

**CALIFORNIA COASTAL COMMISSION**

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**F 9d**

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Staff: Fernie Sy-LB  
Staff Report: January 17, 2008  
Hearing Date: February 6-8, 2008  
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NO.:** 5-07-273

**APPLICANT:** AK3 Newport Beach, LLC

**AGENT:** Ware Malcomb, Attn: Lyle Hutson

**PROJECT LOCATION:** 2244 West Coast Highway, City of Newport Beach (Orange County)

**PROJECT DESCRIPTION:** Demolition of an existing two-story office building and construction of a new 19,930 square foot, two-story car dealership, approximately 43-feet above finished grade. The project also includes the following: 1) construction of forty-six (46) parking spaces; and 2) hardscape and landscape work. Grading will consist of export of 1,500 cubic yards of material.

**SUMMARY OF STAFF RECOMMENDATION:**

The proposed development involves the demolition of an existing office building and construction of a new car dealership. The major issues before the Commission relate to water quality and public access. Staff is recommending **APPROVAL** of the proposed project subject to **FIVE (5) SPECIAL CONDITIONS** requiring: **1)** construction-phase best management practices; **2)** the applicant to identify the location of the disposal site of the demolition and construction debris resulting from the proposed project; **3)** the applicant to submit a Final Water Quality Management Plan (WQMP); **4)** the applicant to submit a Revised Landscape Plan; and **5)** additional approvals for any future development.

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. 1662-2007) dated August 14, 2007; Use Permit No. 2006-024; Development Plan No. 2007-001; Sign Program No. 2007-004; and Resolution No. 1727 from the City of Newport Beach Planning Commission.

**SUBSTANTIVE FILE DOCUMENTS:** City of Newport Beach Certified Land Use Plan; Letter from Commission staff to Ware Malcomb dated September 11, 2007; and Information from the applicant received September 25, 2007.

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## LIST OF EXHIBITS

1. Vicinity Map
  2. Site Plan
  3. Floor Plans
  4. Elevation Plans
  5. Post Construction BMP Map
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## I. STAFF RECOMMENDATION, MOTION AND RESOLUTION OF APPROVAL

**MOTION:** *I move that the Commission approve Coastal Development Permit No. 5-07-273 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. **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.

## **2. LOCATION OF DEBRIS AND DISPOSAL SITE**

**PRIOR TO THE ISSUANCE OF A COASTAL DEVELOPMENT PERMIT**, the applicant shall identify in writing, for the review and approval of the Executive Director, the location of the disposal site of the demolition and construction debris resulting from the proposed project. Disposal shall occur at the approved disposal site. If the disposal site is located in the coastal zone a coastal development permit or an amendment to this permit shall be required before disposal can take place.

## **3. 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 *Post Construction BMP Map* dated August 6, 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/repaired or otherwise maintained in accordance with the following schedule: (1) prior to the start of the winter storm season, no later than October 15th each year, (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) Debris and other water pollutants removed from structural BMP(s) during clean out shall be contained and disposed of in a proper manner; and
  - (12) It is the permittee's responsibility to maintain the drainage system and the associated structures and BMPs according to manufacturer's specifications.
- B.** The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a

Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**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. 5-07-273. 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. 5-07-273. Accordingly, any future improvements to the development 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. 5-07-273 from the Commission or shall require a new coastal development permit from the Commission or its successor in interest.

## 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 2244 West Coast Highway in the City of Newport Beach, Orange County (Exhibit #1). Currently on-site there is a two-story office building with 62 parking stalls on-site. The City of Newport Beach Land Use Plan (LUP) designates use of the site for General Commercial and the proposed project, a car dealership, 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. The property is bordered to the west by a motel (Holiday Inn Express), to the east by a commercial site (Olympic Boat Sales), 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 demolition of the existing two-story office building and construction of a new 19,930 square foot, two-story car dealership, approximately 43-feet above finished grade (Exhibits #2-5). The project also includes the following: 1) construction of forty-six (46) parking spaces; and 2) hardscape and landscape work. Grading will consist of export of 1,500 cubic yards of material. The structure will be located on the front half of the lot fronting West Coast Highway, with the surface parking lot located at the rear half of the lot. The building primarily consists of showroom floor area and will also provide office space, a retail boutique, two lounge areas and a car detail area. The dealership will not service or repair any vehicles on-site.

