

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4421

767-2370



Wed 14a

Staff: EL-SD
 Staff Report: June 16, 2003
 Hearing Date: July 9-11, 2003

REVISED CONDITIONS AND FINDINGS

SECOND TRAJET COPY

Application No.: 6-02-090

Applicant: City of San Diego Parks
 and Recreation – Coastal Division

Agent: Ted Medina

Description: Modification of the hours of operation of the three public beach parking lots at Crown Point Shores (a total of 769 parking spaces) and installation of 4 exit-only gates at the parking lot entrances. Currently the lots are closed between 2:00 a.m. and 4:00 a.m.; this proposal would result in the lots being closed from 10:00 p.m. until 4:00 a.m.

Site: 3500 – 3600 Corona Oriente Road, Mission Bay Park, San Diego, San Diego County.

Summary of Commission Action:

Staff recommends the Commission adopt the following revised findings in support of the Commission's action on August 7, 2002. In its action, the Commission approved the modification of the hours of operation for the three public parking lots at Crown Point Shores in Mission Bay Park, and an adjacent unimproved dirt area north of the lots. Special conditions formalized the lots as being closed from 10:00 p.m. to 4:00 a.m. daily, as had been proposed by the City, in response to increased crime in the area during overnight hours.

The staff report has been revised as follows: Special Condition #1 (on pages 2 and 3 of the staff report) is modified to reflect the 10:00 p.m. closure, and Finding #2 (on pages 4 – 8), addressing public access, is likewise modified, and also includes the Commission's suggestions for monitoring. The remainder of the report is unchanged.

Date of Commission Action: August 7, 2002

Commissioners on Prevailing Side: Burke, Dettloff, Hart, McClain-Hill, Nava, Peters,
 Potter, Wan, Woolley

Substantive File Documents: Certified City of San Diego LCP; Certified Mission Bay Park Master Plan; CCC Files: #6-88-366; #6-88-545; #6-89-314; #6-89-359; #A-6-LJS-90-161; #6-91-146 and amendments.

MOTION: *I move that the Commission adopt the revised findings in support of the Commission's action on August 7, 2002 concerning approval of Coastal Development Permit No. 6-02-090*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a YES vote on the motion. Passage of this motion will result in the adoption of revised findings as set forth in this staff report. The motion requires a majority vote of the members from the prevailing side present at the August 7, 2002 hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings.

RESOLUTION TO ADOPT REVISED FINDINGS:

The Commission hereby adopts the findings set forth below for *Coastal Development Permit No. 6-02-090* on the ground that the findings support the Commission's decision made on August 7, 2002 and accurately reflect the reasons for it.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Hours of Operation/Closure Prior to Gates. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a final sign and operations program to the Executive Director for review and written approval. Said program shall be in substantial conformance with the proposal submitted with the application and augmented by the City's letter dated July 10, 2002, and shall include the following:

- a. The parking lots shall be closed between 10:00 p.m. and 4:00 a.m.

- b. Only the parking lots are closed – the remainder of park amenities (beach, walkways, picnic tables, etc.) shall remain available 24 hours a day.
- c. Prior to installation of gates, the parking lots may be cleared at 10:00 p.m.
- d. After installation of the proposed exit-only gates, the City will employ a private security company to conduct the closures.

The permittees shall undertake development in accordance with the approved final sign and operation program. Any proposed changes to the approved sign and operation program shall be reported to the Executive Director. No changes to the approved sign and operation program shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Term of Permit. This permit is valid for a period of two years from the date of Commission action on the permit. Any extension of time beyond two years shall require a separate coastal development permit or an amendment to this permit. Any application to extend the time shall include a complete alternatives analysis, particularly investigating the use of lights in the parking lots instead of restricting hours of use.

3. Final Plans for Gates. PRIOR TO INSTALLATION OF THE GATES, the applicant shall submit final plans for the proposed gates to the Executive Director for review and written approval. The plans shall describe the design of the gates and identify their locations.

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

4. Securing Dirt Area. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit plans for securing the vacant dirt area (future nature center site) during the same times as the paved parking lots, to the Executive Director for review and written approval. Prior to installation of the gates, this shall be accomplished through signage consistent with the signage in the paved parking lots. When the gates are installed in the paved lots, the dirt area shall be secured by a low-level physical barrier such as logs, bollards, rail fencing, or similar means.

