

CALIFORNIA COASTAL COMMISSION

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Filed: 3/29/06
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Staff: Pam Emerson-LB
Staff Report: 9/20/06
Hearing Date: 10/12/2006
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NUMBER: 5-06-042

APPLICANTS: Pacific Jewish Center

AGENT: Howard Shapiro

PROJECT LOCATION: Existing light poles and 19 lifeguard signs at street ends on beach and at Ocean Front Walk between Seaside Way, Santa Monica and Via Marina, Venice, Cities of Santa Monica and Los Angeles, Los Angeles County.

PROJECT DESCRIPTION: Attach 20 foot high 1^{5/8} inch diameter galvanized metal pole extenders to County information signs at 19 locations at unpaved street ends/beach on Ocean Front Walk between Catamaran and Via Marina; stretch 200 lb. test monofilament line between existing street lights and the new pole extenders between Seaside Way, Santa Monica and Catamaran, attach line to pole extenders between Catamaran and Topsail and then to existing light poles on Ocean Front Walk between Topsail, and the proposed pole extension at Via Marina, attaching to the new pole extension at Via Marina, Venice, extend line to pole attached to entry channel fence; install 1" by 14" streamers on line in vicinity of Least Tern nesting area (between Hurricane and Via Marina) to increase visibility for birds; conduct weekly inspections, remove downed line and repair breaks as required.

LOCAL APPROVALS RECEIVED:

1. City of Santa Monica letter of non-opposition to attachment of monofilament to existing lighting fixtures.
2. City of Los Angeles, Bureau of Street Lighting, Revocable Permit to install monofilament on 112 cobra head streetlights from City of Santa Monica City boundary to Washington Boulevard and on 10 upright streetlights between Topsail and Via Marina.
3. Los Angeles County Department of Beaches and Harbors, CEQA "Notice of Exemption"; declines to be a Co-applicant.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends **DENIAL** because of the line and its streamers will interrupt public views and is not sited and designed to protect views to and along the beach and scenic coastal areas inconsistent with Section 30251 of the Coastal Act. The motion is found on **page 2**.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution to **deny** the coastal development permit application:

MOTION: *I move that the Commission approve Coastal Development Permit No. 5-06-042 for the development proposed by the applicant.*

STAFF RECOMMENDATION OF DENIAL:

Staff recommends a **NO** vote. Failure of this motion will result in **denial** of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY THE PERMIT:

The Commission hereby **denies** a coastal development permit for the proposed development on the ground that the development will not conform with the policies of Chapter 3 of the Coastal Act, and will prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description And Location.

The applicant proposes to attach 20 foot high 1^{5/8} inch diameter galvanized metal pole extenders to County information signs at 19 locations at unpaved street ends/beach on Ocean Front Walk between Catamaran and Topsail and at Via Marina; stretch 200 lb. test monofilament line between existing street lights and the new pole extenders between Seaside Way, Santa Monica and Catamaran, attach line to pole extenders between Catamaran and Topsail, and then to existing light poles on Ocean Front Walk between Topsail, and the proposed pole extended 14 feet at Via Marina, Venice, extend line to pole attached to entry channel fence; install 1" by 14" streamers on line in vicinity of Least Tern nesting area (between Hurricane and Via Marina) to increase visibility for birds; conduct weekly inspections, remove downed line and repair breaks as required, Venice, extend line to pole attached to entry channel fence; install 1" by 14" reflective streamers on line in

vicinity of Least Tern nesting area (between Hurricane and Via Marina) to increase visibility for birds; conduct weekly inspections, remove downed line and repair breaks as required. To reduce potential impacts to birds, the applicant proposes to install 1" by 14" streamers on the line in the vicinity of the Least Tern nesting area, which is located on Dockweiler State Beach south of Hurricane Avenue, and north of Via Marina. The purpose of the streamers is to increase visibility of the line for birds in vicinity of Least Tern nesting area. The application includes an agreement to conduct weekly inspections, remove downed line and repair breaks as required (Exhibits 1-5).

Installation of 20-foot high extender poles on the beachfront lifeguard signs, which are presently 8 feet high, and located on both paved and unpaved (sand) portions of Ocean Front Walk triggers a coastal permit, as does extension of a monofilament line by a private entity between the poles and between the existing light poles. The development requires a permit because of its location on a public beach, in the case of the extender poles, on a sandy beach. Because the development will occur on a beach and will increase the height /lateral extent of existing development by more than 10 percent, it requires a coastal development permit. The development is not eligible for exemptions that might apply to public entities or public utilities (30610(b)(1); 30610(f)).

The purpose of the line is to create a physical perimeter to surround a defined area (Eruv) for members of the Pacific Jewish Center to walk within as they to synagogue on the Sabbath. Public entities that own the light poles and lifeguard poles have indicated support for the project but have declined to be co-applicants. The applicant has submitted additional material concerning the purpose of the project (Exhibit 2).

B. Public Shoreline Access.

The placement of the lines raises the issues with public shoreline access and beach recreation: 1) reduction of physical access, and 2) changing the nature of a visit to an open beach. While the wire will not prevent physical access, it will change the experience of the visit to the beach. On the paved sections of Ocean Front Walk, the monofilament line will be placed on the tops of existing streetlights. On unfinished portions of the Ocean Front Walk (on the Marina Peninsula), in generally open undeveloped stretch of beach, the monofilament wire is proposed to be located 20 feet above Ocean Front Walk/the beach. The applicant proposes to place the wire at this height so that it will be sufficiently elevated so as not to block public pedestrian or emergency vehicle access to the beach. At approximately 19 street ends where there are no existing light standards, the applicant proposes to strap 19 twenty-foot high pole extenders to the existing Los Angeles County beach information signs. The signs are placed in an irregular line at varying distances from the street ends at all but one of the 19 streets between Topsail and Catamaran, and at Via Marina. The line establishing the Eruv would be placed on top of the pole extenders, elevated to allow pedestrian and vehicular passage under it. In its installed location, it should not block physical access to or use of the beach.

