

W 22a

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South Coast Region

MAR 08 2010

CALIFORNIA
COASTAL COMMISSION

California Institute of Technology

Kerckhoff Marine Laboratory

101 Dahlia Ave.

Corona del Mar, CA 92625

949-675-2159

California Coastal Commission
Long Beach, CA 90802

March 5, 2010

Dear Sir:

I write this on behalf of my employer, Caltech, over the concerns of re-establishing the volleyball court near our facility in China Cove. We **strongly** oppose this volleyball court proposal.

In the past few months since the removal of the volleyball net we have had zero parking problems in our parking area or adjacent street. In addition, the sides of our building, the brick wall on our property line, and the walls surrounding our parking lot have not been used as urinals. Not since the net came down has anyone defecated in or near our parking area. And we haven't been bombarded by the profanity often heard after a wayward spike! These may seem like small victories but to us they are huge.

Now, as I understand it, a part of the proposal is to move the volleyball court even closer to our facility – to pacify our good neighbors – at our expense. How much more distracting will this be for a scientist conducting experiments or trying to write a scientific paper? And please be aware that the playing area for volleyball extends far beyond the out-of-bound lines.

When making your decision please consider this partial list of concerns. Thank you for your time.

Sincerely,



Patrick Leahy (Director)

W 22a

March 5, 2010

State of California
California Coastal Commission
South Coast District
200 Oceangate, 10th Floor
Long Beach, California 90802-4416

RECEIVED
South Coast District

MAR 5 2010

STATE OF CALIFORNIA
COASTAL COMMISSION

Re: Volleyball Court at China Cove Permit 5-09-128

Dear Commissioners,

I am a long-time resident of our city and am writing this letter as a deeply concerned resident of China Cove. In regards to the discussions of the volleyball court being removed or propositions of relocation to a more appropriate location, I feel it's in the best interest of the community to permanently remove the volleyball court. My family (including my 3 daughters ages 7-11) and I would like you to consider the following issues that we have experienced while the court was active:

- Profanity during play
- Urinating in public and defecating on private property (closest public restrooms are a quarter mile from the original volleyball court.) Please note: Big Corona has approximately 12 volleyball courts with public restrooms within close proximity.
- Damage to property from stray volleyballs
- Littering on beach and littering on private property
- Illegal parking. (This was a constant problem. At times also has potential of becoming a fire hazard.)
- My driveway has been blocked many times.
- Parking enforcement is sporadic.

Other issues:

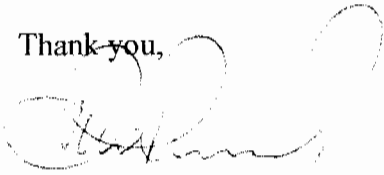
- Location of proposed site is only twenty five (25) feet from our property.
- This does not take into consideration the entire "play area".
- The volleyball court is approx. 32% of the total beach area.
- There are ten volleyball courts located at Big Corona Beach.

Once discussion of moving the volleyball court began, I considered the thoughts and experiences expressed by different people. The locations and possibilities that were discussed I carefully considered as a way of compromise to relieve these issues.

I soon realized that removal was the most ideal option when the problems mentioned above *all* stopped in September 2008 when the volleyball courts became inactive. In the past months after volleyball court was removed, China Cove has been restored to a public area that families and young children are able to once again enjoy.

Please take these points into consideration when discussing the volleyball court at China Cove.

Thank you,

A handwritten signature in black ink, appearing to read "David Ronnenberg", written over a faint circular stamp or watermark.

David Ronnenberg

cc: City of Newport Beach
Parks, Beaches & Recreation Commission
3300 Newport Boulevard
Newport Beach, CA 92663

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

**W 22a****ADDENDUM**

March 4, 2010

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: ADDENDUM TO **ITEM W 22a**, COASTAL COMMISSION PERMIT APPLICATION **#5-09-128-(City of Newport Beach)** FOR THE COMMISSION MEETING OF **March 10, 2010**.

Letter received March 3, 2010 from Julia Royall Gold (Attached as Exhibit A)

Commission staff received a letter from Julia Royall Gold on March 3, 2010 discussing her concerns with the staff recommendation. She argues that the proposed beach volleyball court significantly reduces the usable area of the beach for public passive recreational uses by approximately 40% and thus violates Coastal Act access statutes and American with Disabilities Act (ADA) access requirements.

As stated in the staff report, Commission staff determined that China Cove Beach can accommodate both passive and active recreational beach uses. In addition, the proposed new volleyball court location would actually be less disruptive to passive beach use than the location of the pre-existing, unpermitted court. The original location of the court was to the east of the currently proposed location, and adjacent to the residential homes that front China Cove Beach. The proposed location of the volleyball court is in an underutilized area of the beach along the northern portion of the beach adjacent to the Marine Institute Building and existing non-native vegetation. Placing the volleyball court in this underused corner of the beach, would then open up the remainder of the beach for passive recreational use.

Mrs. Gold further states that there are already 9 other public volleyball courts at nearby Corona Del Mar State Beach; therefore, a volleyball court is not necessary here. As stated previously, China Cove Beach is large enough to support both passive and active uses. The volleyball court provides recreational opportunities for the general public. Therefore, the placement of a volleyball court on China Cove Beach enhances the recreational opportunities in an area where passive and active uses can be enjoyed concurrently.

In regards to ADA compliance, it is the obligation of the agency operating the public facility to make sure that ADA requirements are being met. The Coastal Commission reviews projects to make sure that they are consistent with Coastal Act policies. An important component of the Coastal Act is the ability of all members of the general public to have access to the coast. However, where a project is consistent with the public access policies of the Coastal Act, the Coastal Commission has no authority or expertise to determine project compliance with ADA

requirements. The proposed relocation of the volleyball court is consistent with the public access policies of the Coastal Act since it will not block either of the two current access points to the beach. There is one access point at the Northern end of the beach at Cove Street (this access point is closest to the proposed volleyball court) and another at the Southeast end of the beach at the other end of Cove Street. The City of Newport Beach Public Works Director has also submitted a letter stating that the relocation of the volleyball court does not create any ADA compliance issues.

Mrs. Gold also states that initially the City of Newport Beach Recreation and Senior Services Department had concerns regarding the proposed location of the volleyball court, thus the Commission should continue to have such concerns. Mrs. Gold's statements are accurate; the City staff did express concerns to City decision makers that the proposed volleyball court would reduce the usable area of China Cove Beach for the general public. However, they have not taken such position in conjunction with this application to the Commission. Furthermore, after review of the project site and a site visit, Commission staff determined that China Cove Beach contains adequate space to support the active volleyball court use as well as passive recreational uses onsite. In addition, staff determined that the proposed location of the volleyball is in an area that is currently underutilized by the general public.

Therefore, Commission staff continue to recommend approval of the proposed project with the conditions recommended in the staff report. All of the points addressed above are already addressed in the staff report, thus, staff is not recommending any changes to the findings.

