

CALIFORNIA COASTAL COMMISSION

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Staff: Fernie Sy-LB
Staff Report: December 20, 2007
Hearing Date: January 9-11, 2008
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NO.: 5-07-045

APPLICANT: SMI, LLC

AGENT: Government Solutions, Inc., Attn: Marice White

PROJECT LOCATION: 2300 West Coast Highway, City of Newport Beach (Orange County)

PROJECT DESCRIPTION: Remove an existing restaurant, and remodel and add 29 guest rooms to an existing 28,009 square foot, 2-story motel with 54 guest rooms, plus landscape/hardscape changes. The project will reduce on-site parking from 105 spaces to 83 spaces. Upon completion the hotel will be 38,399 square feet, 2-stories (22-feet high) and contain 83 rooms with 83 parking spaces. Ten (10) of the 29 new guest rooms and removal of the restaurant are an 'after-the-fact' request.

SUMMARY OF STAFF RECOMMENDATION:

The proposed development involves the remodel and addition to an existing motel. The major issues before the Commission relate to water quality and public access. Staff is recommending **APPROVAL** of the proposed project subject to **SEVEN (7) SPECIAL CONDITIONS** requiring: **1)** prohibition on changing the type of ownership of the hotel to condo-hotel or timeshare/fractional ownership for all or part of the hotel; **2)** construction-phase best management practices; **3)** submittal of a Final Water Quality Management plan (WQMP); **4)** submittal of a Revised Landscape Plan; **5)** additional approvals for any future development; **6)** that the applicant satisfy all conditions of this permit which are prerequisite to the issuance of this permit within 90 days of Commission action; and **7)** a deed restriction against the property, referencing all of the special conditions contained in this staff report.

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. The City of Newport Beach only has a certified Land Use Plan and has not exercised the options provided in 30600(b) or 30600.5 to issue its own permits. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act. The certified Land Use Plan may be used for guidance.

LOCAL APPROVALS RECEIVED: Approval in Concept (No. 2755-2006) from the City of Newport Beach Planning Department dated January 8, 2007; Use Permit No. 2006-019 (Resolution No. 1702) from the City of Newport Beach Planning Commission.

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach Certified Land Use Plan; Coastal Development Permit No. 5-03-355-A1-(Boeing); Coastal Development Permit No. 5-98-156-A15 (City of Long Beach & DDR Urban, LP); Letter from Commission staff to Government Solutions, Inc. dated March 8, 2007; *Water Quality Management Plan (WQMP) for 2300 West Coast Highway* prepared by Jones, Cahl & Associates prepared February 26, 2007; Letter from Commission staff to Government Solutions, Inc. dated April 10, 2007; Letter from Forrest K. Haag dated April 3, 2007; Letter from Commission staff to Government Solutions, Inc. June 1, 2007; *Water Quality Management Plan (WQMP) for 2300 West Coast Highway* prepared by Jones, Cahl & Associates revised June 29, 2007; *Storm Water Pollution Prevention Plan (SWPPP) For 2300 West Coast Highway* prepared by Jones, Cahl & Associates prepared July 10, 2007.

LIST OF EXHIBITS

1. Vicinity Map
 2. Site Plan
 3. Elevation Plans
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I. STAFF RECOMMENDATION, MOTION AND RESOLUTION OF APPROVAL

MOTION: *I move that the Commission approve Coastal Development Permit No. 5-07-045 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 Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITONS

1. **PERMITTED USE: OVERNIGHT ROOM RENTALS**

The permitted use of the structure that is the subject of Coastal Development Permit No. 5-07-045 is an 83-room hotel (i.e. an establishment offering commercial lodging for less than thirty (30) days including incidental eating, drinking, and banquet service intended for the convenience of guests). The approved structure shall be operated as a bona fide hotel that provides overnight accommodations to visitors for a period of less than thirty consecutive days and may not be converted or operated as private condominiums or other type of fractional ownership.

2. **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 storm drain, open ditch or surface water; and
- (4) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.

3. SUBMITTAL OF A FINAL WATER QUALITY MANAGEMENT PLAN (WQMP)

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 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 (WQMP) for 2300 West Coast Highway* prepared by Jones, Cahl & Associates revised June 29, 2007. 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) 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;
- (7) 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;
- (8) 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;
- (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/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;

- (11) The bottomless trench drains shall be checked regularly for signs of ineffectiveness;
- (12) Debris and other water pollutants removed from structural BMP(s) during clean out shall be contained and disposed of in a proper manner; and
- (13) 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.

4. REVISED 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 sets of Revised Landscape Plans 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 (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), 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. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.owue.water.ca.gov/docs/wucols00.pdf>). 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 temporary 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.

