

CALIFORNIA COASTAL COMMISSION
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 Commission Action:



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STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 5-02-195

APPLICANT: Roger Gorski **RECORD PACKET COPY**

AGENT: Blakemore and Partners Architects. Attn: Michael Blakemore

PROJECT LOCATION: 500 East Balboa Boulevard, City of Newport Beach,
 County of Orange

PROJECT DESCRIPTION: Demolition of a one-story commercial structure and construction of a new mixed-use building consisting of 3 residential apartments over a ground level commercial space and combination of 2 lots.

SUMMARY OF STAFF RECOMMENDATION:

The proposed development involves construction of a new mixed use building. The ground floor unit would provide retail and service commercial uses, while the 2nd and 3rd floor units would provide residential units. The major issues before the Commission relate to assuring allowed uses, adequate parking and water quality. Staff recommends the Commission **APPROVE** the proposed development with **Four (4) Special Conditions**.

To assure that these issues are addressed, the Commission imposes **Four (4) Special Conditions**. **Special Condition #1** requires acknowledgement that the ground floor will only be used for commercial uses and that any future improvements must be reviewed by the Coastal Commission. **Special Condition #2** requires submittal of a Parking Management Plan. **Special Condition #3** requires submittal of a Construction Best Management Practices Plan. **Special Condition #4** requires submittal of a Water Quality Management Plan.

LOCAL APPROVALS RECEIVED: Approval In Concept #0426-2002 from the City of Newport Beach dated May 16, 2002; Approval In Concept #0851-2003 from the City of Newport Beach dated April 1, 2003 and Lot Line Adjustment No. LA2002-024 (PA2002-199) from the City of Newport Beach Planning Department dated October 23, 2002.

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach Certified Land Use Plan; Letter to Michael Blakemore from Commission Staff dated July 10, 2002; Letter to Commission Staff from Michael Blakemore dated August 26, 2002; Letter to Commission Staff from Michael Blakemore dated February 6, 2003; Letter to Michael Blakemore from Commission Staff dated March 13, 2003; and Letter to Commission Staff from Michael Blakemore dated April 4, 2003.

EXHIBITS

1. Vicinity Map
2. Assessor's Parcel Map
3. Site Plan
4. Floor Plans
5. Elevations and Sections
6. Drainage Plan
7. Lot Line Plan

STAFF RECOMMENDATION:

Staff recommends that the Commission adopt the following motion and resolution:

MOTION:

"I move that the Commission approve Coastal Development Permit No. 5-02-195 pursuant to the staff recommendation."

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.

I. APPROVAL 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 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. Commercial Ground Floor Unit Limitation

- A. The ground floor of the proposed building shall only be occupied by allowable commercial uses including, but may not be limited to: retail sales and offices which provide goods or services directly to the general public. Office uses which do not provide services directly to the public shall be prohibited on the ground floor.
- B. Except as provided in Public Resources Code Section 30610 and applicable regulations, any future development as defined in PRC section 30106, including but not limited to, a change in the density or intensity of land use shall require an amendment to Permit No. 5-02-195 from the California Coastal Commission or shall require an additional coastal development permit from the California Coastal Commission or from the applicable certified local government.

2. Parking Management and Signage Plan

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, a plan for parking management and signage. The plan shall be prepared by a qualified professional and shall include the following:
 1. Employees shall park in the interior spaces of the tandem parking spaces. Patrons of the retail and commercial uses are allowed to park behind the employees. Garages shall be limited to the exclusive use of the residents of the upper units.

The project plans shall include, at a minimum, the following components: a sample of each sign and/or stencil and a site plan depicting the location of each sign and/or stencil. Signage shall be posted that specifies allowable use of each parking space (including day and time of availability) and applicable restrictions. The signs shall be clearly visible to motorists from the frontage street or alley.
- B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan 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 legally required.

3. **Construction Best Management Practices Plan**

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and approval of the Executive Director, a Construction Best Management Practices Plan for the construction project site, prepared by a licensed professional, and shall incorporate erosion, sediment, and chemical control Best Management Practices (BMPs) designed to minimize to the maximum extent practicable the adverse impacts associated with construction to receiving waters. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

1. **Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris**

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

- (a) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, rain, or tidal erosion and dispersion;
- (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) Construction 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;
- (d) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and
- (e) All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

2. **Best Management Practices**

Best Management Practices (BMPs) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the onset of such activity. Selected BMPs shall be maintained in a functional condition throughout the duration of the project. Such measures shall be used during construction:

- (a) The applicant shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or

contact with runoff. It shall be located as far away from the receiving waters and storm drain inlets as possible.

- (b) The applicant shall develop and implement spill prevention and control measures.
- (c) The applicant shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50 feet away from a stormdrain, open ditch or surface water.
- (d) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.

B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan 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 legally required.

4. Water Quality Management Plan

A. **PRIOR TO 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) for the post-construction project site, prepared by a licensed water quality professional, and shall include plans, descriptions, and supporting calculations. The WQMP shall incorporate structural and non-structural Best Management Practices (BMPs) designed to reduce, to the maximum extent practicable, the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

1. Water Quality Goals

- (a) Post-development peak runoff rates and average volumes shall not exceed pre-development conditions.
- (b) Appropriate structural and non-structural BMPs shall be designed to treat, infiltrate, or filter the runoff from all surfaces and activities on the development site;
- (c) Post-construction structural BMPs (or suites of BMPs) should be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs;
- (d) Runoff from all roofs and parking areas shall be collected and directed through a system of structural BMPs or vegetated areas and/or gravel filter strips or other vegetated or media filter devices. Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants which are non-invasive. The

filter elements shall be designed to 1) trap sediment, particulates and other solids and 2) remove or mitigate contaminants through infiltration and/or biological uptake. The drainage system shall also be designed to convey and discharge runoff in excess of this standard from the building site in a non-erosive manner.

2. Parking Lot

- (a) The WQMP shall provide for the treatment of runoff from parking lots using appropriate structural and non-structural BMPs. At a minimum this must include a bioswale and/or filter designed specifically to minimize vehicular contaminants (oil, grease, automotive fluids, heavy metals), sediments, and floatables and particulate debris.
- (b) The applicant shall regularly sweep the parking lot at a minimum on a weekly basis, in order to prevent dispersal of pollutants that might collect on those surfaces.
- (c) The detergents and cleaning components used on site shall comply with the following criteria: they shall be phosphate-free, biodegradable, and non-toxic to marine wildlife; amounts used shall be minimized to the maximum extent practicable; no fluids containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates, or lye shall be used;
- (d) The applicant shall not spray down or wash down the parking lot unless the water used is directed through the sanitary sewer system or a filtered drain.
- (e) All BMPs shall be operated, monitored, and maintained for the life of the project and at a minimum, all structural BMPs shall be inspected, cleaned-out, and where necessary, repaired at the following minimum frequencies: (1) prior to October 15th each year; (2) during each month between October 15th and April 15th of each year and, (3) at least twice during the dry season.
- (f) Debris and other water pollutants removed from structural BMP(s) during clean-out shall be contained and disposed of in a proper manner;
- (g) It is the applicant's responsibility to maintain the drainage system and the associated structures and BMPs according to manufacturer's specification.

- B.** The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan 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.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. LOCATION, PROJECT DESCRIPTION AND BACKGROUND

1. Project Location

The proposed project is located at 500 East Balboa Boulevard on the Balboa Peninsula in the City of Newport Beach, County of Orange (Exhibits #1-2). The site is currently occupied by a parking lot and a vacant one-story bagel shop and is within the Retail and Service Commercial (RSC) District of the Central Balboa Area in the City's LUP. The City of Newport Beach has designated the Central Balboa as a unique mixture of visitor-oriented and neighborhood-oriented retail and service uses, including coastal-dependent visitor uses such as sport fishing establishments, day-boat rentals, ferry service, fishing docks, and the historic Balboa Pavilion. The area is designated for Retail and Service Commercial land use, as well as for Single Family Attached, Two Family Residential and Governmental, Educational and Institutional Facilities. Allowable commercial uses within areas designated RSC include, but may not be limited to: retail sales, offices which provide goods or services to the general public, hotels, motels, restaurants, commercial recreation, and senior citizen housing facilities. Within the RSC district, office uses which do not provide services directly to the public are prohibited on the ground floor, but may be permitted on the second level or above where the ground level is occupied by a primary use. Furthermore in the RSC district, residential development is allowed on the upper floors in conjunction with ground floor commercial. Central Balboa is the area bounded by Newport Bay, A Street, the ocean beach and Adams Street, plus the lots fronting on Balboa Boulevard between Adams and Coronado Street.

The project site is surrounded to the North by a two-story apartment building; to the East by an alley; to the West by Adams Street and to the South by Balboa Boulevard.

2. Project Description

The proposed project will consist of demolition of a one-story commercial structure (vacant one-story bagel shop) and parking lot and construction of a new three-story mixed-use building is proposed consisting of 3 residential apartments over a ground level commercial space (Exhibits #3-6). A total of 1,255 square feet of commercial space on the ground floor and a total of 2,575 square feet of residential space distributed among three (3) apartments are proposed on the 2nd and 3rd floors. No grading is proposed. A lot line merger consisting of merging two single existing lots into a single parcel of land is also part of the proposed project (Exhibit #7). The project includes a parking area for both the commercial and residential components of the structure on the ground floor. There will be six (6) parking spaces (four (4) tandem parking spaces and two (2) separate parking spaces) for the commercial component and six (6) tandem parking spaces for the residential component (Units "A", "B", and "C" will each have a two (2) car garage) (Exhibit #3).

B. PUBLIC ACCESS, PARKING AND NEW DEVELOPMENT

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 30222 of the Coastal Act states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Section 30252 of the Coastal Act states, in relevant part:

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

(4) providing adequate parking facilities or providing substitute means of serving the development with public transportation.

