

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
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December 16, 1998

**MEMORANDUM****RECORD PACKET COPY**

**TO:** Commissioners and Interested Persons

**FROM:** Deborah Lee, District Director  
Teresa Henry, District Manager, South Coast District  
Pam Emerson, Los Angeles County Area Supervisor

**SUBJECT:** Major Amendment Request No. 1-98 A to the City of Manhattan Beach Certified Local Coastal Program For Public Hearing and Commission Action at the January 12-15, 1999, meeting in Culver City

**SYNOPSIS**

The Coastal Commission certified the City of Manhattan Beach Land Use Plan in 1980. On May 12, 1994, the Commission certified the implementation ordinances and some amendments to the LUP, effectively certifying the Local Coastal Program (LCP). Shortly thereafter, the City adopted all suggested modifications, the LCP was effectively certified, and the City began issuing coastal development permits. In August 1997, the Commission certified an amendment to the Local Implementation Plan (LIP) that adopted zoning code updates into the City's LCP. The City accepted all modifications, and the amendment was effectively certified in December 1997. On February 9, 1998, the City submitted amendment 1-98, the City's fourth major LCP amendment since certification. The proposed LCP amendment would affect only the implementing ordinances (LIP) of the City's certified LCP. The certified Land Use Plan (LUP) would not be affected. This amendment includes two ordinances. Ordinance 1977 would amend residential fence height requirements and change the City's retail parking requirements to accommodate "warehouse" type establishments. This part of the amendment is designated 1-98-A. Ordinance 1978 would establish regulations addressing the issuance of antenna permits for wireless communications facilities, amateur radio and microwave dish antennas to reflect changes in FCC regulations. The antenna ordinance action is described as 1-98 B. Action on 1-98-B is deferred because of the complexity of issues surrounding the regulation of communications devices.

**SUMMARY OF STAFF RECOMMENDATION.**

Staff recommends the Commission **reject** the proposed amendment 1-98-A as submitted, and approve the amendment only if modified to be consistent with and adequate to carry out the certified LUP. The motion is found on **page 4** of this report.

Proposed ordinance 1977 (1-98 A) would allow the City to reduce parking requirements for commercial structures that are greater than 5,000 square feet if the building accommodated enclosed bulk storage. There are no lots in the Coastal Zone that could accommodate such a "warehouse retail" structure. The LUP requires the City to consider its parking policies in reviewing any application for any large commercial establishment in the Coastal Zone. The City agrees that it was not its intention to grant parking exceptions by right within the Coastal Zone, and since the proposed change could negatively impact beach parking, staff is recommending the Commission reject this amendment. City officials agree that it should not apply in the Coastal Zone, and concurs with rejection of this part of the proposed amendment.

Currently, the certified LIP allows back and side-yard fences to extend to six feet. If the fence also acts as a retaining wall, the adjacent neighbor can also build a six-foot fence or wall along the same property line. The total height of the combined fences cannot exceed twelve feet. Ordinance 1977 would change this rule to allow a property owner with a six foot fence or retaining wall to build up to eight feet, as long as (1) all adjoining owners grant permission and (2) the combined height of the property line fences (on adjacent properties) does not exceed twelve feet. Many of the Manhattan Beach lots are built into a slope. Owners of such lots commonly construct retaining walls along their side yard property line to create a flat building pad and back yard. As a practical matter, this change will allow the owner of the downhill lot to build a two-foot safety wall on top of a six-foot side or rear yard retaining wall. In addition, the City could approve an open railing extending one foot above the approved fence to allow further safety for up hill neighbors and their children or guests. In Manhattan Beach, most of the rear yards abut alleys, which are not view corridors. The coastal view corridors identified in the Manhattan Beach Local Coastal Program are the walkstreets, which abut the front yards.

Fences constructed as appurtenances to existing structures do not require Coastal Development Permits (CDP's) unless they are located within 300 feet of the inland extent of the beach. If a fence is attached to an existing structure other than a single family house, it also requires a coastal permit if it is proposed within 50 feet of a bluff, stream, or area of natural vegetation designated as a significant natural habitat. (See California Code of Regulations 13250, 13253 also City of Manhattan Beach LIP A.96.50). When a coastal development permit is required because of a project's location, the proposed ordinance does not require the City to review a fence for impacts on public views to and along the shoreline. Staff is recommending that the Commission reject the amendment as proposed, and approve the proposed ordinance, as modified, to require that the City of Manhattan Beach review all coastal development permits for new fences extending above six feet for impacts on public views to and along the coast.

## **SUBMITTAL OF LCP AMENDMENT**

The City submitted the proposed LCP amendment for Commission action with Resolution No. 5373 (Exhibit #2). The proposed changes to the certified LCP are contained in Ordinance No.'s 1977 and 1978 (Exhibit No.'s 3 and 4). The City Planning Commission held public hearings for the proposed LCP amendment on December 10, 1997 (Exhibit 1). On January 20, 1998, the City Council held a public hearing and adopted Ordinance No. 1977 and 1978. The Council adopted Resolution No. 5373 on February 3, 1998, and the City submitted the request on February 9, 1998. The cover letter (Exhibit 5) requests that the amendments to fence height and parking be considered *de minimis* under the Coastal Act, but states that the amendments were noticed so that the Commission can process them as major or minor amendments to the certified Implementation Plan. In April 1998, the Commission extended the time available for review of this matter for one year.

## **STANDARD OF REVIEW**

The standard of review for the proposed amendment to the LCP Implementing Ordinances, pursuant to Sections 30513 and 30514 of the Coastal Act, is that the proposed amendment is consistent with, and adequate to carry out, the provisions of the certified Land Use Plan (LUP).

## **ADDITIONAL INFORMATION**

Copies of the staff report are available at the South Coast District office located at 200 Oceangate, Suite 1000, Long Beach, 90802. To obtain copies of the staff report by mail, or for additional information, contact Pam Emerson in the Long Beach office at (562) 590-5071.

**I. STAFF RECOMMENDATION.**

The staff recommends the Commission adopt the following motion and resolution.

**DENIAL OF THE AMENDMENT TO THE LCP IMPLEMENTING ORDINANCES AS SUBMITTED:**

**MOTION I**

"I move that the Commission reject Amendment request No. 1-98-A to the City of Manhattan Beach LCP Implementing Ordinance as submitted."

Staff recommends a **YES** vote, which would result in the adoption of the following resolution and findings. An affirmative vote by the majority of the appointed Commissioners is needed to pass the motion.

**RESOLUTION TO REJECT THE AMENDMENT TO THE IMPLEMENTING ORDINANCES AS SUBMITTED:**

The Commission hereby rejects the certification of the amendment to the implementing ordinances of the City of Manhattan Beach Certified Local Coastal Program for the reasons discussed below, on the grounds that it does not conform with or is inadequate to carry out the provisions of the certified Land Use Plan as certified. There are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the approval of the amendment to the Implementing Ordinances would have on the environment.

**APPROVAL OF THE AMENDMENT TO THE LCP IMPLEMENTING ORDINANCES, IF MODIFIED.**

**MOTION II**

"I move that the Commission approve Amendment request No. 1-98-A to the City of Manhattan Beach LCP Implementing Ordinance if modified in conformity with the modifications suggested below."

