COASTAL DEVELOPMENT PERMIT APPLICATION NO. 17-07
FINAL STAFF REPORT

(Under authority of the California Coastal Act, § 30600(b) of the California Public Resources Code, and Chapter 1, Article 2, § 12.20.2 of the Los Angeles City Municipal Code)

I. PROJECT DESCRIPTION

Project Title: Los Angeles Beach Access (Los Angeles Municipal Code [LAMC] Section 63.44.B.14.(b))

Applicant: City of Los Angeles, Department of Recreation and Parks

Project Location:
Council Districts: 11 and 15
Communities: Brentwood-Pacific Palisades, Venice, Westchester-Playa Del Rey, and San Pedro

A. Project Description

The Applicant (City of Los Angeles, Department of Recreation and Parks) has applied for a Coastal Development Permit (CDP) for the implementation of LAMC Section 63.44.B.14.(b), which restricts access to the beaches, owned or controlled by the City of Los Angeles (City), during the hours of 12:00 a.m. (midnight) to 5:00 a.m. This section provides as follows:

SEC. 63.44. REGULATIONS AFFECTING PARK AND RECREATION AREAS.
(Added by Ord. No. 153,027, Eff. 11/16/79.)

B. Within the limits of any park or other City-owned Harbor Department designated and controlled property within the City of Los Angeles: (Amended by Ord. No. 174,737, Eff. 9/9/02.)


(b) No person shall enter, remain, stay or loiter in any park which consists of an ocean area, beach, or pier between the hours of 12:00 midnight and 5:00 o’clock a.m. of the following day . . . On any park which consists of an ocean area, beach, or pier subject to this Section, the supervising employee at such site may extend the 12:00 midnight closing time . . . to accommodate special events such as grunion runs and other events approved by the Department of Recreation and Parks or the Los Angeles County Department of Beaches, as applicable.
The term “beach” includes the public seashore and shoreline areas bordering on the Pacific Ocean that are owned, managed, or controlled by the City (LAMC Section 63.44.A.) For purposes of the California Coastal Act, the beach areas controlled by the City do not include the areas seaward of the mean high tide line (MHTL). The areas seaward of the MHTL are subject to the sole jurisdiction of the California Coastal Commission and the City does not have permit jurisdiction in these areas.

This provision of the LAMC applies to portions of the following beaches, as defined above, in the City of Los Angeles:

- Will Rogers State Park
- Venice Beach
- Dockweiler Beach
- Wilders Addition Park
- Cabrillo Beach

The specific beach areas which are subject to LAMC Section 63.44.B.14.(b) are shown in Figure 1, Parts A through D. (Note: For purposes of the California Coastal Act, Inner Cabrillo Beach is subject to the jurisdiction of the Port of Los Angeles, rather than the City Engineer, and the current coastal permit application includes Outer Cabrillo Beach, but not Inner Cabrillo Beach.)

LAMC Section 63.44.B.14.(b) contains provisions that allow beach access after normal closure hours in two ways:

1. The discretionary extension of the closing time by the supervising employee for special events such as grunion runs.

and

2. Other events approved by the Department of Recreation and Parks or the Los Angeles County Department of Beaches and Harbors. These events would be approved through the existing permit processes of the Department of Recreation and Parks. Decisions on these permit applications would be made on a case-by-case basis.

B. Project Background

Beach Park hours have been regulated since 1936. In 1989, the most recent regulation, LAMC Section 63.44.B.14.(b) was enacted by the City of Los Angeles City Council. The Applicant believes that arguments exist for enforcement of a beach closure ordinance without a coastal permit but have decided to seek a permit, with a reservation of rights about whether a permit is required. The Applicant submitted the current coastal permit application in September 2017. The Applicant maintains that they were not legally required to obtain a coastal development permit for an ordinance that establishes the opening and closing hours of the City’s beach parks because such an ordinance does not constitute “development” pursuant to Section 30106 of the California Coastal Act. The Applicant further maintains that the City has a longstanding history of enacting and enforcing beach closure hours which pre-dates, and is therefore not subject to, the Coastal Act. Finally, the Applicant maintains that this provision of the municipal code was enacted in order to abate nuisance conditions and that these nuisance conditions would likely intensify unless the beach closure hours remain in force and effect. The Applicant, nevertheless, is willing to seek a coastal development permit under a reservation of rights and has submitted an application to obtain the permit.

The Bureau of Engineering is processing this application without making a determination as to the validity of this reservation of rights. The application will be evaluated under the process established in LAMC Section 12.20.2 for issuance of Coastal Development Permits by the City Engineer.
C. **Rationale for Project**

The Applicant identifies three primary purposes of LAMC Section 63.44.B.14.(b):

- It limits the risk to public safety;
- It helps prevent crime;
- It prevents vandalism to public structures.

