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Filed: 7/1/98
49th Day: 8/19/98
180th Day: Extended
270th Day 3/28/99
Staff: AJP/LB
Staff Report: 12/2/98
Hearing Date: 1/12-15/99
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 5-98-437

APPLICANT: City of Santa Monica

PROJECT LOCATION: Fraser, Hart, and Wadsworth Avenues between Barnard Way and Neilson Way; the north side of Ocean Park Boulevard between Barnard Way and Neilson Way; Bicknell Avenue, Pacific Street, and Strand Street between Neilson Way and Ocean Avenue; and Hollister Avenue between Neilson Way and Ocean Avenue/Barnard Way, in the City of Santa Monica

PROJECT DESCRIPTION: After the fact permit for the establishment of a preferential parking zone for residents with no parking or stopping anytime without a permit; expansion of the boundaries of the zone; and erection of signs identifying the hours of the parking restrictions and demarcating the restricted areas (Zone B).

LOCAL APPROVALS RECEIVED: City Council approval

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permits #5-96-221 (City of Santa Monica), #5-96-059 (City of Santa Monica), #5-90-989 (City of Los Angeles Dept. of Transportation), #5-91-498(Sanders); A-5-VEN-97-183 (City of Los Angeles; City of Santa Monica's certified LUP.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the preferential parking zone with special conditions which: (1) limit the hours of preferential residential parking to between 8:00 p.m. and 6:00 a.m. during the summer (between the start of Memorial Day weekend and Labor Day) and 6:00 p.m. to 6:00 a.m. during non-summer months; (2) limit the authorization of the preferential parking restrictions approved by this permit to a three year time limit, at the end of which the applicant may reapply for a new permit to reinstate the parking program; and (3) place the applicant on notice that any change in the hours or boundaries of the preferential parking zone will require Commission approval. As conditioned, to mitigate the adverse individual and cumulative impacts on public access and recreation, the project can be found consistent with the access and recreation policies of the Coastal Act.

STAFF NOTE

The issue in this application is public use of public streets for parking in order to use the beach and public recreation facilities. In recent years the Commission has received applications from local governments to limit public parking on public streets where there are conflicts between local residents and beach visitors, trail users and/or people seeking coastal views. The streets subject to the current application request for preferential parking are near the beach and Santa Monica's south beach park. The City of Santa Monica proposes to restrict all public parking on the streets 24-hours a day. Residents along the affected streets will be allowed to park on the street 24-hours a day, seven days a week, by obtaining a parking permit from the City.

Public access, parking and recreation can result in impacts to neighborhoods that are not designed to accommodate visitors. In this case, the City of Santa Monica has stated that the residential streets within the zone have been impacted by coastal visitors. The City is proposing the parking restriction to address the conflict that occurs when there is a lack of on-site parking and use of the streets by non-residents.

In this particular case, staff recommends that the Commission allow parking limitations only as conditioned by this permit to allow the public an opportunity park on the public street and thereby protect public access to the beach. Because the Coastal Act protects coastal access and recreational opportunities, including jogging, bicycle and trail use, staff is recommending special conditions to ensure that the implementation of the hours will not adversely impact beach and recreational access. As conditioned by this permit, staff does not believe the proposal will adversely affect public access and public recreational opportunities.

This permit application is one of seven after the fact permit applications for residential preferential parking zones in the City of Santa Monica (see Exhibit 1 and 2). Six zones are located south of Pico Boulevard, with one zone located one block north of Pico Boulevard. The City created the seven residential preferential parking zones between 1983 and 1989 (three zones were expanded to include additional streets in 1984, 1987 and 1990). All seven zones were created without the benefit of a Coastal Development Permit.

After being contacted by South Coast Commission staff and informed that a Coastal Development Permit would be required for the preferential parking zones the City filed an application for the seven preferential parking zones. The City, in their submittal letter, states that they would like to resolve the preferential parking zone violation matter administratively (see Exhibit 3). However, the City further states that the application is being filed under protest and they are not waiving their right to bring or defend a legal challenge. The City maintains that the Coastal Commission does not have regulatory authority over preferential parking zones within the coastal zone of Santa Monica. The City states that their position on this matter is based on four primary factors:

> (1) the creation of preferential parking zones does not require coastal commission approval, (2) in 1983 when the zones were first created, the Coastal Commission confirmed that such zones were not subject to Commission approval, (3) the City has exclusive authority to establish preferential parking zones, and (4) preferential parking zones in Santa Monica do not restrict coastal access.

The staff do not agree with the City's position and staff's response to each of the City's contentions is addressed below in the following sections of this report.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that, as conditioned, 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. Preferential Parking Hours

   The hours for preferential residential parking along the streets within the zone (Zone B) in the City of Santa Monica, shall be limited to between 8:00 p.m. and 6:00 a.m. during the summer (between the start of Memorial Day weekend and Labor Day) and between 6:00 p.m. and 6:00 a.m. during non-summer months;

2. Termination of Preferential Parking Program

(a) The parking program authorized by this permit shall terminate three years from the date of approval of the permit.

(b) The City may apply for a new permit to reinstate the parking program. Any such application shall be filed complete no later than 30 months from the date of approval of this permit and shall include all of the following information: The application for a new permit shall include a parking study documenting parking utilization of the street within the preferential zone, the two public beach lots located at 2030 and 2600 Barnard Way, and the public parking lots on Neilson Way (Lots No. 26, 11, 10, and 9). The parking study shall include at least three summer non-consecutive weekends between, but not including, Memorial Day and Labor Day. The parking study shall also include a parking survey for the three summer non-consecutive weekends documenting purpose of trip, length of stay, parking location, destination, and frequency of visits.

(c) All posted parking restriction signs shall be removed prior to termination of authorization for preferential parking unless the Commission has approved a new permit to authorize preferential parking beyond three years from the date of approval of this permit.

3. Signage Plan

Prior to issuance of the Coastal Development Permit, the applicant shall submit for the Executive Director's review and approval, a parking signage program which reflects this approval. The Program shall include location, text and timing of installations of signs and identification and removal of any signs which are not in conformance with the approved parking program within 30 days of the issuance of this permit.

4. Future Changes

Any change in the hours, days, or boundaries of the proposed preferential residential parking zone will require an amendment to this permit.

5. Condition Compliance

Within 60 days of Commission action on this Coastal Development Permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. Findings and Declarations.

The Commission hereby finds and declares as follows:

A. Project Description, Location and Background

The City of Santa Monica proposes to establish a residential preferential parking zone with no parking or stopping at anytime without a permit, along the following described streets within the City of Santa Monica:

> Fraser, Hart, and Wadsworth Avenues between Barnard Way and Neilson Way; the north side of Ocean Park Boulevard between Barnard Way and Neilson Way; Bicknell Avenue, Pacific Street, and Strand Street between Neilson Way and Ocean Avenue; and Hollister Avenue between Neilson Way and Ocean Avenue/Barnard Way.

The proposed project includes the erection of signage within the preferential parking zone to identify the hours of the parking restrictions as well as demarcate the restricted areas.

The proposed zone is located in the South Beach area of the City. The zone is generally situated south of Pico Boulevard and bounded by Neilson Way on the east, Ocean Park Boulevard on the south, Ocean Avenue/Barnard Way on the west, and Bicknell Avenue on the east (see Exhibit 1). The streets within the zone provide approximately 183 curb side parking spaces.

Ocean Avenue/Barnard Way is the first public road paralleling the coast and provides pedestrian and vehicle access to the beach, the south beach park.

Residents that front on any one of the streets named in the zone are allowed to park on the street with a permit 24-hours a day. The preferential parking as proposed is to apply 24-hours a day, seven days a week. Residents within the parking zone will be allowed to purchase parking permits from the City. The City charges $15.00 for an annual permit. The City's municipal code states that the number of Permits per residential household is limited to the number of vehicles registered at that address. If more than three permits are requested the applicant must show that sufficient off-street parking is not available to the applicant (Santa Monica Municipal Code Section 3233). Any vehicle parked without a permit will be removed by the City. All designated streets will be posted with curbside signs indicating the parking restrictions.

The proposed preferential parking zone is a residentially developed neighborhood consisting of single-family residences and multiple-family structures. The majority of the residential structures are older structures built between the 1920's and 1950's. These structures have limited to no on-site parking. The structures in the area that provide on-site parking have inadequate parking, based on current standards. There are only a few structures (single-family residents) within this zone that were recently built and provide at least two parking spaces per residential unit.

The zone was originally created by City ordinance in February 1984 and included Ocean Boulevard, Fraser, Hart and Wadsworth Avenues. Three years later the zone was expanded in 1987 to include additional streets (Hollister Avenue, Strand Street, Pacific Street, and Bicknell Avenue. The zone was established, expanded and implemented without the benefit of a Coastal Development Permit.

B. Previous Commission Permit Action on Preferential Parking Programs within the City of Santa Monica.

The Commission has approved one previous residential preferential parking zone permit application within the City of Santa Monica. In 1996 the City proposed 24-hour preferential residential parking along Adelaide Drive and Fourth Street, between Adelaide Drive and San Vicente Boulevard, in the north part of the City (CDP #5-96-059). The Commission found that due to the zone's distance from the beach and absence of direct access to the beach from the street the area did not provide significant beach access parking. However, because the public used the area for scenic viewing and other recreational activities the Commission found that the City's proposed 24-hour parking restriction was too restrictive and would significantly impact access and coastal recreation in the area. The Commission denied the permit and directed staff to work with the City to develop hours that the City could properly implement and would also protect public access and coastal recreation. The City subsequently submitted a new permit application with hours that restricted public parking only between the hours of 6:00 p.m. and 8:00 a.m. The Commission approved the permit with the proposed evening hour restrictions with special conditions (CDP #5-96-221). One of the special conditions limited the authorization to two years and required the City to submit a new permit application if the City wanted to continue the parking restrictions beyond that time, so that the program and possible impacts could be re-evaluated. The City is in the process of assembling the information to submit a new application for this parking zone.

