

CALIFORNIA COASTAL COMMISSION

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



Filed: April 9, 2002
49th Day: May 28, 2002
180th Day: October 6, 2002
Staff: ALB-LB **ALB**
Staff Report: April 18, 2002
Hearing Date: May 7-10, 2002
Commission Action:

Item Tu 22L**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NUMBER: 5-02-096 **RECORD PACKET COPY**

APPLICANT: Cannery Lofts, L.P.

PROJECT LOCATION: 500-519 30th Street and 2910, 2912 Lafayette Avenue,
City of Newport Beach (Orange County)

PROJECT DESCRIPTION: Demolition of buildings and associated parking lots within a 1.4-acre area, including 1 office building, 2 residences, 1 former bar, 2 warehouses, 1 industrial building and 2 boat storage yards. No grading or new construction is proposed by the current application.

LOCAL APPROVALS RECEIVED: Approval in Concept from City of Newport Beach Planning Department dated December 11, 2001.

SUMMARY OF STAFF RECOMMENDATION:

The applicant is proposing demolition of buildings and associated parking lots within a 1.4-acre area of the Cannery Village district of Newport Beach. The major issues of the staff report include water quality and future development at the subject site.

Staff recommends the Commission **APPROVE** the proposed development with four (4) special conditions requiring 1) acknowledgement that approval of the demolition in no way constrains the Commission's discretion in considering future development at the subject site; 2) use of best management practices (BMPs) during demolition; 3) appropriate disposal of demolition debris; and 4) installation of interim erosion control measures.

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach Certified Land Use Plan (LUP) and CDP Applications 5-02-093 (Cannery Lofts) and 5-00-056 (Weeda).

EXHIBITS:

1. Vicinity Map
2. Parcel Map
3. Site Plan
4. Correspondence from applicant dated March 24, 2002

I. STAFF RECOMMENDATION:

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

MOTION:

I move that the Commission approve CDP #5-02-096 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.

RESOLUTION TO APPROVE THE PERMIT WITH CONDITIONS:

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:

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. **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.
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. Future Development**

By acceptance of this permit, the applicant acknowledges that approval of future development at the subject site is by no means guaranteed. The Commission's discretion to consider development at the subject site is not constrained by approval of the current permit for demolition only.

2. Storage of Materials, Mechanized Equipment and Removal of Demolition Debris

The permittee shall comply with the following demolition-related requirements:

- (a) No demolition materials, debris, or waste shall be placed or stored where it may enter the Rhine Channel or Newport Harbor;
- (b) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- (c) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control sedimentation impacts to coastal waters (including the Rhine Channel) during demolition. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into the Rhine Channel and a pre-construction meeting to review procedural and BMP guidelines;
- (d) Demolition debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. Debris shall be disposed of in accordance with Special Condition No. 2.

3. Location of Debris Disposal Site

The applicant shall dispose of all demolition debris resulting from the proposed project at an appropriate location outside the coastal zone. If the disposal site is located within the coastal zone, an amendment to this permit shall be required before disposal can take place.

4. Interim Erosion Control Measures

Temporary erosion control measures shall be implemented after demolition approved by Coastal Development Permit 5-02-096 is complete. Temporary measures shall include, but are not limited to, stabilization of all disturbed soils with geotextiles and/or mats, sand bag and gravel bag barriers, silt fencing; temporary drains and swales; sediment basins; and landscaping. BMPs shall not include any erosion or sediment control measures that might introduce the threat of invasive or non-native species to the subject site. The erosion control measures shall be in place one (1) week after demolition activities have been completed and shall be maintained for maximum efficiency until such time as new development is approved and initiated at the subject site. Maintenance shall include periodic removal of litter.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Location, Description and Background**Project Location**

The project site is located in the Cannery Village/McFadden Square Specific Plan area of the City of Newport Beach, County of Orange (Exhibits 1-2). The Cannery Village area is located between 32nd Street and 26th Street on the Balboa Peninsula. It is a mixed-use area with commercial, industrial, and residential uses. The City of Newport Beach has designated the Cannery Village area for a mixture of retail and commercial uses. The land use classification is "Retail and Service Commercial" and "Specialty Retail." In this district, residential development is allowed on the second floor in conjunction with ground floor commercial usage. The project site is currently developed with a mix of older (approx. 40-50 years old) industrial, residential and marine commercial uses. According to the applicant, the structures are currently dilapidated to the point of creating safety hazards.