At night, the beaches of Los Angeles pose hazards to public safety. They are expansive, dark, and difficult-to-patrol, and without safety services, such as lifeguards, that are provided in the daytime hours. As shown in Figure 1, the beach areas of the City are miles long and up to a quarter-mile wide. Dockweiler Beach is approximately seven miles in length, while Will Rogers State Park is over three miles in length. Topographic and physical characteristics also present public safety risks. The Wilders Addition Beach Park is at the foot of a coastal bluff, and is accessible only via a steep pathway; Outer Cabrillo Beach is adjacent to an unlit jetty. Conditions such as these create risks to public safety (including drowning and injury from fall) and would make any emergency or rescue efforts difficult.

The Applicant has submitted data provided by the City of Los Angeles Police Department documenting crimes occurring within beach areas. This data shows the continuing occurrence of crimes at all City beach parks, with criminal activity highest at Venice Beach. The crimes documented in this data include aggravated assault, theft, vandalism, burglary and motor vehicle theft. The City’s beach access restrictions are intended to reduce these types of criminal activities from occurring on or in the vicinity of beach areas.

LAMC Section 63.44.B14.(b) is also intended to protect the recreational infrastructure of the beach areas from vandalism. There are approximately fifty lifeguard towers along City beaches, as well as concession stands and public restrooms. There are also recreational centers at both Venice Beach and Dockweiler Beach, as well as a community center at Cabrillo Beach. LAMC Section 63.44.B.14.(b) limits the exposure of these structures to vandalism during night hours and thereby maintains them as lower-cost visitor and recreational facilities that are available for daytime use.

D. **Project Cost**

There is no cost associated with the project.

II. **REGULATORY BASIS FOR REVIEW**

A. **Local (City of Los Angeles) Coastal Development Permits**

The California Public Resources Code (PRC) Section 3600(b) allows local governments to assume authority to issue coastal development permits within its jurisdiction before certification of its local coastal program, and the project is within the City Engineer’s jurisdiction (LACMC Section 12.20.2 et seq.). The application filed with the City Engineer was deemed adequate.

The proposed project is located within the portion of the California Coastal Zone which is designated as “dual coastal jurisdiction.” In order to proceed, the project thus requires two separate, Coastal Development Permits, the first from the City of Los Angeles (this application) and the second from the California Coastal Commission. The permits are processed pursuant to the requirements and guidelines of the Coastal Act and the Municipal Code.
B. Coastal Guidelines

In accordance with the provisions of Section 30620 of the PRC; and, in order to sustain the findings contained in Section 12.20.2-G(c) of the Municipal Code which requires a review and consideration of “…Interpretative Guidelines for Coastal Planning and Permits…”, the State Coastal Commission has issued Interpretative Guidelines for the South Coast Region of Los Angeles including certain subareas of the City of Los Angeles. These subareas are defined as Pacific Palisades, Venice, Playa Del Rey, San Pedro and Wilmington. However, following prevailing case law (e.g., Pacific Legal Foundation v. Coastal Commission (1982) 33 Cal.3d 158), the City Engineer’s determination is based on the cited provisions of the California Coastal Act and other legally established laws and regulations.

C. Issues of Legal Adequacy of the Application

None.

III. STAFF FINDINGS

Six findings are required in order for a Coastal Development Permit to be issued. The six findings are:

1. The development is in conformity with Chapter 3 of the California Coastal Act of 1976 (commencing with Section 30200 of the California Public Resources Code).

Chapter 3 of the California Coastal Act of 1976 identifies several policy areas to be evaluated in determining conformity with the Act: a) Marine Environment, b) Land Resources, c) Development, and d) Industrial Development. (Conformity with the Public Access and the Recreation policies of the Act are discussed below in Finding 5.)
a) MARINE ENVIRONMENT (Article 4, of Chapter 3 of Public Resources Code, Sections 30230 through 30237)

Sections 30230 and 30231 state:

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 30231.
The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The project will not directly impact any marine resources. However, one of the indirect effects of the project will be to reduce the volume of solid waste materials that would be left behind by nighttime beach users. These materials could include trash, drug paraphernalia, and bodily waste and may have ended up as discharges to water impacting water quality, marine resources or human health.

The project would not involve transport of hazardous substances and, thus, there would be no spillage of crude oil, gas, petroleum products, or hazardous substances as prohibited by PRC Section 30232. The project would not involve the diking, filling, or dredging of open coastal waters (PRC Section 30233), commercial fishing and recreational boating facilities (PRC Sections 30234 and 30234.5), constructing revetments, breakwaters, or other construction altering the natural shoreline (PRC Section 30235). The project does not alter rivers or streams and, therefore, does not affect water supply and flood control (PRC Section 30236). PRC Section 30237 relates to Orange County wetlands and therefore does not apply.

b) LAND RESOURCES (Article 5 of Chapter 3 of Public Resources Code, Sections 30240 through 30244)

Sections 30240 and 30244 state:

Section 30240.
(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Section 30244.
Where development would adversely impact archeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

The beaches which are subject to nighttime closure do contain environmentally sensitive habitat area, including the coastal habitat on the seaward side of the mean high tide line. However, the project will not impact these areas.
The proposed project would not adversely affect any archaeological or paleontological resources, and does not involve agricultural land or soils or timberland.

