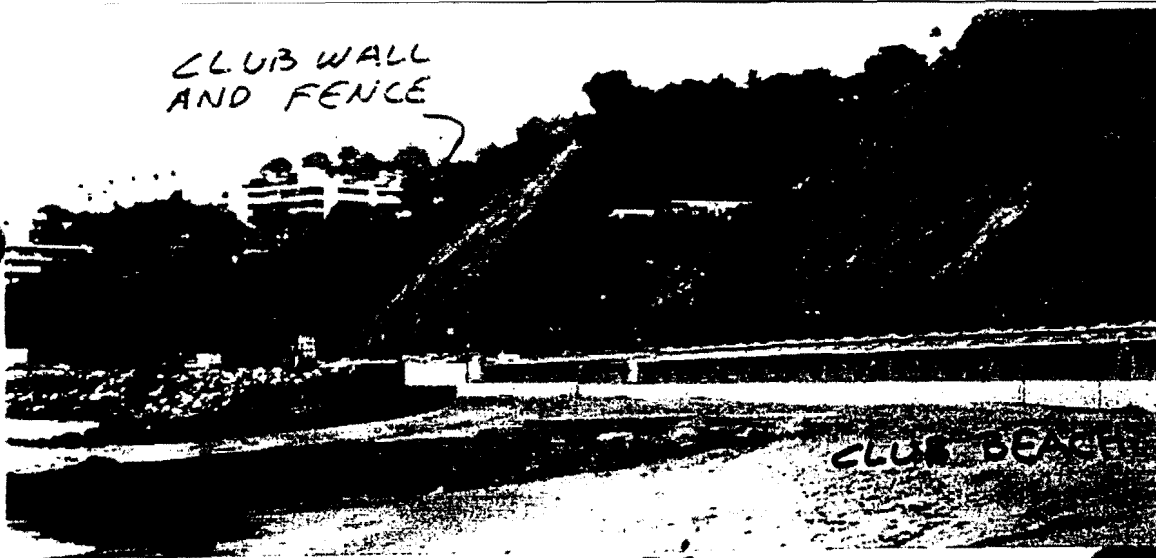
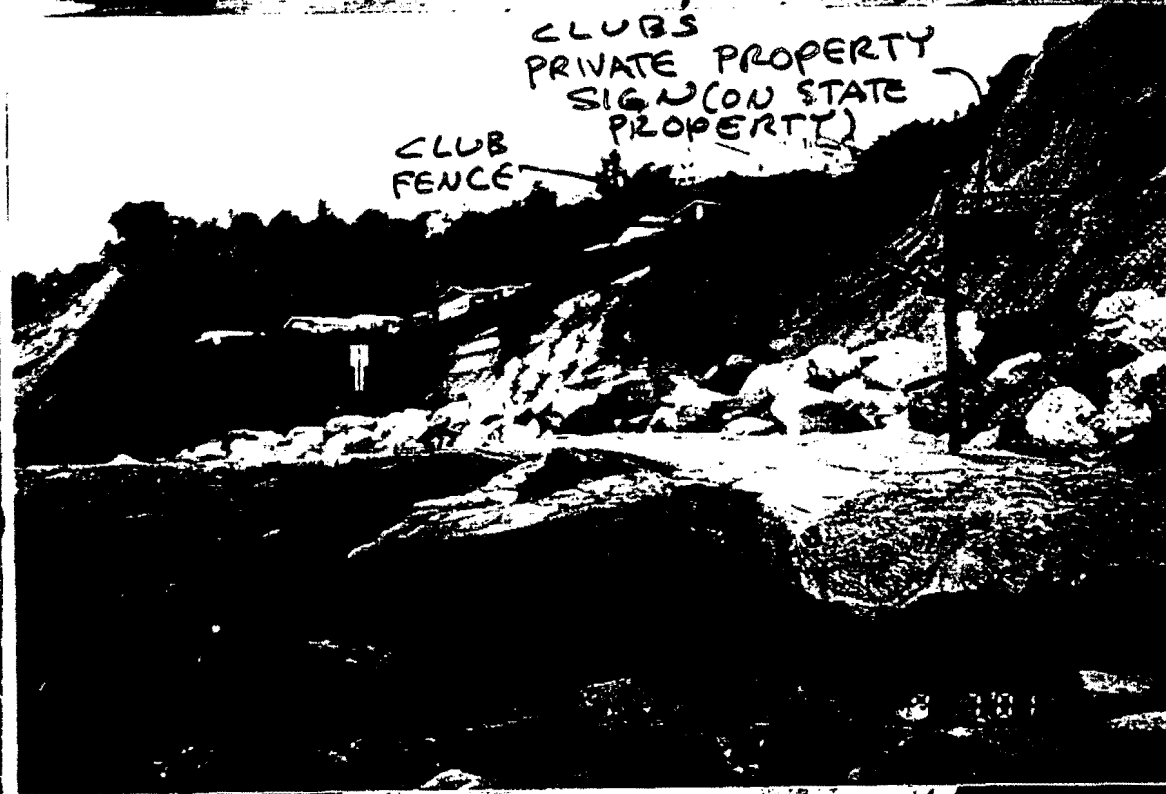


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BARRIER AT WESTERN BOUNDARY OF BABC
(MALIBU END)

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ALONG THE SURF-WE (AT WESTERN BOUNDARY)



LOOKING BACK AT CLUBS CABANAS (IN NORTH/EAST DIRECTION) FROM ON TOP OF THE BOULDERS. DURING MID-TIDE. A-5-PP2-02-162

AT THE WESTERN CLUBS BOUNDARY. MUST CLIMB OVER THESE BOULDERS TO GO IN A EAST OR WEST DIRECTION ALONG SURF-LINE, WHICH IS VERY DIFFICULT AND DANGEROUS.

LOOKING WEST ALONG SURF LINE IN FRONT OF CLUB CABANAS. CLUB WALL AND FENCE AND BOULDERS ARE AT WESTERN BOUNDARY.

COASTAL COMMISSION

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'79



'79



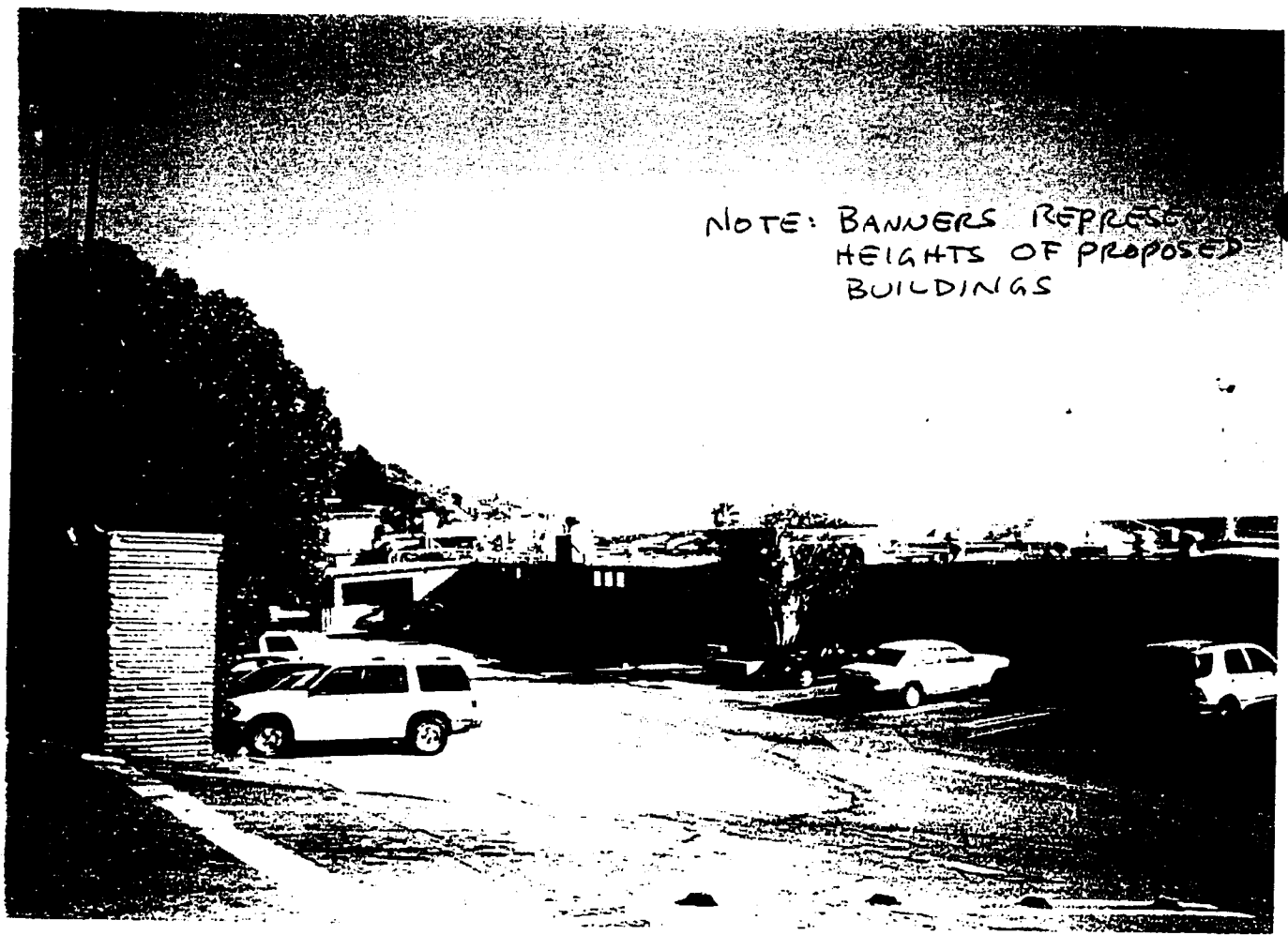
VIEW ALONG PCH SHOWING
FENCE ON CAL TRANS
PROPERTY PRIOR TO BEL AIR
BAY CLUB'S PLANTING OF
TREES ALONG THIS FENCE
(1979). NOTE RELATIVE HEIGHTS OF CARS/FENCE

MAY 1 1962

CALIFORNIA
COASTAL COMMISSION



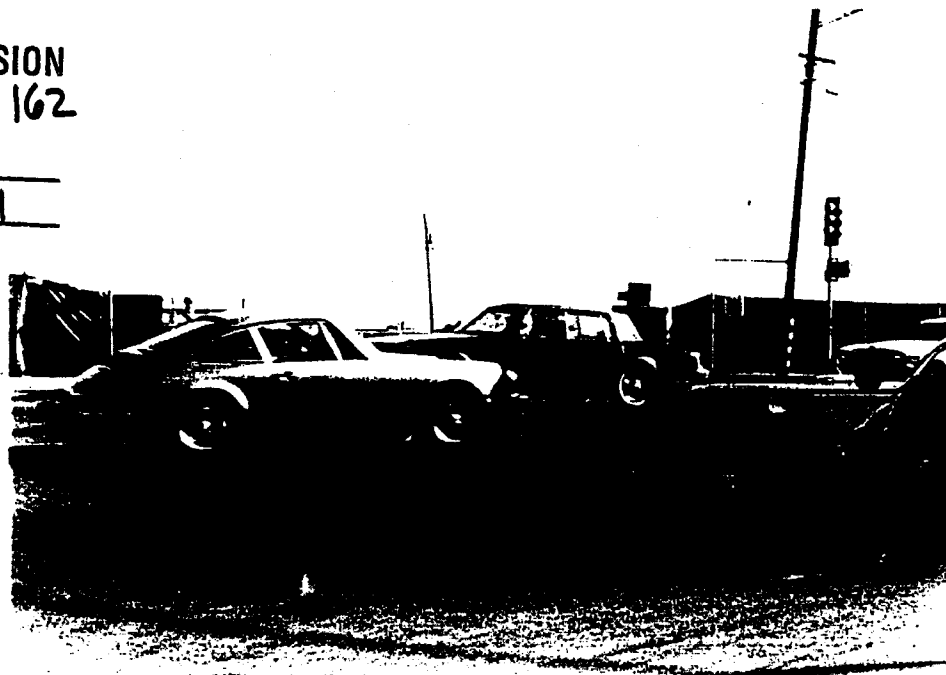
VIEW LOOKING TOWARDS BABC EASTERN FENCE
FROM VICINITY OF PUBLIC PARKING LOT AND
PCH SHOULDER. NOTE OCEAN/SKY HORIZON
AND COASTLINE IN BACKGROUND. BABC HAD
TEMPORARILY REMOVED THE OPAQUE COVERING
AT THIS TIME. IT IS NOW BACK IN PLACE.
NOTE THAT PROPOSED BUILDINGS WILL BLOCK
THIS HORIZON AND COASTLINE SCENE.