5. FUTURE DEVELOPMENT

This permit is only for the development described in Coastal Development Permit No. 5-07-045. 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. 5-07-045. Accordingly, any future improvements to the 83-guest room hotel 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), shall require an amendment to Permit No. 5-07-045 from the Commission or shall require a new coastal development permit from the Commission or its successor in interest.

6. 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.

7. 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 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 provisions of Chapter 9 of the Coastal Act.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT LOCATION, DESCRIPTION AND PREVIOUS COMMISSION ACTION ON-SITE

1. Project Location

The project site is located at 2300 West Coast Highway in the City of Newport Beach, Orange County (Exhibit #1). The project site currently operates as a 54 guest room motel (Holiday Inn Express) with 105 parking stalls and is located on a 54,906 square foot lot. Once the project is completed, the property will continue to be operated as a Holiday Inn Express. The City of Newport Beach Land Use Plan (LUP) designates use of the site for General Commercial and the proposed project adheres to this designation.

The project site is located along Pacific Coast Highway (referenced as West Pacific Coast Highway in the project vicinity), which is a regional artery; a wide, high speed boulevard providing a convenient route for regional traffic in an area that is known as "Mariner's Mile" in the City of Newport Beach. Pacific Coast Highway is also the "main street" of Newport Beach providing access to many neighborhoods and business districts. This area along Pacific Coast Highway provides access to local businesses and the waterfront as well as ingress/egress to adjacent bluff-top neighborhoods. Historically, Mariner's Mile has always been a focus for marine activities. Yacht brokers, shipbuilding, boat services and haul-out facilities, warehouses, slips and sportfishing docks shared the flat, sandy strip facing the Lido Channel at the foot of the Newport Heights, accessing both the water and the Pacific Coast Highway.

The property is located on the northerly side (inland side) of West Coast Highway, with the motel on the westerly front portion of the site. The property is bordered to the west by a restaurant and municipal parking lot, to the east is an office building, and to the north the property abuts the lower portion of three single-family residences that are located on bluff top lots that front Cliff Drive. Across West Coast Highway to the south (bayward side), is a vacant restaurant and parking lot area adjacent to Newport Bay.

2. Project Description

The proposed project consists of the removal of an existing restaurant, and remodel and addition of 29 guest rooms (12 on the ground floor and 17 on the second floor) to an existing 28,009 square foot, 2-story motel with 54 guest rooms, plus landscape/hardscape changes. The existing structure will remain and the proposed additions are in the front and the rear of the existing building. The project will reduce on-site parking from 105 spaces to 83 spaces ($105-29+7=83$ spaces). In order to accommodate the additional 7 spaces on site, the existing pool and sundeck will be removed and relocated in the same area as they currently are, but set back closer to the building. Upon completion, the hotel will be 38,399 square feet, 2-stories (22-feet high) and contain 83 rooms with 83 parking spaces (Exhibits #2-3). Construction of ten (10) of the 29 new guest rooms and removal of the restaurant have already occurred without a coastal development permit and are an 'after-the-fact' request. No grading is proposed.

The existing motel offers 54 rooms ranging in price from approximately \$129 to \$179 per night¹. Post project, the motel will provide 83 rooms, an increase of 29 rooms, in the same price range.

3. Previous Commission Action On-Site

Coastal Development Permit No. P-79-4787-(Jersey West Yacht Sales, Inc)

On February 5, 1979, the Commission approved Coastal Development Permit No. P-79-4787-(Jersey West Yacht Sales, Inc) for the removal of one of two existing sign poles and the erection of a 12' x 8' double faced illuminated sign on the remaining pole, which is 25-feet above grade. The Commission imposed ONE (1) SPECIAL CONDITION on the project regarding revised plans, which must show the monument sign be no greater than 24 square feet in size and no higher than 8-feet above grade.

Coastal Development Permit No. 5-87-828-(Jermafa, Inc.)

On December 9, 1987, the Commission approved Coastal Development Permit No. 5-87-828-(Jermafa, Inc.) for the demolition of an auto showroom and construction of a two-story, 53-unit motel with a restaurant/bar, 105 parking spaces and a swimming pool/sauna facilities. No SPECIAL CONDITIONS were imposed.

Coastal Development Permit Exemption No. 5-91-208-(Kuo)

On April 5, 1991, the Commission issued Coastal Development Permit Exemption No. 5-91-208-(Kuo) for an interior remodel including removal of one non-bearing wall to enlarge lounge area of an existing restaurant. This was previously used as a banquet area. The restaurant is located on the second floor of the existing 53 room hotel.

B. LOWER COST VISITOR AND RECREATIONAL FACILITIES

Section 30213 of the Coastal Act states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

Section 30222 of the Coastal Act states:

¹ Based on AAA Tourbook for Southern California and Las Vegas 2007 Edition.

