

CALIFORNIA COASTAL COMMISSION

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



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original W25c staff
report

ADDENDUM

January 6, 2014

W25b & W25c

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: ADDENDUM TO **ITEM W25b and W25c**, COASTAL COMMISSION
PERMIT APPLICATION **#5-13-0506 and #5-13-0507** FOR THE
COMMISSION MEETING OF **January 8, 2014**.

Correspondence

Attached are two letters from Mr. James M. Mosher a Newport Beach resident in opposition to the installation of parking pay stations (aka electronic automated pay machines APMs) at both the Balboa Pier Beach Parking Lot (Item W25b) and at the Corona del Mar State Beach (Item W25c) proposed projects. The letters raise concerns regarding the proposed new parking fee collection method stating:

- Better alternatives available - the pay stations would actually result in a loss of convenience to users;
- excessive number of signs throughout the parking lot and excessive 12' height of the signs;
- inconsistent from the neighboring municipal parking lots;
- threat of fines through increased parking enforcement;
- the City closes certain public parking lots to limit the number of visitors on major holidays – for example, 4th of July closure of the metered lot on the corner of Coast Hwy and Superior in the coastal zone; and
- both public beaches are currently posted as being closed from 10pm to 6am pursuant to Newport Beach Municipal Code Section 11.08.030.

Exhibit #3 for each staff report provides an aerial photograph of each of the paved surface parking lots depicting the placement of the proposed signs. Exhibit 4 provides sample photographs of each parking lot with sample pay station locations and signage. As proposed, the development will be interspersed throughout the parking lot and not create a continued visual barrier such as a wall, staff believes it will not have an adverse impact to the view of the beach from the parking lot. No signs or APMs are proposed to be placed on the sandy beach.

Mr. Mosher raises a valid concern regarding the beach curfew pursuant to Newport Beach Municipal Code Section 11.08.030 and current signs posted on the beach regarding the beach closure. There are no policies addressing beach curfews in the certified LUP and there is no record of a Commission approved CDP for installation of signs regarding beach curfew hours. **Special Condition 5** limits the wording of the proposed signage program to information regarding the pay stations. As the specific wording on the proposed sign program submitted by the applicant (Exhibit #3) is not fully legible, **Special Condition 5** requires submittal of a final sign program ensuring that the approved signage does not indicate or suggest a prohibition of public access to state waters for recreational activities after the parking lots have closed. Any existing signage would need to be addressed separately and not part of this CDP application. Staff recommends approval of the proposed permit for the installation of the electronic APMs and associated signs.

With regards to statements made pertaining to closures of off-site municipal parking lot locations; the subject of this application is only the Balboa Pier Beach Parking Lot and the Corona del Mar State Beach Parking lot and not any other site. Also, Special Condition No. 3 (Future Improvements) addresses permit requirements for future development at the subject sites.

Date of comments: January 3, 2014
Agenda Item: W25b-1-2014
Application No.: 5-13-0506
My position: Opposed

California Coastal Commission (attn: L. Roman)
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

RECEIVED
South Coast Region

JAN 3 2013

Re: W25b -- Balboa Pier Parking Changes (City of Newport Beach)

Dear Ms. Roman,

CALIFORNIA
COASTAL COMMISSION

I am somewhat surprised that I have not received (or was it misplaced in the holiday mail?) written notice of the January 8 hearing, since I am well known to the City of Newport Beach as an interested person on this matter, having spoken to the City Council, and submitted written comments and raised the question of whether public review before the Commission would be necessary, both when the automation plan was first unveiled as Agenda Item 15 on February 26, 2013 (http://newportbeach.granicus.com/MinutesViewer.php?view_id=44&clip_id=1704), and again when the City Council's rate-setting resolution referred to in the current staff report (Res. 2013-33, see comment 7, below) was considered as Agenda Item 4 on April 9, 2013 (http://newportbeach.granicus.com/MinutesViewer.php?view_id=44&clip_id=1717).

Although generally supportive of Commission staff's recommended Special Conditions of Approval, as indicated in my written and oral comments to the City Council I have multiple concerns about the project in general, and with the specifics of how the City intends to implement it. It is not clear to me that this plan is in the best interest of coastal visitors.

My understanding is that visitors to the gated Balboa Pier parking lot currently pay a human operator, in cash or by credit card, for the time spent in the lot based on a time-stamped ticket obtained on entering the lot. To me, aside from the excessive fixed charge on holidays, this seems a simple, elegant, and equitable system. The proposal is to replace this with an honor system (enforced by fines) in which visitors self-pay in advance at pay stations, similar to the existing ones in the smaller ocean-facing Lots A & B in Peninsula Park (on the east side of the pier), or in the small conventionally metered lot immediately north of the gated one, with the exception that the payment will be tied to the visitor's license plate number rather than to the space number. The ostensible reason for the change is to maximize tidelands revenue by minimizing labor costs. However as described at various public meetings, my understanding is there will be full-time "parking ambassador" helping visitors with use of the self-pay stations, as well as someone driving a car equipped with automated license plate recognition technology, roving the lot to search for and ticket vehicles suspected of not having self-paid. In my view that manpower would be better deployed, the beach less cluttered with pay stations, signs and roving vehicles, and the beach-going experience generally more friendly if those contract employees remained at the existing manned pay-on-exit booth.

Some specific concerns:

1. **Loss of convenience:** Visitors currently are charged, on exit, for the time actually used, and the human operator can make change for payments made in cash (or by other payment methods). My understanding is that under the new system visitors will have to

guess the length of their stay, and pay the correct amount in advance. While at the beach they will have to keep track of the time and if they exceed their original plan, return to the lot to make an additional payment, or initiate a new pay cycle. To me, this seems a step backwards in visitor convenience, and removes what was one of the advantages of the gated, attended lot over the metered spots. In addition, it has been claimed that the new pay stations will, like the human attendant, *not* require exact change, but I do not believe the existing stations in Lots A & B offer change for overpayments made in cash (in fact, I believe the Lot A & B pay stations will accept payment at times payment is not required – from 6 p.m to 8 a.m. – and do not offer refunds for payments made in error). There may also be a reasonable question of whether all visitors (some of whom may not speak English) should be expected to be able to read and understand the self-pay directions.

2. **Excessive signage:** Concern about people not remembering their license plate numbers has led to a proposal with a proliferation of signs. The height of the proposed 12-foot tall “unisrut” poles (Exhibit 3, is this a typo for “*unistrut*”?) identifying the pay station locations seems excessive to me, as does the number of payment reminder signs to be placed around the lot. I would think a sign at the entrance to the lot notifying visitors (in at least English and Spanish) that they need to take their license plate number to a pay station would be just as useful and add less visual clutter.
3. **Inconsistent rules:** If they are all to be self-pay, it is not entirely clear to me why the gated lot should have a different self-payment/enforcement method than the neighboring 6-hour lots. It is also unclear why payment is required in the gated lot at hours when it is not required at the metered lots.
4. **Beach closure / Special Condition 5.3:** This condition prohibits signage that would imply the beach and access to the ocean is closed should the lot be closed. The Commission and Commission staff should be aware that (although the harbor and ocean waters are presumably always open) all “public” beaches in Newport Beach, including those facing the harbor and the ocean, are *currently* posted as being closed to the public from 10:00 p.m. to 6:00 a.m. pursuant to Newport Beach Municipal Code Section 11.08.030 (<http://www.codepublishing.com/CA/NewportBeach/>). I do not know the rationale for this restriction, but considering that the Balboa Pier Parking Lot is always open, this seems peculiarly backward to the Commission's usual requirement that beaches remain open even when lots are closed and unattended, and of questionable validity given the California Constitution's Article X, Section 4 mandate for public access to the tidelands. In this case, the lot is open, but the beach is closed. The Commission may also wish to be aware that to limit the number of visitors to the city on major holidays, Newport Beach closes certain public lots. For example, the lot in the Coastal Zone at the northeast corner of PCH and Superior is typically closed to the public around July 4th and possibly on Memorial Day and other heavy visitor times, as was the lot at the old City Hall site. I do not believe the Balboa Pier Lot has ever been closed on holidays, but the Commission may wish to include a condition that it not be.
5. **Threat of fines:** Under the proposed program, visitors not current in their self-payments, if detected, will be subject to fines at a level (currently \$54?? per violation) apparently *not* subject to Coastal Commission oversight – a prospect they do not presently face. Also, although not strictly a Coastal Act issue and not mentioned in the staff report, the proposed method of enforcement through automated license plate recognition raises an issue of consistency with the Newport Beach City Charter, with which the City's Coastal Land Use Plan must be consistent. In 2012, to make a package of 37 other Charter

changes more palatable, voters approved adding a new Section 426 which, according to the City Attorney's impartial analysis in the sample ballot, would "*prohibit the City from taking any action that would result in the installation of red light cameras or other automated traffic enforcement systems in the City of Newport Beach (except toll roads) without subsequent Charter Amendment approved by the voters of Newport Beach*" (emphasis added). The City Council now argues that "*parking enforcement*" is not "*traffic enforcement*," but I suspect that is a nuance not fully appreciated by those voting on the measure. To further mitigate this concern, I understand that although automated license plate recognition will be used to identify violators, the actual tickets will be written and affixed to the cars by humans (rather than issued autonomously by mail), although I have not seen this explicitly spelled out in any proposal.

6. **Better alternatives:** I feel that the present exit booth system is considerably more visitor-friendly than the one being proposed. Although reasonable minds might differ on this, if automated license plate recognition is to be used, I think it would be better and more efficient to have fixed cameras at the entry and exit points, so that the actual time spent in the lot can be monitored and billed accordingly. Self-payment could be required or encouraged just before exiting, with the machine generating a written receipt. The payment could be checked by the computer recognizing the license plate on exit, with some mechanism for human intervention in the event of a discrepancy or other problem. This would not only eliminate the need for the roving car randomly searching for violators, but would relieve visitors of the need to guess the length of their stay in advance.
7. **Minor points:**
 - a. Although not mentioned in the most recent City Council rate-setting **Resolution 2013-33** (<http://ecms.newportbeachca.gov/Web/0/doc/479344/Page1.aspx>), the City webpage describing parking rates (<http://www.newportbeachca.gov/index.aspx?page=468>) indicates those with disabled placards qualify for the same discounted rate as motorcycles in the Balboa Pier Lot. I would hope an option to request this rate (or something even lower) would be included in the Commission-approved Parking Management Program.
 - b. **Resolution 2013-33** lists the bus rate as "n/a" on the three holidays. I assume this means buses are not allowed in the lot on those days. The Commission may wish to question why this is?

Yours sincerely,



James M. Mosher
2210 Private Road
Newport Beach, CA. 92660
jimmosher@yahoo.com

Date of comments: January 3, 2014

Agenda Item: W25c-1-2014

Application No.: 5-13-0507

My position: Opposed

RECEIVED
South Coast Region

JAN 3 2013

California Coastal Commission (attn: L. Roman)
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

Re: W25c -- Corona del Mar State Beach Parking Changes (City of Newport Beach) **CALIFORNIA COASTAL COMMISSION**

Dear Ms. Roman,

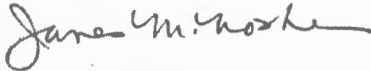
My understanding is that visitors to Corona del Mar (CdM) State Beach currently pay a flat rate parking fee on entering the lot at such times as a human operator is present. Those who enter when the operator is not present can exit for free. I also understand the lot and beach are closed to the public from 10 p.m. to 6 a.m.

In addition to my comments on the closely related preceding agenda item (W25b, Balboa Pier Parking Changes), I have the following concerns about this proposal:

1. **Need for hourly rate:** It is unclear why parking at the Balboa Pier has historically been by the hour while that at CdM has required payment of a large full-day fee, but I strongly agree with Commission staff's recommendation that approval of any Parking Management Program include a requirement to offer a capped hourly parking rate. Even with an hourly rate, under the present proposal visitors who do not feed the pay stations will face the threat of fines during brief visits in the off season when parking is currently free.
2. **Excessive signage:** In the previous agenda item I raised a concern about what seems to me to be the excessive 12-foot height of the signs proposed to identify the location of the pay stations. In the present case, the staff report indicates 12 such 12-foot tall poles are requested to identify 6 payment locations (each location consisting of two pay stations, side by side or back to back). Since the pattern of usage has not yet been established, I'm not sure I understand why it is felt two machines are needed (would a single machine overflow with cash?), but I certainly don't see any need for **two** 12-foot tall sign poles at each location. A single pole, possibly with double-sided signs, would seem sufficient.
3. **Better alternatives:** Converting the lot at CdM to the system currently used at the Balboa Pier gated lot -- namely asking visitors to take a time-stamped ticket on entry to the gated lot, and to pay a human operator, on exit, for the time actually used -- would seem to me both extremely simple to implement and much better than the current proposal. It is hassle-free, provides the same or greater flexibility in payment options, and parking would remain free at times when the City does not think it worthwhile to provide an operator.
4. **Beach closure / Special Condition 5.3:** The Commission's wish that the beach remain open even when the lot is closed is particularly interesting in the case of CdM State Beach, since the parking lot, and the road to it, provide the primary access, and *only* vehicular access, to the beach and tidal waters. The Commission should be aware that the stated parking lot operating hours of 6:00 a.m. to 10:00 p.m. are intimately related to

the City's allowable public beach use hours as specified in Newport Beach Municipal Code Section 11.08.030. During testimony to the City's Parks, Beaches and Recreation Commission on February 7, 2012, regarding the fire rings issue, it was indicated the City police rigorously enforce the curfew and require visitors to leave CdM beach when the parking lot closes at 10:00 pm. I believe they even have floodlights to assist them in this operation. In the absence of a clear public safety issue, NBMC 11.08.030 seems completely contrary to the Commission's interpretation of the California Constitutional requirement for continuous free and unimpeded access to the state's waters. NBMC 11.08.030 does not have the saving graces of the beach hours ordinances in Laguna Beach or Huntington Beach as described on pages 14-15 of the staff report for Item F17a-6-2013 (CDP 5-13-0349, Parking Management Program at Crystal Cove State Park) at the Commission's June, 2013, meeting.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "James M. Mosher".