EXHIBIT A

RECEIVED
South Coast Region

MAR 3 2010

CALIFORNIA
COASTAL COMMISSION

Agenda No: *Wed 22 A*
Permit No. 5-09-128
Name: Julia Royall Gold
Position: Oppose Permit

CONSTRUCTION OF A VOLLEYBALL COURT ON THE BEACH IN CHINA COVE, CORONA DEL MAR, IN THE LOCATION PROPOSED BY THE APPLICANT IS A BARRIER TO ACCESS TO THAT PUBLIC BEACH BY THE PUBLIC AND IS AN ILLEGAL BARRIER TO ACCESS BY DISABLED MEMBERS OF THE PUBLIC UNDER THE AMERICAN WITH DISABILITIES ACT AND UNDER CALIFORNIA LAW.

FACTS CONCERNING VIOLATIONS OF THE AMERICANS WITH DISABILITIES ACT AND CALIFORNIA LAW

COURT AS BARRIER

The proposed volleyball court is a barrier to and impedes access to and enjoyment of China Cove beach by substantially reducing the usable area for the general public beachgoers for passive recreational uses by 40% in violation of the California Coastal Act access statutes and the American with Disabilities Act access requirements. (See Attachment "A")

The proposed relocation of the court substantially blocks the public street entrance to the China Cove beach that is the primary access to that beach. (See Attachment "A")

CHINA COVE BEACH AS UNIQUE AND SMALL SENSITIVE COASTAL AREA

The dimensions of China Cove beach, which is a small sensitive coastal cove measuring a mere 150 foot-110 foot from the access way to the shoreline and 95 feet along the shoreline. China Cove is a level sand beach with still water access (no surf) The proposed volleyball court would disproportionately dominate 40% of that limited space and in doing so constitute a barrier to access to the beach in violation of the American's with Disabilities Act and California law. (See Attachment "A")

UNIQUENESS OF CHINA COVE

China Cove, because of its level sand beach and still water access, is especially accessible to, and a safe environment for, small children and the disabled.

No other beach in this area provides such safe enjoyment of passive recreational use. Other beaches in this area are either inaccessible to the disabled by bluffs, steep stairs and heavy surf.

THE PROPOSED VOLLEYBALL COURT IS A CONSTRUCTIVE TAKING OF AN ACCESSIBLE PUBLIC BEACH

There are 9 public volleyball courts available for public use three blocks from China Cove that have ample parking, rest rooms and a huge beach. There is no need for an additional court in this small unique public beach. Adding a court to China Cove would be a constructive and unlawful taking of public sands.

THE RECREATION AND SENIOR SERVICES DEPARTMENT OF THE CITY OF NEWPORT BEACH IS THE AUTHORITY FOR DETERMINING VOLLEYBALL COURT LOCATIONS WITHIN THE CITY AND INITIALLY OPPOSED A COURT AT CHINA COVE

The Department of Recreation initially stated in its report on February 3, 2009, that a volleyball court in China Cove beach would negatively affect accessibility to the public. (See Attachment "B") Such a negative affect would indeed violate the Americans with Disabilities Act and California law. The Department additionally stated in its report that mixing volleyball and beachgoers creates a safety concern from spiked balls that travel outside of the court area. (See Attachment "B")

////////////////////////////////////

For the record, I have raised the issues of the Americans with Disabilities Act and California disability rights law at all stages of this proceeding and the issues is still to be addressed.

PRESENT STATUS OF CHINA COVE BEACH

China Cove beach, at present, without a volleyball court, is as accessible to the disabled as is currently required by the Americans with Disabilities Act and California Law. However if a volleyball court is constructed on the China Cove beach as requested, accessibility to the disabled as required by the Americans with Disabilities Act will then be interfered with and that interference will be an illegal act under both federal and California law.

This permit should be denied.

DAHLIA ave.



Main DROP-OFF
POINT FOR
BEACHGOERS

Beach
ENTRANCE

CHINA COVE IS
NO PARKING ZONE

Beach
entrance

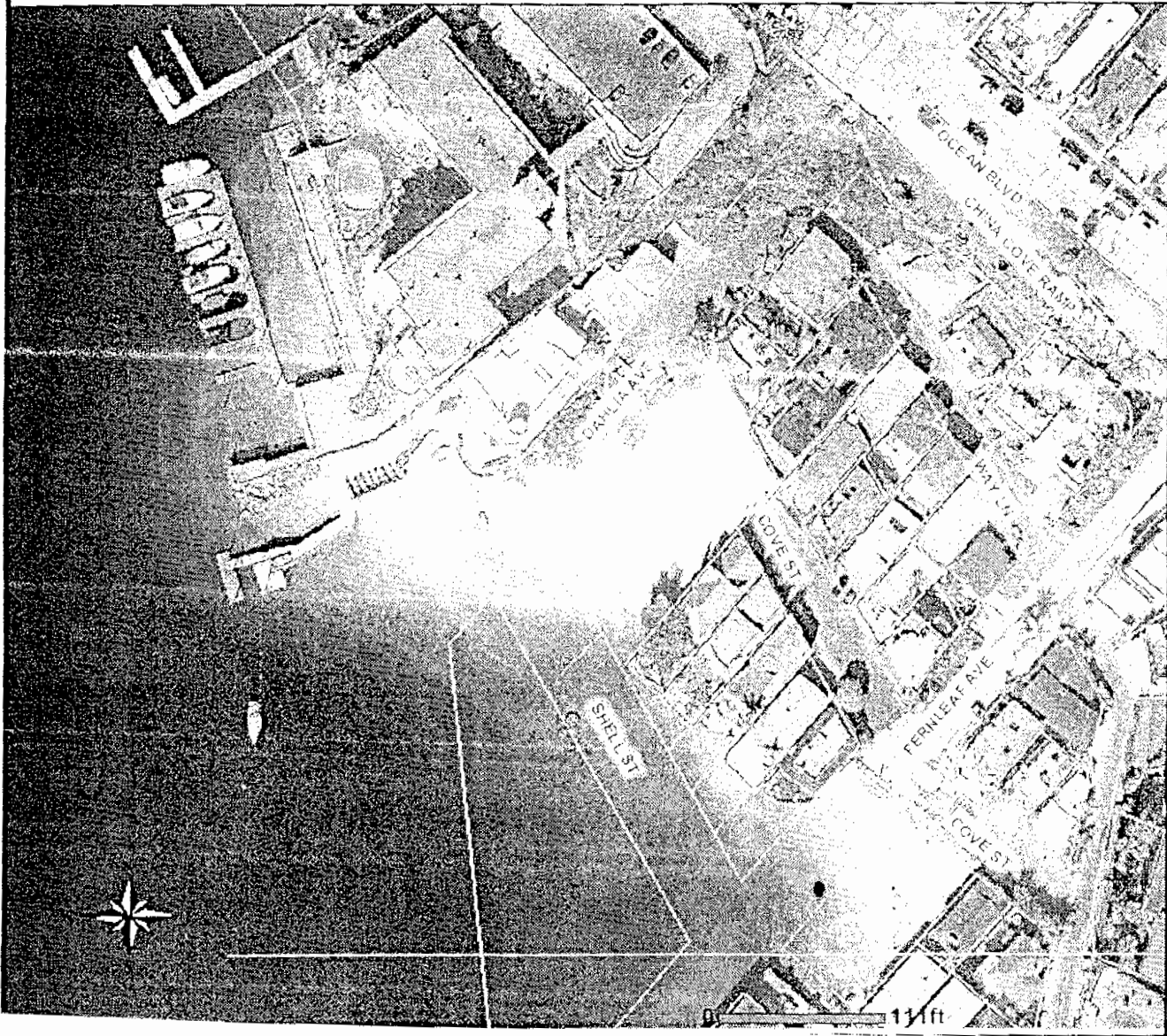
COVE ST.

