

CALIFORNIA COASTAL COMMISSION

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



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 49th Day: 1/15/02
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 Staff: MV-LBN
 Staff Report: 1/17/02
 Hearing Date: 2/5-8/02
 Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NUMBER: 5-01-408

APPLICANT: Rick Teasta

RECORD PACKET COPY

AGENT: Robert Mackenzie/Ian Dell'Aquila

PROJECT LOCATION: 310 38th Street, Newport Beach, Orange County

PROJECT DESCRIPTION: Construction of a new 2,361 square foot, 2 story (plus 475 square foot roof deck and attic area) single family residence with an attached 455 square foot, 2-car garage on a vacant, harbor front lot.

Lot Area: 2,972 square feet
 Building Coverage: 1,421 square feet
 Pavement Coverage: 654 square feet
 Landscape Coverage: 897 square feet
 Parking Spaces: 2
 Zoning: R-2
 Ht above final grade 29 feet

LOCAL APPROVALS RECEIVED: City of Newport Beach Approval in Concept No. 2051-2001.

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach certified Land Use Plan.

SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending approval of the proposed project subject to two special conditions which are necessary to assure that the project conforms with Sections 30230 and 30231 of the Coastal Act regarding water quality. Special condition No. 1 requires that the applicant submit a landscaping plan that maximizes pervious surfaces and includes native and drought tolerant plants. Special condition No. 2 requires that the applicant submit a drainage plan that directs drainage to pervious areas on site for infiltration.

STAFF RECOMMENDATION:

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

MOTION:

I move that the Commission approve CDP #5-01-408 pursuant to the staff recommendation.

Staff recommends a **YES** vote. This 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.

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, 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. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Inspections.** The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
5. **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. Landscaping Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a landscaping plan that maximizes pervious surfaces (e.g. by increasing the amount of planted areas and/or uses porous pavement or other best management practices that promote infiltration/ground water recharge).

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

2. Drainage Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a Drainage Plan documenting that the runoff from the roof, driveway and other impervious surfaces shall be collected and directed into pervious areas on the site (landscaped areas) for infiltration to the maximum extent practicable in a non-erosive manner, prior to being conveyed off-site.

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

3. Filter Installation

The proposed roof drain and trench drain filters shall be replaced as necessary to maintain the system in good working order.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description and Location

The applicant proposes to construct a new 2,361 square foot, 2 story (plus attic area) single family residence with an attached 455 square foot, 2-car garage and a 475 square foot roof deck on a vacant lot. The subject site fronts on the Rialto Channel in Newport Harbor (Lower Newport Bay). There is an existing bulkhead at the site. No work is proposed on the existing bulkhead.

B. 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.

The proposed project is located adjacent to Newport Harbor (Lower Newport Bay). 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 that water quality within the water body does not meet State and Federal water quality standards designed to meet the 1972 Federal Clean Water Act goal of "fishable, swimmable" waters. 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 includes Newport Harbor, for increased scrutiny as a higher priority watershed under its Watershed Initiative. The standard of review for development proposed in coastal waters is the Chapter 3 policies of the Coastal Act, including the following water quality policies. Sections 30230 and 30231 of the Coastal Act require the protection of biological productivity, public recreation, and marine resources.

Development adjacent to coastal waters has the potential to impact water quality and marine resources. The bay provides an opportunity for water oriented recreation and also serves as a home for marine habitat. The coastal recreational activities and the sensitivity of the bay habitat necessitate that water quality issues are addressed during the review of this project.

The proposed residential development has impervious surfaces, such as roofs where pollutants such as particulate matter may settle, as well as driveways where pollutants such as oil and grease from vehicles may drip. In addition, landscaped areas may contain fertilizers and pesticides. During storm events, the pollutants which have collected upon the roof and upon other impervious surfaces created by the proposed project may be discharged from the site into the storm water system and eventually into coastal waters which can become polluted from those discharges. Water pollution results in decreases in the biological productivity of coastal waters.

Typically, water quality impacts to coastal waters can be avoided or minimized by directing storm water discharges from roof areas and other impervious surfaces to landscaped areas where

pollutants may settle out of the storm water. In addition, reducing the quantity of impervious surfaces and increasing pervious water infiltration areas can improve water quality.