The Cities of Los Angeles and Santa Monica and the staff of the Los Angeles County Department of Beaches and Harbors have expressed concern with respect to potential impacts of any downed wire or poles on public access to the beach. In response to the expressed concern over the potential effects of downed poles or lines, the applicant has agreed to inspect the poles and lines weekly and to repair/replace any downed lines as necessary. The applicant proposes to provide a written agreement with the local government entities that own the poles to inspect, repair, and if necessary replace any downed wire or poles on a weekly basis. The purpose of the installation is to increase the ability of members of the Pacific Jewish Center to walk along the beach on the Jewish Sabbath by creating a perceived enclosed area.

The intention of the agreement between the local government and the Pacific Jewish Center is to allow the proposed development to occur in such a way that it will not reduce existing access to the beach. However, the Commission notes that the public's ability to continue to use the beach safely would then be a function of the ability of a private entity to carry out its intentions. There is no provision in the agreement to remove downed wire more often than once a week, in case a pole or wire collapses several days before the group would be scheduled to return, and whether a problem has been identified. The potential of downed wire and poles represent a potential impact on use of the beach. The County information poles occasionally fall or tilt, and are not always immediately replaced. If a County pole were to fall, there could be a delay while the County and the applicant determined who would be responsible to replace the signs/poles. In this case, the development poses a unique set of facts: the placement of private development/uses on a public beach has a possibly effect on public use and on the public's experience of the public beach. Moreover the proposal could have greater impacts on public access than expected if the applicant, a private, volunteer association, is not able to carry out the agreement as proposed. As proposed, the new pole extenders and the lines, especially on the 19 unpaved street ends on Marina Peninsula could impact the access and recreation of the public on publicly owned beaches in this area.

C. Environmentally Sensitive Habitat Areas.

The wire will pass along south Venice Beach, the site of the protected Least Tern nesting area. The Least tern¹ nesting area and related feeding areas (the Venice Canals and Ballona Lagoon) are environmentally sensitive habitat areas. Environmentally sensitive habitat areas are defined in the Coastal Act as habitat which is unique or especially valuable.

1

<i>Species</i>	Common name	CESA (state)	ESA (federal)	Habitat
<i>Sterna antillarum browni</i> (nesting colony)	California least tern	E	E	Alkali playa, wetland

Source: the California Natural Diversity Database: (CNDDDB).

Section 30107.5 Environmentally sensitive area

"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Section 30240 of the Coastal Act requires:

Section 30240 Environmentally sensitive habitat areas; adjacent developments

(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.

(Amended by Ch. 285, Stats. 1991.)

The Least Tern nesting area is one of a limited number of protected ground nesting sites in California. According to the United States Geological Survey,

"There are nine such sites in southern California, supporting half of the nesting pairs. Between 1978 and 1994, approximately 50 sites in California supported nesting least terns (Fancher 1992; Caffrey 1995). Fewer sites have been used in recent years; for example, only 36 sites were used in 1994 (Caffrey 1995). Furthermore, most California least terns nest at only a few select sites. In 1994, 76% of the population nested at nine sites, all in southernmost coastal California. Four of the nine sites (in Los Angeles, Orange, and San Diego counties) supported 48% of the breeding pairs (Caffrey 1995). Management of California Least Tern colonies has included intensive monitoring of nesting colonies, site preparation to reduce vegetative cover, protection of sites by means of reduced access to humans, and predator management. Although individual nesting sites may not be used every year, and reproductive success varies among sites and years, the population of least terns in California continues to grow. Historical breeding sites should be preserved and managed for least terns because their adaptability to new or different sites depends on past reproductive success, predation pressure, and food supplies. (Abby Powell, U.S. Geological Survey, Biological Resources Division).

With respect to the proposed poles and wire, the Department of Fish and Game expressed two concerns:

1. Birds might injure themselves by crashing into the line, which is a very light line and difficult to see,

2. Crows and other predators, that have caused extensive damage to the Least Tern colony in past years, might use the line as a perch to prey on the colony.

With respect to the first concern, the Department acknowledged that many of the existing beachfront structures range from 30-35 feet high, making it unlikely that birds would crash into a wire that is located slightly below roof height. However, the applicant, in response to this concern, has agreed to use a slightly more visible 200-pound line and to install streamers on the line south of Washington Boulevard to increase visibility of the line. After discussions with the applicant, the Department indicated that placement of streamers on the wires would reduce their concerns with collisions on the wire.

According to the Department of Fish and Game, mortality at the Least Tern colony has fluctuated over the years in response to variations in predation. The predators of this colony have consisted of crows and kestrels, both of which perch on nearby roof tops to observe the colony. In correspondence, the Department expressed concern that a new perching site would enable predators to perch above the colony and wait for the parents to leave their nests. (See Exhibits 4-7.)

An alternative location for the wire would be in the Speedway Alley. Because of the intervening houses, predators would not be able to use a wire strung along the inner edge of the beach and watch the nesting area. Therefore, the wire would not provide a perch for predators and would not impact the Least Tern nesting area. The Department decided not to press the issue of predations after the applicant pointed out locations on nearby roofs where predators already perch. When the Department no longer objected to the wire, the applicant did not investigate the alternative of utility pole, indicating that the members of the center do not have the ability to use the utility poles because they lack the skills and equipment to work on the power lines safely. It is however, possible to hire skilled workers who are qualified to work on such lines. It is not clear whether streamers would be necessary if the lines were installed on the transmission lines.

Based on comments from the Department of Fish and Game, and the U.S. Fish and Wildlife Service, the applicant proposes to tie streamers to the line. The project as proposed with the streamers is consistent with Section 30240 of the Coastal Act because it will not interfere with passage of endangered birds or increase predation on the colony of the endangered Least Tern. However, the streamers have an adverse impact, as discussed below, on public views to and along the coast.

D. Visual impacts.

The Coastal Act requires that development be subordinate to the character of its setting.

