

CALIFORNIA COASTAL COMMISSION

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W15b

Filed: July 18, 2006
49th Day: September 7, 2006
180th Day: January 16, 2007
Staff: Ryan Todaro-LB
Staff Report: December 14, 2006
Hearing Date: January 10-12, 2007
Commission Action:

**STAFF REPORT: MATERIAL AMENDMENT**

APPLICATION NO.: 5-98-054-A1

APPLICANT: The Irvine Company

AGENT: Culbertson, Adams & Associates, Inc.
Attn: Tom Mathews

PROJECT LOCATION: Adjacent to 1200-1400 Newport Center Drive,
Newport Beach (Orange County)

DESCRIPTION OF PROJECT ORIGINALLY APPROVED:

Construction of 2 two-story 50,400 sq. ft. (gross) office buildings for a total of 100,800 sq. ft. (gross) of office space with 386 parking spaces on an existing vacant site, the maintenance of 1.6 acres of open space, the construction of a 60" storm drain through the site which parallels an existing 69" storm drain, grading consisting of 12,000 cu. yards of excavation and 15,000 cu. yards of fill, including approximately 3,400 cu. yards of import to the site.

DESCRIPTION OF AMENDMENT:

Complete the Corporate Plaza West Planned Community development by constructing a 32-foot high, two-story, 40,170 square-foot (gross) office building with 168 parking spaces and landscaping.

SUMMARY OF STAFF RECOMMENDATION:

Commission staff recommends that the Commission approve the proposed amendment with four (4) special conditions addressing: 1) submittal of a revised landscaping plan; 2) conformance with geotechnical recommendations; 3) storage of construction materials, mechanized equipment and removal of construction debris; 4) submittal of a final water quality management plan. The applicant is in agreement with all special conditions.

SUBSTANTIVE FILE DOCUMENTS:

1. Coastal Development Permit No. 5-98-054, dated September 24, 1998.
2. Geotechnical Investigation of Corporate Plaza West Phase 2 Building, prepared by NMG Geotechnical Inc., dated August 24, 2005.
3. Mitigated Negative Declaration for Corporate Plaza West, Phase 2, SCH# 2005101058, dated October 12, 2005.
4. City of Newport Beach City Council Staff Report for Corporate Plaza West, Phase 2 (PA2005-042), dated January 10, 2006.
5. Water Quality Management Plan for Corporate Plaza West: Phase II, prepared by Stantec, dated April 27, 2006.

LOCAL APPROVALS RECEIVED:

City of Newport Beach Planning Commission approval dated November 17, 2005, City of Newport Beach City Council approval dated January 24, 2006, Approval in Concept from the City of Newport Beach Planning Department dated September 22, 2006.

EXHIBITS:

1. Vicinity Map
2. Parcel Map
3. Site Plan/Elevations
4. CDP 5-98-054

PROCEDURAL NOTE:

The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

The amendment request involves construction of an additional office building, parking lot and landscaping. The subject application is being forwarded to the Commission because the Executive Director has determined that the proposed amendment is a material change and affects conditions required for the purposes of protecting coastal resources or coastal access.

Section 13166 of the Commission Regulations also calls for the Executive Director to

reject a permit amendment request if it would lessen the intent of the previously approved permit.

The proposed amendment would not lessen the intended effect of 5-98-054 envisioned in the Commission's 1998 action approving the project with conditions. Therefore, the Executive Director accepted the amendment request.

STANDARD OF REVIEW:

Since the City of Newport Beach does not have a certified Local Coastal Program, the standard of review for this amendment is the Coastal Act. Since the City only has a Land Use Plan (LUP), the policies of the LUP are used only for guidance.

STAFF RECOMMENDATION:

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

MOTION:

I move that the Commission approve permit amendment CDP #5-98-054-A1 pursuant to the staff recommendation.

Staff recommends a **YES** vote. This will result in approval of the permit amendment as conditioned and adoption of the following resolution and findings. 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 amendment for the proposed development and adopts the findings set forth below on grounds that the development as conditioned, located between the first public road and the sea, will be in conformity with the certified LCP and the public access and recreation policies of the Coastal Act. Approval of the permit amendment 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

Note: All special conditions from the previous permit (5-98-054) shall remain in effect. The following Special Conditions only apply to the current proposal (5-98-054-A1).

