

A scenic view of a rocky coastline. On the left, a large, rugged rock formation rises from the beach. The beach is sandy and stretches towards the right, where gentle waves are washing onto the shore. The sky is clear and blue. The text is overlaid on the image.

Appeal of the Beach Club Lot Split, Gabion Wall and Grading, and New Single Family Residence Project

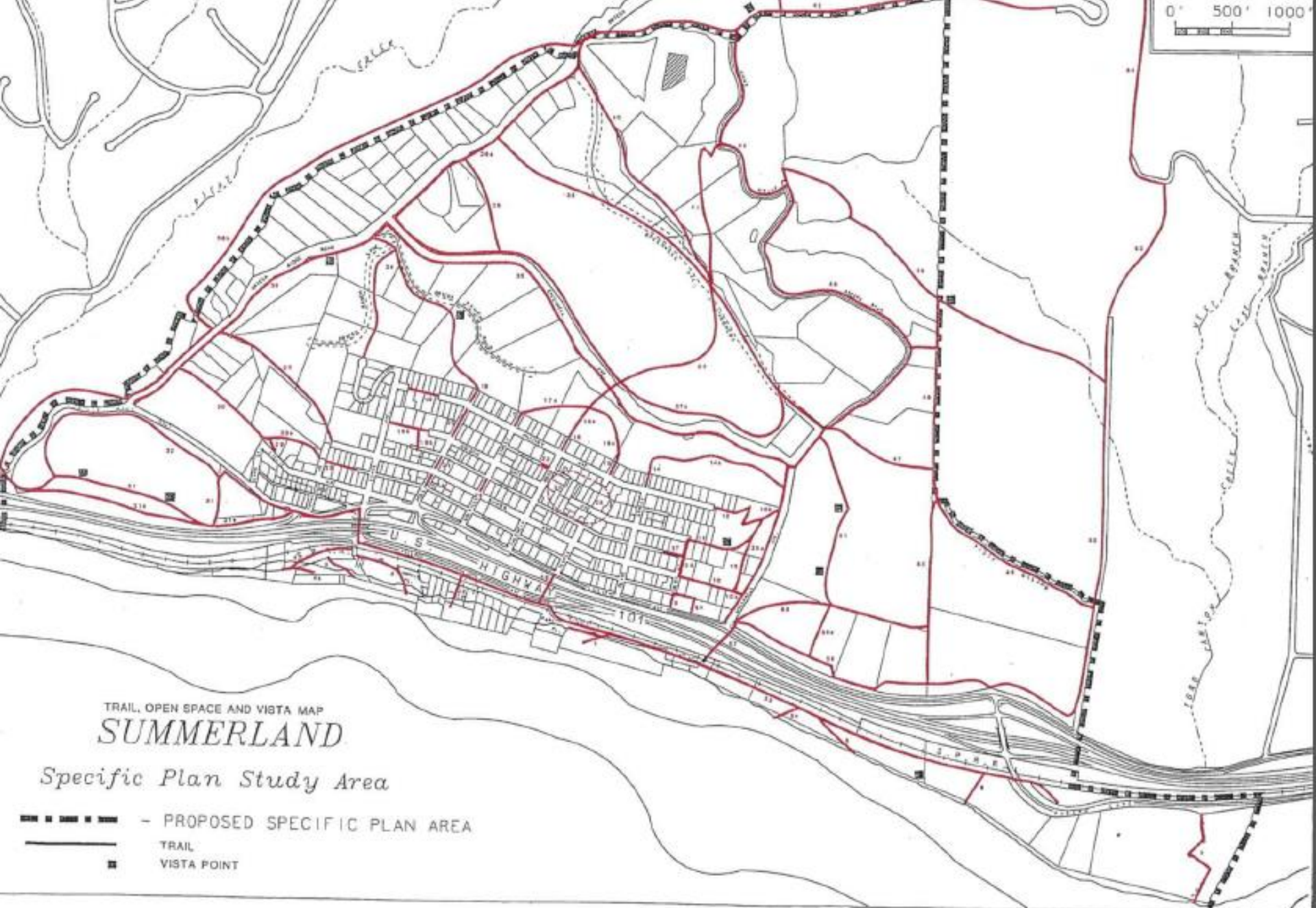
Appellants:

Summerland Citizens Association,
Reeve Woolpert & Tom Evans

July 8, 2014

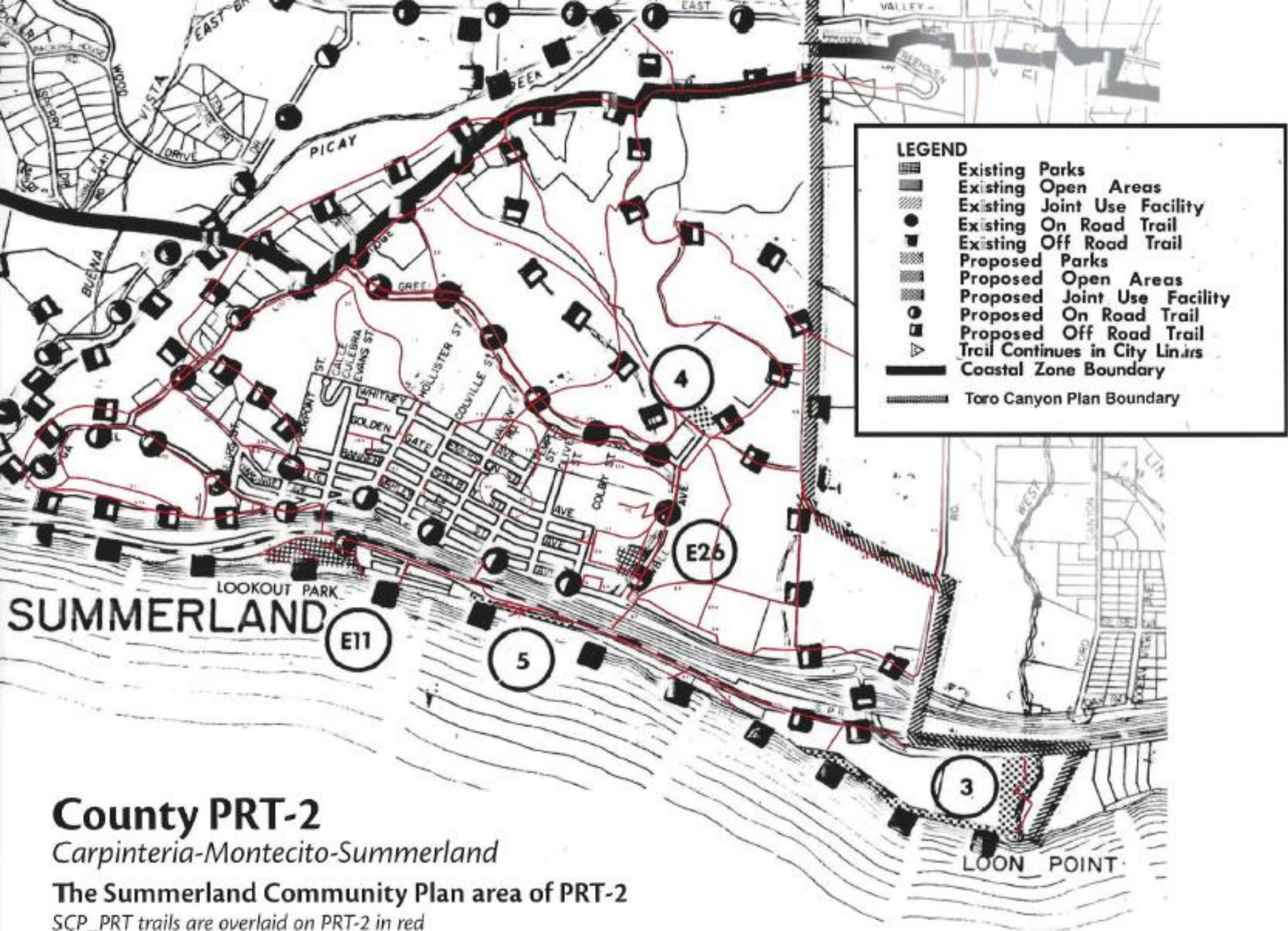
Issue Overview

- Vertical beach access at Toro Creek
 - Summerland Community Plan (SCP)
 - Existing and potential alternative beach access points inadequate
- Authority for requiring beach access easement
 - SCP, Local Coastal Plan (LCP), Coastal Zoning Ordinance (CZO)
 - Substantial evidence of historical public use and implied dedication
 - Biological and cultural resource impacts can be mitigated
- California Environmental Quality Act (CEQA)
 - Mitigated Negative Declaration (MND) inadequate
 - Focused Environmental Impact Report (EIR) required to analyze public access/recreation and visual impacts



SCP-PRT

Figure 15



County PRT-2

Carpinteria-Montecito-Summerland

The Summerland Community Plan area of PRT-2

SCP_PRT trails are overlaid on PRT-2 in red

Toro Creek Pocket Beaches – Frequently Inaccessible Due to Tide





Summerland Beach Looking East
Note dangerous nature of bluffs.



Loon Point

Summerland Beach & the Loon Point Trail are around the corner

Further East – Access Along Beach Cut Off at Serena Point



Intentional Exclusion of the Public

BEACHFRONT OR BLUFF-TOP:	Both	SANDY OR ROCKY:	Sandy
DISTANCE TO SANTA BARBARA:	12 minutes	NUMBER OF HOMES:	87 oceanfront/26 off beach
WALK TO SHOPS & RESTAURANTS:	Yes	GATED/GUARDED:	Only Beach Club Road is gated
PUBLIC ACCESS TO BEACH:	Difficult	SCHOOLS:	Aliso; Carpinteria Jr.; Carpinteria Sr.



