

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
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Filed: 9/10/96
 49th Day: 10/29/96
 180th Day: 3/9/97
 Staff: MV-LB
 Staff Report: 10/24/96
 Hearing Date: 11/12-15/96
 Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 5-96-192
 APPLICANT: 701 Lido Park Partnership
 AGENT: Russ Fluter
 PROJECT LOCATION: 613, 615, 617, & 619 Lido Park Drive, Newport Beach, Orange County
 PROJECT DESCRIPTION: Demolish 30 unit hotel and subdivide the 2 underlying lots to 4 lots.

Lot area:	19,800 square feet
Building coverage:	n/a
Pavement coverage:	n/a
Landscape coverage:	n/a
Parking spaces:	n/a
Zoning:	Multi Family Residential
Plan designation:	Single Family Attached Residential
Ht abv fin grade:	n/a

LOCAL APPROVALS RECEIVED: Newport Beach Approval in Concept No. 1481-96

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach certified Land Use Plan; Coastal Development Permit No. 5-92-250 (701 Lido Park Partnership); and Coastal Development Permit No. 5-92-251 (Lido Park Partnership).

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed project as submitted.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and recreation policies of Chapter 3 of the Coastal Act, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions 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 project during its development, 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.

III. Special Conditions: None

IV. Findings and Declarations.

A. Project Description

The applicant proposes to demolish a 30 unit hotel and subdivide the two underlying lots into four lots. The total area to be subdivided is 0.454 acre. The four proposed lots will be subdivided as follows: Lot 1: 0.113 acre; Lot 2: 0.114 acre; Lot 3: 0.113 acre; Lot 4: 0.114 acre. No construction is currently proposed.

The subject site is located between the sea and the first public road on the Balboa Peninsula. The site fronts on the West Lido Channel of Lower Newport Bay. Private boat docks and ramps exist seaward of the bulkhead. No usable sandy beach area exists adjacent to the site. No development is proposed seaward of the bulkhead.

The certified land use designation at the subject site is single family attached residential. The lots on either side of the subject site are designated and developed as single family attached residential. The existing hotel structure was constructed prior to the Coastal Act. The hotel use is a legal non-conforming use based on prior zoning standards.

On October 13, 1992 the Commission approved coastal development permits 5-92-250 and 5-92-251 with no special conditions. The combined permits allowed demolition of the 30 unit hotel and construction of two, two-unit condominium structures (a total of 4 residential units). Those permits have expired.

B. Priority of Land Use

Section 30222 of the Coastal Act states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal dependent industry.

Section 30221 of the Coastal Act states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could not be accommodated on the property is already adequately provided for in the 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.

The certified land use designation at the subject site is single family attached residential. Because the site is also zoned residential, the use of the site for hotel purposes may continue only as a legal non-conforming use according to the City of Newport Beach zoning code. Any new construction must conform to the current zoning as well as the current land use designation.

Although no structures are proposed to be constructed at this time, because of the certified land use designation and underlying City zoning, once the hotel is demolished as proposed, it could only be replaced with residential development. Such a conversion of the site from visitor serving commercial use (hotel) to residential use is a conversion from a higher priority use to a lower priority use under the Coastal Act. In this case, however, for the following reasons, the conversion will not adversely impact visitor serving commercial resources.

The applicant has indicated that the hotel structure is approximately 40 years old and has been used as a hotel for approximately 30 years. At the time of the 1992 permits the applicant indicated that maintaining the hotel use would require extensive work due to the poor condition of the structure. The extensive work needed was not considered economically feasible. In addition, the applicant indicated that a surplus of hotel rooms existed in the Newport Beach area.

In conjunction with the previous coastal development permits for the site, staff examined whether there was a surplus of hotel rooms in Newport Beach. At that time the Commission found:

"The estimated average hotel occupancy rate within the corporate limits of Newport Beach is around 63% (FY 91-92) which leaves approximately 960 rooms vacant at any given time. Over the past five years the vacancy rate has ranged from 58% to 68%. Additionally, the Visitor's Bureau reported that four proposed inland hotel projects totalling 2,500 rooms have been placed on hold for the past year and a half. The demolition of the hotel will result in a loss of 30 rooms from the available supply of rooms. This would decrease the occupancy rate by 1% from 63% to 64%."

