

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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 SAN DIEGO, CA 92108-4421
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Thu 10b

Filed: 1/3/08
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 Staff: Laurinda Owens-SD
 Staff Report: 1/23/08
 Hearing Date: 2/6-8/08

AMENDMENT REQUEST
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-05-140-A1

Applicant: City of San Diego Agent: Glenn Spitzer, City Attorney's Office

Original Description: Placement of buoy markers in the ocean to demarcate safe swimming area from April 1st to October 31st each year.

Proposed Amendment: Request to revise language on approved public access signage on the beach along the frontage of the La Jolla Beach & Tennis Club.

Site: Along the beach adjacent to the La Jolla Beach and Tennis Club (2000 Sprindrift Drive), between the western extensions of Paseo Dorado and Avenida de la Playa, La Jolla, San Diego, San Diego County.

Substantive File Documents: CDP #6-05-140 Revised Findings; CDP# 6-05-140; CDP #6-04-36-VRC; Claim of Vested Rights Application dated 3/29/04.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed project. The proposed amendment involves changes to the language on the previously-approved signage on the beach designating a public use area. The proposed change is pursuant to settlement of a lawsuit filed by the La Jolla Beach & Tennis Club (LJBTC). The revised signage is intended to make it clear to the public where the public can recreate and walk along the beach seaward of the LJBTC. Using remote sensing of the beach by LIDAR, scientists at the Scripps Institution of Oceanography plotted the mean high tide line (MHTL) on the beach fronting the LJBTC at various times from spring of 2002 to spring of 2006. The proposed line between public and private areas of the beach is based on these surveys and, as proposed, is landward of the most landward survey line, assuring that the public is afforded the maximum beach access possible. To assure the public is aware of the line, a yellow flag will be plotted and placed on the beach at the apex of the proposed line. In this way, the public moving along the beach from either the north or south will be able to

read the signage, view the flag and understand where they can recreate and move along the beach in this location. In addition, the proposed signage makes it clear that if the tides are high such that the water is inland of the proposed line, the public may walk along the water's edge to cross the beach in front of the LJBTC.

While it is understood that the MHTL is ambulatory and will likely change in the future, as conditioned, the proposed line and signage will only run for the term of the permit, which expires on July 13, 2011. At that time, the applicant will need to apply for an amendment to this permit to maintain the buoys in the water and continue the public access signage. The proposed changes to the signage will not alter the project's consistency with the public access and recreation policies of the Coastal Act. With the revised special condition incorporating the revised language of the proposed signage, the proposed amendment is consistent with all applicable provisions of the Coastal Act.

Standard of Review: Chapter 3 policies of the Coastal Act.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 6-05-140 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment 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 A PERMIT AMENDMENT:

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. Special Conditions.

The permit is subject to the following conditions:

The following condition replaces Special Condition #1 of the original permit in its entirety.

1. Designated Public Swim Area and Public Access Signage. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit for review and written approval of the Executive Director, a signage plan that includes the following:

- a. A minimum of four signs shall be installed in a prominent area and visible to the public along the beach. At least one sign shall be installed at each of the following locations: 1) at the north end of the demarcated swim area at the terminus of Avenida de la Playa; 2) at the north end of the demarcated swim area on the wooden barricade that extends west from the terminus of Avenida de la Playa; 3) at the entrance to the Marine Room coastal accessway (near Roseland Drive); and, 4) at the south end of the demarcated swim area on the northern wall of the Marine Room coastal accessway (at eye-level to assure visibility by the public).
- b. Signs shall be a minimum of 2' x 18' in size and include the following language:

DESIGNATED PUBLIC AREA

All waters between Roseland Drive and Avenida de la Playa are open to the public, including waters protected by ropes and buoys.

Public beach access permitted seaward of the yellow line depicted above.

Recreational passage permitted landward of the yellow line along the highest water's edge in event of a high tide.

Respect private property.

The above signage is to also include a picture and/or diagram that demarcates the public access area with a "yellow line" corresponding to that illustrated in Exhibit No. 4. The yellow line shall be drawn from the wood piling closest to the ocean on the upcoast side of the beach to a center point in the beach, and then to the outermost corner (closest to the ocean) of the north wall of the Marine Room building. The end points of the yellow line are to be marked by a visible yellow marker (e.g., yellow paint, yellow flags, or other appropriate yellow fixtures).

