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REGULAR CALENDAR STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-02-81

Applicant: BP West Coast Products LLC

Agent: Tait & Associates,

Description: Demolition of a gas station and construction of a new gas station to include (6) six multi-product fuel dispensers, 2,997 sq. ft. convenience store, 968 sq. ft. carwash, 14-space parking lot, landscaping and signage.

Lot Area	36,927 sq. ft.
Building Coverage	7,565 sq. ft. (21 %)
Pavement Coverage	21,163 sq. ft. (57%)
Landscape Coverage	8,199 sq. ft. (22%)
Parking Spaces	14
Zoning	Neighborhood Commercial (C-1)
Plan Designation	Travel-Recreation
Ht abv fin grade	19 ft.

Site:

810 Tamarack Avenue, Mello II, Carlsbad, San Diego County APN 204-292-24

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed project subject to special conditions. The primary issues raised in the proposed development relate to potential water quality and visual resources. Special Conditions requiring the applicant to submit a BMP program with site-specific requirements to address drainage and run-off issues, a grading plan identifying the location of the disposal site of graded material, a final landscape plan using drought-tolerant native or non-invasive plant and a sign plan that restricts the heights of freestanding monument signs to eight feet. As conditioned, the project addresses all Coastal Act issues related to water quality and visual resources. Substantive File Documents: Mello II Segment of the Carlsbad Local Coastal Program (LCP); CUP 01-19; Negative Declaration 5/30/02

STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

I. Approval with Conditions.

The staff recommends the Commission adopt the following resolution:

<u>MOTION</u>: I move that the Commission approve Coastal Development Permit No. 6-02-81 pursuant to the staff recommendation.

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. <u>Disposal of Graded Spoils</u>. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall identify the location for the disposal of

graded spoils. If the site is located within the coastal zone, a separate coastal development permit or permit amendment shall be first be obtained from the California Coastal Commission or its successors in interest.

2. <u>Sign Program</u>. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a comprehensive sign program for all proposed signage documenting that only monument signs, not to exceed eight (8) feet in height, or facade signs are proposed. No new free-standing pole or roof signs shall be allowed. An existing approximately 30 ft. high pole sign may remain off-site adjacent to I-5. Said plans shall be subject to the review and written approval of the Executive Director. The permittee shall undertake development in accordance with the approved sign program. No changes to the program shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

The permittee shall undertake the development in accordance with the approved program. Any proposed changes to the approved program shall be reported to the Executive Director. No changes to the program shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3. <u>Best Management Practices (BMP's)</u>. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and written approval of the Executive Director, final drainage and runoff control plans approved by the City of Carlsbad, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall comply with the following requirements:

- A. <u>General Site Requirements</u>: The drainage shall be designed to collect and filter run-off from the on-site improvements. In addition, the plan shall be in substantial conformance with the following:
 - (a) Selected BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter stormwater from each runoff event, up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs.
 - (b) Runoff shall be conveyed off site in a non-erosive manner.
 - (c) Drainage from all roofs, parking areas, driveway area, and other impervious surfaces on the building pad shall be directed through vegetative or other media filter devices effective at removing and/or

mitigating contaminants such as petroleum hydrocarbons, heavy metals, and other particulates.

- (d) 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.
- (e) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. The plan shall include an identification of the party or entity(ies) responsible for maintaining the various drainage systems over its lifetime and shall include written acceptance by the responsible entity(ies). Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to and during each rainy season, including conducting an annual inspection no later than September 30th of each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.
- (f) Sweeping of all impervious surfaces, including parking lots, fueling areas, and walkways shall be conducted regularly on a monthly basis.
- B. <u>Car Wash Requirements</u>: The drainage shall be designed to collect and filter run-off from the on-site improvements in accordance with paragraph (A). In addition, the plan shall be in substantial conformance with the following:
 - (a) All discharges and runoff from the proposed car wash operation shall be directed to the sewer system or to holding tanks.
 - (b) As much waste water as feasible shall be captured and recycled using filters, oil/water separators with recyclable absorbents that absorb hydrocarbons but do not react with water, or reclamation systems.
 - (c) Equipment, tanks and chemical containers shall be inspected for leaks regularly on a monthly basis.

- (d) Biodegradable soaps and chemicals shall be used instead of solvent-based solutions.
- (e) Treatment and application equipment shall be calibrated regularly on a monthly basis.
- (f) Gutters with downspouts shall be installed below the roof of the car wash structure and all runoff shall be directed to the car wash water recycling system.