James M. Mosher
2210 Private Road
Newport Beach, CA. 92660
jimmosher@yahoo.com



CITY OF NEWPORT BEACH

COMMUNITY DEVELOPMENT

January 6, 2014

Steve Kinsey
Chair, California Coastal Commission
South Coast District Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

Subject: City of Newport Beach Parking Lot Pay Stations (Application Nos. 5-13-0506 and 5-13-0507)

Hearing Date: January 8, 2014

Agenda Item W25b (Balboa Pier Parking Lot)

Agenda Item W25c (Corona del Mar State Beach Parking Lot)

Dear Chair Kinsey,

The City of Newport Beach seeks to install electronic Automated Payment Machines (APMs) and related signage at the Corona del Mar State Beach and Balboa Pier parking lots. These pay stations will facilitate improved public access by allowing for the convenient collection of fees for vehicles entering these two locations. The machines will provide expanded payment options to include cash, credit and mobile payments. Fees are currently collected at these locations through some means such as staffed kiosks or entry stations.

Based on the analysis included in the Staff Recommendation, the physical development associated with the installation of the pay station is not an issue, and we wholeheartedly agree with that conclusion. However, the City is concerned that the Special Conditions included in the Staff Recommendation mandate a change to the City's parking rates, which exceeds the scope of the City's applications as the City's applications do not include any changes to the current rates. In fact, the City proposed installing the automated pay stations in time for Summer 2013, and due to the physical dimensions and locations of the proposed pay stations, the City understood that that the installation did not require a Coastal Development Permit pursuant to Section 30610(b) of the Coastal Act. In the alternative, the development should be considered de minimus development under Section 30624.7 of the Coastal Act.

On March 14, 2013, the City was advised by Karl Schwing that the physical development required the City to submit an application for a Coastal Development Permit for both parking lots. Although the City disagreed with Coastal Commission staff's position that the physical development proposed required a Coastal Development Permit, in an effort to install the pay stations in time for visitors in Summer 2013, the City submitted its applications for two Coastal Development Permits. In response to these applications, and prior to even deeming these applications complete, Coastal

Commission staff requested that the City provide a history of parking rates at both lots, although at no time has the City staff been directed by its City Council to amend the rates.

In fact, the City instead has undertaken a lengthy citizen advisory process with the goal of developing strategies to better manage its parking resources in Balboa Village, as well as in the commercial area of Corona del Mar. To be sure, parking rates are a component of this comprehensive parking management effort but at this time neither parking management program has been completed. The process is ongoing and it is anticipated that the comprehensive Balboa Village parking management program will be considered by City Council in Spring 2014 and the parking management program for Corona del Mar will follow shortly thereafter. Once these programs have been vetted through the City, we anticipate seeking the appropriate Coastal Development Permits that would be necessary to implement these strategies, if any.

In sum, be assured that parking is a vital resource to the City of Newport Beach not only in enabling beach access to our residents and visitors alike, but parking also contributes to the vitality of our business community. As such, it would be premature for the City to commit to parking rates without first reviewing the proposed rates with our community, considering their compatibility with the City's parking management efforts already underway, evaluating the impacts on revenue projections, and lastly receiving input and approval by our City Council.

The above-cited legal and practical concerns are raised in response to Special Condition #1, which we oppose. However, even more compelling is the fact that the Staff Recommendation is based on inaccurate information. The Staff Recommendation concludes that the City failed to apply for the 2013 parking rate increases or after-the-fact approval for past parking rate increases. This conclusion is erroneous in that none of the increases imposed by the City required a Coastal Development Permit.

As shown in the attached charts, the City's daily winter and summer parking rate changes since 1992 for both the Balboa Pier and Corona del Mar parking lots have not required a Coastal Development Permit based on the threshold criteria contained in the 1993 Executive Director memorandum. The holiday rates adopted in 2010 are limited to only three days a year, and therefore, even though the threshold criteria may have been exceeded on three individual days, we believe that when the rates are viewed in a year-round context, the criteria thresholds have not been exceeded. It is also important to note that the last time the City modified its parking rates was in 2010, not 2013 as referred to in the Staff Recommendation. In 2013, the City simply incorporated the rate schedule adopted previously in 2010 (Resolution No. 2010-40); however there was a scrivener's error in the 2013 resolution regarding the rates, and we apologize for any confusion it may have caused.

In summary, the City's request should be considered by the Coastal Commission with the same regard that it considered similar applications for three state beach parking lots in Orange County (Doheny, Crystal Cove, and San Clemente) in June 2013, or the application included on the January 10, 2014 agenda for San Onofre State Beach

(Agenda Item 14(b), Application No. 6-13-0357). With these State applications, it was recognized that fees need to be based on multiple factors, so specific rates were not proposed nor were they required as special conditions. The City of Newport Beach requests that it be conditioned similar to State Department of Parks and Recreation and be given the opportunity to fully evaluate the factors stated above. Specifically we request the following modifications be applied to both Newport Beach applications:

- *Delete* Special Condition #1 which commits the City to specific parking rates; and
- *Addition* of the following new Special Conditions 1, 2 and 3:

1. Permit Authorization. This authorization is for the installation and operation of the Automated Pay Machines (APM). The City shall endeavor to maximize visitation while addressing the need for revenue streams to support the management and operations of the beach facility, and shall consider using the following measures:

- a. Provide hourly rate options at all locations 7 days a week, including holidays;
- b. Limit holiday rates to the three summer holidays of Memorial Day, the Fourth of July, and Labor Day;
- c. Reduce or eliminate fees during off-season or other low-demand periods;
- d. Provide areas within parking lots for short-term free parking for brief stops.

2. Monitoring Requirements. The City shall monitor the implementation of the proposed fee program for a three-year period. Within 45 days of the Commission action, the City shall provide the following information to the Executive Director to assist in developing a monitoring program for daily parking use and impacts of any fee program on public use:

- a. Data and analysis currently developed by the City, and
- b. Available baseline data of beach and parking lot use prior to operation of the APMs.

3. Monitoring Program. Within the first year of authorization, the City shall provide the Executive Director for review and written concurrence, a final monitoring program which incorporates, in addition to the above, the following data and monitoring results in a form that provides for analyses and conclusions regarding the effect of operation of the APMs on parking, beach visitation, revenues, and public access. Information used to develop the monitoring program shall include, but not be limited to, the following:

- a. Data/analysis currently collected;
- b. Collection of daily attendance figures;
- c. Parking fees assessed and collected including mode (daily, hourly, holiday, etc.) and amount of fee;

- d. Parking lot usage, vacancy and/or turnover rates, and other data relevant to understanding visitation patterns;
- e. Analysis of the relationship of use fees to park attendance and parking lot use;
- f. Available information regarding factors such as weather, water quality, water temperature, surf conditions, etc. that may affect visitation patterns;
- g. Use of annual passes, senior/disabled ,or other discounts;
- h. Parking violations or tickets issued; and
- i. Special events.

The City is in agreement with the original Special Conditions 2, 3, 4 and 5 which require Coastal Commission review of future rates changes and improvements, construction-related requirements, and submittal of a final signage plan.

We believe that the impact of the pay stations on coastal resources and access should be judged on their own merit and independent of any future change to the City's existing parking rates. Therefore, the City respectfully requests the Commission approve Applications No. 5-13-0506 and No. 5-13-0507 with the special conditions as modified herein.

Sincerely,



Kimberly Brandt, AICP
Director

Attachments:

1. Balboa Pier and Corona del Mar Parking Rate Charts
2. Rate Schedule Resolutions

Balboa

[illegible]

Corona del Mar

[illegible]

RESOLUTION NO. 2010-40

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH ESTABLISHING A REVISED SCHEDULE OF RATES FOR THE BALBOA PIER PARKING LOT AND THE CORONA DEL MAR PARKING LOT AND RESCINDING RESOLUTION NO. 2004-43

WHEREAS, the City maintains and operates parking lots at the Balboa Pier and the Corona del Mar State and City Beach Park; and

WHEREAS, the City Council of the City of Newport Beach adopted Resolution No. 2004-43 which establishes, among other things, rate schedules for the Balboa Pier Parking Lot and the Corona del Mar State and City Beach Parking Lot; and

WHEREAS, the City Council desires to establish new fees for parking in the Balboa Pier Parking Lot and the Corona del Mar State and City Beach Parking Lot.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newport Beach, as follows:

1. The City Manager shall determine the days upon which parking control shall be maintained and evaluate whether there is sufficient demand for the use of said lots to justify providing a parking attendant, or activating an automatic parking gate.
2. For each date that parking control is maintained, the following fees shall be charged for the use of said lots:

Balboa Pier Parking Lot

Automobiles - \$1.50/hour, \$15.00/day maximum

Motorcycles – \$0.75/hour, \$7.50/day maximum

Recreational Vehicles – \$1.50/hour, \$15/day maximum, per parking space occupied

Buses – 10-24 passengers - \$50.00/flat rate

25+ passengers - \$100.00/flat rate

Corona del Mar State and City Beach Parking Lot

Automobiles - \$15.00/day flat rate

Motorcycles – \$7.50/day flat rate

Recreational Vehicles – \$15.00/day flat rate, per parking space occupied

Buses – 10-24 passengers - \$50.00/flat rate

25+ passengers - \$100.00/flat rate

Rates for both Parking Lots for Memorial Day, Fourth of July and Labor Day

Automobiles - \$25.00/day

Motorcycles – \$12.50/day

Recreational Vehicles – \$25.00/day flat rate per parking space occupied

Buses – 10-24 passengers - \$50.00/flat rate

25+ passengers - \$100.00/flat rate

3. The City Manager is authorized to waive any of the aforementioned fees established herein when a special event of a charitable or civic nature is being held and it is in the best interests of the City and the general public that fees not be charged for the use of any such parking lot in connection said special event.

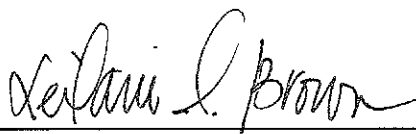
BE IT FURTHER RESOLVED THAT Resolution No. 2000-18 is hereby rescinded.

Adopted this 27th of April 2010.



Mayor

ATTEST:



City Clerk



STATE OF CALIFORNIA }
COUNTY OF ORANGE }
CITY OF NEWPORT BEACH } ss.

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing resolution, being Resolution No. 2010-40 was duly and regularly introduced before and adopted by the City Council of said City at a regular meeting of said Council, duly and regularly held on the 27th day of April, 2010, and that the same was so passed and adopted by the following vote, to wit:

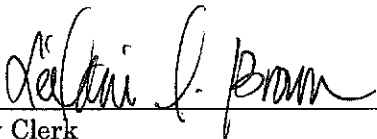
Ayes: Selich, Rosansky, Henn, Gardner, Mayor Curry

Noes: None

Absent: Webb, Daigle

Abstain: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 28th day of April, 2010.



City Clerk
Newport Beach, California

(Seal)



RESOLUTION NO. 2000-18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH ESTABLISHING A REVISED SCHEDULE OF RATES FOR THE BALBOA PIER PARKING LOT AND THE CORONA DEL MAR PARKING LOT AND RESCINDING RESOLUTION NO. 92-105.

WHEREAS, the City maintains and operates parking lots at the Balboa Pier and the Corona del Mar State and City Beach Park; and

WHEREAS, the City Council of the City of Newport Beach adopted Resolution No. 92-105 which establishes, among other things, rate schedules for the Balboa Pier Parking Lot and the Corona del Mar State and City Beach Parking Lot; and

WHEREAS, the City Council desires to establish new fees for parking in the Balboa Pier Parking Lot and the Corona del Mar State and City Beach Parking Lot.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newport Beach, as follows:

1. The City Manager shall determine the days upon which parking control shall be maintained and evaluate whether there is sufficient demand for the use of said lots to justify providing a parking attendant, or activating an automatic parking gate.

