

CALIFORNIA COASTAL COMMISSION

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Hearing Date: 7/14-16/04
Commission Action: Approved with Conditions

**Th 21a****STAFF REPORT: REVISED FINDINGS****APPLICATION NUMBER:** 5-03-233**RECORD PACKET COPY****APPLICANT:** Orange County Sanitation District

AGENT: Andre Ioan, Project Engineer, OCSD
James Herberg, Engineering Manager, OCSD
David Ludwin, Director of Engineering, OCSD

PROJECT LOCATION: 810 East Balboa Blvd., Newport Beach, Orange County

PROJECT DESCRIPTION: Replace and relocate existing pump station from within Balboa Blvd near "A" Street, to a lot located at the northwest corner of the intersection of Balboa and "A" Street. The proposed pump station replacement includes a below grade wet well and pump room and above grade electrical-control building, and extension of the gravity sewers from the existing station to the relocated station.

DATE OF COMMISSION ACTION: April 14, 2004

COMMISSIONERS ON PREVAILING SIDE: Commissioners Burke, Iseman, Nava, Nichols, Allgood, Wan, Woolley and Chairman Reilly.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission adopt the following revised findings in support of the Commission's action of April 14, 2004 approving the proposed project pursuant to five special conditions which require that 1) the applicant submit evidence of the agreement with the City assuring the availability of the proposed public amenities; 2) the applicant agree to accept low flow diversions if certain criteria are satisfied; 3) a drainage plan be submitted indicating the drainage from the site is retained on site and/or filtered prior to leaving the site; 4) construction that may adversely impact peak summer use periods be prohibited; 5) the project incorporate the geotechnical consultant's recommendations. The special conditions are necessary to assure that the proposed development is consistent with the public access, water quality and hazard sections of the Coastal Act.

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach Land Use Plan

EXECUTIVE SUMMARY:

At a public hearing on April 14, 2004 the Commission approved coastal development permit 5-03-233 subject to five (5) special conditions. During the public hearing on the matter, Commission staff modified its recommendation to include a change to Special Condition No. 1, replacing the word "minimum" with "period". In addition, the Commission clarified their intent in approving Special Condition No. 2 regarding the applicant's acceptance of urban runoff diversions within the proposed pump station. These revised findings are intended to reflect the change to Special Condition No. 1 and clarification regarding the intent of Special Condition No. 2. Changes are found on pages 3, 10, 11 and 12.

I. MOTION AND RESOLUTION:

MOTION: *I move that the Commission adopt the revised findings in support of the Commission's action on April 14, 2004 concerning 5-03-233.*

STAFF RECOMMENDATION OF APPROVAL:

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 April 14, 2004 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.

Commissioners Eligible to Vote: Burke, Iseman, Nava, Wan, and Chairman Reilly.

RESOLUTION TO ADOPT REVISED FINDINGS:

The Commission hereby adopts the findings set forth below for conditionally approving coastal development permit 5-03-233 on the ground that the findings support the Commission's decision made on April 14, 2004 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 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 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. Evidence of Public Availability of Proposed Public Amenities

- A. As proposed, the applicant shall make the proposed public amenities (including five (5) public parking spaces and public seating area) available to the general public for a period of twenty years from the date of Commission action on this permit. If any changes to the public amenities are contemplated, the Executive Director shall be notified in writing prior to any change. The Executive Director shall make a determination as to whether the changes require an amendment to this coastal development permit or a new coastal development permit.
- B. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, evidence that the applicant has entered into a long term agreement with the City of Newport Beach reflecting paragraph A above.

2. Low Flow Diversion

- A. The applicant agrees to accept, at the approved "A" Street pump station, urban runoff diversions if such diversions become feasible in the future (i.e. City or appropriate agency constructs necessary connections to the pump station facility and there is necessary capacity).
- B. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, a written statement reflecting paragraph A above.

3. 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 runoff control plan showing roof drainage and runoff from all impervious areas directed to dry wells or vegetated/landscaped areas. Vegetated landscaped areas shall only consist of plants native to coastal Orange County or non-native drought

tolerant plants which 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.

4. Construction Timing

No construction work that would interfere with traffic flow (including but not limited to, work requiring street closures and work involving haul trucks)) along Balboa Boulevard may occur during the peak summer period (from Memorial Day weekend through Labor Day weekend).

5. Conformance of Design and Construction Plans to Geotechnical Information

- A. All final design and construction plans, including grading, foundations, site plans, elevation plans, and drainage plans, shall be consistent with all recommendations contained in the Geotechnical Investigation, prepared by Diaz – Yourman & Associates, dated September 11, 2001.
- B. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, evidence that the geotechnical consultant has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the recommendations specified in the above-referenced geologic evaluation approved by the California Coastal Commission for the project site.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description and Location

The applicant proposes to replace and relocate an existing sewer pump station from within Balboa Blvd near "A" Street, to a lot located at the northwest corner of the intersection of Balboa and "A" Street. The proposed pump station replacement includes a below grade wet well and pump room and an above grade electrical-control building. Also proposed is the extension of the gravity sewer lines from the existing station to the relocated station. The existing pump station and sewer pipes within Balboa Boulevard will be filled with slurry and abandoned in place. Other existing sewer lines located within the alley adjacent to the subject site will be removed. No change in the existing pumping capacity is proposed. The intent of the pump station upgrade is to increase safety, and to pump more efficiently. Also proposed is the demolition of an existing, vacant restaurant structure.

The proposed pump station structure will be 1,270 square feet and 3 stories high (including subgrade portion and tower element). The building footprint will be 480 square feet on a 3,450 square foot lot. Additional lot coverage includes 1,880 square feet of paved area, and 1,190 square feet of landscaped area. Six parking spaces are proposed within the paved area, five of which are to be available for public use. The proposed landscaped area is to include a seating area available for public use.

The project is proposed as a replacement project and not a rehabilitation project. The existing pump station was built in 1942 and is no longer in compliance with current National Fire Protection Association, National Electrical Code, and Uniform Building Code requirements. In addition, the station is too small to expand to provide redundant pumping capacity, which is an Orange County Sanitation District (District) policy for all of its facilities. This policy enables the District to provide service though most if not all emergency situations. Additionally, the current pump station is located below Balboa Boulevard which makes access for general maintenance difficult and causes temporary traffic lane closures.

The relocated pump station would consist of a below grade wet well and pump room and an above grade electrical-control building. The below grade wet well collects raw sewage from the area gravity sewers. The below grade pump room is housed in a below grade dry well. Construction of the proposed below grade wet well and pump room would require excavation of 2,000 cubic feet, with an excavation depth of approximately 31 feet. The excess cut material is proposed to be disposed of at the Frank R. Bowerman Sanitary Landfill, which is located outside the coastal zone. The applicant has indicated that the depth of excavation is driven by the elevation of the existing gravity flow piping that must discharge into the wet well. The depth is also driven by a new type of wet well design that was not in existence when the existing pump station was designed. The new "self cleaning" wet well design will allow the District to reduce the amount of maintenance time

required at the station. The hydraulic conditions necessary to provide "self cleaning" contribute to the depth of the structure.

