

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142

F8a

Filed: 8-12-96
49th Day: 9-30-96
180th Day: 2-8-97
Staff: SPF-VNT ~~SEE~~
Staff Report: 8-22-96
Hearing Date: Sept. 10-13, 1996
Commission Action:



RECORD PACKET COPY

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 5-95-240A

APPLICANT: Los Angeles Co. Dept. of Beaches and Harbors AGENT: Dean Smith

PROJECT LOCATION: 30100 Pacific Coast Highway,
City of Malibu; Los Angeles County

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construction of a two foot high, approximately 7,000 foot long, retaining wall with a 3 foot high aluminum handrail and 16 access openings along the service road; construction of a storage building within the existing service yard, expansion and paving of the existing service yard, addition to an existing maintenance building, and reconstruction of the two existing concession buildings on Zuma County Beach in the City of Malibu.

DESCRIPTION OF AMENDMENT: Add an additional 30 openings in the railing for public pedestrian access and delete special condition 1 requiring revised plans with openings every one hundred feet.

LOCAL APPROVALS RECEIVED: Approval from L.A. Co. Beaches and Harbors

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit Applications 4-91-411 (L.A. Co. Dept. of Beaches and Harbors), 4-92-244 (L.A. Co. Dept. of Beaches and Harbors), 4-95-122 (L.A. Co. Dept. of Beaches and Harbors), and 4-95-240 (L.A. Co. Dept. of Beaches and Harbors).

PROCEDURAL NOTE: The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) the proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

SUMMARY OF STAFF RECOMMENDATION:

The applicant is proposing additional openings in the approved railing which provide for safe and adequate public access to Zuma Beach. This change in the project description allows for the deletion of special condition 1. The staff recommends that the Commission determine that the proposed development with the proposed amendment is consistent with the intent of special condition 1 of the permit and the requirements of the Coastal Act.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval

The Commission hereby grants an amendment to the proposed development 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 governments having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies 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.

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions 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 project during its development, subject to 24-hour advance notice.

(L.A. Co. Dept. of Beaches and Harbors)

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.

III. Special Conditions.

NOTE: Unless specifically altered by the amendment, all conditions attached to the previous permit remain in effect.

1. Deleted.
2. Deleted.

IV. Findings and Declarations.

The Commission hereby finds and declares as follows:

A. Project Description and Background

The applicant is requesting an amendment to the permit by revising the plan for the proposed two foot high retaining wall and three foot high railing along the access road fronting Zuma Beach. This wall, which is located between Pacific Coast Highway and the access road to Zuma Beach is now proposed to have a total of 46 pedestrian access openings; this is 30 more openings than originally proposed. As the applicant is now proposing additional openings which range in distance from each other from a minimum of 52 feet to a maximum distance of 208 feet, the applicant is requesting that special condition 1, which required the applicant to provide plans which showed openings in the railing every 100 feet, be deleted from the approved permit.

The 7,000 linear foot long wall was approved by the Commission at the June 1996 hearing. The wall parallels Pacific Coast Highway, and was installed by the applicant to retard erosion from a sloping area between Pacific Coast Highway and the parking lot, and thereby improve access to the parking areas. The applicant states that the railing was installed to prevent beachgoers from falling when they step over the concrete wall.

Also proposed and approved at the June hearing were improvements to Zuma County Beach, in the City of Malibu, including the construction of a storage building within the existing maintenance yard, expansion and paving of the existing maintenance yard, addition to an existing building within the maintenance yard, and reconstruction of two existing concession stands.

B. Public Access

Section 30210:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the

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

Section 30211:

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

Section 30213:

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

Section 30221:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30252:

The location and amount of new development should maintain and enhance public access to the coast ...

This amendment requests revisions to the approved retaining wall and railing plan which will allow for 30 additional openings in the railing. The original plans allowed for 16 openings in the railing. The Commission approved the project with a special condition which required the applicant to submit revised plans which showed openings in the railing at every 100 feet. The applicant did not provide any reason, prior to the hearing or at the hearing, as to whether or not openings every 100 feet was feasible. The applicant did state that a representative would be at the hearing to argue for openings at a greater distance. However, no speaker was present at the hearing.

