

CALIFORNIA COASTAL COMMISSION

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



Wed 24a

Filed: August 7, 2006
49th Day: September 25, 2006
180th Day: February 3, 2007
Staff: D. Lilly-SD
Staff Report: August 24, 2006
Hearing Date: September 13-15, 2006

STAFF REPORT AND RECOMMENDATION ON APPEAL
SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: City of Coronado

DECISION: Approval

APPEAL NO.: A-6-COR-06-86

APPLICANT: City of Coronado

PROJECT DESCRIPTION: Imposition of a curfew at Bay View Park from 9:00 p.m. to 6:00 a.m. daily.

PROJECT LOCATION: Bay View Park, at the intersection of First Street and I Avenue, Coronado (San Diego County)

APPELLANTS: Coastal Commissioners Patrick Kruer and Sara Wan

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that a substantial issue exists with respect to the grounds on which the appeal has been filed.

SUBSTANTIVE FILE DOCUMENTS: Appeal Applications by Commissioners Kruer and Wan dated 8/7/06; Coronado Resolution #1-06; Certified City of Coronado Local Coastal Program (LCP).

I. Appellants Contend That: The project, as approved by the City, is inconsistent with the certified LCP with respect to the protection of public recreation and public access. Thus, they claim that the project, as approved by the City, is also inconsistent with the public access policies of Chapter 3 of the Coastal Act.

II. Local Government Action: On July 11, 2006, the Coronado City Council approved a coastal development permit (CP 1-06) for the project. The coastal development permit was to be implemented through adoption of an ordinance amending a section of the City's Municipal Code that is not part of the certified LCP. The change to the Municipal Code was to Title 40 PUBLIC PEACE, MORALS, AND WELFARE, Chapter 40.48 USE OF PUBLIC PROPERTY, Section 40.48.055 Curfews, and added paragraph 6 to subsection B to read as follows:

6. Bay View I Avenue Park is closed from 9:00 p.m. to 6:00 a.m. from the San Diego Bay water line to the First Street northeast curb line.

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).

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 the appeal is found to raise a substantial issue, 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.

IV. 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-COR-06-086 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 Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. **A-6-COR-06-086** 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 policies of the Coastal Act.

V. Findings and Declarations.

1. Project Description. The proposed project is imposition of a curfew at Bay View Park from 9:00 p.m. to 6:00 a.m. daily. Bay View Park is a small shoreline public park, approximately 8,000 sq.ft. in size, located on the bay side of the intersection of I Avenue and First Street, on the northern side of Coronado. The park is situated between single-family residences to the north and south. Public improvements consist of several benches, walkways and landscaping. There is no significant beach area at the shoreline next to the park, except for a small strip of sand/cobble at low tide.

The park is not connected to any other public access or recreational destination by paths other than the public sidewalk along First Street. However, the park has spectacular views of downtown San Diego and is occasionally used as a backdrop for wedding photos.

Because of the excellent views across San Diego Bay from the park, it is used for viewing fireworks celebrations that occur periodically throughout the year. The City has indicated that fireworks usually start around 9:20 p.m. and last 20 to 30 minutes, with most people leaving the park by 10:00 p.m.

The curfew is proposed to address concerns regarding crime in the park. There are currently no restrictions on hours of use at the park.

2. Public Access/Recreation. The appellants assert that the project, as approved by the City, may result in adverse public access and recreation impacts. Sections 30210 and 30211 of the Coastal Act are applicable and state:

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.

Policies in the adopted LUP include the following:

Section III. ADOPTED POLICY

It is the policy of the City of Coronado to:

A. SHORELINE ACCESS

1. Preserve existing shoreline access over public lands
2. Where appropriate, provide and encourage additional shoreline access over public lands.

B. RECREATION AND VISITOR SERVING FACILITIES

1. Preserve existing public recreational facilities for public use.
2. Maintain the quality and number of existing visitor accommodations at or above their present levels, and encourage the provision of new low-cost visitor accommodations and the expansion of existing low-cost visitor accommodations.
5. Encourage the protection of any available public waterfront land suitable for future recreational development.

