

CALIFORNIA COASTAL COMMISSION

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**RECORD PACKET COPY**

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 Staff: KFS-LB
 Staff Report: July 20, 2000
 Hearing Date: August 8-11, 2000
 Commission Action:

STAFF REPORT: PERMIT AMENDMENT**AMENDMENT****APPLICATION NUMBER:** 5-96-006-A2**APPLICANT:** Capital Pacific Holdings I, LLC**AGENT:** Culbertson, Adams & Associates

PROJECT LOCATION: Northwest of the existing fire station at the intersection of Niguel road and Stonehill Drive, east and south of the existing Links at Monarch Beach golf course in the City of Dana Point, County of Orange.

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construction of a 14,030 square foot, two-level, 31'6" high golf clubhouse (including golf cart storage, dining facilities, office and locker room areas, and pro-shop retail sales areas) plus deck and staging areas, putting green, and 203 parking spaces (100 permanent, 103 temporary) and an Irrevocable Offer of Dedication between the City of Dana Point and Monarch Bay Resort Incorporated which will ensure public access from Niguel Road to the proposed development.

DESCRIPTION OF AMENDMENT: Demolish the existing 103-space temporary parking lot, and construct a new 103-space temporary parking lot in a different location.

SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending approval of the proposed coastal development permit amendment with special conditions. The major issue of this staff report includes maintenance of public access to the golf clubhouse and golf course by retaining adequate parking, assuring the presence of parking in an accessible location, and assuring the permanent provision of 203 parking spaces as required in the Commission's original approval of the clubhouse development under Coastal Development Permit 5-96-006. In addition, the proposed project requires a change to the language of a previously imposed special condition because of the relocation. Special Condition 1 requires the applicant to update recorded documents to reflect the proposed relocation of the temporary parking lot. Special Condition 2 requires the replacement 103-space parking lot to be operational and open to the public prior to closure and demolition of the existing temporary parking lot. Special Condition 3 establishes that all prior conditions imposed by Coastal Development Permit 5-96-006 not specifically altered by this amendment remain in effect. Special Condition 4 requires the applicant to submit revised plans indicating 1) the 103-space parking lot is a permanent, rather than a temporary, parking lot; 2) the development approved under CDP 5-92-168 in the 103-space parking lot area is indefinitely

delayed; 3) the current state of approvals; and 4) the location of the proposed telephone call box and shuttle pick-up and drop-off. Special Condition 5 requires the applicant to provide a shuttle between the proposed lot and clubhouse.

LOCAL APPROVALS RECEIVED: City of Dana Point approval-in-concept dated May 25, 2000.

SUBSTANTIVE FILE DOCUMENTS: Coastal development permit files 5-96-006 , 5-96-006-A1, 5-92-168, 5-92-168-A, 5-92-168-A3, 5-92-188, 5-92-188-A, P-79-5539.

PROCEDURAL NOTE

1. Coastal Development Permit Amendments

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

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

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

2. Standard of Review

The local coastal program ("LCP") for this area of the City of Dana Point was effectively certified on November 5, 1997. The Commission, in certifying the LCP, found the LCP to be in conformity with and adequate to carry out the Coastal Act. Although review of amendments to coastal development permits approved by the Commission is not delegated to the local government after certification of the LCP, pursuant to section 30604(b) of the Coastal Act, the Commission must act on requests to amend the subject permit utilizing the standards of the certified LCP.

STAFF NOTE:

The proposed development will result in the relocation of a temporary parking lot required by special condition one of CDP 5-96-006. The proposed development will require a change to an exhibit referenced in a recorded deed restriction. Therefore, since the amendment affects a condition required for the purpose of protecting coastal access, the Executive Director has determined that the proposed amendment is a material change to Coastal Development Permit 5-96-006.

STAFF RECOMMENDATION:

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

MOTION

I move that the Commission approve CDP Amendment #5-96-006-A2 pursuant to the staff recommendation.

Staff recommends a YES vote. Passage of this 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.

RESOLUTION

I. APPROVAL WITH CONDITIONS

The Commission hereby APPROVES the amendment to Coastal Development Permit 5-96-006, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of the City of Dana Point certified local coastal program 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. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. 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.
5. 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. DEED RESTRICTION

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction to run with the land, in a form and content approved by the Executive Director, which provides the following:

a. Parking

All parking spaces in the 100-space parking lot (a.k.a. 'permanent' parking lot) (as shown in Exhibit 4 of the staff report dated February 23, 1996 for CDP 5-96-006) and 103-space parking lot (a.k.a. 'temporary' parking lot) (as shown in Exhibit 3 of the staff report dated July 20, 2000 for CDP 5-96-006-A2 and modified pursuant to Special Condition 4 of Coastal Development Permit Amendment 5-96-006-A2) for the golf clubhouse shall be made available to the general public at all times said parking lots are open for use. Said parking lots shall be open for use, subject to reasonable hours, as long as the golf course operates. The hourly parking fee or maximum daily fee, for use by the general public, shall not be greater than the hourly or maximum daily fee charged at the nearest State beach parking facility. There shall be no reduction in the number of parking spaces in either the 100-space or 103-space parking lots as long as the golf clubhouse continues to operate. No parking spaces in the 100-space parking lot (as shown in Exhibit 4 of the staff report dated February 23, 1996 for CDP 5-96-006) and 103-space parking lot (as shown in Exhibit 3 of the staff report dated July 20, 2000 for CDP 5-96-006-A2 and modified pursuant to Special Condition 4 of Coastal Development Permit Amendment 5-96-006-A2) shall be designated for the exclusive use of any development.

b. Public Recreation

- i. The golf course shall be open to the public on a daily fee basis as well as to golf club members.
- ii. At least 50% of the starts must be reserved for the general public non-golf club members. If general public non-golf club member starts are not reserved within 24 hours of start time, they may be reserved by golf club members.
- iii. Of the total starts reserved for the general public non-golf members, no more than 50% (which equals 25% of the total available starts) may be reserved for guests or others associated with any hotel approved on the property subject to P-79-5539. Further, should hotel guests not fully reserve the 25% of available start time slots, the general public non-golf club members will be able to reserve up to 50% of the available time slots up to twenty-four hours or more in advance.
- iv. As long as golf club memberships are not offered and the golf course operates entirely as a public golf course, hotel guests or others associated with any hotel

approved on the property subject to P-79-5539 may reserve up to 50% of the available starts twenty-four hours or more in advance.

- v. As used herein and in the required deed restriction, the terms "public", "members of the public", "non-members", and "non-golf club members" shall mean the public at large including, guests of and person associated with any hotel on the property subject to permit P-79-5539 as long as the guests of any hotel or others associated with any hotel are also not golf club members.
- vi. At the time the hotel approved under 5-92-168 becomes operational or at the time private memberships are offered for the golf course (whichever occurs first), the applicant shall initiate attendance monitoring of the public, hotel guests, and private golf club members. Monitoring shall be for reservations made twenty-four hours or more in advance. Monitoring records shall be maintained by the applicant and shall be available for Executive Director review should the need arise to evaluate condition compliance.

c. Public Use of Common Areas/Meeting Rooms

- i. Public access for non-members shall be maintained to all common areas of the proposed development. The deed restriction shall include an exhibit illustrating those common areas to be maintained open to the general public. Said areas shall include, but not be limited to, the lobby, dining facilities, landscaped grounds and walkways.
- ii. All meeting rooms of the proposed development shall be made available for rental by the general public.

d. Parking Lot

Any development approved under Coastal Development Permit 5-92-168 in the area occupied by the 103-space parking lot and associated development is indefinitely delayed until such time as the Commission approves, through an amendment to Coastal Development Permit 5-96-006, an alternate location for the 103-space parking lot or finds that the parking lot is unnecessary and approves elimination of the parking lot.

e. Future Development

Coastal Development Permit 5-96-006 authorizes only the development described and conditioned herein. Any future development as defined in Section 30106 of the Coastal Act, except as expressly exempted by Section 30610 of the Coastal Act, shall require an amendment to this permit or a new coastal development permit from the Coastal Commission or its successor agency.

The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens.

2. **REQUIREMENT TO ENSURE UNINTERRUPTED PUBLIC ACCESS TO ALL REQUIRED PARKING SPACES**

The existing temporary parking lot shall not be closed or removed until the proposed replacement 103-space parking lot has been constructed, is operational and is open to the public for use.

3. **PRIOR CONDITIONS**

Unless specifically altered by this amendment, all regular and special conditions attached to Coastal Development Permit 5-96-006, as previously amended, remain in effect.

4. **REVISED PLANS**

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit revised plans to the Executive Director for review and approval. The revised plans shall show the following changes to the project:

1. **SITE PLAN REVISIONS**

- (a) The relocated 103-space parking lot shall be identified as a permanent parking lot rather than a temporary parking lot;
- (b) The plans shall indicate that any development approved under Coastal Development Permit 5-92-168 in area occupied by the 103-space parking lot and associated development is indefinitely delayed until such time as the Commission approves, through an amendment to Coastal Development Permit 5-96-006, an alternate location for the 103-space parking lot or finds that the parking lot is unnecessary and approves elimination of the parking lot;
- (c) The site plan shall be modified to show the hotel and clubhouse site development as presently approved under Coastal Development Permits 5-92-168 and 5-96-006, as amended. For instance, the residential subdivision and structures depicted on the site plan in the area occupied by the 100-space parking lot shall be eliminated consistent with Coastal Development Permit Amendment 5-92-168-A approved on March 14, 1996;
- (d) The site plan shall be modified to show the location of the proposed telephone call box to be available at the 103-space parking lot for parking lot users to request a shuttle from the parking lot to the clubhouse. In addition, the plan shall show the location of the shuttle passenger drop-off and pick-up .

B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur

without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

5. PARKING SHUTTLE

The applicant shall provide a shuttle service for users of the 103-space parking lot between the proposed 103-space parking lot and the golf club house.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. PROJECT LOCATION, BACKGROUND, AND AMENDED PROJECT DESCRIPTION

The applicant is proposing to relocate an existing temporary parking lot which services the golf clubhouse and golf course (i.e. Links at Monarch Beach) located on and adjacent to the Monarch Bay Resort hotel site in the City of Dana Point, County of Orange (Exhibit 1 and 2).

Coastal development permit 5-96-006 approved the construction of a 14,030 square foot, two-level, 31'6" high golf clubhouse (including golf cart storage, dining facilities, office and locker room areas, and pro-shop retail sales areas) plus deck and staging areas, putting green, 203 parking spaces (100 permanent, 103 temporary), and an Irrevocable Offer of Dedication between the City of Dana Point and Monarch Bay Resort Incorporated to ensure public access from Niguel Road to the golf course and clubhouse (Exhibit 4). Coastal development permit 5-96-006 was approved by the Commission at the same time as Coastal Development Permit amendments 5-92-188A and 5-92-168A which relocated the golf clubhouse from a site (5-92-188) on the northwest side of Salt Creek to the grounds of the Monarch Bay Resort hotel site (5-92-168). Coastal development permit 5-96-006 was processed as a separate permit, rather than as an amendment to 5-92-168, to allow construction of the golf clubhouse to go forward in advance of construction of the hotel (5-92-168).

Each of these permits (5-96-006, 5-92-168, 5-92-188, among others) is subsequent to a "master" permit, P-79-5539, approved by the Commission in 1979, which conceptually approved recreational, visitor serving, and residential development in the Monarch Beach area of the City of Dana Point. These permits were processed prior to the Commission's effective certification of the City of Dana Point LCP for the Monarch Beach area on November 5, 1997. The Commission retains authority over these permits for the purposes of condition compliance and amendment. Since the area is now certified, the standard of review is the certified LCP.

Special Condition 1 of Coastal Development Permit 5-96-006 requires that 203 parking spaces be provided as long as the golf clubhouse continues to operate. These parking spaces were required by the Commission to support, on-site, uses associated with the clubhouse and golf course. In addition, the parking spaces were to be available for general public access. The 203 spaces were broken up by the applicant into two lots, a 100-space lot and a 103-space lot. The 100-space lot was identified as a 'permanent' lot since the lot was proposed in the location where the applicant intended the lot to remain. However, the 103-space lot was identified as the 'temporary' lot because the applicant was unsure of the final location where the lot was to be placed. The term 'temporary' only referred to the parking lot's

location and did not imply that the need for the lot was temporary. Rather, the Commission's approval required the development to provide 203 parking spaces. Special Condition 1 of the original approval of Coastal Development Permit 5-96-006 required that the 103-space 'temporary' lot was to be a permanent feature of the development by requiring that the temporary lot remain in operation until a permanent parking lot is approved by the Coastal Commission.

As approved under Coastal Development Permit 5-96-006, the temporary 103-space parking lot was located in the footprint of the hotel approved by Coastal Development Permit 5-92-168. The applicant wished to go forward with constructing the hotel, therefore, last year the applicant applied for an amendment to demolish the 'temporary' parking lot and construct a new 103-space 'temporary' parking lot south of the clubhouse and west of the golf course. The Commission approved this request in July 1999 under Coastal Development Permit Amendment 5-96-006-A1. The newly relocated temporary parking lot was placed in an area permitted by Coastal Development Permit 5-92-168 for construction of residences and a small part of the hotel grounds. However, the phasing requirements in the special conditions of Coastal Development Permit 5-92-168 prevented construction of the residences, therefore, the new temporary parking lot did not interfere with the initial phase of construction of the hotel.

The applicant is now proposing to relocate, again, the temporary 103-space parking lot. The applicant has stated that this relocation is necessary in order to accommodate the progressing construction of the hotel. Specifically, the applicant wishes to proceed with construction of hotel improvements adjacent to Niguel Road. This construction necessitates the relocation of an existing temporary access road which provides access from Niguel Road to the clubhouse and golf course. A new temporary access road will be constructed which roughly aligns with the ultimate approved alignment of the roadway network on-site. Opening this new temporary access road will bisect the existing temporary parking lot. Therefore, the applicant is proposing to relocate the temporary parking lot to a new location on the south east side of the property near the existing fire station on Niguel Road where it will not interfere with this phase of construction of the hotel.

Meanwhile, no permanent location for the 103-space temporary parking lot has been identified by the applicant. As noted above, at some point in time, a permanent location for the temporary parking lot must be identified according to Special Condition 1 of 5-96-006. The applicant has stated they are working on this issue, but no final plans have been made. Meanwhile, the construction of the hotel is proceeding and the potential locations where the lot can be placed permanently is declining. As noted below, due to the increasingly limited locations where the lot can be placed, the permanent disposition of the parking lot should be identified now as opposed to at a future unspecified time.

