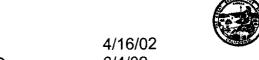
# CALIFORNIA COASTAL COMMISSION

South Coast Area Office 200 Oceangate, Suite 1000 ang Beach, CA 90802-4302 62) 590-5071



# **TU 12h**

49th Day: 6/4/02 180th Day: 10/13/02 Staff: AJP-LB (

Filed:

Staff Report: 5/13/02 Hearing Date: 6/11-14/02

RECORD PACKET COPY Commission Action:

# STAFF REPORT: REGULAR CALENDAR

**APPLICATION NUMBER: 5-02-113** 

**APPLICANT:** 1719 Ocean Inc.

AGENT: Howard Laks Associates Architects

PROJECT LOCATION: 1719 Ocean Front Walk, Santa Monica

**PROJECT DESCRIPTION:** Demolition of a two-story, 13-unit apartment complex and construction of a 9,943 square foot, 5-unit condominium building above a subterranean 11-car garage.

Lot Area: 10,105 square feet Building Coverage: 4,643 square feet Landscape Coverage: 1,620 square feet

Parking Spaces:

11

Zoning:

R3R—Medium Density Multiple

Residential Beach District

Ht above existing grade: 30 feet

LOCAL APPROVALS RECEIVED: Conditional Use Permit 99-006; Vesting Tentative Parcel Map 52838; Architectural Review Board approval-- ARB 01-385.

**SUBSTANTIVE FILE DOCUMENTS:** Santa Monica conditionally certified LUP, with suggested modifications, 1987 (never effectuated); Santa Monica certified LUP, with suggested modifications, 1992 (effectively certified November 17, 1992); coastal development permits 5-83-560, 5-93-361, 5-95-241, and 5-99-127.

### **SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends that the Commission deny the proposed project because the project is inconsistent with Section 30221 and 30222 of the Coastal Act in that the property is suitable for visitor-serving commercial uses or recreational use, both of which have priority over private residential development here and that the proposed residential use will have cumulative adverse impacts to coastal access and coastal recreation.

The staff recommends that the Commission adopt the following resolution:

MOTION: I move that the Commission approve Coastal Development Permit No. 5-02-

113 for the development proposed by the applicant.

## **STAFF RECOMMENDATION OF DENIAL:**

Staff recommends a <u>NO</u> vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

### **RESOLUTION TO DENY THE PERMIT:**

The Commission hereby denies a coastal development permit for the proposed development on the ground that the development will not conform with the policies of Chapter 3 of the Coastal Act and will prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

#### IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

### A. Project Description and Location

The applicant proposes to demolish a two-story, 13-unit apartment complex and construct a 9,943 square foot, 30-foot high (above existing grade), 5-unit condominium building above a subterranean 11-car garage. The project site is located on a 10,105 square foot lot, in the City of Santa Monica. See Exhibit No. 1-3.

The proposed project is located immediately adjacent to Ocean Front Walk (The Promenade) to the west, Marine Terrace to the south, and Appian Way to the east. Abutting the property to the north is a bicycle and roller skate rental shop. The 10,105 square foot lot has 80 linear feet of frontage along Ocean Front Walk. The lot is situated approximately 750 feet south of the Santa Monica Pier, between Pacific Terrace to the north and Marine Terrace to the south, the pedestrian promenade and State beach are to the west. Approximately 730 feet to the south is Pico Boulevard.

The area between the Pier and Pico Boulevard, and west of The Promenade, contains a number of recreational facilities, such as volleyball courts, swings, children's play area,

exercise equipment, chess game area, and bike path. Along the inland side of The Promenade there are a small group of shops selling food and beach-related items, hotels, and a mix of apartments, and public parking lots.

