

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4402

(619) 767-2370

RECORD PACKET COPY**Wed 21b**

Filed: 2/6/01
49th Day: 3/27/01
180th Day: 5/7/01
Staff: LRO-SD
Staff Report: 3/22/01
Hearing Date: 4/10-13/01

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-01-29

Applicant: City of San Diego

Agent: Danny Schrotberger

Description: Expansion of the existing Ocean Front Walk boardwalk by 12 feet to the east, including a 3-foot wide landscaped buffer with irrigation system on the inland side of the boardwalk.

Site: Ocean Front Walk from Santa Barbara Place north to Pacific Beach Drive, Mission Beach, San Diego, San Diego County.

Substantive File Documents: Certified Mission Beach Precise Plan and Planned District Ordinance; Certified City of San Diego LCP Implementing Ordinances; CDPs #6-99-90, 6-99-145, 6-00-01 and 6-00-123; Final EIR SCH No. 97011080 - 5/11/98.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed boardwalk expansion. The project will increase public access and recreational opportunities in Mission Beach without the need to encroach onto sandy beach. As proposed and conditioned, no adverse impacts to coastal access are anticipated.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-01-29 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.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Storage and Staging Areas/Timing of Construction. The applicant shall comply with the following conditions as proposed on the project plans submitted on February 6, 2001 by the City of San Diego:

- a. The existing boardwalk shall remain open to two-way traffic throughout the boardwalk construction.
- b. No overnight storage of equipment or materials shall occur on public parking spaces with the exception of a 2,500 sq.ft. area (10 parking spaces maximum) located in the southeast corner of the Belmont Park south parking lot, which may be used only by the City of San Diego. The staging site shall be removed and/or restored immediately following completion of the development.
- c. The City shall not perform any of the boardwalk construction work between Memorial Day weekend and Labor Day of any year.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director.

No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Final Landscaping Plan. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a final landscape plan. Said plans shall be in substantial conformance with the plans submitted with this application by SGPA Architecture and Planning dated 8/1/00, shall be subject to the review and written approval of the Executive Director and shall indicate the type, size, extent and location of all plant materials, the proposed irrigation system and other landscape features. Drought tolerant native or non-invasive plant materials shall be utilized to the maximum extent feasible. Special emphasis shall be placed on the use of low-flow irrigation. Said plan shall be submitted to, reviewed and approved in writing by the Executive Director.

The permittee shall undertake development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without an approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History. The proposed project is for expansion of the existing Ocean Front Walk boardwalk by 12 feet to the east, including a 3-foot wide irrigated landscaped buffer on the inland side of the boardwalk. The project would be located in the 12-foot wide public right-of-way east of the existing boardwalk on Ocean Front Walk in the Mission Beach community of the City of San Diego. The project also includes the relocation of existing street lights, installation of flashing beacons, and traffic warning signs. The boardwalk would be restriped and stamped to separate wheeled and pedestrian traffic, with pedestrian traffic located on the seaward side of the boardwalk, and wheeled traffic (bikes, skates, skateboarders) on the inland side of the boardwalk.

As proposed, the existing boardwalk would remain open to two-way traffic throughout the construction period, and no work would occur between Memorial Day weekend and Labor Day of any year. The City is proposing to use a 2,500 sq.ft. area, accounting for a maximum of 10 parking spaces, located in the southeast corner of the Belmont Park south parking lot for temporary construction staging and storage.

The Ocean Front Walk boardwalk was originally constructed in 1928, and runs along the western side of Mission Beach from the South Mission Beach Jetty north approximately 2.36 miles to Thomas Avenue in the community of Pacific Beach. The existing concrete walkway east of the project location is approximately 11 feet wide, with a seawall/

bulkhead on the seaward side, and the 12-foot wide right-of-way easement inland of the walkway. West of the seawall is sandy beach.