Over the years, the Commission has granted a number of requests to restrict the use of shoreline recreational areas in hopes of reducing crime. However, the great majority of these requests in San Diego county have been in the form of limits on vehicles entering beach parking lots, not actual restrictions on use of a public beach or park. At that, most of the parking lot restrictions approved have been less restrictive than the City's proposed 9 p.m. to 6 a.m. curfew.

For example, restricted hours at three of the City of San Diego's parking lots at Crown Point Shores in Mission Bay Park are 10:00 p.m. to 4:00 a.m. (#6-02-90-A1). However, this restriction only applies to vehicular entry to the parking lot; visitors already at the lot are allowed to remain, and can exit the lot through an exit-only gate.

Parking at four Ventura Cove and Bahia Point parking lots in Mission Bay Park is also restricted from 10:00 p.m. to 4:00 a.m. (#6-91-146-A2). Two of these lots allow after-hours vehicular exit, two are locked until morning.

The public parking lot at Kellogg Park at La Jolla Shores in San Diego is closed between 10:00 p.m. and 4:00 a.m. from November 1 until April 30, and between 12:00 a.m. and 4:00 a.m. from May 1 until October 31 of each year (#A-6-LJS-90-161).

San Diego's South Mission Beach Park and Mission Point Park parking lots also have restricted operating hours from 10 p.m. to 4 a.m. (#6-88-545), as does the Mariner's Point parking lot (#6-88-366).

Broader restrictions on public access and recreation have been approved in several instances. The Commission approved restricting access to San Diego's Fiesta Island from 10:00 p.m. to 4:00 a.m. on Friday and Saturday nights from October 1 through May 31st and nightly from June 1st to September 30 of each year (#6-89-359).

Similarly, in the City of Encinitas, use of the fire rings at Moonlight Beach is prohibited between 10:00 p.m. and 5:00 a.m.

As for the City of Coronado, the Commission approved a curfew on the City's North Beach from 11:00 p.m. to 5:00 a.m. (CDP #6-96-022). Other parks in the City of Coronado that currently have curfews are Tidelands Park (11:00 p.m. to 5 a.m.); Sunset Park (11 p.m. to 4 a.m.); Glorietta Bay Park (11 p.m. to 5 a.m.) and a beach area on the Silver Strand near the U.S Naval Radio Station (9 p.m. to 5 a.m.).

In reviewing curfew requests, the Commission has attempted to balance the rights of the public to access and use public beaches and parks with nighttime safety concerns for both visitors and residents. Closures approved by the Commission have been supported by documentation of a significant crime problem, and have been limited in scope and extent to only what is needed to address the public safety issue. Restricting vehicle entry to the area has often been considered sufficient.

Based on the evidence submitted by the City at this time, the proposed 9 p.m. to 6 a.m. curfew at Bay View Park appears to be unduly restrictive, and thus, may result in significant adverse impacts to coastal access and recreation.

In November 2005, the Coastal Commission approved an LCP amendment expanding the City's residential decal parking program near Bay View Park. As a result of that amendment, there are currently approximately 21 parking spaces on First Street abutting Bay View Park that are restricted to a 4-hour time limit. All of the remaining street parking in the vicinity is restricted to residential decal parking. The City's reason for increasing the amount of residential parking was that the demand for residential parking was higher than the demand for public parking at Bay View Park, and submitted survey data as evidence that public use of the park was generally fairly low. While the surveys occurred at 1:00 or 2:00 in the afternoon, not at night, the data suggests that public use of the site may not be intensive enough to warrant such a severe restriction on the hours of public availability.

