CALIFORNIA COASTAL COMMISSION

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Commission Action:	

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 5-99-047

APPLICANT: City of Santa Monica

PROJECT LOCATION: Second and Third Streets between Ocean Park Boulevard and the south City limits; Hill Street between Main Street and Fourth Street; and Beach Street, Ashland Avenue, and Marine Street between Main Street and Third Street, excepting therefrom the portion of any such street directly adjacent to a school, church, or license day care facility in other than a place of residence and excepting therefrom any metered parking space from use by permittees, in the City of Santa Monica.

PROJECT DESCRIPTION: After the fact permit for the establishment of a preferential parking district for residents only with no parking or stopping during the hours of 6:00 p.m. to 2:00 a.m. without a permit; expansion of the boundaries of the zone; and the erection of signs identifying the hours of the parking restrictions and demarcating the restricted areas (Zone C).

LOCAL APPROVALS RECEIVED: Approval in Concept; City Council approval

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SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the preferential parking zone with special conditions requiring the City to: (1) limit the authorization of the preferential parking restrictions approved by this permit to a five year time limit, at the end of which the applicant may reapply for a new permit to reinstate the parking program; and (2) place the applicant on notice that any change in the hours or boundaries of the preferential parking zone will require Commission approval. As conditioned, to mitigate the adverse individual and cumulative impacts on public access and recreation, the project can be found consistent with the access and recreation policies of the Coastal Act.

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permits #5-96-221 (City of Santa Monica), #5-96-059 (City of Santa Monica), #5-90-989 (City of Los Angeles Dept. of

Transportation), #5-91-498(Sanders); A-5-VEN-97-183 (City of Los Angeles; City of Santa Monica's certified LUP.

STAFF NOTE

In recent years the Commission has received applications from local governments to limit public parking on public streets where there are conflicts between local residents and beach visitors, trail users and/or people seeking coastal views. The streets subject to the current application request for preferential parking are two to four blocks inland from the beach and Santa Monica's South Beach Park. The City of Santa Monica proposes to restrict public parking to two hours throughout the day. Residents along the affected streets will be allowed to park on the street by obtaining a parking permit from the City.

Public access, parking and recreation can result in impacts to neighborhoods that are not designed to accommodate visitors. In this case, the City of Santa Monica has stated that the residential streets within the zone have been impacted by coastal visitors. The City is proposing the parking restriction to address the conflict that occurs when there is a lack of on-site parking and the parking spaces are utilized by non-residents.

The Coastal Act basis for the Commission's involvement in preferential parking issues is found in the policies which encourage maximizing public access to the shoreline. For many areas of the coast, particularly the more urbanized areas, the key to gaining access to the shoreline is the availability of public parking opportunities. In past permit actions, the Commission has consistently found that public access includes, not only pedestrian access, but the ability to drive into the coastal zone and park in order to access and view the shoreline. Without adequate provisions for public use of public streets, residential permit parking programs that use public streets present potential conflicts with Coastal Act access policies.

In this particular case, staff recommends that the Commission allow parking limitations only as conditioned by this permit to allow the public an opportunity to park on the public street and thereby protect public access to the beach. Because the Coastal Act protects coastal access and recreational opportunities, including jogging, bicycle and trail use, staff is recommending special conditions to ensure that the implementation of the hours will not adversely impact beach and recreational access. As conditioned by this permit, staff does not believe the proposal will adversely affect public access and public recreational opportunities.

This permit application is one of seven after the fact permit applications for residential preferential parking zones in the City of Santa Monica (see Exhibit 1 and 2). The seven zones represent a total of approximately 936 parking spaces.

Six zones are located south of Pico Boulevard, with one zone located one block north of Pico Boulevard. The City created the seven residential preferential parking zones between 1983 and 1989 (three zones were expanded to include additional streets in 1984, 1987 and 1990). All seven zones were created without the benefit of a Coastal Development Permit.

After being contacted by South Coast Commission staff and informed that a Coastal Development Permit would be required for the preferential parking zones the City filed an application for the seven preferential parking zones. The City, in their submittal letter, states that they would like to resolve the preferential parking zone violation matter administratively (see Exhibit 3). However, the City further states that the application is being filed under protest and they are not waiving their right to bring or defend a legal challenge. The City maintains that the Coastal Commission does not have regulatory authority over preferential parking zones within the coastal zone of Santa Monica. The City states that their position on this matter is based on four primary factors:

> (1) the creation of preferential parking zones does not require coastal commission approval, (2) in 1983 when the zones were first created, the Coastal Commission confirmed that such zones were not subject to Commission approval, (3) the City has exclusive authority to establish preferential parking zones, and (4) preferential parking zones in Santa Monica do not restrict coastal access.

The staff do not agree with the City's position and staffs' response to each of the City's contentions is addressed below in the following sections of this report.

The proposed project was scheduled for the January 1999 Commission hearing. However, the City withdrew the application in order to complete a parking and circulation study (Santa Monica Coastal Parking and Circulation Study, April 1999) and present staff with possible measures that would mitigate the loss of public parking where there was determined to be an adverse impact to public beach access.

The proposed project was again scheduled for Commission hearing in November 1999. However, the applications were postponed after Commission staff determined that portions of the on-street parking for two of the proposed seven districts were restricted as short-term public parking by prior Commission permit actions and that a staff recommendation of approval on two of the preferential parking district applications would be inconsistent with the Commission's previous permit actions. The City subsequently submitted two amendment applications to remove the restrictions imposed by the Commission in its previous actions and designate new parking in other nearby locations as short-term parking to replace the parking that was subject to the previous permits.

The permit and amendment applications were before the Commission in January 2000. After public testimony the Commission expressed their concern over the loss of public on-street parking that was available for beach and recreational parking. The Commission

asked the City to explore other alternative measures to mitigate the loss of public on-street parking due to preferential parking. After the City agreed, the Commission postponed the public hearing.