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

One of the strongest legislative mandates of the Coastal Act is the preservation of coastal access. Section 30213 of the Coastal Act requires that lower cost visitor and recreational facilities be protected, encouraged and where feasible provided. Section 30222 of the Coastal Act places a higher priority on the provision of visitor-serving commercial uses designed to enhance public opportunities for coastal recreation than on residential, industrial, or general commercial uses. The proposed development is comprised of visitor serving uses. Visitor-serving uses provide greater public benefit than private residential uses because a larger segment of the population is able to take advantage of and enjoy the use. In addition, visitor-serving commercial areas provide services to the visiting beach user, including providing places to stay overnight, dine and shop.

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 influx of visitors during the summer. The project site is near Newport Bay, which provides many coastal amenities, and is adjacent to West Coast Highway, which is an arterial that provides access to the coast and visitor-serving coastal amenities (i.e. beach, restaurants, etc.).

The proposed project is a remodel and expansion of an existing motel (Holiday Inn Express), which provides an amenity to visitors to the coast. The motel offers 54 rooms ranging in price from approximately \$129 to \$179 per night². Post project, the motel will provide 83 rooms, an increase of 29 rooms, in the same price range. This room rate is on the lower end of and comparable to the rates of other hotels located in the City of Newport Beach. According to the AAA Tourbook 2007 Edition, there are 3 other motels/inns that provide comparable rates: Extended Stay America-Orange County/John Wayne Airport (\$99-\$124); Newport Channel Inn (\$69-\$289); and Radisson Hotel Newport Beach (\$119-\$159). According to the AAA Tourbook, there are 10 hotels/inns that provide more expensive rates: Little Inn by the Bay (\$149-\$299); Fairmont Newport Beach (\$189-\$429); Hyatt Regency Newport Beach (\$199-\$290); Doryman's Oceanfront Inn (#199-\$379); Bay Shores Peninsula Hotel (\$199-\$499); The Newport Beach Hotel (\$225-\$400); The Balboa Bay Club & Resort (\$260-\$665); Newport Beach Marriot Bayview Hotel (\$269-\$319); Newport Beach Marriot Hotel and Spa (\$299-\$349); and The Island Hotel Newport Beach (\$345-\$480). In addition, the Holiday Inn Express has a 3 diamond rating classification in the AAA Tourbook. There are a total of 7 motels/hotels with this rating and of these 7, the Holiday Inn Express is the second to the least expensive (the least expensive is the Radisson Hotel Newport Beach-\$119-\$159). The Newport Dunes Waterfront Resort offers some comparably priced or lower priced accommodations (prices vary widely depending on season, whether basic or premium site, and size of accommodation) such as camping or RV hookup beginning at \$48/day (but go as high as \$135/day), cottages at about \$150/day (but which go as high as \$365/day). Also, the historic district at Crystal Cove State Park has accommodations for \$32/day (hostel) and \$121-185 for one of the cottages. Thus, the Holiday Inn Express provides one of the least expensive accommodations in the City of Newport Beach; however, the existing and proposed rates would not be affordable to a large segment of the general population and are not "lower cost" for purposes of Section 30213.

² Based on AAA Tourbook for Southern California and Las Vegas 2007 Edition.

To promote and encourage provision of lower cost visitor overnight accommodations in the coastal zone, in association with new development of high-end facilities on vacant land or replacement development that is high-cost, the Commission has required payment of a fee to be used for lower cost visitor accommodations, such as hostels, cabins and campgrounds, in lieu of actual provision of lower cost units. The fee is used to offset the loss of land otherwise available for the higher priority, low-cost accommodations. In this particular case, the subject site is already committed to the moderate priced or mid-range facility. An in-lieu fee is not required because the proposed project will expand an existing use and there is no conversion or loss of existing lower cost accommodations associated with this development. In addition, the project is, increasing the opportunity for visitor-serving overnight accommodations along the coast in the City of Newport Beach which is desirable and consistent with Section 30222 of the Act.

The proposed hotel is to be a traditional hotel; no condo hotel, timeshare, or fractional ownership is proposed. Timeshare/fractional ownership and condo hotels raise issues with regard to privatization of visitor serving uses that would otherwise be available for use by the general public. As stated, Section 30222 of the Coastal Act places a higher priority on visitor serving uses designed for public recreational opportunities. Timeshare/fractional and condominium ownership of hotels limits the number of visitors who have access to the visitor-serving use. As such, timeshare/fractional and condominium ownership are not considered to be a higher priority use under the Coastal Act. As a result it is important to protect the existing supply of commercial hotels that provide overnight accommodations for visitors from conversion to residential fee or fractional ownership. Therefore, the Commission imposes **SPECIAL CONDITION NO. 1**, which states that existing units should not be converted to condo hotel, timeshare and/or fractional ownership for all or part of the hotel in order to ensure protection of resources consistent with the public access and recreational policies of the Coastal Act.

