MINUTE ITEM
This Calendar Item No. C35
was approved as Minute Item
No. 35 by the State Lands
Commission by a vote of 3
to 0 at its May 3, 1995
meeting.

CALENDAR ITEM
C35

A 74

S 38

05/03/95
W 25217
J. SMITH
PRC7830

GENERAL LEASE - PUBLIC AGENCY USE

APPLICANT:
California State Department of Parks and Recreation
8885 Rio San Diego Drive, Suite 270
San Diego, California 92108

AREA, TYPE LAND AND LOCATION:
Tide and submerged lands in the Pacific Ocean, Carlsbad State Beach, San Diego County.

LAND USE:
Beach nourishment project involving the deposition of approximately 20,000 cubic yards of material on Carlsbad State Beach.

TERMS OF THE PROPOSED LEASE:
Lease Period:
One (1) year beginning May 3, 1995 through May 2, 1996.

Consideration:
Public Use and Benefit with the State reserving the right at any time to set a monetary rental if the Commisison finds such action to be in the State's best interest.

BASIS FOR CONSIDERATION:
Pursuant to 2 Cal. Code Regs. 2003.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:
Filing and processing costs have been received.

STATUTORY AND OTHER REFERENCES:
A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.
B. Cal. Code Regs.: Title 2, Div. 3; Title 14, Div. 6.

AB 884:
Applicable.

OTHER PERTINENT INFORMATION:

1. On February 9, 1995, the California Coastal Commission granted permit #6-94-157 for the subdivision of an approximately 8-acre upland lot to be developed with a timeshare resort and accompanying recreational facilities under its certified regulatory program (14 Cal. Code Regs. 15251 (c)). A condition of that permit requires the developer, Continental Commercial Corporation, to deposit suitable material for beach replenishment on Carlsbad State Beach by June 1, 1995. If the developer cannot obtain all necessary permits in time to deposit the sand on the beach by that date, the material will be deposited at an inland location.

2. Staff has reviewed the document and determined that the conditions, as specified in 14 Cal. Code Regs. 15253 (b), have been met for the Commission to use the environmental analysis document certified by the Coastal Commission as a Negative Declaration substitute in order to comply with the requirements of CEQA.

3 This activity involves lands identified as possessing significant environmental values pursuant to P.R.C.. 6370, et seq. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

4. The location of the mean high tide line at this location was surveyed and located in 1994 prior to the deposition of approximately 1.6 million cubic yards of material associated with the Batiquitos Lagoon Restoration Project which was authorized by the Commission on August 3, 1994.

APPROVALS OBTAINED:
California Coastal Commission

FURTHER APPROVALS NEEDED:
State Lands Commission

EXHIBITS:
A. Location and Site Map
B. Coastal Development Permit No. 6-94-157.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT AN ENVIRONMENTAL ANALYSIS DOCUMENT (COASTAL COMMISSION PERMIT #6-94-157), WAS CERTIFIED FOR THIS PROJECT BY THE CALIFORNIA COASTAL COMMISSION UNDER ITS CERTIFIED PROGRAM (14 CAL. CODE REGS. 15251 (c)), THAT THE STATE LANDS COMMISSION HAS REVIEWED SUCH DOCUMENT AND THAT THE CONDITIONS AS SPECIFIED IN 14 CAL. CODE REGS. 15253 (b) HAVE BEEN MET.

2. FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED FOR THE LAND PURSUANT TO P.R.C. 6370, ET SEQ.

3. AUTHORIZE ISSUANCE OF A ONE-YEAR GENERAL LEASE - PUBLIC AGENCY USE TO THE STATE DEPARTMENT OF PARKS AND RECREATION, EFFECTIVE MAY 3, 1995 THROUGH MAY 2, 1996; IN CONSIDERATION OF THE PUBLIC USE AND BENEFIT WITH THE STATE RESERVING THE RIGHT AT ANY TIME TO SET A MONETARY RENTAL IF THE COMMISSION FINDS THAT SUCH ACTION TO BE IN THE STATE'S BEST INTEREST FOR DEPOSITION OF APPROXIMATELY 20,000 CUBIC YARDS OF MATERIAL AT CARLSBAD STATE BEACH, PACIFIC OCEAN, ON THE LAND DESCRIBED IN EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

