

**CITY OF NEWPORT BEACH
CITY COUNCIL STAFF REPORT**

Agenda Item No. 15
February 28, 2006

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: Public Works Department
Iris Lee, P.E.
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ilee@city.newport-beach.ca.us

SUBJECT: 401 38TH STREET – APPEAL OF STAFF DECISION TO NOT ALLOW A
NEW CURB CUT ON NEWPORT ISLAND

APPLICANT: RYAN VITT

RECOMMENDATIONS:

1. Approve Encroachment Permit N2006-0073

or

Deny Encroachment Permit N2006-0073 based on its nonconformance with the provisions of Council Policy L-2.C.
2. Direct staff to condition the Owner to close the existing curb cut fronting the property on 38th Street in conjunction with the construction of the proposed duplex.

DISCUSSION:

Background:

Ryan Vitt, owner of 401 38th Street at Marcus Avenue on Newport Island, is requesting approval to make a new 19-foot long curb cut along the property's Marcus Avenue frontage to provide required parking for a new two-unit residential project (see letter attached as Exhibit 'A'). The owner proposes to construct a new Marcus Avenue curb cut to provide access to the two-car garage assigned to the front unit. Access to the rear unit one-car garage/one-car carport will be taken from the alley. The property currently has two utilized garage access points -- one off the alley and one off 38th Street.

City Council Policy L-2.C specifically states "Street curb openings shall not be permitted to residential property which abuts an alley" and "An exception may be made for corner lots under special circumstances such as an existing structure prevents full alley access or additional covered off-street parking is being provided." Mr. Vitt's development will provide only the minimum four (4) on-site parking spaces required of all new duplex buildings and therefore does not meet the "additional on-site parking" criteria to qualify for a new curb cut on Marcus Avenue.

Staff therefore recommends the City Council to approve or deny the Owner's request to make a new curb cut on Marcus Avenue and to direct staff to condition the Owner to abandon the existing curb cut fronting the property on 38th Street in conjunction with the construction of the proposed duplex.

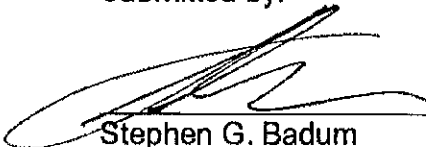
Environmental Review:

Pursuant to Section 15303, New Construction or Conversion of Small Structures – Class III of CEQA Guidelines, this action is exempt from environmental review.

Prepared by:


Iris Lee, P.E.
Associate Civil Engineer

Submitted by:


Stephen G. Badum
Public Works Director

Attachments: Exhibit 'A' – Letter from Ryan Vitt (owner)
 Exhibit 'B' – Proposed Site Plan

Owner/Contractor: Ryan Vitt
Address: 401 38th Street

Request: Curb cut approval and waiver of 5th onsite parking space

I am requesting City Council approval of a curb cut and a waiver of the Public Works required 5th onsite parking space for a new duplex located at 401 38th Street on Newport Island. The proposed curb cut will be located on Marcus Avenue, 35 feet 4 1/2 inches from the corner of Marcus Avenue and 38th Street. This proposed curb cut distance from the intersection of 38th Street and Marcus Avenue is consistent with other duplexes within the city of Newport Beach. The proposed curb cut will not do away with any street parking along Marcus Avenue or 38th Street. Since there is no decrease in the number of street parking spots, I am requesting the Public Works required 5th onsite parking spot be waived. The proposed new duplex is more in scale with the current development on the island as compared to new duplexes with all 4 onsite parking spots located off the alley. As the drawings show, the proposed new duplex meets the required 4 onsite parking spaces, 2 parking spaces per unit, as well as the appearance of 2 individual side by side units.

