

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

Filed: October 5, 2009
49th Day: November 23, 2009
180th Day: April 3, 2010
Staff: Liliana Roman-LB
Staff Report: October 14, 2009
Hearing Date: November 4-6, 2009
Commission Action:



Item Th7b

STAFF REPORT: CONSENT CALENDAR

APPLICATION NUMBER: 5-09-184

APPLICANT: Kathleen Morris

AGENT: Denis La Roche

PROJECT LOCATION: 1520 West Oceanfront, City of Newport Beach (Orange County)

PROJECT DESCRIPTION: Demolition of an existing single-family residence and construction of a new 3,514 square foot, two-story, 24-foot high single-family residence with an attached 578 square foot garage, balcony deck, hardscape improvements and no landscaping on a 3,075 square foot beachfront lot.

LOCAL APPROVALS RECEIVED: City of Newport Beach Approval-In-Concept (No. 1288-2009) dated September 1, 2009.

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach Certified Land Use Plan (LUP); *Coastal Hazard & Wave Runup Study, 1520 West Ocean Front Newport Beach, CA* prepared by GeoSoils, Inc. dated September 30, 2009.

SUMMARY OF STAFF RECOMMENDATION:

The applicant is proposing construction of a new beach-fronting single-family residence. The major issue of this staff report concerns beachfront development that could be affected by flooding during strong storm events.

Staff is recommending **APPROVAL** of the proposed project with seven (7) special conditions regarding: 1) assumption of risk; 2) no future shoreline protective device; 3) conformance with construction phase water quality protection requirements; 4) preparation of a post-construction drainage and run off control plan; 5) landscape requirements; 6) future development; 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.

LIST OF EXHIBITS

1. Location Map
 2. Assessor’s Parcel Map
 3. Project Plans
-

STAFF RECOMMENDATION:

Staff recommends that the Commission **APPROVE** the permit application with special conditions.

MOTION:

I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION:

I. APPROVAL WITH CONDITIONS

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 CONDITIONS

1. Assumption of Risk, Waiver of Liability and Indemnity

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding, wave uprush and sea level rise; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

2. No Future Shoreline Protective Device

- A. By acceptance of this permit, the applicant agrees, on behalf of himself and all other successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-09-184 including, but not limited to, the residence, garage, foundations, and patio, and any future improvements, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, sea level rise, or other natural hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of himself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
- B. By acceptance of this permit, the applicant further agrees, on behalf of himself and all successors and assigns, that the landowner(s) shall remove the development authorized by this permit, including the residence, garage, foundations, and patio, if any government agency has ordered that the structure is not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner(s) shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

3. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris

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

- (a) No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
- (b) No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers.
- (c) Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.
- (d) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
- (e) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
- (f) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
- (g) Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. 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 unless the Executive Director determines that no amendment or new permit is legally required.
- (h) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
- (i) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
- (j) The discharge of any hazardous materials into any receiving waters shall be prohibited.
- (k) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures 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. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
- (l) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity
- (m) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

4. Drainage And Polluted Runoff Control Plan

A. Prior to issuance of the Coastal Development Permit, the permittee shall submit for the review and approval of the Executive Director, two (2) copies of a final Drainage and Runoff Control Plan, including supporting calculations. The plan shall be prepared by a licensed civil engineer or qualified licensed professional and shall incorporate Best Management Practices (BMPs) including site design and source control measures designed to control pollutants and minimize the volume and velocity of stormwater and dry weather runoff leaving the developed site. In addition to the specifications above, the consulting civil

engineer or qualified licensed professional shall certify in writing that the final Drainage and Runoff Control Plan is in substantial conformance with the following minimum requirements:

1. BMPs should consist of site design elements and/or landscape based features or systems that serve to maintain site permeability, avoid directly connected impervious area and/or retain, infiltrate, or filter runoff from rooftops, driveways and other hardscape areas on site, where feasible. Examples of such features include but are not limited to porous pavement, pavers, rain gardens, vegetated swales, infiltration trenches, cisterns.
2. Landscaping materials shall consist of native or other low-maintenance plant selections which have low water and chemical treatment demands, consistent with Special Condition 5, Landscaping Requirements. An efficient irrigation system designed based on hydrozones and utilizing drip emitters or micro-sprays or other efficient design should be utilized for any landscaping requiring water application.
3. Runoff shall be conveyed off site in a non-erosive manner. Energy dissipating measures shall be installed at the terminus of outflow drains.
4. Should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.
5. The final Drainage and Runoff Control Plan shall be in conformance with the site/development plans approved by the Coastal Commission. Any changes to the Coastal Commission approved site/development plans required by the consulting civil engineer/water quality professional or engineering geologist shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is legally required.

