Jul 12a GRAY DAVIS, Governor

#### CALIFORNIA COASTAL COMMISSION

South Coast Area Office 200 Oceangate, Suite 1000 Long Beach, CA 90802-4302 2) 590-5071

Staff:

KFS-LB

Staff Report:

June 22, 1999

Hearing Date: I

May 11-14, 1999

**Commission Action:** 

# STAFF REPORT: REVISED FINDINGS

**APPLICATION NO:** 

5-99-026

APPLICANT:

Ellen G. Musso

AGENT:

**Dave Bartlett** 

PROJECT LOCATION: 321 Seal Beach Boulevard, City of Seal Beach, County of Orange

PROJECT DESCRIPTION: Demolish an existing approximately 9,000 square foot one and two level commercial building on a 24,187.5 square foot site presently subdivided into nine 25 foot by 107.5 foot lots. Reduce the number of lots from nine lots to eight lots that are 107.5 feet deep, of which three will be 26 feet wide, three will be 29 feet wide, and two will be 30 feet wide. Construct eight two story, single family residences, one on each lot, ranging in size from 2,600 square feet to 2,900 square feet.

DATE OF COMMISSION ACTION: May 11, 1999 in Santa Rosa.

COMMISSION ACTION: Approval per applicant with standard conditions.

COMMISSIONERS ON PREVAILING SIDE: Allgood, Daniels, Dettloff, Flemming, Kruer,

McClain-Hill, Orr, Chairman Wan

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

Staff recommends that the Commission adopt the following revised findings in support of the Commission's approval with standard conditions of coastal development permit application 5-99-026 on May 11, 1999.

LOCAL APPROVALS RECEIVED: General Plan Amendment 98-2; Zoning Change 98-2; Conceptual approval by the City of Seal Beach dated March 1, 1999.

SUBSTANTIVE FILE DOCUMENTS: Coastal development permit P-78-4124; Visitor Serving Commercial Development Analysis by Economic Research Associates dated November 2, 1998; City of Seal Beach General Plan and Zoning Code; Negative Declaration 98-3 adopted by City Council resolution 4671; Urban Design Master Plan Seal Beach Boulevard adopted by the City of Seal Beach City Council on September 9, 1986; Letter to Commission staff from the City of Seal Beach dated March 18, 1999; Southern California Association of Governments County Population Forecasts, 1998 RTP Adopted Forecast, April 1998.



## **STAFF RECOMMENDATION:**

#### I. COMMISSION RESOLUTION FOR ADOPTING REVISED FINDINGS FOR APPROVAL WITH STANDARD CONDITIONS OF CDP 5-99-026

Staff recommends that the Commission adopt the following motion. Comments from the public concerning the findings will be limited to discussing the adequacy of the findings to support the Commission's action of May 11, 1999.

#### Motion

"I move that the Commission adopt the following revised findings in support of the Commission's approval with standard conditions of CDP 5-99-026."

#### Staff Recommendation

Staff recommends a **YES** vote, and the adoption of the following findings. An affirmative vote by a majority of the Commissioners present who voted on the prevailing side is needed to pass the motion. (See list on p. 1)

#### II. STANDARD CONDITIONS.

- 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. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. <u>Compliance</u>. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
- 4. <u>Interpretation</u>. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 5. <u>Inspections</u>. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
- 6. <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.
- 7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

#### III. FINDINGS AND DECLARATIONS.

The Commission hereby finds and declares as follows:

#### A. Project Description and Location

The proposed project is located at 321 Seal Beach Boulevard, one parcel seaward of the intersection of Seal Beach Boulevard and Pacific Coast Highway ("PCH") (Exhibit 1). The proposed project is to demolish an existing approximately 9,000 square foot one and two level commercial building on a 24,187.5 square foot site presently subdivided into nine 25 foot by 107.5 foot lots. The proposal includes reducing the number of lots from nine lots to eight lots that are 107.5 feet deep, of which three will be 26 feet wide, three will be 29 feet wide, and two will be 30 feet wide. Eight two story, single family residences will be constructed, one on each lot, ranging in size from 2,600 square feet to 2,900 square feet. Each residence will have two enclosed parking spaces (Exhibit 2). Vehicle access to the residences will occur via an existing alley. On street parking along the Seal Beach Boulevard frontage will increase from seven spaces to twelve spaces when the existing curb cuts used to access the existing commercial center are abandoned.

The existing commercial center included a retail clothing store (Shore Shop), a shoe store (Villager Shoes), a hair salon (Carefree Haircutting), and a deli (Ocean Breeze Deli). All tenants have either closed or moved. Existing uses in the same block as the subject site include a mixture of commercial and residential uses. North of the project site, at the intersection of PCH and Seal Beach Boulevard is a mini-mart and bait shop. South of the project site along Seal Beach Boulevard are residential uses (Exhibit 1, page 3 and Exhibit 3).

