

CALIFORNIA COASTAL COMMISSION

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 Commission Action:

**RECORD PACKET COPY****STAFF REPORT: REGULAR CALENDAR****APPLICATION NUMBER:** 5-02-062**APPLICANT:** California Department of Parks and Recreation**PROJECT LOCATION:** Doheny State Beach
25300 Dana Point Harbor Drive, City of Dana Point, Orange County

PROJECT DESCRIPTION: Construction of one "longhouse" palapa and two smaller palapas on a beach, a boardwalk to one of the palapas, benches along San Juan Creek, and request for after-the-fact approval for construction of a fourth palapa with boardwalk. The palapas would be open-air palm frond thatched shade structures similar to beach structures located in coastal Mexico. The "longhouse" would be sixteen feet wide by forty feet long and would be eighteen feet high. The two smaller palapas would be nine feet in diameter and 13 feet tall. The boardwalks would be 60 inches wide and constructed of recycled plastic boards. The fourth palapa, for which after-the-fact approval is being requested, is fifteen feet in diameter and 14-1/2 feet tall.

LOCAL APPROVALS RECEIVED: State Parks exempt from approvals by the City of Dana Point.**SUBSTANTIVE FILE DOCUMENTS:** Letters to Commission staff from the applicant dated February 6, 2002 and April 9, 2002; Dana Point Specific Plan/Local Coastal Program.**SUMMARY OF STAFF RECOMMENDATION:**

The proposed project includes the construction of structures on a public beach. The major issues of this staff report relate to visual impacts caused by the proposed structures and signage, assuring public access to the structures, assurance the structures are not subject to wave and erosion hazards, and assuring construction does not cause any adverse impact upon public access, biological resources and water quality. Commission staff recommend the Commission **APPROVE** the proposed project with special conditions that require: 1) conformance with requirements relative to signage; 2) conformance with requirements relative to construction responsibilities, 3) the applicant to submit final plans which conform with the special conditions, 4) the applicant to agree to assume the risks of the development; 5) require the applicant to comply with the conditions within 180 days; and 6) require the applicant to avoid construction during the peak beach use season.

PROCEDURAL NOTE – STANDARD OF REVIEW:

The proposed development is occurring at Doheny State Beach in the City of Dana Point. Doheny State Beach is a certified area under the Dana Point Specific Plan/Local Coastal Program. However, since the proposed development is located on filled tidelands, it is within the Commission's original permit jurisdiction under Coastal Act Section 30519(b) and must be evaluated for consistency with the Chapter 3 policies of the Coastal Act. The policies of the certified Dana Point LCP may be used for guidance.

I. STAFF RECOMMENDATION, MOTION AND RESOLUTION OF APPROVAL.

Staff recommends that the Commission make the following motion and adopt the following resolution to APPROVE the permit application with special conditions.

MOTION

I move that the Commission approve CDP #5-02-062 pursuant to the staff recommendation.

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 OF APPROVAL WITH CONDITIONS

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 this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. 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.

III. SPECIAL CONDITIONS

1. SIGNAGE

Signage shall be prohibited on the structures approved by this permit except for signs: 1) that declare that the approved structures are available for use by the general public on a first come, first-served basis; and 2) a single sign, as described by the applicant in their letter dated February 6, 2002, on the interior of each structure acknowledging assistance from the Doheny Longboard Surfing Association for the construction of the structures. Signage shall be subordinate to the color, materials and character of the approved structures. Signage shall be placed on the interior of the structure and within the roof line so that views through the structure are not obstructed by the signs. Color and materials of signs shall be compatible with the natural color and texture of the natural materials to be used for construction of the shade structures. Signs shall be limited to text without logos. Signage shall not exceed 1 feet by 2 feet in size. No signage shall be sized, placed or otherwise designed in a manner that would have an adverse visual impact. Any changes to the signs as approved by the Executive Director in accordance with Special Condition 3, including but not limited to their content, color, materials, or location, shall require an amendment to this permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is required.

2. CONSTRUCTION RESPONSIBILITIES

The permittee shall comply with the following construction-related requirements:

- (a) Wetlands and any other environmentally sensitive habitats shall not be impacted by the project. All plans and specifications for the project shall indicate that impacts to wetlands and environmentally sensitive habitats shall be avoided and that no impact to wetlands or other environmentally sensitive habitat or suspected habitat is authorized by the California Coastal Commission;
- (b) No construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat or wetlands, or any storm drain or be subject to wave erosion and dispersion;

- (c) Any and all debris resulting from construction activities shall be removed from the beach immediately upon completion of construction;
- (d) No machinery shall be allowed at any time within the intertidal zone;
- (e) All excavated beach sand shall be redeposited on the beach;
- (f) Sand from the beach, cobbles, or shoreline rocks shall not be used for construction material;
- (g) Concrete trucks and tools used for construction of the approved development shall be rinsed at an approved disposal site;
- (h) Staging and storage of construction machinery and storage of debris shall not take place on any parking lot, bike path, or within any sensitive habitat area.
- (i) Construction materials, chemicals, debris and sediment shall be properly contained and secured on site to prevent the unintended transport of material, chemicals, debris, and sediment into wetlands, habitat areas and coastal waters by wind, rain or tracking. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of construction-related materials, and to contain sediment or contaminants associated with construction activity, shall be implemented prior to the on-set of such activity. BMPs selected shall be maintained in a functional condition throughout the duration of the project. A pre-construction meeting shall be held for all personnel to review procedural and BMP/GHP guidelines.
- (j) Disposal of debris and excess material. Debris and excess material shall be disposed or recycled at a legal disposal/recycling site. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is required. No debris or excess material shall be placed on any sensitive habitat;
- (k) Debris and sediment shall be removed from the construction areas as necessary to prevent the accumulation of sediment and other debris which may be discharged into coastal waters.
- (l) Any and all debris resulting from investigation activities shall be removed from the project site within 24 hours of completion of construction.

3. **FINAL PLANS**

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval of the Executive Director:
 - i. final plans for the proposed shade structures, boardwalks and benches that substantially conform with the plans submitted on February 15, 2002, except that the final plans shall specify the location and dimensions of the structures as described in the letters from the applicant to the Commission dated February 6, 2002, and April 9, 2002;
 - ii. final plans for signage (including sign size, content, color, materials and location) that substantially conform with the letter from the applicant to the Commission dated February 6, 2002, and Special Condition 1 of this permit;
 - iii. final plans for signage (including sign size, content, color, materials and location) that are consistent with Special Condition 1 of this permit and that indicate the

proposed shade structures are available for use by the general public on a first come, first served basis.

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

4. **ASSUMPTION OF RISK, WAIVER OF LIABILITY AND INDEMNITY AGREEMENT**

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from waves, erosion, 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; and (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 ANY CONVEYANCE OF THE PROPERTY THAT IS THE SUBJECT OF THIS COASTAL DEVELOPMENT PERMIT**, the applicant and landowner(s) shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of subsection (a) of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.
- C. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, 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.

5. **CONDITION COMPLIANCE**

WITHIN 180 DAYS OF COMMISSION ACTION ON THIS CDP APPLICATION, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

6. **TIMING OF CONSTRUCTION – PUBLIC ACCESS**

To avoid adverse impacts on public access to Doheny State Beach, construction shall not occur between the Memorial Day holiday weekend through the Labor Day holiday weekend, inclusive, during any year in which the proposed development is constructed.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND LOCATION

The proposed project is located at Doheny State Beach in Dana Point, Orange County (Exhibit 1). The applicant is proposing to construct shade structures, boardwalks and benches at the State Beach (Exhibit 2).

The proposed project includes construction of one "longhouse" palapa, two smaller palapas, and request for after-the-fact approval for construction of a fourth palapa, on the sandy beach. The palapas would be open-air palm-frond covered shade structures similar to beach structures located in coastal Mexico.

The "longhouse" would be sixteen feet wide by forty feet long and would be eighteen feet tall (Exhibit 4). The longhouse would be constructed of 14 telephone-pole columns embedded into the sand with a pitched roof covered with palm-frond thatching. Four benches would be constructed using the columns for support. In addition, open frame screens and surfboard racks would be suspended between the columns at four locations in the structure. The floor of the structure would remain sandy beach. An electric utility line would be extended to the structure.

Two palapas would be nine feet in diameter and 13 feet tall (Exhibit 5). These palapas would consist of a single pole supporting a round, pitched palm-frond covered roof. The floor of the structure would remain sandy beach.

The applicant is requesting after-the-fact approval for construction of one 15-foot diameter, 14½ foot tall palapa (Exhibit 3). This existing palapa has eight telephone-pole columns supporting the perimeter of a pitched, palm-frond thatched roof as well as a pole supporting the center of the roof. Benches are suspended between the perimeter poles. In addition, a small round table surrounds the center pole. The floor of the structure is sandy beach.

