GRAY DAVIS, Governor

CALIFORNIA COASTAL COMMISSION

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



9/8/99

49th Day:

10/27/99

180th Day:

3/6/00

Staff:

MV-LB[//

Staff Report:

10/14/99

Hearing Date:

11/2-5/99

Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NUMBER:

5-99-261

APPLICANT:

Craig Atkins

AGENT:

John Morgan Architect

PROJECT LOCATION:

6200 West Oceanfront, Newport Beach, Orange County

PROJECT DESCRIPTION:

Demolition of an existing single family residence and accessory structures including wood decking, block walls, and wood fences, and construction of a new 2393 square foot, two story, 26 foot high, single family residence with an

attached 485 square foot, two car garage.

Lot Area

2250 square feet

Building Coverage

1529 square feet

Pavement Coverage 606 square feet

Landscape Coverage 115 square feet

Parking Spaces

2

Zoning

R-2

Ht above final grade 26 feet

LOCAL APPROVALS RECEIVED: City of Newport Beach Approval in Concept No. 435-99; city of Newport Beach City Council Resolution No. 99-50.

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit Application No. 5-99-298 (City of Newport Beach); City of Newport Beach certified Land Use Plan.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed project subject to one special condition which requires that vehicular access to the garage be taken from the alley, rather than 62nd Street. Staff is recommending the special condition in order to bring the proposed development into conformance with the public access policies of the Coastal Act including Sections 30210 and 30212.5. By taking access from the alley the need for a curb cut on 62nd street adjacent to the subject site will be eliminated. Curb cuts limit the amount of space available for the provision of public beach parking. Although the proposed driveway from 62nd Street would not eliminate a public parking space at this time, it could eliminate the possibility for the provision of a space in the future. The applicant disagrees with the recommended special condition.



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 effects on the environment within the meaning of the California Environmental Quality Act.

II. STANDARD CONDITIONS:

- 1. <u>Notice of Receipt and Acknowledgment.</u> 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. <u>Expiration.</u> 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. <u>Compliance.</u> 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. <u>Interpretation.</u> Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 5. <u>Inspections.</u> The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
- 6. <u>Assignment.</u> 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. Revised Access to Garage

Prior to issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, revised plans demonstrating that the vehicular access to the garage will be taken from the alley. No vehicular access is approved from 62nd Street.

The development shall occur consistent with the approved revised plans.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. <u>Project Description and Location</u>

The applicant is proposing to demolish an existing single family residence and remove all accessory structures including wood decking, block walls, and wood fences, and to construct a new 2393 square foot, two story, 26 foot high, single family residence with an attached 485 square foot, two car garage. Access to the garage is proposed to be taken from 62nd Street rather than the alley.

The proposed project is located on the beachfront adjacent to the unimproved Oceanfront right of way. Public access exists at all of the street ends in the project vicinity and along the beach itself. Certain types of private encroachments (such as patios, low walls, and landscaping) are allowed into the right of way in this area subject to an encroachment permit from the City. The allowance for the encroachments is incorporated into the City's certified Land Use Plan. No encroachments are proposed as part of this permit.

Also proposed as part of the project is a land exchange between the applicant and the City of Newport Beach. The applicant proposes to deed to the City the rear (southerly) 15 by 30 foot portion of the property so that the alley can be extended. Currently the alley behind the 6200 block of West Oceanfront terminates at the subject site. The proposed exchange will allow the alley to extend from 63rd Street through to 62nd Street (see exhibit G4). In exchange for deeding the rear portion of the property to the City, the City will vacate the 15 by 30 foot portion of the Oceanfront right of way at the front (northerly, beachside) portion of the property in favor of the applicant. The proposed land exchange will make the subject site property lines consistent with rest of the properties on the 6200 block of west Oceanfront. An unimproved 30 foot wide right of way for Oceanfront will remain in the City's possession after the exchange. The applicant recorded the grant deed with the County Recorder on July 15, 1999 (see exhibit F). The City accepted the Grant Deed from the applicant as of July 14, 1999. The City Council approved the vacation of the Oceanfront right of way via City Council Resolution No. 99-50 on July 12, 1999 (see exhibit G). The resolution was recorded with the County Recorder on July 20, 1999.