## B. Past Commission Permit Action

The Commission has approved a number of permits within this oceanfront area between the Pier and Pico Boulevard. Immediately to the north of the project site, the Commission approved two separate projects on the same lot located at 1702 Appian Way/1703 Ocean Front Walk. In January 1994, the Commission approved the demolition of three of four single-family dwellings and construction of a private (non-commercial) tennis court on a 20,000 square foot lot (CDP #5-93-361). The tennis court was intended to be an interim use of the site and associated with the remaining single-family residence abutting the tennis court site.

The City prohibits the demolition of structures without a proposed replacement project, therefore, the proposed tennis court was to allow the applicant to remove the dilapidated structures on-site and improve the appearance of the lot. The applicant's ultimate goal was to eventually obtain approval for a Bed and Breakfast facility from the City and the Commission. The approval of the demolition and tennis court project would allow the property owner to quickly improve the site while going through the longer permitting process for the Bed and Breakfast project.

In approving the demolition and tennis court, because the tennis court was a low priority use and not a visitor-serving use, the Commission found that the project would have adverse individual and cumulative impacts on access and coastal recreational opportunities by perpetuating low priority uses and reducing development opportunities for visitor-serving commercial development along the beach front. Therefore, since the applicant's intent was to use the tennis court as a temporary use until plans where approved for a bed and Breakfast facility, the Commission found that approving the project as a temporary use, with a condition limiting the use to five years, the tennis court would be consistent with the Coastal Act.

Subsequently, in February 1994, the Commission approved a coastal development permit for the construction of a four-unit Bed and Breakfast facility and demolition of the bicycle rental shop on the adjoining lot (CDP#5-95-241). In approving the Bed and Breakfast facility, the Commission found that the development was a priority use and would provide visitor accommodations and provide low-cost recreational activities along the beachfront, providing greater opportunities to the public for coastal access and public opportunities for coastal recreation.

The buildings have been demolished, except for the bicycle rental shop, but the tennis court or the Bed and Breakfast facility were never constructed. The lot has been landscaped and is currently vacant.

Other projects along Ocean Front Walk approved by the Commission include the Shutters Hotel to the south of the project site (CDP #5-87-1105), and a hotel (former Pritikin Center) renovation (CDP#5-99-127) located just south of Pico Boulevard. Immediately to the south of the project site a disaster replacement exemption was issued for the reconstruction of a 178 unit apartment building (Sea Castle), which was damaged by the 1994 Northridge earthquake and fire in 1996.

In 1998, the Commission approved coastal development permit no. 5-98-009 for the renovation of the playground and gymnastic equipment, improvements to the bicycle path and renovation of the Promenade, including a vehicle turn-out and beach drop-off at the terminus of Bay Street (south of Pico Boulevard). The improvements extended from south of the Pier to Bay Street.

# C. Beach Overlay District

The subject property and surrounding area is located within the City's Beach Overlay District. The boundary of the Beach Overlay District extends along Ocean Avenue from the City's northern boundary line to Neilson Way, then along Neilson Way to the southern boundary of the City, excluding the pier and the area between the Pier on the north and Seaside Terrace on the south (see Exhibit No. 2). The Beach Overlay District was created in 1990 with the passage of a Santa Monica voter initiative (referred to as Proposition S). The initiative prohibits hotel and motel development, and restaurants over 2,000 square feet within the City' Beach Overlay District. According to the initiative, the purpose is to:

...protect the public health, safety and welfare of present and future residents of the City... by avoiding the deleterious effects of uncontrolled growth in the beach Overlay District and preserving the unique and diverse character of the Santa Monica oceanfront.

This purpose is achieved by limiting the proposed proliferation of excessive hotel, motel and large restaurant development within the Beach Overlay District. Such development ignores the need to preserve Santa Monica's greatest physical asset—its oceanfront setting, view, and access to coastal resources—and to maintain its beach and oceanfront parks as open recreational area for present and future generations.

