

CALIFORNIA COASTAL COMMISSION

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Staff: Fernie Sy-LB
Staff Report: March 29, 2007
Hearing Date: April 10-13, 2007
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NO.: 5-06-268

APPLICANT: Turbow Trust

AGENT: J & H Property Management, Inc, Attn: James Joffe

PROJECT LOCATION: 7000 West Coast Highway, City of Newport Beach (Orange County)

PROJECT DESCRIPTION: After-the-Fact request for the removal of nineteen (19) mobile homes and installation of eleven (11) manufactured homes, installation of concrete, foundations, driveways, carports and decks, additional parking, a drainage system and reconfiguration and reduction in the number of spaces from 20 to 17. In addition, the applicant is requesting the approval for installation of five (5) additional manufactured homes, concrete, foundations, driveways, carports and decks, a drainage system and common parking.

SUMMARY OF STAFF RECOMMENDATION:

The proposed development involves the conversion of an existing twenty (20) space mobile home park to a seventeen (17) space manufactured housing development. Removal of nineteen (19) mobile homes and installation of eleven (11) manufactured homes has already occurred without benefit of a coastal development permit. The applicant proposes to install five (5) additional pre-fabricated homes on the remaining five (5) vacant and reconfigured spaces. The major issue before the Commission relates to the impact of removal of nineteen (19) mobile homes from the affordable housing stock in the coastal zone and replacement with pre-fabricated housing that is not affordable to the same segment of the population as the pre-existing mobile homes that were observed and appeared to be trailer coaches. To address this issue, the conditions of approval require the maximum amount of trailer coaches, rather than manufactured homes, be installed in the remaining vacant area, and that future division of land or sale/transfer of the individual spaces is prohibited. As conditioned, a portion of the proposed housing will be affordable to the same segment of the population and in a manner comparable to the previously existing trailers. Also, prohibiting future conversion to higher income property through subdivision of the land or transfer of ownership of the individual spaces will protect this existing supply of affordable housing in the coastal zone.

Also of concern are potential impacts to public access and water quality. Staff is recommending **APPROVAL** of the proposed project subject to **TEN (10) SPECIAL CONDITIONS** requiring: **1)** prohibition of future division of land or sale/transfer of the individual spaces in the manufactured/mobile home park and reserving at least five (5) spaces for use by more affordable Small Trailer Coaches; **2)** submittal of revised project plans removing the five (5) additional

manufactured homes from the plan in favor of Small Trailer Coaches and reconfiguring the space to maximize the quantity of space available for additional Small Trailer Coaches if feasible; **3)** additional approvals for any future development; **4)** submittal of a Parking Signage Plan; **5)** Construction-Phase Best Management Practices; **6)** submittal of a Final Drainage and Run-Off Control Plan; **7)** submittal of a Landscape Plan; **8)** condition compliance; **9)** deed restriction; and **10)** potential attorney's fees.

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 are the policies of the Coastal Act. The certified Land Use Plan may be used for guidance.

LOCAL APPROVALS RECEIVED: Approval-in-Concept (No. 1320-2006) from the City of Newport Beach Planning Department dated June 5, 2006.

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach Certified Land Use Plan; *Drainage Study* prepared Nolan Consulting, Inc. dated August 2005; Letter from Commission staff to J & H Property Management, Inc. dated August 15, 2006; Letter from Nolan Consulting, Inc. to J & H Property Management, Inc. dated August 31, 2006; Letter from the California Department of Housing and Community Development to the City of Newport Beach dated March 7, 2005; Review by the City of Newport Beach Public Works Department dated January 21, 2006; and Review by the City of Newport Beach Fire Department dated January 5, 2006.

LIST OF EXHIBITS

1. Vicinity Maps
 2. Site Plans
 3. Floor Plans/Elevations
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I. STAFF RECOMMENDATION, MOTION AND RESOLUTION OF APPROVAL

MOTION: *I move that the Commission approve Coastal Development Permit No. 5-06-268 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit 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 TO APPROVE THE PERMIT:

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 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 policies of the Coastal Act. 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. **PROHIBITION OF DIVISION OR SALE/TRANSFER OF INDIVIDUAL SPACES AND USE OF APPROVED SPACES**
 - A. The division of land or the sale or transfer of the individual spaces in the manufactured/mobile home park is prohibited.
 - B. Twelve (12) of the mobile home spaces in the subject manufactured/mobile home park may be occupied by a "mobile home" or "manufactured home" as those terms are defined, as of April 2007, in Section 18007 and 18008 of the California Health and Safety Code; the remainder of the mobile home spaces shall be reserved solely for occupation by a "trailer coach" as that term is defined, as of April 2007, in Section 635 of the California Vehicle Code and with the additional limitations that they be no more than 400 square feet, contain no loft area and shall be built upon a

single chassis and with no permanent foundation (hereinafter "Small Trailer Coach")

2. REVISED PROJECT PLANS

- A. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, two (2) full size sets of Revised Project Plans (i.e. site plan, floor plans, elevations, cross-sections, grading, foundation, etc.). These revised plans shall demonstrate compliance with the requirements outlined in Special Condition No. 1 of this permit and shall reconfigure the mobile home spaces that are not presently occupied by the eleven (11) proposed manufactured homes and one (1) existing mobile home to maximize the total quantity of Small Trailer Coaches that can be placed within the remaining space, but not less than five (5) spaces, while at the same time providing two (2) parking spaces per residential unit on-site and complying with all other applicable State and Federal laws and regulations.
- 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.

3. FUTURE DEVELOPMENT

This permit is only for the development described in Coastal Development Permit No. 5-06-268. 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. 5-06-268. Accordingly, any future improvements to the manufactured homes, Small Trailer Coaches and other structures authorized by this permit, including 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) and or subdivision, condominium conversion or any type of transfer of the land underlying individual spaces, shall require an amendment to Permit No. 5-06-268 from the Commission.

