

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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Seal Beach, CA 90802-4302
Phone: (562) 590-5071
Fax: (562) 590-5084

RECORD PACKET COPY

Filed: November 19, 1999
49th Day: January 7, 2000
180th Day: July 5, 2000
Staff: MG-LB
Staff Report: December 16, 1999
Hearing Date: January 11, 2000
Commission Action:

**STAFF REPORT: PERMIT AMENDMENT**

APPLICATION NUMBER: 5-99-356-A1
APPLICANT: Michael and Ramona Mattingley
AGENT: Marshall Inniss
PROJECT LOCATION: A45 Surfside Avenue, City of Seal Beach, County of Orange

APPROVED PROJECT DESCRIPTION: In 1973, the South Coast Regional Conservation Commission approved coastal development permit P-73-1861 (Larner) to construct a 3-story, single-family dwelling at 45A and 46 Surfside Drive in Seal Beach, California. No special conditions were imposed. The permit was issued on October 16, 1973.

DESCRIPTION OF PROPOSED AMENDMENT: The proposed project includes the addition of 610 ft.² of living space to an existing 2,872 ft.² single-family dwelling. The proposed project includes the enclosure of an existing patio kitchen adding approximately 17 ft.² of additional living space on the northwest (landward) side of the first floor. An addition of approximately 36 ft.² is proposed above the entryway on the northwest (landward) side of the second floor. A loft totaling approximately 170 ft.² is also proposed above the master bedroom. A third floor addition of approximately 387 ft.² is proposed on the seaward side of the home within the existing footprint and building envelope. Approximately 353 ft.² of the proposed addition will be achieved by extending the third floor across a vaulted open area above the second floor living room, and enclosing approximately 34 ft.² of an existing deck which is also within the existing footprint of the home. The project also includes the addition of 114 ft.² to an existing, 160 ft.² second story deck and a stairway to the first floor patio. The deck and the patio will extend 10-feet seaward, beyond the property boundary, into land that is leased by the Surfside Colony to the applicant. The 3-story dwelling has approximately 505 ft.² of decks, balconies and patio area, and an attached 480 ft.², two-car garage.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission approve the proposed development with two special conditions. The major issue of this staff report concerns development on a beach that could be affected by geologic hazards and flooding. The special conditions contained within this staff report include an assumption-of-risk deed restriction and a future improvements deed restriction. At this time, Staff has not received confirmation that if the applicant agrees with the special conditions contained herein.

LOCAL APPROVALS RECEIVED: City of Seal Beach approval in concept; approval in principle by Architectural Committee, Surfside Colony, Ltd. dated June 2, 1999.

SUBSTANTIVE FILE DOCUMENTS: Coastal development and administrative permits P-73-1861, P-75-6364, 5-86-676, 5-87-813, 5-95-276, 5-97-380, 5-98-098, and 5-98-412. City of Seal Beach building permits for existing single family home at 45A Surfside Drive.

PROCEDURAL NOTE: Section 13166 of Title 14 of the California Code of Regulations provides for the referral of permit amendment requests to the Commission if:

- 1) *The Executive Director determines that the proposed amendment is a material change,*
- 2) *Objection is made to the Executive Director's determination of immateriality, or*
- 3) *The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.*

In this case, the Executive Director has determined that the proposed amendment is a material change. Therefore, pursuant to Section 13166(a)(3) of the Commission's regulations, the Executive Director is referring this application to the Commission. If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material.

The current application is being referred to the Commission as a result of the Executive Director's determination that the proposed amendment is a material change to the original permit. The previously approved project (P-73-1861) involved the construction of one three-story, single-family dwelling at two properties (45A and 46 Surfside Drive). There were no special conditions added to the original permit. The dwelling was subsequently constructed at 45A Surfside Drive; the lots were subdivided and sold separately. The currently proposed project involves an addition to the existing home at 45A Surfside Drive. The proposed amendment is a material change because the new project includes extending a deck onto property leased to the applicant by the homeowners association, and this property is in an area subject to geologic and flood hazards. To address the presence of geologic and flood hazards, Staff is proposing two special conditions.

STAFF RECOMMENDATION:

The staff recommends that the Commission **APPROVE** the permit amendment with special conditions.

MOTION

I move that the Commission approve CDP Amendment No. 5-99-356-A1 pursuant to the staff recommendation.

Staff recommends a **YES** vote. Passage of this motion will result in adoption of the following resolution and findings. The motion passes only by affirmative vote of majority of the Commissioners present.

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, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies 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. **Notice of Receipt and Acknowledgment.** The permit amendment is not valid and development shall not commence until a copy of the permit amendment, signed by the permittee or authorized agent, acknowledging receipt of the permit amendment and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit amendment 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 amendment 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 permit amendment, 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. **Assumption-of-Risk, Waiver of Liability, and Indemnity Deed Restriction.**
 - A) By acceptance of this permit amendment, the applicant and any landowner acknowledges and agrees (i) that the site may be subject to hazards from waves, storm waves, flooding and erosion; (ii) to assume the risks to the applicant and the property, that is the subject of this permit amendment, 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, (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 injury or damage due to such hazards; (v) to agree to include a provision in any subsequent sublease or assignment of the development authorized by this permit requiring the sublessee or assignee to submit a written agreement to the Commission for the review and approval of the Executive Director, incorporating all of the foregoing restrictions identified in (i) through (iv).

- B) **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant and landowner shall execute and record a deed restriction and/or lease restriction as applicable, in a form and content acceptable to the Executive Director incorporating all of the above terms of subsection A of this condition. The deed restriction and lease restriction shall include a legal description of the applicant's and landowner's parcels. The deed restriction and lease restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. The deed restriction and lease restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

2. Future Development

- A) This permit amendment is only for the development described in coastal development permit No. 5-99-356-A1. 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. Accordingly, any future improvements to the single family house described in this permit amendment, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Code, section 30610(d) and Title 14, California Code of Regulations, sections 13252(a)-(b), shall require an amendment to Permit No. 5-99-356-A1 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.
- B) **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant and landowner shall execute and record a deed restriction and/or lease restriction as applicable, in a form and content acceptable to the Executive Director, reflecting the above restrictions on development. The deed restriction and lease restriction shall include legal descriptions of the applicant's and landowner's parcels. The deed restriction and lease restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. The deed restriction and lease restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Location and Description

The lot is located at 45A Surfside Drive in the private community of Surfside Colony, in the City of Seal Beach, Orange County, California (Exhibits 1 and 2). The site is a beachfront lot located between the first public road and the sea. The project development is in an existing private, gated residential area, located south of the Anaheim Bay east jetty. The proposed project is consistent with adjacent development and prior Commission action the area. There is a wide, sandy beach between the subject property and the mean high tide line.

The proposed project includes the addition of 610 ft.² of living space to an existing 2,872 ft.² single-family dwelling. The proposed project includes the enclosure of an existing patio kitchen adding approximately 17 ft.² of additional living space on the northwest (landward) side of the first floor. An addition of approximately 36 ft.² is proposed above the entryway on the northwest (landward) side of the second floor. A loft totaling approximately 170 ft.² is also proposed above the master bedroom. A third floor addition of approximately 387 ft.² is proposed on the seaward side of the home within the existing footprint and building envelope. Approximately 353 ft.² of the proposed addition will be achieved by extending the third floor across a vaulted open area above the second floor living room, and enclosing approximately 34 ft.² of an existing deck which is also within the existing footprint of the home. The project also includes the addition of 114 ft.² to an existing, 160 ft.² second story deck and a stairway to the first floor patio. The deck and the patio will extend 10-feet seaward, beyond the property boundary, into land that is leased by the Surfside Colony to the applicant. The 3-story dwelling has approximately 505 ft.² of decks, balconies and patio area, and an attached 480 ft.², two-car garage.