Staff recommends a **YES** vote and the adoption of the following resolution and findings. An affirmative vote by the majority of the appointed Commissioners is needed to pass the motion.

**RESOLUTION TO CERTIFY THE AMENDMENT TO THE IMPLEMENTING ORDINANCES, IF MODIFIED**

The Commission hereby approves the certification of the amendment 1-98-A to the implementing ordinances of the City of Manhattan Beach Certified Local Coastal Program, for the reasons discussed below, on the grounds that the amended ordinances, maps and other implementing actions, will be consistent with and adequate to carry out the provisions of the certified Land Use Plan, as provided in Section 30513 of the Coastal Act, if modified according to the suggested modifications stated in Section II of this report. The amendment is consistent with applicable decisions of the Commission that guide local government actions pursuant to Section 30625(c) of the Coastal Act, and approval of the amendment will not have significant environmental effect for which feasible mitigation measures have not been employed consistent with the California Environmental Quality Act.

The Commission further finds that if the local government adopts and transmits its revisions to the amendment 1-98-A to the implementing ordinances in conformity with the suggested modifications, then the Executive Director shall so notify the Commission.

**II SUGGESTED MODIFICATIONS:**

Certification of amendment 1-98-A to the City of Manhattan Beach LCP implementing Ordinances is subject to the following modifications (Staff's suggested additions are **bold underlined**, suggested deletions are ~~crossed out.~~)

1. Modify Section A.64.030, Parking Standards. Section A.64.030 shall state:

Retail sales not listed	1 per 200 sq. ft. for first 5,000 sq. ft.; 1 per
Under another use	250 sq. ft. thereafter, <del>bulk storage areas for</del>
classification	<del>establishments over 5,000 sq. ft.; 1 per 1,000</del>
	<del>sq. ft. or as specified by use permit.</del>

2. Modify section A.12.030 (P)(1) subsection (c) to state:

(c) the additional portion is approved in writing by each owner of property (the city in cases of public right of way) abutting the property line along which the fence is located, and provided, further that such an additional portion shall not make the total height of the fence more than 8 feet or the combined height of adjacent neighboring retaining walls and fences of more than 12 feet. If a coastal development permit is required for a fence by sections A.96.40 and A.96.50 of this ordinance, the additional height of the

fence may be approved only if the additional height does not impede public views of the ocean, the beach, or to and along the shoreline.

### **III. FINDINGS FOR DENIAL AS SUBMITTED.**

#### **A. Amendment Description**

**Ordinance 1977.** Ordinance 1977 reduces the parking requirements for "warehouse retail establishments" and changes the height limits on back and side yard residential fences. Ordinance 1977 would amend the definitions sections of the LCP (Section A.04.030) to add a definition "bulk storage" as "a large or primary area devoted to the storage of stock merchandise in enclosed areas inaccessible to the public." The ordinance would also amend the definition of retail sales to list products sold in warehouse type establishments; and (3) amend the parking requirements table found in Section A.64.030.

Ordinance 1977 also amends Section A.12.030 (P)(1) of the local coastal program, which addresses fences to include subsection (c) that states

- c. The additional portion is approved in writing by each owner of property, the city in cases of public right of way, abutting the property line along which the fence is located and provided, further that such additional portion shall not make the total height of the fence more than 8 feet or the combined height of adjacent neighboring retaining walls and fences more than 12 feet.

#### **1) PARKING STANDARDS, PUBLIC ACCESS, AND RECREATION.**

The Commission has found many times in the past that the availability of parking for residential and commercial uses is related to public access to the shoreline. Most beach visitors arrive by car. If commercial uses have insufficient parking, their customers will occupy on-street parking spaces, reducing the number of spaces available to beach visitors. Secondly, scarcity of spaces can result in requests for one or two hour time limits on parking to accommodate commercial establishments. One or two hour time limits preclude the use of the spaces for beach support.

The City's LUP, certified in 1980, and amended in 1994 addresses these issues in a number of policies and programs. It states the following with respect to parking:

Policy I.B.4 The City shall maintain the use of the Santa Fe right-of-way as a non-automobile transportation corridor between the northern City boundary and the intersection of Valley Ardmere and

Manhattan Beach Boulevard, as the closest link to the commercial business district and beach use.

Policy I C.2 The City shall maximize the opportunities for using available parking for weekend beach use.

Policy I.C.4 The City shall ensure that residential and commercial development provides the parking necessary to meet the standards set forth in section A.64 of chapter 2 of the Implementation Plan except that residential parking requirements shall not be reduced for units less than 550 sq. ft.

Policy II.A.2 Concentrate new parking in the Downtown Commercial District to facilitate joint use opportunities (office and weekend beach parking uses.)

Policy II.A.3 Maintain the existing public parking system in the vicinity of Valley/Ardmore/Manhattan Beach Boulevard to provide parking out of the downtown area.

This policy applies to commercial development. The relevant policies relating to commercial uses state:

Policy III.A.2 Preserve the predominant existing commercial building scale of one and two stories by limiting any future development to a 2 story maximum with a 30' height limitation as required by section A.04.030 and A.60.50 of chapter 2 of the Implementation Plan.

Policy II.A.3 Encourage the maintenance of commercial area orientation to the pedestrian.

Policy III.A.6 Encourage development of adequate parking facilities for future development through ground level on-site parking or a requirement to pay the actual cost of constructing sufficient parking spaces. Maximize the use of existing parking facilities to meet the needs of commercial uses and coastal access.

Policy III.B.B Development of the former Metlox site shall provide the parking necessary to meet the standards set forth in section A.64 of chapter 2 of the Implementation Plan. All required parking shall be provided on the Metlox site. (emphasis added)

The certified Local Use Plan identifies one commercial site that must provide all required parking, with no exception. This site is the one large, undeveloped, commercially zoned lot inside the Coastal Zone that might accommodate a 5,000

square foot building. This site, the former Metlox Pottery factory site, now (temporarily) provides 140 spaces for weekend and holiday beach parking. It is zoned CD (Commercial Downtown.) However, this site has inadequate road access, and likely would require street widening along the Valley/Ardmore corridor to accommodate a warehouse store. This widening is inconsistent with other LUP policies, which reserve the Valley Ardmore corridor, an old railroad right-of-way, as a linear park. Development of a large warehouse establishment in the downtown is also inconsistent with LUP policies that protect scale.

Other commercially zoned lots in the Manhattan Beach Coastal Zone would not accommodate an establishment of 5,000 square feet. As proposed, the ordinance does not contain a cross-reference to the LUP standards applicable to this large lot, the Metlox site. The LUP does not permit any reduction in parking requirements on this site. As noted above, these policies applicable to the CBD require "the City to maximize the opportunities for using available parking for weekend beach use." Therefore the proposed parking policy is inconsistent with the LUP.