Historically, there have been a variety of privately maintained fences, walls, decks, landscaping, and patio improvements located within the 12-foot wide public easement. However, in August 1999, the Commission approved a permit for the City of San Diego to remove the private encroachments in the right-of-way at the project site from Ventura Place to Santa Barbara Place (#6-99-90) and in October, 2000 a permit to also remove the private encroachments in the right-of-way from Santa Barbara Place north to Pacific Beach Drive (#6-00-23). In January of 1999, removal of the encroachments pursuant to CDP #6-99-90 began. In February of 1999, the Commission approved a permit for the reconstruction of private improvements such as walls and patios east of the right-of-way on private property (#6-99-145). In January, 2000 the Commission approved a permit for the widening of the boardwalk between Ventura Place and Santa Barbara Place (#6-001).

The boardwalk is located in an area of the Commission's original jurisdiction, therefore, Chapter 3 of the Coastal Act is the standard of review.

2. Public Access/Recreation. 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 30212 of the Act states, in part:

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

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,
- (2) adequate access exists nearby, or,
- (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway....

Section 30221 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.

Section 30222 states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

The proposed boardwalk expansion would take place in the public right-of-way easement east of the existing Ocean Front Walk boardwalk. The boardwalk is a heavily-used recreational facility frequented by pedestrians, bicyclists, skaters, skateboarders, runners, and persons in wheelchairs. The walkway is accessible from the east/west streets off of Mission Boulevard, and provides access to the sandy beach at stairways located at various points along the seawall. The City has for many years contemplated expansion of the boardwalk, and in January 2000, began removing the private encroachments in the right-of-way in preparation for a future expansion of the boardwalk.

In reviewing development of properties and construction of structures adjacent to the boardwalk, the Commission has also required that development not preclude or impede a future inland expansion of the boardwalk, such as is proposed in the subject project. The proposed boardwalk expansion will improve public access to the shoreline without the need to encroach on sandy beach, consistent with the public access and resource policies of the Coastal Act. The separation of wheeled and pedestrian traffic is expected to help alleviate real or perceived safety problems on the boardwalk, thereby increasing access opportunities for those persons who may have avoided the boardwalk in its current configuration. The proposed expansion also improves a significant coastal, low-cost visitor-serving recreational facility, consistent with the public recreation policies of Chapter 3.

As proposed, the City will maintain two-way access on the boardwalk at all times during construction. In addition, the City has proposed using up to approximately 2,500 sq.ft. in the southeast corner of the Belmont Park south parking lot for staging and storage of equipment. Although this staging area would impact 10 public parking areas in a beach area with a severe parking shortage, the City has proposed limiting all work that it performs, to outside the peak summer season (Memorial Day to Labor Day). Many of the residential units in Mission Beach are occupied by summer renters who frequently have more vehicles than can be accommodated on the residential site, and thus occupy public parking spaces in the summer. However, the demand for parking in Mission Beach drops considerably in the non-summer season. Thus, temporarily usurping 10 parking spaces is not expected to significantly impede the public's ability to access the beach.

In addition, because the City proposes to undertake construction outside of the summer season, and to keep the boardwalk open at all times, the construction of the project will

not significantly interfere with the public's use of this recreational facility. Therefore, as proposed, construction of the project will not have significant adverse impacts on public access or recreation. Special Condition #1 restates the City's proposal to use no more than 10 parking spaces for staging, keep the boardwalk open through the removal activities, and not perform any work during the summer season. Thus, as conditioned to ensure the project is carried out as proposed, the proposed boardwalk construction will not adversely impact public access or recreation.

As conditioned, no short or long-term impacts to coastal resources are anticipated. Therefore, the proposed project can be found consistent with the public access and recreation policies of the Coastal Act.

3. Visual Quality. Section 30251 of the Coastal Act states in part:

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 proposed project primarily consists of widening the public boardwalk. Also proposed is the provision of three-foot wide buffer area between the boardwalk and the existing structures inland of the boardwalk. The buffer area is proposed to be landscaped with trees, shrubs and flowers, as noted on the submitted landscape plans. Irrigation is also proposed. The provision of landscaping in this area will visually enhance this scenic shoreline area. Therefore, the Commission finds the proposed development consistent with the visual protection policies of the Coastal Act.

4. Water Quality. Section 30230 and 30231 of the Coastal Act states the following:

Section 30230

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate.

Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground

water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The proposed project involves the widening of an existing concrete public oceanfront boardwalk by nine feet for a distance of 1 2/3 miles and runoff from the impervious surfaces will be directed to the west to the beach through openings in the existing parapet wall (seawall) that borders the seaward side of the boardwalk. While the boardwalk will be widened by nine feet with this proposal, it will not result in a substantial increase in impervious surfaces. This is because up until quite recently, the area proposed for the expansion included decks, patios and other private encroachments that have now been removed by the City to allow for the boardwalk widening and the widening project also includes a 3 ft. wide landscape area adjacent to the boardwalk that did not exist before.

Relative to the water quality, in this particular case, the public boardwalk does not collect the types of pollutants that would normally be associated with a public roadway, for example. It is a recreational walkway used by pedestrians, bicyclists, roller bladers and skateboarders. As such, there are little, if any, chemicals or pollutants that would be discharged onto the beach.

In addition, with regard to the proposed landscaped buffer area, in order to assure that water use is kept to a minimum to reduce the potential for runoff, Special Condition #2 requires that the landscape materials consist of native, drought-tolerant plant species with special emphasis placed on the use of low-flow irrigation. Therefore, the Commission finds the proposed development, as conditioned, consistent with the water and marine resource policies of the Coastal Act.

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

It is anticipated that individual property owners will bring forward applications to construct privacy walls and fences on private property to replace those removed from the public right-of-way pursuant to CDP #6-99-90. The construction of any such privacy walls/fences inland of the landscape buffer will be done by individual property owners under separate coastal development permits and is not part of the subject permit application. However, the future construction of such privacy walls for structures that presently have no setback from the public right-of-way easement raises some potential concerns; thus, a discussion on the matter is included in the subject findings.

Specifically, there are approximately 20 structures that were legally built on the "zero lot line" such that the western walls of the structures abut the public right-of-way (3 ft. wide landscaped buffer area). There also six structures that were legally built with less than a three-foot setback from the zero lot line. The City has decided that for the houses that are

built on the zero lot line or within one foot of the zero lot line, if the structure was built at a time when it was legal not to have a setback, they will be permitted to use the full three ft. width of the area designated for a landscape buffer for purposes of building a private wall/fence. In addition for the approximately six houses that have less than a three-foot setback from the zero lot line, the City will permit some of the landscape buffer area to be used for the construction of a privacy wall. However, the City has also indicated that these proposed development must first obtain an encroachment removal permit and get approval from the Coastal Commission via a coastal development permit.

However, if these properties redevelop in the future or substantial improvements are proposed, these structures will need to observe the required building setbacks and remove any encroachments into the three-foot wide landscape buffer area at that time. It is suggested that the City incorporate such requirements into the encroachment removal permit so as to make future property owners aware of this requirement.

The subject site is located in an area of original jurisdiction, where the Commission retains permanent permit authority. The subject permit would improve public access and recreational opportunities consistent with the policies of the certified Mission Beach Planned District Ordinance. The project is consistent with the certified Mission Beach Precise Plan and all applicable Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of the proposed development will not prejudice the ability of the City of San Diego to implement its certified LCP for the Mission Beach community.

