CALIFORNIA COASTAL COMMISSION

South Coast Area Office 200 Oceangate, Suite 1000 Long Beach, CA 90802-4302 (562) 590-5071

Th 4b

Filed: 49th Day: 180th Day: Staff: Staff Report: Hearing Date: Commission Action: February 1, 2010 March 22, 2010 July 31, 2010 Fernie Sy-LB April 21, 2010 May 12-14, 2010



STAFF REPORT: CONSENT CALENDAR

APPLICATION NUMBER:	5-09-216
APPLICANTS	Christopher K. Fletcher & Malin L. Fletcher
PROJECT LOCATION:	500 31 st Street, City of Newport Beach, County of Orange
PROJECT DESCRIPTION:	Construction of a new 2,842 square foot, three-story mixed use building consisting of a residential unit (2,092 square feet) above a ground level commercial use (750 square feet). The building will be approximately 32-feet above grade and will provide of a total of five (5) parking spaces. Hardscape and landscape work is also proposed. No grading is proposed.
LOCAL APPROVALS RECEIVED: Use Permit 2009-027 (PA2009-096) and City of Newport Beach Approval-In-Concept (No. 1642-2009) dated October 26, 2009.	

SUMMARY OF STAFF RECOMMENDATION:

The applicants are proposing to construct a mixed-use development in the Cannery Village area of Newport Beach. The development will provide a retail use on the ground floor and a residential unit on the upper two floors. Parking for the residential unit will be provided in a two (2)-car garage accessible via the alley. Parking for the commercial use will be provided in covered off-street parking areas. Two (2) commercial spaces will be accessible via the alley and one (1) will be accessible via 31st Street. The site is currently vacant. The primary issues addressed in this staff report are the conformance of the proposed development with the public access, land use and water quality policies of the Coastal Act.

Staff is recommending <u>APPROVAL</u> of the proposed project with FOUR (4) SPECIAL CONDITIONS regarding: 1) future improvements; 2) conformance with Construction Best Management Practices, 3) conformance with the Drainage and Run-off Control Plan submitted; and 4) landscape controls.

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. The City of Newport Beach only has a certified Land Use Plan and has not exercised the options provided in 30600(b) or 30600.5 to issue its own permits. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act. The certified Land Use Plan may be used for guidance.

SUBSTANTIVE FILE DOCUMENTS: CDP No. 5-05-168-[31st Street LLC]; Geotechnical Investigation, Proposed Mixed-Use (Office and Residential) Building, 500 31st Street, Newport

5-09-216-[Fletcher] Staff Report–Consent Calendar Page 2 of 7

Beach, California (J.N. 221-09) prepared by Petra dated August 5, 2009; Letter from Commission staff to 31st Street-Lido LLC dated December 3, 2009; Letter from Commission staff to 31st Street-Lido LLC dated December 11, 2009; Letter from MJS Design Group to Commission staff dated February 1, 2010; and Letter from MJS Design Group to Commission staff received March 1, 2010.

LIST OF EXHIBITS

- 1. Vicinity Map
- 2. Assessor Parcel Map
- 3. Site Plan
- 4. Floor Plans
- 5. Elevation Plans
- 6. Drainage and Run-Off Control Plan

STAFF RECOMMENDATION:

Staff recommends that the Commission **<u>APPROVE</u>** the permit application with special conditions.

MOTION:

I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.

Staff recommends a <u>YES</u> vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION:

I. APPROVAL WITH CONDITIONS

The Commission hereby <u>APPROVES</u> a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and 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. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

5-09-216-[Fletcher] Staff Report–Consent Calendar Page 3 of 7

- 1. <u>Notice of Receipt and Acknowledgment.</u> 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. <u>Expiration.</u> 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. <u>Interpretation.</u> Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. <u>Assignment.</u> 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.
- 5. <u>Terms and Conditions Run with the Land.</u> 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. <u>FUTURE DEVELOPMENT</u>

This permit is only for the development described in Coastal Development Permit No. 5-09-216. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by Coastal Development Permit No. 5-09-216. Accordingly, any future improvements to the mixed-use development and appurtenances authorized by this permit, including a change in use from a permanent mixed use development and repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-09-216 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

2. CONSTRUCTION BEST MANGEMENT PRACTICES

The permittees shall comply with the following construction-related requirements:

- Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of construction-related materials, and to contain sediment or contaminants associated with construction activity, shall be implemented prior to the on-set of such activity;
- (b) No construction materials, debris, or waste shall be placed or stored where it may enter a storm drain or be subject to tidal erosion and dispersion;
- (c) Construction debris and sediment shall be properly contained and secured on site with BMPs, to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;

5-09-216-[Fletcher] Staff Report–Consent Calendar Page 4 of 7

- (d) Construction debris and sediment shall be removed from construction areas as necessary to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. All debris and trash shall be disposed of in the proper trash and recycling receptacles at the end of each construction day;
- (e) The discharge of any hazardous materials into any receiving waters shall be prohibited;
- (f) A pre-construction meeting should be held for all personnel to review procedural and BMP/GHP guidelines;
- (g) All BMPs shall be maintained in a functional condition throughout the duration of the project; and
- (h) Debris shall be disposed at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is required.

3. CONFORMANCE WITH THE DRAINAGE AND RUNOFF CONTROL PLAN

The applicants shall conform with the Drainage and Run-Off Control Plan received February 1, 2010 showing that roof drainage and runoff from all impervious areas shall be collected on site for discharge to permeable/vegetated areas on site. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. LANDSCAPING – DROUGHT TOLERANT, NON-INVASIVE

Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<u>http://www.CNPS.org/</u>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<u>http://www.cal-ipc.org/</u>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a "noxious weed" by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <u>http://www.owue.water.ca.gov/docs/wucols00.pdf</u>).

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

5-09-216-[Fletcher] Staff Report–Consent Calendar Page 5 of 7

A. <u>PROJECT LOCATION AND DESCRIPTION AND PREVIOUSLY APPROVED COASTAL</u> <u>DEVELOPMENT PERMIT FOR ONSITE DEVELOPMENT</u>

1. PROJECT LOCATION AND DESCRIPTION

The project site is located at 510 31st Street in the City of Newport Beach, Orange County (Exhibits #1-2). The project site is an inland lot consisting of 2,790 square feet in size and the City of Newport Beach Land Use Plan (LUP) designates use of the site for Mixed-Use Horizontal (MUH) with restrictions on use of the lower floor for commercial retail purposes and an allowance for use of upper floors for residential use, and the proposed project adheres to this designation. The site is also located within the Cannery Village area. The Cannery Village area is located between 32nd Street and 26th Street on the Balboa Peninsula and is a mixed-use district with commercial, industrial, and residential uses. To the north of the project site is 31st Street. To the east of the project site is an existing residence. To the south of the site is an existing mixed-use development. To the west of the site is Villa Way. The subject site is located approximately 300-feet from the Rhine Waterway. The nearest public coastal access to the Rhine Waterway is available at the corner of Lido Park Drive and Lafayette Avenue, northeast of the project site.

The project involves the construction of a new 2,842 square foot, three-story mixed use building consisting of a residential unit (2,092 square feet) above a ground level commercial use (750 square feet) on a vacant site. The building will be approximately 32-feet above grade and will provide of a total of five (5) parking spaces. Of the proposed five (5) parking spaces, three (3) covered parking will be provided for the commercial use on the ground floor and the remaining two (2) parking spaces will be provided in a ground floor 432 square foot two (2) car garage with an attached 70 square foot storage room (Exhibits #3-6). Hardscape and landscape work is also proposed.

The applicants were granted a local Use Permit (2009-027 (PA2009-096)) to exceed the base height limit of 26-feet. In the subject area, structures are permitted to reach a maximum height of 35-feet with the approval of a Use Permit. The proposed mixed-use building would be 32-feet in height. The City concluded that the increased building height would result *"in more public visual open space and views than would result from compliance with the basic height limit."* No public views to or along the shoreline are affected by the proposed project.

The proposed project consists of a retail space on the ground floor and a residential use on the upper floors consistent with the MUH land use designation. The Land Use Plan further states that for interior parcels in Cannery Village, like the proposed site, mixed use structures are allowed and that the ground floor shall be restricted to nonresidential uses along the street frontage such as retail sales and restaurants and the rear and upper floors used for residential including senior units and overnight accommodations.

The ground floor commercial space will be served by three (3) off-street parking spaces--two (2) commercial spaces will be accessible via the alley and one (1) will be accessible via 31st Street The residence will be served by a 432 square foot two (2) car garage accessible from the alley.

