

CALIFORNIA COASTAL COMMISSION

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Filed: February 9, 2006
49th Day: March 30, 2006
180th Day: August 8, 2006
Staff: Fernie Sy-LB
Staff Report: May 25, 2006
Hearing Date: June 13-16, 2006
Commission Action:

**STAFF REPORT: CONSENT CALENDAR**

APPLICATION NUMBER: 5-06-006

APPLICANT Conoco Phillips

AGENT: Quality Project Management, LLC, Attn: Sharon Haywood

PROJECT LOCATION: 901 Pacific Coast Highway, City of Seal Beach (County of Orange)

PROJECT DESCRIPTION: Demolition of an existing gas station building and site and removal of underground storage tanks.

LOCAL APPROVALS RECEIVED: City of Seal Beach Approval-In-Concept dated January 3, 2006 and Orange County Health Care Agency (OCHCA) approval dated January 10, 2006.

SUMMARY OF STAFF RECOMMENDATION:

The major issue of this staff report involves remediation of the site. Staff recommends that the Commission **APPROVE** the permit subject to **Two (2) Special Conditions** requiring the applicant to: 1) conform with the submitted project plan preliminarily approved by the Orange County Health Care Agency; and 2) identify a demolition debris disposal site.

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. The City of Seal Beach does not have a certified Local Coastal Program. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act

SUBSTANTIVE FILE DOCUMENTS: Letter from Commission staff to Quality Project Management, LLC dated January 30, 2006; Letter from Quality Project Management, LLC to Commission staff dated February 7, 2006; and *Workplan To Conduct Overpurge Pumpouts During Removal of USTs and Rebound Testing* prepared by TRC dated December 1, 2005.

LIST OF EXHIBITS

1. Location Map
 2. Site Plan
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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.

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. CONFORMANCE WITH THE SUBMITTED PROJECT PLAN

The applicants shall conform with the proposed project plan: *Workplan To Conduct Overpurge Pumpouts During Removal of USTs and Rebound Testing* prepared by TRC dated December 1, 2005 that has been preliminarily approved by the Orange County Health Care Agency (OCHCA). The applicant shall inform the Executive Director of any changes to the project required by the OCHCA. Such changes shall not be incorporated into the project until the applicant submits to the Executive Director a revised plan incorporating the additional work that also has OCHCA approval and obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

2. LOCATION OF DEBRIS DISPOSAL SITE

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall identify in writing, for the review and approval of the Executive Director, the location of the disposal site of the debris resulting from the proposed project. Disposal shall occur at the approved disposal site. 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.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. PROJECT LOCATION AND DESCRIPTION

The subject site is located at 901 Pacific Coast Highway within the City of Seal Beach, Orange County (Exhibit #1). The site is at the corner of Pacific Coast Highway and Main Street and is not located between the first public road and the sea (Exhibit #1). The lot size is 14,500 square feet and is designated as General Commercial in the City of Seal Beach Zoning Code.

The applicant is proposing to demolish an existing gas station building and site (slabs, foundation, canopy, islands, piping, above ground dispensers, etc.) and removal of underground storage tanks (12,000 gallon gasoline tank and 10,000 gallon diesel tank) (Exhibit #2). No grading is currently proposed. Upon completion of demolition, the site will be a flat vacant lot. The future use of the site has not been identified.

The applicant has also submitted an Erosion Control Plan showing that sand bags will be used to capture and retain any sediment or other debris that may be entrained within runoff before the runoff enters the storm drain system.

B. CHAPTER 3 POLICY ANALYSIS

Section 30232 of the Coastal Act states:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

The proposed development is the demolition of a gas station and associated structures. A 12,000 gallon tank and a 10,000 gallon diesel tank are proposed to be removed and disposed. In order to assess the demolition and remediation of the project site, the applicant has submitted a report titled *Workplan To Conduct Overpurge Pumpouts During Removal of USTs and Rebound Testing* prepared by TRC dated December 1, 2005, which states the following as its objective: "...to conduct limited additional remediation of groundwater in the vicinity of the USTs during activities and to assess the effectiveness of remedial activities by evaluating any rebound in dissolved phase concentrations of post-remediation." The scope of work consists of the following: 1) prior to station demolition, the existing wells within the construction areas will be temporarily lowered and their locations marked. During underground storage tank (UST) removal activities, groundwater will be pumped from the UST excavation to facilitate construction activities and as an additional remedial measure. After station demolition, the lowered wells will be brought back to grade for sampling; 2) Prior to station demolition and UST removal activities, the soil aeration system [C-sparg system] will be shut down and removed off site temporarily. Approximately one to two weeks after shut down, groundwater samples will be collected. Within one month after the overpurge activities have been completed, another interim groundwater sampling collection will be conducted; and 3) after completion of field activities, a report will be prepared and submitted to OCHCA.

