

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
 200 Oceangate, Suite 1000  
 Long Beach, CA 90802-4302  
 (562) 590-5071

**RECORD PACKET COPY****Item Th 20c**

Filed: April 25, 2001  
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 Staff: ALK-LB, *ALK*  
 Staff Report: May 24, 2001  
 Hearing Date: June 12-15, 2001  
 Commission Action:

**STAFF REPORT: PERMIT AMENDMENT**

**APPLICATION NUMBER:** 5-99-423-A1

**APPLICANT:** David Evans

**PROJECT LOCATION:** 16291 (A-8) Surfside Avenue, Seal Beach, Orange County

**DESCRIPTION OF PROJECT PREVIOUSLY APPROVED:** Partial demolition of an existing 2-story single-family residence and construction of a new 2,683 square foot, 35' high (plus 4'6" high covered stairwell), 3-story single-family residence with an attached 442 square foot 2-car garage, a 419 square foot roof deck and 472 square feet of seaside deck/patio areas. The decks and patio will extend 10-feet seaward, beyond the property boundary, into land that is leased by the Surfside Colony to the applicant.

**DESCRIPTION OF PROPOSED AMENDMENT:** The applicant is proposing to modify Special Conditions 1, 2, and 4 to eliminate the requirement that lease restrictions related to the proposed seaside patio and decks be signed by the property owner, Surfside Colony Ltd., and recorded. In place of these lease restrictions, the applicant is proposing to execute and record a deed restriction which stipulates that the applicant and any future land owner agree to remove the seaside patio and decks if Surfside Colony seeks any shoreline protective measures for the approved patio and/or decks.

**SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends that the Commission **APPROVE** the proposed amendment with the applicant's proposed changes to Special Conditions 1, 2, and 4 and the addition of the proposed special condition related to any future protection of the seaside patio and decks.

**LOCAL APPROVALS RECEIVED:** City of Seal Beach Approval-in-Concept dated November 10, 1999; City of Seal Beach Height Variation Application No. 99-4; City of Seal Beach Planning Commission Resolution No. 99-34 dated October 20, 1999; Surfside Colony, Ltd. Architectural Committee approval dated October 9, 1999.

**SUBSTANTIVE FILE DOCUMENTS:** Coastal Development and Administrative Permits P-73-1861, P-75-6364, 5-86-676, 5-87-813, 5-95-276, 5-97-380, 5-98-098, 5-98-412 (DiLuigi), 5-99-356-A1 (Mattingly), 5-99-386 (Straight), and 5-99-423 (Evans); 5-00-132 (U.S. Property); 5-00-206 (McCoy); and 5-00-257 (Cencak); Consistency Determinations CD-028-97, CD-067-97, and CD-65-99; and *Preliminary Foundation Soils Exploration* prepared by Geo-Etka, Inc. (Job No. F-8965-99) dated August 30, 1999.

**PROCEDURAL NOTE**

A. Coastal Development Permit Amendments

The Commission's regulations provide for referral of permit amendment requests to the Commission if:

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

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

The subject application is being forwarded to the Commission because the Executive Director has determined that the proposed amendment is a material change and affects conditions required for the purposes of protecting coastal resources or coastal access.

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I. **STAFF RECOMMENDATION, MOTION AND RESOLUTION OF APPROVAL**

Staff recommends that the Commission make the following motion and adopt the following resolution to APPROVE the amendment application with special conditions.

**MOTION**

*I move that the Commission approve CDP Amendment #5-99-423-A1 pursuant to the staff recommendation.*

Staff recommends a YES vote. This will result in approval of the permit amendment as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION OF APPROVAL WITH CONDITIONS**

The Commission hereby **APPROVES** the amendment to Coastal Development Permit 5-99-423, subject to the conditions below, for the proposed development on the grounds that the development would be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, would 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 would not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

## II. STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit 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:

### 5. Prior Conditions

Unless specifically altered by this amendment, all standard and special conditions attached to Coastal Development Permit 5-99-423 remain in effect.

Please note: Special Condition 1 has been deleted and replaced by the following Special Condition 6; Special Condition 2 has been deleted and replaced by the following Special Condition 7; and Special Condition 4 has been deleted and replaced by the following Special Condition 8.

### 6. Assumption-of-Risk, Waiver of Liability, and Indemnity Deed Restriction

- A) By acceptance of this permit, the applicant 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.

- B) **PRIOR TO THE 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 subsection A of this condition. The deed restriction shall include a legal description of the applicant's parcels. 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. The deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

7. **Future Development**

- A) This permit amendment is only for the development described in Coastal Development Permit No. 5-99-423. 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. 5-99-423 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 shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, reflecting the above restrictions on development. The deed restriction shall include legal descriptions of the applicant's parcels. 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. The deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

8. **No Future Shoreline Protective Device**

- A(1) By acceptance of this permit, the applicant agrees, 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. 5-99-423 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 further agrees, 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. 5-99-423**, the applicant shall execute and record a deed restriction in 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 entire parcels. The deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

9. **Future Removal of Structures on Land Owned by Surfside Colony, Ltd.**

- A. By acceptance of this permit, the applicant agrees that in the event that Surfside Colony, Ltd. would seek shoreline protection measures solely for the herein approved patio and/or decks, the applicant and any successors in interest shall agree to remove the permitted patio and/or decks.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall record a deed restriction, in a form and content acceptable to the Executive Director, reflecting the above restrictions on development. The deed restriction shall include legal descriptions of the applicant's entire parcels. 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. The 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. PREVIOUSLY APPROVED PROJECT AND PROPOSED AMENDMENT

On February 15, 2000, the Commission approved Coastal Development Permit 5-99-423 for the partial demolition of an existing 2-story single-family residence and construction of a new 2,683 square foot, 35' high (plus 4' 6" high covered stairwell), 3-story single-family residence with an attached 442 square foot 2-car garage, a 419 square foot roof deck and 472 square feet of seaside deck/patio areas at A-8 Surfside Avenue, Seal Beach, Orange County (Exhibits 1 & 2). The decks and patio were approved to extend 10-feet seaward, beyond the property boundary, onto land that is leased by the Surfside Colony to the applicant. The approved project was subject to four special conditions requiring: 1) the recordation of assumption-of-risk deed and lease restrictions; 2) the recordation of future improvements deed and lease restrictions; 3) conformance of the design and construction plans to all recommendations contained in the preliminary foundation soils exploration; and 4) the recordation of a no future protective devices deed and lease restriction. (Special Condition No. 4 was added by the Commission at the hearing.)

The project approved by the Commission includes development (patios and decks) on land which is owned by Surfside Colony, Ltd. (the homeowners association). This land is leased by Surfside Colony, Ltd. to the applicant for the purpose of constructing the decks and patio. This development is subject to the same flooding and wave uprush hazards as the primary structure. Since a deed restriction recorded by the applicant would not cover the off-site development on Surfside Colony, Ltd.-owned land, the Commission required in Special Conditions 1, 2, and 4, that lease restrictions be signed and recorded by the applicant and Surfside Colony. The lease restrictions would contain the same restrictions as the deed restriction recorded on the applicant's property. Since the Commission's approval of the permit, the applicant has attempted to execute the necessary lease restrictions. However, Surfside Colony, Ltd. has declined to comply with the applicant's request to execute and record the lease restrictions. In absence of Surfside Colony, Ltd.'s agreement to the lease restrictions, the applicant is not able to comply with the conditions of approval of the permit.