RECOMMENDATION:

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

MOTION

I move that the Commission approve CDP #5-99-047 pursuant to the staff recommendation.

This will result in adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Staff recommends a YES vote.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

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

II. Standard Conditions.

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.

4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.

6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions.

1. Termination of Preferential Parking Program

(a) The parking program authorized by this permit shall terminate five years from the date of approval of the permit.

(b) The City may apply for a new permit to reinstate the parking program. Any such application shall be filed complete no later than 54 months from the date of approval of this permit and shall include all of the following information: The application for a new permit shall include a parking study documenting parking utilization of the street within the preferential zone, the two public beach lots located at 2030 and 2600 Barnard Way, and the public parking lots on Neilson Way (Lots No. 26, 11, 10, and 9). The parking study shall include at least three non-consecutive summer weekends between, but not including, Memorial Day and Labor Day. The parking study shall also include a parking survey for the three non-consecutive summer weekends documenting purpose of trip, length of stay, parking location, destination, and frequency of visits.

(c) All posted parking restriction signs shall be removed prior to termination of authorization for preferential parking unless the Commission has approved a new permit to authorize preferential parking beyond three years from the date of approval of this permit.

2. Future Changes

Any change in the hours, days, or boundaries of the approved preferential residential parking zone will require an amendment to this permit.

IV. Findings and Declarations.

The Commission hereby finds and declares as follows:

A. Project Description, Location and Background

The City of Santa Monica proposes to establish a residential preferential parking zone (Zone C) for residents only with no parking or stopping between the hours of 6:00 p.m. and 2:00 a.m. without a permit along the following described streets within the City of Santa Monica:

> Second and Third Streets between Ocean Park Boulevard and the south City limits; Hill Street between Main Street and Fourth Street; and Beach Street, Ashland Avenue, and Marine Street between Main Street and Third Street, excepting therefrom the portion of any such street directly adjacent to a school, church, or license day care facility in other than a place of residence and excepting therefrom any metered parking space from use by permittees.

The proposed project also includes the erection of signage within the preferential parking zone to identify the hours of the parking restrictions as well as demarcate the restricted areas.

Residents that front on the above streets are allowed to park on the street with the purchase of a parking permit from the City. The City charges $15.00 for an annual parking permit. The City's municipal code states that the number of Permits per residential household is limited to the number of vehicles registered at that address. If more than three permits are requested the applicant must show that sufficient off-street parking is not available to the applicant (Santa Monica Municipal Code Section 3233). Any vehicle parked without a permit will be removed by the City. All designated streets will be posted with curbside signs indicating the parking restrictions.

The proposed zone is located in the City of Santa Monica's Ocean Park planning area. The zone is generally situated between Ocean Park Boulevard to the north, the City's southern City limit to the south, Fourth and Third Street to the east and Main Street to the west (see Exhibit

1). The streets within the zone provide approximately 325 curbside parking spaces (according to the City's calculations that are based on length of street minus curb cuts and an average parking space of approximately 20 feet).

The zone is approximately 2 to 4 blocks from the beach and located within a residential neighborhood that abuts the Main Street visitor-serving commercial district. The residentially developed neighborhood consisting of a mix of single-family residences and multiple-family structures. The majority of the residential structures are older structures built between the 1920's and 1950's. These structures have limited on-site parking. The structures in the area that provide on-site parking have inadequate parking, based on current standards.

Main Street Commercial District provides a number of restaurants, art galleries, antique, and specialty-retail establishments. Over the years Main Street has become a popular visitor-serving commercial area locally and regionally.

The City created the zone by City ordinance in January 1983 (Santa Monica Municipal Code Section 3238c). The restrictions were implemented the same year. In May 1984 the City enlarged the zone by amending ordinance. The amendment expanded the zone to include Hill Street, between 3rd and 4th Street. The zone was established, expanded, and implemented without the benefit of a Coastal Development Permit.

There are currently two other preferential residential parking zones (Zones M and I) that are east of and abut Main Street. All three zones extend approximately three blocks east of or behind Main Street, and extend from Pico Boulevard to the North to the City's southern City limit. The other two zones were also established without the benefit of a Coastal Development Permit.

For this summer period (2000) the City is also planning, on an experimental basis, to lower the public parking rate from the $7.00 summer rate to $5.00, and convert 152 flat rate parking spaces to short-term spaces within the two south beach lots. The planned short-term rate will be $1.00 per hour with a maximum time limit of 2-hours.

The City is also planning to convert the 75 parking spaces in the lot (1640 Appian Way) just south of the pier to 2-hour parking, with a rate of $1.00 per hour for the summer 2000 period. However, none of these summer 2000 experimental proposals have been incorporated into the coastal development permit application currently before the Commission.

B. <u>Previous Commission Permit Action on Preferential Parking Programs within the City of Santa Monica.</u>

The Commission has approved one previous residential preferential parking zone permit application within the City of Santa Monica. In 1996 the City proposed 24-hour preferential residential parking along Adelaide Drive and Fourth Street, between Adelaide Drive and San

Vicente Boulevard, in the north part of the City (CDP #5-96-059). The Commission found that due to the zone's distance from the beach and absence of direct access to the beach from the street the area did not provide significant beach access parking. However, because the public used the area for scenic viewing and other recreational activities the Commission found that the City's proposed 24-hour parking restriction was too restrictive and would significantly impact access and coastal recreation in the area. The Commission denied the permit and directed staff to work with the City to develop hours that the City could properly implement and would also protect public access and coastal recreation. The City subsequently submitted a new permit application with hours that restricted public parking only between the hours of 6:00 p.m. and 8:00 a.m. The Commission approved the permit with the proposed evening hour restrictions with special conditions (CDP #5-96-221). One of the special conditions limited the authorization to two years and required the City to submit a new permit application if the City wanted to continue the parking restrictions beyond that time, so that the program and possible impacts could be re-evaluated. The City is in the process of assembling the information to submit a new application for this parking zone.

