

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
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Filed: June 6, 2005  
49th Day: July 25, 2005  
180th Day: December 3, 2005  
Staff: ALB-LB  
Staff Report: August 25, 2005  
Hearing Date: September 14-16, 2005  
Commission Action:

**F 4a****STAFF REPORT: CONSENT CALENDAR****APPLICATION NUMBER:** 5-05-168

RECORD PACKET COPY

**APPLICANT:** 500 31<sup>st</sup> St., LLC, Chris Brigandi**AGENT:** Bissell Architects, Glen Gellantly**PROJECT LOCATION:** 500 31<sup>st</sup> Street, Newport Beach, County of Orange

**PROJECT DESCRIPTION:** Demolition of an existing residence and construction of a new 2842 square foot, maximum 32' 6" high, 3-story mixed use (commercial/residential) structure with 1013 square feet of covered parking (2 garage spaces to serve the residential use and 3 spaces to serve the commercial use). No grading is proposed.

**LOCAL APPROVALS RECEIVED:** City of Newport Beach Use Permit UP 2005-001 and Planning Department Approval-in-Concept No. 0662-2005 dated April 18, 2005.

**SUMMARY OF STAFF RECOMMENDATION:**

The applicant is proposing to construct a mixed-use development in the Cannery Village area of Newport Beach. The development will provide a retail use on the ground floor and a residential unit on the upper two floors. Parking for the residential unit will be provided in a 2-car garage accessible via the alley. Parking for the commercial use will be provided in covered off-street parking areas. One commercial space will be accessible via the alley and 2 will be accessible via the frontage street. The site is currently developed with a single story residence and storage structure that will be demolished as part of this project. The major issues of the staff report include parking, land use, and water quality.

Staff recommends the Commission **APPROVE** the proposed development with four (4) special conditions requiring 1) acknowledgement of land use restrictions through a future improvements condition; 2) conformance with construction best management practices, 3) conformance with the Drainage and Run-off Control Plan submitted; and 4) recordation of a deed restriction against the property, referencing all of the Special Conditions contained in this staff report.

**SUBSTANTIVE FILE DOCUMENTS:** City of Newport Beach Certified Land Use Plan (LUP), Coastal Development Permits: 5-04-482 (Capannelli), 5-03-299 (29<sup>th</sup> Street Partners), 5-02-093 (Cannery Lofts), and 5-00-056 (Weeda).

**LIST OF EXHIBITS:**

1. Location Map
2. Assessor's Parcel Map
3. Project Plans

**STAFF RECOMMENDATION:**

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

**STAFF RECOMMENDATION TO ADOPT CONSENT CALENDAR:**

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.
4.     Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

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

**III. SPECIAL CONDITIONS:**

1. Future Development

This permit is only for the development described in Coastal Development Permit No. 5-05-168. Pursuant to Title 14 California Code of Regulations section 13253(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(b) shall not apply to the development governed by Coastal Development Permit No. 5-05-168. Accordingly, any future improvements to the mixed use building consisting of one (1) commercial space and one (1) residential unit 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. 5-05-168 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

2. Construction Best Management Practices

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

- (a) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of construction-related materials, and to contain sediment or contaminants associated with construction activity, shall be implemented prior to the on-set of such activity;
- (b) No construction materials, debris, or waste shall be placed or stored where it may enter a storm drain or be subject to tidal erosion and dispersion;
- (c) Construction debris and sediment shall be properly contained and secured on site with BMPs, to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
- (d) Construction debris and sediment shall be removed from construction areas as necessary to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. All debris and trash shall be disposed of in the proper trash and recycling receptacles at the end of each construction day;
- (e) The discharge of any hazardous materials into any receiving waters shall be prohibited;
- (f) A pre-construction meeting should be held for all personnel to review procedural and BMP/GHP guidelines;
- (g) All BMPs shall be maintained in a functional condition throughout the duration of the project.
- (h) Debris shall be disposed at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is required.

3. Drainage and Run-Off Control Plan

- A. The applicant shall conform to the drainage and run-off control plan received on May 4, 2005 showing roof drainage and runoff from all impervious areas directed to vegetated/landscaped areas wherever possible. Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. 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 landowner has 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:

##### A. PROJECT LOCATION AND DESCRIPTION

The subject site is a 2,790 square foot lot located at the corner of 31<sup>st</sup> Street and Villa Way at 500 31<sup>st</sup> Street in the City of Newport Beach, Orange County (Exhibits 1 & 2). The site is designated Retail and Service Commercial (RSC) in the certified LUP. The site is located on an inland lot within the Cannery Village area. The Cannery Village area is located between 32<sup>nd</sup> Street and 26<sup>th</sup> Street on the Balboa Peninsula. Cannery Village is a mixed-use district with commercial, industrial, and residential uses. In this district, residential development is allowed on the upper floors in conjunction with ground floor commercial usage. The subject site is located approximately 300 feet from the Rhine Waterway. The nearest public coastal access to the Rhine Waterway is available at the corner of Lido Park Drive and Lafayette Avenue, northeast of the project site.