EXISTING COASTAL VIEW FROM PCH IN VICINITY
OF BABC PARKING LOT ENTRANCE
(LOOKING EASTERLY)

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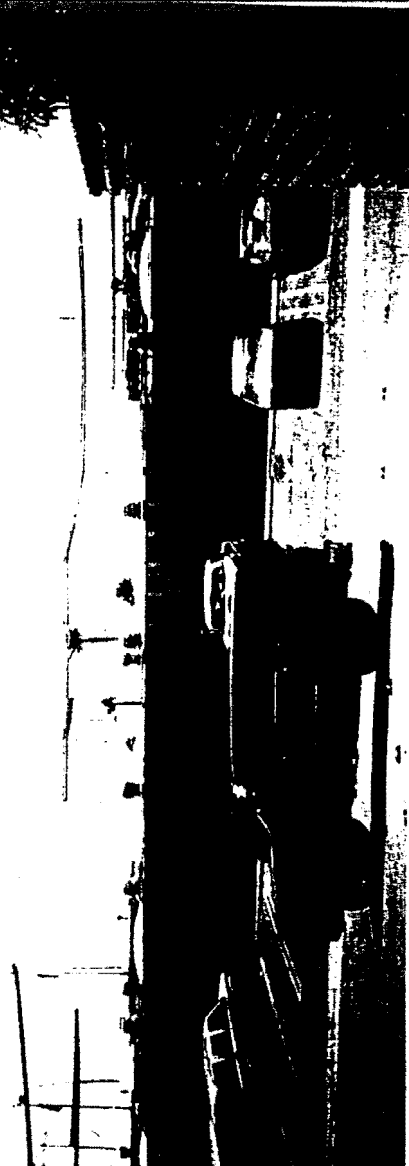
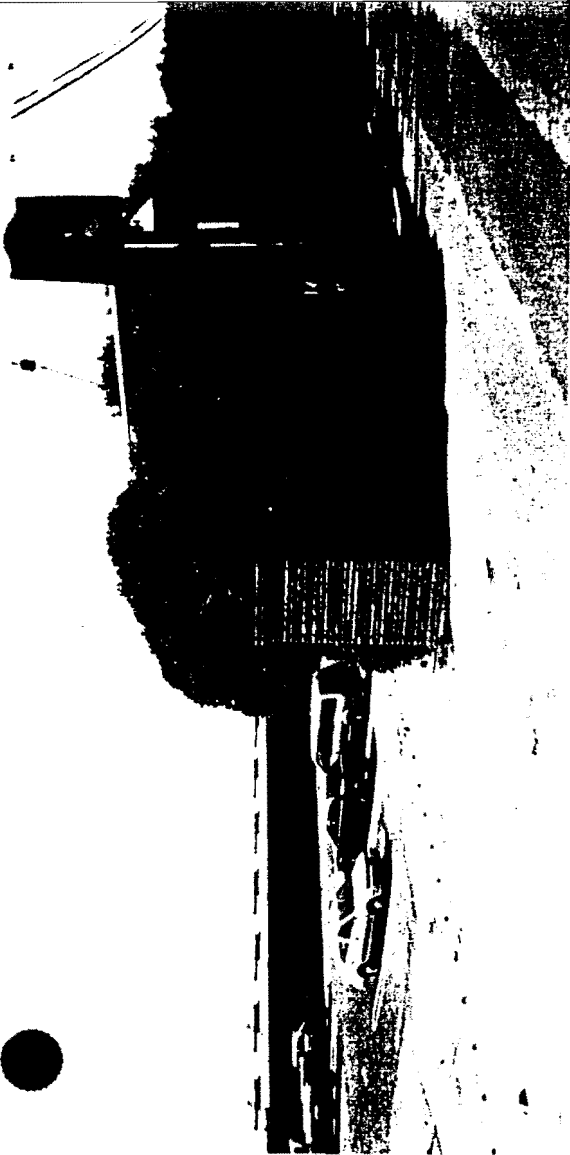
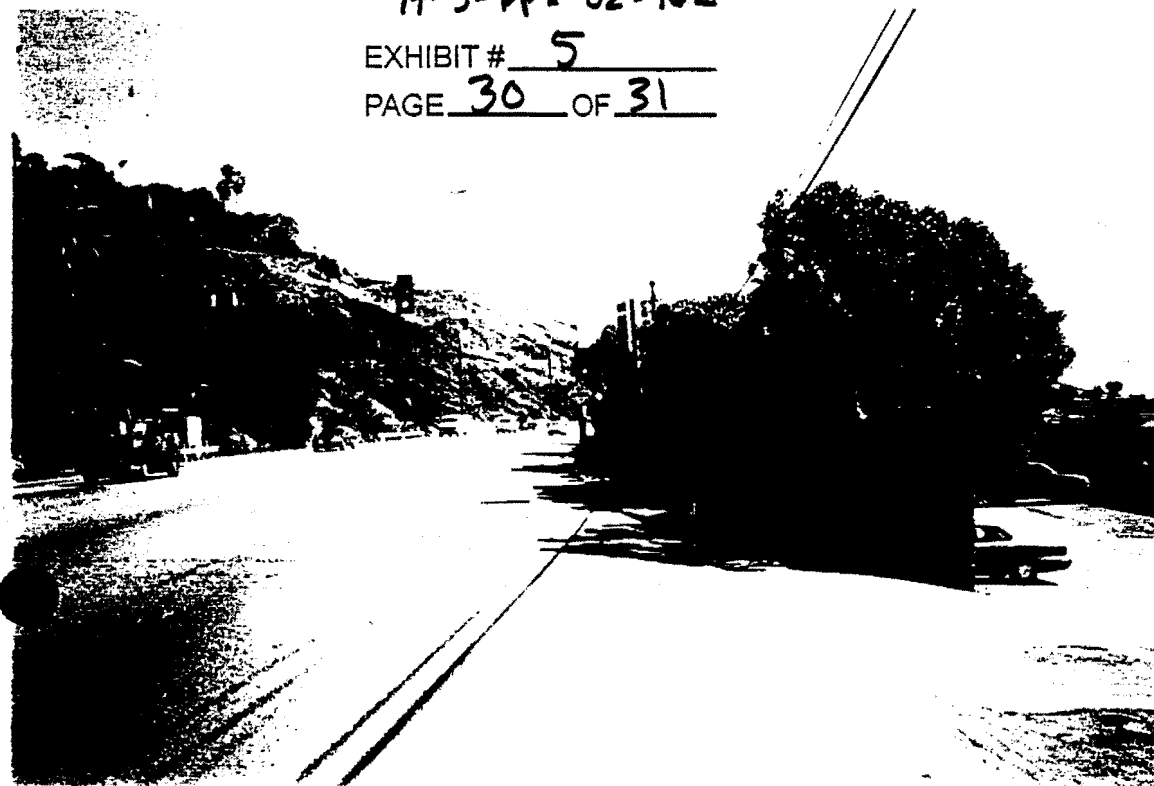
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379 PHOTO (BEFORE VEGETATION WAS PLANTED) SHOWING
HEIGHT OF AUTO WINDOWS FROM PCH.
IF FENCE WERE GONE OR
LOWERED COASTAL VIEW WOULD BE AVAILABLE FROM CARS.

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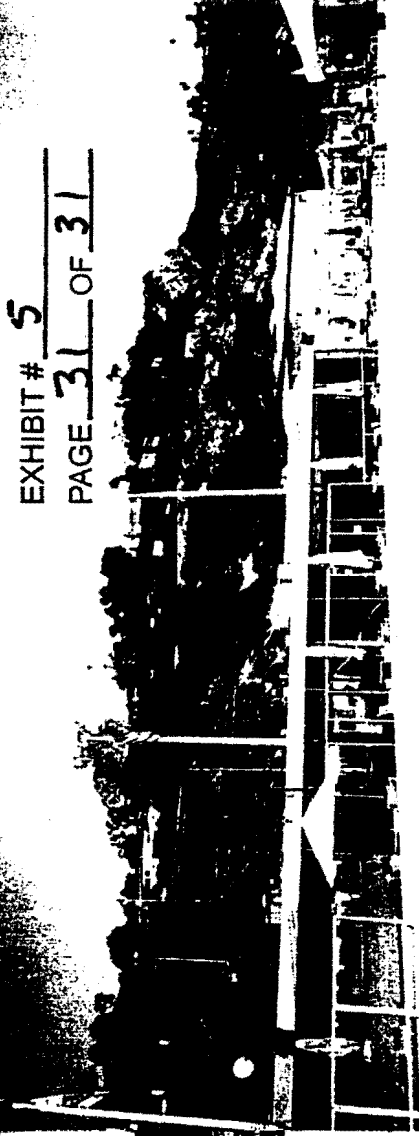


VIEWS FROM PCH IN VICINITY
OF CLUB'S PARKING LOT
DRIVEWAY SHOWING VIEW
BLOCKING DUE TO FENCE AND
VEGETATION AND PROPOSED
TWO STORY ROOF LINES.
NOTE DOWNHILL SLOPE FROM
PCH TO PARKING LOT AT
DRIVEWAY AND ALONG PCH

COASTAL COMMISSION
A-5-POL-02-162

EXHIBIT # 5

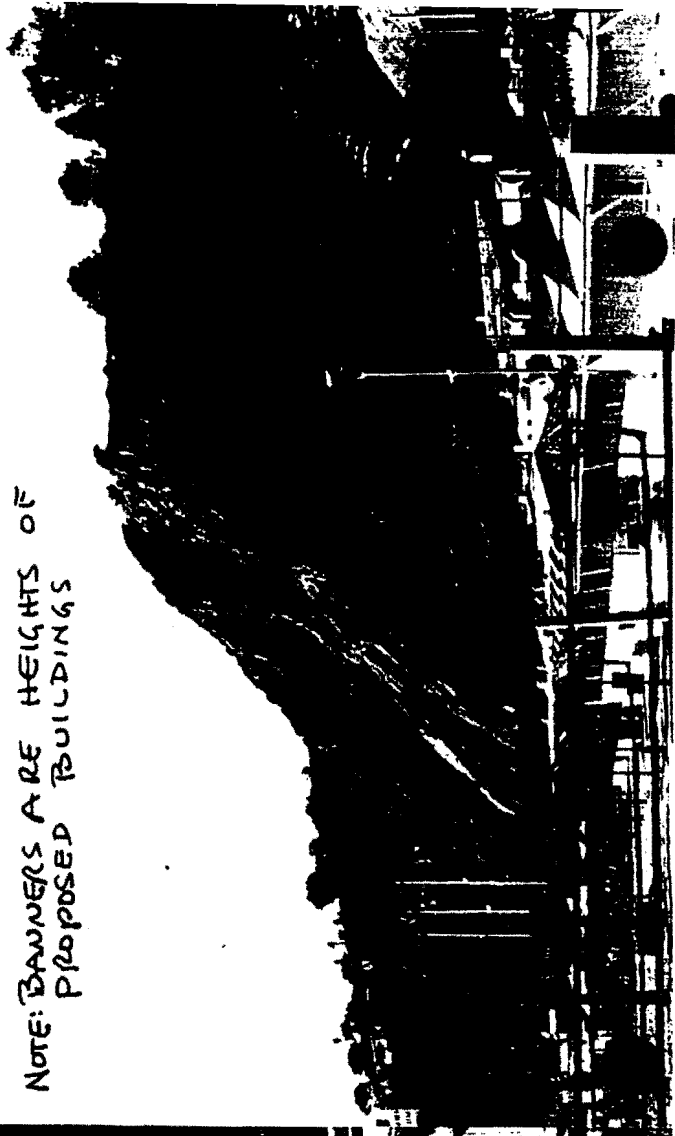
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SCENIC VIEW BLOCKING FROM PUBLIC BEACH

PHOTOS TAKEN STANDING (NOT SITTING) ON SAND WITHIN PUBLIC BEACH SECTOR

NOTE: BARRIERS ARE HEIGHTS OF
PROPOSED BUILDINGS



CALIFORNIA COASTAL COMMISSION

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

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENTSECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

Executive Director, California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, CA 90802 (562) 590-5071

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Los Angeles
2. Brief description of development being appealed: Renovation of the Lower Club Facility including the demolition of 30,701 square feet of the existing 51,128 square foot facility and construction of 40,709 square feet, resulting in a 61,128 square foot Lower Club Facility.
3. Development's location (street address, assessor's parcel no., cross street):
16800 Pacific Coast Highway, Pacific Palisades, City/County of Los Angeles
4. Description of decision being appealed:
 - a. Approval; no special conditions: _____
 - b. Approval with special conditions: XX
 - c. Denial: _____

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-5-PPL-02-162

DATE FILED: May 29, 2002

DISTRICT: South Coast

COASTAL COMMISSION
A-5-PPL-02-162

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5. Decision being appealed was made by (check one):
- a. Planning Director/Zoning Administrator: _____
 - b. City Council/Board of Supervisors: _____
 - c. Planning Commission: XX
 - d. Other: _____
6. Date of local government's decision: March 26, 2002
7. Local government's file number: 2000-0648 (CDP)

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties.
(Use additional paper as necessary.)

1. Name and mailing address of permit applicant:

Bel Air Bay Club, Ltd.
16800 Pacific Coast Highway
Pacific Palisades, CA 90272

2. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

Robert Locker
413 Puerto del Mar
Pacific Palisades, CA 90272

Harold Tuchyner
326 Aderno Way
Pacific Palisades, CA 90272

Stanford Noel
300 Arno Way
Pacific Palisades, CA 90272

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SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government Coastal Permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page. Please state briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

1. Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

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.

Section 30213 of the Coastal Act states, in part:

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

Section 30220 of the Coastal Act states:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

The proposed project, as approved by the City of Los Angeles, extends seaward of the existing structure's location on the sandy beach. During winter months, the beach is eroded to within close proximity of the existing Bel Air Bay Club structure, in some cases limiting access along the beach completely. The new development may further impede public access along the beach. While Condition #28 of the City's approval states that the applicant "shall provide improved public access at or near the mean high tide line along the north westerly ownership...." This condition does not address the relationship of seaward encroachment of the Club facility, which may impact public access along the beach, to public use of the beach, nor does it explicitly state how the applicant would improve public access along this stretch of coastline. In addition, the City-approved project would require further protective devices that could lead to increased beach scour and erosion, thereby decreasing the small amount of sand that the public uses to pass this location between

the cabaña decks and the water. Finally, the City-imposed condition includes no method to determine compliance –it provides no measure of how the City would determine whether the applicant has in fact “improved public access”. Therefore, the City’s approved coastal development permit #2000-0648 is not consistent with the public access policies within Chapter 3 of the Coastal Act.