Subsequent to the Commission's approval, the applicant informed staff that additional openings could be provided, but not every 100 feet. The applicant now proposes additional openings in compliance with the Commission's intent to provide the maximum amount of public access feasible. The new proposal, as stated above, allows for 30 additional openings. The greatest distance is 240 feet between openings, the closest openings are 52 feet apart. At the intersection of Merritt Drive and Pacific Coast Highway, there is one section where the opening is 400 feet apart. However, at this point there is no street parking and little pedestrian access to Zuma Beach, thereby reducing the need for additional openings in this portion of the railing. There are 12 openings with distances of 100 feet or less, and 12 openings with distances less than 150 feet apart. Only 14 openings are greater than 200 feet apart. The median distance between openings is 152; as originally proposed, the median distance between openings was 500 feet.

(L.A. Co. Dept. of Beaches and Harbors)

Section 30211 of the Coastal Act mandates that development not interfere with the public right of access to the beach. Section 30210 of the Coastal Act requires maximum access to be provided, and finally, Section 30252 of the Coastal Act states that development should maintain and enhance public access to the coast.

In approving the 7,000 foot long 2 foot high retaining wall with a 3 foot high railing along the access road in the parking lot, the Commission found that as originally proposed, the placement of this wall and railing impeded and interfered with access to the beach and did not provide for maximum public access. Previously, beachgoers could access the beach from any point along Pacific Coast Highway; as previously proposed access was only available at 16 widely spaced locations. Thus, access had been minimized and eliminated, contrary to the mandates of the Coastal Act. The Coastal Act mandates that access be maximized, maintained and enhanced and that development not interfere with access.

The revised plans do offer an adequate amount of unrestricted pedestrian access to Zuma Beach; however the plans call for openings at distances greater than 100 feet apart. The applicant states that providing openings every 100 feet is not reasonable or prudent based on the applicant's concerns for public safety (See Exhibit 3). However, the applicant did want to provide more openings which would be consistent with the Commission's intent to provide for maximum public access to the coast. The thirty additional openings in the railing are located in areas where there are existing trails, where the wall has already been cut, and where the openings are adjacent to restrooms. The openings are located in such a manner that for the most part, any parked car would be no more than 100 feet from an opening in the railing.

The additional openings proposed by the applicant is consistent with the Commission's intent when imposing special condition 1 of the original permit. The revised plans do allow for openings with reduced walking distances, and the additional openings do provide for adequate public access to the coast. As such, the Commission finds that the revised plans are sufficient in meeting the intent of the Commission when imposing special condition 1. As such, the Commission finds that special conditions 1 of the original permit shall be deleted. Special condition two required the revised plans required in special condition 1 to be submitted within a timely manner. As special condition 1 has been deleted, special condition 2 is no longer applicable to this permit and shall also be deleted. However, special condition three which requires that the additional openings in the railing be made within 45 days of the issuance of the permit, shall remain in effect. As the railing is already in place, until the openings are installed, the railing is not consistent with the Commission's intent or the approved project.

In conclusion, the Commission finds that special conditions 1 and 2 shall be deleted and special condition 3 shall remain in effect. The Commission finds that as revised the project is consistent with the public access policies of the Coastal Act.

C. Violation

This project includes the after-the-fact request for the construction of a two foot high retaining wall with a three foot high railing along the access road parallel to Pacific Coast Highway.

(L.A. Co. Dept. of Beaches and Harbors)

Although unpermitted development may have taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of the permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a Coastal permit.

D. Local Coastal Program

Section 30604(a):