Hotels, motels, and large restaurants are visitor-serving uses that provide public opportunities for coastal recreation and access. With the loss of areas for development of this sort of visitor-serving commercial recreational uses, the opportunities for developing visitor-serving uses generally in this beach front area are significantly reduced, and the City's ability to plan for increasing visitor-serving commercial recreational uses is significantly reduced due to the limited area in which such uses could be developed. With the loss of beach front areas that are suitable for visitor-serving development, the effects of Proposing S, and its limitations on developing visitor-serving uses, are much more

significant. For these reasons, it is all the more important that beach front property that is suitable for visitor-serving uses in this area should be reserved for such uses. To mitigate the effects of Proposition S it may be necessary to increase the level of scrutiny applied to proposals for residential development, or any other non-visitor-serving type of development, along the beach and encourage more visitor-serving uses in areas where visitor-serving uses are found to be appropriate.

In comments on past Commission permit actions, the City has stated that public facilities can encourage beach recreation just as well as restaurants and hotels, therefore, Proposition S does not necessarily prohibit the City from providing and enhancing visitor-serving facilities and beach access. This may be true, however, allowing recycling of residential uses with no provisions for visitor-serving facilities and access precludes the development of recreation and access facilities within the area. It may be necessary to provide additional public facilities on this beach in order to protect and enhance public access to the shoreline. The City's options on methods to increase recreational support facilities in light of Proposition S, include increasing privately operated facilities, requiring or encouraging redevelopment of lots with low priority uses to visitor-serving uses, or exploring an alternate program that allows the homeowners and residents who might benefit from less traffic, less beach visitors, and less visitor-resident conflicts, due to the absence of commercial support facilities, such as restaurants, hotels, and visitor-serving recreational commercial businesses, to provide a public facility network.

While City staff and coastal staff will continue to work together to develop policies for the Beach Overlay District to mitigate the potential adverse impacts to access and coastal recreation, there will continue to be a few residential developments proposed in areas where residential structures have been routinely approved in the past. However, because of the constraints placed by Proposition S on providing visitor-serving commercial recreational opportunities in the Beach Overlay District, approving residential development in this beach fronting area will have a particularly adverse individual and cumulative impact on access and coastal recreational opportunities, by reducing the opportunities to develop visitor-serving uses in the Beach Overlay District. The impact caused by development of low priority uses along this beach front area are made more severe by the restrictions of Proposition S. The project, as proposed, will preclude redevelopment of the site with a visitor-serving commercial use and perpetuate residential use of the lot, further limiting the City to provide additional visitor-serving uses in this area.

# D. <u>Visitor-Serving Commercial Recreation</u>

Section 30221 of the Coastal Act states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

#### Section 30222 of the Coastal Act states:

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

The applicant is proposing to demolish an existing 13-unit apartment building and construct a 5-unit condominium project. The proposed project site is a beach fronting property located between the pedestrian promenade (Ocean Front Walk) and the first public road (Appian Way) landward of the sea (see Exhibit No. 3).

In preliminary studies that led to the adoption of the Coastal Act, the Commission and the Legislature reviewed evidence that land uses directly adjacent to the beach were required to be regulated to protect access and recreation opportunities. These sections of the Coastal Act provide that the priority of new development near beach areas shall be given to uses that provide support for beach recreation. The Coastal Act requires that public coastal recreational facilities shall have priority over other types of development on any private land suitable for such use. Sections 30221 and 30222 give priority land use to visitor-serving commercial recreational facilities and general public recreational use on public and private oceanfront and upland areas where necessary.

Santa Monica beach is the most heavily used beach in the Los Angeles area and possibly in the State. According to the 1992 certified LUP, approximately 20 million visitors in any given year will visit Santa Monica beach, which is approximately 2 miles in length, and the area between the Pier and Pico Boulevard is the most active recreation-oriented area of the Santa Monica beach. The area between the Pier and Pico Boulevard provides a number of recreational actives that attract visitors to the area, such as, volleyball courts, gymnastic and exercise equipment, children's play area, pedestrian promenade, a chess park, and bike path. As the population continues to increase, use of this area and the rest of the Santa Monica beach area will also increase, placing a greater demand on recreational facilities and increasing the need for visitor- serving commercial and recreational type uses.

