

APPENDIX K

COMMENTS & RESPONSES ON THE DRAFT

LOCAL COASTAL PLAN

02/26/80

COMMENTS AND RESPONSES TO THE DRAFT LOCAL COASTAL PLAN

The following is a summary of comments (Attachment B and C) received during the public hearings held on December 18, 1979, January 8, 1980, January 22, 1980, and February 12, 1980, as part of the continuing public participation procedures for approval of the City's Local Coastal Plan. The City Council on February 26, 1980, after reviewing the comments and responses and allowing further discussion approved the Local Coastal Plan with revisions.

ATTACHMENT B**COMMENTS AND RESPONSE ON DRAFT
LOCAL COASTAL PLAN, HERMOSA BEACH****1. LOCAL COASTAL PLAN PARKING POLICIES****Page 3, 1st Paragraph**

Comment: How can the City now allow the elimination of on-street spaces if access to the property is through the elimination of an on-street parking space and off-street parking is required?

Response: The City presently provides a service by providing on-street parking. If a development proposal eliminates such an on-street parking space, provisions should be made where the development provides an additional parking space to compensate the City for the loss. The City could either through establishing a "parking space pool" (i.e. charging the developer the cost of the City in providing a parking space in the area) or through mandating that an additional parking space be provided on-site.

Page 3, 2nd Paragraph

Comment: 30 foot lots do not lend themselves to greater than two (2) parking spaces without reducing on-street parking - one (1) space per bedroom is an excessive requirement.

Response: Allowing development of sites which will burden the existing parking supply provided by the City by on-street parking is not in the best interest of the City. Compensation by the developer to the City could be established as stated in the previous response, however, having a proposed development provide the actual parking demand on-site is not excessive.

Page 3, 2nd Paragraph

Comment: That one (1) parking space per bedroom should be eliminated from the policy and that the sentence should be rewritten as follows: "That a minimum of two (2) spaces be provided per unit with additional guest parking spaces provided at one (1) space per three (3) units."

Page 7 - Housing Policies

Comment: References to low income housing should also include moderate and elderly where appropriate.

Response: The reference to low income housing in the summary section of the housing needs, relates to the primary need of local residents. Inclusion of moderate and elderly in the needs section is also valid and will be part of the final draft.

Page 7 & 67 - Low Cost Housing

Comment: That the Marineland Trailer Court, 531 Pier Avenue, should be recognized and protected as an area within the City for low cost housing.

Response: The Local Coastal Plan can recognize the site as an area of present low income housing. To designate the site as a preserve for low cost housing would need action the City Council to first, designate that the site (and/or others) be classified in the City's General Land Use Plan and L.C.P. as a special low income residential district (elderly could also be a designation) and then during the Phase III portion of the L.C.P., by ordinance, rezone the area to a low income zoning district.

3. COASTAL RECREATION POLICIESPage 13, 4th Paragraph

Comment: That the parkette at 15th/Beach does not presently have benches.

Response: That as a policy, establishing parkettes with benches does not conflict with the existing 15th/Beach parkette. The policy would favor and allow putting benches at the parkette if so desired.

4. COASTAL DEVELOPMENT AND DESIGN POLICIESPage 15, 3rd Paragraph

Comment: That the predominant building scale should be in a range of 25-35 feet and not the indicated 25-45 foot height range.

Response: The 25-45 foot building height range is a reflection of the existing zoning code restrictions for residential development. The high end of 45 feet is the existing limit imposed in the R-P (Residential-Professional) zone.

Response: From the parking survey conducted in October 1978, the actual parking demand was calculated at over one (1) space per bedroom. The present codes do not meet this demand for residential parking.

Page 3, 4th Paragraph

Comment: Requiring interior inspections may be illegal.

Response: The legality of the City requiring an internal building inspection has not been tested in court. Any restructuring of the building inspection requirements in the Phase III portion of the Local Coastal Program would have to take into account the legal ramifications at present however, nothing has been found to state that an internal inspection of property prior to a transfer is illegal or not in the interest of the public's health and safety.

2. HOUSING

Page 6 - Footnote

Comment: Is the staff, referred to in the footnote, the Regional, State Coastal staff, or local City staff?

Response: The staff referred to is local staff and for clarity, the sentence should be reworded as follows: "Two (2) specific areas of the survey are viewed as suspect in providing a realistic interpretation of the coastal population."

Page 7 - Housing Programs

Comment: Who will pay for the implementation of the Housing Programs?

Response: Due to the City's present limited revenue sources, Federal and State Housing Program monies through various grants and loans are the only means the City will have to maintain the various outlined housing programs. Federal and State funds are presently the major source of money for most, if not all housing programs not affiliated with a Redevelopment Agency or Housing Authority. Additional funds could be generated through various bonding measures, however, the financial market of local government backed bonds in California is not favorable, if even possible.

Page 16, 2nd Paragraph

Comment: The "Boatyard" site, although not within the present Coastal Zone boundary, should be viewed as a potential site for inclusion of low and moderate income housing.

Response: The "Boatyard" site was part of the Coastal Zone of the City prior to the latest change of the boundary on January 1, 1980. Although technically outside of the City's Coastal Zone, the site can still be utilized as a site for placement of low and moderate income. The inclusion of policies in the LCP affecting sites outside the Coastal Zone is proper and in this case preferred. In order for the City to meet its overall housing goals in assisting low and moderate income housing in the City, this policy concerning the "Boatyard" site should remain.

5. LOCAL REGULATORY ACTIONSPage 7, 2nd sentence

Comment: Citations are troublesome and will, as in other cities, create a larger burden than benefit.

Response: Property maintenance controls need some type of noticing to the property owner in order for compliance. The program could be established with only a notice to the owner, however, compliance may not be possible without the threat of legal action or fines.

Page 8, 1st Paragraph

Comment: Are property maintenance citations legal? What are the standards? Who would pay for the increase in work load of the City?

Response: Property maintenance regulations have been established in many Southern California cities and have been held in court to be a legal public land use regulatory tool. No standards have yet been established in Hermosa Beach. Establishing property maintenance standards is an element to be completed in Phase III, Implementation Phase of the Local Coastal Program.

The increase in the work load of the City to undertake a property maintenance program could be financed through application to the State for SB-90 funds and/or through exacting fines to the owners of the property. At this point, however, what effect collecting fines has in regard to the City's financial positions as a result of the passage of Proposition 4 (Gann initiative) is unknown.

6. HERMOSA BEACH - PHYSICAL DESCRIPTION

Page 18, 2nd Paragraph, 4th Line

Correction: Should read: "The City has a population of approximately 21,600 people (1978 estimate) in an area of only 1.3 square miles".

7. COASTAL ZONE

Page 18, 5th Paragraph

Comment: The Coastal Zone boundary is no longer Pacific Coast Highway.

Response: The boundary of the Coastal Zone within the City as of January 1, 1980 was readjusted westward. The Final Local Coastal Plan will be purged of all references to the Pacific Coast Highway boundary line and all calculations in the report will be refigured to reflect that change.

8. BUILDING HEIGHT/SCALE

Page 94, 1st Paragraph, 5th Line

The maximum residential building height should be 35 feet rather than the 30 feet stated.

CALIFORNIA COASTAL COMMISSION
 SOUTH COAST REGIONAL COMMISSION
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RECEIVED



PLANNING DEPT.

February 5, 1980

Mr. Rod Merl
 Planning Director
 City of Huntington Beach
 1315 Valley Drive
 Hermosa Beach, CA 90254

Dear Mr. Merl:

Both state and regional staff have reviewed the draft Hermosa Beach LCP. The background information contained in the document is thorough and well-done.

Based on this thorough research, the plan should have set forth clearly defined policy statements, designated land uses, and identified specific implementation measures. Decisions concerning the use of coastal resources should be made in the land use plan. The implementation measures are then judged for consistency with this plan. The principal deficiencies of the draft LCP are that the policies do not draw conclusions and that specific land uses are not designated. It is not clear from the plan what the City intends to do.

The major concerns of state and regional staff are in three areas: public access/parking, housing and the use of the Biltmore site.

PUBLIC ACCESS/PARKING

The plan should include a policy to protect the current level of access. Maps submitted to the Commission as part of the adopted plan should clearly identify physical accessways, as the LCP will form the data base of an Access Atlas.

Parking. We believe that the existing legal parking supply (1700) serving beach users should be preserved. Limitations or reductions of this supply should be allowed only when a park-n-ride can become operational. Methods for carrying out this policy should be specified including the adoption of the City's parking regulations as the suggested implementation measures. The parking element of the plan indicates that the City has received a demonstration grant from the U.S. Department of Transportation to expand the tram/van service. The potential sites for parking lots need to be identified. Additionally, the City should submit a more thorough description of the program's implementation measures addressing the City's commitment to continuation of the program beyond the demonstration grant and whether the revenue collected from the Vehicle Parking District (funds generated from parking tickets, permits, in-lieu parking fees, etc.) will be used to continue funding of the program. Only if the program is successful in lessening parking impact should

existing beach user parking be reduced. Implementation of this policy should be done only if the reduction of spaces can be demonstrated to be a long-term measure; reduction should be limited to the amount actually provided by the tram system.

A more specific description of the City's planned in-lieu parking fee program for the commercial district should also be submitted. Requirements for on-site parking to serve new development should not be waived unless it can be assured that the in-lieu fees will in fact provide equal or greater parking opportunities.

The plan mentions that the City is attempting to separate commercial and beach parking in the area of the Strand. How does the City intend to implement this program? Again, Commission staff believe such an approach should be considered only if the City can ensure there will be no reduction in parking or adverse effects on public access to the beach.

On pages 37-40 of the draft LCP, the City lists the potential parking alternatives as well as the parking goals and objectives of the City. However there is not clear statements as to which, if any, of these alternatives will be utilized by the City, or specific methods by which the City will implement its chosen alternatives. The plan must indicate which options have been selected and the necessary implementation measures.

