

CALIFORNIA COASTAL COMMISSION

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Th15a

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Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NUMBER: 5-06-042

APPLICANTS: Pacific Jewish Center

AGENT: Howard Shapiro

PROJECT LOCATION: Existing light poles and 19 lifeguard sign-poles at street ends on beach and at Ocean Front Walk between Seaside Way, Santa Monica and Via Marina, Venice, in the Cities of Santa Monica and Los Angeles.

PROJECT DESCRIPTION: Attach 20 foot high 1^{5/8} inch diameter galvanized metal pole extenders to County information signs at 19 locations at unpaved street ends/beach on Ocean Front Walk between Catamaran Street and Via Marina, Venice, and then to the entry channel fence; The applicant will then stretch 200 lb. test monofilament line (fishing line) between existing street lights from Seaside Way, in Santa Monica, to Catamaran Street; in Venice, attach the line to the pole extenders between Catamaran Street and Topsail Street, and then to existing light poles along Ocean Front Walk south of Topsail Street, to Via Marina, Venice, and then to a 14-foot pole at the entry channel fence. The applicant will install 1" by 6" streamers on the line in vicinity of Least Tern nesting area (between Hurricane and Via Marina) to increase visibility for birds; conduct weekly inspections, remove downed line and repair breaks as required.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends **APPROVAL** with special conditions to address potential impacts on public access, public views and on the endangered Least Tern. While staff had initially recommended denial of this project based on potential impacts on public access and public views, the applicant has presented persuasive evidence that impacts on public access and on public views can be reduced to a level of insignificance such that the project should not be inconsistent with the Coastal Act policies protecting these resources. Staff is now recommending special conditions requiring the applicant to: 1) limit the project to three years; 2) paint the poles to diminish their visibility, 3) monitor the installation, remove or replace all fallen lines or poles within 24 hours of failure, provide a 24 hour telephone contact number to the City, the County and Coastal staffs and post the 24-hour telephone number on each Los Angeles County beach information signs (with the permission of the County). Finally, staff is recommending that the applicant be required to remove the proposed project upon notification from the California Department of Fish and the Game of unexpected bird fatalities. The motion is found on **page 2**.

LOCAL APPROVALS RECEIVED:

1. City of Santa Monica letter of non-opposition to attachment of monofilament to existing lighting fixtures, indicating the City representatives have concluded that the City does not have regulatory authority over the eruv. (Exhibit 29.)
 2. City of Los Angeles, Bureau of Street Lighting, Department of Public Works, "Revocable Permit to install monofilament on 112 cobra head streetlights from City of Santa Monica City boundary to Washington Boulevard and on 10 upright streetlights between Topsail Street and Via Marina."
 3. Los Angeles County Department of Beaches and Harbors, CEQA "Notice of Exemption";
 4. Los Angeles County Department of Beaches and Harbors letter declining to be a co-applicant.
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STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution to **approve** the coastal development permit application:

MOTION: *I move that the Commission approve Coastal Development Permit No. 5-06-042 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no

further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1) Three year time limit.

The authorization provided through this approval shall run for three years from the date of the Commission's action, after which three years have elapsed, the applicant shall remove all wires, poles, and signage subject to this application. Nothing in this condition shall prevent the applicant from applying to the Commission for an amendment to extend the time limit as the end of this three-year limit approaches. The applicant, as part of any application for amendment shall submit the following information:

- a) Current local and Resources Agency approvals;
- b) A record of reports of bird incidents attributable to the project received by the Maintenance Contractor or the applicant from the Department of Fish and Game (DFG), the United States Fish and Wildlife Service (USFWS) and/or the public;

- c) A record of all calls or other communications regarding, and direct observations of (if the applicant was the first to notice it), downed lines and or poles, with dates on which the failure was reported/observed;
- d) Dated confirmation of all repairs to the installation;
- e) Any additional information that the Executive Director determines is necessary to evaluate the project's consistency with the Coastal Act.

2) Mitigation of Visual Impacts

A. Prior to issuance of the permit, the applicant shall provide the following for the review and approval of the Executive Director: a plan for painting the poles to minimize their visibility. As part of the submittal, the applicant shall provide color photographs illustrating the colors typically found in the sand and sky. The colors and or patterns chosen shall minimize the contrast between the poles, the sand, and the sky as seen from the street ends and from Ocean Front Walk. All poles, including replacements, shall be painted consistent with the approved painting plan.

B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3) Monitoring of Poles/Lines, Repairs, 24-hour Contact Information

A. Prior to issuance of the coastal development permit, the applicant shall provide the following for the review and approval of the Executive Director:

- 1) A contract with an individual or company (Maintenance Contractor) retaining that individual or company to replace or repair any downed poles or lines within 24 hours of receiving reports of the damage;
- 2) The Maintenance Contractor shall be available to receive and act on information concerning downed poles or lines 24 hours a day, seven days a week, including holidays, and shall be equipped to remove downed poles and or lines with materials that conform to the requirements of this permit. As part of the contract, the Maintenance Contractor shall maintain a 24-hour contact number;
- 3) The applicant shall also provide a list of agencies of the cities of Santa Monica and Los Angeles and of Los Angeles County with responsibility to maintain and remove hazards from the beach and adjacent rights of way and the agencies that own the poles to which the development

approved in this permit is attached. The applicant shall provide written concurrence from those agencies that the list is correct, that the applicant has permission to do the work, and that the list contains all the agencies that have agreements with the applicant requiring the applicant to repair or remove of the installation as needed and or as notified that a repair or removal is necessary;

- 4) The applicant shall provide evidence that it has provided the 24-hour maintenance contact number to each agency on the above list, to the California Department of Fish and Game, to the United States Fish and Wildlife Service and to the Coastal Commission staff.
- B. The applicant shall, on an ongoing basis, notify all entities listed above or their successors of any change in the 24-hour maintenance contact number;
- C. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall provide for the review and approval of the Executive Director:
- (a) sample notices that show the 24-hour maintenance contact number;
 - (b) written concurrence by Los Angeles County with attaching this notice to the same Los Angeles County sign poles that are used to support the poles whose installation is approved through this permit.
- 2) **Along with the installation of the poles**, the applicant shall, with the concurrence of Los Angeles County attach the approved notice to existing Los Angeles County information signs along the Marian Peninsula beach at every County information sign to which a pole is attached.
- D. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required. Any change to the maintenance contract, changes in the contractor or to the signs shall be submitted for review and approval of the Executive Director prior to execution.

4) Continuing Approval from the Department of Fish and Game and the United States Fish and Wildlife Service.

Approval of this project is contingent on continuing permission from the Department of Fish and Game and the United States Fish and Wildlife Service. The applicant is required to remove the line and poles, or those sections of the line and poles determined to have caused damage to endangered species, upon notification from the California Department of Fish and Game or the United States Fish and Wildlife Service of rescission of their letters of approval.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description and Location.

The applicant proposes to attach 20-foot high 1^{5/8}-inch diameter galvanized metal pole extenders to County information signs at 19 locations at unpaved street ends on the beach along Ocean Front Walk between Catamaran Street and Topsail Street and at Via Marina in Venice. The applicant will then stretch 200 lb. test monofilament line (fishing line) between existing street lights from Seaside Way, in Santa Monica, to Catamaran Street, in Venice, attach the line to the pole extenders between Catamaran Street and Topsail Street, and then to existing light poles along Ocean Front Walk south of Topsail Street, and to a 14-foot pole at Via Marina, Venice, and then to the entry channel fence. The applicant will then attach 1" by 6" streamers to the line near the Least Tern nesting area (between Hurricane Street and Via Marina). The purpose of the streamers is to increase visibility of the line for birds near the Least Tern nesting area located on Dockweiler State Beach south of Hurricane Street. The application includes a proposal to conduct weekly inspections, remove downed line and repair breaks at least every Friday (Exhibits 1-5). The applicant's agreements with local government included similar provisions.

Installation of 20-foot high extender poles on the beachfront lifeguard signs, which are presently 8 feet high, and located on both paved and unpaved (sand) portions of Ocean Front Walk triggers the need for a coastal permit, as does extension of a monofilament line by a private entity between the poles and between the existing light poles, because such activities constitute development as that term is defined in the Coastal Act (30106).¹ The development requires a coastal development permit pursuant to Section 30600(a) because it will occur in the Coastal Zone, as defined in the Coastal Act (30103), and specifically because of its location on a public beach, and in the case of the extender poles, on a sandy beach. Exemptions available to property owners and to public entities do not apply in this case.

¹ The Coastal Act is codified at California Public Resources Code ("PRC") sections 30000 to 30900. All references herein to numbers in the 30000s are to sections of the PRC, and thus, to the Coastal Act.