Section 30251 Scenic and visual qualities

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. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Venice Beach is a developed, urban environment. The public beach north of Washington Boulevard supports an urban park that includes a skate path, a paved walkway and a bicycle trail as well as weight lifting and picnic areas and some basketball courts. Over the years, the beach has been subject to a number of programs to replace older facilities with newer facilities, including walkways, picnic areas and landscaping. Height limits on structures on private lots along Venice Beach range from 28 feet at walk streets to 35 feet with a "varied" roof. In North Venice and in Santa Monica the applicant does not propose to add pole extenders but instead proposes to attach the monofilament to existing beachfront light poles. No streamers are proposed outside the vicinity of the Least Tern nesting enclosure, which is located on the south Venice peninsula; in North Venice beach, the wire will be strung between existing light standards. Many people may not even be able to see the 200 lb. test monofilament. Therefore, the visual impacts of the Eruv installation in North Venice and in Santa Monica will be negligible.

South of Washington Boulevard, new development is limited to 35 feet; structures along walk streets are limited to 28 feet. A significant number of older beachfront structures and some roof access structures extend up to 45 feet. Many structures are set back as little as one foot from the dedicated Ocean Front Walk right-of-way. While almost all of the private lots abutting Ocean Front Walk are developed, all of Ocean Front Walk is not paved. The applicant discovered that on 19 streets on the middle portion of the Venice Peninsula (between Catamaran and Topsail streets), there is no continuous walkway and there are no streetlights. South of Topsail, the older, paved Ocean Front Walk resumes, and includes old-fashioned light standards. However, a 14 ft. high pole extension will also be added to an existing sign at the end of Via Marina at the Marina entrance channel. To get a continuous line where there are no light standards, it would be necessary to string the line between the existing eight foot high Los Angeles County Beaches and Harbors "Beach Information Rules" signs. After discussions with the County officials about maintaining access for emergency vehicles, the applicant proposes to elevate the line 20 feet above the sand by stringing the line on 20-foot high poles strapped to the beach information signs. The poles would extend about 12 feet above the existing poles. Beach information signs, generally approximately eight feet high, are placed on both paved portions of Ocean Front Walk and on sandy areas of the unpaved Ocean Front Walk right of way, or in some instances several feet seaward of where the Ocean Front Walk would have been located. The signs are not placed in a straight line, in some instances are not set at right angles to the ground, and are not located at an identical distance from the residential structures. The resulting irregular line of poles with the line, and the streamers, will have an impact on public views to an along the beach (Exhibits 8-14).

The Venice LUP establishes land use development standards for lots adjacent to Venice Beach. The beach itself is designated OS open space and identified as a highly scenic area. The LUP attempts to protect views to and along the beach by limiting development on public property to facilities that provide for and enhance public access and use of the beach. The proposed project is not a public use or a publicly sponsored use. The applicable policies state:

Policy I.D.2 Venice Beach. Venice beach stretches along the coast from Navy Street on the north to the entrance channel of Marina del Rey.

Use density: The beach shall be zoned Open Space and saved for public recreation. There should be no further construction on the beach other than police substation, City's and County's operation and management offices, recreation and accessory facilities such as playground equipment, athletic facilities, restrooms, lifeguard stations, bikeways, related short-term bicycle parking, walkways, lighting facilities where appropriate, and necessary expansion of existing or installation of new infrastructure. Reconstruction and rehabilitation of existing facilities shall be encouraged. Development shall be sited to protect Least Tern nesting areas and other environmentally sensitive habitat areas.

Policy I.D.3 Views of Natural and Coastal Recreation Resources. The scale of development shall comply with the height limits, setbacks and standards for building massing specified in policy groups I.A and I.B, residential and Commercial land use and development standards of this LUP in order to protect public views of highly scenic coastal areas and vista points, including but not limited to, the canals, lagoon, jetty, pier, Ocean Front Walk, walk streets and pedestrian oriented special communities.

Policy I.D.4 Signs. Roof top signs and billboards are prohibited in all land use development. Business identification signs shall comply with the height limits and development standards specified in the LUP to ensure they do not adversely affect view sheds and view corridors:

The Venice LUP identifies the "Venice Beach as a natural and visual resource area". In addition to limiting uses on public property, the Venice LUP protects the visual quality of the community by limiting the height of individual projects. Both commercial and residential development is envisioned on private lots adjacent to the beach. The Venice Land Use Plan limits the height of private development adjacent to the beach to 35 feet with an uneven roofline and 30 feet with a flat roof. The pole extenders proposed in this application will be lower than the height allowed for private development on individual beachfront lots. However, the poles and lines are not located on private property, but on the public beach where it has an adverse visual impact.

In most locations, except for the beach south of Washington, the wire will be attached to existing poles. As noted above, south of Catamaran, the applicant indicates that it will be necessary to attach 20-foot long galvanized metal poles to existing 8-foot high lifeguard warning signs. There are no existing signs on the Ocean Front Walk or on the beach in this area that are 20 feet high. In addition to the poles, the reflective strips added to protect the birds will be visible from street ends, Ocean Front Walk, and the beach. In

order to provide the Commission with an image of the proposed poles, the applicant has provided a several photographs of beach information signs with twenty-foot high poles temporarily propped up next to them, as well as photographs of an installation located adjacent to Pico Boulevard outside the Coastal Zone. After further discussions with staff, the applicant attached streamers to an existing line and photographed it, to show that the line and the streamers would not be highly visible. However, those streamers appear to be much higher above ground than the proposed streamers would be above the beach. Also, the visual impact of reflective streamers above an open sandy beach is different from the impact of those above an urban boulevard with development on both sides.

The Commission notes that the twenty-foot high poles will be at the same height or slightly lower than the height of the roof lines of adjacent existing private development but will be more than twice as high as the existing beach signs. There are existing poles of comparable height in the alleys, where the utility poles are located. In other parts of Venice, Marina del Rey, and Santa Monica, the applicant proposes to string the monofilament line on existing light poles or existing fences. However, in this case the installation would include the addition of 20-foot high poles and streamers on a beach, which is a visually sensitive area, identified as such in the Coastal Act. The Commission is required by the Coastal Act to protect views to and along the beach.

