

CALIFORNIA COASTAL COMMISSION

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



Th19c

Filed: January 8, 2008
49th Day: February 26, 2008
180th Day: July 6, 2008
Staff: Toni Ross-SD
Staff Report: March 20, 2008
Hearing Date: April 9-11, 2008

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-07-111

Applicant: California Department of Parks and Recreation

Description: Installation of a mechanical fee collection device at Carlsbad State Beach Parking lot.

Site: Entrance to parking lot at Carlsbad State Beach, at Tamarack Ave west of Carlsbad Boulevard, Carlsbad, San Diego County.

Substantive File Documents: CDP #'s 6-93-216, 6-97-18, 6-99-40, and 6-06-51.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending approval of the project with various special conditions. The subject site is a highly used and currently free parking lot, immediately adjacent to the Pacific Ocean and near Agua Hedionda Lagoon. The development, as proposed, raises concerns including impacts to public access, lower cost recreational facilities resulting from the flat rate \$8.00 per day use fee and impacts to coastal bluffs resulting from the potential for pedestrians establishing alternative routes down the bluff to avoid the pay parking lot. Special conditions include the requirement for a monitoring program to document any impacts to public access, or the development of additional public trails down the coastal bluff. A further special condition has been recommended to approve the parking fees on a trial three year basis. After three years, if the applicant wishes to continue the fee program, a new coastal development permit or permit amendment will be required and the results of the monitoring will be used to determine any residual impacts. As conditioned, all potential adverse impacts on coastal resources are addressed to assure consistency of the development with Chapter 3 policies 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 Coastal Development Permit No. 6-07-111 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not 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 complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Project Modifications. Only that work specifically described in this permit is authorized. Any additional modifications will require separate authorization from the Coastal Commission (i.e. change in hours of operation, removal/reformatting of existing spaces).

2. Parking Monitoring Program. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for review and written approval of the Executive Director, a parking monitoring program which shall, at a minimum, incorporate the following:

- a. Monitoring shall be conducted throughout the three-year term that the permit authorizes the operation of the devices.
- b. Monitoring shall occur at the following locations:
- From the west side of Carlsbad Blvd. east to the NCTD rail road tracks and from Agua Hedionda Lagoon north to Acacia Ave. (ref. Exhibit #3).
 - All unimproved pedestrian accessways along the bluff from Agua Hedionda Lagoon north to Acacia Ave. (ref. Exhibit #3)
 - Carlsbad State Beach Parking Lot
- c. Monitoring for the parking lot shall occur on:
- One Saturday and one Sunday each month from date of installation until three years following installation.
 - Every Saturday, Sunday and holiday between Memorial Day weekend and Labor Day.
 - Monitoring of the parking lot shall occur on the same day as monitoring of the surrounding neighborhood.
- d. Monitoring within the parking lot shall consist of:
- Parking counts taken at the approximate hours of 10:00 a.m., 1:00 p.m. and 4:00 p.m. on every monitored day; recordation of temperature, weather and surf conditions during each count;
 - Documentation of both actual car counts and percentage of occupancy, assuming 60 available parking spaces; and
 - Documentation of turnover rates.
 - Use of any discounted or annual passes, such as the Golden Bear Pass, Distinguished Veterans Pass, Disabled Discount Pass, or the Annual Day Use Parking Pass by patrons of Carlsbad State Beach Parking Lot.
- e. Monitoring the surrounding neighborhood (as noted in the first sections of letter "b" above) shall occur on:
- One Saturday and one Sunday each month from date of installation until three years following installation.
 - Every Saturday, Sunday and holiday between Memorial Day weekend and Labor Day.
 - Monitoring of the surrounding neighborhood shall occur on the same day as the monitoring of the parking lot.
- f. Monitoring the surrounding neighborhood (as noted in the first to sections of letter "b" above) shall consist of:

- Parking counts within the surrounding areas detailed above for all street parking taken at the approximate hours of 10:00 a.m., 1:00 p.m. and 4:00 p.m. on every monitored day; recordation of temperature, weather and surf conditions during each count; including documentation of total parking spaces available.
- Documentation of any modifications made to existing street parking (i.e. reductions of existing spaces by red curbing, curb cuts, no parking signs, installation of automated parking fee devices).

g. Monitoring of the Coastal Bluffs shall occur on:

- Twice annually, once prior to but within 7 days of Memorial Day Weekend, and once after but within 7 days of Labor Day weekend.

h. Monitoring of Coastal Bluffs shall consist of:

- Monitoring the number and degree of unimproved public accessways (as noted in the third section of letter "b" above)
- Photo documentation of the existing coastal bluffs including detailed documentation of existing and new unimproved trails for access.