The purpose of the line is to create a physical perimeter (known as an “eruv”) to surround a defined area so that members of the Pacific Jewish Center may carry objects within its perimeter as they walk to synagogue on the Sabbath without violating rules to which they adhere for religious reasons. Outside the beach areas of Venice and Santa Monica, the center proposes to string the line on existing fences and light poles. Public entities that own the light poles and lifeguard poles have indicated support for the project but have declined to be co-applicants. The applicant has submitted additional material concerning the purpose of the project (Exhibit 2).

B. Public Shoreline Access.

The placement of the lines raises issues with public shoreline access and beach recreation: 1) potential reduction of physical access, and 2) changing the nature of a visit to an open beach. While the wire will not prevent physical access, if the wire or the poles fall down, the wire and/or poles could obstruct pedestrian access to and along the beach.

The Coastal Act includes strong protections of public access to the beach.

Section 30210 Access; recreational opportunities; posting

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. (Amended by Ch. 1075, Stats. 1978.)

Section 30211 Development not to interfere with access

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.

The line establishing the eruv would be placed on top of the pole extenders, elevated to allow pedestrian and vehicular passage under it. In its installed location, it should not block physical access to or use of the beach. However, the Cities of Los Angeles and Santa Monica and the staff of the Los Angeles County Department of Beaches and Harbors have expressed concern with respect to potential impacts of any downed wire or poles on public access to the beach. In response to the expressed concern over the potential effects of downed poles or lines, the applicant has agreed to inspect the poles and lines weekly and to repair/replace any downed lines as necessary. The applicant proposes to provide a written agreement with the local government entities that own the existing light standards and/or beach information signs to which the pole extensions will be attached through which the applicant would agree to inspect, repair, and if necessary replace any downed wire or poles on a weekly basis.

In this case, the development poses a unique set of facts: the placement of private development/uses on a public beach has a possible effect on public use and on the

public's experience of the public beach. The intention of the agreement between the local government and the Pacific Jewish Center is to allow the proposed development to occur in such a way that it will not reduce existing access to the beach. However, the Commission notes that the public's ability to continue to use the beach safely would then be a function of the ability of a private entity to carry out its intentions. There is no provision in the agreement to remove downed wire/poles more often than once a week, in case a pole or wire collapses several days before the group would be scheduled to return, and when ever a problem has been identified. The potential of downed wire and poles represents a potential impact on use of the beach. The County information poles occasionally fall or tilt, and are not always immediately replaced. If a County information sign were to fall, the applicant would be responsible for removing the pole, but would have to wait to reinstall the line until the County or its contractors replaced the information sign.

In order to address this issue, the Commission has imposed Special Condition 3, which requires record keeping and a maintenance contract with a contractor able to replace downed poles and wire within 24 hours, and to provide the contractor's contact information on the existing beach information signs, and to local government entities. Moreover, the proposal could have greater impacts on public access than expected if the applicant, a private, volunteer association, is not able to carry out the agreement as proposed. To address this issue, the Commission has limited its approval to three years. If the applicant wants to leave the eruv up longer, as the end of the third year approaches, the applicant would have to apply to the Commission for an amendment to this permit to allow the installation to remain in place. As part of any application for such an amendment, the applicant would be required to provide a record of the number of incidents of downed poles/line, the repair history, a record of reports of bird incidents attributable to the project received by the contractor or the applicant from the Department of Fish and Game (DFG), the United States Fish and Wildlife Service (USFWS) and/or the public; a record of all calls or other communications regarding, and direct observations of (if the applicant was the first to notice it), downed lines and or poles, with dates on which the failure was reported/observed; and dated confirmation of all repairs to the installation.

If any such amendment extending the authorization provided in this permit is not approved, the applicant would have to remove the eruv. As conditioned, the lines, the streamers and the pole extenders on the 19 unpaved street ends on Marina Peninsula will have no impact on the access of the public to publicly owned beaches in this area.

The Commission must also consider whether the installation of the wire and the supporting poles will change the experience of the visit to the beach to such an extent as to make the proposal inconsistent with the policies listed above. On the paved sections of Ocean Front Walk, the monofilament line will be placed on the tops of existing streetlights. On unfinished portions of the Ocean Front Walk (on the Marina Peninsula), in what is generally an open undeveloped stretch of beach, the monofilament line is proposed to be located 20 feet above Ocean Front Walk/the beach. The applicant proposes to place the wire at this height so that it will be sufficiently elevated so as not to block public pedestrian or emergency vehicle access to the beach. At approximately 19 street ends where there

are no existing light standards, the applicant proposes to strap 19 twenty-foot high pole extenders to the existing Los Angeles County beach information signs as well as an undetermined number of 1" by 6" reflective streamers at each street end between Catamaran and the Entrance Channel. On the Marina Peninsula, placing the pole extenders and streamers could have impacts on public views and on the experience of visiting the beach.

In discussions of open space in Los Angeles, the beach is singled out as the largest public park in an otherwise park deficient city. Beaches such as Ocean Front Walk in North Venice can be a place to seek crowds, but other beaches, including the Marina Peninsula, are also a place to be alone in the open. While the structures adjacent to the beach are as much as 40 feet high, the beach is 400 feet wide. Poles, wires, and streamers move the line of perceived enclosure closer to the open beach.

At the other locations, the proposed project will not have such an impact because no new poles will be needed on the beach, no streamers will be necessary and the wire itself is effectively invisible. The placement of the streamers is intended to avoid adverse impact on an environmentally sensitive habitat area, the Least Tern nesting area. These issues are addressed below in the section on visual impacts.

Because avoiding impacts on public access depend on the effectiveness of the applicant and its contractors in maintaining the poles and lines, the Commission determines that the permit should be limited to a three-year period, after which time the applicant will have to reapply to the Commission for the project. As conditioned to require a maintenance contract so that downed lines or poles do not interfere with public access and to limit the installation to three years, with an amendment required to extend the time, the development is consistent with Section 30210 and 30211.

C. Environmentally Sensitive Habitat Areas.

The wire will pass along south Venice Beach, the site of the protected Least Tern nesting area. The Least Tern² nesting area and related feeding areas (the Venice Canals and Ballona Lagoon) are environmentally sensitive habitat areas. Environmentally sensitive habitat areas are defined in the Coastal Act as habitat which is, among other things, rare or especially valuable.

Section 30107.5 Environmentally sensitive area

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<i>Species</i>	Common name	CESA (state)	ESA (federal)	Habitat
<i>Sterna antillarum browni</i> (nesting colony)	California least tern	E	E	Alkali playa, wetland

Source: the California Natural Diversity Database: (CNDDB).

"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Section 30240 of the Coastal Act requires:

Section 30240 Environmentally sensitive habitat areas; adjacent developments

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those 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 those areas, and shall be compatible with the continuance of those habitat and recreation areas.

(Amended by Ch. 285, Stats. 1991.)

The Least Tern nesting area is one of a limited number of protected ground nesting sites in California. According to the United States Geological Survey,

“There are nine such sites in southern California, supporting half of the nesting pairs. Between 1978 and 1994, approximately 50 sites in California supported nesting least terns (Fancher 1992; Caffrey 1995). Fewer sites have been used in recent years; for example, only 36 sites were used in 1994 (Caffrey 1995). Furthermore, most California least terns nest at only a few select sites. In 1994, 76% of the population nested at nine sites, all in southernmost coastal California. Four of the nine sites (in Los Angeles, Orange, and San Diego counties) supported 48% of the breeding pairs (Caffrey 1995). Management of California Least Tern colonies has included intensive monitoring of nesting colonies, site preparation to reduce vegetative cover, protection of sites by means of reduced access to humans, and predator management. Although individual nesting sites may not be used every year, and reproductive success varies among sites and years, the population of least terns in California continues to grow. Historical breeding sites should be preserved and managed for least terns because their adaptability to new or different sites depends on past reproductive success, predation pressure, and food supplies.” (Abby Powell, U.S. Geological Survey, Biological Resources Division).

With respect to the proposed poles and wire, the Department of Fish and Game expressed two concerns:

1. Birds might injure themselves by crashing into the line, which is a very light line and difficult to see,
2. Crows and other predators, which have caused extensive damage to the Least Tern colony in past years, might use the line as a perch to prey on the colony.