2. For each date that parking control is maintained, the following fees shall be charged for the use of said lots:

I. BALBOA PIER PARKING LOT

A. Rates:

Autos:

\$.50 each 20 minutes to maximum of \$7.00 per each 24-hour period.

Vehicles 20 feet or longer:

\$1.00 each 20 minutes to maximum of \$14.00 per each 24-hour period.

Motorcycles:

\$.25 each 20 minutes to maximum of \$3.50 per each 24-hour period.

II. CORONA DEL MAR STATE AND CITY BEACH PARKING LOT

A. Rates:

Autos:

\$6.00 per day.

Vehicles 20 feet or longer:

\$12.00 per day.

Motorcycles:

\$3.00 per day.

- III. The City Manager is authorized to waive any of the aforesaid fees established herein when a special event of a charitable or civic nature is being held and it is in the best interests of the City and the general public that fees not be charged for the use of any such parking lot in connection with said special event.

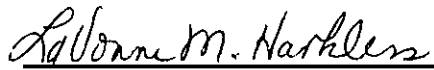
BE IT FURTHER RESOLVED that Resolution No. 92-105 is hereby rescinded.

ADOPTED this 22nd of February 2000.



Mayor

ATTEST:



City Clerk



STATE OF CALIFORNIA }
COUNTY OF ORANGE }
CITY OF NEWPORT BEACH } ss.

I, LAVONNE M. HARKLESS, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing resolution, being Resolution No. 2000-18 was duly and regularly introduced before and adopted by the City Council of said City at a regular meeting of said Council, duly and regularly held on the 22nd day of February, 2000, and that the same was so passed and adopted by the following vote, to wit:

Ayes: Glover, Adams, Debay, Ridgeway, O'Neil, Mayor Noyes

Noes: None

Absent: Thomson

Abstain: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 23rd day of February, 2000.

(Seal)



Lavonne M. Harkless

City Clerk
Newport Beach, California

RESOLUTION NO. 2004- 43

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF NEWPORT BEACH ESTABLISHING A REVISED
SCHEDULE OF RATES FOR THE BALBOA PIER
PARKING LOT AND THE CORONA DEL MAR PARKING
LOT AND RESCINDING RESOLUTION NO. 92-105**

WHEREAS, the City maintains and operates parking lots of the Balboa Pier and the Corona del Mar State and City Beach Park; and

WHEREAS, the City Council of the City of Newport Beach adopted Resolution No. 2000-18 which establishes, among other things, rate schedules for Balboa Pier Parking Lot and the Corona del Mar State and City Beach Parking Lot.

WHEREAS, the City Council desires to establish new fees for parking in the Balboa Pier Parking Lot and the Corona del Mar State and City Beach Parking Lot.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newport Beach, as follows:

1. The City Manager shall determine the days upon which parking control shall be maintained and evaluate whether there is sufficient demand for the use of said lots to justify providing a parking attendant, or activating an automatic parking gate.

2. For each date that parking control is maintained, the following fees shall be charged for the use of said lots:

I. BALBOA PIER PARKING LOT RATES:

Motorcycles and Handicapped: \$.25 each 20 minutes to maximum of \$4.00 per each 24-hour period.

Autos: \$.50 each 20 minutes to maximum of \$8.00 per each 24-hour period.

Vehicles 20 feet or longer: \$1.00 every 20 minutes to maximum of \$16.00 per each 24-hour period.

II. CORONA DEL MAR STATE AND CITY BEACH PARKING LOT RATES:

Motorcycles and Handicapped: \$4.00 weekday/ \$5.00 weekend and holidays.

Autos: \$8.00 weekday/ \$10.00 weekend and holidays.

Vehicles 20 feet or longer: \$16.00 weekday/ \$20.00 weekend and holiday.

- III. The City Manager is authorized to waive any of the aforesaid fees established herein when a special event of a charitable or civic nature is being held and it is in the best interests of the City and the general public that fees not be charged for the use of any such parking lot in connection with said special event.

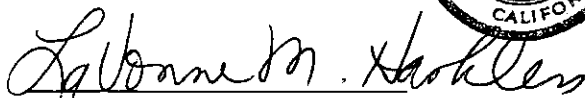
3. That the City Manager is directed to use additional revenue from the CDM State Beach parking fee increase for the purposes of constructing the CDM State Beach "Beachgoer Amenity Project" until such time as the Project is fully paid for. At that time, the City Manager shall direct that the revenue be placed in the General Fund.

BE IT FURTHER RESOLVED that Resolution No. 92-105 is hereby rescinded.

ADOPTED this 8th of June.


MAYOR

ATTEST:


CITY CLERK



STATE OF CALIFORNIA }
COUNTY OF ORANGE }
CITY OF NEWPORT BEACH } ss.

I, LaVonne M. Harkless, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing resolution, being Resolution No. 2004-43 was duly and regularly introduced before and adopted by the City Council of said City at a regular meeting of said Council, duly and regularly held on the 8th day of June, 2004, and that the same was so passed and adopted by the following vote, to wit:

Ayes: Heffernan, Rosansky, Adams, Bromberg, Webb, Nichols, Mayor Ridgeway

Noes: None

Absent: None

Abstain: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 9th day of June, 2004.

(Seal)



LaVonne M. Harkless
City Clerk
Newport Beach, California

RESOLUTION NO. 2010-40

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH ESTABLISHING A REVISED SCHEDULE OF RATES FOR THE BALBOA PIER PARKING LOT AND THE CORONA DEL MAR PARKING LOT AND RESCINDING RESOLUTION NO. 2004-43

WHEREAS, the City maintains and operates parking lots at the Balboa Pier and the Corona del Mar State and City Beach Park; and

WHEREAS, the City Council of the City of Newport Beach adopted Resolution No. 2004-43 which establishes, among other things, rate schedules for the Balboa Pier Parking Lot and the Corona del Mar State and City Beach Parking Lot; and

WHEREAS, the City Council desires to establish new fees for parking in the Balboa Pier Parking Lot and the Corona del Mar State and City Beach Parking Lot.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newport Beach, as follows:

1. The City Manager shall determine the days upon which parking control shall be maintained and evaluate whether there is sufficient demand for the use of said lots to justify providing a parking attendant, or activating an automatic parking gate.
2. For each date that parking control is maintained, the following fees shall be charged for the use of said lots:

Balboa Pier Parking Lot

Automobiles - \$1.50/hour, \$15.00/day maximum

Motorcycles – \$0.75/hour, \$7.50/day maximum

Recreational Vehicles – \$1.50/hour, \$15/day maximum, per parking space occupied

Buses – 10-24 passengers - \$50.00/flat rate

25+ passengers - \$100.00/flat rate

Corona del Mar State and City Beach Parking Lot

Automobiles - \$15.00/day flat rate

Motorcycles – \$7.50/day flat rate

Recreational Vehicles – \$15.00/day flat rate, per parking space occupied

Buses – 10-24 passengers - \$50.00/flat rate

25+ passengers - \$100.00/flat rate

Rates for both Parking Lots for Memorial Day, Fourth of July and Labor Day

Automobiles - \$25.00/day

Motorcycles – \$12.50/day

Recreational Vehicles – \$25.00/day flat rate per parking space occupied

Buses – 10-24 passengers - \$50.00/flat rate

25+ passengers - \$100.00/flat rate

3. The City Manager is authorized to waive any of the aforementioned fees established herein when a special event of a charitable or civic nature is being held and it is in the best interests of the City and the general public that fees not be charged for the use of any such parking lot in connection said special event.

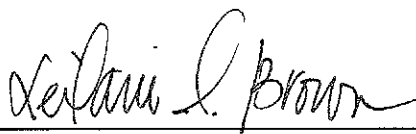
BE IT FURTHER RESOLVED THAT Resolution No. 2000-18 is hereby rescinded.

Adopted this 27th of April 2010.



Mayor

ATTEST:



City Clerk



STATE OF CALIFORNIA }
COUNTY OF ORANGE }
CITY OF NEWPORT BEACH } ss.

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing resolution, being Resolution No. 2010-40 was duly and regularly introduced before and adopted by the City Council of said City at a regular meeting of said Council, duly and regularly held on the 27th day of April, 2010, and that the same was so passed and adopted by the following vote, to wit:

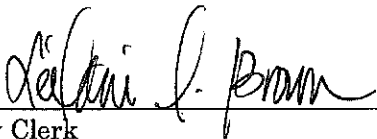
Ayes: Selich, Rosansky, Henn, Gardner, Mayor Curry

Noes: None

Absent: Webb, Daigle

Abstain: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 28th day of April, 2010.



City Clerk
Newport Beach, California

(Seal)



CALIFORNIA COASTAL COMMISSION

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

W25c

| | |
|---------------|-------------|
| Filed: | 9/23/13 |
| 180th Day: | 3/22/14 |
| Staff: | L. Roman-LB |
| Staff Report: | 12/19/13 |
| Hearing Date: | 1/8/14 |

STAFF REPORT: REGULAR CALENDAR

Application No.: 5-13-0507

Applicant: City of Newport Beach

Project Location: 3001 Ocean Blvd. (Corona del Mar State Beach Parking Lot), Newport Beach (Orange County)

Project Description: Installation of twelve (12) electronic automated payment machines (APMs) at six (6) locations and associated signage (18"x12") on twelve (12) new 12' tall metal posts adjacent to each new pay station to be located along a concrete walkway between the Corona del Mar State Beach Parking Lot and the beach; additional 18"x12" informational signs on additional 10' tall metal posts on sidewalks and in landscaped planters or on existing light standards within the surface parking lot.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The City of Newport Beach proposes in this coastal development permit application #5-13-0507, the installation of electronic Automated Payment Machines (APMs) for the collection of parking fees at the City managed Corona del Mar State Beach surface parking lot.

Installation of the machines and the automated fee collection program constitute development under Coastal Act Section 30106 because it involves installation of a structure and a change in intensity of use and of access to water. The proposed automated pay machines can be reprogrammed at any time to increase or decrease fees, provide an hourly rate option and/or flat rate only. Such flexibility in the parking fee collection method potentially affects the

affordability and convenience to the public to access the coast and, therefore, represents a change in intensity of use and of access to coastal waters.

The maintenance of lower-cost options for beach access is a specific concern to assure that rates are not driven solely by increased demand, such as holidays or peak season, such that some segments of the population are priced out of recreational opportunities at the coast. In addition, significant increases in fees, or instituting new fees where there previously were none, may have adverse effects on visitation levels in specific locations.

The City provided information regarding current and past fee schedules for the City-administered State Beach parking lot; however, the City has not included the most recent 2013 parking rate increases or a fee structure as part of this application; neither is the City requesting after-the-fact approval for past parking rate increases which required a Coastal Development Permit. The City maintains that this CDP application is simply for the physical development of installation of the pay station equipment and signage and not the fee schedule/fee structure of the fees to be collected by the new equipment. However, it is the Commission's position that the parking fee collection stations and associated fee structure are intrinsically linked and have the potential to affect the intensity of use and access to beaches and state waters and, as such, constitute development, with both being subject to the Commission's regulatory authority over new development. This position is also supported by the Court of Appeal in *Surfrider Foundation v. CCC* (1994)26 Cal.App.4th 151, 157-158, where the court found that the Legislature's concerns about impacts to access were more "broad-based than direct physical impedance of access...conclud[ing] the public access and recreational policies of the Act should be broadly construed to encompass all impediments to access, whether direct or indirect, physical or nonphysical," including beach parking fees, which was the subject of the lawsuit. Thus, the court found that a parking fee could constitute an impediment to public access and recreation, causing a change of intensity of use and access to the ocean, thereby constituting development. The Commission has also made this finding in previous CDP approvals (i.e., CDP 5-01-470[Los Angeles County Department of Beaches and Harbors] for parking lots at Will Rogers, Venice, Dockweiler, Torrance, White Point/Royal Palms and Marina del Rey County Beaches; and CDP 4-01-227[Los Angeles County Department of Beaches and Harbors] for parking lots at Nicholas Canyon, Zuma, Point Dume and Malibu Lagoon Beaches).

Furthermore, per the City of Newport Beach's website parking fees (\$15 flat fee per day/\$25 on the three peak summer holidays) are collected by a parking attendant every day February through October and weekends only November through January (weather permitting). The City Manager determines the days upon which parking control is maintained and evaluates whether there is sufficient demand for parking to justify providing a parking attendant. Therefore, a change to a fee collection system (APMs) that would collect the \$15 flat fee per day and \$25 on the three peak summer holidays is a significant change from a fee collected only when the kiosk is staffed.

