

CALIFORNIA COASTAL COMMISSION

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**RECORD PACKET COPY**

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Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NUMBER: 5-00-206

APPLICANT: Mike McCoy, c/o U.S. Property Inspections

AGENT: Tony Ursino, c/o U.S. Property Inspections

PROJECT LOCATION: A-59 Surfside Avenue, Seal Beach, Orange County

PROJECT DESCRIPTION: Construction of a new 2,030 square foot, 35' high, 3-story single-family residence with an attached 390 square foot 2-car garage, and 386 square feet of seaside deck/patio areas on a vacant lot. The decks and patio will extend a maximum of 10-feet seaward, beyond the property boundary, onto land that is leased by the Surfside Colony to the applicant.

LOCAL APPROVALS RECEIVED: City of Seal Beach Approval-in-Concept dated June 5, 2000; Surfside Colony, Ltd. Architectural Committee approval dated May 5, 2000.

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, 5-98-412 (DiLuigi), 5-99-356-A1 (Mattingly), 5-99-386 (Straight), and 5-99-423 (Evans); 5-00-132 (U.S. Property); Consistency Determinations CD-028-97, CD-067-97, and CD-65-99; *Preliminary Foundation Soils Exploration* prepared by Geo-Etka, Inc. (Job No. F-9118-00) dated February 21, 2000; Letter from Surfline to Tony Ursino containing a wave run-up analysis study prepared by Surfline of Huntington Beach, California, dated May 24, 2000; *Calculations for Hydrology* by Jones, Cahl & Associates dated May 5, 2000 and revised May 23rd and June 15th, 2000.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission **APPROVE** the proposed development subject to five special conditions. The major issue of this staff report concerns development on a beach that could be affected by geologic hazards and flooding. Special Condition No. 1 requires the recordation of assumption-of-risk deed/lease restrictions. Special Condition No. 2 requires the recordation of future improvements deed/lease restrictions. Special Condition No. 3 requires conformance of the design and construction plans to all recommendations contained in the preliminary foundation soils exploration. Special Condition No. 4 requires the recordation of a no future protective devices deed restriction. Special Condition No. 5 requires the conformance of the design and construction plans to all recommendations contained in the hydrologic study.

STAFF RECOMMENDATION:

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

MOTION:

I move that the Commission approve CDP No. 5-00-206 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. 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 Deed Restriction

- A) By acceptance of this permit, 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, 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**, 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. 5-00-206. 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, 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. 5-00-206 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**, 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.

3. **Conformance of Design and Construction Plans to Foundation Soils Exploration and Wave Run-Up Analysis - Hazards**

- A. All final design and construction plans, including grading, foundations, site plans, floor plans, elevation plans, and drainage plans, shall be consistent with all recommendations contained in the Preliminary Foundation Soils Exploration prepared by Geo-Etka, Inc. dated February 21, 2000 and the letter from Surfline to Tony Ursino containing a wave run-up analysis study prepared by Surfline of Huntington Beach, California, dated May 24, 2000. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the recommendations specified in the above-referenced geologic evaluation approved by the California Coastal Commission for the project site.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. **No Future Shoreline Protective Device**

- A(1) By acceptance of this permit, the applicant and landowner agree, on behalf of themselves 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. 5-00-206 including, but not limited to, the residence, foundation, decks and any other future improvements in the event that the development 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 themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.

- A(2) By acceptance of this permit, the applicant and landowner further agree, on behalf of themselves and all other successors and assigns, that the landowner shall remove the development authorized by this permit, including the residence, foundation and decks, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development are destroyed on the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.
- B. **PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. 5-00-206**, the applicant and landowner shall execute and record a deed restriction and/or lease restriction in the a form and content acceptable to the Executive Director, which reflects the above restrictions on development. The deed restriction shall include a legal description of the applicant's and landowner's entire parcels. The deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

5. **Conformance of Design and Construction Plans to Hydrology Study – Water Quality**

- A. All final design and construction plans, including grading, foundations, site plans, floor plans, elevation plans, and drainage plans, shall be consistent with all recommendation to direct storm flows to pervious areas contained in the *Calculations for Hydrology* by Jones, Cahl & Associates dated May 5, 2000 and revised May 23rd and June 15th, 2000. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the recommendations specified in the above-referenced hydrologic evaluation approved by the California Coastal Commission for the project site.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. **PROJECT LOCATION AND DESCRIPTION**

The lot is located at A-59 Surfside Avenue in the private community of Surfside Colony, in the City of Seal Beach, Orange County, California (Exhibit 1). The subject site is a beachfront lot located between the first public road and the sea. The proposed development is in an existing

private, gated residential community, located south of the Anaheim Bay east jetty. The proposed project is consistent with development in the vicinity and prior Commission actions in the area. There is a wide, sandy beach between the subject property and the mean high tide line.

The proposed project includes the construction of a new 2,030 square foot, 35' high, 3-story single-family residence with an attached 390 square foot 2-car garage, and 386 square feet of seaside deck/patio areas. The residential structure is located on the applicant's property. However, the first floor patio will extend 10 feet and the second and third floor decks extend 5 feet seaward, beyond the property boundary, onto land that is leased by the Surfside Colony to the applicant (Exhibit 6). Surfside Colony is the association which owns the common areas of the private community. The applicant has invited Surfside Colony to join as co-applicant (Exhibit 5), however, as of the date of this staff report Surfside Colony has not chosen to join.

B. HAZARDS

Section 30253 of the Coastal Act states, in 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 at the southern end of Surfside Colony, a private beachfront community in the City of Seal Beach (Exhibit 1). Unlike the southern end, 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 nourishment 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.

Even though wide sandy beaches currently afford a degree of 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.

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 No. 5-82-579 for this revetment, and Coastal Development Permit No. 5-95-276 for the repair of the revetment. The Commission also approved Consistency Determinations CD-028-97 and CD-67-97 for beach nourishment at Surfside performed by the U.S. Army Corps of Engineers completed in July 1997. The Commission also approved the most recent beach nourishment project at Surfside in Consistency Determination CD-65-99 in July 1999.

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 central and southern areas of Surfside Colony where the subject site, A-59 Surfside, is located. No revetment protects this lot (Exhibit 1, Page 2). At present, the beach material placed at the northern end of Surfside is naturally transported to the central and southern beach areas, thereby serving as the primary source of material for the wide sandy beach in front of the subject property.

Even though the site is currently protected by a wide sandy beach, this does not preclude wave uprush damage and flooding from occurring at Surfside during extraordinary circumstances. Strong storm events like those that occurred in 1994 and 1997 can cause large waves to flood any portion of Surfside. Though the subject site could be exposed to wave run-up, the Foundation Soils Report prepared by Geo-Etka, Inc. did not identify wave run-up or flooding as a potential development concern at the subject site.

The applicant has submitted a wave run-up analysis study dated May 24, 2000, prepared by Surfline of Huntington Beach, California. The analysis examined the impact of wave run-up and flooding upon the subject site. The analysis determined that the subject site is located on a wide sandy beach and upon a portion of the beach that is generally higher than other lots within Surfside. The study looked at the effect of large wave and flooding events such as those which occurred in January 1983 and January 1988. In addition, the study looked at the effect of a 2 to 3 foot sea level rise during a 75 to 100 year life of the structure. The study determined that given storm conditions such as those in 1983 and 1988, the subject site would experience a 1 to 2 foot surge of water. Adding in a 2 to 3 foot sea level rise, the study expects a maximum 3 to 4 foot surge of water at the subject site if the storm conditions present in 1983 and 1988 were experienced again. The study determines that provided that the non-expendable portions of the structure are 3 to 4 feet high over the beach, no other mitigation measures would be required.

In addition, beach areas are dynamic environments, which may be subject to unforeseen changes. Such changes may effect 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.

The proposed project has decks and a patio area which encroach ten feet seaward beyond the subject site's seaward property line onto land owned by Surfside Colony, Ltd. (which serves as the homeowners' association). Surfside Colony leases its property to the applicant and adjacent homeowners for construction of patios. The proposed development is consistent with existing development in Surfside Colony. However, while the proposed project will not be located any further seaward than other residences in the area, the proposed development is still subject to significant wave hazards, as described previously. The development exposed to hazards includes all development located on the property owned by the applicant (A-59) and all proposed development (i.e. patios/decks) upon the property owned by Surfside Colony which is leased to the applicant. Therefore, the Commission finds it necessary to require the recordation of an assumption-of-risk deed restriction and lease restriction by the applicant and Surfside Colony, Ltd. (Special Condition No. 1). 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 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 example, the Executive Director issued Administrative Permits 5-97-380, 5-98-098, and more recently Coastal Development Permits 5-98-412 (Cox) and 5-99-356A1 (Mattingly) 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 (e.g. 5-00-132), whether on vacant lots or in conjunction with the demolition and replacement of an existing home (see Exhibit 4).

Foundation Design

The proposed project requires construction of a foundation system. The proposed structure will be supported by new concrete caissons or piles tied together with grade beams. The approximate pile depth is expected to be 20 feet. A *Preliminary Foundation Soils Exploration* prepared by Geo-Etka, Inc. (Job No. F-9117-00) dated February 21, 2000 was submitted by the applicant. The report indicates that the site is suitable for the proposed development. The *Preliminary Foundation Soils Exploration* includes certain recommendations to increase the degree of stability of the proposed development. The recommendations included in the Soils Exploration address foundation design, earth pressure, seismic conditions, demolition and tree removal, and grading.