The proposed development is a hotel that would provide overnight accommodations to coastal visitors. As conditioned, hotel stays would be limited to a period of less than thirty consecutive days in order to prevent the building from being used for permanent residences. Section 30222 of the Coastal Act requires that visitor-serving commercial uses designed to enhance opportunities for public recreation be given priority over residential and other non-priority land uses (like private residences). Therefore, as conditioned, the proposed hotel is consistent with the requirements of Section 30222 of the Coastal Act. The Commission finds that the proposed addition of overnight accommodations to this highly urbanized and popular coastal destination would encourage and enhance public opportunities for coastal recreation consistent with Section 30222 of the Coastal Act.

CONCLUSION

To minimize the adverse impacts to public recreational opportunities, **ONE (1) SPECIAL CONDITION** has been imposed. **SPECIAL CONDITION NO. 1** requires prohibition on changing the type of ownership of the hotel to condo-hotel or timeshare/fractional ownership for all or part of the hotel. Only as conditioned does the Commission find that the proposed project is consistent with Sections 30213, 30222 and all the public access and recreation policies 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 proposed project is located near the coastal waters of Newport Harbor (Lower Newport Bay). Newport Bay is on the federal Clean Water Act 303(d) list of "impaired" water bodies. The designation as "impaired" means that water quality within the harbor does not meet State and Federal water quality standards designed to meet the 1972 Federal Clean Water Act goal established for this waterbody. The listing is made by the California Regional Water Quality Control Board, Santa Ana Region (RWQCB), and the State Water Resources Control Board (SWRCB), and confirmed by the U.S. Environmental Protection Agency. Further, the RWQCB has targeted the Newport Bay watershed, which would include Newport Harbor, for increased scrutiny as a higher priority watershed under its Watershed Initiative.

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.

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 deal with possible adverse impacts to water quality during construction, the applicant has submitted a *Storm Water Pollution Prevention Plan (SWPPP) For 2300 West Coast Highway* prepared by Jones, Cahl & Associates prepared July 10, 2007. The plan states that some of the measures that will be taken on site consist of placing gravel bag berms along the exterior of the project site and street sweeping and vacuuming to keep street surfaces clear of soil and debris. While these actions will assist in preventing any construction based impacts, the Commission is imposing **SPECIAL CONDITION NO. 2**, which outlines additional construction-related requirements to prevent adverse impacts to marine resources from construction.

2. Post-Construction Impacts to Water Quality

The proposed development will result in urban runoff entering the storm water system. Pollutants such as sediments or toxic substances such as grease, motor oil, heavy metals, pesticides and fertilizers are often contained within urban runoff entering the storm water system. In this case, the site drains an existing/altered parking lot, paved walkways, landscaped areas and an addition to the existing building. Therefore, the primary post-construction water quality concerns associated with the proposed project include grease, motor oil, heavy metals, trash, pesticides and fertilizer.

The proposed development would result in the discharge of storm water into the storm water conveyance system. As such, the amount of pollutants carried through the system would increase proportionally. Therefore, the project has the potential to affect the water quality of the coastal waters in Newport Beach.

The proposed project is new development, which affords an opportunity to improve water quality. Much of the pollutants entering the ocean come from land-based development. The Commission finds that it is necessary to minimize to the extent feasible within its jurisdiction the cumulative adverse impacts on water quality resulting from incremental increases in impervious surface associated with additional development. Reductions in the amount of pollutants in the existing runoff would be one step to begin to reduce cumulative adverse impacts to coastal water quality. The currently proposed project drains an existing/altered parking lot, paved walkways, landscaped areas and an addition to the existing building. As such, appropriate measures must be taken to assure that adverse effects on water quality are minimized. In order to deal with these post construction water quality impacts, the applicant has submitted a *Water Quality Management Plan (WQMP) for 2300 West Coast Highway* prepared by Jones, Cahl & Associates revised June 29, 2007. The Water Quality Management Plan (WQMP) states and provides a plan that shows roof and surface runoff will be directed into bottomless trench drains, which allows the water to be filtered into the ground. In addition, a new trash container area will have a solid roof and walls and drainage from this area will be diverted into the bottomless trench drains. While these measures are being proposed to deal with post construction water quality, additional measures are necessary, such as 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 and that it is the permittee's responsibility to maintain the

drainage system and the associated structures and BMPs according to manufacturer's specifications. Therefore, it is necessary to impose **SPECIAL CONDITION NO. 3**, which requires the applicant to submit a Final Water Quality Management Plan (WQMP).

