

CALIFORNIA COASTAL COMMISSION

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Staff: ALK-LB *ALK*
Staff Report: February 22, 2001
Hearing Date: March 13-16, 2001
Commission Action:

**Items Mon 7e & 8b**

**STAFF REPORT AND RECOMMENDATION ON
AMENDMENT AND APPEAL (DE NOVO)**

AMENDMENT NUMBER: 5-82-291-A2

APPEAL NUMBER: A-5-DPT-00-467

LOCAL GOVERNMENT: City of Dana Point

DECISION: Approval with Conditions

APPLICANT: The PRS Group

APPELLANTS: Coastal Commissioners Sara Wan and Shirley Dettloff

PROJECT LOCATION: 1 Ritz Carlton Drive, Dana Point (Orange County)

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construction of a 397 room resort hotel with two restaurants, meeting rooms, ballroom, pool and deck, public access trail, 672 off-street parking spaces, landscaping and other improvements on a vacant 18.55 acre blufftop lot.

DESCRIPTION OF AMENDMENT: Revise Special Conditions 1 and 2 of Coastal Development Permit 5-82-291 to allow 1) realignment of the public access trail and 2) inclusion of a spa facility into what is considered "common areas of the development." The amendment will involve the recordation of an updated deed restriction with exhibit depicting the new public accessway and spa structure.

DESCRIPTION OF DE NOVO PROJECT: Demolition of two tennis courts and construction of a three-story 32,276 square foot addition to the Ritz Carlton Hotel for use as a spa facility.

SUMMARY OF STAFF RECOMMENDATION & ISSUES TO BE RESOLVED:

At a public hearing on January 11, 2001, the Commission determined that a substantial issue existed with respect to the grounds on which appeal number A-5-DPT-00-467 had been filed because the locally approved development raised issues of consistency with the City of Dana Point Local Coastal Program (Monarch Beach Segment) and the public access and recreation policies of Chapter Three of the Coastal Act. Additionally, the Commission found that the development approved by the local government should have been processed as an amendment to a Coastal Commission-issued coastal development permit, consistent with the permit processing requirements of the certified LCP. The major issue addressed by the current staff report is maintenance of public access.

Staff recommends that the Commission, after a public hearing, **approve an amendment to Coastal Development Permit 5-82-291** to modify Special Conditions 1 and 2 pertaining to public access. The amendment is conditioned to require 1) retention of the special conditions of the underlying permit (5-82-291) not affected by the current action and 2) recordation of an updated deed restriction with Public Access Map to reflect a realignment of the public accessway and to show inclusion of a new spa facility open to the general public.

Staff recommends that the Commission, after a public hearing, **approve a de novo coastal development permit** for the demolition of two tennis courts and construction of a three-story 32,276 square foot addition to the Ritz Carlton Hotel for use as a spa facility with five (5) special conditions requiring 1) notification that local government conditions of approval imposed by authority other than the Coastal Act are not affected by the current Commission action; 2) recordation of an updated public access plan; 3) maintenance of public access during construction; 4) a restriction on the establishment of a private membership facility and 5) conformance with the shared parking use assumptions made in the parking study.

At the time of this staff report, the applicant has indicated acceptance of all conditions of approval recommended by staff.

PROCEDURAL NOTE:

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

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

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

The current project affects conditions required for the purpose of protecting coastal access. Therefore, pursuant to Section 13166 of the Commission's regulations, the Executive Director is referring this application to the Commission.

STAFF NOTE:

Since the substantial issue hearing, the applicant filed a request to amend CDP 5-82-291 to change the underlying public access special conditions for CDP 5-82-291 that would be affected by a proposed spa expansion project. The Commission will consider the spa project as de novo CDP 5-DPT-00-467 after the Commission hears the amendment request.

The applicant has incorporated the City of Dana Point's conditions of approval into the current project description for the Commission's de novo review of the spa expansion project. The Commission's action on the de novo permit is contingent on the Commission's approval of the requested permit amendment.

SUBSTANTIVE FILE DOCUMENTS:

- City of Dana Point Local Coastal Program (LCP)
- Coastal Development Permit P-79-5539
- Coastal Development Permit 5-82-291
- Coastal Development Permit 5-82-291A
- Coastal Development Permit 5-87-220

LIST OF EXHIBITS:

1. Vicinity Map
2. Site Map
3. Project Plans and Elevations
4. Map of Existing and Proposed Public Walkway Alignment
5. Copy of Coastal Development Permit 5-82-291
6. Copy of City of Dana Point Resolution approving CDP No. 97-25 (II)
7. Correspondence from Jonathan C. Curtis, Sheppard, Mullin, Richter & Hampton, LLP, on behalf of the applicant dated February 8, 2001

I. MOTIONS AND RESOLUTIONS:

A. MOTION AND RESOLUTION FOR APPROVAL OF AMENDMENT TO CDP 5-82-291

The staff recommends that the Commission make the following motion and adopt the following resolution:

Motion: *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 5-82-291 pursuant to the staff recommendation.*

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

Resolution to Approve Permit Amendment No. 5-82-291-A2:

The Commission hereby approves the coastal development permit amendment on grounds that the development as amended and subject to conditions will be in conformity with the requirements of the City of Dana Point certified Local Coastal Program and is consistent with the public access and recreation policies of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

B. MOTION AND RESOLUTION FOR APPROVAL OF DE NOVO PERMIT 5-DPT-00-467

The staff recommends that the Commission make the following motion and adopt the following resolution:

Motion: *I move that the Commission approve CDP No. 5-DPT-00-467 pursuant to the staff recommendation.*

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

Resolution to Approve CDP No. 5-DPT-00-467:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the requirements of the City of Dana Point certified Local Coastal Program and is consistent with the public access and recreation policies of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment

II. STANDARD CONDITIONS FOR 5-82-291-A2 AND 5-DPT-00-467:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. **SPECIAL CONDITIONS FOR 5-82-291-A2:**

1. Prior Conditions

Unless specifically altered by this amendment, all regular and special conditions attached to Coastal Development Permit 5-82-291 remain in effect.

2. Public Access Deed Restriction

This special condition shall supercede Special Conditions 1 and 2 of Coastal Development Permit No. 5-82-291:

- A. The following areas shall be maintained for permanent access and recreational use by the general public: bluff trail; viewpoints and rest areas; the Vista Point Park; and all common areas of the hotel, including, but not limited to, the lobby, restaurant, coffee shops, grounds, sundeck, and spa.

The development shall be dedicated to hotel use, available in accordance with standard hotel/motel practice for use by the general public, and that under no circumstances will the development be used for private resort or time-share use which could inhibit or exclude casual use by the general public.

- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall submit an updated public access map, for the review and approval of the Executive Director, depicting all public trails and access areas at the subject site. The public trail shall be depicted in an alignment consistent with the Proposed Site Plan provided by the applicant January 8, 2001 and attached as page 2 of Exhibit 3 of the current staff report.

- C. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the above restrictions on the development. The deed restriction shall include a legal description of the applicant's entire parcels. The deed restriction shall run with the land binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

IV. **SPECIAL CONDITIONS FOR 5-DPT-00-467:**

1. Local Government Conditions of Approval

Approval of Coastal Development Permit No. 5-DPT-00-467 has no effect on conditions imposed by the City of Dana Point pursuant to any authority other than the Coastal Act.

2. Maintenance of Public Access During Construction

The construction activities authorized pursuant to Coastal Development Permit No.

5-DPT-00-467 shall not obstruct public access at the subject site during the peak use season, defined as the period starting the day before the Memorial Day weekend and ending the day after the Labor Day weekend of any year. In addition, the applicant shall comply with the following:

- 1) The realigned public access trail shall be constructed prior to the closure of the existing public access trail.
 - 2) The staging area for construction of the spa expansion shall conform to the description submitted to the Executive Director by the applicant on February 8, 2001, and shall not obstruct public access along the adjacent public access trail.
 - 3) At no time shall construction activities associated with the spa expansion project obstruct the public's ability to utilize the bluff trail, including view points and rest areas, the Vista Point Park and/or the hotel parking garage.
3. Restriction on Private Membership
- A. By acceptance of this permit, the applicant acknowledges that development approved by Coastal Development Permit No. 5-DPT-00-467 shall remain open to the public and shall not be operated as a "membership-only" facility.
 - B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the landowner shall execute and record a deed restriction in a form and content acceptable to the Executive Director, which reflects the above restrictions on development. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. The deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

V. FINDINGS AND DECLARATIONS FOR 5-82-291-A2:

The Commission hereby finds and declares:

A. Project Location, Description, and Background

Project Location

The subject site is located at 1 Ritz Carlton Drive seaward of Pacific Coast Highway in the northern portion of the City of Dana Point, County of Orange (Exhibits 1 & 2). The site is located within the Monarch Beach area of the City, which has a certified Local Coastal Program (LCP). The site is bordered to the north by the Salt Creek Beach Park and a portion of the public parking lot area, to the south and west by Salt Creek Beach, and to the east by the residential community of Niguel Shores. The project site is located at the approximately 17.58-acre Ritz Carlton Hotel property, developed with 333,840 square feet of building area, which is comprised of guestrooms, conference facilities, banquet rooms, various guest accommodations, a banquet facility and a separate parking structure. A public accessway traverses the hotel property, leading to a blufftop trail, view points and the Vista Point Park on the seaward portion of the site. (The hotel was previously approved under Coastal Commission CDP 5-82-291, as will be discussed in subsection (c) of the current report.) The proposed amendment would affect the provision of public access and recreation opportunities throughout the entire property, including new development proposed along the easternmost, inland portion of the property. The site of the new spa expansion is currently developed with two tennis courts, a landscaped common area and a paved public walkway.

Proposed Amendment Description

The proposed amendment involves a request by the applicant to modify the public access deed restrictions recorded against the property as conditions of approval of CDP No. 5-82-291. The applicant proposes to revise Special Conditions 1 and 2 of Coastal Development Permit 5-82-291 to allow 1) realignment of the public access trail and 2) inclusion of a spa facility into what is considered "common areas of the development." The amendment will involve the recordation of an updated deed restriction document with exhibit depicting the new public accessway and spa structure. (As discussed previously, the applicant is requesting approval of the new spa structure under De Novo CDP No. 5-DPT-00-467, which will be evaluated on pages 13-21 of the current staff report.)

At the time of Commission approval of CDP 5-82-291, the project was conditioned to require the provision of permanent public access and recreation use throughout the subject site, including the bluff trail, parks, and hotel commons areas. The current project requires an amendment to the underlying permit because the applicant wishes to update and revise the recorded Public Access Plan. The revised plan will illustrate an adjustment to the boundaries of the public trail and show the replacement of two private tennis courts and approximately 800 square feet of hotel grounds with a new spa structure. The applicant has stated that the spa facility will be open to the public. As part of the proposed amendment, the existing public accessway that runs along the eastern property boundary will be adjusted approximately 10 feet easterly and southerly, as shown on Exhibit 4.

Past Commission Actions at Subject Site

P-79-5539 (AVCO)

On July 23, 1979, the concept of the Ritz Carlton Hotel was initially approved under Coastal Development Permit (CDP) P-79-5539 with specific approval of the hotel being granted under CDP 5-82-291, discussed below. A special condition of this permit required the applicant to "submit a deed restriction indicating that this facility [the hotel] and all its associated facilities (including lobby, outdoor areas, trail connecting hotel and beach, bluff-top plaza, etc.) shall be operated as a public hotel facility and not converted to a private resort facility."

5-82-291 (AVCO)

On June 16, 1982, the Commission approved Coastal Development Permit 5-82-291 (AVCO), which allowed the construction of a 397 room resort hotel with two restaurants, meeting rooms, ballroom, pool and deck, public beach access trail, 672 off-street parking spaces, landscaping and other improvements on a vacant 18.55 acre blufftop parcel (Exhibit 5). One condition of project approval required the recordation of a deed restriction which insures that the bluff trail, including view points and rest areas, and the Vista Point Park are opened and maintained for permanent access and recreational use by the general public. The deed restriction was also intended to insure that the development would be dedicated to hotel use, available in accordance with standard hotel/motel practice for use by the general public, and that "under no circumstances will the development be used for private resort or time-share use which could inhibit or exclude casual use by the general public." In addition, the permit was conditioned to require the recordation of a deed restriction which insures that public access is maintained to common areas of the development. These areas were to include, but not be limited to, "the lobby, restaurants, coffeeshops, grounds and sundeck."

5-82-291-A (AVCO)

On October 29, 1982, the Commission granted permit amendment 5-82-291A to allow a change to the wording of Special Condition No. 5 (Lower Cost Visitor Accommodations) so that "the covenant can be only on the commercial site and not the on the hotel site; and that the letter of credit be increased to \$548,000." The currently proposed amendment will not affect Special Condition No. 5.

5-87-220 (Prutel Joint Venture)

On May 12, 1987, the Commission approved Coastal Development Permit 5-87-220 (Prutel Joint Venture), which allowed the construction of a 5400 square foot storage and engineering building as an addition to the existing parking structure serving the hotel. The approval was conditioned to require the applicant to submit, for the review and approval of the Executive Director, a plan for the continued implementation of the public access requirements established in Coastal Development Permit 5-82-291. As such, the trail and grounds of the resort were to remain open to use by the general public.

Local Coastal Program Certification

The City of Dana Point Local Coastal Program (LCP) was effectively certified for the subject area by the Commission under City of Dana Point LCP Amendment 1-96 on November 5, 1997. The LCP amendment certified most of the existing uncertified Monarch Beach LCP segment, with the exception of the Dana Strands area, which is deferred. The portions of the Land Use, Urban Design, and conservation/Open Space Elements of the General Plan applicable to

Monarch Beach now serve as the LUP for Monarch Beach. The portions of the City's Zoning Code applicable to Monarch Beach now serve as the Monarch Beach IP. As such, the City now has authority to issue coastal development permits for new projects in the Monarch Beach area. LCP policy 9.69.030 (c)(3)(B) and (D) specify that the Commission retains jurisdiction over permits originally issued by the Commission, including CDP 5-82-291 at the subject site.

