

CALIFORNIA COASTAL COMMISSION

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Staff Report: 6/16/03
Hearing Date: 6/11-13/03
Commission Action:

STAFF REPORT: Request for Reconsideration**APPLICATION NUMBER:** 5-02-380R**APPLICANT:** City of Santa Monica**PROJECT LOCATION:** Area bounded by and including Montana Avenue, Fourth Street, Wilshire Boulevard, and Ocean Avenue, in the City of Santa Monica**PROJECT DESCRIPTION:** Applicant is requesting a reconsideration of a Commission approved permit, with conditions, for the establishment of a residential preferential parking zone with no parking or stopping between the hours of 6:00 p.m. to 8:00 a.m. without a permit; and the erection of signs identifying the hours of the parking restrictions and demarcating the restricted areas (Zone UU).**COMMISSION ACTION AND DATE:**

The Commission approved the Coastal Development Permit no. 5-02-380, with special conditions, on January 9, 2003. Revised Findings supporting the Commission's action on January 9, 2003, were approved by the Commission on April 8, 2003.

SUMMARY OF STAFF RECOMMENDATION:

At the Commission's January 9, 2003 hearing, the Commission approved the City of Santa Monica's application for the establishment of a residential preferential parking zone with no parking or stopping between the hours of 6:00 p.m. to 8:00 a.m. without a permit; and the erection of signs identifying the hours of the parking restrictions and demarcating the restricted areas (Zone UU). In response to arguments and evidence presented by representatives of the Embassy Hotel Apartments ("Embassy Hotel") at the hearing, the Commission included a condition in the permit requiring the City to make parking permits for Zone UU available to establishments within the zone that provide affordable lodging accommodations but have no on-site visitor parking.

The applicant asserts that there is new evidence and errors of law in the Commission's decision to approve, with special conditions, the proposed development in that 1) the Commission does not have jurisdiction over preferential parking; 2) the Commission lacked the authority to take any executive action because of an alleged separation of

powers violation; 3) equitable considerations should preclude the Commission from asserting jurisdiction over the proposed permit parking zones since, with Commission's knowledge, the City in the past created permit parking zones without coastal permits; and 4) the Embassy Hotel is not "Affordable" lodging as argued at the hearing. For these reasons, the applicant asserts that there were errors of law and fact upon which the Commission based its decision and new evidence that has the potential of altering the Commission's initial decision.

Commission Staff concludes that there is no relevant new evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing, nor has an "error of fact" or "error of law" occurred which has the potential of altering the Commission's initial decision. Therefore, staff recommends that the Commission reach the same conclusion and deny the reconsideration request.

PROCEDURAL NOTE:

The Commission's regulations provide that at any time within thirty (30) days following a final vote upon an application for a coastal development permit, the applicant of record may request that the Commission grant a reconsideration of the denial of an application, or of any term or condition of a coastal development permit which has been granted. Title 14, Cal. Code of Regulations, § 13109.2; see also Cal. Pub. Res. Code § 30627(a) and (b).

The regulations also state (*id.* at § 13109.4) that the grounds for reconsideration of a permit action shall be as provided in Coastal Act Section 30627, which states, *inter alia*:

The basis of the request for reconsideration shall be either that there is relevant new evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing on the matter or that an error of fact or law has occurred which has the potential of altering the Commission's initial decision.

Cal. Pub. Res. Code § 30627(b)(3). Section 30627 (b)(4) of the Coastal Act also states that the Commission "shall have the discretion to grant or deny requests for reconsideration."

The applicant submitted a request for reconsideration of the Commission's January 9, 2003 decision on February 7, 2003, stating its claims within the 30-day period following the Commission's final vote, as required by Section 13109.2 of the regulations. If a majority of the Commissioners present vote to grant reconsideration, the permit application will be scheduled for an upcoming hearing, at which the Commission will consider it as a new application. Title 14, Cal. Code of Regs., Section 13109.5(c).

Summary of Applicant's Contentions

The request for reconsideration is based on the assertions that "errors of fact and law" have occurred, and that there is new evidence, which in the exercise of reasonable diligence, could not have been presented at the hearing on the matter, that could potentially alter the Commission's initial decision (see Exhibit No.1 and 2). The applicant states:

1. *The State legislature has taken the power to regulate parking on city streets from the State and given it to cities.*
2. *Apart from the mandate of Vehicle Code Section 22507(a), the California Coastal Commission presently lacks the authority to require that the City obtain a coastal permit since the process for appointing voting members of the Commission violates the separation of powers doctrine.*
3. *Even if the law did not clearly authorize all cities to regulate street parking and prevent the commission from doing so, considerations of equity should preclude the commission from depriving the city of the jurisdiction over permit parking zones created years ago through a public process with the commission's knowledge.*
4. *Santa Monica's record of staunchly protecting coastal access belies any argument for a strained statutory interpretation designed to give the commission jurisdiction over parking on city streets.*
5. *The Embassy Hotel's assertion that it deserves protection under the Coastal Act because it constitutes affordable lodging that will be forced to close if it does not obtain preferential parking should be rejected on reconsideration because it is unsupported and because new evidence shows that it is not, in fact, affordable.*
6. *The City is in the process of evaluating an amendment to its preferential parking zone ordinance to include an exemption for designated historic landmarks located in residential zones...While the ordinance has not yet been adopted and the Embassy hotel has not yet been determined to be a landmark, the City requests that the Coastal Commission suspend the embassy condition for a minimum of six months in order to give deference to local law and to permit the City to attempt to resolve this matter administratively.*

STAFF RECOMMENDATION:

MOTION: *I move that the Commission grant reconsideration of Coastal Development Permit No. 5-02-380R*

STAFF RECOMMENDATION TO DENY RECONSIDERATION:

Staff recommends a **NO** vote on the motion. Failure to adopt the motion will result in denial of the request for reconsideration and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

RESOLUTION TO DENY RECONSIDERATION:

The Commission hereby denies the request for reconsideration of the Commission's decision on coastal development permit no. 5-02-380 on the grounds that there is no relevant new evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing, nor has an "error of fact" or "error of law" occurred which has the potential of altering the Commission's initial decision.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description and Location

On January 9, 2003, the Commission approved, with special conditions, the proposed development that is subject to this reconsideration request. The proposed development included the establishment of a residential preferential parking zone with no parking or stopping between the hours of 6:00 p.m. to 8:00 a.m. without a permit; and the erection of signs identifying the hours of the parking restrictions and demarcating the restricted areas along the following described streets within the City of Santa Monica:

Ocean Avenue, 2nd Street, 3rd Street and 4th Street between Wilshire Boulevard and Montana Avenue; and Montana Avenue, Idaho Avenue, Washington Avenue, California Avenue, between Ocean Avenue and 4th Street.

The permit was approved with four special conditions. The conditions included 1) prohibiting parking restrictions along any portion of Ocean Avenue; 2) a requirement to provide parking permits to commercial establishments within the zone that provide affordable overnight accommodation and do not provide on-site parking (with the permits to be used by their guests); 3) a five year expiration of the program and reapplication requirement; and 4) a requirement that any future changes to the program will require an amendment.

The proposed zone is mainly located in the City of Santa Monica's North Side Residential planning area. Lots located along the north side of Wilshire Boulevard are within the Downtown planning area. The proposed zone is generally situated just north of the City's

downtown business district and east of Palisades Park, a mile long linear bluff top park. The nine streets within and affected by the proposed zone provide approximately 881 curbside parking spaces, with parking on both sides of the streets (132 parking spaces on the west side of Ocean Avenue, and 47 spaces along Wilshire Boulevard, within the boundaries of the zone, are not included in the total since the west side of Ocean Avenue and all of Wilshire Boulevard would not be affected by the restrictions). The coastal zone boundary in this area is 4th street.

The preferential parking zone extends approximately 3 to 5 blocks from the beach and is located within a high-density residential neighborhood and just north of the City's Third Street Promenade (downtown outdoor shopping and entertainment area). The majority of the residential structures are older structures built between the 1920's and 1950's. These structures have no or limited on-site parking. The structures in the area that provide on-site parking have inadequate parking, based on current standards. In addition to the residential development, there are five hotels located within the proposed district.

B. Grounds for Reconsideration

Pursuant to Section 30627 (b)(4) of the Coastal Act, the Commission has the discretion to grant or deny requests for reconsideration. Section 30627(a)(1) states that the Commission shall develop procedures for deciding whether to grant reconsideration of any decision to deny an application for a coastal development permit, and shall follow those procedures in making that decision.

Section 30627 (b)(3) states in relevant part that the valid bases for a request for reconsideration include (1) "that an error of fact or law has occurred" that could alter the Commission's initial decision or (2) that there is "relevant new evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing on the matter". If the Commission votes to grant reconsideration, it will consider the permit application as a new application at a subsequent hearing.

C. Issues Raised by the Applicant

The applicant asserts that the Commission has committed the following errors of law and/or fact and that the following relevant new evidence exists:

Applicant's Assertion

1. *The State legislature has taken the power to regulate parking on city streets from the State and given it to cities. California Vehicle Code Section 22507(a) states:*

Local authorities may, by ordinance or resolution, prohibit or restrict the stopping, parking, or standing of vehicles, including, but not limited to, vehicles that are six feet or more in height (including any load thereon) within

100 feet of any intersection, on certain streets or highways, or portions thereof, during all or certain hours of the day. The ordinance or resolution may include a designation of certain streets upon which preferential parking privileges are given to residents and merchants adjacent to the streets for their use and the use of their guests, under which the residents and merchants may be issued a permit or permits that exempt them from the prohibition or restriction of the ordinance or resolution. With the exception of alleys, the ordinance or resolution shall not apply until signs or markings giving adequate notice thereof have been placed. A local ordinance or resolution adopted pursuant to this section may contain provisions that are reasonable and necessary to ensure the effectiveness of a preferential parking program.

This claim alleges an error of fact or law. This issue was addressed in the Commission's staff report and raised by the applicant during the public hearing. The applicant also expressed this view in their submittal letter which was made part of the permit application. Furthermore, the applicant has expressed this position on eight previously submitted coastal development permit applications for other preferential parking zone proposals within the City of Santa Monica (coastal development permit Nos.: 5-99-219, 5-99-45 through 51).

Although the State's Vehicle Code may provide cities with the ability to create preferential parking zones, this authority is permissive and non-exclusive. In other words, although it may be true that the Vehicle Code gives cities this power, it is not true, as the City claims, that the Vehicle Code "has taken the power . . . from the State." The language quoted by the City in no way eliminates the requirements of other applicable state laws such as the Coastal Act.

Section 30600 of the Coastal Act requires a local government wishing to undertake development in the coastal zone to obtain a coastal development permit. Pursuant to Section 30106 of the Coastal Act, the term "development" includes a change in the "intensity of use of land"; a "change in the intensity of use of water, or of access thereto"; and "the placement . . . of any solid material or structure" on land. In this instance the change in intensity of use of land is converting the on-street parking spaces from public spaces to private residential spaces, i.e. a change in use from a public use, to a private residential use, which in this instance is located on public property. In addition, the fact that fewer people are allowed to park in the affected spaces is a change in the intensity of use of the spaces. A change in intensity of use of access to the water will also result from the creation of a preferential parking district (zone) by prohibiting public parking and completely limiting the amount of time one can park on a public street adjacent to the beach. Finally, the placement of the parking signs implementing the district also constitutes development because it involves the placement of solid materials on land.

The Commission has consistently maintained that the establishment of preferential parking programs constitutes development and could adversely impact public access to public beaches and other coastal recreational areas. In past permit actions, the Commission has

consistently found that public access includes not only pedestrian access but also the ability to drive into the coastal zone from an inland community and park in order to access and view the shoreline. The impacts of each zone may vary depending on location, hours, boundaries, and coastal and recreational facilities in the area. Therefore, each preferential parking zone needs to be analyzed on a case by case basis to determine the zone's impact to beach access and its consistency with the Coastal Act.

The City argues that interpreting Coastal Act section 30106 to define "development" to include parking would create a conflict between the Public Resources Code and the Vehicle Code, but this is not so. The simple answer as to why there is no such conflict is, as stated above, that the two codes each provide independent authority. Interpreting the two codes to give concurrent authority to municipalities and the Coastal Commission is not a conflict. If it were, there would also be a conflict between the Government Code and the Public Resources Code, since the former gives municipalities control over subdivisions of land, and the latter gives the Commission similar authority. Indeed, State law is replete with examples of concurrent state and local authority over myriad different issues. Thus, there is no conflict in the fact that the Vehicle Code gives municipalities control over preferential parking programs and the Public Resources Code gives the Commission similar control.

The City cites Friedman v. City of Beverly Hills, 54 Cal. Rptr. 2d 882 (1996), in support of its claim that the Legislature, in adopting Vehicle Code section 22507, intended to divest the State of its role in regulating parking. However, Friedman did not involve a contest between a state agency and a local agency. It involved a challenge by a private party to a city resolution granting preferential parking to residents and not to merchants. Although the portion of the case cited does contain the words "the state has decided to turn over regulation of parking minutiae to localities," *id.* at 885, when read in context, it is clear that the court was speaking of the Legislature's decision to allow municipalities to regulate local parking issues rather than to regulate them legislatively, through the Vehicle Code. That is a very different proposition from the claim that the Legislature intended to divest every executive agency that might, under its organic statute, have a role in the control of parking of its authority to exercise that control.

Moreover, although Vehicle Code section 22507 has been substantially amended, its basic structure has been in place since the 1960's, and it certainly was in place at the time the Coastal Act was adopted. Thus, when the Legislature endowed the Coastal Commission with specific control over parking issues, it did so fully aware that a section of the Vehicle Code then stated:

Local authorities may, by ordinance or resolution, prohibit or restrict the parking, or standing of vehicles on certain streets or highways, or portions thereof during all or certain hours of the day.

Had the Legislature intended this section to divest all state agencies of any control over parking, it would not have put specific parking provisions into the Coastal Act. Finally, the second sentence of Vehicle Code section 22507, specifically relating to preferential parking

privileges, was adopted in 1976, at the same time the Legislature was adopting Coastal Act sections such as sections 30212.5 and 30252, specifically giving the Commission authority over parking.

This issue was adequately addressed by the Commission, and the Commission committed no error of fact or law in making its decision. Therefore, this claim does not supply a basis on which to grant the applicant's reconsideration request.

Applicant's Assertion

2. *Apart from the mandate of Vehicle Code Section 22507(a), the California Coastal Commission presently lacks the authority to require that the City obtain a coastal permit since the process for appointing voting members of the Commission violates the separation of powers doctrine.*

Staff Analysis

The applicant is referring to the recent Marine Forests Society v. California Coastal Commission decision, 104 Cal. App. 4th 1232, 128 Cal. Rptr. 2d 869 (2002) rev. granted, 132 Cal. Rptr. 2d 527 (2003). The appeals court ruled that the California Coastal Commission is unconstitutionally constituted for an executive branch agency because the process for appointment of voting members violates the separation of powers doctrine in the state constitution, and because of this, the court ruled the Commission could not exercise executive functions, such as the granting or denying of coastal permits. However, the Commission believes that case was wrongly decided, that the Commission's appointment structure does not violate the separate of powers doctrine, and that the Commission has had, and continues to have, authority to issue permits and exercise all other executive branch functions for which it has statutory authorization. Accordingly, the Commission petitioned the California Supreme Court for review of that decision, and the Supreme Court recently granted that petition. Id. Thus, the appellate court ruling has been automatically depublished (see California Rule of Court 976(d)), is not binding, and is of no precedential value. Therefore, this claim does not supply a basis on which to grant the applicant's reconsideration request.

Applicant's Assertion

3. *Even if the law did not clearly authorize all cities to regulate street parking and prevent the commission from doing so, considerations of equity should preclude the commission from depriving the city of the jurisdiction over permit parking zones created years ago through a public process with the commission's knowledge.*

Staff Analysis

The City indicates that the City has been adopting preferential parking districts since 1983 with the Commission's staff knowledge and approval. The City refers to purported telephone conversations with Commission staff in 1983, and the City's subsequent adoption of preferential parking zones within the coastal zone without Commission approved coastal permits.

This statement has been made in past Commission permit actions involving preferential parking in the City of Santa Monica. The City has stated that in 1983, Commission legal staff confirmed that permits were not required for the establishment of preferential parking zones. The City included a City interoffice memo (dated September 3, 1983) stating that they spoke to Commission legal staff regarding preferential parking and that legal staff at the Commission told them that a permit would not be required. The City has not provided Commission staff with any evidence of written correspondence between Commission staff and City Staff addressing this issue, and Commission staff has not found any record of such correspondence with the City. Instead, staff has located two legal staff letters written, during the same period, in 1983, to other municipalities, which clearly state that a coastal development permit is required in order to establish a preferential parking program. In 1983, the Commission's staff counsel sent a letter to Santa Barbara's Office of the City Attorney (12/19/83) in response to the City's inquiry regarding whether or not a coastal development permit would be required for the establishment of a preferential parking program within the coastal zone of the City of Santa Barbara. The letter from Staff Counsel states, in part, that the establishment of preferential parking zones and the erection of signs is considered development and that the Commission has jurisdiction over the establishment of such zones/districts. Again in 1983, another Commission staff counsel sent a letter to the City of Santa Cruz (9/29/83) concluding that a coastal development permit must be issued to authorize the proposed Beach Flats Residential Parking Program.

The Commission has acted on numerous preferential parking programs over the last 20 years and has consistently asserted jurisdiction over the establishment of preferential parking zones/districts. Since 1996, the Commission has reviewed and acted on nine separate coastal development permit applications (coastal development permit Nos.: 5-96-059, 5-99-219, 5-99-45 through 51) for eight preferential parking programs for the City of Santa Monica. The Commission has consistently maintained that the establishment of preferential parking programs constitutes development and could adversely impact public access to public beaches and other coastal recreational areas; therefore, such development requires a coastal development permit.

Since this assertion has been raised by the City in previous Commission permit action, the City has been aware of our position since, at least, 1996. When the City submitted this application they were fully aware of the Commission's position. Therefore, this is not relevant new information that could not have been presented at the hearing nor is it an error of fact of law, which has the potential of altering the Commission's initial decision.

Therefore, this claim does not supply a basis on which to grant the applicant's reconsideration request.

Applicant's Assertion

4. *Santa Monica's record of staunchly protecting coastal access belies any argument for a strained statutory interpretation designed to give the commission jurisdiction over parking on city streets.*

Staff Analysis

As stated the grounds for reconsideration of a permit, as provided in Coastal Act Section 30627, is either that there is relevant new evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing on the matter or that an error of fact or law has occurred which has the potential of altering the Commission's initial decision. The City's history of providing and protecting public beach access throughout the City's coastal zone is not grounds for reconsideration. Therefore, this claim does not supply a basis on which to grant the applicant's reconsideration request.¹

Applicant's Assertion

5. *The Embassy Hotel's assertion that it deserves protection under the Coastal Act because it constitutes affordable lodging that will be forced to close if it does not obtain preferential parking should be rejected on reconsideration because it is unsupported and because new evidence shows that it is not, in fact, affordable.*

Staff Analysis

The Embassy Hotel is a 38-unit apartment/hotel built in 1927 and located on 3rd Street in the proposed preferential parking zone. Half of the Embassy Hotel's 38 units (19 units) are operated as hotel rooms for short-term visitors, and the other half are operated as apartments. The apartment/hotel is situated approximately three blocks from Palisades Park and four and half blocks from the beach. The hotel does not have on-site parking.

At the Commission's January 9 hearing, representatives of the hotel objected to the proposed parking restrictions because the City's preferential parking program ordinance does not allow parking permits to be issued to non-residential uses, so none could be issued to the Embassy Hotel for its hotel guests. Because of the City's restrictions, the hotel representative argued that the parking restrictions would adversely impact coastal

¹ There is some indication in the City's letter that the City raises this issue in support of its first argument, as a policy reason why the Commission should not interpret "development" to include control over parking. Even if the Commission were to consider issues of comity in deciding close questions of Coastal Act interpretation, it does not consider the question of its authority over preferential parking zones to be a close question.

access by eliminating street parking for their hotel guests that come to enjoy the coast, thus discouraging people from staying at the hotel in the first place as a means of visiting the coast, and possibly even causing the Embassy Hotel to stop providing 19 rooms as hotel rooms. The representatives further argued that the Commission should require the City to provide permits for hotel guests to protect the affordable lodging facility.

The Embassy Hotel representative stated that hotel units within the Embassy Hotel are available to the public at rates that are both affordable and substantially lower than most comparable units in other Santa Monica hotels within the proposed preferential parking zone. The Embassy Hotel representative, at the Commission's public hearing, stated that room rates range from \$100 to \$200 per night, but that some of these rates are for unusually large rooms with substantial amenities. Moreover, the rates are negotiable, with negotiable room rates offered as low as \$75 per night. Because of the offered room rates, and proximity to the beach and other visitor destinations, the hotel rooms provide visitors easy and affordable access to the coast. The inability of the hotel guests to park in the immediate area will impact the hotel and consequently impact beach access by discouraging visitor use of the hotel that offers low rates as compared to other hotels in the area, and possibly even affecting the hotel's viability. Furthermore, the hotel was built prior to the Coastal Act in 1927, and because of the era in which it was built, on-site parking was not required. As a result, hotel guests have continuously relied on the adjacent on-street parking. If preferential parking is allowed for permanent residents only, hotel guests will not have convenient parking, and lack of nearby parking may adversely impact the hotel by reducing the number of visitors using the hotel.

