

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
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Staff:  
Staff Report:  
Hearing Date:  
Commission Action:

FSY-LB **FSY**  
August 21, 2003  
September 10-12, 2003

**TH 15a****RECORD PACKET COPY****STAFF REPORT: REVISED FINDINGS**

**APPLICATION NO.:** 5-02-256

**APPLICANTS:** Woodman Sylvan Properties, Attn: Harvey DePauw

**AGENT:** D.B. Neish, Inc.

**PROJECT LOCATION:** 503 East Balboa Boulevard, City of Newport Beach (County of Orange)

**PROJECT DESCRIPTION:** Demolition of an existing residence and construction of a new mixed-use building (a 1,654 square foot single-family residence over a 691 square foot retail space with 4 parking spaces. No grading is proposed.

**DATE OF COMMISSION ACTION:** May 6, 2003

**COMMISSIONERS ON PREVAILING SIDE:** Commissioners Desser, Hart, Luna, Curtis, Nava, Ruddock, Wan and Burke.

**SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends that the Commission adopt the following revised findings in support of the Commission's action on May 6, 2003 approving the demolition of an existing residence and construction of a new mixed-use building. The main issue raised in the staff recommendation and further discussed at the hearing was consistency with Section 30252 of the Coastal Act with respect to whether adequate on-site parking was proposed to serve the development. At the hearing it was determined that, though the proposed project does not adhere to the Commission's commonly used parking guidelines, the project does adhere to the City's parking standards and in this case does provide adequate on-site parking. These findings have been incorporated beginning on page 4.

In approving this project, **three (3) Special Conditions** were imposed. **Special Condition No.1** limits the use of the ground floor of the proposed building to allowable retail and service commercial uses. **Special Condition No. 2** requires the applicant to submit a Drainage and Run-Off Control Plan. **Special Condition No. 3** requires the applicant to record a deed restriction against the property, referencing all of the Special Conditions contained in this staff report.

**LOCAL APPROVALS RECEIVED:** Approval In Concept from the City of Newport Beach Planning Department dated July 29, 2002.

**SUBSTANTIVE FILE DOCUMENTS:** City of Newport Beach Certified Land Use Plan; Letter from staff to Harvey DePauw dated August 29, 2002; *Balboa Pier Parking Lot and Main Street Access Improvements Final Report* dated May 12, 1999 by Austin-Foust Associates, Inc.; and *Preliminary Foundation Soils Exploration at 503 East Balboa Boulevard Newport Beach, California* dated May 6, 2002 by Geo-Etka, Inc.

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**EXHIBITS**

1. Central Balboa Area Map
2. Location Map
3. Assessor's Parcel Map
4. Roof Plan and Drainage Plan
5. Floor and Elevation Plans

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**I. STAFF RECOMMENDATION:**

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

**MOTION:**

***"I move that the Commission adopt the revised findings in support of the Commission's action of May 6, 2003 in approving coastal development permit application 5-02-256 with conditions."***

Staff recommends a **YES** vote on the motion. Passage of this motion will result in the adoption of revised findings as set forth in this staff report. The motion requires a majority vote of the members from the prevailing side present at the May 6, 2003 hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings.

**RESOLUTION TO ADOPT REVISED FINDINGS:**

The Commission hereby adopts the findings set forth below for its approval of coastal development permit application 5-02-256 with conditions on the grounds that the findings support the Commission's decision made on May 6, 2003 and accurately reflect the reasons for it.

## **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 of 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 will only be occupied by retail and service commercial uses allowable under the certified land use plan. No restaurant uses shall be allowed without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

### **2 DRAINAGE AND RUN-OFF CONTROL PLAN**

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for review and approval of the Executive Director, a drainage and run-off control plan showing roof drainage and run-off from all impervious areas directed to dry wells or vegetated/landscaped areas. Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants that are non-invasive.
- 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.

**3. DEED RESTRICTION**

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowners have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

**IV. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares as follows:

**A. PROJECT LOCATION AND DESCRIPTION**

**1. Project Location**

The subject site is located at 503 East Balboa Boulevard approximately 400 feet from the public beach and is not located between the sea and the first public road paralleling the sea (Exhibits #1-3). The project area and its immediate vicinity are characterized by mixed commercial recreational and residential uses in the area known as "Balboa Village" on the Balboa Peninsula in the City of Newport Beach (Exhibits #1-3).

