

CALIFORNIA COASTAL COMMISSION

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Staff: AJP-LB
Staff Report: 12/13/1999
Hearing Date: 1/11-14/2000
Commission Action:

STAFF REPORT: PERMIT AMENDMENT**APPLICATION NUMBER: 5-83-002-A2****APPLICANT: City of Santa Monica**

PROJECT LOCATION: Portions of Ocean Park Redevelopment Area bounded by Neilson Way, Barnard Way and Ocean Park Boulevard, in the City of Santa Monica.

PROJECT DESCRIPTION OF ORIGINAL PERMIT (318-76):

Replacement of existing public golf course and open space with a phased development consisting of 397 condominium units, a 851-space parking garage, recreational amenities for the new residents, general landscaping on-site and within the South City Beach parking lots west of the site and a public park located on the project site.

DESCRIPTION OF PROPOSED AMENDMENT (FOURTH AMENDMENT):

Amend special condition requiring the provision of additional short-term parking along the north side of Ocean Park Boulevard, between Neilson Way and Barnard Way, to relocate 14 public parking spaces to Ocean Avenue, between Bicknell Avenue and Neilson Way. The spaces will be created through the elimination of one of two traffic lanes and restriping.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission determine that the proposed development with the proposed amendment, as conditioned, is consistent with the requirements of the Coastal Act.

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

- 1) The Executive Director determines that the proposed amendment is a material change,

2) Objection is made to the Executive Director's determination of immateriality, or,

3) the proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

In this case, the Executive Director has determined that the proposed amendment is a material change to the project as conditionally approved. If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

DESCRIPTION OF FIRST AMENDMENT:

Construction of a senior citizen housing portion of the redevelopment project. The proposed project would include 60 one-bedroom units of senior citizen low income rental housing and one 2-bedroom manager's unit, in a 4-story, 48-ft. high building covering 23,267 square feet, with thirty-one parking spaces.

DESCRIPTION OF SECOND AMENDMENT:

Reduce the number of units to be rehabilitated from 27 to 22, and reduce the number of parking spaces required to accommodate the new residents of the rehabilitated units, allowing for a total of 21 spaces; construction of a six-foot fence to surround the rehabilitation project.

DESCRIPTION OF THIRD AMENDMENT (5-83-002A):

Approval of two different development plans for Phase II of the development approved in Permit NO. 318-76 (see Exhibit x for a description of the two development plans).

SUBSTANTIVE FILE DOCUMENTS: CDP's 5-84-591, A-318-76, 5-83-002; City of Santa Monica's certified LUP.

RECOMMENDATION:

Staff recommends that the Commission APPROVE the permit application with special conditions.

MOTION

I move that the Commission approve CDP #5-83-002A2 pursuant to the staff recommendation.

Staff recommends a YES vote. Passage of the motion will result in adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

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. Modify Special Condition No. B.8 as follows (additions shown in underline, deletions in strikethrough):

Street Narrowing and Landscaping. Prior to transmittal of a permit, the applicant shall submit, for the review and approval of the Executive Director, precise plans for the landscaping and street narrowing portion of the beach Access/Recreational park Improvement. The plans shall indicate species and location of landscape materials; drought-resistant, native California species shall be utilized to the maximum extent possible. The street narrowing plans shall demonstrate additional short-term parking availability along the following streets:

- a. On the landward side of Barnard Way between Hollister and Ocean Park Boulevard.

- ~~b. Along both sides of Ocean Park Boulevard between Neilson Way and Barnard Way.~~

- b. Along the south side of Ocean Park Boulevard between Neilson Way and Barnard Way.

The applicant shall provide as many spaces as possible without conflict with existing short-term parking for the residential portions of the project site and with ingress/egress routes for the project. The street narrowing program shall be adequately publicized both on a local and regional nature; the form of the- publicity program shall be subject to the review and approval of the Executive Director prior to implementation of said program.

2. Add the following Special Conditions to the Overall Conditions of the Permit:

4. Ocean Avenue Public Parking Plans

Prior to issuance of the permit, the applicant shall submit, for the review and approval of the Executive Director, plans showing a minimum of an additional 14 metered (5-hour limit) public parking spaces on Ocean Avenue, between Bicknell Avenue and Neilson Way.

5. Construction of Ocean Avenue Parking Spaces

The 14 additional metered public parking spaces shall be installed and in operation within 90 days from the date of Commission approval of this permit. The parking spaces shall conform to the reviewed and approved plans identified in special condition no. 10.

6. Future Changes

With the acceptance of this permit the applicant agrees that any change in the hours or days of operation of the 14 short-term (3-hour minimum) metered parking spaces along Ocean Avenue, between Neilson Way and Bicknell Avenue, will require an amendment to this permit.

7. Condition Compliance

Within 90 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 implement the proposed amendment. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

Note: Unless specifically altered by this amendment, all conditions imposed on the previously approved permit shall remain in effect (See Exhibit no. 3 for conditions).

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description and Location

The City is requesting to amend special condition no. 8 of permit 5-83-2A to relocate 14 public on-street parking spaces along the north side of Ocean Park Boulevard, between Neilson Way and Barnard Way, to Ocean Avenue, between Bicknell Avenue and Neilson Way, in the City of Santa Monica. The existing 14 parking spaces are located within the

first block inland of Barnard Way, which is the first public road paralleling the sea (See Exhibit No 1 & 2).