C. State Wide Commission Permit Action on Preferential Parking Programs and Other Parking Prohibition Measures.

Over the last twenty years the Commission has acted on a number of permit applications throughout the State's coastal zone with regards to preferential parking programs along public. In 1979 the City of Santa Cruz submitted an application for a preferential parking program in the Live Oak residential area [P-79-295 (City of Santa Cruz)]. The program restricted public parking during the summer weekends between 11 a.m. to 5 p.m. The City proposed to mitigate the loss of available parking along the public streets by the availability of day use permits to the general public, the provision of remote lots and a free shuttle system. The Commission approved the program with the identified mitigation measures.

In 1982 the City of Hermosa Beach submitted an application for a preferential parking program for the area located immediately adjacent to the coastline and extending approximately 1,000 feet inland [#5-82-251 (City of Hermosa Beach)]. The proposed restricted area included the downtown commercial district and a residential district that extended up a hill 1,000 feet inland. The purpose of the preferential parking zone was to alleviate parking congestion near the beach. The program included two major features: a disincentive system to park near the beach and a free remote parking system to replace the on-street spaces that were to be restricted. The Commission found that the project as proposed reduced access to the coastal zone and was not consistent with the access policies of the Coastal Act. Therefore, the Commission approved the preferential program with conditions to ensure consistency with the Coastal Act. The conditions included the availability of day-use parking permits to the general public and a shuttle system in addition to the provision of remote parking spaces. The Commission subsequently approved an amendment (July 1986) to remove the shuttle system since the City provided evidence that the shuttle was lightly used, the remote parking areas were within walking distance, and beach

access would not be reduced by the elimination of the shuttle program. The City explained to the Commission that due to a loss of funds for the operation of the shuttle system it was necessary to discontinue the shuttle and request an amendment to the Coastal permit. The Commission approval of the City's amendment request to discontinue the shuttle system was based on findings that the shuttle system was not necessary to ensure maximum public access.

In 1983 the City of Santa Cruz submitted an application for the establishment of a residential parking permit program in the area known as the Beach Flats area [#3-83-209 (City of Santa Cruz)]. The Beach Flat area consists of a mix of residential and commercial/visitor serving uses, just north of the Santa Cruz beach and boardwalk. The area was originally developed with summer beach cottages on small lots and narrow streets. The Commission found that insufficient off-street parking was provided when the original development took place, based on current standards. Over the years the beach cottages were converted to permanent residential units. With insufficient off-street parking plus an increase in public beach visitation, parking problems were exacerbated. The Commission found in this particular case that the residents were competing with visitors for parking spaces; parking was available for visitors and beach goers in public lots; and adequate public parking in non-metered spaces was available.

Therefore, the Commission approved the permit with conditions to ensure that parking permits (a total of 150) were not issued to residents of projects that were recently constructed and subject to coastal development permits.

In 1987 the Commission approved, with conditions, a permit for a preferential parking program in the City of Capitola [#3-87-42 (City of Capitola)]. The program contained two parts: the Village parking permit program and the Neighborhood parking permit program. The Village consisted of a mixture of residential, commercial and visitor-serving uses. The Neighborhood district consisted of residential development located in the hills above the Village area. The Village, which has frontage along the beach, is surrounded on three sides by three separate neighborhoods. Two neighborhoods are located above along the coastal bluffs with little or no direct beach access. The third neighborhood is located inland, north of the Village.

Similar to the Santa Cruz area mentioned above the proposed Village area changed from summer beach cottages to permanent residential units, with insufficient off-street parking. With insufficient off-street parking and an increase in beach visitation, on-street parking became a problem for residents and businesses within the Village and within the Neighborhood. The proposed preferential parking programs were proposed to minimize traffic and other conflicts associated with the use of residential streets by the visiting public. The Village program allowed residents to obtain permits to exempt them from the two-hour on-street parking limit that was in place, and the requirement of paying the meter fee. The Neighborhood program would have restricted parking to residents only.

The Village program did not exclude the general public from parking anywhere within the Village. The Neighborhood program as proposed, however, would have excluded non-residents from

parking in the Neighborhood streets. The Commission found that public access includes not only pedestrian access, but also the ability to drive into the Coastal Zone and park, to bicycle, and to view the shoreline. Therefore, as proposed the Commission found that the proposal would adversely affect public access opportunities. Without adequate provisions for public use of these public streets that include ocean vista points, residential permit parking programs present conflicts with Coastal Act access policies. Therefore, the Commission approved the permit with special conditions to assure public access. These conditions limited the number of permits within the Village area, restricted public parking limitations to vista point areas in the Neighborhood district, required an access signage program, operation of a public shuttle system, and monitoring program and imposed a one-year time limit on the development that was authorized (requiring a new permit or amendment to continue the program).

In 1990 the City of Los Angeles submitted an application for preferential parking along portions of Mabery Road, Ocean Way Entrada Drive, West Channel Road and East Rustic Road in the Pacific Palisades area, within Santa Monica Canyon [#5-90-989 (City of Los Angeles)]. The proposed streets were located inland of and adjacent to Pacific Coast Highway. The preferential parking zone extended a maximum of approximately 2,500 feet inland along East Rustic Road. According to the City's application, the purpose of the proposal was for parking relief from non-residents. Despite available parking along surrounding streets and in nearby State beach parking lots along Pacific Coast Highway that closed at 5:30 p.m., the Commission denied the application because the areas were used for parking by beach goers and because elimination of public on-street parking along these streets would significantly reduce public beach parking in the evening and also reduce visitor serving commercial parking.

In 1997 the Commission denied, on appeal, a City of Los Angeles' Coastal Development Permit for preferential residential parking in the Venice area [A-5-VEN-97-183 (City of Los Angeles)]. The Commission found that because of the popularity of Venice Beach and Ocean Front Walk (boardwalk), the limited amount of off-street beach parking within the beach parking lots was not adequate to support the amount of visitors that came to the area and that the surrounding neighborhoods served as a parking alternative to the beach parking lots. Therefore, the Commission found that restricting public parking along these streets during the beach use period would adversely impact beach access.