B. Hazards and Future Improvements

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

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

The subject site is located halfway between the southern and northern end of Surfside Colony, a private beachfront community in the City of Seal Beach (Exhibit 1). The northern end of Surfside is subject to uniquely localized beach erosion due to the reflection of waves off the adjacent Anaheim Bay east jetty. These reflected waves combine with normal waves to create increased wave energy that erodes the beach in front of Surfside Colony more quickly than is typical at an unaltered natural beach. Since the erosion is the result of the federally owned jetty, the U.S. Army Corps of Engineers has periodically replenished the beach. The beach provides Surfside a measure of protection from wave hazards. However, when the beach erodes, development at Surfside Colony may be exposed to wave uprush and subsequent wave damage.

The especially heavy wave action generated during the 1982-83 El Nino winter storms caused Surfside Colony to apply for a coastal development permit for a revetment to protect the homes at Surfside's northern end. The Commission approved coastal development permit 5-82-579 for this revetment, and coastal development permit 5-95-276 for the repair of the revetment. The Commission also approved consistency determinations CD-028-97 and CD-67-97 for the most recent beach nourishment at Surfside performed by the U.S. Army Corps of Engineers completed in July 1997.

The revetment and widened beach protect the northern end of Surfside Colony from wave uprush. However, a wide sandy beach provides the only protection for the middle and southern end of Surfside Colony, where the subject property is located. No revetment protects this property. Erosion of the beach will inevitably occur, especially if ongoing sand replenishment projects are interrupted (which form the wide sandy beach protecting the subject property). In addition, the presence of the wide sandy beach does not preclude wave uprush damage and flooding from occurring at Surfside. Strong storm events, like those that occurred in 1994 and 1997, can cause large waves to flood Surfside. The proposed project has decks and patio area which encroach ten feet seaward beyond the subject site's seaward property line onto a ten foot wide strip of land owned by Surfside Colony, Ltd. (which serves as a homeowners' association). Surfside Colony leases its property to the applicant and adjacent homeowners for construction of patios.

The proposed development will not encroach seaward past the existing homes in Surfside Colony. However, although the development will not encroach further seaward, as explained above, the site is still subject to significant wave hazards. Therefore, the Commission finds that it is necessary to require the recordation of an assumption-of-risk deed restriction and lease restriction by the applicant and Surfside Colony, Ltd. With this standard waiver of liability condition, the applicant and Surfside Colony, Ltd. are notified that the lot and improvements are located in an area that is potentially subject to flooding and wave uprush hazards that could damage the applicant's property. The applicant and Surfside Colony, Ltd. are also notified that the Commission is not liable for such damage as a result of approving the permit amendment for development. In addition, the condition insures that future owners and lessors of the property will be informed of the risks and the Commission's immunity of liability.

The assumption-of-risk condition is consistent with prior Commission actions for homes in Surfside since the 1982-83 El Nino storms. For instance, the Executive Director issued administrative permit's 5-97-380, 5-98-098, and more recently coastal development permit 5-98-412 (Cox) with assumption-of-risk deed restrictions for improvements to existing homes. In addition, the Commission has consistently imposed assumption-of-risk deed restrictions on construction of new homes throughout Surfside, whether on vacant lots or in conjunction with the demolition and replacement of an existing home.

The Commission finds that extraordinary hazards exist from wave up-rush and flooding at the subject site and requires, per Special Condition 1, that assumption-of-risk deed and restrictions be recorded by the applicant and Surfside Colony for the development that is approved by this permit on the applicant's and Surfside Colony, Ltd.'s property. Therefore, as conditioned, the Commission finds that the proposed project is consistent with section 30253 of the Coastal Act.

C. Public Access.

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 a beachfront lot located between the nearest public roadway and the shoreline in the private community of Surfside (Exhibit 2). A pre-Coastal (1966) boundary agreement between Surfside Colony and the California State Lands Commission fixes the boundary between state tide and submerged lands and private uplands in Surfside (Exhibit 4). As a result of this boundary agreement, Surfside Colony, Ltd. owns a strip of the beach, up to 80-feet in width, adjacent to the homes fronting the ocean. The beach seaward of this area is available for lateral public access.

The proposed project has decks and patio area which encroach ten feet seaward beyond the subject site's seaward property line onto a ten foot wide strip of land owned by Surfside Colony, Ltd. (which serves as a homeowners' association). Surfside Colony leases its property to the adjacent homeowners for construction of patios. Enclosed living area is not allowed to encroach past the individual homeowner's seaward property line onto Surfside Colony land. The applicant has obtained a lease from Surfside Colony, Ltd. for the proposed encroachment (Exhibit 5).

In past permits, the Commission has consistently allowed the seaward property line of individually owned beachfront lots in Surfside to serve as the enclosed living area stringline. The Commission has also consistently allowed the seaward edge of the ten-foot wide strip of land owned by Surfside Colony, Ltd. to serve as the deck stringline. These stringlines serve to limit encroachment of development onto the beach. The proposed development would conform to these stringlines.

The proposed project would not result in direct adverse impacts, either individually or cumulatively, on vertical or lateral public access. In addition to the beach seaward of the fixed boundary between State and private lands, public access, public recreation opportunities and public parking exist nearby in Sunset Beach, an unincorporated area of Orange County at the southeastern end of Surfside. In addition, the proposed project provides parking consistent with the standard of two parking spaces per residential dwelling unit, which the Commission has regularly used for development in Surfside.

To guarantee that the future development of the property can be evaluated for consistency with Section 30252 of the Coastal Act, the Commission finds it necessary that the applicant and landowner, prior to issuance of this permit amendment, record a future improvement deed and lease restriction per Special Condition 2. Therefore, as conditioned, the Commission finds that the proposed development would not result in significant adverse impacts on public access nor public recreation. Thus, the Commission finds that the proposed development, as conditioned, would be consistent with Section 30212 of the Coastal Act.

D. Height and Views

Section 30251 of the Coastal Act states, in relevant part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

The existing home is approximately 35.5 feet high and the proposed development does not increase the height of the dwelling, and does not increase the bulk of the dwelling beyond the existing building envelope and footprint (Exhibit 3). The Commission typically has limited residential development in Surfside, except for chimneys and roof access staircase enclosures, to a 35-foot height limit. This is to minimize the visual effect of a large wall of buildings along the beach that results because most homes are constructed to maximize use of the City established building envelope. The approved project would be consistent with the height of the existing structure and with heights of other homes in Surfside.

A fence surrounding Surfside Colony, as well as several rows of existing homes, currently block public views from Pacific Coast Highway (State Route 1), the first public road paralleling the beach. The subject site is not visible from the highway. Thus, the approved development on the subject site would not further degrade views from Pacific Coast Highway. In addition, since the approved development will not encroach seaward past existing homes in Surfside Colony, no existing public views along the shoreline would be blocked by the approved development. Therefore, the approved development is consistent with Section 30251 of the Coastal Act.

