

CALIFORNIA COASTAL COMMISSION

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

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 Staff: ~~W~~ALK/MV-LB
 Staff Report: 1/18/00
 Hearing Date: 2/15-18/00
 Commission Action:

STAFF REPORT: PERMIT AMENDMENT**AMENDMENT**

APPLICATION No.: 5-94-265-A1

APPLICANT: Balboa Bay Club

AGENT: Culbertson, Adams & Associates

PROJECT LOCATION: 1221 West Coast Highway, Newport Beach, Orange County

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Major remodel and expansion of an existing private club. Modifications include demolition of some existing buildings and portions of others, addition of 33,697 square feet resulting in a 189,000 square foot facility, construction of a parking structure, an increase in guest rooms from 128 to 144, and grading of 13,500 cubic yards of cut proposed to occur within the footprint of proposed buildings. Some of the on-site facilities will become available to the general public.

DESCRIPTION OF AMENDMENT: Request to increase the gross square footage of existing private club facilities to correct an error in the original calculation, as well as to allow an increase in project size. Club facilities will increase from 189,000 net square feet (214,134 gross square feet) to 213,355 net square feet (235,575 gross square feet); an increase of 21,441 gross square feet. The proposed expansion will increase parking demand from 384 spaces to 488 spaces. The applicant will provide 498 parking spaces.

SUMMARY OF STAFF RECOMMENDATION:

The proposed project involves the remodeling and expansion of existing private club facilities at the Balboa Bay Club located on State Tidelands adjacent to Newport Harbor. Public access will be provided to many of the club facilities, including the hotel, restaurant, shops and on-site parking. The major issues of this staff report include public access, water quality and geologic stability.

In a change from the prior Commission approval, the applicant proposes to charge a fee for on-site parking, which does not comply with a special condition of the original permit. Staff recommends that no change to the original permit be allowed and that general public parking remain free of charge, except as previously permitted for special events. The parking fee issue remains unresolved at the time of this staff report.

Staff recommends **APPROVAL** of the proposed development subject to three (3) special conditions. Special Condition No. 1 establishes that all prior conditions imposed by coastal development permit 5-94-265 remain in effect, thereby maintaining the provision of free parking. Special Condition No. 2 requires the preparation of a Water Quality Management Plan (WQMP). Special Condition No. 3 requires conformance of the design and construction plans to all recommendations contained in the geotechnical investigation.

LOCAL APPROVALS RECEIVED: City of Newport Beach Approval in Concept No. 5342-99; Amendment No. 886; Use Permit No. 3524A.

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit 5-94-265 (Balboa Bay Club); Environmental Impact Report No. 152, Balboa Bay Club Expansion and Remodeling; Assembly Bill 3139; City of Newport Beach Certified Land Use Plan; Geotechnical Investigation prepared by Law Crandall dated November 13, 1998, supplemented by their report of December 16, 1999.

PROCEDURAL NOTE:

The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

The project is a substantial change from that previously approved. Therefore, pursuant to Section 13166 of the Commission's regulations, the Executive Director is referring this application to the Commission.

STAFF RECOMMENDATION:

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

MOTION:

I move that the Commission approve permit amendment No. 5-94-265-A1 pursuant to the staff recommendation.

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

I. APPROVAL WITH CONDITIONS:

The Commission hereby **GRANTS** an amendment to coastal development permit 5-94-265, subject to the conditions below, for the proposed development on the grounds that the development, located between the nearest public roadway and the shoreline, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 including the public access and recreation policies of Chapter 3, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

II. STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Prior Conditions

Unless specifically altered by this amendment, all regular and special conditions attached to coastal development permit 5-94-265 remain in effect.

2. Water Quality Management Plan

A. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, a Water Quality Management Plan (WQMP). The WQMP shall include, at a minimum, the following erosion and polluted runoff control provisions:

(i). EROSION CONTROL PLAN

(a) The erosion control plan shall demonstrate that:

- (1) During construction, erosion on the site shall be controlled to avoid adverse impacts to adjacent properties, public roadways and Newport Harbor;
- (2) At a minimum, the following temporary erosion control measures shall be used during construction: sand bags, desilting basins and silt fences; and

- (3) Following construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties, public roadways and Newport Harbor.

(b) The plan shall include, at a minimum, the following components:

- (1) A narrative report describing all temporary erosion control measures to be used during construction and all permanent erosion control measures to be installed;
- (2) A site plan showing the location of all temporary erosion control measures;
- (3) A schedule for installation and removal of the temporary erosion control measures;
- (4) A site plan showing the location of all permanent erosion control measures; and
- (5) A schedule for installation and maintenance of the permanent erosion control measures.

(ii). POLLUTED RUNOFF CONTROL PLAN

- (a) The polluted runoff control plan shall incorporate structural and non-structural Best Management Practices, designed to mitigate (infiltrate or treat) the volume from each runoff event up to, and including, the 85th percentile 24-hour runoff event, prior to its discharge to a storm water conveyance system. The plan is subject to the following requirements, and shall at a minimum, include the following components:
 - (1) Post-development peak runoff rates and volumes shall not exceed current levels.
 - (2) Drainage from all parking lot areas susceptible to runoff, used for motor vehicle parking, shall be directed through vegetative or other media filter devices effective at removing and/or mitigating contaminants such as petroleum hydrocarbons and heavy metals, and other particulates.
 - (3) Opportunities for directing runoff into pervious areas on-site for infiltration and/or percolation of rainfall through grassy swales or vegetative filter strips, shall be maximized where geotechnical concerns would not otherwise prohibit such use.
 - (4) A BMP maintenance agreement, which includes an acceptance and/or dedication of operation and maintenance responsibility to the applicant/owner or successor interests upon issuance of a Coastal Development Permit, until such responsibility is effectively accepted by another appropriate entity.

Maintenance responsibilities shall remain subject to the following requirements: All BMP traps/separators and/or filters must be cleaned prior to the onset of the storm season, no later than October 15th each year. Debris and other water pollutants contained in BMP

device(s) will be contained and disposed of in a proper manner. Annual inspection and maintenance reports documenting such activities must be submitted to the permitting agency no later than June 30th each year.

- B. The permittee shall undertake development in accordance with the approved final Water Quality Management Plan (WQMP). Any proposed changes to the approved WQMP shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. Conformance of Design and Construction Plans to Geotechnical Investigation

- A. All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with all recommendations contained in Section 7.0 of the Geotechnical Investigation prepared by Law Crandall dated November 13, 1998, as supplemented by their report of December 16, 1999. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the recommendations specified in the above-referenced geologic evaluation approved by the California Coastal Commission for the project site.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Amended Project Description

On March 9, 1995, the Commission approved Coastal Development Permit 5-94-265, allowing the expansion of the Balboa Bay Club, an existing private club located between the sea and the first public road at 1221 West Coast Highway, Newport Beach (Exhibits 1 & 2). The Balboa Bay Club is located on State Tidelands, which are administered by the City of Newport Beach. The site is currently leased to the applicant by the City of Newport Beach.

The applicant is proposing to amend Coastal Development Permit 5-94-265 by increasing the total square footage of the private club's expansion to correct an error in the original calculation, as well as to allow an increase in project size. The total square footage previously approved was 189,000 square feet. The amended project proposes to increase that figure to 213,355 square feet (214,134 gross square feet to 235,355 gross square feet). The total square footage increase proposed is approximately 21,441 gross square feet (Exhibit 3).

The proposed increase in square footage is accounted for in the following way: the previous architect erroneously neglected to include the square footage for the pre-function area for the ballroom (2,376 square footage) in the total figure. The athletic club is proposed to be increased by 6,604 square feet to provide larger locker rooms, massage rooms, etc. The remaining area (13,461 square feet) represents an increase in the kitchens for specialized equipment and refrigeration, food serving area in the ballroom, housekeeping areas, administration area, wider

corridors, maintenance areas, etc. The intent of the larger service area is to allow for more efficient use of the facilities by employees to better serve guests of the facility.

The proposed expansion will increase parking demand from 384 spaces to 488 spaces. The applicant will provide 498 parking spaces. An analysis of the increased parking demand is provided in Section D, Public Access.

Approval of the original permit was subject to nine special conditions, as discussed below. The proposed amendment will not alter any of the previously approved special conditions. All of the public amenities approved under the original permit will remain in effect.

B. Description of Project Originally Approved

The previously approved project involved the expansion and remodel of an existing private club known as the Balboa Bay Club (Exhibit 4). The project was to have resulted in an increase of 33,697 square feet from the existing 155,303 square feet for a total of 189,000 square feet. The private club has been in existence at the site since 1948. Some of the uses previously available only to members of the private club will become available to the general public as a result of the project. Some of the amenities that will become available to the public include a new public walkway extending from Coast Highway to and along the bulkhead, use of portions of the restaurant, lounge and hotel rooms, and on-site public parking.

The approval of the original permit was subject to the following special conditions: 1) Public Amenities Lease Restriction; 2) Agreement to be bound; 3) Signage Program; 4) Outdoor Dining ; 5) Regional Water Quality Control Board Approval; 6) Geologic Recommendations; 7) Special Events; 8) Terrace Apartments; and 9) Phasing Plan.

The Lease Restriction special condition requires that club membership be available to all; that the public use areas remain public; that all future development at the site requires a coastal development permit or an amendment; that the public walkway remain free of obstruction; that hotel rooms and restaurant areas designated for use by the general public remain available to the general public; that the view corridors remain free from development that would obstruct public views; that public access signage be continuously provided; that public amenities remain available to the public at any time the facility is available to the private club members; that there shall be no charge for general public parking except as specified for special events.

The second special condition requires that the underlying landowner, in addition to the applicant, be bound by the permit. Special Condition Number 3 requires a public access and amenities signage plan. The fourth special condition prohibits outdoor dining in the public access walkway. Special condition number five requires approval of the project from the Regional Water Quality Control Board. The sixth special condition requires conformance with the geotechnical consultant's recommendations. The seventh special condition requires that the general public not be denied access to the on-site public amenities during special events and allows a reasonable parking fee for special events. The eighth special condition states that public access at the Terrace Apartments shall be considered at the time the apartments are redeveloped or substantially redeveloped. The last special condition requires that the phasing plan prioritize public access amenities.

The project previously approved significantly increases public access at the subject site, consistent with AB 3139's statement that public access be dramatically improved (AB 3139 discussed below). However, the applicant has yet to comply with the prior to issuance conditions of CDP No. 5-94-265 and therefore, has not initiated work on the originally approved expansion project. (Extensions have been issued annually.)

C. Background on Balboa Bay Club Site

In 1952, the subject site and adjoining parcel D were determined to be state tidelands and submerged land. Prior to that determination, in 1948, the City leased the sites to a private entity. The private entity constructed what is now the Balboa Bay Club and, on adjoining Parcel D, the Terrace Apartments. Private residential use of tide and submerged lands, whether filled or unfilled, is in conflict with the common law public trust and is considered a non-conforming use. The lease covering both sites was extended in 1986 subject to a requirement that the use on Parcel D, the Terrace Apartments, conform to public trust purposes by December 31, 1998 unless an act of the Legislature, a judicial determination, or an Agreement with the State Lands Commission determined otherwise. The Legislature extended the lease until 2044, as further explained below.

Since 1985, the residential apartment complex on adjacent Parcel D has produced substantial income, all of which the City has used to directly promote and support public use of tide and submerged lands held in trust by the City by providing services to those public trust lands, including lifeguards, beach cleanup, police, and fire protection, and by constructing facilities which improve the quality and extent of public use of, and access to, tide and submerged lands.

The subject site is adjacent to the apartment complex. It is developed as a private club. Both the apartment parcel and the subject parcel are subject to the same lease. Existing public access at the subject site is extremely limited or non-existent. The approved project will provide significantly more public access at the subject site than currently exists. However, in order to secure financing for the improvements, revenue from the apartment complex will have to be pledged by the applicant.

In approving AB 3139, the legislature found that removal of the current tenants from the apartment complex before December 31, 1998 posed a potential hardship. The legislature further found that there were economic benefits to be gained for the trust by allowing the non-conforming residential use to continue to generate revenue. Additionally, the legislature found that by allowing the revenue generated by the apartment complex to be used to secure financing for the redevelopment of the subject site, the availability of current and potential public facilities for public trust purposes could be dramatically improved. Finally, in arriving at its decision, the legislature considered the amount of public trust land remaining in Newport Bay suitable for public trust use. Based on the above, the legislature allowed the non-conforming residential use to continue until the year 2044.

D. Public Access

Section 30210 of the Coastal Act states:

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

The issue of public access was raised at the time the Commission considered the original permit. The originally approved project includes new public access amenities and areas newly available to the general public (rather than exclusively to club members). These public amenities include: a public walkway extending from Coast Highway through the entry area to the bulkhead adjacent to the bay and along the bulkhead to the southern property line; the entry lobby area, first floor retail area, first floor lounge and restaurant, first floor meeting room, first floor ballroom, and second floor meeting room. In addition, 128 of the 145 hotel guest rooms would be available to the general public. For members of the general public staying at the hotel, the following portions of the club would be available: the hotel guest rooms, swimming pool, spa area, and a second story lounge area. Special conditions were required to assure that the proposed amenities remained available to the general public for the life of the project.

At the time the Commission acted on the original permit, it found that the provision of the new amenities available to the general public included in the project significantly increased public access at the site and were adequate to meet Section 30210's requirement that public access be maximized.

In addition, Section 30252 of the Coastal Act requires, in part, that new development maintain and enhance public access to the coast by providing adequate parking facilities. The subject site is adjacent to Coast Highway which is a major access arterial used by beach goers. Insufficient on-site parking could adversely impact public access by impacting traffic along Coast Highway.

A parking analysis was prepared for the original project. The parking consultant at that time recommended certain parking ratios that would apply to the unique use of the site. The parking study assessed parking demand generated by the existing development based upon field surveys. From the field surveys, the consultant extrapolated the parking demand ratios based on existing use of the site. The parking study also assumed a certain amount of shared use. For example, the study assumes that hotel patrons are likely to use the on-site dining areas, and that club patrons may use the athletic facilities and beach area, restaurant or lounge on a single visit. The parking analysis also assumes different peak use periods for certain on-site uses. For example, the small on-site beach would have a daytime peak use, while the restaurant will likely have an evening peak use. The use of the site was expected to remain the same after the proposed development occurred and so these parking ratios were found to be appropriate to apply to the originally proposed project.

An updated parking analysis was prepared for the proposed amendment. The same parking ratios previously found acceptable by the Commission were applied to the project as proposed to be amended. Based on the previously accepted parking ratios, the new project is expected to create a total parking demand of 488 spaces (Exhibit 5). The previously approved parking supply was 466 spaces. The amendment proposes a total of 498 parking spaces, ten (10) spaces greater than the expected demand. Therefore, the number of spaces provided is adequate to meet the anticipated parking demand. All of the parking spaces will be available on a "first come, first serve" basis to members of the general public, club members and employees.

The applicant is proposing a modification to the public parking provision of the originally approved project. As proposed, there will be no parking fee to the general public for the first 30 minutes. However, after 30 minutes, a parking fee will be charged. The proposed parking fee would not exceed that charged at the beach parking lots in the City of Newport Beach and can be validated by the on-site restaurants and shops.

However, the Commission's original approval of the project included a special condition (Special Condition No. 1j) which requires that there be no charge for general public parking except for special events. Special Condition states, "there shall be no charge for general public parking, except as allowed below in special condition 7, Special Events." Special Condition 7 states, in pertinent part, "a reasonable event and/ or parking fee may be charged for special events."

As proposed, the amendment would conflict with the special condition of the previously approved permit. In approving the original permit the Commission found:

"The applicant proposes to charge a fee for on-site parking for members of the public who are not patronizing the on-site commercial establishments (i.e. hotel, restaurant). A validation will be offered with patronage. However, this means that the only people who would be charged a fee are those wishing to stroll along the relatively short public walkway or those who enter the hotel lobby to inquire about the public amenities. This would discourage members of the public from even entering the site and deter public use of the site. To require the casual visitor to pay is not consistent with maximizing public access. Additionally, Assembly Bill 3139 states that dramatically improved public access would be

provided at the site. As a condition of approval, the applicant shall state in the required lease restriction, that there will be no charge for general public parking except as associated with special events as described below."

The original permit could not have been found consistent with Sections 30210 and 30252 of the Coastal Act without the imposition of Special Condition No. 1j. Charging a fee for general public parking would discourage members of the general public from taking advantage of the public amenities on the site. In addition, charging a fee for general public parking conflicts with the previously approved permit condition. The Commission reaffirms its prior decision requiring the provision of free public parking at the Balboa Bay Club. No change to Special Condition No. 1 of the original permit is approved under this amendment. No parking fee may be levied, except as allowed by Special Condition No. 7 of the original permit. The Commission finds the proposed amendment consistent with Sections 30210 and 30252 of the Coastal Act.

E. Water Quality

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30232 of the Coastal Act states, in pertinent part:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials.

Newport Harbor (Lower Newport Bay) is a critical coastal water body on the federal Clean Water Act 303(d) list of "impaired" water bodies. The designation as "impaired" means the quality of the water body cannot support beneficial recreation and aquatic uses. The listing is made by the California Regional Water Quality Control Board, Santa Ana Region (RWQCB), and the State Water Resources Control Board (SWRCB), and confirmed by the U.S. Environmental Protection Agency. Further, the RWQCB has targeted the Newport Bay watershed, which would include Newport Harbor, for increased scrutiny as a higher priority watershed under its Watershed Management Initiative.