1. Revised Landscaping Plan

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit, in a form and content acceptable to the Executive Director, two (2) sets of a revised landscaping plan prepared by an appropriately licensed professional which demonstrates the following:

- (1) The plan shall demonstrate that:
 - a. 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 utilized on the property. 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. Any existing landscaping within the limits of the proposed project that doesn't meet the above requirements in this paragraph

and those requirements listed in subsection b below shall be removed;

- b. With the exception of plants used in drainage swales, all plants employed on the site shall be drought tolerant, (low water use) plants identified by U. C. Davis and the Water Resources Board;
 - c. All planting will be completed within 60 days after completion of construction;
 - d. All vegetation shall be maintained in good growing condition throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscaping plan.
- (2) The plan shall include, at a minimum, the following components:
- a. A map showing the type, size, and location of all plant materials that will be on the developed site, the temporary irrigation system, topography of the developed site, and all other landscape features;
 - b. A schedule for installation of plants.
- B. The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Conformance with Geotechnical Recommendations

- A. All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with all recommendations contained in Geotechnical Investigation of Corporate Plaza West Phase 2 Building, prepared by NMG Geotechnical Inc., dated August 24, 2005. Such recommendations shall be incorporated into all final design and construction plans.
- B. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, evidence that a licensed certified engineering geologist 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.

- C. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris

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) All trash and debris shall be disposed in the proper trash or recycling receptacle at the end of every construction day.
- (d) 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;
- (e) 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;
- (f) The discharge of any hazardous materials into any receiving waters shall be prohibited;
- (g) A pre-construction meeting should be held for all personnel to review procedural and BMP/GHP guidelines;
- (h) All BMPs shall be maintained in a functional condition throughout the duration of the project.
- (i) 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 legally required.

4. Water Quality Management Plan (WQMP)

A. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit for the review and approval of the Executive Director, two (2) copies of a Final Water Quality Management Plan (WQMP) for the post-construction project site, prepared by a licensed water quality professional, and shall include plans, descriptions, and supporting calculations. The WQMP shall be in substantial conformance with the Water Quality Management Plan for Corporate Plaza West: Phase II, dated April 27, 2006. The plan shall be in conformance with any geotechnical recommendations concerning site and development stability, where applicable. In addition, the plan shall be in substantial conformance with the following requirements:

1. The WQMP shall incorporate appropriate structural and non-structural Best Management Practices (BMPs) (site design, source control and treatment control) into the development, designed to reduce, to the maximum extent practicable, the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site.
2. Post-construction structural BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.
3. Impervious surfaces, especially directly connected impervious areas, shall be minimized, and alternative types of pervious pavement considered for use where feasible, and if practicable.
4. Irrigation and the use of fertilizers and other landscaping chemicals shall be minimized through the use of low-maintenance landscaping and efficient irrigation technology or systems.
5. Trash, recycling and other waste containers, as necessary, shall be provided. All waste containers anywhere within the development shall be covered, watertight, and designed to resist scavenging animals.
6. Where feasible and as practicable, the first flush runoff from rooftop downspouts and/or parking lot areas shall be directed and dispersed into permeable landscaped areas such as over turf, through a

bioswale, or into an infiltration bed engineered to accept the runoff in a non-erosive manner.

7. The permittee shall arrange for regularly scheduled vacuum sweeping of the parking areas, in order to prevent dispersal of pollutants that might collect on those surfaces.
 8. The permittee shall not spray down or wash down the parking lot unless the water used is directed through the sanitary sewer system or a filtered drain.
 9. All structural and/or treatment control BMPs shall be designed, installed, and maintained for the life of the project in accordance with well-recognized and accepted design principles and guidelines, such as those contained in the California Stormwater Quality Association Best Management Practice Manuals.
 10. At a minimum, all BMP traps/separators and/or filters shall be, at a minimum, inspected and cleaned/repaired or otherwise maintained in accordance with the following schedule: (1) prior to the start of the winter storm season, no later than October 15th each year, inspected monthly thereafter for the duration of the rainy season (October 15th - April 30), and cleaned/maintained as necessary based on inspection and, (3) inspected and maintained where needed throughout the dry season.
 11. Debris and other water pollutants removed from structural BMP(s) during clean out shall be contained and disposed of in a proper manner.
 12. It is the permittee's responsibility to maintain the drainage system and the associated structures and BMPs according to manufacturer's specifications.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. Project Location, Description and History

