

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071



W11a

Appeal Filed: 4/2/2009
49th Day: 5/21/2009
Staff: Charles Posner - LB
Staff Report: 4/15/2009
Hearing Date: May 6, 2009
Commission Action:

STAFF REPORT: APPEAL **NO SUBSTANTIAL ISSUE**

LOCAL GOVERNMENT: City of Long Beach

LOCAL DECISION: Approval with Conditions

APPEAL NUMBER: A-5-LOB-09-062

APPLICANT: City of Long Beach Department of Parks, Recreation & Marine
(c/o Lee Ostendorf)

APPELLANT: Laurence B. Goodhue

PROJECT LOCATION: 5255 Paoli Way (Marine Stadium), City of Long Beach.

PROJECT DESCRIPTION: Appeal of City of Long Beach Local Coastal Development Permit No. 0810-11, approved with conditions to establish a weekly (each Wednesday) Farmers Market with crafts and ready to eat food vendors in the northern portion of the parking lot of Marine Stadium.

SUBSTANTIVE FILE DOCUMENTS:

1. City of Long Beach Certified Local Coastal Program (LCP), 7/22/80.
2. Coastal Commission Appeal File No. A-5-LOB-08-218 (Marine Stadium Fence).
3. City of Long Beach Local Coastal Development Permit No. 0810-11 (Exhibit #3).

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission, after public hearing, determine that the appeal raises **no substantial issue** with respect to the grounds on which the appeal has been filed. The local coastal development permit approving the weekly Farmers Market does not raise a substantial issue with respect to the provisions of the City of Long Beach certified Local Coastal Program (LCP) or the public access policies of the Coastal Act. The City-approved project will not adversely affect public access, public safety, or the public's use of Marine Stadium. The City has provided factual and legal support for its decision, and the extent and scope of the approved development is small. There are no significant coastal resources affected by the decision, and no adverse precedent will be set for future interpretations of the LCP. Finally, the appeal does not raise issues of regional or statewide significance. **The motion to carry out the staff recommendation is on Page Four.**

I. APPELLANT'S CONTENTIONS

Laurence B. Goodhue has appealed the City's approval of Local Coastal Development Permit No. 0810-11 (See Exhibits). The local permit authorizes the applicant to operate a weekly (each Wednesday) Farmers Market with crafts and ready to eat food vendors in the northern portion of the parking lot of Marine Stadium (Exhibit #2).

On March 25, 2009, the Commission's South Coast District office in Long Beach received an appeal from the appellant with a long list of reasons for opposing the weekly event in its current location. The appeal is attached as Exhibit #4 to this staff report (See Exhibit #4). The appellant's list includes the following reasons for opposing the weekly event:

1. There are other locations where the weekly event could occur.
2. A grant deed for the property prohibits commercial uses in Marine Stadium.
3. Visitors to the weekly event remove part of a park from public use.
4. Visitors to the weekly event negatively impact parking at Marina Vista Park.
5. The non-boating related, non-coastal dependant commercial operation sets the footprint for further commercialization of the public park.

On March 30, 2009, the Commission's South Coast District office issued the Executive Director's determination, pursuant to Section 30620(d) of the Coastal Act, that the appeal is patently frivolous; thereby requiring the appellant to submit a filing fee of \$300 if he wished to continue to pursue the appeal (Exhibit #5, p.7). The appeal is patently frivolous because the appeal raises no allegations of inconsistency between the local government's approval of the weekly event and the standards set forth in the certified Local Coastal Program (LCP) and the public access policies of the Coastal Act.

On April 2, 2009, the Commission's South Coast District office in Long Beach received the \$300 filing fee from the appellant along with a letter that adds a public safety concern to his list of reasons for opposing the weekly event (Exhibit #5). The appellant's public safety concern is the potential for an automobile accident at the event site in the Marine Stadium parking lot.

II. LOCAL GOVERNMENT ACTION

On December 8, 2008, after a public hearing, the City of Long Beach Zoning Administrator approved Local Coastal Development Permit No. 0810-11 (with conditions) for the proposed project. The Zoning Administrator's decision was appealed to the Planning Commission by Laurence B. Goodhue. On February 19, 2009, after a public hearing, the City of Long Beach Planning Commission upheld the Zoning Administrator's action and denied the appeal (Exhibit #3). The Planning Commission's action was not appealable to the City Council.

On March 27, 2009, the Commission's South Coast District office in Long Beach received from the City Planning Department the Notice of Final Local Action for Local Coastal Development Permit No. 0810-11 (Exhibit #3). The Commission's ten working-day appeal period was established on March 30, 2009. On April 2, 2009, the appeal of Laurence B. Goodhue was officially filed in the Commission's South Coast District office with the receipt of the \$300 filing fee from the appellant. The appeal period ended at 5 p.m. on April 13, 2009, with no other appeals received.

The City of Long Beach Local Coastal Program (LCP) was certified on July 22, 1980. Section 30603(a)(1) of the Coastal Act identifies the proposed project site as being in an appealable area by virtue of its location. The proposed project is located between the sea and the first public road paralleling the sea, and within three hundred feet of the beach.

III. APPEAL PROCEDURES

After certification of Local Coastal Programs (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Developments approved by cities or counties may be appealed if they are located within the mapped appealable areas, such as those located between the sea and the first public road paralleling the sea or within three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff [Coastal Act Section 30603(a)]. In addition, an action taken by a local government on a coastal development permit application may be appealed to the Commission if the development constitutes a "major public works project" or a "major energy facility" [Coastal Act Section 30603(a)(5)].

Section 30603 of the Coastal Act states:

- (a) After certification of its Local Coastal Program, an action taken by a local government on a coastal development permit application may be appealed to the Commission for only the following types of developments:
 - (1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.
 - (2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.

The grounds for appeal of an approved local coastal development permit in the appealable area are stated in Section 30603(b)(1), which states:

- (b)(1) The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in this division.

The action currently before the Commission is to find whether there is a "substantial issue" or "no substantial issue" raised by the appeal of the local approval of the proposed project. Sections 30621 and 30625(b)(2) of the Coastal Act require a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for appeal.

When Commission staff recommends that no substantial issue exists with respect to the grounds stated in the appeal, the Commission will hear arguments and vote on the substantial issue question. It takes a majority of Commissioners present to find that the grounds for the appeal raise no substantial issue. If the Commission determines that no substantial issue exists, then the local government's local coastal development permit action will be considered final. Should the Commission determine that the appeal does raise a substantial issue, the Commission will consider the permit application de novo at a future meeting. The only persons qualified to testify before the Commission at the substantial issue portion 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.

IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that **no substantial issue exists** with respect to the grounds for the appeal regarding conformity of the project with the City of Long Beach certified Local Coastal Program and the public access policies of the Coastal Act, pursuant to Public Resources Code Section 30625(b)(2).

Staff recommends a **YES** vote on the following motion:

MOTION: *"I move that the Commission determine that Appeal No. A-5-LOB-09-062 raises **NO SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act."*

Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

Resolution to Find No Substantial Issue for Appeal A-5-LOB-09-062

The Commission finds that Appeal No. A-5-LOB-09-062 does not present a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

V. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description

Local Coastal Development Permit No. 0810-11 would permit the City Department of Parks, Recreation and Marine to establish a weekly Farmers Market in the northern portion of the parking lot of Marine Stadium (Exhibit #3). The approved event would occur once a week, on Wednesdays between 2 p.m. and 7 p.m. The permit limits the event to 45 booths for sales of crafts and ready to eat food vendors. No activities are permitted in the landscaped areas adjacent to the parking lot where the event is authorized. No admission fee is required for the public to attend the Farmers Market.

Marine Stadium is a City park with both land and water recreational facilities (Exhibit #2). The mile-long portion of Alamitos Bay, constructed as the rock-lined Marine Stadium in the 1920s, was a rowing venue during the 1932 and 1984 Olympic Games. Marine Stadium remains a popular venue for boating activities and special events, including rowing competitions, festive regattas, water skiing, and power boat races. The recreational facilities at Marine Stadium include a boathouse and docks for rowing teams, a public boat launch ramp, dry boat storage, a sandy public beach, and public parking lots that can hold up to two thousand vehicles. The City prohibits swimming in most of Marine Stadium because of the boating activities. The location, timing and duration of the Wednesday Farmers Market does not conflict with on-going boating activities or special events at Marine Stadium.

B. Factors to be Considered in Substantial Issue Analysis

Section 30625 of the Coastal Act states that the Commission shall hear an appeal of a local government action unless it finds that no substantial issue exists with respect to the grounds on which the appeal has been filed. The term "*substantial issue*" is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission's regulations simply indicates that the Commission will hear an appeal unless it finds that the appeal raises no significant question as to conformity with the certified LCP or there is no significant question with regard to the public access policies of Chapter 3 of the Coastal Act. In previous decisions on appeals, the Commission has been guided by the following factors.

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP or the public access policies of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and,

5. Whether the appeal raises local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

C. Substantial Issue Analysis

As stated in Section III of this report, the grounds for appeal of a coastal development permit issued by the local government after certification of its Local Coastal Program (LCP) are specific. In this case, the local coastal development permit may be appealed to the Commission on the grounds that it does not conform to the certified LCP or the public access policies of the Coastal Act. The Commission must then decide whether a substantial issue exists in order to hear the appeal.

In this case, for the reasons stated below, Commission staff recommends a finding of no substantial issue because the locally approved development is in conformity with the certified City of Long Beach LCP and the public access policies of the Coastal Act. The appeal raises no allegations of inconsistency between the local government's approval of the weekly event and the standards set forth in the certified Local Coastal Program (LCP) and the public access policies of the Coastal Act.

Mr. Goodhue's appeal is attached as Exhibits #4&5 to this staff report (See Exhibits #4&5). The appellant's list includes the following reasons for opposing the weekly event:

1. There are other locations where the weekly event could occur.
2. A grant deed for the property prohibits commercial uses in Marine Stadium.
3. Visitors to the weekly event remove part of a park from public use.
4. Visitors to the weekly event negatively impact parking at Marina Vista Park.
5. The non-boating related, non-coastal dependant commercial operation sets the footprint for further commercialization of the public park.
6. There is a potential for an automobile accident at the event site in the Marine Stadium parking lot.

The appellant is requesting that the Commission accept his appeal and overturn the local coastal development permit that the City approved for the proposed project. The standard of review is only whether the local government decision appeal raises a substantial issue as to conformity with the City of Long Beach LCP and the public access policies of the Coastal Act.

Both the public access policies of the Coastal Act and the LCP include provisions that address the relevant issues raised by the City's approval of the local coastal development permit. The relevant Coastal Act policies and LCP provisions are listed below.

Chapter 3 of the Coastal Act contains the following public access policies:

Section 30210 of the Coastal Act states:

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 of the Coastal Act states:

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 of the Coastal Act states:

(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, (3) Agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

(b) For purposes of this section, "new development" does not include:

(1) Replacement of any structure pursuant to the provisions of subdivision (g) of Section 30610.

(2) The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.

(3) Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.

(4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not a seaward of the location of the former structure.

(5) Any repair or maintenance activity for which the commission has determined, pursuant to Section 30610, that a coastal development permit will be required unless the commission determines that the activity will have an adverse impact on lateral public access along the beach.

As used in this subdivision "bulk" means total interior cubic volume as measured from the exterior surface of the structure.

(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.

Section 30212.5 of the Coastal Act states:

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

Section 30213 of the Coastal Act states, in part:

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

Section 30214 of the Coastal Act states:

(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.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

The certified LCP policies for Marine Stadium, as set forth in the LCP's Marine Stadium Resource Management Plan (RMP), state:

A. General Policy

Commercial aquatic events will be permitted, provided adequate controls are enforced to preclude adverse impact on recreational uses and adjacent

residential neighborhoods. Conservational considerations are minimal. Educational uses would primarily be aquatic skills development.

B. Guidelines

1. Management Responsibility

Overall management of Marine Stadium will be vested in the Marine Department (see Alamitos Bay).

2. Water Quality

- a. Servicing of power boats will be controlled to minimize toxic metals and petroleum products reaching the water.
- b. New development will be precluded from discharging surface water into the stadium.

3. Public Access

- a. A sand beach, if feasible, will be developed at the northwest end of the stadium.
- b. The publicly owned land north of Marine Stadium to Colorado Street will be developed as a public park providing for field sports, and active and passive recreational uses. Additional parking to serve the park and beach will be a combination of hardtop and grass overflow. The grass parking area shall be used only for major Marine Stadium activities. The boat storage area at the northeast end of the Marine Stadium will be eliminated when this area is converted into public park usage.
- c. No additional paved parking areas will be created at Marine Park.
- d. Usage of Marine Stadium for rowing activities will be encouraged.

4. Maintenance

Existing restroom facilities at the northwest end of the stadium must be accessible to the beach and park users.

