

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT AND RECOMMENDATION ON APPEAL

LOCAL GOVERNMENT: City of Del Mar

DECISION: Approved with Conditions

APPEAL NO.: A-6-DMR-04-24

APPLICANT: City of Del Mar

PROJECT DESCRIPTION: Installation of two "pay and display" parking machines and associated signage at an informal, approximately 50 space, public parking area and ongoing regulation of parking through the use of such machines.

PROJECT LOCATION: West side of Camino del Mar, just north of the Camino del Mar/Carmel Valley Road intersection, Del Mar, San Diego County.

APPELLANTS: Rick T. Beatty; Christopher Miller; Coastal Commissioners Patrick Kruer and Pedro Nava

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that substantial issue exists with respect to the grounds on which the appeal has been filed. Staff also recommends that the Commission approve the de novo permit application with several special conditions addressing operation of the "pay and display" machines, term of the permit, and offsetting public benefits.

SUBSTANTIVE FILE DOCUMENTS: Certified City of Del Mar LCP; Del Mar CDP-04-01; Appeal Forms

I. Appellants Contend That: Appellants Beatty and Miller contend that: 1). The City approval is inconsistent with the access policies of the Coastal Act in that the City is attempting to charge a parking fee, thus controlling access to a state beach, not a

municipal beach. 2). The permit is an after-the-fact permit and the City should face punitive measures.

Appellants Kruer and Nava contend that: 1). The permit is inconsistent with the public access policies of both the certified LCP and Coastal Act. 2). The City failed to establish enforceable criteria addressing costs, hours and area, in its permit. 3). The City failed to provide alternative, free options or amenities to the general public. 4). The City did not adequately assess the potential for displaced motorists to go to other locations, potentially overloading facilities that now operate at capacity.

II. Local Government Action. On January 27, 2003, the City of Del Mar Coastal Development Permit (CDP) was approved by the Planning Director. The decision was appealed, and, on March 15, 2004, the City Council approved the CDP with only standard conditions addressing business licenses and the permit's expiration date.

III. Appeal Procedures. After certification of a municipality's Local Coastal Program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permit applications. One example is that the approval of projects within cities and counties may be appealed if the projects are located within mapped appealable areas. The grounds for such an appeal are limited to the assertion that "development does not conform to the standards set forth in the certified local coastal program or the [Coastal Act] public access policies." Cal. Pub. Res. Code § 30603(b)(1). Where the project is located between the sea and the first public road paralleling the sea or within 300 ft. of the mean high tide line, the grounds of appeal are limited to those contained in Section 30603(b)(1) of the Coastal Act.

After the local government has taken final action on an appealable project, it must send a notice of that final action (NOFA) to the Commission. Cal. Pub. Res. Code § 30603(d); 14 C.C.R. § 13571. Upon proper receipt of a valid NOFA, the Commission establishes an appeal period, which runs for 10 working days. Cal. Pub. Res. Code § 30603(c); 14 C.C.R. § 13110 and 13111(b). If an appeal is filed during the appeal period, the Commission must "notify the local government and the applicant that the effective date of the local government action has been suspended," 14 C.C.R. § 13572, and it must set the appeal for a hearing no later than 49 days after the date on which the appeal was filed. Cal. Pub. Res. Code § 30621(a).

Section 30625(b)(2) of the Coastal Act requires the Commission to hear an appeal of the sort involved here unless the Commission determines that no substantial issue is raised by the appeal. If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to a de novo hearing on the merits of the project.

If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a

majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project either immediately or at a subsequent meeting. If the Commission conducts a de novo hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program.

In addition, for projects located between the sea and the first public road paralleling the sea, Sec. 30604(c) of the Coastal Act requires that, for a permit to be granted, a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act.

The only persons qualified to testify before the Commission at the "substantial issue" stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. At the time of the de novo hearing, any person may testify.

Staff Recommendation On Substantial Issue.

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission determine that Appeal No. A-6-DMR-024 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION:

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-6-DMR-024 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

Findings and Declarations.

1. Project Description/Permit History. The City of Del Mar proposes installation of two "pay and display" machines along an approximately 1,700 foot distance where informal parking now occurs, and ongoing regulation of parking through use of these machines. The area is parallel to Camino del Mar, on the west side within the right-of-way, and consists of an open, unvegetated strip separated from the paved road by a curb. Vehicles have historically parked within this strip between the intermittent roadside trees to access an unimproved dirt trail leading down the bluff to the beach, or to enjoy the panoramic views available in this location. The "pay and display" machines are similar to parking meters in appearance, although significantly larger. Each machine can serve 25-30 cars; when fed, they produce a ticket to be displayed on the vehicle's dashboard. The paid parking machines were actually installed last autumn and fees were collected for a few months before the matter was reported to the Commission and a determination was made that the machines represent a change in intensity of use of the area and thus require a coastal development permit. At that point, the City covered the machines, stopped collecting fees and began processing a coastal development permit. The City's current program establishes an hourly rate of \$1.50 and has no maximum hour limitation. Signage adjacent to the machines indicates they will be in operation seven days a week, between the hours of 9:00 a.m. and 8:00 p.m.

The site is within the City's CDP jurisdiction, but appealable to the Commission, and the City, after a local appeal, issued itself a permit in March, 2004. On March 30th and April 1st, appeals to this Commission were filed by outside interested parties and by Commissioners.

2. Public Access and Recreation. Because this site is between the first public road (Camino del Mar) and the sea, both the certified LCP and the public access policies of the Coastal Act are standards of review. Pertinent LCP policies, in part, are cited below, followed by applicable Chapter 3 policies (also in part):

Goal IV-A

Provide physical and visual access to coastal recreation areas for all segments of the population ...

Goal IV-A, IV-9

Improved vertical access ways to the beach and trailhead areas shall include appropriate support facilities such as trash receptacles and bicycle racks as determined necessary.

Goal IV-B, Policy IV-17

The City shall continue to encourage the use of bicycles for transportation to coastal recreation areas. The City shall also promote the installation of bicycle racks at

intermittent locations along the beach and lagoon areas as well as the following locations: ... along Camino del Mar in the vicinity of Carmel Valley Road.

Goal IV-C, Policy IV-22

Enhance public improvements along appropriate bluff top areas which provide significant scenic vistas when such improvements are not in conflict with bluff preservation policies. Improvements shall include the installation of benches for scenic viewing ... along the upper bluff area south of Del Mar Canyon,

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 30212.5

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30213

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

The following analysis will address each point made by the two sets of appellants:

Appellants Beatty and Miller contend that:

1. The City approval is inconsistent with the access policies of the Coastal Act in that the City is attempting to charge a parking fee, thus controlling access, to a state beach, not a municipal beach.