3. Previous Commission Action On-Site

Coastal Development Permit No. P-80-7133-(Newport Marinas Plaza Association)

On September 22, 1980, the Commission approved Coastal Development Permit No. P-80-7133-(Newport Marine Plaza Association) for the demolition of an existing building and construction of a new commercial building. No SPECIAL CONDITIONS were imposed.

**B. 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. 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 avoid adverse construction-related impacts upon marine resources, **SPECIAL CONDITION NO. 1** outlines additional construction-related requirements to prevent adverse impacts to marine resources from construction. In addition, in order to further prevent impacts to coastal waters, **SPECIAL CONDITION NO. 2** requires that all demolition and cut material debris be disposed of at a legal site approved by the Executive Director. Choice of a site within the coastal zone shall require an amendment to this permit or a new coastal development permit.

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 will drain a parking lot, paved walkways, landscaped areas and a new 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 will drain a parking lot, paved walkways, landscaped areas and a new 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 *Post Construction BMP Map* dated August 6, 2007 (Exhibit #5). It is unclear, but the map appears to show that a fossil filter will be installed on-site as well as downspouts equipped with flo-guard filters and permeable areas will be utilized to deal with post-construction water quality. In particular, it is not clear if all site drainage will be directed to the fossil filter or where and what type of permeable areas will be provided on-site. In addition, there are other additional measures that are missing from the applicant's proposal that 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](http://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 invasive plants have been found: *Washingtonia Robusta* (*Mexican Fan Palm*) and *Phormium Tenax* (*New Zealand Flax*). In addition, non-drought tolerant plants have also been found: *Arbutus X* (*NCN*) and *Buxus Microphylla Japonica* (*Japanese Boxwood*). 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, **FOUR (4) SPECIAL CONDITIONS** have been imposed. **SPECIAL CONDITION NO. 1** identifies construction-phase best management practices. **SPECIAL CONDITION NO. 2** requires the applicant to identify the

location of the disposal site of the demolition and construction debris resulting from the proposed project. **SPECIAL CONDITION NO. 3** requires the applicant to submit a Final Water Quality Management Plan. **SPECIAL CONDITION NO. 4** 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 finds that the proposed project is consistent with Section 30230, 30231 and 30232 of the Coastal Act.

### **C. 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 46 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 1,000 square foot of lot area (vehicle sales). Actually, the proposed project will be over-parked by 5 parking spaces. 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 finds that the proposed project is consistent with Section 30210 and 30252 of the Coastal Act.

**D. 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 2.3.1-5 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.

