

Th 10c

CALIFORNIA COASTAL COMMISSION

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



RECORD PACKET COPY

Filed: 12/17/2000
 49th Day: 3/3/2000
 STAFF: MHC
 Staff Report: 1/27/2000
 Hearing Date: 2/15-18/2000

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 4-97-040-A1

APPLICANT: County of Santa Barbara **AGENT:** Eric Brown

PROJECT LOCATION: End of Ocean Avenue at the old Surf Station Depot, Surf Beach, 0.6 miles south of Ocean Beach County Park, Santa Barbara County

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: (1) Subdivision of 5.97 acre parcel into two lots of 0.68 acre and 5.29 acres; (2) construction of lighted, paved parking lot of approximately 23,600 square feet for 39 cars and 1 bus, including pre-cast structure for two restrooms and steel traffic barrier gate at entrance to parking lot; (3) 16 ft. by 800 ft. concrete passengers boarding platform; (4) at-grade pedestrian crossing with electronic warning devise; and (5) temporary closure of the site to public during construction for approximately 6 months.

DESCRIPTION OF AMENDMENT: Construction of a 4 feet high by 1,200 ft. long chain link sand fence with slats to prevent accumulation of wind-blown sand onto the railroad tracks and boarding platform.

LOCAL APPROVALS RECEIVED: None required except for Building Department review.

SUBSTANTIVE FILE DOCUMENTS: Coastal Conservancy staff report (File No. 97-007) for Surf Beach Pedestrian Railroad Crossing Access Project; Coastal Development Permit Staff Report 4-97-040; Application 4-99-040-A1

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the project with special conditions of relating to: *timing of construction to protect Western snowy plover nesting habitat; assumption of risk.*

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.*

In this case, the proposed amendment is a material amendment which will affect a permit condition required for the purpose of protecting a coastal resource and 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.

I. STAFF RECOMMENDATION AND RESOLUTION:

Motion: I move that the Commission approve the proposed amendment to Coastal Development Permit No. 4-97-040-A1 pursuant to the staff recommendation.

Staff recommendation of approval:

Staff recommends a YES vote. Passage of this motion will result in approval of the amendment as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

The Commission hereby approves the coastal development permit on the grounds that the development, as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the California 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 amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. Special Conditions

1. Timing of Construction

The construction of the sand fence shall not be undertaken during the period from March 15 through September 30 to avoid the nesting season of the Western snowy plover.

2. Assumption of Risk

A. By acceptance of this permit, the applicant acknowledges and agrees: (i) that the site may be subject to hazards from *erosion, storm waves, and flooding*; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

B. Prior to issuance of the coastal development the applicant shall submit a written agreement, in a form and content acceptable to the executive director, incorporating all of the above terms of this condition.

NOTE: All standard and special conditions attached to the previously approved permit remain in effect to the extent not otherwise modified herein.

III. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The project is located within the Union Pacific Railroad right-of-way within Vandenberg Airforce Base, and is in an area not included in the County of Santa Barbara's certified Local Coastal Program; the project is therefore subject to the Commission's original permit jurisdiction.

The applicant requests approval for the construction of a 4-foot high by 1,200 foot long vinyl coated chain link fence with PVC slats. The proposed fence would replace a previously existing fence (installed prior to the enactment of the Coastal Act) in the same location which has deteriorated; the remaining fence posts from the previously existing

fence would be removed as part of this project. The fence would extend from the northern to the southern limit of the Surf Railroad station and be sited approximately 10 feet from the Union Pacific railroad tracks within the Union Pacific Railroad right-of-way on the landward side of the coastal dunes. The sand fence would have a break located on the alignment of the public pedestrian access to the beach immediately in front of the Union Pacific/Amtrak Station and parking lot.

The purpose of the fence is to prevent sand from accumulating on the railroad tracks and station and thereby creating a hazard to rail traffic, and to reduce the need for mechanical clearing of sand from the railroad line and station. (See Exhibits 1 through 4.)

A. Coastal Resources

1. Public Access

Section 30210 of the Coastal Acts provides, in part, that:

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 30252 of the Coastal Action provides in part, that:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation . . .

The proposed sand fence is intended to support the operation and maintenance of the Union Pacific/Amtrak Station at Surf previously approved by the Commission (See Exhibit 5.) The station at Surf is an unstaffed rail platform that serves passengers embarking and disembarking the Amtrak San Diegan line. The associated 39-car parking lot serves the general public visiting Surf Beach for recreation and the public using the Amtrak service. The at-grade pedestrian crossing incorporated into the original project serves to enhance existing public access at this location.