E. Local Coastal Program

Section 30604 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 permit amendment may only be issued if the Commission finds that the proposed development will not prejudice the ability of the local government to prepare a Local Coastal Program, which conforms with the Chapter 3 policies of the Coastal Act.

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

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

F. California Environmental Quality Act

Section 13096 of the Commission's administrative regulations requires Commission approval of Coastal Development Permit amendments to be supported by a finding showing the amendment, 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 that the activity may have on the environment.

The proposed project is located in an urban area. All infrastructures necessary to serve the site exist in the area. As conditioned, the proposed project has been found consistent with the hazard and public access policies of Chapter Three of the Coastal Act. Mitigation measures requiring assumption-of-risk and future improvement deed restrictions and lease restrictions will minimize any significant adverse effects that the activity may have on the environment.

As conditioned, no feasible alternatives or feasible mitigation measures are known, beyond those required, which would substantially lessen any identified significant 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.

Surfside Permits with Assumption-of-Risk Deed Restrictions

Site	Permit #	Project Description	Exceeds Height *
A-2	5-92-450	New SFD on vacant lot	Yes
A-6	5-86-676	Addition to existing SFD	Yes
A-20	5-90-860	Demo. SFD, Construct new SFD	Yes
A-21	5-87-813	Addition to existing SFD	
A-24	5-87-045	Demo. SFD, Construct new SFD	Yes
A-26	5-87-115	Construct new SFD	Yes
A-36	5-92-165	Demo. SFD, Construct new SFD	
A-44	5-88-152	Demo. SFD, Construct new SFD	
A-47	5-99-412	New SFD on vacant lot	No
A-62	5-87-436	New SFD on vacant lot	Yes
A-62	5-84-068	New SFD on vacant lot	Yes
A-64	5-85-441	Demo. SFD, Construct new SFD	No
A-71	5-82-714	Demo. SFD, Construct new SFD	
A-86	5-85-474	New SFD on vacant lot	Yes
A-87	5-85-474	New SFD on vacant lot	Yes
A-88	5-85-474	New SFD on vacant lot	Yes
A-98	5-98-098	New SFD on vacant lot	Yes
A-100	5-84-790	Demo. SFD, Construct new SFD	Yes

* Where it is known that the plans on file indicate that a chimney or covered roof access structure exceeds the 35 foot height limit.

SFD = Single-Family Dwelling

826

796 MAP

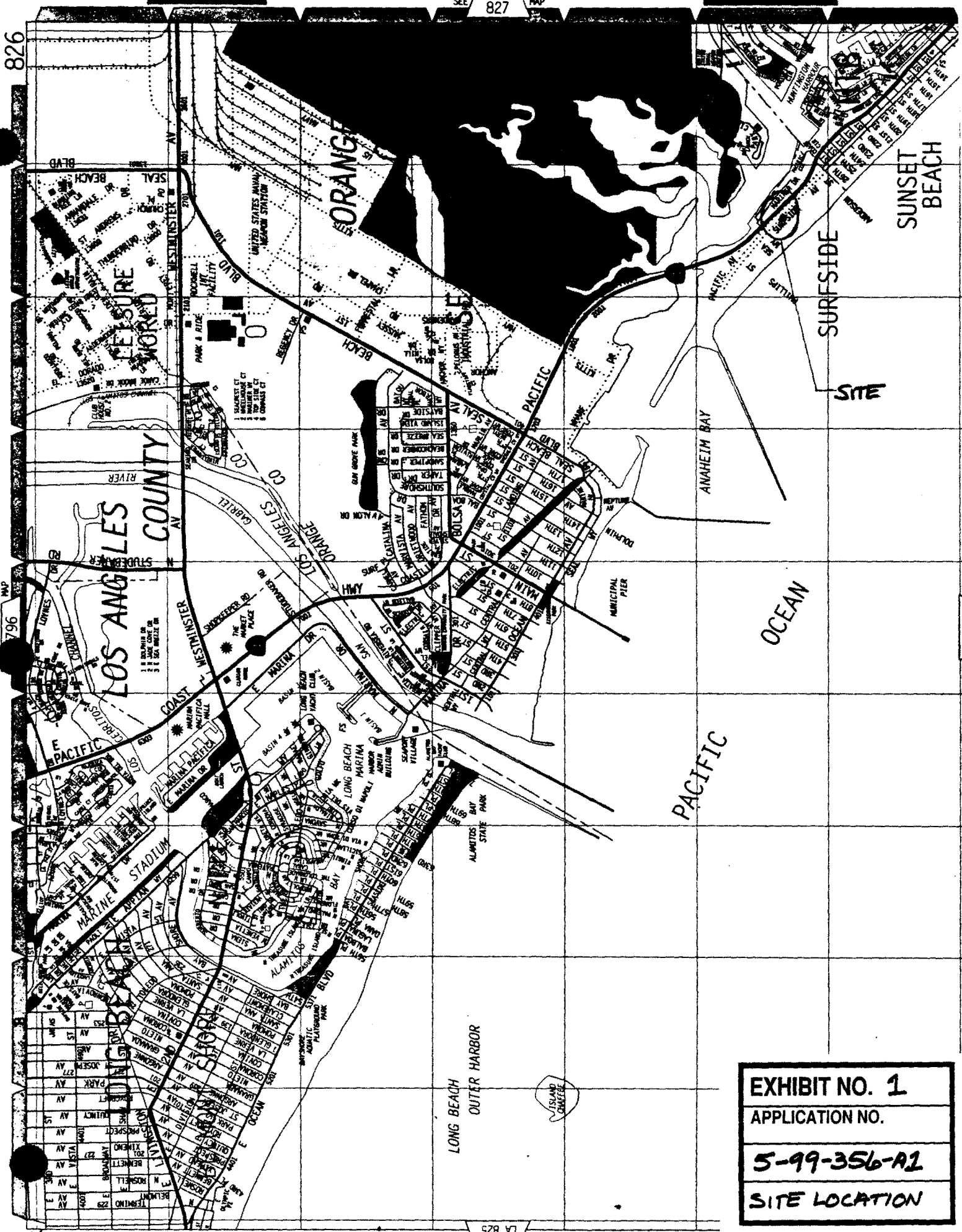


EXHIBIT NO. 1
APPLICATION NO.
5-99-356-A1
SITE LOCATION

POR NE 1/4, SEC. 24, T.5S., R.12W.

