

**CALIFORNIA COASTAL COMMISSION**

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Filed: August 6, 1997  
49th Day: September 24, 1997  
180th Day: February 2, 1998  
Staff: John T. Auyong *John*  
Staff Report: August 21, 1997  
Hearing Date: September 9-12, 1997  
Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 5-97-233

APPLICANT: Randy and Mary Johnson AGENT: Brent A. Sears

PROJECT LOCATION: 206 and 208 Ocean Avenue, City of Seal Beach, County of Orange

PROJECT DESCRIPTION: Construction of a pool, spa, concrete patio, planter walls, pool equipment enclosure, barbecue, landscaping, and 358 cubic yards of grading (cut); and removal of an existing 32 square foot section of enclosed living area from the neighboring residence at 208 Ocean Avenue.

LOCAL APPROVALS RECEIVED: City of Seal Beach Approval-in-Concept

SUBSTANTIVE FILE DOCUMENTS: Coastal development permit 5-96-049 (Johnson); NorCal Supplemental Report dated August 4, 1997 for Randy and Mary Johnson (Project No. 5996-96)

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending approval of the proposed project with special conditions regarding; (1) conformance with geotechnical recommendations, and (2) a coastal development permit is required for any dewatering of the site should it become necessary in conjunction with the proposed project.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development, located between the nearest public roadway and the shoreline, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 including the public access and recreation policies of Chapter 3, 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 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

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. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions.

1. Geotechnical Recommendations. Prior to issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, final revised grading and foundation plans. These plans shall include the signed statement of the geotechnical consultant certifying that these plans incorporate the recommendations contained in the August 4, 1997 supplemental geotechnical evaluation of the site at 206 Ocean Avenue in the City of Seal Beach prepared by NorCal Engineering (Job No: 5996-96) for Randy and Mary Johnson. The approved development shall be constructed in accordance with the final revised plans as approved by the Executive Director. Any deviations from said plans shall require an amendment to this permit or a new coastal development permit, or written concurrence from the Executive Director that the deviation is not substantial and therefore a permit amendment or new permit is not needed.

2. Dewatering of the Site. Should the applicant encounter groundwater during the course of excavation for the proposed pool, the applicant shall obtain an amendment to this permit or a new coastal development permit for the discharge of the groundwater.

IV. Findings and Declarations.

A. Project Description

The applicants are proposing to construct a swimming pool, patio area, planter walls, pool equipment enclosure, built-in barbecue, and general landscaping in their back yard. The back yard is located between the home currently under construction and the public beach. The proposed pool would be 3.5 feet deep at either end and 5.5 feet deep in the middle. To construct the proposed pool, 358 cubic yards of grading (cut) would be necessary.

The applicants are also proposing to remove a pre-Coastal portion of the enclosed living area of the adjacent home at 208 Ocean Avenue to the east of the subject site. The enclosed area to be removed is 8'x4' in size. The portion of the neighboring home to be removed extends the entire width of the three foot side yard setback. In addition, the portion of the neighboring home to be removed encroaches six inches onto the subject site.

The applicants are also proposing to close in the gap in the existing side yard wall between the subject site and the neighboring property at 208 Ocean Avenue currently occupied by the encroachment of the neighboring home. The gap in the wall which would result once the encroachment is removed would be closed in a manner that it would be the same height and material as the remainder of the existing wall.

All components of the proposed development would be located entirely on private property. The current home under construction at the subject site was previously approved by coastal development permit 5-96-049 (Johnson).

B. Hazards

Section 30253 of the Coastal Act states, in relevant part:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

## 1. Geologic Hazards

The subject site is terraced, with a small flat portion at street level which gently slopes about one-story down, and then extends relatively level toward the beach about 90 feet away. The proposed development would be constructed on the flat portion of the site at beach level. Construction of the proposed pool would involve 358 cubic yards of grading (cut). A geotechnical evaluation of the subject site was previously conducted for the applicants by NorCal Engineering (April 15, 1996; Project Number 5996-96). An August 4, 1997 supplemental update to this report was conducted for the proposed project on behalf of the applicants.