The proposed sand fence would be located within the Union Pacific Railroad right-of-way between the railroad tracks and the landward side of the adjacent coastal dunes, and extend the full length of the railroad siding area (approximately 1,200 feet). As noted above, the purpose of the fence is to prevent sand from accumulating on the railroad tracks and station, and to reduce the need for mechanical clearing of the railroad line and

station. The sand fence would be in two sections, with a break located on the alignment of the public pedestrian access immediately in front of the Union Pacific/Amtrak Station and parking lot to allow pedestrian access from the Union Pacific/Amtrak Station to the beach area.

The sand fence would not impede pedestrian access to the beach and would serve to support the access opportunities provided by the Union Pacific/Amtrak Station by facilitating operation and maintenance of the rail station (See Exhibits 1 through 4.)

The Commission therefore finds that the proposed project, as conditioned, is consistent with and adequate to carry out the provisions of Coastal Act Section 30210 and 30252.

2. Environmentally Sensitive Habitat

Section 30240 of the Coastal Act provides that:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The project site is bordered on the seaward side by a line of partially-vegetated coastal dunes and a wide sandy beach. The beach seaward of the dunes provides nesting habitat for the Western snowy plover, a federally listed threatened species. Additionally, the area has been included in the designated critical habitat for this species. The proposed sand fence would be located within the Union Pacific Railroad right-of-way between the railroad tracks and the landward side of the adjacent coastal dunes, and extend the full length of the railroad side area (approximately 1,200 feet). No portion of the sand fence would be located within the nesting area of the Western snowy plover.

The sand fence would be in two sections, with a break located on the alignment of the public pedestrian access immediately in front of the Union Pacific/Amtrak Station and parking lot to allow pedestrian access from the Union Pacific/Amtrak Station to the beach area. While the primary purpose of the sand fence is to prevent the accumulation of sand on the Union Pacific/Amtrak railroad tracks and station, the design of the fence with a break immediately opposite the Union Pacific/Amtrak Station and parking area would also serve to channel pedestrian traffic to the adjacent beach through the designated pedestrian walkway and therefore reduce indiscriminate pedestrian traffic through the dune area. The proposed project is therefore consistent with the protection of this federally listed species.

However, the construction of the fence, if conducted during the breeding season of the Western snowy plover (from March through September) could disrupt this behavior. To

avoid disrupting the breeding activity of the Western snowy plover, construction activities must be limited to the non-breeding season. Special Condition No. 1 therefore prohibits all construction activity on the sand fence during the period from March 15 through September 30.

The Commission therefore finds that the proposed project, as conditioned, is consistent with and adequate to carry out the provisions of Coastal Act Section 30240.

3. Scenic and Visual Resources

Coastal Act Section 30251 provides, that:

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.

The project site is situated along the Union Pacific Railroad right-of-way that is elevated approximately 20 feet above the adjacent beach and therefore provides vista views of the ocean and adjacent coastal areas. The proposed sand fence would be located within the Union Pacific Railroad right-of-way between the railroad tracks and the landward side of the adjacent coastal dunes, and extend the full length of the railroad side area (approximately 1,200 feet). The proposed sand fence would be located in a swale between the railroad tracks and the landward side of the dune. As a result, the top of the proposed fence would be generally below the top of the sand dunes. The Union Pacific/Amtrak Station Platform is approximately 3 feet above the surrounding grades and therefore at most 1 foot below the top of the proposed sand fence. The sand fence would therefore not block or intrude into coastal views.

The Commission therefore finds that the proposed project, as conditioned, is consistent with and adequate to carry out the provisions of Coastal Act Section 30251.

4. Coastal Hazards

Section 30253 of the Coastal Act states:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction

of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The proposed sand fence would be located seaward of the existing Union Pacific Railroad right-of-way and landward of the bordering coastal dunes. The site is inherently unstable because of its location immediately adjacent to an open shoreline (hence, the need to install some stabilization measures to protect the railroad tracks and station from shifting dunes). The dunes are subject to periodic high surf and tide, as well as the influence of offshore winds. The proposed sand fence is also subject to damage, both from the shifting dunes and the periodic action of extraordinary high tides and waves. It is therefore necessary that the applicant acknowledges that the site may be subject to hazards from erosion, storm waves, and flooding.

Special Condition 2 requires that the applicant acknowledges and agrees: (i) that the site may be subject to hazards from *erosion, storm waves, and flooding*; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

The Commission finds that the development, as conditioned, is consistent with and adequate to carry out the provisions of Section 30253 of the Coastal Act.

