

CALIFORNIA COASTAL COMMISSION

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Filed: 2/8/96
 49th Day: 3/28/96
 180th Day: 8/6/96
 Staff: LJM-SD
 Staff Report: 3/20/96
 Hearing Date: 4/9-12/96

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REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-96-8

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

Description: Allow non-exclusive use of up to 80 parking spaces within public beach parking lot by adjacent restaurants from 6:00 p.m. to 11:00 p.m. nightly.

Site: Cardiff State Beach Parking Lot located on the west side of Highway 101, just south of San Elijo Avenue, Cardiff, Encinitas, San Diego County. APN 261-190-10

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed development subject to several special conditions. The primary concern is that approval as proposed will create inappropriate competition for parking between beach goers and restaurant valet parking in a public beach parking lot. The conditions allow use by the valet service of the proposed 80 parking spaces after sunset (when the parking lot is closed to the public), but, because of potential public access impacts, limits the number of parking spaces to be utilized by the valet service to a maximum of 40 spaces from 6:00 p.m. to sunset (when the parking lot is still open to the public). In addition, the conditions limit the duration of the development to one year. A special condition also requires the applicant to undertake a monitoring program for the parking lot during the upcoming summer months to determine what, if any, effect use of the beach parking lot by the restaurants will have on existing beach access opportunities during the time when potential conflicts may occur between beach users and restaurant users, i.e., during the summer months from 6:00 p.m. to sunset or closure of the lot to the public. The results of the monitoring program can then be used by the Commission in any subsequent permit requests to determine if use of the parking lot by the adjacent restaurants should be continued and/or expanded. With these conditions, the Commission can be assured that the development will not adversely impact continued use by the public of the beach parking lot, nor limit the ability of the public to access the water in this location.

Substantive File Documents: Certified City of Encinitas Local Coastal Program (LCP); CDP Nos. 6-84-563/California Department of Parks and Recreation, 6-93-68/California Department of Parks and Recreation and 6-83--21/Plastino.

PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Permitted Development. This permit is for non-exclusive use of up to 40 parking spaces within the Cardiff State Beach public parking lot by adjacent restaurant(s) from 6:00 p.m. to sunset nightly and use of up to 80 parking spaces from sunset to 11:00 p.m. nightly. Signage, cones or other demarcations denoting exclusive use of any portion of the parking lot are not permitted. Any other development at this parking lot, such as a change in hours of operation of the parking lot or increase in the number of valet parking spaces, shall require a coastal development permit, or an amendment to this permit in accordance with the Coastal Act and its implementing regulations.

2. Duration of Development. This permit authorizes the permitted development for a one-year period commencing from the expiration of the existing permit approval (June 10, 1996). The permitted non-exclusive valet use of 40 parking spaces (6:00 p.m. to sunset) and 80 parking spaces (sunset to 11:00 p.m.) must cease on June 10, 1997, unless the applicant has obtained an amendment to this permit or a separate coastal development permit.

3. Monitoring Program. Prior to the issuance of the coastal development permit, the applicant shall submit for review and written approval of the Executive Director, a comprehensive monitoring program outlining the methods

by which the proposed valet program will be implemented, enforced, and monitored. Said program shall document the number of empty spaces in the parking lot at 6:00 p.m., prior to any valet parking, and, the number of spaces used by valets and the number of empty spaces in the lot at sunset (per San Diego Union-Tribune) on two Saturdays and two Sundays each month, and on holidays. Said monitoring program shall take place between Memorial Day weekend and through Labor Day and shall be submitted to the Commission no later than three months after Labor Day and, prior to any permit request to continue the valet operation or increase the number of parking spaces above the herein approved 40 spaces. The applicant shall conduct monitoring consistent with the approved monitoring program.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Project Description/History. The subject development involves a proposal to allow non-exclusive use of up to 80 parking spaces within a public beach parking lot by adjacent restaurant(s). According to the applicant, the lot is currently open to the public from 7:00 a.m. to sunset daily. The applicant proposes to allow a valet service for the adjacent restaurant(s) to park cars in the parking lot on a first come first serve basis from 6:00 p.m. to sunset each night. Then, at sunset, when the beach parking lot is closed to the public, allow only valet parked cars for the adjacent restaurants to utilize the lot until 11:00 p.m.