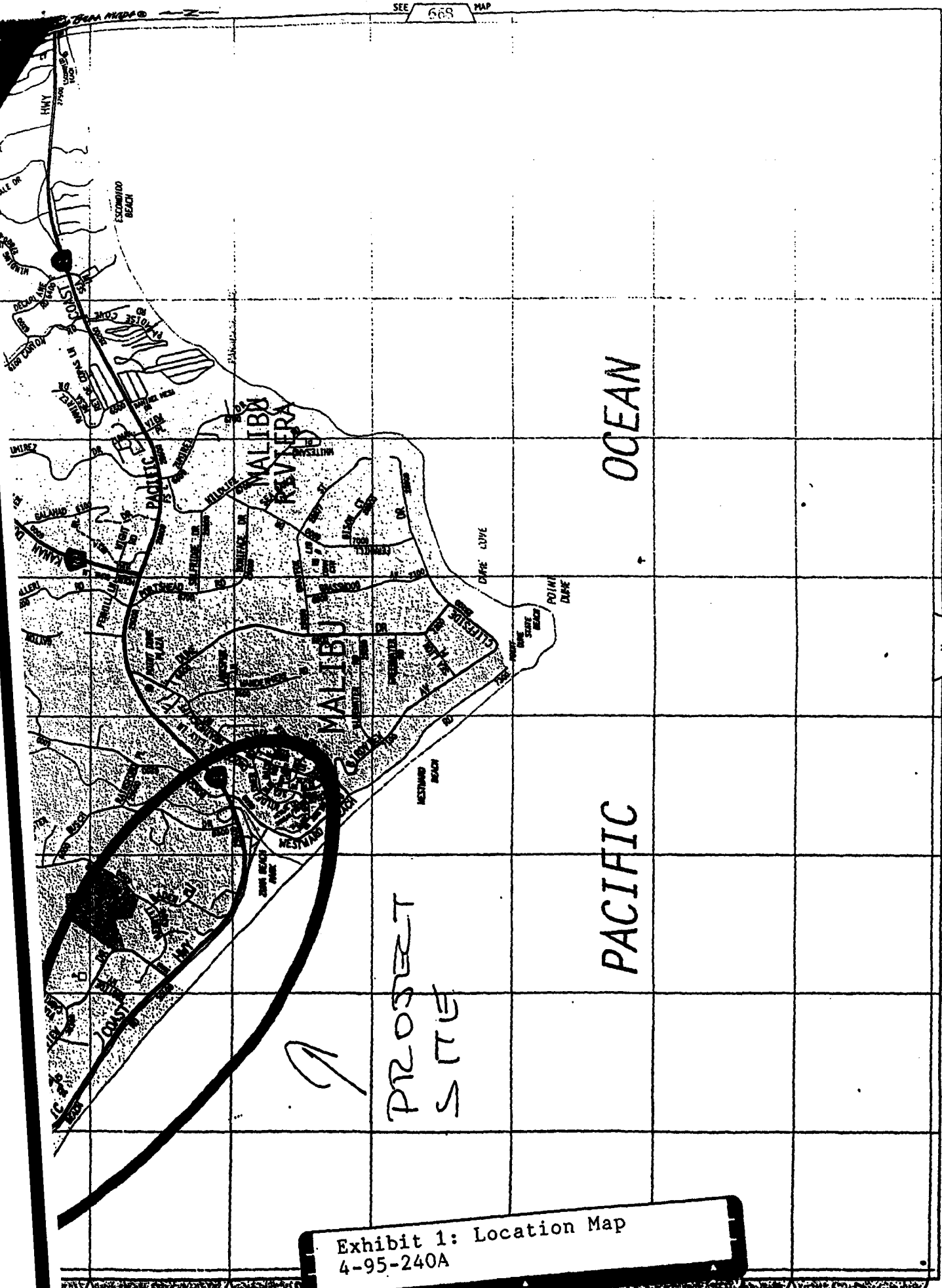
- (a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200 of the division and that the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

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed amendment to the approved project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As proposed, the amendment to the proposed development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the amendment to the proposed development will not prejudice the City's ability to prepare a Local Coastal Program for Malibu which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

E. CEQA

Section 13096 of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). 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.

The amendment to the proposed project is consistent with the applicable policies of the Coastal Act. There are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the proposed amendment is found consistent with CEQA and the policies of the Coastal Act.

