

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
245 W. BROADWAY, STE. 380
P.O. BOX 1450
LONG BEACH, CA 90802-4416
(310) 590-5071

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Permit Application No. 5-96-019
Date March 22, 1996

ADMINISTRATIVE PERMIT

APPLICANT: Mr. and Mrs. Michael Shute

PROJECT DESCRIPTION: Demolition of an existing single-family dwelling and construction of a new two-story, 29 foot high, 6,111 square foot single-family dwelling plus an attached 700 square foot three-car garage and 87 square feet of deck area.

PROJECT LOCATION: 8 Harbor Island, City of Newport Beach, County of Orange

EXECUTIVE DIRECTOR'S DETERMINATION: The findings for this determination, and for any special conditions, appear on subsequent pages.

NOTE: P.R.C. Section 30624 provides that this permit shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit will be reported to the Commission at the following time and place:

Friday, April 12, 1996 at 9:00 a.m.
Carmel Mission Inn
3665 Rio Road, Carmel (408) 624-1841

IMPORTANT - Before you may proceed with development, the following must occur:

Pursuant to 14 Cal. Admin. Code Sections 13150(b) and 13158, you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgement and evidence of compliance with all special conditions, we will send you a Notice of Administrative Permit Effectiveness.

BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE NOTICE OF PERMIT EFFECTIVENESS FROM THIS OFFICE.

PETER DOUGLAS
Executive Director

John T. Auyong

By: John T. Auyong
Title: Staff Analyst

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.

EXECUTIVE DIRECTOR'S DETERMINATION (continued):

The Executive Director hereby determines that the proposed development is a category of development which, pursuant to PRC Section 30624, qualifies for approval by the Executive Director through the issuance of an administrative permit. Subject to Standard and Special Conditions as attached, said development is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976, 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, and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act. If located between the nearest public road and the sea, this development is in conformity with the public access and public recreation policies of Chapter 3.

FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION:

A. Project Description

The applicant is proposing to demolish an existing single-family dwelling and construct a new two-story, 29 foot high, 6,111 square foot single-family dwelling plus an attached 700 square foot three-car garage, 87 square feet of deck area, and landscaping.

B. 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 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

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 on a harborfront lot on Harbor Island, a private community, between the nearest public roadway and the sea. A 30 foot wide strip of land owned by the County of Orange, as shown in Exhibit B, is located between the bayward edge of the subject site and the waters of Newport Harbor. Landscaping currently exists on the County's land, but structural encroachments are not proposed. The County issues encroachment permits for structural development on land it owns around the island. The City's Certified Land Use Plan does not have policies for Harbor Island regarding encroachment onto the adjacent public land. If not properly mitigated, these encroachments incrementally would contribute to the loss of future public use of the public land for lateral access around Harbor Island.

The proposed development would not result in an intensification of use and the attendant adverse impacts on public access. Vertical access to the public land does not currently exist because Harbor Island is a private community. However, the Executive Director determines that it is necessary to preserve the future potential for public access on the County owned land.

Therefore, the Executive Director determines that the permit must be conditioned to inform the current permittee and future owners that (1) this permit approves only the development described herein and on the approved plans, (2) no development is approved on the adjacent public land owned by the County of Orange, (3) an application for a coastal development permit for any future development on the adjacent parcel must include the consent of the property owner, and (4) any future development on the adjacent parcel shall require an amendment to this permit or a new coastal development permit. Thus, as conditioned, the Executive Director determines that the proposed development would be consistent with Sections 30210, 30211, and 30212 of the Coastal Act regarding public access.

C. Local Coastal Program

Section 30604(a) of the Coastal Act provides that a coastal development permit shall be issued only if the proposed development would not prejudice the ability of the local government having jurisdiction to prepare a local coastal program (LCP) which conforms with, and is adequate to carry out, the Chapter Three policies of the Coastal Act.

The Newport Beach Land Use Plan (LUP) was certified on May 19, 1982. The proposed project would be conditioned to be consistent with the public access policies of Chapter 3 of the Coastal Act. Therefore, the Commission finds that approval of the proposed project as conditioned would not prejudice the ability of the City of Newport Beach to prepare an LCP consistent with the Chapter 3 policies of the Coastal Act.

D. 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 and would not result in an intensification of use. 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 public access policies of Chapter Three of the Coastal Act. Mitigation measures requiring an amendment to this permit or new permit for encroachments onto public land, 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 can be found consistent with the requirements of the Coastal Act to conform to CEQA.