The proposed project will also include the relocation of two (2) existing on-street parking spaces. The proposed driveway approach on 31st Street will result in a loss of two (2) on street parking spaces; however, these two (2) spaces shall be relocated onto Villa Way.

5-09-216-[Fletcher] Staff Report–Consent Calendar Page 6 of 7

The applicants are proposing water quality improvements as part of the proposed project, consisting of drainage directed to permeable/vegetated areas (Exhibit #6). The placement of any vegetation that is considered to be invasive which could supplant native vegetation should not be allowed. Invasive plants have the potential to overcome native plants and spread quickly. Invasive plants are generally those identified by the California Invasive Plant Council (http://www.cal-ipc.org/) and California Native Plant Society (www.CNPS.org) in their publications. Furthermore, any plants in the landscape plan should only be drought tolerant to minimize the use of water (and preferably native to coastal Orange County). The term drought tolerant is equivalent to the terms 'low water use' and 'ultra low water use' as defined and used by "A Guide to Estimating Irrigation Water Needs of Landscape Plantings in California" prepared by University of California Cooperative Extension and the California Department of Water Resources dated August 2000 available at http://www.owue.water.ca.gov/landscape/pubs/pubs.cfm.

2. PREVIOUSLY APPROVED COASTAL DEVELOPMENT PERMIT FOR ONSITE DEVELOPMENT

CDP NO. 5-05-168-(500 31st Street, LLC)

On September 16, 2005, the Coastal Commission approved **CDP No. 5-05-168-(500 31st Street**, **LLC)** for the demolition of an existing residence and construction of a new 2842 square foot, maximum 32' 6" high, 3-story mixed use (commercial/residential) structure with 1013 square feet of covered parking (2 garage spaces to serve the residential use and 3 spaces to serve the commercial use). No grading was proposed. The project was approved pursuant to Four (4) Special Conditions including: **1)** acknowledgement of land use restrictions through a future improvements condition; **2)** conformance with Construction Best Management Practices, **3)** conformance with the Drainage and Run-off Control Plan submitted; and **4)** recordation of a deed restriction against the property, referencing all of the Special Conditions contained in this staff report. The permit was issued on November 29, 2005 and only the demolition took place. The site then exchanged ownership twice and now the current owner has redesigned the project.

B. <u>DEVELOPMENT</u>

The development is located within an existing developed area and is compatible with the character and scale of the surrounding area. However, the proposed project raises concerns that future development of the project site potentially may result in a development, which is not consistent with the Chapter 3 policies of the Coastal Act. To assure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission finds that a future improvements special condition be imposed. As conditioned, the development conforms with the Chapter 3 policies of the Coastal Act.

C. <u>PUBLIC ACCESS</u>

The proposed development will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities. Therefore, as proposed the development, as conditioned, conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

5-09-216-[Fletcher] Staff Report–Consent Calendar Page 7 of 7

D. WATER QUALITY

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. Furthermore, uncontrolled runoff from the project site and the percolation of water could also affect the structural stability of bluffs and hillsides. To address these concerns, the development, as proposed and as conditioned, incorporates design features to minimize the infiltration of water and the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, the use of non-invasive drought tolerant vegetation, and for the use of post-construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health