The City of Seal Beach General Plan and Land Use Plan (not certified) designates land use as General Commercial (C-G) for the project site, and the block bounded by PCH to the north, Seal Beach Boulevard to the east, Landing Avenue to the south and an unnamed alley to the west. However, the City Council of the City of Seal Beach adopted resolution number 4672 adopting General Plan amendment 98-2 which changed the land use designation at the project site from General Commercial (C-G) to Residential Medium Density (RMD). In addition, the City Council changed the zoning designation at the project site from General Commercial (C-2) to Residential Medium Density (RMD). As of the date of this staff report, the land use designation and zoning on the other parcels within the same block remain General Commercial. Accordingly, the residential uses in this block are existing non-conforming uses (Exhibit 1, page 3). Exhibit 1, page 3 identifies the land use designation and zoning prior to the recent action by the City Council of the City of Seal Beach. This same exhibit identifies the actual use (i.e. not the use designation) of the sites depicted.

Uses along PCH in the vicinity west of the project site are commercial. Moving seaward from PCH, west of Seal Beach Boulevard and the project site, the use changes to residential (Exhibit 1, pages 1 and 3). Meanwhile, moving seaward along those sites on the west side facing Seal Beach Boulevard there is a mixture of commercial and residential uses. Between PCH and Electric Avenue on the west side of Seal Beach Boulevard, there are ten sites with residential uses and eight sites with commercial uses. At least two other lots along this length of Seal Beach Boulevard are vacant. The land use and zoning designation for those sites seaward of the project site and Landing Avenue, between Landing Avenue and Electric Avenue on the west side of Seal Beach Boulevard, is Limited Commercial (L-C) (Exhibit 1, page 3 and Exhibit 3).

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The subject site is located approximately 1,500 feet from the City's primary, mile-long public beach. Vertical public access to this beach is available in the vicinity at several street ends including Electric Avenue, Neptune Avenue, and Dolphin Avenue. These street ends provide access to Seal Way, a lateral accessway (paved walkway) along the shoreline extending from Electric Avenue to the municipal pier (Exhibit 4).

On the east side of Seal Beach Boulevard between PCH and Electric Avenue is Anaheim Bay and the Naval Weapons Station. This area is designated by the City of Seal Beach General Plan as Public Land Use/Recreation (PLU/R). Excepting some areas of Anaheim Bay, public access and recreation on Naval Weapons Station property is presently prohibited. A fence along the Naval Weapons Station property boundary facing the east side of Seal Beach Boulevard prevents access to the site. A bicycle path runs along the east side of Seal Beach Boulevard continuing from PCH to Electric Avenue where there is access to Seal Way, the paved lateral accessway along the beach. Bicycle path users have a mostly unobstructed view of Anaheim Bay and the Naval Weapons Station from the bicycle path between PCH and Electric Avenue (Exhibit 1 page 2 and 3).

The General Commercial land use and zoning designation, for which the project site was until recently designated and zoned, is the least restrictive commercial designation for commercial uses within the City of Seal Beach. Permitted uses within the General Commercial zone include visitor serving commercial uses such as restaurants and retail commercial shops, among other uses including automobile dealerships and repair, gymnasiums, mortuaries, and service commercial. The Limited Commercial designation, for which properties seaward of the project site, between Landing Avenue and Electric Avenue are designated and zoned, also allows visitor serving commercial uses including retail specialty shops. The Limited Commercial zoning is designed to allow a mixture of low intensity commercial use and residential use on a single site.

#### B. History of Subject Site and Vicinity

The subject property has been in continual commercial use for at least the past thirty years. The South Coast Regional Commission approved coastal development permit application P-9-27-78-4124 on October 30, 1978. This approval allowed the demolition of an existing retail shop and storage building and addition of a two-story retail shop to an existing commercial structure on the site. Based upon a review of the approved plans and a recent site visit by Commission staff, the approved development was constructed. No subsequent development proposals have been submitted to the Coastal Commission at the subject site.

#### C. Chapter 3 Policy Analysis

Section 30213 of the Coastal Act states:

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

Section 30222 of the Coastal Act states:

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

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The Coastal Act places a higher priority on visitor-serving commercial uses than on private residential uses. Visitor serving uses provide greater public benefit than private residential uses because a larger segment of the population is able to take advantage of and enjoy the use. In addition, visitor serving commercial areas provide services to the visiting beach user including providing places to dine and shop.