The project does not contain agricultural land or soils or timberland and would not adversely affect any archaeological or paleontological resources (PRC 30241-30244).

c) DEVELOPMENT (Article 6 of Chapter 3 of Public Resources Code, Sections 30250 through 30255)

Coastal Act Sections 30251, 30252, 30253 and 30254 state:

Section 30251.
The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

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 non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

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 land forms along the bluffs and cliffs.
(3) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Control Board as to each particular development.
(4) Minimize energy consumption and vehicle miles traveled.
(5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

The project will have no impact on scenic or visual qualities of the beach areas.

The project would not result in new development but rather would maintain the status quo that has existed since as early as 1936 when the City first began to regulate beach park hours and has existed in its current state since the enactment of the provisions of LAMC Section 63.44.B.14.(b) in 1989.

The project would not affect geologic, flood or fire risks (30253(1) (2)), would not conflict with any requirements of the State Air Resources Control Board or South Coast Air Quality District (30253(3)),
would not affect energy consumption and vehicle miles traveled (30253(4)), and would not permanently affect the local community (30253(5)). The project would not generate any traffic trips to the area.

d) INDUSTRIAL DEVELOPMENT (Article 7 of Chapter 3 of Public Resources Code, Sections 30260 through 30265.5)

The proposed project does not involve the development or expansion of industrial developments as addressed in Article 7, and as such, Section 30260 through 30265.5 are not applicable to the proposed project.

2. The permitted development will not prejudice the ability of the City of Los Angeles to prepare a Local Coastal Program that is in conformity with Chapter 3 of the California Coastal Act of 1976.

The project conforms to the relevant provisions of the applicable land use plans and policies of the Brentwood/Palisades Community Plan, the Venice Local Coastal Program, the Westchester/Playa del Rey Community Plan, and the San Pedro Specific Plan.

Thus the project will not prejudice the ability of the City to prepare a Local Coastal Plan in conformity with the Coastal Act.

3. The Interpretative Guidelines for Coastal Planning and Permits as established by the California Coastal Commission dated February 11, 1977 and any subsequent amendments thereto have been reviewed, analyzed, and considered in the light of the individual project in making the City Engineer’s determination.

As noted previously, the California Coastal Commission’s interpretive guidelines (State and Regional) for the City’s beach areas have been reviewed and considered in preparation of these findings and recommendations. However, following prevailing case law (e.g., Pacific Legal Foundation v. Coastal Commission (1982) 33 Cal.3d 158), the City Engineer’s determination is based on the cited provisions of the California Coastal Act and other legally established laws and regulations.

4. The decision of the permit granting authority has been guided by any applicable decision of the California Coastal Commission pursuant to Section 30625(c) of the Public Resources Code.

The issues of beach access regulation have been previously addressed by the California Coastal Commission in a number of contexts. They are discussed in Proposed Guidance on Actions Limiting Public Access to Beaches and State Waters (Beach Curfew) (June 23, 1994), a document that was only preliminarily adopted by the Commission and does not have formal, legal force or effect. A letter sent by the Coastal Commission to the City of Los Angeles (dated April 9, 2014) lists factors that Commission staff consider relevant in evaluating public access limitations. (This letter is reproduced in Appendix B.) As with the Proposed Guidance document, the factors are not formal legal requirements that have been codified in the Public Resources Code. Nonetheless, they do provide some degree of guidance that can be used in evaluating the current permit application. The factors discussed in the letter are as follows:

- Evidence demonstrating the existence of a public safety problem
- Availability of alternatives
- Access to wet sand
- Periodic review of effectiveness
- Placement of signage
Evidence demonstrating the existence of a public safety problem

The Applicant proposes to continue beach access restrictions which were approved by the City Council of the City of Los Angeles in 1989. The Council committee report which accompanied the adoption of the ordinance which became LAMC Section 63.44.B.14.(b) noted that:

_Criminal activity and anti-social behavior in many parks and parking lots has become a growing problem Citywide. The Department of Recreation and Parks has received numerous complaints regarding this situation, but has been unable to effectively deal with the problem._ (Report from Recreation, Library & Cultural Affairs Committee, Council File 88-0403, adopted November 15, 1988, page 1.)

Thus, the enactment of LAMC Section 63.44.B.14.(b) was a response to concerns about criminal activity and was intended to protect public safety.