Charging fees where parking was previously free may limit public access and thus represents a change in the intensity of use of the site. In this way, the fee may be inconsistent with the LCP and Coastal Act, in that it creates a potential to exclude portions of the public. However, the proposed parking machines would be located entirely on City-owned land, and these parking spaces serve bluff top viewing as well as beach access; the bluff is also in the City's ownership. Moreover, the state itself charges a parking fee to those using the state beach. In these days of tightened budgets, the Commission has not found it unreasonable that some fees be imposed to enable local governments to meet their public safety and maintenance responsibilities, such that the public recreational amenities can be retained on a long-term basis. Moreover, neither the appellants nor the State department in charge of the beach has provided any authority for the general proposition that a municipality's ability to regulate parking on its own property is restricted when that property provides access to a state beach, and nothing in the above LCP or Coastal Act policies stands for such a proposition.

2. The permit is an after-the-fact permit and the City should face punitive measures.

Although the applicant installed the parking facilities without benefit of a CDP, there was initially some confusion over whether a permit was required. Since the ultimate determination was that the installation of the parking machines, as well as changing from a free to paid system, did meet the certified LCP and Coastal Act definitions of development, the City's action of performing development without a CDP is a violation of the Coastal Act. The basis for finding substantial issue is potential inconsistency with the certified LCP and the access policies of the Coastal Act and a determination that the issue meets the substantiality standard. The fact that this is an after-the-fact request for authorization is irrelevant to the consistency or inconsistency of the development with the LCP and Coastal Act access policies. However, the violation aspect of the proposed development will be pursued as a separate enforcement matter.

Appellants Kruer and Nava contend that:

1. The permit is inconsistent with the public access policies of both the certified LCP and Coastal Act.

The cited policies make clear that maximum access is to be provided for all segments of society and also provides that lower cost visitor facilities shall be protected. The City's action will result in the need for the visiting public to pay for parking where no payment was required previously. Thus, access may be adversely affected and there is a substantial issue raised by the grounds on which the appeal was filed. The existing parking spaces are adjacent to the bluff and beach, and are used solely to access the bluff and beach. As parking in this location was previously free, charging for parking may result in a change in use of this area, as some members of the public may not be able to afford the parking fee. There are no other convenient locations to park and access the bluff/beach in this area that do not already require a fee. Thus, charging a fee raises a substantial issue on the grounds on which the appeal was filed.

2. The City failed to establish enforceable criteria addressing costs, hours and area, in its permit.

Although the City addressed parking fees, hours of operation, and time limits in their staff report, they did not include any of these criteria in the actual permit. Without such criteria in the permit itself, there is nothing to enforce if the City chooses in the future to change these parameters, limiting public access even further. Any change (increase) in fees would, in tandem, increase the number of persons unable to afford to come to this beach. Increases in the hours of operation could adversely affect new and different user groups. Surfers and divers often prefer the early morning hours before the majority of beachgoers arrive, and before the currently proposed hours of operation take effect. Likewise, as described herein, there are currently no limits on how long one can stay at the beach, as long as the hourly fee is paid. Imposition of time limits in the future could discourage many members of the public from coming to the beach at all. The result of any of these changes would be further restricting public access over what is now proposed. This raises a substantial issue because these parameters could be changed with no public review, no monitoring and no offsetting benefits., thus reducing public access which is inconsistent with both the LCP and the Coastal Act. Therefore, the Commission finds that there is a substantial issue raised by the grounds on which the appeal was filed.

3. The City failed to provide alternative, free options or amenities to the general public.

The certified LCP calls for both bicycle racks and viewing benches to be installed in this general location to enhance public access and recreational amenities. Although the LCP does not require these amenities as offsetting benefits for any specifically identified actions, these improvements would mitigate for the potential access impacts of initiating paid parking. Without providing these, or other, enhancements, the City is nonetheless proposing paid parking such that access is actually more limited than at present. Since vehicular access in this location may now be unaffordable for segments of the public, the provision of bicycle facilities would offer an alternative means to still gain free access to the beach. Enhanced viewing opportunities along the bluff (benches placed in strategic locations to gain the best views) would offer an additional recreational amenity to pedestrians, bicyclists and motorists alike. Without these, or other, offsetting benefits, the proposal directly reduces access for some members of the public. For all the above reasons, this appeal raises a substantial issue on the grounds on which it was filed

4. The City did not adequately assess the potential for displaced motorists to go to other locations, potentially overloading facilities that now operate at capacity.

The requirement to pay for parking at the proposed site may direct some people elsewhere to seek out free parking or lower rates. There is no other place to park in the general vicinity that is free and/or convenient for the public to use. The subject access point is more than a mile south of 15th Street, which is the nearest safe access point to the north, and nearly half a mile north of the nearest free parking and beach access to the south. The subject section of beach is located at the far southern end of the City of Del Mar, and is actually the northern extension of Torrey Pines State Beach. Because of the

severe topographic impediments on the dirt trail between the blufftop and the beach, this stretch of shoreline is not heavily used. However, most of the county's beaches and public beach parking lots are full during the summer season, and at, or beyond, capacity on summer weekends. If persons are displaced from the subject area because of the imposition of parking fees, these alternative beaches may become severely overloaded. This would be inconsistent with Section 30212.5 of the Coastal Act, cited above, which provides that overcrowding of public recreational facilities should be avoided. Therefore, the Commission finds that a substantial issue is raised by the grounds on which this appeal was filed.

The findings above demonstrate that the city's approval is inconsistent with both the certified LCP and the Coastal Act access policies. For all the identified reasons, a substantial issue has been raised by the city's action.

STAFF RECOMMENDATION ON THE COASTAL PERMIT

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. A-6-DMR-04-024 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the certified LCP and the public access policies of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following special conditions:

1. Operating Parameters. The paid parking program approved herein shall operate under the following parameters:

- a. The hourly parking fee shall be \$1.50
- b. There shall be no maximum time limit set on the use of spaces
- c. The fee shall be in effect daily, between the hours of 9:00 a.m. and 8:00 p.m. only

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

2. Public Access Mitigation. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final plans (site plan and elevation) for the following project and mitigation items:

- a. The location and style of the two "pay and display" parking machines and any associated, free-standing signage.
- b. Bicycle racks shall be installed west of the Camino del Mar travel lanes, approximately at the intersection of Carmel Valley Road and Camino del Mar, where there is an existing opening in the guard-rail.
- c. A minimum of two viewing benches shall be installed on the bluff top west of the paid parking, and shall be placed in the manner that best enhances the existing panoramic views.

Within 9 months of issuance of the coastal development permit, the applicant shall submit evidence to the Executive Director for review and written approval, that the public access improvements identified in Subsections b and c above have been installed and are available to the public.

The permittee shall undertake the installation of the mitigation features in accordance with the 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 an

amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. Term of Permit. The permit approved herein shall be valid for one year from the date of Commission action. At that time, the applicant may request an amendment to the permit to allow additional time. If the mitigation required in Special Condition #2 has not occurred, the applicant shall submit documentation of the status of such mitigation features and a progress report detailing the efforts expended by the City in this regard. This information shall be considered in the Commission's decision on the amendment request.

4. Opening of Torrey Pines State Beach Accessway. The applicant shall work diligently with other agencies towards repair of the Camino del Mar bridge, and towards the re-opening of the public beach accessway that passes beneath the bridge. If the accessway has not been reopened within one year of the date of Commission action, the City shall submit a progress report on these efforts with any application to extend the term of the permit. This information shall be considered in the Commission's decision on the amendment request.