5. Landscaping – Drought Tolerant, Non-Invasive Plants

Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. 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>).

6. Future Development

This permit is only for the development described in Coastal Development Permit No. 5-09-184. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by Coastal Development Permit No. 5-09-184. Accordingly, any future improvements to the single-family house authorized by this permit, including but not limited to 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. 5-09-184 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

7. Generic 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(s) have 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.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. PROJECT LOCATION AND DESCRIPTION

The subject site is located at 1520 West Oceanfront within the City of Newport Beach, Orange County (Exhibits 1 and 2). The lot size is 3,075 square feet. The City of Newport Beach Land Use Plan (LUP) designates the site Two-Family Residential and the proposed project adheres to this designation. The project is located within an existing urban residential area, between 16th and 15th Street on the Balboa Peninsula (between the Newport Pier and the Balboa Pier).

The site is a beachfront lot located between the first public road and the sea. The lot is currently developed with a two-story single-family residence, it is rectangular in shape, near level and bordered by developed single-family lots. There is a paved walkway/bikeway and wide sandy beach (approximately 450 feet wide) between the subject property and the Pacific Ocean. Due to its oceanfront location, the project site may be potentially exposed to the hazard of wave up-rush during a severe storm event.

The proposed project will not have an adverse effect on public access. The project site is located along the portion of Oceanfront bordered by the City's paved beachfront public lateral access way (boardwalk). The property line extends to the inland extent of the City's paved boardwalk. The Commission has found through previous permit actions in this area that the City's setback in this area is acceptable for maintaining public access. The proposed project is consistent with the City's 5-foot required setback from the seaward property line. Vertical public access to this beach is available at the end of 16th Street, approximately 60 feet west of the site, and at the end of 15th Street, approximately 180 feet east of the site. Lateral public access is available along the paved boardwalk and wide sandy beach seaward of the subject site.

The applicant is proposing to demolish an existing two-story single-family residence and construct a new 3,514 square foot, two-story, 24-foot high single-family residence with an attached 578 square foot garage, balcony deck, hardscape improvements including new concrete side yard walkways, a new east property line 6' tall privacy screen wall and no landscaping (Exhibit 3). No landscaping is proposed as the side yards and front patio are proposed to be paved. The site is designed to drain away from the beach front, from the front patio down the side yards to the rear alley and ultimately the City's storm drain system. No on-site infiltration or other water quality BMPs are proposed. Therefore, the Commission is requiring preparation of an adequate drainage and runoff control plan to address runoff from the site in the post-construction condition. Since landscaping can be part of a good drainage and runoff control plan, landscaping requirements are also identified in the conditions. No oceanfront encroachments are proposed as the property line comes up to the City's paved boardwalk.

B. HAZARDS

Development adjacent to the ocean is inherently hazardous. Development which may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon, among other things, public access, visual resources and shoreline processes. To minimize the project's impact on shoreline processes, and to minimize risks to life and property, the development has been conditioned for one or more of the following: require an appropriate setback from the water; require a drainage and runoff control plan to direct, treat, and minimize the flow of water offsite; prohibit construction of protective devices (such as a seawall) in the future; and to require that the landowner and any successor-in-interest assume the risk of undertaking the development. As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

C. DEVELOPMENT

The development is located within an existing developed area and is compatible with the character and scale of the surrounding area. However, the proposed project raises concerns that future development of the project site potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act. To assure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission finds that a future improvements special condition be imposed. As conditioned the development conforms with the Chapter 3 policies of the Coastal Act.