The proposed development will require de-watering into Newport Harbor in conjunction with excavation for the subterranean garage. In addition, the proposed development includes construction of additional parking facilities, which will result in an overall increase of impervious surface area located on site. The addition of impervious surface, in effect, decreases the

infiltration function and capacity of pervious surfaces. As a result, runoff volume and velocity can be expected to increase. Major pollutants such as petroleum hydrocarbons are found in runoff draining from parking lots and other impervious surfaces where motor vehicles are operated and stored.

The applicant has received approval for the proposed de-watering from the State Water Resources Control Board and from the California Regional Water Quality Control Board, Santa Ana Region (see Exhibits 6 and 7). No further RWQCB approval is required at this time.

The Coastal Act requires that adverse effects on coastal waters and the marine environment be minimized. In order to assure that potentially adverse effects of the proposed expansion project are minimized, best management practices (BMPs) must be incorporated into the proposed project. Special Condition No. 3 requires the applicant to prepare and submit a comprehensive Water Quality Management Plan (WQMP), for the review and approval of the Executive Director, to address erosion and polluted runoff impacts of the proposed project. The WQMP shall consist of two components: the Erosion Control Plan and the Polluted Run-off Control Plan. The Erosion Control Plan shall demonstrate that erosion on the site will be controlled to avoid adverse impacts to adjacent properties, public roadways and Newport Harbor. The Polluted Run-off Control Plan shall be designed to mitigate (infiltrate or treat) the volume from each runoff event up to and including the 85th percentile 24-hour runoff event, prior to its discharge to a storm water conveyance system. The Plans shall include BMPs to be implemented during, as well as after, construction to maintain and enhance water quality in the subject area.

The Commission has imposed conditions on this and other permits to assure that (1) during construction, sediments from the project site will be controlled and not allowed to wash from the site and damage adjacent properties, roadways or cause siltation of coastal waters, and/or (2) polluted runoff from roofs, driveways and parking areas, that otherwise can be a source of surface water contamination, is mitigated through the use of treatment and/or infiltration measures, as specified in Special Condition No. 3 (WQMP). As conditioned, the project is consistent with Coastal Act Sections 30230, 30231 and 30232.

F. Hazards

Section 30253 of the Coastal Act states, in part:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

The proposed project amendment increases the amount of grading by 5,200 cubic yards. An updated geotechnical investigation prepared by Law Crandall dated November 13, 1998 was submitted to supplement the original geotechnical investigation dated February 19, 1990, as updated by a letter dated January 4, 1995. An updated geologic-seismic hazard evaluation dated December 16, 1999 was also submitted. The reports submitted by the applicant indicate that the site is suitable for the proposed expansion. The Geotechnical Investigation includes certain recommendations to increase the degree of stability of the proposed development. The recommendations included in the Geotechnical Investigation address foundations, floor slab support, excavation and slopes, dewatering, waterproofing and subdrain system, shoring, walls below grade, and grading.

In order to assure that risks are minimized, the geotechnical consultant's recommendations must be incorporated into the design of the project. As a condition of approval (Special Condition No. 4), the applicant shall submit, for the review and approval of the Executive Director, grading and foundation plans signed by the geotechnical consultant indicating that the recommendations contained in the Geotechnical Investigation have been incorporated into the design of the proposed project.

Therefore, as conditioned, the Commission finds that the proposed project is consistent with Section 30253 of the Coastal Act which requires that geologic risks be minimized and that geologic stability be assured.

G. 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.

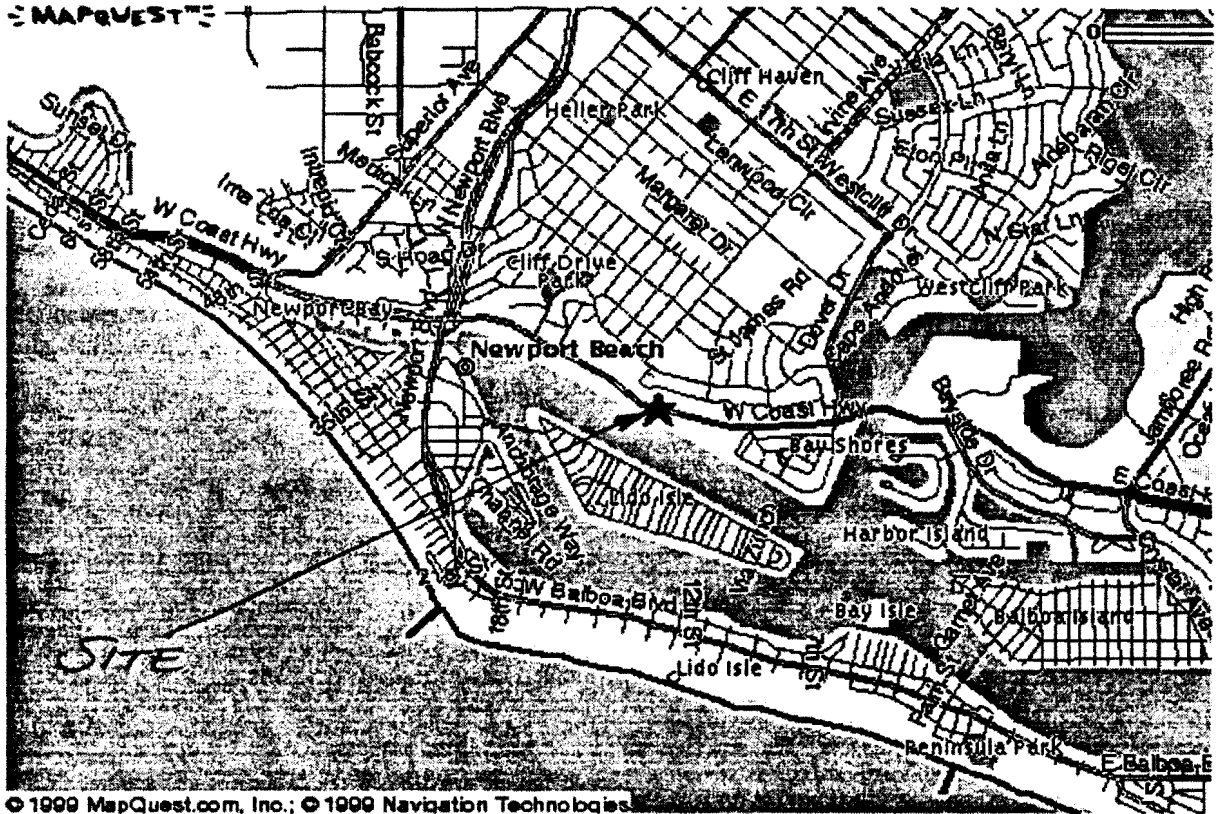
The Commission certified the Land Use Plan for the City of Newport Beach on May 19, 1982. As conditioned, the proposed development is consistent with the Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that, as conditioned, the proposed development would not prejudice the ability of the City to prepare a total Local Coastal Program that is consistent with the Chapter 3 policies of the Coastal Act.

H. 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 development has been conditioned to assure that the project will not have a significant adverse impact on coastal resources, specifically public access, water quality and geologic hazard. The proposed development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. There are no feasible alternatives or mitigation measures available which will lessen any significant adverse impact the activity would have on the environment. Therefore, the Commission finds that the proposed project is consistent with CEQA and the policies of the Coastal Act.

1221 W. Coast Highway, Newport Beach, CA 92663-5026



COASTAL COMMISSION
5-94-265 A1 VICINITY
MAP

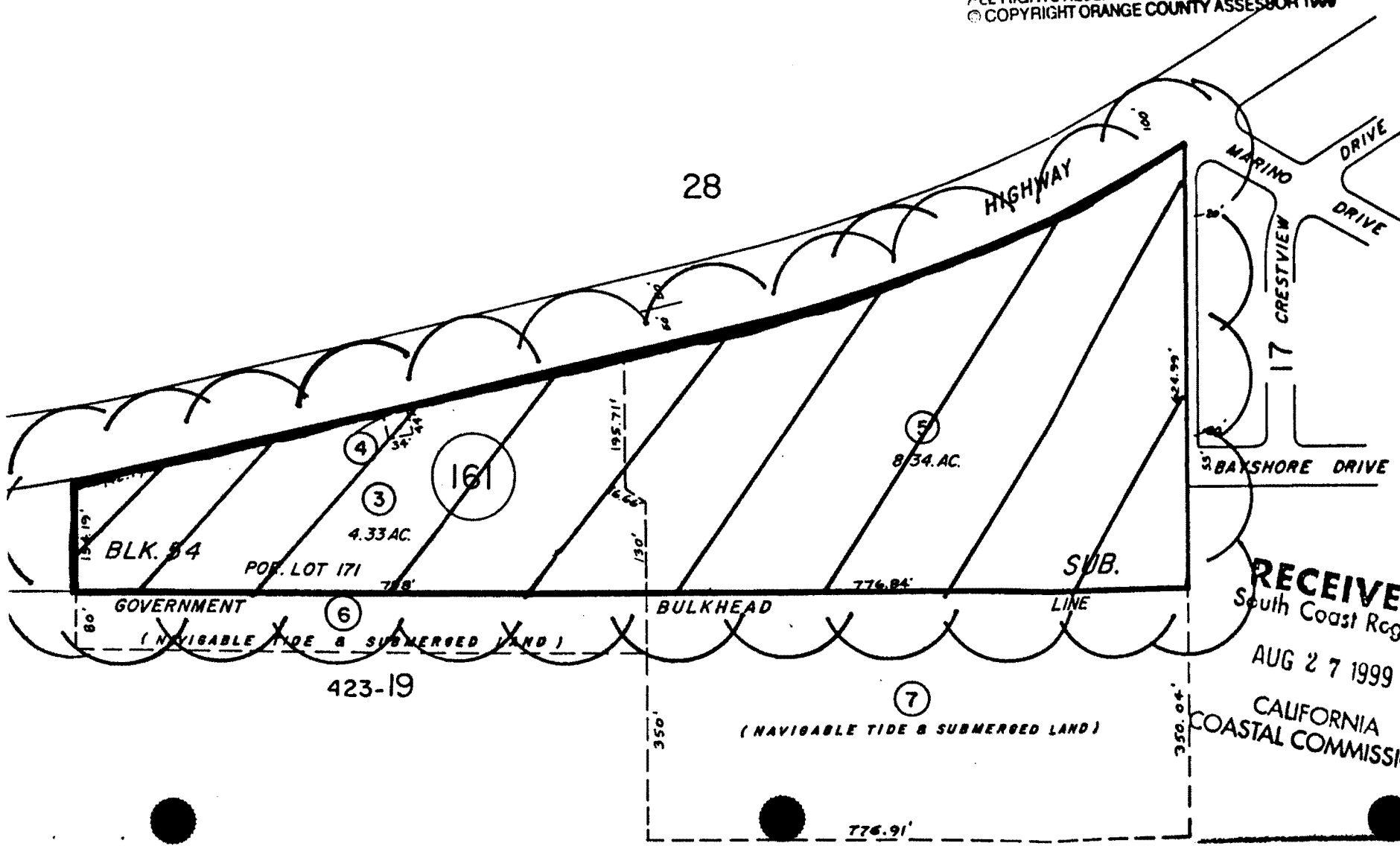
EXHIBIT # 1

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CALIFORNIA COASTAL COMMISSION
 5-97-265 A1 A.P. MAP
 EXHIBIT # 2
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1"=20'



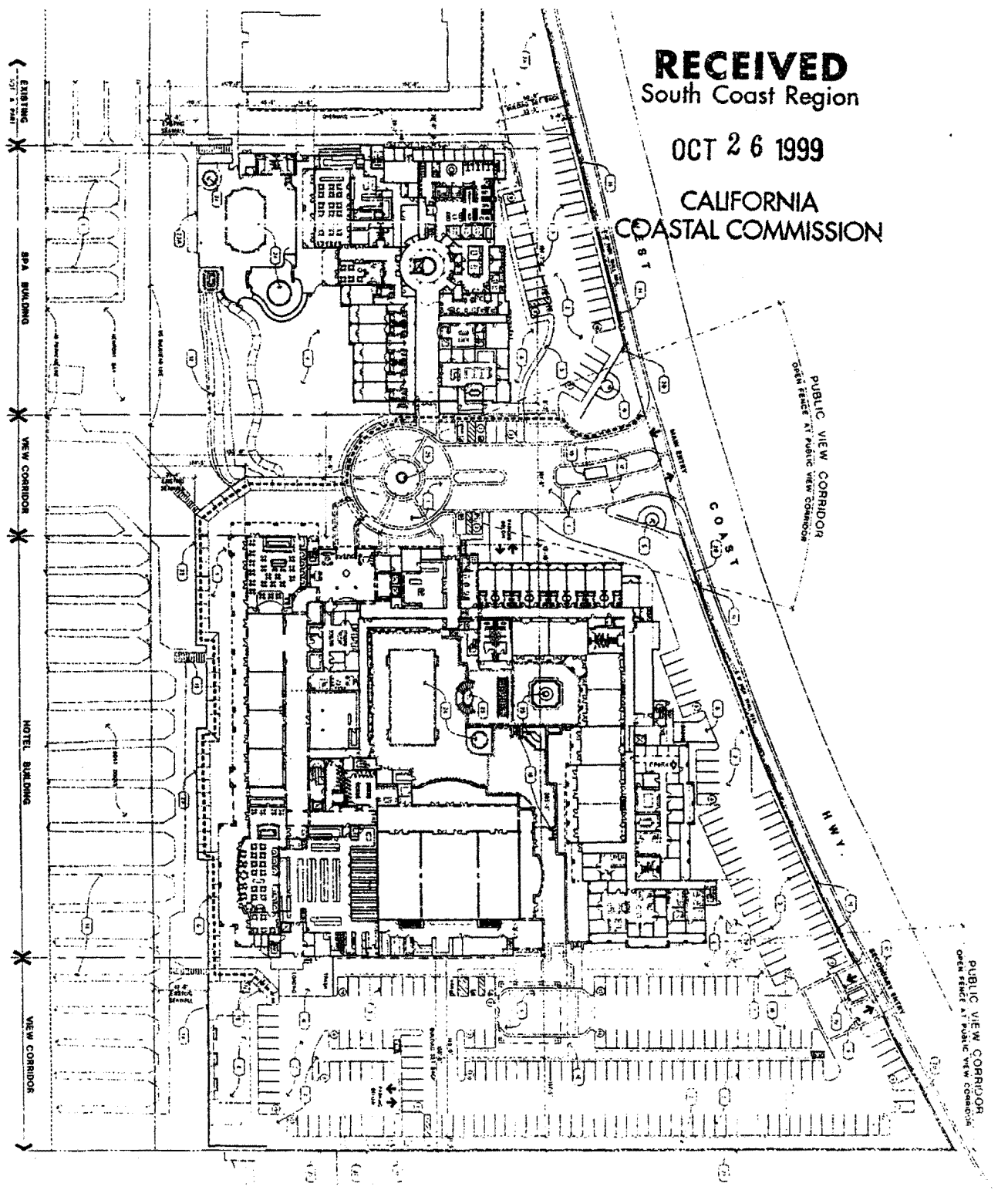
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OVERALL SITE PLAN 1