B. Public Access §8.

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 over use.

In addition, Section 30212.5 of the Coastal Act states:

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

The proposed project is located in the West Newport area, an area of heavy public beach use. The site is adjacent to a wide sandy beach area that extends from the Santa Ana River mouth to the tip of the Balboa Peninsula. Parking demand exceeds the supply during peak use summer periods. Therefore in order to maximize public access in the area it is critical to assure that opportunities for the provision of additional public parking spaces are not precluded by other types of development.

Encroachments onto the unimproved Oceanfront right of way are allowed in this area subject to an encroachment permit from the City. The issue of encroachments was addressed by the Commission on June 11, 1991 when it approved LUP amendment 90-1. The Commission's approval of the LUP amendment provided policies to establish conditions and restrictions on the nature and extent of the private encroachments. The mitigation for the encroachments required payment of a fee to the City. The fee is required to be applied to the construction of street end improvements including the provision of a minimum of two metered parking spaces at each street end. The street end adjacent to the subject site, 62nd Street, is currently unimproved. However, the City has applied for a coastal development permit (5-99-298) to improve the 62nd Street street end. The application is currently incomplete but is expected to be heard by the Commission in the near future.

The City's current application includes construction of two metered public parking spaces on 62nd Street on the side of the street opposite the subject site (adjacent to 6110 Oceanfront, see exhibit D). Under the City's coastal development permit application no parking spaces are proposed to be located on the side of the street adjacent to the subject site, 6200 Oceanfront. The width of the improved street, 20 feet from curb to curb, precludes the possibility of providing parking on both sides of the street. Under existing conditions a third parking space could not be added to the proposed project at 62nd Street due to the existing driveway access for the residence at 6110 Oceanfront. Because of the existing driveway there is not enough street length to provide three spaces.

There is enough street length to provide three parking spaces (end to end) on the subject site side of the street. However, if the two proposed spaces are relocated to the subject site side of the street, a third space still could not be provided. The third space would prohibit the

resident at 6110 Oceanfront from accessing their existing driveway and garage due to the need for turning space on 62nd Street. Consequently three parking spaces at this street end could not be required by the Commission under the City's current coastal development permit application.

The residence at 6110 Oceanfront is an older home that pre-dates the Coastal Act. It is likely that the site may redevelop in the near future. If redevelopment were to occur, the site could be required to take garage access from the alley. Once the existing driveway curb cut at 6110 Oceanfront is eliminated, there is the potential for a third parking space to be located behind the two spaces currently proposed by the City. However, if a driveway access were approved at the subject site, the potential third space would not be possible. A driveway at the subject site would require the area occupied by a future third parking space in order to turn into the driveway.

Due to existing constraints, a third on-street public parking space could not be constructed by the City at this time under its pending coastal development permit application. However, the possibility of provision of a third public parking space exists in the future. That possibility would be eliminated, however, if the subject site were allowed to have a driveway on 62^{nd} Street.

Approval of the project with the proposed driveway on 62nd Street rather than the alley would not maximize public access because the potential for an additional public parking space in the future would be eliminated. In addition, as proposed the project would not be consistent with Section 30212.5 which requires that public facilities such as parking be distributed throughout an area. Street end access (improved and unimproved) to the wide sandy beach exists at each street end throughout the West Newport Area. The street end improvements do an excellent job of distributing public parking spaces throughout the West Newport area. However, the effectiveness of the distribution would be diminished by the proposed project in that a potential future public parking space would be irrevocably lost. Although the loss of a single parking space may seem minor, the cumulative effect of lost opportunities for public parking creates a substantial adverse effect on public access. Each time a curb cut is allowed when alternatives exist, the cumulative impact increases.