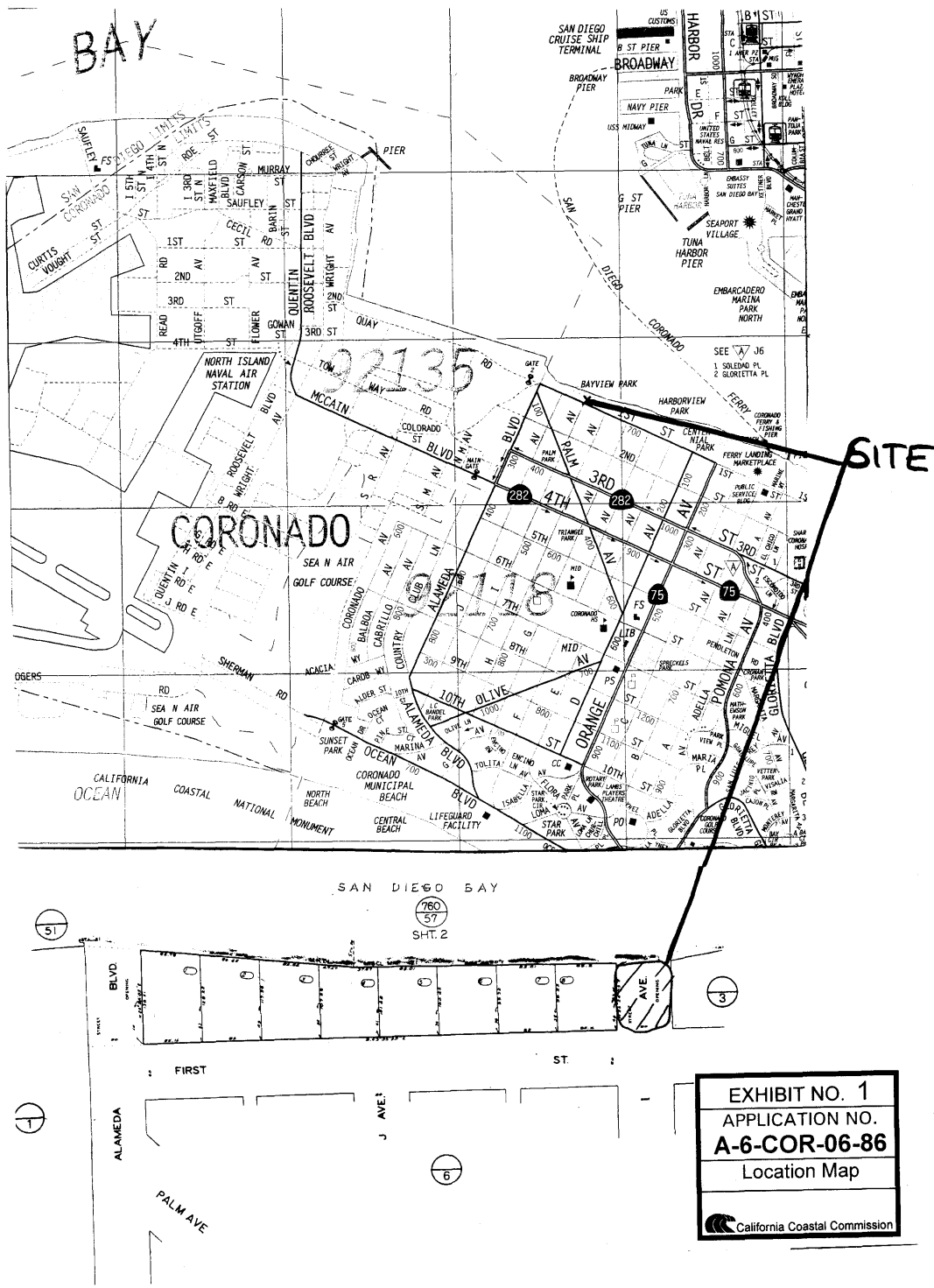
The City did review crime data in the vicinity of the park. The police chief provided documentation that 325 entries in the Computer Aided Dispatch system were logged in a one-year at or near the park. Details on all of the 325 entries were not provided. Of the incident details that were provided, 28 were traffic or parking citations, and 32 involved running record checks on individuals. A total of 21 other incidents involved drugs or alcohol (7) under-age curfew violations (6), vandalism (5), armed robbery (1), sexual battery (1), and an arrest on a misdemeanor warrant (1). The data indicates that most of the crimes occur during nighttime hours. Approximately 25 of the total 325 police responses that occurred in the area in a one-year period occurred between 9:00 p.m. and 10:00 p.m. The nature of these 25 police responses was not provided. No incidents were reported between 5:00 a.m. and 6:00 a.m.

Bay View Park is a very small park with no recreational amenities other than several benches, and parking in the vicinity is extremely limited. It is the only shoreline access point for 4-5 blocks in any direction, and is surrounding by residential uses. As such, is unlikely to draw large groups of visitors or become a hangout for gangs, as has happened in some San Diego area beach parking lots. The park's outstanding asset is its view of

downtown San Diego, and that what the site is used most for. As such, prohibiting access from 9 p.m. to 10 p.m., typical firework viewing hours, will have a significant impact on public recreational use of the site.