**E. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

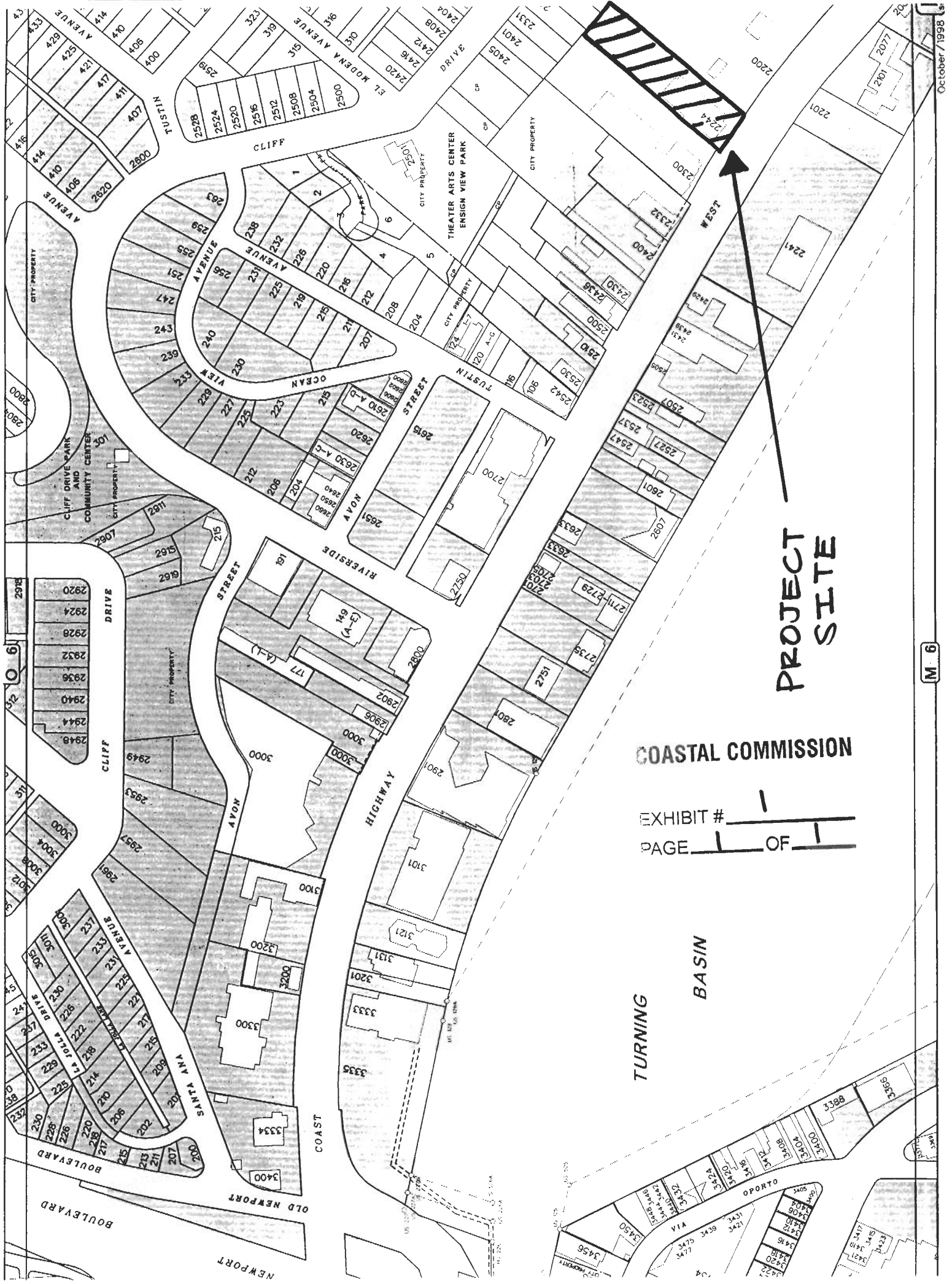
Section 13096(a) of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California 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. The Commission is imposing **FIVE (5) SPECIAL CONDITIONS** requiring: **1)** construction-phase best management practices; **2)** the applicant to identify the location of the disposal site of the demolition and construction debris resulting from the proposed project; **3)** the applicant to submit a Final Water Quality Management Plan (WQMP); **4)** the applicant to submit a Revised Landscape Plan; and **5)** additional approvals for any future development.

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.