Project Description

The applicant is proposing to demolish all existing buildings and associated parking lots within a 1.4-acre area, including 1 office building, 2 residences, 1 former bar, 2 warehouses, 1 industrial building and 2 boat storage yards on 16 lots (Exhibit 3). Approximately 25,785 square feet of gross floor area and 62,696 square feet of paved areas will be demolished. No grading or new construction is proposed by the current application. All construction debris will be disposed of at a landfill outside the coastal zone.

The 44 parking spaces currently provided on-site serve the existing development. The removal of the existing structures will eliminate the need for parking. No on-street public parking will be removed. As such, the demolition of existing parking lots will not affect currently available public parking.

Related Development

Commission staff is currently reviewing CDP application 5-02-093 for construction of twenty-two (22) new mixed-use structures with professional office or retail uses on the ground floor and residential units above at the subject site. The applicant has separated the demolition activities from the proposed construction activities in order to expedite development at the project site. The applicant has acknowledged in writing, "... that by granting a permit for demolition in no way predetermines the result of our development application for Cannery Lofts, and would not have any prejudice towards the California Coastal Commission in regards to that decision." (Exhibit 4) If the Commission does not approve the applicant's request for development proposed by application 5-02-093, the applicant states that the individual lots will be sold as vacant property. In that case, the Commission will have the opportunity to consider development on a lot-by-lot basis. Special Condition No. 1 informs the applicant that approval of application 5-02-096 in no way ensures approval of application 5-02-093.

Prior Commission Action in the Subject Area

In May 2000, the Commission approved Coastal Development Permit 5-00-056 for construction of a new 5107 square foot, 33' high, 3-story mixed-use structure with 10 parking spaces on a vacant lot at 427 and 429 30th Street and 3009 Villa Way, in the same project vicinity as the currently proposed demolition. In that case, the City issued an emergency demolition permit to the owner and the existing structures were demolished in January 2000. Section 30005 (b) of the Coastal Act allows a local government to issue a nuisance abatement order. CDP 5-00-056 has since been issued and the building constructed.

B. Water Quality

Section 30230 of the Coastal Act states, in pertinent part:

Marine resources shall be maintained, enhanced, and where feasible, restored.

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 included 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 the beneficial uses for which the water body has been designated – in this case secondary contact 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 the Upper Newport Bay, for increased scrutiny as a higher priority watershed under its Watershed Management Initiative. Consequently, projects which could have an adverse impact on water quality should be examined to assure that potential impacts are minimized.

As discussed previously, the applicant is proposing to carry out demolition activities immediately southwest of the Rhine Channel, an arm of the Newport Harbor. The project involves demolition of a 1.4-acre area of structures and paved parking areas. Storage or placement of construction materials, debris, or waste in a location subject to wave erosion and dispersion or which may be discharged into coastal waters via runoff carried by the storm water system would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. In addition, the use of machinery in coastal waters not designed for such use may result in the release of lubricants or oils that are toxic to marine life. Sediment discharged to coastal waters may cause turbidity which can shade and reduce the productivity of eelgrass beds and foraging avian and marine species' ability to see food in the water column. In order to avoid adverse construction-related impacts upon marine resources, Special Condition No. 2 outlines construction-related requirements to provide for the safe storage of demolition materials and the safe disposal of construction debris. The condition ensures that debris will not be allowed to enter the Rhine Channel or Newport Harbor. In addition, although the applicant has indicated that the contractor will dispose of construction debris at a landfill outside the coastal zone, Special Condition No. 3 requires the applicant to do so and informs the applicant that use of a disposal site within the coastal zone would require an amendment or new coastal development permit.