Although there is evidence that there are crime issues in the vicinity of Bay View Park, it is not clear that crime at the park is of a level or severity that would justify the unusually strict limits being proposed for the site. It seems particularly inappropriate given that less than one year ago, the City reduced public parking next to the park on the grounds that the park received so little public use. The park is sited in a residential neighborhood immediately adjacent to single-family homes, so concerns about public safety are to be expected. However, in the absence of more specific information that there is a acute crime problem in the early evening hours, the City could have taken a more conservative approach, by, for example, establishing a curfew from 11 p.m. to 4 a.m., a time period when there would be little potential impact to public access and recreation.

In summary, the City has not adequately addressed the development's conformity with LCP standards and Coastal Act policies regarding public access and recreation. Therefore, the Commission finds that a substantial issue exists with respect to the consistency of the local government action with the City's certified Local Coastal Program.



RESOLUTION NO.

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CORONADO
APPROVING A COASTAL PERMIT IN CONJUNCTION WITH THE
ESTABLISHMENT
OF A 10:00 P.M. TO 5:00 A.M. CURFEW AT BAY VIEW PARK LOCATED AT THE
INTERSECTION OF "I" AVENUE AND FIRST STREET.**

WHEREAS, in accordance with Chapter 86.70 of the City of Coronado Municipal Code, the City of Coronado Planning Commission has been requested to approve a Coastal Permit (CP 1-06) in conjunction with the establishment of a 10:00 p.m. to 5:00 a.m. curfew at Bay View Park located at the intersection of "I" Avenue and First Street;

WHEREAS, the City has determined that inappropriate behavior in the park that increases in frequency during the night has become a public nuisance and a public safety risk, and that such misuse of the park is opposed by residents of the neighborhood and considered a public hazard by the Police Chief;

WHEREAS, imposition of a 10:00 p.m. to 5:00 a.m. curfew at the park is expected to significantly reduce the aforementioned inappropriate behavior at the park;

WHEREAS, because of the parks remote location, small size, and the proposed time period for the curfew, shoreline access will not be significantly diminished by the curfew's imposition;

WHEREAS, the proposed curfew complies with all policies, goals and standards of the City of Coronado's adopted Local Coastal Program, and the Coronado General Plan;

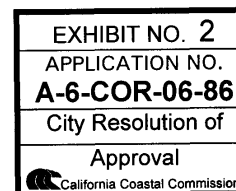
WHEREAS, since the proposed curfew will not cause a direct or indirect physical change in the environment, it is not defined as a "project" under the California Environmental Quality Act and is therefore exempt from the requirements of this Act;

WHEREAS, the ongoing nature of the curfew requires the issuance of a Coastal Permit for an extended duration;

WHEREAS, the Planning Commission of the City of Coronado did pursuant to Section 66854 of the Government Code, hold a Public Hearing on this requested Coastal Permit on July 11, 2006;

WHEREAS, said Public Hearing was duly noticed as required by law and all persons desiring to be heard were heard at said hearing; and

WHEREAS, evidence was submitted and considered to include without limitation all documentation associated with the PC 8-06 (CP 1-06), its related staff report, and all material submitted either in writing or verbally for the Planning Commission Public Hearing for said application.



Planning Commission Resolution
Page Number 2

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission, after due consideration and in a Public Hearing hereby approves a City of Coronado Coastal Permit for the establishment of a 10:00 p.m. to 5:00 a.m. curfew at Bay View Park, and that said Coastal Permit shall remain in effect the duration of time that the proposed curfew remains in effect.