In addition, the applicant submitted a wave run-up analysis prepared by Surfline of Huntington Beach, California dated May 24, 2000. The wave run-up analysis determines that the site will be safe from wave run-up and flooding hazards over the 75 to 100 year life of the structure provided that the non-expendable development is elevated a minimum of 3 to 4 feet above current beach level.

In order to assure that risks are minimized, the recommendations of the wave run-up analysis and geotechnical consultant must be incorporated into the design of the project. As a condition of approval (Special Condition No. 3), the applicant shall submit final grading plans, foundation plans, site plans, floor plans, elevation plans, and drainage plans signed by the appropriately licensed professional indicating that the recommendations contained in the *Preliminary Foundation Soils Exploration* and wave run-up analysis have been incorporated into the final design of the proposed project.

As conditioned by both Special Conditions No. 1 and No. 3, the Commission finds that the proposed project is consistent with Section 30253 of the Coastal Act which requires that geologic and flood hazards be minimized, and that stability and structural integrity be assured.

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 all of the following conditions are met: (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. Proper coastal planning mandates that structures be sited far enough back from hazards to minimize the potential that they would be in danger and require a protective device. In addition, allowing new development that requires the construction of a shoreline protective device would be inconsistent with Section 30251 of the Coastal Act which states that permitted development shall minimize the alteration of natural land forms, 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. However, as previously discussed, the subject beachfront area has 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 which could lead to a request for a protective device.

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 effect 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 Seal 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 constructing the proposed residence using a caisson and grade beam foundation. The applicant's wave run-up analysis has indicated that elevation of the non-expendable portions of the structure 3 to 4 feet above the existing beach elevation will assure the development is not subject to wave run-up and flooding. Based on the information provided by the applicant, no other mitigation measures, such as a seawall, are anticipated to be needed 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

currently a wide sandy beach in front of the proposed development that currently provides substantial protection from wave activity. However, the presence of the beach cannot be guaranteed.

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. 4 which requires the applicant and Surfside Colony Ltd. to record a deed restriction that would prohibit the applicant and Surfside Colony, 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. Consequently, as conditioned, the development can be approved subject to Sections 30251 and 30253 of the Coastal Act.

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. The Commission also requires that the applicant remove the structure if any government agency has ordered that the structure be removed due to wave uprush and flooding hazards. In addition, in the event that portions of the development are destroyed on the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

3. Conclusion

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 4 require the applicant to record Assumption-of-Risk, and No Future Shoreline Protective Devices deed restrictions. In addition, Special Condition 3 requires the applicant to submit final grading, foundation, site, floor, elevation plans, and drainage plans along with evidence that such plans conform with the recommendations of the geotechnical consultant and wave run-up analysis. As conditioned, the Commission finds that the proposed project is consistent with Coastal Act Sections 30251 and 30253.

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 3). 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 a patio area which encroach ten feet seaward beyond the subject site's seaward property line onto a ten foot wide portion of the approximately 80 foot wide strip of land owned by Surfside Colony, Ltd. seaward of the "A" row of lots in the community. Surfside Colony (which serves as the homeowners' association) 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 6).

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 30212 of the Coastal Act, the Commission finds it necessary that the applicant and landowner, prior to issuance of this permit, record a future improvement deed and lease restriction per Special Condition No. 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 proposed development will be 35 feet high above existing street grade plus a chimney which extends an additional 3 feet above the 35 foot high roof line and a roof access structure which extends 4.5 feet above the 35 foot high roof line (Exhibit 2). The City of Seal Beach approved the proposed development in concept. The Commission typically has limited residential development in Surfside, except for chimneys and roof access staircase enclosures, to a 35-foot height limit above existing street grade. This is to minimize the visual effect of a large wall of buildings along the beach that results when homes are constructed to maximize use of the City established building envelope. The approved project would be consistent with the 35-foot height limit 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. WATER QUALITY

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The proposed development is occurring upon a vacant lot. Storm water from storm events currently can percolate into the sandy soil which comprises the subject site. However, the proposed project will result in an increase in the quantity of impervious surfaces on the site

where pollutants such as particulate matter may settle. In addition, the proposed structure will include roof area where pollutants may settle. During storm events, the pollutants which have collected upon the roof and upon other impervious surfaces created by the proposed project may be discharged from the site into the storm water system and eventually into coastal waters which can become polluted from those discharges. Water pollution results in decreases in the biological productivity of coastal waters.

To address water quality concerns the applicant has submitted a hydrology study titled *Calculations for Hydrology* prepared by Jones, Cahl & Associates which recommends the use of gravel filled percolation drains (Exhibit 2, pages 7 & 8). Water quality impacts to coastal waters can be avoided by directing storm water discharges from the roof and other impervious surfaces to percolation drains located in the sideyards of the subject site. These percolation drains cause the storm water from the roof and other impervious surfaces to drain into a gravel box and eventually into the sand. Discharging particulate laden storm water into the gravel box will allow these pollutants to settle out of the water prior to percolation into the sand. In this way, particulate matter is not discharged to coastal waters via sheet flow or the storm drain system.

While the applicant is proposing to install these drains, the applicant has not submitted final plans showing incorporation of the recommendations of the hydrology study. Therefore, the Commission imposes Special Condition 5 which requires the applicant to submit final revised plans for review and approval of the Executive Director which incorporate the recommendations of the hydrology report. The plan shall include certification by the appropriately licensed professional that the recommendations of the hydrology report have been incorporated into the plans. The applicant shall conform with the plans approved by the Executive Director. No changes to the plans may occur without an amendment to this coastal development permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is required. As conditioned, the Commission finds the proposed project is consistent with Section 30231 of the Coastal Act.

F. 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 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.

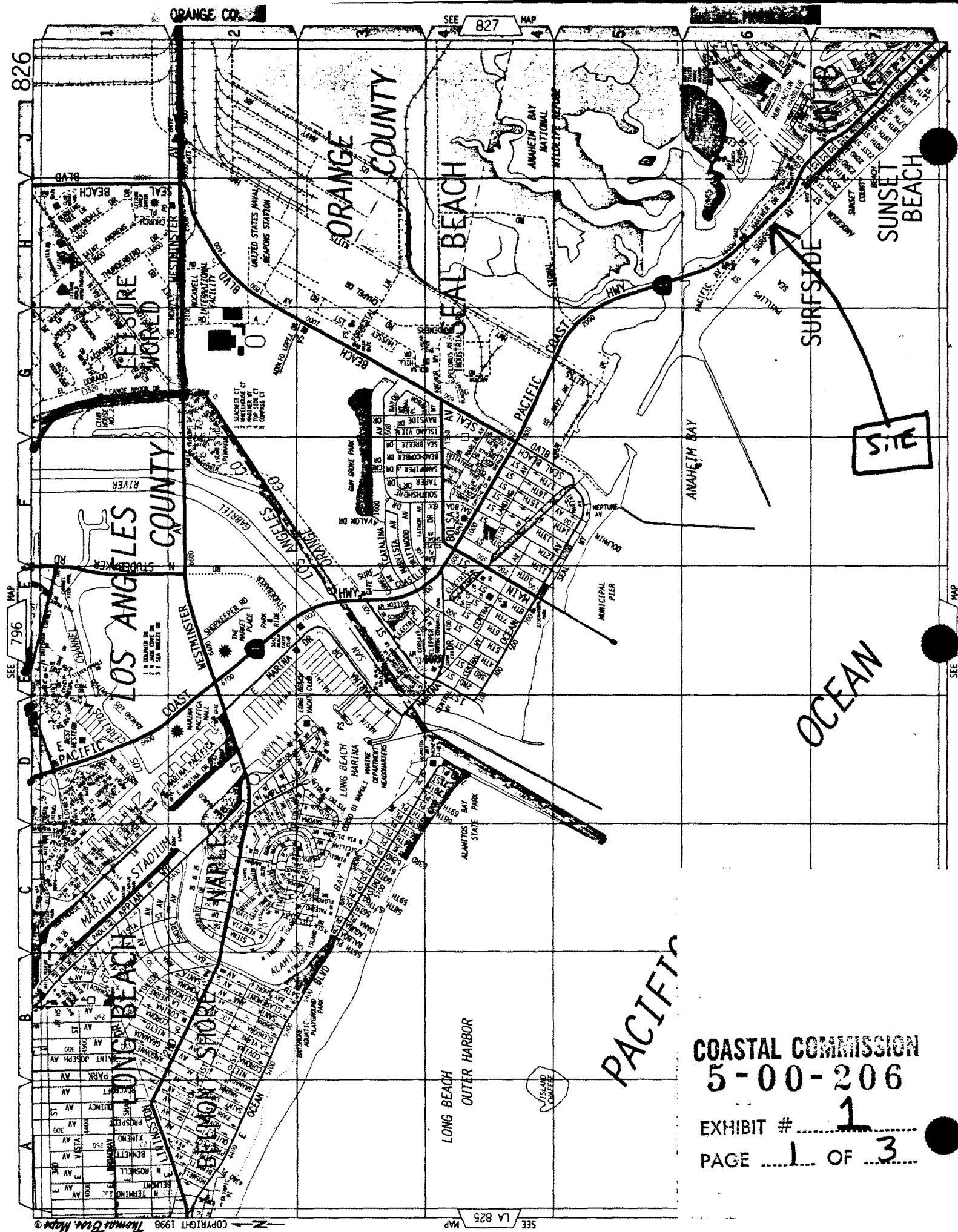
The proposed development, as conditioned, is consistent with the Chapter Three policies of the Coastal Act. Therefore, the Commission finds that the proposed development as conditioned would not prejudice the ability of the City to prepare a certified coastal program consistent with the Chapter Three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

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned 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.