The current hotel occupancy rate in Newport Beach is 69% (FY 95-96). This leaves 31% of the hotel rooms unoccupied on average. These figures indicate that an adequate supply of hotel rooms exist in the Newport Beach area. The loss the 30 room hotel is not a significant loss, because its effect on the occupancy rate would be minimal.

Visitor serving commercial areas, recreational areas, and beach access can be found nearby. The seaward side of Lafayette Avenue (about 250 feet west) is designated Recreational and Marine Commercial in the certified Land Use Plan. The Recreational and Marine Commercial designation allows visitor serving retail uses. Hotels are allowed, subject to approval of a Use permit. Lafayette Avenue also provides three vertical access points and some lateral access along lower Newport Bay. A substantial portion of Lido Park Drive along the Rhine channel provides lateral access. Visitor uses (primarily restaurants) exist across the street from the subject site along Lido Park Drive adjacent to the Rhine channel. In addition, Lido Village is just north of the subject site. Lido Village provides significant visitor uses in the form of shops, restaurants, and lateral and vertical public access along the bay.

In summary, visitor serving uses in the area will not be adversely impacted by the loss of the hotel because an adequate number of hotel rooms and visitor serving uses will remain in the area even if the hotel use at the site is not retained. Further, the existing hotel use on the site is inconsistent with the certified land use designation. Therefore, the Commission finds that the proposed development, including demolition and subdivision, is consistent with Sections 30222, 30221, and 30213 of the Coastal Act regarding priority of use.

C. Public Access

Section 30212(a)(2) of the Coastal Act states:

Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:
(2) adequate access exists nearby, ...

Public access (both lateral and vertical) to the bayfront is not available on the subject site nor on the adjacent residential lots. Section 30212(a)(2) of the Coastal Act allows for new development without the provision of public access if the proposed project does not create an adverse impact on existing access and when adequate access exists nearby. Public access to the bayfront has not historically been available on the subject site nor on the adjacent bayfront residential lots. Public access in the subject area is available along the Rhine channel from Lafayette Avenue and along Lido Park Drive. Public access to the bay is also available north of the site at Lido Village. In addition, public access exists across the Via Lido bridge. A small public park exists at the west end of the Via Lido bridge. The certified Land Use Plan cites 36 street end access points to lower Newport Bay on the Balboa Peninsula. Public access to the ocean side of the Balboa Peninsula extends for the length of the peninsula.

Section 30604(c) of the Coastal Act requires that the findings for projects between the nearest public road and the shoreline of any body of water within the coastal zone shall include a public access and recreation finding. Public access and recreation opportunities exist nearby. Additionally, the proposed project does not adversely impact public access. Therefore, the Commission finds that the proposed development is consistent with Section 30212 of the Coastal Act as the proposed development would not create adverse impacts on public access and public access exists nearby.

D. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with the Chapter 3 policies of the Coastal Act.

The Newport Beach Land Use Plan was certified on May 19, 1982. The project as proposed is consistent with the Chapter 3 policies of the Coastal Act. The proposed development would eliminate a non-conforming use and allow an approved use in the future as established by the certified Land Use Plan. The proposed development will not prejudice the City's ability to prepare a Local Coastal Program for Newport Beach that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

E. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

The project is located between the sea and the first public road. The project is proposed in an existing urbanized area. All utilities exist to serve the subject site. The proposed development will not have a significant impact on the environment. This development will not result in adverse impacts to coastal access or resources. The proposed development is consistent with the Chapter 3 policies of the Coastal Act. The project as proposed is the least environmentally damaging alternative. Therefore, the Commission finds that the proposed project is consistent with CEQA and the policies of the Coastal Act.

