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CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
SOUTH CALIFORNIA ST., SUITE 200
SANTA BARBARA, CA 93001
(805) 641-0142

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STAFF REPORT: APPEAL SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: City of Santa Barbara

RECORD PACKET COPY

LOCAL DECISION: Approval with Conditions

APPEAL NO.: A-4-SBC-01-167

APPLICANT: Santa Barbara Beach Properties, L.P.
City of Santa Barbara Redevelopment Agency

APPELLANTS: Citizens Planning Association
League of Women Voters of Santa Barbara
Streets are Us

PROJECT LOCATION: 20-120 State Street, 15 East Mason Street, 125 State Street, portions of Helena Avenue, Mason Street, and State Street right-of-way between Mission Creek Bridge and the Union Pacific Railroad right-of-way, Santa Barbara, Santa Barbara County. Parcel Numbers 033-120-004, 014; 033-111-001, 002, 003; 033-081-003, 004, 005, 010, 011; 033-075-012.

PROJECT DESCRIPTION: Redevelopment of three blocks of properties at the intersection of State Street and Mason Street with a total of 17,532 sq. ft. of commercial/retail use and 56 time share units (each with a lock-out unit providing a maximum of 112 time share units), 210 parking spaces (including a two-story 145-space parking structure), Visitor Information Center, and public right-of-way improvements including narrowing of State Street to accommodate increased pedestrian traffic at 20-120 State Street, 15 East Mason Street, 125 State Street, and the street right-of-way between Mission Creek Bridge and the Union Pacific Railroad right-of-way, Santa Barbara, Santa Barbara County.

SUBSTANTIVE FILE DOCUMENTS: City of Santa Barbara Local Coastal Program; City of Santa Barbara City Council Resolution No. 01-103; City of Santa Barbara Planning Commission Staff Report 6/28/01; City of Santa Barbara Council Agenda Report 8/17/01; Final Environmental Impact Report for the Entrada de Santa Barbara Project, prepared by SAIC; Mitigated Negative Declaration for the Entrada de Santa Barbara Project; City of Santa Barbara Coastal Development Permit Numbers CDP 2001-00008(A), CDP 2001-00009(A), CDP 2001-000014(Street).

SUMMARY OF STAFF RECOMMENDATION: NO SUBSTANTIAL ISSUE EXISTS

Staff recommends that the Commission determine that **a substantial issue exists** with respect to the grounds on which the appeal has been filed relative to the public access policies of the Coastal Act, and conversion of lower-cost visitor-serving uses in the City's coastal zone areas designated as Hotel and Related Commerce (HRC) I and II. Section 30213 of the Coastal Act requires that lower-cost visitor and recreational facilities be protected and provided, where feasible, to enhance public access opportunities to the coastal zone. The City of Santa Barbara certified Local Coastal Plan provides that conversion of lower-cost visitor-serving uses within areas designated as HRC I or HRC II shall be prohibited unless the uses are replaced with a facility offering comparable visitor-serving opportunities.

The appeal also contends that the approved project fails to protect public views and aesthetic quality of the Waterfront area, will negatively impact sensitive resources of Mission Creek, does not provide adequate parking for the project, will negatively impact parking and circulation, and is therefore inconsistent with the policies and provisions of the certified Local Coastal Program and is inconsistent with the public access policies of the Coastal Act. Staff recommends that the Commission find that these grounds do not raise substantial issue.

I. Appeal Jurisdiction

The project area is located seaward of Highway 101 on the lower portion of State Street, approximately 250 ft. inland of Cabrillo Boulevard. The proposed project in its entirety includes three distinct project areas identified as Parcels A, B, and C, which are comprised of separate legal parcels separated by public streets at the State Street-Mason Street intersection, and includes public street improvements along Mason Street, Helena Avenue, and State Street between Mission Creek Bridge and the Union Pacific Railroad right-of-way (Exhibit1). On August 21, 2001 the City of Santa Barbara conditionally approved 7 distinct Coastal Development Permits for the subject development proposed under one master application MST 97-00357. Specifically, two Coastal Development Permits were approved for the development and tentative subdivision map proposed for each Parcel, A, B, and C, and one Coastal Development

Permit was approved for the proposed street improvements. The Post LCP Certification Permit and Appeal Jurisdiction Map certified for the City of Santa Barbara (Adopted May, 1981, Amended July, 1994) indicates that only the public street right-of-way and Parcel A are partially located within the boundary marking the Commission's appeals jurisdiction (Coastal Act Section 30603[a][1] and [a][2]). As such, all structural development approved under Coastal Development Permit CDP 2001-00008(A) and the tentative subdivision map approved under Coastal Development Permit CDP 2001-00009(A) for Parcel A, and the street improvements component approved under Coastal Development Permit CDP 2001-00014(Street) of the proposed project are appealable to the Commission. Additional Coastal Development Permits approved by the City for development components of the proposed project located on Parcels B and C are not appealable to the Commission as these development areas are located entirely outside of the boundary marking the Commission's appeals jurisdiction. The applicant has submitted an analysis that concurs with this position regarding appeals jurisdiction (Exhibit 3).

A. APPEAL PROCEDURES

The Coastal Act provides that after certification of Local Coastal Programs (LCPs), a local government's actions on Coastal Development Permits in certain areas and for certain types of development may be appealed to the Coastal Commission. Local governments must provide notice to the Commission of its coastal permit actions. During a period of ten working days following Commission receipt of a notice of local permit action for an appealable development, an appeal of the action may be filed with the Commission.

1. Appeal Areas

Developments approved by cities or counties may be appealed if they are located within the mapped appealable areas, such as those located between the sea and the first public road paralleling the sea, within 300 feet of the inland extent of any beach or of the mean high-tide line of the sea where there is no beach, whichever is greater, on state tidelands, or along or within 100 feet of natural watercourses. (Coastal Act Section 30603[a]) Any development approved by a County that is not designated as a principal permitted use within a zoning district may also be appealed to the Commission irrespective of its geographic location within the Coastal Zone. (Coastal Act Section 30603[a][4]) Finally, developments which constitute major public works or major energy facilities may be appealed to the Commission. (Coastal Act Section 30603[a][5])

2. Grounds for Appeal

The grounds for appeal for development approved by the local government and subject to appeal to the Commission shall be limited to an allegation that the development does

not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in Division 20 of the Public Resources Code. (Coastal Act Section 30603[a][4])

3. Substantial Issue Determination

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal was filed. When Commission Staff recommends that a substantial issue exists with respect to the grounds of the appeal, substantial issue is deemed to exist unless three or more Commissioners wish to hear arguments and vote on substantial issue. If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three (3) minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission at the substantial issue stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. It takes a majority of Commissioners present to find that substantial issue is raised by the appeal.

4. De Novo Permit Hearing

If a substantial issue is found to exist, the Commission will consider the application de novo. The de novo permit may be considered by the Commission at the same time as the substantial issue hearing or at a later time. The applicable test for the Commission to consider in a de novo review of the project is whether the proposed development is in conformity with the certified Local Coastal Program and the public access and public recreation policies of the Coastal Act. If a de novo hearing is held, testimony may be taken from all interested persons.

If the Commission finds substantial issue, Staff will prepare the de novo permit consideration Staff Report for a future Commission meeting.

B. History of Local Government Action and Filing of Appeal

On July 12, 1999, the City of Santa Barbara Planning Commission reviewed and approved a Mitigated Negative Declaration prepared for the project (referred to as the Entrada project) and conditionally approved a single Coastal Development Permit CDP 99-0013 for the proposed development consisting of: Redevelopment of three blocks of properties at the intersection of State Street and Mason Street with a total of 17,532 square feet of commercial retail uses and 81 time-share units (each with a lock-out unit providing a maximum of a 162 time-share units), 210 parking spaces (including a two-story 145-space parking structure), Visitor Information Center, and narrowing of State

Street to accommodate increased pedestrian access. The Planning Commission approval of the Mitigated Negative Declaration and of the Entrada project was appealed to the City of Santa Barbara City Council by the Environmental Defense Center (EDC) representing the League of Women Voters of Santa Barbara and the Citizens Planning Association of Santa Barbara, Inc. and Cars are Basic on July 12, 1999. On August 17, 1999, after considering the appeal the City Council also approved the Mitigated Negative Declaration prepared for the project and approved Coastal Development Permit CDP 99-0013, as conditioned, for the Entrada project.

Commission Staff received a Notice of Final Action for the City's originally approved coastal permit CDP 99-0013 on August 19, 1999 and the City's decision was appealed to the Commission within the 10 working day appeal period on September 2, 1999. At the November 4, 1999 Commission hearing, the Commission voted to find that the City of Santa Barbara's approval of Coastal Development Permit CDP 99-0013, with conditions, raised substantial issue with respect to the project's consistency with the applicable provisions of the City of Santa Barbara's certified Local Coastal Program and the public access policies of the Coastal Act. The Commission held two de novo hearings on the Entrada project in January and April of 2000 and voted to continue the hearing until additional information was provided to determine the project's consistency with applicable provisions of the City of Santa Barbara's certified Local Coastal Program and the public access policies of the Coastal Act.

Meanwhile, the EDC, on behalf of the League of Women Voters of Santa Barbara and the Citizens Planning Association of Santa Barbara, Inc., filed a lawsuit against the City for failure to require an Environmental Impact Report (EIR) for the Entrada project under the California Environmental Quality Act (CEQA). The Superior Court concluded that with respect to traffic and circulation, parking, water and biological resources in Mission Creek, state and local land use plans and policies; and size, scale, and nature of the project, the environmental review as set forth in the Mitigated Negative Declaration was legally adequate. However, the Court found that a fair argument had been made that the Entrada project may have a significant impact on public views, and the City was directed to vacate its August 17, 1999 approval of the Mitigated Negative Declaration and Entrada project and was further ordered to prepare an EIR addressing potential significant impacts on views. In light of the Courts order requiring the City to vacate it's approval of the project (including the CDP), the CDP application pending before the Commission became moot.

Pursuant to the Court's direction, the City set aside the Entrada project approvals and prepared an EIR addressing the project's potential for significant adverse environmental impacts affecting public views. In response to additional analysis and recommendations provided in the EIR the applicant revised and modified the Entrada project to reduce the size, bulk, and scale of the project. The Final EIR concludes that no significant impact to significant public scenic views will occur as a result of the redesigned Entrada project.

On July 11, 2001 the City of Santa Barbara Planning Commission approved the Mitigated Negative Declaration previously referenced, certified a Final Environmental Impact Report, and conditionally approved 7 Coastal Development Permits for the revised Entrada project consisting of: Redevelopment of three blocks of properties at the intersection of State Street and Mason Street with a total of 17,532 sq. ft. of commercial/retail use and 56 time share units (each with a lock-out unit providing a maximum of 112 time share units), 210 parking spaces (including a two-story 145-space parking structure), Visitor Information Center, and public right-of-way improvements including narrowing of State Street to accommodate increased pedestrian traffic at 20-120 State Street, 15 East Mason Street, 125 State Street, and the street right-of-way between Mission Creek Bridge and the Union Pacific Railroad right-of-way. The Planning Commission's approval of the Mitigated Negative Declaration, certification of the Final EIR, and approval of the Entrada project was appealed to the City of Santa Barbara City Council by the Environmental Defense Center (EDC) representing the League of Women Voters of Santa Barbara and the Citizens Planning Association of Santa Barbara, Inc. and Streets R Us. On August 21, 2001, after considering the appeal the City Council approved the Mitigated Negative Declaration, certified the Final EIR, and conditionally approved the proposed Entrada project pursuant to 7 Coastal Development Permits for project components located both within and outside of the Commission's appealable area. The City's approval includes a separate set of conditions for each project area, Parcel A, B, C, and the street improvements.

Notification of Appeal Period was issued by the Commission on August 24, 2001 indicating that the Notice of Final Action was received on August 22, 2001 and the appeal period would run until 5 p.m. on September 6, 2001. An appeal of the City's action was filed by the EDC, representing the League of Women Voters of Santa Barbara and the Citizens Planning Association of Santa Barbara, Inc., and Streets R Us during the 10-day appeal period, on September 6, 2001. The administrative record was received at the Commission office on August 22, 2001 with supplemental information provided on September 19, 2001.

II. Staff Recommendation on Substantial Issue

MOTION: *I move that the Commission determine that Appeal No. A-4-SBC-01-167 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION OF NO SUBSTANTIAL ISSUE:

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local actions will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-4-SBC-01-167 presents a substantial issue with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

III. Findings and Declarations for Substantial Issue.

The Commission hereby finds and declares:

A. Project Description and Background.

The project site is located south of highway 101 within portions of three city blocks along lower State Street in the Waterfront Area of the City of Santa Barbara, between Cabrillo Boulevard and the Union Pacific railroad right-of-way (Exhibit 6). The Post LCP Certification Permit and Appeal Jurisdiction Map certified for the City of Santa Barbara (Adopted May, 1981, Amended July, 1994) indicates that the public street right-of-way and Parcel A are partially located within the boundary marking the Commission's appeals jurisdiction (Coastal Act Section 30603[a][1] and [a][2]).

The project area is within the Hotel and Related Commerce (HRC II) land use designation which permits a mix of development including motels, hotels, visitor serving uses, commercial uses related to hotel/motel operations, commercial recreation establishments, and conditional use permits for car rental and gas station developments. The HRC II zone allows for three-story structures with a maximum height of 45 ft. and requires front, interior, and rear yard building setbacks between 6 ft. and 20 ft. depending on building type and height. Existing land uses of lower State Street include visitor-serving commercial uses, parking lots, and other urban uses. The proposed development includes time-share and commercial/retail uses which are permitted under the current HRC II land use designation.

The City's coastal development permits for Parcel A of the Entrada project approved CDP 2001-00008(A) for the non-residential development of approximately 5,368 sq. ft. of commercial space, 15 time-share units (each with a lock-out unit providing a maximum of 30 time-share units), 17 parking spaces, and CDP 2001-00009(A) for a Tentative Subdivision Map for Parcel A. Per operation provisions reviewed and approved by the Community Development Director, the 15 time-share units (providing a maximum of 30 units at full lock-out capacity) proposed on Parcel A will be available for public use as transient occupancy hotel units when the units are not in use by time-share owners.

Development on Parcel A includes rehabilitating the existing California Hotel, for which the owner had been court ordered to vacate prior to March 1, 1999 until the building was seismically retrofitted. The California Hotel was built in 1925 and is non-conforming with the HRC II zoning relative to height (58 ft.), number of stories (4), and setbacks (0). The project includes seismically upgrading and remodeling the existing hotel to accommodate new time-share units on the second, third, and fourth floors. The proposed project also includes new three-story additions, to be constructed between the hotel structure and adjacent development existing on the parcel directly south of the site, and at the rear of the existing hotel where the subject site is presently developed with a surface parking lot (Exhibits 7-10). Proposed additions to the existing structure will comply with the 45 ft. height and three-story limitations required for development in the HRC II zone, however, the City has allowed a modification of the normally required setbacks to allow for the additions to be constructed flush with the existing hotel structure. The proposed building additions will be setback 100 ft. from the existing Mission Creek alignment (located on property adjacent to the site), and will be setback a minimum of 25 ft. from the top of bank of the proposed Alternative 12 alignment of the Lower Mission Creek Flood Control Project (Exhibit 10). The hotel's existing ground floor area of approximately 5,368 sq. ft. is proposed to be redeveloped for commercial/retail uses and as a lobby area for the time-share units. Finally, the project includes 17 parking spaces on the site, which would serve for vehicle parking for the proposed time-share units only.

Pursuant to the City's zoning ordinance for the project area and proposed development, the entire Entrada project is required to provide no less than 180 parking spaces to meet the expected parking demand of the project. The Entrada project will provide a total of 210 parking spaces. Parking demand associated with the proposed development on Parcel A, and with the Entrada project as a whole including all development on Parcels A, B, and C, will be provided by new parking lots located on Parcels A and B (65 spaces reserved exclusively for time-share use), and in a new 145-space subterranean parking structure proposed to be constructed on Parcel C. Of the 145 parking spaces proposed on Parcel C a minimum of 47 spaces will be reserved for time-share uses, while 98 of the remainder parking spaces will be available for public use on the same basis as a City-operated lot. In addition, as a result of the proposed street improvements along Helena Avenue, 40 existing perpendicular parking spaces on the public street will be reduced to 29 spaces. The 11 on-street parking spaces

removed from Helena Avenue will be provided in a new City owned public parking lot approved across the street from Parcel C, previously approved as part of the Redevelopment Agency's completed Santa Barbara Railroad Station Improvement Project. This parking lot is planned to contain 63 parking spaces that exceed the expected parking demand for Railroad Station project, thus providing surplus public parking for the Lower State Street area. The proposed Entrada project, as conditionally approved by the City, requires the owner to provide a parking operations agreement to provide a long-term conjunctive operation of the proposed 145-space parking structure for parking demand of both the time-share use and commercial/retail parking needs of the public.

The City also approved Coastal Development Permit CDP 2001-000014(Street) for public right-of-way improvements along Mason Street, Helena Avenue, and State Street between Mission Creek Bridge and the Union Pacific Railroad right-of-way. The street project involves rehabilitation of three blocks of State Street including widening the sidewalks to 15 ft., a reduction in the number of vehicle lanes, a new traffic signal at the intersection of State and Mason, bike lanes, a signalized pedestrian crossing at mid-block State Street, and new landscaping. The street improvement project also involves street and sidewalk rehabilitation on the first blocks of east and west Mason Street, and includes reconfiguring existing on-street parking on Mason Street and Helena Avenue (Exhibit 11).

B. Appellants' Contentions

The appeals filed by the appellants are attached as Exhibits 1 and 2. The appeals contend that the approved project fails to preserve lower-cost visitor-serving uses, fails to protect public views and aesthetic quality of the Waterfront area, will negatively impact sensitive resources of Mission Creek, does not provide adequate parking for the project, will negatively impact parking and circulation, and is therefore inconsistent with the policies and provisions of the certified Local Coastal Program and is inconsistent with the public access policies of the Coastal Act.

C. Analysis of Substantial Issue.

Pursuant to Sections 30603 and 30625 of the Coastal Act, the appropriate standard of review for the subject appeal is whether a substantial issue exists with respect to the grounds raised by the appellants relative to the project's conformity to the policies contained in the certified LCP or the public access policies of the Coastal Act. In this case, the appellants cite policies contained in both the certified LCP and the public access policies of the Coastal Act as ground for appeal.

The Commission finds that substantial issue does exist with respect to the grounds on which the appeal has been filed. The approved project is inconsistent with the lower-

cost visitor-serving use preservation policies of the City of Santa Barbara Local Coastal Program for the specific reasons discussed below. The Commission also finds that the proposed project is inconsistent with the public access policies of the Coastal Act. With respect to the other grounds raised by the appellants in this appeal including protection of public views and aesthetic quality of the Waterfront area, impacts of sensitive resources of Mission Creek, provision of adequate parking, impact on parking and circulation, the Commission finds that there is no substantial issue regarding consistency of the proposed project with relative policies of the certified LCP and the public access policies of the Coastal Act.

1. Lower-Cost Visitor-Serving Uses

The Appellants have alleged that the City approved the project in a manner inconsistent with the lower-cost over-night accommodations protection policies of the City's LCP. Specifically, they allege that the proposed development will displace lower-cost over-night accommodations in the Californian Hotel with expensive time-share units, thereby eliminating existing lower-cost accommodation opportunities.

LCP Policy 4.4 provides that:

New hotel/motel development within the coastal zone shall, where feasible, provide a range of rooms and room prices in order to serve all income ranges. Likewise, lower cost restaurants, or restaurants which provide a wide range of prices, are encouraged.

LCP Policy 4.5 further specifically, provides that:

Removal or conversion of existing lower cost visitor-serving uses in areas designated HRC-I, HRC-II, and Hotel/Residential shall be prohibited unless the use will be replaced by a facility offering comparable visitor-serving opportunities.

The proposed project involves the conversion of the four-story California Hotel (located in project area A within the Commission's appeals jurisdiction) from a hotel to a time-share operation. Currently the California Hotel contains 5,368 sq. ft. of visitor serving commercial uses on the ground floor and 96 hotel rooms on the second, third, and fourth floors. The proposed project involves retaining the 5,368 sq. ft. of visitor serving commercial uses on the ground floor, and constructing new two and three-story additions, between the hotel structure and adjacent development existing on the parcel directly south of the site, and at the rear of the existing hotel where the subject site is presently developed with a surface parking lot. In conjunction with constructing the new

square footage additions, the existing 96 hotel rooms will be converted to create 15 time-share units, with lock-out capability resulting in a potential of 30 time-share units.

The California Hotel, is eligible for designation as a structure of historic merit, and has offered lower-cost room rentals which have served both residential and visitor serving purposes. Room rentals in the past have ranged from \$200 per week, to \$75 for weekday and \$125 weekends immediately before the hotel was closed. The structure has been deemed unsafe for occupancy by the City based upon State seismic standards and as a result, occupation of the structure has been completely terminated. Presently the owners of the California Hotel area are under a requirement to seismically retrofit the structure to meet City and State earthquake standards. Conversion of the California Hotel will entail a substantial renovation of the rooms. In addition to retrofitting the existing structure to meet current safety standards the structure will be remodeled and up-graded. These improvements, along with the conversion to time-share units, will essentially remove the over-night accommodations from the category of lower-cost visitor-serving facilities.

The California Hotel has offered lower-cost room rentals, largely because of the structures advanced age and deteriorated condition. Because the upgrade and conversion of the Californian Hotel to a time-share operation will effectively remove units from the City's stock of affordable visitor-serving over-night accommodations, the proposed project must be evaluated pursuant to the lower-cost visitor-serving accommodation provisions of the City's Local Coastal Program.

The site of the California Hotel is zoned HRC-II (Hotel Recreational Commercial) which is intended to provide for visitor-serving and/or commercial recreational uses specific to the City's coastal zone. While the California Hotel may have, at times, provided affordable housing opportunities, the site is not designated for such use in the City's Local Coastal Program, and the hotel has not been operated as a residential establishment.

Within the coastal zone of the City of Santa Barbara there are a wide variety of recreational and visitor serving accommodations. These overnight accommodations are concentrated along Cabrillo Boulevard, or other major arterials. According to the City's certified Local Coastal Program Land Use Plan in 1980 there were approximately thirty-five hotels and motels in the City's coastal zone, providing 965 overnight accommodations. Since that time a hotel with 300 rooms has been constructed, and one hotel approved for 125 rooms. The cost of overnight accommodations noted in the City's Local Coastal Program Land Use Plan (which was developed in 1980) ranged from \$10 to \$50 per night. This range has dramatically increased as a result of inflation, with room costs ranging from \$50 to \$200 per night. Many of these structures are older facilities, which have or will undergo renovation, either to upgrade the amenities offered,

or to meet current building codes, including seismic building standards. As more recycling of these facilities occurs, the stock of lower-cost overnight accommodations will be reduced, since it is not economically possible to replace or renovate these facilities without passing on the construction costs to guests. The City has recognized the need to replace lost lower-cost overnight visitor serving accommodations in its LCP Policies 4.4 and 4.5. Additionally, the City's LCP Land Use Plan contains the following discussion regarding the preservation of lower-cost visitor-serving over-night accommodations:

In addition to visitor serving uses, preservation of lower cost lodging and restaurants is important. Preservation of lower cost uses can be achieved in part, by: (1) ensuring that an adequate supply of lodging and restaurant opportunities is available so that demand does not result in exclusive prices; and (2) maintaining and encouraging a range of price and type of lodging units available. Ensuring an adequate supply of overnight lodging and restaurants will require control of conversion of visitor-serving use to other uses, and encouragement of new visitor serving uses in appropriate areas as demand increases. Similarly, for development of new overnight accommodations, a possible condition of development should require a range of accommodations so that moderate and lower cost price lodging continues to be available in Santa Barbara's coastal zone.

The intent of the City's LCP Policies 4.4 and 4.5 is to ensure that there is a balanced mix of visitor serving and recreational facilities within the coastal zone, so as to provide coastal recreational and access opportunities to all economic sectors of the public. Access to coastal recreational facilities is enhanced when there are overnight accommodations for all economic sections of the public. However, the Coastal Act Section 30213 expressly states that "The Commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or similar visitor-serving facility . . ."

Though the Coastal Act does not specifically require replacement of affordable hotel or residential uses, the City of Santa Barbara certified LCP policy 4.5 does require preservation of such affordable development. As previously mentioned, with recycling and/or upgrading of older over-night accommodation facilities that may presently provide lower-cost accommodations, the stock of lower cost overnight accommodations will be reduced because it is not generally economically possible to replace or renovate these facilities without passing on the construction costs to guests. Where construction costs effectively prohibit the retention of existing lower-cost overnight accommodations, the Commission has imposed a per unit mitigation fee to be used to provide alternative lower-cost overnight visitor serving accommodations. See for example, Coastal Development Permits A-3-MCO-98-083 (Highlands Inn Investors II Ltd.) and 5-90-828 (Maguire Thomas Partners).

In accordance with previous Commission review and staff recommendations provided to the City and the applicant during the Commission's prior review of the project, staff suggested that the City obtain mitigation from the applicant for the loss of the lower-cost visitor-serving accommodations resulting from the proposed time-share project. Subsequently, the applicant submitted a mitigation analysis prepared by PKF Consulting, dated June 7, 2001 (Exhibit 4). The mitigation analysis prepared by PKF Consulting determines that total development costs (including land acquisition costs and turn-key construction costs) for development of a 96-room economy transient lodging facility (economy defined as having an average daily room rate of \$63.00 in calendar year 2001) in Santa Barbara would be \$6,682,200. The study further concluded that an amount of \$982,000 would be the amount of subsidy required to make development of a 96-room economy transient lodging facility in Santa Barbara economically feasible (providing an "equity yield" on the developer's investment of 15 percent). The City obtained an independent consultant Economics Research Associates (ERA) to review the PKF mitigation analysis and the consultant determined that the amount of the required mitigation was accurate, but raised questions whether or not a lower-cost facility could be maintained as such if rental fees are allowed to be determined by market forces.

The City has, as a condition of approval of CDP 2001-00008(A), required the applicant to provide to the City Redevelopment Agency a mitigation fee in the amount of \$982,000 for loss of lower-cost accommodations. In addition, the applicant is required to contribute an additional amount to the base mitigation fee upon payment of the fee, to be adjusted upward to reflect any change in the Consumer Price Index of the Bureau of Labor Statistics of the U.S. Department of Labor and Urban Wage Earners and Clerical Workers for Los Angeles-Riverside-Orange Counties, to ensure that inflation does not effect or erode the purchasing power of this mitigation amount. The condition further requires that the mitigation fee, and any interests earned thereon, be earmarked for use of replacing the lost lower-cost accommodations. The Mitigation funds are to be used by the Redevelopment Agency to subsidize or encourage the development of new, or maintenance or preservation of existing, lower-cost visitor-serving accommodations located within the Central City Redevelopment Project Area of the City of Santa Barbara.

The appellants contend that the City has not adequately addressed the issue of preserving lower-cost visitor-serving accommodations as required by Policies 4.4 and 4.5 of the certified LCP. LCP Policy 4.4 specifies that new hotel/motel development within the coastal zone, where feasible, provide a range of rooms and room prices in order to serve all income ranges. Given the development constraints and market forces of Santa Barbara's coastal area, construction costs effectively prohibit the feasibility of developing lower-cost visitor-serving accommodations as such costs are generally transferred to the price of nightly rental. However, LCP Policy 4.5 requires that removal

or conversion of existing lower-cost visitor-serving uses in the project area be prohibited unless the use will be replaced by a facility offering comparable visitor-serving opportunities.

As described in detail above, the City has imposed a condition on the proposed project that requires the applicant to submit a mitigation fee for the loss of lower-cost accommodations previously provided by the 96-room California Hotel. The appellants state that the mitigation fee is inadequate to cover the actual cost of a replacement lower-cost accommodation facility in the City's coastal zone. However, the applicant and the City have contracted separate and independent expert consultants which have concluded that the mitigation analysis used to determine the amount of the mitigation fee is accurate and appropriate. The appellants have submitted no evidence contrary to the findings of the mitigation analysis conducted by the applicant's and City's consultants. Thus, the Commission finds that the amount of the mitigation fee, as required by condition under the City's approved CDP for Parcel A, is appropriate to mitigate the loss of lower-cost accommodations resulting from construction of the proposed time-share units.

However, the Commission notes that the City's condition requiring mitigation for loss of lower-cost accommodations resulting from the project does not adequately address all the provisions for preserving lower-cost visitor serving uses as required by LCP Policy 4.5. Removal or conversion of existing lower cost visitor-serving uses is prohibited unless the use will be replaced by a facility offering comparable visitor-serving opportunities. The City's condition results in a mitigation fee account earmarked to be used, at the Redevelopment Agency's discretion, to subsidize or encourage development of new lower-cost visitor serving accommodations, or to maintain or preserve such accommodations located in the Central City Redevelopment Project Area of the City. The Commission finds that the terms of the City's mitigation condition provides an opportunity for the mitigation funds to be used for maintaining or preserving lower-cost accommodations some time in the future which already exist. The Commission finds that maintaining or preserving lower-cost accommodations which already exist independently of the lower-cost accommodations which are the subject of this permit does not ensure replacement of a facility offering comparable visitor-serving opportunities as required by LCP Policy 4.5, and accordingly, does not result in a direct mitigation of the project's impacts on available lower-cost visitor accommodations.

As such, the Commission finds that a substantial issue does exist with respect to the grounds on which the appeal has been filed relative to the lower-cost visitor-serving use preservation policies of the City of Santa Barbara Local Coastal Program.

2. Visual Resources

The appellants allege that the City approved the project in a manner inconsistent with the visual resource protection standards of the City's certified Local Coastal Program. The appellants specifically state that the proposed development fails to protect, preserve, and enhance mountain and foothill views by blocking such views, and that the project will impact the "openness" of the project area.

LCP Policy 9.1 provides, in relevant part, that:

Existing views to, from, and along the ocean and scenic coastal areas shall be protected, preserved and enhanced. This may be accomplished by one or more of the following:

- (a) Acquisition of land for parks and open space;*
- (b) Requiring view easements or corridors in new developments;*
- (c) Specific development restrictions such as additional height limits, building orientation, and setback requirements for new development;*
- (d) Developing a system to evaluate view impairment of new development in the review process.*

LCP Policy 9.8 provides in part:

The City shall seek to preserve the unique scenic and aesthetic quality of Highway 101.

LCP Policy 12.2 provides that:

New development within the City's Waterfront Area shall be evaluated as to a project's impact upon the area's:

*Openness
Lack of Congestion
Naturalness
Rhythm*

LCP Policy 9.1 states that views to, from, and along the ocean and scenic coastal areas shall be protected, preserved and enhanced through such relative means as requiring view easements or corridors in new development, applying specific development restrictions such as additional height limits, building orientation, and setback requirements for new development, and developing a system to evaluate view impairment of new development in the review process.

The appellants assert that public views from Parcel A will be adversely impacted from other components of the Entrada project located on Parcels B and C, and that development on Parcel A raises substantial issue with respect to lack of openness and

incompatibility with the Waterfront area. The view blockage issues raised by the appellants with respect to the proposed developments in project areas B and C are located on separate parcels beyond the purview of the Commission because these developments are not on property located within the Commission's appeals jurisdiction. However, as a point of information, the City prepared and certified a Final Environmental Impact Report of the visual impacts of development on parcels A, B, and C. This Final EIR concludes that scenic public views are not significantly adversely affected by the Entrada project.

The proposed additions to the existing 58 ft. high California Hotel on Parcel A will consist of three-story additions, 37-45 ft. in height, located on the south and south-east side of the existing 4 story hotel (Exhibit 9). The height limit in the HRC-II zone district in which the project is located is 45 ft. The proposed additions are therefore consistent with the height allowed in this district, and are well below the height of the existing adjacent hotel. Further, because of the location of the addition immediately to the south of the California Hotel, the addition will not significantly intrude into views of either the ocean (south) or the mountains (north) from lower State Street, Cabrillo Boulevard, or Stearns Wharf. The extension of the California Hotel on the south-east face will be flush with and consistent with the existing building arcade, and is therefore consistent with the City's variance provisions for building set-backs (Exhibit 5). Additionally, the City's Zoning Ordinance permits the interior and exterior alterations proposed for the non-conforming structure, which will seismically retrofit the structure and enhance the buildings economic viability while ensuring the building is maintained as a historic structure. Because of the location of the proposed hotel additions to the south and south-east of the site and the manner in which the proposed additions will provide visual conformity with the historic structure, the proposed development on Parcel A will not adversely affects public views of the coastline or the mountains, will not significantly impact the openness of the project area.

The Commission finds that the proposed project, as conditioned, is consistent with the visual resource protection policies of the City's certified Local Coastal Program. Therefore, the Commission finds that the appellants' contention raises no substantial issue with regard to the consistency of the approved project with the visual resource provisions of the certified Local Coastal Program.

3. Sensitive Resources

The appellants have alleged that the City approved the project in a manner inconsistent with the resource protection policies of the City's LCP. Specifically, it is alleged that the proposed development adversely impacts the biological resources of the nearby Mission Creek Estuary.

LCP Policy 6.8 provides that:

The riparian resources, biological productivity, and water quality of the City's coastal zone creeks shall be maintained, preserved, and where feasible, restored.

LCP Policy 6.10 provides that:

The City shall require a setback buffer for native vegetation between the top of the bank and any proposed project. This setback will vary depending upon the conditions of the site and the environmental impact of the proposed project.

Action:

The City shall conduct site specific investigations of Arroyo Burro Creek, Mission, Creek, Sycamore Creek, and the Central Drainage Channel within the Coastal Zone to determine the required setback to be instituted in future development.

The Mission Creek Ordinance (SBMC 28.87.250), which has been incorporated into the Phase III LCP Implementation Ordinance further provides that:

Development shall not be permitted within twenty-five feet (25) feet of the top bank of Mission Creek.

The project site is situated in an urban area within the vicinity of the upper Mission Creek Estuary. The proposed project includes additions to the existing California Hotel consisting of a three-story expansion of the structure that would be located immediately adjacent to the south and south-east side of the Californian Hotel, and be connected with it. The California Hotel currently does not directly abut the Mission Creek Estuary, but is separated by existing adjacent buildings (Exhibit 10).

The appellants assert that adequate environmental analysis of the proposed project's potential environmental impacts on water quality and biological resources (including federally listed species) of Mission Creek and the estuary has not been provided. The appellants further state that the proposed project is inconsistent with the resource protection policies of the certified LCP cited above because the project does not provide an adequate setback from Mission Creek, and/or that the required setback and restoration plan is unclear due to future implementation of the Lower Mission Creek Flood Control Project.

Since the Commission's last public hearing on the project the Commission has recently concurred with a consistency determination CD-117-99 submitted by the U.S. Army Corps of Engineers to provide flood protection along the lower reaches of Mission Creek, including the Mission Creek Estuary. The preferred Alternative 12 Mission Creek alignment involves demolishing the existing adjacent development south of the project site and then widening the existing Mission Creek and Estuary below U.S. Highway 101 from approximately 30 to 60 feet (Exhibit 10). The proposed flood control facility within the Coastal Zone between U.S. 101 and Cabrillo Boulevard would consist primarily of vertical walls (as will the stream bank directly adjacent to the project site,) with two small areas that include short walls with vegetated riprap above the walls immediately opposite the Entrada project. This widened and realigned portion of the Mission Creek estuary would bring the originally proposed addition to the California Hotel to within a few feet of the widened and realigned channel and estuary. However, to accommodate the flood control project and to meet the required 25 ft. creek set-back specified in the zoning ordinance of the City's Local Coastal Program, the applicants have submitted a revised project design which modifies the proposed addition to the California Hotel to provide a 25 ft. creek set-back from the widened and realigned Mission Creek and Estuary channel (Exhibit 10). The revised project is consistent with the specific creek setback requirements of the City's Local Coastal Program and will provide for the development of a riparian vegetation restoration buffer between the proposed structures and the realigned and widened Mission Creek Estuary. The City's conditions of approval require the applicant to implement a riparian and restoration buffer area between the proposed buildings and the creek top-of-bank, or up to the project property boundaries, while any additional area between the project property boundaries and the creek top-of-bank would be restored as a element of the Lower Mission Creek Flood Control Project.

The Mission Creek Estuary supports a variety of faunal resources, and provides habitat for a number of sensitive species, including two federal listed species, the Tidewater goby (*Eucyclogobius newberryi*) and the Southern steelhead trout (*Oncorhynchus newberryi*). The appellants cite the U.S. Fish and Wildlife Service Biological Opinion prepared for the Lower Mission Creek Flood Control Project which concludes that the flood control project may extirpate the Tidewater goby from Mission Creek. However, the conclusions of the Biological Opinion do not specifically pertain to the proposed project and do not constitute evidence that the project will adversely impact Tidewater goby. Likewise, the appellants cite an excerpt from National Marine Fisheries Service materials relative to steelhead trout and urban development that details criteria in exempting local jurisdictions from take prohibitions for new development, which does not apply to the proposed project or constitute evidence that the 25 ft. setback required by the certified LCP is inadequate to protect the resources of Mission Creek or that the project will adversely impact water or biological resources of Mission Creek.

Potential impacts to sensitive resources of Mission Creek, including listed species, were addressed and determined to be less than significant in the mitigated negative declaration with adequate environmental protection conditions incorporated into the

proposed project design and construction activities. The City has conditionally required that the proposed project maintain a 25 ft. setback from the top-of-bank of Mission Creek, as aligned by implementation of the Mission Creek Flood Control Project, and that a riparian and restoration buffer area be established between the proposed building additions and top-of-bank of Mission Creek, or to the subject site property boundaries. Additionally, the City has conditioned the proposed development to incorporate best management practices through the project area to ensure the protection and preservation of water quality and habitat value of Mission Creek. The special condition specifically requires the applicant to submit a polluted run-off plan designed by a licensed engineer which reduces the volume, velocity and pollutant load of storm water leaving the developed site to the maximum extent reasonable.

The Commission therefore finds that the proposed project is consistent with the resources protection policies of the City's certified Local Coastal Program, and therefore, Commission finds that the appellants' contention raises no substantial issue with regard to the consistency of the approved project with the resource protection policies of the certified Local Coastal Program.

4. Parking

The Appellants have alleged that the City approved the project in a manner inconsistent with the parking standards of the City's LCP. Specifically, they allege that the proposed development would add significantly to the already heavy parking demands in the City's waterfront area.

LCP Policy 3.3 provides that:

New development proposals within the coastal zone which could generate new recreational user residents or visitors shall provide adequate off-street parking to serve the present and future needs of development.

LCP Policy 4.2 (4) states:

New visitor serving development permitted pursuant to Policy 4.1 shall:

(4) provide adequate off-street parking to serve the needs generated by the development; and

(5) provide measures to mitigate circulation impacts associated with the project, including but not limited to coordination with the Redevelopment Agency's Transportation Plans for the area, provision of in-lieu fees, provision of bicycle facilities, or other appropriate means of mitigation.

LCP Policy 5.3 states, in part:

New development in and/or adjacent to existing residential neighborhoods...which would result in an overburdening of public circulation and/or on-street parking resources of existing residential neighborhoods shall not be permitted.

LCP Policy 11.5 provides that:

All new development in the waterfront area, excepting Stearns Wharf, shall provide adequate off-street parking to fully meet their peak needs. Parking needs for individual developments shall be evaluated on a site-specific basis and at a minimum be consistent with City Ordinance Requirements.

Pursuant to the City's zoning ordinance for the project area and the proposed development, the entire Entrada project is required to provide no less than 201 parking spaces to meet the expected parking demand of the project. The Entrada project will provide a total of 210 parking spaces. Parking demand associated with the proposed development on Parcel A, and with the Entrada project as a whole including all development on Parcels A, B, and C, will be provided by newly constructed parking lots located on Parcels A (17 spaces) and B (48 spaces), and in a new 145-space subterranean parking structure proposed to be constructed on Parcel C. The parking spaces in areas A and B (65 spaces) will be for the exclusive use of the time-share guests. Of the 145 parking spaces proposed on Parcel C, a minimum of 47 spaces will be reserved for time-share uses, while 98 of the remainder parking spaces will be available for public use. The proposed two-story parking structure in area C (with 145 spaces) would be operated as a shared parking supply between the public commercial and private time-share units. The time-share space will be reserved based upon occupancy, with 47 of the spaces reserved at a minimum at all times for time-share occupancy. The remaining available public parking spaces on area C will be operated as a quasi-public parking facility on a first-come, first serve basis, and with the same free parking periods and pricing structure as the City's other public parking facilities.

As a result of the proposed street improvements along Helena Avenue, 40 existing perpendicular parking spaces on the public street will be reduced to 29 spaces. The 11 on-street parking spaces removed from Helena Avenue will be provided in a new City owned public parking lot approved across the street from Parcel C. The lot is approved as part of the Redevelopment Agency's completed Santa Barbara Railroad Station Improvement Project, expected to have 63 parking spaces that exceed the parking demand for Railroad Station Project, thus providing surplus public parking for the Lower State Street area.

The parking requirements for the proposed development (15 time-share units, with a potential for 30 lock-out units, and 5,363 square feet of commercial development) on Parcel A is 30 spaces for the time-share units and 21 spaces for the retail commercial

space, for a total of 51 parking spaces. However, the City's Local Coastal Program Policy 11.5 and Zoning Ordinance 28.92.026(A.1) specifically provides that these parking requirements can be adjusted based upon actual projected needs.

As noted above, only the development on Parcel A is within the appeals jurisdiction of the Commission and therefore subject to this substantial issue determination. Parcel A will be developed with 5,368 square feet of retail commercial space, and 15 time-share units, with potential to be converted to 30 units with the lock-out capacity. The parking demands created by the proposed retail commercial uses and 30 time-share units on Parcel A (51 spaces) will be met by the 17 on-site parking spaces proposed, as well as the additional parking across State Street on Parcels B and C (48 and a minimum of 47 parking spaces reserved for time-share guests respectively). As noted above the number of parking spaces proposed for the Entrada project (210 spaces) provide adequate parking for all time share-units, retail and Visitor Information development, and replacement of lost on-street parking of the proposed Entrada project.

Because of the size, configuration and existing development on area A, the parking requirements for the proposed uses on area A (15 time-share, with a potential for 30 lock-out units and approximately 5,363 sq. ft. of retail commercial development within the existing California Hotel structure), cannot be met on area A. It should be noted further that this would be the case with virtually any proposed uses made of the California Hotel structure under the City's current parking requirements. From a planning perspective, the most appropriate location for the additional parking spaces required to meet the City parking requirements for the proposed uses of the California Hotel is off-site, but within walking distance of Parcel A. The applicants have proposed to meet the parking requirements that are not possible to be met on Parcel A immediately across State Street on area C within 500 feet of the project site, which is consistent with the City's parking standards.

To ensure that the proposed parking facilities and their shared operation will be available during the life of the development, the City has conditioned the project to require the owner to provide a parking operations agreement to provide a long-term conjunctive operation of the proposed 145-space parking structure, to serve parking demand of both the time-share use and commercial/retail parking needs of the public, and requires that the approved parking facilities will not be modified without first obtaining an amendment to the Coastal Development Permit.

The Commission therefore finds that the proposed project provides adequate parking resources to meet the project's anticipated parking demand, and therefore, will not overburden parking resources in the project area. As such, the subject appeal raises no substantial issue with regard to the consistency of the approved project with applicable policies of the certified Local Coastal Program.