The 10,105 square foot property is located in an area that contains a mix of multiple-family residential, visitor-serving commercial development and State Beach parking lots. Along The Promenade, between the Pier and Pico Boulevard, there are 5 visitor-serving establishments, 2 commercial businesses, 5 multiple-family residential buildings, 1 hotel, and 3 State beach parking lots providing approximately 256 public parking spaces (see Exhibit No. 8). Immediately to the south of Pico Boulevard is the 129-room hotel Casa del Mar, (CDP #5-99-127). Immediately Inland of Appian Way, there are a few restaurants, motels and hotels, including the 340 rooms Loews Hotel (CDP #5-83-560) and the recently completed 175 room Le Merigot Hotel.

The proposed site is located along The Promenade and within close proximity to the Pier and beach hotels and, as situated, is suitable for visitor-serving commercial recreational

development. Preserving the subject lot for visitor-serving commercial recreational use would enhance coastal recreation and access in the area.

One of the basic Coastal Act goals is to maximize public recreation and access to the beaches. Permitting large lot residential development along the beach is clearly not maximizing public recreation and access. The proposed residential development is not a priority use and developing this lot with a use that will perpetuate residential use of the lot, will have adverse individual and cumulative impacts on coastal access and public opportunities for coastal recreation.

The applicant argues that the existing site is already developed with 13 residential units, and although the site will continue to be residential, the new development (5 units) will be less intense than the existing use. The Commission agrees that the site will be less intense and development with fewer units may reduce the adverse impact the residential development has on beach access and traffic; however, because the applicant is proposing to demolish the existing structure(s), the Commission must review the proposed development as new development and consider the impacts the proposed development will have on coastal resources as compared to any other development that could be located at the site (or no development), not as compared to what was previously there. Furthermore, by demolishing the existing residential structure on the site and improving the site with a new residential development on a site that, due to the location in relation to the visitor-serving Pier and the pedestrian promenade, is suitable for visitor-serving type uses, the proposed development could contribute to the establishment of a predominately residential beach front community and diminish the limited opportunities that are available for improving visitor-serving commercial recreational development to improve and maximize beach access.

Moreover, with more and more residential development encroaching into areas that attract large number of beachgoers, such as this area south of the Pier, the Commission has experienced conflicts between predominately residential communities and beachgoers. For example, in the north beach area, where it is predominately residential, and in other coastal communities, residents have tried to restrict the hours of operation of the beach and beach parking lots due to perceived conflicts. Cities, including the City of Santa Monica, have also proposed preferential parking zones in an attempt to minimize the conflicts between residents and beachgoers. Such conflicts usually result in limiting beach access to the general beach going public.

Beach parking in this area is limited and is currently heavily impacted by residents and beach goers because of the area's close proximity to the Pier and the mix of older residential development that lacks adequate on-site parking. Through the City's parking permit program, residents are allowed to purchase parking permits that allow them to park in the beach parking lots due to lack of on-site and street parking. With the issuance of residential parking permits and increase in beach attendance, allowing residential development will increase competition for public parking spaces in the surrounding area.

Allowing the beach fronting project site to be redeveloped with low priority residential use will have an adverse impact on access to, and recreational opportunities at, the beach by eliminating an area that could be developed with visitor-serving type uses, by generating non-visitor use type traffic along the beach area, and increasing competition for public onstreet and public beach lot parking spaces between beach goers, residents and residential visitors. Therefore, the Commission finds that the proposed project is inconsistent with Section 30221 and 30222 of the Coastal Act and denies the permit.