In this case, the City-approved project does not conflict with any of the above-stated public access policies or LCP provisions as the City-approved project will not adversely affect public access, public safety, or the public's use of Marine Stadium. The weekly event would not alter any of the existing vehicular or pedestrian entrances to Marine Stadium. The pedestrian entrances to Marine Stadium are open for public access at all times, except during some special events when an admission fee is required. No admission fee is required for the public to attend the Farmers Market. No public park area will be removed from public use, as the City permit clearly states that no activities are permitted in the park or landscaped areas adjacent to the parking lot where the event is authorized (Exhibit #3: Condition Nine). The general public, including visitors to the Farmers Market, are entitled to utilize the adjacent public park for picnicking and passive recreational activities. In order to ensure that adequate parking is provided for all visitors to the area, the City permit requires the posting of signs to direct visitors to the free parking within the Marine Stadium parking lot (Exhibit #3: Condition Fourteen). The free parking provided inside the Marine Stadium parking lot will supplement the public along the streets that is often utilized by public park users.

The appeal asserts that there are other locations where the weekly event could occur. While there may be alternative locations for the weekly event, the local government determined correctly that the proposed event at the proposed location is consistent with the certified LCP and the public access policies of the Coastal Act because the location, timing and duration of the Wednesday Farmers Market does not conflict with public recreation, public access, boating activities, or special events at Marine Stadium. Therefore, the appeal raises no substantial issue.

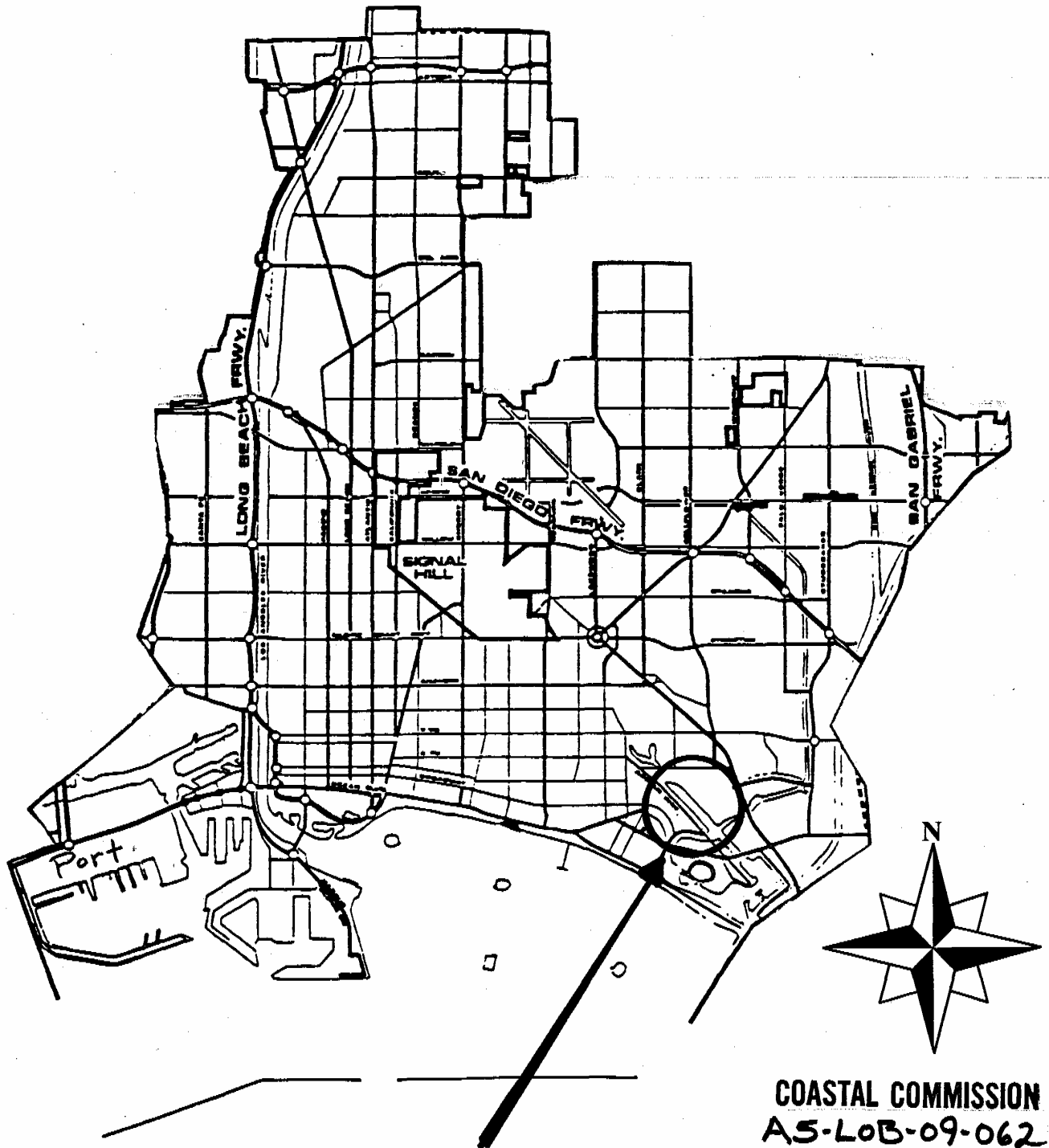
The appeal also asserts that commercial uses are prohibited in Marine Stadium by a grant deed, but terms of a grant deed are not valid grounds for an appeal of a local coastal development permit. In regards to the assertion that the City's approval of the Farmers Market sets a precedent for "further commercialization of the public park," the local coastal development permit process will ensure that development does not obstruct public access or interfere with recreational activities at Marine Stadium. In this case, the weekly Farmers Market does not conflict with public recreation, public access, or boating activities. Therefore, the appeal raises no substantial issue.

In regards to the public safety concern, Condition Twelve of the local coastal development permit requires that barricades be provided between the Farmers Market and the drive aisle of the Marine Stadium parking lot, and Condition Sixteen requires the provision of a crossing guard at the pedestrian entrance to the Marine Stadium parking lot located at Paoli Way (Exhibit #3, p.3). Therefore, the appeal raises no substantial issue.

Applying the five factors listed in the prior section further clarifies that the appeal raises no "substantial" issue with respect to conformity with the certified LCP or the public access policies of the Coastal Act to a level of significance necessary to meet the substantial issue standard of Section 30625(b)(1). The local coastal development permit approving the weekly Farmers Market does not raise a substantial issue with respect to the provisions of the City of Long Beach certified LCP or the public access policies of the Coastal Act. The City-approved project will not adversely affect public access, public safety, or the public's use of Marine Stadium. The City, in the local coastal development permit findings, has provided factual and legal support for its decision (Exhibit #3, ps.4&5). The extent and scope of the approved development is small and there are no significant coastal resources affected by the decision. No adverse precedent will be set for future interpretations of the LCP since the approval is limited to a weekly temporary event that conforms with the provisions of the certified LCP. Finally, the appeal does not raise issues of regional or statewide significance.