Neither the original report nor the supplemental update identify a site-specific hazard for the portion of the property on which the proposed development would be conducted. The supplemental report update indicates that the pool will be approximately ten feet away from the side property lines. The supplemental report indicates that excavation for the proposed pool ". . . will not remove support from any nearby improvements." The report further indicates that "[n]o short term or long term negative effects from the pool placement on these adjacent property developments is expected."

However, the supplemental report recommends that all pool concrete materials in contact with the soil should consist of sulfate resistant cement, and steel reinforcement should be coated with a suitable material to prevent corrosion of the metal. Thus, to ensure that the proposed pool does not leak and lead to possible erosion and instability of the subject site, the Commission finds that it is necessary to impose a special condition requiring that the applicant submit final plans, for the review and approval of the Executive Director, which incorporate the recommendations of the supplemental report. Further, the special condition requires that the proposed project must be constructed in conformance with the final plans approved by the Executive Director. Therefore, the Commission finds that the proposed project, as conditioned, would be consistent with Section 30253 of the Coastal Act.

## 2. Wave Hazards

The seaward-most portion of the subject site is located within a floodplain. The proposed pool, general patio improvements, and landscaping would be one foot lower than floodplain elevation. However, a sand dune exists between the sea and the subject property. Further, the beach is very wide in this part of Seal Beach. The applicant also asserts that no flooding from wave hazards has occurred in this part of Seal Beach. In addition, an existing concrete wall on the seaward property line would also provide some protection from wave hazards. Therefore, the proposed development would not be subject to flood hazards. Thus, the Commission finds that the proposed development would be consistent with Section 30253 of the Coastal Act.

## C. Marine Resources

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The subject site is a beachfront lot. A pool is proposed which would involve approximately 358 cubic yards of excavation. The portion of the site on which the proposed development would be constructed ranges from eight to twelve feet above sea level. The pool would be 5'6" deep at it's deepest point, a few feet above sea level. Therefore, the applicant asserts that ground water should not be encountered during excavation for the proposed pool, nor would dewatering of the site be required as a result.

However, given the proximity of the site to sea level and fluctuations of the tides, it is possible that groundwater may be encountered unexpectedly during excavation for the proposed pool. If groundwater is encountered, dewatering of the site would be necessary. Adverse impacts to water quality may result, depending on the method of dewatering chosen and the quality of the water encountered.

Therefore, the Commission finds that it is necessary to impose a special condition which puts the applicant on notice that a coastal development permit is required for any dewatering of the site which may be necessary as a result of the unexpected encounter of groundwater. This would allow the Commission to review the quality of any water encountered and the proposed dewatering method for adverse impacts on water quality. Thus, the Commission finds that, as conditioned, the proposed development would be consistent with Section 30231 of the Coastal Act.

D. Public Access and Recreation

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

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

The subject site is located between the nearest public roadway and the shoreline. The proposed development would not result in an intensification of use of the site. The proposed development would not result in direct adverse impacts, neither individually nor cumulatively, on physical lateral or vertical public access. Vertical access is provided by the nearby 2nd Street and 3rd Street street-ends. Lateral access and public recreation opportunities are available at the adjacent wide sandy beach. Therefore, the

Commission finds that no access is necessary with the proposed development. Thus, the Commission finds that the proposed development would be consistent with Section 30212 of the Coastal Act.

E. Unpermitted Development

The removal of the enclosed living area at the adjacent property at 208 Ocean Avenue has occurred without benefit of a coastal development permit. The applicants have obtained permission from the adjacent property owner to remove the enclosed living area, a portion of which encroaches onto the applicant's property.

Although development has taken place prior to submission of this coastal development permit application, consideration of the application by the Commission is based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to any violation of the Coastal Act that may have occurred.

F. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with the Chapter Three policies of the Coastal Act.

On July 28, 1983, the Commission denied the City of Seal Beach Land Use Plan (LUP) as submitted and certified it with suggested modifications. The City did not act on the suggested modifications within six months from the date of Commission action. Therefore, pursuant to Section 13537(b) of the California Code of Regulations, the Commission's certification of the land use plan with suggested modifications expired. The LUP has not been resubmitted for certification since that time.