D. PUBLIC ACCESS

The proposed development will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities. Therefore, as proposed the development, as conditioned, conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

E. WATER QUALITY

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, one or more of the following: the appropriate management of equipment and construction materials, reducing runoff through the use of permeable surfaces, the use of non-invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site, and for the use of post-construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

F. 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 one additional condition requiring 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 the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

G. LOCAL COASTAL PROGRAM

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The Land Use Plan for the City of Newport Beach was effectively certified on May 19, 1982. The certified LUP was updated on October 2005. As conditioned, the proposed development 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 an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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



COASTAL COMMISSION

EXHIBIT # 1
PAGE 1 OF 1

SUBJECT
SITE

33 MAP

100' Coastal
1520 W OceanFront
Newport Beach
047 211 23
September 14 2009
95592

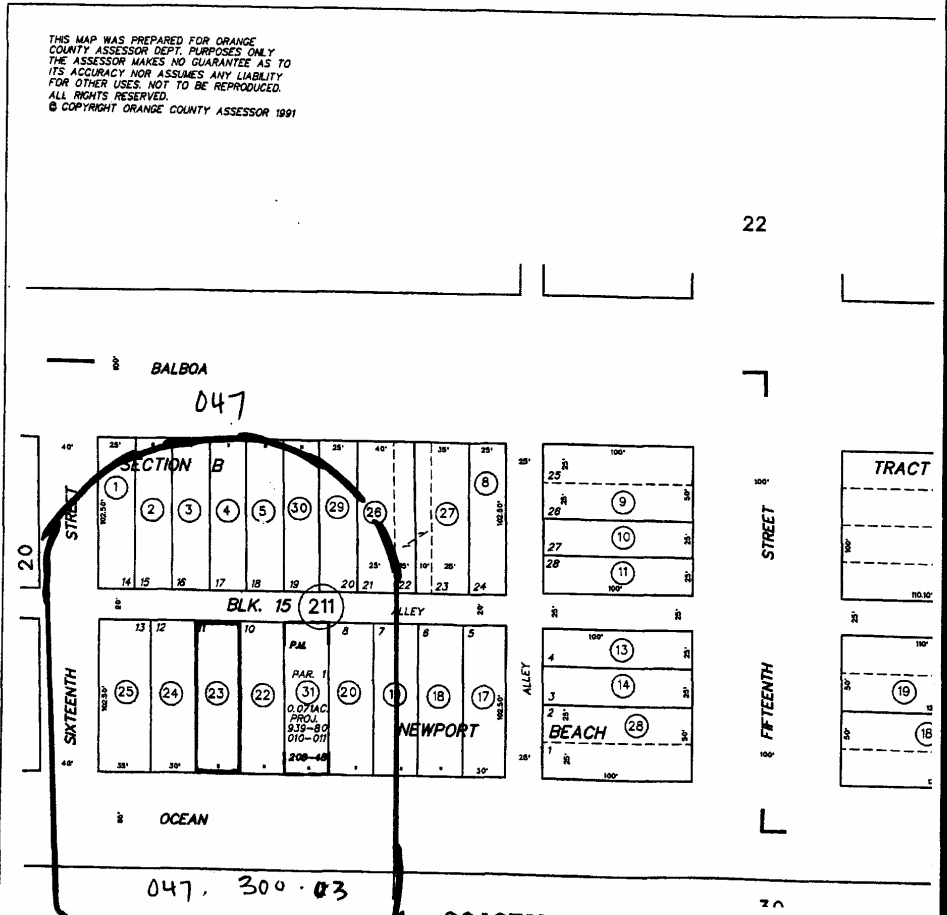
RECEIVED
South Coast Region

SEP 22 2009

CALIFORNIA
COASTAL COMMISSION

5-09-184

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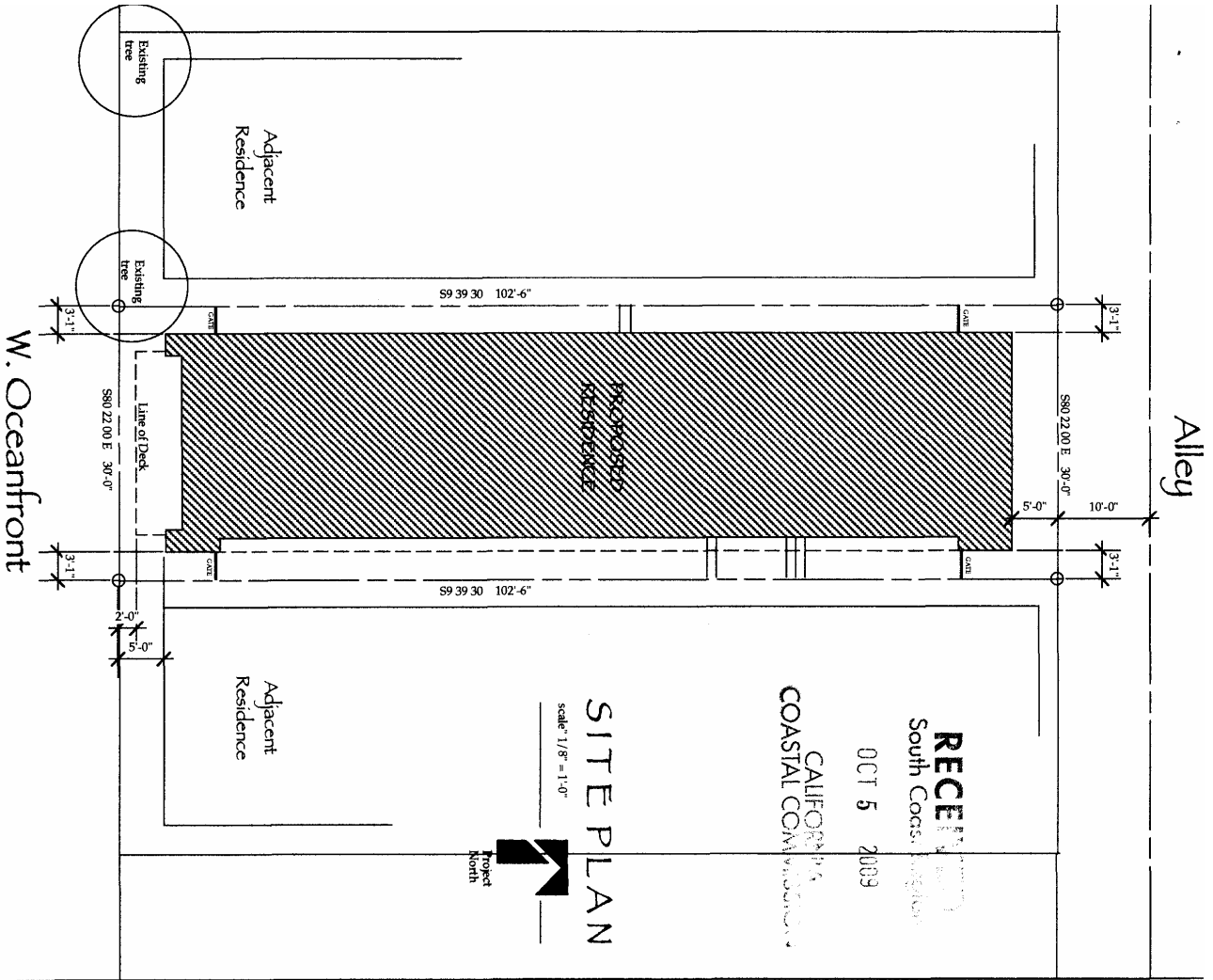


COASTAL COMMISSION

EXHIBIT # 2
PAGE 1 OF 1

Ownership Map

SUSAN W. CASE, INC.
917 GLENNEYRE ST #7
LAGUNA BEACH CA 92651
(949) 494-6105



SHEET INDEX

ARCHITECTURAL	STRUCTURAL
A1 SITE PLAN/COURT SWIFT	S1
A2 LOWER FLOOR PLAN	
A3 UPPER FLOOR PLAN	
A4 SCHEDULES	
A5 ROOF PLAN/DRAINAGE PLAN	
A6 EXTERIOR ELEVATION	
A7 SECTION	
A8 ELECTRICAL PLAN	
A9 DETAIL NOTES	
CM GENERAL NOTES	
TM DIMENSIONAL NOTES	

PROJECT TEAM

OWNER: Kathleen Morris
ARCHITECT: La Roche Architecture
 1200 W. Oceanfront
 Newport Beach, CA 92660
 Tel: (949) 442-7132
 Fax: (949) 425-7121
STRUCTURAL ENGINEER: OC Engineering
 Open Country
 Newport Beach, CA 92660
 Tel: (949) 442-7132

