

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
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(562) 590-5071

Filed: 8/3/98
49th Day: 9/21/98
180th Day: 1/30/99
Staff: Padilla-LB
Staff Report: 9/18/98
Hearing Date: 10/13-16/98
Commission Action:

**STAFF REPORT: REGULAR CALENDAR****APPLICATION NO.: 5-98-311****APPLICANT:** Morley Construction Company**PROJECT LOCATION:** 1750 The Promenade, Santa Monica

PROJECT DESCRIPTION: Temporary use (from date permit is issued through May 28, 1999) of four public parking stalls within a 117 space public beach parking lot for construction staging/equipment storage for the construction phase of an apartment building on a lot abutting the public beach parking lot. Approximately 260 feet of The Promenade directly in front of the construction site, and the adjacent approximately 4,500 square foot paved pad area will also be used as a construction staging area. Pedestrian access will be temporarily rerouted around the construction and staging area for public safety.

Lot area:	24,375 square feet
Parking spaces:	117
Plan designation:	Beach Parking

LOCAL APPROVALS RECEIVED: City of Santa Monica Approval In Concept; State Parks and Recreation Department approval, dated May 20, 1998.

SUBSTANTIVE FILE DOCUMENTS: 5-98-237(Morley Construction); 5-94-006(Michael Construction)

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission approve the proposed project with special conditions to ensure that the project will not adversely impact public beach access and parking.

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, 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 this permit is reported to the 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. 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.

1. Written Statement

Prior to the issuance of the permit, the applicant shall submit, subject to the review and approval of the Executive Director, a written statement explaining the steps to be taken if construction of the adjacent site (1725 The Promenade or 1725 Appian Way) has not been completed and the parking lot, located at the City's Beach Facility (1750 Appian Way), is still occupied by the end of the use period (May 28, 1999), as approved by this permit. The statement shall include an agreement to use alternate staging area that is not located on public property and evidence of the applicant's right to sue the alternate staging area. The written statement shall be signed by the applicant.

2. Status Report

With the acceptance of this permit the applicant agrees to submit a written status report prior to March 15, 1999, indicating the progress of the construction at 1725 The Promenade. Unless a change in schedule is approved by the Commission the parking lot (1750 Appian Way) shall be free of all construction equipment and materials associated with the construction of the adjacent site by May 28, 1999.

IV. Findings and Declarations.

A. Project Description and Project History

The applicant proposes to temporarily use, from the date the permit is issued through May 28, 1999, four public parking stalls within a 117 space public beach parking lot for storage of building materials and equipment and construction trailer for the construction phase of a 178 unit, 135,173 square foot apartment building on the abutting lot to the north. Approximately 260 feet of The Promenade (public pedestrian walkway) directly in front of the construction site and approximately a 4,500 square foot paved area immediately seaward of The Promenade will also be used as a construction staging area. Pedestrian access will be rerouted around the construction and staging area for public safety.

The public beach parking lot is one of five Santa Monica State Beach parking facilities located in the south beach area (between the Pier and south City limits) within the City of Santa Monica. The 117 space public beach parking lot is located immediately adjacent to and east of the City's beach promenade and just north of Vicente Terrace.

The City of Santa Monica has reviewed and approved the proposed use and has issued a short term lease for the use of the parking lot. In addition, the District Superintendent for the Angeles District of the State Department of Parks and Recreation, Mr. Daniel C. Preece, has reviewed and approved the applicant's proposal.

The Executive Director approved Waiver #5-98-237 (Morley Construction) for the temporary use (up until May 30, 1999) of an approximately 700 square foot portion of the 117 space public beach parking lot for construction staging/equipment storage. The difference between the previous Waiver and this application is that the Waiver was for temporary use of a portion of the parking lot that included the summer period (August and September 1998) but did not include the use of any of the public parking spaces within the lot. The new application will include the use of 4 parking spaces but will occur during the non-summer peak use period (from Labor Day to Memorial Day weekend).

This application was scheduled as a Consent Calendar item at the Commission's September 1998 hearing. Due to the number of letters in opposition to the project the Commission voted to pull the item from the agenda and directed staff to reschedule the item for public hearing in October.

The proposed project is to support the construction of a 178 unit apartment building on the abutting lot. The apartment building was determined to be exempt from the Coastal Commission permit requirements under Section 30610(g) of the Coastal Act. Section 30610(g) states that

Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas:

(g) (1) The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure.

(2) As used in this subdivision:

(A) "Disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.