4. PARKING SIGNAGE PLAN

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, two (2) full sized copies of a Parking Signage Plan. The plan shall be prepared by a qualified professional and shall include the following:
- (1) Provisions, such as but not limited to, the assignment of two (2) parking spaces for each unit along with signage that identifies the parking spaces assigned to each residence (i.e. manufactured/mobile home or Small Trailer Coach); and
 - (2) The project plans shall include, at a minimum, the following components: a sample of each sign and/or stencil and a site plan depicting the location of each sign and/or stencil. Signage shall be posted that specifies allowable use of each parking space and applicable restrictions. The signs shall be clearly

visible to motorists from the driveway running through the middle of the mobile home park, Highland Street and Grant Street.

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

5. CONSTRUCTION BEST MANAGEMENT PRACTICES

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

- (1) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, rain, or tidal erosion and dispersion;
- (2) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- (3) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;
- (4) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and
- (5) All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

- B.** Best Management Practices (BMPs) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the on-set of such activity. Selected BMPs shall be maintained in a functional condition throughout the duration of the project. Such measures shall be used during construction:

- (1) The applicant shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. It shall be located as far away from the receiving waters and storm drain inlets as possible;
- (2) The applicant shall develop and implement spill prevention and control measures;

- (3) The applicant shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50-feet away from a stormdrain, open ditch or surface water; and
- (4) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.

6. FINAL DRAINAGE AND RUN-OFF CONTROL PLAN

A. PRIOR TO 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 Drainage Study for the post-construction project site, prepared by a licensed water quality professional, and shall include plans, descriptions, and supporting calculations. The Drainage Study shall be in substantial conformance with the *Drainage Study* prepared Nolan Consulting, Inc. dated August 2005. In addition to the specifications above, 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) Impervious surfaces, especially directly connected impervious areas, shall be minimized, and alternative types of pervious pavement shall be used where feasible;
- (3) 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;
- (4) 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;
- (5) Runoff from all roofs, roads and parking areas shall be collected and directed through a system of structural BMPs including vegetated areas and/or gravel filter strips or other vegetated or media filter devices. The system of BMPs shall be designed to 1) trap sediment, particulates and other solids and 2) remove or mitigate pollutants of concern (including trash, debris and vehicular fluids such as oil, grease, heavy metals and hydrocarbons) through infiltration, filtration and/or biological uptake. The drainage system shall also be designed to convey and discharge runoff from the developed site in a non-erosive manner;
- (6) 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;

- (7) At a minimum, all BMP traps/separators and/or filters shall be, at a minimum, inspected and cleaned/repared 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, (2) 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;
- (8) Debris and other water pollutants removed from structural BMP(s) during clean out shall be contained and disposed of in a proper manner; and
- (9) 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.

7. LANDSCAPE PLAN

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, two (2) full sized copies of a Landscape Plan that demonstrate the following:

- (1) The plan shall demonstrate that:
 - (a) All landscaping shall consist of native, or non-native drought tolerant non-invasive plant species. No plant species listed as problematic and/or invasive by the California Native Plant Society, California Invasive 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. Any existing landscaping that doesn't meet the above requirements shall be removed;
 - (b) All planting shall provide 90 percent coverage within 90 days and shall be repeated if necessary to provide such coverage; and
 - (c) All plantings 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 landscape 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 irrigation system, topography of the developed site, and all other landscape features, and
 - (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.

8. CONDITION COMPLIANCE

Within 90-days of Commission action on this coastal development permit application, or within such additional time as the Executive Director may grant in writing for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the policies of the Coastal Act.

9. 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.

10. ATTORNEY'S FEES

Liability for Costs and Attorneys Fees: The permittee shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees -- including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys fees that the Coastal Commission may be required by a court to pay -- that the Coastal Commission incurs in connection with the

defense of any action brought by a party other than the applicant against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit, the interpretation and/or enforcement of permit conditions, or any other matter related to this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT LOCATION AND DESCRIPTION

The project site (Newport Sands Mobile Home Park (formerly known as the 'Flamingo')) is located at 7000 West Coast Highway in the City of Newport Beach, Orange County (Exhibit #1). The project site is 30,270 square feet in size and the City of Newport Beach Land Use Plan (LUP) designates use of the site for Medium Density Residential and the proposed project adheres to this designation. To the North of the project site is Highland Avenue and then residential structures. To the East of the project site are residential structures and then the Semeniuk Slough. To the South of the site is Grant Street and then residential structures. To the West of the site is Coast Highway, West Newport Park, residential structures and then the Santa Ana River Mouth Beach, a public beach. The City of Newport Beach attracts visitors year round due to its unique recreational opportunities, large harbor and marina facilities, and its coastal amenities. Like many beach communities, Newport Beach receives an annual influx of visitors during the summer.

The proposed project consists of an after-the-fact request for the removal of nineteen (19) mobile homes and installation of eleven (11) manufactured homes, installation of concrete, foundations, driveways, carports and decks, additional parking, a drainage system and reconfiguration and reduction of the number of spaces from 20 to 17. These are mobile home spaces, not legally divided lots. The manufactured homes consist of either 1,163 square feet or 1,209 square feet (two different models) and are two-stories (approximately 25-feet above existing grade).

In addition, the applicant is requesting approval for installation of five (5) additional manufactured homes (dimensions will be the same as discussed previously for the manufactured homes already installed), concrete, foundations, driveways, carports and decks, a drainage system and common parking (Exhibits #2-3). No grading or landscaping is being proposed. A total of thirty-two (32) parking spaces will be provided on-site. Two (2) parking spaces are provided for each home. All of the previously existing mobile homes have been removed except for one (1) mobile home that will remain on site (mobile home is owned by the resident, but rents the mobile home space from the applicant) and no development will take place with this mobile home. Entry to the street/driveway of the existing mobile home park is not gated and the new proposal does not include any gating of the entry to the community.

B. AFFORDABLE HOUSING

Coastal Act Section 30604 states, in part:

- (f) The commission shall encourage housing opportunities for persons of low and moderate income.*

(g) The Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.