The applicant is now proposing that Special Conditions 1, 2, and 4 be modified to remove the requirement for lease restrictions. However, in order to address the concern that hazards may threaten the patio and/or decks, thus generating a request for shoreline protective measures, the applicant is proposing a deed restriction which would stipulate that the applicant and any future landowner agree to remove the patio and/or decks if Surfside Colony, Ltd., seeks any shoreline protective measures to protect the patio and/or decks. The proposed changes to Special Conditions 1, 2, and 4 and the applicant's proposed new conditions are as follows:

#### 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. 5-99-423. 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. 5-99-423 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.

4. **No Future Shoreline Protective Device**

- A(1) By acceptance of this permit, the applicant ~~and landowner~~ agrees, 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. 5-99-423 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 agrees, 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. 5-99-423**, 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.

The applicant's proposed new condition is as follows:

- A. By acceptance of this permit, the applicant agrees that in the event that Surfside Colony, Ltd. would seek shoreline protection measures solely for the herein approved patio and/or decks, the applicant and any successors in interest shall agree to remove the permitted patio and/or decks.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall record a deed restriction, in a form and content acceptable to the Executive Director, reflecting the above restrictions on development. The deed restriction shall include legal descriptions of the applicant's entire parcels. 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. The deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.



**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:

*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

As noted in the Commission's findings of approval of Coastal Development Permit 5-99-423, which are incorporated here by reference, the project site is presently protected by a wide sandy beach. This wide sandy beach is present due to a beach nourishment project periodically undertaken by the U.S. Army Corps of Engineers to mitigate the effects of erosion caused by wave reflection of the Anaheim Bay east jetty. While the beach provides some protection to the Surfside Colony, the persistence of the beach is largely dependent upon artificial beach nourishment. In absence of this beach nourishment, the beach erodes and development at Surfside Colony is exposed to flooding and wave uprush hazards. Additionally, 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.

In order to assure that present and future property owners are aware of the potential risks from flooding and wave uprush hazards, the Commission previously imposed Special Condition 1 that required the applicant to execute and record a deed restriction acknowledging the hazards. In addition, the Commission required that a lease restriction be recorded containing the same warning regarding flooding and wave uprush hazards in order to cover the patio and decks which are proposed to be constructed on the seaward side of the residence on land that is owned by

Surfside Colony, Ltd. Due to problems obtaining the lease restriction from Surfside Colony, Ltd., the applicant is proposing to eliminate the requirement for the lease restriction.

The patio and decks being constructed on Surfside Colony, Ltd. owned land are appurtenances to the primary residential structure being constructed on land owned by the applicant. The decks are attached to the second and third floors of the residential structure. As designed, the decks could not be built if the primary residential structure was not also built. Meanwhile, the patio on the ground floor is also attached to the residential structure, however, the patio is not reliant on the residential structure for foundation support. Rather, the patio has its own foundation system. However, in absence of the residential structure, the patio and decks have no real utility. The purpose of the patio and decks are to provide an outdoor amenity for the associated residential structure. Therefore, the owners and occupants of the residential structure would also be the users of the patio and decks. The applicant is proposing to retain the requirement for a deed restriction to be attached to the property upon which the residential structure is being built. As such, owners and occupants of the residential structure would be advised of the hazards to which the site is subject. Logically, the owner and occupants would be aware that these hazards are present on the patio and decks which are part of the residential structure. Therefore, the Commission finds that the proposed change to Special Condition 1 is consistent with Section 30253 of the Coastal Act. Consequently, the Commission deletes Special Condition 1 in its entirety, and replaces it with Special Condition 6 which reflects the changes to Special Condition 1 proposed by the applicant. These changes are consistent with the Commission's most recent amendments to coastal development permits 5-00-257 (Cencak) and 5-00-132 (US Property) within Surfside Colony.

## 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. In addition, allowing the construction of a shoreline protective device to protect new development would conflict 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 noted in the Commission's findings approving Coastal Development Permit 5-99-423, which are incorporated here by reference, the Surfside 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.

The Commission previously found that the construction of a shoreline protective device at the site would adversely affect the public's ability to use the sandy beach and cause erosion of the public beach. However, information submitted by the applicant suggests that no shoreline protective device would be necessary over the life of the structure. In order to assure that the project is consistent with Section 30253 of the Coastal Act which requires that new development shall neither create nor contribute to erosion or geologic instability of the project site or surrounding area and to assure that the project is consistent 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 Commission imposed Special Condition 4. Special Condition 4 requires the applicant to record a deed restriction and Surfside Colony Ltd. and the applicant to execute and record a lease 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 Coastal Development Permit 5-99-423.

However, as noted above, the applicant has not been able to obtain the lease restriction from Surfside Colony, Ltd. Therefore, the applicant is proposing to modify Special Condition 4 to eliminate the requirement for a lease restriction. However, in place of the lease restriction, the applicant is proposing to execute and record a deed restriction which stipulates that the applicant agrees to remove the patio and/or decks which are on Surfside Colony, Ltd. owned land if Surfside Colony, Ltd. ever seeks to protect the patio and/or decks with shoreline protective measures. The proposed deed restriction addresses any concern that protective measures would be sought by Surfside Colony, Ltd. to protect the patio and/or decks being constructed on their property since the patio and/or decks would be removed if such protection was sought. Therefore, the Commission finds that the change to Special Condition 4 eliminating the requirement for a lease restriction and adding the applicants proposed deed restriction is consistent with Sections 30251 and 30253 of the Coastal Act. Therefore, the Commission deletes Special Condition 4 in its entirety, and replaces it with Special Condition 8 which reflects the changes to Special Condition 4 proposed by the applicant. In addition, the Commission imposes Special Condition 9, which implements the applicants proposed deed restriction related to removal of the patio and/or decks. These changes are consistent with the Commission's most recent amendments to coastal development permits 5-00-257 (Cencak) and 5-00-132 (US Property) within Surfside Colony.

### 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 1). 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. 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 strip of land owned by Surfside Colony,

Ltd. (which serves as the homeowners' association). Surfside Colony leases its property to the adjacent homeowners for construction of patios. Enclosed living area is not allowed to encroach past the individual homeowner's seaward property line onto Surfside Colony land. The applicant has obtained a lease from Surfside Colony, Ltd. for the proposed encroachment.

As noted in the Commission's findings of approval for Coastal Development Permit 5-99-423, which are incorporated here by reference, the Commission found that the development would conform to the line of development already established in the community. In addition, the proposed project would not result in direct adverse impacts, either individually or cumulatively, on vertical or lateral public access.