To ensure that maximum access is provided at State beaches in Orange County, the Commission imposes **Special Condition #1** which requires the City submit, prior to the issuance of the CDP, a revised City Resolution No. 2013-33 and a Parking Management Program establishing parking fees at the Corona del Mar State Beach parking lot that reflect the holiday flat rate fee of \$20/per occupied parking space on the three identified summer holidays at other California Dept. Parks

and Recreation State Beaches in Southern California and that provides both a \$15 flat rate option and provide the option of hourly rates not to exceed \$2/hour consistent with other beach locations in the City. To encourage increased visitation, the condition requires City to provide hourly rates seven days a week including holidays to provide maximum flexibility for users on shorter visits, and to provide a lower flat rate on holidays that matches the holiday parking rates at other Orange County State beaches (the City's holiday flat fee is \$25 at this State Beach, compared to a \$20 holiday flat rate fee and an hourly rate option at California Dept. Parks and Recreation administered State Beaches in Southern California). This provision is consistent with Section 30213 of the Coastal Act which states that "Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ..."

Furthermore, **Special Conditions #2 and #3** requires the City apply for a Coastal Development Permit for future parking rate changes/increases which meet the criteria set forth in the October 1993 Memo titled "Coastal Development Permit Required When Imposing or Increasing Fees or Modifying the Hours of Operation of Public Beaches or Public Beach Parking Lots, Piers or Boat Launching Ramps" by the Commission's Executive Director to Planning Directors of Coastal Cities and Counties (Exhibit #5). Based on the guidance provided to local governments in that 1993 Memo, an increase of 25% or more in any given year or 50% or more on a cumulative basis over any three consecutive year period would require a coastal development permit.

Staff is recommending APPROVAL of the proposed project with five (5) special conditions regarding: 1) a revised City Resolution/Parking Management Plan; 2) agreement regarding future fee changes; 3) future improvements; 4) compliance with construction responsibilities and debris removal measures; and 5) submittal of a final parking sign plan. The proposed development has been conditioned to assure the proposed project is consistent with the resource protection policies of the Coastal Act.

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 for the relevant area. The City of Newport Beach does not have a certified LCP. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act.

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APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

Exhibit 1 – Area Map

Exhibit 2 – Site Plan Indicating Placement of Pay Stations and Signage

Exhibit 3 – Sample Signage

Exhibit 4 - Site Photographs

Exhibit 5 – October 1993 memo from the Executive Director to Planning Directors of Coastal Cities and Counties Regarding Parking Fees

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit No. 5-13-0507 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.

Resolution:

The Commission hereby approves Coastal Development Permit 5-13-0507 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 will substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

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

This permit is granted subject to the following special conditions:

1. **Revised City Resolution/ Parking Management Program.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval a revised City Resolution and provide a parking management program in substantial conformance with City Resolution 2013-33 establishing parking meter zones and parking rates for the Corona del Mar State Beach Parking Lot, modified as follows:

- 1) Revise to provide hourly rates of up to \$1.50/hour seven days a week (except as allowed in sub-part “4” below of this special condition). In no case, shall a visitor paying hourly rates pay in excess of the flat day use fee;
 - 2) As proposed, allow flat day use parking fee (\$15 maximum) per day year-round (except as allowed in sub-part “3” below of this special condition);
 - 3) Revise the proposed holiday parking flat-rate for the Memorial Day, 4th of July and Labor Day holidays to not exceed a maximum \$20 flat rate fee per space occupied and clarify that the holiday parking flat-rate applies only on the actual holiday and not the entire holiday week or holiday weekend;
 - 4) Revise the proposed holiday parking flat-rate to also include an hourly-rate option during the Memorial Day, 4th of July and Labor Day holidays with the hourly-rate not to exceed \$2/hour on those holidays; in no case, shall a visitor paying hourly rates pay in excess of the holiday flat-rate day use fee;
 - 5) Fees may be reduced or eliminated at any time; however, any changes that would exceed the maximums set forth in this application shall be reported to the Executive Director to determine whether an amendment or new coastal development permit is required. Specific consideration should be given to reduced fees during off-peak periods.
2. **Agreement Regarding Future Fee Changes.** With the acceptance of this permit the applicant agrees that any change in the rate charged for parking or method of fee collection will require Executive Director review to determine if an amendment to the permit or a new permit will be required. Any proposed changes to the approved project, including but not limited to a fee increase of 25% or more in any given year or 50% or more on a cumulative basis over any three consecutive year period or new development, shall require an amendment to the permit or a new permit.
- The permittee shall undertake the development authorized by the approved coastal development permit. No changes to the plans or the development authorized in this coastal development permit shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
3. **Future Improvements.** This permit is only for the development described in Coastal Development Permit No. 5-13-0507. Except as provided in Public Resources Code section 30610 and applicable regulations, any future development as defined in PRC section 30106, including, but not limited to, a change in the density or intensity of use of land as specified in Special Condition 2, shall require an amendment to Permit No. 5-13-0507 from the Commission, or shall require an additional coastal development permit from the Commission or from the applicable certified local government.
4. **Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris.** The permittee shall comply with the following construction-related requirements:

- (a) No construction materials, debris, or waste shall be placed or stored where it may enter a storm drain or be subject to wave erosion and dispersion;
- (b) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of construction;
- (c) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of construction-related materials, and to contain sediment or contaminants associated with construction activity, shall be implemented prior to the on-set of such activity. BMPs and GHPs which shall be implemented include, but are not limited to: stormdrain inlets must be protected with sandbags or berms, all stockpiles must be covered, and a pre-construction meeting should be held for all personnel to review procedural and BMP/GHP guidelines. Selected BMPs shall be maintained in a functional condition throughout the duration of the project.
- (d) Construction debris and sediment shall be properly contained and secured on site with BMPs, to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking. Construction debris and sediment shall be removed from construction areas as necessary to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. Debris shall be disposed at a debris disposal site outside the coastal zone.

5. Submittal of Final Signage Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a final sign program for the proposed new parking pay stations.

- 1. The plan shall demonstrate the proposed location for the signage and shall not result in the direct placement of signage poles in sandy beach areas.
- 2. The plan shall include, at a minimum, the following components: sign material, dimensions, appearance, and clearly legible wording, etc.
- 3. Signs shall not indicate or suggest that the beach itself is closed at any time nor indicate or suggest a prohibition of public access to state waters for recreational activities after the parking lots have closed.

The permittee shall undertake development in accordance with the approved final plan. 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 legally required.

IV. FINDINGS AND DECLARATIONS:

A. PROJECT LOCATION AND DESCRIPTION

The proposed project site is the Corona del Mar State Beach public beach parking lot located at 3001 Ocean Blvd in the City of Newport Beach, Orange County (Exhibit #1). The site is designated as Public Facilities (PF) in the certified Newport Beach Coastal Land Use Plan (Coastal LUP). The parking lot for the Corona del Mar State Beach is managed by the City of Newport Beach through an Operating Agreement between the City and the State last updated on August 1, 1999. The Corona del Mar State Beach parking lot is located within an existing urban area surrounded by single family residential areas and the public beach immediately to the south.

The City of Newport Beach (applicant) proposes installation of twelve (12) electronic Automated Parking Machines (APMs) at six (6) locations and associated signage (18"x12") on twelve (12) new 12' tall metal posts adjacent to each new pay station to be located along a concrete walkway between the Corona del Mar State Beach Parking Lot and the beach; additional 18"x12" informational signs on additional 10' tall metal posts on sidewalks and in landscaped planters or on existing light standards throughout the parking lot. The proposed placement of the electronic APMs will not result in the loss of any existing parking spaces; nor are the machines proposed to be installed on sandy beach areas. A site plan showing the Project plans including placement and size specifications of the proposed parking pay stations are included in Exhibit #2. Each unit is wireless and solar powered, therefore, no trenching for wiring, power cables, etc., is proposed. No new landscaping is proposed and no new water quality improvements features are proposed as part of the project.

The proposed electronic APMs offer visitors greater methods of payment collection (cash, credit card, pay-by-phone, or web-application). However, this change in the fee collection system would significantly change the days and hours that a parking fee at this beach parking lot is collected. Currently, parking fees are collected by a parking attendant in a kiosk every day February through October (peak season), and weekends only November through January (low season, weather permitting). Under the current fee collection system, during the winter months, the City Manager determines the days parking control is maintained by evaluating whether there is sufficient demand for parking to justify providing a parking attendant as the cost of staffing may exceed revenue collected. Thus, a change to APM fee collection of the \$15 flat fee per day and \$25 on the three peak summer holidays is a significant change from a fee collected only when the kiosk is staffed.

Current parking fees, last modified in 2013 (by City Resolution No. 2013-33, adopted on April 9, 2013) are collected 24 hours a day, 365 days a year, as follows:

| Vehicle Type | Hourly Rate | Flat Rate |
|-------------------------|--------------------|-------------------------|
| Automobile | none | \$15 daily |
| Motorcycles | none | \$7.50 daily |
| Recreational Vehicles | none | \$15 per space occupied |
| Buses: 10-24 passengers | | \$50 daily flat rate |
| Buses: 25+ passengers | | \$100 daily flat rate |

Holiday Parking Rates apply on Memorial Day, Fourth of July and Labor Day:

| Vehicle Type | Hourly Rate | Daily Maximum |
|-------------------------|--------------------|--------------------------|
| Automobile | none | \$25 |
| Motorcycles | none | \$12.50 |
| Recreational Vehicles | none | \$100 per space occupied |
| Buses: 10-24 passengers | | N/A |
| Buses: 25+ passengers | | N/A |

The last increase in parking rates at the Corona del Mar State Beach parking lot were in 2010 (City Resolution No. 2010-40). At that time, the current parking fees were established and the holiday flat rate was initiated (the only change in fees between 2010 and 2013 was the holiday flat fee for recreational vehicles, initially set in 2010 at \$25 per space occupied was increased in April 2013 to \$100 per space occupied). Prior to 2010, the flat fee parking rate at the Corona del Mar State Beach parking lot for autos was \$8 weekdays/\$10 weekend and holidays, for motorcycles and vehicles displaying disabled person parking placards was \$4 weekdays/\$5 weekend and holidays, and for vehicles 20 feet or longer was \$16 weekdays/\$20 weekend and holidays. Historically, hourly parking rates have not been an option at this beach parking lot. Parking fees at Corona del Mar have been collected since 1957 when the City first entered into an agreement with the State to administer this State Beach.

In this coastal development permit application #5-13-507, the City of Newport Beach is requesting a Coastal Development Permit for the installation of the electronic pay stations and not for the parking rate fee changes that have taken place since 2010. However, based on the guidance provided to local governments in a 1993 Memo titled “Coastal Development Permit Required When Imposing or Increasing Fees or Modifying the Hours of Operation of Public Beaches or Public Beach Parking Lots, Piers or Boat Launching Ramps” by the Commission’s Executive Director (Exhibit #5), an increase of 25% or more in any given year or 50% or more on a cumulative basis over any three consecutive year period would require a coastal development permit. The flat fee at Corona del Mar State Beach for autos increased by 50% (from \$10/auto prior to 2010 to \$15/auto after 2010) and a new \$25/auto holiday flat fee was initiated (a 150% increase). It is the Commission’s position that any action which has the effect of changing the intensity of use of state waters or of access to such waters is “development” for purposes of the Coastal Act and requires a coastal development permit.

The City provided information regarding current and past fee schedules for the City administered State Beach parking lot; however, the City has not included the most recent 2013 parking rate increases or a fee structure as part of this application; neither is the City requesting after-the-fact approval for past parking rate increases which required a Coastal Development Permit. The City maintains that this CDP application is simply for the physical development of installation of the APM equipment and signage and does not include the fee schedule/fee structure of the fees to be collected by the new equipment. However, it is the Commission’s position that the parking fee collection stations and associated fee structure are intrinsically linked and have the potential to affect the intensity of use and access to beaches and state waters and, as such, constitute development, with both being subject to the Commission’s regulatory authority over new development. This position is also supported by the Court of Appeal in *Surfrider Foundation v. CCC* (1994)26 Cal.App.4th 151, 157-158, where the court found that the Legislature’s concerns about impacts to access were more “broad-based than direct physical impedance of access...conclud[ing] the public access and recreational policies of the Act should be broadly

construed to encompass all impediments to access, whether direct or indirect, physical or nonphysical,” including beach parking fees, which was the subject of the lawsuit. Thus, the court found that a parking fee could constitute an impediment to public access and recreation, causing a change of intensity of use and access to the ocean, thereby constituting development. The Commission has also made this finding in previous CDP approvals (i.e., CDP 5-01-470[Los Angeles County Department of Beaches and Harbors] for parking lots at Will Rogers, Venice, Dockweiler, Torrance, White Point/Royal Palms and Marina del Rey County Beaches; and CDP 4-01-227[Los Angeles County Department of Beaches and Harbors] for parking lots at Nicholas Canyon, Zuma, Point Dume and Malibu Lagoon Beaches).