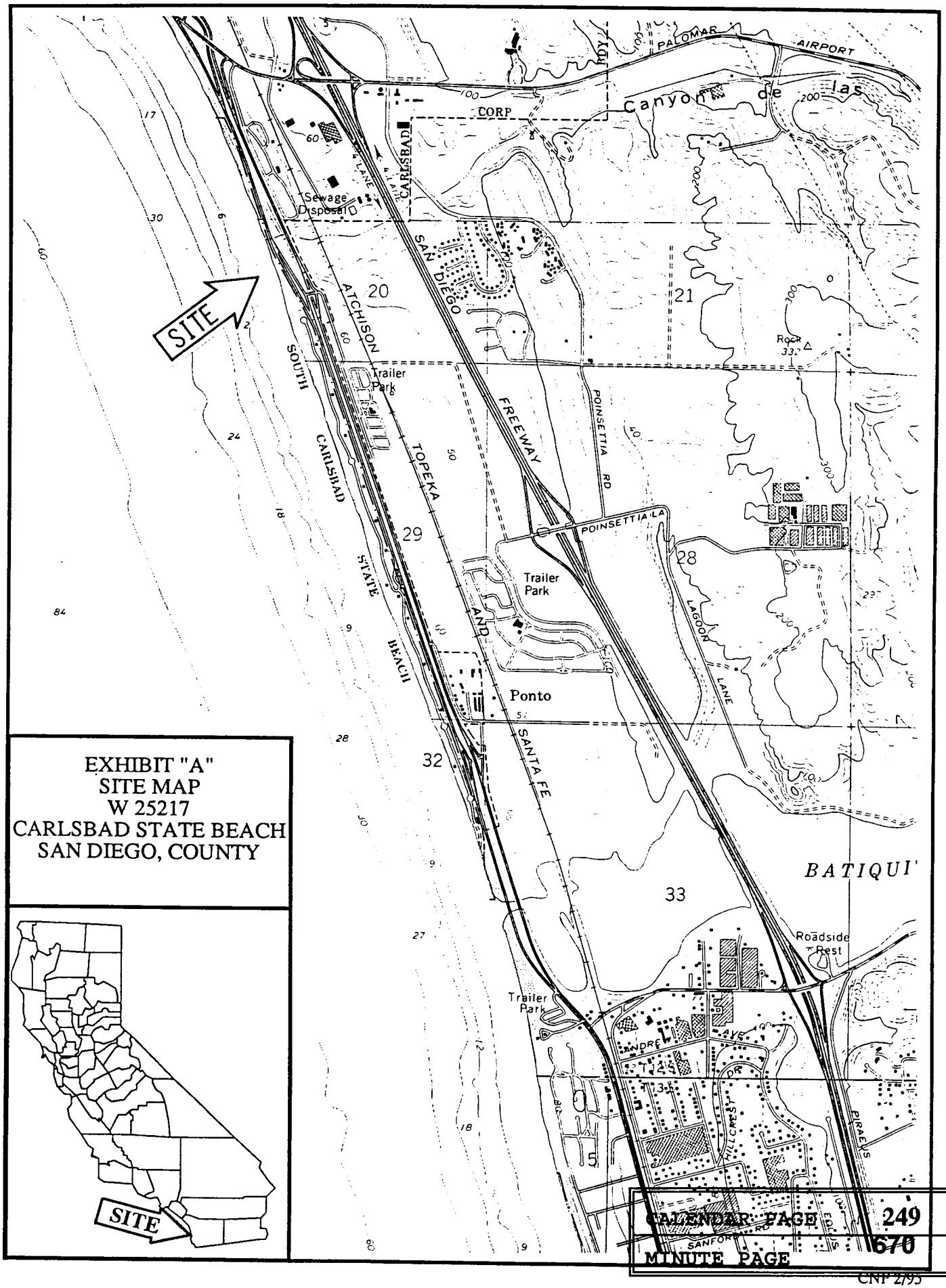

EXHIBIT "A"
SITE MAP
W 25217
CARLSBAD STATE BEACH
SAN DIEGO, COUNTY

CALENDAR PAGE 249
MINUTE PAGE 670

CNP 2/95

ALIFORNIA COASTAL COMMISSION
N DIEGO COAST AREA
11 CAMINO DEL RIO NORTH, SUITE 200
N DIEGO, CA 92108-1725
9) 521-8036

Date February 15, 1995

Application No. 6-94-157

NOTICE OF INTENT TO ISSUE PERMIT

On February 9, 1995, the California Coastal Commission approved the application of Continental Commercial Corp., subject to the attached standard and special conditions, for the development described below:

Description: Subdivision of an approximately 8 acre lot into a 2.4 acre parcel (Lot 1) and 5.5 acre parcel (Lot 2). Lot 1 to be developed with a 45-foot high, 72,396 sq.ft. 78 unit timeshare resort including underground parking, club house, exercise room, volleyball court, two swimming pools, and play yard. New signalized intersection at Descanso and Carlsbad Boulevards. The project also proposes an offer to dedicate an open space easement over the proposed Lot 2. See pages 6-8 for a detailed description of the project.