However, to guarantee that any future development of the property can be evaluated for consistency with Section 30212 of the Coastal Act, the Commission imposed Special Condition 2 which requires the applicant to record deed restrictions and the applicant and landowner, Surfside Colony, Ltd. to record lease restrictions stipulating that future improvements to the approved development require a coastal development permit. As noted above, the applicant has been unable to obtain the lease restrictions from Surfside Colony, Ltd. However, as also noted above, the patio and decks are appurtenances to the primary residential structure. Changes to these structures would be undertaken by the owner of the residential structure and not Surfside Colony, Ltd. Special Condition 2 includes a deed restriction which is attached to the property upon which the residential structure is being built. Therefore, the owner of the residential structure whom would be undertaking any changes to the patio and/or decks would be notified of the permit requirement via the deed restriction which affects the residential structure. Therefore, the Commission finds the applicant's proposed change to Special Condition 2 is consistent with Section 30212 of the Coastal Act. Therefore, the Commission deletes Special Condition 2 in its entirety, and replaces it with Special Condition 7 which reflects the changes to Special Condition 2 proposed by the applicant. These changes are consistent with the Commission's most recent amendments to coastal development permits 5-00-257 (Cencak) and 5-00-132 (US Property) within Surfside Colony.

#### **D. 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.

**E. 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 restrictions will minimize any significant adverse effects that the activity may have on the environment.

As conditioned, no feasible alternatives or feasible mitigation measures are known, beyond those required, which would substantially lessen any identified significant effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned is consistent with CEQA and the policies of the Coastal Act.



TU 19h

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302  
Phone: (562) 590-5071  
Fax: (562) 590-5084

Filed: January 6, 2000  
49th Day: February 24, 2000  
180th Day: July 4, 2000  
Staff: ALK-LB  
Staff Report: January 18, 2000  
Hearing Date: February 12-15, 2000  
Commission Action:

**STAFF REPORT: REGULAR CALENDAR****APPLICATION NUMBER:** 5-99-423**APPLICANT:** David E. Evans**AGENT:** None**PROJECT LOCATION:** 16291 (A-8) Surfside Avenue, Seal Beach, Orange County

**PROJECT DESCRIPTION:** Partial demolition of an existing 2-story single-family residence and construction of a new 2,683 square foot, 35' high (plus 4'6" high covered stairwell), 3-story single-family residence with an attached 442 square foot 2-car garage, a 419 square foot roof deck and 472 square feet of seaside deck/patio areas. The decks and patio will extend 10-feet seaward, beyond the property boundary, into land that is leased by the Surfside Colony to the applicant.

**LOCAL APPROVALS RECEIVED:** City of Seal Beach Approval-in-Concept dated November 10, 1999; City of Seal Beach Height Variation Application No. 99-4; City of Seal Beach Planning Commission Resolution No. 99-34 dated October 20, 1999; Surfside Colony, Ltd. Architectural Committee approval dated October 9, 1999.

**SUBSTANTIVE FILE DOCUMENTS:** Coastal Development and Administrative Permits P-73-1861, P-75-6364, 5-86-676, 5-87-813, 5-95-276, 5-97-380, 5-98-098, 5-98-412 and 5-99-356-A1; Consistency Determinations CD-028-97 and CD-067-97; and Preliminary Foundation Soils Exploration prepared by Geo-Etka, Inc. (Job No. F-8965-99) dated August 30, 1999.

**SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends that the Commission **approve** the proposed development subject to three 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. Commission staff does not recommend a special condition related to future shoreline protective devices due to the presence of a wide sandy beach at the subject site.

**EXHIBIT No. 2**

Appeal Numbers:

5-99-423A1(Evans)

**Staff Report for  
5-99-423 (Evans)**

**STAFF RECOMMENDATION:**

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

**MOTION:**

*I move that the Commission approve CDP No. 5-99-423 pursuant to the staff recommendation.*

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

**RESOLUTION:****I. APPROVAL WITH CONDITIONS**

The Commission hereby **GRANTS** a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

**II. STANDARD CONDITIONS**

1. **Notice of Receipt and Acknowledgment.** The permit amendment is not valid and development shall not commence until a copy of the permit amendment, signed by the permittee or authorized agent, acknowledging receipt of the permit amendment and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit amendment will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit amendment must be made prior to the expiration date.
3. **Compliance.** All development must occur in strict compliance with the proposal as set forth in the permit amendment, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. **Inspections.** The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.



6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### III. SPECIAL CONDITIONS

#### 1. Assumption-of-Risk, Waiver of Liability, and Indemnity Deed Restriction

- A) By acceptance of this permit, 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. 5-99-423. 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. 5-99-423 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**

- A. All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with all recommendations contained in the Preliminary Foundation Soils Exploration prepared by Geo-Etka, Inc. dated August 30, 1999. **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.

IV. **FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

A. **Project Location and Description**

The lot is located at A-8 Surfside Avenue in the private community of Surfside Colony, in the City of Seal Beach, Orange County, California (Exhibits 1 and 2). 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 partial demolition of an existing 2-story single-family residence and construction of a new 2,683 square foot, 35' high (plus 4'6" covered stairwell), 3-story single-family residence with an attached 442 square foot 2-car garage, a 419 square foot roof deck and 472 square feet of additional deck/patio areas. The decks and patio will extend 10-feet seaward, beyond the property boundary, into land that is leased by the Surfside Colony to the applicant (Exhibit 3).

**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.*

***Flooding and Wave Uprush***

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

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 the most recent beach nourishment at Surfside performed by the U.S. Army Corps of Engineers completed in July 1997.

The revetment and widened beach protect the northern end of Surfside Colony from wave uprush. However, a wide sandy beach provides the only protection for the central and southern areas of Surfside Colony, in which the subject property is located. No revetment protects this southern lot. 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.

Though beach erosion occurs at Surfside Colony, the continuing federal replenishment program maintains a beach that is at least 750 feet wide at the proposed project site. Consequently, a seawall is not deemed necessary. Therefore, the Commission finds that a future shoreline protective device special condition is not required for the development approved by permit number 5-99-423. This decision is consistent with prior Commission actions in the subject area, including 5-99-356A1 (Mattingly) and 5-98-412 (DiLuigi).

While a seawall is not required at the subject site, the presence of a wide sandy beach 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 Surfside. However, the Foundation Soils Report prepared by Geo-Etka, Inc. did not identify wave uprush or flooding as a potential development concern at the subject site.

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 strip of 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 subject site is still subject to significant wave hazards, as described previously. 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, whether on vacant lots or in conjunction with the demolition and replacement of an existing home (Exhibit 4).

Therefore, the Commission finds that extraordinary hazards exist from wave up-rush and flooding at the subject site and requires, per Special Condition No. 1, that assumption-of-risk deed and lease restrictions be recorded by the applicant and Surfside Colony, Ltd. for the development that is approved by this permit on the applicant's and Surfside Colony, Ltd.'s property.

#### ***Foundation Design***

The proposed project requires reconstruction of the existing foundation system. The proposed structure will be supported by existing driven wood piles and 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-8965-99) dated August 30, 1999 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 order to assure that risks are minimized, the geotechnical consultant's recommendations must be incorporated into the design of the project. As a condition of approval (Special Condition No. 3), the applicant shall submit grading and foundation plans signed by the geotechnical consultant indicating that the recommendations

contained in the Preliminary Foundation Soils Exploration have been incorporated into the 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.