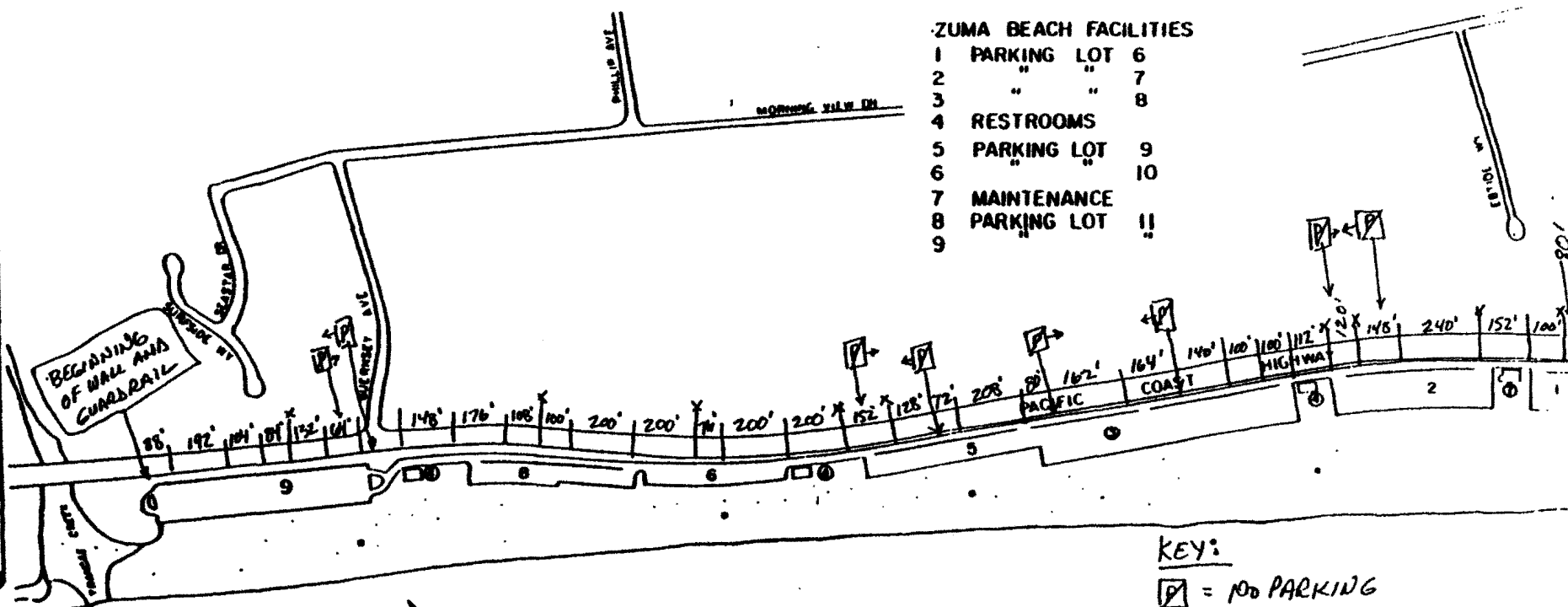


A
PROJECT
SITE

Exhibit 1: Location Map
4-95-240A

PLANS FOR APPLICATION FOR AMENDMENT PERMIT NO. 4-95-240

Exhibit 2: Revised Plans
4-95-240A



- ZUMA BEACH FACILITIES
- 1 PARKING LOT 6
 - 2 " " 7
 - 3 " " 8
 - 4 RESTROOMS
 - 5 PARKING LOT 9
 - 6 " " 10
 - 7 MAINTENANCE
 - 8 PARKING LOT 11
 - 9

KEY:

- P = NO PARKING
- X = EXISTING ACCESS
- | = PROPOSED CUTS IN GUARDRAIL FOR ACCESS

0 200 400 600 800 1000 1200
SCALE IN FEET

COUNTY OF LOS ANGELES
DEPARTMENT OF BEACHES AND HARBORS
PLANNING DIVISION
13837 FIJI WAY
MARINA DEL REY, CA 90292

APPROVAL IN CONCEPT

Planner: *[Signature]*

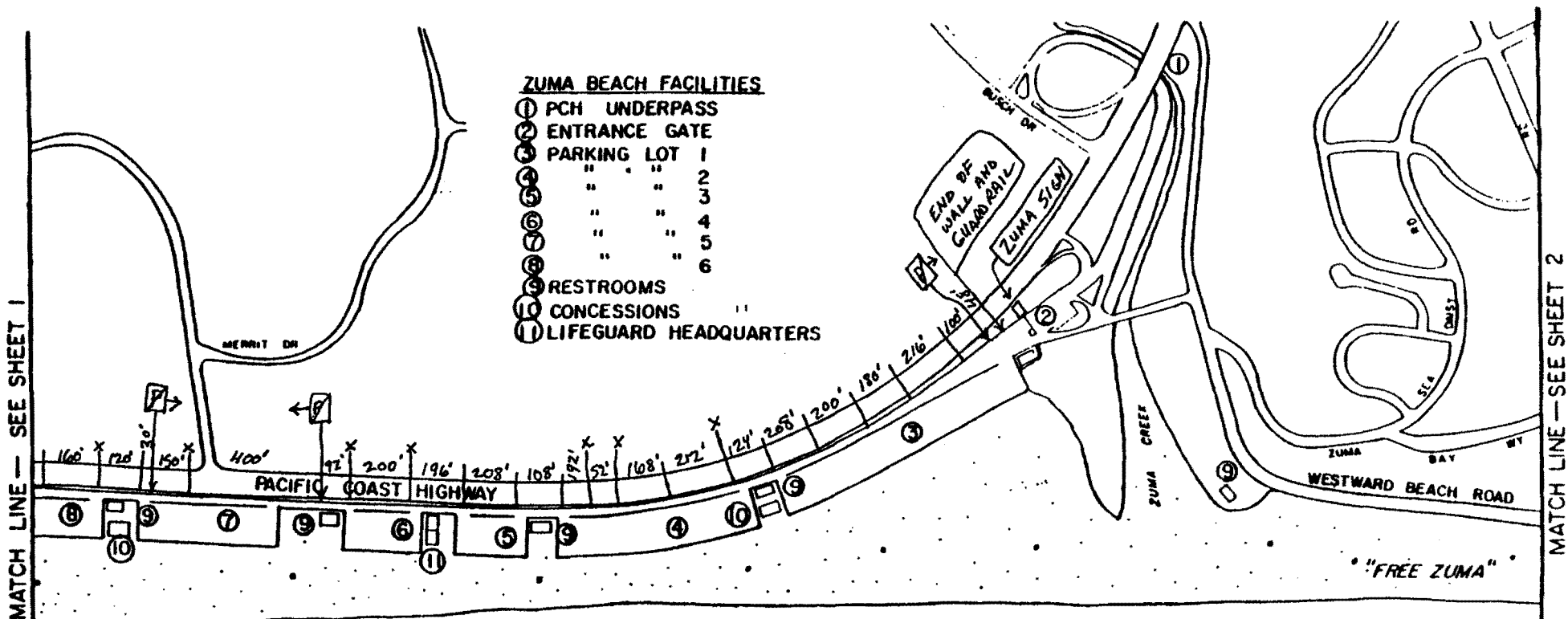
Date: *7-30-86*

ZUMA COUNTY BEACH
NORTHWESTERN SECTION

1/2/86	S DRIGGS	SHEET 1
LOS ANGELES COUNTY DEPARTMENT OF BEACHES AND HARBORS		OF 2

MATCH - N.E. - SEE SHEET 2

PLANS FOR APPLICATION FOR AMENDMENT PERMIT NO. 4-95-240



MATCH LINE - SEE SHEET 1

MATCH LINE - SEE SHEET 2

APPROVAL IN CONCEPT

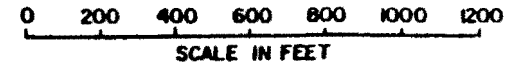
Planner

Date

COUNTY OF LOS ANGELES
 DEPARTMENT OF BEACHES AND HARBORS
 PLANNING DIVISION
 13837 FIJI WAY
 MARINA DEL REY, CA 90292

KEY:

- = NO PARKING
- X = EXISTING ACCESS
- | = PROPOSED CUTS IN GUARDRAIL FOR ACCESS



ZUMA COUNTY BEACH
 SOUTHEASTERN SECTION

1/2/86

S. DRIGGS

LOS ANGELES COUNTY DEPARTMENT OF BEACHES AND HARBORS

SHEET
 2
 OF 2



COUNTY OF LOS ANGELES
DEPARTMENT OF BEACHES AND HARBORS



STAN WISNIEWSKI
DIRECTOR

July 29, 1996

KERRY GOTTLIEB
DEPUTY DIRECTOR

JUDITH KENDALL
DEPUTY DIRECTOR

Ms. Susan Friend, Coastal Program Analyst
California Coastal Commission
South Central Coast Area
89 South California Street, Suite 200
Ventura, California 93001