C. State Wide Commission Permit Action on Preferential Parking Programs and Other Parking Prohibition Measures.

Over the last twenty years the Commission has acted on a number of permit applications throughout the State's coastal zone with regards to preferential parking programs along public streets (see Exhibit 9, for a chart of Preferential Parking Program Permit Applications). In 1979 the City of Santa Cruz submitted an application for a preferential parking program in the Live Oak residential area [P-79-295 (City of Santa Cruz)]. The program restricted public parking during the summer weekends between 11 a.m. to 5 p.m. The City proposed to mitigate the loss of available parking along the public streets by the availability of day use permits to the general public, the provision of remote lots and a free shuttle system. The Commission approved the program with the identified mitigation measures.

In 1982 the City of Hermosa Beach submitted an application for a preferential parking program for the area located immediately adjacent to the coastline and extending approximately 1,000 feet inland [#5-82-251 (City of Hermosa Beach)]. The proposed restricted area included the downtown commercial district and a residential district that extended up a hill 1,000 feet inland. The purpose of the preferential parking zone was to alleviate parking congestion near the beach. The program included two major features: a disincentive system to park near the beach and a free remote parking system to replace the on-street spaces that were to be restricted. The Commission found that the project as proposed reduced access to the coastal zone and was not consistent with the access policies of the Coastal Act. Therefore, the Commission approved the preferential program with conditions to ensure consistency with the Coastal Act. The conditions included the availability of day-use parking permits to the general public and a shuttle system in addition to the provision of remote parking spaces. The Commission subsequently approved an amendment (July 1986) to remove the shuttle system since the City provided evidence that the shuttle was lightly used, the remote parking areas were within walking distance, and beach access would not be reduced by the elimination of the shuttle program. The City explained to staff that due to a loss of funds for the operation of the shuttle system it was necessary to discontinue the shuttle and request an amendment to the Coastal permit. The Commission approval of the City's amendment request to discontinue the shuttle system was based on findings that the shuttle system was not necessary to ensure maximum public access.

In 1983 the City of Santa Cruz submitted an application for the establishment of a residential parking permit program in the area known as the Beach Flats area [#3-83-209 (City of Santa Cruz)]. The Beach Flat area consists of a mix of residential and commercial/visitor serving uses, just north of the Santa Cruz beach and boardwalk. The area was originally developed with summer beach cottages on small lots and narrow streets. The Commission found that insufficient off-street parking was provided when the original development took place, based on current standards. Over the years the beach cottages were converted to permanent residential units. With insufficient off-street parking plus an increase in public beach visitation, parking problems were exacerbated. The Commission found in this particular case that the residents were competing with visitors for parking spaces; parking was available for visitors and beach goers in public lots; and adequate public parking in non-metered spaces was available. Therefore, the Commission approved the permit with conditions to ensure that parking permits (a total of 150) were not issued to residents of projects that were recently constructed and subject to coastal development permits.

In 1987 the Commission approved, with conditions, a permit for a preferential parking program in the City of Capitola [#3-87-42 (City of Capitola)]. The program contained two parts: the Village parking permit program and the Neighborhood parking permit program. The Village consisted of a mixture of residential, commercial and visitor-serving uses. The Neighborhood district consisted of residential development located in the hills above the Village area. The Village, which has frontage along the beach, is surrounded on three sides by three separate neighborhoods. Two neighborhoods are located above along the coastal bluffs with little or no direct beach access. The third neighborhood is located inland, north of the Village.

Similar to the Santa Cruz area mentioned above the proposed Village area changed from summer beach cottages to permanent residential units, with insufficient off-street parking. Insufficient off-street parking with an increase in beach visitation on-street parking was again a problem for residents and businesses within the Village and within the Neighborhood. The proposed preferential parking programs were proposed to minimize traffic and other conflicts associated with the use of residential streets by the visiting public. The Village program allowed residents to obtain permits to exempt them from the two-hour on-street parking limit that was in place, and the requirement of paying the meter fee. The Neighborhood program would have restricted parking to residents only.

The Village program did not exclude the general public from parking anywhere within the Village. The Neighborhood program as proposed, however, would have excluded non-residents from parking in the Neighborhood streets. The Commission found that public access includes not only pedestrian access, but also the ability to drive into the Coastal Zone and park, to bicycle, and to view the shoreline. Therefore, as proposed the Commission found that the proposal would adversely affect public access opportunities. Without adequate provisions for public use of these public streets that include ocean vista points, residential permit parking programs present conflicts with Coastal Act access policies. Therefore, the Commission approved the permit with special conditions to assure public access. These conditions limited the number of permits within the Village area, restricted public parking limitations to vista point areas in the Neighborhood district, required an access signage program, operation of a public shuttle system, and monitoring program and imposed a one-year time limit on the development that was authorized (requiring a new permit or amendment to continue the program).

In 1990 the City of Los Angeles submitted an application for preferential parking along portions of Mabery Road, Ocean Way Entrada Drive, West Channel Road and East Rustic Road in the Pacific Palisades area, within Santa Monica Canyon [#5-90-989 (City of Los Angeles)]. The proposed streets were located inland of and adjacent to Pacific Coast Highway. The preferential parking zone extended a maximum of approximately 2,500 feet inland along East Rustic Road. According to the City's application, the purpose of the proposal was for parking relief from non-residents. Despite available parking along surrounding streets and in nearby State beach parking lots along Pacific Coast Highway that closed at 5:30 p.m., the Commission denied the application because the areas were used for parking by beach goers and because elimination of public on-street parking along these streets would significantly reduce public beach parking in the evening and also reduce visitor serving commercial parking.

In 1997 the Commission denied, on appeal, a City of Los Angeles' Coastal Development Permit for preferential residential parking in the Venice area [A-5-VEN-97-183 (City of Los Angeles)]. The Commission found that because of the popularity of Venice Beach and Ocean Front Walk (boardwalk), the limited amount of off-street beach parking within the beach parking lots was not adequate to support the amount of visitors that came to the area and that the surrounding neighborhoods served as a parking alternative to the beach parking lots. Therefore, the Commission found that restricting public parking along these streets during the beach use period would adversely impact beach access.

As shown above, the Commission has had before them a number of preferential parking programs statewide. The Commission has approved all of the programs except for two programs. While the approved programs regulated public parking they did not exclude public parking in favor of exclusive residential use. Because the programs were designed or conditioned by the Commission to preserve public parking and access to the beach, the Commission found the programs consistent with the access policies of the Coastal Act.

All programs attempted to resolve a conflict between residents and coastal visitors over on-street parking. The Commission approved the programs only when the Commission could find a balance between the parking needs of the residents and the general public without adversely impacting public access. For example, in permit #P-79-295 (City of Santa Cruz) and #5-82-251 (City of Hermosa Beach) preferential parking was approved with mitigation offered by the City or as conditions of approval that were required by the Commission to make available day use permits to the general public, remote parking and a shuttle system. In #3-83-209 (City of Santa Cruz), because of a lack of on-site parking for the residents within a heavily used visitor serving area, and adequate nearby public parking, the Commission approved the project to balance the needs of the residents with the general public without adversely impacting public access to the area. In #3-87-42 (City of Capitola) the Commission approved the program for the visitor serving area (the Village) because it did not exclude the general public from parking in the Village but only limited the amount of time a vehicle could park. However, preferential parking in the Neighborhood district, located in the upland area, was, for the most part, not approved since it excluded the general public from parking. The only areas within the Neighborhood district that were approved with parking restrictions were those areas immediately adjacent to vista points. In these areas the Commission allowed the City to limit public parking to two-hour time limits.

Where a balance between residents and the general public could not be found that would not adversely impact public access opportunities the Commission has denied the preferential parking programs, as in the case of #5-90-989 and A5-VEN-97-183 (City of Los Angeles).

In addition to preferential parking programs, the Commission has also reviewed proposals to prohibit general parking by such measures as posting "No parking" signs and "red curbing" public streets. In 1993 the City of Malibu submitted an application for prohibiting parking along the inland side of a 1.9 mile stretch of Pacific Coast Highway [#4-93-135 (City of Malibu)]. The project would have eliminated 300 to 350 parking spaces. The City's reason for the request was to minimize the number of beach goers crossing Pacific Coast Highway for public safety concerns. The Commission denied the request because the City failed to show that public safety was a problem and because no alternative parking sites were provided to mitigate the loss of available public parking. Although there were public parking lots located seaward of Pacific Coast Highway and in the upland areas, the City's proposal would have resulted in a significant loss of public parking. The Commission, therefore, found that the proposal would adversely impact public access and was inconsistent with the access policies of the Coastal Act. In denying the proposal, the Commission recognized the City's desire to maximize public safety and found that there were alternatives to the project, which would have increased public safety without decreasing public access.

In 1989 the Commission appealed the City of San Diego's permit for the institution of parking restrictions (red curbing and signage) along residential roads in the La Jolla Farms area (#A-6-LJS-89-166). The impetus for the parking restrictions was residential opposition to the number of students from the University of California at San Diego campus who parked on La Jolla Farms Road and Black Gold road, and the resulting traffic and public safety concerns associated with pedestrians and road congestion in the area. Specifically, the property owners association cited dangerous curves along some portions of the roadway, which inhibited visibility; lack of sidewalks in the area and narrow streets (between 37 to 38 feet wide); and increased crime.

The Commission filed the appeal due to concerns on the parking prohibition and its inconsistency with the public access policies of the Coastal Act. The area contained a number of coastal access routes for beach access and access to a major vista point.