C. Local Coastal Program

Section 30604 of the Coastal Act states that:

- 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 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 project site falls within an area of Santa Barbara County not included in the County's Certified Local Coastal Program. The preceding sections provide findings that the proposed 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 conditioned, the proposed amendment 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 proposed amendment, as conditioned, will not prejudice the County's ability to prepare a Local Coastal Program which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

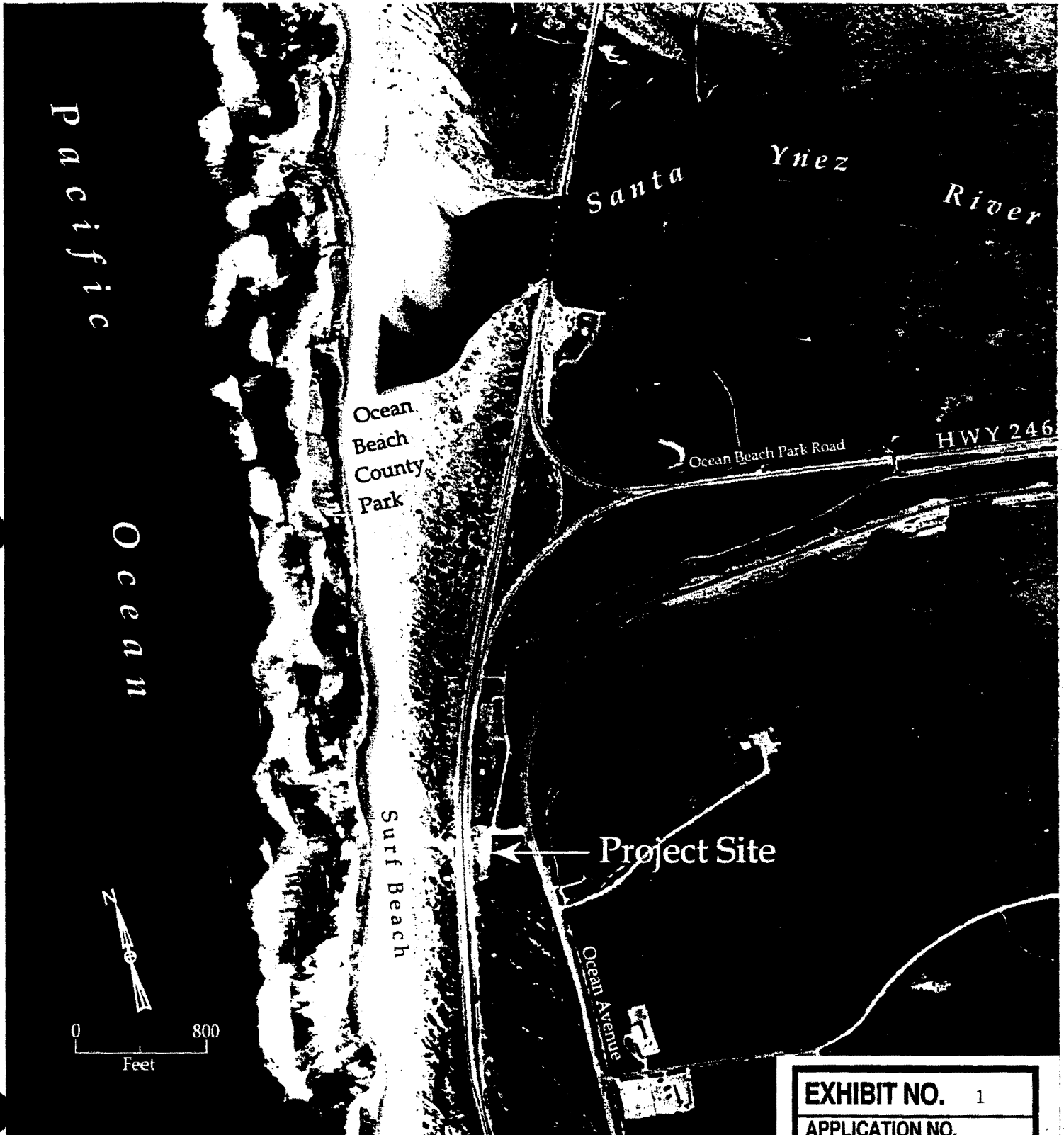
D. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of 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 Commission finds that, the proposed project, as conditioned will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

CDP 4-97-040

County of Santa Barbara - Surf Station



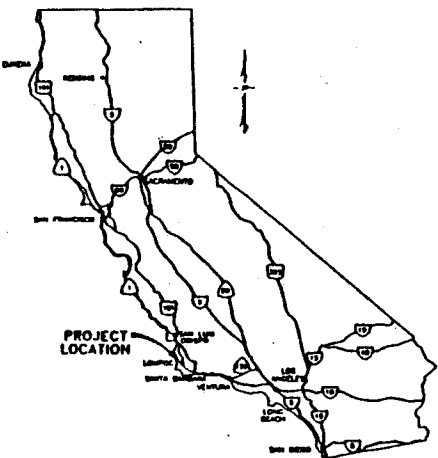
Note: All locations approximate. For illustrative purposes