# E. Local Coastal Program

Section 30604 of the Coastal Act provides, in part:

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

In August 1992, the Commission certified, with suggested modifications, the land use plan portion of the City of Santa Monica's Local Coastal Program, excluding the area west of Ocean Avenue and Neilson Way (Beach Overlay District), except for the Santa Monica Pier, and excluding the Civic Center. On September 15, 1992, the City of Santa Monica accepted the LUP with suggested modifications. The proposed project, which is located west of Neilson Way, is not covered under the 1992 certified LUP.

The area within the Beach Overlay District was excluded from certification due to Proposition S discouraging visitor-serving uses along the beach, resulting in an adverse impact on coastal access and recreation. In deferring this area the Commission found that, although Proposition S and its limitations on development were a result of a voters' initiative, with Proposition S in effect, the policies of the City's proposed LUP were inadequate to achieve the basic Coastal Act goal of maximizing public access and recreation to the State beach within the Beach Overlay District area, and they would not ensure that development would not interfere with the public's right of access to the sea.

In a previous Commission LUP action, in 1987 and prior to the passage of Proposition S, the Commission certified, with suggested modifications, a LUP that included the area presently known as the Beach Overlay District. In certifying the 1987 LUP, the Commission found that the LUP, as submitted, would result in adverse impacts on coastal access and recreational opportunities and, therefore, denied the LUP as submitted, and approved it with suggested modifications to mitigate any adverse impacts. One of the suggested modifications required that the subarea south of the Santa Monica Pier to Pico Boulevard shall be devoted to visitor-serving uses. Residential uses were permitted in the area, but only above the ground floor of visitor-serving uses. The Commission found that

the modification was necessary to assure that the lower priority land use of private residential development would not adversely impact the public beach parking supply and that higher priority recreational and visitor-serving use is not replaced by private residential development. The 1987 Commission certified LUP, with modifications, was never adopted by the City. Subsequently, in 1992 the City submitted a new LUP with policies covering the area between the Pier and Pico Boulevard. One of the policies proposed by the City reflected the Commission's 1987 suggested modification that prohibited residential development on the ground floor between the Pier and Pico Boulevard. However, by that time, the area was within the Beach Overlay District and the area was, therefore, deferred from certification for the reasons indicated above.

The subject site, because of its proximity to the Pier, pedestrian promenade, hotels and State beach parking lots, is suitable for visitor-serving commercial recreational development. Developing this site and others in the general area with low priority type uses, such as residential uses, will preclude this area from being developed with higher priority type uses, such as public coastal recreational facilities and visitor-serving commercial, which would enhance public beach access and recreational opportunities. The Commission, therefore, finds that the proposed project is inconsistent with the Chapter 3 policies of the Coastal Act and will prejudice the ability of the City to prepare Land Use Plan policies for the Beach Overlay District (deferred area) and a Local Coastal Program implementation program consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a) of the Coastal Act. Therefore, the proposed project is denied.

### F. CEQA

Section 13096 of the Commission's 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 impact, which the activity may have on the environment.

Under the City's current zoning (R3R—Medium Density Multiple Family coastal Residential District) for the project site, the applicant can develop the site with non-residential uses, which will have less of an adverse impact on coastal access and recreation, than the proposed use. The applicant has the option of developing the site with visitor-serving uses, such as, a Bed and Breakfast facility, bicycle and skate rental facilities, or a public park and playground. These type of developments would enhance access in the area by providing the public with visitor-serving type uses. Another option available to the applicant is to have the City rezone the property to allow additional visitor-serving uses, such as, restaurants and retail shops, which are prohibited under the current zoning.