The approximately 4.4 acre project site is currently a vacant pad within the approximately 10 acre Corporate Plaza West site, which is located on the northeast corner of Pacific Coast Highway and Clubhouse Drive, adjacent to 1200-1400 Newport Center Drive in the City of Newport Beach, County of Orange (see Exhibit #'s 1, 2 & 3).

In October 1998, the Commission approved coastal development permit no. 5-98-054 for development at the Corporate Plaza West Planned Community involving the construction of 2 two-story office buildings totaling 100,800 square feet (gross) with 386 parking spaces. The approval also included the maintenance of 1.6 acres of the site to as open space. The proposed project will not encroach into this open space area. The applicant is proposing to amend coastal development permit no. 5-98-054 by completing the final phase of the project, which involves the construction of a 32-foot high, two-story, 40,170 square-foot (gross) office building with 168 parking spaces and landscaping. If this amendment is approved, The Corporate Plaza West Planned Community would consist of 3 two-story office buildings totaling 140,970 square feet (gross) with 554 parking spaces.

To accomplish the proposed development, the applicant has requested, and the City has approved, a transfer of un-built retail commercial floor area from the Fashion Island Planned Community to the Corporate Plaza West Planned Community. Both the City's General Plan Land Use Element and the Corporate Plaza West Planned Community District designate the site for Administrative, Professional and Financial Commercial land use. Neither of these previously cited documents have been reviewed or certified by the Commission. In addition, the proposed use is consistent with the City's designation of Office/Commercial land use set forth in the City's Land Use Plan, which was approved by the Commission in October 2005.

Corporate Plaza West and the Fashion Island planned communities are located within Statistical Area L1 (Newport Center) of the Land Use Element of the General Plan (not certified). The proposed transfer does not require a General Plan Amendment as the Land Use Element of the General Plan for Newport Center states the following:

“Transfers of Development Rights in Newport Center are permitted, subject to approval of the City with the finding that the transfer is consistent with the intent of the General Plan and that the transfer will not result in any adverse traffic impacts.” (Land Use Element, Page 77).

Implementation of the transfer of development rights is accomplished by amending both Planned Community District Regulations by increasing the allocation to the Corporate Plaza West Planned Community and decreasing the allocation to the Fashion Island Planned Community.

Corporate Plaza West is one of eleven parcels subject to the Circulation Improvement and Open Space Development Agreement (CIOSA) between the City of Newport Beach and the Irvine Company. The Commission approved this agreement on June 10, 1993. The agreement results in a building entitlement for the Irvine Company in exchange for which the City of Newport Beach would receive pre-payment of required "fair-share" road improvement fees, a commitment to construct road improvements adjacent to the proposed project and an interest free loan. The CIOSA includes land within and outside the Coastal Zone.

In March 2004, a CIOSA Dedication Implementation Agreement for Bayview Landing was entered into between the City and the Irvine Company. This agreement detailed the transfer of 30,000 square feet of entitlement from Bayview Landing to Newport Center-Fashion Island. Subsequently, the City approved the transfer of up to 44,688 square feet from Fashion Island to Corporate Plaza West at a City Council meeting on January 10, 2006, finding the transfer consistent with the intent of the General Plan Land Use Element. All development standards, including setbacks, parking, building height and coverage, as required by the Planned Community Text and City Zoning Code are proposed to be met and the land use designation of the Planned Community will not be changed. The Commission has not reviewed or approved any of the above cited documents or density transfers. The applicant has not made any request for such review and approval in this CDP amendment (5-98-054-A1) and this action does not in any way constitute review or approval of said documents or transfers. The scope of this amendment request is limited to the proposed office building, parking areas and landscaping.