The applicant is proposing to construct continuous American's with Disabilities Act (ADA) compliant boardwalks from the existing paved areas located along the back beach to two of the palapas. The boardwalks would be 60 inches wide with 2 inch risers along the edge of the boardwalk. The boardwalks would be constructed of boards composed of recycled plastic material (e.g. Trex). Pins would secure the boardwalk in place.

Finally, the applicant is proposing to place four wood benches along the bank of San Juan Creek which bisects Doheny State Beach. The benches would have cement footings (Exhibit 6).

All of the structures are proposed to be available to the public on a first come, first served basis during most seasons. However, the applicant proposes to "...reserve the right to permit special events and selective use of facilities..." during the non-peak beach use season.

B. VISUAL RESOURCES

Section 30251 of the Coastal Act states, in relevant 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...

Section 30251 of the Coastal Act requires new development to be visually compatible with its setting and sited to protect coastal views. The placement of additional structures on the beach could individually and cumulatively contribute to the visual clutter of the beach, thereby degrading the scenic quality of the beach and adversely impacting coastal views. In order for the proposed structures to be consistent with Section 30251 of the Coastal Act, the Commission must find that the structures, individually and cumulatively, are visually compatible with their surroundings, restore or enhance areas that are visually degraded and do not significantly interfere with views to and along the coastline.

The proposed development is located on a public State Beach. The public visiting the State Beach is afforded views of open coastal waters, the horizon and sandy beach looking across the site and down coast, distant views of the inland hills and mountains, and the Dana Point Harbor up coast of the beach. The proposed structures would be located on the approximately 300 foot wide sandy beach seaward of existing paved and landscaped areas located at the back beach which are used for picnics, public parking, and support facilities for the campgrounds which are part of the State Beach. There are other existing structures located on the sandy beach including lifeguard towers and a lifeguard headquarters building.

The proposed structures are designed to minimize the obstruction of views to and along the shoreline. Except for the proposed 'longhouse', each structure is designed without walls or other solid screens that would obstruct views. Therefore, a person looking seaward would be able to see through each structure. In the case of the 'longhouse', there would be no walls. However, there would be four surfboard racks that could partially obstruct views through the structure when the rack is full. However, this view obstruction would not be significant as there are expansive vistas available immediately up coast and down coast of the structure. In addition, views through the structure wouldn't be entirely blocked.

Also, the proposed structures would be located landward of existing lifeguard towers (Exhibit 2). Existing lifeguard towers are located between 176 to 251 feet onto the 300 foot wide beach (i.e. 50 to 125 feet from the water) from the existing paved areas located at the back of the beach. Meanwhile, the proposed structures would be located approximately 85 to 165 feet from the back beach (i.e. 135 to 215 feet from the water). Accordingly, there would be existing development located seaward of the proposed structures. Therefore, the proposed development would not introduce any new significant obstruction of views to and along the shoreline. Furthermore, the proposed structures are placed in a staggered fashion with respect to the location of existing

structures on the beach. In addition, the structures would be spaced along the beach in a manner which maintains large unobstructed views of the ocean and shoreline. This staggered and spaced placement of the existing and proposed structures on the beach, would prevent cumulative adverse visual impacts due to the addition of structures to the coastal vista.

Finally, the proposed structures are to be constructed using unpainted, natural materials including wood poles and palm fronds. The proposed structures, using these materials, would blend into and become part of the scenic vista (Exhibit 7). While providing shade to beach users, the shade structures would add an element of rustic ambiance to the existing urban beach environment.

However, new structures located on the beach could be used to attach signs and advertising. Any sign boards attached to the structures could create an obstruction to views through the structures. In addition, logos and brightly colored insignia could degrade the rustic quality of the structures being proposed. The applicant is not proposing to use the structures for advertising (Exhibit 8). The only signage the applicant proposes is an acknowledgement -on the interior of each structure- of the assistance given to the applicant by the Doheny Longboard Surfing Association in conjunction with the proposed structures. However, the applicant has not provided plans depicting the content and precise location of the proposed signs. In order to assure that the proposed signage does not cause an adverse visual impact, the Commission imposes Special Condition 1 and 3. Special Condition 1 prohibits the placement of any signs on the approved structures except for a single sign on the interior of each structure acknowledging assistance from the Doheny Longboard Surfing Association and signage related to public access (the findings for which are discussed in the public access section). The special condition specifies that no signage shall be sized, placed or otherwise designed in a manner that would have an adverse visual impact. Special Condition 1 also identifies certain size, color, material and location requirements which are necessary to minimize visual impacts.

Meanwhile, Special Condition 3 requires the applicant to submit final plans, for the review and approval of the Executive Director that conform with the requirements of Special Condition 1 and that depict the materials, dimensions, location and content of the proposed sign.

Final plans are also required because, although the project has been described in detail through written narrative, the plans which have been submitted do not clearly show the proposed height, the specific location and the final materials that will be used. The final plans must substantially conform with the previous plans submitted and the written description of the project. For instance, the location must be consistent with the described project because the location and spacing are important for visual resource protection and hazard avoidance purposes. In addition, the applicant has proposed to use 'natural' materials, such as unpainted wood and palm fronds to construct the structures. The use of natural, unpainted materials is important to assure that the structures are unobtrusive on the beach. Accordingly, the Executive Director must confirm that the final plans are consistent with the project as described in order to assure that visual impacts do not occur. Therefore, the Commission imposes Special Condition 3.

As conditioned, the Commission finds the proposed project is consistent with Section 30251 of the Coastal Act.

B. BIOLOGICAL RESOURCES AND WATER QUALITY

Section 30230 of the Coastal Act states:

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 for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

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 is located on a public State Beach. The State Beach can be characterized as an urban beach setting. An interpretive center, parking lots, concession stands, concrete walkways, picnic tables, lawn, and camping areas are located landward of the sandy beach. Although largely developed, the site does also have habitat areas. For instance, a small drainage is located along the western border of the State Beach adjacent to Dana Point Harbor. In addition, San Juan Creek bisects the State Beach.

The proposed palapas would be located between the small drainage to the west and San Juan Creek to the east. No impacts to these habitat areas are proposed. Meanwhile, the proposed benches would be located along the upper western bank of San Juan Creek and would be accessible from the existing paved walkway which parallels San Juan Creek along its bank. No vegetation would be removed in constructing the proposed benches.

The proposed construction of structures on the beach and along the bank of San Juan Creek would disturb soil and potentially generate soil stockpiles. If these soils are not properly contained they could be discharged into coastal waters causing sedimentation and turbidity impacts. Therefore, Special Condition 2 requires that no construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat or wetlands, or any storm drain or be subject to wave erosion and dispersion; and that construction materials, chemicals, debris and sediment shall be properly contained and secured on site to prevent the unintended transport of material, chemicals, debris, and sediment into wetlands, habitat areas and coastal waters by wind, rain or tracking. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of construction-related materials, and to contain sediment or contaminants associated with construction activity, shall be implemented prior to the on-set of such activity. BMPs selected shall be maintained in a functional condition throughout the duration of the project. A pre-construction meeting shall be held for all personnel to review procedural and BMP/GHP guidelines. Also, Special Condition 2 requires that debris and excess

material shall be disposed or recycled at a legal disposal/recycling site. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is required. No debris or excess material shall be placed on any sensitive habitat. Finally, debris and sediment shall be removed from the construction areas as necessary to prevent the accumulation of sediment and other debris which may be discharged into coastal waters and any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of construction.

As conditioned, the Commission finds the proposed development is consistent with Section 30230 and 30231 of the Coastal Act.

C. PUBLIC ACCESS

Section 30604(c) of the Coastal Act requires that every coastal development permit issued for any development between the first public road and the sea include a specific finding regarding the conformity of the proposed development with the public access and recreation policies of Chapter 3 of the Coastal Act. The proposed development is located seaward of the first public road.

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

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

Section 30212 of the Coastal Act states, in relevant 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:

(2) adequate access exists nearby.

Sections 30210, 30211 and 30212 of the Coastal Act require that new development provide maximum public access and recreation, avoid interference with the public's right of acquired access, and provide public access from the nearest public roadway to the shoreline and along the coast except under certain circumstances.

The proposed palapas would provide shade to sandy beach areas that are presently absent of shade. Arguably, these shade structures facilitate public use of the sandy beach by providing an area of refreshment and repose to all beach users. In addition, the proposed trex walkways will allow members of the public which normally would be unable to traverse the sand (e.g. elderly and

physically challenged) to enjoy the sandy beach and open water views. Therefore, the proposed structures enhance public recreation opportunities at the beach.

The proposed project is located within a public State Beach which provides public access and recreation opportunities to the coast. The structures are being proposed for use by the general public which visit the State Beach. As noted in the project description, the applicant proposes to "...reserve the right to permit special events and selective use of facilities..." during the non-peak beach use season. More specifically, the applicant has stated that there would be no reservation system for the palapas. Rather, individuals or groups would be able to use the structures on a first come, first served basis. However, the applicant has stated that temporary events are occasionally held at the State Beach. Such temporary events include but are not limited to weddings, surf contests, and a blues festival. These temporary events may utilize the proposed palapas for short periods during the event. However, upon conclusion of the event, the palapas would, once again, be available for general use.

