

CALIFORNIA COASTAL COMMISSION

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RECORD PACKET COPY

Filed: March 29, 2000
49th Day: May 17, 2000
180th Day: September 25, 2000
Staff: ALK-LB
Staff Report: April 20, 2000
Hearing Date: May 9-12, 2000
Commission Action:

Item Tu 19k**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NUMBER: 5-00-123

APPLICANT: City of Newport Beach Community Services Department

AGENT: Michelle Perrenoud, Recreation Manager

PROJECT LOCATION: On the beach at 1780 Balboa Boulevard, City of Newport Beach (Orange County)

PROJECT DESCRIPTION: Installation of a 5' high x 40' long x 8' wide two-tier storage rack for placement of sailboats and equipment for use by city recreation programs open to the public.

LOCAL APPROVALS RECEIVED: City of Newport Beach Approval-in-Concept no. 0686-00

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach Certified Land Use Plan; Coastal Development Permit Waiver 5-99-402 (LA County Department of Beaches and Harbors) and Coastal Development Permit 5-97-135 (LA County Department of Beaches and Harbors).

SUMMARY OF STAFF RECOMMENDATION:

The applicant proposes to install a removable storage rack for sailboats and equipment on the beach at the harbor side of the Balboa Peninsula in the City of Newport Beach.

Staff recommends **APPROVAL** of the proposed development subject to three (3) special conditions which require 1) regular maintenance, 2) removal of the storage rack if damaged by wave activity, and 3) notification of coastal development permit requirements for any improvements or change in intensity of use of the site. The major issue of this staff report is public access and recreation.

At the time of this staff report, the applicant has indicated acceptance of the special conditions.

STAFF RECOMMENDATION:

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

MOTION:

I move that the Commission approve CDP #5-00-123 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 the Commissioners present.

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, is located between the nearest public road and the sea and is in conformity with the public access and public recreation policies of the Coastal Act, 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. Regular Maintenance

- A. The permittee shall maintain the storage rack approved by CDP 5-00-123 in good repair and functionality for the life of the structure.

2. Removal of Storage Rack

In the event that the storage rack is substantially damaged by natural marine forces (e.g. wave activity, flooding, etc.), the permittee shall remove the structure and any associated debris and return the site to prior conditions.

3. Future Improvement

This coastal development permit 5-00-123 is only for the development, located at 1780 Balboa Boulevard West, County of Orange, as expressly described and conditioned herein. Any future improvements or development as defined in Section 30106 of the Coastal Act, including an increase in square footage, modifications to the structure, or any other change in the intensity of use of the property, shall require an amendment to this permit or a new coastal development permit from the Coastal Commission or its successor agency.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND LOCATION

The City of Newport Beach Community Services Department is proposing to install a sailboat storage rack on the beach at 1780 Balboa Boulevard West in the City of Newport Beach, Orange County (Exhibits 1 and 2). The project site is located on the harbor side of the Balboa Peninsula. The proposed site is a partially sandy area that supports a sparse volunteer growth of grass, iceplant and weeds.

The subject site is bound to the south by the Newport Marina Mobile Home Park. A chain link fence, hedge and elevated walkway separate the proposed storage rack from the mobile homes. To the west and southwest is a public beach and municipal parking lot, respectively. To the east is an approximately half mile stretch of public beach.

The proposed two-tier storage rack will measure 5' high by 40' long x 8' wide. The structure will be built of wood and shear panels connected with galvanized metal pieces. The foundation will be made of plywood supported approximately one (1) foot above the sand by ten (10) standoff post base footings posted in cement approximately 3' deep (Exhibit 3). The rack is designed to be removable. All wood will be weather-treated to withstand exposure.

The proposed racks will be used to store City-owned Sabot sailboats and related equipment. The sailboats and equipment will be secured with pad locks and metal rods. The proposed storage

structure will serve recreational sailing programs administered by the City of Newport Beach. These instructional classes are available to the public.

The proposed project will not impede public access to, or current use of, the beach in the subject area as the rack will be sited in a remote segment of the beach. The remainder of the approximately 70' wide beach will remain available to the public. Vertical public access to the Newport Harbor is available at the terminus of 18th Street, directly adjacent to the project site.

