

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Staff: A. Verbanac
Staff Report: 03/23/00
Hearing Date: 04/11-14/00
Commission Action:



STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-00-053

APPLICANT: Big Ship Productions, Inc.
Richard Klotz, Location Manager "Pearl Harbor"
Barry Waldman, Executive Director "Pearl Harbor"

PROJECT LOCATION: Westward Beach, Malibu, Los Angeles County

PROJECT DESCRIPTION: Construction and filming of a temporary movie set consisting of a two-story, 25 ½ ft. high, 1200 sq. ft. structure, and placement of ground foliage around the perimeter of the movie set, for a duration of approximately two months beginning April 17, 2000 and ending on June 9, 2000.

LOCAL APPROVALS RECEIVED: N/A

SUBSTANTIVE FILE DOCUMENTS: Letter regarding resource impact assessment from Suzanne Goode, Associate Resource Ecologist, Department of Parks and Recreation dated 3/21/00; Letter regarding County film permit from Ken Johnson, Chief Community Services Division, County of Los Angeles Department of Beaches and Harbors dated 3/21/00.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends the Commission approve the proposed project with four Special Conditions regarding 1) term and duration of the proposed project, 2) provisions for public parking and access to the beach and Point Dume State Park, 3) protection of environmentally sensitive habitat areas, and 3) construction responsibilities, debris removal, and site restoration.

The applicants are proposing the construction of a temporary movie set on the sandy beach at Westward Beach in the City of Malibu. The proposed project site is located at the most easterly extent of the Los Angeles County owned and operated beach, directly below the bluffs of Point Dume State Park. The proposed structure will be located on a public beach in close proximity to designated environmentally sensitive habitat area consisting of vegetated bluffs of Point Dume and a distinct sand dune formation. The proposed structure will be constructed entirely on the sandy beach regularly maintained and disturbed by sand grooming, approximately 10 ft. from the base of the Point Dume bluff and at least 50 ft. from the sand dune formation. Therefore, no vegetation removal is proposed for construction of the movie set. In addition to the environmentally sensitive habitat areas associated with the bluffs of Point Dume and the sand dunes mentioned, the rocky shoreline and coves located at the tip of Point Dume are identified as areas providing haul-out sites for marine mammals. Access to the subject area is provided by Westward Beach Road, a public parking lot located approximately 300 ft. north-east of the project site, and a public hiking trail providing access between Westward Beach and Point Dume State Park.

The applicants are proposing to construct, film, demolish the movie set, and restore the site between the dates of April 17th and June 9th, and to utilize the public parking lot to access the site throughout the duration of the proposed project.

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-00-053 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

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 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.

III. Special Conditions

1. Term and Duration

This permit is valid for construction, filming, demolition and removal, and site restoration activities associated with the proposed project from April 17, 2000 through June 9, 2000. All construction, filming, demolition and removal, and site restoration activities permitted under **CDP 4-00-053** shall be permitted only on the weekdays, Monday through Friday, and only for the duration specified by the terms of this condition. No activities associated with the proposed project shall be permitted on the weekends or during the Memorial Day Holiday of May 27th-29th, with the exception security provisions. Any activities associated with the proposed project, other than permitted security provisions, commencing after June 9, 2000, or during the weekends or over the Memorial Day Holiday falling within the permitted time period for the proposed project, will constitute a violation of the terms and conditions of **Coastal Development Permit 4-00-053**.

2. Public Access

Construction and filming personnel, activities, equipment, material and debris, shall remain within the immediate vicinity of the approved project site and shall occupy no more than the permitted 175 parking spaces located on the landward side of the public parking lot as shown on Exhibit 2. The applicants shall utilize only those areas on the beach and public parking lot approved by the Commission for construction, staging areas, and filming activities as shown on Exhibit 2. Public parking and beach access from Westward Beach Road shall not be obstructed or limited and at no time during the permitted duration of the proposed project shall personnel associated with the proposed project utilize the road shoulder of Westward Beach Road for parking. Construction and filming vehicles, equipment, materials, and debris shall be removed from the project site and public parking lot, with the exception of the movie set itself and two security vehicles, prior to the weekends and the Memorial Day Holiday falling within the permitted time period for the proposed project, and shall be removed permanently on or before June 9, 2000.

Construction activities and/or staging areas for the proposed project shall not obstruct public access to or along the beach, with the exception of those immediate areas approved by the Commission for construction, staging, and filming, consistent with public safety requirements. Public access shall at no time be

obstructed within the corridor located between the sandy beach and bluffs of Point Dume, providing public access between Westward Beach Road and Point Dume State Park. Parking lot fire lanes and emergency access routes to the beach shall remain free of obstructions at all times.