**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 5). 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 strip of land owned by Surfside Colony, Ltd. (which serves as the homeowners' association). Surfside Colony leases its property to the adjacent homeowners for construction of patios. Enclosed living area is not allowed to encroach past the individual homeowner's seaward property line onto Surfside Colony land. The applicant has obtained a lease from Surfside Colony, Ltd. for the proposed encroachment (Exhibit 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 existing home is approximately 25' high. The proposed development will increase the height of the building to 35' high with a 4'6" high covered stairwell (Exhibit 3). The City of Seal Beach approved the proposed covered roof access structure (CRAS) through Height Variation 99-4, adopted by the Planning Commission as Resolution No. 99-34. The Commission typically has limited residential development in Surfside, except for chimneys and roof access staircase enclosures, to a 35-foot height limit. This is to minimize the visual effect of a large wall of buildings along the beach that results 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. 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.

**F. 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 3 of the Coastal Act. Mitigation measures requiring assumption-of-risk and future improvement 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.





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CALIFORNIA  
COASTAL COMMISSION

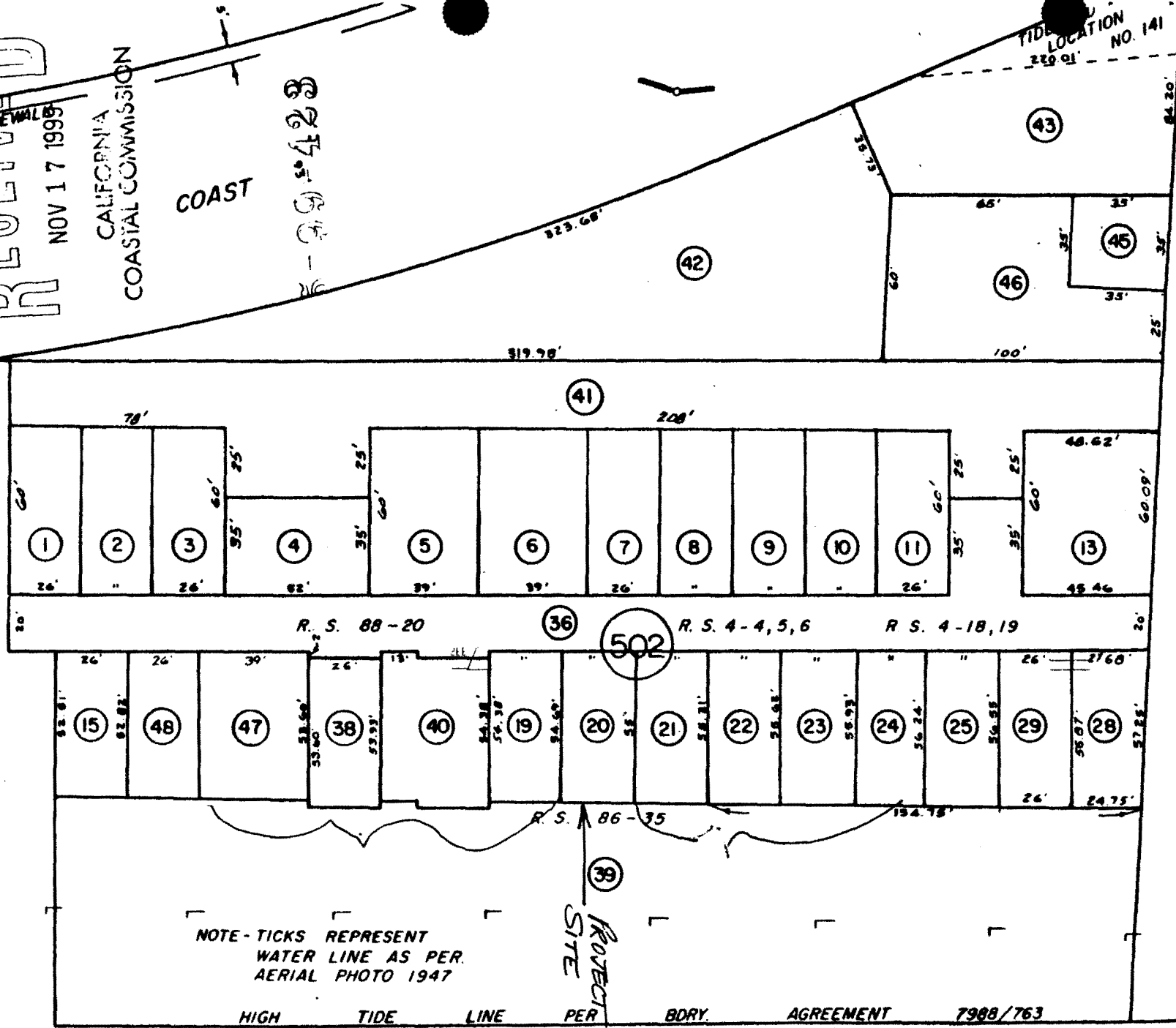
S.W. LINE OF SIDEWALK

COAST

5-99-423

TIDELAND LOCATION NO. 141

49



NOTE - TICKS REPRESENT  
WATER LINE AS PER  
AERIAL PHOTO 1947

HIGH TIDE LINE PER BDRY. AGREEMENT 7988/763

TIDELAND LOCATION NO. 141 R.S. 3-45

NOTE ASSESSOR'S BLOCK 8  
PARCEL NUMBERS  
SHOWN IN CIRCLES

EXHIBIT # 2  
PAGE 1 OF 1  
MARCH 1971

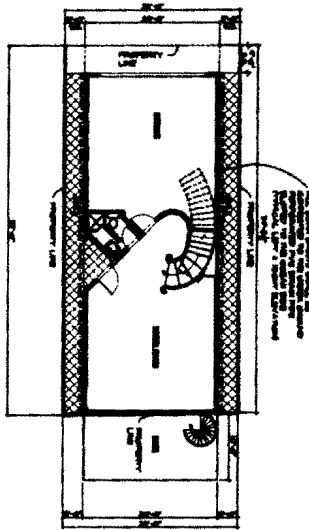
COASTAL COMMISSION  
5-99-423 A.I. MAP

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 JAN 6 2000

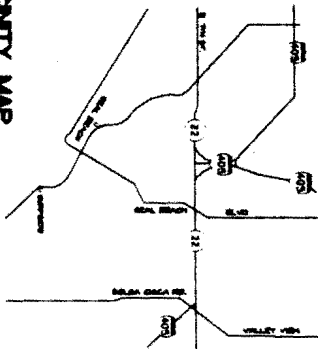
CALIFORNIA  
 COASTAL COMMISSION

**EVANS RESIDENCE  
 RENOVATION**

AT  
 LOT NO. A-8  