In 1977, the Commission approved a permit and subsequent amendments (#A318-76, amendments: A318-76-A1, A318-76-A2 and #5-83-2A) for a phased redevelopment project consisting of: 397 condominium units; a 851-space parking garage; recreational amenities for the new residents; general landscaping on-site and within the South City Beach parking lots; and a public park located on the inland side of Barnard Way, across from the beach. The third amendment (5-83-2A) approved, with special conditions, two different development plans for Phase II of the development approved in Permit No. A-318-76. The permit amendment was approved with three sets of special conditions (A. Overall Conditions; B. Settlement Plan Conditions; and C. Alternate Plan Conditions). All special conditions were accepted and implemented by the applicant. Special condition #B.8 of the amendment required:

Street Narrowing and Landscaping. Prior to transmittal of a permit, the applicant shall submit, for the review and approval of the Executive Director, precise plans for the landscaping and street narrowing portion of the beach Access/Recreational park Improvement. The plans shall indicate species and location of landscape materials; drought-resistant, native California species shall be utilized to the maximum extent possible. The street narrowing plans shall demonstrate additional short-term parking availability along the following streets:

- a. On the landward side of Barnard Way between Hollister and Ocean Park Boulevard.
- b. Along both sides of Ocean Park Boulevard between Neilson Way and Barnard Way.

The applicant shall provide as many spaces as possible without conflict with existing short-term parking for the residential portions of the project site and with ingress/egress routes for the project. The street narrowing program shall be adequately publicized both on a local and regional nature; the form of the- publicity program shall be subject to the review and approval of the Executive Director prior to implementation of said program.

The permit was issued in 1977, and all development has been completed along with the provision of the required on-street public parking. At this time there is no information as to how many parking spaces were added to the north or south side of Ocean Park Boulevard, between Neilson Way and Barnard Way. There are currently approximately 14 parking spaces on the north side of the street and 16 parking spaces on the south.

At the time of the previous permit, there was on-street public parking on the north side of the street, which was residentially developed. Since the north side of the street currently provides approximately 14 spaces, it can only be assumed that the amount added under the previous permit was less than 14 spaces.

Regardless of the actual number of on-street parking spaces added under the previous permit, the City is requesting to relocate the total number of spaces the street can physically provide (14 on-street public spaces) rather than the actual number added under the previous permit. The proposed location of the new parking spaces is approximately 2,000 feet from Ocean Park Boulevard. As with the existing parking spaces the proposed new spaces are within the first block inland of the first public road paralleling the sea.

Currently, the 14 parking spaces on the north side of Ocean Park Boulevard are not available to the general public. In February 1984, the City established a preferential parking zone (Zone B) for resident parking only without the benefit of a Coastal Development Permit. The preferential parking zone was created to support the adjacent residential neighborhood. Because of the preferential parking for residents only there are currently no short-term parking spaces for the general public along the north side of Ocean Park Boulevard.

By relocating the short-term public spaces to a new location the existing public spaces on the north side of Ocean Park Boulevard will no longer be encumbered by any Commission permit restrictions. It is the City's intent, through a separate permit application, to request approval of a residential preferential parking district on the north side of Ocean Park Boulevard to support the neighborhood residents. The City has concurrently filed a permit application (5-99-046) to establish the parking district, which is currently scheduled for hearing by the Commission.

B. Public Access and Recreation

The City is proposing to relocate 14 short-term on-street public parking spaces from an area adjacent to the beach and the City's South Beach park to an on-street public parking area, located approximately 2,000 feet to the north. One of the strongest goals of the Coastal Act is to protect, provide and enhance public access to and along the coast. The relocation of public parking adjacent to the beach to another location could reduce public access opportunities in the area.

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:

- (1) 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 of the Coastal Act states:

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

Section 30252(4):

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

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.

Across from the South Beach area is the City's redevelopment area that was approved by the Commission in 1977 (A-318-76; A-318-76-A1; A-318-76-A2; 5-83-002A). The development included 397 condominium units, private amenities, and a 6-acre public park and accessways within a 16.2 acre site bounded by Neilson Way, Barnard Way and Ocean Park Boulevard.

In approving the City's redevelopment plan for the area, including the Ocean Park Beach Improvement Plan, the Commission found that short-term street parking was necessary to provide support for the local residents for needed residential parking, and to support the proposed on-site park use and adjacent beach recreational areas. In CDP #5-83-002A the Commission found that the provision of additional parking was necessary 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 City is proposing to continue to provide public short-term parking in support of the recreational amenities and for coastal recreational visitors. The City proposes to relocate the 14 short-term on-street public parking spaces, currently located on Ocean Park Boulevard, to Ocean Avenue, between Bicknell Avenue and Neilson Way. The new location is approximately 2,000 feet to the north and is within the first block inland of the first public road paralleling the sea.

Ocean Avenue, between Bicknell Avenue and Neilson Way, consists of two southbound lanes. There are currently 17 on-street metered parking spaces on the western side of the street and an island of 46 metered parking spaces on the eastern side, which is separated from Ocean Avenue by a median. The meters provide a maximum of 5-hours of parking at \$0.50 per hour.