The project involves demolition of an existing 400 square foot residence and the construction of a new 2,842 square foot, maximum 32' 6" high, 3-story mixed use (commercial/residential) structure with five (5) covered parking spaces in 1013 square feet, as shown in Exhibit 3. The ground floor will consist of a 750 square foot retail space and 1013 square foot parking area (2 garage spaces to serve the residential use and 3 spaces to serve the commercial use). The upper two floors will consist of a 2,092 square foot residence. No grading is proposed.

The applicant was granted a local use permit to exceed the base height limit of 26 feet. In the subject area, structures are permitted to reach a maximum height of 35 feet with the approval of a use permit. The City concluded that the increased building height provides *"more public visual open space as a result of the building's design that provides increased setbacks along the exterior sides of the project."* No public views to or along the shoreline are affected by the proposed project.

The ground floor commercial space is proposed to be used as general retail space, consistent with the RSC land use designation. Allowable commercial uses include, but may not be limited to: retail sales, offices which provide goods or services to the general public, hotels, motels, restaurants, commercial recreation, and senior citizen housing facilities. Professional and business offices not providing goods or services to the general public are allowed only on the second floor or above. Residential development is allowed on the upper floors in conjunction with ground floor commercial.

The ground floor commercial space will be served by three off-street parking spaces—two spaces accessible from the frontage street (31<sup>st</sup> Street) and one space accessible from the alley. The residence will be served by a two-car garage accessible from the alley. The proposed development provides parking that meets the Commission's regularly-used standard of two spaces per residential unit and one space for each 250 square feet of commercial space.

As proposed, the project provides a land use on the ground floor that is consistent with the RSC designation and provides parking that will satisfy the requirement for a general commercial use. It is necessary to restrict commercial uses on this site to those that can be served by on-site parking. Commercial uses with a higher parking demand, such as restaurants, cannot be accommodated. It is also necessary to ensure that the ground floor be occupied by a commercial use that provides goods or services directly to the public. As such, the use of the ground floor space is restricted to

the proposed use of retail and service commercial and any changes in the type or intensity of use will require an amendment or new permit.

The applicant is proposing water quality improvements as part of the proposed project, consisting of rooftop and surface drainage directed to permeable areas (Exhibit #3). Any vegetated landscaped areas located on site shall only consist of native plants or non-native drought tolerant plants, which are non-invasive.

The placement of vegetation that is considered to be invasive which could supplant native vegetation should not be allowed. Invasive plants have the potential to overcome native plants and spread quickly. Invasive plants are generally those identified by the California Invasive Plant Council (<http://www.caleppc.org/>) and California Native Plant Society ([www.CNPS.org](http://www.CNPS.org)) in their publications.

Furthermore, any plants in the landscaping plan should be drought tolerant to minimize the use of water. The term drought tolerant is equivalent to the terms 'low water use' and 'ultra low water use' as defined and used by "A Guide to Estimating Irrigation Water Needs of Landscape Plantings in California" prepared by University of California Cooperative Extension and the California Department of Water Resources dated August 2000 available at <http://www.owue.water.ca.gov/landscape/pubs/pubs.cfm>.

#### **B. DEVELOPMENT**

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, 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. DEED RESTRICTION**

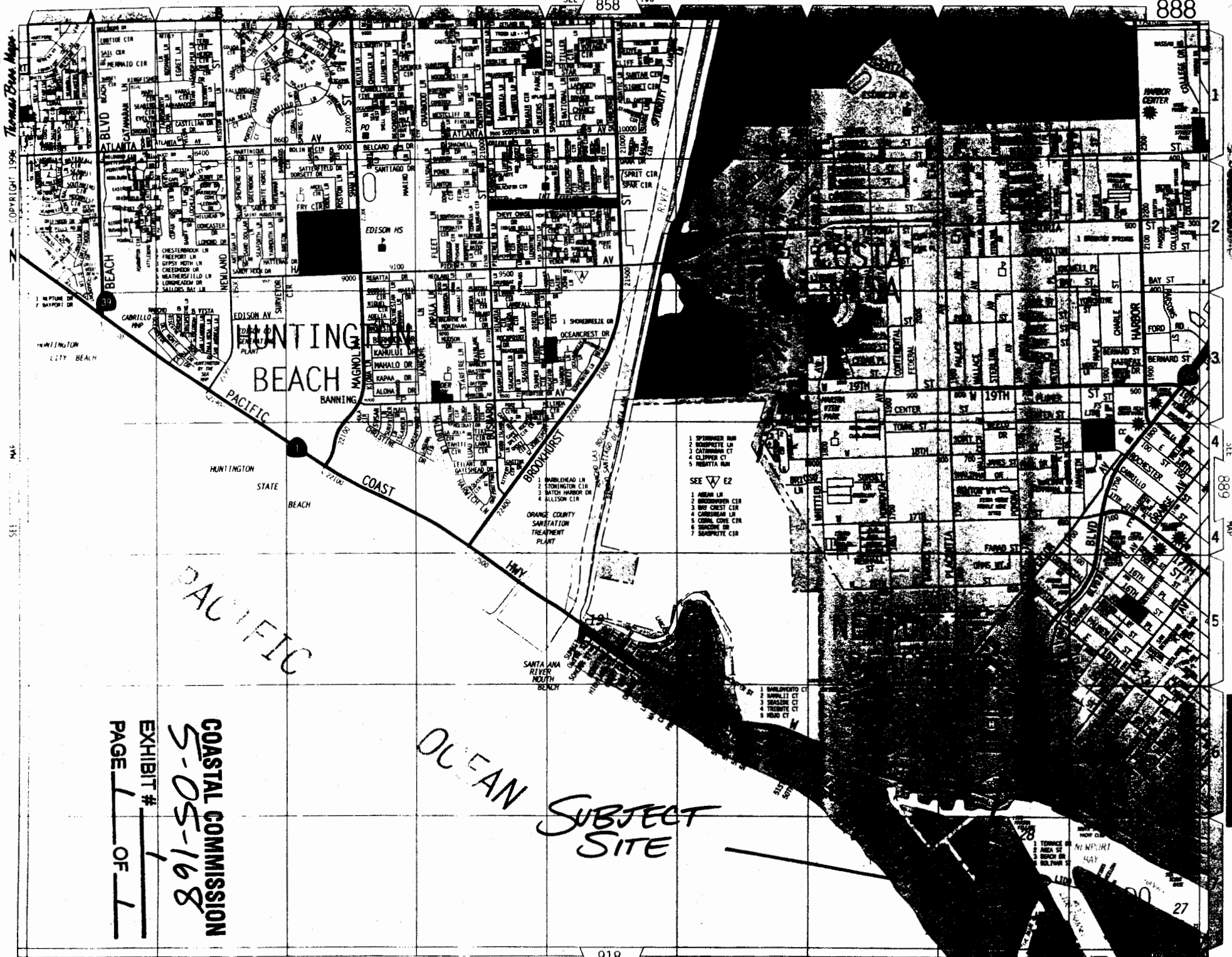
To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes an additional condition requiring that the property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, this permit ensures that any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development.