The applicant is not proposing any specific reservation of the proposed palapas. However, the applicant recognizes that they will use the facilities in accordance with the Commission's temporary event guidelines. The Commission's *Guidelines for the Exclusion of Temporary Events* adopted by the Commission on May 12, 1993, identify the types of temporary events which would require a coastal development permit and those which may be excluded from permit requirements. Any temporary events conducted by the applicant which utilize the proposed structures may or may not require a coastal development permit. As noted in the guidelines, the duration, location, timing, and impacts of the event determine whether a permit is required. If the event requires a coastal development permit and the event uses the proposed structures, the Commission may dictate the terms of use of the structures approved by this permit in conjunction with any approval granted for the temporary event.

Also, the applicant is proposing to install signage which acknowledges donations made by the Doheny Longboard Surfing Association for the proposed structures. Although the applicant is proposing to make the structures available to the general public, the proposed acknowledgement could be construed by members of the general public to confer some special privilege to use the structures by the Doheny Longboard Surfing Association. Any grant of special access privileges to structures on a public beach could result in adverse public access impacts. Therefore, the Commission imposes Special Condition 3 which requires that signage is installed on the interior of the structures that declare that the approved structures are available for use by the general public on a first come, first-served basis. The signage shall comply with the materials, color, size and location requirements identified in the Special Condition 1.

Also, the proposed project involves construction on a public beach. Construction activity could temporarily disrupt the public's ability to use the beach within the construction area. In addition, construction activity could disrupt public use of walkways and other facilities which are available at the State Beach. This impact would be greatest during the peak beach use season which occurs from Memorial Day to Labor Day. In order to minimize impacts, the Commission imposes Special Condition 2 which requires the applicant to avoid storing materials or staging construction upon any walkway or within any parking lot. In addition, the Commission imposes Special Condition 6 which requires the applicant to avoid construction between the Memorial Day holiday weekend through the Labor Day holiday weekend, inclusive, during any year in which the proposed development is constructed (i.e. between late May and early September).

As conditioned, the Commission finds the proposed development is consistent with the public access policies of the Coastal Act.

D. HAZARDS

Section 30253 of the Coastal Act states, in part:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

The proposed development is located on a sandy beach that is subject to tidal and wave action. The beach environment is dynamic and there are risks associated with development in such areas. For instance, severe wave action due to an irregular but severe storm event can cause the beach to erode more quickly than natural beach sand replenishment would occur. In such cases, structures on sandy beach areas could be subject to wave attack, flooding, and erosion.

The applicant has designed the proposed development to minimize risks due to tidal and wave action. The proposed palapas would be located on the sandy beach which is located between San Juan Creek and the Dana Point Harbor jetty. As described by the applicant, the subject beach faces "...south-south west where it would be threatened only by the largest summer swells from the south. Dana Point, San Juan Rocks and the Dana Point harbor jetties all combine to protect this section of beach from the largest winter swells from the north and north west. An expanse of rocky reef substrate extends offshore from this beach which acts to buffer high surf by forcing waves to break and expend their energy before they can act to significantly erode beach sands. The section of beach also acts to trap sand abundantly provided from San Juan Creek and its extensive watershed. Between the upcoast creek jetty that extends into the surf and the harbor jetty, beach sands have less suspension and transport due to their containment between these two enduring structures. There is little longshore current at this location. In the earliest aerial photos of the area, circa 1931, the shoreline shows little beach and more reclaimed marsh habitat. Because of man made structures, we now enjoy a consistently wide sandy beach in this area." This wide sandy beach will protect the development from tidal and wave action.

Furthermore, the applicant is siting the proposed structures at locations on the beach that are landward of the existing lifeguard towers. According to the applicant, no tidal or wave action has impacted the lifeguard towers which have been in place for at least the past twenty years during the severe storms of 1982/83, 1988, 1995 and 1998. Accordingly, since the proposed structures would be landward of the lifeguard towers, and the lifeguard towers have not be impacted by severe storms during the past twenty years, the applicant does not anticipate any adverse impact upon the proposed structures from tidal and wave action.

Although the applicant does not anticipate the structures will be subject to tidal and wave action, the applicant is proposing to sink the support poles for the palapas six feet or greater so that they can withstand wind shear and wave pass through. These structures are designed similar to those used in Mexico and other tropical climates where palapas have been known to withstand even the most severe storms. The applicant projects that the shade structures will have a life of 25 to 45 years.

The applicant recognizes that the beach environment is inherently risky to development from erosion and wave action. Accordingly, the applicant has stated that "...all of the palapa structures are considered temporary and expendable compared to our more enduring facilities such as restrooms, concession stand and lifeguard headquarters." Furthermore, the applicant has stated that the Department of Parks and Recreation has a policy regarding coastal erosion that states that the Department will not support installation of coastal protective devices. Furthermore, the applicant has stated that there will be no need for coastal protective devices to protect the proposed structures.

Although the applicant does not anticipate the proposed structures will be subject to tidal and wave action, the potential for such hazards remain. Existing conditions which contribute to the width of the sandy beach which would provide protection to the structures can change. For instance, the existing upcoast and downcoast jetties could be damaged or fall into disrepair leading to changes to sand transport processes and subsequently leading to changes to the width of the existing beach. In such cases it is conceivable the applicant would seek to protect the proposed structures with shoreline protective devices.

However, as noted above, the applicant considers the proposed structures to be appurtenant and do not represent a significant investment. Therefore, in the event the proposed structures were subject to wave attack, erosion, or flooding, the structures could be removed to avoid the hazard. Since the structures are not a significant investment, protection, such as a shoreline protective device, would not be required to protect the palapas if they were subject to wave attack, erosion, or flooding. Rather, removal of the structures could occur. The appurtenant and removable nature of the structures minimizes any hazard associated with the presence of the palapas in an area where wave attack, erosion, or flooding could occur.

Given that the applicant has chosen to implement the project despite risks from wave attack, erosion, or flooding, the applicant must assume the risks. Therefore, the Commission imposes Special Condition 4. In this way, the applicant is notified that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires the applicant to indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand the hazards. In addition, the condition ensures that future owners of the property will be informed of the risks and the Commission's immunity from liability. As conditioned, the Commission finds the proposed project is consistent with Section 30253 of the Coastal Act.

E. UNPERMITTED DEVELOPMENT

Unpermitted development has been carried out on the subject site without the required coastal development permit. The applicant is requesting after-the-fact approval for construction of a 15 foot diameter, 14½ foot tall palapa and trex walkway. This existing palapa has eight telephone-pole columns supporting the perimeter of a pitched, palm-frond thatched roof as well as a pole supporting the center of the roof. Benches are suspended between the perimeter poles. In addition, a small round table surrounds the center pole. The floor of the structure is sandy beach. To ensure that the matter of unpermitted development is resolved in a timely manner, Special Condition 5 requires that the applicant satisfy all conditions of the permit which are prerequisite to the issuance of this permit within 180 days of Commission action, or within such additional time as the Executive Director may grant for good cause.

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

F. LOCAL COASTAL PROGRAM

The proposed development is occurring at Doheny State Beach in the City of Dana Point. Doheny State Beach is a certified area under the Dana Point Specific Plan/Local Coastal Program. However, the proposed development is located upon filled tidelands. Therefore, the development is within the Commission's original permit jurisdiction under Coastal Act Section 30519(b) and must be evaluated for consistency with the Chapter 3 policies of the Coastal Act. The policies of the certified Dana Point LCP may be used for guidance.