3. **Environmentally Sensitive Habitat Area**

Construction and filming personnel, activities, equipment, material and debris, shall remain within the immediate vicinity of those areas on the beach and public parking lot approved by the Commission for construction, staging, and filming activities as shown on Exhibit 2. Environmentally sensitive habitat areas shall not be used and/or traversed for any purposes. Access to the site by personnel shall be provided by the route identified on the site plan (Exhibit 2). The applicant shall provide and construct sand fencing around the perimeter of the sand dune formation, to remain throughout the entire duration of the approved project, and shall be removed at the conclusion of the proposed project.

4. **Construction Responsibilities, Debris Removal, and Site Restoration**

The applicants shall, by accepting this permit, agree that no stockpiling of construction materials or debris shall occur on the beach at any time, and that all debris resulting from construction and demolition of the proposed movie set shall be removed from the beach at the end of the permitted duration for the proposed project. The applicant shall remove all debris and trash from the project site and restore the site to its natural condition on or before June 9, 2000.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The applicants are proposing the construction of a two-story, 25 ½ ft. high, 1200 sq. ft. temporary movie set on the sandy beach at Westward Beach in the City of Malibu. The proposed movie set is designed to portray an Oahu Beach Bar for production of a film entitled "Pearl Harbor". Construction of the film set will require a temporary grade beam support system placed approximately 6 inches below grade on the beach (Exhibit 4). In addition to construction of the proposed set, tropical foliage will be temporarily placed on the beach around the movie set. No grading is proposed. Tentative scheduling for the proposed project includes approximately one month of construction, 3 consecutive nights for filming, and approximately 16 days for demolition and restoration of the site. The proposed project site is located on the far east end of the Los Angeles County owned and operated beach, directly below the bluffs of Point Dume State Park (Exhibit 1).

The proposed structure will be located on a public beach in close proximity to designated environmentally sensitive habitat area consisting of vegetated bluffs of Point Dume and a distinct sand dume formation (Exhibit 2). The proposed project will be constructed entirely on the sandy beach regularly disturbed by sand grooming, approximately 10 ft. from the base of the Point Dume bluffs and at least 50 ft. from the dune formation, therefore no vegetation removal is proposed for construction of the movie set. In addition to the environmentally sensitive habitat areas associated with the bluffs of Point Dume and the sand dunes mentioned, the rocky shoreline and coves located at the tip of Point Dume are identified as areas providing haul-out sites for marine mammals.

Westward beach extends west from Point Dume providing a lengthy stretch of wide beach for public recreational activity and one of the few access points to Point Dume State Park. Access to the subject area is provided by Westward Beach Road, a public parking lot located approximately 300 ft. north east of the project site, and a public hiking trail providing access between Westward Beach and Point Dume State Park. The public hiking trail traverses a descending bluff of Point Dume directly landward of the proposed project site and is connected to Westward Beach and the public parking lot by a corridor located between the beach and bluff (Exhibit 2). The road shoulder of Westward Beach Road provides free parking and is commonly used by the public to access the beach and Point Dume State Park. The nearest public parking lot to the project site charges a use fee and provides a total of 376 parking spaces for access to the beach and Point Dume. Use statistics for this parking lot, obtained from County of Los Angeles Department of Beaches and Harbors, indicate that use of the lot increases significantly from April to May, with daily average use ranging from 47 at the beginning of April, to 103 throughout the month of May. These use statistics do not account for difference in specific parking demands on weekends and holidays for the months of April and May.

The applicants are proposing to construct, film, and demolish the movie set between the dates of April 17th and June 9th, and to utilize the public parking lot to access the site throughout the duration of the proposed project. Additionally, the applicants are proposing to restore the project site to an "as found" condition at the conclusion of the proposed project. The movie set will be a temporary structure, and therefore will have no significant impact on coastal visual resources.

Guidelines for exclusion of temporary events from coastal development permit requirements provide that in many cases construction of temporary movie sets and filming activities may be exempt from Coastal Commission review. However, temporary events, such as the proposed project, that have the potential to significantly impact public access to beaches and other public recreational use areas (particularly between Memorial Day and Labor Day), and involve construction of structures on the sandy beach for more than a few days, or construction which may potentially impact environmentally sensitive habitat areas, require a coastal development permit to ensure consistency with Coastal Act Policies.

The Commission notes that the proposed project is located within the permitting jurisdiction of the County of Los Angeles Department of Beaches and Harbors and that the conditions of Coastal Development Permit 4-00-053 address Coastal Act policies only. Therefore, additional concerns raised by the Department of Beaches and Harbors, having permit jurisdiction over the proposed project will be addressed and resolved by the County.

