

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
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Filed: February 10, 2006  
49th Day: March 31, 2006  
180th Day: August 9, 2006  
Staff: Anne Blemker-LB  
Staff Report: May 25, 2006  
Hearing Date: June 13-16, 2006  
Commission Action:

**T7e****STAFF REPORT: CONSENT CALENDAR**

**APPLICATION NUMBER:** 5-06-057

**APPLICANT:** John Walter Velardo

**AGENT:** James Kehr, Katzmaier Newell Kerr, Architects

**PROJECT LOCATION:** 3809 Channel Road, Newport Beach, County of Orange

**PROJECT DESCRIPTION:** Demolition of an existing one-story structure and construction of a new 623 square foot, 22'4" high, two-story, single-family residence with an attached 365 square foot two-car garage, hardscape improvements and landscaping and request to legalize a 1,034 square foot lot effectuated by issuance of a Conditional Certificate of Compliance.

**LOCAL APPROVALS RECEIVED:** Conditional Certificate of Compliance No. 2003-001 approved by City of Newport Beach Planning Director on November 6, 2003; Variance No. 2004-004 and Modification Permit No. 2004-090 approved by Planning Commission on November 3, 2005 and Approval-In-Concept (No. 2998-2005) dated December 13, 2005.

**SUMMARY OF STAFF RECOMMENDATION:**

The applicant is proposing demolition of an existing garage and construction of a new single-family residence on a non-conforming inland lot. The applicant is also proposing to legalize the lot effectuated by the local government's issuance of a Conditional Certificate of Compliance. The major issue of this staff report involves legalization of an undersized lot and water quality.

Staff is recommending **APPROVAL** of the proposed project with one (1) special condition requiring: conformance with the submitted drainage and run-off control plan (including landscaping controls and long-term maintenance).

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 Newport Beach only has a certified Land Use Plan and has not exercised the options provided in 30600(b) or 30600.5 to issue its own permits. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act. The certified Land Use Plan may be used for guidance.

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

**LIST OF EXHIBITS**

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

The applicant shall carry out the project in conformance to the Landscape Construction Plan received on February 10, 2006 specifying that all surface and roof runoff will be conveyed to an on-site catch basin with fossil filter insert before entering the right of way. The catch basin is to be located within the planter area at the westernmost corner of the property. Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive.

All structural BMPs shall be maintained in a functional condition throughout the life of the approved development. The applicant shall carry out routine maintenance, including inspection and regular cleaning and repair of the Best Management Practice (BMP)—(catch basin), to ensure its effectiveness prior to the onset of the storm season, no later than October 1st of each year; after every major storm event; and at least once during the dry season. Debris and other water pollutants contained in the BMP device will be contained and disposed of in a proper manner on a regular basis. It is the applicant's responsibility to maintain the drainage system and the associated structures and BMPs according to manufacturer's specification and to ensure maximum pollutant removal efficiencies.

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.

### IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

#### A. PROJECT LOCATION AND DESCRIPTION

The subject site is located at 3809 Channel Place within the City of Newport Beach, Orange County (Exhibits 1 & 2). The lot size is 1,034 square feet. The City of Newport Beach Land Use Plan (LUP) designates the site Medium Density Residential and the proposed project adheres to this designation. The project is located within an existing urban residential area on Newport Island. The site is an interior lot, surrounded on all sides by existing residential uses. Public access exists in the project vicinity at the street end of Channel Place, approximately 200 feet east of the subject site.

The applicant is proposing to demolish an existing one-story garage and construct a new 623 square foot, 22'4" high, two-story, single-family residence with an attached 365 square foot two-car garage, hardscape improvements and landscaping (Exhibit 3). No grading is proposed. The applicant is also requesting to legalize a 1,034 square foot lot effectuated by issuance of a

Conditional Certificate of Compliance by the City of Newport Beach. A Certificate of Compliance is required when a property is conveyed in violation of the Subdivision Map Act and acts as a means of bringing a property into compliance. The City imposed one condition on the Certificate of Compliance, which requires the reservation and maintenance of a utility easement and an access easement for the benefit of the adjacent private property.