5. Traffic and Circulation

The Appellants allege that the City approved the project in a manner inconsistent with the traffic and congestion standards of the LCP. Specifically, they allege that the proposed development would add significantly to the already heavily congested Waterfront area by the intensification of development and by narrowing portions of State Street for pedestrian traffic. The applicants also state in the appeal that the approved project violates the Vehicle Code and Streets and Highway Code, and that the City's refusal to amend the Local Coastal Plan is a violation of the Coastal Ordinance. Additionally, the appeal states that the proposed elimination of traffic lanes results in a gift of public resources to aid a private development. However, these latter allegations do not raise issue regarding to the project's consistency with existing certified Local Coastal Program policies or the public access policies of the Coastal Act, which is the standard of review for determining substantial issue.

LCP Policy 12.2 provides that:

New developments within the City's Waterfront Area shall be evaluated as to a project's impact upon the area's:

Openness
Lack of Congestion
Naturalness
Rhythm

The proposed development on Parcel A includes rehabilitation of 5,368 sq. ft. of existing retail/commercial space, and rehabilitation and construction of 31,253 sq. ft. of the proposed 15 time-share units (30 units at maximum lock-out capacity). The entire Entrada project (areas A, B, and C) includes approximately 17,532 sq. ft. of commercial/retail development, and approximately 105,053 sq. ft. of time-share development. When completed, there will be a 14,647 sq. ft. reduction in commercial/retail space over the entire project redeveloped area including Parcels A, B, and C.

The proposed land-use changes for Parcels A, B, and C would reduce the existing retail commercial space by 14,647 sq. ft. and increase the hotel/time-share square footage by approximately 105,053 sq. ft. On area A, which is the area within the Commission appeals jurisdiction, the amount of retail space would remain the same, while the hotel use would be eliminated completely, and the time-share use would increase by approximately 31,253 sq. ft.

The City has provided a traffic analysis prepared by Kaku Associates, dated June 20, 2001, which addresses potential traffic and circulation impacts that may result from the

proposed redevelopment of Parcels A, B, and C. The traffic analysis concludes that a reduction of existing weekday and weekend average daily trips and p.m. peak hour trips would result from the proposed change in the mix of land uses. This evaluation is based upon the estimated traffic volumes associated with the current uses in areas A, B, and C, plus the traffic that would be generated by the California Hotel if it were operating. The amount of commercial/retail development proposed on Parcels A, B, and C is almost one-half the amount of existing commercial/retail development. As discussed above, the amount of retail development on area A (5,368 sq. ft.), remains essentially the same, and the traffic analysis concludes that trip generation rates for time-share units are lower than for standard hotel units (such as the existing California Hotel). Based on the information submitted and the conclusion of the traffic analysis, the proposed development on Parcel A consisting of commercial/retail and time-share development will not result in additional traffic demand, but will actually result in a moderate decrease in traffic demand.

In the late 1970 and 80's the City narrowed State Street in the Downtown area from four traffic lanes to two traffic lanes and widened sidewalks to create a pedestrian retail environment. The proposed project includes the continuation of the State Street Plaza design down to Cabrillo Boulevard. The City approved Coastal Development Permit CDP 2001-000014(Street) provides for public right-of-way improvements along Mason Street, Helena Avenue, and State Street between Mission Creek Bridge and the Union Pacific Railroad right-of-way. The street project involves rehabilitation of three blocks of State Street including widening the sidewalks to at least 15 ft., a reduction in the number of vehicle lanes on a portion of State Street (for approximately 150 ft.), a new traffic signal at the intersection of State and Mason, and right-turn lane pockets at the intersections that also serve the State Street shuttle service, queuing lanes, a signalized pedestrian crossings at mid-block, bike lanes, and new landscaping. The street improvement project also involves street and sidewalk rehabilitation on the first blocks of east and west Mason Street, and includes reconfiguring existing on-street parking on Mason Street and Helena Avenue (Exhibit 11).

The appellants allege that the proposed street improvements, particularly the 150 ft. narrowing of State Street to two lanes, will produce traffic congestion on lower State Street in Santa Barbara's downtown coastal area, an area that presently show signs of traffic congestion during peak usage hours. The City's traffic analysis identifies the principal cause of vehicular congestion within the project area to be the intersection of State Street and Cabrillo Boulevard, not an inadequate number or width of lanes along lower State Street.

Currently the intersection of State Street and Cabrillo Boulevard operates at Level of Service (LOS) C during weekday peak hours and at LOS E during summer weekend peak hours. The significant amount of pedestrian access at this location and the fact that State Street terminates at this point are major factors contributing to the high level of season service. The City traffic analysis noted that a travel lane between intersections has free flow capacity of 1,400 to 1,600 vehicles per hour, while the intersection at State

and Cabrillo Boulevard has the capacity to handle between 600 and 900 vehicles per hour. By reducing a 150 ft. mid-block section of State Street from 4 to 2 lanes, the free flow capacity will be reduced from a maximum of 2,800 to 1,400 vehicles per hour. Regardless of the change of free flow capacity of the street lanes available for travel on State Street, the intersection at State Street and Cabrillo Boulevard can only process 600-900 vehicles per hour. No change to the State Street and Cabrillo Boulevard intersection is proposed. Therefore, the amount by which traffic flow of State Street exceeds the capacity the State Street and Cabrillo Boulevard intersection will not result in additional traffic congestion at this point. As noted above, the limitation of the State Street and Cabrillo Boulevard intersection is a function of its physical dimensions, termination at the foot of Stearns Wharf, and the heavy pedestrian traffic in the area, not the amount of available traffic lanes on State Street above the main intersection.

Reconfiguration of lower State Street, however, will retain stacking, passing and turn lanes for Mason Street and Cabrillo Boulevard intersections. The stacking and passing lanes will preserve the existing stacking capacity at the State Street and Cabrillo Boulevard intersection. These lanes provide adequate space for cars waiting to turn at the State Street and Cabrillo Boulevard intersection and therefore ensure that a back-up on to State Street will not occur. The proposed continuation of the State Street Plaza design is therefore consistent with the current capacity of the State Street and Cabrillo Boulevard intersection and would not contribute to additional vehicular congestion of lower State Street.

The proposal to reduce the number of lanes along a portion of State Street is intended to encourage pedestrian access of the waterfront area and represents an extension of the treatment of the upper portion of Street which is one lane in either direction, with a heavy emphasis on pedestrian amenities such as landscaping and street furniture. This treatment is consistent with the City Circulation Element (incorporated into the City's Local Coastal Program as LCP Amendment 3-97) which contains a number of policies encouraging pedestrian and other non-motorized or alternative means of transportation throughout the City. Some of the relevant polices and implementation strategies include the following:

2.1.2 Expand and enhance the infrastructure for and promote the use of the bicycle as an alternative form of travel to the automobile.

5.1.1 Establish an annual sidewalk expansion and improvement program with a designated source of funding . . .

5.1.2 Identify and link major activity centers and destinations with walkways. This will consist of the following:

**providing improved access for pedestrian (for example, between such areas as the Eastside, Westside, Mesa, Lower State, Upper*

State and Waterfront areas, major attractions, recreation, cultural, and commercial areas.)

- 5.6.1 *Where necessary, allow all-way crossings or adjust signal timing to allow more time for pedestrians to cross the street. Priority should be given to area with high pedestrian activity as identified in the Sidewalk Inventory Study. Possible areas include Cabrillo Boulevard/State Street . . .*

In furtherance of these policies, the City has also undertaken a number of capital improvement projects to facilitate access to the City's waterfront area. These major projects include the following:

- * Extension of the four lane Garden Street to Cabrillo Boulevard
- * Extension of the two lane Calle Caesar Chavez to Cabrillo Boulevard
- * Initiating shuttle service between the upper downtown area of State Street and Cabrillo Boulevard (every 10 minutes)
- * Providing new public parking facilities in the waterfront area
- * Renovating the Railroad Depot
- * Installation of on-street bike lanes on State Street
- * Improvement of Montecito Street and Castillo Street, and
- * Improvements to the U.S. 101 off-ramp improvements at Milpas.

The proposed street improvement project includes a number of features to improve both the level and the quality of pedestrian access to the Waterfront, including expanded sidewalks and on-street and off-street parking facilities, from which pedestrian can easily walk to access the beach. Therefore, the proposed extension of the State Street Plaza through the project area is fully consistent with the circulation policies and the general access policies of the City's certified Local Coastal Program, as well as the access polices of the California Coastal Act.

The Commission therefore finds that the conditional approval of the proposed project is consistent with the traffic congestion standards and Circulation Element of the City's certified Local Coastal Program. Therefore, the appeal raises no substantial issue with respect to the project's consistency with the traffic congestion standards and Circulation Element of the City's certified Local Coastal Program

6. Public Access

Section 30603(b)(1) of the Coastal Act stipulates that:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in this division.

Coastal Act Section 30210 provides that:

In carrying out the standards 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.

Coastal Act Section 30211 states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Coastal Act Section 30213 provides that:

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

As noted above, the proposed project involves the conversion of the California Hotel from a hotel to a time-share operation. Currently the California Hotel contains 5,368 sq. ft. of visitor serving commercial uses on the ground floor and 96 hotel rooms on the second, third, and fourth floors. The proposed project involves retaining the visitor serving commercial uses on the ground floor, three-story additions on the south and south-east side of the hotel, and converting 96 hotel rooms to 15 time share units, with lock-out capability resulting a potential of 30 time share units. The proposed project also includes street improvements, the narrowing of portions of lower State Street, and the widening of pedestrian sidewalks within the project area.

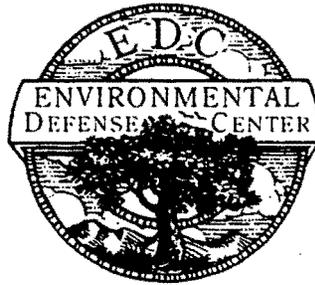
As noted in the above findings regarding traffic and parking, the proposed project will not adversely impact existing vehicular access as a result of eliminating portions of two vehicular lanes along State Street. Both the parking and traffic studies conducted for the project and reviewed by the City support the conclusion that public access to the existing public parking structures in the vicinity of the Waterfront, and the commercial and public Waterfront facilities and amenities would not be adversely affected by excessive parking demand or traffic congestion.

However, as described in detail, the California Hotel has, in the past, offered lower-cost room rentals which have provided lower cost access opportunities to the Santa Barbara Waterfront area. Conversion of the California Hotel to a time-share operation will effectively eliminate all 96 of the lower-cost overnight accommodation units from the market within the City's Coastal Zone. The City has, as a condition of approval of CDP 2001-00008(A), required the applicant to provide to the City Redevelopment Agency a mitigation fee in the amount of \$982,000. for loss of lower-cost accommodations. In addition, an additional amount is to be added to this base mitigation fee upon payment of the fee, to be adjusted upward to reflect any change in the Consumer Price Index of the Bureau of Labor Statistics of the U.S. Department of Labor and Urban Wage Earners and Clerical Workers for Los Angeles-Riverside-Orange Counties, to ensure that inflation does not effect or erode the purchasing power of this mitigation amount. The condition further requires that the mitigation fee, and any interests earned thereon, be earmarked for use of replacing the lost lower-cost accommodations to be used by the Redevelopment Agency to subsidize or encourage the development of new, or maintenance or preservation of existing, lower cost visitor-serving accommodations located within the Central City Redevelopment Project Area of the City of Santa Barbara.

The City's condition results in a mitigation fee account earmarked to be used, at the Redevelopment Agency's discretion, to subsidize or encourage development of new lower-cost visitor serving accommodations, or to maintain or preserve such accommodations located in the Central City Redevelopment Project Area of the City. The Commission finds that the terms of the City's mitigation condition provides an opportunity for the mitigation funds to be used for maintaining or preserving lower-cost accommodations some time in the future which exist separately of the existing lower-cost accommodations converted to time-shares as a result of the proposed project. The Commission finds that maintaining or preserving lower-cost accommodations which exist independently of the lower-cost accommodations which are the subject of this permit does not ensure replacement of a facility offering comparable visitor-serving opportunities. The Commission finds that eliminating lower-cost visitor serving facilities, absent of adequate mitigation to replace the facilities and thus ensure maximum public access, is not consistent with the public access policies of the Coastal Act.

As such, the Commission finds that a substantial issue does exist with respect to the grounds on which the appeal has been filed relative to the public access policies of the Coastal Act.

September 6, 2001



VIA HAND-DELIVERY

California Coastal Commission
South Central Coast Area
89 South California Street, Suite 200
San Buenaventura, CA 93001

Re: APPEAL OF CITY OF SANTA BARBARA APPROVAL OF ENTRADA PROJECT

Dear Honorable Commissioners,

Environmental Defense Center (EDC), on behalf of Citizens Planning Association of Santa Barbara County, Inc. (CPA) and League of Women Voters of Santa Barbara, Inc. (LWWSB), hereby appeals the City of Santa Barbara's (City) approval of the coastal development permits for the Entrada project on portions of three square blocks of properties at the intersection of State Street and Mason Street in the City's Waterfront Area.

The existing uses include 31,511 square feet of commercial space and a 33,004 square foot, 96 room, low-cost Californian Hotel. The proposed Entrada project intensifies the existing uses to over 288,600 square feet of development, including 16,864 square feet of commercial space, over 105,000 square feet of time-share units, parking, a visitor information center, and the narrowing of State Street to two lanes. The Entrada project converts the 96 room, low-cost Californian Hotel into expensive time-share units. Each of the Entrada project's 56 time-share units have a lockout unit, thereby providing for the possibility of a total of 112 units.

The proposed project would block all foothill views and most views of the mountains and oceanfront, significantly impact circulation and parking in the existing, adjoining residential neighborhood, and improperly convert 96 low-cost hotel rooms into expensive time share units three times as large. The conversion of the Californian Hotel and the development of two additional three-story buildings adjacent to the hotel will be directly along the banks of Mission Creek to the west and will negatively impact the creek and its habitat.

Our clients urge the California Coastal Commission (Commission) to find that the City's approval of coastal development permits for the Entrada project raises a substantial issue with respect to consistency with the applicable provisions of the City's certified Local Coastal Plan (LCP) and the public access policies of the California Coastal Act.

906 Garden Street
Santa Barbara, CA 93101
Phone (805) 963-1622
FAX (805) 962-3152
edc@rain.org

Exhibit 1
A-4-SBC-01-167
EDC Letter of Appeal

864 Osos Street, Suite A
San Luis Obispo, CA 93401
Phone (805) 781-9932
FAX (805) 781-9384
edcmal@west.net



I. BACKGROUND

In 1999, the City approved a coastal development permit (CDP), a development plan, a transfer of existing development rights, a tentative subdivision map, a modification to provide less than the required parking, a modification to allow encroachments into required building setbacks, and a modification to allow alterations to the Californian Hotel for the Entrada project. The City also certified a negative declaration finding that the project had no significant impacts on the environment, pursuant to the California Environmental Quality Act, Pub. Res. Code § 21000 *et seq.* EDC, on behalf of CPA and LWVSB, appealed the City's approval of the Entrada project to the Coastal Commission and in November 1999, the Commission voted 11 to 0 to find that the City's approval of the CDP raised a substantial issue with respect to its consistency with the applicable provisions of the City's certified Local Coastal Plan (LCP) and the public access policies of the California Coastal Act.

On January 13, 2000, the Commission held its first de novo hearing on the Entrada project. EDC presented evidence of several potential impacts at the project site and on the Waterfront area and of inconsistencies with the LCP. Then, the Commission voted to continue the Entrada project hearing pending a full analysis of the issues raised by EDC and the public. The Commission sought an analysis of the Entrada project's impacts on foothill and mountain views, traffic, parking, Mission Creek and fishing and other commercial coastal-dependent uses. The Commission also requested information on the project's impacts on the adjoining residential neighborhood and "Funk Zone," (a unique artisans area directly east of the Entrada project), and from the conversion of the low-cost hotel into expensive time-share condominiums. (Exhibit A: January 27, 2000 EDC letter summarizing issues raised by the Commissioners.) In April 2000, the Commission held a second de novo hearing on the Entrada project and again, voted to continue the hearing until sufficient information was received to ensure that the project was consistent with the City's LCP and the public access policies of the Coastal Act.

In the meantime, EDC, on behalf of CPA and LWVSB, filed a lawsuit against the City for failure to require an Environmental Impact Report (EIR) for the Entrada project under the California Environmental Quality Act (CEQA). Although our clients also alleged that the City violated the General Plan, the Local Coastal Plan, California Planning and Zoning Law, the Coastal Act and the Municipal Code, the Court stayed those claims pending the outcome of the Coastal Commission hearings. On July 3, 2000, the Court found that the City violated CEQA by approving a negative declaration and the Entrada project when our clients presented a fair argument that the project may have a significant impact on views. The Court ordered the City to set aside the project and prepare an EIR on the potential for significant adverse impacts on views.

Since the City set aside the Entrada project to comply with the Court order, the Commission's hearings on the Entrada project were discontinued. However, as of August 21, 2001, the City approved the Entrada project and certified an EIR that reiterates the City's previous conclusion that the Entrada project will have no significant impacts on views. Hence, in addition to proceeding with litigation, our clients hereby appeal the CDPs to the Commission.

II. PROCEDURAL CONSIDERATIONS

A. Timing and Eligibility

CPA and LWVSB file this appeal on September 6, 2001 which is the 10th working day after the California Coastal Commission's August 22, 2001 receipt of the City of Santa Barbara's notice of final action on the CDPs for the proposed Entrada project. (See 14 Cal. Admin. Code Section 13110.) Pursuant to the Coastal Act, CPA and LWVSB are aggrieved persons eligible to appeal to the Coastal Commission because CPA and LWVSB, in person and through representatives, appeared at public hearings in connection with the decision of the Planning Commission and the City Council to approve the CDPs and, prior to such hearings, informed the City of the nature of their concerns. (Coastal Act § 30525.¹) Moreover, CPA and LWVSB exhausted all local appeals by appealing the Planning Commission's decision to the Santa Barbara City Council. (See 14 Cal. Admin. Code Section 13111 and 13573.) Within one week of filing an appeal to the Coastal Commission, CPA and LWVSB will notify interested persons and the City of Santa Barbara. (14 Cal. Admin. Code Section 13111(c).)

B. California Coastal Commission Jurisdiction

Our clients urge the Commission to review the Entrada project, as a whole, for consistency with the LCP and public access policies of the Coastal Act. Although the applicant applied for one CDP for the Entrada project in 1999, the applicant has since applied for seven separate CDPs in an effort to separate the project and disallow the Commission from reviewing integral sites across State Street and outside of the appealable jurisdiction of the coastal zone. As a result, the City of Santa Barbara approved seven separate CDPs for the proposed development and tentative subdivision maps on sites A, B, and C and for the street right-of-way alterations. (Exhibit B.)

Site A is situated on property both inside and outside of the appeal zone. Since site A is proposed partly on the portion of the parcel defined as appealable, and partly on the remainder of the parcel, then the entire development on site A is appealable to the Commission. The City approved two coastal development permits for site A. The proposed State Street right-of-way alterations are also within the appealable jurisdiction of the coastal zone under Section 28.45.009 of the Santa Barbara Municipal Code, as certified by the Commission. The City approved one coastal development permit for the street right-of-way alterations.

Sites B and C are situated on property inside the non-appealable area of the coastal zone. However, our clients urge the Commission to assess the impacts of development on sites B and C that impact coastal resources. In addition, the Commission must review sites B and C since those sites are integral to the Entrada project. The City approved two coastal development permits for site B and two coastal development permits for site C.

¹/ Coastal Act citations are located in the California Public Resources Code.

Finally, in determining whether a proposed development is in conformity with the certified local coastal program (LCP), the Commission may consider aspects of the project other than those identified by CPA and LWVSB in the appeal itself, and may ultimately change the conditions of approval or deny the permits altogether.

III. STANDARD OF REVIEW

The standard of review for appeal of a local agency's approval of a CDP is whether the development conforms to the standards set forth in the certified local coastal program (LCP) and the public access policies set forth in the Coastal Act. (Coastal Act § 30603.) The City of Santa Barbara has a certified LCP.

IV. GROUNDS FOR APPEAL

A. THE ENTRADA PROJECT DOES NOT CONFORM TO THE PUBLIC ACCESS POLICIES OF THE COASTAL ACT

The Coastal Act provides that Section 4 of Article X of the California Constitution requires that maximum access and recreational opportunities shall be provided *for all the people*, not just to those who can afford access. (Coastal Act Section 30210.) In order to ensure access for all the people, the Coastal Act provides that lower cost visitor and recreational facilities shall be protected, encouraged and where feasible, provided. (Coastal Act Section 30213.)

Public access has occurred through the use of 96 low-cost, visitor-serving, overnight accommodations in the Californian Hotel. The 96 hotel rooms encouraged public access, because the room rates ranged from \$200 per week to \$75 for weekday and \$125 for weekends. Hence, in order to ensure public access, low-cost accommodations must be protected in the Waterfront Area of Santa Barbara.

B. THE ENTRADA PROJECT IMPROPERLY REPLACES LOW-COST VISITOR SERVING ACCOMMODATIONS WITH EXPENSIVE TIME-SHARE UNITS

The Entrada project's improper removal of low-cost, visitor serving, overnight accommodations in the Californian Hotel on site A of the Entrada project in the coastal zone raises several inconsistencies with the City's certified LCP.

1. The LCP Prohibits Conversion of Lower Cost Visitor-Serving Uses

First, the Entrada project improperly removes and fails to replace existing low-cost hotel rooms. According to LCP Policy 4.5, removal or conversion of existing lower cost visitor-serving uses in areas designated Hotel and Related Commerce, or HRC-II, shall be prohibited unless the use will be replaced by a facility offering comparable visitor-serving opportunities. Public access has occurred through the existing 96 low-cost visitor-serving overnight accommodations in the Californian Hotel in the City's coastal zone. Yet, the Entrada project completely converts that

use into expensive time-share units. Each of the 56 time-share units will be two-bedroom, two and one half bath suites, with kitchens and living rooms; the units will average 1,800 square feet each. Every time-share has a lockout unit, thereby providing for the possibility of a total of 112 units. While the precise ownership structure and cost may be modified, it has been estimated that an ownership interest in the Entrada project for one week may cost approximately \$30,000.

In an attempt to mitigate the loss of 96 lower cost visitor-serving accommodations, the applicant's consultant, PKF Consulting, proposed an in-lieu mitigation fee of \$10,229 per room or \$982,000. (Exhibit C.) However, this proposed mitigation does not ensure the replacement of the existing 96 rooms in the coastal zone, as required by LCP Policy 4.5. Nor does the nominal fee address the feasibility of incorporating lower cost rooms in the Entrada project. In addition, the adequacy of the applicant's suggested mitigation fee has not been verified by the City as adequate to replace the loss. Instead, a letter from the Economic Research Associates to the City provides substantial evidence that the suggested mitigation fee is *not* adequate. (Exhibit D.)

Any condition to mitigate the elimination of 96 low-cost hotel rooms must be based on the actual cost of replacing the low-cost hotel in the coastal zone. The actual cost must include the cost of land, improvement, operating and financing costs, return on equity, development constraints, and the average room lower-cost rental rate. Land costs in the coastal zone of Santa Barbara have risen considerably during the past few years, making the cost of replacing the low-cost over-night accommodations considerably higher than the amount suggested by the applicant. Moreover, if a mitigation fee is imposed, it should be assessed by "unit of sale," similar to the method by which a time-share will be sold.

In addition to determining the actual cost of replacement, the Entrada project applicants must show where the low-cost visitor serving accommodations will be built in the City's coastal zone. Any removal of low-cost, over-night accommodations without replacement by a comparable facility violates LCP Policy 4.5.

2. The LCP Requires a Range of Rooms and Room Prices

The Entrada project's time-share development fails to provide a range of rooms and room prices in order to serve all income ranges, as required by the City's certified LCP. LCP Policy 4.4 states that new hotel development within the coastal zone shall, where feasible, provide a range of rooms and room prices in order to serve all income ranges. The City's LCP Land Use Plan suggests that a possible condition of development should require a range of accommodations so that moderate and lower cost price lodging continues to be available in Santa Barbara's coastal zone. Our clients and members of the public commented on the desire to retain a range of room sizes and room prices in order to serve a broader spectrum of people. However, the proposed Entrada project fails to provide a range of rooms and room prices, and, in fact, provides only expensive time-share units.

In sum, according to the City's certified LCP, the proposed Entrada project must provide a range of rooms and room prices in order to serve all income ranges. In addition, if any low-cost

units are converted into time-share units, then those units must actually be replaced by a comparable facility by 1) requiring a mitigation fee which reflects the actual cost of replacement assessed by a unit of sale and 2) providing a location in the Waterfront Area of Santa Barbara. Without such provisions, any mitigation measure is specious, and the proposed project must be denied as inconsistent with the City's LCP. Therefore, our clients urge the Commission to find that the development on site A of the Entrada project raises a substantial issue with respect to consistency with the City's LCP.

C. THE ENTRADA PROJECT FAILS TO ADDRESS THE RESOURCE PROTECTION POLICIES OF THE CITY'S CERTIFIED LCP

1. Background

The Entrada project applicants originally planned to remove buildings at 15 West Mason Street, a historic structure, which is located between the Californian Hotel on site A and Mission Creek. After determining that the removal of the historic structure mandated an EIR, however, the project applicants deleted the removal of the historic structure from the proposed Entrada project. Instead, this removal will be performed as part of the U.S. Army Corps of Engineers/City of Santa Barbara Lower Mission Creek Flood Control Project ("Mission Creek Flood Control Project"). Consequently, the City's August 1999 negative declaration and staff report for the Entrada project ignored the removal of the adjacent building and failed to analyze the possibility of the Corps' proposed project as too "speculative."

In August 1999, however, the U.S. Army Corps of Engineers (Corps) selected alternative 12 in the Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the Mission Creek Flood Control Project. Alternative 12 includes the demolition of the buildings at 15 West Mason Street and includes widening Lower Mission Creek from at least 30 to approximately 60 feet toward the Entrada Project. This widening will result in Mission Creek being directly adjacent to the development on site A of the Entrada project.

On June 28, 2001, the Santa Barbara City Planning Commission certified the EIR/EIS, thereby confirming that the Mission Creek Flood Control Project is no longer speculative. More recently, on August 9, 2001, the California Coastal Commission conditionally concurred with the Corps that the Mission Creek Flood Control project is consistent with the California Coastal Management Program, including the California Coastal Act. Since the Mission Creek Flood Control Project is no longer speculative, our clients urged the City to review this new information in the context of the environmental review document for the Entrada project, pursuant to CEQA. However, the City completely failed to do so. Likewise, the EIR/EIS for the Lower Mission Creek Flood Control Project does not analyze the impacts of the Entrada project development along the creek bank. Consequently, both projects are moving forward and neither contains adequate analysis of the environmental impacts and setbacks necessary to protect, maintain and enhance the water and biological resources in Lower Mission Creek and the Estuary.

2. Coastal Act, LCP and Precedent

The proposed development on site A is inconsistent with the Coastal Act requirements for environmentally sensitive habitat areas. Section 30240(b) of the Coastal Act states that development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat areas.

The proposed development on site A is also inconsistent with LCP Policies 6.8 and 6.10. LCP Policy 6.8 states that the "riparian resources, biological productivity, and water quality of the city's coastal zone creeks shall be maintained, preserved, enhanced, and where feasible, restored." LCP Policy 6.10 states that the "City shall require a setback buffer for native vegetation between the top of the bank and any proposed project. The setback will vary depending upon the conditions of the site and the environmental impact of the proposed project." According to the LCP Implementation Creek Guidelines, any new development along Mission Creek must be setback at least twenty-five feet from the top-of-bank. (Municipal Code Section 28.87.250.)

Despite the Coastal Act and LCP policies, the City ignored the biological resources in Mission Creek. The City declared that the creek is located in an urban area and that no biological resources are threatened by the development. However, the Commission rejected a similar argument made by the City with regard to the Harbor View Inn expansion, approximately one block downstream from the proposed development on site A. (See Exhibit E: Commission Letter to the City of Santa Barbara regarding Draft MND for the Harbor View Inn addition, October 15, 1998.)

In the Harbor View Expansion Case, the City prepared a Draft Mitigated Negative Declaration for a 14,857 square foot 15-room addition, remodel of two existing hotel rooms, and a remodeled 26-car parking lot for the Harbor View Inn along the Mission Creek Estuary. The City concluded that the creek is located in an urban area and that no biological resources are threatened by the development. Commission staff noted that the City did not include any description of the Mission Creek Estuary and its associate flora and fauna. "The Mission Creek Estuary is recognized as an environmentally sensitive habitat within the City's portion of the coastal zone." (See Exhibit E: Commission Letter, page 4.) The Commission noted that the City misinterpreted the aesthetic, biological and water resources of Mission Creek. In particular, the Commission noted that **LCP Policy 1.0** which stipulates that **development "adjacent to creeks shall not degrade the creek or their riparian environments"** is intended to govern all development adjacent to creeks. Consequently, Commission staff recommended that the Draft MND be modified to accurately reflect the aesthetic and biological resources associated with the Mission Creek Estuary, to identify mitigation measures specifically addressing the potential impacts from development and to address the appropriate setback issue. Unfortunately, the Harbor View Inn today is less than a few feet from the bank of Mission Creek.

3. Substantial Evidence of Inadequate Setback and Impacts to Mission Creek

Like the Harbor View Inn case, the City failed to perform an adequate analysis of the impacts of the proposed Entrada project on Mission Creek with respect to setbacks and aesthetic, water and biological resources. T

a.) Setback from Top-of-Bank

The proposed development's setback from Mission Creek is unclear. In 1999 and 2000, the City estimated a 40-foot setback between the Entrada project and the top of the bank of Mission Creek. This year, the City stated that the Entrada project may encroach within the required 25-foot setback from the top-of-bank of Lower Mission Creek. (June 2001 EIR for Entrada project, Responses to Comments, p. F-36.) However, the Entrada project applicant did not request any modification to encroach within the minimum required setback.

While it is obvious that the City does not know whether the Entrada project will be setback at least 25 feet from the creek or whether a 25 foot setback is adequate to protect the creek resources, the applicant has at least alleged that development on site A will be set back at least 25 feet from the top bank of the widened creek. However, our clients have three concerns with the lack of information. One, the building plans do not specify whether the Entrada project will be set back 25 feet from the top of the sloped bank or from the top of the vertical wall. After the Lower Mission Creek Flood Control Project, the top-of-bank will be located at the top of the sloped bank above the vertical wall. (Exhibit F.) According to the applicant's public statements, the Entrada project must include at least a 25-foot setback from the top of the sloped bank. However, the proposed Entrada project plans only reflect *part of the Corps' plan*, as approved by the City.

In addition, it appears from the plans that the sloped bank and much of the area between the parking and the creek restoration area are not owned by the Entrada project applicant. While the Entrada project applicant promised to vegetate the entire riparian area in the setback, it appears from the landscaping plan that only 6 native trees fit in the strip between the parking lot and the property line. Therefore, it is unclear whether the applicant proposes planting on another landowner's property or whether the applicant is relying on the Corps and the City to plant the area.

b.) Lack of Substantial Evidence to Support City's Approval

Second, no environmental analysis was conducted of the water and biological impacts to Mission Creek to ensure that impacts are mitigated to a less than significant level or to ensure that a 25-foot setback is adequate to protect natural resources. The City's description of impacts on aesthetic, water and biological resources for the proposed Entrada project in 1999 and 2000 was exactly the same description used in the Draft MND for the Harbor View Inn project and directly conflicts with the Coastal Commission's findings on lower Mission Creek. In addition, the City failed to provide any further analysis, even though the Lower Mission Creek Flood Control Project is no longer speculative.

c.) Substantial Evidence of Significant Impacts on Mission Creek

Third, the evidence shows that development on site A will negatively impact Mission Creek and its valuable water and biological resources. Mission Creek supports valuable native vegetation, water year round and a variety of other wildlife. The Mission Creek Estuary provides habitat for a number of federally listed species. These include Tidewater goby (endangered), the Southern Steelhead (endangered), the Snowy plover (threatened), and the Least tern (endangered). (*Id.* at 5.) On June 1, 2001, the U.S. Fish and Wildlife Service (USFWS) issued a Biological Opinion (BO) for the Lower Mission Creek Flood Control Project. The BO states that the Mission Creek Flood Control Project may extirpate the endangered tidewater goby from Mission Creek. The action likely to endanger the tidewater goby includes impairment of respiration as a result of suspended sediments being released during construction and yearly maintenance.

The Mission Creek Lagoon at the project site is very important habitat for steelhead that have not yet entered the ocean, and therefore any impacts to this portion of Mission Creek are impacts to critical habitat of an endangered species. According to the National Marine Fisheries Service regulations for steelhead, new urban density development is generally considered to result in a "take" of steelhead, under section 9 of the Endangered Species Act, unless certain conditions are implemented. (Exhibit G.) One condition is to retain adequate riparian (streamside) buffers to protect water bodies and steelhead habitat from the adverse impacts of dense urban development. The example utilized in NMFS' regulation states, "the development set-back should be equivalent to greater than one site potential tree height (approximately 200 ft (60 m)) from the outer edge of the channel migration zone on either side of all perennial and intermittent streams, in order to protect ... rearing habitat." This indicates that the unclear buffer for Mission Creek at the project site is grossly inadequate.

While the City purports to protect and enhance Mission Creek, it is evident that the City's practice is to ignore proposed development along the creek bank and the potential impacts on the creek's sensitive resources. Consequently, the City's approval of the CDPs for site A do not reflect the resource protection policies of the City's certified LCP.

D. THE ENTRADA PROJECT ADVERSELY IMPACTS AESTHETICS WHICH ARE PROTECTED BY THE LCP

The Entrada Project significantly and negatively impacts views from site A and public areas such as State Street, Cabrillo Boulevard and the beach area. The Coastal Act states that "[t]he scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas." (Pub. Res. Code § 30251.) Although most of

the development blocking views is located on sites B and C, our clients urge the Commission to assess the impacts to views from site A and other coastal areas.

1. LCP Policy 9.1 Requires Protection of Existing Views

The City of Santa Barbara's LCP furthers the Coastal Act's goals of protecting views. According to LCP Policy 9.1, existing views to, from, and along the ocean and scenic coastal areas shall be protected, preserved and enhanced. The policy provides examples on how to protect views, while also requiring the development of additional standards of acceptable view protection. Hence, the Waterfront Area Aesthetic Criteria for New Development Assessment and Waterfront Area Design Guidelines provide further guidance for protecting, preserving and enhancing existing views.

The Waterfront Area Design Guidelines specifically state that vistas of the ocean, harbor and mountains from Cabrillo Boulevard and State Street must be maintained. According to the Guidelines, "Cabrillo Boulevard, running the length of the Waterfront District is a potential State Scenic Highway. State, Garden and Castillo Streets are other important arterial streets in the Waterfront area." The Guidelines also reiterate some methods for maintaining views, while not precluding other methods, as well. Consequently, according to the plain language, the LCP protects both Cabrillo Boulevard and State Street as important viewpoints in the Waterfront area.

The Waterfront Area Aesthetic Criteria provides additional guidance on evaluating the intensity of new development when reviewing consistency with protecting, preserving and enhancing existing views to, from, and along the ocean and scenic coastal areas. "Protect" means that "the dimensions are incorporated into project design to a degree that defends or guards against damage or injury to the existing ambience of the area." "Enhance" means that "the dimensions are incorporated into a project design that raises to a higher degree, intensifies or raises the value of the visual qualities of the area." "Preserve" is not defined by the Criteria, but the common meaning is to conserve, protect, and maintain.

Substantial evidence in the record for the Entrada project shows adverse impacts to views from Cabrillo Boulevard, Stearns Wharf and State Street. The Entrada project is two and three stories high with substantial encroachments into the required front yard setbacks. The two and three story project is incompatible with the surrounding one-story buildings and as a result, the views of the palm trees along Chase Palm Park are no longer visible. The buildings on Sites B and C block views of the Riviera and the mountains. The applicant's photosimulations confirm this blockage (Exhibit H.) By stating that the Entrada Project results in a "loss of views of Santa Ynez Mountains and foothills from viewpoints along State Street," the City admits that the project is inconsistent with the LCP.

2. Other LCP Policies Require Protection of the Waterfront's Aesthetic Quality

The Entrada Project is inconsistent with other visual and aesthetic protection policies in the City's LCP. LCP Policy 9.8 states that the City shall seek to preserve the unique scenic and

aesthetic quality of Highway 101. Yet, as noted above, the Entrada Project will block oceanfront views of the palm trees along Chase Palm Park from Highway 101. (Exhibit I.)

LCP Policy 12.2 states that new developments within the City's Waterfront Area shall be evaluated as to a project's impact on the area's openness, lack of congestion, naturalness and rhythm. "Openness" describes the special qualities of the Santa Barbara Waterfront with unimpaired views of the shoreline and mountains. (LCP Implementation, page 133.) Specifically, "openness" is described as "minimizing visual impacts of building density, scale, mass, and height." (LCP Implementation, page 133-134.) "Naturalness" is described as protecting views to the foothills and mountains within view corridors along Cabrillo Boulevard and protecting view corridors from excessive development "which detract the natural dominance of these views." (LCP, p. 192-193.) "These views are to the ocean, other points along the waterfront, and to the foothills and mountains." (Id. at 135.) The aesthetic criteria defines the Waterfront as the area from Pershing Park and the Harbor and Milpas Street, including Stearns Wharf, and evaluates impacts based on openness, lack of congestion, naturalness, and rhythm. In particular, the aesthetic criteria describes one-story buildings and the palm trees along Chase Palm Park as enhancing the openness of the Waterfront.

These criteria are based on visual resources which presently exist: openness, lack of congestion, naturalness and rhythm. The Coastal Plan Implementation Report develops specific means to accomplish the policies of maintaining existing views and vistas, open space and existing height and setback requirements. The City of Santa Barbara Municipal Code section governing the HRC-II zone, which was certified by the Commission, implements these policies through both height and setback requirements. The HRC-II zone requires a 10-foot front yard setback for one story buildings less than 15 feet in height and a 20-foot front yard setback for any building over one-story in the HRC-II zone.

The Entrada project includes two and three story structures with extensive encroachments into the required setbacks. Overall, the City approved approximately 22,000 square feet of private development within the required setbacks. The proposed development on site A includes two three-story buildings with encroachments into the front-yard setbacks adjacent to the existing Californian Hotel which will remain four stories tall with no front-yard setback. These extensive setback encroachments are inconsistent with the requirements of the HRC-II zone, as certified by the Commission. In addition, these encroachments do not protect public vistas, visual resources and quality and compatibility with the Waterfront Area.

In sum, if the Commission decides to review the significant and negative impacts that development on sites B and C have on views from site A and public areas such as State Street, Cabrillo Boulevard and the beach area, the Commission must find that our clients appeal raises a substantial issue with respect to an inconsistency with the LCP. If the Commission only reviews the development on site A, then the Commission must likewise find that our clients appeal raises a substantial issue with respect to significant development within the required setbacks and the lack of openness and incompatibility with the Waterfront Area from the three story structures, which are proposed adjacent to the conversion of the Californian Hotel.

E. IF THE COMMISSION ONLY REVIEWS THE COASTAL DEVELOPMENT PERMITS FOR SITE A, THEN THE PROPOSED ENTRADA PROJECT FAILS TO PROVIDE ADEQUATE PARKING

1. The Proposed Entrada Project Fails to Provide Adequate Parking in the Proposed Project Area

The proposed development on site A will create a major impact on parking in the coastal zone which is inconsistent with the City's LCP. LCP Policy 3.3 states that "new development proposals within the coastal zone which could generate new recreational users (residents or visitors) shall provide adequate off-street parking to serve the present and future needs of the development." LCP Policy 4.2(4) requires new visitor-serving development to provide adequate off-street parking to serve the needs generated by the development. LCP Policy 11.5 requires all new development in the waterfront area to provide adequate off-street parking "to fully meet their peak needs." Moreover, parking needs for individual developments shall be evaluated on a site-specific basis and at minimum be consistent with City Ordinance requirements. (LCP Policy 11.5.)

The City's Circulation Element (which was certified as part of the City's LCP by the Commission) clearly states that the City has a peak period parking shortage and that the downtown and waterfront areas have the greatest parking demand. The Santa Barbara Municipal Code requires a ratio of one hotel room to one parking space and one parking space replacement on street for one removed. (Municipal Code §28.90.100(j)(10).) Also, the code requires one space for every 250 square feet of commercial space. (Municipal Code §28.90.100(I).) Notably, the parking requirement for a restaurant in the same area is 1 space for every 3 seats for the restaurant and 1 space for every 250 square feet for the bar area.

Here, the proposed development on site A fails to provide parking for even the minimal needs generated by the development. Site A proposes only 17 parking spaces for 30 time-share units and 5,368 square feet of commercial space. According to the Municipal Code and the LCP, however, the development on site A must provide approximately 51 parking spaces. The proposed development on site A is clearly inconsistent with the Coastal Act and the LCP, including the Circulation Element that was certified by the Commission, because the proposed development fails to provide parking to meet its peak needs.

2. The Proposed Entrada Project Will Negatively Impact Parking and Circulation in Adjoining Neighborhoods

The proposed project is inconsistent with the surrounding residential neighborhoods. LCP Policy 5.3 requires new development adjacent to existing residential neighborhoods to be compatible in terms of scale, size, and design with the prevailing character of the established neighborhood. In addition, new development which would result in an overburdening of public circulation and on-street parking resources of existing residential neighborhoods *shall not be*

permitted. The proposed Entrada project will clearly impact the surrounding neighborhoods. Evidence in the record shows that the adjoining residential neighborhood and the Funk Zone will be used as overflow parking for the proposed Entrada project and the additional users that the proposed project generates. Clearly, the City failed to conduct a proper analysis and failed to meet the requirements of the LCP.

V. CONCLUSION

As stated above, substantial evidence in the record shows that the proposed Entrada project is not in conformance with several LCP policies and provisions or with the public access provisions of the Coastal Act. The proposed Entrada project improperly replaces low-cost, visitor-serving units in the Californian Hotel with expensive time-share units. The proposed project will intensify development and adversely impact the openness and low-scale ambiance of the existing Waterfront Area. The development is located too close to Mission Creek and will negatively impact the water and biological resources in the creek and estuary. In addition to completely blocking foothill views, the Entrada project would block most mountain and oceanfront views, as well. For these reasons and those described herein, our clients urge the Commission to find that the City's approval of CDPs for the Entrada project raises a substantial issue with respect to consistency with the applicable provisions of the City's certified LCP and the public access policies of the Coastal Act.

Respectfully submitted,

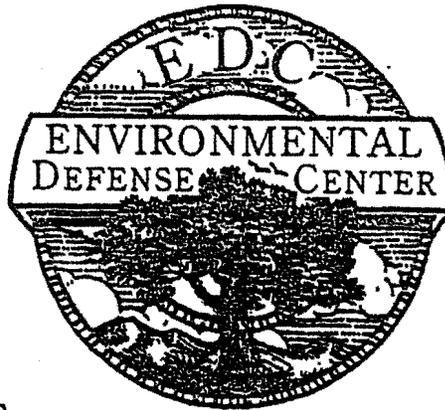


Tanya Gulesserian

Attorney for Appellants

CITIZENS PLANNING ASSOCIATION OF
SANTA BARBARA COUNTY, INC. and
LEAGUE OF WOMEN VOTERS OF SANTA
BARBARA

January 27, 2000



California Coastal Commission
South Central Coast Area
89 South California Street, Suite 200
San Buenaventura, CA 93001

Re: Continuance of De Novo Hearing On Coastal Development Permit For the Proposed Entrada Project

Dear Honorable Commissioners,

This letter is submitted by the Environmental Defense Center (EDC) on behalf of the Citizens Planning Association of Santa Barbara County, Inc. (CPA) and League of Women Voters of Santa Barbara (LWVSB) regarding the California Coastal Commission de novo hearing on Coastal Development Permit (CDP) No. A-4-SBC-99-200 for the proposed Entrada project in Santa Barbara.