EXHIBIT NO.	1
APPLICATION NO.	
	Appl 4-97-040-A1
	Santa Barbara County

COUNTY OF SANTA BARBARA PLATFORM IMPROVEMENTS SURF TRAIN STATION

LOMPOC, CALIFORNIA
NOVEMBER 1996

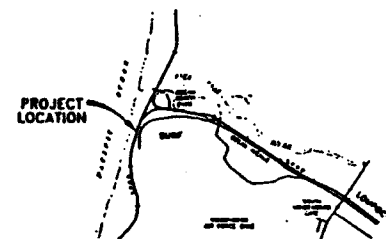
EXHIBIT NO.	2
APPLICATION NO.	Appl 4-97-040-A1
Santa Barbara County	



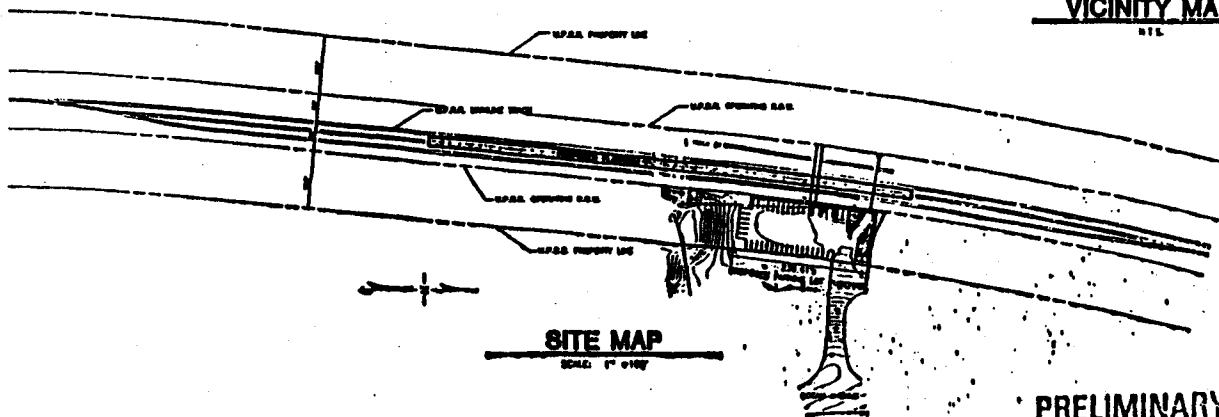
LOCATION MAP
N.T.S.

SHEET INDEX

NO.	TITLE
1	TITLE SHEET
2	SITE PLAN
3	CIVIL PLAN
4	SECTIONS & DETAILS
5	PARKING LOT IMPROVEMENTS
6	PARKING LOT DETAILS



VICINITY MAP
N.T.S.



SITE MAP
SCALE: 1" = 60'

PRELIMINARY PRINT

	DATE: _____ DRAWN BY: _____ CHECKED BY: _____	COUNTY OF SANTA BARBARA, CALIFORNIA PROJECT NO: _____ SHEET NO: _____	SURF TRAIN STATION PLATFORM IMPROVEMENTS TITLE SHEET LOMPOC, CALIFORNIA	1 of 6 10/27/96
--	---	---	--	--------------------