2. Section 30253 of the Coastal Act states:

New development shall:

- (1) Minimize the risk to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along coastal bluffs.*

The proposed project is located on the sandy beach in close proximity to the water line. This area between the development and the water is commonly inundated with wave run-up from winter storm surf (as the applicant has acknowledged in several coastal development permit applications for temporary sand berms during the winter to protect the Bay Club facility.) The proposed project would increase the size of the structure by approximately 10,000 square feet, much of which expansion would be located seaward of the existing structure. The proposed development would be located in an area subject to hazards from flooding, which would require protective devices and could possibly lead to increased erosion. Location of new development in an area that would require protective devices is inconsistent with Section 30253 of the Coastal Act. The City’s approved coastal development permit # 2000-0648, as conditioned, does not address this issue and is therefore not consistent with Section 30253 of the Coastal Act.

3. Section 30251 of the Coastal Act states:

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, to minimize the alteration of natural land forms, to be visually compatible with the character of the surrounding areas, and, where feasible, to restore and enhance the visual quality in visually degraded areas.

Section 30240 of the Coastal Act states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.*
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.*

The Coastal Act protects the scenic and visual quality of coastal areas and requires that projects be sited and designed to protect the surrounding coastal resources. The proposed project is located seaward of the first public road, on the sandy beach and adjacent to Will Rodgers State Beach. The proposed project includes a second story addition to existing one-story cabanas, and in addition includes fill on an existing beach level parking lot to raise its elevation about ten feet. Finally, the proposed project would extend development seaward of its current location. Although the City's approved coastal development permit conditioned the project not to exceed a 30-foot height limit except for one tower element 37 feet high, the City did not analyze impacts on views from the highway, along the beach front, from public areas on each side of the property and from the public beach seaward of the project. The City found that, with the required height limit the proposed project would be consistent with the Coastal Act. However, the proposed development on the sandy beach adjacent to a State Beach is highly visible and would impact public views, the visual quality of the coastal area, and would not be sited and designed to prevent impacts on views from public park and recreation areas or from Pacific Coast Highway.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal. However, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Jeresa Henry 5/29/02
Signature of Appellant(s) or Authorized Agent Date

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West Los Angeles Area Planning Commission

200 North Spring Street, Room 532, Los Angeles, CA 90012-4801 (213) 978-1300

Website: www.cityofla.org/PLN/index.htm

*** CORRECTED DETERMINATION ***

OF THE WEST LOS ANGELES AREA PLANNING COMMISSION

(Issued at the request of the Coastal Commission to incorporate the Findings in the Determination Report)

Mailing Date: April 18, 2002

Case No.: ZA 2000-0648(CDP)-A2 and
ZA 2000-0647(PAD)-A2

**COASTAL DEVELOPMENT PERMIT
CONDITIONAL USE APPROVAL OF PLANS**

CEQA: ENV 2000-0649-MND

Address: 16800 Pacific Coast Highway

Council District: 11

Plan Area: Brentwood-Pacific Palisades

Zone: A1-1XL

D.M.: 126 B 121

Legal Description: Fraction of Section 1, Township 11N, Range 14E, South Coast Region
8940

RECEIVED
South Coast Region

APR 30 2002

Applicant: Bel Air Bay Club, Ltd./The McGregor Co., Bill McGregor (Representative)

CALIFORNIA
COASTAL COMMISSION

Appellant: 1) Robert Locker
2) Martin J. Murphy

At the meetings on December 5, 2001 and clarified on December 19, 2001 and January 16, 2002 the West Los Angeles Area Planning Commission:

Denied both Appeals

Sustained the action of the Zoning Administrator

Granted the Conditional Use Approval of Plans

Granted the Coastal Development Permit

Modified prior Conditions

Adopted the Findings of the Zoning Administrator

Adopted ENV 2000-0649-MND including the attached mitigation monitoring and reporting program

This action was taken by the following votes:

Moved: Krisiloff

Seconded: Lopez

Ayes: Hall, Rodman, Ritter Simon

Effective Date:

Conditional Use Approval of Plans and Coastal Development Permit are effective at the City level upon the mailing of this report

Appeal Status:

Conditional Use Approval of Plans not appealable:

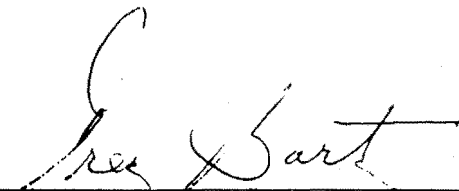
Coastal Development Permit is not further appealable at City level but appealable only to the California Coastal Commission - South Coast District office California Coastal Commission upon receipt and acceptance of this Determination will establish start of the 20-day appeal period

COASTAL COMMISSION
A-5-PPL-02-162

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cc: File Distribution


Greg Bartz, Commission Executive Assistant
West Los Angeles Area Planning Commission

Attachment(s): Finding, Conditions of Approval, Mitigation Monitoring Program

Case No. ZA 2000-0648(CDP)-A2 and
Case No. ZA 2000-0647(PAD)-A2
Determination Report: 16800 Pacific Coast Hwy.

COASTAL COMMISSION

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WEST LOS ANGELES AREA PLANNING COMMISSION DETERMINATION REPORT

PROJECT DESCRIPTION, BACKGROUND AND APPEAL REQUEST:

1. On September 24, 2001, Zoning Administrator Daniel Green, pursuant to Los Angeles Municipal Code Section 12.20.2-G approved a Coastal Development Permit authorizing the expansion of an existing private club located within the California Coastal Zone, and pursuant to Los Angeles Municipal Code Section 12.24-M approved a determination of Conditional Use status and an Approval of Plans to increase the size of an existing private club and to continue the service of a full line of alcoholic beverages.
2. The Appellant, Robert Locker, an aggrieved property owner, appealed certain Conditions, elements, or parts of the Zoning Administrator's approval and appellant Martin J. Murphy, an aggrieved property owner appealed the entire determination of the Zoning Administrator's approval.

FINDINGS:

1. ~~The Commission determined that~~ the Zoning Administrator did not err or abuse his discretion, but erred in certain conditions of approval.
2. The mandatory findings of the Zoning Administrator were adopted by the Commission and are delineated in ZA 2000-0648(CDP) and ZA 2000-0647(PAD) as follows:

MANDATED FINDINGS

In order for a coastal development permit to be granted all of the requisite findings maintained in Section 12.20.2-G of the Los Angeles Municipal Code must be made in the affirmative. Following is a delineation of the findings and the application of the facts of this case to same.

- A. **The development is in conformity with Chapter 3 of the California Coastal Act of 1976 [commencing with Section 30200 of the California Public Resources Code].**

The property contains 250,034 square feet of lot area [approximately 5.74 acres] with 1,200 feet of frontage on the west side of Pacific Coast Highway and a depth varying between 114 and 268 feet to the high tide line. The property is improved with the Bel Air Bay Club, consisting of 164,500 square feet of floor area of which 28,658 square feet is proposed to be demolished and 38,666 square feet is proposed to be added. The proposed project consists of new cabanas which will not exceed 19 feet in height, new kitchens, new lounge area, new dining room, site grading, circulation and parking improvements, replacement of pipes, replacement of the roof, and realignment of a sea wall. Use of the facility at the present is generally limited to the summer months with most pedestrian circulation occurring outdoors. As proposed, the facility will operate throughout the year; 59% of the 10,008 square-foot increase will be devoted to interior circulation so that members and employees will be protected from rain and cold weather. The dining, bar and

kitchen area will actually decrease by 1,800 square feet of floor area. The height of the proposed building varies between 12 and 28 feet, measured to the top of the pitched roof, consistent with the 30-foot height limit of the A1-1XL Zone. One stair tower, approximately 100 square feet in size, extends above the roof to a height of 37 feet; this element is permitted as a matter of right under Section 12.21 of the Municipal Code. Existing hours of operation, from 5 a.m. to midnight, are not proposed to be changed. The applicant has requested no deviations from Chapter 1 of the Los Angeles Municipal Code, the "Zoning Code."

Section 30251 of the Coastal Act seeks to protect the scenic and visual qualities of the coastal area as a resource of public importance. Permitted development should be sited and designed to protect views to and along the ocean to minimize the alteration of natural land forms, and to be visually compatible with the character of surrounding areas. The applicant has designed a new building to replace the existing one constructed and repaired over the past 70 years. The ground floor of the new building is proposed to be constructed 3 feet higher at the ocean side and 5 feet higher at the parking lot side as compared to the existing building. This change reflects a desire to elevate the building from the undesirable effects of high tide and storm damage, which have occurred in the past, as well as to provide access from the associated parking lot which will be raised 5 feet in elevation in order to reduce the sharp 2:1 driveway descent from the street onto the property. This latter circumstance has made it difficult for vehicles to enter the property from the fast pace of the Pacific Coast Highway without compromising public safety, and equally difficult to enter the highway while climbing the current driveway grade and to accelerate safely. The regrading of the driveway and realignment with Bay Club Drive north of Pacific Coast Highway is consistent with Section 30252 of the Coastal Act by enhancing public access to the coast. The new building is proposed to be set back a minimum of 56 feet from the north property line at the highway. Parking will consist of 167 surface parking spaces, an increase of 4 from the current provision of 163 spaces; this also implements Section 30252 of the Act by providing adequate parking facilities. As the building will be 56 feet from the street and 3 to 7 feet below the grade of the highway, it will not suggest bulk and mass out of character for the area. The absence of mechanical structures on the proposed pitched tile roof will enhance the view from hillside dwellings as compared to the existing roof. Lot coverage is limited to 28%, far less than the 40% lot coverage permitted by the Municipal Code for residential use under the Hillside regulations. The proposed project, therefore, will not negatively alter the existing views of the ocean from Pacific Coast Highway in any substantial manner in either the eastbound or westbound directions by motorists, pedestrians or cyclists, nor will it substantially alter the existing views of the bluffs from the public beach.

By limiting membership to the current number, the instant determination implements the policy in Section 30252 to assure "that the recreational needs of new residents will not overload nearby coastal recreation areas." Since no parking is available on Pacific Coast Highway in front of the property and there are no adjacent dwellings, off-site [spillover] parking impacts will not occur as a result of the project. Access to the adjacent Will Rodgers State Beach will not be impacted by the project. According to the standards set forth in the Institute of Transportation Engineers, the project will not result in an increase in traffic generation since the number of trips is based on membership levels and the conditions of approval preclude an increase in membership levels.

The project, as conditioned, is consistent with Section 30253 of the Coastal Act by minimizing risks to property through the rebuilding of an old seawall. There is nothing in the public record which indicates that the seawall would substantially alter natural landforms along bluffs or cliffs or contribute significantly to erosion. According to the Coastal Engineer Report prepared for this project, "[T]he proposed realignment of the seawall will better protect existing and proposed facilities without altering natural shoreline processes or having adverse impacts on existing beach stability or local shoreline sand supply. Because the local groins extend out to sea over 100 feet from the realigned seawall, the seawall realignment would have no measurable effect on the movement and distribution of beach sand or natural shoreline topography."

The Brentwood-Pacific Palisades Plan Map, an Element of the City's General Plan, designates the property for Open Space land uses corresponding to the OS Zone [for land owned by a government agency] and A1 Zone [for privately-owned land]. Pacific Coast Highway is designated as a Scenic Major Highway II. The Plan Map also shows a "Multipurpose Trail" designation parallel to and southerly of Pacific Coast Highway, extending from the westerly City boundary with Malibu to the easterly City boundary with Santa Monica. The Map features the name of the applicant Club on the subject property.

The Plan Text includes "Goal 5: Preservation of the Scenic and Visual Quality of Coastal Area." Policy 5-1.1 states: "The location and amount of new development should maintain and enhance public access to the coast." Three Programs are set forth. The first one states as follows: "Permitted development shall be sited and designed to protect views to the ocean and coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and where feasible, to restore and enhance visual quality in the visually degraded areas." Despite the claim that ocean views will be blocked by the project, much of the blocked views already exist with the status quo. Whether the fence, fabric, and landscaping along the Pacific Coast Highway are 6 feet in height or whether the building is one story in height or both, views from the Highway of beach and ocean have been and will continue to be diminished. The present view shed cannot be characterized as pristine. As most of the property will not be impacted by increased building height, the project maintains substantial ocean views as shown in photo-simulations in the case file. In order to literally restore scenic views, public funds would have to be expended to purchase a view easement through the property or public funds would be necessary in order to purchase the property outright. The project will not result in any diminution of public access to the coast. Membership of the Club will not increase; testimony and photographs attest to the maintenance of a substantial amount of "white water" views; the 12- to 28-foot height of the building is consistent with the most restrictive height district in the City's Zoning Code, and will not cause significant blockage of public views to the ocean as compared to the existing views as shown in photo-simulations in the case file; the 37-foot height of the stair tower is a permitted exception under the Municipal Code and is minor in relation to the total project area; coverage of buildings will not exceed 28% of the parcel; the Spanish style architectural treatment of the building is consistent with numerous residential buildings in the vicinity and with the Club's facility on the north side of Pacific Coast Highway, both of which are indicated in an aerial photograph in the case file; to the extent the new roof conceals mechanical equipment it is a visual improvement over the existing visual quality of the property. The other

two Programs require Coastal Development permits, which is the subject of the instant review, and restrict commercial advertising on public beaches. As the applicant does not own or lease any public beach, the latter Program is not applicable. Speculation in the July 25 letter that the height of the proposed building will result in "a cascade of height increases" by hillside neighbors is just that - speculation.