C. <u>Fueling Area Requirements.</u> Fueling area shall be designed to prevent run-on of stormwater, and to prevent runoff of spills. In addition to the specifications above in paragraph (A), the plan shall be in substantial conformance with the following requirements:

(a) Fuel dispensing areas shall be paved with Portland cement concrete (or equivalent smooth impervious surface). Asphalt concrete shall not be used.

(b) The fuel dispensing area shall have a 2% to 4% slope to prevent ponding, and shall be separated from the rest of the site by a grade break that prevents run-on of stormwater.

(c) The concrete fuel dispensing area shall extend 6.5 feet (2.0 meters) or more from the corner of each fuel dispenser, or the length at which the hose and nozzle assembly may be operated plus 1 foot (0.3 meter), whichever is less.

(d) If dead-end sump is not used to collect spills, the applicant shall install an oil/water separator.

(e) In order to prevent fuel spills and leaks, which can pollute stormwater, the applicant shall:

1. Install vapor recovery nozzles to help control drips as well as air pollution.

2. Install signage discouraging "topping-off" of fuel tanks.

3. Use secondary containment when transferring fuel from the tank truck to the fuel tank.

4. Use absorbent materials on small spills and general cleaning rather than hosing down the area. Remove the absorbent materials promptly.

5. Carry out all federal and State requirements regarding underground storage tanks.

6. Not use mobile fueling of mobile industrial equipment around the facility. The applicant shall transport the equipment to the designated fueling areas.

7. Keep the Spill Prevention Control and Countermeasures (SPCC) Plan up to date.

8. Train employees in proper fueling and cleanup procedures

9. Keep ample supplies of clean-up materials on site and readily available.

The permittee shall undertake the development in accordance with the approved program. Any proposed changes to the approved program shall be reported to the Executive Director. No changes to the program shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. <u>Final Landscape Plan</u>. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and written approval of the Executive Director, a final landscaping plan. Said plan shall be in substantial conformance with the draft landscape plan submitted 5/17/02 by Tait and Associates, and shall include the following:

(a) A plan showing the type, size, extent and location of all plant materials used;

(b) Drought-tolerant native or non-invasive plant materials shall be utilized;

(c) A planting schedule that indicates that the planting plan shall be implemented within 60 days of completion residential construction;

(d) All required plantings shall be maintained in good growing conditions, and whenever necessary, shall be replaced with new drought-tolerant native or noninvasive plant materials to ensure continued compliance with landscape requirements; and

The permittee shall undertake the development in accordance with the approved landscape plans. Any proposed changes to the approved landscape plans shall be reported to the Executive Director. No changes to the landscape plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. <u>Detailed Project Description/History</u>. Proposed is the demolition of a gas station and construction of a new gas station to include (6) six multi-product fuel dispensers, 2,997 sq. ft. convenience store, 968 sq. ft. carwash, 14-space parking lot, landscaping and signage. The existing abandoned gas station has not been in operation for several years and the previous storage tanks have been removed. To accommodate the new development, grading consisting of approximately 390 cu. yds. of cut is proposed. Since the applicant has not indicated where the excess graded material will be exported to, Special Condition #1 has been attached. This condition requires the applicant to identify the disposal site and obtain a coastal development permit if the site is within the Coastal Zone.

The project is located at the northeast intersection of Jefferson and Tamarack Avenue, just west of Interstate 5 in the City of Carlsbad. While the City of Carlsbad has a certified Local Coastal Program, the proposed development is located within an area of deferred certification within the certified Mello II segment. The policies of the LCP will be used as guidance; however, the standard of review is the Chapter 3 policies of the Coastal Act.

2. <u>Water Quality</u>. The following Coastal Act policies addressing water quality are most applicable to the subject proposal, and state, in part:

Section 30230

Marine resources shall be maintained, enhanced, and where feasible, restored...Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters....

Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum population 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

The project site is located approximately ½ mile north of Agua Hedionda Lagoon. Runoff from service stations often contains oil and other hydrocarbons. If left unfiltered or untreated, these discharges cause problems to down stream coastal resources, and the regulation and treatment of this run-off is necessary to ensure the biological productivity and quality of coastal waters, in this case Agua Hedionda Lagoon which the project site ultimately drains to. Three features of the subject development have the potential to adversely affect off-site water quality: (1) the proposed car wash, (2) the refueling areas, and (3) the parking lot drainage. Because of the increased risk of discharged pollutants from the project proposal, Special Condition #3 provides that Best Management Practices (BMP's) be utilized that are designed to control the volume, velocity, and pollutant load of drainage from the site. This condition allows for the safe processing of waters used for the proposed car wash, as well as run-off from the fueling dispenser areas and parking lot. Special Condition #3 also provides for the regular maintenance of the drainage systems, monthly sweeping of all impervious surfaces on the site, and the specification of standards to be utilized in the fueling area (vapor recovery nozzles, absorbent spill materials, signage, etc.) so that the fewest impacts to environmental resources is ensured.