The proposed project is within the Retail and Service Commercial (RSC) District of the Central Balboa Area in the City's Land Use Plan ("LUP"). The City of Newport Beach has designated the Central Balboa 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 Central Balboa Area is designated in the LUP 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 as stated in the LUP 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 East Balboa Boulevard; to the South by an alley, a residential structure, Oceanfront, which is a major pedestrian walkway in this area, the Balboa Pier Parking Lot; and the beach and to the East and West by existing residential and commercial structures.

## **2. Project Description**

The proposed project consists of demolition of an existing residence and construction of a new 26-foot high above finished grade mixed-use building (a 1,654 square foot single family residence with a 126 square foot deck over a 691 square foot retail space and 875 square foot two-car garage and one-car garage and one-car covered carport) (Exhibits #4-5). No grading is proposed.

### **B. PUBLIC ACCESS/PARKING**

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 use. 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 residential structure and is not located between the first public road and the sea. Public access to the beach via the Balboa Pier Parking Lot and Balboa Pier is available approximately 200 feet south of the project site at the Adams Street, street end (Exhibits #1-3).

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 have otherwise been 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 influx of visitors during the summer. More specifically, the project area and its immediate vicinity are characterized by mixed commercial recreational and residential uses in the area known as "Balboa Village" on the Balboa Peninsula in the City of Newport Beach; and due to its location next to the ocean, the area supports visitors to the coast. The project area serves as a popular destination point for the public to come and enjoy the visitor and recreational facilities since it is easily accessible for those people going to the beach, Balboa Pier, Peninsula Point or visiting the Balboa Village area. In addition, Oceanfront, which serves as a major pedestrian path along the beach and provides lateral access for the public in this area, is not far from the project site. 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 surrounding area. The immediate project vicinity consequently experiences high vehicular 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.

The project site is located in an area that serves as a popular destination point for the public to come and enjoy the lower cost visitor and recreational facilities located in the area. Patrons of these lower cost recreational uses typically come from afar and park in public parking spaces. However, if adequate on-site parking for commercial developments, such as the proposed project, is not provided, these public parking spaces would be occupied by patrons of these private commercial areas. While adequate on-site parking for commercial development, such as the proposed project, is necessary in order to minimize adverse impacts on public access, each project is analyzed on a case-by-case basis. The proposed project does provide some parking, and almost enough to satisfy the Commission's commonly used parking guidelines. Moreover, the proposed project, which is located on a small lot, is incapable of providing one (1) additional parking space to accommodate the proposed uses on site without requiring changes to the ground floor retail and service commercial component that would render this portion of the project unviable. Finally, although the proposed project does not adhere to the Commission's commonly used parking guidelines, the proposed project does adhere to the City's parking standards.

**a. Parking Impacts**

Section 30252 of the Coastal Act mandates that new development maintain and enhance public access to the beach. An adequate quantity of on-site parking spaces to accommodate new development helps to maintain this public access. Conversely, public access can be adversely affected if private retail/commercial development in the coastal zone does not provide adequate on-site parking. In cases of inadequate

parking, patrons of the retail/commercial development who arrive by private car would displace public beach goers from utilizing public parking spaces.

The site is currently occupied by a residential structure and is within the Retail and Service Commercial (RSC) District of the Central Balboa Area as stated in the City's LUP. The applicant is proposing two types of uses on-site: 1) residential and 2) retail. The retail component would be located on the 1<sup>st</sup> floor and the 2<sup>nd</sup> floor would comprise the residential component. These uses are consistent with the certified LUP.

The City of Newport Beach parking standard of two spaces per residential unit requires the same amount of residential parking that the Coastal Commission generally requires. Thus, there is no issue in regards to the parking to be supplied by the residential component of this project.

However, in this case, there are differences between the parking guidelines commonly used by the Commission and those required by the City of Newport Beach for the proposed retail component of the proposed project. The City requires one (1) parking space per 350 square feet, and the Commission commonly requires one (1) parking space per 225 square feet of gross floor area.