Proposed Sand Fence at Surf California Amtrak Station

EXHIBIT NO.	3
APPLICATION NO.	
Appl 4-97-040-A1	
Santa Barbara County	

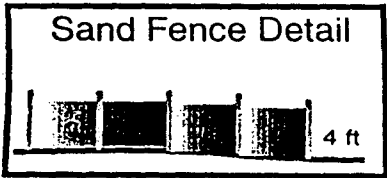
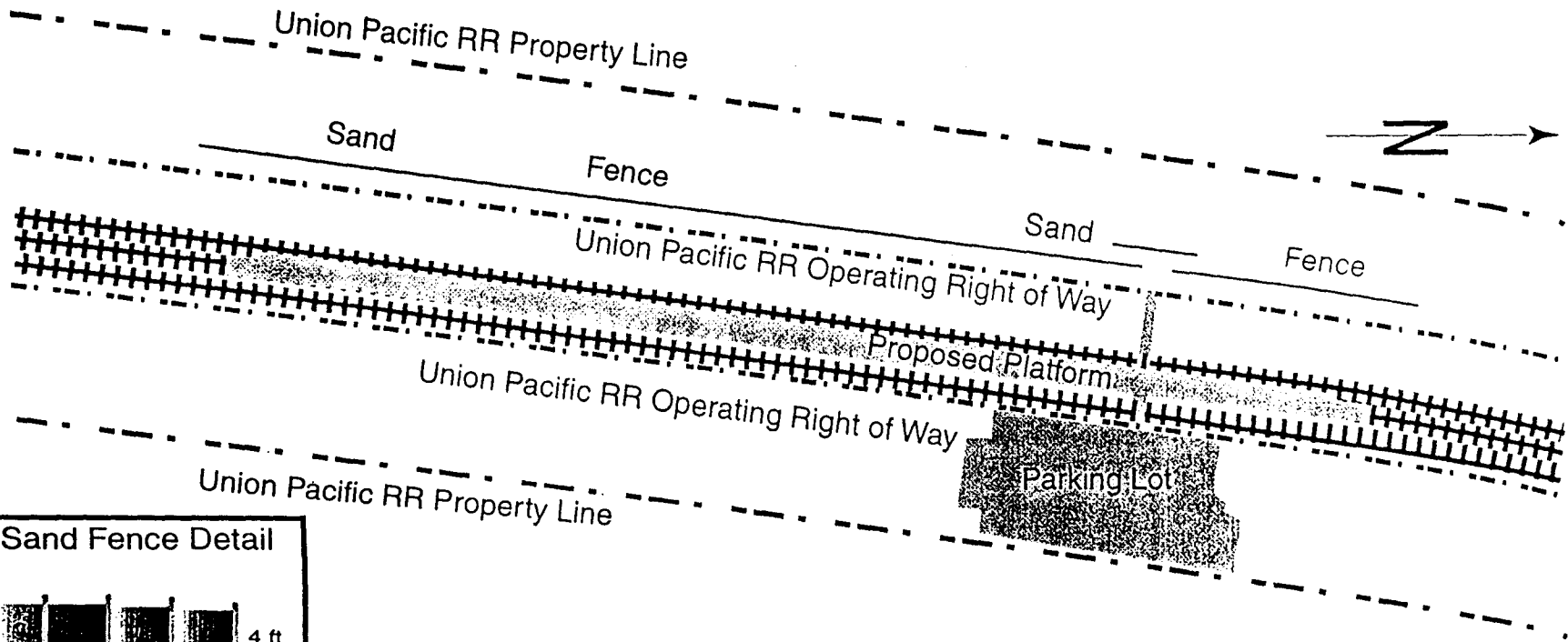


EXHIBIT NO. 4
APPLICATION NO.
Appl 4-97-040-A1
Santa Barbara County

DUP:
COUN

LICENSE FOR PEDESTRIAN CROSSING NEAR SURF, CALI

THIS AGREEMENT is made and entered into this _____ day of _____, 1999, between UNION PACIFIC RAILROAD COMPANY, a Delaware corporation ("Union Pacific") and the COUNTY OF SANTA BARBARA, a political body of the State of California (the "County"). Page 1
of 1

RECITALS:

This Agreement is to cover the construction, maintenance and use of one ten-foot (10') wide at-grade pedestrian crossing that is to cross Union Pacific's Santa Barbara main line track and an adjacent siding track at Union Pacific's Milepost 302.70 at Surf Beach near the City of Lompoc, Santa Barbara County, California in the location shown on the prints dated May 1997, marked **Exhibit A**, and March 9, 1999, marked **Exhibit A-1**, respectively, and described on **Exhibit B**, each of which is attached hereto and hereby made a part hereof (the "Crossing").

The County will also be installing a 4-foot high by 1,200 foot long vinyl coated chain link sand fence with PVC slats (the "Fence") on and along Union Pacific's right of way in the general location shown on the print dated November 11, 1999, marked **Exhibit A-2**, hereto attached and hereby made a part hereof.

The Crossing was authorized by the Public Utilities Commission of the State of California (the "CPUC") by Decision No. 97-10-024 dated October 9, 1997 (the "CPUC Order").

The National Railroad Passenger Corporation shall be referred to in this Agreement as "Amtrak", and any other railroad companies now having (or in the future granted) trackage rights over Union Pacific at the Crossing site shall be referred to in this Agreement as "Other Railroads".

AGREEMENT:

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES HERETO AS FOLLOWS:

Section 1. RIGHT GRANTED.

A. For and in consideration of a one-time license fee of Two Thousand Five Hundred Dollars (\$2,500.00), to be paid by County to Union Pacific upon the execution and delivery of this Agreement, Union Pacific hereby grants to County the right, during the term hereinafter stated and upon and subject to each and all of the terms, provisions and conditions herein contained, to construct, use, maintain, repair and renew the Crossing and the Fence.