B. DEVELOPMENT

1. Coastal Act Policies

As defined by Section 30106 of the Coastal Act, "development" means change in the density or intensity of use of land or construction, reconstruction, demolition, or alteration of the size of any structure. The proposed project involves the construction of a small accessory structure and a change in land use from a sandy beach to a sailboat equipment storage rack. Therefore, due to the proposed construction and change in land use, the current project is considered development by Commission standards.

Section 30252 of the Coastal Act requires that new development should maintain and enhance public access to the coast. It states, in relevant part:

The location and amount of new development should maintain and enhance public access to the coast...

Section 30255 of the Coastal Act requires coastal-dependent uses to have priority over other developments and encourages the siting of coastal-related development near the coastal-dependent uses they support.

Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.

Section 30213 of the Coastal Act requires that lower cost visitor and recreational facilities be protected, encouraged and where feasible, provided. It states:

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

2. City of Newport Beach Land Use Plan Policies

The "New Development" section of the City of Newport Beach Certified Land Use Plan (LUP) contain policies regarding visitor-serving and facilities and coastal dependant uses. However, until such time as the City's Implementation Plan (IP) is approved and the Local Coastal Program (LCP) has been certified by the Commission, the Chapter Three policies of the Coastal Act are applied as the standard of review.

Visitor Serving Facilities Policies

Policy No. 3 states, in pertinent part:

... the City shall encourage and protect both public and private water-oriented recreational and entertainment facilities as a means of providing public access to the waterfront."

Policy No. 12. states,

The City of Newport Beach shall protect and encourage the maintenance of lower-cost commercial visitor serving facilities.

Coastal-Dependant Uses Policies

Policy No. 1 states:

Coastal-dependent developments shall have priority over other developments on or near the shoreline. Coastal-dependent uses shall be defined as those uses which require a site on or adjacent to the sea to be able to function at all.

Policy No. 5 states, in pertinent part:

The City shall protect and maintain the necessary support facilities and services for marine recreational and educational activities...

The subject site is located on the harbor side of the Balboa Peninsula, adjacent to the municipal parking lot at the terminus of 18th Street. The site is commonly used as a launch point for small watercraft, including sailboats. The proposed storage rack is intended to accommodate and secure sailboats and equipment for City-run instructional boating programs. These programs are open to the public, thereby providing a public recreational activity. Currently, the sailboats and equipment must be transported from an off-site storage facility. The rack will be placed in a remote portion of the beach, not typically used by beach-goers. As sited, the rack will not obstruct the continued use of this site as a public launch point.

The Coastal Act provides that development should maintain and enhance public access to the coast and encourages the provision of lower cost visitor and recreational facilities. Additionally, the City's certified LUP encourages and protects both public and private water-oriented recreational and entertainment facilities as a means of providing public access to the waterfront.

The proposed development is an accessory structure designed to serve the City's instructional sailing program, a recreational boating use open to the public. Sailing is a coastal-dependent use. Therefore, the project storage rack supports a coastal-dependent use. In addition, the City's sailing program is a means of providing public access to the waterfront. As stated in the City's certified LUP, "public and private water-oriented recreational and entertainment facilities" shall be encouraged as a "means of providing public access to the waterfront." Therefore, the project supports the provision of public access to the Newport Harbor. Also, installation of the storage rack will not hinder existing access to the harbor, as the structure will be sited in a partially overgrown, "out of the way" area. Therefore, the Commission finds that installation of the proposed storage rack is consistent with the New Development policies of the City's certified LUP and Sections 30213, 30252 and 30255 of the Coastal Act.

C. PUBLIC ACCESS

Section 30604(c) of the Coastal Act requires that every coastal development permit issued for any development between the first public road and the sea include a specific finding regarding the conformity of the proposed development with the public access and recreation policies of Chapter 3 of the Coastal Act. The proposed project is located between the first public road and the sea.

Section 30212 of the Coastal Act states, in relevant part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(2) adequate access exists nearby.

Section 30224 of the Coastal Act states:

Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.