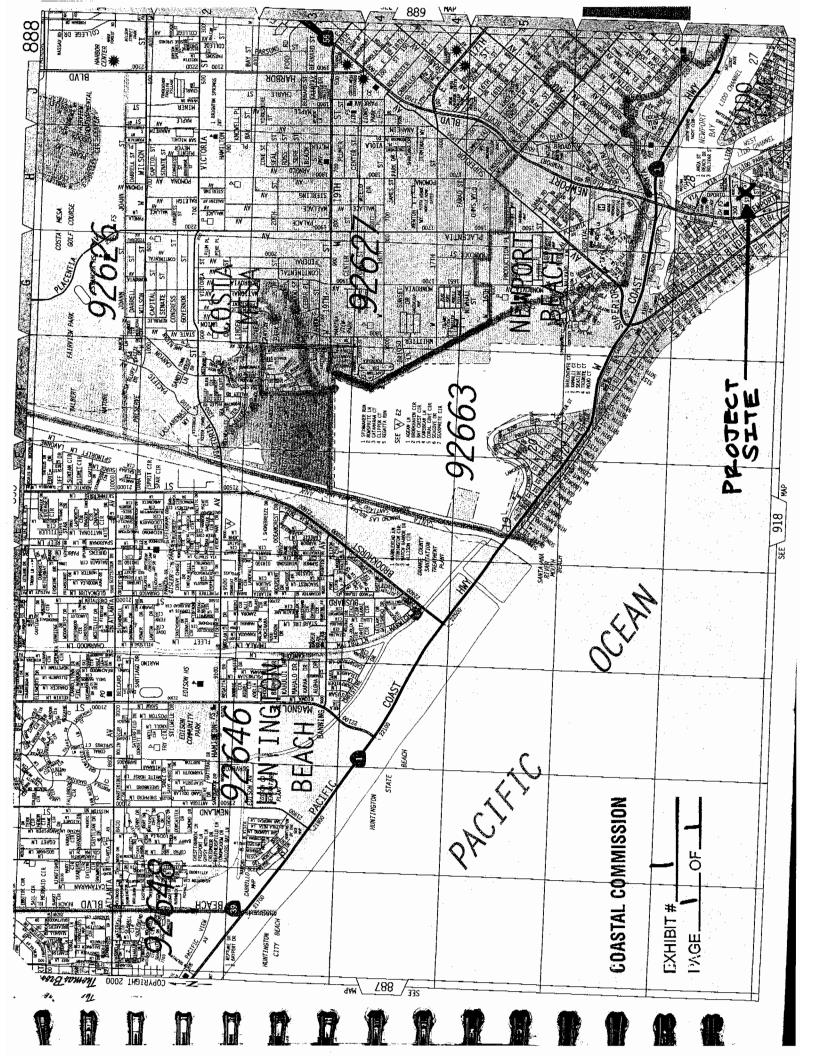
E. LOCAL COASTAL PROGRAM (LCP)

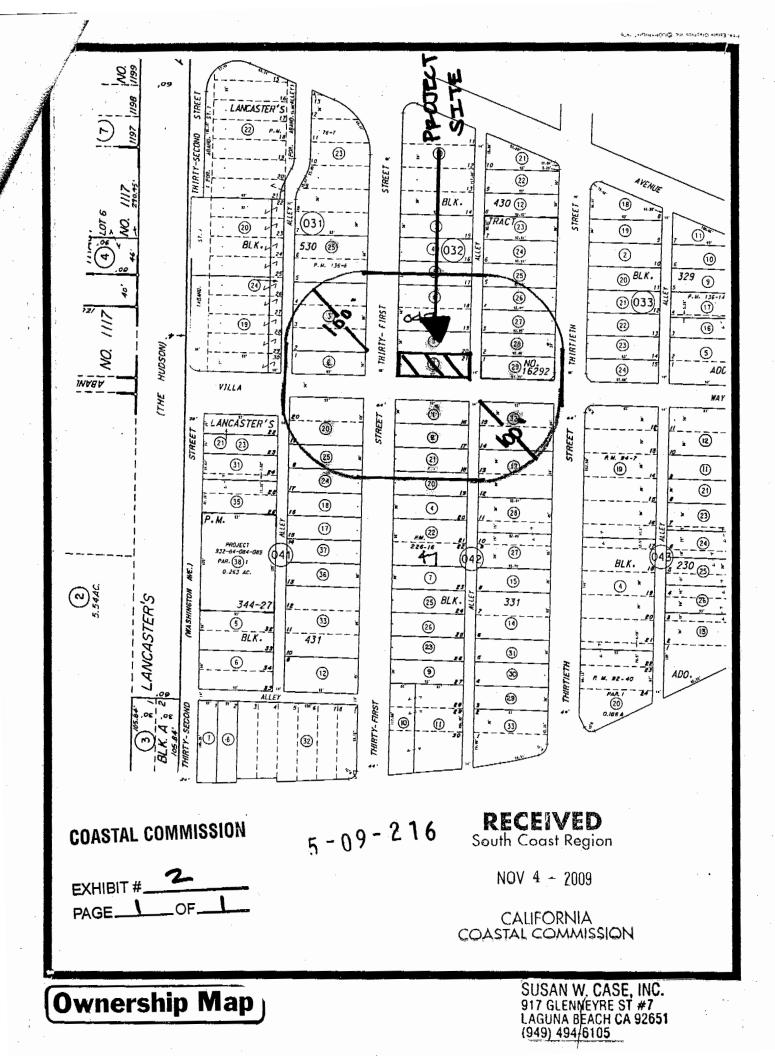
The LUP for the City of Newport Beach was effectively certified on May 19, 1982. The certified LUP was updated on October 8, 2009. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