PROPOSED
VOLLEYBALL
COURT AREA

SHORELINE

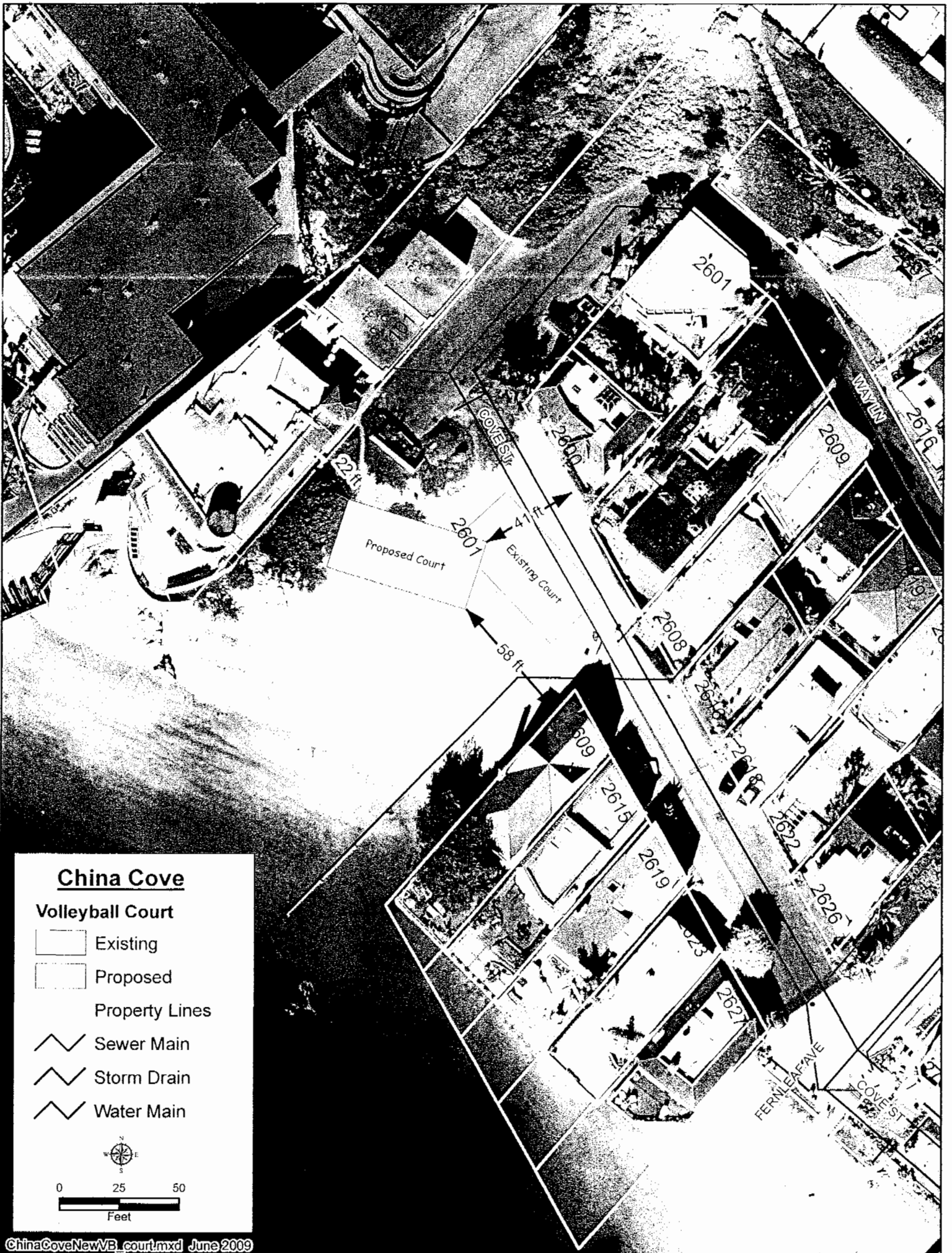
ATTACHMENT A-1

China Cove Beach









City Bounda

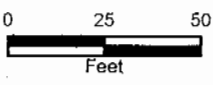
ATTACHMENT A-2



China Cove

Volleyball Court

-  Existing
-  Proposed
-  Property Lines
-  Sewer Main
-  Storm Drain
-  Water Main



**Recreation & Senior Services Department**Item 4
February 3, 2009

To: Parks, Beaches & Recreation Commission
From: Sean Levin, Recreation Superintendent
Re: Request for Removal or Relocation of China Cove Volleyball Court

RECOMMENDATION

Direct staff to complete an application and forward to the Coastal Commission for their approval to remove the China Cove volleyball court.

Excerpt from fall 2/3/09 report:

DISCUSSION

The usable sand beach at China Cove is approximately 150 feet in length from the waterline at its maximum distance and approximately 92 feet across. The general dimensions of a sand volleyball court are 30 x 60 feet with a minimum of a 10 foot buffer on all sides to accommodate for play that protrudes outside of the court dimensions. ~~Adding the buffer requires a minimum play area of 50 x 80 feet.~~ In addition, spiked balls will often travel well beyond the 10 foot buffer zone (Attachment G). ~~Therefore, it is staff's opinion that moving the court is not a viable option. The proposed relocation would reduce the usable area for the general China Cove beachgoers.~~ The proposed relocation area would also cause the removal of vegetation which would require Coastal Commission approval. It is important to note that shifting of the court within China Cove would negatively impact other residents surrounding the property and beachgoers.

It is General Services and Recreation staff's opinion that the China Cove beach is not suited for a volleyball court based on the dimensions of the beach. Any configuration of the court on the beach is within 50 feet of a private property line. The dimensions of the beach also do not lend themselves to mixing volleyball and beachgoers and creates a safety concern from spiked balls that travel outside of the court area.

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

W 22a

Filed: July 2, 20099
49th Day: August 20, 2009
180th Day: December 29, 2009
270th Day: March 29, 2010
Staff: Fernie Sy-LB
Staff Report: February 24, 2010
Hearing Date: March 10-12, 2010
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NUMBER: 5-09-128

APPLICANT: City of Newport Beach

PROJECT LOCATION: China Cove Beach, City of Newport Beach, County of Orange

PROJECT DESCRIPTION: Installation of two poles to accommodate a volleyball net. In addition, remove approximately 100 square feet of invasive, non-native ice plant and leveling of the sand to accommodate the volleyball court (approximately 25-30 cubic yards).

SUMMARY OF STAFF RECOMMENDATION:

The primary issues addressed in the staff report are water quality, and public access. The applicant proposes to install two poles to accommodate a volleyball net in China Cove Beach. Staff is recommending **APPROVAL** of the proposed project subject to **THREE (3) SPECIAL CONDITIONS** requiring: **1)** adherence to timing of construction and public access; **2)** submittal of construction staging plans; and **3)** adherence to construction best management practices.

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. The City of Newport Beach only has a certified Land Use Plan and has not exercised the options provided in 30600(b) or 30600.5 to issue its own permits. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act. The certified Land Use Plan may be used for guidance.