Sections 30210, 30211 and 30212 of the Coastal Act require that new development provide maximum public access and recreation, not interfere with the public's right of acquired access, and provide public access from the nearest public roadway to the shoreline and along the coast except under certain circumstances. The subject site provides public access to the Newport Harbor.

The development will not create additional adverse impacts on coastal access and recreation, as discussed in the previous section. While the proposed boat rack will occupy 320 square feet of beach area, the rack will be sited at an inland location not typically used by beach-goers. In addition, the proposed development will serve a public recreational boating facility, as the rack will be used for the City of Newport Beach instructional sailing program. Recreational boating facilities are an encouraged use under Section 30224 of the Coastal Act. Therefore, the Commission finds that the proposed development does not pose significant adverse impacts on existing public access and recreation and is consistent with Sections 30212 and 30224 of the Coastal Act.

D. SCENIC RESOURCES

Section 30251 of the Coastal Act pertains to visual resources. It states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas...

The certified LUP contains the following policy regarding visual resources:

Coastal Dependent Uses Policy 6 states:

The City shall protect and enhance public visual access to the waterfront. New development (including landscaping), public or private, shall be sited and designed to protect public views of the ocean and other coastal scenic areas.

The Commission must ensure that new development protect public views of the coastline. The proposed project is located on a public beach adjacent to the Newport Harbor. The proposed boat rack backs up to an existing mobile home park at the inlandmost portion of the beach. An existing fence, hedge and walkway are located between the project site and the nearest residence. Passers-by will be able to see over the proposed rack from the elevated walkway, which is approximately 3' above ground level. Therefore, the proposed 5' high boat rack will not obstruct public views to the Newport Harbor.

For the reasons stated above, the Commission finds that the project is consistent with the visual resource protection policies of Section 30251 of the Coastal Act.

E. LOCAL COASTAL PROGRAM

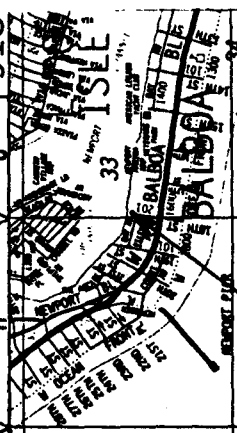
Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act.

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 policies contained in the certified Land Use Plan and with the Chapter 3 policies of the Coastal Act. Therefore, approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program for Newport Beach that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

The proposed project has been conditioned for consistency with the marine resource protection policies of Section 30230 of the Coastal Act. Mitigation measures, in the form of special conditions require 1) regular maintenance; 2) removal if damaged; and 3) notification of future improvements or change in use. 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.