The applicant asserts that access needs to be taken from 62nd Street for a number of reasons (see exhibit E). First, the existing residence to the north of the subject site, across the alley, is only set back 3 feet from the property line. Consequently there would only be the 15 foot wide alley right of way plus the 3 foot setback area for backup purposes. If the garage access were from 62nd Street the back up dimension would be 20 feet, which the applicant feels would be safer. Second, once the alley is continuous, the pedestrian traffic will start to pass through. Many people jog or ride bicycles in the area. The applicant feels that the presence of large numbers of pedestrians would be a safety hazard to backing out of the garage. And third, the neighbor to the east takes access from 62nd Street, so it would be equitable to allow the subject site to have similar access. Nevertheless, the adverse impact and cumulative effect from the loss of a potential public parking spaces outweighs the inconvenience of taking access from the alley.

In order to assure that the proposed project is consistent with Section 30210's requirement that public access be maximized and Section 30215.5's requirement that parking facilities be

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distributed throughout an area, the project has been conditioned to take vehicular access to the garage from the alley. Only as conditioned can the proposed project be found consistent with Sections 30210 and 30212.5 of the Coastal Act regarding public access.

D. Land Use Plan

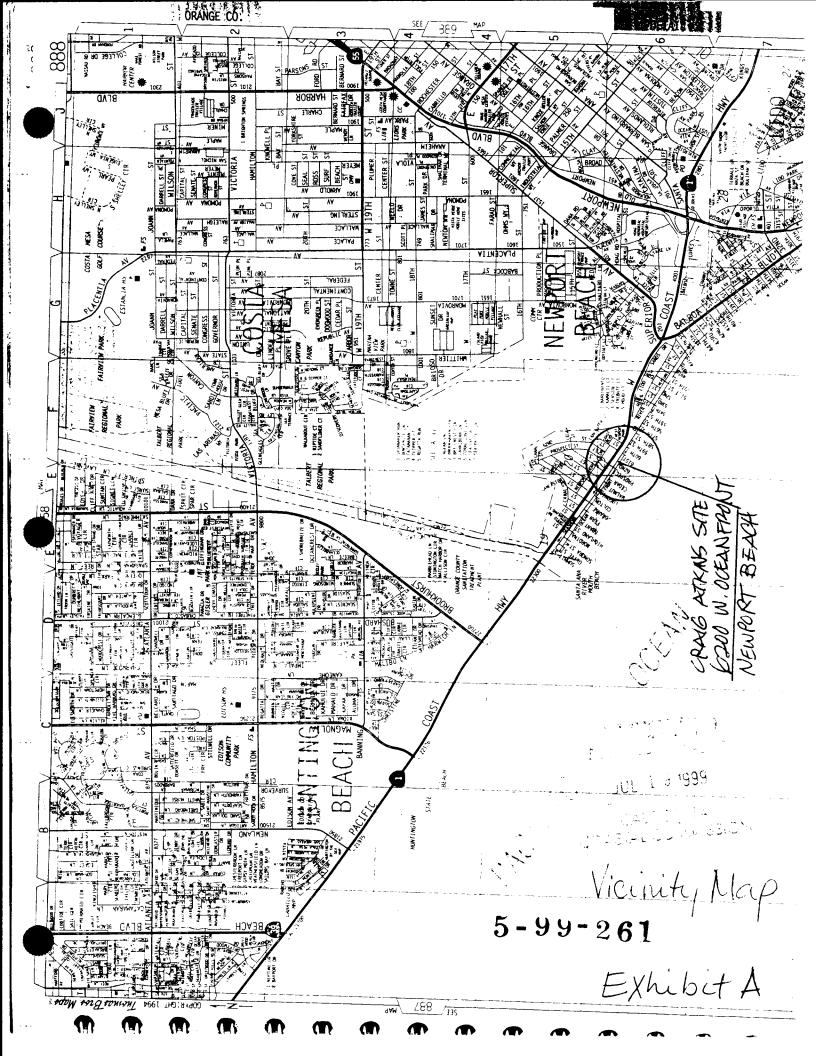
Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act.