The City will create an additional 14 short-term metered (5-hour time limit) spaces by reducing the two southbound lanes to one lane and providing additional metered spaces along the eastern side of Ocean Avenue (the City will provide a total of 25 new spaces within this segment of the street).

The City contends that by relocating the 14 short-term parking spaces to an area further to the north but still within the first block from the beach, the parking will continue to serve the short-term needs of the public for access to the beach and recreational uses. The parking spaces will be located across from Crescent Bay Park, the "Linear Park" and in close proximity to the beach. Access from the proposed area to the beach is available through either through the nearby Bicknell Avenue beach parking lot entrance and from Bay Street. Because of the proximity of the parking area to the beach and park areas, the existing parking spaces are heavily used by beachgoers and short-term coastal recreational visitors.

The Commission finds that the City's proposal to re-allocate the 14 public parking spaces to Ocean Avenue would adequately provide public parking to support short-term use of the recreational and beach facilities in the area.

The location, availability, and cost (rate) of the proposed 14 short-term public parking spaces and the available public access to the beach and recreational facilities of the area is consistent with the Commission's original intent in approving the provision of short-term parking to support the recreational uses in the area. The relocation of the short-term parking will not adversely impact public access to the beach or coastal recreational areas. Therefore, special condition No. 8 of CDP#5-83-002A will be amended to reflect that through the City's parking management of the supply of public parking short-term parking on the north side of the Ocean Park Boulevard is not required as a condition of the permit and two new special conditions are added requiring submittal of plans and the construction of 14 new short-term metered (5-hour limit) public parking spaces on Ocean Avenue. Furthermore, to ensure that the proposed short-term parking will be maintained and continue to function as short-term public parking, a special condition placing the City on notice, that any change in the time restrictions or days of operation will require an amendment to this permit, is necessary. The Commission finds that, only as conditioned, will the proposed project be consistent with Sections 30210, 30211, 30212.5, 30213, 30214, 30223 and 30252(4) of the Coastal Act of 1976.

C. Unpermitted Development

In 1985 the City approved an ordinance creating the residential preferential parking zone that eliminated short-term public parking at the subject site. According to the City the restrictions for the zone became effective and enforced by the City in 1986. 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.

D. Local Coastal Program

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).