1. Protection/Provision of Affordable Housing in the Coastal Zone

Encouraging the protection and provision of affordable housing is an important aspect of the Coastal Act. In enacting Public Resources Code §§ 30604(f) and (g), as well as Government Code §§ 65590 et seq. (the Mello Act),¹ the Legislature clearly expressed the importance of protecting affordable housing in the Coastal Zone. Section 30607 of the Coastal Act requires that “any permit that is issued ..., pursuant to this chapter, shall be subject to reasonable terms and conditions in order to ensure that such development ... will be in accordance with the provisions of [the Coastal Act].” Sections 30604(f) and (g) are part of the Coastal Act, so the Commission is therefore required to condition the permit to ensure that it is in accordance with §§ 30604(f) and (g). These provisions express the legislature’s clear intent that the Commission shall encourage the protection of affordable housing.

In addition, the Housing Element of the City of Newport Beach's General Plan (not certified by the Commission) states that the City has had policies in effect since the mid-1980s requiring the provision of affordable housing in association with all new residential developments where more than 4 units are proposed. The Housing Element states that the City uses Section 20.86 of the Municipal Code to implement the Mello Act and that between January 1, 1989, and January 1, 1994, their program required the development of 24 units in the City's coastal zone that were to be maintained as housing affordable for low-income and moderate-income individuals and/or families pursuant to Section 65590.

Affordable housing can be found in mobile home parks. The subject site is a mobile home park registered (No. 30-0164-MP) with the State Department of Housing and Community Development (HCD), and is identified in the City's General Plan Housing Element as one of ten mobile home parks in the City, which in total contain approximately 972 mobile home spaces. Of these ten (10) mobile home parks, six (including the subject site) are within the coastal zone and contain a combined total of 716 spaces. The City's Housing Element recognizes these mobile home parks as a pool of more affordable housing within the City. However, the City does not include any of the mobile homes in their inventory of affordable units within the City because these mobile home parks are regulated by HCD, not the City. The types of homes that are typically found in these mobile home parks and were observed to have been found on site are of the “trailer coach” variety, as defined in the California Vehicle Code Section 635 (trailer coach is defined as “a vehicle, other than a motor vehicle designed for human habitation or human occupancy for industrial, professional, or commercial purposes, for carrying property on its own structure, and for being drawn by a motor vehicle)². However, the Housing Element states that many mobile homes in the City's mobile home parks have been converted to “manufactured housing”, which the Housing Element states are "... not affordable to low-income and moderate-income

¹ The Mello Act generally prohibits local governments from authorizing the conversion or demolition of affordable housing units located in the coastal zone unless those units are replaced on-site, elsewhere in the coastal zone if feasible, or if that is not feasible, within three miles of the coastal zone. Gov. Code §65590.

² The term “mobile home” is not being used because the term “mobile homes” as defined in Health and Safety Code §18008 includes “manufactured homes,” as defined in Health and Safety Code §18007.

individuals and families." The Housing Element expresses some concern about this trend toward market rate units within the City's mobile home parks.

As described above, the applicant seeks after-the-fact approval for removing nineteen (19) existing mobile homes, reconfiguring and reducing the number of mobile home spaces from twenty (20) spaces to seventeen (17) spaces, and placing sixteen (16) manufactured homes on sixteen (16) of those spaces (the 17th space has a pre-existing mobile home on it). The mobile homes removed from the site were individually owned; each owner rented or leased the mobile home space from the owner of the mobile home park (i.e. the landowner). The applicant indicates that the park trailer spaces rented from a few hundred dollars a month to \$1,300.00 per month. In the proposed development, the mobile homes will be replaced with less transient manufactured structures placed on poured concrete foundations. These new structures are/would be owned by Newport Sands (along with the land) and rented to tenants. The applicant indicated that the structures will rent for \$2,300.00 per month, plus an additional \$1,300.00 per month to rent the mobile home space, for a total of \$3,600.00 per month. The applicant represents that the manufactured homes/structures are individually registered with the State Department of Housing and Community Development (HCD). The applicant states that because these structures have individual titles in a "rental community", the structures can be individually sold and titled to new homeowners in the future. The owner of the structure would then rent or lease the mobile home space (land on which the home is built) from Newport Sands.

The rents the applicant is identifying would clearly be difficult for persons with low or moderate income to afford. These rents could increase at any time as neither the City nor HCD exercise rent control over these units. Those rents, however, are likely more affordable than a similarly sized and located single family residence located in the vicinity of the project site. A more serious impact to the affordable nature of the housing provided in this mobile home park would therefore be generated by the division and sale of the individual spaces in the manufactured/mobile home park to separate individual land owners. Dividing and selling the mobile home spaces, along with their structures, would make these lots virtually indistinguishable from other individually owned residences in the area. Their value would increase and affordability decrease, accordingly. Coastal Act Section 30604 encourages the protection of existing, and the provision of new, affordable housing opportunities in the Coastal Zone. While the upgraded Newport Sands Mobile Home Park is not mandated by the City or HCD to be affordable to low and moderate income persons, it would provide less expensive housing than most other comparably sized and located residences in the City. As it stands now, these lots are not divided or able to be transferred as individual units and provide an opportunity for the Commission to protect some level of affordability in these housing units. Allowing these lot spaces to convert to individual ownership would make these lots less affordable, similar to other single family properties in the City. Thus, the Commission imposes **SPECIAL CONDITION NO. 1.A.**, which prohibits the division of land and/or sale or transfer of the individual spaces in the manufactured/mobile home park. This prohibition applies to all forms of individual division and sale of the mobile home spaces, including but not limited to, lot divisions and condominium conversion.