As shown above, the Commission has had before them a number of preferential parking programs statewide. The Commission has approved all of the programs except for two programs. While the approved programs regulated public parking they did not exclude public parking in favor of exclusive residential use. Because the programs were designed or conditioned by the Commission to preserve public parking and access to the beach, the Commission found the programs consistent with the access policies of the Coastal Act.

All programs attempted to resolve a conflict between residents and coastal visitors over on-street parking. The Commission approved the programs only when the Commission could find a balance between the parking needs of the residents and the general public without adversely

impacting public access. For example, in permit #P-79-295 (City of Santa Cruz) and #5-82-251 (City of Hermosa Beach) preferential parking was approved with mitigation offered by the City or as conditions of approval that were required by the Commission to make available day use permits to the general public, remote parking and a shuttle system. In #3-83-209 (City of Santa Cruz), because of a lack of on-site parking for the residents within a heavily used visitor serving area, and adequate nearby public parking, the Commission approved the project to balance the needs of the residents with the general public without adversely impacting public access to the area. In #3-87-42 (City of Capitola) the Commission approved the program for the visitor serving area (the Village) because it did not exclude the general public from parking in the Village but only limited the amount of time a vehicle could park. However, preferential parking in the Neighborhood district, located in the upland area, was, for the most part, not approved since it excluded the general public from parking. The only areas within the Neighborhood district that were approved with parking restrictions were those areas immediately adjacent to vista points. In these areas the Commission allowed the City to limit public parking to two-hour time limits.

Where a balance between residents and the general public could not be found that would not adversely impact public access opportunities the Commission has denied the preferential parking programs, as in the case of #5-90-989 and A5-VEN-97-183 (City of Los Angeles).

In addition to preferential parking programs, the Commission has also reviewed proposals to prohibit general parking by such measures as posting "No parking" signs and "red curbing" public streets. In 1993 the City of Malibu submitted an application for prohibiting parking along the inland side of a 1.9 mile stretch of Pacific Coast Highway [#4-93-135 (City of Malibu)]. The project would have eliminated 300 to 350 parking spaces. The City's reason for the request was to minimize the number of beach goers crossing Pacific Coast Highway for public safety concerns. The Commission denied the request because the City failed to show that public safety was a problem and because no alternative parking sites were provided to mitigate the loss of available public parking. Although there were public parking lots located seaward of Pacific Coast Highway and in the upland areas, the City's proposal would have resulted in a significant loss of public parking. The Commission, therefore, found that the proposal would adversely impact public access and was inconsistent with the access policies of the Coastal Act. In denying the proposal, the Commission recognized the City's desire to maximize public safety and found that there were alternatives to the project, which would have increased public safety without decreasing public access.

In 1989 the Commission appealed the City of San Diego's permit for the institution of parking restrictions (red curbing and signage) along residential roads in the La Jolla Farms area (#A-6-LJS-89-166). The impetus for the parking restrictions was residential opposition to the number of students from the University of California at San Diego campus who parked on La Jolla Farms Road and Black Gold road, and the resulting traffic and public safety concerns associated with pedestrians and road congestion in the area. Specifically, the property owners association cited dangerous curves along some portions of the roadway, which inhibited visibility; lack of sidewalks in the area and narrow streets (between 37 to 38 feet wide); and increased crime.

The Commission filed the appeal due to concerns on the parking prohibition and its inconsistency with the public access policies of the Coastal Act. The area contained a number of coastal access routes for beach access and access to a major vista point.

The Commission found that the City's permit would eliminate a source of public parking and would be inconsistent with the public access policies of the Coastal Act. The Commission further found that the elimination of the public parking spaces along the areas proposed could only be accepted with the assurance that a viable reservoir of public parking remained within the area. Therefore, the Commission approved the project with special conditions to limit public parking to two-hours during the weekdays and unrestricted parking on weekends and holidays. The Commission further allowed red-curbing basically along one side of the road(s) and all cul-de-sacs for emergency vehicle access. The Commission found, in approving the project as conditioned, the project maximized public access opportunities while taking into consideration the concerns of private property owners.

As in the preferential parking programs that have come before the Commission in the past, if proposed parking prohibition measures can be proposed or conditioned so that private property owner concerns can be balanced with coastal access opportunities, where impacts to public access is minimized, the Commission may find such proposals consistent with the public access policies of the Coastal Act.

D. <u>Development Which Requires a Coastal Development Permit</u>

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 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 placement of solid material or structure. 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. 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. Placement of the parking signs implementing the district also constitutes development.

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 the ability to drive into the coastal zone form an inland community and park in order to access and view the shoreline.

The City states that in 1983 Commission legal staff confirmed that permits were not required for the establishment of preferential parking zones. The City has 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 (see Exhibit 4). 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 in 1983 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 (see Exhibit 5). 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 (see Exhibit 6). Finally, as stated above, 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.

The City also states that the City has exclusive authority to create preferential parking zones (See City letters, Exhibits No. 3 and 13). The Commission does not agree with this position. Although the Vehicle Codes provide the City with the ability to create preferential parking zones, this authority is permissive and in no way eliminates the requirements of other applicable state laws such as the Coastal Act.

The City of Santa Monica further states that preferential parking zones in Santa Monica do not restrict coastal access. The Commission does not agree and has consistently maintained that such zones/districts have potential adverse impacts to coastal access and recreation because public access includes the ability of beach visitors who depend on the automobile to access the beach from inland communities. 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 it's consistency with the Coastal Act. The proposed preferential parking zone's impact to coastal and recreational access is addressed below.

E. <u>Public Access and Recreation</u>

One of the strongest goals of the Coastal Act is to protect, provide and enhance public access to and along the coast. The establishment of a residential parking zone within walking distance of a public beach or other recreational areas will significantly reduce public access opportunities.