B. Public Access

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

The City of Newport Beach attracts visitors year round due to its unique recreational opportunities, large harbor and marina facilities, its coastal amenities, and maintains a generally strong commercial base as a result. Furthermore, like many beach cities, Newport Beach also receives an annual influx of visitors during the summer months. In this case, the project is located on Pacific Coast Highway, which is a major coastal access route used by the public. The immediate project vicinity

consequently experiences high vehicular and pedestrian traffic volumes during summer months. However, the site does not provide direct public access to the sea due to its location and distance of approximately ½ mile from the coast and nearby Newport Harbor.

As mentioned previously, the Corporate Plaza West Planned Community is currently developed with two 2-story office buildings, totaling 100,800 sq. ft. (gross) with 386 parking spaces. With this amendment, the applicant proposes to add 168 additional parking spaces, bringing the total parking spaces on site to 554, which is consistent with the City's standards of providing 1 parking space for each 250 sq. ft. of net floor area (gross floor area less elevator shafts, mechanical rooms and upper floor stairwells). In fact, the applicant has exceeded the City's parking standards, which only requires 153 parking spaces for the proposed office building and a total of 539 parking spaces for the entire Corporate Plaza West Planned Community. It must be noted that the analysis does not include the bank building located at the intersection of Granville Drive and Newport Center Drive. This building is located within the General Plan sub area referred to as Corporate Plaza West, but its not with the Corporate Plaza West Planned Community. The building is not controlled by the applicant and it provides its own parking.

The City Traffic Engineer retained the services of Austin-Foust Associates who conducted a traffic study, dated August 2005, which demonstrated that the project would not result in adverse impacts to overall traffic circulation within the general area of the proposed project. Project related traffic increased the traffic by the minimum of 1% threshold at five of the study intersections, therefore an Intersection Capacity Utilization (ICU) analysis was performed. The ICU analysis concluded that all five intersections will continue to operate at a Level of Service (LOS) "C" or better and no impact to these primary intersections would occur. The traffic study also evaluated the closest intersection to the proposed office building (Clubhouse Drive/Pacific Coast Highway). The study concluded that this intersection will continue to operate at a LOS "A" during the morning and evening peak hours.

As proposed, the development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, the proposed development conforms with Sections 30210 and 30211 of the Coastal Act.

C. Geotechnical

Section 30253 states in part:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The proposed development involves the construction of a two-story office building with grading. Grading is estimated to include approximately 4,915 cubic yards of cut and 2,700 cubic yards of fill, resulting in 2,215 cubic yards of export, which will be taken to a landfill located outside of the coastal zone.

Recommendations regarding the construction of the proposed project, including foundations, grading and drainage plans, have been provided in the Geotechnical Investigation of Corporate Plaza West Phase 2 Building, prepared by NMG Geotechnical Inc., dated August 24, 2005, which was submitted by the applicant. Adherence to the recommendations contained in this report is necessary to ensure that the proposed project assures stability and structural integrity, and neither creates nor contributes significantly to erosion, geologic instability, or destruction of the site or surrounding area.

Therefore, Special Condition No. 2 requires that the applicant conform to the geotechnical recommendations in the above mentioned geotechnical investigation. Only as conditioned to incorporate and comply with the recommendations of the applicant's geotechnical consultant is the proposed project consistent with Section 30253 of the Coastal Act.

D. Water Quality

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

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.

The proposed development involves the construction of hardened or impervious surfaces in the form of a rooftop area and adjoining surface parking lot. Increases in impervious surface area lead to an increase in the amount, flow-rate and pollutant load of stormwater that can be expected to leave the developed site. Pollutants commonly found in urban runoff include petroleum hydrocarbons, oil and grease from vehicles, heavy metals, sediment, nutrients, and chemicals associated with herbicides and pesticides, trash, bacteria and pathogens. The discharge of excessive polluted runoff into coastal waters can have cumulative adverse impacts on coastal resources and water quality. Furthermore, runoff from the project site will enter the storm drain system and ultimately discharge to Newport Bay, which is a State Water Resources Control Board 303d listed impaired waterbody.