Data provided by the Los Angeles Police Department show that concerns regarding criminal activity and public safety in beach areas are still justified. The crimes documented include aggravated assault, theft, vandalism, burglary and motor vehicle theft. The number of crimes reported during the hours of 12:00 a.m. (midnight) to 5:00 a.m. for the years 2010 through 2016 for four beach areas are shown below:

<table>
<thead>
<tr>
<th>Beach Area</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Venice Beach</td>
<td>64</td>
<td>80</td>
<td>59</td>
<td>63</td>
<td>59</td>
<td>86</td>
<td>51</td>
<td>462</td>
</tr>
<tr>
<td>Dockweiler Beach</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>7</td>
<td>5</td>
<td>3</td>
<td>17</td>
</tr>
<tr>
<td>Wilders Addition Park Beach</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>7</td>
<td>9</td>
<td>12</td>
<td>34</td>
</tr>
<tr>
<td>Outer Cabrillo Beach</td>
<td>6</td>
<td>5</td>
<td>6</td>
<td>4</td>
<td>6</td>
<td>9</td>
<td>42</td>
<td>555</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>71</strong></td>
<td><strong>87</strong></td>
<td><strong>67</strong></td>
<td><strong>70</strong></td>
<td><strong>79</strong></td>
<td><strong>106</strong></td>
<td><strong>75</strong></td>
<td><strong>555</strong></td>
</tr>
</tbody>
</table>

Annual data is not available for Will Rogers State Beach; however, the total number of crimes from 2010 through 2016 is shown in the table below:

<table>
<thead>
<tr>
<th>Beach Area</th>
<th>Total Reported Crimes (2010 through 2016)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Will Rogers State Park</td>
<td>89</td>
</tr>
</tbody>
</table>

Including the total from Will Rogers State Park, over 70% (462/644) of the crimes reported occurred in the Venice Beach area. Among the City beach areas, the incidence of crime at Will Rogers State Park ranks second (14% of total). These two beaches are easily accessible and adjacent to urbanized, developed areas. Dockweiler Beach and Outer Cabrillo Beach are comparatively isolated and less accessible; the beach at Wilders Addition Park is less than three-fourths of a mile long and at the foot of a steep bluff.

(Note: For Wilders Addition Park Beach and for Outer Cabrillo Beach, corresponding crime statistics are available for years 2010 to 2016 for the time period of 6:00 p.m. to 12:00 a.m. (midnight). For Wilders Addition Park Beach the total number of reported crimes between the hours of 6:00 p.m. to 12:00 a.m. was 79 (as compared to 34 for the hours 12:00 a.m. to 5:00 a.m. ). For Outer Cabrillo beach the total
number of reported crimes between 6:00 p.m. and 12:00 a.m. was 143 (compared to 42 for the hours
12:00 a.m. to 5:00 a.m.). At these two beach areas, the number of reported crimes is significantly higher
during the 6:00 p.m. to 12:00 p.m. period than for the 12:00 a.m. to 6:00 a.m. period that is covered by
LAMC Section 63.44.B.14.(b).)

At the public hearing on October 5, 2017, numerous commenters said that they believed that the beach
access restrictions do protect public safety and reduce criminal activity in the vicinity of beach park areas.
Commenters were predominantly concerned about public safety, especially where residential areas occur
adjacent to beaches. Concerns were raised about peoples using the beaches for illegal overnight camping,
other illegal activities and non-recreational activities, creating public health and sanitation problems.
There were also concerns about late night parties, illegal campfires, illicit drug usage and nuisance noise.
Commenters noted that some beaches are isolated and unlighted and that public safety resources are
limited.

Availability of alternatives

Potential alternative beach closure strategies would include reducing the beach areas subject to closure
and/or providing accessways on selected beaches.

A reduction in the beach area subject to LAMC Section 63.44.B.14.(b) would establish a limited number
of beach areas that would be open between 12:00 a.m. and 5:00 a.m.

However, the overnight opening of limited beach areas would be inconsistent with the public safety
concerns at these beach areas that LAMC Section 63.44.B.14.(b) is intended to prevent. As discussed
above, at night the beaches of Los Angeles pose hazards to public safety. They are expansive, dark areas,
which are unlit, and difficult-to-patrol and furthermore, are without safety services, such as lifeguards,
that are provided in the daytime hours. Topographic and physical characteristics also present public safety
risks. Conditions such as these create risks to public safety and would make any emergency or rescue
efforts difficult. Persons injured on the beaches at night could seek to hold the City liable for their
injuries, thus leading to an increase in legal expenses to the City. Any beach areas removed from the
scope of LAMC Section 63.44.33.B.14.(b) could experience an increase in criminal activity by attracting
persons who would otherwise avoid beach areas because of access restrictions.

