

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
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Long Beach, CA 90802-4302  
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**RECORD PACKET COPY****Item Tu 12e**

Filed: September 6, 2000  
49th Day: October 25, 2000  
180th Day: March 5, 2001  
Staff: ALK-LB *ALK*  
Staff Report: October 26, 2000  
Hearing Date: November 14-17, 2000  
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NUMBER:** 5-00-262

**APPLICANT:** Michael & Adriane Puntoriero

**AGENT:** John T. Morgan, Jr., Architect

**PROJECT LOCATION:** 1128 W. Oceanfront, City of Newport Beach, County of Orange

**PROJECT DESCRIPTION:** Major renovation and addition to an existing single-family residence, including demolition of the existing detached garage with second story above, partial demolition of the existing one-story residence and reconstruction of the remaining structure. The resultant structure will be a three-story, 29' high, 4561 square foot single-family residence with an attached 704 square foot three-car garage and roof deck on a beachfront lot. No grading is proposed.

Lot Area:	3724 square feet
Building Coverage:	2565 square feet
Paved Area:	683 square feet
Landscape Coverage:	5 square feet
Parking Spaces:	Three
Zoning:	Residential Low Density
Ht above grade:	29 feet

**LOCAL APPROVALS RECEIVED:** City of Newport Beach Approval-in-Concept #1439-2000 dated June 27, 2000.

**SUBSTANTIVE FILE DOCUMENTS:** Coastal Development Permits; 5-00-086 (Wells); 5-00-059 (Danner); 5-00-114 (Heuer); 5-00-271 (Darcy); 5-99-477 (Watson); 5-99-289 (NMUSD); 5-99-072 (Vivian); 5-97-319 (Steffensen); 5-95-185 (Sloan); 5-86-844 (Baldwin), 5-86-153 (Kredell), and 5-85-437 (Arnold); *Wave Runup Study* for 1128 W. Oceanfront, Newport Beach, CA prepared by Skelly Engineering dated September 2000 with supplemental letter dated September 15, 2000.

**SUMMARY OF STAFF RECOMMENDATION:**

Staff is recommending **APPROVAL** of the proposed project subject to two (2) special conditions requiring recordation of an Assumption-of-Risk deed restriction and a No Future Protective Device deed restriction. The major issue of this staff report concerns beachfront development that could be affected by flooding during strong storm events. As of the date of this staff report, the applicant has indicated opposition to the proposed special conditions.

**STAFF RECOMMENDATION:**

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

**MOTION:**

*I move that the Commission approve CDP No. 5-00-262 pursuant to the staff recommendation.*

Staff recommends a **YES** vote. This will result in adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of 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 is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. **SPECIAL CONDITIONS**

1. Assumption of Risk, Waiver of Liability and Indemnity

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding and wave uprush; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. The deed 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. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

2. No Future Shoreline Protective Device

- A. By acceptance of this permit, the applicant agrees, on behalf of himself and all other successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-00-262, including future improvements, in the event that the property is threatened with damage or destruction from waves, erosion, storm conditions or other natural hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of himself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, which reflects the above restriction on development. The deed restriction shall include a legal description of the applicant's entire parcel. The deed 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. This deed 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 subject site is located at 1128 W. Oceanfront Avenue on the Balboa Peninsula within the City of Newport Beach, Orange County (Exhibits 1 & 2). The site is a beachfront lot located between the first public road and the sea, inland of the Ocean Front walkway (a paved beachfront public lateral accessway). The project is located within an existing urban residential area, located generally northwest of the Balboa Pier and southeast of the Newport Pier. There is a wide sandy beach (approximately 400-500 feet) between the subject property and the mean high tide line. Vertical public access to this beach is available approximately 100 feet northwest of the subject site at the end of Twelfth Street.

The applicant is proposing a major renovation and addition to an existing single-family residence on a beachfront lot. The subject site is currently developed with a one-story single family residence and a detached two-car garage with a second story office above. The existing residence will be partially demolished and the garage will be entirely demolished as part of the proposed project. According to the project architect, over 50% of the existing exterior walls of the residence will be demolished. The existing kitchen, entry, nook and family room areas will remain. New construction on the first floor will involve the addition of two bedrooms, three bathrooms, a storage room, and an attached three-car car. New second and third stories will also be added. The resultant structure will be a three-story, 29' high, 4561 square foot single-family residence with an attached 704 square foot three-car garage and roof deck (Exhibit 3). The existing patio and 36" high perimeter walls will remain. Based upon the amount of work to be undertaken, the Commission is treating the proposed development as demolition and reconstruction of a residence, rather than as an addition to an existing residence.

##### B. PREVIOUS COMMISSION ACTION IN PROJECT AREA

The Commission has recently approved new development and residential renovation projects on beachfront lots in Orange County and southern Los Angeles with special conditions requiring the recordation of an assumption of risk deed restriction and no future protective device deed restriction. Projects similar to the currently proposed development in Orange County include Coastal Development Permits 5-99-477 (Watson); 5-99-072 (Vivian); 5-97-319 (Steffensen); 5-95-185 (Sloan); 5-86-844 (Baldwin), 5-86-153 (Kredell), and 5-85-437 (Arnold). Recent examples in Hermosa Beach include Coastal Development Permits 5-00-086 (Wells); 5-00-059 (Danner); 5-00-114 (Heuer) and 5-00-271 (Darcy). Projects in Hermosa Beach (Los Angeles County) are used for comparative purposes in the current situation because of their similar site characteristics, including the existence of a wide sandy beach and paved public walkway between the subject site and the mean high tide line. Lastly, the Commission approved CDP 5-99-289 (NMUSD) in April 2000 for the construction of a sand wall around an elementary school playfield site just north of the subject site.

**C. HAZARDS**

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.*

*(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

Section 30251 of the Coastal Act states that:

*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. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

**1. Wave Uprush and Flooding Hazards**

The subject site is located on a beach parcel on the Balboa Peninsula between the Newport Pier and the Balboa Pier in the City of Newport Beach. Presently, there is a wide sandy beach and a 12 foot wide paved public walkway between the subject development and the ocean (see site photographs, Exhibit 4). According to the Wave Runup Study prepared by Skelly Engineering dated September 2000, the mean high tide line is approximately 400-500 feet from the seaward edge of the subject property. This wide sandy beach presently provides homes and other structures in the area some protection against wave uprush and flooding hazards. However, similar to other nearby beach fronting sites such as those at A1 through A91 Surfside in Seal Beach (north of the subject site), the wide sandy beach is the only protection from wave uprush hazards. Similar situations exist in downtown Seal Beach and Hermosa Beach (Los Angeles County).