The proposed development, as conditioned, is consistent with the Chapter Three policies of the Coastal Act. Therefore, the Commission finds that the proposed development would not prejudice the ability of the City to prepare a certified local coastal program consistent with the Chapter Three policies of the Coastal Act.

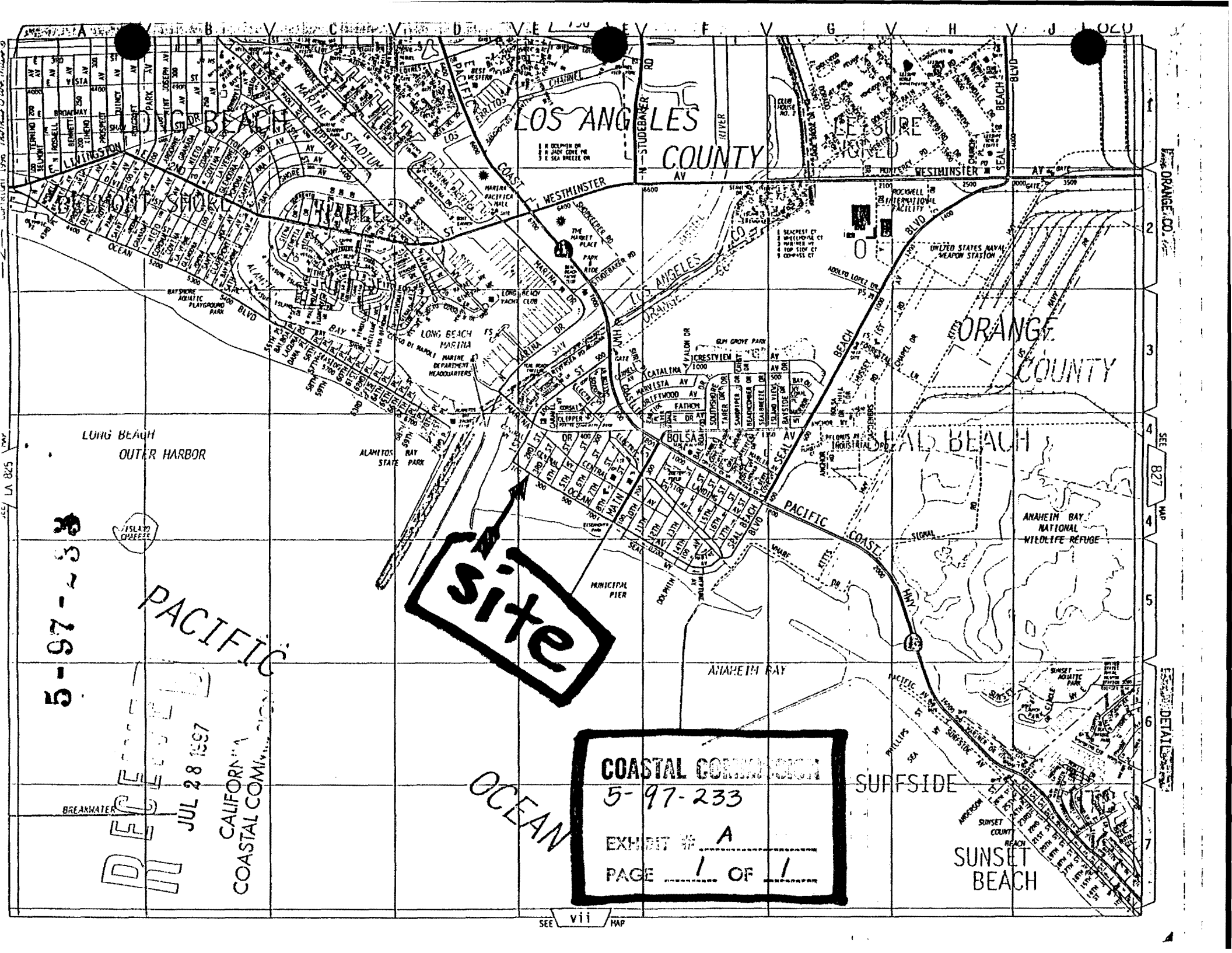
G. California Environmental Quality Act

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

The proposed development is located in an urban area. Development already exists on the subject site. All infrastructure necessary to serve the site exist in the area. The proposed project has been conditioned in order to be found consistent with the hazards