PROJECT SUMMARY

PROJECT DESCRIPTION: New Single Family Residence
LEGAL DESCRIPTION: Lot 11, Block IX, Section 8
CODE: 2807 California Building Code
AP #: 047-21129
PROJECT ADDRESS: 1520 W. Oceanfront
 Newport Beach, CA 92660
TYPE OF CONSTRUCTION: Type V-A
OCCUPANCY: R20
ZONING: R2
AREAS: Lower Floor = 1484 sq ft
 Upper Floor = 2880 sq ft
 Total = 4364 sq ft (Allowable = 4480 sq ft)
OPEN SPACE: Min. = 241.23 sq. = 30% c.u.t.
 Actual = 4900 sq.ft.

NOTE:
 Separate review/permit is required for:
 1. Pool and spa walls exceeding 6' in height
 2. Deck walls exceeding 6' in height measured
 and retaining walls exceeding 4' in height measured
 from the bottom of foundation.

La Roche

ARCHITECTURE, INC.

417 39th Street
 Newport Beach
 CA 92660
 Tel: (949) 442-7132
 Fax: (949) 425-7121
 Cell: (949) 442-5472
 Email: info@laroche.com
 Website: www.laroche.com

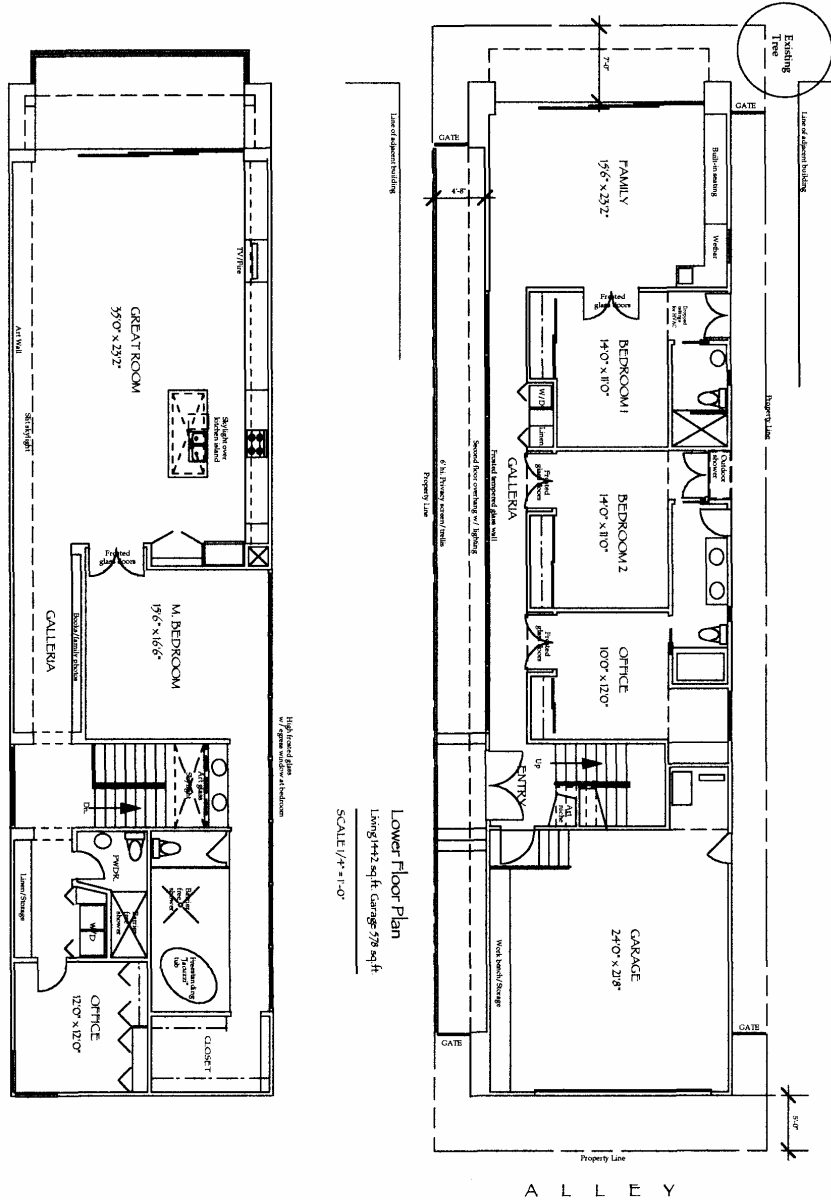
EXHIBIT # 3
 PAGE 1 OF 5

Site Plan

CUSTOM RESIDENCE FOR
Kathleen Morris
 1520 W. Oceanfront
 Newport Beach
 CA 92660