**F. 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.

**G. 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.

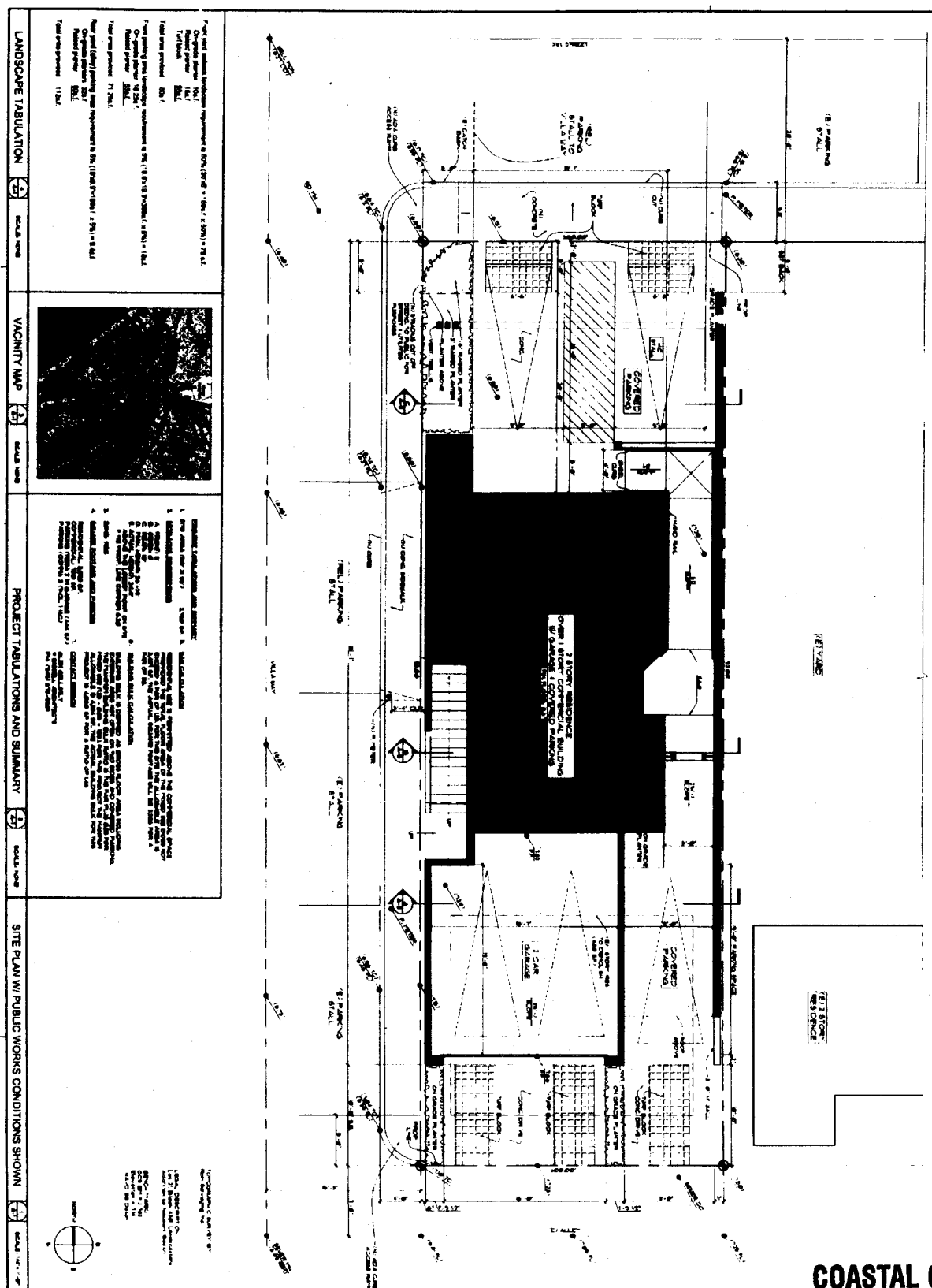


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**SUBJECT SITE**



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EXHIBIT #	3
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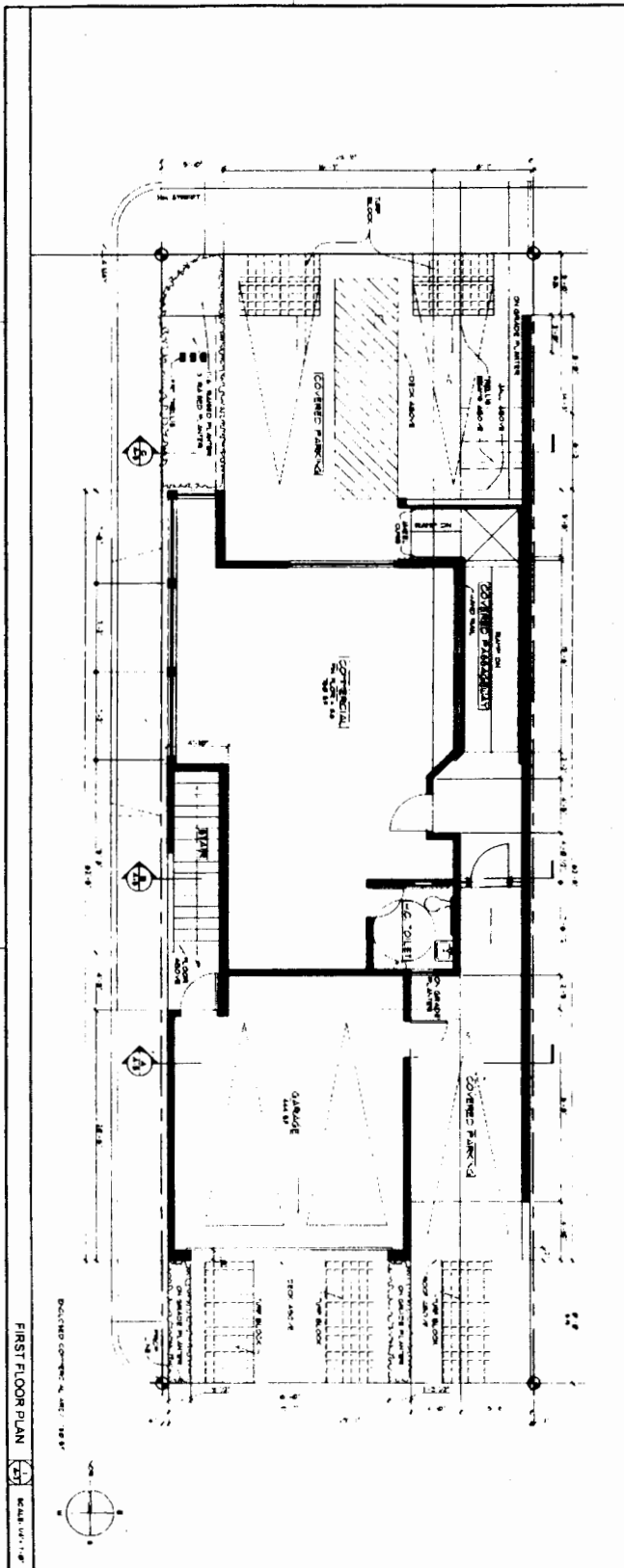
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COMMERCIAL/RESIDENTIAL BUILDING PROJECT FOR  
**CHRIS BRIGANDI** 500 31st STREET.  
NEWPORT BEACH, CA 92663