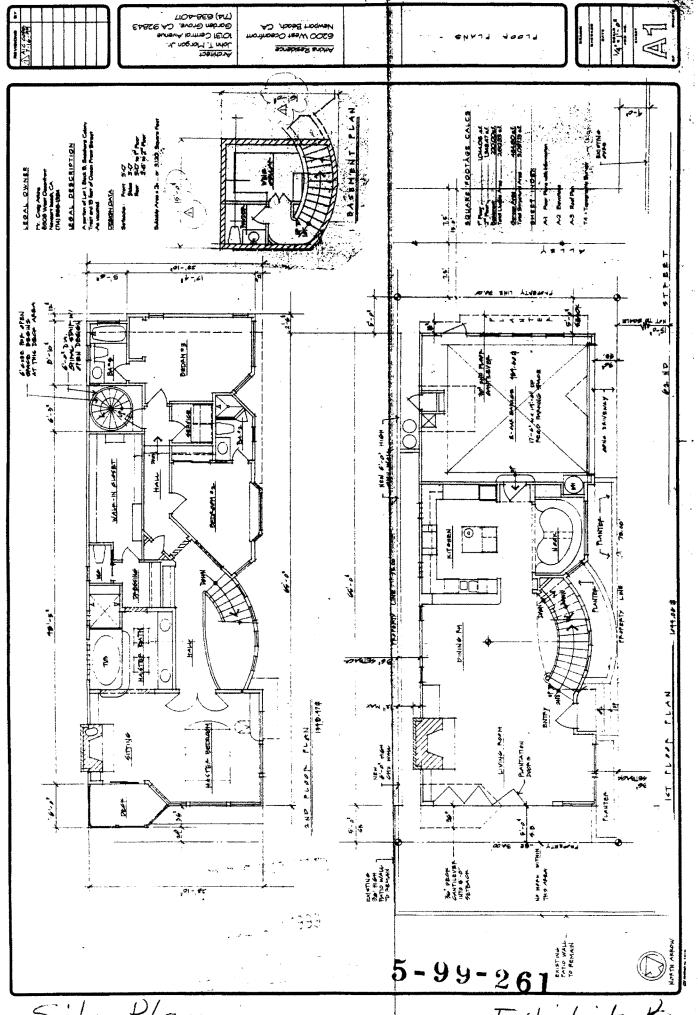
The Commission certified the Land Use Plan for the City of Newport Beach on May 19, 1982. The proposed project has been conditioned in order to be found consistent with the public access policies of the Coastal Act. As conditioned, the proposed development is consistent with the policies contained in the certified Land Use Plan and with the Chapter 3 policies of the Coastal Act. Therefore, approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program for Newport Beach that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

E. California Environmental Quality Act

Section 13096 of the Commission's regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) 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 effect which the activity may have on the environment.