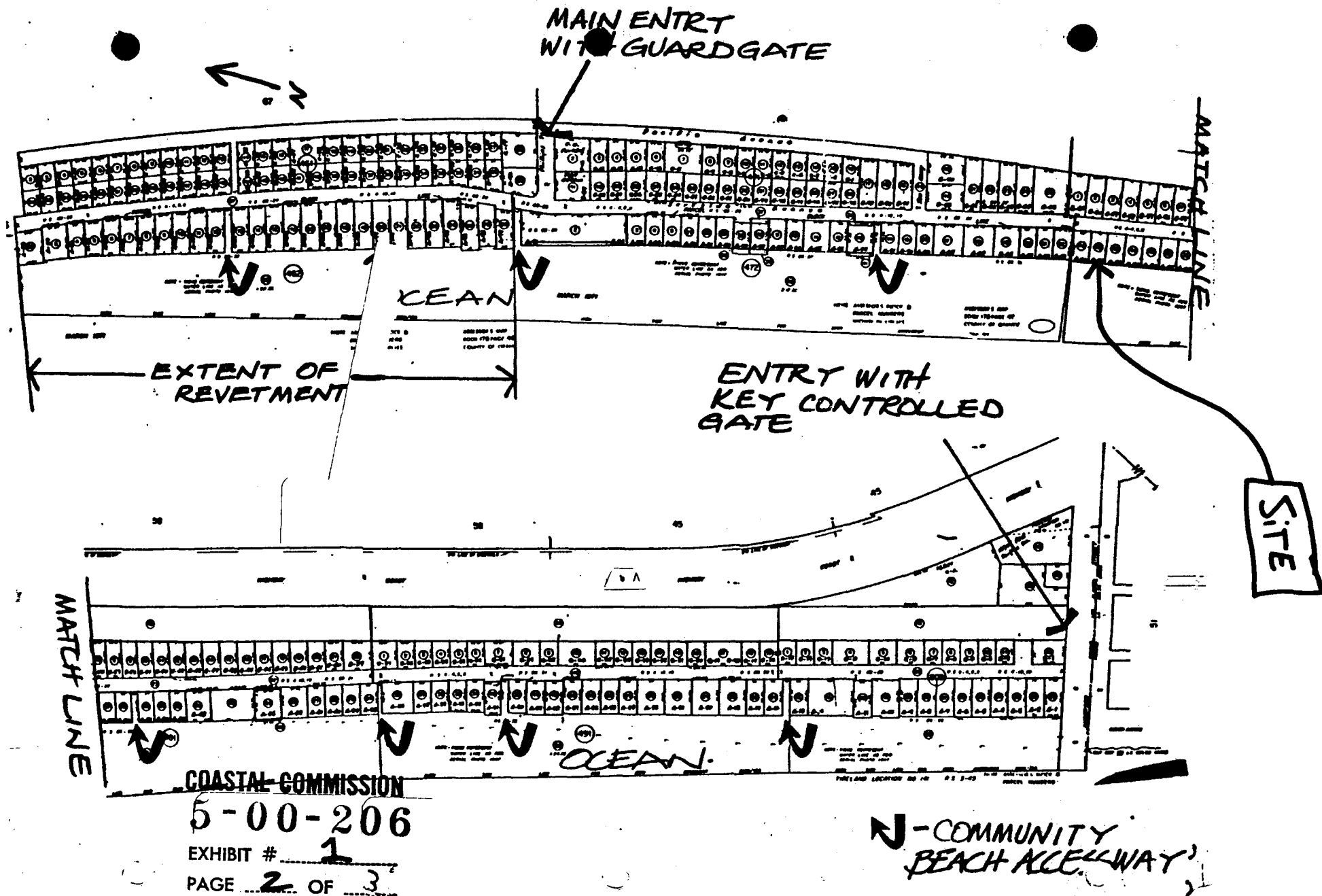
The proposed project is located in an urban area. All infrastructures necessary to serve the site exist in the area. As conditioned, the proposed project has been found consistent with the hazard, public access and scenic view policies of Chapter Three of the Coastal Act. Mitigation measures requiring assumption-of-risk, future improvement, and no future shoreline protective device deed/lease restrictions and conformance with geotechnical recommendations 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.



COASTAL COMMISSION
5-00-206

EXHIBIT # 1
PAGE 1 OF 3



COASTAL COMMISSION
5-00-206
EXHIBIT # 1
PAGE 2 OF 3

THIS MAP WAS PREPARED FOR ORANGE COUNTY
ASSESSOR DEPT. PURPOSES ONLY. THE ASSES-
SOR MAKES NO GUARANTEE AS TO ITS ACCURACY
NOR ASSUMES ANY LIABILITY FOR OTHER USES.
NOT TO BE REPRODUCED. ALL RIGHTS RESERVED.
COPYRIGHT ORANGE COUNTY ASSESSOR 1995

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

58

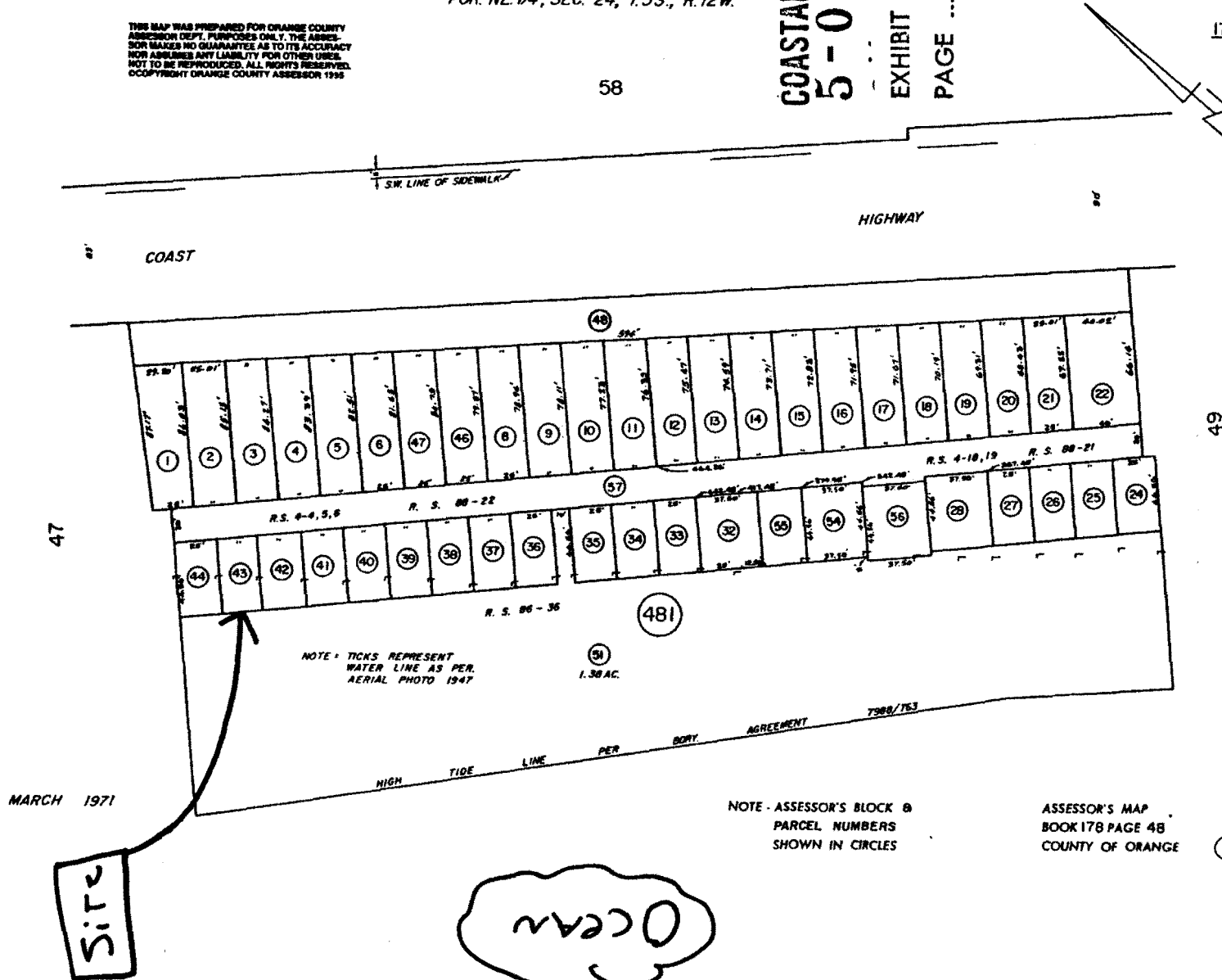
COASTAL COMMISSION
5-00-206

EXHIBIT # 1

PAGE 3 OF 3

178-48

1" = 50'