The proposed drainage plan indicates that the two rear (street side) roof drains will have inline filters. In addition, the proposed trench drain at the front (harbor side) will also be equipped with a filter. The two filtered roof drains are proposed to collect water from the roof gutters and ultimately outlet through the public street curb. The front roof drain and balance of the site are proposed to drain toward the trench drain at front side of the site adjacent to the bulkhead. The filters will reduce the pollutants that enter the storm drain system and bay. The use of drain filters is one way to significantly increase water quality.

The proposed use of filters in the drains is commendable. However, in reviewing the project plans, it becomes apparent that additional measures could be feasibly incorporated into the proposed project to further increase water quality. Very little pervious area is proposed. There are two small planters proposed along the entryway to the residence. Other than that the rest of the site is proposed to be impervious hardscape. The lack of pervious area significantly reduces the amount of infiltration that can occur. Increasing the amount of pervious area on-site increases the amount of infiltration. Infiltration serves two purposes. It reduces the amount of runoff entering the storm drain system and bay by retaining drainage on site and it provides a filtering system when runoff is directed through it. In order to maximize water quality, the amount of pervious area must be increased to the maximum extent practicable.

The amount of pervious area on the subject site could feasibly be significantly increased. The sideyards and front yard (water side) are currently proposed to be concrete. Portions, if not most, of these areas could feasibly be converted to pervious area. This could be done by using pervious surfaces such as gravel, turf block pavers, or brick areas set in sand with permeable joint materials such as sand. Some hardscape is acceptable, but if virtually the entire site is impervious, water infiltration will not be maximized. Maximum infiltration is necessary to reduce the amount of water that flows off-site, unfiltered into the storm drain and bay.

The proposed project would not result in the maximum amount of on site infiltration practicable, which in turn does not will maximize water quality as required by Section 30230 and 30231 of the Coastal Act. Special condition No. 1 requires that a landscape plan be submitted. The landscape plan should increase the total amount of pervious area at the site.

Because there is so little landscaping proposed, the proposed drainage plan is inadequate. A revised drainage plan is necessary to reflect and incorporate the pervious areas of the required landscape plan in order to assure that the drainage is filtered through permeable areas and infiltration is maximized. To do this the drainage must be collected on site and directed through on-site permeable area to the maximum extent practicable. Special condition No.2 requires that a revised drainage plan be submitted. The revised drainage plan should indicate that on site drainage will be directed through the required landscaping and that infiltration on site will be increased to the maximum extent practicable.

Once the proposed filters have been in use for a given period of time, they become saturated with the debris they are filtering. Once this happens they are no longer capable of filtering out the pollutants. This loss of effectiveness can be avoided with regular maintenance of the drain filters, including replacement of the filters as needed. Special condition No. 3 requires that the filters be replaced as necessary to maintain the system in good working order.

As proposed, the Commission cannot find that the project will protect coastal water quality and the related marine resources and biological productivity. Therefore, as a condition of approval, the applicant shall submit for the review and approval of the Executive Director, a landscape plan and a revised drainage plan. These plans should document that the amount of pervious surface is maximized and that the runoff from the roof, driveway and other impervious surfaces are collected and directed onto pervious areas on the site for infiltration to the maximum extent practicable in a non-erosive manner, prior to being conveyed off-site. The project is also conditioned to require that the proposed filters be monitored in a manner that will keep the system in good working order. As conditioned, the Commission finds that the proposed development is consistent with Sections 30230 and 30231 which require that coastal water quality be maintained and enhanced.

C. Land Use Plan

Section 30604 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 3 policies of the Coastal Act.