The subject site is located at the Cardiff State Beach public parking lot located on the west side of Highway 101, just south of San Elijo Avenue in the City of Encinitas. Surrounding uses include three restaurants to the south of the subject site, several restaurants and commercial and office use to the east across Highway 101, the mouth of San Elijo Lagoon and San Elijo State Campground to the north and Cardiff State Beach and the Pacific Ocean to the west.

In January of 1985, the Commission approved a permit for the reconstruction/rehabilitation of the existing beach parking lot that included repaving and restriping the parking lot to accommodate 105 parking spaces, construction of a new comfort station, showers and a contact station (kiosk) for fee collection (ref. CDP #6-84-563/California Department of Parks and Recreation). This application was approved by the Commission with special conditions relating to timing of work and the standard waiver of liability.

Subsequently, in June of 1994, the Commission approved a request by State Parks to allow up to 40 parking spaces in the Cardiff State Beach Parking Lot to be used non-exclusively by a valet service to park cars for the adjacent restaurants from 6:00 p.m. to 11:00 p.m. nightly (ref. CDP #6-94-68). The proposal by State Parks approved under that permit also included a provision which would allow any non-valet parked cars in the lot at the sunset closing to remain in the lot until 11:00 p.m., at which time all use of the parking lot would cease. The permit was approved by the Commission with a condition which limited the duration of the development to two years. This limitation

was placed on the permit to ensure that the Commission would have the opportunity to review the project in the future, taking into consideration any significant change in circumstances and/or documented use patterns, to determine if the use of the public parking lot by the restaurants is still appropriate and consistent with the Coastal Act. In addition, the condition stated that if the applicant wished to continue to use the beach parking lot for restaurant parking beyond the approved two years, or at any time additional parking spaces were proposed, a new coastal development permit or amendment to CDP #6-94-68 was required.

The subject site is located on State Parks property and is not subject to local review by the City of Encinitas. In addition, even though the City of Encinitas has a certified LCP, the subject site is within the Commission's area of original jurisdiction. Therefore, the standard of review is Chapter 3 policies of the Coastal Act with the City's LCP used as guidance.

A coastal development permit is required because use of the public beach parking lot for valet parking for adjacent restaurants represents a change in the intensity of access to the ocean. As the approved two year permit will expire in June of 1996 the applicant now wishes to obtain a new permit to allow permanent use of the beach parking lot by the adjacent restaurants and increase the number of parking spaces which could be used by the valet service from 40 to 80.

2. Parking/Public Access. Section 30604 (c) of the Coastal Act states:

(c) Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

In addition, Section 30210 of the Coastal Act is applicable and states:

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

Additionally, Section 30212 of the Coastal Act is applicable and states, in part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or,...

The project site is the public beach parking lot for Cardiff State Beach located between the first public road and the sea, along Highway 101 in the Cardiff community of Encinitas. Highway 101 in this area is designated in the City of Encinitas certified Local Coastal Program (LCP) as a major coastal access route and scenic corridor. This portion of the coast highway is generally referred to as "Restaurant Row" and is characterized by restaurants, offices, and visitor-serving shops. Construction of and additions to the majority of the commercial uses in the area were approved by the Commission with on-site parking which, at the time, was considered to be adequate. However, as the popularity of this area has grown, the competing demand for beach and restaurant parking during peak beach use hours has become a critical issue. As such, the subject development is proposed as one potential means to help alleviate this problem. In addition, with the exception of a relatively small vacant dirt area located several lots south of the subject site, which is currently used as informal parking for beach and restaurant visitors, no remaining sites are available in this area to provide additional parking to serve the existing restaurant uses.

Cardiff State Beach, which provides the only formal day-use facilities for beach visitors between Sea Cliff County Park (approximately 1.5 miles to the north), and Fletcher Cove (about 1.5 miles to the south), serves as an important recreational resource of region-wide importance. In the certified City of Encinitas LCP, Cardiff State Beach in this location is designated as a "high intensity beach recreational use area". In addition, the LCP states that the City will work with State Parks to improve public access to this beach. Thus, as the popularity of San Diego's north coast as both a population center and as a visitor destination continues to increase, and, as more beach visitors choose north county beaches as destinations for recreational use, the conflicts between commercial and beach visitor use for parking will grow apace. As such, use of a public beach parking lot for "private" use will adversely affect the public's ability to access this public recreational beach.