PASSED AND ADOPTED by the Planning Commission of the City Coronado, California, this 11th day of July, 2006, by the following vote, to wit:

AYES:
NAYS:
ABSENT:
ABSTAIN:

JON RYAN, CHAIR
CORONADO PLANNING COMMISSION

Attest:

TONY A. PENA
DIRECTOR OF COMMUNITY DEVELOPMENT

i/cd/ed/curfew bay park

STATE OF CALIFORNIA -- THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

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) 551-4390SECTION II. Decision Being Appealed

1. Name of local/port government: City of Coronado
2. Brief description of development being appealed: Imposition of a curfew on the Bay View/I Avenue shoreline park from 9:00 pm to 6 am.
3. Development's location (street address, assessor's parcel no., cross street, etc.):
Bay View Park at the intersection of I Avenue and First Street, Coronado (San Diego County).
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-COR-06-86DATE FILED: August 7, 2006DISTRICT: San Diego

RECEIVED

AUG 0 CALIF COASTAL CC SAN DIEGO CC	EXHIBIT NO. 3
	APPLICATION NO.
	A-6-COR-06-86
	Appeal Forms

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: July 11, 2006Local government's file number (if any): CP 1-06SECTION 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:

Tony Peña
Director of Community Development
1825 Strand Way
Coronado, CA 92118

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.

Wendy Miller
101 I Avenue
Coronado, CA 92118

Bill & Heidi Dickerson
501 First Street
Coronado, CA 92118

Penny Gunning
505 First Street
Coronado, CA 92118

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

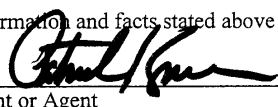
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attachment "A" dated 8/7/06

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: 8/7/06

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

Signed: _____

Date: _____

August 7, 2006

ATTACHMENT "A" – Bay View Park Appeal

The proposed project is imposition of a curfew at Bay View Park from 9:00 p.m. to 6:00 a.m. daily. Bay View Park is a small shoreline public park located on the bay side of the intersection of I Avenue and First Street, on the northern side of Coronado. The park is situated between single-family residences to the north and south. Public improvements consist of several benches, walkways and landscaping. There is no significant beach area at the shoreline next to the park, except for a small strip of sand/cobble at low tide. The park is not connected to any other public access or recreational destination by paths other than the public sidewalk along First Street. The park has spectacular views of downtown San Diego and is occasionally used as a backdrop for wedding photos. There are currently no restrictions on hours of use at the park. The curfew is proposed to address concerns regarding crime in the park.

The City of Coronado has a number of general policies encouraging the provision of additional access to the shoreline, along with protection and enhancement of existing accessways.

Policies in the adopted LUP include the following:

Section III.

ADOPTED POLICY

It is the policy of the City of Coronado to:

A. SHORELINE ACCESS

1. Preserve existing shoreline access over public lands
2. Where appropriate, provide and encourage additional shoreline access over public lands.

B. RECREATION AND VISITOR SERVING FACILITIES

1. Preserve existing public recreational facilities for public use.
2. Maintain the quality and number of existing visitor accommodations at or above their present levels, and encourage the provision of new low-cost visitor accommodations and the expansion of existing low-cost visitor accommodations.
5. Encourage the protection of any available public waterfront land suitable for future recreational development.

August 7, 2006
Attachment "A" Bay View Park Curfew #A-6-COR-06-68
Page 2

As approved, the project appears to be inconsistent with several policies of the certified Local Coastal Program (LCP), as well as with the public access policies of the Coastal Act.

The proposed 9 p.m. to 6 a.m. curfew may be unduly restrictive and result in significant adverse impacts to coastal access and recreation. The Commission has reviewed several requests for curfews on beaches and beach parking lots, and curfew periods are usually less restrictive than the proposed hours. For example, the curfew on the City's North Beach is from 11:00 p.m. to 5:00 a.m. (CDP #6-96-022). Restricted hours at the City of San Diego's parking lots at Crown Point Shores in Mission Bay Park are 10:00 p.m. to 4:00 a.m. (#6-02-90). In the City of Encinitas, use of the fire rings at Moonlight Beach is prohibited between 10:00 p.m. and 5:00 a.m. Other parks in the City of Coronado that currently have curfews are Tidelands Park (11:00 p.m. to 5 a.m.); Sunset Park (11 p.m. to 4 a.m.); Glorietta Bay Park (11 p.m. to 5 a.m.) and a beach area on the Silver Strand near the U.S Naval Radio Station (9 p.m. to 5 a.m.).

Because of the excellent views across San Diego Bay from the park, it is used for viewing fireworks celebrations that occur periodically throughout the year. The City has indicated that fireworks usually start around 9:20 p.m. and last 20 to 30 minutes, with most people leaving the park by 10:00 p.m.