Also included is placement of a yellow flag at the most landward location in the center point of the yellow line as depicted in the picture (which has been determined to be -117.2599935 longitude, 32.8534676 latitude). This point shall be plotted on the beach and then surveyed to determine its location from fixed boundaries so as to verify the flag placement on a daily basis. The survey shall be

submitted to the Executive Director of the Coastal Commission for review and written approval prior to issuance of the permit amendment.

- c. A written agreement that the signage shall be maintained and remain in place for the life of the permit. If the applicant chooses to apply for an amendment to renew the permit prior to its expiration on July 13, 2011, the applicant acknowledges that the location of the yellow line will be revisited and may be revised based upon reliable scientific data which indicates that the location of the MHTL on the beach has appreciably changed.

2. Prior Conditions of Approval. All other terms and conditions of Coastal Development Permit No. 6-05-140, as amended, not specifically modified herein, shall remain in full force and effect.

III. Findings and Declarations.

The Commission finds and declares as follows:

1. Project History/Amendment Description. On 1/12/05 the Coastal Commission reviewed and approved a claim of vested rights (6-04-36-VRC) by the City of San Diego for placement of buoys in the water in a portion of a designated public swim area seaward of the LJBTC. Subsequently, the Sierra Club filed a lawsuit against the Commission, the City and the LJBTC, challenging the Commission's decision. A settlement agreement was reached that included several stipulations, one of which provided that the City was to apply for a coastal development permit for placement of the buoys within 30 days of the Court's signing of the stipulated order. The stipulation also permitted the City to place and/or remove the buoys pending the outcome of the coastal development permit as long as the placement of the buoys was consistent with past practice. In compliance with the settlement agreement, the City submitted coastal development permit application #6-05-140, which was reviewed and approved by the Commission on 7/13/06.

The primary concern raised was that the proposed development to place buoys in the water gave the "perception" that the swim area demarcated by the proposed buoys was private and not available to the public as the buoys were placed directly offshore of the private resort. To address this issue, the Commission approved CDP #6-05-140 subject to several conditions, one of which included the placement of the signage to make it clear to the public that public beach access adjacent to the designated public swim area (and the LJBTC) is permitted and that the designated public swim area surrounded by ropes and buoys is open to the public. At the hearing, there was concern expressed regarding the wording of the signage, public access and beach wrack. The Commission approved the permit with revisions to the proposed special conditions and required a minimum of four signs to be installed in prominent areas and visible to the public along the beach. The language of the signage was to read as follows:

Designated Public Swim Area. All waters between Avenida de la Playa and Roseland Drive are open to the public, including waters protected by ropes and

Buoys. Public beach access permitted.

At the time of the City's application and currently, there are two signs in the vicinity. One sign is on the wooden barricade at the terminus of Avenida de la Playa at the north end of the designated public swim area and the other sign is on the southern wall of the Marine Room coastal accessway. Both of these signs were found to be appropriate locations which would be visible to the public. However, the sign on the southern wall of the Marine Room is too high and is not easily visible to the public. The City agreed to relocate this sign to a lower elevation (eye-level) to make it easier for the public to see. It was also agreed that the sign would be better sited if it were on the north wall of the Marine Room. In addition, the Commission also found that it was important to place a sign at the entrance to the public accessway (on the street side) of the Marine Room and at the terminus of the street end of Avenida de la Playa. Therefore, a total of four signs were required to be installed. Other conditions addressed the timing of placement of the buoys in the ocean, the term limits of the permit (five years from the date of Commission action, with provision allowing the City to apply for a permit amendment to extend the term), and restricting beach grooming/sand removal to allow the removal of trash and wrack but to prohibit the grading and movement or transportation of sand off-site.

In September 2006, prior to the hearing on the revised findings for this permit, the LJBTC filed suit challenging the Commission's conditions of approval for the beach buoy CDP. Sierra Club intervened in the lawsuit. The lawsuit focused on the wording of the sign. The court dismissed the LJBTC's claims against the Commission with leave to amend. The court, however, allowed LJBTC to proceed with its claims seeking declaratory and injunctive relief to prevent the City from installing the signage.

Subsequently, the parties to the lawsuit (LJBTC, the City, Sierra Club, the Commission and the State Lands Commission) entered into settlement discussions regarding what portions of the beach in front of the club are open to the public. After extensive negotiations with legal staff and planning staff, an agreement was reached regarding a clear way to demonstrate which portions of the beach are open for public use. The agreed-upon revisions to the wording on the signage as well as the placement of a yellow flag on the beach has resulted in the subject amendment request. The proposed revisions to the approved language of the signage as an amendment to the permit are as follows:

DESIGNATED PUBLIC AREA

All waters between Roseland Drive and Avenida de la Playa are open to the public, including waters protected by ropes and buoys.