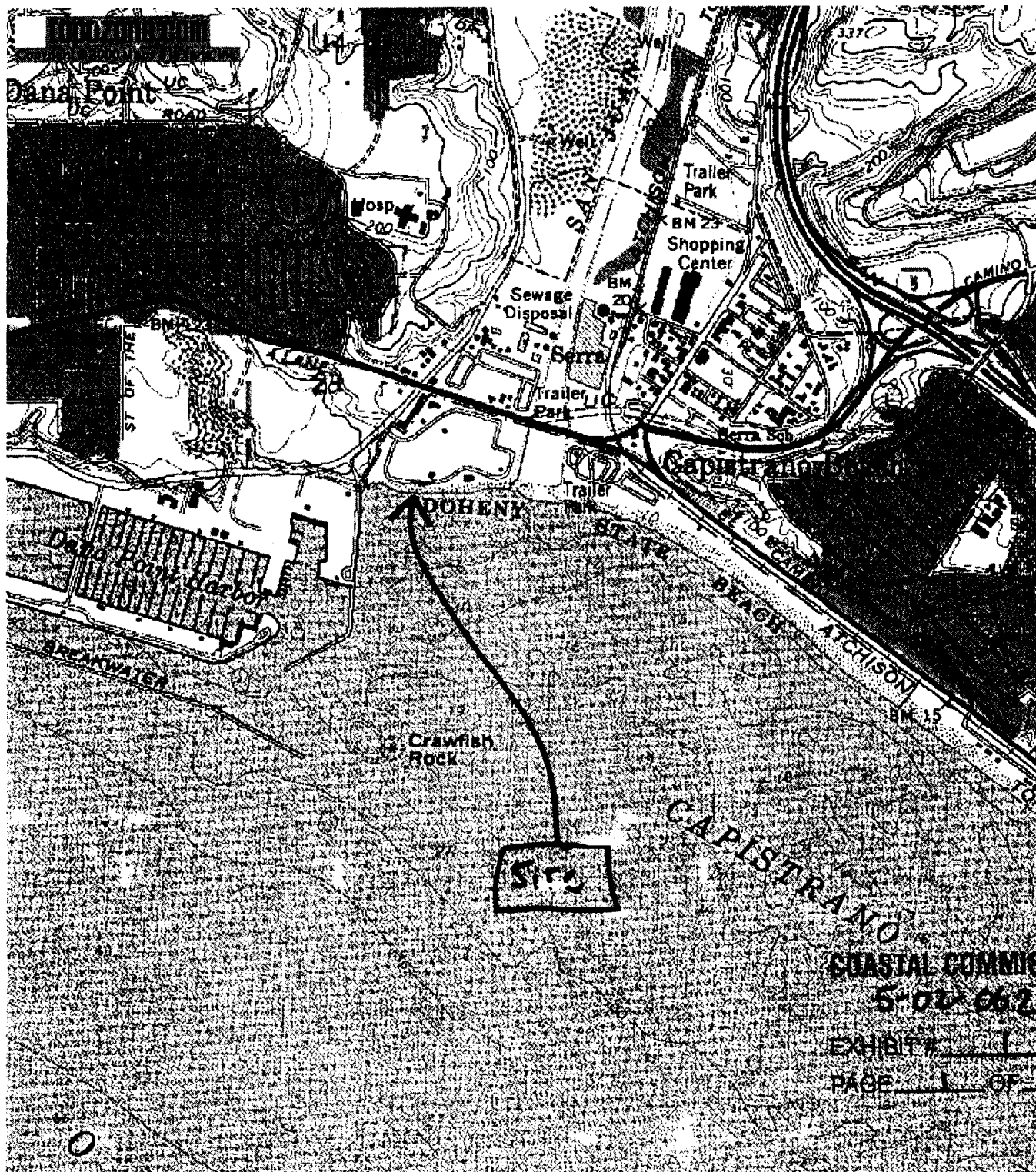
G. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

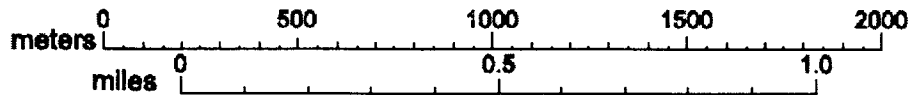
The proposed project has been conditioned for consistency with the visual resource, marine resource, hazard and public access protection policies of the Coastal Act. Mitigation measures, in the form of special conditions require 1) conformance with requirements relative to signage; 2) conformance with requirements relative to construction responsibilities, 3) the applicant to submit final plans which conform with the special conditions, 4) the applicant to agree to assume the risks of the development; 5) require the applicant to comply with the conditions within 180 days; and 6) require the applicant to avoid construction during the peak beach use season. The proposed development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. There are no feasible alternatives or mitigation measures available which will lessen any significant adverse impact the activity would have on the environment. Therefore, the Commission finds that the proposed project is consistent with CEQA and the policies of the Coastal Act.



Map center is UTM 11 437892E 3702557N - DANA POINT quad [Quad Info]



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EXHIBIT 1
PAGE 1 OF 1



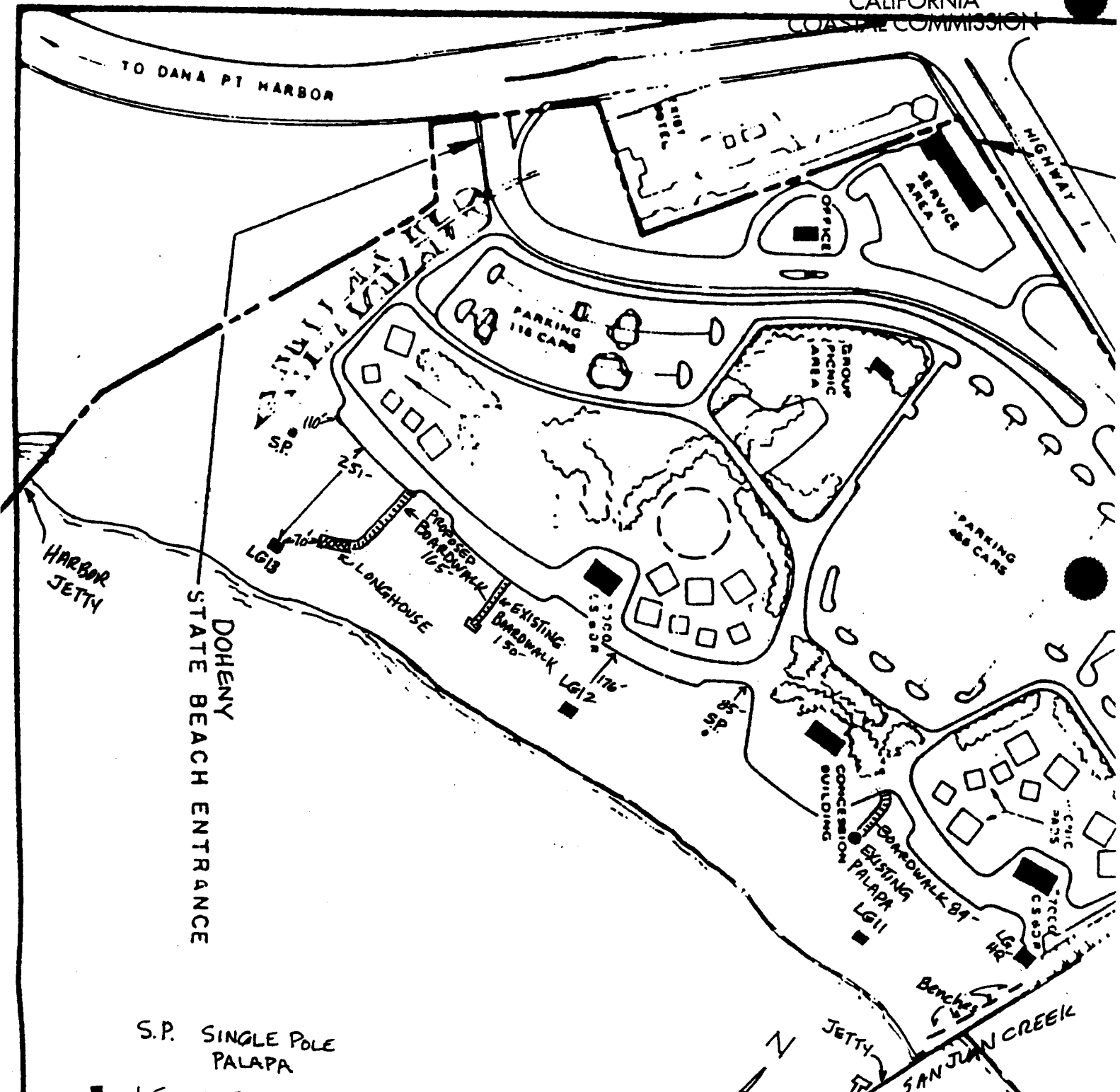
SITE PLAN

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S.P. SINGLE POLE
PALAPA

■ LG LIFEGUARD
TOWER

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5-02-062

EXHIBIT # 1
PAGE 1 OF 1

NOTE: STAIN ALL EXPOSED ROUGH SAWN LUMBER TO MATCH COLOR OF TELEPHONE POST & TOUCH-UP POST WHERE CUTS OCCUR.

PROVIDE POLE SLEEVE FOR FUTURE FESTIVITIES - FLAGS/SIGNS, ETC,...