**Bissell Architects**

3422 Weyl / Life, Respite, Death, Catharsis 10/07 076-087 FAX: 049 676-00

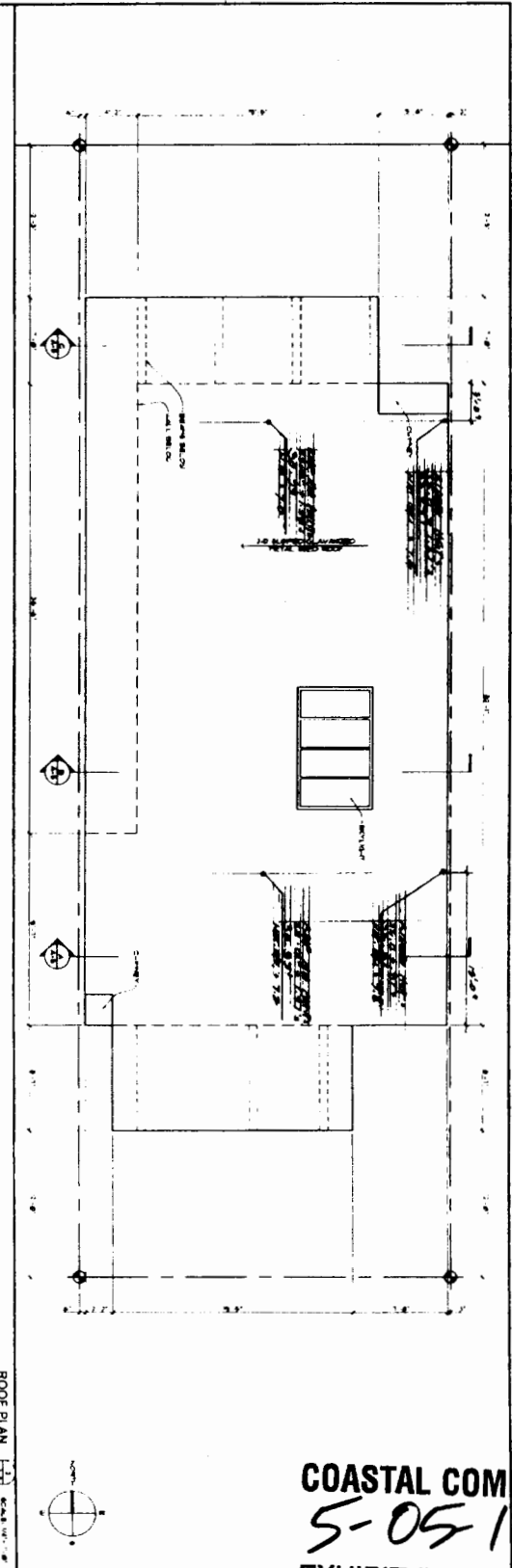
1.



**FIRST FLOOR PLAN**

**A-2**