Several Coastal Act policies require the Commission to protect beach and recreation access:

Section 30210 of the Coastal Act states:

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

Section 30211 of the Coastal Act states:

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

Section 30212.5 of the Coastal Act states:

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

Section 30213 of the Coastal Act states in part:

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

Section 30214 of the Coastal Act states:

> (a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:
>
> > (l) Topographic and geologic site characteristics.

> (2) The capacity of the site to sustain use and at what level of intensity.
>
> (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.
>
> (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.
>
> (b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.
>
> (c) In carrying out the public access policies of this article, the commission, regional commissions, and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

Section 30223 of the Coastal Act states:

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

Section 30252(4):

> The location and amount of new development should maintain and enhance public access to the coast by …providing adequate parking facilities or providing substitute means of serving the development…

In preliminary studies that led to the adoption of the Coastal Act, the Commission and the Legislature reviewed evidence that land uses directly adjacent to the beach were required to be regulated to protect access and recreation opportunities. These sections of the Coastal Act provide that the priority of new development near beach areas shall be given to uses that provide support for beach recreation. The Commission has evaluated these concerns in upland and mountainous areas near the beach to provide coastal viewing and alternatives to the beach

for jogging, strolling and cycling. Furthermore, the Commission has consistently addressed both public and private parking issues in order to protect the ability of beach visitors who depend on the automobile to access the beach.

The City's LUP states that the Santa Monica State Beach is the most heavily used beach in Los Angeles County and possibly in the State. The City has estimated that over 20 million people visit Santa Monica's beaches annually (City of Santa Monica's 1992 certified Land Use Plan). In 1998, between July and September approximately 7.5 million people came to Santa Monica beaches (County of Los Angeles Fire Department Lifeguard Division).

The beach area between the Pier and Pico Boulevard is a broad sandy beach and according to the City's LUP is the most active recreation-oriented area of the Santa Monica beaches. The area provides volleyball courts, outdoor gymnastic facilities, swings, a children's play area, Pedestrian promenade, and bike path. The Commission recently approved a permit [CDP #5-98-009 (City of Santa Monica)] for the renovation and improvement of this beach area including the recreational facilities and Promenade. The beach area south of Pico Boulevard is the South Beach area. The South Beach is improved with a landscaped beach park, picnic facilities, children's playground, food concessions, restrooms, pedestrian promenade and bike path [CDP #5-84-591(Santa Monica Redevelopment Agency]. With development of hotels, restaurants, and improvements to the Pier and beach, Santa Monica beach area has been attracting an increasing amount of visitors from throughout the Los Angeles area and from outside of the region.

The City provides approximately 5,434 parking spaces within public beach lots and on the Pier. Of this total approximately 2,486 spaces are located north of the Pier within 10 public beach lots that are spread out along Palisades Beach Road (Pacific Coast Highway) between the Pier and the City's northern boundary line. The Pier provides 286 spaces on the Pier's deck.

From the Pier south to the City's southern boundary line, the City provides approximately 2,948 spaces within 5 public beach lots. The largest lots are the two lots (2030 Barnard Way and 2600 Barnard Way) located south of Pico Boulevard (South Beach area). These two beach lots provide 2,406 spaces or approximately 81% of the total beachfront supply south of the pier.

The beach parking lots are owned by the State Department of Parks and Recreation. The lots are maintained by the City and the City contracts out the parking operation to a private parking management firm. The parking fee for the beach lots is a flat fee of approximately $6.00 during the winter and $7.00 during the summer.

In addition to the public beach lots, the City also provides approximately 151 5-hour and 7 2-hour metered spaces along the first public road paralleling the sea (Ocean Avenue and Barnard Way) and on a few side streets that run perpendicular to the beach and terminate at the beach Promenade. Approximately 91% (144) of the total metered spaces are located south of Pico Boulevard. The meter fee is $0.50 per hour.

One block inland, along Neilson Way, the City provides approximately 361 off-street metered parking spaces within four public lots (see Exhibit 7). Meter time limits are predominantly 3-hours in duration with some extending to 10 hours. These lots serve the Main Street visitor-serving commercial district. However, due to their close proximity to the beach and their hourly rate ($0.50 per hour), as compared to the beach lots' flat fee ($7.00 during the summer), the lots are also used by beach goers and recreationalists.

The proposed preferential parking zone is located approximately two to four blocks inland from the City's South Beach. The South Beach area stretches from Pico Boulevard to the southern City limits. The beach is a broad sandy beach and provides a landscaped beach park, picnic facilities, children' playground, food concessions, restrooms, pedestrian promenade and bike path.

The City states that the reason for the preferential zone is due to the popularity of Main Street commercial businesses along Main Street and the lack of adequate on-site parking. Moreover, the availability of nearby free parking also served as an attraction to parking along the residential streets. The City's LUP states that:

> Main Street is the closest commercially zoned area to the South Beach area, and has evolved during the past two decades from a commercial street of low-intensity development to a specialty shopping and visitor serving area. There has been a marked increase in the number of restaurants, art galleries, antique, and specialty-retail establishments, and traffic. Most of this activity is concentrated south of Ocean Park Boulevard. Recent development north of Ocean Park Boulevard includes offices over ground floor retail, furniture and accessory showrooms, gymnasiums and dance studios, and some restaurants…
>
> Many of the buildings along Main Street date from before World War II, and do not provide off-street parking. Main Street has metered parking on the street and in several public parking lots. These lots include a small lot at Strand Street, a larger lot south of Hollister Avenue, and a major lot between Kinney and Hill Streets behind the businesses located on Main Street. In recent years, several office buildings and mixed use retail and office structures have been built. The newer buildings provide off-street parking sufficient for their own needs.