LEGEND
***** 48' WIDTH MINIMUM WALKWAY 7' DIA
FIRE STAIR ACCESSIBLE FRONT ENTRY
MIN. PARALLEL SIGN 30" DIA 1" DIA 1999

GENERAL NOTES

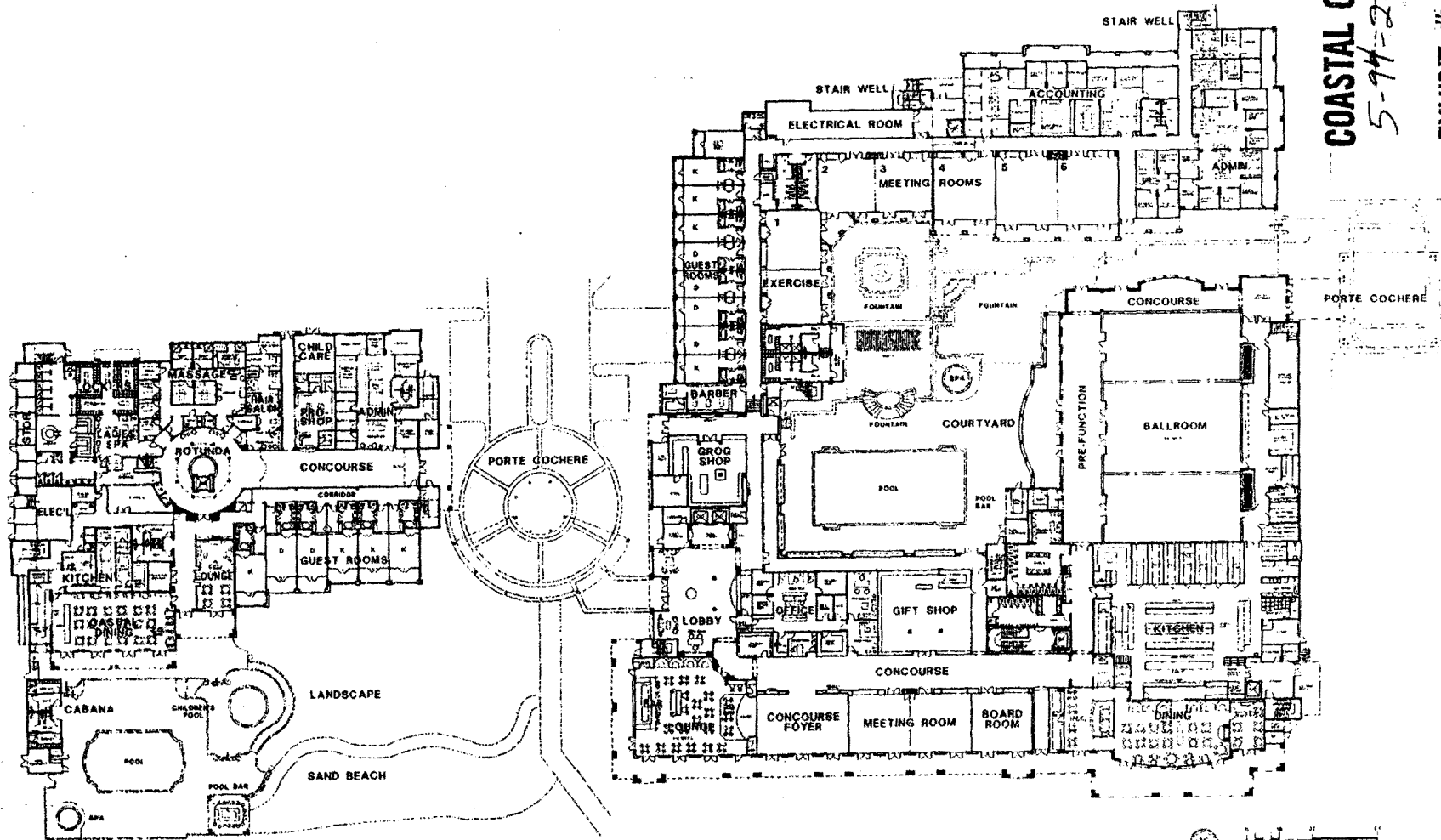
1. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
2. MAINT. ACCESS TO ALL UTILITIES SHALL BE MAINTAINED THROUGHOUT CONSTRUCTION.
3. PROTECT EXISTING OVERHEAD UTILITIES FROM DAMAGE. SEE CIVIL DRAWINGS.
4. FOR SITE GRADING, SEE CIVIL DRAWINGS.
5. OVERHEAD UTILITIES SHALL BE MAINTAINED THROUGHOUT CONSTRUCTION.
6. SEE CIVIL DRAWINGS FOR PUBLIC VIEW CORRIDOR TO VIEW AT VIEW CORRIDOR.
7. CONCRETE SHALL BE 3000 PSI AND SHALL BE FINISHED WITH BROOM FINISH.
8. SEE LANDSCAPE DRAWINGS FOR PLANTING AND IRRIGATION.
9. SEE ELECTRICAL DRAWINGS FOR LIGHTING.

NOTES

1. FINISH CONCRETE SHALL BE 3000 PSI AND SHALL BE FINISHED WITH BROOM FINISH.
2. MAINT. ACCESS TO ALL UTILITIES SHALL BE MAINTAINED THROUGHOUT CONSTRUCTION.
3. PROTECT EXISTING OVERHEAD UTILITIES FROM DAMAGE. SEE CIVIL DRAWINGS.
4. FOR SITE GRADING, SEE CIVIL DRAWINGS.
5. OVERHEAD UTILITIES SHALL BE MAINTAINED THROUGHOUT CONSTRUCTION.
6. SEE CIVIL DRAWINGS FOR PUBLIC VIEW CORRIDOR TO VIEW AT VIEW CORRIDOR.
7. CONCRETE SHALL BE 3000 PSI AND SHALL BE FINISHED WITH BROOM FINISH.
8. SEE LANDSCAPE DRAWINGS FOR PLANTING AND IRRIGATION.
9. SEE ELECTRICAL DRAWINGS FOR LIGHTING.

COASTAL COMMISSION
5-94-205 A1 PLAN

<p>Lee Sakahara Architects AIA ARCHITECTURAL PLANNING INTERIORS</p>	<p><i>The Balboa Bay Club And Resort</i> City of Newport Beach, California Developed: International Bay Club, Inc.</p>	<p>OVERALL SITE PLAN</p>	<p>EXHIBIT # 3 1 OF 6</p>
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COASTAL COMMISSION

5-94-265-A1

EXHIBIT # 3

PAGE 2 OF 6

Developers:
International Bay Clubs, Inc.

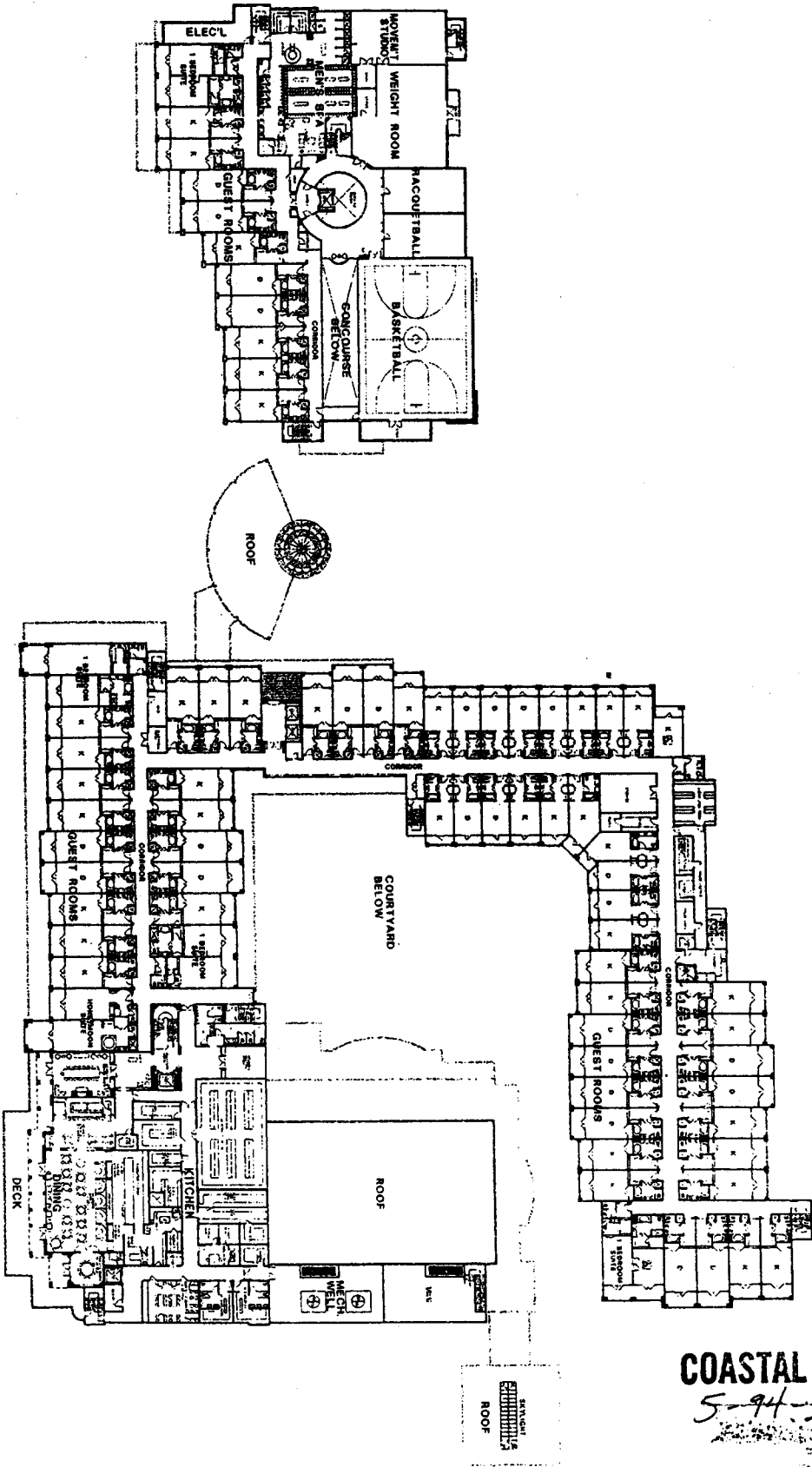
The Balboa Bay Club And Resort
City of Newport Beach, California

FIRST FLOOR PLAN
A-3

Developer:
International Bay Clubs, Inc.

The Baller Bay Club and Resort
City of Newport Beach, California

SECOND FLOOR PLAN



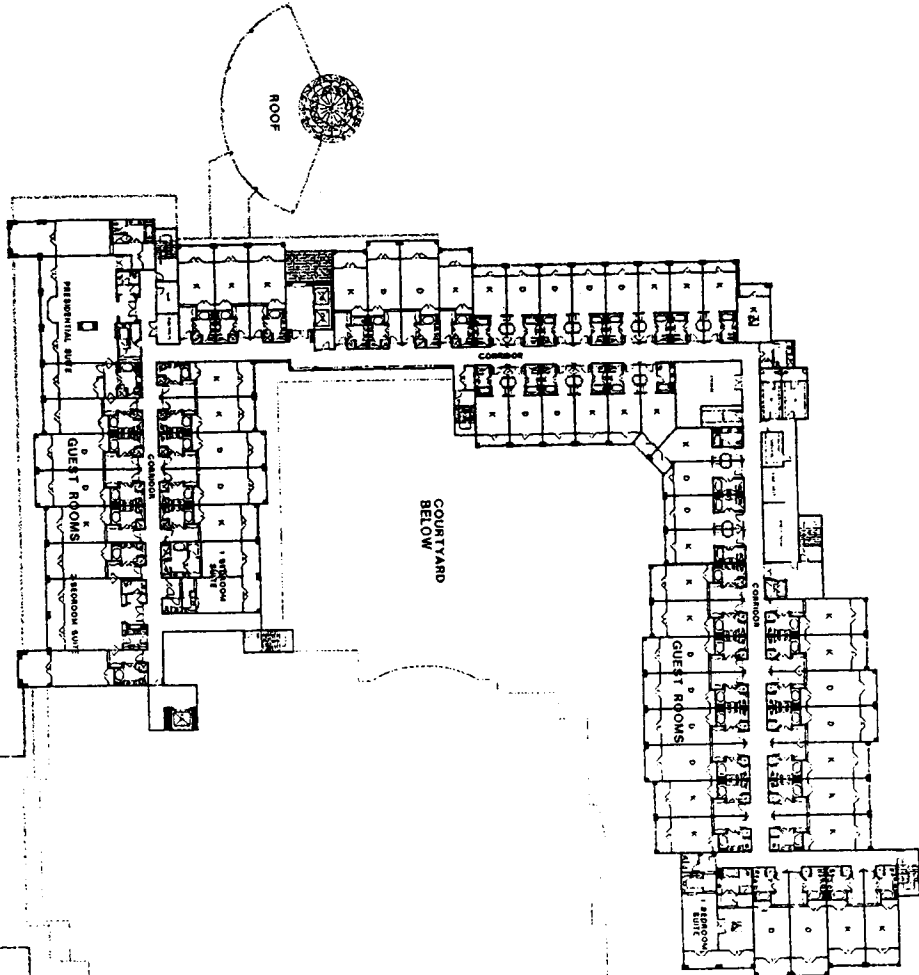
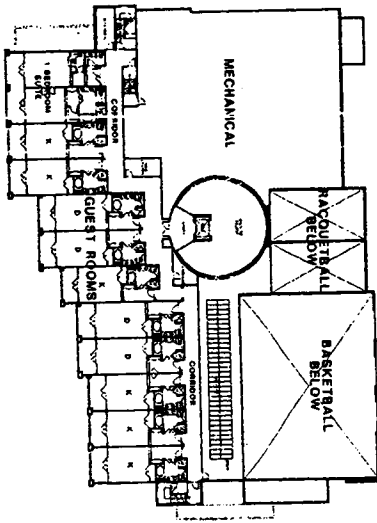
COASTAL COMMISSION
5-94-265-A1
EXHIBIT # 3
PAGE 3 OF 6

Architect:
International Bay Club, Inc.

The Balboa Bay Club and Resort
City of Newport Beach, California

THIRD FLOOR PLAN

A-5



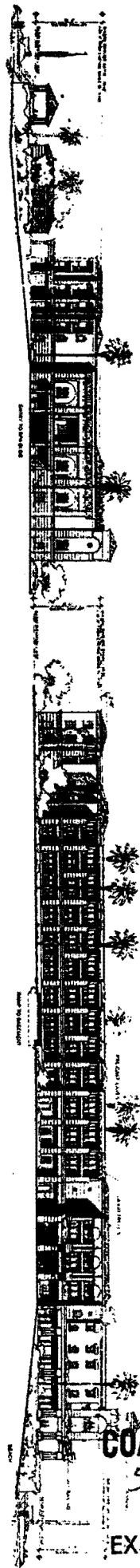
EMERGENCY
ROOF

COASTAL COMMISSION
5-94-265 A1

EXHIBIT # 3
PAGE 4 6

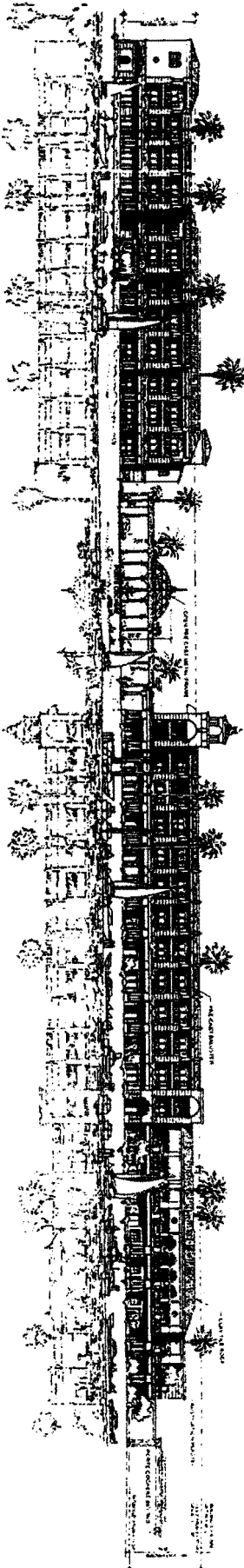
EAST SPA BLDG.

WEST HOTEL BLDG.



SOUTH SPA BLDG.

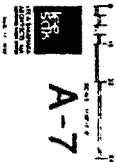
HOTEL BLDG.



Developer:
International Bay Club, Inc.

The Balboa Bay Club and Resort
City of Newport Beach, California

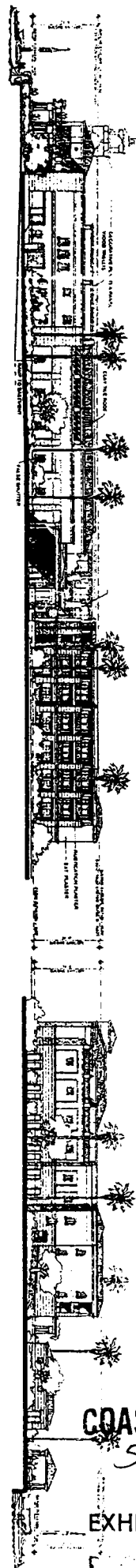
EXTERIOR ELEVATIONS



COASTAL COMMISSION
5-94-265A1

EXHIBIT # 3

PAGE 5 OF 6

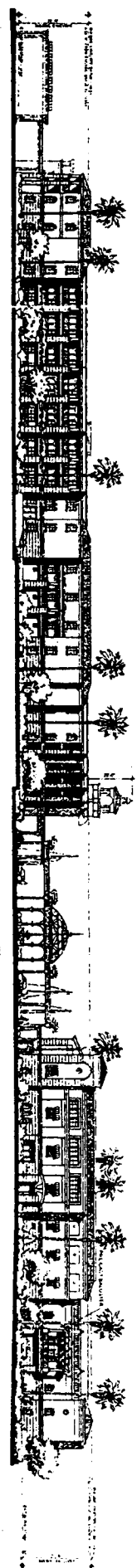


EAST HOTEL BLDG.

WEST SPA BLDG.

COASTAL COMMISSION
5-94-265 A1

EXHIBIT # 3
6 OF 6



NORTH HOTEL BLDG.

Developer:
International Bay Clubs, Inc.

The Balboa Bay Club and Resort
City of Newport Beach, California

EXTERIOR ELEVATIONS



CALIFORNIA COASTAL COMMISSION 309095

H COAST AREA
W. BROADWAY, STE. 300
P.O. BOX 1450
LONG BEACH, CA 90802-4410
(310) 590-5071

- Approved as Recommended
 Denied as Recommended
 Approved with Changes
 Denied
 Other

Filed: 1/18/95
 49th Day: 3/8/95
 180th Day: 7/17/95
 Staff: MV-LB
 Staff Report: 2/23/94
 Hearing Date: 3/9/95
 Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 5-94-265

APPLICANT: Balboa Bay Club Inc.

AGENT: Culbertson, Adams & Associates; and D. B. Neish, Inc.