B. Public Access

Coastal Act Section 30210 states 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.

Coastal Act Section 30211 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.

Coastal Act sections 30210 and 30211 mandate that maximum public access and recreational opportunities be provided and that development not interfere with the public's right to access the coast.

All projects requiring a coastal development permit must be reviewed for consistency with the public access and recreation provisions of Chapter 3 of the Coastal Act. Based on the access, recreation and development sections of the Coastal Act, the Commission has required that development not interfere with public access and recreational opportunities to and along the coast.

Occupation of the sandy beach by the 1200 sq. ft. film set and accessory props, and installation of perimeter sand fencing required around the set, though temporary, will displace public access to that portion of the beach upon which the film set is constructed. However, the Commission recognizes that the proposed location of the project site is at the far east end of Westward Beach at the base of the Point Dume bluffs, and is set back away from the general open recreational area of the sandy beach. Therefore, the location of the constructed film set will have a minimal, and temporary impact on public recreational opportunities at Westward Beach. Additionally, the Commission notes that filming for the proposed project will commence only at night, and therefore impacts on public access to and around this portion of the beach in relation to actual filming will be minimal, and that during daylight hours and construction, access will be limited only in the immediate area of the project site. As

such, the Commission finds that the proposed project will not result in significant impacts to public access in relation to the direct location and placement of the proposed structure.

The major access issue of this permit application is displacement of public parking in the area of the proposed project. As previously mentioned, the applicants are proposing to utilize the nearest public parking lot for access to the project site. Use of this parking lot for the proposed project will require occupation of public parking by construction and filming vehicles, equipment, and materials resulting in impacts to public access. The subject parking lot provides a total of 376 parking spaces for a fee. Use statistics obtained from Los Angeles County Department of Beaches and Harbors for the parking lot indicate that the average daily demand for public parking in the lot is 47 spaces during the beginning month of April and that average daily demand for public parking increases to 103 spaces throughout the month of May. The calculated demand for parking in the subject lot does reflect higher parking demands on weekends and holidays.

The Commission notes that the subject parking lot provides primary public parking for access to Westward Beach and Point Dume State Park. The Commission further notes that displacement of public parking in the subject lot and near the project site has the potential to significantly impact public access and recreational use of this portion of Westward Beach and Point Dume State Park, for which limited public parking currently exists. Additionally, the Commission notes that the timing and duration of the proposed project coincides with the onset of peak recreational use of public beaches and parks, beginning with Spring Break holidays in the month of April and the Memorial Day holiday in May, and continuing through the summer months. Therefore the Commission finds it necessary to condition the proposed project to minimize adverse impacts to public access and recreational use of the beach and State Park.

Impacts on public access and use of coastal and recreational resources resulting from the proposed project may be minimized by limiting the duration and timing of activities associated with the project. Therefore, **Special Condition 1** specifies that Coastal Development Permit 4-00-053 shall be valid only for the duration of time for which the applicants have originally proposed, from April 17, 2000 through June 9, 2000. Special Condition 1 further requires that the timing of construction and filming activities for the proposed project not coincide with peak recreational use of the public beach and State Park, specifically stating that any activities associated with the proposed project shall not be permitted on the weekends or over the Memorial Day Holiday of May 27th-29th.

Impacts on public access and recreational use may also be minimized by ensuring that minimal obstruction and displacement of public access ways, trails, and parking result from project activities. Therefore, **Special Condition 2** limits the number of public parking spaces in the subject parking lot occupied for the proposed project to 175 out of 376 total available spaces. This limitation will ensure that at a minimum, 50% of the total available parking spaces in the subject lot will be retained for public use at all

times. Special Condition 2 also requires the applicants to remove all construction and filming vehicles, equipment, materials, and debris from the project site and public parking lot before the beginning day of all weekends and the Memorial Day holiday. As specified in Special Condition 2, the applicants will be permitted to retain only those vehicles, no more than two, to accommodate security personnel stationed at the project site for security purposes and public safety. Additionally, Special Condition 2 requires that all parking spaces occupied by the proposed project be located on the landward side of the subject parking lot to ensure that beachfront parking, public restrooms, and the life guard station are easily accessible for the public. The proposed project, as conditioned, will accommodate the applicants' request to utilize public parking for the proposed project, and will also secure suitable public parking for weekday use, and ensure relatively no displacement of public parking over weekends and the Memorial Day holiday. The Commission further notes that the road shoulder of Westward Beach Road provides the only free public parking for access to the beach and Point Dume State Park in the near vicinity of the project site and that displacement of this parking area would cause to significantly impact public access. Therefore, the Commission finds it necessary to require the applicants to ensure that at no time, throughout the permitted duration of the proposed project, shall personnel associated with the proposed project utilize the road shoulder of Westward Beach Road for parking, as specified by the terms of Special Condition 2.