Public beach access permitted seaward of the yellow line depicted above.

Recreational passage permitted landward of the yellow line along the highest water's edge in event of a high tide.

Respect private property.

The above proposed signage will include a picture and/or a diagram that depicts the public access area with a yellow line. Also proposed is the placement of a yellow flag on the beach at the center point of the yellow line as shown in the picture. The end points of the yellow line are also proposed to be marked by a visible yellow marker such as a yellow paint, yellow flags or other appropriate fixture. (Ref. Exhibit No.4). As the City has indicated, the center point of the line is the center point on the diagram prepared by the Scripps Institution of Oceanography which is a surveyed line drawn to scale (Ref. Exhibit No. 2). The yellow line on Exhibit No. 4 (attached) is intended to be in the same location as the surveyed line.

While the City of San Diego has a certified LCP, the proposed development will occur in an area where the Commission retains jurisdiction. Thus, the standard of review is Chapter 3 policies of the Coastal Act, with the certified LCP used as guidance.

2. Public Access. The following policies are applicable to the subject project:

Section 30210

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

Section 30211

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

Section 30212

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or, [...]

Section 30221

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or

commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

One of the most important goals of the Coastal Act is to protect, provide and enhance public access opportunities for all persons to and along the coast (Sections 30210-30214, 30221, 30252 of the Coastal Act). Section 30001.5(c) of the Coastal Act requires that public access and public recreational opportunities be maximized, consistent with sound resource conservation principles.

In the review of the proposed amendment which proposes to revise the language on the permitted signage, one of the key issues in the original permit (6-05-140) was that even though the ocean and beach below the mean high tide line are public, the sense of privacy was heightened by the existence of the buoys in the water “roping off” a swim area directly in front of the LJBTC and signage on the premises which stated “Trespassing Not Allowed”.

However, through the coastal development permit application the City addressed the concern related to public access. The City also improved the signage on the premises. As noted above, for several years, the LJBTC had signage on their premises that heightened the sense of privacy of the beach and waters seaward of it by maintaining no trespassing signs on the adjacent LJBTC structures. Due to their location, the statements “Private Property” and “Trespassing Not Allowed” on the signs affixed to the structures adjacent to the LJBTC were often understood as declaring that the beach and area marked by the buoys is “private property” and that anyone walking or swimming in this area was trespassing. In addition, in conjunction with the adjacent LJBTC signage, the apparent effect of the buoys demarcating only a smaller subset of a designated swim area in front of the private LJBTC conveyed the perception to the public that the ocean area marked by the buoys was a private swim area for the adjacent LJBTC. Such an effect is inconsistent with State law as the Club does not have the right to preclude the public from swimming in these tidelands.¹

As such, the Commission, in its review of the coastal development permit for placement of the buoys, approved signage which read: “Designated Public Swim Area. All waters between Avenida de la Playa and Roseland Drive are open to the public, including waters protected by ropes and buoys. Public beach access permitted.”

The proposed amendment is the result of a settlement agreement between the various interested parties regarding the wording of the signage as approved by the Commission in

¹ Tidelands include “those lands lying between the lines of mean high tide and mean low tide which are covered and uncovered successively by the ebb and flow thereof.” (*Lechuza Villas West v. CA Coastal Commission* (1997) 60 Cal.App.4th 218, 235). The State owns all tidelands and holds such lands in trust for the public. (*Id.*; *State of Cal. Ex rel. State Lands Com. v. Superior Court* (1995) 11 Cal.4th 50, 63; California Civil Code section 670). “The owners of land bordering on tidelands take to the ordinary high water mark. The high water mark is the mark made by the fixed plan of high tide where it touches the land; as the land along a body of water gradually builds up or erodes, the ordinary high water mark necessarily moves, and thus the mark or line of mean high tide, i.e., the legal boundary, also moves.” (*Lechuza*, 60 Cal.App.4th at 235). In other words, the boundary between private property and public tidelands is an ambulatory line. (*Id.* at 242.)