The above grade electrical control building is proposed to be 19 feet high with a 26 foot tower element. The applicant has indicated that the 19 foot height of the above grade structure is necessary to house electrical and control equipment that is much more extensive than it was in 1942 when the existing pump station was built. The applicant asserts that the electrical room must be separated from the pump room and wet well. The separation is required to prevent potential explosions due to sparking electrical equipment in a flammable gaseous area. The pump room and wet well are classified as flammable gaseous areas. In addition, the electrical room must be located above ground to prevent it from being flooded. The tower is proposed for both functional and decorative purposes. The tower will provide storage area for maintenance supplies and small equipment. The increased storage capacity is expected to decrease the number of District vehicles that are required for normal maintenance. The tower is also proposed as an architectural element intended to blend with and improve the visual quality of the surrounding area. The applicant was encouraged by the City to include the tower detail for visual reasons. The tower will not block or effect any existing public views to the harbor or ocean.

The subject site is located at the edge of the Main Street commercial core area on the Balboa Peninsula (see exhibit B). It is surrounded on three sides by residential development, and on the fourth side by visitor serving commercial development. The site is not located between the sea and the first public road. It is located approximately one block from Newport Harbor to the north, and two blocks from the ocean beach to the south. In addition, the site is located one block east of Main Street. The Balboa pier extends seaward from the end of Main Street on the ocean side. A public beach parking lot exists near the base of the pier. On the harbor side, Main Street ends at the Balboa Pavilion which is adjacent to the Balboa Fun Zone. The ferry to Balboa Island departs from the Fun Zone.

The proposed project has been reviewed by the California Regional Water Quality Control Board, Santa Ana Region (RWQCB). The RWQCB has indicated in a letter dated September 8, 2003 that oversight of the proposed project is performed by the local municipal entity (see exhibit E).

B. Land Use

Coastal Act Section 30222 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.

The Coastal Act encourages the provision of lower cost visitor and recreational facilities

and provides that development should maintain and enhance public access to the coast. In the certified Land Use Plan (LUP) the subject site is designated Retail and Service Commercial. The Retail and Service Commercial designation, although not confined exclusively to visitor serving uses, is the main mechanism in the City's LUP to provide visitor serving uses. In discussions between City and Commission staff regarding preparation of a total LCP, the City staff has indicated a desire to consolidate visitor uses throughout the City at commercial nodes. If, based on this desire, more isolated visitor serving commercial areas are allowed to convert to lesser priority uses, the retention of existing visitor nodes at their existing capacity becomes all the more critical. In this case, the applicant is proposing to occupy a site designated in the certified Land Use Plan for Retail and Service Commercial (RSC) with a utility use. This potentially raises concerns because the subject site is currently part of an existing visitor serving commercial node. The concern is that if sites such as these which are in existing commercial nodes are lost to lesser priority uses, while outlying isolated visitor serving commercial areas are also lost in an effort to "consolidate" the visitor serving commercial areas at the existing nodes, an overall net loss of visitor serving capacity occurs. Thus, the current proposal must be carefully examined.

The City has indicated in a letter dated August 13, 2003 that the proposed use is consistent with the land use designation (see exhibit D). The City's letter states: "Although not specifically listed as permitted within the RSC designation, utilities and their support structures are fundamental, physical components of any urbanized area. Without utilities, the land uses listed in the LUP could not be implemented or maintained. With this in mind, the City considers utilities permitted uses within RSC land use designation." While the City's reasoning is sound, it does not obviate the need to pursue options that avoid the conversion of a visitor-serving site to one that is not clearly visitor serving.

However, the standard of review for development in Newport Beach is Chapter 3 of the Coastal Act and not the certified Land Use Plan. In areas, such as Newport Beach, where there is a certified Land Use Plan but which has no certified implementation program (which is required for a city to have a certified Local Coastal Program) the certified Land Use Plan is used for guidance, but is not the standard of review.

1. Alternatives

Before allowing a lesser priority use at site, alternatives must be carefully evaluated. In conjunction with the proposed project, a number of alternatives were considered. One alternative considered was to construct the replacement pump station in its existing location within Balboa Boulevard. This was deemed infeasible by the applicant primarily for safety reasons. If the pump station were required to remain in the street, it would have to be constructed entirely below grade. A small scale above grade electrical panel would not be able to accommodate the size and amount of electrical equipment required by current technology. Placing the electrical equipment below grade would not allow for the separation of the electrical equipment from the wet well and pump room. If not separated, sparks from electrical equipment could interact with the flammable gases created by the

collection of raw sewage in the wet well. This juxtaposition of gas and sparks potentially could cause explosions. In addition, if the electrical room were to be replaced below grade it would be subject to flooding. The groundwater level at the subject site is approximately 3 to 4 feet below the surface, higher during high tides. Flooding would destroy the electrical equipment, potentially resulting in the loss of the pump station of months. Loss of the pump station could lead to sewage spills. The policy of the Orange County Sanitation District prevents placement of electrical equipment below grade for these reasons. Pursuant to this policy the Orange County Sanitation has not placed pump station electrical equipment below grade since 1964.

In addition, regarding reconstructing the project entirely below grade within the street, the applicant states:

"The existing station's size and configuration are such that the station can not be rehabilitated to meet codes and provide a safe work environment. Spacing of the pumps, ventilation, piping, etc. would not leave adequate access and egress to service and maintain the equipment. The station's configuration / structure cannot be modified to separate the existing electrical room from the pump room (Class 1 Div 2). Nor can the electrical equipment be up graded to meet class (MCCs are not built to Class 1 Div 2). Service requires entrance from the street putting personal in a hazardous position (even with traffic cones, close lane, etc.)."

In addition, reconstructing the project in the street creates adverse impacts to public access due to the need to close traffic lanes on Balboa Boulevard. In this area, Balboa Boulevard is only one lane in each direction. Thus closure of one lane impacts traffic flows and contributes to congestion in an area already constrained during peak use periods. Routine maintenance requires daily visits Monday through Thursday, but this does not require street closure. The wet well is cleaned once every three months which requires a lane closure and redirection of traffic for 4 to 8 hours. More significantly, the Sanitation District has had 70 "corrective maintenance" events from August of 1997 to the present. They have ranged from loss of power (standby generator use to power station) to equipment replacement to electronic service calls. These events caused the street to be closed 70 times for an average of 2 to 4 hours since 1994 for emergency repairs and maintenance. Street closures, especially along the Balboa Peninsula, can adversely impact public access. Furthermore, the applicant is concerned that the safety of its employees is decreased whenever work is required within the street.