Furthermore, car wash activities raise concerns related to water quality because the wash and rinse water generated from washing cars usually contains pollutants such as soap, oils and grease, suspended solids, heavy metals, salt, wax, and toxins. However, using commercial car wash facilities to clean vehicles is itself considered a water quality Best Management Practice (BMP), since the drains in commercial car washes are typically connected to the sanitary sewer system, so rinse water does not wash into storm drains and, thereby, to the beaches or local waters. Most commercial car washes also conserve water by recycling rinse water several times.

In this case, the proposed project involves the construction of a single bay automatic selfservice car wash consisting of an approximately 968 sq. ft. structure which will utilize a water recycling/pollutant separator system. The floor of the facility slopes toward a center drain such that all water produced by the car wash is collected for recycling and treatment before it is discharged. Water use is minimized by reuse during the heavy rinse cycle and pollutants such as oil, grease, suspended solids, heavy metals and other toxic material are filtered and collected within the chamber tanks. These chambers are periodically cleaned and the contaminants are disposed of at certified materials disposal sites. All water that is not reused enters into the sewer system. In this way, no water from the car wash facility will enter into the storm drain system and any polluted water will be treated at a sewage treatment plant prior to discharge into coastal waters.

Although the applicant has generally described the proposed water treatment system, a detailed Best Management Practices (BMP's) program for the proposed development was not submitted with the subject application. Therefore, Special Condition #3 (B) requires the applicant to submit a BMP program which provides that, at a minimum, the car wash structure will be guttered and all roof runoff directed either into landscaping or the proposed car wash water recycling system and all discharges from the car wash and fueling area operations be directed to the sewer system or to holding tanks. Additionally, the condition requires that water will be recycled as much as possible, only biodegradable soaps and chemicals will be used, polluted contaminants will be periodically removed and disposed of at appropriate disposal sites, and the equipment will be inspected and maintained on a regular basis.

The proposed fueling area has the potential to create hazardous and polluted run-off caused by fuel and oil spills, as well as other fluid leaks, such as radiator fluid and engine coolant. To ensure that polluted run-off is not discharged into local coastal waters, Special Condition #3 (C) requires the applicant to submit a BMP program which provides for the proper construction and maintenance of the fueling area, clean-up of potential hazardous material spills, and training for service station employees in proper fueling and cleanup procedures. This condition allows for the safe and necessary precautions to

ensure the health of the surrounding environment so that the project may be found consistent with Sections 30230 and 30231 of the Coastal Act.

3. Visual Impacts. Section 30251 of the Act states, in part:

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...

The project is located one lot west of Interstate 5, which is a major north/south coastal access route and scenic corridor. Past Commission precedent and the scenic and visual policies of the Mello II LCP require that only monument signs not exceeding 8 ft. in height are permitted and tall free-standing pole signs are prohibited. The applicant has proposed a sign program consistent with these policies. The proposed development, while adjacent to Interstate 5, is not visible from the freeway. However, an existing approximately 30 foot-high freeway-oriented pole sign off site to the east is visible. The proposed development does not include any alteration to the pole sign's height, although the existing blank area on the sign is proposed to be replaced on the sign by the words "Arco". Since no new pole signs are proposed and the existing sign's height is not proposed to be altered, the proposed development can be found consistent with the City's sign requirements. However, to assure that all proposed signage is consistent with the City's LCP and Commission precedent, Special Condition #2 has been attached. This condition requires the applicant to submit a sign program which documents that only monuments signs not to exceed 8 ft. in height or façade signs are proposed. Any future proposals for alternative signage must be reviewed by the Commission for consistency with the approved sign program or as an amendment to this permit.