The proposed development requires an amendment to Coastal Development Permit 5-96-006 in order to authorize the relocation of the temporary 103-space parking lot as well as to authorize an update to an exhibit referenced in a document recorded pursuant to Special Condition 1 of Coastal Development Permit 5-96-006. No language in the other special conditions of Coastal Development Permit 5-96-006 are affected by the proposed development, therefore, the Commission imposes Special Condition 3 which establishes that previously imposed special conditions not modified by this amendment remain in effect.

B. PUBLIC ACCESS/RECREATION

Policy 1.8 of the Land Use Element of the certified LCP states:

The location and amount of new development should maintain and enhance public access to the coast by facilitating the provision or extension of transit service, providing non-automobile circulation within the development, providing adequate parking facilities or providing substitute means of serving coastal development with public transportation, and assuring the potential for public transit for high intensity uses.(Coastal Act/30252)

Policy 3.3 of the Land Use Element of the certified LCP states:

Priority should be given to those projects that provide for coastal recreational opportunities for the public. Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible provided. Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible (Coastal Act/30213, 30222, 30223)

Policy 3.5 of the Land Use Element of the certified LCP states:

Public facilities including parking areas or facilities shall, wherever appropriate and feasible, be distributed throughout the coastal zone area to mitigate against the impacts, social and otherwise, of overcrowding and overuse by the public of any single area. (Coastal Act/30212.5)

Policy 4.3 of the Land Use Element of the certified LCP states:

Public access, which shall be conspicuously posted, and public recreational opportunities, shall be provided to the maximum extent feasible for all the people to the coastal zone area and shoreline consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. (Coastal Act/30210)

The access policies of the certified Dana Point local coastal program (LCP) require the protection of public access to the beach. When a private development does not provide adequate on-site parking, patrons of that development must use off-site public parking spaces which would otherwise be available to the public including visitors to the coastal zone. This results in significant adverse impacts upon coastal access. Therefore, an adequate quantity of on-site parking spaces sufficient to meet the demands of the development ensures that public parking spaces and public access are not adversely affected by the proposed development.

The applicant is proposing to relocate the existing 103-space temporary parking lot to another 'temporary' location on the hotel site. The existing temporary parking lot is in the north west corner of the subject site adjacent to the golf clubhouse and golf course. The nearest point of the existing parking lot is approximately 50 feet away from property boundary of the clubhouse site. However, the proposed site will be in the south east corner of the hotel

property near the existing fire station on Niguel Road. This new proposed site will be approximately 1,000 feet away from the uses it is primarily designed to support.

The applicant has investigated several options for locating the new 103-space parking lot site. These options include in the area of Lots 4, 5, 6 and 7 which are closer to the clubhouse than the proposed site on Lot 13. The applicant has stated these other locations interfere with the proposed construction of public amenity improvements such as the Botanical Gardens and Crescent Promenade (Exhibit H).

The applicant has stated that the selected parking lot site is advantageous because it is close to Niguel Road. In addition to providing overflow parking for the golf clubhouse and golf course, the new location of the 103-space parking lot will provide public parking for beach access to Salt Creek Beach which is across Pacific Coast Highway. Access to the beach is available via Sea Terrace Park, along Niguel Road and Pacific Coast Highway, and by utilizing the Pacific Coast Highway pedestrian underpass.

The proposed project will not affect the existing 100-space parking lot (a.k.a. 'permanent' parking lot) which is adjacent to the golf clubhouse and golf course. This existing parking lot will remain as the primary parking lot to support the golf and clubhouse uses. The applicant has stated that the 103-space parking lot is typically only used for overflow parking. In the event the 100-space lot is full, clubhouse and golf course users may drop off passengers and equipment at the clubhouse and then park the car at the 103-space lot. In order to assure that the public is aware of the location of the newly relocated 103-space parking lot, the applicant is proposing to install new signage to show the public where to park. Also, the applicant is proposing to install a telephone call box at the entrance to the 103-space parking lot so that persons parking in the lot can call the clubhouse to request a shuttle back to the clubhouse. The applicant has stated that historical use of the existing 103-space parking lot has been low, therefore, with the proposed signage and call box, the increased distance between the temporary lot and the clubhouse and golf course will have minimal impact upon the public's ability to use the clubhouse and golf course facilities.

The 203 parking spaces proposed by the applicant in seeking Commission approval for the clubhouse (i.e. CDP 5-96-006) was 33 spaces less than the Commission would typically require. However, due to the opportunity for shared parking at the site, the Commission found that 203 parking spaces would be adequate to support on-site parking for the uses at the golf course and clubhouse (see Exhibit 4, page 9). Under this proposed amendment, there is no proposed change in the quantity of parking spaces. Only the location of the 103-space lot would change. Also, the 100-space parking lot would remain unchanged.

However, the proposed relocated 103-space parking lot would not be located in a position consistent with the documents recorded as part of the deed restriction required by Special Condition 1 of Coastal Development Permit 5-96-006, as amended by Coastal Development Permit Amendment 5-96-006-A1. Therefore, Special Condition 1 of this amendment requires the applicant to update the documents recorded pursuant to the special conditions of 5-96-006 to reflect the revised temporary parking lot location.¹ In addition, in order to ensure

¹ Special Condition 1 includes additional requirements regarding the fee for use of the parking lots, public recreation requirements related to the clubhouse, public use of common areas, and future development which were imposed by the Commission in approving Coastal Development Permit 5-96-006. These requirements remain in effect and the findings of the Commission's previous approval(s) regarding this are incorporated here by reference (see Exhibit 4).

that all parking spaces remain open to the public at all times, Special Condition 2 requires that the proposed replacement 103-space parking lot be constructed and open to the public for use prior to the demolition of the existing 103-space parking lot.

As evidenced by the alternatives analysis submitted by the applicant, the locations where a parking lot can be located on-site is decreasing as construction of the hotel and associated improvements progresses. The special conditions of Coastal Development Permit 5-96-006 require that the temporary parking lot eventually become a permanent parking lot. All potential locations for a permanent parking lot on the hotel site are committed to some use under Coastal Development Permit 5-92-168 (for the hotel and residential). Therefore, in any on-site location, the permanent placement of the 103-space parking lot interferes with houses, roads, hotel grounds, or other development approved under Coastal Development Permit 5-92-168. The applicant has identified the proposed 103-space lot as a temporary lot in their project description and on their project plans. Since the areas where the 103-space parking lot can be feasibly placed has been largely reduced to the proposed location, the Commission finds that this proposed site shall be the permanent site for the 103-space lot. Therefore, the Commission imposes Special Condition 4 which requires the applicant to submit revised plans indicating that the proposed parking lot is the permanent location of the lot. The plans shall indicate that any development approved under Coastal Development Permit 5-92-168 in this area is indefinitely delayed until such time as the Commission approves, through an amendment to Coastal Development Permit 5-96-006, an alternate location for the 103-space lot or finds that the parking lot is unnecessary and approves elimination of the lot. The plans shall be submitted for review and approval by the Executive Director. The applicant shall implement the proposed project in conformance with the final plan approved by the Executive Director. Any changes to the project shall not occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

In addition, in order to assure that successors in interest to the permit are aware of the requirement to maintain a 103-space parking lot in the proposed location, the Commission imposes Special Condition 1.d. which requires the applicant to record a deed restriction indicating that any development approved under Coastal Development Permit 5-92-168 in the area occupied by the 103-space parking lot and associated development is indefinitely delayed until such time as the Commission approves, through an amendment to Coastal Development Permit 5-96-006, an alternate location for the 103-space parking lot or finds that the parking lot is unnecessary and approves elimination of the parking lot.

Also, the plans submitted by the applicant show a property subdivision and development which is inconsistent with the Commission's approvals for the site. Specifically, the plans show a residential subdivision and residential structures in the area where the 100-space parking lot is located. These elements of the hotel project were eliminated under Coastal Development Permit Amendment 5-92-168-A approved by the Commission on March 14, 1996. In order to avoid any confusion in the future, the Commission imposes Special Condition 4 which requires the applicant to submit for review and approval of the Executive Director a revised site plan for the proposed parking lot relocation which has been modified to show the hotel and clubhouse site development as presently approved under Coastal Development Permits 5-92-168 and 5-96-006, as amended.

Discouragement of use of the 103-space parking lot would lead to under-utilization of the lot resulting in adverse impacts upon public access. However, as noted above, the applicant is proposing a telephone call box at the 103-space parking lot for parking lot users to request a shuttle from the lot back to the clubhouse. The Commission finds the call box and shuttle are necessary to assure that use of the parking lot is not discouraged. Therefore, the Commission imposes Special Condition 4 and 5. Special Condition 4 requires the applicant to submit revised plans for review and approval of the Executive Director showing the location of the proposed call box and the location of the shuttle drop-off and pick-up location. The applicant shall construct the project in conformance with the plan approved by the Executive Director. Special Condition 5 requires the applicant to provide a shuttle service between the proposed 103 space parking lot and the clubhouse.

Therefore, as conditioned, the Commission finds the proposed development is consistent with the access policies of the certified Dana Point Local Coastal Program.

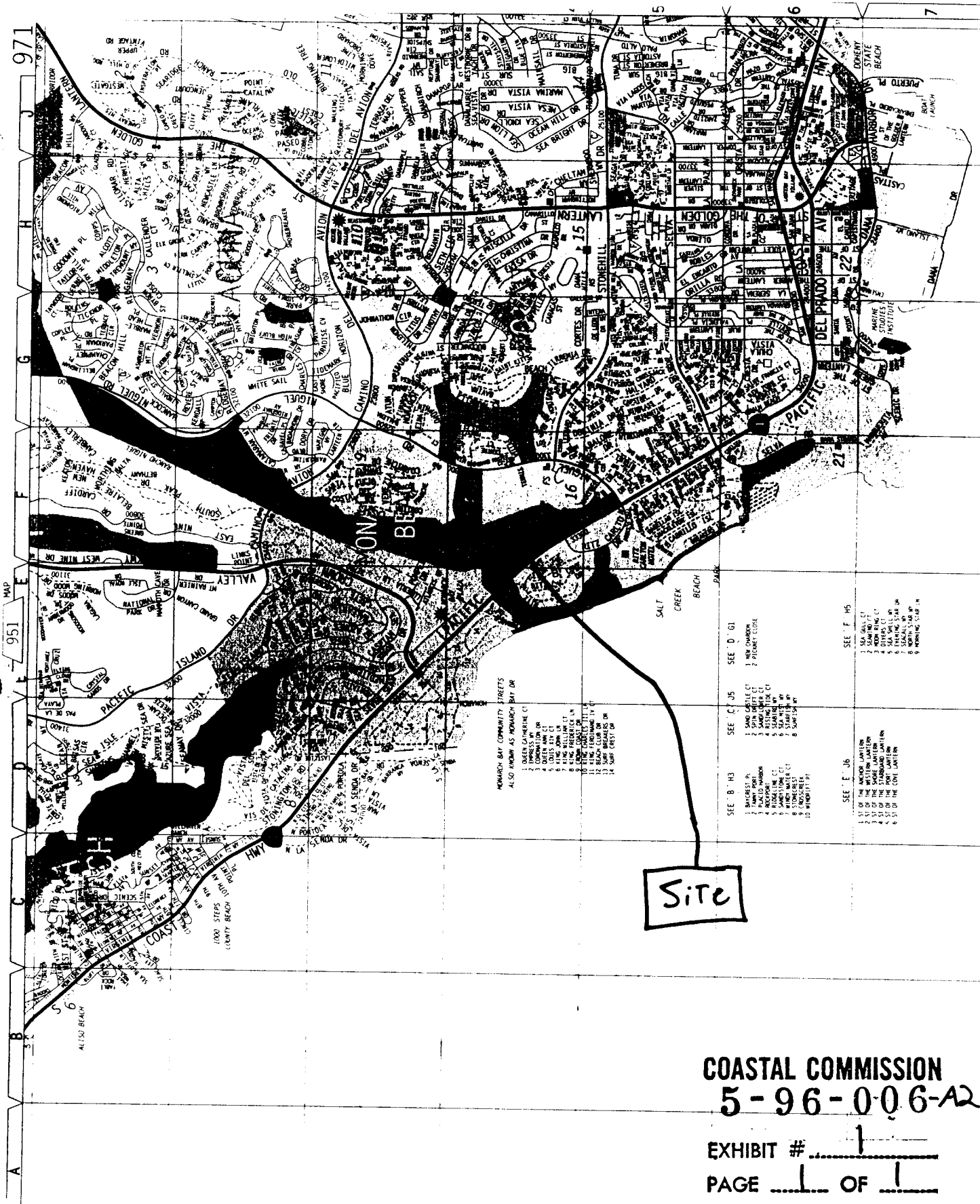
C. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

The proposed project is located in an urban area. All infrastructure necessary to serve the site exist in the area. As conditioned, the proposed project has been found consistent with the Dana Point Certified Local Coastal Program. Newly and previously imposed special conditions will minimize any impacts to less than significant levels.

As conditioned, no feasible alternatives or feasible mitigation measures are known, beyond those required, which would substantially lessen any identified significant effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, is the least environmentally damaging feasible alternative and is consistent with CEQA and the policies of the City of Dana Point local coastal program.