According to the City of Newport Beach Zoning Code regarding this area (Specific Plan District #8: Central Balboa) and the proposed type of use, the applicant has provided adequate parking for the retail component. For the retail component of the project, the City requires that a parking ratio of one (1) space per 350 square feet of gross floor area be achieved. The proposed retail portion of the project is 691 square feet in size. Based on the City standard of 1 space per 350 square feet of gross floor area for retail uses, the required parking totals two (2) spaces.

As noted above, the Commission has used a parking ratio that is different, and more conservative, than the City's parking standards in some projects approved in this area of the City (see, e.g., CDP's: 5-00-406 (Fluter); 5-01-063 (Balboa Inn); and 5-01-104 (Fluter)). The Commission typically requires that one (1) parking space be provided per each 225 square feet of gross floor area for retail and commercial service uses. The proposed retail portion of the project is 691 square feet. Based on the Commission's common practice of 1 space per 225 square feet of gross floor area for retail and service commercial uses, the development would need three (3) on-site spaces. The applicant is only proposing two (2) spaces for the retail development. Therefore, the retail development could be considered deficient by one (1) space based on the Commission's typically applied parking requirement.

While adequate on-site parking for commercial development, such as the proposed project, is necessary in order to minimize adverse impacts on public access, each project is analyzed on a case-by-case basis. In this case, the proposed project, which is located on a small lot, is incapable of providing one (1) additional parking space to accommodate the proposed uses on site without requiring changes to the ground floor retail and service commercial component that would render this portion of the project unviable.

The applicant, to demonstrate that adequate parking is available in the surrounding area, submitted a copy of the *Balboa Pier Parking Lot and Main Street Access*



*Improvements Final Report* dated May 12, 1999 by Austin-Foust Associates, Inc. However, this parking study was not intended for the subject site, which is located within this "Balboa Village" area, was not site specific to the applicant's proposed project, and consequently does not substantiate that the proposed development provides adequate on-site parking consistent with the requirements of Section 30252 of the Coastal Act. This study was intended for the development of the Balboa Village Improvement Plan (CDP #5-02-029), which was approved by the Commission in August of 2001.

The key elements of the Balboa Village Improvement Plan (CDP #5-02-029) were to widen the sidewalks to encourage pedestrian passage along Balboa Boulevard and the side streets connecting Oceanfront and Edgewater and to solve existing flooding problems of the Balboa Village area. In order to encourage pedestrian passage, the quantity of existing parallel parking was reduced. The loss of parallel parking spaces was offset by the net gain of metered parking spaces in the proposed Balboa Pier Parking Lot. Thus, this study was not designed to, and does not, address the parking demands for the subject site. Therefore, based on the lack of a site-specific parking evaluation, the submitted report contains insufficient information to substantiate that the proposed development would provide adequate parking. A site-specific parking study was requested, however no such study was submitted.

Section 30252 of the Coastal Act mandates that new development should maintain and enhance public access to the coast by, among other means, providing adequate parking. If new development does not provide adequate parking in this location, the patrons of the development would compete and displace the beach going public from the public parking spaces. The proposed project adheres to the City's parking standard which requires a parking ratio of one (1) space per 350 square feet of gross floor area for the retail component. In this case, adherence to the City's parking standard for the proposed development adequately addresses the required parking for the project. As noted above, in other cases the Commission has applied a higher parking ratio than the City code requires. However, in this instance, the Commission finds that the lower ratio will result in sufficient on-site parking to serve the proposed development. While adequate on-site parking for commercial development, such as the proposed project, based on the Commission's typically used guidelines is necessary in order to minimize adverse impacts on public access, each project is analyzed on a case-by-case basis. In this case, it is determined that the City's parking standard for the proposed development adequately addresses the required parking for the project. Therefore, the proposed project is consistent with Section 30252 of the Coastal Act.

### **3. Ground Floor Usage**

Though the applicant is providing an adequate number of spaces according to the City's parking standards 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.

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 a commercial tenant that conforms to 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 allowed in the certified LUP, the Commission imposes **Special Condition No. 1**. **Special Condition No. 1** requires that all the uses within the commercial component of the proposed structure shall conform with the allowable land uses listed in the certified LUP.