In conclusion, the Commission finds that the appeal raises no substantial issue in regards to the locally approved development's conformity with the City of Long Beach Certified LCP and the public access policies of the Coastal Act.

City of Long Beach

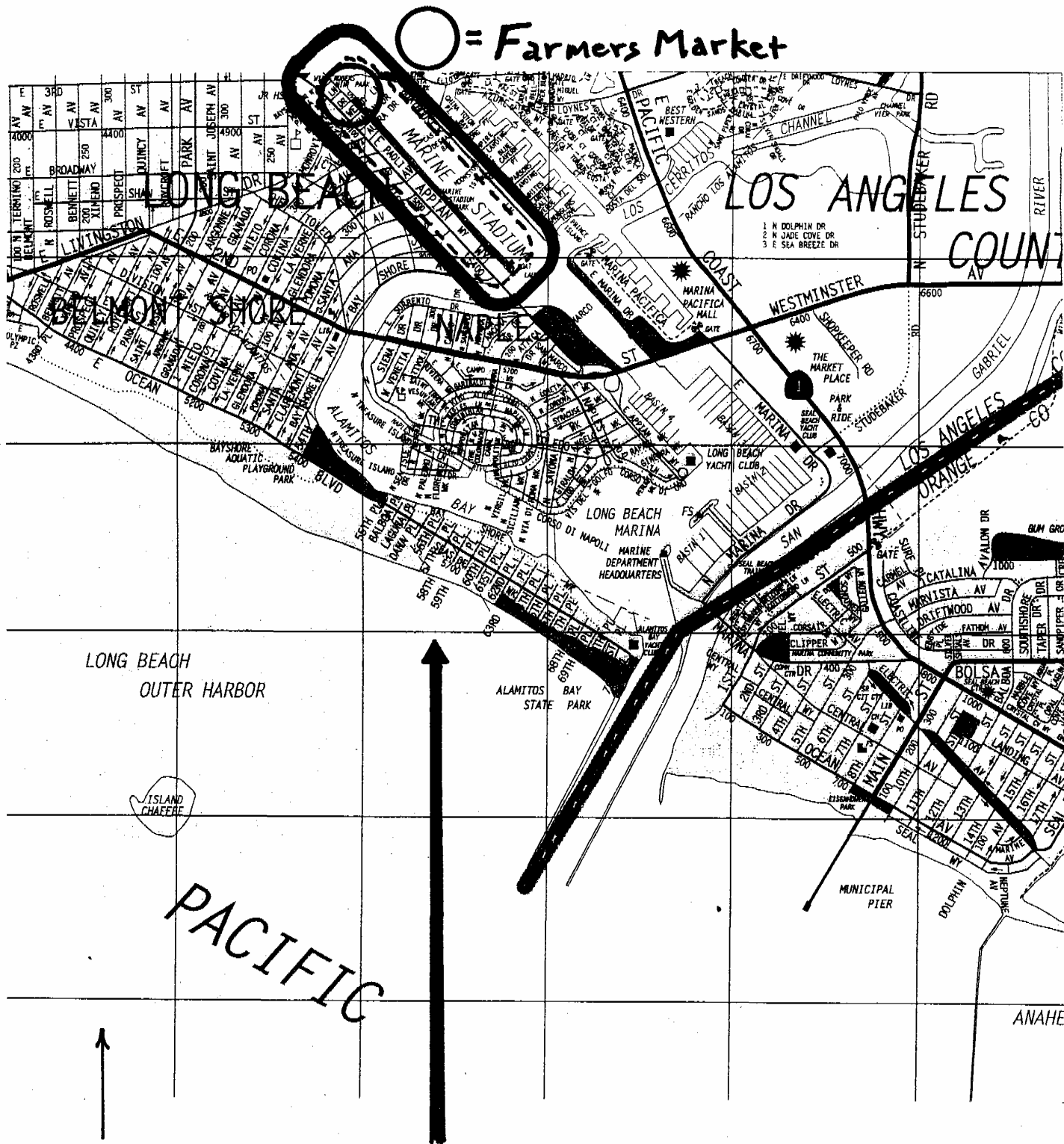


Marine Stadium

COASTAL COMMISSION
A5-LOB-09-062

EXHIBIT # 1

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○ = Farmers Market

LONG BEACH
OUTER HARBOR

ISLAND
CHAFFEE

PACIFIC

N

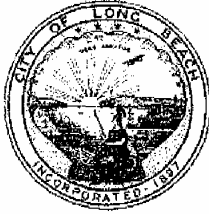
Project Site:

Marine Stadium

COASTAL COMMISSION
A5-LOB-09-062

EXHIBIT # 2

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CITY OF LONG BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

333 WEST OCEAN BOULEVARD • LONG BEACH, CALIFORNIA 90802 • FAX (562)570-6068

RECEIVED
South Coast Region

NOTICE OF FINAL LOCAL ACTION

MAR 27 2009

Application No.: 0810-11

Project Location: 5255 Paoli Way (Marine Stadium)

Applicant: City of Long Beach Department of Parks, Recreation
c/o Lee Ostendorf
5390 E. 8th Street
Long Beach, CA 90804

Permit(s) Requested: Local Coastal Development Permit

Project Description: Appeal of the Zoning Administrator's decision to approve a request to establish a weekly Farmer's Market with crafts and ready to eat food vendors in the northern portion of the parking lot of Marine Stadium.

Local action was taken by the: Zoning Administrator conditionally approved on:
December 8, 2008

Planning Commission denied the appeal on:
February 19, 2009

Local action is final on: March 1, 2009

CALIFORNIA
COASTAL COMMISSION


This project is in the Coastal Zone and IS appealable to the Coastal Commission.

"If you challenge the action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or issues raised via written correspondence delivered to the (public entity conducting the hearing) at or prior to the public hearing."

See other side for City of Long Beach and California Coastal Commission appeal procedures and time limits.