Ocean

ASSESSOR'S MAP
BOOK 178 PAGE 48
COUNTY OF ORANGE

PROJECT SECTIONS

☉ SURFSIDE AVENUE

CONSTRUCTION NOTES		QTY/UNIT
① DEMO EXISTING STRUCTURE		1 CS
② PROTECT IN PLACE EXISTING UTILITIES		1 LS
③ CONSTRUCT STRIP DRAIN PER SEAL BEACH STANDARDS		3 EACH
④ CONSTRUCT EXTERIOR FOUNDATION W/ STEM WALL PER STRUCTURAL DRAWINGS		1 EACH
⑤ CONSTRUCT CURB ONLY PER SEAL BEACH STANDARDS		1 EACH
⑥ CONSTRUCT 4" PCC CONCRETE SIDEWALK		83 LF
⑦ CONSTRUCT CERAMIC TILE WALK PER ARCHITECTURAL PLANS		94 LF
⑧ CONSTRUCT WOODEN FENCE PER ARCHITECTURAL PLAN		50 SF
⑨ CONSTRUCT REDWOOD DECK PER ARCHITECTURAL PLAN		170 SF

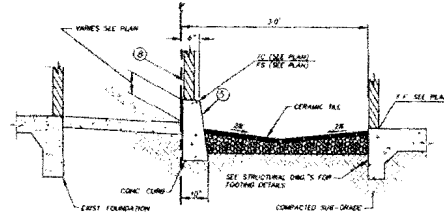
LEGEND	
	CERAMIC TILE
	PCC CONCRETE
	CONCRETE SIDEWALK
	WOOD DECK
	PROPOSED GRADE
	EXISTING GRADE
	EDGE OF PAVEMENT
	GAS LINE
	SEWER LINE
	WATER LINE
	PROPERTY LINE
	DIRECTION OF FLOW
	FINISHED FLOOR
	NATURAL GRADE
	FLOW LINE
	FINISHED SURFACE
	ROUGH GRADE
	RIGHT OF WAY
	TOP OF CURB
	WATER METER
	BOTTOM OF SUMP
	PIPE INVERT
	ASPHALT CONCRETE
	TOP OF GRATE
	LINEAR FEET
	SQUARE FEET



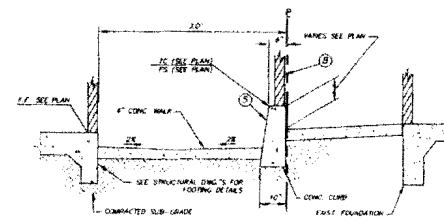
SCALE 1/4" = 1'-0"

GENERAL NOTES:

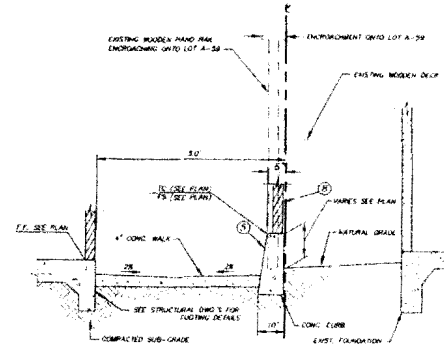
RETAINING WALLS ARE NOT A PART OF THE GRADING PERMIT AND MUST GO THROUGH A SEPARATE APPROVAL PROCESS FROM THE BUILDING DEPARTMENT.
ENCROACHMENTS IN THE PUBLIC RIGHT OF WAY ARE NOT PART OF THE GRADING PERMIT AND MUST GO THROUGH A SEPARATE APPROVAL PROCESS FROM THE ENGINEERING DIVISION.