5. Condition Compliance. **WITHIN 60 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.

IV. Findings and Declarations.

1. Project Description. The City of Del Mar proposes installation of two "pay and display" machines serving an approximately 1,700 foot-long area where free informal parking now occurs. The area is on the west side of Camino del Mar (within the public right-of-way), just north of the intersection with Carmel Valley Road, and consists of an open, unvegetated strip separated from the paved road by a curb. Vehicles have historically parked within this strip between the intermittent roadside trees to access an unimproved dirt trail leading down the bluff to the beach, or to enjoy the panoramic views available in this location along the bluff top. The "pay and display" machines are similar to parking meters in appearance, although significantly larger. Each machine can serve 25-30 cars; when fed, they produce a ticket to be displayed on the vehicle's dashboard. The City's current proposal is to charge an hourly rate of \$1.50 with no maximum hour limitation. Signage adjacent to the machines indicates they will be in operation seven days a week, between the hours of 9:00 a.m. and 8:00 p.m.

The paid parking machines were actually installed last autumn and fees were collected for a few months before the matter was reported to the Commission and a determination was made that the machines represent a change in intensity of use of the area and thus require a coastal development permit. At that point, the City covered the machines and

stopped collecting fees. The site is within the City's CDP jurisdiction, but appealable to the Commission, and the City, after a local appeal, issued itself a permit in March, 2004. On March 30th and April 1st, appeals were filed in the San Diego Coastal Commission office, both by outside interested parties and by the Commission.

The project site is at the southern end of Del Mar, and is located between the first public road (Camino del Mar) and the sea. The legal standard of review for this permit is consistency with both the City of Del Mar certified LCP and the Chapter 3 access policies of the Coastal Act.

2. Public Access and Recreation. The applicable LCP and Coastal Act policies can be found in the Substantial Issue portion of this report, and are incorporated herein by reference. This location is a popular parking spot for surfers, joggers, and general beach users, as it accesses the northern portion of Torrey Pines State Beach. Beach access from the bluff top parking area is gained via an unimproved, rocky, narrow, dirt trail west of Camino del Mar. The condition of this trail already impedes access for many, including the elderly and disabled. The area is isolated from both the main portion of Del Mar to the north and the Torrey Pines State Beach facilities to the south, and provides the only free area to access this beach, etc. Implementation of parking fees raises a concern as to public access in that such a fee may affect use of this area by the general public.

On the other hand, the Commission has, on several past occasions, supported the right of a local government to collect fees for services rendered. There are few areas of the urbanized California coastline that do not have some form of parking fee or program, and these are generally driven by the public safety and upkeep costs of maintaining public beaches. That is the City of Del Mar's stated purpose for the subject proposal, as was the case ten years ago when the Commission approved the installation of identical machines at the northern end of the city. These "pay and display" machines are currently in operation along Border Avenue, the western portion of Via de la Valle, and the portion of Camino del Mar north of the San Dieguito River bridge.

The Commission's main concern in regard to such programs is that the operating parameters of such a program be reasonable and in the best interest of the public at large. A secondary concern is the "spillover" affect that may occur as people move to other areas that do not have a fee or charge less; this is discussed extensively in the following paragraphs. Fees should be comparable to those charged at similar facilities, such as state beaches, and time limits should consider the longer stays of recreational users. Typically, the Commission has not allowed time limits of less than four hours in beach areas, since shorter time periods could significantly affect the quality of the public's beach experience. The subject proposal does not include any maximum time limits, so, by paying the hourly fee, people can stay all day if they wish. In the subject application, the city is also proposing operating hours of 9:00 a.m. to 8:00 p.m.. These parameters are generally consistent with the Commission's actions on similar proposals. Special Condition #1 states the proposed parameters, and is imposed to assure that these parameters are not modified at the city's discretion without further Commission review.

Nothing in the City file indicates that any type of analysis was conducted regarding other free parking in the area to try to determine if there would be adverse impacts from "spillover." However, based on review by Commission staff, there is some limited free street parking approximately 2,000 ft. south of this location, across the railroad bridge (although it is currently affected by construction of the City of San Diego in replacing the southern bridge over the mouth of Los Penasquitos Lagoon), and paid parking at Torrey Pines State Beach and 15th Street, both more than a mile distant from the project site. These parking areas are often fully utilized by mid-morning, especially during summertime and weekends. The only nearby free parking is within residential areas east of Camino del Mar. However, it is not likely this area would be utilized by beach goers as it would require hiking several blocks carrying one's beach paraphernalia and crossing Camino del Mar where there are no traffic signals to access the beach. In addition to not analyzing the potential effects, if any, the public paid parking might have on surrounding streets or providing information about the proximity of alternative free public parking, the City has not proposed installation of bicycle racks, viewing benches, and potentially other items, to mitigate for the loss of free parking in this location.

Bicycle racks will provide a free alternative to vehicular paid parking. Camino del Mar includes a bicycle lane, and bicyclists use the area often. Although in many cases use of the viewing benches would still require payment of a parking fee, they would also be available for use by bicyclists and pedestrians. Therefore, Special Condition #2 is attached to require that some of these alternative recreational features are provided in conjunction with operation of the paid parking program. The condition requires placement of bicycle racks and viewing benches, both of which are called for in this general area by the certified LCP. The condition requires submittal of a plan for these items, and then installation of same within nine months of permit issuance.

Special Condition #3 limits the subject permit to a term of one year only. This will provide the Commission an opportunity to review the paid parking program once again and assess any unforeseen impacts. This is typical of the Commission's handling of other proposals for which impacts are difficult to assess in advance. A trial period allows the operation to proceed for a long enough period that any unexpected yet significant problems should surface and may be addressed in future Commission actions. The one-year term for the permit also provides a means to review the status of the approved mitigation features. The City may apply for an amendment (or amendments) to retain the paid parking for a longer period, but must include with any amendment request a status report addressing compliance with Special Condition #2. It is expected that the mitigation facilities will be in place long before any amendment request to extend the term of the permit comes forward. Should unexpected delays, not of the city's making, delay placement of these amenities, the applicants must document what the delay is and what's being done to remedy it. It will also be necessary to amend any affected special conditions to reflect any extended time needed to comply with said conditions. The Commission shall consider such explanations when determining whether or not to extend the term of the permit, and allow the paid parking program to continue to operate.

It is possible that some people who currently park at the subject site would relocate to the North Torrey Pines State Beach parking lot. This is also a paid facility, but applies a daily rate instead of an hourly one. People planning long stays at the beach would probably find this parking lot more economical. Generally speaking, there is more than enough availability in this parking lot to accommodate anyone who is displaced from the subject Camino del Mar location. However, on holidays and holiday weekends, the lot fills up and overflows, so conflicts could occur in adding even one more car

This parking lot is the only other convenient means of accessing this particular stretch of beach. There are two existing accessways from the parking lot to the beach, one of which is currently "closed" due to debris falling onto the path from the underside of the Camino del Mar bridge. This access exits onto the beach closest to the path at the subject site, at the northern end of the beach, just south of the railroad tracks (the path at the subject site comes out onto the beach just north of the tracks). There is signage at either end of the path indicating the path is closed, but there are no actual physical barriers in place, and the path is used regularly. According to the city, the bridge is in need of seismic retrofitting and other repairs, at a minimum, but many agencies are involved and it is not known when such repairs/retrofitting will occur. The signs protect the various jurisdictional entities (Del Mar, State Parks and North County Transit District) from liability if people continue to use the accessway before repairs are completed.

