CALIFORNIA COASTAL COMMISSION

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 Staff Report:
 1/29/04

 Hearing Date:
 2/18-20/04

 Commission Action:
 1/19/04

STAFF REPORT: CONSENT CALENDAR

APPLICATION NUMBER: 5-03-419

APPLICANTS: ED EATON

AGENT: Anthony Massaro

PROJECT LOCATION: 64 Balboa Coves, Newport Beach, Orange County

PROJECT DESCRIPTION: Demolition of existing single family residence and construction of new 4308 square foot, two story, 25 feet high single family residence with one attached, 496 square foot, two car garage, and one detached 456 square foot, two car garage on a harbor front lot.

LOCAL APPROVALS RECEIVED: City of Newport Beach Approval Concept (No. 2091-2003) dated Sept. 15, 2003.

SUMMARY OF STAFF RECOMMENDATION:

The applicant is proposing to demolish and re-construct a single family residence at a harbor front site. The major issue of this staff report concerns assuring that the applicant is aware that future improvements at the site will require additional review; and that site drainage employ appropriate measures to assure protection of water quality. Staff is recommending **APPROVAL** of the proposed project subject to two special conditions which 1) alert the applicant to the requirement that future development at the site will require an amendment to this permit or approval of a new coastal development permit; and 2) requires that water quality measures be carried out as proposed.

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

STAFF RECOMMENDATION:

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

MOTION: I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION:

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 further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

- 1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Future Development

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This permit is only for the development described in Coastal Development Permit No. 5-03-419. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by Coastal Development Permit No. 5-03-419. Accordingly, any future improvements to the single family house authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-03-419 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

2. <u>Water Quality</u>

The water quality measures depicted on plans submitted with the application (Sheet No. L-2, dated 11/10/03 prepared by David A. Pedersen. Inc., and Grading Plans, Sheets 1 and 2, dated 9/29/03, prepared by Anacal Engineering Co.), shall be carried out as proposed.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. **PROJECT DESCRIPTION**

The applicant is proposing to demolish an existing single family residence and construct a new 4,308 square foot, two story, 25 feet high single family residence with one attached, 496 square foot, two car garage, and one detached 456 square foot, two car garage on a harbor front lot.

The subject site is a harbor front, bulkheaded lot. The site is located within a private, gated community (Balboa Coves) between the sea and the first public road. No public access currently exists at the subject site. The nearest public access exists at the wide sandy public beach that runs along the ocean side length of the Balboa peninsula, approximately ¼ mile south of the subject site. The proposed development, demolition and construction of a single family residence, will have no impact on existing public access in the vicinity.

As stated above, the subject site is a harbor front lot. The site is located at the inner most reach of the harbor (see exhibit). The harbor waters and the subject site are separated by a seawall consisting of a low height masonry block retaining wall. The condition of the existing wall was inspected by a coastal engineer. In a letter dated 11/24/03 the coastal engineer states:

"The wall has been in place for several decades and based upon our visual inspection appears to be in good condition. The wall is straight and true with no large cracks or visible evidence of movement. The masonry block face of the wall showed no signs of significant deterioration. The soils and patio behind the wall exhibited no signs of movement or stress. While the wall may require maintenance over time, such as patching, no maintenance is necessary at this time. In addition, no modifications of the wall are necessary to support the proposed new residence."

In the same letter the coastal engineer concludes:

In summary, no maintenance or modification of the existing seawall is necessary for the proposed development. The proposed development will not require any additional shore protection device in the future (next 75 years) due to any anticipated future coastal hazard such as a rise in sea level. The adjacent properties and coastal access rely on the presence of the site seawall for protection just as the site relies on the integrity of the adjacent seawalls for protection. The site is safe from flooding due to its elevation above any potential future water level in Newport Bay.

Based on the input of the coastal engineer, it is reasonable to conclude that the existing wall is adequate to serve the proposed development over its expected life span. Nevertheless it may happen that repair or replacement of the bulkhead may become necessary. If so, such development would need to be reviewed for consistency with the Chapter 3 policies of the Coastal Act. Therefore, a special condition is imposed which makes the applicant aware that any future development at the site, including work on the existing seawall, requires an amendment to this permit or a new coastal development permit.