073



MONARCH BAY COMMUNITY STREETS
 ALSO KNOWN AS MONARCH BAY DR

- 1 DEER CANYON CT
- 2 IMPRESS WAY
- 3 QUINN AVE CT
- 4 SOUTHWEST CT
- 5 FINE HILLING CT
- 6 FINE FRODOCT LN
- 7 THE CORNER CT
- 8 THE CORNER CT
- 9 BEACH CLUB DR
- 10 BEACH CLUB DR
- 11 SUN CREST DR
- 12 SUN CREST DR

SEE 'D' 01

- 1 NEW CHAMBER
- 2 PILGRIFF LODGE

SEE 'C' J5

- 1 SAND CASTLE CT
- 2 SAND CASTLE CT
- 3 SAND CASTLE CT
- 4 BESSIE TIDE CT
- 5 SAND CASTLE CT
- 6 SAND CASTLE CT
- 7 SAND CASTLE CT
- 8 SAND CASTLE CT

SEE 'B' H3

- 1 BUNNICKS PL
- 2 PARKED WARDON
- 3 WARDON
- 4 WARDON
- 5 SANDY LANE CT
- 6 SANDY LANE CT
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Site

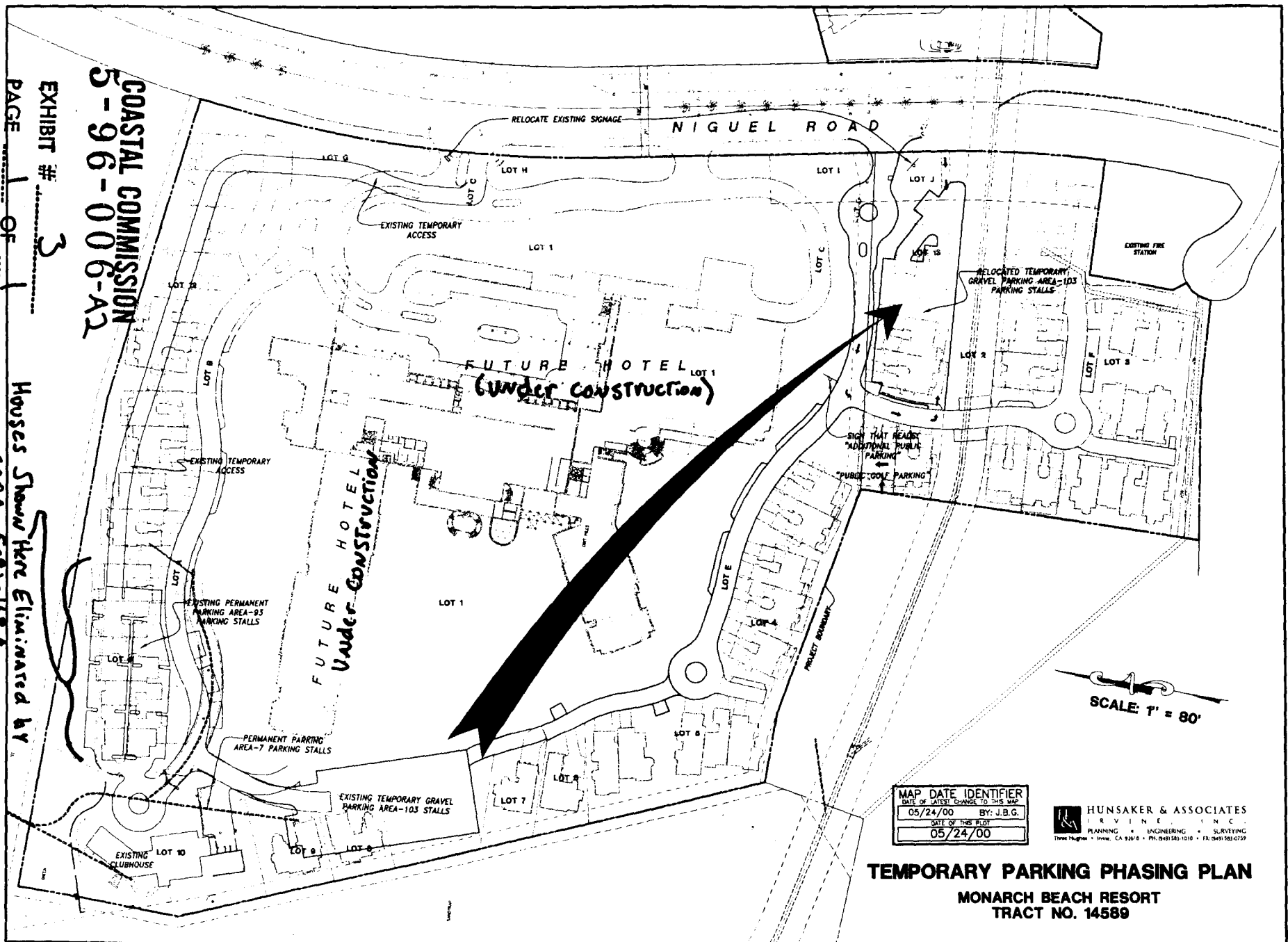
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EXHIBIT # 1

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COASTAL COMMISSION
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EXHIBIT # 3
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Houses Show Here Eliminated by



SCALE: 1" = 80'

MAP DATE IDENTIFIER
DATE OF LATEST CHANGE TO THIS MAP
05/24/00 BY: J.B.G.
DATE OF THIS PLOT
05/24/00

HUNSAKER & ASSOCIATES
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TEMPORARY PARKING PHASING PLAN
MONARCH BEACH RESORT
TRACT NO. 14589

Th 18b

CALIFORNIA COASTAL COMMISSION
SOUTH COAST AREA
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3/14/96

Filed: February 21, 1996
49th Day: April 10, 1996
180th Day: August 19, 1996
Staff: John T. Auyong
Staff Report: February 23, 1996
Hearing Date: March 12-15, 1996
Commission Action:



- Approved as Recommended
- Denied as Recommended
- Approved with Changes
- Denied
- Other

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 5-96-006

APPLICANT: Monarch Bay Resort AGENT: Melissa Holmes

PROJECT LOCATION: Northwest of the existing fire station at the intersection of Niguel road and Stonehill Drive, east and south of the existing Links at Monarch Beach golf course in the City of Dana Point, County of Orange.

PROJECT DESCRIPTION: Construction of a 14,030 square foot, two-level, 31'6" high golf clubhouse (including golf cart storage, dining facilities, office and locker room areas, and pro-shop retail sales areas) plus deck and staging areas, putting green, and 203 parking spaces (100 permanent, 103 temporary) and an Irrevocable Offer of Dedication between the City of Dana Point and Monarch Bay Resort Incorporated which will ensure public access from Niguel Road to the proposed development.

Lot area:	2.48 acres
Building coverage:	9,367 square feet
Pavement coverage:	43,620 square feet
Landscape coverage:	55,043 square feet
Parking spaces:	203 (100 permanent, 103 temporary)
Zoning:	Monarch Beach Resort Specific Plan
Height above grade:	31'6"

LOCAL APPROVALS RECEIVED: City of Dana Point Site Development Permit 95-16; City of Dana Point Approval-in-Concept

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permits 5-92-168 and 5-92-188 (Monarch Bay Resort, Inc.), Coastal Development Permit Amendment Applications 5-92-168A and 5-92-188A (Monarch Bay Resort, Inc.), Geotechnical investigation prepared by Agra Earth & Environmental (Job No. 195-055) prepared for Monarch Bay Resort dated January 5, 1996

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SUMMARY OF STAFF RECOMMENDATION:

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Staff is recommending approval of the project with special conditions regarding public access, signage, future improvements/development, public recreation, public parking, and conformance with geotechnical recommendations.

STAFF NOTE:

The subject permit is related to permit amendment applications 5-92-168A and 5-92-188A which are scheduled to be acted on at this hearing. The reason the golf clubhouse is now proposed under a separate coastal development permit

application is because the applicant desires to proceed with building the clubhouse prior to fulfilling all the other special conditions related to the other components of the proposed Monarch Beach Resort complex and associated residential development.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. APPROVAL WITH CONDITIONS.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. STANDARD CONDITIONS.

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission to bind all future owners and possessors of the subject property to the terms and conditions.

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III. SPECIAL CONDITIONS

1. Deed Restriction

Prior to issuance of the coastal development permit, the applicant shall execute and record a deed restriction to run with the land, in a form and content approved by the Executive Director, which provides the following:

a. Parking

All parking spaces in the proposed permanent and temporary parking lots (as shown in Exhibit 4 of the staff report dated February 23, 1996 for this permit) for the golf clubhouse shall be made available to the general public at all times said parking lots are open for use. Said parking lots shall be open for use, subject to reasonable hours, as long as the golf course operates. The temporary parking lot shall remain in operation and existence until such time as a replacement parking lot is approved by the Coastal Commission. The hourly parking fee or maximum daily fee, for use by the general public, shall not be greater than the hourly or maximum daily parking fee charged at the nearest State beach parking facility. There shall be no reduction in the number of parking spaces in either the proposed permanent or temporary parking lots as long as the golf clubhouse continues to operate. No parking spaces in the permanent or temporary parking lots, as shown on Exhibit 4 of the staff report dated February 23, 1996 for this permit, shall be designated for the exclusive use of any development.

b. Public Recreation

- i. The golf course shall be open to the public on a daily fee basis as well as to golf club members.
- ii. At least 50% of the starts must be reserved for the general public non-golf club members. If general public non-golf club member starts are not reserved within 24 hours of start time, they may be reserved by golf club members.
- iii. Of the total starts reserved for the general public non-golf members, no more than 50% (which equals 25% of the total available starts) may be reserved for guests or others associated with any hotel approved on the property subject to P-79-5539. Further, should hotel guests not fully reserve the 25% of the available start time slots, the general public non-golf club members will be able to reserve up to 50% of the available time slots up to twenty-four hours or more in advance.
- iv. As long as golf club memberships are not offered and the golf course operates entirely as a public golf course, hotel guests or others associated with any hotel approved on the property subject to P-79-5539 may reserve up to 50% of the available starts twenty-four hours or more in advance.

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- v. As used herein and in the required deed restriction, the terms "public", "members of the public", "non-members", and "non-golf club members" shall mean the public at large including, guests of and person associated with any hotel on the property subject o permit P-79-5539 as long as the guests of any hotel or others associated with any hotel are also not golf club members.
- vi. At the time the hotel approved under 5-92-168 becomes operational or at the time private memberships are offered for the golf course (whichever occurs first), the applicant shall initiate attendance monitoring of the public, hotel guests, and private golf club members. Monitoring shall be for reservations made twenty-four hours or more in advance. Monitoring records shall be maintained by the applicant and shall be available for Executive Director review should the need arise to evaluate condition compliance.

c. Public Use of Common Areas/Meeting Rooms

- i. Public access for non-members shall be maintained to all common areas of the proposed development. The deed restriction shall include an exhibit illustrating those common areas to be maintained open to the general public. Said areas shall include, but not be limited to, the lobby, dining facilities, landscaped grounds and walkways.
- ii. All meeting rooms of the proposed development shall be made available for rental by the general public.

d. Future Development

Coastal Development Permit 5-96-006 authorizes only the development described and conditioned herein. Any future development as defined in Section 30106 of the Coastal Act, except as expressly exempted by Section 30610 of the Coastal Act, shall require an amendment to this permit or a new coastal development permit from the Coastal Commission or its successor agency.

The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens.

2. Signage Plan

The applicant shall install signs in accordance with a signage plan that has been approved by the Executive Director.

Prior to commencement of construction, the applicant shall submit the detailed signage plan for the review and approval of the Executive Director. The signage plan shall provide the following:

Signs shall be placed which are visible from Pacific Coast Highway and Niguel Road. The signs shall clearly invite and encourage public use of public access and public recreation opportunities at the golf clubhouse and all its related facilities. The signs shall identify, provide

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information about, and direct the general public to all locations offering public access and recreation. Key locations include, but are not limited to, the proposed permanent and temporary parking lots, common areas and meeting rooms of the golf clubhouse, recreation facilities of the golf clubhouse, and paths which allow a safe crossing of the golf course and connect the golf clubhouse with the existing trail on the northwesterly side of the golf course. Signs shall also be posted at all key locations, and said signs shall expressly state that the public access and recreation opportunities available at the key locations are open to the general public.

3. Access to the Site

Prior to issuance of the coastal development permit, the applicant shall submit written evidence that the Irrevocable Offer of Dedication between the City of Dana Point and Monarch Bay Resort Incorporated which will ensure public access from Niguel Road to the proposed development, as proposed by the applicant, has been executed, recorded, and accepted by the City of Dana Point.

4. Geotechnical Recommendations

Prior to issuance of the coastal development permit, the applicant shall submit, subject to the review and approval of the Executive Director, final plans for the project signed by the geotechnical consultant indicating that the recommendations in the Geotechnical Investigation (Job No. 195-055) dated January 5, 1996 prepared by Agra Earth & Environmental have been incorporated into the plans for the proposed project. The plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any substantial changes to the plans approved by the Commission which may be required by the consultant shall require an amendment to this permit or a new coastal development permit.

IV. FINDINGS AND DECLARATIONS

The Commission finds and declares:

A. Project Description/History/Related Permits

1. Project Description

The applicant is proposing to construct a 14,030 square foot, two-level, 31'6" high golf clubhouse plus deck and staging areas, putting green, and 203 parking spaces (100 permanent, 103 temporary). The proposed upper level would house dining facilities, locker room areas, and a pro-shop retail sales and office area. The proposed lower level would be a golf cart storage area.

The subject site is located on the easterly side of the existing Links at Monarch Beach golf course. The proposed clubhouse would serve the existing golf course. The proposed clubhouse is basically a relocated, smaller version of the golf clubhouse that was approved by the Commission under permit 5-92-188. Under permit 5-92-188, the golf clubhouse was located on the golf course's westerly side. Under the proposed permit application, the clubhouse would be located on the golf course's easterly side.

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Also proposed is an Irrevocable Offer of Dedication between the City of Dana Point ("City") and Monarch Bay Resort Incorporated which will ensure public access from Niguel Road to the proposed development. This is because the road would remain in private ownership, rather than being dedicated to the City as a public street.

2. History/Related Permits

The subject site is one of several sites approved by the Commission in August of 1992 for the master-planned Monarch Beach Resort proposed by the applicant. The subject coastal development permit 5-92-168 is one of several permits (the others are 5-92-157, 5-92-186, and 5-92-188) approved for the proposed Monarch Beach Resort project involving a proposed hotel, golf clubhouse, public amenities, park improvements, and residential development. None of this development has been constructed to date.

In turn, the resort area proposed by the applicant is part of a much larger master-planned area originally approved for development in concept by "master" coastal development permit P-79-5539. Permit P-79-5539 approved the subject site, in concept, for recreation/conference center uses. Several special conditions of permit P-79-5539, such as those relating to parking, affordable housing, and that the recreation/conference facility be made available to the public for instance, are binding on future development within the original master-planned area. For a more detailed history of the original permit and subsequently proposed and approved but unbuilt development, please refer Appendix B.

The applicant now proposes to switch the location of the proposed golf clubhouse approved at a different site by permit 5-92-188 with 14 residential units located on the subject site approved under permit 5-92-168. To accomplish this, two permit amendment applications and a new coastal development permit application are scheduled to be acted on at this March 12-15, 1996 Commission meeting. Permit amendment application 5-92-168A would delete 14 of the previously approved residential units on the site where the proposed golf clubhouse would now be relocated. Permit amendment application 5-92-188A would replace, at the former site of the golf clubhouse, the originally approved golf clubhouse with the 14 residential units. The subject permit application 5-96-006 is for the actual construction of the golf clubhouse in its new location.

Permits 5-92-188 (for the golf clubhouse and residential units) and 5-92-168 have phasing conditions stipulating to order in which the proposed development components could be built. Park and trail improvements were to be built first, followed secondly by the hotel and golf clubhouse, and followed lastly the residential uses that the proposed residential development.