The permittees shall undertake development in accordance with the approved final sign and operation program. Any proposed changes to the approved sign and operation program shall be reported to the Executive Director. No changes to the approved sign and operation program shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History. The City of San Diego is proposing to modify the hours of operation for three beach parking lots located at Crown Point Shores in Mission Bay Park, that are located adjacent to a residential area of Pacific Beach. The lots currently are signed as closed from 2:00 a.m. to 4:00 a.m., a typical closure at nearly all City parking lots, intended to discourage overnight camping in the parking lots. The City's proposal would close these three parking lots, with a total of 769 parking spaces, between the hours of 10:00 p.m. and 4:00 a.m. Initially this would be accomplished by changing the message on fourteen existing signs throughout the parking lots and patrolling the lots at 10:00 p.m. to inform park visitors that their vehicles need to be removed from the lots. When funding allows, the City intends to install exit-only gates at the parking lots and to employ the services of a private security company to close the gates as is done at other park locations. The subject application to modify the hours of operation includes both the sign changes and the gates, and the request is for the restricted hours to be permanent. The City is not proposing to close any other park facilities, such as the beaches, picnic facilities, and fire rings.

There is a long history of similar requests, both in San Diego and throughout the state. For the City of San Diego, the Commission has approved five previous requests to revise the hours of operation in public beach parking lots, affecting a total of nine lots altogether. Two of these serve the municipal beaches at South Mission Beach and Kellogg Park in La Jolla Shores. The other seven are in Mission Bay Park, and include the parking lots at Mission Point Park, Mariner's Point, Fiesta Island, the Bahia Hotel, Ventura Cove and two of the three parking lots at Bonita Cove. Exhibit #3 shows all existing parking lots with restricted hours except the one lot in La Jolla. Since these were approved over several years, not all restricted lots have the same hours, and some lots' hours change seasonally. Closure times range from 8:00 p.m. (winter only) to midnight. The 4:00 a.m. opening hour is common to all lots, to accommodate early morning surfers and fishermen.

2. Public Access and Recreation/Public Parking The following policies are most applicable to the subject permit request, and state in part:

Section 30210.

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.

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.

(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. ...

(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.

Section 30213.

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

Section 30214.

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

(1) Topographic and geologic site characteristics.

(2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.

(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

Section 30220.

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30221.

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 30223.

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Crown Point Shores is one of the most popular areas of Mission Bay Park. It offers swimming, water-skiing, picnicking (both individual tables and ramadas for group events), volleyball, basketball, restrooms, walkways, a large area of grass for lawn play and fire rings on the beach for after-dark enjoyment. It is popular for both family and corporate outings, and is served by three parking lots with a total of 769 parking spaces.

There appears to be adequate parking provided for the current level of use. Nearby on-street parking should be sufficient to accommodate the levels of night-time use. Only the

parking lots themselves are proposed for closure; all other existing park and beach facilities will remain open and available at all times for anyone to use; however, as proposed, only pedestrians and bicyclists would be able to access the facilities after 10:00 p.m. during the period before the exit-only gates are installed. There is a dirt lot immediately north of the three subject lots, that is informally used for parking. However, the Mission Bay Park Master Plan identifies that area for a nature center, which is now being designed. It is also immediately adjacent to environmentally sensitive habitat area; this constraint will be addressed in detail in the following section of the findings. The closest unrestricted public parking lot (except for between 2:00 a.m. and 4:00 a.m.) is approximately ½ mile to the south at Ski Beach.

Closure of public parking lots generally results in late-night users parking on the street to continue to use the beach and park facilities. In this particular case, Corona Oriente, the park road that accesses the three subject parking lots, is red-curbed (no parking allowed). The bayward side of Crown Point Drive is also red-curbed, but parking is allowed on the upland side adjacent to the residential community of Crown Point, a peninsular area of Pacific Beach surrounded on three sides by Mission Bay Park. This area is only a short walking distance to the park and beach facilities.