The proposed project affects special conditions of a Commission-issued permit (5-82-291), thereby requiring an amendment to the original permit. Pursuant to Section 30604 (b), the City's certified LCP is the standard of review in the current analysis.

B. Standard of Review

The Commission's standard of review for the proposed amendment is the Monarch Beach segment of the City of Dana Point certified LCP, pursuant to Section 30604 (b) of the Coastal Act. The portions of the Land Use, Urban Design, and conservation/Open Space Elements of the City of Dana Point General Plan applicable to Monarch Beach now serve as the LUP for Monarch Beach. The portions of the City's Zoning Code applicable to Monarch Beach now serve as the Monarch Beach IP.

Additionally, Section 30604 (c) of the Coastal Act requires that every coastal development permit issued for any development between the nearest public road and the sea shall include a specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act.

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C. Public Access

The proposed amendment involves a revision to Special Conditions 1 and 2 of Coastal Development Permit 5-82-291 allowing a realignment of the public access trail and the inclusion of a spa facility into what is considered "common areas of the development." The project will allow the applicant to update and modify the recorded Public Access Plan to reflect proposed improvements at the subject site.

a. Local Coastal Program (LCP) Policies

Land Use Element

Policy 1.8: *The location and amount of new development should maintain and enhance public access to the coast by facilitating the provision or extension of transit service, providing non-automobile circulation within the development, providing adequate parking facilities or providing substitute means of serving the development with public transportation, and assuring the potential for public transit for high intensity uses.*

Policy 4.3: *Public access, which shall be conspicuously posted, and public recreational opportunities, shall be provided to the maximum extent feasible for all the people to the coastal zone area and shoreline consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

- Policy 8.2 *Assure that adequate public recreational areas and public open space are provided and maintained by the developer as part of a new development.*
- Policy 8.6 *Maximize the provision of public trail and transit loop systems within the Monarch Beach area. The systems shall include access to and along the shoreline and to the visitor-serving and public places within Monarch Beach.*
- Policy 8.9: *Avoid expansion of the golf course or any other land use that occurs at expense of environmentally sensitive habitat, public park or public areas.*

Urban Design Element

- Policy 4.6: *Preserve and maintain existing public accessways, and existing areas open to the public, located within visitor-serving development in the coastal zone.*

Conservation/Open Space Element

- Policy 6.8: *Preserve public access to the coastal areas through easement dedications thereby providing marine-oriented recreational uses so that transportation corridors may augment the City's open space system.*

Chapter 9.69—Coastal Development Permit

9.69.030 (c)(3)(B) and (D) state, in pertinent part:

- (B) *Development authorized by a coastal development permit issued by the Coastal Commission either prior to effective certification of a Local Coastal Program or on appeal after certification remains under the jurisdiction of the Coastal Commission for the purposes of condition compliance, amendment, extension, reconsideration and revocation.*

(D) *Coastal Development Permit P-79-5539*

Development authorized by Coastal Development Permit P-79-5539, including both development approved on condition that the additional coastal development permit be obtained, and development approved on condition of the submission of additional plans for the review and approval of the Executive Director of the Coastal Commission, remains under the jurisdiction of the Coastal Commission for purposes of condition compliance and amendment. Condition compliance includes both obtaining a coastal development permit from the Coastal Commission for development that was approved on condition that a separate coastal development permit be approved, and obtaining approval from the Executive Director of the Coastal Commission for plans for development that was approved on condition of the submission of final plans. Coastal development permits, or approval of plans by the Executive Director of the Coastal Commission, for development authorized by Coastal Development Permit P-79-5539 shall be obtained from the California Coastal Commission.

b. Coastal Act Policies

Section 30210 of the Coastal Act states, in pertinent part:

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 states, in pertinent part:

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.

As discussed previously, the Commission's approval of Coastal Development Permit 5-82-291 in 1982 allowed construction of the existing Ritz Carlton Hotel and associated improvements subject to special conditions that required a public accessway from Shoreline Drive (now Ritz Carlton Drive) to a public vista park located on the south side of the hotel, and required that public areas not be converted to private use. The proposed amendment will allow the existing public accessway and common area to be modified from its current form. The applicant proposes to "re-record" the Public Access Plan to include a realignment of the public walkway approximately 10 feet easterly and southerly of the existing alignment (Exhibit 4). The applicant also proposes to amend the public access special conditions to allow the construction of a spa facility. A portion of the facility will be constructed in an area currently designated as hotel grounds.

As provided earlier, the City of Dana Point certified LCP contains policies which protect existing public access and recreation opportunities and encourage improvement of such access and recreation opportunities in the coastal zone. Such policies include, but are not limited to, Policies 1.8, 4.3, 8.2, 8.6 and 8.9 of the Land Use Element, Policy 4.6 of the Urban Design Element, and Policy 6.8 of the Conservation/Open Space Element. The LCP also provides policies regarding the processing of coastal development permits. Additionally, Section 30211 of the Coastal Act states that development shall not interfere with the public's right of access and Section 30210 of the Coastal Act requires that access opportunities be maximized. The Commission imposes the following special conditions to provide for continued public access at the subject site.

c. Special Condition of Amendment

Prior Conditions

The Commission imposes Special Condition No. 1, which states that unless specifically altered by the Commission's approval of the current amendment; the special conditions of the underlying permit (5-82-291) shall remain in effect.

Recordation of Public Access Deed Restriction

The proposed amendment will allow the realignment of an existing public accessway and the modification of publicly available common areas within an existing visitor-serving development. While the applicant proposes to realign the walkway, and the City of Dana Point's approval of

the project included a special condition to ensure the Commission's approval of the realignment, there is no legal mechanism in place to require the applicant to construct the new accessway or maintain the accessway in perpetuity. The City's approval of the project included Special Condition 19, which requires the applicant to "...seek the approval of the Executive Director of the California Coastal Commission for the realignment..." of the trail "...in the form of a modification to the recorded deed if necessary, or in a letter of acknowledgement of acceptance." (Exhibit 6)

However, the Executive Director of the Coastal Commission does not have the authority to approve material amendments to permits issued by the Commission. Therefore, to assure that those measures are implemented and maintained, the applicant must record the deed restriction to reflect the new alignment pursuant to the current Commission action under CDP No. 5-82-291-A2. Consequently, the Commission imposes Special Condition No. 2.

Special Condition No. 2 requires the applicant to record a public access deed restriction that ensures that the newly aligned walkway and spa facility will be maintained open to the public in perpetuity. An updated public access map depicting all public trails and access areas at the subject site will accompany the deed restriction document. Consequently, access will be maintained throughout the Ritz Carlton site, including the bluff trail, the View Point park, and all common hotel areas (i.e. restaurant, lobby, spa, etc. In addition, the tennis courts that are currently restricted to use by hotel guests only, will be made open to the public as part of the spa facility. Special Conditions 1 and 2 of the original permit (5-82-291) are superseded by this condition.

Therefore, as conditioned, the Commission finds the amendment to be consistent with the public access policies of the City of Dana Point certified LCP and the public access and recreation policies of the Coastal Act.

D. California Environmental Quality Act (CEQA)

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

The project is located within an existing resort facility. Development already exists on the subject site. In addition, the proposed development has been conditioned, as follows, to assure the proposed project is consistent with policies of the Coastal Act: recordation of an updated public access plan. As conditioned, no feasible alternatives or feasible mitigation measures are known, beyond those required, which would substantially lessen any identified significant effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with CEQA.

VI. FINDINGS AND DECLARATIONS FOR A-DPT-00-467:

The Commission hereby finds and declares:

A. Project Location, Description, and Background

Project Location

The subject site is located at 1 Ritz Carlton Drive seaward of Pacific Coast Highway in the northern portion of the City of Dana Point, County of Orange (Exhibits 1 & 2). The site is located within the Monarch Beach area of the City, which has a certified Local Coastal Program (LCP). The site is bordered to the north by the Salt Creek Beach Park and a portion of the public parking lot area, to the south and west by Salt Creek Beach, and to the east by the residential community of Niguel Shores. The project site is located at the approximately 17.58-acre Ritz Carlton Hotel property, developed with 333,840 square feet of building area, which is comprised of guestrooms, conference facilities, banquet rooms, various guest accommodations, a banquet facility and a separate parking structure. A public accessway traverses the hotel property, leading to a blufftop trail, view points and the Vista Point Park on the seaward portion of the site. (The hotel was previously approved under Coastal Commission CDP 5-82-291, as will be discussed in subsection (c) of the current report.). The new development would occur along the easternmost, inland portion of the property. The site of the new spa expansion is currently developed with two tennis courts, a landscaped common area and a paved public walkway.

Project Description

The proposed project involves the demolition of two (of four) existing private tennis courts located along the eastern boundary of the property in order to accommodate the construction of a three-story, 32,276 square foot addition to the hotel for use as a spa (Exhibit 3). The new spa structure would measure 47 feet 8 inches high from the lowest adjacent elevation (facing the pool deck area) and 33 feet 2 inches high from the higher elevation (facing Niguel Shores). The deck level (first floor) of the approved structure would be approximately 12,000 square feet and would be connected to the main level of the hotel through an adjoining corridor. The lower level (second floor) would house the lobby/reception area, restroom/shower facilities, dressing rooms, a hair and nail salon, a small retail boutique, and steam/sauna and whirlpool facilities. The lower level is intended to provide access to a new outdoor lap pool and sun deck on the southern side of the structure. The upper level (third floor) of the structure would be approximately 11,500 square feet, housing 26 spa treatment rooms, retreat rooms and sun decks. The proposed spa facility will not serve as a gym facility.

The project requires relocation of the existing public accessway that runs along the eastern property boundary because the new spa structure will encroach into the accessway area. The accessway would be realigned approximately 10 feet southeast in order to mitigate encroachment into the accessway and common areas by the new spa facility. The project also involves landscaping of the remaining common areas to match the grounds in the subject area.

The applicant has incorporated all of the City's conditions of approval, with the exception of Conditions 11 and 19, into their current project description (Exhibit 6).

Past Commission Actions at Subject Site

P-79-5539 (AVCO)

On July 23, 1979, the concept of the Ritz Carlton Hotel was initially approved under Coastal Development Permit (CDP) P-79-5539 with specific approval of the hotel being granted under CDP 5-82-291, discussed below. A special condition of this permit required the applicant to *"submit a deed restriction indicating that this facility [the hotel] and all its associated facilities (including lobby, outdoor areas, trail connecting hotel and beach, bluff-top plaza, etc.) shall be operated as a public hotel facility and not converted to a private resort facility."*

5-82-291 (AVCO)

On June 16, 1982, the Commission approved Coastal Development Permit 5-82-291 (AVCO), which allowed the construction of a 397 room resort hotel with two restaurants, meeting rooms, ballroom, pool and deck, public beach access trail, 672 off-street parking spaces, landscaping and other improvements on a vacant 18.55 acre blufftop parcel (Exhibit 5). One condition of project approval required the recordation of a deed restriction which insures that the bluff trail, including view points and rest areas, and the Vista Point Park are opened and maintained for permanent access and recreational use by the general public. The deed restriction was also intended to insure that the development would be dedicated to hotel use, available in accordance with standard hotel/motel practice for use by the general public, and that *"under no circumstances will the development be used for private resort or time-share use which could inhibit or exclude casual use by the general public."* In addition, the permit was conditioned to require the recordation of a deed restriction which insures that public access is maintained to all common areas of the development. These areas were to include, but not be limited to, *"the lobby, restaurants, coffeeshops, grounds and sundeck."* This permit was amended in October 1982 to allow a modification to the language of Special Condition 5 (Lower Cost Visitor Accommodations).

5-82-291-A (AVCO)

On October 29, 1982, the Commission granted permit amendment 5-82-291A to allow a change to the wording of Special Condition No. 5 (Lower Cost Visitor Accommodations) so that *"the covenant can be only on the commercial site and not the on the hotel site; and that the letter of credit be increased to \$548,000."* The currently proposed amendment will not affect Special Condition No. 5.

5-87-220 (Prutel Joint Venture)

On May 12, 1987, the Commission approved Coastal Development Permit 5-87-220 (Prutel Joint Venture), which allowed the construction of a 5400 square foot storage and engineering building as an addition to the existing parking structure serving the hotel. The approval was conditioned to require the applicant to submit, for the review and approval of the Executive Director, a plan for the continued implementation of the public access requirements established in Coastal Development Permit 5-82-291. As such, the trail and grounds of the resort were to remain open to use by the general public.

Local Coastal Program Certification

The City of Dana Point Local Coastal Program (LCP) was effectively certified for the subject area by the Commission under City of Dana Point LCP Amendment 1-96 on November 5, 1997. The LCP amendment certified most of the existing uncertified Monarch Beach LCP segment,

with the exception of the Dana Strands area, which is deferred. The portions of the Land Use, Urban Design, and conservation/Open Space Elements of the General Plan applicable to Monarch Beach now serve as the LUP for Monarch Beach. The portions of the City's Zoning Code applicable to Monarch Beach now serve as the Monarch Beach IP. As such, the City now has authority to issue coastal development permits for new projects in the Monarch Beach area. LCP policy 9.69.030 (c)(3)(B) and (D) specify that the Commission retains jurisdiction over permits originally issued by the Commission, including CDP 5-82-291 at the subject site.

The approved expansion project affects the project description and special conditions of a Commission-issued permit (5-82-291), thereby requiring an amendment to the original permit. The applicant has requested an amendment to allow a modification to the underlying public access special condition. Pursuant to Section 30604 (b), the City's certified LCP is the standard of review in the both the amendment analysis and the current de novo permit analysis.