After public testimony and Commission discussion, the Commission approved the coastal permit with a condition that required the City to provide parking permits for use by commercial facilities, within the preferential parking zone, that provide affordable lodging but have no on-site parking. The Commission found that in this particular case the hotel presented unique circumstances that must be considered in determining the impacts of the preferential parking zone, with regards to public coastal access.

The applicant asserts that the Commission relied on erroneous information presented by the Embassy Hotel owner and representative in making its decision. The applicant states that representatives of the Embassy Hotel incorrectly described the hotel as an affordable lodging facility that should be protected under the Coastal Act and the City's Local Coastal Program Land Use Plan. The applicant asserts that the claim that this hotel is affordable is based on 1980's rates and that the hotel owner failed to provide evidence that the hotel's current rates qualify as affordable lodging.

Furthermore, the City disputes the claim that rates are negotiable and offered as low as \$75.00, as claimed by the hotel owner. The City's Planning Director provided a declaration (see City's February 7, 2003 letter, Exhibit B, attached as Exhibit No. 1 of this report) stating that the City acquired evidence after the hearing, which shows that the Embassy Hotel is not "affordable" within the definition approved by the Coastal Commission in October 1989. The City asserts that on various occasions residents and

City staff have called the hotel and attempted to obtain the lower rate, but were denied any lower rates than advertised. The City has submitted three declarations, one from a Santa Monica resident and two from Code Compliance Officers for the City, that indicate that on three separate occasions the hotel failed to provide lower rates than advertised (see City's May 15, 2003 letter, exhibit B, attached as Exhibit No. 2 of this report).

The definition of "affordable" referred to by the City's Planning Director, is one established by the City in a 1990 City ordinance (ordinance no. 1516) that established mitigation fees for the removal of low-cost lodging accommodations in the Coastal Zone. Based in part on an economic study (The Policy Rationel for Economy Lodging in the City of Santa Monica) that was prepared for the City in 1988, the City developed a price range to determine the type of hotels that would constitute low-cost lodging accommodations for the City, in order to protect their existing stock of low-cost lodging accommodations through mitigation fees, pursuant to Section 30213 of the Coastal Act, which states that "Lower cost visitor and recreational facilities shall be protected, encouraged, and where feasible, provided". The definition, or rates for low-cost lodging, was based on rates generally charged by a motel such as, Motel 6, Super 8 Motel, or other comparable lodging facility. The Planning Director argues that by this definition, lodging facilities within the City's coastal zone which charge less than \$79 per night are considered affordable. Based on this historical definition, the Embassy Hotel would not meet the definition of affordable lodging.

In two specific cases [5-90-928(Maquire Thomas Partners) and 5-99-169 (Maquire Partners)] where applicants sought authorization from the Commission to remove existing lodgings from the Coastal Zone, the Commission deferred to the formula in the City ordinance in concluding that the lodging at issue was affordable.

Although the City is correct in that the Embassy Hotel's advertised rates do not meet this definition of affordability, the Commission is not bound by this standard in assessing whether loss of overnight accommodations would violate section 30213 of the Coastal Act. Thus, in making its findings for this preferential parking program, the Commission did not rely on the hotel being affordable based on the definition, but rather, given the location and the current price range, the Commission considered this hotel as affordable for the given area. Nor was the Commission's conclusion based on 1980's rates, but on the current rates and the current conditions in the area. Finally, it was not based on the claimed availability of a negotiated rate of \$75 per night, so the evidence that such rates are not available is not relevant new evidence.

By declining to define the phrase "lower cost," the Coastal Act left it within the Commission's discretion to determine what constitutes a lower cost facility. The Commission's conclusion that the Embassy Hotel provides lower cost lodging was within the reasonable exercise of that discretion and was based on current data. It therefore does not constitute an error of fact or law. Moreover, the Embassy Hotel's advertised rates were presented at the hearing, so they do not constitute "relevant new evidence," much less relevant new evidence that the City could not have provided at the hearing.

The Commission found that the provision of affordable lodging accommodations near the coast is an essential element in preserving access to the coast, and the provision of adequate parking is an essential element of the functioning of businesses providing such accommodations. Because of the offered room rates, and proximity to the beach and other visitor destinations, the hotel rooms provide visitors easy and affordable access to the coast. The inability of the hotel guests to park in the immediate area will impact the hotel and consequently impact beach access by discouraging visitor use of the hotel that offers low rates as compared to other hotels in the area, and possibly even affecting the hotel's viability. Furthermore, the hotel was built prior to the Coastal Act in 1927, and because of the era in which it was built, on-site parking was not required. As a result, hotel guests have continuously relied on the adjacent on-street parking. If preferential parking is allowed for permanent residents only, hotel guests will not have convenient parking, and lack of nearby parking may adversely impact the hotel by reducing the number of visitors using the hotel.

The City further argues that the lodging facility will not be forced to close due to lack of parking if the hotel is not allowed to obtain preferential parking permits for their guests, as stated by the hotel's representative during the hearing. The City states that there are a number of available parking options available to the hotel, which were addressed in a January 2, 2003, City Information Item report to the City Council. Therefore, the claim by the hotel that they would be forced to close was erroneous information that the Commission relied on in requiring the City to provide parking permits to the commercial facility.

Although the Commission was concerned with the ability of hotel guests to park near the hotel, parking options for hotel guests, such as the nearby parking structures, were mentioned in the staff report and during the public hearing. The Commission found that without nearby street parking, parking for hotel guests would be inconvenient for hotel guests, which could impact people's decision to stay at this hotel. The Commission did not find that the lack of street parking would put the hotel out of business. Furthermore, any other parking options that were addressed in the City's Information Item report necessarily constitute information that could have been presented to the Commission at the hearing by the City.

Therefore, this is not relevant new information that could not have been presented at the hearing nor is it an error of fact of law, which has the potential of altering the Commission's initial decision. Therefore, this claim does not supply a basis on which to grant the applicant's reconsideration request.

Applicant's Assertion

6. *The City is in the process of evaluating an amendment to its preferential parking zone ordinance to include an exemption for designated historic landmarks located in residential zones...While the ordinance has not yet been adopted and the Embassy*

hotel has not yet been determined to be a landmark, the City requests that the Coastal Commission suspend the Embassy condition for a minimum of six months in order to give deference to local law and to permit the City to attempt to resolve this matter administratively.

Staff Analysis

This claim alleges that there is relevant new information, which has the potential of altering the Commission's initial decision. At the Commission hearing, through statements made during the hearing and findings in the Commission's staff report, the Commission was aware that under the City's current preferential parking ordinance for residential areas, hotels or commercial establishments could not obtain parking permits for residential parking zones. Therefore, the Commission knew, in conditioning the coastal development permit ordinance to allow permits to be issued to the Embassy Hotel or similar establishments that 1) provide affordable overnight accommodations and 2) provide no on-site parking, that the City would need to modify their preferential parking ordinance to comply with the condition.

Regardless of how the City decides to amend their preferential parking ordinance to comply with the condition of the permit, in approving the permit with the condition, the Commission was aware that the City would need to modify their current preferential parking ordinance. Therefore, information about the City's subsequent efforts to comply with the conditions of the permit is not relevant new evidence and does not supply a basis on which to grant the applicant's reconsideration request.

Furthermore, the Commission is appreciative of the fact that the City is attempting to comply with the condition of the permit and working with the hotel to resolve this issue. However, suspending the condition requiring issuing permits to the Embassy hotel (affordable overnight accommodations, with no on-site parking) to allow the City to operate the preferential parking zone for the residents while the City works on finalizing and approving the new or amended ordinance would create a situation where the hotel would be adversely impacted in the interim due to the inability of the hotel's guests to park along the surrounding streets.

D. Conclusion

The applicant has not pointed to any error of fact or law that could have altered the Commission's initial decision, nor has it presented any relevant new evidence, which, in the exercise of reasonable diligence, could not have been presented at the hearing on the matter. Consequently, there is no basis for reconsideration, and the applicant's request for reconsideration must be denied.

City of
Santa Monica

Office of the City Attorney
City Hall
1685 Main Street
PO Box 2200
Santa Monica, California 90407-2200

EXHIBIT NO. 1
Application Number 5-02-380R
City's Reconsideration Request Letter
California Coastal Commission

February 7, 2003

SENT BY MESSENGER

Al Padilla
State of California
California Coastal Commission
200 Oceangate, 10th Floor
Long Beach, California 90802

Re: Request for Reconsideration of the Coastal Commission's Decision Regarding
City of Santa Monica's Preferential Parking Zone UU
CDP No. 5-02-380 *R*
Hearing Date: Thursday, January 9, 2003

Dear Mr. Padilla:

Pursuant to Public Resources Code Section 30627 and 14 Cal. Code of Regs. Section 13109.2, the City of Santa Monica hereby requests reconsideration of the above-referenced California Coastal Commission decision. Specifically, the City objects to the condition which would require the City to provide preferential street parking permits to the Embassy Hotel Apartments ("Embassy") for hotel guest use. This condition is directly contrary to the City's own ordinance which does not authorize such permits to commercial establishments. (See Exhibit "A.")¹ Moreover, the condition was not contained in the staff report; and the City therefore had only minimal notice that it could be imposed.

The City's request is based on the Commission's lack of jurisdiction, errors of law and fact, consideration of equity, and local law which prohibits granting preferential parking

¹Under the City's ordinance, the residential portion of the Embassy will be entitled to parking permits. So, in no event would the operation be deprived of parking.

privileges to nonresidents.² State law explicitly gives cities jurisdiction over preferential parking and, at present, the Commission's exercise of jurisdiction in this case violates the doctrine of separation of powers. Moreover, as a matter of equity and fact there is no basis for the Commission to force a test of its jurisdictional powers in this case. The City is acting in accordance with the Coastal Act, affordable lodging is not at risk, and the City will work with the Embassy to address its parking concerns. Therefore, as explained below, the City respectfully asks the Commission to reconsider its decision and strike the condition and offers the following points and authorities in support of that request.

I The State Legislature Has Taken The Power To Regulate Parking On City Streets
From The State And Given It To Cities.

- A. The Plain Language Of Vehicle Code Section 22507(a) Gives California Cities Broad Power To Establish Preferential Parking Zones, And That Section's History Confirms The Legislature's Intent That Cities' Powers In This Area Should Be Broadly Interpreted.

California Vehicle Code Section 22507(a) authorizes cities to establish preferential parking zones. It states:

"Local authorities may, by ordinance or resolution, prohibit or restrict the stopping, parking, or standing of vehicles on certain streets or highways, or portions thereof during all or certain hours of the day. The ordinance or resolution may include a designation of certain streets upon which preferential parking privileges are given to residents and merchants adjacent to the streets for their use and the use of their guests, under which the residents and merchants may be issued a permit or permits that exempt them from the prohibition or restriction of the ordinance or resolution. ... A local ordinance or resolution adopted pursuant to this section may contain provisions that are reasonable and necessary to ensure the effectiveness of a preferential parking program."

This language is clear, unambiguous, and unqualified. It says that local authorities may restrict parking by establishing preferential parking zones. It does not distinguish between inland and coastal cities. It is an absolutely clear-cut grant of power from the state to all cities.

Moreover, the history of Section 22507 makes indisputable the Legislature's decision to empower cities to control parking. Section 22507 has been amended many times. Amendments

²Alternatively, the City may withdraw its application. However, this request is filed to conform to the Commission's reconsideration deadlines.

made in 1980, 1985, 1987 and 1997 each increased or reinforced cities' powers. See Friedman v. City of Beverly Hills, 54 Cal. Rptr. 2d 882 (1996) [upholding a city's preferential parking system]. This pattern of recent modifications to the statute, all preserving local control, belies any claim that the Legislature intends to preserve state control of local street parking.

B. The Court Of Appeal Eliminated Any Doubt About Cities' Right To Control Parking By Specifically Concluding That The Legislature Intended To Divest The State Of That Power And Give It To California Cities.

The Second District Court of Appeal's decision in Friedman v. City of Beverly Hills, *supra*, provides the definitive interpretation of Section 22507(a). Notably, the court took pains to parse the provision sentence by sentence. Thus, the court explained that the first sentence of Section 22507 "provides a broad, general grant of power to local entities to regulate the parking of vehicles, even though it does not expressly provide for preferential parking privileges and permits." 54 Cal. Rptr. at 885. Next, the appellate court explained that the second sentence of Section 22507 was added as an amendment intended to ensure that cities could make parking available to those most affected: "[T]he second sentence of section 22507 clarifies the initial grant of power to prohibit or restrict parking. It does so by stating that such an ordinance or resolution may provide for the issuance of preferential permits. The legislative intent of the amendment is to help assure that parking space is readily available to those most affected in a local area." *Id.* (emphasis supplied). The court then turned to the final sentence of Section 22507(a), which was added in 1980: "The import of the words of this later amendment to the statute is to give localities substantial power to tailor preferential parking programs to meet local circumstances." *Id.*

The appellate court concluded its explanation of the meaning of Section 22507 with a clear declaration of law which controls this case:

"The language of section 22507, harmonized and read as a whole, shows that the state does not desire to micro-manage local parking circumstances. Instead, the statute shows that the state has decided to turn over regulation of parking minutiae to localities. Localities are best able to understand and respond to local parking problems. The initial grant of power in Section 22507 broadly empowered localities to regulate parking within their jurisdictions. The subsequent statutory amendments to section 22507 have expanded rather than restricted the powers accorded local government over parking matters. These amendments are especially significant because they concern a Vehicle Code provision, which is subject to preemption by the state." *Id.* (Emphasis supplied.)

In short, the law is very clear: Section 22507 gives cities the power to regulate parking within their boundaries, free of micro-management by the State. Pursuant to this mandate, the Coastal Commission has no authority to regulate preferential parking and certainly has no authority to order the issuance of preferential parking permits in violation of local law. See, Santa Monica Municipal Code Sections 3.08 et seq. limiting preferential parking rights within a district to district residents.

- C. There Is No Conflict Between Vehicle Code Section 22507 And Public Resources Code Section 30106; And, Even If There Were, The Vehicle Code Would Prevail.
 - 1. The Express Language Of The Coastal Act Does Not Include The Establishment Of Preferential Parking Zones Within The Definition of "Development" Projects Subject To Commission Control.

The Coastal Act defines the term "development" to include:

[T]he placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act, and any other division of land; ... change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation" Public Resources Code Section 30106.

By its plain language, this list of the many activities which include "development" within the meaning of the Coastal Act does not include the adoption of restrictions upon street parking. Thus, the Coastal Act harmonizes with Vehicle Code Section 22507 because the Coastal Act's plain language leaves control of street parking management to localities.

2. The Coastal Act's Definition Of "Development" May Not Be Interpreted To Include Preferential Parking Because That Interpretation Would Be Inconsistent With Vehicle Code Section 21 And Would Create A Conflict Between The Two Codes In Violation Of The Rule That Statutes Must Be Harmonized.

Vehicle Code Section 21 specifically states that "[e]xcept as otherwise expressly provided, the provisions of this code are applicable and uniform throughout the State and in all counties and municipalities therein...." (Emphasis supplied.) This language means the authorization to create preferential parking districts conferred by Vehicle Code Section 22507 applies throughout the state and to all cities within California. Absent an express statement by the Legislature, coastal cities may not be deprived of that authority. The Legislature has made no such statement. To the contrary, the Legislature has repeatedly strengthened cities' authority to control preferential parking. Therefore, the definition of "development" may not be interpreted to include preferential parking.

Additionally, a fundamental rule of statutory construction requires that statutes be harmonized if possible. California Mfrs. Ass'n v. Public Utilities Commission, 24 Cal.3d 836 (1979); Swenson v. County of Los Angeles, 89 Cal. Rptr.2d 572 (1999). This rule precludes interpreting the language of Public Resources Code Section 30106 so as to create a conflict with Vehicle Code Section 22507 and deprive Santa Monica of the authority to establish preferential parking.

3. Even If There Were A Conflict Between Vehicle Code Section 22507 And Public Resources Code Section 30106, Which There Is Not, The Vehicle Code Provision Would Prevail Pursuant To Basic Rules Of Statutory Construction.

Even if Sections 22507 and 30106 were in conflict, the Vehicle Code provision would control. Specific statutes control over those which are more general. See Civil Code Section 1859; Lazar v. Hertz Corp., 82 Cal. Rptr. 368 (1999). Section 22507 speaks specifically to jurisdiction over parking on city streets. In contrast, Public Resources Code Section 30106 addresses the general subject of the Coastal Commission's jurisdiction and says nothing whatsoever about the subject of parking. Moreover, if a statutory conflict exists, the more recent enactment controls. Lazar v. Hertz, 69 Cal. App.4th 1494 (1999). Section 30106 has not been amended since its adoption in 1976. In contrast, Section 22507 has been amended five times since 1976, and each amendment has buttressed or enlarged local control of parking.

II. Apart From The Mandate of Vehicle Code Section 22507(a), The California Coastal Commission Presently Lacks The Authority To Require That The City Obtain A Coastal Permit Since The Process For Appointing Voting Members of the Commission Violates The Separation of Powers Doctrine.

In Marine Forests Society v. California Coastal Commission, 104 Cal. App. 4th 1232, 128 Cal. Rptr. 2d 869 (2002), the appellate court ruled that the process that the California Legislative established for appointing members to the Commission violates the separation of powers doctrine contained in Article III, section 3 of the California Constitution. More specifically, "because the majority of the Commission's voting members are controlled by the legislative branch, the separation of powers doctrine precludes the Commission from being entrusted with the exercise of executive powers or of quasi-judicial powers that are incidental to the executive function of implementing the law." Id., 128 Cal. Rptr. 2d at 884. As such, the Commission does not, at this time, have the authority to grant, deny, or condition Coastal Commission permits. Id.

Based on the reasoning of the Marine Forests Society decision, the Coastal Commission presently has no authority to require that the City obtain a coastal permit for the City's proposed preferential parking zone. While the City is aware that the California Legislature is considering amendments to the Coastal Act directed at the ongoing separation of powers violation, such action by the Legislature cannot retroactively eliminate the constitutional infirmity that existed at the time the Commission rendered its decision on the City's permit application.

III. Even If The Law Did Not Clearly Authorize All Cities To Regulate Street Parking And Prevent The Commission From Doing So, Considerations Of Equity Should Preclude The Commission From Depriving The City Of The Jurisdiction Over Permit Parking Zones Created Years Ago Through A Public Process With The Commission's Knowledge.

Santa Monica has relied heavily upon preferential parking districts as a means of balancing competing needs and demands since 1983. Our need to use this mechanism resulted partly from Santa Monica's basic characteristics: it is geographically very small -- only about 8 square miles -- and it is extremely dense. The City is home to about 86,000 residents. On workdays, there are about 200,000 people in the City, and on weekends and holidays that number swells to 400,000, or more. Additionally, the City has been fully built out for over 50 years and has an aging infrastructure and a large number of older residences and commercial structures, many of which have no on-site parking. Moreover, residential and commercial uses are immediately adjacent in much of the City.

About fifteen years ago, the resulting problems became particularly acute in the north-of-Downtown area, where the Embassy is located. Following a successful revitalization program, the commercial backbone of the Downtown, the Third Street Promenade, became a popular destination. Its restaurants, shops and entertainments drew crowds from throughout the Los Angeles area and from other regions and countries. Street parking was filled by employees and customers; and the brunt of the Promenade's success fell upon residential neighbors, many of whom were low-income or elderly people living in older buildings with little or no on-site parking. This crisis threatened the neighborhood's very existence. Without a parking solution, residents who needed to park near their homes, but who could not afford to purchase or build parking, would have been forced out of the area. The likely result would have been gentrification of the neighborhood and the end of the economic diversity which Santa Monica treasures.

In order to protect the neighborhood and the quality of life in the north-of-Downtown area and other residential neighborhoods adjacent to commercial uses, the City began adopting preferential parking districts in 1983. Today, such districts exist throughout the City. Residents have depended upon them to preserve local quality of life, particularly during the last decade when the City experienced a surge in development and tourism.

The Coastal Commission has known about the City's use of preferential parking to protect residents from the outset. In 1983, the City Attorney contacted Coastal Commission staff, advised that the City intended to utilize the mechanism in the Coastal Zone, and asked whether the Commission took the position that coastal development permits were required. He was told by Coastal Commission staff that permits were not required. Thereafter, the City proceeded to adopt the preferential parking zones which are the subject of this case through a noticed and public process established by local law. Given these circumstances and history, it would be inequitable to belatedly deprive Santa Monica of the authority over parking which it has long exercised to meet its local needs.

IV Santa Monica's Record of Staunchly Protecting Coastal Access Belies Any Argument For A Strained Statutory Interpretation Designed To Give The Commission Jurisdiction Over Parking on City Streets.