The Commission found that the City's permit would eliminate a source of public parking and would be inconsistent with the public access policies of the Coastal Act. The Commission further found that the elimination of the public parking spaces along the areas proposed could only be accepted with the assurance that a viable reservoir of public parking remained within the area. Therefore, the Commission approved the project with special conditions to limit public parking to two-hours during the weekdays and unrestricted parking on weekends and holidays. The Commission further allowed red-curbing basically along one side of the road(s) and all cul-de-sacs for emergency vehicle access. The Commission found, in approving the project as conditioned, the project maximized public access opportunities while taking into consideration the concerns of private property owners.

As in the preferential parking programs that have come before the Commission in the past, if proposed parking prohibition measures can be proposed or conditioned so that private property owner concerns can be balanced with coastal access opportunities, where impacts to public access is minimized, the Commission may find such proposals consistent with the public access policies of the Coastal Act.

D. Development Which Requires a Coastal Development Permit

Section 30600 of the Coastal Act requires a local government wishing to undertake development in the coastal zone to obtain a coastal development permit.

Pursuant to Section 30106 of the Coastal Act development includes a change in the intensity of use of land; a change in the intensity of use of water, or of access thereto; and placement of solid material or structure. In this instance the change in intensity of use of land is converting the on-street parking spaces from public spaces to private residential spaces-- a change in use from a public use, to a private residential use, which in this instance is located on public property. A change in intensity of use of access to the water will also result from the creation of a preferential parking district (zone) by prohibiting public parking and completely eliminating the amount of time one can park on a public street adjacent to the beach. Placement of the parking signs implementing the district also constitutes development.

The Commission has consistently maintained that the establishment of preferential parking programs constitutes development and could adversely impact public access to public beaches and other coastal recreational areas.

The City states that in 1983 Commission legal staff confirmed that permits were not required for the establishment of preferential parking zones. The City has included a City interoffice memo (dated September 3, 1983) stating that they spoke to Commission legal staff regarding preferential parking and that legal staff at the Commission told them that a permit would not be required (see Exhibit 4). The City has not provided Commission staff with any evidence of written correspondence between Commission staff and City Staff addressing this issue and Commission staff has not found any record of such correspondence with the City. Instead staff has located two legal staff letters written in 1983 which clearly state that a coastal development permit is required in order to establish a preferential parking program. In 1983 the Commission's staff counsel sent a letter to Santa Barbara's Office of the City Attorney (12/19/83) in response to the City's inquiry regarding whether or not a coastal development permit would be required for the establishment of a preferential parking program within the coastal zone of the City of Santa Barbara. The letter from Staff Counsel states, in part, that the establishment of preferential parking zones and the erection of signs is considered development and that the Commission has jurisdiction over the establishment of such zones/districts (see Exhibit 5). Again in 1983, another Commission staff counsel sent a letter to the City of Santa Cruz (9/29/83) concluding that a coastal development permit must be issued to authorize the proposed Beach Flats Residential Parking Program (see Exhibit 6). Finally, as stated above, the Commission has acted on numerous preferential parking programs over the last 20 years and has consistently asserted jurisdiction over the establishment of preferential parking zones/districts.

The City also states that the City has exclusive authority to create preferential parking zones. The Commission does not disagree with this point. Although the Vehicle Codes provide the City with the ability to create preferential parking zones, this authority is permissive and in no way eliminates the requirements of other applicable state laws such as the Coastal Act.

The City of Santa Monica further states that preferential parking zones in Santa Monica do not restrict coastal access. The Commission does not agree and has consistently maintained that such zones/districts have potential adverse impacts to coastal access and recreation. The impacts of each zone may vary depending on location, hours, boundaries and coastal and recreational facilities in the area. Therefore, each preferential parking zone needs to be analyzed on a case by case basis to determine the zone's impact to beach access and it's consistency with the Coastal Act. The proposed preferential parking zone's impact to coastal and recreational access is addressed below.

E. Public Access and Recreation

One of the strongest goals of the Coastal Act is to protect, provide and enhance public access to and along the coast. The establishment of a residential parking zone within walking distance of a public beach or other recreational areas will significantly reduce public access opportunities.

Several Coastal Act policies require the Commission to protect beach and recreation access:

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 30212.5 of the Coastal Act states:

> Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, or overcrowding or overuse by the public of any single area.

Section 30213 of the Coastal Act states in part:

> Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30214 of the Coastal Act states:

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

(l) Topographic and geologic site characteristics.

(2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.

(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission, regional commissions, and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

Section 30223:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

In preliminary studies that led to the adoption of the Coastal Act, the Commission and the Legislature reviewed evidence that land uses directly adjacent to the beach were required to be regulated to protect access and recreation opportunities. These sections of the Coastal Act provide that the priority of new development near beach areas shall be given to uses that provide support for beach recreation. The Commission has evaluated these concerns in upland and mountainous areas near the beach to provide coastal viewing and alternatives to the beach for jogging, strolling and cycling. Furthermore, the Commission has consistently addressed both public and private parking issues in order to protect the ability of beach visitors who depend on the automobile to access the beach.

The City's LUP states that the Santa Monica State Beach is the most heavily used beach in Los Angeles County and possibly in the State. The City has estimated that over 20 million people visit Santa Monica's beaches annually (City of Santa Monica's 1992 certified Land Use Plan). In 1998, between July and September approximately 7.5 million people came to Santa Monica beaches (County of Los Angeles Fire Department Lifeguard Division).

The beach area between the Pier and Pico Boulevard is a broad sandy beach and according to the City's LUP is the most active recreation-oriented area of the Santa Monica beaches. The area provides volleyball courts, outdoor gymnastic facilities, swings, a children's play area, Pedestrian promenade, and bike path. The Commission recently approved a permit [CDP #5-98-009 (City of Santa Monica)] for the renovation and improvement of this beach area including the recreational facilities and Promenade. The beach area south of Pico Boulevard is the South Beach area. The South Beach is improved with a landscaped beach park, picnic facilities, children's playground, food concessions, restrooms, pedestrian promenade and bike path [CDP #5-84-591(Santa Monica Redevelopment Agency]. With development of hotels, restaurants, and improvements to the Pier and beach, Santa Monica beach area has been attracting an increasing amount of visitors from throughout the Los Angeles area and from outside of the region.

The proposed preferential parking zone is located within the first block from the beach, between Ocean Avenue and Neilson Way. Because of the zone's close proximity to the beach the area is heavily used by beach goers and recreationalists.

The City, in approving the proposed parking district in 1984, found that:

> ...the residential neighborhood experiences parking problems due to existing dwelling units have little or no off-street parking, and the neighborhood experiences a great influx of non-residential beach traffic... According to the Parking and Traffic engineer, the primary purpose of the proposed preferential parking zone is to reduce the competition for available on-street parking to area residents only.
>
> There is a beach parking lot with approximately 2400 parking spaces immediately adjacent to the proposed zone. Therefore, beach goers should not be displaced into other residential neighborhoods....

> The primary source of non-resident parking intrusion is beach-related parking demand from persons seeking to avoid paying parking fees in the adjacent 2400-space beach parking lot or at the existing on-street parking meters along Ocean Avenue/Barnard Way. However, ample parking resources exist in these areas to satisfy beach parking demand...

In the City's submittal letter, the City argues that there is adequate public parking for beach access, therefore, the preferential parking zones will not adversely impact public beach access. Commission staff does not agree. The Coastal Act requires that maximum access shall be provided for and public facilities, including parking areas or facilities, be distributed throughout an area, and that lower cost visitor and recreational facilities shall be protected. Public curbside parking is a valuable source of beach and recreational access for short-term and long-term users. Restricting the hours or eliminating public parking within a beach area that is heavily used by the public for beach and recreational access is inconsistent with the access policies of the Coastal Act.

The City provides approximately 5,434 parking spaces within public beach lots and on the Pier. Of this total approximately 2,486 spaces are located north of the Pier within 10 public beach lots that are spread out along Palisades Beach Road (Pacific Coast Highway) between the Pier and the City's northern boundary line. The Pier lot provides 286 spaces on the Pier's deck.

From the Pier to the City's southern boundary line, the City provides approximately 2,948 spaces within 5 public beach lots (see Exhibit 7). The largest lots are the two lots (2030 Barnard Way and 2600 Barnard Way) located south of Pico Boulevard (South Beach area). These two beach lots provide 2,406 spaces or approximately 81% of the total beachfront parking supply south of the pier.

The beach parking lots are owned by the State Department of Parks and Recreation. The lots are maintained by the City and the City contracts out the parking operation to a private parking management firm. The parking fee for the beach lots is a flat fee of approximately $6.00 during the winter and $7.00 during the summer.

In addition to the public beach lots, the City also provides approximately 151 5-hour and 7 2-hour metered spaces along the first public road paralleling the sea (Ocean Avenue and Barnard Way) and on a few side streets that run perpendicular to the beach and terminate at the beach Promenade. Approximately 91% (144) of the total metered spaces are located south of Pico Boulevard. The meter fee is $0.50 per hour.

One block inland, along Neilson Way, the City provides approximately 361 off-street metered parking spaces within four public lots (see Exhibit 8). Meter time limits are predominantly 3 hours in duration with some extending to 10 hours. These lots serve the Main Street visitor-serving commercial district. However, due to their close proximity to the beach and their hourly rate ($0.50 per hour), as compared to the beach lots' flat fee ($7.00 during the summer), the lots are also used by beach goers and recreationalists.

The proposed preferential parking zone is located adjacent to the beach area on the inland side of the first public road paralleling the sea. As stated above there are 5 public beach lots located between the Pier and the southern City limit that serve the entire beach area south of the Pier. In 1997 the City had traffic/parking studies prepared for the Pier/ beach area (Pier/Beach Circulation and Access Study, April 29, 1997). The parking study that was prepared for the beach lots included a parking count for Sunday of Labor Day weekend (1996). Sundays are typically Santa Monica's most heavily used day and Labor Day weekend is the most heavily used weekend for the year. The survey found that:

> Nearly all lots were over 90 percent occupied (considered to be effectively fully occupied) at 2:30 PM on Sunday, except for 2030 Barnard way, which still was not fully occupied (only 68 percent utilized by 2:30 PM). By 4:00 PM the pier lot and 1550 PCH were still fully occupied, while the 2030 Barnard Way lot occupancy remained at 67 percent (also note that at 1:00 PM when the 1550 PCH lot is 83 percent occupied, the Barnard Way lot is 47 percent occupied). This clearly indicates that the lots closest to the Pier become occupied first, with the south beach lots becoming more fully occupied only following the northern lots closer to the Pier.