its action on the coastal development permit for installation of the buoys. During the settlement negotiations, the focus of discussion was on how to determine a measurable line between public and private areas of the beach in front of the LJBTC that would assure the public maximum access and at the same time respect the LJBTC's private property. Because the mean high tide line (MHTL) is ambulatory, it is hard to determine a "line" that can be used at all times to inform the public of the boundary between public and private property. To address this issue, the Commission enlisted the help of scientists at the Scripps Institution of Oceanography (SIO) in La Jolla. SIO has been involved in a study of the shoreline (Southern California Beach Process Study) that includes Light Detection and Ranging (LIDAR) remote sensing imagery. With this imagery, SIO scientists were able to plot the MHTL fronting the LJBTC from Spring of 2002 up through Spring of 2006, with a total of 10 plots (ref. Exhibit No. 2 attached). Based on this information, the Commission's staff Coastal Engineer, Lesley Ewing concluded that:

The LIDAR shorelines show little cross-over, so the seasonal and inter-annual changes at the profiles are generally representative of the whole beach. And the whole beach has a strong seasonal shift and inter-annual erosion trend.

In other words, the MHTL plotted for the area in front of the LJBTC are similar to those up and down coast of the LJBTC, that there is large seasonal variation and, that the beach in this location is eroding. As can be seen on Exhibit No. 2, since 2002, the MHTL in front of the LJBTC has been moving landward. While SIO scientists warn these plotted lines are not "exact" to the foot, they represent a good depiction of the MHTL for the various years and their trend to move landward over time.

Based on these plots, the various interested parties agreed on and plotted a line somewhat landward of the most recent plotted MHTL (ref. Exhibit No. 3). The line runs from the western edge of the northern wall of the Marine Room building at the south to a center point on the beach, then to the western edge of the western-most wooden pylon on the beach to the north. The purpose of plotting this line is twofold: 1) first, it graphically depicts an imaginary line to guide the public to public access areas and, 2) it shows the Commission that the public, in using this line for guidance, will be afforded maximum use and enjoyment of the public beach in this location. What this line does not do is provide an adjudicated location of the MHTL or convey any property rights. In addition, it does not constitute a determination of the extent of any public trust interest that may exist in this area. It is solely for illustrative purposes to guide the public as to where they can use the beach in this location.

How this will work in practice is that the agreed upon line will be visually depicted on a sign along with the signage language proposed by the City (ref. Exhibit No. 4). The signs will be located up and down coast of the LJBTC and a yellow flag will be placed on the beach at the exact apex of the line, generally mid point between the north and south LJBTC ocean fronting buildings (ref. Exhibit No. 3 & 4). As the public moves along the beach and encounters the signage, they can look up or down coast, visually locate the yellow flag on the beach and then recreate or move along the beach seaward of an imaginary line drawn between the flag and the up or down coast marker (the western edge of the northern Marine Room wall at the south and the western edge of the western-

most wooden pylon on the beach to the north). As noted on the signage, if there is a high tide such that the water's edge is inland of this imaginary line, then the public may walk along the water's edge.

Special Condition #1 is attached and replaces Special Condition #1 of the original permit. This condition requires the applicant to submit a signage plan with the approved language and sign locations. In addition, the condition includes a GPS coordinate of the exact location where the yellow flag is required to be placed on the beach. Prior to issuance of this amendment, the applicant is required to plot this location on the beach and then have the location surveyed from fixed points and submit this survey information to the Executive Director of the Commission. In this way, the location of the flag will be fixed and can be verified by Commission staff or the public.