The Commission notes that public parking and access to Point Dume State Park is extremely limited and that the corridor located between the sandy beach and bluffs of Point Dume provides the only easily accessible connection from the subject parking lot and Westward Beach to the public hiking trail accessing Point Dume State Park. Therefore, Special Condition 2 also requires the applicants to maintain this corridor as open space for public access throughout all project activities. Additionally, Special Condition 2 requires that the above mentioned corridor, parking lot fire lane, and emergency access route to the beach remain free of any obstructions for both public access and Lifeguard access to the beach, consistent with public safety requirements.

Section 30210 of the Coastal Act requires the Commission to consider public safety concerns with respect to public access to and along the shoreline. The proposed project has been designed and located in coordination with Los Angeles County Lifeguard Operations to ensure that the proposed structure or project activities not interfere with emergency access to the beach and compromise public safety. In addition, the applicants are proposing to employ two security personnel for the film set, to remain onsite when project activities are at rest, to ensure that members of the public do not directly access the set and construction site, which would cause for concern for public safety.

For the reasons set forth above, the Commission finds that the proposed project, as conditioned to minimize displacement of public parking, to maintain public access, and provide for public safety precautions, is consistent with Sections 30210 and 30211 of the Coastal Act.

C. Environmentally Sensitive Habitat Area

Section 30240 states:

- (a) ***Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such 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 such areas, and shall be compatible with the continuance of such habitat areas.***

Section 30240 of the Coastal Act states that environmentally sensitive habitat areas must be protected against disruption of habitat values and that development adjacent to environmentally sensitive habitat areas and parks shall be sited and designed to prevent adverse impacts to such resources.

As previously described, the proposed structure will be located on a public beach in close proximity to designated environmentally sensitive habitat areas including vegetated bluffs of Point Dume State Park and a distinct sand dune formation. The proposed project will be constructed entirely on the sandy beach regularly disturbed by sand grooming, and will be located approximately 10 ft. from the base of the Point Dume bluffs and at least 50 ft. from the dune formation. Therefore, no vegetation removal is proposed for construction of the movie set. In addition to the environmentally sensitive habitat areas associated with the bluffs of Point Dume and the sand dunes mentioned, the rocky shoreline and coves located at the tip of Point Dume are identified as areas providing haul-out sites for marine mammals.

The Commission notes that the proposed project is sited and designed such that no vegetation removal will be required for the project, nor will any significant sand grading be necessary. The film set is designed with a relatively non-invasive grade beam support structure to be installed approximately 6 inches below grade, which will require minimal alteration of the contours of the sandy beach for construction. Commission Staff have received a letter from the Department of Parks and Recreation Resource Ecologist addressing concerns regarding possible adverse impacts resulting from the proposed project on the identified sensitive resources. The letter, dated March 21, 2000, specifically states that "no natural resources will be affected by the production as long as the crew stays away from the vegetation on the bluffs and on the two small sand dunes on the beach."

Though the project as proposed will have minimal adverse impacts to environmentally sensitive habitat areas of the site, the Commission notes that environmentally sensitive habitat areas, and in particular sensitive sand dune habitat, are easily disrupted and degraded when exposed to continual disturbance. The Commission notes that continual access for personnel, vehicles, and equipment must be provided to the project site from the

parking lot throughout the duration of the proposed project and that sensitive dune habitat is located between existing access ways and the project site. The applicants have provided a site plan indicating that access to the project site will be along existing paths to the beach, also used by life guard operations, and that access will not be directed over sand dune habitat (Exhibit 2). The Commission finds that the applicants' proposal for access to the project site on the beach will serve to minimize potential adverse impacts to sensitive dune habitat, but further requires, through **Special Condition 3**, that the applicants provide sand fencing around the perimeter of the dune formation throughout the approved duration of the project to ensure that the environmentally sensitive habitat area is protected against disturbance. Special Condition 3 also requires the applicants to remove the fencing at the conclusion of the proposed project.

With regards to possible impacts and disturbance to wildlife which may inhabit the project site or adjacent areas, Department of Parks and Recreation has indicated that no nesting birds will be affected by the proposed project and that the identified haul-out areas used by marine mammals will not be impacted by filming activities or set construction.

