

## CALIFORNIA COASTAL COMMISSION

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

Filed: March 13, 1996  
49th Day: May 1, 1996  
180th Day: September 9, 1996  
Staff: John T. Auyong *John*  
Staff Report: March 21, 1996  
Hearing Date: April 9-12, 1996  
Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 5-96-027  
APPLICANT: Pat & Gil Foerster AGENT: Jay Brian Evarts  
PROJECT LOCATION: 2436 West Coast Highway, City of Newport Beach, County of Orange

PROJECT DESCRIPTION: Combination of two parcels of land into a single parcel. Addition of a two-story extension of 3,737 square feet to an existing two-story, 5,829 square foot, 25 foot high office building. Restriping of the existing 30 space parking lot to create a new total of 38 parking spaces.

Lot area:	25,524 square feet
Building coverage:	4,695 square feet
Pavement coverage:	18,450 square feet
Landscape coverage:	2,380 square feet
Parking spaces:	38
Zoning:	Mariners Mile Specific Plan
Plan designation:	Retail and Service Commercial
Height above grade:	25 feet

LOCAL APPROVALS RECEIVED: City of Newport Beach Lot Line Adjustment 96-2;  
City of Newport Beach Approval-in-Concept 277-96

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permits P-6-20-78-3550  
(Price/Smith and Assoc. Psychiatry), 5-90-602 (Jakosky), 5-92-207 (Foerster);  
City of Newport Beach Certified Land Use Plan

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 will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, 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. Future Change in Intensity of Use

This permit approves only the development described herein and on the approved plans. Any future development as defined in Section 30610 of the Coastal Act, such as but not limited to a change in the intensity of use, shall require an amendment to this permit or a new coastal development permit from the Coastal Commission or its successor agency.

### 2. Provision of Parking

For the life of the permitted development as described and conditioned herein, the property owner shall provide, at all times, a minimum of 38 parking spaces on-site.

#### IV. Findings and Declarations.

##### A. Project Description/History

###### 1. Project Description

The applicant is proposing the addition of 3,737 square feet to an existing two-story, 5,829 square foot, 25 foot high office building (see Exhibit B). The addition would be two-stories, would be on the inland side of the existing structure, and would be built on part of the existing parking lot. The resultant structure with the addition would still be no more than two stories. Also proposed would be the restriping of the existing parking lot to increase the number of parking spaces from 30 to 38 parking spaces. Further, the two parcels comprising the subject site are proposed to be merged into one parcel (see Exhibit C).

###### 2. Project History

Price/Smith and Assoc. Psychiatry applied for coastal development permit P-6-20-78-3350 to "[c]onstruct a 300 sq. ft. addition and interior and exterior remodeling of an existing 1,685 square foot commercial building to convert to professional office use. The Commission denied permit P-6-20-78-3350 on the grounds that the proposed development's 20 space parking deficiency would be inconsistent with Section 30252 of the Coastal Act. Further, the Commission found that the conversion of the existing commercial uses to non-coastal dependent professional office uses would be inconsistent with Section 30255 of the Coastal Act. In addition, because the City's land use plan was not certified at that time, the Commission found that allowing non-coastal dependent uses in Mariner's Mile could prejudice the City's ability to prepare a local coastal program consistent with the Coastal Act Chapter Three policies.

The Commission approved coastal development permit 5-90-602 (Jakosky) to subdivide a "T" shaped neighboring property, located at 2500 West Coast Highway, into three parcels (see Exhibit D). As part of this subdivision, one of the three new parcels was transferred to the subject site at 2436 West Coast Highway. Therefore, the subject site at 2436 West Coast Highway was now comprised of two parcels; the existing parcel plus the added new parcel resulting from the subdivision. Special Condition No 1 of permit 5-90-602, mandated the recordation of a declaration that both the existing parcel and the added new parcel at 2436 West Coast Highway be tied together by remaining under single ownership for purposes of conveyance and development (see Exhibit F). The special condition and declaration would not be affected by the proposed development.

Subsequently, the Commission approved coastal development permit 5-92-207 (Foerster) allowing the expansion an office building on the existing parcel of the subject site. This proposal also included a restriping of the existing parking lot to increase the number of parking spaces from 20 to 30 spaces. The parking lot was divided between the two parcels resulting from permit 5-90-602. Thus, some of the parking spaces were not on the same parcel as the office building. However, the Commission found that the recorded declaration required by permit 5-90-602 which tied the two parcels together under the same ownership would guarantee that the parking remained together.

**B. Public Access**

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 or providing substitute means of serving the development with public transportation . . .

The subject site is located on the landward side of West Coast Highway (State Route One), the first public road paralleling Newport Harbor in this area of Newport Beach. When private development does not provide adequate parking, patrons of that development are forced to use public spaces which should be available to the visitors to the coastal zone, resulting in significant adverse impacts on coastal access. Therefore, it is important that private development provide parking which is adequate to meet the development's parking demand. Further, in the previous permit 5-92-207 for a previous expansion of the subject office building, the Commission found parking to be a Chapter Three issue to be considered.

The Commission has consistently found that one parking space for every 250 square feet of gross floor area is adequate to satisfy the parking demand for office uses. The proposed development would have a total of 9,566 square feet of gross floor area of existing and proposed office uses. This amount of office area thus requires 38 parking spaces, based on the Commission's regularly used parking standard. The proposed parking lot restriping would result in 38 parking spaces. Thus, the proposed development would have adequate parking to meet its parking demand according to the Commission's regularly used parking requirements. Further, the proposed merger of the two existing parcels currently comprising the subject site into a single parcel would result in all the proposed parking being on the same parcel as the office building. In addition, the Declaration of Restrictions tying the two parcels together, as required by Special Condition No. 1 of permit 5-90-602, would remain in effect and not be changed by the proposed development.

However, a change in use from the existing and proposed office uses to a higher intensity use, such as retail uses, which requires more parking, or a reduction in parking spaces, would result in a parking deficiency and resultant adverse impacts to public parking. In addition, because of the constraints of the site, it would be very difficult to further restripe the parking lot to accommodate additional parking (see Exhibit B). As it is, portions of the proposed parking lot would not have internal access to the rest of the parking lot and would have to take access off the street at the rear of the property. Further, the proposed parking lot does not have room for two lanes of traffic.

Therefore, it is necessary to require a special condition informing the applicant and future owners that any future development as defined in Section 30610 of the Coastal Act, including but not limited to a change in intensity of use of the site, including but not limited to changes in use or reduction in parking, would require an amendment to this permit or a new coastal development permit.

In addition, to ensure that the development as currently proposed has adequate parking to meet its demand, a special condition is necessary informing the applicant and future owners that 38 on-site parking spaces must be provided at all times for the development as proposed. Thus, only as conditioned can the Commission find the proposed project to be consistent with Section 30252 of the Coastal Act regarding parking.