E. 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 policies 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.

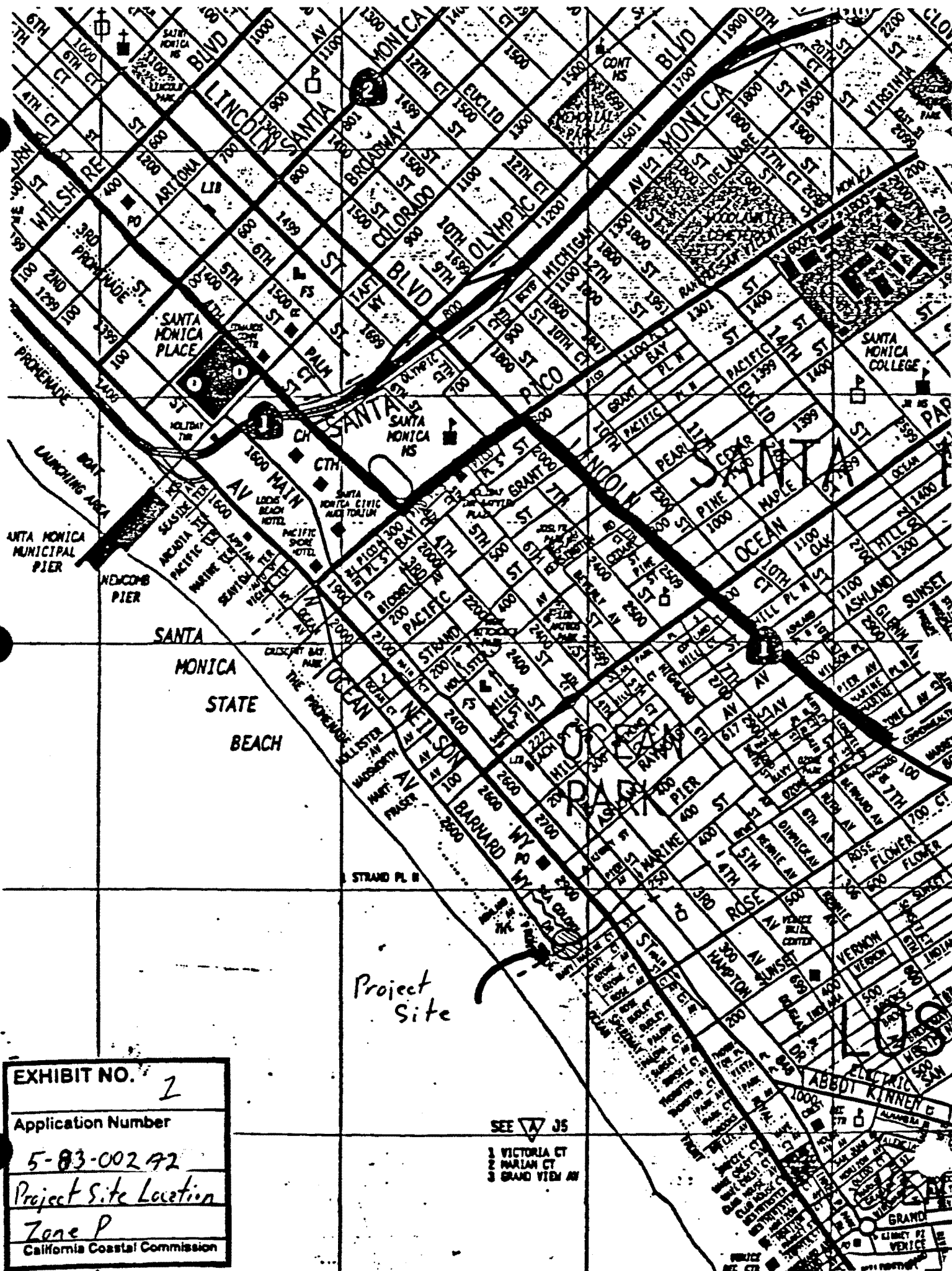

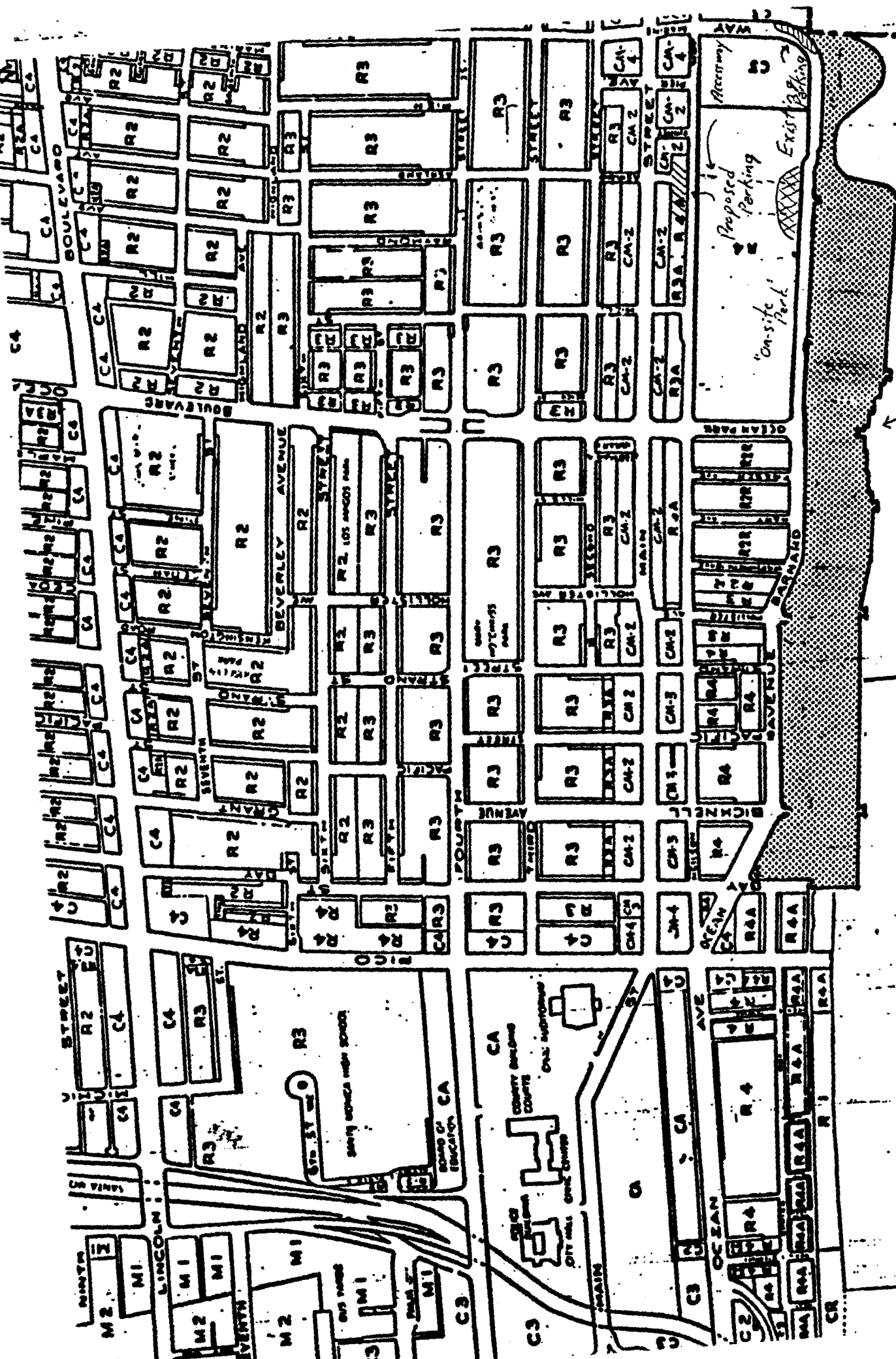


EXHIBIT NO. 2
Application Number
5-83-00272
Project Site Location
Zone P
California Coastal Commission

- SEE  JS
- 1 VICTORIA CT
 - 2 MARLAN CT
 - 3 GRAND VIEW AV



Santa Monica
Los Angeles City

Beach Park

Project Site

EXHIBIT NO. 7
APPLICATION NO. 5-83-00242
Zoning Map

DATE 10/26/83

II. Conditions. The permit is subject to the following conditions:

The applicant shall submit the following to the Executive Director of the Commission for his review and approval to assure conformance with the intent of these conditions. No construction shall commence until the Executive Director has certified in writing that all conditions applicable to such construction have been satisfied.