In November 2005, the Coastal Commission approved an LCP amendment expanding the City's residential decal parking program near Bay View Park. As a result of that amendment, there are currently approximately 21 parking spaces on First Street abutting Bay View Park that are restricted to a 4-hour time limit. All of the remaining street parking in the vicinity is restricted to residential decal parking. The City's reason for increasing the amount of residential parking was that the demand for residential parking was higher than the demand for public parking at Bay View Park, and submitted survey data as evidence that public use of the park was generally fairly low. While the surveys occurred at 1:00 or 2:00 in the afternoon, not at night, the data suggests that public use of the site may not be intensive enough to warrant such a severe restriction on the hours of public availability.

The City did review crime data in the vicinity of the park. The police chief presented documentation that 325 entries in the Computer Aided Dispatch system were logged in a one-year at or near the park. Details on all of the 325 entries were not provided. Of the incident details that were provided, 28 were traffic or parking citations, and 32 involved running record checks on individuals. A total of 21 other incidents involved drugs or alcohol (7) under-age curfew violations (6), vandalism (5), armed robbery (1), sexual battery (1), and an arrest on a misdemeanor warrant (1). The data indicates that most of the crimes occur during nighttime hours. Approximately 25 of the total 325 police responses that occurred in the area in a one-year period occurred between 9:00 p.m. and 10:00 p.m. The nature of these 25 police responses was not provided. No incidents were reported between 5:00 a.m. and 6:00 a.m.

August 7, 2006

Attachment "A" Bay View Park Curfew #A-6-COR-06-68

Page 3

Although there is evidence that there are crime issues in the vicinity of Bay View Park, it is not clear that crime at the park is of a level or severity that would justify the unusually strict limits being proposed for the site. Less than one year ago, the City reduced public parking next to the park on the grounds that the park received so little public use.

Public access is at a premium in this area; Bay View Park is the only shoreline access point for 4-5 blocks in any direction and is a prime viewing spot for evening fireworks. Because the proposed curfew may significantly impact the ability of the public to access and recreate at the shoreline, the project is potentially inconsistent with the certified LCP and the public access policies of the Coastal Act.

STATE OF CALIFORNIA -- THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

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: Sara J. Wan
Mailing Address: 22350 Carbon Mesa Road
Malibu, CA 90265

Phone Number: (310) 456-6605SECTION II. Decision Being Appealed

1. Name of local/port government: City of Coronado
2. Brief description of development being appealed: Imposition of a curfew on the Bay View/I Avenue shoreline park from 9:00 pm to 6 am.
3. Development's location (street address, assessor's parcel no., cross street, etc.):
Bay View Park at the intersection of I Avenue and First Street, Coronado (San Diego County).
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-COR-06-86DATE FILED: August 7, 2006DISTRICT: San Diego

RECEIVED
AUG 07 2006
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: July 11, 2006

Local government's file number (if any): CP 1-06

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:

Tony Peña
Director of Community Development
1825 Strand Way
Coronado, CA 92118

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.

Wendy Miller
101 I Avenue
Coronado, CA 92118

Bill & Heidi Dickerson
501 First Street
Coronado, CA 92118

Penny Gunning
505 First Street
Coronado, CA 92118

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 8/7/06

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: Sara J. Van
Appellant or Agent

Date: 8/7/06

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

Signed: _____

Date: _____

August 7, 2006

ATTACHMENT "A" – Bay View Park Appeal

The proposed project is imposition of a curfew at Bay View Park from 9:00 p.m. to 6:00 a.m. daily. Bay View Park is a small shoreline public park located on the bay side of the intersection of I Avenue and First Street, on the northern side of Coronado. The park is situated between single-family residences to the north and south. Public improvements consist of several benches, walkways and landscaping. There is no significant beach area at the shoreline next to the park, except for a small strip of sand/cobble at low tide. The park is not connected to any other public access or recreational destination by paths other than the public sidewalk along First Street. The park has spectacular views of downtown San Diego and is occasionally used as a backdrop for wedding photos. There are currently no restrictions on hours of use at the park. The curfew is proposed to address concerns regarding crime in the park.

The City of Coronado has a number of general policies encouraging the provision of additional access to the shoreline, along with protection and enhancement of existing accessways.