Allowing the golf clubhouse to go forward under a new permit separate from its previous approval under permit 5-92-188 meets the intent of the phasing plan in that it doesn't affect the requirements for completion of the park improvements. In addition, the golf clubhouse is still a higher priority use than the residential units to which it was tied under permit 5-92-188.

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The new permit would allow the special conditions of permit 5-92-188 applicable only to the clubhouse to be separated from the special conditions of permit 5-92-188 applying to the residential development. This would allow the golf clubhouse to move forward prior to issuance of permit 5-92-188, the issuance of which may be delayed by the residential special conditions of permit 5-92-188. Since the residential units have to be built after the golf clubhouse under the phasing plan, allowing the golf clubhouse to go forward before the residential units would be in keeping with the phasing plan.

In addition, the golf clubhouse is needed to serve the existing golf course. The existing golf course, a public recreational amenity, has been open for several years.

B. Public Access/Recreation

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 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 or otherwise, of overcrowding or overuse by the public of any single area.

Section 30213 of the Coastal Act states, in relevant part:

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

Section 30222 of the Coastal Act states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Section 30223 of the Coastal Act states:

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

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Section 30252 of the Coastal Act states, in relevant part:

The location and amount of new development should maintain and enhance public access to the coast by . . . (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation . . .

The proposed clubhouse is a smaller, relocated version of a clubhouse previously proposed at a different site to serve the existing Links at Monarch Beach golf course and approved by the Commission under permit 5-92-188. Permit 5-92-188 is being amended under a separate Commission action to delete the clubhouse from that site. Special conditions imposed on permit 5-92-188 which affect the golf clubhouse are being incorporated as special conditions of this permit application. The findings adopted by the Commission for coastal development permit 5-92-188 as they relate to public use of the golf clubhouse and facilities and parking are hereby incorporated by reference. The Chapter Three policy issues regarding public access and recreation for the proposed clubhouse are essentially the same as those for the previously proposed clubhouse.

1. Provision of Adequate Parking

When private development does not provide adequate on-site parking, patrons of that development are forced to use off-site public parking spaces which should be available to the general public/visitors to the coastal zone. This results in significant adverse impacts on coastal access. Therefore, it is important that private development provide on-site parking which is adequate to meet the development's parking demand.

The proposed development is a golf clubhouse which contains various different uses such as dining facilities, retail sales and office areas. The proposed development would also include a permanent and a temporary parking lot to serve the existing 18 hole golf course. The Commission has consistently used specific parking standards for various types of uses in determining parking demand.

For dining facilities/restaurant uses, the Commission has found that one parking space for every 50 square feet of public service area (i.e. the area where the public can dine or wait to dine, not including kitchen area or restrooms) is adequate to satisfy the parking demand of such uses. For retail uses, the Commission has found that one parking space is adequate to satisfy the parking demand for each 225 square feet of gross floor area for retail use. For office uses, the Commission has found that one parking space for each 250 square feet of gross floor area is adequate to satisfy the parking demand for office uses. The Commission has further found that the amount of parking needed to satisfy a public golf course is 8 parking spaces for each hole plus one space for each employee.

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The proposed golf clubhouse has 2,892 square feet of public service area, 1,496 square feet of retail gross floor area, and 416 square feet of office gross floor area. The existing golf course has 18 holes and 25 employees. Based on the previously used Commission parking standards, the various uses respectively require 58, 7, 2, and 169 parking spaces for a total of 236 parking spaces. The proposed permanent parking lot would have 100 parking spaces, while the proposed temporary parking lot would have 103 parking spaces, for a total of 203 parking spaces. Therefore, the proposed development would be deficient by 33 parking spaces.

However, the Commission's regularly used parking standards provide a hypothetical parking demand to use as guidance when evaluating the adequacy of parking for a proposed use. Actual demand once a proposed use is in operation may vary from the Commission's parking standards. Further, the subject site is located inland of Pacific Coast Highway (State Route 1), well away from the public beach parking lots at Salt Creek County Beach. Therefore, the potential for the hypothetical parking deficiency to result in adverse impacts the public beach parking lots and access to the beach would not be significant.

Further, the Commission's parking standards do not take into account shared-use parking, which is a concept that one parking space can satisfy the demand of more than one use. Shared-use parking involves the concepts that several uses share can share the same parking because (1) the parking demand for those uses occur at different times, thus allowing different patrons to use the same parking space at different times, and/or (2) a person occupying one parking space patronizes more than one of the uses in the same trip.

Shared-parking could apply to the proposed golf clubhouse. For instance, in a single visit, one person could golf on the golf course, patronize the retail area of the clubhouse, and then dine in the dining room of the clubhouse. In this example, one person patronizes three uses in a single visit but only required one parking space, or a third of a space for each use. This lessens the parking demand from one full space for each of the three uses. Another example is a person who golfs during the day and a different person who goes to dinner at night. After the person is finished golfing during the day and leaves his or her parking space, a second patron going to dinner at night could use the same space. Thus, the overall demand of the proposed golf clubhouse may be less than 236 spaces because of shared-use parking.

Since the proposed golf clubhouse would be the only component of the Monarch Beach Resort going forward at this time on this site, the remaining area of the site would be vacant for now. Thus, if necessary, additional overflow parking could easily be provided for the time being. The more serious impacts to public access due to lack of adequate on-site parking would occur once the remaining vacant areas become built out with the rest of the components of the proposed resort. This would result in intensified use and greater parking demand at the same time vacant land for overflow parking is being eliminated.

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In addition, permit 5-92-168 has a special condition for a parking monitoring program. The condition requires that data be collected once the proposed hotel and other components of the proposed resort are in operation. This would provide data to evaluate the actual parking demand of all components of the proposed resort upon buildout. The condition further requires that if the data demonstrates that parking demand exceeds parking supply at buildout, additional parking would be required through the permit amendment process. This would minimize any resulting public access impacts due to lack of inadequate on-site parking.

However, since a reduction in parking spaces would increase the 33 space parking deficiency and exacerbate adverse impacts on public access, the Commission finds that it is necessary to impose a special condition for a deed restriction which requires the temporary parking lot to continue operating until a replacement parking lot is constructed, and further that as long as the golf clubhouse operates, there shall be no reduction in the number of parking spaces in the proposed permanent and temporary parking lots.

Thus, as conditioned, the Commission finds that the proposed golf clubhouse would be consistent with Section 30252 of the Coastal Act regarding the provision of adequate on-site parking to minimize significant adverse impacts to public access.

2. Public Use of Recreational Facilities/Common Areas/Parking

The proposed golf clubhouse would be one component of a larger master-planned resort proposed by the applicant. In turn, the proposed resort area is part of a much larger master-planned area originally approved for development in concept by "master" coastal development permit P-79-5539. Permit P-79-5539 had several special conditions, including special conditions relating to parking, and use of a recreation/conference center by the public, for instance. Because permit P-79-5539 has been vested, the special conditions are binding on future development within the original master-planned area. For a more detailed history of the original permit and subsequently proposed and approved but unbuilt development, please see Appendix B.

a. Public Use of Recreational Facilities

Permit P-79-5539 approved in concept both the existing golf course as well as a proposed recreation/conference center for the site of the proposed golf clubhouse. A binding special condition of permit P-79-5539, which was expanded under permit amendment P-79-5539A2, required a deed restriction which provided that the existing golf course and proposed recreation/conference center provide at least 50% of the starting time for non-members. The Commission previously imposed a similar special condition in approving permit 5-92-188 for a larger version of the golf clubhouse at a different, previously proposed location. The Commission finds that it is necessary to impose this special condition requiring that at least 50% of the starting times be available to the public for the proposed clubhouse as well. This visitor-serving, public recreational opportunities, consistent with Sections 30210 and 30222 of the Coastal Act, as well as ensuring compliance with the binding special conditions of permit P-79-5539.

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b. Public Use of Common Areas

The dining and meeting facilities and common areas such as walkways and landscaped grounds of the proposed clubhouse would also provide opportunities for visitor-serving recreation use. Therefore, the Commission finds that it is necessary to impose a special condition for a deed restriction requiring that the dining and meeting facilities and common areas of the proposed clubhouse be made available to non-members of the clubhouse (i.e. the general public).

This would be consistent with Sections 30210, 30213 and 30222 of the Coastal Act regarding maximum provision of public recreation and lower cost visitor-serving opportunities, as well as meeting the requirements of permit P-79-5539 that the recreation/conference center approved in concept on the subject site offer recreation opportunities to the public.

c. Public Use of Parking

The proposed permanent and temporary parking lots would provide an upland supply of parking which would allow the general public access to the inland extent of the public Salt Creek Regional recreation trail which leads to Salt Creek Beach. Further, these parking lots would be the only sources of parking for the general public wishing to take advantage of the public access and recreation opportunities required by permit P-79-5539 to be made available in the proposed golf clubhouse. Therefore, the Commission finds that it necessary to require a special condition for a deed restriction which provides that the proposed parking spaces be made available to the general public at a fee which does not exceed that of the nearest public beach parking lot. This would be consistent with Sections 30210, 30212.5, and 30223 of the Coastal Act regarding the provision of maximum access, public parking facilities, and upland areas necessary to support coastal recreation. This would also meet the requirements of permit P-79-5539.

3. Signage

The public amenities described above, such as the proposed parking lots and common areas of the proposed clubhouse, would be more valuable to visitors to the coastal zone of Dana Point if they were made aware of the existing of these public amenities. Therefore, the Commission finds that it is necessary to impose a special condition requiring a signage plan the informs the public of, and directs the public to, the public amenities of the proposed development. This would be consistent with Section 30210 of the Coastal Act regarding the conspicuous posting of public access and recreation opportunities. Further, a similar special condition was imposed on permit 5-92-188 for the golf clubhouse at its former location for similar reasons.

4. Access to the Site

The access road connecting the subject site to the nearest public road is proposed to remain under private ownership. Ordinarily, developers transfer ownership of roads they build to the local government as public streets. In this case, the applicant proposes to dedicate to the City of Dana Point an easement for general public access over the private access road

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Because the proposed development would contain amenities available to the general public, the Commission finds that it is necessary for a special condition requiring the submission of written evidence that the easement has been accepted by the City prior to issuance of the coastal development permit.

5. Future Development

Future changes to the proposed clubhouse could change the public access and public recreation opportunities available, which would result in significant adverse impacts on public access and public recreation. Therefore, the Commission finds that it is necessary to impose a special condition requiring a deed restriction which provides that any future improvements or future development would require an amendment to this permit or a new coastal development permit. This would allow the Commission to review the future improvements or future development for impacts to public access and public recreation opportunities and consistency with the Chapter Three policies of the Coastal Act.

6. Summary (Public Access/Recreation)

The special conditions being required essentially correspond to similar special conditions imposed by the Commission in its approval of permit 5-92-188 for a previous incarnation of the proposed clubhouse in which similar Chapter Three policy issues arose. Therefore, the Commission finds that the proposed development, as conditioned, would be consistent with Sections 30210, 30212.5, 30213, 30222, 30223, and 30252 of the Coastal Act regarding public access and recreation, and would ensure compliance with the special conditions of coastal development permit P-79-5539.

C. Geologic Recommendations

Section 30253 of the Coastal Act states, in relevant part:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

A geotechnical investigation (Job No. 195-055) dated January 5, 1996 was prepared by Agra Earth & Environmental for the proposed development on the subject site. The investigation found that the subject site contains soft surface conditions due to irrigation, and a portion of the subject site overlies an infilled desilting basin. The investigation concluded that "[t]he key geotechnical design issues at this site involve the non-uniformity at foundation level due to transitions from fill to bedrock, and the generally expansive nature of the foundation materials."

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The geotechnical consultants recommend that all footing for the proposed buildings be founded a minimum of 12 inches into undisturbed bedrock, and all existing fill be removed from the infilled desilting basin. They recommend further that subsurface moisture be controlled, the expansive on-site soils not be used for retaining wall backfill, and surface water be controlled.

To assure geologic stability and structural integrity and minimize risks from geologic hazards, the proposed plans must be revised to incorporate these recommendations. Accordingly, a special condition is imposed to require the submission of final plans approved by the geotechnical consultant which incorporate the recommendations of the consultant. Only as conditioned can the Commission find that the proposed development would be consistent with Section 30253 of the Coastal Act regarding geologic hazards.

D. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit if the permitted development will not prejudice the ability of the local government to prepare a local coastal program ("LCP") that is in conformity with the Chapter 3 policies of the Coastal Act.

Certain portions of the City of Dana Point ("City") have certified LCPs. The subject site is in a portion of the City which is not certified currently. Therefore, the Commission retains the authority to issue coastal development permits for this portion of the City.

The proposed development has been conditioned to conform to the public access/recreation and geologic hazards policies of Chapter 3. Therefore, the Commission finds that the proposed development would not prejudice the ability of the City to prepare a local coastal program for the Monarch Beach Resort area which is in conformity with the Chapter 3 policies of the Coastal Act.

E. California Environmental Quality Act

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, 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 has been conditioned in order to be found consistent with the public access/recreation and geologic hazards policies of the Coastal Act. Mitigation measures including the incorporation of the geotechnical consultant's recommendations in final plans, signage plans, availability of parking, recreational facilities, meeting rooms and common areas to the general public will minimize all adverse impacts.

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As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.

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List of Exhibits

1. Vicinity Map
2. Applicant's Project Description
3. Map of Sites involved
4. Location of Proposed Permanent and Temporary Parking Lots

List of Appendices

- A. Permit P-79-5539
- B. Permit History for P-79-5539 and Monarch Bay Resort
- C. Notice of Intent to Issue Permit for Permit 5-92-188
- D. Notice of Intent to Issue Permit for Permit 5-92-168



site

MANHATTAN BAY COMMUNITY STREETS
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SEE IX MAP

OCEAN

5-96-006

COASTAL COMMISSION
 VICINITY MAP

EXHIBIT # 1

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 COASTAL COMMISSION
 5-96-006-12

EXHIBIT # 4

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5.96-006

Page 2, Item 2 of CDP Application

JAN 19 1996

Monarch Beach Resort
Golf Clubhouse Coastal Development Permit
Project Description

The Golf Clubhouse proposed for Monarch Beach reflects the design guidelines and standards as delineated in the adopted Monarch Beach Resort Specific Plan. The structure will be similar in design and materials to the other permanent structures on the golf course, such as the snack shop and the rest rooms. The building is one story at the street level and two levels in the back where it terraces down the slope on the golf course side of the structure. This configuration allows for a low building profile, while providing adequate room for the desired golf facilities.