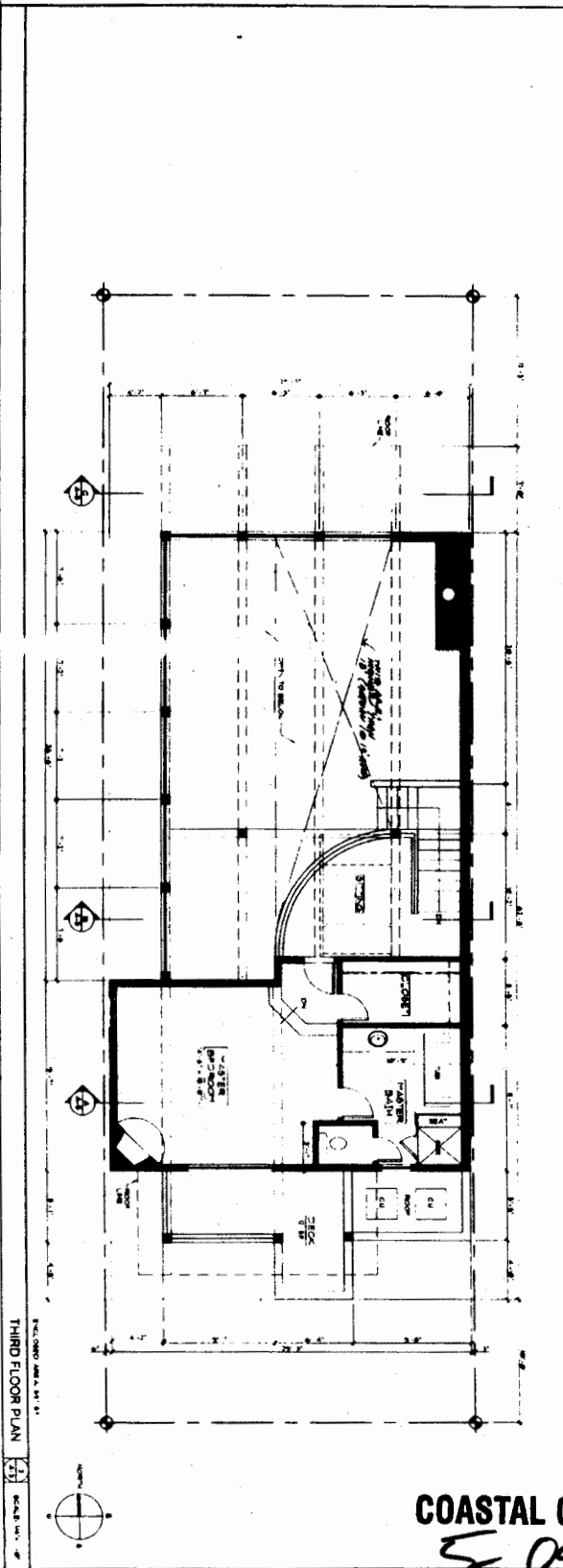
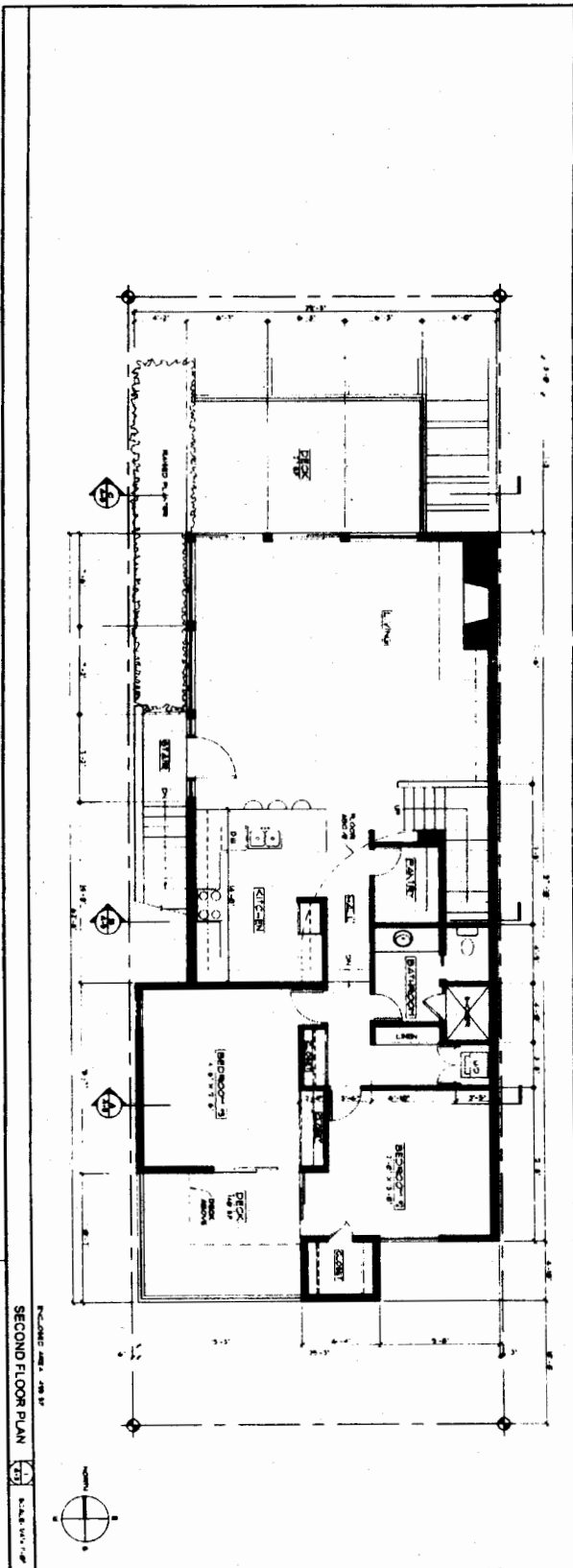
COMMERCIAL/RESIDENTIAL BUILDING PROJECT FOR  
**CHRIS BRIGANDI**  
 500 31st STREET  
 NEWPORT BEACH, CA 92663