In order to minimize the potential impacts of urban runoff and hydrologic modification of the site on coastal resources as a result of the development, the Commission finds it necessary to require the incorporation of management measures and Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. The applicant has submitted a Water Quality Management Plan (WQMP), dated April 27th of 2006. The Plan contains a list of BMPs which include, but are not limited to the following: catch basin stenciling, an efficient irrigation system, and catch basin inserts to remove pollutants contained in stormwater at the first flush of stormwater runoff. However, the plan does not include measures designed to reduce the amount of stormwater runoff generated by the development and ultimately discharged from the site, nor to slow the flow-rate of runoff, nor any measures to otherwise help maintain the hydrologic functionality of the site. The Commission finds here, that if feasible, site design and source control measures such as minimizing impervious surface, and integrating stormwater management with landscaped areas could help achieve the aforementioned objectives resulting in a more comprehensive approach to stormwater management and resource protection which would ensure that the project is consistent with Coastal Act water quality and marine resource related policies.

Therefore, Special Condition No 4. is imposed, which requires the applicant to submit a final version of the WQMP which includes measures, where feasible and practicable, to address the volume and velocity of stormwater leaving the developed site, as well as the pollutant load contained in runoff. Other requirements include, but are no limited to, a specification on the appropriate design standard for sizing BMPs, vacuum sweeping of the parking lot area, and maintenance requirements for drainage features.

Additionally, in order to address potential water quality related impacts associated with the construction phase of the proposed development the Commission has imposed Special Condition No. 3, which requires the applicant to comply with

construction-related requirements related to storage of construction materials, mechanized equipment and removal of construction debris.

Other sources of polluted runoff can include dry weather runoff resulting from excessive irrigation, which sometimes occurs from installation of landscaping with a high-water demand. Plants with a high-water demand are typically not well-suited to the Mediterranean climate of southern California, and therefore often require intense fertilization and application of pesticides/herbicides as a maintenance regime, in addition to regular irrigation. Thus, this type of landscaping can add pollutants to both dry weather and stormwater runoff. Therefore, the use of drought tolerant plants or low-maintenance landscaping is a preferred alternative.

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 applicant has submitted a landscaping plan. Commission staff reviewed the submitted landscaping plan for drought tolerant vegetation and determined that *Podocarpus gracilior*, *Cupaniopsis anacardioides*, *Pittosporum undulatum*, *Platanus racemosa*, *Magnolia spp.*, *Ficus spp.*, *Magnolia grandiflora*, *Eriobotrya deflexa*, *Phormium spp.*, *Rhapsiolepis indica*, *Pittosporum tobira*, *Hibbertia scandens*, *Ligustrum japonicum*, *Buxus spp.*, *Xylosma congestum*, *Syzigium paniculatum*, *Strelitzia nicolai* and *Melaleuca quinquenervia* are not drought tolerant.

Invasive plants can invade a riparian area and displace native plants, impeding restoration and preservation efforts. 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) in their publications. Commission staff reviewed the submitted landscaping plan and determined that the plan does contain one invasive species of moderate concern, *Olea europea*.

Therefore the Commission has imposed Special Condition No. 1 requiring the applicant to submit a revised landscaping plan for the review and approval of the Executive Director. The plan requires the applicant to plant non-invasive, drought tolerant vegetation on the site. Non-invasive, drought tolerant plants are used because they require little to no watering once they are established (1-3 years), they have deep root systems that tend to stabilize the soil, and are spreading plants that tend to minimize erosion impacts of rain and water run-off.

As conditioned, the Commission finds that the proposed development conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

E. Local Coastal Program

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 that conforms with the Chapter 3 policies of the Coastal Act.

The City of Newport Beach Land Use Plan (LUP) was certified on May 19, 1982. At the October 2005 Coastal Commission Hearing, the certified LUP was updated. Since the City only has a LUP, the policies of the LUP are used only as guidance. The Newport Beach LUP includes the following policies, among others, that relate to development at the subject site:

Parking, Policy 2.9.3-3 states:

Require that all proposed development maintain and enhance public access to the coast by providing adequate parking pursuant to the off-street parking regulations in the Zoning Code as of October 13, 2005.