The location of the proposed project is on the seaward side of the intersection of Seal Beach Boulevard and PCH approximately 1,500 feet from the nearest publicly accessible beach and approximately 300 feet from the mean high tide line in Anaheim Bay. The site is located near the intersection of two beach access corridors: PCH and Seal Beach Boulevard. Seal Beach Boulevard provides direct beach access from inland areas via Interstate 405. Bicycle paths exist along both PCH and Seal Beach Boulevard. Curbside public parking is available on Seal Beach Boulevard. The proposed project will not interfere with these existing access conditions.

The demolition of the existing commercial center and construction of single family residences would not substantially alter any existing visitor serving features of the development. All tenants within the development closed or moved from the site. Furthermore, efforts by the applicant to lease the site to visitor serving commercial tenants were unsuccessful. Low demand for visitor serving commercial use at this location demonstrates that the conversion of the site to residential will not have any effect upon visitor serving or recreational opportunities in the area. Finally, residential use of the site is appropriate because the site is adjacent to existing residential uses and, as outlined below, is not commercially desirable.

In order to assess the effect the proposed project would have upon visitor serving commercial resources in Seal Beach, the applicant submitted *Memorandum: Visitor Serving Commercial Development Analysis* dated November 2, 1998 by Economics Research Associates ("Economic Analysis"). This analysis states that the subject site is a poor commercial location because the site is located upon a stretch of Seal Beach Boulevard with low traffic counts, has poor overall visibility from PCH, and lacks the pedestrian traffic necessary to support a visitor serving commercial use.

Site conditions limit the attractiveness of the site to commercial investment and the suitability of the site for visitor serving commercial uses. These conditions include the small size and shallow dimension of the lots which comprise the site and inability to provide on-site parking adequate to support visitor serving commercial outlets. In addition, traffic flow past the site is low. Information submitted by the applicant states that the average daily traffic count at the site is 6,200 vehicles. The applicant states this site would need to have an average daily traffic count of at least 20,000 vehicles to be attractive for visitor serving commercial use. Finally, visibility and close proximity to other commercial uses would be required to support a visitor serving commercial use at the site. However, visibility of the site is low from Pacific Coast Highway when travelling south and moderate from Seal Beach Boulevard when travelling toward the coast. Also, the presence of the Seal Beach Naval Weapons Station across the street from the site limits the commercial synergy of a commercial corridor necessary to support visitor serving commercial use at the site. As a result, the passive consumer traffic necessary to support a visitor serving commercial use at the site is absent. Therefore, the Commission finds that the site is not currently suitable for visitor serving commercial use.

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The Economic Analysis reports that the population of Seal Beach increased by 6.6% between 1990 and 1998. The Southern California Association of Governments (SCAG) 1998 RTP Adopted Forecast for population change in Orange County anticipates at least a 5% population increase in Orange County between 2000 and 2005 and an 8.6% population increase between 2000 and 2010. While the SCAG population projections are not specific to the City of Seal Beach, growth in areas outside the City will result in an increased demand for recreation in coastal areas. An adequate supply of visitor serving commercial areas will be required to support the larger number of people visiting the coastal zone. However, due to the factors stated above, the subject site would not be suitable as a commercial reservoir for future visitor serving commercial use. Other locations within the City of Seal Beach are more suitable for this purpose. The City of Seal Beach made a presentation to the Commission which stated that new commercial opportunities are available in those parts of the city more equipped to support visitor serving commercial uses such as Main Street, Ocean Avenue, and Pacific Coast Highway.

The subject site is included within the Seal Beach Boulevard Urban Design Master Plan, a public amenities improvement plan adopted by the City Council of the City of Seal Beach on September 8, 1986. The plan outlines many public improvements to the seaward extension of Seal Beach Boulevard from PCH to Electric Avenue. These public improvements include re-striping to accommodate diagonal parking, landscaping, decorative paving, historical markers and lighting, a city entry sign, bus stop shelters, and miscellaneous infrastructure improvements. The public improvements were designed to revitalize the street and provide an entryway to Seal Beach. However, the City of Seal Beach submitted a letter to Commission staff which states that the improvement plan has not succeeded because no private sector commercial improvements have been implemented on this section of Seal Beach Boulevard for over 25 years. The lack of commercial desirability has allowed the street to deteriorate as a commercial area. Subsequently, according to the City, the subject site is no longer a viable commercial location.

Approval of the conversion of commercial use to residential use at this location does not mean that all commercial elements along Seal Beach Boulevard between Pacific Coast Highway and the beach should be converted to residential. As revitalization of the neighborhood takes place over time, other commercial lots along the subject section of Seal Beach Boulevard may be necessary for visitor and residential commercial support.

The Commission finds that the proposed project is consistent with the visitor serving policies of the Coastal Act because it would not adversely affect the visitor serving and recreational opportunities in the area.