There are numerous public parking lots scattered throughout Mission Bay Park. Since the mid-1980's, and in response to identified public safety concerns, the Commission has allowed several of these lots to have restricted hours of parking, and has supported the concept of exit-only gates. In most cases, there is nearby alternative public parking available to address the needs of late-night users. The nearby public parking reservoir in the Crown Point area consists of on-street spaces available on the inland side of Crown Point Drive. Although this represents a significant reduction of public parking spaces, the number of persons using the park facilities at night is also significantly reduced from daytime crowds.

However, the Commission recognizes that late evening activities can be disruptive to the adjacent property owners and occupants. Section 30214 of the Coastal Act, while mandating that public access be maximized to the extent possible, also directs that the time and nature of access may vary from place to place in consideration of adjacent property owners or nearby sensitive resources. In this case, the nearest private residences are approximately 200 feet from the parking lot entrances and about 500 feet from the actual shoreline. The homes, however, are on higher ground than the public park facilities, and there are no intervening structures to muffle sound. Late at night, when the ambient noise level is quite low, it is reasonable to assume that sounds from the parking lots would reach the ears of residents. Residents in the vicinity complain of late-night racing, loud music, and other noisy, disruptive behavior.

Thus, the Commission finds it reasonable to impose some limit to the hours of operation of the three subject parking lots. This park was designed to accommodate some nighttime use, as bonfires at the fire rings are an after-dark activity. While some people may spend all day at the beach and be ready to leave at sundown, others only arrive after work, or even after dark, to enjoy the evening. Although there are no alternative parking

lots within half a mile of Crown Point Shores, public parking is allowed on the inland side of Crown Point Drive in sufficient quantity for the much smaller crowds during evening hours.

Although the long-term desire of the City is to install exit-only gates at Crown Point Shores, there is no funding available for this project at this time. The City has provided only photographs of existing gates to demonstrate what they will look like, and is still analyzing the best locations to install the gates. Thus, Special Condition #3 requires submittal of final plans for the gates, and identification of their locations, prior to installation of the gates. Once installed, the exit-only gates will allow vehicles already in the parking lots to remain past ten; they will just not let new cars in.

In summary, the applicant has demonstrated a significant public concern that would be addressed through the proposed hours of operation. Thus, the Commission finds it appropriate, in this particular case, to place some limits on the hours of operation of these parking lots. Special Condition #1 formalizes the 10 p.m. closing, and also establishes closing procedures for the unknown period of time before the gates are installed. Additionally, Special Condition #2 limits the subject permit to two years from the date of Commission action. During the term of the permit, the City will monitor usage levels of the parking lots at closing time and will evaluate alternatives to closing the parking lots at 10:00 p.m., including allowing those who have parked prior to closing time to stay at the park beyond closing time, reducing or eliminating red-curbed no parking zones that are in or adjacent to the park at Crown Point Shores; allowing parking after 10:00 p.m. for special events; and the use of lighting to address security concerns. Monitoring results should be part of any subsequent requests to extend the permit beyond two years. Only as conditioned for future review, can the Commission find the proposed development consistent with the full range of Coastal Act access and recreation policies cited previously.

3. Environmentally Sensitive Habitat Areas/Wetlands. The following Coastal Act policy is most applicable to this issue, and states:

Section 30240.

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

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

The Northern Wildlife Preserve is a critical wildlife habitat area located in the northeast portion of Mission Bay Park. It is part of the City's Multiple Species Habitat Area (MHPA), and provides critical habitat for several threatened and endangered species,

including the Light-Footed Clapper Rail and Belding's Savannah Sparrow. The Preserve was expanded several years ago to create a mitigation bank to address the City's future needs, and now occupies the entire area between Crown Point Shores and Rose Creek.

The proposed change in the hours of operation of the three paved parking lots at Crown Point Shores will not itself have any direct impact on these sensitive resources. However, until the nature center is built, it is likely the vacant dirt area between the northernmost paved parking lot and the Northern Wildlife Preserve will continue to be used informally as a parking lot. Use of this area can be expected to significantly increase late at night if the three regular lots have restricted hours of operation. Normal behavioral patterns of the marsh wildlife can easily be disrupted by the increase in noise, both vehicular and vocal, that would undoubtedly result from an influx of beachgoers in response to closure of the nearby paved lots. This indirect impact could reduce the viability of the Northern Wildlife Preserve in supporting endangered species.