The small subject lot was created in 1960 when a previous owner sold the larger portion of the original lot to a separate party. The larger portion of the original lot was developed with a home and the smaller portion was developed with the garage<sup>1</sup>. The division was not in compliance with the subdivision regulations in effect at the time because the resulting lots did not comply with the minimum lot size requirement and the local planning commission did not approve the substandard lots. The current minimum lot size requirement in the City's Zoning Code is 5,000 square feet. However, the City's staff report for this project says that the typical lot size in the surrounding area is 2,895 square feet. (A minimum lot size isn't specified in the LUP.) Due to the size and configuration of the subject lot, the application of local setbacks resulted in no buildable area. As such, the applicant received a Variance to floor area standards and a Modification Permit to allow construction within the required setbacks. However, the proposed structure is consistent with height and parking requirements. The approval of the Conditional Certificate of Compliance and development of the subject site as proposed will not adversely affect coastal resources, including coastal views and public access.

The applicant is proposing water quality improvements as part of the proposed project, including directing roof and surface runoff to a catch basin with fossil filter insert located within the planter area. Any vegetated landscaped areas located on site shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. After construction, the applicant will be required to carry out long-term maintenance of the catch basin feature to ensure its functionality. Special Condition 1 specifies these requirements.

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.cal-ipc.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>. The above requirements are noted in Special Condition 1.

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<sup>1</sup> The adjacent lot is now served by its own on-site garage.