Results of the monitoring shall be submitted to the Coastal Commission each year (starting within 60 days of installation), with a final report to be submitted at the end of the 3 years.

The permittee shall undertake monitoring in accordance with the approved monitoring program. Any proposed changes to the approved program shall be reported to the Executive Director. No changes to the 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.

3. Three Year Authorization. The Department shall notify the Executive Director in writing within five days after installation of the mechanical fee collection device. This device shall be authorized to remain for three years from the date that the mechanical fee collection device is installed. At the end of the three year time period, the device shall be removed unless the permittee has submitted an amendment to have it permanently retained.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History.

The California Department of Parks and Recreation (State Parks) is proposing to install a mechanical fee collection device at the parking lot at Carlsbad State Beach. The 60-

space lot is located west of Carlsbad Boulevard opposite Tamarack Avenue and is bounded by Carlsbad Boulevard, the ocean, and the Agua Hedionda Lagoon inlet jetty to the south. The fee collection device is proposed to be located at the entrance to the parking lot for automobile/motorcycle parking only; persons who walk or ride bicycles into the lot are not subject to the parking fee. As proposed, any vehicle would be charged a flat rate of \$8.00 per day for parking in this lot. Located in the City of Carlsbad, the State Beach comprises approximately one and a half miles of coastline. Facilities include a restroom with an outdoor shower, two acres of landscaping with picnic tables, six stairways, and a pedestrian walkway adjacent to the beach. Nearby parking areas consist of free curbside parking along Carlsbad Boulevard, as well as adjacent neighborhood and commercial streets.

The Coastal Commission approved an identical project to the subject project at the same location on 3/17/94 and on 7/10/97, however, the previously approved mechanical fee collection devices at this location have never installed because the City of Carlsbad has been reimbursing State Parks via an in-lieu fee for lost revenues. As such, those permits for installation of the fee collection devices were never implemented and have both subsequently expired. However, it is the Commission's understanding that the City is no longer reimbursing State Parks. The City has expressed interest in negotiating the continuation of their support to allow some off-set of these fees. However, the detail and extent of their contribution has not been finalized by State Parks or the City of Carlsbad at this time. As such, State Parks is seeking authorization from the Commission once more for installation of the automated fee collection devices.

The subject site is a popular parking spot for surfers, joggers, fisherman, and general beach users as it provides access to a seawall with an improved public sidewalk, as well as Agua Hedionda Lagoon, and coastal waters. The parking lot is also often used by employees of local businesses as a place to enjoy ocean views on their lunch hour. Implementation of parking fees raises a concern for public access, in that such a fee may affect the use of this area by the general public.

By way of history regarding Commission action on mechanical fee collection devices, the Commission also approved 16 fee collection devices (XS-91-1 through 16) in the coastal zone at various state parks on 1/13/92. To date, most of these devices have been installed and are in operation. The proposed project was one of the 16 projects proposed by State Parks for installation of mechanical fee collection devices (i.e., iron rangers) described above. Due to operating budget reductions, State Parks proposed to install these fee collection devices in order to offset these cutbacks. State Parks raised fees and also increased the number of recreation areas where fees were collected. In San Diego County, six mechanical fee collection devices were installed at: South Carlsbad State Beach (Ponto Beach), Cardiff State Beach (north parking lot), Cardiff State Beach (south parking lot), Torrey Pines State Beach (north parking lot), Torrey Pines State Beach (south parking lot) and San Onofre State Beach (Trestles parking lot). The fee collection program began in April 1992 at South Carlsbad, in November 1991 at Torrey Pines, and in October 1991, and again in July 2006 at Cardiff.