Local Government Action

CDP No. 97-25 (II)

On October 18, 2000, the City of Dana Point Planning Commission held a public hearing on the proposed project. At the conclusion of the public hearing, the Planning Commission adopted Resolution No. 00-10-18-77, which approved with conditions local Coastal Development Permit CDP No. 97-25(II), Site Development Plan SDP 00-16 and Variance V 99-13 for "the demolition of two tennis courts in order to construct a three story, 32,276 square foot addition to an existing hotel, Ritz Carlton, for use as a spa amenity to hotel guests." (Only Coastal Development Permit CDP 97-25 (II) is before the Commission.) The City gave final approval to the project on October 18, 2000.

Appeal of Local Government Action

The Commission received a notice of final local action on CDP 97-25(II) on November 3, 2000. By November 20, 2000, within ten working days of receipt of the notice of final action, Commissioners Wan and Dettloff appealed the local action on the grounds that the approved project does not conform to the requirements of the certified LCP and the public access and recreation requirements of the Coastal Act. The Commission found that a substantial issue of consistency with the certified LCP existed at its January 2001 meeting.

B. Adoption of Substantial Issue Findings

The findings and declarations set forth in the substantial issue staff report are herein incorporated by reference.

C. Standard of Review

The Commission's standard of review for the proposed development is the Monarch Beach segment of the City of Dana Point certified LCP, pursuant to Section 30604 (b) of the Coastal Act. The portions of the Land Use, Urban Design, and conservation/Open Space Elements of the City of Dana Point General Plan applicable to Monarch Beach now serve as the LUP for Monarch Beach. The portions of the City's Zoning Code applicable to Monarch Beach now serve as the Monarch Beach IP.

Additionally, Section 30604 (c) of the Coastal Act requires that every coastal development permit issued for any development between the nearest public road and the sea shall include a specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act.

D. Public Access

The current project involves the construction of a new spa facility, which will eliminate two private tennis courts and encroach into area that is currently undeveloped, landscaped resort grounds. The proposed spa structure necessitates realignment of the existing public walkway and affects two underlying special conditions of Coastal Development Permit No. 5-82-291 approved by the Commission in June 1982. As a condition of CDP No. 5-82-291, both the public trail and the resort grounds are required to remain open to the public in perpetuity. On September 16, 1982, a deed restriction with a "Public Access Plan" exhibit was recorded against the property specifying this requirement. The Commission is scheduled to consider a request to amend Special Conditions 1 and 2 of CDP No. 5-82-291 prior to their consideration of the current de novo permit application (5-DPT-00-467). The amendment would allow the recordation of an updated deed restriction with Public Access Plan illustrating the new alignment of the public trail and designating the new spa facility as an area open to the public in place of the private tennis courts.

a. Local Coastal Program (LCP) Policies

Land Use Element

- Policy 1.8: *The location and amount of new development should maintain and enhance public access to the coast by facilitating the provision or extension of transit service, providing non-automobile circulation within the development, providing adequate parking facilities or providing substitute means of serving the development with public transportation, and assuring the potential for public transit for high intensity uses.*
- Policy 4.3: *Public access, which shall be conspicuously posted, and public recreational opportunities, shall be provided to the maximum extent feasible for all the people to the coastal zone area and shoreline consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*
- Policy 8.2: *Assure that adequate public recreational areas and public open space are provided and maintained by the developer as part of a new development.*
- Policy 8.6: *Maximize the provision of public trail and transit loop systems within the Monarch Beach area. The systems shall include access to and along the shoreline and to the visitor-serving and public places within Monarch Beach.*
- Policy 8.9: *Avoid expansion of the golf course or any other land use that occurs at expense of environmentally sensitive habitat, public park or public areas.*

Urban Design Element

Policy 4.6: *Preserve and maintain existing public accessways, and existing areas open to the public, located within visitor-serving development in the coastal zone.*

Conservation/Open Space Element

Policy 6.8: *Preserve public access to the coastal areas through easement dedications thereby providing marine-oriented recreational uses so that transportation corridors may augment the City's opens space system.*

Chapter 9.69—Coastal Development Permit

9.69.030 (c)(3)(B) and (D) state, in pertinent part:

(B) *Development authorized by a coastal development permit issued by the Coastal Commission either prior to effective certification of a Local Coastal Program or on appeal after certification remains under the jurisdiction of the Coastal Commission for the purposes of condition compliance, amendment, extension, reconsideration and revocation.*

(D) *Coastal Development Permit P-79-5539*

Development authorized by Coastal Development Permit P-79-5539, including both development approved on condition that the additional coastal development permit be obtained, and development approved on condition of the submission of additional plans for the review and approval of the Executive Director of the Coastal Commission, remains under the jurisdiction of the Coastal Commission for purposes of condition compliance and amendment. Condition compliance includes both obtaining a coastal development permit from the Coastal Commission for development that was approved on condition that a separate coastal development permit be approved, and obtaining approval from the Executive Director of the Coastal Commission for plans for development that was approved on condition of the submission of final plans. Coastal development permits, or approval of plans by the Executive Director of the Coastal Commission, for development authorized by Coastal Development Permit P-79-5539 shall be obtained from the California Coastal Commission.

b. Coastal Act Policies

Section 30210 of the Coastal Act states, in pertinent part:

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 states, in pertinent part:

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.

As discussed previously, the Commission's approval of Coastal Development Permit 5-82-291 in 1982 allowed construction of the existing Ritz Carlton Hotel and associated improvements subject to special conditions that required a public accessway from Shoreline Drive (now Ritz Carlton Drive) to a public vista park located on the south side of the hotel, and required that public areas not be converted to private use. The proposed project involves the demolition of two existing private tennis courts and the construction of a new spa facility at the Ritz Carlton Hotel. The new spa facility will result in an encroachment into the designated public accessway and common landscaped area. To mitigate the obstruction into the accessway and common area, the applicant proposes to realign the public walkway approximately 10 feet easterly and southerly of the existing alignment (Exhibit 4). The applicant also proposes to convert area that is currently private (tennis courts) to area open to the general public (spa facility).

As provided earlier, the City of Dana Point certified LCP contains policies which protect existing public access and recreation opportunities and encourage improvement of such access and recreation opportunities in the coastal zone. Such policies include, but are not limited to, Policies 1.8, 4.3, 8.2, 8.6 and 8.9 of the Land Use Element, Policy 4.6 of the Urban Design Element, and Policy 6.8 of the Conservation/Open Space Element. The LCP also provides policies regarding the processing of coastal development permits. Additionally, Section 30211 of the Coastal Act states that development shall not interfere with the public's right of access and Section 30210 of the Coastal Act requires that access opportunities be maximized. The Commission imposes the following special conditions to provide for continued public access at the subject site.

c. Special Conditions

Local Government Conditions of Approval

Dana Point City Council Resolution No. 00-10-18-77 approved with conditions Coastal Development Permit CDP97-25(II), Site Development Permit SDP00-16 and Variance V 99-13 for the proposed spa expansion (Exhibit 6). Special Condition No. 1 of the current permit specifies that this action by the Coastal Commission has no effect on conditions imposed by the City of Dana Point pursuant to any authority other than the Coastal Act. As such, those conditions of approval imposed by the Dana Point City Council on October 18, 2000 that are not intended to ensure compliance with the certified LCP shall remain in effect.

Construction Impacts on Public Access

The proposed project may result in temporary construction phase impacts upon public access. Although the applicant intends to minimize impacts to coastal access during construction as specified in their letter of February 8, 2001 (Exhibit 7), the proposed project may take up to 18 months to complete. The commencement of construction for the spa is intended to occur in the fall months so that only one summer season would be affected. As such, construction will occur during the peak beach use season, typically defined as Memorial Day weekend to Labor Day weekend. Timing of construction of the realigned trail must be limited to assure that access is not compromised, particularly during the peak beach use season.

The applicant assures that "at no time will public property, public parking or the bluff area be used for construction purposes." All construction staging is anticipated to occur on the two tennis courts that are to remain. To ensure that public access will not be adversely affected during construction of the spa structure, the Commission imposes Special Condition No. 2. Special Condition No. 2 requires the applicant to minimize impacts to public access by constructing the new public trail prior to construction of the existing trail. The special condition also requires the applicant to 1) stage all construction equipment at the site of the remaining tennis courts and 2) agree not to obstruct use of the public parking lot and/or other public access areas during construction.

Potential for Conversion of Spa to Private Facility

Coastal Development Permit 5-82-291, as amended, states that under no circumstances may the development be used for a private resort which could inhibit or exclude casual use by the general public. The condition required that the trails and park/open space areas in the project be opened and maintained for permanent access and recreational use by the general public. The proposed spa would result in the conversion of hotel grounds, which are presently deed restricted as areas open to the general public, to spa area which is only open to hotel guests and their guests. As described in the City's approval of the current project, the spa could be interpreted to be an exclusive facility, off-limits to the general public.

The applicant asserts that the proposed spa will not be a type of facility that is restricted to members only. As stated in their letter of February 8, 2001, "*the Spa is primarily an amenity for guests at the hotel who are staying overnight. However, other guests of the hotel may use the facilities. In some ways, the operation of the Spa will be analogous to that of one of the restaurants located at the Hotel.*"

Special Condition No. 11 of the City's CDP 97-25 (II) affirms that the spa is exclusively for the use of hotel guests and potentially their visitors and precludes the sale of memberships to the spa. However, Special Condition 11 includes a caveat that memberships could be sold if it were demonstrated that adequate parking was available. This caveat suggests that private memberships to the proposed spa could be authorized by the City. Such authorization would lessen or avoid the intended effect of Special Condition 1 of Coastal Commission-issued Coastal Development Permit 5-82-291 and P-79-5539. Therefore, the Commission imposes Special Condition No. 4, which requires the applicant to record a deed restriction specifying that the development approved by this permit (5-DPT-00-467) shall not be operated as a "membership only" facility.

As conditioned for recordation of an updated public access map, maintenance of public access during construction, and restriction of private facility establishment, the Commission finds the project consistent with the public access policies of the City of Dana Point certified LCP and the public access and recreation policies of the Coastal Act.

E. Parking

The City of Dana Point certified LCP contains policies requiring adequate parking to be provided to serve new development. The applicant has submitted a *Parking Demand Study* for the Ritz Carlton prepared by Linscott, Law & Greenspan Engineers dated April 12, 1999. A shared parking model was developed and utilized to forecast the parking requirements for the hotel and its associated facilities. The parking analysis included the proposed spa expansion in its calculations. As described in the report, "*the future facility is intended as a "day" spa, with the*

peak demand expected to occur between the hours of 11:00 a.m. and 3:00 p.m." The study concludes that adequate parking is provided for the proposed spa facility within the current Ritz Carlton parking supply.

In order to assure that the proposed development will not have an adverse impact on public parking opportunities, the applicant proposes to operate the spa facility in accordance with the assumptions made in the Parking Demand Study. The study assumed that approximately 75 % of the spa users would be guests of the hotel and 25% would be non-guests. The study also assumed the peak use period to be between 11:00 a.m. and 3:00 p.m. The hotel will provide sufficient parking to accommodate the peak use period. Therefore, the Commission finds the proposed project consistent with the certified LCP.

F. Water Quality

The City of Dana Point LCP requires new development to meet specific water quality standards. As new development may potentially impact water quality through construction activities and post-construction stormwater runoff, the Commission must ensure that appropriate measures are taken to maintain and enhance water quality to the maximum extent feasible, consistent with the certified LCP.

The proposed project involves new construction on a blufftop property between the first public road and the sea. The applicant proposes to demolish two (2) existing tennis courts and construct a new three-story spa structure. In this instance, the spa expansion project will conform with the City of Dana Point's extensive local water quality provisions concerning stormwater and urban runoff pollution controls. Additionally, the applicant will prepare and submit a water quality management plan to the City in connection of the precise grading plan for the project.

As proposed by the applicant, the proposed expansion project will meet the water quality standards of the City's LCP. Therefore, the Commission finds the proposed project consistent with the certified LCP.

G. Scenic and Visual Resources

The City's certified LCP requires new development to be designed to protect scenic ocean views and to be consistent with the character of the surrounding area. The proposed project involves construction of a new structure within the interior of an existing hotel site. The site is surrounded to the east by a residential community and to the south and west by the Salt Creek Beach Park.

The new spa structure will not be visible from the ocean or park, nor will the project obstruct existing views of the ocean. As such, the proposed project will not affect existing coastal views. Additionally, the spa is designed to continue the design theme of the Ritz Carlton hotel and will not adversely affect the surrounding environment. The height of the proposed spa building is consistent with the existing buildings on site, as shown in Exhibit 3.

As proposed by the applicant, the proposed expansion project will meet the scenic and visual resource protection policies of the City's LCP. Therefore, the Commission finds the proposed project consistent with the certified LCP.