Derek Burnham
Current Planning Officer

Attachments

Lynette Ferenczy, Planner 
Phone No.: (562)570-6273

District: 3

COASTAL COMMISSION
A5-LoB-09-062

EXHIBIT # 3
PAGE 1 OF 5

CONDITIONS OF APPROVAL
Marine Stadium Farmers Market
Application: 0810-11
Date: February 19, 2008

1. This permit and all development rights hereunder shall **terminate one year** from the effective date (final action date or, if in the appealable area of the Coastal Zone, 21 days after the local final action date) of this permit unless construction is commenced or a time extension is granted, based on a written and approved request submitted prior to the expiration of the one year period as provided in Section 21.21.406 of the Long Beach Municipal Code.
2. This permit shall be invalid if the owner(s) and/or applicant(s) have failed to return **written acknowledgment** of their acceptance of the conditions of approval on the *Conditions of Approval Acknowledgment Form* supplied by the Planning Bureau. This acknowledgment must be submitted within 30 days from the effective date of approval (final action date or, if in the appealable area of the Coastal Zone, 21 days after the local final action date). Prior to the issuance of a building permit, the applicant shall submit a revised set of plans reflecting all of the design changes set forth in the conditions of approval to the satisfaction of the Zoning Administrator.
3. If, for any reason, there is a **violation of any of the conditions** of this permit or if the use/operation is found to be detrimental to the surrounding community, including public health, safety or general welfare, environmental quality or quality of life, such shall cause the City to initiate revocation and termination procedures of all rights granted herewith.
4. The Director of Long Beach Development Services is authorized to make **minor modifications** to the approved design plans or to any of the conditions of approval if such modifications shall not significantly change/alter the approved design/project. The Site Plan Review Committee or Planning Commission shall review any major modifications, respectively.
5. Site development shall conform to the approved plans on file in the Department of Planning and Building. At least **one set of approved plans** containing Planning, Building, Fire, and, if applicable, Redevelopment and Health Department stamps **shall be maintained at the job site**, at all times for reference purposes during construction and final inspection.
6. The property shall be developed and maintained in a neat, quiet, and orderly condition and operated in a manner so as not to be detrimental to adjacent properties and occupants.
7. All structures shall conform to the Long Beach Building Code requirements. Notwithstanding this subject permit, all other required permits from the Building Bureau must be secured.

COASTAL COMMISSION

EXHIBIT # 3
PAGE 2 OF 5

8. A Local Coastal Development Permit (LCDP) is granted to operate a farmers market once a week, on Wednesday afternoon from 2-7 p.m. The farmers market is limited to forty-five (45) booths containing fresh fruits and vegetables, crafts, and ready to eat foods. A minimum of one-third (1/3) of the booths shall sell fresh fruits and vegetables. No other uses are permitted at the market other than those listed above. Any change to the hours of operation for daylight savings time or the distribution of booths allocated to fresh fruits and vegetables shall be submitted in writing with a site plan for review and approval by the Zoning Administrator.
9. The farmers market is limited to the parking lot of Marine Stadium as shown on the submitted site plan. No activities shall take place on the grass or landscaped areas of the stadium or adjacent park.
10. The applicant shall obtain a Special Events permit for the market and comply with all conditions of the permit. Prior to approval of the Special Events permit, the applicant shall provide proof of compliance with all conditions of approval.
11. The applicant shall clean the parking lot and surrounding area after each market and remove the trash. The trash shall not be placed in City trash cans.
12. Barricades shall be provided between the market and drive aisle consisting of concrete bollards or weighted saw horses with reflective material.
13. Any change in operator shall be subject to approval by the Zoning Administrator.
14. A sign shall be placed outside the stadium on Appian Way and Eliot Street stating free parking for the farmers market is located in the stadium parking lot. The location of the sign shall be approved by the Department of Parks, Recreation and Marine.
15. Prior to approval of the Special Events permit the application shall submit a scaled site plan to the Fire Department in compliance with the following conditions:
 - 10' wide aisles are required for public access thorough out the market
 - Two exits are required for emergency egress
 - A 20' wide fire lane shall be maintained into Marine Stadium
 - 40 BC extinguishers are required for all cooking stations and generator locations
16. A volunteer shall be provided by the event permittee to act as a crossing guard at the pedestrian gate near Paoli Way or other means to ensure safe crossing of pedestrians to the market to the satisfaction of the City Traffic Engineer.
17. No amplified music or sound is permitted.
18. Compliance is required with these Conditions of Approval as long as this use is on site. As such, the site shall be available for periodic reinspection conducted at the discretion of city officials, to verify that all conditions of approval are being met. The property owner shall reimburse the City for the inspection cost as per the special building inspection specifications established by City Council.

**LOCAL COASTAL DEVELOPMENT PERMIT
FINDINGS
Case No. 0810-11 (Marine Stadium Farmers Market)
Date: February 19, 2008**

1. THE PROPOSED DEVELOPMENT CONFORMS TO THE CERTIFIED LOCAL COASTAL PROGRAM INCLUDING BUT NOT LIMITED TO ALL REQUIREMENTS FOR REPLACEMENT OF LOW AND MODERATE-INCOME HOUSING; AND

A positive finding can be made for this item.

The proposed use is consistent with the Local Coastal Program (LCP). The use and administration of Marine Stadium is listed in the Local Coastal Plan under the Waterlands Resource Management Plan (RMP), pages III R-1 to R-18, and R34-R48. The Resource Management Plan provides processes to implement the Coastal Act to assure public access to coastal and tide-waterland activities, and among other issues, to establish a balance between public use of waterland and private use of surrounding urban areas.

The Resources Management Plan states uses of the stadium shall primarily focus on the stadium as a recreational and educational facility. The plan does not specifically address other non-permanent commercial uses. Parking is identified as a problem when special events are held at the stadium such as powerboat drag races. The major issues of resource management at Marine Stadium are the use of the stadium as a recreational and education facility and impacts of these uses on the surrounding residential neighborhood.

Marine Stadium was developed during the 1920's for the 1932 Olympic rowing events. The facility is 600' wide and approximately a mile long and was designed as a recreation and educational facility. Special events are also held at the facility, which is managed by the Parks, Recreation and Marine Bureau and Marine Advisory Commission (MAC). In 1977, the Recreation Commission determined that the facility shall be used for rowing, as this was original intended use, then recreational water skiing and powerboats. The northern portion of the site is currently located in PD-1 (SEADIP).

The proposed project involves the establishment of a farmers market every Wednesday from the hours of 2-7 p.m. in the northern portion of the parking lot. The use is strictly limited to the parking lot and no activities are permitted on the grass portion of the park. There are no permanent structures associated with this use. Items for sale include fresh fruits and vegetables, crafts and ready-to-eat foods with a minimum of one-third of the booths dedicated to fresh fruits and vegetables. The applicant shall also obtain a Special Events permit from the City of Long Beach.