That the Coastal Commission wishes to assert jurisdiction over preferential parking in the Coastal Zone is understandable. Conceivably, a city's exercise of the power conferred by Vehicle Code Section 22507 could adversely impact coastal access. It is even conceivable that a city could purposefully utilize preferential parking to keep the public away from the beach and

wealthy beach dwellers' homes. However, Santa Monica is not that city. To the contrary, as history incontestably demonstrates, Santa Monica welcomes visitors, provides model beach access, takes superb care of its coastal environment, and affords beach goers an unequaled array of services, educational opportunities, and entertainments.

The beach in Santa Monica stretches for three miles. Its entire length is accessible within both the letter and spirit of the Coastal Act. The millions of visitors who enjoy the beach each year attest to this fact as does the record in this case. It shows that Santa Monica affords beach visitors abundant parking opportunities. There are 5,500 parking spaces in the City's public beach lots. The parking rates in those lots are significantly lower than the rates charged for parking at the beach to the north and to the south of the City limits. Additionally, the City has 10,000 more public spaces in the Coastal Zone. Finally, as a result of efforts undertaken in the context of this matter, new parking spaces have been created and the City is in the process of converting some beach parking from "all day" to "short-term."

Moreover, as an expression of its commitment to preserving the environment, Santa Monica makes it easy to get to the beach without an automobile. The City's award-winning public transportation system provides convenient, safe, clean, and inexpensive bus and shuttle service to the beach. Additionally, the City's bike paths and foot paths promote access for those individuals who prefer not to use a motor vehicle.

In addition to providing uniquely convenient access, Santa Monica does an exemplary job of keeping the beach clean, safe, and attractive. The City does this by maintaining a beach fund whereby parking revenues are reinvested in the beach. Moreover, the City has also been on the forefront of the crusade to "heal" Santa Monica Bay by addressing problems posed by urban runoff. Santa Monica recently built the country's first, state-of-the-art facility for treating dry weather runoff. Moreover, over the last 15 years, the City has spent over \$26 million on public, coastal improvements. These include the restoration of the Santa Monica Pier, substantial improvements to Palisades Park and other coastal parks, upgrading the Beach Promenade and other walkways, and improvements to beach parking lots.

The City's record on coastal access and environmental protection speaks for itself. It irrefutably demonstrates Santa Monica's implementation of the principles which underlie the Coastal Act and the City's success at fostering coastal access, preservation, and enjoyment. Absolutely nothing shows or even suggests a factual justification for the Commission's violating the mandate of Vehicle Code Section 20507 and taking over parking in Santa Monica. To the contrary, the 3 miles of beachfront in Santa Monica are a model of accessibility. Given this fact, neither logic nor the language of the Coastal Act suggest any justification for the Coastal Commission to press the issue of its jurisdiction as against Santa Monica. Moreover, as to this

particular case, the application demonstrates that there is no evidence that beach visitors park in the proposed preferential parking zone.

V The Embassy's Assertion That It Deserves Protection Under The Coastal Act Because It Constitutes "Affordable" Lodging That Will Be Forced To Close If It Does Not Obtain Preferential Parking Should Be Rejected On Reconsideration Because It Is Unsupported And Because New Evidence Shows That It Is Not, In Fact, Affordable.

In its December 30, 2002, correspondence with the Coastal Commission, the Embassy claimed that it constitutes an affordable lodging and therefore should be protected pursuant to specified provisions of the Coastal Act and the City's Local Coastal Program Land Use Plan. In making this claim, the Embassy simply relies on evidence that it constituted affordable lodging in the late 80's. It failed, however, to present any evidence that it currently qualifies as affordable lodging. This omission is telling. The Coastal Commission has defined a low-cost overnight facility as "an overnight lodging facility which charges no more than the average per room, per night rate of lodging facilities such as a hostel, Motel 6, Super 8 Motel or other similarly priced lodging facility." The Embassy does not meet this definition since the nightly rate for hotel rooms at the Embassy range from \$110.00 per night for a bachelor to \$250.00 per night for a two-bedroom. See Declaration of Suzanne Frick which is attached thereto as Exhibit B.

The Embassy also contends that its room rates remain substantially under the rates of the vast majority of hotels that are in the Coastal Zone. It is no doubt true that a number of hotels have recently been developed in the Coastal Zone that have extremely high room rates. However, most of the motels/hotels in the coastal zone that were affordable in 1989, remain affordable today. See Declaration of Suzanne Frick which is attached thereto as Exhibit B. The Embassy is simply not one of them. Id.

Embassy's related claim that the City's establishment of the preferential parking zone will force its closure unless it obtains preferential parking permits for its hotel units is also without factual support. As detailed in the January 2, 2003, Information Item from City Staff to the City Council discussing parking considerations for the Embassy, there would be a number of parking options available to the Embassy which would ensure that the Embassy's hotel guests had adequate parking even if preferential parking were established on the streets surrounding the Embassy. A true and correct copy of this Information Item is attached hereto as Exhibit C. The Embassy is a valued member of the City's visitor-serving business community. Consistent with that fact, City staff remains committed to working with the Embassy and its representatives to ensure that parking opportunities remain available to hotel guests. The report also noted that no

Al Padilla
February 7, 2003
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petitions for preferential parking had been submitted for the blocks surrounding the Embassy. This means that there is time for the City and the Embassy to work together on its parking needs before preferential parking could go into effect in the immediate vicinity.

In conclusion, the City maintains its deep and long-standing commitment to maximizing public use and enjoyment of the coast within the City, and its respect for the Commission, Commission staff and the agency's mission. Moreover, the City respects the Embassy's contribution to the community and will work with it on its hotel parking needs. However, the City must retain control over parking on its streets in order to protect local welfare and therefore must protest the Commission's unlawful imposition of the parking condition. Accordingly, the City respectfully requests that the Commission grant reconsideration of the condition in the City's coastal development permit requiring that the City provide the Embassy with preferential parking passes for its hotel guests and strike that condition.

Sincerely yours,


MARSHA JONES MOUTRIE
City Attorney

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cc: Ralph Faust, Esq. (via facsimile)
Christopher Harding, Esq. (via facsimile)

EXHIBIT A

3.04.080 Marked exits.

No person shall remove an automobile from a public parking lot except through a marked exit gateway or driveway. (Prior code § 3204; added by Ord. No. 501CCS, adopted 7/26/60)

3.04.100 Parking spaces.

No vehicle shall be parked in any public parking lot except entirely within a space indicated by painted lines, said spaces being commonly referred to as a "parking slot" or "parking stall," nor shall any vehicle be parked where there is posted a "No Parking" sign. (Prior code § 3206; added by Ord. No. 501CCS, adopted 7/26/60)

3.04.110 Dogs.

No person having control, charge or custody of any dog shall permit the same to go upon any public parking lot, by except within a vehicle. The provisions of this Section shall not apply to dogs which have been especially trained and used for blind persons to aid and guide them in their movements while such dogs are being used for such purposes; all other dogs found in any public parking lot shall be impounded. (Prior code § 3207; added by Ord. No. 501CCS, adopted 7/26/60)

3.04.120 Designation of motorcycle parking areas.

(a) The Parking and Traffic Engineer, in conformity with applicable rules and regulations shall designate specific areas on the first floor of the Central Business District parking structures for the parking of motorcycles, motor-driven cycles, go-carts, or motor scooters.

(b) The Director of Parks and Recreation, in conformity with applicable rules and regulations shall designate specified areas for the use of such vehicles in beach parking facilities. (Prior code § 3208A; added by Ord. No. 1034CCS, adopted 7/13/76)

3.04.130 Setting of annual rates.

Annual parking fees for reserved-use of such specified areas shall be adopted in conformity with existing City regulations, and said regulations may be amended from time to time by resolution of the City Council. (Prior code § 3208B; added by Ord. No. 1034CCS, adopted 7/13/76)

3.04.140 Parking or driving in undesignated areas prohibited.

It shall be unlawful for any person to park or drive a motorcycle, motor-driven cycle, go-cart or motor scooter on any area of any public parking lot except as authorized by this Section. (Prior code § 3208C; added by Ord. No. 1034CCS, adopted 7/13/76)

3.04.150 Trucks.

It shall be unlawful for any person to drive a truck on any public parking lot. For purposes of this Section only, pickup and panel-delivery vehicles, if one-ton capacity or less, shall not be deemed a truck. This Section shall not be applicable to any truck making regular business deliveries or pick-up to merchants maintaining an established place

of business adjacent to such parking lot. (Prior code § 3209; added by Ord. No. 501CCS, adopted 7/26/60)

3.04.160 Littering.

No person shall deposit or throw upon any public parking lot any paper, ashes, dirt, trash, or litter of any kind or nature whatsoever. (Prior code § 3210; added by Ord. No. 501CCS, adopted 7/26/60)

3.04.170 Posted speed limits.

No person shall, while driving a vehicle on any public parking lot, drive in excess of the posted speed limit. (Prior code § 3211; added by Ord. No. 501CCS, adopted 7/26/60)

3.04.180 Trailers.

No person shall drive onto any public parking lot a vehicle to which is attached a trailer, provided that on the parking lot commonly known as the "Deauville Sand Lot," which is located immediately north of the Santa Monica Municipal Pier, it shall be permissible to drive a vehicle to which is attached a trailer. (Prior code § 3212; added by Ord. No. 501CCS, adopted 7/26/60)

3.04.190 Maximum speed limit.

Unless otherwise posted no person shall drive a motor vehicle upon by any public parking lot at a speed greater than fifteen miles per hour. As used in this Section, a public parking lot shall mean any off-street parking facility, metered or unmetered, which is owned or operated by the City of Santa Monica or the Parking Authority of the City of Santa Monica. (Prior code § 3213; added by Ord. No. 589CCS, adopted 2/19/63)

Chapter 3.08**PREFERENTIAL PARKING ZONES****Sections:**

3.08.010	State Vehicle Code provisions.
3.08.020	Definitions.
3.08.030	Designation of preferential parking zone.
3.08.040	Designation criteria.
3.08.050	Designation process.
3.08.060	Dissolution process.
3.08.070	Permits.
3.08.080	Reserved.
3.08.090	Exemptions.
3.08.100	Authority of City staff.
3.08.110	Prohibitions and fines.

3.08.010 State Vehicle Code provisions.

The provisions of this Chapter are expressly enacted under the Constitution of the State, Article XI, Section 11 together with provisions of the Vehicle Code of the State, as amended. The provisions set forth in the Vehicle Code shall govern whenever this Chapter fails to set forth any specific provision. (Prior code § 3230; added by Ord. No. 1156CCS, adopted 4/22/80)

3.08.020 Definitions.

For the purpose of this Chapter, the certain words and phrases are defined and certain provisions shall be construed as herein set forth, unless it is apparent from the context that a different meaning is intended.

(a) **Dwelling Unit.** "Dwelling Unit" shall mean any self-contained house, apartment, stock cooperative, or condominium occupied solely for residential purposes.

(b) **Preferential Parking Zone.** "Preferential Parking Zone" shall mean a residential area with streets and boundaries designated by the City Council wherein vehicles displaying a permit shall be exempt from parking restrictions established pursuant to this Chapter.

(c) **Resident.** "Resident" shall mean any person who lives in a dwelling unit located in a preferential parking zone.

(d) **Visitor.** "Visitor" shall mean a person visiting residents living in a preferential parking zone. (Prior code § 3231; added by Ord. No. 1156CCS, adopted 4/22/80)

3.08.030 Designation of preferential parking zone.

(a) Upon the recommendation of the Parking and Traffic Engineer, the City Council shall consider areas for designation as preferential parking zones. If the Council finds that an area satisfies the criteria set forth in this Chapter for preferential parking zone designation, the Council may adopt a resolution designating an area as a preferential parking zone and authorize the Parking and Traffic Engineer to establish appropriate parking restrictions for the zone; or

(b) The City Council may, at its discretion, adopt a resolution designating an area as a preferential parking zone and authorize the Parking and Traffic Engineer to establish appropriate parking restrictions for the zone. (Prior code § 3232; added by Ord. No. 1156CCS, adopted 4/22/80; amended by Ord. No. 1914CCS § 1, adopted 5/26/98)

3.08.040 Designation criteria.

The findings referred to in this Section shall be based upon the following criteria established to the satisfaction of the Council:

(1) That non-resident vehicles, defined as those vehicles operated by persons whose destinations are to nonresidential areas, do or may substantially and regularly interfere with the use of the majority of available public street or alley parking spaces by adjacent residents;

(2) That the interference by the non-resident vehicles referred to in subsection (1) of this Section occurs at regular and significant daily or weekly intervals;

(3) That the non-resident vehicles parked in the area of the proposed zone cause or are the source of unreasonable noise, traffic hazards, environmental pollution, or devaluation of real property in the area of the proposed zone;

(4) That no unreasonable displacement of non-resident vehicles will result into surrounding residential areas;

(5) That a shortage of reasonably available and convenient residential related parking spaces exists in the area of the proposed zone; and

(6) That alternative solutions are not feasible or practical. (Prior code § 3232A; added by Ord. No. 1156CCS, adopted 4/22/80)

3.08.050 Designation process.

Upon receipt and verification of a petition signed by residents living in two-thirds of the dwelling units comprising not less than fifty percent of the developed frontage of the area proposed for designation, or upon adoption of a motion by the City Council, the Parking and Traffic Engineer shall undertake such surveys or studies as deemed necessary to determine whether an area should be designated a preferential parking zone. If an area is designated as a preferential parking zone by the resident petition process, the residents requesting the designation shall notify all affected residents and present verification of such notification to the Parking and Traffic Engineer. (Prior code § 3232B; added by Ord. No. 1156CCS, adopted 4/22/80)

3.08.060 Dissolution process.

Proceedings to dissolve a preferential parking district shall be initiated upon receipt and verification of a petition signed by residents living in two thirds of the dwelling units comprising not less than fifty percent of the developed frontage of the preferential parking zone or upon adoption of an ordinance by the City Council. (Prior code § 3232C; added by Ord. No. 1156CCS, adopted 4/22/80)

3.08.070 Permits.

(a) **Issuance and Fees.** The Director of Finance shall issue permits for preferential parking and collect all fees. No permit will be issued to any applicant until that applicant has paid all of his or her outstanding parking citations, including all civil penalties and related fees.

Applicants shall be required to present proof of residency in the proposed permit zone. Each qualified applicant is entitled to purchase one or more permits per year. The address of vehicle registration and driver's license must coincide with the residence address of applicant.

Applicants requesting more than three permits for their dwelling unit may be granted additional permits by the Parking and Traffic Engineer upon showing that there are more than three vehicles registered at the dwelling unit, and that sufficient off-street parking is not available to the applicant, and that to deny additional permits would constitute a hardship.

Permit fees shall cover the cost of establishing and maintaining the preferential parking district. These fees shall be set by City Council Resolution at the time of parking

district designation. As of July 1 of each year, the fee shall be reduced by one half for each permit issued after that date to be effective for the remainder of the year.

(b) **Duration.** Preferential parking permits issued pursuant to this Section shall remain in effect for a period of one calendar year or fraction thereof, or as long as the permit holder continues to reside in the dwelling unit for which the permit was issued or until the preferential parking district for which the permit was issued is eliminated, whichever period of time is less.

(c) **Visitor Permits.** Any resident may purchase two visitor permits per dwelling unit. Each permit shall have the address of the permit holder imprinted.

(d) **Availability of Parking.** A preferential parking permit shall not guarantee or reserve to the holder thereof an on-street parking space within the designated preferential parking zone.

(e) **Restrictions and Conditions.** Each permit issued pursuant to this Section shall be subject to each and every condition and restriction set forth in this Chapter and as provided for the preferential parking zone for which it was issued including conditions or restrictions which may be altered or amended from time to time. The issuance of such permit shall not be construed to be a permit for, or approval of, any violation of any provision of this Code or any other law or regulation. (Prior code § 3233; added by Ord. No. 1156CCS, adopted 4/22/80; amended by Ord. No. 1680CCS § 3, adopted 3/30/93)

3.08.080 Reserved.

3.08.090 Exemptions.

The following vehicles shall be exempt from parking restrictions pursuant to this Chapter:

(1) A vehicle owned or operated by a utility whether privately or publicly owned, when used in the course of business.

(2) A vehicle owned or operated by a governmental agency when used in the course of official government business.

(3) A vehicle for which an authorized emergency vehicle permit has been issued by the Commissioner of the California Highway Patrol when used in the course of business.

(4) A vehicle displaying an authorized exception card issued by the City of Santa Monica. (Prior code § 3235; added by Ord. No. 1156CCS, adopted 4/22/80)

3.08.100 Authority of City staff.

(a) The Parking and Traffic Engineer shall have the authority to promulgate rules and administer policies designed to implement this program. These rules shall be submitted to and approved by the City Council.

(b) **Director of Finance.** The Director of Finance shall have authority to promulgate rules and administer policies designated to implement the preferential parking permit system set forth herein. These rules shall be submitted to and approved by the City Council.

(c) **Police Chief.** The Police Chief shall have the authority to enforce the rules and regulations established

pursuant to this Chapter. (Prior code 3236; added by Ord. No. 1156CCS, adopted 4/22/80)

3.08.110 Prohibitions and fines.

(a) No vehicle shall be parked or stopped adjacent to any curb in a permit parking zone in violation of any posted or noticed prohibition or restriction, unless such vehicle shall have prominently displayed permit as directed, location of permit to be determined by Police. Each permit shall bear the vehicle license number of the issuee. Any vehicle in violation of the Code shall be subject to a fine of thirty-three dollars. This amendment shall become effective July 1, 1993.

(b) It shall be unlawful for any person to sell, rent, or lease, or cause to be sold, rented, or leased for any value or consideration any preferential parking permit. Upon the conviction of a violation of this subsection, all permits issued to, or for the benefit of, the dwelling unit for which the sold, rented, or leased permit was authorized shall be void. Any person so convicted shall be subject to a fine of five hundred dollars.

(c) It shall be unlawful for any person to buy or otherwise acquire for value or use any preferential parking permit, except as provided for in this article, and any person so convicted shall be subject to a fine of five hundred dollars. (Prior code § 3237; added by Ord. No. 1156CCS, adopted 4/22/80; amended by Ord. No. 1680CCS § 4, adopted 3/30/93)

Chapter 3.12

TRAFFIC REGULATIONS

Sections:

3.12.010	Definitions.
3.12.020	Alley.
3.12.030	Business district.
3.12.040	Crosswalk.
3.12.050	Curb.
3.12.060	Intersection.
3.12.070	Loading zone.
3.12.080	Official traffic signals.
3.12.090	Official traffic control devices.
3.12.100	Operator.
3.12.110	Park.
3.12.120	Parkway.
3.12.130	Driveway apron.
3.12.140	Passenger loading zone.
3.12.150	Pedestrian.
3.12.160	Roadway.
3.12.170	Right-of-way.
3.12.180	Safety zone.
3.12.190	Sidewalk.
3.12.200	Stop or stop when required.
3.12.210	Street.
3.12.220	Traffic.
3.12.230	Vehicle.
3.12.240	Vehicle Code.

EXHIBIT B

Declaration of Suzanne Frick

I, Suzanne Frick, declare that the following is true and correct based upon my personal knowledge and that, if called upon to serve as a witness in this proceeding, I could and would competently testify as is set forth in this declaration.

1. I am the Director of the Planning and Community Department of the City of Santa Monica, a position that I have held for more than nine years and at all times relevant to this proceeding.

2. I am making this declaration to provide information relating to the request for reconsideration being filed by the City of Santa Monica with the Coastal Commission in Matter CDP No. 5-02-380. The case involves a request, filed under protest, for approval by the Coastal Commission of a coastal permit purportedly authorizing the City to establish a preferential parking zone in the area north of the City's downtown area. For twenty years, Santa Monica has had a preferential parking law which makes preferential parking available to City residents only. The request was filed with the Commission under protest because, among other things, the City believes that the Commission has no jurisdiction over parking on City streets. Nonetheless, the request was filed out of respect for the Commission, its staff and its mission of preserving Coastal access.

3. At the conclusion of the hearing on January 9, 2003, the Commission granted the permit. However, the Commission added a condition requiring the City to give nineteen preferential parking permits to the Embassy Apartment Hotel ("Embassy"), which includes 19 hotel units, for its hotel guests. Under our local law, the hotel guests are ineligible for

preferential parking because they are not City residents. This condition was apparently imposed in response to the request of the hotel's attorney and operator who argued that the hotel was affordable to coastal visitors and so should be protected by the Commission. (The argument that the hotel needed Commission protection was made despite the fact that City staff was and remains willing to work with the hotel to address its parking needs if and when preferential parking goes into effect on surrounding streets.)

4. Since the hearing date, the City has acquired evidence which shows that the Embassy is, in fact, not "affordable" within the definition approved by the Coastal Commission in October 1989. Under that definition, a low cost overnight facility is a facility which charges no more than the average per room per night rate of lodging facilities such as a hostel, Motel 6, Super 8 Motel or other similarly priced lodging facility. Using this definition, hotels, motels and hostels within the Santa Monica Coastal Zone which charge less than \$79 per night are considered affordable. In fact, City staff has learned that the Embassy's rooms range in cost from \$110 per night up to \$250. A true and correct copy of the Embassy's advertisement to that effect is attached hereto as Exhibit 1. A copy of the City's survey listing current room rates for hotel/motel rooms in the Coastal Zone that were affordable in 1989 is attached to this Declaration as Exhibit 2 .