H. Geologic Stability

The City of Dana Point certified LCP requires new development to minimize risks to life and property in areas of high geologic, flood, and fire hazard and assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or

destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

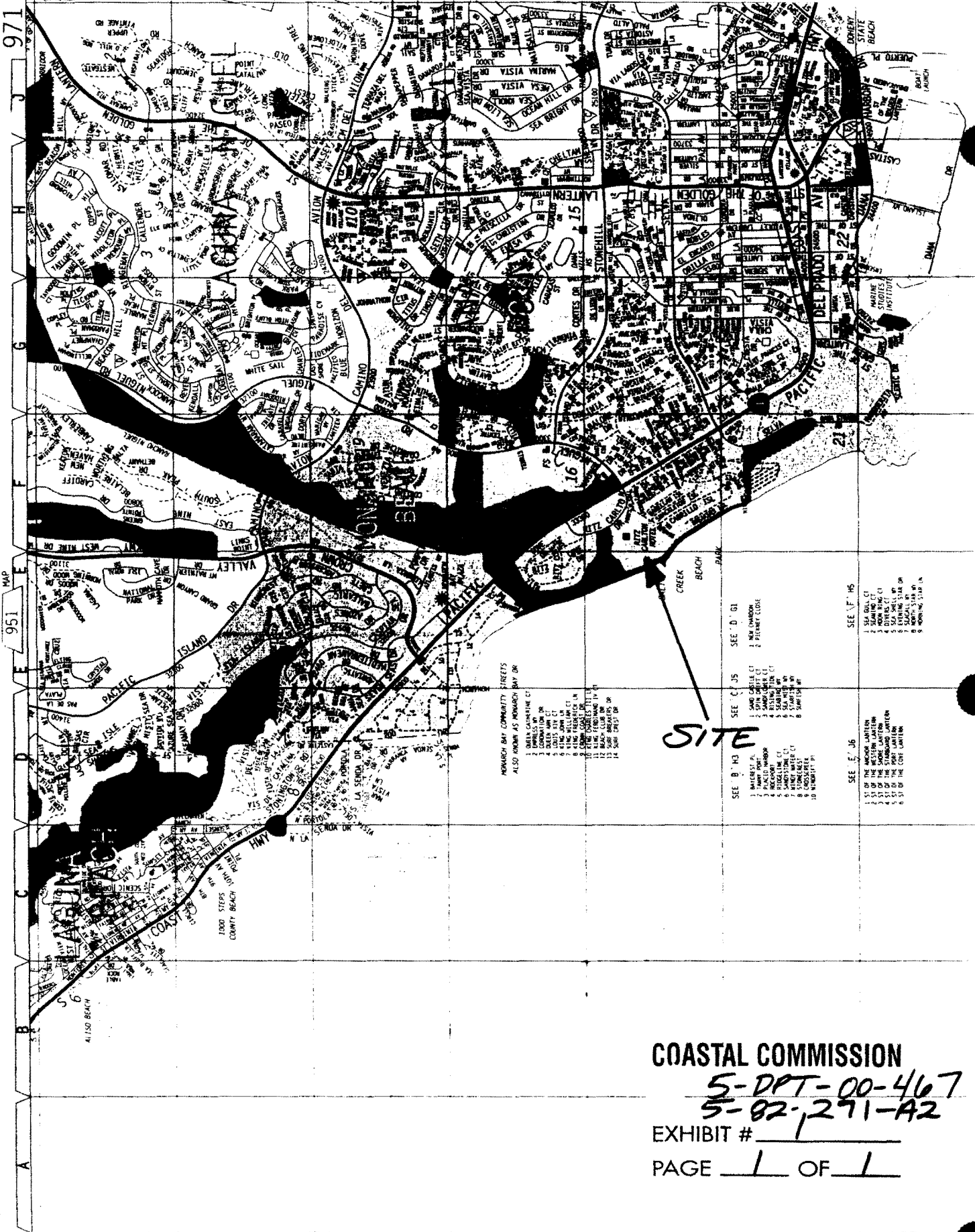
The proposed project involves development on an inland portion of a coastal blufftop property. No development will occur on or near the bluff edge. Additionally, the applicant will submit a geotechnical soils review for review and approval by the Director of Public Works. The report will involve the assessment of potential soil related constraints and hazards such as slope instability, settlement, liquefaction, or related secondary seismic impacts. The report must include an evaluation of potentially expansive soils and recommend construction procedures and/design criteria to minimize the effect of these soils on the proposed development. The project will also conform to local grading and erosion control requirements.

The applicant has incorporated special conditions of the City's approval into the current project description. Therefore, as proposed by the applicant, the Commission finds that the proposed project is consistent with the geologic hazard policies of the certified LCP.

I. California Environmental Quality Act (CEQA)

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

The project is located within an existing resort facility. Development already exists on the subject site. In addition, the proposed development has been conditioned, as follows, to assure the proposed project is consistent with policies of the Coastal Act: 1) notification that local government conditions of approval imposed by authority other than the Coastal Act shall remain in effect; 2) maintenance of public access during construction; and 3) a restriction on the establishment of a private membership facility. As conditioned, no feasible alternatives or feasible mitigation measures are known, beyond those required, which would substantially lessen any identified significant effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with CEQA.



COASTAL COMMISSION
 5-DPT-00-467
 5-82-291-A2
 EXHIBIT # _____
 PAGE 1 OF 1

- MONARCH BAY COMMUNITY STREETS
 ALSO KNOWN AS MONARCH BAY DR
- 1 QUEEN CATHERINE CT
 - 2 EMERSON DR
 - 3 DAVENPORT DR
 - 4 LUDWIG DR
 - 5 KING WILLIAM CT
 - 6 KING WILLIAM CT
 - 7 KING WILLIAM CT
 - 8 KING WILLIAM CT
 - 9 KING WILLIAM CT
 - 10 KING WILLIAM CT
 - 11 KING WILLIAM CT
 - 12 KING WILLIAM CT
 - 13 KING WILLIAM CT
 - 14 KING WILLIAM CT

- SEE 'B' '3' '03
- 1 BAYVIEW CT
 - 2 BAYVIEW CT
 - 3 BAYVIEW CT
 - 4 BAYVIEW CT
 - 5 BAYVIEW CT
 - 6 BAYVIEW CT
 - 7 BAYVIEW CT
 - 8 BAYVIEW CT
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 - 10 BAYVIEW CT

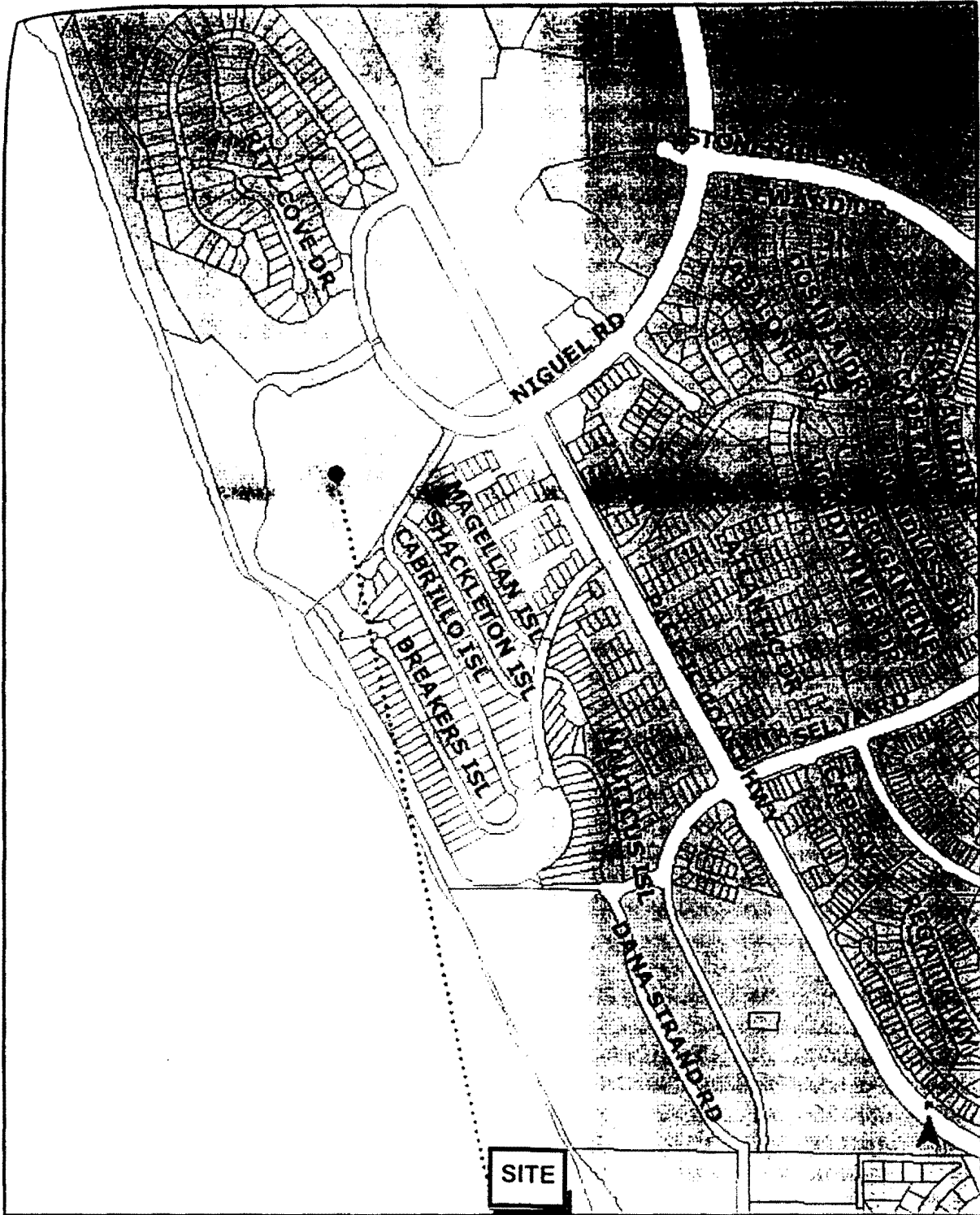
- SEE 'D' '01
- 1 NEW CHANDLER
 - 2 PIERNEY CLIFF

- SEE 'C' '05
- 1 SAND CASTLE CT
 - 2 SAND CASTLE CT
 - 3 SAND CASTLE CT
 - 4 SAND CASTLE CT
 - 5 SAND CASTLE CT
 - 6 SAND CASTLE CT
 - 7 SAND CASTLE CT
 - 8 SAND CASTLE CT
 - 9 SAND CASTLE CT
 - 10 SAND CASTLE CT

- SEE 'F' '05
- 1 SEA HILL CT
 - 2 SEA HILL CT
 - 3 SEA HILL CT
 - 4 SEA HILL CT
 - 5 SEA HILL CT
 - 6 SEA HILL CT
 - 7 SEA HILL CT
 - 8 SEA HILL CT
 - 9 SEA HILL CT
 - 10 SEA HILL CT

- SEE 'E' '06
- 1 ST OF THE MONARCH LANTERN
 - 2 ST OF THE MONARCH LANTERN
 - 3 ST OF THE MONARCH LANTERN
 - 4 ST OF THE MONARCH LANTERN
 - 5 ST OF THE MONARCH LANTERN
 - 6 ST OF THE MONARCH LANTERN

CITY OF DANA POINT
PLANNING COMMISSION



LOCATION MAP

APPLICANT: The PRS Group
FILE NUMBER: CDP97-25 (II), SDP00-16 & V99-13
PLANNING COMMISSION MEETING DATE: Oct 18, 2000

COASTAL COMMISSION
5-DPT-00-467
5-82-291-A2
EXHIBIT # 2
PAGE 1 OF 1
ITEM NO: _____

ATTACHMENT #3

LEGAL DESCRIPTION

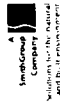
PARCEL A
 THAT PART OF THE CITY OF ANAHEIM, CALIFORNIA, KNOWN AS PARCEL A, TRACT 10000, AS SHOWN ON THE MAP OF THE COUNTY RECORDS IN BOOK 10000, PAGE 10000, AND AS SHOWN ON THE MAP OF THE COUNTY RECORDS IN BOOK 10000, PAGE 10000.

LEGEND

- PLANNING AREA
- CONSTRUCTION DISTRICT LINE
- STORM DRAIN LINE
- 100' SETBACK
- PROPERTY LINE
- EXISTING CONDUIT LINE

SMP-SHG

SMP-SHG
 1115 North Main Street, Suite 100
 Anaheim, California 92801
 (714) 771-1111

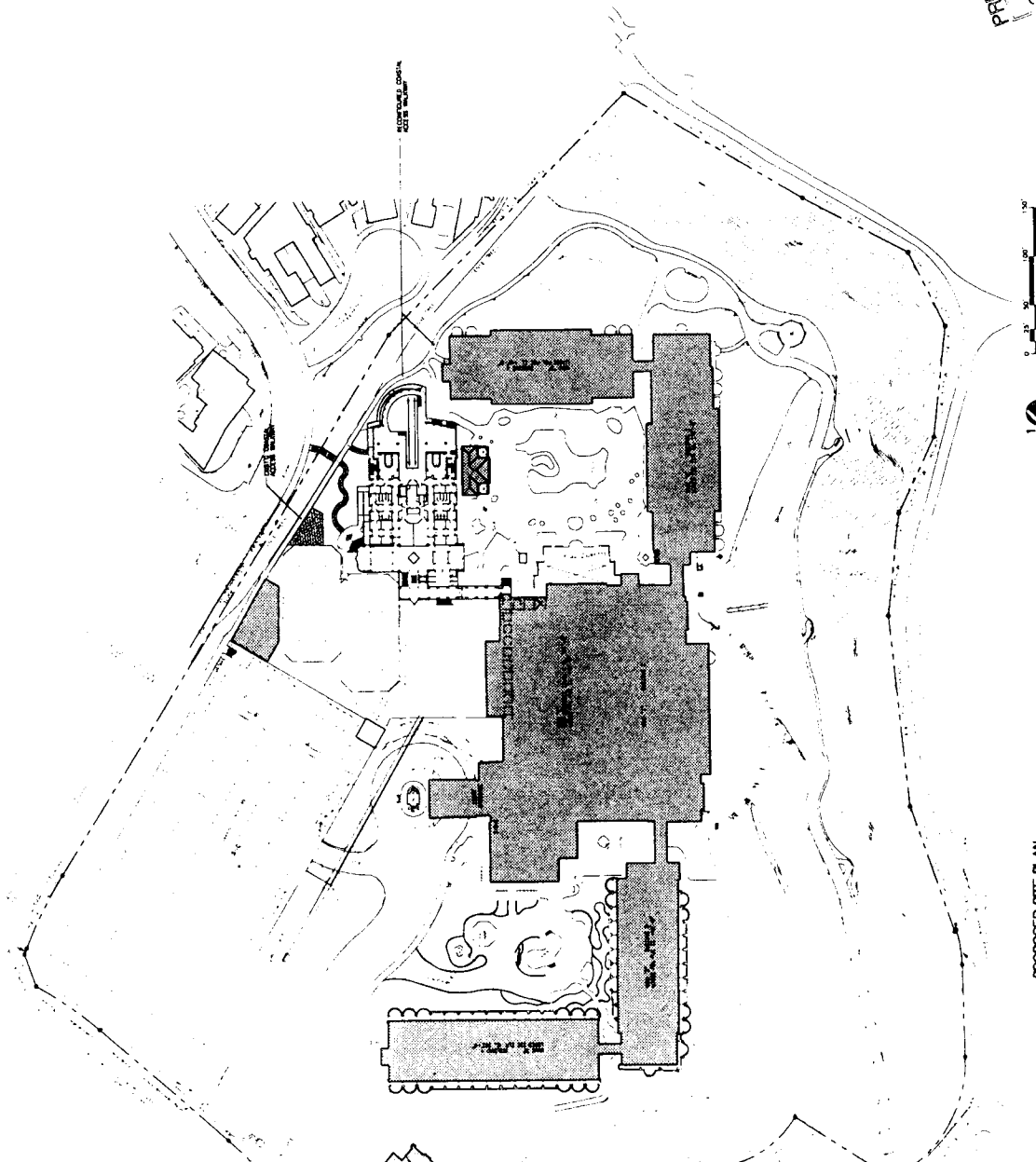


FMSM
 THE RITZ-CARLTON
 LAGUNA NIGUEL
 SPA ADDITION
 Orange, California

PLANNING COMMISSION
 EMERGENCY ACCESS
 RESUBMISSION DATE: 07/27/06

DATE: 5-23-06
 SHEET: 008 / 010
 PROJECT: THE RITZ-CARLTON LAGUNA NIGUEL SPA ADDITION
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 SCALE: 1"=200'-0"

