


CALIFORNIA COASTAL COMMISSION

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Filed: 8/27/99
 49th Day: 10/15/99
 180th Day: 2/23/00
 Staff: AJP-LB
 Staff Report: 11/17/99
 Hearing Date: 12/7-10/99

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 5-99-325

APPLICANT: Morley Construction Company

PROJECT LOCATION: 1750 The Promenade, Santa Monica

PROJECT DESCRIPTION: After the fact permit for the temporary use (from date permit is issued through February 28, 2000) of approximately 700 square feet of a public beach parking lot for construction trailer/office for the construction phase of an apartment building on a lot abutting the public beach parking lot.

Lot area: 24,375 square feet
 Parking spaces: 117
 Plan designation: Beach Parking

LOCAL APPROVALS RECEIVED: City of Santa Monica Approval letter August 24, 1999; State Parks and Recreation Department approval, dated May 20, 1998.

SUBSTANTIVE FILE DOCUMENTS: 5-98-237(Morley Construction); 5-94-006(Michael Construction)

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission approve the proposed project with a special condition requiring Executive Director review and approval of any time extensions for the placement of the trailer within the public beach parking lot.

RECOMMENDATION:

Staff recommends that the Commission APPROVE the permit application with special conditions.

MOTION

I move that the Commission approve CDP #5-99-325 pursuant to the staff recommendation.

This will result in adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Staff recommends a YES vote.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for 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 government 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.
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.

1. Time Extensions

If the applicant determines that use of the site will not be completed by February 28, 1999, the applicant shall request a time extension thirty days prior to the termination date. An extension of time for use of the site can be granted by the Executive Director if it is determined that the extension is of a short duration (no more than two months) and that there will not be any adverse impacts to public beach access. The applicant shall submit, in writing, a request stating the amount of time needed and reasons for the time extension. The Executive Director will determine if a time extension is to be granted or require an amendment to this permit.

IV. Findings and Declarations.

A. Project Description and Project History

The applicant proposes to temporarily use, from the date the permit is issued through February 28, 2000, an approximately 700 square foot area within a 117 space public beach parking lot for the placement of a construction trailer/office for the construction phase of a 178 unit, 135,173 square foot apartment building on the abutting lot to the north. The trailer will block a short stairway leading from the parking lot to the beach promenade.

The public beach parking lot is one of five Santa Monica State Beach parking facilities located in the south beach area (between the Pier and south City limits) within the City of Santa Monica. The 117 space public beach parking lot is located immediately adjacent to and east of the City's beach promenade and just north of Vicente Terrace.

The City of Santa Monica has reviewed and approved the proposed use and has issued a short term lease for the use of the parking lot. In addition, the District Superintendent for the Angeles District of the State Department of Parks and Recreation, Mr. Daniel C. Preece, has reviewed and approved the applicant's proposal.

The Executive Director approved Waiver #5-98-237 (Morley Construction) for the temporary use (up until May 30, 1999) of an approximately 700 square foot portion of the 117 space public beach parking lot for construction staging/equipment storage. The trailer was to be removed by May 30, 1999, however, according to the applicant, construction delays prohibited the trailer from being located on the construction site as was the original intent.

The proposed project is to support the construction of a 178- unit apartment building on the abutting lot. The apartment building was determined to be exempt from the Coastal Commission permit requirements under Section 30610(g) of the Coastal Act. Section 30610(g) states that:

Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas:

(g) (1) The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure.

(2) As used in this subdivision:

(A) "Disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.

(B) "Bulk" means total interior cubic volume as measured from the exterior surface of the structure.

(C) "Structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.

The original apartment building was severely damaged by the Northridge earthquake in 1994. Subsequently, on February 1, 1996, a major fire further damaged the building. Following the adoption of a resolution by the City's Nuisance Abatement Board declaring the building a nuisance the City demolished what remained of the building. The City had also issued an Earthquake Recovery Permit, pursuant to the City's Earthquake Recovery Act, that allows structures that were severely damaged by the earthquake to be rebuilt.

On September 26, 1997, after reviewing the new construction plans to ensure that the new building met the requirements under Section 30610(g), an exemption letter was issued by Commission staff. The new building has since been under construction and is nearing completion.

B. Public Access/Parking

Section 30210 of the Coastal Act 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.

Section 30211 of the Coastal Act states:

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 30221 of the Coastal Act states:

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.

The beach parking lot located at 1750 Appian Way has 117 public parking spaces. The proposed project will be located in the northwest corner of the parking lot, immediately adjacent to the adjoining construction site. The project will temporarily take up approximately 700 square feet of the northwest portion of the parking lot. The proposed area does not contain parking stalls and the project will not impact parking within the parking lot. However, the proposed area does contain an approximately 6-foot long stairway leading down to the promenade.

The location of the trailer will prevent use of the stairway during the planned use of the area. However, the temporary removal of this stairway will not adversely impact beach access because immediately adjacent to, and to the south of this stairway, is an approximately 15-foot wide ramp that leads from the parking lot to the promenade. The ramp is continuously open and is used by pedestrians and City vehicles. Furthermore, abutting the parking lot to the south, approximately 210 feet from this accessway is another accessway leading from Appian Way to the promenade.