DATE:
 DRAWN BY:
 SCALE: 1/8"=1'-0"
 SHEET NO. A.1

B E A C H



Upper Floor Plan
 Living 2060 sq. ft.
 SCALE: 1/4" = 1'-0"

Lower Floor Plan
 Living 1742 sq. ft. Garage 778 sq. ft.
 SCALE: 1/4" = 1'-0"

LaRoche
 ARCHITECTURE, INC.
 417 30th Street,
 Newport Beach,
 CA 92663
 Tel: (949) 842-7725
 Fax: (949) 842-7726
 Email: LaRocheArch@aol.com
 Website: www.larochearch.com

COASTAL COMMISSION

EXHIBIT # 3

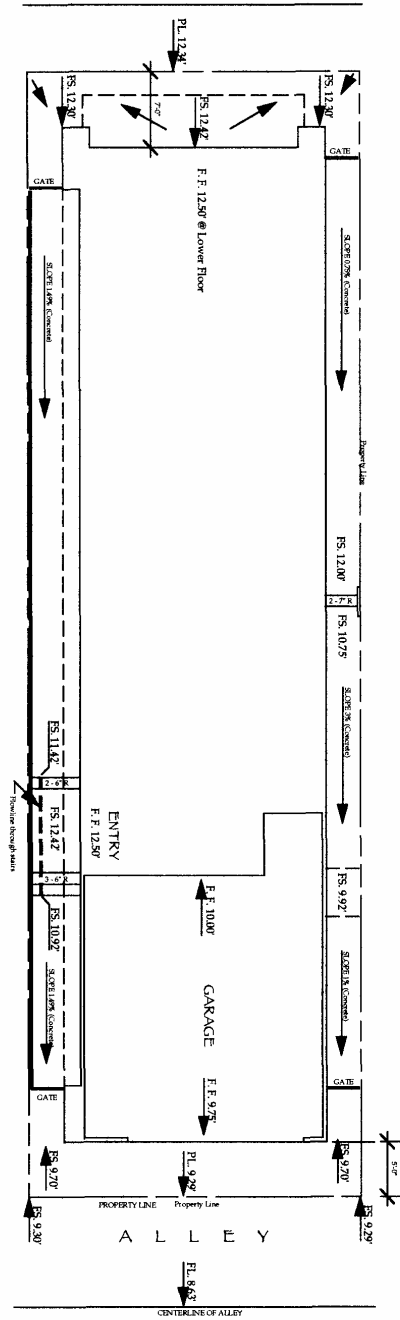
PAGE 2 OF 5

CUSTOM RESIDENCE FOR:
Kathleen Morris
 1320 W. Oceanfront
 Newport Beach
 CA 92663

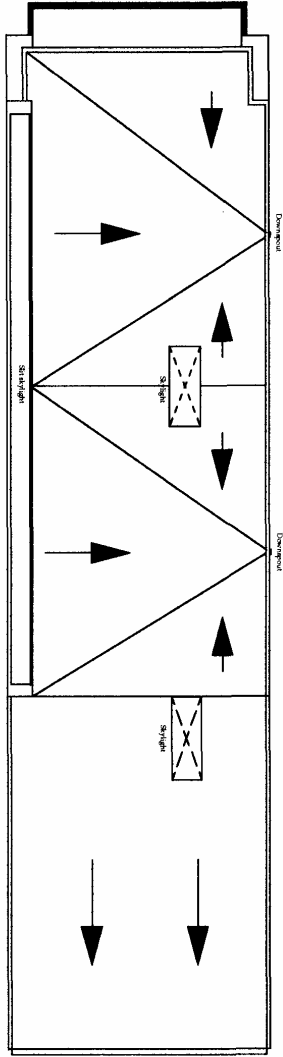
Floor Plans

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 SHEET NO. A2

B E A C H



Drainage Plan
 SCALE: 1/4" = 1'-0"



Roof Plan
 SCALE: 1/4" = 1'-0"

L+R
 Roche
 ARCHITECTURE, INC.