The applicant has submitted plans depicting water quality drainage measures. The measures proposed include collecting all site drainage and directing it to a filter prior to its release into the street and City storm drain system. Also proposed in the west side yard are stepping stones with plantings between. These measures are necessary to assure site drainage for the proposed project will be in conformance with Sections 30230 and 30231 of the Coastal Act which require that water quality be protected, and where feasible, enhanced. To ensure these features are installed as proposed, Therefore a special condition is imposed which requires that the water quality measures be carried out as proposed.

B. <u>DEVELOPMENT</u>

The development is located within an existing developed area and is compatible with the character and scale of the surrounding area. However, the proposed project raises concerns that future development of the project site potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act. To assure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission finds that a future improvements special condition be imposed. As conditioned the development conforms with the Chapter 3 policies of the Coastal Act.

C. PUBLIC ACCESS

The proposed development will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities. Therefore, as proposed the development, as conditioned, conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

D. WATER QUALITY

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, reducing runoff through the use of permeable surfaces, the use of non invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site, and for the use of post construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

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.

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F. CALIFORNIA ENVIRONMENTAL QUALITY ACT

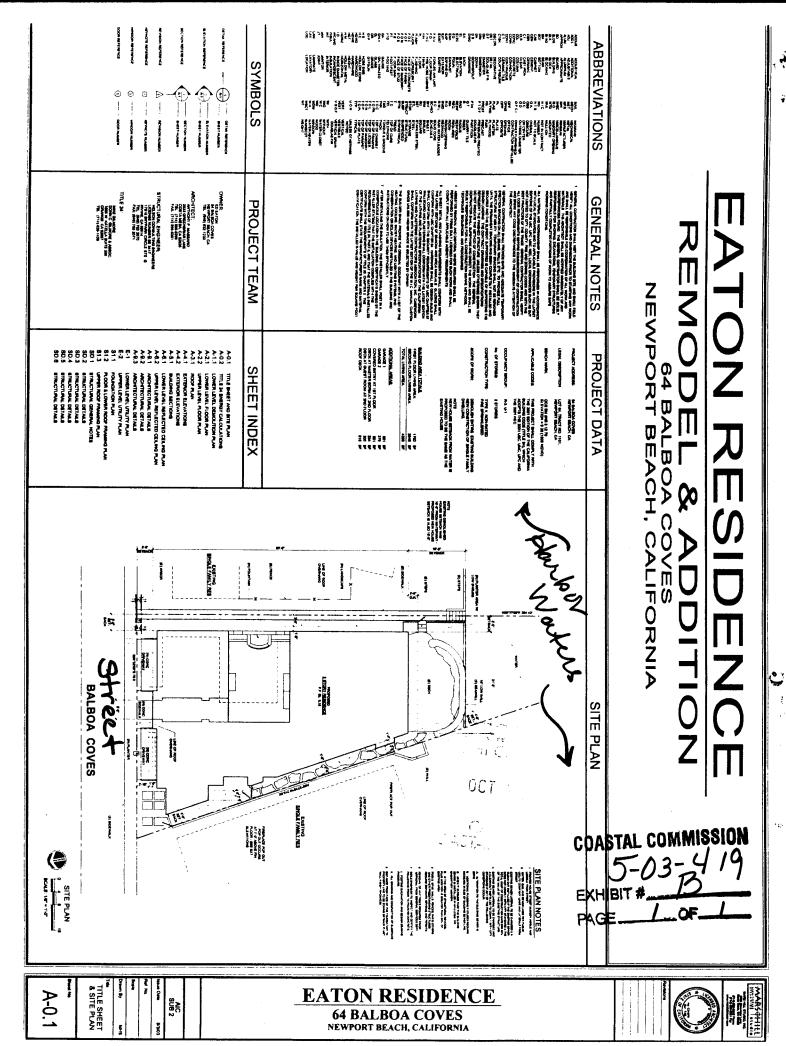
As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

5-03-419 Eaton Cnst 2.04 mv

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VICINITY MAP



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