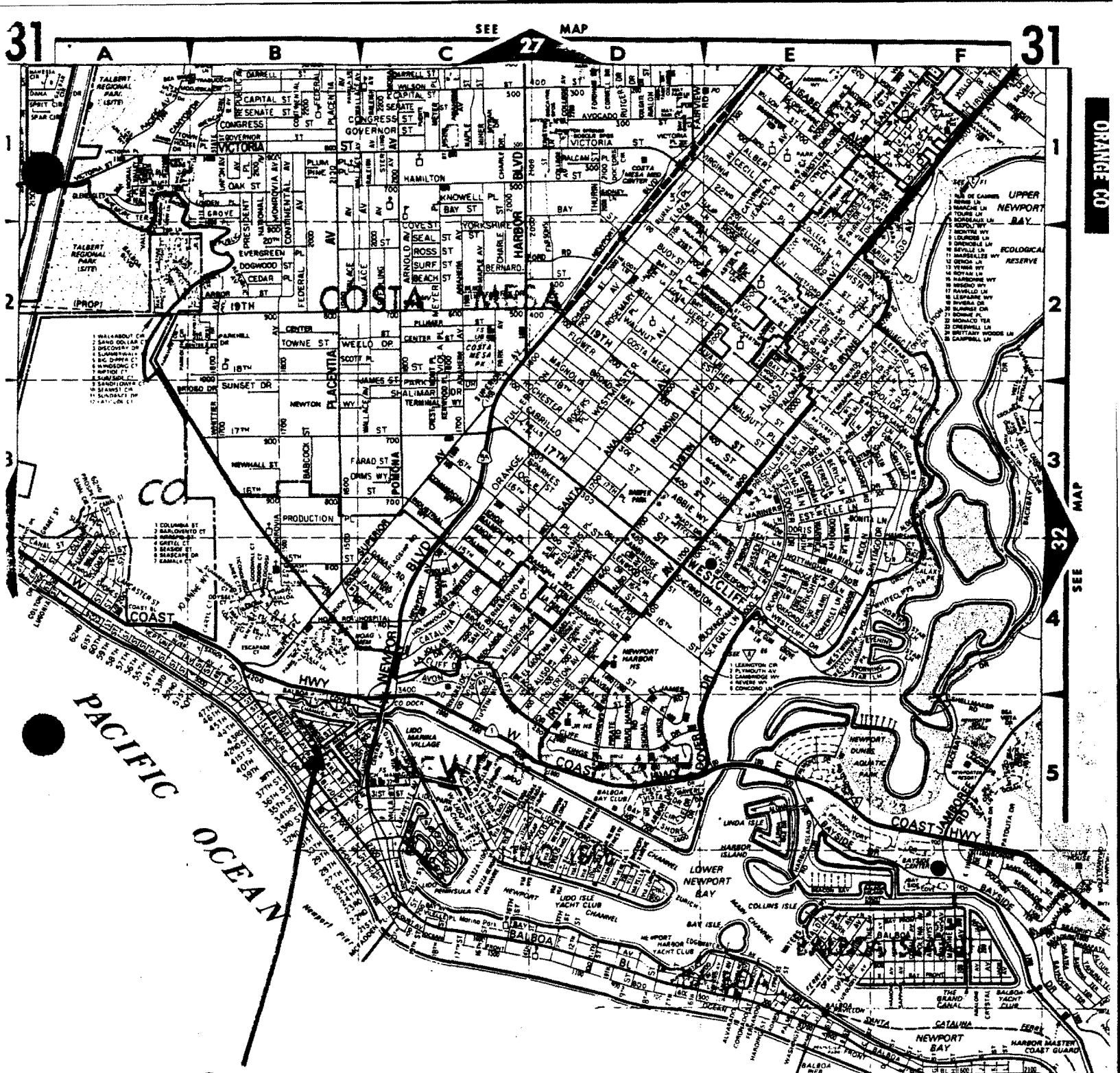
The Commission certified the Land Use Plan for the City of Newport Beach on May 19, 1982. As conditioned, the proposed development is consistent with the policies contained in the certified Land Use Plan and with the Chapter 3 policies of the Coastal Act. Therefore, approval of the proposed development 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).

D. California Environmental Quality Act

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

The proposed project is located in an urban area. All infrastructures necessary to serve the site exist in the area. As conditioned, the proposed project has been found consistent with the water quality policies of Chapter 3 of the Coastal Act. The special conditions also serve to mitigate any significant adverse impacts under CEQA. Mitigation measures requiring submittal of drainage and landscaping plans will minimize any significant adverse effects that the activity may have on the environment.

There are no other 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.