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 have an on-site parking demand of two (2) spaces. 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 than is proposed to be supplied on-site. Adequate parking to serve the increased demand would need to be evaluated for consistency with Section 30252 of the Coastal Act. Therefore, to ensure compliance with Section 30252 and the land uses identified in the certified LUP, the Commission imposes **Special Condition No. 1**. The condition further specifies that no restaurant uses shall be allowed without a Commission amendment to the coastal development permit unless the Executive Director determines that no amendment is necessary.

#### 4. Conclusion

Thus, only as conditioned to restrict the uses within the commercial component of the proposed structure to the allowable land uses listed in the certified LUP 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

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.*

The protection of water quality is an important aspect of the Coastal Act. Water from the project site will flow into the City of Newport Beach's 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 run-off discharging into the ocean through outfalls. As illustrated by these beach closures, polluted run-off negatively affects both marine resources and the public's ability to access coastal resources. Water from the project site will flow into the City of Newport Beach's storm drain system and will ultimately drain to the Pacific Ocean.

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 run-off would be one step to begin to reduce cumulative adverse impacts to coastal water quality. As such, appropriate measures must be taken to assure that adverse effects on water quality are minimized. Therefore, it is necessary to impose **Special Condition No. 2. Special Condition No. 2** requires that the applicant submit a Drainage and Run-Off Control Plan.

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 effect 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, non-invasive drought tolerant vegetation should be used.

### **Conclusion**

To minimize the adverse impacts upon the marine environment, **one (1) Special Condition** has been imposed. **Special Condition No. 2** requires the applicant to submit a Drainage and Run-Off Control Plan. 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. Only as conditioned, the Commission finds that the proposed project is consistent with Section 30230 and 30231 of the Coastal Act.

### **D. DEED RESTRICTION**

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes one additional condition requiring that the property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

**E. 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 Land Use Plan for the City of Newport Beach was effectively certified on May 19, 1982. The certified LUP was updated on January 9 1990. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

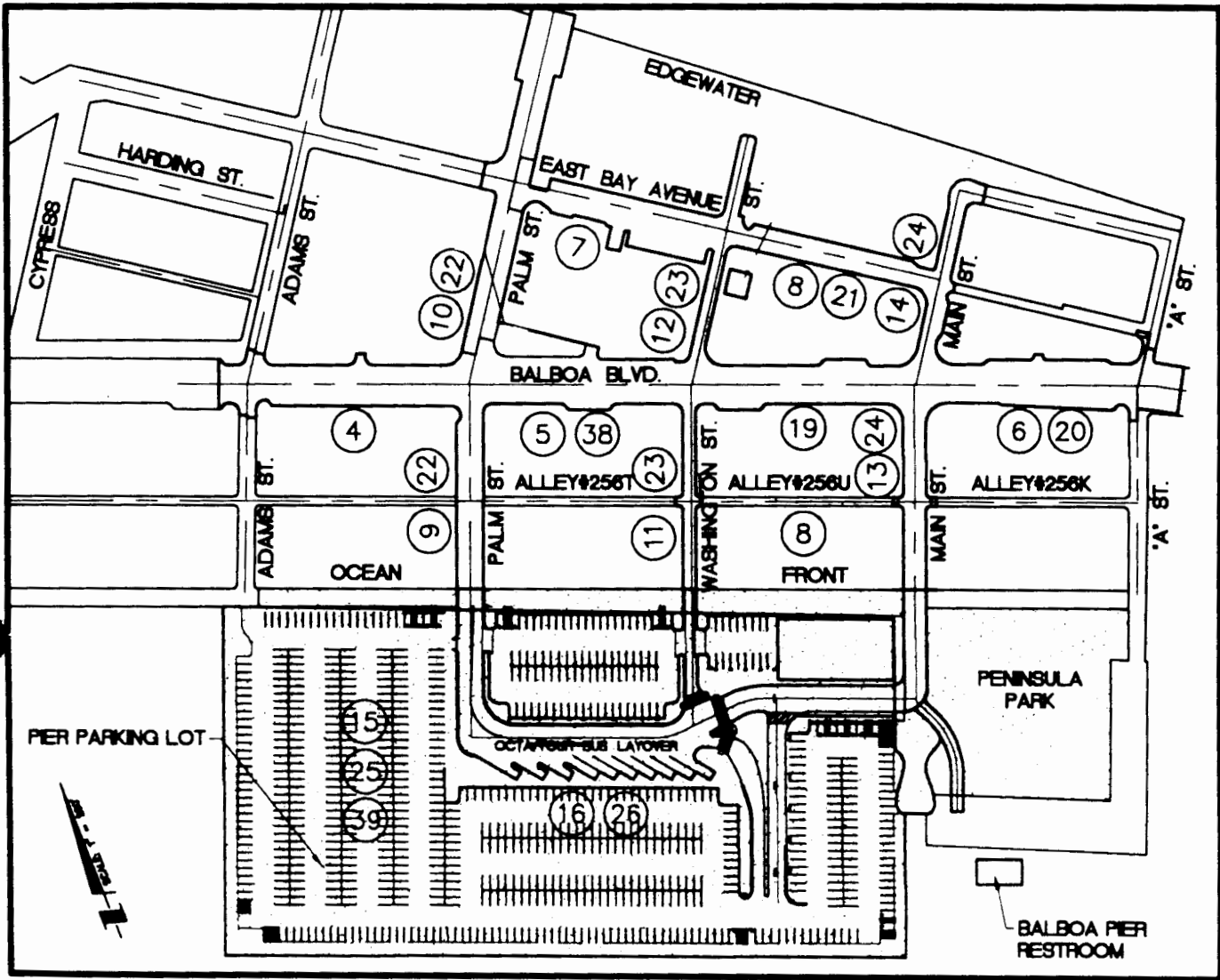
**F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, 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.