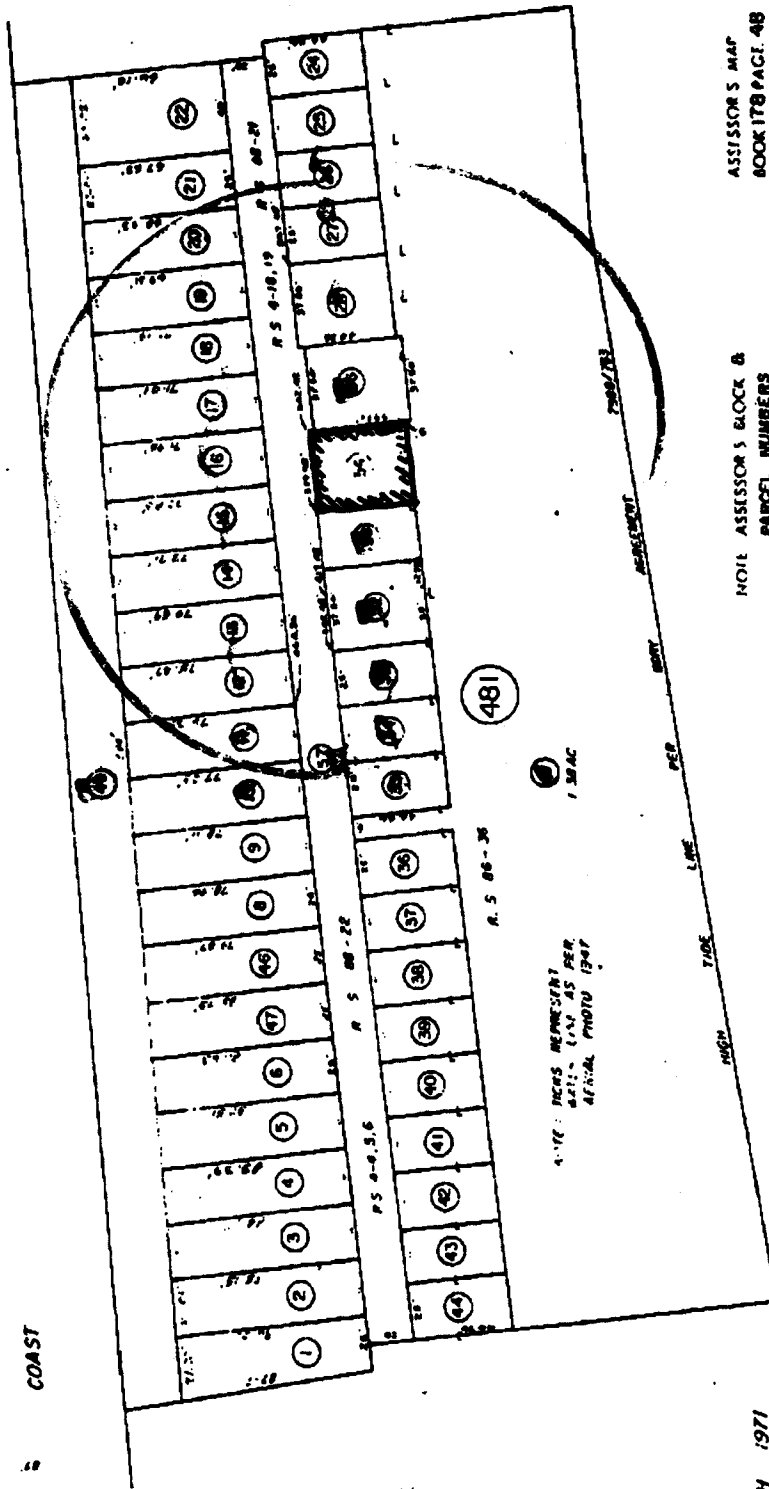
178-48

58

S.W. LINE OF SECTION

HIGHWAY

COAST



49

47

481

NOTE: THIS MAP IS NOT
A FINAL PHOTO COPY

R. 5 86-36

NOTE: ASSESSOR'S BLOCK &
PARCEL NUMBERS
SHOWN IN CIRCLES

ASSESSOR'S MAP
BOOK 178 PAGE 48
COUNTY OF ORANGE

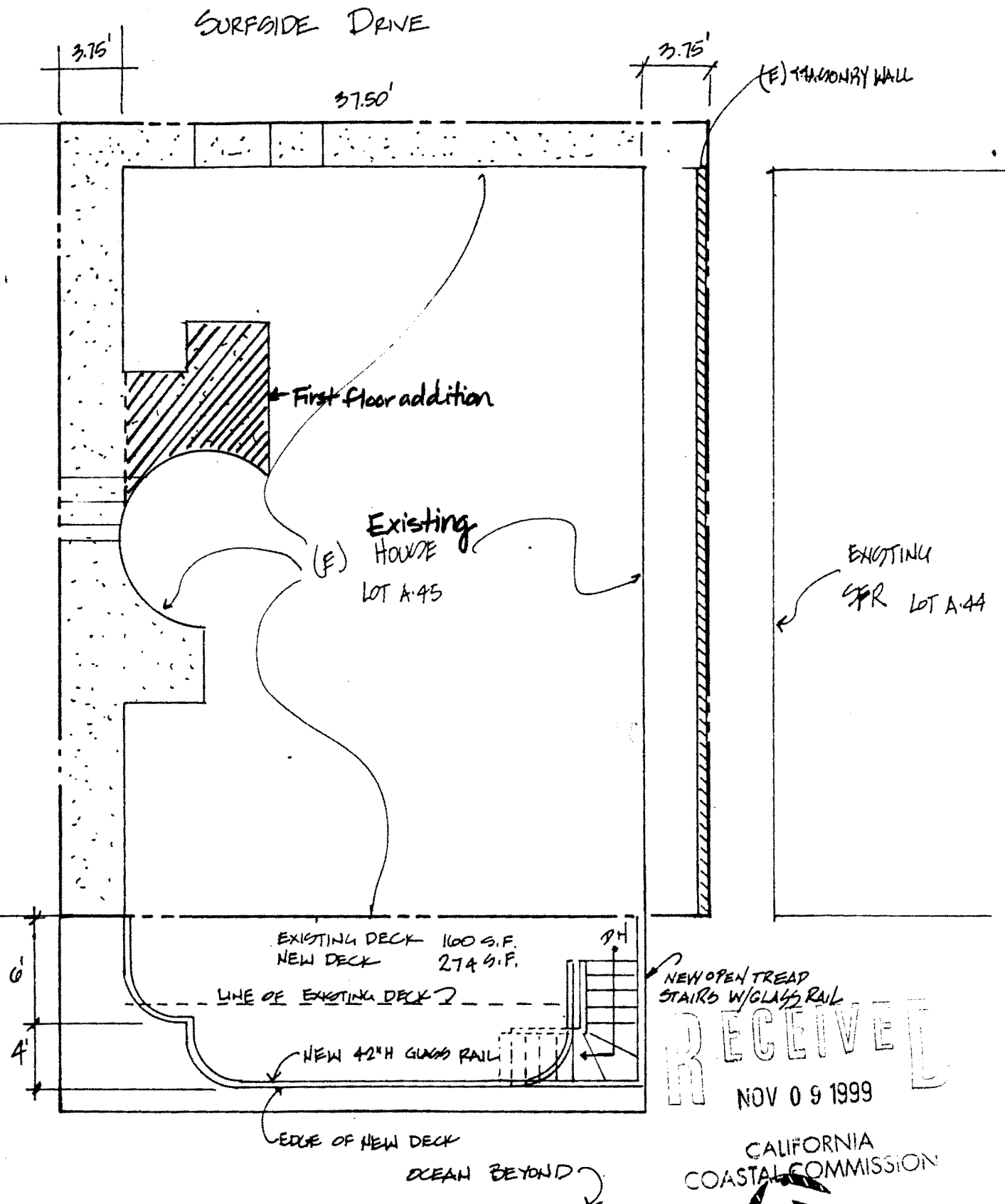
MARCH 1971

EXHIBIT NO. 2

APPLICATION NO.