Another alternative considered was relocating the pump station to the proposed site, but constructing it entirely below grade, thus allowing commercial development above. This alternative eliminates the safety issue of District employees having to work in the street, as well as the public access issues that arise due to lane and street closures. However, it does not eliminate the problems stemming from construction the electrical equipment below grade in the vicinity of the flammable gases which result from collection of raw sewage (leading to possible explosions which may cause power losses and, possibly, sewer spills as described above). In addition, the applicant has expressed concern with its

ability to access the subgrade structure particularly during emergency situations when an above grade commercial development may be closed. Finally, the applicant was concerned with the safety and liability of having a commercial development located directly above a sewer pump station. In addition, constructing the pump station on the site necessitates demolition of the existing visitor-serving commercial structure. Thus, a commercial use could only persist on the site if a new structure was constructed. This type of new development would normally be required to supply parking to serve the use on-site. Due to the small size of the lot, it is not likely that a new commercial development at the site would be able to provide adequate parking on-site to serve the development. For these reasons, this alternative was dismissed.

An additional factor that limits the ability to maintain a visitor use at the site is that while the new pump station is under construction, pumping capacity must be maintained. If the pump station were to be reconstructed within the street, it would have to be located adjacent to the existing pump station. The encroachment for this option would be much larger than the current station's footprint and so would cause a large disruption to the street and adjacent businesses.

The other three lots located at the intersection of Balboa Boulevard and "A" Street, are designated Two Family Residential and so relocating the pump station to one of these lots would not result in the loss of a visitor serving lot, which would be a preferred alternative if feasible. However, the subject site is the closest of the three to the existing pump station and so would require the least amount of additional piping to connect to the existing system. Also some pumping to get the flow to the three residential lots may be required, while the subject site could accommodate gravity flows from the existing system. More importantly, the other three lots were not for sale and so were not available as an option for the applicant.

2. Public Benefits

a) Public Access and Recreation

Section 30210 of the Coastal Act requires that maximum public access and recreational opportunities be provided for all people. Section 30252 of the Coastal Act requires, among other things, that new development maintain and enhance public access to the coast by (4) providing adequate public parking facilities.

The subject site is currently developed with a vacant restaurant and is surrounded on three sides by residential development (see exhibit B). The applicant has indicated that the restaurant has been vacant for a number of years. One issue in this commercial area is the provisions of adequate parking. The subject site currently provides no parking. The footprint of the existing structure precludes the provision of parking now. In addition, the relatively small size of the lot as well as its trapezoidal shape, would make it difficult for a new commercial building to be constructed with adequate parking on site. Lack of adequate parking can make a commercial structure unviable. In general the Balboa

Peninsula is critically short of public parking, particularly during the peak use summer months.

The proposed project includes six parking spaces, in addition to a service bay on the east side of the building which can accommodate up to two district vehicles. Of the six parking spaces, the applicant proposes to retain one for District business. The remaining five spaces would be made available to the general public in conjunction with an agreement between the Sanitation District and the City of Newport Beach. The agreement is anticipated to allow for short term, metered parking which would serve the surrounding commercial district. The applicant intends to reserve the right to use the five parking spaces should major maintenance activities, such as pump replacement be required. However, the applicant has indicated that major maintenance is expected to be rare and notification of such maintenance occurrences would be posted well in advance. In addition, the applicant is proposing to construct a landscaped public seating area at the subject site. The seating area is expected to provide two benches, seating for approximately four people. The proposed public seating area would provide a respite for visitors strolling the commercial or nearby waterfront areas, as well as a spot to drink coffee or enjoy an ice cream cone. The addition of five public parking spaces serving the Main Street visitor serving commercial core will help alleviate the parking shortage in the area. Increased parking would encourage visitors to the area, consistent with the Coastal Act requirement to provide lower cost visitor serving uses. The provision of a landscaped public seating area will also provide a public use at the site.

However, the provision of the public parking spaces and landscaped public seating area has not been formalized. The applicant has indicated verbally that the details will be part of an agreement between the City and the applicant, but such an agreement has yet to be finalized. The details of how these public amenities will be provided, such as when the applicant can restrict public parking at the five spaces, or what the duration of the provision of these amenities will be, will be clarified in the agreement. The applicant anticipates that the public parking and seating will remain available for the life of the project, which is estimated to be a period of twenty years. However, in order to assure that the public benefits are indeed provided, and that the provision will remain available for a substantial length of time, evidence that the agreement between the City and the applicant reflecting these provisions must be provided. As a condition of approval, the applicant shall submit for the review and approval of the Executive Director, the final agreement between the City and the applicant clarifying the specifics of the provisions of the public amenities. At a minimum the agreement must include the duration of the agreement, and assurances that the public amenities will remain available to the public for the duration of the agreement (with an allowance for the applicant's use of the parking spaces on a limited basis). Only as conditioned can the proposed project be found consistent with Section 30222 of the Coastal Act which states that visitor serving uses have priority over private residential, general industrial, or general commercial development. And, only as conditioned can the proposed development be found consistent with Section 30210 of the Coastal Act which requires maximum public access and recreation be provided.

b) Water Quality

The applicant has indicated that one reason for the proposed replacement of the pump station is to avoid sewage spills. The new design would allow for greater monitoring of the pump station, as well as remote response. The remote response capability would allow quicker reaction to emergencies than is currently possible. In addition, the proposed design will increase the existing holding capacity to a two hour storage capacity. (Pumping ability will remain the same so there will be no increase in service capacity.) This increased holding capacity means the proposed pump station can accommodate greater flows without being overwhelmed. Thus the likelihood of sewage spills will be significantly reduced. Fewer sewer spills will help maintain and enhance the quality of the coastal waters in the project vicinity, consistent with Section 30231 of the Coastal Act.

Section 30231 of the Coastal Act requires that the quality of coastal waters be maintained and, where feasible, restored through, among other means, controlling runoff. As proposed the pump station will have excess capacity that provides a capability for accepting and pumping low flow diversions during the dry weather months (dry weather urban runoff). The proposed pump station is designed to handle the peak sewage flow AND the stormwater flow from a two-year event. This additional stormwater flow could be considerable. Normally, the dry weather urban runoff would be much less than the storm water flow from a two-year event. Thus, the pump station has the intrinsic capability of handling the dry weather runoff.

However, collecting and conveying the dry weather urban runoff to the pump station is not currently possible. In order to do that, an agency other than the applicant (in this case the City) would have to construct the necessary facilities to separate the dry weather urban runoff from the flows generated by storms. The responsible agency would also have to make arrangements so that the dry weather urban runoff would be discharged into one of the local sewers that eventually drain into the proposed pump station. That development is not currently proposed and the current applicant is not the appropriate agency to conduct such development. However, the proposed development's ability to accommodate these low flow diversions greatly increases the possibility of a connection in the future. This capacity represents an important step toward restoring the quality of the coastal waters in the project vicinity where stormwater currently drains untreated. The applicant, Orange County Sanitation District, has a policy in place which allows the District to accommodate the dry weather urban runoff, once appropriate connections are in place. In order to assure that this occurs should the connections be constructed, a special condition is imposed which requires the applicant to agree in writing to accept such flows.