The purpose of this letter is to 1) request a hearing in Santa Barbara regarding the CDP for the proposed Entrada project and 2) summarize the issues raised by the Commission which must be addressed by the staff prior to the next hearing.

On September 2, 1999, CPA and LWVSB appealed the City of Santa Barbara's approval of Coastal Development Permit No. CDP99-0013 for the proposed Entrada Project on three square blocks of lower State Street in the City of Santa Barbara. On November 4, 1999, the Commission voted 11 to 0 to find that the City of Santa Barbara's approval of the CDP raised a substantial issue with respect to its consistency with the applicable provisions of the City's certified Local Coastal Plan (LCP) and the public access policies of the California Coastal Act. On January 13, 2000, the Commission held a de novo hearing on the CDP application and voted 7 to 3 to continue the hearing pending an analysis of the issues raised by the Commissioners.

EDC hereby requests a Santa Barbara hearing on the CDP for the proposed Entrada project. The issues raised by the proposed project are specific to Santa Barbara's unique Waterfront Area. Among the other project impacts, the proposed development will impact a residential neighborhood abutting the project site to the West, and a distinct commercial artisan area, a.k.a. the Funk Zone, abutting the project site to the East. Many Santa Barbara citizens reside, work and recreate in and around these areas. These citizens seek an opportunity to participate in a Coastal Commission hearing on this potential development that will drastically change the character of the area. Most of these citizens have been unable to travel to hearings held outside of Santa Barbara due to numerous constraints. Consequently, EDC respectfully requests a Santa Barbara hearing on the CDP.

EXHIBIT

A



In addition to requesting a Santa Barbara hearing, the purpose of this letter is to summarize the issues that the Commission directed staff to analyze prior to the next hearing. Since the standard of review is the development's consistency with the certified LCP, the analysis must include all of the development proposed in the CDP, including parcels A, B and C and the narrowing of State Street. The following issues were raised at the hearings and must be addressed:

1. What are the project's impacts on foothill and mountain views, taking into consideration the story poles erected on and around the project site, and how can those impacts be reduced;
2. What are the project's impacts on Mission Creek, including the biological resources living there, keeping in mind that the creek has been designated as an Environmentally Sensitive Habitat Area (ESHA);
 - a. How will the impacts be reduced;
 - b. How will riparian habitat be restored;
 - c. How will the City ensure an adequate buffer between the project and creek;
3. Does the removal of the historic building as part of an Army Corps of Engineer Mission Creek Project and the inclusion of that space in the Entrada plans for auto entry and exit, as approved by the City, constitute piecemeal development, and, if so, analyze such activity;
4. Does the project provide parking to meet the peak needs of the development as required by the Local Coastal Plan and where is that parking located;
5. Is the loss of low-cost overnight accommodations consistent with the Coastal Act which requires maximum access for all the people;
6. Does the proposed project include affordable units, and, if not, what percentage of inclusionary affordable units should be required;
7. What is the amount of conversion to time-shares in light of the permitted 25% conversion for the Highlands project;
8. If some low-cost units are converted, where will the low-cost units be replaced in the Waterfront Area of Santa Barbara;
9. If some low-cost units are converted, what is the mitigation fee based on the actual cost of replacing the low-cost hotel in the coastal area of Santa Barbara;

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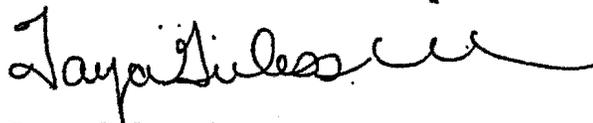
10. How much residential housing did the Californian Hotel provide and where will that housing be replaced;
11. What is the impact on traffic based on an analysis of actual existing uses compared with potential uses;
12. How will the fishing community be impacted and what can be done to reduce those impacts;
13. How will other commercial coastal-dependent uses be impacted, and, if so, how can those impacts be reduced; and
14. What impacts, including but not limited to impacts on traffic, circulation and parking, will the project have on the adjoining neighborhoods, including the residential neighborhood and the Funk Zone.

Once this information on the project's impacts is presented, then the Commission may conduct an analysis of feasible mitigation measures and alternatives to reduce those impacts. (Pub. Res. Code § 21080.5.)

In sum, CPA and LWVSB respectfully request 1) a hearing in Santa Barbara regarding the CDP for the proposed Entrada project and 2) a full analysis of the issues raised by the public and the Commission, including the inconsistencies with the City of Santa Barbara's LCP.

Thank you for your attention to this matter.

Sincerely,



Tanya Gulesserian
Staff Attorney

cc: Citizens Planning Association of Santa Barbara County, Inc.
League of Women Voters of Santa Barbara
Chuck Damm, Senior Deputy Director
Gary Timm, Assistant District Director
Mark Cappelli, Coastal Program Analyst


 SITE PLAN STREET IMPROVEMENT
 SCALE 1" = 20'

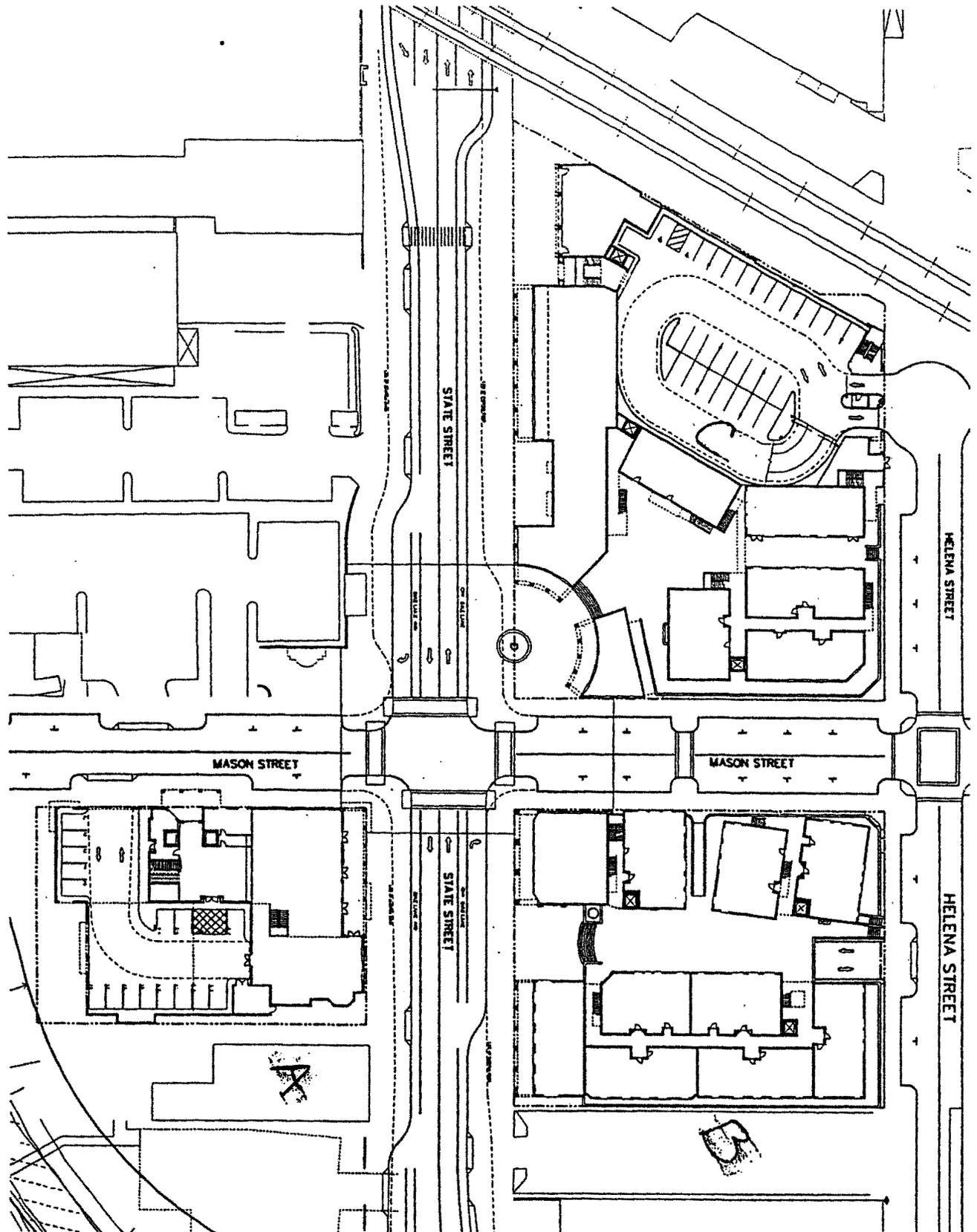


EXHIBIT B

OVERALL SITE PLAN

EXHIBIT B

Enxada
 de
 Santa Barbara


 UNIV. VALIS-VANINO
 1995



811 Wilshire Boulevard
Suite 800
Los Angeles CA 90017

Telephone (213) 680-0900
Telefax (213) 623-8240

June 7, 2001

Mr. Douglas E. Fell
Fell, Marking, Abkin, Montgomery, Granet & Raney, LLP
222 East Carrillo Street, Suite 400
Santa Barbara, California 93101-2142

Dear Mr. Fell:

REQUESTED ANALYSIS AND ADVICE FROM PKF CONSULTING

You have requested PKF Consulting ("PKF/C") to analyze and advise you concerning two issues relating to development of a 96-room economy lodging facility in Santa Barbara, California. This letter updates the analysis we previously provided to you on this subject dated April 9, 2000. The two issues are as follows:

- **Total Development Costs**

You have requested PKF/C to provide you with an estimate of the total development costs (which for these purposes means land acquisition costs and turn-key construction costs) for the development of a 96-room economy lodging facility in Santa Barbara, California; and,

- **Required Subsidy**

You have requested PKF/C to provide you with an analysis of the amount of subsidy that would be required to make economically feasible the development of a 96-room economy lodging facility in Santa Barbara, California. For those purposes "economy lodging" means facility with an "average daily room rate" of \$63.00 per night in calendar year 2001 and "economically feasible" means providing the developer with a required "equity yield" on the developer's investment of 15 percent (15%).

EXHIBIT C

CONCLUSIONS

• Total Development Cost

Based on our analysis, a description of which follows, PKF/C estimates the total development costs for the development of a 96-room economy lodging facility in Santa Barbara, California, would be \$6,682,000, of which \$2,731,000 is land cost and the balance of \$3,951,000 or approximately \$41,200 per room is the cost of building and improvements.

• Required Subsidy

Based on our analysis, a description of which follows, PKF/C has concluded that the amount of subsidy that would be required would be \$982,000 or \$10,229 per room.

BACKGROUND AND QUALIFICATIONS OF PKF CONSULTING

PKF Consulting is an international firm of management consultants, industry specialists, and appraisers who provide a full range of services to the hospitality, real estate, and tourism industries. PKF/C is one of several companies wholly owned by Hospitality Asset Advisors International, Inc. (HAA), a U.S. corporation.

Other HAA companies include Hospitality Asset Advisors Incorporated, which provides real estate transaction and capital markets services, and The Hospitality Research Group, a hospitality-related market research firm.

Headquartered in San Francisco, the firm has offices in New York, Philadelphia, Boston, Atlanta, Houston, Dallas, Los Angeles, and Washington, D.C. In Asia, the firm is based in Singapore and practices as Hospitality Asset Advisors, PTE., Ltd.

Senior professionals of the firm have been a part of the hospitality business for upwards of 25 years. They head teams of consultants who bring a broad range of experience - corporate finance, hotel operations, resort planning, and international tourism - to meeting client needs. Real estate professionals carry MAI (Member of the Appraisal Institute), CRE (Counselor of Real Estate) and ISHC (International Society of Hospitality Consultants) designations.

PKF/C has extensive experience in conducting and providing financial and market analysis for hotels and motor hotels in the Santa Barbara area. The undersigned and we have been doing work continuously in this market for in excess of 30 years. Our and my experience includes professional analysis and advice to most of the hotels and motor hotels in the east and west beach areas and most of the major resort properties in the surrounding area. In addition, PKF/C tracks occupancy and average daily room rates for the majority of properties in the City of Santa Barbara and surrounding areas.

OUR UNDERSTANDING OF YOUR USE OF THIS LETTER

You have advised us and we have prepared this advice to you, on the understanding and expectation that you will provide this letter to the City of Santa Barbara in connection with the City's analysis and determination of an appropriate fee to mitigate the removal or conversion of low cost lodging accommodations in the Coastal Zone of Santa Barbara, California.

METHODOLOGY

In conducting our analysis, we developed an estimate of the potentially required development costs for a 96-room economy lodging property in Santa Barbara. The source of information for the cost model was our actual experience with key variables in the Santa Barbara area and development statistics garnered from two chains that are actively developing this level of property in Southern California.

After developing an estimate of development costs, we applied our general knowledge of the Santa Barbara market, augmented by analysis of the operating results of a cross section of economy lodging properties, to develop estimates of income and expense for the property under consideration. We then applied appropriate capitalization rates and discount rates to the projected income stream to develop an estimate of potential value on completion of the subject property.

We then compared the potential development costs to the potential value to develop an estimate of the required subsidy.

• Assumptions

Our primary assumptions relative to development costs for the subject property are as follows:

- | | |
|--------------------------------------|--|
| ▪ Density: | 58-units per acre |
| ▪ Land Cost: | \$38.00 per square foot |
| ▪ Site improvement costs: | \$3.25 per square foot, excluding building pad |
| ▪ Building square footage: | 400 square feet per room |
| ▪ Building costs: | \$78.00 per square foot |
| ▪ Indirect costs: | 15% of building costs |
| ▪ Furniture, fixtures and equipment: | \$3,100 per room |
| ▪ Financing costs: | \$100,000 |

Our primary assumptions relative to operating income and expenses are as follows:

▪ Occupancy:	80% stabilized, 2-year build-up to stabilized occ.
▪ Average daily room rate:	\$63 in 2001 dollars
▪ Telephone revenue:	\$1.25 per occupied room
▪ Rentals and other income:	\$1 per occupied room
▪ Rooms departmental expense:	\$10 per occupied room
▪ Telephone expenses:	50% of departmental revenues
▪ Administrative and General expense:	\$2,700 per available room
▪ Franchise fees:	5.5% of rooms revenue
▪ Marketing:	\$800 per available room
▪ Property operations and maintenance:	\$1,200 per available room
▪ Utility costs:	\$1,000 per available room
▪ Management fees:	4.0% of total revenues
▪ Property taxes:	1.1% of value
▪ Insurance:	\$150 per available room
▪ Reserves for replacements of FE&E	4.0% of total revenues

The estimates of occupancy and average daily room rates are based upon the experience of similar properties with which we are familiar in the Santa Barbara area. The estimates of all other revenues and other expenses are based upon an analysis of the operating results of three similar properties all located in California. A summary of estimated annual operating results for July 1, 2001 through December 31, 2010 for the subject property are appended to this letter.

Based upon our experience and applying our standard methodology for analyses of this type, we have applied a capitalization rate of 12.5 percent to the potential operating results of the subject property at the end of a theoretical ten-year holding period. We have also applied a 14.0 percent discount rate to the residual value and annual cash flows of the subject property to indicate the potential value of the property on completion of construction of \$5,700,000.

These capitalization and discount rates are consistent with the assumption of an assumed mortgage equal to 65 percent of the cost of the property, at 9.5 percent interest, with the principal amortized over a 25-year term, and a required equity yield of 15 percent.

• Development Costs

Applying the development cost analysis as set forth above, indicates a potential development cost of \$6,682,000, of which \$2,731,000 is land and the balance of \$3,951,000 or approximately \$41,200 per room is the cost of building and improvements.

• Required Subsidy

As indicated previously, the potential value of the project on completion is approximately \$5,700,000, which is \$982,000 less than the development cost. This amount, \$982,000, or

Mr. Douglas E. Fell
Fell, Marking, Abkin, Montgomery, Granet & Raney, LLP

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\$10,229 per room is the amount of subsidy that would have to be provided to a potential developer to make economically feasible the development of the subject property.

We trust that this analysis is responsive to your request. Our analysis and report thereon are subject to the attached Statement of Assumptions and Limiting Conditions. Please feel free to call upon us if we can be of any further assistance in this matter.

Sincerely,

PKF Consulting


Bruce Baltin
Senior Vice President

STATEMENT OF ASSUMPTIONS AND LIMITING CONDITIONS

This report is made with the following assumptions and limiting conditions:

Economic and Social Trends - The consultant assumes no responsibility for economic, physical or demographic factors which may affect or alter the opinions in this report if said economic, physical or demographic factors were not present as of the date of the letter of transmittal accompanying this report. The consultant is not obligated to predict future political, economic or social trends.

Information Furnished by Others - In preparing this report, the consultant was required to rely on information furnished by other individuals or found in previously existing records and/or documents. Unless otherwise indicated, such information is presumed to be reliable. However, no warranty, either express or implied, is given by the consultant for the accuracy of such information and the consultant assumes no responsibility for information relied upon later found to have been inaccurate. The consultant reserves the right to make such adjustments to the analyses, opinions and conclusions set forth in this report as may be required by consideration of additional data or more reliable data that may become available.

Hidden Conditions - The consultant assumes no responsibility for hidden or unapparent conditions of the property, subsoil, ground water or structures that render the subject property more or less valuable. No responsibility is assumed for arranging for engineering, geologic or environmental studies that may be required to discover such hidden or unapparent conditions.

Hazardous Materials - The consultant has not been provided any information regarding the presence of any material or substance on or in any portion of the subject property or improvements thereon, which material or substance possesses or may possess toxic, hazardous and/or other harmful and/or dangerous characteristics. Unless otherwise stated in the report, the consultant did not become aware of the presence of any such material or substance during the consultant's inspection of the subject property. However, the consultant is not qualified to investigate or test for the presence of such materials or substances. The presence of such materials or substances may adversely affect the value of the subject property. The value estimated in this report is predicated on the assumption that no such material or substance is present on or in the subject property or in such proximity thereto that it would cause a loss in value. The consultant assumes no responsibility for the presence of any such substance or material on or in the subject property, nor for any expertise or engineering knowledge required to discover the presence of such substance or material. Unless otherwise stated, this report assumes the subject property is in compliance with all federal, state and local environmental laws, regulations and rules.

Zoning and Land Use - Unless otherwise stated, the projections were formulated assuming the hotel to be in full compliance with all applicable zoning and land use regulations and restrictions.

Licenses and Permits - Unless otherwise stated, the property is assumed to have all required licenses, permits, certificates, consents or other legislative and/or administrative authority from any local, state or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.

Engineering Survey - No engineering survey has been made by the consultant. Except as specifically stated, data relative to size and area of the subject property was taken from sources considered reliable and no encroachment of the subject property is considered to exist.

Subsurface Rights - No opinion is expressed as to the value of subsurface oil, gas or mineral rights or whether the property is subject to surface entry for the exploration or removal of such materials, except as is expressly stated.

Maps, Plats and Exhibits - Maps, plats and exhibits included in this report are for illustration only to serve as an aid in visualizing matters discussed within the report. They should not be considered as surveys or relied upon for any other purpose, nor should they be removed from, reproduced or used apart from the report.

STATEMENT OF ASSUMPTIONS AND LIMITING CONDITIONS

(continued)

Legal Matters - No opinion is intended to be expressed for matters which require legal expertise or specialized investigation or knowledge beyond that customarily employed by real estate consultants.

Right of Publication - Possession of this report, or a copy of it, does not carry with it the right of publication. Without the written consent of the consultant, this report may not be used for any purpose by any person other than the party to whom it is addressed. In any event, this report may be used only with proper written qualification and only in its entirety for its stated purpose.

Testimony in Court - Testimony or attendance in court or at any other hearing is not required by reason of rendering this appraisal, unless such arrangements are made a reasonable time in advance of said hearing. Further, unless otherwise indicated, separate arrangements shall be made concerning compensation for the consultant's time to prepare for and attend any such hearing.

Archeological Significance - No investigation has been made by the consultant and no information has been provided to the consultant regarding potential archeological significance of the subject property or any portion thereof. This report assumes no portion of the subject property has archeological significance.

Compliance with the American Disabilities Act - The Americans with Disabilities Act ("ADA") became effective January 26, 1992. We assumed that the property will be in direct compliance with the various detailed requirements of the ADA.

Definitions and Assumptions - The definitions and assumptions upon which our analyses, opinions and conclusions are based are set forth in appropriate sections of this report and are to be part of these general assumptions as if included here in their entirety.

Dissemination of Material - Neither all nor any part of the contents of this report shall be disseminated to the general public through advertising or sales media, public relations media, news media or other public means of communication without the prior written consent and approval of the consultant(s).

Distribution and Liability to Third Parties - The party for whom this report was prepared may distribute copies of this appraisal report only in its entirety to such third parties as may be selected by the party for whom this report was prepared; however, portions of this report shall not be given to third parties without our written consent. Liability to third parties will not be accepted.

Use in Offering Materials - This report, including all cash flow forecasts, market surveys and related data, conclusions, exhibits and supporting documentation, may not be reproduced or references made to the report or to PKF Consulting in any sale offering, prospectus, public or private placement memorandum, proxy statement or other document ("Offering Material") in connection with a merger, liquidation or other corporate transaction unless PKF Consulting has approved in writing the text of any such reference or reproduction prior to the distribution and filing thereof.

Limits to Liability - PKF Consulting cannot be held liable in any cause of action resulting in litigation for any dollar amount which exceeds the total fees collected from this individual engagement.

Legal Expenses - Any legal expenses incurred in defending or representing ourselves concerning this assignment will be the responsibility of the client.

Subject Name
Projected Operating Results
Calendar Years

	2006		2007		2008		2009		2010	
Number of Units:	96		96		96		96		96	
Annual Occupancy:	80.0%		80.0%		80.0%		80.0%		80.0%	
Average Daily Rate:	\$73.00		\$75.25		\$77.50		\$79.75		\$82.25	
Revenue Per Available Room:	\$58.40		\$60.20		\$62.00		\$63.80		\$65.80	
	Amount	Ratio								
Revenues										
Rooms	\$2,046,000	98.6%	\$2,109,000	96.6%	\$2,172,000	96.6%	\$2,235,000	96.5%	\$2,305,000	96.5%
Telecommunications	41,000	1.9%	42,000	1.9%	43,000	1.9%	44,000	1.9%	46,000	1.9%
Rentals and Other Income	32,000	1.5%	33,000	1.5%	34,000	1.5%	36,000	1.6%	37,000	1.5%
Total Revenues	2,119,000	100.0%	2,184,000	100.0%	2,249,000	100.0%	2,315,000	100.0%	2,388,000	100.0%
Departmental Expenses										
Rooms	325,000	15.9%	335,000	15.9%	345,000	15.9%	355,000	15.9%	366,000	15.9%
Telecommunications	20,000	48.8%	21,000	50.0%	22,000	51.2%	22,000	50.0%	23,000	50.0%
Total Departmental Expenses	345,000	16.3%	356,000	16.3%	367,000	16.3%	377,000	16.3%	389,000	16.3%
Departmental Profit	1,774,000	83.7%	1,828,000	83.7%	1,882,000	83.7%	1,938,000	83.7%	1,999,000	83.7%
Undistributed Expenses										
Administrative & General	300,000	14.2%	309,000	14.1%	319,000	14.2%	328,000	14.2%	338,000	14.2%
Marketing	89,000	4.2%	92,000	4.2%	94,000	4.2%	97,000	4.2%	100,000	4.2%
Franchise Fees	113,000	5.3%	116,000	5.3%	119,000	5.3%	123,000	5.3%	127,000	5.3%
Property Operation and Maintenance	134,000	6.3%	138,000	6.3%	142,000	6.3%	146,000	6.3%	150,000	6.3%
Utility Costs	111,000	5.2%	115,000	5.3%	118,000	5.2%	122,000	5.3%	125,000	5.2%
Total Undistributed Operating Expenses	747,000	35.3%	770,000	35.3%	792,000	35.2%	818,000	35.2%	840,000	35.2%
Gross Operating Profit	1,027,000	48.5%	1,058,000	48.4%	1,090,000	48.5%	1,122,000	48.5%	1,159,000	48.5%
Base Management Fee	85,000	4.0%	87,000	4.0%	90,000	4.0%	93,000	4.0%	96,000	4.0%
Fixed Expenses										
Property Taxes	69,000	3.3%	71,000	3.3%	72,000	3.2%	73,000	3.2%	75,000	3.1%
Insurance	17,000	0.8%	17,000	0.8%	18,000	0.8%	18,000	0.8%	19,000	0.8%
Total Fixed Expenses	86,000	4.1%	88,000	4.0%	90,000	4.0%	91,000	3.9%	94,000	3.9%
Net Operating Income	856,000	40.4%	883,000	40.4%	910,000	40.5%	938,000	40.5%	969,000	40.6%
FF&E Reserve	85,000	4.0%	87,000	4.0%	90,000	4.0%	93,000	4.0%	96,000	4.0%
Net Operating Income After Reserve	\$771,000	36.4%	\$796,000	36.4%	\$820,000	36.5%	\$845,000	36.5%	\$873,000	36.6%

Source: PKF Consulting

Subject Name
Projected Operating Results
Calendar Years

Number of Units:
 Annual Occupancy:
 Average Daily Rate:
 Revenue Per Available Room:

Revenues

Rooms
 Telecommunications
 Rentals and Other Income
 Total Revenues

Departmental Expenses

Rooms
 Telecommunications
 Total Departmental Expenses

Departmental Profit

Undistributed Expenses

Administrative & General
 Marketing
 Franchise Fees
 Property Operation and Maintenance
 Utility Costs
 Total Undistributed Operating Expenses

Gross Operating Profit

Base Management Fee

Fixed Expenses

Property Taxes
 Insurance
 Total Fixed Expenses

Net Operating Income

FF&E Reserve

Net Operating Income After Reserve

Source: PKF Consulting

	2001		2002		2003		2004		2005	
Number of Units:	48		96		96		96		96	
Annual Occupancy:	70.0%		75.0%		80.0%		80.0%		80.0%	
Average Daily Rate:	\$63.00		\$65.00		\$66.75		\$66.75		\$71.00	
Revenue Per Available Room:	\$44.10		\$48.75		\$53.40		\$55.00		\$56.80	
	Amount	Ratio								
Revenues										
Rooms	\$772,000	96.6%	\$1,708,000	96.6%	\$1,871,000	96.5%	\$1,927,000	96.5%	\$1,990,000	96.6%
Telecommunications	15,000	1.9%	34,000	1.9%	37,000	1.9%	38,000	1.9%	39,000	1.9%
Rentals and Other Income	12,000	1.5%	27,000	1.5%	30,000	1.5%	31,000	1.6%	32,000	1.6%
Total Revenues	799,000	100.0%	1,769,000	100.0%	1,938,000	100.0%	1,996,000	100.0%	2,061,000	100.0%
Departmental Expenses										
Rooms	131,000	17.0%	280,000	16.4%	297,000	15.9%	306,000	15.9%	315,000	15.8%
Telecommunications	8,000	53.3%	17,000	50.0%	19,000	51.4%	19,000	50.0%	20,000	51.3%
Total Departmental Expenses	139,000	17.4%	297,000	16.8%	316,000	16.3%	325,000	16.3%	335,000	16.3%
Departmental Profit	660,000	82.6%	1,472,000	83.2%	1,622,000	83.7%	1,671,000	83.7%	1,726,000	83.7%
Undistributed Expenses										
Administrative & General	130,000	16.3%	267,000	15.1%	275,000	14.2%	283,000	14.2%	292,000	14.2%
Marketing	38,000	4.8%	79,000	4.5%	81,000	4.2%	84,000	4.2%	86,000	4.2%
Franchise Fees	42,000	5.3%	94,000	5.3%	103,000	5.3%	106,000	5.3%	109,000	5.3%
Property Operation and Maintenance	58,000	7.3%	119,000	6.7%	122,000	6.3%	126,000	6.3%	130,000	6.3%
Utility Costs	48,000	6.0%	99,000	5.6%	102,000	5.3%	105,000	5.3%	108,000	5.2%
Total Undistributed Operating Expenses	316,000	39.5%	658,000	37.2%	683,000	35.2%	704,000	35.3%	725,000	35.2%
Gross Operating Profit	344,000	43.1%	814,000	46.0%	939,000	48.5%	967,000	48.4%	1,001,000	48.6%
Base Management Fee	32,000	4.0%	71,000	4.0%	78,000	4.0%	80,000	4.0%	82,000	4.0%
Fixed Expenses										
Property Taxes	31,000	3.9%	64,000	3.6%	65,000	3.4%	67,000	3.4%	68,000	3.3%
Insurance	7,000	0.9%	15,000	0.8%	15,000	0.8%	16,000	0.8%	16,000	0.8%
Total Fixed Expenses	38,000	4.8%	79,000	4.5%	80,000	4.1%	83,000	4.2%	84,000	4.1%
Net Operating Income	274,000	34.3%	664,000	37.5%	781,000	40.3%	804,000	40.3%	835,000	40.5%
FF&E Reserve	16,000	2.0%	53,000	3.0%	78,000	4.0%	80,000	4.0%	82,000	4.0%
Net Operating Income After Reserve	\$258,000	32.3%	\$611,000	34.5%	\$703,000	36.3%	\$724,000	36.3%	\$753,000	36.5%

Six Months of Operation



Economics Research Associates

RECEIVED

DEC 19 2000

CITY OF SANTA BARBARA
PLANNING DIVISION

December 12, 2000

RECEIVED

DEC 18 2000

CITY OF SANTA BARBARA
COM. DEV. ADMIN.

Mr. Dave Davis
Community Development Director
City of Santa Barbara
630 Garden Street
Santa Barbara, CA

FAX (805) 965-7237

Re: Calculation of Mitigation Fee for Low Cost Visitor Accommodations
(Project 13954)

Dear Dave:

As a follow-up to our phone conversation and from a review of the PKF analysis you sent me, I would like to reiterate ERA's main conclusion:

If the nightly rental rate on the economy lodging facility is allowed to be determined by market forces rather than by regulation, then there is no guarantee that the units produced will accomplish its intended objective of providing low cost overnight visitor accommodations. Considering the attractive setting of Central Santa Barbara, the near beachfront location, a newly constructed complex in a supply constrained market, and Santa Barbara's proximity to the ten million plus population of the Los Angeles basin, the market room rate could be 50 or 100 percent higher than the \$60 per night assumed in the PKF analysis. As you move the room rate assumption up, the amount of mitigation fee justified goes down. It could easily drop to zero.

On one hand, unless the City or another public agency is prepared to monitor and enforce a predetermined room rate for this new economy lodging facility, the owner operator will simply charge the market rate. In that case, paying the mitigation fee to that project will simply amount to a gift of public funds.

On the other hand, if a public agency is established to monitor daily room rates and create a "rent controlled" motel, a number of other issues surface:

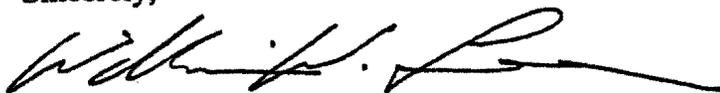
- The owner may have little incentive to maintain the property because he can rent it regardless. The City could in essence be creating blight.

- The operator may be able to circumvent the rent control by placing mandatory charges on parking or breakfast or by accepting other favors.
- If in a recession the market room rate drops below the rent controlled room rate, who bears the cost burden?
- Does the benefit conferred on lower income visitors justify the administrative cost burden incurred by the City or another agency to monitor that facility.

The fundamental conflict is between how our market economy actually works and the social objectives of the policy to provide economy lodging facilities. Unlike the situation with low and moderate income housing, there are no current organizations that monitor and enforce hotel room rates set at below market levels.

I hope these thoughts are helpful. Call if you'd like to discuss this topic further.

Sincerely,



William W. Lee
Executive Vice President

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142



October 15, 1998

Jaime Limon
Design Review Supervisor
City of Santa Barbara
P.O. Box 1990
Santa Barbara, CA 93102-1990

Re: Draft Mitigated Negative Declaration, Harbor View Inn – Phase III Addition

We have reviewed the Draft Negative Declaration (ND) for the proposed addition to the Harbor Inn and would like to provide you with the following comments. The project includes a 14,857 square foot 15-room addition, the remodel of two existing hotel rooms, and a remodeled 26-car parking lot along the Mission Creek Estuary, with an entrance on State Street. The entire project is within the Coastal Zone, and Coastal Development Permits issued by the City for the project are appealable to the Coastal Commission.

Our specific comments are keyed to the sections of the Draft ND.

Environmental Setting

The proposed project straddles the middle reaches of the Mission Creek Estuary (with the additional hotel units on the west side and the remodeled parking area on the east side of the Estuary). The description of the environment setting, however, only noted the built-environment and does not include any description of the Mission Creek Estuary and its associated flora and fauna. In addition to being a major water feature defining significant portions of the City, Mission Creek is one of the most important biotic components in the City, and the Mission Creek Estuary contains one of the most diverse faunas of the lower Mission Creek system. These elements of the environmental setting should be clearly recognized in this section. (See additional comments below.)

Plans and Policy Discussion

The Draft ND indicates that the Santa Barbara Municipal Code Section 28.87.250 allows for a variance of the twenty-five foot setback for development along creeks. The Draft ND indicates that the purposes of the creek setback are to reduce flood-related damage, prevent damage to adjacent or downstream properties, and to protect public health, safety

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and welfare. The discussion, however, does not reflect the resource protection purposes of creek setbacks within the City's portion of the Coastal Zone established in the City's certified Local Coastal Program.

There are a number of policies in the City's certified Local Coastal Program which are pertinent to this project in view of its close proximity to the Mission Creek Estuary which should be cited and discussed in this section. These include the following:

Policy 6.8: The riparian resources, biological productivity, and water quality of the City's coastal zone creeks shall be maintained, preserved enhanced, and where feasible restored.

Action: Planning for and implementation of the restoration, enhancement, and maintenance of the coastal zone sections of the City creeks.

Policy 6.10: The City shall require a setback buffer for native vegetation between the top of the bank and any proposed project. This setback will vary depending upon the conditions of the site and the environmental impacts of the proposed project.

Action: The City shall conduct site specific investigations of Arroyo Burro Creek, Mission Creek, Sycamore Creek, and the Central Drainage Channel within the Coastal Zone to determine the required setbacks to be instituted in future development.

The Draft ND should be revised to explicitly include references to these policies, as well as an analysis of how the project complies with them, including any relevant mitigation measures necessary to ensure that the goals and objectives of these policies are effectively met. (See additional comments below.)

The Draft ND indicates that Santa Barbara Municipal Code Section 28.87.250 allows for a variance of the twenty-five foot setback provision from creeks. It also indicates that the City contemplates allowing a 15-foot reduction in the 25-foot setback for the parking area portion of the project. The discussion, however, does not indicate how this variance complies with the policy requirements of LCP Policy 6.10, or even if a site-specific study has been conducted pursuant to the Action under Policy 6.10.

In addition to the California Coastal Commission and the other public agencies identified as having review and consultation responsibilities, the following trustee public agencies may have review authority over elements of the project: Californian Department of Fish and Game, U.S. Fish and Wildlife Service, and the National Marine Fisheries Services. These public agencies should also be provided an opportunity to review the Draft ND.

We would note that the U.S. Army Corps of Engineers flood control project for lower Mission Creek involves portions of the project site which are within the Coastal

Commission's original coastal permitting jurisdiction. Further, the project involves the alteration of a coastal wetland (Mission Creek Estuary) governed by the policies of Chapter 3 of the California Coastal Act (e.g., 30231, 30233, 30236, and 30240). This project has not been reviewed or permitted by the Commission as of this date.

The Draft ND notes that the project site is located in Component Four of the City's Local Coastal Program, and that coastal issues include protection of the Mission Creek environment. However, as noted above, the discussion does not reference all of the specific Local Coastal Program policies which would govern the development of the site, or contain specific analysis of the project's compliance with these policies.

Environmental Check List

1. Aesthetics.

Discussion

1a. The Draft ND does not contained any discussion of the visual impacts of the project on the adjacent Mission Creek Estuary which is an important visual feature within and immediately adjacent to the project site.

The proposed parking lot would be placed along the east side of the Mission Creek Estuary with a buffer of only 10 feet without any apparent consideration for the visual impacts of the facility on the Mission Creek Estuary. The existing parking lot was constructed without a creek setback or landscaping and presently distracts from the visual quality of the area Mission Creek Estuary. As a mitigation for the reconstruction of the parking lot consideration should be given to providing a larger setback removing non-native vegetation, and landscaping the perimeter and interior portions of the parking lot. (See additional comments below.)

We would note in this regard that the City has completed an architecturally designed vehicular bridge for State Street over the Mission Creek Estuary reflecting the visual sensitivity of the project area. The analysis for this project should also recognize the important visual amenities afford by the Mission Creek Estuary, and the impacts of the project (particularly the proposed parking lot) on this water feature.

The Draft ND cites Local Coastal Program Policy 1.0 stipulating that development "adjacent to creeks shall not degrade the creek or their riparian environments." However, the analysis indicates that the project site "is not a creek side development" because "it does involve construction of improvements within the walls or embankment of Mission Creek." This analysis misinterprets the purpose and application of this policy. Policy 1.0 is intended to govern developments adjacent to creeks, not beyond creek walls or embankments; other policies such as Policy 6.8 and 6.10 and 6.11 govern development within the stream channel. Portions of the project are adjacent to Mission Creek,

including the parking lot, which would be sited within 10 feet of the Mission Creek Estuary. Policy 1.0 therefore does apply to the proposed project.

The Draft ND also indicates that the surface water drainage from the site will be directed to public streets. However, the Draft ND does not indicate where the drainage goes once it reaches public streets. Many of the streets in this area drain back into Mission Creek and the Mission Creek Estuary. The ND should be clarified to indicate where the drainage goes from the street, and if it drains to any portion of the Mission Creek Estuary, it should discuss the potential impacts of this drainage on water quality and identify appropriate mitigation measures.

Recommended Mitigation Measure

The only specific mitigation measures identified in the Draft ND is the removal of the billboard sign located on the property adjacent to the existing/proposed parking lot adjacent to the Mission Creek Estuary...

In addition to the removal of the billboard, additional measures should be taken to reduce the visual impacts of the parking lot. This should include increasing the proposed 10-foot creek setback, the removal of all non-native invasive plant species (e.g., Pampas Grass, Tree Tobacco, etc.) from the parking lot area, and replanting with native riparian and upland transition species of plants in the buffer area between the Mission Creek Estuary and the parking lot, and in other perimeter or entrance areas of the parking lot. The use of these types of plant materials would not only serve to reduce visual impacts of the project and improve the general visual quality of the area, but also reduce the spread of non-native invasive species along the Mission Creek corridor. These mitigation measures would serve to meet the policy objectives of the City's Local Coastal Program Policies 1.0, 6.8 and 6.10.

2. Biological Resources

Discussion

3.a The Draft ND indicates that the project is located in an urban area and that the City's Master Environmental Assessment does not identify the site as containing any significant biotic communities. Further, that there are no endangered, threatened or rare species or their habitat that would be affected by the project.

As noted above, the site straddles the Mission Creek Estuary, which is recognized as an environmentally sensitive habitat within the City's portion of the Coastal Zone. The City has recognized the biological resources of the Mission Creek Estuary, through among other measures, placing interpretive panels depicting the wide variety of plants and animals associated with the Mission Creek Estuary; these panels occur at the Cabrillo Boulevard, State Street, and Mason Street bridges over the Mission Creek Estuary, the later two at the north and south ends of the project site. Further, the Mission Creek

Estuary provides habitat for a number of federally listed species; these include the Tidewater goby (endangered); the Southern steelhead (endangered), the Snowy plover (threatened), and the Least tern (endangered). The Tidewater goby is a year round resident of the Mission Creek Estuary, while the other listed species use the Estuary on a seasonal basis for migration, foraging, or resting.

3b. The Draft ND indicates that no landmark or specimen trees exist on the project site, and that the only significant vegetation in the area of the new construction is the mature Canary Island Date Palms. However, two large specimen Sycamore trees occur near the northeast corner of the hotel site immediately downstream of the Mason Street Bridge. These mature specimen trees provide valuable habitat for avifauna, including some species such as the Black-crowned night heron, which are not normally found in an urbanized setting.

3c.-d. The Draft ND indicates that the existing wood pile and batter wall along the west bank of the Mission Creek Estuary will remain and serve as a vertical barrier protecting the embankment from slope erosion. This wall was reconstructed following the 1995 storms along a new alignment, which extends into and has resulted in the filling in of a portion of the Mission Creek Estuary. To date the project has not received a Coastal Development Permit for this project. (See attached letter from the California Coastal Commission to the project applicant dated May 15, 1998.)

It is not clear how a 10-foot setback from the top of the bank was established; the analysis in the Draft ND suggests that the variance was based upon the procedures and standards of the Santa Barbara Municipal Codes Section 28.87.250. This Code Section allows for a variance from the twenty-five foot setback for development along creeks to reduce flood-related damage, prevent damage to adjacent or downstream properties, and to protect public health, safety and welfare. However, this standard does not reflect the special creek protection standards of the City's Local Coastal Program Policies 1.0, 6.8 and 6.10 which are aimed at protecting the natural resources of the City's coastal creeks.

Finally, it should be noted that the entire parking lot area lies within the designated floodplain of Mission Creek, and while the lot might not itself significantly alter the flow of Mission Creek, the occupancy of the lot with vehicles could materially effect the direction and elevation of flows in lower Mission Creek. (Regarding the reference to additional landscaping along the edge of the Mission Creek Estuary, see the comment above.)

3e. The Draft ND indicates that there is limited wildlife use of the project site due to its central urban location and close proximity to coastal recreational uses. As noted above the project site straddles the middle reaches of the Mission Creek Estuary. Because of the year round presence of water, the proximity of the site to the ocean shoreline, the migratory corridor which Mission Creek provides between the ocean and upstream areas, and the presence of specimen Sycamore trees, the project area supports a wide variety of wildlife, despite its urban setting. (See the comments above.)

12. Water Environment

Discussion

12a. The Draft ND indicates that all surface drainage would be directed to approved locations, but does not specify where these are, or if the surface drainage would be directed, as a result, to the Mission Creek Estuary.

12b. As noted above, the wood pile and batter wall has been reconstructed in an alignment, which extends into the Mission Creek Estuary without benefit of a Coastal Development Permit. In addition, the Lower Mission Creek Flood Control Improvement Study being conducted by the U.S. Army Corps of Engineers has not been reviewed or permitted by the Commission but raises fundamental policy questions regarding the alteration of coastal wetlands.

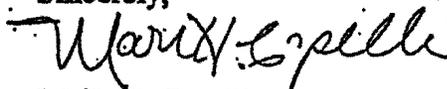
12c. See comment above regarding the discharge of surface drainage and the buffer setback.

12e. See comments above regarding the discharge of surface drainage.

In summary, the Draft ND should be modified to more accurately reflect the aesthetic and biological resources associated with the Mission Creek Estuary, and to identify mitigation measures which specifically address the potential impacts stemming from development in close proximity to the Mission Creek Estuary. In particular, the revised Draft ND should address the issue of the appropriate creek setback pursuant to the City's Policy 6.10.

The Commission staff appreciates the opportunity to comment on this Draft ND and hopes that these comments will be useful in finalizing the document. If you should have any questions please free to contact the Commission's District office.