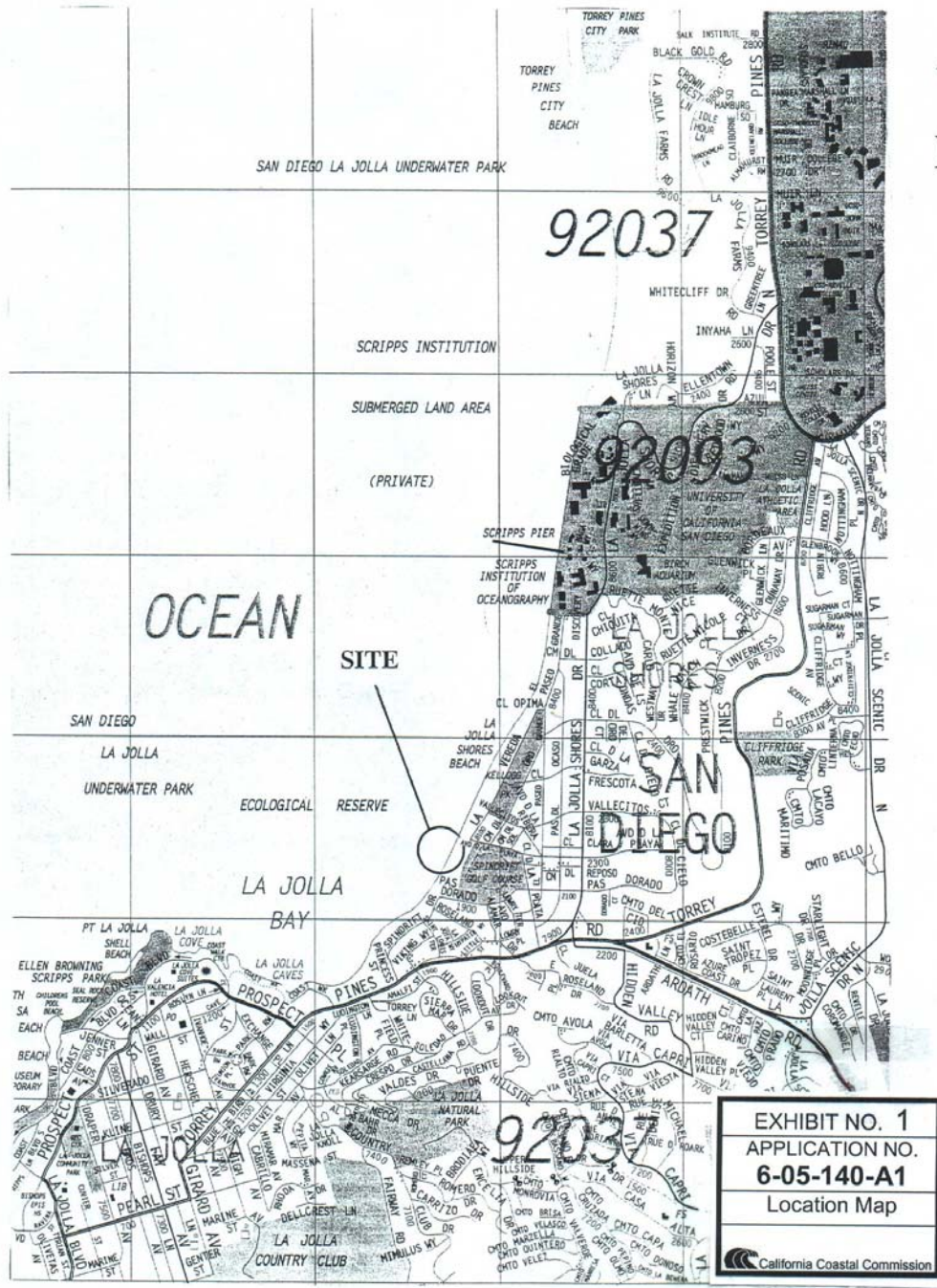
With the LIDAR information provided by SIO depicting the MHTL location two to three times a years since 2002, the Commission is assured that the proposed line to guide the public provides the maximum beach area to the visiting public in this location. Again, the intent of the proposed amendment is to provide guidance to the public in determining which areas of the beach in front of the LJBTC are available for use and enjoyment of the public. The actual location of the MHTL is not being adjudicated nor are any property rights being conveyed. In addition, given that the MHTL is ambulatory and is not being adjudicated with this action, the Commission finds that the agreed upon line should be reviewed again in the future to assure the public is afforded maximum access to the beach at this location. As such, Special Condition #1c requires the applicant to acknowledge that upon renewal of this permit (as a CDP amendment) prior to its expiration on July 13, 2011, the location of the line will be reviewed and, based on reliable scientific data, may be revised if it is determined that the location of the MHTL on the beach has changed.