#### D. Public Access/Parking

Section 30210 of the Coastal Act states:

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

Section 30212.5 of the Coastal Act states:

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

Section 30252 of the Coastal Act states in relevant part:

The location and amount of new development should maintain and enhance public access to the coast by ...(4) providing adequate parking facilities or providing substitute means of serving the development with public transportation...

The access policies of the Coastal Act require the protection of public access to the beach. When a private development does not provide adequate on-site parking, patrons of that development must use off-site public parking spaces which would otherwise be available to the public including visitors to the coastal zone. This results in significant adverse impacts upon coastal access. Therefore, an adequate quantity of on-site parking spaces sufficient to meet the demands of the development ensures that public parking spaces and public access are not adversely affected by the proposed development.

The proposed development provides two parking spaces per residential unit. This is consistent with the Commission's previous actions finding that two parking spaces per residential unit is adequate to satisfy the parking demand for residential use. In addition, the proposed development will result in the abandonment of existing curb cuts along Seal Beach Boulevard. Therefore, on street parking along the Seal Beach Boulevard frontage of the subject site will increase from seven spaces to twelve spaces.

The proposed project provides adequate on-site parking for the proposed development and increases the availability of public parking spaces. Therefore, the Commission finds the proposed project is consistent with the public access policies of the Coastal Act.

#### E. Local Coastal Program

Section 30604 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 permit may only be issued if the Commission finds that the proposed development will not prejudice the ability of the local government to prepare a Local Coastal Program which conforms with the Chapter 3 policies of the Coastal Act.

On July 28, 1983, the Commission denied the City of Seal Beach Land Use Plan (LUP) as submitted and certified it with suggested modifications. The City did not act on the suggested modifications within six months from the date of Commission action. Therefore, pursuant to Section 13537(b) of the California Code of Regulations, the Commission's certification of the land use plan with suggested modifications expired. The LUP has not been resubmitted for certification since that time.

The proposed development is consistent with the Chapter Three policies of the Coastal Act. Therefore, the Commission finds that the proposed development would not prejudice the ability of the City to prepare a certified coastal program consistent with the Chapter Three policies of the Coastal Act.

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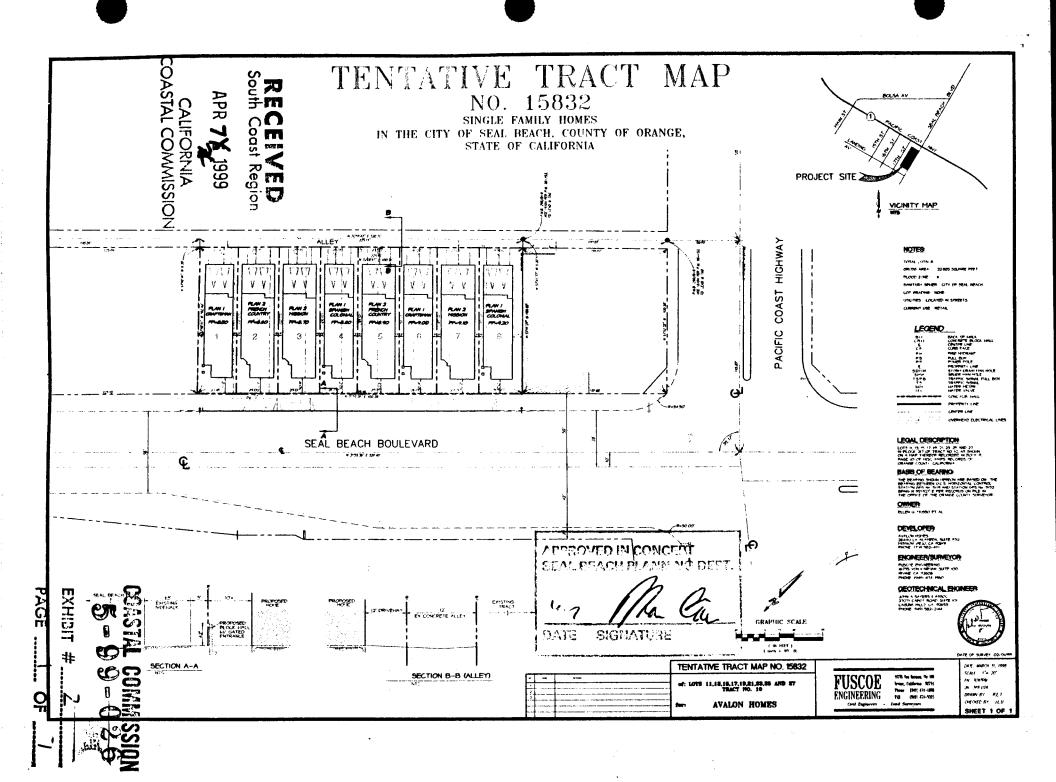
### F. California Environmental Quality Act