Even though wide sandy beaches afford protection of development from wave and flooding hazards, development in such areas is not immune to hazards. For example, in 1983, severe winter storms caused heavy damage to beachfront property in Surfside. Additionally, heavy storm events such as those in 1994 and 1998, caused flooding of the Surfside community. As a result, the Commission has required assumption-of-risk deed restrictions for new development on beachfront lots throughout Orange County and southern Los Angeles County.

Section 30253 (1) states that new development shall minimize risks to life and property in areas of high geologic, flood, and fire hazard. Based on historic information and current conditions at the subject site, the proposed development is not considered to be sited in a hazardous area. There is currently a wide sandy beach in front of the proposed development. In addition, the existing development was not adversely affected by the severe storm activity

which occurred in 1983, 1994, and 1998. Since the proposed development is no further seaward of existing development, which has escaped storm damage during severe storm events, the proposed development is not anticipated to be subject to wave hazard related damage. Nonetheless, any development on a beachfront site may be subject to future flooding and wave attack as coastal conditions (such as sand supply and sea level) change.

To further analyze the suitability of the site for the proposed development, Commission staff requested the preparation of a wave run-up, flooding, and erosion hazard analysis, prepared by an appropriately licensed professional (e.g. coastal engineer), that anticipates wave and sea level conditions (and associated wave run-up, flooding, and erosion hazards) through the life of the development. For a 75 to 100 year structural life, that would be taking the 1982/83 storm conditions (or 1988 conditions) and adding in 2 to 3 feet of sea level rise. The purpose of this analysis is to determine how high any future storm damage may be so the hazards can be anticipated and so that mitigation measures can be incorporated into the project design.

When initially asked to provide a wave uprush analysis, the applicant's agent provided verification from the City of Newport Beach Building Department stating that the subject site is not located in an area subject to flooding from wave activity based on Flood Insurance Rate Maps (FIRM) published by the Federal Emergency Management Agency (FEMA). However, Commission technical staff determined the method of analysis used for preparation of the FIRM documents to be insufficient for Commission purposes and made a subsequent request for a wave uprush study prepared by an appropriately licensed professional.

The applicant then provided the Wave Uprush Study prepared by Skelly Engineering dated September 2000 which addresses the potential of hazard from flooding and wave attack at the subject site. The report concludes the following:

*"Wave runup and overtopping will not significantly impact this property over the life of the proposed improvement. The proposed development will neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or adjacent area. There are no recommendations necessary for wave runup protection. The proposed project minimizes risks from flooding."*

The Commission's Senior Coastal Engineer has reviewed the Wave Runup Study and, based on the information provided and subsequent correspondence, concurs with the conclusion that the site is not subject to hazards from flooding and wave uprush at this time. Therefore, the proposed development can be allowed under Section 30253 of the Coastal Act, which requires new development to *"assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices..."*

Although the applicant's report indicates that site is safe for development at this time, beach areas are dynamic environments, which may be subject to unforeseen changes. Such changes may affect beach processes, including sand regimes. The mechanisms of sand replenishment are complex and may change over time, especially as beach process altering structures, such as jetties, are modified, either through damage or deliberate design. Therefore, the presence of a wide sandy beach at this time does not preclude wave uprush damage and flooding from occurring at the subject site in the future. The width of the beach may change, perhaps in combination with a strong storm event like those which occurred in 1983, 1994 and 1998, resulting in future wave and flood damage to the proposed development.

Given that the applicant has chosen to implement the project despite potential risks from wave attack, erosion, or flooding, the applicant must assume the risks. Therefore, the Commission imposes Special Condition 1 for an assumption-of-risk agreement. In this way, the applicant is notified that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires the applicant to indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand the hazards. In addition, the condition ensures that future owners of the property will be informed of the risks and the Commission's immunity from liability. As conditioned, the Commission finds the proposed project is consistent with Section 30253 of the Coastal Act.

The assumption-of-risk condition is consistent with prior Commission actions for development along the beach. For instance, the Executive Director issued Administrative Permits 5-86-676 (Jonbey), 5-87-813 (Corona), and more recently 5-97-380 (Haskett) with assumption-of-risk deed restrictions for improvements to existing homes. In addition, the Commission has consistently imposed assumption-of-risk deed and no future protective device restrictions on new development. Examples include Coastal Development Permits 5-99-289 (NMUSD); 5-99-477 (Watson), 5-99-372 (Smith), 5-99-072 (Vivian), 5-86-844 (Baldwin), 5-86-153 (Kredell), and 5-85-437 (Arnold).

## 2. Future Shoreline Protective Devices

The Coastal Act limits construction of protective devices because they have a variety of negative impacts on coastal resources, including adverse effects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beach. Under Coastal Act Section 30235, a shoreline protective structure must be approved if: (1) there is an existing principal structure in imminent danger from erosion; (2) shoreline altering construction is required to protect the existing threatened structure; and (3) the required protection is designed to eliminate or mitigate the adverse impacts on shoreline sand supply.

The Commission has generally interpreted Section 30235 to require the Commission to approve shoreline protection for development only for existing principal structures. The construction of a shoreline protective device to protect new development would not be required by Section 30235 of the Coastal Act. The proposed project involves the major renovation of and addition to an existing structure, including the partial demolition and reconstruction of the existing one-story residence and construction of new second and third stories. Due to the amount of work being undertaken, the Commission is considering the proposed development as demolition and reconstruction of the existing residence, rather than as an addition to the residence. The construction of a shoreline protective device to protect this type of new development would conflict with Section 30251 of the Coastal Act, which states that permitted development shall minimize the alteration of natural landforms, including beaches which would be subject to increased erosion from such a device.