Therefore, the Commission finds that the proposed project, as conditioned to minimize potential impacts to environmentally sensitive habitat areas, is consistent with Section 30240 of the Coastal Act.

D. Local Coastal Program

Section 30604 of the Coastal Act states:

- 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 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 project 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 development, as conditioned, 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. California Environmental Quality Act

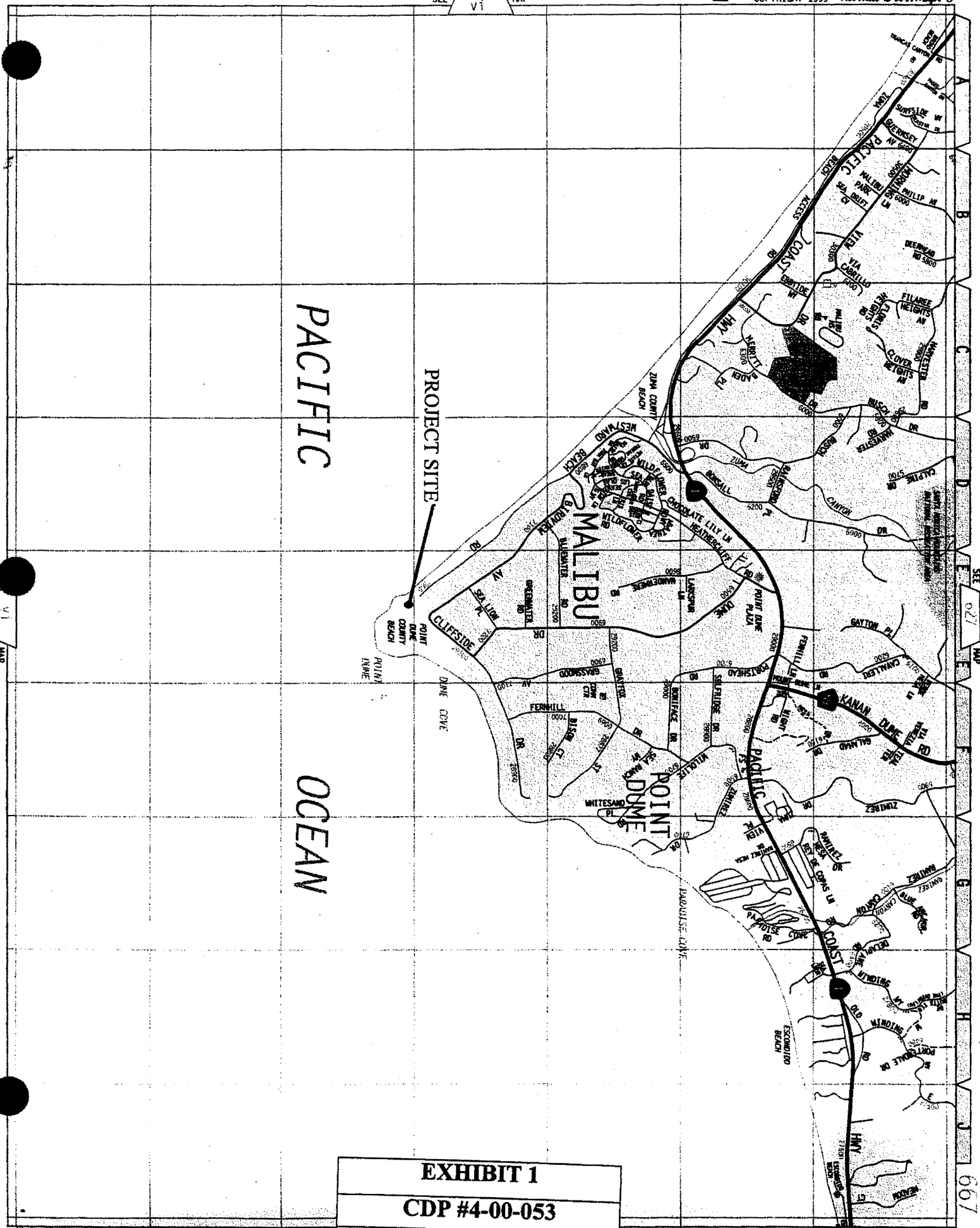
Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California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