The main beach access path is located at the southwest end of the parking lot, near the restrooms and rivermouth. This accessway regularly sees a high level of use, and the vast majority of cars park as close to this point as possible. The parking lot normally fills from southwest to northeast, unless people specifically want to use the northern access point, in which case they park as near to it as possible. It seems likely that people parking here because of the pay machines at the subject site, would most desire to use this access, as it puts them on the beach nearby where they are used to going. Also, that area of beach is less crowded than near the southern accessway.

Because the northern path is the only other convenient means of accessing the same beach, Special Condition #4 requires the city to diligently pursue efforts to repair the bridge and reopen the northern accessway. The Commission seeks assurance that progress is being made in this direction, since the "Closed" signs were originally placed without a CDP, and the Commission wants to see that access fully open as quickly as possible. Reopening this access would provide a convenient and possibly less costly alternative to the "pay and display" machines.

With the three conditions identified in this finding, adverse impacts on beach access at the subject site will be mitigated by alternative access improvements. In addition, with a term of one year for the permit, if continued use of the meters is proposed, the Commission has the opportunity to again review this matter and review information on any identified impacts for the first year of operation. With these conditions, the Commission finds the proposed program consistent with the cited access policies of the certified LCP and Coastal Act.

3. Visual Resources. The following LCP policies are most applicable to the subject proposal:

Goal IV-C, Policy IV-22

Enhance public improvements along appropriate bluff top areas which provide significant scenic vistas when such improvements are not in conflict with bluff preservation policies. Improvements shall include the installation of benches for scenic viewing ... along the upper bluff area south of Del Mar Canyon.

Goal IV-C, Policy IV-24

Preserve views of the Pacific Ocean from Camino del Mar through the application of scenic view easements and related view preservation restrictions ...

The proposed paid parking program will add structures along the west side of Camino del Mar, which is a scenic highway and major coastal access route. Although the "pay and display" machines are larger than parking meters, only two of them are needed to service approximately 50 parking spaces. These are placed within wooded areas along the road, and do not block any existing public views of the bluffs and ocean. For the most part, associated signage is immediately adjacent to the machines and likewise does not interfere with existing views. One sign north of the actual project site warns "Parking Changes Ahead." This free-standing sign, of similar size and shape to typical roadside directional and informational signs, is not attractive but appears to be temporary, until drivers become used to paying for the parking ahead (to the south). The sign does not block any existing public views. The Commission finds that no significant visual impacts will result from the operation of this program and that the project is consistent with the cited LCP policies.

4. Unpermitted Development. The development that occurred without a permit consists of installation of the two "pay and display" machines and collection of fees. Because this is an after-the-fact permit approval, Special Condition #5 requires the "prior to issuance" conditions be satisfied within 60 days of Commission action.

Although development has taken place prior to approval of the CDP at the local level, and prior to its being appealed to the Commission, consideration of the application by the Commission has been based solely upon the certified LCP policies and Chapter 3 access policies of the Coastal Act. Approval of the permit does not constitute a waiver of any legal action with regard to this violation of the City of Del Mar LCP/Coastal Act that may have occurred; nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

5. Local Coastal Planning. The proposed paid parking program does not change the location, or amount, of public parking in the vicinity, but may change the intensity of use of access to the beach in this location if people want to avoid paying parking fees. The site is designated as public parkland in the LUP and zoned the same in the City's

implementation component. The ongoing use is fully consistent with a parkland designation, as the parking facilities support the adjacent bluff top open space and nearby beach. Previous findings have also demonstrated that the proposal, as conditioned, is consistent with the certified LCP and the access policies of the Coastal Act. Therefore, the Commission finds that approval of the proposal, as conditioned herein, will not prejudice the ability of the city to continue to implement its fully certified LCP.

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

The proposed project has been conditioned in order to be found consistent with the public access and recreation policies of the certified LCP and the Coastal Act. Mitigation measures, including provision of bicycle racks and viewing benches, and the future reopening of the northern accessway, will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and 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.