PROJECT LOCATION: 1221 West Coast Highway, Newport Beach, Orange County

PROJECT DESCRIPTION: Major remodel and expansion of an existing private club. Proposed modifications include demolition of some existing buildings and portions of others, addition of 33,697 square feet resulting in a 189,000 square foot facility, construction of a parking structure, an increase in guest rooms from 128 to 144, and grading of 13,500 cubic yards of cut proposed to occur within the footprint of proposed buildings. The project will also result in some of the on-site facilities becoming available to the general public.

Lot area:	8.25 acres
Building coverage:	103,000 square feet
Pavement coverage:	109,220 square feet
Landscape coverage:	112,300 square feet
Parking spaces:	466
Zoning:	Planned Community
Plan designation:	Recreation and Marine Commercial/Multi Family Residential
Ht abv fin grade:	38 feet

LOCAL APPROVALS RECEIVED: Approval in Concept No. 1567-94; Environmental Impact Report No. 152; Amendment No. 787; Use Permit No. 3524; Traffic Study No. 100

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach certified Land Use Plan; Environmental Impact Report No. 152, Balboa Bay Club Expansion and Remodeling; Assembly Bill 3139

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed project subject to special conditions requiring a lease restriction to assure that amenities proposed for use by the general public will remain available to the general public; revised plans showing deletion of outdoor dining facilities within public access walkways; submittal of a signage program designed to make the public aware of the availability of public amenities on the site; RWQCB approval; and conformance with the geologic consultant's recommendations.

EXHIBIT # 4

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EXECUTIVE SUMMARY

In 1952 the subject site and adjoining Parcel D were determined to be state tidelands and submerged land. Prior to that determination, in 1948, the City leased the sites to a private entity. The private entity constructed what is now the Balboa Bay Club and the Terrace Apartments. Private residential use of tide and submerged lands, whether filled or unfilled, is in conflict with the common law public trust and is considered a non-conforming use. The lease covering both sites was extended in 1986 subject to a requirement that the use on Parcel D, the Terrace Apartments, conform to public trust purposes by December 31, 1998 unless an act of the Legislature, a judicial determination, or an Agreement with the State Lands Commission determined otherwise.

Since 1985, the residential apartment complex on adjacent Parcel D has produced substantial income, all of which the City has used to directly promote and support public use of tide and submerged lands held in trust by the City by providing services to those public trust lands, including lifeguards, beach cleanup, police, and fire protection, and by constructing facilities which improve the quality and extent of public use of, and access to, tide and submerged lands.

The subject site is adjacent to the apartment complex. It is developed as a private club. Both the apartment parcel and the subject parcel are subject to the same lease. Existing public access at the subject site is extremely limited or non-existent. The proposed project would provide significantly more public access at the subject site than currently exists. However, in order to secure financing for the proposed improvements, revenue from the apartment complex will have to be pledged by the applicant.

In approving AB 3139, the legislature found that removal of the current tenants from the apartment complex before December 31, 1998 posed a potential hardship. The legislature further found that there were economic benefits to be gained for the trust by allowing the non-conforming residential use to continue to generate revenue. Additionally, the legislature found that by allowing the revenue generated by the apartment complex to be used to secure financing for the redevelopment of the subject site, the availability of current and potential public facilities for public trust purposes could be dramatically improved (emphasis added). Finally, in arriving at its decision, the legislature considered the amount of public trust land remaining in Newport Bay suitable for public trust use. Based on the above the legislature allowed the non-conforming residential use to continue until the year 2044.

The applicant has proposed significantly increased access at the subject site, consistent with AB 3139's statement that public access would be dramatically improved. In order to assure that public access benefits proposed by the applicant remain available to all of the public, and in view of the fact that the subject site has been historically operated as a private club, staff is recommending a lease restriction be placed on the proposed project. The lease restriction would bind the applicant (lessee), the City (lessor), and any successors and assigns of the lessee. By binding the lessor as well as the lessee and any successors and assigns of the lessee the public benefits proposed are assured of remaining if the lessee were to be removed, especially important since any improvements at the site, removed, will revert to the City of Newport Beach upon termination of the current lease.

COASTAL COMMISSION

EXHIBIT # 4

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At the time the Terrace Apartments are redeveloped or substantially renovated, provision of public access on Parcel D will be considered at that time.

Staff Recommendation:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located between the sea and the first public road nearest the sea and is in conformance with the public access and public recreation policies of the Coastal Act and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

COASTAL COMMISSION

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

III. Special Conditions:

1. Public Amenities Lease Restriction

Prior to issuance of the coastal development permit, the applicant and landowner shall execute and record an addendum to the lease, free and clear of prior liens and encumbrances, and in a form and content acceptable to the Executive Director, stating that:

- a) Membership in the private club shall not be denied to any applicant on the basis of race, religion or gender.
- b) All areas designated for public use identified on Exhibit C of the Commission staff report shall remain available for public use for the life of the project.
- c) All future development at the site shall require an amendment to this coastal development permit or a separate coastal development permit.
- d) The public access walkway designated on Exhibit D of the Commission staff report shall remain free of any development which would obstruct or limit public use, including but not limited to outdoor dining.
- e) The hotel rooms designated for use by the general public shall not be converted to private membership use, except that a maximum of 28 (twenty-eight) rooms may be reserved for Balboa Bay Club members. If reservations for any of these rooms are not confirmed by club members the room shall be offered to the general public hotel guest.
- f) The restaurant areas designated for use by the general public shall not be converted to private membership use.
- g) The view corridors designated on the plans approved by the Coastal Commission shall remain free of any development which would obstruct or limit public views to the ocean and bay, including but not limited to landscaping and fencing.
- h) Signage shall be continuously provided consistent with Special Condition No. 3, below.
- i) The public amenities, including the public walkway, shall be available to the general public at any time the facility is available to the private club members.
- j) There shall be no charge for general public parking, except as allowed below in special condition 7, Special Events.

COASTAL COMMISSION

EXHIBIT # 4

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Such grant or lease restriction shall benefit the people of the State of California and shall bind the City of Newport Beach, the lessee, and successors and assigns of the Permittee or leaseholder. Such restrictions shall run for the life of the permitted facility and shall be made a part of all existing and subsequent lease agreements for the permitted facility.

2. Agreement to be Bound

Prior to issuance of the coastal development permit, the permittee shall obtain a written agreement from the owner, subject to the review and approval of the Executive Director, stating that in the event of termination of the lease, and for so long as the building and facilities constructed pursuant to permit 5-94-265 exist, the owner of the property will agree to require each new or different tenant, occupant or operator, including itself, to sign a lease restriction or other appropriate instrument agreeing to comply with the conditions set forth in Condition No. 1 above.

3. Signage Program

Prior to issuance of the coastal development permit the applicant shall submit, for the review and approval of the Executive Director, a signage program which indicates the availability of the on-site public amenities. At a minimum the signage program shall include:

- a) Signage clearly visible from both directions of Coast Highway, indicating that the public is welcome and a listing of the on-site amenities available to the public;
- b) Informational and directional signage to be placed throughout the site informing the public of the on-site public amenities.

4. Outdoor Dining

- a) No outdoor dining shall occur in the any of the areas designated for use as the public access walkway.
- b) Prior to issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, revised plans which indicate that the public access walkway is a minimum of 10 (ten) feet in width. Plans shall also include potted plants or other appropriate buffer between the outdoor dining and the public walkway. The buffer shall not reduce the width of the walkway.

5. Regional Water Quality Control Board Approval

Prior to issuance of the coastal development permit the applicant shall submit, for the review and approval of the Executive Director, evidence of approval of the proposed development from the California Regional Water Quality Control Board. Any changes to development as approved shall be reported to the Executive Director. Any changes the Executive Director determines to be significant shall require an amendment to the permit.

6. GRAND JURY COMMISSION

6. Geologic Recommendations

Prior to issuance of the coastal development permit the applicant shall submit for the review and approval of the Executive Director, grading and foundation plans, signed by the geological consultant, indicating that the recommendations contained in the Report of Geotechnical Investigation dated February 19, 1990 and updated in the letter dated January 4, 1995, have been incorporated into the project.

7. Special Events

The general public shall not be denied access to the on-site public amenities during special events. Until the parking lot is full, general public parking shall be allowed on a first-come-first-serve basis, except for any spaces that are reserved by advance event ticket purchase which also includes advance parking fee purchase. Any such advance event parking tickets shall be made equally available to the general public through appropriate advertising.

After the public parking lot is full members of the general public may still access the on-site public amenities via the public access walkway unless the site has reached the maximum occupancy allowed by established fire or public health and safety standards.

A reasonable event and/or parking fee may be charged for special events. If the parking fee is separate from the event fee or if no fee is charged to attend the special event, the parking fee shall not exceed that charged at the beach parking lots in the City.

8. Terrace Apartments

At such time as the Terrace Apartments are redeveloped or substantially renovated, provision of public access at that location shall be considered.

9. Phasing Plan

Prior to issuance of the coastal development permit the applicant shall submit, for the review and approval of the Executive Director, a construction phasing plan which shall accomplish the following:

- a) Concurrent with commencement of phase one the applicant shall install temporary signage at Coast Highway informing the public of the on-site public walkway and restaurant. The signage and public use of these areas shall remain during all phases of construction.
- b) The phasing plan shall also include the phasing of public parking.
- c) The phasing plan shall identify any necessary closure of the public walkway or restaurant and include a time frame for the commencement and completion of the other public amenities.

Construction phasing shall be carried out in a manner consistent with the approved phasing plan. **CONSISTENT WITH COMMISSION**

IV. Findings and Declarations

The Commission finds and declares as follows:

A. Project Description

The applicant proposes the expansion and remodel of an existing private club facility known as the Balboa Bay Club. The private club has been in existence at the site since 1948. The proposed project would make some of the uses previously available only to members of the private club available to the general public. Some of these uses include a public access program, and use of portions of the restaurant, lounge and hotel rooms. Public parking is also proposed on-site.

The proposed expansion would result in an increase of 33,697 square feet from the existing 155,303 square feet to 189,000 square feet. Of the existing 155,303 existing square footage only 14,000 square feet will remain intact. The "Beach Building" will be completely demolished and the Bayside and Administrative/Personnel Buildings will be partially demolished. The proposed project is to be phased over approximately 2 years.

The proposed project includes an increase in the number of guest rooms from 128 to 145. Of the proposed 145 rooms, 28 will be subject to first refusal by Club members. Should Club members have no need for any or all of the 28 rooms, they will be offered to the general public. A restaurant and cocktail lounge is also proposed. Portions of the restaurant and lounge will be reserved for the private use of Club members. Currently the facility provides 376 parking spaces. The proposed project will provide 466 spaces. Of the 466 parking spaces, 76 are to be reserved for club members and valet parking only.

The project site is located on State Tidelands which are administered by the City of Newport Beach. The site is leased to the applicant by the City of Newport Beach. The current 25 year lease began in 1986 and would expire in 2011. Negotiations between the City and the applicant are underway to extend the lease beyond the current expiration date. The City has issued an approval in concept for the proposed project as well as a number of related approvals including adoption of Environmental Impact Report No. 152.

The total area leased by the applicant from the City is 12.59 acres. Of that, the proposed project occupies 8.25 acres, including the marina area. No work is currently proposed in the marina. The remainder of the site is occupied by the Terrace Apartments. The Terrace Apartments are operated by the applicant but are not a part of the proposed project. No work is proposed on the apartments. Though under one lease the apartment complex is located on a separate parcel from the proposed project. At such time as the Terrace Apartments are redeveloped or substantially renovated, provision of public access at that location will be considered.

CORBELL COMMISSION

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Assembly Bill 3139 allows the apartments to remain at the site until, at the latest, December 31, 2044. Assembly Bill 3139 requires that the revenue generated from the lease be used for purposes consistent with the promotion of public trust uses, including public access, over the remaining tide and submerged lands granted to the City and for expenditure by the State Lands Commission for purposes of providing necessary state review of management of public trust property except that the revenue generated by the apartment complex has been pledged to secure financing for the redevelopment of the subject site.

B. Public Access

Section 30210 of the Coastal Act states:

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

The private club use which currently exists at the subject site has existed there since 1948. Currently, use of the project site is restricted to members of the private club and their guests, although the Club does allow use of some facilities (such as meeting and banquet rooms) to groups for civic or other special functions.

Of the 8.25 acre site, none is currently available to the general public. The proposed project would result in 5.91 acres of the site being available to the general public. A portion of the 5.91 acres available to the general public will only be available to members of the general public who are hotel guests. The facilities available only to hotel guests are: the hotel guest rooms, swimming pool, spa area, and a second story lounge area.

Facilities proposed to be available to the general public whether a hotel guest or not include: a public walkway extending from Coast Highway through the entry area to the bulkhead adjacent to the bay and along the bulkhead to the southern property line (see exhibit D); the entry lobby area, first floor retail area, first floor lounge and restaurant, first floor meeting room, first floor ballroom, and second floor meeting room. 390 parking spaces will be available for use by the general public.

Facilities which are proposed to remain available exclusively to members of the private club are: a small (less than 1/4 acre), man-made beach area with a pool and bar, gymnasium, racquetball courts, aerobics room, first and second floor private dining areas within the proposed restaurant, private club entry area (which does not obstruct public entry), 28 guest rooms (first right of refusal to club members, then offered to general public hotel guests), and 76 tandem parking spaces. The public/private nature of the proposed facilities are depicted on exhibit C.

COASTAL COMMISSION

EXHIBIT # 4

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a) Construction Phasing Plan

The construction phasing plan in the EIR is unclear. However it appears that the earliest phases will not effect the walkway or restaurant. Because these amenities will not be effected during construction, they should be made available to the public as soon as possible. This is especially true since the revenue generated by the non-conforming apartment use will be used to secure financing for the redevelopment of the subject site.

In order to find that the proposed project provides maximum public access as required by Section 30210 of the Coastal Act the proposed public amenities should be provided as soon as possible. As a condition of approval the applicant shall submit a construction phasing plan that provides that public access to the public amenities proposed by the applicant shall occur concurrently with the first phase of construction. Additionally, the applicant shall provide and the phasing plan shall describe temporary construction signage alerting the public to the public uses available on site.

b) Assurance of Public Use Areas' Continued Availability

The project's proposed public use and amenities represent a substantial improvement over the existing exclusively private use. The subject site is subject to the public trust and these provisions are necessary.

The EIR prepared for the project states: "Casual visitors may be denied access during major annual special events such as Kentucky Derby Day and during the Newport Bay boat parades when the property is operated at peak capacity." This is not included in the applicant's project description, but appears from the EIR to be an anticipated method of restricting the public access proposed. This severely limits the proposed public access, which is vital to this project due to its location on public trust land. Additionally, the circumstances under which public use of the proposed public access areas would be eliminated is not defined, creating the potential for significant diminution of the proposed public access benefits. If this were to be allowed, the access would not serve a casual public use at all. Consequently, this option must specifically be rejected. Special condition 7 requires that the general public not be denied access, especially pedestrian access, during special events as long as maximum capacity is not reached.

In approving the proposed project, the City required the following as part of a mitigation measure: "Public access areas shall remain open at all times, including during construction of subsequent project phases, unless it is determined by the Building Director that access would create a public safety hazard."

In order for the proposed public use to remain meaningful there must be assurance that the public benefits proposed at the site are provided in the first phase of construction and remain available to the general public. Without such assurance the proposed project could not be found consistent with Section 30210 of the Coastal Act which requires provision of maximum public access. As a condition of approval, the applicant must execute and record a lease restriction, for the review and approval of the Executive Director, identifying the public uses and amenities available, and stating that all of

the public uses and amenities proposed by the applicant shall remain available to the general public. The construction phasing special condition is necessary to assure that the existing walkway and restaurant are open to the public at the same time reconstruction of the private club facilities begin. It is noted that the financing for the project is being secured by use of the revenue generated by the apartment complex, a non-conforming use on state tidelands. Therefore the on-site public benefits should commence concurrently with the private club reconstruction.

The lease restriction must bind both the lessor and any current or subsequent lessees. Consequently, as part of the lease restriction the lessor must agree to bind all current and future lessees at the site. An alternative to binding the lessor as well as the lessee and all future lessees, is to have the permit expire upon termination of the lease and require the removal of all improvements. However, under the terms of the lease, all improvements at the site are to revert to the City of Newport Beach once the lease expires and the terms of the lease specifically contemplate future lessees. Therefore, as a condition of approval, the lease restriction is necessary and must bind both the lessor and the lessee and all future lessees.

c) Non-Discrimination

Currently, the private club's by-laws state that "Membership shall not be denied to any applicant on the basis of race, religion or gender." No change is contemplated by the Club at this time. However, because the club is located on land subject to the public trust, any potential to exclude any segment(s) of the general public from membership must be prevented. In order to assure that membership in the private club remains open to all members of the general public, as a condition of approval the applicant shall include in the required lease restriction a statement that membership shall not be denied to anyone based on race, religion, or gender.

d) Signage

As proposed, significant public use will be available at the subject site. However, no signage proposal has been established. In approving the proposed expansion plan the City required that public access directional signage be installed prior to issuance of any occupancy permit (City's approval, mitigation measure no. 22). However, plans for such signage have not yet been prepared.

The subject site has been available only to private club members since 1948, 47 years. In addition to the history of the site as private, a guard house and gate will remain at the entrance to the site. Although the proposed function of the guard house and gate is to provide assistance and directions to persons arriving at the site, the presence of the guard facility can give the impression that the facility remains private and deter members of the general public from attempting to enter the site.