**PRELIMINARY
 NOT FOR CONSTRUCTION
 A0.01 PROPOSED
 SITE PLAN**



PROPOSED SITE PLAN

COASTAL COMMISSION
 5-DPT-00-467
 582 JNIA2
 EXHIBIT # 3
 PAGE 2 OF 9

SMP-SHC
 3407426, Incorporated
 1875 Sand Avenue, Suite 200
 San Diego, CA 92108
 Phone: (619) 584-7400
 Fax: (619) 584-7401

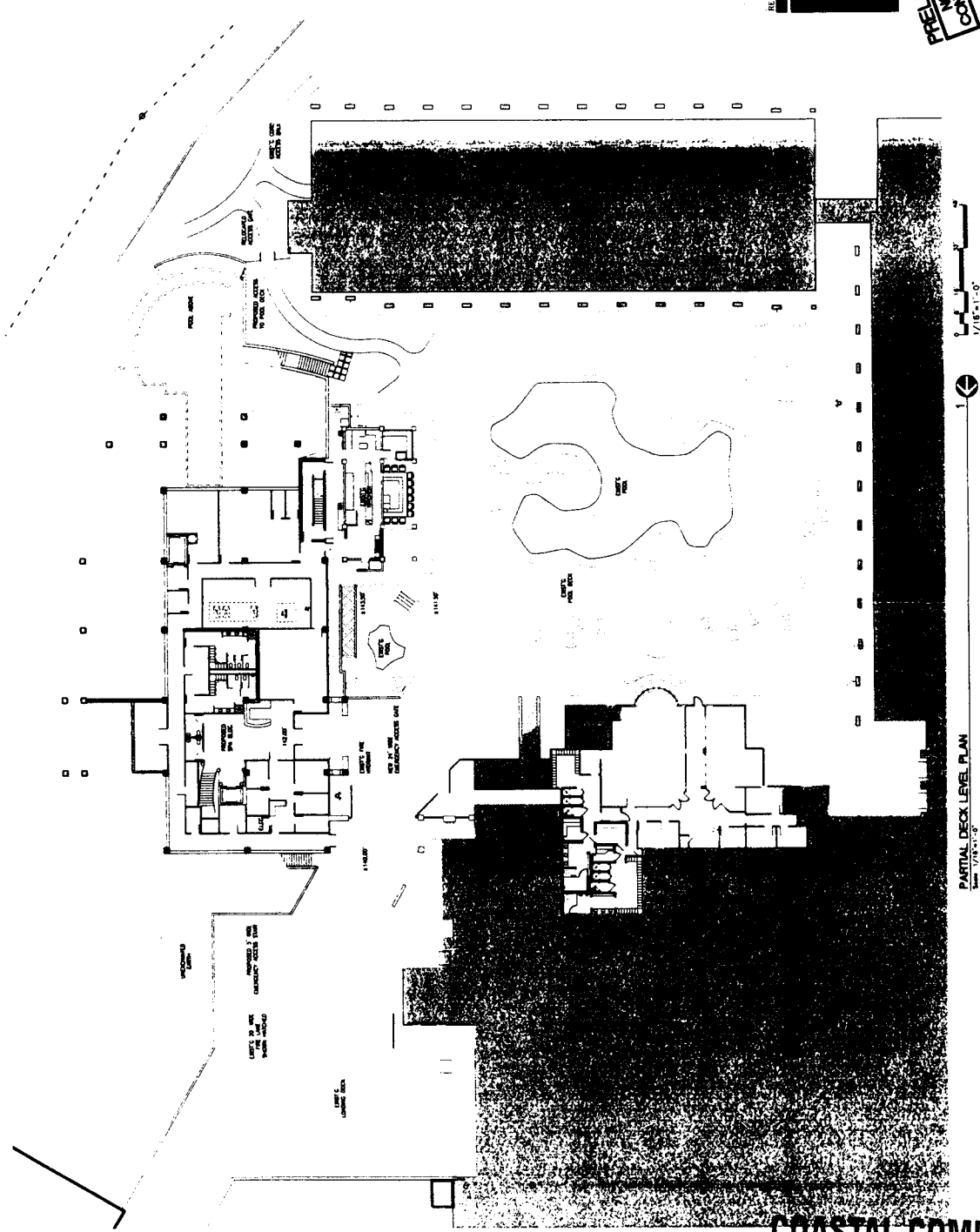
JumpStart
 Company
 10000 San Diego Avenue
 San Diego, CA 92126



PLANNING COMMISSION
 07/17/08
 EMERGENCY ACCESS
 REVISION DATE

FMSM
 THE RITZ-CARLTON
 LAGUNA BEACH
 SPA ADDITION
 Dana Point, California

Plan Room Staffer: Michelle
 Planning Director: Patricia
 Assistant Director: Patricia
 Administrative: Michelle
 11/18/07
DECK LEVEL
CONCRETE
PLAN (1142)



PARTIAL DECK LEVEL PLAN
 Scale: 1/8"=1'-0"

COASTAL COMMISSION
 5-DPT-00-467
 5-82-291A23
 EXHIBIT # 3
 PAGE 3 OF 9

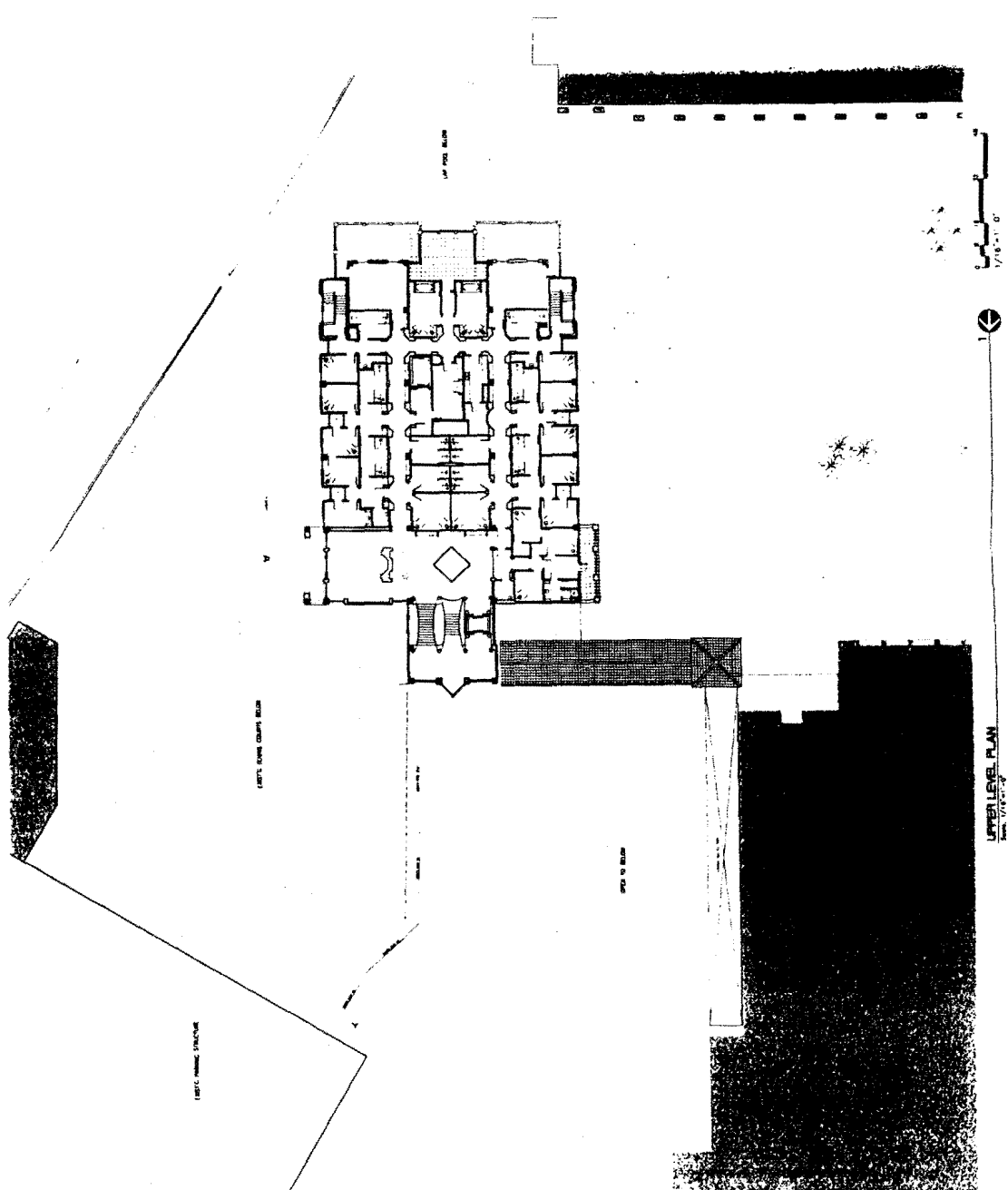
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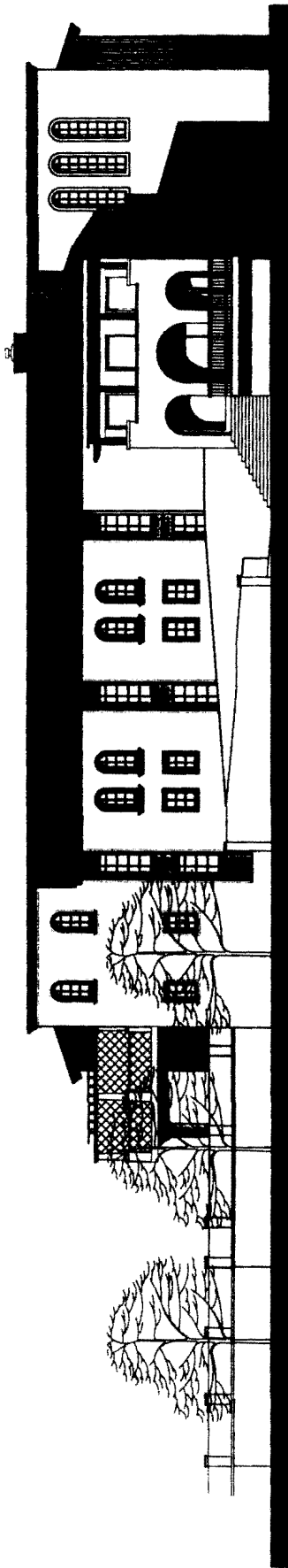
PLANNING CONSULTOR
 DESIGNER
 10110
 10110
 10110

FMSM
 THE RITZ-CARLTON
 LAGUNA HILLS
 SPA ADDITION
 Dana Point, California

DATE: 10/11/00
 PROJECT: THE RITZ-CARLTON LAGUNA HILLS SPA ADDITION
 DRAWING: UPPER LEVEL SITE PLAN (1/99)