5-99-356-A1

Assessor Parcel map



SITE PLAN

1/8" = 1'-0"

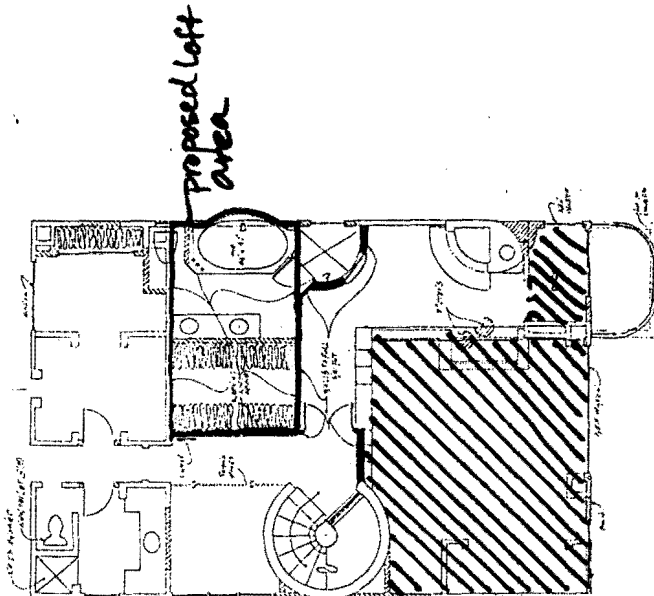
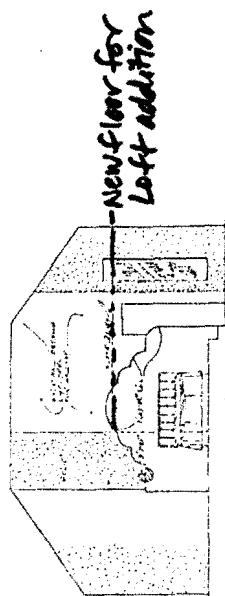
LOT 46 MAP BOOK 17B BLK 481 PARCEL 30+31 CITY OF S

EXHIBIT NO. **3**

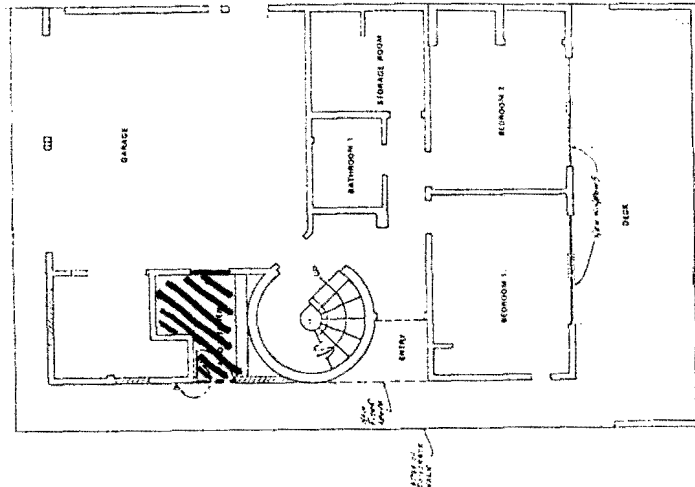
APPLICATION NO.

5-99-356-A1


SITE PLAN

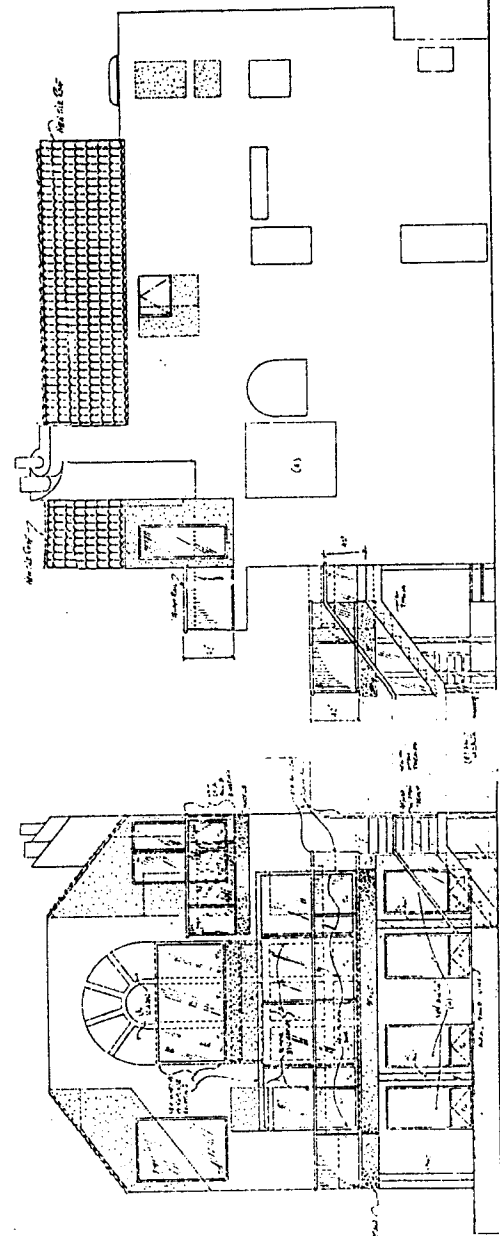
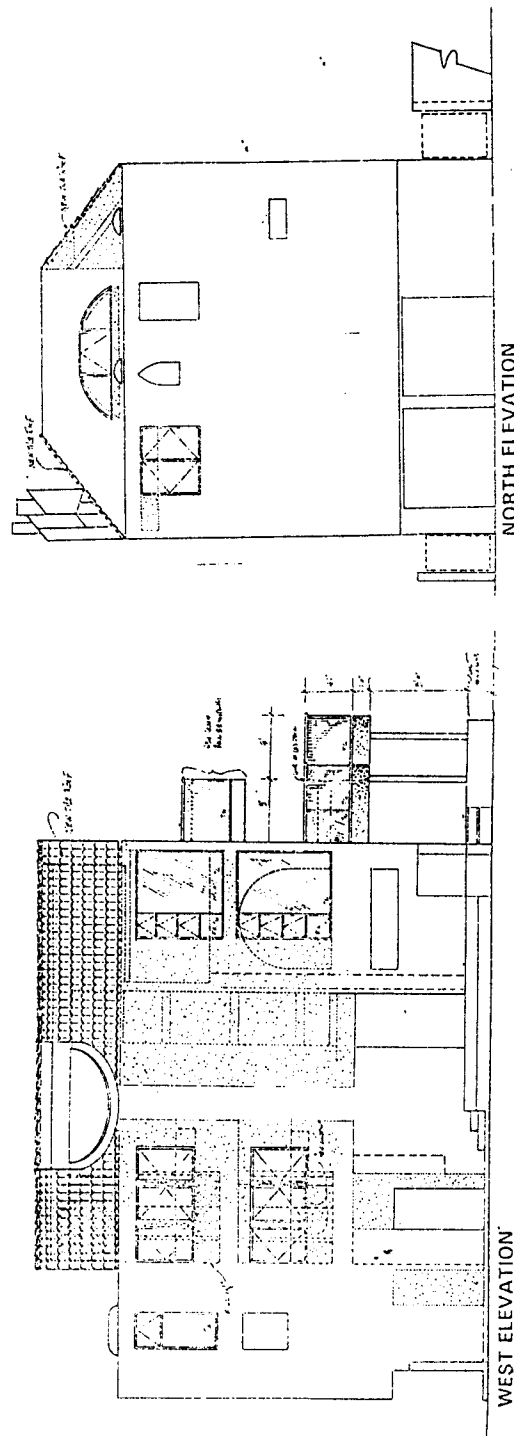


THIRD FLOOR PLAN



FIRST FLOOR PLAN


 Addition of floor area within existing footprint and envelope.