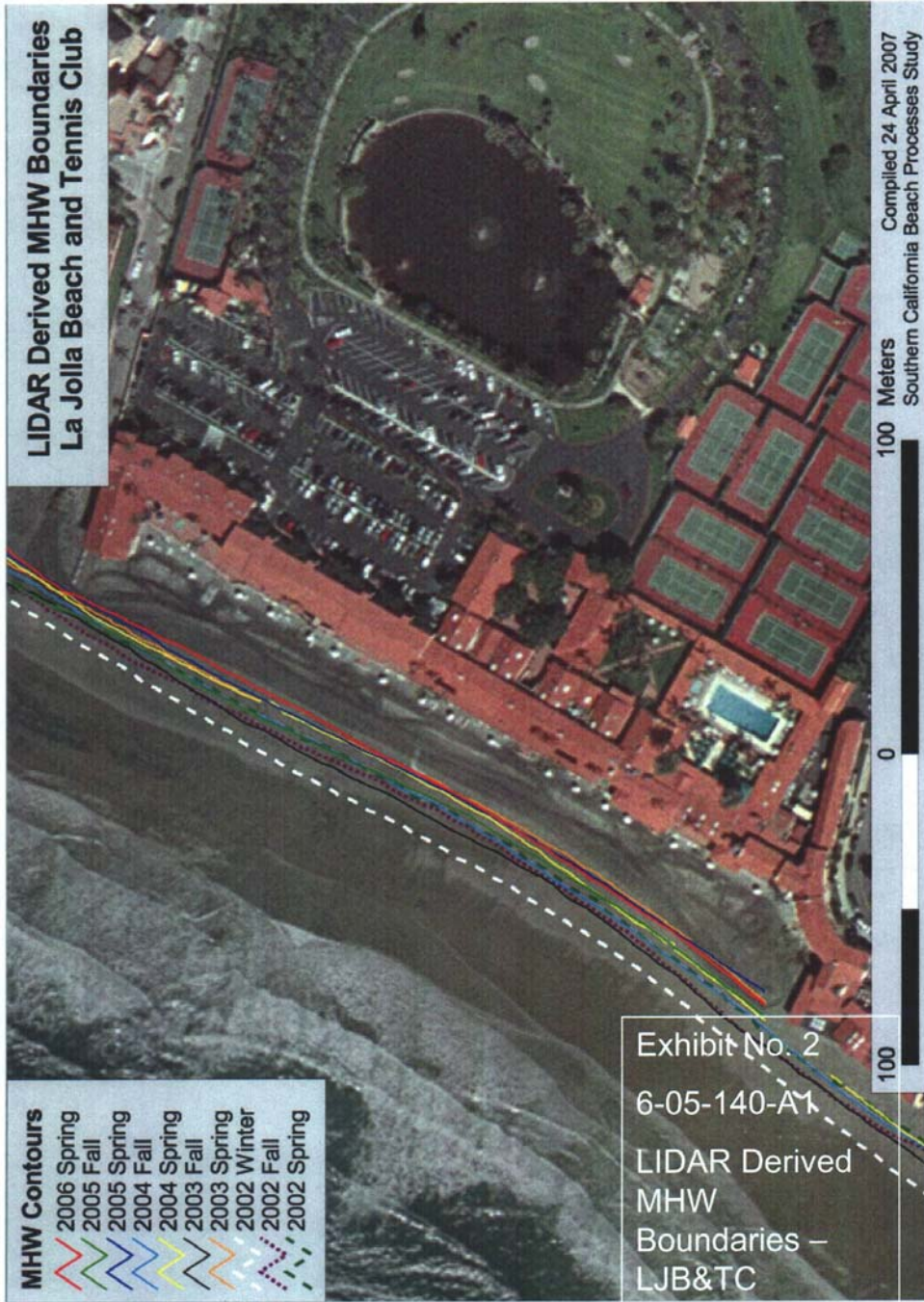
As conditioned to require the installation and maintenance of public access signage to assure the public is aware of what portion of the beach is open and available to the public (Special Condition #1), the project will not result in any significant impacts to public access. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with all of the public access and recreation policies of the Coastal Act.