The applicant has not provided evidence that the row of twenty foot high poles south of Washington Boulevard will “be sited and designed to protect views to and along the ocean and scenic coastal areas;” or will “be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.” The proposed pole extension at the seaward end of Ocean Front Walk at Via Marina (the Marina entrance channel) is at a highly scenic location, heavily used by pedestrians and bicyclists.

Staff asked the applicant to investigate an alternative, which is to string the line on the existing utility poles. There is a row of existing poles located along Speedway Alley, inland of the beach. Using the utility poles, a continuous line could be constructed to enclose most of Venice and Santa Monica within an Eruv without having a visual impact on the views to and along the beach. The poles already exist and are not visible from the beach. In response to this suggestion, the applicant indicates that they do not have the ability to use the utility poles because they lack the skills and equipment to work on the power lines safely. It is however, possible to hire skilled workers who are qualified to work on such lines. Although the Department of Fish and Game has not analyzed the issue, if the lines are moved off the beach, it is possible that the streamers would not be necessary because the lines are not in an open area.

As proposed, the line, with its reflective streamers, will be visible from the Ocean Front Walk, the beach, and the street ends and will interrupt public views of the beach. As proposed, the development is not consistent with the visual quality policies of the Venice LUP and with Section 30251 of the Coastal Act.

E. Prejudice to the Preparation of a Local Coastal Program.

Section 30604 (a) of the Coastal Act states that:

Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

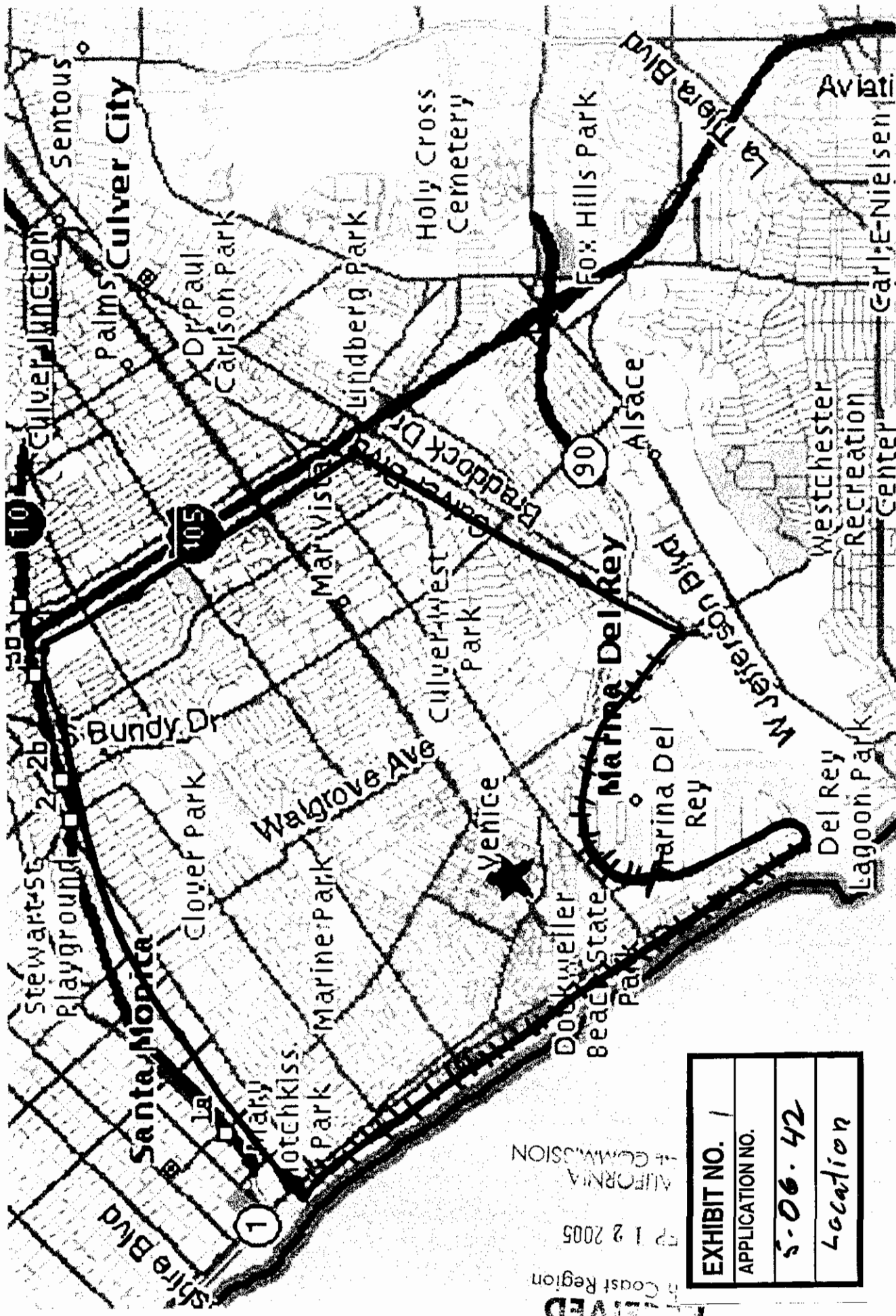
The Commission has certified a Coastal Land Use Plan for Venice, but has not certified a complete Local Coastal Program. In certifying the Land Use Plan, the Commission found that it was consistent with the Coastal Act. The Land Use Plan includes broad protection of public uses on the beaches and detailed limits on height and sometimes the bulk of structures in Venice's various sub-communities.