The applicant has stated that landscaping is proposed and plans have been submitted. 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 (and preferably native to coastal Orange County). 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>.

Commission staff has reviewed the submitted Landscaping Plan and determined that an invasive plant has been found: *Washingtonia Robusta (Mexican Fan Palm)*. Therefore, the Commission imposes **SPECIAL CONDITION NO. 4**, which requires the applicant to submit a Revised Landscaping Plan, which consists of native or non-native drought tolerant plants, which are non-invasive.

CONCLUSION

To minimize the adverse impacts upon the marine environment, **THREE (3) SPECIAL CONDITIONS** have been imposed. **SPECIAL CONDITION NO. 2** identifies construction-phase best management practices. **SPECIAL CONDITION NO. 3** requires the applicant to submit a Final Water Quality Management Plan. **SPECIAL CONDITION NO. 4**, which requires the applicant to submit a revised Landscape Plan, which only consists of native or non-native drought tolerant plants, which are non-invasive. Only as conditioned does the Commission find that the proposed project is consistent with Section 30230, 30231 AND 30232 of the Coastal Act.

D. 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.

Section 30252 of the Coastal Act states, in part:

The location and amount of new development should maintain and enhance public access to the coast by ... (4) providing adequate parking facilities ...

The subject site is located near Newport Bay. Across West Coast Highway to the south (bayward side), is a vacant restaurant and parking lot area adjacent to Newport Bay. The closest public access is located southeast of the site on the bayward side of West Coast Highway at the Boy

Scouts Sea Base Facility and the Orange Coast College of Sailing and Seamanship Facility. In addition, the site is adjacent to West Coast Highway, which is an arterial that provides access to the coast and visitor-serving coastal amenities.

A total of 83 parking spaces will be provided on site post project. The proposed parking is consistent with the parking standards/requirements in the certified Land Use Plan (LUP), which requires 1 parking space per guestroom. The site as it currently operates has 54 guest rooms and 105 parking stalls and is thus currently over-parked. With the proposed addition, 29 parking spaces will be removed and 7 added in order to accommodate the addition to the building; however, the proposed project will still be parked according to code-83 rooms and 83 parking stalls will remain after the addition is complete. In addition, the Commission has adopted the City's parking standards in the Land Use Plan, so as the parking is consistent with the City's parking standards it is also consistent with the City's certified LUP.

The project site is in an area where the general public may park (along West Coast Highway) for access to the bay, for example at the Boy Scouts Sea Base Facility and the Orange Coast College of Sailing and Seamanship Facility. Thus, with the proposed project, there is a significant potential for adverse impacts to public access to the bay as a result of any parking deficiency. To assure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission imposes **SPECIAL CONDITION NO. 5**, a future improvements special condition, which makes sure that any future development will require an amendment or new coastal development permit and will be reviewed for consistency with the Coastal Act and to verify no adverse impacts to public access will occur.

CONCLUSION

To minimize the adverse impacts upon public access, **ONE (1) SPECIAL CONDITION** has been imposed. **SPECIAL CONDITION NO. 5** is a future improvements special condition. Only as conditioned does the Commission find that the proposed project is consistent with Section 30210 and 30252 of the Coastal Act.

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. 6**, 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. UNPERMITTED DEVELOPMENT

Development, including removal of an existing restaurant and installation of 10 of the proposed 29 guest rooms, has occurred on the subject site without the required coastal development permit.

To ensure that the unpermitted development component of this application is resolved in a timely manner, **SPECIAL CONDITION NO. 7** requires the applicant to satisfy all conditions of this permit

which are prerequisite to the issuance of this permit within 90 days of Commission action. Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies 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.

G. 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 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:

Visitor-Serving and Recreational Development/Commercial, Policy 2.3.1-3 states,

On land designated for visitor-serving and/or recreational uses, give priority to visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation over other commercial uses, except for agriculture and coastal-dependent industry.

Visitor-Serving and Recreational Development/Commercial, Policy 2.3.1-5 states,

Protect special communities and neighborhoods which, because of their unique characteristics, are popular destination points for recreational uses.

Transportation/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/Shoreline and Bluff Top Access/, 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.