417 30th Street
 Newport Beach
 CA 92663
 Tel: (949) 495-7200
 Fax: (949) 495-7175
 Email: lroche@lrr.com
 Website: lrr.com

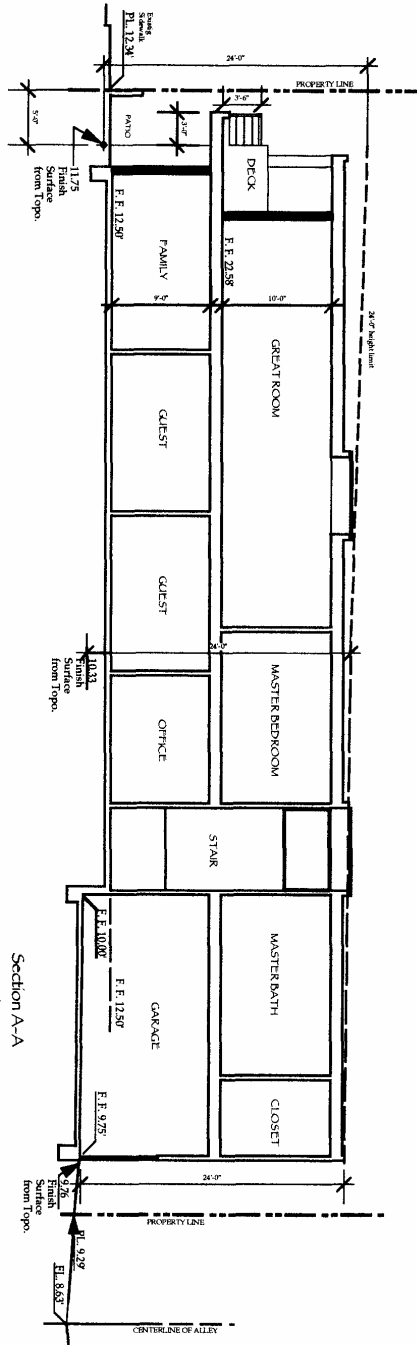
COASTAL COMMISSION

EXHIBIT # 3
 PAGE 3 OF 8

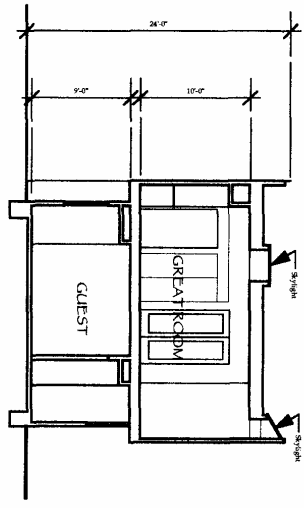
Roof / Drainage Plan

CUSTOM RESIDENCE FOR:
Kathleen Morris
 1520 W. Coastfront
 Newport Beach
 CA 92663

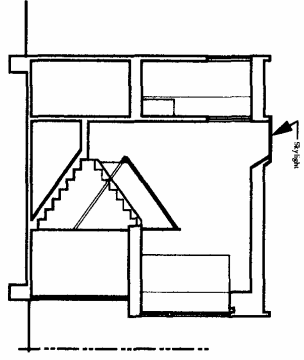
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 SHEET NO. A.5



Section A-A
 SCALE 1/4" = 1'-0"



Section B-B
 SCALE 1/4" = 1'-0"



Section C-C
 SCALE 1/4" = 1'-0"

L+R
 Roche
 ARCHITECTURE, INC.

417 20th Street
 Newport Beach,
 CA 92663
 Tel: (949) 462-7176
 Fax: (949) 462-7171
 Email: lroche@lrrroche.com
 Website: www.lrrroche.com

COASTAL COMMISSION

EXHIBIT # 3
 PAGE 5 OF 5

Sections

CUSTOM RESIDENCE FOR:
Kathleen Morris
 1520 W. Oxnentont
 Newport Beach
 Ca 92663

DATE:
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 SCALE: 1/4" = 1'-0"
 SHEET NO. A7