In addition, the applicants have proposed to landscape 22 percent of the property. Because the site is near Agua Hedionda Lagoon which contains sensitive resources, Special Condition #4 requires that the applicant submit to the Executive Director a final landscape plan that requires the use of only drought-tolerant native or non-invasive plant species, that landscaping be maintained in good growing condition, and requires, whenever necessary, that landscaping be replaced with new plant materials. The condition is necessary because non-native invasive vegetation frequently can spread to off site locations through wind or animal transport. The condition will ensure that such vegetation will not be used at the project site. As conditioned, potential impacts to visual resources in the area will be reduced to the maximum extent feasible. Therefore, the Commission finds the proposed project, as conditioned, consistent with Section 30251 of the Coastal Act.

4. <u>Local Coastal Planning</u>. The proposed development will be located within an area of deferred certification within the certified Mello II segment of the City of Carlsbad Local Coastal Program (LCP). Section 30519.1 (c) of the Coastal Act requires that a coastal development permit within the Mello II segment planning area of the City of Carlsbad shall be approved only if the Commission finds that it is consistent with the

certified local coastal program for the area. In this case, such a finding can be made for the proposed development.

The Mello II segment of the City of Carlsbad LCP carries the same designation for this site as the City's General Plan and zoning. The site is zoned Neighborhood Commercial (C-1) and designed for Travel-Recreation. Gas station/food mart's are permitted in the C-1 zone upon approval of a conditional use permit if the project is developed as part of a freeway service facility. A conditional use permit has been approved for the development (CUP 01-19). The scenic and visual policies of the Mello II segment of the Carlsbad LCP prohibit the installation of tall free-standing pole signs. However, in this particular case, the proposal does not increase the height of the existing off-site free-standing sign or propose any new free-standing pole signs and, is therefore, consistent with Mello II policies.

While the policies stated within the Mello II segment of the City of Carlsbad LCP are used for guidance, the standard of review is Chapter 3 policies of the Coastal Act. The project, as conditioned, is consistent with all applicable Chapter 3 policies of the Coastal Act and no adverse impacts on coastal resources is anticipated. Therefore, the development, as conditioned, should not prejudice the ability of the City of Carlsbad to implement its LCP.

5. <u>Consistency with the California Environmental Quality Act (CEQA)</u>. Section 13096 of the Commission's administrative regulations requires Commission approval of a coastal development permit application to be supported by a finding showing the application, as conditioned, 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, as conditioned, has been found consistent with all applicable policies of the Coastal Act. 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 is the least environmentally damaging feasible alternative and is found consistent with the requirements of the Coastal Act to conform to CEQA.

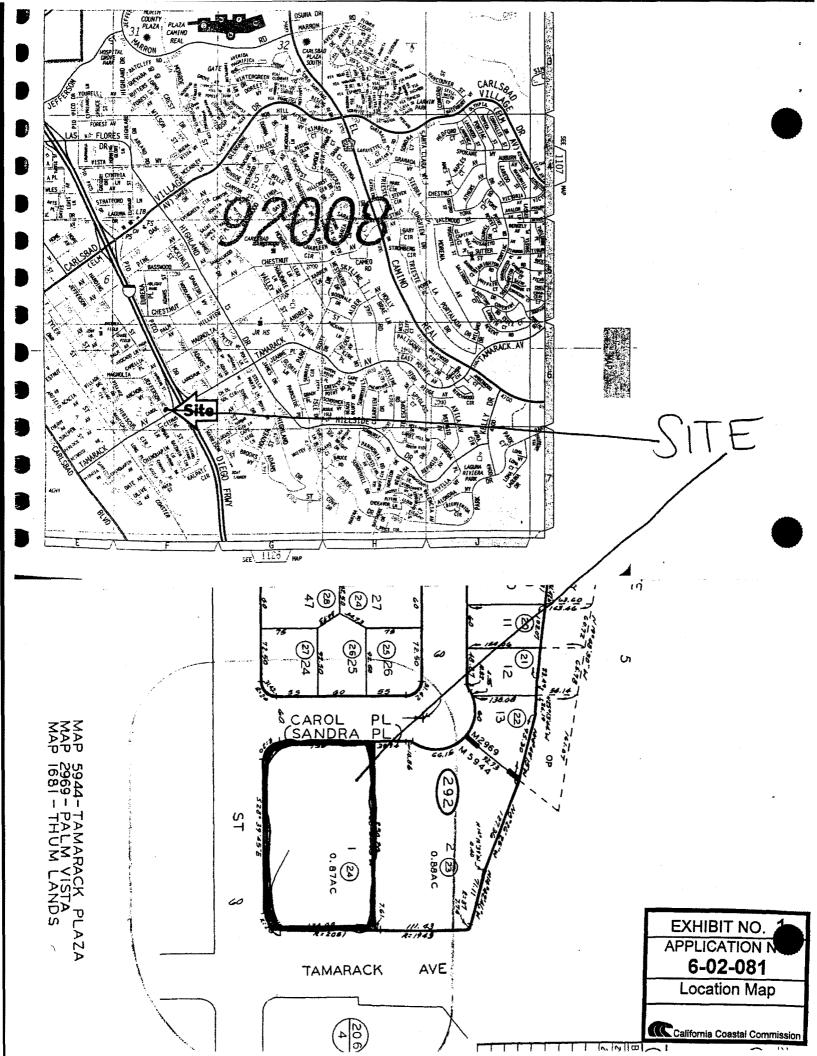
STANDARD CONDITIONS:

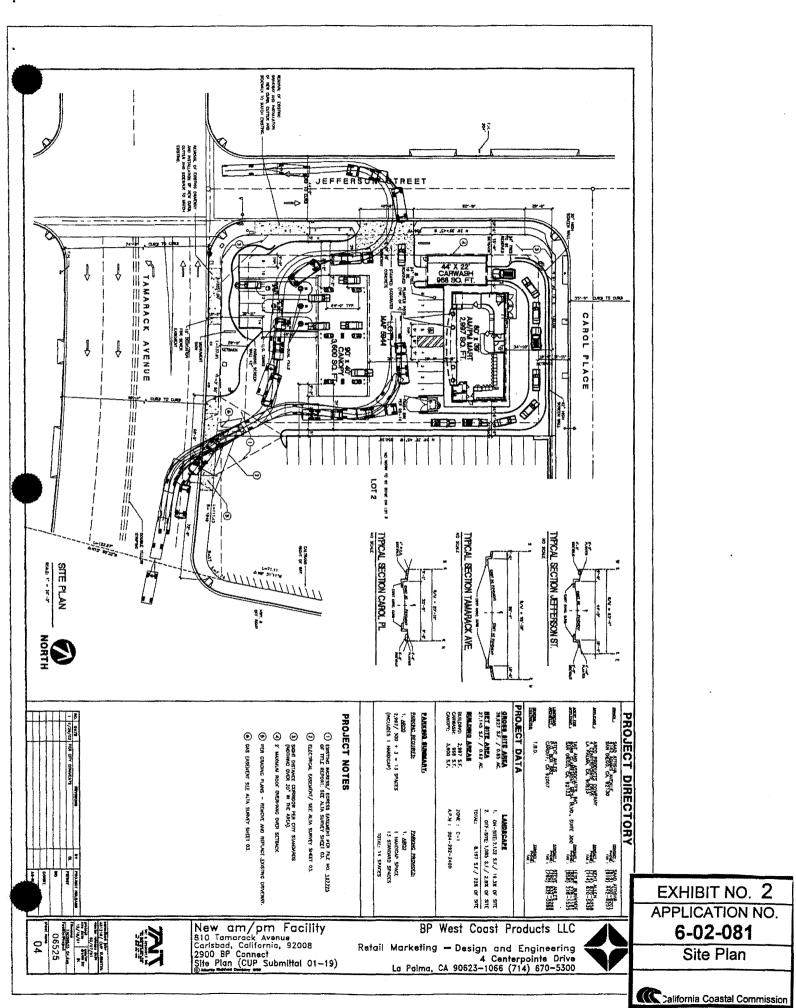
- 1. <u>Notice of Receipt and Acknowledgment</u>. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. <u>Expiration</u>. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development

shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

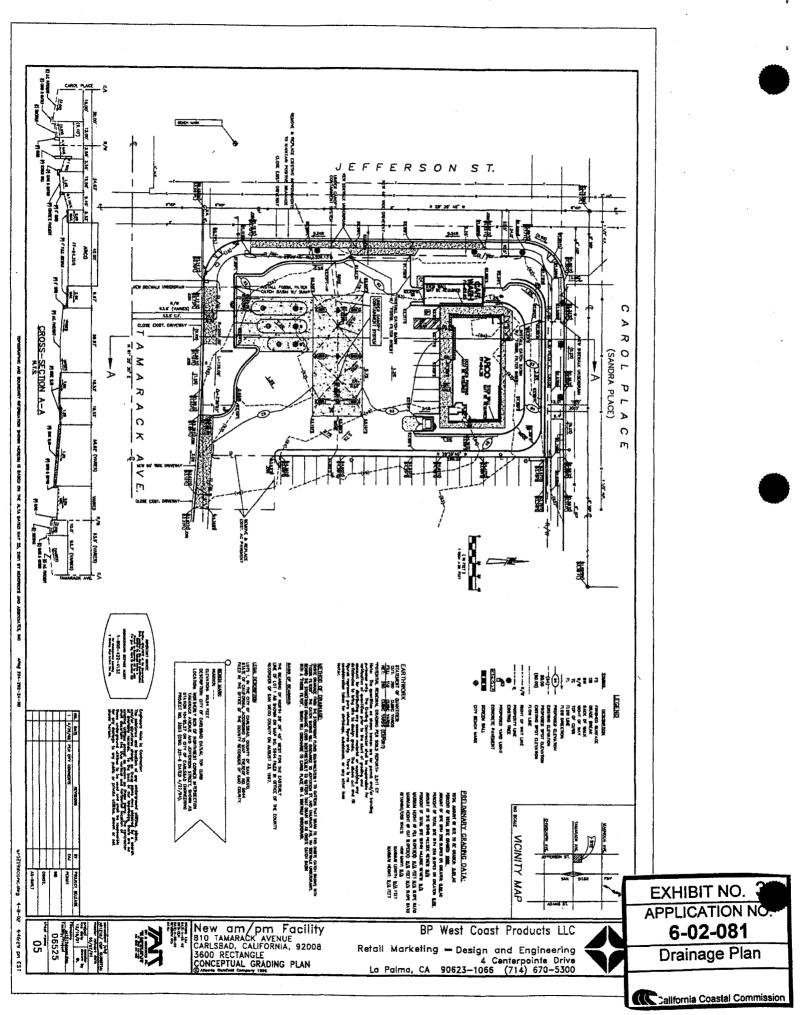
- 3. <u>Interpretation</u>. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. <u>Assignment</u>. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. <u>Terms and Conditions Run with the Land</u>. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

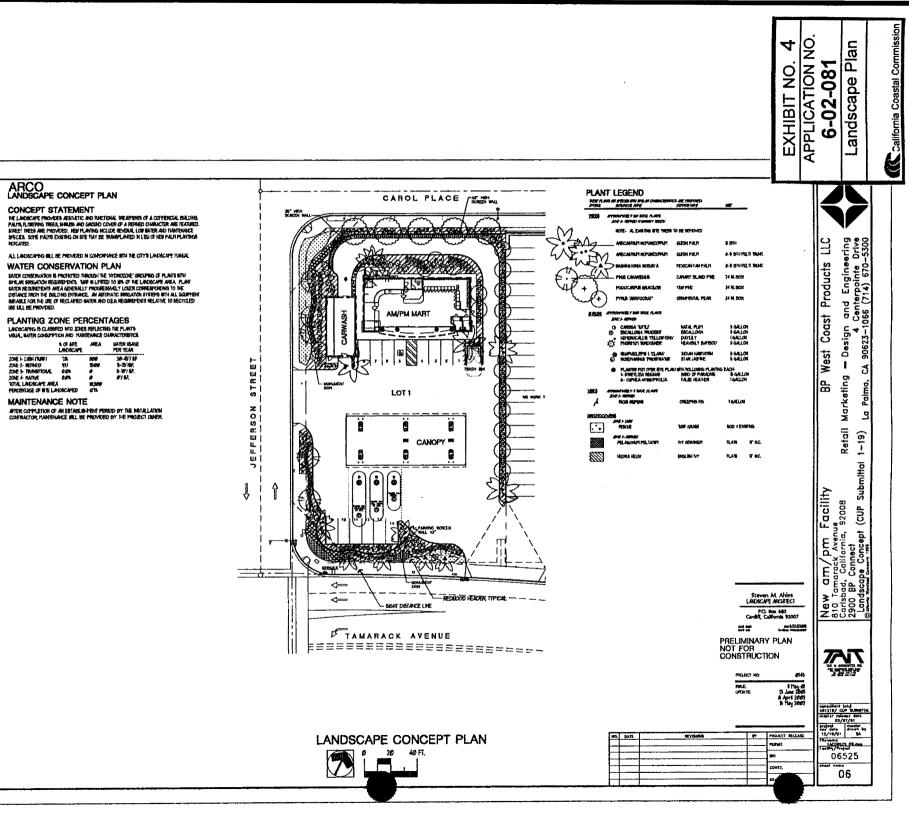
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