In the case of the current project, the applicant does not propose the construction of any shoreline protective device to protect the proposed development. While the Commission recognizes that there is currently a low level brick wall along the seaward property line, the wall is not designed to function as a shoreline protective device and cannot be relied upon to provide protection from wave uprush. The Wave Runup Study concludes that the "*long term erosion rate is small*" and that there is an existing "*32 inch high wall on the seaward property line of the site that will prevent wave overtopping from impacting the property.*" However, as previously discussed, nearby beachfront communities have experienced flooding and erosion

during severe storm events, such as El Nino storms. It is not possible to completely predict what conditions the proposed structure may be subject to in the future. Consequently, it is conceivable the proposed structure may be subject to wave uprush hazards.

Shoreline protective devices can result in a number of adverse effects on the dynamic shoreline system and the public's beach ownership interests. First, shoreline protective devices can cause changes in the shoreline profile, particularly changes in the slope of the profile resulting from a reduced beach berm width. This may alter the usable area under public ownership. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines. This reduces the actual area in which the public can pass on public property.

The second effect of a shoreline protective device on access is through a progressive loss of sand as shore material is not available to nourish the bar. The lack of an effective bar can allow such high wave energy on the shoreline that materials may be lost far offshore where it is no longer available to nourish the beach. A loss of area between the mean high water line and the actual water is a significant adverse impact on public access to the beach.

Third, shoreline protective devices such as revetments and bulkheads cumulatively affect shoreline sand supply and public access by causing accelerated and increased erosion on adjacent public beaches. This effect may not become clear until such devices are constructed individually along a shoreline and they reach a public beach. As set forth in earlier discussion, this portion of Newport Beach is currently characterized as having a wide sandy beach. However, the width of the beach can vary, as demonstrated by severe storm events. The Commission notes that if a seasonal eroded beach condition occurs with greater frequency due to the placement of a shoreline protective device on the subject site, then the subject beach would also accrete at a slower rate. The Commission also notes that many studies performed on both oscillating and eroding beaches have concluded that loss of beach occurs on both types of beaches where a shoreline protective device exists.

Fourth, if not sited in a landward location that ensures that the seawall is only acted upon during severe storm events, beach scour during the winter season will be accelerated because there is less beach area to dissipate the wave's energy. Finally, revetments, bulkheads, and seawalls interfere directly with public access by their occupation of beach area that will not only be unavailable during high tide and severe storm events, but also potentially throughout the winter season.

Section 30253 (2) of the Coastal Act states that new development shall neither create nor contribute to erosion or geologic instability of the project site or surrounding area. Therefore, if the proposed structure requires a protective device in the future it would be inconsistent with Section 30253 of the Coastal Act because such devices contribute to beach erosion. In addition, the construction of a shoreline protective device to protect new development would also conflict with Section 30251 of the Coastal Act which states that permitted development shall minimize the alteration of natural land forms, including sandy beach areas which would be subject to increased erosion from shoreline protective devices. The applicant is not currently proposing a seawall and does not anticipate the need for one in the future. The coastal processes and physical conditions are such at this site that the project is not expected to engender the need for a seawall to protect the proposed development. There is a wide sandy beach in front of the proposed development that provides substantial protection from wave activity.

To further ensure that the proposed project is consistent with Sections 30251 and 30253 of the Coastal Act, and to ensure that the proposed project does not result in future adverse effects to coastal processes, the Commission imposes Special Condition No. 2 which requires the applicant to record a deed restriction that would prohibit the applicant, or future land owner, from constructing a shoreline protective device for the purpose of protecting any of the development proposed as part of this application. This condition is necessary because it is impossible to completely predict what conditions the proposed structure may be subject to in the future. By imposing the "No Future Shoreline Protective Device" special condition, the Commission requires that no shoreline protective devices shall ever be constructed to protect the development approved by this permit in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions or other natural hazards in the future. Consequently, as conditioned, the development can be approved subject to Section 30251 and 30253.

3. Conclusion

The Commission finds that hazards potentially exist from wave uprush and flooding at the subject site. Therefore, to ensure that the proposed project is consistent with Sections 30251 and 30253 of the Coastal Act, and to ensure that the proposed project does not result in future adverse effects to coastal processes, Special Conditions 1 and 2 require the applicant to record Assumption-of-Risk and No Future Shoreline Protective Devices deed restrictions. As of the date of this staff report, the applicants oppose the imposition of these special conditions (Exhibit 5). However, as conditioned, the Commission finds that the proposed project is consistent with Coastal Act Sections 30251 and 30253.

D. 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 on the Balboa Peninsula in the City of Newport Beach. There is a 12 foot wide paved public walkway seaward of the subject site which provides lateral public access. Vertical access to the beach is available approximately 100 feet northwest of the subject site at the end of Twelfth Street. Therefore, the Commission finds adequate access is available nearby and the proposed development is consistent with Section 30212 of the Coastal Act.

E. LAND USE PLAN

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 Chapter 3 policies of the Coastal Act.

The Commission certified the Land Use Plan for the City of Newport Beach on May 19, 1982. As proposed, the 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