STAFF NOTE:

The proposed project was originally heard by the Commission at the February 2010 Commission Hearing in Oceanside. At the hearing, an issue was raised by a member of the public (Mrs. Julia Royall Gold) regarding compliance of the proposed project with Americans with Disability Act (ADA) requirements (Exhibit #5). She had stated that the proposed project would impact ADA access to the beach. In order for Commission staff to review and discuss this issue, the project was postponed from the February 2010 Hearing. Since the hearing, the City has submitted a letter stating that they have reviewed the project for compliance with ADA requirements, and have concluded that the project is consistent with ADA as submitted to the Commission (Exhibit #6).

Staff has received three letters (Exhibit #3) from the public supporting a volleyball court at China Cove Beach. In addition, a letter (Exhibit #4) has been received in opposition to the volleyball court. The opponent claims that the size of the beach is inadequate and not appropriate for a

volleyball court because of the adjacent homes and that speeding balls from the court pose a danger to people at the beach. However, the volleyball court will actually be located farther away from the adjacent homes than a court that previously existed at this beach and thus will have less impacts upon the adjacent homeowners. In addition, the planned location of the volleyball court at the northerly part of the beach adjacent to the Marine Institute building will also minimize any adverse impacts to the public from misguided balls since it would be placed in an area that is not typically used by beach goers because of existing non-native vegetation (to be removed) that occupies the area.

LOCAL APPROVALS: Approval in Concept No. 0884-2009 from the City of Newport Beach Planning Department dated June 24, 2009 and approval from the City of Newport Beach Parks, Beaches & Recreation Commission dated June 2, 2009.

LIST OF EXHIBITS:

1. Vicinity Map
2. Site Plan
3. Letters supporting the volleyball court
4. Letters opposing the volleyball court
5. Letter from Julia Royall Gold received February 12, 2010
6. Letter from the City of Newport Beach Public Works Director dated February 18, 2010

I. STAFF RECOMMENDATION, MOTION AND RESOLUTION OF APPROVAL

STAFF RECOMMENDATION:

Staff recommends that the Commission adopt the following motion and resolution:

MOTION:

"I move that the Commission approve Coastal Development Permit No. 5-09-128 pursuant to the staff recommendation."

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.

The Commission hereby **GRANTS** 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 permittees 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 permittees to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS:

1. TIMING OF CONSTRUCTION

By acceptance of this permit, the applicant agrees to minimize adverse impacts to public use of China Cove Beach resulting from construction activities approved pursuant to Coastal Development Permit No. 5-09-128, as required below:

No construction shall occur during the “peak use” beach season, defined as the period starting the day before the Memorial Day weekend and ending the day after the Labor Day weekend of any year.

2. CONSTRUCTION STAGING PLANS

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit a final plan for the review and approval of the Executive Director which indicates that the construction staging area(s) and construction corridor(s) will minimize public access impacts to China Cove Beach.
 - (1) The plan shall demonstrate that:
 - (a) Construction equipment, materials or activity shall not occur outside the staging area and construction corridor identified on the site plan required by this condition; and

- (b) Construction equipment, materials, or activity shall not be placed on the sandy beach outside of the immediate construction zone or grass area; and
 - (c) The construction staging area will gradually be reduced as less materials and equipment are necessary; and
 - (d) The construction access route will only be intermittently closed for transport of equipment and materials. When not in use for transportation of equipment and materials, it will be made available for uninterrupted public access.
- (2) The plan shall include, at a minimum, the following components:
- (a) A site plan that depicts:
 - 1. limits of the staging area(s);
 - 2. construction corridor(s);
 - 3. construction site;
 - 4. location of construction fencing and temporary job trailers with respect to the existing parking lot, day use area and the sandy beach.

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

3. CONSTRUCTION BEST MANAGEMENT PRACTICES

A. The permittee shall comply with the following construction-related requirements:

- (1) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, rain, or tidal erosion and dispersion;
- (2) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- (3) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;
- (4) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMP's shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and

- (5) All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

B. Best Management Practices (BMP's) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the on-set of such activity. Selected BMP's shall be maintained in a functional condition throughout the duration of the project. Such measures shall be used during construction:

- (1) The applicant shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. It shall be located as far away from the receiving waters and storm drain inlets as possible;
- (2) The applicant shall develop and implement spill prevention and control measures;
- (3) The applicant shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50 feet away from a storm drain, open ditch or surface water; and
- (4) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. PROJECT LOCATION AND DESCRIPTION

The project site is China Cove Beach in Corona Del Mar (Newport Beach), Orange County (Exhibits #1-2). The usable sand beach at China Cove is approximately 150-feet in length from the waterline at its maximum distance and approximately 92-feet across. North of the project site is a Marine Institute building, East and South of the project site are residential homes and West of the site is the beach and Newport Bay.

The proposed project involves the installation of a beach sand volleyball court (30-feet x 60-feet) including two 8-foot high poles to accommodate a volleyball net (Exhibit #2). The net would be provided by the players. The project also includes removal of approximately 100 square feet of invasive, non-native ice plant and leveling of the sand to accommodate the volleyball court (approximately 25-30 cubic yards). No other vegetation will be impacted by the proposed court installation. It should be noted that some of the non-native vegetation proposed to be removed under this application was recently removed by an individual that is not known to

be associated with this application. That vegetation removal occurred without benefit of any coastal permit and without the permission of the City.

The City has characterized the installation of this volleyball court as a ‘relocation’; however, the court to be ‘relocated’ was never approved by any coastal permit and was unpermitted. The pre-existing unpermitted court had been on this beach since the early 1980’s. It was located adjacent to several homes along the back of the beach. The court poles recently broke and were no longer usable so they were removed. The local volleyball players asked to relocate the poles. At that point, the city discovered that no City permits, as well as, no Coastal Commission permits were issued for this court. The installation of new poles for the volleyball court is considered development and thus a Coastal Development Permit is necessary and thus, the City has submitted an application.

B. PUBLIC ACCESS

Section 30213 of the Coastal Act states, in pertinent part:

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

The protection of public access is an important aspect of the Coastal Act. China Cove Beach is large enough to accommodate passive opportunities (i.e. sun bathing) for the public as well active opportunities (i.e. volleyball). The location of the new volleyball court would segment the beach less than the pre-existing, unpermitted court did in its original location and would provide a more practical location that would increase the usable area of the beach. The original location of the volleyball court was to the east adjacent to the residential homes that front China Cove Beach. Thus, both uses can be provided on site and therefore provide public access opportunities for the general public.

China Cove Beach is highly used by residents in the area that either walk or bike to the beach. For those that drive from other areas to use this beach, public parking is available on Ocean Boulevard (Exhibit #1), which is located North and above China Cove Beach. There is a stairway from Ocean Boulevard that leads down to the residential area where the beach is located. No public parking opportunities are available within the residential community that surrounds China Cove Beach. However, as stated, public parking opportunities are available on Ocean Boulevard, which is near the beach.