Objective 5-2 states, "To protect coastal resources and to provide maximum public access to and along the shoreline consistent with property rights and sensitive habitat resources." The implementing Policy of that Objective states, "Existing public access ways [shall] be protected and maintained and new development adjacent to the shoreline shall be required to provide public shoreline access consistent with the above objective." In that regard, the remodeling and expansion of the existing Club facility will have no negative impact on existing public access laterally across the beach. In fact, the required staking of the property will assure the public and the applicant where the true property lines are located. This was a major bone of contention at the public hearing. The applicant does not control the majority of the fence and landscaping where the road interfaces with the private property. Those features are substantially within land controlled by Caltrans which is not under the jurisdiction of the City of Los Angeles and therefore not within the City's ability to require removal or enhancement. The proposed development of the property modernizes rather than changes the current use of land, consistent with the Policies of the Coastal Act. The applicant has offered to provide a temporary easement 5 to 6 feet in width adjoining Pacific Coast Highway for a bike path until a permanent facility can be established. Under the City's Bicycle Plan, an Element of the City's General Plan, extending a bike path through the property is Priority 3, under Policy 1.1.7 of the Plan. If the bike path is needed, Caltrans has agreed to relocate the fence on its property. At the present time, the path has not been designed. It is presumed that a fence similar to the one now erected will be utilized to separate cyclists from the applicant's property. The bike path will constitute its own project and be addressed in detail when it is reviewed.

The South Coast Regional Interpretive Guidelines have been reviewed and considered. The Guidelines are intended to provide direction to decision makers in rendering discretionary determinations pending adoption of the Local Coastal Program. The subject use is a commercial one. Section B of the Guidelines for the Pacific Palisades area promote "coastally related" facilities. The relationship of the Bel Air Bay Club to the beach and the ocean has never been questioned. The use was first established in 1927 and has continued without interruption since then. Under Section C - Public Access to Coastal Zone Resources, "views to the shoreline should be preserved and protected." The photosimulations submitted by the applicant at the public hearing attest to the low scale of the project as compared with its current facilities. While some neighbors on hillside lots across Pacific Coast Highway may experience a reduction in "white water" views, the number of affected lots is not large, and there is no documentation showing any significant amount of reduced views would occur. The shape of the applicant's lot is long in an east/west direction but much narrower from north to south. The alternative of moving the buildings to the north property line and the parking toward the high tide line in order to eliminate any loss of white water views would be a most unusual beach resort. The Guidelines do not provide rights to "white water views."

With respect to Hazard Areas, the applicant contends that high water has caused damage to the cabanas which are closer to the ocean than the other portions of the buildings. Cabana damage and risk is indicated in photographs in the case file submitted by the applicant. Changes in the contour of the ocean/shoreline adjoining the property since the initial development of the site in the 1920s is evident in a 1962 photograph. The proposed change to the seawall will not affect the existing contours according to the Coastal Engineer Report. The Mitigated Negative Declaration identifies the following related issues: Erosion/Grading, Liquefaction, and Flooding/Tidal Waves. The Zoning Administrator has incorporated each of the recommended mitigation measures so that there will be no resulting significant environmental impacts. None of the mitigation measures will have a negative residual appearance nor will any such measure preclude the general intent and purpose of the proposed project.

B. The development will not prejudice the ability of the City to prepare a Local Coastal Program that is in conformity with Chapter 3 of the California Coastal Act of 1976.

The City's adopted Land Use Element includes the Brentwood-Pacific Palisades Plan which is the functional equivalent of the Local Coastal Program until the latter is formally adopted. The only existing land use within the subject ownership is the existing Bel Air Bay Club. The property has been substantially improved with this use since the late 1920's. The previous zoning of the property was R1; the property is now classified in the A1 Zone which is the most restrictive zone classification in the Municipal Code that can be applied to privately-owned property, and the associated 1XL height district, limiting development to 30 feet in height, is also the most restrictive designation in the Code. Alternate permitted use of the property is limited to two single-family dwellings or a public park. Therefore, the approval herein will not prejudice the City's ability to prepare a Local Coastal Program consistent with Chapter 3 of the Act.

C. The Interpretive Guidelines for Coastal Planning and Permits as established by the California Coastal Commission, dated February 11, 1977, and any subsequent amendments thereto, have been reviewed and considered in light of the proposed project in making this determination.

The Zoning Administrator has compared the proposed project to the State Guidelines and found that they are consistent with all requirements for design, use, coastal access, and hazard areas. The terms and conditions established in the grant include environmental mitigation measures and other conditions reflecting the solicitation of public input and the results of public hearings open to surrounding neighbors and governmental agencies.

D. The decision of the Zoning Administrator has been guided by any applicable decision of the California Coastal Commission pursuant to Section 30625(c) of the Public Resources Code.

There are few clubs in the City of Los Angeles and nearby jurisdictions which are located at the beach as in the instant case. Therefore, the universe of applicable Coastal Commission decisions which can be utilized as a direct reference are minimal, and the public record disclosed no decisions purported to be applicable. The project cannot be characterized as the introduction of a new use on a vacant lot, nor the replacement of visitor-serving lodging with a wholly new use,

Case No. ZA 2000-0648(CDP)-A2 and

Case No. ZA 2000-0647(PAD)-A2

Determination Report: 16800 Pacific Coast Hwy.

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nor an attempt to accommodate a dramatic increase in membership. The project is by and large a remodeling and upgrading of a 70-year old land use, worn out in part by sun, wind, rain, and surf. The expansion of floor area approximates 20%. Most of the property will be open to the sky. The building footprint is limited to only 28% of the parcel. Substantial views from the hillside to the ocean will remain. The proposed building is more attractive than the existing building which features very visible mechanical roof structures. Existing white water views, while not identified in the Coastal Act as a specific resource to be preserved, will in fact be substantially maintained for nearby hillside property owners as indicated in photo-simulations in the case file. No increase in membership is permitted. The improvement of the signalization and driveway approach to Pacific Coast Highway should contribute to improved public access to areas east and west of this location and to improved public safety. Demarcation of the applicant's property lines will assure the public of their rights to the public beach. Concerns about fencing and landscaping along Pacific Coast Highway cannot be resolved by the Zoning Administrator as such responsibility is legally vested in Caltrans.

- E. **The development is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, and the development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act of 1976.**

The property is located between the sea and Pacific Coast Highway, the nearest public road to the sea. The project is consistent with the following Coastal policies with respect to Public Access:

- a. Section 30210 calls for access to be "conspicuously posted" and to protect the rights of private property owners. The applicant is required to establish a clear demarcation of the public/private boundaries. The project will provide a minimum of 70 feet of lateral access from the seawall to the mean high tide for public access.
- b. Section 30212 does not require public access where "adequate access exists nearby." Photographs and testimony indicate ongoing use of the public beach adjacent to the property, including a life guard station adjacent to the east property line.
- c. Section 30214 requires implementation of policies in a manner that considers intensity of use, topographic and geologic characteristics, limiting public "right to pass", and collection of litter. The Conditions of approval restrict Club membership to existing levels, establish responsibility/ protection of private land ownership through fencing or signage, and removal of litter and graffiti.

The project is also consistent with the following Coastal policies with respect to Recreation:

- a. Section 30220 seeks to protect areas suitable for water-oriented recreational activities. The project does not extend into the ocean.
- b. Section 30221 seeks to protect oceanfront land for recreational uses. The applicant Club is a beach-oriented facility with swimming, tennis, jogging and other common exercise

opportunities available. No site expansion is proposed.

- F. **An appropriate environmental clearance under the California Environmental Quality Act has been granted.**

A proposed Mitigated Negative Declaration [MND] was prepared for the project. The Zoning Administrator has incorporated as Conditions of the grant all the mitigation measures identified in the MND as well as the responses to comments which resulted in changes to the conditions.

APPROVAL OF PLANS

A particular type of development is subject to the conditional use process because it has been determined that such use of property should not be permitted by right in a particular zone. All uses requiring a conditional use permit from the Zoning Administrator are located within Section 12.24 of the Los Angeles Municipal Code. In order for modifications of a previously approved conditional use to be authorized, certain designated findings have to be made in the affirmative.

FINDINGS

Following (highlighted) is a delineation of the findings and the application of the relevant facts to same:

For the new site plan and sale of alcoholic beverages:

- G. The Bel Air Bay Club has existed on the site for approximately 70 years. The Club existed on the site prior to the change of zone from R1-1 to A1-1XL. The Municipal Code permits private clubs in the A1 Zone by conditional use. As the use was established on the property at the time of the change of zone to A1-1XL, the use of the site is deemed to be approved conditional use with respect to the private club use. Modifications and enlargements of a conditional use are permitted through an Approval of Plans procedure in Section 12.24-M of the Code. I hereby determine that the use of the property has deemed to be approved status as a private club.

With respect to the alcoholic beverage request, Municipal Code Section 12.24-W, 1 provides a conditional use procedure to establish the sale of alcoholic beverages for on-site consumption where such use is accessory to the operation of a club. The applicant has indicated that the sale of alcoholic beverages for on-site consumption at this location has occurred for several decades and no testimony was received arguing this point. **[get evidence for file]** Therefore, the sale of alcoholic beverages for on-site consumption is deemed to be approved conditional use. Furthermore, as the proposed occupancy limitation will not be increased by more than 20% as compared to the existing occupancy, the request to modify the existing floor plan to accommodate the instant request is within the parameters set forth in Section 12.24-W, 1(d).

- H. **The proposed location will be desirable to the public convenience or welfare.**

The proposed project is substantially a renovation of the existing building and infrastructure inside

and substantially on the same footprint. The proposed expansion is approximately 20% of the existing square footage.

Access to and from the site will be improved by regrading the driveway which angles steeply down from Pacific Coast Highway so that vehicles can enter and exit more safely than at present without resorting to a slow entry from a fast-moving highway and conversely without resorting to gunning the engine to get up to speed when exiting onto the highway.

The application alleges there are 145 parking spaces on the property and that the project would add 22 more spaces for a total of 167. However, according to the 1984 certificate of occupancy, there are 163 existing parking spaces. Therefore, only 4 additional parking spaces will be added. This small increase in parking supply will make internal circulation marginally more accommodating to Club members. As membership is not permitted to increase above the existing 852 memberships, the net gain of supply is a positive aspect. Whether the additional cabanas authorized herein will lead to increased parking demand is speculative.

The improvements will allow a more fully functional facility year round than has been the case historically through the enclosure of outdoor areas; more than 50% of the net expansion will be consist of interior hallways.

The only change affecting alcoholic beverage service will be the floor plan of the dining room which is maintaining its current capacity of 443 seats and current hours of operation.

Public welfare should not be at risk. Membership is not permitted to increase. The dog leg location of Bay Club Drive, characterized by opponents and proponents alike as unsafe, will be realigned. Public views from the adjoining highway and from most hillside dwellings across the highway will be improved as the roof of the project will be Spanish tile and the existing mechanical structures on the roof will be removed.

I. The location is proper in relation to adjacent uses or the development of the community.

The Club was among the early developments in the area, having been used by Club members in association with the Club's northerly parcel across the highway before 1930. A review of the early history of the Club indicates that as of at least 1934 the site occupied 671 feet of frontage on the south side of Malibu Road [reconfigured subsequently and renamed Roosevelt Highway, and renamed again to Pacific Coast Highway], extending to the mean high tide line. The initial zone classification of the property in the 1920's was "B", according to a Zoning Engineer's report dated March 22, 1934, "in order that the Club might proceed with its contemplated improvements without the necessity of obtaining a special permit."

On June 2, 1930, a new citywide zoning ordinance [No. 66,750] was enacted, changing the zone of the property to R1. In 1931, City records indicates the property was improved with a "grill room" and "locker rooms for men and women." The City Council's intention to change the "B" Zone to the R4 Zone was, according to the Zoning Engineer at the time, inadvertently published on the adopted zoning map as R1.

In 1934, a City review identified the error, but the City retained the more restrictive R1 Zone in order to preclude the obstructing of the view of the ocean from the highway that the unlimited height of the R4 Zone would otherwise have permitted. [This concern in 1934 for protecting ocean views from the highway was highly significant for its day considering the vast openness that existed in Los Angeles at that time.] A zone variance procedure was determined to be an appropriate mechanism to consider any prospective changes to the Club's buildings, although none, according to statements in the record, were contemplated at that time. On July 20, 1934, Mayor Frank L. Shaw approved a variance [Ordinance No. 74,015] which accommodated the Club's early physical development [the approval is also referenced as No. 75,015 in subsequent years, and the accompanying Zoning Administrator Case Number is 4592]. This "conditional variance" gave the Club a blanket approval for a social club with usual and necessary appurtenance and allowed the Club to expand by filing plans with the City in order to assure orderly and compatible development without the need to file formal variance applications each time. Among the public records assembled in the case file is a subsequent approval in 1937 for an enclosed badminton court building. In 1951, under the variance authority, an enclosed 40-foot by 103-foot dining-lounge area which had previously been roofed over by a canvas roof supported on pipe framing which had repeatedly required frequent and costly replacements and which no longer conformed to Fire Department regulations, was approved. Another approval in 1954, provided for the construction of a 16-foot by 88-foot lounge addition to an existing lounge and dance floor. A site plan indicates the existence of 8 cabanas at that time. In May 1954, a "refrigerator building" measuring 11.5 feet by 15 feet was approved. The approval notes that subject portion of the proposed building would be approximately 75 feet from the highway. The accompanying site plan, although not fully readable, shows approximately 86 cabanas. In 1956, the Chief Zoning Administrator noted that "these cabanas have never been specifically approved since they were considered as temporary summer shelters and not as permanent structures. They have appeared, however, on various plot plans." A letter in 1956 from the Club to the Chief Zoning Administrator states membership at 600. In 1957, a 900 square-foot addition was approved for additional lockers, shower rooms, and dressing rooms. In 1964, a 28-foot by 96-foot lounge room 22 feet in height, to replace a one-story lanai, was approved by the Chief Zoning Administrator. Additional permits were issued to expand, replace, and remodel in ensuing years, the most recent being a 1991 permit for a retaining wall and shoring.