**ROOF PLAN**

**2**

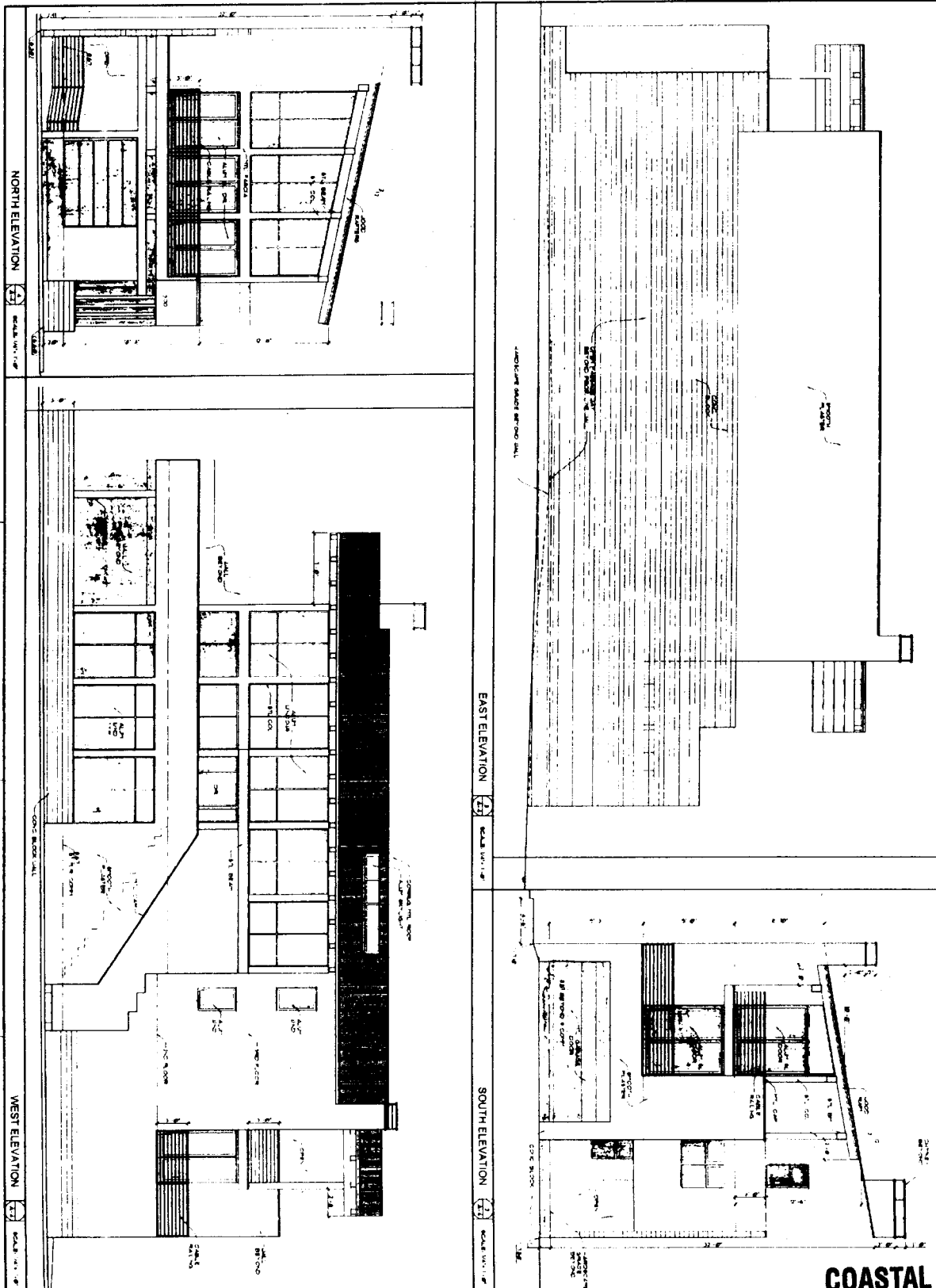
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COMMERCIAL/RESIDENTIAL BUILDING PROJECT FOR  
**CHRIS BRIGANDI**  
 500 31ST STREET  
 NEWPORT BEACH, CA 92663