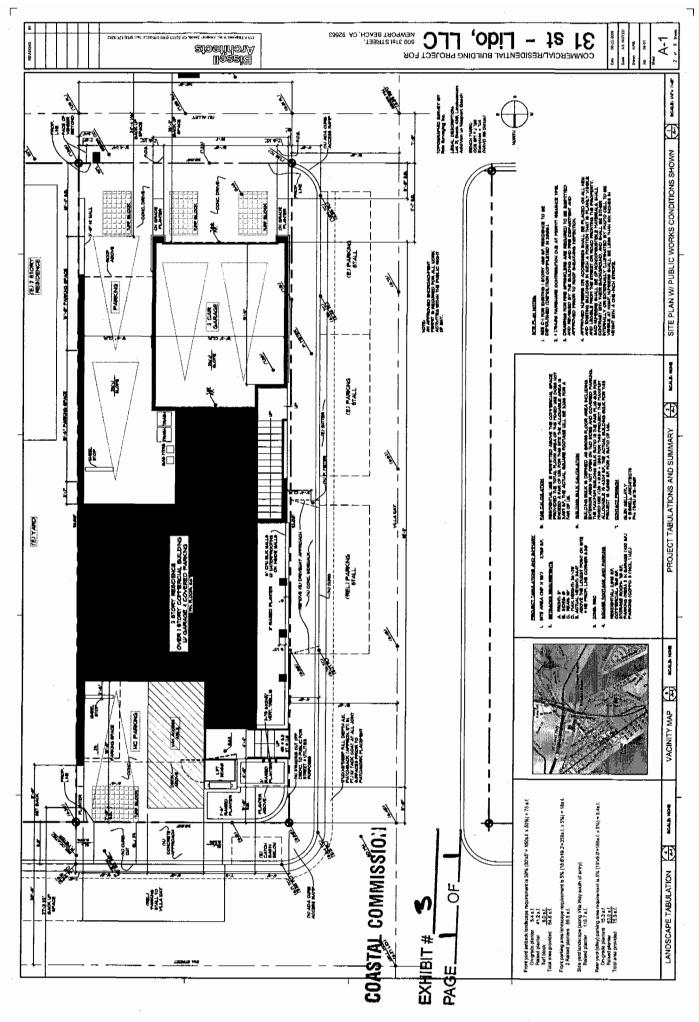
F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The City of Newport Beach is the lead agency responsible for certifying that the proposed project is in conformance with the California Environmentally Quality Act (CEQA). The City determined that in accordance with CEQA, the project is ministerial or categorically exempt. Section 13096(a) of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA).

Although the proposed development is categorically exempt from CEQA, the Commission has imposed conditions to ensure conformity with Coastal Act requirements. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and consistent with the requirements of the Coastal Act and CEQA.