Therefore, there is adequate nearby alternative access available during the temporary use of the area. The temporary use of the pedestrian walkway will not significantly

impact beach access. Once construction is completed, or the site is no longer needed, all materials will be removed and the area will be restored to its previous condition. In the event that additional time is required, a special condition requiring review and approval by the Executive Director of any time extension is necessary. The Commission, therefore, finds that as conditioned the proposed project will be consistent with Section 30210, 30211, and 30221 of the Coastal Act.

D. Local Coastal Program

(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 this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

In August 1992, the Commission certified, with suggested modifications, the land use plan portion of the City of Santa Monica's Local Coastal Program, excluding the area west of Ocean Avenue and Neilson Way (Beach Overlay District), and the Santa Monica Pier. On September 15, 1992, the City of Santa Monica accepted the LUP with suggested modifications.

As discussed above, the Commission finds that the proposed project will be consistent with the Chapter 3 policies of the Coastal Act and will not prejudice the ability of the City to prepare a Local Coastal Program implementation program consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

E. Unpermitted Development

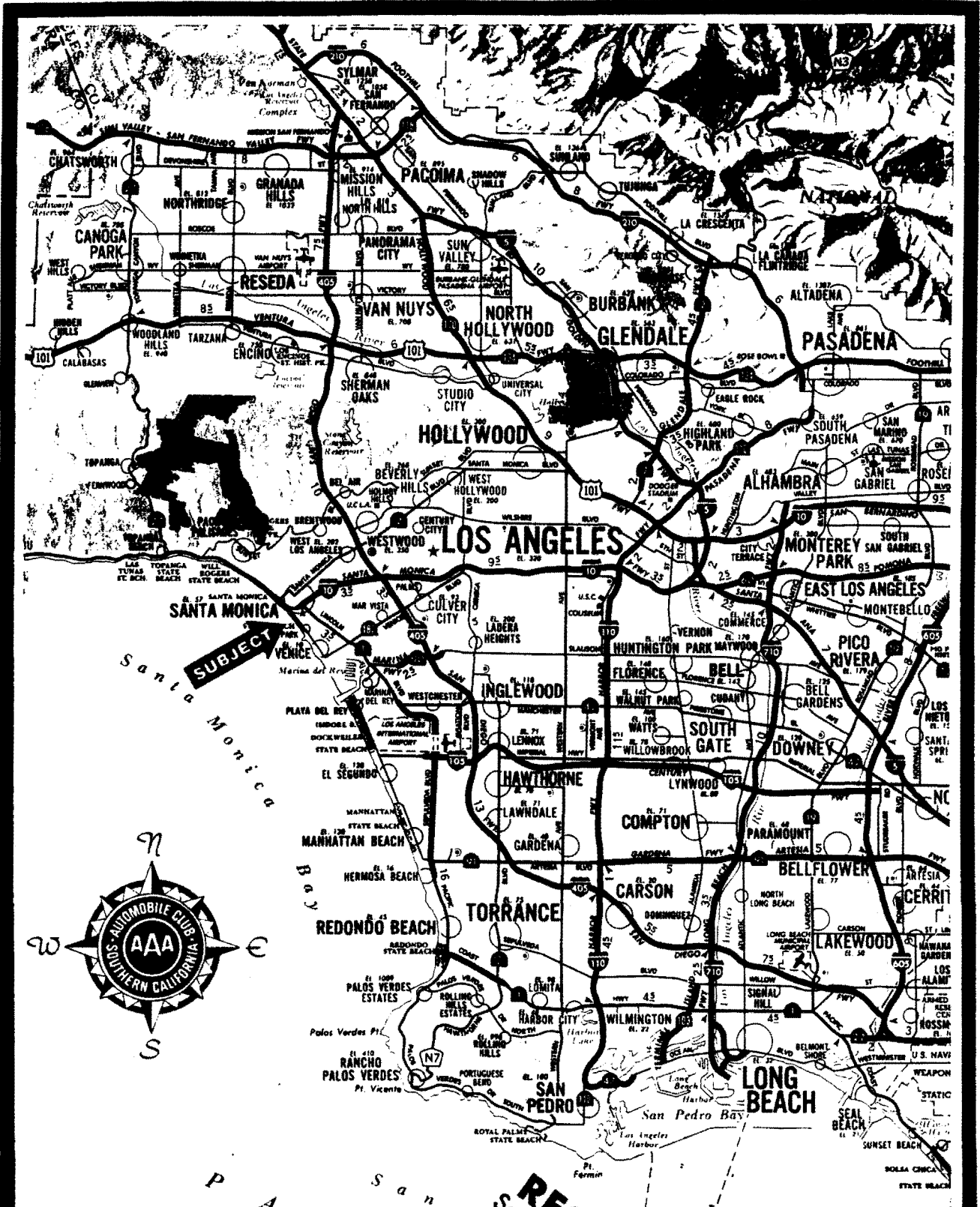
The proposed trailer was placed on the site without the benefit of a permit. A previous Waiver (5-98-237) was granted to the applicant for the temporary placement of storage material. The use of the site at that time was permitted until May 30, 1999. The material has been removed but an area is currently being used for the office trailer.