RECEIVED

JUL 31 1996

Dear Ms. Friend:

**APPLICATION FOR AMENDMENT
TO PERMIT NO. 4-95-240**

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

On June 14, 1996, the California Coastal Commission granted permit number 4-95-240, with the condition that a plan be developed illustrating access openings in a retaining wall guardrail, at a minimum distance of every 100 feet. Unfortunately, the staff person who was most familiar with the project had to return to Los Angeles prior to the Commission's discussion of the permit. He had gone to Santa Rosa to attend the meeting and to present the following information:

- The guardrail has openings that are 42" high and 48" wide. There is nothing to prevent the public from climbing through these openings. In fact, the top rail, which will have to be cut to comply with the Commission's condition, provides a convenient place to hold while stepping down from the wall. As such, it is actually a safety device that aids the public, since the retaining wall, as well as the ground on the highway side of it, are as much as three feet above the access road.

- Because the retaining wall is immediately next to the access road, we are concerned about persons being hit by automobiles as they climb through the guardrail. Unfortunately, drivers exceed the 10 MPH speed limit on the access road, and they are not looking for pedestrians were they see a three foot high wall with a guardrail on top. Cutting more access points will increase this danger.

Exhibit 3: Letter from Applicant
4-95-240A

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- There are long stretches of Pacific Coast Highway (PCH) that are posted "No Parking". It is not prudent to create additional access points where there will be no cars parking.
- There are other long stretches where the landscaping between the PCH and the retaining wall is solid, with no trails for the public to cross. The landscaping is on the CalTrans right-of-way, which the County does not own, operate or control.
- The County had already provided 17 access points, at logical locations (e.g. near a signalized crosswalk across PCH, or near public restrooms), not including the two ends of the wall/railing.

Although the "Notice of Intent to Issue Permit", dated June 19, 1996, states that the access openings should be "at a minimum distance of every 100 feet", meaning that they should be more than 100 feet apart, we believe that the Commission's intent was that they be less than 100 feet apart. Strict compliance with this perceived intent would mean cutting the guardrail (at some considerable expense to the County) in over 50 additional places. For the reasons stated above, particularly our concerns for the public's safety, strict compliance is not prudent or reasonable.

Proposed Amendment

In an attempt to comply with the spirit of the Commission's desire to increase access (although we do not see the guardrail as inhibiting access), staff walked the entire length of the retaining wall, noting 30 places where additional access seemed reasonable (despite the concerns for the public's safety). These 30 places are noted on the plans that are attached (See Exhibit 1). They are located where there are existing trails through the landscaping, near public restrooms, or where the retaining wall has been cut to channel stormwater runoff from PCH. They are generally located so that no car would be parked more than 100 feet from an access point, although the existing geography may have dictated that a few are more than 200 feet apart.

Exhibit 2 is a drawing which depicts how the access openings will appear. There are already 17 such openings, many of which extend all the way to the curb of the road, requiring only a small step down to the road. With 30 new openings,

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and the two ends, there will be 49 access points, if this amendment application is approved.

Completion of Work

As soon as this application for amendment is approved, the Department of Beaches and Harbors will request that the County's Internal Services Department order the end caps that will be required to properly finish the newly cut openings. As these items will require bidding and manufacture, the openings will not be cut and finished within 45 days of approval. Between 60 to 90 days will be required to procure the end caps, with another 30 days to schedule crafts personnel to perform the cutting and installation of the end caps. Every effort will be made to expedite this project and complete it sooner than the 120 days anticipated for completion.

Fees

Permit fees for this project were waived and it is requested that they be waived for this application for amendment.

Thank you for your kind consideration of this request. If there are any questions regarding it, please call Dean Smith, at (310) 305-9573.

Respectfully Submitted,

STAN WISNIEWSKI, DIRECTOR



James A. Fawcett, Chief
Planning Division

SW:JAF:DRS:be
Attachments