The City also provided weekend parking counts by the lot operator from 1996 to 1998. The parking counts were based on total cars parked during the entire operating day and not broken down to hourly counts. For the area south of the Pier, where the preferential parking zone is located, the figures show that the parking lots between the Pier and Pico Boulevard are heavily impacted during the summer weekends. The demand varies from a low of 17% to a high of 100% during the summer weekends (parking lots are effectively at capacity once they reach 90%). The two main lots south of Pico Boulevard (2030 Barnard Way and 2600 Barnard Way lots) do not reach capacity and are generally underutilized. The total daily utilization for these two lots for the summer weekend is approximately 39-67%.

Visitors to Santa Monica Beach come from all over the Los Angeles area, the state and country. The amount of time visitors stay at the beach varies depending on the type of activity. Some beach visitors come to jog or exercise at the beach and their stay may last an hour or less. Other visitors may stay a couple of hours to all day. Therefore, the provision of an adequate supply of both short-term and long-term parking is important to meet the needs of the various types of beach users. Section 30212.5 of the Coastal Act requires that parking areas shall be distributed throughout an area to mitigate against the impacts, social and otherwise, or overcrowding of overuse by the public of any single area. The availability of on-street parking provides the public needed short-term parking in order to access the beach and recreational facilities and provides low-cost visitor serving facilities consistent with Section 30213. Furthermore, Section 30210 requires that maximum access be provided.

The City's supply of (metered) on-street parking that is currently available to the public along Ocean Avenue and Barnard Way is heavily used by the public and on summer weekends the spaces are fully occupied (based on staff observations). The public metered lots along Neilson Way are also heavily utilized on summer weekends. During the summer weekend daytime hours the four lots' occupancy rate is between 84 to 100 percent.

By creating the preferential parking zone that prohibits public parking during the day, seven days a week, the City has effectively removed from public use all curbside parking along these public streets during the beaches' peak use period. Removing 183 curbside public parking spaces that are within this zone from the total supply of curbside parking that is adjacent to the beach will preclude the general public from the use of the area for public beach access parking. The 183 spaces represent a significant amount of public parking that could be used for short-term and long-term parking. Eliminating the public's ability to park within this area will significantly reduce the amount of short-term parking within the first block of the beach between the Pier and the southern City limit to approximately only 151 spaces. The proposed preferential residential parking restrictions will thus result in unequal access to public property.

Although the two main south beach parking lots are underutilized (39-67%) even during the summer peak beach use period the flat fee charged ($7.00) in the beach lots does not encourage short-term use and is cost prohibitive for some beach visitors. For beach visitors that plan on staying for a short period and for those beach goers that frequently visit the beach area the beach lots are avoided due to the relatively high cost of the lots. These types of visitors seek out low-cost parking alternatives, such as free curbside parking and metered parking spaces. Preferential residential parking zones with hours that restrict the public from parking during the peak beach use periods eliminates an alternative source of parking to the beach lots.

Furthermore, in 1983 the Commission approved a permit amendment #5-83-2-A (Appeal No. 318-76 Santa Monica Redevelopment Agency) for the development of:

> 397 condominium units, a 851-space parking garage, recreational amenities for the new residents, general landscaping onsite and within the South City

> Beach parking lots west of the site and a public park located on the project site.

As a condition of the permit the Commission required that the City provide short-term public parking on the north and south side of Ocean Park Boulevard, between Ocean Avenue and Neilson Way. The Commission found that:

> Currently, Ocean Park Boulevard provides surface parking opportunities along both side of the street between Neilson Way and Barnard Way, and Barnard Way provides seven short-term metered parking spaces on its seaward side. The short-term parking provides support for the local residents for needed residential parking, and would also be necessary to support the proposed onsite park use and adjacent beach recreational areas located along Barnard Way...The conditions require the applicant to construct additional parking spaces along Barnard Way and Ocean Park Boulevard to provide short-term parking support within the residential community, for the recreational amenities located outside of the State Beach and for short-term coastal recreational visitors.

The south side of Ocean Park Boulevard provides public parking as required in the permit, but the north side of the street would be subject to the 24-hour preferential residential parking restrictions proposed by this permit application. In 1983 when this permit was before the Commission the Commission found that on-street short-term parking was an important resource for public beach and recreational access. The removal of these public spaces on Ocean Park Boulevard and in the surrounding area will eliminate all other access to public property and will be inconsistent with past Commission action for this area.

Because of the proximity of these on-street parking spaces to the beach and coastal recreational facilities, restricting the ability of the public to park within these spaces during the day will adversely impact beach access. Over the last twenty years the Commission has found in past coastal permit action throughout the State, regarding preferential parking programs and other parking prohibition measures, the needs of the residents and the general public must be balanced without adversely impacting public access [#P-79-295 (City of Santa Cruz); #5-82-251 (City of Hermosa Beach); #3-83-209 (City of Santa Cruz); #3-87-42 (City of Capitola; #5-90-989 (City of Los Angeles); #4-93-135 (City of Malibu); #A-6-LJS-89-166 (City of San Diego); and #5-97-215 (City of Santa Monica)].

The City has not proposed any mitigation to mitigate the loss of public parking and it's adverse impacts to coastal access. In past Commission permit action in approving preferential parking programs throughout the State's coastal zone the Commission found such programs consistent with the Coastal Act only if the loss of public parking was adequately mitigated. Such mitigation included combinations of either providing replacement parking to maintain the current supply of parking; shuttle programs to serve the beach area; issuance of parking permits that would be available to the general public so that the public has the same opportunity to park on the public streets as the residents; and/or time limits that would continue to allow the public an ability to park on the streets during the beach use period. Where the impact could not mitigate the loss of public parking and the needs of the public could not be balanced with the needs of the residents the Commission denied the permit applications.

As proposed the 24-hour restriction does not balance the needs of the residents with those of the general public since public beach access demand occurs during the hours the restrictions prohibit public parking. Therefore, to ensure that the needs of the general public are addressed and to eliminate the adverse impact to beach access a special condition is necessary to limit the hours of the preferential residential parking to between the hours of 8:00 p.m. to 6:00 a.m. during the summer (between the start of Memorial Day weekend and Labor Day) and 6:00 p.m. to 6:00 a.m. during non-summer months. As conditioned, the hours will continue to allow the residents to park on the public street but will also provide an opportunity to the public to park on the public street. Furthermore, as conditioned the hours will protect the peak beach use periods normally associated with beach access and coastal recreation and will not significantly impact beach access and recreation consistent with the Commission's previous permit actions for this area.

However, with each subsequent year, as Southern California's population increases, the amount of visitors to the beach increases and there will be an increase in the demand for short-term and long-term beach parking within the beach lots and surrounding area. It has been estimated that approximately 7.5 million visitors came to Santa Monica beaches in 1998 during the summer, between July and September (County of Los Angeles Fire Department, Lifeguard Division). Beach attendance has increased by approximately 20% since 1972. Therefore, to ensure that the restrictions will not adversely impact beach access in the future, the authorization for the parking restrictions will terminate in three years. The City may apply for a new permit to reinstate the parking program. The City may also develop alternative parking for the public in the future that the Commission may consider as appropriate replacement parking to mitigate the loss of public on-street spaces. If the City decides to continue the parking restrictions, prior to the expiration of the authorization of the parking restrictions, the City shall submit a new permit application which shall include a parking study that evaluates parking utilization for the streets within the proposed preferential parking zone and the nearby beach parking during the summer weekends. To gather information that would be representative of the summer period the survey weekends shall be spread-out over the summer period and not consecutive weekends. The study shall include a parking survey for the streets within the zone and within the surrounding area to determine purpose of trip, length of stay, parking location, destination, and frequency of visits.

All posted parking restriction signs shall be removed prior to termination of the preferential parking authorized by this permit, unless the Commission has approved a new permit to authorized preferential parking beyond three years from the date of approval of this permit. Furthermore, to ensure that any change in the restrictions or size of the zone will not adversely impact coastal access, any proposed change in the hours, days, or boundaries of the proposed preferential residential parking zone will require an amendment to this permit. The Commission finds that, only as conditioned, will the proposed project be consistent with Sections 30210, 30211, 30212.5, 30213, 30214, and 30223 of the Coastal Act of 1976.

F. <u>Unpermitted Development</u>

In 1984 the City approved an ordinance creating the residential preferential parking zone (Zone B). According to the City the restrictions for the zone became effective and enforced by the City the same year. The zone was subsequently expanded in 1987. There are no records of permits issued for this development. Although unpermitted development has taken place on the property prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Action by the Commission on the permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a Coastal permit.

G. <u>Local Coastal Program</u>

Section 30604(a) of the Coastal Act states that:

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

In August 1992, the Commission certified, with suggested modifications, the land use plan portion of the City of Santa Monica's Local Coastal Program, 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.

The area within the Beach Overlay District was excluded from certification after the voters approved Proposition S which discourages certain types of visitor-serving uses along the beach. In deferring this area the Commission found that, although Proposition S and its limitations on development were a result of a voters initiative, the policies of the LUP were inadequate to achieve the basic Coastal Act goal of maximizing public access and recreation to the State beach and did not ensure that development would not interfere with the public's right of access to the sea.

