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CALIFORNIA COASTAL COMMISSION

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49th Day: 12/20/95
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Staff: A. Padilla
Staff Report: 11/20/95
Hearing Date: 3/12-15/96
Commission Action:

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 5-91-843A

APPLICANT: Step Up Housing Partners

AGENT: Bill Yee

PROJECT LOCATION: 1328 Second Street, Santa Monica

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: A 3-story addition containing 36 single room residential units over an existing one story retail/community center building.

DESCRIPTION OF AMENDMENT: Request to amend permit by removing future improvements deed restriction and offering to make available, when and if needed, 19 parking permits for tenants of the residential units.

LOCAL APPROVALS RECEIVED: Approval In Concept

SUBSTANTIVE FILE DOCUMENTS:

1. City of Santa Monica Land Use Plan (LUP) Certified with Suggested Modifications, 1992.
2. Parking Analysis prepared by Kaku Associates, June 1988 (updated 1991).
3. 5-87-592 (City of Santa Monica)
4. 5-87-643 (City of Santa Monica)
5. 5-88-384 (Arizona/Third Street Partnership)
6. 5-90-001 (Sports Legends Inc.)

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission determine that the proposed development with the proposed amendment, subject to the condition below, is consistent with the requirements of the Coastal Act.

Staff is recommending that the Commission deny the applicant's proposed amendment request to delete the original deed restriction and instead recommends that the Commission approve a modification to the original deed restriction so that the deed restriction would (1) no longer limit the location at which any future parking would be provided and (2) require information needed to make such a determination prior to filing of any future coastal development permit.

PROCEDURAL NOTE: The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) the proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, 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 is in conformance with the public access and public recreation policies 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. Special Conditions.

Substitute special condition number 1 of the original permit with the following:

1. Future Development:

Prior to the issuance of the coastal development permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, stating that the subject permit is only for the development of a residential center for adults suffering from persistent or disabling mental illness, as described in the application for the Coastal Development Permit No. 5-91-843; and that any development as defined in 30106 of the Coastal Act, including but not limited to conversion to commercial, market rate residential, educational or hotel use, will require a permit from the Coastal Commission or its successor agency. Any such application shall be supported, prior to filing, by evidence demonstrating how all coastal and access impacts would be mitigated. The deed restriction shall run with the land, binding on heirs and assigns of the applicant and shall run for the life of the structure approved in this permit.

III. Findings and Declarations.

The Commission hereby finds and declares as follows:

A. Project Description and Background

This is a request to amendment permit #5-91-843 by deleting the future improvements deed restriction condition required on the original permit (see Exhibit #3). The applicant is offering to agree to make 19 parking permits available in the future, when and if needed, for the residential tenants in lieu of the deed restriction.

Coastal Permit #5-91-843 was approved for the construction of a 3-story addition containing 36 single room residential units over an existing one story retail/community center building. The housing units serve adults recovering from chronic mental illness. Following is a more detailed description of the purpose of the project as submitted by the applicant:

Step Up's Articles of Incorporation mandate the center to serve adults recovering from chronic mental illness. The agency's mission is:

To provide educational, vocational, and social services in Los Angeles County, California, to adults suffering from persistent and disabling mental illness, and to afford such individuals the opportunity to socialize, to develop new interests through educational experiences, and to learn the independent living and vocational skills necessary to become productive, contributing members of the community.

The Commission granted the permit on February 18, 1992. The Commission required, as a condition of approval a single special condition requiring the applicant to record a deed restriction to ensure that any future change in use of the project will not have an adverse impact on the parking district's parking supply (See Exhibit 3). The applicant accepted the condition of the permit and the applicant recorded the condition. The permit was subsequently issued on August 23, 1993. The residential project is currently in operation.

According to the applicant an amendment is being requested because, as the condition is currently worded, the applicant is unable to obtain refinancing. The applicant states that the deed restriction "substantially compromises the lender's security in the property".