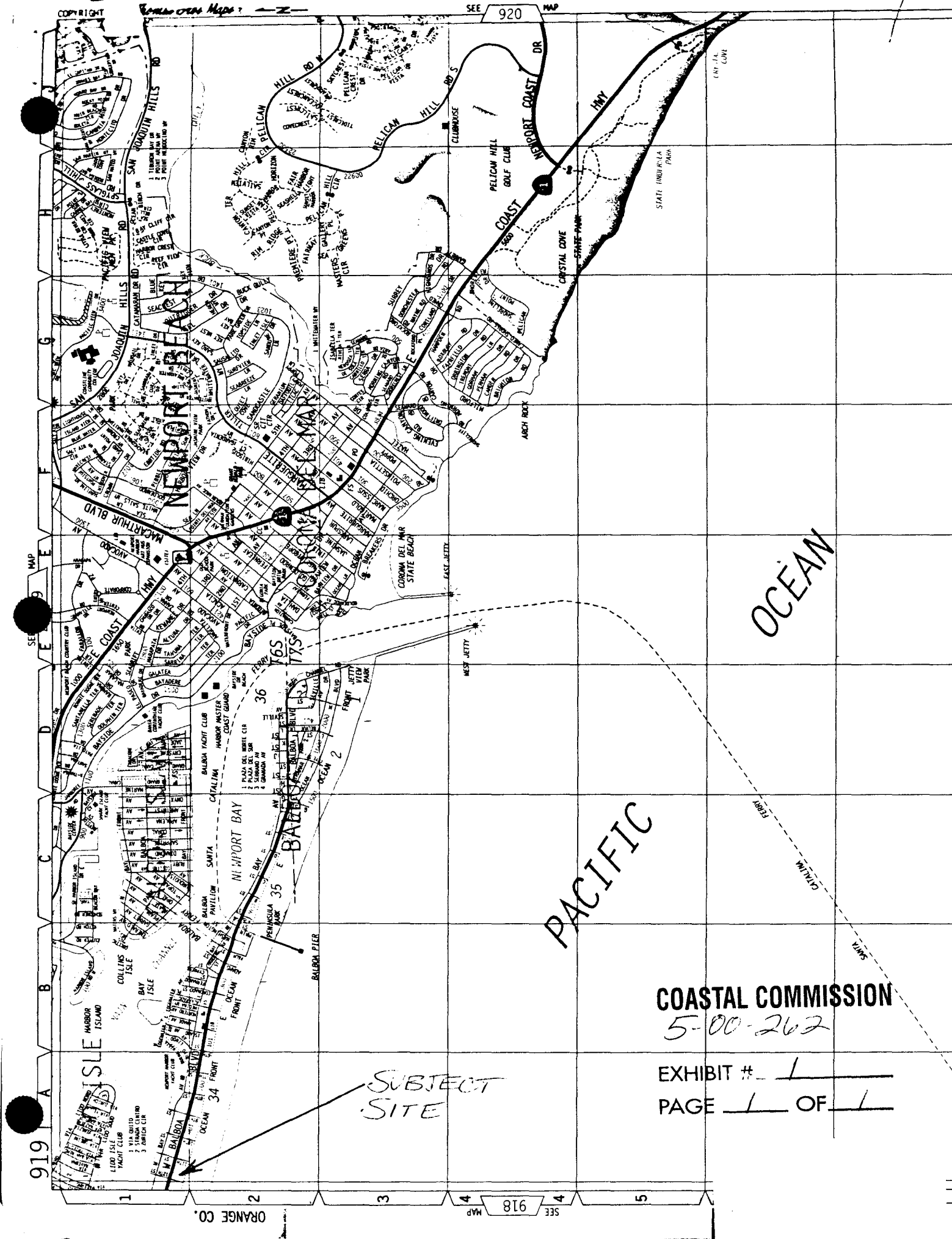
for Newport Beach that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

**F. 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 project is located in an urbanized area. Development already exists on the subject site. The proposed development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. Conditions imposed are: 1) an assumption-of-risk agreement and 2) a prohibition of future shoreline protective devices. There are no feasible alternatives or mitigation measures available which will lessen any significant adverse impact the activity would have on the environment. Therefore, the Commission finds that the proposed project is consistent with CEQA and the policies of the Coastal Act.

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 the least environmentally damaging feasible alternative and is consistent with CEQA and the policies of the Coastal Act.