Public Access and Recreation, Policy 3.1.1-1 states:

Protect, and where feasible, expand and enhance public access to and along the shoreline and to beaches, coastal parks, and trails.

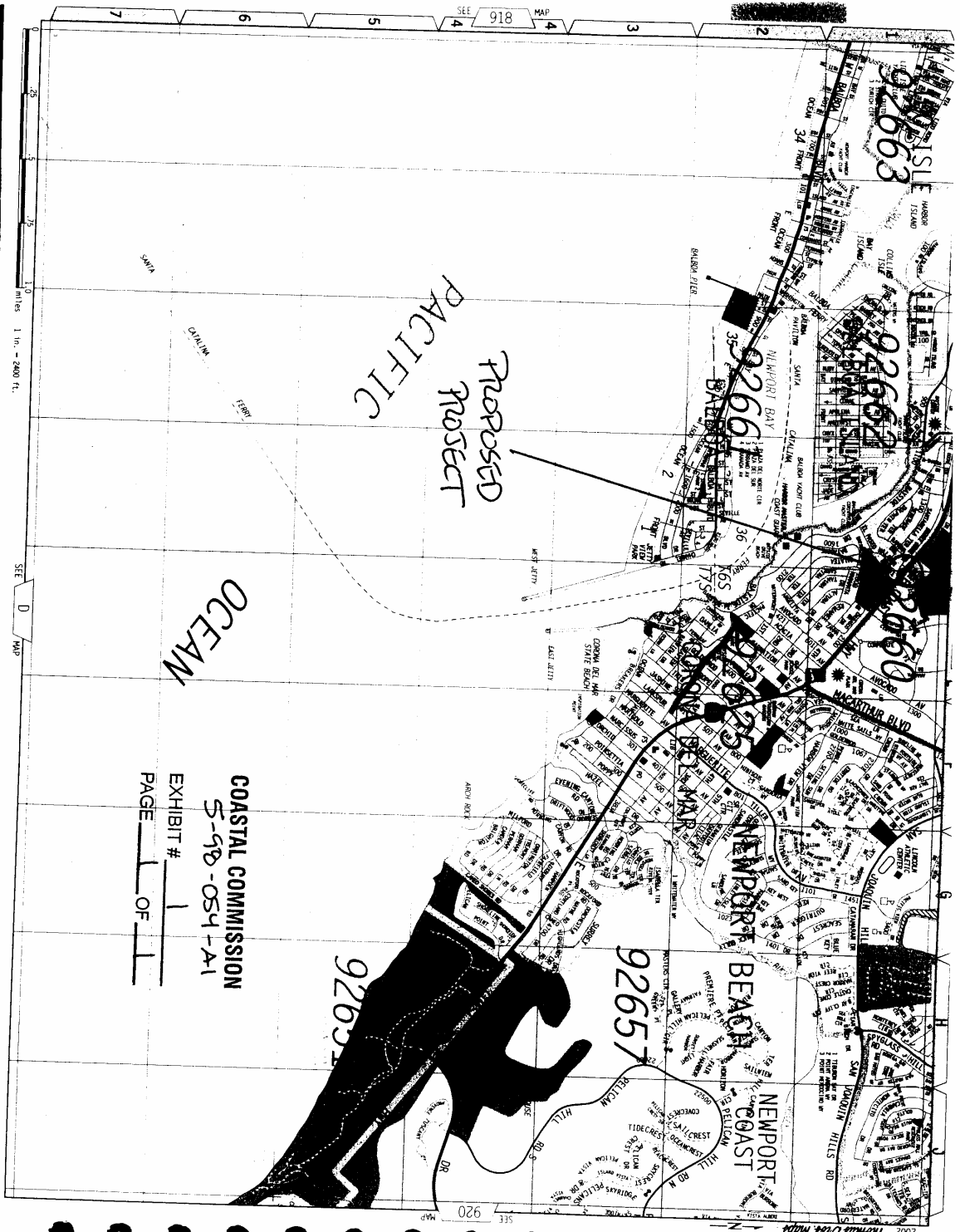
Water Quality, Policy 4.3.2-14 states:

Whenever possible, divert runoff through planted areas or sumps that recharge the groundwater dry wells and use the natural filtration properties of the earth to prevent the transport of harmful materials directly into receiving waters.