The overall design of the building is reminiscent of the architecture found in the Italian countryside. It is to be a plaster and stone clad building with pre-cast concrete and wood details, such as exposed wood rafters. Stone will be used as wainscoting on the exterior of the building and in the columns. The roof is to consist of red clay tiles. A strong Mediterranean color palette is proposed, predominated by earth tones such as burnt umber, red sienna and coheres.

The siting of the golf clubhouse takes advantage of the views across the golf course to the ocean. It is low in profile so as to minimize the visual impact on surrounding residents. The landscape palette also reflects the types of plant materials found in the Italian countryside with strong vertical plantings interwoven with the spreading canopied trees. The shrubs, ground covers and vines will provide a profusion of colors and textures around the building. Vines on trellises and in planters will be used to soften the building mass. The permanent parking lot plantings are designed to resemble an orchard. The temporary access road is to be lined with an allee of coral trees. The temporary parking lot will be planted with a variety of trees. These trees will be temporarily planted and irrigated while the temporary road and parking lot are in use. Once the Resort Village is to be constructed these trees will be relocated to other areas on site.

All utilities to the golf clubhouse will be provided along the temporary road. They will be placed underground running from Niguel Road to the Golf Clubhouse.

* < In addition, an Irrevocable Offer of Dedication (IOD) between the City and MBRI will ensure public access from Niguel Road to the Golf Clubhouse. The resulting easement will reserve access over parcel one to parcel two, where the golf clubhouse is located, will ensure permanent public access on a private road. > *

In summary, all aspects of the this proposed project have been studied and designed to enhance the existing golf course, as well as the surrounding community. It is consistent will with the theme of the overall project and will provide an area for the surrounding residents to enjoy as well as the golfers.

5-96-006

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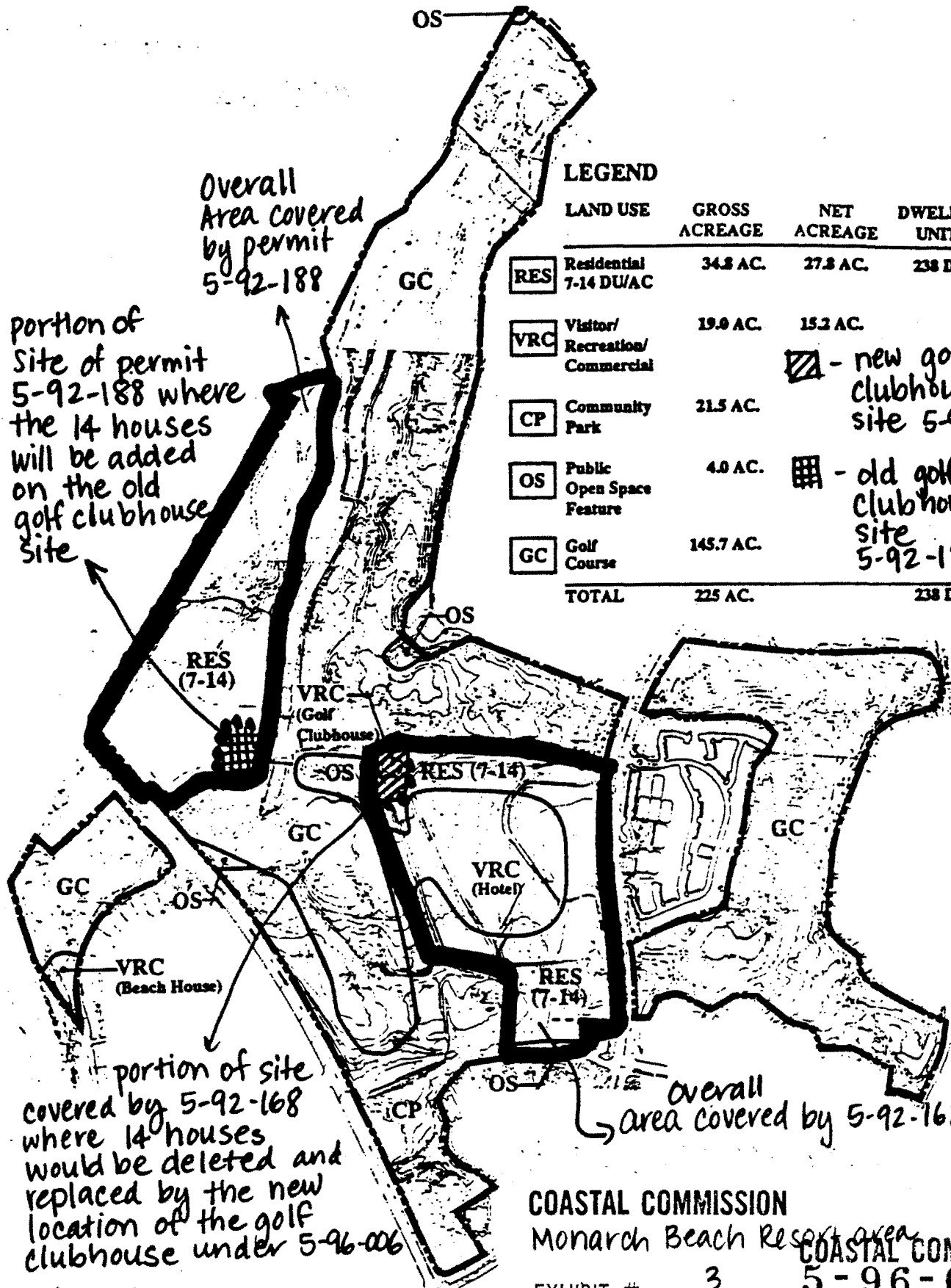
Applicant's Project Description

EXHIBIT # 2
PAGE 1 OF 1

COASTAL COMMISSION

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LEGEND

LAND USE	GROSS ACREAGE	NET ACREAGE	DWELLING UNITS
Residential 7-14 DU/AC	34.8 AC.	27.8 AC.	238 DU.
Visitor/ Recreation/ Commercial	19.0 AC.	15.2 AC.	
Community Park	21.5 AC.		
Public Open Space Feature	4.0 AC.		
Golf Course	145.7 AC.		
TOTAL	225 AC.		238 DU.

- new golf clubhouse site 5-96-006
 - old golf clubhouse site 5-92-188

Overall Area covered by permit 5-92-188

portion of site of permit 5-92-188 where the 14 houses will be added on the old golf clubhouse site

portion of site covered by 5-92-168 where 14 houses would be deleted and replaced by the new location of the golf clubhouse under 5-96-006

Overall Area covered by 5-92-168



LAND USE PLAN

MONARCH BEACH RESORT
SPECIFIC PLAN

COASTAL COMMISSION

Monarch Beach Resort Area

EXHIBIT # 3

PAGE 1 OF 1

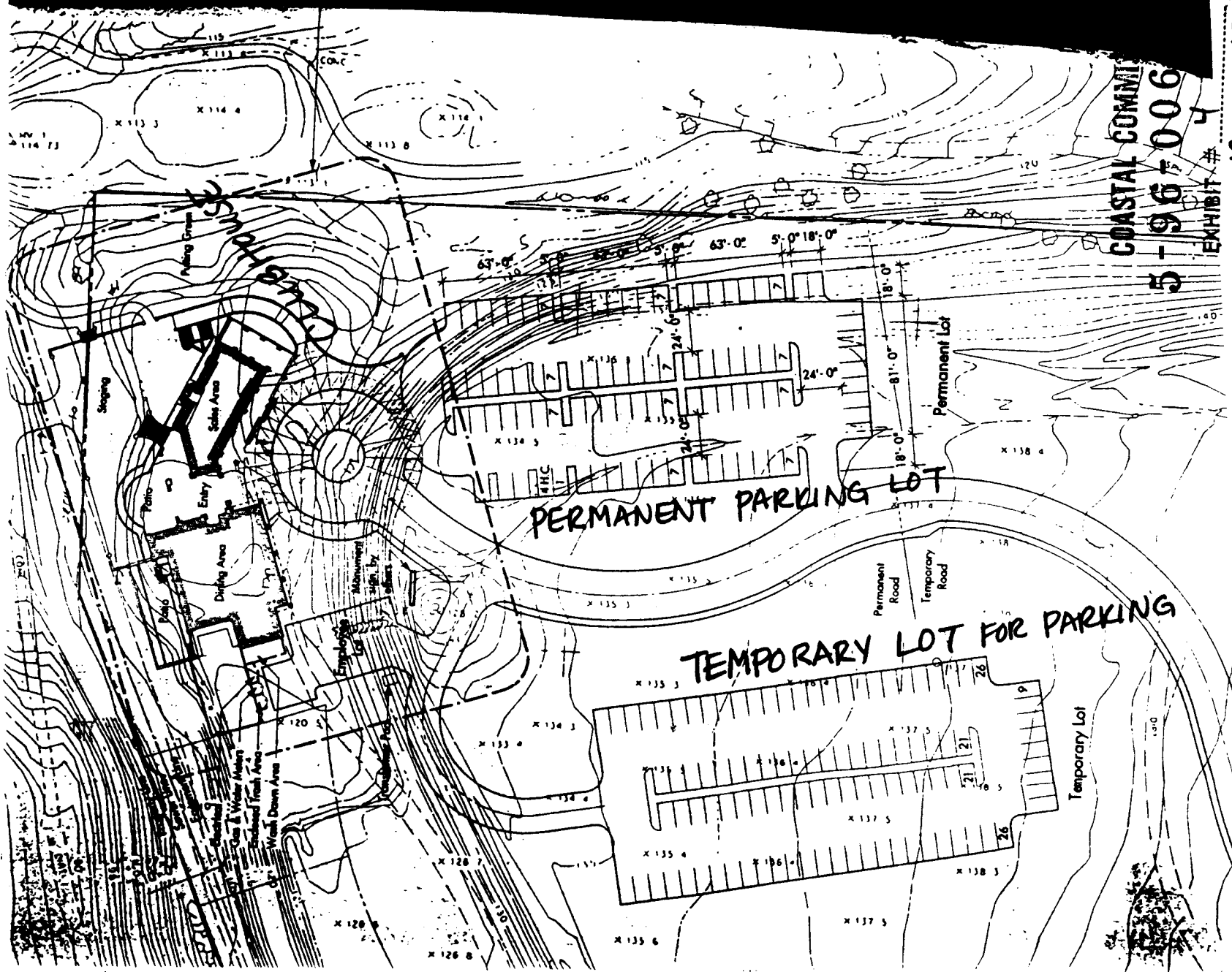
5-96-006

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5-96-006 Exhibit 4 p. 1 of 1
 Location of permanent + temporary parking lots

[Handwritten scribbles]

SOUTH COAST REGIONAL COMMISSION
301 E OCEAN BOULEVARD, SUITE 2107
P.O. BOX 1430
LONG BEACH, CALIFORNIA 90801
(714) 431-1111 (714) 431-1144

RECEIVED

AUG 30 1983

COASTAL DEVELOPMENT PERMIT

CA Coastal Commission

Application Number: P-79-5539

Name of Applicant: Avco Community Developers, Inc.

Three Monarch Bay Plaza, Laguna Niguel, CA

Permit Type: Emergency
 Standard
 Administrative

Development Location: Pacific Coast Highway between Crown Valley & Niguel Road and Pacific Coast Highway, at Selva Road, Laguna Niguel

Development Description: Development of Avco Laguna Niguel Coast S including hotel, recreation/conference center, expansion of Monarch Plaza commercial development, golf course, parks, 3000 residential and associated grading, road, and utility development on both sides Coast Highway.

I. The proposed development is subject to the following conditions pursuant to the California Coastal Act of 1976:

See attached Page 3 for conditions.

Condition/s Met On

• Appendix A

EXHIBIT A

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EXHIBIT # 4 Page
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III. The South Coast Commission finds that:

The Commission hereby grants, subject to conditions below, a permit for the proposed development, on the grounds that the development as proposed 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 governing jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will have any significant adverse impacts on the environment within the area of the California Environmental Quality Act.

It should be noted that this application does not really meet the requirements of a permit application, in that detailed plans, elevations and site maps are not included. The application more closely resembles that of a "mini LCP" and additional permits for some elements of this application will be required at a later date. The county has approved this concept plan as the LCP for the area (see below). The total project concept as conditioned, may still be found to be consistent with the Coastal

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II. Whereas, at a public hearing, held on July 23, 1979 at Huntington Beach by a 10 to 2 vote permit application number P-79-5539 is approved.

IV. This permit may not be assigned to another person except as provided in Section 13170, Coastal Commission Rules and Regulations.

V. This permit shall not become effective until a COPY of this permit has been returned to the Regional Commission, upon which copy all permittee or agent(s) authorized in the permit application have acknowledged they have received a copy of the permit and have accepted its contents.

VI. Work authorized by this permit must commence within two years from the date of the Regional Commission vote upon the application. Any extension of time of said commencement date must be applied for prior to expiration of the permit.

VII. Issued on behalf of the South Coast Regional Commission on November 28, 1979. *Cont*

[Signature]

M. J. Carpenter
Executive Director

I. *[Signature]*, permittee/agent, hereby acknowledge receipt of Permit Number P-79-5539 and have accepted its contents.

November 28, 1979

[Signature]

... application, including:

... agree to con:

HOTEL (1):

1. The concept of a hotel of approximately 300 rooms is approved but a separate coastal permit, based on site plan approval as outlined in (p. 12), shall be required for all facilities on the hotel site. Said application shall provide parking in accordance with the adopted Orange Guidelines, Parking Criteria. It shall incorporate a design that is with and does not overpower the public beach and park areas. Propose shall be included in the permit application. Such signing shall in notification that all areas of the hotel open to general hotel guests also open to the general public (note: this does not include hotel rooms). Signing shall be located, at a minimum, at conspicuous locations: the beach, the trail linking the beach and the hotel, and the beach hotel parking area(s).

2. At the time of site plan approval, the applicant shall submit a deed restriction indicating that the public spaces of this facility (including lobby outdoor areas, trail connecting hotel and beach, bluff-top plaza etc.) shall be operated as a public hotel facility and not converted private resort facility.

RECREATION/CONFERENCE CENTER (2):

1. The concept of a recreation/conference center is approved but a separate coastal permit, based on a site plan approval (refer LNCDP, p. 12), shall be required for all facilities on the recreation/conference center site. Said application shall provide parking in accordance with adopted Orange County Guidelines, Parking Criteria. The proposed design shall include a trail between the center and the adjacent community. All proposed uses listed on page 22 of the coastal permit application document shall be permitted.