A. Conditions to be completed prior to construction of Phase I as defined in the Findings and Declarations below:

(1) A written enforceable agreement binding the redeveloper to implement the following conditions in addition to the applicant's return of a signed copy of the permit, agreeing to the permit conditions. The Disposition and Development Agreement may be sufficient to comply with this requirement if it contains such assurances.

(2) The legal opinion, satisfactory to the Executive Director and the Attorney General's office, of the Redevelopment Agency counsel and, if necessary, bond counsel approving the legality of Conditions A-3, A-4, and C-2.

(3) A Housing Assistance and Rehabilitation Program for the Ocean Park Community (that area bounded by Pico on the north, Lincoln on the east, South City boundary on the south and the ocean on the west) to provide housing opportunities for all economic segments of the community. The Housing Assistance and Rehabilitation Program shall be financed by all of the tax increment revenues generated by Phase I until the end of the two-year period following completion of Phase I. All of said revenues shall be irrevocably dedicated for the purposes contained in said program.

(4) The parcel commonly known as the "strip" located at the southeast corner of Barnard Way and Neilson Way shall be limited in future use to senior citizens' housing. The applicant shall submit evidence of recordation of a deed restriction in a form and content approved by the Executive Director irrevocably dedicating said land to said use. No interim uses shall be permitted.

(5) A beach access and park improvement program including landscaping of beach parking lots between Ocean Park Blvd. and South City limits, and pedestrian as well as bicycle access to the beach in addition to the onsite park.

B. Conditions to be concurrent with construction of Phase I.

(1) Commencing with the construction of Phase I the applicant will begin construction of the park and the access ways as per A-5 above, said construction to be completed prior to commencement of construction of Phase II.

C. Conditions to be completed prior to construction of Phase II, as defined in the Findings and Declarations below.

(1) The redeveloper shall submit proof to the Executive Director of implementation and completion by the redeveloper of the Housing Assistance and Rehabilitation Program required by Condition A-3.

(2) The applicant shall cause to be rehabilitated the existing 27 units of housing owned by the City of Santa Monica located at the northeast corner of Neilson Way and Ocean Park Blvd. The 27 units shall continue to be used for housing for low-income persons for the useful life of the buildings, but in no event less than 20 years. As many units as feasible shall be rehabilitated for low-income families.

EXHIBIT NO. 3

APPLICATION NO.

5-83-002192

List of Prior Conditions

(3) Pedestrian-activated signals to be installed at Ashland Avenue and Neilson Way and at two opposite ends of the park facilities on Barnard Way.

(4) The freeway signing program consistent with provisions of the Proposed Beach Master Plan be completed.

D. Condition to be concurrent with construction of Phase II.

(1) The applicant will begin the construction of the tennis courts located in the park (Exhibit 2) and the beach-related improvements set forth in A-5 above, said construction to be completed prior to application for certificates of occupancy for Phase II.

E. Overall Conditions

(1) Final working plans of all aspects of the development shall be submitted to the Executive Director for his review and approval that they substantially conform to the site plans submitted to the Commission and the Conditions set forth above.

(2) All construction and operation shall occur in accord with the approved plans and with implementation of the Conditions set forth above.

II. Conditions of First Amendment (10/80)-318-76A

The permit is subject to the following conditions:

1. Low-Income Housing. For the term of the HUD approved contract (40 years) the rents in the proposed structure shall not exceed Section 8 Fair Market Rents for New Construction projects.

III. Conditions of The Second Amendment (9/81)-318-76A

1. Revised Plans. Prior to the issuance of a permit, the applicant shall submit, for the review and approval of the Executive Director of the Commission, revised working drawings that indicate how many units will be rehabilitated at 175 Ocean Park Blvd. The revised plans shall also depict how many bedrooms will be provided in each unit to be rehabilitated. The revised plans shall show both on-site parking spaces available for guests of the residents of the rehabilitated units.

2. Rental Units. Prior to the issuance of a permit, the applicant shall submit, subject to the review and approval of the Executive Director of the Commission, evidence of the cooperative agreement between the City of Santa Monica and the Housing Authority of the County of Los Angeles which ensures that the subject property will be rehabilitated. This cooperative agreement shall ensure that 24 units shall be rented at the Fair Market rent for existing housing as established by the Department of Housing and Urban Development (HUD) either to: (1) persons who meet the standards established by HUD for rent subsidy under Section 8 of the Housing Act of 1937, as amended, or as it may subsequently be amended, and applicable regulations; or (2) persons who meet the requirements of any other rent subsidy or funding program that provides rental housing for low-income households. The agreement with the Coastal Commission shall be for a period extending 30 years from the date the agreement is recorded.