**B. 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 to 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.

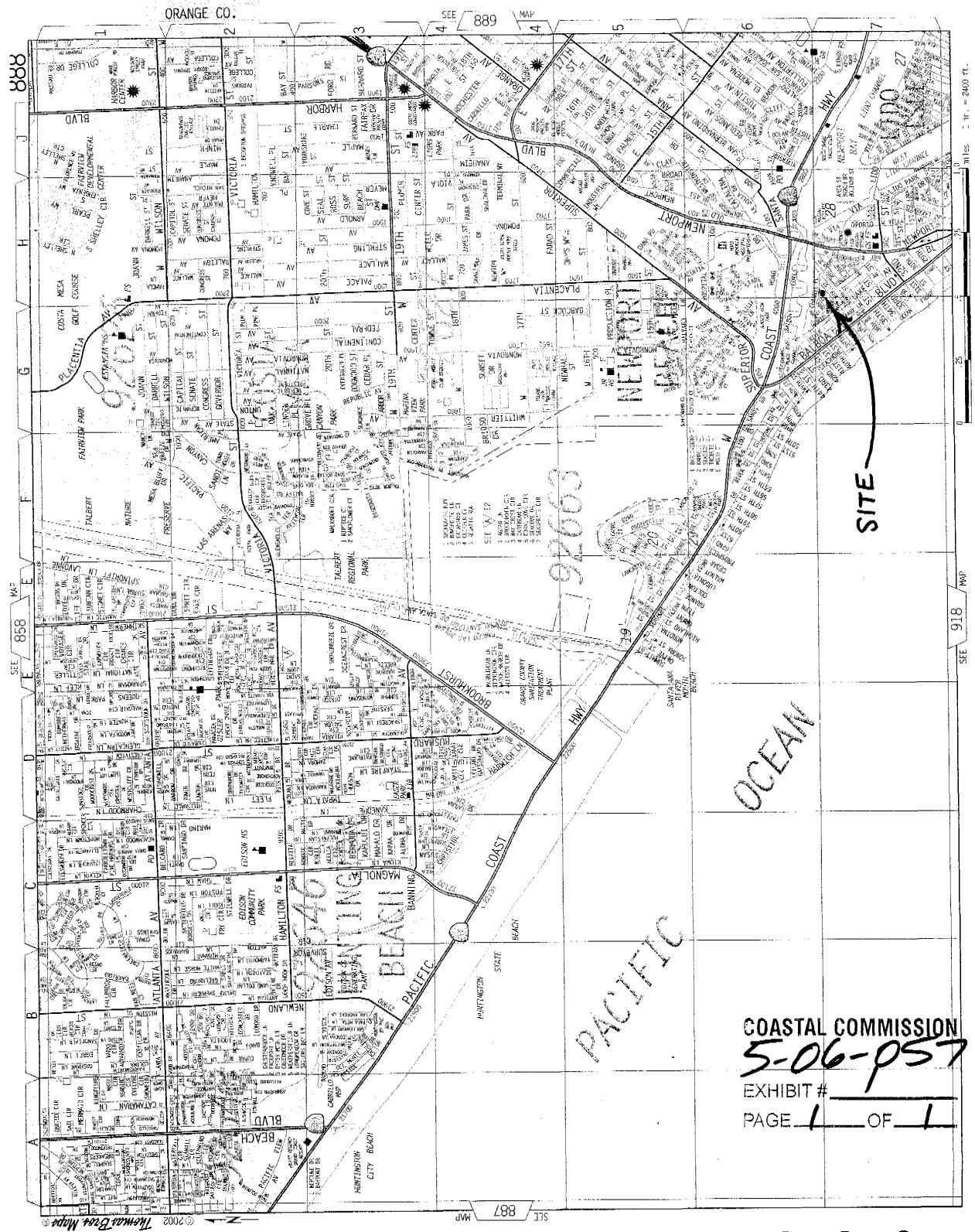
**C. LOCAL COASTAL PROGRAM**

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 comprehensively updated on October 13, 2005. 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.