The proposed farmers market is not expected to affect activities, access or use of Marine Stadium as a recreational and educational facility. The market has no permanent structures and operates one afternoon a week. The applicant is required to remove all trash and clean the area after each use. Customer parking is provided in

the stadium's existing parking lot. Vehicle access to the stadium is not impeded as the northern portion of the stadium has over 720 parking spaces and no more than 300 customers are expected over the 5-hour period. In addition, many people walk to the market from the surrounding neighborhood. Use of the stadium for a five-hour farmer's market with one to two hour set up and one hour tear down time for up to 45 booths is not expected to reduce or hinder public access to the stadium or interfere with water related activities.

2. THE PROPOSED DEVELOPMENT CONFORMS TO THE PUBLIC ACCESS AND RECREATION POLICIES OF CHAPTER 3 OF THE COASTAL ACT. THE SECOND FINDING APPLIES ONLY TO DEVELOPMENT LOCATED SEAWARD OF THE NEAREST PUBLIC HIGHWAY TO THE SHORELINE.

A positive finding can be made for this item.

Chapter 3 of the Coastal Act deals with the public's right to use of beach and water resources for recreational purposes. The chapter provides the basis for state and local governments to require beach access dedication and to prohibit development, which restricts public access to the beach and/or water resources. This chapter, Coastal Resources Planning and Management Policies, consists of three parts: Article 1 General, Article 2 Public Access and Article 3 Recreation.

Article 1 General - Section 30200. This section provides for direction to review activities in the coastal zone that could have a direct impact on resources within the coastal zone and shall consider such actions on coastal zone resources in order to assure policies are achieved. The farmers market will not impact water resources in the coastal zone. All activities take place within the existing parking lot.

Article 2 Public Access- Section 30210-30214. This section provides direction for public access to recreational opportunities and to ensure that development does not interfere with the public's right of access while protecting the rights of private property owners and natural resource areas from overuse. A one-day a week farmer's market will not interfere with the public's right of access to the water. During the week the use of this portion of the stadium is very low. Pedestrian and vehicle access are provided through the parking lot. The site plan for the market must also be approved by the Fire Department to ensure appropriate clearance for emergency access.

Section 30214 addresses the protection of privacy of adjacent property owners. Staff believes that a one-day a week farmers market will not contribute to the loss of privacy. More people and vehicles will generate slightly more noise; however, this level of noise is similar to regular beach use and much less than noise generated from summer weekend events and boat races. No entertainment, amplified music or sound is permitted. Additionally, Paoli Way is a 15' wide public alley that separates Marine Stadium from the nearest homes.

Articles 3 Recreation - Section 30220-30224. This section provides for the protection of water-oriented recreational activities. The uses for Marine Stadium consist of rowing events, recreation water skiing, and powerboat activities. The establishment of a farmer's market one day a week is not expected to reduce or interfere with these recreational activities and has served to attract people to the stadium and coast.

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4302
(562) 590-5071

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT
(Commission Form D)



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

RECEIVED
South Coast Region

MAR 25 2009

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

CALIFORNIA
COASTAL COMMISSION

LAURANCE B. GODDARD
4 SPBORO 14464 14464
LONG BEACH, CA 90802 (562) 4174 4146
Zip 90802 Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of Local/Port government: LONG BEACH CITY PLANNING COMM.

2. Brief description of development being appealed: NON RESIDENTIAL NON COASTAL DEPENDENT
DE FACTO COMBINATION ALPH + 996 STORE
100% FOR PROFIT

3. Development's location (street address, assessor's parcel no, cross street, etc.): LONG BEACH MARINE STADIUM -
BOATING VENUE - PARCELS LOT -

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: _____

DATE FILED: _____

DISTRICT: _____

H5: 4/88

COASTAL COMMISSION

A5-LOB-09-062

EXHIBIT # 4

PAGE 1 OF 4

Staples Copy Center #164

From: commonsense-sayssavthefence@fastmail.fm
[cacrewood8@fastmail.fm] **Sent:** Thu 2/26/2009 1:53 PM
To: cacrewood8@fastmail.fm; Staples Copy Center #164
Cc:
Subject: APPEAL OF FINAL ACTION OF CITY OF LONG BEACH LCD APPLICATION NO:0810-,CE 08-069;WEEKLY FARMER'S MARKET
Attachments:

Comes forth now this coastal recreationst boater seeking to protect the integrity of the singularly unique,boating venue: Long Beach Marine Stadium from non coastal dependent, non boating commercial,for profit enterprises.

As pictures reveal this is essentially the same merchandise that one could find in a 99 cent or Ralphs.Tiffanys or Tacky-it matters not.It is non boating and non coastal dependent. There are various other places where it could be placed it could be placed in the immediate facility-including,but not limited to:

1.The operators own neighborhood which is just the other side of Marina Vista Park replete with streets and cull de sacs.

2.In the location zoned for such where a community based(non profit) Farmer's Market operates on Sunday-WHICH IS WHERE CITY STAFF FIRST OPTED FOR-BEFORE PRESSURE FROM THE DISCONNECTED NEW COUNCIL REP(The same one that championed the dubious Home Depot project resoundingly rejected by the Superior Court).Though it is held in a water front parking lot.

A.It is outside of the area covered by the Marine Stadium Grant Deed-which granted the area for boating purposes.

B.The above referenced "Sunday location" does not abut nor is it near a grassy,tree shaded,passive park-as is the area where the applicant has the contentious market.

The location where applicant has the market is:

The only,the only,the only,the only,the only,the only,the only,the only,the only the only,the only-

SMALL,TREE SHADED,PASSIVE WATER SIDE PARK,IN THE ENTIRE CITY OF LONG BEACH where one can drive up,park,take four or five steps from one's car,be non grass and:

COASTAL COMMISSION

EXHIBIT # 4
PAGE 2 OF 4

- 1.Lay or sit down
- 2.Relax
- 3.Snooze
- 4.Partake of the vista of the boating activity
- 5.Picnic

Sans the noise and rancor expected in a active park
such a Marina Vista or
the noise and exhaust of passing,buses,cars,trucks

Placement of the applicant's business enterprise at said location
essentially removes the tree shaded
park from public use-as it has been used since its inception.Claims to
the contrary by the applicant
are as disingenuous as was the first application(see attached note to
the United States District Attorney
regarding such as well as letters submitted by members of the operators
Neighborhood Association and the
equally disingenuous support at the zoning hearing.

The City attorney erred in his guidance to the Planning Commission
relative to the uses permitted in the
Granted.He had not read the 30 page Grant Deed.He read only the list of
activities that were permitted in
the upland lands covered in the Grant Deed.He failed to read the section
that deals with creating a specific
section boating.

It should be noted that the Grant Deed in chief was given to the Zoning
Officer at the hearing to be placed
in the record.It was not.Not even the above sections.