As currently worded the condition 1) notifies future owners that a change in use, including conversion of the residential units to market rate units, would require a coastal development because it is a change in use and 2) requires, if converted to market rate units, on-site parking or off-site parking on property under common ownership with the subject development to support the new use. The applicant is objecting to both parts of the special condition.

B. Public Access/Parking

Section 30252 of the Coastal Act states in part that:

The location and amount of new development should maintain and enhance public access to the coast by providing adequate parking facilities.

The development approved in permit #5-91-843 and constructed by the applicant is a 3-story residential addition over a one-story, 7,300 sq. ft. retail/community building located on a 7,500 sq. ft. commercial lot. The pre-existing use had no on-site parking provisions and due to lot size constraints, the addition was not able to provide on-site parking.

At the time of the Commission's original approval the applicant submitted parking information indicating that approximately 95% of the occupants for the proposed use would neither drive or own an automobile. Following is a brief parking requirement analysis as submitted by the applicant:

From experience, Step Up knows that the majority of its participants who will be the future tenants of the proposed housing units will not own automobiles or be licensed. Department of Motor Vehicles restricts individuals taking psychiatric medication, limiting their ability to receive a drivers license. Participants with limited income from disability benefits can not afford to purchase or maintain automobiles. Step Up estimates that over 95% of current participants at the socialization center neither own nor drive an automobile.

Step Up chose the Second Street location because the center is within walking distance to essential community resources. The center is also within two blocks of the major RTD and Bus routes, including routes along Venice, Wilshire, and Santa Monica Boulevards which provide transportation to downtown Los Angeles.

According to the parking demand analysis for the Third Street Promenade, prepared by KAKU Associates (December, 1988 and updated in 1991), the weekday peak utilization rate for all six parking structures is 1,915 vehicles (63%) and occurs between 2:00 to 3:00 P.M. During this time the demand for metered spaces, which are spaces available to the general public, is 1,109 spaces or 64%. During the weekend the peak utilization increases to 1,387 spaces or 80%. Therefore, the number of spaces remaining available to the general public is 625 spaces during the weekday and 347 spaces during the weekend. Based on these figures and the parking demand determined to be generated by the project it was found that there would be an adequate supply of parking remaining for the general public during weekday and weekend peak utilization periods to support the proposed project.

The Commission concurred with the City's and the applicant's parking analysis and found that the proposed use would not create any adverse parking impacts. However, the applicant had a 50 year lease that could be terminated earlier. The Commission was concerned that if the lease was terminated and a different use, such as market rate residential, were to be proposed in the future, the new use could have greater parking impacts. Therefore, the Commission required a future improvements deed restriction to put all present or future property owners on notice that a coastal development permit would be required for any change in use of the property, including a change to market rate residential. The deed restriction also required that if there was a conversion to a residential use (market rate) parking was required to be

provided on-site or at a nearby site under common ownership with the subject development. The Commission found that only as conditioned would the proposed development be consistent with the public access and parking provisions of Section and 30252 of the Coastal Act.

The applicant is requesting that the deed restriction imposed on the original permit be removed as a requirement of the permit. Commission staff, however, is recommending to the Commission that the applicant's amendment to delete the restriction in its entirety not be approved as requested but instead approved with a modification to the deed restriction to eliminate the requirement that parking be provided on-site or at a nearby site under common ownership.

The proposed project is located within the City of Santa Monica's Downtown Parking Assessment District. The boundaries of the Parking District are Fourth Court, Broadway, First Court, and Wilshire Boulevard. The Parking District was formed by the City of Santa Monica City Council on November 23, 1965. According to the Third Street Mall Specific Plan, December 1984, the District was formed:

. . .to levy an additional business license tax on all properties within its boundaries and an annual ad valorem assessment on these properties. The business tax amounts to an additional tax equal to five times the standard tax, or a total business tax equal to six times the standard tax. The ad valorem assessment is an amount not to exceed \$2.25 per each \$100 of assessed valuation as shown on the Los Angeles County assessment roll for any given year. . . .