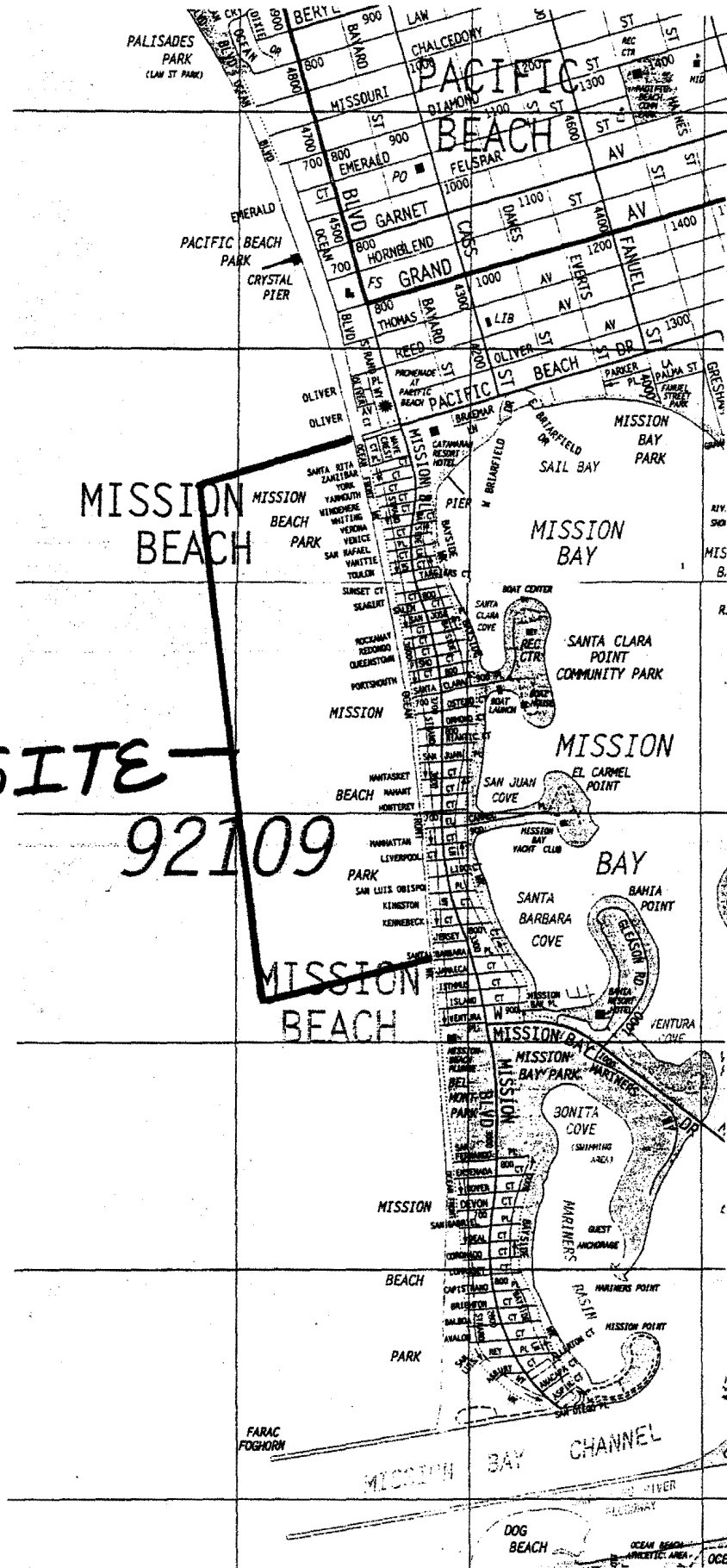
6. Consistency with the California Environmental Quality Act (CEQA).

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, 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 proposed project has been conditioned in order to be found consistent with the public access and recreational policies of the Coastal Act. Mitigation measures, including conditions requiring that the boardwalk remain open to traffic and the timing of construction, and submittal of final landscape plans utilizing native/drought-tolerant non-invasive plant species will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. Notice of Receipt and 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. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. 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.
5. 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.