HOUSING

The housing policies are based upon a thoughtful and complete analysis of trends and of available County, State, and Federal programs, but the policies do not fully reflect the needs that are identified. The housing portion of the LCP discusses policies and alternatives but falls short of definite conclusions. We recognize that "limited available land and increasing land costs have sharply reduced the potential for large scale housing developments within the City" (page 4 of the draft LCP). Clearly the thrust of the City's housing program should be the protection of the City's existing housing stock.

We recommend that the City develop specific policies in the following areas:

a) Demolition replacement--the City should adopt a policy discouraging or prohibiting demolitions of sound low/moderate units. When demolitions are allowed, the City should require one-for-one replacement of low/moderate units. If the City finds one-for-one replacement infeasible to apply to duplex or single-family projects, an in-lieu fee system could be considered. Staff believes these policies are essential to meet the mandate of the Coastal Act Section 30213 that existing low/moderate housing opportunities "shall be protected".

b) Condominium conversions--the City's condominium conversion policies are unclear and do not specify policies to protect low/moderate income housing. Since over one hundred apartment units are found in the coastal zone in several large projects, the policies should reflect the presence of this resource and should either restrict conversion or require low/moderate cost units.

c) Housing Programs--Inclusion of low/moderate units in small scale projects is economically difficult; however the City, by combining other programs (large site inclusion, condo conversion, assisted housing projects, rehabilitation, etc.) can produce an adequate number of units. The City has identified 1074 households that are now low or moderate income. The number of such units to be preserved through present programs or to be provided in or near the coastal zone should be identified. The City should indicate which housing programs are appropriate and which it intends to pursue.

d) Biltmore Housing--if the Biltmore site is to be used for housing, some or all should be low/moderate income units.


While the Boatyard is no longer within the Coastal Zone, we encourage the City to pursue the options outlined on page 110 of the LCP whereby "with specific development restrictions, both the developers and the City could both develop conventional and low/moderate housing"...."any future consideration for changing the zoning from industrial to residential use is advised to take such action into account." Not only could this partially meet the City's identified need for housing, it would also continue the City's expressed goal of distributing low/moderate income housing throughout the City.

BILTMORE SITE

In the work program, the City indicated it would designate a use for the Biltmore site. Of the choices listed by the City in the draft LCP, the City should select and prioritize the options clearly focusing on projects the City deems most suitable for its needs. It is most imperative that a specific land use be designated for a site. The selected use should give careful consideration to design and use of the site as well as incorporating visual policies for the Strand frontage. Under the Coastal Act, the first priority for this site is visitor serving, including hotel, restaurant and visitor-oriented commercial shops. If the City does not designate the site for these uses, the plan should discuss why the site is unsuitable, or why there is no need for such uses. If the City wishes to propose mixed uses for the site, we recommend that the upper stories of the project be utilized for low/moderate income housing.

Overall, the land use plan needs to identify land uses and intensity to be permitted. The City may wish to reference the community plan and/or zoning for this purpose, and also indicate which, if any, other documents are incorporated by reference, and these should be submitted for certification along with the plan. As noted above, the plan--including any reference components--must provide sufficient policy direction to guide and form the basis for implementing ordinances. In addition, the draft plan should be revised to reflect changes in the Coastal Zone boundary.

Staff believes the noted suggestions are logical conclusions based upon the information already contained in the draft LCP. Clearly, the City must designate specific choices in the areas discussed. If these refinements are included in the final adopted plan, this will produce a document expediting the certification process.

Very truly yours,

Robert Lagle
Chief Planner

Response to:

South Coast Regional Commission Comments on the Draft LCP

PUBLIC ACCESS/PARKING

The existing parking policies of the Draft LCP specifically address the fact that the City should not allow the elimination of existing on-street or off-street parking spaces. This policy should be sufficient to maintain the existing legal parking supply serving beach users.

The potential sites for the "park and ride" are in negotiations at present and the final site locations cannot be given at this time. The sites outlined previously for "park and ride" sites are the area along the right-of-way of the Atchison, Topeka and Santa Fe railroad right-of-way, between Pier Avenue and Eighth (8th) Street, and an overflow lot at the Mira Costa High School. Other lots have not been formalized yet.

The Vehicle Parking District is a separate entity from the City and funds generated from their parking revenues will not be used for support of the "park and ride" program. The support funds for the "park and ride" program will be generated from its own sale of permits and fines from within its boundaries. The in-lieu parking plan for the downtown commercial district is as follows:

- A. All new buildings or additions to existing buildings within the Vehicle Parking District (VPD) No. 1 are to be required to provide parking in a ratio of one (1) space per two hundred fifty (250) square feet of commercial use.
- B. In lieu of providing spaces for new construction, the projects will deposit in the VPD No. 1 Improvement Fund, three thousand dollars (\$3,000.00) for each required space not provided. This three thousand dollar (\$3,000.00) figure is to increase in line with the consumer price index percentage for construction in the Los Angeles - Long Beach SMSA, starting with a base from January 1, 1980.
- C. The VPD No. 1 Improvement Fund will be reserved for construction and/or improvement of parking facilities within the District and/or for acquisition of property to be utilized for parking.

Pages 37-40 of the Draft LCP is information material and is not a listing of specific policies. The policies outlined under the policy section of the report relate to what actions the City will undertake concerning parking within the Coastal Zone.

HOUSING

One for one, replacement of housing is unrealistic within the Coastal Zone for single family and duplex units. To insist on such a policy strikes at the core of a land owners rights to utilize his property. The insistence of one to one replacement of housing is not within the legal structure of protection of the public's health, safety or welfare.

The City has already established condominium conversion policies regarding the protection of low/moderate income housing. It is suggested that the following be included as a policy within the Coastal Housing Section:

- o That the City implement its affordable housing plan and acquire or cause to be acquired, through purchase, gift, in lieu payment, or otherwise, housing units for the elderly, with the immediate goal of one hundred (100) units being acquired in the Coastal Zone within a five (5) year period. The program is to be administered by the City or by an entity, group or organization so designated by the City. The purpose is to provide rental housing at minimum rental rates.

BILTMORE SITE

The Biltmore Site is presently designated for Recreational/ Commercial in the City's General Plan and as C-2 in the Zoning Ordinance. The City presently has requested proposals for development of the Biltmore Site covering three (3) land use mixes. They are:

1. Commercial
2. Commercial and Residential/Mixed Uses (low, moderate and/or elderly) and
3. Elderly Residential

The request for development of the site is in line with the goals of the Coastal Act. Priorities for the development of the Biltmore, although not specified in the above mentioned request for proposals, are recommended as follows:

- o That the Biltmore Site be utilized for visitor service commercial on a first priority basis with as a second priority, its utilization for low/moderate income or elderly housing.

APPENDIX L

COMMENTS & RESPONSES ON THE DRAFT

LOCAL COASTAL PLAN

SINCE 02/26/80

COMMENTS AND RESPONSES TO
THE DRAFT LOCAL COASTAL PLAN SINCE
FEBRUARY 26, 1980

The following is a summary of the comments and responses (Attachment B & C) received during the public hearings held July 28, August 11, October 13, October 27, November 13, November 24, and December 8, 1980 at the Planning Commission level and February 10, February 24, and March 24, 1981 at the City Council level.

The City Council, on April 14, 1981, after reviewing the comments and responses and allowing further discussion, approved the Local Coastal Plan with revisions.

COMMENTS AND RESPONSES ON DRAFT
LOCAL COASTAL PLAN, HERMOSA BEACH

Comment: What commitment does the City presently have to the Los Angeles Public Housing Authority?

Response: The City has a cooperative agreement with the Los Angeles County Public Housing in exercising the means and manners to maintain urban renewal.

Comment: What does "Affordable Housing Plan" mean?

Response: The term "affordable housing" was used generally and that there was no "plan". The term "affordable housing" is related to something which the City resident can live in comfortably without exceeding his means.

Comment: What did the internal inspection of homes mean?

Response: The internal inspection of homes was limited to garage inspections.

Comment: It was asked if the City would be obtaining any power to move on private property that they did not already possess.

Response: The City has power to acquire property within the City limits for various reasons if it were mandatory to meet certain needs.

Comment: Section 8 refers to urban renewal monies and that Section 8's new construction refers specifically to HUD funding for condemning properties. Funds could go to a developer to subsidize and develop for low and moderate income housing. A private developer could use Section 8 for new development, using government funds, but for that eminent domain to exist, the process must be through the City.

Comment: It was asked if the City had grounds for urban exemption?

Response: The City has to a certain point.

Comment: It was stated that the City has come to a point where it has discovered it is a small community and can not get into a battle with the State, County, and Federal governments, if the City proceeds on these grounds.

Reponse: It was stated that under urban exemption, they can apply it to some parts of the City, if we can avoid the possible polarization it would create.

Comment: Why didn't the City apply before for urban exemption, and if we do have grounds, what does Hermosa need to apply for now?

Response: The Coastal Zone boundary was Pacific Coast Highway and included two areas the Coastal Commission said they would not consider - the Biltmore Site and the Boatyard.

Comment: There are five main concerns relating to the Local Coastal Plan, they are as follows:

- (1) That the use of Federal or State money for any types of housing program would commit the City to use eminent domain at some point in the future.
- (2) That any involvement in the use of Federal or State money is suspect, especially where conditions for lower income housing programs are concerned.
- (3) That the City should investigate and undertake an urban exclusion for the Coastal Commission requirements.
- (4) That the vagueness of some of the policies tend to mislead.
- (5) That sections in the report, although informational, are no longer pertinent to the policies in the report. Primarily these are discussions about various parking and housing alternatives.