Therefore, the subject site is not included within a certified LCP and the coastal development permit must be issued by the Commission. As conditioned the project will not adversely impact coastal resources or access. The Commission, therefore, finds that the project, as conditioned, will be consistent with the Chapter 3 policies of the Coastal Act and will not prejudice the ability of the City to prepare a Land Use Plan and implementation program consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

H. California Environmental Quality Act.

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

The proposed project, as conditioned, is consistent with the applicable polices of the Coastal Act. 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.

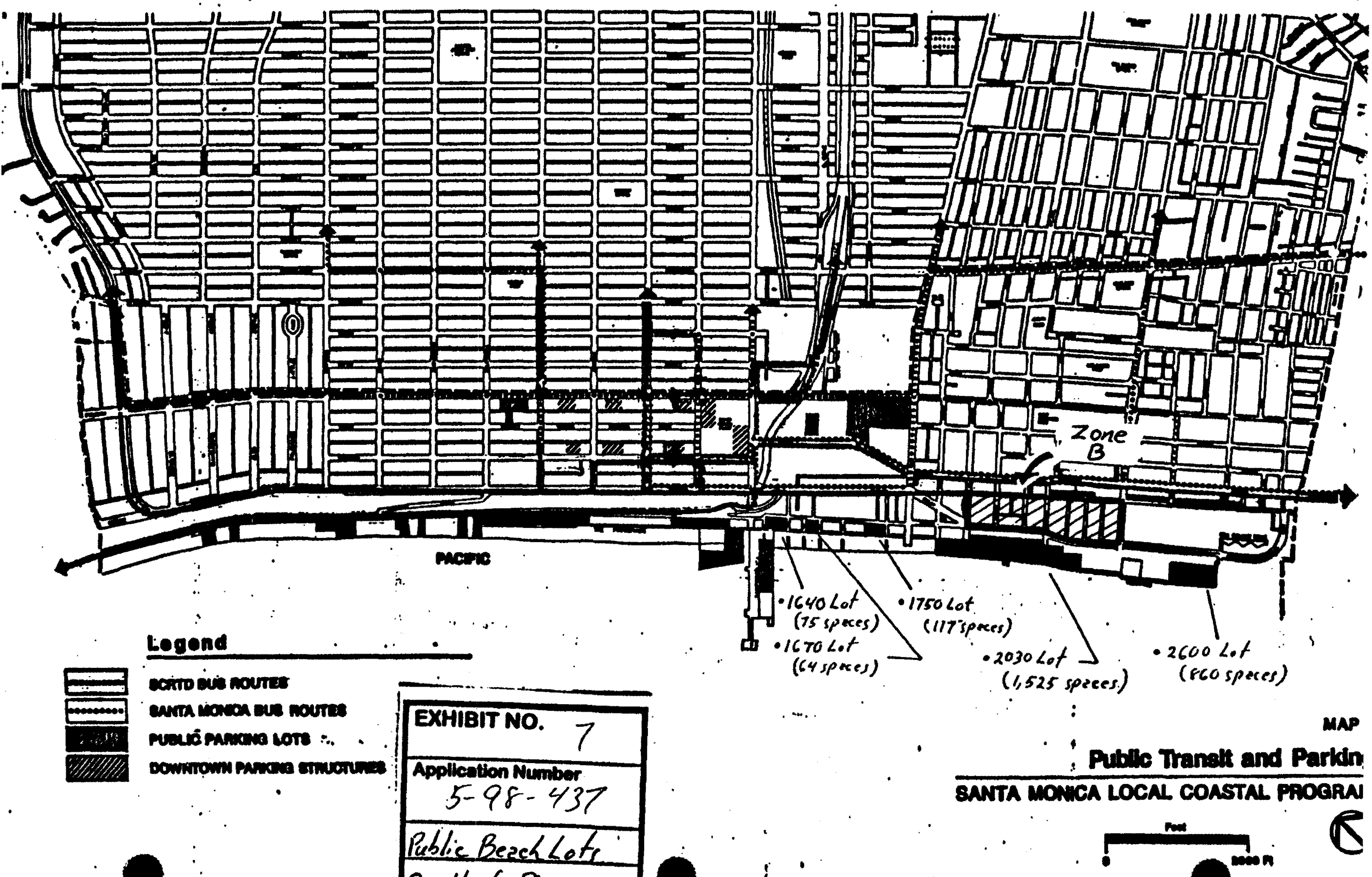

EXHIBIT NO. 7
Application Number 5-98-437
Public Beach Lots South of Pier
California Coastal Commission