2. Public Access. As stated above, the proposed project may result in impacts to public access. As such, the following Coastal Act policies are applicable and state in part:

Section 30210

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

Section 30211

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

Section 30212

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

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,
- (2) adequate access exists nearby, or,

[...]

Section 30212.5

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

Section 30214

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

- (1) Topographic and geologic site characteristics.
- (2) The capacity of the site to sustain use and at what level of intensity.

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

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

Section 30252

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation,....

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. However, other provisions of State law require the State Parks to impose new fees at all State Parks where it is feasible to do so. As stated above, all other State Parking lots located coastally within San Diego County require the collection of parking fees. These fees are used to off-set the expenses of maintaining the state parks and their associated facilities. Currently, State Parks manages 260 miles of California's coastline and through their mandated responsibilities is implementing and furthering Coastal Act policies by providing public facilities that enhance and make more accessible coastal recreational experiences. Carlsbad State Park facilities include a 60 space parking lot, restroom facilities, an outdoor shower, two acres of landscaping with picnic tables, six stairways, and a pedestrian walkway adjacent to the beach. The lot is currently open from 5 a.m. to 11 p.m. daily.

As discussed above, the primary purpose underlying the installation of the fee collection device is to obtain sufficient revenue to enable State Parks to continue the maintenance and operation of this State Park. Again, historically the City of Carlsbad has subsidized the parking lot fees, to allow the facilities to remain free to the public. However, as discussed above, it appears as though the City of Carlsbad is no longer paying these fees. As such, a method for off-setting the cost of maintaining this State Beach needs to be provided in some other fashion. It is important to note that the City of Carlsbad has expressed interest in continuing to provide State Parks assistance for the maintenance of said facilities. However, the details of this agreement have not been worked out. Should the City of Carlsbad and State Parks come to an agreement, the fee collection devices would not be necessary, as was the case in the previously permitted Coastal Development

Permits (ref. CDP #'s 6-93-216, 6-97-18). In the absence of such an agreement, the protection of these facilities would need to be accomplished through some other fashion. Again, this has come in the form of fee collection devices at all other coastal State Parks in San Diego County and thus can be considered consistent with the applicable Coastal Act policies. Without these fees, the amenities may not be maintained and more significant impacts to public access could result (i.e. the closure of the parking lot, restrooms, etc.).

However, there is the potential for impacts to public access to occur as a result of the installation and operation of the fee collection device. Special Condition #2 requires the applicant to submit a monitoring report to address this issue. This monitoring report will determine if the installation fees are resulting in a lower use of the parking lot and its facilities. Further, Special Condition #3 requires that this permit is only on a three year trial basis. If the Commission determines that significant impacts to public access have resulted from the installation of these fee collecting devices, based on the results of the monitoring report, further restrictions may become necessary and will be addressed at that time. A further condition, Special Condition #1, states that this application is only for the installation of the fee collection device, and that any other modifications to the parking lot (i.e. change in hours of operation) would require additional review. As such, the number of spaces, functioning and hours of operation of the facility will not be altered and therefore will not result in any impacts to public access. As such, as conditioned, public access will be protected with the installation of the fee collecting devices, and thus the project as conditioned is consistent with all applicable Coastal Act Policies.

3. Protection of Lower Cost Visitor Serving Facilities. The following Coastal Act policies are applicable and state in part:

Section 30213

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

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.

As proposed, the 60 space parking facility would now require all visitors to pay a flat rate of \$8.00 per day for use of the parking facilities and its associated amenities. The parking lot is currently free and is highly utilized by the general public. As stated previously, surfers, walkers, joggers and fisherman alike currently gain access to the coast by this parking lot. A "sea wall" with an improved sidewalk is used by runners and