Thus, in imposing this special condition, the Commission is not requiring the District to accept flows that would adversely affect the District's primary function of collection, treatment and disposal of sanitary sewer discharges. Furthermore, the Commission is not requiring the District to accept influent that would cause the District to run afoul of other regulatory requirements (e.g. State/Regional Water Quality Control Board, etc.). For example, the condition would not require the District to accept any influent that would lead

to violations of its pretreatment requirements or exceedences of any other limits within any other permit. Determining which flows exceed its technological capacity and thereby adversely affect the District's primary function or cause violations of other applicable restrictions shall be up to the discretion of the District. Nor does the special condition require the District to accept unauthorized discharges (i.e. discharges the District deems will adversely affect its ability to collect treat, and dispose of sanitary sewer discharges; and/or discharges made without the permission of the District). Any entity proposing to discharge dry weather flows into the project pump station shall obtain all necessary permits prior to any discharge. It is not the intent of this condition to prohibit the District from recovering costs associated with acceptance of dry weather flows. In addition, this special condition is not intended to limit the District's ability to impose conditions and/or restrictions on dischargers whose flow is accepted by the District for treatment. This special condition makes no requirement regarding wet weather flows.

The applicant is a special district of the State and provides services for the collection, treatment and disposal of sanitary sewer discharges pursuant to the California County Sanitation District Act, Health & Safety Code §§ 4700 et seq. Health & Safety Code § 4730.66 enacted by the Legislature in 2002, authorizes the applicant to exercise its discretion to acquire, construct, operate, maintain, and furnish facilities for the diversion and treatment of urban runoff. This permit is intended to be consistent with this Legislative authorization.

The Commission finds that, only as conditioned, can the proposed development be found consistent with Section 30231 of the Coastal Act which requires that water quality be maintained and, where feasible, enhanced.

3. Conclusion – Land Use

The Commission typically considers visitor serving commercial uses to have a higher priority than other uses, such as the proposed utility use. The subject site is designated Retail and Service Commercial, which allows visitor serving commercial uses. The proposed project would result in the site being used for a public utility. However, in this case visitor serving benefits, public parking and landscaped public seating, will be provided with development. In addition, significant water quality benefits will occur with the proposed development. Moreover, alternatives to the proposed project were considered but were found to be infeasible. Therefore, the Commission finds the proposed project, as conditioned, is consistent with Section 30222 of the Coastal Act regarding the appropriate land use at the site.

C. Water Quality

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.

Although, as stated above, the proposed development will have substantial water quality benefits due to the nature of the project, water quality concerns on a more minor scale must be considered. The proposed development will have impervious surfaces, such as roofs where pollutants such as particulate matter may settle, as well as outdoor parking areas where pollutants such as oil and grease from vehicles may drip. In addition, landscaped areas may contain fertilizers and pesticides. During storm events, the pollutants which have collected upon the roof and upon other impervious surfaces created by the proposed project may be discharged from the site into the storm water system and eventually into coastal waters which can become polluted from those discharges. Water pollution decreases the biological productivity of coastal waters. The applicant has not submitted a drainage plan addressing collection and disposal of site drainage.

Adverse water quality impacts to coastal waters can be avoided or minimized by directing storm water discharges from roof areas and other impervious surfaces to landscaped areas and/or other pervious areas where pollutants may settle out of the storm water. In addition, reducing the quantity of impervious surfaces and increasing pervious water infiltration areas can improve water quality. Filtering runoff that must leave the site is a further method of improving the quality of storm water runoff.

Another way to improve water quality is the use of native/drought tolerant plantings. Low water use, drought tolerant, native plants require less water than other types of vegetation. As these plantings use less water than ornamental plants, incidents of over-watering causing excess runoff, is substantially reduced. As previously stated, reducing site runoff reduces the extent of pollutants carried into the storm drain system and into coastal waters.

In order to maximize infiltration of drainage on-site, site drainage could be directed to the landscaped areas. In addition, a trench drain or similar drainage device with a permeable bottom could be placed at the base of the parking area where it joins the alley and at other appropriate locations on-site to filter runoff. Thus as proposed, water quality protection will not be maximized as required by Section 30231 of the Coastal Act. A drainage plan as described above to maximize permeable area and increase on-site infiltration and other

forms of water filtration and treatment, must be submitted indicating how run off from the site will be collected and directed in order to improve water quality. Therefore, a special condition is imposed which requires that site drainage be retained on site to the maximum extent feasible, and any runoff that must leave the site be filtered prior to being discharged off site. Only as conditioned can the proposed project be found consistent with Section 30231 of the Coastal Act regarding water quality.

D. Public Access

Section 30210 of the Coastal Act requires that maximum access be provided. As described above, some public access benefits are part of the proposed development. However, construction impacts from the proposed development may adversely impact public access. The subject site is located within a heavily used visitor area, the Main Street commercial core, along the Balboa Peninsula. Construction impacts due to street closures or haul truck traffic may adversely impact the public's ability to gain access in the project vicinity. However, if the project were to avoid the peak use summer period (from Memorial Day through Labor Day), these impacts would be significantly reduced. Therefore, as a condition of approval no construction work that adversely impacts public access, including but not limited to closure of Balboa Boulevard and/or construction haul truck traffic, may occur during the peak summer use period. The peak summer use period extends from Memorial Day weekend through Labor Day weekend. Only as conditioned can the proposed development be found consistent with Section 30210 of the Coastal Act which requires maximum access.

E. Geologic Recommendations

Section 30253 of the Coastal Act requires that new development assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area. The proposed development includes excavation of 2,000 cubic yards of material, to a depth of approximately 31 feet below the surface. The scope of the proposed excavation presents the potential for geologic risk. A Geotechnical Investigation has been prepared by the proposed development by Diaz – Yourman & Associates, dated September 11, 2001. Regarding the feasibility of the proposed project, the Geotechnical Investigation concludes: "Based on geotechnical considerations, the site is suitable for the proposed project." The Geotechnical Investigation also states: "DYA should be retained to review the finished grading earthwork and foundation plans and specifications for conformance with the intent of our recommendations." The geotechnical consultant has found that the subject site is suitable for the proposed development provided the recommendations contained in the Geotechnical Investigation prepared by the consultant are implemented in design and construction of the project. In order to assure that risks are minimized, the geotechnical consultant's recommendations should be incorporated into the design of the project. As a condition of approval the applicant shall submit plans, including grading and foundation plans, indicating that the recommendations contained in the Geotechnical Investigation, prepared for the proposed development by Diaz – Yourman & Associates, dated 9/11/01

have been incorporated into the design of the proposed project. Only as conditioned can the proposed development be found consistent with Section 30253 of the Coastal Act which requires that geologic risks be minimized.

F. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with the Chapter 3 policies of the Coastal Act.

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. As noted above, the site is presently designated Retail and Service Commercial by the certified Land Use Plan. The proposed utility use would not typically be considered a priority use in this land use designation. However, the proposed development will provide public benefits and will support the priority uses of the designation. The proposed development, as conditioned, 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 a Local Coastal Program that is in conformity with the provisions of Chapter 3.