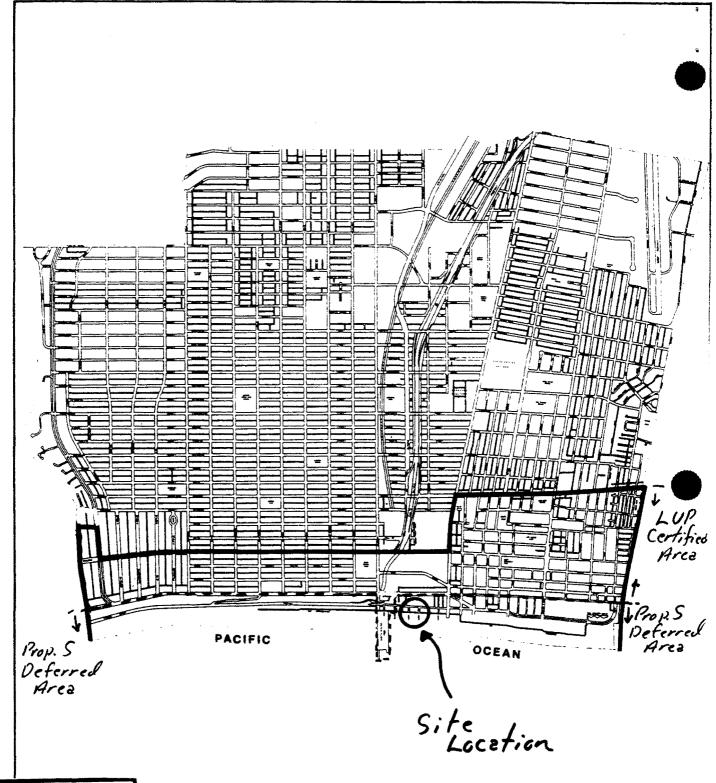
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These development alternatives would increase coastal access and coastal recreational opportunities in this area consistent with the policies of the Coastal Act and will be less environmentally damaging than the proposed residential development.

Furthermore, as an additional option, under the current zoning, the applicant can renovate the existing residential structure(s) and continue the existing residential use. Although this residential option would preclude visitor-serving or recreational use of the site, renovation of the structures would be exempt from Coastal permit requirements, therefore, this option is a viable alternative for the property owner.

Therefore, the Commission finds that the proposed project is not the least environmentally damaging feasible alternative and the project cannot be found consistent with CEQA and the policies of the Coastal Act.





Application Number

5-02-1/3

Coeste/Zone

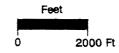
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California Coastal commission