In addition to the limited on-site parking there are a number of parking alternatives available along and surrounding Main street for patrons of the businesses along Main street and for employees. Based on a Parking Study prepared for the City in 1997 (Main Street Commercial District Parking Study, Technical Report & Appendices, by Wilbur Smith Associates, October 1, 1997) the Main Street area, from Pico Boulevard to the City's southern boundary and second street to the east and Neilson Way to the west, provides approximately a total of 1,612 parking spaces. Out of this total there are approximately

923 municipal parking spaces, including all on-street curbside spaces and off-street public lots. The remaining approximately 689 spaces are located in private lots.
The curbside spaces within the Main Street area are restricted short-term parking either through meters or signage. Metered spaces have time limits, which range from 36 minutes to 10 hours.

According to the Parking Study:

> Existing peak parking occupancy levels in the Main Street area are generally at or approaching "practical capacity." (When occupancy reaches 90% of the total supply, this is often considered "practical capacity." At this point, it may be extremely difficult to find an available parking space.
>
> South of Ocean Park Boulevard-- On a summer Sunday between 4:00 and 5:00 PM in 1996, 91% of all spaces were occupied. The deficit (compared to practical capacity was 8 spaces. However, when private lots are excluded, conditions appear even worse, with Main Street area curb parking 94% occupied and Main Street public lot parking 99% occupied. Summer Sunday conditions are considered fairly representative of all warm weather weekend days from May through October. Furthermore, occupancy levels during all warm weather periods, including non-summer weekdays, were fairly similar, based on counts conducted at different times by Wilbur Smith Associates.
>
> North of Ocean Park Boulevard- During the peak hour for the area south of Ocean Park Boulevard, overall parking occupancy to the north was about 57% (but with Main Street curbside parking 93% occupied. The Sunday peak was slightly higher.) On a non-summer Sunday between 1:00 and 2: PM, 64% of spaces were occupied…Main Street area curb parking was 93% occupied (with a deficit of 7 spaces) and public lot parking was 85% occupied. Thus, Main Street area public parking was approaching practical capacity even north of Ocean Park Boulevard.

Main Street and the surrounding area is also served by a mass transit system. The City has two bus services that operate along Main Street. The Santa Monica Municipal Bus line operates routes throughout the City and surrounding area and includes a route along Main Street. The second bus service is the Tide. This shuttle operates between the Main Street area and the third Street Promenade in a one-way loop extending along Main Street from Marine Street, north to Bicknell street, east to 4th Street to Broadway in Downtown Santa Monica. It returns to the Main Street area via Ocean Avenue and Barnard Way.

Because of the growing popularity of Main Street over the years and the availability of nearby free parking visitors and employees were parking in the residential areas behind

(east of) Main Street. As the popularity grew the residents in the surrounding area, from just south of Pico Boulevard to the City's southern city limit, began to compete with visitors and employees for the limited on-street parking spaces.

According to the City the parking problem in this area is occurring at night due to the type of businesses along this portion of Main Street. The businesses, such as restaurants, and bars, attract a larger crowd in the evening as compared to the daytime hours. Further to the north, along Main Street, there are more retail shops so the hours that are heavily impacted by visitors is during the daytime business hours.

Although the area is between 2 and 4 blocks inland of the beach and may be used, to a limited extent by beach goers, the majority of the demand is due to patrons and employees of Main Street. The proposed evening restrictions indicate that the parking problem is not generated by beach goers but by evening visitors to Main Street. Furthermore, the parking study by Wilbur Smith Associates (10/1/97) included a user survey to determine the destination of those that drove and parked in the Main Street area (approximately 560 out of a total of 770 surveyed). The survey indicated that during the peak day (Sunday) 87% of those surveyed indicated that their primary destination was Main Street (business, dinning/entertainment, and shopping) with 10-13% indicating that the beach was their main destination.

The preferential hours (6:00 p.m. to 2:00 a.m.) proposed by the City would not preclude the public from using the public streets within this zone for beach access and recreational use parking during the majority of the beach use period and the hours will also allow public parking during the day to support the Main Street visitor-serving commercial area. However, during the summer period, daytime hours extend beyond 6:00 p.m. providing the public a longer opportunity to enjoy the beach area during daylight hours. During this time the proposed hours will prevent the public from parking along these particular streets. However, the unavailability of these spaces during these last few hours of daylight will not significantly impact beach access since the City provides other parking alternatives in the surrounding area that will allow parking during this time. Furthermore, during this period of the day the parking demand has significantly decreased thereby increasing the availability of parking spaces in areas closer to the beach and the surrounding area. Therefore, those planning on arriving later in the day to access the beach during the later part of the day will have parking opportunities in other areas.

The City of Santa Monica is also considering lowering the current parking fee for the South Beach lots by $2.00 to increase utilization in the two underutilized south beach lots. By lowering the flat fee to $5.00 and converting some of the long-term, flat fee, spaces to short-term, the City hopes to encourage and increase the utilization of the south lots. The planned fee change would be for the summer period (2000) on an experimental basis to determine the financial viability of the program and are not part of the subject coastal development permit application.

The City is also proposing to provide additional short-term spaces within the two South Beach lots (2300 and 2600 Barnard Way) to minimize the conflict occurring on the street between general and residential use. The City is proposing to convert 152 parking spaces within the underutilized south beach parking lots to short-term (2-hour) spaces. The City is also planning to convert 75 spaces in the 1640 Appian Way parking lot to 2-hour parking with a $1.00 per hour fee for summer 2000. However, neither of these proposals are part of the subject coastal development permit application.