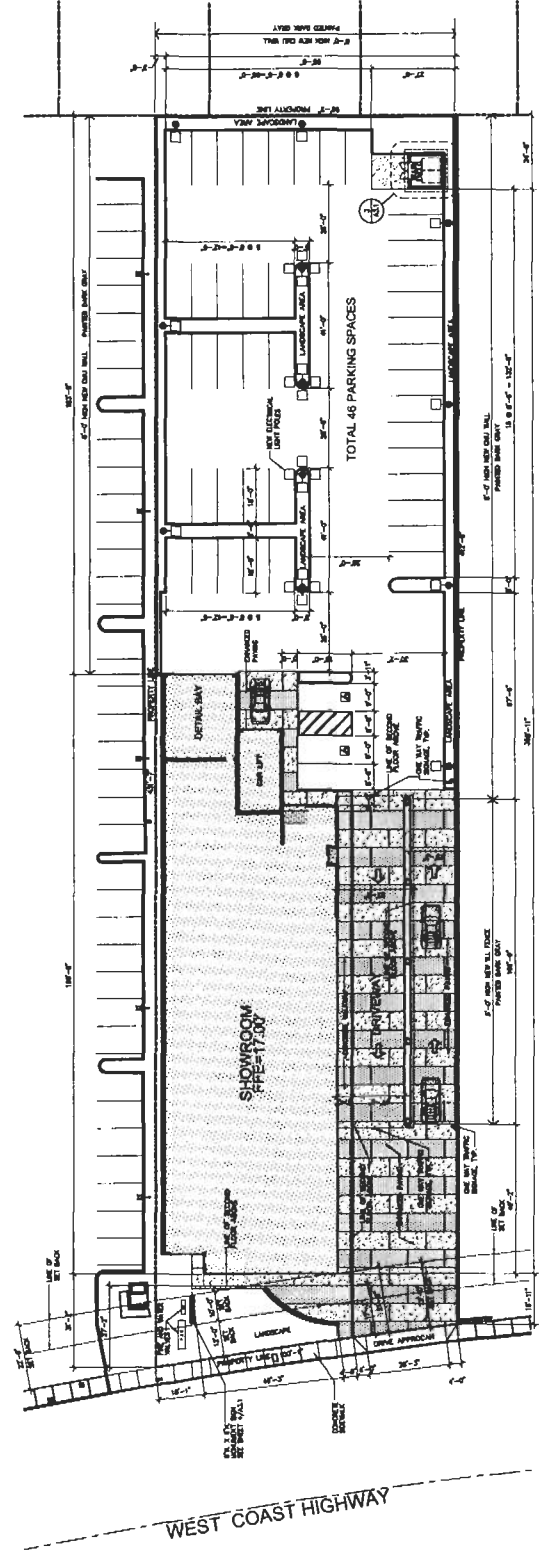
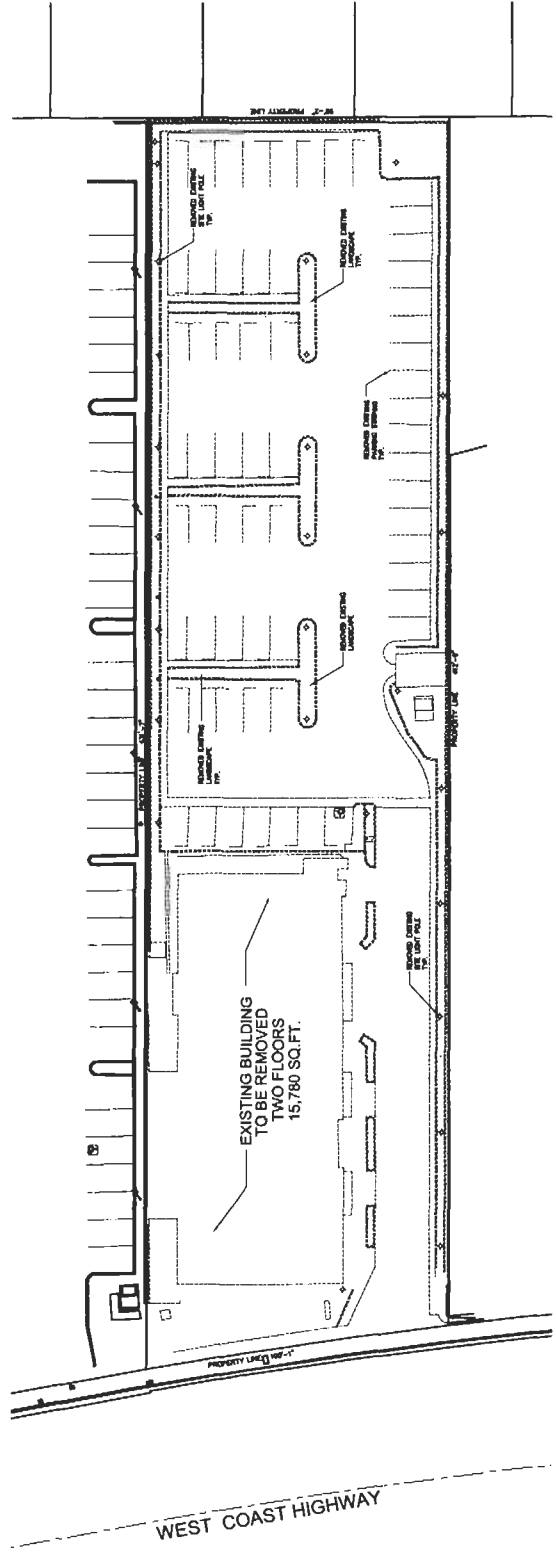