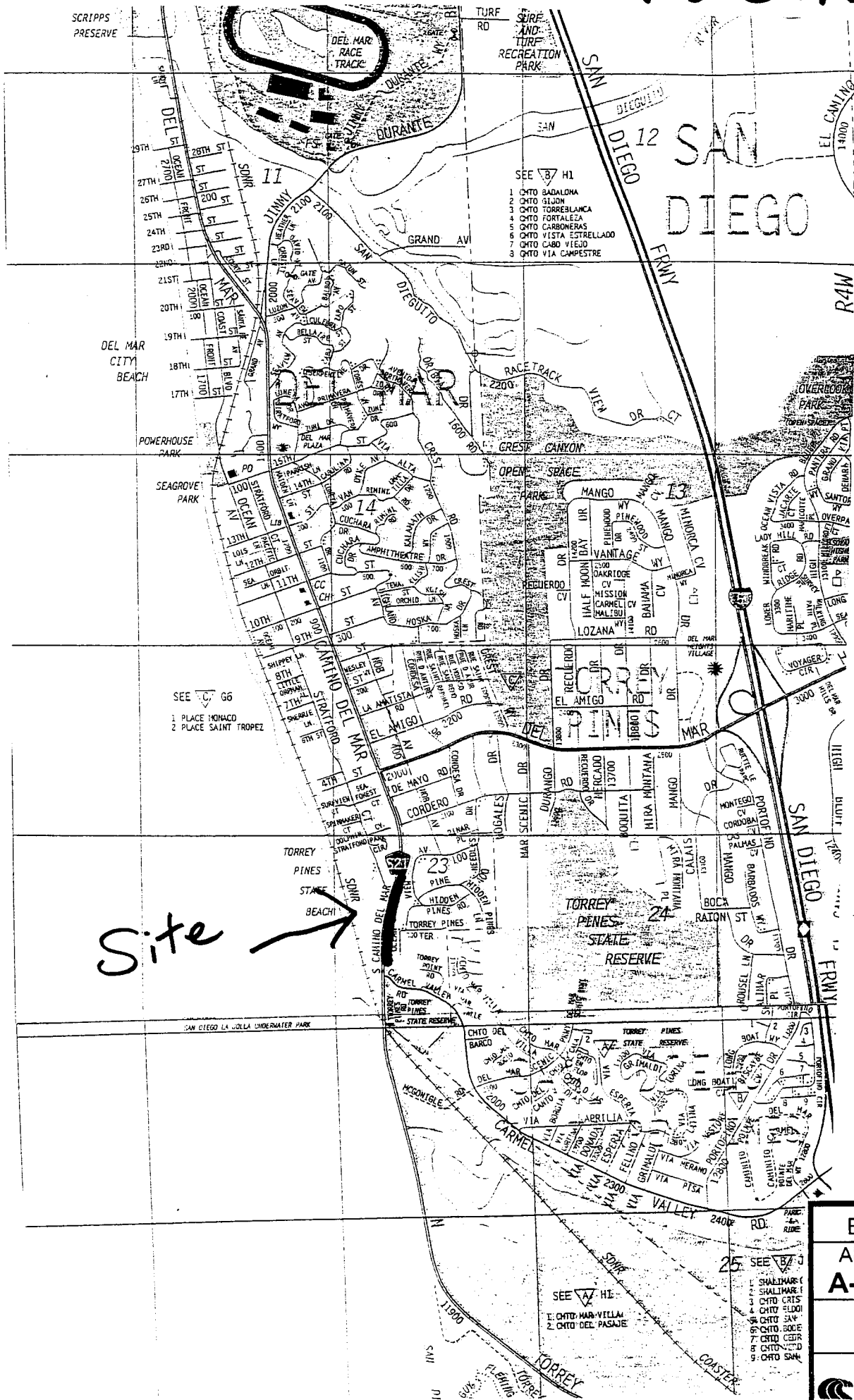


EXHIBIT NO. 1

APPLICATION NO.

A-6-DMR-04-24

Location Map

California Coastal Commission

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370

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MAR 30 2004

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Please Review Attached Appeal Information Sheet Prior To Completing
This Form.

SECTION I. Appellant

Name, mailing address and telephone number of appellant:

Rick T. Beatty

Christopher Miller

3985 Carmel Springs Way

3664 Caminito Carmel Landing

San Diego, CA 92130 (858) 792-3747 H

(858) 259-2075 H (760) 633-2718 W

Zip (858) 320-8411 W

Area Code

Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port
government: City of Del Mar

2. Brief description of development being
appealed: Installation of two Park, Pay and Display meters on the west
side of Camino del Mar, beginning at the intersection of Carmel Valley
road and extending north on Camino del Mar

3. Development's location (street address, assessor's parcel
no., cross street, etc.): Appx 1,700 feet long area on the west side
of Camino del Mar beginning at the intersection of Carmel Valley Road

4. Description of decision being appealed:

- a. Approval; no special conditions: _____
- b. Approval with special conditions: CDP-04-01 w/various conditions
- c. Denial: _____

Note: For jurisdictions with a total LCP, denial
decisions by a local government cannot be appealed unless
the development is a major energy or public works project.
Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-DMR-04-024

DATE FILED: 3/30/04

DISTRICT: _____

EXHIBIT NO. 2
APPLICATION NO.
A-6-DMR-04-24
Appeal Forms (3)
California Coastal Commission

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- a. ☐ Planning Director/Zoning Administrator c. ☐ Planning Commission
b. ☒ City Council/Board of Supervisors d. ☐ Other _____

6. Date of local government's decision: 3/15/04

7. Local government's file number (if any): CDP-04-01

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

City of Del Mar
1050 Camino del Mar
Del Mar, CA. 92014

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

- (1) KEITH JEFFERS
2121 VIA MAR VALLE
DEL MAR, CA. 92014
- (2) BRIAN WOODWARD CHAIRMAN SD COUNTY CHAPTER SURFRIDER FOUNDATION
P.O. BOX 1511
SOLANA BEACH, CA 92075
- (3) _____

- (4) _____

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

- 1) Legal access. This area provides the only safe access to the beach
for about a mile and a half (to 15th Street in Del Mar).
The City of Del Mar, by charging for parking here,
controls access to the northern-most 3,000 feet of
Torrey Pines STATE Beach, not city beach.
- 2) Punitive. The City of Del Mar collected parking fees and enforcement
fines for apprx. 5 months BEFORE approving a Coastal
Development Permit. This is illegal.

PLEASE SEE ATTACHED FOR DETAILS.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my knowledge.

Signed B. L. B. B. B.
Appellant or Agent

Date 3-29-04

Ch. Mull
APPELLANT
3/29/04
DATE

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed _____
Appellant

Date _____

Reasons for appeal:

1) Legal access. Del Mar's approval of local CDP-04-01 is inconsistent with the Coastal Act as follows:

a) The Coastal Act, particularly those sections pertaining to access, is based on and reliant upon Article 10 of the California Constitution. Section 4 of Article 10 addresses the issue of access, and reads as follows:

"No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will **give the most liberal construction to this provision**, so that access to the navigable waters of this State shall be always attainable for the people thereof.

While the Coastal Commission has generally (and probably reluctantly) approved a city's right to charge a reasonable fee for parking adjacent to the beach, it is far from clear that such approval is appropriate in this case due to the unique nature of this particular site (please refer to the attached map). As indicated in the map, Torrey Pines State Beach extends more than 3,000 feet north of the southern-most boundary of the parking area in question, and about 2,000 feet north of the northern-most boundary of the same parking area. This means that access to the northern-most 3,000 feet of Torrey Pines State Beach is effectively controlled by the City of Del Mar if this CDP is allowed to stand. Ipso facto, it is unreasonable for the City of Del Mar to charge a fee for access to this site.

b) Just as important to note is that the only access to the north end of the State beach is provided at the southern-most end of the site. Moreover, the **only** safe vertical access to any of the beach, state or city-owned, between this site and 15th Street in Del Mar is at the southern-most end of this parking site. This span totals about a mile and a half.

Stated more simply, the only safe vertical access to the beach for a distance of a mile and a half is provided at the southern end of the parking area in question.

2) Punitive. The City of Del Mar violated the Coastal Act and their own LCP by installing these Park, Pay, and Display meters prior to the approval of a CDP.