When this project was before the Commission in January 2000, some Commissioners requested that the City provide two to three hours of free parking within the beach lots to mitigate the loss of on-street parking. The City argues that such a program would not be financially viable. In the City's letter, dated March 8, 2000, the City explains that through an operating agreement with the State, the City is responsible for the care, maintenance, development, operation and control of the State beaches (see Exhibit #11 for the City's letter and parking rate scenarios). The letter states in part that:

> Parking receipts account for over 85 percent of the beach fund revenue. The remaining 15 percent comes from concession stands, special events, and miscellaneous leases. During fiscal year 1998-99, beach revenues totaled just over $4 million. These revenues were used to pay for beach maintenance services, lifeguard services, harbor patrol, beach police patrols, parking operations, the Pier/Beach Shuttle, and beach management. Total beach expenditures during 1998-99 totaled over $4 million. During fiscal years when the summer season is warm and beach attendance is high, revenues that exceed operating costs are used for capital improvements or are held in reserve for cooler summers when revenues drop below operating expenses…
>
> In addition to the impacts of weather fluctuations, beach revenues are significantly impacted by beach parking rates. Current parking rates enable the beach fund to balance revenues and expenditures during most fiscal years. However, any decrease in parking rates must correspond with a reduction in services. For example, reducing the parking rate in the Ocean Park beach lots from $7 to $5 and converting 152 flat-rate spaces to two-hour metered parking is projected to result in an annual revenue loss of approximately $250,000 [This figure is based on the City's extrapolation from parking rate scenarios established by Kaku Associates, Inc. in a beach parking study prepared in 1999 for the City. See Exhibit No. 12, Parking Rate Scenarios]...
> Providing two to three hours of free public parking would have even more dramatic impacts on Santa Monica's beaches. Currently, the average summertime length of stay in these lots is 2.1 hours. Parking utilization studies conducted in Santa Monica's beach lots show that approximately 57 percent of all visitors who enter these lots stay less than tow hours, with approximately 80 percent staying less than

> three hours. This data makes clear that two to three hours of free parking would translate into free parking for the majority of customers who now pay the full fee. Even if free parking were only implemented in the two Ocean Park beach lots, which account for approximately 45 percent of the total parking beach supply, the impacts on Santa Monica's ability to operate and maintain the beaches and provide lifeguard services would be dramatically reduced.

As stated above, the City is planning, on an experimental basis, to lower the public parking rate from the $7.00 summer rate to $5.00 and convert 152 flat rate parking spaces to short-term spaces within the two south beach lots. The planned short-term rate will be $1.00 per hour with a maximum time limit of 2-hours.

The City is also planning to convert the 75 parking spaces in the lot (1640 Appian Way) just south of the pier to 2-hour parking, with a rate of $1.00 per hour. This parking lot is not located in the Ocean Park area where the preferential parking zones are being proposed.

The purpose of the temporary change in the beach lots is to compare actual data to projected figures from the Kaku beach parking study. Once the information is reviewed and analyzed by the City and their parking/traffic consultant, the City will determine if such a program can be continued for other summer periods or possibly year around. As stated above, none of the contemplated summer 2000 proposals are part of the coastal development permit application currently before the Commission.

The City feels that with the combination of short-term spaces along the streets in this zone and with the current supply of long-term spaces within the beach lots and on the street, there is adequate parking available to meet the current beach demand. The City states that within the Coastal Zone there are over 10,000 public parking spaces including approximately 5,434 parking spaces within public beach lots and on the Pier; 550 metered street spaces; 330 metered lot spaces. Of the total parking within the beach lots the peak utilization rate during the summer was 58%, or a total surplus of 3,151 spaces. Within the two main South Beach lots, that provide 2,406 spaces, the occupancy rate during the summer is approximately 67%. Therefore, the South Beach lots have a surplus of at least 793 parking spaces during the summer, including during summer holiday periods.

In addition to the City's beach lots relatively low occupancy rate the City provides significantly more parking than other beach Cities. Surrounding beaches, such as the Venice and Pacific Palisades area, provide less public beach lot parking than the City of Santa Monica. Venice Beach provides 954 public parking spaces within three public beach lots, or 17% of the total beach lot spaces provided by the City of Santa Monica. Will Rogers Beach, in the Pacific Palisades area, provides a total of 1,813 public spaces within five public beach lots, or 33% of the spaces provided by the City of Santa Moinca. Furthermore, the Venice and Will Rogers beach lots operate near or at full capacity during the summer weekends, and do not have the surplus parking as the City of Santa Monica.

Moreover, the City beach parking rates are the lowest among the surrounding beaches (Venice and Pacific Palisades). During summer weekends the flat rate is $7.00 for all-day a flat rate. Venice and Will Rogers beaches charge $9.50. The City of Santa Monica is also considering lowering the current parking fee for the South Beach lots by $1.00 to increase utilization in those lots.

To offset the loss of the evening use of the 733 parking spaces in Zones C, I and M, the City has recently added 200 evening (8 p.m. to 8 a.m.) public parking spaces along Neilson Way between Pico Boulevard and the south city limit. However, the Commission has not generally required replacement parking or additional mitigation for loss of evening street parking after normal beach operating hours if there is adequate beach parking in the area to serve evening use.

Furthermore, as stated earlier, the City of Santa Monica is well served by mass transit (Santa Monica's Big Blue Bus, the Tide shuttle and the Pier/Beach Shuttle) which provides easy access to the beach and other visitor destinations within the Coastal Zone. The transit service provides an attractive alternative to driving and parking at the beach and traveling from one coastal visitor destination to another. No other Southern California beach city provides the type of mass transit that the City of Santa Monica provides.

In addition to the parking and mass transit service the City argues that they have committed significant resources towards improvements that will make access easier and safer. New improvements include additional signals, and crosswalks, reconstruction of intersections, and the addition of median islands. The City states that they have invested over 25.9 million dollars in beach improvements over the last 14 years in order to accentuate the beach experience for coastal visitors. These improvements include creation of a beach bike path, improved park and play areas, and restoration of the Santa Monica Pier. The City has also implemented a signage program to improve visitor access to the coast. The City is also developing a marketing program to better inform regular visitors and new visitors of the various beach parking options available along the coast.
Based on the above information the Commission finds that the proposed preferential zone will not significantly adversely impact coastal access. The hours proposed within this area of Santa Monica will balance the needs of the residents in regards to adequate curb side parking with the needs of the public in regards to the ability to access a visitor –serving commercial area that is within close proximity of the beach. There are 1, 2, 3, and 10-hour parking meters throughout the Main Street area providing the Main Street visitor a wide range of parking options as well as public parking lots.