TELEPHONE POLE RIDGE/RAPTER SEE RIDGE DETAIL ABOVE

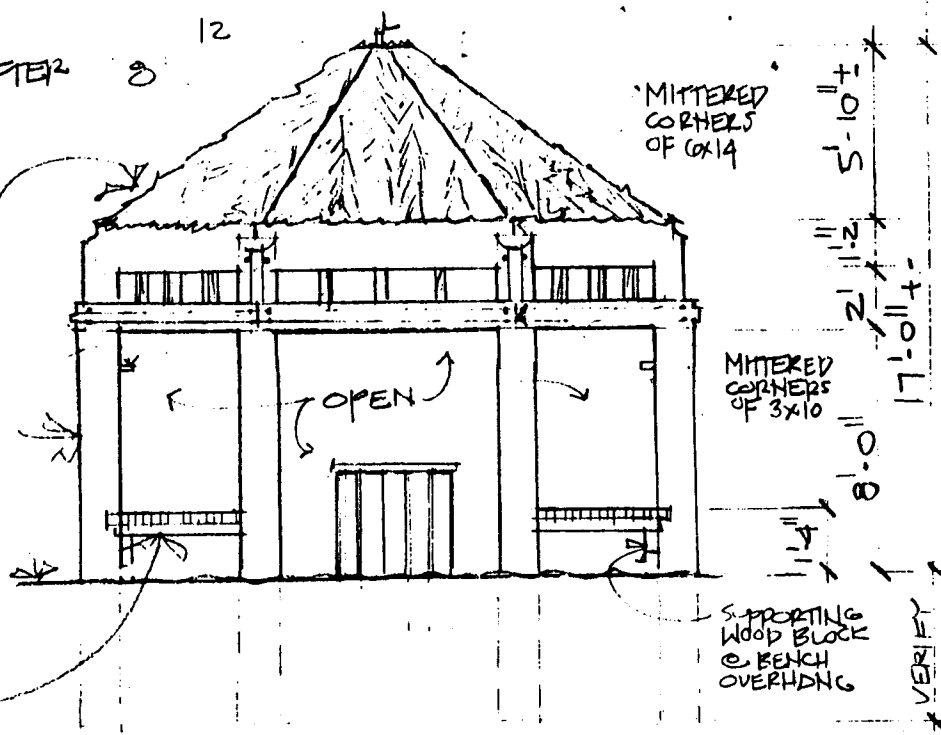
TREATED PALM LEAF - ATTACHED SECURELY TO PLYWOOD DECK WITH MECHANICAL ANCHORS

WOOD PANEL PANEL HOOK

TREATED TELEPHONE POLES BARKED TO SAND

SAND LEVEL

WOOD BENCH NOTCHED INTO POST-TYPICAL OF 8" SIDES



NOTE: HEIGHTS SHOWN FOR PLAN "B" - PLAN "A" REDUCE HEIGHTS @ 15% ±

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EXISTING TEMPORARY
**LANDSCAPE IMPROVEMENT FOR
DOHENY STATE BEACH
PROPOSED PUBLIC SHADE
STRUCTURES**

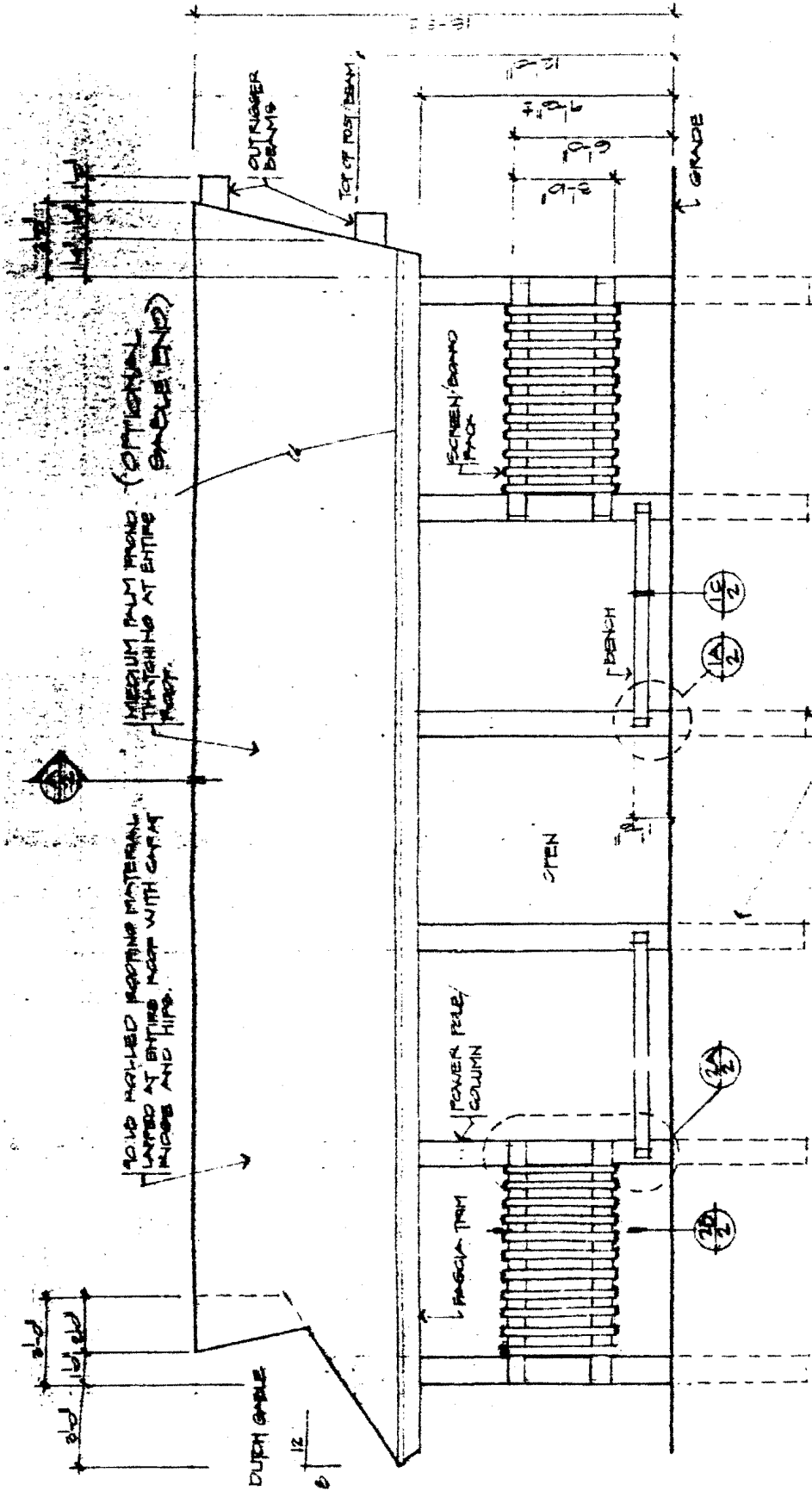
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EXHIBIT # 3
PAGE 1 OF 1
Multi-Pole
PALAPA
5-02-06Z

ELEVATION VIEW

SCALE 1/4" = 1'-0"

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CALIFORNIA COASTAL COMMISSION

JOHN A. SALAT
ARCHITECTS
Planning • Engineering • Design
22586 Woodgrove, Lake Forest, CA 92560
Phone: (714) 472-2257 • FAX: (800) 368-9196

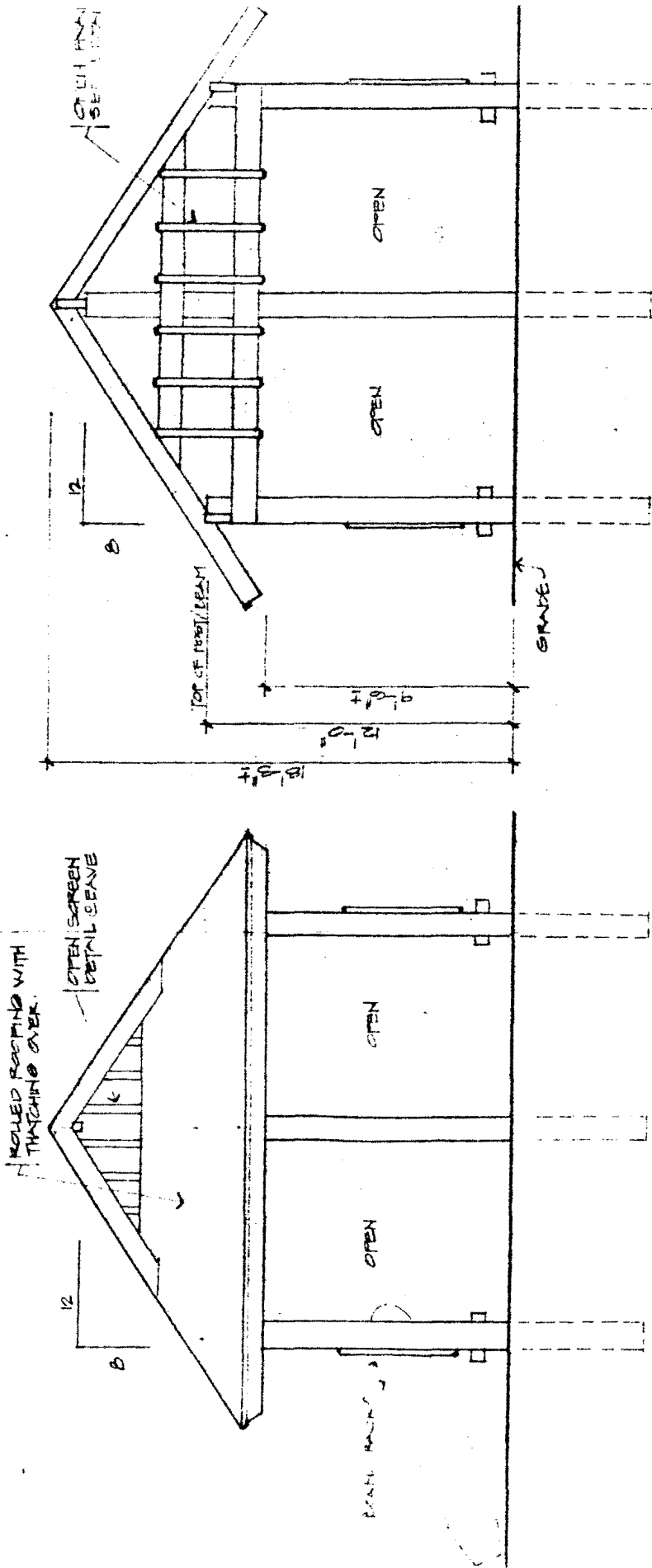


LINE OF POWER PILE COLUMN EMBEDDED IN SAND TYPICAL.