The City of Newport Beach Land Use Plan (LUP) was certified on May 19, 1982. The certified LUP was updated on January 9, 1990. Since the City has an LUP and not a fully certified LCP, the Chapter 3 policies of the Coastal Act are the standard of review, with the policies of the LUP used as guidance. The Newport Beach LUP includes policies that relate to development at the subject site. The "Commercial" section on page 45 of the Land Use Plan (LUP) describes allowable land uses within the "Retail and Service Commercial" areas as follows:

Retail and Service Commercial. *Areas with this designation are to be predominantly retail in character, also accommodating some service office uses. It is the intent of this designation to provide contiguity of shopping and mutually supportive businesses. Uses allowed include retail sales, offices which provide goods or services to the general public, hotels and motels, restaurants, commercial recreation, and senior citizen housing facilities. Office uses which do not provide services directly to the public shall be prohibited on the ground floor, but may be permitted on the second level or above where the ground level is occupied by a primary uses. Separate "corporate" type offices are not allowed in these areas.*

The "Central Balboa" section beginning on page 56 states, in pertinent part:

Central Balboa (SAP). *Central Balboa is the area bounded by Newport Bay, A Street, the ocean beach and Adams Street, plus the lots fronting on Balboa Boulevard between Adams and Coronado Street. This area is a unique mixture of visitor-oriented and neighborhood-oriented retail and service uses, including coastal-dependent visitor uses such as sport fishing establishments, day-boat rentals, ferry service, fishing docks, and the historic Balboa Pavilion. The area is designated for Retail and Service Commercial land*

use, with some areas shown for Single Family Attached, Two Family Residential and Governmental, Educational and Institutional Facilities.

Areas which are designated for Retail and Service Commercial or Governmental, Educational and Institutional land use are allowed a maximum floor area ratio of 0.5/1.0. Separate residential uses are prohibited. Residential development is permitted on the second floor in conjunction with ground floor commercial up to a total floor area ratio of 1.25. One dwelling unit is allowed for each 2,375 square feet of buildable lot area with a minimum of one unit allowed per lot. Retail and Service Commercial areas are also permitted FAR and density bonuses when existing legal lots are consolidated to provide unified site design. [LCP No. 33] Office uses may be permitted on the second floor or above when the ground level is occupied by a primary use providing goods or services directly to the public.

1. Public Access

The site is currently occupied by a parking lot and a vacant one-story bagel shop and is not located between the first public road and the sea or within 300 feet of the mean high tide line of the sea. Public access to the beach via the Balboa Pier Parking Lot and Balboa Pier is available approximately 310 feet south of the project site at the Adams Street, street end (Exhibit #2).

Therefore, the Commission finds that the proposed development does not adversely impact any existing public accessways nor does it engender the need for an additional public accessway and is consistent with Section 30212 of the Coastal Act.

2. Parking and New Development

One of the strongest legislative mandates of the Coastal Act is the preservation of coastal access. Section 30252 of the Coastal Act requires that new development maintain and enhance public access to the coast by providing adequate parking or alternative means of transportation. When new development does not provide adequate on-site parking and there are inadequate alternative means of reaching the area (such as public transportation), users of that development are forced to occupy public parking that could be used by visitors to the coast. A lack of public parking and public transportation will discourage visitors from coming to the beach and other visitor-serving activities in the coastal zone. A parking deficiency will therefore have an adverse impact on public access. Until adequate public transportation is provided, all private development must, as a consequence, provide adequate on-site parking to minimize adverse impacts on public access.

The City of Newport Beach attracts visitors year round due to its unique recreational opportunities, large harbor and marina facilities, and its coastal amenities. Like many beach communities, Newport Beach receives an annual influx of visitors during the summer. The project site and its immediate vicinity are characterized by mixed commercial recreational and residential uses in the area known as "Balboa Village". This area is a popular destination point for the public to come and enjoy the visitor and recreational facilities because it is sited near the Balboa Pier, Peninsula Park, and "Oceanfront," which serves as a major pedestrian path for the public in this area. Surrounding uses include retail and service commercial uses, restaurants, residential developments and to a large extent visitor and recreational facilities. The project site

also lies along Balboa Boulevard, which is a major arterial route for public access to the coastal opportunities located on the Balboa Peninsula.

Due to its location, the project site is ideally suited to support visitors to the beach and the coastal community. The immediate project vicinity consequently experiences high traffic volumes during the summer months. A lack of public parking discourages visitors from coming to the beach and other visitor-serving activities in the coastal zone. The lack of parking would therefore have an adverse impact on public access. All development must, as a consequence, provide adequate on-site parking to minimize adverse impacts on public access.

a. Proposed Uses and Parking Evaluation

The site is currently occupied by a parking lot and a vacant one-story bagel shop and is within the Retail and Service Commercial (RSC) District of the Central Balboa Area as stated in the City's LUP. The City of Newport Beach has designated this area as a unique mixture of visitor-oriented and neighborhood-oriented retail and service uses, including coastal-dependent visitor uses such as sport fishing establishments, day-boat rentals, ferry service, fishing docks, and the historic Balboa Pavilion. The area is designated for Retail and Service Commercial land use, as well as for Single Family Attached, Two Family Residential and Governmental, Educational and Institutional Facilities. Allowable commercial uses include, but may not be limited to: retail sales, offices which provide goods or services to the general public, hotels, motels, restaurants, commercial recreation, and senior citizen housing facilities. Professional and business offices not providing goods or services to the general public are allowed only on the second floor or above. Furthermore, residential development is allowed on the upper floors in conjunction with ground floor commercial.

The applicant proposes two types of land uses on-site, 1) commercial and 2) residential. The commercial component would be located on the ground floor and residential units would be located above. Locating the retail and service commercial development on the first floor is consistent with the Coastal Act since it places higher priority use on the more easily accessible lower floor and the lower priority use on the upper floor. The applicant is proposing six (6) parking spaces (four (4) tandem parking spaces and two (2) separate parking spaces) for the commercial component and six (6) tandem parking spaces for the residential component (Units "A", "B", and "C" will each have a two (2) car garage). The following is an evaluation of the Commission's regularly used parking requirements for each proposed land use.

i. Residential

The Commission has consistently found that two parking spaces per residential unit is adequate to satisfy the parking demand generated by one individual residential unit. The three (3) proposed residential units would each have a two (2)-car garage.

ii. Retail and Service Commercial

The Commission typically imposes a parking standard of 1 space per each 225 square feet of gross floor area for retail and commercial service uses. The proposed retail and service commercial portion of the project is 1,255 square feet in size. Based on the standard of 1 space per 225 square feet of gross floor area for retail and service commercial uses, the parking demand totals six (6) spaces.

iii. Parking Conclusion

The applicant is proposing six (6) new parking spaces for the retail and service commercial component and six (6) parking spaces for the residential units. Therefore, as proposed, the parking is consistent with the Commission's regularly used parking standards.

3. Ground Floor Usage

Though the applicant is providing an adequate number of spaces based on a generic use, the applicant has not defined the specific type of business that will be occupying the proposed commercial component of the project. Furthermore, at this time a specific commercial tenant for the proposed commercial component of the project is not known. The applicant has stated that there may be a single tenant, but that may change.

Section 30222 states that lands suitable for visitor-serving commercial recreational facilities should have priority over private residential, general industrial, or general commercial development. The project site is within the Retail and Service Commercial (RSC) District of the Central Balboa Area in the City's LUP. The City of Newport Beach has identified the site and the surrounding Central Balboa area as a unique mixture of visitor-oriented and neighborhood-oriented retail and service uses. The RSC designation allows both visitor-oriented and commercial uses. The applicant is proposing to rent/lease to commercial tenants that conform with the RSC designation. However, consistent with the RSC designation, general uses are also allowed on the project site. To ensure compliance with Section 30222 and the land uses identified in the certified LUP, the Commission imposes **Special Condition #1**. This condition requires that all of the proposed structures provide commercial development consistent with the allowable land uses listed in the certified LUP. The condition further specifies that future improvements, including change in use or intensity of use, are required to be reviewed by the Commission.

Also, the actual number of parking spaces required could be significantly different depending on the future tenants' commercial intentions, which at this time are unknown. There are some retail and service commercial uses which would be in conformance with the Commission's typically imposed parking standard of 1 space per each 225 square feet of gross floor area. However, there are also a host of other uses consistent with the RSC designation, such as a restaurant, which would have a higher demand for parking. Adequate parking to serve the increased demand would need to be evaluated. Therefore, this requires the Commission evaluate changes, such as in use or intensity of use that could affect consistency with Section 30252 of the Coastal Act. For example, a

change in use to a restaurant would have a higher demand for parking and thus would need to be evaluated by the Commission to make sure the change in use would be consistent with Section 30252 of the Coastal Act. Therefore, to ensure compliance Section 30252 and the land uses identified in the certified LUP, the Commission imposes **Special Condition #1**.

4. Tandem Parking and Signage Plan

Though the parking proposed by the applicant is numerically adequate, there is a concern regarding the feasibility of the parking arrangement. The proposed parking management system relies more on tandem parking spaces for the commercial uses and residential uses, which makes ingress and egress difficult. For example, employees and potential customers may be hesitant to pull forward to the more interior parking space for fear of getting "trapped." Potential customers would then park in off-site public spaces instead and thus adversely impact public parking. This would be inconsistent with Section 30252 of the Coastal Act which requires that new development maintain and enhance public access to the coast by providing adequate parking.

To assure that the parking arrangement is rational and that customers of the proposed development will have adequate, usable parking available, the applicant must submit a Parking Management Plan. To minimize adverse impacts to public access resulting from a lack of public parking, the Commission imposes **Special Condition #2**, which requires the submittal of a Parking Management Plan. This Plan shall include, but not limited to, 1) instruction to employees to use the parking spaces within the interior areas during normal business hours so they do not block customers, 2) instruction to patrons of the retail and commercial use that they are allowed to park behind the employees and 3) signage to be placed on the exterior walls of the building and/or on posts (frontage street and alley) to inform customers where to park and the times the parking is available. In addition to the exterior wall/post signs, the applicant may also propose to designate parking spaces for employees and customers by stenciling labels on the pavement.

5. Conclusion

Thus, only as conditioned for the applicant's to acknowledge that the ground floor will only be used for commercial uses, that any future improvements must be reviewed by the Coastal Commission and for the submittal of a Parking Management Plan, does the Commission find that the proposed development would be consistent with Sections 30222 and 30252 of the Coastal Act.

C. WATER QUALITY AND THE MARINE ENVIRONMENT

The protection of water quality is an important aspect of the Coastal Act. Water from the new parking lot and site will flow onto the City of Newport Beach's recently approved storm drain system and will ultimately drain to the Pacific Ocean. Recent beach closures occurring throughout Orange County, including those in Newport Beach, Huntington Beach and Laguna Beach, have been attributed to polluted urban runoff discharging into the ocean through outfalls. As illustrated by these beach closures, polluted runoff negatively affects both marine resources and the public's ability to access coastal resources.