The City staff explains that the new language in the ordinance would not represent a reduction in City parking requirements. The reason for this conclusion is that the City Zoning and LIP already contain a method to reduce parking requirements from that shown on the parking table found in A.64.030. City staff explains that two large projects outside the Coastal Zone have already received such a reduction based on "storage" areas, and that the Planning Commission wanted to codify the standard that was used. Under the currently certified LCP, development is eligible for reduced parking on a case by case basis if the developer can demonstrate that the proposed parking plan reflects the actual anticipated parking demand. The standard used to calculate parking requirements is a table in section A.64.030 of the LIP. Based on the anticipated parking demand of the proposed use, the City can require fewer parking spaces than appear on the A.64.030 table. Before reducing parking requirements, the City also must find that the probable long-term occupancy of the proposed structure will also have a reduced parking demand. The necessary findings are found in Section A.64.050.B of the certified LIP, which provides in part that

" ... a use permit may be approved reducing the number of spaces to less than the number specified in the schedule provided that the following findings are made;

1. the parking demand will be less than the requirement in schedule A or B and
2. the probable long term occupancy of the building or structure based on its design will not generate additional parking demand. In reaching a decision, the Planning Commission shall consider survey data submitted by an applicant or collected at the applicant's request and expense.



However, the method to reduce parking requirements is contained in the use permit process rather than the CDP process. It has been the Commission's experience that in the Coastal Zone, warehouse and industrial uses can be swiftly supplanted by more intense uses, such as gyms, craft fairs, and offices. Thus, the City's LUP policies require the City to look at the demands on coastal property in evaluating the parking needs of a development before issuing a CDP. In evaluating any site in the Coastal Zone, the City is obliged, by its coastal process to analyze the project's effects on Coastal parking because of the LUP policies that address shared use parking, adequate parking for Coastal access, and other access issues. Section A.48.140 requires the City, in approving a coastal development permit, to impose conditions to assure that the project is consistent with the local coastal program. Section A.48.150 requires that the City find that the project is consistent with the certified LCP. Policies II.A.2 and III.A.2 of the LUP require that any development project be evaluated to see whether shared beach parking is feasible and whether the parking node for the central business district has been planned as a unit.

The Commission notes that all development on any site in the Coastal Zone requires a CDP and a CDP requires a finding that the development is consistent with the certified LCP. Given the competition between retail customers and beach visitors for on street parking, the certified LUP provides more than adequate parking be provided in the Coastal Zone. Specifically, the ordinance does not ask an applicant to analyze whether the provision of joint use parking is feasible as required by policy II.A.2. Secondly, LUP policy III.A.2 requires that on the Metlox site, the one site in the Coastal zone to which this ordinance might apply, all required parking must be provided on the site. Therefore, the proposed amendment must be rejected.

## **2) FENCE HEIGHT FOR RESIDENTIAL FENCES.**

The proposed fence height amendment is inconsistent with and inadequate to carry out the policies of the City's certified LUP.

The policies in the certified LUP that protect public access from public alleys and streets, protect the scale of development and also limit the size of "building extensions" or "featureless walls" state the following:

"Direct vertical access to the beach is provided by 45 streets and walkstreets running perpendicular to The Strand".

The City shall maintain the existing vertical and horizontal accessways in the Manhattan Beach Coastal Zone where feasible.

The City shall preserve its walk street resources, shall prohibit non-complying walk street encroachments, including decks, shall enforce measures to eliminate walkstreet non-compliance with existing guidelines and shall provide expedited appeal procedures related thereto.

Maintain building scale in coastal zone residential neighborhoods consistent with zoning ordinance

Maintain residential building bulk control established by development standards in the City Zoning Ordinance.

(Bulk Controls) --Limitation of aggregate length of building projections.

Although the ordinance does require analysis on the part of City staff if residential rear yard fences and side yard fences are proposed adjacent to public property, the proposed amendment contains no criteria other than traffic safety for such analysis. The language only explicitly addresses the protection of private views. Fences require no coastal development permit if constructed as appurtenant to existing development, if that development is located more than 300 feet of the inland extent of the beach. A permit is required, however, closer to the beach because a fence closer to the beach could interrupt views of the water. As proposed, some fences located less than 300 feet from the inland extent of the beach could extend to 8 feet. Such fences could impact public views to and along the beach and to and along the 45 streets and alleys identified as beach accessways in the Manhattan Beach certified LUP. Other fences, constructed along sloping side yards would have minimal effect. Unfortunately, the ordinance, as written, does not offer the City the opportunity to make this distinction in issuing permits for these fences. Therefore, the ordinance as submitted must be denied because it is inconsistent with and inadequate to carry out LUP policies addressing protection of walkstreets and residential bulk controls for the purpose of protecting public views to and along the shoreline.

#### **IV. FINDINGS FOR APPROVAL, IF MODIFIED.**

##### **A. PUBLIC ACCESS AND RECREATION**

The proposed amendment raises two issues with regard conformance with LUP policies protecting public access and recreation. 1) Protection of public views along walk streets and to and along the shoreline as required in the certified LUP. 2) Protection of public parking and recreation. The parking and recreation policies in the certified LUP require recreational development in the old railroad right-of-way and reserving adequate parking in the CBD to reduce conflicts with beach parking.

As modified, to allow the City to review fences located within 300 feet of the inland extent of the beach for impact on public views of the coastline, the proposed amendment to the fence height standard is consistent with the LUP policies protecting public views and adequate to carry them out. As modified, the

ordinance would allow the City to deny or modify the extra fence height to protect public views in the rare cases in which an above height fence could impact public views.

As modified to remove any change in parking standards in the Manhattan Beach coastal zone the LIP will not impact coastal parking, which is necessary to support recreational access to the beach. Although the parking in the CBD (downtown) is typically limited to two hour parking, the City has required adequate parking in new development in the downtown to prevent commercial visitors from spilling over into long term parking resources. As modified, the LIP will be consistent with the policies of the LUP with regard to parking as related to coastal access.

## **B. SCALE OF DEVELOPMENT**

The Manhattan Beach LUP requires the City to protect walkstreets and to review "building extensions" for impacts on neighborhood scale. As modified, the ordinance would require the City to review fences over six feet height for impacts on public views. Since the walkstreets and alleys are identified access corridors, no over-height fence could be permitted that impacted public views along the walk streets.

The LUP requires new commercial structures in the downtown to be consistent in scale with the existing downtown buildings. The Coastal Zone extends only five or six blocks inland comprising an older, small-scale subdivision. Combination of more than two 30 foot lots is forbidden in the LUP because of impacts on community character and the scale of development. A single 5,000 square foot warehouse store would not be consistent with this scale. As modified, to remove special parking incentives for warehouse stores, the LIP will be consistent with and adequate to carry out these policies.

## **C. DEVELOPMENT AND PARKING**

As noted above, the LUP requires development in Manhattan Beach to provide adequate parking so as not to impact beach parking. As modified, to remove any language that may encourage exceptions, the LIP will remain consistent with the certified LUP and adequate to carry it out.

**D. CEQA**

On October 23, 1997, the City of Manhattan Beach circulated an Initial Study and Proposed Negative Declaration concerning Ordinance 1977. Ordinance 1977 is a proposed amendment to the fence height standards and warehouse retail parking standards found in the zoning ordinances of the certified LCP (the Local Implementation Plan) subject to the Commission's approval, as modified, as amendment 1-98-A. On February 3, 1998, the City Council of the City of Manhattan Beach adopted the negative declaration along with ordinance 1977. The Commission has certified the proposed amendment with suggested modifications.