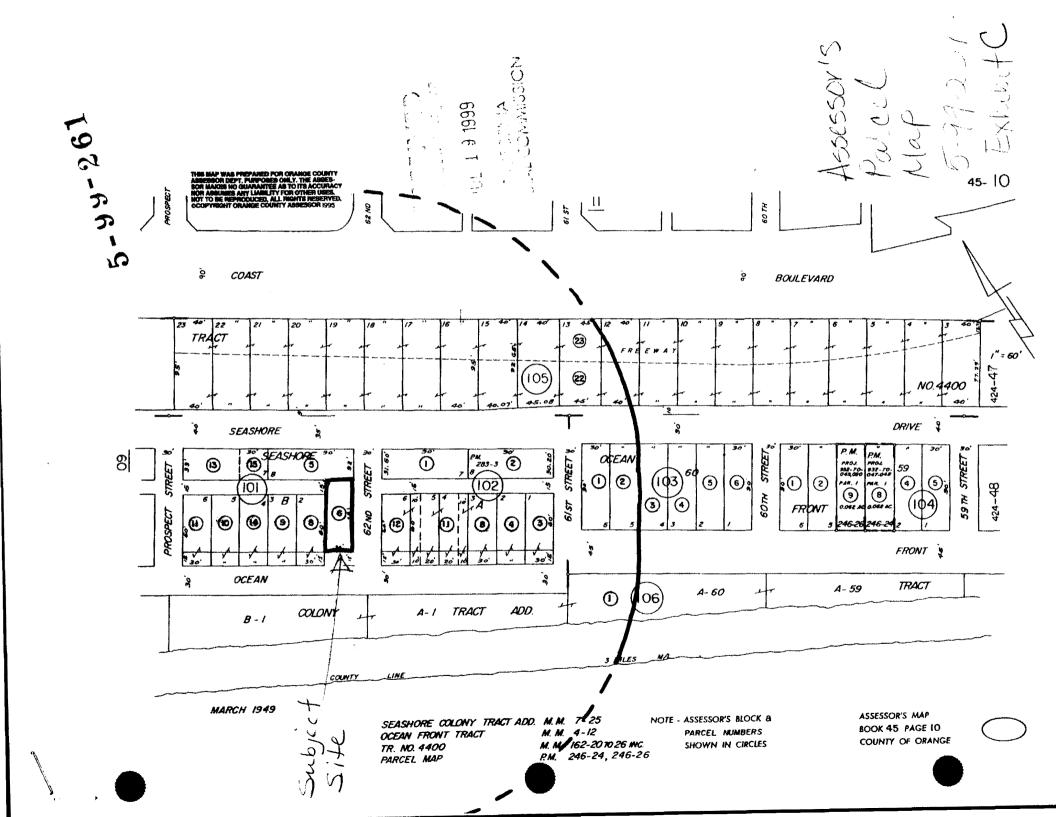
The proposed project has been conditioned in order to be found consistent with the public access policies of Sections 30210 and 30212.5 of the Coastal Act. Mitigation measures, in the form of special conditions which require that access to the garage be taken from the alley rather than the street, will minimize all adverse effects. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with CEQA and the policies of the Coastal Act.