walkers; fisherman park in the lot and then cross the street to fish in Agua Hedionda Lagoon. Because this parking lot directly overlooks the water, employees of local businesses choose to eat their lunch while parked here, and residents park there to enjoy the sunsets, in addition to the typical beach oriented uses. As such, concerns are raised for the protection of lower cost recreational uses that currently exist at this location. \$8.00 per day is the fee currently charged at all State Parks beach parking lots. And as such, this is the only price proposed by State Parks for this application. This fee may seem a significant cost for those who desire to park in the facility for a limited amount of time, or on a regular basis. However, the State Parks has numerous programs to decrease the cost to those who frequent their facilities or to those who are not capable to paying those kinds of fees. All member of the public can pay \$125.00 for an annual day pass. This pass works at all San Diego County beach parking lots including San Elijo, Silver Strand, South Carlsbad, Cardiff etc as well as other state park locations throughout the state. This pass would decrease the total fees collected for those who frequent the Sate Parks beach parking lots. Further, State Parks has both a Disabled and a Distinguished Veterans Pass. Both of these passes would be provided at 50% less than the typical Annual Day Pass. Further, the Golden Bear Pass provides a highly discounted pass for those with disabilities or who are of lower income. As stated on the State Parks website, those who may apply for the Golden Bear Pass can be defined as:

Any qualifying person receiving Aid to the Aged, Blind, or Disabled; any person 62 years of age or older with income limitations specified on the application form; or any person receiving aid under the applicable aid codes in the CalWORKS Program is eligible to receive the Golden Bear Pass.

This pass is also an annual pass, but only requires a payment of \$5.00 annually. As such, while the parking lot will not remain free, the fees required are necessary for the maintenance of the parking lot and its associated amenities. Further, State Parks has incorporated numerous programs to encourage and protect lower fees for those with disabilities or who are unable to pay the standard fees. Special Condition #2 requires the applicant to monitor the parking lot for members of the public utilizing these programs, as all vehicles using the discounted or annual passes will be required to display the passes in the vehicle window. Further, Special Condition #3 states that the permit is valid for a three year trial basis. If the monitoring reports indicate that these programs are being under utilized, further requirements may become necessary and will be addressed if the applicant chooses to seek a permit for extending the collection of the parking fees. As such, as conditioned, the proposed development will not result in impacts to lower cost recreational facilities and can be found consistent with all applicable policies of the Coastal Act.

4. Protection of Coastal Bluffs.

Section 30230

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or

economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30253

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

As stated above, the Carlsbad State Beach parking lot is located immediately adjacent and north of a coastal bluff. Staff visited the location and currently there are numerous unimproved access trails down the coastal bluff, created by pedestrians gaining access to the beach from Carlsbad Blvd. by way of the bluff as opposed to the parking lot. Currently the parking lot is at full capacity a majority of the year. As such, beach goers park south of the parking lot along Carlsbad Blvd. These beachgoers often then gain access to the sandy beach and waters by navigating down the unimproved trails on the bluff as opposed to walking north to the Carlsbad State Beach parking lot. It is possible that the parking fees will further dissuade the general public from utilizing the State Beach parking lot and they will gain access more often from Carlsbad Blvd. where parking is still free, and again navigating down the unimproved accessways down the bluff. Therefore, the development raises concerns associated with these possible impacts. As more of the public is accessing the beach from the bluffs, more public accessways may be created further exacerbating erosion rates and thus stability of the bluff. As such, Special Condition #2 requires the applicant to monitoring biannually the state of the nearby coastal bluff. This special condition requires the applicant to monitor the number and extent of public accessways down the bluff. Further, Special Condition #3 requires that the permit for the collection of fees for the parking lot be done on a three year trial basis. If the submitted reports indicate that the general public is avoiding the parking lot due to the \$8.00 fee resulting in impacts to the coastal bluff through public access, further restrictions might become necessary to protect the integrity of the coastal bluff and the safety of beachgoers.

In conclusion, the proposed project is for the installation of a fee collection device at a free beach parking lot. As proposed, the development may result in impacts to public access, the protection of lower cost recreational facilities, and impacts to marine resources, namely coastal bluffs. As conditioned, the applicant is required to monitor the bluffs and parking lot for three years to provide the Commission conclusions on if the proposed fee collection devices are resulting in impacts to the above stated coastal resources. As such, as conditioned, the project is consistent with all applicable policies of the Coastal Act.

5. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The Agua Hedionda Land Use Plan (LUP) has been certified by the Commission but no implementing ordinances have been submitted by the City for this plan segment. Thus, the standard of review for this application is the Chapter 3 policies of the Coastal Act. The proposed development, although within the boundaries of the City of Carlsbad, is a State Park facility and does not require review or approval by the City. However, the City has been involved in the project, and will ultimately support the inclusion of the fees if an agreement is not reached between the City and State Parks for the subsidy of these fees. The City's certified LCP contains policies for the protection of its public beaches. The proposed project is consistent with these policies. Therefore, approval of the proposed project, as conditioned, will not prejudice the ability of the City of Carlsbad to obtain a fully-certified LCP for the Agua Hedionda Lagoon segment.

6. 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.

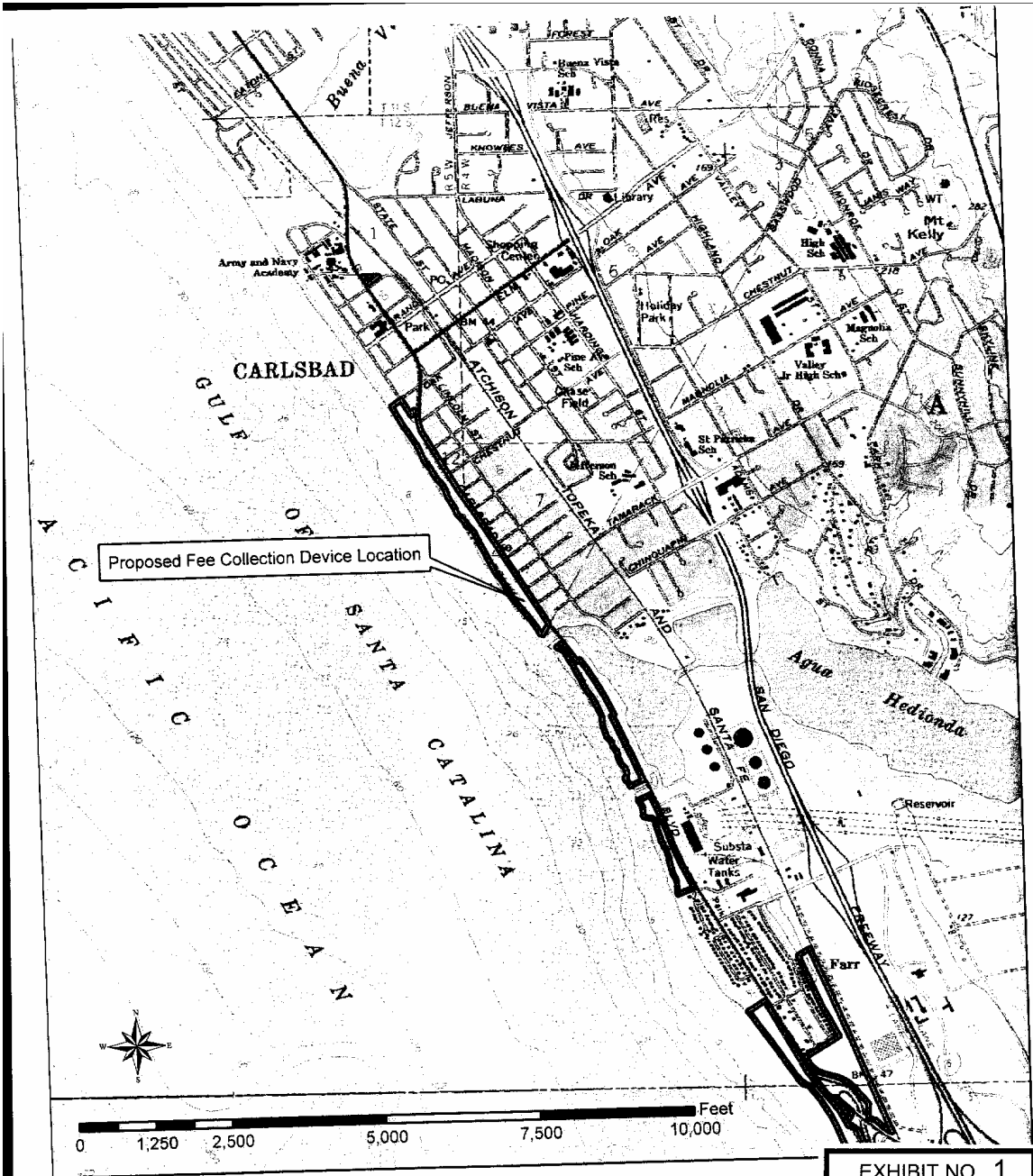
As discussed herein, the proposed project will not cause significant adverse impacts to the environment. Specifically, the project, as conditioned, has been found consistent with the public access and resource protection policies of the Coastal Act. As conditioned, there are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:


1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development

shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.