2. Prior to issuance of the above mentioned site plan approval, the applicant shall submit a deed restriction agreeing that the recreation club facilities shall be open to the public on a daily or hourly fee as well as to members. At least 50% of the use of the recreation center facilities will be designated for public use by the general fee-paying public; if time/facilities set aside for non-members are not reserved hours in advance of play/start time, they may be reserved by members. Deed restriction shall allow public use (rental) of recreation facilities.

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COMMERCIAL CENTER (3):

EXHIBIT # 4

1. The concept of a commercial center is approved but a separate coastal permit based on site plan approval (refer LNCDP, p. 12) shall be required for all proposed facilities at the commercial center site. Said application shall provide parking in accordance with the adopted Orange County Guidelines, Parking Criteria. The proposed structure/s shall, as a general rule, not exceed 25 ft. in height above average finished grade (AFG) although portions may be permitted at 30-35 ft. above AFG if that additional height is needed to provide either: a) public vistas from restaurants similar visitor-oriented uses, b) housing for households of low and moderate income, c) interface of existing commercial with proposed expansion area, or d) motel uses.

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2. The following uses shall be permitted in the commercial center: restaurants, fast food eating facilities, convenience stores, general commercial uses, coastal-oriented specialty shops, overnight low/mod cost accommodation, professional/administrative offices (not to exceed one-third of the total floor area and not to be located on the ground floor), visitor-serving commercial use, and affordable housing.

Low/moderate cost overnight accommodations (including hostel) shall be provided at a ratio of one lower cost unit for each 3 hotel units until the County determines a more suitable location near the project site.

3. At the time of site plan approval, applicant shall submit a deed restriction indicating that parking generally reserved for office use at the center shall be open to the public for beach and general parking weekends and holidays. Signing indicating this shall be included.

4. The applicant shall receive authorization from Caltrans for the signalization of the intersection of the commercial center access road and Coast Highway. The applicant shall install said signalization prior to occupancy of any of the new facilities at the commercial center.

COASTAL PARK (4):

1. Prior to improvement, applicant shall submit plans to the executive director showing the proposed improvements and developments within the park to demonstrate compliance with recommended uses. The park shall be primarily oriented toward passive and some active recreation and educational uses. Restrooms, picnic tables, benches, etc. shall be provided. Commercial/vending space may be provided, but the majority of this use shall be directed to the hotel site. Additional parking conforming to the size/design requirements of the Orange County Guidelines, Parking Code shall be provided adjacent to the existing Niguel Beach parking area in connection with parking provided for the hotel. (Note: Redesign of the existing beach parking lot shall be permitted with any "additional" spaces created being counted toward the parking requirements of this section.) Required plans shall also show trail linkages between the coastal park, hotel, community park, and commercial center. Plans shall include stairways or other means of access over seawall to beach, if necessary.

2. Upon issuance of permit (P-79-5539), applicant will enter into an agreement to offer to dedicate and improve to the standards of the County of Orange Harbors Beaches and Parks District, both the Coastal Park and that portion of the Loop trail with the park. Offer shall be made to County of Orange, Coastal Conservancy, or any other public or private non-profit agency willing to accept the dedication and insure public access and maintenance. Prior to improvement by the applicant, said agency must agree to accept and maintain the Coastal Park and Trails. The offer to dedicate and improve shall run for 5 years and improvements shall be made within 24 months of acceptance. If at the end of this period there is no accepting agency, alternate land uses may be considered which shall require a coastal permit.

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3. Any proposed alterations to submitted plans of park facilities & layout shall require a coastal permit.

COMMUNITY PARK (5):

1. Prior to improvement, applicant shall submit plans to the executive director showing the proposed improvement and development within the site to demonstrate compliance with recommended uses. Applicant shall submit plans for park development including active and passive play areas; linkages between the park and the hotel, coastal park, recreation/center, and commercial center, including plans for grade separated walkways at Coast Hwy. at both the eastern and western ends (implementing part of the two ocean golf course holes) of the park; plans showing locations of all proposed park improvements.

2. Parking for this park may be provided in conjunction with parking at the recreation center and by joint use of the parking facilities of the proposed school adjacent to the site. Joint use of the school parking may be permitted only if the applicant receives written authorization including provisions for liability, if necessary, from the Capistrano Unified School District.

3. Upon issuance of permit (P-79-5539), applicant will enter into an agreement to offer to dedicate and improve the standards of County of Orange Harbors Beaches and Park District, the Community Park and the portion of the Loop trail with the park. Offer shall be made to the County of Orange, Coastal Conservancy, or any other public or private non-profit agency willing to accept the dedication and insure public access and maintenance. Prior to improvement by the applicant, said agency must agree to accept and maintain the Community Park and Trail. The offer to dedicate and improve shall run for 5 years and improvements made within 24 months of acceptance. If at the end of this period there is no accepting agency, alternate land uses may be considered which shall require a coastal permit.

4. Signage, visible from Coast Hwy., shall be provided indicating that the park is open to the general public. Plans for said signs shall be submitted prior to issuance of this permit. Signs should be of the monument type and should not exceed 24 sq. ft. in size and 9 ft. in height and shall indicate the existence of the park and the golf course and that the public is invited to use the facility. Signs should be located at the corner of Niguel Road and Coast Hwy. and Crown Valley Parkway and Camino del Avion.

GOLF COURSE (6):

1. Prior to improvements, applicant shall submit a deed restriction agreeing that the golf course shall be open to the public on a daily basis as well as to members. At least 50% of the starts must be reserved for non-members. If non-member starts are not reserved within 24 hours of start time, they may be reserved by members.

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2. Prior to construction, applicant shall submit to the Executive Director detailed plans of the Salt Creek portion of the golf course. Of particular concern to the Commission is restoration of the Salt Creek Corridor (including restoration of the creek) and the substantial natural (endemic) vegetation as landscaping throughout this corridor. Proposed plans will be reviewed for compliance with agreement between applicant and the California Department of Fish and Game to insure proposed plans provide maximum restoration of the Salt Creek area. Plans shall also incorporate use of the golf course areas, as needed, to provide runoff and siltation control. Plans shall be submitted showing how trail, park, and beach users in the vicinity of the golf course be protected, primarily from wayward golf balls.

3. Parking for the golf course use shall be provided consistent with requirements of the adopted Orange County Guidelines, Parking Criteria. Parking may either be provided on the site designated for the golf course (outside of the Salt Creek Corridor) or at the recreation/conference site. Parking for the golf course may be designated on the recreation center site prior to development of concrete plans for that site and location/configuration altered during final approval of development of the recreation center site.

4. Prior to construction, applicant shall submit an open space easement covering the golf course site.

TRAILS:

1. Prior to construction, applicant shall submit plans to Executive Director, specifying widths and uses as well as location, of all trails within the coastal park, community park, Salt Creek Corridor area. In addition, to all trails shown on page 32 of the coastal permit application document, the plans shall include a trail linking residential areas designated as 9, 10, 11, 12, 13, and 14 on page 37 of said document to the commercial center without use of Coast Highway. (Note: Said trail could follow the edge of the golf course or Camino del Avion.)

2. Trails should be maintained by the developer, homeowners association and/or an assessment district set up to cover this (and other) uses. When the trails are to be offered for dedication, the offer to dedicate must run for the same period as that allowed for dedication of the community park.

COASTAL RESIDENTIAL (7 & 8):

1. The concept of coastal residential use is approved but a separate coastal permit based on site plan approval (refer LNCDP p. 12) will be required. At that time applicant shall submit plans and geologic information to the Executive Director demonstrating compliance with recommendations of letter dated July 18, 1979, State Division of Mines and Geology.

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2. Prior to construction, applicant shall submit to the Executive Director approved tentative tract maps and plans indicating proposed lot lines (where applicable), unit locations, elevations, typical floor plans and design of any common areas/facilities to demonstrate compliance with requirements of LNCDP, refer p. 36. No minimum or maximum unit size be required. Parking shall be provided in accordance with the adopted Orange County Guidelines. The number of units may not exceed 400. Structures in excess of three levels be proposed by applicant, additional geologic investigation shall be made by a qualified geologist and approved by Division of Mines and Geology, State of California.

INLAND RESIDENTIAL (9 through 16 & 18):

Prior to construction of each area (9 through 16 & 18), applicant shall submit to the Executive Director approved tentative tract maps and plans indicating proposed lot lines (where applicable), unit locations, elevations, typical floor plans and design of any common areas/facilities to demonstrate compliance with design requirements of LNCDP, refer p. 36. No minimum or maximum unit size shall be required. Parking shall be provided in accordance with the adopted Orange County Guidelines. The number of units within each designated location may be determined by applicant provided the total number of units does not exceed 3200 units (including both market rate and low/moderate-cost units); this number refers to the aforementioned site only (sites 9 through 16 & 18).

SEAWARD SELVA RESIDENTIAL (19):

The concept of development on site 19 is approved but a separate coast permit, based on site plan approval, shall be required and shall include tentative tract maps and plans for units on this site. The design shall incorporate protection of the view corridor across the site to the ocean and Catalina Island and shall be buffered from Coast Hwy. Plans shall include unit locations, elevations, typical floor plans, and design of any common areas or facilities. Maximum height shall not exceed 35' above AFG, although portions may conform to requirements of LNCDP, p. 36, if that additional height is needed to provide either 1) housing for households of low and moderate income, 2) lower to moderately priced overnight accommodations or other visitor oriented uses. Height of lower than 35' AFG shall be incorporated if necessary to protect public view corridors. Parking shall be provided in accordance with adopted Orange County Guidelines. The number of units shall not exceed 360 (15 dwelling units per acre) if the site is not used as a site for low/moderate-cost housing; if it is a site for low/moderate-cost housing, the number of units may be increased to 400.

LOW- AND MODERATE-COST HOUSING:

1. Upon issuance of permit (P-79-5539), applicant shall enter into an agreement with the Coastal Commission, consistent with the "affordable housing" section of the LNCDP, p. 42, and that provides a number equal to at least 25% of the total number of units built in connection with

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this project (including the affordable unit) in a range of prices affordable by families of low and moderate income. A maximum of 3000 market rate units are allowable, in which case 932 low/moderate cost units be required to make a full 25% of the total project "affordable." Two-fifths of the required low/moderate-cost units shall be provided on project site; the other three-fifths may be provided within the Lago Niguel Planned Community or within the coastal zone of Southern Orange County.

a) The units for households of low/moderate income shall be priced affordable by persons/families in all of the affected income range by following formula:

- 50% of median income 10% of low/moderate units (93 units)
- 60% of median income 10% of low/moderate units (93 units)
- 70% of median income 10% of low/moderate units (93 units)
- 80% of median income 10% of low/moderate units (93 units)
- 90% of median income 15% of low/moderate units (140 units)
- 100% of median income 15% of low/moderate units (140 units)
- 110% of median income 15% of low/moderate units (140 units)
- 120% of median income 15% of low/moderate units (140 units)

The majority of the low/moderate-cost units will be family units.

b) A resale program to assure that subsequent sales following the sale of the unit will be at a price which is affordable to household earning substantially the same percentage of the median income as the initial purchasers of the units and shall be recorded as a covenant run with the land, with no prior liens other than tax liens. The agreement shall include substantially the following conditions.

i. The applicant, his successors, and any subsequent purchaser shall give a governmental or nonprofit agency, subject to the approval of the Executive Director, an option to purchase the units. The agency or its designee may assign this option to an individual private purchaser who qualifies as a low- or moderate-income person in substantially the same income range as the person for whom the initial sales price was intended to provide a housing opportunity.

ii. Whenever the applicant or any subsequent owner of the unit wishes to sell or transfer the units he/she shall notify the agency or its designee of his/her intent to sell. The agency, its designee, or assignee shall then have the right to exercise the option within 180

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in the event of the initial sale of the units by the developer, or within 90 days for subsequent sales. Following the exercise of the option, escrow shall be opened and closed within 90 days after delivery of the notice of exercise of the option.

iii. Following the notice of intent to sell the unit, the agency or its designee shall have the right to inspect the premises to determine whether repair or rehabilitation beyond the requirements of normal maintenance ("deferred maintenance") is necessary. If such repair or rehabilitation is necessary, the agency or its designee shall determine the cost of repair, and such cost shall be deducted from the purchase price and paid to the agency, its designee, or such contractors as the Department shall choose to carry out the deferred maintenance shall be expended in making such repairs.

iv. The agency or its designee may charge a fee, to be deducted from the purchase price paid by the assignee for its reasonable cost of qualifying and counseling purchasers, exercising the option, and administering this resale control program.

v. The option price to be paid by the agency, its designee, or assignee, shall be the original sales price of the unit plus an amount to reflect the percentage of any increase in the median income since the time of the original sale.

vi. The purchaser shall not sell, lease, rent, assign, or otherwise transfer the premises without the express written consent of the agency or its designee. This provision shall not prohibit the encumbrance of the title for the sale purpose of securing financing; however, in the event of foreclosure or sale by deed of trust or other involuntary transfer of title to the property shall be taken by the applicant at a cost base condition "v" above subject to this agreement.

vii. Such other conditions as the Executive Director determines necessary to carry out the purposes of this resale program.

c) Units may be constructed on any of the identified residential sites at the rate of 125 low/moderate-cost units for every 500 units. Low/moderate-cost units to be constructed on the project site shall be constructed prior to those proposed to be located off site.

d) If governmental subsidies for the construction of assisted units are not available, the applicant may dedicate an appropriate amount of land to a public or private agency (such as the Coastal Conservancy) capable of receiving land and building (or causing to be built) low- and moderate-cost housing facilities. Dedicated land shall be at the approval of the Executive Director and shall not necessitate the required units being built at a density higher than the highest density in this proposed project.

e) If the applicant chooses to construct unsubsidized units for persons of low income, the low cost units may replace required moderate cost units at the rate of one low cost unit replacing two required moderate cost units.

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f) Note: Units provided under the requirements of this permit shall be counted as the required "affordable" units in any other permit.

COASTAL ACCESS PROGRAM:

Prior to issuance of any permit for hookup to a sewer service system fee of \$275 (or greater if "fair share" is determined to be greater) each conventionally financed residential unit (add \$0 for each "low-cost housing" unit) shall be paid into a coastal access fund. This fee shall be adjusted annually according to increases in the Consumer Price Index. The coastal access fund shall be administered by a separate legal entity under binding agreement with the Coastal Commission specifying the limitations on the use of the funds for the provision of coastal recreational transit services pursuant to the terms and conditions of the permit. If within five years of the applicant's commencement of this program an active program has not been set up, the applicant (or successor in interest), the Commission (or successors in interest), and other interested/affected agencies shall decide how those funds will be used for recreation-related transportation in the Laguna Niguel planned community.