Currently two State parking lots serve Cardiff State Beach; the north parking lot, which is the subject of this permit application, contains 105 parking spaces, and provides restrooms, showers, etc. The south parking lot, which is located approximately three-fourths of a mile south of the north lot and provides parking for 520 cars, currently does not have available any bathroom or other typical day-use facilities. Both parking lots are open until sunset each day. Currently, only the north lot charges a day use fee due to the lack of completed facilities at the South Cardiff State Beach Lot. In addition, across Highway 101 to the east of the North Cardiff State Beach Parking Lot there is an office building that was approved by the Commission in 1983 (ref. CDP #6-83-21/Plastino). As part of the approval of the building by the Commission, the 54 parking spaces that serve the office building were required to be made available to the public after business hours (5:00 p.m. to 3:00 a.m. Monday through Friday and 8:00 a.m. to 3:00 a.m. on Saturday, Sunday and holidays). This requirement was memorialized in a recorded deed restriction which also stated that none of the spaces could be leased to any other private use. Of these three lots which offer public parking, the north Cardiff State

Beach Parking Lot is the only lot which offers day-use facilities and also offers the most direct access to the beach. Most of the beach population is also currently directed to the North Cardiff Beach due to the lack of sand at South Cardiff.

During review of the previous permit by the Commission, several local residents who frequently used this parking lot raised concerns with the project, specifically pertaining to State Parks sunset closing of the parking lot. Letters submitted to the Commission indicated that although a sign posted at the entrance to the parking lot stated that it closed at sunset, this very seldom occurred. Instead, the parking lot was sometimes not closed until as late as 11:00 p.m. and, with approval of the permit, the valet service would be closing the lot exactly at sunset, thereby eliminating any "informal" use of the lot by the public after sunset. The applicant's response to this concern was that due to other duties and unforeseen circumstances, park rangers were not always able to be at and close the lot right at sunset. However, as posted, the lot was effectively closed at sunset. It was because of these concerns, that State Parks proposed in their previous permit request to allow any public cars in the lot at sunset to remain until 11:00 p.m.

The subject permit request is identical to that approved by the Commission in the previous permit, with two exceptions: the applicant now has requested non-exclusive use of an additional 40 parking spaces for a total of 80 spaces and, that any public cars that are parked in the lot at the sunset closing, will no longer be allowed to remain to 11:00 p.m., but will be required to leave the lot at sunset. Specifically, the subject proposal is to allow a valet service for the adjacent restaurants to utilize up to 80 parking spaces within the North Cardiff State Beach parking Lot beginning at 6:00 p.m. nightly. As proposed, the valet service for the adjacent restaurants would begin parking cars in the lot at 6:00 p.m., utilizing up to a maximum of 80 spaces, as spaces become available on a first come first serve basis. No particular spaces or area of the parking lot would be assigned for exclusive use and the public would continue to use the parking lot as it has already until its sunset closing. After sunset, the valet service would close the lot entrance and then only patrons of the restaurants (utilizing the valet service) would be permitted entrance to the lot and any non-valet parked cars that are in the parking lot when the entrance is closed, would have to leave.

When the Commission approved the original permit for use of 40 spaces in 1994, that permit was limited to a duration of two years. The reason for such a limitation by the Commission was that, although use of the 40 spaces was not a problem at that time, circumstances may change in the future that could result in the use of the 40 spaces by the restaurants becoming a problem. In other words, if, for instance, Cardiff State Beach was the recipient of a large quantity of sand, thereby making the beach more desirable to the public, use of the 40 spaces by the restaurants between 6:00 p.m. and sunset may result in the general public not being able to park in this lot and visit the beach. Another example may be the increase in population of the area that incrementally increases the demand for public beach parking in this area. Under the above scenarios, public access to the beach in this location would

be adversely impacted by the restaurants use of the 40 spaces and therefore, inconsistent with the Coastal Act. In this particular case, the applicant has submitted a statement that since the previous Commission action approving use of the parking lot by the restaurant valet service, there have not been any documented changed circumstances or other concerns (other than minor problems with the operation of the valet service in its use of the approved 40 parking spaces, in which the valet service was parking cars in the lot prior to 6:00 p.m.) that could affect the project's continued consistency with Coastal Act policies.