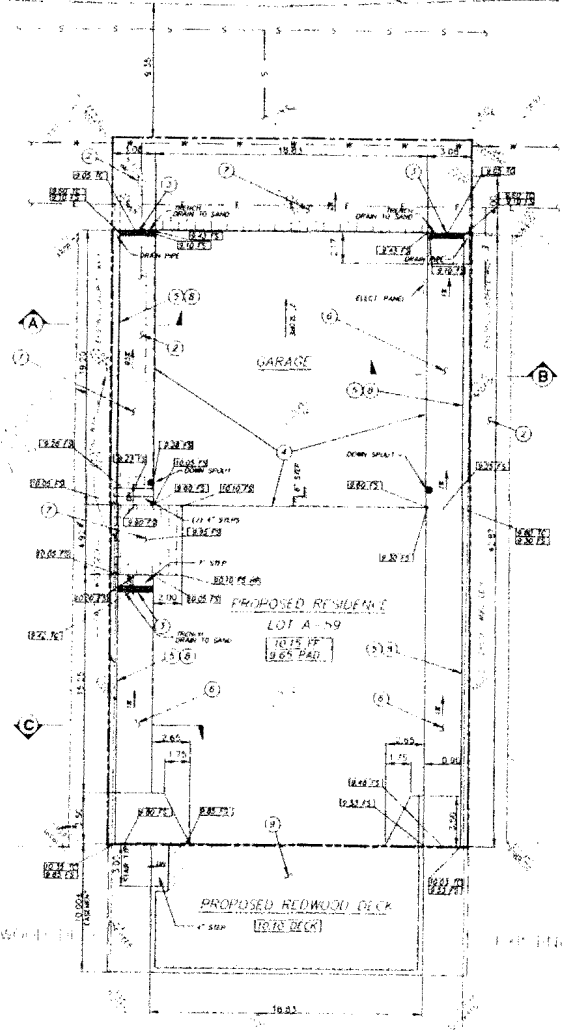
SECTION A
NOT TO SCALE



SECTION B
NOT TO SCALE



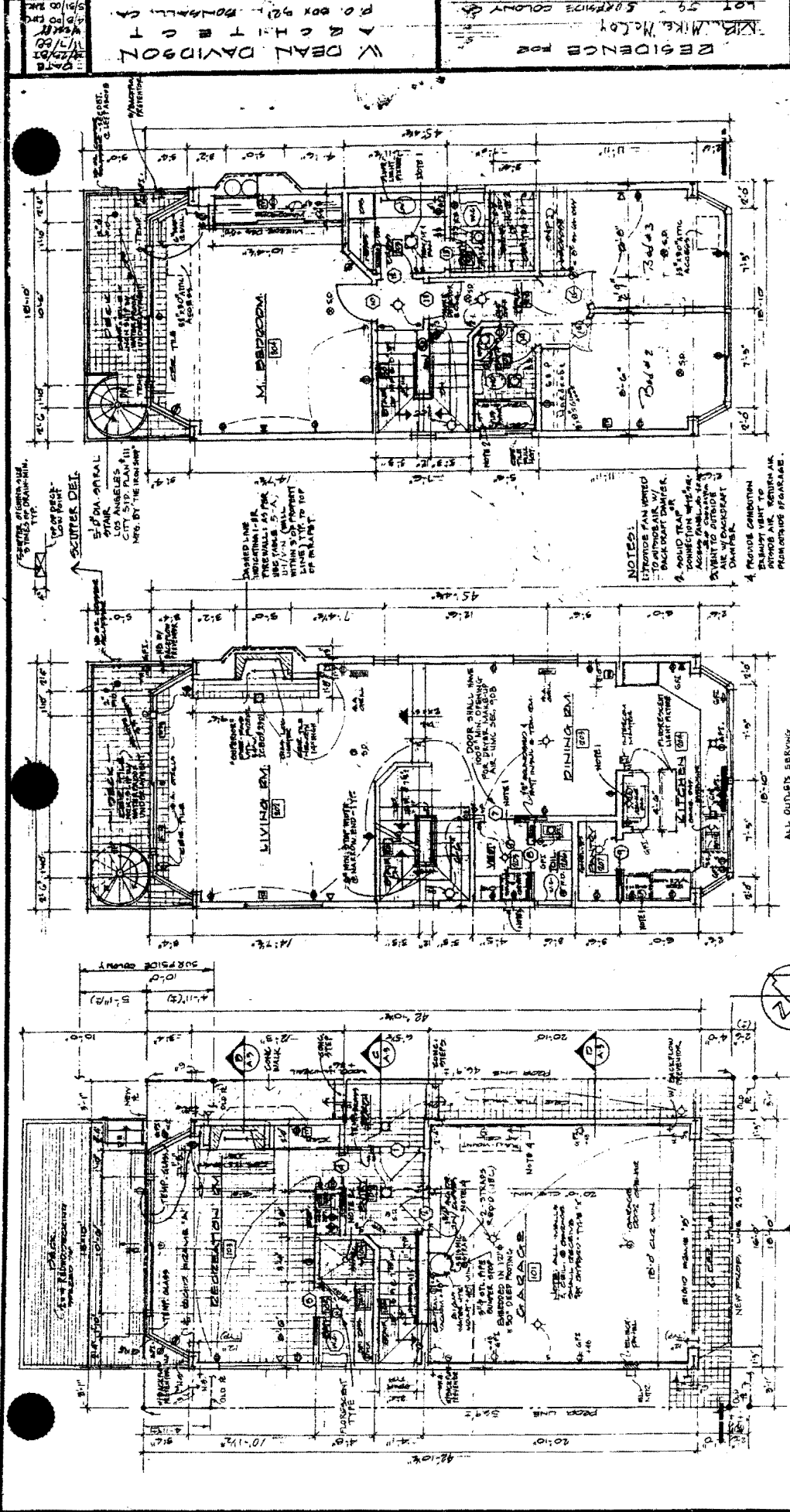
SECTION C
NOT TO SCALE



COASTAL COMMISSION
5-00-20
EXHIBIT # 2
PAGE 1 OF 8

GRADING PLAN
A-59 SURFSIDE AVENUE
SEAL BEACH, CA

GRADING PLAN & SECTIONS
NO. 21005
MICHAEL H. MCCOY
P.E.
6/1/2000
C.2

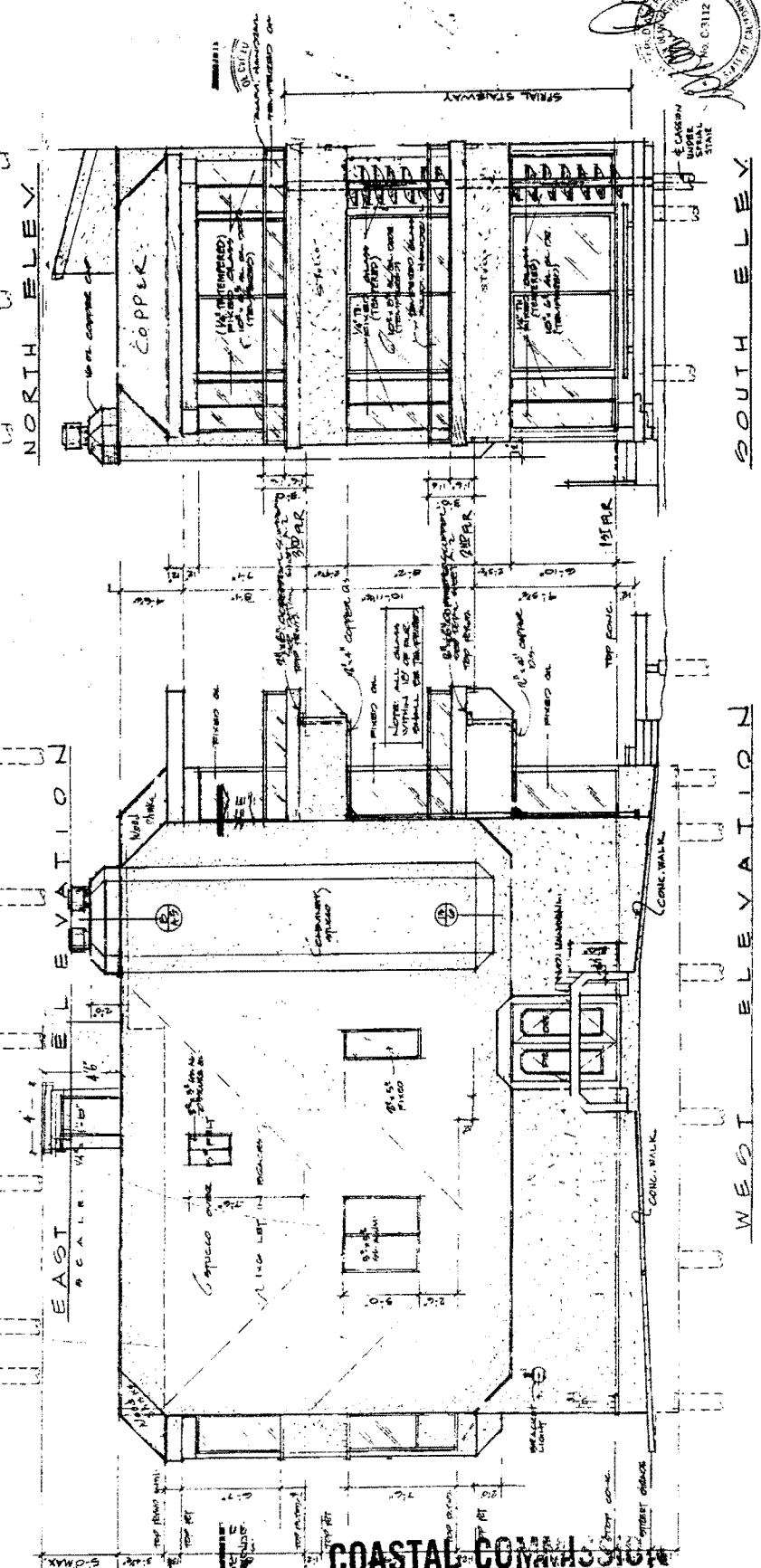
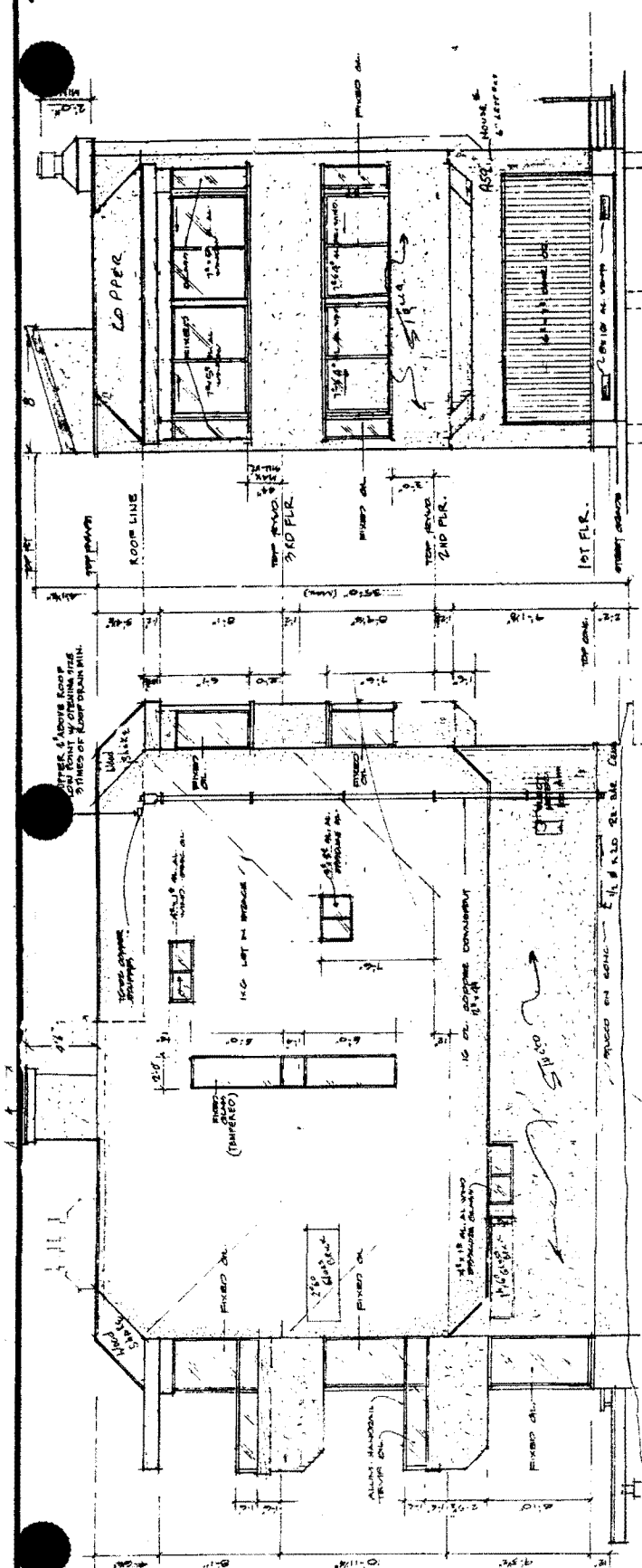


FIRST FLOOR PLAN										SECOND FLOOR PLAN										THIRD FLOOR PLAN									
ROOM FINISH SCHEDULE										DOOR SCHEDULE										DOOR SCHEDULE									
No.	NAME	DOOR	FINISH	CELL	CELL	CELL	CELL	CELL	CELL	No.	NAME	DOOR	FINISH	CELL	CELL	CELL	CELL	CELL	CELL	No.	NAME	DOOR	FINISH	CELL	CELL	CELL	CELL	CELL	CELL
101	CHARGE	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	101	CHARGE	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	101	CHARGE	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR
102	CHARGE	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	102	CHARGE	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	102	CHARGE	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR
103	CHARGE	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	103	CHARGE	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	103	CHARGE	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR
104	CHARGE	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	104	CHARGE	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	104	CHARGE	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR
105	CHARGE	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	105	CHARGE	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	105	CHARGE	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR
106	CHARGE	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	106	CHARGE	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	106	CHARGE	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR
107	CHARGE	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	107	CHARGE	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	107	CHARGE	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR
108	CHARGE	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	108	CHARGE	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	108	CHARGE	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR
109	CHARGE	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	109	CHARGE	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	109	CHARGE	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR
110	CHARGE	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	110	CHARGE	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	110	CHARGE	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR	DOOR