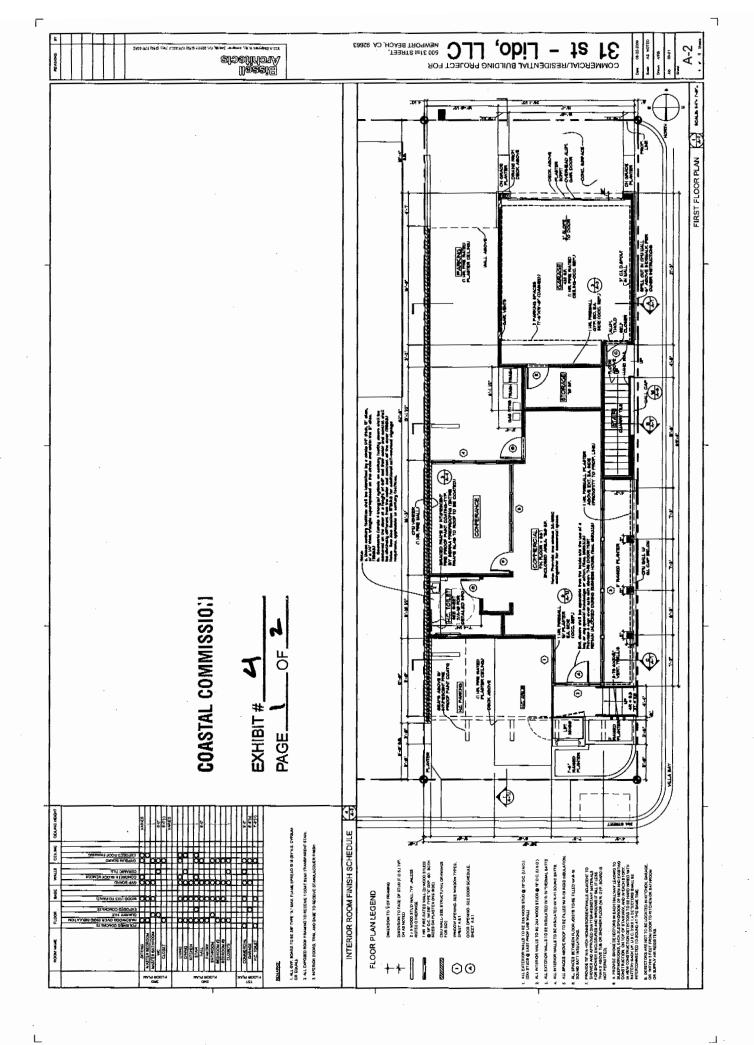




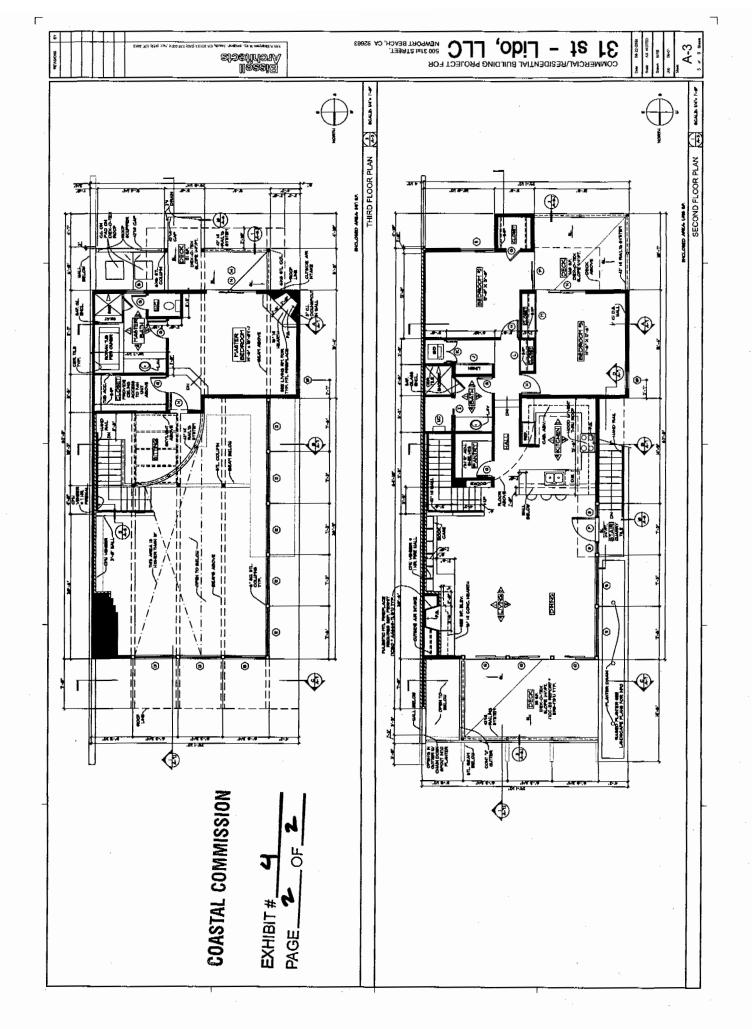


ł_.