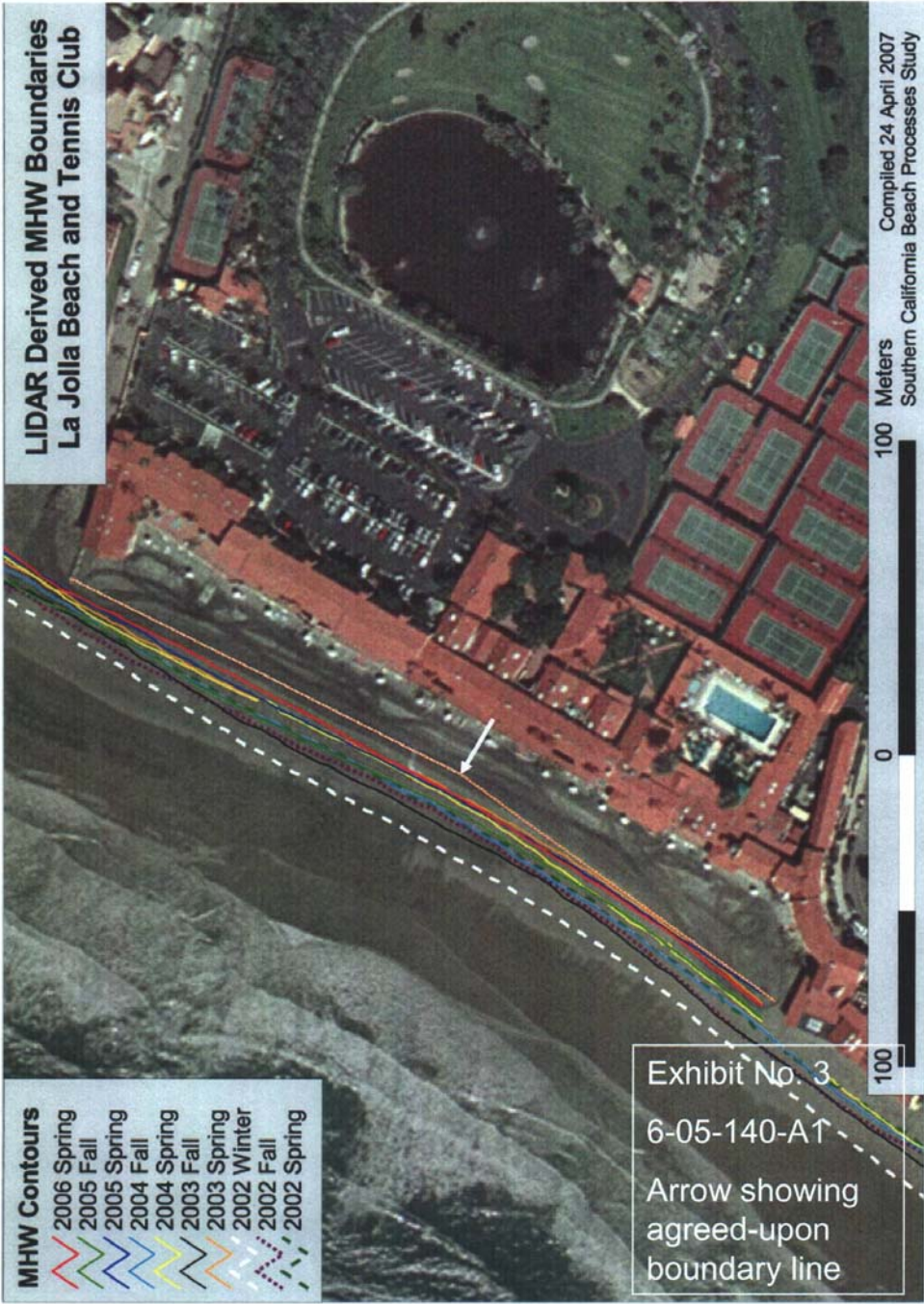
3. Local Coastal Planning. The proposed development will occur in the water and on the beach adjacent to the LJBTC. The proposed revision to the approved signage will make it easier for the public to know where they can walk and recreate on the beach without trespassing on private property. The signage makes clear that all waters in the designated public swim area are open to the public, including the waters protected by ropes and buoys, as proposed. In addition, the placement of a yellow line on the signage and a flag on the beach in the middle of the imaginary line will help to further demarcate this area. The line is further inland than any of the plotted mean high tide line locations and results in more land area for the public to walk and recreate upon which is an added public benefit. Therefore, the Commission finds that the subject proposal would not prejudice the ability of the City of San Diego to continue to implement its certified LCP for the La Jolla area of the City of San Diego.

4. Consistency with the 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 Chapter 3 policies of the Coastal Act. Mitigation measures, including a condition addressing the signage that pertains to public access along the shoreline 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.










DESIGNATED PUBLIC AREA

All waters between Roseland Drive and Avenida de la Playa are open to the public, including waters protected by ropes and buoys.

Public beach access permitted seaward of the yellow line.

Recreational passage permitted landward of the yellow line along the water's edge in event of a high tide.

Respect private property.

EXHIBIT NO. 4
APPLICATION NO. 6-05-140-A1
Proposed revised language for signage & approx. location of flag on beach
 California Coastal Commission

CALIFORNIA COASTAL COMMISSION

San Diego Coast Area Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402
(619) 767-2370

Date: January 23, 2008
Permit Application No.: 6-05-140
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NOTICE OF INTENT TO ISSUE PERMIT
(Upon satisfaction of special conditions)

THIS IS NOT A COASTAL DEVELOPMENT PERMIT

THE SOLE PURPOSE OF THIS NOTICE IS TO INFORM THE APPLICANT OF THE STEPS NECESSARY TO OBTAIN A VALID AND EFFECTIVE COASTAL DEVELOPMENT PERMIT ("CDP"). A Coastal Development Permit for the development described below has been approved but is not yet effective. Development on the site cannot commence until the CDP is effective. In order for the CDP to be effective, Commission staff must issue the CDP to the applicant, and the applicant must sign and return the CDP. **Commission staff cannot issue the CDP until the applicant has fulfilled each of the "prior to issuance" Special Conditions.** A list of all of the Special Conditions for this permit is attached.