With respect to the first concern, the Department acknowledged that many of the existing beachfront structures range from 30-35 feet high, making it unlikely that birds would crash into a wire that is located slightly below roof height. However, the applicant, in response to this concern, has agreed to use a slightly more visible 200-pound line and to install streamers on the line south of Washington Boulevard to increase visibility of the line. The applicant intends to do this at street ends, where birds fly between buildings below the level of the roof lines. After discussions with the applicant, the Department indicated that placement of streamers on the wires would reduce their concerns over collisions with the wire. Based on this, the Commission concludes that the proposed development, located adjacent to ESHA as it would be, would be designed to prevent impacts that would significantly degrade the ESHA and would not be incompatible with the continuance of the habitat area.

According to the Department of Fish and Game, mortality at the Least Tern colony has fluctuated over the years in response to variations in predation. The predators of this colony have consisted of crows and kestrels, both of which perch on nearby roof tops to observe the colony. In correspondence, the Department expressed concern that a new perching site would enable predators to perch above the colony and wait for the parents to leave their nests. The Department decided not to press the issue of predations after the applicant pointed out locations on nearby roofs where predators already perch. (See Exhibits 4, 5, 6, and 7.)

Based on comments from the Department of Fish and Game and the U.S. Fish and Wildlife Service (the Resources Agencies), the applicant proposes to tie streamers to the line. The Commission notes that its action in approving the line and poles does not prevent the Resources Agencies from withdrawing their concurrence with the project if damage to endangered species becomes apparent. If the Resources Agencies withdraw their approval, the applicant would be required under the Endangered Species Act and under this permit to remove those sections of the line and poles determined to have caused damage to endangered species. Finally, by limiting the project to three years, before the end of which time the applicant will need to apply to the Commission to keep the installation in place, the Commission will be able to address any unforeseen impacts on the Least Tern nesting area. The project as proposed with the streamers and conditioned to a three-year term is consistent with Section 30240 of the Coastal Act because it will not interfere with passage of endangered birds or increase predation on the colony of the endangered Least Tern and therefore will not significantly degrade the ESHA or be incompatible with its continuance as a habitat area.

D. Visual impacts.

The beach is identified in the certified Land Use Plan, (LUP) as a natural and visual resource area, a scenic area. The Coastal Act requires that development in highly scenic areas be subordinate to the character of its setting.

Section 30251 Scenic and visual qualities

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 surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Venice Beach is a developed, urban environment. Private lots adjacent to the beach are mostly developed. The public beach north of Washington Boulevard supports an urban park that includes a skate path, a paved walkway and a bicycle trail as well as weight lifting and picnic areas and some basketball courts. Over the years, the beach has been subject to a number of programs to replace older facilities with newer facilities, including walkways, picnic areas and landscaping. In North Venice and in Santa Monica the applicant does not propose to add pole extenders but instead proposes to attach the monofilament to existing beachfront light poles.

No streamers are proposed outside the vicinity of the Least Tern nesting enclosure, which is located on the south Venice peninsula; in North Venice beach, the wire will be strung between existing light standards and no streamers will be present. Many people may not even be able to see the 200 lb. test monofilament from 14 feet away. Therefore, the visual impacts of the eruv installation in North Venice and in Santa Monica will be negligible. In support of this conclusion, the applicant indicates that in other areas of Los Angeles and in San Diego, in areas where blight would be opposed, and where the line alone was installed, there have been few complaints.

Most private lots abutting the beach on the Marina Peninsula are also developed. Many structures are set back as little as one foot from the dedicated Ocean Front Walk right-of-way. While a significant number of older beachfront structures and some roof access structures extend up to 45 feet, new development is limited to 35 feet; structures along walk streets are limited to 28 feet. While almost all of the private lots abutting Ocean Front Walk are developed, all of Ocean Front Walk is not paved. There are few structures on this part of Venice Beach/Dockweiler State Beach: the least tern enclosure near the southern end of the beach. The only structures are a Los Angeles County parking lot at Washington Street, a semi-subterranean restroom near the entrance channel, and some portions of Ocean Front Walk at the northern and southern ends of the beach. At nineteen street ends of South Venice Beach the applicant proposes to strap a 20' high poles to existing beach information signs to support the eruv. These poles would be located eleven to twenty feet seaward of the existing line of structures, and higher than all but the Washington street restroom.

The applicant discovered that on 19 streets on the middle portion of the Venice Peninsula (between Catamaran Street and Topsail Street streets), there is no continuous walkway and there are no streetlights. To get a continuous line where there are no light standards, it would be necessary to string the line between the existing eight foot high Los Angeles

County Beaches and Harbors “Beach Information Rules” signs. After discussions with the County officials about maintaining access for emergency vehicles, the applicant proposes to elevate the line 20 feet above the sand by stringing the line on 20-foot high poles strapped to the beach information signs. The poles would extend about 12 feet above the existing poles. Beach information signs, generally approximately eight feet high, are placed on both paved portions of Ocean Front Walk and on sandy areas of the unpaved Ocean Front Walk right of way, or in some instances several feet seaward of where the Ocean Front Walk would have been located. The signs are not placed in a straight line, in some instances are not set at right angles to the ground, and are not located at an identical distance from the residential structures. The resulting irregular line of poles along with the line and streamers will have a potential impact on public views to and along the beach (Exhibits 8-13). South of Topsail Street, the older, paved Ocean Front Walk resumes, and includes old-fashioned light standards. However, a 14 ft. high pole extension will also be added to an existing sign at the end of Via Marina at the Marina entrance channel.

The Venice LUP establishes land use development standards for lots adjacent to Venice Beach. The beach itself is designated OS open space and identified as a highly scenic area. The LUP attempts to protect views to and along the beach by limiting development on public property to facilities that provide for and enhance public access and use of the beach. The proposed project is not a public use or paid for by the public although public agencies are allowing use of publicly-owned light poles and fences. The applicable policies state:

Policy I.D.2 Venice Beach. Venice beach stretches along the coast from Navy Street on the north to the entrance channel of Marina del Rey.

Use density: The beach shall be zoned Open Space and saved for public recreation. There should be no further construction on the beach other than police substation, City's and County's operation and management offices, recreation and accessory facilities such as playground equipment, athletic facilities, restrooms, lifeguard stations, bikeways, related short-term bicycle parking, walkways, lighting facilities where appropriate, and necessary expansion of existing or installation of new infrastructure. Reconstruction and rehabilitation of existing facilities shall be encouraged. Development shall be sited to protect Least Tern nesting areas and other environmentally sensitive habitat areas.

Policy I.D.3 Views of Natural and Coastal Recreation Resources. The scale of development shall comply with the height limits, setbacks and standards for building massing specified in policy groups I.A and I.B, residential and Commercial land use and development standards of this LUP in order to protect public views of highly scenic coastal areas and vista points, including but not limited to, the canals, lagoon, jetty, pier, Ocean Front Walk, walk streets and pedestrian oriented special communities.

Policy I.D.4 Signs. Roof top signs and billboards are prohibited in all land use development. Business identification signs shall comply with the height limits and development standards specified in the LUP to ensure they do not adversely affect view sheds and view corridors:

The Venice LUP identifies the Venice Beach as a “natural and visual resource area”. In addition to limiting uses on public property, the Venice LUP protects the visual quality of the community by limiting the height of individual projects. Both commercial and residential development is envisioned on private lots adjacent to the beach. The Venice Land Use Plan limits the height of private development adjacent to the beach to 35 feet with an uneven roofline and 30 feet with a flat roof. The pole extenders proposed in this application will be lower than the height allowed for private development on individual beachfront lots.

In most locations, except for the beach south of Washington, the wire will be attached to existing poles. As noted above, south of Catamaran Street, the applicant indicates that it will be necessary to attach 20-foot long galvanized metal poles to existing 8-foot high lifeguard warning signs. There are no existing signs on the Ocean Front Walk or on the beach in this area that are 20 feet high. In addition to the poles, the reflective strips added to protect the birds will be visible from street ends, Ocean Front Walk, and the beach. In order to provide the Commission with an image of the proposed poles, the applicant has provided several photographs of beach information signs with twenty-foot high poles temporarily propped up next to them, as well as photographs of an installation located adjacent to Pico Boulevard outside the Coastal Zone. After further discussions with staff, the applicant attached streamers to an existing line and photographed it, to show that the line and the streamers would not be highly visible. These pictures will be available at the Commission hearing; unfortunately they do not reproduce legibly enough to attach to the photocopied staff report.

The Commission notes that the twenty-foot high poles will be at the same height or slightly lower than the height of the roof lines of adjacent existing private development but will be more than twice as high as the existing beach signs. There are existing poles of comparable height in the alleys, where the utility poles are located. However, in this case the installation would include the addition of 20-foot high poles and streamers on a beach, which is a visually sensitive area. The Commission is required by the Coastal Act to protect views to and along the beach. The proposed pole extension at the seaward end of Ocean Front Walk at Via Marina (the Marina entrance channel) is at a highly scenic location, heavily used by pedestrians and bicyclists.