SIDE ELEVATION

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5-02-062

EXHIBIT # 4
PAGE 1 OF 2
"LONG HOUSE"



(OPTIONAL GABLE END)

END ELEVATIONS

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EXHIBIT # 4
 PAGE 2 OF 2

Add a Tropical Touch with
A Handmade Palm Thatch

Orange/Riverside
& So. LA County

PALAPA

TROPICAL SHADE MASTERS, INC.

(619) 270-1540

CA Cont. Lic # 732869



Heavy, rustic framing & plush, woven palm thatch palapa umbrellas:

- ★ → 9-Ft dia palapa: \$795.
- 11-Ft dia palapa: \$995.
- 12-Ft dia palapa: \$1,250.
- 14-Ft dia palapa: \$1,895.

TABLES:

- 42" dia Laminated Pine - 1" thick unvarnished \$95
- 48" dia Custom Redwood - 1 1/2" thick Unvarnished \$170
- 60" dia " " " " " \$230

*Varnished tables: Polyurethane semi gloss - Add to table cost: \$40.

11-Ft Diameter Hut: \$1,500.

THATCHED HUTS:

12-Ft Diameter Hut: \$1700

14-Ft Diameter Hut: \$2,300

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Ask about our "Cancun" style Palapa
Oblong Shape with 2 main Poles

EXHIBIT # 5
PAGE 1 OF 1

Did you Know?...

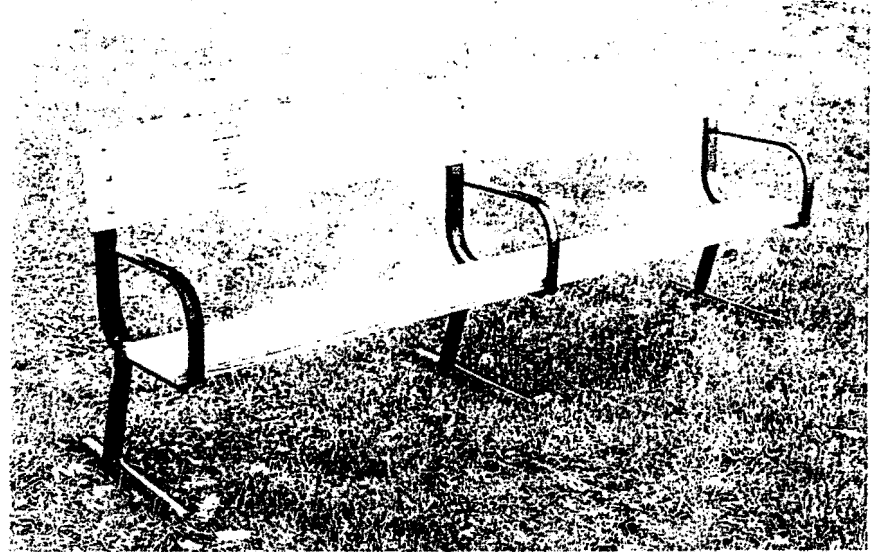
- *Palapa weave permits air circulation
- *Ideal for very warm or windy environments
- *So. Calif life span of palm thatch: 3 1/2 - 5 years

Single Pole
PALAPA

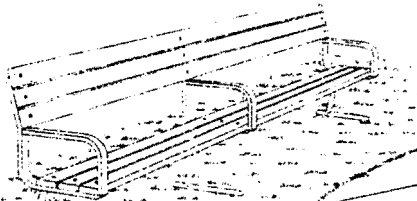
CARDINAL BENCH

The Cardinal Bench is an attractive, rugged park bench designed to provide comfortable public seating and years of low maintenance service. ARM RESTS enhance accessibility for the elderly and handicapped.

Available in hot-dip galvanized or black enamel finish, the Cardinal Bench provides either permanent or portable installation in 4', 6' or 8' lengths. Standard lumber is CCA treated, #1 grade Southern Yellow Pine (denoted by TP in model no.) in choice of 2" x 4" slats or 2" x 10" planks. Also available with aluminum plank seat and back.

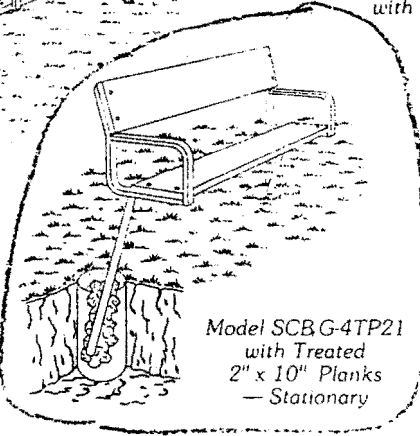


Model PCB/B-8TP21 96" (8') long
with Treated #1 Southern Yellow Pine 2" x 10" Planks — Portable

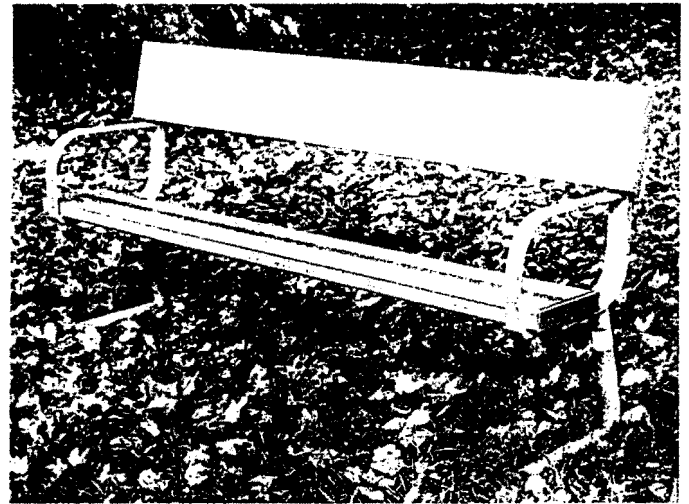


Model PCB/G-8TP24
with Treated 2" x 4" Slats
— Portable

Stationary installation is accomplished by the use of long posts embedded in concrete footings.



Model SCB/G-4TP21
with Treated
2" x 10" Planks
— Stationary

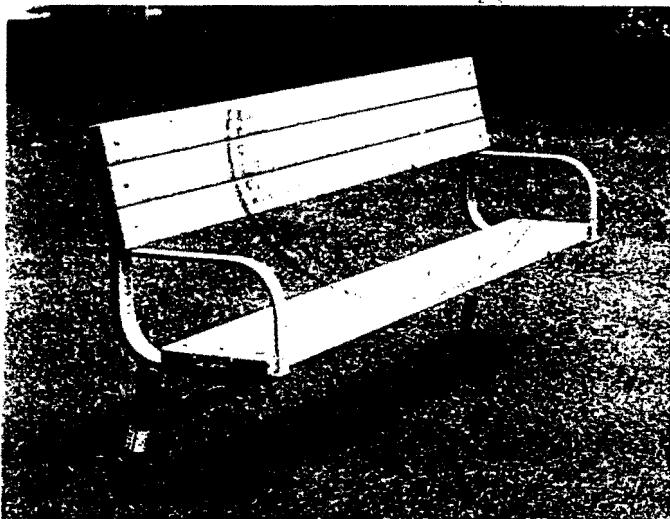


Model PCB/G-6AL 72" (6') long
with 2" x 10" Aluminum Planks — Portable

CB Series Benches are available in the following basic model designations:

- Model PCB/G-4, -6, or -8: portable, hot-dip galvanized, 4', 6', or 8'
- Model PCB/B-4, -6, or -8: portable, black enamel, 4', 6', or 8'
- Model SCB/G-4, -6, or -8: stationary, hot-dip galvanized, 4', 6', or 8'
- Model SCB/B-4, -6, or -8: stationary, black enamel, 4', 6', or 8'

(See the specifications section for seating material options and the letter designations to add to the basic model numbers to specify those options.)