It should also be noted that appellant asked the planning commission for
a show of hands of those who
spent at least ten minuets reading the material in the package.The City
Attorney opined to the Commission that
said request was inappropriate and they did not have to answer.Though
agreeing they certainly did not have to
raise their hands,appellant pointed out,no one would prevent them from
so raising their hands.

PUBLIC SAFETY:Think the Santa Monica Farmer's Market.

Simply put the area is to narrow to allow for correction of error on the
part of those trailing boats
who are but for a moment,distracted,so says this individual that has
more experience in event traffic
management within the Marine Stadium.

Its presence in the summer negatively impacts parking visa via the full
use of the adjacent sides of
Marina Vista Park used for baseball,soccer,tennis-which consumes parking
on Eliot.

PERMITTING A NON BOATING RELATED;NON COASTAL DEPENDENT COMMERCIAL

COASTAL COMMISSION

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OPERATION SETS THE FOOTPRINT FOR
FURTHER COMMERCIALIZATION OF THE PUBLIC PARK.

THERE WAS NO OPEN BID FRO THIS COASTAL AREA. The Council Rep SNUCK it in
as a Special Event!!!!!!Waived
\$6000 in fees!!!-for a Commercial Operation!!!!!(your olfactory sense
telling you something???)



cacrewood8@fastmail.fm

COASTAL COMMISSION

EXHIBIT # 4
PAGE 4 OF 4

Staples Copy Center #164

From: commonsense-sayssavthefence@fastmail.fm **Sent:** Thu 4/2/2009 3:33 PM
[cacrewood8@fastmail.fm] *John A. Forchuck 4/2/09*
To: Staples Copy Center #164; cacrewood8@fastmail.fm
Cc:
Subject: Re: APPEAL OF CITY OF LONG BEACH LOCAL COASTAL DEVELOPMENT PERMIT
NO:0810-11:SEE ATTACHED \$300.00 REQUESTED FILING FEE

Attachments:

RECEIVED
South Coast Region

APR 2 2009

On Thu, 02 Apr 2009 14:36 -0700,

"commonsense-sayssavthefence@fastmail.fm" <cacrewood8@fastmail.fm>

CALIFORNIA
COASTAL COMMISSION

wrote:

- > RE: ATTACHED MARCH 30,2009 letter from the California Coastal
- > Commission:
- >
- > After reading and studying the attached letter my first first thought
- > was to:
- >
- > 1.Return the letter to the Executive Director.
- > 2.Allow said individual to withdraw the letter with the following
- > stipulations:
- > A.We would forget that it was ever written.
- > B.It would not be mentioned ever again by anyone
- > 3.The Executive Director would issue a finding that the said appeal
- > raises
- > substantial issues and wishing not to further embarrass the Commission
- > recommends
- > overturning the seriously ill advised and flawed decision of the Long
- > Beach
- > Planning Commission for a number of reasons chief of which is the
- > permit at issue
- > IS A WAR WITH AND A THREAT
- > to the safety of those that the would be enticed to venue specifically
- > deeded
- > designed,constructed and maintained as a venue for recreational
- > boating activity.
- >
- > Any trier of fact,in any uncorrupted forum,would surely hold that

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①

- V.
- > PUBLIC SAFETY
 - > (one of the concerns in the appeal) concerns are implicit, inherent, as
 - > well as
 - >
 - > PARAMOUNT
 - > which stream through the warrants of the Coastal Act and the charges
 - > of the
 - > Commission. To suggest otherwise as the Executive Director so does by
 - > labeling
 - > such as patently frivolous would be directly repugnant to any
 - > uncorrupted, reasoned
 - > community of minds.
 - >
 - > THE DOCTRINE OF CONSTRUCTIVE NOTICE RELATIVE TO PUBLIC SAFETY
 - > in the
 - > instant issue
 - > is so eloquent in its simplicity-a trier of fact would hold: RES IPSA
 - > -LOQUITUR...
 - > allowing the appeal to move forward.
 - >
 - >
 - >
 - > Realizing however that said Executive Director which issued the March
 - > 30, 2009 letter
 - > obviously is on a planet-far-far way in another galaxy; and mindful of
 - > the approaching
 - > short time line, attached is a UNITED STATES POSTAL ORDER FOR \$300.00
 - > as
 - > requested.
 - >

PUBLIC SAFETY ISSUES:

Think SANATA MONICA FARMER'S MARKET CARNAGE.
See attached story with photos of similar and all too often tragic
stories
resulting from simple human error. (LATIMES MARCH 30, 2009)--the very
date of
the Executive Director's letter rendering public safety concerns-not
just

COASTAL COMMISSION

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privolous but PATENTLY PRIVOLOUS!!!!!!

THE PARKING LOT AT ISSUE...IS AN ACCIDENT WAITING TO HAPPEN-it was not

designed

for crowds of people-IT IS TOO NARROW...THERE IS NO ROOM FOR SELF CORRECTION WHEN

WHEN ONE:

1.Hits the wrong pedal

2.Answers the cell phone

3.Turns around to separate cranky,kids at the end of a long day

4.A kid darts out to catch his friends.

Hardly a week goes by when a story such as the one from

THE UNCONTRAVERTED EVIDENCE BY THE APPELLANT-who has 25+ years of experience with

traffic management issues at events within said boating event(more than any other

person employed by the City)..is that placement of the event at the venue-shows

depraved indifference and callous disregard for public safety.

THE LOCAL COASTAL PLAN HAS NOT BEEN AMENDED TO ALLOW A NON BOATING.NON

BOATING.

NON RECREATIONAL 100% for PROFIT ENTERPRISE.

The referenced parking lot and grassy park have been removed from the inventory of

such for coastal recreationst who seek to enjoy the unique offerings of such-found

no where else in Long Beach--and why-BECAUSE THE PERMIT WOULD TURN THE

AREA INTO

A DE FACTO LOADING DOCK FOR A COMMERCIAL ENTERPRISE TO SELL"

I.POTTED PLANTS.

COASTAL COMMISSION

(3)

EXHIBIT # 5
PAGE 3 OF 8

2.T-SHIRTS.

3.JUNK FOOD TO KIDS

4.Other items-readily available at any one of over 100 stores
within-one mile-some
but blocks away

Just as the Long Beach City Attorney erred when he read sections of the
Grant Deed
that did not apply to the instant unique venue(read sections that dealt
with uplands
areas)-when giving instructions to the Planning Commission)-the
Executive Director
erred in saying that the actions of the Commission are inconsistent with
the Coastal
Act.