(B) "Bulk" means total interior cubic volume as measured from the exterior surface of the structure.

(C) "Structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.

The original apartment building was severely damaged by the Northridge earthquake in 1994. Subsequently, on February 1, 1996, a major fire further damaged the building. Following the adoption of a resolution by the City's Nuisance Abatement Board declaring the building a nuisance the City demolished what remained of the building. The City had also issued an Earthquake Recovery Permit, pursuant to the City's Earthquake Recovery Act, that allows structures that were severely damaged by the earthquake to be rebuilt.

On September 26, 1997, after reviewing the new construction plans to ensure that the new building met the requirements under Section 30610(g), an exemption letter was issued by Commission staff.

B. Public Comments

The South Coast District office has received five objection letters from residents from the area surrounding the proposed project. The letters state that the project will adversely impact access for the residents that live in the surrounding area as well as for the general public (see Exhibit 3 for submitted letters).

The project's impacts with regards to access are addressed below.

C. Public Access/Parking

Section 30210 of the Coastal Act states:

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 30211 of the Coastal Act states:

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.

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 be accommodated on the property is already adequately provided for in the area.

The beach parking lot located at 1750 Appian Way has 117 public parking spaces. The proposed project will temporarily take up a maximum of 4 parking spaces along the northern portion of the lot that immediately abuts the adjacent construction site. The project will also include the use of the pedestrian walkway immediately adjacent to the construction site and a paved area immediately adjacent to and seaward of the walkway.

The temporary use of the parking lot will occur during the non-peak beach use period. Peak beach use is generally the period between Memorial day weekend (last weekend of May) and Labor Day weekend (First weekend of September). The use of the lot will occur between September 8, 1998 (the day after Labor Day) and May 28, 1998 (the day before Memorial day weekend). During

these non-summer months beach attendance is lower than the summer period and the demand for parking within this lot is also reduced.

Based on the period when the applicant is proposing to use the lot and the limited number of parking spaces to be taken up by the proposed project, the proposed project will not adversely impact access to the public lot and adjacent public beach. The use of the lot during peak beach use, however, can adversely impact beach access by eliminating parking for beach access. If construction falls behind schedule the applicant may continue to need a site for construction staging. Use of the public beach lot during peak beach use can create adverse impacts to beach access in the area. To ensure that the proposed project will not adversely impact access by the continuing use of the parking lot during the summer peak use period and conflicting with summer beach use, the applicant shall submit a written statement detailing the procedures to be taken to ensure that at the end of the use period approved by this permit (May 28, 1999) the parking lot will be vacated of all use associated with the construction of the adjacent site and an alternate site designated. The applicant shall also submit a status report by March 15, 1999, on the progress of the construction on the adjacent site.

The use of the pedestrian walkway (The Promenade) and the adjacent paved area will not significantly impact beach access. Beach access will be rerouted along a temporarily paved pathway around the construction and staging area in order to provide continued access and for public safety. Appian Way, which provides access to the beach lots between the Pier and Pico Boulevard, will not be significantly impacted during construction. Appian way will be used as a construction route to get to the building site but the street will not be used for storage of materials. The sandy beach in this area is approximately 300 feet wide and rerouting the pedestrian access around the staging area within the sand area will not significantly impact beach access nor recreational activities. Once construction is completed, or the site no longer needed, all materials will be removed and the area will be restored to its previous condition. The Commission, therefore, finds that as conditioned the proposed project will be consistent with Section 30210, 30211, and 30221 of the Coastal Act.

D. Local Coastal Program

(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.

In August 1992, the Commission certified, with suggested modifications, the land use plan portion of the City of Santa Monica's Local Coastal Program, excluding the area west of Ocean Avenue and Neilson Way (Beach Overlay District), and the Santa Monica Pier. On September 15, 1992, the City of Santa Monica accepted the LUP with suggested modifications.

As discussed above, the Commission finds that the proposed project will be consistent with the Chapter 3 policies of the Coastal Act 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).

E. CEQA

Section 13096 of the Commission's 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)(A) 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.

As proposed, 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 project is found consistent with CEQA and the policies of the Coastal Act.