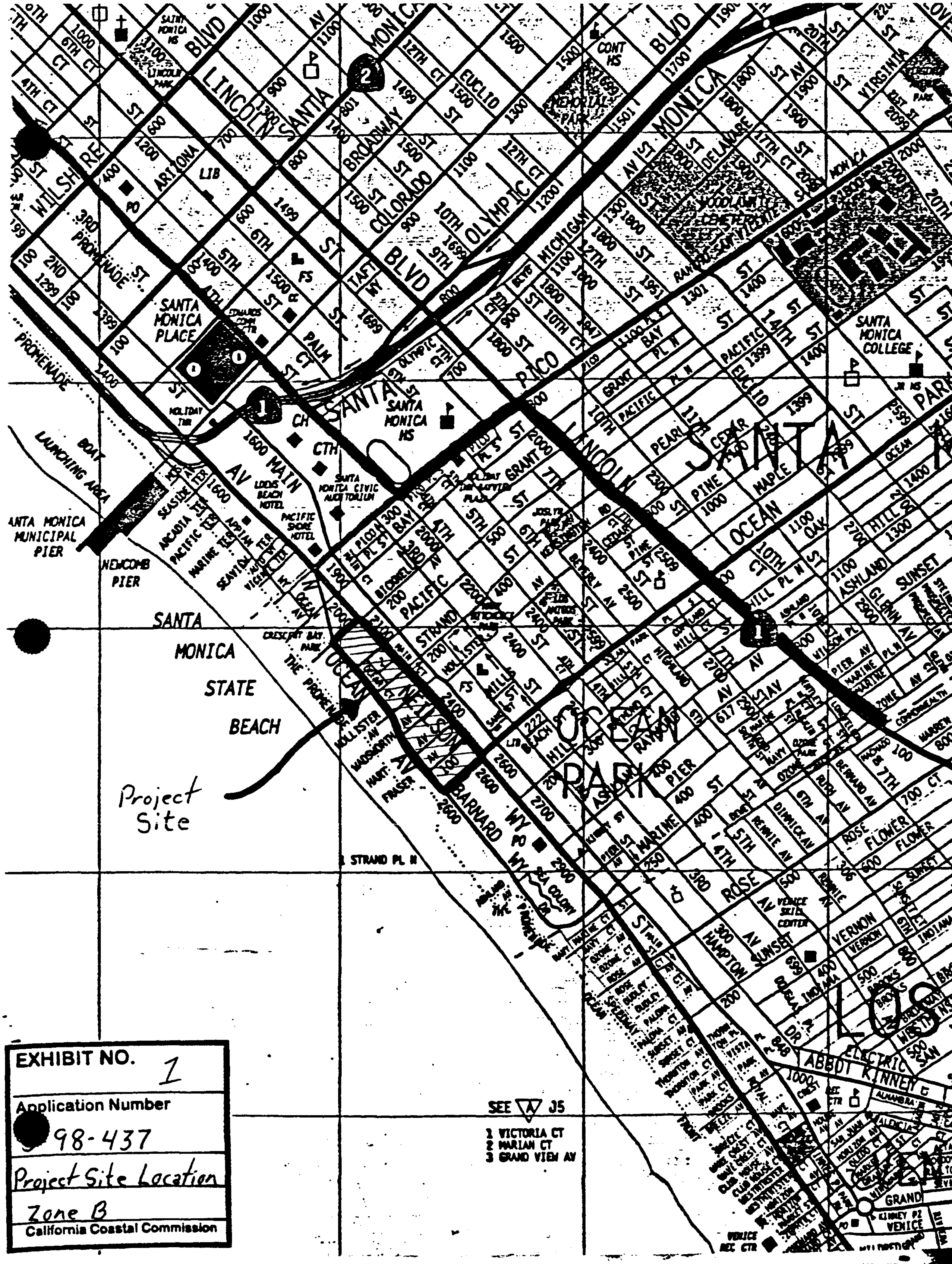

EXHIBIT NO. 1

Application Number

5-98-437

Project Site Location

Zone B

California Coastal Commission

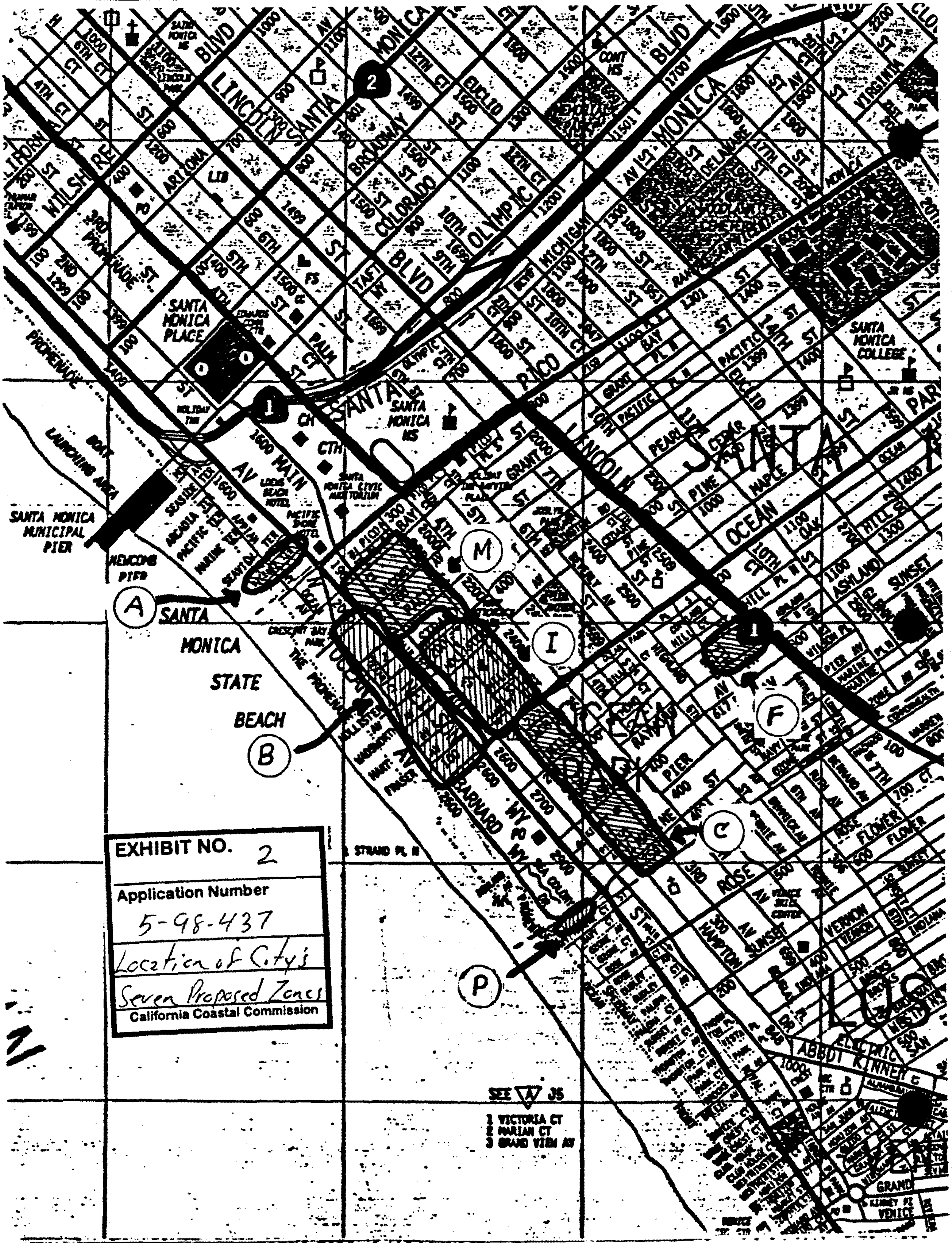

EXHIBIT NO. 2

Application Number

5-98-437

Location of City's

Seven Proposed Zones

California Coastal Commission

CITY OF SANTA MONICA CALIFORNIA

Planning & Community
Development Department
Suzanne Frick
Director

1685 Main Street, P.O. Box 2200
Santa Monica, CA 90407-2200
(310) 458-2275
FAX (310) 458-3380

June 26, 1998

Pam Emerson
Enforcement Supervisor
South Coast Area Office
California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, CA 90802-4416

EXHIBIT NO. 3
Application Number 5-98-437
City's Submittal Letter
California Coastal Commission

RE: Notice of Violation File No. V-5-98-019

Dear Ms. Emerson:

We have received your letter dated June 8, 1998, regarding the City of Santa Monica's preferential parking zones within the Coastal Zone. Pursuant to your letter and in the spirit of cooperation, we would like to resolve this matter administratively. Enclosed herewith is our Application for Coastal Development Permit for seven preferential parking zones established within the City of Santa Monica between 1983 and 1989. In order to expedite this matter, we have returned the Application, which is complete except for notification envelopes, addresses and maps. We will provide such information as soon as it is available.

We are filing this Application under protest, without waiving the City of Santa Monica's right to bring or defend a legal challenge, should that prove necessary. The City maintains that the Coastal Commission's regulatory authority does not extend to preferential parking zones within the coastal zone of Santa Monica. The City's position in this matter is based on four primary factors: (1) the creation of preferential parking zones does not require Coastal Commission approval, (2) in 1983 when the zones were first created, the Coastal Commission confirmed that such zones were not subject to Commission approval, (3) the City has exclusive authority to establish preferential parking zones, and (4) preferential parking zones in Santa Monica do not restrict coastal access.

Coastal Commission Approval Not Required

The establishment of a preferential parking zone is not a "development" under Public Resource Code § 30106 and therefore does not require a coastal development permit. The position that the placement of a preferential parking zone sign implicates the Coastal Act is not supportable by the statutory definition of development, which applies to structures such as "buildings," "roads" and "electrical power lines." Interpreting "development" in this manner would substantially expand the Commission's authority to include the installation of parking and traffic control devices and regulatory signage. Under such a broad definition, the Coastal Commission would be asserting authority over the installation of a wide range of parking and traffic control measures such as traffic signals, stop signs, speed limit signs, etc. Surely the Commission does not intend to review the installation of every sign or the placement of minor traffic improvements in the Coastal Zone. This is far beyond the intent of the Coastal Act.

The Coastal Commission has Waived its Right to Require a Permit

Prior to establishing the first preferential parking zone in the coastal zone in 1983, the Santa Monica City Attorney researched the issue of Coastal Commission permitting of these parking zones. Although the City Attorney independently concluded that the California Coastal Act does not require Commission approval of preferential parking zones, the Commission's legal staff advised the City Attorney that such approval would not be required. Thus, the City's actions have been consistent with the advice received from the Commission and the Commission has been on notice since 1983 that the City was establishing preferential parking zones in the Coastal Zone. Since that time, the City is unaware of any judgments or legislative amendments to the California Coastal Act which have expanded the Commission's authority over preferential parking zones.

Exclusive Municipal Authority in Establishing Preferential Parking Zones

Vehicle Code § 22507 grants exclusive authority to cities to create preferential parking on designated public streets. In *Friedman v. City of Beverly Hills*, 47 Cal.App. 4th 436, 54 Cal.Rptr.2d 882, 885 (1996), the court found that "section 22507 broadly empowers localities to regulate parking within their own districts" and that "the State does not desire to micromanage local parking circumstances." Because the State has expressly granted this parking authority to cities, without exception as to whether the streets are located in the coastal zone, these preferential parking zones should remain under the exclusive authority of the City of Santa Monica.

Preferential Parking Does Not Restrict Coastal Access

Preferential parking zones within Santa Monica do not restrict public access to coastal areas. The City of Santa Monica maintains a deep and long-standing commitment to providing public access to the coast. The City provides over 5,500 public beach parking spaces with immediate access to the coast, including over 3,000 spaces south of the Santa Monica Pier and nearly 2,500 north of the Pier.

Outside of the extensive parking available immediately adjacent to the beach, there is a wide range of additional publicly available parking facilities in the Coastal Zone of Santa Monica, ranging from limited-term on-street metered spaces to all-day flat-fee parking structures. This non-beach lot parking totals over 10,000 spaces, including nearly 7,700 spaces in parking lots/structures and on-street in the Downtown area, over 550 on-street spaces on Ocean

Avenue (north of the Pier), over 450 on-street spaces north of Downtown and within the coastal zone, over 870 spaces in the Santa Monica Civic Auditorium parking lot, over 330 in metered lots on Main Street (south of the Pier), and over 550 on-street metered spaces south of the Pier and west of Fourth Street.

In addition to these extensive parking resources, several local and regional bus lines and bike paths provide further public access to the Santa Monica coast. The City also offers the Tide Shuttle service, which allows visitors to park at and gain nominal-cost shuttle service to any of the prime Coastal Zone destinations, including the beach, Santa Monica Pier, Third Street Promenade/Santa Monica Place, beachfront resort hotels, Main Street shopping district, and the Civic Auditorium. The City provides free additional shuttle service on summer weekends for convenient access between beach parking and the Pier.

Preferential parking zones play a key role in preserving many neighborhoods in Santa Monica. Without such zones, non-resident vehicles parked in the area are a source of neighborhood nuisances and public safety problems such as unreasonable noise, traffic hazards, environmental pollution, and degradation of real property. Such vehicles can interfere with the use of the public streets and exclude residents from parking within a reasonable distance of their homes. The preferential parking zones provide the City with a valuable tool to help preserve the quality of life and safety of these neighborhoods. Many of these streets include apartment complexes where some residents rely solely on street parking for their vehicles.

Some of the preferential parking zones have been in place over 15 years. Residents have come to rely on these zones as a source of stability in their neighborhoods. Some residents may have considered such zones as an important element in choosing to move into these areas. Any attempt to unravel these zones could severely harm these neighborhoods.

We look forward to resolving this issue immediately. If you wish to discuss this matter further, please contact me at 310-458-2275.

Sincerely,

Suzanne Frick
Director

attachment

c: Mayor/City Council
John Jalili, City Manager
Marsha Jones Moutrie, City Attorney

INFORMAL OPINION NUMBER 83-115

DATE: September 3, 1983

TO: Kenyon Webster, Program and Policy Development

FROM: Robert M. Myers, City Attorney

SUBJECT: Whether or Not a Coastal Development Permit Is Required to Establish a Preferential Parking Zone Within the California Coastal Zone

By memorandum dated August 19, 1983, you requested an opinion from this office concerning whether or not the City was required to obtain a coastal development permit to establish a preferential parking zone on Vicente Terrace. In our opinion, a coastal development permit is not required.

The City of Santa Monica has previously established two preferential parking zones within the California Coastal Zone. Prior to the establishment of the first zone, this office contacted a staff attorney for the California Coastal Commission and was advised that no coastal development permit was required. Our independent review of the California Coastal Act of 1976 resulted in the same conclusion.

If the California Coastal Commission can assert jurisdiction over establishment of preferential parking zones, it can also assert jurisdiction over raising parking lot charges, changing parking meter rates, changing street speed limits, and other parking and traffic regulations. (Regulations of this type are clearly distinguishable from the 4th Street modifications, which will change the intensity of on-street parking by the substantial addition of new spaces.) Jurisdiction over these subjects should be resisted in the absence of clear judicial determinations to the contrary.