Model SCB/G-6TP24 72" (6') long
with Treated #1 Southern Yellow Pine 2" x 4" Slats — Stationary

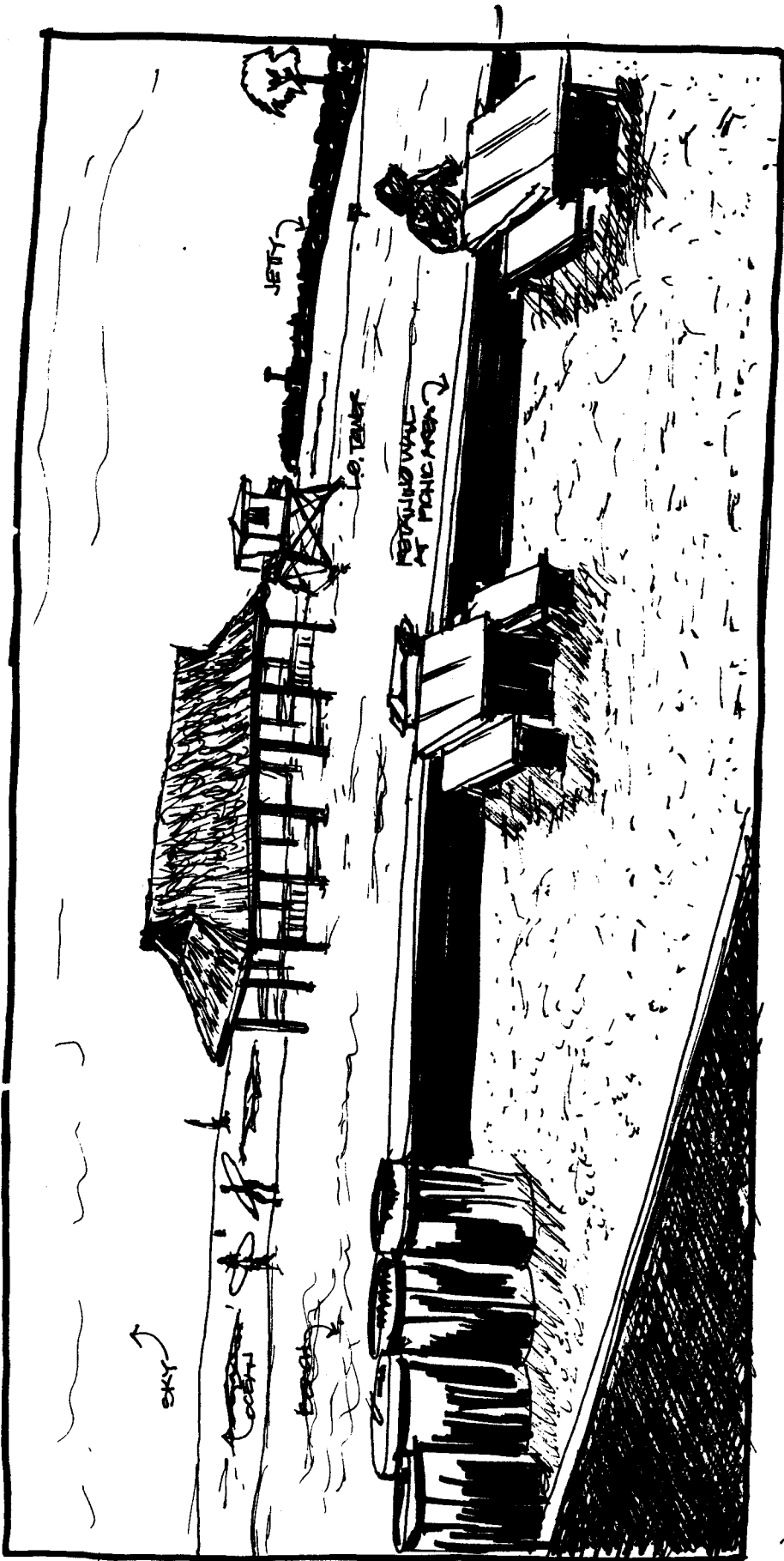
CB SERIES BENCH SPECIFICATIONS

- Model CB end frames shall be one-piece welded construction to meet 1-1/2" nominal steel pipe size specifications (1-7/8" O.D.)
- Back and seat bracket shall be constructed of die-formed steel channel to accept either 2" x 4" or 2" x 10" seat and back boards.
- Each bench frame is provided with an inverted die-formed steel channel armrest.
- All exposed ends shall be plugged with factory installed end caps.
- 3/8" galvanized nuts and bolts shall be provided for lumber connections.
- Finish shall be hot-dip galvanized after fabrication to ASTM-A123 to maintain an average zinc coating of 2.0 oz. per sq. ft. of surface area (add /G to model no.) or black enamel (add /B to model no.).
- STANDARD: Lumber shall be #1 grade CCA treated, #1 grade Southern Yellow Pine (KDAT) to preserve wood against decay — Add TP21 to end of basic model numbers listed above for 2" x 10"s; add TP24 for 2" x 4"s. (Cedar, Fir, Redwood and Untreated Pine are available when specified, please inquire.) All lumber shall be precision drilled for fast, easy assembly and shall have all exposed edges removed to a 3/8" radius.
- ALTERNATE: Benches shall be provided with seats and backs of extruded 6063-T6 Aluminum alloy planks — Add AL to end of basic model numbers listed above. (See page 30 for Aluminum specifications.)

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EXHIBIT # 6

PAGE 1 OF 1



LONGHOUSE VIEW SHED
 SKETCH #1

WB 0.11.04

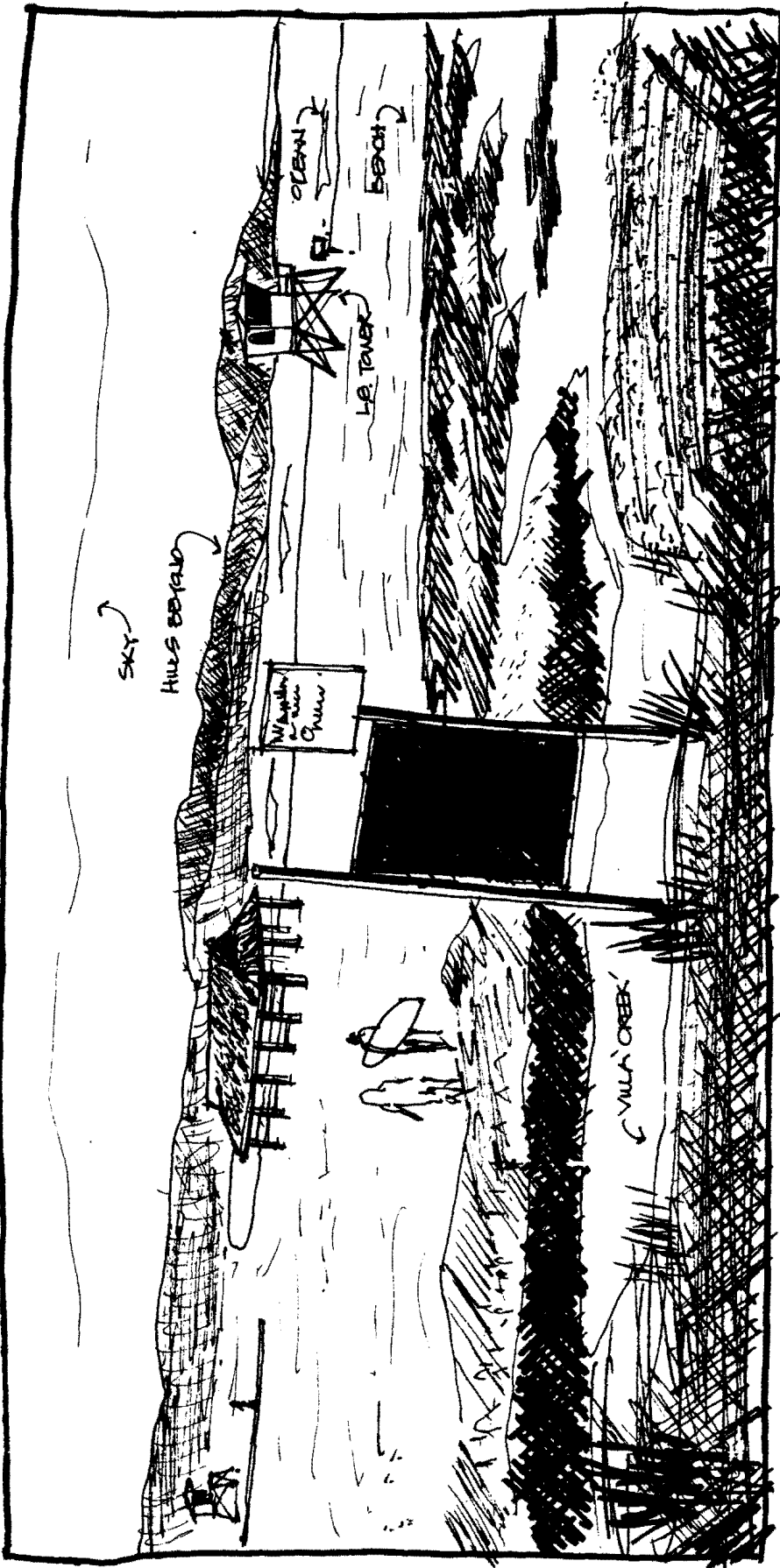
- FACING SW -

DOHENY STATE BEACH

COASTAL COMMISSION
 5-02-062

EXHIBIT # 7
 PAGE 1 OF 2

Viewshed Sketch
 w/ Low House



PROPOSED SHADE STRUCTURE
LONGHOUSE VIEW SHED
SKETCH #2 W.B. D.M.