C. 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.

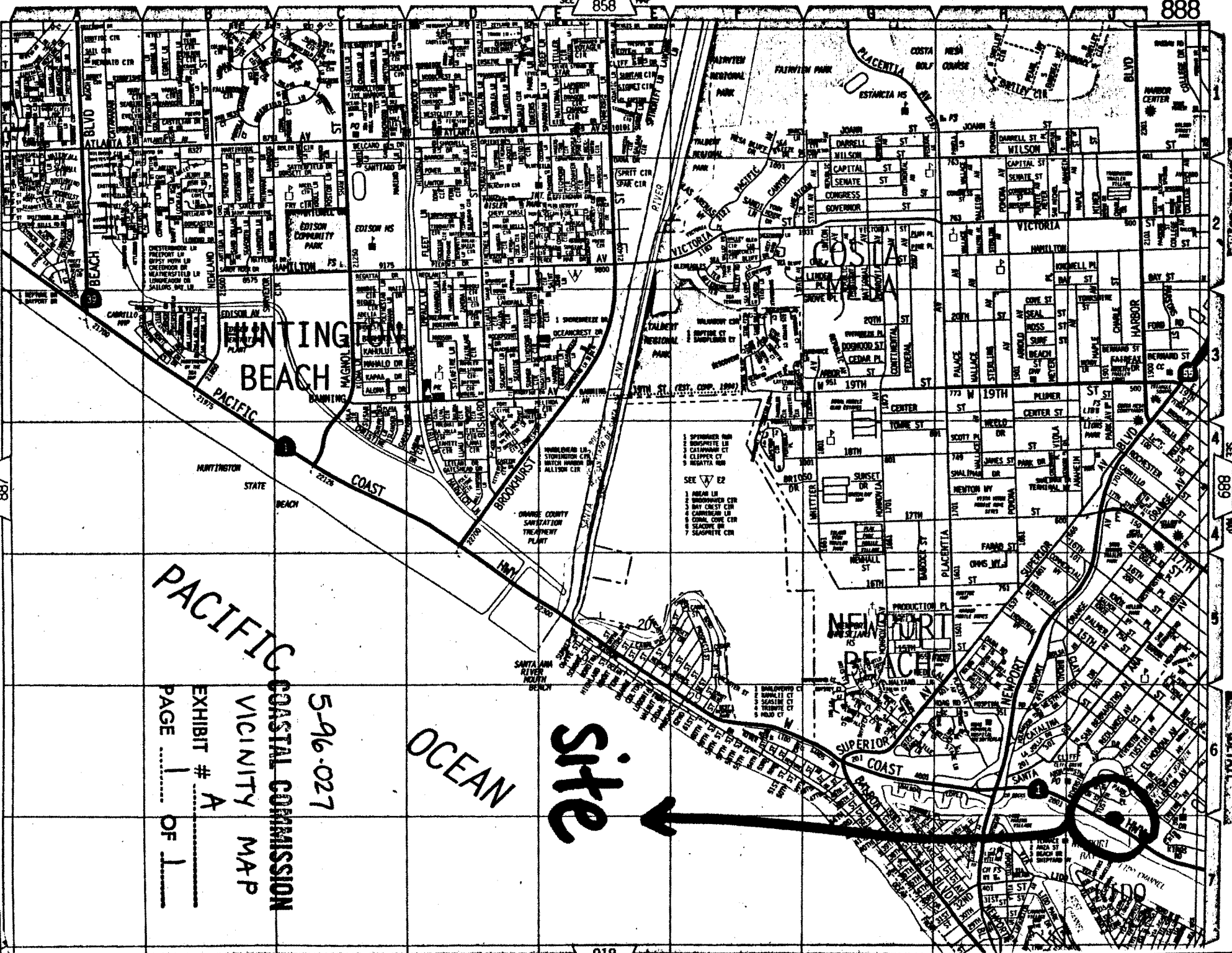
The City of Newport Beach Land Use Plan (LUP) was originally certified on May 19, 1982. The proposed office uses would be allowed under the LUP's Retail and Service Commercial land use designation for the subject site. As conditioned, the proposed development is consistent with the development policies regarding parking of Chapter Three of the Coastal Act. Therefore, approval of the proposed development as conditioned would not prejudice the City's ability to prepare a local coastal program consistent with the Chapter Three policies of the Coastal Act.

D. Consistency with the California Environmental Quality Act (CEQA).

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 project has been conditioned in order to be found consistent with the parking policies of the Coastal Act. Mitigation measures; requiring an amendment to this permit or a new coastal development for a changes in intensity of use of the site, including but not limited to a reduction in parking spaces or higher intensity non-office uses, and the provision of 38 on-site parking spaces; will minimize all 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.