and marine resources policies of Chapter Three of the Coastal Act. Mitigation measures requiring; (1) conformance with the geotechnical recommendations for the proposed project, and (2) requiring a coastal development permit or an amendment to this permit for dewatering of the site which may be necessary due to unexpected encounter of groundwater; will minimize all significant adverse impacts.

As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, can be found consistent with the requirements of the Coastal Act to conform to CEQA.

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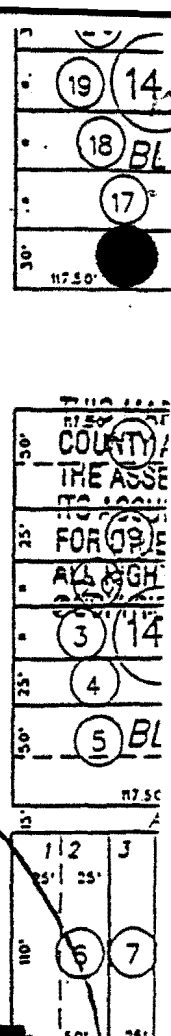
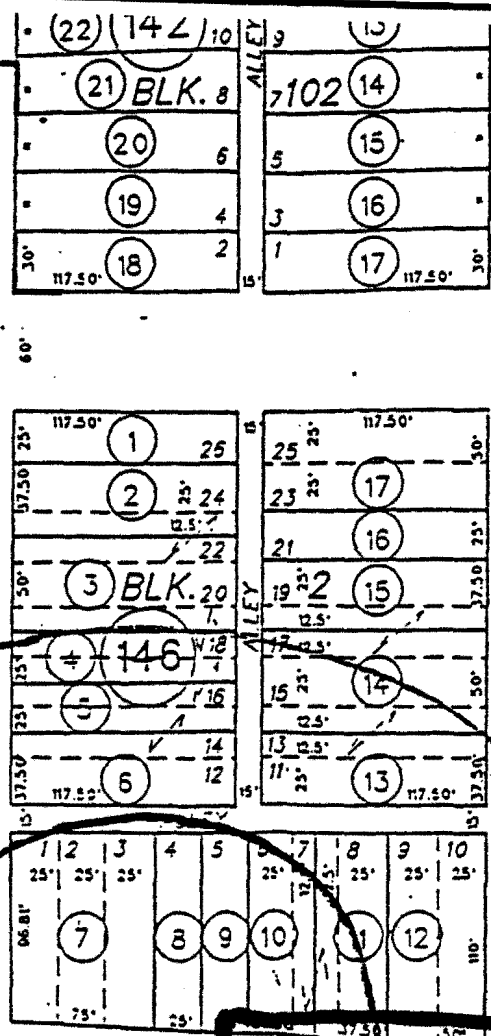
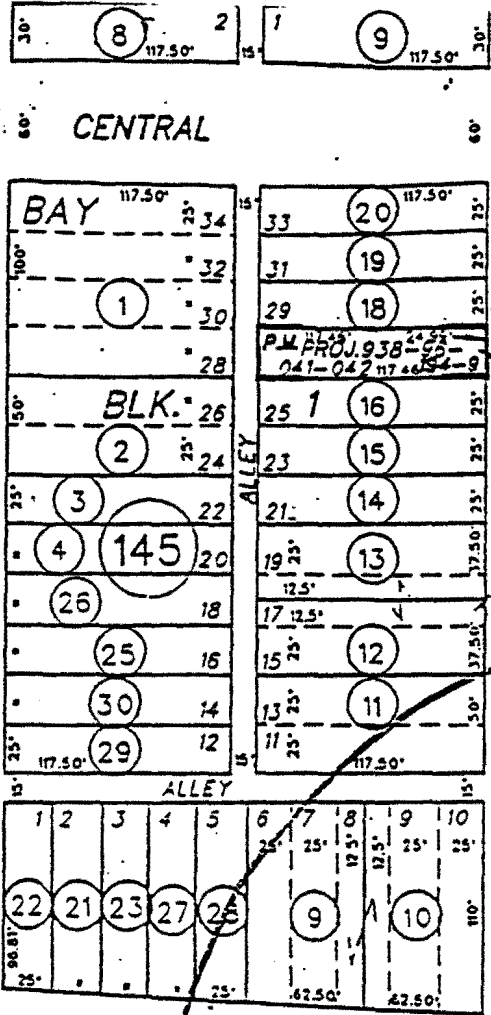