B. PUBLIC ACCESS

Section 30210 of the Coastal Act states in relevant part:

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 people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states in relevant part:

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

Section 30212.5 of the Coastal Act states, in relevant part:

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

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

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

For purposes of the Commission’s permitting requirements in cases like this, new development includes the placement of physical structures, such as a parking kiosk, pay machine, or meters, but also includes changes in the “intensity of use of water or access thereto” (PRC 30106). Clearly the placement of a physical barrier would change the ability to access the water, but the Commission also has long applied the Coastal Act definition of development to activities that may not involve any physical development but yet may affect access to the water. This includes both user access fees and general restrictions on the hours of access or the types of users that may be allowed to use or park in an area that provides access to the shoreline (e.g. beach curfews, residential-only parking zones, etc.).

As noted above, the Commission's jurisdiction with respect to parking regulation and fees was specifically affirmed in the case of *Surfrider Foundation v. CCC* (1994) 26 Cal.App.4th 151, which concerned the installation of iron rangers and automated pay machines at 16 state beaches along the coast of northern California.. In responding to Surfrider's main contention that proposed CSP fees would impede access to the coast, the court addressed the legislative intent of the public access and recreation policies of the Coastal Act and concluded:

...the concerns placed before the Legislature in 1976 were more broad-based than direct physical impedance of access. For this reason we conclude the public access and recreational policies of the Act should be broadly construed to encompass all impediments to access, whether direct or indirect, physical or nonphysical.¹

Although the Commission need only establish a change in intensity of use or access to water to invoke its jurisdiction, the Commission also has exercised its administrative discretion and provided guidance concerning when a change in access fees (such as new or increased parking fees) might be considered a substantial change that would likely trigger a coastal development permit (see October 1993 Memo from the Executive Director to Planning Directors of Coastal Cities and Counties and other interested persons Exhibit #5). As applied to the subject parking pay stations and automated fee structure that would allow reprogramming to increase or decrease fees without limitation the guidance provided in the 1993 Memo would conclude the proposed fee structure and potential new and increased fees are substantial increases in the rates of fees as applied to individual visitors. Beyond the physical installation, therefore, the APMs and their associated fees program are intrinsically linked and have the potential to affect the intensity of use and access to beaches and state waters and are thus subject to the Commission's regulatory authority over new development.

The current fee schedule for the Corona del Mar State Beach parking lot does not include hourly rates. Hourly parking rates would allow greater parking options for a greater swath of the public, such as, joggers, surfers, and people on lunch-breaks, who utilize the beach for one to two hours or shorter periods of time without having to pay the full \$15 flat rate on a daily basis or the holiday (i.e., Memorial Day, Fourth of July and Labor Day) flat rate of \$25/car and \$100/RV.

The Commission believes an hourly parking rate would allow short-term visitors the opportunity to enjoy the sunset or engage in recreational activity such as a walk or jog on the beach, without incurring the expense of the full-day flat fee. The proposed APMs can easily be programmed to offer both the flat rate and an hourly fee option thereby maximizing access and providing the opportunity for visits of a brief duration such as surfing in the morning, walking on the beach, or viewing the sunset. Parking lots with hourly rates are inherently a lower-cost visitor and recreational facility since they would offer, for example, a one-hour visit for approximately \$2 rather than a one-hour visit that costs \$15 when only a full-day flat fee is offered at the facility. Therefore, offering only a full-day flat fee parking program does not maximize public access or provide a low-cost option.

¹ The Coastal Act also expressly requires all public agencies to comply with the Act (Pub. Res. Code §30003) and clarifies that Coastal Act policies should guide state functional planning in the coastal zone. Pub Res Code section 30403. See also Govt. Code section 65036.

Parking lots at many State beaches in San Diego County, including Carlsbad, South Carlsbad, San Elijo, Cardiff, Torrey Pines North, and Silver Strand in Coronado administered by State Parks currently offer hourly rates. In Orange County, State beaches at Calafia in San Clemente also currently offer hourly rates of \$2/hour during the peak season and \$1/hour in the winter months. Hourly parking rates at Crystal Cove State Beach at the Newport Beach/Laguna Beach border are \$4/hour. State Parks announced the move to hourly rates in a November 2011 press release, which states:

“If visitors want a short visit, like a run on the beach or a sunset, they would not pay for the whole day, but rather just for the time they select and that’s how they would be given a price break. Also, State Parks thinks this will help with revenue because it may encourage more people to take advantage of the opportunity for shorter visits, quite possibly creating more turnover of visitors and therefore more revenue. In addition, visitors may choose to use the state lots at hourly rates rather than park further away from the beach.”

Therefore, to ensure that maximum access is provided at all State beaches in Orange County, the Commission imposes **Special Condition #1** which requires the City submit, prior to issuance of the CDP, a revised City Resolution No. 2013-33 and submittal of a Parking Management Program establishing parking fees at the Corona del Mar State Beach parking lot to reflect similar parking fees that have been approved by the Commission at other State Beaches in Southern California: \$15 daily flat fee and hourly parking rate option in which a visitor paying hourly rates pay does not pay in excess of the flat day use fee (approximately \$1.50 to \$2/hour); and on the three identified summer holidays only (not the holiday week or holiday weekend) a flat rate of \$20/per occupied parking space and an hourly rate option (as compared to the City’s \$25 holiday flat fee and no hourly parking option).

To encourage increased visitation, the condition requires City to provide hourly rates to provide maximum flexibility for users, provide a lower rate for shorter visits, and potentially create more turnover and use. This provision is consistent with Section 30213 of the Coastal Act which states that “Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...”

Furthermore, **Special Conditions #2 and #3** requires the City apply for a Coastal Development Permit for future parking rate changes/increases which meet the criteria set forth in the October 1993 Memo titled “Coastal Development Permit Required When Imposing or Increasing Fees or Modifying the Hours of Operation of Public Beaches or Public Beach Parking Lots, Piers or Boat Launching Ramps” by the Commission’s Executive Director to Planning Directors of Coastal Cities and Counties (Exhibit #5). Based on the guidance provided to local governments in that 1993 Memo, an increase of 25% or more in any given year or 50% or more on a cumulative basis over any three consecutive year period would require a coastal development permit. Only as conditioned, the Commission finds that the development conforms to public access and recreation policies of the Coastal Act, cited above.

C. SCENIC AND VISUAL RESOURCES

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of 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.

The subject site is a paved surface parking lot located on the beach at 711 West Ocean Front in the City of Newport Beach. The proposed development consists of the installation of twelve electronic automated payment machines (APMs) with dimensions of 5'.6" tall, 11" wide, and 16" deep at six locations and associated signage (18"x12") on twelve new 12' tall metal posts adjacent to each new pay station to be located within the paved parking lot or along a concrete walkway between the Corona del Mar State Beach Parking Lot and the beach and additional 18"x12" informational signs on additional 10' tall metal posts on sidewalks and in landscaped planters or on existing light standards within the surface parking lot. Exhibit #4 provides photographic examples of the visual impact caused by the proposed parking pay stations. The proposed APMs and new signs are well below the City's height limits for structures in the area and will have no adverse impact on public coastal views. As proposed, the Commission finds that the development conforms to the scenic and visual protection policies of the Coastal Act.

D. WATER QUALITY

Section 30230 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 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 proposed project will be sited within an existing paved parking lot. However installation of the APMs will generate debris that, if not properly disposed of, could adversely impact water

quality by contaminating surface runoff. Therefore, to ensure that all construction debris is adequately disposed of a special condition is necessary requiring the removal and proper disposal of all construction debris. **Special Condition #4** requires the applicant comply with construction-related best management practices to ensure the protection of coastal waters. The Commission, therefore, finds that the proposed development is consistent with Section 30231 of the Coastal Act.

E. LOCAL COASTAL PROGRAM

Coastal Act section 30604(a) states that, prior to certification of a local coastal program (“LCP”), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The Land Use Plan (LUP) for the City of Newport Beach was effectively certified on May 19, 1982. The certified LUP was updated on October 2005 and in October 2009. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified LUP for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 Title 14 of the California Code of Regulations requires Commission approval of a coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(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 City of Newport Beach is the lead agency responsible for CEQA review. As determined by the City, the project is Categorically Exempt, Class 11, Section 15312 was prepared in compliance with Article 6 of CEQA.

The project is located in an urbanized inland area; development exists adjacent to the site. Coastal access is available at the site. The proposed development has been conditioned to assure the proposed project is consistent with the public access policies of the Coastal Act. The conditions also serve to mitigate significant adverse impacts under CEQA. The conditions are: 1) a revised City Resolution regarding parking rates and submittal of a Parking Management Program; 2) agreement regarding future fee changes; 3) future improvements; 4) compliance with construction responsibilities and debris removal measures; and 5) submittal of a final parking sign plan. There are no other feasible alternatives or mitigation measures available which will lessen any significant adverse impact the activity would 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 can be found consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A

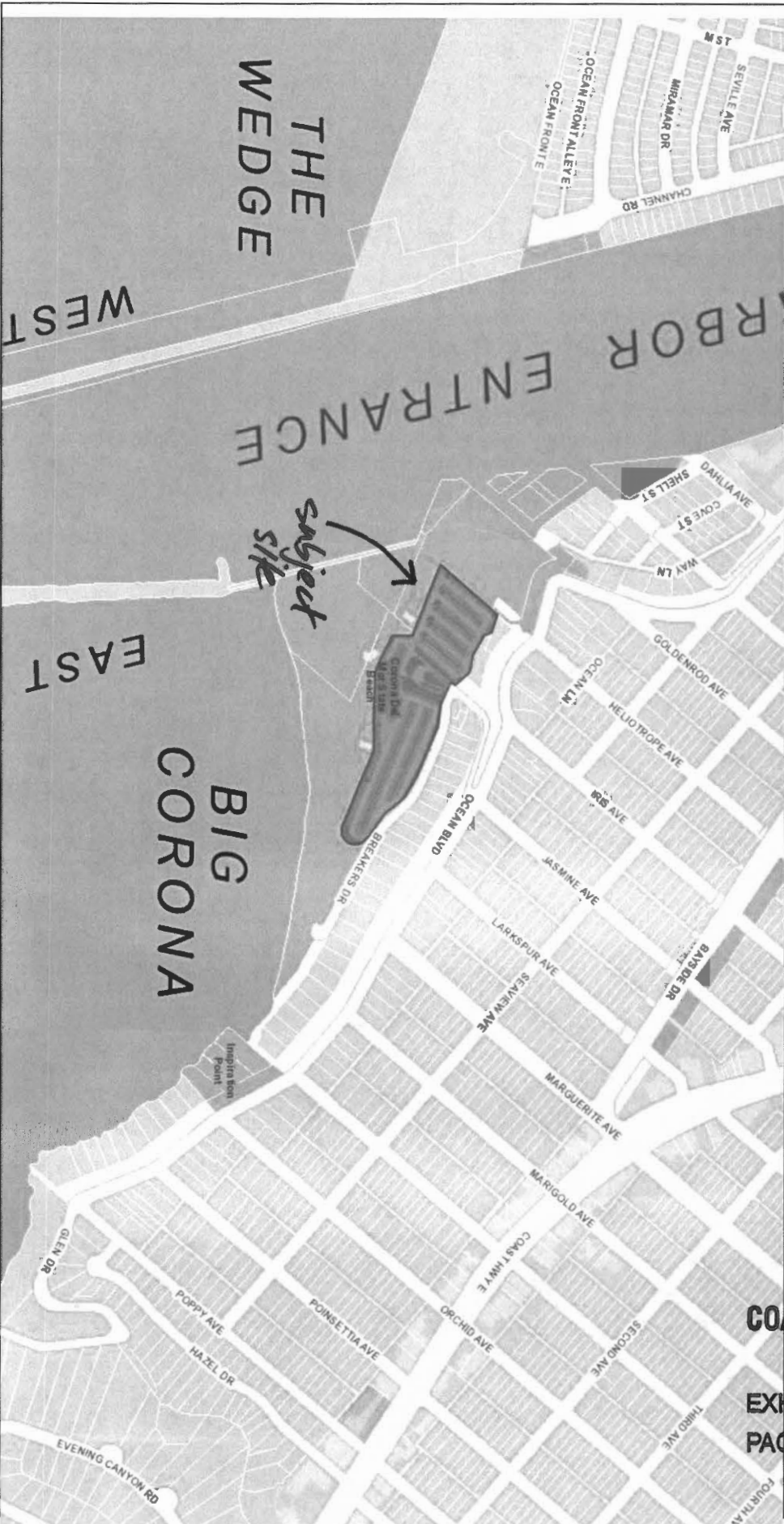
SUBSTANTIVE FILE DOCUMENTS

- 1) City of Newport Beach certified Coastal LUP
 - 2) CDP 5-12-152, 5-12-153, 5-12-154(California Dept. Parks and Recreation); CDP 5-13-0349, 5-13-0350, 5-13-0351(California Dept. Parks and Recreation); CDP 5-01-470(Los Angeles County Department of Beaches and Harbors); and CDP 4-01-227(Los Angeles County Department of Beaches and Harbors)
-