6468F:jta



PACIFIC COASTAL COMMISSION  
 VICINITY MAP  
 EXHIBIT # A  
 PAGE 1 OF 1

5-96-027

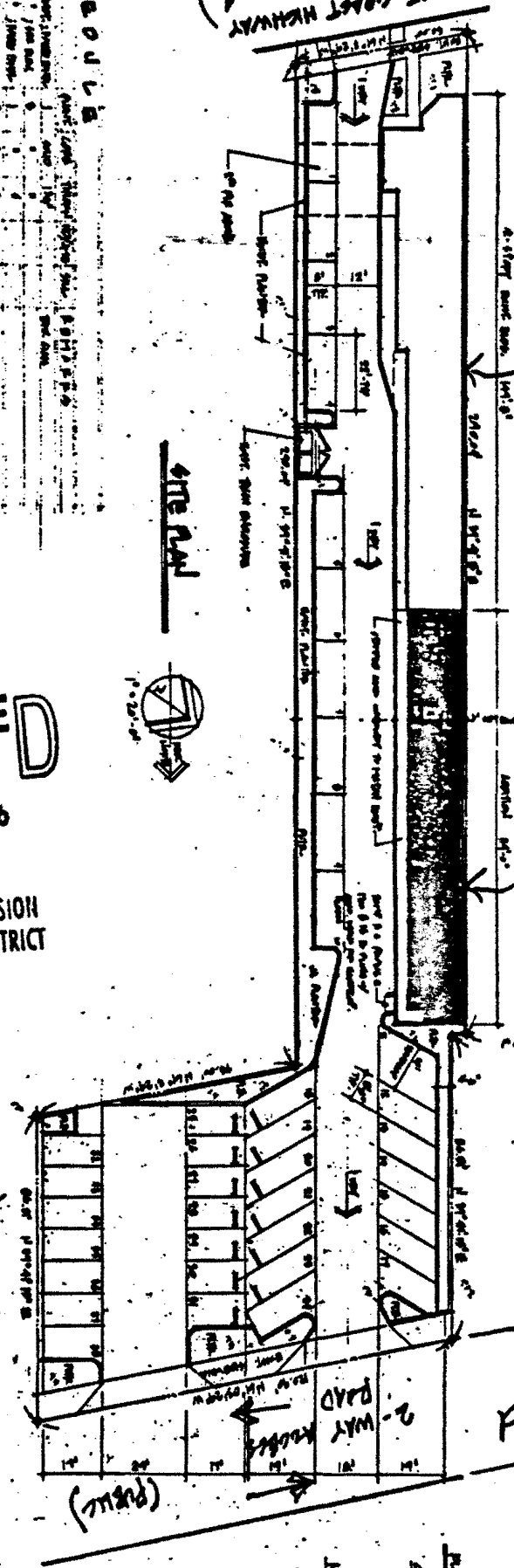
OCEAN  
 site

- SEE SPINNER RUN  
 1 SPINNER RUN  
 2 BIRCHMERE LN  
 3 CATAPAWT CT  
 4 CLIPPER CT  
 5 HAVATTA RUN
- SEE E2  
 1 BIRCH LN  
 2 BIRCHWOOD CIR  
 3 BAY CREST CIR  
 4 CARRIBREW LN  
 5 CONN. CYS CIR  
 6 SEAGRAM DR  
 7 SEAGRAM CIR

Newport Harbor  
 WEST COAST HIGHWAY  
 (State Route 1)

**SCHEDULE**

Item	Description	Quantity	Unit	Notes
1	Excavation	100	sq. yd.	
2	Foundation	100	sq. yd.	
3	Concrete	100	cu. yd.	
4	Reinforcing Steel	100	lbs.	
5	Formwork	100	sq. ft.	
6	Brickwork	100	sq. ft.	
7	Plaster	100	sq. ft.	
8	Paint	100	sq. ft.	
9	Roofing	100	sq. ft.	
10	Interior Finishes	100	sq. ft.	
11	Exterior Finishes	100	sq. ft.	
12	Site Work	100	sq. ft.	
13	Utilities	100	sq. ft.	
14	Landscaping	100	sq. ft.	
15	Other	100	sq. ft.	



Existing  
 2-story  
 building

Proposed  
 2-story  
 addition

RECEIVED

MAR 13 1996

CALIFORNIA  
 COASTAL COMMISSION  
 SOUTH COAST DISTRICT

Waterfront Homes Realty  
 2496 W. Coast Highway  
 Newport Beach, Calif.

5-96-026  
 COASTAL COMMISSION  
 SITE PLAN  
 EXHIBIT # B  
 PAGE 1 OF 1

Notes:  
 1. Existing  
 2. Proposed

Scale:  
 1/8" = 1'-0"  
 1/4" = 1'-0"  
 1/2" = 1'-0"  
 3/4" = 1'-0"  
 1" = 1'-0"



# CITY OF NEWPORT BEACH

P.O. BOX 1768, NEWPORT BEACH, CA 92658-8915

PLANNING DEPARTMENT 644-3200

RECEIVED

February 22, 1996

5-96-027  
COASTAL COMMISSION  
PARCEL MERGER

MAR 13 1996

Application: Lot Line Adjustment No. 96-2

Applicant: Gilbert G. Foerster

EXHIBIT # C  
PAGE 1 OF 4

CALIFORNIA  
COASTAL COMMISSION  
SOUTH COAST DISTRICT

Address of Property Involved: 2436 West Coast Highway

Legal Description: Parcel 3 of Parcel Map No. 90-173 and a Portion of Lot A, Tract No. 919

Request a Lot Line Adjustment to permit the combining of two parcels of land into a single parcel for development and conveyance purposes.

The Modifications Committee on February 20, 1996, unanimously approved the application subject to the following conditions:

1. Prior to recordation of the lot line adjustment, grant deeds indicating the changes in titles of ownership shall be submitted to the Public Works Department for review.
2. Upon approval of the lot line adjustment, the lot line adjustment shall be submitted to the Public Works Department for checking.
3. The lot line adjustment and grant deeds shall be filed concurrently with the County Recorder and County Assessor's Offices.

The Modifications Committee determined in this case that the proposal would not be detrimental to persons, property or improvements in the neighborhood and that the modification as approved would be consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code, and made the following findings:

1. The project site described in the proposal consists of legal parcels.
2. That no additional parcels will result from the lot line adjustment.
3. The project complies with the requirements of the California Environmental Quality Act.
4. The proposal is consistent with the General Plan and the Local Coastal Program Land Use Plan.
5. The lot line adjustment, in and of itself, will not result in the need for additional improvements and/or facilities.



NOTE: This approval shall expire unless exercised within 24 months from the date of approval as specified in Section 20.81.090 of the Newport Beach Municipal Code.

The decision of the Committee may be appealed to the Planning Commission within 14 days of the date of the decision. Any appeal filed shall be accompanied by a filing fee of \$876.00. No building permits may be issued until the appeal period has expired.

MODIFICATIONS COMMITTEE  
PLANNING DEPARTMENT

By Dana O Aslami  
Dana O Aslami  
Associate Planner

DA:dk

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MAR 13 1996

CALIFORNIA  
COASTAL COMMISSION  
SOUTH COAST DISTRICT

COASTAL COMMISSION  
PARCEL MERGER

EXHIBIT # C

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EXHIBIT A

LOT LINE ADJUSTMENT N.B.L.L.A.

(LEGAL DESCRIPTIONS)

OWNER	EXISTING PARCELS AP NUMBERS	PROPOSED PARCELS REFERENCE NUMBERS
GILBERT GRATTAN AND PATRICIA FOERSTER TRUST	A.P. 425-471-52	PARCEL 1
GILBERT GRATTAN AND PATRICIA FOERSTER TRUST	A.P. 425-471-18	PARCEL 1

PARCEL 1 PARCEL 3 OF PARCEL MAP 90-173, AS FILED IN BOOK 256, PAGES 25 TO 26 OF PARCEL MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA.

PARCEL 2 THAT PORTION OF LOT A OF TRACT NO. 919, AS SHOWN ON A MAP RECORDED IN BOOK 29, PAGES 31 TO 34 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY CALIFORNIA, DESCRIBED AS BEGINNING AT A POINT ON THE NORTHERLY LINE OF THE STATE HIGHWAY, AS SHOWN ON SAID MAP (SAID POINT BEING THE SOUTHERLY LINE OF SAID LOT "A"), DISTANT THEREON 1013.78 FEET NORTHWESTERLY MEASURED ALONG SAID NORTHERLY LINE FROM THE MOST SOUTHERLY CORNER OF SAID LOT "A", AND RUNNING HENCE FROM SAID POINT OF BEGINNING NORTHWESTERLY ALONG SAID SOUTHERLY LINE OF SAID LOT "A" 50.00 FEET; THENCE N 39°43'30"E AND PARALLEL WITH THE SOUTHWESTERLY LINE OF SAID LOT 270 FEET TO A POINT; THENCE SOUTHEASTERLY ALONG A LINE PARALLEL WITH THE SOUTHERLY LINE OF SAID LOT 50 FEET; THENCE S 39°43'30" W AND PARALLEL WITH THE SOUTHEASTERLY LINE OF SAID LOT 270 FEET TO THE POINT OF BEGINNING.