ELEVATIONS

RESIDENCE #02
MR. Mike McCoy
LOT #59, RAINBOW COLOR CA

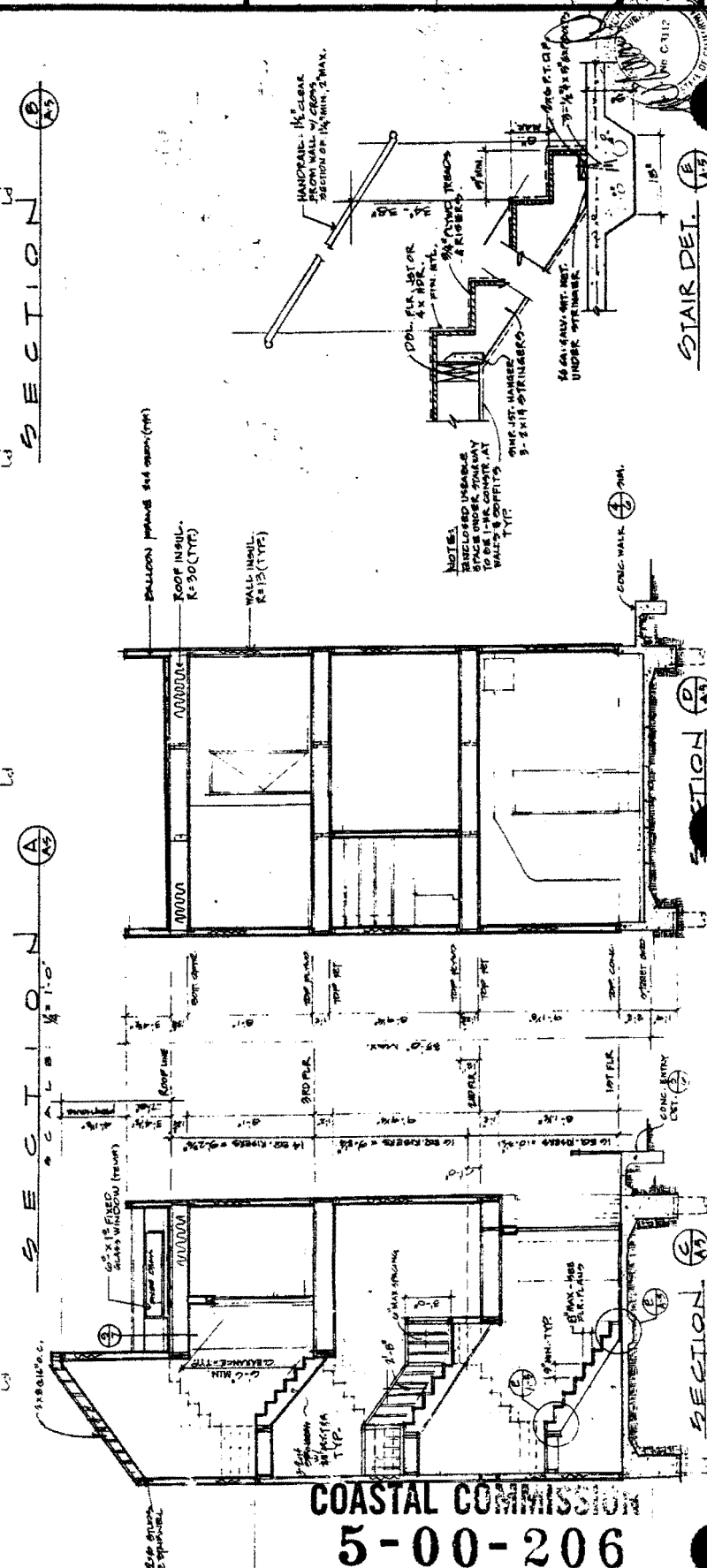
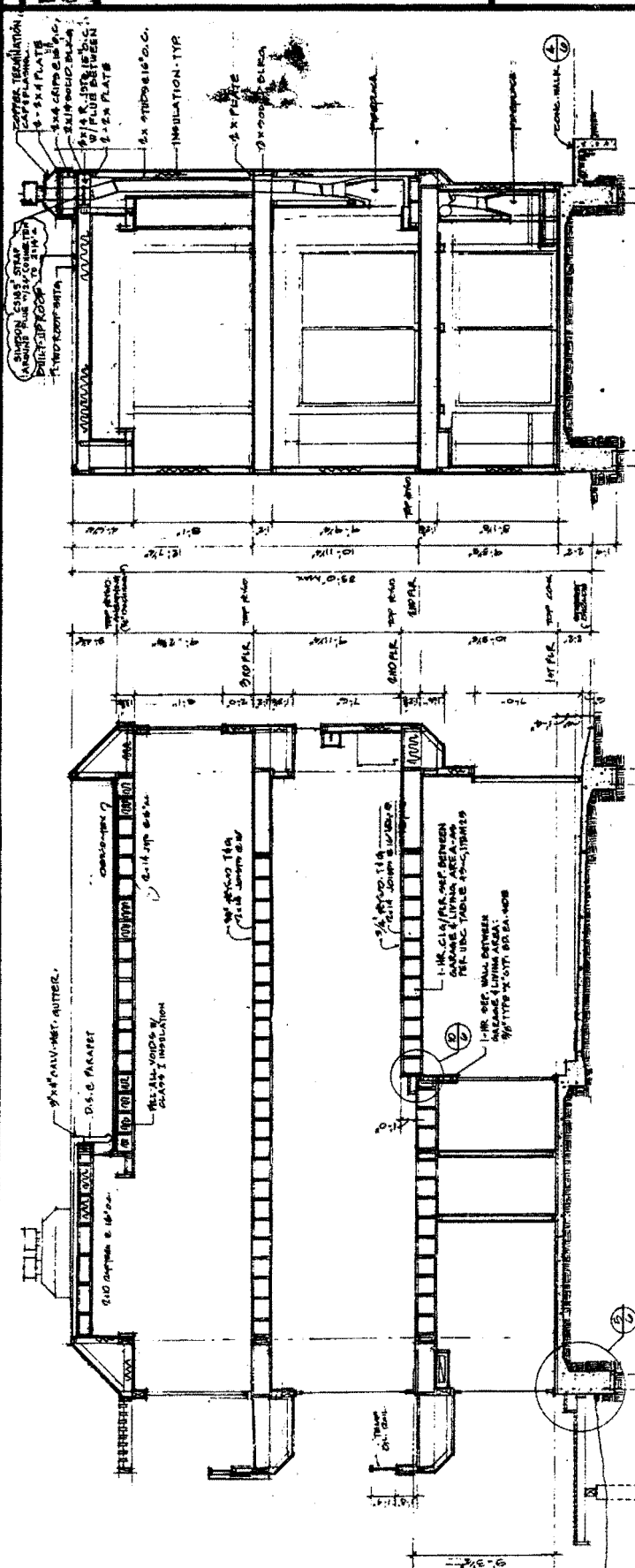
W. DEAL DAVIDSON
ARCHITECT
P.O. BOX 921, PORTLAND, O.



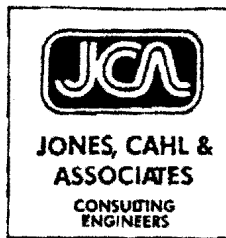
COASTAL COMMISSION

5-00-206

W. DEAN DAVIDSON
ARCHITECT
P.O. BOX 921
BOSTON, MA

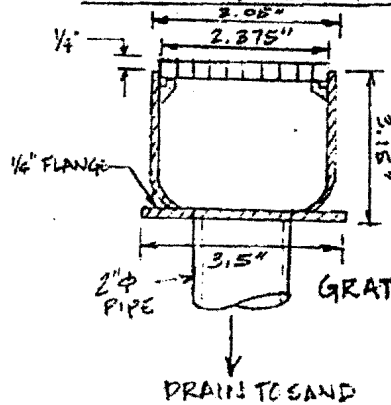


COASTAL COMMISSION
5-00-206



CLIENT MIKE MCCOY JOB NO. 00-1242A
 PROJECT A69 - SURFSIDE SHEET 1A OF 4
 CALCULATIONS FOR NDS MINI CHANNEL DRAIN MADE BY D.R. DATE 6/18/2000
 CHECKED BY _____ DATE _____

CAPACITY OF NDS MINI CHANNEL DRAIN



LENGTH OF CHANNEL = 3'
 WIDTH OF CHANNEL = 2.375'
 DEPTH OF CHANNEL = 3.15'

ORIFICE FLOW:

$$Q = CA \sqrt{2gh}$$

$$C = 0.60$$

$$g = 32.2 \text{ ft/sec}^2$$

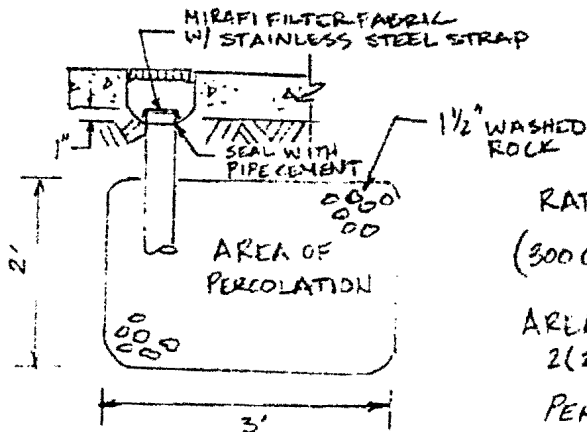
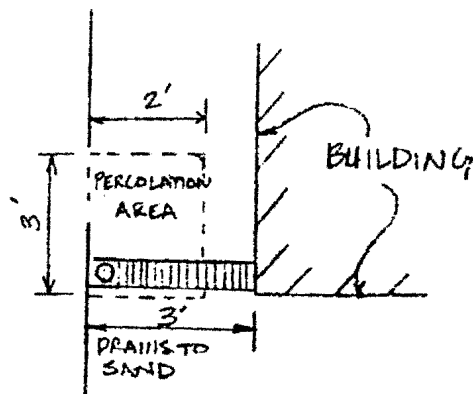
$$h = 0.025'$$

$$A = 2(72) \left(\frac{1/4" \times 15/16"}{144} \right)$$

$$A = 0.234 \text{ ft}^2$$

$$Q = (0.60)(0.234 \text{ ft}^2) \sqrt{2(32.2)(0.025')}$$

$$Q = 0.18 \text{ CFS} = 81 \text{ gal/min}$$



RATE OF PERCOLATION: 250 - 400 gal/day/ft

$$(300 \text{ GAL/DAY/FT}) \left(\frac{1 \text{ DAY}}{24 \text{ HRS}} \right) \left(\frac{1 \text{ FT}}{6 \text{ IN}} \right) = 0.21 \text{ gal/min/ft}$$