Lastly, the Commission imposes Special Condition No. 4, which requires the applicant to install temporary erosion and sediment control BMPs and/or landscaping to ensure that sediment and associated pollutants from the site do not reach receiving waters. The special condition will be in effect for the interim period between demolition approved pursuant to this permit and construction of future development at the subject site. The special condition requires that the erosion control measures be in place one (1) week after demolition is completed and be maintained for maximum efficiency until such time as construction is approved and initiated at the site.

Only as conditioned for appropriate storage of construction materials and equipment, disposal of demolition debris and implementation of interim erosion control measures does the Commission find that the proposed development consistent with Sections 30230, 30231 and 30232 of the Coastal Act.

C. Public Access and Recreation

Section 30210 states, in pertinent part:

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

Section 30604(c) of the Coastal Act requires that every coastal development permit issued for any development between the nearest public road and the sea include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3. The proposed development, a portion of which occurs between the nearest public road and the sea, includes the demolition of existing structures and paved parking areas. The portion of the project site located along Lafayette Avenue is adjacent the Rhine Channel. However, no access to the water is currently provided through the applicant's property. The nearest public coastal access to the Rhine Channel is available at the corner of Lido Park Drive and Lafayette Avenue, immediately northeast of the project site. The proposed demolition project will not adversely affect existing public access. Therefore, the Commission finds that the proposed development is consistent with the public access and recreation provisions of the Coastal Act.

D. Scenic and Visual Resources

Section 30251 of the Coastal Act states, in relevant 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, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

The project will result in the demolition of existing industrial structures and parking areas within the Cannery Village neighborhood. The existing structures are approximately 50 years old and many do not meet current building codes. According to the applicant, many are dilapidated to the point of creating safety hazards. The project will allow for future redevelopment of the 1.4-acre area. Additionally, no new development is proposed or approved at the subject site at this time. The site will remain vacant until such time as the Commission approved a coastal development permit for development at the subject site. As such, the project will not create a new adverse visual impact or obstruct views to or along the Rhine Channel. Additionally, as viewed from the Channel inland, the

project will not create adverse visual impacts, as all existing development will be removed. In addition, no grading or landform alteration is proposed. Accordingly, the proposed project will not obstruct views to or from the Rhine Channel or Newport Harbor and will minimize alteration of natural landforms. Therefore, the Commission finds the proposed development to be consistent with Section 30251 of the Coastal Act.

E. Land Use Plan

Section 30600(c) 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. Pursuant to Section 30604(a), 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 Newport Beach Land Use Plan (LUP) was effectively certified on May 19, 1982. The proposed development, as conditioned, is consistent with the policies of the certified Land Use Plan and Chapter 3 of the Coastal Act. Therefore, the Commission finds that approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program (Implementation Plan) 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 (CEQA)

Section 13096(a) of the Commission's administrative 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 project is located within a primarily commercial area. Development exists on and around the subject site. After demolition, the subject site will be vacant until such time as new development is approved by the Commission. In the meantime, the proposed development has been conditioned, as follows, to assure the proposed project is consistent with policies of the Coastal Act:

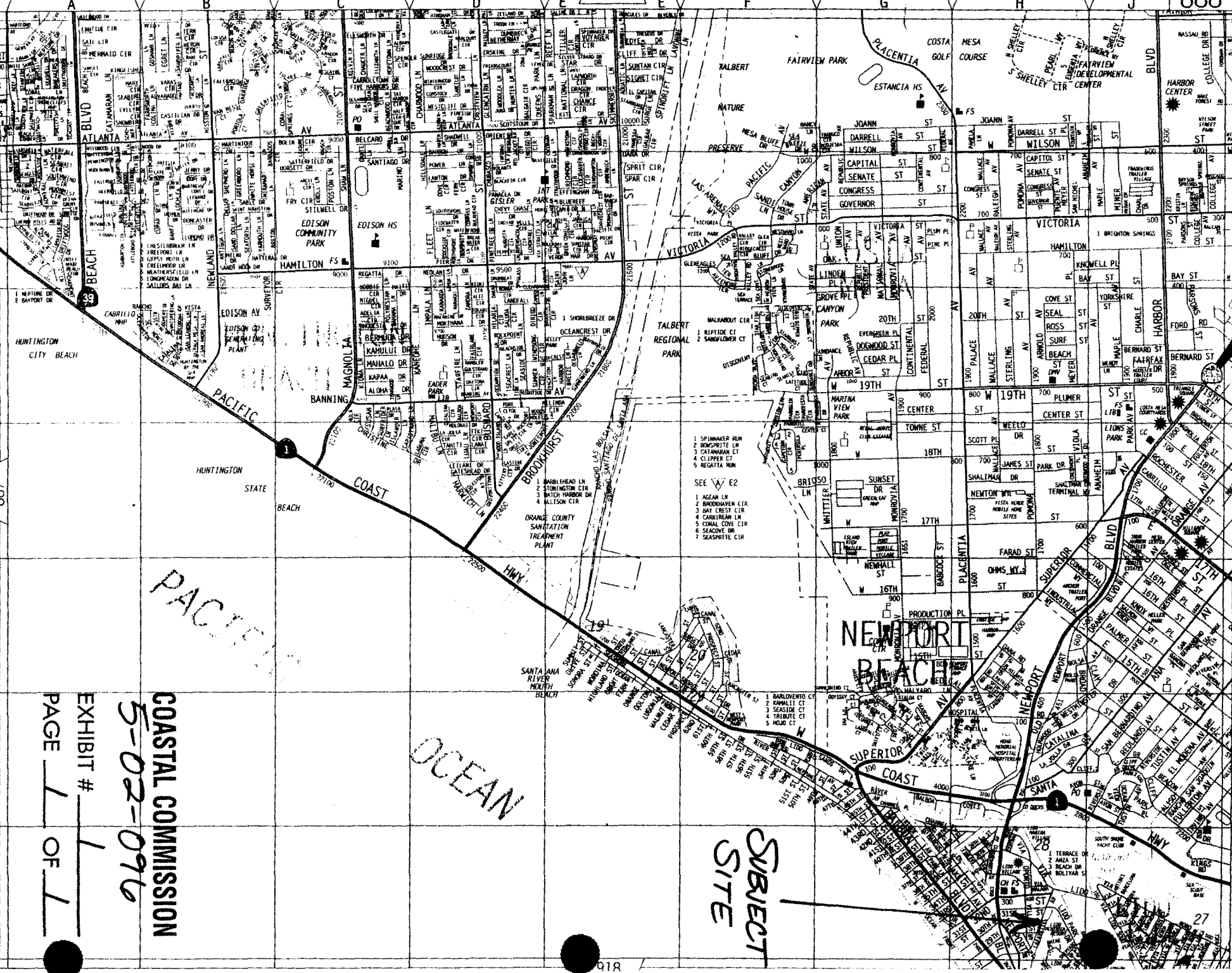
1) acknowledgement that approval of the demolition in no way constrains the Commission's discretion in considering future development at the subject site; 2) use of best management practices (BMPs) during demolition; 3) appropriate disposal of demolition debris; and 4) installation of interim erosion control measures.