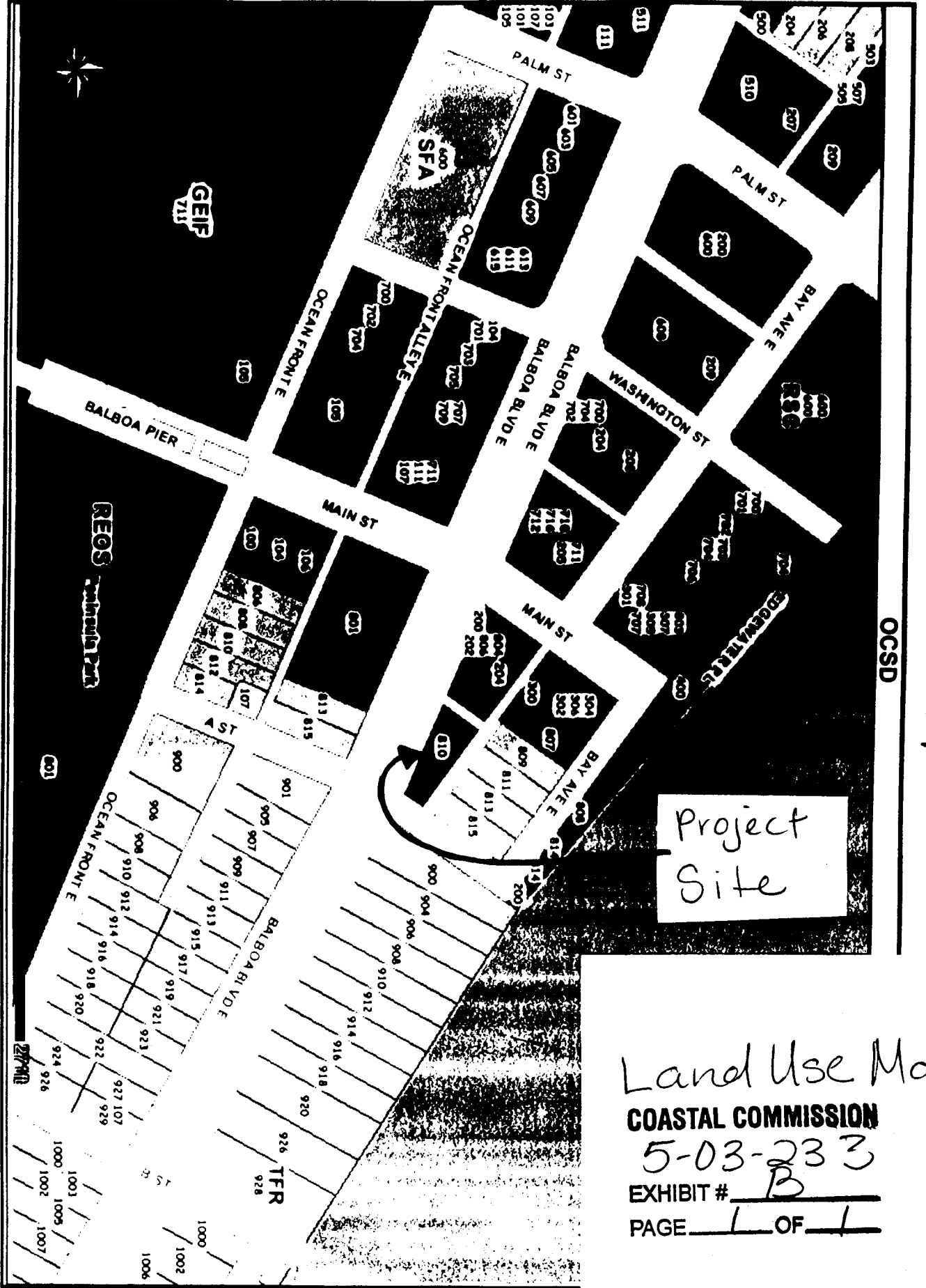
G. California Environmental Quality Act

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

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 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.

Beach

Harbor



Land Use Map

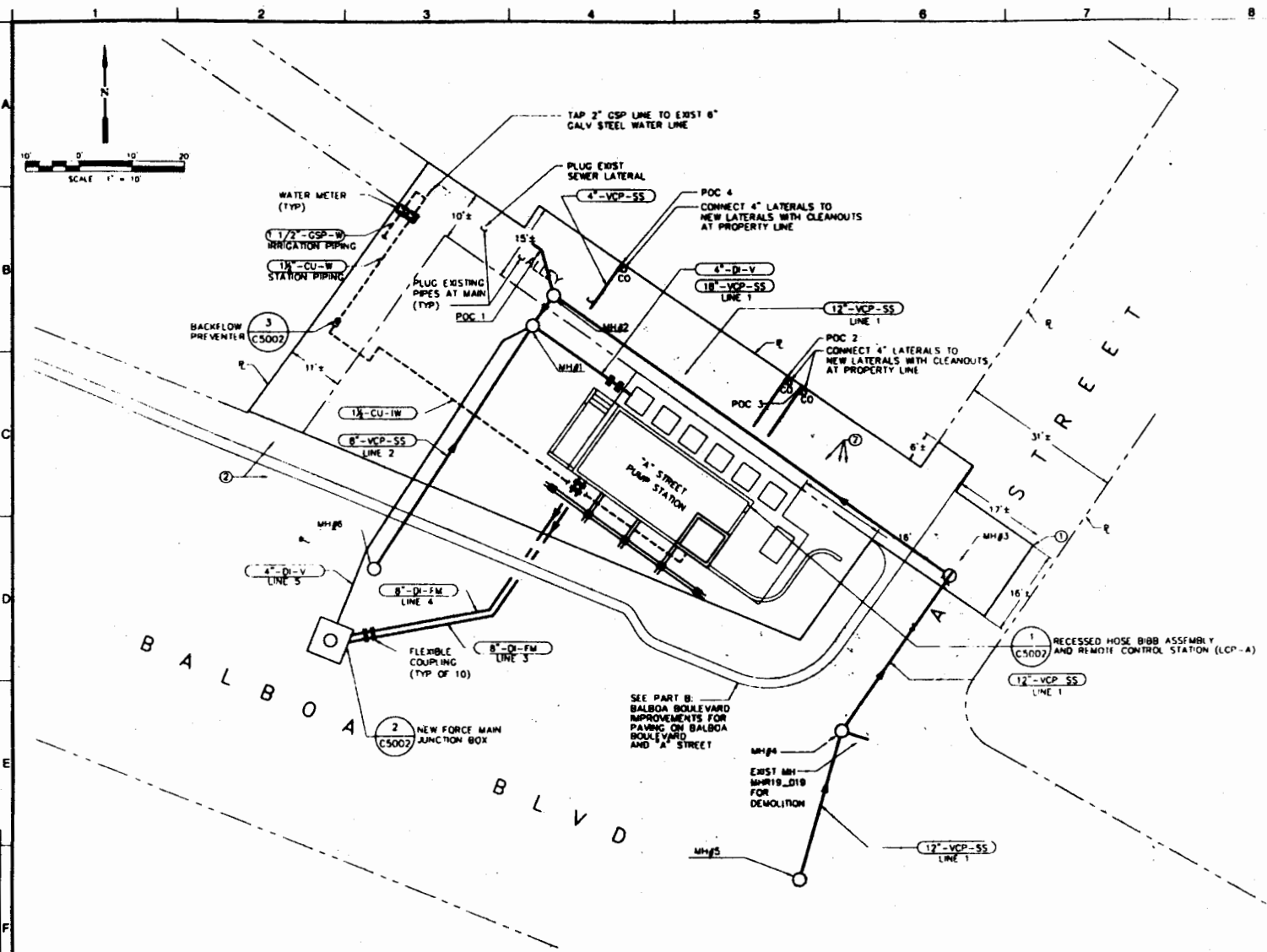
COASTAL COMMISSION

5-03-233

EXHIBIT # B

PAGE 1 OF 1

Project Plans
page 1 of 4



GENERAL NOTES:

1. ALL MANHOLES TO BE 18\"/>

NOTES

- ① SAWCUT AND JOIN EXISTING PAVEMENT, SIDEWALK, AND CURBS. SEE DWG C1002 FOR GRADING PLAN.
- ② PROTECT PIPE OR CONDUIT IN PLACE.

	COORDINATES*	
	NORTHING	EASTING
MH#1		
MH#2		
MH#3		
MH#4		
MH#5		
POC 1		
POC 2		
POC 3		
POC 4		

* COORDINATES SHALL BE ADJUSTED TO MATCH EXISTING SEWER ALIGNMENTS, WHERE APPLICABLE. NEW SEWER ORIENTATION SHALL BE INSTALLED AS SHOWN.

SITE PLAN

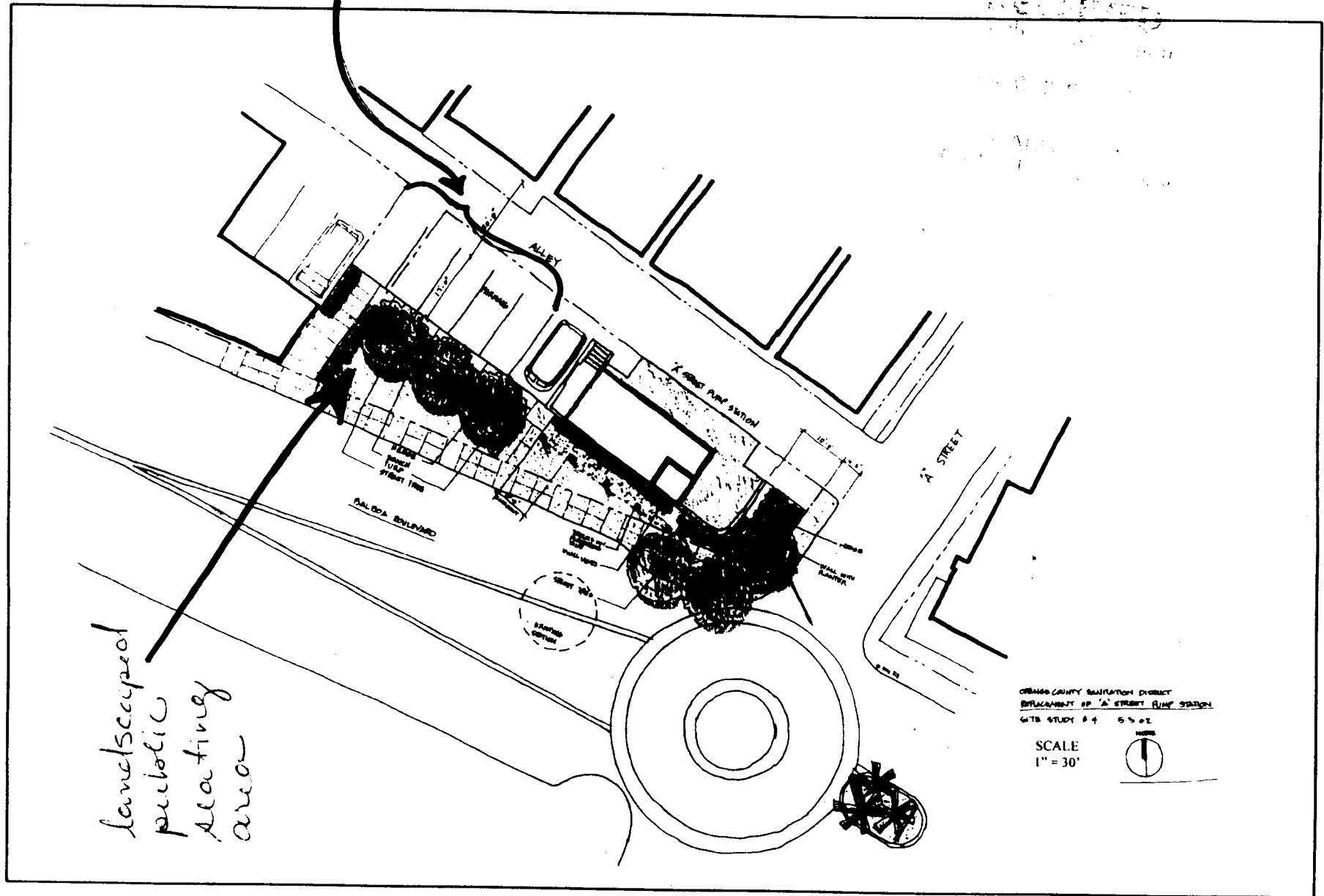
**PRELIMINARY
NOT FOR CONSTRUCTION**

DESIGNED BY: <u>Carroll, Jr. - Date</u> DRAWN BY: <u>Stephens, Hester - Date</u> CHECKED BY: <u>Soderstrom, Lee - Date</u> LINE IS 2 INCHES AT FULL SIZE (IF NOT 2" SCALE ACCORDINGLY)	 LEE & RO, Inc.	 ORANGE COUNTY SANITATION DISTRICT	REHABILITATION (REPLACEMENT) OF 'A' STREET PUMP STATION SITE PLAN	PROJECT NO 5-52 DRAWING NO C1001 <small>3 of 116</small>
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5-03-233
C-1001

ORANGE COUNTY SANITATION DISTRICT
 Contract No. 5-52
 Rehabilitation (Replacement) of "A" Street
 Pump Station