**site**

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 EXHIBIT # A  
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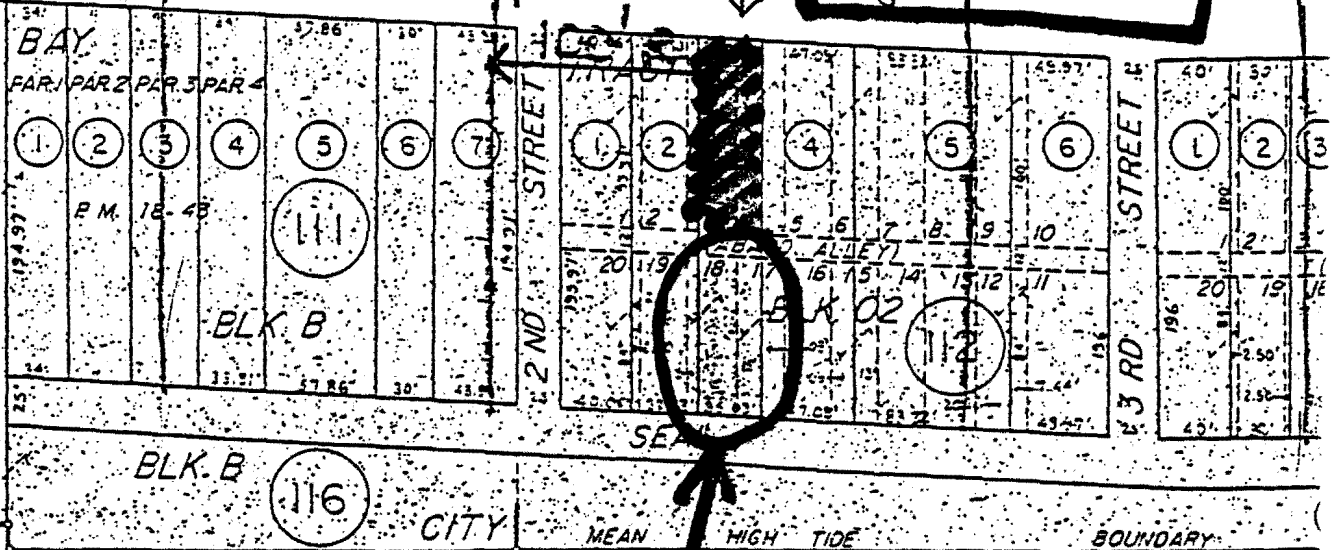
FIRST

SECOND

THIRD

OCEAN AVE.

house approved by 5-96-049



Area on the subject site of the proposed development 206 Ocean Ave.