In the intervening 70 years, the Pacific Palisades community has had substantial growth. Dwellings on either side of Pacific Coast Highway and including the hillside area are commonly one and two stories in height. As the proposed project is not more than 28 feet in height, its height is proper in context with the predominant standard in the area. Some hillside commentators have criticized the proposed height as it may block some portions of their ocean views. The Zoning Administrator does not concur in the assessment they hold that the building is a mansion. This is a question of judgement.

The Zoning Administrator is guided by the applicable height limitation of the property's zoning which restricts building height to 30 feet. This is the most restrictive height district available in the Municipal Code. The commentators own no view easements. Property owners at lower hillside elevations, no closer than 300 feet to the applicant's property, may have concerns if a one-story building was proposed. Pedestrians at street level may have objections if a 6-foot fence was

erected. Indeed, some have objected to the 6-foot high chain link and fabric fence along Pacific Coast Highway which would be necessary for safety to separate the future bike path from the applicant's property below. Such a fence is indicated in Caltrans' preliminary plans for the widening of the highway [Appendix C of the MND]. A photograph in the case file utilized as evidence of the posting notice shows that even across the street the existing one-story building blocks the view of the beach and any white water that may be present. The site features a ground elevation below street level. In relationship to an ownership of 5.74 acres, the proposed floor area and building height are quite reasonable.

The Zoning Administrator is also guided by the relative minor change between the height of the existing building and the proposed. Alternatively, the applicant could have proposed a building with a larger footprint and reduced height. However, such design would compromise the number of parking spaces that could be provided, and would arguably impact existing views which are uninterrupted by the parking lot at the west end of the property or by the tennis courts at the east end of the property.

A noise analysis performed for the project concluded that noise generated by future operations would be less than significant. In addition, the proposed project is predicted to significantly reduce the noise at nearby receptors by 14 to over 25 dB compared to existing conditions due to the enclosure of outdoor entertaining areas.

J. The use will not be materially detrimental to the character of the development in the immediate neighborhood.

The basic uses of the site will not change under the proposed project.

A photographic comparison of the site with its existing improvements with a photo-simulation of the site with the completion of the proposed project tells an important story - there is not a significant difference between the two, other than some aesthetic architectural treatment where white stucco and red tile will replace deteriorating wood and rusty metal.

A number of comments were made in writing and at the public hearing with respect to chain link fence and landscaping on the applicant's property adjoining Pacific Coast Highway and its impact on views to the beach from the highway. The Zoning Administrator has reviewed, in the case file, a survey conducted by the State Department of Transportation, Engineering Services Branch, on December 13, 2000. The survey shows that all of the fences along the Club/Caltrans common property line are on State land, except for some fences in the eastern 200 feet of the site. The Zoning Administrator cannot require the applicant to remove or reconstruct fences on publicly owned land.

K. The proposed location will be in harmony with the various elements and objectives of the General Plan.

The Brentwood-Pacific Palisades Plan Map, an Element of the City's General Plan, designates the property for Open Space land uses corresponding to the OS Zone [for land owned by a government

agency] and A1 Zone [for privately-owned land]. Pacific Coast Highway is designated as a Scenic Major Highway II. The Plan Map also shows a "Multipurpose Trail" designation parallel to and southerly of the Highway extending from the westerly City boundary with Malibu to the easterly City boundary with Santa Monica. The Map features the name of the applicant Club on the subject property. As properly concluded in the MND, no portion of the proposed project involves the construction or placement of any structure which would preclude or interfere with implementation of the City's Bicycle Plan.

The Plan Text includes "Goal 5: Preservation of the Scenic and Visual Quality of Coastal Areas." Policy 5-1.1 states: "The location and amount of new development should maintain and enhance public access to the coast." Three Programs are set forth. The first one states as follows: "Permitted development shall be sited and designed to protect views to the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and where feasible, to restore and enhance visual quality in the visually degraded areas." The project will not result in any diminution of public access to the coast. Membership of the Club will not increase; testimony and photographs attest to the maintenance of a substantial amount of "white water" views; the 30-foot height of the building is consistent with the most restrictive height district in the City's Zoning Code, and will not cause significant blockage of public views to the ocean as compared to the existing views as shown in the photo-simulations in the case file; land coverage of buildings will not exceed 28%; the Spanish style architectural treatment of the building's exterior is consistent with numerous residential buildings in the vicinity as indicated in an aerial photograph in the case file and with the Club facility on the north side of Pacific Coast Highway; to the extent the new roof conceals mechanical equipment it is a visual improvement over the existing visual quality of the property. The two Programs require Coastal Development permits, which is the subject of the instant review, and restrict commercial advertising on public beaches. As the applicant does not own or lease any public beach, the latter Program is not applicable.

Objective 5-2 states, "To protect coastal resources and to provide maximum public access along the shoreline consistent with property rights and sensitive habitat resources." The implementing Policy of that Objective states, "Existing public access ways [shall] be protected and maintained and new development adjacent to the shoreline shall be required to provide public shoreline access consistent with the above objective." In that regard, the remodeling and expansion of the existing Club facility will have no effect on existing public access laterally across the beach. In fact, the required survey and staking of the property will assure the public and the applicant where the true property lines are located. This was a major bone of contention at the public hearing. The applicant does not control the fence and landscaping where the road interfaces with the private property, another controversial issue at the public hearing. Those features are substantially within land controlled by Caltrans which is not under the jurisdiction of the City of Los Angeles and therefore not within the City's ability to require removal or enhancement. The proposed development of the property modernizes rather than changes the current use of land, consistent with the Policies of the Coastal Act.

Additional Findings for Alcoholic Beverages only:

L. The proposed use will not adversely affect the welfare of the community.

No testimony was received regarding this issue. The consumption of alcoholic beverages is limited to the members of the applicant Club. All consumption is required to be on site. The dining area remains the same size as at present. There is no reason to expect a modern facility will result in any adverse impacts on the welfare of the surrounding community. There is no evidence of any prior criminal activity on the property related to the sales, service, or consumption of alcoholic beverages.

M. The granting of the application will not result in an undue concentration of premises for the sale or dispensing for consideration of alcoholic beverages.

As no new license is being requested, the Zoning Administrator's determination has no affect on the number of licenses in the vicinity nor will it authorize a larger dining area where such beverages are served than at present. There was no testimony on this issue.

N. The proposed use will not detrimentally affect nearby residentially zoned areas.

No residents voiced any opposition to this request. The nearest dwelling is 300 feet from the property on the north side of Pacific Coast Highway. There are no schools, religious facilities or other sensitive uses nearby. The County Department of Beaches submitted a letter with no particular concerns expressed about the project; therefore, it would appear that alcoholic beverages are not being consumed on the public beach.

ADDITIONAL MANDATORY FINDINGS

- O. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 154,405, have been reviewed and it has been determined that this project is located in Zone C, areas of minimal flooding; and Zone B, areas between limits of the 100-year flood and 500-year flood; or certain areas subject to 100-year flooding with average depths less than 1-foot or where the contributing drainage area is less than 1 square mile; or areas protected by levees from the base flood.
- P. On January 31, 2001, the City Planning Department Environmental Staff Advisory Committee (ESAC) issued Mitigated Negative Declaration No. ENV 2000-0649-MND (Article V - City CEQA Guidelines) and determined that by imposing conditions the impacts could be reduced to a level of insignificance. I hereby adopt that action. The records upon which this decision is based are with the Environmental Review Section in Room 763, 200 North Spring Street.
- Q. Fish and Game: The subject project, which is located in Los Angeles County, will not have an impact on fish or wildlife resources or habitat upon which fish and wildlife depend, as defined by California Fish and Game Code Section 711.2.

3. The prior conditions and limitations were modified in part for the following reason:
 - A. To protect the surrounding community and environment.
 - B. To assure a project as described by the Applicant.
4. The Commission arrived at its determination based upon its review of available records and evidence contained in the subject and related files and upon testimony and evidence provided at the Commission's hearing on the subject matter.

SUMMARY OF THE HEARING:

At the December 5, 2001 hearing the Zoning Administrator (ZA) Daniel Green summarized the request, the facts surrounding the case, the action taken, and findings made. He indicated:

- Site is in a restrictive zone with a 30 foot height limitation;
 - Proposal will exceed height limitations by seven feet;
 - Proposed tower will appear "like" a church steeple;
- Club membership will remain the same;
- There will be an increase in the number of parking spaces;
- Grade difference of 11 feet will be lessened;
- Proposed improvements in addition to reconstruction of structures and cabanas;
 - Driveways are to align with the traffic signals;
 - Bikeway extension;
 - Eliminating roof mounted equipment;
- Onsite sale of alcoholic beverages;
- Public unsure of the Applicant's property line;
- Proposal not a detriment to views;
- There are no view rights in the city; and
- Nearest single family dwelling is approximately 300 feet away.

The Appellants and an individual who oppose the proposed development indicated:

- Pacific Coast Highway is designated a scenic highway on the General Plan;
- Public view along Pacific Coast Highway should be preserved;
- Issues and concerns;
 - Obstruction of public views;
 - View belongs to the public and is being denied to the public;
 - In 1934, a Commission indicated the importance of scenic views;
 - Chain link fence with adjoining vegetation impedes view toward the ocean;
 - Object to the proposed height increase;
 - Proposed tower for "cosmetic" purposes is not needed;
 - Additional eight feet in height is proposed to accommodate the stairway and elevator;
 - Elevating the parking lot raises the base height;

- Increased square footage;
- Significant expansion on the beach;
 - Encroachment on a public beach;
 - Facilities are on state-owned property;
 - Will not enhance public access to the beach;
 - Not a public benefit;
- Sea Wall;
 - Impedes use of the beach;
 - Alters coastline and erosion;
- Decision will set a bad precedent;
- Improvements generate greater use of the property and traffic;
- Computer enhanced photos are biased;
 - East-west views toward the ocean aren't shown; and
 - Photos favor the "Bay Club".

Representatives for the Applicant and the Council office of the district, residents, neighbors and non-members of the area who oppose the appeals indicated:

- "Bay Club" facilities are in two locations and are connected by a private road;
 - Site on over five acres of land;
 - 1200 linear feet of frontage along Pacific Coast Highway;
 - Upgrading "aging and deteriorating " facilities;
 - Desire to protect facility from the sea;
 - Council office and community support with over 700 signatures for proposed development;
- Proposed development to include;
 - Increasing square footage;
 - Increasing number of cabanas;
 - Increasing storage space;
 - Increasing onsite parking;
 - Improve internal traffic circulation and access;
 - Minimum change in building footprint;
 - Beach retention being considered;
 - Additional seven foot height to accommodate stairway and elevator;
 - Retention of existing chain link fence and vegetation;
- Visual obstruction from hillside is non-existent;
- Existing view will not change;
- Measurements are from existing grade not from a "raised grade";
- Approximately 40 or more in the audience stood in support of the proposed project;
- Reasons for supporting project;
 - Reasonable proposal;
 - "Class way" the "Bay Club" met, discussed and worked out the project with the neighbors and the Council office;
 - Improving safety by aligning access at the intersection with traffic signals;
 - Aesthetically, significant enhancements of the area;

- A good neighbor;
 - Allow use of their driveways by non-members;
 - Involve non-member neighbors in their activities;
- "Win-win" situation;
- "Bay Club" agreeing to a bikeway; and
- Proposal addressed concerns of view, access, signage and erosion.

After closing the public hearing, the Commission deliberated and the following points were made:

- Raising height of driveway;
 - Will not affect overall height of the structures;
 - Will improve access;
- State owned property abutting Applicant's site;
 - City doesn't have jurisdiction;
 - State inherited property;
 - Fence is on State (Cal Trans) property;
 - Cal Trans and Applicant agreed to relocate the fence;
 - Bikeway being considered through State property;
 - Landscape maintenance on State (Cal Trans) property is not the "Bay Club" responsibility;
- Existing conditions will remain or slightly change by the proposed development;
 - Membership will not be increased;
 - Lot coverage to be approximately 20%;
 - Additional parking spaces are to be provided;
- Existing Conditions of Approval address concerns of;
 - Site boundaries (Condition No. 21);
 - Outdoor lighting (Condition No. 23c);
 - Temporary easement along shoulder of Pacific Coast Highway (Condition No. 22);
 - Implementation of the City's Bicycle Plan (Condition No. 23m);
- Additional issues and concerns;
 - Maximum build out not a concern;
 - Coastal Commission involvement;
 - Public access to beach area;
 - Physical change to properties;
 - Part of the approval process;
 - Public view;
 - Consideration possible on the construction of a masonry wall;
 - Public access to beach area desired;
 - Removal of man-made barriers (fence, walls);
 - Preservation of view corridors along Pacific Coast Highway;
 - Public right of enjoyment;
 - Regulate or lower height of man made structures, trees and hedges;
 - "Open" fence rather than "solid" fencing desired to afford visibility;
 - Six foot high fencing permitted by Los Angeles Municipal Code (LAMC);
 - Beach erosion effect on public access;

- Masonry wall and fencing effect on public access and safety;
- Bicycle path implementation;
 - Mitigations identified in Section IX d of MND 2000-0649(PA)(CDP);
 - Alignment and dedication in the discussion stages;
 - Dedication desired to avoid future cost of acquisition or possible litigation;
 - Applicant willing to consider dedication;
 - City will construct utilizing MTA funding;
 - Liability issues are being considered;
 - "Bay Club" should consider funding cost of improvements;
 - Easements without any improvements do not implement City's Bicycle Plan;
 - Bikeway path proposed to be cantilevered over driveway is the major cost;
 - Cost of approximately five million dollars to implement;
 - Design by Bureau of Engineering not finalized;
 - Width of path undecided;
 - Traverse the length of the Applicant's property; and
 - Lead agency is the Department of Transportation (DOT).