 SURFSIDE, CALIFORNIA 90743



VACUITY MAP  
 SURFSIDE, CALIFORNIA



**SITE PLAN**  
 SURFSIDE, CALIFORNIA

**SQUARE FOOTAGE SUMMARY**

EXISTING BUILDING	28,000
NEW BUILDING	12,000
TOTAL	40,000
EXISTING DRIVEWAY	1,000
NEW DRIVEWAY	1,000
TOTAL DRIVEWAY	2,000
EXISTING PORCH	1,000
NEW PORCH	1,000
TOTAL PORCH	2,000
EXISTING PATIO	1,000
NEW PATIO	1,000
TOTAL PATIO	2,000
EXISTING DECK	1,000
NEW DECK	1,000
TOTAL DECK	2,000
EXISTING STAIRS	1,000
NEW STAIRS	1,000
TOTAL STAIRS	2,000
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EXISTING FLOOR	1,000
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NEW WALLS	1,000
TOTAL WALLS	2,000
EXISTING CEILING	1,000
NEW CEILING	1,000
TOTAL CEILING	2,000
EXISTING MECHANICAL	1,000
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TOTAL MECHANICAL	2,000
EXISTING ELECTRICAL	1,000
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NEW PAINT	1,000
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NEW LANDSCAPE	1,000
TOTAL LANDSCAPE	2,000
EXISTING UTILITIES	1,000
NEW UTILITIES	1,000
TOTAL UTILITIES	2,000
EXISTING TOTAL	40,000
NEW TOTAL	12,000
TOTAL	52,000

**CONSULTANTS**

ARCHITECT	ROOPLAN ASSOCIATES, INC.
ENGINEER	ROOPLAN ASSOCIATES, INC.
LANDSCAPE ARCHITECT	ROOPLAN ASSOCIATES, INC.
INTERIOR DESIGNER	ROOPLAN ASSOCIATES, INC.
GENERAL CONTRACTOR	ROOPLAN ASSOCIATES, INC.

**PROJECT DATA**

LOT NO.	A-8
OWNER	MR. DAVID EVANS MRS. JULIE EVANS
ADDRESS	12345 SURFSIDE, CA 90743
DATE	1/1/00
SCALE	1/8" = 1'-0"

**OWNER**

MR. DAVID EVANS  
 MRS. JULIE EVANS  
 12345 SURFSIDE, CA 90743  
 TEL: (909) 555-1234

**INDEX OF DRAWINGS**

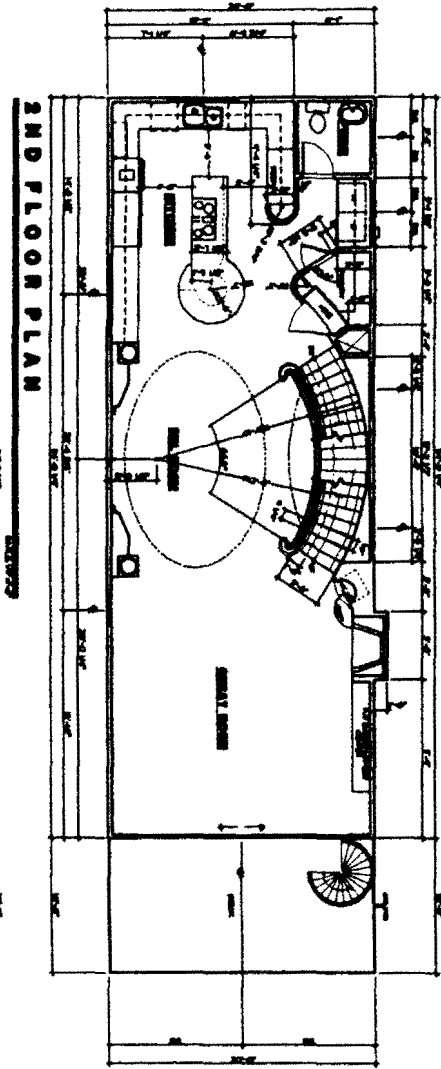
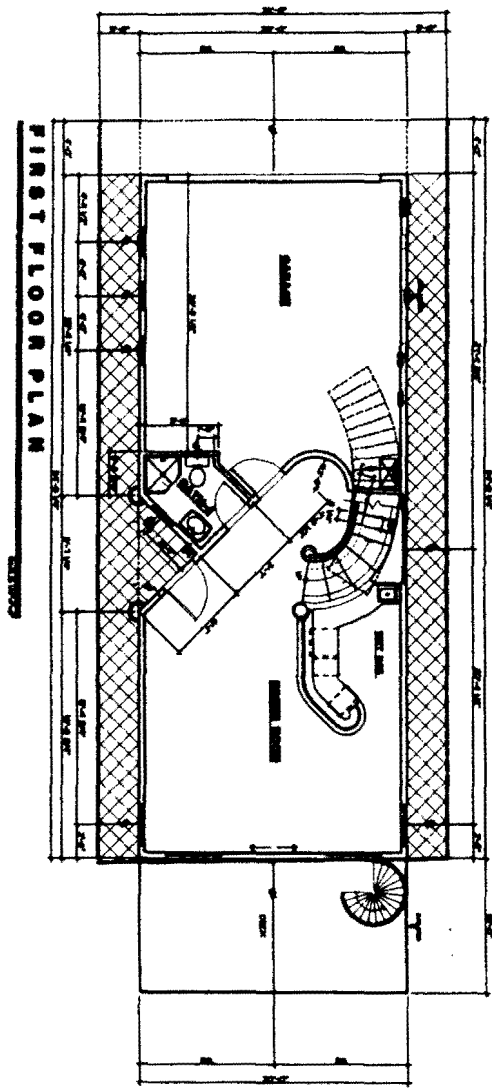
1	INDEX, FINAL DATA, VACUITY MAP, SITE PL.
A	FIRST AND SECOND FLOOR PLAN
B	THIRD FLOOR AND ROOF PLAN
C	SECTIONAL ELEVATIONS - FRONT & LEFT
D	SECTIONAL ELEVATIONS - FRONT & RIGHT

PROJECT FILE / SHEET FILE:  
**MR. AND MRS. EVANS RESIDENCE**  
 A-1 SURFSIDE, SURFSIDE, CA 90743  
 PROJECT DATA / TITLE SHEET

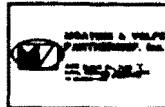


COASTAL COMMISSION  
 #23 PROJECT PLANS

EXHIBIT # 3  
 PAGE 1 OF 6



DATE: 12/20/66  
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 DRAWN: J.R.  
 CHECKED: J.R.  
 PROJECT: MR. AND MRS. EVANS RESIDENCE