Staff asked the applicant to investigate an alternative, which is to string the line on the existing utility poles. There is a row of existing poles located along Speedway Alley, inland of the beach. Using the utility poles, a continuous line could be constructed to enclose most of Venice and Santa Monica within an eruv without having a visual impact on the views to and along the beach. The poles already exist and are not visible from the beach. Because of the intervening houses, predators would not be able to use a wire strung along the inner edge of the beach and watch the Least Tern nesting area. The applicant indicates that it did investigate using the existing utility poles, contacting the Joint Poles Commission, which manages joint use utility poles on the matter. One of the rules for an Eruv is that it has to be the highest line on any pole to which it is attached. According to

the applicant, the utility companies indicated that the highest lines on the poles are high voltage lines. Therefore, use of the pole for an eruv (or for any private use) would be extremely dangerous to installers, and the Joint Poles Commission refused installation of an eruv on existing poles.

As proposed, the line, with its reflective streamers, will be visible from the Ocean Front Walk, the beach, and the street ends, posing potential issues of impacts on the visual quality of a relatively undeveloped stretch of beach. The signs are placed in an irregular line at varying distances from the street ends at all but one of the 19 streets between Topsail Street and Catamaran Street, and at Via Marina. The poles and the streamers will be visible from the street ends, from Ocean Front Walk and from the beach. As noted above, the line itself is a fishing line and not visible.

In response to these issues, the applicant indicates that it will minimize the number of streamers by limiting their installation to the street ends, which are the likely bird passages. Secondly, the applicant has proposed to minimize the visibility of the poles by painting them colors that will blend in with the colors of the surrounding beach, sand, and sky. Finally, the applicant indicates that its final plans for the streamers limits the streamers to six inches in length, rather than 10 or 14 inches, which was earlier considered. The Commission determines that as conditioned to paint the poles a non-reflective color, which minimizes contrast with the sand and sky, and limit placement of the streamers to the street ends, the project is consistent with Section 30251 of the Coastal Act because the obtrusiveness of the poles will be reduced to a level of insignificance. As revised by the applicant to reduce the number of streamers by locating the streamers every 200 feet (at street ends) instead of every ten feet as originally proposed, the obtrusiveness of the streamers will also be reduced, while balancing ESHA protection and the protection of visual resources. Moreover, as conditioned, the duration of the initial installation is limited to three years. The Commission, the public, and the applicant can readdress any issues concerning visual impacts or public access when the applicant applies at the end of the three-year period to extend the life of the installation. As conditioned, the development will minimize interruption of public beach views and is consistent with the visual quality policies of the Venice LUP and with Section 30251 of the Coastal Act.

E. Prejudice to the Preparation of a Local Coastal Program.

Section 30604 (a) of the Coastal Act states that:

Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

The Commission has certified a Coastal Land Use Plan for Venice, but has not certified a complete Local Coastal Program. In certifying the Land Use Plan, the Commission found that it was consistent with the Coastal Act. The Land Use Plan includes broad protections of public uses on the beaches and detailed limits on height and sometimes the bulk of structures in Venice's various sub-communities.

The Commission has not yet not considered or certified the implementation program for Venice. The City has indicated that it is its intention that the Venice Specific Plan be the implementation ordinance for the certified LCP. The Specific Plan is a zoning ordinance that adjusts the Municipal Zoning Ordinance in Venice to bring development in Venice into conformance with the LUP. The Specific Plan addresses private development on private property. The coastal and the City staffs are still struggling with the issue of how the Implementation Ordinances will carry out the policies of the LUP in the case of public projects or of private projects on public land. The City has indicated that where the Venice Specific Plan is silent, the Municipal Code will prevail. In this case, the City has not considered a coastal development permit, but has instead granted a permit through the Department of Public Works, which Commission staff accepts in lieu of an approval in concept. The City took that route because they addressed the project as an essentially *de minimis* addition to an existing public installation, but did not evaluate impacts on public views or on environmentally sensitive habitat in coming to this decision. In this case, the City's jurisdiction does not extend to the portion of the line that in the view of the Commission has potential visual impacts. Stringing the line on County signs in County-operated State property is outside the City's jurisdiction under the interim permit program. After there is a certified LCP, however, the City will have jurisdiction over installations on the State Beach.

The City did not evaluate potential visual and access issues on north Venice Beach before approving to the attachment of the line to the light standards because the City does not yet have the responsibility of enforcing the Coastal Act over County projects and was concerned about public safety and its equipment. However, when the City becomes certified, the City will have jurisdiction over County projects, and will be able to address projects that may have a visual impact on coastal resources even though they may have little physical impact on City installations. By requiring that the project be limited to three years and return to the Commission (or the City) after that period, the Commission assures its ability to reassess the project under any newly adopted standards found in the presently evolving LCP. The Commission finds that, as conditioned, the project will not prejudice the City's ability to prepare an LCP that is consistent with the Coastal Act.

F. California Environmental Quality Act.

Section 13096 of the Commission's regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would

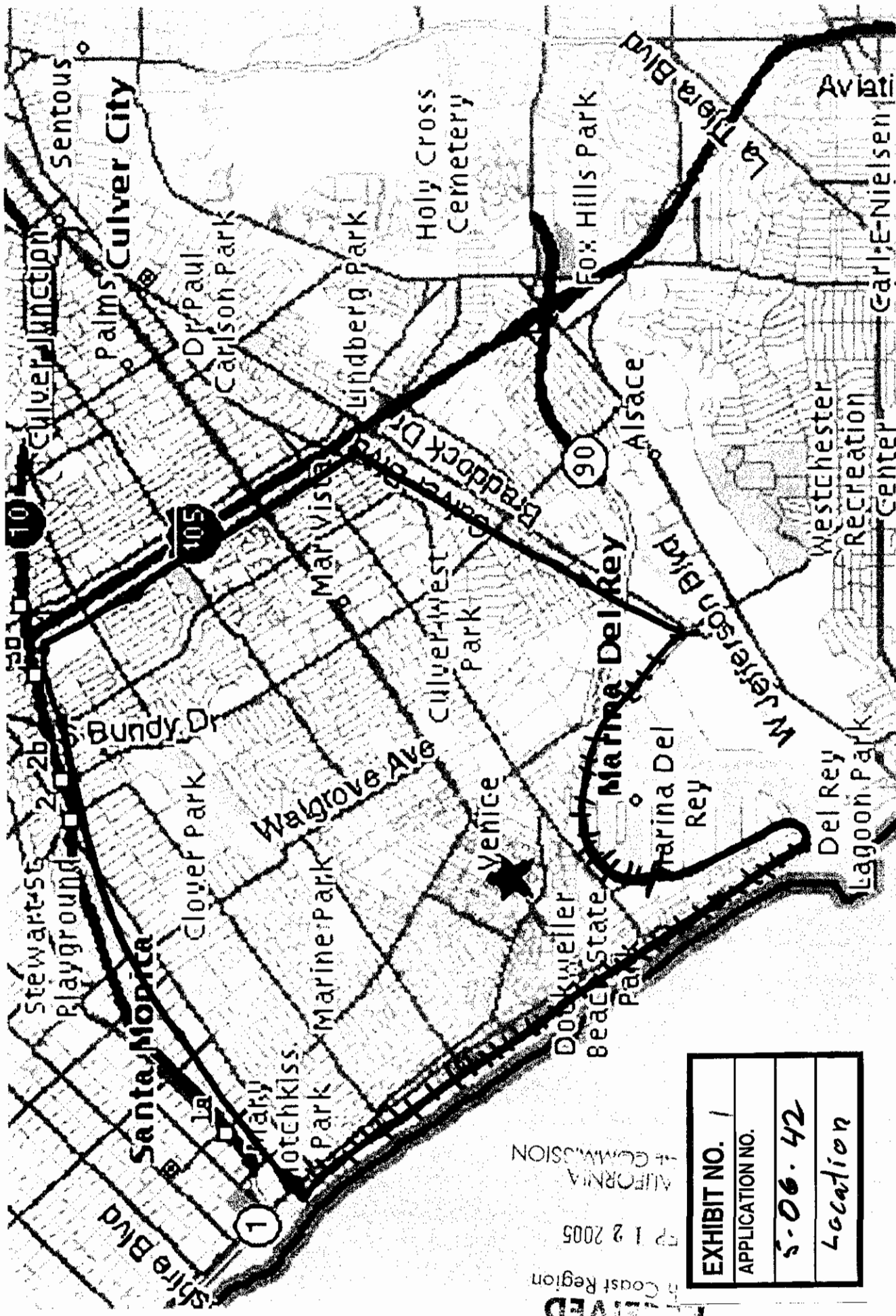
substantially lessen any significant adverse effect which the activity may have on the environment.