The applicant has submitted evidence that the proposed project plan has been reviewed and preliminarily approved by the Orange County Health Care Agency (OCHCA), the local agency responsible for monitoring gas station closures in Orange County. In order to make sure that the proposed project adheres to the plan preliminarily approved by the OCHCA, the Commission imposes **Special Condition No. 1**, which requires the applicant to comply with the preliminary plan that has been approved by the OCHCA. If further testing reveals that additional monitoring and/or remediation work is necessary then the applicant must do the following: prepare a revised plan incorporating the additional work; the plan must have OCHCA approval, and that plan must be submitted to the Executive Director for a determination as to whether an amendment or new permit is required for the additional work.

The applicant has stated that no grading will be necessary. However, grading may be necessary to remove the contaminated materials. If grading were necessary, the location for disposal would need to be disclosed. Therefore, the Commission imposes **Special Condition No. 2**, which requires the applicant to identify in writing the location of the debris disposal site.

Thus, as conditioned, the Commission has found the proposed project consistent with Section 30232 of the Coastal Act.

C. LOCAL COASTAL PROGRAM

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified local coastal program. The permit may only be issued if the Commission finds that the proposed development will not prejudice the ability of the local government to prepare a Local Coastal Program, which conforms with Section 30604 of the Coastal Act.

On July 28, 1983, the Commission denied the City of Seal Beach Land Use Plan (LUP) as submitted and certified it with suggested modifications. The City did not act on the suggested modifications within six months from the date of Commission action. Therefore, pursuant to Section 13537(b) of the California Code of Regulations, the Commission's certification of the land use plan with suggested modifications expired. The LUP has not been resubmitted for certification since that time.

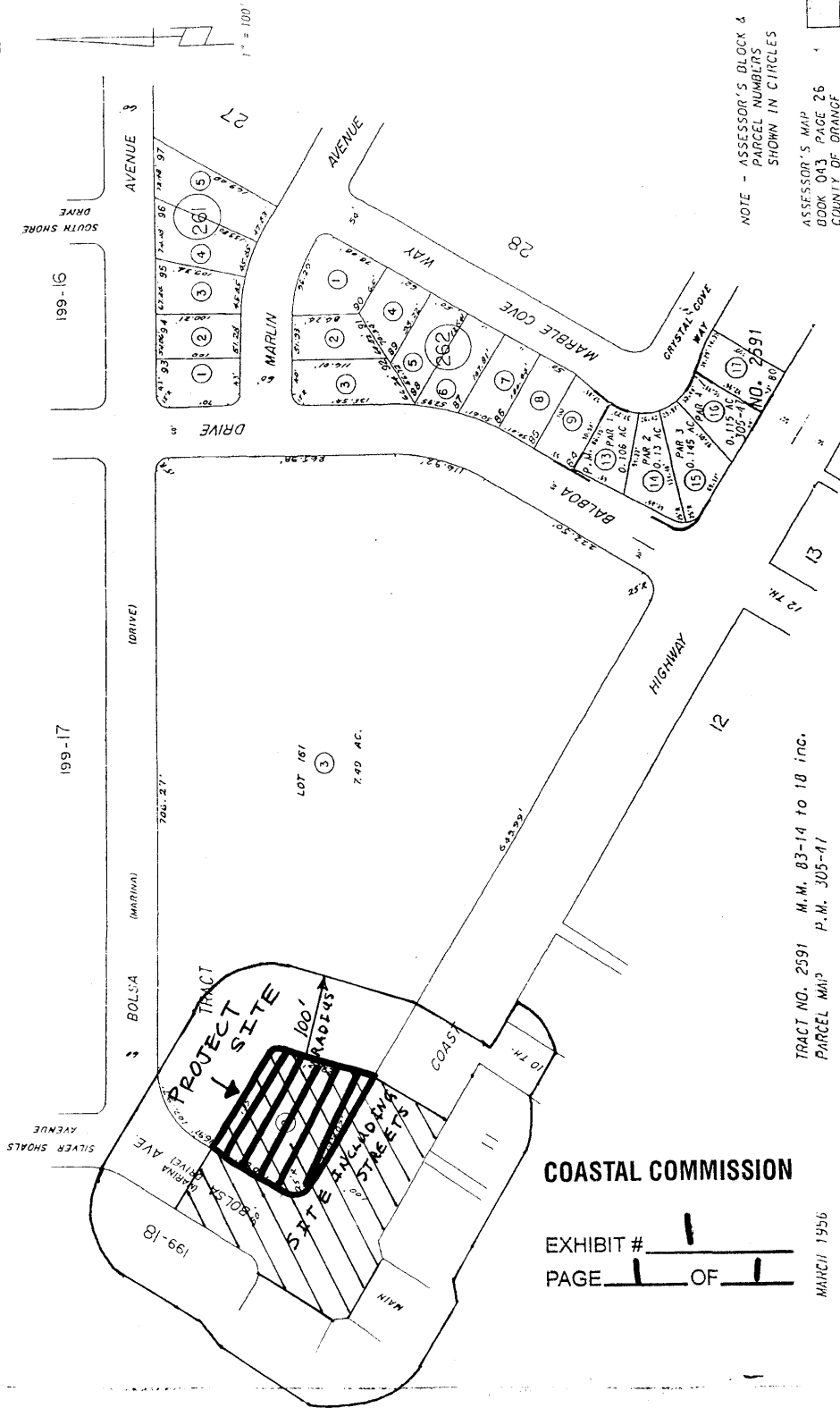
The proposed development, as conditioned, is consistent with the Chapter Three policies of the Coastal Act. Therefore, the Executive Director finds that approval of the proposed development, as conditioned, would not prejudice the ability of the City to prepare a certified coastal program consistent with the Chapter 3 policies of the Coastal Act.