RMM:r

cc: John H. Alschuler, Jr., City Manager
Stan Scholl, Director of General Services
Ray Davis, Parking and Traffic Engineer

EXHIBIT NO. 4

APPLICATION NO.
5-98-437

City's Memo Regarding Preferential Parking

California Coastal Commission

EXHIBIT NO. 5
Application Number
5-98-437
Commission Staff
Letter to Santa Barbara
California Coastal Commission

State of California, George Deukmejian, Governor

California Coastal Commission
631 Howard Street, 4th Floor
San Francisco, California 94105
(415) 543-8555

December 19, 1983

Jim Kahan
Office of the City Attorney
Santa Barbara, CA 93012

Dear Mr. Kahan,

You have asked for the Commission's staff counsel opinion as to whether or not the preferential parking program proposed for implementation in the West Beach area of the City of Santa Barbara requires a coastal development permit. We have concluded that a permit is required.

You have described the project to consist of establishing "resident only" parking on one side of each designated block and 90 minute parking with permit holders exempt from the time limitation on the other side of those blocks. The project includes the erection of signs to identify the restricted areas. The restrictions are to be in effect on weekends and holidays.

The intended effect of this proposal is to provide additional street parking to residents; in turn this will limit the number of parking spaces available to the public on weekends and holidays, thus limiting public access to the ocean. The Transportation Engineer's report on the permit parking program states the program is expected to mitigate the effects on residents of the displacement of beach goers into residential neighborhoods from the waterfront lots. The waterfront lots are now administered by the City in accordance with a parking program approved by the Coastal Commission in Application Number 4-83-81. According to the Traffic Engineer's report, on-street occupancy of the parking spaces in the project area exceeds capacity during Sunday afternoons. Sunday afternoons have been identified as the period of highest use of the beach and related recreational facilities and capacity has been defined as more than 85% occupancy. Beach goers presently using on-street parking in the West Beach area will be displaced when the parking program is implemented as the program will eliminate existing public parking spaces and restrict the remaining public spaces.

"Development" as defined in the Coastal Act includes "...on land...the placement or erection of any solid material or structure ..." and "...the change in access to water...". The development proposed by the City will have a cumulative effect on public access to the ocean, as discussed above. Various local governments have expressed interest in resident-only parking programs on public streets. If allowed to take place without review for conformity with the Coastal Act, implementation of a preferential parking program would set a precedent which would significantly reduce public access to the ocean. While the Commission, like other government agencies, encourages alternative modes of transportation, it is recognized that most users of the beach arrive by car.

In addition, the erection of signs to identify the newly restricted area is development. Repair or maintenance activities, including the installation, modification or removal of regulatory, warning or informational signs, does not require a permit if it is intended to allow continuation of existing programs and activities which began before the effective date of the Coastal Act. In this instance, the City intends to establish a new program that alters the previous use of the public streets.

Therefore we conclude that the project is development as defined in Section 30106 of the Coastal Act of 1976, and that a coastal development permit is required. This conclusion is consistent with our conclusion in several other matters where preferential parking programs were proposed by local governments.

Our conclusion of the need for a coastal permit does not imply that a permit must necessarily be denied. We note that the Land Use Plan, as certified by the Coastal Commission, contains policies that address on-street parking in the West Beach area. Policy 11.9 states in part that the "City shall investigate the posting of time limits or the imposition of parking fees for on-street parking". Policy 11.10 states in part that the "City shall investigate developing a residential parking sticker program for the West Beach and East Beach residential neighborhoods to guarantee parking for residents and discourage long-term parking by non-residents". As the Coastal Commission has approved the Land Use Plan, it has found the concept of a preferential parking program in the West Beach area to be in conformity with the Coastal Act. When the Coastal Commission approved the waterfront parking program it found that some reconfiguration of public use patterns with inconvenience to the users is consistent with the Coastal Act so long as the program does not prohibit or discourage public access to the beach in the City. The Coastal Commission staff has already begun the analysis necessary to determine if the implementation mechanism proposed for the West Beach area is consistent with the Coastal Act and the Commission's past actions. In recognition of the City's desire to implement the program prior to the period of highest beach use, the Commission staff intends to review an application for the development in an expeditious fashion.

Even if you continue to believe that a permit is not required, the City of Santa Barbara may apply for the permit and reserve the issue of jurisdiction. This approach has been satisfactorily used in other cases where the likelihood of agreement on the merits of a project was greater than the likelihood of agreement on the issue of jurisdiction. If the preferential parking program is implemented without benefit of a coastal development permit the staff will refer this matter to the Office of the Attorney General for enforcement as a violation of the Coastal Act of 1976.

Very truly yours,

Cynthia K Long

Cynthia K. Long
Staff Counsel

cc: Office of the Attorney General:
N. Gregory Taylor, Assistant Attorney General
Steven H. Kaufmann, Deputy Attorney General
South Central District

State of California, George Deukmejian, Governor

California Coastal Commission
631 Howard Street, 4th Floor
San Francisco, California 94105
(415) 543-8555

EXHIBIT NO. 6
Application Number
5-98-437
Commission Staff Letter to City of Santa Cruz
California Coastal Commission

September 29, 1983

Matt Farrell
Public Works Department
City of Santa Cruz
809 Center St. Room 201
Santa Cruz, CA 95060

Subject: Beach Flats Residential Parking Program

Dear Mr. Farrell:

I have recently reviewed a copy of the staff recommendation and accompanying documents describing the Santa Cruz City Beach Flats Residential Parking Program. Rick Hyman of our Central Coast office forwarded your correspondence to me. My conclusion is that a coastal development permit must be issued to authorize the implementation of this program.

The definition of "development" which triggers the requirement for a coastal development permit is quite broad. Section 30106 of the Coastal Act states:

> Development means ...change in the intensity of use of water, or of access thereto; ...

The City's proposal would establish a preferential parking program in the Beach Flats Area. According to a very thorough study by your departmental staff, there is competition between residents and beach-going visitors for on-street parki in the area founded by the boardwalk, the San Lorenzo River and Riverside Avenue. A program has been proposed to protect the residents' ability to park at or near th homes, consisting of shorter parking meter times and a residential parking permit sy We agree with the Director of Public Works that this will discourage all day parking the Beach Flats area. This in turn may diminish beach access opportunities for non-residential beach-goers.

Because of the program's foreseeable impact on access to the sea, a coastal development permit should be sought soon after the program is approved by the Publi Works Department. The permit must be obtained before the plan may be implemented.

The issue of preferential parking is common in many coastal communities where public access to the beach may inconvenience residents. Examples where coastal pern have been required include Hermosa Beach, Santa Monica, and the City of Santa Barba In each case the Commission reviewed the proposals to ensure that parking prioritie were consistent with the access policies of the Coastal Act.

Please submit an application for a coastal development permit as soon as poss to avoid inconvenience to the City's residents and visitors. Rick Hyman in our Central Coast office will gladly assist if need be.

Very truly yours,

Evelyn C. Lee
Staff Counsel

ECL/np

cc: Neal Anderson, city attorney
Les Strnad

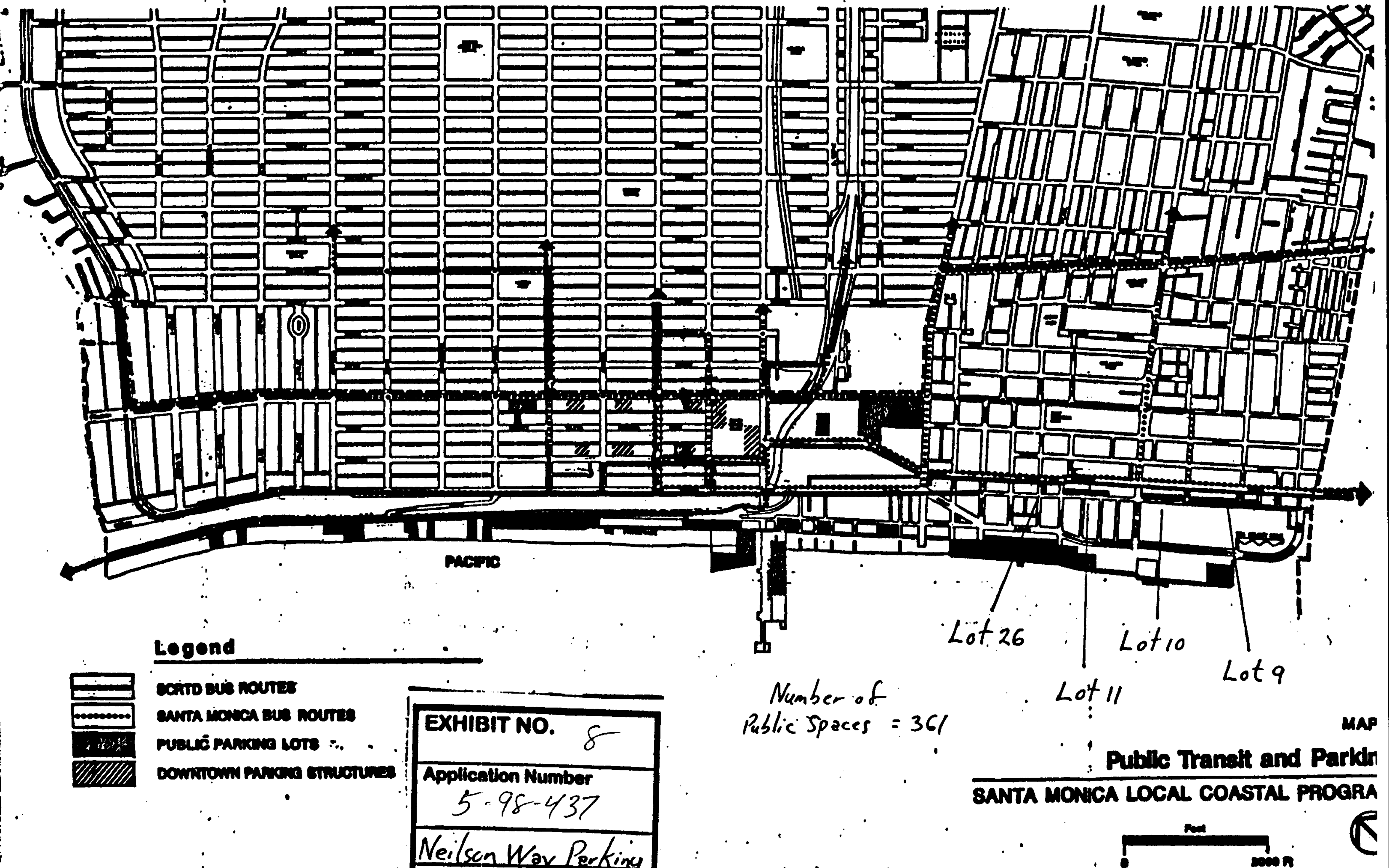

EXHIBIT NO. 8
Application Number 5-98-437
Neilson Way Parking Lots
California Coastal Commission