Therefore, the Commission finds that restricting hours in the paved parking lots to address the concerns of nearby residents should not have adverse impacts on the rare and endangered resources of the Preserve. Special Condition #4 requires the City to also secure this dirt area when the paved parking lots are closed. Only as conditioned, can the Commission find the proposed development fully consistent with the resource protection policies of the Coastal Act.

4. Visual Resources. The following policy of the Coastal Act provides for the protection of visual resources, and states, in part:

Section 30251

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.

Mission Bay Park is a highly scenic resource, and the Crown Point Shores area offers expansive views of other areas of the park, as well as the residential community of Pacific Beach. Moreover, because the existing park improvements are low in height (restrooms, picnic ramadas, etc.), and because the parkland is well below the street level of Crown Point Shores, the existing public facilities do not impede public views from nearby streets.

The fourteen signs proposed to be modified are already existing as informational and directional signage within the existing parking lots. Changing a small portion of the message on these signs will have no visual impact. The proposed gates will be visible from the identified public and private viewsheds, but are small in scale and will not be a prominent part of the views. Also, gates already exist in many other Mission Bay Park

parking lots, so these will be consistent with the overall character of the community. Special Condition #3 requires the City to submit final plans for the gates to the Executive Director for review and approval prior to construction. This will assure that the proposed new gates are comparable to existing gates on Mission Bay Parking lots. The Commission finds the proposed development, as conditioned to address other concerns, is consistent with Section 30251 of the 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.

Mission Bay Park is an existing aquatic playground. It is primarily unzoned, and Crown Point Shores is designated as Parkland and Open Beach in the certified Mission Bay Park Master Plan. However, the Master Plan does not address future modifications of operating hours within existing parking lots. Moreover, the Master Plan is not the standard of review, since Mission Bay Park is an area of deferred certification, such that Chapter 3 remains the legal standard of review. The proposed development, with the attached special conditions, has been found consistent with all applicable Coastal Act provisions. Therefore, the Commission finds that approval of the permit will not prejudice the ability of the City of San Diego to complete and implement a certifiable LCP for this area.

7. 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 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.

As discussed herein, the proposed project will not cause significant adverse impacts to the environment. Specifically, the project, as conditioned, has been found consistent with the public access and recreation, visual resource and biological resource policies of the Coastal Act. There are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity might have on the environment and still achieve the purpose of the project. Therefore, the Commission finds that the proposed project is the least environmentally damaging feasible alternative and is 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.