Pursuant to the California Environmental Quality Act, (CEQA) and the Coastal Commission's regulations [see California Code of Regulations, Title 14, sections 13540(f), 13542(a) and 13555(b)] the Commission's certification of this implementation plan amendment must be based in part on a finding that it is consistent with CEQA. Section 21080.5(d)(2)(A) of the Public Resources Code requires that the Commission not approve or adopt an LCP:

... if there are feasible alternatives or feasible mitigation measure available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Commission finds that for the reasons discussed in this report, the LIP amendment, if modified as suggested, will have no significant adverse impacts on the environment. There are no additional feasible alternatives or feasible mitigation measures available that could substantially reduce any adverse environmental effects. The Commission further finds that the proposed LIP amendment is consistent with section 21080.5(d)(2)(A) of the Public Resources Code.

**CALIFORNIA COASTAL COMMISSION**

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Filed: December 11, 1998  
49th Day: January 29, 1999  
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Staff: KFS-LB  
Staff Report: December 17, 1998  
Hearing Date: January 12-15, 1999  
Commission Action:

**STAFF REPORT: CONSENT CALENDAR**

**APPLICATION NUMBER:** 5-98-434

**APPLICANT:** Martin Cisek

**PROJECT LOCATION:** 2723 Ocean Boulevard, City of Newport Beach, County of Orange

**PROJECT DESCRIPTION:** Additions to a single family residence including addition of approximately 69 square feet of living space to the lower floor, addition of 356 square feet (including new entry, bathrooms and bedroom) to the upper level of the house, conversion of an existing 165 square foot one vehicle garage to an exercise room, addition of a new 200 square foot one vehicle garage, and addition of an extension to an existing exterior deck to accommodate a second vehicle. No grading is proposed.

Lot Area: 6,741.50 square feet  
Building Coverage: 2,290 square feet  
Pavement Coverage: 1,236 square feet  
Landscape Coverage: 3,215.5 square feet  
Parking Spaces: 2 (1 covered, 1 uncovered)  
Zoning: R-1 (single family detached residential)

**LOCAL APPROVALS RECEIVED:** City of Newport Beach Approval-in-Concept 2055-98; City of Newport Beach Modification Permit 4768.

**SUBSTANTIVE FILE DOCUMENTS:** Coastal development permit 5-86-078 (List); coastal development permit 5-88-455 (Welton); *Geotechnical Engineering Report at 2723 Ocean Boulevard, Corona Del Mar*...dated October 5, 1998 by Geotechnical Solutions, Inc. of Irvine (Project Number G-1402-06)

**SUMMARY OF STAFF RECOMMENDATION:**

Staff is recommending approval of the proposed project with special conditions regarding submission of final construction plans along with evidence that such plans have been reviewed by the geotechnical consultant and found to be in conformance with their recommendations and an assumption-of-risk deed restriction for geologic hazards at the site. The major issue of this staff report concerns development on a coastal bluff/hillside.

The applicant has submitted a letter (see Exhibit 3) which states they do not object to the assumption-of-risk deed restriction special condition.

**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 effects 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. Provision of Final Revised Design and Construction Plans and Conformance of Such Plans to Geotechnical Report

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the Executive Director's review and approval, final design and construction plans as well as evidence that an appropriately licensed professional has reviewed and approved all final

design and construction plans including foundations, grading and drainage plans and certified that each of those final plans incorporates all of the recommendations contained in the engineering geologic report *Geotechnical Engineering Report at 2723 Ocean Boulevard, Corona Del Mar*...dated October 5, 1998 by Geotechnical Solutions, Inc. of Irvine (Project Number G-1402-06) approved by the California Coastal Commission for the project site.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. Proposed changes to the approved final plans shall not occur without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Assumption-of-Risk Deed Restriction.

PRIOR TO 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, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazards from landslides or slope failure and the applicant assumes the liability from such hazards; and (b) that the applicant unconditionally waives any claim of liability on the part of the Commission and agrees to indemnify and hold harmless the Commission, its officers, agents, and employees relative to the Commission's approval of the project for any damage due to the natural hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

IV. **FINDINGS AND DECLARATIONS:**

The Commission hereby finds and declares:

A. Project Description and Location

The applicant proposes to add 426 square feet of interior space, conversion of 165 square feet from garage to interior living space, and addition of a 200 square foot garage to an existing 2,175 square foot single family residence at 2723 Ocean Boulevard in Newport Beach (Corona del Mar), Orange County (Exhibit 1 and 2). Remodel includes addition of approximately 69 square feet to the lower floor, addition of 356 square feet (including new entry, bathrooms and bedroom) to the upper level of the house. There will also be an extension to an exterior driveway deck to accommodate a second vehicle. The remodeled house will be no higher than the existing structure, which does not exceed the curb height of Ocean Boulevard (the frontage road). In addition, the additions are on the landward side of the property and will not result in seaward encroachment of the structure. No grading is proposed.

The subject site is not located between the sea and the first public road paralleling the sea. However, the property is located on a developed coastal bluff.

**B. Previous Commission Action on the Site****5-86-078 (List)**

On March 13, 1986, the Commission concurred with the Executive Director's issuance of administrative coastal development permit 5-86-078 for the addition of 2,800 square feet to the existing single family residence including a swimming pool and 2-car garage. The Executive Director determined that geotechnical conditions at the site (a possible wedge failure) warranted the inclusion of an assumption or risk deed restriction for extraordinary hazards from a landslide.

The permit file does not contain any signed *Acknowledgement of Permit Receipt and Acceptance of Contents*. Therefore, it appears the permit was never activated.

**5-88-455 (Welton)**

On August 10, 1988, the Commission concurred with the Executive Director's issuance of administrative coastal development permit 5-88-455 for the demolition of a multi-level single family residence and construction of a 7,244 square foot, six-level, 47-foot high single family residence with five on-site parking spaces in two garages. The Executive Director determined that there was a risk of adverse geologic conditions at the site. Therefore, two special conditions were imposed. The first required the applicant to submit evidence that a registered civil engineer reviewed the plans and determined that those plans met the recommendations specified in the geologic evaluation of the site. The second special condition required the execution and recordation of an assumption-of-risk deed restriction that stated the site may be subject to extraordinary hazards from landslides and that the Commission was released from any liability related to damage from such hazards.

The applicant returned a signed *Acknowledgement of Permit Receipt/Acceptance of Contents* on August 2, 1988. However, a comparison of the plans submitted under this application with present site plans show that the proposed project was never constructed.

**C. Hazards**

Section 30253 of the Coastal Act states in relevant part:

*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 landforms along bluffs and cliffs.*

The proposed development is the remodel of an existing structure. In order to assure that geologic conditions at the site would support the proposed development the following geotechnical investigation was performed at the subject site: *Geotechnical Engineering Report at 2723 Ocean Boulevard, Corona Del Mar...* dated October 5, 1998 by Geotechnical Solutions, Inc. of Irvine (Project Number G-1402-06). This report was an update to a previous geotechnical investigation performed by Soils International of Anaheim, California, in 1986 (JN S-093-FG). The geotechnical investigation stated the following:



Since the property was originally developed 39-years ago, the sea cliff and structures have performed exceptionally well without major signs of distress.