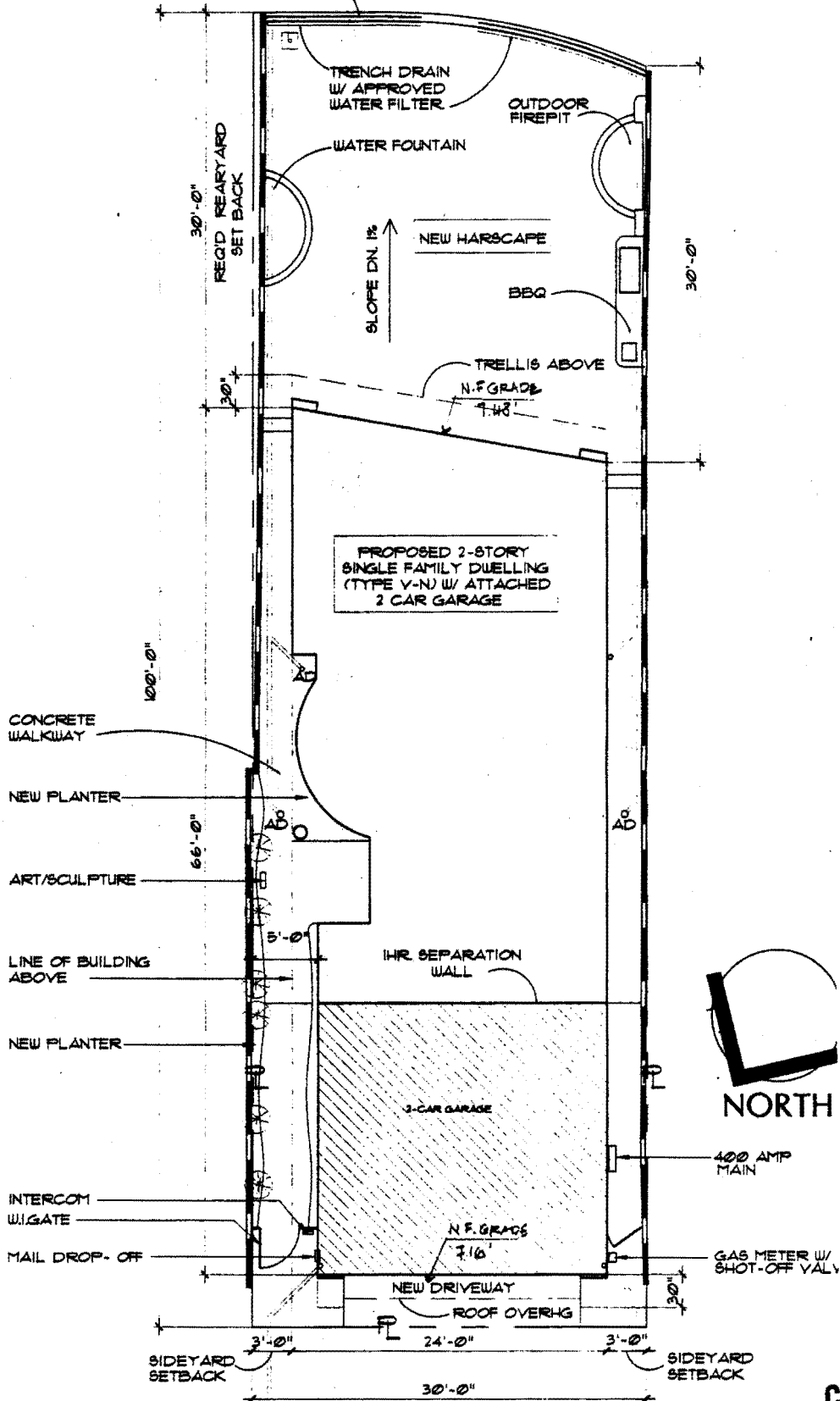


**SUBJECT
SITE**

EXHIBIT NO. A
APPLICATION NO.
5-01-408
California Coastal Commission

VICINITY MAP

NEW GLASS RAILING
ATTACHED TO
EXISTING SEA WALL.



OF 38TH STREET

SITE PLAN

COASTAL COMMISSION

5-01-408

EXHIBIT # B

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