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EXHIBIT # 1  
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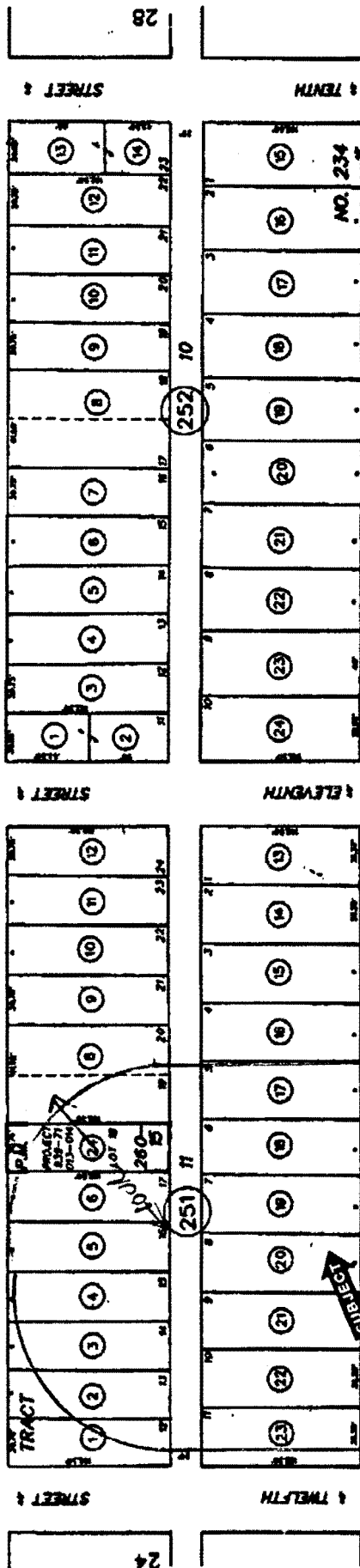
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EXHIBIT # 2  
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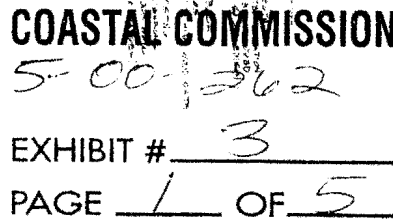
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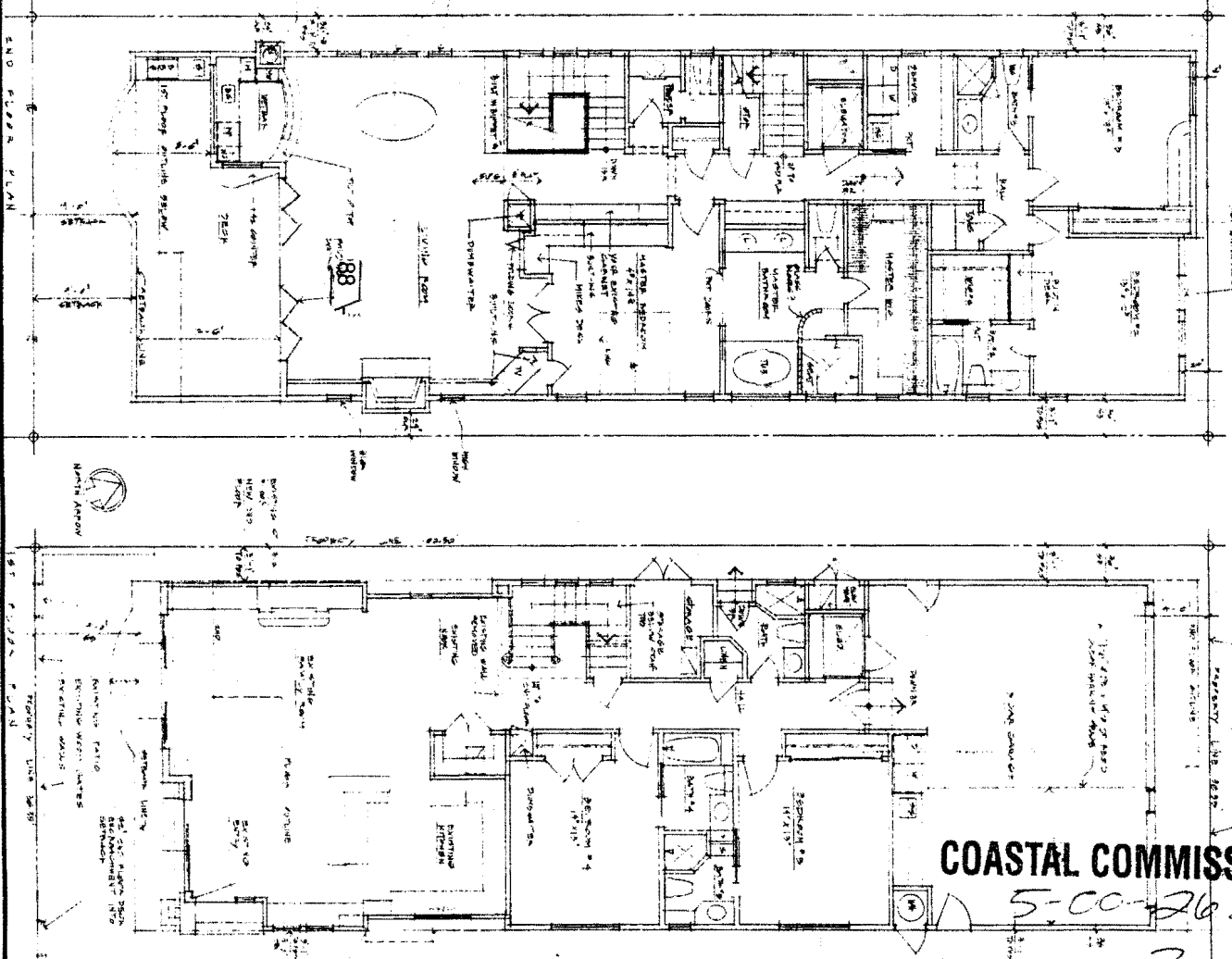
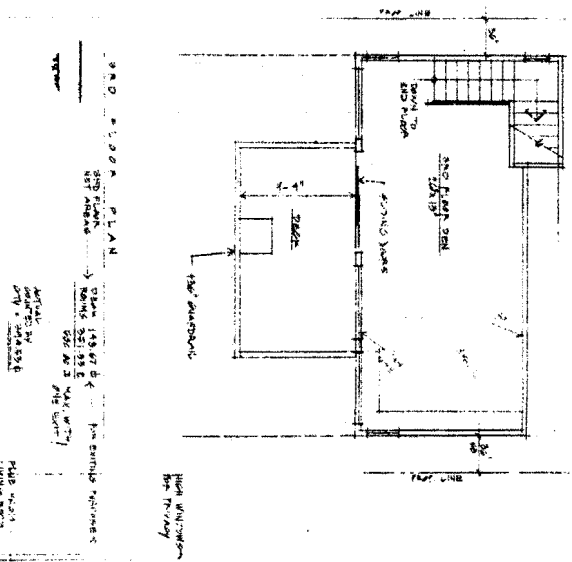
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PERMITS REQUIRED

TYPE	DATE	NO.	DESCRIPTION
1ST	9/10/88	1745-07	1001.55
2ND	9/10	1745-07	1001.55
3RD	9/10	1745-07	1001.55
4TH	9/10	1745-07	1001.55
5TH	9/10	1745-07	1001.55
6TH	9/10	1745-07	1001.55
7TH	9/10	1745-07	1001.55
8TH	9/10	1745-07	1001.55
9TH	9/10	1745-07	1001.55
10TH	9/10	1745-07	1001.55