Prepared by: Locklin and Fuchs

Preferential Parking Programs
(revised 8/98)

Permit	Applicants	Description	Staff Recommendation	CCC Action	Date
P-79-295	County of Santa Cruz	Residential parking program in Live Oak area. Limited to summer weekends 11 am to 5 p.m. Mitigated by availability of day use permits, remote lots and free shuttle. (Note: remote lots and free shuttle later abandoned; permit not amended)	Approval	Approved	6/79
5-82-251	City of Hermosa Beach	Preferential parking for both residential and commercial areas near the beach. Annual permits available to residents and employees. Non residents can purchase day permits. Remote lots and free shuttle included.	Approval with Conditions	Approval with Conditions • limit on term of permit • sign plan • shuttle operation • additional parking provided	5/18/82 7/28/82
4-83-81	City of Santa Barbara	Construction of kiosks and establishment of preferential parking for waterfront parking lots. Hourly fee imposed for the general public and annual permits available to South County residents. Fees collected varies seasonally depending on lot location.	Approval with Conditions	Approved with Conditions • monitoring program • delete residency requirement for purchase of permit	5/26/83

EXHIBIT NO. 9

Application Number
5-98-437

Past Commission Action on Preferential [illegible]ing Program

California Coastal Commission

3-83-209	City of Santa Cruz DPW	Residential Parking Program - Beach Flats Neighborhood	Approval with Conditions	Approved with Conditions • limiting term of permit • number of permits issued • restriction to existing development • evaluation report.	11/15/83
5-84-236	City of Hermosa Beach	Renewal of Preferential Parking Program approved under 5-82-251 (which was limited to 2 years).	Approved	Approved • free remote lots • 25 cent shuttle • annual permit for residents • day permit for visitors	1984
5-82-251A	City of Hermosa Beach	Amendment to delete shuttle		Amendment approved based upon: • it was lightly used • remote parking areas were within walking distance • lack of shuttle would not reduce beach access	July 1986
3-87-42	City of Capitola	Residential Parking Program	Approval with Conditions	Approval with Conditions • limiting time and area • limiting total number of permits issued • signs • monitoring program • annual report	4/21/87
5-90-989	City of Los Angeles Dept. of Transportation	Preferential Parking West Channel Rd./Entrada	Denial	Denied	3/13/91
5-96-059	City of Santa Monica	24 hr. Preferential District along Adelaide Drive and Fourth Street	Approval with Conditions to limit hours and extent	Denied	October 1996
5-96-221	City of Santa Monica	Preferential Parking 6 p.m. to 8 a.m. along Adelaide Drive and Fourth Street	Approval with Conditions	Denied	January 1997

5-97-215	City of Santa Monica	Preferential Parking 6 p.m. to 8 a.m along Adelaide Drive and Fourth Streets	Approval with Conditions	Approved with Conditions • 6pm to 8am • 2 year time limit • see 3 previous CCC actions	August 1997
A-5-LOB-97-259	City of Long Beach	Preferential parking near Mother's Beach on Naples Island. One hour parking limit for non-residents, 9 a.m. to 8 p.m daily.	Denial	Denied	October 1997
A-5-VEN-97-183	City of LA- Venice	Preferential parking between 8 a.m. and 6 p.m., five to seven days a week, with four hours of public parking.	Denial	Denied	November 1997
A-5-HNB-97-344	City of Huntington Beach	Preferential parking on Intrepid Lane and Remora Drive. 6 p.m. to 6 a.m. weekdays; 10 p.m. to 6 a.m. weekends.	Denial	Denied	2/3/98
5-84-236-A	City of Hermosa Beach	Amend hours of preferential parking from 8 a.m. to 5 p.m. to 10 a.m. to 10 p.m.	Approved	Approved	4/98
LCP Actions involving Preferential Parking (More information needed)					
LCP Amendment Huntington Beach 2-91	City of HuntingtonBeach	Changes to residential on street parking requirement and in lieu fee program.			7/92
County of Santa Barbara LUP	County of Santa Barbara	Policies for a preferential parking program.			
LUP Amendment #1-97	City of Pacific Grove	LUP approved changes to bikeway with modification stating that "any future preferential parking proram will require a LCP Amendment".			3/98

Related to Preferential Parking Programs					
A-316-79	Santa Barbara County Park Dept.	Pave dirt parking lots to expand concessions conditioned to restrict hours for restaurant to avoid conflicts with beach parking.	Approval with Conditions	Approval with Conditions	
A-343-79	BA Premise Corp.	Parking garage conditioned to require joint use for public parking on weekends.	Approval with Conditions	Approval with Conditions	
A- 7-80	Sparks-Endless Wave	Convert publicly owned parcel which was used for overflow parking north of the pier area of Santa Monica State Beach to skateboard park.	Denial	Denied	
A-62-81	Haskin & Sloan	Project conditioned to provide for leased spaces for residents in commercial/recreation building	Approval with Conditions	Approval with Conditions	
CC-23-86	Caltrans	Additional traffic lanes on PCH which would remove on-street parking but would agree to mitigate loss of about 400 metered spaces by replacing parking.	Concurrence	Concurrence	
Laguna Niguel LCP	City of Laguna Niguel	Issues concerning metered parking, no parking signs, red curbing (red curbing an issue in a lawsuit).			

A-6-LJS-89-166 City of San Diego	Issues concerned red curbing and signage in response to residential opposition to students parking near UCD. Parking area heavily used by visitors to a number of beach access routes and a major vista point.			Approval with Conditions: • 2 hour parking limit on weekdays • unrestricted parking on weekends and holidays • red curbing allowed on one side of the road and at cul-de-sacs (for emergency vehicles)	1989
6-92-132	City of Carlsbad	Time-lock gates		Denied	
4-93-135	City of Malibu	Posting of "No Parking" signs inland for PCH affecting about 325 spaces.		Denied	
6-94-113-A	City of Del Mar	Allow 73 spaces to become paid and metered parking.		Approved	2/96
6-94-68	Dept. of Parks and Recreation - Cardiff State Beach	Allow use of up to 40 spaces within public beach lot for restaurant parking use from sunset to 11 p.m.	Approval with Conditions	Approved with Conditions to limit term of permit	6/94

EXHIBIT NO. 10
Application Number
5-98-437
City Ordinance for Zone B
California Coastal Commission

CA:RMM:rmd377/hpca
City Council Meeting 2-24-87 Santa Monica, California

ORDINANCE NUMBER ____

(City Council Series)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA AMENDING SANTA MONICA MUNICIPAL CODE SECTION 3238B TO EXPAND PREFERENTIAL PARKING ZONE B

WHEREAS, the Parking and Traffic Engineer has received a petition requesting establishment of a preferential zone on Bicknell Avenue, Pacific Street, and Strand Street between Neilson Way and Barnard Way and Hollister Avenue between Neilson Way and Ocean Avenue/Barnard Way; and

WHEREAS, the petition has been verified to be signed by residents living in two-thirds of the dwelling units comprising not less than 50 percent of the developed frontage of the proposed preferential parking zone; and

WHEREAS, the Parking and Traffic Engineer has undertaken such studies and surveys deemed necessary to determine whether a preferential parking zone should be designated in the area; and

WHEREAS, the proposed preferential parking zone may be implemented by expanding Preferential Parking Zone B; and

WHEREAS, the City Council is satisfied that the proposed area meets the designation criteria set forth in Municipal Code Section 3232A,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES ORDAIN AS FOLLOWS:

SECTION 1. Santa Monica Municipal Code Section 3238b is amended to read as follows:

SECTION 3238b. Preferential Parking Zone B.

(a) The following named and described streets or portions of streets within the City shall constitute Preferential Parking Zone B: Fraser, Hart, and Wadsworth Avenues between Barnard Way and Neilson Way; the north side of Ocean Park Boulevard between Barnard Way and Neilson Way; Bicknell Avenue, Pacific Street, and Strand Street between Neilson Way and Ocean Avenue; and Hollister Avenue between Neilson Way and Ocean Avenue/Barnard Way.

(c) No vehicle shall be parked or stopped adjacent to any curb in Preferential Parking Zone B without a permit issued and displayed in accordance with this Chapter. Any vehicle parked or stopped without a permit may be removed from the street by any police officer.

(c) The annual fee for each permit issued for Preferential Parking Zone B shall be Fifteen Dollars ($15.00) per permit or such other fee as may be established from time to time by resolution of the City Council.

SECTION 2. Any provision of the Santa Monica Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, are hereby repealed or modified to that extent necessary to affect the provisions of this Ordinance.

SECTION 3. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective after 30 days from its adoption.

APPROVED AS TO FORM:

Robert M. Myers

ROBERT M. MYERS
City Attorney