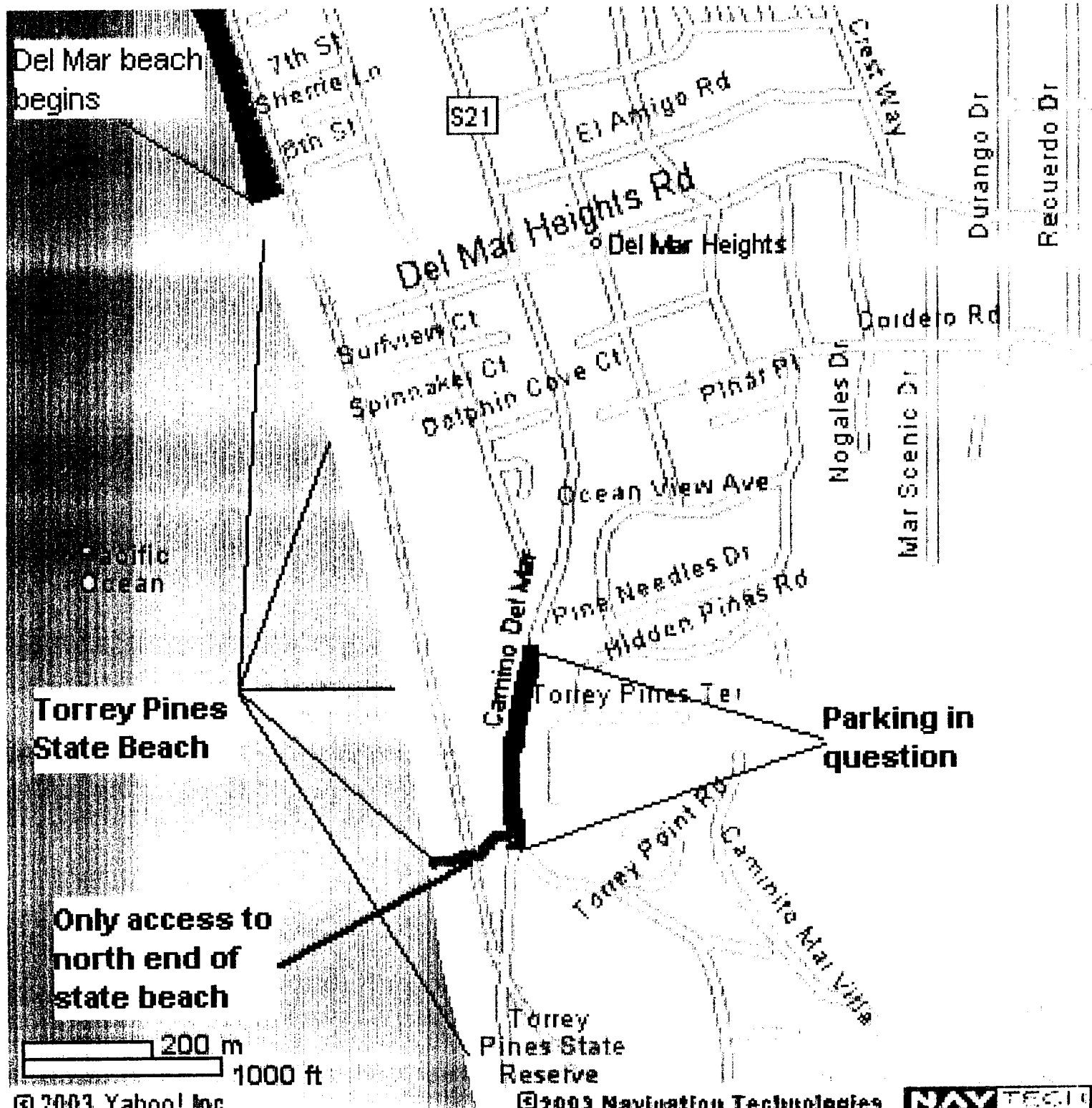
These meters were installed and activated sometime early in September, 2003 (according to the City of Del Mar). The CDP was approved by the City Council on March 15, 2004. The meters were "bagged" by the city at the end of February, 2004 upon receipt of our initial appeal.

The City of Del Mar collected parking fees and parking enforcement fines for a period of approximately five months without a Coastal Development Permit. The City has claimed that this installation and activation of the meters prior to approval of a CDP was essentially due to a "misunderstanding" of the requirements, and that any violation of the Coastal Act or their LCP was simply a bureaucratic "mistake."

Given the very experienced backgrounds of several members of the city's Planning Department staff, *including employment at the Coastal Commission*, this defense is simply not credible. If a citizen violated the Coastal Act by developing without a CDP, wouldn't that citizen be penalized to the extent permitted by law? Should we be any less vigilant about protecting the right of access simply because the violator is a municipality? Our Coastal Act cannot be viewed as toothless in the eyes of municipalities throughout the state.

If a driver makes an illegal U-turn at Camino Del Mar and 11th Street in Del Mar, but wasn't aware that it was illegal, may that driver use his lack of awareness as a defense? There is ample precedent that ignorance of the law may not be used as a defense.

In this case, particularly as it concerns our Coastal Act, ignorance of the law should not be allowed as a defense, and punitive action is appropriate. Is there a more appropriate penalty than denial of the CDP, removal of the meters, and requiring that free access to this *regional* (not city) resource be provided for all persons of all socioeconomic backgrounds?



Del Mar beach
begins

Torrey Pines
State Beach

Only access to
north end of
state beach

200 m
1000 ft

© 2003 Yahoo! Inc

© 2003 Navigation Technologies

NAVTEQ

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Patrick Kruer
Mailing Address: 7727 Herschel Avenue
La Jolla, CA 92037
Phone Number: 858-551-4390

SECTION II. Decision Being Appealed

1. Name of local/port government: Del Mar
2. Brief description of development being appealed: installation of "pay and display" parking machines
3. Development's location (street address, assessor's parcel no., cross street, etc):
west side of Camino del Mar, north of Carmel Valley Road
4. Description of decision being appealed:
 - a. Approval; no special conditions: ☐
 - b. Approval with special conditions: ☒
 - c. Denial: ☐

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-DMR-04-024

DATE FILED: April 1, 2004

DISTRICT: San Diego

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APR 01 2004

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 2

5. Decision being appealed was made by (check one):

a. ☐ Planning Director/Zoning
Administrator

c. ☐ Planning Commission

b. ☒ City Council/Board of
Supervisors

d. ☐ Other

Date of local government's decision: March 15, 2004

Local government's file number (if any): CDP-04-01

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

Name and mailing address of permit applicant:

City of Del Mar
Attn: Linda Niles
1050 Camino del Mar
Del Mar, CA 92014

Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

<u>Rick T. Beatty</u>	<u>Christopher Miller</u>	<u>The Silbert Family</u>
<u>3985 Carmel Spring Way</u>	<u>3664 Caminito Carmel Landing</u>	<u>13395 Portofino Dr</u>
<u>San Diego, CA 92130</u>	<u>San Diego, CA 92130</u>	<u>Del Mar, CA 92014</u>

<u>Keith Jeffers</u>	<u>Pablo A. Lanatta</u>	<u>Richard Horvath</u>
<u>2121 Via Mar Valle</u>	<u>1128 West Redwood Street</u>	<u>14053-B Mango Dr</u>
<u>Del Mar, CA 92014</u>	<u>San Diego, CA 92103</u>	<u>Del Mar, CA 92014</u>

<u>Brian Woodward, Chairman</u>	<u>Steve McCaffrey</u>
<u>San Diego County Chapter Surfrider Foundation</u>	<u>12774 Via Terceto</u>
<u>Post Office Box 1511</u>	<u>San Diego, CA 92130</u>
<u>Solana Beach, CA 92075</u>	

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

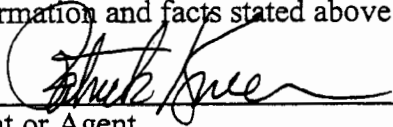
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attachment A dated April 1, 2004

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: 
Appellant or Agent

Date: 4/1/04

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

Del Mar Paid Parking Permit

The City of Del Mar has approved a coastal development permit for the after-the-fact installation of two "pay and display" parking machines on the west side of Camino del Mar (Coast Highway 101) at the southern end of the City of Del Mar. The paid parking area is located inland of Torrey Pines State Beach and north of existing public parking on North Torrey Pines Road and within the State park facilities which also serve beach users. The meters will govern an area of existing informal free public parking within City right-of-way that extends for approximately 1,700 linear feet, provides approximately 50 parking spaces, and serves a pedestrian beach access trail leading to the beach. The permit does not identify the parking fee, operating hours, or time limits of the meters, although these are addressed in accompanying City staff reports.