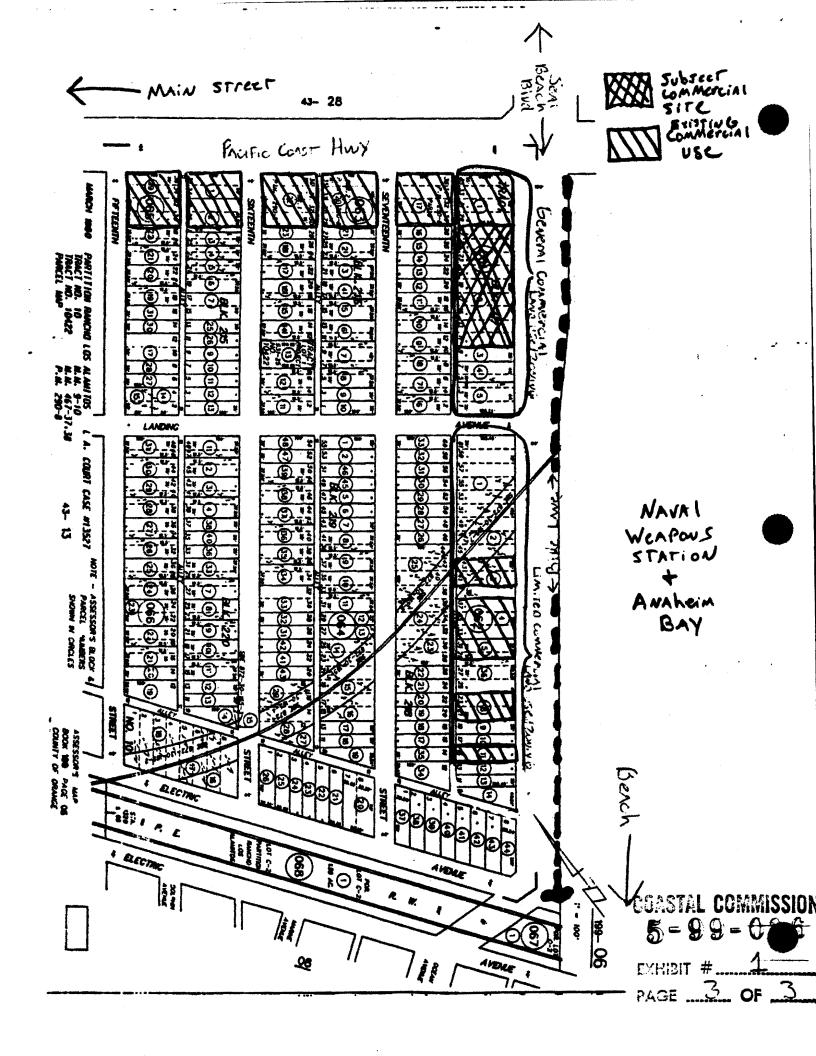
Section 13096 of the Commission's regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

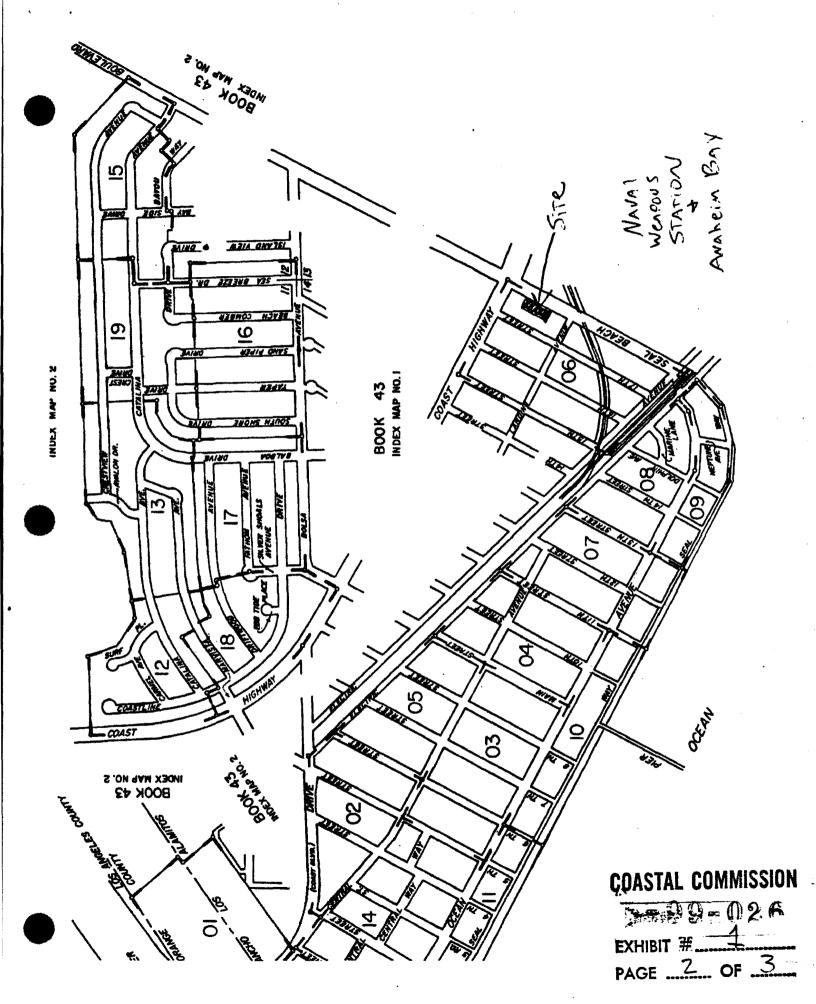
The proposed project is located in an urban area. All infrastructure necessary to serve the site exist in the area. The proposed project has been found consistent with the visitor serving and public access policies of Chapter Three of the Coastal Act.