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 and 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:

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. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

1. Construction Impacts to Water Quality

Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain, surf, or wind 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, machinery may release lubricants or oils to coastal waters that are toxic to marine life. Sediment discharged into coastal waters may cause turbidity, which can shade and reduce the productivity of 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 #3** outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris. This condition requires the applicant to remove any and all debris resulting from construction activities within 24 hours of completion of the project. In addition, all construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

2. Post-Construction Impacts to Water Quality

The proposed development will result in urban runoff entering the storm water system. Pollutants such as sediments or toxic substances such as grease, motor oil, heavy metals, pesticides and fertilizers are often contained within urban runoff entering the

storm water system. In this case, the site drains a new parking lot, paved walkways and landscaped areas. Therefore, the primary post-construction water quality concerns associated with the proposed project include grease, motor oil, heavy metals, pesticides and fertilizer.

The proposed development would result in the discharge of storm water into the storm water conveyance system. As such, the amount of pollutants carried through the system would increase proportionally. Therefore, the project has the potential to affect the water quality of the coastal waters in Newport Beach.

The proposed retail and service commercial and residential project is new development, which affords an opportunity to improve water quality. Much of the pollutants entering the ocean come from land-based development. The Commission finds that it is necessary to minimize to the extent feasible within its jurisdiction the cumulative adverse impacts on water quality resulting from incremental increases in impervious surface associated with additional development. Reductions in the amount of pollutants in the existing runoff would be one step to begin to reduce cumulative adverse impacts to coastal water quality. The currently proposed project drains a new twelve (12) space parking area, paved walkways and landscaped areas. As such, appropriate measures must be taken to assure that adverse affects on water quality are minimized. Therefore, it is necessary to impose **Special Condition #4**. The applicant has submitted a Drainage Plan (the Drainage Plan will be further discussed below) which conceptually provides appropriate ways to address water quality impacts; however, there are certain criteria that BMP's must adhere to, therefore **Special Condition #4** requires that the applicant submit a Water Quality Management Plan. The Water Quality Management Plan shall meet water quality goals such as use of appropriate structural and non-structural BMP's designed to treat, infiltrate, or filter the runoff from all surfaces and activities on the development site and that runoff from all roofs and parking areas and shall be collected and directed through a system structural BMP's and/or gravel filter strips or other vegetated or media filter devices. In addition, this Water Quality Management Plan shall incorporate measures that reduce water quality impacts resulting from the new parking lot.

3. Drainage Plan

The Coastal Act emphasizes the protection of water quality. Recent beach closures occurring throughout Orange County, including those in Newport Beach, Huntington Beach and Laguna Beach, have been attributed to polluted urban runoff discharging into the ocean through outfalls. As illustrated by these beach closures, polluted runoff negatively affects both marine resources and the public's ability to access coastal resources. Water from the new parking lot and site will flow onto the City of Newport Beach's recently approved storm drain system and will ultimately drain to the Pacific Ocean

In order to minimize adverse impacts to water quality, the applicant has submitted a Drainage Plan (Exhibit #6) and narrative which attempts to address to minimize adverse impacts to water quality. The submitted narrative from the agent dated February 6, 2003 stated: *"In reference to the water quality and drainage plan we will, as discussed in our meeting, utilize (1) materials that increase water percolation on the hard surfaces, (2) collect the rainwater from the roofs and decks and direct them onsite into landscaped*

areas for percolation purposes, and (3) utilize trench drains at driveways to collect water and direct it to subsurface drains that allow for water percolation. Noted on sheet A1-1 are the pervious hardscaped areas, infiltration trenches, and routes of rainwater leaders to capture and direct rain to the filtration trenches." In addition, the agent submitted another narrative dated April 4, 2003, which also stated: "All sloped roofs will have gutters that connect to the in-wall rainwater leaders. All flat roofs will have deck drains connected to in-wall rain water leaders. Overflow scuppers on the decks will also be connected to separate rainwater leaders adjacent to the drain itself exiting the base of the building wall next to the drain line." The applicant's Drainage Plan conceptually provides appropriate ways to minimize water quality impacts raised by the project; however, **Special Condition #4** is necessary in order to verify that the proposed project will not result in adverse impacts to water quality and that acceptable methods of preventing adverse impacts to water quality are implemented.

The use of invasive vegetation on site for landscaping areas could have adverse impacts on the sustainability of any existing native vegetation. Invasive plants have the potential to overcome native plants and spread quickly. Consequently, to minimize any affect on any native vegetation in the area, invasive vegetation which would supplant native species should not be used. Furthermore, any plants in the landscaping plan should be drought tolerant to minimize the use of water. To minimize any effect on any native vegetation in the area, either native or non-native drought tolerant vegetation, which would not supplant native species, should be used.

Therefore, to lessen the potential for pollutants to enter the storm drain system and to reduce water run-off at the subject site, the Commission imposes **Special Condition #4**. **Special Condition #4** requires the applicant to submit a Water Quality Management Plan. The Water Quality Management Plan shall meet water quality goals such as use of appropriate structural and non-structural BMP's designed to treat, infiltrate, or filter the runoff from all surfaces and activities on the development site and that runoff from all roofs and parking areas and shall be collected and directed through a system of structural BMP's and/or gravel filter strips or other vegetated or media filter devices. This Water Quality Management Plan shall also incorporate measures that reduce water quality impacts resulting from the new parking lot. In addition, vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants which are non-invasive. Any proposed changes to the approved final plan shall be reported to the Executive Director.

4. Conclusion

To minimize the adverse impacts upon the marine environment, **two (2) Special Conditions** have been imposed. **Special Condition #3** requires the applicant to adhere to construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris and also requires the applicant to incorporate Best Management Practices effective at mitigating pollutants of concern. **Special Condition #4** requires the applicant to submit a Water Quality Management Plan. Only as conditioned, the Commission finds that the proposed project is consistent with Section 30230, 30231 and 30232 of the Coastal Act.

D. LOCAL COASTAL PROGRAM

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3.

The Newport Beach Land Use Plan was effectively certified on May 19, 1982. The certified LUP was updated on January 9 1990. The City currently has no certified Implementation Plan. Therefore, the Commission issues CDP's within the City based on the development's conformance with the Chapter 3 policies of the Coastal Act. The LUP policies may be used for guidance in evaluating a development's consistency with Chapter 3. The City's LUP that the City seeks to provide and maintain public access and to insure the highest quality of water in the bay and along their beaches. As conditioned, the proposed project is not expected to create substantial adverse impacts to public access, marine resources, water quality and the marine environment and therefore attempts to provide and maintain public access and to insure the highest quality of water in the Bay and along the beaches.

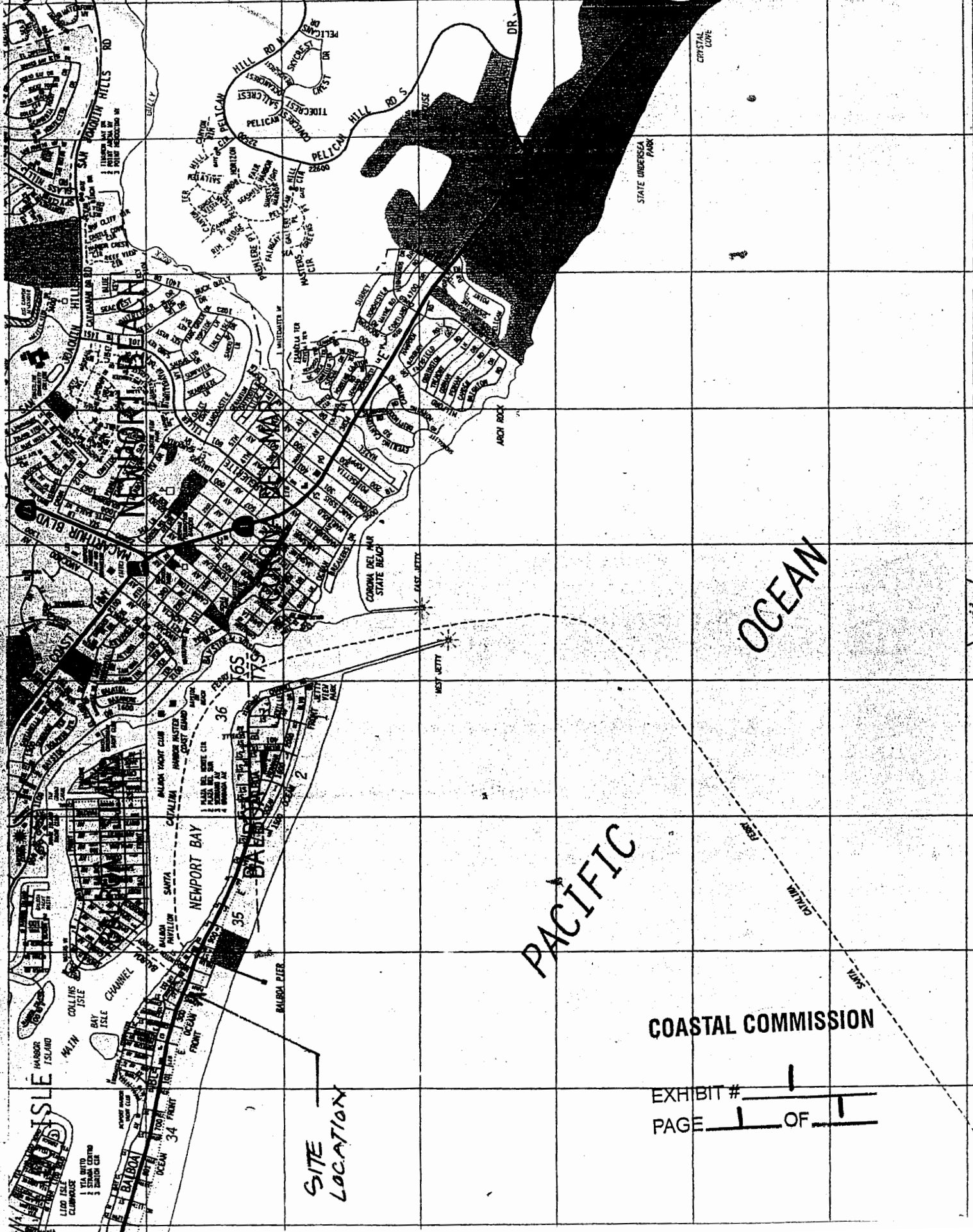
The proposed development, as conditioned, is consistent with Chapter 3 policies of the Coastal Act and with the LUP. Therefore, the Commission finds that approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program (Implementation Plan) for Newport Beach that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

E. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096(a) of Title 14 of the California Code of 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 further feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The project is located in an urbanized area. Development already exists on the subject site. The proposed development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. The conditions also serve to mitigate significant adverse impacts under CEQA. Conditions imposed are: 1) requires acknowledgement that the ground floor will only be used for commercial uses and that any future improvements must be reviewed by the Coastal Commission; 2) requires submittal of a Parking Management Plan; 3) requires submittal of a Construction Best Management Practices Plan and 4) requires submittal of a Water Quality Management Plan.