Corona del Mar Lot

5-13-507

Vicinity Map



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EXHIBIT # 1
PAGE 1 OF 1

Corona del Mar Lot

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South Coast Region

South Coast Region

JUL 15 2013

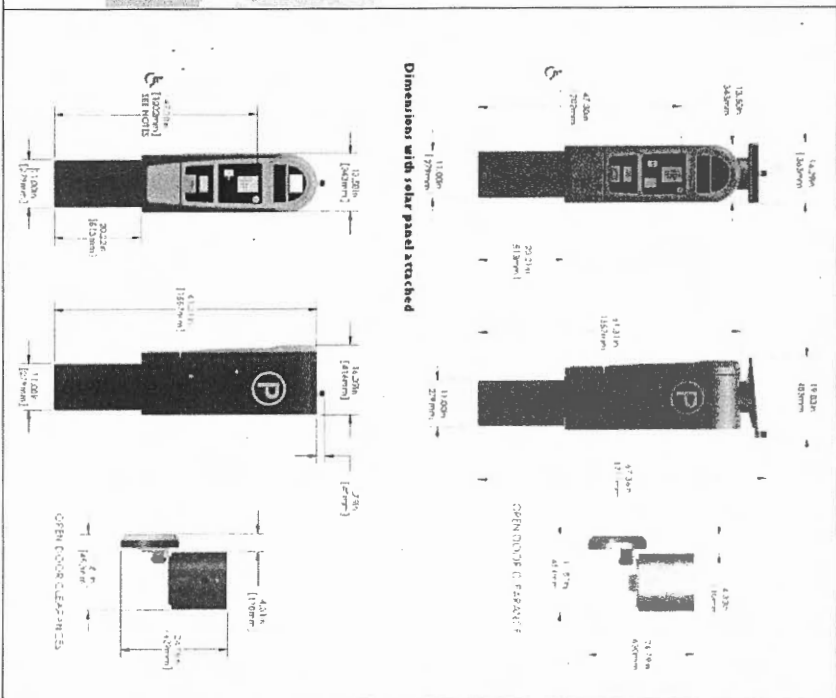
CALIFORNIA
COASTAL COMMISSION

Project Plans

**THESE PLANS HAVE NOT BEEN
REVIEWED FOR COMPLIANCE
WITH THE BUILDING CODES
OR PUBLIC WORKS DEPARTMENT**

OUR OWN

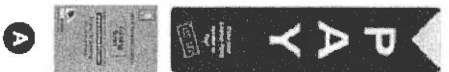
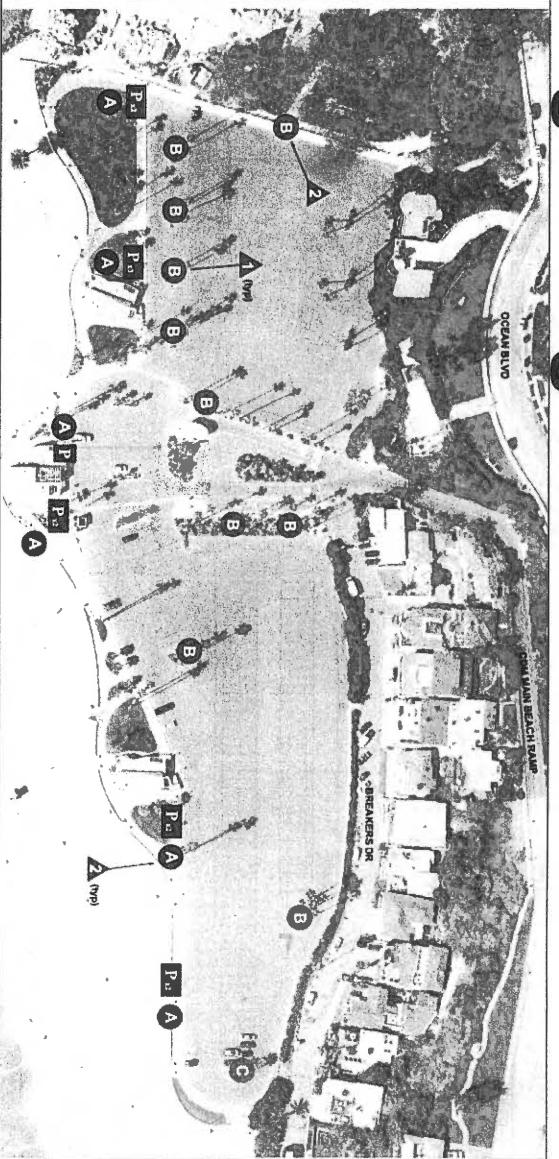
APPLICANT'S ACKNOWLEDGEMENT
SIGNATURE



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EXHIBIT # 2
PAGE 1 OF 1

Sign Program



48" x 12"
18" x 12"



18" x 12"
18" x 12"



18" x 12"

"A" pay station marker signs to be installed adjacent to pay stations on a 12-foot "Unistrut" post.

"B" and "C" reminder signs to be placed on 10-foot "Unistrut" posts on sidewalks and in landscaped planters or on existing light standards.



48" x 12"
18" x 12"
11.6'

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EXHIBIT # 3
PAGE 1 OF 2



48" x 12"



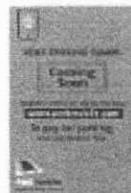
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18" x 12"



18" x 12"



18" x 12"

A

B

C



48" x 12"



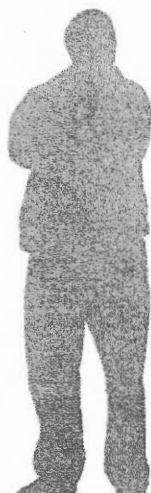
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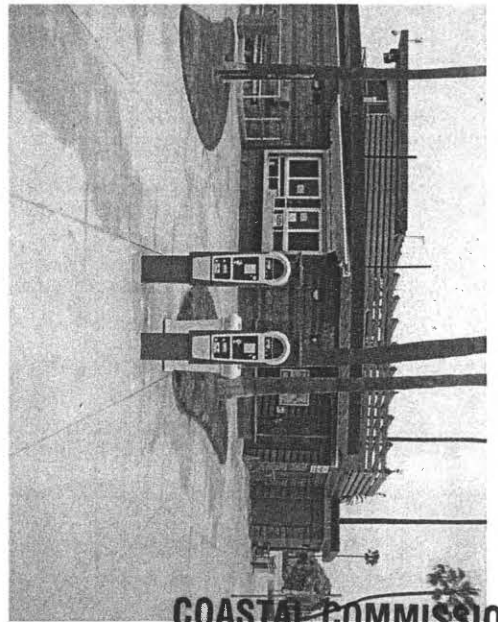
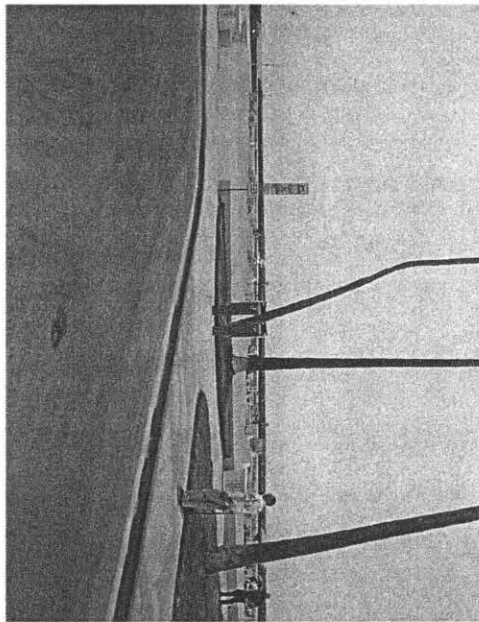
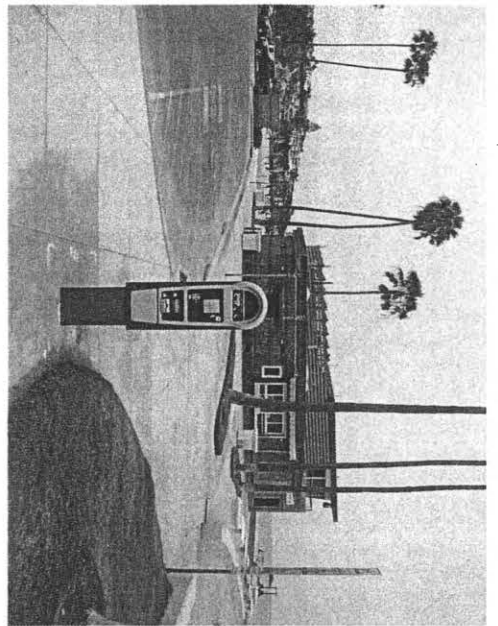
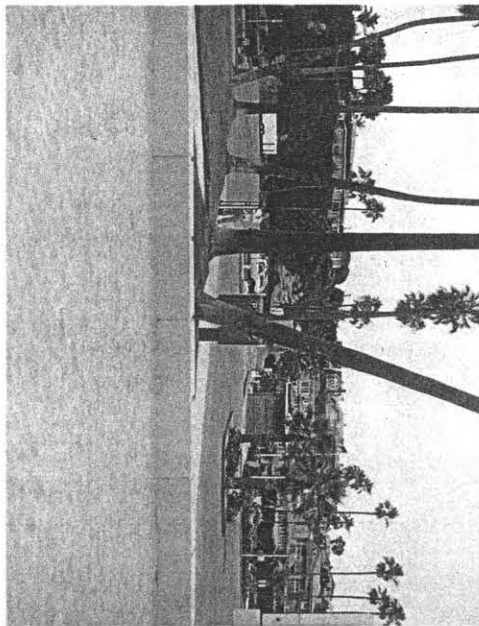
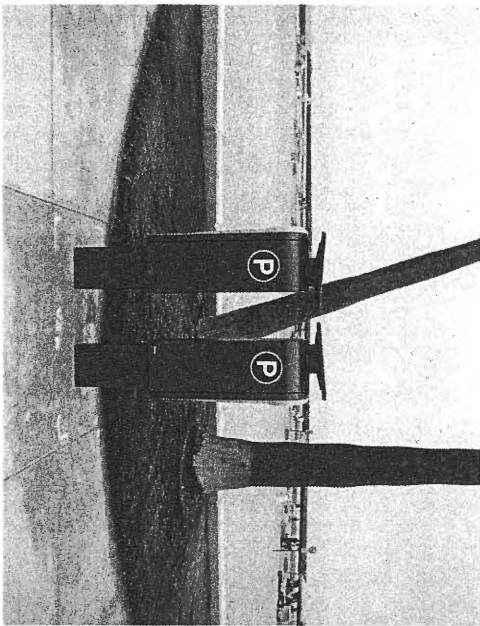
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EXHIBIT # 3