Comment: Certain recommended changes were made as the following:

- (1) The policy concerning the residential resale report either be removed from the Local Coastal Plan or specifically state that the purpose of the internal inspection would be for determining if garages had been converted to an illegal unit.
- (2) That reference to "park and ride" and "transit service" be removed from the parking policies.
- (3) That the housing policy concerning the City's participation with a public housing authority be changed to reflect specific needs for low income housing.
- (4) That the policy concerning the Marineland Mobile Home Court be changed to reflect its use as providing some diversified housing within the Coastal Zone.
- (5) That the housing policy statement specifically include a prohibition against the use of eminent domain in acquiring property.

Comment: That in regards to the restrictive nature of the Condominium Ordinance in which is stated there is an ordinance governing this, the Commission was right. It pointed to the policy that a tentative map is to be approved if the project provides unique services to the community. It cited as an example a donation to the City of Redondo Beach in the form of land. It was said that by allowing a person to donate a percentage of land to receive an approval of their development application was not right. It was said that the Commission should analyze if this is a legal way of acquiring what one wants.

Comment: It was asked if the Condominium Ordinance was too strict, or not strict enough.

Response: It was stated that Line 26 could be construed as "selling out", "blackmail", or anything of that sort. It was felt that if the City is going to set standards for condominium conversions, they should adhere to them and not allow themselves to be swayed by gifts.

Comment: The Commission was asked to observe the statistics wherein it states that 39% of the residents are low income and then goes on to state that the City should establish housing for low income households. It was felt that there must already be housing for low income housing if 39% is low income.

Response: It was pointed out that the reference to low income is not a reference to low income housing, that households with low income standards were not necessarily living in low income housing.

Comment: A motion was made to recommend that it is the intention of the Planning Commission to recommend to the City Council to pursue in all matters necessary relating to urban exclusion.

Comment: It was said that the City was not aware that the urban exclusion would expire at the end of the year when the City originally decided to apply. The only information the City has was that it could apply but it was not aware of its termination at the end of the year, as spelled out in the California Administrative Code.

Comment: The City Council has returned this item to the Planning Commission to hold public hearings and to go through and amend the Local Coastal Plan to reflect the General Plan, so that they do not conflict and in one sense, the Local Coastal Plan is to be a part of the General Plan. Some issues brought out in the past were: Housing (low to moderate income), parking (downtown and beach visitor), bikepath, and interior inspections.

Comments: It was said that the Boatyard is not part of the Coastal Zone and should be taken out of the plan. That the City should zero in on senior citizen housing and that they should not sell any City-owned property.

Comment: It was asked that park and ride be removed, the bikepath be removed, and that we wait for the election to see about low to moderate income housing. It was suggested that the City join Friends of the Court suit action of Chula Vista.

Comment: It was asked to remove the interior inspection of the property from the Local Coastal Plan and that the City join and file brief of Friends of the Court and joint the action of Chula Vista.

Comment: It was said "in lieu fees" should only be allowed in the commercial district.

Statement of Philosophy

To preserve and increase, where feasible, residential and commercial parking and general public parking within the Coastal Zone.

Future Policies

"to include an internal inspection of the garage at the time of the sale so as to..."

Comment: The Commission recommended deleting the parking survey because they felt it is not accurate. Mr. Turba, the Coastal Planner, said that the reason the survey is included in the Local Coastal Plan is because the Coastal Commission specifically asked for a projection of parking demand over the next few years. They want to know what sort of demand there is in the Coastal Zone.

Comment: The Commission felt that it is better to give the Coastal Commission no information on parking demand rather than incorrect information. Table 3 is to be deleted.

Comment: It was pointed out that involving the entire City in the Local Coastal Plan frighten people and the Commission was asked to reconsider.

Response: It was explained that the goals listed in the Local Coastal Plan are goals the Commission would like to see implemented in the entire City but that the Local Coastal Plan is strictly for the Coastal Zone.

Comment: There was a comment on the policy that you can not discriminate on the basis of age in the relation to the Housing section. It was pointed out that you can not continually discuss programs for the elderly throughout the section, and state that you will not discriminate on the basis of age.

Comment: It was pointed out that the Coastal Commission has said in the past that they are looking for something specific for the Biltmore Site.

Comment: Someone mentioned that he would like to have policy for interior inspection upon sale of property deleted from the plan.

Comment: With respect to the non-profit organization to administer the donated units and in lieu fees, someone pointed out that once this plan is submitted to the Coastal Commission, the City is bound by it and they should be careful.

Comment: Someone felt that the non-profit group should be decided upon by the City Council. The person questioned the real needs for senior citizen housing in Hermosa Beach and asked for an actual count of people in need.

Comment: One of the Commissioners asked if the Commission agreed with the policy to establish a program to assist low to moderate income elderly people. He said this should be cleared up or the section regarding age discrimination should be changed.

Comment: Remove the mention of the use of federal monies.

Response: The plan itself does not refer to the use of federal monies, it is however, referred to in the Housing Element of the General Plan which is incorporated in the Appendix of the Local Coastal Plan.

Comment: Remove reference to the use of a non-profit agency to administer a housing program.

Response: Since the City might not want to make a firm commitment until the Housing Plan is complete, the City Council should consider removing this.

Comment: Remove the incorporation of garage inspections in the preparation of residential building reports.

Response: This was removed as being ineffective and infeasible to enforce.

Comment: If the City finds one-for-one replacement housing not feasible, an in lieu fee should be collected and placed in a housing fund for future housing rehabilitation and/or development.

Response: The grammatical correction was made.

The following ten questions are the most frequently asked questions about the Local Coastal Plan. They constitute fundamental aspects of a Local Coastal Plan. They are the following:

1. What is a Local Coastal Plan?
2. Does the City need to prepare a Local Coastal Plan?
3. What authority does the State (Coastal Commission) have in dictating to the City land uses?
4. Why can't the City get out of the State requirement with an "Urban Exemption"?
5. What is "affordable housing"?
6. Does the City need to have federal programs to meet the State policies within the California Coastal Act?
7. If the City did not complete a Local Coastal Plan, what can the State do?
8. Can the City just wait out the State and see what other cities are doing?
9. What are the possibilities of the State Coastal Commission approving the Local Coastal Plan as is?
10. How can an individual have input into improving the Local Coastal Plan?

ATTACHMENT C

SOUTH BAY BOARD OF REALTORS, INC.

505 ANITA AVENUE • P.O. BOX 230 • REDONDO BEACH, CALIFORNIA • 379-2439

HERMOSA BEACH
MANHATTAN BEACH
REDONDO BEACH
RIVIERA VILLAGE

April 30, 1980

Councilman Lance Widman

Dear Lance,

I am very concerned about the proposed revision to the City Building Code requirements to include an internal inspection of property before it is sold. (Page 2, Sec 2.04 LCP Implementation Plan and page 3, para 4 Local Coastal Plan)

My concerns are as follows:

1. Where will the funds come from to enforce and implement this requirement.
2. How much will this new inspection procedure cost the City and ultimately the consumer?
3. Has a fiscal impact study been made? Is a report of that study available?
4. The present inspection (exterior) takes 2-3 weeks. Has a study been made as to how much extra time this procedure will require? When an escrow can not close because a building report must be obtained--that extra time is translated into dollars and that cost passes on again to the consumer.
5. Why is the change to the Building code included in the Local Coastal Parking plan. What are the requirements for such an inspection and why is it needed as part of the parking plan.
6. Finally-- is it legally enforceable? I realize that is a question for the courts to decide, but does the city want to take on the extra expense of testing the legality of the measure?

I would hope that this item would be deleted from the Implementation Plan to allow further study of these questions.

Thank you for your consideration regarding this matter.

Sincerely yours,

Annette V. Graw
Annette V. Graw

President, South Bay Board of Realtors, Inc.



Pledged To The
Realtor's Code

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EXECUTIVE OFFICE
1807 - 13th Street
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WILLIAM F. NORTHROP
Executive Officer

File Ref.: G05-02

May 7, 1980

Department of Planning and
Environmental Services
Hermosa Beach City Hall
1315 Valley Drive
Hermosa Beach, CA 90254

Gentlemen:

As the State agency assigned the responsibility of overseeing the proper management of legislative grants of sovereign tide and submerged lands made in trust to local political subdivisions, our office has reviewed your Draft Local Coastal Plan for conformance with the applicable legislative grant, the Common Law Public Trust Doctrine, and proper trustee management.

The State of California, through its Legislature, granted all its sovereign tide and submerged lands within the boundaries of Hermosa Beach to the City pursuant to Statutes of 1919, Chapter 479 (see enclosure A).

Initially, what first becomes apparent from a reading of the draft is the inattention given to your granted lands by the LCP. On February 8, 1980, the Attorney General of California issued official Opinion No. 79-1108 (see enclosure B) which provides that Local Coastal Programs must include tide and submerged lands granted in trust to local public entities within their respective jurisdictions (see page 10 of AG Opinion).

May 7, 1980

The California State Lands Commission, upon the request of the City of Hermosa Beach, surveyed and mapped the 1935 Mean High Tide Line in 1957, recorded as Documents #2508 and 2509 by the LA County Recorder. The intent in locating this boundary line was to locate the last natural ordinary high water mark - the landward extent of the 1919 grant (see enclosure C & D).

We strongly suggest that you incorporate the granted tide and submerged trust lands within the boundaries of Hermosa Beach into your LCP. As trustee for these lands within the Coastal Zone, it is a major responsibility of yours to properly administer and manage these lands pursuant to applicable law. The Office of the Attorney General issued a formal opinion on permitted use of granted land revenues in Hermosa Beach in 1959 (see enclosure E).

If you have any further questions, please contact Libby Rasmussen of our office.

Sincerely,



WILLIAM F. NORTHROP
Executive Officer

cc: James F. Trout
Jack Rump
Libby Rasmussen
Roger Dunstan
N. Gregory Taylor

Pam Emerson
South Coast Regional Commission

ENCLOSURE A

Ch. 479]

FORTY-THIRD SESSION.

941

CHAPTER 479.