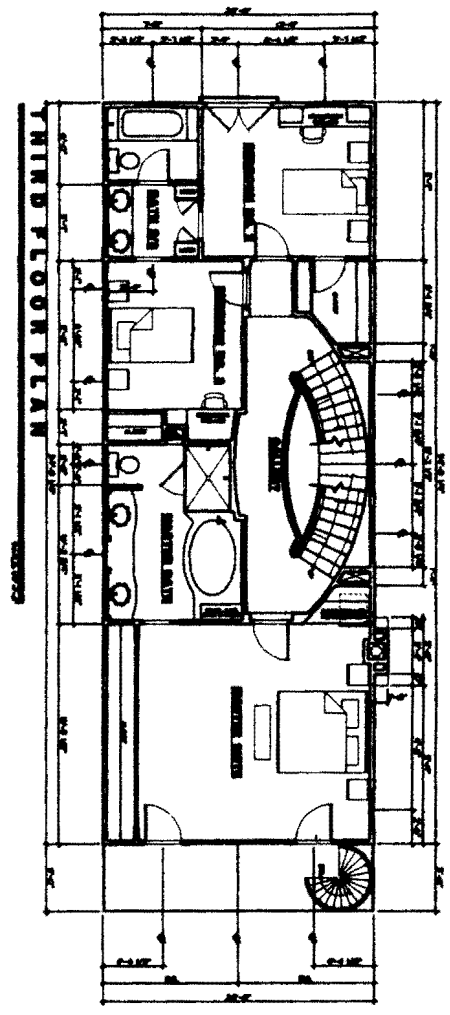
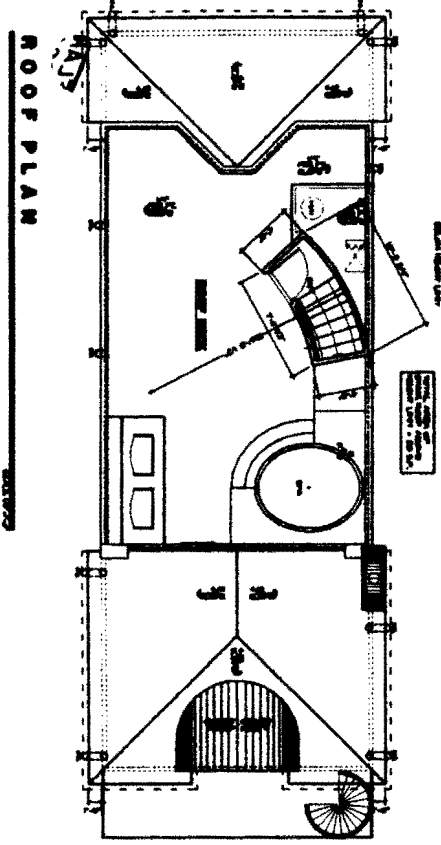


PROJECT NO. / SHEET NO.  
**MR. AND MRS. EVANS RESIDENCE**  
 144 SULLY, SULLY, CA 95148  
 1ST / 2ND FLOOR PLAN

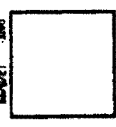
**ROOYAN ASSOCIATES, INC.**  
 1100 Market Street, San Francisco, California

COASTAL COMMUNITY  
 5-423 PROTEEC  
 PLANS

EXHIBIT # 3  
 PAGE 2 OF 6



DATE: 12/28/64  
 SCALE: 1/8" = 1'-0"  
 DRAWN BY: J.E.  
 CHECKED BY: J.E.  
 PROJECT NO.: 423  
 SHEET NO.: 3 OF 6  
 A2



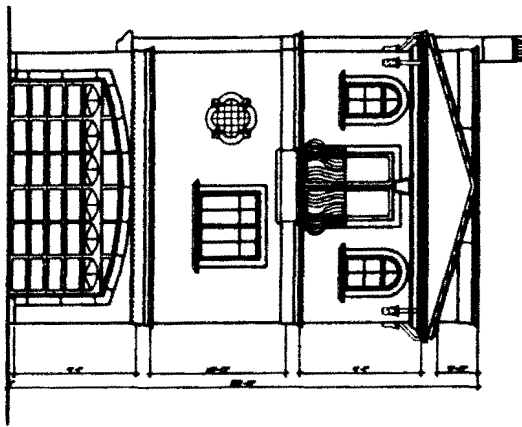
RECEIVED / 547 WILE  
**MR. AND MRS. EVANS RESIDENCE**  
 4-4 BARRAGE, SUFFER, CA 92443  
 3RD FLOOR/ ROOF, ROOF SPOCK PLAN

**R** ROOMAN ASSOCIATES, INC.  
 1000 S. GARDEN ST.  
 ANAHEIM, CALIF. 92805

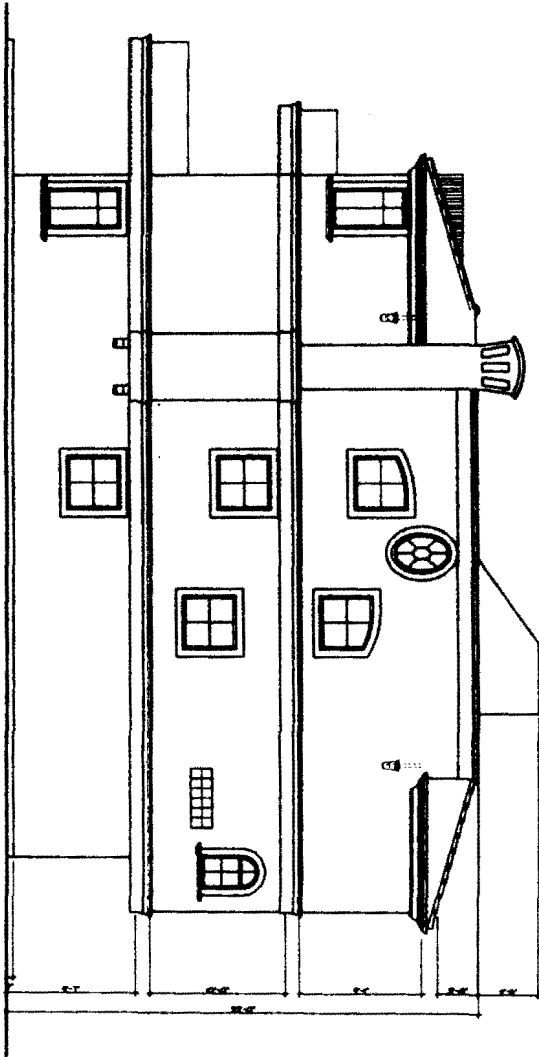
**COMMISSION**  
 423 PROJ  
 PLAN

EXHIBIT # 3  
 PAGE 3 OF 6

FRONT ELEVATION



LEFT ELEVATION



DATE: 12/28/88  
SCALE: 1/4" = 1'-0"  
DRAWN BY: J.A.S.  
CHECKED BY: J.A.S.  
PROJECT NO: 423



ROBERT WILEY / SHELL WILEY  
**MR. AND MRS. EVANS RESIDENCE**  
1-3 SHERBORN BLVD., CA 92040  
EXTERIOR ELEVATIONS - FRONT & LEFT

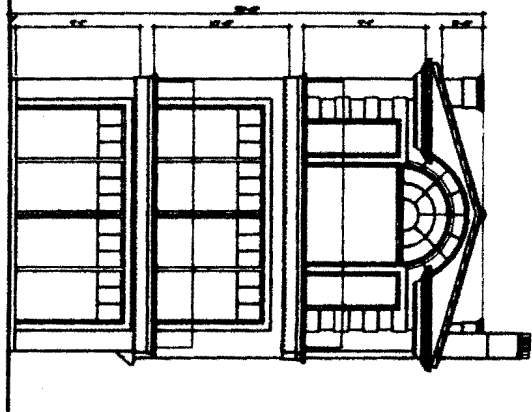
**ROUGHAN & ASSOCIATES, INC.**  
1000 S. GARDEN ST., SUITE 200  
SAN ANTONIO, TEXAS 78205  
TEL: (512) 343-1111