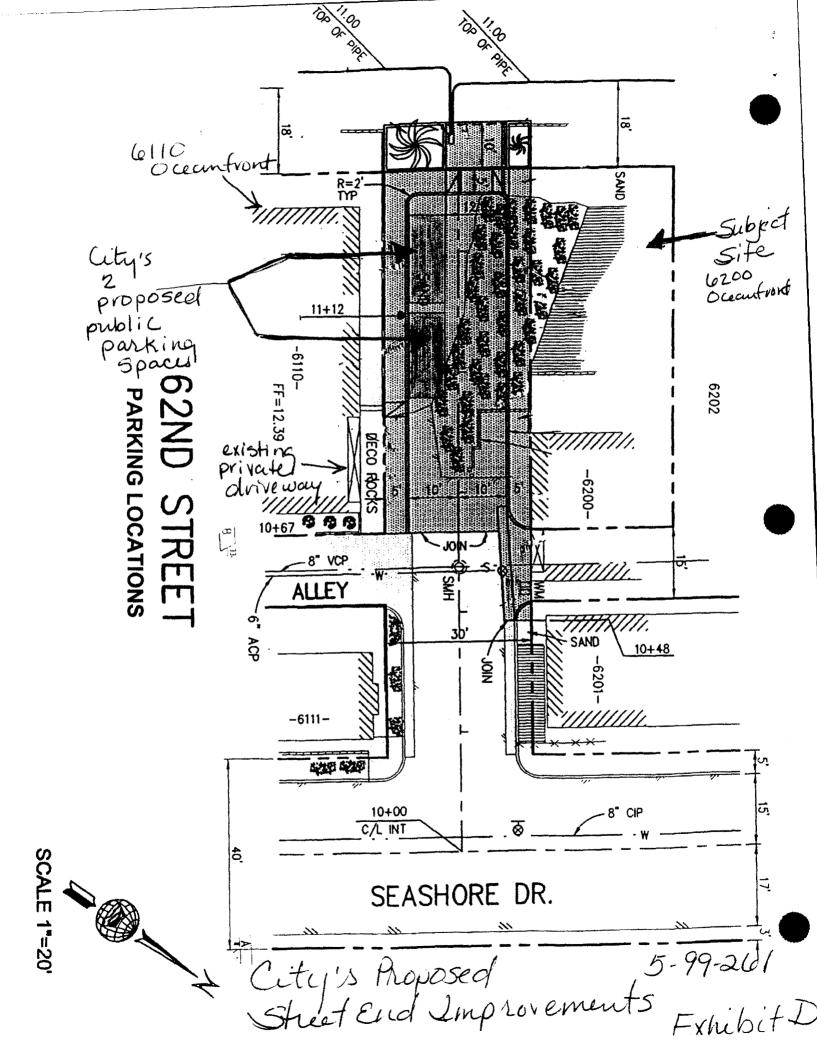




Site Plan

Exhibit





September 2, 1999

California Coastal Commission 200 Oceangate, 10th Floor Long Beach, CA 90802-4302

Re: Coastal Application No. #5-99-261 Atkins Residence

Attention: Meg Vaughn

Dear Ms. Vaughn,

Some additional information has come to my attention this morning regarding any clients project located at 6200 West Oceanfront. Some of the revisions requested to be made to the plans by my client, will affect some questions you had in your previous letter dated 8-17-99, and my response to them in my letter dated 8-26-99.

Firstly, my client has decided to eliminate the entire basement area. Due to very expensive cost considerations, we will be eliminating this besement from our plans. This basement elimination will mean we do not have to provide a grading plan, construct retaining walls for the basement, and perform any expensive de-watering. Therefore the Regional Water Quality Board approval and grading plan requests will not be required for this project. This was one of your concerns in the 8-17-99 letter to me. Simply, the basement square footage will be removed from the overall square footage of the building.

Secondly, we will be tearing down all walls, fences and wood decking on our property within the property lines and the existing block wall within the encroachment area on the oceanfront. Further inspection of the wall yesterday has revealed that it needs to be replaced. This was a concern of yours also, in your letter, as to whether or not it existed prior to October 22, 1991. Since it going to be demolished, it is not relevant if it was permitted before October 22, 1991

I hope this will clarify our position for this project and keep us on track for the October bearing dates

Please call me if you have any questions regarding this matter.

Mr. Morson

Atk 501

Letter Regarding Need for Access from

6200 Street

Exhibit E

Order No. First American Title Insurance Company Escrow No. Loan'No. WHEN RECORDED MAIL TO: Recorded in the County of Orange, California Gary L. Granville, Clerk/Recorder City of Newport Beach No Fee 3300 Newport Blvd. 19990522105 2:58pm 07/15/99 Newport Beach, CA 921063 G02 2 07 0.00 6.00 3.00 0.00 0.00 0.00 20.00 0.00 0.00 SPACE ABOVE THIS LINE FOR RECORDER'S USE None **DOCUMENTARY TRANSFER TAX \$...** Computed on the consideration or value of property conveyed; OR Computed on the consideration or value less liens or encumbrances remaining at time of sale. AUG 31 1999 GRANT DEED CALIFORNIA FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, COASTAL COMMISSION Craig Starbuck Atkins III, a single man hereby GRANT(S) to City of Newport Beach the real property in the City of Newport Beach county of Orange , State of California, described as The Northeasterly Rectangular 15 feet of Lot 1 in Block "B" of Seashore Colony Tract, as shown on a map filed in Book 7 page 25 of Misc. Maps, Records of Orange County. July 7, 1999 **Dated** STATE OF CALIFORNIA iss. Iranal COUNTY OF before me. personally appeared personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument. NIKI J. WHITNEY COMM, # 1224584 WITNESS my hand and official sea ARY PUBLIC-CALIFORNIA **DRANGE COUNTY** Signature MI. EXP. JUNE 15, 2003 (This area for official notariet seel) IAIL TAX STATEMENTS TO: Granting City Alley Area 5-99-261 1002 (1/94)

This document was electronically recorded by

Exhibit

This is to certify that the interest in real property conveyed by the Grant Deed dated July 7, 1999, from Graig Starbuck Atkins III to the City of Newport Beach, a municipal corporation, is hereby accepted by the City Manager on July 14, 1999, and the grantee consents to its being recorded by the duly authorized officer.