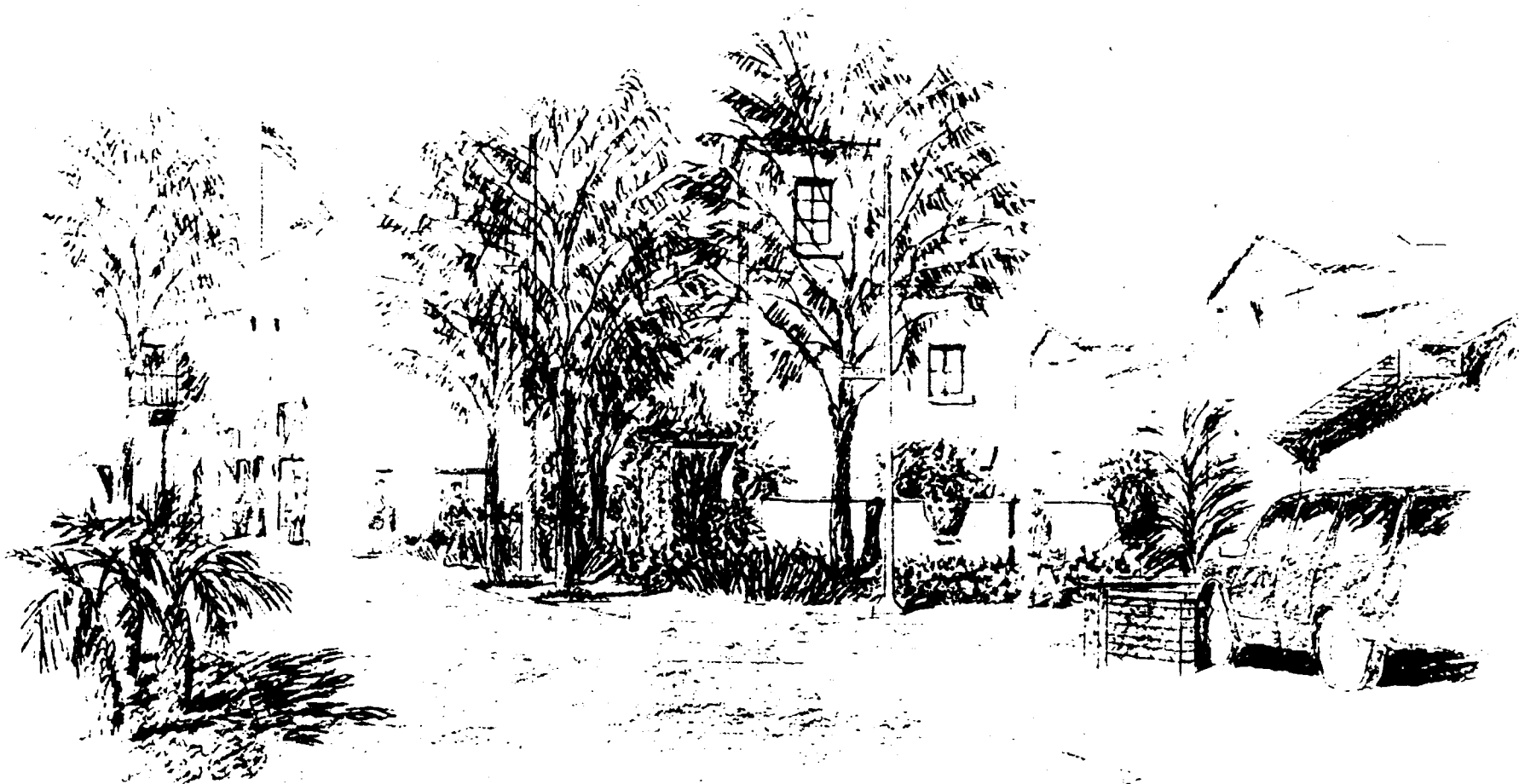
C2



Plan View

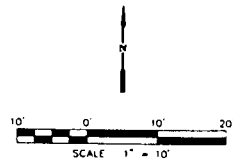
ORANGE COUNTY SANITATION DISTRICT
Contract No. 5-52
Rehabilitation (Replacement) of "A" Street Pump Station

C3





View from the westbound lane of Balboa Blvd., just east of "A" Street

C4

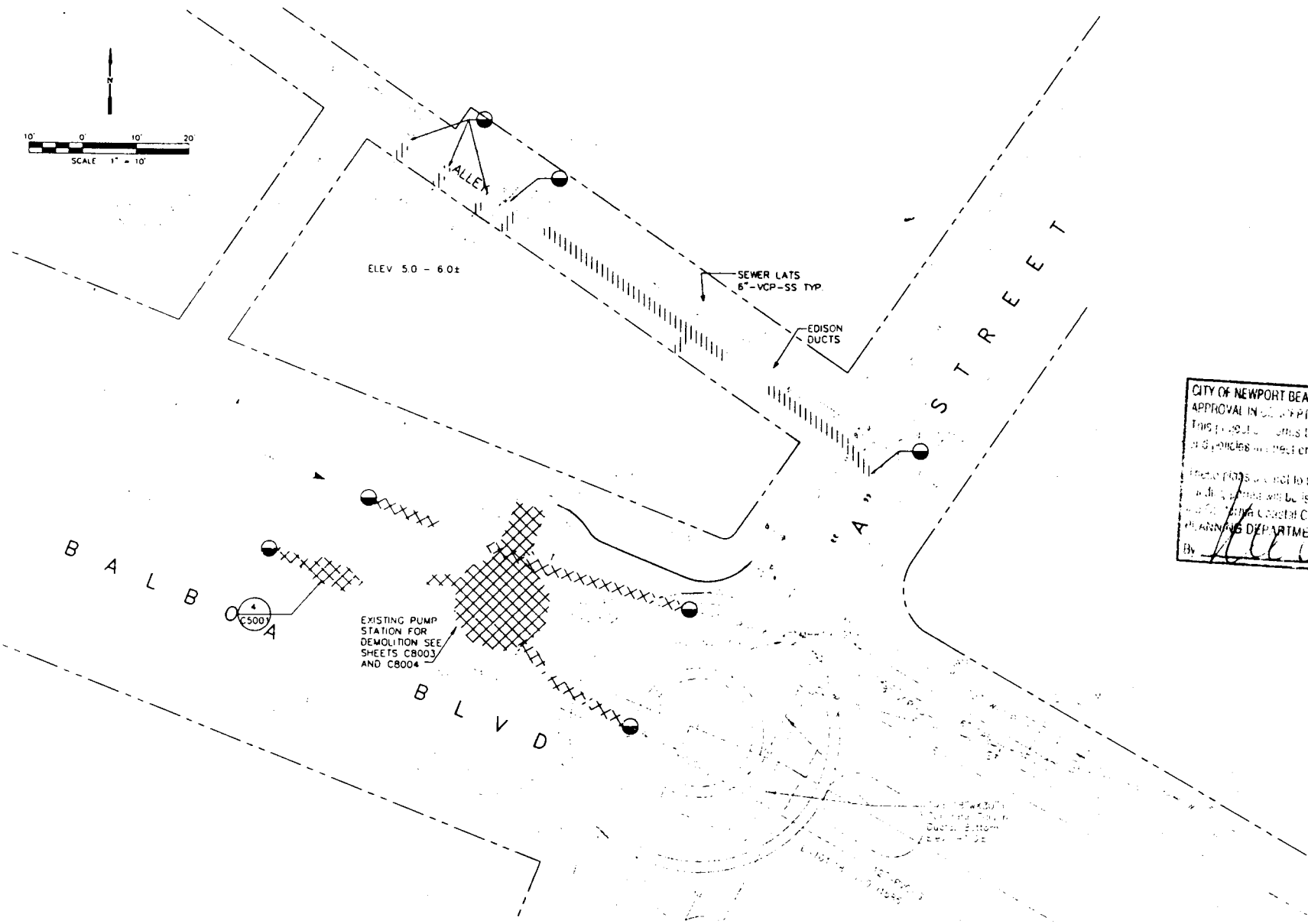


AREA CLASSIFICATION LEGEND

-  PIPE TO BE REMOVED
-  PIPE TO BE FILLED WITH SLURRY AND ABANDONED IN PLACE

NOTES

1. MANHOLE COVERS TO BE REMOVED. ALL MANHOLES BEING ABANDONED SHALL BE PAVED TO MATCH GRADE.





CITY OF NEWPORT BEACH
 APPROVAL IN CONCEPT NO. 1320-2003
 This project conforms to all applicable planning regulations and policies in effect on the date _____
 These plans are not to be used for construction purposes. No building permits will be issued until approval is received from the Orange County Coastal Commission.
 PLANNING DEPARTMENT
 By [Signature] Date 5/14/03