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

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MAP

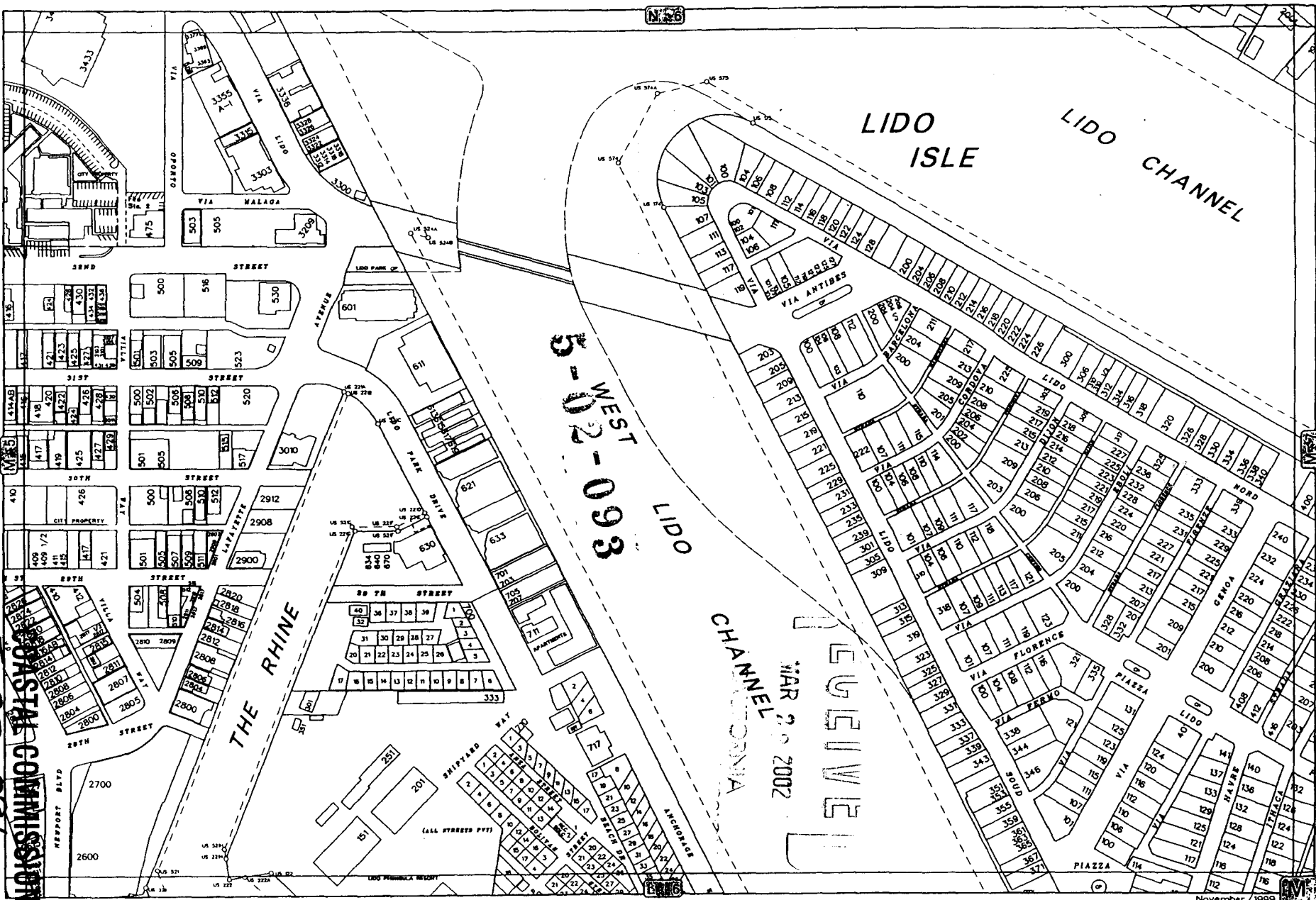


COASTAL COMMISSION

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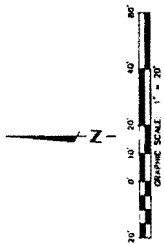
EXHIBIT # 1