An act granting to the city of Hermosa Beach the tidelands and submerged lands of the State of California within the boundaries of the said city.

[Approved May 25, 1919. In effect July 25, 1919.]

The people of the State of California do enact as follows:

SECTION 1. There is hereby granted to the city of Hermosa Beach, a municipal corporation of the State of California, and to its successors, all the right, title and interest of the State of California, held by said state by virtue of its sovereignty, in and to all the tidelands and submerged lands, whether within the present boundaries of said city, and situated below the line of mean high tide of the Pacific ocean, to be forever held by said city, and by its successors, in trust for the uses and purposes, and upon the express conditions following, to wit:

Tidelands
granted to
Hermosa
Beach.

(a) Said lands shall be used by said city and by its successors, solely for the establishment, improvement and conduct of a harbor and for the establishment and construction of bulkheads or breakwaters for the protection of lands within its boundaries, or for the protection of its harbor, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays, and other utilities, structures and appliances necessary or convenient for the promotion or accommodation of commerce and navigation, and the protection of the lands within said city, and said city, or its successors, shall not, at any time, grant, convey, give or alien said lands, or any part thereof, to any individual, firm or corporation for any purpose whatsoever; *provided*, that said city, or its successors, may grant franchises thereon, for a period not exceeding forty years, for wharves and other public uses and purposes, and may lease said lands, or any part thereof for a period not exceeding forty years, for purposes consistent with the trusts upon which said lands are held by the State of California and with the requirements of commerce or navigation at said harbor;

Use of lands.

(b) Said harbor shall be improved by said city without expense to the state, and shall always remain a public harbor for all purposes of commerce and navigation, and the State of California, shall have, at all times, the right to use, without charge, all wharves, docks, piers, slips, quays, and other improvements constructed on said lands, or any part thereof, for any vessel or other water craft, or railroad, owned or operated by the State of California;

Improvement
of harbor.

(c) In the management, conduct or operation of said harbor, or of any of the utilities or appliances mentioned in paragraph (a), no discrimination in rates, tolls, or charges, or in facilities, for any use or service in connection therewith shall ever be made, authorized or permitted by said city or by its successors. The absolute right to fish in the waters of said harbor, with the right of convenient access to said waters over said lands for said purpose, is hereby reserved to the people of the State of California.

Rates,
tolls, etc.

TO BE PUBLISHED IN THE OFFICIAL REPORTS
OFFICE OF THE ATTORNEY GENERAL
State of California

GEORGE DEUKMEJIAN
Attorney General

OPINION
OF
GEORGE DEUKMEJIAN
Attorney General
WARREN J. ABBOTT
Assistant Attorney General

No. 79-1108
FEBRUARY 8, 1980

RECEIVED
FEB 11 1980
ATTORNEY GENERAL'S OFFICE
CALIFORNIA

THE HONORABLE JOHN A. DRUMMOND, COUNTY COUNSEL,
COUNTY OF MENDOCINO, has requested an opinion on questions
relating to the boundaries of the coastal zone under the
California Coastal Commission Act of 1976, which we have
rephrased as follows:

1. What are the legal landward and seaward boundaries of the coastal zone?
2. Must a local coastal program prepared pursuant to the California Coastal Act include those areas of tide and submerged lands located within unincorporated areas of the county?

CONCLUSIONS

1. The legal boundaries of the coastal zone under the California Coastal Act of 1976 are, on the landward side, the line designated on maps identified in section 17 of Statutes 1976, chapter 1330, as modified by the California Coastal Commission pursuant to Public Resources Code section 30103(b) and as modified by the Legislature in Public Resources Code section 30103.5 and chapters 1109 and 1128, Statutes of 1979. On the seaward side, the boundary of the coastal zone is the seaward boundary of the State of California contained in article XII of the California Constitution of 1849 as amplified by Government Code section 170.

2. A county may, but is not required to include within its local coastal program adopted pursuant to the California Coastal Act of 1976 ungranted tide and submerged lands lying within the unincorporated areas of

the county. Any tide and submerged lands granted in trust by the Legislature to that county, however, must be included within its local coastal program.

ANALYSIS

The California Coastal Act of 1976 (Coastal Act) (Pub. Resources Code, §§ 30000 et seq.)^{1/} created the California Coastal Commission (commission) and, on a temporary basis, six regional coastal commissions (regional commissions). (§ 30300.) The commission is the successor to the California Coastal Zone Conservation Commission established by an initiative act, the California Coastal Zone Conservation Act of 1972. (§ 30331.)

The Coastal Act is essentially a land use planning mechanism for the coastal zone of the state (as described in §§ 30103, 30103.5 and as modified by §§ 30150 et seq., eff. Jan. 1, 1980). This is to be accomplished by the preparation of local coastal programs by local governments (cities or counties) or, upon request, by the commission, which programs in turn are ultimately to be certified by the commission. (§§ 30500 et seq.) Development within the coastal zone is to be subject to and consistent with that land planning and the criteria specified in the Coastal Act. (§§ 30200-20264.)

1. The Boundaries of the Coastal Zone

The first question presented seeks legal clarification of the boundaries of the coastal zone over which the commission and regional commissions have jurisdiction.

Section 30103 provides:

"(a) 'Coastal zone' means that land and water area of the State of California from the Oregon border to the border of the Republic of Mexico, specified on the maps identified and set forth in Section 17 of that chapter of the Statutes of the 1975-76 Regular Session enacting this division, extending seaward to the state's outer limit of jurisdiction, including all offshore islands, and extending inland generally 1,000 yards from the mean high tide line of the sea. In significant coastal estuarine, habitat, and

^{1/} All unidentified code section references are to the Public Resources Code.

recreational areas it extends inland to the first major ridgeline paralleling the sea or five miles from the mean high tide line of the sea, whichever is less, and in developed urban areas the zone generally extends inland less than 1,000 yards. The coastal zone does not include the area of jurisdiction of the San Francisco Bay Conservation and Development Commission, established pursuant to Title 7.2 (commencing with Section 66600) of the Government Code, nor any area contiguous thereto, including any river, stream, tributary, creek, or flood control or drainage channel flowing into such area.

"(b) The commission shall, within 60 days after its first meeting, prepare and adopt a detailed map, on a scale of one inch equals 24,000 inches for the coastal zone and shall file a copy of such map with the county clerk of each coastal county. The purpose of this provision is to provide greater detail than is provided by the maps identified in Section 17 of that chapter of the Statutes of the 1975-76 Regular Session enacting this division. The commission may adjust the inland boundary of the coastal zone the minimum landward distance necessary, but in no event more than 100 yards, or the minimum distance seaward necessary, but in no event more than 200 yards, to avoid bisecting any single lot or parcel or to conform it to readily identifiable natural or manmade features."

Section 17 of the referenced statutes (Stats. 1976, ch. 1330), as amended by Statutes 1976, chapter 1331, section 29 provides:

"The coastal zone, as generally defined in Section 30103 of the Public Resources Code, shall include the land and water areas as shown on the map prepared by the California Coastal Zone Conservation Commission entitled 'California Coastal Zone' dated August 11, 1976, and on file with the Secretary of State."

The maps referred to in section 17^{2/} consist of 21 sheets of cartographic maps (U.S.G.S. topographic maps) on

^{2/} The staff of the commission has indicated that these maps were never adopted by the predecessor to the commission, but were prepared by the staff to assist the Assembly Committee on Resources, Land Use and Energy which was then considering the bill which ultimately became the Coastal Act.

a scale of 1/62,500 (1 inch equals one mile) on which a line has been drawn on the land. Pursuant to subdivision (b) of section 30103, the commission staff prepared and the commission approved and filed a series of maps on a scale of 1/24,000 (1 inch equals 2000 feet) (also U.S.G.S. topographical maps) consisting of a total of 161 maps. The commission staff has informed us that the line drawn on the latter maps is a transformation of the line on the section 17 maps using the seaward edge of the line when pertinent and with minor adjustments to follow such features as streets and property lot lines. Subsequent to the approval and filing of these maps, the commission has made one adjustment to the landward boundary as authorized by the last sentence of subdivision (b) of section 30103 and pursuant to its regulations. (Cal. Admin. Code, tit. 14, §§ 13250.0-13259.)

Since the drawing and approval of the commission's maps, the Legislature has made several changes in the landward boundaries of the Coastal Zone. Statutes 1978, chapter 213, section 2 added section 30103.5 as follows:

"(a) Notwithstanding map number 138 adopted pursuant to Section 17 of Chapter 1330 of the Statutes of 1976, as amended by Section 29 of Chapter 1331 of the Statutes of 1976, the inland boundary of the coastal zone in Los Angeles County in the vicinity of Los Angeles International Airport shall be the Pershing Drive built after January 1, 1970, rather than the Pershing Drive built prior to that date.

"(b) Notwithstanding map number 149 adopted pursuant to Section 17 of Chapter 1330 of the Statutes of 1976, as amended by Section 29 of Chapter 1331 of the Statutes of 1976, the inland boundary of the coastal zone in the area of the City of San Juan Capistrano in Orange County shall exclude all portions of the City of San Juan Capistrano and shall follow Camino Capistrano and Via Serra and generally an extension of Via Serra to the point where it joins the existing coastal zone boundary."