As conditioned, no feasible alternatives or further 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 the least environmentally damaging alternative and is consistent with CEQA and the policies of the Coastal Act.



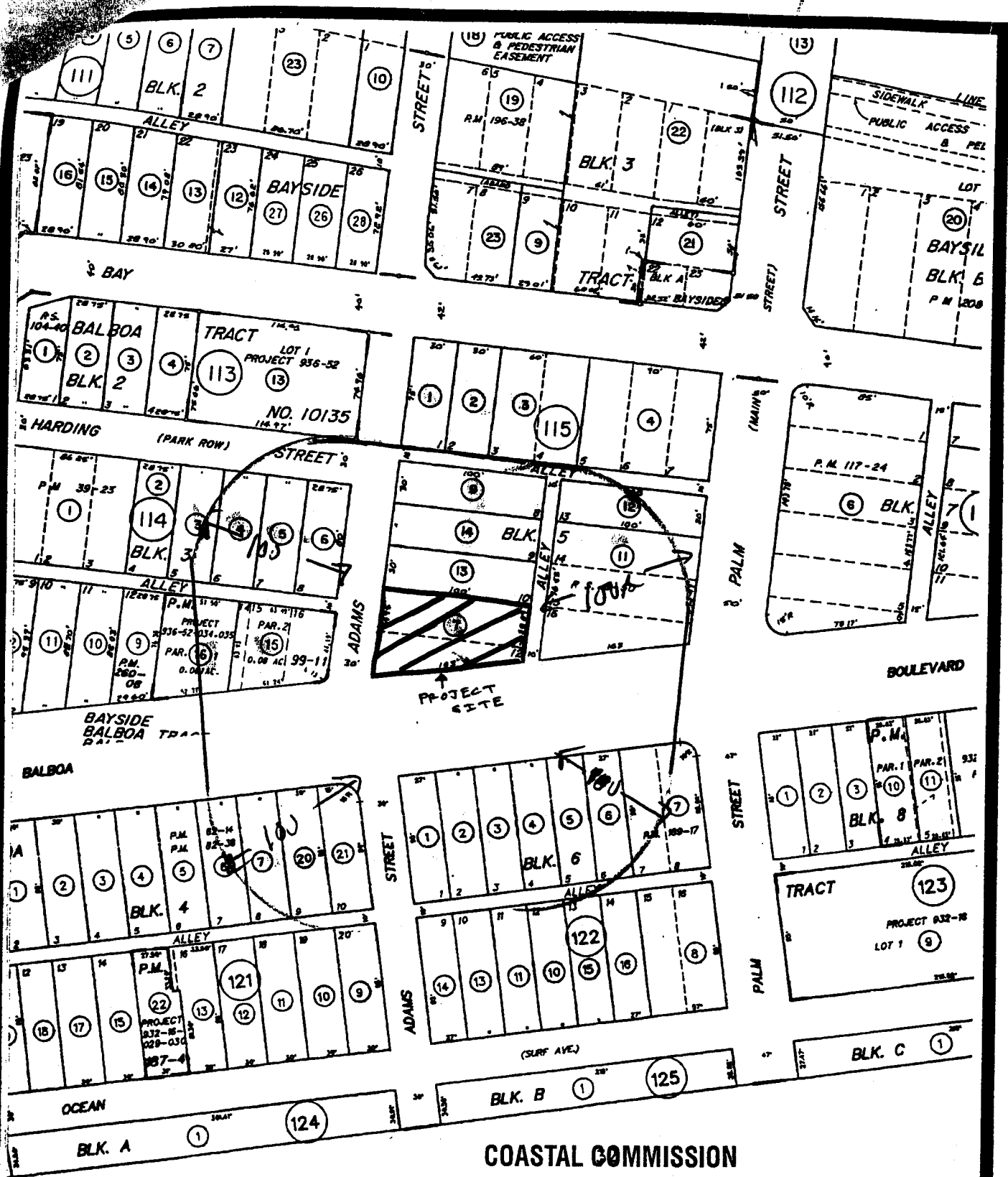
OCEAN

PACIFIC

COASTAL COMMISSION

EXHIBIT # 1
PAGE 1 OF 1

SITE
LOCATION



COASTAL COMMISSION

EXHIBIT # 2 NOTE -
 PAGE 1 OF 1

ASSESSOR'S BLOCK & PARCEL NUMBERS SHOWN IN CIRCLES

BALBOA TRACT
 TRACT NO. 7599
 PARCEL MAP

M.M. 4-11
 M.M. 289-22.23
 P.M. 187-4, 248-28

949

MICHELE BLANKENHORN
ARCHITECTS
INCORPORATED

252 Ford Avenue Suite 10
Laguna Beach, California 92653
949.434.3243
949.434.3278
www.michelleblankenhorn.com

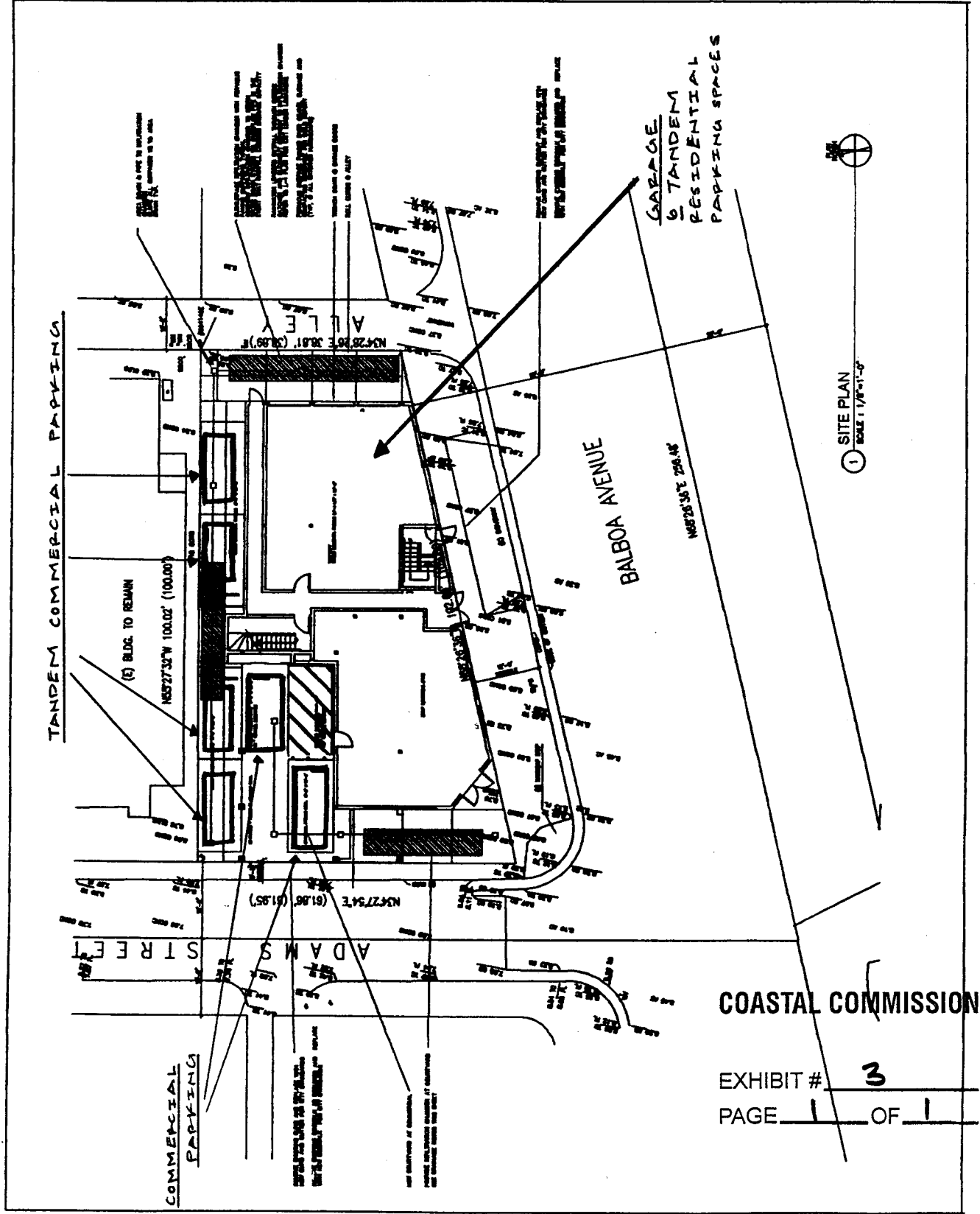
NO. 2007 CONCEPT
RECORD SET FOR PERMITS

BALBOA VILLAS
RECORDED 2008-03-27

| | |
|----------|------|
| NO. 2007 | DATE |
| NO. 2008 | DATE |
| NO. 2009 | DATE |
| NO. 2010 | DATE |
| NO. 2011 | DATE |
| NO. 2012 | DATE |
| NO. 2013 | DATE |
| NO. 2014 | DATE |
| NO. 2015 | DATE |
| NO. 2016 | DATE |
| NO. 2017 | DATE |
| NO. 2018 | DATE |
| NO. 2019 | DATE |
| NO. 2020 | DATE |

PROJECT INFORMATION
Project No. 2007-001-001
Project Name: Balboa Villas
Project Location: Laguna Beach, California

SITE PLAN
SHEET # 1 OF 10
A1-1



COASTAL COMMISSION

EXHIBIT # 3
PAGE 1 OF 1

**MICHAEL E. BLAKEMORE
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INCORPORATED**
285 First Avenue Suite 10
Laguna Beach, California 92653
949.764.4910
949.774.4882 fax
www.michaelblakemore.com