COASTAL COMMISSION

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The public perception of the site as private is likely to remain even after the public uses become available unless the public is put on notice. One way to assure that the public is aware of the availability of the public use and amenities is signage. Signage visible from both directions of Coast Highway, along with directional signage on-site would assist in making the public aware of the uses available on-site. Without public access signage, the proposed provision of public uses as part of the project may go unnoticed by the general public and the public uses available would likely not receive much public use. Therefore, as a condition of approval, the applicant shall submit, for the review and approval of the Executive Director, a public access signage plan. At a minimum, the signage plan shall provide signs visible from both directions of Coast Highway clearly stating the availability of the public amenities on site, including the public walkway and on-site directional signage.

e) Outdoor Dining

As currently proposed, the project would allow outdoor dining between the restaurant and the bulkhead and between the lounge/bar area and the bulkhead. The area adjacent to the bulkhead is proposed as the public access walkway. If unrestricted outdoor seating to serve restaurant/bar uses is allowed within this area public use of the walkway could be severely restricted or even eliminated. The width of the area between the bulkhead and the building proposed to house the restaurant and lounge/bar, in most areas is able to accommodate some outdoor dining in addition to the public access walkway. However, a clear distinction must be made between the walkway area and the dining area. In order for the walkway to be useful, a minimum of ten feet of clear passage must be devoted exclusively to the public access walkway. The walkway must be adjacent to the bulkhead to assure that public viewing of the marina and bay from the walkway will not be impinged upon. A method to visually distinguish the dining area from the walkway must be employed. This can be accomplished through the use of potted plants or similar mechanism to define the barrier between the walkway and dining area. As a condition of approval, the applicant shall submit, for the review and approval of the Executive Director, a plan which definitively distinguishes between the public access walkway and the area available for outdoor dining.

f) Parking

Section 30252 of the Coastal Act requires, in part, that new development maintain and enhance public access to the coast by providing adequate parking facilities. The subject site is adjacent to Coast Highway which is a major access arterial used by beach goers. Insufficient on-site parking could adversely impact public access by impacting traffic along Coast Highway.

The existing facility provides 376 parking spaces. The proposed project will provide 466 parking spaces. The applicant has submitted a parking analysis prepared by WPA Traffic Engineering, Inc. The parking consultant assessed the parking demand generated by the existing development based upon field surveys. From the field surveys the consultant extrapolated demand ratios based on existing use of the site. Although the development will be expanded, the way the site is used is expected to remain fairly

constant. The parking ratios generated by the parking consultant based on actual use at the site should remain essentially the same. Although the parking ratios remain essentially the same, because of the increased square footage, the total demand will increase.

The parking analysis prepared for the proposed project assumes a certain amount of shared parking. The assumption is reasonable. For example, it is reasonable to assume that hotel patrons are likely to use the on-site dining areas, and that Club patrons may use the athletic facilities and beach area, restaurant or lounge on a single visit. The parking analysis also assumes different peak use periods for certain on-site uses. For example, the small on-site beach would have a daytime peak use, while the restaurant will likely have an evening peak use.

The applicant proposes to charge a fee for on-site parking for members of the public who are not patronizing the on-site commercial establishments (i.e. hotel, restaurant). A validation will be offered with patronage. However, this means that the only people who would be charged a fee are those wishing to stroll along the relatively short public walkway or those who enter the hotel lobby to inquire about the public amenities. This would discourage members of the public from even entering the site and deter public use of the site. To require the casual visitor to pay is not consistent with maximizing public access. Additionally, Assembly Bill 3139 states that dramatically improved public access would be provided at the site. As a condition of approval, the applicant shall state in the required lease restriction, that there will be no charge for general public parking except as associated with special events as described below.

The Balboa Bay Club occasionally hosts major functions such as their annual Chili Cook-Off. These uses create significant increased parking demand. The Club has in the past and plans to continue using certain remote parking locations in conjunction with a shuttle service. The off-site, remote parking locations are owned by the Club (Newport Beach Country Club and Balboa Bay Club Racquet Club). Additionally, the Club has an informal agreement with the Newport Harbor Lutheran Church to provide remote site parking (see exhibit F). However, the Commission does not generally require parking to be provided for the occasional, special event peak use, but rather for the parking expected to be generated from maximum everyday use. The parking consultant finds that the proposed project will generate a parking demand of 465 spaces. 466 spaces are proposed.

However, the EIR indicates that the applicant intends to restrict public access during special events. As described above, such a restriction is inconsistent with maximizing public access. For the same reasons, public parking at the site should not be more restrictive than parking requirements applied to those patronizing special events. During special events general public parking should be allowed on a first-come-first-serve basis until the lot is full. All special events that charge a fee should be equally available to all members of the public. In any case, pedestrian access to the site should not be restricted unless maximum occupancies have been reached. A reasonable fee for special event parking may be allowed. A "reasonable" parking fee is one that does not exceed the parking fee charged at public

beaches in the City. An special condition is necessary to make the applicant aware of the necessity of maintaining the availability of parking at the site during special events.

Therefore, as conditioned, the Commission finds that the proposed development provides adequate parking, as required by Section 30252 of the Coastal Act,

g) Terrace Apartments

Although no work is proposed to the Terrace Apartments as part of this permit, and the apartments are on a separate parcel than the subject site, the two sites are inextricably linked. They are both subject to the same lease. The financing for the improvements proposed in this permit request is to be secured by revenue generated by the apartments. Consequently, the Terrace Apartments should also be discussed at this time. Because no work is proposed at the Terrace Apartment site at this time, provision of access is not being required. However, at such time as the apartment complex is redeveloped or substantially renovated, provision of access shall be considered. A special condition is necessary to inform the applicant that the provision of public access at the adjacent apartment complex site will be considered in the future.

h) Access Conclusion

As conditioned above, the Commission finds that the proposed project is consistent with Section 30210 and 32052 of the Coastal Act regarding public access.

C. Public Views

Section 30251 of the Coastal Act requires, in part, that development be sited and designed to protect views to and along the ocean and scenic coastal areas and where feasible to restore and enhance visual quality in visually degraded areas. The subject site is located on Coast Highway which is designated a scenic corridor. The subject site fronts on Newport Harbor. Currently, no public views exist across the site from Coast Highway to the harbor. However, as proposed the project will incorporate two scenic view corridors. The corridors are proposed to be 150 feet at the eastern property boundary and 110 feet at the entry area. In addition, there will be a distance of 50 feet between the proposed club building and the adjacent Terrace Apartments building.

Parking and an open work gate are proposed within the 150 foot view corridor. A guard gate and parking are proposed within the 110 foot view corridor. Additionally, some landscaping is proposed within the view corridors. Nevertheless, the proposed views from Coast Highway are an improvement over the complete lack of any views to the harbor that exists now. In order to assure that these proposed public views remain viable, there must be an assurance that future development in the designated view corridors will promote and maintain the public view corridors.

COASTAL COMMISSION

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Even less substantial development can result in an adverse impact on the proposed public view corridors. Relatively simple development such as landscaping or fencing could result in the elimination of the public views. However, if conditioned to require Commission review of any future development, only development that is consistent with the continuance of the public view corridors would be permitted. Therefore, as a condition of approval, the applicant shall provide evidence, for the review and approval of the Executive Director, that a lease restriction has been recorded indicating that any future development at the subject site will require an amendment to this permit or a separate coastal development permit. Therefore, as conditioned, the Commission finds that the proposed project is consistent with Section 30251 of the Coastal Act regarding public view.

D. Hazard/Geology

Section 30253(1) of the Coastal Act requires that new development minimize risks to life and property. Additionally, Section 30253(2) states that new development shall:

Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The proposed project includes 13,500 cubic yards of cut. The proposed grading will allow for the proposed subterranean parking level and building foundations. The lower level of the parking structure is proposed at approximately elevation +2, which is approximately eight to ten feet below existing grade.

Proposed excavation will occur below the water table. Excavation of this magnitude could create certain risks including instability and erosion. A Report of Geotechnical Investigation was prepared for the proposed project on February 19, 1990 and updated in a letter dated January 4, 1995. The Geotechnical Investigation finds that "with respect to geologic and seismic hazards, the site is considered as safe as any within the general area." The Geotechnical Investigation includes certain recommendations to increase the degree of stability of the proposed development. The recommendations included in the Geotechnical Investigation address foundations, excavation and slopes, shoring, walls below grade, subdrain, grading and floor slab support.

In order to assure that risks are minimized, the geotechnical consultant's recommendations should be incorporated into the design of the project. As a condition of approval, the applicant shall submit, for review and approval of the Executive Director, grading and foundation plans signed by the consultant indicating that the recommendations contained in the Preliminary Geotechnical Investigation have been incorporated into the design of the proposed project. Therefore, as conditioned, the Commission finds that the proposed project is consistent with Section 30253 of the Coastal Act which requires that geologic risks be minimized and that geologic stability be assured.

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E. Water Quality

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The proposed project will involve excavation adjacent to lower Newport Bay that will require dewatering into the bay. This has the potential to create negative impacts to the quality of the water within the bay.

Section 30412 of the Coastal Act identifies the State Water Resources Control Board and the California regional water quality control boards as the state agencies with primary responsibility for water quality. Review and approval of the proposed project by the CRWQCB is necessary to ensure that negative impacts to water quality will not result. The applicant has submitted a request for approval from the California Regional Water Quality Control Board. As a condition of approval, the applicant shall submit evidence of approval of the proposed project by the CRWQCB prior to Coastal Development Permit issuance. Only as conditioned can the the proposed project be found consistent with Section 30231 of the Coastal Act requiring maintenance and protection of water quality.

F. Prejudice to LCP

Section 30604(a) of the Coastal Act provides that a coastal development permit shall be issued only if the proposed development would not prejudice the ability of the local government having jurisdiction to prepare a local coastal program (LCP) which conforms with, and is adequate to carry out, the Chapter Three policies of the Coastal Act.

The proposed development, as conditioned, is consistent with the certified Land Use Plan land use designation for the site. The proposed development has been conditioned to assure public access, minimize risks, and maintain water quality.

Therefore, the Commission finds that the proposed development, as conditioned, would not prejudice the ability of the City of Newport Beach to prepare a local coastal program consistent with the Chapter Three policies of the Coastal Act.

G. California Environmental Quality Act

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any

COASTAL COMMISSION

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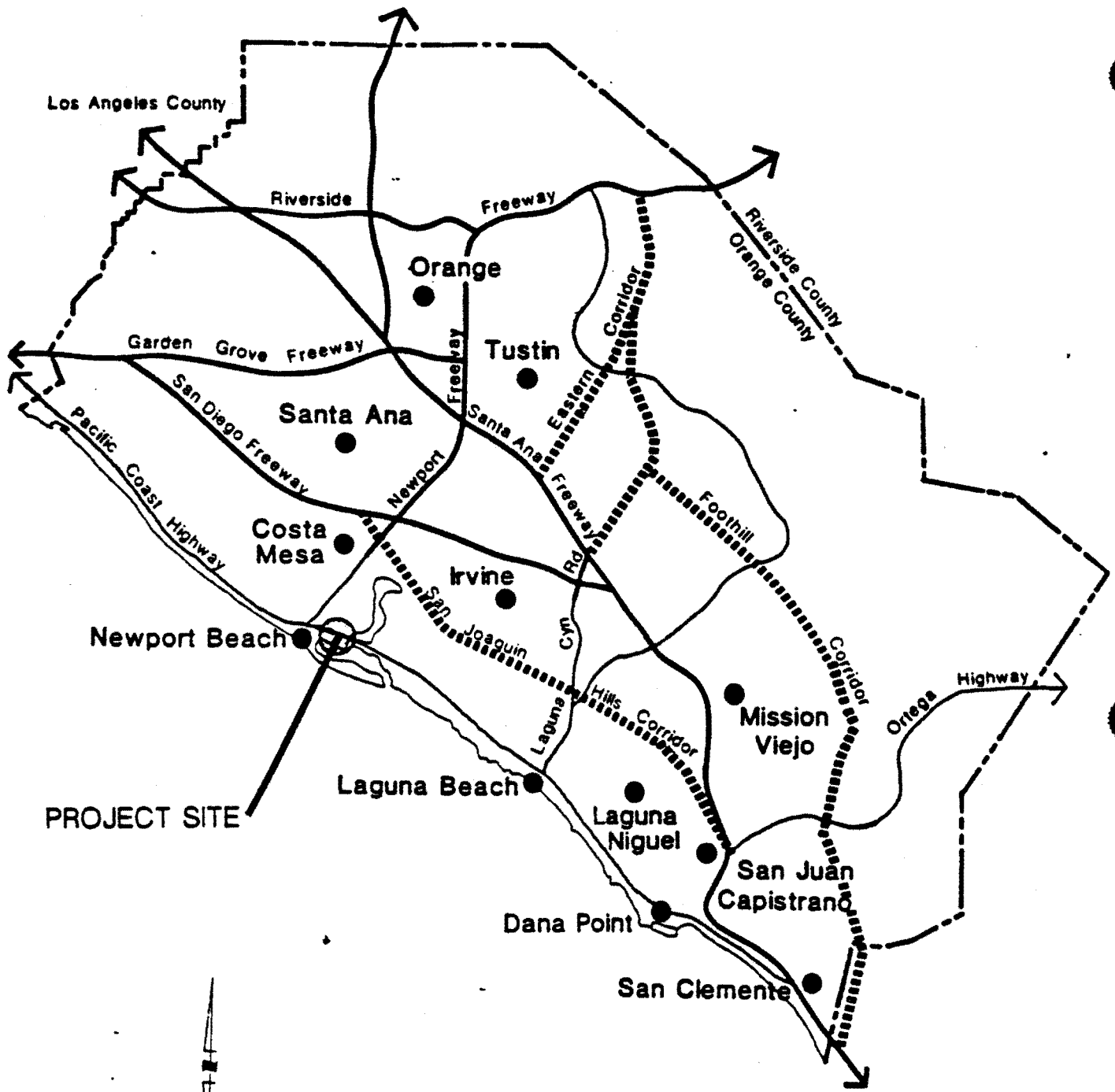
applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the public access, hazard, and water quality policies of the Coastal Act. Mitigation measures including recordation of a lease restriction to assure the continued availability of the proposed public uses, plans signed by the geologic consultant and evidence of Regional Water Quality Control Board approval will minimize all adverse impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.

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COASTAL COMMISSION

EXHIBIT # 4
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PROJECT SITE

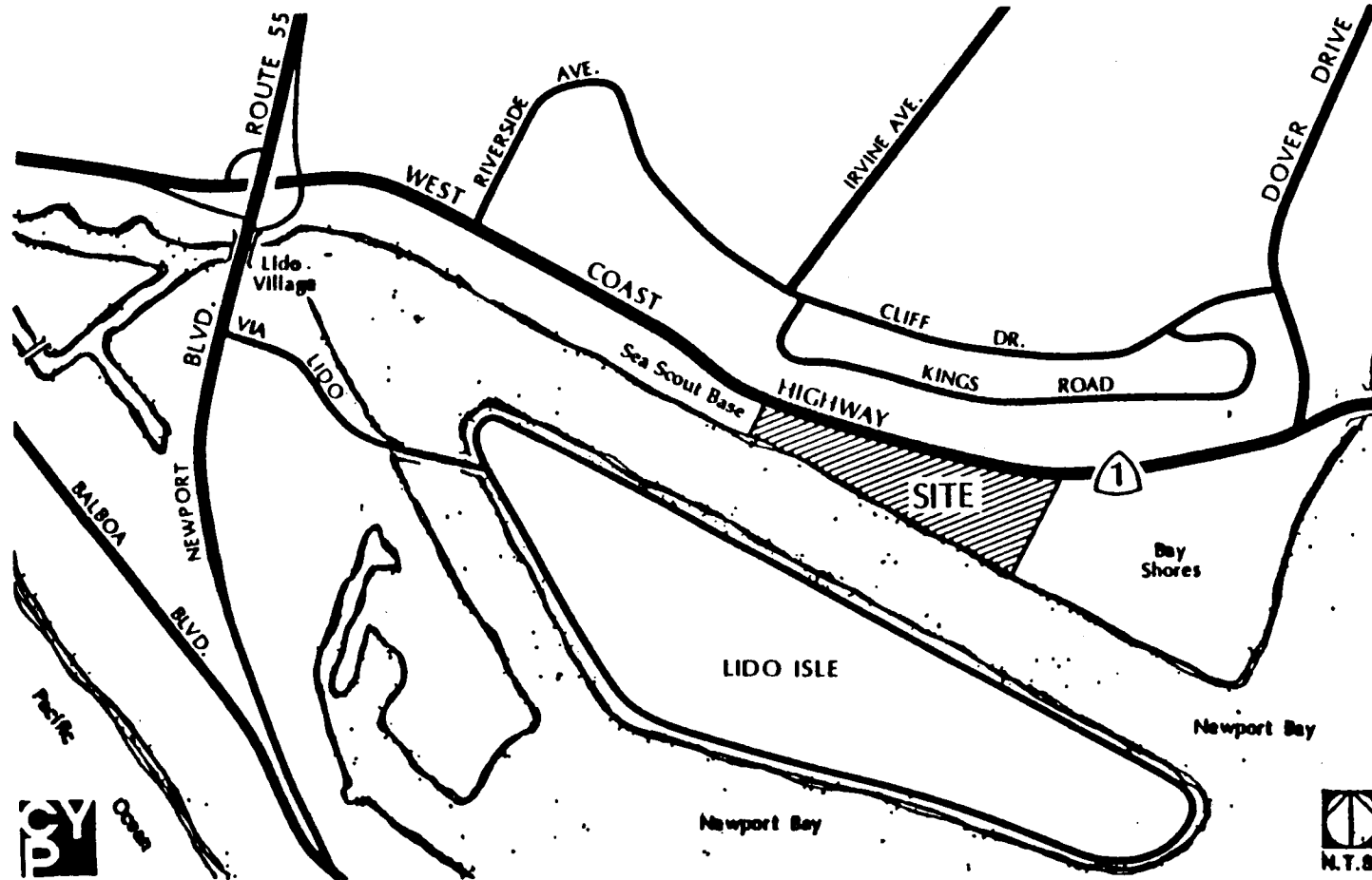
NOT TO SCALE

COASTAL COMMISSION


CULBERTSON, ADAMS & ASSOCIATES
 PLANNING CONSULTANTS

REGIONAL LOCATION
COASTAL COMMISSION

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COASTAL COMMISSION
VICINITY MAP