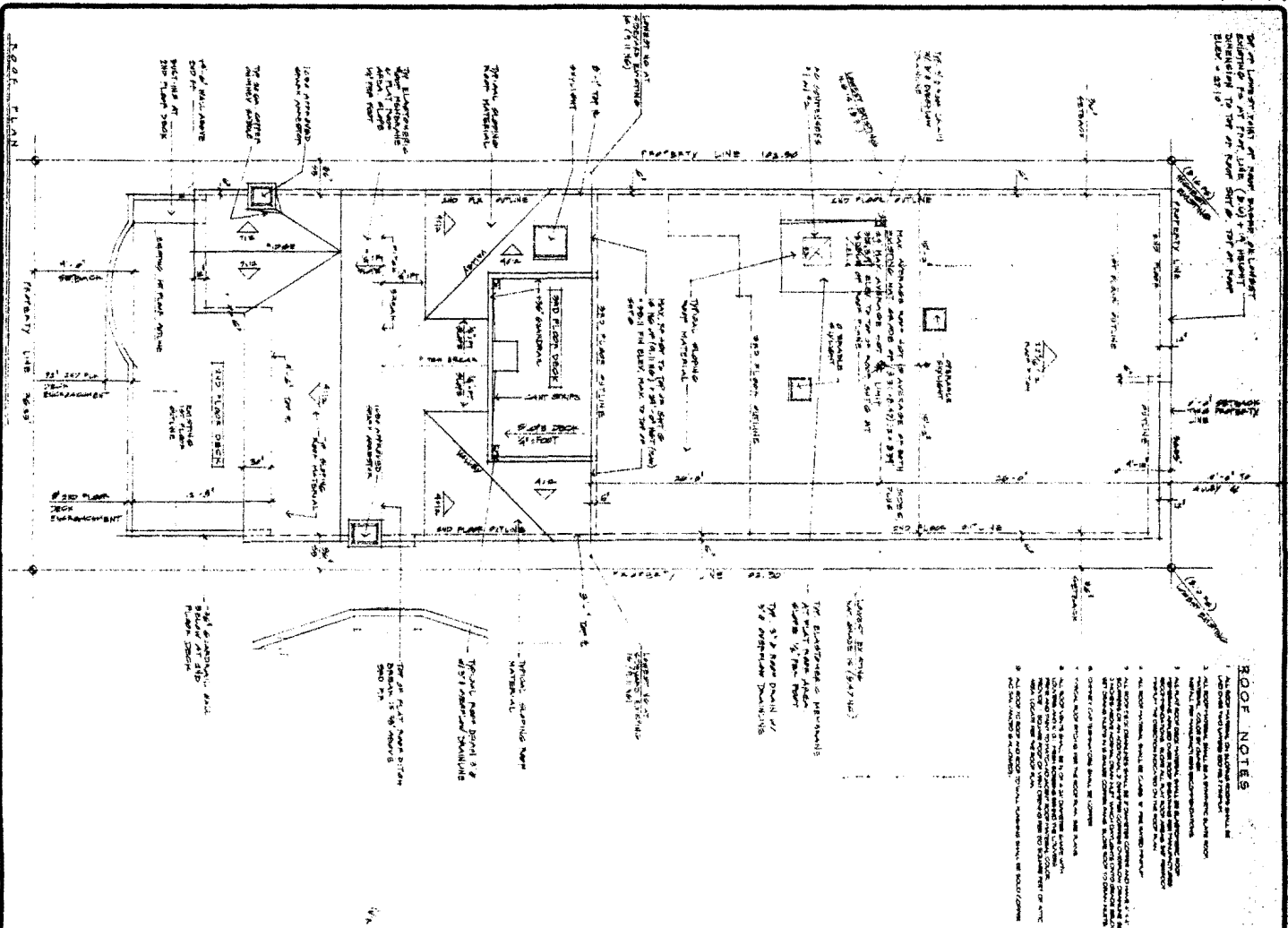
COASTAL COMMISSION

5-00-262

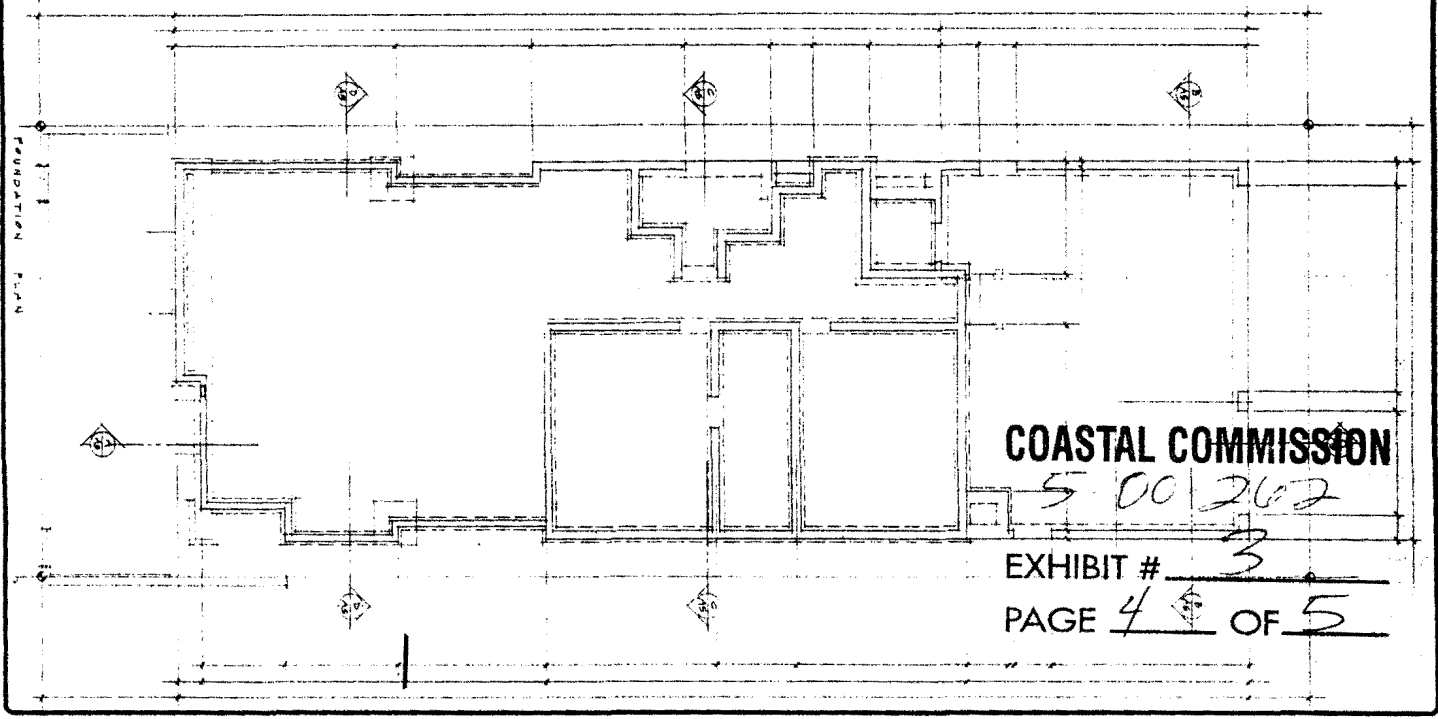
EXHIBIT # 3

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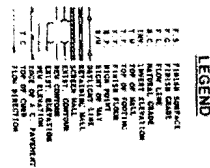




- ROOF NOTES**
1. ALL ROOFING SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA BUILDING CODES.
  2. ALL ROOFING SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA BUILDING CODES.
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**COASTAL COMMISSION**  
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 EXHIBIT # 3  
 PAGE 4 OF 5



**TOPOGRAPHIC SURVEY:**

6-7-99  
A. R. 1590  
Map. 12-31-20



LEGAL DESCRIPTION:

**SITE ADDRESS:**

**BENCH MARK:**

Q.C.C.M., 7 10-00 48  
ESTR. 21.20  
1905 202.