Although unpermitted development has 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. Action on 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.

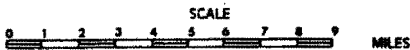
F. CEQA

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

As proposed, 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 project is found consistent with CEQA and the policies of the Coastal Act.

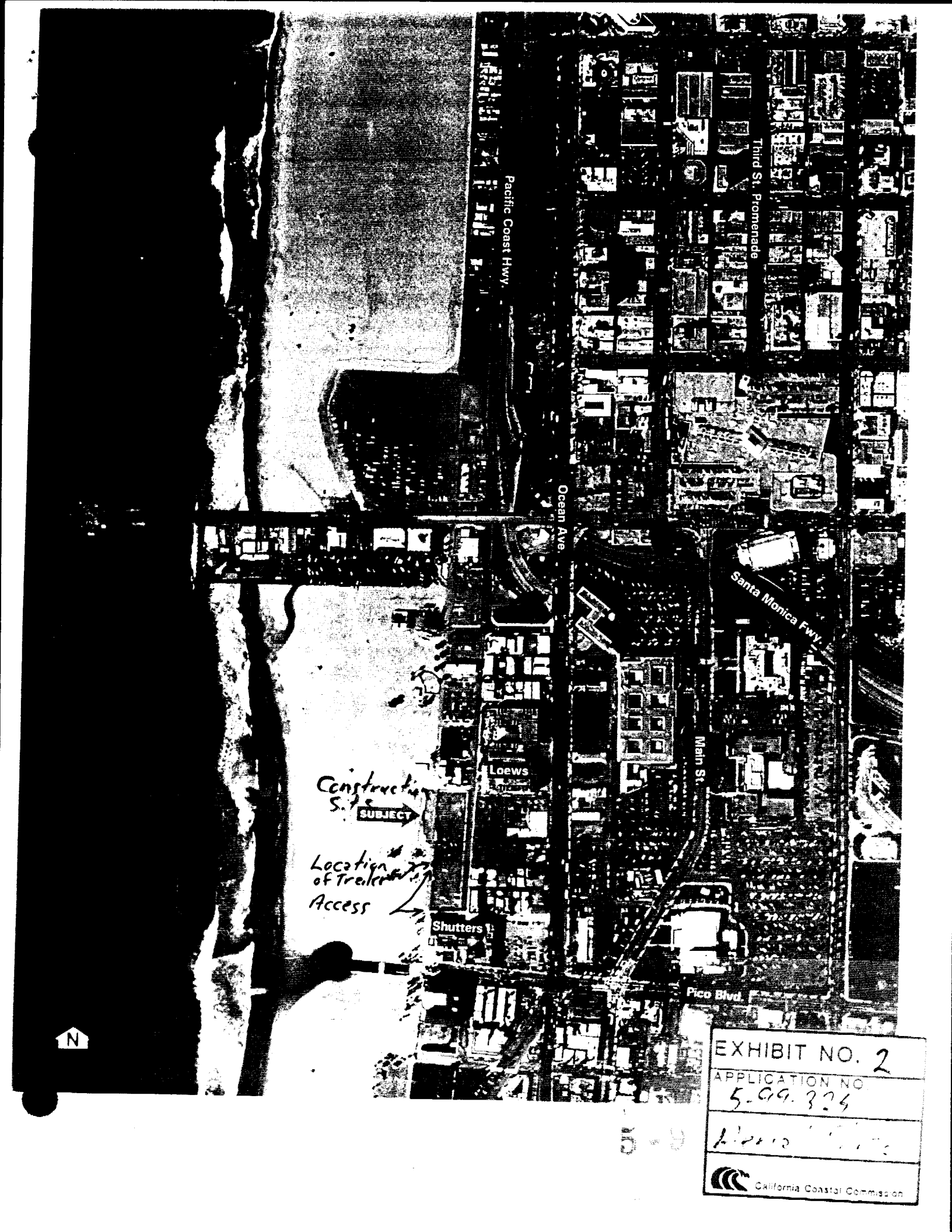


LOS ANGELES AREA



RECEIVED
 South Coast Region
 AUG 8 7 1999
 CALIFORNIA
 COASTAL COMMISSION

EXHIBIT NO. 1
APPLICATION NO. 5-99-325
Vicinity
California Coastal Commission



Pacific Coast Hwy.

Third St. Promenade

Ocean Ave.

Santa Monica Fwy.

Loews

Main St.


Fico Blvd.

Construction Site
SUBJECT

Location of Trailer Access

Shutters

N

EXHIBIT NO. 2
APPLICATION NO 5-99-324
<i>Alvin [unclear]</i>
 California Coastal Commission

5-9