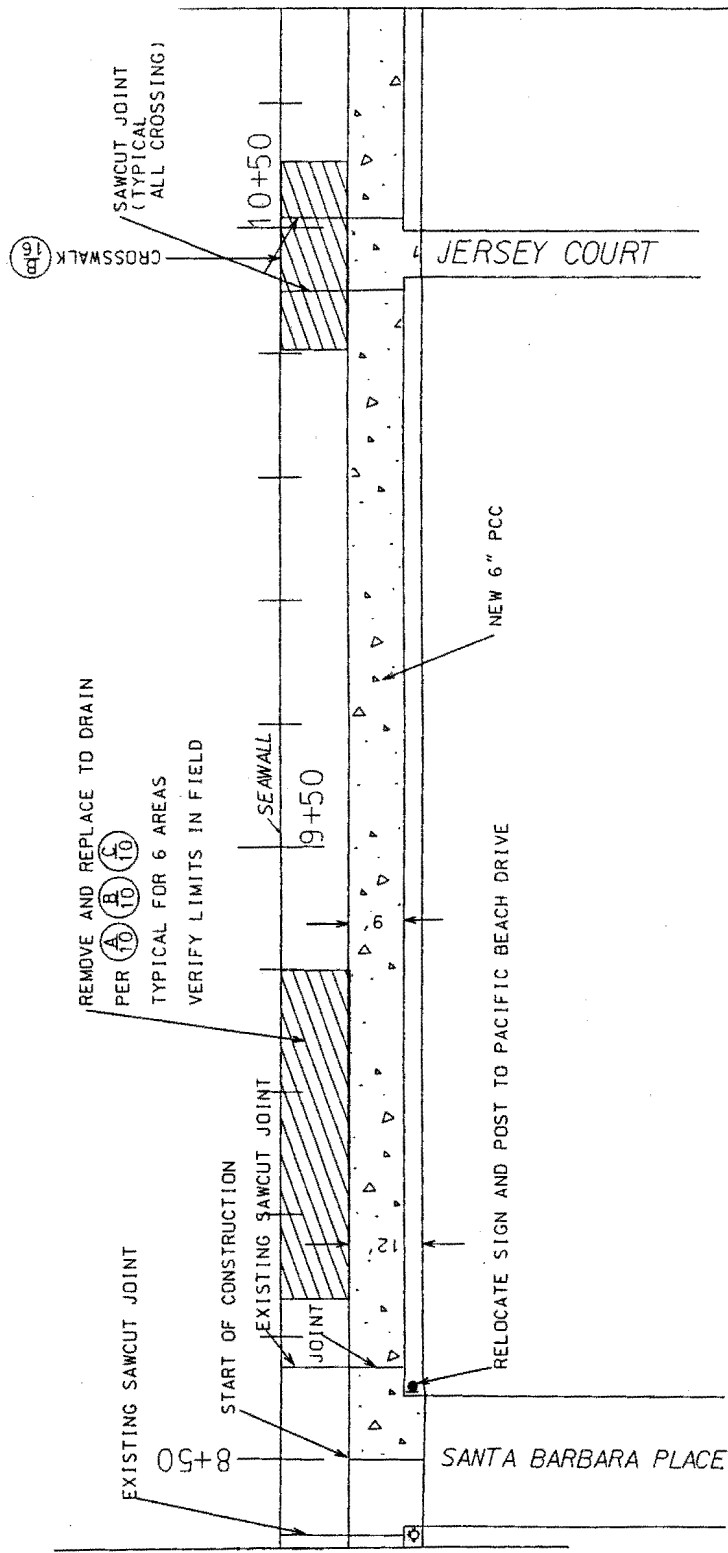


SITE
92109



EXHIBIT NO. 1
APPLICATION NO.
6-00-29
Location Map
California Coastal Commission

MATCH LINE STA 10 + 90.00 SEE BELO



CROSSWALK (B) (16)