However, as noted above, the current proposal is to increase the number of parking spaces for use by the valet service from 40 parking spaces to 80. During the late fall, winter and early spring months, such a proposal does not raise a serious conflict because sunset occurs prior to or just after 6:00 p.m. Thus, the valet service would not begin parking cars in the lot until the lot entrance was already closed to the general public. However, during the summer months, sunset occurs much later (8:00 p.m. or later). As such, from 6:00 p.m. to sunset, beach users would be forced to compete with restaurant patrons for parking spaces within this lot. Thus, from 6:00 p.m. to sunset, the use of 80 parking spaces in the lot by the restaurants would impede public access to the beach.

When the Commission approved the previous permit for use of the lot by the valet service, it was for non-exclusive use of a maximum of 40 parking spaces from 6:00 p.m. to 11:00 p.m. for a specified two-year term. Given that the proposal by State Parks was to allow members of the public to remain in the lot after the lot entrance was closed (up to 11:00 p.m.), the Commission was able to find the proposal consistent with Coastal Act policies because the proposal mitigated the potential adverse effect of competition between the public and private use, by expanding the time period the lot would be available to the public. Also, only a small number of the total spaces in the lot (less than 40%) were going to be utilized by the valet service (on an available basis only) and as such, use of the parking lot by beach users would not be adversely affected.

However, given that the parking lot only holds 105 parking spaces, with the subject proposal to increase the number of spaces from 40 to 80, restaurant patrons would occupy almost two-thirds of the public beach parking lot during a time when the parking lot is still open and available to the general public (6:00 p.m. to sunset). This will eliminate 80 spaces that are currently available for access to the beach in this location (presumably to watch the sunset, jog, stroll, etc.). Also, the proposal would decrease the amount of time parking is currently available to the public, pursuant to the previous permit proposal. The elimination of 80 parking spaces that currently provide public access to the ocean and, reduction in the time that parking is available to the public, is inconsistent with Coastal Act Section 30210. As such, Special Conditions 1 and 2 have been proposed. Special Condition #1 limits the use of this lot by the valet service to a maximum of 40 parking spaces from 6:00 p.m. to sunset (when restaurant patrons and beach goers would be competing for parking). However, the condition would permit use of the proposed 80 parking spaces in the beach parking lot from sunset to 11:00 p.m.

(when the parking is already closed to the public). In addition, because circumstances could change in the future resulting in increased demand for use of this parking lot by the public to access the beach, Special Condition #2 limits the duration of the permit to a one year period from the expiration of the existing permit.

Because it now appears that the applicant wants to continue leasing spaces in this parking lot to the adjacent restaurants on a long-term basis, Special Condition #3 has been proposed. This condition requires the applicant to conduct a monitoring program for the lot during the summer to determine its use by the general public between 6:00 p.m. and sunset or closure of the lot to the public, and any impacts the valet parking may have on the public's ability to park in this beach parking lot during that time. The Commission will then use that information in review of any subsequent permit or permit amendment requests.

The Coastal Act requires that existing public access opportunities be protected and enhanced when possible. Given the proposed conditions, the subject proposal does not represent a decrease in the public's ability to use and gain access to the shoreline in this location. Therefore, the Commission finds the proposed development, as conditioned, consistent with the public access policies of the Coastal Act.

3. Local Coastal Planning. Section 30604 (a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

As stated, the subject site is located just south of the mouth of San Elijo Lagoon, west of Highway 101 in the Cardiff community of Encinitas. The proposed development, although within the boundaries of the City of Encinitas, is within the jurisdiction of the California Department of Parks and Recreation and does not require review or approval from the City. In addition, in November of 1994, the Commission approved, with suggested modifications, the City of Encinitas Local Coastal Program (LCP). Subsequently, on May 15, 1995, coastal development permit issuing authority was transferred to the City. Although the subject site is on State Parks property, it does fall within the Commission's area of original jurisdiction. As such, the standard of review is Chapter 3 policies of the Coastal Act, with the City's LCP used as guidance.

As noted earlier in this report, there is a documented deficiency in off-street parking to accommodate the existing businesses in the area surrounding the subject site, commonly referred to as "restaurant row". In addition, except for a one vacant parcel south of the subject site, there are no remaining sites in the area to provide additional restaurant parking. As such, conflicts between beach users and business patrons is a continuing problem. The proposed development may help to alleviate such conflicts. However, use of the valet service, as approved in this permit, should not be

considered as on-site parking for surrounding restaurants or be utilized to accommodate expansions of such uses.