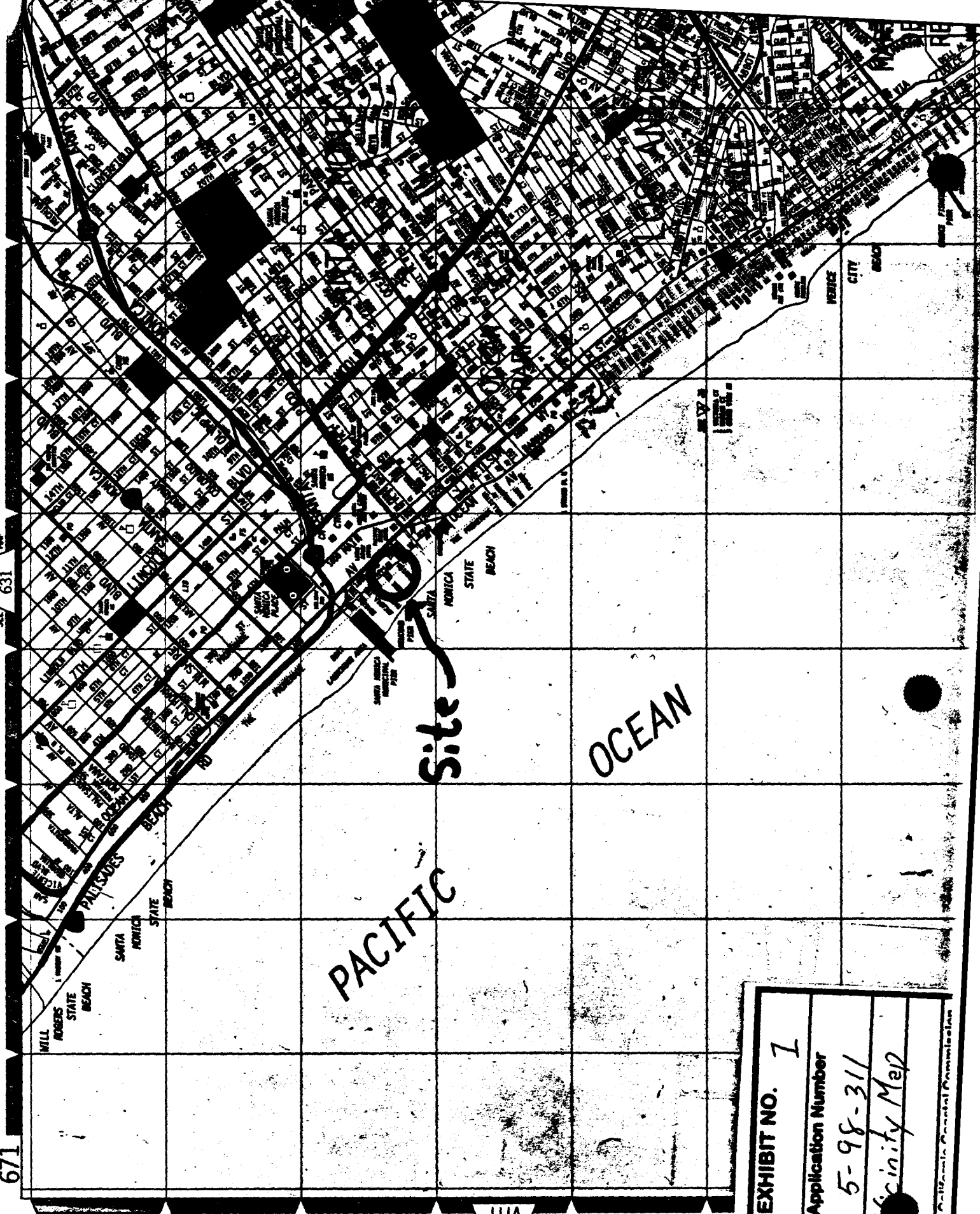


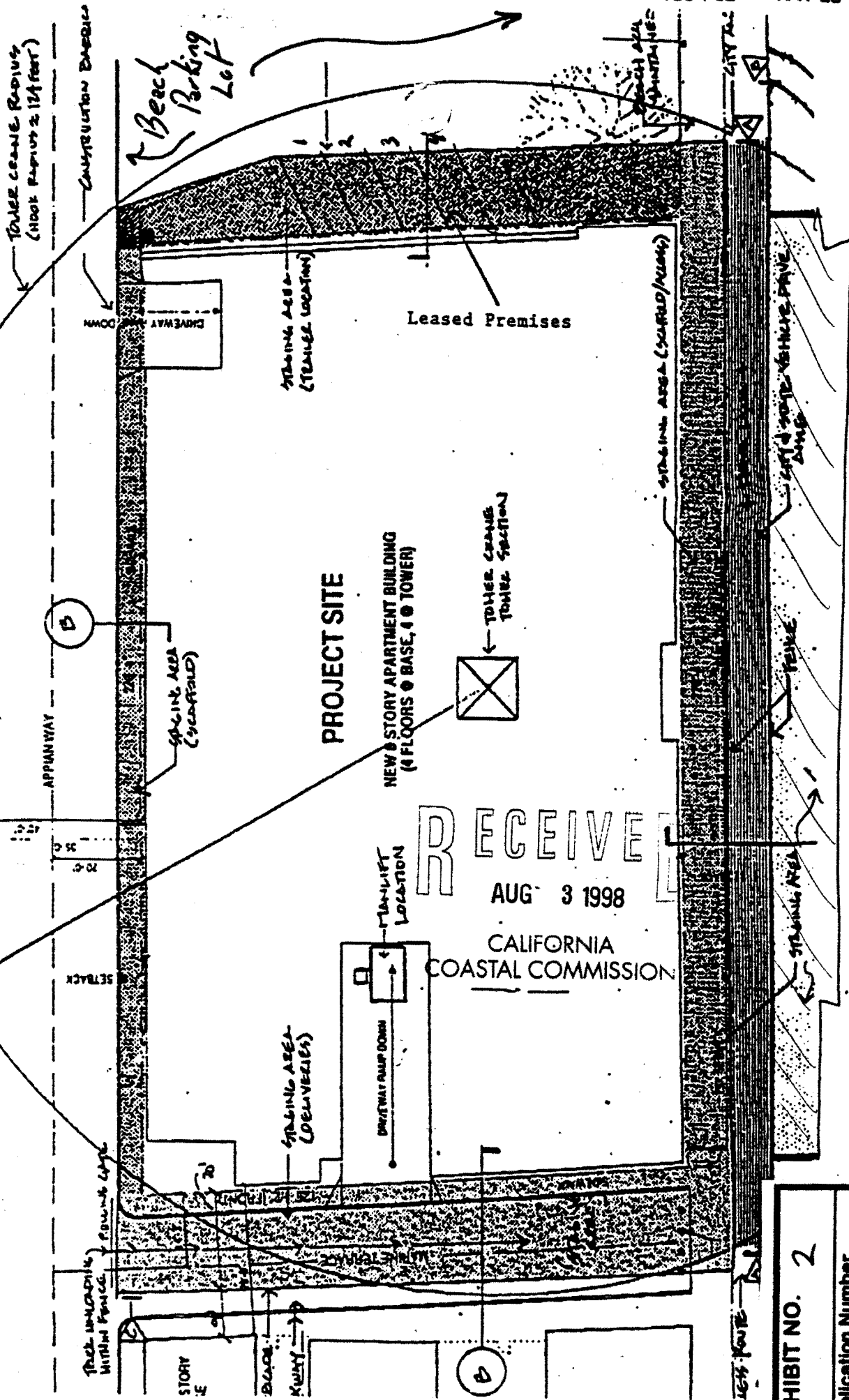
EXHIBIT NO. 7

Application Number

5-98-311

Locality Map

United States National Government



5-98-311

EXHIBIT NO. 2

Application Number

5-98-311

Site Plan

California Coastal Commission

Joyce Syne
1761 Ocean Ave.
Santa Monica, Ca. 90401

August 31, 1998

Mr Al Padilla, fax 562-390-3044
Coastal Program Analyst
California Coastal Commission
P.O. Box 14501
Long Beach, California 90802-4416

Re: Permit Number 5-98-311
Applicant Morley Construction Company
Project Location 1725 The Promenade, Santa Monica (Los Angeles Co)
Hearing Date Wednesday, September 9, 1998
Hearing Place Burda Inn, Burbank, Cal 91501

Dear Mr. Padilla,

This letter is a request to change the hearing location Wednesday, September 9, 1998, from Burbank, California to a location in southern California. It will be a hardship for my tenants, neighbors and myself to come to Burbank to testify on this matter on such short notice.

I own a 17 unit motel that provides affordable nightly rates and the guests will be impacted by the temporary use of four parking stalls and the rerouted pedestrian routes. Not only will the above 34 motel occupants be impacted but all of the people that come to the beach as well. The only way that I can determine how they can get beach access is to walk down Appian Way towards Shattuck Hotel or down Appian Way towards Loews Hotel. Currently and during the past 12 years Appian Way has been continuously blocked by the construction of no less than 6 large scale projects located between the Pier and Pico or has been completely grid locked with trucks delivering supplies to the various hotels or building materials to the construction jobs. Appian Way is a two laned street that permits no stopping at any time!