Thank you,

Ryan Vitt

EXHIBIT A

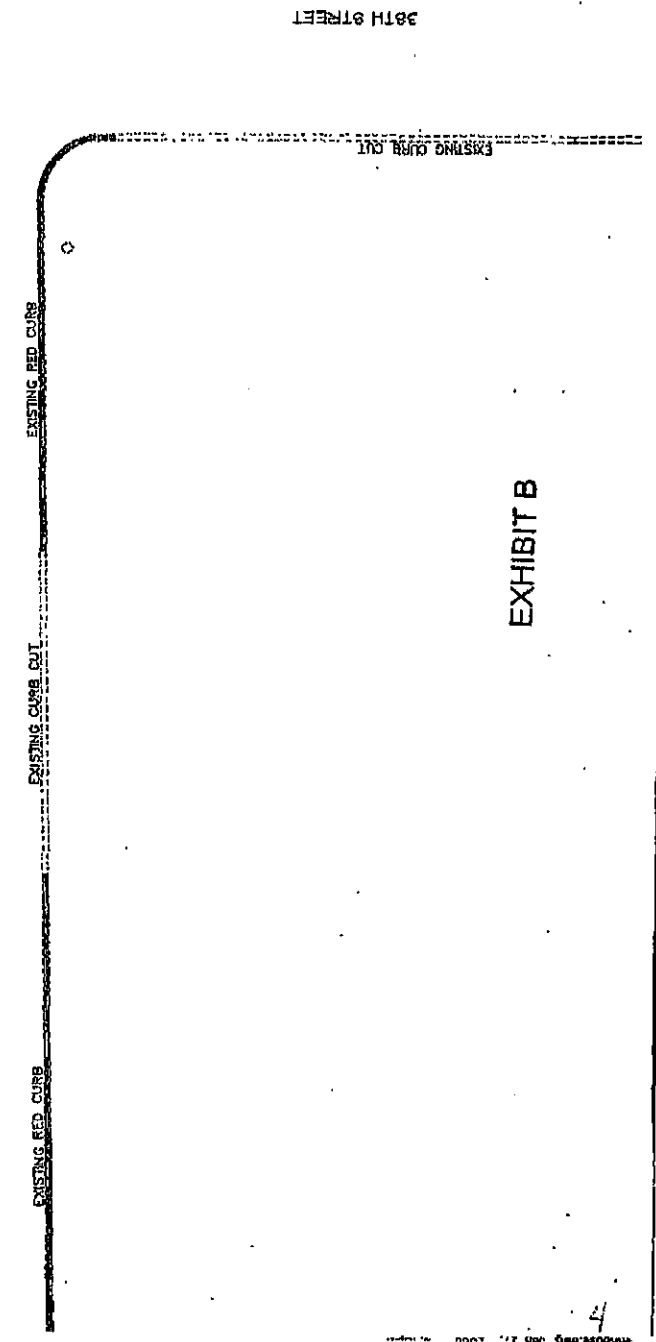
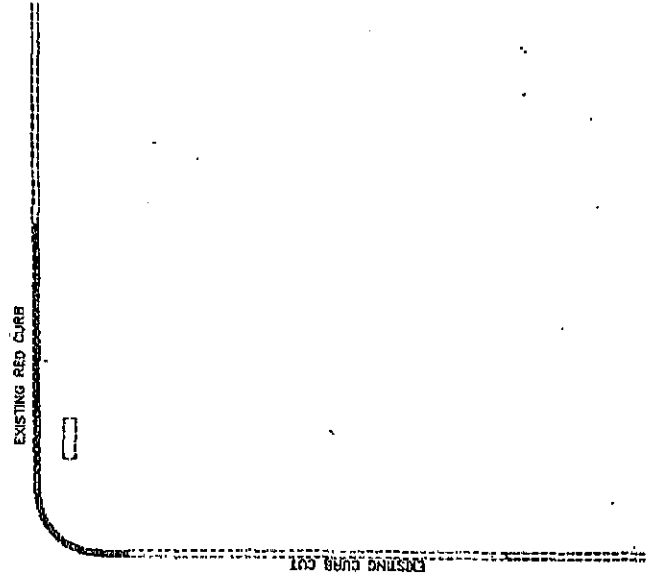