PAGE 2 OF 2





COASTAL COMMISSION

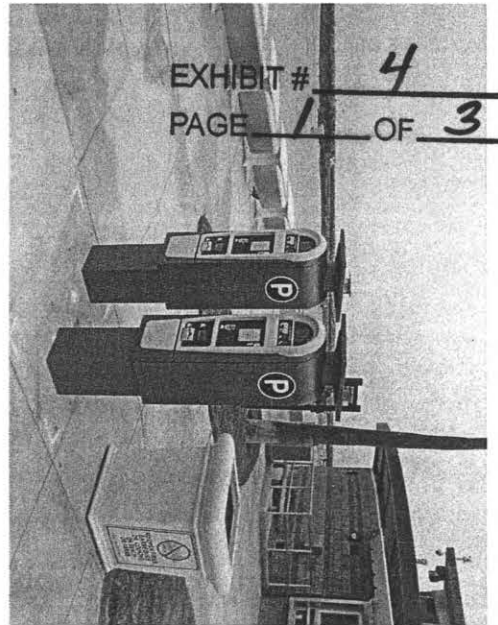
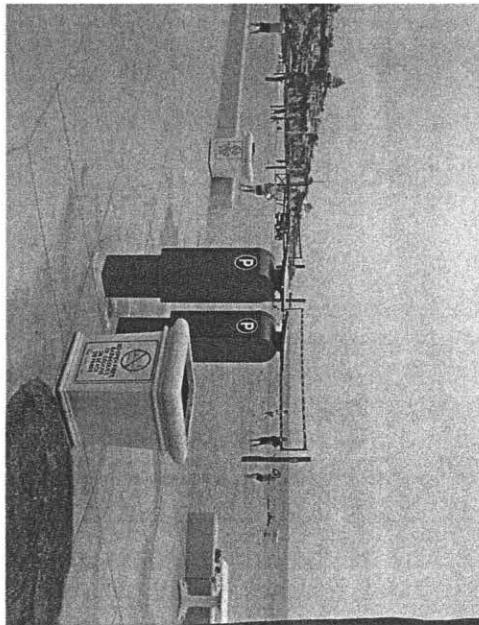
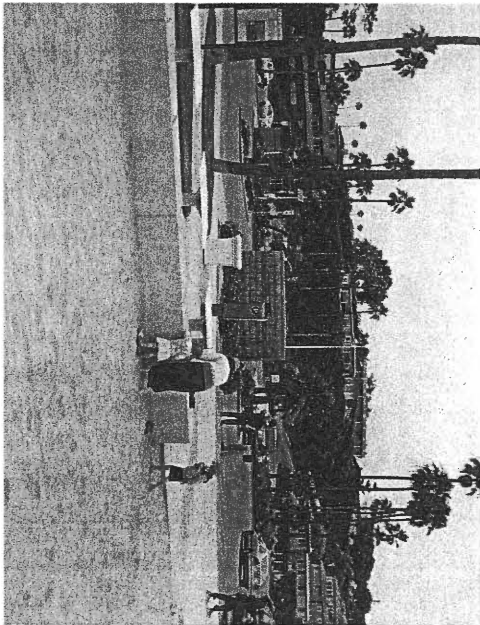
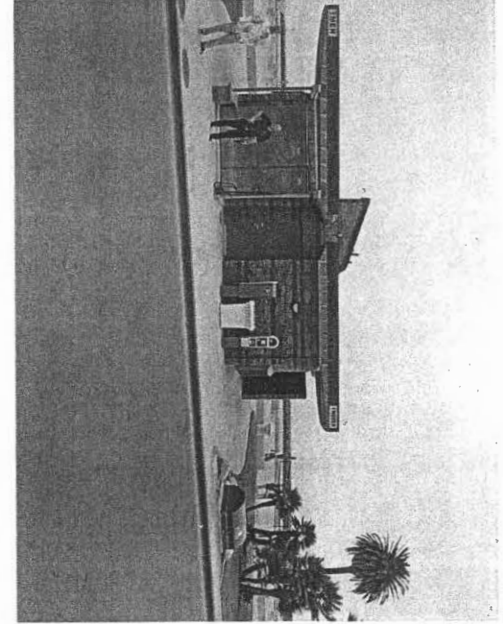
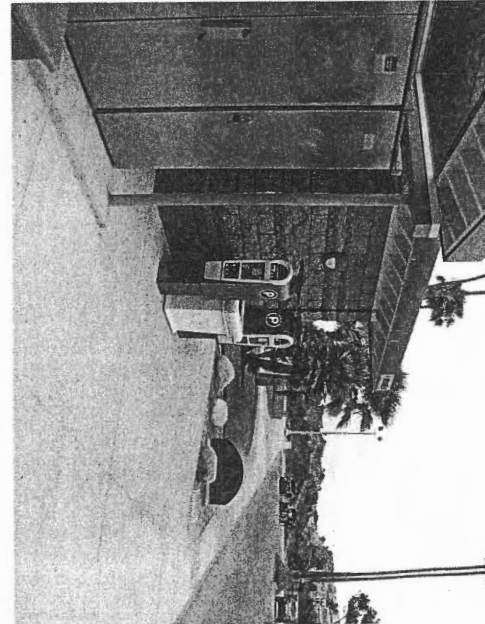
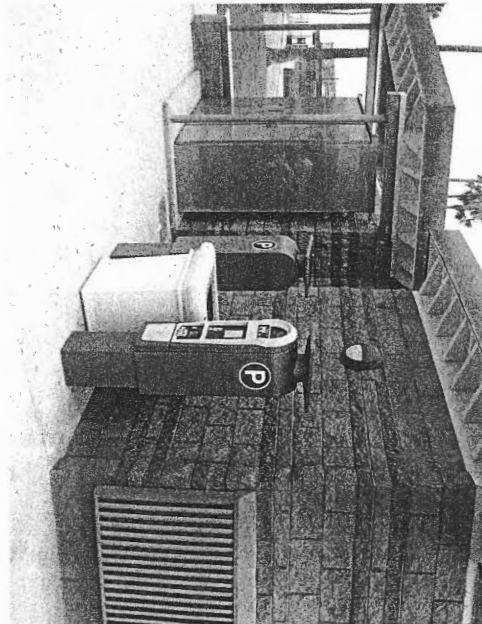
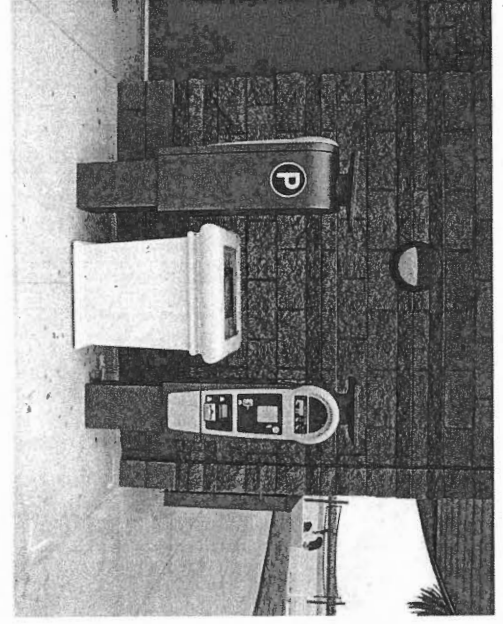
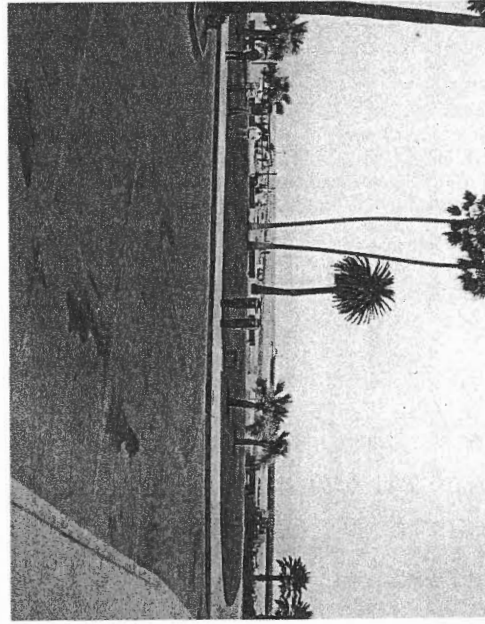
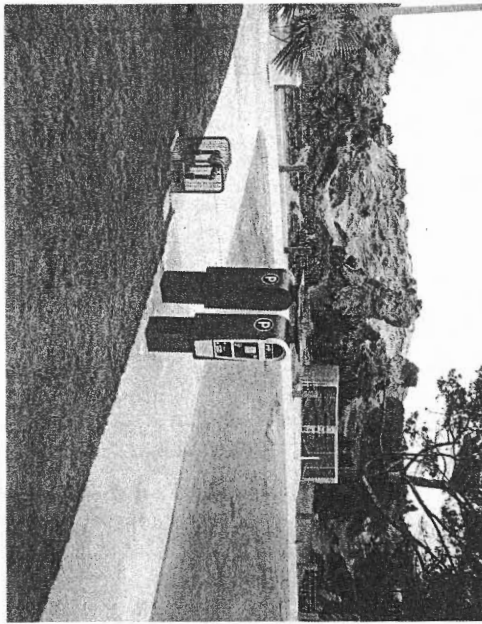
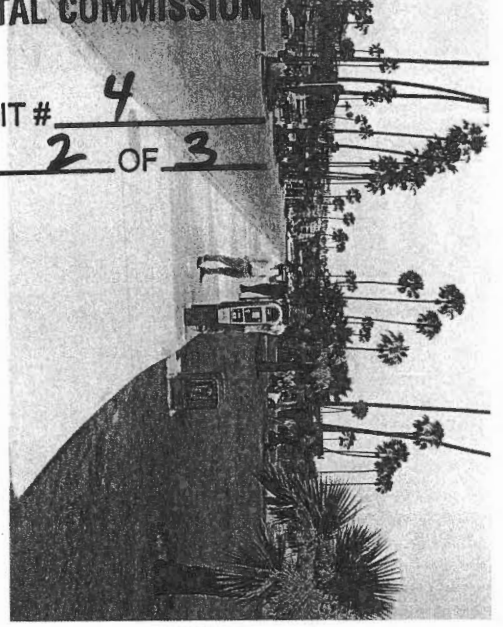
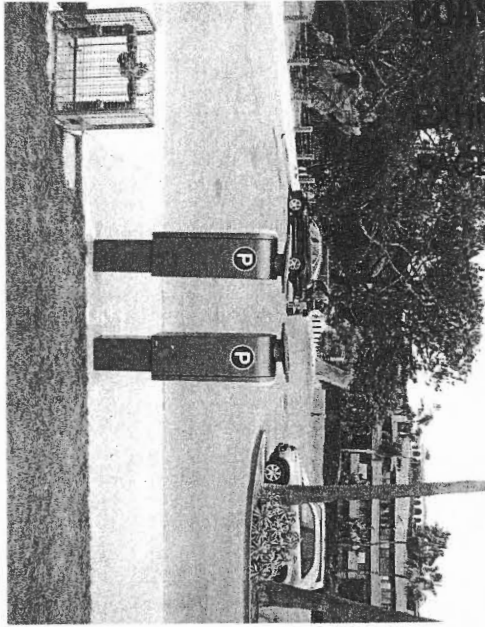
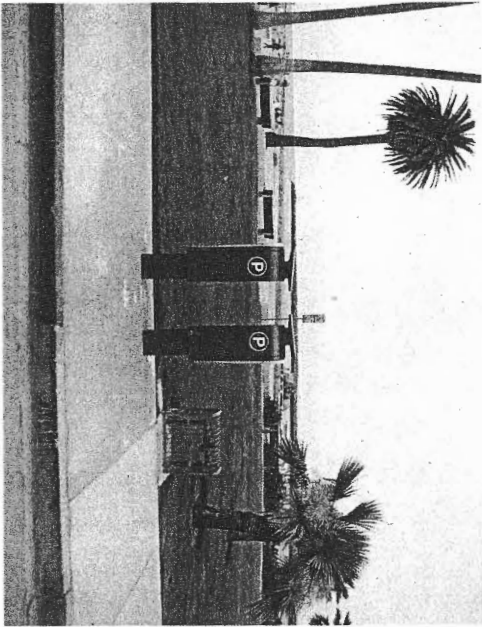
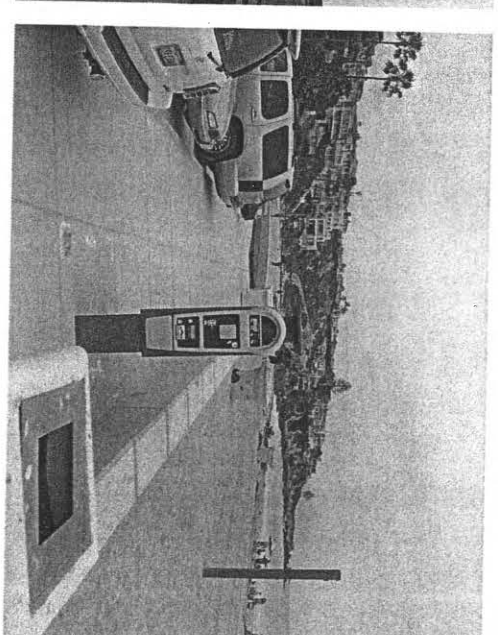
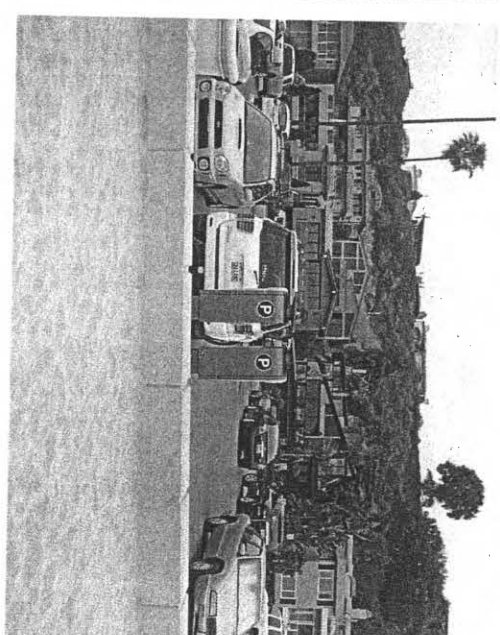
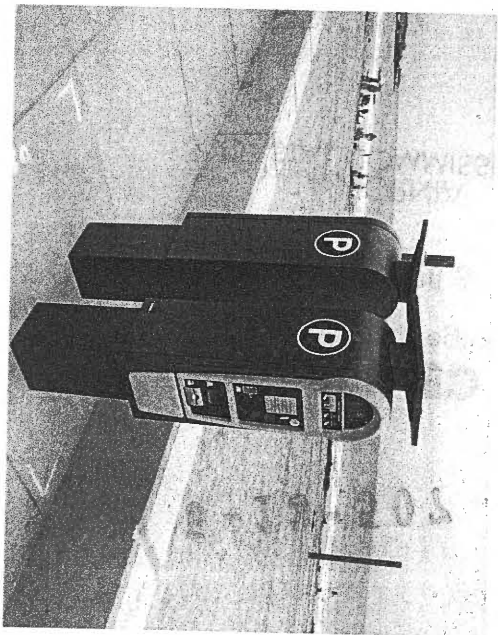
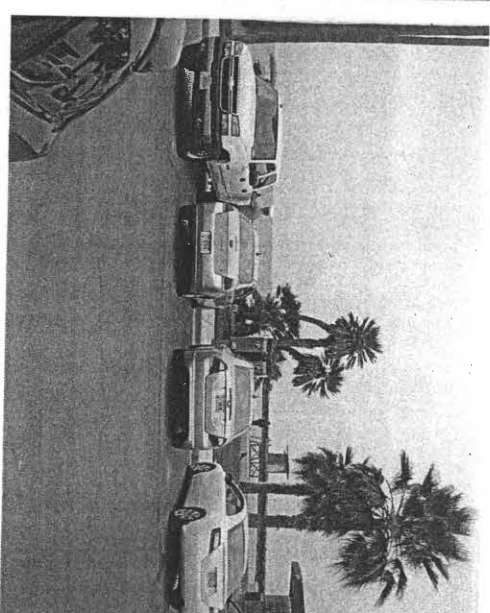
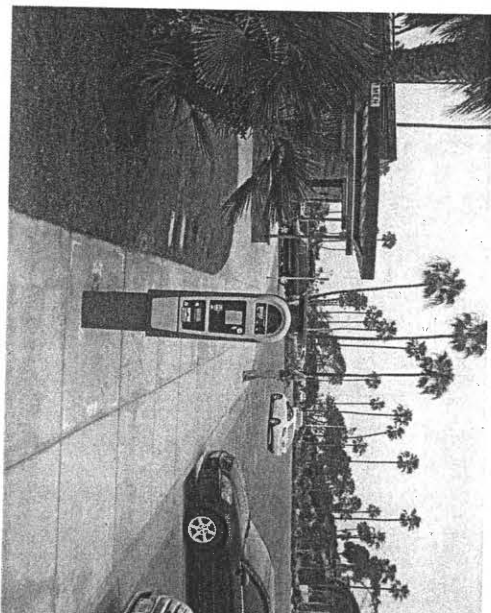
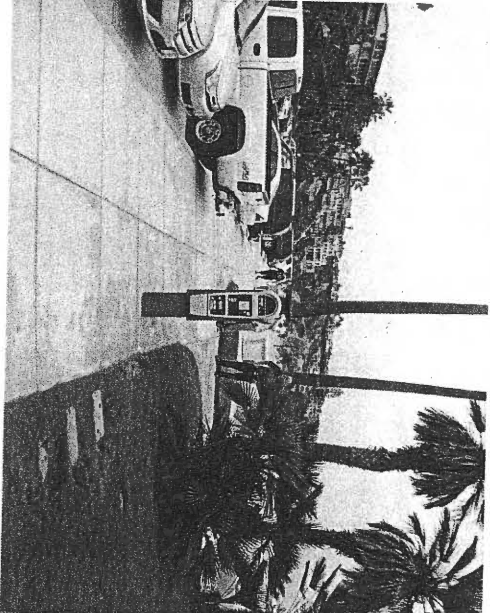
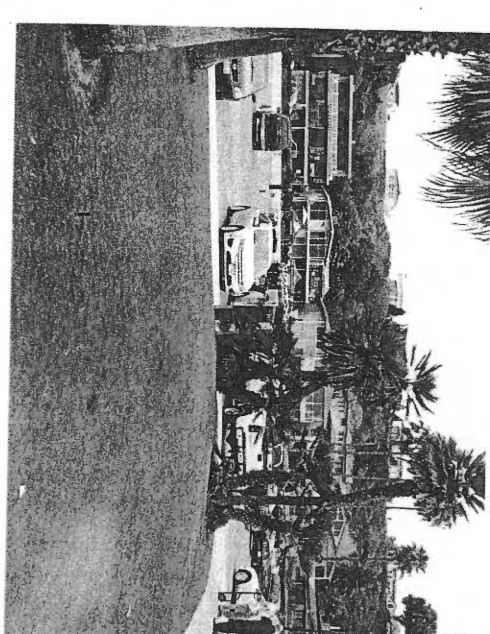
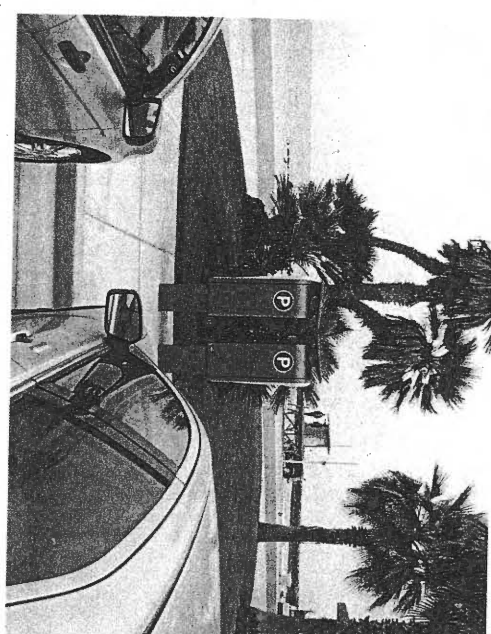
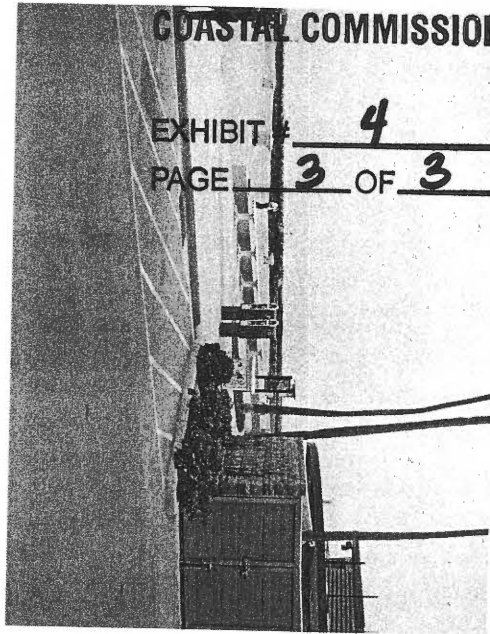