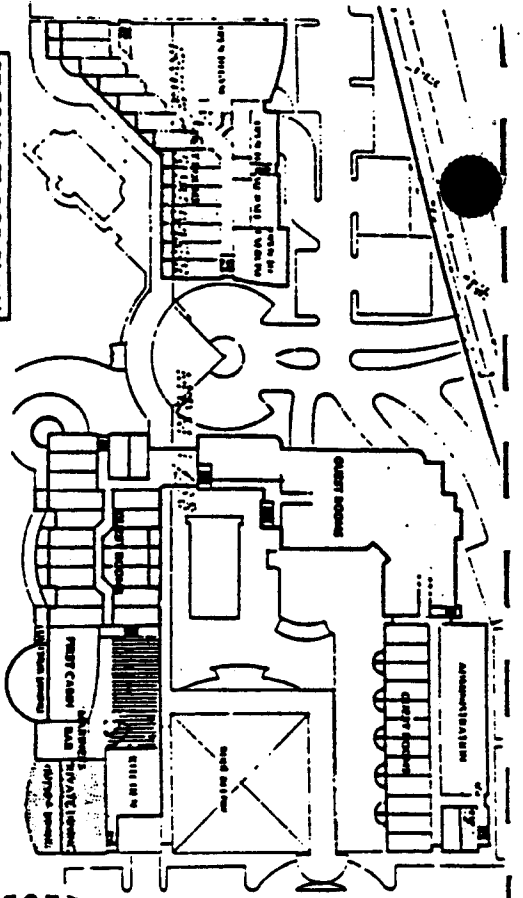
COASTAL COMMISSION

FIGURE # 4

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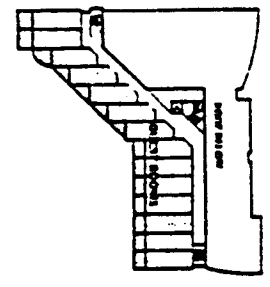


SECOND FLOOR PLAN



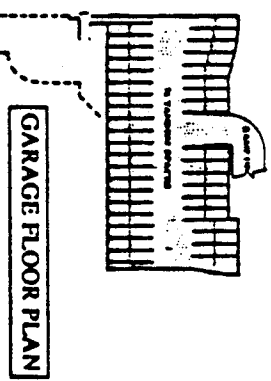
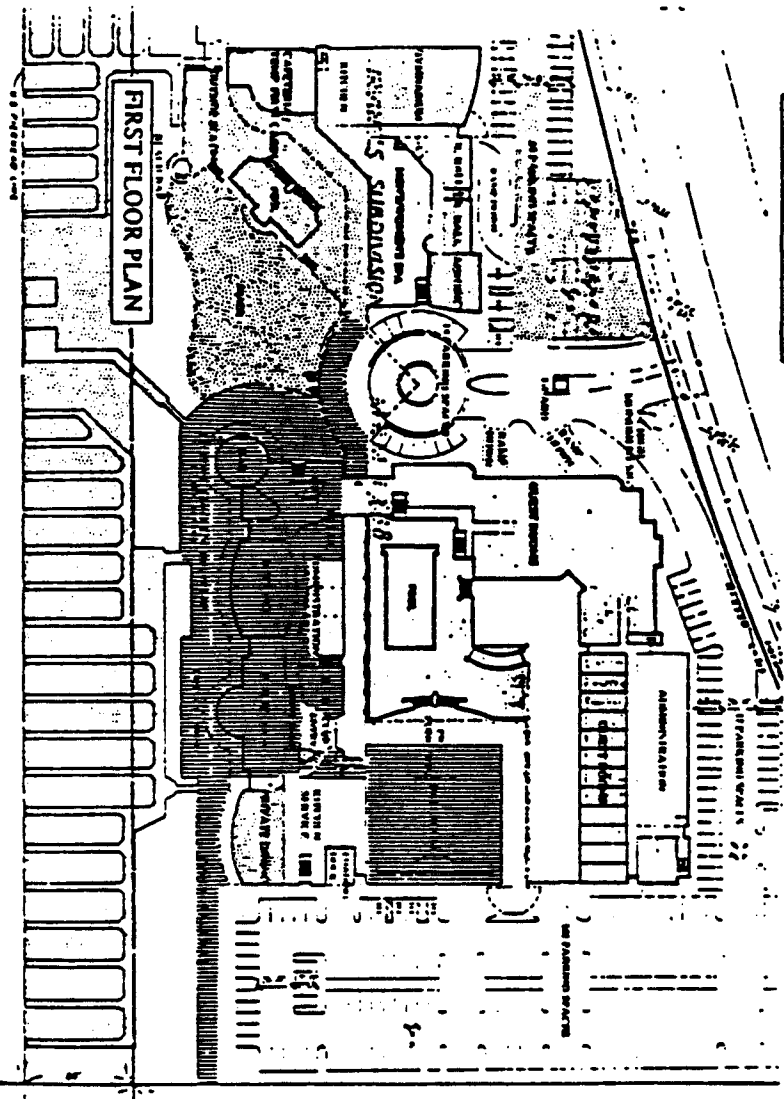
ALL OUTDOOR
PARKING IS OPEN TO
GENERAL PUBLIC
UNLESS OTHERWISE
NOTED




THIRD FLOOR PLAN



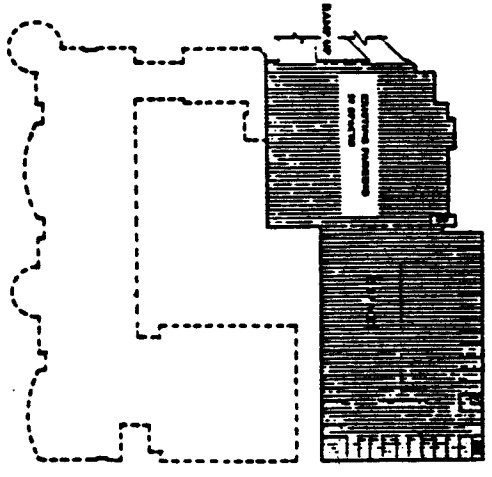
COASTAL COMMISSION

FIRST FLOOR PLAN

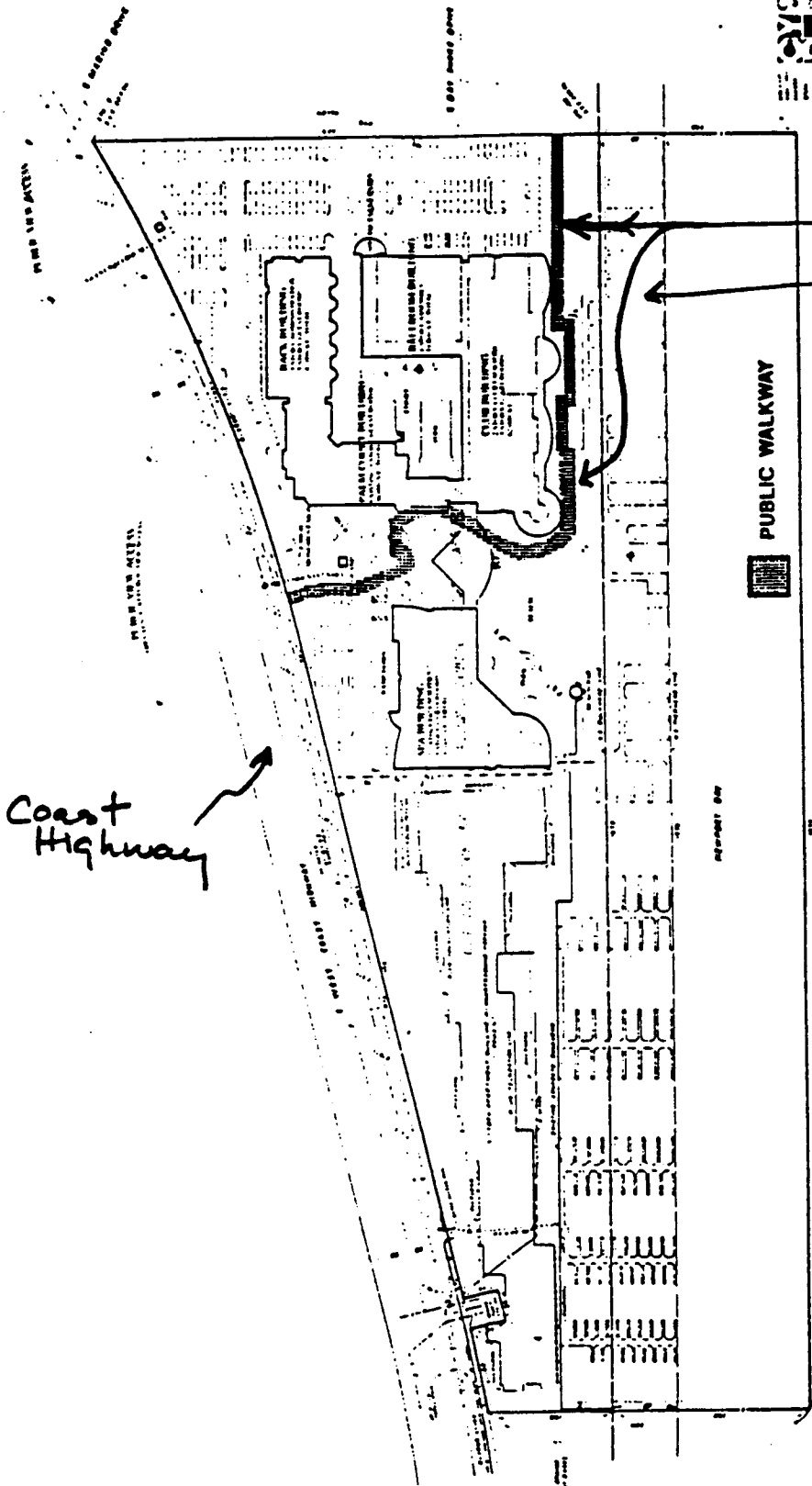


- LEGEND**
-  CLUB MEMBER USE
 -  HOTEL GUEST USE
 -  GENERAL PUBLIC USE

PUBLIC AND PRIVATE USE AREAS



COASTAL COMMISSION
Public + Private
Use Areas



CUBBERLEY INTERNATIONAL

 TRB

PUBLIC ACCESS PLAN

Bulkhead Marine

Coast Highway

PUBLIC WALKWAY

COASTAL COMMISSION
 Public Access
 Walkway
~~EXHIBIT #~~
~~_____~~

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**Table 3
Public and Private Club Amenities**

Building	Club Member	Hotel Guest (Non-Members)	General Public	Staff
Spa Building				
• Gymnasium	✓			
• Racquetball	✓			
• Aerobics	✓			
• Men's/Women's Spa	✓	✓		
• Cafeteria/Temporary 1st Cabin	✓			
• Pool	✓			
• Kitchen				✓
• Beach Bar	✓			
• Outside Seating	✓			
• 24 Guest Rooms	✓			
• Garage Parking	✓			
Palm Court Building				
• 66 Guest Rooms	✓	✓		
• Courtyard	✓	✓		
• Pool	✓	✓		
Back Building				
• Administration				✓
• 33 Guest Rooms	✓	✓		
• Garage Parking	✓	✓	✓	
Ballroom Building				
• Pre-Function Room	✓	✓	✓	
• Ballroom	✓	✓	✓	

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EXHIBIT # 4
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Public + Private
Amenities
EXHIBIT #
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Building	Club Member	Hotel Guest (Non-Members)	General Public	Staff
Club Building				
• Lobby	✓	✓	✓	
• Retail	✓	✓	✓	
• Bar	✓	✓	✓	
• Administration				✓
• Meeting Rooms	✓	✓	✓	
• Public Dining	✓	✓	✓	
• Private Dining	✓			
• Outside Dining	✓	✓	✓	
• Club Entry	✓			
• Front Desk	✓	✓	✓	
• Kitchen Service				✓
• Loading Dock				✓
• 22 Guest Rooms	✓	✓		
• First Cabin	✓	✓		
• Mariner's Bar	✓	✓		
Miscellaneous				
• Club/Resident's Entry	✓			
• Guest/Ballroom Entry	✓	✓	✓	
• Beach	✓			
• Outside Seating	✓	✓	✓	
• Public Walkway	✓	✓	✓	
• Open Parking	✓	✓	✓	
• Marina	✓			

COASTAL COMMISSION

EXHIBIT # 42 4
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EXHIBIT # [REDACTED]
PAGE [REDACTED] OF [REDACTED]

**TABLE 1
PUBLIC ACCESS STATISTICS**

ELEMENT	CURRENT	PROPOSED
Public Bay Frontage Access to Pathways		
Garden	none	150 lineal feet
Hotel	none	330 lineal feet
Entry	none	100 lineal feet
Sub Total	none	580 lineal feet
Club Area	none	200 lineal feet
Total ²	none	780 lineal feet
Buildings and Grounds		
Public Area	none	5.91 acres
Club Area	none	2.34 acres
Total ²	none	8.25 acres

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~~COASTAL COMMISSION
Public Access
Statistics
EXHIBIT # _____
PAGE _____ OF _____~~

² Public Area is 72% of project site EXHIBIT # 4

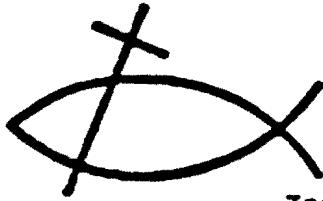
Table 2
Statistical Summary of Proposed Improvements

	Existing	1989 Proposal	Current Proposal
Terrace Apartments			
Units	144	144	144
Square footage	247,402 sq.ft.	247,402 sq.ft.	247,402 sq.ft.
Parking spaces	216	216	216
Building height	55 feet	55 feet	55 feet
Floor area ratio	.45	.45	.45
Club Facilities			
Guest rooms	77,410 sq.ft. (128 rooms)	170,730 (300 rooms max.)	101,400 sq.ft. (145 rooms)
Public assembly area	31,507 sq.ft.	40,469 sq.ft.	36,900 sq.ft.
Administrative	9,462 sq.ft.	11,725 sq.ft.	11,200 sq.ft.
Service area	21,824 sq.ft.	33,588 sq.ft.	21,900 sq.ft.
Athletic facility	13,244 sq.ft.	20,000 sq.ft.	17,600 sq.ft.
Miscellaneous	1,856 sq.ft.	0 sq.ft.	0 sq.ft.
Total	155,303 sq.ft.	275,512 sq.ft.	189,000 sq.ft.
Floor area ratio	.28	.50	.34
Parking spaces	376	532	466
Building height limit	32 ft. avg. (37 ft. maximum)	35 ft. avg. (40 ft. maximum)	35 ft. avg. (40 ft. maximum)
Grand total - building	402,705 sq.ft.	522,914 sq.ft.	436,402 sq.ft.
Total site area	551,034 sq.ft.	551,034 sq.ft.	551,034 sq.ft.
Floor area ratio	.73	.95	.79

COASTAL COMMISSION

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COASTAL COMMISSION
Proposed Project
Statistics
PAGE 6 OF 6



NEWPORT HARBOR LUTHERAN CHURCH

January 31, 1995

Susan Kirlin-Hackett
Bill Kirlin-Hackett
Pastors

Peggy Skeen
Office Manager

William Wells
Minister of Music
and Organist
(714) 548-8004

Dawn Bent
Preschool Director
(714) 548-7198

The Balboa Bay Club
Attn: Henry Schielein
1221 West Coast Highway
Newport Beach CA 92663

Dear Mr. Schielein,

We acknowledge your recent letter and the continuing relationship we have had regarding the use of our parking lot by the Club during the annual Christmas parade as well as at various other times throughout the year.

Let me first confirm our arrangement for the annual parade. Club use may continue with our mutual agreement by letter each January beginning the year of use. This letter confirms such agreement for 1995, with the suggested donation of \$1,250. It is recommended that this donation increase 2% per year, so that in 1996 our January letter will request a donation of \$1,275., and in 1997 a donation of \$1,300.50, and so on.

Further, then, use of our parking lot continues to be available for other occasions by the Club. We request at least thirty (30) days notice and a donation of \$200. per occasion, which is consistent with our parade agreement. Use of the lot will be limited to hours agreed upon orally with either me or Peggy Skeen, up to 24 hours for the same donation of \$200. Use of the lot by regular users, namely, the Church, the Preschool, the Car Spa (up to 20 spaces during the day through 1995), and any Step program group meeting at our facility, will continue. Since the Club generally uses our lot in the late afternoon and evenings, we see no shortage of spaces for your needs. All liability for your guests must also rest with the Club.