Architect  
 [Signature]  
 2400 Via Loma, Newport Beach, California 92660 (949) 441-0071 Fax: (949) 441-0072

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COMMERCIAL/RESIDENTIAL BUILDING PROJECT FOR  
**CHRIS BRIGANDI** 500 3<sup>RD</sup> ST STREET  
 NEWPORT BEACH, CA 92663

Coastal  
 Architects  
 500 3<sup>RD</sup> ST. NEWPORT BEACH, CALIFORNIA 92663 (949) 474-0001 FAX (949) 474-0002

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 EXHIBIT #

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EXHIBIT 3 OF 6  
Landscape Architecture Planning Design  
PAGE

**CHRIS BRIGANDI**

31st STREET LOFTS

500 31st STREET  
NEWPORT BEACH, CA 92663

LANDSCAPE  
DRAINAGE  
PLAN

Age Group	Percentage of Correct Responses
4;0	~60
4;6	~80
5;0	~90
5;6	~95
6;0	100

LD-1

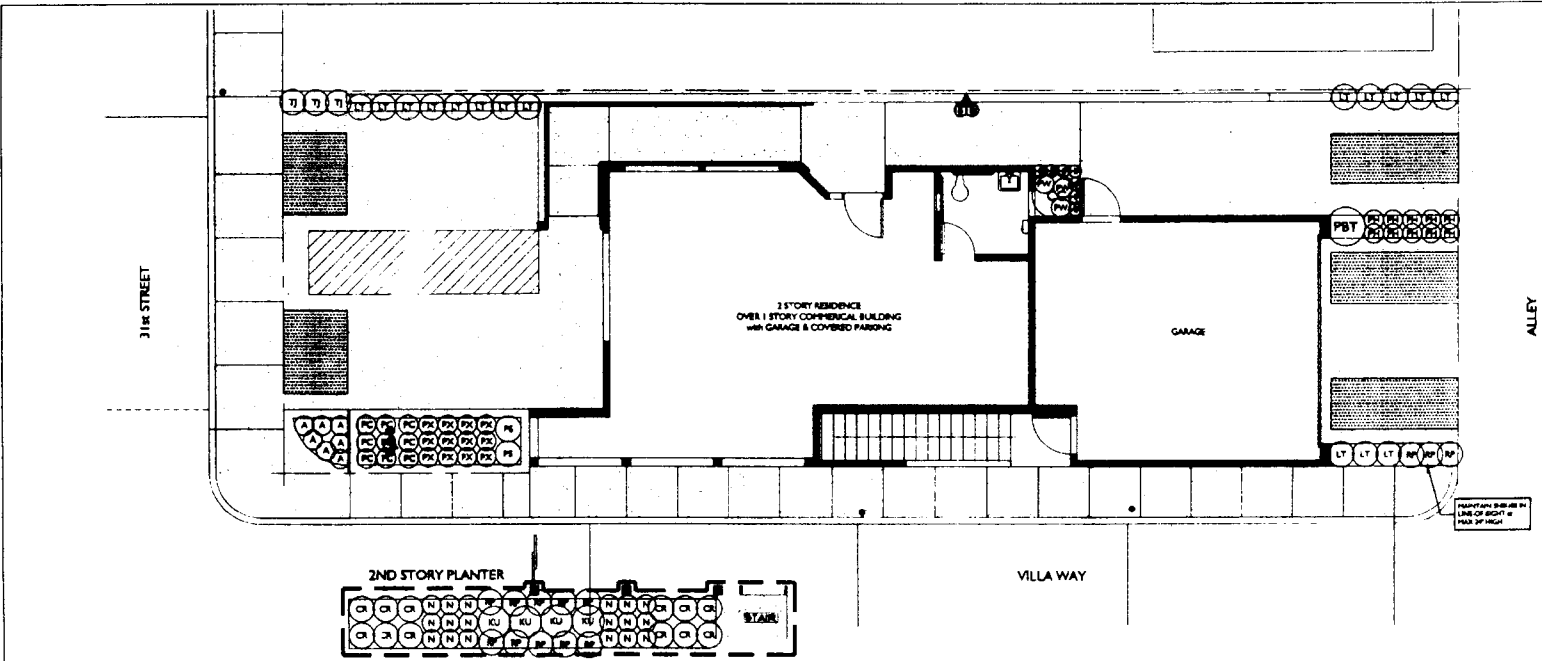
CHRIS BRIGANDI

31st STREET LOFTS

500 31st STREET  
NEWPORT BEACH, CA 92663

PLANTING PLAN

LP-1



PLANTING LEGEND:

SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE	COMMENTS	SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE	COMMENTS
(A)	AGAPANTHUS PETER PAN	LET OF THE NILE	5 GAL		(PS)	PITTOSPORUM SILVER SHEEN	PITTOSPORUM	15 GAL	
(B)	BEGONIA DRAGON WING	BEGONIA	1 GAL		(PW)	PITTOSPORUM T. WHEELER DWARF	TORRA	5 GAL	
(CC)	CERCIS CANADENSIS 'FONEST PANEY'	EASTERN REDBUD	3" BOX	MULTI-BRANCH	(PBT)	PRUNUS BRIGHT N TIGHT	CAROLINA LAUREL CHERRY	15 GAL	LOW BRANCH COLUMN
(CA)	CARPET ROSE	RED CARPET ROSE	5 GAL	RED	(RP)	ROSEMARINUS PROSTRATUS	DWARF ROSEMARY	5 GAL	
(DB)	DETTES BICOLOR	BUTTERFLY IRE	5 GAL		(T)	TRACHELOPERMUM JASPERBLOSS	STAR JASMINE	5 GAL	
(H)	HEUCHERA PALACE PURPLE	CORAL BELLS	1 GAL						
(RU)	RHAPHORA LYRA	TORCH LILY	15 GAL		VINES				
(LT)	LEUSTRUM J. TEXANUM	WAX-LEAF FENNY	5 GAL	HEDGE	(▲)	TRACHELOPERMUM JASPERBLOSS	STAR JASMINE	15 GAL	ON RACK
(N)	NANDINA D. HANCOCK DWARF	HEAVENLY BAMBOO	5 GAL		(▲)	THUNBERGIA GRANDIFLORA	SKY FLOWER	15 GAL	ON STAKE
(PK)	PHILODENDRON XANADU	DWARF PHILODENDRON	5 GAL						
(PH)	PHORHUM TENAX 'JACK SPATT'	NEW ZEALAND FLAX	5 GAL						
(PC)	PITTOSPORUM CRASSIFOLIUM 'NANA'	PITTOSPORUM	5 GAL						

SODDED TURF

SODDED TURF - WATER CONSERVING TALL TYPE RESCUE  
SUBMIT TYPE TO LA FOR APPROVAL

ALL PLANTS ARE NON-INVASIVE and  
LOW WATER CONSUMPTION VARIETIES

GENERAL PLANTING NOTES:

- LANDSCAPE ARCHITECT TO APPROVE ALL PLANT MATERIAL NOT LESS THAN 1 WEEK PRIOR TO ANTICIPATED PLANTING DATE.
- CONTRACTOR TO COORDINATE APPROVALS. CONTRACTOR SHALL REMOVE ALL GROWER STAKES, TAGS AND RIBBONS.
- LANDSCAPE CONTRACTOR SHALL MAINTAIN PROPER DRAINAGE AND CORRECT ALL WATER SO AS TO PREVENT STANDING WATER.
- CONTRACTOR SHALL GUARANTEE SHRUBS FOR 6 MONTHS AND TREE MATERIAL FOR 12 MONTHS.
- LANDSCAPE ARCHITECT SHALL APPROVE PLANT MATERIAL PLACEMENT PRIOR TO INSTALLATION. THE FOLLOWING MINIMUM CRITERIA SHALL BE OBSERVED BY THE LANDSCAPE CONTRACTOR:
  - NO TREES SHALL BE PLANTED CLOSER THAN 5' TO A BUILDING OR ROOF STRUCTURE. NO TREES SHALL BE PLANTED CLOSER THAN 5' TO PAVING OR FREESTANDING WALLS.
  - TREES SHALL NOT BE PLANTED WHERE FUTURE GROWTH WILL OBVIOUSLY CONFLICT WITH ROOF OVERHANGS.
  - NO SHRUBS SHALL BE PLANTED THAT WILL CREATE A VISUAL OBSTRUCTION TO SIGHT LINE OF VEHICLE TRAVEL.
  - TREES PLANTED IN LANDSCAPE AREAS OF LESS THAN 1' IN WIDTH SHALL BE INSTALLED WITH AN APPROVED ROOT BARRIER.
  - ANY PLANTING SHOWN ON THE PLANS OR EXISTING IN THE FIELD THAT CONFLICTS THESE CRITERIA IS TO BE BROUGHT TO THE ATTENTION OF THE LANDSCAPE ARCHITECT FOR RESOLUTION. FAILURE TO DO SO MAY RESULT IN THE CONTRACTOR TO REMOVE OR RELOCATE PLANT MATERIAL.