ALSO KNOWN AS: 2436 WEST COAST HIGHWAY,  
NEWPORT BEACH, CA 92663

COASTAL COMMISSION  
PARCEL MERGER

EXHIBIT # C  
PAGE 3 OF 4  
5-96-027

RECEIVED

MAR 13 1996

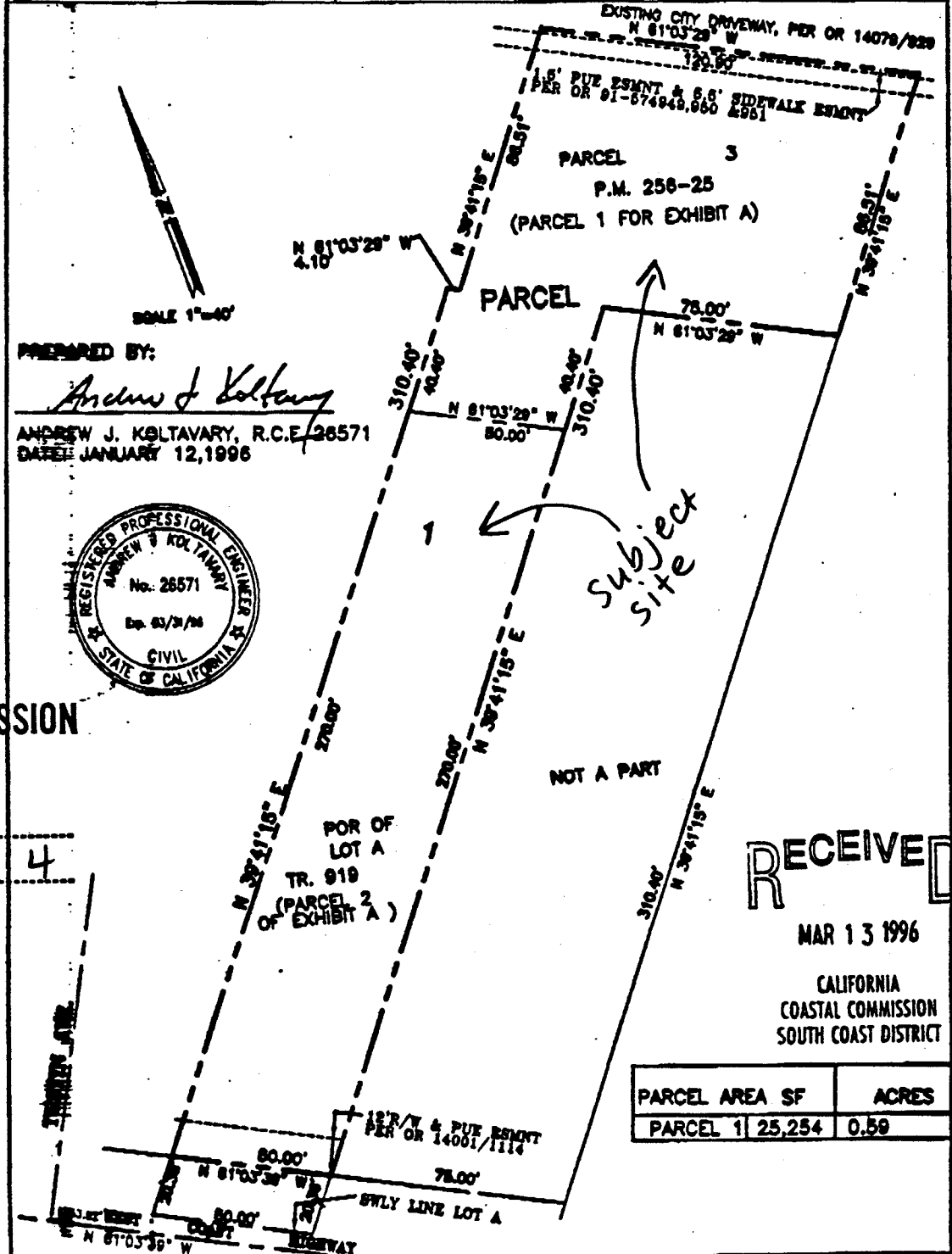
CALIFORNIA  
COASTAL COMMISSION  
SOUTH COAST DISTRICT

EXHIBIT B

LOT LINE ADJUSTMENT N.B.L.L.A.

(MAP)

OWNER	EXISTING PARCELS AP NUMBERS	PROPOSED PARCELS REFERENCE NUMBERS
GILBERT GRATTAN AND PATRICIA FORSTER TRUST	A.P. 425-471-52.	PARCEL 1
GILBERT GRATTAN AND PATRICIA FORSTER TRUST	A.P. 425-471-18	PARCEL 1



PREPARED BY:

*Andrew J. Koltavary*

ANDREW J. KOLTAVARY, R.C.E. 26571  
DATE: JANUARY 12, 1996



5-96-027

COASTAL COMMISSION

PARCEL MERGER

EXHIBIT # C

PAGE 4 OF 4

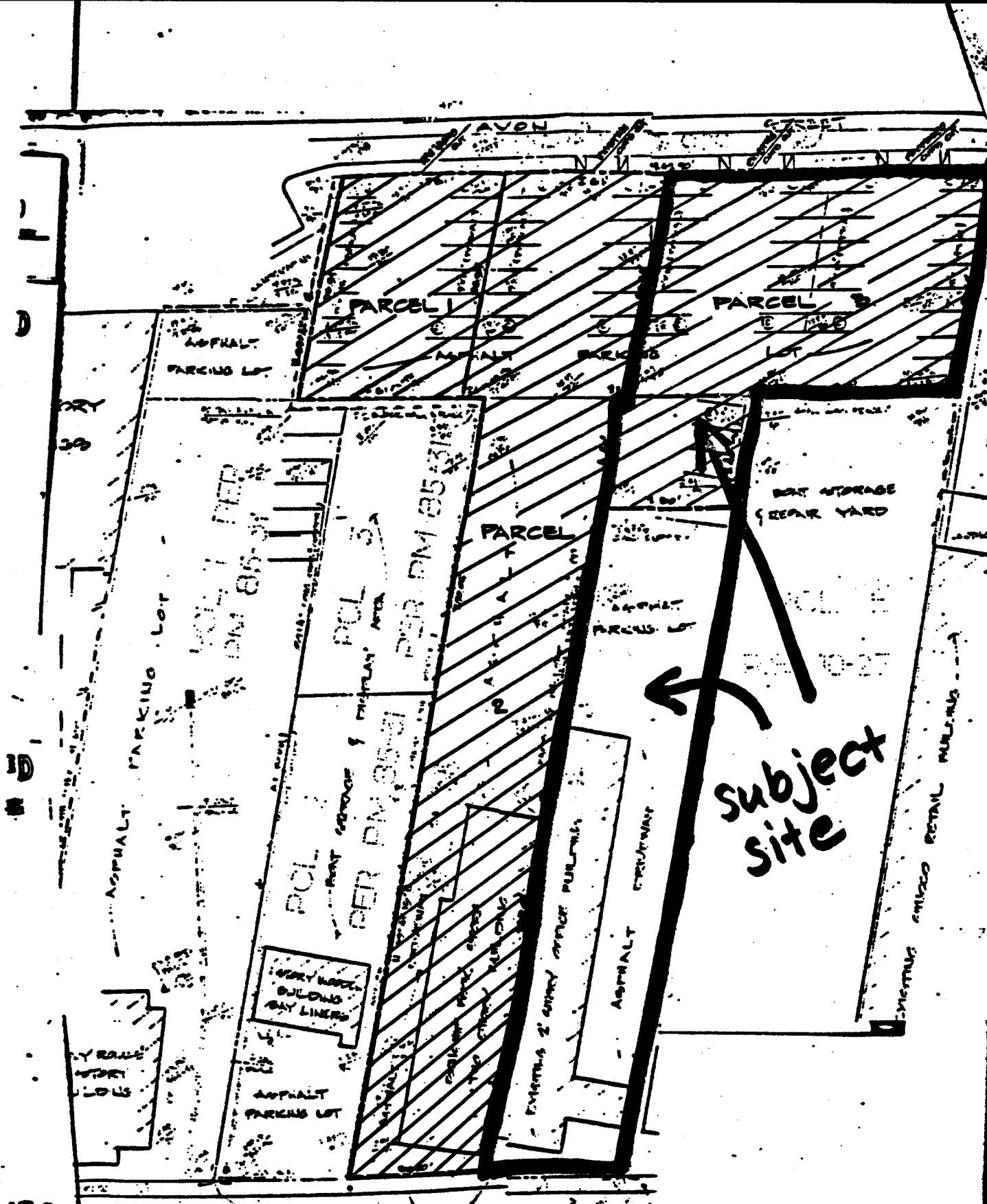
Subject Site

RECEIVED

MAR 13 1996

CALIFORNIA COASTAL COMMISSION SOUTH COAST DISTRICT

PARCEL AREA SF	ACRES
PARCEL 1 25,254	0.59

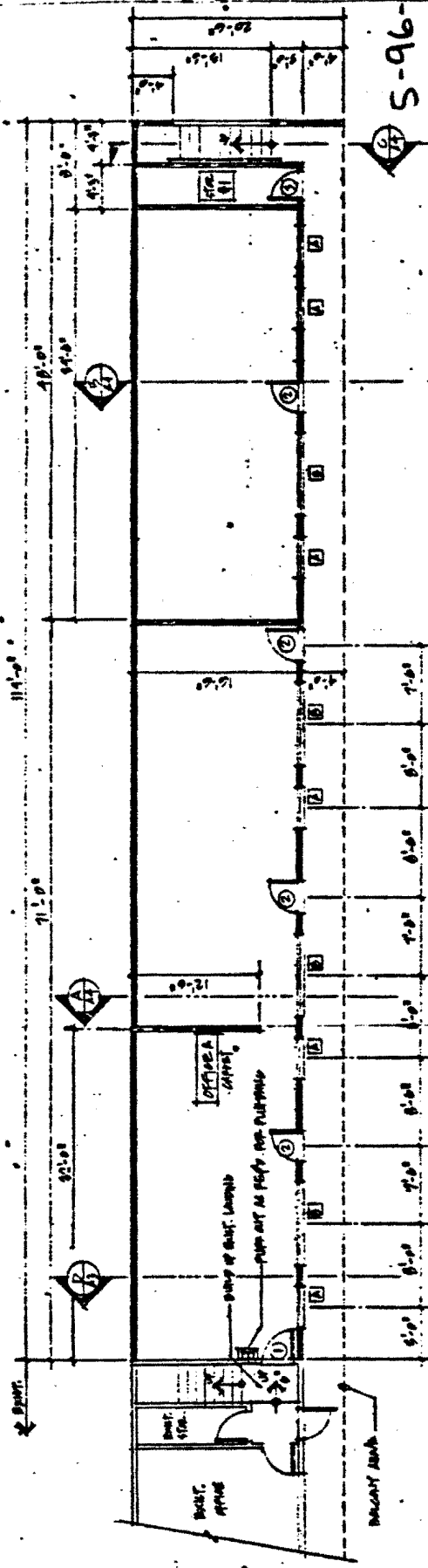


COASTAL COMMISSION

← previous subdivision

EXHIBIT # D  
 PAGE 1 OF 1  
 5-96-027

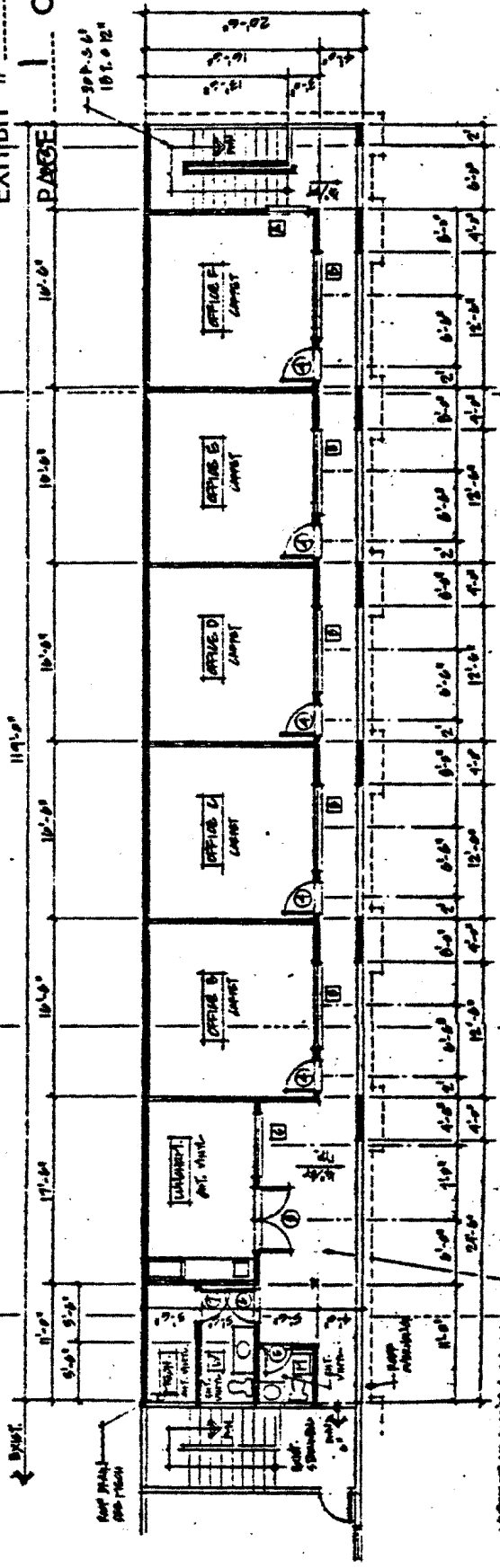
EXHIBIT NO. <b>3</b>
APPLICATION NO. <b>5-90-602</b>
Proposed Subdivision
California Coastal Commission