- Looking SE -

DOHERTY STATE BEACH
 25300 DANA POINT HARBOUR DRIVE
 DANA POINT, CALIFORNIA 92629

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EXHIBIT # 7
 PAGE 2 OF 2

DEPARTMENT OF PARKS AND RECREATION

Orange Coast District-North
 8471 N. Coast Highway
 Laguna Beach CA 92651
 (949) 497-1421



5-02-062

February 6, 2002

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CALIFORNIA
 COASTAL COMMISSION

Karl Schwing
 Coastal Program Analyst
 South Coast Area Office
 200 Oceangate, Suite 1000
 Long Beach CA 90802-4302

Subject: Coastal Development Permit for Shade Structures and Benches
 Doheny State Beach

Dear Karl:

Time has passed since the preliminary application for this coastal development was first proposed to the Commission, but there has been continued interest and support for the idea. The enclosed Coastal Development Permit, maps, plans and details should answer clarifying questions brought up previously. The Orange Coast District has partnered with the Doheny Longboard Surfing Association for the development of the shade structure idea and all planning.

Shade Structures

An open-air, palm frond covered shade structure is called a palapa in Spanish. They are a popular beach side structure throughout coastal Mexico. The enclosed plans are for a total of four palm-covered shade structures of three different designs. All of the structures are upcoast (North) of the San Juan Creek mouth. Currently, there is one, temporary, palm-covered shade structure standing on this North Beach area. Its placement and architecture will be complimented by the erection of 3 additional structures- one longhouse, and two single pole palapas. Eight telephone poles support the existing palapa, which is 15 feet in diameter. The two single pole palapas will have 9-foot diameters. The longhouse palapa will have dimensions of 16'W x 40'L x 18'H.

Each of the palapas is designed with open sides, which are supported by large beams buried deeply into the beach sand. The existing palapa has the support beams buried 6 feet or greater. The longhouse design calls for the support beams to be buried 7 feet, and the single pole palapa will be buried 6 feet or greater. Our engineer has reviewed and approved these measures. All of the design features have over-built specifications for both predicted wind shear and wave pass through. Due to the type of

COASTAL COMMISSION

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construction, associated materials and building costs, all of the palapa structures are considered temporary and expendable compared to our more enduring facilities such as restrooms, concession stand and lifeguard headquarters. The projected life span of the shade structures is from 25 to 45 years.

High water rush up is expected at times along the high end of beaches in the tropics with their frequent tropical storms. Throughout Mexico and other tropical climates, the palapa may be the only beach structure standing after a large storm. Over time, we also expect waves to run up the beaches during times of high wind, waves, and water. However, due to the pass through ability of the buried-pole support system of all palapa designs, we expect no wave scour or undercutting that can be anticipated with a four-walled structure. Little sheer force from waves passing through the structures should be felt due to rounded pole shape and limited cross section. Benches from 16 to 18 inches off the ground on two palapa designs are the next level of impediment for potential high tide, high wave rush up. These too have a low profile and would exert little drag on the overall structure if this much water would ever reach that far inland.

This department has a coastal erosion **policy** that states that it will not support installation of coastal protective devices. For the proposed shade structures, there is no need for coastal protective devices due to the above-mentioned open-walled, wave pass through ability.

We have carefully studied the locations for these four structures, and feel secure that the threat from the ocean will be minimal. Between San Juan Creek and the harbor jetty, physical conditions function to protect these "temporary" structures. The attached map of the coastline clearly shows this beach facing south-south west where it would be threatened only by the largest summer swells from the south. Dana Point, San Juan Rocks and the Dana Point Harbor jetties all combine to protect this section of beach from the largest winter swells from the north and north west. An expanse of rocky reef substrate extends offshore from this beach which acts to buffer high surf by forcing waves to break and expend their energy before they can act to significantly erode beach sands. This section of beach also acts to trap sand abundantly provided from San Juan Creek and its extensive watershed. Between the upcoast creek jetty that extends into the surf and the harbor jetty, beach sands have less chance of suspension and transport due to their containment between these two enduring structures. There is little longshore current at this location. In the earliest aerial photos of the area, circa 1931, the shoreline shows little beach and more reclaimed marsh habitat. Because of man made structures, we now enjoy a consistently wide sandy beach in this area.

The sites selected for placement of the palapas is above the area of high wave threat and active beach erosion as recounted by our Chief Lifeguard who has 29 years experience on this strand. Beach profiles are documented by the long-standing location

COASTAL COMMISSION

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Page 3

of lifeguard towers (with their underground phone lines) and a set of permanent sign poles near Tower #13 and the "Boneyards" reef surf break. The longhouse and three palapas are located inland of these structure locations. For safety operations, all shade structures need to be located behind the lifeguard towers to afford a line of sight from the lifeguard headquarters to the lifeguard towers and the waterline. Thus, the shade structures will be less threatened by wave rush up than structures that have survived in that area for many years. The span of observed time for these locations involves the largest winter storm episodes including the winters of 1982/3, 1988, 1995, and 1998 with our lifeguard tower and sign post locations holding. A number of these winters were above a 100-year storm event for rain, flooding and surf, and at least one has been characterized as being a 1000- year storm with 2.5 normal rainfall. The proposed structures will not require shoreline fortification as they are clearly protected by natural reef and man made jetties that protect and promote a wide sand beach in this area.

A corridor of at least 60-85 feet will be maintained between the proposed longhouse and lifeguard tower 13 for pedestrian and lifeguard jeep patrol. Without this separation, busy weekend beach use could impact the function of the lifeguard.

The existing temporary palapa has a 60" wide Trex (recycled plastic) boardwalk with a 2" riser along each edge. It provides a continuous ADA accessible surface from pavement to shade structure. The plan for the proposed longhouse is to provide similar access via ADA boardwalk from pavement to structure. The four shade structures will be available to all public on a first-come first-serve basis. The longhouse will accommodate larger congregations of beach goers who want to get out of the sun in a shared fashion. In general, the department views the shade structures as open public use as are fire rings placed on the beaches. Public access will not be restricted in any way by the placement of these shade structures. The department, however, reserves the right to permit special events and selective use of facilities. Under an agreement with the commission, major events are not allowed between Memorial Day and Labor Day.

Please note the attached visual analysis of the proposed longhouse structure as it sits on its proposed location on the beach. There are drawing simulations from two angles, and a set of photographs taken of a stick structure of the proposed footprint of the longhouse structure. The sticks form the four corners of the longhouse in its proposed orientation, and all reach the maximum height of the structure. The proposed longhouse will only have the peaked roofline at a maximum of 18 feet. Because of the open-sided nature of all of the palapa shade structures, there is clear visual permeability afforded with each of the structures. None of them block viewsheds, but are visual pass throughs, aesthetic and culturally enhancing structures. Coupled with the adjacent urban forest of palm trees, these frond-covered structures will help define the cultural atmosphere of Doheny State Beach. Due to the wide sand beach (300' or greater) at this location, the larger size of the longhouse shade structure is dwarfed by the mass of the beach. These

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Page 4

shade structures will not have advertising signs on them, and will not be painted, but remain with their natural wood and palm frond coloration. A recognition plaque for the contributing association may be posted on the interior.

Benches

Another visitor-serving facility proposed within this application is for the installation of four wooden benches along the bank of San Juan Creek. They will give birders, interested groups, and casual visitors a chance to view the creek mouth and its abundant bird life. These unobtrusive benches will have deep cement footings to secure them into the substrate composed of imported fill sands and gravel. Because of the adjacent creek jetty, these temporary structures should not come under threat of washing away. If floods or storms wash by, there should be little or no erosion due to the pass by nature of their design. The design and plans for these simple bench seats, as well as their proposed locations, is attached. Bench placement allows for their use and access to be open to all visitors.

It is our belief that this proposed project is under the Commission's jurisdiction. Referencing the City of Dana Point's jurisdictional maps for their Local Coastal Plan, it shows that the area of beachfront upcoast of San Juan Creek was not included in their LCP, but the downcoast section of beach (Doheny State Beach) was. Your previous jurisdictional determination of this area should prove this point. Please let me know if there is any conflict to this finding.

If you have a need to clarify any points above or visit the site in question, please call me at (949) 497-1421.

Sincerely,



David R. Pryor
Associate Resource Ecologist

Attachments

COASTAL COMMISSION

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PAGE 4 OF 4