5. The City is reluctant to take on a jurisdictional fight with the Coastal Commission because the City and Commission share the common missions of protecting the coast and facilitating coastal access. The three splendid miles of coastline within Santa Monica are a remarkable public resource which millions of visitors enjoy each year. The City provides 5500 parking spaces to those visitors in its public beach lots at rates significantly lower than in surrounding areas. The City has another 10,000 public spaces in the Coastal Zone. Additionally,

the City's award-winning public transportation system provides convenient, safe, clean and inexpensive bus and shuttle access to the beach. The City also does an exemplary job of keeping the beach clean, safe and attractive and has spent over \$26 million in the last decade to improve the beach front and coastal parks. In short, coastal access is not an issue in Santa Monica. Nor is protection of the coastal environment. Santa Monica's record in that area is also exemplary. Most recently, the City has completed the country's first, state-of-the-art facility for treating dry weather runoff as part of its commitment to help "heal" Santa Monica Bay.

6. Along with being committed to coastal access and environmental protection, the City is also committed to its long-standing policy of protecting its 86,000 residents from the impacts of serving millions of visitors annually; and preferential parking is a key component of that protection. The City is very small and dense. Commercial and residential uses are immediately adjacent in much of the City. The resulting problems are particularly acute in and around the Downtown area. Therefore, while City staff can work to assist the Embassy with its parking issue, long-standing City law and policy make it impossible to retreat from a jurisdictional dispute with the Coastal Commission if the condition attached to this particular permit remains in place. We hope that dispute can be avoided.

I declare under penalty of perjury that the foregoing is true and correct and is executed on this 6th day of February, 2003 at Santa Monica, California.



SUZANNE ERICK

f:\atty\muni\ltrs\bar\prefprkngreconsiderdecl.wpd

EXHIBIT 1

The Embassy

HOTEL APARTMENTS

A TOUCH OF THE OLD WORLD IN THE NEW]

[EMAIL](#) [MAP & DIRECTIONS](#) [TOUR PROPERTY](#) [NEARBY ATTRACTIONS](#) [ROOM RATES](#) [RESERVE A ROOM](#)

TARIFF INFORMATION

Nightly

Monthly

BACHELOR	\$ 110.00*	STUDIO	\$ 3300.00
STUDIO	\$ 175.00*	ONE-BEDROOM	\$ 3750.00
ONE-BEDROOM	\$ 205.00*	TWO-BEDROOM	\$ 3995.00
TWO-BEDROOM	\$ 250.00*		

**Please note that most rates are seasonal and subject to change and occupancy tax. Reservations are preferred one month in advance. Cancellations must be received 48 hours prior to arrival date.*

© EMBASSY HOTEL APARTMENTS | TERMS & CONDITIONS | SITE DESIGN | EMAIL

EXHIBIT 2

CURRENT ROOM RATES FOR HOTEL/MOTEL ROOMS IN THE
COASTAL ZONE THAT WERE AFFORDABLE IN 1989

NAME OF MOTEL/HOTEL	NUMBER OF ROOMS	1989 PRICE RANGE	2003 PRICE RANGE
Ocean Park Motel 452 Lincoln Blvd.	29	\$38-55	\$60.00
Travelodge Motel* 525 Ocean Avenue	35	\$65-80	\$85-100
Pacific Sands Motel 515 Ocean Avenue	42	\$40-45	\$55-125
Auto Motel 447 Ocean Avenue	30	\$45	Removed
Hotel Carmel* 01 Broadway	93	\$38-60	\$100-200**
Ocean Lodge 667 Ocean Avenue	16	\$55	\$100-350**
Seaview Hotel 760 Ocean Avenue	11	\$35	\$50-90
Beach Auto Hotel 670 Ocean Avenue	25	\$45-55	Removed
Sea Shore Motel 617 Main Street	20	\$40-50	\$70-100
Bayside Hotel 001 Ocean Avenue	39	\$42-62	\$79-139
Cal Mar Hotel 220 California Avenue	35	\$55-78	\$99-159
Santa Monica Motel 2102 Lincoln Blvd.	29	\$40-50	\$55
Kensington/Flamingo Hotel 746 Ocean Avenue	182	\$35-65	Removed

Embassy Hotel 11 Third Street	43	\$40-60	\$110-250**
Sovereign Hotel* 205 Washington Avenue	21	\$69-89	Apartments
Santa Monica Hostel Second Street	N/A	N/A	\$24

* Hotel or motel also contains rooms that are above \$80.

** Hotel or motel units that are above \$100.00 and no longer considered affordable lodging based on 19 Coastal Commission definition of low-cost overnight facilities. Hotel room rates used were \$59.00 for Lo Beach Motel 6, \$51.99 for Long Beach Motel 6, \$92.00 average room rate for Santa Monica Travel Lodg and \$24.00 for Santa Monica Hostel.

Note: 1989 average price of surveyed hotel rooms = \$57.00. This is based on a room rate range of \$35 to \$80.00. 2003 average price of surveyed hotel rooms = \$79.00.

INFORMATION ITEM

TO: Mayor and City Council
FROM: City Staff
SUBJECT: Parking Considerations for the Embassy Hotel and Apartments

Introduction

This report addresses the City Council's request of City staff to examine all options for solving the non-employee parking problem at the 1927 Embassy Hotel and Apartments. This request was made at the November 12, 2002 City Council meeting.

Background

The Embassy Hotel and Apartments is located at 1001 3rd Street at the corner of 3rd Street and Washington Avenue in Santa Monica. It has existed since 1927, and has no on-site parking facilities. There are currently 38 units at this property. A December 2000 settlement agreement between the owners of the property and the City of Santa Monica determined that 19 units are operated as rent controlled units and 19 are operated as hotel units. Of the 19 units that are operated as rent controlled units, six of these are currently operated as short term rentals units, requiring stays of longer than one month. The current City preferential parking ordinance allows preferential parking permits to be sold to residents of all residential units. Up to two guest permits for each of these units could be sold. In addition, residential permits would be available to

residents who have their cars registered to one of these units. Because the municipal code does not allow preferential parking permits to be sold to any "hotel" units in the City of Santa Monica, the owner would be unable to obtain preferential parking permits for any of the 19 hotel units. The Embassy Hotel is not alone; there are four other hotels in the area of the proposed preferential parking zone with approximately 614 rooms.

In January 2001, the residents of the 1000 block of 3rd Street started a petition to initiate preferential parking on their block. To date, a qualifying number of signatures has not been received for this block (115 signatures of 229 eligible units, or approximately 50 percent). An additional 39 signatures are required. Other qualifying petitions in the immediate area have been received, leading to approval by the City Council on June 11, 2002 of an overnight preferential parking zone (PPZ) in this area consisting of no parking 6pm to 8am daily, except by permit. As this PPZ is in the California Coastal Zone, its implementation is on hold, pending consideration by the California Coastal Commission. A public hearing by the Commission is expected January 9, 2003.

Around the time of the City Council's approval of this preferential parking zone, the owner of 1001 3rd Street, Michele Nasatir, who had submitted some signatures from this property supporting preferential parking, became aware that hotel units are not eligible for permits. At the same time, Transportation Management Division staff became aware that 1001 3rd Street contained 19 hotel units. These units were deemed

ineligible for preferential parking permits, and these units were removed from the petition. Ms. Nasatir then contacted Transportation Management Division staff and requested a meeting to discuss the parking situation for her hotel guests currently, and if overnight preferential parking were ever implemented on the 1000 block of 3rd Street.

The hotel is located at the corner of 3rd and Washington. There are approximately five on-street parking spaces on 3rd Street directly adjacent to the property, and eight on-street parking spaces on Washington Avenue directly adjacent to the property. Of the five spaces on 3rd Street, two are 15-minute metered spaces which were installed at the request of Ms. Nasatir to assist her guests with loading and unloading. The remaining spaces will not be regulated by the preferential parking restrictions because they are adjacent to a non-residential use.

To date, the petition for the 1000 block of 3rd Street has 115 signatures from 229 eligible units which is approximately 50 percent. An additional 39 signatures from units not yet represented are required in order to qualify this petition. Furthermore, no petition has been received for the 300 block of Washington Avenue on which the Embassy Hotel has curb frontage as well.

Discussion

City staff met with Ms. Nasatir at her hotel on Wednesday, July 31, 2002. Of the 19 rent controlled units, only 13 are used as long-term residential units, where residents could easily show proof of residency and obtain parking permits. The remaining six units that

are operated under rent control are used as short-term rental units, for hotel guests who stay longer than one month. It is anticipated that Ms. Nasatir would be able to obtain 12 parking permits for these units, and make them available to the occupants of the building. She is concerned about where her hotel guests would park overnight if and when overnight preferential parking restrictions were implemented in her neighborhood, and she is concerned about loading and unloading for her guests, a problem she faces currently.

City staff explained that for the purposes of preferential parking, the Municipal Code defines "dwelling unit" as "any self-contained house, apartment, stock cooperative, or condominium occupied solely for residential purposes". Hotels, live/work spaces, assisted living facilities, and nursing homes are not eligible for preferential parking permits. All of these types of uses are considered businesses, as such, they are not eligible for on-street preferential parking permits nor is the curb directly adjacent to these businesses ever reserved for preferential parking.

Loading/Unloading Concerns: City staff informed Ms. Nasatir that all of her curb frontage on both 3rd Street and Washington Avenue (a total of 13 spaces) could be regulated in various ways: it could be metered or it could have simple two-hour restrictions. Both of these strategies could help with loading and unloading for guests. Currently the hotel has two 15-minute meters for just that purpose, however, persons with disabled placards often use one or both of them. In fact, one metered space is used by a permanent resident of the Embassy with a disabled placard. Staff suggested

that additional meters could alleviate this problem. If the hotel had five meters on 3rd Street, and three of them were two-hour meters the Embassy resident and others with disabled placards could park at one or more of those meters, and the chances of both 15-minute meters being utilized would be minimal. Ms. Nasatir also expressed interest in re-striping 3rd Street to include angled parking on one side of the street. This way, she could potentially have more than five spaces in front of her property. In September 2002, Ms. Nasatir indicated to City staff that she does want more meters adjacent to her property, but wants to wait until the City tells her how many more (if any) spaces could be gained by angled parking along 3rd Street.

Overnight Parking Concerns: City staff informed Ms. Nasatir that if and when preferential parking was implemented on all the residential streets surrounding her property, her guests did have other options for overnight parking, though they might not be free. The new City parking structure #9 is located on 4th Street between California and Wilshire, approximately three blocks away from the Embassy. This structure is clean, well lit and has plenty of parking available. Overnight parking (between 6pm and 8am) costs \$3, daily parking is \$7. Furthermore, the City sells monthly overnight passes in this structure for \$55 per month, this pass covers overnight hours between 6pm and 8am, and all day on the weekends.

A second option is to park overnight on Ocean Avenue, a "shorter" three-block walk from the Embassy. The meters along the west side of Ocean Avenue between California and Montana are free after 6pm overnight until 9am. After that time, they

currently cost 50 cents/hour for up to five hours at a time. These meters are rarely all occupied in the evenings. The curb frontage along the east side of Ocean Avenue is unregulated, and will remain so. There will not be preferential parking restrictions on Ocean Avenue. Ms. Nasatir is concerned that guests will not want to walk three blocks to their vehicles. However, currently, no one in the neighborhood, including guests of the Embassy Hotel, have an easy time finding on-street parking. It is very likely that guests today walk three blocks to find parking. Implementation of preferential parking may improve conditions for residents, including residents of the Embassy, without making them worse for visitors.

There are four other hotels in this preferential parking zone. At least three of these provide inadequate off-street parking and do not conform to today's requirements. At these three hotels, parking rates range from \$18 to \$23 per night. If on-street parking permits were made available for all these hotel rooms, there could be up to a total of 1,156 permits sold for 578 hotel rooms. In this same preferential parking zone, there are only 1,060 parking spaces that could potentially be restricted to residents.

Summary

Today, only three blocks have submitted qualifying petitions for preferential parking in this neighborhood, the 1100 block of 3rd Street, and the 200 and 300 blocks of California Avenue. Blocks that have submitted a significant number of signatures include: the 1000 blocks of 2nd, 3rd, and 4th Streets and the 1100 block of 4th Street. There are no petitions to date from Washington Avenue, and a very few signatures from 2nd and 3rd

Streets north of Washington. Thus, initially, this preferential parking zone will have little or no impact on the Embassy Hotel. In the future, however, the blocks around the Embassy could have preferential parking implemented. Embassy guests can park overnight in Structure #9 or on Ocean Avenue.

Two large hotels in this neighborhood charge \$18 and \$23 respectively per night for overnight off-street parking. One mid-size hotel charges \$21, while a smaller economy "suite" hotel has free off-street parking located on the premises. Guests at the Embassy are choosing to stay at the Embassy for its excellent location and reasonable rates. They are choosing a hotel that provides no parking on-site. Today, visitors search for nearby on-street parking as do the residents in this neighborhood, or they take advantage of parking in Structure #9 which is not expensive, but is a three-block walk.

If the California Coastal Commission does not oppose preferential parking at night in this neighborhood, and the residents of 1000 3rd Street submit a qualifying petition, there are several measures available to improve conditions for residents and visitors of the Embassy Hotel. Those that can be implemented at the staff level include:

- 1) for the six short term rental units which qualify under rent control, issuing up to 12 visitor permits (authorized under the current municipal code by providing utility bills or other proof of occupancy) that could then be used by any occupant of the building, including hotel guests,
- 2) changing the regulations on the street frontage adjacent to the hotel, and
- 3) implementing angled parking on the east side of the street.

Staff anticipates the implementation of angled parking on the east side of the 1000 block of 3rd Street (between Washington and California Avenues) would yield 9 additional parking spaces and fully implementing angled parking on the east side of 3rd between Wilshire Boulevard and Montana Avenue would yield 16 additional parking spaces. Staff would require a petition representing 67 percent of the units and 50 percent of the street frontage of the block before implementing angled parking, but even this measure could be implemented at the staff level. The option most strongly advocated by the Embassy Hotel, changing the municipal code to redefine hotel units as "residential" for the purpose of issuing permits, could only be made at the Council level. As noted above, it would have implications for other locations with hotels, and other hotels in this neighborhood.

Prepared by: Suzanne Frick, Director of Planning and Community Development
Lucy Dyke, Transportation Planning Manager
Beth Rolandson, AICP, Senior Transportation Planner
Ruth Harper, Transportation Planning Associate



City of
Santa Monica

Office of the City Attorney
City Hall
1685 Main Street
PO Box 2200
Santa Monica, California 90407-2200

Cara E. Silver
cara-silver@santa-monica.org

May 15, 2003

Via Hand-Delivery

Al Padilla
Coastal Program Analyst
California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, California 90802

EXHIBIT NO. 2
Application Number 5-02-380R
City's Supplemental Letter for Reconsideration
California Coastal Commission

Re: **City of Santa Monica's Request for Reconsideration
Preferential Parking Zone "UU"
CDP No. 5-02-380
Hearing Date: June 11 - 13, 2003**

Dear Mr. Padilla:

The purpose of this letter is to provide you with additional evidence in support of the City's request for reconsideration dated February 7, 2003. First, in connection with the City's contention that the Coastal Commission has no jurisdiction to impose a condition that directly conflicts with established local ordinances, the City is in the process of evaluating an amendment to its preferential parking zone ordinance to include an exemption for designated historic landmarks located in residential zones. A copy of the April 22, 2003 Santa Monica City Council minutes reflecting the Mayor's direction to staff to return with a proposed ordinance is attached hereto as Exhibit A. Since the Embassy's attorney has indicated to the community that the Embassy would be interested in obtaining landmark status, the adoption of such an ordinance could potentially resolve the pending issue. While the ordinance has not yet been adopted and the Embassy hotel has not yet been determined to be a landmark, the City requests that the Coastal Commission suspend the Embassy condition for a minimum of six months in order to give deference to local law and to permit the City to attempt to resolve this matter administratively.

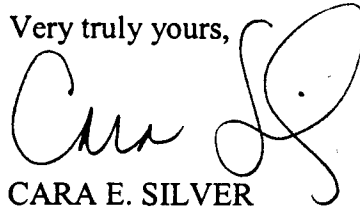
Second, attached as Exhibit B are three declarations which unequivocally refute Ms. Nasatir's claim at the January 9, 2003 hearing that the hotel operator offers a \$75.00 per night rate if a potential customer "hesitate[s] even a minute" at the higher rates typically quoted. [Reporter's Transcript of January 9, 2003 California Coastal Commission Hearing, p. 42]. These declarations show that the Embassy rates are indeed not affordable. Further, the evidence submitted in connection with the City's original request for reconsideration dated February 7, 2003 shows that there are indeed affordable hotels still existing in Santa Monica, but the

May 15, 2003
Page 2

Embassy is not one of them. Accordingly, there is no competent evidence in the record to support the imposition of the condition challenged by this request for reconsideration.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Cara E. Silver', with a large, stylized flourish at the end.

CARA E. SILVER
Deputy City Attorney

CES/bcm

Enclosures

cc: Ralph Faust (w/ encl.)
Christopher M. Harding, Esq. (w/ encl.)

CITY OF SANTA MONICA

CITY COUNCIL MINUTES

APRIL 22, 2003

A regular meeting of the Santa Monica City Council was called to order by Mayor Bloom at 6:02 p.m., on Tuesday, April 22, 2003, at City Council Chambers, 1685 Main Street.

Roll Call: Present: Mayor Richard Bloom
Mayor Pro Tem Kevin McKeown
Councilmember Michael Feinstein (arrived at 7:10 p.m.)
Councilmember Ken Genser
Councilmember Herb Katz (arrived at 6:05 p.m.)
Councilmember Pam O'Connor

Absent: Councilmember Robert T. Holbrook

Also Present: City Manager Susan McCarthy
City Attorney Marsha Jones Moutrie
City Clerk Maria M. Stewart

CONVENE/PLEDGE On order of the Mayor, the City Council convened at 6:02 p.m., with Councilmembers Feinstein, Katz and Holbrook absent. Member of the public Monica Marie Garret led the assemblage in the Pledge of Allegiance

CONSENT CALENDAR: All items were considered and approved in one motion unless removed by a Councilmember for discussion.

There was no one present for public comment.

Motion by Councilmember O'Connor, seconded by Mayor Pro Tem McKeown, to approve all items on the Consent Calendar as presented, reading resolutions and ordinances by title only and waiving further reading thereof. The motion was approved by the following vote:

AYES: Councilmembers O'Connor, Genser, Mayor Pro Tem
McKeown, Mayor Bloom
NOES: None
ABSENT: Councilmembers Holbrook, Katz, Feinstein

MINUTES

1-A: The minutes of the February 25, 2003, City Council meeting, were

approved, as submitted.

**1719 OCEAN FRONT
WALK**

1-B: Recommendation to approve Statement of Official Action taken on project located at 1719 Ocean Front Walk, was approved.

CAROUSEL EVENTS

1-C: Promotion and booking of special events and the Santa Monica Pier Carousel – recommendation to authorize the City Manager to negotiate and execute Agreement No. 8202 (CCS), with Kids Play, to promote, book and monitor special events and filming at the Pier, was approved.

**CAROUSEL -
OPERATION**

1-D: Operation and maintenance of the Santa Monica Pier Carousel recommendation to authorize the City Manager to negotiate and execute two-year Agreement No. 8203 (CCS) with Roth Management Company to operate and maintain the Santa Monica Pier Carousel, was approved.

OLYMPIC DRIVE

1-E: Olympic Drive Construction Project – recommendation to appropriate \$140,000 Proposition C – Local Return interest for use on the construction of Olympic Drive and approve proposed related budget changes, was approved.

CLOSED SESSIONS:
*Councilmember Katz
arrived at 6:05 p.m.*

On order of the Mayor, the City Council recessed at 6:05 p.m., to hear closed sessions and reconvened at 7:02 p.m., with Councilmembers Holbrook and Feinstein absent.

2-A: Public Employee Evaluations.

Title of Employees: City Manager; City Attorney; City Clerk

ACTION: Not heard.

2-B: Conference with Legal Counsel – Existing Litigation: City of Santa Monica v. Shell Oil Co., Case No. 01CC4331.

ACTION: Heard. No reportable action taken.

2-C: Conference with Legal Counsel – Existing Litigation: 2000 Main Street, LLC v. City of Santa Monica, Case No. SC 067 899.

ACTION: Not Heard.

2-D: Conference with Legal Counsel – Existing Litigation: Santa

Monica Food Not Bombs v. City of Santa Monica, Case No. 03-0032 JTLX.

ACTION: Heard. No reportable action taken.

2-E: Conference with Legal Counsel – Existing Litigation: Santa Monica Airport Association v. City of Santa Monica, Case No. SC 054 450.

ACTION: Heard. No reportable action taken.

2-F: Conference with Legal Counsel – Existing Litigation: City of Santa Monica v. Maria Stewart, Case No. SC 067 033.

ACTION: Heard. No reportable action taken.

**2-G: Conference with Legal Counsel – Anticipated Litigation:
Number of cases: Four.**

ACTION: All cases heard. No reportable action taken on two cases.