1ST FLOOR PLAN

S-96-027  
 COASTAL COMMISSION  
 PLANS

EXHIBIT # E  
 PAGE 1 OF 2

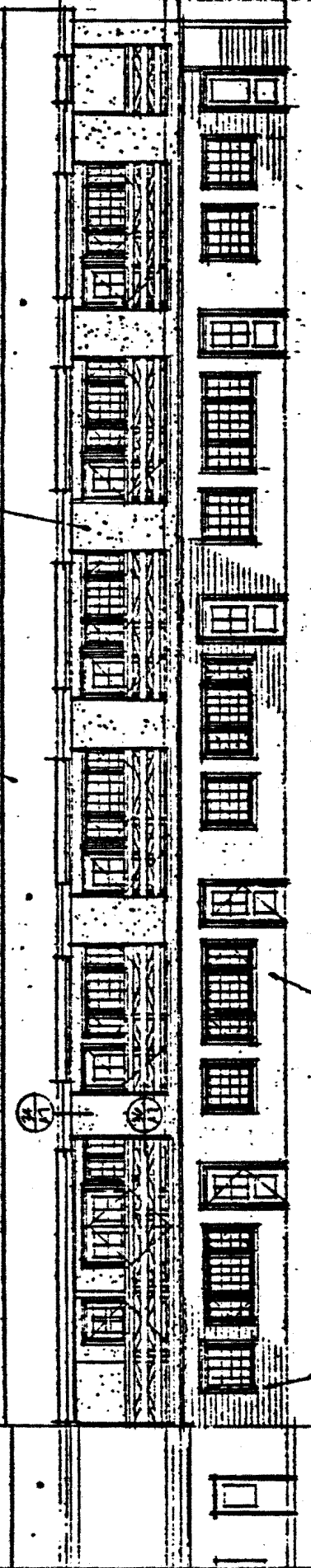


2ND FLOOR PLAN

EXHIBIT # E  
 PAGE 1 OF 2

CLASSICAL ARCHITECTURAL DETAILS TO MATCH EAST. OF 2 WINGS TO 10' EAST.

3" 9" EAST EXTERIOR FLAVOR OF STONE-BLOCKED MATERIAL LEFT  
 CORNER OF BUILDING TO MATCH CORNER.



DIFFERENT CORNER TO MATCH EAST.

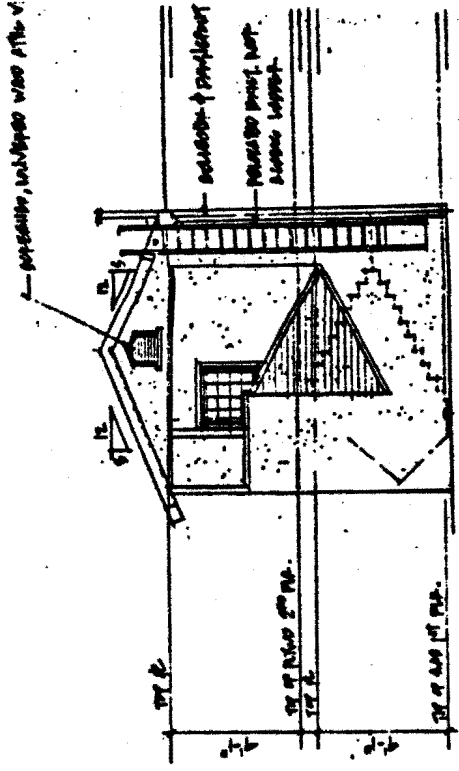
**EAST ELEVATION**

NOTE: ALL EXTERIOR WALLS TO BE FINISHED, NOT PAINTED TO BE GRAYED FINISH  
 AT CORNER TO MATCH EAST.

5-96-027

**COASTAL COMMISSION  
 PLANS**

EXHIBIT # E  
 PAGE 2 OF 2



**NORTH ELEVATION**

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

California Coastal Commission  
631 Howard St., 4th Floor  
San Francisco, CA 94105

Attention: Legal Department  
Permit No. 5-90-602

1547403 KFA

90-554610

\$21.00  
C12

RECORDING REQUESTED BY  
FIRST AMERICAN TITLE INS. CO.

RECORDED IN OFFICIAL RECORDS  
OF ORANGE COUNTY, CALIFORNIA

2:25 PM OCT 18 '90

Lee A. Branch, RECORDER

3)

5  
5  
7  
0  
1  
0

DECLARATION OF RESTRICTIONS

This Declaration of Restrictions ("Declaration") is made on  
SEPTEMBER 19, 1990 ("Agreement Date"), by GILBERT G. FOERSTER and  
PATRICIA J. FOERSTER, hereinafter collectively referred to as  
"Declarant".

RECITALS

A. WHEREAS, pursuant to the California Coastal Act of 1976  
(hereinafter referred to as the "Act"), JOHN JAY JAKOSKY, III,  
and JOHN JAY JAKOSKY, JR. & JOHN JAY JAKOSKY, III, CO-TRUSTEES OF  
JAKOSKY TRUST B, DATED JULY 28, 1969 (collectively hereinafter  
the "Applicant") previously applied to the California Coastal  
Commission (hereinafter referred to as "Commission") for a permit  
to undertake resubdivision within the coastal zone of Orange  
County (hereinafter the "Permit") of that certain real property  
owned by Applicant as of the Agreement Date which is located in  
the City of Newport Beach, County of Orange, State of California  
and legally described in attached Exhibit "A" which is incorpo-  
rated herein by this reference ("Applicant Property"), whereby  
three (3) separate parcels would thereby be created; and

JAKECSTL.FR6 9/12/90

Declaration  
of Restrictions  
required by  
5-90-602

COASTAL COMMISSION

5-96-027

EXHIBIT # F

PAGE 1 OF 9

5-96-027-1-03

B. WHEREAS, as of the recordation of this Declaration, Declarant: (i) has become the legal owner of the fee interest of that portion of the Applicant Property, which is legally described in Parcel A in attached Exhibit "B", which is hereby incorporated by this reference ("Parcel 3"), through a concurrent conveyance of fee title for Parcel 3 from Applicant to Declarant; and (ii) is the existing legal owner of the fee interest of that certain real property which is adjacent to Parcel 3 ("Declarant Property"), which is legally described in Parcel B in attached Exhibit "B" (Parcel 3 and the Declarant Property are collectively hereinafter referred to as the "Subject Property"); and