PACIFIC

OCEAN

PROJECT SITE



vi MAP

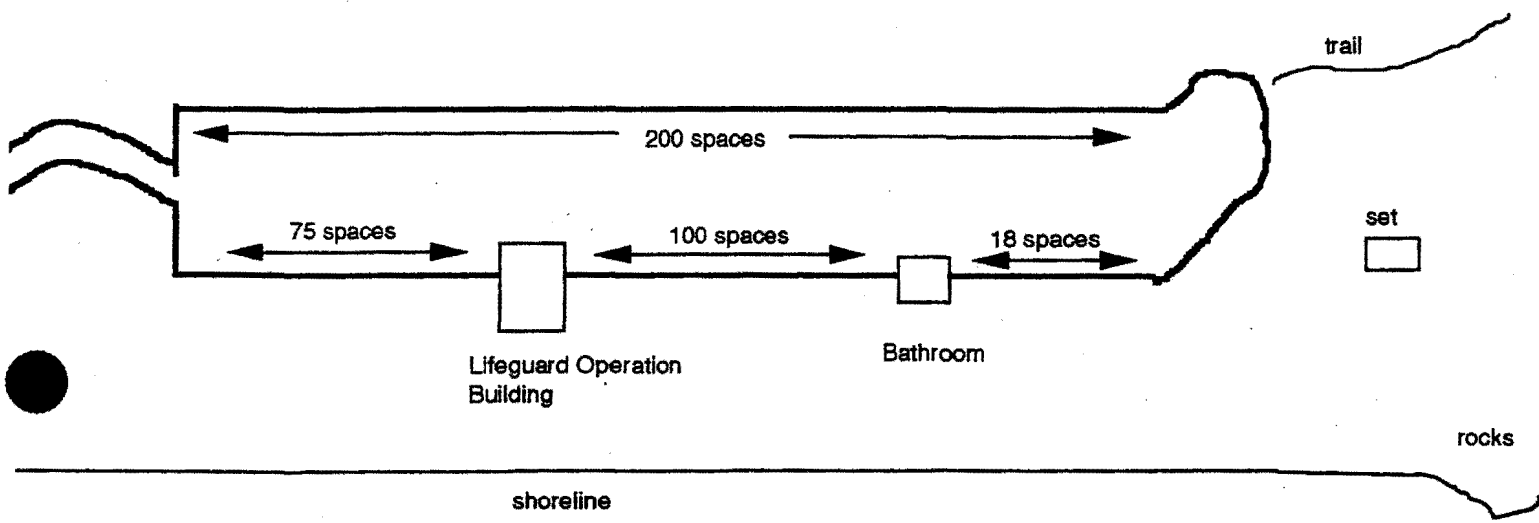
SEE 621 MAP

667

EXHIBIT 1
CDP #4-00-053
VICINITY MAP

Big Ship Production Inc.

"Pearl Harbor" Site Map Westward Beach Parking Lot



Total Spaces: Approximately 390

Production Needs:

Parking during prep 4/17 - 5/16: 2 or 3 trucks, up to 15 cars.

Parking during wrap 5/24 - 6/9: Same as prep.

Parking during shoot: 5/17 - 5/19: South (East) half of the Parking Lot. will be needed for equipment.

Handicap spaces will be left open for public use.

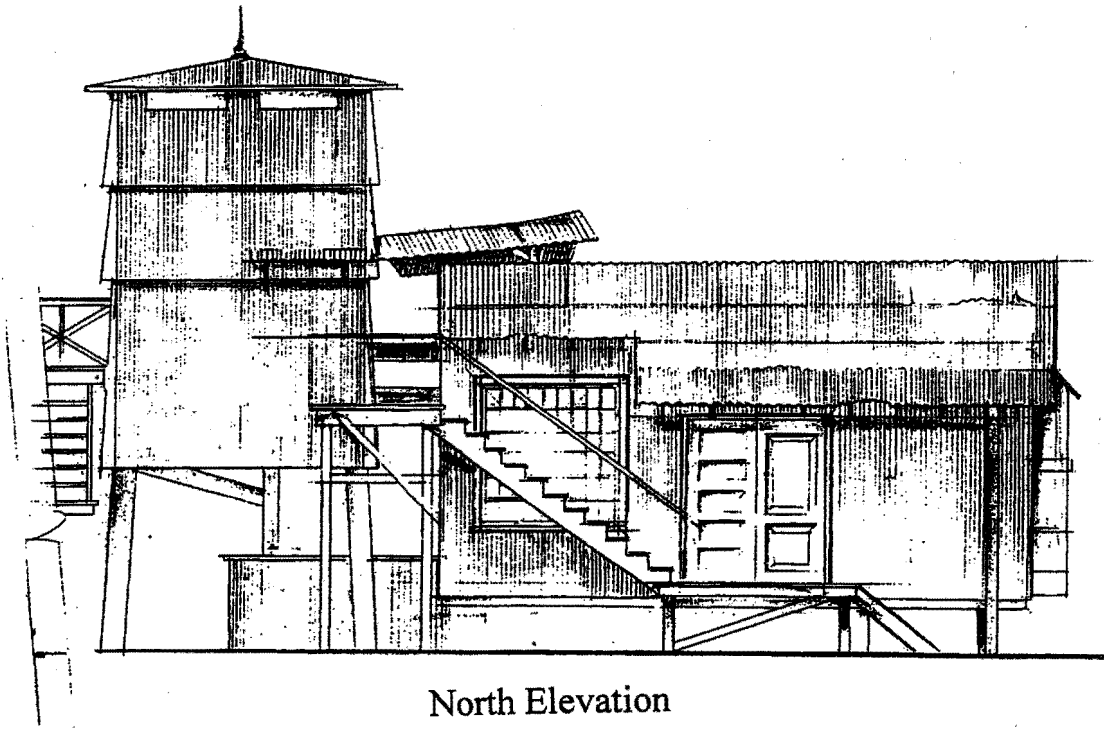
Parking arrangements and payment will be coordinated through the L.A. County Beaches and Harbors and their vendor 5 Star Parking.