The Commission has not yet not considered or certified the implementation program for Venice. The City has indicated that it is its intention that the Venice Specific Plan be the implementation ordinance for the certified LCP. The Specific Plan is a zoning ordinance that adjusts the Municipal Zoning Ordinance in Venice to bring development in Venice into conformance with the LUP. The Specific Plan addresses private development on private property. The coastal and the City staffs are still struggling with the issue of how the Implementation Ordinances will carry out the policies of the LUP in the case of public projects or of private projects on public land. The City has indicated that where the Venice Specific Plan is silent, the Municipal Code will prevail. In this case, the City has not considered a coastal development permit, but has instead granted a permit through the Department of Public Works, which Commission staff accepts an approval in concept. The City took that route because they addressed the project as essentially *de minimis* addition to an existing public installation, but did not evaluate impacts on public views or on environmentally sensitive habitat in coming to this decision. In this case, the City's jurisdiction does not extend to the portion of the line that in the view of the Commission has negative visual impacts. Stringing the line on County signs in County-operated State property is outside the City's jurisdiction under the interim permit program. After there is a certified LCP, however, the City will have jurisdiction over installations on the State Beach. The Commission finds, however, that the City did not evaluate potential visual and access issues on north Venice Beach prior to approving to the attachment of the line to the light standards. If this procedure is an indication of the methods that might be followed using the "Municipal Code", the procedure is not consistent with the Coastal Act because it did not have a way of distinguishing projects that may have a visual impact even though they may have little physical impact on City installations. The procedure that the City used is not a complete way of evaluating consistency with the Coastal Act. The Commission finds that, as proposed, the project will prejudice the City's ability to prepare an LCP that is consistent with the Coastal Act.

F. California Environmental Quality Act.


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


The project has proposed mitigation for its potential impacts on an environmentally sensitive habitat area; however, the Commission determines that, as proposed, the project has potential impacts on public views. The Commission considered the alternative of approving the stringing of the line on existing power poles along an alley inland of the beach, resulting in no line of new 20-foot poles, no line, and no reflective streamers along the inner edge of the public beach. The Commission has considered alternatives and determined that there are alternative locations in which project can be approved without prejudicing implementation ordinances of the LCP including installations on public light standards and information signs. There are feasible alternatives or mitigation measures available, which will lessen any significant adverse impact that the activity would have on the environment. Therefore, the Commission finds that the proposed project is not consistent with the California Environmental Quality Act (CEQA) and the policies of the Coastal Act.



DIVISION OF
 PLANNING AND
 COMMUNITY DEVELOPMENT
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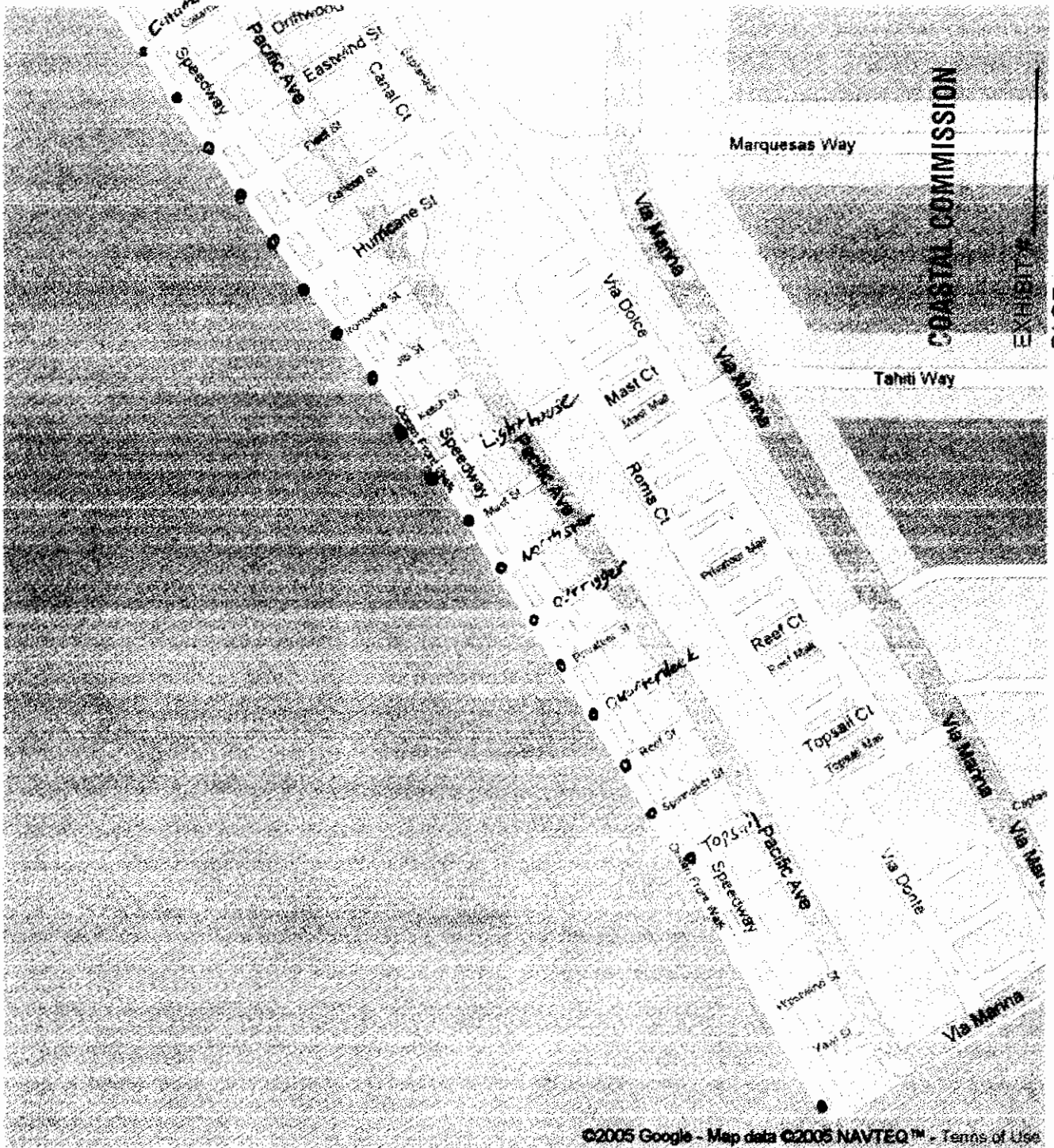
EXHIBIT NO.	1
APPLICATION NO.	5-06-42
Location	

 Monofilament

 Existing fences or wall - No monofilament to be installed

Google Local

To see all the details that are visible on the screen, use the "Print" link next to the map.