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
 SAN FRANCISCO, CA 94105-2219
 VOICE AND TDD (415) 904-5200



EXHIBIT NO.	5
APPLICATION NO.	
	Appl 4-97-040-A1
	Santa Barbara County

Fr. 11a

Appl. filed: 04-04-97
 49th day: 05-23-97
 180th day: 10-01-97
 Staff: JRR & RS - SF
 Staff Report: 04-25-97
 Hearing Date: 05-16-97

Pages 1 - 6

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-97-040

APPLICANT: County of Santa Barbara, General Services Dept., Facilities Services

AGENT: Erich Brown, Architect/Project Manager

PROJECT LOCATION: End of Ocean Avenue at the old Surf Station depot, Surf Beach, 0.6 mile south of Ocean Beach County Park, Santa Barbara County. (Exhibit #1)

SITE DESCRIPTION The subject site consists of two parts. One portion is a parking area (in the former railroad right-of-way of 150 feet), approximately 100ft. x 300ft. situated off an unnamed paved turnout road, approximately 175 feet long, running west off West Ocean Avenue. The second portion is the existing 50 feet right-of-way on both sides of the centerline of the main rail line (track no.1) and approximately 850 feet long, situated abutting the western side of the parking area. (Exhibit #1)

PROJECT DESCRIPTION: The project includes: a) Subdivision of a 5.97-acre parcel to 1 lot of 0.68 acre and 1 lot of 5.29 acres; b) Construction of: 1) a lighted, paved parking lot of approx. 23,600 sq. ft. for 39 cars and 1 bus, a pre-cast self-contained toilet structure for two restrooms and a steel traffic barrier gate at entrance to parking lot; and 2) a 16ft. x 800ft. concrete passenger boarding platform with five canopy structures, access ramp, and an at-grade pedestrian crossing with electronic warning device; and c) Temporary closure of the site to public during construction for approx. 6 months. (Exhibit #2)

Lot Area: 29,804.67 sq. ft. (parking area), 42,500 sq. ft. (rail right-of-way)

Building Area: 181.00 sq. ft. (restrooms),

Pavement coverage: 21,206 sq.ft. (parking), 14,441 sq.ft. (platform, ramp, and crossing)

Landscape coverage: None

Parking spaces: 39 cars (includes 2 handicap spaces) and 1 bus

Ht above fin. grade: 12'-0" (canopy)

SUBSTANTIVE FILE DOCUMENTS:

- 1) Coastal Conservancy staff report (file no. 97-007) for Surf Beach Pedestrian Railroad Crossing Access Project.
- 2) Consistency Determinations: CD-21-82 (Air Force, Space Shuttle Facility), CD-5-89 (Air Force, Titan IV at SLC-7), CD-28-90 (Air Force, Titan IV at SLC-6), CD-65-90 (Air Force, Acquisition of development rights on Bixby Ranch) and CD-12-94 (Air Force, Public Access restrictions along Ocean Beach to protect nesting habitat for the snowy plover).
- 3) Executive Director's Cease and Desist Orders No. ED-95-CD-01 and No. ED-95-CD-02
- 4) Commission Cease and Desist Order No. CCC-96-CD-01 and staff report for the rescission of the order (adopted on March 13, 1997)
- 5) Final Rule for Determination of Threatened Status for the Pacific Coast Population of the Western Snowy Plover; Federal Register Vol. 58, No. 42, pp. 12864-12874; March 5, 1993.
- 6) Proposed Rule for Designation of Critical Habitat for the Pacific Coast Population of the Western Snowy Plover; Federal Register Vol. 60, No. 41, pp. 11768-11809; March 2, 1995.
- 7) Western Snowy Plover Monitoring in 1994 at Vandenberg Air Force Base prepared by Philip E. Persons, U.S. Fish and Wildlife Service, February, 1994

LOCAL APPROVALS RECEIVED: None required. (except for Bldg. Dept. review, the applicant has claimed exemption from the parcel map requirement pursuant to the Subdivision Map Act §66428(a)(2).)

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission determine that the proposed project, as conditioned, is consistent with the requirements of the California Coastal Act. The development, as conditioned, would enhance the public access to the shoreline while protecting the environmentally sensitive habitat of the snowy plover at Surf Beach. Staff further recommends special conditions regarding: protection of habitat and visual resources, access, signage, construction schedule, timing, access and staging area, Phase 2 construction, litter, garbage and restroom maintenance and management, assumption of risk, legal interest, and unknown archaeological resources.

STAFF RECOMMENDATION

The staff recommends that the Commission adopt the following resolution:

I. Approval with conditions

The Commission hereby **grants**, subject to the conditions below, a permit for the proposed development on the grounds that the development, located between the sea and first public road nearest the shoreline, as conditioned, 1) will be in conformity with the provisions of Chapter 3 of the Coastal Act of 1976, including Chapter 3 public access and recreational policies, 2) will not have any significant adverse

impacts on the environment within the meaning of the California Environmental Quality Act, and 3) 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.

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 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 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 development during construction, subject to 24-hour advance notice.

6. Assignment: The permit may be assigned to any qualified person, provided the 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. Assumption of Risk:

In addition to any immunities provided by law, in exercising this permit, the applicant agrees to hold harmless and indemnify the Commission, its officers, employees, agents, successors and assigns from any claims, demands, costs, expenses and liabilities for any damage to public or private properties or personal injury that may result directly or indirectly from the project.