Motion by Mayor Pro Tem McKeown, seconded by Councilmember Katz, to approve settlement for the Young claim in the amount of \$17,521.95, for back-up sewer damage. The motion was approved by the following vote:

AYES: Councilmembers Katz, Genser, O'Connor, Mayor Pro Tem McKeown, Mayor Bloom

NOES: None

ABSENT: Councilmembers Feinstein, Holbrook

*Councilmember Katz was
excused at 7:08 p.m.*

Councilmember Katz requested to be excused from the following matter due to a conflict of interest.

Motion by Councilmember O'Connor, seconded by Mayor Bloom, to approve settlement in the Santa Monica Volkswagen (SMVW) claim as follows: (1) SMVW will file a conditional use permit (CUP) application to authorize an auto repair facility at 2445 Santa Monica Boulevard; the CUP application will only apply to this property. (2) If the City approves the CUP with specified conditions, SMVW must either operate the business in accordance with the CUP or close down the business and vacate the property. (3) If the City approves the CUP with conditions other than specified in the settlement agreement, SMVW may chose to operate in accordance with the CUP or allow the settlement agreement to

automatically terminate. (4) If the City denies the CUP, the settlement agreement shall automatically terminate. (5) The settlement agreement will also automatically terminate if the Architectural Review Board imposes conditions that would make it infeasible to operate the auto repair facility or would cost more than \$25,000, not including the costs associated with complying with the CUP conditions. (5) The City will issue its decision on the Performance Standard Permit application for the SMVW at 2440 Santa Monica location. The motion was approved by the following vote:

AYES: Councilmembers Genser, O'Connor, Mayor Pro Tem
McKeown, Mayor Bloom

NOES: None

ABSENT: Councilmembers Feinstein, Katz, Holbrook

SPECIAL ITEMS:

*Councilmember Katz
returned at 7:09 p.m.*

4-A: **The Mayor issued a proclamation declaring April 2003 as *Older American's Month* in the City of Santa Monica.**

ADMIN. PROCEEDINGS:
**AUTO RENTAL
OPERATIONS**

*Councilmember Feinstein
arrived at 7:10 p.m.*

6-A: **Appeal of Planning Commission's denial to allow auto rental operations within auto repair facilities and introduction and first reading of an ordinance** – recommendation to uphold the appeal in part, overturn the Planning Commission's denial of text amendments to allow accessory auto rental operations within auto repair facilities; and introduce and hold first reading of an ordinance modifying Chapter 9 of the Municipal Code to allow accessory auto rental operations in the M1 Industrial Conservation District and LMSD Light Manufacturing and Studio District with a Performance Standards Permit, and adding performance standards for auto rental operations within auto repair facilities, was presented.

*Councilmember Katz was
excused at 7:11 p.m.*

Councilmember Katz requested to be excused due to a possible conflict of interest in this matter.

Motion by Councilmember O'Connor, seconded by Councilmember Feinstein, to continue the appeal to a future meeting for further analyzes, as recommended by staff. The motion failed by the following vote:

AYES: Councilmember Feinstein, O'Connor,

NOES: Councilmember Genser, Mayor Pro Tem McKeown, Mayor
Bloom

ABSENT: Councilmember Katz, Holbrook

Member of the public Chris Harding, representing the appellant, spoke in

support of the project.

Members of the public David Ponn, representing Hornberg Jaguar, expressed various related concerns related to his facility.

Member of the public Kelly Olsen spoke in opposition of the recommendation.

Mr. Harding provided a rebuttal to comments made by the public.

Considerable discussion ensued including, but not limited to, the rental business that has been operating in the location, the traffic impacts of approving the proposed use, the current absence of standards, and impacts on parking.

Motion by Councilmember Genser, seconded by Mayor Pro Tem McKeown, to direct staff to place the five conditions recommended by staff in a different, separate section of the ordinance, not under the rental car section, and change the ordinance title accordingly. The motion was approved by the following motion:

AYES: Councilmembers O'Connor, Genser, Feinstein, Mayor Pro Tem McKeown, Mayor Bloom
NOES: None
ABSENT: Councilmembers Holbrook, Katz

Motion by Councilmember O'Connor, seconded by Councilmember Feinstein, to direct staff to research how the Municipal Code can accommodate emerging services, such as car rentals, in the car industry, and encourage the rental use of low emission and zero emission vehicles in the City. The motion was unanimously approved by voice vote, with Councilmembers Holbrook and Katz absent.

Motion by Councilmember Genser, seconded by Mayor Pro Tem McKeown, to uphold the appeal and introduce the ordinance for first reading, as amended, reading by title only and waiving further reading thereof. The motion was approved by the following vote:

AYES: Councilmembers Feinstein, Genser, O'Connor, Mayor Pro Tem McKeown, Mayor Bloom
NOES: None
ABSENT: Councilmembers Holbrook and Katz

ORDINANCES:
EVENTS ORDINANCE
Councilmember Katz
returned at 8:22 p.m.

7-A: Second reading and adoption of Ordinance No. 2073 (CCS) entitled: "AN ORDINANCE OF THE CITY OF SANTA MONICA AMENDING CHAPTER 4 OF THE MUNICIPAL CODE RELATING TO PERMIT CRITERIA, PARADE ROUTES, TEMPORARY SIGNAGE, DEPARTMENTAL CHARGES, AND INDEMNIFICATION PROVISIONS, AND REPEALING CHAPTER 6.44 RELATING TO THE CULTURAL ARTS AND CRAFTS SHOWS," was presented.

Motion by Mayor Pro Tem McKeown, seconded by Mayor Bloom, to adopt the ordinance, reading by title only and waiving further reading thereof.
The motion was approved by the following vote:

AYES: Councilmembers Feinstein, Genser, Katz, O'Connor, Mayor Pro Tem McKeown, Mayor Bloom
NOES: None
ABSENT: Councilmember Holbrook

**STREET VENDORS/
PERFORMERS**

7-B: Introduction and first reading of an ordinance amending Chapter 3 and Chapter 6 of the Municipal Code relating to street performance and vending on the Third Street Promenade, the Transit Mall, and The Pier, including sections on performance staging/location noise, penalties, exemptions from the vending ordinance, and the placement of materials on public property, was presented.

The following members of the public expressed concerns regarding various aspects of the proposed ordinance: Joey Fullmer, Marie Fink, Mike Proudlock, Linda Kutner, Tim Dillinbeck, Michael LeRoy, Miguel Hernandez, Marion Lanzafame, Ned Landin, Luke Chanthadara, Vincent Garofalo, Wen Kui Wong, Dene B, Paul Dale, Greg Waugh, John Peter, Jonathanoli, Stewart Lamle, David Yuen, Reina Alvarez, and Jerry Rubin.

Motion by Councilmember Feinstein, seconded by Councilmember Katz, to introduce the ordinance, amended to delete the section related to the heartland vendors rotation exemption; changing Bayside rotation to occur on even-numbered hours; deleting the word "oppose" from Section D, on page 19 of the ordinance; increasing the rotation on the Pier to occur at 10:00, 1:00, 4:00 and 7:00; leaving the option of the lottery in the ordinance, and with direction to the PRC to use the increased rotation first.

Motion to amend by Councilmember Genser, seconded by Councilmember O'Connor, to change the citation fee to \$75 for the first offense, \$125 for the second offense, and \$200 for the third offense. The motion was approved by the following vote:

AYES: Councilmembers O'Connor, Genser, Katz, Mayor Bloom
NOES: Councilmembers Feinstein, Mayor Pro Tem McKeown
ABSENT: Councilmember Holbrook

Councilmember Feinstein stated, for the record, that he voted against the motion because the existence of ambient background noise at or above the 85 decibel level creates particular circumstances making it more difficult to comply.

Senior Land Use Attorney, Barry Rosenbaum, indicated the motion as stated would include the following changes: On pages 11 and 12 relative to the Promenade and the Transit Mall, to strike the second "even" after "the preceding hour." Regarding display of items on page 21, section (b) ". . . and no more than five such items are displayed at any one time. A performer/vendor may display these items from a table or cart, the performer/vendor's instrument case or attached to an easel which is used as a part of the performance. If a performer vendor displays item from a table or cart, all the other requirements specified in section 6.116.010 shall apply." On page 16: "Except as otherwise authorized by this Code, no person on the third street promenade, transit mall or pier shall display or distribute goods or any materials, merchandise, food or any other items except from a . . ."

The motion, as amended, was approved by the following vote:

AYES: Councilmembers Feinstein, Katz, Genser, O'Connor, Mayor Pro Tem McKeown, Mayor Bloom
NOES: None
ABSENT: Councilmember Holbrook

Motion by Mayor Pro Tem McKeown, seconded by Mayor Bloom, to direct staff to evaluate the safety issues of allowing additional display spaces in front of the future Bubba Gumps Restaurant, the proposed Route 66 Club and on the 20-25 foot breezeway on the side of Pacific Park, and return in time to make adjustments for the summer season. The motion was unanimously approved by voice vote, with Councilmember Holbrook absent.

**CHANGE OF AGENDA
ORDER**

At the request of the Mayor, Item 10-A was moved up, out of order.

**REPORTS OF BOARDS
AND COMMISSIONS:**

10-A: **Request of the Commission on Older Americans to change the name of the Commission to "Commission for the Senior Community,"**

CHANGE OF NAME

was presented.

*Councilmember Feinstein
was excused at 10:35 p.m.*

There was no one present to speak for public comment.

Motion by Councilmember O'Connor, seconded by Councilmember Katz, to approve request. The request was unanimously approved by voice vote, with Councilmembers Holbrook and Feinstein, absent.

RECESS

On order of the Mayor, the City Council recessed at 10:36 p.m., and reconvened at 10:52 p.m., with Councilmember Holbrook absent.

STAFF ITEMS: **VENDING PROGRAM** **LOTTERY**

8-A: **Downtown Special Vending Program Lottery** – recommendation to approve the proposed performance standards and license fees, and direct staff to proceed with the re-implementation of the vending cart lottery system for the five vacant Downtown Special Vending District cart locations, was presented.

Member of the public Maria Locsin spoke in approval of the project.

Motion by Mayor Pro Tem McKeown, to approve recommendation, amended to include the Pier Leasing Guidelines. The motion died for lack of a second.

Motion by Councilmember Genser, seconded by Councilmember Katz, to approve staff recommendation. The motion was approved by the following vote:

AYES:	Councilmembers O'Connor, Genser, Katz, Mayor Pro Tem McKeown, Mayor Bloom
NOES:	Councilmember Feinstein
ABSENT:	Councilmember Holbrook

Councilmember Feinstein stated for the record, that he voted in opposition because Council is not taking advantage of the two-year testing period to learn about what type of cart options will be viable and the manner in which food service is being treated is not as potentially inclusive as it could be for the community.

BOOTLEGGED **CONTROLLED RENTAL** **UNITS**

8-B: **Proposed code amendments relating to the status of "bootlegged" controlled rental units** – recommendation to direct staff to prepare Municipal Code amendments which would waive certain development standards for bootlegged units, was presented.

Member of the public Rosario Perry spoke generally in support of the recommendation and expressed some concerns.

Motion by Councilmember Katz, seconded by Councilmember Genser, to approve staff recommendation. The motion was approved by the following vote:

AYES: Councilmembers Feinstein, Katz, Genser, O'Connor, Mayor Pro Tem McKeown, Mayor Bloom
NOES: None
ABSENT: Councilmember Holbrook

**JOINT MEETING WITH
REDEVELOPMENT
AGENCY:
MADISON THEATER**

*Councilmember Katz was
excused at 11:25 p.m.*

On order of the Mayor, the City Council recessed and reconvened to a joint meeting with the Redevelopment Agency at 11:25 p.m., with Councilmember Holbrook absent.

8-C: Madison Theater Project – analysis of alternative parking scenarios – recommendation that City Council and the Redevelopment Agency provide direction to staff regarding discussions with the School District and the College, to add alternative(s) for analysis in the Project's EIR; if additional analysis is desired, authorize the City Manager to negotiate and execute Agreement No. 8204 (CCS) with the College in the amount of \$20,000 for analysis of additional parking scenarios; and, approve the proposed budget changes, was presented.

There was no one present for public comment.

Motion by Councilmember Feinstein, seconded by Councilmember Genser to approve staff recommendation. The motion was approved by the following vote:

AYES: Councilmembers Feinstein, Genser, Mayor Pro Tem McKeown, Mayor Bloom
NOES: None
ABSTAIN: Councilmember O'Connor
ABSENT: Councilmembers Holbrook, Katz

Motion by Mayor Bloom, seconded by Councilmember Genser, to direct staff to ask the College for information on the financing for the project, how the on-going finance stream is going to work, the impacts the financing will have, projected cost of traffic and other mitigation and what options there are to determine whose obligation it is. The motion was approved by voice vote, with Councilmember O'Connor voting in opposition, and

Councilmembers Katz and Holbrook absent.

ADJOURNMENT

On order of the Mayor, the Special Joint Meeting was adjourned and the regular City Council meeting was reconvened at 11:36 p.m., with Councilmembers Holbrook and Katz absent.

PUBLIC HEARINGS: ADELPHIA CABLE

9-A: **Public Hearing and Resolution No. 9846 (CCS) entitled: "A RESOLUTION OF THE CITY OF SANTA MONICA ADOPTING A RATE ORDER REGARDING THE BASIC CABLE TELEVISION SERVICE TIER AND THE EQUIPMENT AND INSTALLATION RATE FOR CENTURY-TCI CALIFORNIA, L.P. DBA ADELPHIA COMMUNICATIONS CORPORATION,** was presented.

There was no one to speak at the public hearing.

Motion by Councilmember Feinstein, seconded by Councilmember Genser to adopt the resolution, reading by title only and waiving further reading thereof. The motion was approved by the following vote:

AYES: Councilmembers O'Connor, Genser, Feinstein, Mayor Pro Tem McKeown, Mayor Bloom
NOES: None
ABSENT: Councilmembers Katz, Holbrook

COUNCIL ITEMS: COMMISSION ON OLDER AMERICANS

13-A: **Appointment to one special vacancy on the Commission on Older Americans for a term ending June 30, 2003.**

13-B: **Appointment to one annual vacancy on the Commission on Older Americans for a term ending June 30, 2006, due to a previous appointee's withdrawal from the position.**

On order of the Mayor, Items 13-A and 13-B to be continued to May 13, 2003

HENNA TATTOOS

13-C: **Request of Councilmember Feinstein to consider Henna Tattoo as a permitted performance under the City's Street Performance Ordinance,** was presented.

Members of the public Linda Kutner, Luke Chanthedora, Ned Landin, Stewart Lamle and Jerry Rubin spoke in support of the request.

On order of the Mayor, the information was received and filed. No formal action was taken.

**PREFERENTIAL
PARKING**

13-D: Request of Mayor Bloom to discuss the option of directing staff to return with information on possible modification of the preferential parking ordinance(s) to create full or partial exemptions, or provide certain number of permits, for designated non-residential historical landmarks located in residential zones, was presented.

Members of the public Gideon Brower, Sonja Bragga, and Rob Rader spoke in support of resident parking in their neighborhood.

Motion by Mayor Bloom, seconded by Councilmember O'Connor, to approve request, amended to remove the word "non-residential" and directing staff to return with information or with an ordinance, as appropriate. The motion was unanimously approved by voice vote, with Councilmembers Katz and Holbrook absent.

SB 981

13-E: Request of Councilmember Feinstein that Council support SB 98 (Soot) which would enact the *Children's Health and Petroleum Pollution Remediation Act of 2003* and require refinery operators to pay a fee per barrel of California-refined crude oil to fund mitigation program addressing adverse health impacts, was presented.

There was no one present for public comment.

Motion by Councilmember Feinstein, seconded by Mayor Pro Tem McKeown to approve request. The motion was unanimously approved by voice vote with Councilmembers Katz and Holbrook absent.

**EIR's FOR ENERGY
PRODUCTION
PROJECTS**

13-F: Request of Councilmember Feinstein to direct staff to investigate participation with other California cities to require the completion of Environmental Impact Reports for energy production projects in foreign countries which are funded by the United States government, was presented.

There was no one present for public comment.

Motion by Councilmember Feinstein, seconded by Mayor Pro Tem McKeown to approve request. The motion was unanimously approved by voice vote with Councilmembers Katz and Holbrook absent.

PUBLIC INPUT:

There was no one present for public comment.

ADJOURNMENT:

On order of the Mayor, the City Council meeting was adjourned at 12:14 a.m., in memory of ten year-old resident Mac Flynn-Miller.

ATTEST:

APPROVED:

Maria M. Stewart
City Clerk

Richard Bloom
Mayor

DECLARATION OF GALE FELDMAN

I, GALE FELDMAN, declare as follows:

1. I reside at 1015 3RD Street, #25, Santa Monica. Unless the context indicates otherwise, I have personal knowledge of the facts stated herein and could and would testify competently thereto if called as a witness in this matter.

2. I reside within the area created by Preferential Parking Zone UU. My apartment unit is located directly next door to the Embassy Hotel Apartments.

3. On January 9, 2003, I attended the Coastal Commission hearing on the City of Santa Monica's application for a coastal development permit for Preferential Parking Zone UU. At that hearing the owner of the Embassy Hotel Apartments testified that while the published hotel rates were between \$100.00-200.00 if a potential guest hesitated even a minute, the hotel would offer a lower rate of \$75.00. My experience is that this statement is not true.

4. On March 13, 2003, I telephoned the Embassy Hotel and inquired if they had rooms available on Saturday March 15, 2003. I was informed that they had rooms available for the weekend and that a bachelor had a rental rate of \$110.00 and that they also had other available rooms. I asked if the \$110.00 room was the least expensive room available and the hotel operator said yes. The hotel operator did not offer to reduce the room rate at all, let alone to \$75.00.

5. Over the years that I have lived next door to the Embassy, I have seen hotel guests arrive in large tour buses and airport shuttles. Based on these repeated observations, I do not believe that all Embassy hotel guests have cars which require parking.

6. Further, if the City did not give parking permits to the Embassy hotel guests, they would be in no different position than they are today as there currently is no on-site parking at the hotel and street parking is consistently difficult to find near the hotel.

Executed this 20th day of March, 2003, at Santa Monica, California.


GALE FELDMAN

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DECLARATION OF ROBERT FLOWERS

I, ROBERT FLOWERS, declare as follows:

1. Unless the context indicates otherwise, I have personal knowledge of the facts stated herein and could and would testify competently thereto if called as a witness in this matter.

2. I am currently employed by the City of Santa Monica ("City") as a Senior Code Compliance Officer and have been employed by the City since approximately July 1997.

3. During the week of March 24, 2003, Building Officer Tim McCormick asked me to telephone the Embassy Hotel located at 1001 Third Street in Santa Monica and inquire about its current room rates.

4. On March 28, 2003, at approximately 8:30 a.m., I telephoned the Embassy Hotel to inquire about their current room rates. I spoke with a hotel operator named "John" and asked him what the cheapest hotel rate he had available for the upcoming weekend. He informed me that the most inexpensive room rate that the hotel offered were bachelor rooms at the nightly rate of \$110.00. John further informed me that they had rooms with kitchenettes at the nightly rate of \$175.00. I then confirmed that \$110 was the cheapest rate that was available and the hotel operator confirmed that it indeed was the "least expensive rate."

Executed this 3/st day of March, 2003, at Santa Monica, California.


ROBERT FLOWERS

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DECLARATION OF JACQUELINE COCHRAN

I, Jacqueline Cochran, declare as follows:

1. Unless the context indicates otherwise, I have personal knowledge of the facts herein and if called as a witness in this matter could and would be competent to testify to the following facts.

2. I am currently employed by the City of Santa Monica ("City") as a Code Compliance Officer and have been employed by the City of Santa Monica since July 25, 2000.

3. On March 28, 2003, at approximately 8:40 a.m., I telephoned the Embassy Hotel to inquire about their current room rates. I spoke with a hotel operator named "John" and asked him whether the Embassy had available rooms for the upcoming weekend and what the least expensive rate was. He informed me that the Embassy had available rooms and that the least expensive rooms were a bachelor with a nightly rate of \$110.00 and a studio suite with kitchen for a nightly rate of \$175.00. I then confirmed that \$110 was the least expensive room available and the hotel operator confirmed that it was the least expensive room available.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 10th day of April, 2003, at Santa Monica, California.


JACQUELINE COCHRAN

HARDING, LARMORE, KUTCHER & KOZAL

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

CHRISTOPHER M. HARDING
THOMAS R. LARMORE
KENNETH L. KUTCHER
KEVIN V. KOZAL
LAURIE LIEBERMAN
DANIEL TELLALIAN

February 25, 2003

SANTA

EXHIBIT NO. 3
Application Number 5-02-380R
Letter from Reps for Embassy Hotel
California Coastal Commission

RECEIVED

FEB 27 2003

CALIFORNIA
COASTAL COMMISSION

VIA TELECOPIER (562) 590-5084

Al Padilla
Coastal Program Analyst
California Coastal Commission
200 Oceangate, #1000
Long Beach, CA 90802

Re: City of Santa Monica's Request for Reconsideration of the Coastal
Commission's Decision Regarding City of Santa Monica's Preferential
Parking Zone UU
CDP No. 5-02-380
Our Client: Embassy Hotel Apartments
Our File No. 1428.1

Dear Mr. Padilla:

This letter is submitted on behalf of the Nourafchan family, owners of the Embassy Hotel Apartments, in opposition to the City of Santa Monica's request for reconsideration in the above-referenced matter. We request that this letter be made part of the Commission's official record concerning this matter.