2.3 MILES NORTHWEST ALONG BALDOL BOLLEVAD FROM THE POST OFFICE, TO ITS INTERSECTION WITH HWY THIRTY, 25 FT. NORTHEAST OF THE CENTER LINE OF BALDOL BOLLEVAD, 26 FT. SOUTHWEST OF THE CENTERLINE OF HWY THIRTY, ABOUT 8100 A.T. SHORTER THAN THE BOLLEVAD

The seal of Coastal County, California, is a circular emblem. It features a central shield with a ship, a sun, and a mountain. The words "COASTAL COUNTY" are written around the top inner edge of the circle, and "CALIFORNIA" is at the bottom. The year "1907" is also present.

# COASTAL COMMISSION

00-262

EXHIBIT #

PAGE 5 OF 5

PUNTORIERO RESIDENCE  
1128 W. OCEAN FRONT  
NEWPORT BEACH, CA.

Date	6-7-74
Model	V6-1-8"
Serial	K01524
Age	4-13-27
Owner	1
City	1
State	

TOPOGRAPHIC SHEET 62151

PUNTORERO RESIDENCE  
128 West Oceanfront  
Newport Beach, CA 92663

ARCHITECT  
John T. Morgan  
8682 Beaumont Avenue  
Scotts Val, CA 92705  
ph (714) 30-2733 fax (714) 30-2734