**COMMISSION**  
423 PROTECT  
PLANS

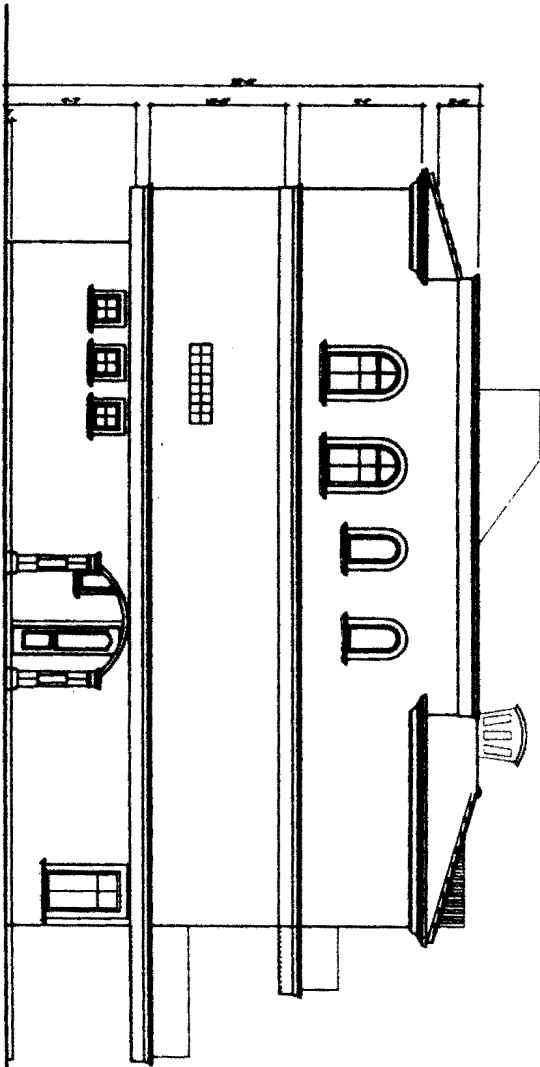
EXHIBIT # 3  
PAGE 4 OF 6

BRN

REAR ELEVATION



RIGHT ELEVATION



SCALE 1/8" = 1'-0"

SCALE 1/8" = 1'-0"

DATE: 12/20/88  
 DRAWN BY: J. W. HARRIS  
 CHECKED BY: J. W. HARRIS  
 PROJECT NO. 423  
 SHEET NO. 3  
 OF 4

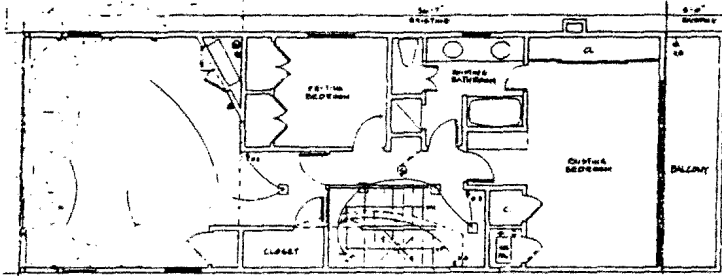
DESIGNED & DRAWN BY  
 J. W. HARRIS  
 ARCHITECT

PROJECT TITLE / SHEET TITLE  
**MR. AND MRS. EVANS RESIDENCE**  
 110 SUTTER, SUTTER, CA 95943  
 EXTERIOR ELEVATIONS - REAR & RIGHT  
 PLEASE REFER TO SHEET 4 FOR DIMENSIONS

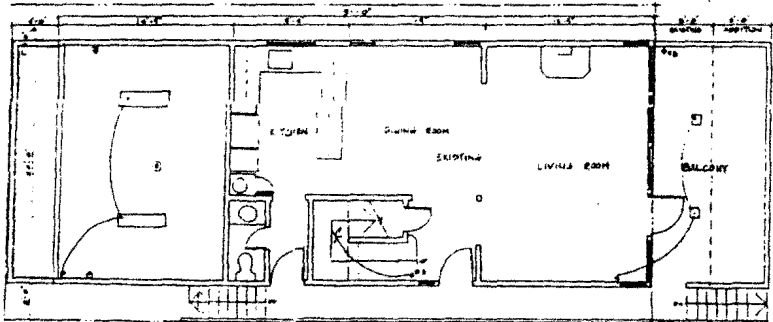
**R** COASTAL ROOMAN ASSOCIATES, INC.  
 ARCHITECTS  
 1100 SUTTER STREET, SUITE 200  
 SAN FRANCISCO, CA 94109

COMMISSION 423 PROJECT PLANS

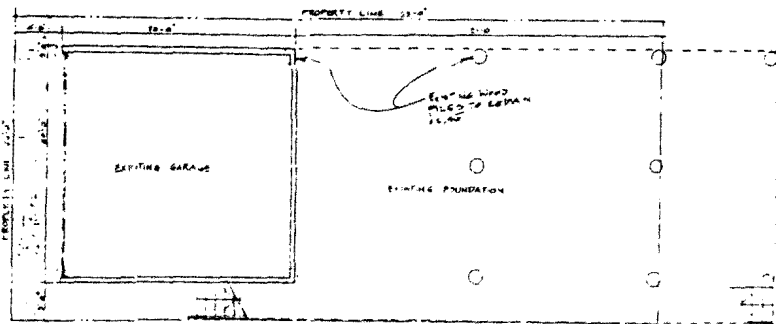
EXHIBIT # 3  
PAGE 5 OF 6



SECOND FLOOR PLAN  
SCALE 1/4" = 1'-0"

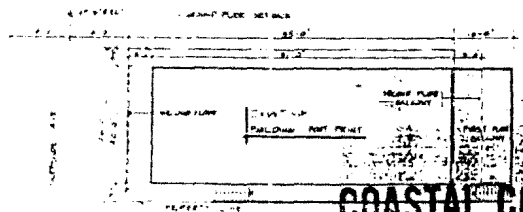


FIRST FLOOR PLAN



GARAGE/FOUNDATION PLAN  
SCALE 1/4" = 1'-0"

NOTE: EXISTING GARAGE STRUCTURE  
TO BE DEMOLISHED AND REBUILT AS  
A TWO CAR GARAGE WITH CONCRETE  
SLAB FLOOR AND CEILING  
AS SHOWN



COASTAL COMMISSION  
SC-99-423 PROJECT  
PLANS

EXHIBIT # 3

## SURFSIDE PERMITS WITH ASSUMPTION-OF-RISK DEED RESTRICTIONS

Site	Permit #	Project Description	Exceeds Height*
A-2	5-92-450	New SFD on vacant lot	Yes
A-6	5-86-676	Addition to existing SFD	Yes
A-20	5-90-860	Demo. SFD, Construct new SFD	Yes
A-21	5-87-813	Addition to existing SFD	
A-24	5-87-045	Demo. SFD, Construct new SFD	Yes
A-26	5-87-115	Construct new SFD	Yes
A-36	5-92-165	Demo. SFD, Construct new SFD	
A-44	5-88-152	Demo. SFD, Construct new SFD	
A-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-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

**COASTAL COMMISSION**

5-99-423 DEED  
REST.