If this is in any way unclear or unacceptable, please let me know. We do anticipate a complete resurfacing of our lot during February 1995, which will make for more pleasant and easy usage for all.

Respectfully,

Bill Kirlin-Hackett
COASTAL COMMISSION
Reverend Bill Kirlin-Hackett

798 Dover Drive,
Newport Beach,
California 92663
(714) 548-3631

EXHIBIT # 4
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COASTAL COMMISSION
Off-site Parking
Letter
EXHIBIT # 4
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Display 1993-1994 Bill Text - INFORMATION
BILL NUMBER: AB 3139

BILL TEXT

PASSED THE ASSEMBLY	AUGUST 31, 1994
PASSED THE SENATE	AUGUST 29, 1994
AMENDED IN SENATE	AUGUST 27, 1994
AMENDED IN SENATE	AUGUST 23, 1994
AMENDED IN ASSEMBLY	APRIL 19, 1994

INTRODUCED BY Assembly Member Pringle
(Principal coauthor: Senator Bergeson)

FEBRUARY 23, 1994

An act to amend Section 6 of, and to add Section 4.5 to, Chapter 74 of the Statutes of 1978, relating to tide and submerged lands in the City of Newport Beach.

LEGISLATIVE COUNSEL'S DIGEST

AB 3139, Pringle. Tidelands: Newport Beach.

Existing law grants in trust to the City of Newport Beach all tide and submerged lands, whether filled or unfilled, bordering upon and under the Pacific Ocean or Newport Bay, which were within the corporate limits of the city on July 25, 1919, subject to specified conditions.

This bill would permit a current nonconforming residential use of a specified parcel within that grant to continue to be used for a specified period, subject to specified conditions. The bill would require all money received by the city from that use to be deposited, as prescribed, and to be available for specified purposes. The bill would make related legislative findings and declarations.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 4.5 is added to Chapter 74 of the Statutes of 1978, to read:

Sec. 4.5. (a) The Legislature hereby finds and declares all of the following:

(1) In Section 1 of this act, the Legislature granted certain tide and submerged lands in trust to the City of Newport Beach upon express conditions and for certain public trust uses and purposes, but primarily for the promotion and accommodation of commerce, fishing, and navigation.

(2) Portions of those tide and submerged lands were filled and reclaimed as

COASTAL COMMISSION

COASTAL COMMISSION

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5-94-265
A10 3139

EXHIBIT #

PAGE

BILL TEXT

a result of the implementation in the 1920's of a plan of improvement, including the development of lower Newport Bay as a harbor to promote and accommodate commerce, fishing, recreational boating, and navigation. In addition to those filled tide and submerged lands, an additional parcel, as described in Section 6 of this act, as amended by the act adding this section, hereafter designated Parcel D, has been filled and reclaimed as part of the public project of developing lower Newport Bay as a harbor.

(3) Prior to a judicial determination in 1952 that Parcel D and certain adjoining lands were state tidelands and submerged lands granted to the city pursuant to Chapter 70 of the Statutes of 1927, the legal character of the property was subject to question. In 1948, the city leased Parcel D and adjoining property to a private entity which constructed a private club on the adjoining property and a residential apartment complex of 142 units on Parcel D. The term of that lease was extended in 1986, and the lease requires that the use of Parcel D conform to public trust purposes as of December 31, 1998, in the absence of an act of the Legislature, a judicial determination, or an agreement with the State Lands Commission.

(4) Since 1985, the residential apartment complex on Parcel D has produced substantial income, all of which the city has used to directly promote and support public use of tide and submerged lands held in trust by the city by providing services to those public trust lands, including lifeguards, beach cleanup, police, and fire protection, and by constructing facilities which improve the quality and extent of public use of, and access to, tide and submerged lands.

(5) Private residential use of tide and submerged lands, whether filled or unfilled, is in conflict with the common law public trust and the intent of the Legislature in enacting this act.

(6) Many members of the public have made the apartment complex their residence for many years and have come to look upon the apartments as their permanent home despite the nature of their tenancy.

(7) Parcel D, a relatively small portion of the public trust lands in Newport Bay, has been filled and reclaimed so that it is no longer submerged or below the mean high tide line, is not in its present state usable for public trust uses and purposes, and, given the large amount of public trust lands that the City of Newport Beach makes available to the public, Parcel D may be more valuable as a generator of revenue devoted to the support of public trust purposes than as a parcel used by the public for trust purposes.

(8) Public trust land adjacent to Parcel D has been developed as a private club with extremely limited public access. The current lessee of the private club and Parcel D has proposed, and the city has approved, a redevelopment plan which, if implemented, will allow full public access to the majority of the site currently occupied by the private club and will generate substantially more tideland revenue from existing uses. However, the current lessee will be required to pledge revenue from the apartment complex on Parcel D to secure the financing necessary to implement the redevelopment plan, and any uncertainty regarding the permissible use of Parcel D could impede or prevent redevelopment and postpone, for more than 17 years, the public's right of access to the property.

(b) In view of the potential hardships resulting from the removal of the

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Display 1993-1994 Bill Text - INFORMATION
 BILL NUMBER: AB 3139

BILL TEXT

current tenants on or before December 31, 1998, the economic benefit to the trust from the revenue generated by the continuing use of Parcel D as an apartment complex, the benefits to the public if revenue generated by Parcel D is used to secure the financing necessary to implement the redevelopment plan for the adjoining property, which will dramatically improve public access to tide and submerged lands, the availability of current public facilities and the potential needs for expanded facilities for public trust uses and purposes and in recognition of the facts set forth in paragraphs (2), (3), (4), (5), (6), and (7) of subdivision (a), and in view of the amount of public trust land remaining in Newport Bay that is suitable for public trust use, the current nonconforming residential use of Parcel D may continue for the duration of its useful life, until the structure is removed, until the current or new lease expires, or until five years after expiration of the financing secured by Parcel D revenues, whichever occurs first, but in no event later than December 31, 2044, subject to the requirement that all revenue be devoted to public trust uses and purposes as provided in subdivision (f).

(c) If the city determines that land use, economic conditions, and public needs associated with Parcel D will extend beyond the term of the present lease, the city shall apply to the State Lands Commission for a determination by the commission that the continuation of that nonconforming use for an additional period is in the best interest of the public and in furtherance of public trust purposes. If the commission makes that finding, Parcel D may be leased for residential purposes for an additional period, but in no event beyond December 31, 2044.

(d) The consideration received by the city for any future lease or amendment to the current lease which includes Parcel D shall be the fair market rental value of the real property and improvements, subject to any presently existing contractual obligations during the period the property is used for private purposes.

(e) The form of any future lease or amendment of the current lease involving Parcel D, and the consideration to be received by the city, shall be subject to approval by the State Lands Commission.

(f) (1) Effective July 1, 1995, all money received by the city from the existing lease or any future lease that includes Parcel D shall be deposited in the following trust funds:

(A) Ninety-five percent shall be deposited in a city tidelands trust fund with the revenue available only for purposes consistent with the promotion of public trust uses, including public access, over the remaining tide and submerged lands granted to the city.

(B) Five percent shall be deposited in the Land Bank Fund to be available, without regard to fiscal years, pursuant to subdivision (c) of Section 8625 of the Public Resources Code, for expenditure by the State Lands Commission for purposes of providing necessary state review of management of public trust property as provided by Sections 6301 and 6306 of the Public Resources Code.

(2) Five years after the effective date of any new lease or amendment to the current lease, the revenue percentages shall be modified to provide for the deposit of 90 percent in the city tidelands trust fund as specified in subparagraph (A) of paragraph (1) and 10 percent in the Land Bank Fund as specified in subparagraph (B) of paragraph (1).

(g) Nothing in this act is intended to limit the application of the

COASTAL COMMISSION

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Display 1993-1994 Bill Text - INFORMATION
BILL NUMBER: AB 3139

BILL TEXT

California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code) or the jurisdiction of the California Coastal Commission.

SEC. 2. Section 6 of Chapter 74 of the Statutes of 1978 is amended to read:

Sec. 6. The parcels of real property referred to in this act are described as follows:

PARCEL A

Beginning at Station No. 8 in the Line of Mean High Tide per judgment rendered in Case No. 20436, Superior Court of California, County of Orange, recorded in Book 651, page 72 of Deeds, records of said Orange County, said Station No. 8 being at the easterly terminus of that certain course in said Line of Mean High Tide shown as "North 71(541 002 West, 1573.34 Feet" on a map of Tract No. 4003 recorded in Book 188, pages 13 through 19 of Miscellaneous Maps, records of said Orange County, said beginning being a 11/22 iron pipe as shown on said map of Tract No. 4003; thence along said Line of Mean High Tide, South 85(401 372 East, 606.01 feet to a point in a line parallel with and 100.00 feet easterly from the easterly line of Lot G as shown on a map filed in Book 9, pages 42 and 43 of Record of Surveys, records of said Orange County; thence along said parallel line South 160.46 feet to a point in the Ordinary High Tide Line per judgment rendered in Case No. 24026, Superior Court of California, County of Orange, recorded in Book 199, page 275 of Official Records of said Orange County, said point being the True Point of Beginning of this description; thence along said Ordinary High Tide Line the following courses: North 82(301 002 West, 297.66 feet to an angle point therein; thence South 84(001 002 West, 160.00 feet; thence South 57(001 002 West, 100.00 feet; thence South 32(521 002 East, 243.24 feet to a line that is parallel with and distant 28.00 feet northerly, measured at right angles, from the U.S. Bulkhead Line, as shown on U.S. Engineer's Map of Harbor Lines of Newport Bay, dated March 20, 1936, and approved April 28, 1936; thence leaving said Ordinary High Tide Line and along said parallel line East, 148.00 feet to the southeasterly corner of Lot 19 as shown on a map filed in Book 9, pages 42 and 43 of Record of Surveys, records of said Orange County; thence along the easterly line of said Lot 19 North 100.00 feet; thence East 40.00 feet; thence South 100.00 feet; thence East 198.10 feet to a line parallel with and distant 20.00 feet westerly, measured at right angles from that certain course and southerly prolongation thereof, recited as, "South, 160.46 feet"; thence along said parallel line North 132.00 feet; thence East 20.00 feet; thence North 104.64 feet to the True Point of Beginning of this description.

Containing 2,694 acres, more or less.

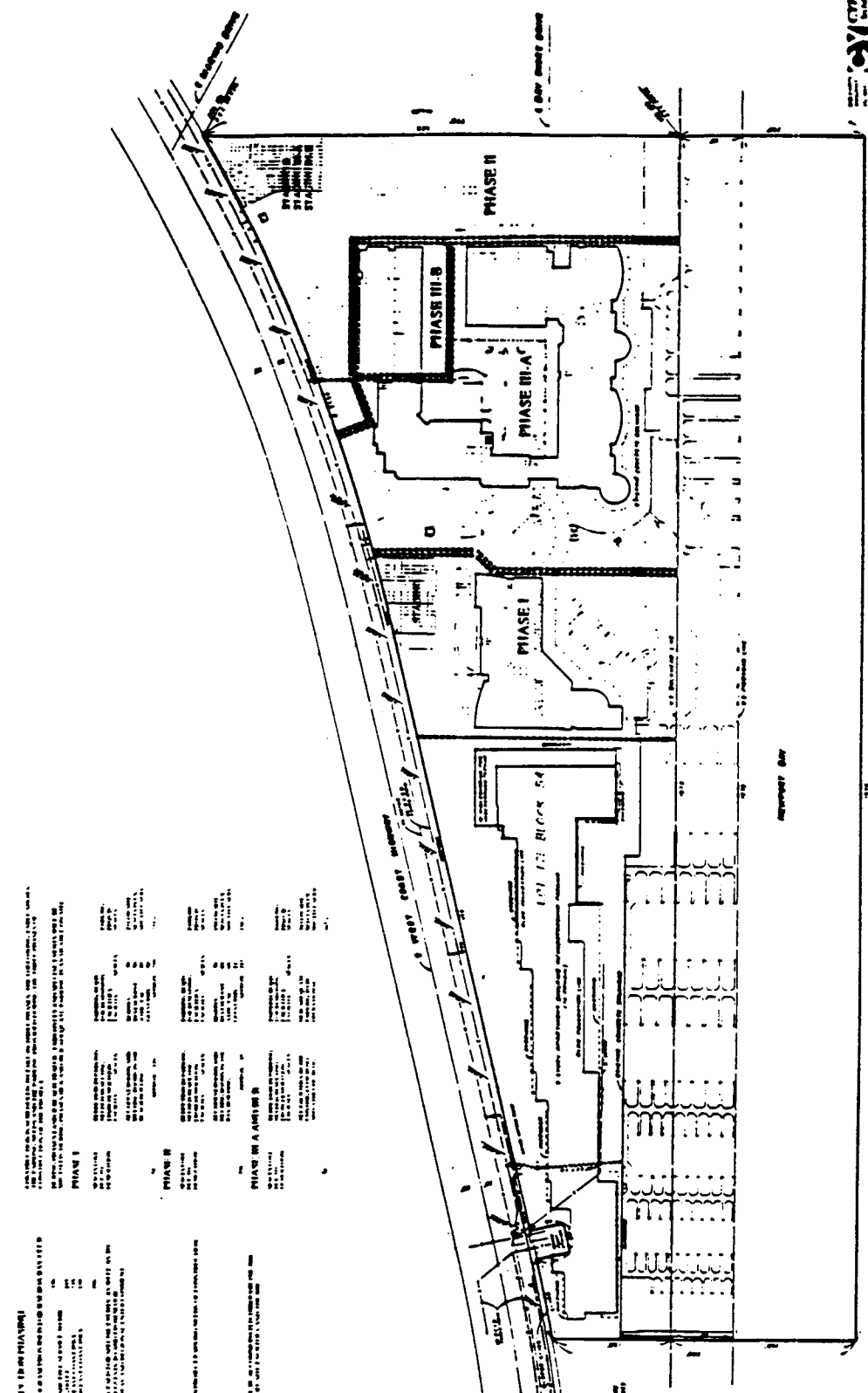
PARCEL B

Beginning at U.S. Bulkhead Station No. 200 as shown on map entitled "Harbor Lines, Newport Bay Harbor, California," Sheet 1 of 2 of File Map No. 958, dated March 20, 1936, and approved April 28, 1936, and on file in the office of the U.S. Engineer, Los Angeles, California, also being on the Ordinary High Tide Line per judgment rendered in Case No. 24026, Superior Court of California, County of Orange, recorded in Book 199, page 275 of Official Records of said Orange County, said beginning being a 22 iron pipe as shown on

COASTAL COMMISSION

EXHIBIT # 4
PAGE 29 OF 32

~~EXHIBIT I~~



PHASE I	PHASE II	PHASE II-A	PHASE II-B
<p>PHASE I</p> <p>1. 100 FT ROCK RIG</p> <p>2. 100 FT ROCK RIG</p> <p>3. 100 FT ROCK RIG</p> <p>4. 100 FT ROCK RIG</p> <p>5. 100 FT ROCK RIG</p> <p>6. 100 FT ROCK RIG</p> <p>7. 100 FT ROCK RIG</p> <p>8. 100 FT ROCK RIG</p> <p>9. 100 FT ROCK RIG</p> <p>10. 100 FT ROCK RIG</p>	<p>PHASE II</p> <p>1. 100 FT ROCK RIG</p> <p>2. 100 FT ROCK RIG</p> <p>3. 100 FT ROCK RIG</p> <p>4. 100 FT ROCK RIG</p> <p>5. 100 FT ROCK RIG</p> <p>6. 100 FT ROCK RIG</p> <p>7. 100 FT ROCK RIG</p> <p>8. 100 FT ROCK RIG</p> <p>9. 100 FT ROCK RIG</p> <p>10. 100 FT ROCK RIG</p>	<p>PHASE II-A</p> <p>1. 100 FT ROCK RIG</p> <p>2. 100 FT ROCK RIG</p> <p>3. 100 FT ROCK RIG</p> <p>4. 100 FT ROCK RIG</p> <p>5. 100 FT ROCK RIG</p> <p>6. 100 FT ROCK RIG</p> <p>7. 100 FT ROCK RIG</p> <p>8. 100 FT ROCK RIG</p> <p>9. 100 FT ROCK RIG</p> <p>10. 100 FT ROCK RIG</p>	<p>PHASE II-B</p> <p>1. 100 FT ROCK RIG</p> <p>2. 100 FT ROCK RIG</p> <p>3. 100 FT ROCK RIG</p> <p>4. 100 FT ROCK RIG</p> <p>5. 100 FT ROCK RIG</p> <p>6. 100 FT ROCK RIG</p> <p>7. 100 FT ROCK RIG</p> <p>8. 100 FT ROCK RIG</p> <p>9. 100 FT ROCK RIG</p> <p>10. 100 FT ROCK RIG</p>

COASTAL COMMISSION
5-94-265

COASTAL COMMISSION

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EXHIBIT # 4
PAGE 30 OF 32

TH 15a

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
245 W. BROADWAY, STE. 380
P.O. BOX 1450
LONG BEACH, CA 90802-4416
(310) 590-5071



staff report attached

DATE: March 3, 1995
TO: Commissioners and Interested Persons
FROM: South Coast District Staff
SUBJECT: Commission Meeting of March 9, 1995, Item 15a, Application No. 5-94-265 (Balboa Bay Club), Newport Beach, Orange County.