One member of the public has raised concerns that the proposed project doesn’t meet Americans with Disability Act (ADA) requirements. All public facilities are required to adhere to ADA requirements and it is the obligation of the agency carrying out the project to make sure this occurs. The Coastal Commission reviews proposed development to ensure it is consistent with the public access policies of the Coastal Act, which protect the right of all members of the public, including those with disabilities, to gain access to the coast. Where a project is consistent with the public access policies of the Coastal Act, however, the Coastal Commission does not have the authority or expertise to assess project compliance with ADA requirements. The proposed relocation of the volleyball court is consistent with Coastal Act requirements. The court at its new location will not block either of the access points to the beach. When the court is in use, ample space is available for individuals with disabilities to go around the court. The City has submitted a letter from the City of Newport Beach Public Works Director (Exhibit #6) stating that the relocation of the volleyball court does not create any ADA compliance issues: “In

reviewing the project, I have determined that the relocation of the volleyball court does not create any ADA issues to enter the beach as the installation of the volleyball poles are approximately 75 feet from the access point to enter the beach adjacent to lot 101 [Northern end of Cove Street] and approximately 100 feet from the access point to enter the beach adjacent to lot 2608 [Southeast end of Cove Street]. Thus, the City has made sure that project, as proposed, meets ADA requirements and they have concluded that ADA access is available and at the same time confirms that coastal access is available and unhindered onsite.

Construction of the proposed project may result in adverse impacts to public access of this beach. Therefore, in order to mitigate possible impacts to public access, the Commission has imposed **SPECIAL CONDITION NO. 1**, which prohibits construction from occurring during the peak use summer season. In addition to the actual construction, construction staging may impact public use of the beach. The applicant has not submitted construction staging plans. Thus, the Commission imposes **SPECIAL CONDITION NO. 2**, which requires the applicant to submit construction staging plans.

CONCLUSION

In order to ensure public access to the parks and coastline is not hindered during construction, **TWO (2) SPECIAL CONDITIONS** have been imposed. **SPECIAL CONDITION NO. 1** prohibits construction from occurring during the peak use summer season. **SPECIAL CONDITION NO. 2** requires the applicant to submit construction staging plans. Only as conditioned does the Commission find the proposed development is consistent with Sections 30213 and 30252 of the Coastal Act.

C. WATER QUALITY

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The protection of water quality is an important aspect of the Coastal Act. Water from the project site will ultimately drain to Newport Bay and the Pacific Ocean. Newport Bay is on the federal Clean Water Act 303(d) list of "impaired" water bodies. The designation as "impaired" means

that water quality within the harbor does not meet State and Federal water quality standards designed to meet the 1972 Federal Clean Water Act goal established for this waterbody. The listing is made by the California Regional Water Quality Control Board, Santa Ana Region (RWQCB), and the State Water Resources Control Board (SWRCB), and confirmed by the U.S. Environmental Protection Agency. Further, the RWQCB has targeted the Newport Bay watershed, which would include Newport Harbor, for increased scrutiny as a higher priority watershed under its Watershed Initiative. Recent beach closures occurring throughout Orange County, including those in Newport Beach have been attributed to polluted urban runoff discharging into the ocean through outfalls. As illustrated by these beach closures, polluted runoff negatively affects both marine resources and the public's ability to access coastal resources.

The construction will occur on the beach adjacent to the water. Construction of any kind adjacent to coastal waters has the potential to impact the marine environment. The Bay and ocean provide an opportunity for water oriented recreational activities and also serves as a home for marine habitat. Because of the coastal recreational activities and the sensitivity of the Bay and ocean habitat, water quality issues are essential in review of this project

Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain, surf, or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. In addition, the use of machinery in coastal waters not designed for such use may result in the release of lubricants or oils that are toxic to marine life. Sediment discharged into coastal waters may cause turbidity, which can shade and reduce the productivity of foraging avian and marine species ability to see food in the water column. In order to avoid adverse construction-related impacts upon marine resources, **SPECIAL CONDITION NO. 3** outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris.

CONCLUSION

To minimize impacts to water quality, **ONE (1) SPECIAL CONDITION** have been imposed. **SPECIAL CONDITION NO. 3** outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris. Therefore, as conditioned, the Commission finds that the proposed development conforms with Section 30230 and 30231 of the Coastal Act.

D. LOCAL COASTAL PROGRAM (LCP)

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified local coastal program. Pursuant to Section 30604(a), the permit may only be issued if the Commission finds that the proposed development will not prejudice the ability of the local government to prepare a local coastal program, which conforms with the Chapter 3 policies of the Coastal Act.

The LUP for the City of Newport Beach was effectively certified on May 19, 1982. The certified LUP was updated on October 8, 2009. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of

the project, as conditioned, 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.

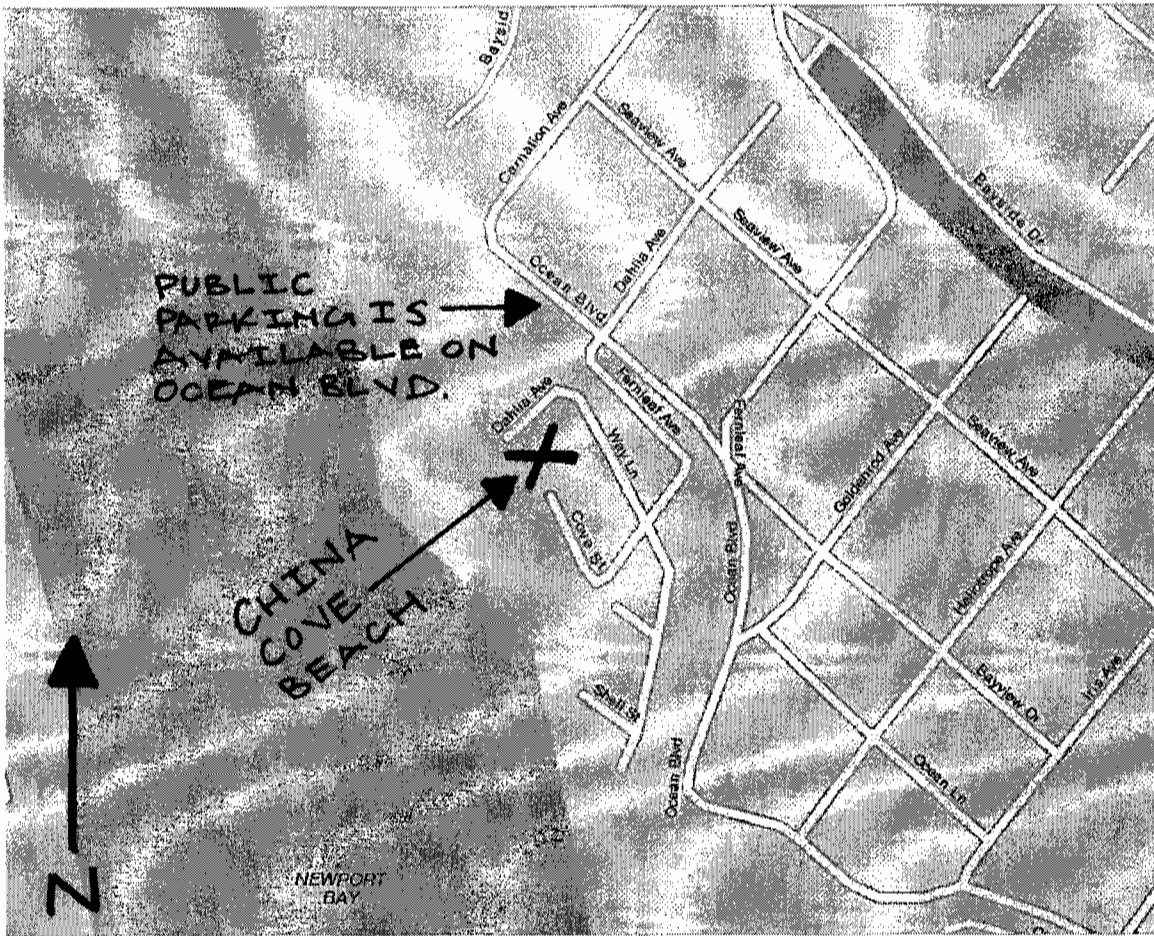
E. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The City of Newport Beach is the lead agency responsible for certifying that the proposed project is in conformance with the California Environmentally Quality Act (CEQA). The City determined that in accordance with CEQA, the project is ministerial or categorically exempt.