As conditioned, the Commission finds the proposed development consistent with all applicable Chapter 3 policies of the Coastal Act. Therefore, the Commission finds the proposed development, as conditioned, will not adversely affect the City's continued implementation of its certified LCP.

4. California Environmental Quality Act (CEQA). Section 13096 of the California Code of Regulations requires Commission approval of a coastal development permit to be supported by a finding showing the permit to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) 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 impact which the activity may have on the environment.

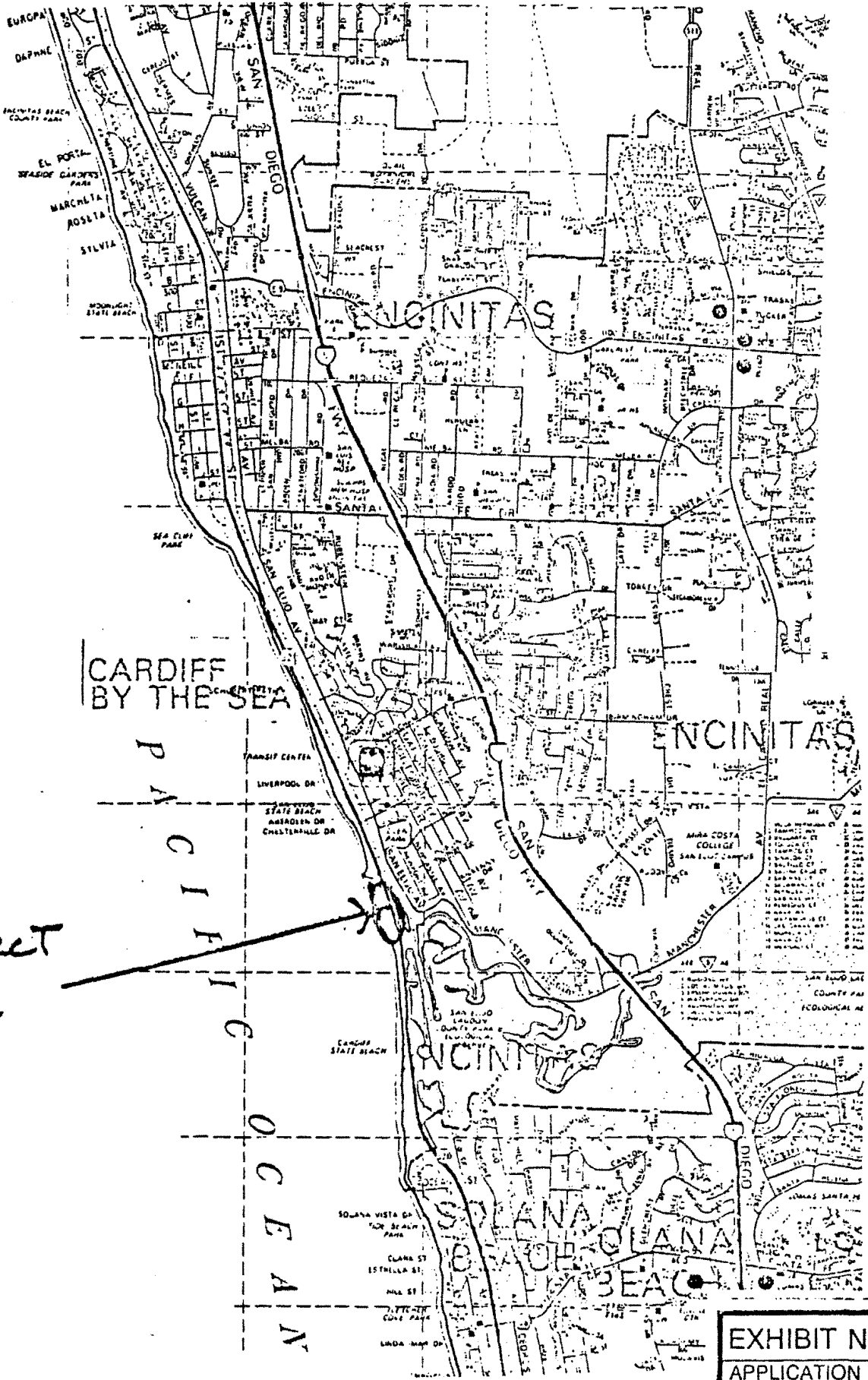
As discussed herein, the proposed project, as conditioned, will not cause significant adverse impacts to the environment. There are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the proposed activity may have on the environment. Therefore, the Commission finds the proposed project, as conditioned, is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgement. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