Parking within the Parking District is provided in six parking structures located within a four-block area. A total of 3,040 parking spaces are provided by the six structures. Of this total, 1,734 spaces are currently available to the public (5-87-592, City of Santa Monica). Businesses within the boundaries of the Parking District are not required to provide on-site parking.

The applicant has paid their fair share into the District based on the use that was proposed at that time (36-single room residential project for mentally ill tenants, over an existing one-story retail/community center building).

The fact that the applicant has paid into the District, however, does not guarantee that there will be adequate parking provided within the District's parking supply to support a future change from the current residential use to a higher residential use (i.e. market rate units). As indicated in the Third Street Mall Specific Plan the amount of the fee is not based on the development's parking demand but on the amount of taxes the property pays. Furthermore, the City, when reviewing projects within the District, does not analyze parking on a case by case basis since the City does not require projects within District to provide parking. However, the Commission is responsible for assuring that new development adequately assures recreational and coastal access parking. The Commission reviews all proposed development within the District to determine whether there is adequate parking within the District.

Although the City does not require projects within the Parking District to

provide parking, the parking supply within the district must be adequate to support the demand generated by existing and new developments that do not provide their own parking or are deficient in their supply of on-site parking. Because of the proximity of the District to the beach and other coastal recreational destinations, such as the Palisades Park and the Pier, the adequate provision of parking within the District is important in maintaining available parking in the area for beach and recreational users.

The applicant states that as proposed the project would be consistent with the Commission's past permit action in approving permit #5-91-325A (Community Corporation of Santa Monica). Permit #5-91-325A was for the construction of a mixed-use commercial and 43 unit single room occupancy project. In this permit amendment the applicant agreed to offer 22 parking permits for use within the Parking District. The number of permits offered was based on the amount of parking that would be generated by the project based on the City's parking ratio of 0.5 spaces per SRO.

The applicant states that since the Commission approved permit 5-91-325A without a deed restriction and allowed parking permits to ensure that adequate parking is provided within the Parking District, this project should be similarly treated and the deed restriction removed.

The applicant is requesting that the Commission accept mitigation for potential future impacts by making available when and if needed 19 parking permits for the tenants of the residential units. This amount, based on current parking ratios, may be adequate to mitigate the current parking impacts that would be generated by the project. However, it is unknown what the impacts of a future change in use will be on the Parking District due to the changing demand and supply of parking. An SRO in 1999 may have greater impacts and require greater parking than in 1990. Therefore, the proposed mitigation may be inadequate to mitigate the impacts of the conversion to market rate units in the future. However, even in the absence of a future improvement condition, a change in use will require Commission approval and any impacts generated by a change in use will be mitigated at the time the change is proposed.

The applicant has also argued that the Commission has not required parking permits or a future deed restriction for the various movie theaters that have been approved in the District. Therefore, it is the applicant's belief that this project should also not be restricted by a condition.

Over the years the Commission has approved numerous projects within the District. Such projects include, movie theaters, restaurants, night clubs, retail shops, business offices and market rate residential development. The Commission has not required these projects to provide parking permits or to record a future improvements deed restriction. However, the Commission analyzed these projects based on the project's parking demand and the District's parking supply at the time of submittal to the Commission. The projects were approved, based in part, on the District's supply of parking that was found to be adequate to meet the current demands generated by the proposed projects at that time and the availability of parking for recreational and coastal support parking. The analysis was not based on possible future parking demands. Furthermore, these projects that were previously approved by the Commission were not granted a reduction in the

parking standards, as is the case for this particular project.

Should the approved residential use ever be converted to market rate residential use additional parking impacts may occur. These additional impacts in the District, with a finite number of spaces, could reduce the amount of available parking for recreational and beach parking. Any change to exclusive private use would constitute "development", as defined in Section 30106 to include any change in the intensity of use of land or water, "or of access thereto". Therefore, pursuant to Section 30600 requirements that a coastal permit is needed for any development, any such conversion of these 36-residential units to market-rate would require a coastal permit, with approval findings that demonstrate that parking impacts on coastal access and recreation are mitigated.