The 1979 session of the Legislature made more changes. Chapter 1128, Statutes 1979 made a change to the coastal

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zone in San Diego County.^{3/} Chapter 1109, Statutes 1979 added a new chapter 2.5 (§§ 30150-30170) to the Coastal Act entitled "Revisions to the Coastal Zone Boundary." These sections consist of a series of detailed changes to the landward side of the boundary as delineated on the section 17 maps and the commission's detailed maps, both deleting and adding areas to the Coastal Zone in nine counties. This has been done by adopting 35 new maps in new section 30150:

"Notwithstanding the maps adopted pursuant to Section 17 of Chapter 1330 of the Statutes of 1976, as amended by Section 29 of Chapter 1331 of the Statutes of 1976, the inland boundary of the coastal zone, as shown on the detailed coastal maps adopted by the

^{3/} Chapter 1128, section 1 added section 30174 as follows:

"Notwithstanding the maps adopted pursuant to Section 17 of Chapter 1330 of the Statutes of 1976, as amended by Section 29 of Chapter 1331 of the Statutes of 1976, the inland boundary of the coastal zone, as shown on detailed coastal map 157 adopted by the commission on March 1, 1977, shall be amended to conform to the inland boundary shown on map A which is hereby adopted by reference and which shall be filed in the office of the Secretary of State and the commission on the date of enactment of this section.

"The areas deleted and added to the coastal zone which are specifically shown on map A are in the County of San Diego and are generally described as follows:

"(a) In the vicinity of the intersection of Del Mar Heights Road and the San Diego Freeway, approximately 250 acres are excluded as specifically shown on map A.

"(b) In the vicinity of the intersection of Carmel Valley Road and the San Diego Freeway, approximately 45 acres are added as specifically shown on map A.

"(c) Near the head of the south branch of Los Penasquitos Canyon, the boundary is moved seaward to the five-mile limit as described in Section 30103 and as specifically shown on map A."

commission on March 1, 1977, is amended by maps 1 to 35, inclusive, dated September 12, 1979, and filed on September 14, 1979, with the office of the Secretary of State and which are on file in the office of the commission. Maps 1 to 35, inclusive, are hereby adopted by reference.

"The areas deleted and added to the coastal zone are specifically shown on maps 1 to 35, inclusive, adopted by this section, and are generally described in this chapter".

From the above, it is readily apparent that the landward boundary of the coastal zone is the line as depicted on the section 17 maps as modified by the commission under subdivision (b) of section 30103 and as modified by section 30103.5 and by chapters 1228 and 1109, Statutes of 1979. Although subdivision (a) of section 30103 provides that the coastal zone extends ". . . inland generally 1,000 yards from the mean high tide line of the sea," and "[i]n significant coastal estuarine, habitat, and recreational areas it extends inland to the first major ridgeline paralleling the sea or five miles from the mean high tide line of the sea, whichever is less, and in developed urban areas the zone generally extends inland less than 1,000 yards," we conclude that the Legislature clearly intended and did define the landward boundary to be the line depicted on the section 17 maps as subsequently modified by the commission and the Legislature. The quoted words are merely descriptive of the rationale used by the Legislature in drawing the particular line on the maps.^{4/}

Neither the section 17 maps nor the commission's detailed maps depict the seaward boundary of the coastal zone. Here the descriptive language of subdivision (a) of section 30103 does come into play. As regards the seaward boundary it provides that the coastal zone is that land and water area of the state between Oregon and Mexico ". . . extending seaward to the state's outer limit of jurisdiction, including all offshore islands." Although there is authority that a state may control the activities of its citizens beyond the boundaries of the state

^{4/} The coastal zone, of course, excludes the area of jurisdiction of the San Francisco Bay Conservation and Development Commission as specified in the last sentence of section 30103(a). That area is defined in Government Code section 66610.

(Skiriotes v. Florida (1941) 313 U.S. 69, 76; Toomer v. Witsell (1948) 334 U.S. 385, 393; 34 Ops.Cal.Atty.Gen. 260, 263-64 (1959)), since the Coastal Act deals with land use planning, we believe the Legislature intended to limit the coastal zone to the territory within the boundaries of the State of California.

The boundaries of the state are those stated in the Constitution of 1849 as modified pursuant to statute. (Cal. Const., art. III, § 2.) Article XII of the California Constitution of 1849 provided:

"The Boundary of the State of California shall be as follows: --

"Commencing at the point of intersection of 42d degree of north latitude with the 120th degree of longitude west from Greenwich, and running south on the line of said 120th degree of west longitude until it intersects the 39th degree of north latitude; thence running in a straight line in a south easterly direction to the River Colorado, at a point where it intersects the 35th degree of north latitude; thence down the middle of the channel of said river, to the boundary line between the United States and Mexico, as established by the Treaty of May 30th, 1848; thence running west and along said boundary line to the Pacific Ocean, and extending therein three English miles; thence running in a northwesterly direction and following the direction of the Pacific Coast to the 42d degree of north latitude, thence on the line of said 42d degree of north latitude to the place of beginning. Also all the islands, harbors, and bays, along and adjacent to the Pacific Coast." (Emphasis added.)

Congress approved the Constitution of 1849, and inferentially the boundary when it admitted California to the union. (Act of Admission, September 9, 1850; 9 Stat. 452; United States v. Florida (1960) 363 U.S. 121, 127-128.) The Legislature has sought to give greater precision to the seaward boundary through Government Code

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It should be noted that the seaward boundary as set forth in the Constitution of 1849, that is the political boundary of the state, may be and is different from the boundary of lands granted to the State by the Congress by the Submerged Lands Act of 1953. (67 Stat. 29; 42 U.S.C. §§ 1301-15.) That Act, which had its

5/ Government Code section 170 provides:

"To give greater precision to the boundary of the State of California as defined in Article XXI of the Constitution [of 1879], it is hereby declared that the part of the boundary which is described as 'running in a northwesterly direction and following the direction of the Pacific Coast to the forty-second degree of north latitude,' and as 'including all the islands, harbors, and bays along and adjacent to the coast,' runs and has in the past run three English nautical miles oceanward of lines drawn along the outer sides of the outermost of the islands, reefs and rocks along and adjacent to the mainland and across intervening waters; and where there are harbors, but no such outlying islands, reefs and rocks, it runs and in the past has run three English nautical miles oceanward of lines drawn in front of the harbors along the outermost works and installations thereof, and, in the case of all bays (including inlets and estuaries) three English nautical miles from lines drawn from headland to headland across the mouth of each bay, inlet and estuary, regardless of the length of the lines.

"Where there are no outlying islands, reefs or rocks and no harbors or bays or inlets or estuaries, the boundary runs and has in the past run three English nautical miles oceanward of the lowest low-water mark on the shore."

The question of whether Government Code section 170 properly interprets the seaward boundary of article XII of the Constitution of 1849 is currently before the California Supreme Court in People v. Weeren, Crim. No. 21078. The same section is indirectly in issue in M.G.R.S., Inc. v. California State Board of Equalization 2d Civ. No. 56238, Court of Appeal, Second Appellate District. We express no opinion on that question.

impetus in United States v. California (1947) 332 U.S. 19, granted to the coastal states certain submerged lands. The United States Supreme Court in the second United States v. California (1965) 381 U.S. 139, determined that the seaward boundary of that congressional grant should be measured in the context of international law and the territorial sea, particularly the 1958 Geneva Convention on the Territorial Sea of the Contiguous Zone. (15 U.S.T. 1606 ; United States v. California II, supra at 161-67.) That decision, delineating ownership and jurisdiction over the submerged lands of California as between the United States and the State of California, does not purport to alter the political boundaries of the state. (People v. Foretich (1970) 14 Cal.App.3d Supp. 6, 13.) Thus, the Submerged Lands Act boundary and the California political boundary may differ. Indeed, under the Submerged Lands Act, the seaward boundary for purposes of state ownership of the submerged lands in Santa Monica Bay is three miles from the coast and within the Bay. (United States v. California II, supra, 381 U.S. at 169-70.) For purposes of the constitutional boundary, however, that line is three miles seaward of the line drawn between the headlands of the Santa Monica Bay. (People v. Foretich, supra; People v. Stralla (1939) 14 Cal.2d 617; and see United States v. Carrillo (1935) 13 F.Supp. 121 (San Pedro Bay).)

2. Tide and Submerged Lands -- Local Coastal Programs

As indicated above, one of the mechanisms for accomplishing the land use planning objectives of the Coastal Act is the preparation of local coastal programs^{6/} by cities and counties with ultimate certification by the commission. Section 30500(a) provides in part:

"Each local government lying, in whole or in part, within the coastal zone shall prepare a local coastal program for that portion of the coastal zone within its jurisdiction. . . ."

^{6/} Section 30108.6 provides.

"'Local coastal program' means a local government's land use plans, zoning ordinances, zoning district maps, and implementing actions which, when taken together, meet the requirements of, and implement the provisions and policies of, this division at the local level."

The second question presented is whether the local coastal program of a county must include and address that portion of the county lying seaward of the ordinary high tide line, that is tide and submerged lands within unincorporated areas of the county. We conclude that if such tide and submerged lands have not been granted in trust by the Legislature to the county, the county's local coastal program may, but is not required to deal with those tide and submerged lands. If such lands have been granted to the County in trust, however, the county's local coastal program must include those lands.

Tide and submerged lands, that is those lying below the ordinary high water mark are owned by the state by virtue of its sovereignty, and are held in trust for purposes of commerce, navigation and fisheries.

(Pollard's Lessee v. Hagan, et al. (1845) 44 U.S. (3 How.) 212, 229; Mallon v. City of Long Beach (1955) 44 Cal.2d 199, 205.) That portion of submerged lands lying seaward of the coastline, as defined, to the three-mile limit was confirmed or granted to the state by the Submerged Lands Act of 1953, supra. (United States v. California II, supra.) From time to time, the Legislature has granted tide and submerged lands in trust to local governments. (See e.g. Stats. 1959, ch. 497.) As to those granted lands, the local government-grantee has control, subject to the trusts upon which they were granted. (Mallon v. City of Long Beach, supra; People v. City of Long Beach (1959) 51 Cal.2d 875, 880.)