The certified City of Del Mar LCP addresses the protection and provision of public access. Goal IV-A provides that "physical and visual access to coastal recreation areas" be provided "for all segments of the population." Also, Policy IV-17 requires the provision of bicycle racks to encourage alternative transportation at a number of City sites, including "along Camino del Mar in the vicinity of Carmel Valley Road." Therefore, the City's CDP may be inconsistent with these LUP policies, since certain segments of the population could be excluded through implementation of paid parking, and the permit does not address bicycle facilities as an alternative.

The permit may also be inconsistent with the public access policies of the Coastal Act, specifically with Sections 30210 which requires maximum access and recreational opportunities be provided for all persons consistent with public safety needs and the needs to protect public rights, rights of private property owners, and natural resource areas from overuse. Sections 30211, 30212 and 30213 also provide that development shall not interfere with the public's right of access to the sea where acquired through use, public access from the nearest public roadway to the coast shall be provided and lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. This location is a popular parking spot for surfers, joggers, and general beach users, as it accesses the northern portion of Torrey Pines State Beach via an unimproved trail west of the roadway. Implementation of parking fees may make beach visitation in this area difficult or impossible for some segments of the population. In addition, because the City-issued CDP does not specify any operating parameters (such as hourly fees, operating hours, time limits, etc.), fees could be increased, hours expanded, or time limits imposed which may result in additional burden on public access opportunities without requiring any additional public review.

Further, the City did not analyze the potential effects, if any, the public paid parking might have on surrounding streets or State Park facilities that also provide public beach parking. The City's analysis also did not provide information about the proximity of alternative free public parking or propose installation of bicycle racks to offer a "no fee" alternative in this location. Finally, the permit does not require any form of monitoring program to address project impacts and potential "spillover" effects on adjacent beach parking and recreational opportunities.

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Pedro Nava
Mailing Address: P.O. Box 90459
Santa Barbara, CA 93190
Phone Number: 405-966-7223

SECTION II. Decision Being Appealed

1. Name of local/port government: Del Mar
2. Brief description of development being appealed: installation of "pay and display" parking machines
3. Development's location (street address, assessor's parcel no., cross street, etc.):
west side of Camino del Mar, north of Carmel Valley Road
4. Description of decision being appealed:
 - a. Approval; no special conditions: ☐
 - b. Approval with special conditions: ☒
 - c. Denial: ☐

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-DMR-04-024

DATE FILED: April 1, 2004

DISTRICT: San Diego

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APR 01 2004

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 2

5. Decision being appealed was made by (check one):

a. ☐ Planning Director/Zoning
Administrator

c. ☐ Planning Commission

b. ☒ City Council/Board of
Supervisors

d. ☐ Other

Date of local government's decision: March 15, 2004

Local government's file number (if any): CDP-04-01

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

Name and mailing address of permit applicant:

City of Del Mar
Attn: Linda Niles
1050 Camino del Mar
Del Mar, CA 92014

Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

<u>Rick T. Beatty</u>	<u>Christopher Miller</u>	<u>The Silbert Family</u>
<u>3985 Carmel Spring Way</u>	<u>3664 Caminito Carmel Landing</u>	<u>13395 Portofino Dr</u>
<u>San Diego, CA 92130</u>	<u>San Diego, CA 92130</u>	<u>Del Mar, CA 92014</u>

<u>Keith Jeffers</u>	<u>Pablo A. Lanatta</u>	<u>Richard Horvath</u>
<u>2121 Via Mar Valle</u>	<u>1128 West Redwood Street</u>	<u>14053-B Mango Dr</u>
<u>Del Mar, CA 92014</u>	<u>San Diego, CA 92103</u>	<u>Del Mar, CA 92014</u>

<u>Brian Woodward, Chairman</u>	<u>Steve McCaffrey</u>
<u>San Diego County Chapter Surfrider Foundation</u>	<u>12774 Via Terceto</u>
<u>Post Office Box 1511</u>	<u>San Diego, CA 92130</u>
<u>Solana Beach, CA 92075</u>	

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attachment A dated April 1, 2004

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: 
Appellant or Agent

Date: 4/1/04

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

Del Mar Paid Parking Permit

The City of Del Mar has approved a coastal development permit for the after-the-fact installation of two "pay and display" parking machines on the west side of Camino del Mar (Coast Highway 101) at the southern end of the City of Del Mar. The paid parking area is located inland of Torrey Pines State Beach and north of existing public parking on North Torrey Pines Road and within the State park facilities which also serve beach users. The meters will govern an area of existing informal free public parking within City right-of-way that extends for approximately 1,700 linear feet, provides approximately 50 parking spaces, and serves a pedestrian beach access trail leading to the beach. The permit does not identify the parking fee, operating hours, or time limits of the meters, although these are addressed in accompanying City staff reports.

The certified City of Del Mar LCP addresses the protection and provision of public access. Goal IV-A provides that "physical and visual access to coastal recreation areas" be provided "for all segments of the population." Also, Policy IV-17 requires the provision of bicycle racks to encourage alternative transportation at a number of City sites, including "along Camino del Mar in the vicinity of Carmel Valley Road." Therefore, the City's CDP may be inconsistent with these LUP policies, since certain segments of the population could be excluded through implementation of paid parking, and the permit does not address bicycle facilities as an alternative.

The permit may also be inconsistent with the public access policies of the Coastal Act, specifically with Sections 30210 which requires maximum access and recreational opportunities be provided for all persons consistent with public safety needs and the needs to protect public rights, rights of private property owners, and natural resource areas from overuse. Sections 30211, 30212 and 30213 also provide that development shall not interfere with the public's right of access to the sea where acquired through use, public access from the nearest public roadway to the coast shall be provided and lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. This location is a popular parking spot for surfers, joggers, and general beach users, as it accesses the northern portion of Torrey Pines State Beach via an unimproved trail west of the roadway. Implementation of parking fees may make beach visitation in this area difficult or impossible for some segments of the population. In addition, because the City-issued CDP does not specify any operating parameters (such as hourly fees, operating hours, time limits, etc.), fees could be increased, hours expanded, or time limits imposed which may result in additional burden on public access opportunities without requiring any additional public review.

Further, the City did not analyze the potential effects, if any, the public paid parking might have on surrounding streets or State Park facilities that also provide public beach parking. The City's analysis also did not provide information about the proximity of alternative free public parking or propose installation of bicycle racks to offer a "no fee" alternative in this location. Finally, the permit does not require any form of monitoring program to address project impacts and potential "spillover" effects on adjacent beach parking and recreational opportunities.