After deliberating the Commission passed a motion to:

- Deny both appeals;
- Sustain the action of the Zoning Administrator;
- Adopt the Findings of the Zoning Administrator;
- Modify the Conditions of Approval as follows;
 - Fence height limited to six feet per LAMC;
 - Bel Air Bay Club to work with Cal Trans and the Council office of the district to determine:
 - Height of trees along the fence if not limited to six feet;
 - Shoulder improvements;
 - Removal of masonry wall along northerly ownership if feasible;
- Adopt the Mitigated Negative Declaration including the attached Mitigation Monitoring and Reporting Program; and
- Direct staff to prepare language for Conditions of Approval for Commission's review and comments.

At the December 19, 2001 hearing, the Commission discussed and considered whether or not to reconsider this case. The issue was materials used for fencing. Time is of the essence and the Applicant was reluctant to grant a time extension. The Commission took this into consideration when they decided not to reconsider the case but to clarify the Conditions of Approval at the next meeting.

At the January 16, 2002 meeting the Commission considered a clarification of the Conditions of Approval. Zoning Administrator Daniel Green summarized what transpired in the previous meetings and provided explanations of photographs provided. He explained his field observations and provided options to the

Commission for their consideration. The options provided were:

- Removing a portion of the concrete wall;
- Removing the chain link fence;
- Improving the cemented "hump";
- Creating a passageway through the groin; and
- Providing improved lateral access to the satisfaction of the Coastal Commission.

The last option was recommended. All of the options took into consideration:

- Public access;
- Effect on tidal action;
- Safety and risk issues;
- Liability issues;
- Trespassing; and
- Privacy.

The Applicant's attorney submitted a copy of their clarification of the conditions. The Commission took this into consideration along with the ZA's recommendations, tape notes of prior meetings, prior Conditions of Approval, testimonies made and then made the following points:

- A good faith effort made to have a line of sight from Pacific Coast Highway to the ocean with obstructions no higher than six feet;
- Applicant shall work with the Council office and Cal Trans to maintain landscaping along Pacific Coast Highway at a height no greater than six feet;
- Fencing shall be limited to a height of six feet and not tied to the Los Angeles Municipal Code (LAMC);
- Approximately 1000 of the 1200 linear feet of fencing along Pacific Coast Highway is located on Cal Trans property;
- Insert "...unless specifically precluded ..." in lieu of "...if required..." in Condition No. 28;
- Reference to "MND" in Condition No. 22 offered by the Applicant's representative was not on the Tape of the December 5, 2001 hearing; and
- Condition No. 6 correct to read 61,128 in lieu of 174,508 square feet.

Prior to concluding the hearing on this matter, the commission allowed testimonies as permitted by the "Brown Act" and the following points were made:

- Public view is a major concern;
- Views impaired by covered fencing and landscaping
- Fence covering and landscaping should be removed; and
- Fence should be relocated further and down sloped from Pacific Coast Highway.

The Commission then passed a motion that clarified prior conditions of approval to reflect the above comments.

APPEAL RIGHTS:

Conditional Use Approval of Plans is not further appealable.

Coastal Development Permit is appealable. The determination in this matter is appealable to the California Coastal Commission. Said determination by the West Los Angeles Area Planning Commission will become effective on the date indicated on the front page of this report unless an appeal is filed with the California Coastal Commission in accordance with their procedures. They can be reached at:

California Coastal Commission - South Coast District Office
200 Oceangate - 10th Floor
Long Beach, CA 90802
(562) 590-5071
Attention: Pam Emerson / Charles Posner

Furthermore, this Coastal Development Permit shall be subject to revocation as provided in Section 12.20.2-J of the Los Angeles Municipal Code, as authorized by Section 30333 of the California Public Resources Code and Section 13105 of the California Administrative Code.

A copy of the permit will be sent to the California Coastal Commission. Unless an appeal is filed with the California Coastal Commission before 20 working days have expired from the date the City's determination is deemed received by such Commission, the City's action shall be deemed final.

EFFECTUATION OF THE ACTION:

1. Coastal Development Permit and Conditional Use Approval of Plans:

All terms and conditions of the approval shall be fulfilled before the use may be established. The instant authorization is further conditional upon the privileges being utilized within two years after the effective date of approval and, if such privileges are not utilized or substantial physical construction work is not begun within said time and carried on diligently to completion, the authorization shall terminate and become void. Zoning Administrator may extend the termination date for one additional period not to exceed one year, if a written request on appropriate forms, accompanied by the applicable fee is filed in a public office of the Department of Planning setting the reason for said request and a Zoning Administrator determines that good and reasonable cause exists therefore.

2. Time Extension: A request for permit utilization time extension:

- a. Must be filed at a public counter of the Planning Department, and
- b. The extension application must be accepted prior to the expiration of the time to utilize the grant or other authorization.

Case No. ZA 2000-0648(CDP)-A2 and
Case No. ZA 2000-0647(PAD)-A2
Determination Report: 16800 Pacific Coast Hwy.

COASTAL COMMISSION

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- c. The extension application must be accompanied by the appropriate fee payment and substantial evidence that unavoidable delay has prevented or will prevent the Applicant from taking advantage of the grant or authorization within the specified time limits.
- d. WARNING: IF more than one permit is involved, be sure you secure an extension of time for each separate permit, as may be required by law. Often permits have different time limits and extension allowances.

AMERICANS WITH DISABILITIES ACT (ADA) NOTICE:

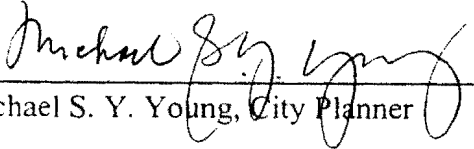
As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability and, upon request, will provide reasonable accommodation to ensure equal access to its programs, services, and activities.

REFERENCED EXHIBITS and ATTACHMENT:

Exhibit No. B-1: Conditions of Approval (attached).

Exhibit No. A-1: Applicant's plot plan (file copy only).

Attachment "A": Mitigation Monitoring and Reporting Program



Michael S. Y. Young, City Planner

MSY:cnv:gb

CONDITIONS OF APPROVAL

The Conditions and requirements of ZA 2000-0648(CDP) and ZA 2000-0647(PAD) have not been modified substantially, except as indicated below.

1. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
2. The use and development of the property shall be in substantial conformance with the plot plan submitted with the application and marked [Exhibit "A" - Proposed Site Plan (in color), Exhibit "B" - Areas of Alcohol Consumption, and Exhibit "C" - Photo-simulations of the completed project], except as may be revised as a result of this action.
3. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective conditions, if, in the Administrator's opinion, such conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
4. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence. All litter on the site shall be removed daily.
5. A copy of the first page of this grant and all conditions and/or any subsequent appeal of the grant and its resultant conditions and/or letters of clarification shall be included in the "notes" section of the building plans submitted to the Zoning Administrator, Police Department, Fire Department, Department of Transportation, Bureau of Engineering, applicable State agencies and the Department of Building and Safety for purposes of having a building or other permit issued.
6. The completed project shall be limited to a total of 61,128 square feet of floor area, and not more than 107 cabanas.
7. The dining room shall not exceed 443 seats. Maximum occupancy of the entire facility shall not exceed 1,429 persons.
8. No building nor any portion thereof shall exceed 30 feet in height except for one tower element 37 feet in height.
9. A minimum of 167 parking spaces shall be provided on-site.
10. Membership shall not exceed 852 [750 regular members, 100 junior members, and 2 honorary members].
11. Hours of operation shall not exceed 5 a.m. through 12 midnight.

12. The sale of alcoholic beverages shall not exceed 11 a.m. through 11 p.m. [Volunteered by Applicant]
13. The gross sale of alcoholic beverages shall not exceed the gross sale of food on a quarterly basis. [Volunteered by Applicant]
14. "Happy hours" during which alcoholic beverages are sold at a discount shall not occur. [Volunteered by Applicant]
15. Alcoholic beverage sales for off-site consumption shall not occur. [Volunteered by Applicant]
16. "Fortified" wine, where alcohol content exceeds 16%, shall not be sold. [Volunteered by Applicant]
17. There shall be no signs visible from off-site which advertise the availability of alcohol. [Volunteered by Applicant]
18. The Applicant shall maintain and operate a kitchen [as defined in the Municipal Code] on the premises.
19. At least one security guard shall be provided 24 hours daily.
20. The Applicant shall obtain sign-offs from the Bureau of Fire Prevention and Public Safety of the Fire Department, the Department of Transportation, and the Bureau of Engineering on a common set of plans prior to obtaining the sign-off of the Zoning Administrator on such plans. The plans shall include a copy of Page 1 of the instant grant and all subsequent terms and Conditions.
21. The Applicant shall establish boundary markers [poles, flags, fence, or other acceptable structure] and signs along at least the east and west property lines to the written satisfaction of the Coastal Commission so as to clearly inform the public as to the extent of the private portion of the beach prior to the sign-off of plans by the Zoning Administrator.
22. The Applicant shall offer a 5- to 6-foot wide temporary easement to allow for the widening and improving of the shoulder of Pacific Coast Highway for pedestrians and bicyclists as shown on Figure 9 on Page 57 of the MND, Proposed Temporary Easement. The easement shall be temporary until future conditions along the highway are improved [see Mitigation measure for Bicycle Path] to facilitate the development of a bicycle path and future public access. The Applicant shall negotiate in good faith with the City and the State to improve the shoulder to a width to match existing conditions to the north and south of the site.
23. Conditions set forth in the Mitigated Negative Declaration, including the responses thereto, are required as follows:
 - a. The Applicant shall submit to the satisfaction of the Zoning Administrator a landscape and automatic irrigation plan for all open areas not used for buildings, driveways, parking

areas, recreational facilities, walks or sandy beach and install such plants and irrigation prior to the issuance of any certificate or temporary certificate of occupancy for any new building. Trees along the fence adjacent to Pacific Coast Highway shall not exceed six feet in height and the Applicant shall work with the Council office and Cal Trans to maintain that height of six feet.

- b. A minimum of one 24-inch box tree, with a minimum trunk diameter of two inches and a height of 8 feet at the time of planting, shall be planted for every 4 parking spaces and shall be located within the parking area. The trees shall be dispersed within the parking area so as to shade the surface parking area and shall be protected by a curb at least 6 inches in height and shall be serviced with automatic irrigation. The trees shall not exceed the height of the proposed building at the time of maturity unless they are palm trees.
- c. Outdoor lighting shall be designed and installed with shielding so that the light source cannot be seen from adjacent residential properties.
- d. Exterior building walls shall be constructed of materials such as high-performance tinted non-reflective glass and pre-cast concrete or fabricated wall surfaces in order to minimize glare.
- e. If any archaeological materials are encountered during construction, the project shall be halted. The services of an archaeologist shall be secured by contacting the Center for Public Archaeology at California State University, Northridge, or a member of the Society of Professional Archaeologists (SOPA) or a SOPA-qualified archaeologist to assess the resources and evaluate the impact. Copies of the archaeological survey, study, or report, shall be submitted to the UCLA Archaeological Information Center. A covenant and agreement shall be recorded prior to obtaining a grading permit.
- f. The design and construction of the project shall conform to the Uniform Building Code seismic standards as approved by the Department of Building and Safety.
- g. Erosion/Grading/Short-Term Construction Impacts:
 - 1) Air Quality:
 - a) All unpaved demolition and construction areas shall be wetted at least twice daily during excavation and construction, and temporary dust covers shall be used to reduce dust emissions and meet SCAQMD District Rule 403.
 - b) The construction area shall be sufficiently dampened to control dust caused by grading and hauling, and at all times reasonable control of dust caused by wind shall be exercised.
 - c) All loads shall be secured by trimming, watering or other appropriate means to prevent spillage and dust.

- d) All materials transported off-site shall be either sufficiently watered or securely covered to prevent excessive amount of dust.
 - e) All clearing, grading, earth moving, or excavation activities shall be discontinued during periods of high winds (i.e., greater than 15 mph).
 - f) General contractors shall maintain and operate construction equipment so as to minimize exhaust emissions.
- 2) Noise:
- a) The project shall comply with City of Los Angeles Noise Ordinance Nos. 144,331 and 161,574, and any subsequent ordinances, which prohibit the emission or creation of noise beyond certain levels at adjacent uses unless technically infeasible.
 - b) Construction shall be restricted to the hours of 7 a.m. to 6 p.m. Monday through Friday, and 8 a.m. to 6 p.m. on Saturday.
 - c) Construction activities shall be scheduled so as to avoid operating several pieces of equipment simultaneously.
 - d) Power construction equipment shall be equipped with state-of-the-art noise shielding and muffling devices.
 - e) Noise Insulation Standards of Title 24 of the California Code Regulations shall be met.
- 3) Grading:
- a) Excavation and grading activities shall be scheduled during dry weather periods. If grading occurs during the rainy season (October 15 through April 1), diversion dikes shall be constructed to channel runoff around the site. Channels shall be lined with grass or roughened pavement to reduce runoff velocity.
 - b) Appropriate erosion control and drainage devices, to the satisfaction of the Building and Safety Department, shall be incorporated, such as interceptor terraces, berms, vee-channels, and inlet and outlet structures, as specified by Section 91.7013 of the Building Code, including planting fast-growing annual and perennial grasses in areas where construction is not immediately planned.
 - c) Stockpiles and excavated soil shall be covered with secured tarp or plastic sheeting.