COASTAL COMMISSION
 5-DPT-00-467
 5-92-291A2 3
 EXHIBIT # _____
 PAGE 5 OF 9

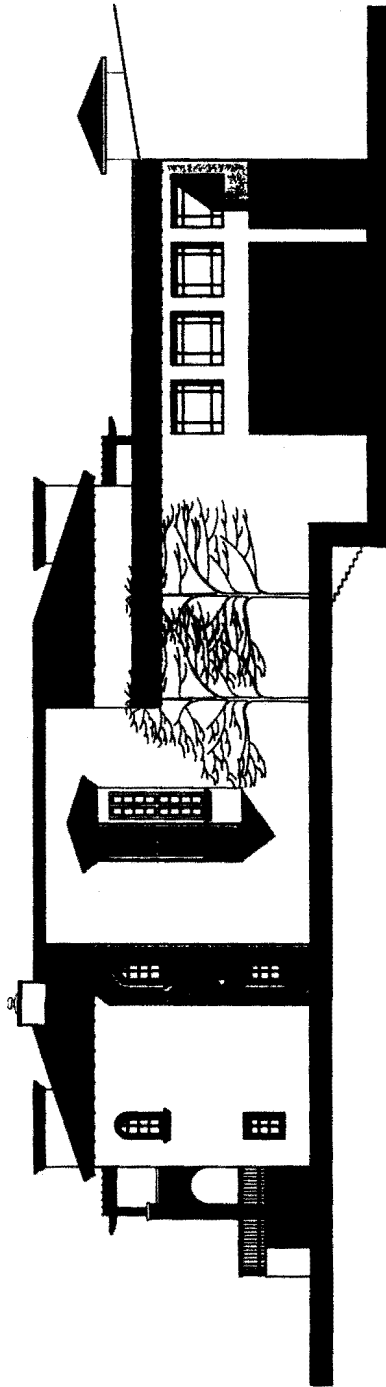


RITZ CARLTON SPA ADDITION
DANA POINT, CALIFORNIA

REVISED EAST ELEVATION
11 OCTOBER 2000

SHRAC

COASTAL COMMISSION
5-DPT-00-467
5-82-291-A2
EXHIBIT # 3
PAGE 6 OF 9

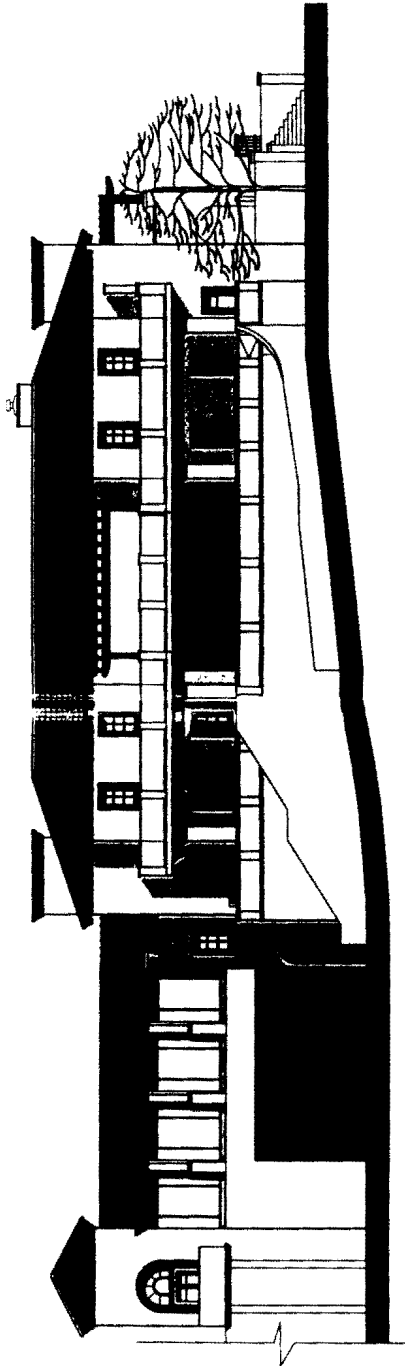


RITZ CARLTON SPA ADDITION
DANA POINT, CALIFORNIA

REVISED NORTH ELEVATION
11 OCTOBER 2000

SMP&C

COASTAL COMMISSION
5-DPT-00-467
5-82-221-A2
EXHIBIT # 3
PAGE 7 OF 9



RITZ CARLTON SPA ADDITION
DANA POINT, CALIFORNIA

REVISED SOUTH ELEVATION
11 OCTOBER 2000

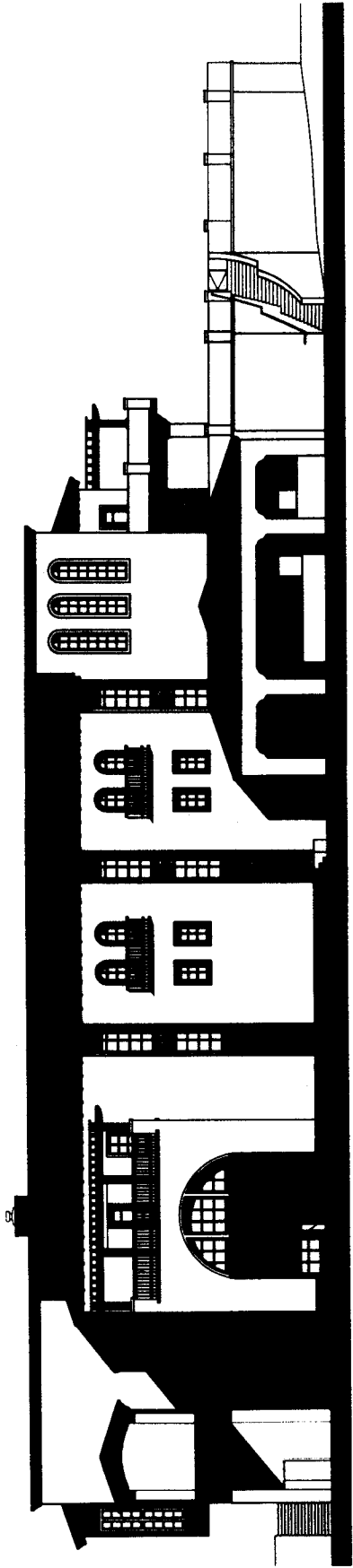
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11/10/00

COASTAL COMMISSION

5-DPT-00-467
5-82-221-A2

EXHIBIT # 3

PAGE 8 OF 9

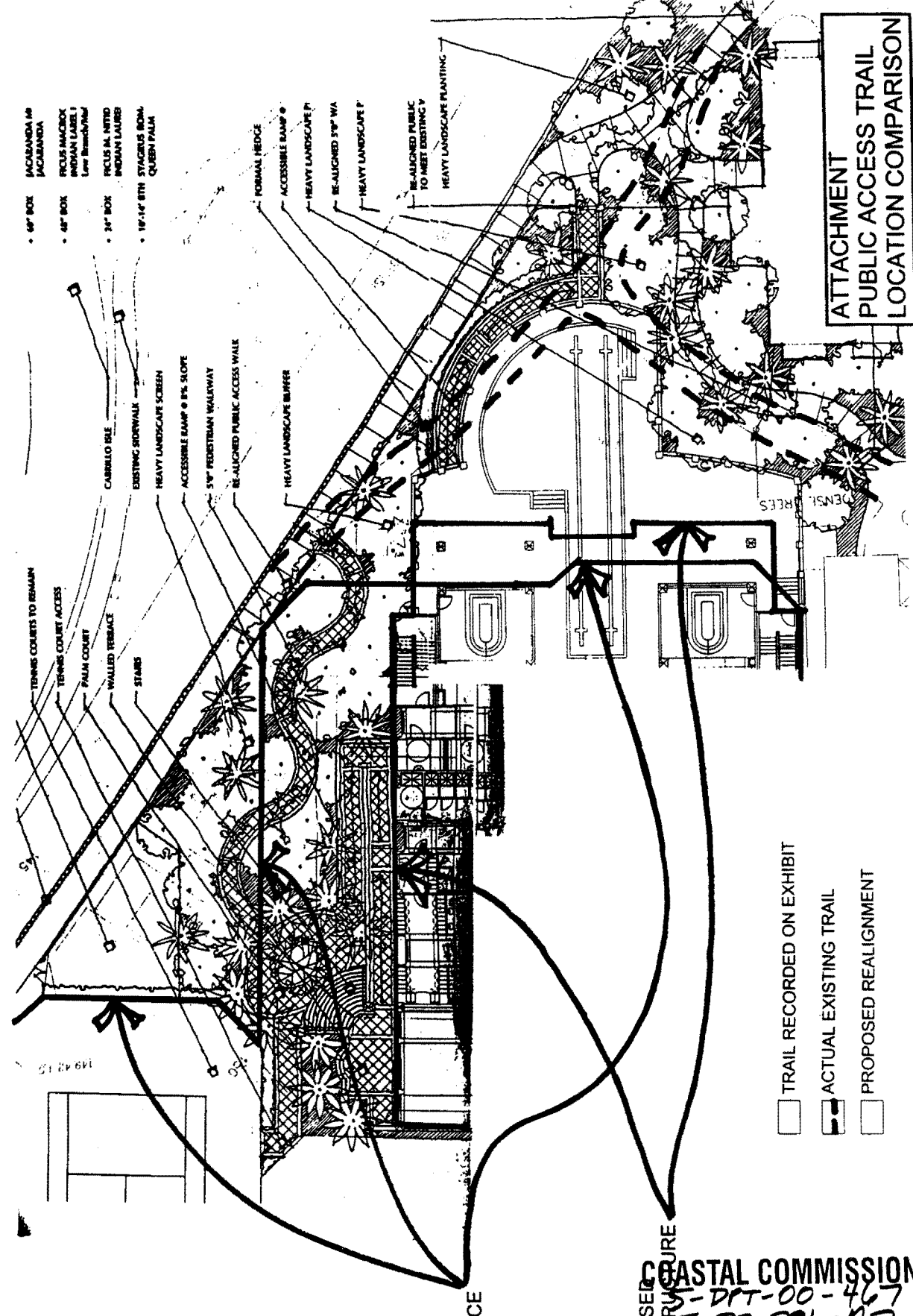


RITZ CARLTON SPA ADDITION
DANA POINT, CALIFORNIA

REVISED WEST ELEVATION
11 OCTOBER 2000

SMP&C
ARCHITECTS
11000 WILSON BLVD
DANA POINT, CA 92629
(714) 261-1100

COASTAL COMMISSION
5-DPT-00-467
5-82-291A2
EXHIBIT # 3
PAGE 9 OF 9



ATTACHMENT
PUBLIC ACCESS TRAIL
LOCATION COMPARISON

- 6" BOX JACARANDA M
- 4" BOX JACARANDA
- 3" BOX FICUS MADRAX
- 16-14" BTH INDIAN LAUREL (Lower Branches)
- FICUS AL NITID
- INDIAN LAUREL
- STAGNUS ROMA
- QUERN PALM

EXISTING
TENNIS
COURT FENCE

PROPOSED STRUCURE
COASTAL COMMISSION
DPT-00-467
82-291-A2
EXHIBIT # 4
PAGE 1 OF 1

- TRAIL RECORDED ON EXHIBIT
- ACTUAL EXISTING TRAIL
- PROPOSED REALIGNMENT

California Coastal Commission
SOUTH COAST DISTRICT
666 E. Ocean Blvd., Suite 310,
Long Beach, CA 90801
(213) 590-5071

COASTAL DEVELOPMENT PERMIT NO. 5-82-291

Page 1 of 4

FILE COPY

On June 16, 1982, The California Coastal Commission granted to
Avco Community Developers, Inc.

this permit for the development described below, subject to the attached
Standard and Special conditions.

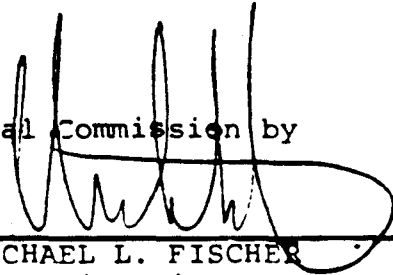
Construction of a 397 room resort hotel with two restaurants,
meeting rooms, ballroom, pool and deck, public beach access
trail, 672 off-street parking spaces, landscaping and other
improvements on a vacant 18.55 acre blufftop parcel.

SITE: 33551 Shoreline Drive
Laguna Niguel, CA

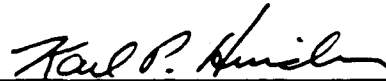
(now known as 1 Ritz Carlton Drive)

Ritz Carlton Laguna Niguel Hotel

Issued on behalf of the California Coastal Commission by



MICHAEL L. FISCHER
Executive Director
and



KPH/rm

**IMPORTANT: THIS PERMIT IS NOT VALID
UNLESS AND UNTIL A COPY OF THE PERMIT
WITH THE SIGNED ACKNOWLEDGEMENT HAS
BEEN RETURNED TO THE COMMISSION OFFICE.**

ACKNOWLEDGEMENT

The undersigned permittee acknowledges
receipt of this permit and agrees to abide
by all terms and conditions thereof.

COASTAL COMMISSION

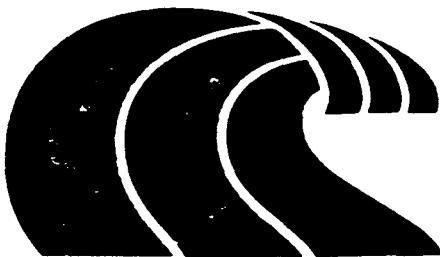
Date _____

Signature of Permittee _____

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5/81



PAGE 2 IS MISSING

III. Special Conditions

This permit is subject to the following special conditions:

- 1. Prior to issuance of the permit, the applicant shall submit a deed restriction for recording which will insure that the bluff trail, including viewpoints and rest areas, and the Vista Point Park, as all are indicated on applicant's Exhibit 16 and as amended by Special Conditions 3 and 4 below, are opened and maintained for permanent access and recreational use by the general public.

Said deed restriction shall also insure that the development will be dedicated to hotel use, available in accordance with standard hotel/motel practice for use by the general public, and that under no circumstances will the development be used for private resort or time-share use which could inhibit or exclude casual use by the general public.

The form and content of said deed restriction shall be subject to the review and approval of the Executive Director.

- 2. Prior to issuance of the permit, the applicant shall submit for recording a deed restriction which insures that public access is maintained to all common areas of the development. The deed restriction shall include an exhibit, prepared by the applicant, illustrating those areas to be maintained open to the general public. Said areas shall include, but not be limited to the lobby, restaurants, coffee shops, grounds and sundeck. The form and content of said deed restriction shall be subject to the review and approval of the Executive Director.

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

- a. A signing program consistent with the special conditions of Coastal Development Permit No. P-79-5539; and
- b. Revised plans providing for a public vista park and a public access way from Shoreline Drive to the park. Said park shall be of the same (or larger) size and orientation as proposed in Coastal Development Permit No. P-79-5539 such that views both up-coast and down-coast are readily obtained.

- 4. Prior to issuance of the permit, the applicant shall submit detailed plans, subject to the review and approval of the Executive Director, illustrating a public rest and viewing area in conjunction with the public access trail where it passes under the sundeck (refer to Exhibit 2). Said public rest area shall include benches, signs, and interpretive exhibits, and shall incorporate an entry design that invites and encourages public access and use.