GRADING AND RUNOFF CONTROL:

Prior to any grading activities or the issuance of any additional permit whichever comes first, applicant shall submit a grading, drainage and runoff control plan. That plan shall include, at a minimum, the following elements:

a) A runoff control plan that limits runoff to that associated with runoff from the subject site in its natural state (not existing state) system shall be designed with retention basins capable of catching a project runoff in excess of natural flows releasing it at a natural rate. The retention basins and system shall be designed to accommodate runoff generated by a ten-year frequency storm.

b) A hydrology study analysing the proposed development shall be prepared and drainage plans shall be sized in accordance with that study's recommendations.

c) The grading and restoration plan shall include provisions that the land shall be developed in increments of workable size which can be completed during a single construction season both to insure that soils are established well in advance of the rainy season and to assure that no grading activities occur during rainfall periods. All soils disturbed but not completed during the construction season, including graded slopes shall be planted and stabilized in advance of the rainy season. All disturbed slopes in a completed development involving grading shall be stabilized as soon as possible through planting of appropriate vegetation.

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Appendix B
P-79-5539 and Monarch Beach Resort Permit History

On July 23, 1979 the Commission approved coastal development permit P-79-5539 (see Exhibit 2 at the end of the staff report). Permit 79-5539 was for development of a hotel, recreation/conference center, expansion of the Monarch Bay Plaza commercial development, golf course, parks, 3000 residential units and associated grading, road, and utility development on both sides of Pacific Coast Highway. This permit is often referred to as the "Master Permit" for development in the Monarch Beach area of Dana Point.

1. AVCO Community Developers: The original project proposal for this area was submitted by AVCO Community Developers (AVCO) in the early 1970's as the Laguna Niguel Planned Community. The original project site covered approximately 580 acres of unincorporated land. In 1989 the area was incorporated into the City of Dana Point. Highlights of AVCO's proposal included a: 300 room hotel seaward of the Pacific Coast Highway, recreation/conference center, commercial center, coastal park, community park (25.6 acre), golf course, trail system, residential units, coastal access program, grading plan, and runoff control. In 1972-1973 AVCO began rough grading the site.

Work on the overall development was temporarily halted in 1973 as a result of the passage of the California Coastal Act and subsequent litigation by AVCO. In 1976 the California Supreme Court ruled that AVCO did not possess a vested right to proceed and would therefore be required to obtain a coastal zone development permit before resuming work. In 1979 the Coastal Commission issued permit P-79-5539 which has become known as the "Master Permit". Comparisons of the current proposed development by Monarch Bay Resort with the "Master Permit" and other proposals will be made under the Monarch Bay Resort discussion. In 1980 work resumed on portions of the overall project.

Major special conditions of the "Master Permit" included: the requirement that each construction project obtain a separate development permit, provisions for low and moderate cost housing (25% of total), low and moderate cost overnight accommodations, and monetary contributions into a "Coastal Access Fund" in conjunction with the construction of the residential units. The money paid into the "Coastal Access Fund" was to be used to support recreational transit services.

Additional special conditions imposed by the Commission included: a deed restriction requiring that the golf course be open to the public on a daily fee basis, public parking, an open space easement over the golf course area, a public trail system to provide beach access, and a signage program advertising that the facilities are open to the general public.

In 1981, Orange County approved a land use plan which included the project area. By approving this development concept, Orange County formally established the proposed development as a long term policy objective. The development concept was again reaffirmed at the local level by the City of Dana Point through the adoption of the Dana Point General Plan (July 1991) and the Monarch Beach Resort Specific Plan (February 1992). These plans have been to be submitted to the Commission for certification. Staff anticipates that these plans will be presented to the Commission for review.

COASTAL DEVELOPMENT PERMIT
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Appendix B
P-79-5539 and Monarch Beach Resort Permit History

In 1982 the Commission approved permit 5-82-291 for the construction of the Ritz Carlton Hotel by AVCO. This project met the hotel concept of the "Master Permit". The project consisted of a 397 room hotel with two restaurants, meeting rooms, ballroom, pool and deck, public beach access trail, landscaping, and 672 off-street parking spaces on an 18.55 acre bluff top parcel. Niguel Beach Terrace Condominiums (400 units) was constructed by AVCO under permit 5-82-323. An additional 32 units were constructed by Carma Developers under permit 5-83-688. Permit 5-85-94 issued to Stein-Brief governed the development of 103 custom home lots.

2. Stein-Brief Development History: In 1983 AVCO sold the remaining undeveloped land, about 530 acres, to Stein-Brief. In 1985 Stein-Brief unveiled new plans to develop the area as a destination resort. Under permit 5-85-585 Stein-Brief received approval for a resort/conference center. The project, if it had been built, would have covered 37 acres and would have involved the construction of a 550 room hotel, conference center, golf clubhouse, health spa, tennis courts, shops, offices, and parking. Monarch Bay is currently proposing this site for their Hotel Village project (Permit 5-92-168).

Project provisions under Stein-Brief included: mini-tram, trail connections to the community park, that, at a minimum, 50% of the facilities be reserved for public use on a daily fee basis, public use (rental) of the conference center facilities, and conformance with P-79-5539 ("Master Permit").

In 1986 the project was further modified under permit 5-86-503. Stein-Brief received approval for a commercial center. Under the Stein-Brief proposal the commercial center would consist of a 200 room hotel, 132 bed hostel, 1260 seat theatre, retail shops, restaurant, and parking on 14.1 acres. The commercial center was never constructed and was proposed again by the next applicant Hemmeter under permit 5-87-980. Monarch Bay is currently proposing this site for their Clubhouse Village South project (Permit 5-92-188).

In 1986 Stein-Brief transferred some land to Beverly Hills Mortgage Corporation and formed a partnership with Hemmeter Development Corporation. The partnership was named Laguna Niguel Resort Associates. The Laguna Niguel Resort Associate plan is also referred to as the "Hemmeter Project".

3. Hemmeter Development History: In 1987 five coastal development permits (5-87-977 through 981) were approved by the Coastal Commission. Each of the permits and the proposed projects is briefly described below.

Permit 5-87-977 approved the development of Sea Terrace Community Park. Under Hemmeter, Sea Terrace Community Park was to include a conservatory building, lake, fountains, statuary, trail system, and access way under the Pacific Coast Highway. Development plans have been revised and completion of park development are planned to be accomplished by Monarch Bay under permit 5-92-157.

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5-96-006-A2
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Appendix B
P-79-5539 and Monarch Beach Resort Permit History

Permit 5-87-978 approved an 11,000 square foot "Beach House" as a visitor serving restaurant facility on the bluff at Salt Creek Beach. Under the Monarch Bay Resort proposal the Beach House concept was brought forward in a revised format through permit application 5-92-189. The coastal development permit application for 5-92-189 was denied by the Commission on August 11, 1992. The application was denied based on adverse impacts to the coastal bluff.

Permit 5-87-979 approved the renovation of the 134 acre golf course. Golf course improvements were to include remodeling by lengthening total course distance, replanting, re-grading, view terraces, new lake, and tram system. Under the current submittal by Monarch Bay, this project has been expanded as approved under permit 5-92-158.

Permit 5-87-980 approved a 276 room resort with restaurants, ballroom, conference rooms, retail spaces, spa, and golf course clubhouse. Lower cost visitor accommodations were to be provided through the construction of a hostel. The hostel requirement was met in 1989 through the payment of an in-lieu-fee of \$1,482,000 to the Commission (Crystal Cove Improvement Fund) by Laguna Niguel Resort Associates (Hemmeter). This is the same site that Stein-Brief proposed to build the commercial center under permit 5-86-503. Under the current Monarch Bay proposal, the site would be developed into Clubhouse Village South under permit 5-92-188.

Permit 5-87-981 was for the development of a resort/conference center. The center would include an 850 room hotel/conference center, exhibit hall, retail space, health spa cafe, restaurants, disco, ice rink, and theater. The hotel complex was not constructed. Under the current Monarch Bay proposal (Permit 5-92-168) this would become the site of Hotel Village.

4. BH Mortgage Corporation Amendment: On June 12, 1987 the Commission approved the first amendment to P-79-5539. This amendment was a request by BH Mortgage Corporation (R.B. McComic, Inc., Agent) to modify the special condition which required that 25% of the housing be affordable as it applies to sites 11 and 14. Site 14 is south of Camino Del Avion and the east of Niguel Road. Site 11 is on the other side of Niguel Road (to the west) and also immediately south of Camino Del Avion. The Commission approved this request on the basis that the developers were providing over 25% affordable housing with the proposed construction of an 175 unit affordable senior project, a 325 unit apartment project, and one other affordable multi-family project.

5. Current Monarch Bay Development Proposal: In 1989, the undeveloped portions were sold by Hemmeter to Qintex Australia Ltd. In 1990 Monarch Bay Resort, Inc. took over development of the project from Qintex. Monarch Bay Resort, Inc. is a subsidiary of Nippon-Shimpan Ltd. Exhibit 1, at the end of this report, shows the project sites.

In June of 1992 Monarch Bay Resort submitted six new applications for completing the development of the remaining 225 acres governed by the "Master Permit". The major difference between this project, the "Master Permit" and the other prior permits is that the commercial center concept was eliminated.

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Appendix B
P-79-5539 and Monarch Beach Resort Permit History

dropped. The lower cost visitor accommodations concept was met in 1989 through an in-lieu-fee payment to the Commission (Crystal Cove Improvement Fund). Therefore, the hostel is not being carried forward by Monarch Bay. The golf clubhouse concept, the recreational component, has been retained but moved from what will be Hotel Village to Clubhouse Village South.

Monarch Bay is now proposing to construct a total of 238 market value residential units. Ninety-seven of the residential units would be in the portion of the area formerly reserved for the commercial center under Hemmeter. Another 55 market value residential units would be built on the site formerly designated as affordable housing by the Laguna Niguel Coastal Plan. The remaining 86 residential units would be built on the Hotel Village Site. Listed below is a brief description of each of the projects and a comparison of the project with prior proposals.

Permit 5-92-157 would complete development of Sea Terrace Community Park. Improvements are to include trails landscaping, restrooms, bike racks, amphitheater, tot lot, parking, fitness course, and picnic area on 21.5 acres.

Under the original concept plan, the park was to be 25 acres in size. However, through an agreement between Monarch Bay and the Capistrano Bay Parks and Recreation District, 5.3 acres of the original park has been transferred to the golf course in return for 5.3 million dollars in park improvements. Under the previously approved Hemmeter proposal, the park would contain fountains, lake, statues, conservatory building, par course, tot lot, picnic tables, grass areas and walkways. Under the current Monarch Bay proposal, the park theme would be more contemporary with picnic tables, tot lot, par course, pedestrian trails, grass areas, amphitheater, park pavilion, and other passive use areas. Additionally Monarch Bay would dedicate to the Capistrano Bay Parks and Recreation District four separate public open space areas to offset the reduction in acreage from the Hemmeter proposal.

Permit 5-92-158 (Golf Course) would expand the existing 134 acre golf course by five acres (Exhibit 7). The proposal includes rerouting and redesign of the 139 acres, trail improvements, open space dedication, two vista points, tunnel undercrossing, restrooms, snack bar, and maintenance buildings. The major difference between this project and the previously approved Hemmeter proposal is that this project expands the golf course by 5 acres.

Permit 5-92-168 (Hotel Village) calls for the construction of a 400-key resort hotel and related visitor serving facilities on 30.5 acres. The proposed development consists of restaurants, conference facilities, resort offices, retail space, 81 attached residential units, 5 detached residential units, and 835 parking spaces. The hotel complex would cover 16.4 acres and the residential area would cover 14.1 acres.

The Monarch Bay Resort Hotel Village proposal is scaled down from the previously approved Hemmeter submittal (5-87-981). Under the Hemmeter proposal the hotel would have consisted of 850 rooms, theater, and ice rink on 30.5 acres. The theater, ice rink, and hostel proposals have been dropped by Monarch Bay, the number of rooms was decreased from 850 to 400, and the square footage of the restaurant areas has been reduced from 46,661 square feet to 15,000 square feet.

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P-79-5539 and Monarch Beach Resort Permit History

Sq. Ft., and parking has been reduced from 2,174 spaces down to 835 spaces. An additional distinction is that the Monarch Bay now proposes to construct 86 market value residential units.

Permit 5-92-186 (Clubhouse Village North) would result in the construction of 55 attached residential units on 8.8 acres. This site was not proposed for development under any of the previous permit applications. In the Laguna Niguel Coastal Area Plan the site had been identified for development as affordable housing.

Permit 5-92-188 (Clubhouse Village South) would result in the construction of 97 attached residential units and a 30,000 square foot golf clubhouse. Under all the previous permits this site was identified as the site for the commercial center and recreation/conference center.

The Monarch Bay Resort Clubhouse Village South proposal when compared to the original Hemmeter, project for the same site, deletes the 276 room resort suites hotel, conference rooms, and shops. Monarch Bay intends to retain the golf clubhouse and to convert part of the site from commercial into residential.

Permit 5-92-446 allows 145,000 cubic yards of grading (all cut) (Exhibit 8). This permit authorized the removal of material from five proposed borrow sites on the parcel approved by the Commission for the hotel/residential project (5-92-168). The removed material is to be used for fill dirt for projects outside of the Coastal Zone.

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CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA

245 W. BROADWAY, STE. 380

P. BOX 1490

JUNO BEACH, CA 90802-4416

(310) 990-5071

Page 1 of 6

Date: August 19, 1992

Permit Application No. 5-92-188

NOTICE OF INTENT TO ISSUE PERMIT

On August 11, 1992, the California Coastal Commission granted to MONARCH BAY RESORT INC. Permit 5-92-188, subject to the attached conditions, for development consisting of:

The construction of 97 attached residential units and a 30,000 square foot golf clubhouse including grill and lounge on 14.3 acres. This development is part of the Monarch Bay Resort project. The units will be clustered into 20 two story buildings and 4 three story buildings. For 57 of the units, the floor area ranges from 1,400 to 2,700 square feet. The floor area of the remaining 40 units ranges from 2,300 to 2,900 square feet. Overall building height of the three story building height is 41 feet. For the two story structures overall height will be 28 feet. The two story units are located on the southern portion of the site near the Pacific Coast Highway. The four story projects are located in the northern portion of the site. The architectural theme will mimic the character of the Tuscan region of Italy. Grading will consist of approximately 85,000 cubic yards of cut and 33,000 cubic yards of fill. Application 5-92-186 is for a similar project, Clubhouse Village North.

more specifically described in the application file in the Commission offices.