The applicants have proposed mitigation for the project's potential impacts on an environmentally sensitive habitat area; however, the Commission determines that, as proposed, the project has potential impacts on public views. The Commission considered the alternative of approving the stringing of the line on existing power poles along an alley inland of the beach, resulting in no line of new 20-foot poles, no line, and no reflective streamers along the inner edge of the public beach. The Commission has considered alternatives and determined that there are no alternative locations in which the project can be approved due to considerations of public safety. There are feasible alternatives or mitigation measures available that will lessen any significant adverse impact that the activity would have on the environment. The Commission has imposed special conditions regarding the colors of the poles, the maintenance of the installation and the duration of the project, which the Commission finds mitigate any potential impacts on public views, habitat, or public access. The Commission has required that the applicant remove the poles and lines if the Resources Agencies determine that the project has had unacceptable impacts on endangered birds. Therefore, the Commission finds that as conditioned the proposed project is consistent with the California Environmental Quality Act (CEQA) and the policies of the Coastal Act.

G. Response to Comments

The Commission received several letters from the public commenting on the proposal. Eight letters expressed opposition to the project. Most of the reasons cited for the opposition to the project related to the visual impacts of the project or to the predicted impacts on birds. Those impacts have been addressed above. The one other basis for opposition cited in some of the letters was a claim that the project would violate the Establishment Clause of the First Amendment of the United States Constitution (prohibiting laws "respecting an establishment of religion"), presumably as applied to the State by the 14th Amendment, because the development would occur on public land.

The Commission takes no position on whether the public agencies that own the land on which this development would be placed would be violating the Establishment Clause by allowing their lands to be used for this project. The Commission is neither the property owner nor a municipal entity with general discretionary authority over land use decisions. The Commission's review is limited to an assessment of whether the proposed development would be consistent with the Chapter 3 policies of the Coastal Act. As long as the proposed use of the land does not violate any Chapter 3 policy regarding coastal land use priorities, the Constitutional issues are better addressed by the landowner agencies. Thus, if members of the public have concerns due to the placement of the proposed structures on public property, they should address those comments to the public agencies that have agreed to allow their property to be used to host the development at issue.

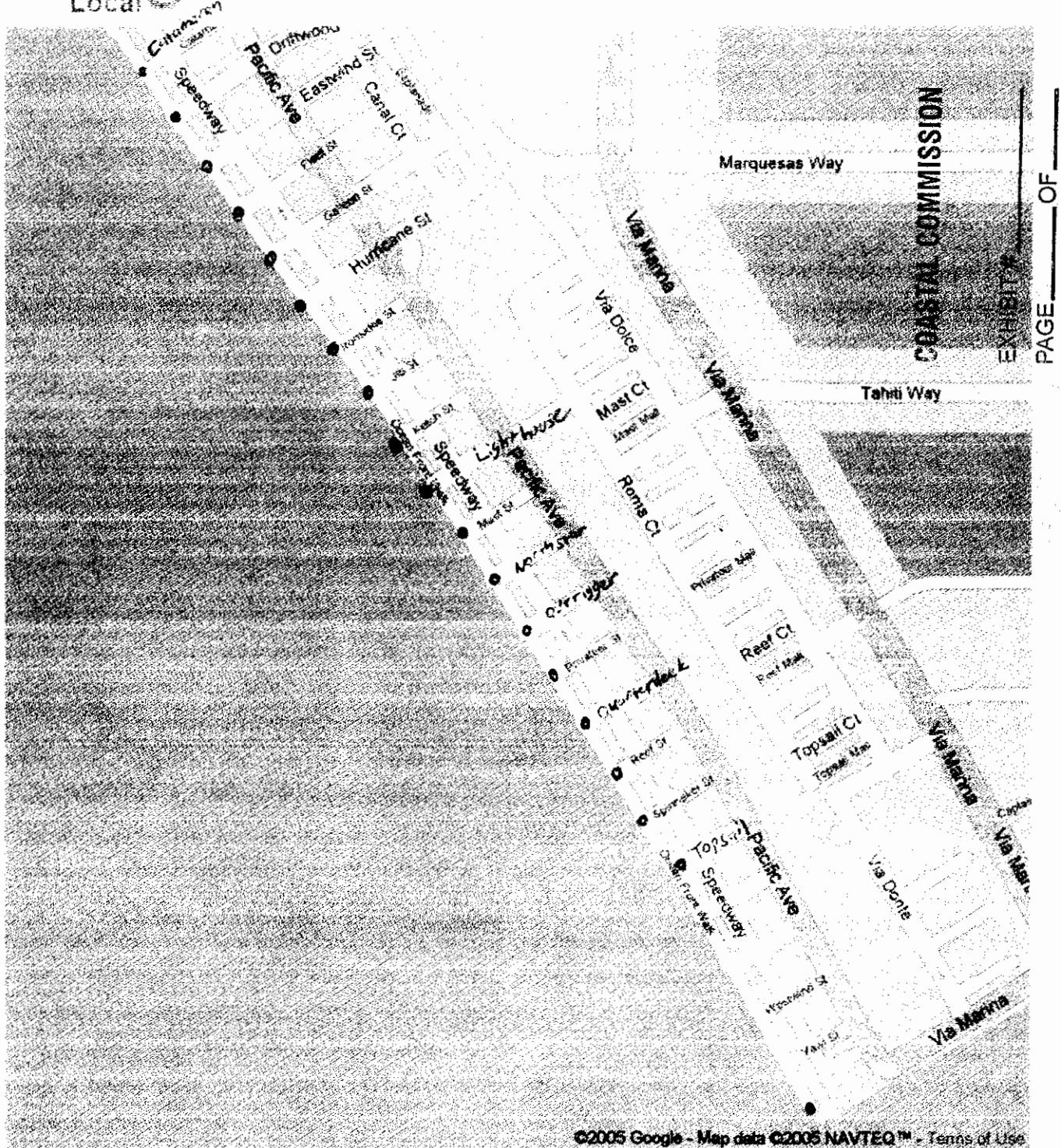
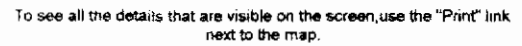


RECEIVED
 South Coast Region
 SEP 12 2005
 ALFORDIA
 COMMISSION

EXHIBIT NO. 1
APPLICATION NO.
S-06-42
Location

Monofilament

Existing fences or wall - no monofilament to be installed



Total of (19) poles between Camarero and Via Marina.

Exhibit 2 5-06-412
poles

Pacific Jewish Center Eruv

Project Description

MISSION **What is an Eruv?**

Jewish people are prohibited from engaging in certain activities on the Sabbath. More specifically, there are 39 categories of activities that are prohibited because they are creative, productive or work related. In observance of this mandate, Orthodox Jews do not write, spend money, use fire, or transfer (move) objects in a "public" domain.

For this final prohibition, however, Jewish law permits the transfer of objects within an "Eruv," provided that those items are necessary for the observance of the Sabbath. e.g. carrying a prayer book or pushing a baby stroller to synagogue.

In order to carry in a public domain, Jewish law has two requirements:

1. A physical perimeter that completely surrounds the area
2. Permission from the governing authority

This physical perimeter is called an "Eruv," and there are specific laws to its construction. For thousands of years, Jews around the world have built Eruvs, enhancing the Sabbath experience for entire communities.

Eruv Precedent: An Eruv in Los Angeles

For almost 30 years, the Los Angeles Jewish Community has maintained an Eruv in Los Angeles. In 2002, the LA Eruv received a permit from Caltrans (# 700-6MC-3076) and the City of Los Angeles to undergo a major expansion.

Jewish Law requires that the perimeter of the Eruv be constructed of continuous walls with doorways where needed. The LA Jewish Community worked with the city and Caltrans to install over 60 poles along the on and off ramps of the 10, 405 and 101 Freeways. The freeway fences act as walls, defining the perimeters of the Eruv. The poles and monofilament string along the on and off ramps, serve as the symbolic doorways.

The Los Angeles Eruv has operated under permits from Los Angeles and Beverly Hills since 1977, and there has never been any safety issue, accident or other claim against the Eruv or against any entity as a result of the Eruv's installation and maintenance.

Permits

Our organization, the Pacific Jewish Center Eruv, has obtained a permit/licensing agreement from the City and County of Los Angeles and the city of Santa Monica.