SAN DIEGO, CO
 VICINITY MAP
 PROJECT SITE

92109

92109

- 1 NORTHWEST
- 2 FUCHSIA DR
- 3 GARDENIA DR
- 4 ELYSIUM DR
- 5 HIBISCUS DR

EXHIBIT NO. 1
 APPLICATION NO.
6-02-090
 Location Map

Copyright Thomas Don Maps © 1992

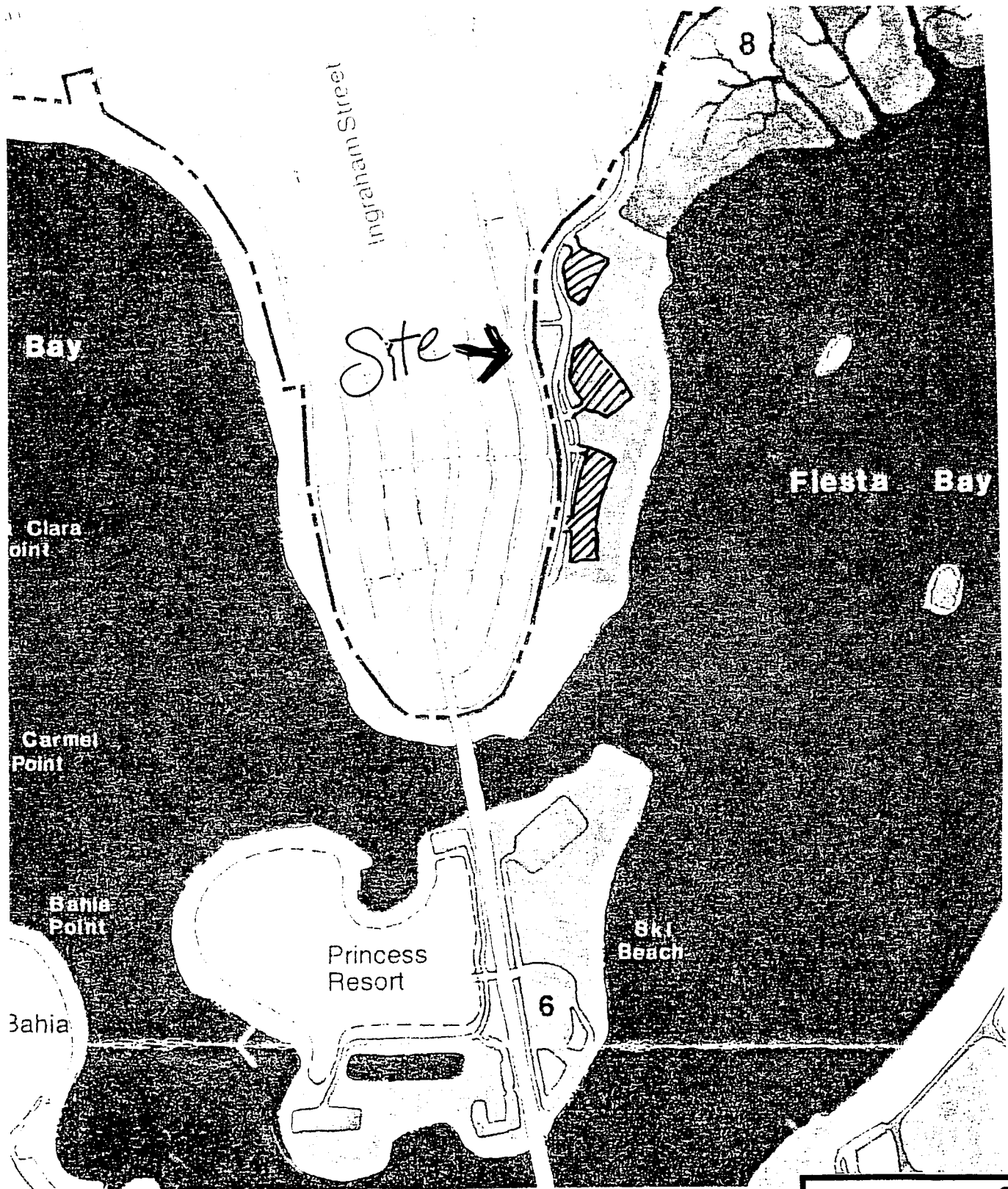


EXHIBIT NO. 2
APPLICATION NO.
6-02-090 **RF**
Site Plan

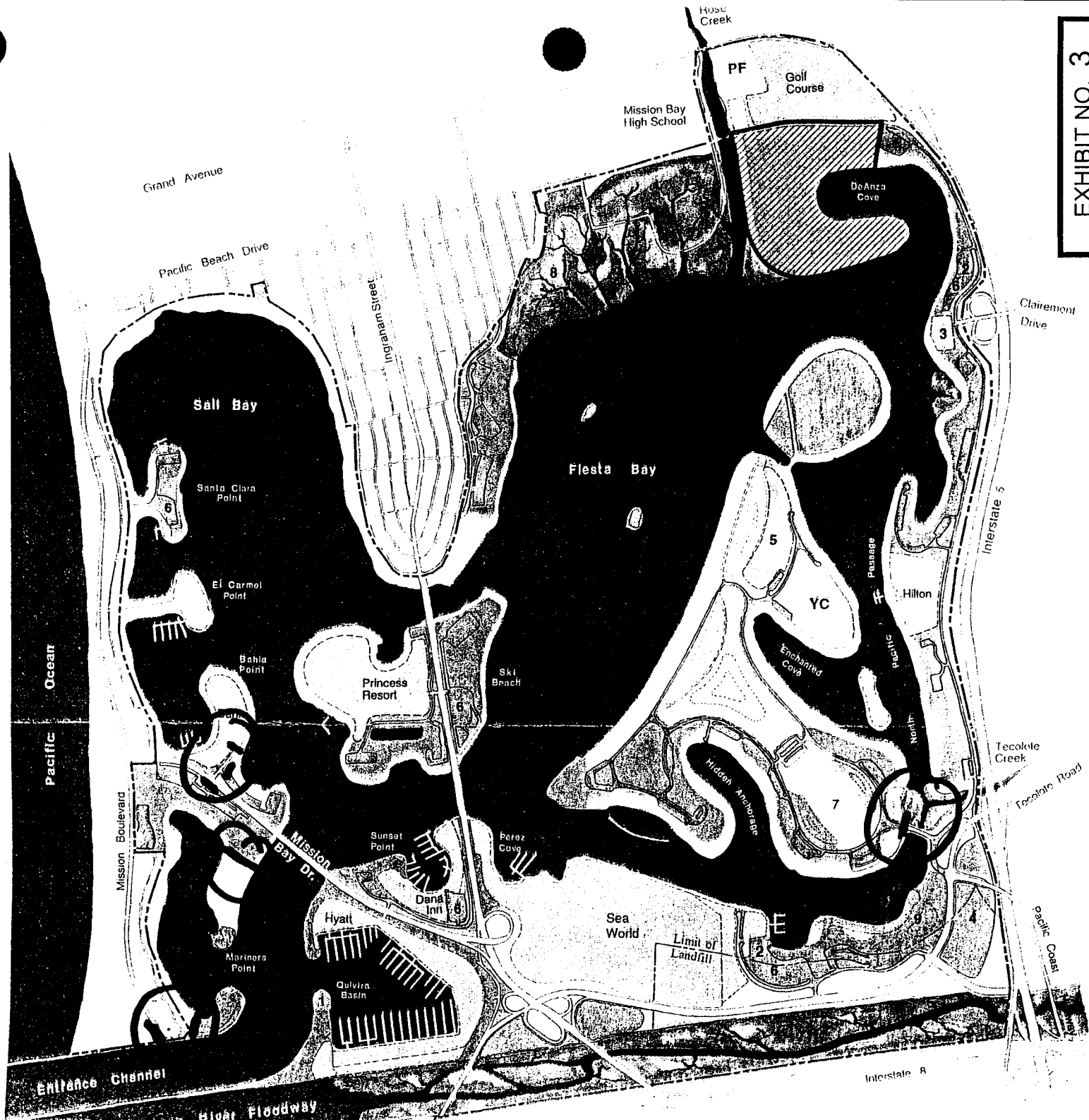



EXHIBIT NO. 3
APPLICATION NO.
6-02-090
Locations of Existing Gated Lots
 California Coastal Commission

Indrahan

Princess
Resort


6


EXHIBIT NO. 4
APPLICATION NO. 6-02-090
<i>Locations of changed signs</i>
 California Coastal Commission

Six Pack Sign


WILL CHANGE TO 12:00 AM - 4:00 A.M.

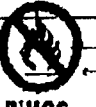
**REGULATIONS
FOR BEACHES, WALKWAYS
& PARK AREAS
MISSION BAY PARKS & BEACHES**

NO ALCOHOL 
IN PARKING LOT AT ANY TIME.