1. Changes to Special Conditions

The following changes should be made to the special conditions. The changes are a result of clarifications from the applicant.

Change Special Condition 1e to read as follows:

e) No hotel rooms in phase III-A (as identified in Exhibit J) of the proposed project designated for use by the general public shall be converted to private membership use.

Change Special Condition 3, Signage Program, to read as follows:

Prior to issuance of the coastal development permit the applicant shall submit, for the review and approval of the Executive Director, a signage program which indicates the availability of the on-site public amenities. At a minimum the signage program shall include:

- a) Signage which is clearly visible to motorists traveling in either direction along Coast Highway, indicating that the public is welcome;
- b) Signage which is clearly visible to pedestrians on Coast Highway listing the on-site amenities available to the public;
- c) Informational and directional signage to be placed throughout the site informing the public of the on-site public amenities.

Change Special Condition No. 9 to read as follows:

Prior to issuance of the coastal development permit the applicant shall submit, for the review and approval of the Executive Director, a construction phasing plan which shall accomplish the following:

- a) Within 6 (six) months of occupancy of Phase I, the applicant shall either:
 - 1) open the area shown for "general public use" in Exhibit C of this staff report to the general public;

or

COASTAL COMMISSION

EXHIBIT # 4
PAGE 31 OF 32

2) commence construction of Phases II, III-A, and III-B (as identified in Exhibit J) in sequence.

b) The phasing plan shall also include the phasing of public parking.

c) The phasing plan shall identify any necessary closure of the public walkway or restaurant and include a time frame for the commencement and completion of the public amenities.

Construction phasing shall be carried out in a manner consistent with the approved phasing plan.

2. Addition of Exhibit J

Additionally, the attached exhibit should be included in the staff report as Exhibit J. This exhibit identifies the phases of construction of the proposed development.

3. Correction in Staff Report Findings

Finally, as originally proposed, 28 of the 145 hotel guest rooms were to be available for first right of refusal to Club members. If Club members had no need for them, they were to be made available to the general public. However, these 28 rooms are to be located within the proposed Spa Building which is in the portion of the project available only to private club members. The applicants have clarified that the 28 rooms will not be made available to the general public. However, should Club members have no need for any or all of the 28 rooms, they will be offered for use in conjunction with events such as conventions and weddings held at the hotel facility.

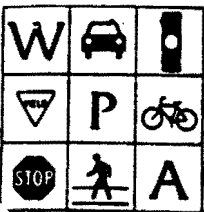
Consequently, the following change should be made on page 7 of the staff report. Paragraph 6 should be replaced with the following:

The proposed project includes an increase in the number of guest rooms from 128 to 145. Of the proposed 145 rooms, 28 will be reserved for use by Club members. These 28 rooms are to be located within the proposed Spa Building. Should Club members have no need for any or all of the 28 rooms, they will be offered for use in conjunction with events such as conventions and weddings held at the hotel facility. A restaurant and cocktail lounge will be reserved for the private use of Club members. Currently, the facility provides 376 parking spaces. The proposed project will provide 466 parking spaces. Of the 466 parking spaces, 76 are to be reserved for club members and valet parking only.

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EXHIBIT # 4
PAGE 32 OF 32



WPA Traffic Engineering, Inc.

TRAFFIC & TRANSPORTATION ENGINEERING

September 29, 1999

Mr. Phil Martin
Culbertson, Adams & Associates
85 Argonaut, Suite 220
Aliso Viejo, CA 92656

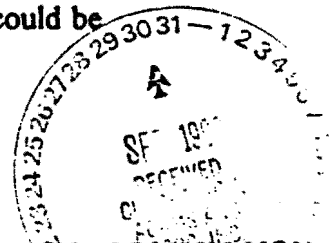
SUBJECT: BALBOA BAY CLUB

Dear Mr. Martin:

This letter is in response to comments received from the California Coastal Commission relative to parking for the subject project. In general, all of the concerns were addressed in our study for the previous EIR and dated November 10, 1993.

The following are responses to specific questions.

- Table A provides a summary of parking requirements for the project based upon our previous analysis. A copy of the page describing the basis for the analysis is attached. Since the planned supply is 498 spaces, the plan was deemed to be adequate. As indicated in the previous study, there are additional spaces available in the Terrace Apartments area which could be utilized for any, unusual peak condition.



COASTAL COMMISSION
5-94-265 AL-P...
Page 1 of 4
EXHIBIT # 5

TABLE A

PARKING ANALYSIS

Balboa Bay Club

LAND USE	RATIO ⁽¹⁾	QUANTITY ⁽²⁾	SPACE
Hotel	0.8 Spaces/Room	29 Rooms	23
Assembly	1.0 Space/80 SF	6,460 SF	81
Subtotal			104
Previous Demand ⁽¹⁾			384
Total			488

(1) Source: "Balboa Bay Club EIR - Traffic Study" - WPA Traffic Engineering, Inc., November 10, 1993, Page 12.

(2) Increase from previous analysis.

COASTAL COMMISSION
5-94-265 A1 PARKING

EXHIBIT # 5
PAGE 2 OF 4

- It is understood that all spaces except those reserved for employees would be available for public use. These spaces are distributed throughout the site as indicated on the Site Plan.

We trust that these responses will be of assistance. If you have any questions or require additional information, please contact us.

Respectfully submitted,
WPA TRAFFIC ENGINEERING, INC.


 Weston S. Pringle, P.E.

WSP:jd
 #880844

Attachment

PARKING

Proposed Parking

Field studies were conducted by our firm in 1988 to observe parking characteristics at the Balboa Bay Club, as a part of a traffic study prepared for Culbertson, Adams & Associates, dated December 4, 1990. The facility was subdivided into seven subareas, which included the Terrace Apartments parking area and curb parking along Coast Highway. That study indicated that the peak parking demand, excluding the Terrace Apartments area and including the curb parking, was 384 vehicles. These counts are being used for this study due to the fact that there have been no significant changes to the Balboa Bay Club since the count in 1988.

As shown previously in Table 1, the hotel facility would expand from the existing 128 rooms to 145 rooms. Typical hotel parking requirements are 0.5 to 0.8 parking spaces per room. (These ratios were utilized in the previous study.) The increase of 17 rooms would then equate to a need for nine to 14 additional parking spaces.

The Assembly area of the project includes restaurants, lounges, ballroom, meeting rooms, retail and lobby/circulation areas. These are proposed to increase by 5,393 square feet from 31,507 to 36,900 square feet. In the previous study, a ratio of one space per 80 square feet was applied to these uses. For the 5,393 square feet, an additional 67 parking spaces would be required.

As in the previous analysis, increased areas for administration, service, and athletics are not expected to significantly increase parking demands, but to better serve existing members and guests.

The total increase would then be a maximum of 81 spaces. When this is added to the existing maximum of 384 spaces, a total demand of 465 is obtained. This is slightly less than the proposed supply of 466, so the plan would be adequate. Table 8 summarizes the various parking needs analysis.

COASTAL COMMISSION
5-94-265 A1 PARKING

EXHIBIT # 5
PAGE 4 OF 4



Winston H. Hickox
Secretary for
Environmental
Protection

State Water Resources Control Board

Division of Water Quality

901 P Street • Sacramento, California 95814 • (916) 657-0903
Mailing Address: P.O. Box 1977 • Sacramento, California • 95812-1977
FAX (916) 657-1011 • Internet Address: <http://www.swrcb.ca.gov>



Gray Davis
Governor

November 05, 1999

DAVE WOOTEN
INTERNATIONAL BAY CLUBS INC
1221 WEST COAST HWY
NEWPORT BEACH, CA 92663

RECEIPT OF YOUR NOTICE OF INTENT

The State Water Resources Control Board (State Water Board) has received and processed your NOTICE OF INTENT TO COMPLY WITH THE TERMS OF THE GENERAL PERMIT TO DISCHARGE STORM WATER ASSOCIATED WITH CONSTRUCTION ACTIVITY. Accordingly, you are required to comply with the permit requirements.

Your WID identification number is: 8 30S312022. Please use this number in any future communications regarding this permit.

SITE DESCRIPTION

<p>OWNER: INTERNATIONAL BAY CLUBS INC DEVELOPER: SNYDER LANGSTON COUNTY: ORANGE SITE ADDRESS: 1221 WEST COAST HWY NEWPORT BEACH, CA 92663 COMMENCEMENT DATE: 7/15/00 EST. COMPLETION DATE: 6/1/02</p>

When construction is complete or ownership has been transferred, dischargers are required to notify the Regional Water Board by submitting a Notice of Termination (NOT). All State and local requirements must be met in accordance with Special Provision No. 7 of the General Permit. I have enclosed a NOT for your future use. If you do not notify the State Water Board that construction activity has been completed you will continue to be invoiced for the annual fee each October.

If you have any questions regarding permit requirements, please contact your Regional Water Board at (909) 782-4130.

Sincerely,

A. Shimizu

Audrey Shimizu
Storm Water Unit
Division of Water Quality

Enclosure

COASTAL COMMISSION

5-94-265A1 SW

California Environmental Protection Agency



EXHIBIT # 6
PAGE 1 OF 2

State Water Resources Control Board



Winston H. Hickox
Secretary for
Environmental
Protection

Division of Water Quality
901 P Street • Sacramento, California 95814 • (916) 657-0757
Mailing Address: P.O. Box 1977 • Sacramento, California • 95812-1977
FAX (916) 657-1011 • Internet Address: <http://www.swrcb.ca.gov>



To: Storm Water Permit Holder

RE: NOTICE OF TERMINATION OF COVERAGE UNDER THE GENERAL
CONSTRUCTION STORM WATER PERMIT (GENERAL PERMIT)

In order for us to terminate your coverage under the General Permit, please complete and submit the enclosed Notice of Termination (NOT) to the Regional Board which has the jurisdiction over your site. Refer to the last page of an NOT packet for Regional Board locations.

Please note that you are subject to the annual fee until you file a NOT with the Regional Board and the Regional Board approves your NOT.

Should you have any questions regarding this matter, feel free to contact either the Regional Water Board at the number listed on the back page of the NOT package, or the Storm Water Unit at (916) 657-0757.

Sincerely,

Audrey Shimizu
Storm Water Unit
Division of Water Quality

Enclosure

COASTAL COMMISSION
5-94-265 A1 SWRCB

EXHIBIT # 6
PAGE 2 OF 2



California Regional Water Quality Control Board Santa Ana Region



Inston H. Hickox
Secretary for
Environmental
Protection

Gray Davis
Governor

RECEIVED
South Coast Region

NOV 22 1999

Internet Address: <http://www.swrcb.ca.gov>
3717 Main Street, Suite 500, Riverside, California 92501-3339
Phone: (909) 782-4130 or FAX (909) 781-6288

November 19, 1999
CALIFORNIA COASTAL COMMISSION
Dave Wooten, President
International Bay Clubs, Inc.
1221 W. Coast Highway
Newport Beach, CA 92663

Post-it [™] Fax Note 7671		Date 11/19/99	# of pages 4
To Phil Martin	From Susan Beeson		
Co./Dept.	Co.		
Phone #	Phone #		
Fax # 949-581-3599	Fax #		

WASTE DISCHARGE REQUIREMENTS, ORDER NO. 98-67, NPDES NO. CAG998001 (DE MINIMUS DISCHARGES), INTERNATIONAL BAY CLUBS, INC., BALBOA BAY CLUB, 1221 WEST COAST HIGHWAY, NEWPORT BEACH, ORANGE COUNTY

Dear Mr. Wooten:

On November 3, 1999, you submitted a Notice of Intent to discharge groundwater associated with the expansion of the Balboa Bay Club at the above-referenced site under the terms and conditions of Regional Board's general permit, Order No. 98-67.

Effective immediately, you are authorized to discharge groundwater resulting from this project to a nearby storm drain under the terms and conditions of Order No. 98-67. Enclosed is Monitoring and Reporting Program No. 98-67-072 which specifies the frequency of sampling and constituents that must be monitored.

Order No. 98-67 will expire on July 1, 2003. However, if you wish to terminate coverage under this general permit prior to that time, please notify us immediately upon project completion so that we can rescind this authorization and avoid billing you an annual fee of \$400.00

If you have any questions regarding the permit or the monitoring and reporting program, please contact Wanda Smith at (909) 782-4468 or Susan Beeson at (909) 782-4902.

Sincerely,

Gerard J. Thibeault
Executive Officer

Enclosure: Monitoring and Reporting Program No. 98-67-072

cc w/enc: URS Greiner Woodward Clyde - Robert Collacott

cc w/o enc: U.S. EPA, Region IX - Terry Oda (WTR-5)
SWRCB, DWQ - John Youngerman

COASTAL COMMISSION
5-94-265A1 RWA

California Environmental Protection Agency



EXHIBIT # 7
PAGE 1 OF 4

California Regional Water Quality Control Board
Santa Ana Region

Monitoring and Reporting Program No. 98-67-072
for
International Bay Clubs, Inc.

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CALIFORNIA
COASTAL COMMISSION

I. Monitoring and Reporting Requirements

1. All monitoring reports, or information submitted to the Regional Board shall be signed and certified in accordance with CFR 122.22
2. All sampling, sample preservation, and analysis shall be performed in accordance with the latest edition of 40 CFR Part 136 "Guidelines Establishing Test Procedures for the Analysis of Pollutants", promulgated by the United States Environmental Protection Agency, unless otherwise noted. In addition, the Board and/or EPA, at their discretion, may specify test methods which are more sensitive than those specified in 40 CFR 136.
3. Whenever the discharger monitors any pollutant more frequently than is required by this general permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the discharge monitoring report specified by the Executive Officer.
4. The discharger shall assure that records of all monitoring information are maintained and accessible for a period of at least five years from the date of the sample, report, or application. This period of retention shall be extended during the course of any unresolved litigation regarding this discharge or by the request of the Board at any time. Records of monitoring information shall include:
 - a. The date, exact places, and time of sampling or measurements;
 - b. The individual(s) who performed the sampling, and/or measurements;
 - c. The date(s) analyses were performed;
 - d. The individual(s) who performed the analyses;
 - e. The analytical techniques or methods used;
 - f. All sampling and analytical results;
 - g. All monitoring equipment calibration and maintenance records;
 - h. All original strip charts from continuous monitoring devices;
 - i. All data used to complete the application for this general permit, and;
 - j. Copies of all reports required by this general permit.

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South Coast Region

NOV 22 1999

CALIFORNIA
COASTAL COMMISSION

M&RP 98-67-072, NPDES No. CAG998001
International Bay Clubs, Inc., Balboa Bay Club, Newport Beach

II. Effluent Monitoring

1. A sampling station shall be established for the point of discharge where representative samples of the discharge can be obtained before the discharge mixes with the receiving waters.
2. The following shall constitute the effluent monitoring program:

Constituent	Type of Sample	Units	Minimum Frequency of Sampling and Analysis
Flow	----	gpd	Daily
Sulfides	Grab	mg/l	Once per discharge event and then weekly thereafter for continuous discharges
Total Inorganic Nitrogen	Grab	mg/l	Once per discharge event and then weekly thereafter for continuous discharges
Suspended Solids	Grab	mg/l	Once per discharge event and then weekly thereafter for continuous discharges
Total Residual Chlorine ¹	Grab	mg/l	Once per discharge event and then weekly thereafter for continuous discharges

III. Reporting

1. Five days prior to the discharge, the discharger shall notify the Regional Board staff by phone or by a fax letter indicating the date and time of the proposed discharge.
2. The results of the above analyses shall be reported to the Regional Board within 24 hours of finding any discharge that is in violation of any provision of the Order.
3. Monitoring reports shall be submitted by the 30th day of each month. The monitoring reports shall cover the previous month's monitoring activities and shall include:
 - a. The results of all laboratory analyses for constituents required to be monitored (see Section II., above),
 - b. The daily flow data,
 - c. A summary of the discharge activities (when and where discharge occurred, description of type of discharge, etc.) including a report detailing the discharger's compliance or noncompliance with the requirements of the general permit and discharge authorization letter, and

¹ If chlorine is used for treatment or disinfection of wastes.


COASTAL COMMISSION
5-94-265 A1 RW00

EXHIBIT # 7
PAGE 3 OF 4

M&RP 98-67-072, NPDES No. CAG998001
International Bay Clubs, Inc., Balboa Bay Club, Newport Beach

Page 3 of 3

- d. For every item where the requirements of the general permit and discharge authorization letter are not met:
 - (1) A statement of the actions undertaken or proposed which will bring the discharge into full compliance with requirements at the earliest time, and
 - (2) A timetable for implementing the proposed actions.
- e. If no discharge occurs during the previous monitoring period, a letter to that effect shall be submitted in lieu of a monitoring report.
- 4. Upon completion of the project, the discharger shall notify the Executive Officer of the Regional Board in writing about cessation of the discharge and request for termination of coverage under the permit.
- 5. All reports shall be signed by a responsible officer or duly authorized representative of the discharger and shall be submitted under penalty of perjury.

Ordered by 
 Gerard J. Thibeault
 Executive Officer

November 19, 1999

COASTAL COMMISSION
5-94-265A1 RNQCB

EXHIBIT # 7
PAGE 4 OF 4