Section 13096(a) of the Commission's administrative 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).

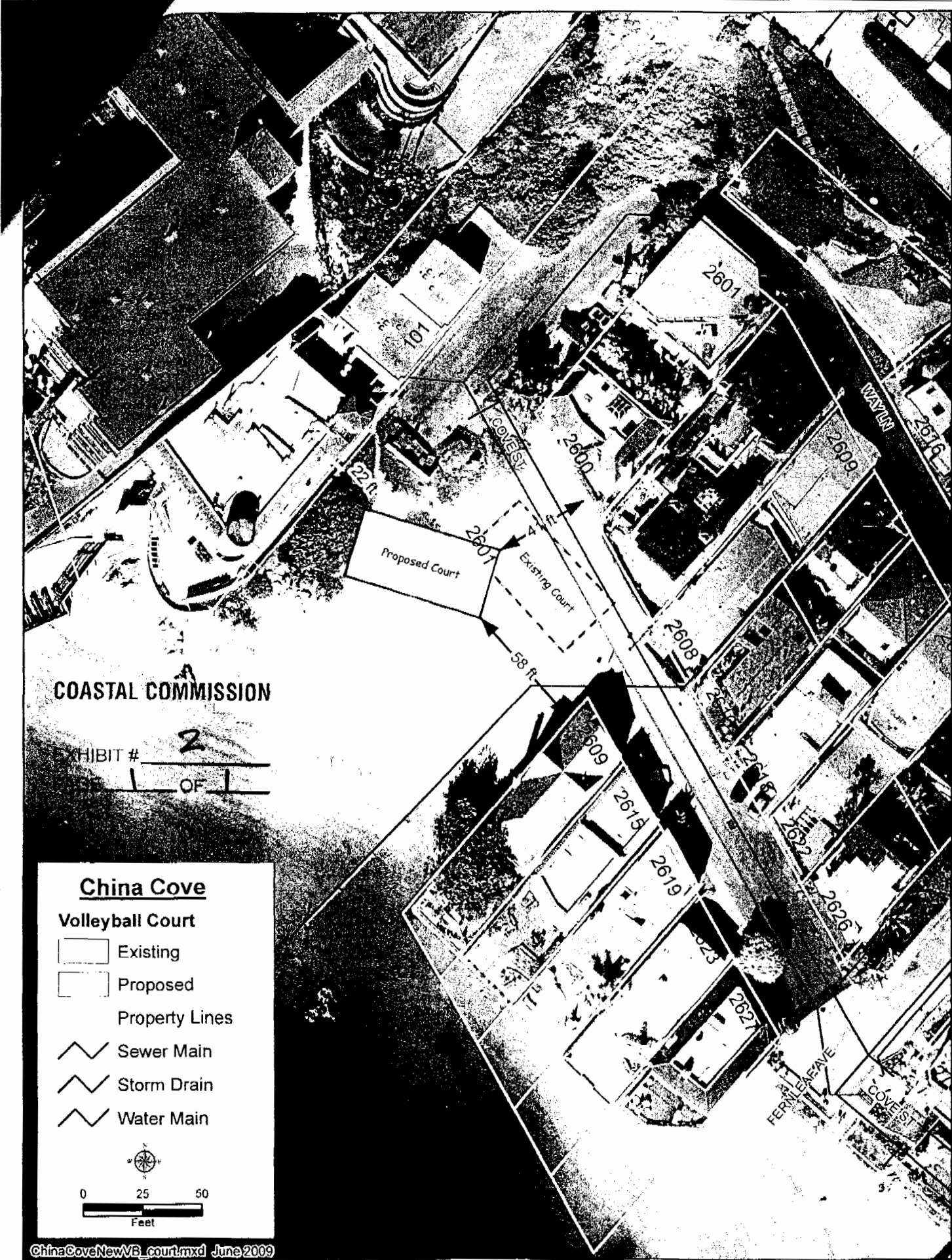
Although the proposed development is exempt from CEQA, the Commission has imposed conditions to ensure conformity with Coastal Act requirements. As conditioned, the proposed project is consistent with the water quality, and public access policies of the Coastal Act. Mitigation measures include: **1)** adherence to timing of construction and public access; **2)** submittal of construction staging plans; and **3)** adherence to construction best management practices.

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and consistent with the requirements of the Coastal Act and CEQA.



COASTAL COMMISSION

EXHIBIT # 1
PAGE 1 OF 1









COASTAL COMMISSION

EXHIBIT # 2
 OF 1

China Cove

Volleyball Court

-  Existing
-  Proposed
-  Property Lines
-  Sewer Main
-  Storm Drain
-  Water Main



August 13, 2009

California Coastal Commission
200 OceanGate 10th Floor, Suite 1000
Long Beach, CA 90802
Attn: Fernie Sy
Re: CDP #5-09-128

RECEIVED
South Coast Region

AUG 17 2009

CALIFORNIA
COASTAL COMMISSION

Dear Mr. Sy,

Thank you for reviewing the application from the City of Newport Beach for the volleyball court installation at China Cove in Corona Del Mar.

I have been going to the beach and playing volleyball there since the late 80's. Many friends I know have actually gone their since the late 70's. We have many fond memories there.

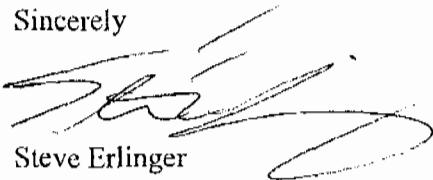
China Cove is a unique place for people in the area to go to the beach. There is a real sense of community and much of it has to do with the volleyball court. You see a wide variety of players there from the family playing a 'jungle ball' game with all the kids to the young kids learning to the high school students to the more mature players who really go at it. We have even had many pros play down there including Karch Kiraly, Stevic Timmons and Brian Lewis. There is quite a tradition at China Cove.

Since the volleyball court that was there has been removed I continue to go there to relax and enjoy the beach, water and company. Since I have been down there for many years and people know I play a lot of volleyball they have been asking me what is up with the volleyball court. They miss it. It really gives the beach a sense of community as I mentioned and it gives a lot of people the opportunity to participate and hang out together.

I know I am not alone in asking that we are able to continue enjoying China Cove as we all have for so many years with access to a volleyball court.

Thank you for your time.

Sincerely



Steve Erlinger

COASTAL COMMISSION

EXHIBIT # 3
PAGE 1 OF 10

September 15, 2009

Fernie Sy
California Coastal Commission
200 OceanGate 10th Floor Suite 1000
Long Beach CA 90802
Re: CDP #5-09-128

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South Coast Region

SEP 21 2009

**CALIFORNIA
COASTAL COMMISSION**

Fernie,

I am writing this letter in reference to CDP #5-09-128 because I have been playing volleyball at this beach for many years and I would like to see the Coastal Commission approve replacing the volleyball court at China Cove. This location is very important for beach volleyball because of several unique characteristics that are not available at any other beaches in the local community.