4) General Construction:

- a) All waste shall be disposed of properly. Appropriately labeled recycling bins shall be used to recycle construction materials including: solvents, water-based paints, vehicle fluids, broken asphalt and concrete; wood, and vegetation. Non recyclable materials/wastes shall be taken to an appropriate landfill. Toxic wastes shall be discarded at a licensed regulated disposal site.
- b) Leaks, drips and spills shall be cleaned up immediately to prevent contaminated soil on paved surfaces that are otherwise capable of being washed into storm drains.
- c) Do not hose down pavement at material spills. Use dry cleanup methods whenever possible.
- d) Cover and maintain dumpsters. Place uncovered dumpsters under a roof or cover with tarp or plastic sheeting.
- e) Use gravel approaches where truck traffic is frequent to reduce soil compaction and limit the tracking of sediment into streets.
- f) Conduct all vehicle/equipment maintenance, repair, and washing away from storm drains. All major repairs are to be conducted off-site. Use drip pans or drop clothes to catch drips and spills.
- g) All construction-related truck trips, including trips for both delivery and export of materials, shall occur during off-peak commute periods. No construction-related truck trips shall occur between 7 and 9 a.m. or 4 and 6 p.m.

h. Liquefaction:

- 1) The project shall comply with the Uniform Building Code Chapter 18. Division 1 Section 1804.5 Liquefaction Potential and Soil Strength Loss which requires the preparation of a geotechnical report. The geotechnical report shall assess potential consequences of any liquefaction and soil strength loss, estimation of settlement, lateral movement or reduction in foundation soil-bearing capacity, and discuss mitigation measures that may include building design consideration.
- 2) Building design considerations may include, but are not limited to: ground stabilization, selection of appropriate foundation type and depths, selection of appropriate structural systems to accommodate anticipated displacements or any combination of these measures.

Case No. ZA 2000-0648(CDP)-A2 and
Case No. ZA 2000-0647(PAD)-A2
Determination Report - 16800 Pacific Coast Hwy.

EXHIBIT # 7
PAGE 26 OF 28

Exhibit No. B-1
Page 6

- i. Prior to the issuance of the demolition permit, the Applicant shall provide a letter to the Department of Building and Safety from a qualified asbestos abatement consultant indicating whether or not ACM are present in the building. If ACM are found to be present, it will need to be abated in compliance with the South Coast Air Quality Management District's Rule 1403 as well as all other state and federal rules and regulations.

j Food Service Industry (Restaurants, Bakeries, Food Processors)

Potential impacts will be mitigated to a level of insignificance by compliance with Ordinance No. 172,176 to provide for Stormwater and Urban Runoff Pollution Control which requires the application of Best Management Practices (BMPs), including the following mitigation measures for food handling, storage and disposal:

- 1) Post-development peak storm water runoff discharge rates shall not exceed the estimated pre-development rate.
- 2) Any connection to the sanitary sewer must have authorization from the Bureau of Sanitation.
- 3) Cleaning of oily vents and equipment to be performed within designated covered area, sloped for wash water collection, and with a pretreatment facility for wash water before discharging to properly connected sanitary sewer with a CPI type oil/water separator. The separator unit must be: designed to handle the quantity of flows; removed for cleaning on a regular basis to remove any solids; and the oil absorbent pads must be replaced regularly according to manufacturer's specifications.
- 4) Store trash dumpsters either under cover and with drains routed to the sanitary sewer or use non-leaking and water tight dumpsters with lids. Wash containers in an area with properly connected sanitary sewer.
- 5) Reduce and recycle wastes, including oil and grease.
- 6) Store liquid storage tanks (drums and dumpsters) in designated paved areas with impervious surfaces in order to contain leaks and spills. Install a secondary containment system such as berms, curbs, or dikes. Use drip pans or absorbent materials whenever grease containers are emptied.

- k. Potential impacts will be mitigated to a level of insignificance by compliance with Ordinance No. 172,176 to provide for Stormwater and Urban Runoff Pollution Control which requires the application of Best Management Practices (BMPs), including the following mitigation measures:

- 1) Post-development peak storm water runoff discharge rates shall not exceed the estimated pre-development rate.
 - 2) Reduce impervious land coverage of parking lot areas.
 - 3) Infiltrate runoff before it reaches the storm drain system.
 - 4) Any connection to the sanitary sewer must have authorization from the Bureau of Sanitation.
 - 5) The contaminants must be filtered prior to release into the storm drain. Two types of media filtration is available, (1) dynamic flow separator and sorbent or (2) a settling basin followed by a filter. Dynamic flow separator uses hydrodynamic force and sorbents to remove debris, and oil and grease, and are located underground. Two settling basins are available, linear sand filter and catch basin insert. Both filters must be inspected every six months and after major storms, cleaned on a regular basis according to manufacturer's specifications.
- l. Compliance with the requirements of the Flood Hazard Management Specific Plan, Ordinance No. 154,405. (This MND does not apply should a waiver be given under provisions of the Flood Hazard Management Specific Plan.)
 - m. The project shall not be constructed in a manner which would preclude or interfere with the implementation of the City's Bicycle Plan as adopted by the City Council on August 6, 1996. In that connection, the Applicant shall submit plans for the project to the Bureau of Engineering and Department of Transportation which demonstrate that the design and improvements set forth in such plans are compatible with the implementation of such Bicycle Plan. The Applicant shall cooperate with the City in the construction of the bicycle path and, if necessary, negotiate in good faith to grant to the City or its designee an easement over, or to sell to the City or its designee, the portion of its property which is needed to accommodate the City's Bicycle Plan.
 - n. Exterior doors and windows of the Dining Room-Lanai shall be kept closed during events or activities with amplified music or voice.
 - o. The recommendations of the Fire Department relative to fire safety shall be incorporated into the building plans, which includes the submittal of a plot plan for approval by the Fire Department prior to the issuance of a building permit. The plot plan shall include the following minimum design features: fire lanes, where required, shall be a minimum of 20 feet in width; and all structures must be within 300 feet of an approved fire hydrant, or to the satisfaction of the Fire Department.
 - p. Incorporate into the plans the design guidelines relative to security, semi-public and private spaces, which may include but not be limited to access control to building, secured parking facilities, walls/fences with key systems, well-illuminated public and semi-public space

designed with a minimum of dead space to eliminate areas of concealment, location of toilet facilities or building entrances in high-foot traffic areas, and provision of security guard patrol throughout the project site if needed. Please refer to Design out Crime Guidelines: Crime Prevention Through Environmental Design published by the Los Angeles Police Department's Crime Prevention Section (located at Parker Center, 150 North Los Angeles Street, Room 818, Los Angeles, (213) 485-3134. These measures shall be approved by the Police Department prior to the sign-off of plans by the Zoning Administrator.

- q. Intersection and driveway improvements shall be made as set forth in Crain and Associates' letter to the Department of Transportation dated February 18, 2000.
 - r. The Applicant shall institute a recycling program to the satisfaction of the Zoning Administrator to reduce the volume of solid waste going to landfills, in compliance with the City's goal of a 50% reduction in the amount of waste going to landfills.
 - s. Recycling bins shall be provided at appropriate locations to promote recycling of paper, metal, glass, and other recyclable materials.
24. The Applicant shall construct the project pursuant to obtaining valid building permits.
25. Upon utilization of the grant, all previous grants shall be null and void.
26. Prior to the issuance of any permits relative to this matter, a covenant acknowledging to comply with all the terms conditions established herein shall be recorded in the County Recorder's Office. The agreement shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement must be submitted to the Zoning Administrator for approval before being recorded. After recordation, a copy bearing the Recorder's number and date shall be provided to the Zoning Administrator for attachment to the subject case file.
27. The fence, trees or hedges adjacent to Pacific Coast Highway shall not exceed six feet in height. The Applicant shall work with Cal Trans and the Council office to maintain the height of six feet on land owned by Cal Trans.
28. The Applicant shall provide improved lateral access at or near the mean high tide line along the north westerly ownership unless specifically precluded by the California Coastal Commission, and to such specifications as that Commission may establish.

Coldwell Banker

ROBERT W DRAINE
Senior Vice President
Director

February 23, 1977

Mr. Walter A. Brugger
Superintendent of Buildings
DEPARTMENT OF BUILDING AND SAFETY
Room 411, City Hall
Los Angeles, California 90012

Dear Mr. Brugger:

I have not had the opportunity of meeting you but in your new position I am certain that we will be working together in my position on the Mayor's Economic Advisory Council. In addition to the Mayor's Council, I am Chairman of the Southern California Economic Council for the Los Angeles Chamber of Commerce, and in that capacity, may be of some assistance to you on any special studies relative to the economy of the City that pertains to your Department.

On a different subject, I am a member of the Bel Air Bay Club located on the beach in the City of Los Angeles. This is a club established by the Alphonzo Bell family 75 years ago. At some point in time, the Club - I think during the late 20's or early 30's - members needing a little shade from the sun, built canvas-covered awnings along the beach. The natural progression was from canvas coverings to canvas sides, then to plywood floors on 2 x 4, then plywood sides, then plywood roof, all done in a very relaxed manner without realizing the requirements for building permits. This situation has rocked along for 20 or 30 years and periodically, your Department has given them 3-year extensions and building permits have never been taken out. Bel Air Bay Club, however, has had the electrical wiring checked over and have had it approved by your Department. During the last 2 or 3 years, there has been another request from your Department to have a building permit filed for each cabana, of which there are 87. Although the cabanas have been up for 30 to 50 years, the Club still considers them temporary. We are very concerned at the present time that if we now must go through the building permit application, that we will run afoul of the Coastal Commission and at that time, we don't know what will happen. It is our plan to commence studies next year for the consolidation of the so-called Upper Club on the inland side of Pacific Coast Highway and the Lower Club on the seaward side of Pacific Coast Highway. At that time, we will develop plans for permanent cabanas and naturally, will go through the standard building permit application procedure.

COASTAL COMMISSION

A-5-PPL-02-162

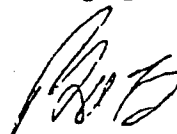
EXHIBIT # 8

PAGE 1 OF 2

February 23, 1977

Our file is very thick and I see that we have worked with a number of people from your Department in the past, the latest one being Mr. Devine. As with most clubs, the Board of Directors changes annually, thus, past information on the problem is lost. I will appreciate very much meeting with you to discuss this matter on March 2, at 11 a.m. in your office. I have taken the liberty of calling your secretary and setting this date up. I hope that we will not take up too much of your time.

Sincerely yours,



Robert W. Draine

RWD:ss

cc: ✓ Mr. Russell Field
DANIEL, MANN, JOHNSON, & MENDENHALL

COASTAL COMMISSION
A-5-PPL-02-162

EXHIBIT # 8
PAGE 2 OF 2

DMM

MAR 3 1977

3 March 1977

Mr. Earl Schwartz
Structural Engineer
Department of Building and Safety
Room 425-A, City Hall
Los Angeles, CA 90012

Dear Mr. Schwartz:

This will confirm the discussions held Wednesday afternoon, 2 March 1977, in the office of Mr. Walter A. Brugger, Acting Superintendent of Buildings, Department of Building and Safety, with you and Mr. Brugger and Mr. Robert W. Draine and me, concerning the beach cabanas at the Bel Air Bay Club, Ltd., of Los Angeles.

Mr. Draine's letter dated 23 February 1977 to Mr. Brugger in advance of the meeting describes in some detail the problems faced by the Club in complying with the City's letter to the Club, dated 25 August 1975. Copies of both of these letters are attached.

Of the alternatives you presented to us yesterday afternoon, it is apparent that we should request a variance extension prior to the termination of our existing three-year variance extension, which we understand is mid-February 1978.

Several weeks prior to that time we will request that a hearing date be set with the responsible City Departments involved, to request an additional variance extension, to enable us to develop proposed permanent improvement plans and specifications for not only the cabanas but other Club facilities.

During this period, which we estimate at this time will take a minimum of another three years, we plan to have our architect for these proposed permanent improvements check with the responsible City Departments periodically to assure the City and the Club that such plans conform to all City Building and Safety Ordinances and Codes.

COASTAL COMMISSION

A-5-PPL-02-162

EXHIBIT # 9
PAGE 1 OF 2

Daniel, Mann, Johnson, & Mendenhall
3250 Wilshire Boulevard
Los Angeles, California 90010
Telephone: 213/381-3663
Cable: DIMJIM Los Angeles

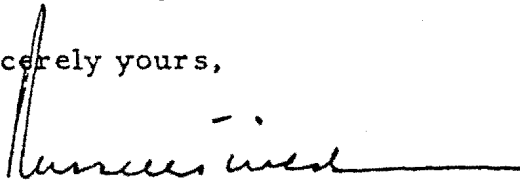
Planning
Architecture
Engineering
Systems
Economics

Mr. Earl Schwartz
Department of Building and Safety
3 March 1977
Page 2

Mr. Draine joins me in thanking you both for the opportunity of discussing our building problems. When time permits, will look forward to receiving your letter confirming these discussions, proposed plan of action by the Club and any other items you feel are pertinent to this situation.

Please give my regards to Mr. A. Devine, and let him know we were sorry he could not join us for this discussion.

Sincerely yours,



Russell Field
Chairman, BABC Buildings & Grounds Committee
Member, Board of Directors, BABC

/g

cc - Walter A. Brugger
- Robert W. Draine
- Ron Garver
- James Ashburn

COASTAL COMMISSION

A-5-PPL-02-162

EXHIBIT # 9

PAGE 2 OF 2

JAN 18 1978

Coldwell Banker

ROBERT W. DRAINE
Senior Vice President
Director

January 16, 1978

Mr. Jack M. Fratt
Superintendent of Buildings
DEPARTMENT OF BUILDING AND SAFETY
Room 411, City Hall
Los Angeles, California 90012

Dear Mr. Fratt:

It is a pleasure to congratulate you on your new position with the Los Angeles Department of Building and Safety. In my position on Economic Development with the Mayor's Council and as Chairman of the Southern California Economic Council, I am certain that we shall have the opportunity of working together on items pertaining to the proper development of the City of Los Angeles.