The Coastal Act limits such areas to coastal dependent activities that
can not be undertaken
in upland areas-and wisely so.The exceptions are of course the common
sense concessions found
at beaches and water fronts.Such concessions are there to support the
reason the people come
to coastal area--ie to partake of its inherent offerings...not to buy
potted plants;or that which
one could buy at Arron Brothers-et al.

-- *J. Almon* 12/2/09
cacrewood8@fastmail.fm

COASTAL COMMISSION

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Driver plows into eatery

More than a dozen are injured when man, 88, apparently confuses gas and brake pedals in Redondo Beach.

JOEL RUBIN

An elderly man lost control of his luxury sedan Sunday afternoon in Redondo Beach, injuring more than a dozen people when he plowed into a restaurant, a fire official and witnesses said.

About 2:45 p.m., the driver was attempting to park his four-door Jaguar in front of Ham Supreme near Pacific Coast Highway and Carnelian Street, said Jennifer Magana, who was working in the delicatessen at the time.

The 88-year-old man, whom police did not immediately identify, apparently hit the car's accelerator instead of the brake pedal, sending the car hurtling through the store's glass facade, police and Magana said.

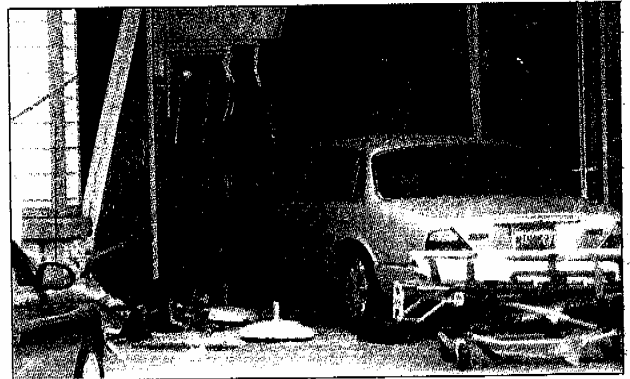
"It happened in a split second," said Magana, who described the driver as emerging "dazed and confused" from the vehicle. "There were people in shock. People were screaming."

Magana and others pushed the car back to free a woman pinned against the wall. A toddler and at least one other person were hit hard enough that they were thrown through the wall into the adjoining business, said Magana and Frank Mead, operations chief for the



JOHN BAUER For The Times

FIRST AID: One of the injured is cared for at the scene. Some went to a hospital, but the injuries appear minor.



MISTAKE: The driver of this Jaguar sedan was trying to park it when he rammed into Ham Supreme, police said.

Redondo Fire Department.

"We were preparing for the worst," Mead said.

Remarkably, the young boy and four others taken to a hospital did not appear to be seriously injured, Mead said. Several other people were treated at the scene for cuts from flying glass and other minor injuries, Mead said.

The driver was not cited but will be referred to the California Department of Motor Vehicles for an evaluation of his license, Redondo Beach Police Sgt. Peter Grimm said.

"This could have been a lot worse than it was," Grimm said. "We caught a break."

joel.rubin@latimes.com

COASTAL COMMISSION

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PAGE 6 OF 8

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

**VIA CERTIFIED MAIL**

March 30, 2009

Laurence Goodhue
P.O. Box 14464
Long Beach, CA 90803

**Re: Appeal of City of Long Beach Local Coastal Development Permit No. 0810-11
(Wednesday Farmers Market at Marine Stadium, City of Long Beach).**

Dear Mr. Goodhue:

On March 25, 2009, the Commission's South Coast District office in Long Beach received your appeal of the City of Long Beach approval of Local Coastal Development Permit No. 0810-11 to establish a weekly (each Wednesday) Farmers Market with crafts and ready eat food vendors in the northern portion of the parking lot of Marine Stadium.

In the appeal form submitted on March 25, 2009, you attached correspondence with a list of reasons for opposing the weekly event in its current location. The list includes the following:

1. There are other locations where the weekly event could occur.
2. A grant deed for the property prohibits commercial uses in Marine Stadium.
3. Visitors to the weekly event remove part of a park from public use.
4. Visitors to the weekly event negatively impact parking at Marina Vista Park.
5. The non-boating related, non-coastal dependant commercial operation sets the footprint for further commercialization of the public park.

We have reviewed your appeal, the approved project, and the City's action; and the Executive Director has determined, pursuant to Section 30620(d) of the Coastal Act, that the appeal is patently frivolous.

Section 30620(d) of the Coastal Act states:

With respect to any appeal of an action taken by a local government pursuant to Section 30602 or 30603, the executive director shall, within five working days of receipt of an appeal from any person other than members of the commission or any public agency, determine whether the appeal is patently frivolous. If the executive director determines that an appeal is patently frivolous, the appeal shall not be filed unless a filing fee in the amount of three hundred dollars (\$300) is deposited with the commission within five working days of the receipt of the executive director's determination. If the commission subsequently finds that the appeal raises a substantial issue, the filing fee shall be refunded.

①

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L. Goodhue Appeal
March 30, 2009
Page Two

The Executive Director has determined that the appeal is patently frivolous because the appeal raises no allegations of inconsistency between the local government's approval of the weekly event and the standards set forth in the certified Local Coastal Program (LCP) and the public access policies of the Coastal Act.

The Commission's role as an appellate body at this stage of this matter is limited to assessing whether the appeal raises a substantial issue with respect to the conformity of the local government's action with the certified LCP and the public access policies of the Coastal Act. Coastal Act (Public Resources Code) Section 30625(b)(2) states that, with respect to appeals after certification of a local coastal program, the Commission shall hear an appeal of an action taken by a local government on a coastal development permit unless it determines "that no substantial issue exists with respect to the grounds on which the appeal has been filed pursuant to Section 30603." Section 30603 of the Coastal Act limits the grounds for an appeal in this case to an allegation that the development does not conform to the standards set forth in the certified LCP and the public access policies of the Coastal Act. Your appeal does not include any claim that the local government action is inconsistent with the certified LCP or the public access policies of the Coastal Act.

Therefore, as required by Section 30620(d), the appeal will not be filed unless the appellant submits to the Commission's South Coastal District office in Long Beach a filing fee in the amount of three hundred dollars (\$300) within five working days of your receipt of this letter communicating the Executive Director's determination. If the filing fee is paid within five working days of your receipt of this letter, the appeal will be accepted and filed, and the Commission will hold a substantial issue hearing on the appeal. If the Commission finds that the appeal raises a substantial issue, the filing fee shall be refunded. If you have any questions concerning this matter, please call Charles Posner at (562) 590-5071.

Sincerely,



Charles R. Posner
Coastal Program Analyst

cc: City of L.B. Planning Dept.
Lee Ostendorf, Applicant

COASTAL COMMISSION

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