Coastal Resource Protection/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 proposed development, as conditioned, is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

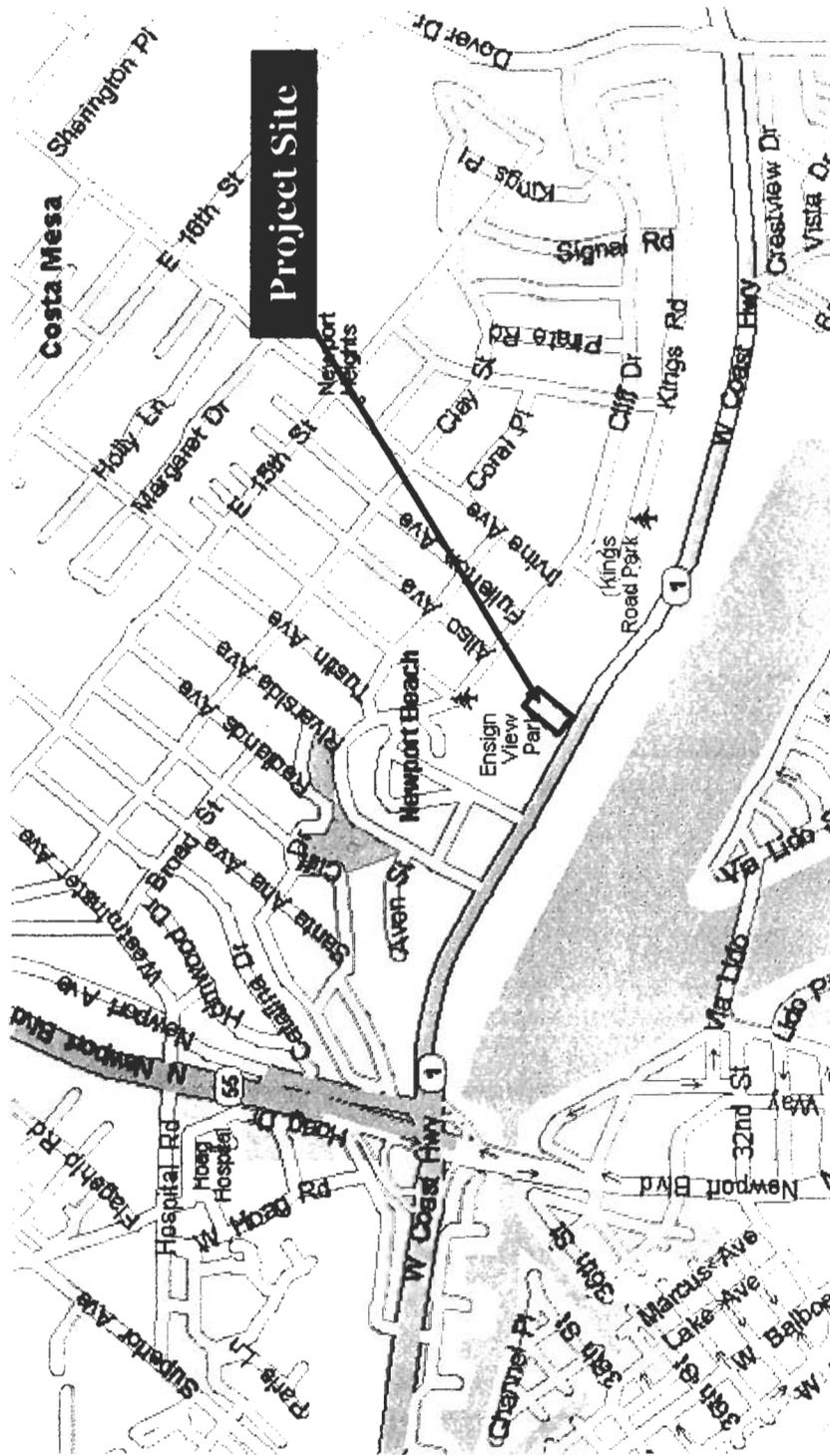
Section 13096(a) of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California 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 City of Newport Beach is the lead agency for California Environmental Quality Act (CEQA) purposes. The project was determined by the City to be Categorical Exempt.

The project is located in an urbanized area. Development already exists on the subject site. The proposed development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. The conditions also serve to mitigate significant adverse impacts under CEQA. Staff is imposing **SEVEN (7) SPECIAL CONDITIONS** requiring: **1)** prohibition on changing the type of ownership of the hotel to condo-hotel or timeshare/fractional ownership for all or part of the hotel; **2)** construction-phase best management practices; **3)** submittal of a Final Water Quality Management plan (WQMP); **4)** submittal of a Revised Landscape Plan; **5)** additional approvals for any future development; **6)** requires the applicant to satisfy all conditions of this permit, which are prerequisite to the issuance of this permit within 90 days of Commission action; and **7)** a deed restriction against the property, referencing all of the special conditions contained in this staff report.

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.