Today, August 31, 1998, I asked Pam Emerson, how the legendary Chase Hotel built in the 1920's with a ballroom, retail stores fronting the Promenade, restaurants, large lobby and pool, could be rebuilt as a 178 unit apartment complex that provides only 70 parking places? I asked Ms. Emerson if the residents of this apartment complex would be using the beach parking lot under discussion in permit number 5-98-311? This area has been redeveloped in the past few years with large hotels that have access from Ocean Avenue and Pico Blvd. The Chase Hotel site should be developed for hotel usage not a 178 unit apartment complex with limited parking.

Again I request the hearing for permit number 5-98-311 be moved to the Los Angeles area so that these local issues can be addressed locally.

Sincerely,

Joy - Syne

Joyce Syne

CC: Pam Emerson

EXHIBIT NO.

APPLICATION NO.

5-98-311

Letters of Opposition

California Coastal Commission

Dear Al,

I am requesting that the item regarding the issuances of 4 parking spaces to the developers of 1725 Promenade during the course of construction of a 179 unit Apartment house that provides only 70 parking spaces within the premises be postponed in order to be heard locally. To attend the Eureka hearing on Sept. 9, 1998 would be a hardship to me and my neighbors.

There should be no further entitlements, benefits or privileges extended to a site that currently blocks coastal access. For over two months, during summer '98, Appian Way and its adjacent sidewalk access has been blocked due to the inordinately long time that it has taken and continues to take to remove oil tanks that were abandoned at the site. Excavation of the site has caused the sidewalk and street to become dangerous and necessitated that portion of the street to be shored off. Access to the beach has been hindered and traffic congestion has ensued continuously, particularly on the weekends, throughout the summer.

In fact this continues a pattern of bad faith activities, stall tactics and delays that include 21 City of Santa Monica nuisance abatement hearings that did not prevent the former historic landmark, the Seacastle, from burning down 2 years after the '94 earthquake from sheer abject neglect.

There are liens against the property to pay for the city's demolition of the burned out shell of the Seacastle. The cost of extinguishing a 3 day, preventable fire that was predicted by the neighbors just days before (because the sprinkler system had not been repaired and no less than 31 vagrants were illegally occupying the building), was shouldered by the citizens as well. Just this last winter questionable water was deliberately emptied on a weekend directly into the storm drain without permits during the process of water table drilling at the site.

Parenthetically, there seems to be some significant unresolved issues and a lack of certain records with regard to the conversion of this former hotel to apartments in the late 1970's that ought to be addressed in advance of any new construction at the site.

Again, do not entertain the granting of any additional entitlements, or privileges to 1725 Promenade until at the very least the safe public access to the adjoining sidewalk and section of Appian Way is restored. Let the local issues be addressed locally in advance of any decisions regarding this site,

Sincerely,
Stephanie Barbanell

UNIVERSITY OF CALIFORNIA, LOS ANGELES

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San Fernando Valley Program
Veterans Administration Medical Center
16111 Plummer St.
Sepulveda, CA. 91343

Aug. 31, 1995

Mr. Al Padilla
Coastal Commission
Fax 310-457-9940 562-590-5084

Dear Mr. Padilla:

I am writing to request that the hearing on the issuance of parking permits to the developers of the Seacastle Apts at 1725 Promenade and Applan Way in the adjacent State Beach lot be heard locally rather than in Eureka so that my wife and I might be able to attend. As local homeowners and residents who walk through or around the lot on a daily basis, I can say that parking is the key issue for access to the state beach. At present, the state beach lot is used by Shuttles Hotel for loading and unloading trucks every morning. They have even installed a ramp for easier access. They often have three or more trucks unloading in the lot at the same time. The Merigot hotel construction workers also have trucks in the lot. Applan way is currently blocked by the Seacastle Apts. overdue toxic waste removal efforts and their trucks. On days with peak public beach use, the lot is currently full with a line waiting to get in. That is the current situation.

But this is only the beginning of Seacastle Apts demand on that parking lot. The Seacastle Apts. is going forward with a plan to build 174 units with 80 units parking when one can predict with certainty that more this project will generate demand for more than 300 spaces. It is entirely obvious that the developer and the city intend to use the state beach lot to satisfy that demand. While I am told that the Earthquake Recovery Act superseded any concerns of the Coastal Commission the fact is allowing a developer to essentially take over State beach public access parking in order to maximize his profits is a grave violation which requires the Coastal Commission and the State to look the other way. Please schedule a local hearing and let resident's views be heard. Otherwise, our only option is to go to the media and try to find some investigative reporters who will track the money trail of developer campaign contributions and ask why maintaining public beach access with a public beach lot is not an issue. When my late father-in-law, Jeff Frautschy, was on the Coastal Commission, it surely was an issue because he told me so many times. What has changed?