NO GLASS CONTAINERS IN PARK
ALLOWED AT ANY TIME.
ALCOHOL ALLOWED NOON-8PM

NO DOGS 
9AM TO 4PM - NOV. 1 TO MARCH 31
9AM TO 6PM - APRIL 1 TO OCT. 31

LEASHED DOGS PERMITTED
4PM TO 9AM - NOV. 1 TO MARCH 31
6PM TO 9AM - APRIL 1 TO OCT. 31
CLEAN UP AFTER YOUR PET

**NO SLEEPING OR OVERNIGHT
CAMPING OR PARKING** 
PARKING LOTS CLOSED 10AM-4AM
VIOLATORS ARE SUBJECT TO FINE
OR TOWED AWAY

NO BEACH FIRES 
EXCEPT IN BARBECUES AND FIRE RINGS
AND FUEL CANNOT EXCEED 12" IN HEIGHT.
USER MUST DOUSE MATERIALS IN FIRE
CONTAINER WITH WATER WHEN DONE.

**VEHICLES PARKED AT
RED CURB WILL BE TOWED**

EMERGENCIES CALL 911

BORDER RED

BK
RED

BK
RED

BK
RED

BK
RED

EXHIBIT NO. 5
APPLICATION NO. 6-02-090 RF
Sign Elevations
Page 1 of 2
California Coastal Commission

10PM

(CALL) IS BLACK
THE RES IS RED

DRIVE PAVED SIGNS

WEEK CHARGE TO 12:00 AM - 4:00 AM.