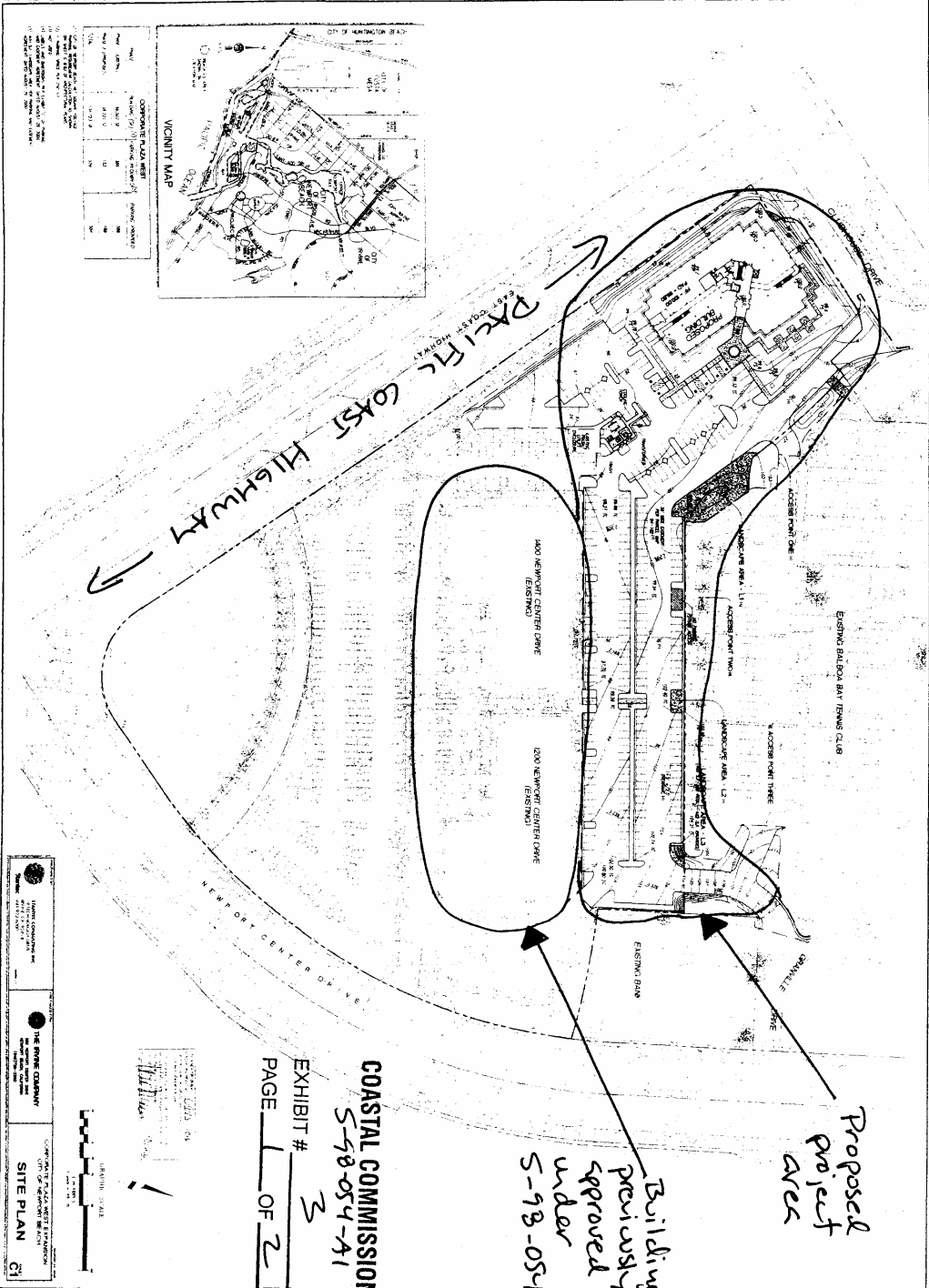
The project as conditioned is consistent with the Chapter 3 policies of the Coastal Act and with the certified Land Use Plan for the area. The proposed development will not prejudice the City's ability to prepare a Local Coastal Program for Newport Beach that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