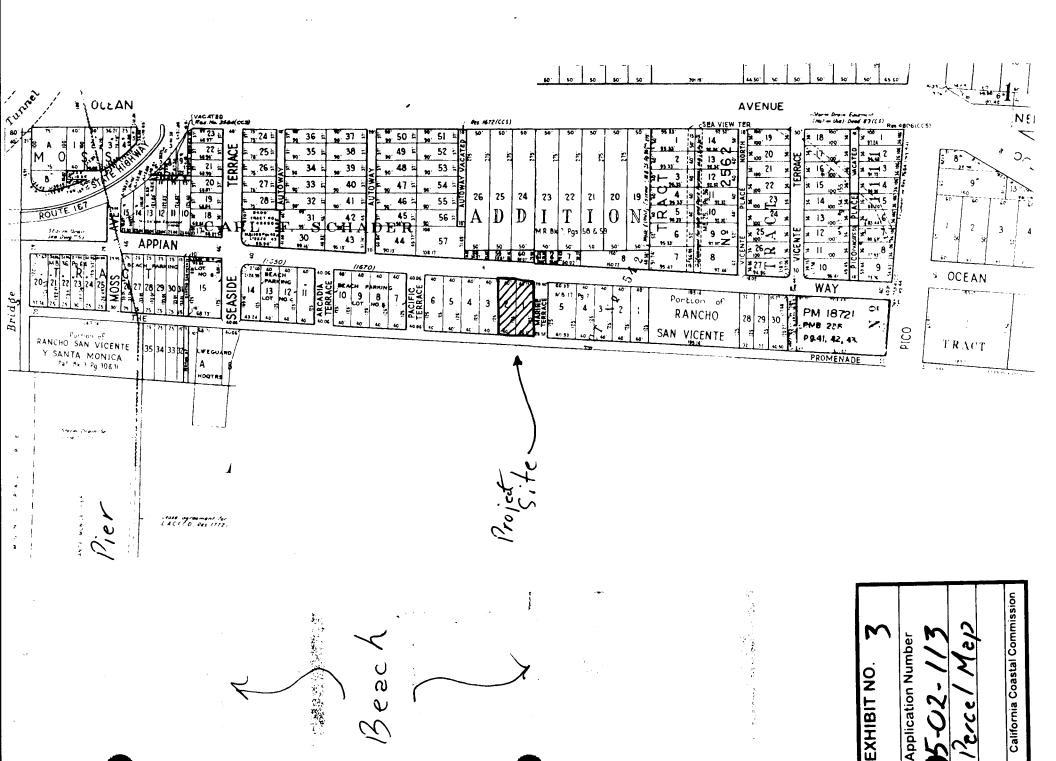
MAP 3

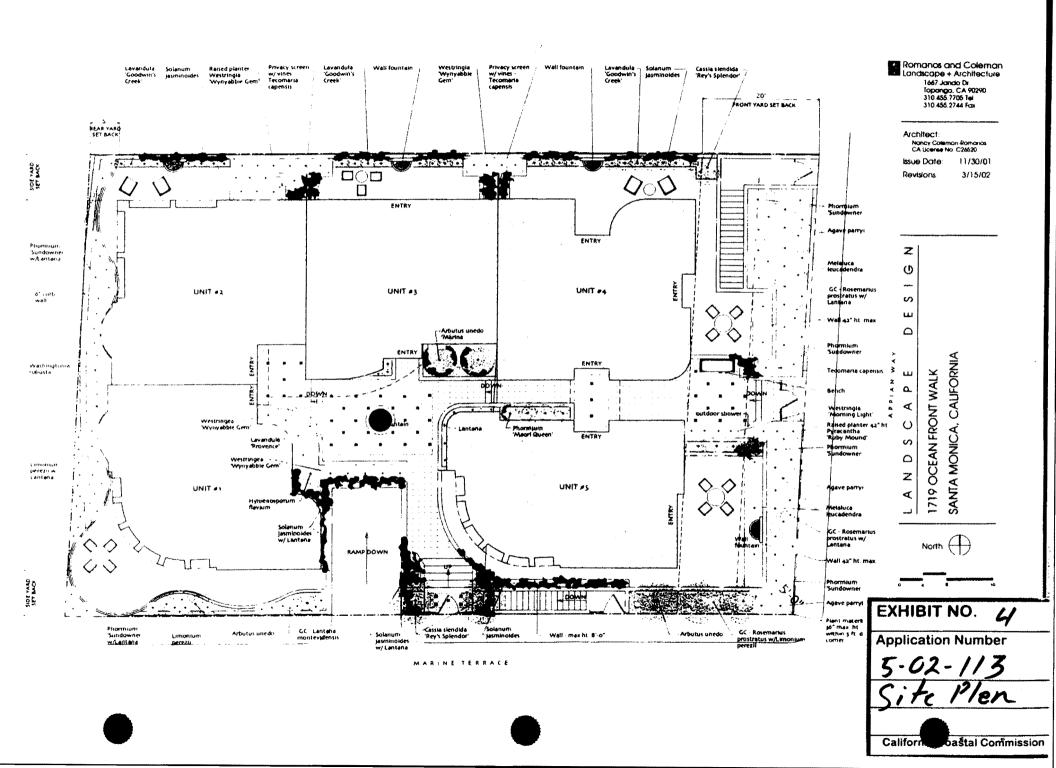
# Santa Monica Coastal Zone

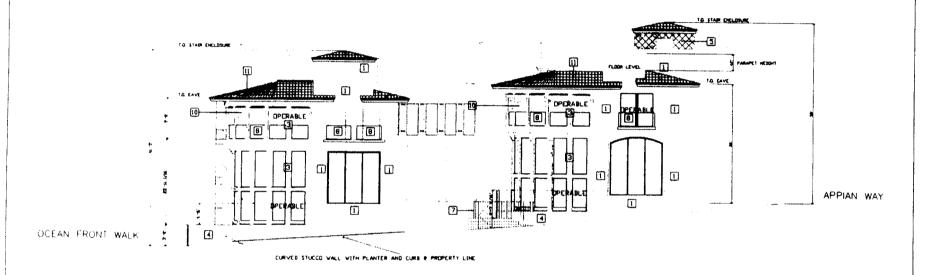
SANTA MONICA LOCAL COASTAL PROGRAM











SOUTH ELEVATION

- CREAN-2152-70 BENJANIN NOORE
   Princry point color on all exterior elevations
   Smooth steel tropeled stucco finish
- RUST-2175-30 BENJAMIN MODEL Secondary point color on selected exterior elevations Smooth steel traveled stucco finish
- FAIRVIEW TAUPE HC85 BENJAMIN MOCRE
  Painted steel columns to match steel windows
- 4 CREAR-2:52-70 BENJAMIN NOORE Primary point color on all exterior elevations Snooth steel traveled stucco finish Structure base

- (5) CERAMIC TILE 6" + 6"- ANN SACKS REFLECTION SV06 Star tower 83 upper surround
- FAIRVIEW TAUPE HORS BENJAMEN HOOSE Prinary steel door and whole frames
- FAIRVIEW TAUPE HC85 BEHJAMIN MODRE Decorative security fence and gates
- GLASS LOF CLEAR GLASS LOF CLEAR SHEEther guarded and pasting

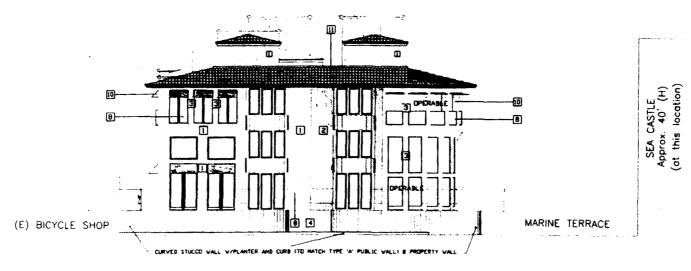
- SUNBRELLA ROYAL BLUE 4617
- TERMACUITA ROOF TILES
- LIMESTONE BURGLINDY 18' x 18' PAVERS Plaze surface and stair hordscape