SPECIAL CONDITIONS:

1. Encroachments on Public Lands / Limits of Permit

This permit approves only the development described herein and on the approved plans. No development is approved on the adjacent public land owned by the County of Orange. An application for a coastal development permit for any future development on the adjacent parcel must include the consent of the property owner. Any future development on the adjacent parcel shall require an amendment to this permit or a new coastal development permit.

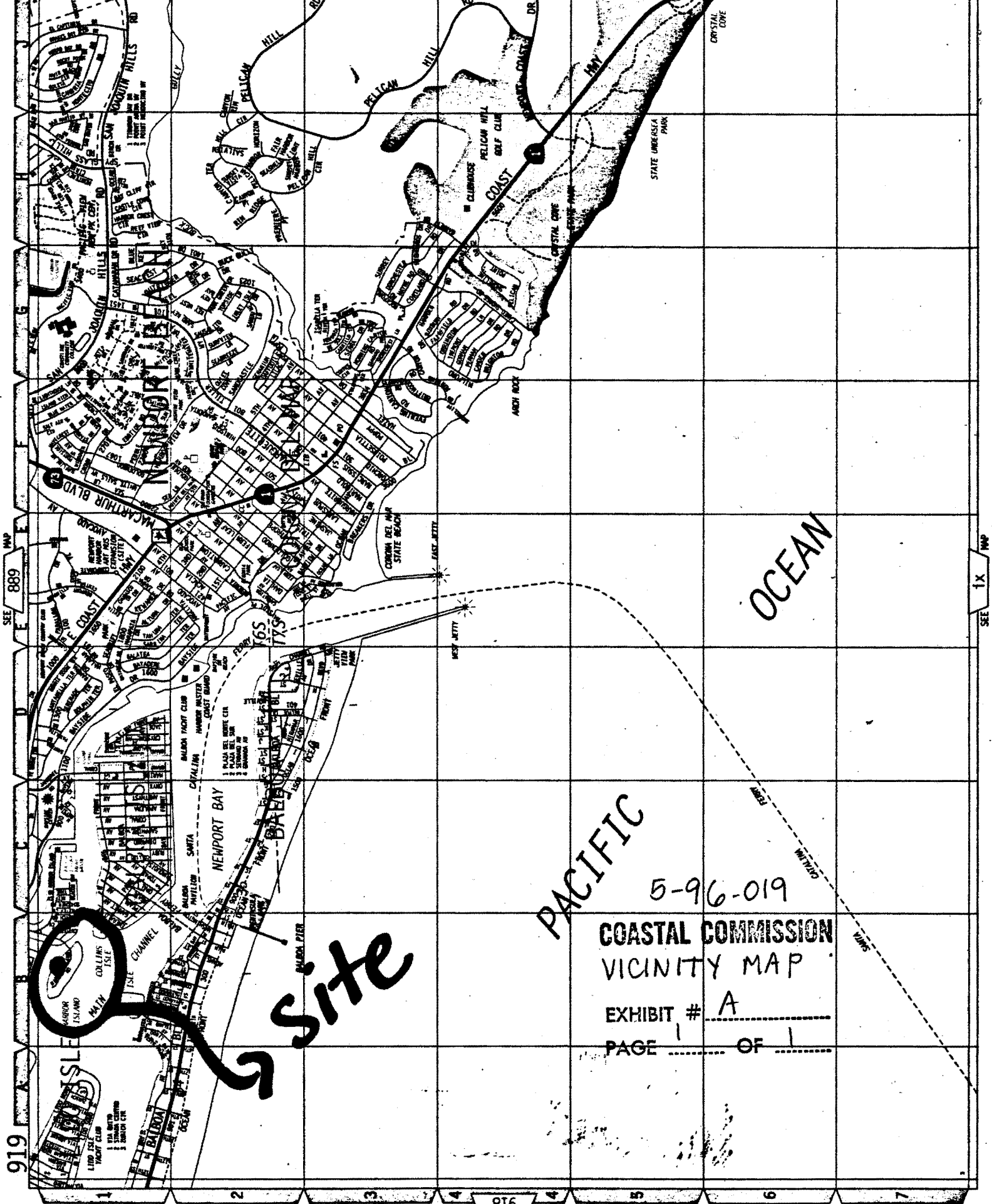
ACKNOWLEDGMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