Lot Area	8 acres
Building/Paved Coverage	1.4 acres (18%)
Landscape Coverage	1.1 acres (14%)
Unimproved Area	5.5 acres (68%)
Parking Spaces	99
Zoning	Commercial-Tourist; Open Space
Plan Designation	Travel Services Commercial; Open Space
Project Density	10.8 du/ac
Ht abv fin grade	45 feet

Site: Northeast of Carlsbad Boulevard/Descanso Boulevard intersection, Carlsbad, San Diego County. APN 214-010-01.

The permit will be held in the San Diego District Office of the Commission, pending fulfillment of Special Conditions 1,2,3,4,5,6,7,8 and 10. When these conditions have been satisfied, the permit will be issued.

CHARLES DAMM
DISTRICT DIRECTOR
BY

Diana Lilly

CALENDAR PAGE	250
MINUTE PAGE	671

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgement. 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. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.

4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.

6. 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.

7. 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:

1. Offer to Dedicate Open Space Easement. Prior to the issuance of a coastal development permit, the applicant shall submit to the Executive Director for review and written approval evidence that the applicant's proposed irrevocable offer to dedicate to a public agency, or to a private association acceptable to the Executive Director, an open space easement over the area shown on the attached Exhibit "#3" and generally described as the 5.5 acres of Lot 2, has been executed in accordance with the terms as proposed by the applicant and as detailed on pages 6-8 of the staff report dated 12/22/94. Said open space easement shall prohibit any alteration of landforms, placement or removal of vegetation, or erection of structures of any type; except that development for habitat restoration may occur in existing disturbed areas as shown on the Biological Resources Report by ERC, dated January 1990, pursuant to an approved coastal development permit. The document shall include legal descriptions of both the applicant's entire parcel(s), the easement area, and the existing disturbed habitat area.

SPECIAL CONDITIONS, continued:

2. Open Space Deed Restriction. Prior to the issuance of the coastal development permit, the applicant shall record a restriction against the subject property, free of all prior liens and encumbrances, except for tax liens, and binding on the permittee's successors in interest and any subsequent purchasers of any portion of the real property. The restriction shall prohibit any development, including but not limited to, alteration of landforms, removal of vegetation or the erection of structures of any type, in the area shown on the attached Exhibit "#4" and generally described as that area from the top of the slope at the north end of the proposed Lot 1, to the southern boundary of the proposed Lot 2 as referenced on the tentative map dated August 1993 (revised 8/2/94) by George O'Day, except for: 1) landscaping in accordance with Special Condition #3 of CDP #6-94-157, and 2) hand-filling and compacting the cave on the north-facing slope on Lot 1 as shown on the tenative map submitted January 13, 1995. The recording document shall include legal descriptions of both the applicant's entire parcel(s) and the restricted area, and shall be in a form and content acceptable to the Executive Director. Evidence of recordation of such restriction shall be subject to the review and written approval of the/Executive Director.

3. Final Landscape Plans/Deed Restriction

A. Prior to the issuance of the coastal development permit, the applicant shall submit for the review and written approval of the Executive Director, a detailed landscape plan developed in consultation with the California Department of Fish and Game indicating the type, size, extent and location of all plant materials, the proposed irrigation system and other landscape features. Drought tolerant native or naturalizing plant materials shall be utilized to the maximum extent feasible. Said plan shall be submitted to, reviewed and approved in writing by the Executive Director and shall include the following:

1) The placement of at least 20 specimen size trees (minimum 24-inch box) along the west facing areas of the site. Said trees shall be of species compatible with the natural character of the area with varying degrees of height and canopy sufficient to break up the west facing building facade from views from Carlsbad Boulevard and the beach in substantial conformance with the draft landscape plan received January 9, 1995.

2) The placement of at least 10 specimen size trees (24-inch box minimum) and plantings arranged on the northern slope of the developable area. Species compatible with the adjacent wetland vegetation shall be utilized to effectively screen the structure from views from the north;

3) The area on the north-facing slope of Lot 1 disturbed by filling and recompacting the existing cave in the hillside will be planted with drought-tolerant, non-evasive natives compatible with the adjacent wetland habitat.

4) Prior to occupancy of the timeshare units, all required plantings shall be in place;

SPECIAL CONDITIONS, continued:

5) A written commitment that all required plantings shall be maintained in good growing condition, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape screening requirements.