The applicant is also proposing the installation of five (5) additional manufactured homes in the mobile home park. As discussed previously, manufactured homes provide less expensive housing than most other types of residences in the City. The mobile homes that appeared to be trailer coaches that were previously removed from this site, however,

provided more affordable housing than the recently installed manufactured homes. Therefore, in order to protect affordable housing in the Coastal Zone, the Commission imposes **SPECIAL CONDITION NO.'S 1.B. and 2. SPECIAL CONDITION NO. 1.B.** allows twelve (12) of the mobile home spaces in the subject manufactured/mobile home park to be occupied by a "mobile home" or "manufactured home" as those terms are defined, as of April 2007, in Section 18007 and 18008 of the California Health and Safety Code; but the remainder of the mobile home spaces shall be reserved solely for occupation by a Small Trailer Coach defined in Special Condition No. 1.B., which includes, among others, the limitation that the Small Trailer Coach consist of no more than 400 square feet. The purpose of establishing a size limit is to encourage placement of smaller units that would be more affordable than larger units. The purpose of prohibiting use of a permanent foundation is to discourage conversion of and classification of these units as 'real' property (as opposed to personal property) which would also tend to be less affordable. **SPECIAL CONDITION NO. 2** requires the applicant to submit revised project plans that demonstrate compliance with the requirements outlined in Special Condition No. 1 and requires reconfiguration of the mobile home spaces that are not presently occupied by the eleven (11) proposed manufactured homes and one (1) existing mobile home to maximize the total quantity of Small Trailer Coaches that can be placed within the remaining space, but not less than five (5) spaces, while at the same time providing two (2) parking spaces per residential unit on-site and complying with all other applicable State and Federal laws and regulations. As conditioned, a portion of the proposed housing will be affordable to the same segment of the population and in a manner comparable to the previously existing mobile homes. Therefore, more affordable housing opportunities are protected and encouraged, consistent with Sections 30604(f) and (g) of the Coastal Act.

In addition, the Commission imposes **SPECIAL CONDITION NO. 3**, which notes requirements for a coastal development permit for future development on the subject site.

b. Commission's Regulatory Authority

The State Department of Housing and Community Development (HCD) regulates mobile home parks under the State Mobile Home Parks Act and has adopted regulations governing construction and occupancy of privately owned mobile homes within California. Except for certain enumerated categories of local land use regulations, the Mobile Home Parks Act preempts local government police power authority to regulate land uses affecting mobile home parks. However, the Mobile Home Parks Act does not address or prevent application of statewide policies of the Coastal Act. The Commission finds that the proposed project constitutes "development" as defined in the Coastal Act that is not exempt from coastal development permit requirements. According to a letter dated March 7, 2005, HCD does not consider the proposed project consisting of the re-configuration of the mobile home park as new construction of the park and concluded that Commission approval was not necessary since, in their view, Commission approval is only required on new construction projects. However, HCD has no authority to make any determination about the Commission's regulatory authority. Such authority rests solely with the Commission. Neither HCD nor the applicant consulted with the Commission regarding HCD's determination. The proposed project fits the definition of "development", as defined in the Coastal Act, and requires approval from the Commission.

CONCLUSION

To minimize the adverse impacts upon affordable housing, **THREE (3) SPECIAL CONDITIONS** have been imposed. **SPECIAL CONDITION NO. 1.A.** prohibits the subdivision and sale of individual lots in the manufactured/mobile home park. **SPECIAL CONDITION 1.B.** reserves mobile home spaces for occupation by more affordable Small Trailer Coaches. **SPECIAL CONDITION NO. 2** requires the applicant to submit revised project plans to conform with Special Condition No. 1 and make revisions to the site plan to maximize the area available for use by Small Trailer Coaches. **SPECIAL CONDITION NO. 3** establishes permit requirements for future development. Only as conditioned does the Commission find that the proposed project is consistent with Sections 30604(f) and (g) of the Coastal Act.

B. PUBLIC ACCESS

Section 30212 of the Coastal Act states, in relevant part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(2) adequate access exists nearby...

Section 30252 of the Coastal Act states, in relevant part:

The location and amount of new development should maintain and enhance public access to the coast by...

(4) providing adequate parking facilities or providing substitute means of serving the development with public transportation.

The subject site is an inland lot, but it is near the beach and the Semeniuk Slough in the City of Newport Beach. Public access to the Slough is available at the end of Highland Street and Grant Street, approximately 200-feet East of the project site. Public access to the beach is available at the other end of Highland Street and Grant Street, approximately 500-feet West of the project site.

When a private development does not provide adequate on-site parking, users of that development who arrive by automobile are forced to occupy public parking used by visitors to the coastal zone. To the far East of the project site lies the Semeniuk Slough, a wetland considered an environmentally sensitive habitat area and unique coastal resource in the City's Certified Land Use Plan. To the far West of the project site lies the public beach. The proximity of these coastal access facilities to the project site solidifies the importance of adequate parking for private development. Insufficient parking on the project site may result in users of that development taking up spaces that the public may use to access areas such as Semeniuk Slough and the public beach. Thus, all private development must provide adequate on-site parking to minimize adverse impacts on public access.

The Commission has consistently found that two (2) parking spaces are adequate to satisfy the parking demand generated by one (1) individual residential unit. The proposed residential units will each have two (2) designated parking spaces for a total of thirty-two (32) parking spaces. Most will have these parking spaces adjacent to the home, but one (1) of these manufactured homes will have one (1) of their parking spaces adjacent to the home and one (1) near, but not adjacent to the home. In cases like this, a sign plan can be important since it identifies where each unit's assigned parking spaces are located. No sign plan was proposed. In addition, the one (1) existing mobile

home that will remain on site and have no work associated with it has two (2) parking spaces located adjacent to it. Since two (2) parking spaces are being provided for each home, the development is consistent with the parking required. In order to assure that adequate parking is provided on site and that parking is appropriately signed for the private development, the Commission imposes **SPECIAL CONDITION NO. 4**, which requires the applicant to submit a Parking Signage Plan. This Plan shall include, but not be limited to, 1) the location of the two (2) parking spaces for each residence; and 2) signage designating the parking spaces for each residence.