Policies in the adopted LUP include the following:

Section III. ADOPTED POLICY

It is the policy of the City of Coronado to:

A. SHORELINE ACCESS

1. Preserve existing shoreline access over public lands
2. Where appropriate, provide and encourage additional shoreline access over public lands.

B. RECREATION AND VISITOR SERVING FACILITIES

1. Preserve existing public recreational facilities for public use.
2. Maintain the quality and number of existing visitor accommodations at or above their present levels, and encourage the provision of new low-cost visitor accommodations and the expansion of existing low-cost visitor accommodations.
5. Encourage the protection of any available public waterfront land suitable for future recreational development.

August 7, 2006
Attachment "A" Bay View Park Curfew #A-6-COR-06-68
Page 2

As approved, the project appears to be inconsistent with several policies of the certified Local Coastal Program (LCP), as well as with the public access policies of the Coastal Act.

The proposed 9 p.m. to 6 a.m. curfew may be unduly restrictive and result in significant adverse impacts to coastal access and recreation. The Commission has reviewed several requests for curfews on beaches and beach parking lots, and curfew periods are usually less restrictive than the proposed hours. For example, the curfew on the City's North Beach is from 11:00 p.m. to 5:00 a.m. (CDP #6-96-022). Restricted hours at the City of San Diego's parking lots at Crown Point Shores in Mission Bay Park are 10:00 p.m. to 4:00 a.m. (#6-02-90). In the City of Encinitas, use of the fire rings at Moonlight Beach is prohibited between 10:00 p.m. and 5:00 a.m. Other parks in the City of Coronado that currently have curfews are Tideland Park (11:00 p.m. to 5 a.m.); Sunset Park (11 p.m. to 4 a.m.); Glorietta Bay Park (11 p.m. to 5 a.m.) and a beach area on the Silver Strand near the U.S. Naval Radio Station (9 p.m. to 5 a.m.).

Because of the excellent views across San Diego Bay from the park, it is used for viewing fireworks celebrations that occur periodically throughout the year. The City has indicated that fireworks usually start around 9:20 p.m. and last 20 to 30 minutes, with most people leaving the park by 10:00 p.m.

In November 2005, the Coastal Commission approved an LCP amendment expanding the City's residential decal parking program near Bay View Park. As a result of that amendment, there are currently approximately 21 parking spaces on First Street abutting Bay View Park that are restricted to a 4-hour time limit. All of the remaining street parking in the vicinity is restricted to residential decal parking. The City's reason for increasing the amount of residential parking was that the demand for residential parking was higher than the demand for public parking at Bay View Park, and submitted survey data as evidence that public use of the park was generally fairly low. While the surveys occurred at 1:00 or 2:00 in the afternoon, not at night, the data suggests that public use of the site may not be intensive enough to warrant such a severe restriction on the hours of public availability.

The City did review crime data in the vicinity of the park. The police chief presented documentation that 325 entries in the Computer Aided Dispatch system were logged in a one-year at or near the park. Details on all of the 325 entries were not provided. Of the incident details that were provided, 28 were traffic or parking citations, and 32 involved running record checks on individuals. A total of 21 other incidents involved drugs or alcohol (7) under-age curfew violations (6), vandalism (5), armed robbery (1), sexual battery (1), and an arrest on a misdemeanor warrant (1). The data indicates that most of the crimes occur during nighttime hours. Approximately 25 of the total 325 police responses that occurred in the area in a one-year period occurred between 9:00 p.m. and 10:00 p.m. The nature of these 25 police responses was not provided. No incidents were reported between 5:00 a.m. and 6:00 a.m.

August 7, 2006

Attachment "A" Bay View Park Curfew #A-6-COR-06-68

Page 3

Although there is evidence that there are crime issues in the vicinity of Bay View Park, it is not clear that crime at the park is of a level or severity that would justify the unusually strict limits being proposed for the site. Less than one year ago, the City reduced public parking next to the park on the grounds that the park received so little public use.

Public access is at a premium in this area; Bay View Park is the only shoreline access point for 4-5 blocks in any direction and is a prime viewing spot for evening fireworks. Because the proposed curfew may significantly impact the ability of the public to access and recreate at the shoreline, the project is potentially inconsistent with the certified LCP and the public access policies of the Coastal Act.