However, the subject site could be prone to mass failure due to undercutting or overloading of the slope. In addition, though considered unlikely, a westerly bedding dip of 22 to 33 degrees creates the potential for a wedge type failure if groundwater lubricates potentially continuous clayey bedding planes. Despite these conditions, the report concludes the following:

Based on a review of the Geotechnical Investigation Report dated February 24, 1988 by the Soils International and the recent field geologic observation of the site, it is concluded the existing slope are considered grossly stable and proposed remodeling will increase stability if recommendations of our report are implemented and drainage is improved and well maintained.

Recommendations included load values to be used for the foundation design, embedment of the continuous footing into bedrock, use of moderately deep cast in place concrete piers for the deck and bedroom, drainage improvements, and soils compaction recommendations.

The applicant has submitted plans which have been reviewed by Geotechnical Solutions, Inc. The Principal Engineer concluded that the remodeling plans are in compliance with their October 28, 1998 recommendations. However, the letter also states that these plans are 'preliminary' and that foundation plans should be made available to their office for review when they are ready. Therefore, per Special Condition 1, the Commission finds that the applicant shall submit final revised construction plans along with evidence that such plans have been reviewed by the geotechnical consultant and found to be in substantial conformance with the recommendations submitted in their geotechnical engineering report.

In addition, since geologic hazards related to landslides or slope failure remain a possibility at the site, the Commission finds, per Special Condition 2, that the applicant shall execute and record an assumption-of-risk deed restriction which identifies these hazards and states that the Commission shall not be held liable for any damage due to these hazards. Therefore, as conditioned, the Commission finds that the proposed project is consistent with section 30253 of the Coastal Act.

#### **D. Visual Resources**

Section 30251 of the Coastal Act states in relevant part:

*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.*

Ocean Boulevard in the Corona Del Mar area of Newport Beach is identified in the City's certified land use plan as an area where coastal views are to be protected. The land use plan states:

*Where coastal views from existing roadways exist, any development on private property within the sight lines from the roadway shall be sited and designed to maximize protection of the coastal view. This policy is not intended to prohibit development on any site.*

The land use plan then identifies the coastal view areas (i.e. Ocean Boulevard, among others) to which this policy applies. The subject site does occur within the identified protected area. In order to protect public coastal views the City requires that the height of homes along this stretch of Ocean Boulevard do not exceed curb height. The proposed development conforms with this requirement.

The proposed development is consistent with the City's height limitation and the height of existing development and will not affect existing public views. Therefore the Commission finds that the proposed development is consistent with Section 30251 of the Coastal Act.

#### **E. Land Use Plan**

Section 30604 of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified local coastal program. The permit may only be issued if the Commission finds that the proposed development will not prejudice the ability of the local government to prepare a Local Coastal Program which conforms with the Chapter 3 policies of the Coastal Act.

The Newport Beach Land Use Plan was effectively certified on May 19, 1982. The proposed development is consistent with the policies of the certified Land Use Plan. Therefore, the Commission finds that approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program (Implementation Plan) for Newport Beach that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

#### **F. 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)(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 effect which the activity may have on the environment.

The project is located on a developed coastal bluff near an existing harbor in an urbanized area. Development already exists on the subject site. In addition, the proposed development has been conditioned, as follows, to assure the proposed project is consistent with the hazard abatement policies of the Coastal Act: conformance with geotechnical recommendations and an assumption-of-risk deed restriction. As conditioned, no feasible alternatives or feasible mitigation measures are known, beyond those required, which would substantially lessen any identified significant effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with CEQA and the Chapter Three policies of the Coastal Act.



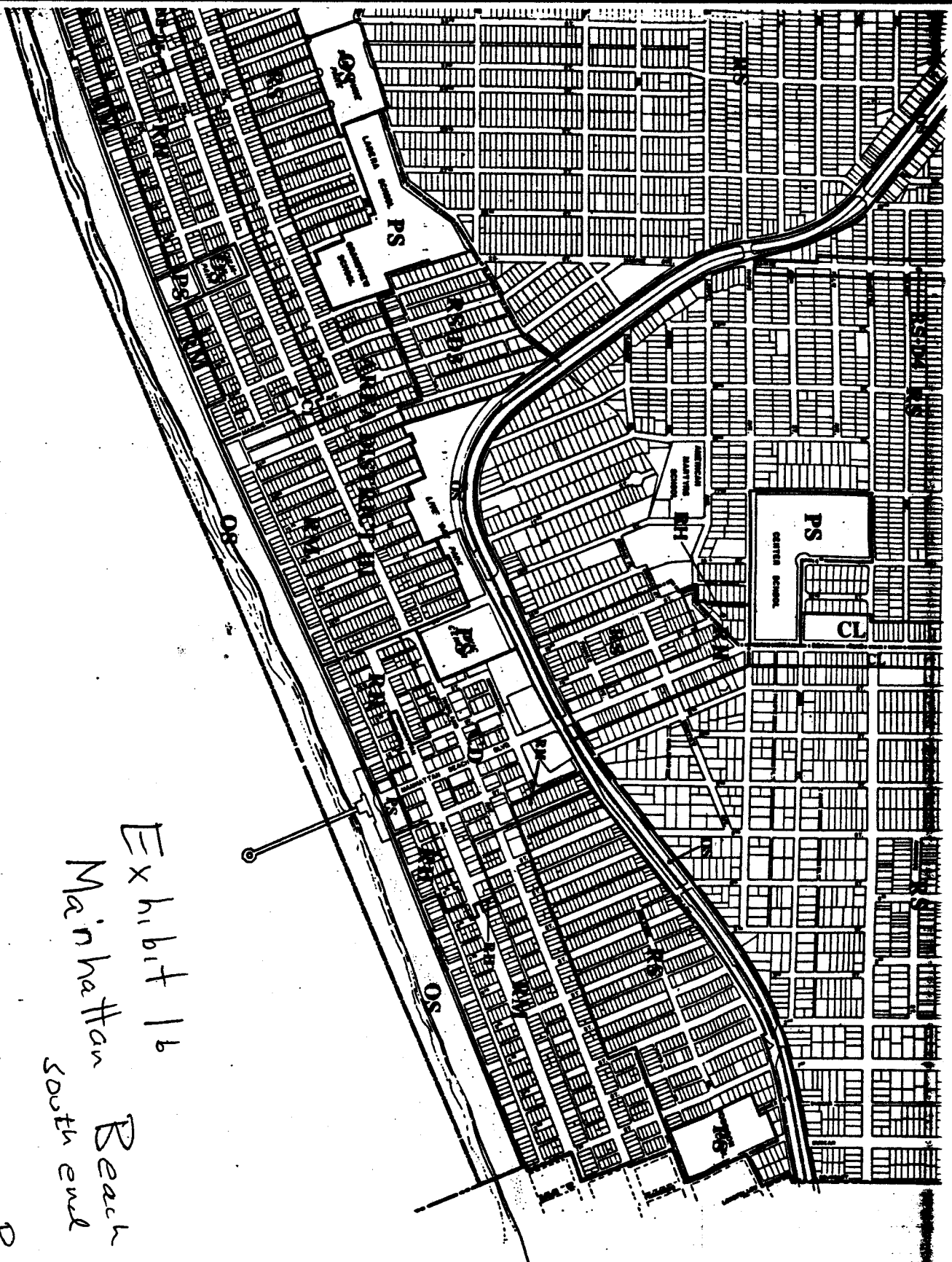


Exhibit 16

Manhattan Beach

South end

Coastal zone Boundary - - - - -

For more detailed information about the area outlined in orange see the A.C.C. Guide to Metropolitan Los Angeles.