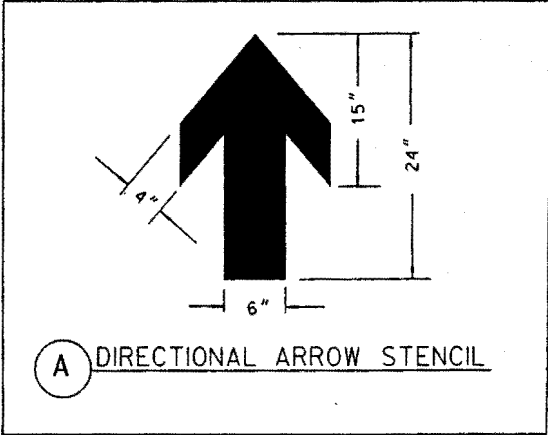
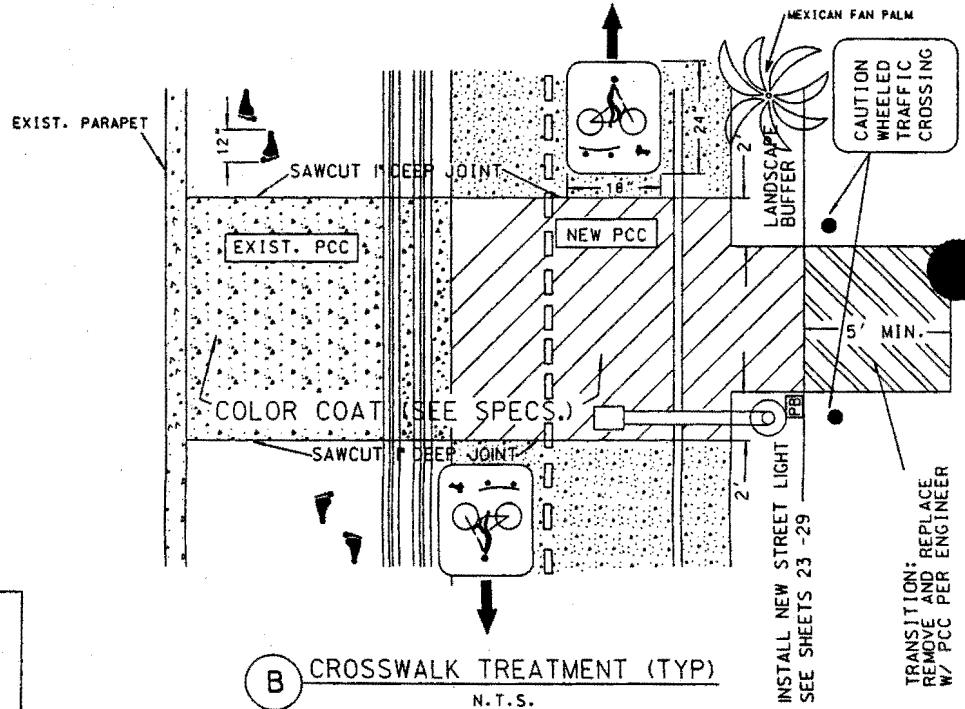
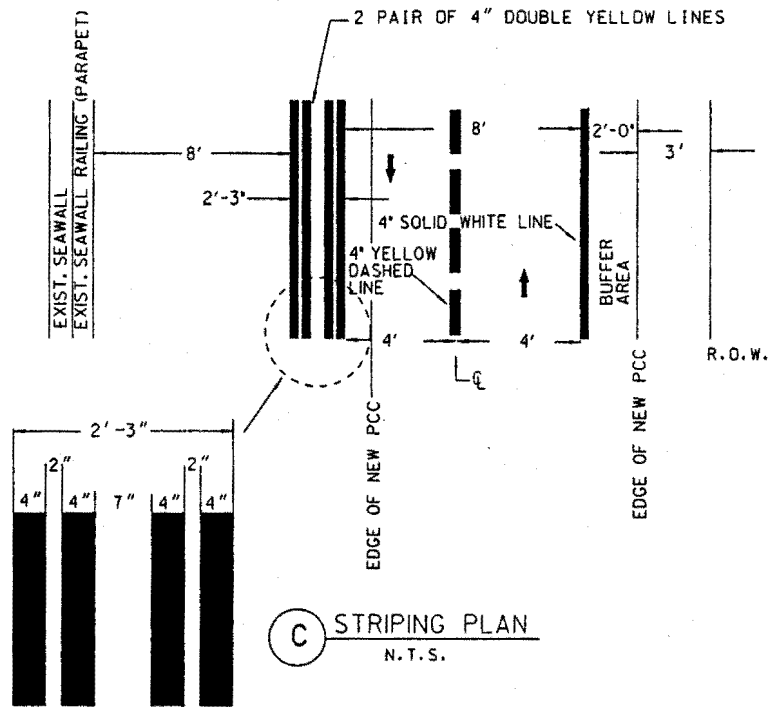
SSWALK (B) (16)

MATCH LINE STA 8 + 35.00

SEE PLAN

"MISSION BEACH BOARDWALK WIDNING PH 1A "(29970-D)
FOR VENTURA PLACE TO SANTA BARBARA PLACE

EXHIBIT NO. 2
APPLICATION NO.
6-00-29
Typical Site Plan for Boardwalk Widening
California Coastal Commission



COLOR SCHEDULE:

ITEM	COLOR
CAUTION SIGNS	BLACK ON YELLOW
WHEELED TRAFFIC STENCIL	BLACK ON WHITE
DIRECTIONAL ARROW STENCIL	WHITE
FOOTPRINT STENCIL	WHITE
COLOR COAT	BROWN EART

EXHIBIT NO. 3
APPLICATION NO.
6-00-29
Directional/Graphics
Plan

California Coastal Commission

TRANSITION: REPLACE AND REMOVE W/ PCC PER ENGINEER

INSTALL NEW STREET LIGHT SEE SHEETS 23 - 29