Ingraham

Princess
Resort

6

EXHIBIT NO. 6
APPLICATION NO. 6-02-090 RF
Potential Locations of Gates
 California Coastal Commission

PROPOSED GATE (TYPICAL)

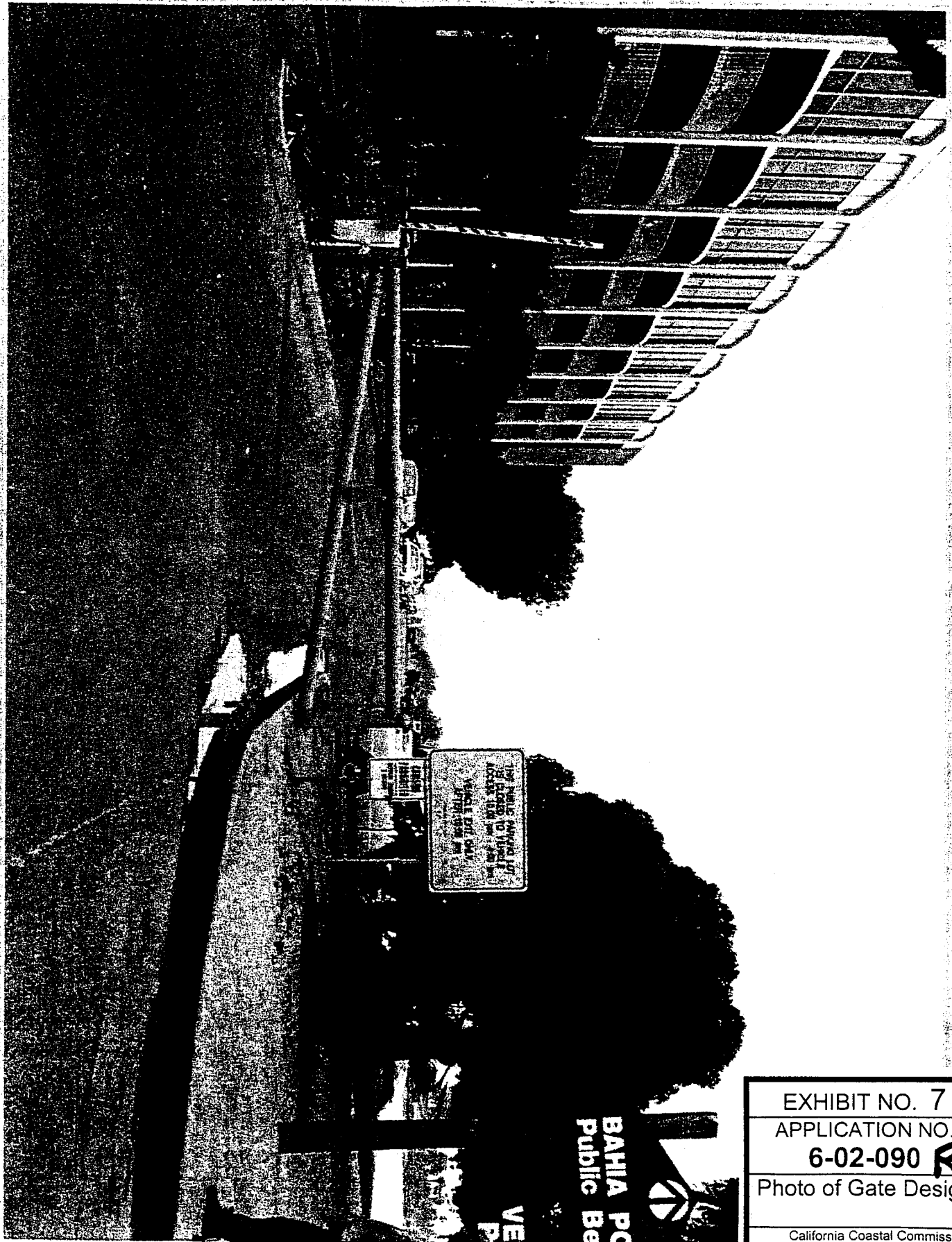


EXHIBIT NO. 7
APPLICATION NO.
6-02-090 **RF**
Photo of Gate Design
California Coastal Commission