The requirement for a coastal development permit for the change from non-market rate units to market rate units may not be obvious to someone interested in purchasing the development in the future, especially if the change does not involve any physical changes to the existing development. It is essential that any potential future buyers be aware of the need for a permit for a change to market rate use, which would generate a higher parking demand, to avoid purchase with expectations that the residential units could be converted to market rate units with no regard to Coastal Act public access concerns. Therefore, to provide clear communication to future owners of the need for Commission authorization of any future changes of use of the facilities, the Commission attaches a future development deed restriction. The special condition requires recordation of a future development deed restriction stating that conversion of any portion of the approved facilities to another use, including market rate residential, would require prior Commission review and approval of the change will require a permit from the Commission. The deed restriction will serve to notify current and future owners of existing coastal development permit requirements. In this way, any future development will be regulated to ensure that no development inconsistent with Chapter 3 policies could occur without prior Commission review.

Although it is necessary to continue to require a future improvements deed restriction on this project the language of the deed restriction can be modified in order not to be too restrictive to the point where it would be inconsistent with Commission past permit action for the area where the Commission has allowed residential and other uses to use the parking provided by the Parking District. The language in the original deed restriction, requiring the provision of either on-site or at a nearby site under common ownership, is being eliminated. This particular language is being removed because the project is located within the City's Parking Assessment District where parking for all uses within the District would be provided. Therefore, the Commission finds that, as conditioned, the proposed project will be consistent with the Commission's intent in approving the original permit and with Section 30252 of the Coastal Act.

The Commission notes that the fact that such a change requires a coastal development permit under the Coastal Act does not necessarily mean the Commission would not approve market-rate residential units on the site. The Commission would need to consider the significance of the impact on the availability of parking within the District. If the parking supply within the

District was sufficient to support the additional demand generated by the change the Commission might find that such a change is consistent with 30211 and 30252 of the Coastal Act.

C. Local Coastal Program

Section 30604(a) of the Coastal Act states:

(a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

In August 1992, the Commission certified, with suggested modifications, the land use plan portion of the City of Santa Monica's Local Coastal Program. The certified LUP contains polices to guide the types, locations and intensity of future development in the Santa Monica coastal zone. Among these polices are those specified in the preceding section regarding public access--parking. The proposed amendment is consistent with all relevant policies of the LUP regarding public access and will not prejudice the ability of the City to prepare a Local Coastal Program implementation program consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

D. CEQA

Section 13096 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 proposed project amendment has been conditioned to be found consistent with the public access policies of the Coastal Act. Mitigation measures will minimize all adverse impacts. There are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the proposed amendment is found consistent with CEQA and the policies of the Coastal Act.



5-91-843

EXHIBIT NO. 1

APPLICATION NO.