COASTAL COMMISSION
Correspondence/applicant
EXHIBIT # 5-06-42 H3
PAGE 1 OF 2

Building Our New Eruv

Building this new Eruv will require permission from the Commission for the following:

1. Attaching a monofilament line to the light poles on Ocean Front Walk from Seaside (City of Santa Monica, near the Pier) to Via Marina (Marina del Rey).

Inspecting and Maintaining the Eruv

The very nature of the Eruv requires that it have complete structural integrity at all times. Thus, the Venice Community Eruv has contracted with a Rabbinic inspector who will drive around and visually inspect the entire Eruv perimeter every Thursday morning. The Rabbinic inspector's job is to make sure that there are no breaks in the monofilament lines that we are relying upon to create that "complete circuit." Upon noticing any breaks in the monofilament line, they are immediately reported for repair before the Sabbath. The Pacific Jewish Center Eruv has also contracted to have a crew on standby every Friday to take care of any requested repairs.

Environmental Mitigation

Preliminary discussions have been conducted with the U.S. Fish & Wildlife Service (Ken Corey) and the California Department of Fish & Game (Terri Stewart) in response to Coastal Commission staff concerns regarding bird habitat impacts. The project has been modified to in those sensitive habitat areas (e.g., near the Dockweiler Beach Least Tern compound) to include visible streamers on the monofilament lines. No further mitigation measures were deemed necessary by the agencies during these preliminary discussions.

Liability

The Pacific Jewish Center Eruv agrees to defend, indemnify and hold harmless the County and City of Los Angeles, the City of Santa Monica, and the State of California Department of Parks and Recreation from any claims, demands, causes of action, damages, expenses, losses or liabilities of every kind arising out of or in connection with the Eruv's placement and maintenance of the poles or lines.

Conclusion

In conclusion, we request permission for the installation of monofilament on Ocean Front Walk. If you have any questions or need further materials, please feel free to contact me at (310) 843-9569.

Howard Shapiro
Project Manager

COASTAL COMMISSION

Correspondence

EXHIBIT # 5-0642-3

PAGE 2 OF 2

March 21, 2006

Venice Eruv Permit Application #5-06-042

This letter is in response to the request for additional information. The number of each item corresponds to the item number in letter from the Coastal Commission.

1. Detailed Project Description

Building this new Eruv will require permission from the Commission for the following:

1. Attaching a monofilament line to the light poles on Ocean Front Walk from Seaside (near the Santa Monica Pier) to Via Marina.
2. Attaching poles to County signs at the end of each cul-de-sac between Catamaran and Via Marina on Ocean Front Walk. Each stainless steel pole will be 20' in height, 1 5/8" width and weigh approximately 15 pounds.

Please see enclosed map for the exact locations.

2. Application Form

Please find the forms signed.

3. Fish and Wildlife Service & California Dept. of Fish and Game

In order to expedite this process, an e-mail was sent from Joe Chesler, Chief of the Planning Dept. of LA County Beaches and Harbors to Terri Stewart (Fish and Game) and Ken Cory (Fish and Wildlife) which reads as follows:

Ken & Terri:

Remembering back to our joint conversations with the Pacific Jewish Center (PJC) on June 6, 2005 regarding PJC's desire to "construct" a ceremonial ERUV along the beach in Venice and around Marina del Rey, they continue to be frustrated by requirements of Coastal Commission staff in granting permit authority to complete the ERUV. Attached is the recent RFI (3/3/06) sent by the Coastal Commission to Mr. Howard Shapiro -- please note in condition #3 they are requesting written verification that USFWS and CDFG have reviewed and approved the proposed project. Despite PJC's (and my) efforts to provide such assurance, written verification from both of you is required for the permit to advance. Also attached is the PJC's record of that conference call and suggested modifications made to minimize impact on targeted species.

I propose that you simply respond to this email ("reply all") with verification of your approval/non-objection -- this should satisfy Coastal staff. Hopefully this can be accomplished by early next week, as it is important to the applicant to have the ERUV completed this spring. If you need to verify any aspect of the proposed project, please contact Mr. Shapiro directly, at (310) 613-2450. Thank you very much for your efforts and advice.

Joseph Chesler, AICP
Division Chief, LACo Department of Beaches & Harbors
13837 Fiji Way, Marina del Rey, CA 90292
WT: 310.306.0495*

Please let this serve as proof that they have been contacted.

COASTAL COMMISSION
5-06-42
4
EXHIBIT #
PAGE 1 OF 2

4. Liability

The Pacific Jewish Center Eruv agrees to defend, indemnify and hold harmless the **Costal Commission** and its officers and employees from any claims, demands, causes of action, damages, expenses, losses or liabilities of every kind arising out of or in connection with the Eruv's placement and maintenance of the poles or lines.

Project Cost

The cost for the installation of the proposed development is \$20,000.

Conclusion

In conclusion, we request permission for the installation of monofilament line and pole extensions on Ocean Front Walk. If you have any questions or need further materials, please feel free to contact me at (310) 843-9569.

Howard Shapiro
Project Manager

COASTAL COMMISSION
5.01.42
EXHIBIT # 4
PAGE 2 OF 2

RESOLUTION OF 6/6/05 PHONE CONFERENCE FOR VENICE ERUV

The following issues were raised as concerns by U.S. Fish & Wildlife Service (USFWS) and the California Department Fish and Game (CDFG):

1. The monofilament line, on the beach between light poles, will create a flying hazard to birds.
2. The monofilament line may give predatory birds a perch to prey on endangered birds.

These issues were addressed by bringing to light the following information:

1. The monofilament line on the beach is close enough and/or low enough to the buildings along Ocean Front Walk as not to be a hazard to birds.
2. There are, currently, overhead lines in the alley behind Ocean Front Walk (Speedway) as well as some electrical lines between light poles on Ocean Front Walk.
3. Monofilament is currently used on Mother's Beach (near the Marina) to deter birds from landing there and polluting the sand.
4. Predatory birds can more easily perch on buildings or light poles along the beach rather than monofilament.

The following modifications will be made:

1. The larger gauge monofilament (200 lb. test) will be used to increase visibility for the birds.
2. For the area between Washington and the Marina, a streamer will be placed on the line in the vicinity of the cul-de-sac to further increase visibility for the birds near the protected bird habitat.

CDFG and USFWS will discuss these modifications and respond to the categorical exemption document.

COASTAL COMMISSION

5-0642

EXHIBIT # 5

PAGE 1 OF 1

Chuck Posner

DFG

From: Terri Stewart [TStewart@dfg.ca.gov]
Sent: Wednesday, March 29, 2006 8:13 AM
To: Ken_Corey@fws.gov; jchesler@lacodbh.org
Cc: Chuck Posner; howieshapiro@gmail.com
Subject: Re: FW: Coastal ERUV -- Pending CDP #5-06-042 (Record of Approval/Non-Objection)

Hi Howard, Joe and Chuck - DFG also has reviewed the project and feels there will be no impacts to sensitive wildlife from the project. It will also not impact the Ballona Wetlands Ecological Reserve. DFG concurs with the FWS.
Terri

Terri Stewart
Senior Biologist, Supervisor
Land Management and Monitoring Program
South Coast Region
(858) 467-4209
fax 467-4239

>>> <Ken_Corey@fws.gov> 3/28/2006 4:16 PM >>>

Howard, Joe, and Chuck: the Service does not anticipate any take in the form of harm or harassment to occur to the California least tern from the Coastal ERUV based on the minimization measures proposed below in the attachment, and therefore have no further comment on the project.

thanks, Ken

"Joe Chesler"
<jchesler@lacodbh.org>

03/20/2006 09:02
AM

To
"Ken Corey/USFWS"
<ken_corey@fws.gov>, "Terri
Stewart/CDFG" <tstewart@dfg.ca.gov>
cc

"Howie Shapiro"
<howieshapiro@gmail.com>, "Chuck
Posner/CCC-LB"
<cposner@coastal.ca.gov>

Subject
FW: Coastal ERUV -- Pending CDP
#5-06-042 (Record of
Approval/Non-Objection)

COASTAL COMMISSION

5-06-42

EXHIBIT # 6,

PAGE 1 OF 2

Please note that the Coastal Commission staff contact for this matter is Chuck Posner, not Al Padilla, as indicated in my previous email. We look forward to hearing back from you soon. Thank you!