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5. Lower Cost Visitor Accommodations. a) Prior to issuance of the permit, the applicant shall execute a binding agreement wherein the applicant agrees to construct 132 units of lower cost visitor accommodations consisting of at a minimum a 66-bed youth hostel built to the standards of the American Youth Hostel Association; the balance in moderate priced motel units. (e.g. a 70 bed hostel with a 62 unit motel, a 100 bed hostel with a 32 unit motel, etc.). Said agreement shall provide:

- (1) that the hostel and motel units shall be completed within 3 years of commencement of construction on the subject hotel project;
- (2) that said hostel and motel units shall be situated on the site designated as Commercial Center (3) in Coastal Development Permit No. P-79-5539; and;
- (3) that development of said hostel and motel units shall require a separate coastal development permit and shall comply with all relevant special conditions approved on Coastal Development Permit No. P-79-5539.

The parties to said agreement shall be the California Coastal Commission and AVCO. Said agreement shall be recorded free of prior liens (i.e. if liens are in existence, the existing liens shall be subordinated), as a covenant running with all parcels of issue in this condition and shall be binding on all successors and assigns. Said agreement shall be subject to the review and approval of the Executive Director.

- b) Prior to issuance of permit, the applicant shall execute an irrevocable letter of credit in the amount of \$500,000. Said letter of credit shall be issued by a national banking association licensed to do business in California, in favor of the California Coastal Commission or its designee, and shall be payable for constructing the lower cost visitor accommodations required herein upon the determination of the Executive Director that the developers have failed to meet condition No. 5 of Permit No. 5-82-291.

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5-82-291-12

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RESOLUTION NO. 00-10-18-77

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING COASTAL DEVELOPMENT PERMIT CDP97-25 (II), SITE DEVELOPMENT PERMIT SDP00-16 AND VARIANCE V99-13 TO ALLOW FOR THE DEMOLITION OF TWO TENNIS COURTS AND THE CONSTRUCTION OF A 32,276 SQUARE FOOT ADDITION TO THE RITZ CARLTON FOR USE AS A SPA THAT EXCEEDS THE MAXIMUM HEIGHT LIMIT AT 1 RITZ CARLTON DRIVE

Applicant: The PRS Group
File No.: FF# 0610-70/CDP97-25 (II)/SDP00-16/V99-13/Spa

The Planning Commission for the City of Dana Point does hereby resolve as follows:

WHEREAS, the applicant filed a verified application for certain property, to wit:

1 Ritz Carlton Drive (APN 672-171-03); and

WHEREAS, the applicant has made an application to allow for an amendment to a Coastal Development Permit and a Site Development Permit to allow for the demolition of two existing tennis courts in order to construct a three-story, 32,276 square foot addition to an existing hotel, Ritz Carlton, for use as a spa amenity to hotel guests. The application also includes a Variance to exceed the maximum height limit by an additional 12 feet, 8 inches; and

WHEREAS, said verified application constitutes a request as provided by Title 9 of the Dana Point Municipal Code; and

WHEREAS, the Planning Commission did, on the 18th day of October, 2000, hold a duly noticed public hearing as prescribed by law to consider said request; and

WHEREAS, at said public hearings, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, said Commission considered all factors relating to Coastal Development Permit CDP97-25 (II), Site Development Permit SDP00-16 and Variance V99-13.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission of the City of Dana Point as follows:

- A) The above recitations are true and correct.

Findings:

- B) Based on the evidence presented at the public hearing, the Planning Commission adopts the following findings and approves an Coastal Development Permit CDP97-25 (II), subject to conditions:

- 1) That the proposed development is in conformity with the Dana Point Zoning Code/Local Coastal Program in that it is consistent with Urban Design Element Policy 5.2, ~~Entourage~~

COASTAL COMMISSION

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CITY COUNCIL RESOLUTION NO. 00-10-18-77
COASTAL DEVELOPMENT PERMIT CDP97-25 (II), SITE DEVELOPMENT PERMIT
SDP00-16 AND VARIANCE V99-13
PAGE 2

site and building design that takes advantage of the City's excellent climate to maximize indoor-outdoor spatial relationships."

- 2) That the proposed development is located between the nearest public roadway and the sea or shoreline of any body of water, and is therefore subject to conformity with the public access and public recreation policies of Chapter Three of the Coastal Act; however, provisions were made in the previous California Coastal Commission approvals for the existing development on the subject site and any requirements under Chapter Three were met and no additional provisions are required.
- 3) That the proposed development conforms with Public Resources Code Section 21000 (the California Environmental Quality Act) and following and that there are no feasible mitigation measures or feasible alternatives available which would substantially lessen any significant adverse impact that the activity may have on the environment in that a Negative Declaration was prepared for the project and will be acted on in conjunction with the approval of the project.
- 4) That the proposed development will encroach upon an existing physical accessway legally utilized by the public which is identified in the City's General Plan Conservation/Open Space Element, but it will not obstruct any existing public views to and along the coast from any public road or from a recreational area in that the addition is located primarily where the site was improved with tennis courts used by hotel guests as an amenity not available to the general public, and the existing public coastal access trail (bluff trail) is being realigned with a condition included to ensure that public's access is not compromised but maintained in substantially the same manner.
- 5) That the proposed development will be sited and designed to prevent adverse impacts to environmentally sensitive habitats and scenic resources located in adjacent parks and recreation areas, and will provide adequate buffer areas to protect such resources in that the proposed addition will be located primarily on the portion of the property that has tennis courts where any necessary buffer area to such resources will not be altered.

COASTAL COMMISSION

- 6) That the proposed development will minimize the alterations of

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SDP00-16 AND VARIANCE V99-13
PAGE 3

natural landforms and will not result in undue risks from geologic and erosional forces and/or flood and fire hazards in that the proposed development involves minimal grading in an area previously graded without altering any natural landform and is proposed in conformance with City regulations concerning grading, drainage and fire hazards.

- 7) That the proposed development will be visually compatible with the character of surrounding areas, and, where feasible, will restore and enhance visual quality in visually degraded areas in that the proposed development will match the existing hotel buildings and add landscaping along its border shared with a private residential community.
- C) Based on the evidence presented at the public hearing, the Planning Commission adopts the following findings and approves Site Development Permit SDP00-16, subject to conditions:
- 1) That the site design is in compliance with the development standards of the Dana Point Zoning Code in that all such standards have been incorporated into the submitted plans with the exception to building height for which a Variance approval is being sought.
 - 2) That the site is suitable for the proposed use and development in that the Floor Area Ratio is less than what is allowed and all required parking can be accommodated on site through the approved Managed Parking Program previously considered as Minor Conditional Use Permit CUP98-14M.
 - 3) That the project is in compliance with all elements of the General Plan and all applicable provision of the Urban Design Guidelines in that the proposal is consistent with the overall goal of *"Achieving design excellence in site planning, architecture, landscape architecture and signage in new development and modifications to existing development."*
 - 4) That the site and structural design is appropriate for the site and function of the proposed use, without requiring a particular style or type of architecture, in that the addition has been "tied into" the existing hotel by a connecting **COASTAL COMMISSION** grade levels and by utilizing complimentary architecture and finish materials.

- D) Based on the evidence presented at the public hearing, the Planning

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Commission adopts the following findings and approves Variance V99-13, subject to conditions:

- 1) That strict or literal interpretation and enforcement of the specified regulation(s) would result in practical difficulty or unnecessary physical hardships inconsistent with the objectives of this Chapter in that the addition has been designed to blend in with the existing development's grade levels and building heights, which were originally permitted to be built up to 50 feet in height.
- 2) That there are exceptional or extraordinary circumstances or conditions applicable to the subject property or to the intended use of the property which do not apply generally to other properties in the same zoning district in that the view of the greatest height of the building is only visible from within the hotel grounds, while the addition will appear two-story and below the 35 foot height limit from the private residential community most adjacent.
- 3) That the strict or literal interpretation and enforcement of the specified regulation(s) would deprive the applicant of privileges enjoyed by the owners of other properties in the same zoning district with similar constraints in that there are not any properties in the general vicinity with similar constraints in the same zoning district designation.
- 4) That the Variance request is made on the basis of a hardship condition and not as a matter of convenience in that the pool deck level is set at a lower elevation than the surrounding pad area being used for the spa addition and strict interpretation of the Zoning Code requires the measurement of building height to be taken from this grade, rather than from the view of the structure from the higher grade elevations, where it appears as a two-story structure.
- 5) That the granting of the Variance will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity in that the project is required to be built in conformance with all applicable codes regarding such and conditions have been approved by the **COASTAL COMMISSION**
- 6) That the Variance approval places suitable conditions on the property to protect surrounding properties and does not permit uses which are not otherwise allowed in the zone in

CITY COUNCIL RESOLUTION NO. 00-10-18-77
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that additional landscaping will be provided along the eastern portion of the proposed spa addition, providing a buffer between the adjacent private residential community.

- 7) That granting of the Variance will not result in adverse impacts, either individually or cumulatively, to coastal access, public recreation opportunities, or coastal resources, and the development would be consistent with the policies of the Local Coastal Program certified land use plan in that the Variance request is for height and does not affect coastal access, public recreation or coastal resources.

Conditions:

A. General:

1. Approval of this application is to allow for the demolition of two existing tennis courts in order to construct a three-story, 32, 276 square foot addition, exceeding the maximum height limit by 12 feet, 8 inches, to an existing hotel, for use as a spa amenity to hotel guests located at 1 Ritz Carlton Drive. Subsequent submittals for this project shall be in substantial compliance with the plans presented to the City Council, and in compliance with the applicable provisions of the Dana Point General Plan/Local Coastal Program and the Dana Point Zoning Code. Approval of this application will serve as an Approval In Concept, as applicable.
2. Approval of this application is valid for a period of twenty-four (24) months from the date of determination. If the development approved by this action is not established, or a building permit for the project is not issued within such period of time, the approval shall expire and shall thereafter be null and void.
3. The application is approved as a precise plan for the location and design of the uses, structures, features, and materials, shown on the approved plans. Any relocation, alteration, or addition to any use, structure, feature, or material, not specifically approved by this application, will nullify this approving action. If any changes are proposed regarding the location or alteration to the appearance or use of any structure, an amendment to this permit shall be submitted for approval by the Director of Community Development. If the Director of Community Development determines that the proposed change complies with the provisions and the spirit and intent of this approval action, and that the action would have been timely for the amendment as for the approved plot plan, he may approve the

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**CITY COUNCIL RESOLUTION NO. 00-10-18-77
COASTAL DEVELOPMENT PERMIT CDP97-25 (II), SITE DEVELOPMENT PERMIT
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amendment without requiring a new public hearing.

4. Failure to abide by and faithfully comply with any and all conditions attached to the granting of this permit shall constitute grounds for revocation of said permit.
5. The applicant, and applicant's successors, heirs, and assigns, shall protect, defend, indemnify, and hold harmless the City, its officers, employees, and agents from any claim, action, or proceeding against the City, its officers, employees, or agents to attack, set aside, void, or annul the approval granted by this Resolution, which action is brought within the appropriate statute of limitations period.

The applicant, and the applicant's successors, heirs, and assigns, shall further protect, defend, indemnify and hold harmless the City, its officers, employees, and agents from any and all claims, actions, or proceedings against the City, its officers, employees, or agents arising out of or resulting from the negligence of the applicant or the applicant's agents employees, or contractors.

6. The applicant and applicant's successors in interest shall be fully responsible for knowing and complying with all conditions of approval, including making known the conditions to City staff for future governmental permits or actions on the project site.
7. The applicant and applicant's successors in interest shall be responsible for payment of all applicable fees along with reimbursement for all City expense in ensuring compliance with these conditions.
8. The construction site shall be posted with signage indicating that construction may not commence before 7 a.m. and must cease by 8 p.m., Monday through Saturday, and no construction activity is permitted on Sundays or Federal holidays.
9. The applicant shall obtain all applicable permits for the proposed improvements.
10. Use of the spa is limited to the assumptions made in the Parking Demand Study approved as a Managed Parking Program by the Planning Commission's approval of Minor Conditional Use Permit CUP98-14M, where it was anticipated that users would be 75% hotel guests and 25% non-guests.

11. The use of the spa is exclusively for the use of hotel guests and

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potentially their visitors, and the operator of the Ritz Carlton is precluded from selling any form of membership to the spa unless modifications to the Managed Parking Program are submitted and approved through an amendment to Minor Conditional Use Permit CUP98-14M.

B. Prior to the issuance of a grading permit, the applicant shall meet the following conditions:

12. All grading and improvements on the subject property shall be made in accordance with the Grading Ordinance and to the satisfaction of the Director of Public Works. Grading plans shall be in substantial conformance with the approved conceptual plans and tentative parcel map. Surety to guarantee the completion of the project grading and drainage improvements, including erosion control, shall be posted to the satisfaction of the Director of Public Works and City Attorney.
13. The applicant shall submit a grading plan, in compliance with City standards, for review and approval by the Director of Public Works. All grading work must be in compliance with the approved plan and completed to the satisfaction of the Director of Public Works. All slopes within this project shall be graded no steeper than 2:1, unless otherwise approved by the Director of Public Works.
14. The applicant shall submit a grading, drainage and retaining wall plan with a geotechnical soils report for review and approval by the Director of Public Works. Retaining walls over 30 inches in height are required to be provided with a 42-inch "guard-rail." The following notes shall be included:
 - a. All construction vehicles or equipment, fixed or mobile operated within 1,000 feet of a dwelling shall be equipped with properly operating and maintained mufflers.
 - b. All operations shall comply with the City's Noise Ordinance.
 - c. Stockpiling and/or vehicle staging areas shall be located as far as practicable from dwellings.
15. The applicant shall submit a geotechnical report for review and approval by the Director of Public Works. This report will primarily involve the assessment of potential soil related constraints and hazards such as slope instability, settlement, liquefaction and secondary seismic impacts, where determined to be appropriate by the Director of Public Works. The report shall also include an evaluation of potentially expansive soils and recommend construction procedures and/or design criteria to minimize the effect of these soils

on the proposed development. All reports shall recommend appropriate mitigation measures and be completed in the manner specified by the Grading Manual and Grading Ordinance.