Also, the Commission notes that the entry to the street/driveway of the existing mobile home park is not gated and the new proposal does not include any gating of the entry to the community. Such gating would raise issues with regard to consistency with the public access and recreation policies of the Coastal Act. In addition, such gating, if ever sought, would require a coastal development permit as is noted by **SPECIAL CONDITION NO. 3**, which advises the permittee of permit requirements for future improvements.

CONCLUSION

To minimize the adverse impacts upon the public access, **TWO (2) SPECIAL CONDITIONS** have been imposed. **SPECIAL CONDITION NO. 3** requires additional approvals for any future development. **SPECIAL CONDITION NO. 4** requires the applicant to submit a Parking Signage Plan. Only as conditioned does the Commission find that the proposed project is consistent with Sections 30212 and 30252 of the Coastal Act.

C. WATER QUALITY AND THE MARINE ENVIRONMENT

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.

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 protection of water quality is an important aspect of the Coastal Act. Water from the project site will flow into the City of Newport Beach's storm drain system and will ultimately drain to the Pacific Ocean. Recent beach closures occurring throughout Orange County, including those in Huntington Beach and Laguna Beach, have been attributed to polluted urban runoff discharging into the ocean through outfalls. As illustrated by these beach closures, polluted runoff negatively affects both marine resources and the public's ability to access coastal resources. In addition, the proximity of the project site to the Semeniuk Slough and the beach heighten the need for the protection of water quality.

1. Construction Impacts to Water Quality

Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. Sediment discharged into coastal waters may cause turbidity, which can shade and reduce the productivity of foraging avian and marine species' ability to see food in the water column. In order to avoid adverse construction-related impacts upon marine resources, **SPECIAL CONDITION NO. 5** outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris. This condition requires the applicant to remove any and all debris resulting from construction activities within 24 hours of completion of the project. In addition, all construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

2. Post-Construction Impacts to Water Quality

During storm events, the pollutants which have collected upon the roof and upon other impervious surfaces created by the proposed project may be discharged from the site into the storm water system and eventually into coastal waters which can become polluted from those discharges. Water pollution can result in decreases in the biological productivity of coastal waters. In addition, impervious surfaces magnify peak flows dramatically which can lead to erosion. In order to mitigate these impacts, the applicant has submitted the following: *Drainage Study* prepared Nolan Consulting, Inc. dated August 2005. The study states that percolation sumps will be used onsite, which will allow drainage to percolate on site. While these measures to deal with post construction water quality are acceptable, additional measures are necessary, such as minimization of irrigation and the use of

fertilizers and other landscaping chemicals through the use of low-maintenance landscaping and efficient irrigation technology or systems and that trash, recycling and other waste containers, as necessary, shall be provided on site. Therefore, the Commission imposes **SPECIAL CONDITION NO. 6**, which requires the applicant to submit a Final Drainage and Run-Off Control Plan.

No Landscaping Plans have been submitted with the proposed project. The placement of any 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) in their publications. Furthermore, any plants in the landscape plan should only be drought tolerant to minimize the use of water. The use of native plants is encouraged. 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>. Thus, the Commission imposes **SPECIAL CONDITION NO. 7**, which requires the applicant to submit a Landscape Plan, which consists of native or non-native drought tolerant non-invasive plants.

CONCLUSION

To minimize the adverse impacts upon the marine environment, **THREE (3) SPECIAL CONDITIONS** have been imposed. **SPECIAL CONDITION NO. 5** identifies Construction-Phase Best Management Practices. **SPECIAL CONDITION NO. 6** requires the applicant to submit a Final Drainage and Run-Off Control Plan. **SPECIAL CONDITION NO. 7** requires the applicant to submit a Landscape Plan. Only as conditioned does the Commission find that the proposed project is consistent with Section 30230, 30231 and 30232 of the Coastal Act.

D. UNPERMITTED DEVELOPMENT

Development, including removal of nineteen (19) mobile homes (aka trailer coaches) and installation of eleven (11) manufactured homes, installation of foundations, concrete, carports and decks, additional parking, a drainage system and reconfiguration and reduction of the number of spaces from 20 to 17, has occurred on the subject site without the required coastal development permit. The applicant is requesting After-the-Fact approval for removal of nineteen (19) mobile homes and installation of eleven (11) manufactured homes, installation of foundations, concrete, carports, and decks, additional parking, a drainage system and reconfiguration and reduction in the number of spaces from 20 to 17. The application was submitted by the applicant in response to enforcement action taken by the Commission's Enforcement Division.

To ensure that the unpermitted development component of this application is resolved in a timely manner, **SPECIAL CONDITION NO. 8** requires that the applicant satisfy all conditions of this permit, which are prerequisite to the issuance of this permit within 90 days of Commission action. Although construction has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon its consistency with the policies and of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to any alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

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 **SPECIAL CONDITION NO. 9**, which requires 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, any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land including future development, prohibition on division and/or sale of individual mobile home spaces, parking management, maintenance of water quality and landscaping to which the site is subject.

F. LOCAL COASTAL PROGRAM

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program that conforms with the 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 an 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.