NEWPORT BEACH

SUBJECT SITE

OCEAN

PACIFIC

COASTAL COMMISSION

5-00-123

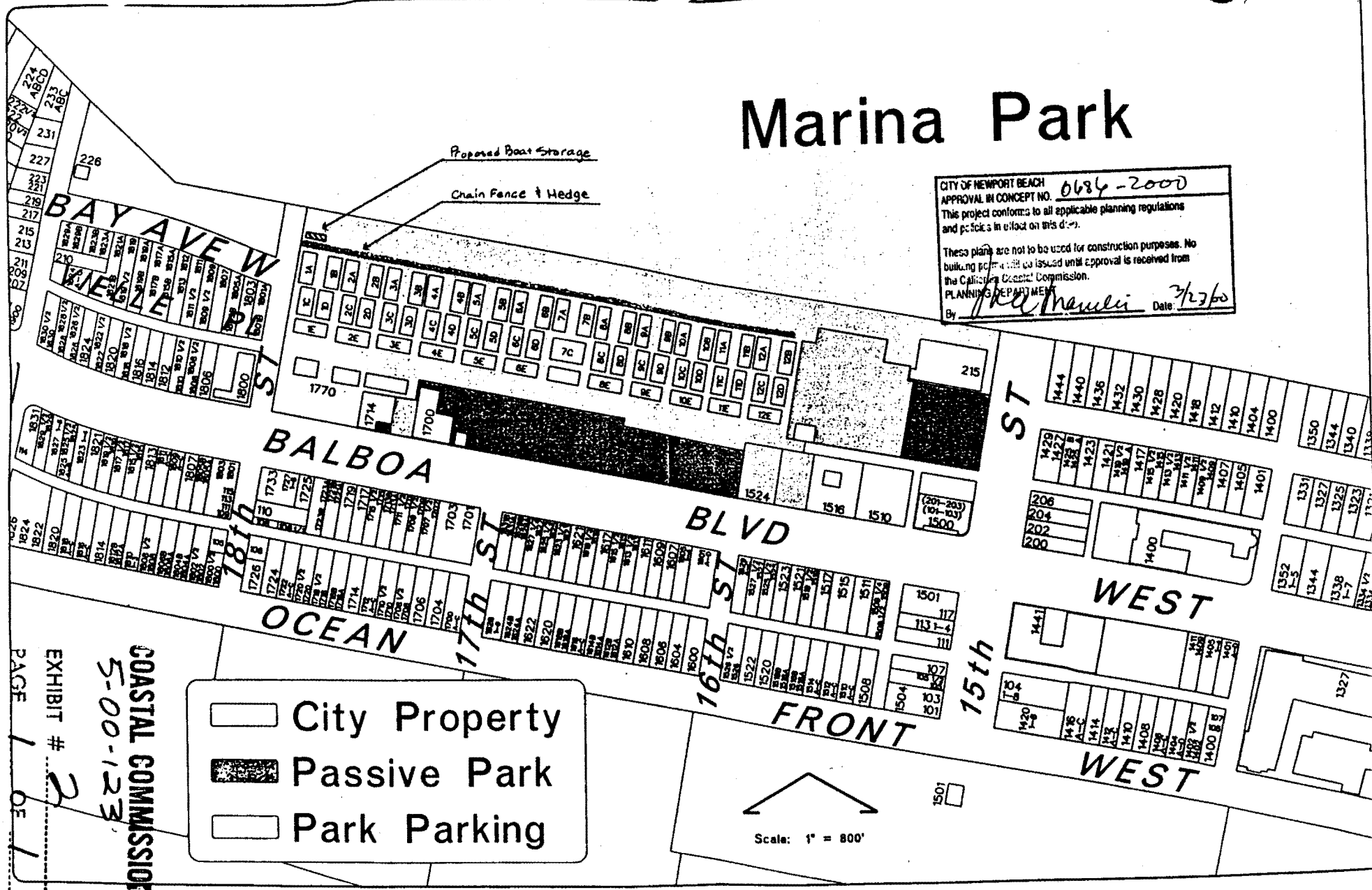
EXHIBIT # 1

PAGE 1 OF 1



Marina Park

CITY OF NEWPORT BEACH
 APPROVAL IN CONCEPT NO. 0684-2000
 This project conforms to all applicable planning regulations and policies in effect on this date.
 These plans are not to be used for construction purposes. No building permit will be issued until approval is received from the City Planning Department.
 PLANNING DEPARTMENT
 By [Signature] Date 3/27/00



Proposed Boat Storage
 Chain Fence & Hedge

- City Property
- Passive Park
- Park Parking

COASTAL COMMISSION
 5-00-123
 EXHIBIT # 2
 PAGE 1 OF 1

SITE PLAN

26'-8"

Trailer Park

18th Street

Public Walkway

Existing hedge

6" CMU WALL

BM TOP OF CURB
7" ABOVE SAND

Planter

Concrete

12'-10"



PROPOSED STORAGE RACK SITE

26'-8"