NORTH ELEVATION

EAST ELEVATION

WEST ELEVATION

SOUTH ELEVATION

STATE LANDS DIVISION

1807 13TH STREET
SACRAMENTO, CALIFORNIA 95814
(916) 445-3271



*Mike D
Dave*

RECEIVED

NOV 6 1975

November 3, 1975

South Coast Regional Commission

File Ref.: YC-75

South Coast Regional
Conservation Commission
P. O. Box 1450
Long Beach, CA 90801

Attention: Mr. David Gould

Dear Mr. Gould

In reply to your phone request for State boundary line data along the Pacific Ocean at Surfside, Orange County, I refer you to a Record of Survey filed August 23, 1966, in Book 86 R.S., pages 35, 36 and 37, Orange County Recorder's Office.

A copy of the State Lands Commission Minute Item #33, meeting of April 28, 1966, is enclosed for your information.

Sincerely,

Donald J. Brittnacher

DONALD J. BRITTNACHER
Senior Boundary
Determination Officer

DJB:ls

Enclosure

EXHIBIT NO. 4

APPLICATION NO.

5-99-356-A2

State Lands Letter

Page 1 of 3

MINUTE ITEM

4/28/66

33. APPROVAL OF BOUNDARY AGREEMENT BETWEEN STATE OF CALIFORNIA AND SURFSIDE COLONY, LTD., A CALIFORNIA CORPORATION, ALONG THE ORDINARY HIGH WATER MARK OF THE PACIFIC OCEAN, VICINITY OF SURFSIDE, ORANGE COUNTY - W.O. 5850, B.L.A. 74.

After consideration of Calendar Item 11 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

THE EXECUTIVE OFFICER IS AUTHORIZED TO EXECUTE AN AGREEMENT WITH THE SURFSIDE COLONY, LTD., FIXING THE ORDINARY HIGH WATER MARK AS THE PERMANENT BOUNDARY ALONG THE PACIFIC OCEAN BETWEEN STATE TIDE AND SUBMERGED LANDS AND PRIVATE UPLANDS, SAID BOUNDARY LINE BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF LOT 1 IN BLOCK A, AS SHOWN ON "RECORD OF SURVEY SURFSIDE COLONY", FILED IN BOOK 4, PAGE 19 OF RECORD OF SURVEYS, COUNTY OF ORANGE, SAID BLOCK A BEING IN FRACTIONAL SECTION 24, TOWNSHIP 5 SOUTH, RANGE 12 WEST, S.B.M.; THENCE S. 49° 26' 59" W. 77.55 FEET TO A POINT ON THE MEAN HIGH TIDE LINE OF 1937, WHICH POINT IS THE TRUE POINT OF BEGINNING OF THIS BOUNDARY LINE AND WHICH IS ALSO SHOWN ON "MAP OF EXISTING HIGH TIDE LINE SURVEYS OF THE PACIFIC OCEAN" PREPARED FOR SURFSIDE COLONY, LTD., BY PETERSEN & HENSTRIDGE, LAND SURVEYORS, IN MARCH 1966; THENCE FROM SAID TRUE POINT OF BEGINNING ALONG THE FOLLOWING COURSES: N. 43° 45' 11" W. 1069.03 FEET, N. 48° 53' 37" W. 1004.50 FEET, N. 49° 52' 36" W. 957.14 FEET AND N. 56° 15' 04" W. 6.74 FEET TO THE END OF THIS BOUNDARY LINE, WHICH ENDING POINT BEARS S. 00° 02' 00" E. 358.85 FEET AND S. 56° 15' 04" E. 20.32 FEET FROM THE QUARTER CORNER BETWEEN SECTIONS 13 AND 24, T. 5 S., R. 12 W., S.B.M.

Attachment

Calendar Item 11 (1 page)

COASTAL COMMISSION

EXHIBIT # 4
PAGE 2 OF 3

SURPSIDE COLONY LTD.

MAP OF EXISTING HIGH TIDE LINE SURVEYS OF THE PACIFIC OCEAN
IN THE UNINCORPORATED TERRITORY OF ORANGE COUNTY, PART OF
FRACTIONAL SECTION 24, TOWNSHIP 3 SOUTH, RANGE 12 WEST, S B M.