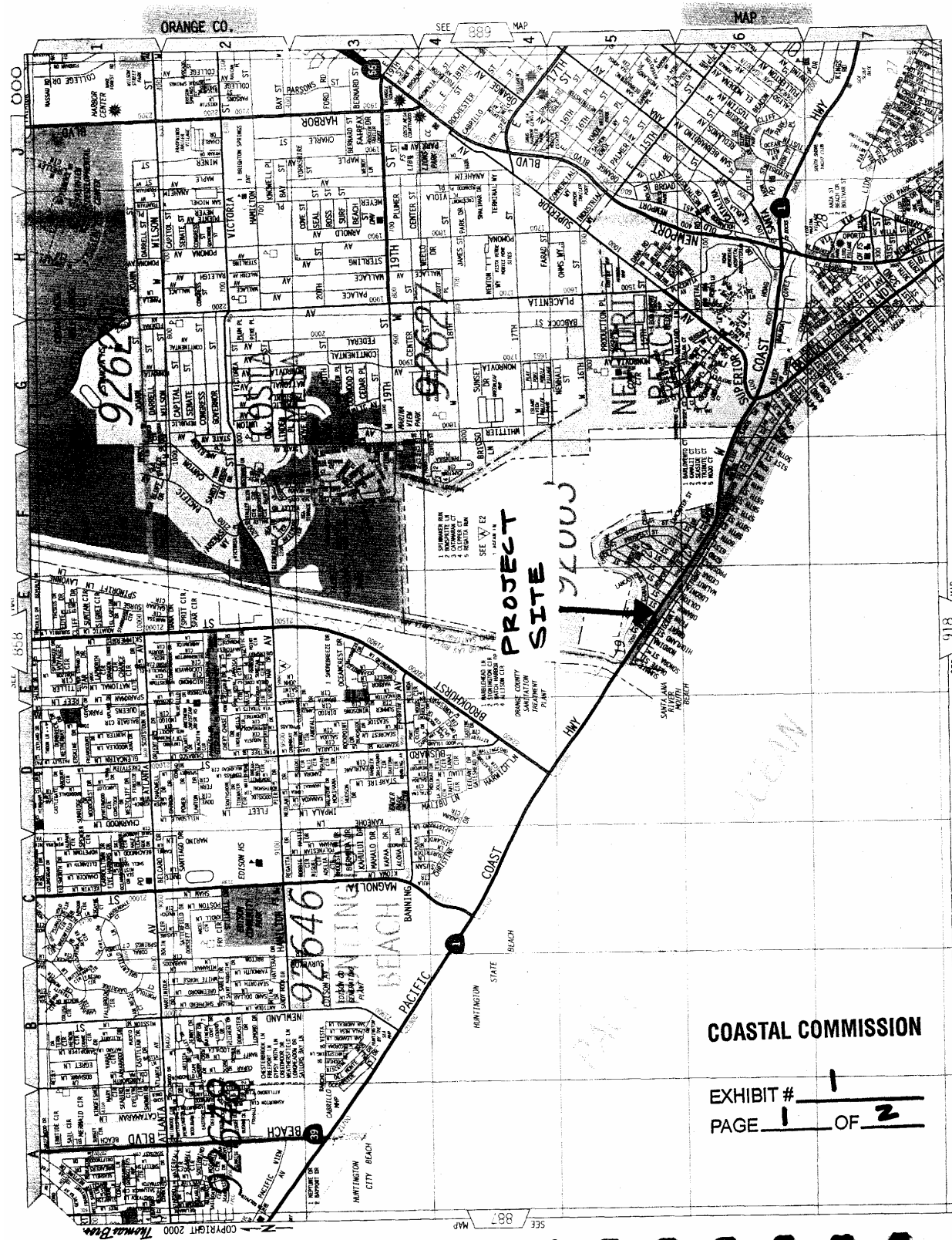
The parking for the proposed project is consistent with the parking standards/requirements in the certified Land Use Plan, thus the project is consistent with Policy 2.9.3-3. By being consistent with the parking standards of the LUP, the project is consistent with Policy 3.1.1-1. By conditioning the project for construction-phase best management practices and submittal of a Final Drainage Study, the project is consistent with Policy 4.3.2-14. The proposed development, as conditioned, is consistent with policies of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the policies of the Coastal Act.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096(a) of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or further feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project is located in an urban area. All infrastructure necessary to serve the site exists in the area. As conditioned, the proposed project has been found consistent with the affordable housing, public access, and water quality policies of the Coastal Act. Mitigation measures include the following Special Conditions requiring: **1)** prohibition of future division of land or sale/transfer of the individual spaces in the manufactured/mobile home park and reserving at least five (5) spaces for use by more affordable Small Trailer Coaches; **2)** submittal of revised project plans removing the five (5) additional manufactured homes from the plan in favor of Small Trailer Coaches and reconfiguring the space to maximize the quantity of space available for additional Small Trailer Coaches if feasible; **3)** additional approvals for any future development; **4)** submittal of a Parking Signage Plan; **5)** Construction-Phase Best Management Practices; **6)** submittal of a Final Drainage and Run-Off Control Plan; **7)** submittal of a Landscape Plan; **8)** condition compliance; **9)** deed restriction; and **10)** potential attorney's fees.