Access to wet sand

LAMC Section 63.44.B.14.(b) does provide for nighttime access to beach parks in certain situations:

On any park which consists of an ocean area, beach, or pier subject to this Section, the supervising
employee at such site may extend the 12:00 midnight closing time . . . to accommodate special events
such as grunion runs and other events approved by the Department of Recreation and Parks or the
Los Angeles County Department of Beaches, as applicable.

This provision creates two avenues for nighttime beach access beyond normal closing hours:

(1) The discretionary extension of the closing time by the supervising employee for special events such
as grunion runs.

and

(2) Other events approved by the Department of Recreation and Parks or the Los Angeles County
Department of Beaches and Harbors. These events would be permitted through the existing permit
processes of the Department of Recreation and Parks. Decisions on these permit applications would be made on a case-by-case basis.

Periodic review of effectiveness

The inclusion of Special Condition 1 which limits the term of the CDP to five years and requires the Applicant to collect relevant public safety data will allow the City Engineer an opportunity to review the project to determine if the beach access restrictions are still appropriate and consistent with the Coastal Act. The public safety data will provide a factual basis for making this determination.

Placement of signage

Special Condition 2 requires the Applicant to post signage at each beach park covered by LAMC 63.44.B.14.(b), to the extent not already present, that lists beach hours and that notifies the public that special access to beach areas is available via permit. The notification should provide contact information to direct those wishing to apply for special use permits.

5. The development is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, and the development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act of 1976.

The beach parks which are subject to LAMC 63.44.B.14.(b) are located between the nearest public road and the sea.

a) PUBLIC ACCESS (Article 2, of Chapter 3 of the Public Resources Code, Sections 30210 - 30214).

The public access policies of Chapter 3 of the Coastal Act are codified in Public Resources Code Sections 30210 through 30214. This portion of the PRC is reproduced in full in Appendix A. The provisions of Chapter 3 that are relevant to this permit application are Sections 30210, 30212(a), 30213 and 30214.

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 30212(a).
(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.

Section 30213.
Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

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.

(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.

These sections of the Public Resources Code identify four areas of analysis that are relevant to evaluating public access restrictions. The four areas are: (1) degree of access provided, (2) public safety, (3) resource protection, and (4) legal liability

Degree of Access

LAMC Section 63.44.B.14.(b) allows full access to beach parks between the hours of 5:00 a.m. and 12:00 a.m. (midnight). This period includes all daylight hours and nighttime hour from dusk to midnight. During this period there is full access to the lower-cost visitor and recreational facilities of the beach parks.

Additionally, LAMC 63.44.B.14.(b) contains provisions for allowing beach access after normal closure hours in two ways:

(1) The discretionary extension of the closing time by the supervising employee for special events such as grunion runs.

and

(2) Other events approved by the Department of Recreation and Parks or the Los Angeles County Department of Beaches and Harbors. These events would be permitted through the existing permit processes of the Department of Recreation and Parks. Decisions on these permit applications would be made on a case-by-case basis.

Public Safety

Pursuant to Section 30210, beach access can be limited in a manner “consistent with public safety needs and the need to protect . . . rights of private property owners . . .” A stated purpose of the City Council of the City of Los Angeles in enacting the beach closure hours of LAMC Section 63.44.B.14.(b) was to address public safety needs due to the “growing problem” of “criminal activity and anti-social behavior in many parks . . . [.]” including beach parks. (See Appendix C.) Numerous property owners who live adjacent to beach areas submitted comments during this permit process and stated their belief that the beach closure hours of LAMC Section 63.44.B.14.(b) protect both safety and property.
The project will reduce the volume of solid waste materials that would be left behind by nighttime beach users. These materials could include household trash, drug paraphernalia, and biological waste. These materials could be hazards to public safety, sensitive biological resources, or human health.

Resource Protection

The beach closure provisions also protect the nesting areas of both the California least tern and the snowy plover. The nesting sites are important natural resource areas that provide habitat for fragile coastal resources.

An indirect effect of the project will be to reduce the volume of solid waste materials that would be left behind by nighttime beach users. These materials could include household trash, drug paraphernalia, and bodily waste. These materials may end up as discharges to water, negatively impacting water quality and marine resources.

Legal Liability

Allowing nighttime access to beach areas would mean that persons injured on the beaches at night could seek to hold the City liable for their injuries, thus leading to an increase in legal expenses to the City.

b) RECREATION (Article 3, of Chapter 3 of Public Resources Code, Sections 30220 through 30224)

Section 30220.
Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30223.
Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

The project would not interfere with or impair any oceanfront or other land suitable for water-oriented recreational activities.

Protecting infrastructure from vandalism enhances recreation, as does a clean beach free from trash that would be left behind by nighttime beach users.

The proposed project would not affect any currently undeveloped upland areas that might be approved for coastal recreation uses.

6. Any other finding or findings as may be required for the development by the California Environmental Quality Act (CEQA).