As described above, the proposed project would not have significant adverse environmental impacts, as conditioned. As conditioned, the proposed project has been found consistent with the policies of Chapter 3 of the Coastal Act. Mitigation measures include Special Conditions requiring the applicant to record a deed restriction which mandates that all the uses within the commercial component of the proposed structure shall conform with the allowable land uses listed in the certified LUP and requiring the applicant to submit a Drainage and Run-Off Control Plan.

As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect, which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, can be found consistent with the requirements of CEQA.

# • CENTRAL BALBOA AREA •



## LOCATION MAP

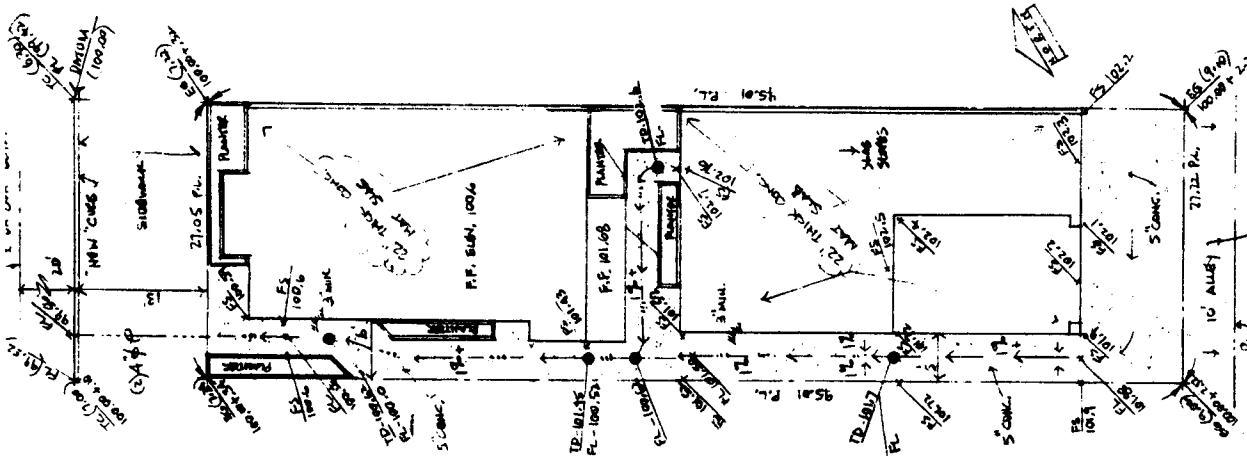
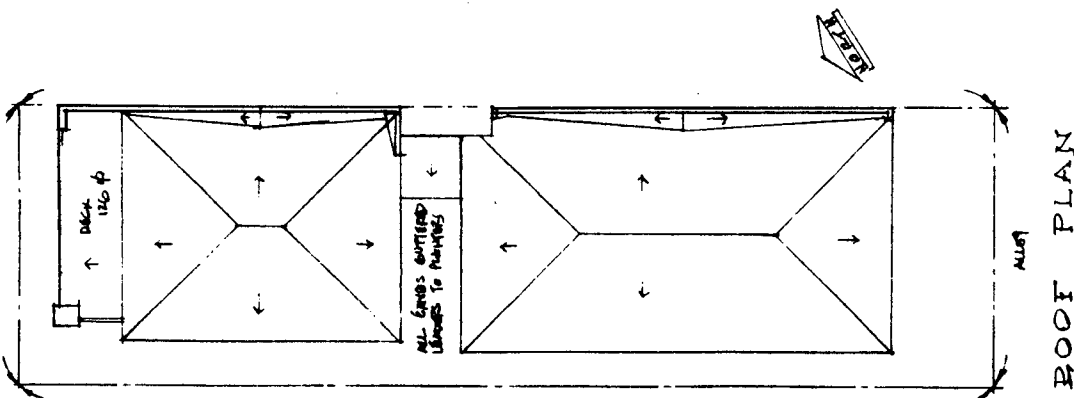
SCALE 1"=200'