SITE PLAN

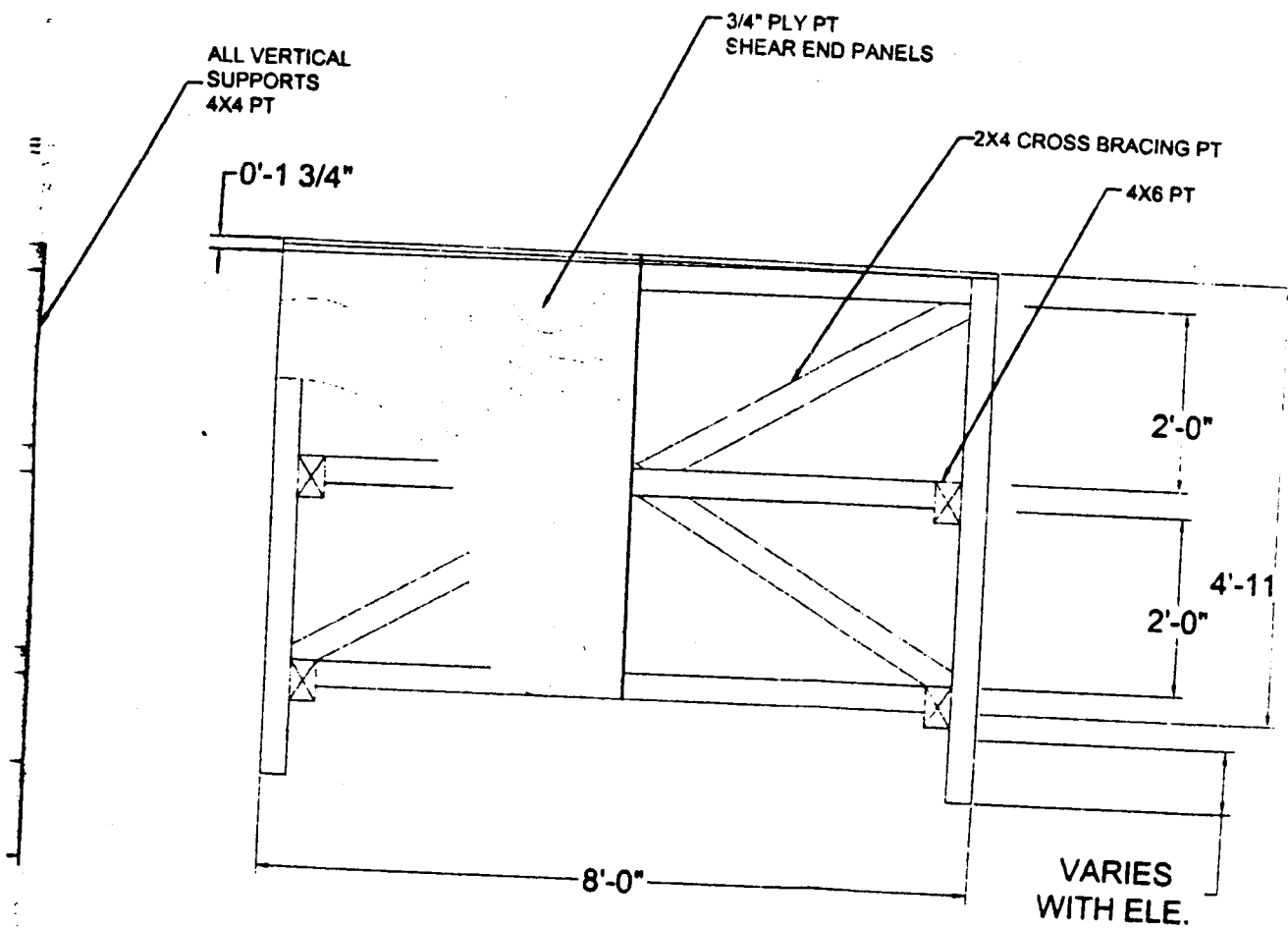
SCALE 3/16" = 1'-0"