Where Section 8 or other subsidies are not available to persons who will be occupying the unit, maximum rental levels shall be a base rent that is affordable to persons earning less than 80% of the median income as determined by HUD for the Standard Metropolitan Statistical Area in which it is located, adjusted for family size. Affordable shall be defined as 25% of the median household income as noted above.

3. Remaining Conditions. All other conditions of the original permit not expressly altered by this amendment shall remain in effect.

IV. Conditions of Permit 5-83-2A (5/83)

A. Overall Conditions

The following overall conditions shall be fulfilled by the applicant:

1. Choice of Development Plan. The applicant shall notify the Executive Director in writing to indicate which development plan option will be exercised pursuant to this amendment, within sixteen (16) months from the date of approval of this amendment. Failure to provide notification to the Executive Director shall cause this amendment to expire.

2. Letters of Credit. Where required in any of the following conditions, the applicant shall provide a letter of credit according to the following specifications:

a. The letter of credit shall be issued by a bank, savings and loan, or other financial institution registered with the Secretary of State to do business in California and subject to the approval of the Executive Director.

b. The form and content of the letter of credit shall be subject to the review and approval of the Executive Director of the Commission.

c. The letter of credit shall state that it is being issued for the purpose of guaranteeing the permit applicant's performance of permit conditions and that funds in the amount specified in the condition shall be disbursed for that purpose out of the account which backs the letter of credit.

d. Funds in the account shall be disbursed to the applicant to reimburse costs of development which has been completed pursuant to the particular condition. The letter of credit shall state the various stages at which the applicant shall be entitled to reimbursement, subject to the review and certification by the Executive Director or his designee that the development has been completed to that stage. The number of disbursement stages shall be reasonable and related to the scale of the development required by the condition. In the event that the applicant does not commence development by the starting date, or if development is not completed to the satisfaction of the Executive Director according to specified timetables, then the sums guaranteed by the letter of credit shall automatically be payable to the California Coastal Commission or its designee for the purpose of fulfilling the permit condition.

e. Upon completion of construction, after the Executive Director has determined that the development has occurred in accordance with the particular

permit condition, the Commission shall authorize the issuer to return the letter of credit, or otherwise release any remaining funds that were guaranteed.

3. Interim Park and Access Improvements. Within thirty (30) days of the date of this amendment approval, the applicant shall deliver a \$200,000 letter of credit to the Executive Director to ensure that interim park improvements depicted in Exhibit D of this amended permit shall be completed within six (6) months from the date of this approval or be completed prior to the commencement of construction of the Phase II market-rate units, whichever occurs first. The letter of credit shall also guarantee that the applicant commence construction within one hundred and twenty (120) days from the date the Notice of Intent To Issue A Permit is transmitted to the applicant by the Commission, and that the applicant substantially complete park improvement construction within thirty (30) days from the date of commencing construction.

B. Conditions to be met if the Settlement Plan is Implemented:

1. Approval In Concept for the Affordable Housing Site and the "Ocean Park" Site. The applicant shall agree to submit separate coastal development permit applications for the construction of onsite affordable housing units and for construction of the 4-acre "Ocean Park" as detailed in the Settlement Plan (Exhibit B). The permit applications shall conform with the following special requirements, as well as the Commission's normal permit application requirements:

a. Affordable Housing. If the number of onsite housing units is less than eighty (80) units, the applicant shall provide additional documentation to the Commission which specifies alternative locations within the Ocean Park coastal zone for the remaining units to be constructed so that the total number of affordable units is 80 units. The onsite units shall adhere to a maximum height limitation of 54 feet above existing grade on Neilson Way. Adequate support parking for the onsite affordable units must be provided within the project site. Vehicular access to the affordable housing portion of the site shall be limited to one driveway entrance/exit located along Ocean Park Boulevard approximately 140 feet west of Neilson Way measured from the centerline of Neilson Way to the centerline of the driveway.

b. "Ocean Park" Development. Development plans shall be reviewed and approved by the California Department of Parks and Recreation prior to submittal to the Coastal Commission in a coastal development permit application. Maximum heights of any proposed structures shall be limited to the maximum height of existing structures located on the Santa Monica State Beach directly west of the project site. The timing of construction shall not conflict with peak periods of beach use (from May 1 to September 15 of any given year). Changes to the State Beach must be adequately publicized by a publicity program subject to the review and approval of the Commission when it considers the subject permit application.

2. Affordable Housing Development. Prior to transmittal of a permit, the applicant shall deliver a \$3,500,000 letter of credit to the Executive Director to ensure that the onsite affordable housing will be constructed and completed concurrently with the completion of the Phase II market-rate condominium construction. The applicant shall commence construction within twelve (12)

months from the date of the commencement of construction on the Phase II market-rate condominium units.

3. Onsite Park. Prior to transmittal of a permit, the applicant shall deliver a \$500,000 letter of credit to the Executive Director to ensure that the onsite park improvements as depicted in Exhibit E shall be substantially completed within eighteen (18) months from the date of the commencement of the construction on the Phase II market-rate condominium units. The applicant shall commence construction within six (6) months of the date of the commencement of construction on the Phase II market-rate units.