**PROJECT SITE**

**COASTAL COMMISSION**

EXHIBIT # 1  
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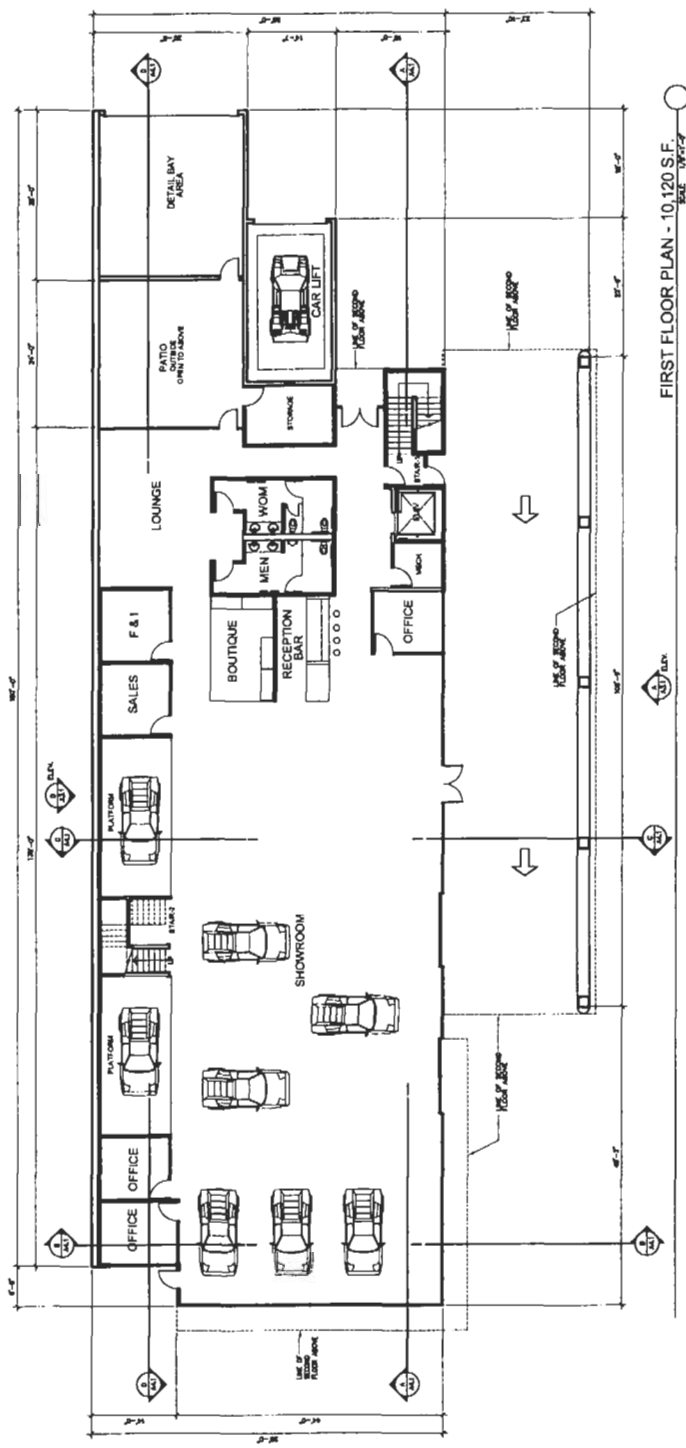
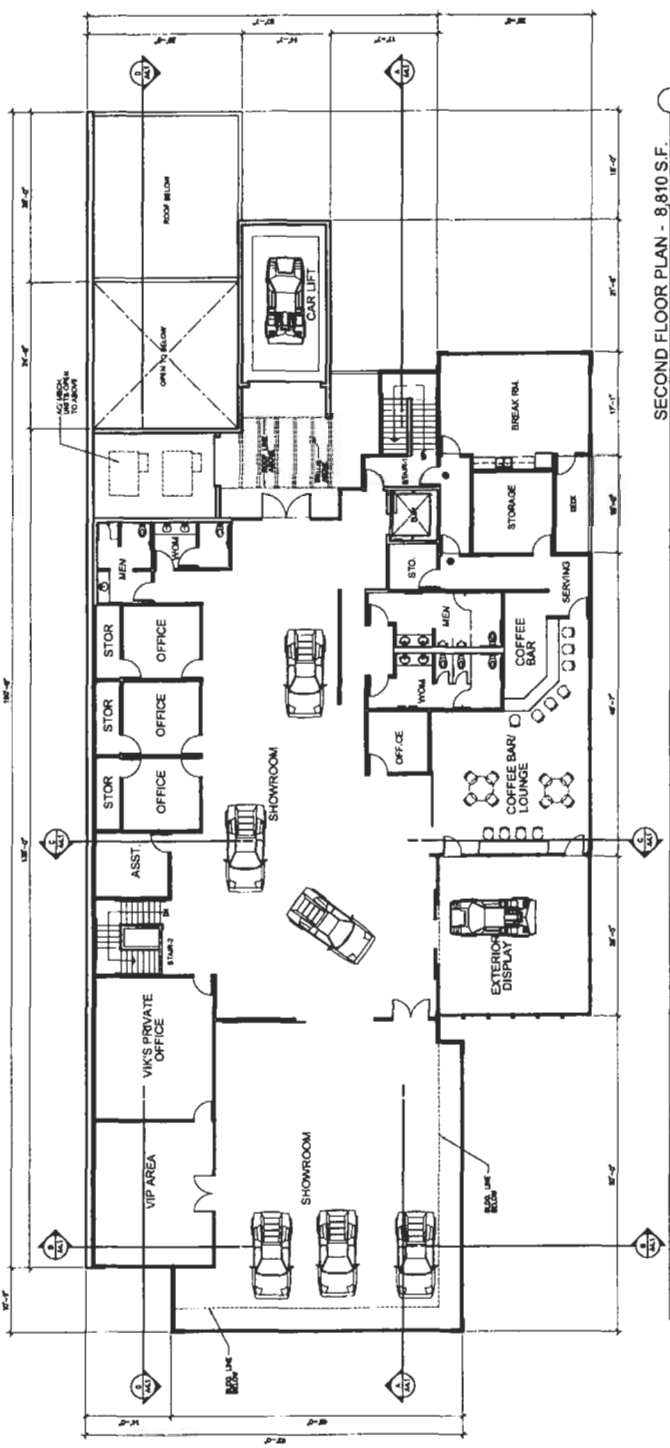
**TURNING BASIN**