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45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
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EXHIBIT # 5

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October 29, 1993

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CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

TO: Planning Directors of Coastal Cities and Counties, and Other Interested Persons

FROM: Peter Douglas, Executive Director *Peter Douglas*

SUBJECT: COASTAL DEVELOPMENT PERMIT REQUIRED WHEN IMPOSING OR INCREASING FEES OR MODIFYING THE HOURS OF OPERATION OF PUBLIC BEACHES OR PUBLIC BEACH PARKING LOTS, PIERS OR BOAT LAUNCHING RAMPS

The Coastal Commission has received numerous inquiries as to whether the imposition or increase of fees or making a change in operating hours of public beaches, shoreline parks or public beach parking lots, piers or boat launching ramps requires a coastal development permit. It appears these inquiries result from increasing pressures on local governments to charge fees and/or change the hours of operation of such facilities based on budgetary and public safety concerns. In addition to these inquiries, the Commission has taken action on several specific coastal development permit applications for such activities of which you should be aware. We think it appropriate to respond on a statewide basis and apologize for our delay.

The answer is yes, in most cases. For purposes of this communication, it is important to distinguish between the various types of facilities and actions being discussed. The descriptions below of the types of facilities referred to in this memorandum are not intended to constitute any sort of legal definition but rather provide the context for the discussion that follows. Public beaches refers to all sandy beach areas under public ownership or control, whether or not subject to the public trust. Shoreline parks are public recreation areas that may or may not include sandy beach located immediately adjacent to or in close proximity to state waters and which can be used by the public to gain access to such waters. Public parking facilities include any parking areas or portions of such areas (eg. parking lots, on-street or curbside parking spaces, parking structures) open to the public that are used by the public to gain access to public beaches or state waters. Public piers and public boat launching ramps are self-explanatory.

Pursuant to the California Coastal Act a coastal development permit is required for any "development", unless specifically exempted under a variety of provisions or procedures set forth in the Coastal Act or pursuant to other provisions of law (eg. the doctrine of vested rights). The Coastal Act defines "development" as including, among other things, a "...change in the intensity of use of water, or of access thereto...." (Public Resources Code Section 30106.) After a local coastal program (lcp) has been fully certified

for a city or county, the coastal development permit issuing responsibilities of the Commission are delegated to that local government. Coastal permitting responsibilities stay with the Commission for any development on any land or water areas subject to the public trust. In addition, certain coastal permit actions by local government are appealable to the Commission, including those for the types of facilities and actions that are the subject of this memo. Local coastal programs (lcps) have incorporated the Coastal Act definition of "development" requiring a coastal development permit from the local government implementing a fully certified lcp.

It is the Commission's position that any action which has the effect of changing the intensity of use of state waters or of access to such waters is a "development" for purposes of the Coastal Act and requires a coastal development permit from the Commission or, in appropriate circumstances, from a local government implementing a fully certified lcp or the Commission on appeal. Because the imposition or substantial increase of a user fee for beach access parking, pier or boat launching ramp use, or for beach or shoreline park use would, in our opinion, result in a change in access to state waters, a coastal development permit is required. For purposes of this memo and for purposes of guidance, "substantial increase" means any fee increase of 25% or more in any given year or 50% or more on a cumulative basis over any three consecutive year period. Similarly, any action changing the hours of operation or availability for public use of, for example, any beach, shoreline park, parking facility, pier or boat launching ramp or facility requires a coastal development permit. A coastal development permit is required even if little or no physical construction is necessary to implement the action calling for a fee, a fee increase or a change in hours of operation.

As mentioned before, whether the coastal development permit must be obtained from the Commission or the appropriate local government depends on whether the local government has in place a fully certified lcp and has been delegated the coastal development permit issuing authority pursuant to the Coastal Act. In some cases, even where a fully certified lcp is in place, the Commission may have retained coastal development permitting authority because the affected lands are subject to the public trust or otherwise fall into a category of retained permit jurisdiction. If there is a question about whether the Commission or the local government is responsible for processing and acting on a coastal development permit, please contact the appropriate Coastal Commission office. Even where a local government has coastal development permit issuing responsibility, it is important to know that the action is probably appealable to the Coastal Commission and, because the issue involves public access and is of vital concern to the Commission, may well be appealed.

The fact a coastal development permit is required for the type of actions described above does not mean a permit application will necessarily be denied. Rather, each case must be evaluated in light of the particular applicable facts and circumstances. The Coastal Commission has already reviewed and acted on several proposals to change the hours of operation of public beaches, parking facilities, accessways, boat launching ramps, and a pier. These proposals involved the cities of San Diego, Carlsbad and Long

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COASTAL COMMISSION

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Beach. It is our intent to prepare a memo on this subject that will provide guidance to local government, other public agencies and members of the public relative to the type of factors the Commission has considered and examples of concerns that should be taken into account when these types of proposals are being formulated. The Commission is extremely sensitive to the budgetary and public safety concerns of local governments. At the same time, the Commission must carefully balance those concerns against broader public interests relative to public use of and access to public coastal resources such as beaches and state waters. It is for this reason, among others, that the Commission has not approved any request to close public beaches to the public on a continuing basis. On the other hand, the Commission has approved the closure of public beach parking lots at certain hours during the night. Finally, it should be remembered that because these types of actions requiring coastal development permits involve questions of public access, the legal standard of review is the Chapter 3 policies of the Coastal Act relating to public access.

Relative to public safety concerns, we want to emphasize that nothing in what we have said here interferes with or prevents a law enforcement agency from taking any and all actions it deems appropriate to address a particular public safety emergency, including any action to close to all public use a beach, parking facility or park. Similarly and pursuant to the Coastal Act, if a local government takes an action to close a public facility pursuant to a legally approved declaration of "public nuisance", no coastal development permit is required. We should caution however, Commission staff will look carefully at any action using the "public nuisance" exception to the coastal development permit requirement when the result of such action is to close to public use for any extended period of time a public beach, parking facility or any other facility providing public access to the beach or state waters.

Because there has been some ambiguity and uncertainty about the coastal permit requirements for the types of actions covered by this memo, it is not our intent to pursue any coastal act violation actions at this time. However, we ask every entity that has taken any action described here as requiring a coastal development permit and for which such a permit has not been approved to contact our office to determine the appropriate steps to complete and process a coastal permit application. We realize that in some cases the action requiring a coastal permit may have been taken some time ago. Notwithstanding the passage of time, a coastal permit will still be required and must be secured. We also understand there have been many instances where local jurisdictions have increased parking fees. We recognize that not every increase in parking fees requires a coastal permit. Accordingly, please contact our office for clarification on how we intend to proceed in these cases.

We would appreciate your passing this memo on to anyone you think may have an interest in the matter. We are particularly anxious that this memo get to the responsible people in your jurisdiction who manage your parking and recreation programs. Thank you for your cooperation and attention to this matter.

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