First, the volleyball court at China Cove is mostly protected from strong wind unlike any other beach in the local area. Individuals of all skill levels greatly appreciate playing volleyball at this beach because it is very difficult to enjoy playing volleyball outdoors on windy days at other beaches. Second, maintaining a court at China Cove is important to meeting the demand for volleyball courts on busy days nearby at Big Corona state beach because there are often more players than courts available for public use especially during the summer months.

Third, volleyball is a great social activity among residents that go to this beach because it involves individuals of all ages and enhances social bonds throughout the community. Finally, beach volleyball has a long history as a positive outdoor activity to many state residents and this specific beach has been a training ground over the years for many professional and Olympic athletes from California that compete around the world.

In summary, I believe the beach volleyball court can be positioned at China Cove with enough space to not disturb local homeowners and address the recreational pursuits of residents that want to play volleyball. However, I would recommend that the Coastal Commission consider some minor resurfacing of the sand in the area where the court will be located so that the surface area of the court is flat. Resurfacing the court area would help minimize the impact of volleyballs rolling away from the court near an adjoining homeowner's property.

Thank you for considering my comments for returning the volleyball court to China Cove. I appreciate your consideration and attention to maintaining this beach for the residents of California.

Sincerely,



Russ Henderson

COASTAL COMMISSION

EXHIBIT # 3
PAGE 2 OF 10

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South Coast Region

FEB - 8 2010

CALIFORNIA
COASTAL COMMISSION

Agenda Item # F7d
Application # 5-09-128
Bruce T. Endsley
In Favor of Project

Bruce T. Endsley
5 Tiburon Bay Drive
Corona del Mar, Ca. 92625

February 4, 2010

California Coastal Commission
200 Oceangate, 10th Floor, Suite 1000
Long Beach, Ca. 90802
Attn: Fernie Sy

Re: CDP # 5-09-128 (Relocation of China Cove volleyball court in Newport Beach)

Dear Fernie Sy:

I support the proposal for the relocation of the volleyball court at China Cove Beach in Corona del Mar/Newport Beach. I have enclosed some photographs which I believe will provide valuable insight for this agenda item at the upcoming February 12 Coastal Commission meeting.

These photographs clearly refute the often-repeated argument made by some of the China Cove residents during the public hearings that the volleyball court should be eliminated because the beach is "too crowded" for the court. This "crowded" beach argument appears to be the strongest reason for eliminating the volleyball court which has existed at China Cove for over 40 years. However, as the enclosed photos make clear, the beach is certainly not "too crowded" to accommodate the court, even during the busiest times of day on the busiest weekends during the busiest summer months.

I took the enclosed 69 photos on the Saturdays and Sundays (including July 4 and Labor Day holidays) from June 6, 2009 through January 31, 2010. These photos were taken at various times in the afternoon (dates and times are indicated), with an average time of 2:45 pm—which is approximately the peak time for the "crowds" at China Cove beach. The proposed volleyball court location is in the lower right corner of the photos. It is clear that the beachgoers consistently congregate at the other end of the beach near the water. In fact, on only 3 days of the 69 days were any people positioned close to the proposed volleyball court location (on 6/28, 7/4 and 7/26). Therefore, the proposed location for the volleyball court is in a section of the beach that is virtually unused—even during the busiest weekends of the summer.

COASTAL COMMISSION

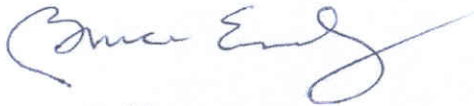
EXHIBIT # 3
PAGE 3 OF 10

Based upon these photographs and also my personal experience playing volleyball at China Cove over the last 30+ years, the proposed volleyball court location will not create a negative impact on this uncrowded beach.

If you have any questions regarding these photos or you think that I can assist with any other aspects of the volleyball court proposal for China Cove Beach, please contact me at (949) 640-8208 or bendsley1@cox.net.

Thank you for considering this information.

Sincerely,



Bruce Endsley

cc: Sean Levin, Recreation and Senior Services Department, City of Newport Beach

COASTAL COMMISSION

EXHIBIT # 3
PAGE 4 OF 10

China Cove Beach

Weekends & Holidays
6/6/2009 - 1/31/2010

EXHIBIT # 3
PAGE 5 OF 10



6/6/09 4:02 PM



6/7/09 2:43 PM



6/13/09 3:26 PM



6/14/09 3:17 PM



6/20/09 2:47 PM



6/21/09 4:32 PM



6/27/09 2:32 PM



6/28/09 2:47 PM



7/4/09 2:29 PM



7/5/09 4:14 PM



7/11/09 12:54 PM



7/12/09 2:35 PM

China Cove Beach

Weekends & Holidays
6/6/2009 - 1/31/2010

EXHIBIT # 3
PAGE 6 OF 10



7/18/09 4:41 PM



7/19/09 2:06 PM



7/25/09 4:07 PM



7/26/09 4:37 PM



8/1/09 4:22 PM



8/2/09 1:21 PM



8/8/09 2:25 PM



8/9/09 3:40 PM



8/15/09 3:14 PM



8/16/09 2:17 PM



8/22/09 3:01 PM



8/23/09 2:11 PM

China Cove Beach

Weekends & Holidays

6/6/2009 - 1/31/2010

EXHIBIT # 3
PAGE 7 OF 10



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9/5/09 3:38 PM



9/6/09 3:07 PM



9/7/09 2:26 PM



9/12/09 3:05 PM



9/13/09 2:52 PM



9/19/09 3:19 PM



9/20/09 2:49 PM



9/26/09 4:06 PM



9/27/09 2:50 PM



10/3/09 2:30 PM

China Cove Beach

Weekends & Holidays
6/6/2009 - 1/31/2010

EXHIBIT # 3
PAGE 8 OF 10



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10/11/09 3:06 PM



10/17/09 3:12 PM



10/18/09 2:54 PM



10/24/09 1:15 PM



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11/8/09 3:39 PM



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China Cove Beach

Weekends & Holidays
6/6/2009 - 1/31/2010

EXHIBIT # 3
PAGE 9 OF 10



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11/22/09 1:38 PM



11/28/09 2:25 PM



11/29/09 2:21 PM



12/5/09 2:14 PM



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12/12/09 3:58 PM



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12/26/09 3:27 PM

China Cove Beach

Weekends & Holidays

6/6/2009 - 1/31/2010

EXHIBIT # 3
PAGE 10 OF 10



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JUL 21 2009

CALIFORNIA
COASTAL COMMISSION

July 16, 2009

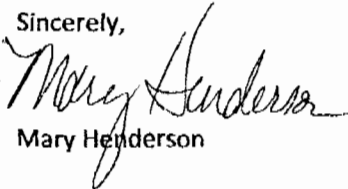
California Coastal Commission
South Coast District Office
200 Ocean Gate 10th floor
Long Beach, CA 90802-4402

Dear Sirs:

I understand that you are considering placement of a beach volleyball court on the beach at the end of Cove Street, Corona del Mar. This is a very small beach and is not appropriate for a volleyball court, because of the closeness to the adjacent houses. Many misdirected and missed volleyballs enter the houses and yards causing damage to the houses and landscaping. The second reason that the volleyball court is not appropriate is that the jetty provides a protection for the beach and therefore is a great beach for toddlers and young children to enjoy the beach, because of no large waves or undertow. It can be dangerous for a toddler to be hit in the head with a speeding volleyball. Since the beach is so small, it is difficult to get past the volleyball area without the chance of being hit. The volleyball players definitely do not stop there game for a young family to exit the beach.