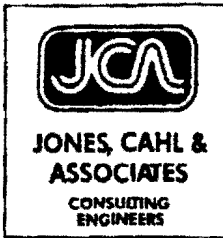
AREA OF PERCOLATION:

$$2(2' \times 3') + 2(2' \times 2') + (2' \times 3') = 26 \text{ ft}^2$$

$$\text{PERCOLATION: } (0.21 \text{ gal/min/ft}) (26 \text{ ft}^2) = 5.4 \text{ gal/min}$$

COASTAL COMMISSION
 5-00-206

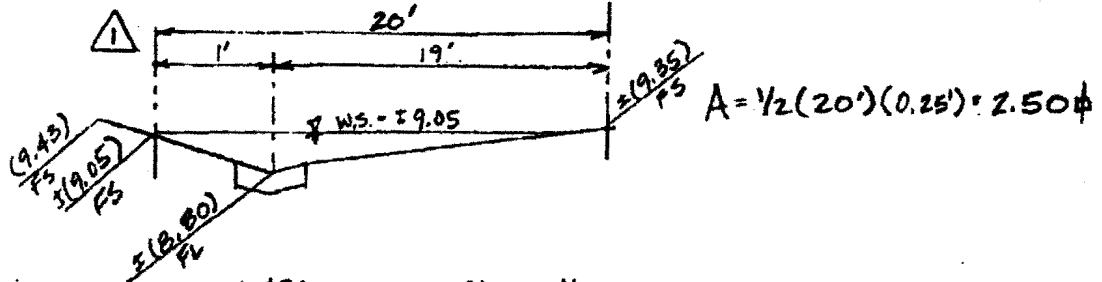
EXHIBIT # 2
 PAGE 7 OF 8



CLIENT MIKE MCCOY JOB NO. 00-1242B
 PROJECT A59 - SURFSIDE SHEET 2 OF 4
 CALCULATIONS FOR HYDROLOGY MADE BY D.R. DATE 5/5/2000
△ CITY OF SEAL BEACH CORRECTIONS 5/23/00 CHECKED BY _____ DATE _____

1.) HYDROLOGY (CONT.)

CAPACITY OF STREET



$$Q = \frac{1.486}{n} (A) (R)^{2/3} (S)^{1/2}$$

$$S = 0.11 / 25' = 0.0044$$

$$S^{1/2} = 0.066$$

$$A = 2.50 \text{ ft}^2$$

$$P = 20'$$

$$R = 0.125' \quad R^{2/3} = 0.250$$

$$Q_{\text{CAP}} = \frac{1.486}{0.0165} (2.50) (0.066) (0.250) = 3.83 \text{ cfs}$$

$$Q_{\text{CAP}} = 3.83 \text{ cfs}$$

RUNOFF FROM "A59"

$$Q_{25} = (2) (0.071 \text{ cfs}) = 0.142 \text{ cfs}$$

$$0.14 \ll 3.83 \text{ cfs} \leftarrow \text{O.K.}$$

COASTAL COMMISSION

5-00-206

EXHIBIT # 2

PAGE 8 OF 8

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. 3
Application Number: 5-00-206
 California Coastal Commission

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)

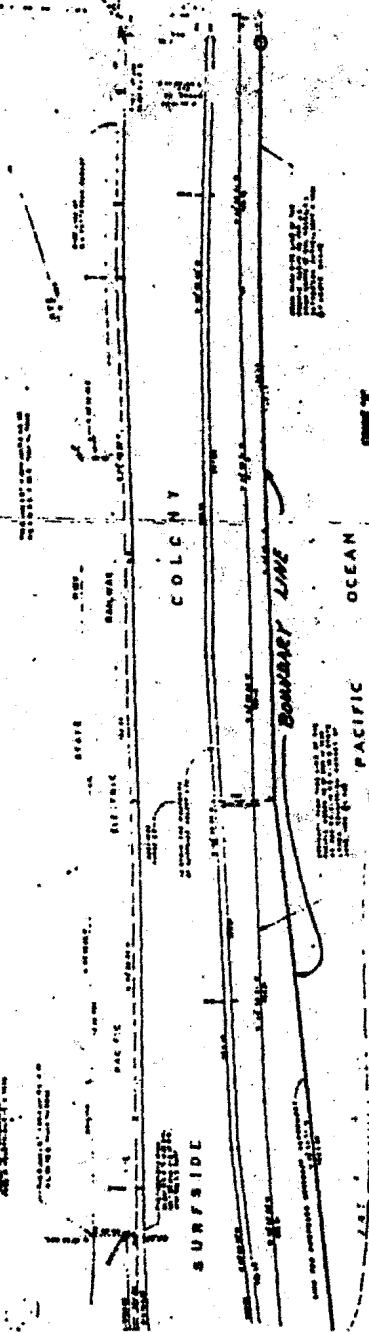
EXHIBIT No. 3
Application Number:
5-00-206
California Coastal Commission

2 of 3

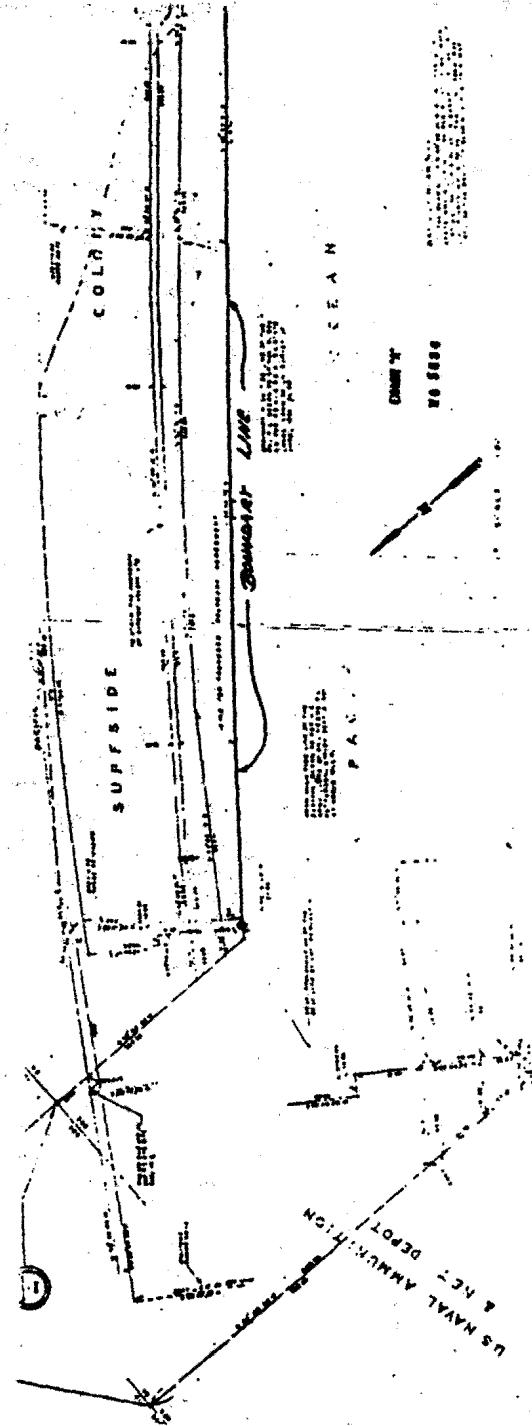
SURFSIDE COLONY LTD.

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 8 WEST, 3 S 8 W.

WITNESSED AND CORRECTED
LAST MONTH OF
1900



UNIT
NO 5000



UNIT
NO 5000

EXHIBIT No.3	
Application Number:	
5-00-206	
California Coastal Commission	

393

**Surfside Permits with Assumption-of-Risk Deed Restrictions
As of July 20, 2000**

Site	Permit #	Project Description	Exceeds Height*
A-2	5-92-450	New SFD on vacant lot	Yes
A-2	5-00-132	New SFD on vacant lot	Yes
A-6	5-86-676	Addition to existing SFD	Yes
A-8	5-99-423	Partial Demo/Addition to 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-45	5-99-356-A1	Addition to existing SFD	Yes
A-47	5-98-412	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-99	5-99-386	Demo. SFD, Construct new SFD	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

EXHIBIT No. 4

Application Number:

5-00-206



California Coastal
Commission

3

SURFSIDE COLONY
JUDY NORTON
P. O. BOX 235
SURFSIDE, CALIFORNIA 90743

MAY 1, 2000

RECEIVED
JUN 6 2000

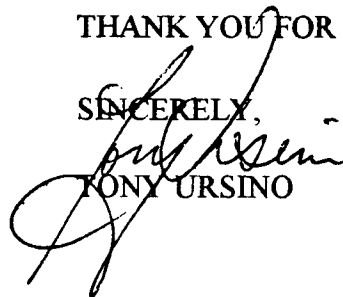
CALIFORNIA
COASTAL COMMISSION

DEAR JUDY,

5-00-206

THE CALIFORNIA COSTAL COMMISSION HAS REQUESTED THAT SURFSIDE COLONY JOIN MIKE McCOY AS A CO-APPLICANT ON PARCELS A2 AND A59. MIKE McCOY IS REQUESTING THE CALIFORNIA COSTAL COMMISSION TO ISSUE A PERMIT TO BUILD ON LOTS A2 AND A59 IN SURFSIDE. PLEASE REVIEW THIS MATTER WITH THE HOME OWNERS ASSOCIATION BOARD AS SOON AS POSSIBLE. THANK YOU FOR YOUR ATTENTION TO THE ABOVE.