16. The applicant shall exercise special care during the construction phase of this project to prevent any off-site siltation. The applicant shall provide erosion control measures and shall construct temporary desiltation/detention basins of a type, size and location as approved by the Director of Public Works. The basins and erosion control measures shall be shown and specified on the grading plan and shall be constructed to the satisfaction of the Director of Public Works prior to the start of any other grading operations. Prior to the removal of any basins or erosion control devices so constructed, the area served shall be protected by additional drainage facilities, slope erosion control measures and other methods as may be required by the Director of Public Works. The applicant shall maintain the temporary basins and erosion control devices until the Director of Public Works approves the removal of said facilities.
17. The applicant shall submit a final landscape and irrigation plan for review and approval by the Engineering Department and Community Development Department. The plan shall be prepared by a State licensed landscape architect and shall include all proposed and existing plant materials (location, type, size, quantity), an irrigation plan, a grading plan, fences and walls, parking lot lighting, parking lot striping details, ground-mounted signs, an approved site plan, and a copy of the entitlement conditions of approval. The plan shall be in substantial compliance with the applicable provisions of the Zoning Code; the preliminary plan approved by the Planning Commission including a more extensive use, placement and size of Canary Island Date Palms that will achieve a screening and canopy affect that closely matches the exhibit submitted during public testimony and further, recognizes the principles of drought tolerant landscaping.
18. The applicant shall submit grading plan to the Building Department for verification of site handicapped accessibility to structures.
19. The applicant seek the approval of the Executive Director of the California Coastal Commission for the realignment of the public access trail stipulated in special conditions of Coastal Development Permit No. 5-82-291 in the form of a modification, or in a letter of acknowledgement of acceptance, if necessary, or in a letter of acknowledgement of acceptance.

C. Prior to issuance of a building permit or release on certain related inspections, the applicant shall meet the following conditions:

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COASTAL DEVELOPMENT PERMIT CDP97-25 (II), SITE DEVELOPMENT PERMIT
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20. The applicant shall obtain grading plan approval from the Public Works/Engineering Department.
21. The applicant shall submit two (2) sets of construction plans for building plan check, including structural and energy calculations and a soils/geology report. A third set of plans containing only the site plan, floor plans and elevations is required to be submitted at the time of final approval. The licensed professional that prepared them shall sign all documents.
22. Improvements shall comply with the most recently adopted local and State building code regulations, which may include the 1998 CBC, CMC, CPC and CEC with State amendments for disabled accessibility and energy conservation, and all other 1997 code regulations that may apply.
23. Proof of all approvals from applicable outside departments and agencies is required, including the Orange County Fire Authority (OCFA), which shall include the following:
 - a) The applicant shall submit the Fire Chief evidence of the on-site fire hydrant system and indicate whether it is public or private. If the system is private the system shall be reviewed and approved by the Fire Chief prior to issuance of a building permit. The applicant shall make provisions for the repair and maintenance of the system, in a manner meeting the approval of the Fire Chief.
 - b) The applicant shall provide evidence of adequate fire flow. The OCFA Availability for Fire Protection form shall be signed by the applicable water district and submitted for approval to the OCFA. If sufficient water to meet fire flow requirements is not available, an automatic fire extinguishing system may be required in each structure affected by insufficient fire flow.
 - c) The applicant shall submit plans for any required automatic fire sprinkler system in any structure to the OCFA for review and approval.
 - d) The applicant shall obtain approval of the Fire Chief for all fire protection access roads and/or emergency access roads within 150 feet of all portions of the exterior of every structure on site. The applicant shall be required to look at other alternatives to the emergency access that is currently being

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proposed as a breach in the wall with a staircase adjacent to property owned by Niguel Shores, where OCFA vehicles responding would be required to enter and park on the private street, Cabrillo Isle. Once all available alternatives are exhausted, the applicant shall be required to relocate the breach in the wall and any necessary connecting pathway to a location more northerly on the landscape slope area. As necessary, the applicant shall obtain and record reciprocal access agreements to the satisfaction of the Fire Chief.

- e) A note shall be placed on the fire protection access plan indicating that all street/road signs shall be designed and maintained to be either internally or externally illuminated in a manner meeting approval of the Fire Chief.
- f) The applicant shall submit plans and obtain approval from the Fire Chief for fire lanes on required fire access roads less than 36 feet in width. The plans shall indicate the locations of red curbing and signage, both existing and proposed. A drawing of the proposed signage with the height, stroke and color of lettering and the contrasting background color shall be submitted to and approved by the Fire Chief.
- g) The applicant shall submit and obtain the Fire Chief's approval for the construction of any gate across required fire authority access roads/drives. Contact the OCFA at (714) 744-0499 for a copy of the "Guidelines for Fire Authority Emergency Access."
- h) The builder shall submit a letter on company letterhead stating that water for fire-fighting purposes and the all weather fire protection access roads shall be in place and operational before any combustible materials is placed on site. Approval shall be subject to an on-site inspection prior to issuance of a building permit.
- i) The applicant shall submit to the Fire Chief a list of the quantities of all hazardous, flammable and combustible materials, liquids, gases to be stored, used, or handled on site. These liquids and materials shall be classified according to the Uniform Fire Code using the OCFA Chemical Classification Handout. The submittal shall provide a summary, for each hazard class, the total quantity of chemicals stored per class and the total quantity of chemicals used in that class. All forms of materials are to be converted to units of measure in

pounds, gallons and cubic feet.

- j) The applicant shall contact the OCFA Hazardous Materials Disclosure Office at (714) 744-0463 to obtain a "Hazardous Materials Business Information and Chemical Inventory Packet." This shall be completed and submitted to the Fire Chief.
 - k) The applicant shall submit a detailed letter of intended use for each building on site to the Fire Chief for review and approval.
 - l) The applicant shall submit plans for the review and approval of the Fire Chief as indicated on the OCFA Plan Submittal Criteria form. Contact the OCFA at (714) 744-0499 for a copy of the Fire Safety Site/Architectural Notes to be placed on the plans prior to submittal.
 - m) Plans for an approved fire-suppression system for the protection of commercial-type cooking equipment shall be submitted to the Fire Chief for review and approval.
 - n) Plans for the fire alarm system shall be submitted to the Fire Chief for review and approval.
 - o) Plans shall be submitted for any aboveground or underground tank for review and approval by the Fire Chief.
24. The cover sheet of the building construction documents shall contain a blue-line print of the City's conditions of approval and it shall be attached to each set of plans submitted for City approval or shall be printed on the title sheet verbatim.
25. Building address shall be located facing street fronting property. Addresses shall be 6" high with 1" stroke and of noncombustible, contrasting materials.
26. A minimum roofing classification of type "B" is required.
27. A rough grade certification is required from the Director of Public Works by separate submittal.
28. Prior to the release of the footing inspection, the applicant shall submit certification, by survey or other appropriate method, that the structure will be constructed in compliance with the dimensions shown and in compliance with the setbacks of the applicable

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zoning district.

29. Prior to the release of the roof sheathing inspection, the applicant shall submit certification, by a survey or other appropriate method, that the height of the structure is in compliance with the dimensions shown, and the height limitations of the applicable zoning district. A written report certifying the above shall be prepared by the applicant and submitted to the Building Department.
30. The applicant shall submit payment for any and all applicable school, park, water, sewer, Transportation Corridor, and Coastal Area Road Improvement and Traffic Signal fees.
31. All plan check and building permit fees shall be paid to the City of Dana Point.
32. The applicant shall submit a lighting plan for review and approval by the Director of Community Development. The lighting plan submitted shall include a detailed study of the project's intrusion of light into the neighboring residential community and be sensitive to the privacy of the neighboring residential community. All lighting elements shall be installed and directed so as to contain light and glare on the subject site.

D. Prior to the issuance of a certificate of occupancy, the applicant shall meet the following:

33. All landscaping and irrigation shall be installed per the approved final landscape and irrigation plan. A State licensed landscape architect shall certify that all plant and irrigation materials have been installed in accordance with the specifications of the final plan and shall submit said certification in writing to the Director of Community Development. The Community Development Department shall inspect the site to ensure that the landscaping has been installed in accordance with the approved plans.
34. The applicant shall be responsible for payment of applicable development impact fees including General Government, Fire Protection and Transportation.
35. All proposed utilities within the project shall be installed underground.
36. All ground mounted utility and mechanical equipment shall be screened and sound buffered as shown on the landscape plans to the satisfaction of the Director of Community Development.

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37. No equipment shall be located on the sloped, externally visible portions of the roof of the structure.
38. All roof mounted equipment, including air conditioners, shall be properly screened from view and the sound buffered from adjacent properties and streets, as shown on the construction drawings, to the satisfaction of the Director of Community Development. All screening materials shall be designed as integral components of the project architecture.
39. Approval from the Orange County Fire Authority (OCFA) for the following:
 - a) All fire hydrants shall have a blue reflective pavement marker indicating the hydrant location on the street or drive per the OCFA Standard as approved by the Fire Chief. These markers are to be maintained in good condition by the property owner.
 - b) The automatic fire sprinkler system shall be operational in a manner meeting the approval of the Fire Chief.
 - c) The fire lanes shall be installed in accordance with the approved fire lane plan. Approved documents shall contain a fire lane map and provisions which prohibit parking in the fire lanes. The method of enforcement shall be documented.
 - d) The fire suppression system shall be operational.
 - e) The fire alarm system shall be operational.

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SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

ATTORNEYS AT LAW

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333 SOUTH HOPE STREET

LOS ANGELES, CALIFORNIA 90071-1448

TELEPHONE (213) 620-1780

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COASTAL COMMISSION

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5-82-29/AZ

EXHIBIT # 7
OUR FILE NUMBER

PAGE 1 OF 3
XFD-68302

WRITER'S DIRECT LINE

(213) 617-5565

jcourtis@smrh.com

February 8, 2001

VIA FEDERAL EXPRESS

Ms. Anne Kramer
California Coastal Commission
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, California 90802-4302

RECEIVED
FEB 10 2001

FEB 8 2001

CALIFORNIA
COASTAL COMMISSION

Re: Spa Facility Addition at Ritz-Carlton Hotel in Dana Point/
California Coastal Commission Appeal No. A-5-DPT-00-467

Dear Ms. Kramer:

We appreciate the time that you, Steve Reynas and Carl Schwang spent with us on Friday, February 2, to discuss the addition of an approximately 32,000 square foot resort spa (the "Spa") to the Ritz-Carlton Hotel (the "Hotel") in the City of Dana Point ("City") in an area primarily occupied by two private tennis courts. In accordance with our discussions, the following is to provide additional information to you and confirm certain facts to assist you in your preparation of a staff report on the appeal.

1. Description of Spa.

The Spa is currently anticipated to be a three-story, approximate 32,000 square foot addition to the existing Ritz-Carlton Hotel. Although final construction drawings have not yet been prepared, design drawings with elevations have been prepared and delivered to you. Uses within the structure are those typically found at other Spa facilities associated with hotels, including massage treatment rooms, steam and sauna facilities, a whirlpool, lap pool, sun deck and administrative and mechanical rooms. The Spa is not a "workout" facility. Existing workout facilities are located elsewhere in the hotel.

2. Memberships.

The Spa is not a "membership" type of facility that is restricted to members only. Rather, the Spa is primarily an amenity for guests at the hotel who are staying overnight. However, other guest of the hotel may use the facilities. In some ways, the operation of the Spa will be analogous to that of one of the restaurants located at the Hotel. The restaurants in the Hotel are located in the Hotel to primarily serve overnight guests, but others are not prohibited

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from the restaurant's facilities. Assumptions as to the percentage of overnight Hotel guests verses other guests are as set forth in the parking study.

3. Parking Study.

You have indicated that you do have a copy of the parking study that demonstrates that the Hotel does have sufficient parking to handle existing uses and the proposed new Spa. In fact, the upper deck of the parking structure is rarely used during the daytime as highlighted by photographs delivered to you. Please let me know if you need any further information. I will obtain the City resolution which approved the parking study and forward it to you.

4. Construction Staging.

At no time will public property, public parking or the bluff area be used for construction purposes. All construction staging is anticipated to occur on the two tennis courts that will remain in the long term.

5. Timing for Construction.

The commencement of the construction for the Spa will likely occur in the fall months. In this way, only one summer season would be impacted. As noted in Condition number 8 of the City's approval of the Spa, construction may not commence before 7:00 a.m. and must cease by 8:00 p.m., Monday through Saturday. No construction activity is permitted on Sundays or federal holidays.

6. Peak Hours of Hotel and Spa Use.

The parking study highlights the peak hours of Hotel use and those anticipated for the Spa. Please note that the parking study was based, in part, on actual Hotel conditions and usage at the Ritz-Carlson.

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7. Water Quality.

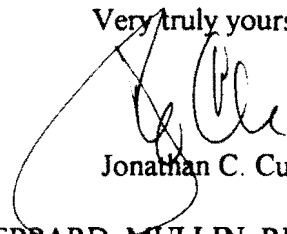
Condition number 14 of the City's approval requires that grading and drainage plans be submitted for review and approval by the City. Also, the City's Municipal Code contains extensive regulations concerning water quality. A water quality management plan is required to be prepared and submitted to the City in connection with the precise grading plan. A copy of the City's regulations are attached.

8. Deed Restriction.

The Ritz Carlton is amenable to preparing and recording a new deed restriction for public access in favor of the California Coastal Commission. As we discussed, an actual "metes and bounds" description of trails and other public areas would be extremely difficult and expensive, given the location of the trails. However, we can use our updated site plan for the new deed restriction that would include the Spa project and depict public trails and other public access areas.

Please feel free to contact me if you have any questions or if you desire any further information. Thank you again for taking the time to meet with us.

Very truly yours,



Jonathan C. Curtis

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

LA:LCRLETXHM70261453.1

cc: Mr. Edward Knight
Ms. Anne Fox
Mr. Phillip R. Schwartze