4. "Ocean Park" and all Offsite Recreational/Access Improvements. Prior to transmittal of a permit, the applicant shall deliver a \$4,000,000 letter of credit to the Executive Director to ensure that the offsite beach/recreational/access improvements shall be substantially completed within eighteen (18) months of the date of commencement of construction on the Phase II market-rate condominium units. The applicant shall commence construction of the improvements within six (6) months of the date of commencement of construction on the Phase II market-rate units.

5. Height Limitations for Phase II Market-Rate Units. The applicant shall submit precise site plans subject to the review and approval of the Executive Director which demonstrate that the maximum heights of the Phase II condominium units do not exceed 57.5 feet above average existing grade at Barnard Way. The highest point of the condominium structures shall be defined as the top of the roof joists. Elevator housing, stairways, chimneys, solar heating systems, etc. may exceed the 57.5 ft. height limitation.

6. Vehicular Access For Phase II Market-Rate Units. Prior to the transmittal of a permit, the applicant shall submit, for the review and approval of the Executive Director, revised plans which indicate ingress/egress routes for the market-rate unit portion of the site. Vehicular access shall be limited to one entrance/exit located along Barnard Way approximately 460 feet south from Ocean Park Boulevard (as measured from the centerline of Ocean Park Boulevard to the centerline of the new driveway). A cut in the median strip shall be provided for left turn access into the project while traveling south along Barnard Way.

7. Onsite Park Design. Prior to transmittal of a permit, the applicant shall submit, subject to the review and approval of the Executive Director, revised plans showing a park design for the 3.27 acres reserved for such use as shown in Exhibit E. The onsite park design shall include the provision of at least five support parking spaces along Barnard Way adjacent to the Ashland Accessway terminus.

8. Street Narrowing and Landscaping. Prior to transmittal of a permit, the applicant shall submit, for the review and approval of the Executive Director, precise plans for the landscaping and street narrowing portion of the Beach Access/Recreational Park Improvement. The plans shall indicate species and location of landscape materials; drought-resistant, native California species shall be utilized to the maximum extent possible. The street narrowing plans shall demonstrate additional short-term parking availability along the following streets:

a. On the landward side of Barnard Way between Hollister and Ocean Park Boulevard.

b. Along both sides of Ocean Park Boulevard between Neilson Way and Barnard Way.

The applicant shall provide as many spaces as possible without conflict with existing short-term parking for the residential portions of the project site and with ingress/egress routes for the project. The street narrowing program shall be adequately publicized both on a local and regional nature; the form of the publicity program shall be subject to the review and approval of the Executive Director prior to implementation of said program.

9. Rescission/Reduction of Settlement Plan Letters of Credit. Prior to transmittal of a permit, the applicant shall agree to enter into a binding legal agreement with the Commission, assuring compliance with the following:

a. If the Phase II market-rate condominium units are prohibited from going forward during the first one hundred twenty (120) days of construction, the applicant shall return the project site to its pre-construction state within ninety (90) days of being stopped in construction. If the land is not returned to preconstruction status, the applicant shall forfeit all of its previously posted letters of credit to the Commission. The Commission shall use the letters of credit to return the land to its pre-construction state and to install park and beach improvements pursuant to the conditions attached to Permit No. 318-76 as it was originally approved in 1977.

b. After the land has been returned to its pre-construction state pursuant to the time specifications described herein, the applicant shall notify the Commission in writing of its intention to abandon the Settlement Plan's implementation. After the Commission has concurred with the applicant's decision, the applicant shall rescind its \$3,500,000 letter of credit posted for the construction of the onsite affordable units, and shall reduce its \$4,000,000 letter of credit posted for the offsite beach/recreation/access improvements to \$1,000,000.

c. On the 121st day after the commencement of construction on the Phase II units, the applicant shall have no right to rescind the posted letters of credit as described herein.

C. Conditions to be met if the Alternate Plan is Implemented:

1. Housing. Prior to the issuance of Certificates of Occupancy for the Phase II market-rate condominium units, the applicant shall implement and complete the Housing Assistance and Rehabilitation Program (HARP) pursuant to the original terms of the program and permit condition issued for the project (Permit No. 318-76).

2. Onsite Park. Prior to transmittal of a permit, the applicant shall deliver a \$500,000 letter of credit to the Executive Director to ensure that onsite park improvements shall be substantially completed within eighteen (18) months of the date of commencement of construction on the Phase II market-rate condominium units and that the applicant shall commence construction on the improvements within six (6) months from the date of commencement of Phase II market-rate unit construction.

3. Beach Parking Lot Improvements. Prior to transmittal of a permit, the applicant shall deliver a \$1,000,000 letter of credit to the Executive Director to ensure that the beach parking lot improvements, and improvements to the City's pedestrian promenade/bikepath as described in Exhibit C, shall be substantially completed within eighteen (18) months from the date of commencement of construction on the Phase II market-rate units and that the applicant shall commence improvement construction within six (6) months from the date of commencement of construction on Phase II market-rate units.

4. Height Limitations for Phase II Units. The applicant shall submit precise site plans subject to the review and approval of the Executive Director which demonstrate that the maximum heights of Phase II units do not exceed 54 feet above average existing grade on Neilson Way. The highest point of the structures shall be defined as the top of the roof joists. Elevator housing, stairways, chimneys, solar heating system, etc. may exceed the 54 ft. height limitation.