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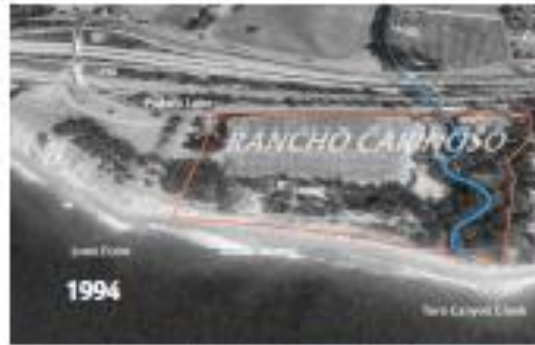
Long, wide and sandy, Padaro Lane is a private sanctuary from the world and even the twinkling city lights of Santa Barbara up the coast appear as a distant nighttime mirage. It is very difficult for the public to access the cove, given the large seawall projecting seaward at Padaro's eastern end and the cliffs at its western end. Consequently, homeowners enjoy miles of quiet, sandy beach with rarely an intruder's roving eye. The depth and amount of sand on Padaro Lane is the greatest and most consistent of all the local beaches, making Padaro Lane one of the most desirable beach choices for home ownership. The shops and cafes of Summerland to the west and Santa Claus Lane to the east are but a healthy walk or bike ride away.

Applicable Policies Require Dedication of Beach Access Easement at Toro Creek

- **SCP Policy PRT-S-2:** In compliance with applicable legal requirements, **all opportunities for public recreational trails within those general corridors adopted by the Board of Supervisors as part of the Parks, Recreation and Trails (PRT) maps of the County Comprehensive Plan (and this Community Plan) shall be protected, preserved and provided for during and upon the approval of any development, subdivision and/or permit requiring any discretionary review or approval.**
- **CLUP Policy 7-25: Easements for trails** shall be required as a **condition of project approval** for that portion of the trail crossing the parcel upon which the project is proposed.
- **CZO § 35-63, Coastal Trails:** Easements for trails shown on the Santa Barbara County Comprehensive Plan Parks, Recreation and Trails (non-motorized) maps, **shall be required as a condition of project approval** for that portion of the trail crossing the lot upon which the project is proposed.

Substantial Evidence of Historical Public Use and Implied Dedication

- Santa Barbara County Coastal Access Implementation Plan recognizes historic use and potential prescriptive rights along Toro Creek Trail
- Appellants submitted 15 Declarations of Public Use of the Toro Creek Trail
- Gate across Toro Creek substantially obstructed public use beginning in late 1980's
- Implied dedication of Toro Creek Trail for public use effectuated prior to gate construction
- Project would will compromise if not doom any future effort to restore rightful public access along Toro Creek



Time Comparisons



Rancho Carinoso Subdivisions



County Recognition of Historical Public Use Santa Barbara County 1991 Coastal Access Implementation Plan

Parcel 5-380-33

RECOMMENDATIONS :

Acceptance of this offer is a high priority. The area between Loon Point and Beach Club Road, which includes this parcel, is an established surfing area. Additionally, this undeveloped beach property offers high value coastal recreation experiences. However, accepted vertical access is unavailable in this stretch and access is difficult from beyond Loon Point (impassable point) and from 3443 Padaro Lane (prohibitive distance). Therefore, vertical accessways should be accepted at Beach Club Road (APN 5-390-23) and acquired at Toro Creek (APN5-260-9) to provide public with adequate beach access. All lateral offers, including subject parcel, should be accepted along this stretch of beach.

County Recognition of Historical Public Use Santa Barbara County 1991 Coastal Access Implementation Plan

Parcel 5-260-09

RECOMMENDATIONS :

Lateral access has been accepted by Santa Barbara County. Historic vertical access along Toro Creek has occurred, but has been recently gated off. Surfing is popular in this stretch of beach from Loon Point to Beach Club Road and Toro Creek provided the only close vertical access for surfers. The County should investigate the prescriptive rights (and acquisition of easement) for this accessway since it provides needed access to a popular and established surfing beach.

Parking - Allowed on Padaro Lane



Biological and Cultural Resource Issues

- The Coastal Act (section 30240a) allows uses dependent on sensitive habitat areas, including trails, to be located within such areas.
- Any adverse impacts to biological and cultural resources could be mitigated to insignificance through proper trail siting and design.
- These issues merit analysis in a focused EIR.