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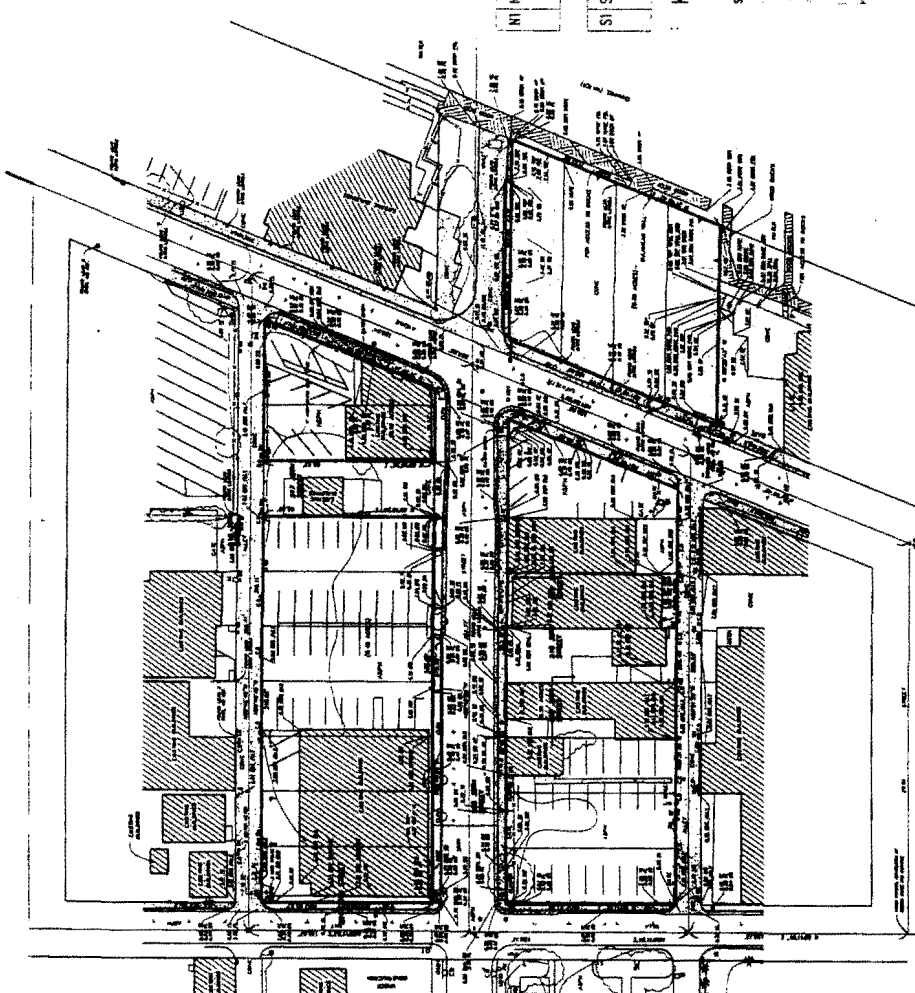
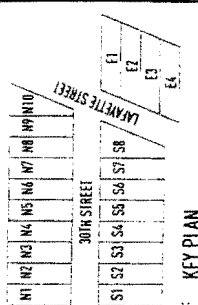


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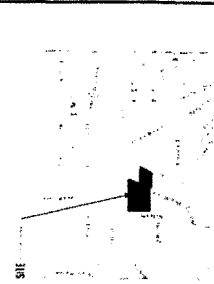
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KEY PLAN



NOTE: VICINITY MAP AND KEY PLAN BY TANNERHECHT ARCHITECTURE
EXISTING BUILDING BULK SUMMARY BY CHA DEVELOPMENT

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ASC
ADVANCED SURVEY CONCEPTS, INC.
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15175 BARBARA PARKWAY
SUITE K-105
IRVINE, CALIFORNIA 92618
(949) 727-8546 FAX 727-7272

TOPOGRAPHIC SURVEY
FOR
CIVIL DEVELOPMENT
PORT BEACH, CALIFORNIA 92663

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COASTAL COMMISSION

5-02-096

EXHIBIT # 3

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March 24, 2002

RECEIVED
South Coast Region
MAR 25 2002
CALIFORNIA
COASTAL COMMISSION

Dear Anne:

As per our March 7, 2002 meeting with you and Steve on the Cannery lofts project we discussed the possibility of demolition of our site separately from the proposed development.

The site currently is dilapidated to the point of creating safety hazards. In particular, our tenants have vacated the south eight lots on 30th Street and the three northeast lots since January. This is creating an unsafe condition with trespassers.

We would like to process this application as a de-minimus waiver for the demolition. In the event our Cannery Lofts project (under separate application) is not approved as designed then we would be selling these lots. The economic value of this property will be enhanced with the older buildings removed. There is no economic viability to leaving the remaining structures, many of which are 50 years old and not code compliant. The 501 30th street building will be removed to allow the reformation of the seven existing lots, which will have more marketability as lots than with the present 40-plus year old building.

We understand that by granting a permit for demolition in no way predetermines the result of our development application for Cannery Lofts, and would not have any prejudice towards the California Coastal Commission in regards to that decision.

If you have any questions or comments, please do not hesitate to contact me.

Sincerely,

Kevin Weeda

COASTAL COMMISSION

5-02-096

EXHIBIT # 4

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