As conditioned, no feasible alternatives or feasible mitigation measures are known which would substantially lessen any identified significant effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project is consistent with CEQA and the policies of the Coastal Act.

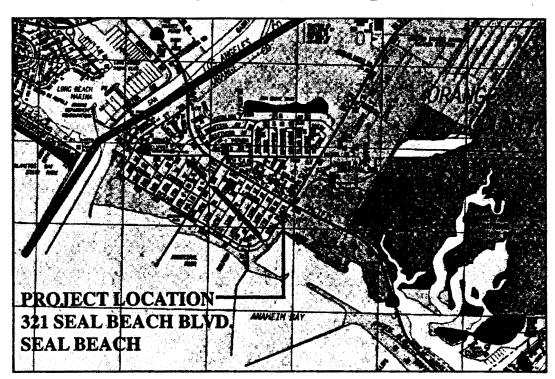
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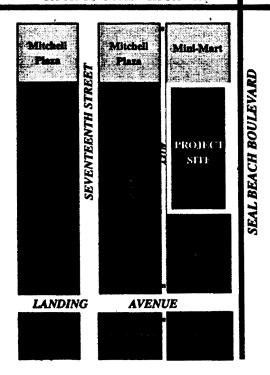




# **Project Location Maps**



#### PACIFIC COAST HIGHWAY



Maps on this page are for information and illustrative purposes and are not to scale. North is generally towards the top of the page.