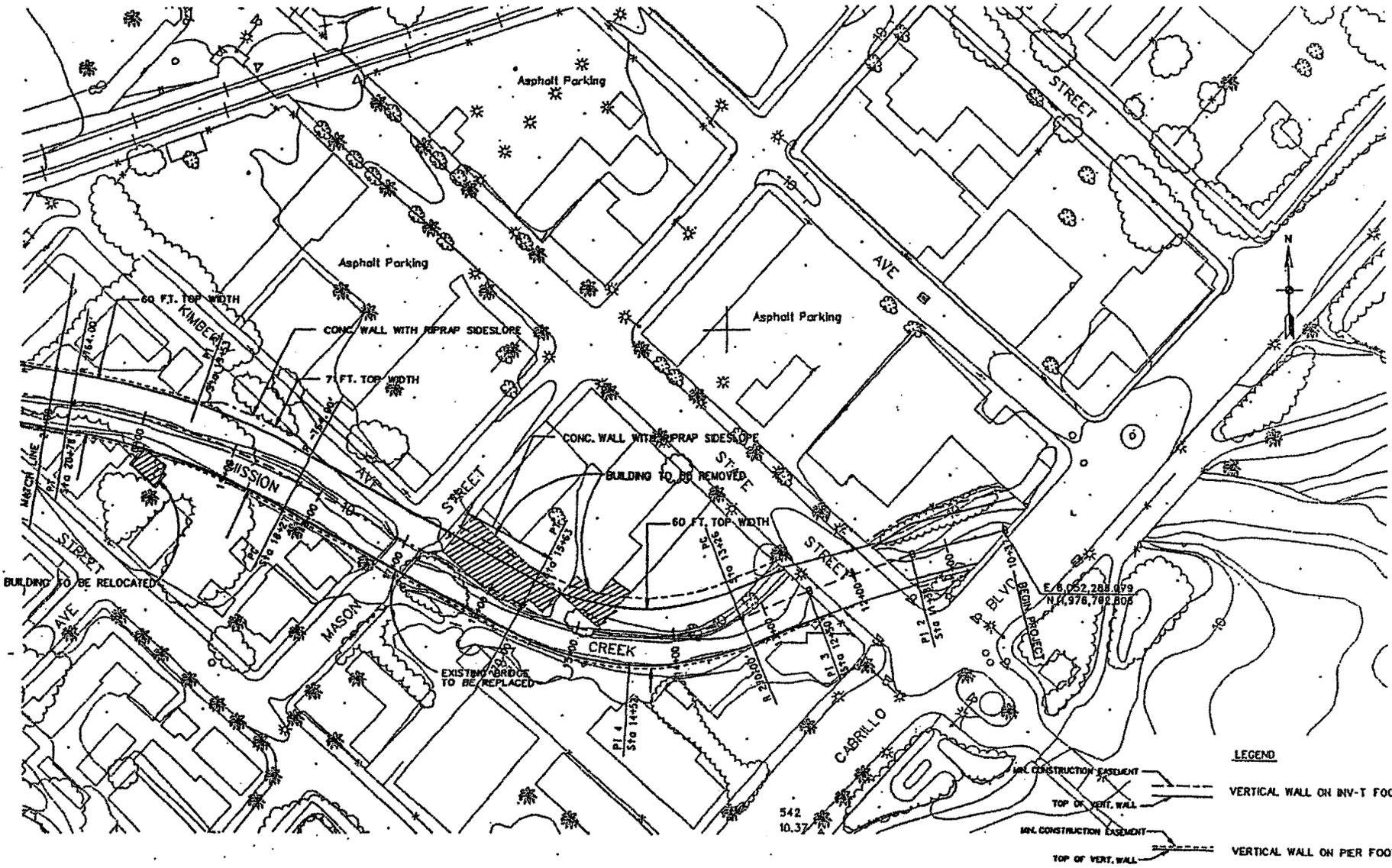
Sincerely,



Mark H. Capelli
Coastal Program Analyst

MHC/

Cc: Jim Mace, U.S. Army Corps of Engineers
Eric Shott, National Marine Fisheries Service
David Pritchett, U.S. Fish and Wildlife Service
Morgan Wehjte, California Department of Fish and Game

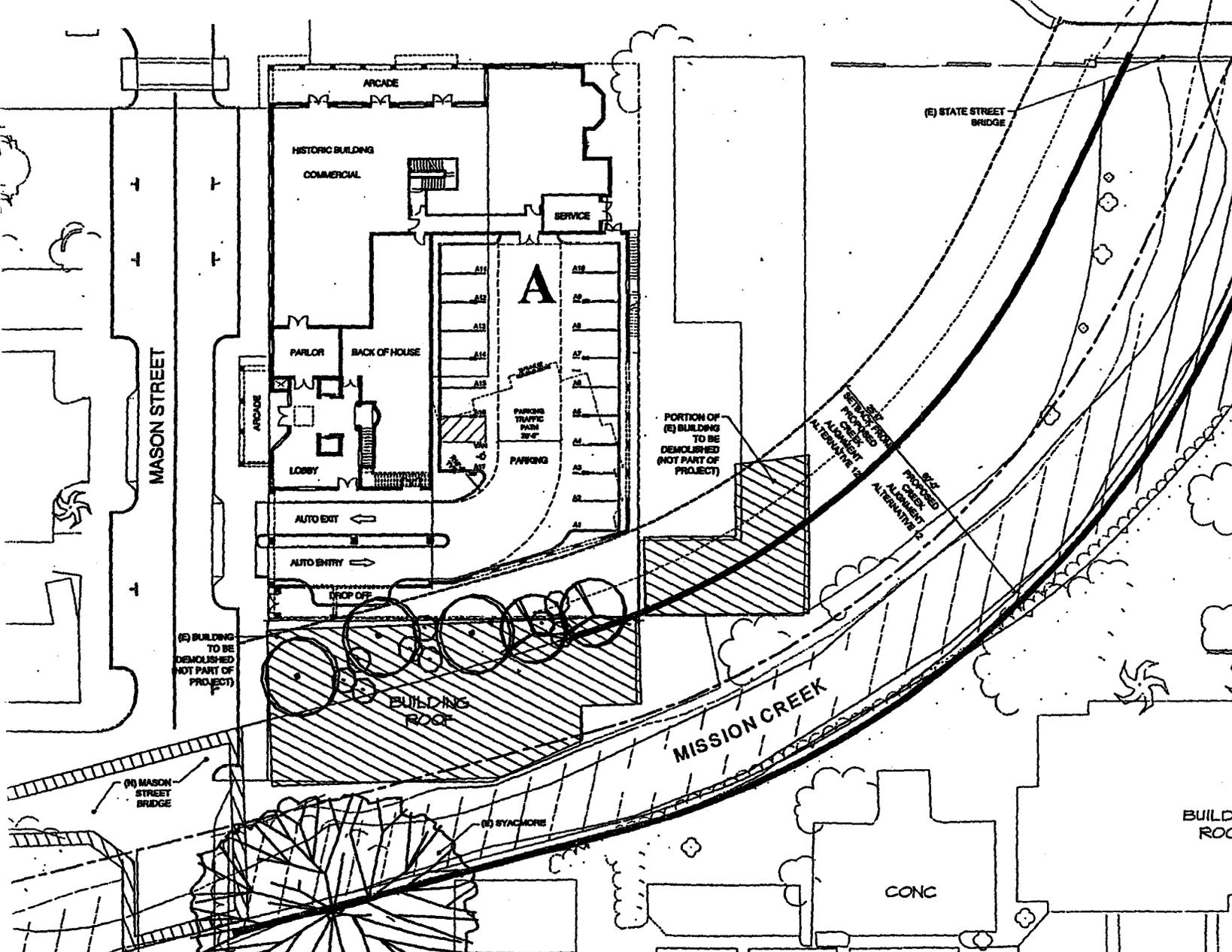


LOWER MISSION CREEK FEASIBILITY STUDY
 SANTA BARBARA COUNTY, CALIFORNIA
 3400 CFS ALTERNATIVE

DESIGNED BY AT
 DRAWN BY AT
 CHECKED BY AT
 U.S. ARMY ENGINEER DISTRICT
 LOS ANGELES
 CORPS OF ENGINEERS
 THOMAS M. SAGE, P.E.

LEGEND
 --- MC CONSTRUCTION EASEMENT
 --- TOP OF VERT. WALL
 --- VERTICAL WALL ON INV-T FOOTING
 --- MC CONSTRUCTION EASEMENT
 --- TOP OF VERT. WALL
 --- VERTICAL WALL ON PIER FOOTING

A Revitalization Proposal
**MODIFIED AREA A
 ALTERNATIVE 12
 MISSION CREEK
 ALIGNMENT**
 1" = 30' SCALE



3/3/00
 7160509



**Scott Sato, P.E.
Senior Engineer**



July 27, 2000

AREAS OF EXPERTISE

- Transportation Planning and Engineering
- Traffic Impact Analysis
- Travel Demand Modeling
- On-Call Consulting Services for Public Agencies
- Signal Timing & Progression Analysis
- Parking Studies
- Traffic Signal Design

EDUCATION

University of California, Irvine: B.S., Civil Engineering, 1990

PROFESSIONAL HISTORY

Urban Crossroads, Inc.
Senior Engineer, 2000-

RKJK & Associates, Inc.,
Senior Engineer, 1994 -2000

DKS Associates,
Transportation Engineer,
1990 - 1994

Linscott, Law, and
Grimsman, Engineering
Intern, 1989 - 1990

AFFILIATIONS

Institution of Transportation
Engineers (ITE)

Southwestern Region
TRANPLAN Model Users
Group

REPRESENTATIVE EXPERIENCE

Scott Sato, P.E., has been working in the field of transportation planning and engineering since 1989. He received his Bachelor of Science degree (Engineering) from the University of California, Irvine in 1990, specializing in transportation studies.

Mr. Sato has worked throughout northern and southern California and Nevada on General and Specific Plan updates, transit modeling, traffic forecasting and circulation plans. His work has included the Douglas County, Sacramento County, and the City of Davis Model Updates. Mr. Sato has also developed travel demand models in southern California for the community of Aliso Viejo, Eastvale, and the cities of Palm Desert and La Quinta.

Mr. Sato has assisted the Los Angeles Metropolitan Transportation Agency (MTA) in preparing transit network alternatives with rail, bus, and HOV components.

Mr. Sato has been active in preparing and updating the traffic impact fee systems for the Cities of Seal Beach and Roseville.

Mr. Sato has designed traffic signals in the Cities of Mission Viejo, Aliso Viejo, and Hawaiian Gardens. Along with his experience in signal design, he has also prepared traffic signal timing and progression studies in the Cities of Santa Ana and Mission Viejo.

Mr. Sato was active in reviewing development applications at the City of Irvine as an on-call consultant. His duties included reviewing all traffic and access studies, discretionary cases, and code compliance applications. He was also responsible for attending commission meetings on behalf of city staff.

URBAN CROSSROADS, INC.

Planning Commission
City of Santa Barbara
630 Garden Street
Santa Barbara, CA 93101
Facsimile (805) 897-1904

Re: Entrada de Santa Barbara and Lower State Street Improvements -
Scoping Comments for Draft Environmental Impact Report

Dear Honorable Commissioners and Planning Staff,

This letter is submitted by the Environmental Defense Center (EDC), on behalf of the Citizens Planning Association of Santa Barbara County, Inc. (CPA) and the League of Women Voters of Santa Barbara (LWVSB), regarding the Notice of Preparation of a Draft Environmental Impact Report (EIR) for the above-referenced Entrada project. The purpose of this letter is to provide scoping comments on new information regarding Mission Creek.

I. NEW INFORMATION REGARDING PROJECT'S IMPACTS ON LOWER MISSION CREEK LAGOON

Significant new information exists regarding the proposed project's impacts to the biological, aesthetic and water resources of Lower Mission Creek. As a result of this new information, based on evidence submitted with this letter, the proposed project may result in significant impacts to biological resources, as described below. Specifically, the City is now aware of, and is the co-sponsor of a major flood control project on the creek adjacent to the project site. The Lower Mission Creek Flood Control Project, as proposed by the City, will approximately double the width of the creek to 60 feet, widening it only on one side - the side adjacent to the Entrada project - by relocating the creek bank about 30 feet towards the project. (Exhibit 1, Lower Mission Creek Flood Control Feasibility Study and Draft EIR/EIS, Plan Sheet No. 16)

Specifically, the City has now publicly presented new information: the exact dimensions of the Lower Mission Creek Flood Control Project locally preferred alternative, Alternative 12, as described in the Draft EIR/EIS released in December of 1999. Consideration of this new information raises new, potentially significant environmental consequences along the project's shared boundary with the ecologically and aesthetically significant lagoon. This alternative as proposed by the City has the

906 Garden Street
Santa Barbara, CA 93101
Phone (805) 963-1622
FAX (805) 962-3152

2021 Sperry Avenue, Suite 18
Ventura, CA 93003
Phone (805) 677-2570
FAX (805) 677-2577

864 Osos Street, Suite A
San Luis Obispo, CA 93401
Phone (805) 781-9932
FAX (805) 781-9384

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effect of significantly reducing the riparian buffer between the proposed project and the creek. Instead of having a setback 30 feet or greater from the top of Mission Creek, the project, including a proposed entry and exit way for the parking lot, will now have virtually no setback along portions of the creek frontage. The potentially significant water resources, aesthetic and biological impacts associated with inadequate riparian buffers are discussed below. These are impacts that the project itself will cause, and have are only now ripe to raise in this EIR since the preferred Mission Creek Flood Control Project was not known prior to the release of the previous ND for this project. Therefore, based on this new information and evidence submitted, the EIR must address the impacts resulting from failure to provide an adequate riparian buffer.

It should be noted that the impacts of the project on natural resources when considered in light of the flood control project were not formally analyzed in any previous environmental document. In response to public comment regarding the previous environmental document for this project, the City stated that the flood control project was "speculative," and that considering the cumulative effects of the flood control project and the subject project was therefore inappropriate.

CPA and LWVSB recognize that the City has long proposed a flood control project along Lower Mission Creek, and that the various iterations of that project design all have included widening the creek toward the subject property. However, since the time that the previous environmental document for the subject project was released, new information released by the City illustrates that there will be an inadequate riparian buffer to mitigate the potentially significant impacts of the proposed project. Without addressing these potentially significant impacts, the draft EIR would be legally flawed. Thus, the scope of the EIR must include water and biological resources and feasible mitigation measures and a reasonable array of practical alternatives that avoid or substantially lessen the potentially significant biological resources impacts as a result of the Entrada project and cumulative impacts.

II. BIOLOGICAL IMPACTS

A. Impacts to Steelhead

1. *Value of Mission Creek Lagoon as habitat for steelhead*

According to Dr. Robert Vadas, Jr., a National Marine Fisheries Service biologist specializing in estuary processes and fisheries, in southern California, lagoons and estuaries are critical to the survival of steelhead. In a letter to Brian Trautwein of the EDC, Dr. Vadas explains how essential lagoons, like the Mission Creek Lagoon, are to steelhead. (Exhibit 2) The Mission Creek Lagoon at the project site is a very important habitat for steelhead that have not yet entered the ocean, and therefore any impacts to this portion of Mission Creek are impacts to a critical habitat of an endangered species.

The importance of lagoons as steelhead habitat is also specified in the California Department of Fish and Game's Steelhead Restoration and Management Plan for California. (Exhibit 3) It states that it is now the policy of the Department of Fish and Game to "seek to protect and restore estuarine and lagoon habitats," because, "estuaries and lagoons provide important juvenile rearing habitat, especially in small coastal stream systems," like Mission Creek.

B. Importance of Maintaining Buffers around Creeks and Lagoons to Protect Steelhead

1. *Steelhead 4(d) Rule*

Under the federal Endangered Species Act, the Secretary of Commerce is required to adopt regulations necessary for the conservation of species listed as Threatened. The proposed 4(d) Rule for Threatened steelhead issued by the National Marine Fisheries Service on December 30, 1999 includes actions that generally are considered to result in a take of steelhead, but which can be exempted from the definition of take if certain conditions are implemented. (Exhibit 4) As an example, one such category of actions is "New Urban Density Development." To fall outside of take prohibitions and thus be permitted, new urban density developments must meet a suite of conditions, including retention of adequate riparian (streamside) buffers to protect water bodies and steelhead habitat from the adverse impacts of dense urban development. The example utilized in the 4(d) rule states, "the development set-back should be equivalent to greater than one site potential tree height (approximately 200 ft (60 m) from the outer edge of the channel migration zone on either side of all perennial and intermittent streams, in order to protect ... rearing habitat." This indicates that the proposed buffer for Mission Creek at the project site is grossly-inadequate.

C. Red-legged Frog Recovery Plan

The lack of adequate buffers has been linked to the decline of aquatic and amphibious species and to a host of other environmental problems referred to in this letter that must be addressed in the EIR. Another source of information on this topic is the draft Recovery Plan for the Red-legged Frog. (Exhibit 5) While the frog has not been recorded in Lower Mission Creek in recent years, the recommendations for protecting Red-legged Frog habitat in the Recovery Plan are applicable to all stream and lagoon habitats as well.

The very first recommended recovery action on page 93 of the Plan is "Protect suitable habitats and buffers in perpetuity." (Emphasis added) Within this recommendation, the Plan specifically suggests "Establish appropriate buffers within urban and agricultural areas on a site by site basis." In the discussion, the Plan states that "buffers should be

established and preserved through the same mechanisms used to secure habitat." These recommendations reflect the understanding that the failure to provide adequate buffers around Red-legged Frog habitats has initiated and or accelerated the decline of this species. The same concept holds true for all streams and lagoons and species that inhabit them. Therefore the Draft EIR must assess potentially significant impacts from the lack of a creek buffer that this project, when viewed in combination with the flood control project, will cause.

D. California Coastal Commission Guidance Document for Wetland Projects

1. Defining an Adequate Buffer

According to the California Coastal Commission's June 15, 1994 Procedural Guidance Document for the Review of Wetland Projects, "Buffers around wetlands should be a minimum of 100 feet." (Exhibit 6) Larger buffer areas should be considered since "nearby development poses increased hazards to a wetland or wetland species." In Southern California, the Commission has typically required 100 foot setbacks for fresh- and salt-water wetlands, and 50 foot buffers for riparian areas," according to the Guidance Document. The mouth of Mission Creek is both a riparian area and a wetland, and the concept of maintaining or increasing setbacks to reduce impacts to wetland habitats and the species they support is applicable to the proposed project.

E. Santa Barbara County Local Coastal Plan and General Plan Policies

1. General Plan Conservation Element

Further evidence of the adverse environmental impacts that result from development without adequate riparian buffers can be found in the Santa Barbara County Conservation Element, part of the County's General Plan. (Exhibit 7) This document states that, preservation of strips of riparian land ... can serve to insulate the stream habitats from many of the insults of human activities. The vegetation, particularly its' root systems and associated humus, can serve as a sponge to absorb runoff coming from developed lands. ... Buffer strips will catch much of the silt carried by the runoff, and catch and bind ... nutrients, such as phosphorous, that otherwise will contribute to excessive" pollution of the creek. "Soils of the strip," according to the County's Conservation Element, "bind certain categories of pesticides which enter in runoff from developed lands." Obviously, the wider the strip the greater the degree of protection afforded. ... We estimate that as little as 100 feet on either side of a stream could provide a good deal of protection to the stream." (emphasis added)

By failing to provide an adequate buffer, this project results in impacts to water quality and biological resources of the Mission Creek lagoon, resources that are

dependent on water quality. The EIR must address these potentially significant impacts that have arisen as a result of the new information contained in Exhibit 1.

2. Santa Barbara County Local Coastal Plan

Policy 9-37 of the County's Local Coastal Plan (LCP) requires a minimum 100-foot setback for creeks in rural areas, and a 50-foot setback for streams in urban areas. This policy was crafted to ensure that the LCP complied with the Coastal Act which requires that developments and other actions be set back from environmentally sensitive coastal habitats to avoid significant disruption of the habitat (Public Resources Code (PRC) Section 30240(b).) The City, on the other hand, does not have a setback policy for creeks in its Local Coastal Plan. Policy 9-37 (Exhibit 8) of the County's LCP also ensures that the County's LCP complies with PRC Section 30231 by maintaining the water quality and biological productivity of coastal waters. The County policy is included in this letter to illustrate that new development must be kept away from coastal creeks to prevent significant deterioration of habitat and water quality, and that the proposed project fails to do this.

F. Santa Barbara City Policies

1. Policy Update Project

The City of Santa Barbara, in its Municipal Code, currently has only a 25-foot creek setback policy for development along Mission Creek, but this setback was solely developed to reduce erosion and flooding impacts. Recognizing the need to have a biological and water quality based rationale for creek setbacks, the City initiated an intensive review and update of the policies for creek protection. The City has released information (Exhibit 9; labeled Draft - Table of Contents) as part of its funded and year-old Creek Policy Update project, and this information conveys the City's plans to increase the standard creek setback to better protect creek biological and water quality resources. City staff has publicly discussed that the foremost issue in the policy update (Preliminary Recommendations 1.1.1 and 1.1.2) is increasing the creek setback standard, and a 50-foot setback for creeks is actively being discussed by the City's Creek Policy Working Group.

Therefore, the City recognizes the need for better creek setbacks to protect water quality and biological impacts of development, but is not proposing to address this issue in the EIR. The EIR for this project must analyze the adequacy of the project's proposed buffer in light of the information regarding the adequacy of creek buffers, and in light of the significant new information regarding the flood control project.

2. City Airport Specific Plan LCP Policies

While the City does not have an LCP Policy for creek setbacks along Mission Creek, it already has two creek setback policies for the Airport Industrial Specific Plan Area only, and these policies mandate a 100-foot setback around all wetlands and creeks in that area. Policies B-2 and C-4 (Exhibit 10), addressing Biological Resources and Environmentally Sensitive Habitat Areas respectively, require minimum 100-foot setbacks in which no new development is allowed. Considering that the City acknowledges the need for a 100-foot setback along some creeks of similar size and with similar resources to Mission Creek (though the airport creeks lack Tidewater gobies), the DEIR must analyze the impacts of the much smaller proposed setback of the Entrada project.

G. Impacts to Tidewater Gobies

Tidewater gobies exist in the Mission Creek Lagoon. This federally listed fish species is adversely affected by poor water quality. Buffer strips are ways to reduce the impacts of development on stream water quality. By failing to provide an adequate buffer around the widened creek, the project does not propose to protect Mission Creek sufficiently from potentially significant adverse water quality and biological impacts. The EIR must therefore analyze the water quality and related biological impacts as a result of the Entrada Project and cumulative impacts.

H. Need to Analyze and Mitigate Biological Impacts Caused by Lack of Adequate Buffer

The issues described above were not addressed by the City in any previous environmental document for the Entrada project, because, as the City noted, prior to release of the Mission Creek Project's preferred alternative, it may have been "speculative" to assess project and cumulative impacts, alternatives, and mitigation measures affected by a project that was not officially proposed. Now that the proposed Mission Creek Flood Control Project preferred alternative, which specifies that the creek will be substantially widened toward the subject project, was selected by the City, the DEIR for the Entrada project must analyze project impacts related to the exceptionally narrow buffer proposed.

Ample evidence exists in the record to support a fair argument that the project's lack of an adequate riparian buffer may result in significant impacts to biological resources. The EIR must therefore analyze impacts to biological resources related to the new information presented, and must present mitigation measures and alternatives that would reduce those impacts.

I. Mitigation of Biological Impacts

The following measures would help to ensure the potentially significant biological impacts of the project, brought to light by the City's release of the Lower Mission Creek Flood Control Project preferred project alternative, are mitigated to the maximum extent feasible.

1. To reduce the potentially significant impacts that the project will inflict on the lagoons biological resources, a larger setback from the creek for all development, including all parking areas, pavement and structures should be employed.
2. Additional native riparian and wetland species, as appropriate to site's ecological conditions and propagated from locally collected native sources, should be planted throughout the buffer and in all portions of the project landscaping within 100 feet of the creek.
3. In addition to installation of stormdrain filters, construction of bio-filters to handle low runoff flows from the parking areas and hardscape, as well as from the landscaped areas should be undertaken in the buffer area and/or throughout the project to reduce runoff, maintain or enhance recharge and filtration through the soil, and reduce runoff of pollutants.

III. WATER QUALITY IMPACTS

A. Impacts Caused by Lack of Adequate Buffers

According to the Coastal Commission's June 15, 1994 Guidance Document referenced above, without adequate buffers, lagoons and creeks suffer from non-point source pollution problems. With buffers, on the other hand, urban pollutants such as hydrocarbons from street runoff, pesticides and fertilizers from landscapes, trash, and fecal coliform bacteria and other forms of contaminants are better kept from the waterways. These pollutants are filtered out, broken down and absorbed by microbes, plants and biological and physical processes at work in the soil of the buffer. The Commission's Document states that these buffers "should be designed ... to help minimize the effects of ... pollution arising from urban, industrial and agricultural activities." Buffers help to reduce pollution in estuaries and lagoons, including "non-point source discharges into the watershed and air, domestic and industrial garbage and debris, and biological pollution arising from the introduction of exotic organisms." Absent an adequate buffer, this project threatens to result in significant impacts to the water quality and thus to the wetlands and to the fish, including federally listed tidewater gobies and steelhead that rely on the Mission Creek Lagoon. The impacts to water quality from the inadequate buffer proposed must be fully analyzed in the EIR.

B. Project Clean Water Wetlands and Riparian Buffer Restoration Working Group Report

Further evidence of the water quality impacts caused by the lack of riparian buffers is found in the detailed report prepared by a joint County-City-Public Stakeholder Report prepared as part of Project Clean Water. This report (Exhibit 11, excerpts) describes in detail the processes by which buffer areas filter out and otherwise break down and render harmless pollutants that otherwise would enter waterways. It also discusses the need for providing large enough setbacks for new development to reduce water pollution impacts, and has a detailed list of technical references supporting the notion of riparian buffers to filter non-point source water pollution.

1. Mitigation for Water Quality Impacts

Mitigation for water quality impacts has been spelled out in most of the referenced documents in this letter. Maintaining an adequate buffer by increasing the setback over the proposed project is the most effective manner to reduce the impacts to water resources and biological resources caused by non-point source pollution. Furthermore, the City's reliance on stormdrain filters must be analyzed as a mitigation measure. The effectiveness of these facilities is questionable, because during larger storm events when pollutants are being flushed out of or with the soil and off the hardscapes into the water, water is bypassed around stormdrain filters. Larger buffers with natural vegetation, especially near the parking area, driveway, and buildings, would buffer the creek from water quality impacts during construction (wet weather construction and post construction waste runoff). Removal of a portion of the proposed project and buildings from within the buffer should be analyzed as a mitigation measure for significant water resources impacts, as described above.

IV. VISUAL IMPACTS RELATED TO INADEQUATE CREEK BUFFER

In addition, according to the County's Conservation Element, buffer strips help to create an "aesthetically pleasing backdrop," and thus help to lessen visual impacts of projects. The EIR should therefore analyze the visual impacts of this project's failure to provide an adequate buffer strip, and should analyze at least one alternative that includes an adequate buffer strip to mitigate potentially significant visual impacts.

V. OTHER ISSUES REQUIRING ANALYSIS IN THE DRAFT EIR

A. Entry/Exit Way for Parking Area off Mason Street

The EIR must analyze the impacts of the proposed entry way and exit way at Mason Street, next to Mission Creek. The proposed project plans indicate a two-way entrance/exit here, but the plans for the Mission Creek Flood Control Project show too

narrow an area for this. Is there enough room for a two-way entrance? There is also a proposed habitat expansion zone at this location. The EIR must assess how this area will accommodate the proposed entrance, and what the impacts of it will be given the inadequate setback. Will the project include widening this area to make it a two-way entrance? The EIR should analyze removal of more of the building (then is proposed by the flood control project) as a mitigation measure for this entrance being too close to the proposed creek bank. Biological impacts from headlights entering the lagoon, runoff, pollution, trash and other disturbances must be analyzed.

VI. CUMULATIVE IMPACTS

The Harbor View Inn Project was approved in 1998. The Harbor View Inn Project includes a parking area on one side of the creek and a walkway on the other, both within ten feet of the creek bank. When the creek is widened and if the Entrada project is approved as proposed, there will be significant cumulative impacts that must be addressed in the EIR. These biological, aesthetic and water quality impacts resulting from the lack of an adequate buffer not only at the project site, but throughout this reach of creek, could not have been known when the City prepared the ND on Entrada. They are known now because of the release of the flood control project Draft EIR/EIS.

To better analyze this impact, the EIR should depict the future of the site graphically. The EIR should superimpose Harbor View and the Entrada on the future widened Mission Creek channel to better express the lack of an adequate buffer.

In addition, the City Council on 7-25-00 approved the application for an Army Corps of Engineers Section 404 permit to re-initiate breaching of Mission Creek's mouth. The impacts of this project (Exhibit 12) must be analyzed as they relate to the Entrada and Harbor View projects.

VII. POLICY AND COASTAL ACT CONSISTENCY ANALYSIS

The Draft EIR must contain a thorough analysis of this project's consistency or inconsistency with all City policies, and state and federal laws that relate to it. The project does not have a 25-foot setback from the proposed creek bank, as required under the Municipal Code (Section 28-87-250). It does not have a 100-foot setback as the City requires for creeks in the Airport portion of the Coastal Zone. It also fails to recognize the City's creek policy update process, and the goal of increasing the setback to 50 feet in the City. The EIR should discuss all of these issues as related policy issues, even if the airport policies do not directly apply.

The Draft EIR should also thoroughly analyze this project's consistency with Section 30232 of the Coastal Act, which requires no degradation in water quality and no

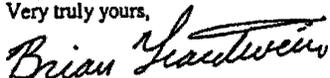
reduction in biological productivity. Given the exhibits to this letter, such deterioration is likely to occur without increasing the buffer.

VIII. OTHER IMPACTS OF INADEQUATE BUFFER

Lack of a buffer for the creek will increase night lighting, noise, and human disturbance impacts, as well as pollution, aesthetic and habitat impacts. Please also ensure that the EIR analyzes the impacts of asphalt leachate runoff from all proposed paved areas (Exhibit 13).

Thank you for your consideration of these important issues. Please call me at 805-963-1622 if you have any questions.

Very truly yours,



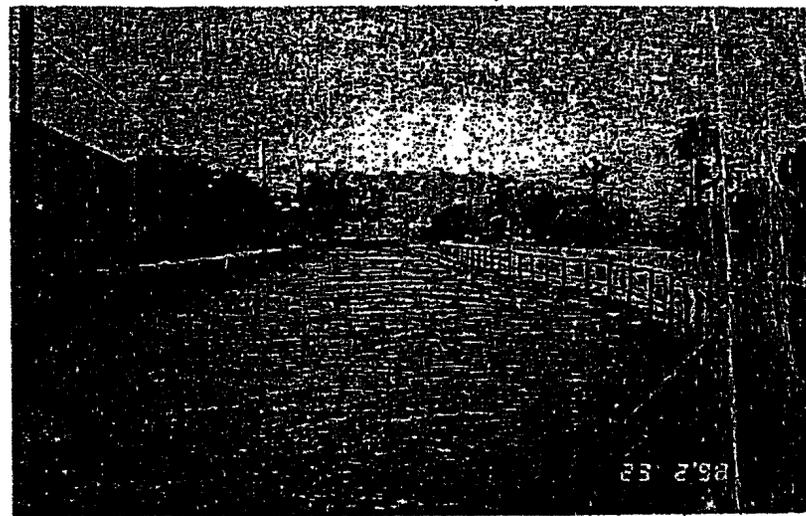
Brian Trautwein
Environmental Analyst

cc: CPA
LWVSB



US Army Corps
of Engineers
Los Angeles District DRAFT MAIN REPORT & EIS/EIR, DECEMBER 1999

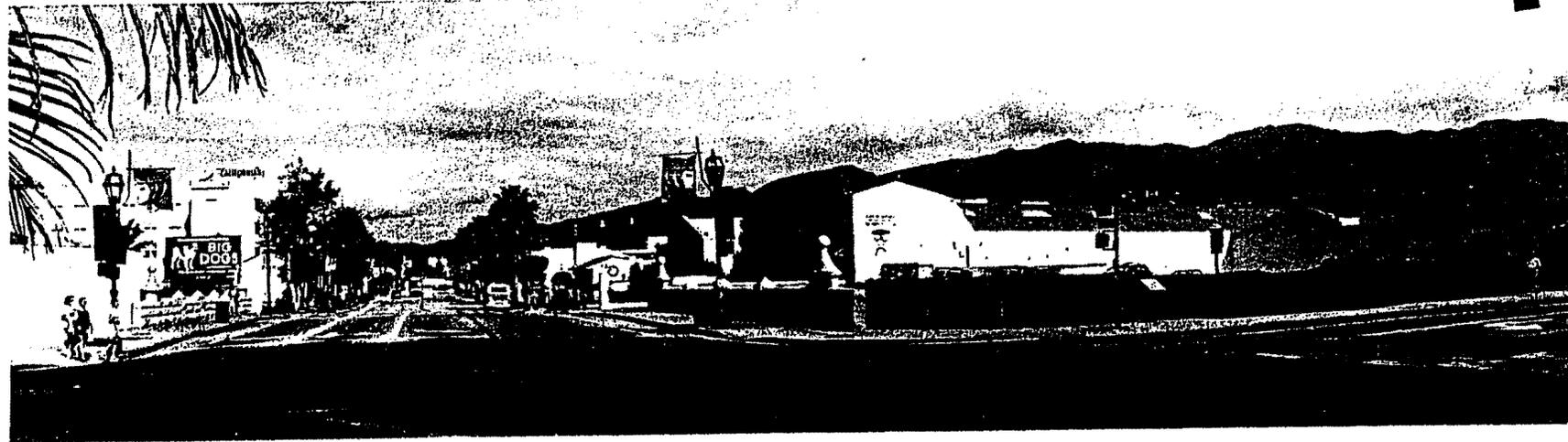
SANTA BARBARA COUNTY STREAMS LOWER MISSION CREEK FLOOD CONTROL FEASIBILITY STUDY



Los Angeles District, Corps of Engineers
Planning Division, Water Resources Branch
P.O. Box 532711
Los Angeles, California 90053

EXHIBIT 

F-71



EXISTING CONDITION



PROPOSED CONDITION with landscaping

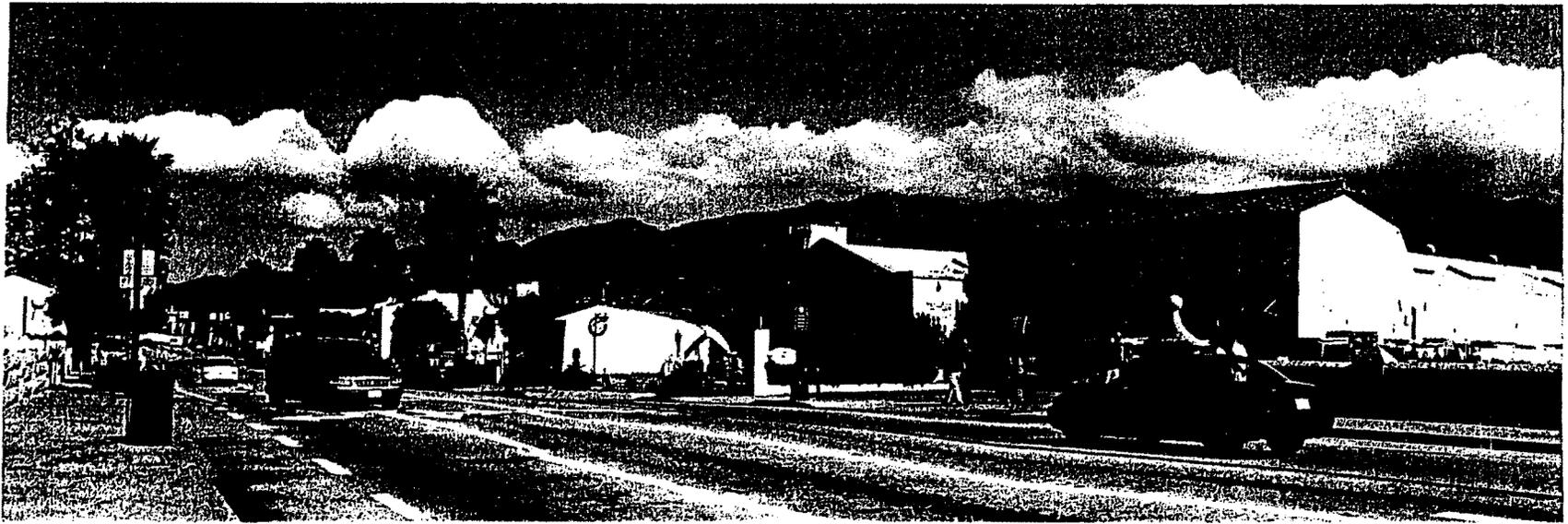
EXHIBIT

Figure 4-9. View 2: Looking Up State Street from Dolphin Fountain

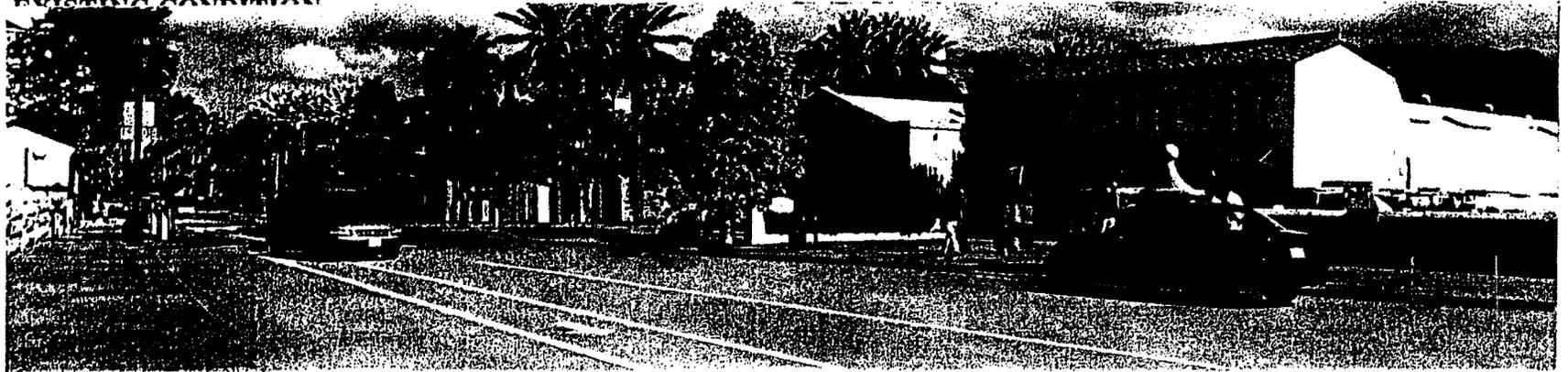


PROPOSED CONDITION with landscaping

Figure 4-10. View 3: Looking Towards Area B from Southwest Corner of State Street and Cabrillo Boulevard



EXISTING CONDITION



PROPOSED CONDITION with landscaping

Figure 4-12. View 5: Looking Toward Area B from Northwest Corner of State Street and Cabrillo Boulevard

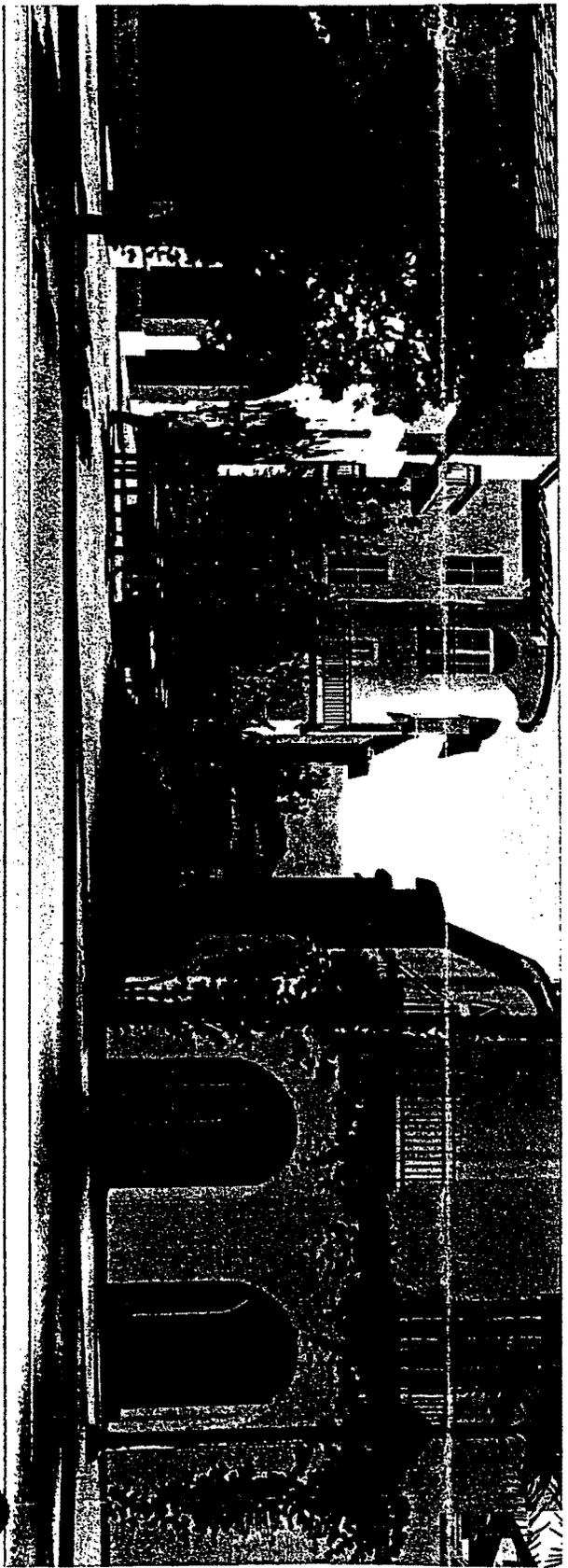


PROPOSED CONDITION with landscaping

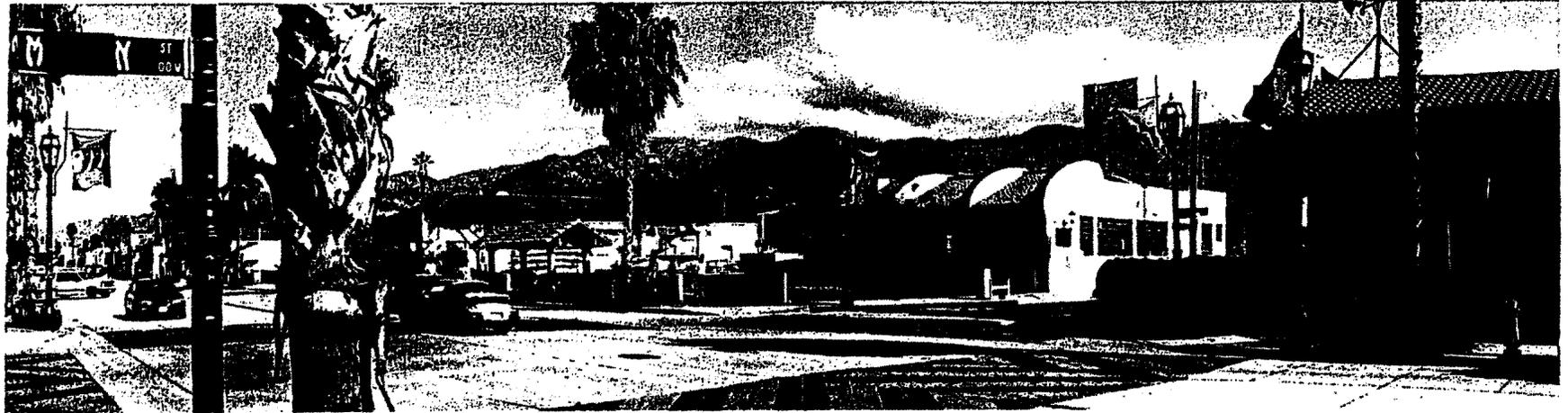
Figure 4-13. View 6: Looking Toward Area B from West Side of State Street at Mission Creek Bridge



EXISTING CONDITION



PROPOSED CONDITION with landscaping



EXISTING CONDITION

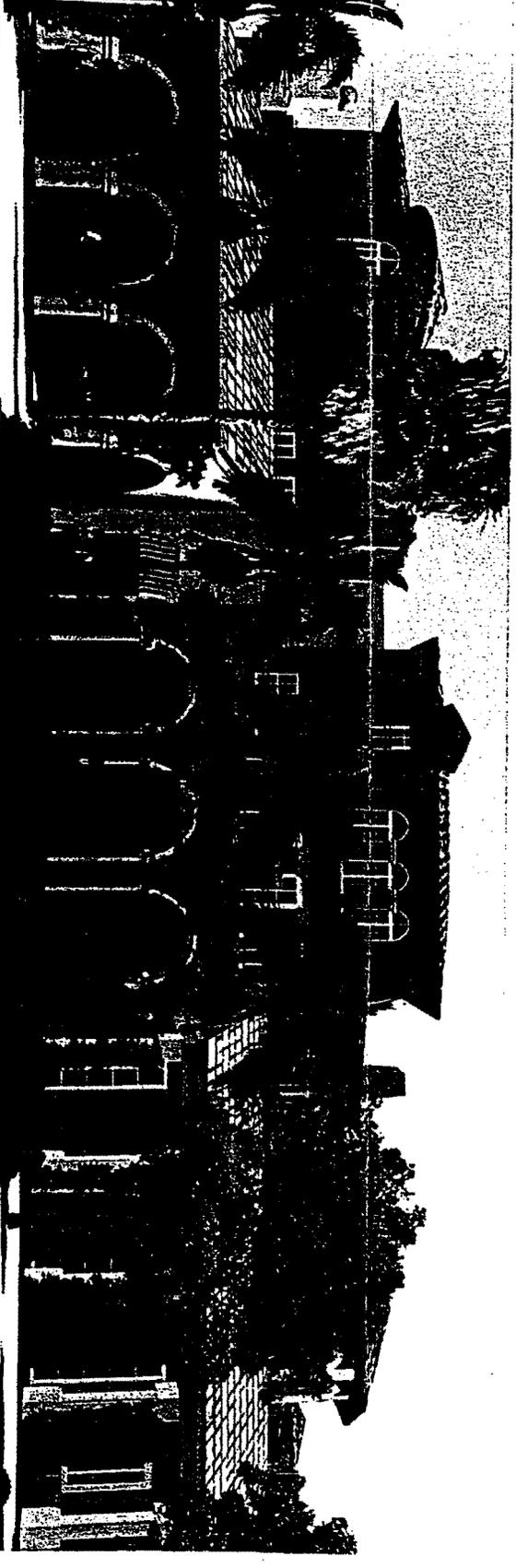


PROPOSED CONDITION with landscaping

Figure 4-15. View 8: Looking Through Area C from Entrance of Californian Hotel



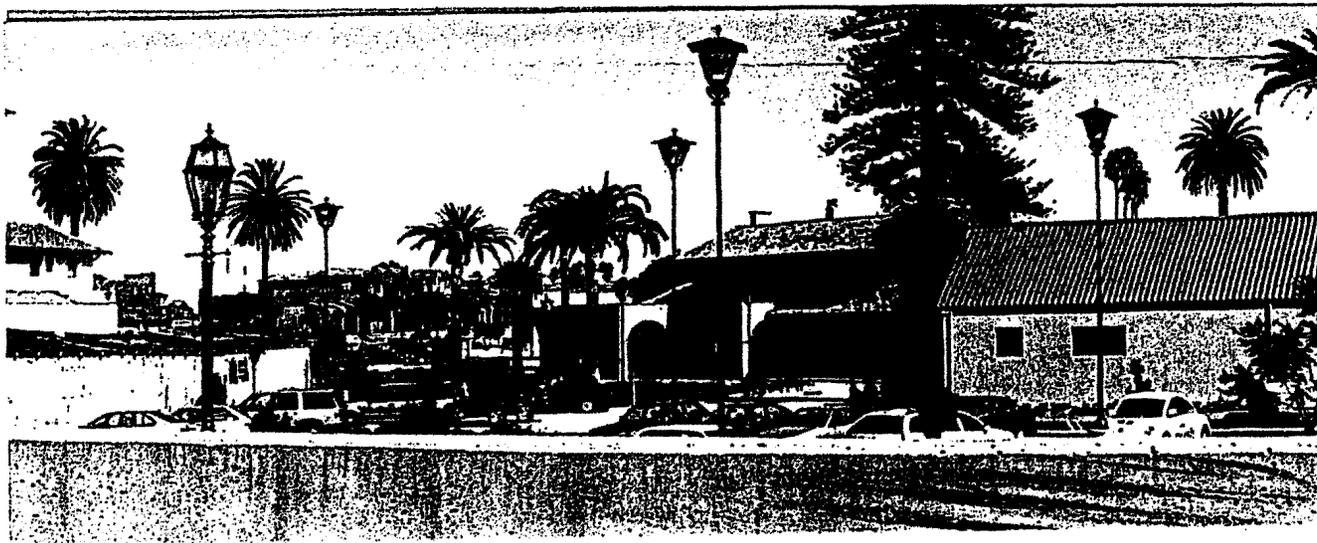
EXISTING CONDITION



PROPOSED CONDITION with landscaping



EXISTING CONDITION



PROPOSED CONDITION with landscaping

EXHIBIT

Figure 4-25. View 18: Looking Toward Entrada Project Site from U.S. 101 West of State Street Bridge

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
99 SOUTH CALIFORNIA ST., 2ND FLOOR
VENTURA, CA 93001
(805) 641 0142

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT



RECEIVED

SEP 06 2001

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

Streets R Us
c/o James E. Marino, atty.
1026 Camino del Rio (805) 967-5141
Santa Barbara, CA Zip 93110 Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: Santa Barbara City Council

2. Brief description of development being appealed: Public Works project to narrow 100-300 block State Street and the time-share condominium development commonly called "La Entrada".