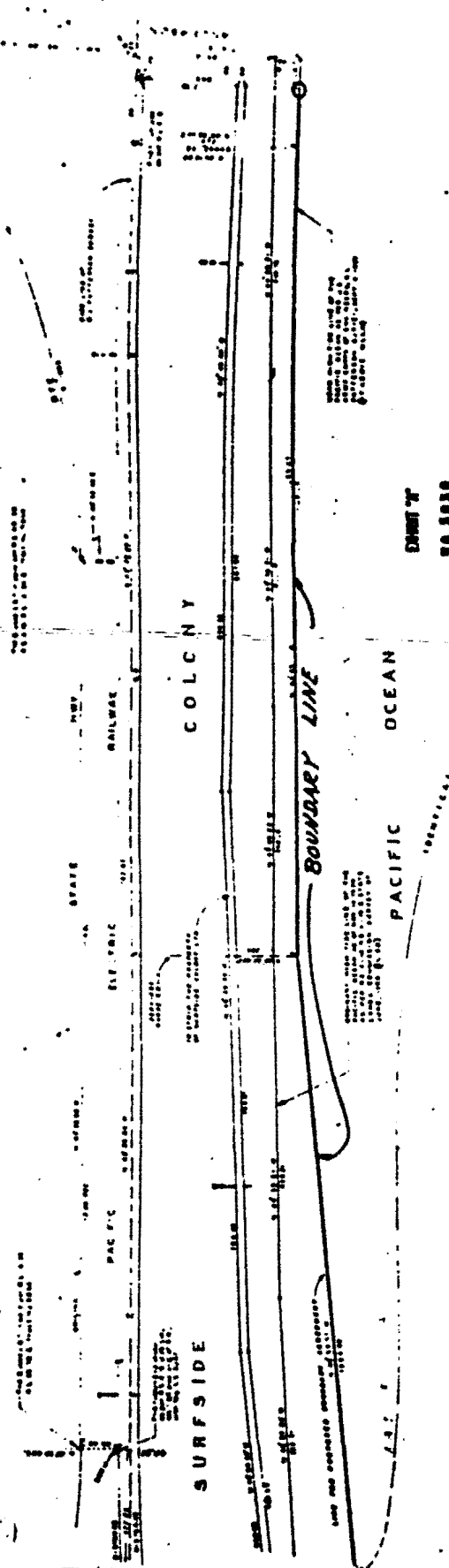


EXHIBIT 'Y'
NO 5030

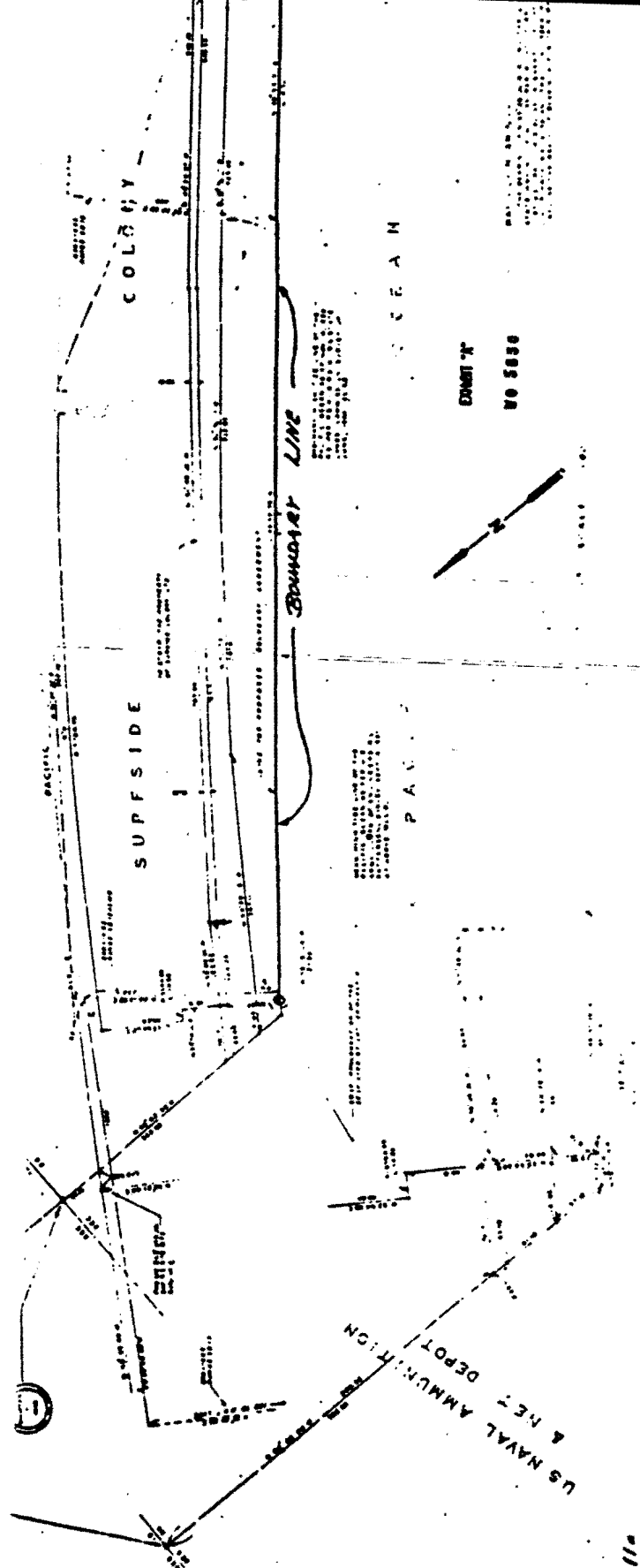


EXHIBIT 'Y'
NO 5030

COASTAL COMMISSION

FROM : SURFSIDE COLONY LTD

PHONE NO. : ++

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A-ROW FRONTAGE LEASE CALIFORNIA
 COASTAL COMMISSION

THIS LEASE, made and entered into this 18 day of February, 1999, in the County of Orange, State of California, by and between SURFSIDE COLONY, LTD. ("Surfside"), a California corporation, and Nathangly ("Lessee").

1. Premises. Surfside does hereby lease to Lessee and Lessee leases from Surfside that certain real property (the "Premises") adjacent to that real property known as A-45 (the "Adjacent Property"), which Adjacent Property has been improved with an existing single-family residence (the "Residence"). The Premises consists of a strip of land ten feet (10') in depth extending between the westerly extensions of the northerly and southerly lot lines of the Adjacent Property.

2. Use. The Premises shall be used solely for the construction of an unroofed deck to be attached to the Residence in a manner which will permit the prompt removal of such deck. In addition, Lessee may install upper decks or roof overhangs protruding from the Residence on either or both of the second or third stories of the Residence, provided said upper decks or overhangs shall be constructed in such a manner as to be readily removable if demanded by Surfside. Such deck or roof overhang shall not extend more than five feet into the Premises and shall not extend beyond the sidewalls of the Residence. The term "unroofed deck" means both unenclosed decks and decks enclosed by windscreens. Below grade decks will not be permitted. There will be no retaining walls. No decks or other structures, i.e. spas, may be built on the Premises except with the prior approval of the Board of Directors of Surfside (the "Board"), or an Architectural Committee appointed by the Board, and in accordance with such regulations as Surfside may issue from time to time. Additionally, any deck shall be built in accordance with such building regulations as the City of Seal Beach may issue from time to time. A copy of the existing Surfside unroofed deck regulations is attached hereto as Exhibit A and by this reference made a part hereof.

3. Term. The date upon which Lessee commences use of the Premises as determined by Surfside in its sole discretion. Anything herein contained notwithstanding, this Lease may be terminated by either party hereto upon giving to the other thirty (30) days written notice of termination.

4. Plan Approval. The Board, or the Architectural Committee, will not permit the building of any deck upon the Premises until the complete plans and specifications for any such structure have been submitted to and approved in writing by such Board or Committee.

5. Existing Decks. In the event that the Premises have been improved by the construction of an existing deck or decks, Lessee need not submit the plans for such deck or decks to Surfside for approval. However such decks or decks must comply with the provisions of this Lease and the this Lease by Surfside does not constitute approval or waiver of non-conforming deck or decks.

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6. Rental. The total annual rent shall be computed as follows:

To September, 1988	\$.60	per square foot of Premises
To September, 1993	.70	per square foot of Premises
To September, 1998	.80	per square foot of Premises
To September, 2003	.90	per square foot of Premises
To September, 2008	1.00	per square foot of Premises

provided, however, that in no event shall the annual rent be less than Fifty Dollars (\$50.00).

7. Restoration of Premises. Upon termination of this lease (including any termination by reason of the default of Lessee), Lessee shall remove any structures, decks, on-grade cement slabs, and foundations placed upon the Premises and restore the Premises to the same condition they were in prior to Lessee's coming upon the Premises and doing any work thereon; provided that if Surfside so notifies Lessee in writing not more than ten (10) days after termination of the Lease, Lessee shall not remove on-grade cement slabs, decks, structures, or foundations which may be useful to Lessor in its subsequent use of the Premises. All removal and restoration shall commence not sooner than ten (10) days after termination of the Lease and must be completed within thirty (30) days after the termination of this Lease.

8. Condemnation. In the event the Premises are condemned, Lessor shall be entitled to and shall receive the total amount of any award made with respect to the Premises, regardless of whether the award is based on a single award or a separate award as between the respective parties and, if and to the extent that any such award or awards shall be made to Lessee or to any person claiming through or under Lessee, Lessee hereby irrevocably assigns to Surfside all of its right, title and interest in and to any and all awards with respect to the Premises. No portion of any such award or awards shall be allowed to or paid to Lessee for any so-called bonus or excess value of this Lease by reason of the relationship between the rental payable under this Lease and what may at the time be deemed a fair rental for the Premises. Lessee shall be entitled to any portion of such award allocable to Lessee's deck. The word "condemnation" or "condemned" as used in this paragraph or elsewhere in this Lease shall mean the exercise of, or intent to exercise, the power of eminent domain in writing, as well as the filing of any action, or proceeding for such purpose, by any person, entity, body, agency or authority having the right or power of eminent domain (the "condemning authority" herein), and shall include a voluntary sale by Surfside to any such condemning authority, either under the threat of condemnation or while condemnation proceedings are pending, and the condemnation shall be deemed to occur upon the actual physical taking of possession pursuant to the exercise of said power of eminent domain. This Lease shall be terminated as of that date.