Applicant's Signature

Date of Signing

6415F:jta



SEE 889 MAP

SEE 1X MAP

919

site

PACIFIC

OCEAN

5-96-019

COASTAL COMMISSION
VICINITY MAP

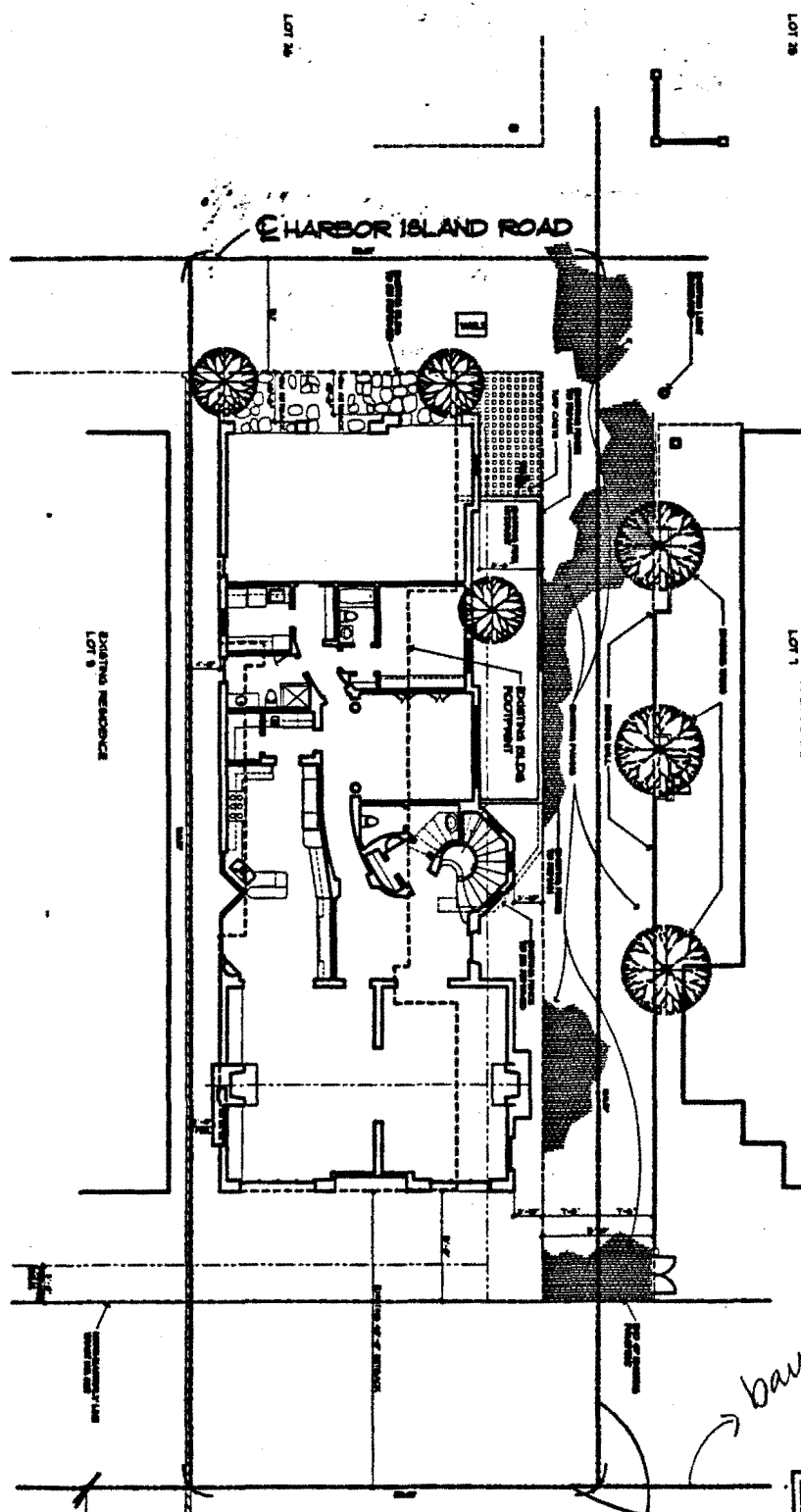
EXHIBIT # A

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ORANGE CO. SEE 918 MAP

ORANGE CO. SEE 900 MAP

DETAIL



5-96-019
 COASTAL COMMISSION
 site plan

EXHIBIT # B
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bayward property line

RECEIVED

FEB 6 1996

CALIFORNIA
 COASTAL COMMISSION
 SOUTH COAST DISTRICT

PLOT PLAN

30 foot wide strip of land owned by Orange County

existing bulkhead

Newport Harbor

NEWPORT BAY

5-96-019