3. Development's location (street address, assessor's parcel no., cross street, etc.): 100-300 blocks of State Street, Yanonali through Mason Streets in the City of Santa Barbara.

4. Description of decision being appealed:
- a. Approval; no special conditions: of both projects and their coastal development permits
 - b. Approval with special conditions: _____
 - c. Denial: _____

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-4-SBC-01-167

DATE FILED: 9/6/01

DISTRICT: _____

H5: 4/88

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- a. Planning Director/Zoning Administrator c. Planning Commission
- b. City Council/Board of Supervisors d. Other _____

6. Date of local government's decision: 22 August 2001

7. Local government's file number (if any): (unknown)

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

William Levy

City of Santa Barbara Redevelopment Agency

630 Garden Street

Santa Barbara, CA 93101

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) League of Women Voters

1217 De la Vina St.

Santa Barbara, CA 93101

(2) Citizens Planning Assn., c/o Legal Defense Center

301 E. Canon Perdido St.

Santa Barbara, CA 93101

(3) Cars R Basic

2905 De la Vina St.

Santa Barbara, CA 93105

(4) (other persons too numerous to set out)

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

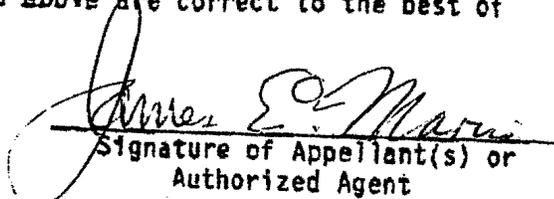
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attachments "A" and "B". The two proposed projects violate the State Coastal Act and the Local Coastal Plan of the City of Santa Barbara. They also violate the General Plan of the City of Santa Barbara and the Public Works project proposed to eliminate needed traffic lanes to access coastal resources in the central waterfront zone of Santa Barbara, violates the Vehicle Code and Streets and Highways Code. Also the City's refusal to amend the Local Coastal Plan is itself a violation of Section 28.45.009 (7) of the Coastal Ordinance.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

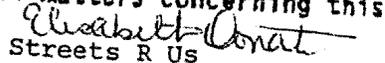

Signature of Appellant(s) or
Authorized Agent

Date 6 September 2001

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize James E. Marino to act as my/our representative and to bind me/us in all matters concerning this appeal.


Streets R Us

By: Elisabeth Donati
Signature of Appellant(s)

Date 6 September 2001

ATTACHMENT A

The City of Santa Barbara's policy in cases of which only part of a Public Works project or a private development project is in the appealable portion of the coastal zone, then for purposes of review and issuances of a Local Coastal Development Permit, the entire project is treated as lying in the appealable portion of the coastal zone. [See attached staff report.]

A-1 The results of a recent Santa Barbara Hotel-Motel room state survey.

A-2 Section 11100 and 11200 of the California Streets and Highways Code providing that the closure of a part of a street used for vehicular traffic in order to create a pedestrian mall, [plaza or other facility] requires a showing that such closure or narrowing will not unduly inconvenience vehicular traffic.



City of Santa Barbara
California

CITY OF SANTA BARBARA

PLANNING COMMISSION STAFF REPORT

October 9, 1997

APPLICANT: Greg Knudson, Project Civil Engineer

PROPERTY OWNER: City of Santa Barbara

LOCATION: Intersection of Milpas Street and U.S. Highway 101

PARCEL NO.: 17-171-RW

REQUEST: The project involves improvements at the intersection of Milpas Street and U.S. Highway 101. These improvements would include:

- (1) removal of the traffic signal at the Milpas Street/Highway 101 Northbound ramps/Carpinteria Street intersection and reconfiguration of the intersection into a roundabout;
- (2) installation of a traffic signal at the intersection of Milpas and Quinientos Streets;
- (3) reconfiguration of the Milpas Street/U.S. Highway 101 southbound ramps/Indio Muerto Street intersection and
- (4) widening Milpas Street to two lanes in each direction between Indio Muerto Street and the Highway 101 overpass.

The discretionary application required for this project is a Coastal Development Permit to allow construction of major public works project in the appealable jurisdiction of the Coastal Zone (SBMC §28.45.009). (MST97-0037) (CDP97-0039)



DATE APPLICATION ACCEPTED: August 14, 1997

DATE ACTION REQUIRED: October 13, 1997

000778

potential impacts and which required mitigation were hazardous waste, cultural resources, visual quality and construction impacts. All identified impacts were shown to be mitigated to a less than significant level

During public comment on the Draft Negative Declaration eight comment letters from the public and agencies were received by Caltrans, including comments from the City Fire Department and the City Planning Division. Responses to these comments are incorporated into the Final Negative Declaration (Exhibit D, Appendix B). On May 7, 1996, Caltrans approved the Final Negative Declaration.

The Negative Declaration identified no significant and unavoidable impacts related to the proposed project. Pursuant to CEQA and prior to approving the project, the Planning Commission must consider the Negative Declaration and any comments received.

For each mitigation measure adopted as a part of a Mitigated Negative Declaration, the decision-makers are required to make the mitigation measures conditions of project approval and adopt a program for monitoring and reporting on the mitigation measures to ensure their compliance during project implementation [PRC §21081.6]. The mitigation measures described in the Final Negative Declaration have been incorporated into the recommended conditions of project approval (Exhibit A) for this project. In addition, a mitigation monitoring and reporting program (MMRP) was developed by Caltrans and is included in the project's Final Negative Declaration.

V. ISSUES

Only the portion of the project area south of Highway 101 is located within the Coastal Zone; however it is City practice to review projects which are partially in the Coastal Zone as a whole. The project is in the appealable jurisdiction of the Coastal Zone because it constitutes a major public works project (SBMC §28.45.009(c.)(3.)). To approve the Coastal Development Permit, the Planning Commission must find that the project is consistent with the policies of the California Coastal Act, the City Local Coastal Program, its implementing guidelines and all applicable provisions of the Municipal Code.

Coastal Act Consistency:

One policy of the California Coastal Act appears relevant to the proposed project. Section 30254 states (in part):

"New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division. . . ."

Santa Barbara's bed tax hike may hurt city hotels

By **MARIA ZATE**
NEWS-PRESS STAFF WRITER
e-mail: mzate@newspress.com

Blame it on the economy or blame it on the higher bed tax imposed by Measure B. Either way, the hotel industry has had fewer visitors so far this year, with the occupancy rate slipping compared to a year ago.

Although the majority of Santa Barbara hotel operators support the benefits of creek cleanup, which Measure B funds, they can't help feeling that they're losing business to nearby areas offering a lower bed tax — and the latest data may support that belief.

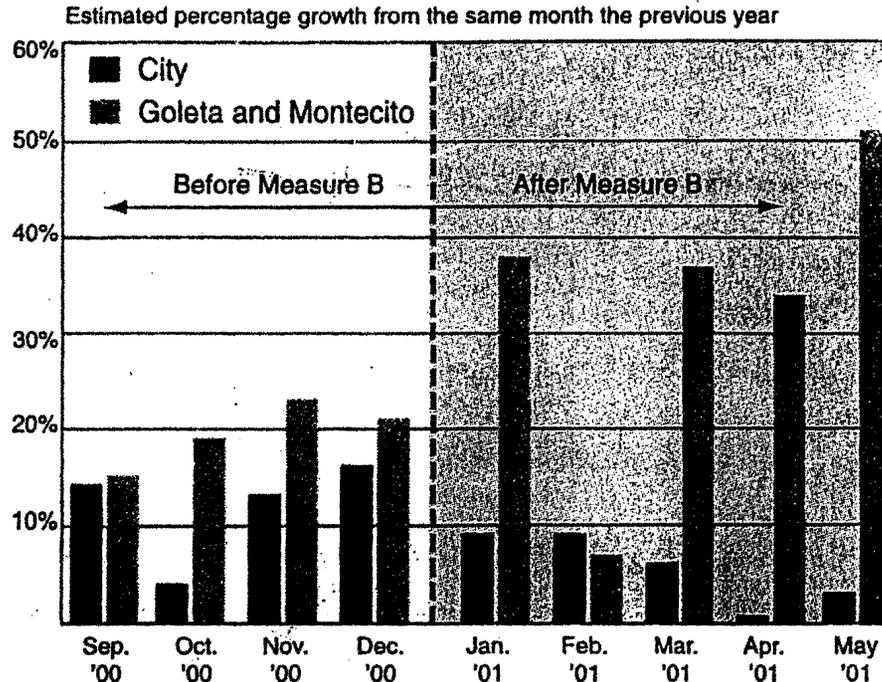
For many years, the 10 percent hotel bed tax has been a cash cow for the city of Santa Barbara. It's the second largest source of revenue after the sales tax, generating \$10.2 million last year.

Last November, city voters overwhelmingly approved Measure B, which raised the bed tax of hotels within city limits from 10 percent to 12 percent. The additional tax, which went into effect in January, was expected to generate \$2 million a year for creek restoration.

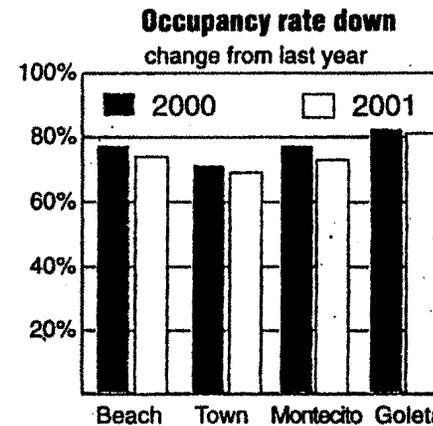
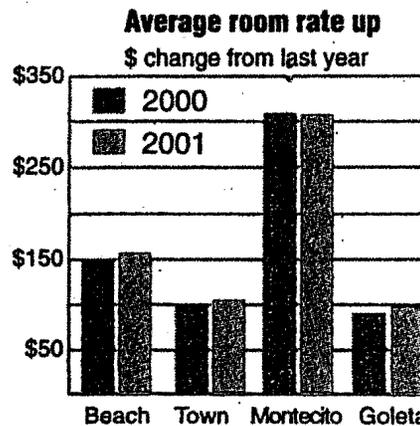
Over the last five years the bed tax, formally called the transient occupancy tax, or TOT, has continued to pour money into city coffers, growing higher each year. But something unusual happened in July, the first month of the city's fiscal year.

In July 2001, bed tax revenue was lower than the

Bed tax revenue growth



Average room rates and occupancy from January to June 2001.



Sources: City of Santa Barbara, Santa Barbara Conference and Visitors Bureau, Santa Barbara County controller

TOM DE WALT / NEWS-PRESS

Please see **TOURISM** on F7

ATTACHMENT A-1

ATTACHMENT B

ISSUE 1

APPROVAL OF A MAJOR PUBLIC WORKS PROJECT TO ELIMINATE 2 NEEDED
PUBLIC TRAFFIC LANES THROUGH THE PRIVATE TIME-SHARE
CONDOMINIUM DEVELOPMENT PROJECT IS IMPROPER AND UNLAWFUL

- A. **The elimination of traffic lanes needed for access to and from the coastal zone and central waterfront area is contrary to the State Coastal Act and the Certified Local Coastal Plan.**

The State Coastal Act [sections 30210-30212.5 and others], and the Local Coastal Plan policies 7.1 et. seq. [and others], explicitly provide that the coastal zone and use and access to coastal recreation facilities be predominantly open to public use and that access to the coastal zone and waterfront be provided to the public for all modes of transportation.

Since the City of Santa Barbara was created in the 19th century, Cabrillo Boulevard has been both the main access and a prominent boulevard for scenic trips along the Santa Barbara Coastline by horseback, buggy, bicycles, on foot, and since the advent of motor vehicles, by cars, buses, and other vehicles. State Street has been the central or main street through the heart of downtown Santa Barbara leading to the central waterfront coastal zone and Stearns Wharf for well over a century.

Over the many decades of coastal access, the primary and most popular route to access the central waterfront and coastal zone, for tourists and visitors as well as local residents, is via State Street. Those who come by car, bus, bicycle, and on foot, access the central waterfront areas by using the ingress and egress currently provided by State Street, which has two lanes for vehicular traffic in either direction, a class I bike lane, and 14-foot wide decorative sidewalks for the use of pedestrians. This system is functioning well for all users, although vehicle congestion occurs at busy times.

At one time many other streets, including several parallel streets, were open for access to the coastal zone and central waterfront areas. The railroad tracks and in particular the completion of the cross-town 101 freeway project, closed off most of these alternative access routes.

Although two more distant access streets were opened, Garden Street and Salsipuedes Street, these are seldom used because in addition to being further away from the State & Cabrillo waterfront hub, they also wend their way through ugly industrial areas and do not attract visitors, most of whom use either State Street, or Milpas Street to the East, and Castillo Street to the West, as the primary access to the coast and the popular central waterfront zone.

The Public Works project, appealed here, to eliminate two (2) needed traffic lanes on State Street through the middle of the La Entrada project, unnecessarily impedes vehicular traffic to the many visitor-serving and coastal recreation uses in the immediate vicinity and to do so to widen the already wide enough sidewalks is not only illogical, but

violates the accessibility policies and provisions of the State Coastal Act and the Certified Local Coastal Plan of the City of Santa Barbara.

- B. The elimination of 2 needed traffic lanes through the privately owned commercial/condominium development is an unnecessary and illegal gift of public resources to aid a private for-profit development.**

Inherent in all of the provisions of the State Coastal Act and the certified Local Coastal Plan of the City of Santa Barbara, is the principal that the sea coast and public access to and from the coast including public recreation features, belongs to everyone and that it shall not be usurped by for-profit private developers at the expense of the public.

The so-called La Entrada time share condominium development project proposes to take over three historic blocks of the central waterfront area of the City of Santa Barbara along the bottom of State Street.

This area of the Santa Barbara Coast has historically been the busiest, with numerous public recreation and accommodations in the area along Cabrillo Boulevard, Stearns Wharf, the skateboard park, carousel, Chase Palm Park, the harbor and breakwater, and other facilities. There are also numerous events such as the regularly scheduled arts and crafts show, and many specially scheduled events in that area throughout the year.

As a part of the La Entrada project, the City of Santa Barbara has proposed to eliminate two (2) of the needed traffic lanes and widen the sidewalks even further than their current 14-foot width. There is no need to widen these sidewalks. The developers of La Entrada, including William Levy and others, indicated that they didn't need the

additional ten (10) feet of sidewalk on each side of the street. They also indicated to the City Council that if their project was approved, they intended to make all of the visual and pedestrian amenities to the existing sidewalks whether or not they were made even wider.

The City's only reason for proposing the elimination of needed traffic lanes to widen this two block segment of State Street was "to make it look like downtown," or "look like an extension of the downtown pedestrian plaza." In fact, these sidewalks are already as wide or wider than the existing downtown "plaza sidewalks".

As set out infra, the City's own consultant, Associated Traffic Engineers, indicated the impact any narrowing of State Street to extend the downtown plaza will likely be to create added congestion [see Attachment "B", EXHIBIT 1]. Finally it is apparent from the existing downtown sidewalks that their 14-foot wide width is not for the benefit of pedestrians but rather is to enable the City of Santa Barbara to rent the public sidewalks to adjacent businesses, which they do now and have done extensively in the downtown area in many cases narrowing passage to only 4 or 5 feet.

Because there is no valid public benefit in eliminating needed traffic lanes to create unneeded sidewalk area and at the same time exacerbate vehicle congestion, it is apparent this is really being done to give better access and visual exposure to the developer's private project, and to give the commercial storefronts in the project higher visibility. In addition, the approval of the project as configured was to allow the developer to avoid the upper floor set-back requirements that would otherwise be applied to prevent or mitigate view blockage in the HRC I and II zones.

Not only are the two (2) vehicular traffic lanes in each direction needed now, but because the City has continually built and has proposed to allow even more facilities and amenities to be built in this central waterfront area, these traffic lanes will clearly be needed in the future. In their latest budget, the City allocated [\$1,300,000] one million three hundred thousand dollars for advertising to attract even more tourists and visitors from other areas to Santa Barbara, and the central waterfront area. Ninety-eight percent (98%) of these visitors now come by automobile. This commission should not approve the Public Works project designed to eliminate two (2) needed traffic lanes in a two (2) block stretch of State Street through the La Entrada project to widen sidewalks where it is clear wider sidewalks are not needed for any legitimate public purpose and are merely an adjunct to the accessibility of a private development and the removal of the much needed vehicular traffic lanes will cause congestion, delay, vehicular diversion into nearby neighborhoods and impede coastal access.

- C. The elimination of 2 needed traffic lanes through the concurrently approved private project is dangerous, will produce congestion, violates the State Coastal Act, the California Vehicle Code, the California Streets and Highways Code, and violates the general plan of the City of Santa Barbara.**

In addition to diminishing visitor and regional public access to the central waterfront area of the coast and unnecessarily creating congestion and air pollution, the elimination of 2 needed traffic lanes in the 2 block stretch of State Street through the La Entrada Project will make it more difficult for emergency vehicles to access the central

waterfront hub in the area from the 400 block of State Street to Cabrillo Boulevard, and a large segment of Cabrillo Boulevard including Stearns Wharf, and will make it more difficult to facilitate any evacuation of this area during an emergency occurring at the busiest times. As evidenced in Attachment "B", EXHIBIT 2, gridlock sometimes occurs during busy times now even when all four lanes are available. The elimination of these two much-needed traffic lanes will impact traffic, even more and on many more occasions in the future.

The Applicant/Respondents made no findings or determination below that the traffic lanes they are proposing to eliminate through the two blocks of this project are no longer needed for vehicular traffic, nor have they established any of the grounds required by law.

Section 21101 of the California Vehicle Code provides:

"Local authorities, for those highways under their jurisdiction, may adopt rules and regulations by ordinance or resolution on the following matters:

(a) Closing any highway to vehicular traffic when, in the opinion of the legislative body having jurisdiction, the highway is either of the following:

(1) No longer needed for vehicular traffic.

(2) The closure is in the interests of public safety and all of the following conditions and requirements are met:

(a) The street proposed for closure is located in a county with a population of 6,000,000 or more.

(b) The street has an unsafe volume of traffic and a significant incidence of crime.

(c) The affected local authority conducts a public hearing on the proposed street closure.

(d) Notice of the hearing is provided to residents and owners of property adjacent to the street proposed for closure.

(e) The local authority makes a finding that closure of the street likely would result in a reduced rate of crime.

.....

(f) Prohibiting entry to, or exit from, or both, from any street by means of islands, curbs, traffic barriers, or other roadway design features to implement the circulation element of a general plan adopted pursuant to Article 6 (commencing with Section 65350) of Chapter 3 of Division 1 of Title 7 of the Government Code. The rules and regulations authorized by this subdivision shall be consistent with the responsibility of local government to provide for the health and safety of its citizens."

It has long been the law of California that the public streets belong to everyone.

As the Appellate Court put it well:

"Fundamentally it must be recognized that in this country 'Highways are for the use of the traveling public, and all have ... the right to use them in a reasonable and proper manner, and subject to proper regulations as to the manner of use.' ... 'The streets of a city belong to the people of the state, and the use thereof is an inalienable right of every citizen, subject to legislative control or such reasonable regulations as to the traffic thereon or the manner of using them as the legislature may deem wise or proper to adopt and impose.' ... Streets and highways are established and maintained primarily for purposes of travel and transportation by the public, and uses incidental thereto. Such travel may be for either business or pleasure ... The use of highways for purposes of travel and transportation is not a mere privilege, but a common and fundamental right, of which the public and individuals cannot rightfully be deprived ... [A]ll persons have an equal right to use them for purposes of travel by proper means, and with due regard for the corresponding rights of others'." (City of Lafayette v. County of Contra Costa, *supra*, 91 Cal.App.3d at p. 753.)

This commission should not approve the proposed Public Works project and L.C.D.P.

whose only purpose is to aid a private commercial development at the public's expense.

- D. The approval of the Public Works project to eliminate 2 needed public-owned vehicular traffic lanes was procured by misrepresentations of staff, false and misleading information, and studies designed to conceal the true facts.**

As set out earlier, the City staff decided they would eliminate 2 traffic lanes and widen the sidewalks in the 2 block stretch of State Street through the La Entrada project ostensibly to make the area look like the so-called downtown pedestrian plaza, even though the current sidewalks are as wide or wider than those in the "downtown plaza" and wider sidewalks aren't needed; **vehicular traffic lanes are!** Having decided to do so, the staff then misrepresented the traffic counts of motor vehicles currently using State Street for access to and from the central waterfront area of the coastal zone to minimize the obvious impact that narrowing the street and creating this "bottleneck" would have on traffic. The staff, using the developers paid for private consultant, claimed the traffic count was far less than the actual count and purposely excluded current counts of traffic during the busiest times. These misrepresentations were made in order to gain Planning Commission approval, then later to gain City Council approval. In addition, City staff used a false and misleading computer simulation to show what staff stated or represented was "the worse case traffic scenario". "The busy summer Sunday vehicle traffic maximums." This computer simulation was false and inaccurate, and grossly underrepresented the current volume of cars queuing Northward on the Southbound side of State Street, and East and West on Cabrillo Boulevard. The simulation showed no queuing at all on the Northbound side of State Street, no blockage of the intersection at Mason and did not show the stream of cars, diverting off State Street to avoid congestion, and going into adjacent neighborhoods. These cars waiting Southbound on State Street for the signal all cleared the intersection with each signal cycle. The inaccuracy, or misrepresentation depicted in this simulation was on the order of five-hundred percent

(500%) or more. In addition, in order to demonstrate or claim the narrowing of State Street [by eliminating the two traffic lanes] would have no effect on traffic, the City employed their consultant, A.T.E. (supra).

This consultant was hired to determine the feasibility of all narrowing of State Street from Haley Street South all the way to Cabrillo Boulevard. Their analysis was to be in two increments which the City euphemistically described as an extension of the downtown pedestrian plaza.

The consultant was asked to determine the impact on traffic for narrowing of the segment from Haley Street South to Yanonali Street, and concluded that narrowing would cause congestion [see Attachment "A", EXHIBIT 1]. Because of the pending La Entrada project, the consultants were not asked to determine the impact on traffic of that narrowing through the La Entrada project.¹ Rather, the City instead asked the consultants to determine the impact on the intersections of State Street and Cabrillo Boulevard, and State Street and Mason Street. This direction was given because no changes to these two intersections were involved or proposed in the La Entrada project. The consultants were then able to conclude the project would have no impact on these intersections, inferring by that, that there would be no impact to traffic by approval of the La Entrada project.

As a result of this deceptive tactic, staff could then tell or represent to the Planning Commission and the Council that the La Entrada project had no impact on State Street traffic. In fact, using this manipulated report, the City staff did represent to the Planning

¹ A visual depiction of that narrowing or "bottleneck" can be found in Attachment "B", EXHIBIT 1.

Commission and City Council that the public works project to narrow State Street would have no significant impact on traffic!

ISSUE 2

THE CITY OF SANTA BARBARA HAS VIOLATED ITS OWN COASTAL
OVERLAY ORDINANCE TO IMPLEMENT THE LOCAL COASTAL PLAN AND
HAS THWARTED THE WILL OF THE CITIZENS OF SANTA BARBARA AND THE
ENTIRE SOUTH COAST REGION

A. The first petition to amend the coastal overlay ordinance and local coastal plan.

When it was learned that the City of Santa Barbara was proposing to narrow 2 blocks of State Street by removing two needed traffic lanes, and also to unnecessarily narrow portions of Shoreline Drive as it approaches the harbor from the West, and had also included plans to narrow Cabrillo Boulevard in the circulation element of the General Plan [see Attachment "B", EXHIBIT 3], a citizens group [Streets "R" Us] was formed to oppose the narrowing of these three much needed access routes to, from and through the central waterfront area of the coastal zone.

This group proposed to amend the coastal zone overlay ordinance by adding an amendment prohibiting the narrowing of these segments of the three important arterial coastal zone streets² without at least a prior approval of the voters of Santa Barbara.

The City of Santa Barbara has also systematically taken over all the public parking lots in the central waterfront area and turned them into paid parking. The amendment to the coastal overlay ordinance sought to preserve the existing and remaining on-street parking for the general public. This provision was consistent with the existing circulation element of the Local General Plan [see EXHIBIT 3].

The coastal overlay ordinance of the City of Santa Barbara provides as follows:

"7. AMENDMENTS TO A CERTIFIED LOCAL COASTAL PROGRAM. The purpose of this Subsection is to provide for changes in the land use and/or zoning designation on properties where such change is warranted by consideration of location, surrounding development and timing of development; to provide for text amendments to this Section and/or the City's Coastal Plan as the City may deem necessary or desirable; and to provide for amendments to any ordinances or implementation measures carrying out the provisions of the City's Coastal Plan. The intent of this Subsection is to provide the mechanism, consistent with the Coastal Act, for amending the City's certified Coastal Program which consists of a Land Use Plan, Zoning and other ordinances, Land Use and Zoning Maps and special programs.

a. **INITIATION.** An amendment to the certified Local Coastal Program may be initiated by any member of the public..."

The petitioners asked the City Council to adopt the proposed ordinance or place it on the ballot for a vote of the people of the City of Santa Barbara, but the City Council refused. When petitioners collected over 8,000 signatures of City voters to force the City

² State Street and Cabrillo Boulevard-Shoreline Drive accesses are designated on the General Plan map as arterial streets and are feeder streets and arterial through streets in the grid which serve the coastal zone.

to place it on the ballot, the City waited until the petitions were submitted, then rejected them on the basis a sentence, the Attorney General had opined, needed to be in the petition was not there. The City knew of this claimed defect at the time the petitions were first taken out for circulation but said nothing.

B. The second petition to amend the local Coastal Zoning ordinance and Local Coastal Plan.

After the rejection of petitioner's first petition on technical grounds and the blatant "sand-bagging" by the City's staff and Council, petitioners again asked the City Council to adopt the changes to the ordinance or to place the amendment on the November 2001 ballot for a public vote. The Council again refused to do so.

Petitioners again collected over 8,000 signatures in approximately 4 weeks time and had their petitions certified as adequate by the County elections clerk. At least another additional 8,000 or more persons who lived on the South coast area had wanted to sign the circulated petitions because they were also residents of the South Coast and users of these public roadways, but they could not sign because they were not registered voters in the City of Santa Barbara and had to be turned away by circulators.

The second petition was challenged on the grounds it contained matters not legally appropriate for initiative, specifically because some matters in the petition were pre-empted by the California State Vehicle Code. That question will ultimately be resolved by a decision of the Court of Appeals.

- C. **Refusal to amend the Coastal Zone overlay ordinance [Municipal Code no. 28.45.009] or to place the matter before the voters of Santa Barbara was itself a violation of the policies and provisions of the Certified Local Coastal Plan.**

The Coastal Zone Overlay Ordinance of the City of Santa Barbara provides at subsection 7, set out above, that any citizen can initiate any change or any ordinance to implement the Coastal Act and Local Coastal Plan.

That includes an ordinance or amendment to an ordinance to prevent the arbitrary removal of needed traffic lanes for no reason other than enhancing a private development project. This commission should reject such an approval and deny the Coastal Development project to narrow the street for the benefit of the La Entrada Project. [See Attachment "A", EXHIBIT 4.]

The right of citizens to initiate changes to the L.C.P. and related ordinances has been codified in section 28.45.009 subsection 7. of the Municipal Code and made a part of the comprehensive management scheme for the coastal zone of Santa Barbara and is also part of the Local Coastal Plan certified by the State Coastal Commission.

The Applicant/Respondent's actions in thwarting changes designed to protect adequate vehicular access to the coastal zone and preserve the remaining on-street public parking, are themselves violations of the Coastal Act and L.C.P.

ISSUE 3

THE CONVERSION OF THE HISTORIC CALIFORNIA HOTEL INTO A PRIVATE TIME-SHARE CONDOMINIUM STRUCTURE DEPRIVES THE COMMUNITY OF

A HISTORICAL LANDMARK AND ELIMINATES THE ONLY REMAINING FACILITY WHICH COULD PROVIDE LOWER COST OVERNIGHT VISITOR ACCOMMODATIONS IN THE AREA. VIOLATES THE POLICIES AND PROVISIONS OF THE LOCAL COASTAL PLAN, AND THE PROPOSED MITIGATION IS WOEFULLY INADEQUATE.

The current unamended Certified Local Coastal Plan provides at policy 4.5, the following:

"Policy 4.5 Removal or conversion of existing lower cost visitor-serving uses in areas designated HRC-I, HRC-II and Hotel/Residential **shall be prohibited unless the use will be replaced by a facility offering comparable visitor-serving opportunities.**" [emphasis added]

The Historic California Hotel has provided low cost overnight visitor accommodations as a hotel in the central waterfront area for over 75 years.³ With a relatively modest expenditure of money it could be upgraded to an attractive 80-room hotel with more modern appointments to provide an affordable range of overnight visitor accommodations in the heart of the central waterfront area within walking distance to many of the most popular coastal visitor and recreational facilities.

The present "La Entrada" conversion of the California Hotel on Parcel A to time-share condominiums, which are to be sold to private owners, will provide no low cost or

³ It was rebuilt after the 1925 earthquake and was closed by the current owners because they wanted the condominium conversion rather than comply with the seismic retrofit they were ordered to perform by the City of Santa Barbara in 1998.

moderate cost rooms to be available in this critical location for overnight visitor accommodations. As set out in Attachment "A", EXHIBIT A-1, the cost of overnight accommodations in the waterfront area is already beyond the means of average visitors, the average room rate being over \$150 a night, with many in the \$200 to \$300 a night range. With a structured room rate, as set out and suggested in the LCP policies set out on pages 59 to 67, [Attachment "B", EXHIBIT 5] this hotel is perhaps the only site currently available to fulfill those important policies.

The California Hotel could provide overnight rooms to the public at graduated rates calculated by the floor and view opportunities, and this could be done while making reasonable profits for the owner. In addition, provision of such reasonably affordable overnight visitor accommodations could, and should, be a condition for the massive development proposed on the other two Parcels "B" and "C" as a part of this private development.

The violation of this Local Coastal Policy was not even discussed prior to the previous approval of the La Entrada project in 1999, and was only first discussed before this Commission on the first appeal when it determined that was a substantial issue to be adequately mitigated before any L.C.D.P. could be approved.

As set out above, recent room rate surveys for beach area accommodations indicate the current average room rate is now over \$150 a night, and has been steadily rising, and likely will continue to do so.

These kinds of room rates, particularly in cases involving more than a single or double occupancy, will limit overnight visitor accommodations in this area of the coastal

zone to only the wealthiest of visitors. The developer has proposed, and the City Planning Commission and City Council on appeal, has now approved the project with the only mitigation being a cash deposit of less than one million dollars for the loss of over 80 low cost overnight visitor accommodations which will result from the conversion of the California Hotel.⁴

It is obvious that the payment of that token amount is a woefully insufficient mitigation to reduce the impact of this loss. The California Hotel conversion will result in the total loss of affordable coastal visitor accommodations in Santa Barbara central waterfront and will convert the area to the exclusive venue of the wealthy, excluding most of the public who cannot afford rooms in the \$150 to \$500 a night range.

In addition, there is no reason, other than the making of excess profit (capital gain) why the California Hotel cannot be revitalized to a reasonably priced overnight visitor accommodation as a part of this proposed development.

The more realistic solution of replacing the affordable units being lost by conversion has apparently now been abandoned because it was not even mentioned in the review of this project for issuance of the current local coastal development permit.

During the previous appeal of that project the commission may recall Mr. Dave Davis, of the Planning Department of the City of Santa Barbara represented the City was negotiating a purchase of the nearby Neal Hotel [40 rooms] to provide an alternative mitigation to the loss of the 80+ rooms in the California Hotel. This needed replacement

⁴ The City approved and this commission on appeal approved the nearby Yanonali Street project which eliminated some 35 small businesses to create 40 expensive [\$500,000-\$900,000] condominiums to be built on only 2 acres.

proposal has now apparently been abandoned in exchange for the token mitigation payment as a condition of approval of this L.C.D.P.

As a condition to the creation of the expensive time-share condominiums and commercial businesses on Parcels B and C, the applicant should be required to retain the overnight visitor accommodations badly needed in the central waterfront HRC zone, particularly because of the central and critical location of the California Hotel which is within easy distance of many of the most popular coastal visitor and recreational facilities in Santa Barbara.

If this project is approved without the concurrent street narrowing project, then a more realistic mitigation must be imposed if the historical public waterfront access is to be preserved and the gentrification of the entire public waterfront in Santa Barbara is to be avoided!

CABRILLO BOULEVARD

9.5 **The City shall develop a Master Plan for the entire length of Cabrillo Boulevard and interchanges that identifies potential operational and aesthetic improvements.**

9.5.1 Create a Master Plan for Cabrillo Boulevard that explores the implementation of the following:

- reducing traffic lanes on Cabrillo Boulevard to provide additional recreational areas, bike lanes, parking or landscaping,
- providing an all-way crosswalk at Cabrillo Boulevard and State Street to facilitate the movement of non-auto traffic. All-way crosswalks involve stopping vehicular traffic in all directions for a period of time to allow non-motorized travelers to cross intersections diagonally in addition to traditional street crossing,
- improving pedestrian access and crossing of Cabrillo Boulevard as new parking is developed on the inland side of Cabrillo Boulevard,
- maintaining on-street parking along Cabrillo Boulevard. No further development of off-street parking should occur on the ocean side of Cabrillo Boulevard, and
- relocating tour bus parking to an area designated and signed for that purpose and enforcing tour bus parking regulations.

Circulation Element

City of Santa Barbara
Community Development Department and
Public Works Department

October, 1998

Adopted by City Council Resolution 97-143 on
November 25, 1997

Certified by the California Coastal Commission
September, 1998

Calle Puerto Vallarta. No sidewalk exists on the south side of Calle Puerto Vallarta between Milpas Street and Cabrillo Boulevard adjacent to the Cabrillo softball field. Sidewalks should be considered along this section to provide a better connection between Milpas Street, the Cabrillo field, and the Waterfront Area.

Cabrillo Boulevard. It is recommended that sidewalk facilities be provided on the north side of Cabrillo Boulevard between Loma Alta Drive and Pershing Park. This will provide a better connection between the La Playa East and West parking lots and the Harbor, as well as between SBCC and the Waterfront Area. It may also reduce pedestrian volumes on the Beachway.

Pedestrian Signals. As reported in the Vehicular Traffic and Circulation Section, future traffic signals may be warranted at the Cabrillo/Chapala and Cabrillo/Anacapa intersections. These signals should be equipped with pedestrian actuation and crosswalk facilities.

Other Waterfront Areas. The City Circulation Element also recommends that a pedestrian "paseo" plan be developed in the HRC-2 zone, particularly along Helena and Anacapa Streets between Cabrillo Boulevard, Yanonali Street and State Street. This enhanced pedestrian system would connect to the pedestrian improvements proposed for Cabrillo Boulevard and would be designed to attract visitors to the interior areas.

State Street Sidewalk Widening - Union Pacific Railroad Tracks to Cabrillo Boulevard

As noted previously in the Vehicular Traffic and Circulation section, the City is proposing to widen several sections of the State Street sidewalks between Cabrillo Boulevard and the Union Pacific Railroad Tracks located just south of Yanonali Street. The wider sidewalks are proposed to provide increased capacity for existing and future pedestrians in this corridor. The wider sidewalks are also desired by the City to create the same type of environment experienced on the Downtown portions of State Street.