I request that you deny the placement of a sand volleyball court on the beach at Cove Street, Corona de Mar.

Sincerely,


Mary Henderson

COASTAL COMMISSION

EXHIBIT # 4
PAGE 1 OF 1

*Submitted @ 2/12/10
Commission hearing*

FILE COPY

Agenda No. F 7 d
Application No: 5-09-128
Name: Julia Royall Gold
Position: Against

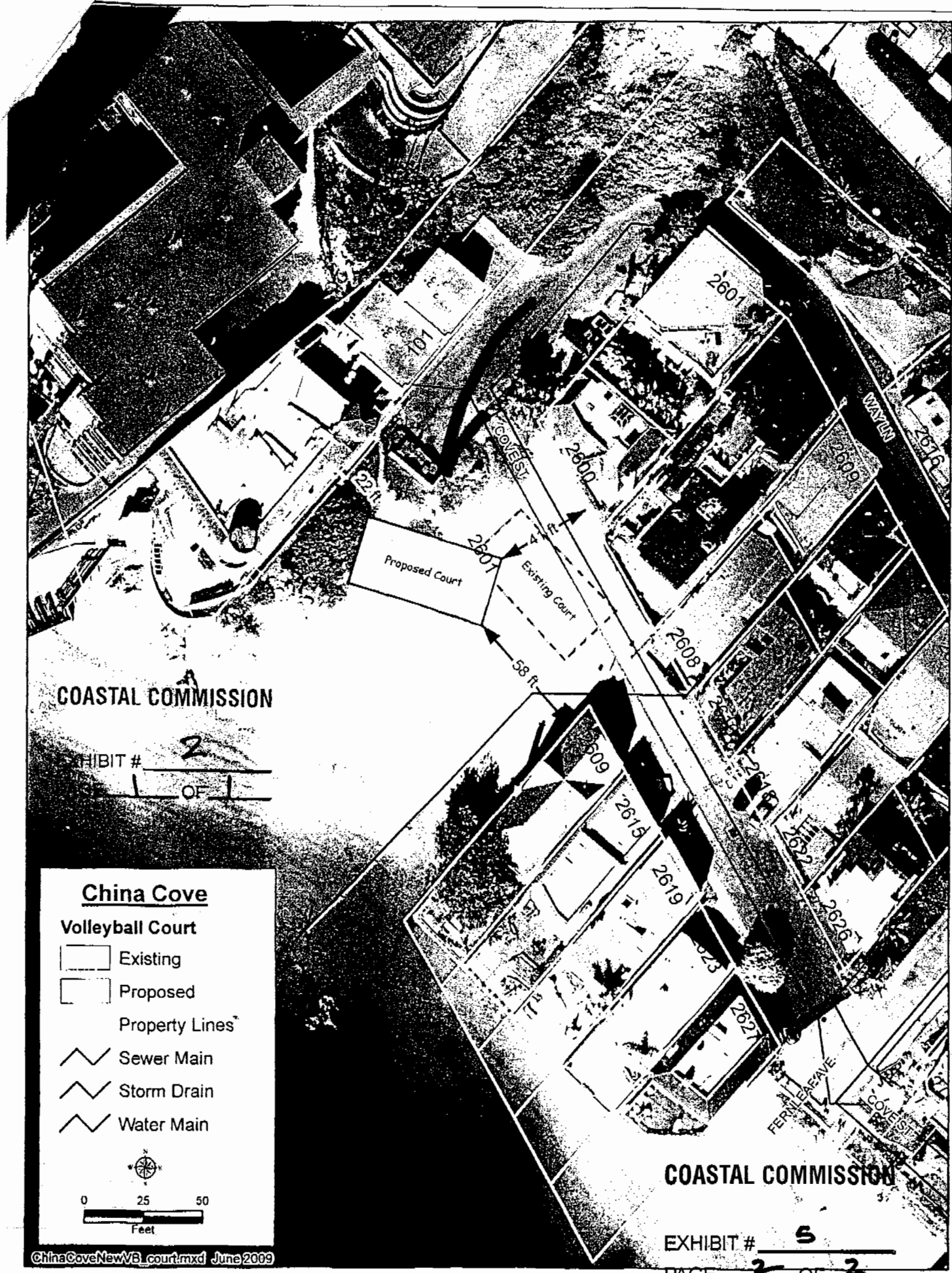
1. THIS "PROPOSED COURT" PLACEMENT VIOLATES THE REQUIREMENTS OF THE AMERICAN WITH DISABILITIES ACT. THE "PROPOSED COURT" IN THE LOCATION DENIES FULL ACCESSIBILITY TO THE PUBLIC BEACH AT CHINA COVE IN VIOLATION OF THAT ACT.
2. ANY APPROVAL OF THIS PROJECT SHOULD BE CONDITIONED UPON THE CITY OF NEWPORT BEACH'S FULL COMPLIANCE WITH THE AMERICAN WITH DISABILITES ACT.

Respectfully submitted
February 10, 2010

Julia Royall Gold
2601 Way Lane
Corona Del Mar, CA 92625
(949) 675-2327

COASTAL COMMISSION

EXHIBIT # 5
PAGE 1 OF 2










COASTAL COMMISSION

EXHIBIT # 2
OF 1

China Cove

Volleyball Court

-  Existing
-  Proposed
-  Property Lines
-  Sewer Main
-  Storm Drain
-  Water Main



0 25 50
Feet

COASTAL COMMISSION

EXHIBIT # 5
PAGE 2 OF 2



CITY OF NEWPORT BEACH

PUBLIC WORKS DEPARTMENT

Stephen G. Badum, Director

February 18, 2010

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FEB 18 2010

CALIFORNIA
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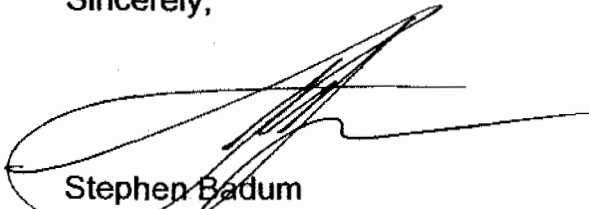
Mr. Fernie Sy
California Coastal Commission
200 Ocean Gate
10th Floor, Suite 1000
Long Beach, CA 90802

Re: CDP 5-09-128

Dear Mr. Sy,

This letter is in response to the Commission's request to have the City verify that project 5-09-128 is not creating an ADA access issue. In reviewing the project, I have determined that the relocation of the volleyball court does not create any ADA issues to enter the beach as the installation of the volleyball poles are approximately 75 feet from the access point to enter the beach adjacent to lot 101 and approximately 100 feet from the access point to enter the beach adjacent to lot 2608.

Sincerely,



Stephen Badum
Public Works Director

COASTAL COMMISSION

EXHIBIT # 6
PAGE 1 OF 1