The Bureau of Engineering finds that the project is not subject to CEQA, as it pertains to an existing statute, maintains the status quo and does not cause any change in the environment (Article II of the City of Los Angeles CEQA Guidelines).

There are no additional evaluations required by the California Environmental Quality Act in connection with the approval of this permit.
IV. PUBLIC COMMENT

A public hearing on this permit application was held on October 5, 2017, at the Westchester Recreation Center in Westchester. The hearing was attended by approximately 117 members of the public, as well as by staff from the Bureau of Engineering and Department of Recreation and Parks. At the hearing 49 persons made verbal comments and 19 persons submitted written comments. Additionally, over 200 written comments were submitted to the Bureau of Engineering during the public comment period. This staff report addresses the range of issues raised at the hearing and in the written comments.

Commenters were predominantly concerned about public safety, especially where residential areas occur adjacent to beaches. Concerns were raised about people using the beaches for illegal overnight camping, other illegal activities, and non-recreational purposes, that would create public health, public safety, and sanitation problems. There were also concerns about late night parties, illegal campfires, illicit drug usage and nuisance noise. Moreover, some beaches are isolated and unlighted; public safety resources are limited. Others were concerned that restricted hours constituted a denial of access for nighttime recreational uses, such as stargazing, and also served as a violation of both the state Coastal Act and the state constitution. Some commenters brought up the issue of deleterious impacts of night visitors on sensitive habitat, such as avian nesting areas and fish spawning sites.

V. STANDARD CONDITIONS OF APPROVAL

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 City Engineer’s Office.

2. Expiration. If development has not commenced, the permit will expire two years from the permit date as reported from the Coastal Commission. 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 City Engineer.

4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the City Engineer 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 City Engineer and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

6. Other approvals. Applicant shall obtain a coastal development permit from the California Coastal Commission.

VI. SPECIAL CONDITIONS OF APPROVAL

1. This permit shall expire five years from the date of issuance of the State CDP for the project. At that time the Applicant may apply to the City Engineer for a new CDP for the project. The Applicant shall compile data relevant to criminal activity and other nuisance conditions in and adjacent to beach
park areas subject to LAMC 63.44.B.14.(b) for the five-year period following issuance of the State CDP so that the need for the beach access restrictions can be reevaluated after five years.

2. The Applicant shall post signage at each beach park covered by LAMC Section 63.44.B.14(b), to the extent not already present, that lists beach hours and that notifies the public that special access to beach areas is available via permit. The notification should provide contact information to direct those wishing to apply for special use permits.

VII. STAFF RECOMMENDATION

Based on the preceding analysis and the comments received, we recommend that the City Engineer issue Coastal Development Permit No. 17-07 for this project.

Maria E. Martin
Manager
Environmental Management Group

DOCUMENT PREPARED BY:

Norman Mundy
Environmental Supervisor I
VIII. REFERENCES

California Coastal Act – California Public Resources Code Division 20, Section 30000 et seq.

California Coastal Commission, October 14, 1980. *Regional Interpretive Guidelines. South Coast Region. Los Angeles County.*


California Coastal Commission, *Proposed Guidance on Actions Limiting Public Access to Beaches and State Waters (Beach Curfew) (June 23, 1994)*

*California Environmental Quality Act – California Public Resources Code Sections 21000 et seq.*

*Los Angeles Municipal Code* Chapter 6, Article 3

Los Angeles Police Department, Data on Reported Crimes, provided 2017

*Report from Recreation, Library & Cultural Affairs Committee, Council File 88-0403, adopted November 15, 1988*

IX. APPENDICES

A. Public Access Provisions of Coastal Act

B. Letter from Coastal Commission to City of Los Angeles Department of Recreation and Parks, dated April 9, 2014.

C. Report from Recreation, Library & Cultural Affairs Committee, Council File 88-0403
FIGURE 1
Figure 1 (Part A) - Areas Subject to LAMC 63.44.B.14.(b): Will Rogers State Park
Where beach access rules apply: Venice Beach.
Figure 1 (Part C) - Areas Subject to LAMC 63.44.B.14.(b): Dockweiler Beach
Figure 1 (Part D) - Areas Subject to LAMC 63.44.B.14.(b): Wilders Addition Park and Cabrillo Beach
APPENDIX A
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.
(Amended by Stats. 1978, Ch. 1075.)

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.
(Amended by Stats. 1976, Ch. 1331.)

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 (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 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.

(Amended by Stats. 1983, Ch. 744, Sec. 1.)

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.

(Added by Stats. 1976, Ch. 1330.)

30213.

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

The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

(Amended by Stats. 1991, Ch. 285, Sec. 3.)

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.

(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.