MNB  
1-98 A  
Exhibit 1c  
Area map





MB-LCP  
1-98

City Hall 1400 Highland Avenue Manhattan Beach, CA 90266-4795  
Telephone (310) 545-5621 FAX (310) 545-9322 TDD (310) 546-3501

## LOCAL COASTAL PROGRAM AMENDMENT

### Chronology

- October 23, 1997 Initial Studies and Proposed Negative Declarations prepared for warehouse/retail parking and wireless communication amendments.
- October 23, 1997 Public Notice for warehouse/retail parking and wireless communication amendments published in Beach Reporter and faxed to Coastal Commission.
- November 12, 1997 Public Hearing before the Planning Commission held for warehouse/retail parking and wireless communication amendments. Continued to December 10, 1997.
- November 20, 1997 Public Notice published in Beach Reporter and faxed to Coastal Commission for residential fence height amendment.
- December 10, 1997 Public Hearings before the Planning Commission held for all amendments. Commission approval documented in Resolution Nos. PC 97-56 (parking), PC 97-57 (wireless) and PC 97-59 (fence).
- December 31, 1997 Public Notice for amendments published in Beach Reporter and faxed to the Coastal Commission.
- January 20, 1998 Public Hearing before the City Council. First reading of Ordinances 1977 (parking and fence) and 1978 (wireless).
- February 3, 1998 Second reading of Ordinance 1977 and 1978, Council approval proposed amendments, adopt Negative Declarations.
- February 5, 1998 Proposed LCP amendments submitted to Coastal Commission.

MB-1-98

EXHIBIT 2

CHRONOLOGY

## RESOLUTION NO. 5373

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, SUBMITTING ORDINANCE NO. 1977 AND 1978 TO THE CALIFORNIA COASTAL COMMISSION FOR AMENDMENT OF SECTIONS A.04.030, A.08.050, A.12.030 A.60.130 AND A.64.030 OF THE CITY OF MANHATTAN BEACH LOCAL COASTAL PROGRAM (LCP) - IMPLEMENTATION PROGRAM

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council hereby makes the following findings:

- A. The City Council of the City of Manhattan Beach conducted a public hearing, pursuant to applicable law, on January 20, 1998, to consider the proposed amendments to the City of Manhattan Beach Local Coastal Program (LCP) - Implementation Program.
- B. The City Council approved the proposed amendments at the hearing of January 20, 1998.
- C. Ordinance No. 1977 and 1978 were adopted on February 3, 1998, and became effective on March 3, 1998.
- D. An Initial Study was prepared in accordance with the California Environmental Quality Act (CEQA), as implemented by the City of Manhattan Beach CEQA Guidelines, for Sections A.04.030, A.08.050, A.60.130 and A.64.030 concerning warehouse/retail parking and wireless service facilities, finding that the proposed project will not have a significant impact upon the environment, nor individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- E. Based upon the Initial Study and the finding of no significant impact, a proposed Negative Declaration has been prepared in accordance with CEQA, and the City of Manhattan Beach CEQA Guidelines. No mitigation measures are required by the Negative Declaration.
- F. No Initial Study was prepared for Section A.12.030 concerning residential fence height requirements, as the proposal is exempt from the requirements of the California Environmental Quality Act, pursuant to Section 15061 (b)(3) of the CEQA Guidelines, due to the determination that it is certain that it has no potential for causing a significant effect on the environment.
- G. The subject amendments are consistent with all applicable procedures and policies of the California Coastal Act of 1976, as amended, and the City of Manhattan Beach Local Coastal Program.
- H. The proposal involves an amendment to the City of Manhattan Beach Local Coastal Program (LCP) - Implementation Program, adopted by the City Council on February 3, 1998, as Ordinance No. 1977 and 1978.
- I. The City Council certifies that the subject amendments will be implemented in a manner fully in conformity with the California Coastal Act of 1976, as amended, and the City of Manhattan Beach Local Coastal Program.

SECTION 2. Pursuant to Government Code Section 65907 and Code of Civil Procedure Section 1094.6, any action or proceeding to attack, review, set aside, void or annul this



Certified to be  
a true copy of  
said document  
on file in my  
office.

*ff*

City Clerk of  
the City of  
Manhattan  
Beach

MB  
LCPA-1-98

EXHIBIT 3  
RESO. 5373



1 decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior  
 2 to such decision or to determine the reasonableness, legality or validity of any condition attached  
 3 to this decision shall not be maintained by any person unless the action or proceeding is  
 4 commenced within 90 days of the date of this resolution and the City Council is served within 120  
 5 days of the date of this resolution. The City Clerk shall send a certified copy of this resolution to  
 6 the applicant, and if any, the appellant at the address of said person set forth in the record of the  
 7 proceedings and such mailing shall constitute the notice required by Code of Civil Procedure  
 8 Section 1094.6.

9 **SECTION 3.** The City Clerk shall make this Resolution reasonably available for  
 10 public inspection within thirty (30) days of the date this Resolution is adopted.

11 **SECTION 4.** The City Clerk shall certify to the adoption of this Resolution and  
 12 thenceforth and thereafter the same shall be in full force and effect.

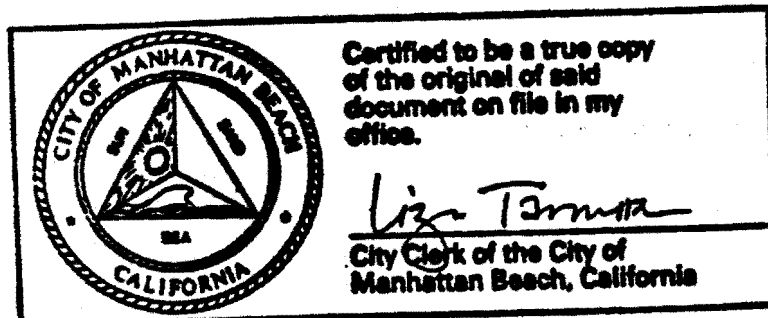
13 **PASSED, APPROVED, and ADOPTED** this 3<sup>rd</sup> day of February, 1998.