Public access to beach areas will be maintained.

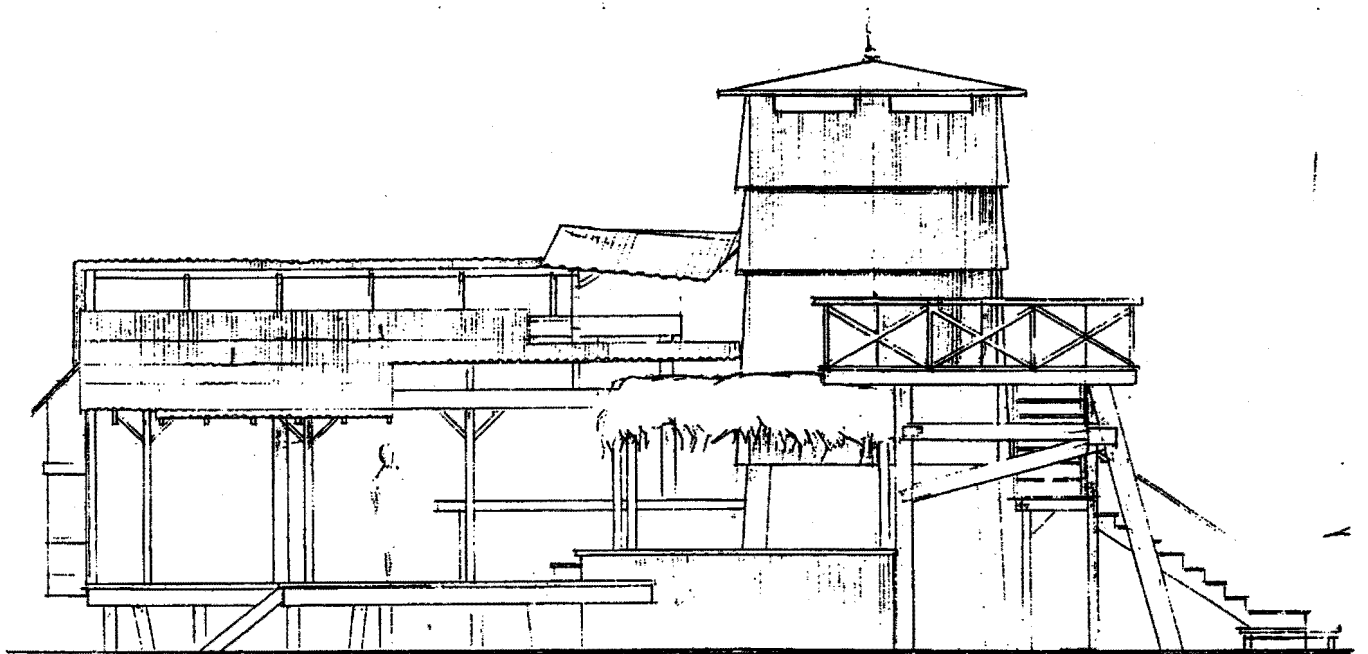
Public will not be allowed to access the interior set due to safety and liability concerns.

During period of actual filming (it is a night scene) intermittent pedestrian control in our view area will be requested as part of our standard EIDC permit.