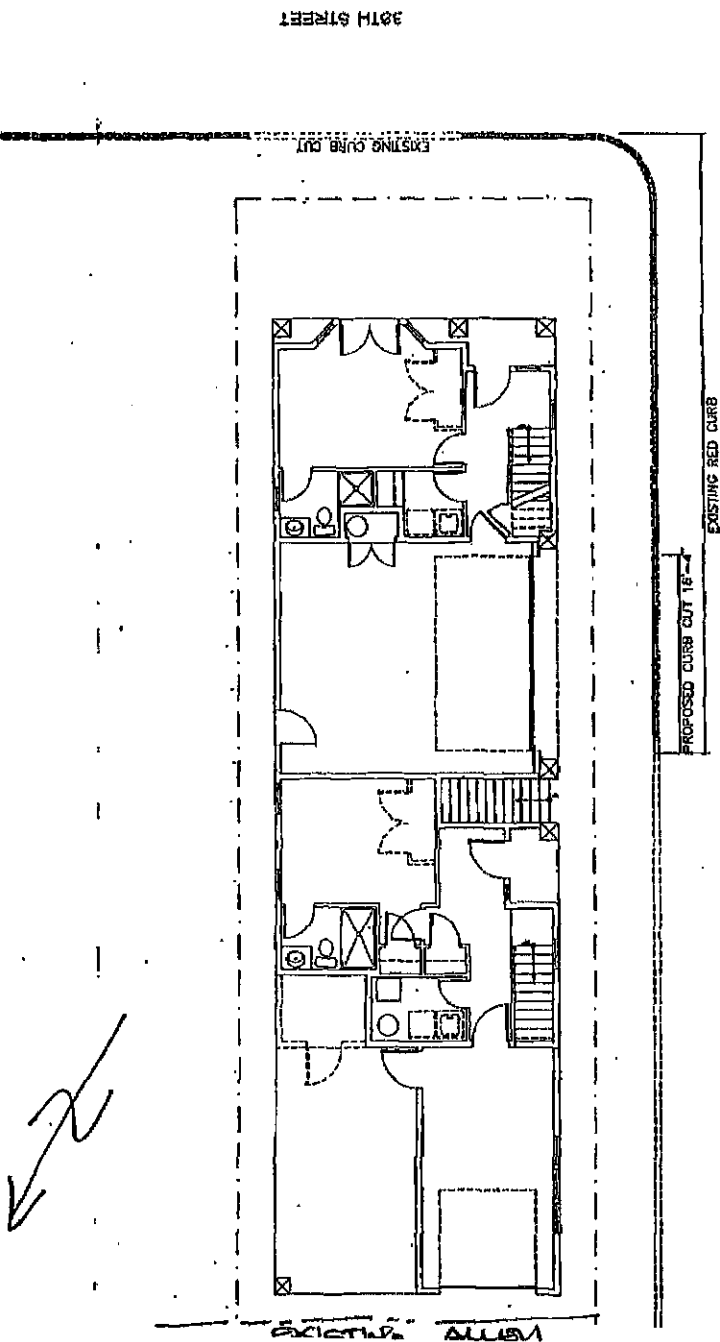
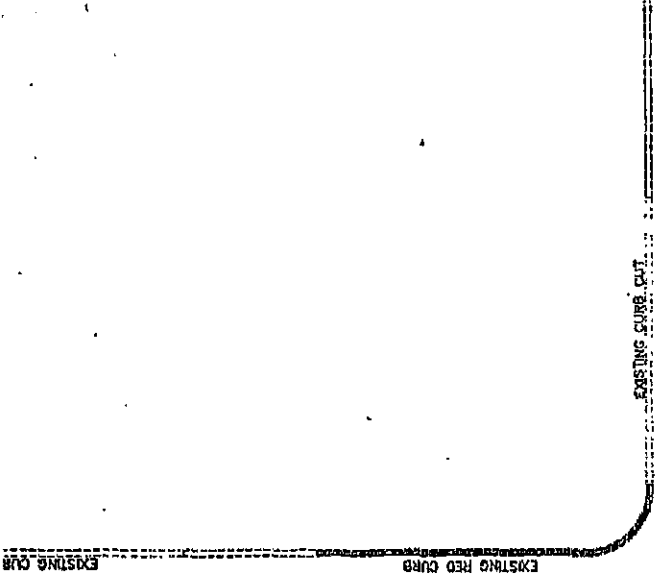