F. California Environmental Quality Act (CEQA)

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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COASTAL COMMISSION

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EXHIBIT # 4
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COASTAL DEVELOPMENT PERMIT

On **10 June 1998**, the California Coastal Commission granted to **Irvine Company** Coastal Development Permit **5-98-054**, subject to the attached Standard and Special Conditions, for development consisting of: Construction of 2 two story 50,400 sq. ft. (gross) office buildings for a total of 100,800 sq. ft. (gross) of office space with 386 parking spaces on an existing vacant site. The maintenance of 1.6 acres of open space. The construction of a 60" storm drain through the site which will parallel an existing 69" storm drain. Grading consists of approximately 30,000 cu. yds. which includes approximately 12,000 cu. yds. of excavation and 15,000 cu. yds. of fill including approximately 3,400 cu. yds. of import to the site. More specifically described in the application file in the Commission offices.

The development is within the coastal zone in Orange County at 1200 Newport Center Drive, Newport Beach.

Issued on behalf of the California Coastal Commission on July 6, 1998.

PETER DOUGLAS
Executive Director

By: 
Title: Coastal Program Analyst

ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part, that: "A public entity is not liable for injury caused by the issuance . . . of any permit . . ." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 CAL. ADMIN. CODE SECTION 13158(a).

Date

Signature of Permittee

Please sign and return one copy of this form to the Commission office at the above address.

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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 on which the Commission voted on the application. 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. **Compliance.** All development must occur in strict compliance with the proposal set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. **Inspections.** The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. **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.
7. **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.

SPECIAL CONDITIONS:

1. **Future Development**

This coastal development permit 5-98-054 approves only the development, as expressly described and conditioned herein, for the proposed office buildings located at 1200 Newport Center Drive in the City of Newport Beach. Any future development, such as a change in the intensity of use (including a change in the number of parking spaces or a change in the use of

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the structure) shall require an amendment to this permit from the Coastal Commission or a new coastal development permit.

2. Lane Closures

To assure that the project will not have an adverse impact on coastal access, the applicant shall not undertake any work necessitating the closure of any lanes of traffic on Pacific Coast Highway beginning on the Friday preceding Memorial Day of any year through Labor Day of any year.

Prior to the closure of any lanes of traffic on Pacific Coast Highway for the period between the day following Labor Day and the Friday preceding Memorial Day the applicant shall submit, for the review and approval of the Executive Director, a CALTRANS encroachment permit.

3. Conformance with Geotechnical Recommendations

Prior to issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director:

- a) final revised plans. These plans shall include the signed statement of the geotechnical consultant certifying that the plans incorporate the geotechnical recommendations contained in the geotechnical investigation of December 29, 1997 and as supplemented by the report of February 23, 1998 both by NMG Geotechnical Inc. (Project No. 97070-1) into the final design of the proposed development.

The approved development shall be constructed in compliance with the final plans as approved by the Executive Director. Any deviations from the plans shall require a Coastal Commission approved amendment to this permit, or written concurrence from the Executive Director that the deviation is not substantial and therefore a permit amendment is not needed.

4. Conformance with Water Quality Standards

To assure that contaminants which could adversely affect water quality and human health will be properly managed and will not be discharged into coastal waters, the applicant shall adhere to the following requirements:

- a) The applicant shall comply with the Storm Water Pollution Prevention Plan for Corporate Plaza West (February 1998) prepared by the Keith

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Companies which implements the requirements of the State Water Resources Control Board (SWRCB) Order No. 92-08-DWQ for the National Pollutant Discharge Elimination System (NPDES) General Permit No. CA5000002.

- b) The applicant shall comply with the Water Quality Management Plan for Corporate Plaza West (February 1998) prepared by the Keith Companies to prevent off-site contamination.
- c) The applicant shall comply with the requirements of State Water Resources Control Board for WDID (waste discharge identification number) 830S308494 when constructing the storm drain.

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