(Amended by Stats. 1991, Ch. 285, Sec. 3.5.)
APPENDIX B
April 9, 2014

Kevin Regan, Assistant General Manager Operations Branch
City of Los Angeles
Department of Recreation and Parks
221 N. Figueroa St., Suite 1550
Los Angeles, CA 90012

Subject: City of Los Angeles beach curfew

Dear Mr. Regan:

As you’ll no doubt remember, Commission and City staff have had numerous and often productive discussions concerning the City of Los Angeles’s beach curfew, which is codified in City of Los Angeles Municipal Code Section 63.44(B)(14)(b). The Commission and the City share a common goal in protecting public beach access while ensuring public safety, and we have made every effort to work with the City Attorney’s office, Department of Recreation and Parks, and police department to achieve a mutually acceptable resolution of the curfew issue that addresses both public safety and public access to the coast through the coastal development permit process. We continue to be hopeful that we can resolve this matter amicaably and conclusively through the coastal development permit process and, to that end, we wish to restart our discussions as soon as possible to ensure that the public access requirements of the Coastal Act are met.

Protection of beach access is among the highest priority policies of the Coastal Act. The significance of the coastal resource affected by the beach curfew ordinance thus warrants considerable effort by our agencies to work together to reach a mutually acceptable solution. As California’s population continues to grow, beaches and coastal parklands have become more highly sought visitor destinations for recreational use throughout the year, both day and night. As you know, in this particular instance the community is both vocal and passionate about the protections the Coastal Act provides for protecting public access to the coast. The spotlight on this situation, and the influx of information that accompanies such attention, has helped inform Commission staff’s continuing evaluation of the situation and appropriate options to address the City’s public safety concerns while still protecting and preserving the public access to the coast that is required by the Coastal Act and the public has called for.

As we have stated in the past, we are more than willing to work with you via the City and Commission’s coastal development permit process to analyze the situation and seek solutions that could be approvable under the relevant Coastal Act provisions. The access policies of the Coastal Act are codified in sections 30,000 to 30,900 of the California Public Resources Code. All further section references are to that code, and thus, to the Coastal Act, unless otherwise indicated.
Coastal Act were enacted by the Legislature to advance the goals in Article X of the California Constitution. Specifically, the access policies of Section 30210 of the Coastal Act provide that:

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, and the need to protect public rights, rights of private property owners, and natural resource areas from over use. (emphasis added)

At the same time, Section 30214 recognizes that the time, place, and manner in which public access is protected may need to be regulated based on the facts and circumstances in relation to each proposed restriction on public access, such as the subject beach curfew ordinance.

We understand and appreciate that the subject restriction on public access is intended to address public safety issues. However, such limitations on public access to the coast require thorough review and authorization through the coastal development permitting process. As we explained in earlier correspondence, imposition of the beach curfew ordinance clearly constitutes "development" under the Coastal Act, since it restricts public access to the coast. Development as defined under the Coastal Act, Section 30106, is a broad term of art that specifically includes a variety of "nonphysical" actions such as subdivisions of land, and also specifically includes in its definition "changes in the intensity of use of water or of access thereto." The Coastal Act definition of "development" was intentionally drafted in broad language in recognition of the reality that many activities that do not constitute physical development potentially have a significant impact on important coastal resources (e.g., public access). Pursuant to Section 30600(a) of the Coastal Act, any person wishing to perform or undertake development in the Coastal Zone must obtain a coastal development permit, in addition to any other permit required by law. As you are aware, the subject beach curfew ordinance lacks the required coastal development permits from the City and the Commission.

The Commission has successfully worked with a number of local governments, in the context of the coastal development permitting process, to achieve mutually acceptable resolutions that protect both public safety and public access to beaches, as required by the Coastal Act. To assist in our discussions here, Commission staff provided the City with a Beach Curfew guidance document (attached) and an example of a permit the Commission approved for another Southern California city's beach curfew ordinance, to indicate to the City the general approach the Commission has taken relative to the review of beach curfew ordinances and in an attempt to spur a productive dialogue.

Please note, however, that although the Commission preliminarily adopted the Beach Curfew guidance document (preliminarily adopted by the Commission in 1994), thus providing guidance to staff regarding factors that the Commission is likely to consider when reviewing coastal development permit applications for beach curfew ordinances, the Coastal Act still requires a permit process to evaluate conformance with the Coastal Act policies.
As the beach curfew guidance document and past coastal development permits authorizing curfews indicate, the key elements of ordinances that have been found to be consistent with the Coastal Act include:

- Presentation of credible evidence demonstrating the existence of a public safety problem warranting the imposition of a beach curfew.

- Evaluation of alternatives to a sweeping curfew and exclusion from the curfew of beach areas that could be excluded without compromising public safety. Efforts should be made to focus on the specific area or areas where problems exist and to craft any curfew ordinance accordingly.

- Since there are State waters subject to the California Constitution, there should be an exemption from the curfew of the wet sand area along the ocean's edge, and of transiting beaches to reach wet sand, for fishing, walking, surfing, diving, and access to State waters, etc.