DATE: _____

PROJECT: _____

MR. BOBBER GORDON
330 E. BALBOA
NEWPORT BEACH, CALIFORNIA

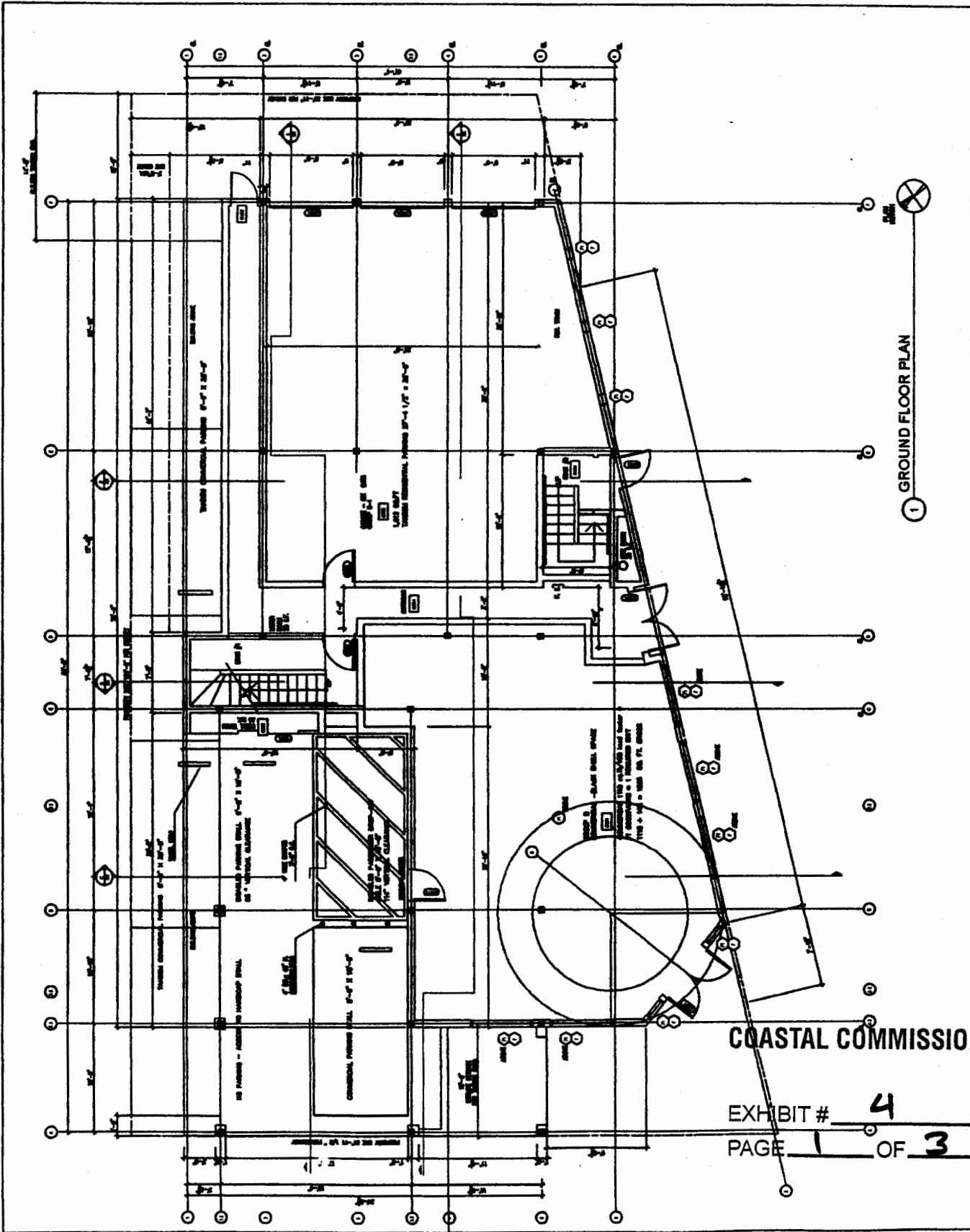
BALBOA VILLAS
330 EAST BALBOA
NEWPORT BEACH, CALIFORNIA

| | |
|---------|------|
| NO. 001 | DATE |
| NO. 002 | DATE |
| NO. 003 | DATE |
| NO. 004 | DATE |
| NO. 005 | DATE |
| NO. 006 | DATE |
| NO. 007 | DATE |
| NO. 008 | DATE |
| NO. 009 | DATE |
| NO. 010 | DATE |
| NO. 011 | DATE |
| NO. 012 | DATE |
| NO. 013 | DATE |
| NO. 014 | DATE |
| NO. 015 | DATE |
| NO. 016 | DATE |
| NO. 017 | DATE |
| NO. 018 | DATE |
| NO. 019 | DATE |
| NO. 020 | DATE |

PROJECT APPROVALS
Professional Seal of License
Professional Seal of License
Professional Seal of License
Professional Seal of License

GROUND_FLOOR
SHEET # 10

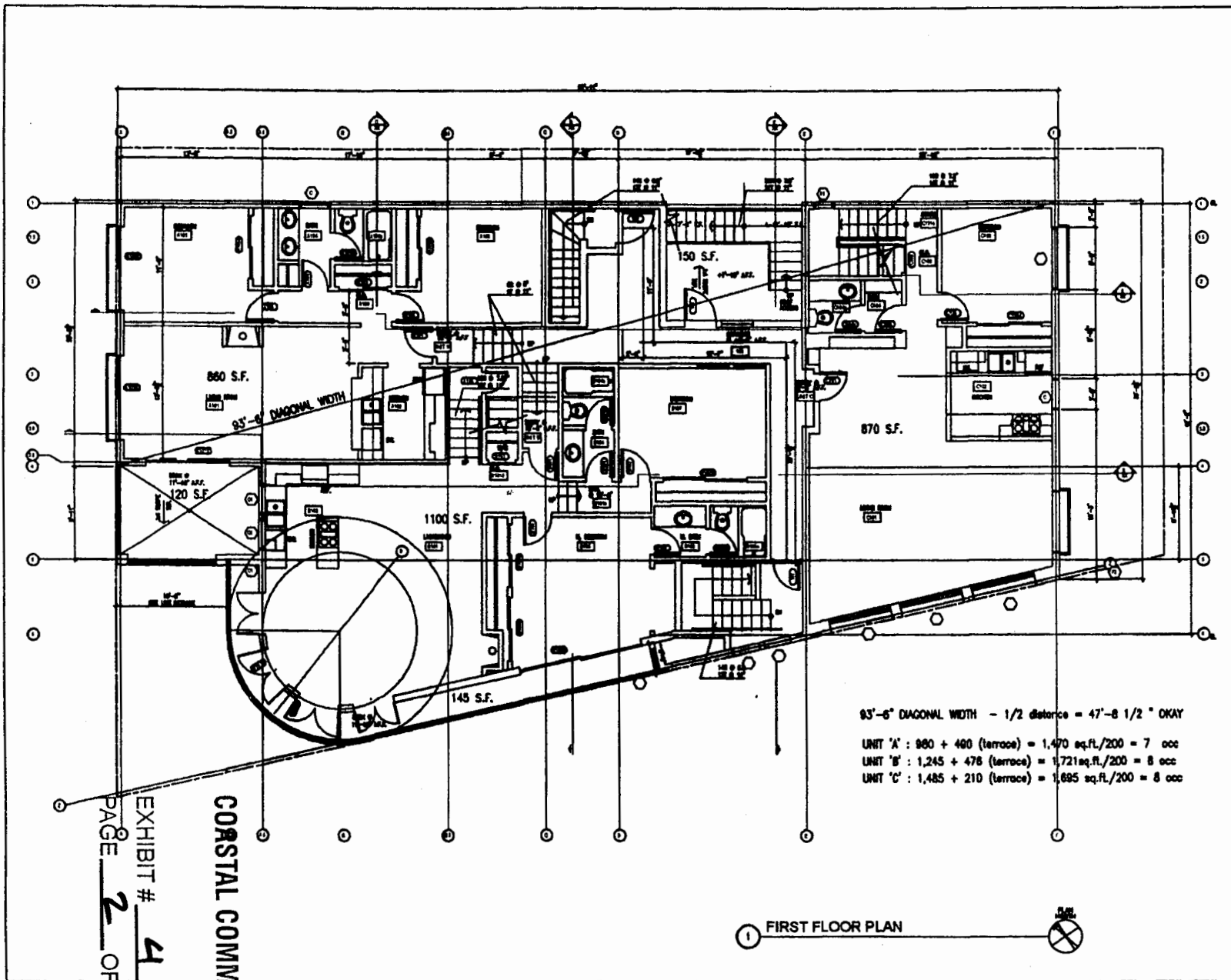
A2-1



1 GROUND FLOOR PLAN

COASTAL COMMISSION

EXHIBIT # 4
PAGE 1 OF 3



**MICHAEL E. BLAKEMORE
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INCORPORATED**

232 First Avenue Suite 12
Laguna Beach, California 92653

949-491-4111
949-479-8881 fax
www.mebblakemore.com

CLIENT:

OWNER:

MR. ROGER GORBU
800 EAST BALBOA BLVD.
HOLLYWOOD BEACH, CALIFORNIA

PROJECT:

BALBOA VILLAS
555 EAST BALBOA
HOLLYWOOD BEACH, CALIFORNIA

| DATE SET | DATE |
|---------------------------------------|----------|
| <input type="checkbox"/> ARCHITECTURE | |
| <input type="checkbox"/> STRUCTURE | 07-20-05 |
| <input type="checkbox"/> PLUM | |
| <input type="checkbox"/> MECH | |
| <input type="checkbox"/> ELECTRICAL | |
| <input type="checkbox"/> INTERIORS | |
| <input type="checkbox"/> EXTERIORS | |
| <input type="checkbox"/> OTHER | |

| REVISION | DATE |
|----------|------|
| ▲ | |
| ▲ | |
| ▲ | |
| ▲ | |

DATE INFORMATION:

Plan - 07/20/05, PP - 07/20/05
 Project # _____ Date 08/04/05
 Checked by: M.E. Blakemore Drawn by: M.E. Blakemore Date: 08/04/05