COASTAL COMMISSION

EXHIBIT A

PAGE ___ OF ___

● = 20' pole extension

Total of (19) poles between Cameron and Via Marina.

Exhibit 2 5-06-12 poles

Pacific Jewish Center Eruv Project Description

MISSION **What is an Eruv?**

Jewish people are prohibited from engaging in certain activities on the Sabbath. More specifically, there are 39 categories of activities that are prohibited because they are creative, productive or work related. In observance of this mandate, Orthodox Jews do not write, spend money, use fire, or transfer (move) objects in a "public" domain.

For this final prohibition, however, Jewish law permits the transfer of objects within an "Eruv," provided that those items are necessary for the observance of the Sabbath. e.g. carrying a prayer book or pushing a baby stroller to synagogue.

In order to carry in a public domain, Jewish law has two requirements:

1. A physical perimeter that completely surrounds the area
2. Permission from the governing authority

This physical perimeter is called an "Eruv," and there are specific laws to its construction. For thousands of years, Jews around the world have built Eruvs, enhancing the Sabbath experience for entire communities.

Eruv Precedent: An Eruv in Los Angeles

For almost 30 years, the Los Angeles Jewish Community has maintained an Eruv in Los Angeles. In 2002, the LA Eruv received a permit from Caltrans (# 700-6MC-3076) and the City of Los Angeles to undergo a major expansion.

Jewish Law requires that the perimeter of the Eruv be constructed of continuous walls with doorways where needed. The LA Jewish Community worked with the city and Caltrans to install over 60 poles along the on and off ramps of the 10, 405 and 101 Freeways. The freeway fences act as walls, defining the perimeters of the Eruv. The poles and monofilament string along the on and off ramps, serve as the symbolic doorways.

The Los Angeles Eruv has operated under permits from Los Angeles and Beverly Hills since 1977, and there has never been any safety issue, accident or other claim against the Eruv or against any entity as a result of the Eruv's installation and maintenance.

Permits

Our organization, the Pacific Jewish Center Eruv, has obtained a permit/licensing agreement from the City and County of Los Angeles and the city of Santa Monica.

COASTAL COMMISSION
Correspondence/ applicant
EXHIBIT # 5-06-42 #3
PAGE 1 OF 2

Building Our New Eruv

Building this new Eruv will require permission from the Commission for the following:

1. Attaching a monofilament line to the light poles on Ocean Front Walk from Seaside (City of Santa Monica, near the Pier) to Via Marina (Marina del Rey).

Inspecting and Maintaining the Eruv

The very nature of the Eruv requires that it have complete structural integrity at all times. Thus, the Venice Community Eruv has contracted with a Rabbinic inspector who will drive around and visually inspect the entire Eruv perimeter every Thursday morning. The Rabbinic inspector's job is to make sure that there are no breaks in the monofilament lines that we are relying upon to create that "complete circuit." Upon noticing any breaks in the monofilament line, they are immediately reported for repair before the Sabbath. The Pacific Jewish Center Eruv has also contracted to have a crew on standby every Friday to take care of any requested repairs.

Environmental Mitigation

Preliminary discussions have been conducted with the U.S. Fish & Wildlife Service (Ken Corey) and the California Department of Fish & Game (Terri Stewart) in response to Coastal Commission staff concerns regarding bird habitat impacts. The project has been modified to in those sensitive habitat areas (e.g., near the Dockweiler Beach Least Tern compound) to include visible streamers on the monofilament lines. No further mitigation measures were deemed necessary by the agencies during these preliminary discussions.

Liability

The Pacific Jewish Center Eruv agrees to defend, indemnify and hold harmless the County and City of Los Angeles, the City of Santa Monica, and the State of California Department of Parks and Recreation from any claims, demands, causes of action, damages, expenses, losses or liabilities of every kind arising out of or in connection with the Eruv's placement and maintenance of the poles or lines.

Conclusion

In conclusion, we request permission for the installation of monofilament on Ocean Front Walk. If you have any questions or need further materials, please feel free to contact me at (310) 843-9569.

Howard Shapiro
Project Manager

COASTAL COMMISSION

Correspondence

EXHIBIT # 5-0642-3

PAGE 2 OF 2

March 21, 2006

Venice Eruv Permit Application #5-06-042

This letter is in response to the request for additional information. The number of each item corresponds to the item number in letter from the Coastal Commission.

1. Detailed Project Description

Building this new Eruv will require permission from the Commission for the following:

1. Attaching a monofilament line to the light poles on Ocean Front Walk from Seaside (near the Santa Monica Pier) to Via Marina.
2. Attaching poles to County signs at the end of each cul-de-sac between Catamaran and Via Marina on Ocean Front Walk. Each stainless steel pole will be 20' in height, 1 1/8" width and weigh approximately 15 pounds.

Please see enclosed map for the exact locations.

2. Application Form

Please find the forms signed.

3. Fish and Wildlife Service & California Dept. of Fish and Game

In order to expedite this process, an e-mail was sent from Joe Chesler, Chief of the Planning Dept. of LA County Beaches and Harbors to Terri Stewart (Fish and Game) and Ken Cory (Fish and Wildlife) which reads as follows:

Ken & Terri:

Remembering back to our joint conversations with the Pacific Jewish Center (PJC) on June 6, 2005 regarding PJC's desire to "construct" a ceremonial ERUV along the beach in Venice and around Marina del Rey, they continue to be frustrated by requirements of Coastal Commission staff in granting permit authority to complete the ERUV. Attached is the recent RFI (3/3/06) sent by the Coastal Commission to Mr. Howard Shapiro -- please note in condition #3 they are requesting written verification that USFWS and CDFG have reviewed and approved the proposed project. Despite PJC's (and my) efforts to provide such assurance, written verification from both of you is required for the permit to advance. Also attached is the PJC's record of that conference call and suggested modifications made to minimize impact on targeted species.