2. Legal Interest: Prior to the issuance of a permit, the applicant shall submit 1) final escrow document evidencing the County's purchase of the parking area and 2) leases or contracts between Amtrak and Southern Pacific Transportation Co. (SPT Co.) / Union Pacific Rail Road (UPRR) authorizing the construction and operation of the access ramp, platform, at-grade pedestrian crossing and electronic warning device.

3. Access: The applicant, may restrict public access to the beach at this site only during construction period for a total of six months for both phases. If the project is completed in less than 6 months, the site shall be opened for public access at the completion of construction. Public access shall not be restricted after Phase 1 is completed and before Phase 2 begins.

4. Habitat Resources: Prior to issuance of the permit, the applicant shall, submit for review and approval of the Executive Director, a monitoring plan, to assess the impacts on the snowy plover habitat, in consultation with USFWS and VAFB. Based on the recommendations of the applicant's monitoring plan, in coordination and consultation with USFWS and VAFB and their monitoring/management plans of Surf Beach; the applicant, after construction of the project, shall assess the impacts and implement a mitigation plan, of the access on the snowy plover habitat. If the monitoring program determines, the access is adversely affecting the snowy plover habitat, applicant shall submit for the review and approval of the Commission, a plan to mitigate the impacts.

5. Signage: Prior to issuance of permit, the applicant shall submit for review and approval of the Executive Director signage plans, which shall incorporate the following criteria:

(a) Access: Signs shall be placed, indicating the existence of a public coastal accessway, at the entrance to the site and at the parking lot side (near access ramp) of the pedestrian crossing.

(b) Habitat protection: In consultation with the U.S. Fish and Wildlife Service, signs shall be provided informing the public of the presence of the environmentally sensitive habitat area and listing the various animal and plant species with visual and descriptive information.

(c) Restrictions: In consultation with the U.S. Fish and Wildlife Service, Amtrak and UPRR/SPT Co., signs shall be provided informing the public of any access controls for protection of wildlife habitat and penalties for violation of the restrictions.

6. Construction schedule, timing, access and staging area: Prior to the issuance of a permit, the applicant shall submit for review and approval of the Executive Director a construction plan and time schedule with a CPM (critical path mean) chart which shall incorporate the following:

(a) All construction personnel, activities, equipment, material and debris shall remain within the project site. Environmentally sensitive habitats shall not be used and/or traversed for any construction purposes. All access to the site during construction shall be through the steel barrier gate only.

(b) The construction site shall be maintained such that litter/garbage be contained and not attract or be accessible to predators (raccoons, possums, skunks, foxes, coyotes, bobcats, ...) of the threatened species.

(c) The construction time schedule and CPM chart shall be prepared in consultation with the U.S. Fish and Wildlife Service, so as to prohibit construction between sunset and sunrise.

7. Phase 2 construction: Prior to the construction of Phase 2, the applicant shall submit for review and approval of the Executive Director, evidence of approval from the Public Utilities Commission (PUC) for the Phase 2 work. An amendment to the permit is necessary, if the PUC does not approve the proposed Phase 2 work as per the scope of work of this application (no. 4-97-040).

8. Litter and restroom maintenance/management: Prior to the issuance of a permit, the applicant shall submit, for review and approval of the Executive Director, a plan showing the location and specifications of garbage containers. The plan shall provide for covered trash facilities that are designed to deter access by predators, and for at least three trash cans on the platform and two trash cans within the parking lot. The plan should also provide for restroom facilities that are designed to prevent access by predators. Additionally, the applicant shall submit an amended agreement with the City of Lompoc that provides for maintenance of the parking lot, restroom, access ramp, platform, and pedestrian crossing, free of any litter, garbage, or substances that could attract predators.

9. Visual Resources: Prior to the issuance of a permit, the applicant shall submit to the Executive Director, for his review and approval, revised plans of the platform without canopies.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Location

The County of Santa Barbara proposes the subdivision of a 5.97-acre parcel to one lot of 0.68 acre and one lot of 5.29 acres. The project also includes the construction of: 1) a lighted, paved parking lot and ancillary structures such as a steel traffic barrier gate at the entrance to the parking lot and a pre-cast self-contained toilet structure for two restrooms; and 2) a 16ft. x 800ft. concrete passenger boarding platform with ancillary structures, an at-grade pedestrian crossing with electronic warning device and an access ramp. Included in the project is the temporary closure of the site to the public during construction for approximately 6 months. The proposed parking area is approximately 23,600 sq. ft. and will accommodate 39 cars (including 2 vans for disabled persons) and 1 bus.