Transmittal Plan

UNDERGROUND DEMOLITION PLAN

PRELIMINARY
NOT FOR CONSTRUCTION

DESIGNED BY: Calderon, Ser - Date _____ DRAWN BY: Lopez, Remigio - Date _____ CHECKED BY: Bedwischer, Lee - Date _____	LINE IS 2 INCHES AT FULL SIZE (IF NOT 2" - SCALE ACCORDINGLY)	 LEE & RO, Inc.	 ORANGE COUNTY SANITATION DISTRICT	REHABILITATION (REPLACEMENT) OF "A" STREET PUMP STATION UNDERGROUND DEMOLITION PLAN	PROJECT NO. <u>15-52</u> SHEET NO. <u>C8C</u>
DESCRIPTION	DATE APPR				



CITY OF NEWPORT BEACH

PLANNING DEPARTMENT

Patricia L. Temple, Director

RECEIVED
South Coast Region

AUG 18 2003

CALIFORNIA
COASTAL COMMISSION

August 13, 2003

Meg Vaughn, Program Analyst
California Coastal Commission
200 Oceangate, 10th floor
Long Beach, California 90802-4116

Re: OCSD "A" Street Pump Station
Permit No. 5-03-233

Dear Ms Vaughn:

The Orange County Sanitation District (District) has submitted a permit application to your office for the "A" Street Pump Station to be constructed at 810 East Balboa Boulevard, Newport Beach. The District is the owner of the subject property and the City understands that the new pump station, will replace an existing pump station currently in service. You provided review comments to the permit package, one of which questioned whether or not the project is consistent with the Newport Beach Local Coastal Program, Land Use Plan (LUP) designation for the property. The LUP was certified by the Coastal Commission in 1990.

The property in question is designated Retail and Service Commercial (RSC) by the LUP, City General Plan and the City Zoning Ordinance. This designation was applied to areas of the City that were predominately retail in character, but also accommodated service office uses. Hotels, restaurants senior citizen housing and recreational uses are also specifically listed as acceptable uses. Although not specifically listed as permitted within the RSC designation, utilities and their support structures are fundamental, physical components of any urbanized area. Without utilities, the land uses listed in the LUP could not be implemented or maintained. With this in mind, the City considers utilities permitted uses within RSC land use designation.

The City Zoning Code provides regulations that implement land use policies established by the General Plan and LUP. The City maintains that its Zoning Ordinance is entirely consistent with the General Plan and LUP. Section 20.45.030 of the Zoning Code contains the list of permitted uses for this neighborhood and is applicable to the project site. Pursuant to this section, utility facilities classified as

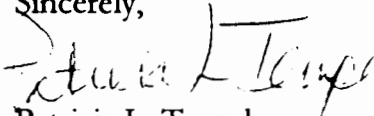
August 11, 2003

Page 2

"minor" are permitted by right and facilities classified as "major" require the approval of a Use Permit by the Planning Commission. The Planning Director has classified the proposed pump station as a minor facility based upon the definition of the use classifications contained within the Zoning Ordinance. This determination was made after careful review of the plans and specifications for the proposed pump station while considering the surrounding neighborhood and abutting uses. Due to the low lying nature of much of the Balboa Peninsula, sanitary sewer pump stations are essential to operating and maintaining a sewer system. Speaking on behalf of the Planning Department, the facility will not create any negative impact to abutting uses or the Central Balboa Village area in general. In conclusion, the classification of the project as a minor utility facility makes it expressly permitted by the Zoning Ordinance and as such, it is also consistent with the RSC designation of the General Plan and Local Coastal Program, Land Use Plan.

If you have any questions regarding this letter or land use issues related to this project, please call James Campbell, Senior Planner at (949) 644-3210 or you can contact him via e-mail at jcampbell@city.newport-beach.ca.us. Should you wish to contact me directly, please do not hesitate to do so. I can be reached at (949) 644-3232.

Sincerely,



Patricia L. Temple
Planning Director

Enc. Definitions of Minor and Major utility from Chapter 20.05 CNB Municipal Code

cc. David May, OCSD
Mike Sinacori, CNB Public Works

D₂

Excerpt of Chapter 20.05 (Use Classifications)

- T. Utilities, Major. Generating plants, electrical substations, above-ground electrical transmission lines, lone switching buildings, refuse collection, transfer recycling or disposal facilities, water reservoirs, flood control or drainage facilities, water or wastewater treatment plants, transportation or communications utilities, and similar facilities of public agencies or public utilities. A structure that may have a significant effect on surrounding uses shall be regulated under this classification.
- U. Utilities, Minor. Utility facilities that are necessary to support legally established uses and involve only minor structures such as electrical distribution lines, underground water and sewer lines.



California Regional Water Quality Control Board

Santa Ana Region



Winston H. Hickox
Secretary for
Environmental
Protection

Internet Address: <http://www.swrcb.ca.gov/~rwqcb8>
3737 Main Street, Suite 300, Riverside, California 92501-3339
Phone (909) 782-4130 E FAX (909) 781-6288

September 8, 2003

Ms. Chandra Johannesson
Orange County Sanitation District
P.O. Box 8127
Fountain Valley, CA 92728

Dear Ms. Johannesson

We appreciate your contacting our office to provide a description of the Pumpstation Rehab at Balboa and A Street and at Balboa and 15th Street. Based on the information that you have provided through phone messages and email, the total amount of ground disturbance for each of the projects would be under one (1) acre. Based on this information, coverage under the State's General Permit for Storm Water Discharges Associated with Construction Activity is not required.

For sites under one (1) acre and located in the portion of Orange County within the Santa Ana Region, oversight of construction activities is performed by the local municipal entity (city or county) under their municipal NPDES permit, Order No. R8-2002-010.

If project conditions change, please contact this office to assess whether coverage would be required at that time.

If you have any further questions, please call me at 782-4998.

Sincerely,

Mark E. Smythe, Chief
Storm Water Section, Coastal Unit

Post-It™ brand
To: Chandra
Co.
Dept.
Fax #

Attn: Dave May

964-4775

1
Smythe

California Environmental Protection Agency



5-03-233

Exhibit E