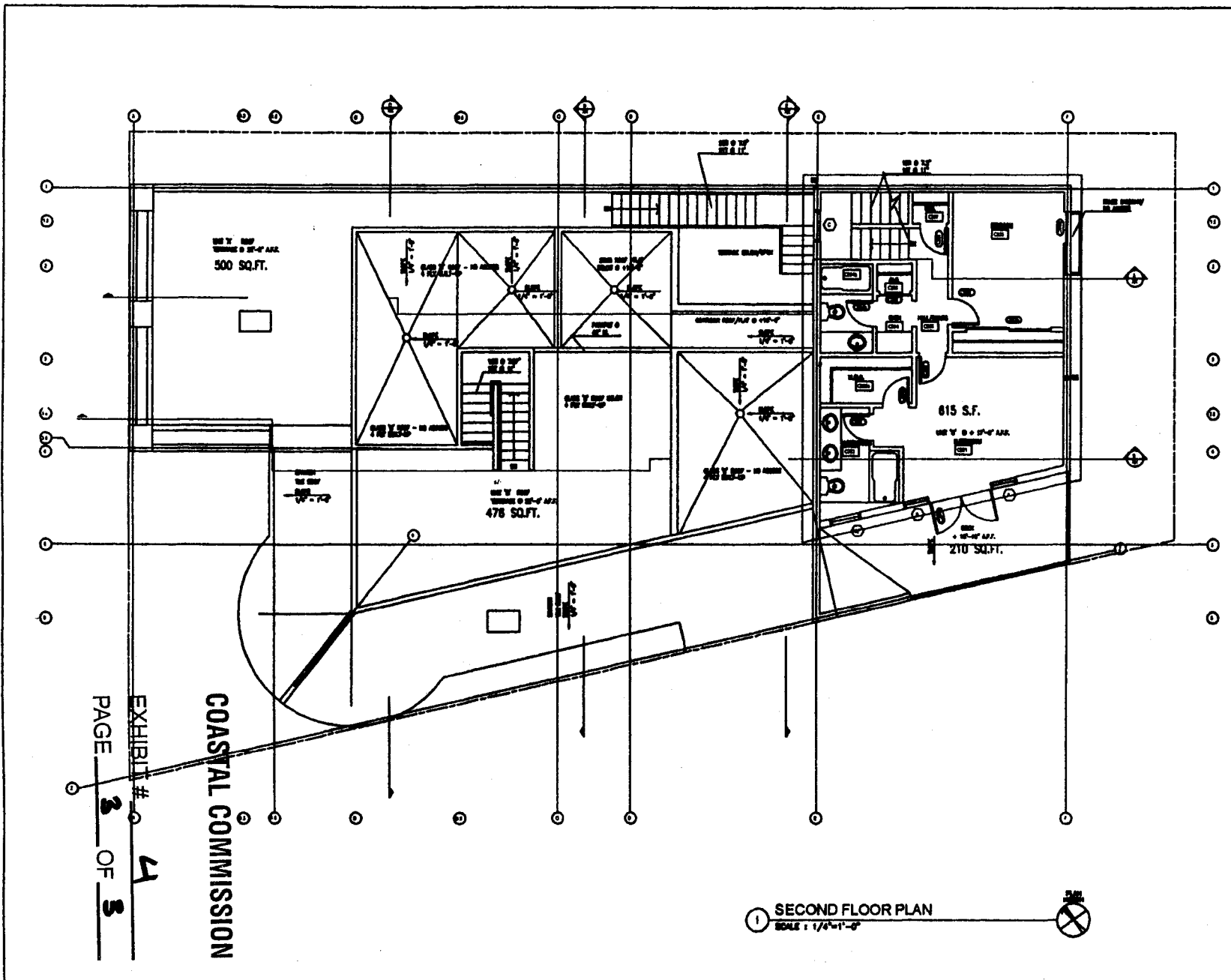
FIRST_FLOOR

DATE: _____ SHEET NO: _____

A2-2

1 FIRST FLOOR PLAN

EXHIBIT # 4
 COASTAL COMMISSION
 PAGE 2 OF 3



**MICHAEL E. BLAKEMORE
ARCHITECTS
INCORPORATED**

222 First Avenue Suite 10
Laguna Beach, California 92653

949-794-0210
949-794-0887 fax
www.michaelblakemore.com

DESIGNER

CLIENT

MR. ROGER CORNIG
500 EAST BALBOA BLVD.
HONOLULU, HAWAII

PROJECT

BALBOA VILLAS
500 EAST BALBOA BLVD.
HONOLULU, HAWAII

- | DATE | BY |
|---|----------|
| <input type="checkbox"/> PRELIMINARY DESIGN | |
| <input type="checkbox"/> DESIGN | 02-05-02 |
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| <input type="checkbox"/> DESIGN | |
| <input type="checkbox"/> PLAN SHEET 2 | |
| <input type="checkbox"/> DESIGN | |
| <input type="checkbox"/> PLAN SHEET 3 | |
| <input type="checkbox"/> DESIGN | |
| <input type="checkbox"/> PLAN SHEET 4 | |
| <input type="checkbox"/> DESIGN | |

- | REVISION | DATE | BY |
|----------|------|----|
| ▲ | | |
| ▲ | | |
| ▲ | | |
| ▲ | | |

NOTES:

1. Refer to Appendix J for Siting

2. Project # 02-05-02

3. Drawing Scale: As Shown

4. Checked by: MEB

SECOND_FLOOR

DATE: 02/05/02

A2-3

MICHAEL E. BLAKEMORE
ARCHITECTS
INCORPORATED

222 Pined Avenue Suite 10
Laguna Beach, California 92651

949-770-8819
949-375-8882 fax

www.mebuilders.com

DATE:

BY:

MR. ROGER GORNIK
500 E. BALBOA
NEWPORT BEACH, CALIFORNIA

PROJECT:

BALBOA VILLAS
500 EAST BALBOA BLVD.
NEWPORT BEACH, CALIFORNIA

| NO. | REV. | DATE |
|--------------------------|--------------|----------|
| <input type="checkbox"/> | REVISIONS | |
| <input type="checkbox"/> | ISSUED | 02-03-02 |
| <input type="checkbox"/> | PLAN CHECK 1 | |
| <input type="checkbox"/> | ISSUED | |
| <input type="checkbox"/> | PLAN CHECK 2 | |
| <input type="checkbox"/> | REVISIONS | |
| <input type="checkbox"/> | AS BUILT | |
| <input type="checkbox"/> | | |

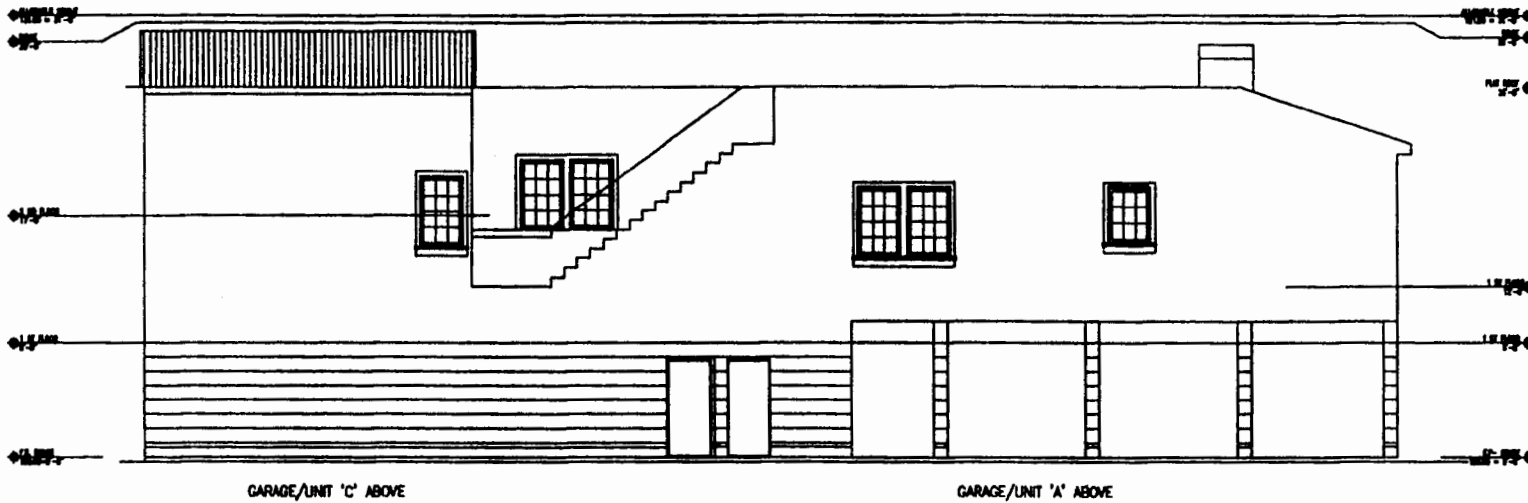
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PROJECT INFORMATION
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 Project # Scale SCALE
 Checked by: Drawn by: Date:

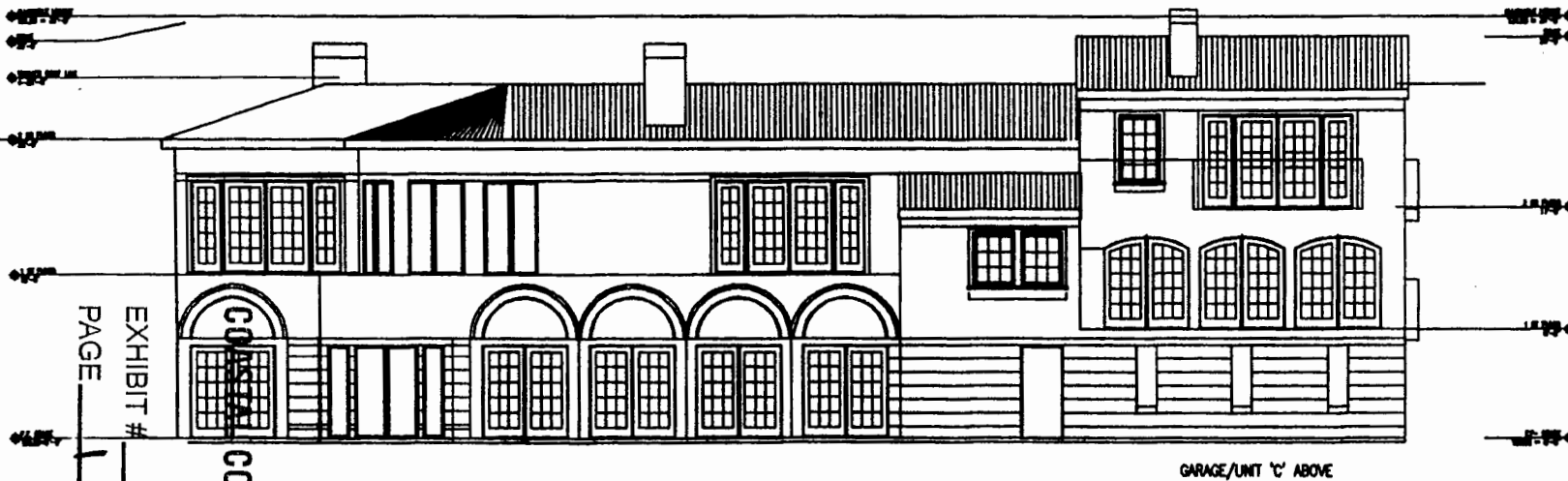
ELEVATION

SHEET NO

A3-1



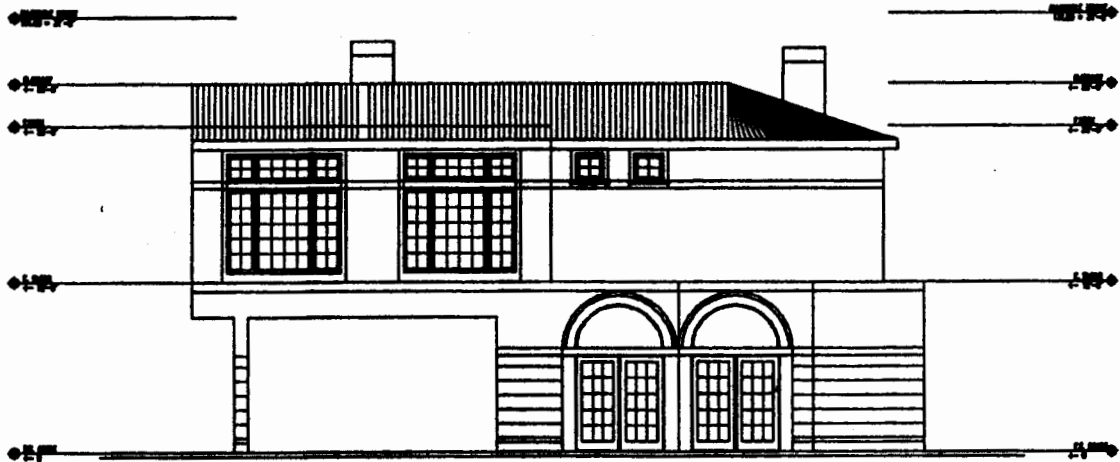
(B) EAST ELEVATION
SCALE: 1/4"=1'-0"