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CANNERY VILLAG

Realty Inc.
Russell E. Fluter

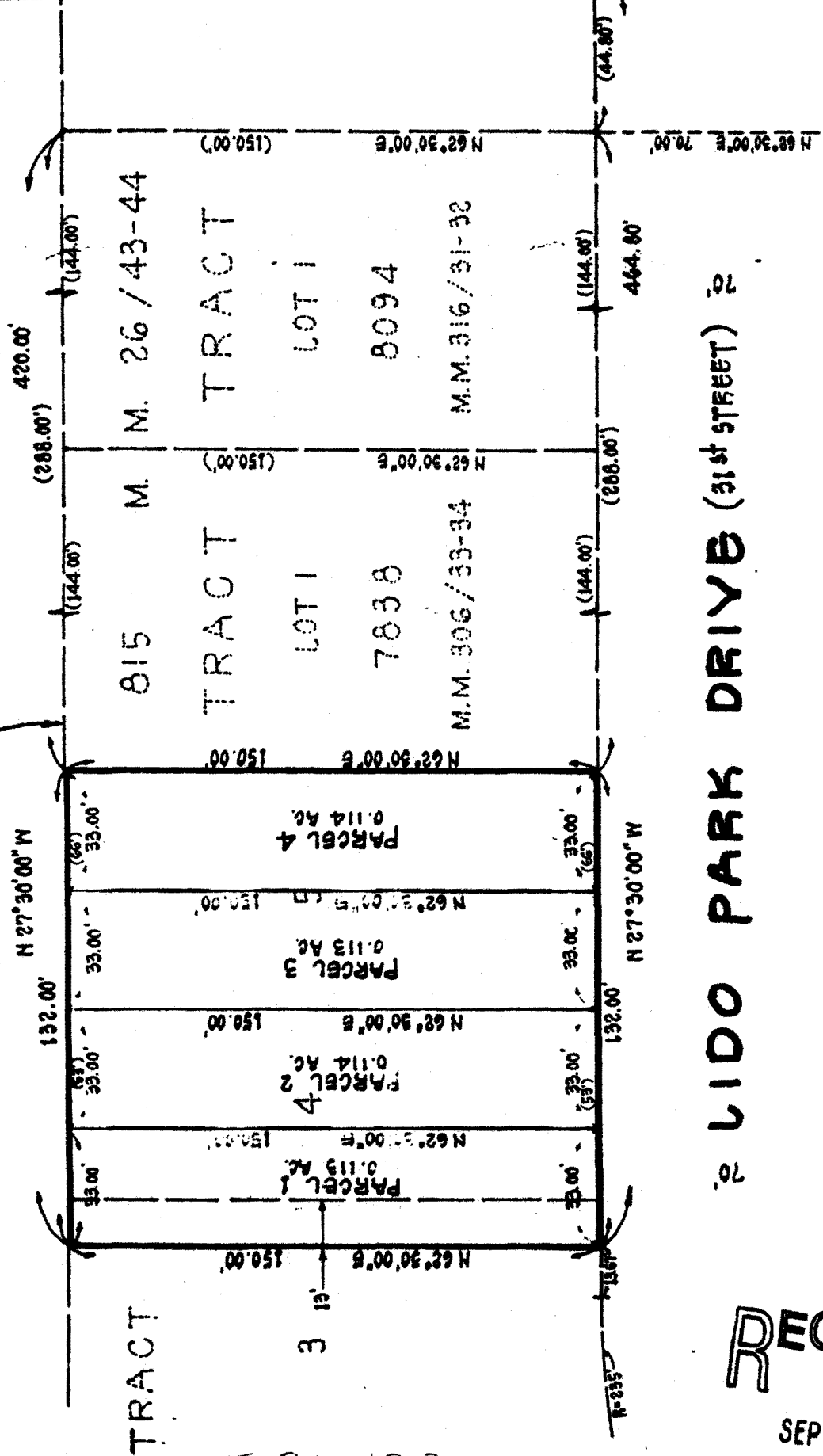
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subject site
5-96-192
vicinity map
4861-A

WEST LIDO CHANNEL

U.S. 60V. BULKHEAD LINE



TRACT

5-96-192

Proposed Parcel Map
Exhibit B

LIDO PARK DRIVE (31st STREET)

5-96-192

REDUCED PLAN

RECEIVED

SEP 1 0 1996

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STREET
9° 15' 30" E
2,000.51' E