- CERANIC TILE 3" x 3" ANN SACKS REFLECTION SWOI Accent paying naterials

EXHIBIT NO.

**Application Number** 

5-02-113

California Coastal Commission



WEST ELEVATION

- [] CREAN-2152-76 BENJANIN HOORE Privary paint color on all exterior elevations Smooth steel traveled stucco finish
- RUST-2175-30 BENJANIK HOURE Secondary paint color on selected exterior elevations Smooth steel traveled stucco firesh
- FAIRVIEW TAUPE HC85 MENJANIN HOURE Painted steel columns to match steel windows
- [4] CREAM-2132-70 BENJAMIN MODRE Privary point color on all exterior elevations Smooth steel traveled stucco finish Structure base

- State tower 85 upper surround
- FAIRVIEW TAUPE HC85 BENJAMIN MEGRE Privary steel door and window frames
- [7] FAIRVIEW TAUPE HC85 BEHJANIH HOORE Decorative security fence and gates
- GLASS LOF CLEAR TO GLASS LOF CLEAR Selective guerdinals window glazing

- SUMBRELLA ROYAL BLUE 4617 Cenves amings
- TERRACOTTA ROOF TILES ROOF THES
- LINESTINE BURGUNDY 18" x 18" PAVERS
  Please surface and stair hardscape
- CEMANIC TILE 3" x 3" ANN SACKS REFLECTION SVOK Accent paying materials

EXHIBIT NO.

**Application Number** 

5-02-113

West Elevation

California castal Commission