14 Ayes: Jones, Napolitano, Wilson, Lilligren, Mayor Cunningham  
 15 Noes: None  
 16 Absent: None  
 17 Abstain: None

18 /s/ Jack Cunningham  
 19 Mayor, City of Manhattan Beach, California

20 **ATTEST:**

21 /s/ Liza Tamura  
 22 City Clerk





## ORDINANCE NO. 1977

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, APPROVING AMENDMENTS TO THE MANHATTAN MUNICIPAL CODE TITLE 10 (ZONING ORDINANCE) AND THE IMPLEMENTATION PROGRAM OF THE LOCAL COASTAL PROGRAM PERTAINING TO WAREHOUSE/RETAIL PARKING REQUIREMENTS AND RESIDENTIAL FENCE HEIGHT REQUIREMENTS

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby makes the following findings:

- A. The Planning Commission conducted a public hearing pursuant to applicable law to consider amendments to Sections 10.04.030, 10.08.050, 10.12.030 and 10.64.030 of Title 10 of the Manhattan Beach Municipal Code and Sections A.04.030, A.08.050, A.12.030 and A.64.030 of the Implementation Program of the Local Coastal Program.
- B. The public hearing was advertised pursuant to applicable law, testimony was invited and received on November 12, 1997, and December 10, 1997.
- C. This Ordinance incorporates the findings and amendments approved by the Planning Commission in Resolutions PC 97-56 and PC 97-59 regarding warehouse/retail parking standards and residential fence height requirements, respectively.
- D. An Initial Study was prepared in accordance with the California Environmental Quality Act (CEQA), as implemented by the City of Manhattan Beach CEQA Guidelines, for the warehouse/retail parking amendment, finding that the proposed project will not have a significant impact upon the environment, nor individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- E. Based upon the Initial Study and the finding of no significant impact, a proposed Negative Declaration has been prepared in accordance with CEQA, and the City of Manhattan Beach CEQA Guidelines. No mitigation measures are required by the Negative Declaration.
- F. No Initial Study was prepared for the residential fence height requirement as the proposal is exempt from the requirements of the California Environmental Quality Act, pursuant to Section 15061 (b)(3) of the CEQA Guidelines, due to the determination that it is certain that it has no potential for causing a significant effect on the environment.
- G. The proposed amendments are consistent with the policies of Chapter 3 of the Coastal Act, will not have an impact either individually or cumulatively on coastal resources, and do not involve any change in existing or proposed use of land or water.
- H. The proposed amendments are consistent with the goals and policies of the City's General Plan and Local Coastal Program and with the purposes of Title 10 (Zoning Ordinance) of the Manhattan Beach Municipal Code.

SECTION 2. The City Council of the City of Manhattan Beach, California, hereby certifies the Negative Declaration prepared for the warehouse/retail parking requirements amendment.



Certified to be  
a true copy of  
said document  
on file in my  
office.

*JF*  
City Clerk of  
the City of  
Manhattan  
Beach

MB 1-98  
LCPM

**EXHIBIT**  
ORD. 1977

The City Council of the City of Manhattan Beach hereby approves the subject amendment related to warehouse/retail parking standards in the Manhattan Beach Municipal Code and the Local Coastal Program as follows:

**SECTION 3.** Amend Section 10.04.030 entitled "Definitions" of Title 10 of the Manhattan Beach Municipal Code and Section A.04.030 of the Implementation Program of the Local Coastal Program to include the following definition:

**Bulk Storage:** A large, or primary area devoted to the storage of stock merchandise in enclosed areas inaccessible to the public, incidental to a primary use.

**SECTION 4.** Amend Section 10.08.050 entitled "Commercial Use Classifications" of Title 10 of the Manhattan Beach Municipal Code and Section A.08.050 of the Implementation Program of the Local Coastal Program pertaining to retail sales, as follows:

**Retail Sales:** The retail sale and storage of merchandise not specifically listed under another use classification conducted wholly indoors unless otherwise specified by Section 10.60.080 / A.60.080; Outdoor Facilities. This classification includes department stores, drug stores, clothing stores, furniture stores, discount retail warehouses, and businesses retailing the following goods: toys, hobby materials, hand-crafted items, jewelry, cameras, photographic supplies, medical supplies and equipment, electronic equipment, records, sporting goods, kitchen utensils, hardware, appliances, antiques, art supplies and services, paint and wallpaper, carpeting and floor covering, office supplies, bicycles, and new automotive parts and accessories (excluding service and installation).

**SECTION 5.** Amend Section 10.64.030 entitled "Off-Street Parking and Loading Spaces Required" of Title 10 of the Manhattan Beach Municipal Code and Section A.64.030 of the Implementation Program of the Local Coastal Program to include the following:

#### OFF-STREET PARKING AND LOADING SPACES REQUIRED

Use Classification	Off-Street Parking Spaces: Schedule A	Off-Street Loading Spaces: Schedule B Group Number
Retail Sales Not Listed Under Another Use Classification	1 per 200 sq. ft. for first 5,000 sq. ft.; 1 per 250 sq. ft thereafter; bulk storage areas for establishments over 5,000 sq. ft.; 1 per 1,000 sq. ft., or as specified by use permit	1



Certified to be a true copy of said document on file in my office.

*[Signature]*

City Clerk of the City of Manhattan Beach

The City Council of the City of Manhattan Beach, California, hereby approves the subject amendment related to residential fence height requirements in the Manhattan Beach Municipal Code and the Local Coastal Program as follows:

**SECTION 6.** Amend Section 10.12.030 (P)(1) of Title 10 of the Manhattan Beach Municipal Code and Section A.12.030 (P)(1) of the Implementation Program of the Local Coastal Program to include subsection (c) as follows:

- c. The additional portion is approved in writing by each owner of property (the City in cases of public right-of-way) abutting the property line along which the fence is located, and provided, further, that such additional portion shall not make the total height of the fence more than 8 feet, or the combined height of adjacent neighboring retaining walls and fences more than 12 feet.

**SECTION 7.** Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other ordinances of the City, to the extent that they are inconsistent with this ordinance, and no further, are hereby repealed.

**SECTION 8.** This notice shall be published by one insertion in *The Beach Reporter*, the official newspaper of the City, and this ordinance shall take effect and be in full force and operation thirty (30) days after its final passage and adoption.

**SECTION 9.** The City Clerk shall certify to the adoption of this ordinance; shall cause the same to be entered in the book of original ordinances of said City; shall make a minute of the passage and adoption thereof in the records of the meeting at which the same is passed and adopted; and shall within fifteen (15) days after the passage and adoption thereof cause the same to be published by one insertion in *The Beach Reporter*, the official newspaper of the City and a weekly newspaper of general circulation, published and circulated within the City of Manhattan Beach hereby designated for that purpose.

PASSED, APPROVED, and ADOPTED this 3<sup>rd</sup> day of February, 1998.

Ayes:	Jones, Napolitano, Wilson, Lilligren, Mayor Cunningham
Noes:	None
Absent:	None
Abstain:	None

/s/ Jack Cunningham

Mayor, City of Manhattan Beach, California

ATTEST:

/s/ Liza Tamura

City Clerk



Certified to be a true copy of the original of said document on file in my office.

Liza Tamura  
City Clerk of the City of Manhattan Beach, California



City Hall 1400 Highland Avenue Manhattan Beach, CA 90266-4795  
Telephone (310) 545-5621 FAX (310) 545-9322 TDD (310) 546-3501

February 5, 1998

Charles Damm, Regional Director  
California Coastal Commission  
South Coast Area  
200 Oceangate - Suite 1000  
Long Beach, CA 90802

RECEIVED  
FEB 9 1998

CALIFORNIA  
COASTAL COMMISSION

Subject: Proposed Local Coastal Program Amendments

The City of Manhattan Beach respectfully submits the enclosed amendments to the Implementation Program of the City's Local Coastal Program for Commission consideration. The proposed amendments are presented on two Ordinances. Ordinance 1977 (attached as Exhibit 3) amends residential fence height requirements and clarifies warehouse/retail parking standards. Ordinance 1978 (attached as Exhibit 4) addresses wireless communication facilities, amateur radio and microwave dish antennas. Early consultation with Commission staff classified Ordinance 1977 as de minimis. It is the City's desire to also have Ordinance 1978 processed de minimis on the basis that the proposed amendments do not have an impact on coastal resources, involve any changes in existing or proposed use of land or water and are consistent with the policies of Chapter 3 of the Coastal Act.