The subject site consists of a parking area and a portion of a railroad right-of-way. The parking area is approximately 100ft. x 300ft. situated off an unnamed paved turnout road, approximately 175 feet long, running west off West Ocean Avenue at the old Surf Station depot, Surf Beach, one mile south of Ocean Beach County Park, Santa Barbara County. The County will construct the platform on a portion of the railroad right-of-way which consists of 50 feet on both sides of the centerline of the main rail line (track no.1) and is approximately 850 feet long, on the western side of the parking area. As of the date of this report, the applicant is in the process of acquiring the 0.68 acre parking area from Southern Pacific Transportation Co.(SPT Co.) for the construction of the parking lot and associated improvements. The applicant and the City of Lompoc will maintain the parking lot and improvements. Amtrak will lease the right-of-way from UPRR/SPT Co. and the applicant will construct the platform on behalf of Amtrak. Amtrak will maintain the platform. The at-grade crossing and access ramp will be constructed by the applicant and maintained by the applicant and the City of Lompoc. The electronic warning device will be installed and maintained by UPRR / SPT Co. on behalf of the applicant.

The proposed project includes 600 cubic yards of cut at the parking area for the installation of asphalt cement pavement. Of the 600 cubic yards of cut, 40 cubic yards will be used for re-compaction and 560 cubic yards will be disposed at the City of Lompoc landfill. The parking lot will be drained into a drop inlet from the pavement through curb gutters and a drainage apron. The drop inlet will be connected to the existing CMP drain. The project will be illuminated by 100 watt luminaires mounted on 4" diameter and 11'-8" high die cast aluminum poles. At the entrance to the parking lot the applicant proposes to install a steel traffic barrier gate that will be for security purposes-only during construction of the project. The project includes two self-contained handicap accessible toilets approximately 10 feet in height above

grade. The proposed boarding platform will be accessible by a 10 feet wide concrete ramp from the parking area. From the platform, the beach will be accessible using a 10 feet wide concrete at-grade pedestrian crossing. The platform will be 8 inches above the top of the rail tracks and includes of five canopy structures. The canopy will consist of a supporting structure with seating and a roof. The proposed project does not include landscape materials or vegetation. (Exhibit #2)

The unstaffed rail platform would serve passengers embarking and disembarking the Amtrak San Diegan line. The parking area would serve the general public visiting Surf Beach for recreation and the public using the Amtrak service. The at-grade pedestrian crossing along with the electronic warning device would enhance existing access to the beach.

The proposed project is located near the shoreline, habitat for the federally threatened Western Snowy Plover, and a dune system, which contains sensitive plants (beach spectacle-pod or *Dithyrea maritima* and surf thistle or *Cirsium rhotophilum*).

B. Background

On June 4, 1996, the State Department of Transportation entered into a fund transfer agreement with Santa Barbara County, covering allocations of Transit Capital Improvement funds for the proposed platform with ancillary structures and the parking lot, for a total amount of \$1,048,000. Since June 1996, Santa Barbara County and SPT Co. have been engaged in negotiations for the sale of the parking area at Surf. On December 17, 1996 the Board of Supervisors of Santa Barbara County, in its capacity as the authority for the Coastal Resource Enhancement Fund (CREF), awarded \$120,000 for the at-grade pedestrian crossing, electronic warning device and restroom facilities, contingent upon the County receiving a grant of \$80,000 from the Coastal Conservancy. On March 27, 1997, the Coastal Conservancy approved the grant (Coastal Conservancy File No.97-007). As of the date of this report, the County and SPT Co. are in the final stages of the sale of the parking lot, and Amtrak is in the process of leasing the right-of-way from SPT Co..

Section 30601.5 of the Coastal Act requires, the applicant to demonstrate a legal right, interest, or other entitlement to use the property for the proposed development. As of the date of this report UPRR/SPT Co. owns both the parking area and the railroad right-of-way. The applicant has been in negotiations, for the purchase of the parking area, with UPRR/SPT Co., for almost a year. Pursuant to Title 49 United States Code §24107, Amtrak, the National Railroad Passenger Corporation, entered into an agreement with the State of California (Department of Transportation), whereby Amtrak shall provide rail passenger service in the state. In addition, Amtrak is in negotiations with UPRR/SPT Co. to lease the railroad right-of-way. In a letter to the applicant from Luba Drahosz, Manager, Real Estate Services, Amtrak, dated August 16, 1996, stated that Amtrak is contractually obligated to repair and maintain the improvements placed on the leased area. That letter states that Amtrak, should it choose to do so, can assign this responsibility or enter into a contract with a third party. The application includes a draft purchase/sale agreement between SPT Co. and the applicant, a letter from Paul Minault, dated February 7, 1997, on behalf of SPT Co., which authorizes the applicant to apply to the Commission for a coastal development permit to construct the project. The letter does not authorize the applicant to construct the project.