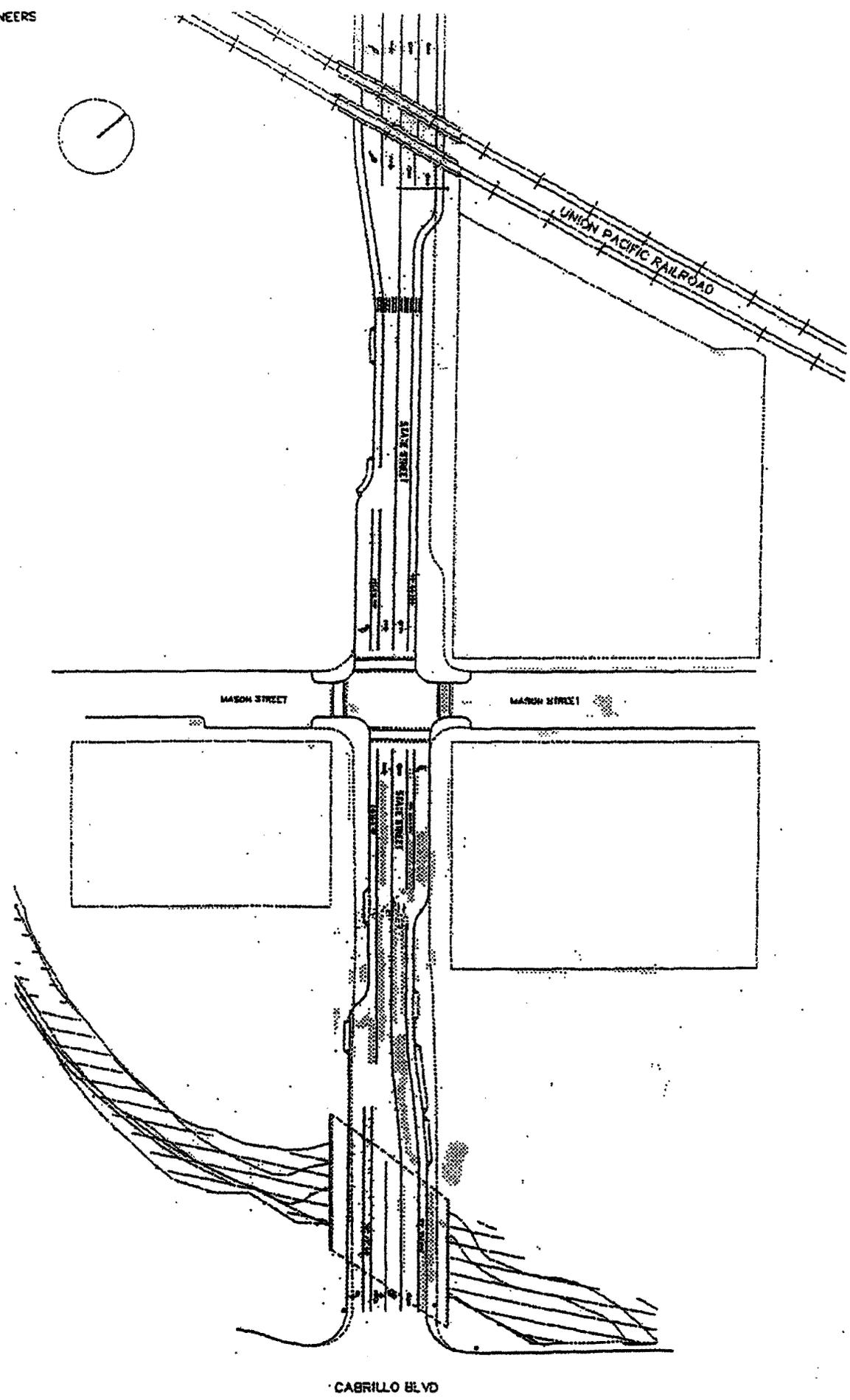
In order to widen the sidewalks, the City is proposing to narrow State Street to two lanes within the mid-block segments (approximately 125 feet each) between the State/Cabrillo, State/Mason, and State/Yanonali Street intersections. This proposal has become known as the State Street Narrowing Project. Figure 30 shows the layout of the proposed project. For northbound State Street, the lane reduction would start approximately 175 feet north of Cabrillo Boulevard where the existing single northbound lane currently widens out to two lanes. For southbound State Street, the lane narrowing would start south of the Yanonali Street intersection where the two through lanes would merge to one through lane. The two lane segments would occupy approximately 125 feet of the middle section of the 500-foot city blocks between Yanonali and Mason, and Mason and Cabrillo. The narrowing does not reduce the total number of lanes provided on the northbound and southbound State Street approaches at the Cabrillo, Mason and Yanonali intersections.



ASSOCIATED
TRANSPORTATION
ENGINEERS

STATE STREET NARROWING PROJECT

FIGURE (30)



CABRILLO BLVD

Typically, intersections are the limiting factor which determine a roadway system's capacity, not the lane capacity between intersections. The intersection at State Street and Cabrillo Boulevard currently has three southbound lanes to move traffic. This capacity will not change with the proposed State Street Narrowing project, as it does not affect the number of lanes at this intersection approach. The narrowing project also maintains two northbound through lanes and two southbound through lanes at the State/Yanonali intersection.

- * The intersection analysis completed for this study assumed the geometrics proposed for the State Street narrowing proposal when calculating future levels of service. Because the narrowing project does not change the lane geometry at the State/Cabrillo and State/Yanonali intersection, the calculation of volume-to-capacity ratios and levels of service at these two locations do not change with or without the proposed project. The level of service data show that the State/Cabrillo intersection would operate in the LOS C range with future volumes and the State/Yanonali intersection would operate in the LOS A range with future volumes with the proposed project.

State Street Narrowing Option Between Haley and Yanonali Streets

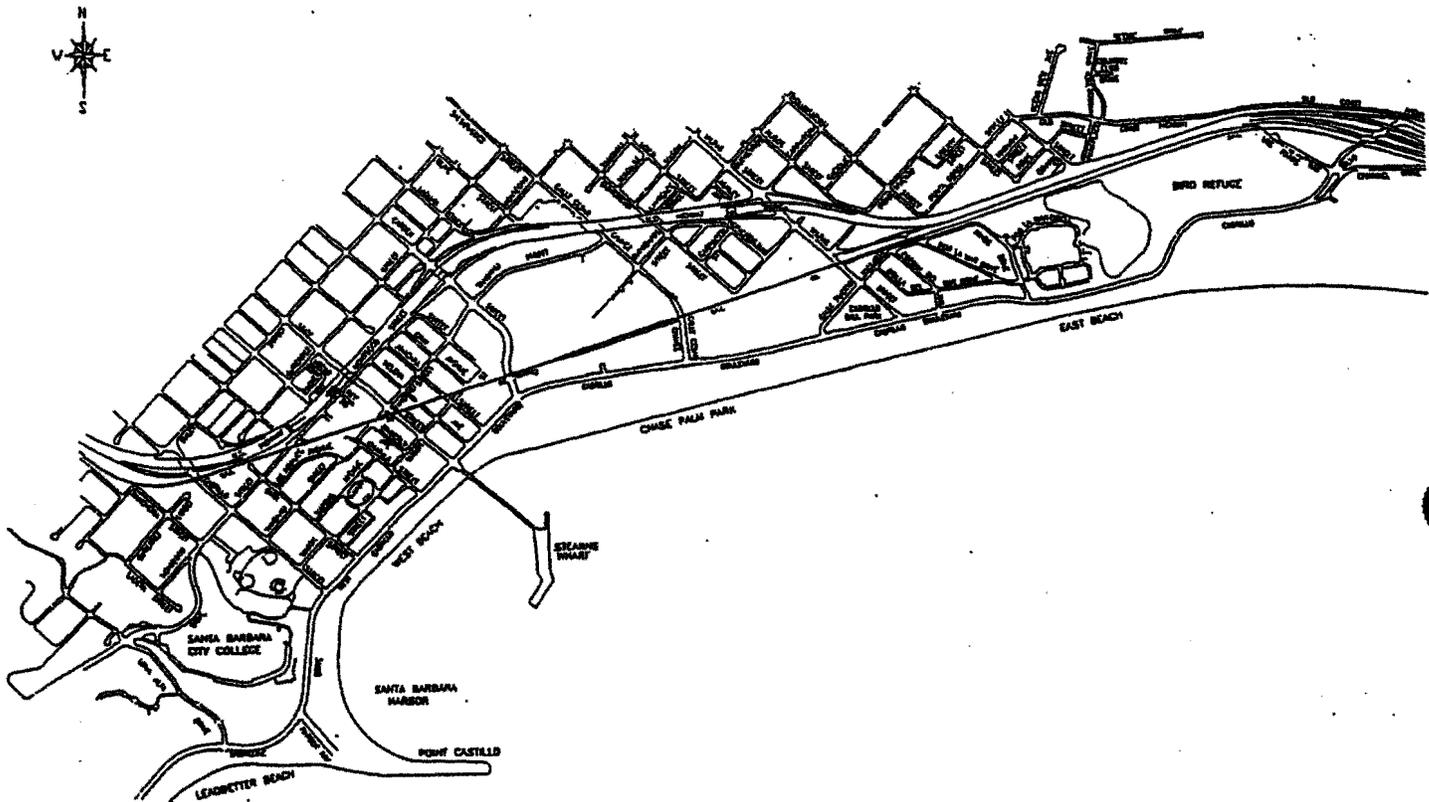
ATE was asked to investigate the traffic effects of narrowing State Street between Haley and Yanonali Streets. This request was made to investigate the possibility of providing wider sidewalks and a continuation of the State Street Plaza design south to join with the existing proposal south of Yanonali Street. The analysis shows that this change would increase congestion during peak travel times, particularly at the intersection of State and Gutierrez Streets.

Narrowing State Street in this section would be similar to other cross-sections of the current Plaza design. The narrowing would be approximately 150 feet in length in the center of each 500 foot city block. This section of State Street currently contains 4 vehicular lanes (2 northbound and 2 southbound), Class II bike lanes, and pedestrian sidewalks. An elevated walkway is provided on both sides of State Street along the freeway undercrossing (the sidewalk is elevated above the roadway grade). The elevated walk is 6.5 feet wide between the railing and the underpass wall. The usable area is 5.5 feet at the columns that support the railing. The sidewalks vary between 8 and 15 feet north and south of the freeway undercrossing. Field observations found that there are several areas where the existing sidewalks are not wide enough to accommodate current demands without forcing a single file style of walking.

If this section was narrowed to accommodate wider sidewalks, the outside vehicular lane would be eliminated resulting in 1 northbound and 1 southbound lane for vehicles in between the intersections. The intersection lane configurations would not change at State and Haley Street. At Gutierrez and State, and at Yanonali and State, the outside through lanes would be converted to right-turn lanes. An exception to this is the northbound through lane at State and Gutierrez Streets. This lane would be dropped as Gutierrez Street is one-way for westbound traffic, thus it is not possible to turn right from northbound State



WATERFRONT AREA TRANSPORTATION STUDY 2
CITY OF SANTA BARBARA, CALIFORNIA



May 25, 2001

ATE Project #99087

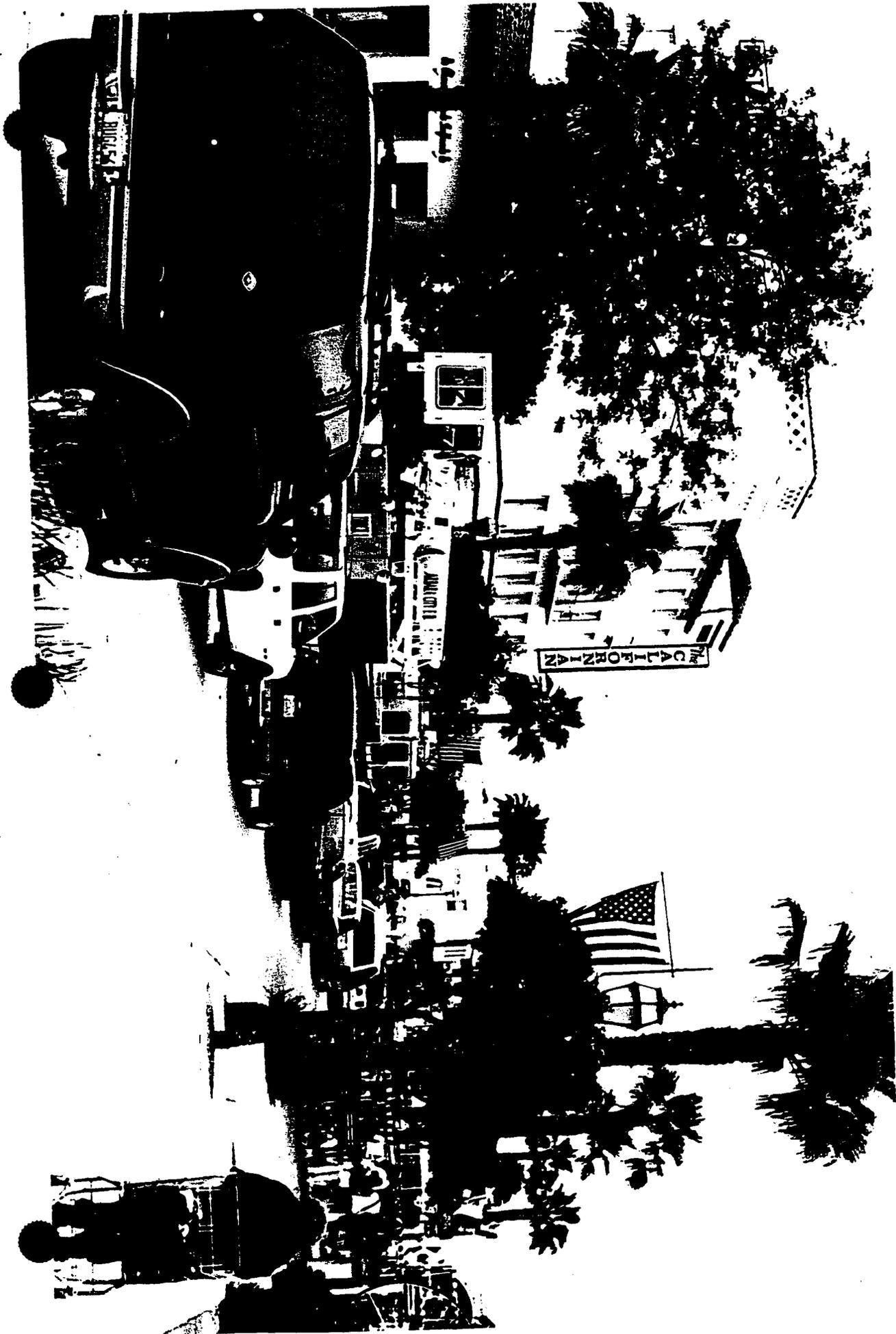
Prepared for:

Transportation Division
City of Santa Barbara
630 Garden Street
Santa Barbara, CA 93101



ASSOCIATED TRANSPORTATION ENGINEERS

100 N. Hope Avenue, Suite 4, Santa Barbara, CA 93110-1686 • (805) 687-4418 • FAX (805) 682-8509



ORDINANCE NO. 4430

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA AMENDING THE MUNICIPAL CODE BY ADDING SECTION 28.45.009 PERTAINING TO THE ESTABLISHMENT OF THE S-D-3, COASTAL OVERLAY ZONE AND REPEALING ORDINANCE NO. 4173.

THE COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 28.45 of Title 28 of the Santa Barbara Municipal Code is amended by adding Section 28.45.009 which reads as follows:

28.45.009 S-D-3 Zone Designation-Coastal Overlay Zone.

1. LOCATION. The S-D-3 Zone is applied to the "Coastal Zone" which is defined as generally all of the land 1,000 yards from the mean high tide line as established by the Coastal Act of 1976 and as it may subsequently be amended, which lies within the City of Santa Barbara, and shown on Map A, which is appended hereto.

2. LEGISLATIVE INTENT. The Coastal Overlay Zone is established for the purpose of implementing the Coastal Act of 1976 (Division 20 of the California Public Resources Code) and to insure that all public and private development in the Coastal Zone of the City of Santa Barbara is consistent with the City's Certified Local Coastal Program and the Coastal Act.

3. DEFINITIONS.

For the purpose of Section 28.45.009 of this Code, certain words and phrases shall be construed as set forth in this Section unless it is apparent from the content that a different meaning is intended:

a. ACCESS.

(1) Lateral. An area of land providing public access along the water's edge.

(2) Vertical. An area of land providing a connection between the first public road or use area nearest the sea and the publicly owned tidelands or established lateral accessway.

b. AGGRIEVED PERSON. Any person who, in person or through a representative, appeared at a public hearing of the City in connection with the decision or action appealed, or who, by other appropriate means prior to the hearing, informed the City of the nature of his concerns or who for good cause was unable to do either.

c. APPEALABLE DEVELOPMENT.

(1) Developments approved by the City between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, as indicated on Map A, which is appended hereto and marked Map A.

(2) Developments approved by the City not included within Section 28.45.009.3.c(1) located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff, as indicated on the official City appeals map or as determined by the State Lands Commission.

(3) Any development which constitutes a major public works project or a major energy facility.

d. APPLICANT. The person, partnership, corporation or state or local government agency applying for a coastal development permit.

e. BULK. Total interior cubic volume as measured from the exterior surface of the structure.

f. COASTAL COMMISSION. California Coastal Commission.

g. COASTAL DEVELOPMENT PERMIT. A permit, letter or certificate issued by the City in accordance with the provisions of this Section, after the applicant has submitted all necessary supplementary documentation required to satisfy the conditions precedent in the notice to issue a coastal development permit.

h. COASTAL ZONE. That land and water area of the City of Santa Barbara extending seaward to the State's outer limit of jurisdiction and extending inland to the boundary shown on the official Zoning Maps for the S-D-3 Coastal Overlay Zone, as amended from time to time and certified by the Coastal Commission.

i. DEVELOPMENT. On land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition or alteration of the size of any structure, including any facility of any

private, public or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

j. ENERGY FACILITY.. Any public or private processing, producing, generating, storing, transmitting or recovering facility for electricity, natural gas, petroleum, coal or other source of energy.

k. ENVIRONMENTALLY SENSITIVE AREA. Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

l. FEASIBLE. Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

m. FILL. Earth or any other substance or material, including pilings placed for the purposes of erecting structures thereon, placed in a submerged area.

n. LAND USE PLAN. Maps and a text which indicate the kinds, location and intensity of land uses allowed in the Coastal Zone and includes resources protection and development policies related to those uses.

o. LOCAL COASTAL PROGRAM. The City's land use plan, zoning ordinances, zoning maps and other implementing actions certified by the Coastal Commission as meeting the requirements of the California Coastal Act of 1976.

p. MAJOR PUBLIC WORKS PROJECT OR MAJOR ENERGY FACILITY. Any public works project or energy facility which exceeds \$50,000 in estimated cost of construction.

q. NATURAL DISASTER. Any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of the owner.

r. OCEAN-DEPENDENT DEVELOPMENT OR USE. Any development or use which requires a site on, or adjacent to, the sea to be able to function at all.

s. OCEAN-RELATED DEVELOPMENT OR USE. Any development or use which is dependent on an ocean-dependent development or use.

t. OTHER PERMITS AND APPROVALS. Permits and approvals, other than a coastal development permit, required to be issued by the approving authority before a development may proceed.

u. PERSON. Any individual, organization, partnership, or other business association or corporation, including any utility, and any federal, state, local government or special district or an agency thereof.

v. PUBLIC WORKS PROJECT.

(1) All production, storage, transmission and recovery facilities for water, sewage, telephone and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the Public Utilities Commission, except for energy facilities.

(2) All public transportation facilities, including streets, roads, highways, public parking lots and structures, ports, harbors, airports, railroads, and mass transit facilities and stations, bridges, trolley wires, and other related facilities.

(3) All publicly financed recreational facilities, all projects of the State Coastal Conservancy and any development by a special district.

(4) All community college facilities.

w. SEA. The Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs and other areas subject to tidal action through any connection with the Pacific Ocean, excluding nonestuarine rivers, streams, tributaries, creeks and flood control and drainage channels.

x. STRUCTURE. Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

y. VISITOR-SERVING DEVELOPMENT OR USE..

Stores, shops, businesses, temporary lodging and recreational facilities (both public and private) which provide accommodations, food and services for the traveling public; including, but not limited to, hotels, motels, campgrounds, parks, nature preserves, restaurants, specialty shops, art galleries and commercial recreational development such as shopping, eating and amusement areas.

z. WETLAND. Lands within the Coastal Zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats and fens.

aa. WORKING DAY. Any day on which all City offices are open for business.

4. APPLICABILITY AND EXCLUSIONS. Any person (including the City, any utility, any federal, state or local government, or special district or any agency thereof) wishing to perform or undertake any development within the Coastal Overlay Zone of the City of Santa Barbara shall comply with the provisions of this Section. In addition to any other permits or approvals required by the City, a coastal development permit shall be required prior to commencement of any development in the coastal zone of the City, except for the following exclusions:

a. TIME-SHARE CONVERSIONS. Any activity anywhere in the coastal zone that involves the conversion of any existing multiple-unit residential structure to a time-share project, estate, or use, as defined in Section 11003.5 of the Business and Professions Code. If any improvement to an existing structure is otherwise exempt from the permit requirements of this division, no coastal development permit shall be required for that improvement on the basis that it is to be made in connection with any conversion exempt pursuant to this subdivision. The division of a multiple-unit residential structure into condominiums, as defined in Section 783 of the Civil Code, shall not be considered a time-share project, estate, or use for purposes of this subdivision.

b. VESTED RIGHTS. Any development which, on the effective date of this subsection, has a valid approval from the Coastal Commission shall be considered to have a vested right until such time as said approval expires or lapses; provided, however, that no substantial change may be made in any such development without prior Coastal Commission and City approval having been obtained by the developer.

c. SINGLE FAMILY..

(1) Construction of one (1) single family residence on an existing vacant parcel in the areas shown on Map A, appended hereto. If demolition or relocation of any existing structure is necessary in order to accommodate such construction, or if such demolition or relocation has occurred in the year prior to the request for construction, the lot is not vacant.

(2) Additions to existing single family residences in the areas shown on Map A, except when such additions require other City approvals other than building permits.

(3) Improvements to existing single-family residences in areas other than those areas shown on Map A; provided, however, that those improvements which involve a risk of adverse environmental effect or adversely affect public access or result in a change of the intensity of use shall require a coastal development permit, as provided in California Administrative Code Section 13250, as amended from time to time.

d. OTHER CONSTRUCTION. Improvements to any structure other than a single-family residence or a public works facility; provided, however, that those improvements which involve a risk of adverse environmental effect; or adversely affect public access; or result in a change in use; shall require a coastal development permit, as provided in California Administrative Code Section 13253, as amended from time to time.

e. MAINTENANCE OF NAVIGATION CHANNELS. Maintenance dredging of existing navigation channels or moving dredged material from such channels to a disposal area outside the Coastal Zone, pursuant to a permit from the United States Army Corps of Engineers.

f. REPAIR OR MAINTENANCE. Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of the object of such repair or maintenance activity; provided, however, that extraordinary methods of repair and maintenance that involve a risk of substantial adverse environmental impact, shall require a coastal development permit, as provided in California Administrative Code Section 13252, as amended from time to time.

g. UTILITY CONNECTIONS. The installation, testing and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to the California Coastal Act of 1976 or the Coastal Overlay Zone requirements; provided that the City may, where necessary, require reasonable conditions to mitigate any adverse impacts on coastal resources, including scenic resources.

h. REPLACEMENT OF EXISTING STRUCTURE. The replacement of any structure, other than a public works facility, destroyed by a natural disaster, subject to Section 28.87.038 of this Code.

5. GENERAL REQUIREMENTS.

a. CONFLICTING PERMITS AND LICENSES TO BE VOIDED. All departments, officials, and public employees of the City vested with the duty and authority to issue permits or licenses shall conform with the provisions of this zone and shall issue no permits or licenses for uses, buildings, or any purpose in conflict with the provisions of this Section. Any such permit or license issued in conflict with this Section shall be null and void.

b. CONFLICT WITH OTHER REGULATIONS. Where conflicts occur between the regulations contained in this Section and the building code, other sections of Title 28, or other regulations effective within the City, the more restrictive of such laws, codes or regulations shall apply.

It is not intended that this Section shall interfere with, abrogate or annul any easement, covenant, or other agreement now in effect; provided, however, that where this Section imposes a greater restriction upon the use of buildings or land or upon new construction than are imposed or required by other ordinances, rules, or regulations or by easements, covenants, or agreements, the provisions of this Section shall apply.

Nothing contained in this Section shall be deemed to repeal or amend any regulation of the City requiring a permit, license, and/or approval, for any business, trade, or occupation, nor shall anything in this Section be deemed to repeal or amend the building code. If provisions of this Section overlap or conflict, the most protective provision relating to coastal resources shall apply.

6. PERMIT PROCEDURES. In addition to any other permits or approvals required by the City, a coastal development permit shall be required prior to commencement of any development in the coastal zone of the City except those excluded under Section 28.45.009.4 of this Code.

a. APPLICATION. A coastal development permit shall be applied for prior to or concurrent with other necessary City permits or approvals. Such application shall be submitted to the Community Development Department and shall be accompanied by such filing fee as established by the City Council. The Community Development Department shall provide for a completed coastal development application. The Community Development Department shall take the following actions.

(1) Determine if the proposed project is subject to the requirement of a coastal development permit and if so, determine the category of permit for the project in accordance this Section.

(2) File the application and provide notice of action on the application per this Section.

(3) For those projects requiring a public hearing, transmit an application summary and recommendation thereon to the Planning Commission.

b. NOTICE OF CATEGORICALLY EXCLUDED DEVELOPMENTS. A determination issued by the City for a development which is categorically excluded from permit requirements pursuant to Section 28.45.009.4 of this Code, if an appealable development or otherwise, shall be exempt from the notice and hearing requirements of Section 28.45.009. The Community Development Department shall maintain a record for all determinations made which shall be made available to the Coastal Commission or any interested person upon request. This record must include the applicant's name, the location of the project, a brief description of the project, the site plan, the date upon which the determination was made, and all terms and conditions imposed by the City in granting its approval. Notice of each development permit issued for any approved exclusion shall be made to the Coastal Commission within five (5) working days.

c. APPEALABLE DEVELOPMENTS. At least one (1) public hearing shall be held on each application for an appealable development. At least ten (10) calendar days prior to the first public hearing on a coastal development permit within the appealable area and which is not categorically excluded, the Community Development Department shall provide notice by first class mail of pending application for appealable development. This notice shall be provided to each applicant, to all persons who have requested to be on the mailing list for that development or for coastal decisions within the City, to all

property owners and to occupants of residences, including apartments, on or within 100 feet of the affected parcel on which the development is proposed and to the Coastal Commission. The notice shall contain the following information:

- (1) a statement that the development is within the coastal zone;
- (2) the date of filing of the application and the name of the applicant;
- (3) the street address of the proposed development;
- (4) a description of the development;
- (5) the date, time and place at which the application will be heard by the Planning Commission;
- (6) a brief description of the general procedure of the Planning Commission concerning the conduct of hearings and local action; and
- (7) the system for City and Coastal Commission appeals, including any fees required.

d. NON-APPEALABLE DEVELOPMENTS REQUIRING A PUBLIC HEARING.

(1) When a proposed development in a non-appealable area is not categorically excluded and requires a public hearing by the Planning Commission under any other provision of this Code, a hearing on the coastal development permit shall be held concurrently with other applications. If a development would normally be heard only by the modification hearing officer, it shall be sent instead to the Planning Commission to be heard concurrently with the application for coastal development permit. Notice of public hearing on such developments shall be given at least ten (10) calendar days in advance of the public hearing in the following manner:

(a) shall be published in a newspaper of general circulation in the City;

(b) shall be sent by first class mail to any person who has filed a written request therefore;

(c) shall be sent by first class mail to property owners within 300 feet of the proposed project;

(d) shall be sent by first class mail to occupants of residences, including apartments, on or within 100 feet of the affected parcel;

(e) shall be sent by first class mail to the Coastal Commission; and

(f) shall contain the information stated in Subsection 28.45.009.6.c.

(2) When a proposed development in a non-appealable area is not categorically excluded, does not normally require a public hearing by the Planning Commission or modification hearing officer, but requires discretionary approval by any approving body of the City, a public hearing shall be held by the Planning Commission in accordance with the requirements of Subsection 28.45.009.6d(1) above. New permit applications which, in the opinion of the Community Development Director, are de minimis with respect to the purposes and objectives of the Coastal Act and the City's Coastal Plan may be scheduled on the Consent Calendar and noticed in accordance with the provisions of Subsection 28.45.009.6.e.

e. NON-APPEALABLE DEVELOPMENTS NOT REQUIRING A PUBLIC HEARING. When a proposed development is in a non-appealable area, is not categorically excluded and would not normally require a public hearing, it shall be placed on a consent calendar to be approved by the Planning Commission. At least ten (10) calendar days prior to consent calendar approval by the Planning Commission, public notice shall be given by first class mail. Notice shall be provided to all persons who have requested to be on the mailing list for that development, to all property owners and occupants of residences including apartments, on or within 100 feet of the affected parcel on which the development is proposed, and to the Coastal Commission. The notice shall contain the following information:

- (1) a statement that the development is within the coastal zone;
- (2) the date of filing of the application and the name of the applicant;
- (3) the street address of the proposed development;
- (4) a description of the proposed development;
- (5) the date the application will be acted upon by the Planning Commission;
- (6) the general procedure of the Community Development Department concerning the submission of public comments either in writing or orally prior to the Planning Commission decision; and
- (7) a statement that a public comment period of sufficient time to allow for the submission of comments by mail will be held prior to the Planning Commission decision.

If significant testimony is received against the proposed development, it shall be removed from the consent calendar and placed on the regular agenda for public hearing by the Planning Commission.

f. DETERMINATION OF APPLICABLE NOTICE AND HEARING PROCEDURES. The determination of whether a development is categorically excluded, non-appealable or appealable for purposes of notice, hearing and appeals procedures shall be made by the Community Development Department at the time the application for development within the coastal zone is submitted. This determination shall be made with reference to the certified Local Coastal Program, including any maps, categorical exclusions, land use designations and zoning laws which are adopted as part of the Local Coastal Program. Where an applicant, interested person, or a Community Development Department has a question as to the appropriate designation for the development, the following procedures shall establish whether a development is categorically excluded, non-appealable or appealable:

(1) The Community Development Department shall make its determination as to what type of development is being proposed (i.e. categorically excluded, appealable, non-appealable) and shall inform the applicant of the notice and hearing requirements for that particular development.

(2) If the determination of the Community Development Department is challenged by the applicant or an interested person, or if the City wishes to have a Commission determination as to the appropriate designation, the City shall notify the Coastal Commission by telephone of the dispute/question and shall request an opinion from the Executive Director of the Coastal Commission.

(3) The Executive Director shall, within two (2) working days of the City's request, (or upon completion of a site inspection where such inspection is warranted), transmit the determination as to whether the development is categorically excluded, non-appealable or appealable.

(4) Where, after the Executive Director's investigation, the Executive Director's determination is not in accordance with the City determination, the Coastal Commission shall hold a hearing for purposes of determining the appropriate designation for the area. The Coastal Commission shall schedule the hearing on the determination for the next meeting (in the appropriate geographic region of the state) following the City's request.

g. NOTICE OF PLANNING COMMISSION ACTION WHEN HEARING IS CONTINUED. If a decision on a development permit is continued by the Planning Commission to a date which is neither (1) previously stated in the notice provided pursuant to Subsection 28.45.009.6b, c, d or e above, nor (2) announced at the hearing as being continued to a time certain, the Community Development Department shall provide notice of the further hearings in the same manner, and within the same time limits as established in Subsection 28.45.009.6b, c, d or e above.

h. FINDINGS. In order to approve a Coastal Development Permit, all of the following findings shall be made:

(1) The project is consistent with the policies of the California Coastal Act.

(2) The project is consistent with all applicable policies of the City's Coastal Plan, all applicable implementing guidelines, and all applicable provisions of the Code.

i. FINALITY OF CITY ACTION. A local decision on an application for development shall be deemed final when:

(1) the local decision on the application has been made and all required findings have been adopted, including specific factual findings supporting the legal conclusions that the proposed development is or is not in conformity with the certified local coastal program and, where applicable, with the public access and recreation policies of Chapter 3 of the California Coastal Act, Public Resources Code and

(2) when all local rights of appeal have been exhausted as defined in Subsection 28.45.009.6.j. below.

j. APPEALS TO THE CITY COUNCIL. The decisions of the Planning Commission may be appealed to the City Council by the applicant, an aggrieved person or any two (2) members of the Coastal Commission. The appeal must be filed with the City Clerk within ten (10) calendar days of the date of the Planning Commission's decision unless a longer appeal period is allowed by other applications involved in the decision, in which case the longer appeal period shall prevail. The appellant shall state specifically in the appeal wherein the decision of the Planning Commission is not in accord with the provisions of this Section or wherein it is claimed that there was an error or an abuse of discretion by the Planning Commission. Prior to the hearing on said appeal, the City Clerk shall inform the Community Development Department that an appeal has been filed whereon said Department shall prepare a report to the City Council with Staff recommendations, including all maps and data and a statement of findings setting forth the reasons for the Planning Commission's decision. The City Council shall affirm, reverse, or modify the decision of the Planning Commission at a regular public hearing. Notice of the time and place of the public hearing shall be given in accordance with the notice required at the Planning Commission; however, notice shall also be mailed to the appellant.

k. EFFECTIVE DATE OF CITY FINAL ACTION ON APPEALABLE ITEMS. A final decision of the City on an application for an appealable development shall become effective after the ten (10) working day appeal period to the Coastal Commission has expired unless any of the following occur:

(1) An appeal is filed in accordance with Subsection 28.45.009.6m below.

(2) The notice of final coastal project permit does not meet the requirements of Subsection 28.45.009.6.1 below.

(3) The notice of final action is not received in the Coastal Commission office and/or distributed to interested parties in time to permit the filing of an appeal to the Coastal Commission within the ten (10) working day appeal period.

Where any of the above circumstances in Subsection 28.45.009.6k(1), (2) or (3) occur, the Coastal Commission shall, within five (5) working days of receiving notice of that circumstance, notify the City and the applicant that the effective date of the City action has been suspended.

1. NOTICE OF FINAL ACTION BY THE CITY. Within seven (7) calendar days of a final City decision on an application for a coastal development permit, the Community Development Department shall provide notice of the action by first class mail to the Coastal Commission and to any persons who specifically requested such notice and provided a self-addressed, stamped envelope. Such notice shall include conditions of approval, written findings and the procedures for appeal of the City decision to the Coastal Commission.

m. APPEALS TO THE COASTAL COMMISSION. For those coastal development permits which are approved for developments defined as "appealable" under California Public Resources Code, Section 30603(a) and under Subsection 28.45.009.3.c., an appeal may be filed with the Coastal Commission by (1) an aggrieved party, (2) the applicant, or (3) two members of the Coastal Commission. Such appeals must be filed in the office of the Coastal Commission not later than 5:00 p.m. of the tenth working day following receipt of sufficient notice of the final local governmental action. In the case of an appeal by an applicant or aggrieved party, the appellant must have first pursued appeal to the City Council, as established in this Section of this code, to be considered an aggrieved party.

n. FAILURE TO ACT -NOTICE.

(1) NOTIFICATION BY APPLICANT: If the City has failed to act on an application within the time limits set forth in Article 5, ("Approval of Development Permits") of Title 7, Division I, Chapter 4.5 of the Government Code, commencing with 65950; thereby approving the development by operation of law, the person claiming a right to proceed pursuant to Government Code Section 65950 et seq. shall notify, in writing, the City and the Coastal Commission of the claim that the development has been approved by operation of law. Such notice shall specify the application which is claimed to be approved.

(2) NOTIFICATION BY CITY. Upon determination that the time limits established pursuant to Government Code Section 65950 et seq. have expired, the Community Development Department shall, within five (5) working days of such determination, notify those persons entitled to receive notice pursuant to Section 28.45.009.8 that it has taken final action by operation of law pursuant to Government Code Section 65956. The appeal period for projects approved by operation of law shall begin only upon receipt of the City's notice in the office of the Coastal Commission.

o. AMENDMENTS TO COASTAL DEVELOPMENT PERMITS. A coastal development permit may be amended by the Planning Commission in the same manner specified for initial approval. Amendment requests shall be subject to the appeal provisions established in this Section as applicable.

p. DEVELOPMENTS REQUIRING A COASTAL DEVELOPMENT PERMIT FROM THE COASTAL COMMISSION. Notwithstanding other permit and appeal provisions of this Section of this Code, development proposals which are located on lands identified as tidelands, submerged lands or public trust lands as identified on permit/appeals jurisdiction maps certified by the Coastal Commission, shall, pursuant to the requirements of California Public Resources Code Section 30519(b), require a coastal permit from the Coastal Commission. Upon submittal to the City of an application for a coastal development permit, the Community Development Department shall determine if the development may be located on land identified as tidelands, submerged lands and/or public trust lands. Such determination shall be based upon maps and other descriptive information identifying such lands which the Coastal Commission and/or State Lands Commission may supply. Upon a determination that the proposed coastal development involves such lands, the Community Development Department shall notify the applicant and the Coastal Commission of the determination that a State coastal permit is required for the development. In conjunction with the City's review and decision on the development per the requirements of the S-D-3 zoning district and other City codes, the City shall also include a recommendation on the developments conformance with the certified local coastal program including this Section. The City's determination of development conformance with the objectives and requirements of the local coastal program shall be advisory only and not a final action under this Section. Following City approval of the development, the application, supporting file documents and the City recommendation shall be forwarded to the Coastal Commission for its action on the development permit request. Development shall not proceed until the Coastal Commission grants a coastal permit for such a development.

q. EXPIRATION DATE AND EXTENSIONS. A coastal development permit shall expire two (2) years from date of issuance unless otherwise explicitly modified by conditions of approval of the development permit, or unless construction or use on the development has commenced. A coastal development permit may be extended upon request for an extension of time filed with the City prior to its expiration for up to one (1) year from its original date of expiration.

Coastal Development Permit extensions may be granted upon findings that the development continues to be in conformance with the requirements and objectives of the certified local coastal program.

7. AMENDMENTS TO A CERTIFIED LOCAL COASTAL PROGRAM. The purpose of this Subsection is to provide for changes in the land use and/or zoning designation on properties where such change is warranted by consideration of location, surrounding development and timing of development; to provide

for text amendments to this Section and/or the City's Coastal Plan as the City may deem necessary or desirable; and to provide for amendments to any ordinances or implementation measures carrying out the provisions of the City's Coastal Plan. The intent of this Subsection is to provide the mechanism, consistent with the Coastal Act, for amending the City's certified Coastal Program which consists of a Land Use Plan, Zoning and other ordinances, Land Use and Zoning Maps and special programs.

a. INITIATION. An amendment to the certified Local Coastal Program may be initiated by any member of the public, the Planning Commission or the City Council. All amendments proposed to the Commission for final certification must be initiated by resolution of the City Council.

b. CITY REVIEW AND PROCESSING. Processing of amendments to the certified Local Coastal Program shall proceed in the same manner as that required for an amendment to the:

(1) General Plan, if that amendment is intended to amend the text or map of the City's Coastal Plan.

(2) Municipal Code or Zoning Map, if that amendment is intended to amend the Municipal Code or Zoning Map.

c. NOTICING. Notice of the hearing shall be given at least ten (10) calendar days before the hearing.

(1) For any amendment, notice shall be:

(a) Published in a newspaper of general circulation in the City.

(b) Mailed to any person who has filed a written request therefore and has supplied the City with self-addressed, stamped envelopes.

(c) Mailed to the Coastal Commission.

(2) In addition, for a proposed rezoning or change of land use designation, notices shall be mailed:

(a) To the owners of the affected property and also the owners of all property within 450 feet of the exterior boundaries of the affected property, using for this purpose, the name and address of such owners shown on the tax rolls of Santa Barbara County.

(b) To occupants of residences, including apartments on or within 100 feet of the affected property.

(c) In the event that the rezoning or change of land use designation affects a portion of the City which has an area equivalent to more than four (4) square City blocks, the City may, instead, provide notice by placing a display advertisement in a newspaper of general circulation, published and circulated in the City.

d. COASTAL COMMISSION CERTIFICATION. Any proposed amendment to the Local Coastal Program shall not take effect until it has been certified by the Coastal Commission. Therefore, any approval by the City of such a proposed amendment to the Local Coastal Program shall be submitted to the Coastal Commission within fourteen (14) days of the final approval by the City Council in accordance with Sections 30512 and 30513 of the Coastal Act. (Ord. 4430, 1986; Ord. 4173, 1982.)

SECTION 2. Ordinance No. 4173 is repealed.

SECTION 3. Section 1 of this Ordinance shall not be effective until thirty (30) days after it had been certified by the California Coastal Commission. The boundaries on the Map shall be those boundaries which are certified by the Coastal Commission unless, the City Council takes action to reject these boundaries within sixty (60) days after said certification.

Bill No. 4421

Ordinance No. 4430

Adopted October 28, 1986

CITY OF SANTA BARBARA COASTAL PLAN



SHORELINE ACCESS

INTRODUCTION

The Coastal Act policies related to shoreline access include the following sections:

Section 30210. In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211. Development shall not interfere with the public's right of access to the sea where acquired through use, custom, or legislative authorization, including, but not limited to, the use of dry sand and coastal beaches to the first line of terrestrial vegetation.

Section 30212. Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources; (2) adequate access exists nearby, or (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1-66478-14, inclusive, of the Government Code and by Section 4 of Article X of the California constitution.

Section 30212.5. Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Article X, Section 4 of the California Constitution reads as follows: "No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people."

Sections 66478.1 to 66478.14, inclusive, of the Government Code refer to portions of the Subdivision Map Act. Relevant portions can be summarized as follows:

No local agency shall approve coastal or oceanfront subdivisions or subdivisions involving waterways, lakes or reservoirs, unless

VISITOR-SERVING COMMERCIAL USES

INTRODUCTION

Closely related to the provision of access and recreation in the coastal zone is the provision of adequate visitor-serving establishments. The shoreline offers a unique recreational and environmental setting which attracts visitors from across the state and nation. In recognition of the need to provide opportunities for use and enjoyment of the coast for those who do not live within the coastal zone, the Coastal Act contains a comprehensive set of policies regarding visitor-serving uses:

Section 30222. The use of private lands suitable for visitor-serving 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 30213. (Part) Lower cost visitor and recreational facilities ... shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30250(c). Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction of visitors.

Of interest to the City's LCP are the following policy requirements: (1) that visitor-serving commercial and recreational uses shall have priority over all other uses (except agriculture and coastal dependent industry), and (2) that lower cost visitor-serving uses shall be protected and encouraged. To comply with those policies, the City must ensure that existing visitor-serving opportunities are protected; that land use policies give priority to visitor-serving uses in new development decisions; and that lower cost visitor-serving uses are provided. (See "Recreation" section of this chapter for more detailed discussion of issues.)

LOCAL RESOURCES AND ISSUES

Resources

Because of the attractiveness of the shoreline, a great proportion of the City's visitor-serving opportunities are concentrated in the coastal zone. These resources and opportunities are briefly summarized below.

Overnight Accommodations

There are approximately thirty-five hotels and motels in components 3, 4, 6, and 7, containing about 965 overnight accommodations. An estimated 3,040 guests can be accommodated by these facilities.

Components 3 & 4	Four hotels, twenty-two motels
Component 6	Three hotels, four motels
Component 7	One hotel, one motel, one visitor trailer court

Other Commercial
Visitor-Serving
Facilities

This category includes grocery markets, liquor stores, ice cream parlors and gas stations. They are distributed throughout the coastal zone as follows:

- | | |
|------------------|--|
| Components 3 & 4 | One liquor store, one grocery, and five gas stations |
| Component 5 | Four gas stations |
| Component 7 | Three liquor stores, three groceries, and three gas stations |

Also of visitor interest is a Dollar-Rent-A-Car in component 4, the Santa Barbara Winery, also in component 4, and three ice cream parlors -- one in component 3 and two in component 7. In addition, bicycle, moped and rollerskating rentals, an ice skating rink, and golf course are located within the coastal zone.

Issue Discussion

Tourism plays a critical role in maintaining the economic balance of the City. According to a survey sanctioned by the All Year Round Association¹⁹, the principal reasons for visiting Santa Barbara are "quiet; relaxing; scenery." Therefore, maintaining Santa Barbara's tourist economy relies, in part, on the maintenance of Santa Barbara's relaxing pace and scenery. A primary task of the LCP, then, is to give priority to visitor-serving uses in the coastal zone (as called for by the Coastal Act) while continuing to preserve a low key, relaxing image. Related to this are the following issues:

- Issue 1: Zoning and other land use regulations should be brought into conformance with the Coastal Act to ensure the protection and encouragement of appropriate visitor-serving uses.
- Issue 2: Policy and land use regulations may be required to ensure that the expansion of visitor-serving uses does not result in adverse impacts that would detract from the desirability of the shoreline as a place to visit.
- Issue 3: Currently, the City has no policies regarding the protection and encouragement of lower cost visitor-serving facilities.
- Issue 4: During the construction of many highway improvements, visitor-serving establishments and visitor destinations and points of interest may experience declines in business because of ramp closures and temporary detours which may make access to these areas less convenient for potential users. Future highway improvement projects need to carefully plan for necessary closures and detours and include effective

¹⁹ Haug Associates, Inc., Santa Barbara Area Tourism, January, 1974, prepared for All Year Round Association.

measures to reduce potential disruptions to the local economy and particularly visitor-serving uses.