The Commission's approval of the CDP is valid for two years from the date of approval. To prevent expiration of the CDP, you must fulfill the "prior to issuance" Special Conditions, obtain and sign the CDP, and commence development within two years of the approval date specified below. You may apply for an extension of the permit pursuant to the Commission's regulations at Cal. Code Regs. title 14, section 13169.

On **July 13, 2006**, the California Coastal Commission approved Coastal Development Permit No. **6-05-140**, requested by **City of San Diego** subject to the attached conditions, for development consisting of: **Placement of buoy markers in the ocean to demarcate safe swimming area from April 1st to October 31st each year**, more specifically described in the application file in the Commission offices. **Commission staff will not issue the CDP until the "prior to issuance" special conditions have been satisfied.**

The development is within the coastal zone **immediately offshore of the La Jolla Beach & Tennis Club (2000 Spindrift Drive), between the western extensions of Paseo Dorado and Avenida de la Playa, La Jolla, San Diego, San Diego County.**

EXHIBIT NO. 5
APPLICATION NO. 6-05-140-A1
Notice of Intent/ Special Conditions/ CDP #6-05-140



NOTICE OF INTENT TO ISSUE PERMIT

(Upon satisfaction of special conditions)

Date: January 23, 2008

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If you have any questions regarding how to fulfill the "prior to issuance" Special Conditions for CDP No. 6-05-140, please contact the Coastal Program Analyst identified below.

Sincerely,
PETER M. DOUGLAS
Executive Director



By: LAURINDA OWENS
Coastal Program Analyst
Date: January 23, 2008

ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this Notice and fully understands its contents, including all conditions imposed.

_____ Date

_____ Permittee

Please sign and return one copy of this form to the Commission office at the above address.

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.

NOTICE OF INTENT TO ISSUE PERMIT

(Upon satisfaction of special conditions)

Date: January 23, 2008

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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.

SPECIAL CONDITIONS:

The permit is subject to the following conditions:

1. **Designated Public Swim Area and Public Access Signage.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the City shall submit for review and written approval of the Executive Director, a signage plan that includes the following:
 1. A minimum of four signs shall be installed in a prominent area and visible to the public along the beach. At least one sign shall be installed at each of the following locations: 1) at the north end of the demarcated swim area at the terminus of Avenida de la Playa; 2) at the north end of the demarcated swim area on the wooden barricade that extends west from the terminus of Avenida de la Playa; 3) at the entrance to the Marine Room coastal accessway (near Roseland Drive); and 4) at the south end of the demarcated swim area on the northern wall of the Marine Room coastal accessway (at eye level to assure visibility by the public).
 2. Signs shall be a minimum of 2' x 18" in size and include the following language: "Designated Public Swim Area. All waters between Avenida de la Playa and Roseland Drive are open to the public, including waters protected by ropes and buoys. Public beach access is permitted."
 3. A written agreement that the signage shall remain in place in perpetuity.

NOTICE OF INTENT TO ISSUE PERMIT

(Upon satisfaction of special conditions)

Date: January 23, 2008

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

2. Timing of Placement of Buoys in Ocean. The proposed buoys shall not be installed in the ocean prior to March 1st and must be removed immediately after October 31st of each year.

3. Condition Compliance. Within 90 days of Commission action on this coastal development permit 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 provision of Chapter 9 of the Coastal Act.

4. Term of Permit. The permit approved herein shall be valid for five (5) years from the date of Commission action. The applicant may request an amendment to the permit to allow additional time. Development authorized by this permit may continue beyond the five-year term of the permit until the Commission acts on an application to extend the duration of the permit if a complete application for such an extension is filed prior to the end of the five-year term.

5. Beach Grooming/Sand Removal. Routine beach grooming seaward of the La Jolla Beach and Tennis Club is permitted for the purpose of trash and wrack removal. However, no grading, movement or transportation of sand off-site or movement of sand that changes the beach profile, including creation of a perched beach or sand berm for protection from wave run-up, shall be permitted.