I propose that you simply respond to this email ("reply all") with verification of your approval/non-objection -- this should satisfy Coastal staff. Hopefully this can be accomplished by early next week, as it is important to the applicant to have the ERUV completed this spring. If you need to verify any aspect of the proposed project, please contact Mr. Shapiro directly, at (310) 613-2450. Thank you very much for your efforts and advice.

Joseph Chesler, AICP
Division Chief, LACo Department of Beaches & Harbors
13837 Fiji Way, Marina del Rey, CA 90292
WT: 310.306.0495*

Please let this serve as proof that they have been contacted.

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4. Liability

The Pacific Jewish Center Eruv agrees to defend, indemnify and hold harmless the **Costal Commission** and its officers and employees from any claims, demands, causes of action, damages, expenses, losses or liabilities of every kind arising out of or in connection with the Eruv's placement and maintenance of the poles or lines.

Project Cost

The cost for the installation of the proposed development is \$20,000.

Conclusion

In conclusion, we request permission for the installation of monofilament line and pole extensions on Ocean Front Walk. If you have any questions or need further materials, please feel free to contact me at (310) 843-9569.

Howard Shapiro
Project Manager

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PAGE 2 OF 2

RESOLUTION OF 6/6/05 PHONE CONFERENCE FOR VENICE ERUV

The following issues were raised as concerns by U.S. Fish & Wildlife Service (USFWS) and the California Department Fish and Game (CDFG):

1. The monofilament line, on the beach between light poles, will create a flying hazard to birds.
2. The monofilament line may give predatory birds a perch to prey on endangered birds.

These issues were addressed by bringing to light the following information:

1. The monofilament line on the beach is close enough and/or low enough to the buildings along Ocean Front Walk as not to be a hazard to birds.
2. There are, currently, overhead lines in the alley behind Ocean Front Walk (Speedway) as well as some electrical lines between light poles on Ocean Front Walk.
3. Monofilament is currently used on Mother's Beach (near the Marina) to deter birds from landing there and polluting the sand.
4. Predatory birds can more easily perch on buildings or light poles along the beach rather than monofilament.

The following modifications will be made:

1. The larger gauge monofilament (200 lb. test) will be used to increase visibility for the birds.
2. For the area between Washington and the Marina, a streamer will be placed on the line in the vicinity of the cul-de-sac to further increase visibility for the birds near the protected bird habitat.

CDFG and USFWS will discuss these modifications and respond to the categorical exemption document.

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EXHIBIT # 5

PAGE 1 OF 1

Chuck Posner

DFG

From: Terri Stewart [TStewart@dfg.ca.gov]
Sent: Wednesday, March 29, 2006 8:13 AM
To: Ken_Corey@fws.gov; jchesler@lacodbh.org
Cc: Chuck Posner; howieshapiro@gmail.com
Subject: Re: FW: Coastal ERUV -- Pending CDP #5-06-042 (Record of Approval/Non-Objection)

Hi Howard, Joe and Chuck - DFG also has reviewed the project and feels there will be no impacts to sensitive wildlife from the project. It will also not impact the Ballona Wetlands Ecological Reserve. DFG concurs with the FWS.
Terri

Terri Stewart
Senior Biologist, Supervisor
Land Management and Monitoring Program
South Coast Region
(858) 467-4209
fax 467-4239

>>> <Ken_Corey@fws.gov> 3/28/2006 4:16 PM >>>

Howard, Joe, and Chuck: the Service does not anticipate any take in the form of harm or harassment to occur to the California least tern from the Coastal ERUV based on the minimization measures proposed below in the attachment, and therefore have no further comment on the project.

thanks, Ken

"Joe Chesler"
<jchesler@lacodbh.org>

03/20/2006 09:02 AM

To
"Ken Corey/USFWS"
<ken_corey@fws.gov>, "Terri Stewart/CDFG" <tstewart@dfg.ca.gov>
cc

"Howie Shapiro"
<howieshapiro@gmail.com>, "Chuck Posner/CCC-LB"
<cposner@coastal.ca.gov>

Subject
FW: Coastal ERUV -- Pending CDP #5-06-042 (Record of Approval/Non-Objection)

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PAGE 1 OF 2

Please note that the Coastal Commission staff contact for this matter is Chuck Posner, not Al Padilla, as indicated in my previous email. We look forward to hearing back from you soon. Thank you!

--JOE--

From: Joe Chesler

Sent: Thursday, March 16, 2006 7:25 PM
To: Ken Corey/USFWS; Terri Stewart/CDFG
Cc: Howie Shapiro; Rabbi Ben Geiger-PJC; Al Padilla-CCC/LB
Subject: Coastal ERUV -- Pending CDP #5-06-042 (Record of
Approval/Non-Objection)
Importance: High

Ken & Terri:

Remembering back to our joint conversations with the Pacific Jewish Center (PJC) on June 6, 2005 regarding PJC's desire to "construct" a ceremonial ERUV along the beach in Venice and around Marina del Rey, they continue to be frustrated by requirements of Coastal Commission staff in granting permit authority to complete the ERUV. Attached is the recent RFI (3/3/06) sent by the Coastal Commission to Mr. Howard Shapiro -- please note in condition #3 they are requesting written verification that USFWS and CDFG have reviewed and approved the proposed project. Despite PJC's (and my) efforts to provide such assurance, written verification from both of you is required for the permit to advance. Also attached is the PJC's record of that conference call and suggested modifications made to minimize impact on targeted species.