**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.

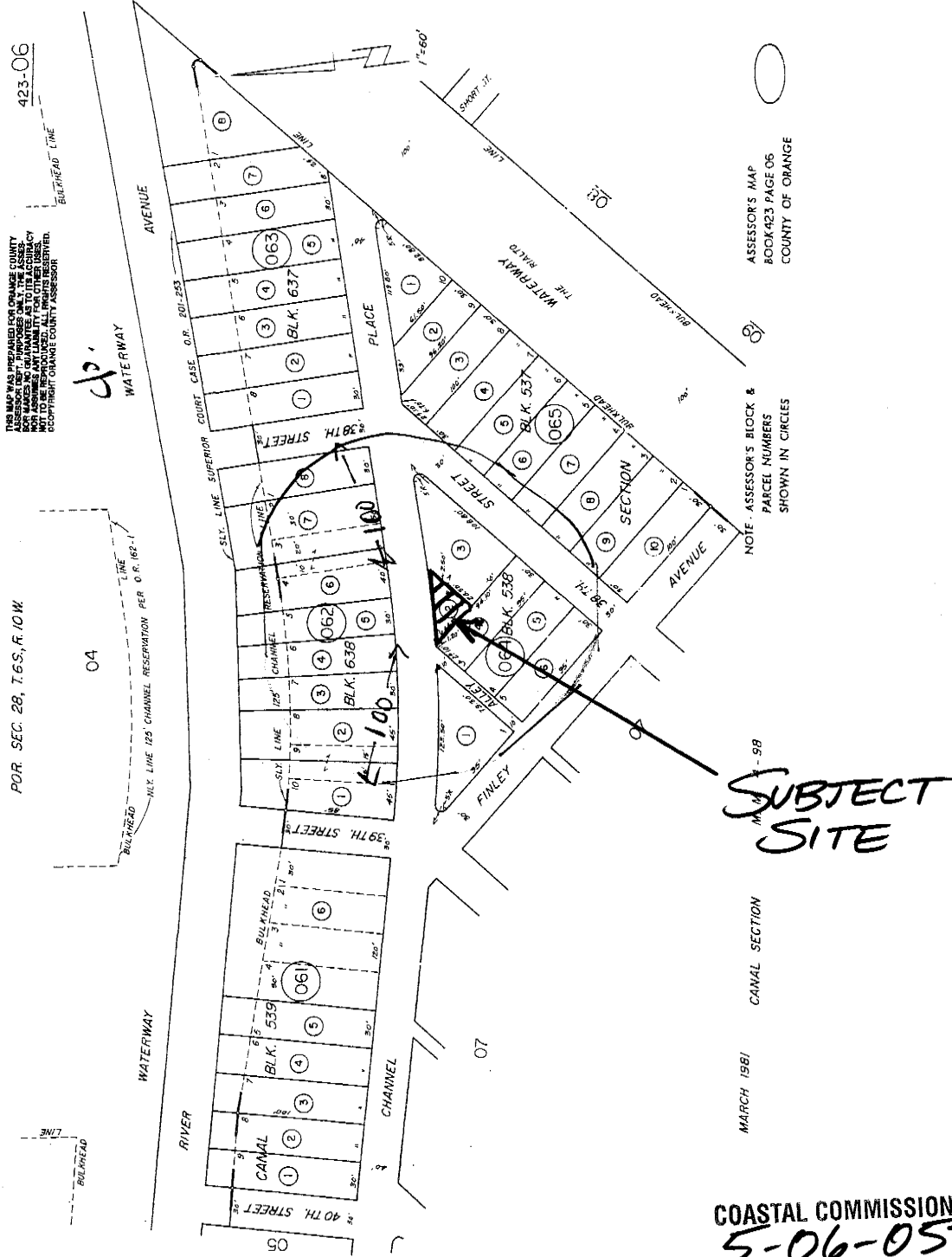
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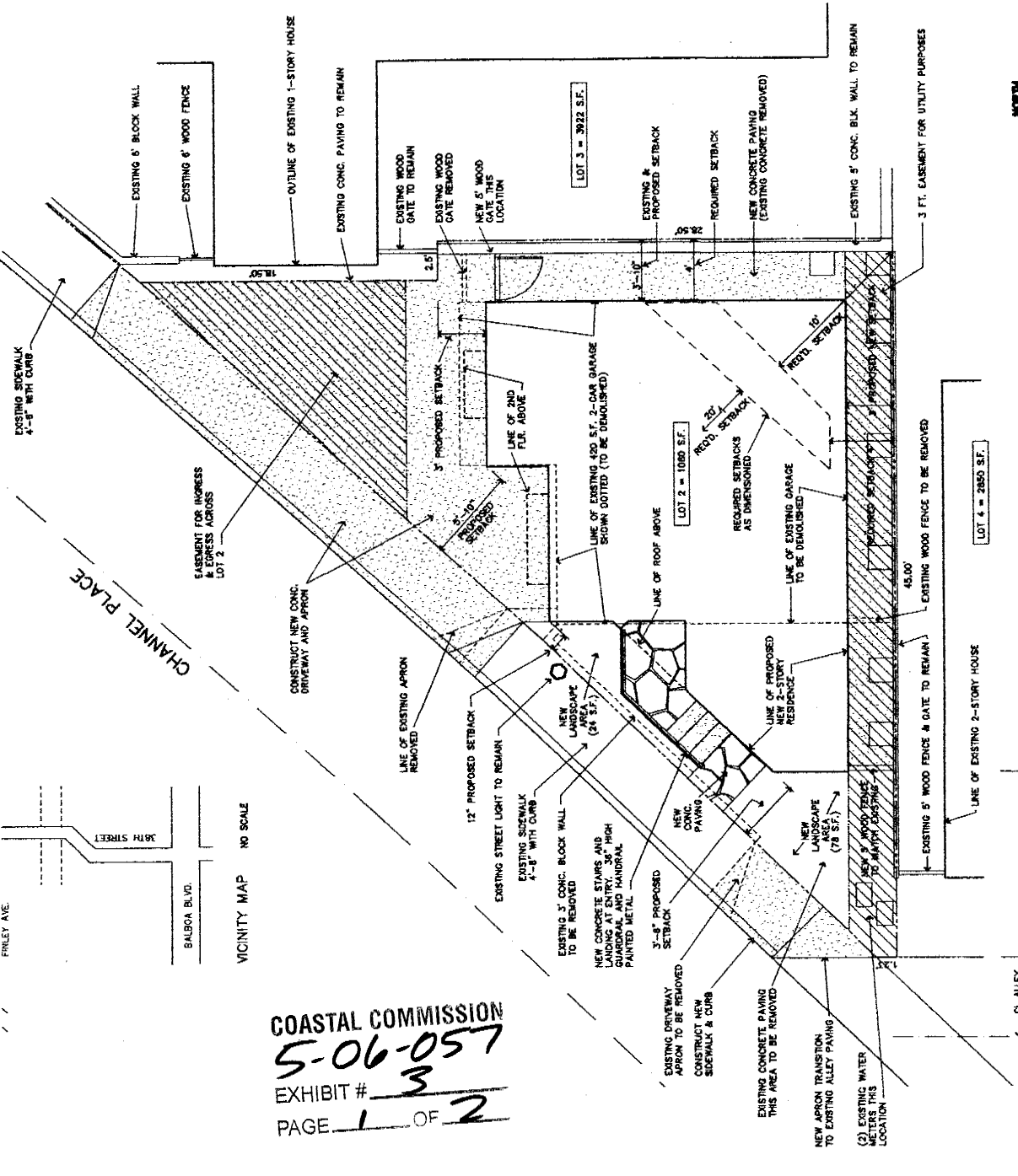


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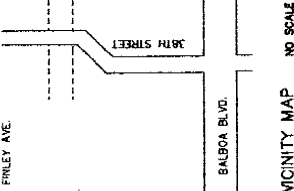