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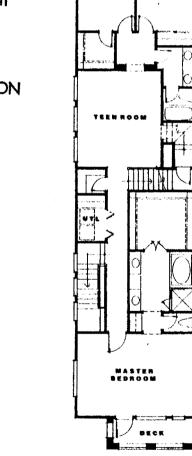
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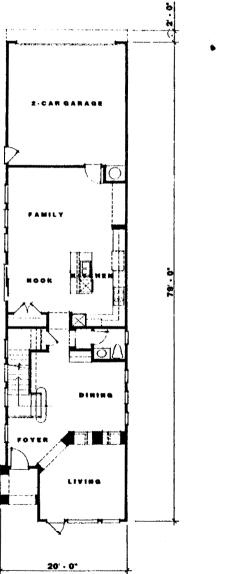
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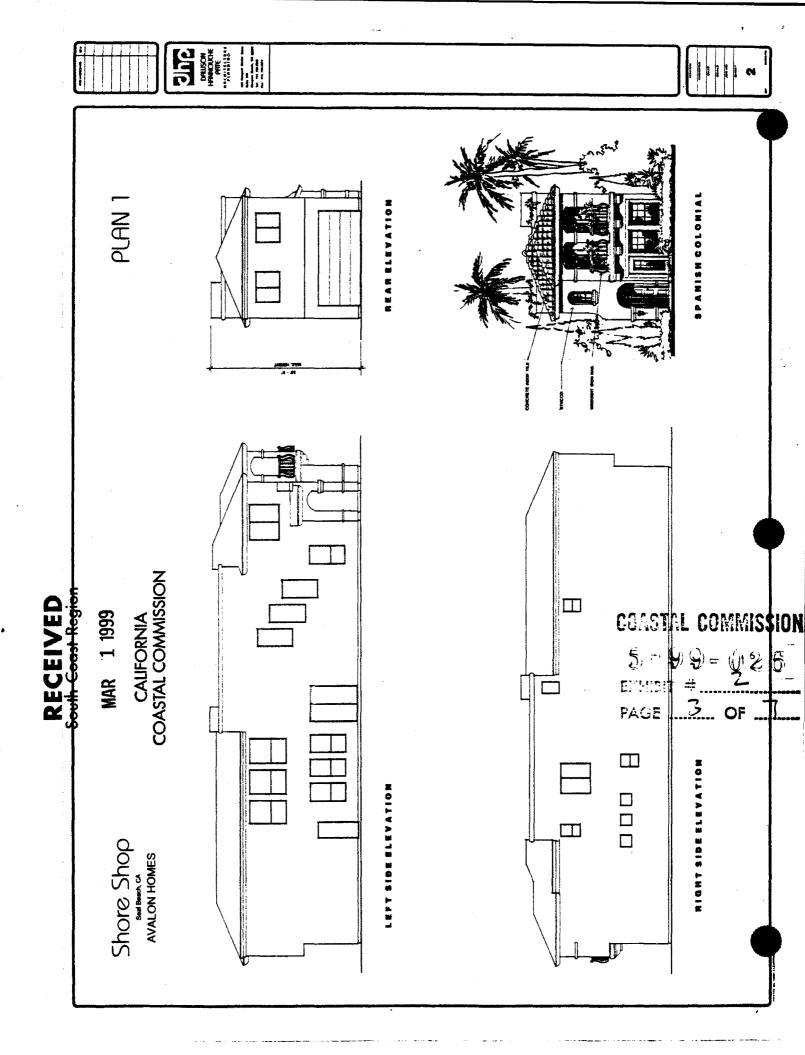
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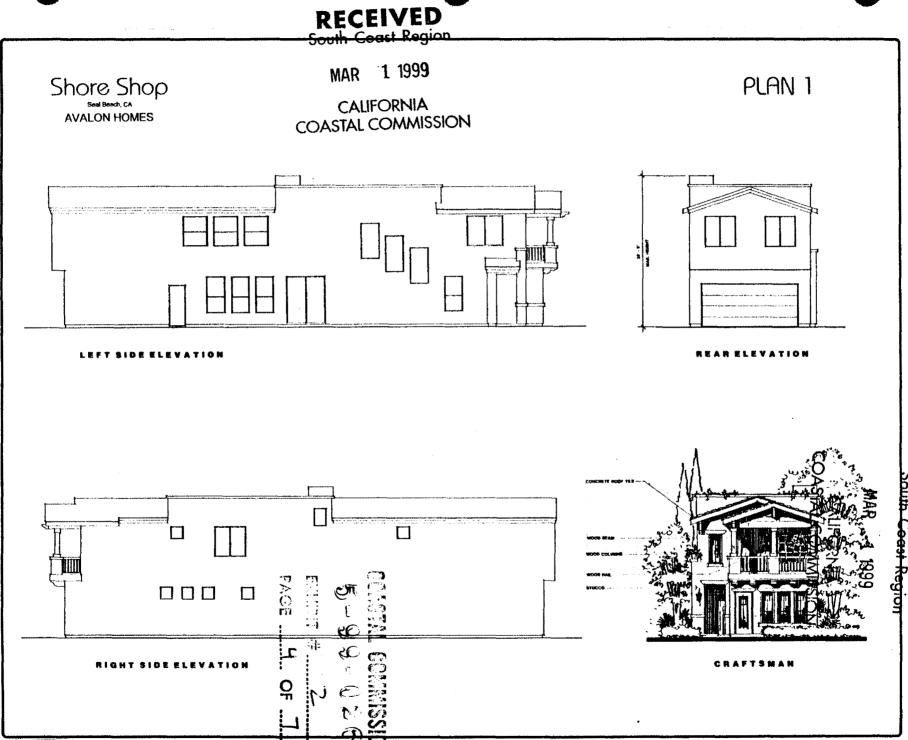