DATE: MAY 18, 2004

TO: ELLEN LIRLEY, CALIFORNIA COASTAL COMMISSION

FROM: RICK BEATTY AND CHRIS MILLER, APPELLANTS

RE: PARK, PAY, AND DISPLAY METERS INSTALLED BY CITY OF DEL MAR
Local Permit #CDP-04-01
Commission Appeal #A-6-DMR-04-024

With regard to the above-referenced matter, we recommend and request that the California Coastal Commission approve the following actions, set forth as items 1-4 in Table 1 below. The rationale for each requested action appears immediately to the right of the requested action.

TABLE 1 ACTIONS REQUESTED BY APPELLANTS	
APPELLANTS' REQUEST	RATIONALE
1. Decline Coastal Development Permit requested by the City of Del Mar to install Pay, Park and Display meters on Highway 101 at the intersection of Carmel Valley Road. Please note that the meters are already installed.	1. The beach adjacent to this site is NOT City of Del Mar beach - it is Torrey Pines State Beach. Such an approval would give Del Mar effective control over access to a State Beach.
2. Require immediate removal of the Pay, Park and Display meters that have already been illegally installed at this site.	2. The City of Del Mar installed the meters without approving a Coastal Development permit or providing the public any of the required notice or opportunity to comment or appeal.
3. Require that the City of Del Mar immediately refund all parking enforcement fines that were collected during the period of time that these meters were active (appx. Sep 03 - Feb 04).	3. Whether or not this Coastal Development permit is ultimately approved, the fact remains - all parking fees and parking enforcement fines collected during this period were collected prior to approval of a Coastal Development Permit, and therefore were collected illegally.
4. Require that the City of Del Mar install permanent bike racks on site with the parking meter revenue that was illegally collected from approximately September 2003 to February 2004.	4. This revenue was illegally obtained. While it is impractical for the City to refund the parking meter funds to the individual payers, the City should have to disgorge any monies that were obtained illegally, and installation of bike racks seen as a step in making the public whole a

EXHIBIT NO. 3
APPLICATION NO.
A-6-DMR-04-24
 Appellant's
 Recommendation

In the course of evaluating this matter, the Commission will likely hear a number of claims from the City of Del Mar staff attempting to justify the installation of these parking meters adjacent to a state beach. These are claims that the city staff has made in the course of the approval or appeal of the local CDP. We believe that it is important for the Commission to understand the facts related to these claims. A summary of these claims and the actual facts is presented in Table 2 below.

<p style="text-align: center;">TABLE 2 HISTORICAL CLAIMS OF CITY OF DEL MAR STAFF</p>	
DEL MAR STAFF CLAIM	THE FACTS
1. That access will actually be improved at this site due to greater turnover of vehicles	<p>1. a. In fact, the City of Del Mar reduced the number of parking spaces available at this site when they installed the meters and, simultaneously moved the southern-most "No Parking - Begin" sign appx. 92 feet farther north. This eliminated approximately 7 parking spaces for no apparent reason. It is now physically impossible for beach access to be improved at this site.</p> <p>b. Increasing turnover at a site does not improve access - it only increases turnover. Turnover and access are two completely different things.</p> <p>c. Please note that this site provides the only safe vertical access to the State beach for more than ½ mile going north from Carmel Valley Road. There are no other safe trails to the beach.</p>
2. That the City of Del Mar incurs costs related to this site that should be recovered.	2. There are virtually NO variable costs associated with this location. The site is completely unimproved; in fact, the vast majority of parking spaces are unpaved on dirt. The City has placed two garbage cans on site. There is no regular City maintenance on site. The greatest single cost the City would incur at this site would be for maintenance of the parking meters, if approved.
3. That the City of Del Mar Lifeguards respond to emergencies on the State Beach.	3. While this is true, it is equally true that State Lifeguards respond to emergencies on the beach of the City of Del Mar. Del Mar lifeguards regularly patrol the City Beach as far south as 4 th Street in Del Mar. It is at this point on the southern end of City beach that they turnaround and head north. This location is still over ¼ mile farther north than the northern most part of the requested paid parking site.
4. That budget problems have necessitated the installation of these parking meters.	4. This claim was presented as justification by the City Council during its public council meeting. The Coastal Act makes no provision for violation or suspension of the Act based on economic difficulties.

TABLE 2 (continued)	
DEL MAR STAFF CLAIM	THE FACTS
5. That the city of Del Mar is proactive in providing beach access to the public.	<p>5. a. Del Mar is the only city in San Diego County that enforces parking meters on weekends, state and federal holidays. There is no holiday from Del Mar's parking meters.</p> <p>b. Every Fourth of July the City of Del Mar closes half of Highway 101 to nonresidents of Del Mar in order to keep them away from public beaches.</p> <p>c. The City of Del Mar has indicated that it may seek funds from SANDAG to change Camino Del Mar (Hwy 101) to one lane, making it more difficult to access Del Mar and its beaches.</p>

We urge the Commissioners to consider the impact that paid parking at this site will have on lower income families, and the danger of establishing a precedent by allowing a municipality to exert control to access over a State Beach and, in this instance, a regional resource.

Thank you for your consideration.

RECEIVED

A-6-DMR-04-024

MAY 20 2004

1105 Cuchara Dr.
Del Mar, CA 92014
May 19 2004

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

To: California Coastal Commission
7575 Metropolitan Dr. Suite 103
San Diego 92108

DEL MAR PARKING METERS

Dear Ms. Lirley and Commission members,

I am a resident of Del Mar. I have a son who grew up here and who was an enthusiastic surfer and I have a grandson at UCSD who follows in his steps. Therefore I have much sympathy with the problems which the present-day surfers encounter and am a strong supporter of the sport and its benefits especially for young people.

However, there are many people impacted by the tremendous growth in population in the area of San Diego east of Del Mar. The pressures on the beaches, the infrastructure, the public safety personnel, the trash haulers etc. are very difficult for a city the size of Del Mar to absorb. We are 5000 people, including children, who have the responsibility of maintaining services for an increasing number of people who do not have to contribute to the city coffers. We spend a lot of city money for what is a regional service and have done so willingly up to this point realising that we are fortunate to live in such a desirable place.

But now we have to ask for a sharing of the expenses if the city finances are to remain healthy. I do not think that Del Marians should have to shoulder all the costs of beach and park maintenance. It short-changes residents in other ways. I rarely see a sheriff's car in the hill area of the city for instance-especially in the summer beach season. Ideally we would like that protection but accept the necessity for the beach area patrols and know how costly such services are.

Most importantly the parking area in question serves not only beach users but also the Del Mar Canyon Preserve. This is one of the few places where car travelers on the coast highway can stop and view the ocean and take a short walk or exercise their dogs.

I support the efforts of Del Mar to install meters so that all beach and park users can share costs. The beach and the parks are indeed public property but unfortunately they do not come with built in maintenance and protection.

Sincerely,
Freda Reid

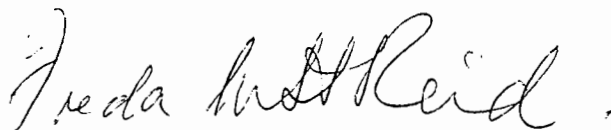


EXHIBIT NO. 4
APPLICATION NO.
A-6-DMR-04-24
Letter of Support