- 1. ALL EXISTING STRUCTURES TO BE REMOVED AND COMPARED WITH SITE CONDITIONS.
- 2. ALL EXISTING UTILITIES SHALL BE LOCATED AND DELETED FROM ALL LOTS AND ARE TO BE RELOCATED FROM A PUBLIC STREET.

NOTY: EXISTING UTILITIES ARE SHOWN AS LOCATED AND COMPARED WITH SITE CONDITIONS. ALL EXISTING UTILITIES SHALL BE LOCATED AND DELETED FROM ALL LOTS AND ARE TO BE RELOCATED FROM A PUBLIC STREET.

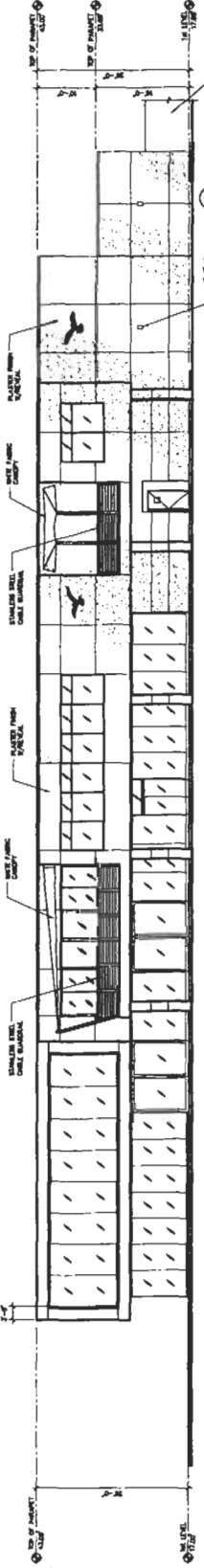
COASTAL COMMISSION



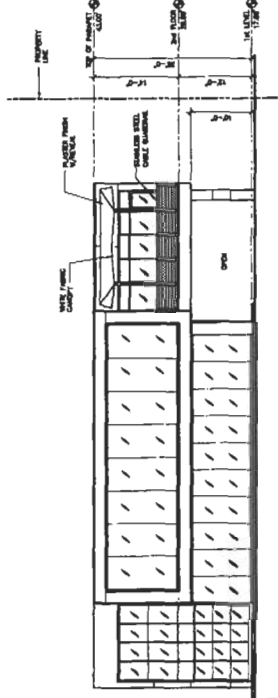
**COASTAL COMMISSION**

EXHIBIT # 3  
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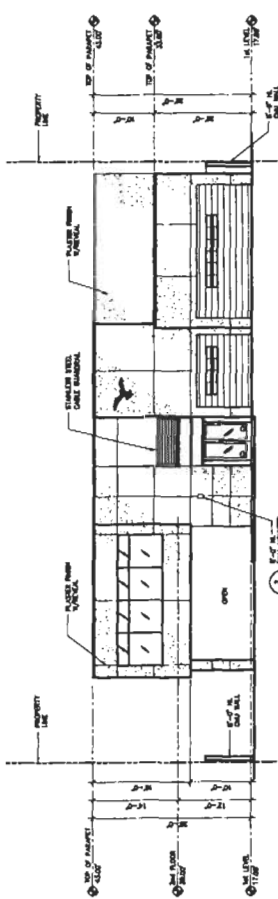