Over the last twenty years the Commission has found in past coastal permit action throughout the State, regarding preferential parking programs and other parking prohibition measures, the needs of the residents and the general public must be balanced without adversely impacting public access [#P-79-295 (City of Santa Cruz); #5-82-251 (City of

Hermosa Beach); #3-83-209 (City of Santa Cruz); #3-87-42 (City of Capitola; #5-90-989 (City of Los Angeles); #4-93-135 (City of Malibu); #A-6-LJS-89-166 (City of San Diego); and #5-97-215 (City of Santa Monica].

The establishment of a preferential residential parking district in this area will not significantly impact public beach parking at this time. However, it has been estimated that approximately 7.5 million visitors came to Santa Monica beaches in 1998 during the summer, between July and September (County of Los Angeles Fire Department, Lifeguard Division). Beach attendance has increased by approximately 20% since 1972. With each subsequent year, as Southern California's population increases, the amount of visitors to the beach will increase and there will be an increase in the demand for short-term and long-term beach parking within the beach lots and surrounding area. Therefore, to ensure that the restrictions will not adversely impact beach access in the future, the authorization for the parking restrictions will terminate in three years. The City may apply for a new permit to reauthorize the parking program. The City may also develop alternative parking for the public in the future that the Commission may consider as appropriate replacement parking to mitigate the loss of public on-street spaces. If the City decides to continue the parking restrictions, prior to the expiration of the authorization of the parking restrictions, the City shall submit a new permit application which shall include a parking study that evaluates parking utilization for the streets within the proposed preferential parking zone and the nearby beach parking during the summer weekends. To gather information that would be representative of the summer period the survey weekends shall be spread-out over the summer period and not consecutive weekends. The study shall include a parking survey for the streets within the zone and within the surrounding area to determine purpose of trip, length of stay, parking location, destination, and frequency of visits.

All posted parking restriction signs shall be removed prior to termination of the preferential parking authorized by this permit, unless the Commission has approved a new permit to authorized preferential parking beyond five years from the date of approval of this permit. Furthermore, to ensure that any change in the restrictions or size of the zone will not adversely impact coastal access, any proposed change in the hours, days, or boundaries of the proposed preferential residential parking zone will require an amendment to this permit.

The City objects to a time limit on the development that is authorized by this permit. The City is concerned with residents' uncertainty as to whether their ability to park in their neighborhoods will continue into the future. A time restriction also poses a difficulty for the City as it limits the City's ability to do any long-range planning in the area due to uncertainty regarding resident parking. A third concern is the level of analysis that would be required each time a permit is applied for and the cost. The City estimates that the cost would be approximately $150,000 each time a permit is applied for.

In lieu of a time limit on the development authorized by this permit, the City is proposing a monitoring program. The City is proposing to conduct a parking monitoring program which

will include filing a report with the Executive Director within a five year period after approval of the permit. The report will include a parking study of the two south beach parking lots during two summer months. If the Executive Director determines that there are changed circumstances that may affect the consistency of the parking program with the policies of Coastal Act, the City would then apply for an amendment to the permit.

Although the Commission understands the City's concerns, the City's proposed monitoring program would place Commission staff in a position where they would need to make a policy decision that is in the Commission's purview. The determination as to whether there is a significant change in the parking situation and the impacts to public access is a policy matter for the Commission. Furthermore, there could be a difference of opinion between Commission staff and City staff in terms of the conclusions of the report. Because the protection, provision and enhancement of public access to and along the coast is one of the strongest goals of the Coastal Act, the re-review of the information and the impact of the preferential parking districts should be by the Commission through the permit process. Therefore, the Commission finds it necessary to limit the time the parking program is authorized for to five years. The Commission, therefore, finds that, only as conditioned, will the proposed project be consistent with Sections 30210, 30211, 30212.5, 30213, 30214, and 30223 of the Coastal Act of 1976.

F. Unpermitted Development

In 1983 the City approved an ordinance creating the residential preferential parking zone. According to the City the restrictions for the zone were enforced by the City the same year. The zone was expanded in May 1984. There are no records of permits issued for this development. Although unpermitted development has taken place on the property prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Action by the Commission on the permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a Coastal permit.

G. Local Coastal Program

Section 30604(a) of the Coastal Act states that:

In August 1992, the Commission certified, with suggested modifications, the land use plan portion of the City of Santa Monica's Local Coastal Program, excluding the area west of Ocean Avenue and Neilson Way (Beach Overlay District), and the Santa Monica Pier. On September 15, 1992, the City of Santa Monica accepted the LUP with suggested modifications.

The area within the Beach Overlay District was excluded from certification after the voters approved Proposition S which discourages certain types of visitor-serving uses along the beach. In deferring this area the Commission found that, although Proposition S and its limitations on development were a result of a voters initiative, the policies of the LUP were inadequate to achieve the basic Coastal Act goal of maximizing public access and recreation to the State beach and did not ensure that development would not interfere with the public's right of access to the sea. Therefore, the subject site is not included within a certified LCP and the coastal development permit must be issued by the Commission. As conditioned the project will not adversely impact coastal resources or access. The Commission, therefore, finds that the project, as conditioned, will be consistent with the Chapter 3 policies of the Coastal Act and will not prejudice the ability of the City to prepare a Land Use Plan and implementation program consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

H. California Environmental Quality Act.

Section 13096 of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible

mitigation measures available, which would substantially lessen any significant adverse impact which the activity may have on the environment.

The proposed project, as conditioned, is consistent with the applicable polices of the Coastal Act. There are no feasible alternatives or mitigation measures available, which would substantially lessen any significant adverse impact, which the activity may have on the environment. Therefore, the proposed project is found consistent with CEQA and the policies of the Coastal Act.