5. Vehicular Access. Prior to transmittal of a permit, the applicant shall submit, for the review and approval of the Executive Director, revised plans which indicate ingress/egress routes for the Phase II units. Vehicular access shall be limited to the following locations:

a. A driveway entrance/exit located no closer than approximately 390 feet west of the intersection of Neilson Way and Ocean Park Boulevard (as measured from the centerline of the intersection to the centerline of the driveway.)

b. A driveway entrance/exit located no closer than approximately 270 feet west of the intersection of Neilson Way and Ocean Park Boulevard (as measured from the centerline of the intersection to the centerline of the driveway.)

c. If required by the Fire Department, fire access can be permitted along Ocean Park Boulevard and Barnard Way. The applicant shall provide documentation to the Executive Director of such Fire Department requirements.

D. Remaining Conditions

All other conditions of Permit No. 318-76, and subsequent amendments that have been approved subject to conditions prior to the submittal of the current amendment request not expressly altered by this amendment, shall remain in effect.

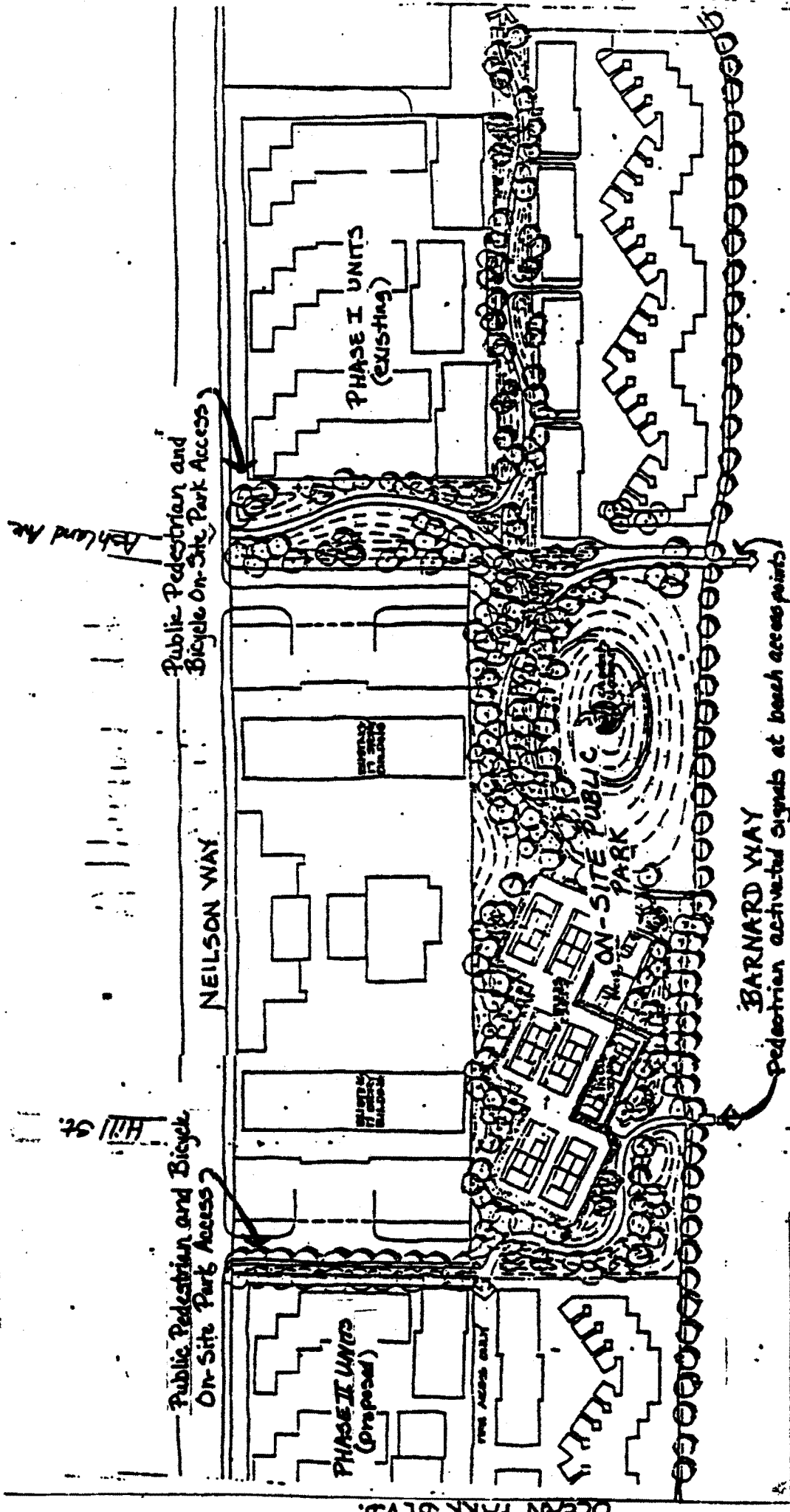


EXHIBIT NO. D
APPLICATION NO.
5-84-591
On-Site Park
Alternate Plan

ALTERNATE PLAN - ON-SITE PARK