5

**SITE PHOTOS**  
**5-00-262 (Puntoriero)**



**PHOTO 1 EXISTING STRUCTURE**



**PHOTO 2 VIEW FROM PATIO**

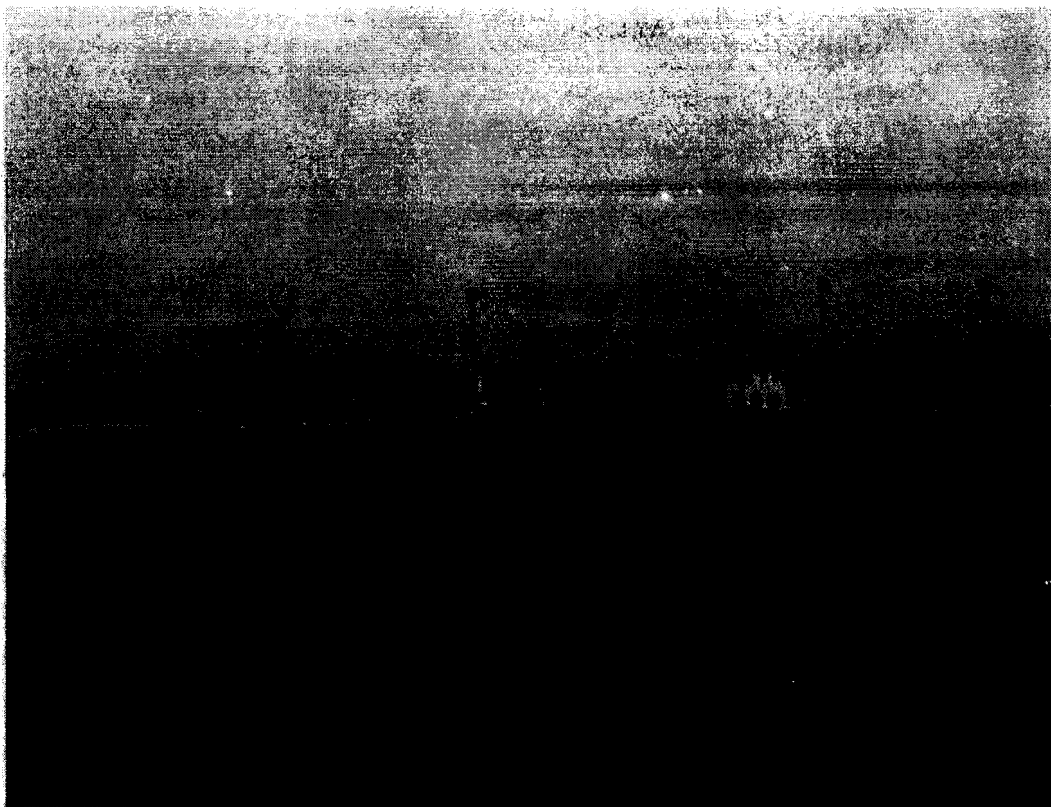
**COMMISSION**

5-00-262

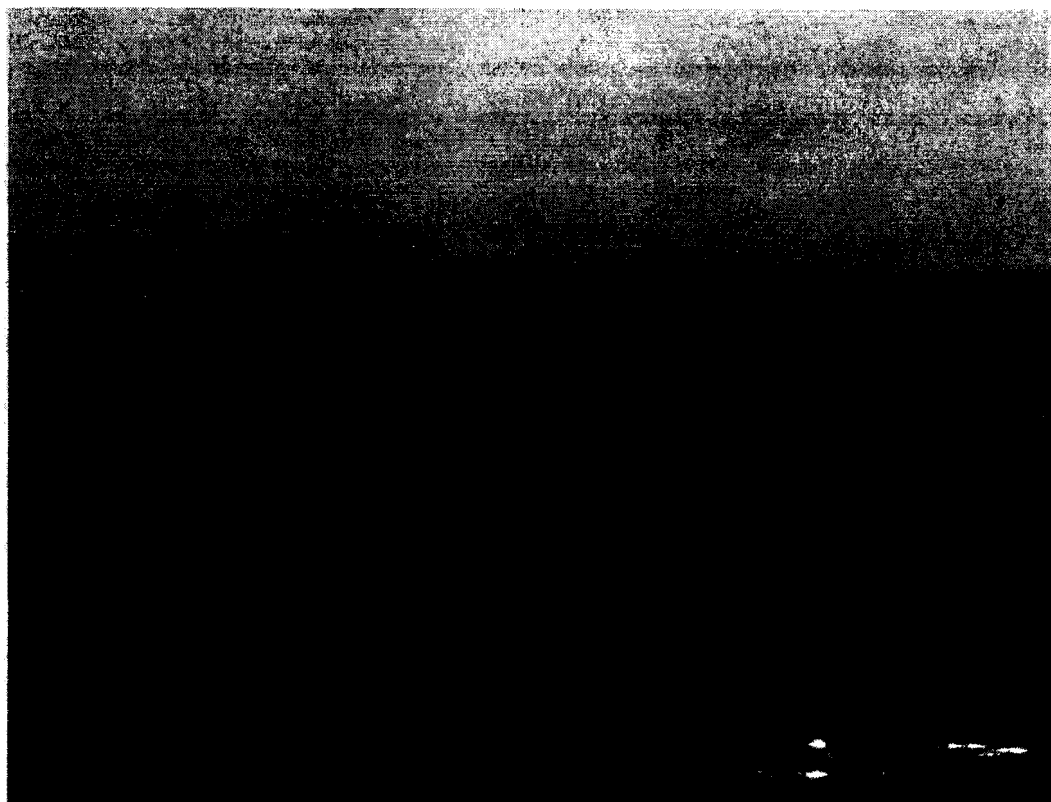
EXHIBIT # 4

PAGE 1 OF 2

**SITE PHOTOS**  
**5-00-262 (Puntoriero)**



**PHOTO 3 VIEW OF SITE FROM WATERLINE**



**PHOTO 4 VIEW LOOKING SOUTHEAST**

**MISSION**

5-00-262

EXHIBIT # 4

PAGE 2 OF 2

Michael J. Puntoriero  
1128 W. Oceanfront  
Newport Beach, California 92661

**RECEIVED**  
South Coast Region

OCT 24 2000

CALIFORNIA  
COASTAL COMMISSION

October 23, 2000

Ms. Sara Wan  
Chair  
California Coastal Commission  
c/o Ms. Anne L. Kramer  
Coastal Program Analyst  
200 Oceangate  
10<sup>th</sup> Floor  
Long Beach, CA 90802

Re: Coastal Development Permit No. 5-00-262  
1128 W. Oceanfront, Newport Beach (Orange County)

Dear Ms. Wan,

The above referenced application was originally received by the South Coast Area office on June 29, 2000. On July 13, 2000 we received a Notice of Incomplete Application requesting us to do three things, (i) submit a wave run-up study, (ii) provide a reduced set of project plans and (iii) pay an additional \$250 fee. By July 18<sup>th</sup> we complied with the second and third item requested, but asked the Staff to reconsider the need for a wave run-up study because our project is not in the flood zone as determined by Flood Insurance Rate Maps. On August 17<sup>th</sup> the Staff denied our request and again requested the wave run-up study. In September we submitted to the Staff a wave run-up study and a follow-up letter prepared by SE Skelly Engineering addressed to Ms. Ewing concluding the following:

*"... There are no recommendations necessary for a wave run-up protection."*

*"...The likelihood of overtopping reaching the project site within the next 75 years is practically nil."*

*"...In addition to the actual calculations and analysis, there are significant historical records at this site. This includes several decades of aerial photographs, shoreline monitoring programs (USACOE and Cal Boating), offshore wave monitoring, and anecdotal information formation from long time residents. Review of this information actually shows that this property has not been subject to wave overtopping in the past, including the 1982-83 El Nino winter and the storm in 1988."*

**COASTAL COMMISSION**

5-00-262

EXHIBIT # 5

PAGE 1 OF 3

October 23, 2000

*"...there is no need for any mitigating measures to be incorporated into the design of this project due to wave run-up or overtopping"*

Despite all the evidence to the contrary we understand that the Staff is going to continue to recommend that our permit be subject to certain terms and conditions including filing of deed restrictions and subordination agreements. We respectfully object to the Staffs recommended terms and conditions set forth in the attached Staff report.

Our reasoning is as follows:

1. Our home was built in 1927 and has never been effected by flooding or ocean run-up.
2. Our remodeled home will be located in the same foot print that it has been in for the last 73 years.
3. Based upon a wave run-up study by SE Skelley our home is approximately 500 ft. (over 1-1/2 football fields) away from the shore.
4. Our home is fronted on the ocean side by a three-foot high brick wall and a concrete boardwalk that carries extensive foot and bicycle traffic year around. This pedestrian road has been determined to be safe by all government agencies and commissions with jurisdiction.
5. The Staff required us to obtain the run-up rush study at our expense (\$2,000) and we did so. Our wave run-up study could not have more clearly supported the conclusion that the likelihood that this property would ever require a sea wall is nil and that no mitigating conditions are required or justified. The study could not have been more positive about the safety of the property. Our study clearly indicated that the property is:
  - ◆ safe to build and will be for the life of the home (over 100 years) and
  - ◆ will not require a sea wall.

In conclusion, our project is safe and the property will never require a sea wall. This conclusion is based upon over 73 years of history and a run-up rush study prepared by a certified engineer (MS, PE RCE # 47857) at the Staffs request. Based upon this compelling evidence it is unreasonable and unnecessary to require us amend the deed to the property. To force us to amend our deed would ignore the findings in the report that your Staff required us to obtain.

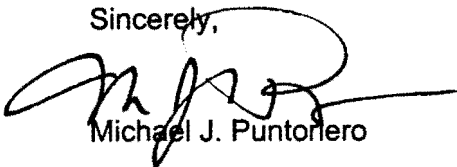
We have one additional issue we would appreciate if the Staff would consider. Since we were the first in Newport Beach to have to deal with this new issue, we did not anticipate the related delay. We therefore rented another home beginning October 9, 2000 through June 15, 2001.

October 23, 2000

We anticipated commencing construction sooner so that we could have finished by June of next year. If we could commence construction by the third week in November we still have a small chance that we will not have to move a second time. We therefore request the Staff grant us a hardship case, and whatever the Commissions decision is on our request, permit us to commence construction conditioned upon completing the conditions in the final Commissions decision. We would agree not to occupy until such conditions are met.

We appreciate your consideration of these matters.

Sincerely,



Michael J. Puntoriero



Adriane C. Puntoriero

**COASTAL COMMISSION**

5-00-262

EXHIBIT # 5

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