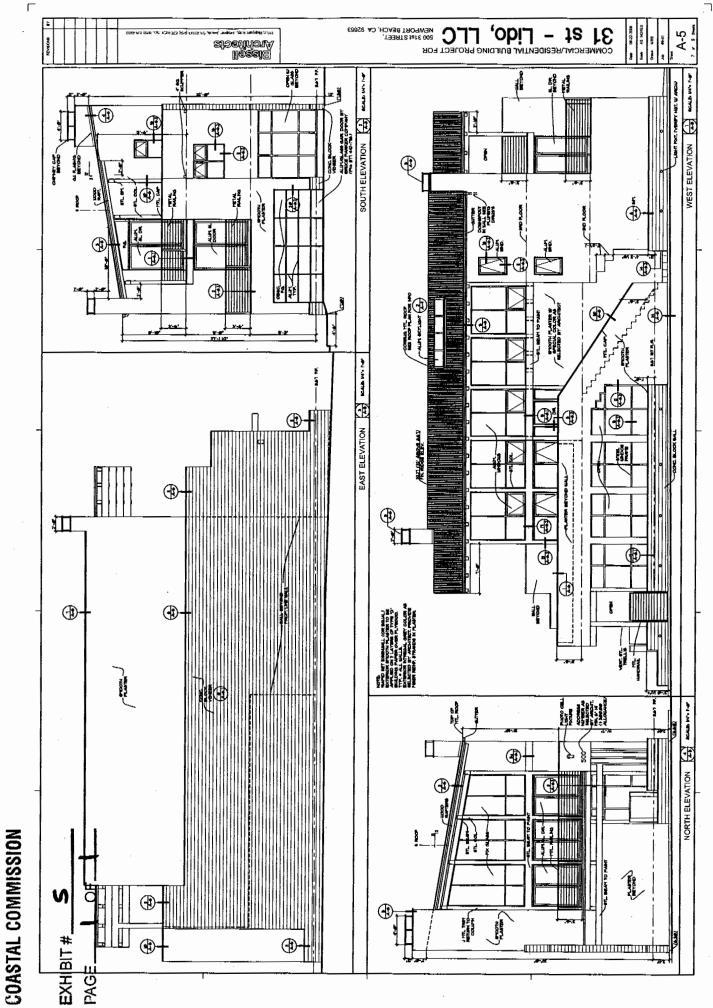
..



.....

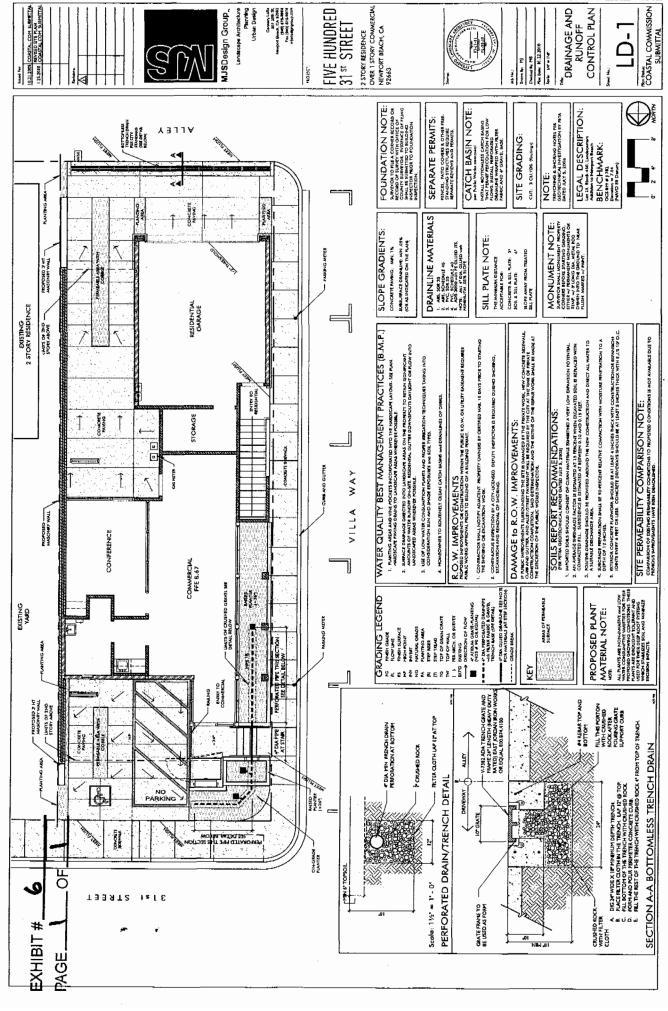


L



L

J



COASTAL COMMISSION

500 31st STREET - LANDSCAPE ARCHITECTURE