As to the ungranted tide and submerged lands, jurisdiction and control is vested in the State Lands Commission (§§ 6216, 6301.), and the Coastal Act makes no change in that authority. (§ 30416(b).) The State Lands Commission has adopted a series of regulations relating to development on lands under its jurisdiction lying within the coastal zone. (Cal. Adm. Code, tit, 2, §§ 2500 et seq.) Local zoning and planning ordinances would, as a general proposition, be preempted by the state as to such lands. (Monterey Oil Co. v. City Court (1953) 120 Cal.App.2d 31 and Id. (1953) 120 Cal.App.2d 41; 54 Ops.Cal.Atty.Gen. 158, 160-63 (1971).) Thus, although section 30500(a) requires each local government to prepare a local coastal program ". . . for that portion of the coastal zone within its jurisdiction," we do not believe the Legislature intended to mandate a program for large areas of ungranted tide and submerged lands over which the local government would have no planning authority.

Furthermore, the consequences of certification of a local control program by the commission clearly denotes a legislative intent to treat tide and submerged lands differently. Section 30519 provides:

"Except for appeals to the commission, as provided in Section 30603, after a local coastal program, or any portion thereof, has been certified and all implementing actions within the area affected have become effective, the development review authority provided for in Chapter 7 (commencing with Section 30600) shall no longer be exercised by the regional commission or by the commission where there is no regional commission over any new development proposed within the area to which such certified local coastal program, or any portion thereof, applies and shall at that time be delegated to the local government that is implementing such local coastal program or any portion thereof.

"(b) Subdivision (a) shall not apply to any development proposed or undertaken on any tidelands, submerged lands, or on public trust lands, whether filled or unfilled, lying within the coastal zone, nor shall it apply to any development proposed or undertaken within ports covered by Chapter 8 (commencing with Section 30700) or within any state university or college within the coastal zone; however, this section shall apply to any development proposed or undertaken by a port or harbor district or authority on lands or waters granted by the Legislature to a local government whose certified local coastal program includes the specific development plans for such district or authority."

As to ungranted tide and submerged lands, upon certification of the county's local coastal program, the commission will retain development permit authority under chapter 7, while as to other portions of the coastal zone within the unincorporated area of the county, the commission's permit authority will be on a limited appeals basis only. (§ 30603.) Consequently, we conclude that the local coastal program may, but need not include or deal with ungranted tide or submerged lands lying within the unincorporated areas of the county.^{1/}

^{1/} The staff of the commission has informed us that those local coastal programs being prepared by the staff pursuant to request of the local government under section 30500(a) do not and will not cover areas of ungranted tide and submerged lands.

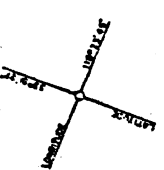
In contrast, as noted, the jurisdiction and responsibilities of the local government over granted and tide submerged lands are substantially different. Development and control of such tide and submerged lands have not been preempted by the state. (Cf. Higgins v. City of Santa Monica (1964) 62 Cal.2d 24; 54 Ops.Cal.Atty.Gen. 135, 162, supra.) Section 30416 sets forth the responsibilities of the State Lands Commission under the Coastal Act, and subdivision (d) of that section provides that development on granted tide and submerged lands is subject to the regulatory controls of chapters 7 (development controls) and 8 (ports) of the Coastal Act.^{8/} Further, subdivision (b) of section 30519, supra, removes the permit authority of the commission, except for limited appeals, from development on granted tide and submerged lands if the certified local coastal program includes the specific development plans for the grantee. From all these authorities, we discern a legislative intent that the counties to which tide and submerged lands have been granted in trust retain control and jurisdiction over such lands under the Coastal Act subject to their statutory trust. Since the basic statutory requirement is that each coastal county prepare a local coastal program "for that portion of the coastal zone within its jurisdiction," we see no reason to exclude therefrom tide and submerged lands granted to that county.

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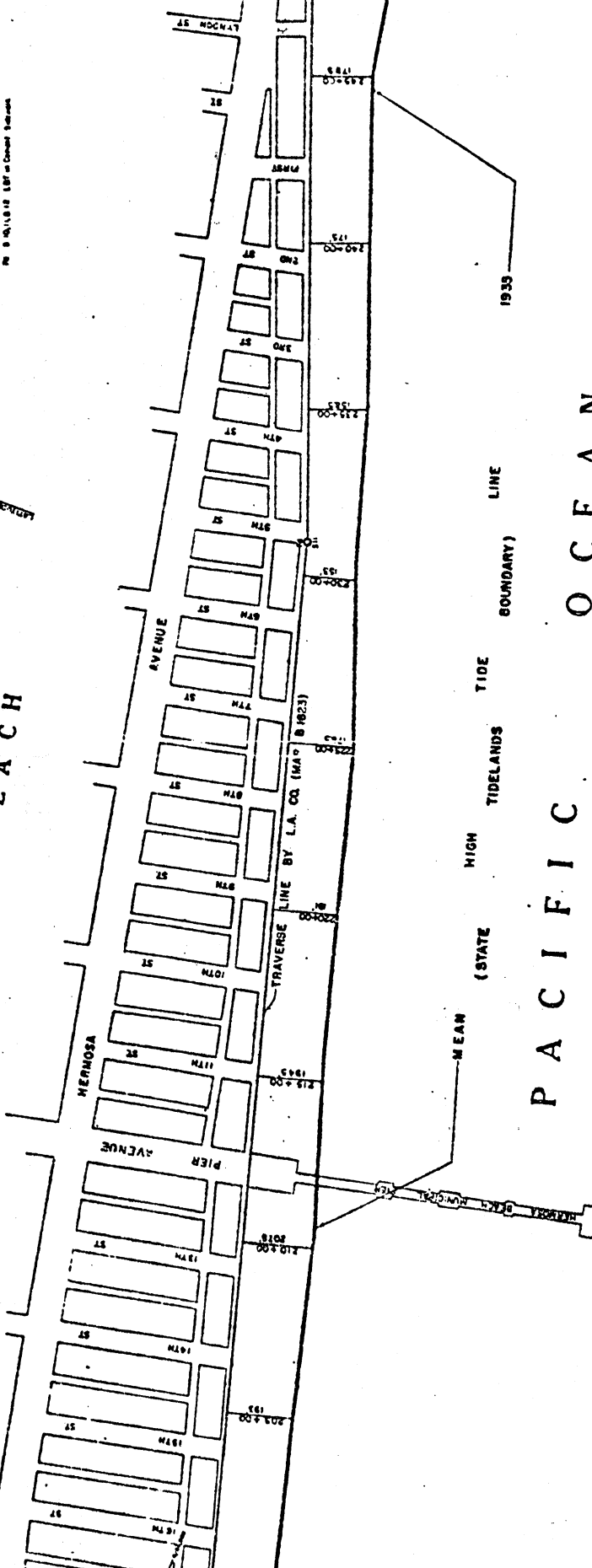
^{8/} Section 30416(d) provides:

"(d) Nothing in this division shall amend or alter the terms and conditions in any legislative grant of lands, in trust, to any local government, port governing body, or special district; provided, however, that any development on such granted lands shall, in addition to the terms and conditions of such grant, be subject to the regulatory controls provided by Chapters 7 (commencing with Section 30600) and 8 (commencing with Section 30700)."

L.A. CO. TRAVERSE LINE
 COURSES
 BEGINS AT POINT
 111° 58' 47" E 349.51' TO CORNER
 112° 00' 00" E 2,333.00' TO CORNER
 112° 00' 00" E 2,333.00' TO CORNER
 111° 58' 47" E 349.51' TO CORNER
 BEGINS AT POINT
 111° 58' 47" E 349.51' TO CORNER
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 112° 00' 00" E 2,333.00' TO CORNER
 111° 58' 47" E 349.51' TO CORNER



HERMOSA BEACH



HERMOSA BEACH CITY BOUNDARY
 REDONDO BEACH CITY BOUNDARY

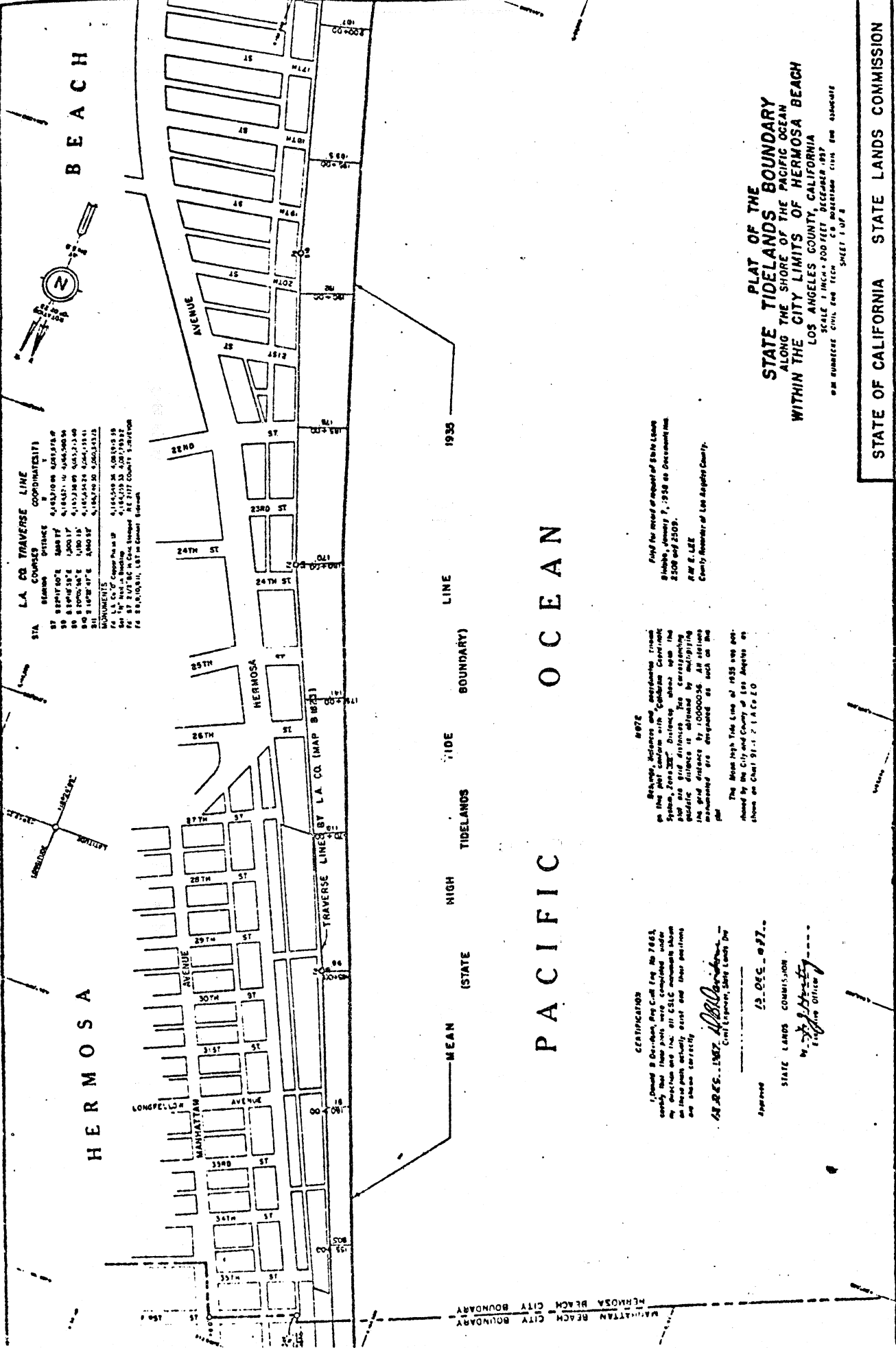
PLAT OF THE
 STATE TIDELANDS BOUNDARY
 ALONG THE SHORE OF THE PACIFIC OCEAN
 WITHIN THE CITY LIMITS OF HERMOSA BEACH
 LOS ANGELES COUNTY, CALIFORNIA
 SCALE: 1" = 100 FEET DECEMBER 1937
 W.W. HUMMEL, CIVIL ENGINEER
 REGISTERED CIVIL ENGINEER STATE OF CALIFORNIA
 SHEET 2 OF 2