EXISTING PLANS AND POLICIES

Issue 1, identified above, concerns conformity of existing plans and policies with the Coastal Act. Table 8, page 63, below summarizes the extent to which the City's policies conform to the Coastal Act.

TABLE 8

VISITOR-SERVING		Exist. Cond.	Local Policy	Local Land Use	Local Zoning
30222	Priority to visitor-serving uses over other private development	■	○	○	■
30213	Protect lower cost visitor-serving facilities	■	■	■	■
30250	Avoid overcrowding/locate in isolated areas of attraction when not feasible to locate in developed areas	■	■	■	■

General Plan

The General Plan includes two land use classifications of concern to visitor-serving issues: (1) "Hotel, Motel and Related Commerce" designation, and (2) "Hotel/Residential" designation.

The General Plan designates the north side of Cabrillo Boulevard from Castillo Street to Santa Barbara Street, and up each side of State Street to the freeway, as areas appropriate for hotels, motels, and related commerce. It states that, "Commercial uses that can be considered to be related to hotels and motels, and, therefore, appropriate for this area, include restaurants, commercial recreation facilities such as bowling alleys, miniature golf courses and the like, and automobile service stations. Specialty and gift shops might also be appropriate in such an area." (p. 82a) With few exceptions, development within this area is visitor-serving in nature and conforms to both the intent of the General Plan and the Coastal Act.

The second designation "Hotel/Residential" allows a mix of multi-family uses, as well as hotels and motels. This designation is applied to four identified areas in the coastal zone:

SUB-AREA 1: Bounded by U.S. 101 (north); Chapala Street (east); Mason and Natoma Avenue (south); and Bath Street (west). A number of hotels, motels, and other commercial uses (restaurants, gas stations, liquor stores, markets) are developed in this area, as well as residential uses. Residential uses are most heavily concentrated within an area bounded by Los Aguajes (north); Chapala

street parking, and, if appropriate, provision of facilities or in lieu fees to mitigate the increased traffic movements resulting from the development.

Adequate open space for visual relief and passive public uses should also be a part of any major visitor-serving development.

[Preserving Lower Cost Visitor-Serving Uses

Section 30213 of the Act calls for the protection and encouragement of lower cost visitor-serving uses. Santa Barbara is fortunate in that a diversity of visitor-serving experiences are available to visitors at no cost (free!) such as, public beach and park areas, the Arts and Crafts Show, channel and boat viewing at the Harbor, bird watching at the Bird Refuge, and meandering through small shops and art galleries along Cabrillo Boulevard and State Street. These uses are an integral part of Santa Barbara's shoreline experience which should be preserved to meet both the intent of the Coastal Act and to provide both visitor and resident recreational opportunities. These uses can be preserved, in part, by: (1) obtaining public dedications and supportive zoning for existing public open spaces; (2) ensuring that new commercial development is visitor-serving in nature; and (3) establishing policies which accommodate and preserve unique opportunities, such as the Art Show and boat viewing in the Harbor.

In addition to visitor-serving recreational uses, preservation of lower cost lodging and restaurants is important. Preservation of lower cost uses can be achieved, in part, by: (1) ensuring that an adequate supply of lodging and restaurant opportunities is available so that demand does not result in exclusive prices; and (2) maintaining and encouraging a range of price and type of lodging units available. Ensuring an adequate supply of overnight lodging and restaurants will require control of conversions of visitor-serving uses to other uses, and encouragement of new visitor serving uses in appropriate areas as demand increases. Similarly, for development of new overnight accommodations, a possible condition of development should require a range of accommodations so that moderate and lower priced lodging continues to be available in Santa Barbara's coastal zone.

PROPOSED LCP POLICIES

Based on the above issue discussion, three major policy areas which the LCP must address have been identified:

- (1) Policies and actions which bring existing plans and policies into conformance with the Coastal Act by protecting and encouraging visitor-serving uses as a priority coastal use;
- (2) Policies which ensure that new visitor-serving development is compatible in size and scale and does not result in adverse impacts on environmental features or public services; and
- (3) Policies which serve to protect and encourage the provision of lower cost visitor-serving uses.

Policy 4.1²⁰

In order to preserve and encourage visitor-serving commercial uses, appropriate areas along Cabrillo Boulevard, Castillo Street, Garden Street and along State

²⁰ See Clough Memo.

Street shall be designated "Hotel and Related Commerce I (HRC-I)" and "Hotel and Related Commerce II (HRC-II)".

HRC-I designation shall include hotels, motels, other appropriate forms of visitor-serving overnight accommodations and ancillary commercial uses directly related to the operation of the hotel/motel.

HRC-II designation shall include all uses allowed in HRC-I and such other visitor-serving uses examples such as, but not limited to, restaurants, cafes, art galleries, and commercial recreation establishments. Uses such as car rentals and gas stations will require a conditional use permit.

Action

As part of the LCP Implementation Program, zoning techniques which distinguish residential uses and hotel/motel uses, and which provide policy guidance regarding conversions which are in conformity with these policies and the Coastal Act shall be developed.

Policy 4.2

New visitor-serving development permitted pursuant to Policy 4.1 shall be:

- (1) Reviewed by the Architectural Board of Review or the Historic Landmarks Commission for compatible architectural design;
- (2) Be consistent with the adopted LCP Visual Quality Policies;
- (3) Provide to the maximum extent feasible, public view corridors, open spaces, and pedestrian (and/or bicycle) walkways and facilities;
- (4) Provide adequate off-street parking to serve the needs generated by the development; and
- (5) Provide measures to mitigate circulation impacts associated with the project, including but not limited to coordination with the Redevelopment Agency's Transportation Plans for the area, provision of in-lieu fees, provision of bicycle facilities, or other appropriate means of mitigation.

Policy 4.3

Public amenities which provide unique lower cost visitor-serving experiences, such as the Arts and Crafts Show, channel and boat viewing at the Harbor, and any other special uses shall be protected and encouraged.

Policy 4.4

New hotel/motel development within the coastal zone shall, where feasible, provide a range of rooms and room prices in order to serve all income ranges. Likewise, lower cost restaurants, or restaurants which provide a wide range of prices, are encouraged.

Policy 4.5

Removal or conversion of existing lower cost visitor-serving uses in areas designated HRC-I, HRC-II and Hotel/Residential shall be prohibited unless the use will be replaced by a facility offering comparable visitor-serving opportunities.

LCP POLICIES

In order to address the issues identified in Section II of this chapter, to provide solutions to existing plans and policies, and to conform with Coastal Act Policies 30220, 30224, 30234 and 30255, the following policies are proposed.

Policy 7.1

The Harbor/Wharf complex and its associated recreational facilities shall be considered as the highest priority land use in the waterfront area.

Action

The waterfront area of the Harbor/Wharf complex shall be rezoned to insure that the Harbor/Wharf complex will be developed in a manner consistent with the policies of the Coastal Act regarding visitor-serving uses and ocean-dependent activities. The zoning classification for this complex shall specify principal permitted uses which are ocean-dependent and related to the maritime use of the Harbor and secondary permitted uses related to visitor-serving recreational activities.

Policy 7.2

The Harbor/Wharf complex shall be redesigned and restructured to:

- (1) Protect Harbor/Wharf facilities from southeast storms;
- (2) Reduce Harbor/Wharf shoaling.

Action

The City shall develop a specific urban design/development plan for the Harbor/Wharf complex which will:

- (1) Create a breakwater and such other structures as necessary to protect the harbor area;
- (2) Delineate location of Harbor dependent facilities and uses;
- (3) Provide adequate circulation for all modes of transportation within the waterfront;
- (4) Provide limited expansion of facilities for both recreational and commercial boating, with the needs of commercial fishing being given priority;
- (5) Relocate commercial fishing to the proposed easterly breakwater;
- (6) Improve and where necessary increase Harbor/Wharf facilities, such as boat hoists, launch ramps, ice machines, and fuel stations;
- (7) Establish a design theme for both the Harbor and Wharf structures which reflects a historic maritime setting for the Wharf and a Mediterranean/Hispanic setting for the Harbor;

HAZARDS

INTRODUCTION

The Coastal Act contains policy intended to reduce potential risks to new development from hazards present in the coastal zone.

Section 30253. 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 conditions along bluffs and cliffs.

The intent of the Coastal Act is to safeguard lives and property when planning for new development in high hazard areas, assure that new development does not significantly contribute to the deterioration of the general area of the proposed development, and prohibit construction of protective devices which would "...substantially alter natural landforms along bluffs and cliffs."

LOCAL RESOURCES AND ISSUES

Hazards located in the City of Santa Barbara's coastal zone which have the potential to threaten the health, safety, and welfare of local residents include seismic activity and its related effects, seacliff retreat, high groundwater, and hazards related to unstable soils, flooding, and fire.

The locations of these hazards within the City's coastal zone are summarized in Table 10, page 114. For a more detailed description of a particular hazard's location and severity, the reader is directed to the City of Santa Barbara's Seismic Safety/Safety and Conservation Elements of the General Plan and the "Hazards" working paper included in the Technical Appendix.

Seismic Activity

Hazards directly related to seismic activity in the coastal zone include:

- (1) Fault Displacement
- (2) Ground Shaking
- (3) Liquefaction
- (4) Tsunami
- (5) Seiche

Planning, Design,
and Maintenance
Standards

The public right-of-way should be landscaped, where appropriate. Mission Creek, passing under Cabrillo Boulevard near State Street, is presently an eyesore. The creek should be improved and landscaped.

The essence of Cabrillo Boulevard as a scenic drive is its proximity and exposure to the shoreline. The City is considering enhancing the shoreline through the expansion of Palm Park in order to provide recreational features such as bikeways, walkways, picnic areas and parking areas within uncrowded, generous spaces. The park is heavily used on the weekends, and additional space is necessary to reduce the density.

In order to accomplish this expansion, it has been suggested that the beach area beyond Palm Park be widened. Methods to expand oceanward, to the south, should therefore be investigated. Such an expansion could also be accomplished by widening the Park northward. This latter type of expansion requires the realignment of Cabrillo Boulevard.³¹ The designation of a scenic highway is based on that which can be seen by the traveler in relation to the corridor adjacent to the highway. Therefore, adequate standards for the planning, location, and design of the Cabrillo Boulevard realignment, if that occurs, should be applied in order to take advantage of the best scenic values within the corridor.

Toward this end, planning and design for Cabrillo Boulevard should provide for roadside parking areas and lookouts wherever scenic vistas are warranted. Parking areas on the ocean side should be designed and treated in such a way as to preserve the view of the shoreline from the highway. A good example of such design can be found in Shoreline Park, where lots are depressed and landscaped so that their impact on the scenic vista is minimized. On-street parking should be prohibited on Cabrillo Boulevard east of State Street. West of State Street, to Castillo Street, on-street parking should be removed on the ocean side of Cabrillo. The varied needs of parkers in the area between State Street and the Harbor presently conflict, and need to be studied as part of an overall shoreline plan already recommended in the General Plan.

Night views from Cabrillo Boulevard are also treasured as scenic resources by residents and visitors alike, and should be protected. If Cabrillo Boulevard is realigned, the street lighting installed should be more traditional. Lighting standards in keeping with the image of the City should replace those existing, which now lend a "freeway" feeling to the drive.

Actions

- Rezone areas not in conformance with the General Plan.
- Establish appropriate setback requirements for development on Cabrillo Boulevard.
- Create a height-setback relationship for development.

³¹ It should be noted that the City Council in 1977 went on record as not supporting the realignment of Cabrillo Boulevard northward. This intent was reaffirmed by the Council in early 1979.

SEP-27-2001 08:16 FROM RICHARDS WATSON & GERSHON TU 14159045235

P.02/23

RICHARDS, WATSON & GERSHON

ATTORNEYS AT LAW

A PROFESSIONAL CORPORATION
THIRTY-EIGHTH FLOOR
333 SOUTH HOPE STREET
LOS ANGELES, CALIFORNIA 90071-1409
(213) 628-8484
FACSIMILE (213) 626-0078

RICHARD RICHARDS
(415) 431-8881

SAN FRANCISCO OFFICE
SUITE 900
FORTY-FOUR MONTGOMERY STREET
SAN FRANCISCO, CALIFORNIA 94104
(415) 431-8484
FACSIMILE (415) 421-8484

ORANGE COUNTY OFFICE
1 CIVIC CENTER CIRCLE
P.O. BOX 1088
SANTA ANA, CALIFORNIA 92702-1088
(714) 990-0001
FACSIMILE (714) 990-9230

OF COURSEL
MARRY L. GERSHON
MASON L. LAMSON
WILLIAM K. KOSHER
JIM G. QUATSON
SCOTT I. BAREL
MARTHA M. ESCUTIA

CLEMM R. WATSON
ERWIN E. ADLER
DAROLD D. PIERCE
ALLEN E. KENNEDY
STEVEN L. DONOFF
WILLIAM I. STRANIERI
MITCHELL E. ABBOTT
TIMOTHY L. NEWFIELD
GREGORY W. STEPHANICH
MICHELLE BROWNE
MICHAEL J. JAROME
WILLIAM S. RUCCELLI
SUNSHINE M. BARSON
CAROL W. LYNCH
STEPHEN M. HUNERT
THOMAS M. JAMES
ROBERT E. GEDDON
SAYRE WEAVER
STEVEN H. KAUFMANN
SAMY E. GARD
JOHN J. HARRIS
KEVIN S. KENNE
ROBERT D. HARRIS
MICHAEL ESTRADA
LAWRENCE S. WIDEN
STEVEN B. COE
MICHAEL C. COLANTUONO
B. TILDEN KIM
SARINA Y. ABAMURA
PATSON O. SUNE
ALII JAFFE

PETER M. THORSON
JAMES L. MARKMAN
FRANCIS A. STEELE
T. PETER PIERCE
AMY BREYSON
TERESA B. BUCHHEIT
DEBORAH R. KARMAN
WILLIAM P. CLARLEY III
D. CRAIG FORB
LYNN I. ISAKA
JANET E. COLBERT
TERENCE R. BOGGS
LENA BOND
ROBERT H. PITTMAN
ROSEMARY M. BRAD
MARCEL B. HEDRICK
ELANA A. LUBER
ANN MARIE MAUREN
CHANDRA GENNI SPENCER
PAULA BUTTERMEYER WASSER
RUSSEN DURAN
PETER K. BOM
SABRINA FLORES
ALEXANDER ABBE
JACOB SHAMBAZ
AMY ALBERTSON
TOM C. ARA
ROBERT WATSON
PATRICK K. BOBRO
MARK E. HANDELL
MATTHEW A. PORTNOFF

September 21, 2001

Ralph Faust, Jr., Chief Counsel
California Coastal Commission
45 Fremont, Suite 2000
San Francisco, CA 94105-2219

Jamee J. Patterson, Supervising Deputy Attorney General
Office of the Attorney General
110 West "A" Street, Suite 1100
San Diego, CA 92186-5266

Re: Coastal Commission Appeal No. A-4-SBC-01-167
(Entrada de Santa Barbara Project)

Dear Ralph and Jamee:

Attorney Douglas B. Fell and I represent Santa Barbara Beach Properties, L.P., the applicant for the above project. It is our understanding that the appeals filed in connection with the project have been agendaized for the October 9, 2001 meeting. One issue raised when the matter was previously before the Commission concerned the scope of appeal jurisdiction. We thought it might be helpful to provide you with copies of the recent correspondence sent by the Santa Barbara City Attorney to Commission Staff on the issue, as well as the materials previously submitted by the applicant.

If you have any questions, please do not hesitate to give Doug or me a call.

Very truly yours,

Signature of Steven H. Kaufmann
Steven H. Kaufmann

Enclosures

cc (w/n enc.)- David D. Davis, Community Development Director
Stephen P. Wiley, Assistant City Attorney
Douglas E. Fell, Esq.

120800002669246.1

Exhibit 3
A-4-SBC-01-167
Appeal Jurisdiction
Correspondence

APPEAL JURISDICTION

Summary of Facts and Law which support the conclusion that the Coastal Commission's Appeal Jurisdiction with respect to the Entrada de Santa Barbara Project is limited to Area A only.

- **The Post-LCP Certification Permit and Appeal Jurisdiction Map for the City of Santa Barbara, previously adopted by the Commission on July 17, 1991** — The post-certification map reflects that only a portion of Site A is within the appealable area defined by Section 30603(a)(2). The map notes: "In areas where a parcel is bisected by the appeal jurisdiction boundary, only that portion of the parcel within the area defined as appealable is subject to the Commission's appeal jurisdiction." (See Exhibit "A".)
 - **The letter, dated August 20, 1998, from City Associate Planner Bill Jacobs to John Van Coops** — This letter requested Commission staff to confirm that only Site A is within the appealable jurisdiction area. The City's letter attached a Site Plan for the Entrada Project and the layout of the existing two parcels on Site A. (See Exhibit "B".)
 - **The letter, dated September 23, 1998, from Commission Analyst Jayson Yap to Bill Jacobs** — This letter confirmed that Site A is bisected by the Commission's appeal jurisdiction boundary as shown on the City's post certification map, and explained Staff's position that, since the building proposed on Site A is situated on property both inside and outside of the appeal jurisdiction, the entire Site A development would be appealable. (See Exhibit "C".)
- The letter further explained that the Commission understands that the entire Entrada Project was proposed to be reviewed under one CDP and that the City had requested confirmation that, if development of all three sites were approved under a single CDP by the City and appealed to the Commission, only the portion of the permit regarding Site A would be reviewed by the Commission on appeal. This letter contained the requested confirmation.
- **The tentative subdivision map as to Site A** — The City's approval includes a tentative map which eliminates lot lines between the two existing parcels on Site A and merges those parcels into a single parcel. (See CP 1.3 and 1.4 of Plans dated 6/28/99.) The existing lots and the merger are confined to Site A, do not extend beyond the boundaries of Site A, and are separated from other parcels across Mason and State Streets by streets owned in fee title by the City. The Site A lot merger, as a matter of convenience, is reflected on a single subdivision map with similar separate lot mergers which the City has approved on Sites B and C (creating a one-lot subdivision for condominium purposes on each of the separate parcels A, B and C).
 - **The opposition filed by the Environmental Defense Center to the demurrer of S.B. Beach Properties in the pending CEQA suit** — EDC's opposition brief confirms that there is no disagreement about the extent of the Commission's appeal jurisdiction. As

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EDC stated to the Court:

"However, while there is an appeal pending before the Coastal Commission, the appeal is limited to the matters within the Coastal Commission's appeals jurisdiction, which in this case is only a portion of the project area, 'Site A'." (See Exhibit "D".)

Applicable provisions of the "Commission's Local Coastal Program Post-Certification Guide for Coastal Cities and Counties (July 1992 - Revised)":

"If only a portion of a development is appealable, then that portion is all that the Commission could review on appeal (unless the project is a major public works or energy project or a non-principal permitted use in a county, in which case the Commission could review the entire development within the coastal zone)." — p. 8.

"In some instances a single development may consist of separate components which are functionally related - for example, a hotel structure and another structure housing the hotel's maintenance supplies. The Commission encourages functionally related development to be the subject of only one coastal development permit even though the development may consist of several components. For example, if some portions of a project are within a local government's jurisdiction, and if the applicant, local government and Commission agree, a coastal development permit may be issued for all of the functionally related development by the Commission even though a portion is not located in the retained jurisdiction area. . . [¶] . . . However, absent agreement by all three parties to the application (applicant, local government and Commission) the Commission may only review those portions of the development spanning the boundary or totally within its jurisdiction . . ." - p. 10.

"D. Projects Straddling Jurisdiction Boundaries.

The circumstance may arise wherein proposed development is located within both the Coastal Commission's and local government's coastal development permit jurisdictions. In the case of any division of land, the permit is issued by the Commission only for lots or parcels created which require any new lot lines or portions of new lot lines within the area subject to the Commission's retained jurisdiction area. In such an instance the Commission's review is confined to those lots or portions of lots within its jurisdiction. In the case of any development involving a structure or similar integrated physical construction, a permit for

NT BY: COASTAL COMM;

4159045235;

SEP-27-01 12:43PM;

PAGE 6

COASTAL COMM: #718; PAGE 6

SEP-27-2001 08:17 FROM RICHARDS WATSON & GERSHON TO 14159045235

P.05/23

any structure partially in the retained jurisdiction area is issued by
the Commission" - p. 10.

EXHIBITS

- A Site Plan with Overlay of Coastal Commission Appeal Jurisdiction
- B August 20, 1998 Letter from City of Santa Barbara to John Van Coops at the California Coastal Commission re Coastal Commission Appeal Jurisdiction over Entrada Project
- C September 23, 1998 Letter from Coastal Commission to City of Santa Barbara re Coastal Commission Appeal Jurisdiction over Entrada Project
- D Cover Page and page 3 of Petitioner's Memorandum of Points and Authorities in Opposition to S.B. Beach Properties' Demurrer/Motion to Strike and the City Joinder Therein; S.B. Superior Court Case No. 232741

SEP-27-2001 08:18

FROM RICHARDS WATSON & GERSHON TO 14159045235
CITY OF SANTA BARBARA

P. 08/23

COMMUNITY DEVELOPMENT DEPT.

Planning Division 564-5470
 Housing & Redevelopment Division 564-5481
 Division of Land Use Control 564-5485
 Director's Office 564-5455
 Fax Number 564-5477



838 GARDEN STREET
 POST OFFICE BOX 1990
 SANTA BARBARA, CA 93102-1990

August 20, 1998

John Van Coops
 California Coastal Commission
 45 Fremont St., Suite 2000
 San Francisco, CA 94105-2219

SUBJECT: MAP INTERPRETATIONS FOR SELECT PROPERTIES ALONG STATE STREET AND MASON AVE.

Dear Mr. Van Coops:

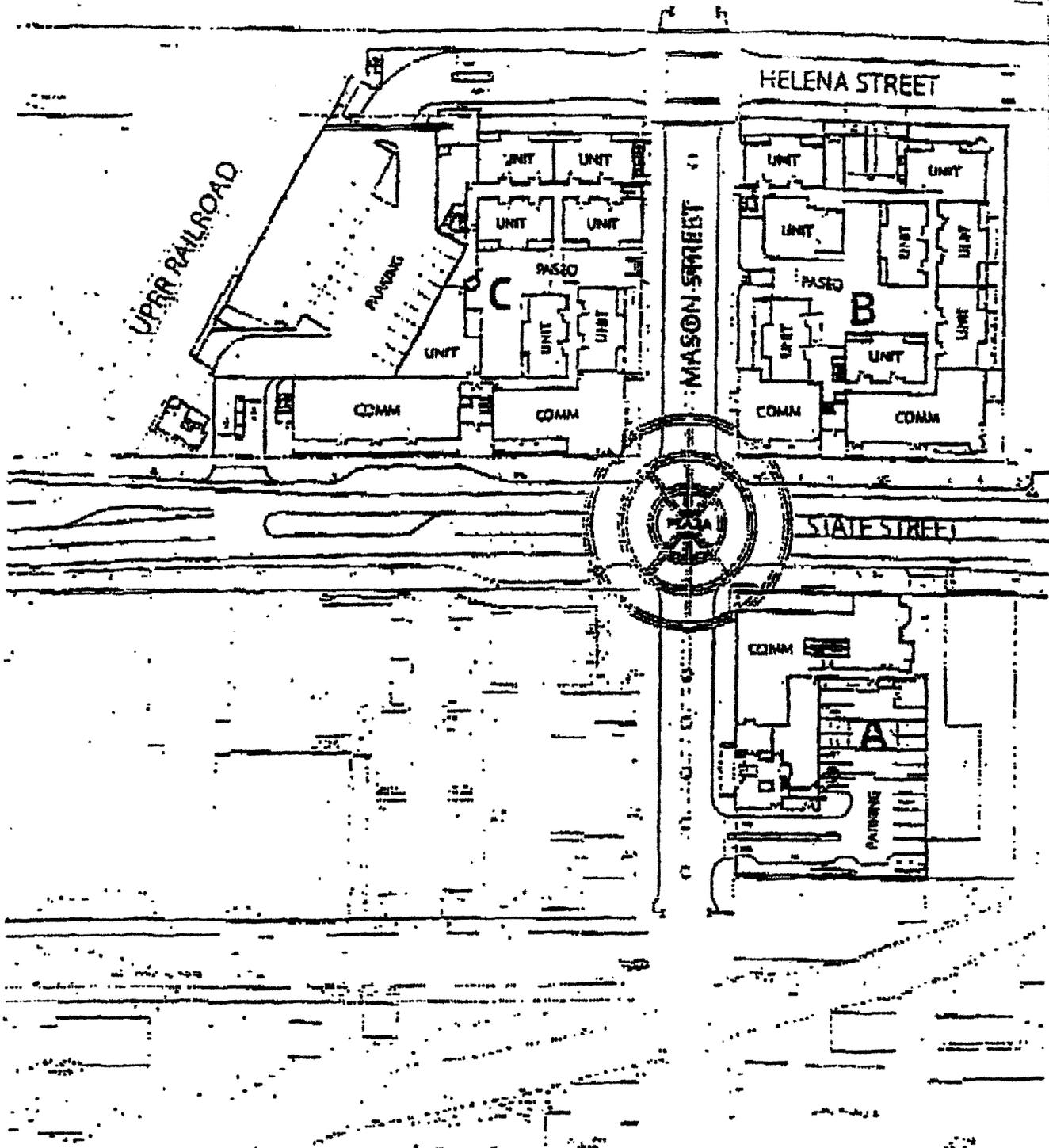
The City of Santa Barbara is currently reviewing an application for a Coastal Development Permit for a new mixed-use development of three buildings on multiple parcels fronting on State Street and Mason Ave (Attachments 1 and 2). A portion of one building within this development (identified as Site A on Attachments 1 and 2) appears to be within the appealable jurisdiction, while the other two buildings appear to be completely within the non-appealable jurisdiction. This determination was made using the Post-LCP Certification Permit and Appeal Jurisdictional Map (adopted by CCC on July 17, 1991) of the City of Santa Barbara (Attachment 3).

Because the overall project (Sites A, B, and C) appears to be within both appealable and non-appealable jurisdictions, the applicant for the project has requested a boundary determination for the properties involved in the project.

We would also request conformation of the following:

- 1) Only a portion of the multiple properties identified as Site A are within the appealable jurisdiction, and the remainder is in the non-appealable jurisdiction. However, it is our understanding that if one building is located on the entire Site A, then the entire Site A development is within the appealable jurisdiction, based on Section II D. of the Coastal Commission Post-Certification Guide, revised July 1992.
- 2) The entire project (Sites A, B, and C) is proposed to be reviewed under one Coastal Development Permit (CDP). If the CDP were appealed to the Coastal Commission, please conform that the Commission would only review the portion of the CDP located within the appealable jurisdiction. We are again assuming that this would be the entire development located on Site A, as noted in item 1 above, but no other parts of the project.

EXHIBIT R



ENTRADA de SANTA BARBARA
 A Development Proposal

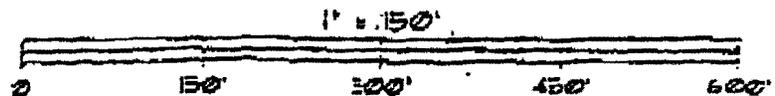
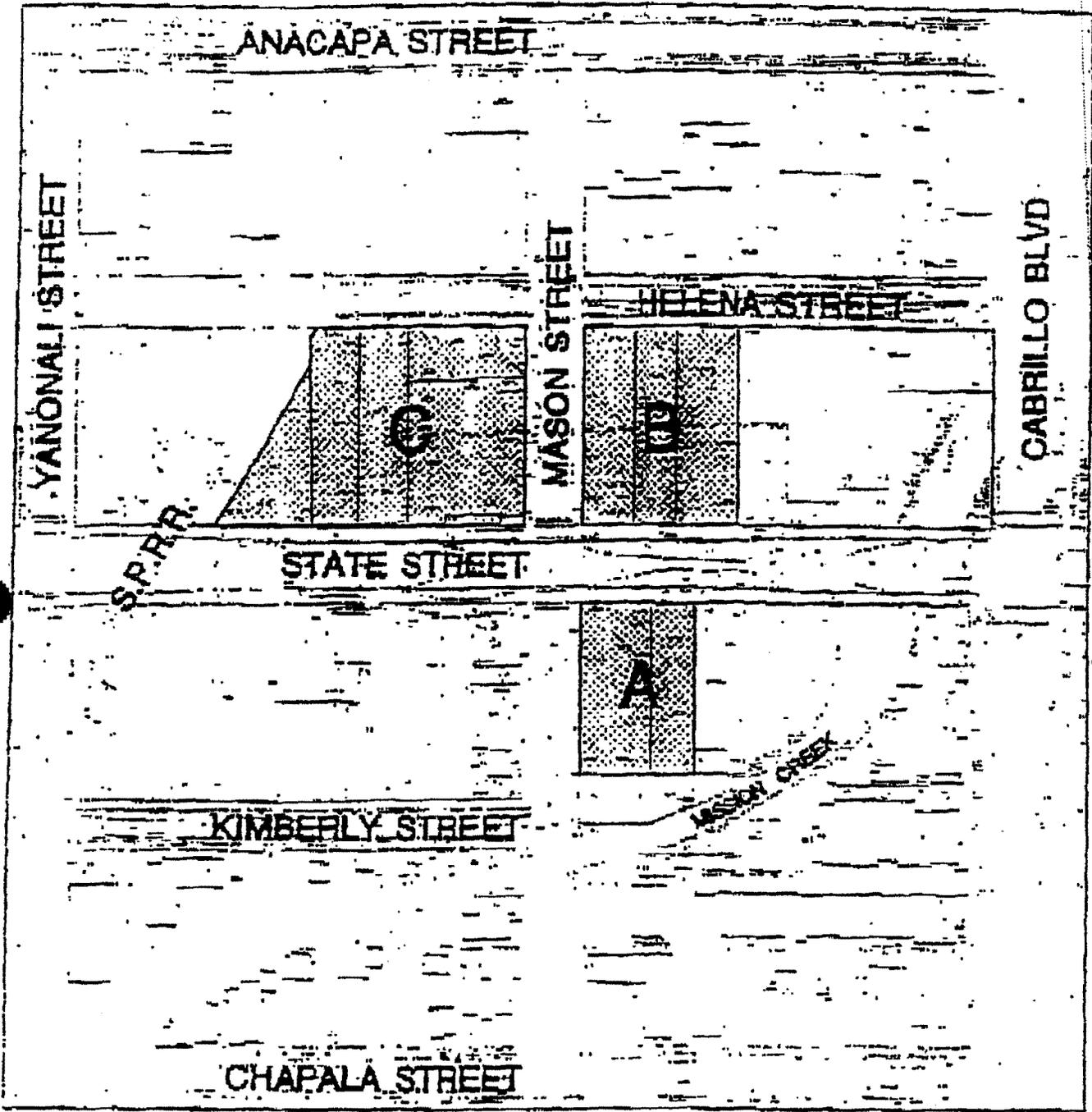
SITE PLAN



5/18/1208
 718-0591

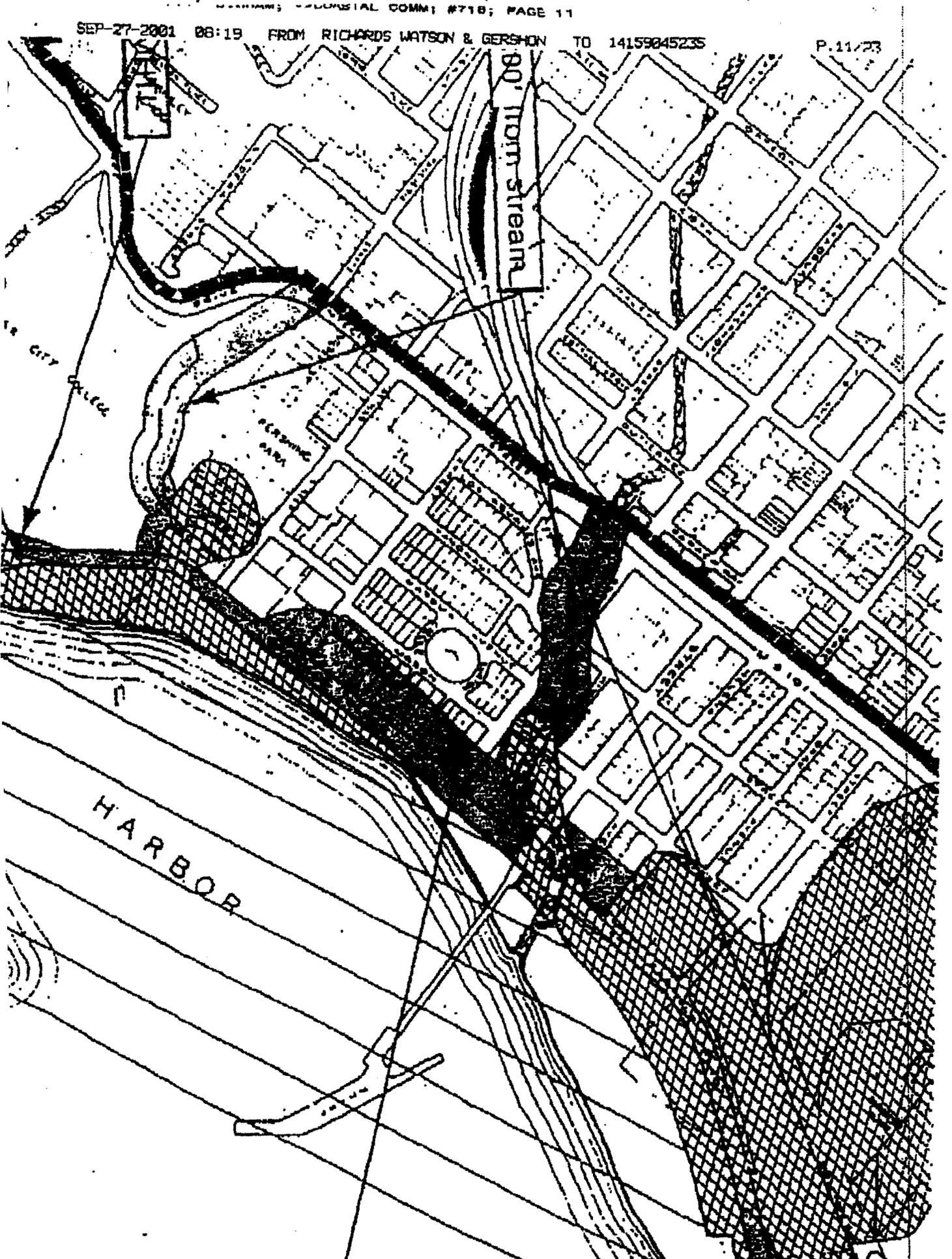
ATTACHMENT 1

LAND USE MAP



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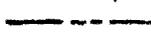
P.11/23



Post-LCP Certification Permit and Appeal Jurisdiction City of Santa Barbara



Coastal Zone Boundary

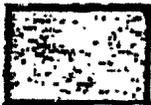


City Boundary



Permit Jurisdiction

This area includes only lands below the mean high tide line and lands where the public trust may exist.



Appeal Jurisdiction

This area includes lands between the sea and the designated first public road paralleling the sea or 300' from the inland extent of any beach or of the mean high tide line if there is no beach, whichever is the greater distance. Also included are lands within 100' of streams and wetlands and lands within 300' of the top of the seaward face of any coastal bluff.



Appeal Jurisdiction (P.R.C. § 30613)

This area includes lands where the Commission has delegated original permit jurisdiction to the local government for areas potentially subject to the public trust but which are filled, developed, and committed to urban uses.

In addition to these geographic areas of appeal jurisdiction the following types of development are appealable throughout the Coastal Zone pursuant to P.R.C. Section 30603 (a)(4) and (a)(5):

1. Any development approved by a county that is not designated as a principal permitted use under zoning approved pursuant to the applicable Local Coastal Program;
2. Any development that constitutes a major public works project or a major energy facility.

In areas where a parcel is bisected by the appeal jurisdiction boundary, only that portion of the parcel within the area defined as appealable is subject to the Commission's appeal jurisdiction.

NOTE

This map has been prepared to show where the California Coastal Commission retains post-LCP certification permit and appeal jurisdiction pursuant to P.R.C. § 30619(b), and § 30603(a)(1) and (a)(2). In addition, developments may also be appealable pursuant to P.R.C. § 30603(a)(3), (c)(4)

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P.13/23

STATE OF CALIFORNIA - THE RESOURCES AGENCY

PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION

4 FISHWALK, SUITE 2004
SAN FRANCISCO, CA 94103-1117
VOICE AND TDD 415 776-2200



RECEIVED

SEP 28 1998

CITY OF SANTA BARBARA
PLANNING DIVISION

September 23, 1998

Bill Jacobs
City of Santa Barbara
Community Development Department
630 Garden Street
P.O. Box 1990
Santa Barbara, CA 93102-1990.

Re: BD 37-98

Dear Mr. Jacobs:

Per your request, Commission staff has reviewed the coastal zone permitting jurisdictional issues regarding the properties located at the intersection of State Street and Mason Street as shown in exhibit 1.

Based on the current adopted Post-Certification Map for the City of Santa Barbara, sites B and C are located entirely outside of the Coastal Commission's retained permit and appeal jurisdictions. Development on these parcels would require a coastal development permit from the City of Santa Barbara. Site A is bisected by the Commission's appeal jurisdiction boundary as shown on the City's post-LCP certification map (exhibit 2), and since the building proposed on site A is situated on property both inside and outside of the appeal jurisdiction, the entire site A development would be appealable.

It is our understanding that development of all 3 sites is being proposed under a single coastal development permit. Please be advised that if the project were approved by the City and appealed to the Commission, only the portion of the permit regarding site A would be reviewed by the Commission.

Please feel free to contact me if you have any questions regarding this determination.

Sincerely,

Jayson Yap
Coastal Program Analyst

Encl.

cc: Gary Thum; CCC; Van

SEP-27-2001 08:20 FROM RICHARDS WATSON & GERSHON TU 14159045235

P.14/23

1 Tanya A. Gulesserian (State Bar No. 198640)
 Linda Krop (State Bar No. 118773)
 2 Victoria Clark (State Bar No. 180248)
 ENVIRONMENTAL DEFENSE CENTER
 3 906 Garden Street
 Santa Barbara, CA 93101
 4 (805) 963-1622
 FAX: (805) 962-3152
 5
 Attorneys for Petitioners
 6 CITIZENS PLANNING ASSOCIATION OF SANTA
 BARBARA COUNTY, INC. and LEAGUE OF
 7 WOMEN VOTERS OF SANTA BARBARA

8
 9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 10 COUNTY OF SANTA BARBARA
 11 ANACAPA DIVISION
 12

13 CITIZENS PLANNING ASSOCIATION OF
 SANTA BARBARA COUNTY, INC., a non-
 14 profit corporation; LEAGUE OF WOMEN
 VOTERS OF SANTA BARBARA, a non-profit
 15 corporation.

16 Plaintiffs/Petitioners,

17 vs.

18 CITY OF SANTA BARBARA, a municipal
 corporation; CITY COUNCIL OF CITY OF
 19 SANTA BARBARA; DOES 1-20, inclusive,

20 Defendants/Respondents,

21 And

22 REDEVELOPMENT AGENCY OF CITY OF
 SANTA BARBARA, a public agency, and
 23 SANTA BARBARA BEACH PROPERTIES, a
 California Limited Partnership, DOES 21-50,
 24 inclusive,

25 Real Parties in Interest.
 26
 27
 28

Case No.: 232741

)} PETITIONERS' MEMORANDUM OF POINTS
 AND AUTHORITIES IN OPPOSITION TO S.B
 BEACH PROPERTIES' DEMURRER/ MOTION
 TO STRIKE AND THE CITY'S JOINDER
 THEREIN

)} Assigned Judge for All Purposes: Hon. Thomas
 P. Andrie

)} Date: November 18, 1999
 Time: 8:30 a.m.
 Dept.: 3

Opposition to Demurrer/Motion to Strike

Printed on
Recycled Paper

1 City's certified LCP as well as with the access policies of the Coastal Act, S.B. Beach Properties'
 2 Request to Take Judicial Notice ("RJN"), Exhibit A. However, while there is an appeal pending before
 3 the Coastal Commission, the appeal is limited to the matters within the Coastal Commission's appeals
 4 jurisdiction, which in this case is only a portion of the project area, "Site A." RJN, Exhibit A, Letter, p.
 5 J; RJN, Exhibit B, pp. 5-6. The Coastal Commission will not assert jurisdiction over Sites B and C.
 6 RJN, Exhibit B, pp. 5-6. As a result, the appeal to the Coastal Commission does not include the entirety
 7 of the City's approvals for the Project, merely Site A's inconsistencies with the City's LCP and the
 8 access policies of the Coastal Act. The allegations of violations of the Coastal Act and LCP relating to
 9 Sites B and C are ripe for review.

10 **STANDARD OF REVIEW**

11 A general demurrer admits "the truth of all material factual allegations of the action. Plaintiffs'
 12 ability to prove the allegations, or the possible difficulty in making such proof, does not concern the
 13 reviewing court." People ex rel. Dept. of Conservation v. Trickett (1996) 48 Cal.App.4th 233, 255 [55
 14 Cal.Rptr.2d 610] (citing Amgen-Hess v. Family Security Ins. Services, Inc. (1991) 231 Cal.App.3d 232,
 15 238 [282 Cal.Rptr. 233]). As a result, the Court need only look to the Petition to determine whether a
 16 valid cause of action is stated.

17 In addition, "[i]f there is a reasonable probability that the defect in a complaint can be cured by
 18 amendment, it is an abuse of discretion to sustain a demurrer without leave to amend. [Citation.]"
 19 Handy v. Loss (1991) 54 Cal.3d 723, 742 [1 Cal.Rptr.2d 543]. A plaintiff has the opportunity to
 20 "demonstrate the manner in which the complaint might be amended." Id.

21 **ARGUMENT**

22 **I. PETITIONERS PROPERLY EXHAUSTED ALL ADMINISTRATIVE REMEDIES**
 23 **BEFORE RESORTING TO THE COURTS FOR RELIEF AND THE CAUSES OF**
 24 **ACTION ARE SUFFICIENTLY CERTAIN FOR THE COURT TO OVERRULE THE**
 25 **DEMURRER.**

26 It is well settled that this Court may not rule on any claim challenging the validity of a
 27 government action unless and until the plaintiff has first sought relief through any available
 28 administrative proceedings, and has not been successful in obtaining that relief. Park Area Neighbors v.
Town of Fairfax (1994) 29 Cal.App.4th 1442, 1447 [35 Cal.Rptr.2d 334]; La Costa Beach Homeowner's

CITY OF SANTA BARBARA

OFFICE OF THE CITY ATTORNEY
DANIEL J. WALLACE,
CITY ATTORNEY



740 STATE STREET, SUITE 201
POST OFFICE BOX 1990
SANTA BARBARA, CA 93102-1990

TELEPHONE.....(805) 564-5326
FAX.....(805) 897-2532

September 14, 2001

VIA FACSIMILE TRANSMISSION TO (805) 641-1732 & U.S. MAIL (AS CORRECTED)

Ms. April Verbanac, Coastal Program Analyst
California Coastal Commission
South Central Coast Area
89 South California Street, Suite 200
Ventura, California 93001

RECEIVED

SEP 20 2001

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Re: Coastal Commission Appeal No. A-4-SBC-01-167

Dear Ms. Verbanac:

The purpose of this letter is to follow up on your telephone conversations of last week with Ms. Jan Hubbell and Mr. Paul Casey of the City of Santa Barbara Planning Division concerning Coastal Commission Appeal No. A-4-SBC-01-167.