(A) WEST ELEVATION
SCALE: 1/4"=1'-0"

EXHIBIT # 5
PAGE 1 OF 3

COMMISSION



(C) SOUTH ELEVATION
SCALE: 1/4"=1'-0"

GARAGE UNIT A/B / UNIT 'A' ABOVE COMMERCIAL / UNIT 'C' ABOVE



SOUTH ELEVATION
SCALE: 1/4"=1'-0"

GARAGE / UNIT 'C' ABOVE

**MICHAEL E. BLAKEMORE
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949-376-4888 fax
www.meb.com

DESIGNED BY

MR. ROGER GORIN
AND C. BALBOA
NEWPORT BEACH, CALIFORNIA

PROJECT

BALBOA VILLAS
BIG EART BALBOA VILLAS
NEWPORT BEACH, CALIFORNIA

| | | |
|---|----------|------|
| DATE SET | DATE | |
| <input type="checkbox"/> ARCHITECT DESIGN | | |
| <input type="checkbox"/> GENERAL | 02-03-03 | |
| <input type="checkbox"/> PLAN SHEET 1 | | |
| <input type="checkbox"/> SHEET | | |
| <input type="checkbox"/> PLAN SHEET 2 | | |
| <input type="checkbox"/> CONSTRUCTION | | |
| <input type="checkbox"/> AS BUILT | | |
| <input type="checkbox"/> | | |
| REVISION | FILE | DATE |
| ▲ | | |
| ▲ | | |
| ▲ | | |
| ▲ | | |

DESIGN INFORMATION

Project: Newport_Balboa_Villas_Plan_Sheet

Project # Date: 02/03

Drawn by: RGM Check by: RGM Date: 02/03

ELEVATION

SHEET SHEET OF NO

A3-2

EXHIBIT # 5
PAGE 2 OF 3

COASTAL COMMISSION

MICHAEL BLAKEMORE ARCHITECTS INCORPORATED
 281 First Avenue Suite 19
 Laguna Beach, California 92653
 (415) 494-1243
 (415) 494-1244 fax
 www.michaelblakemore.com

SECTION

WEST

MR. ROBERT BROWN
 500 E. BALBOA
 NEWPORT BEACH, CALIFORNIA

PROJECT

BALBOA VILLAS
 500 EAST BALBOA, CALIFORNIA

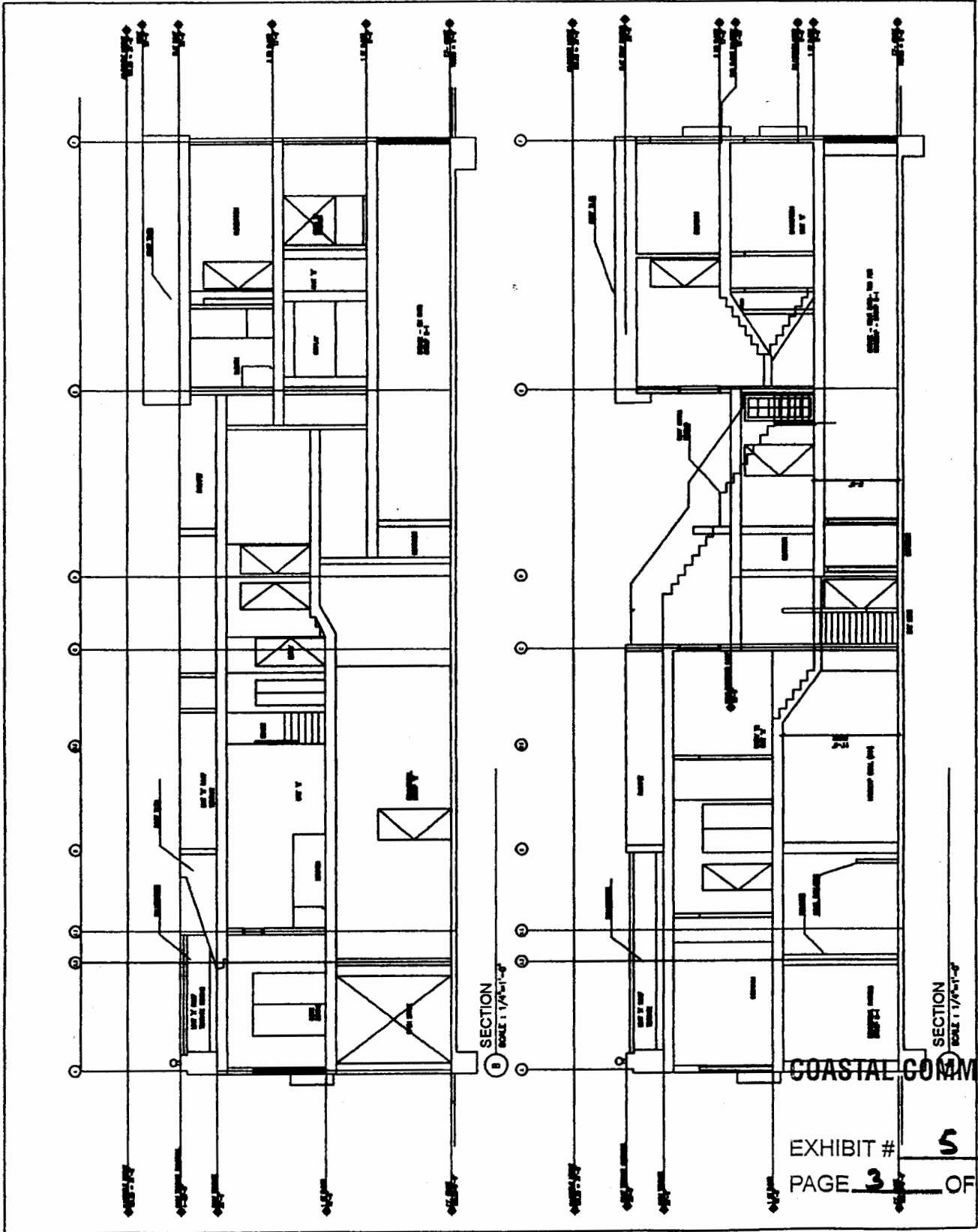
| NO. | DATE | DESCRIPTION |
|-----|----------|------------------------|
| 1 | 04-24-07 | CONCEPT DESIGN |
| 2 | 05-15-07 | SCHEMATIC DESIGN |
| 3 | 06-15-07 | PRELIMINARY DESIGN |
| 4 | 07-15-07 | FINAL DESIGN |
| 5 | 08-15-07 | CONSTRUCTION DOCUMENTS |
| 6 | 09-15-07 | AS-BUILT DOCUMENTS |

REVISIONS
 1. REVISED PER COMMENTS FROM ARCHITECT
 2. REVISED PER COMMENTS FROM ARCHITECT

SECTION

WEST

A4-1



SECTION B
 SCALE 1/4"=1'-0"

SECTION
 SCALE 1/4"=1'-0"