EXHIBIT B

EQAC - Council Member Nichols reported that they met last night and will be preparing comments relative to the General Plan.

Ad Hoc Telecommunications Committee - Councilmember Daigle reported that they have been discussing a media policy.

Newport Beach/Irvine Borders Committee - Council Member Daigle reported that the Newport Beach members met with outside legal counsel and generated and sent a letter to Irvine that articulates the City's concerns with their development at the City's border.

City Hall Site Review Committee - Mayor Pro Tem Rosansky reported that they will meet next on March 6 in the Council Chambers and indicated that they are still soliciting potential sites for City Hall.

Facilities Finance Review Committee - Mayor Webb reported that they met on Monday and will meet again on the March 13 at 4:00 p.m. He stated that they received reports relative to future facilities needs and the City's financial status.

SCAG Aviation Committee - Council Member Ridgeway stated that they discussed the airport system as it relates to the regional transportation plan. He reported that they will be looking at a ground transportation system and noted that Southern California's requirement will be 170 Million Annual Passengers (MAP) by 2030.

M. PLANNING COMMISSION AGENDA AND ORAL STATUS REPORT

14. PLANNING COMMISSION AGENDA FOR FEBRUARY 23, 2006. [100-2006]

Planning Director Temple reviewed the following Planning Commission items: Brookfield Homes - 1301 Quail Street (PA2004-251); JS Residential, L.P. - 801 Domingo Drive (PA2005-110); and Fire Facility Overlay for the proposed Fire Station in Santa Ana Heights (PA206-038).

N. CURRENT BUSINESS

15. 401 38TH STREET - APPEAL OF STAFF DECISION TO NOT ALLOW A NEW CURB CUT ON NEWPORT ISLAND. [100-2006]

Traffic/Development Services Manager Edmonston provided the staff report and indicated that they denied the request because, although the number of on-street parking spaces will be maintained, it doesn't conform with the Council policy. Council Member Ridgeway believed that the policy isn't serving the citizens well in this case and noted that the current curb cut is the only one on 38th Street.

Motion by Council Member Ridgeway to 1) approve Encroachment Permit N2006-0073; and 2) direct staff to condition the owner to close the existing curb cut fronting the property on 38th Street in conjunction with the construction of the proposed duplex.

Ryan Vitt, property owner, displayed a model of the proposed new curb cut.

The motion carried by the following roll call vote:

Ayes: Council Member Curry, Council Member Selich, Mayor Pro Tem Rosansky, Mayor Webb, Council Member Ridgeway, Council Member Daigle, Council Member Nichols

16. BACK BAY SCIENCE CENTER - AWARD OF CONTRACT (C-3460), APPROVAL OF PROFESSIONAL SERVICES AGREEMENT WITH DOUGLAS E. BARNHART, AND AMENDMENT NO. 3 TO PROFESSIONAL SERVICES AGREEMENT WITH GAIL PICKART. [38/100-2006]

Assistant City Manager Kiff utilized a PowerPoint presentation to show what entities are involved in the project, how Shellmaker looks today and how it will look after the Back Bay Science Center (BBSC) is constructed, the floor plan of the BBSC, the phases of the project, the updated budget, issues for Council to consider, and the project timeline. He displayed the websites where people can get more information and noted that the partners have been working on this project for about five years.

In response to questions, Assistant City Manager Kiff explained that the City's contribution is coming from the American Trader Oil Spill Fund, the Newport Bay Restoration Fund, the General Fund, and reimbursable Trailhead Funds. He clarified that improvements like including a tidepool feature and the canvas cover over the amphitheater are not in this phase as they intend to seek sponsors.

Noting how much money is being spent on the Back Bay, Council Member Nichols stated that he would like to see the money used in the front Bay.

Council Member Ridgeway noted that, as Chair of the Coastal/Bay Water Quality Citizens Advisory Committee, he and all the members support this. Further, when the tidepool is added, there will not be as many students visiting the Corona del Mar tidepools.

Motion by Council Member Ridgeway to 1) approve the plans and specifications; 2) award or reject the bid packages (1-16) for C-3460 as outlined in the staff report for the total bid price of \$4,469,033 and authorize the Mayor and the City Clerk to execute the contracts; 3) establish an amount of \$245,000 to cover the cost of unforeseen work; an amount of \$260,000 to cover contracts for items to be re-bid; and an amount of \$212,900 for professional support services, preconstruction services and relocation costs to move existing modular units; 4) approve a Construction Manager at Risk Agreement with Douglas E. Barnhart, Inc. authorizing compensation for an amount not to exceed \$574,631 and authorize the Mayor and the City Clerk to execute the Agreement; 5) approve Amendment No. 3 to Professional Services Agreement with Gail P. Pickart, P.E., for project management during construction for a not to exceed amount of \$45,000 and authorize the Mayor and the City Clerk to execute the Amendment; 6) approve budget amendments (06BA-045) in the aggregate amount of \$5,806,564 from Account Numbers 010-3605 (\$1,661,164), 230-3605 (\$311,000), 457-4879 (\$112,000), 457-4879-1 (\$615,400), 457-5927 (\$69,000), 457-4911 (\$1,230,000), 457-4930 (\$308,000), 457-4929 (\$600,000), 457-4940 (\$400,000), 457-4928 (\$500,000) to Account No. 7457-C5100661. 7) authorize the City Manager to enter into a Funding Acceptance and Recognition Agreement with micocean for signage and an entryway monumentation that recognizes micocean's \$500,000 contribution to the BBSC.

Dr. Jack Skinner requested that Council support the motion and expressed his reasons why the BBSC is needed.

Jack Keating, Newport Bay Naturalists and Friends member, stated that there is a