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--JOE--

Joseph Chesler, AICP
Division Chief
LACo Department of Beaches & Harbors
13837 Fiji Way, Marina del Rey, CA 90292
WT: 310.306.0495*
Cell: 310.628.3221
WF: 310.821.8155*
EM: jchesler@lacodbh.org
Web: <http://labeaches.info>

(See attached file: CCC_RFI1.pdf) (See attached file: Resolution of phone conference for Venice Eruv.doc)

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EXHIBIT # 6

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US FWS

Chuck Posner

From: Ken_Corey@fws.gov
Sent: Tuesday, March 28, 2006 4:17 PM
To: Joe Chesler
Cc: Chuck Posner; Howie Shapiro; Terri Stewart/CDFG
Subject: Re: FW: Coastal ERUV -- Pending CDP #5-06-042 (Record of Approval/Non-Objection)



CCC_RFI1.pdf Resolution of phone conference...

Howard, Joe, and Chuck: the Service does not anticipate any take in the form of harm or harassment to occur to the California least tern from the Coastal ERUV based on the minimization measures proposed below in the attachment, and therefore have no further comment on the project.

thanks, Ken

"Joe Chesler"
<jchesler@lacodbh.org>

03/20/2006 09:02 AM

To
"Ken Corey/USFWS"
<ken_corey@fws.gov>, "Terri Stewart/CDFG" <tstewart@dfg.ca.gov>
cc

"Howie Shapiro"
<howieshapiro@gmail.com>, "Chuck Posner/CCC-LB"
<cposner@coastal.ca.gov>

Subject
FW: Coastal ERUV -- Pending CDP #5-06-042 (Record of Approval/Non-Objection)

Please note that the Coastal Commission staff contact for this matter is Chuck Posner, not Al Padilla, as indicated in my previous email. We look forward to hearing back from you soon. Thank you!

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From: Joe Chesler
Sent: Thursday, March 16, 2006 7:25 PM
To: Ken Corey/USFWS; Terri Stewart/CDFG
Cc: Howie Shapiro; Rabbi Ben Geiger-PJC; Al Padilla-CCC/LB
Subject: Coastal ERUV -- Pending CDP #5-06-042 (Record of Approval/Non-Objection)
Importance: High

Ken & Terri:

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Image 2: Monofilament line runs down the light poles to the lifeguard station

**California Coastal Commission
5-06-42 (Pacific Jewish Center)
Exhibit 8**



**California Coastal Commission
5-06-42 (Pacific Jewish Center)
Exhibit 9**



**California Coastal Commission
5-06-42 (Pacific Jewish Center)
Exhibit 10**

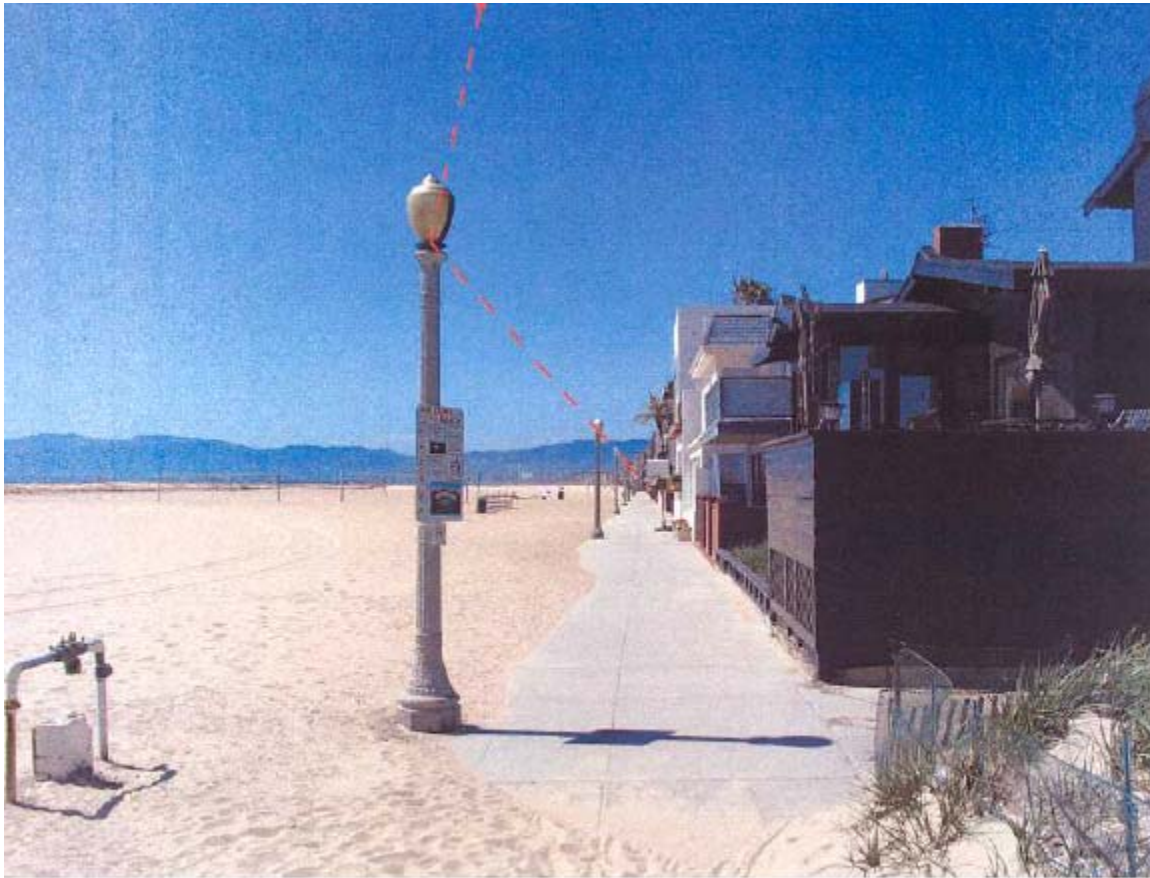


Image 7: Last light pole closest to Marina (line secured under the glass covering)

**California Coastal Commission
5-06-42 (Pacific Jewish Center)
Exhibit 11**



Image 8; Line goes from light pole to 14-foot pole strapped to the blue fence

**California Coastal Commission
5-06-42 (Pacific Jewish Center)
Exhibit 12**