Alternative Trail Location

Declaration of Public Use

Used meadow portion of project site as trail to access beach 1988-2008



CEQA – Negative Declaration

- Cannot use MND if a fair argument of potentially significant impact is made
- Low threshold for preparation of EIR
- Arguments of Project Impacts – Recreational, Visual
- Arguments of Project Inconsistency with Applicable Policy

CEQA – Fair Argument of Potentially Significant Impact

– Project Impact to Public Coastal Access & Recreation

- Fence and Barriers to public use of bluff along historic route
- New lots and large houses chill public use of Creek Trail
- Evidence of historic use and implied dedication

– Project Impact to Visual Resources

- Blocking designated Scenic views of Ocean

CEQA – Fair Argument of Potentially Significant Impact

– Policy Conflicts

- CEQA Guidelines, Appendix G: whether a project may "[c]onflict with any applicable land use plan, policy, or regulation ... adopted for the purpose of avoiding or mitigating an environmental effect."
- Pocket Protectors case: "if substantial evidence supports a fair argument that the proposed project conflicts with [applicable policies, including the coastal zoning ordinance], this constitutes grounds for requiring an EIR. Whether a fair argument can be made on this point is a legal question on which we do not defer to the City Council's determination."

CEQA – Fair Argument of Potentially Significant Impact

– Policy Conflicts Due to SCP Figure 15

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An aerial photograph of a coastal residential area. In the foreground, there is a sandy beach and the ocean with some waves. A prominent feature is a steep, light-colored cliffside that runs along the coast. On top of the cliff, there are several houses and buildings, some with swimming pools. The background shows more trees and a road. The text is overlaid on the image.

Appellants request that the Board:

- Grant the appeal
- Direct Staff to prepare a focused EIR that accurately characterizes the environmental setting, and evaluates the Project's impacts to public access and recreation and visual resources



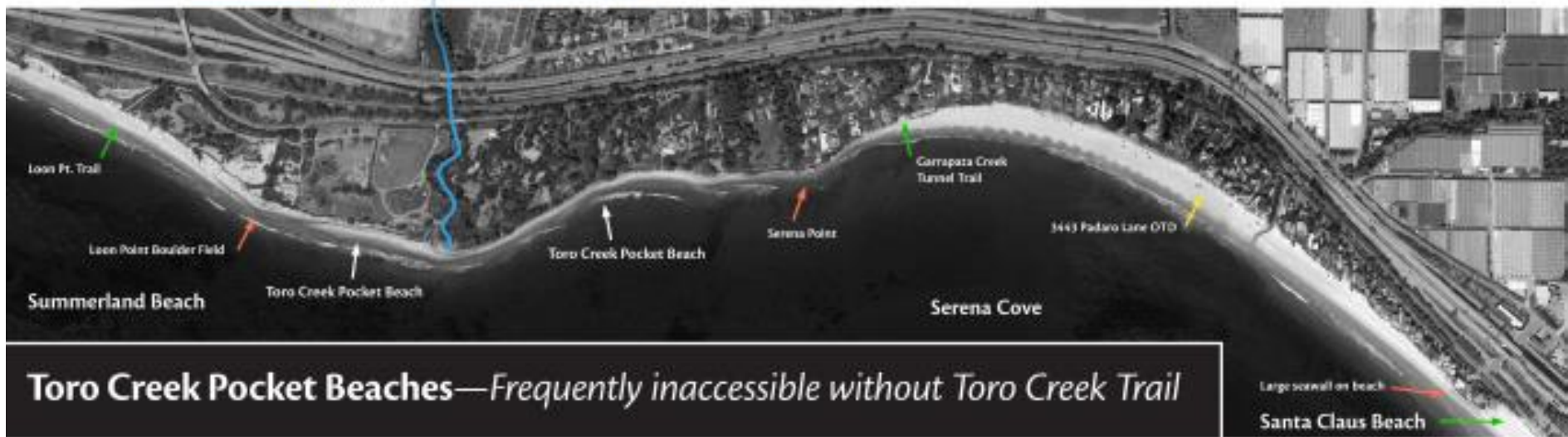
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- access constraint
- public access
- 1443 OTD

TORO CANYON CREEK



Toro Creek Pocket Beaches—*Frequently inaccessible without Toro Creek Trail*



The east end of Summerland Beach with the Loon Point Boulder Field in distance blocking access to Toro Creek beaches from the west.



The west end of Serena Cove abruptly terminating at Serena Point blocking access to Toro Creek Beaches from the east.



“ The crescent shaped beach cove at Padaro Lane is arguably the best beach in the Santa Barbara area upon which to live. Long, wide and sandy, Padaro Lane is a private sanctuary from the world. Public access to the beach is very difficult, given the large seawall projecting seaward at eastern end and the cliffs at its western end. Consequently, homeowners enjoy miles of quiet, sandy beach with rarely an intruder's roving eye. ”