**Vicinity Map USGS 7.5' San Luis Rey Quadrangle
Proposed Fee Collection Device
Tamarack Day Use Lot
Carlsbad State Beach**

EXHIBIT NO. 1
APPLICATION NO. 6-07-111
Location Map


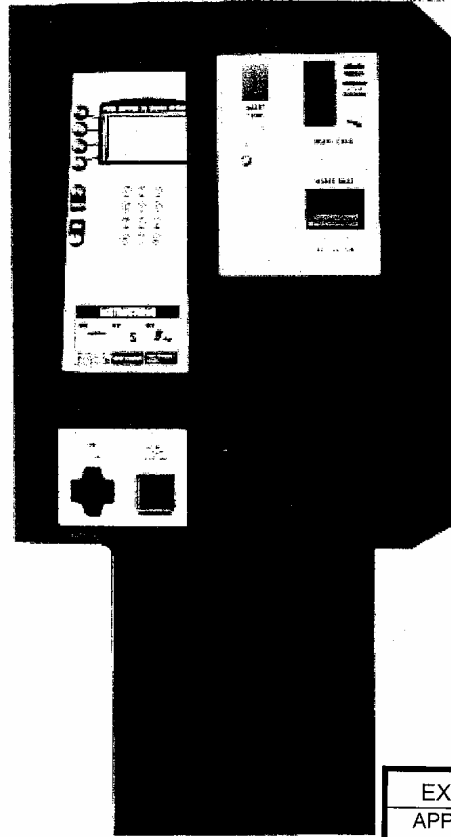
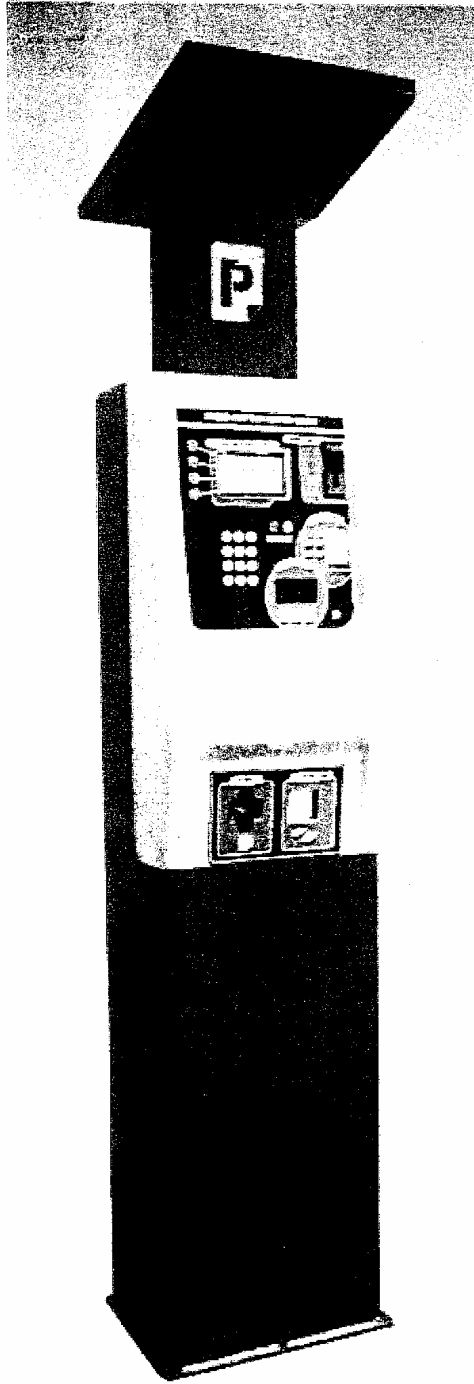


EXHIBIT NO. 2
APPLICATION NO.
6-07-111
Example of Fee Collection Device
 California Coastal Commission