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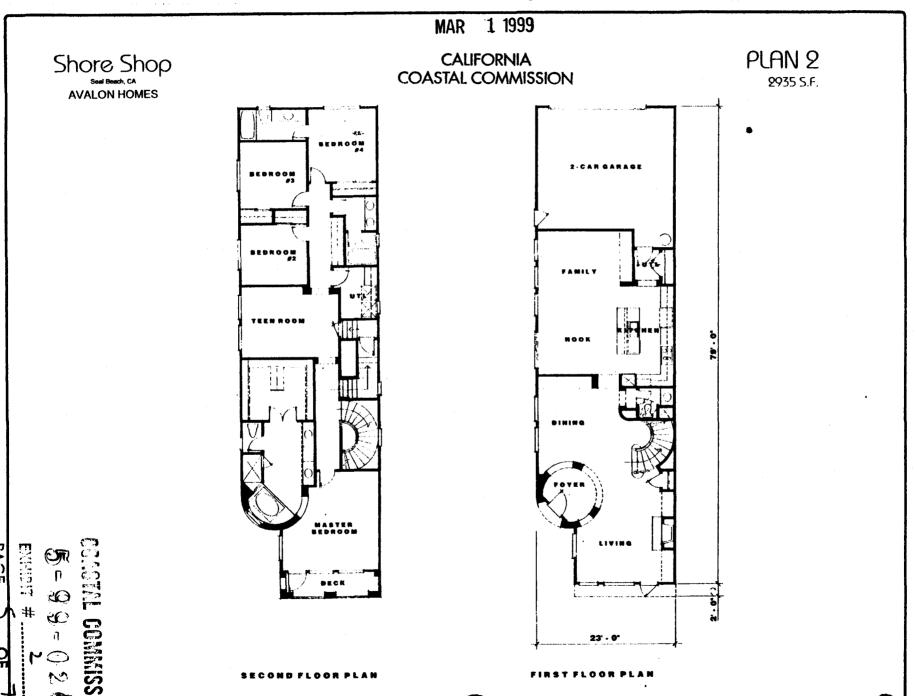
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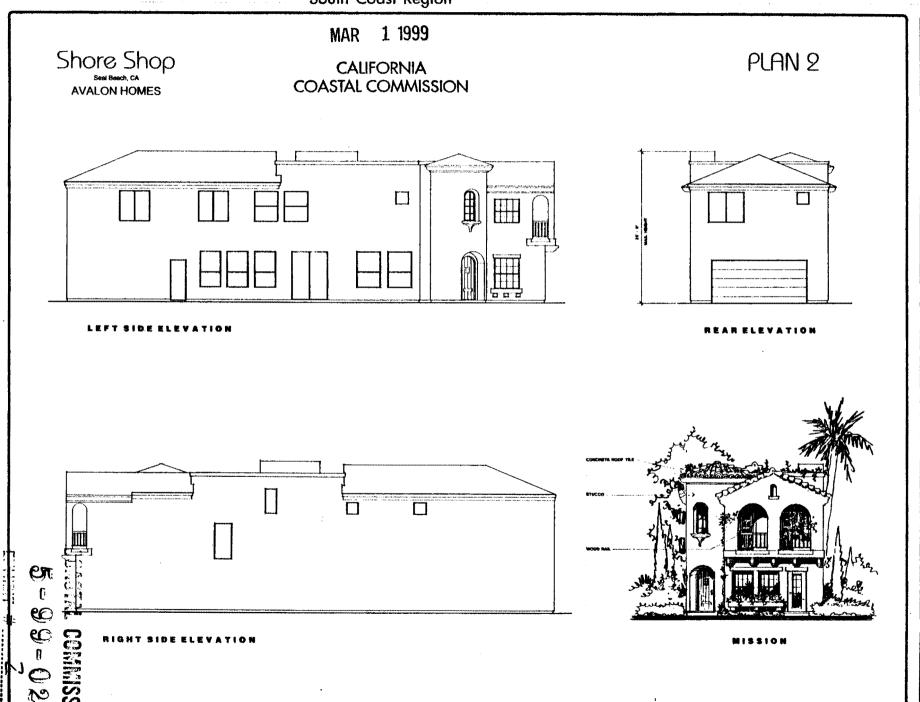












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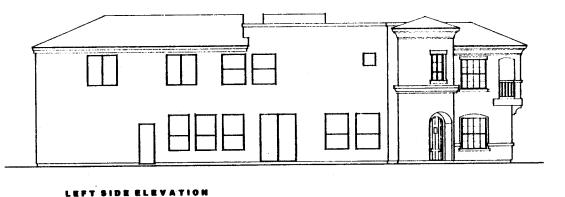
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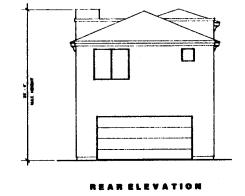
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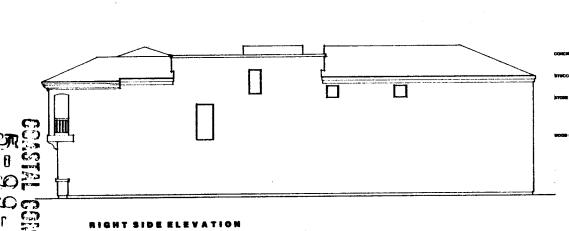
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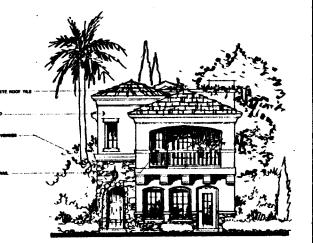












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