--JOE--

From: Joe Chesler

Sent: Thursday, March 16, 2006 7:25 PM
To: Ken Corey/USFWS; Terri Stewart/CDFG
Cc: Howie Shapiro; Rabbi Ben Geiger-PJC; Al Padilla-CCC/LB
Subject: Coastal ERUV -- Pending CDP #5-06-042 (Record of
Approval/Non-Objection)
Importance: High

Ken & Terri:

Remembering back to our joint conversations with the Pacific Jewish Center (PJC) on June 6, 2005 regarding PJC's desire to "construct" a ceremonial ERUV along the beach in Venice and around Marina del Rey, they continue to be frustrated by requirements of Coastal Commission staff in granting permit authority to complete the ERUV. Attached is the recent RFI (3/3/06) sent by the Coastal Commission to Mr. Howard Shapiro -- please note in condition #3 they are requesting written verification that USFWS and CDFG have reviewed and approved the proposed project. Despite PJC's (and my) efforts to provide such assurance, written verification from both of you is required for the permit to advance. Also attached is the PJC's record of that conference call and suggested modifications made to minimize impact on targeted species.

I propose that you simply respond to this email ("reply all") with verification of your approval/non-objection -- this should satisfy Coastal staff. Hopefully this can be accomplished by early next week, as it is important to the applicant to have the ERUV completed this spring. If you need to verify any aspect of the proposed project, please contact Mr. Shapiro directly, at (310) 613-2450. Thank you very much for your efforts and advice.

--JOE--

Joseph Chesler, AICP
Division Chief
LACo Department of Beaches & Harbors
13837 Fiji Way, Marina del Rey, CA 90292
WT: 310.306.0495*
Cell: 310.628.3221
WF: 310.821.8155*
EM: jchesler@lacodbh.org
Web: <http://labeaches.info>

(See attached file: CCC_RFI1.pdf) (See attached file: Resolution of phone conference for Venice Eruv.doc)

COASTAL COMMISSION

5-06 4/2

EXHIBIT # 6

PAGE 2 OF 2

US FWS

Chuck Posner

From: Ken_Corey@fws.gov
Sent: Tuesday, March 28, 2006 4:17 PM
To: Joe Chesler
Cc: Chuck Posner; Howie Shapiro; Terri Stewart/CDFG
Subject: Re: FW: Coastal ERUV -- Pending CDP #5-06-042 (Record of Approval/Non-Objection)



CCC_RFI1.pdf



Resolution of phone
conference...

Howard, Joe, and Chuck: the Service does not anticipate any take in the form of harm or harassment to occur to the California least tern from the Coastal ERUV based on the minimization measures proposed below in the attachment, and therefore have no further comment on the project.

thanks, Ken

"Joe Chesler"
<jchesler@lacodbh.org>

03/20/2006 09:02
AM

To
"Ken Corey/USFWS"
<ken_corey@fws.gov>, "Terri
Stewart/CDFG" <tstewart@dfg.ca.gov>
cc

"Howie Shapiro"
<howieshapiro@gmail.com>, "Chuck
Posner/CCC-LB"
<cposner@coastal.ca.gov>

Subject
FW: Coastal ERUV -- Pending CDP
#5-06-042 (Record of
Approval/Non-Objection)

Please note that the Coastal Commission staff contact for this matter is Chuck Posner, not Al Padilla, as indicated in my previous email. We look forward to hearing back from you soon. Thank you!

--JOE--

From: Joe Chesler
Sent: Thursday, March 16, 2006 7:25 PM
To: Ken Corey/USFWS; Terri Stewart/CDFG
Cc: Howie Shapiro; Rabbi Ben Geiger-PJC; Al Padilla-CCC/LB
Subject: Coastal ERUV -- Pending CDP #5-06-042 (Record of
Approval/Non-Objection)
Importance: High

Ken & Terri:

COASTAL COMMISSION

5.06.42

EXHIBIT # 7

PAGE 1 OF

Response to staff report 9/20/06
Pacific Jewish Center #5-06-42

This document should clarify the few tangible but highly addressable issues which apparently caused the Coastal Commission's staff report to withhold approval of the Pacific Jewish Center eruv project. After careful review of the staff memo, we felt it was urgent that this additional factual data be added to the record, specifically in the areas of feasibility, necessary mitigation measures, and the protection of coastal resources. In conjunction with our original proposal, this memo should confirm that the Pacific Jewish Center eruv project:

- Complies with Chapter 3 of the Coastal Act, and would not prejudice the ability of the local government (City of Venice) to prepare a LCP that conforms to the provisions of the Coastal Act.
- Incorporates all feasible mitigation measures and alternatives in order to ensure impacts to the proposed project would remain less than significant.
- As such, is in full compliance with CEQA and its implementing Guidelines.

Here are our specific clarifications to staff concerns:

1. Beach Access: (staff report pages 3-4). The report states that the Eruv will cause a "1) reduction of physical access (to the beach), and 2) the Eruv will "change the nature of a visit to an open beach." The report further states that it will not cause reduction of physical access, but it will change the experience of a visit to the beach.

Concerns regarding downed wires and poles have naturally arisen before in the previous seven governmental approvals necessary for this project – and each time we have answered the questions and met the concerns of those government officials. The Coastal Commission staff report cites concern that beach safety would be predicated on the ability of a private entity to carry out its intentions. In fact, due to the nature of the eruv's function, the responsibility for upkeep by the eruv community is consistently

urgent by the applicants. By definition, the Eruv filament must remain intact in order to function properly. Thus, according to its definition under Jewish Law, if the monofilament is “downed,” the Eruv would become non-functional. Worse (for the applicants), should the community behave as if the eruv were functional when it indeed was not, the applicants would be subject to at a minimum serious social sanction for misleading the community. Thus, the applicant is seeking implementation of the proposed project with the full intention of weekly inspections of the monofilament, plus immediate response to meteorological events or any other external trauma to the pole system. In short, for however long the eruv is a part of this area, the eruv management will have compelling religious, social, and organizational reasons for vigilance – above and beyond the very serious assurances we are giving to the governmental agencies.

The applicant would be willing to abide by addition conditions of approval that the Coastal Commission may wish to impose in order to ensure that the monofilament does not constitute a potential effect to beach access. Conditions could include: (1) requirements to repair any downed portion of the Eruv within 24 hours; (2) increasing the frequency of inspections; (3) providing City and County officials with a dedicated telephone number to report broken poles and lines. A private company has successfully maintained the Los Angeles Eruv for the past five years. Unless every line and pole remains intact, the Eruv is rendered useless. For instance, due to diligent inspections carried out by agents of the applicant, breaches in freeway fences have been repaired faster than had Caltrans completed the work. Should a pole or line be a potential hazard to the public, the applicant would remove that part even if it meant that the Eruv would be temporarily “offline.”

While it is certainly a possibility that the monofilament may be downed, it is speculative to assume that this would occur on an ongoing basis. As identified in PRC Section 21082.2 and CEQA Guidelines Section 15145, environmental analysis of impacts that are considered speculative is not required under CEQA. As such, the contention of the possibility that monofilament may be come detached and the applicant would subsequently neglect to fulfill their stated objective of the project (construction of an Eruv according to Jewish Law), is therefore speculative.

2. Religious Purpose of the Eruv (elucidating Staff Report page 4) Staff members cannot be reasonably expected to be instantly versed on the arcane reasons why an eruv is necessary to the traditional Jewish community. Respectfully, we would like to add a small but critical nuance to their description of the purpose of the eruv.

The staff states that the purpose of the eruv is to “increase the ability of members of Pacific Jewish Center to walk along the beach on the Jewish Sabbath...”

This is technically a true statement, but in our reading conjures up an image of the eruv as a luxury-enhancing device, akin to a motorized sidewalk.

In fact, the eruv is primarily an attempt by the Jewish community at large to allow all its members to experience the joy, fellowship and weekly renewal of the Shabbat experience. Without the eruv, many (sadly, often those who need it most: the elderly and the infirm, plus parents of young children) are cut off from their friends, family, and synagogue because they require assistance in their movement.

The religious purpose of the eruv is greater inter-generational community access to the resources of our neighborhoods during the most important day of our week.

3. Speedway Alley Alternative (staff report pages 6 and 9): The Coastal Commission staff reports identifies an alternative location for the wires, Speedway Alley, as a better alternative than attaching poles on Ocean Front Walk if “skilled workers who are qualified to work on power lines,” installed the monofilament.