The development is within the coastal zone in Orange County at Immediately northeast of the intersectin of the Pacific Coast Hwy., & Crown Valley Parkway, and west of the Salt Creek Regional Trail.

The actual development permit is being held in the Commission office until fulfillment of the Special Conditions imposed by the Commission. Once these conditions have been fulfilled, the permit will be issued. For your information, all the imposed conditions are attached.

Issued on behalf of the California Coastal Commission on August 11, 1992.

PETER DOUGLAS
Executive Director

By: *Peter Douglas*Title: Staff Analyst

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COASTAL COMMISSION

5-96-006-A2

EXHIBIT # 4PAGE 35 OF 47

ACKNOWLEDGMENT:

The undersigned permittee acknowledges receipt of this notice of the California Coastal Commission determination on Permit No. 5-92-188, and fully understands its contents, including all conditions imposed.

_____ Date _____ Permittee _____

Please sign and return one copy of this form to the Commission office at the above address.

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COASTAL COMMISSION
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NOTICE OF INTENT TO ISSUE PERMIT

Permit Application No. Page 3 of 6
5-92-188

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 on which the Commission voted on the application. 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.

SPECIAL CONDITIONS:

1. Coastal Access Fund

Prior to issuance of the coastal development permit permit, the applicant shall pay a fee of \$545.86 in 1992 dollars (based on the original fee of \$275 in 1979 dollars adjusted according to increases in the Consumer Price Index - U.S. City Average) for each new residential unit. No fee shall be required for each "affordable" unit that is part of an affordable housing program. The fee shall be in renewable Certificates of Deposit, principal and interest payable for recreation and coastal transit or at the direction of the Executive Director of the California Coastal Commission or until such time a Coastal Access Program is established and administered by a separate legal entity. The Certificates of Deposit shall be placed in the possession of the California Coastal Commission for safekeeping.

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Upon the execution of a binding legal agreement between the agency implementing and administering the Coastal Access Program and the Coastal Commission and Coastal Conservancy which specifies the limitation on the use of the funds for the provision of coastal recreational transit services or other coastal access purposes in Orange County, the Certificates of Deposit shall then be transferred to that agency for use in implementing the Coastal Access Program.

2. Affordable Housing

Prior to issuance of the coastal development permit the applicant will show evidence, subject to the review and approval of the Executive Director that he has complied with the recorded agreement to provide affordable housing pursuant to the Low-Cost and Moderate-Cost Housing condition of the the "Master Permit" P-79-5539. The applicant may submit a permit amendment to propose an alternative method of complying with the affordable housing requirements.

3. Phased Development.

Prior to issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and approval a written agreement for recording the following:

Development shall be phased and shall comply with the phasing plan of the Monarch Beach Resort Final Specific Plan. Highest development priority shall be given to public open space uses, parks, trails, and public roads. Second priority shall be given to the hotel, tram, and golf clubhouse. Any changes to the phased development plan shall require the approval of the Executive Director. The agreement shall also include the development of a public beach house consistent with local and Coastal Commission approvals.

4. Parking.

Prior to issuance of this permit, the applicant shall submit to the Executive Director, for review and approval a deed restriction which contains the following public parking provisions: The parking spaces for the golf clubhouse shall be available to the general public. The hourly parking fee or total daily fee, for general public use, shall not be greater than the fee charged at the nearest State Beach Park parking facility.

Prior to issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and approval a monitoring plan to gather parking and vehicle occupancy data for the hotel and golf clubhouse. The purpose of this study will be to evaluate the adequacy of parking for both the hotel and golf clubhouse. The monitoring program will collect data for two years, will commence when both the hotel and golf clubhouse are operational, and the applicant shall report annually the results of the study. Should parking prove to be deficient the applicant, through the permit amendment process, shall provide additional onsite parking.

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COASTAL COMMISSION
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5. Public Access.

Prior to issuance of the permit the applicant shall submit to the Executive Director for review and approval a deed restriction which contains the following public access provisions:

- a. A minimum of 50% of all recreational facilities time slots of the Hotel Village and the Golf Clubhouse shall be reserved for general fee-paying public use on a daily or hourly basis. If time slots or facilities set aside for non-members are not reserved 24 hours in advance, they may be reserved by members.
- b. General public use (rental) of the meeting rooms.
- c. Public access shall be maintained to all common areas of the development. The deed restriction shall include an exhibit, prepared by the applicant illustrating those area to be maintained open to the general public. Said areas shall include, but not be limited to, the lobby, restaurants, pool areas, landscaped grounds and walkways.

6. Signage Plans.

Prior to the issuance of the permit, the applicant shall submit to the Executive Director for review and approval the following:

- a. A detailed signage plan with signs visible from the Coast Highway and Niguel Road, which invites and encourages public use of the public access opportunities. The plan shall clearly state proposed material and colors to be used, locations of signs, dimensions, and sign text. Appropriate signage for trail heads shall be emphasized. Signs shall invite and encourage public use of access opportunities. Signage shall identify, provide information and direct users to all the key locations. Key locations include: public parking, golf course, golf clubhouse, beach access, tunnels, beach parking, park areas, tram operation, hotel areas, trails and other points of interest.
- b. An implementation plan for a primary visitor information center located at the hotel site which shall provide information about the available public uses throughout the resort complex. This information center shall be fully functional concurrent with the opening of the hotel.

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7. Future Development.

Prior to the issuance of the coastal development permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, stating that the subject permit is only for the development described in the Coastal Development Permit No. 5-92-188; and that any future improvements to the property or changes to the development plan approved herein will require a new permit or permit amendment from the Coastal Commission or its successor agency. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens.

AFTER YOU HAVE SIGNED AND RETURNED THE DUPLICATE COPY YOU WILL BE RECEIVING THE LEGAL FORMS TO COMPLETE (WITH INSTRUCTIONS) FROM THE SAN FRANCISCO OFFICE. WHEN YOU RECEIVE THE DOCUMENTS IF YOU HAVE ANY QUESTIONS, PLEASE CALL THE LEGAL DEPARTMENT AT (415) 904-5200.

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CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
 245 W. BROADWAY, STE. 380
 P.O. BOX 1490
 LONG BEACH, CA 90802-4416
 (213) 990-9371

Page 1 of 7
 Date: August 19, 1992
 Permit Application No. 5-92-168

NOTICE OF INTENT TO ISSUE PERMIT

On August 11, 1992, the California Coastal Commission granted to MONARCH BAY RESORT INC. Permit 5-92-168, subject to the attached conditions, for development consisting of:

The construction of a 400-key resort hotel and related visitor serving facilities on 30.5 acres. This development is part of the Monarch Bay Resort project. The proposed development includes restaurants, conference facilities, resort offices, retail space, and 835 Hotel parking spaces. The residential portion of the project site will consist of 81 attached units and 5 detached units. The hotel site will be integrated with courtyards, gardens, pathways, resort vehicle system, public trails, and other visitor serving uses. The trail system will link the hotel grounds to Sea Terrace Community Park and the golf course. Grading will consist of 395,000 cubic yards of cut and 45,000 cubic yards of fill.

more specifically described in the application file in the Commission offices.

The development is within the coastal zone in Orange County at Northwest of the intersection of Niguel Road and Pacific Coast Hwy. Specifically, northwest of the existing fire station at the intersection of Niguel Road and Stonehill, east and south of existing golf course in the City of Dana Point.

The actual development permit is being held in the Commission office until fulfillment of the Special Conditions imposed by the Commission. Once these conditions have been fulfilled, the permit will be issued. For your information, all the imposed conditions are attached.

Issued on behalf of the California Coastal Commission on August 11, 1992.

PETER DOUGLAS
 Executive Director

By: *[Signature]*

Title: Staff Analyst

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COASTAL COMMISSION
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ACKNOWLEDGMENT:

The undersigned permittee acknowledges receipt of this notice of the California Coastal Commission determination on Permit No. 5-92-168, and fully understands its contents, including all conditions imposed.

Date

Permittee

Please sign and return one copy of this form to the Commission office at the above address.

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COASTAL COMMISSION
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EXHIBIT # 4
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NOTICE OF INTENT TO ISSUE PERMIT

Permit Application No. Page 3 of 7
5-92-168

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 on which the Commission voted on the application. 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.

SPECIAL CONDITIONS:

F. Public Access.

Prior to issuance of the coastal development permit the applicant shall submit to the Executive Director for review and approval a deed restriction which contains the following public access provisions:

- a. A minimum of 50% of all recreational facilities time slots of Hotel Village and the Golf Clubhouse shall be reserved for general fee-paying public use on a daily or hourly basis. If time slots or facilities set aside for non-members are not reserved 24 hours in advance, they may be reserved by members.

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- b. General public use (rental) of the banquet/conference center and exhibition hall facilities.
- c. The deed restriction shall also ensure that the hotel area will be dedicated to hotel use, available in accordance with standard hotel practice for the general public, and that the development will not be used for private resort or time-share use which would inhibit or otherwise exclude casual use by the general public.
- d. Public access shall be maintained to all common areas of the development. The deed restriction shall include an exhibit, prepared by the applicant illustrating those areas to be maintained open to the general public. Said areas shall include, but not be limited to, the lobby, restaurants, pool areas, landscaped grounds and walkways.
- e. No gates shall be placed in public access areas unless the applicant obtains a new permit or permit amendment and can show to the Executive Director, that the proposed gates serve a public health and safety purpose. Signs shall be provided at each approved gate indicating the hours that the gates are to be unlocked for public access and how to contact the access owner and operator. The placement of fences, fence heights, location of gates, and hours of operation are subject to the review and approval of the Executive Director through a new permit or permit amendment.

✓ 2. Signage Plans.

Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and approval the following:

- a. A detailed signage plan with signs visible from the Coast Highway and Niguel Road, which invites and encourages public use of the public access opportunities. The plan shall clearly state proposed material and colors to be used, locations of signs, dimensions, and sign text. Appropriate signage for trail heads shall be emphasized. Signs shall invite and encourage public use of access opportunities. Signage shall identify, provide information and direct users to all the key locations. Key locations include: public parking, golf course, golf clubhouse, beach access, tunnels, beach parking, park areas, tram operation, hotel areas, trails and other points of interest.

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COASTAL COMMISSION
5-96-006-42

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- b. An implementation plan for a primary visitor information center located at the hotel site which shall provide information about the available public uses throughout the resort complex. This information center shall be fully functional concurrent with the opening of the hotel.

3. Public Parking.

Prior to issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and approval a deed restriction which contains the following public parking provisions:

- a. The 835 parking spaces for the hotel shall be available to the general public. The hourly parking fee or total daily fee, for general public use, shall not be greater than that charged at the nearest State Beach Park parking facility. Validation stamps may be used for the parking facilities.
- b. Prior to issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and approval a monitoring plan to gather parking and vehicle occupancy data for the hotel and golf clubhouse. The purpose of this study will be to evaluate the adequacy of parking for both the hotel and golf clubhouse. The monitoring program will collect data for two years, will commence when both the hotel and golf clubhouse are operational, and the applicant shall report annually the results of the study. Should parking prove to be deficient the applicant, through the permit amendment process, shall provide additional onsite parking.

✓ 4. Tram System.

Prior to issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and approval a written agreement for recording the following:

- a. The applicant shall guarantee implementation of the tram system and reasonable use of the tram system by the general public. Priority may be given to hotel guests and all users of the tram will be allowed to carry with them beach gear. The tram shall operate at sufficient interval to meet demand by the general public. In general, the tram shall pick up and drop off riders at established stops including the hotel, golf clubhouse, Sea Terrace Community Park, and the coastal park (Bluff Park) by the existing beach access point between the Ritz Carlton and Ritz Cove.

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COASTAL COMMISSION

5-96-006-A2

EXHIBIT # 4

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- b. The operational plans of the tram system must be approved by the Orange County Environmental Management Agency, the City of Dana Point, and the Executive Director.
- c. The applicant shall guarantee that the tram system shall be operational concurrent with the opening of the hotel.

5. Coastal Access Fund.

Prior to issuance of the coastal development permit, the applicant shall pay a fee of \$545.86 in 1992 dollars (based on the original fee of \$275 in 1979 dollars adjusted according to increases in the Consumer Price Index - U.S. City Average) for each new residential unit.

No fee shall be required for each "affordable" unit that is part of an affordable housing program. The fee shall be in renewable Certificates of Deposit, principal and interest payable for recreation and coastal transit or at the direction of the Executive Director of the California Coastal Commission or until such time a Coastal Access Program is established and administered by a separate legal entity. The Certificates of Deposit shall be placed in the possession of the California Coastal Commission for safekeeping. Upon the execution of a binding legal agreement between the agency implementing and administering the Coastal Access Program and the Coastal Commission and Coastal Conservancy which specifies the limitation on the use of the funds for the provision of coastal recreational transit services or other coastal access purposes in Orange County, the Certificates of Deposit shall then be transferred to that agency for use in implementing the Coastal Access Program.

6. Affordable Housing.

Prior to the issuance of the coastal development permit the applicant shall show evidence, subject to the review and approval of the Executive Director that he has complied with the recorded agreement to provide affordable housing pursuant to the low-Cost and Moderate-Cost Housing condition of the master permit P-79-5539. The applicant may submit a permit amendment to propose an alternative method of complying with the affordable housing requirements.

✓ 7. Phased Development.

Prior to issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and approval a written agreement for recording the following:

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COASTAL COMMISSION
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Development shall be phased and shall comply with the phasing plan of the Monarch Beach Resort Final Specific Plan. Highest development priority shall be given to public open space uses, parks, trails, and public roads. Second priority shall be given to the hotel, tram, and golf clubhouse. Any changes to the phased development plan shall require the approval of the Executive Director. Development phasing shall include the creation of a public beach house consistent with local and Coastal Commission approvals.

8. Future Development.

Prior to the issuance of the coastal development permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, stating that the subject permit is only for the development described in the Coastal Development Permit No. 5-92-168; and that any future improvements to the property or change in use or operation will require a permit from the Coastal Commission or its successor agency. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens.

AFTER YOU HAVE SIGNED AND RETURNED THE DUPLICATE COPY YOU WILL BE RECEIVING THE LEGAL FORMS TO COMPLETE (WITH INSTRUCTIONS) FROM THE SAN FRANCISCO OFFICE. WHEN YOU RECEIVE THE DOCUMENTS IF YOU HAVE ANY QUESTIONS, PLEASE CALL THE LEGAL DEPARTMENT AT (415) 904-5200.

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