EXHIBIT 3
CDP # 4-00-053
Parking Plan

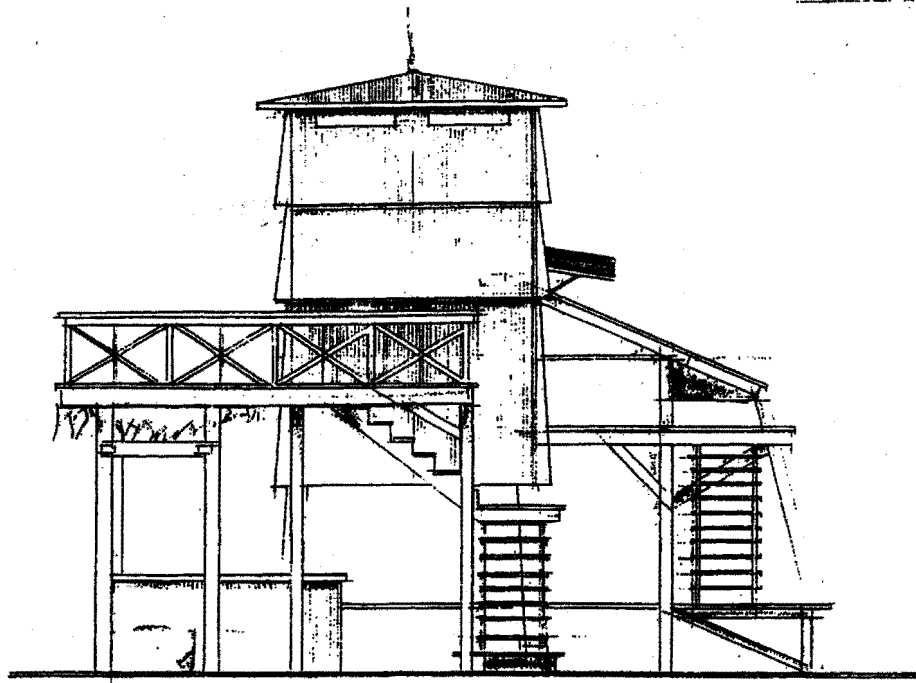


North Elevation

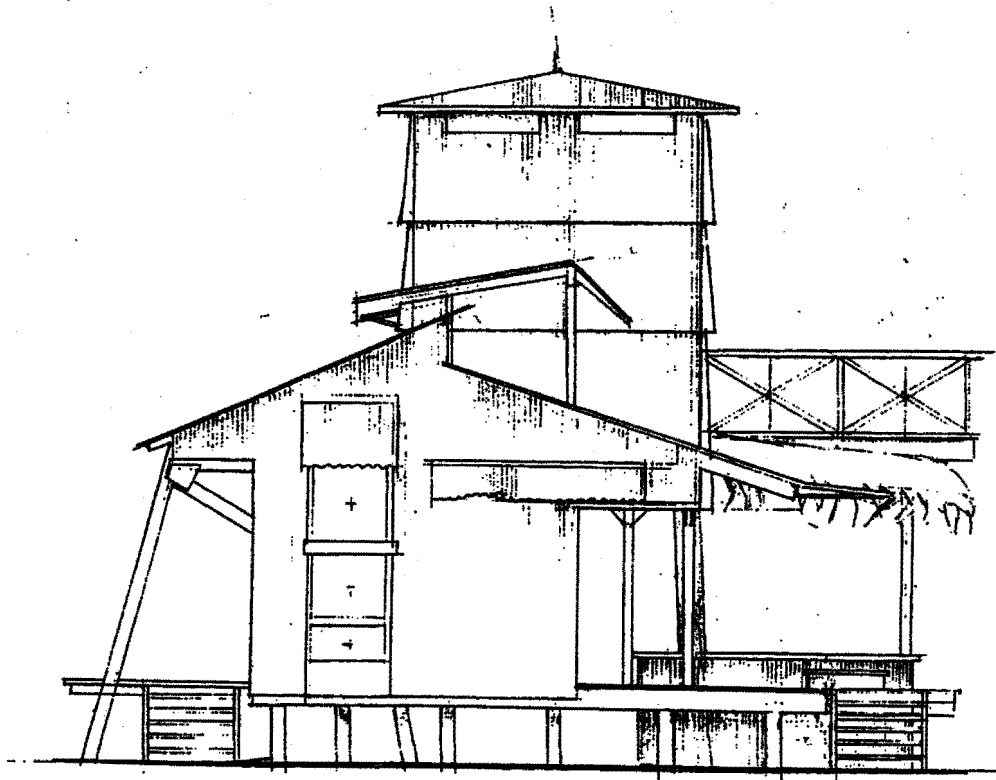


South Elevation

EXHIBIT 5
CDP # 4-00-053
Film Set Elevations



East Elevation



West Elevation

EXHIBIT 6

CDP # 4-00-053

Film Set Elevations