C. WHEREAS, both the Applicant Property and Declarant Property are located within the coastal zone as defined in Sections 30103 of the California Public Resources Code (which Code is hereinafter referred to as the "Public Resources Code"); and

D. WHEREAS, the Act requires any resubdivision be approved by the Commission and be consistent with the policies of the Act set forth in Chapter 3, Division 20, of the Public Resources Code; and

E. WHEREAS, in its decision on the Permit (Permit No. 5-90-602, decided on September 13, 1990), the Commission found that: (i) the resubdivision proposed by the Applicant of the Applicant Property would contribute to adverse cumulative effects on coastal resources within the Orange County coastal zone; and (ii) this Declaration would be required to mitigate the adverse cumulative

COASTAL COMMISSION

5-96-027

EXHIBIT # F

PAGE 2 OF 9



effects of the proposed resubdivision of the Applicant Property;  
and

F. WHEREAS, in its decision on the Permit the Commission, acting on behalf of the People of the State of California and pursuant to the Act, granted the permit to the Applicant upon condition (hereinafter the "Condition") requiring inter alia that Applicant cause Declarant to recombine and unify the Subject Property into a single parcel for all purposes with respect to the lands included therein, including but not limited to sale, conveyance, development, taxation or encumbrance; and

G. WHEREAS, the Commission has placed the Condition on the Permit because a finding must be made under California Public Resources Code Section 30604(a) that the proposed resubdivision is in conformity with the provisions of Chapter 3 of the Act and that in the absence of the protections provided by the Condition, said finding could not be made; and

H. WHEREAS, Applicant has elected to comply with the Condition and has contracted with Declarant and, in return for valuable consideration granted by Applicant to Declarant, receipt of which is hereby acknowledged, Declarant has agreed to execute and record this Declaration so as to fulfill the Condition, thus allowing Applicant to undertake resubdivision of the Applicant Property authorized by the Permit; and

I. WHEREAS, Declarant intends that this Declaration recombine and unify the Subject Property in lieu of a more costly and

COASTAL COMMISSION

5-96-027

EXHIBIT # F

PAGE 3 OF 9

lengthy map procedure pursuant to the California Subdivision Map Act ("Map Act"), which would be undertaken but for costs and time delays; and

J. WHEREAS, it is intended that this Declaration be perpetual and constitute enforceable restrictions within the meaning of Article XIII, Section 8 of the California Constitution and that this Declaration thereby qualify as an enforceable restriction under the provision of the California Revenue and Taxation Code, Section 402.

NOW THEREFORE, in consideration of: (i) the benefit to the Declarant as a consequence of the grant of the Permit to the Applicant; (ii) Applicant's grant of valuable consideration to the Declarant; and (iii) the ability of the Declarant to recombine and unify the Subject Property without proceeding by the more lengthy and costly map procedure pursuant to the Map Act, Declarant hereby agrees, from and after the date that this Declaration is recorded in the Official Records of Orange County, California, that:

1. All portions of Parcel 3 shall be combined and unified with the Declarant Property so that Parcel 3 shall be considered as part of the Declarant Property;
2. Declarant acknowledges that Parcel 3 shall not be divided, encumbered, conveyed, developed or otherwise alienated separately or apart from the Declarant Property.

COASTAL COMMISSION  
5-96-027

EXHIBIT # F  
PAGE 4 OF 9

5-96-027-1-0

3. If the County of Orange revises its procedures for recombination and unification of lands pursuant to the Map Act whereby the Subject Property may be recombined and unified, or otherwise merged pursuant to a map procedure without further cost or liability to or effort by Declarant, Declarant hereby agrees and consents to such recombination and unification of the Subject Property under the Map Act;

4. Any breach of this Declaration shall constitute an abrogation of this contractual agreement which flows from the terms of the Permit and shall therefore render the Declarant or their successors liable pursuant to the provisions of Chapter 9 of Division 20 of the California Public Resources Code;

5. This Declaration shall constitute a covenant running with the land, restricting the use and enjoyment of the Subject Property, benefiting and burdening all portions of the Subject Property;

6. This Declaration shall: (a) be attached to and become a part of fee title to the Subject Property; (b) bind the Declarant and their successors, heirs, and assigns and each future owner of the Subject Property in perpetuity, until the Subject Property becomes a single legal parcel under the formal requirements of the Map Act, in which event this Declaration shall be canceled concurrently with the recordation of the subdivision map which combines Parcel 3 and the Declarant Property; and (c) benefit the People of the State of California;

COASTAL COMMISSION  
5-96-027

5-15-90


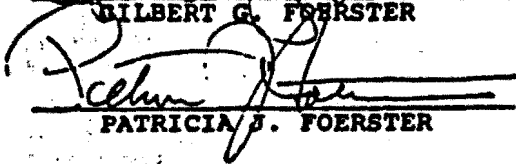
7. The combination of Parcel 3 with the Declarant Property pursuant to this Declaration shall: (a) in no way hinder or restrict further development of the Declarant Property; and (b) not necessitate any modification of the configuration, appearance, use or size of the existing improvements presently located on the Declarant Property; and

8. This Declaration will not modify, amend, expand, cancel, reduce or otherwise affect the terms, conditions or security of any trust deed or other encumbrance which: (a) is already of record as of the recordation of this Declaration; and (b) describes all or any portion of the Subject Property.

If any provision of this Declaration shall be held to be invalid or for any reason become enforceable, then no other provision shall be thereby affected or impaired.


Executed by Declarant at Newport Beach, California.

DECLARANT:

  
GILBERT G. FOERSTER  
  
PATRICIA J. FOERSTER

COASTAL COMMISSION  
5-96-027

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APPROVED AS TO FORM AND CONTENT BY   
ON BEHALF OF THE CALIFORNIA COASTAL COMMISSION ON Order 2  
\_\_\_\_\_, 1990.

STATE OF CALIFORNIA )

COUNTY OF ORANGE )

ss.

On 9-25, 1990, before me, the undersigned, a Notary Public in and for said State, personally appeared GILBERT G. FOERSTER and PATRICIA J. FOERSTER, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons who executed the within Instrument, and they each acknowledged to me that they each executed the within Instrument.

WITNESS my hand and official seal.

[Signature]  
Notary Public



/SEAL/

COASTAL COMMISSION

5-96-027

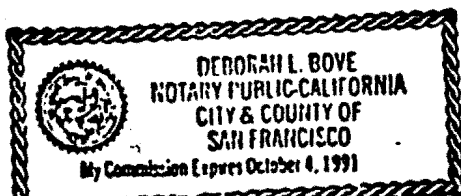
STATE OF CALIFORNIA )

County of San Francisco )

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On October 2, 1990, 1990, before me Deborah L. Bove, a Notary Public, personally appeared John Bowers, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument as the Staff Counsel and authorized representative of the CALIFORNIA COASTAL COMMISSION and acknowledged to me that the CALIFORNIA COASTAL COMMISSION executed it.