COASTAL COMMISSION

EXHIBIT # 1  
PAGE 1 OF 2

EXHIBIT # 2  
PAGE 1 OF 1





DRAINAGE PLAN

- ALL WORK SHALL BE UNIFORM TO THAT OF THE NEAREST BENCH MONUMENT AND (H)E
- DRAIN SHALL BE CONTROLLED BY WINDING AN/ OR WATER PUMPING
- WORKING MONS. AND LIMITED FROM 7:00 AM TO 6:30 PM MONDAY THROUGH FRIDAY
- 8:00 AM TO 6:00 PM SATURDAYS, AND NO WORK ON SUNDAYS AND HOLIDAYS
- PER SECTION 10-28 OF THE NCMC
- HOUSE, EXCAVATION, DRAINAGE AND RETAINING SHALL BE CONTROLLED PER
- SECTION 10-28 OF THE NCMC
- THE STANDARD SET OF APPROVED PLANS SHALL BE ON THE JOB SITE AT ALL TIMES
- PERMITS AND CONTRACTS ARE RESPONSIBLE FOR LOCATING AND PROTECTING UTILITIES
- RESIDUAL DRAINAGE SHALL BE MAINTAINED AWAY FROM ALL BUILDINGS AND SHALL BE
- ALLOWED TO RESIDE INSTRUCTIONS AND/ OR NOT PERMITTED TO GRADE/UTILITIES
- CONTROL DEVICES ON SITE AT THE APPROPRIATE TIMES SHALL RESULT IN
- PROTECTION OF THE CONSTRUCTION JOB CLEANER DEPOSIT
- ALL MATERIAL AND WASTE SHALL BE REMOVED FROM THE SITE NCMC 17.32-10
- NO PAINT, PLASTER, CEMENT, SILL, MORTAR, OR OTHER RESIDUAL SHALL BE
- ALLOWED TO ENTER STREETS, CURBS, GUTTERS OR STORM DRAINS.
- EXISTING TO BE REMOVED REMOVED FOR FENCES
- MINIMUM DRAINAGE GRADIENTS 1% ALL PAVED AREAS
- EXCAVATION PERMIT FROM PUBLIC WORKS REQUIRED FOR INTERFERENCES
- WITHIN PUBLIC RIGHT OF WAY INCLUDING INCLUDING LEAVING OPEN CREEKS
- 3" CEMENTED MINIMUM PAVED WALK TO ADJACENT SILL PLATES
- DRAIN LINES 4" ABS SCHEDULE 40 - 11. PIP 1/2" ABOVE GUTTER FL
- SAND BAG SILLING CONTROL AT PROPERTY LINES REQUIRED FOR
- WORK BETWEEN OCTOBER 15 AND MAY 15
- REQUIRED INSPECTIONS FOR DRAINAGE PIPE AND FINAL INSPECTION