Last year I met with Walter Brugger and his staff relative to the Bel Air Bay Club, which is a private club located on the beach in the City of Los Angeles. The discussion was relative to our request for an extension for a three to five-year period to continue usage of temporary beach cabanas, which were constructed during the 1930's.

In our discussion with Mr. Brugger, he felt that this request should be granted which would give us sufficient time to work with the City and with the Coastal Commission in ascertaining what types of structure of a more permanent basis can be constructed to take the place of the temporary structures. As you can see from the attached correspondence, he requested that we write a letter at the end of January to you to request a hearing to obtain your approval on this extension of the variance. To assist you, I am enclosing copies of our past correspondence with Mr. Brugger and Earl Swartz of your Department and I shall look forward to hearing from you so that we can proceed.

Sincerely yours,



Robert W. Draine

RWD:ss

Enclosures

R. Field, Daniel, Mann, Johnson & Mendenhall
cc: F. Schnell, The Mayor's Office

333 FREMONT AVENUE - LOS ANGELES, CALIFORNIA 90071
(213) 613-3519

COASTAL COMMISSION

A-5-PPL-02-167

EXHIBIT # 10

PAGE 1 OF 1

CITY OF LOS ANGELES

CALIFORNIA



TOM BRADLEY

MAYOR

August 15, 1979

BOARD OF
ZONING APPEALS
ROOM 561, CITY HALL
LOS ANGELES 90012
485-3505

COASTAL COMMISSION

A-5-PPL-02-162

EXHIBIT # 11

PAGE 1 OF 7

HOWARD A. FINN
CHAIRMAN

ROBERT D. GARCIA
VICE-CHAIRMAN

WARREN M. CAMPBELL
MEMBER

YONG MOK KIM
MEMBER

MARY SANDBERG
MEMBER

SEDERIO R. ROLDAN
SECRETARY

Dr. and Mrs. Edwin Warren, et al
224 Arno Way
Pacific Palisades, California 90272

Calvin S. Hamilton
Director of Planning

Thomas W. Golden
Chief Zoning Administrator

Department of Building and Safety

Regional Coastal Commission

Greetings:

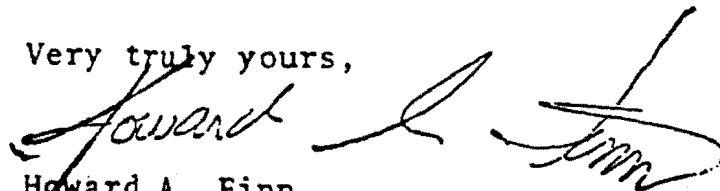
The Board of Zoning Appeals conducted a public hearing on the matter of an appeal from the entire decision of the Associate Zoning Administrator in granting a permit to remodel and add a second story to a private beach club on a 7.1-gross acre site in the R1-1 Zone located at 16801 Pacific Coast Highway between Temescal Canyon Road and Sunset Boulevard.

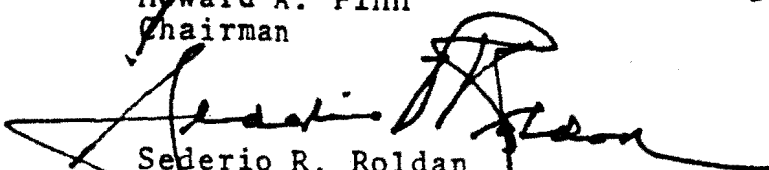
During the course of the hearing, the Board determined that it cannot with certainty conclude that there is no significant environmental impact associated with this project. The Board did not feel confident to proceed with the hearing and render its decision based on inadequate, inconsistent, and confusing information in the report. For example, the applicant indicates that the property covers a total area of 288,000 square feet or 6.2 acres -- the staff, however, indicates a figure of 240,290 square feet or 5.74 acres. Such discrepancy also results in discrepancies to the total land coverage. Another discrepancy is the number of parking spaces. The applicant states 240 whereas the staff indicates 161. The Board also wanted additional analysis regarding the new level of activity generated by the proposed expansion and further requested exploration of previous coastal cases as they relate to the obstruction of the view to the "whitewater's edge". The Board also considers important the need for sight lines and the need for an analysis regarding the traffic relationship between the lower and the upper club.

Re: B. Z. A. Case No. CP-17
384-79 (C)
16801 Pacific Coast Highway
Pacific Palisades District
C. D. No. 11
EIR Exempt

Therefore, because of confusing information and gross inconsistencies throughout the report and the need for further data and analysis related to the project, the Board moved that the matter be referred to the Environmental Review Committee for an initial study to determine the project's impact upon the environment. At the completion of this study, the matter then shall be returned to the Board. The City Attorney then will determine whether the matter shall be remanded to the Associate Zoning Administrator.

Very truly yours,


Howard A. Finn
Chairman


Sederio R. Roldan
Secretary

HAF:SRR:rc

cc: Councilman Marvin Braude
Bel-Air Bay Club, Inc.
Stephen W. Cunningham
& Associates, Inc.

COASTAL COMMISSION
A-5-PPL-02-162

EXHIBIT # 11
PAGE 2 OF 7

1 Rep 2017
LAND
Lump 248,000 add 7000?
750 MEMBERS

BOARD OF ZONING APPEALS

REGULAR MEETING

TUESDAY, AUGUST 7, 1979

1:30 P.M.

Room 561-A, Los Angeles City Hall
200 North Spring Street
Los Angeles, 90012

Article III
Sec 1
General Description

Article III

General Ex

CATEGORY 5

- certain that no possibility
of an effect on the
environment

Howard A. Finn, Chairman
Robert D. Garcia, Vice-Chairman
Warren M. Campbell, Member
Yong Mok Kim, Member

Sed R. Roldan, Secretary

APPEALS FROM OFFICE OF ZONING ADMINISTRATION

1. B. Z. A. Case No. CP-17
384-79 (C)

BEL-AIR BAY CLUB, LTD., Applicant

DR. & MRS. EDWIN WARREN, ET AL,
Appellants

Pacific Palisades District
C. D. No. 11

An appeal from the entire decision
of the Associate Zoning Administrator
in granting a permit to remodel and
add a second story to a private
beach club on a 7.1-gross acre site
in the R1-1 Zone located at 16801
Pacific Coast Highway between Temes-
cal Canyon Road and Sunset Boulevard.

AFTER 2:30 P.M.

2. B. Z. A. Case No. 2689
ZAI 79-037B

ERMILO LEMOS, Applicant

SID FRIEDLANDER, Protestant

Hollywood District
C. D. No. 5

An appeal protesting the entire
decision of the Associate Zoning
Administrator in interpreting that
the property in the M2-2 Zone on
Parcel A, PMLA 2708, and located at
6648 Lexington Avenue, Hollywood Dis-
trict, has the status of an approved
conditional use site for the sale of
alcoholic beverages for consumption
on the premises and the approval of
the balcony addition, entry alteration
and provision of an additional bar.

COASTAL COMMISSION
A-5-PPL-02-162

EXHIBIT # 11

PAGE 3 OF 7

COASTAL DIST
GUIDELINES

CITY OF LOS ANGELES
DEPARTMENT OF CITY PLANNING

COASTAL DEVELOPMENT PERMIT
STAFF REPORT

Date: July 10, 1979 COMMUNITY: Pacific Palisades
Sub-community: _____
Application No.: 384-79(C) Council District: 11

Administrative Action: The application has been reviewed and is complete.

Public Hearing is scheduled for July 13, 1979 at 11:00 A.M.

APPLICANT: Bel-Air Bay Club, Ltd.
16801 Pacific Coast Highway
PROPERTY Pacific Palisades, CA. 90272
LOCATION: 16801 Pacific Coast Highway between Temescal Canyon Road
and Sunset Boulevard.

PROPOSED
DEVELOPMENT: Remodel and add second story to private beach club on a
7.1 gross acre, R1-1 zoned parcel.

Unit mix: N/A
Distance from Mean High Tide Line:
Project Cost: \$1,500,000
Environmental Clearance: Categorically Exempt

USE: Specified in (X) Adopted () Proposed Community Plan:

Bay Club

Does proposed development conform? Yes

DENSITY: Site dimension Irregular Net area, s.f. 248,292 sq.ft.
Gross Area, acre 7.1 Net area, ac. 5.7

Dwelling Units per gross acre
(Includes ½ the streets)

Allowed by Plan (range) N/A
Proposed by applicant N/A

Maximum units Plan would allow on this site N/A
Number of units proposed by applicant N/A

PARKING: Total number of spaces proposed 161
Number in tandem 0
Number required by Coastal Guidelines —
Number required by City Code —

HEIGHT: Above Average Finished Grade
Above Centerline of Frontage Road
Allowed by Guidelines above CFR

32 ft. _____
22 ft. _____

COASTAL COMMISSION

A-5-PPL-02-162

EXHIBIT # 11

PAGE 4 OF 7

Project Description: The applicant seeks a Coastal Development Permit to remodel and expand the facilities of the Bel Air Bay Club (Private) on a 7.13 gross acre R1-1 Zone site located between Pacific Coast Highway and the Pacific Ocean.

The expansion of the private club would consist of removing the existing 86 one-story Cabanas (not built to Fire standards), and rebuilding a total of 138 Cabanas to Fire Standards, consisting of two story concrete and wood structures. Further, an additional second story over the Club House will be constructed totaling 7,502 sq. ft. including Dining Rooms, Kitchen, Office space as well as stairs and Service-Elevator. The 138 new Cabanas will equal a total of 19,872 sq. ft.

The applicant presently provides 161 parking spaces on site and does not intend to expand the parking at this time.

Prior Actions: The facility has existed since 1926. This project was granted a Categorical Exemption on May 25, 1979.

The Zoning Administrator approved the proposed expansion on March 28, 1979 under the proceedings of Z.A.I. 1529. This action also included the construction of a Parking Deck to provide a total of 239 parking spaces. This expansion however, is not a part of this Coastal Development Permit.

Issues:

View Obstruction
Beach Encroachment
Traffic Generation

View Obstruction: At present, only the central clubhouse area of the facility is two story. The cabanas, stretching out in two long rows to either side, are single story. If it were not for a six foot chain-link fence along the highway, (which has a four foot hedge behind it and the top two feet woven with a view-obscuring material,) the water might be visible from the highway over the tops of the cabanas.

This fence and hedge, while it provides privacy to the club, does obscure motorist's view of the ocean. The fence and hedge have existed for many years, according to the applicant.

The applicant reports that the State intends to construct a two or three foot high barrier, topped with a chain link fence along the highway, in connection with highway widening, and that this would effectively preclude any view possibilities.

The existing cabanas are not constructed to fire safety standards, and the club has had a series of permits for one-year extensions of this non-conforming condition.

COASTAL COMMISSION

A-5-PPL-02-162

EXHIBIT # 11

PAGE 5 OF 7

Therefore, it might legally be within the power of the City to require the removal of the cabanas, in connection with the removal or modification of the fence and hedge, in order to restore the view of the beach as seen from the highway, at least along the major portion of the applicant's frontage.

The applicant maintains that the height of the existing buildings, the existence of the fence and hedge, and the plans for highway improvements are all conditions any one of which prevents viewing and thus eliminates the view issue. It is not at all clear to staff, however, that there is no view obstruction issue. It may be possible by a combination of revised design, modification of fence and hedge, and coordination with the State Department of Highways, to preserve and enhance and/or to some degree restore the views of the ocean from the highway.

Additional study and documentation need to be obtained from the applicant before staff can feel confident in recommending any degree of height increase for this facility.

Beach Encroachment: The entire project will not encroach onto the beach area any farther than presently constructed. The "footprint" of the facility would remain essentially unchanged.

Traffic Generation: The present membership of the private Club is limited to 650 adult members (families) and 100 Jr. members, (head of family under age 30). This has been the case since the club was built in 1926.

The subject portion of the Private Club, (referred to as the lower portion), has at present approximately 161 parking spaces on site. The upper portion of the Club (east side of Pacific Coast Highway) has another approximately 90-100 parking spaces and a shuttle bus, owned by the Club, is operated between the two portions. A signal is presently installed and operating at the driveway intersection with Pacific Coast Highway.

Since no increase is anticipated in membership, the traffic generation will not increase, and no traffic issue is at hand.

STAFF RECOMMENDATION: UNDER ADVISEMENT PENDING RECEIPT OF MORE INFORMATION

1. That the applicant shall provide line-of-sight studies showing motorist's view angles for three sections (clubhouse, cabana, and no construction) under 4 conditions (existing, existing without fence or hedge, after roadway improvements but without fence or hedge, and proposed).
2. That the applicant shall submit revised plans maximizing and enhancing views as much as possible, based on the results of the above studies.

COASTAL COMMISSION
A-5-PPL-02-162

EXHIBIT # 11
PAGE 6 OF 7

3. That, in the event of approval, membership shall be limited to 750 members, that there shall be no increase in membership for ten years, and that any increase in membership after that time shall require a Coastal Development Permit.
4. That there shall be no net encroachment upon the beach beyond that presently existing for the facility.

Findings: On attachment F-1.

PREPARED BY:

REVIEWED BY:

Charles Donnel (cm)
Charles Donnel, Planning Assistant

Charles Montgomery
Charles Montgomery, City Planner

Approved subject to Staff Conditions 3 & 4 /
Redesign & Improvements 1

By: James Crisp
James Crisp, Associate Zoning Administrator

DATE: 7-13-79

CM:snd

COASTAL COMMISSION

A-5-PPL-02-162

EXHIBIT # 11

PAGE 7 OF 7



COASTAL COMMISSION
A-5-PPL-02-162

EXHIBIT # 12

PAGE 1 OF 3

January 2001

COASTAL COMMISSION
A-5-PP-02-162

EXHIBIT # 12

PAGE 2 OF 3

January 2001





January 2001