- Homer L. Bludau, City Manager

Dated:

uly 14, 1779

Homed L. Halen

Authorized by Council Resolution No. 92-82

5-79-261

Exhibit F2

RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO

City Clerk City of Newport Beach P.O. Box 1768

RECEIVED

3300 Newport Boulevard Newport Beach, CA 92658-1768

Gary L. Granville, 985 22055514 R28 5 6.00 42

f Orange,

Recorded in the Count

JUL 20 A9:15

CALIFORNIA Space above this line for Recorder's use only COASTABLEMBLAGCORDING REQUEST PER OFFICE OF THE CITY CLER **GOVERNMENT CODE 6103** 99-50

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH ORDERING THE VACATION AND ABANDONMENT OF A PORTION OF WEST OCEAN FRONT RIGHT-OF-WAY ADJACENT TO 6200 WEST OCEAN FRONT (WEST NEWPORT AREA): AND DIRECTING THE CITY CLERK TO RECORD SAME WITH THE COUNTY RECORDER'S OFFICE

WHEREAS, the City Council of the City of Newport Beach, pursuant to the provisions of the Street Vacation Act (Section 8300 et seq. of the Streets & Highways Code) is authorized to vacate portions of public rights-of-way; and

WHEREAS, the City Council of the City of Newport Beach has reviewed and considered the various elements of the General Plan of the City of Newport Beach prior to declaring its intent to vacate a portion of this public right-of-way and has determined that the proposed vacation is consistent with the General Plan which shows no future use of right-of-way on any plans and right-of-way is unnecessary for present or prospective public street purposes; and **-

WHEREAS, the City Council of the City of Newport Beach desires to vacate the portion of West Ocean Front, legally described in Exhibit "A" and depicted on the map attached as on Exhibit "B, the vacation to be processed pursuant to the provisions of the Street Vacation Act; and

WHEREAS, that a notice of intention was published for at least two (2) successive weeks prior to the hearing in the official newspaper of the City of Newport Beach; and

WHEREAS, that at least two (2) weeks before the day set for hearing, notices of the proposed vacation were conspicuously posted along West Ocean Front, with the notices posted not more than three hundred feet (300') apart and a minimum of three (3) notices posted on each street. The notices stated the day, hour, and place of the hearing. 5-99-261

NB City Council Resolution

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Exhibit

NOW, THEREFORE, be it resolved by the City Council of the City of Newport Beach that the portion of street rights-of-way legally described in Exhibit "A", and depicted on the map attached as Exhibit "B" is hereby ordered vacated and abandoned.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to have this resolution recorded by the Orange County Recorder.

Adopted this 12th day of July ,1999

n M. Harkles

EXHIBIT "A"

That portion of Ocean Front in the City of Newport Beach, County of Orange, State of California described as follows:

The northeasterly 15.00 feet of Ocean Front (formerly Ocean Avenue) lying southwesterly of and adjacent to Lot 1, Block B of the Seashore Colony Tract as shown on a map thereof filed in Book 7, Page 25 of Miscellaneous Maps in the office of the County Recorder of said County, bounded on the northwest and southeast by the southwesterly prolongation of the northwesterly and southeasterly lines of said lot.

EXHIBIT "B" NORTH **SUBJECT** RIGHT OF WAY VICINITY MAP SEASHORE B Blog OR. VACATE ORIGHT OF WAYY known as Ocean FRONT Right of Way To Be Vacated

SS.

I, LAVONNE M. HARKLESS, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing resolution, being Resolution No. 99-50, was duly and regularly introduced before and adopted by the City Council of said City at a regular meeting of said Council, duly and regularly held on the 12th day of July, 1999, and that the same was so passed and adopted by the following vote, to wit:

Ayes:

Adams, Glover, Debay, Ridgeway, Noyes, Mayor O'Neil

Noes:

None

Absent:

Thomson

Abstain:

None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 13th day of July, 1999.

City Clerk of the City of Newport Beach, California

(Seal)



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