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DEVELOP	LOT AREA/ MIN. LOT SUBJECT	FLOOR A/ ALLOWING PROPOSE	FLOOR A/ REQUIRED PROVIDE	BUILDING REQUIRED PROVIDE	BUILDING RIDGE W/ RIDGE W/ AVERAGE AVG. W/ PROVIDE	LANDSCAPE REQUIRED PROVIDE	PAVING REQUIRED PROVIDE	PARKING	(2) CODE (MIN. 9'- 1) 8'- (1) 6'-	VELARDC
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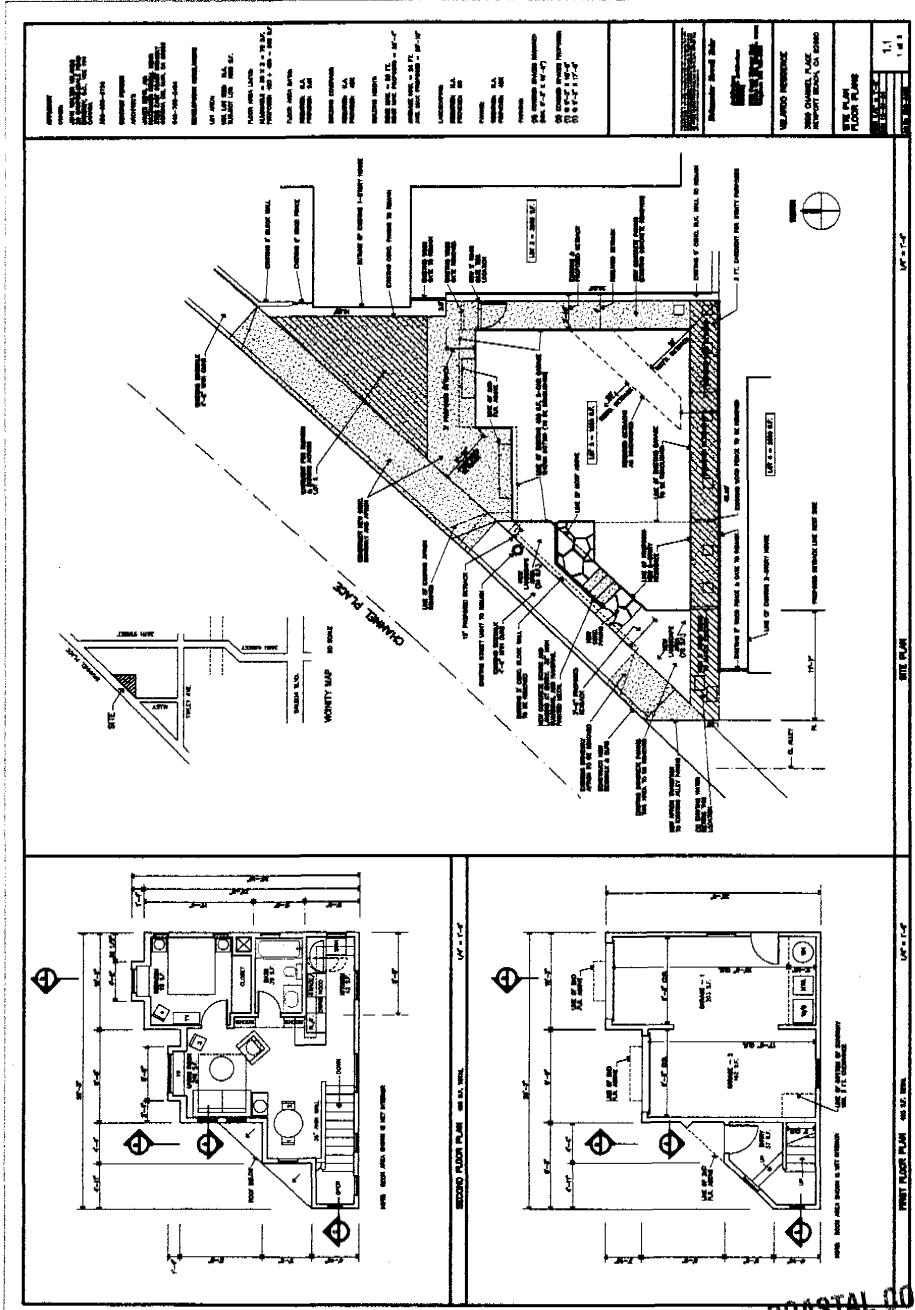


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