- Inclusion of a "sunset" clause or the guarantee of periodic review, including public hearings, on the need to continue the curfew in effect.

- Appropriate signage posted in conspicuous locations giving notice of the closing times and exceptions to the closure.

Clearly there are numerous elements to a beach curfew ordinance (such as those noted above) in addition to hours of closure that must be incorporated into a beach curfew ordinance to ensure its consistency with the Coastal Act. On the narrow point of hours of closure though, given the beach curfew guidance document states that hours of closure, if warranted, should be limited to the period between 12 midnight and one hour before sunrise, staff is willing to support establishment of a 12 midnight to 5am curfew through the coastal development permit process, if certain provisions are included, including that the curfew is limited to specific locations in the City that warrant such a temporary closure pursuant to the standards noted above, and, in all areas, there are opportunities to access State waters during closure hours. We are more than willing to meet with you to continue to discuss specific provisions of the City’s curfew ordinance, including hours of closure, provisions specifying areas subject to the curfew, exemptions to the curfew for access to State waters, and appropriate signage.

We would like to schedule a meeting to re-start discussions regarding this matter. Our goal is amicable resolution of this matter that includes balancing public safety with the public’s Constitutional and statutory rights of access to beaches and State waters. To facilitate a prompt conclusion of this matter, please contact me by April 25, 2014 to schedule a meeting to discuss next steps in the coastal development permitting process.

Again, we were heartened by the collaborative discussions our staffs engaged in in the recent past and feel with renewed collaboration we can ultimately reach a resolution that is consistent
with the coastal access protection policies of the Coastal Act, and which the Coastal Commission, the public, and City can similarly support.

Sincerely,

Andrew Willis
Enforcement Analyst

cc: Office of Councilmember Mike Bonin
    John Ainsworth, Senior Deputy Director, CCC
    Lisa Haage, Chief of Enforcement, CCC
    Alex Helperin, Senior Staff Counsel, CCC

Encl: Beach curfew guidance document
TO THE COUNCIL OF THE  
CITY OF LOS ANGELES

Your RECREATION, LIBRARY & CULTURAL AFFAIRS Committee reports as follows:

RECOMMENDATION

APPROVE the accompanying ordinance amending the Los Angeles Municipal Code Section 63.44 regarding the closing hours for parks, beaches and parking lots thereat.

SUMMARY

Currently, most parks and beaches are closed between the hours of 10:30 p.m. and 5:00 a.m. and parking lots are closed between 1:00 a.m. and 3:00 a.m. Criminal activity and anti-social behavior in many parks and parking lots has become a growing problem Citywide. The Department of Recreation and Parks has received numerous complaints regarding this situation, but has been unable to effectively deal with the problem. Presently, the Municipal Code is worded very specifically and provides no leeway for the Board of Recreation and Parks Commissioners or the General Manager of the Department to adjust the closure time for parks and parking lots.

In 1988 the Department drafted a comprehensive report recommending changes to the Municipal Code in response to many of these complaints and three previous Council files (78-5420-S2 regarding an adopted Motion (Gibson-Russell) requesting an ordinance to change operating hours of beaches; 80-1615 regarding a Motion (Ronka-Lindsay) requesting an ordinance to change operating hours of Brand Park; and 85-0311 regarding a Motion (Woo-Alatorre) requesting an ordinance to change operating hours of Elysian Park).

This report suggested that the City Attorney draft an ordinance allowing the Department General Manager the ability to: 1) establish earlier closing hours for an individual park, upon finding that it is necessary to protect or maintain public health and safety or for the protection of the environment or natural or cultural resources; and, 2) establish earlier closing times and later opening times for parking lots located in parks. At the time of the drafting of this ordinance, the City Attorney with the agreement of the General Manager placed this authority with the Board of Recreation and Parks Commissioners instead of the General Manager for reasons set forth in the City Attorney report dated August 1, 1988. The ordinance will also establish a 12 midnight closing time for parks which consist of beaches, ocean areas or piers in the City.

-Continued-
TO THE COUNCIL OF THE
CITY OF LOS ANGELES

Your RECREATION, LIBRARY & CULTURAL AFFAIRS Committee reports as follows:

This matter was heard on numerous occasions during 1987-88 by the Recreation, Library and Cultural Affairs Committee. On August 22, 1988 the Committee requested following two final changes be made by the City Attorney to the draft ordinance: 1) closing times be the same for the particular park or beach in which they are located; and, 2) any changes in the closing hours that are proposed, in order to have the force of law, be approved by the City Council. The Recreation, Library and Cultural Affairs Committee approved the final draft ordinance on October 24, 1988 and forwards the matter for Council consideration.

Respectfully submitted,

RECREATION, LIBRARY & CULTURAL AFFAIRS COMMITTEE

AB 10-27-88