9. Condition of Premises. Lessee acknowledges that it has inspected the Premises and that no statement or representation as to the present or future condition or suitability for building or other use thereof made for or on behalf of Surfside. Lessee agrees to accept the condition in which they may be upon the commencement of the

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10. Holding Over. In the event that Lessee shall hold the Premises after the expiration of the term hereof with the consent of Surfside, express or implied, such holding over shall, in the absence of written notice by either party to the other, be a tenancy from month to month at a monthly rental payable in advance equal to the monthly rental payable during the term hereof and otherwise subject to all of the terms and provisions of this Lease. If Lessee fails to surrender the Premises upon the termination of this Lease despite demand to do so by Surfside, any such holding over shall not constitute a renewal hereof or give Lessee any rights with respect to the Premises, and Lessee shall indemnify and hold Surfside harmless from loss or liability resulting from such failure to surrender, including, without limitation, any claims made by any succeeding tenant founded on or resulting from such failure to surrender.

11. Compliance with Laws, Rules and Regulations. Lessee agrees to comply with all applicable laws, rules and regulations with respect to the use of the premises and the adjacent property, including, without limitation, such rules and regulations as Surfside may adopt and issue from time to time.

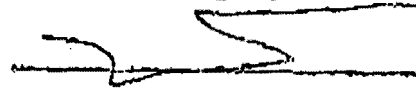
12. Waiver. The waiver by Surfside of any breach of the terms, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or conditions, or any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by Surfside shall not be deemed to be a waiver of any preceding breach by Lessee of any term, covenant or condition of this Lease, other than the failure of Lessee to pay the particular rental so accepted, regardless of Surfside's knowledge of such preceding breach at the time of acceptance of such rent. No covenant, term or condition of this Lease shall be deemed to have been waived by Surfside, unless such waiver be in writing by Surfside.

13. Notice. Any notices or demands which are required to be given hereunder or which either party hereto may desire to give to the other shall be given in writing by mailing the same by registered or certified United States mail, postage prepaid, addressed to the parties at the addresses shown below or at such other addresses as the parties may from time to time designate by notice as herein provided or may be served personally to the parties at said addresses:

"Surfside"

Surfside Colony, Ltd.
P. O. Box 235
Surfside, CA 90743

"Lessee"



14. Entire Agreement. This Lease and the exhibit attached hereto and forming a part hereof set forth the covenants, promises, agreements, conditions and understandings between Surfside and Lessee concerning the Premises and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between them other than as set forth. Except as herein otherwise provided, no subsequent amendment, change, or addition to this Lease shall be binding upon or Lessee unless reduced to writing and signed by them.

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15. Attorneys' Fees. In the event either party hereto shall bring suit to compel performance of, or recovery for breach of any covenant, agreement or condition herein written, the prevailing party shall, as a part of any judgment obtained, be entitled to reasonable attorneys' fees in addition to any other sums or judgment recovered therein.

16. Removal. Upon receipt of written notice from Surfside, Lessee shall remove any structure, deck or roof overhang installed on or above the Premises within thirty (30) days of the date of receipt of said written notice.

17. Assignment. This Lease shall not be assigned, subleased or transferred by operation of law, or otherwise, without the prior written consent of Surfside.

18. Remedies on Default. In the event Lessee shall default under or otherwise breach any of the terms or conditions of this Lease, Surfside shall have the right to terminate this Lease forthwith and to retake possession of the Premises. Waiver of any default or breach shall not be construed as a waiver of a subsequent or continuing default. Termination of this Lease shall not affect any liability by reason of any act, default or breach or occurrence prior to such termination.

IN WITNESS WHEREOF, the parties hereto have executed this Lease the day and year first above written.

SURFSIDE COLONY, LTD.
a California corporation

By [Signature]
President

By [Signature]
Secretary

LESSEE

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EXHIBIT 'A'

UNROOFED DECK STRUCTURAL REGULATIONS AND DRAWINGS
OF SURFSIDE COLONY, LTD.

1. An on-grade ten (10) foot cement slab below the first floor deck shall be permissible.

2. Unenclosed deck regulations:

- (a) A safety rail forty-two (42) inches in height as measured from the finished floor of the first floor deck is required around the entire deck;
- (b) Vertical uprights must be used in the construction of such safety rail. Such vertical uprights shall be 6 inches apart as measured from the center of one such upright to the center of the next immediate upright. No such vertical upright shall exceed 6 by 6 inches nor shall it exceed 3/4 inches in diameter;
- (c) Any glass panels extending from the finished floor of the deck shall consist of shatterproof glass for a minimum of eighteen (18) inches in height as measured from the finished floor of the deck.

3. Windscreen regulations:

- (a) No windscreen shall exceed eight (8) feet in height as measured from finished floor of the deck;
- (b) No portion of such windscreen shall be covered or roofed over in any manner;
- (c) Only vertical members of such windscreen may be attached to the residence;
- (d) No glass panels less than three (3) feet in width shall be used in the construction of such windscreen;
- (e) Vertical beams used in the construction of such windscreen shall not exceed four (4) by six (6) inches;
- (f) All portions of such windscreen above the required forty-two (42) inch safety railing height shall consist only of untinted glass and shall be maintained in a clean, transparent condition
- (g) All such glass sections shall consist of one-quarter (1/4) inch tempered plate glass or the equivalent thereof;
- (h) No material which in any way tends to obscure the glassed-in area shall be attached either to such windscreen or to the residence;
- (i) Such windscreen shall be maintained so as not to obscure the view of neighbors on either side of the residence;
- (j) A safety rail forty-two (42) inches in height as from the finished floor of the deck is required around the entire deck, except that in those instances where enclosure is to be constructed of glass panels extending from the finished floor of the first floor deck, the safety railing and vertical supports on 6 may be deleted when the vertical supports and glass meet the above specifications;
- (k) Any glass sections extending from the deck floor shall consist of shatterproof glass for the first eighteen (18) inches in height as measured from the finished floor of the deck.

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**MARSHALL
INNIS
DESIGN
GROUP
ARCHITECTS**

**Surfside Colony Ltd.
Board of Directors
P.O. Box 235
Surfside, CA 90743**

November 12, 1999

**PROJECT: Mattingley Deck Remodel
A45 Surfside Drive
Surfside, CA 90743**

Copy

Dear Board Members,

Per the California Coastal Commission I am inviting you to join us, as co-applicants, in applying to the Commission for a permit to build the deck addition at the Mattingley Residence. Your participation in the application is voluntary and is not required for the Mattingley's to obtain a Coastal Permit.

If you have any questions, or desire to be co-applicants on this application, please call me at your earliest convenience.

Respectfully,

**Marshall Innis
Architect**

**CC: M. Mattingley
California Coastal Commission**

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