Vicinity Map



Holiday Inn Express Vicinity Map



COASTAL COMMISSION

EXHIBIT # 1
PAGE 1 OF 1

ALLOWABLE AREA

TYPE V 1-HR. GROUP R-1
PER TABLE 5-B (CBC)

= 10,500 SF

AREA INCREASES:

- MULTIPLE STORY INCREASE
(SECTION 504.2)
= 10,500 SF x 2
= 21,000 SF
- AUTOMATIC FIRE SPRINKLER INCREASE
(SECTION 505.3)
= 21,000 SF x 2
= 42,000 SF

3) SEPARATION ON 3-STORIES INCREASE
(SECTION 505.1.2)
= ((47'-20")x2.5%)x21,000SF
= 14,175 SF

TOTAL ALLOWABLE AREA
= 42,000 SF + 14,175 SF
= **56,175 SF**

TOTAL PROPOSED AREA
= 38,399 SF

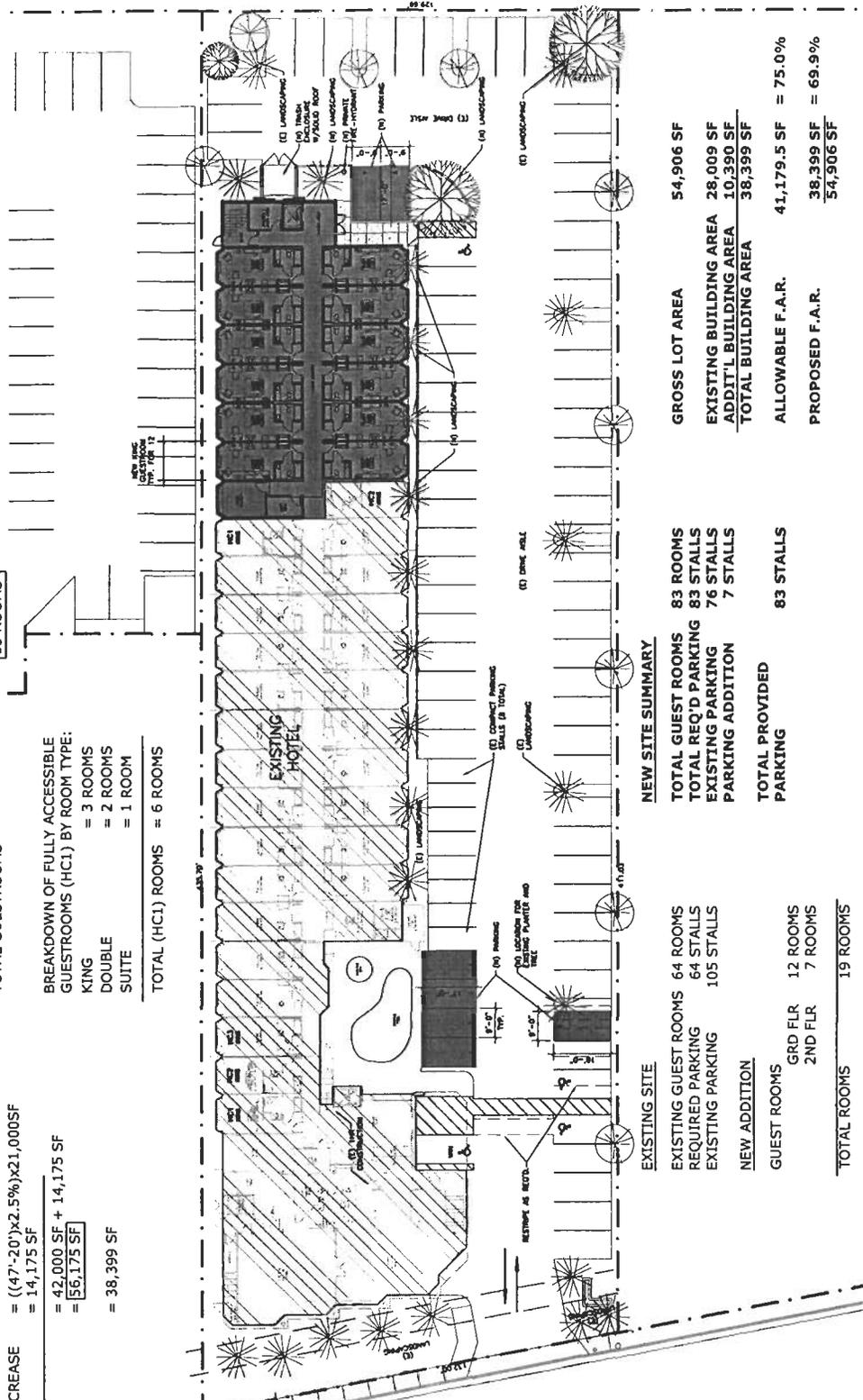
ACCESSIBLE GUESTROOMS:

- STANDARD GUESTROOM (HC1), FULLY ACCESSIBLE GUESTROOM W/ HEARING IMPAIRED FEATURES = 72 ROOMS
- (HC2) FULLY ACCESSIBLE GUESTROOM HEARING IMPAIRED FEATURES W/ ROLL-IN SHOWER AND HEARING IMPAIRED FEATURES = 6 ROOMS (4 REQ'D)
- (HC3) STANDARD GUESTROOM W/ HEARING IMPAIRED FEATURES = 2 ROOMS (1 REQ'D)
- TOTAL GUESTROOMS = 3 ROOMS (4 REQ'D)
= 83 ROOMS

BREAKDOWN OF FULLY ACCESSIBLE GUESTROOMS (HC1) BY ROOM TYPE:

- KING = 3 ROOMS
- DOUBLE = 2 ROOMS
- SUITE = 1 ROOM

TOTAL (HC1) ROOMS = 6 ROOMS



NEW SITE SUMMARY

TOTAL GUEST ROOMS	83 ROOMS
TOTAL REQ'D PARKING	83 STALLS
EXISTING PARKING	76 STALLS
PARKING ADDITION	7 STALLS
TOTAL PROVIDED PARKING	83 STALLS

EXISTING SITE

EXISTING GUEST ROOMS	64 ROOMS
REQUIRED PARKING	64 STALLS
EXISTING PARKING	105 STALLS
NEW ADDITION	
GUEST ROOMS	
GRD FLR	12 ROOMS
2ND FLR	7 ROOMS
TOTAL ROOMS	19 ROOMS

GROSS LOT AREA	54,906 SF
EXISTING BUILDING AREA	28,009 SF
ADDIT'L BUILDING AREA	10,390 SF
TOTAL BUILDING AREA	38,399 SF
ALLOWABLE F.A.R.	41,179.5 SF = 75.0%
PROPOSED F.A.R.	38,399 SF = 69.9%

HOLIDAY INN EXPRESS - PHASE 2
2300 WEST COAST HIGHWAY
NEWPORT BEACH
CALIFORNIA

1ST FLOOR PLAN & PARKING SUMMARY - scheme 12
1/16" = 1'-0"

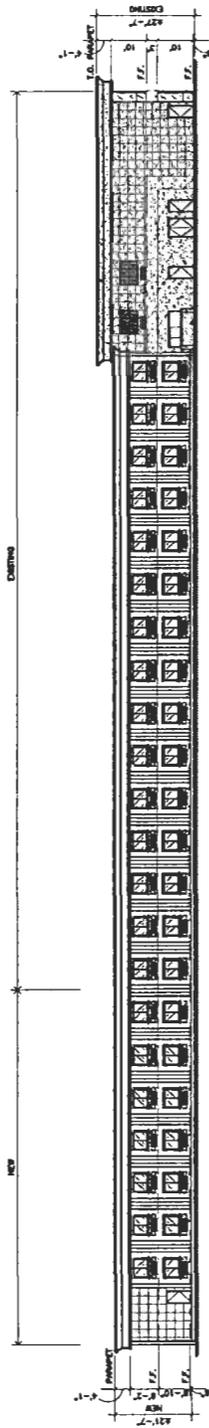


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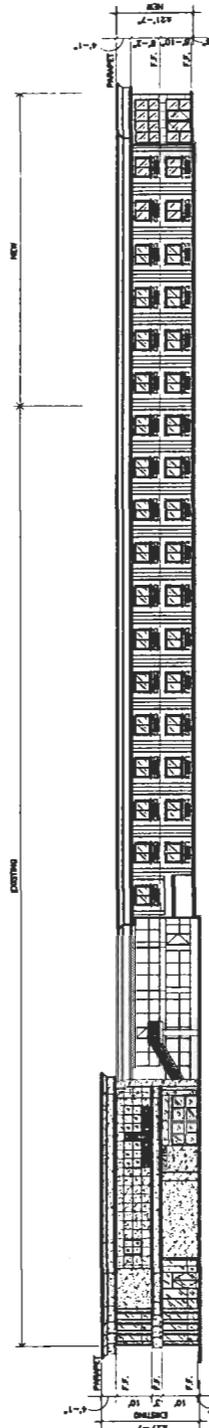
EXHIBIT # 2
PAGE 1 OF 1

COASTAL COMMISSION

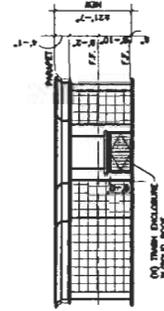
WEST COAST HIGHWAY



NORTH ELEVATION



SOUTH ELEVATION



EAST ELEVATION

COASTAL COMMISSION

EXHIBIT # 3
PAGE 1 OF 1

HOLIDAY INN EXPRESS - PHASE 2
2300 WEST COAST HIGHWAY
NEWPORT BEACH
CALIFORNIA

EXTERIOR ELEVATIONS - scheme 12
1/16" = 1'-0"

11/27/08



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