As we discussed with you at our meeting of September 5, 2001, in processing the actions which are the subject of appeal, it was the specific intention of the City of Santa Barbara that the City Council's actions were intended to approve separate Coastal Development Permits for each distinct aspect of the development on each of Area A, Area B, Area C, and the State Street Improvement Project and that each decision would be an independent and separate action of the City Council.

So that there would be no uncertainty on this point, the City took the following actions:

1. The recital appearing at the top of Page 5 of City Council Resolution No. 01-103 provides (in part) as follows:

“For the purposes of its permitting, the Entrada Project is divided into three distinct and separate areas of real property, termed “Area A, Area B, and Area C” as shown on the Site Plan, each of which Areas is separated from the others by public streets.”

2. The discretionary land use permits approved by the City Council in Resolution No. 01-103 were specifically identified (in relevant part) as follows:

“FOR AREA A

1. A Development Plan for Area A to allow for the proposed non-residential development of approximately 5,368 square feet of commercial space and 15 time-share units (30 units including lock-out units) (SBMC Section 28.87.300).
2. A Tentative Subdivision Map for Area A to allow for the creation of condominium parcels for time-share and commercial purposes (SBMC Chapter 27.07).
3. A Coastal Development Permit for Area A (within the appealable jurisdiction of the Coastal Zone) to allow for the proposed non-residential development of approximately 5,368 square feet of commercial space and 15 time-share units (30 units including lock-out units) (SBMC Section 28.45.009).
4. A Coastal Development Permit to allow for the proposed Tentative Subdivision Map for Area A (within the appealable jurisdiction of the Coastal Zone) (SBMC Section 28.45.009).

FOR AREA B

1. A Development Plan for Area B to allow for the proposed non-residential development of approximately 3,560 square feet of commercial space and 24 time-share units (48 including lock-out units) (SBMC Section 28.87.300).
2. A Tentative Subdivision Map for Area B to allow for the creation of condominium parcels for time-share and commercial purposes (SBMC Chapter 27,07).
3. A Coastal Development Permit for Area B (within the non-appealable jurisdiction of the Coastal Zone) to allow for the proposed non-residential development of approximately 3,560 square feet of commercial space and 24 time-share units (48 units including lock-out units) (SBMC Section 28.45.009).

4. A **Coastal Development Permit** to allow for the proposed Tentative Subdivision Map for Area B (within the non-appealable jurisdiction of the Coastal Zone) (SBMC Section 28.45.009).

FOR AREA C

1. A **Development Plan** for Area C to allow for the proposed non-residential development of approximately 7,936 square feet of commercial space, a 2,500 square foot public Visitor's Information Center and 17 time-share units (34 units including lock-out units) (SBMC Section 28.87.300).

2. A **Tentative Subdivision Map** for Area C to allow for the creation of condominium parcels for time-share, commercial purposes and a public Visitor's Information Center (SBMC Chapter 27.07).

3. A **Coastal Development Permit** for Area C (within the non-appealable jurisdiction of the Coastal Zone) to allow for the proposed non-residential development of approximately 7,936 square feet of commercial space, a 2,500 square foot Visitor's Center and 17 time-share units (34 units including lock-out units) (SBMC Section 28.45.009).

4. A **Coastal Development Permit** to allow for the proposed Tentative Subdivision Map for Area C (within the non-appealable jurisdiction of the Coastal Zone) (SBMC Section 28.45.009).

STREET RIGHT OF WAY ALTERATIONS

1. **Coastal Development Permit** (within the appealable jurisdiction of the Coastal Commission) to allow for the proposed State/Mason/Helena Street Right of Way Alterations (SBMC Section 28.45.009)."
3. The Conditions of Approval for Area A, Area B and Area C (which were attached to City Council Resolution No. 01-103) were separate and distinct for each of Area A, Area B and Area C. See Page 28 of Resolution No. 01-103 where it states:

"The City Council's approval is subject to the express conditions attached hereto as Exhibit A - the "Entrada de Santa Barbara Conditions of Approval" dated as of August 21, 2001 for each of Area A, Area B, and Area C."

4. A separate tentative Subdivision Map (and separate Coastal Development Permit for each separate Subdivision Map) was approved for each of Area A, Area B and Area C (see Paragraph 2 above).

5. The Planning Division Staff Report (provided to the Planning Commission as well as to the City Council) dated as of June 28, 2001, at Page 3, specifically described the "Discretionary Actions Required" as follows (in relevant part):

"The project is divided into three areas: Area A, Area B and Area C. See Attachment 4 for a map of the project site.

The discretionary actions required for the Entrada Project are:

FOR AREA A

3. A **Coastal Development Permit** for Area A (within the appealable jurisdiction of the Coastal Zone) to allow for the proposed non-residential development of approximately 5,368 square feet of commercial space and 15 time-share units (30 units including lock-out units) (SBMC Section 28.45.009).

4. A **Coastal Development Permit** to allow for the proposed Tentative Subdivision Map for Area A (within the appealable jurisdiction of the Coastal Zone) (SBMC Section 28.45.009).

FOR AREA B

3. A **Coastal Development Permit** for Area B (within the non-appealable jurisdiction of the Coastal Zone) to allow for the proposed non-residential development of approximately 3,560 square feet of commercial space and 24 time-share units (48 units including lock-out units) (SBMC Section 28.45.009).

4. A **Coastal Development Permit** to allow for the proposed Tentative Subdivision Map for Area B (within the non-appealable jurisdiction of the Coastal Zone) (SBMC Section 28.45.009).

FOR AREA C

3. A **Coastal Development Permit** for Area C (within the non-appealable jurisdiction of the Coastal Zone) to allow for the proposed non-residential development of approximately 7,936 square feet of commercial space, a

2,500 square foot Visitor's Center and 17 time-share units (34 units including lock-out units) (SBMC Section 28.45.009).

4. A Coastal Development Permit to allow for the proposed Tentative Subdivision Map for Area C (within the non-appealable jurisdiction of the Coastal Zone) (SBMC Section 28.45.009).

STREET RIGHT OF WAY ALTERATIONS

1. Coastal Development Permit (within the appealable jurisdiction of the Coastal Commission) to allow for the proposed State Street Right-of-Way improvements.

6. With the City Council's approval of the necessary permits for the Entrada Project on August 21, 2001, the City of Santa Barbara has issued seven (7) separate CDP's as specifically approved by the City Council in Resolution No. 01-103. The CDP's have been assigned the following City of Santa Barbara Coastal Development Permit Numbers: 1. For Area A: CDP 2001-00008(A), CDP 2001-00009(A); 2. for Area B: CDP 2001-000010(B), CDP 2001-000011(B); 3. for Area C: CDP 2001-000012(C), CDP 2001-000013(C); and 4. for the State Street Intersection Improvements: CDP 2001-000014 (Street). All of these CDPs come under the original City Master Application MST 97-00357.

7. The City Council Resolution No. 01-103 specifically identified the approvals of Area A and the Approval of the Road Improvements as being "within the appealable jurisdiction of the Coastal Zone," and specifically identified the approvals of Area B and C as being "within the non-appealable jurisdiction of the Coastal Zone".

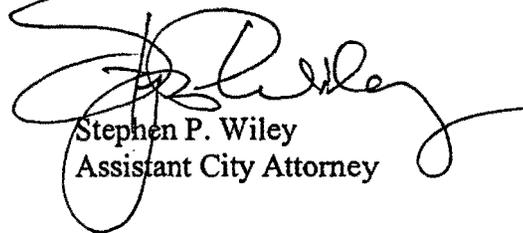
In your telephone call of last week you inquired about the fact that the Notice of Final Action identified the "Application Number" as MST 97-00357. This Application Number was issued to the Project in 1997, when it was originally filed. When the Project was originally filed, it was processed under a single Coastal Development Permit in reliance on the fact that the City had received written assurances from Coastal Commission Staff that the only portion of the Project which would be appealable to the Coastal Commission would be Area A.

When those assurances were subsequently withdrawn (see the letter dated September 22, 2000 from Chuck Damm to David Davis attached hereto), the development on each of Areas A, B, C, and the Street Improvements were processed under separate Coastal Development Permits and the City insisted that a separate permit fee be paid by the Applicant for each of the separate Entrada permit areas. For tracking purposes the City's Master Application Number was not changed, but the Application had changed into four separate City Development Applications, for Areas A, B and C, as well as the Street Improvements, for a total of seven CDPs for the projects being approved.

The only "actions" of the City of Santa Barbara on "a Coastal Development Permit Application" which satisfy the appeal criteria set forth in state Public Resources Code Section 30603(a) are the separate actions by the City Council on the applications for Coastal Development Permits for Area A and for a Coastal Development Permit for the Street Improvements. The separate "actions" of the City Council approving the separate Applications for Coastal Development Permits for each of Area B and Area C are not appealable under PRC § 30603(a).

Please feel free to contact me directly should you or other Commission staff members have any questions concerning the City's processing of the CDPs for the Entrada Projects.

Sincerely yours,



Stephen P. Wiley
Assistant City Attorney

SPW/ces

cc: David D. Davis, Community Development Director
Paul Casey, Assistant Community Development Director

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA STREET, SUITE 200
SANTA BARBARA, CA 93001-2801
(805) 641-0142



CC: Bill G.
Bettie H.
Paul C.
Steve W.



September 22, 2000

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SEP 27 2000

CITY OF SANTA BARBARA
COM. DEV. ADMIN

David Davis
Community Development Director
City of Santa Barbara
630 Garden Street
P.O. Box 1990
Santa Barbara, CA 93102-1990

Re: Coastal Commission Jurisdiction on Appeal

Dear Mr. Davis:

I am writing concerning the extent of the Coastal Commission's jurisdiction to consider the La Entrada project on appeal. A former Coastal Commission staff member, Jayson Yap, stated in a letter to Bill Jacobs, City of Santa Barbara, Community Development Department, that the Commission would only have jurisdiction on appeal over a portion of the proposed La Entrada project (see enclosed letter dated September 28, 1998). Upon further review of this issue during the appeal of the Coastal Development Permit approved by the City for the La Entrada project, the Coastal Commission staff determined that the position set forth in Mr. Yap's letter is incorrect. When one Coastal Development Permit is issued for development that is located both on property within the designated appeals area and on property that is outside of the appeals area, the Coastal Commission has jurisdiction to review *all* of the development authorized in the Coastal Development Permit.

Mr. Yap's letter responded to a question that was raised in a letter about the La Entrada project from Mr. Jacobs to John Van Coops, California Coastal Commission (see enclosed letter dated August 20, 1998). The City's letter described a project proposed for three sites designated as Sites A, B and C. Only one of these sites, Site A, is located within the appeals jurisdiction of the Coastal Commission. The City asked if one Coastal Development Permit was approved by the City for the entire project on Sites A, B and C, and was appealed to the Coastal Commission, whether the Commission would review only the development located on Site A, and not any other parts of the project. As discussed above, in this situation, the Coastal Commission has jurisdiction on appeal to review *all* the development proposed in a Coastal Development Permit approved by the City. Thus, the Commission would have jurisdiction to review all development proposed on Sites A, B and C, even though Sites B and C are not themselves within the appealable area.

David Davis
September 22, 2000
Page 2

We understand that the City's approval of the Coastal Development Permit for the La Entrada project was invalidated by the Superior Court in litigation and accordingly, the appeal of the permit is moot. However, we thought it could be helpful to clarify this issue for the future.

If you have any questions, please let me know.

Sincerely,



Chuck Damm
Senior Deputy Director

cc: Pedro Nava
Gregg Hart
Gary Timm
Sandy Goldberg



CONSULTING

811 Wilshire Boulevard
Suite 800
Los Angeles CA 90017

Telephone (213) 680-0900
Telefax (213) 623-8240

June 7, 2001

Mr. Douglas E. Fell
Fell, Marking, Abkin, Montgomery, Granet & Raney, LLP
222 East Carrillo Street, Suite 400
Santa Barbara, California 93101-2142

Dear Mr. Fell:

REQUESTED ANALYSIS AND ADVICE FROM PKF CONSULTING

You have requested PKF Consulting ("PKF/C") to analyze and advise you concerning two issues relating to development of a 96-room economy lodging facility in Santa Barbara, California. This letter updates the analysis we previously provided to you on this subject dated April 9, 2000. The two issues are as follows:

- **Total Development Costs**

You have requested PKF/C to provide you with an estimate of the total development costs (which for these purposes means land acquisition costs and turn-key construction costs) for the development of a 96 room economy lodging facility in Santa Barbara, California; and,

- **Required Subsidy**

You have requested PKF/C to provide you with an analysis of the amount of subsidy that would be required to make economically feasible the development of a 96-room economy lodging facility in Santa Barbara, California. For those purposes "economy lodging" means facility with an "average daily room rate" of \$63.00 per night in calendar year 2001 and "economically feasible" means providing the developer with a required "equity yield" on the developer's investment of 15 percent (15%).

Exhibit 4
A-4-SBC-01-167

CONCLUSIONS

• Total Development Cost

Based on our analysis, a description of which follows, PKF/C estimates the total development costs for the development of a 96-room economy lodging facility in Santa Barbara, California, would be \$6,682,000, of which \$2,731,000 is land cost and the balance of \$3,951,000 or approximately \$41,200 per room is the cost of building and improvements.

• Required Subsidy

Based on our analysis, a description of which follows, PKF/C has concluded that the amount of subsidy that would be required would be \$982,000 or \$10,229 per room.

BACKGROUND AND QUALIFICATIONS OF PKF CONSULTING

PKF Consulting is an international firm of management consultants, industry specialists, and appraisers who provide a full range of services to the hospitality, real estate, and tourism industries. PKF/C is one of several companies wholly owned by Hospitality Asset Advisors International, Inc. (HAA), a U.S. corporation.

Other HAA companies include Hospitality Asset Advisors Incorporated, which provides real estate transaction and capital markets services, and The Hospitality Research Group, a hospitality-related market research firm.

Headquartered in San Francisco, the firm has offices in New York, Philadelphia, Boston, Atlanta, Houston, Dallas, Los Angeles, and Washington, D.C. In Asia, the firm is based in Singapore and practices as Hospitality Asset Advisors, PTE., Ltd.

Senior professionals of the firm have been a part of the hospitality business for upwards of 25 years. They head teams of consultants who bring a broad range of experience - corporate finance, hotel operations, resort planning, and international tourism - to meeting client needs. Real estate professionals carry MAI (Member of the Appraisal Institute), CRE (Counselor of Real Estate) and ISHC (International Society of Hospitality Consultants) designations.

PKF/C has extensive experience in conducting and providing financial and market analysis for hotels and motor hotels in the Santa Barbara area. The undersigned and we have been doing work continuously in this market for in excess of 30 years. Our and my experience includes professional analysis and advice to most of the hotels and motor hotels in the east and west beach areas and most of the major resort properties in the surrounding area. In addition, PKF/C tracks occupancy and average daily room rates for the majority of properties in the City of Santa Barbara and surrounding areas.

OUR UNDERSTANDING OF YOUR USE OF THIS LETTER

You have advised us and we have prepared this advice to you, on the understanding and expectation that you will provide this letter to the City of Santa Barbara in connection with the City's analysis and determination of an appropriate fee to mitigate the removal or conversion of low cost lodging accommodations in the Coastal Zone of Santa Barbara, California.

METHODOLOGY

In conducting our analysis, we developed an estimate of the potentially required development costs for a 96-room economy lodging property in Santa Barbara. The source of information for the cost model was our actual experience with key variables in the Santa Barbara area and development statistics garnered from two chains that are actively developing this level of property in Southern California.

After developing an estimate of development costs, we applied our general knowledge of the Santa Barbara market, augmented by analysis of the operating results of a cross section of economy lodging properties, to develop estimates of income and expense for the property under consideration. We then applied appropriate capitalization rates and discount rates to the projected income stream to develop an estimate of potential value on completion of the subject property.

We then compared the potential development costs to the potential value to develop an estimate of the required subsidy.

Assumptions

Our primary assumptions relative to development costs for the subject property are as follows:

- | | |
|--------------------------------------|--|
| ▪ Density: | 58-units per acre |
| ▪ Land Cost: | \$38.00 per square foot |
| ▪ Site improvement costs: | \$3.25 per square foot, excluding building pad |
| ▪ Building square footage: | 400 square feet per room |
| ▪ Building costs: | \$78.00 per square foot |
| ▪ Indirect costs: | 15% of building costs |
| ▪ Furniture, fixtures and equipment: | \$3,100 per room |
| ▪ Financing costs: | \$100,000 |

Our primary assumptions relative to operating income and expenses are as follows:

▪ Occupancy:	80% stabilized, 2-year build-up to stabilized occ.
▪ Average daily room rate:	\$63 in 2001 dollars
▪ Telephone revenue:	\$1.25 per occupied room
▪ Rentals and other income:	\$1 per occupied room
▪ Rooms departmental expense:	\$10 per occupied room
▪ Telephone expenses:	50% of departmental revenues
▪ Administrative and General expense:	\$2,700 per available room
▪ Franchise fees:	5.5% of rooms revenue
▪ Marketing:	\$800 per available room
▪ Property operations and maintenance:	\$1,200 per available room
▪ Utility costs:	\$1,000 per available room
▪ Management fees:	4.0% of total revenues
▪ Property taxes:	1.1% of value
▪ Insurance:	\$150 per available room
▪ Reserves for replacements of FE&E	4.0% of total revenues

The estimates of occupancy and average daily room rates are based upon the experience of similar properties with which we are familiar in the Santa Barbara area. The estimates of all other revenues and other expenses are based upon an analysis of the operating results of three similar properties all located in California. A summary of estimated annual operating results for July 1, 2001 through December 31, 2010 for the subject property are appended to this letter.

Based upon our experience and applying our standard methodology for analyses of this type, we have applied a capitalization rate of 12.5 percent to the potential operating results of the subject property at the end of a theoretical ten-year holding period. We have also applied a 14.0 percent discount rate to the residual value and annual cash flows of the subject property to indicate the potential value of the property on completion of construction of \$5,700,000.

These capitalization and discount rates are consistent with the assumption of an assumed mortgage equal to 65 percent of the cost of the property, at 9.5 percent interest, with the principal amortized over a 25-year term, and a required equity yield of 15 percent.

• **Development Costs**

Applying the development cost analysis as set forth above, indicates a potential development cost of \$6,682,000, of which \$2,731,000 is land and the balance of \$3,951,000 or approximately \$41,200 per room is the cost of building and improvements.

• **Required Subsidy**

As indicated previously, the potential value of the project on completion is approximately \$5,700,000, which is \$982,000 less than the development cost. This amount, \$982,000, or

Mr. Douglas E. Fell
Fell, Marking, Abkin, Montgomery, Granet & Raney, LLP

5

\$10,229 per room is the amount of subsidy that would have to be provided to a potential developer to make economically feasible the development of the subject property.

We trust that this analysis is responsive to your request. Our analysis and report thereon are subject to the attached Statement of Assumptions and Limiting Conditions. Please feel free to call upon us if we can be of any further assistance in this matter.

Sincerely,

PKF Consulting


Bruce Baltin
Senior Vice President

ERA

Economics Research Associates

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DEC 19 2000

CITY OF SANTA BARBARA
PLANNING DIVISION

December 12, 2000

Mr. Dave Davis
Community Development Director
City of Santa Barbara
630 Garden Street
Santa Barbara, CA

RECEIVED

DEC 18 2000

CITY OF SANTA BARBARA
COM. DEV. ADMIN

FAX (805) 965-7237

Re: Calculation of Mitigation Fee for Low Cost Visitor Accommodations
(Project 13954)

Dear Dave:

As a follow-up to our phone conversation and from a review of the PKF analysis you sent me, I would like to reiterate ERA's main conclusion:

If the nightly rental rate on the economy lodging facility is allowed to be determined by market forces rather than by regulation, then there is no guarantee that the units produced will accomplish its intended objective of providing low cost overnight visitor accommodations. Considering the attractive setting of Central Santa Barbara, the near beachfront location, a newly constructed complex in a supply constrained market, and Santa Barbara's proximity to the ten million plus population of the Los Angeles basin, the market room rate could be 50 or 100 percent higher than the \$60 per night assumed in the PKF analysis. As you move the room rate assumption up, the amount of mitigation fee justified goes down. It could easily drop to zero.

On one hand, unless the City or another public agency is prepared to monitor and enforce a predetermined room rate for this new economy lodging facility, the owner operator will simply charge the market rate. In that case, paying the mitigation fee to that project will simply amount to a gift of public funds.

On the other hand, if a public agency is established to monitor daily room rates and create a "rent controlled" motel, a number of other issues surface:

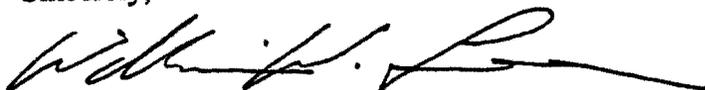
- The owner may have little incentive to maintain the property because he can rent it regardless. The City could in essence be creating blight.

- The operator may be able to circumvent the rent control by placing mandatory charges on parking or breakfast or by accepting other favors.
- If in a recession the market room rate drops below the rent controlled room rate, who bears the cost burden?
- Does the benefit conferred on lower income visitors justify the administrative cost burden incurred by the City or another agency to monitor that facility.

The fundamental conflict is between how our market economy actually works and the social objectives of the policy to provide economy lodging facilities. Unlike the situation with low and moderate income housing, there are no current organizations that monitor and enforce hotel room rates set at below market levels.

I hope these thoughts are helpful. Call if you'd like to discuss this topic further.

Sincerely,



William W. Lee
Executive Vice President

The granting, either with or without conditions, or the denial of such application by the Planning Commission shall be final unless within ten (10) days after the decision by the Planning Commission, the applicant, or any other person aggrieved, shall appeal therefrom in writing to the City Council by presenting such appeal, with reasons, to the City Clerk. At its next regular meeting after the filing of such appeal with the City Clerk the City Council shall set a date for a hearing thereon. The setting of the hearing, giving notice and conducting the hearing shall be the same as hereinbefore prescribed for hearing by the Planning Commission. The decision appealed from may be affirmed, reversed or modified by the City Council.

No permit or license shall be issued for any use involved in an application for a variance, modification or conditional use permit until same shall have become final by reason of the failure of any person to appeal or by reason of the action of the City Council.

2. **AMENDMENTS AND CHANGES OF ZONE BOUNDARIES:** Within five (5) days after final decision by the Planning Commission on an application for amendments or changes of zone boundaries, notices of the decision shall be mailed to the applicant at the address shown upon the application and to all other persons who have filed a written request therefor with the Chief of Building and Zoning.

On approval of such application by the Planning Commission, it shall within ten (10) days after such approval submit its recommendations and complete records of the case to the City Council.

Any appeal from the decision of the Planning Commission shall be submitted in writing to the City Council within ten (10) days from the date of action by the Planning Commission, and such appeal with reasons therefor shall be delivered to the City Clerk.

The report of the Planning Commission and any appeal therefrom, shall be considered by the City Council at its next regular meeting following expiration of a ten (10) day period after receipt of notification of the Planning Commission action by the City Clerk. In the event of an appeal having been filed the City Council may fix a date for a public hearing thereon. In the event of no appeal the City Council at said meeting may approve, reverse or modify the action of the Planning Commission and may approve, reject or modify said ordinance accordingly.

Within such reasonable time as is required to obtain a legal description and to prepare an ordinance, the City Attorney will, after expiration of the appeal period and after City Council approval of the zoning amendment, prepare an ordinance providing for such change of zone, and such proposed ordinance shall be submitted to the City Council for introduction.

The denial of such application by the Planning Commission shall be final unless within ten (10) days after the last mentioned notification by the Planning Commission, the applicant or other person aggrieved shall appeal therefrom in writing to the City Council by presenting such appeal, with reasons, to the City Clerk. Upon presentation of such appeal to the City Clerk, it shall promptly be placed upon the first agenda available for a regular meeting of the City Council and at such meeting, the City Council shall set a date for hearing on the appeal. The setting of the hearing, giving notice and conducting the hearing shall be the same as hereinbefore prescribed for hearing by the Planning Commission. The decision appealed from may be affirmed, reversed or modified by the City Council.

No permit shall be issued for any use involved in an application for a change of zone until the same shall have become final by the effective date of the ordinance. (Ord. 4532, 1988; Ord. 4195, 1983; Ord. 3710, 1974; Ord. 3565, 1972; Ord. 3323, 1968.)

28.92.026 Modifications.

Modifications may be granted by the Planning Commission or by the Community Development Director as follows:

A. **BY THE PLANNING COMMISSION.** The Planning Commission, subject to appeal to the City Council, may permit the following:

1. A modification or waiver of the parking or loading requirements where, in the particular instance, the modification will not be inconsistent with the purposes and intent of this Title and will not cause an increase in the demand for parking space or loading space in the immediate area.

2. A modification of yard, lot and floor area regulations where the modification is consistent with the purposes and intent of this Title, and is necessary to (i) secure an appropriate improvement on a lot, (ii) prevent unreasonable hardship, (iii) promote uniformity of improvement, or (iv) the modification is necessary to construct a housing development which is affordable to very low-, low-, moderate- or middle-income households;

3. A modification of fence, screen, wall and hedge regulations where the modification is necessary to secure an appropriate improvement on a lot and is consistent with the purposes and intent of this Title.

4. A modification of height limitations imposed by Section 28.11.020 to protect and enhance solar access where the modification is necessary to prevent an unreasonable restriction. The Rules and Regulations approved pursuant to Section 28.11.040 shall contain criteria for use in making a finding of unreasonable restriction.

5. A modification of building height limitations for existing buildings or structures that exceed the current building height limit, to allow the exterior of the portion of the building or structure that exceeds the building height limit to be improved or upgraded, provided that the improvements increase neither the height nor the floor area of any portion of the building or structure that exceeds the building height limit, except as otherwise allowed in the Code.

B. **BY THE COMMUNITY DEVELOPMENT DIRECTOR.** Following a public hearing for which notice is given in the manner required by Section 28.92.023 of the Code, the Community Development Director may permit minor modifications in accordance with subsections 1., 2., 3., 4., and 5. above, if said Director finds that:

1. The requested modification is not part of the approval of a tentative subdivision map, conditional use permit, development plan, site plan, plot plan, or any other matter which requires approval of the Planning Commission; and

Exhibit 5

rev. 9/30/98

A-4-SBC-01-167

Applicable City Zoning
Ordinance, Modifications

Overall Site Plan

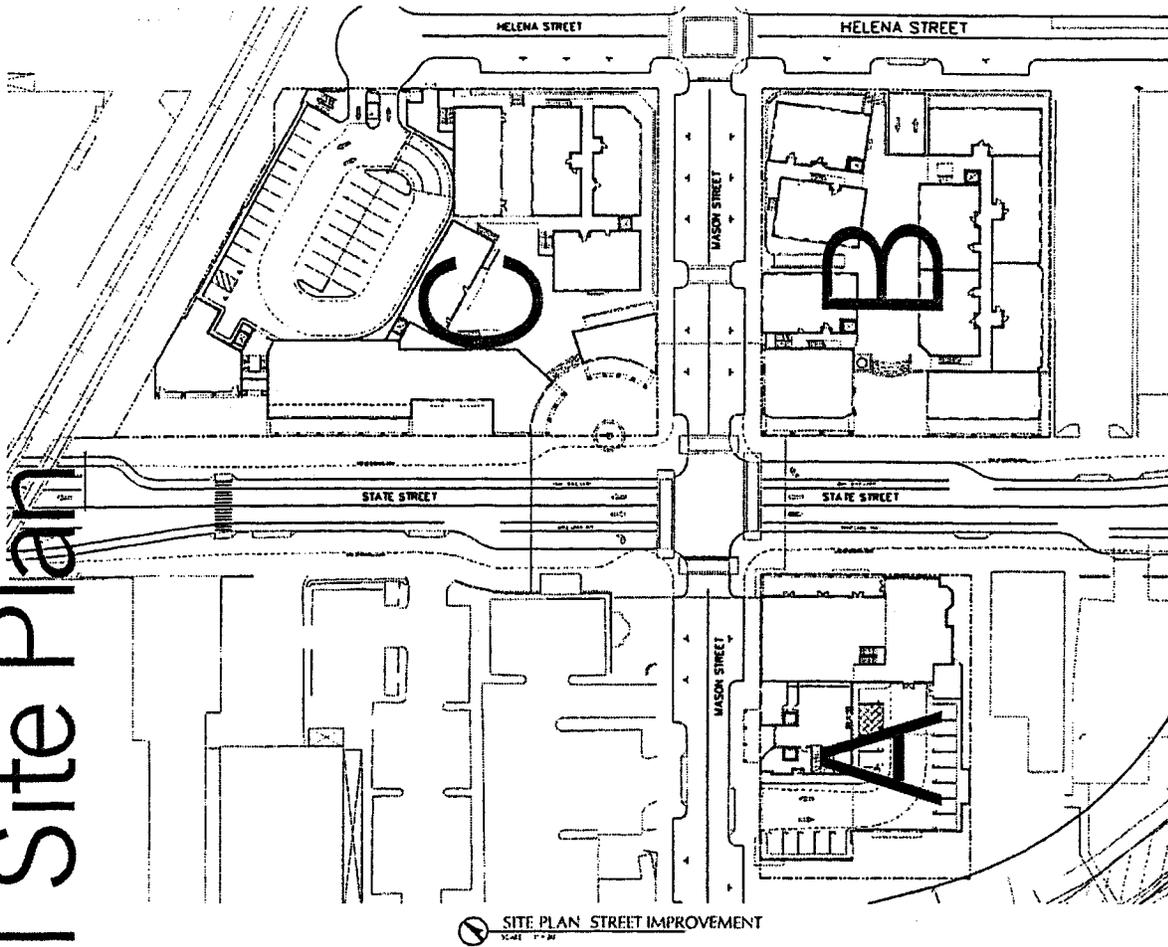
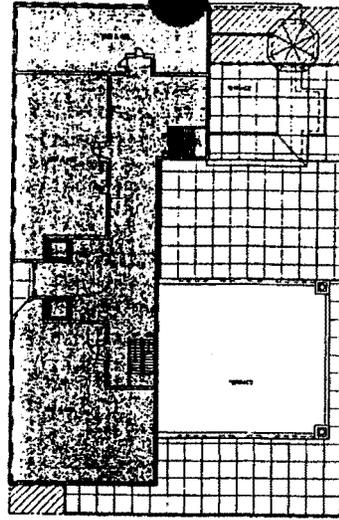


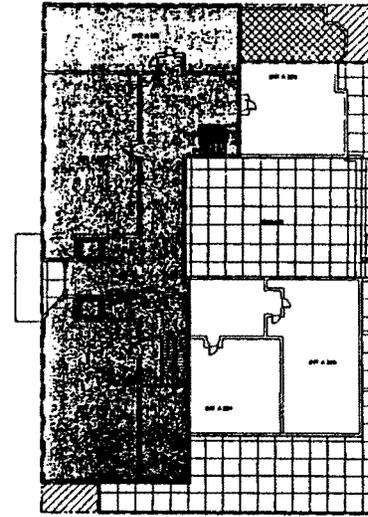
Exhibit 7
A-4-SBC-01-167
Site Plan

Exhibit 8
 A-4-SBC-01-167
 Floor Plans

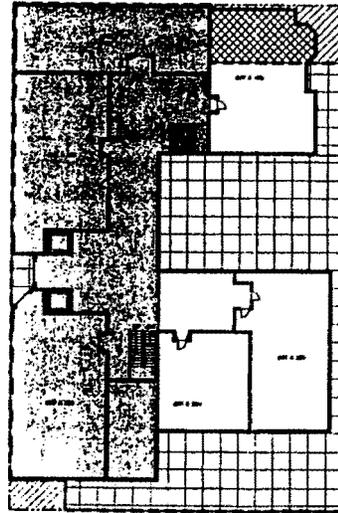
- REQUIRED SETBACK LINE
- ▨ REQUIRED SETBACK AREA
- ▩ ENCROACHMENT AREA
- ▧ ADDITIONAL SETBACK, PASEO & PLAZA AREA
- ▦ EXISTING HISTORICAL BUILDING AREA



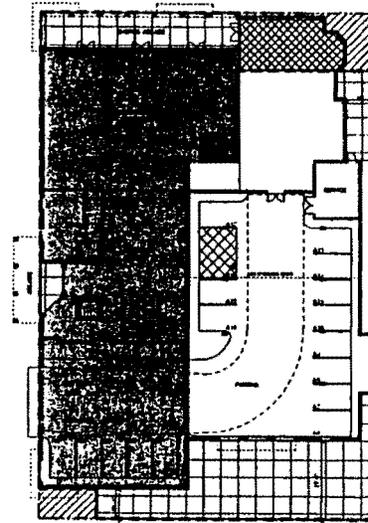
AREA A - FOURTH LEVEL
SCALE 1/8" = 1'-0"



AREA A - SECOND LEVEL
SCALE 1/8" = 1'-0"



AREA A - THIRD LEVEL
SCALE 1/8" = 1'-0"



AREA A - FIRST LEVEL
SCALE 1/8" = 1'-0"

LENN-YATES-VANDEY
 ARCHITECTS
 1000 W. SANTA BARBARA AVENUE
 SANTA BARBARA, CALIFORNIA 93101
 (805) 964-1111

AREA A
 FIRST, SECOND, THIRD AND FOURTH LEVEL
 FLOOR PLANS

Entrada
 to
 Santa Barbara

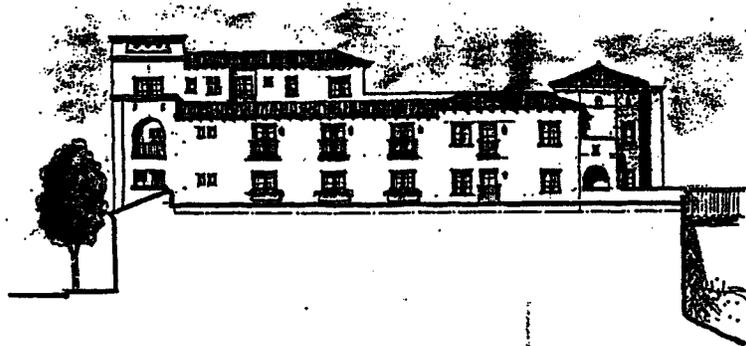
DP-7A



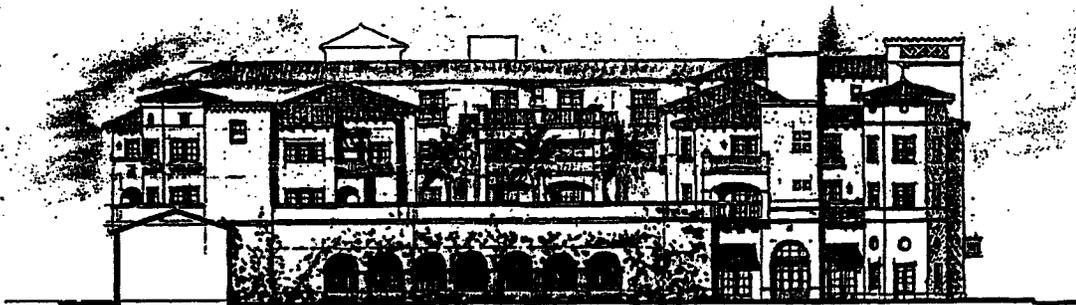
AREA A - STATE STREET ELEVATION



AREA A - MASON STREET ELEVATION



AREA A - MISSION CREEK ELEVATION



AREA A - WATERFRONT ELEVATION

AREA A
ALTERNATIVE 12
MISSION CREEK
ALIGNMENT

1" = 30' SCALE

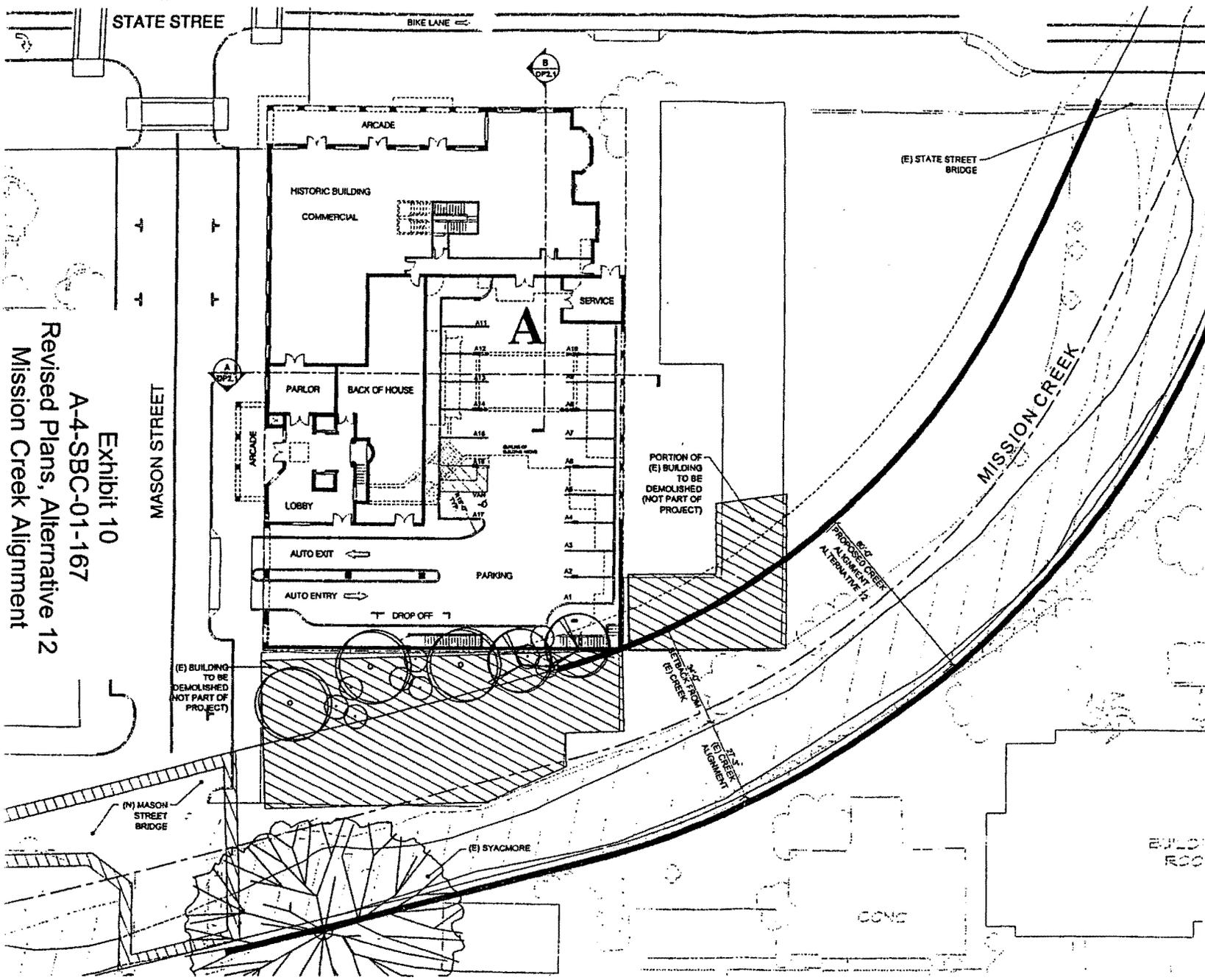


Exhibit 10
A-4-SBC-01-167
Revised Plans, Alternative 12
Mission Creek Alignment

Exhibit 11
A-4-SBC-01-167
Street Improvements

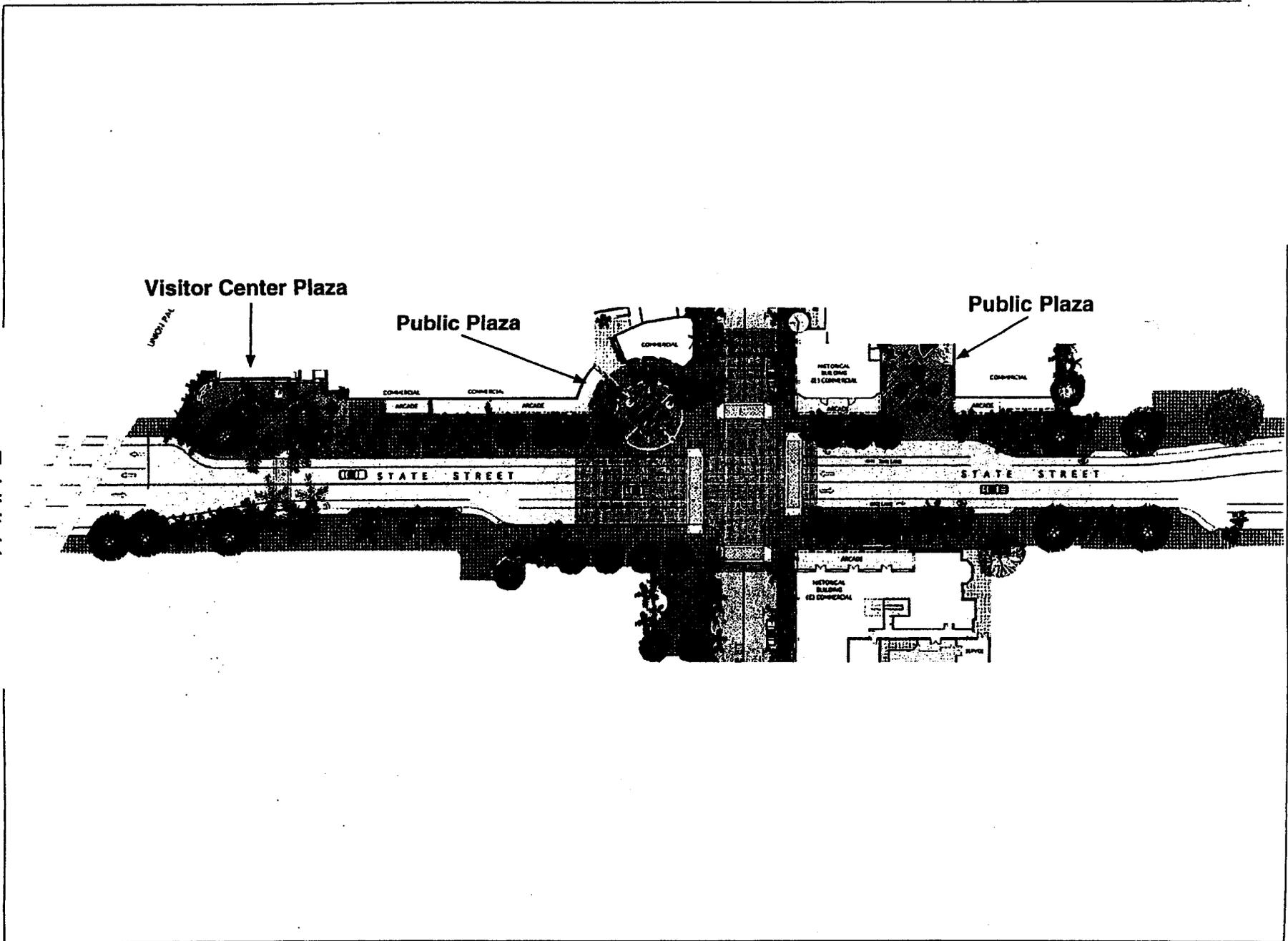


Figure 2-8. Schematic Streetscape and Intersection Improvements for State and Mason Streets