Unfortunately, implementation of this alternative would render the project infeasible for implementation because (1) the project would be expected to be denied by the local utility company and (2) this alternative would not meet the objective of the project, which is to provide the construction of an eruv in accordance with Jewish Law

Utility Company Resistance to Pole Use: Based on our experts’ experience building other eruvs in the Los Angeles area, it is the applicant’s understanding based on the construction of other eruvs in the Southern California area that no additional wires, monofilament or other materials may be placed on utility poles. The Los Angeles Community Eruv inquired as to the feasibility of attaching a monofilament line to the top of a utility pole. The Joint Pole Commission denied their request and informed them that because insulation can wear off and live wires can become exposed, nothing can be

installed within four feet of power lines as high voltage electricity can art to the installer's equipment. As such, the Joint Poles Commission will only allow power line and telecommunication lines to be attached to a utility pole. No variances are granted to this provision. As such, it can be reasonably assumed that no variances would be granted for the proposed project. Attaching the monofilament would also require the power to be shut off in the local area for an unspecified period of time, resulting in additional impacts that would not occur under the proposed project.

As previously discussed, the eruv is a creation of Jewish Law. As such, its construction must conform to many precise parameters. The consensus of our advice from the religious authorities who would certify the appropriateness of the eruv is that the specific configuration of the power lines along Speedway does not meet proper specifications called for by Jewish Law. Furthermore, even if the power lines did conform, they do not reach all the way to the fence that runs along the channel near Via Marina, which would prevent the applicant from completing the circuit of the eruv, thus rendering the project inoperable.

4. Visual Impacts Associated with Streamers (staff report pages 6 through 10). The Dept. of Fish and Game and the U.S. Fish and Wildlife Service requested streamers are attached to the monofilament between Washington and Via Marina in order to protect the Least Tern population. Coastal Commission staff indicated that this could result in an adverse impact on public views, violating Section 30251 of the Coastal Act.

While an analysis of visual impacts is inherently subjective, we ask the commission to consider how this visual impact could possibly have any measurable adverse impact on the visual quality of the area. The stretch of beach between Washington and Via Marina is comprised of a developed beach environment. The landscape is dotted with lifeguard towers and trash receptacles placed at regular intervals along the beach. There are numerous signs and a variety of other poles currently situated on this stretch of beach, and these existing structures are not placed at regular intervals. As such, the beach cannot be characterized as a pristine view corridor, or one containing solely organized structures placed at regular intervals. Consequently, the incremental visual effect from the addition of a total of 19 20-foot poles placed upon *existing* signs,

nearly invisible monofilament, and visible streamers would not result in a substantial change to the visual character of the beach. The streamers would be a maximum of about two inches in width and six inches in length, located 20 feet above ground, and would neither obstruct overall ocean views nor preclude beachgoers of experiencing the natural beauty of the ocean. As such, the streamers would not interrupt views of the beach. While the visual effect of the streamers above open beach would differ from their effect above an urbanized setting, as indicated in the staff report, the streamers would not represent the only development on the beach. As indicated above, the beach is already developed with lifeguard towers, trash cans, existing signage, and existing poles.

The applicant's site photos clearly indicate that the impact of the monofilament on the beach is negligible (see Picture 1). First, the picture depicts 6 poles connected to County signs; however, only 3 poles are visible at any one time from a particular location due to the distance and spacing of the existing County signs. Therefore, anyone going to the beach in these areas will not see all 19 poles; they will see a maximum of three from any given location.

The applicant is also willing to consider options other than the streamers that would satisfy USFWS, DFG, and the Coastal Commission. For instance, this could include use of a brightly colored monofilament with no streamers. The applicant has attempted to contact USFWS and DFG and is awaiting a response.

Finally, Coastal Act Section 30007.5 gives provisions for reconciliation of any project that may conflict with provisions of the Coastal Act. It states "The Legislature further finds and recognizes that conflicts may occur between one or more policies of [the Coastal Act]. ...[S]uch conflict [shall] be resolved in a manner, which on balance is the most protective of significant coastal resources..." The most visible portion of the proposed project is the streamers. The streamers are not a required part of the Eruv itself. Rather, they are mitigation in order to ensure that impacts to Least Terns would be less than significant. By definition, the streamers must be visible in order to alert the terns to the presence of the monofilament. The applicant does not believe the streamers would result in a significant visual impact, as demonstrated in the analysis above. However, the visual effect of the streamers is clearly far less than the potential for a significant impact

on the Least Terns if the monofilament were invisible. Thus, when the visual effect of the streamers is weighed against mitigation afforded to the Least Terns, it is clear that the proposed project has upheld the intent of the Coastal Act Section 30007.5.

Conclusion: With the addition of these clarifying facts and explanations, and based on careful counsel from advisors both in government and the private sector, we believe that we have (a) proven that the proposed project complies with the Coastal Act and implements all feasible alternatives and mitigation measures and (b) addresses each staff concern in the report by factually demonstrating an acceptable answer and solution to each concern. We therefore request approval of the project

**California Coastal Commission
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Exhibit 8, p 6
Applicant's rebuttal**



Image 2: Monofilament line runs down the light poles to the lifeguard station

**California Coastal Commission
5-06-42 (Pacific Jewish Center)
Exhibit 9**



**California Coastal Commission
5-06-42 (Pacific Jewish Center)
Exhibit 10**



**California Coastal Commission
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Exhibit 11**

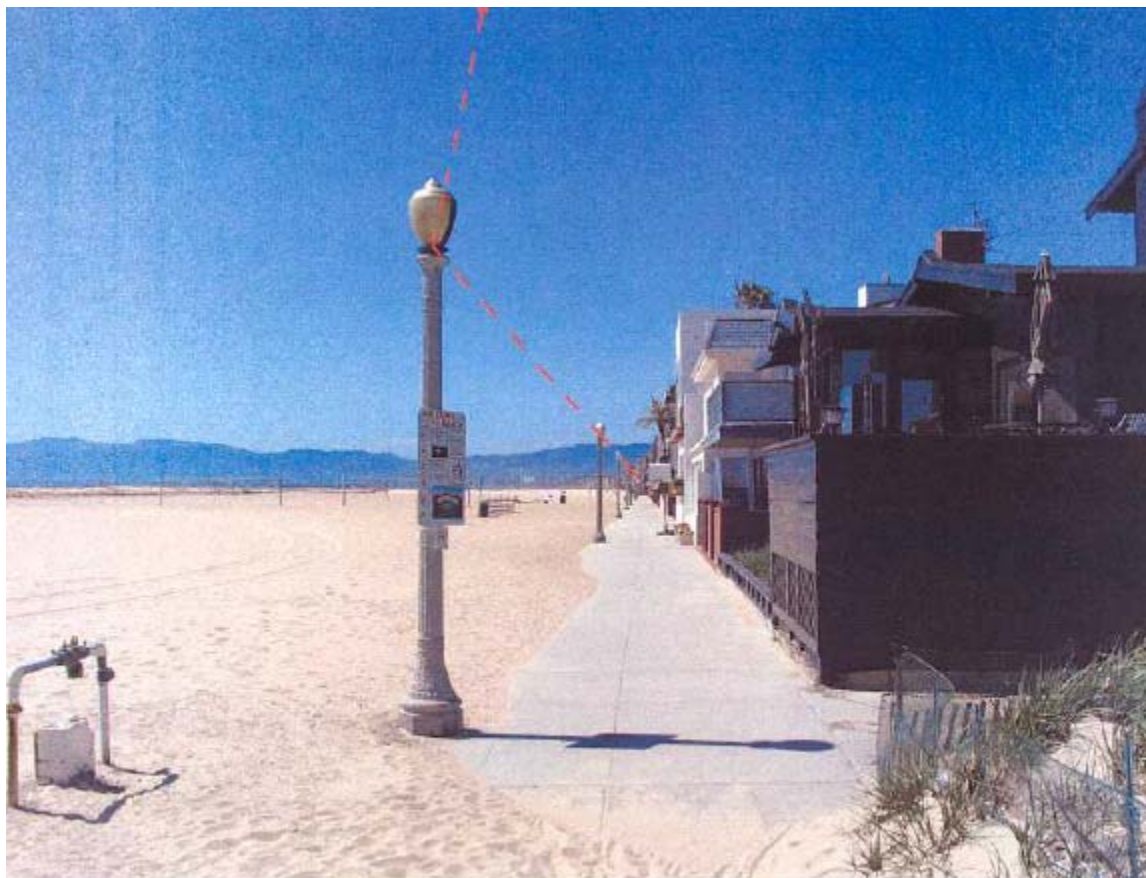


Image 7: Last light pole closest to Marina (line secured under the glass covering)

**California Coastal Commission
5-06-42 (Pacific Jewish Center)
Exhibit 12**



Image 8: Line goes from light pole to 14-foot pole strapped to the blue fence

**California Coastal Commission
5-06-42 (Pacific Jewish Center)
Exhibit 13**



**California Coastal Commission
5-06-42 (Pacific Jewish Center) Exhibit 14
Speedway Alley with power poles**