In the event the Commission determines Ordinance 1978 does not qualify for the streamlined procedure, staff has made every effort to satisfy all of the procedural requirements necessary for de minimis and minor/major amendment processing. To this end, staff has included pertinent staff reports, resolutions, agenda minutes, notices and correspondence.

To further understand the events leading up to this submittal, a chronology of the process has been prepared and is attached as Exhibit 1. Should the Commission require additional information, or if you have any questions, please do not hesitate to contact me at (310) 545-5621, Extension 291.

Sincerely,

Richard Thompson, Director  
Community Development Department

MB 1-98 LC PA

Exhibit 5  
p. 1

Fire Department Address: 400 15<sup>th</sup> Street, Manhattan Beach, CA 90266 FAX (310) 545-8925  
Police Department Address: 420 15<sup>th</sup> Street, Manhattan Beach, CA 90266 FAX (310) 545-7707  
Public Works Department Address: 3621 Bell Avenue, Manhattan Beach, CA 90266 FAX (310) 546-1752  
City of Manhattan Beach Web Site: <http://www.ci.manhattan-beach.ca.us>

Attachments: Exhibit 1 Chronology  
 Exhibit 2 Resolution 5373 (submitting amendments to Commission)  
 Exhibit 3 Ordinance 1977 (fence & parking amendment)  
 Exhibit 4 Ordinance 1978 (wireless communication amendment)  
 Exhibit 5 Negative Declaration (see Exhibit 10-G PC Report 11/12/97)  
 Exhibit 6 Negative Declaration (see Exhibit 10-H PC Report 11/12/97)  
 Exhibit 7 Public Notices (Planning Commission & City Council)  
 Exhibit 8 Proof of Publication  
 Exhibit 9 City Council Minutes dated 1/20/98 (public testimony)  
 Exhibit 10 City Council Staff Report date 1/20/98 (with below attachments)  
 Exhibit A Proposed Ordinance 1977 (parking & fence amendment)  
 Exhibit B Proposed Ordinance 1978 (wireless amendment)  
 Exhibit C PC Resolution 97-56 (parking amendment)  
 Exhibit D PC Resolution 97-57 (wireless amendment)  
 Exhibit E PC Resolution 97-59 (fence amendment)  
 Exhibit F Minutes from PC Meeting of 12/10/97  
 Exhibit G PC Staff Report dated 12/10/97 (parking amend.)  
     Draft Resolution No. PC 97-  
     PC Staff Report dated 11/12/97  
     Existing/Proposed language (strikeout/underline)  
     Proposed Negative Declaration and Initial Study Letter  
     Excerpts from the PC meeting of 11/12/97  
 Exhibit H PC Staff Report dated 12/10/97 (wireless amendment)  
     Draft Resolution No. PC 97-  
     PC Staff Report dated 11/12/97  
     MBMC 10.60.130 existing language  
     MBMC 10.60.130 proposed language  
     Proposed Negative Declaration and Initial Study  
     Excerpts from the PC meeting of 11/12/97  
 Exhibit I PC Staff Report dated 12/10/97 (fence amendment)  
     Draft Resolution No. PC 97-  
     Diagram of proposed fence height exception  
     Excerpts from CC meeting of 5/21/96  
     Existing/Proposed regulations for fences and walls  
     Diagrams of permitted fence heights  
     Old Zoning Code Section 10-3.1414

Exhibit 5  
 p 2



City Hall

1400 Highland Avenue

Manhattan Beach, CA 90266-4795

Telephone (310) 545-5621

FAX (310) 545-5234

TDD (310) 546-3501

March 11, 1998

California Coastal Commission  
200 Occangate, 10<sup>th</sup> Floor  
Long Beach, CA 90802-4302

RE: City of Manhattan Beach LCPA 1-98

Dear Ms Emerson,

I've had an opportunity to review the suggested modifications for the subject amendment and have two comments for your consideration.

**Proposed Retail Parking Amendment (Clarification)**

This amendment was created to clarify existing language in the City's Zoning Code. It was intended to address large retail establishments that have a tendency to locate along Sepulveda Boulevard, a primary commercial boulevard outside of the coastal zone. By amending the LCP, the City was attempting to maintain a certain degree of consistency between those two land use documents. However, given the concerns raised by the Coastal Commission staff (particularly regarding the former Metlox pottery site), the City suggests the Commission disregard the proposed parking amendment and proceed with the fence amendment as submitted.

**Wireless Service Facilities Amendment**

The proposed language added to the "Exceptions" section of the amendment appears to be in conflict with the Telecommunications Act of 1996. The exceptions provided in the proposed ordinance specifically address 1 (one) meter diameter dishes, which according to the Federal Communication Commission Fact Sheet (attached - 4 pages), prohibits restrictions that unreasonably delay, prevent use, increase cost, or precludes a subscriber from receiving an acceptable quality of signal for any of the exempted dishes. As illustrated below, the proposed modifications could delay and significantly increase the cost to a subscriber if s/he chooses to erect one of these dishes.

Suppose a property owner within the appealable area of the City's Coastal Zone, decided to attach to the roof of his/her three story house, a one meter dish supported by a 12 foot mast, that property owner, according to one interpretation of the A.96.050 regulations, would be required to obtain a coastal permit. At best the owner would pay \$112 for a coastal permit and be subject to a processing time of a minimum of 30 days. It seems a fairly good argument could be made that the fees and processing time unreasonably delay the subscribers right to construct the structure.

Fire Department Address: 400 15<sup>th</sup> Street, Manhattan Beach, CA 90266 FAX (310) 545-8925Police Department Address: 420 15<sup>th</sup> Street, Manhattan Beach, CA 90266 FAX (310) 545-7707

Public Works Department Address: 3621 Bell Avenue, Manhattan Beach, CA 90266 FAX (310) 546-1752

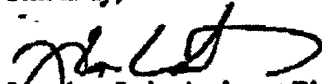
City of Manhattan Beach Web Site: <http://www.ci.manhattan-beach.ca.us>MB LCPA  
MB 1-98

Exhibit C

At worst, a coastal permit would be reviewed subject to subsections C through E of the submitted Ordinance (if retained should read subsections D and E; C applies to amateur radio antennas which are not exempt). Subsection D establishes the guidelines for administrative and use permit review. Such an antenna would not be administratively reviewed because it would exceed the base district height limit of 30 feet. Therefore a use permit would be required. Use permits cost \$2,146 plus the coastal permit fee of \$112 and an environmental review fee of \$112, or \$2,370. The processing time of such a permit, including the required Coastal Commission appeal period, would take several months and could conceivably be denied.

If the latter is correct, it seems that the proposed language would clearly violate federal legislation regarding these exempted antenna structures. Let me know what you think. I'd hate to put the City in a position where we are unable to enforce portions of the LCP, or subject the City to a potential lawsuit.

Sincerely,



Jonathan Lait, Assistant Planner  
Community Development Department

Exhibit 6p2