The Coastal Act requires the Commission to deny the City's reconsideration request. As explained herein, the City's request fails to satisfy either criteria for such a request as specified in Public Resources Code Section 30627(b). Moreover, the condition of approval being challenged here -- which requires the City to make parking permits available to Embassy hotel guests as part of the City's latest preferential parking zone -- is compelled by the Coastal Act and Commission policy favoring visitor-serving uses. Eliminating this condition, as requested by the City, would violate the Coastal Act and Commission policy.

Much of the City's reconsideration request constitutes a broad attack on the Commission's jurisdiction, including a repetition of the City's longstanding claim that the Commission lacks jurisdiction over preferential parking. The Commission has rejected these arguments when made previously and presumably will do so again. Consequently, this letter does not address these City arguments.

Ironically, the City is seeking reconsideration of a Coastal Commission decision approving its application, notwithstanding the City's promise not to create any additional

Al Padilla
February 25, 2003
Page 2

preferential parking zones in the neighborhoods surrounding the downtown area where on-street parking spaces were removed for the Transit Mall.¹

I.
BACKGROUND

On January 9, 2003, the Coastal Commission conducted a public hearing concerning the City's coastal development permit ("CDP") application for yet another preferential parking zone ("PPZ") within the City's coastal zone. After hearing this matter, the Commission approved the City's application with one modest, but important change: an additional condition was added requiring the availability of parking permits for the Embassy's hotel guests.

The Commission's vote to add this condition was eight to one. Prior to the vote, the Commission added limiting language at the suggestion of Executive Director Peter Douglas that parking permits will only be available for lodging facilities within the preferential parking zone that lack any off-street parking. As a practical matter, this limits the condition to the Embassy only; all other lodging facilities within this PPZ have off-street parking.

Prior to the hearing, the City submitted extensive written arguments to the Commission making nearly all of the legal points raised in the City's reconsideration request (with the exception of its *Marine Forests Society* claim). (See City letter dated January 8, 2003.) Additionally, during the Commission's January 9th hearing, City Planning Director Suzanne Frick claimed the Embassy does not provide affordable lodging by referencing the Embassy's standard (i.e., non-discounted) rates as listed on its webpage (the same evidence the City now claims is "new"). In short, the City's reconsideration request is little more than a repeat of arguments and evidence the City presented previously.

¹ At the California Coastal Commission hearing on Tuesday, February 13, 2001, concerning Agenda Item No. 15a, Coastal Commission Chair Wan told Santa Monica Planning Director Suzanne Frick that the Commission did not want to approve the City's Downtown Transit Mall Plan, which included the loss of on-street parking in the downtown, only to have the City then return "in a couple of years and asking for preferential parking districts in those surrounding neighborhoods." Chair Wan warned the City not to do so, "Because, I've got to tell you, if I am on the Commission, I am going to be pretty upset by that." Planning Director Frick emphatically agreed not to do so: "That is understood. And, we have no intention of establishing additional preferential parking zones in that area." Reporter's Transcript of Proceedings, City of Santa Monica Streetscape Project, Appl. No. 5-00-150, prepared by Priscilla Pike, p. 32, lines 11-21.

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February 25, 2003
Page 3

**II.
THE CITY HAS FAILED TO MEET ANY OF THE
LEGAL CRITERIA FOR RECONSIDERATION**

The City's reconsideration request fails to meet the Coastal Act standards for reconsideration, which Public Resources Code Section 30627(b) limits to the following:

- There is relevant new evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing on the matter, or
- An error of fact or law has occurred which has the potential of altering the initial decision.

The City's reconsideration request fails to meet either of these two criteria.

A. The Embassy's Affordability.

The City's claim of new evidence concerning the Embassy's affordability is false. City Planning Director Suzanne Frick, who signed the declaration in support of the City's reconsideration request, personally appeared at the Commission's January 9th hearing and presented the very same evidence. Specifically, Ms. Frick testified as to the room rates posted on the Embassy's website (i.e., its standard, non-discounted rates), which mirrors her new declaration.

In response, Michele Nasatir testified that (not unlike most hotels, especially independent ones) the posted rates were very flexible and the actual rates charged were substantially lower including a typical rate of \$75 for standard hotel rooms. Ms. Nasatir further testified that their large family-sized hotel units (i.e., 1 and 2-bedroom suites) are very affordable in comparison to other comparably-sized hotel rooms. This evidence was weighed by the Commission during its deliberations, with Commissioner Desser specifically noting that in her judgment the evidence indicated the Embassy's rates were affordable in comparison to other area accommodations.

Furthermore, the City knew about this issue well in advance of the hearing. (See our law firm's letter dated December 30, 2002, a copy of which was July delivered to City officials at that time.) Thus, the record clearly indicates the City had ample opportunity at the Commission's January 9th hearing to raise the "affordability" issue and submit evidence in support of its position, and the City did so. The City has made no showing that its so-called "new evidence" (which is not really new at all) could not have been submitted in the exercise of reasonable diligence on January 9th as required by Public Resources Code Section 30627(b)(3). Therefore, no lawful basis exists for reconsideration stemming from the City's persistent questioning of the Embassy's affordability.

Al Padilla
February 25, 2003
Page 4

Finally, the City's focus on the Embassy's affordability ignores that the Commission has previously denied coastal development permits for preferential parking zones due to their adverse impacts on visitor-serving uses regardless of the affordability of such uses. For example, the Commission rejected the City of Los Angeles' application for preferential parking in the Santa Monica Canyon area because of its adverse impacts on several visitor-serving uses including restaurants and a bed and breakfast significantly more expensive than the Embassy.² Although affordable lodging facilities are especially sensitive under the Coastal Act (see Pub. Res. Code § 30213), the Commission's coastal access policies are broader in scope and protect visitor-serving uses in general against the adverse effects of preferential parking in the coastal zone.

B. The City's Vehicle Code Argument.

The City's extended attack on the Commission's jurisdiction over preferential parking also presents nothing new. The City presented this same argument to the Commission in its letter dated January 8, 2003, and in Ms. Frick's comments during the Commission's January 9th hearing. For good reason, the Commission has long exercised jurisdiction over preferential parking throughout California including in Santa Monica. The City's frontal assault on the Commission's jurisdiction to review preferential parking districts does not provide any basis for reconsideration here.

In the past, the Commission has carefully scrutinized proposed preferential parking zones and has even denied such zones if the Commission determined that they would impede coastal access. Here, the Commission generously granted the City's permit (notwithstanding the City's prior promise not to seek permits for any further preferential parking zones), and after insuring the Embassy -- the only lodging facility within the proposed preferential parking zone without any off-street parking -- would receive parking permits.

The Embassy has only nineteen hotel units; the limited permits needed by Embassy hotel guests, in a zone with nearly one thousand public parking spaces, will not impair the City's objective of protecting the neighborhood from Third Street Promenade-generated parking intrusion. Given the circumstances, it is difficult to fathom the City's extreme overreaction to the Commission's decision as reflected in its reconsideration request.

² On February 27, 1991, the Coastal Commission denied CDP No. 5-90-989 for a preferential parking zone near the intersection of West Channel Road and Entrada Drive because it would adversely impact visitor-serving business including the Channel Road Inn (a bed and breakfast facility), a "Tex-Mex" restaurant, the Golden Bull, Restaurant and Friendship Restaurant/Bar, none of which were identified in the Staff Report as an affordable visitor-serving use.

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Page 5

Finally, the City would expand its "local control" if it would adopt its own Local Coastal Program, which has been in draft form for more than twenty years without resolution. See Pub. Res. Code § 30500(a).

**III.
THE COMMISSION'S DECISION TO PROTECT THE EMBASSY'S
PARKING IS MANDATED BY THE COASTAL
ACT AND THE COASTAL COMMISSION'S POLICIES**

As we argued on behalf of the Nourafchan family both prior to and during the Commission's January 9th hearing, the City's request for a coastal permit approving its preferential parking zone without any accommodation for the Embassy's hotel guests is inconsistent with the Coastal Act and the Coastal Commission's policies.

The Coastal Act encompasses private land uses within the coastal zone and specifically favors coastal-dependent and coastal-related uses. Pub. Res. Code § 30001.5(d). The Coastal Act further identifies lower cost visitor facilities as uses to be protected and encouraged in the coastal zone. See Pub. Res. Code § 30213 ("Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided").

Consistent with this component of the Coastal Act, Santa Monica's Local Coastal Program Land Use Plan (August 1992) includes Recreation and Visitor-Serving Policies 31 (addressing the need for visitor-serving uses such as hotels) and 35 (addressing preservation of existing affordable lodging facilities). These LCP provisions, which were adopted at the request of the Coastal Commission, reflect the Commission's strong policy in favor of visitor-serving uses in the coastal zone and especially the need to preserve affordable overnight accommodations.

LUP Policy 35 provides:

"Lower cost visitor and recreational facilities shall be protected, encouraged, and where feasible, provided. New development shall not remove lower cost lodging facilities unless a finding of infeasibility is made. Where new development removes lower-cost lodging facilities, the feasibility of replacing the lower cost units on-site shall be considered. If on-site replacement is not feasible, then one-to-one replacement within the coastal zone shall be considered. The City shall identify sites suitable for lower-cost over-night lodging. If these alternatives are not feasible, then an in-lieu fee payment shall be made and placed in a fund established by the City for the provision of lower-cost

Al Padilla
February 25, 2003
Page 6

lodging facilities within the coastal zone, including land acquisition, construction, and replacement. (Emphasis added.)

The City's cavalier attitude towards the Embassy and its parking needs cannot be squared with this LUP policy favoring preservation of existing affordable lodging such as the Embassy. Here, it is clearly feasible for the City to provide the small number of parking permits necessary to accommodate Embassy hotel guests.³ Although the City's reconsideration request again claims that the City's own ordinance makes this impossible, the City ignores the obvious: either the City may change its own ordinance (which we are now advised by City officials is being considered) or, alternatively, the City may amend the Settlement Agreement entered by the City and the Nourafchan family with respect to the Embassy (an option which the Nourafchan family has advised the City they are willing to pursue in cooperation with the City).

In sum, the City faces no practical or legal difficulties in complying with the Commission's decision, which merely implements the Coastal Act's protections for visitor-serving uses generally and affordable lodging in particular.

IV.

THE CITY'S CLAIM THAT IT HAS WORKED COOPERATIVELY WITH THE EMBASSY TO ADDRESS ITS PARKING PROBLEMS IS FALSE

In support of its "equity" argument for reconsideration, the City repeats its claim made during the Commission's January 9th hearing that it has been and will continue to work cooperatively with the Embassy to address its parking needs. Given past history, the Nourafchan family is understandably skeptical.

The Nourafchans were pro-active in their efforts to agendize a discussion of their concerns at Santa Monica City Council hearings in November and December of last year. However, at that time the City Council refused to intervene and instead elected to push forward with their application at the Coastal Commission.

Prior to the Commission's January 9th hearing, the City suggested Embassy hotel guests should park in City parking structures located several blocks away. Shortly before the hearing, the City indicated it would allow a reallocation of twelve permits for six of the Embassy's apartment units to be used by hotel guests, ignoring that the occupants of these six apartment units had parking needs of their own and thus will need most, if not all, of these twelve permits. Neither the Nourafchan family nor the

³ A contrary ruling would have effectively compelled the conversion of the Embassy's nineteen hotel rooms to standard apartments.

Al Padilla
February 25, 2003
Page 7

Commission found either City approach to be reasonable or workable, and for obvious reasons.

If the City were at all serious about meeting the Embassy's parking needs, the City would simply comply with the Commission's decision. The small number of parking permits required to meet the Commission's condition will have no significant impact on this preferential parking zone's protections for local residents. Indeed, two local neighborhood organizations and many local residents supported the Embassy's request that its hotel guests be allocated parking permits, and no one opposed this request at the Commission's January 9th hearing. Rather than launch a preemptive assault on the Commission's jurisdiction over preferential parking, the City would honor its purported commitment to coastal access values far better by simply accepting the Commission's decision and complying with it.

**V.
CONCLUSION**

Stripped of its pretense, the City's reconsideration request is a power play by the City designed to intimidate the Commission into removing a condition which protects the Embassy's viability as a visitor-serving use. The Commission should reject the City's heavy-handed tactic. The Commission properly considered all relevant evidence and legal arguments before rendering its decision on January 9th. Indeed, a contrary decision would have violated the Coastal Act and Commission policy. Under the circumstances, there is no lawful basis for reconsideration and thus the City's request must be denied.

Sincerely,



Christopher M. Harding

CMH:smk

cc: Peter M. Douglas
Deborah Lee
Teresa Henry
Ralph Faust
Michele Nasatir
Paris Nourafchan
Elis Nourafchan

1428/Cor/Padilla.3001.CMH.doc

March 2003

California Coastal Commission
45 Fremont Street
Suite 2000
San Francisco, CA 94105-2219

EXHIBIT NO. 4
Application Number 5-02-380R
One of over 70 Letters supporting California Coastal Commission Decision of Reconsideration

Dear Chair and Commissioners:

I am a resident of the pending Preferential Parking Zone (PPZ) UU, and am eligible for a preferential parking permit.

While the success of the Third Street Promenade and Bayside District has brought important benefits to Santa Monica, it has also had a severe, negative impact on the availability of street parking in my immediate community. It has diminished the quality of life and sense of safety throughout the neighborhood, particularly during evening hours.

Because of that, the California Coastal Commission's January 9th approval of the PPZ, including the granting of additional permits to the Embassy Hotel Apartments, was a prudent and proper decision. I strongly believe your decision should stand.

The City of Santa Monica's Request for Reconsideration of your decision will prolong the parking crisis in my neighborhood indefinitely. I respectfully ask that City's request be denied. We have waited long enough for overnight permit parking.

Thank you for your consideration.

Sincerely,

Mrs. & Mrs. Charles Goodwin
Name

1012 3rd Street, Suite 309, Santa Monica, 90403
Address

3-21-2003
Date

EXHIBIT NO. 5

Application Number

5-02-38CR

Hearing Transcript

of Jan 9, 2003 Hearing

California Coastal Commission

STATE OF CALIFORNIA
COASTAL COMMISSION

UNCERTIFIED DRAFT COPY

CITY OF SANTA MONICA
COUNTY OF LOS ANGELES

Preferential Parking
Application No. 5-02-380

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Thursday
January 9, 2003
Agenda Item No. 10.d.

Radisson - LAX
6225 West Century Boulevard
Los Angeles, California

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STAFF

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1 California Coastal Commission
2 January 9, 2003
3 Santa Monica Preferential Parking;
4 Application No. 5-02-380

5 * * * * *

6 4:45 p.m.

7 CHAIR REILLY: Okay, we will go to staff, for a
8 staff report in Item 10.d., which is Santa Monica Preferent-
9 ial Parking.

10 DISTRICT DIRECTOR LEE: Yes, thank you, Mr. Chair.

11 Item 10.d. is Application is Item No. 5-02-380.

12 This is a request from the City of Santa Monica to establish
13 a residential preferential parking zone with no parking or
14 stopping between the hours of 6:00 p.m. to 8:00 a.m. without
15 a permit, and the erection of signs identifying the parking
16 restrictions.

17 The location of the proposed zone is 12 blocks,
18 bounded by Montana on the north, Wilshire on the south,
19 Fourth Avenue on the east -- which is also the coastal zone
20 boundary in this area -- and Ocean Avenue on the west. The
21 area is four blocks north of the pier, and immediately north
22 of the Third street promenade.

23 Staff is recommending approval of the preferential
24 parking zone with special conditions requiring the city to
25 prohibit preferential parking along both sides of Ocean

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1 Avenue, which is located adjacent to Palisades Park, limit
2 that authorization for the zone to five years, at which time
3 they would have to come back and seek reauthorization of the
4 preferential parking zone, and also acknowledgement on the
5 part of the city that any change in the hours, or boundaries,
6 or operation of the preferential parking zone, would require
7 Commission approval.

8 As the Commission knows, staff has taken very
9 conservative positions relative to preferential parking
10 zones, and has thus generally discouraged them. Given the
11 Coastal Act's commitment to providing maximum access to the
12 shoreline for the public, and the recognition that public
13 streets often serve as the bulk of public parking reservoirs,
14 staff has sought to preserve public streets without the
15 imposition of parking regulations, or metering.

16 However, in limited circumstances where there are
17 evident parking conflicts, the Commission has accepted some
18 parking programs where it was clear that public access to the
19 shoreline, or coastal recreational areas, would not be
20 adversely affected by virtue of where the area, itself, in
21 question is located; where restrictions were outside of peak
22 beach use periods; limits on metering; available public
23 parking alternatives or facilities; or the Commission has
24 also required the provision of shuttles to reserved off-site
25 parking facilities.

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1 In this case, the area in question is an older
2 residential neighborhood that abuts the Third Street
3 Promenade, which appears to be the genesis of the parking
4 conflict. Older homes in this area, don't have adequate off-
5 street parking, and the employees and patrons of the
6 Promenade, who are seeking free parking availability, are
7 coming into this residential neighborhood and are creating
8 the conflict.

9 The proposed preferential parking zone is
10 separated from the actual beach by a row of private
11 residential lots, Pacific Coast Highway, Palisades Park, and
12 then Ocean Avenue. There are public beach lots available
13 along the shoreline, and there are pedestrian overpasses from
14 the park to the beach.

15 Given this geographic separation, staff's analysis
16 was this zone did not present as significant an access
17 impediment as many other proposals; however, we remain
18 concerned about the loss of parking along Ocean Avenue, given
19 Palisades Park, and the desires of some to attend the park,
20 view the sunset, or recreate during the early evening hours.

21 Therefore, even though the city's proposal would
22 be only for the east side of Ocean Avenue, and evening hours,
23 only, staff is recommending that all of Ocean Avenue be left
24 out of the zone.

25 With that revision, and the other two conditions,

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1 staff is recommending approval, based on the findings the
2 public access to the coast will be protected.

3 It is our understanding that the city is in
4 agreement with the staff recommendation.

5 There are letters in your addendum, and also
6 separate handouts from the city, those both in favor and
7 opposition to the proposal. The principal opposition, to
8 date, has been from representatives from the Embassy Hotel
9 apartments. It is within the district. There are 38 units,
10 19 of which are operated as kind of seasonal hotel units, 19
11 others are operated as residential apartments. It has
12 inadequate parking, and the hotel operators had asked for the
13 city to allow them to issue permits to them, as though they
14 were residential leasehold; however, the city does not, and
15 argues that they do not have the ability to issue the permits
16 to commercial leaseholds.

17 The staff considered this, and they are also
18 making the argument that the hotel serves as a lower-cost
19 visitor accommodation, and under that premise, it would be
20 something that should be allowed to get residential permits?

21 Staff has not viewed allowing commercial uses, or
22 solving those kinds of problems in these situations, and
23 we've limited the scope of our review to first identifying
24 whether or not there is a coastal access impediment, or
25 conflict, and in this case we do not feel there is one,

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1 given, first the geographic segmentation from the beach, and
2 then the fact that by retaining both sides of Ocean Avenue,
3 next to Palisades Park, we think there will be adequate
4 public parking maintained in the area for those users.

5 And, again, the city's request is only for the
6 evening time. It is not at a time that does pose a conflict
7 with peak beach use, or recreation.

8 We think there are some other alternatives that
9 the hotel could work out with the city, and perhaps utilizing
10 some of the public parking facilities, and a shuttle
11 operation, but basically staff's analysis has been that it is
12 a problem that they need to work out with the local govern-
13 ment.

14 And, that concludes staff's comments, at this
15 time.

16 CHAIR REILLY: Thank you.

17 And, I'll call for ex parte communications?

18 [No Response]

19 Anything?

20 [No Response]

21 As we broke for lunch today, I had a conversation
22 with a Peter Coopersmith, who was not able to stay for this,
23 but was opposed to the project, on a couple of bases. One,
24 the feeling that they are just moving the problem farther
25 north, in terms of incrementally moving the parking issues,

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1 and they are going to end up impacting another area of the
2 city.

3 And, secondly, a concern about the 6:00 p.m.
4 cutoff, when neighboring communities, according to Mr.
5 Coopersmith, have kind of dawn-to-dusk rules around beach
6 use, and so those were his comments.

7 Anyone else?

8 Commissioner McClain-Hill.

9 [No Response]

10 You had the same conversation I did?

11 COMMISSIONER MC CLAIN-HILL: I'm sorry, yes,
12 sorry, I was with Commissioner Reilly, and had the same
13 conversation, at the same time, with the same person.

14 CHAIR REILLY: Thank you.

15 COMMISSIONER MC CLAIN-HILL: Thank you.

16 CHAIR REILLY: Will call Suzanne Frick, City of
17 Santa Monica. And, about how much time will you need, Ms.
18 Frick?

19 MS. FRICK: About five minutes.

20 CHAIR REILLY: Five minutes is fine.

21 MS. FRICK: Good afternoon, I am Suzanne Frick. I
22 am the director of Planning and Community Development for
23 Santa Monica, and I want to reiterate Santa Monica's commit-
24 ment to coastal access and easily accessible parking.

25 The proposed zone restricts parking only in the

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1 evening hours, and really results in minimal impact to
2 coastal access.