5-91-843A

Vicinity Map



California Coastal Commission

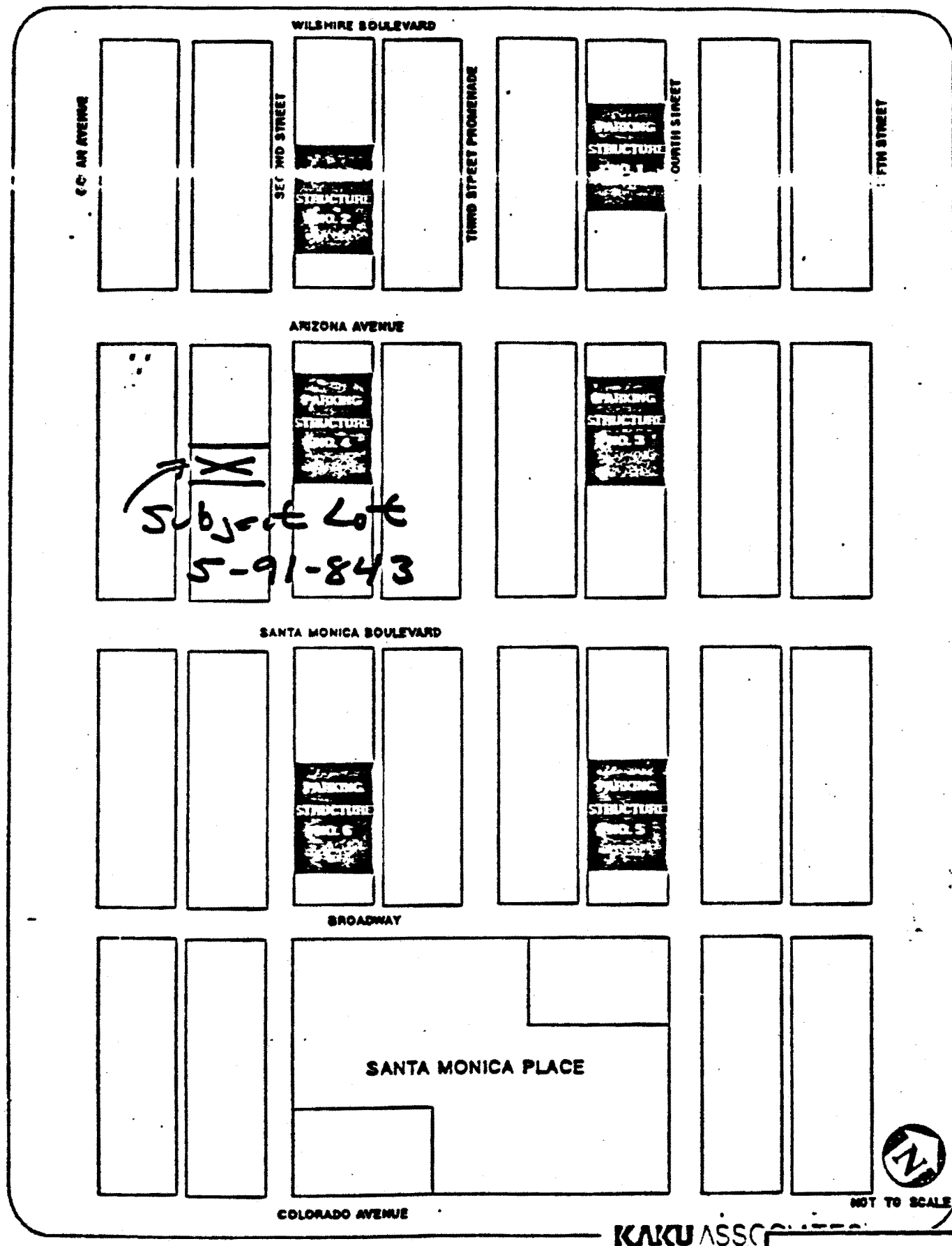



FIGURE 1
LOCATION OF CITY PARKING STRUCTURES


EXHIBIT NO. 2
APPLICATION NO.
5-91-843A
Location within
Parking District
 California Coastal Commission

iii. SPECIAL CONDITIONS:

1. Future Development:

Prior to the issuance of the coastal development permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, stating the the subject permit is only for the development of a residential center for adults suffering from persistent or disabling mental illness, as described in the application for the Coastal Development Permit No. 5-91-843; and that any future improvements and/or change in use of the property, including but not limited to conversion to commercial, market rate residential, educational or hotel use will require a permit from the Coastal Commission or its successor agency. Such permit shall not be issued unless parking conforming to currently applicable Coastal Development permit parking standards has been provided. In the case of a conversion to a residential use, the parking shall be located on site or at a nearby site under common ownership with the subject development. The deed restriction shall run with the land, binding on heirs and assigns of the applicant and shall run for the life of the structure approved in this permit.

Note: language to be removed is underlined.

EXHIBIT NO. 3
APPLICATION NO. 5-91-843A
Original Special Condition No. 1
 California Coastal Commission