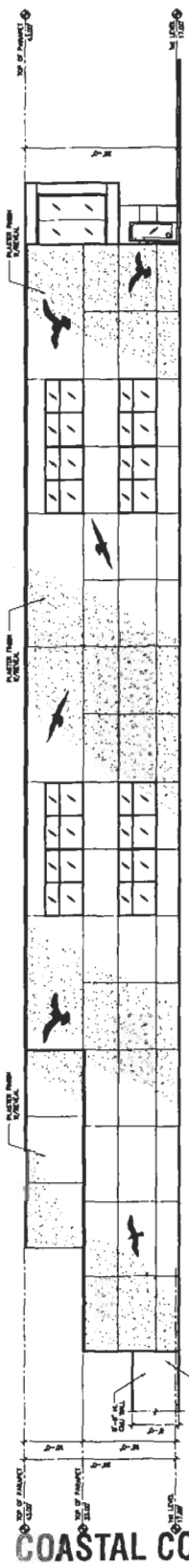
SOUTH ELEVATION  
SCALE: 1/8" = 1'-0"



WEST ELEVATION  
SCALE: 1/8" = 1'-0"



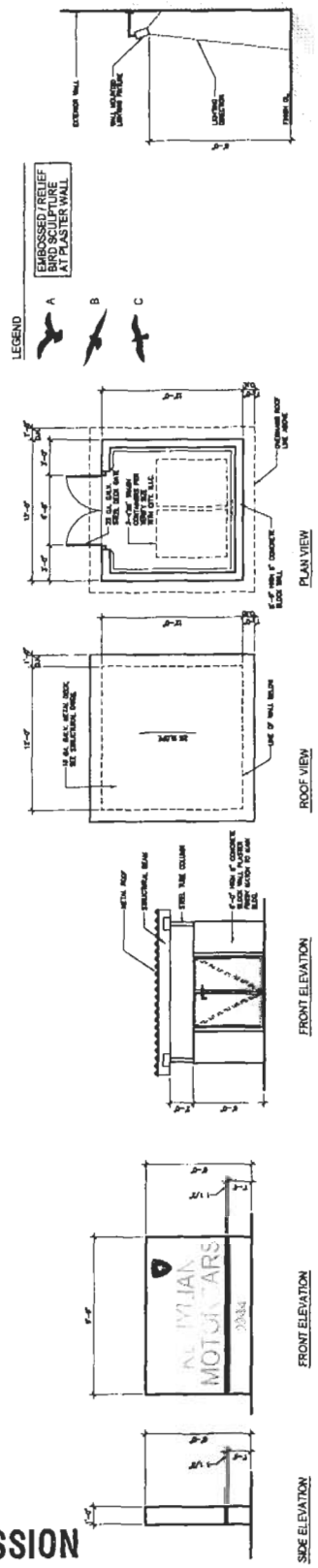
EAST ELEVATION  
SCALE: 1/8" = 1'-0"



NORTH ELEVATION  
SCALE: 1/8" = 1'-0"

COASTAL COMMISSION

EXHIBIT # 4  
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SECURITY LIGHTING  
SCALE: 1/4" = 1'-0"

TRASH ENCLOSURE DETAIL  
SCALE: 1/4" = 1'-0"

ROOF VIEW  
SCALE: 1/4" = 1'-0"

FRONT ELEVATION  
SCALE: 1/4" = 1'-0"

MONUMENT SIGN ELEVATIONS  
SCALE: 1/4" = 1'-0"

SIDE ELEVATION  
SCALE: 1/4" = 1'-0"