3 Parking occupancy counts in this particular area
4 have revealed that about 92 percent of the on-street parking
5 spaces are occupied, and the user surveys indicate that the
6 people occupying those spaces are primarily, residents,
7 visitors of residents, employees of the Promenade, or
8 visitors to the Promenade. That is the universe of people
9 who are parking in this neighborhood.

10 Currently, Santa Monica has about 5300 public
11 beach parking spaces, and about two years ago, when the
12 Commission approved the Santa Monica Transit Mall, the
13 Commission expressed concern over the reduction of parking in
14 the area, and the concern that there would be a proliferation
15 of preferential parking zones.

16 Well, I want to let you know that since that time,
17 the city has added a new public parking structure with 294
18 publicly accessible spaces in the area, and added 43 new on-
19 street parking spaces, also, in this particular area.

20 And, on a typical day, after 6:00 p.m. within the
21 new parking structure the occupancy is at about 15 percent,
22 so there is a significant supply of available public parking
23 within our public parking structure. It is unfortunate that
24 people are choosing to park in the residential zone, as
25 opposed to within the public parking area, and so that is

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1 what has really necessitated the need for this preferential
2 parking zone.

3 Now, you have received a request from the Embassy
4 Hotel to deny the parking zone, or authorize issuance of
5 parking permits for the hotel guests. This would be in
6 violation of the City of Santa Monica regulations related to
7 preferential parking. The Embassy is one of four hotels
8 within the preferential parking area, and the hotel argues
9 that it is an affordable lodging establishment, and that the
10 parking restrictions would be a violation of both the Coastal
11 Commission and the City of Santa Monica's policies related to
12 the preservation of low-cost lodging. The hotel also argues
13 that the preferential parking zone could render them out of
14 business.

15 The arguments that you will hear were also made
16 before the city council, and were not persuasive to the
17 council.

18 COMMISSIONER DESSER: Deborah, would you stop the
19 clock for one second, and please forgive me. I was, like,
20 trying to track another issue.

21 Would you repeat the part again, about the
22 residential hotel units?

23 And, would you let her do that, because it was my
24 fault, thank you.

25 MS. FRICK: Okay --

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1 COMMISSIONER DESSER: You know, just back up a
2 paragraph.

3 MS. FRICK: Sure.

4 You will hear from the Embassy --

5 COMMISSIONER DESSER: Tell me what you think --

6 MS. FRICK: -- Hotel today, that --

7 COMMISSIONER DESSER: -- about it.

8 MS. FRICK: -- okay.

9 And, the Embassy is one of four hotels in this
10 particular area, and the hotel is arguing that they are an
11 affordable establishment, and therefore the policies that
12 both the Coastal Commission has and the City of Santa Monica
13 have, related to the protection and preservation of low-cost
14 lodging would apply to this particular establishment.

15 The argument was also made before the city
16 council, but the council did not feel the need to make
17 special exceptions for this particular hotel.

18 I want to indicate that the hotel is, in fact, not
19 a low-cost lodging facility under the definition that the
20 Coastal Commission has adopted, and also that the City of
21 Santa Monica has accepted. The room rates have consistently
22 been going up since 1989, when we both agreed to that
23 definition, and right now the room rates at the Embassy are
24 such that it is no longer considered a low-cost lodging
25 facility.

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1 Having said that, though, the city has identified,
2 several parking solutions for the hotel, and will continue to
3 work with the owner to address these specific issues. There
4 are 19 hotel units, and the owner is eligible for up to 12
5 visitor parking passes that could be used by guests of those
6 hotel units.

7 We are asking the Commission to refrain from
8 granting a special exception to this one particular hotel,
9 and really allow the city to continue working with the owner
10 to develop and identify solutions, that would be beneficial
11 both to the hotel, and also to the city.

12 Now, I have to make the required legal announce-
13 ment that the city, of course, disputes the Commission's
14 jurisdiction on the matter of preferential parking, as
15 outlined in our correspondence from our city attorney to your
16 staff. Nevertheless, we want to work cooperatively with the
17 Commission, and your staff has prepared a detailed and very
18 thorough analysis, and we hope that you will support your
19 staff recommendation.

20 And, that concludes my presentation.

21 CHAIR REILLY: Thank you, Ms. Frick.

22 We have a number of people wanting to testify on
23 this, so I am going to allow two minutes each for testimony.
24 I'll call two names, and if your name is second, please come
25 up and sit in the front, so we can move this along, I would

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1 really appreciate it.

2 Gale Feldman, followed by Sean Milliken.

3 MS. FELDMAN: My name is Gale Feldman. As a
4 resident for the past 10 years, I would like to begin by
5 saying that I am a proponent of partially restricted permit
6 parking.

7 That said, as an avid surfer and beach goer, I do
8 have strong concerns, as do all of you, about keeping open
9 access to a healthy coast. Also, as a public health
10 professional serving low-income populations, I have a special
11 concern with insuring the economic limitations are not
12 barriers to enjoying community resources; however, as per the
13 report submitted to you by the City of Santa Monica,
14 virtually no one utilizes the parking in our neighborhood to
15 access the beach at night, which this really alleviates a lot
16 of my concerns.

17 Thus, this is not a case of beach front homes
18 trying to restrict beach access. This is a case of trying to
19 seek an equitable solution for a neighborhood severely
20 impacted by the lack of parking.

21 On our street, Third Street, the parking is filled
22 to more than a 100 percent capacity, and it is not uncommon
23 to spend more than 45 minutes looking for parking, only to
24 have to park three to six blocks away.

25 Because of the lack of parking, residents and

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1 visitors, alike, drive very aggressively, and often danger-
2 ously, in order to get a parking space. I have seen drivers
3 increase their speeds to more than 50 miles per hour to get a
4 parking spot at the end of the street, only to make a "U"
5 turn in the middle of the street into oncoming traffic to
6 grab a spot.

7 I have watched on three separate occasions,
8 elderly pedestrians from our local skilled nursing facility
9 come within inches of getting hit when they were crossing the
10 street, and cars swerved to avoid them on their way to a
11 parking spot. I have also seen two frustrated drivers almost
12 come to blows fighting over an available parking spot on
13 Friday night. And, most horrendously, I watched the jaws of
14 life extract passengers from a car that had just wrapped
15 itself around a light pole at the end of my block,
16 purportedly speeding to a parking space.

17 The other issue is one of personal safety. As a
18 lady, I feel unsafe when I have to walk three to six blocks,
19 to or from my car, after dark. This is a real concern for
20 me. I have been harassed to the point of real personal
21 concern for my safety on more than one occasion. The first
22 thing taught in a self-defense class is to avoid potentially
23 dangerous situations, such as walking unescorted in dark
24 areas.

25 CHAIR REILLY: Ms. Feldman, your time has expired,

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1 so you need to have a concluding statement.

2 MS. FELDMAN: Okay, I was just going to say our
3 parking problem prohibits me from following this basic tenet
4 for personal safety.

5 And, in conclusion, I believe that providing
6 evening permit parking will improve safety, accessibility,
7 and quality of life for local residents.

8 Thank you.

9 CHAIR REILLY: Thank you.

10 Sean Milliken, then followed by Cyndi Marin Angel.

11 MR. MILLIKEN: My name is Sean Milliken. I am a
12 resident in Santa Monica, in the proposed parking zone area.

13 Well, being a resident of the area in question, I
14 must say that I am biased. My bias stems from the fact that
15 I often spend over 35 minutes looking for a parking spot. I
16 am also frustrated by the fact that I cannot get friends or
17 family to visit me, due to the lack of parking.

18 As you can see, from the city staff report, the
19 parking in this area is impacted primarily by employees and
20 patrons of the Third Street Promenade area. This causes many
21 quality of life issues for the residents of my neighborhood.
22 These issues include traffic -- include increased traffic as
23 people rush through the neighborhoods and streets looking for
24 parking. I routinely see people violating traffic laws,
25 literally fighting for spots. This results in a neighborhood

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1 that is not safe to drive in, for kids to play in, and for
2 our senior citizens to walk in.

3 I believe that we can address this issue, while at
4 the same time not impacting beach access, by approving this
5 application. I encourage you to follow the advice of your
6 staff, the City of Santa Monica, and the Wilshire Montana
7 Coalition, which is our neighborhood, local neighborhood
8 coalition, which represents most of the residents that live
9 in the area.

10 Thank you, guys, so much for giving me the time,
11 and have a wonderful day.

12 CHAIR REILLY: Thank you.

13 Cyndi Marin Angel, followed by Dona Van Bluman.

14 MS. RICE: Cyndi Marin Angel had to leave, but she
15 left me something to read, and I don't know what the rules
16 are? can I read it? or?

17 CHAIR REILLY: Go ahead, but let us have your
18 name.

19 MS. RICE: My name is Corina York Rice.

20 CHAIR REILLY: Okay, but when you get done, would
21 you go over and fill out a speaker slip for us, too.

22 MS. RICE: Pardon.

23 CHAIR REILLY: When you finish, would you fill out
24 a speaker slip for us.

25 MS. RICE: Yeah, I filled one out for myself, too.

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1 CHAIR REILLY: Oh, okay, but you are not going to
2 be able to do it twice.

3 MS. RICE: Okay.

4 COMMISSIONER DESSER: You can speak on your own
5 behalf.

6 CHAIR REILLY: You have two minutes to say
7 whatever you want --

8 MS. RICE: I'll just try to say --

9 CHAIR REILLY: -- for yourself, or for someone
10 else.

11 MS. RICE: -- everything I can, okay.

12 CHAIR REILLY: Okay.

13 MS. RICE: I am an owner, actually, and my mother
14 is a resident, on the 1100 block of Third Street in Santa
15 Monica. I am not sure if you know that, but that is the
16 exact block that borders the promenade.

17 I am going to talk about the Pajama Parkers. The
18 Pajama Parkers was started by some people in my apartment,
19 basically the apartment manager, and Cyndi Marin Angel, who
20 left. They are the founding fathers -- mothers, I should say
21 -- and what they actually do is they get together to go to
22 their car, which is parked between 6 and 10 blocks away, at
23 night, so that they can bring their cars closer, after the
24 Promenade thins out.

25 Basically, they walk together in pairs, or with 3

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1 or 4 people, because they are scared to walk to their car at
2 night, and it has just become very hazardous, dangerous, and
3 we worked so hard to get this permit parking for the people,
4 the residents that live there, so anything you can do to help
5 us, please do.

6 Thanks.

7 COMMISSIONER BURKE: Excuse me --

8 COMMISSIONER HART: Mr. Chair, I have a question,
9 too.

10 COMMISSIONER BURKE: -- can you please repeat your
name, please?

11 MS. RICE: Corina York Rice. I filled out a pink
12 slip. I am not sure it was for permit parking.

13 COMMISSIONER BURKE: Yes, we got you.

14 MS. RICE: Thank you.

15 CHAIR REILLY: Okay.

16 COMMISSIONER HART: Mr. Chair, can I just ask a
17 question, please?

18 [No Response]

19 Down here, Mike.

20 CHAIR REILLY: Why don't we wait for --

21 COMMISSIONER HART: Well, just from her, I wanted
22 to ask here a question, if that is okay?

23 CHAIR REILLY: Why don't we wait until we conclude
24 this.

25 COMMISSIONER HART: That's okay, nevermind, I'm

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1 sorry.

2 CHAIR REILLY: Donna Van Bluman, followed by Rob
3 Rader.

4 MS. BLUMEN: I live at 1117 Third Street, and I
5 represent -- I speak here for over 200 people, particularly
6 for the single female residents of the area of Second and
7 Third Streets which border the Promenade.

8 I think it is key to point out that the huge
9 economic boom which is being enjoyed by the businesses in
10 Santa Monica, since the development of the Promenade and the
11 coastal hotels was, in fact, financed to a considerable
12 extent, by our tax dollars, beginning back in the 80's, yet
13 we are having our lives disrupted on a daily basis, not only
14 by the continual rise in crime, noise and garbage on our very
15 front doors, but by the astonishing fact that we are not even
16 able to come and go freely in an normal way from our homes,
17 because we are forced to circle the area, search for parking,
18 as far a way as 8 to 10 blocks several times a day, all these
19 things that you have heard, I reiterate.

20 But, worst of all, we are actually compelled -- it
21 is quite an astounding little fact -- we are actually
22 compelled to go out in our robes, in the middle of the night,
23 to stuff meters, and move cars. This is dangerous,
24 emotionally disturbing, and just plain wrong. It is very
25 clear. It is not complicated.

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1 The meters, the double meters which were put in
2 front of our homes on Third Street were installed as a
3 temporary measure, only until the completion of the
4 construction project behind us on Fourth Street. The meters,
5 of course, are still in use, and monopolized by shoppers and
6 employees of the Promenade businesses.

7 We shouldn't be suffering because of this. It is
8 not a complicated issue, as I said. The residents' rights to
9 full and peaceful enjoyment of their homes should not be
10 sacrificed to commercial interests, whether they are the
11 interests of the Promenade businesses, or the Embassy Hotel's
12 guests.

13 I urge you to give consideration to us, and our
14 basic rights, and allow preferential parking zones to be
15 allocated immediately.

16 Thank you.

17 CHAIR REILLY: Rob Rader, followed by Gideon
18 Brower.

19 MR. RADER: I believe Gideon Brower had given his
20 time to me. Is that -- there is an arrow down at the bottom
21 there.

22 COMMISSIONER BURKE: Yes.

23 CHAIR REILLY: Is he here?

24 [Response from audience]

25 Good, okay, you have four minutes.

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1 MR. RADER: My name is Rob Rader. I am vice-chair
2 of the Wilshire Montana Neighborhood Coalition.

3 First, let me assure you that I will not bring up
4 a Bolsa Chica issue, so rest assured.

5 The Wilshire Montana Neighborhood Coalition, I
6 sent you guys a letter -- or I had a letter that should have
7 been distributed to you earlier today, and hopefully you have
8 had a chance to review that -- but I am not going to
9 reiterate that letter, or read it to you -- I know, another
10 breath of relief.

11 We are talking about Santa Monica here, and I
12 think it is useful to remember that Santa Monicans have an
13 enormous amount of guilt, and if we felt that we were
14 usurping the public's right to the beach, I personally
15 wouldn't be able to appear before you today. We believe in
16 protecting, preserving, and enhancing the public's right of
17 access to the coast.

18 And, I personally have never seen anyone park
19 along these streets, and then walk down to the beach, and I
20 think that the studies bear this out, and I think I high-
21 lighted them in the letter, but we are talking about a
22 parking situation that is caused largely by the Third Street
23 Promenade, and the success of the Third Street Promenade,
24 which clearly behooves us. You know, we are happy to have
25 the Promenade there, but we are sad that basically friends

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1 and family won't visit us -- family members won't visit us.

2 With regards to the limited nighttime parking
3 restrictions only, the city has negotiated with your staff
4 over a period of years, I think, with regards to this.
5 Naturally, we would want daytime restrictions. We would want
6 morning restrictions. We would want afternoon restrictions,
7 but we understand that is when there is the possibility
8 people might use the beach, and naturally, we don't want to
9 monopolize a valuable resource that we feel belongs to every-
10 body.

11 So, nighttime restrictions -- look, my personal
12 view is that my girlfriend is supposed to move in with me --
13 I live on Second Street -- in April. We did not pick that
14 month by chance. We knew that this Commission was meeting.
15 She always has to park blocks and blocks away, and I end up
16 having to escort her. That is the problem in a microcosm.
17 We are just -- we can't live daily lives.

18 And, it is exacerbated by a lot of the businesses
19 in the area. I have seen -- I hate to be an ungracious guest
20 here at the Radisson, but the Radisson Huntley is one of the
21 hotels there. I have seen their valet parkers park on the
22 street, in street parking at night, and that is another
23 further strain on our limited resources in this neighborhood.

24 There are roughly 730 spots that we are talking
25 about here. When Suzanne Frick mentioned, there are at least

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1 5900 other available spots in the beach lots, in the two
2 parking garages that are within this proposed zone, and in
3 the Third Street Promenade parking lots, which have about
4 2500 spots, which are right there.

5 There is also the problem that some of the
6 employees for some of the businesses -- and I am particularly
7 thinking of the Miramar Mar, and again the Huntley -- the
8 employees only give up their spots in shifts to other
9 employees. So, effectively, spots become property of the
10 hotel. They become private spots that are not there for any
11 public use.

12 I have heard the arguments, also, of the Embassy,
13 and we are sympathetic, and the Wilshire Montana Neighborhood
14 Coalition supports local businesses, and I have spoken with
15 the owner, and the owner has come to speak with us. We think
16 it would be somewhat ironic, however, if one private interest
17 could overturn what would be a benefit for 3400 units, per
18 your own staff report, and that a private interest could
19 overturn a larger public interest of the Wilshire Montana
20 residents, who have been trying to accommodate the greater
21 public interest, which is represented by you. I think that
22 would be somewhat perverse in this situation, especially,
23 when the city and the hotel are still trying to negotiate a
24 solution.

25 And let me, quickly, point, an empirical matter,

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1 anyone that parked at one of the lots that have been offered
2 to the hotel, or on Ocean Avenue, three blocks away -- two-
3 and-a-half blocks away, will get to their cars faster than
4 any of us will get to our cars at this hotel right now,
5 because those two-and-a-half blocks can be walked faster than
6 we will get valet out of here.

7 I just wanted to conclude by just reading to you a
8 quick, little, portion of the letter. The Wilshire Montana
9 residents do not want to monopolize a resource, which by
10 right is owned by all --

11 CHAIR REILLY: You have used your time up, Mr.
12 Rader.

13 MR. RADER: -- all we want is a reasonable
14 accommodation, and to protect both the public's right of
15 access, and our residents right to park and have family and
16 friends over.

17 Thank you, very much, for your time.

18 CHAIR REILLY: Thank you.

19 Alice Claggett, followed by Sonja Braga.

20 UNIDENTIFIED SPEAKER: Alice had to leave.

21 CHAIR REILLY: Okay, Sonja Braga.

22 UNIDENTIFIED SPEAKER: She faxed her statement to
23 you.

24 CHAIR REILLY: We do have it.

25 DISTRICT DIRECTOR LEE: That letter was

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1 distributed to you.

2 CHAIR REILLY: Okay.

3 Michele Nasatir, followed by Chris Harding.

4 MS. NASATIR: Hi, my name is Michele Nasatir, and
5 my family has owned and operated the Embassy Hotel Apartments
6 for the past 30 years.

7 I would like you to know that it is not only a
8 mixed-use building, which is part permanent residents, and
9 part transient hotel use, but it has been in continuous
10 operation for 75 years. This is not a new hotel, and it has
11 been very difficult to operate it as a mixed-use business.
12 Thirty years ago, there were plenty of other businesses that
13 are like the Embassy, but they have all been replaced now by
14 luxury hotels.

15 The Embassy does not have any onsite parking. It
16 is not that they have some, they have none. When it was
17 built in 1927, it was built without any onsite parking. So,
18 we depend upon being able to have our guests park on the
19 street. If they cannot park on the street, they will not
20 come and stay with us.

21 I have 135 letters here that I had not known I
22 needed to submit earlier, but I can leave them with staff --

23 CHAIR REILLY: Please do that.

24 MS. NASATIR: -- from people who have come and
25 stayed with us, who have reiterated that they would not be

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1 able to stay, if they were forced to park three blocks away.
2 I know three blocks doesn't sound far, but as you have heard
3 from some of the residents, walking at night, it is unlit, it
4 is unsafe. It is very far if you have baggage, if you have
5 children, you know, people just are not willing to do it.

6 The City of Santa Monica has mentioned that they
7 don't consider us an affordable -- I forgot what they said,
8 but I would just like to point out that our room rates range
9 from \$100 a night to \$200 a night. The \$200 a night suite is
10 two bedrooms, two bathrooms, two stories, full kitchen,
11 dining room, and living room, and that all of our rack rates
12 are very negotiable when people call to make reservations, so
13 that quite honestly, what we actually collect is more like
14 \$80 to \$150 a night, which is far less expensive than anybody
15 else in the neighborhood.

16 We are also the only hotel that was built in 1927
17 without any onsite parking, and it is important to
18 differentiate us from the other hotels that have been
19 referred to.

20 I have read the City of Santa Monica's staff
21 report, and when I read it I feel that the staff isn't really
22 fairly representing the situation. They say they have all of
23 this parking available. People are -- I am an operator. I
24 know what people are willing to do, and they are not willing
25 to park three blocks away and walk.

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1 CHAIR REILLY: I've given you a little extra time,
2 Ms. Nasatir --

3 MS. NASATIR: I'm sorry.

4 CHAIR REILLY: -- because you are the opposition

5 --

6 MS. NASATIR: Okay, okay --

7 CHAIR REILLY: -- and I gave the proponents some
8 time.

9 MS. NASATIR: -- all I just want to say is that we
10 are not in opposition to this parking zone. All we are
11 asking is that -- we have been trying to work with the city
12 to include us in the zone, and they are not willing to do so.