(6008R)



CARDIFF BY THE SEA

PACIFIC OCEAN

Subject Site

EXHIBIT NO. 1
APPLICATION NO. 6-90-8
LOCATION MAP
California Coastal Commission

FRONT OF
SAN ELIJO
LAGOON

Pacific Ocean

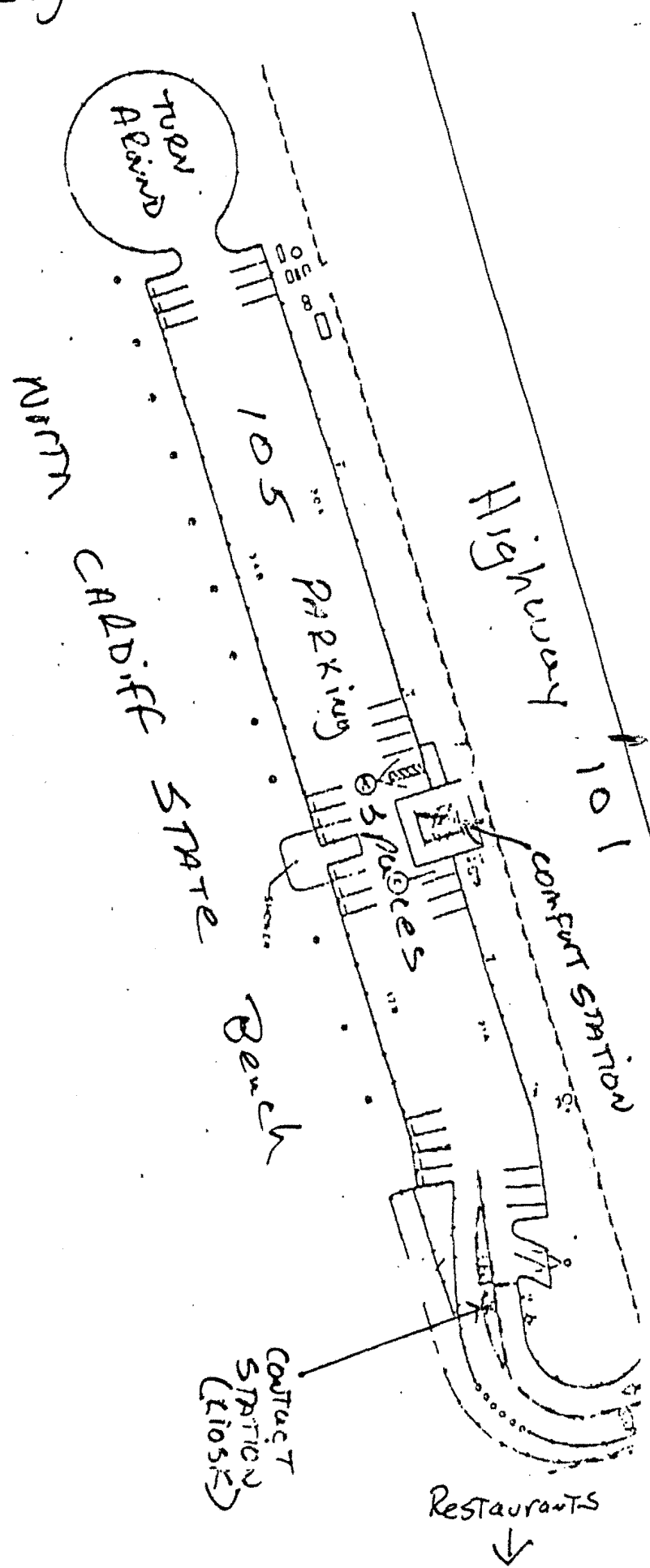


EXHIBIT NO. 2
APPLICATION NO. 6-96-8
SITE Plan
California Coastal Commission