B. Prior to the issuance of the coastal development permit, the applicant shall record a deed restriction, in a form and content acceptable to the Executive Director, to ensure that the intent of this condition continues to be applicable throughout the life of the project. The restriction shall provide that landscaping shall be implemented in accordance with Special Condition #3 and consistent with those plans approved with CDP #6-94-157. The restriction shall be recorded, free of all prior liens and encumbrances, except for tax liens, and binding on the permittee's successors in interest and any subsequent purchasers of any portion of the real property.

4. Sign Program. Prior to the issuance of the coastal developement permit, the applicant shall submit a comprehensive sign program for all proposed signage documenting that only monument signs, not to exceed eight (8) feet in height, or facade signs are proposed. No tall, free-standing pole or roof signs shall be allowed. Plan shall include signage identifying Descanso Boulevard as a beach accessway. Said plans shall be subject to the review and written approval of the Executive Director.

5. Disposal of Excavated Material. Prior to the issuance of the coastal development permit, the applicant shall obtain a written determination from the California Department of Parks and Recreation identifying, based on information submitted by the applicant, the quantity of material suitable for beach sand replenishment on the adjacent Carlsbad State Beach, and the process required to enable deposition above the mean high tide line by June 1, 1995. If processing permits, the applicant shall be required to transport all suitable material to a location approved by State Parks by that date. For any material determined to be unsuitable for beach deposit by that date, the applicant shall identify the location for the disposal of graded spoils. If the site is located within the coastal zone, a separate coastal development permit or permit amendment shall first be obtained from the California Coastal Commission or its successors in interest.

6. Construction Timing/Staging Areas/Access Corridors. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, a final construction schedule, which shall be incorporated into construction bid documents. The schedule shall specify that no lane closures shall take place on Carlsbad Boulevard between June 30 and Labor Day. In addition, the applicant shall submit final plans for the location of access corridors to the construction sites and staging areas. Access corridors and staging areas shall be located in a manner that has the least impact on public access via the maintenance of existing public parking areas and traffic flow on coastal access routes (Carlsbad Boulevard, in this instance). Use of public parking areas for staging/storage areas shall not be permitted. No staging areas or access corridors shall be located within the environmentally sensitive habitat areas located on the proposed Lot 2. If more than one staging site is utilized, the plans shall indicate which sites are connected with which portions of the overall development, and each individual site shall be removed and/or restored immediately following completion of its portion of the overall development.

SPECIAL CONDITIONS, continued:

7. Exterior Treatment/Deed Restriction. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, a color board or other indication of the exterior materials and color scheme to be utilized in the construction of the proposed hotel facility. Said materials shall be consistent with those described in the following which shall be recorded as a deed restriction against the property that states:

Any future modifications to the exterior surfaces of the resort shall be implemented with building materials of natural earthen tones, including deep shades of green, brown and grey, with no white or light shades, and no bright tones, except as minor accents, to minimize the resort development's contrast with the surrounding scenic areas, and consistent with those approved under Coastal Development Permit #6-94-157, on file in the Commission's San Diego office.

Said restriction shall be recorded, prior to issuance of the coastal development permit, in a form and content acceptable to the Executive Director. The document shall be recorded against the subject property, free of all prior liens and encumbrances, except for tax liens, and binding on the permittee's successors in interest and any subsequent purchasers of any portion of the real property.

8. Grading/Erosion Control. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, final site and grading plans approved by the City of Carlsbad which incorporate the following requirements:

a. All grading activity shall be prohibited between October 1st and April 1st of any year. Prior to the commencement of any grading activity, the permitte shall submit a grading schedule which indicates that grading will be completed within the permitted time frame designated in this condition and that any variation from the schedule shall be promptly reported to the Executive Director.

b. All permanent runoff and erosion control devices shall be developed and installed prior to or concurrent with any on-site grading activities.

c. All areas disturbed, but not completed during the construction season, shall be stabilized in advance of the rainy season. The use of temporary erosion control measures, such as berms, interceptor ditches, sandbagging, filtered inlets, debris basins, and silt traps shall be utilized in conjunction with plantings to minimize soil loss from the construction site. Said plantings shall be accomplished under the supervision of a licensed landscape architect, shall provide adequate coverage within 90 days, and shall utilize vegetation of species compatible with surrounding native vegetation, subject to Executive Director approval.

SPECIAL CONDITIONS, continued:

9. Future Development. This permit is for subdivision of one lot into two parcels, construction of a timeshare resort, and street improvements. All other development proposals for the site including restoration of disturbed wetland areas on the proposed Lot 2 shall require review and approval by the Coastal Commission, or its successor in interest, under a separate coastal development permit.

10. Final Plans. Prior to the issuance of the coastal development permit, the applicant shall submit the Executive Director for review and written approval, final site, building, and drainage plans in substantial conformance with the submitted plans which have been approved by the City of Carlsbad.

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