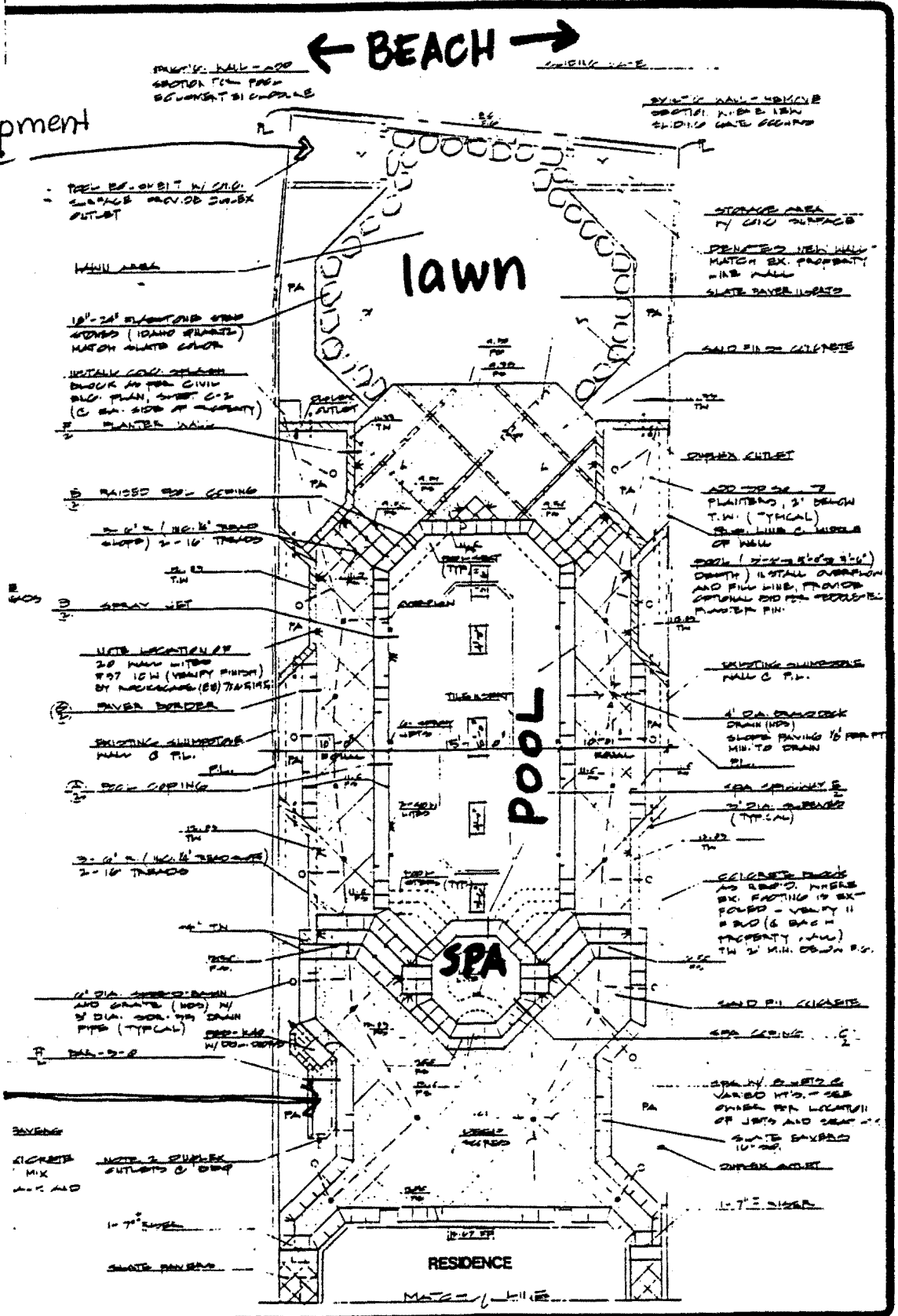
BEACH

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← BEACH →

pool equipment enclosure

barbecue



PAVING: HALL - 200  
SLOPED FOR PAVE  
EQUVALENT TO CURB

BY 1/2" HALL - 400  
SLOPED FOR PAVE  
SLIDING GATE 60000

PAVE 1/2" HALL - 400  
SLOPED FOR PAVE  
EQUVALENT TO CURB

STORAGE AREA  
BY 1/2" HALL - 400

PAVED WITH HALL  
MATCH EX. PROPERTY  
1/2" HALL

SLATE PAVED 10000

SAND FILL ON CONCRETE

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CONSTRUCTION PLAN

JOHNSEII RESIDENCE  
200 OCEAN AVE.

Scale 7-14-97  
Sheet 1  
Date 7-14-97  
Revision 1-1-97

COASTAL COMMISSION  
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EXHIBIT # C

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