### REQUIRED INSPECTIONS FOR DRAINAGE PIPE AND FINAL INSPECTION

THE PLANTERS TO BEAD OF STAINLESS STEEL  
UNDER PROOF WITH COPPER DRAIN LINES AT BASE ON TO ADJACENT  
PAVED. WALK WAYS (3/4" @ 12" CC)

BASELON PENINSULA HAS BEEN DETERMINED TO HAVE SOIL COMPOSITION SUBSIDER TO LIGNIFICATION WITH A HIGH WATER TABLE. REASON: SOILS AND FOOTINGS SHALL HAVE NO SOURCE OF INDUCED SESSION OR DISPLACEMENT OF COMPACTED BASE SOILS OR IF ANY SITUATION WHICH WOULD CAUSE FURTHER SOIL LIGNIFICATION.

EG = EXISTING GRADE (EXISTING PAVING)

90% MSIMID = 5.7

FL = FLOW LINE (NEW PAVING)

TD = 108 CF D02A14

- FLUSH ABS AREA DRAIN w/ GRAB

TW = Top of Plate/wall

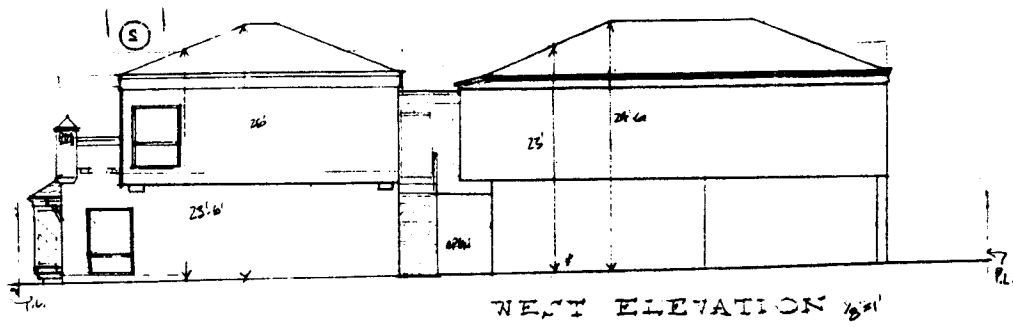
RESIDENCE OVER RETAIL

WOODMAN • SYLVAN  
PROPERTIES

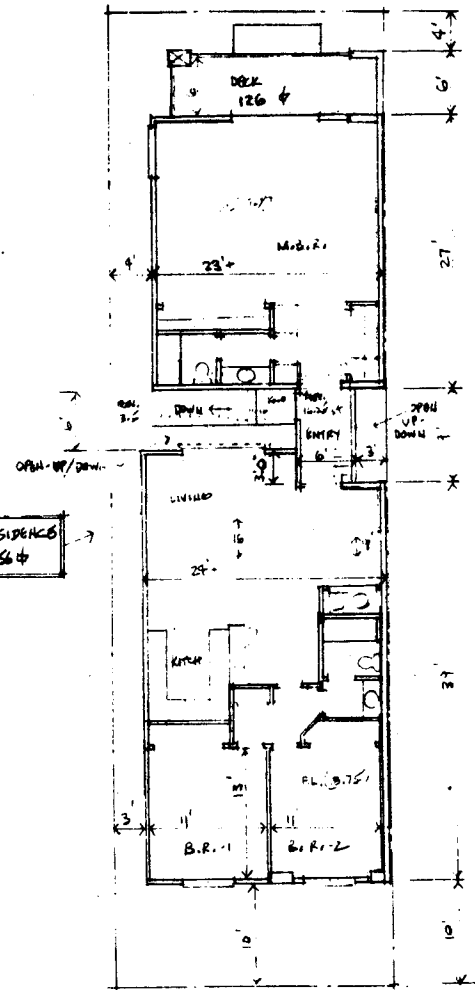
503 E. SALBWA BLVD.  
NEW BRACH







4522



COASTAL COMMISSION

EXHIBIT # 5

PAGE 2 OF 2

WOODMAN - SYLVAN  
PROPERTIES  
503 E. BALBOA BLVD.  
NEWPORT BEACH

SECOND LEVEL