Sincerely,

Greg Cole
Greg M. Cole
18 Seaview Terrace

6

8/31/88

To: All Padilla,
Coastal Commission Planner

From: Ellen Brennan
1956 Ocean Front Walk #102
Santa Monica, Ca. 90401

Dear Mr. Padilla,

This is to request that the Coastal Commission hearing on Permit number S-98-311 scheduled for 9:00 AM, Sept 9th in Eureka, Ca. be moved to Santa Monica, Ca.

This hearing is intended to obtain for Morley Construction 4 parking spaces in the public lot adjacent to 1725 Appian Way, Santa Monica, Ca. 90401 and 260 feet of the public walkway called The Promenade for the purpose of staging construction of an apartment building.

If ever there was a red flag project that is on a collision course with your mission to preserve public access to the beach, the proposed project at 1725 Appian Way, Santa Monica is it. You'll probably never see a more egregious violation of your precepts in your tenure on the Coastal Commission.

If the proposed apartment building were to be built under present building codes, it would require 296 parking spaces, according to the Santa Monica Planning Commission. However, because of the earthquake recovery act, the developers are able to build it with only 72 parking spaces. The previous building was damaged in the earthquake and demolished by the city of Santa Monica. It was an old hotel, built on the beach when few people had cars, and rehabed to low income housing. At the time of the earthquake, many of the residents were on subsistence incomes and didn't own cars.

The present developer proposes to build 178 units, charge the highest rents in Santa Monica, use the variances allowed the previous hotel/affordable building, and put 224 cars in your public beach parking lots, the only parking available in the area. Every one of those 224 cars will eliminate a public parking space and access to the most popular beach in Santa Monica, just south of the public pier where public parking is already a major problem.

The Earthquake recovery act may allow this monstrous grab of public domain, but nothing in the law requires you to make it possible by giving the developer 4 public parking spaces and 260 feet of the public walkway from which to stage this rape.

We request that the hearing be moved to Southern California. Your decision on this request for public parking spaces from which to stage this construction is of momentous importance to those of us who live in the area. We request a chance to be heard.

Yours truly,



Ellen Brennan
1659 Ocean Front Walk #102
Santa Monica, Ca. 90401

FAX # 562/590-5084

Elaine Blyth Anderson

Human Relations, Communication Consultant
19 Seaview Terrace
Santa Monica, California 90401
393-8649

31 August 1998

Mr Al Padilla
Coastal Program Analyst
California Coastal Commission
P.O. Box 1450
Long Beach, CA 90802-4446

Dear Mr Padilla,

I am disturbed to read the Public Hearing notice about permit #5-98-311 which asks for use of stalls in a public beach parking lot plus the adjacent 4,500 sq. ft. It is stated that pedestrian access will be re-routed - but how + where?

The location, 1725 the Promenade, Santa Monica CA 90401, is already a nightmare of traffic overuse + parking impossibility for the residents + beach visitors. Appian Way, a small two lane street at beach level has no traffic lights + is constantly a conglomeration of trucks, cement makers, service suppliers etc. while Ocean Ave, the first access road above the beach already has lost several parking places to heavy vehicles in the construction of a large hotel which faces Appian Way to the west + Ocean Ave to the east.

There is another conversion-to-hotel project under way at 1800 Appian Way with its collection of servicing vehicles using Appian Way + Ocean Ave so that ordinary life is a horror of blocked traffic, no parking places + general bad temper.

2. Elaine Blyth Anderson

Human Relations, Communication Consultant
19 Seaview Terrace
Santa Monica, California 90401
393-8649

On top of the existing confusion, there is now a proposed eleven condominiums to be built at 1760 Appian Way, taking the last piece of green in this heavily built up beach area. This building will block all marine views from the Seaview Terrace family dwellings & we are very upset about it.

With each of these large building projects the parking spaces are inadequate but the Santa Monica City Council continues to state in the Planning Reports that the impact will be insignificant.

It is very hard to make sense of any of it. I wish the Coastal Commission members would visit our neighborhood & see for themselves. One question I would like the answer to, is how the owners of 1725 The Promenade, were able to get permission to restore to original purpose an apartment complex that was a hotel.

Yours truly

Elaine Anderson

P.S. I have lived at the above address for 40 yrs!