SINCERELY,


TONY URSINO

COASTAL COMMISSION

5-00-206

EXHIBIT # 5

PAGE 1 OF 1

DIRECTION OF DECK

A-ROW FRONTAGE LEASE

THIS LEASE, made and entered into this 5th day of May 2000, in the County of Orange, State Of California, by and between SURFSIDE COLONY, LTD. ("Surfside"), a California corporation and McCoy + Rust ("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-59 (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 extending ten feet (10') westerly from the westerly lot line of the Adjacent Property between the westerly extensions of the northerly and southerly lot lines of the Adjacent Property.

2. **USE.** During the term of this lease, Lessee may improve the Premises solely as expressly permitted in this paragraph. Lessee may construct and/or maintain only the following structures on or over the Premises:

- A. One unroofed deck extending westerly from the Residence, but in no event past the westerly boundary of the Premises. The term "unroofed deck" includes both unenclosed decks and decks enclosed by windscreens. A deck extending more than five (5) feet westerly from the Residence shall be called the "Principal Deck." Where there is more than one deck, only the deck at the Premises' grade elevation or the first elevated deck may be a Principal Deck.
- B. One or two unroofed decks extending westerly from the Residence not more than five (5) feet, but in no event more than five (5) feet into the Premises, which shall be called "Secondary Deck(s)." However, if the Principal Deck is at the second-floor elevation, Surfside may, in its absolute discretion, permit the homeowner to install, on-grade, an unenclosed slab extending westerly from the Residence, but in no event past the westerly boundary of the premises. Any on-grade slab so permitted shall be considered a Secondary Deck and conform to all requirements for Secondary Decks except for its westerly dimension.
- C. A "Roof Overhang" extending westerly from the Residence not more than five (5) feet, but in no event more than five (5) feet into the Premises. Occupancy on the top of Roof Overhangs is not permitted.

Principal Decks, Secondary Decks, and Roof Overhangs shall not extend northerly or southerly beyond lines which are the westerly extensions of the north and south sidewalls of the Residence. Principal Decks, Secondary Decks, and Roof Overhangs shall be constructed only with the prior approval of the Board of Directors of Surfside, or by an Architectural Committee appointed by the Board, and in accordance with such regulations as Surfside and the City of Seal Beach may issue from time to time. Below-grade decks and/or retaining walls are not permitted. A copy of the Surfside Unroofed Deck Structural Regulations ("Deck Regulation") existing at the date of this lease is attached hereto as Exhibit A and, by this reference, made a part hereof.

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3. **TERM.** The initial term of this Lease shall be for a portion of one year commencing upon the date of Lessee's first use of the Premises as determined by Surfside in its sole discretion and ending on the next August 31st. Rent for the initial term shall be prorated on the basis of a 365 day year. Unless terminated as provided hereinafter, this Lease shall automatically renew from year to year with successive one-year terms beginning September 1 and ending August 31. Annual rent is due in full, in advance, on or before September 1 of each year. Without limiting Surfside's rights at law or at equity to terminate the Lease for default or other cause, this Lease may be terminated by either party hereto upon giving to the other thirty (30) days written notice of termination.

4. **PLAN APPROVAL.** No structure may be constructed or maintained upon the Premises until the complete plans and specifications for such structure have been submitted to and approved in writing by The Board, or the Architectural Committee. In the event that the Premises have been improved by the construction of any deck or decks existing at the commencement of this Lease, Lessee need not submit plans or specifications for such deck(s) to Surfside for approval. However, such decks must continue to comply with the provisions of this Lease and Deck Regulations, and the execution of this Lease by Surfside does not constitute approval of, or waiver of, any non-conforming decks. In the event of any structural changes to an existing deck or decks, plans and specifications for such changes must be submitted to the Board or the Architectural Committee, and approved in writing, prior to the commencement of any work. "Structural changes" include, without limitation, changes in safety rails, changes in vertical uprights, installation of windscreens, or changes in existing windscreens, etc.

5. **PLAN APPROVAL NOT A WARRANTY OR REPRESENTATION.** Plan approval by Surfside's Board or Architectural Committee shall not constitute a warranty or representation as to safety, engineering sufficiency, serviceability of materials, suitability for intended use, habitability, feasibility or practicability of construction or maintenance, or conformance to building codes or standards of care.

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

Through August 31, 2003 - \$.90 per square foot of Premises.
Through August 31, 2008 - \$1.00 per square foot of Premises.

However, in no event, shall the annual rent be less than \$50.00. Surfside reserves the right to set annual rents for periods beginning September 1, 2008, in its absolute discretion.

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 (Primary and Secondary), Roof Overhangs, on-grade cement slabs, and foundations upon the Premises and restore the premises to a clean sand beach without abrupt change in grade elevation from the surrounding beach, unless, not more than ten (10) days after termination of the Lease, Surfside notifies Lessee in writing that one or more structures are not to be removed. All removal and restoration shall commence not sooner than ten (10) days after termination of the Lease and must

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be completed within sixty (60) 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(s) made with respect to the Premises, including Lessee's leasehold interest therein, the right of occupancy and use of the Primary Deck and Secondary Deck(s), and any so-called "bonus" or "excess value" of this Lease by reason of the relationship between the rental payable under this Lease and the fair market rent for the Premises. Neither Lessee nor any person claiming through or under Lessee shall receive or retain any portion of such award(s) and shall promptly pay to Surfside any sums received in respect thereof. However, Lessee shall be entitled to any award, or portion of the award, allocable to Lessee's improvements on the Premises, including the Primary Deck, Secondary Deck(s) and Roof Overhang. 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 accepts the Premises "as is," with all faults, patent and latent, known and unknown, suspected and unsuspected. Lessee acknowledges that no statement or representation as to the past, present or future condition or suitability for building, occupancy or other use thereof has been made for or on behalf of Surfside. Lessee agrees to accept the Premises in the condition in which they may be upon the commencement of the term hereof.

10. **INDEMNITY AND HOLD HARMLESS.** Lessee agrees to defend, indemnify and hold harmless Surfside and its officers, directors, employees, agents and representatives from and against any and all claims, expenses, liabilities, actions and causes of action arising out of the use or occupancy of the Premises or the construction or maintenance of any structure upon the Premises, whether the claimant on such claim, expense, liability, action or cause of action is the Lessee, a member of Lessee's family, an invitee or licensee of Lessee, or a mere trespasser. Failure of Lessee to perform its obligations under this paragraph shall be a default under this Lease and good cause for immediate termination of the Lease.

11. **HOLDING OVER.** In the event the 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

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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.

12. **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.

14. **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 address 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:

"Surfside"

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

"Lessee"

Michael F. McCly Trustee
PMB C-22 9101 W. Sahara #105
Las Vegas NV 89117

15. **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 are herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Lease shall be binding upon Surfside or Lessee unless reduced to writing and signed by them.

16. **ARBITRATION AND ATTORNEYS' FEES.** Any dispute between Lessor and Lessee arising in any way under this Lease shall be resolved solely by arbitration before the American Arbitration Association under the Commercial Rules thereof then in effect. No court shall have jurisdiction of any such dispute except to compel arbitration upon the application of either party and for purposes of entering judgment in accordance with an award rendered by the Arbitrator(s) and

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or the execution and/or enforcement of the judgment entered upon the Award. The Arbitrator(s) shall award reasonable attorney's fees and costs in an amount they deem appropriate to the party who they deem to have prevailed, in their absolute discretion.

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.

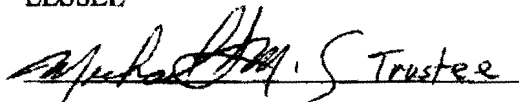
IN WITNESS THEREOF, the parties hereto have executed this Lease the day and year first above written.

SURFSIDE COLONY, LTD.,
a California Corporation

By 
President

By Richard W. Bennett
Secretary

LESSEE

 Trustee
of the McCuy 1495 Inter vivos Trust

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EXHIBIT A**UNROOFED DECK STRUCTURAL REGULATIONS
OF SURFSIDE COLONY, LTD.****1. SAFETY RAIL AND WINDSCREEN REGULATIONS.**

- a. As required under Code, a safety rail forty-two (42) inches in height as measured from the finished floor of the deck around the entire deck, except in those instances where a deck enclosure is to be constructed of glass panels extending from the finished floor of the deck.

The required safety rail shall meet all State, City, Safety and Building Codes.

- b. No safety rail shall exceed forty-two (42) inches in height, as measured from the finished floor of the deck.

No windscreen shall exceed eight (8) feet in height as measured from the finished floor of the deck.

- c. No portion of any such safety rail or windscreen shall be covered or roofed over in any manner.
- d. No glass panels less than three (3) feet in width shall be used in the construction of such windscreen or safety rail.
- e. Vertical beams used in the construction of such windscreen or safety rail 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 transparent glass and be maintained in a clean 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. Windscreens and safety rails shall be maintained so as not to obscure the view of neighbors on either side of the residence.
- j. No additional rents shall be charged for such windscreen or safety rail.

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