D. 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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NOTE - ASSESSOR'S BLOCK &
 PARCEL NUMBERS
 SHOWN IN CIRCLES

ASSESSOR'S MAP
 BOOK 043 PAGE 26
 COUNTY OF DRANG

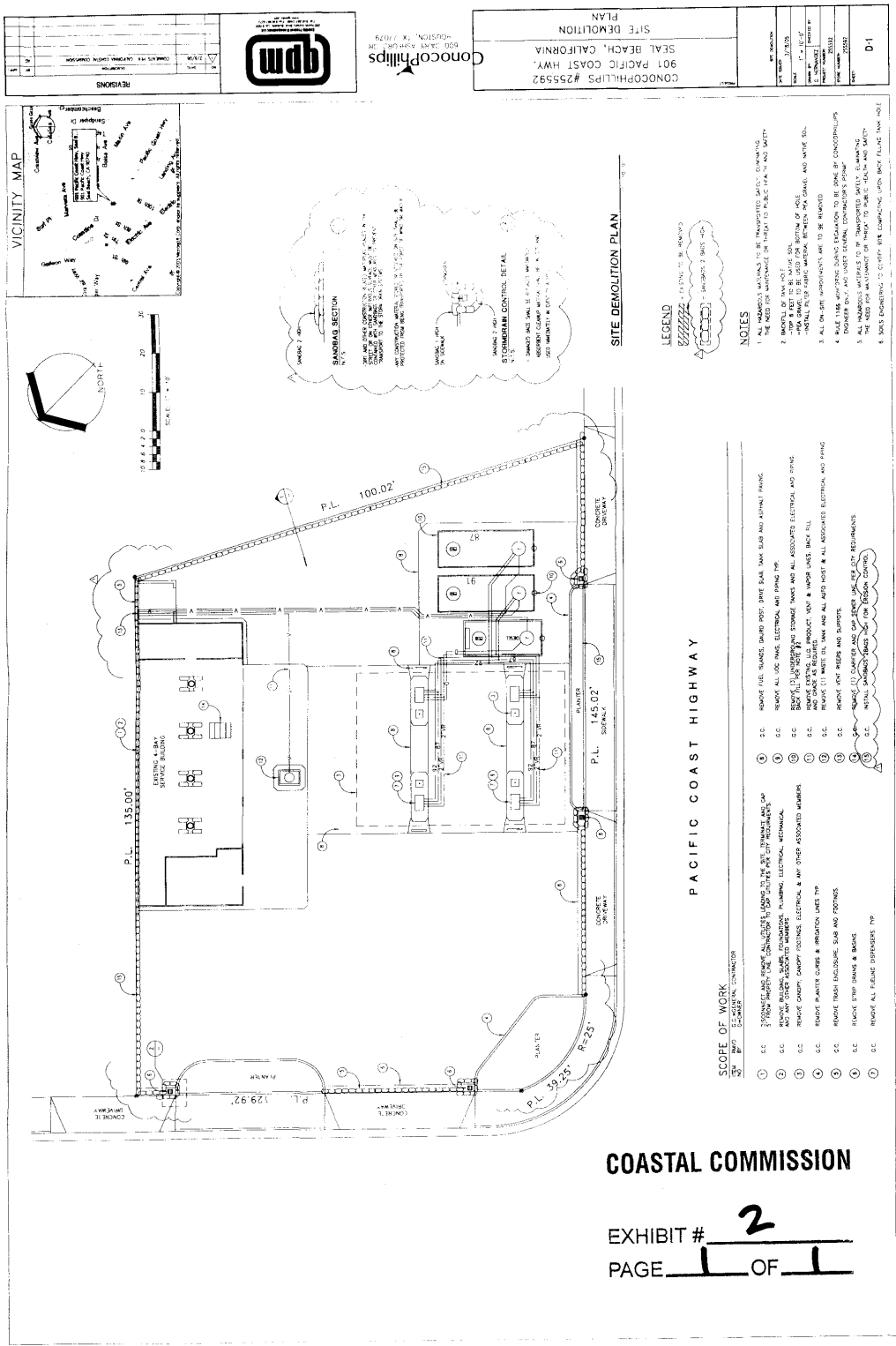
TRACT NO. 2591 M.M. 83-14 to 18 inc.
 PARCEL MAP P.M. 305-11

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EXHIBIT # 1
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MARCH 1956

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EXHIBIT # 2
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