NOTE
 Bearings, distances and coordinates shown on this plat conform with California Coordinate System, Zone 10. Distances shown with the bearings and distances. The corresponding graphic distances is obtained by multiplying the bearings by 0.9999921. All station measurements are displayed as such on this plat.
 The Mean High Tide Line of 1933 was determined by the City and County of Los Angeles as shown on Chart 51-1.2 L.A. Co. ED

STATE OF CALIFORNIA STATE LANDS COMMISSION

PREPARED UNDER W.O. 2771

ENCLOSURE C



L.A. CO. TRAVERSE LINE COORDINATES

STA.	BEARING	DISTANCE	COORDINATES
1	S 89° 17' 30" E	120.017	4,165,170.18
2	S 89° 17' 30" E	120.017	4,165,170.18
3	S 89° 17' 30" E	120.017	4,165,170.18
4	S 89° 17' 30" E	120.017	4,165,170.18
5	S 89° 17' 30" E	120.017	4,165,170.18
6	S 89° 17' 30" E	120.017	4,165,170.18
7	S 89° 17' 30" E	120.017	4,165,170.18
8	S 89° 17' 30" E	120.017	4,165,170.18
9	S 89° 17' 30" E	120.017	4,165,170.18
10	S 89° 17' 30" E	120.017	4,165,170.18
11	S 89° 17' 30" E	120.017	4,165,170.18
12	S 89° 17' 30" E	120.017	4,165,170.18
13	S 89° 17' 30" E	120.017	4,165,170.18
14	S 89° 17' 30" E	120.017	4,165,170.18
15	S 89° 17' 30" E	120.017	4,165,170.18
16	S 89° 17' 30" E	120.017	4,165,170.18
17	S 89° 17' 30" E	120.017	4,165,170.18
18	S 89° 17' 30" E	120.017	4,165,170.18
19	S 89° 17' 30" E	120.017	4,165,170.18
20	S 89° 17' 30" E	120.017	4,165,170.18
21	S 89° 17' 30" E	120.017	4,165,170.18
22	S 89° 17' 30" E	120.017	4,165,170.18
23	S 89° 17' 30" E	120.017	4,165,170.18
24	S 89° 17' 30" E	120.017	4,165,170.18
25	S 89° 17' 30" E	120.017	4,165,170.18
26	S 89° 17' 30" E	120.017	4,165,170.18
27	S 89° 17' 30" E	120.017	4,165,170.18
28	S 89° 17' 30" E	120.017	4,165,170.18
29	S 89° 17' 30" E	120.017	4,165,170.18
30	S 89° 17' 30" E	120.017	4,165,170.18
31	S 89° 17' 30" E	120.017	4,165,170.18
32	S 89° 17' 30" E	120.017	4,165,170.18
33	S 89° 17' 30" E	120.017	4,165,170.18
34	S 89° 17' 30" E	120.017	4,165,170.18
35	S 89° 17' 30" E	120.017	4,165,170.18

CERTIFICATION
I, Charles B. Davidson, Civil Engineer, No. 7663, certify that these plans were prepared under my direction and that all CSIC monuments shown on these plans actually exist and their positions are shown correctly.

APPROVED: 13 DEC 1971
STATE LANDS COMMISSION
By: *[Signature]*
CIVIL ENGINEER, STATE LANDS DIV.

NOTE
Bearings, distances and meridional cross on this plan conform with California Coordinate System, Zone 12N. Distances shown were the actual ground distances. The corresponding graphic distances are obtained by multiplying the ground distances by 0.000005. All stations monumented are depicted as such on this plan.

The Mean High Tide Line of 1935 was adopted by the City and County of Los Angeles as shown on Chart 91-1-1, F.I.C. Co. 20.

Map for record of report of State Lands Division, January 7, 1958 as Document No. 2508 and 2509.
R.W. E. LEE
County Engineer of Los Angeles County.

PLAT OF THE STATE TIDELANDS BOUNDARY ALONG THE SHORE OF THE PACIFIC OCEAN WITHIN THE CITY LIMITS OF HERMOSA BEACH
LOS ANGELES COUNTY, CALIFORNIA
SCALE 1 INCH = 100 FEET DECEMBER, 1971
BY: *[Signature]* CIVIL ENGINEER

STATE OF CALIFORNIA STATE LANDS COMMISSION

PREPARED UNDER W.O. 2771

ENCLOSURE D

Opinion No. 59-184—August 26, 1959

SUBJECT: TIDELANDS REVENUE—City of Hermosa Beach may not use, to level public beach for recreational purposes where statutory grant to the city does not include use of tidelands for recreation.

Requested by: ASSEMBLYMAN 46th DISTRICT.

Opinion by: STANLEY MOSK, Attorney General.
S. Clark Moore, Deputy.

The Honorable Charles Edward Chapel, Assemblyman, 46th District, has requested the opinion of this office on the following question:

May the City of Hermosa Beach use tidelands trust income to redistribute sand that has accumulated against a retaining wall thereby impairing the public's access to the adjoining beach?

The conclusion may be summarized as follows:

The City of Hermosa Beach may not expend tidelands trust revenue in order to level a public beach for recreational uses where the statutory grant to said city does not include the use of the granted tidelands for recreational purposes.

ANALYSIS

The City of Hermosa Beach owns a public beach located upon both tidelands granted in trust and uplands granted by private parties. The part located upon granted tidelands is only a small portion of the beach and the remainder is a strip of land some 200 feet wide that extends from the line of ordinary high tide to a concrete abutment known as Strand Wall. The purpose of the Strand Wall is to prevent sand from shifting onto Strand Walk, a public walk on the beach. Gaps in the wall provide access to the adjoining beach. Over the years the wind has caused the sand to accumulate against this wall and at the present time it is beginning to shift across it and block the entrances to the beach from Strand Walk. By expending tidelands revenues, the city wishes to redistribute this sand onto the uplands beach in order to protect Strand Walk and to make the beach more accessible and usable by the public. It is our understanding that such redistribution of sand is totally unrelated to commerce and navigation.

In 1919 the state of California granted to the City of Hermosa Beach, in trust, all tidelands within its boundaries. (Stats. 1919, ch. 479, pp. 941-942.) This grant, in part, provided that:

"Said lands shall be used by said city and by its successors, solely for the establishment, improvement and conduct of a harbor and for the establishment and construction of bulkheads or breakwaters for the protection of lands within its boundaries, or for the protection of its harbor, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays, and other utilities, structures and appliances necessary or convenient for the promotion or accommodation of commerce and navigation, and the protection of the lands within said city, and said city, or its successors, shall not, at any time, grant, convey, give or alien said lands, or any part thereof, to any individual, firm or corporation for any purpose whatsoever; . . ."

The aforesaid statutory grant does not designate recreational use of the granted tidelands as an express trust use, nor does it specifically refer to public beaches or parks.

Any interest which a city has in tidelands acquired by grant from the Legislature is subject to a public trust for the benefit of the entire state. (*Mallon v. City of Long Beach*, 41 Cal. 2d 199, 209.) Tidelands trust monies may not be used for general municipal purposes. (*City of Long Beach v. Morte*, 31 Cal. 2d 254.)

This office has heretofore held in 33 Ops. Cal. Atty. Gen. 152 that tidelands trust funds may be used to maintain and operate a public beach on granted tidelands where the grant (Stats. 1925, ch. 102, p. 235, and Stats. 1935, ch. 158, pp. 793-795) expressly designates the maintenance of a "public park, parkway, highway, [or] playground" as a tidelands trust purpose. As heretofore stated, in the instant case there is no provision in the grant designating recreation as a tidelands trust purpose. Since recreational use is not a statutory trust purpose under this particular tidelands grant, there is no legislative authorization for the City of Hermosa Beach to expend tidelands trust income on maintenance and operation of its public beaches even if located on granted tidelands. Clearly, tidelands trust monies cannot be used to maintain a public beach on uplands.