13 So, we hope that you can include us, and help us
14 convince them to work with us.

15 Thank you.

16 CHAIR REILLY: Thank you.

17 I'll call Chris Harding, and then the final
18 speaker slip is John Schwartz.

19 MR. HARDING: Good afternoon, Chris Harding,
20 speaking on behalf of the Embassy, as their legal counsel.

21 If a developer came before you and said, "Give me
22 my permit and I'll work it out with the opposition later,"
23 you wouldn't take it seriously. But, that is what Santa
24 Monica has done. They have said they will work out our
25 parking situation later. That is not sufficient. Your

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1 staff, in fact, has directed us -- or directed you to vote
2 accordingly, and so we will be left working out what is
3 really a coastal access issue, with the city later. My
4 client has tried to do that with no success, at this point.

5 I submit to you that approving a permit that
6 effectively closes down 19 rooms of affordable lodging in the
7 coastal zone raises a very serious issue under the Coastal
8 Act, under Section 30213. You are obliged to preserve
9 affordable lodging. If you vote to approve this permit, as
10 is, you will clearly violate that part of the Coastal Act.

11 Now, this has a relative easy solution, from our
12 perspective. That solution is allow the hotel guests at the
13 Embassy, which is the only affordable lodging facility in the
14 zone, and the only lodging facility that has no parking --
15 allow them parking permits.

16 Now, what is the practical impact? Fewer parking
17 permits are used by hotel guests than residents. If these
18 same 19 units were used by residents they would qualify for
19 up to three permits. As hotel units, they need one permit
20 per unit. So, from a resident perspective, this is better
21 for them. That is why the Wilshire Montana group supported
22 the Embassy in meetings with the Embassy representatives.
23 That is why the Pajama Parkers supported the Embassy. Why
24 city staff hasn't seen fit to do that is, frankly, beyond me.

25 Now, you have two choices, I think, that are

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1 consistent with the Act: continue this item and allow the
2 staff to work with the city, to craft a condition that makes
3 sense to them; or, take what we think is the obvious
4 solution, and impose a condition that the city allow the
5 hotel guests to get permits.

6 Now, Santa Monica says, "But, wait a minute, that
7 violates the law."

8 But, it is their own law. They can change that
9 law with the vote of a majority of the city council. This is
10 silliness. If a corporation came before you and said, "But,
11 wait a minute we can't do this, that violates corporate
12 policy," you'd laugh them out of the room. They can change
13 corp policy to comply with your condition --

14 CHAIR REILLY: Need to have you conclude, Mr.
15 Harding.

16 MR. HARDING: -- and Santa Monica can do the same.
17 Thank you.

18 CHAIR REILLY: Okay, thank you.
19 John Schwartz.

20 [No Response]

21 John Schwartz isn't here.

22 Okay, we will go back to staff.

23 DISTRICT DIRECTOR LEE: Thank you, Mr. Chair.

24 Staff's recommendation is based on several
25 factors: first, the geographic segmentation of the prefer-

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1 ential parking zone from the beach.

2 The second point in staff's recommendation is that
3 the hours of the proposed preferential parking zone do not
4 conflict with peak beach-use hours.

5 And, then finally, the fact that the staff
6 recommendation, which the city is accepting would retain both
7 sides of Ocean Avenue to serve Palisades Park, we believe,
8 does address any coastal access impediment that was presented
9 by the project.

10 On the question raised by the hotel operator, it
11 is our understanding that the city has agreed that for the 19
12 units, that clearly operate as residential units, they will
13 provide them permits just like any other resident in the pre-
14 ferential parking zone. And, for the 19 remaining units that
15 operate as transient hotel operation, they will give them 12
16 guest passes to utilize in whatever way they want, for 12
17 guests that they may have.

18 And, we do believe that the alternatives, and
19 available parking alternatives, are better situated than what
20 the commenter raised with you. If you will look on Exhibit
21 No. 3, the hotel is located at the corner of Third and
22 Washington, and just one-and-a-half blocks south, along Third
23 Street, and then on the opposing side on Fourth Street, are
24 the two city public parking facilities where there are
25 available spaces, and the hotel, for those additional guests

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1 that might need parking, they could utilize those facilities,
2 either with a valet, or a shuttle.

3 The reason that staff agrees, or at least is
4 concerned with the Commission getting into more detailed
5 operation of allowing the residential permits to be
6 distributed to commercial lease holds, is that there are
7 other hotels that are within the district. There are other
8 visitor-serving uses within the district, and we think that
9 to begin to also require allocation to the commercial lease
10 holds, really gets us more involved in the program than is
11 necessary, based on the fact that we believe -- as
12 recommended and conditioned -- there will not be a coastal
13 access impediment proposed.

14 CHAIR REILLY: Thank you.

15 Did we ask for ex partes on this, earlier?

16 Okay.

17 Go to Commissioner Albert.

18 COMMISSIONER ALBERT: Thank you.

19 Actually, I would like to address a few questions
20 to the planning director, Suzanne Frick, please.

21 CHAIR REILLY: Commissioner Albert, are you
22 planning on making a motion?

23 COMMISSIONER ALBERT: Would you prefer that I do
24 that, before I speak to --

25 CHAIR REILLY: I would.

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1 COMMISSIONER ALBERT: Okay.

2 Then, I will defer to staff, who by now has
3 crafted the motion that I spoke to Peter about, hopefully.

4 No?

5 Okay, moving on.

6 DISTRICT DIRECTOR LEE: You would need.

7 COMMISSIONER ALBERT: I would like to propose a
8 motion.

9 DISTRICT DIRECTOR LEE: You would need to start
10 with the motion on Page 3 of the staff report, and then if
11 you want a suggested amendment, you would have to phrase that
12 separately.

13 COMMISSIONER ALBERT: The motion is on page?

14 CHAIR REILLY: Three.

15 DISTRICT DIRECTOR LEE: Page three.

16 COMMISSIONER ALBERT: Okay, with a following
17 condition, I move the Commission approve Coastal Development
18 Permit 5-02-380 pursuant to the staff recommendation, and my
19 condition.

20 CHAIR REILLY: No, Commissioner.

21 [General Discussion]

22 COMMISSIONER ALBERT: No, is that separate? I beg
23 your pardon.

24 CHAIR REILLY: Make the main motion and then if
25 there are amending motions, they can be made subsequent to

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1 that.

2 [MOTION]

3 COMMISSIONER ALBERT: Oh, all right.

4 I move that the Commission approve Coastal
5 Development Permit 5-02-380 pursuant to the staff recommend-
6 ation.

7 COMMISSIONER DESSER: Second.

8 CHAIR REILLY: And, ask for a "Yes" vote?

9 COMMISSIONER ALBERT: And, I would appreciate a
10 "Yes" vote.

11 CHAIR REILLY: Motion by Commissioner Albert,
12 seconded by Commissioner Desser.

13 COMMISSIONER DESSER: Now, you can make your
14 amending motion.

15 CHAIR REILLY: Do you have an amending motion,
16 Commissioner Albert?

17 COMMISSIONER ALBERT: Yes, indeed, I would like to
18 make an amending motion, and in that amending motion I would
19 like a condition mandating that affordable lodging accommod-
20 ation, within the PPZ boundaries, will be entitled to obtain
21 parking permits for their hotel guests, as well as residents,
22 pursuant to *Public Resources Code Sections 30001.5(d) and*
23 *30213.*

24 COMMISSIONER DESSER: - Second.

25 CHAIR REILLY: Amending motion made by Commission-

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1 er Albert, seconded by Commissioner Desser.

2 Do you want to speak to your motion?

3 COMMISSIONER ALBERT: Well, only, really in that
4 this is an area that I know very well, having lived there for
5 quite awhile, and I am troubled by several things here.

6 First of all, this is not about beach access, at
7 all. Nobody parks in this area to get on the sand. It is
8 blocks from Ocean Avenue, then you have got to walk down
9 several more blocks to the California incline, which you have
10 got to walk down, and then go over PCH on a bridge, where you
11 then have to cross parking lots to get to the beach. Also,
12 anybody who is on the beach at night needs to be
13 investigated.

14 That's a joke, sorry -- for the transcript.

15 It is, to the best of my knowledge, in this
16 proposed PPZ, the only affordable housing available.

17 Also, I feel very strongly about the safety issue
18 for women. I think that this is a very, very important
19 thing, and I agree with the speakers that anything we can do
20 to support safe parking within the area, including all of the
21 residents, including transient residents of the Embassy
22 Apartment Hotels would be simply proper.

23 CHAIR REILLY: Commissioner Desser.

24 COMMISSIONER DESSER: Yeah, I concur.

25 I am not worried about opening up the flood gates

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1 to other commercial activities in the area. I mean, this is
2 a hotel that could be -- I don't know if it has an historical
3 designation, it could. It is the kind of place that actually
4 creates the community character in Santa Monica. I am
5 grateful that this hotel remains operating there.

6 I am very sympathetic, as a sort of -- as a person
7 who travels every month to a Coastal Commission meeting, and
8 there usually isn't anybody to help schlep the bags, and it
9 is just in front of a hotel, schlepping bags with kids, I
10 don't think it is reasonable to expect a hotel to continue to
11 do business, if there isn't a place close by for the people
12 who are staying there to park.

13 I can absolutely differentiate this between
14 restaurants, shops, other kinds of commercial entities. I
15 don't want to get into the micro-management of the City of
16 Santa Monica. I hope we can sort of figure this out here
17 today, in a way that makes sense.

18 To the extent that there are similar hotels,
19 similar of these small hotels, in old buildings, in other
20 PPZs I would make the same argument for them, as well. But,
21 the fact is there is only one in this instance, and as was
22 pointed out, they would have the right to three parking
23 passes in each of those units, if they were turned into
24 apartment.

25 This is another way to approach it, why should

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1 structures have three parking passes? But, I am not even
2 going to go into that.

3 I think it is perfectly reasonable to provide
4 parking passes for each of the units in the hotel, and I
5 would hope that we can amend this accordingly.

6 CHAIR REILLY: Okay, I'll have a comment on this,
7 as well.

8 My concern is that, if it really doesn't meet our
9 affordability standards for low-cost visitor services, then
10 in my mind it is really not a coastal-related matter. And, I
11 am very reluctant to adopt a condition that is in direct
12 violation of city ordinance, on a matter that is not directly
13 coastal related.

14 And, I don't know if staff wants to comment on
15 that, or not?

16 EXECUTIVE DIRECTOR DOUGLAS: Well, yes, Commis-
17 sioner Albert did bring this to my attention, and I discussed
18 it with Ms. Lee, and the concern that we have is that this is
19 not an affordable overnight accommodation. The rates are
20 \$100 to \$200 -- \$100 to \$200.

21 [General Discussion]

22 Let me ask Deborah to respond, and maybe the
23 representative from the hotel can come forward.

24 CHAIR REILLY: They have just been reduced, Mr.
25 Executive Director.

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1 DISTRICT DIRECTOR LEE: Yes, on the record, I
2 believe the hotel operator said they were \$100 to \$200 a
3 night --

4 CHAIR REILLY: That is what I heard.

5 DISTRICT DIRECTOR LEE: -- which would not
6 constitute --

7 COMMISSIONER DESSER: And, negotiable when people
8 call.

9 And, come on, you guys, you know how expensive it
10 is. That is reasonable.

11 CHAIR REILLY: Let's have the staff response to
12 this, please.

13 DISTRICT DIRECTOR LEE: Again, our concern was
14 focused first on whether or not there was a coastal access
15 impediment, in terms of physical access to the coast, by
16 usurping otherwise available public parking supplies.

17 Given the separation, the hours that this was
18 going to be imposed, we did not identify a coastal access
19 conflict.

20 In addition, it is our understanding they will
21 issue 19 permits, at a minimum, to the apartment units, and
22 then they will also provide the hotel with 12 guest passes
23 that they can use for the remaining 19 transient operated
24 units.

25 COMMISSIONER DESSER: They don't --

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1 CHAIR REILLY: Can we have the representative from
2 the city come forward, please. Can you verify that our staff
3 is correct in their understanding of what your intention is,
4 that the hotel will receive 19 for the permanent and 12 guest
5 passes? has that been decided by the city?

6 MS. FRICK: Let me explain this.

7 There are 19 residential units, as your staff
8 indicated, that are going to be eligible for at least one
9 resident pass, and two visitor passes, if the residents
10 choose to have the visitor passes.

11 Of the 6 out of the 19 residential units, are
12 being used right now as long-term rentals, meaning that they
13 don't have occupants in them that stay sometimes for -- you
14 know, they are not permanent residents.

15 And, so, those six units are going to be eligible
16 for 12 visitor passes that could be used for those six units,
17 or for those other 19 hotel units. So, the city has agreed
18 to that.

19 Now, if there are permanent residents in those six
20 units, then those residents would also eligible for two
21 visitor passes, and then a resident pass.

22 CHAIR REILLY: So, in the city's estimate, there
23 is only 13 permanent residents, not 19?

24 MS. FRICK: That is correct.

25 CHAIR REILLY: That is a little bit different,

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1 okay.

2 MS. FRICK: That is correct.

3 CHAIR REILLY: Commissioner Hart, did you have a
4 question that you wanted to ask earlier?

5 COMMISSIONER HART: No, that is okay. I got the
6 answer from Commissioner Albert.

7 CHAIR REILLY: And, Commissioner Burke, did you
8 have a question you wanted to ask something?

9 COMMISSIONER BURKE: For that, I would like to
10 abstain on this issue.

11 EXECUTIVE DIRECTOR DOUGLAS: Mr. Chairman.

12 CHAIR REILLY: I understand.

13 Commissioner Nava.

14 Let's go to the Executive Director, first.

15 COMMISSIONER NAVA: Yes.

16 EXECUTIVE DIRECTOR DOUGLAS: I guess it is my
17 understanding, too, that there are four hotels --

18 DISTRICT DIRECTOR LEE: Four other hotels.

19 EXECUTIVE DIRECTOR DOUGLAS: -- four other hotels
20 that are in this zone, and the question is, if the motion
21 were to pass, what does it mean to be lower cost? does it
22 have to be under \$100 a night? or how are we going to define
23 that?

24 So, we would like some clarity on that.

25 CHAIR REILLY: Well, we will try to get that for

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1 you somewhere along the way.

2 Commission Nava.

3 COMMISSIONER NAVA: Yeah, if I could have the
4 representative of the hotel come up, because there was a lot
5 of head nodding when staff was saying things, and when the
6 city was saying things, and so what was it that you heard --
7 this is the biggest softball you are ever going to get --
8 what was it that you heard that caused you to respond that
9 way?

10 MR. HARDING: Well, your staff indicated that
11 there were 12 visitor permits available for the 19 hotel
12 guests. That just is not true. I think Ms. Frick clarified
13 that.

14 There are 12 such permits available for six of the
15 apartment units, and they might be used for the hotel units,
16 if those six apartments don't need the 12 permits. That is a
17 very different picture.

18 We are looking for -- to be very concrete --
19 roughly 19 parking permits for the 19 hotel rooms, so when
20 someone calls up, and wants to check in, we can let them know
21 they have a permit to park nearby.

22 With respect to the other hotels, the other hotels
23 all have parking, and they are the Miramar Fairmont -- by any
24 estimation a luxury hotel -- the Oceana, which costs more
25 than the Miramar Fairmont, the Huntley House which is across

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1 the street from the Miramar Fairmont, and the Calmore, which
2 has adequate parking. So, if your condition were to read,
3 affordable lodging with no parking, it is very clear that
4 those hotels are left out of the picture.

5 In terms of hotel rates, I'll let Ms. Nasatir
6 answer.

7 MS. NASATIR: Okay, well, I never went to hotel
8 school, so I will tell you that to begin with.

9 And, I am embarrassed to admit this in front of
10 you, but the truth is if somebody calls to make a reservation
11 and they ask what your rate is, and you say it is \$100 a
12 night, an they hesitate, even a minute, you then come back
13 and say, "Well, I think, you know, on this date, you know we
14 can give it to you for \$75 a night."

15 It is our interest to have the rooms occupied.

16 COMMISSIONER NAVA: So, what is the phone number
17 there?

18 MS. NASATIR: So, I mean, the thing is that it is
19 also interesting because the Embassy was built at a time
20 where none of our rooms are the same, no two rooms are
21 exactly alike, every room in that building is different.

22 And, so, even coming up with a price per room is
23 difficult, so I know we are being lumped together with luxury
24 hotels, or Santa Monica hotels, and I brought a book that I
25 would just like to show you some of the pictures of the

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1 building, for you to understand the historic nature, how we
2 are a part of this community, how we have been in operation
3 for such a long time, and have never charged a lot of money.

4 CHAIR REILLY: I think you are going beyond what
5 the question was, and we are in a questioning period here.

6 COMMISSIONER NAVA: Yes, thank you.

7 And, the comment that I want to make is that I
8 really, in a sense, resent the Commission being put in this
9 position, having to make these kinds of decisions on
10 neighborhood issues.

11 It is obvious that the impacts on the neighbor-
12 hoods are brought about by commercial development, the
13 parking for that commercial development, the failure, either
14 through ordinance, or policy of the city to insist that there
15 be adequate employee parking that doesn't impact on the
16 neighborhoods.

17 And, I am looking at a December 30 correspondence,
18 from Harding Lemore Cutcher and Kazal, with a footnote that
19 makes reference to our February 13, 2001 meeting where the
20 Chair, at that time, in considering the transit mall plan for
21 Santa Monica, specifically, made reference to in a couple of
22 years don't come back and ask for preferential parking, in
23 those surrounding neighborhoods. And, the city assured us
24 that that would not be the case.

25 But, having said that, I don't believe that the

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1 residents of these neighborhoods should be penalized for it.
2 This is a policy issue that needs to be resolved through your
3 elected officials, and it is unfortunate that they haven't
4 come up with a better solution.

5 CHAIR REILLY: Commissioner McClain-Hill.

6 COMMISSIONER MC CLAIN-HILL: I would simply like
7 to, you know, echo the comments of Commissioner Nava, who
8 simply preempted just about everything that I was going to
9 say on this issue, including making reference to the December
10 30 letter.

11 CHAIR REILLY: Great minds, right?

12 COMMISSIONER DESSER: An historical moment.

13 COMMISSIONER KRUEER: It wasn't that bad.

14 COMMISSIONER MC CLAIN-HILL: You haven't been
15 around long enough to know.

16 And, you know, I have sort of suggested to a
17 number of Commissioner on the dais that I just hate pre-
18 ferential parking anyway, and while I, you know, feel for the
19 residents, and all of that, I live two, you know, maybe 45
20 steps off of Second Street, in Long Beach, and so I deal with
21 these issues all of the time.

22 Be that as it may, if we can, you know, get some
23 consensus on the accommodation for the low-cost visitor-
24 serving hotel, I can hold my nose and join the majority.

25 CHAIR REILLY: The first motion is the amending

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1 motion, and can we get that clarified, Mr. Director?

2 EXECUTIVE DIRECTOR DOUGLAS: Mr. Chairman, the
3 maker of the motion said that this would be, these passes,
4 would be available for hotels that provide lower-cost
5 accommodations.

6 The gentleman representing the hotel indicated
7 that if the motion were modified to only apply with hotels --

8 CHAIR REILLY: Without parking.

9 EXECUTIVE DIRECTOR DOUGLAS: -- that don't have
10 parking, that it would only apply to this hotel --

11 CHAIR REILLY: Is that satisfactory to the maker
12 of the motion?

13 EXECUTIVE DIRECTOR DOUGLAS: -- I think that would

14 --

15 CHAIR REILLY: Okay, that has been incorporated.

16 So, does everybody understand the motion?

17 [No Response]

18 The maker is asking for a "Yes" vote.

19 Call the roll.

20 SECRETARY GOEHLER: Commissioner Desser?

21 COMMISSIONER DESSER: Yes.

22 SECRETARY GOEHLER: Commissioner Dettloff?

23 COMMISSIONER DETTLOFF: Yes.

24 SECRETARY GOEHLER: Commissioner Hart.

25 COMMISSIONER HART: Yes.

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1 SECRETARY GOEHLER: Commissioner Kruer?
2 COMMISSIONER KRUER: Abstain, on this, please.
3 SECRETARY GOEHLER: Commissioner McClain-Hill?
4 COMMISSIONER MC CLAIN-HILL: Yes.
5 SECRETARY GOEHLER: Commissioner Nava?
6 COMMISSIONER NAVA: Yes.
7 SECRETARY GOEHLER: Commissioner Peters?
8 [No Response]
9 Commissioner Potter?
10 COMMISSIONER POTTER: Aye.
11 SECRETARY GOEHLER: Commissioner Albert?
12 COMMISSIONER ALBERT: Yes.
13 SECRETARY GOEHLER: Commissioner Woolley?
14 COMMISSIONER WOOLLEY: Aye.
15 SECRETARY GOEHLER: Commissioner Burke?
16 COMMISSIONER BURKE: Abstain.
17 SECRETARY GOEHLER: Chairman Reilly?
18 CHAIR REILLY: No.
19 SECRETARY GOEHLER: Eight --
20 CHAIR REILLY: All right, the --
21 SECRETARY GOEHLER: -- one, two.
22 CHAIR REILLY: All right, the amendment passes.
23 Is there any objection to unanimous roll call on
24 the main motion?
25 [No Response]

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1 Seeing none, the motion passes as amended, with
2 one abstention -- actually two abstentions, Commissioner
3 Burke, and Commissioner Kruer.

4 *

5 *

6 [Whereupon the hearing concluded at 5:40 p.m.]
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