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EXHIBIT # 3

PAGE 1 OF 3



Side Elevation

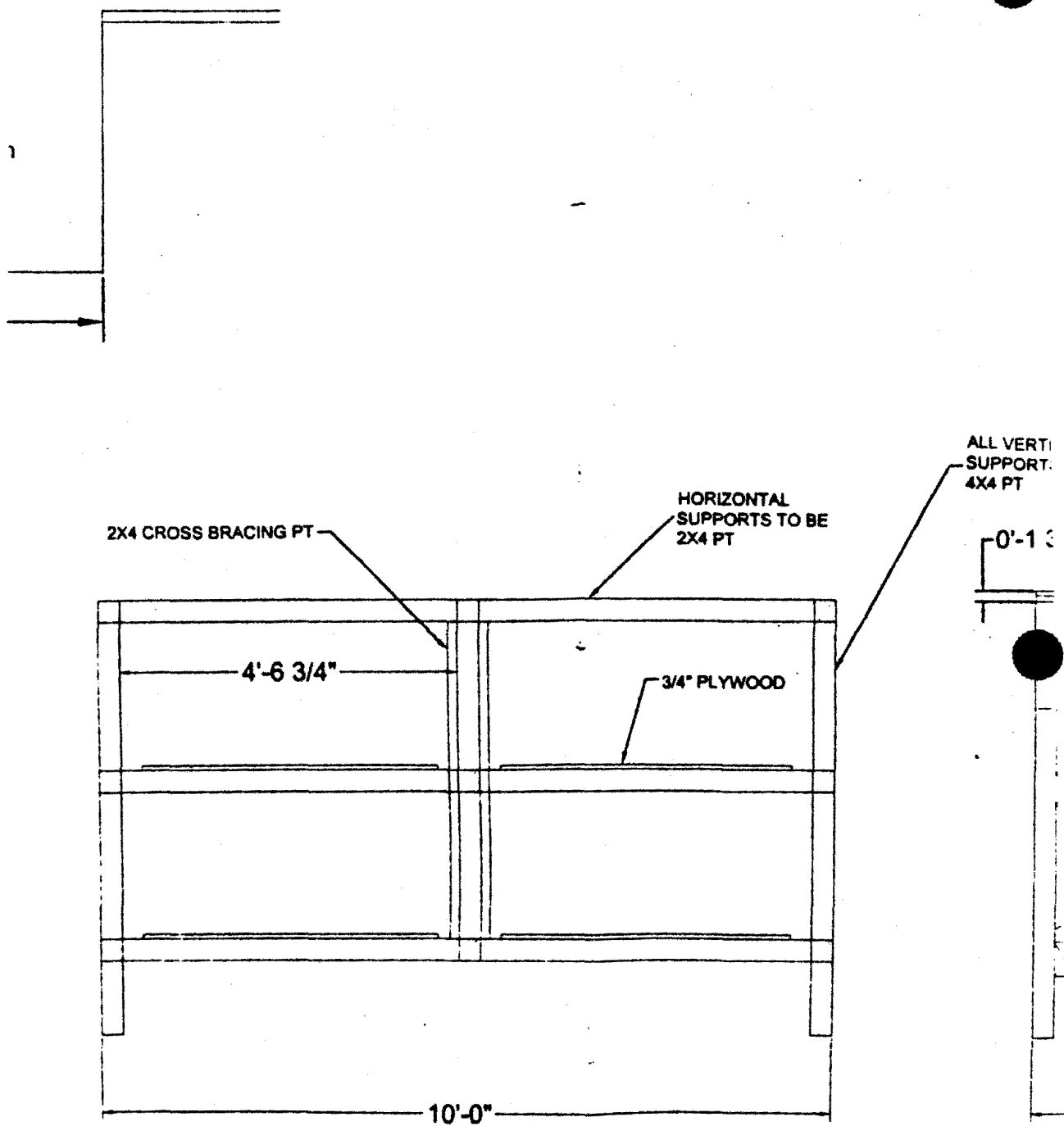
COASTAL COMMISSION
5-00-123

EXHIBIT # 3
PAGE 2 OF 3

ELEVATIONS

SCALE 3/4" = 1'-0"

CITY OF NEWPORT BEACH
 PERMIT CONCEPT NO. 0686-2000
 This project conforms to all applicable planning regulations
 and policies in effect on the date of this permit.
 These plans are not to be used for construction purposes. No
 building permit will be issued until approval is received from
 the City's Coastal Commission.
 PLANNING DEPARTMENT
 M. M. Mendi Date 3/23/00



Front Elevation

COASTAL COMMISSION
 5-00-123

EXHIBIT # 3
 PAGE 3 OF 3

CITY OF NEWPORT BEACH
 APPROVAL IN CONCEPT NO. 0684-20
 This project conforms to all applicable planning regulator and policies in effect on the date.
 These plans are not to be used for construction purposes until approval is received from the City of Newport Beach Coastal Commission.
 PLANNING DEPARTMENT
 By: [Signature] Date: 3/2