As the lands in question were granted in trust for commerce and navigation, any proposed expenditure by the city of tidelands trust funds must benefit commerce and navigation.

For the reasons hereinabove set forth, it is concluded that tidelands trust funds cannot be used for leveling the public beach area herein involved or to redistribute sand thereon.

CALIFORNIA COASTAL COMMISSION
SOUTH COAST REGIONAL COMMISSION

666 E. OCEAN BOULEVARD, SUITE 3107

P.O. BOX 1450

LONG BEACH, CALIFORNIA 90801

(213) 590-5071 (714) 846-0648



May 21, 1980

George Barks, Mayor
City of Hermosa Beach
Civic Center
Hermosa Beach, CA 90254

Dear Mayor Barks:

In response to your letter of May 15, 1980 requesting that the South Coast Regional Commission hearing on the City's Local Coastal Program be canceled, notices of cancellation of the public hearing have been distributed.

Since your letter indicates that the City plans to hold additional hearings and possibly amend your submittal, the State and Regional Coastal Commission staff will be providing you with detailed comments relating to your plan. Our preliminary staff review of your plan has indicated numerous problem areas. Two major deficiencies are: many of your plan policies are not, in fact, clear land use decisions; and, relationship of your existing General Plan to your Local Coastal Program is not explicitly stated.

State and Regional staff are available to meet with you or your staff. For further information, please contact Pam Emerson, South Coast Region, or Michael Buck, State Coastal Commission.

Sincerely,

A handwritten signature in black ink, appearing to read "David N. Smith".

David N. Smith
Deputy Executive Director

DNS/sws

To City Council

10-20-80

L-29

Re: Coastal Plan Housing

I am a resident of Mainland Mobile Homes, 531 Peir Ave. I believe that our trailer park should be specifically covered by the coastal housing plan, but not worded as it was in the first draft.

Contravention arose, inside & outside the park, over the last plan because of references to (A) preserving the 531 "site" and (B) "low-income residents."

(A) Talk of preserving the "site" rather than preserving the trailer park as a trailer park, raises the specter of future redevelopment to higher density public housing in the form of condos or apartments. The residents and the community at large are 100% against any such possibility. Do not speak of the "site" as if it were vacant land; speak only of keeping the trailer court as is.

(B) "Low-income residents" sponsored or protected by any form of government sounds as though a future government could well audit the finances of existing residents, and evict those whose monies were above some arbitrary low-income cut off. This may not be the current intent, but it is certainly a legitimate fear on the part of the citizens. The plan should speak of moderately priced or affordable housing, and not get into the incomes of the residents.

In conclusion:

Drop references to "the site".

Drop references to "low-income residents".

Stress the importance of preserving the trailer park as a trailer park.

Stress the affordable or moderate price of our housing.

Stress the diversified nature of our housing
(outstated coastal goal).

Mainland Mobile Homes can & should fill the needs of Hermosa & the state perfectly in the coastal strip, but only with adequate safeguards for the current residents, our immediate neighbors, and for the community at large.

Thank You

Jerry Hankins

531 PIER AVE #18

HERMOSA Bch, CA. 90254

cc

Planning Commission

City Manager

City Attorney

Planning Director

March 24, 1981

To: Honorable Mayor and Members of the Hermosa Beach City Council.

Via: Gregory P. Meyer, City Manager.

From: The Citizens Committee of Hermosa Beach.

Subj: Local Coastal Plan

We the Citizens Committee wish to object to the Local Coastal Plan.

We primarily object to where the term "City" is used. City should be changed to Coastal Zone Area of the City, leaving the rest of the City as free as possible from outside control.

Page 4, 2nd paragraph.

In-lieu fee of \$1,500.00 should be designated specifically for parking in the Coastal Zone instead of being in limbo as it is now.

Page 4, Section ii, 2nd paragraph under Future Policies.

Inspection of garage only at the time of sale and in the Coastal Zone only.

Page 4, Section ii, 3rd paragraph under Future Policies.

The suggestion of leasing or purchasing of parking lots-dispersed throughout the City must be changed to be dispersed throughout the Coastal Zone only- Residential areas do not need more "Outside" parking.

Page 4, 4th paragraph, under Policy

Transit service with empty bus lines does not need to be expanded to a greater cost for the City. Other beaches, including County beaches do not provide transportation.

Page 5, Section "B" under IV, Coastal Housing, paragraph ii.

Please explain how to preserve diversified neighborhoods under your present efforts to down zone and unify total areas?

Page 6, under ii, Future Policies and Programs

First, we emphatically object to every statement on this page and the first paragraph on page 7. We totally object to a Tax-exempt, non-profit, non-governmental Corporation which by its wording eliminates control or supervision by the City.

Secondly, we object to this organization being given money to operate. We feel this is a violation and improper use of necessary City funds needed for primary programs.

Thirdly, We question as being very "unclear" the words "Cash rebates" to be made to homeowners. The Citizens who have voted many times against H.U.D. funds. This entire program has no limitations as to who can apply for rebates and opens a Pandora box for the benefit of the high income versus the elderly low income,

Who cannot afford to repay any cost of improvement at today's prices.

Page 7, V, Coastal Recreational Access, Section "B" Goals & objectives. No. iv.

We object to the statement of private land zoned for visitors--- Property land is owned by a human being and we are committed to protecting a person's right to his property--to use or to sell or bequeath as he alone sees fit, and thereby, to pursue his or her happiness--We do not feel the City therefore shall have priority over private development, except in the field of safety.

Page 8, 2nd paragraph, Policy.

We object to the Cost and use of energy to maintain our private beach during night hours. This is an unwarranted expenditure of money.

Page 8, 3rd paragraph.

Change word "was" to has been provided.

Page 8, 4th paragraph

After the word "cleaning" insert "and patrolled".

Page 8, paragraph five.

All existing access streets and walkways in the City have always given access to everyone to and from the beach. No changes are planned!

Page 8, ii. under future policies and programs, 1st paragraph.
Define uses--Does it mean permanently or seasonally?

Page 8, 2nd paragraph

This refers to the Biltmore site area and commercial development. It should not be restricted by the words "beach and recreational" related--This potentially is a future asset for running the City government.

Page 8, 3rd paragraph.

We question how many parkettes can be afforded in our small City, since this is an expensive program of maintain. This policy also ties to the strand where there is tremendous "Open space" ! Maybe we should bolt benches to the strand wall on the sand area.

Page 8, under VI, Coastal Development, 1st paragraph.

Why do we state Hermosa Beach is a coastal resource for the people of California? Isn't there State Coastal Beaches for this purpose? Beaches and beach activity require more policing and expense to the City.

Page 9, 1st paragraph.

How do we preserve overviews and key view areas when we have permitted the obliteration of our City's main view at Pacific Coast Highway and Gould. Please explain what areas you talking about.

Page 9, Section C, Policies and Program, 6th paragraph.

1st line after November, change initiative to Advisory. Again in

the same program the Zoning and General Plan should talk only about the Coastal Zone.

Page 9, 7th and last paragraph under Policy.

"Special zoning overlay zone" Please explain in detail this term. In the future it could easily open the door for density increase by developers.

Page 10, 1st paragraph under Program.

"Planned development overlayCode" This again needs to be spelled out. In the future it could again create spot zoning, density and parking variables. Do our children then have to fight a new Planning Commission?

Page 10, Program, under ii, 2nd paragraph under Future Programs and Policy. Emphasises scale and character of the Biltmore site-- where it should emphasize engineering and productivity to the City.

Page 10, under last Policy

Are we landscaping for the benefit of ships and boats going down the Ocean? Also where is the dirt and how would we keep it there? Is there a sprinkling system installed? People come to see the Ocean and Beaches, not trees!

DEPARTMENT OF FORESTRY

1416 NINTH STREET

SACRAMENTO, CALIFORNIA 95814

Telephone: 916-322-2996



March 24, 1981

L3

Ms. Pamela Sapetto
Acting Planning Director
Department of Planning and Environmental
Services
Hermosa Beach City Hall
1315 Valley Drive
Hermosa Beach, CA 90254

Dear Ms. Sapetto:

Thank you for the opportunity to review the Final Draft Local Coastal Plan for Hermosa Beach.

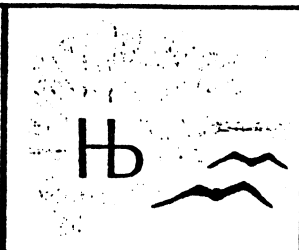
The Department of Forestry has no comments to make on the above mentioned document at this time.

Sincerely,

Susie Lange
Assistant to the Director

By *Clifford B. Chapman*
Clifford B. Chapman
State Forest Ranger III

sd



CITY OF HERMOSA BEACH

CIVIC CENTER

HERMOSA BEACH

CALIFORNIA 90254

CITY HALL: (213) 376-6984

POLICE AND FIRE DEPARTMENTS: 376-7981

April 10, 1981

William Northrop, Executive Director
State Lands Commission
1807 13th Street
Sacramento, CA. 95814

Your File Re: G05-02

Dear Mr. Northrop;

In May 1980, the City received a letter from the State Lands Commission regarding the City's Draft Local Coastal Plan.

The agency stated its concern that the LCP did not apparently incorporate the City's granted land in the boundary map of the coastal zone. During the preparation of the LCP, the assumption was to include the granted tide and submerged trust lands within the boundaries of the coastal zone. Although the LCP map of the coastal zone does not specifically define the tideline, this letter can serve as clarification to your agency and any other interested parties that those granted lands are under the jurisdiction of the LCP and were included in the development of the LCP.

If you have any further questions, please contact our office.

Sincerely,

City of Hermosa Beach

Pamela Sapetto
Acting Planning Director

cc: Roger Dunstan, State Lands Commission ✓

PS/et
P/81/84