COASTAL COMMISSION

EXHIBIT # **5**
 PAGE **3** OF **3**

**MICHAEL EMANENSON
ARCHITECTS
INCORPORATED**

100 Park Avenue East
Suite 1000, Redwood City
California 94063
Tel: 650-992-1100
Fax: 650-992-1101

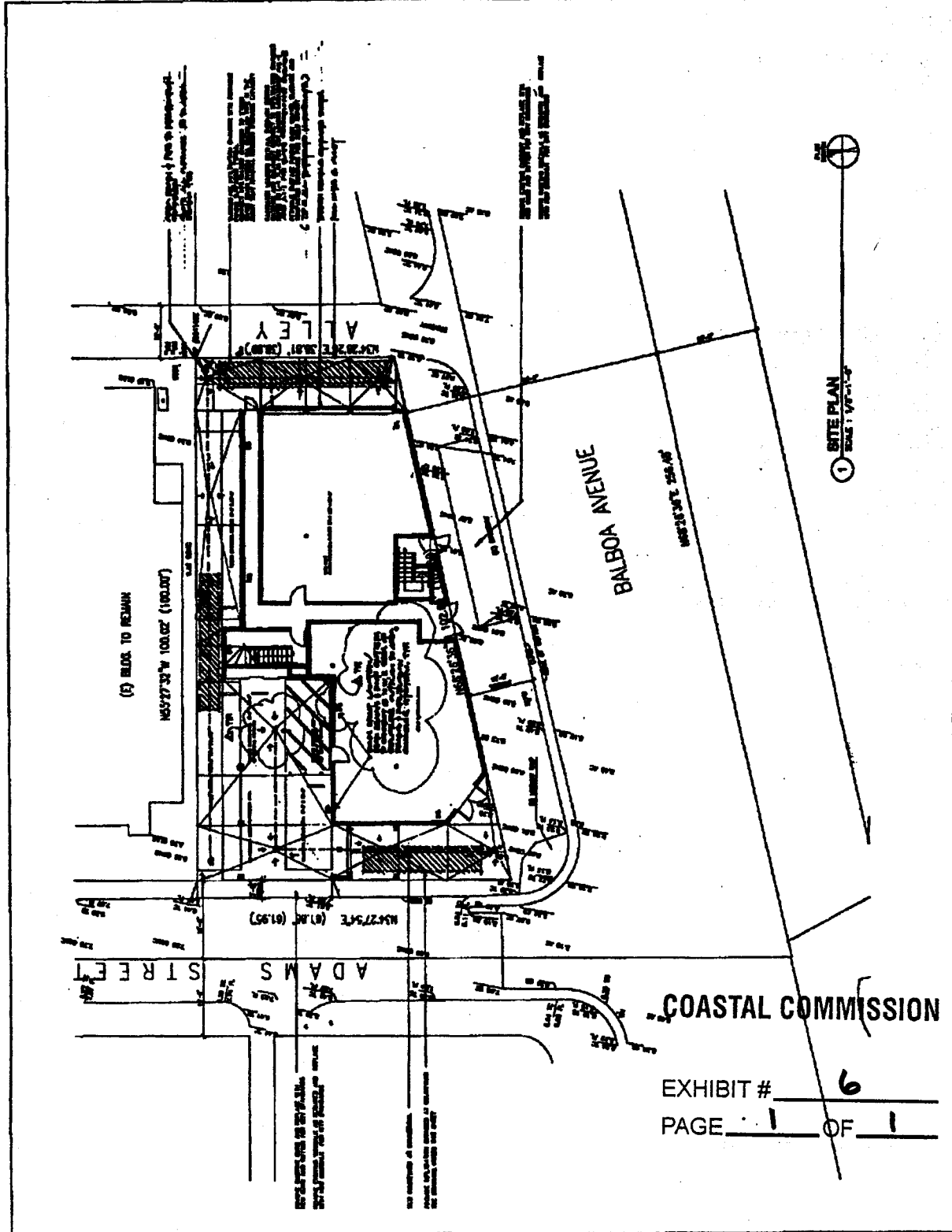
PROJECT
BALBOA VILLAS
100 EAST BAYVIEW DRIVE
REDWOOD CITY, CA 94063

DATE
01/20/03
02/10/03
03/10/03
04/10/03
05/10/03
06/10/03
07/10/03
08/10/03
09/10/03
10/10/03
11/10/03
12/10/03

REVISIONS

1. Initial Design
2. Final Design
3. Final Design
4. Final Design
5. Final Design
6. Final Design
7. Final Design
8. Final Design
9. Final Design
10. Final Design
11. Final Design
12. Final Design

SITE PLAN
SHEET NO. 1



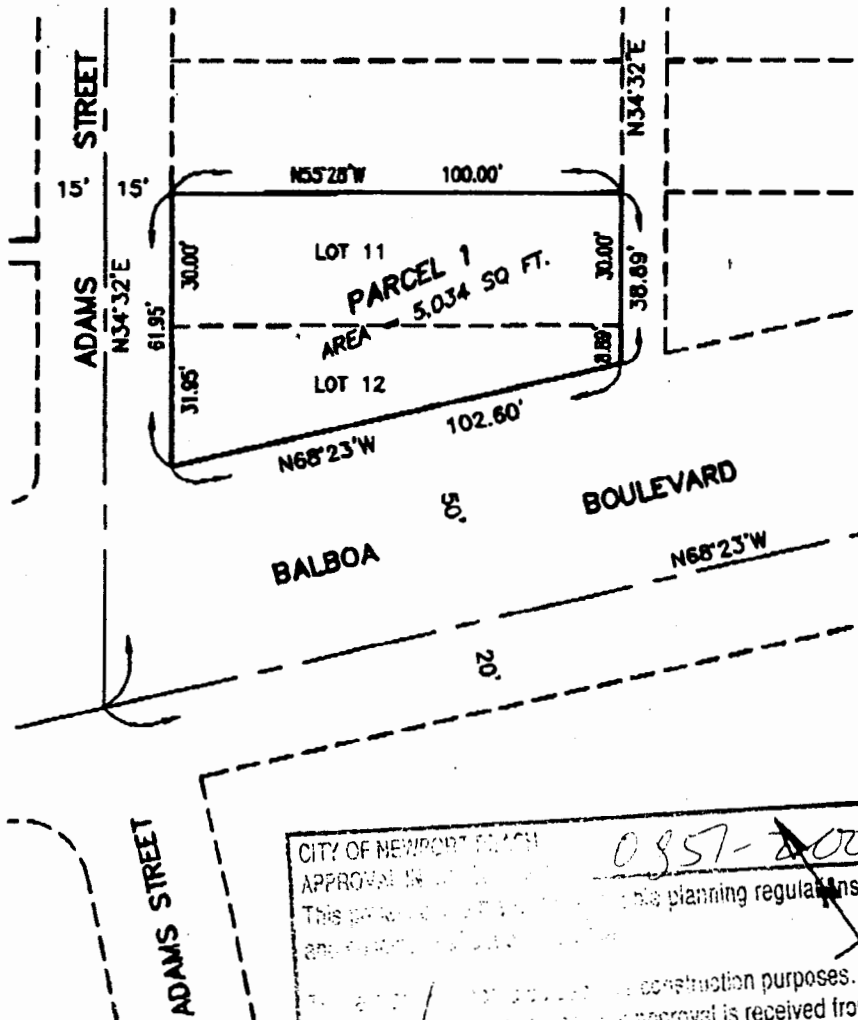
COASTAL COMMISSION

EXHIBIT # 6
PAGE 1 OF 1

EXHIBIT "B"
CITY OF NEWPORT BEACH
LOT LINE ADJUSTMENT No. LA _____
 (MAP)

| OWNERS | EXISTING PARCELS A.P. NUMBER | PROPOSED PARCELS REFERENCE NUMBERS |
|-----------------|---------------------------------|---------------------------------------|
| J. ROGER GORSKI | 048-115-07 | PARCEL 1 |

SHEET 2 OF 3 SHEETS



CITY OF NEWPORT BEACH
 APPROVED IN ACCORDANCE WITH THE CITY PLANNING REGULATIONS
 This project is approved for construction purposes. No approval is received from
 the State Coastal Commission.
 Date: 4/16/03
 0857-2003

LEGEND

- EXISTING LINES TO REMAIN
- - - - - EXISTING LINES TO BE REMOVED

SCALE: 1"=40'

COASTAL COMMISSION

EXHIBIT "C"
CITY OF NEWPORT BEACH
LOT LINE ADJUSTMENT No. 1a
(SITE PLAN)

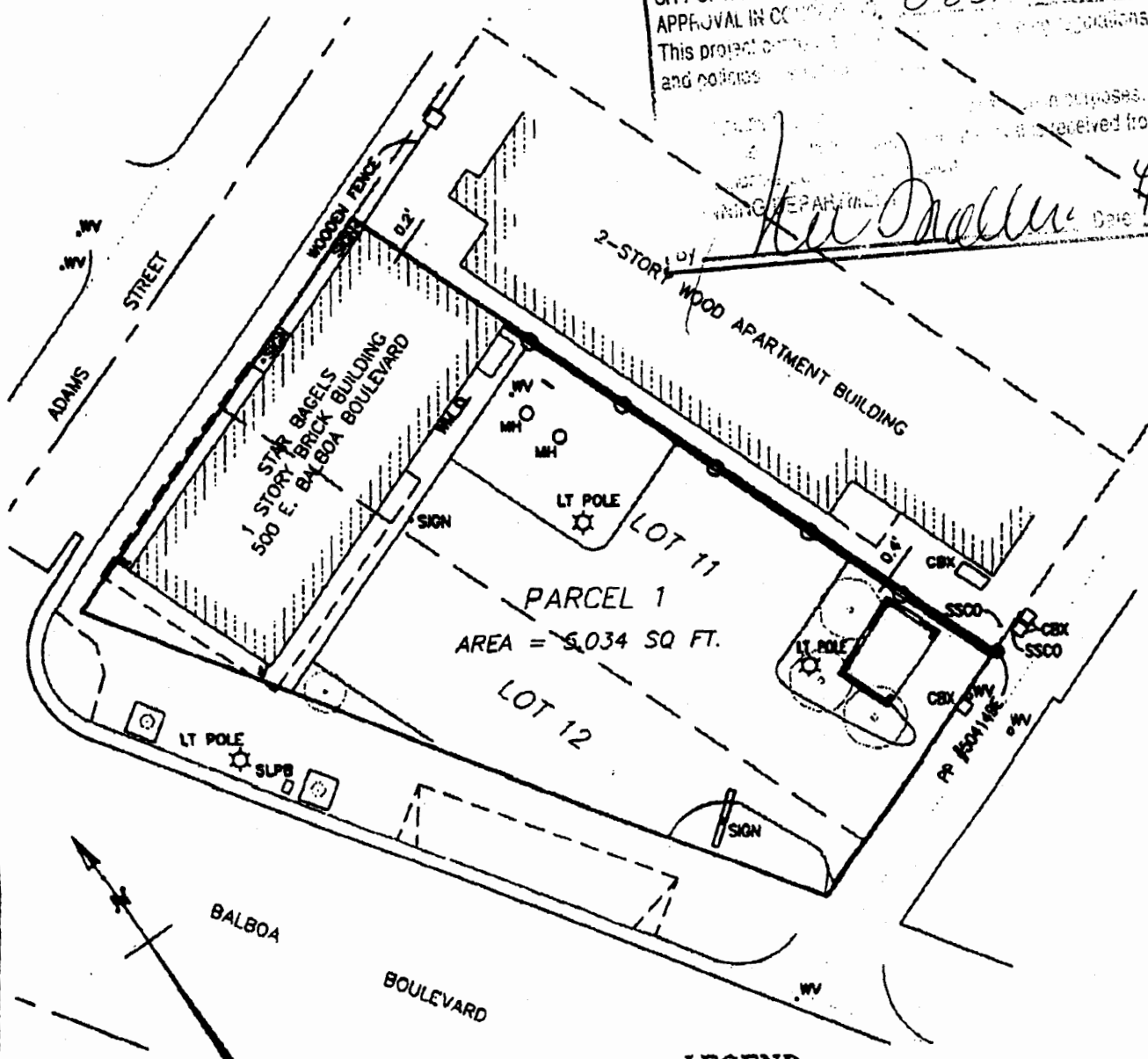
| OWNERS | EXISTING PARCELS A.P. NUMBER | PROPOSED PARCELS REFERENCE NUMBERS |
|-----------------|---------------------------------|---------------------------------------|
| J. ROGER GORSKI | 048-115-07 | PARCEL 1 |

SHEET 3 OF 3 SHEETS

CITY OF NEWPORT BEACH
APPROVAL IN CONNECTION WITH THE CITY'S ZONING REGULATIONS
This project complies with the City's zoning regulations and policies.
Date: 4/16/03

0851-2003

2-STORY WOOD APARTMENT BUILDING



SCALE: 1"=40'

LEGEND

————— EXISTING LINES TO REMAIN

- - - - - EXISTING LINES TO BE REMOVED

COASTAL COMMISSION