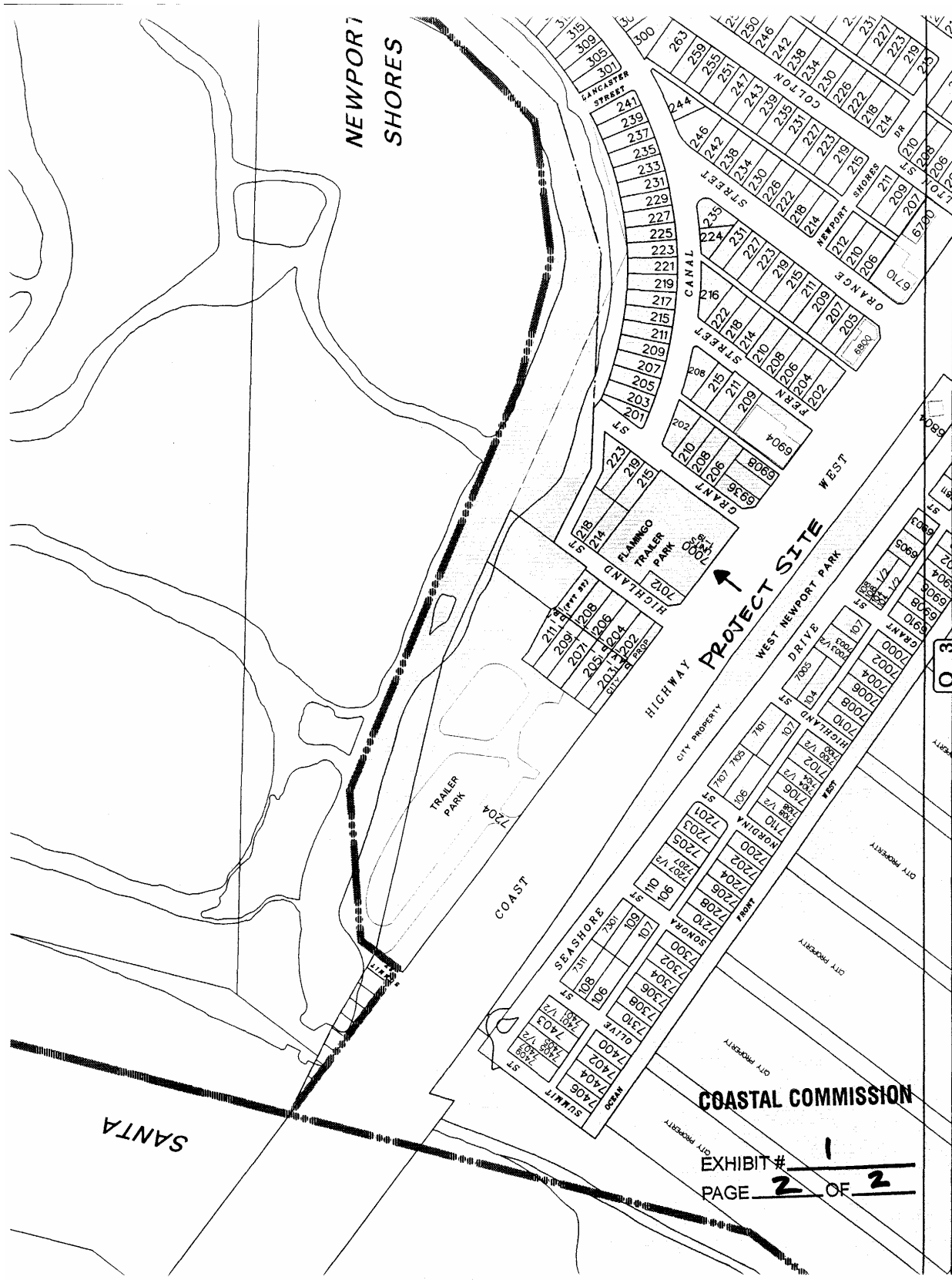
As conditioned, there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse effect, which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.



COASTAL COMMISSION

EXHIBIT # 1
PAGE 1 OF 2





NO.	DATE	REVISION



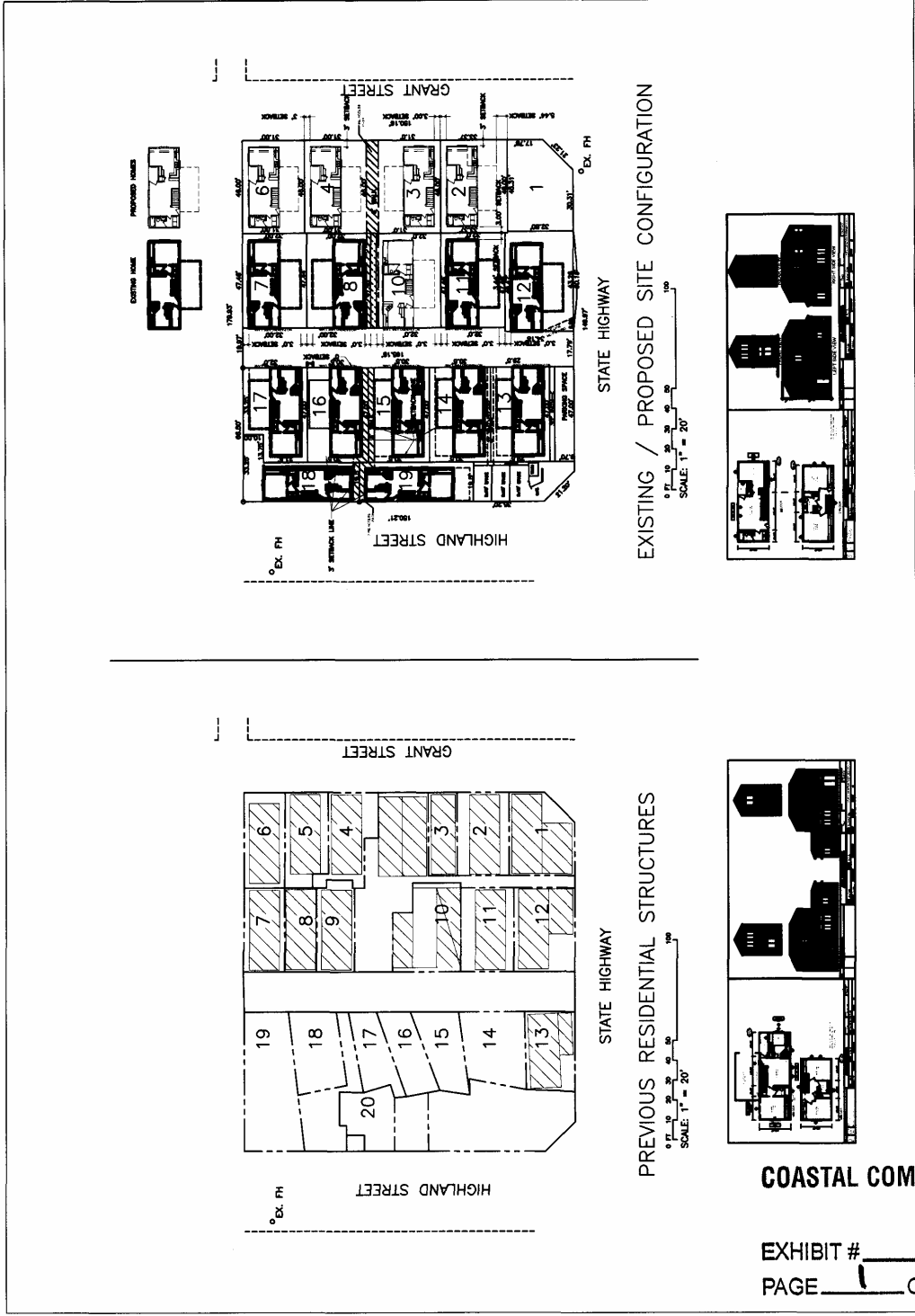
STRUCTURAL
 CONSULTANTS M, INC.
 10118 CENTRAL AVE. CHINO, CA 91710
 TEL: 909.222.5045 FAX: 909.222.5080