WITNESS my hand and official seal.



/SEAL/

[Signature]  
Notary Public

EXHIBIT "A"

LEGAL DESCRIPTION OF THE APPLICANT PROPERTY

ALL THAT CERTAIN LAND SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF ORANGE, CITY OF NEWPORT BEACH, DESCRIBED AS FOLLOWS:

PARCEL 1:

THAT PORTION OF LOT A OF TRACT NO. 919 AS SHOWN ON A MAP RECORDED IN BOOK 29, PAGES 31, 32, 33 AND 34 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY LINE OF THE STATE HIGHWAY, AS SHOWN ON SAID MAP (SAID POINT BEING IN THE SOUTHERLY LINE OF SAID LOT A), DISTANT THEREON 1062.78 FEET NORTHWESTERLY, MEASURED ALONG SAID NORTHERLY LINE FROM THE MOST SOUTHERLY CORNER OF SAID LOT A, AND RUNNING THENCE FROM SAID POINT OF BEGINNING NORTHWESTERLY ALONG SAID SOUTHERLY LINE OF SAID LOT A, 50 FEET; THENCE NORTH 39 DEGREES 43' 30" EAST AND PARALLEL WITH THE SOUTHEASTERLY LINE OF SAID LOT, 310.40 FEET TO A POINT; THENCE SOUTHEASTERLY ALONG A LINE PARALLEL WITH THE SOUTHERLY LINE OF SAID LOT, 100 FEET; THENCE SOUTH 39 DEGREES 43' 30" WEST, PARALLEL WITH THE SOUTHEASTERLY LINE, 40.40 FEET; THENCE NORTHWESTERLY ALONG A LINE PARALLEL WITH THE SOUTHERLY LINE OF SAID LOT, 50 FEET; AND THENCE SOUTH 39 DEGREES 43' 40" WEST AND PARALLEL WITH THE SOUTHEASTERLY LINE OF SAID LOT, 270 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

THE SOUTHERLY 100 FEET OF THAT PORTION OF LOT A OF TRACT NO. 919 AS SHOWN ON A MAP RECORDED IN BOOK 29, PAGES 31 TO 34 INCLUSIVE OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTHWESTERLY LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN DEED RECORDED FEBRUARY 21, 1933 IN BOOK 607, PAGE 57 OF OFFICIAL RECORDS, SAID POINT BEING NORTH 39 DEGREES 43' 30" EAST A DISTANCE OF 310.40 FEET FROM THE SOUTHWESTERLY LINE OF LOT A AS SHOWN UPON AFOREMENTIONED MAP OF SAID TRACT; THENCE NORTH 39 DEGREES 43' 30" EAST ALONG SAID NORTHWESTERLY LINE AND PARALLEL TO THE SOUTHEASTERLY LINE OF LOT A, A DISTANCE OF 333.53 FEET TO A POINT IN THE NORTHEASTERLY LINE OF SAID LOT 1, WHICH LINE IS ALSO THE SOUTHERLY LINE OF OCEAN DRIVE, AS SHOWN UPON SAID MAP; THENCE NORTH 50 DEGREES 15' 10" WEST ALONG SAID SOUTHERLY LINE OF OCEAN DRIVE, A DISTANCE OF 60.31 FEET TO THE POINT OF BEGINNING OF A CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 50.00 FEET; THENCE, ALONG SAID CURVE, A DISTANCE OF 32.16 FEET TO THE END OF CURVE; THENCE NORTH 13 DEGREES 23' 50" WEST ALONG THE SOUTHWESTERLY LINE OF OCEAN DRIVE, A DISTANCE OF 185.46 FEET TO A POINT, SAID POINT BEING SOUTH 13 DEGREES 23' 50" EAST A DISTANCE OF 186.26 FEET FROM THE INTERSECTION OF THE SOUTHWESTERLY LINE OF OCEAN DRIVE AND THE SOUTHWESTERLY EXTENSION OF THE SOUTHEASTERLY LINE OF TUSTIN AVENUE, AS SHOWN UPON SAID MAP OF TRACT NO. 919; THENCE SOUTH 39 DEGREES 43' 30" WEST ALONG A LINE PARALLEL TO THE SOUTHEASTERLY LINE OF LOT A, A DISTANCE OF 500.09 FEET TO A POINT; THENCE SOUTH 61 DEGREES 00' 30" EAST ALONG A LINE PARALLEL TO THE SOUTHWESTERLY LINE OF LOT A, A DISTANCE OF 242.90 FEET TO THE POINT OF BEGINNING, CONTAINING 2.192 ACRES, MORE OR LESS.

EXCEPTING THEREFROM, THAT PORTION DESCRIBED IN THE DEED TO THE CITY OF NEWPORT BEACH, RECORDED MAY 29, 1981 IN BOOK 14079, PAGE 929 OF OFFICIAL RECORDS, ORANGE COUNTY, CALIFORNIA.

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EXHIBIT "B"

## LEGAL DESCRIPTION OF THE SUBJECT PROPERTY

THAT CERTAIN REAL PROPERTY LOCATED IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL A:

PARCEL 3 OF PARCEL MAP 90-173, AS SHOWN ON A MAP FILED IN BOOK 256, AT PAGES 25 & 26, OF PARCEL MAPS, IN THE OFFICIAL RECORDS, ORANGE COUNTY, CALIFORNIA.

PARCEL B:

THAT PORTION OF LOT "A" OF TRACT 919, AS PER MAP RECORDED IN BOOK 29, AT PAGES 31 - 34, INCLUSIVE, OF MISCELLANEOUS MAPS, IN THE OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY LINE OF THE STATE HIGHWAY, AS SHOWN ON SAID MAP (SAID POINT BEING IN THE SOUTHERLY LINE OF SAID LOT "A"), DISTANT THEREON 1013.78 FEET NORTHWESTERLY MEASURED ALONG SAID NORTHERLY LINE FROM THE MOST SOUTHERLY CORNER OF SAID LOT "A", AND RUNNING THENCE FROM SAID POINT OF BEGINNING NORTHWESTERLY ALONG SAID SOUTHERLY LINE OF SAID LOT "A", 50 FEET; THENCE NORTH 39 DEGREES 43' 30" EAST AND PARALLEL WITH THE SOUTHEASTERLY LINE OF SAID LOT 270 FEET TO A POINT; THENCE SOUTHEASTERLY ALONG SAID LINE PARALLEL WITH THE SOUTHERLY LINE OF SAID LOT, 50 FEET; THENCE SOUTH 39 DEGREES 43' 30" WEST AND PARALLEL WITH THE SOUTHEASTERLY LINE OF SAID LOT, 270 FEET TO THE POINT OF BEGINNING.