PROJECT: NEWPORT SANDS RESIDENTIAL STRUCTURES
 PREPARED BY: NEWPORT SANDS RESIDENTIAL STRUCTURES
 CHECKED BY: [Signature]
 DATE: 11/27/13

PROPOSED SITE PLAN
 SCALE: 1"=20'

REVISIONS:
 NO. DATE DESCRIPTION

A1
 Newport



COASTAL COMMISSION

EXHIBIT # 2
 PAGE 1 OF 1

PROJECT MAKE NEWPORT SANDS PROJECT ADDRESS NEWPORT BEACH, CA 92662 OWNER NEWPORT SANDS 20010 TROKOP SHERMAN PLACE SHERMAN PLACE 123456789 9876543210	STRUCURAL CONSULTANTS M, INC. 12018 CENTRAL AVE. CHINO, CA 91710 TEL 909 822 8040 - FAX 909 822 8080	NO DATE REVISIONS 1 2 3 4 5 6 7 8 9 10	PROJECT NO. TS-1-L10 SHEET NO. A4 SHEET TOTAL Newport	SECTION TS-1 FLOOR PLAN ELEVATION SCALE: 3/8"=1'-0" DRAWN BY: ADU CHECKED BY: APPROVED BY: DATE:	DATE: 5-17-99 DRAWN BY: D.J.M. CHECKED BY: APPROVED BY: DATE: 5-17-99 DRAWN BY: N.T.S. CHECKED BY: APPROVED BY: DATE: 5-17-99 DRAWN BY: D.J.M. CHECKED BY: APPROVED BY:	TS-1-L10 (FOR ILLUSTRATION PURPOSES ONLY) TITLE ELEVATION GROUP SECTION SHEET
<p style="text-align: center;"> 1st FLOOR 2nd FLOOR 480.50 FT. SECOND FLOOR 480.50 FT. FIRST FLOOR 1182.50 FT. TOTAL </p>						

COASTAL COMMISSION
 EXHIBIT # 3
 PAGE 1 OF 2

TS-1

NO.	DATE	REVISION

12018 CENTRAL AVE. CHINO, CA 91710
 TEL: 909.823.8040 FAX: 909.823.8080

STRUCTURAL
 CONSULTANTS M, INC.

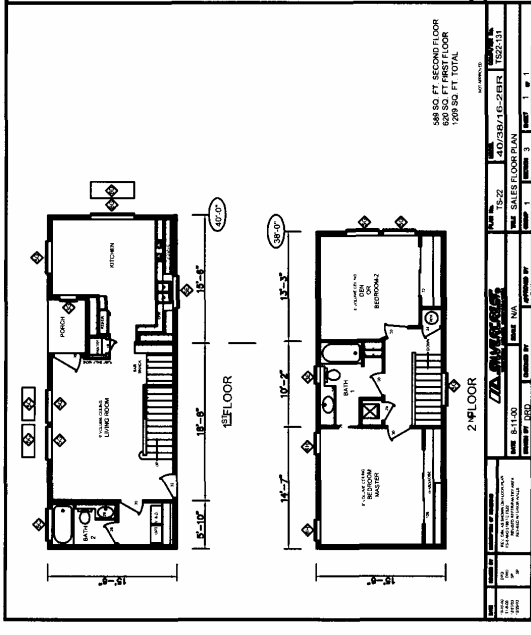
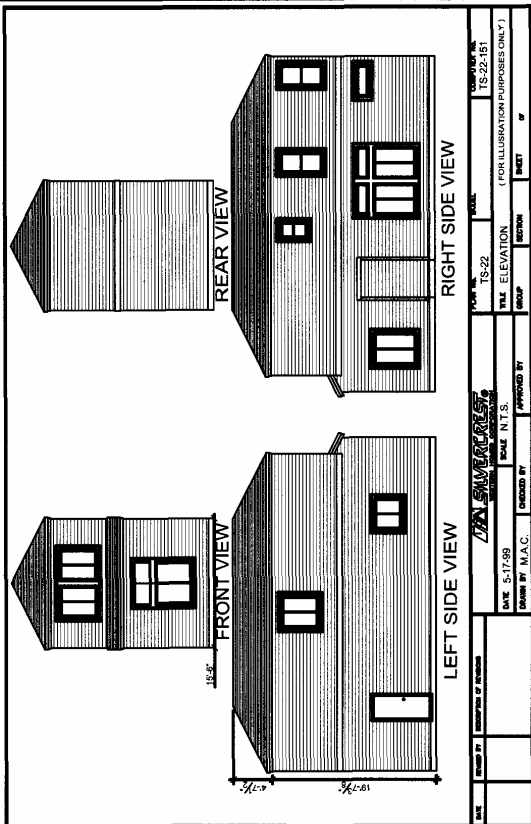
PROJECT NO. 5-06-268
 PROJECT ADDRESS
 12018 CENTRAL AVE.
 CHINO, CA 91710
 DRAWN BY: J. TURBOW
 CHECKED BY: J. TURBOW
 DATE: 5-17-09
 SCALE: N.T.S.
 SHEET NO. 1 OF 1

FLOOR PLAN
 ELEVATION
 SCALE: 1/8"=1'-0"

DATE: 5-17-09
 DRAWN BY: J. TURBOW
 CHECKED BY: J. TURBOW

RELAYED DATE: 5-06-09
 DRAWN BY: J. TURBOW
 CHECKED BY: J. TURBOW

A5
 Newport



TS-22
 COASTAL COMMISSION
 EXHIBIT # 3
 PAGE 2 OF 2