EXHIBIT # 4

PAGE 1 OF 1



STATE LANDS DIVISION

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

*Handwritten signature: Mike D. Dave*

RECEIVED

NOV 6 1975

November 3, 1975

South Coast Regional Commission

File Ref.: IC-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,

*Handwritten signature: Donald J. Brittnacher*

DONALD J. BRITTNACHER  
Senior Boundary  
Determination Officer

DJB:ls

Enclosure

COASTAL COMMISSION

5-99-423 BOUNDARY AGREEMENT

EXHIBIT # 5

PAGE 1 OF 3

4/28/65

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

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

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

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

Attachment

Calendar Item 11 (1 page)

COASTAL COMMISSION

5-99-423 BOUNDARY AGREEMENT

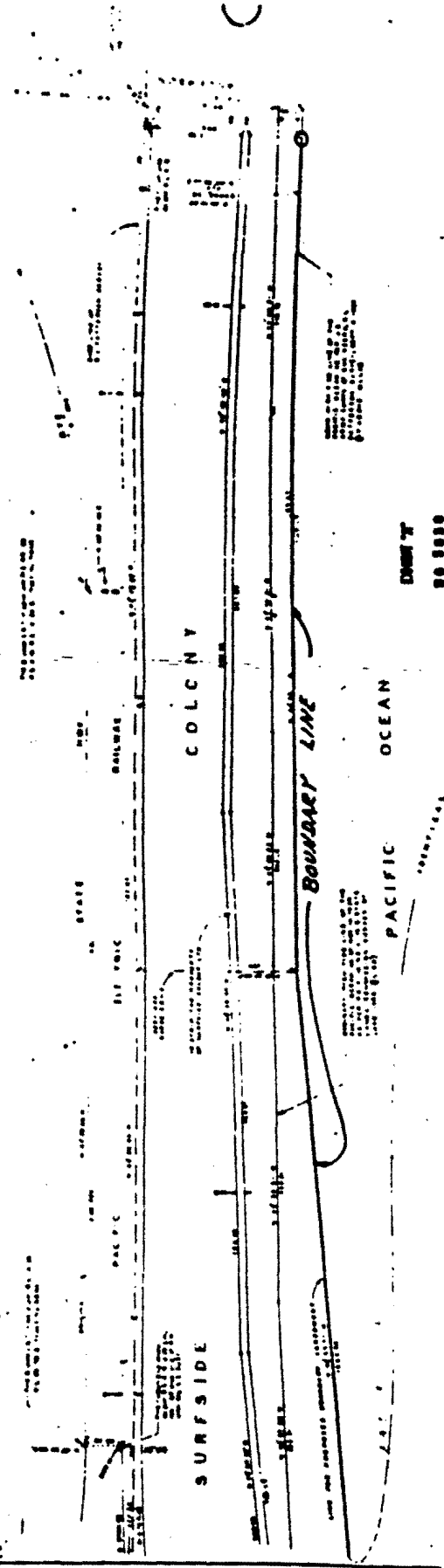
EXHIBIT # 5

PAGE 2 OF 3

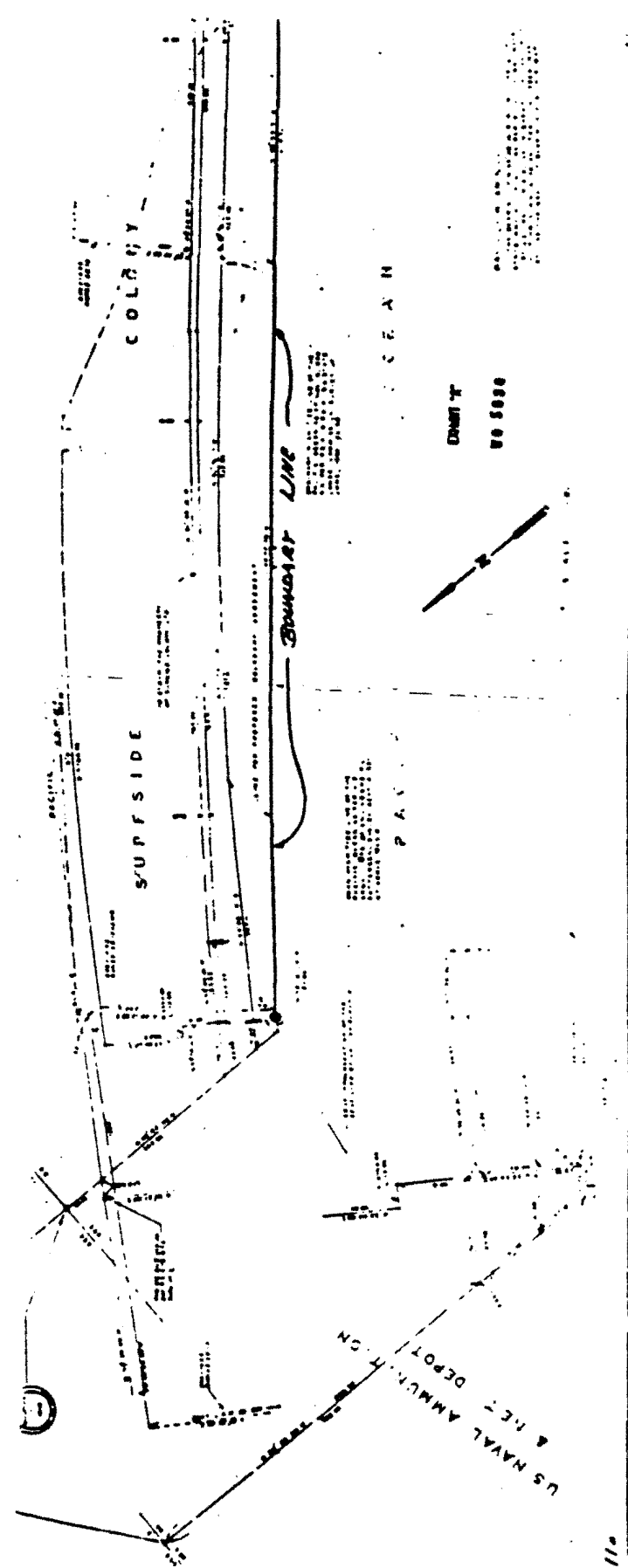
# SURFSIDE COLONY LTD.

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 12 WEST, S. B. M.

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DRAWN BY  
NO 5030



COASTAL COMMISSION  
5-99-~~423~~ BOUNDARY  
3 of 3 AGREEMENT  
EXHIBIT # 5

RECEIVED

DEC 16 1999

CALIFORNIA  
COASTAL COMMISSION

*Surfside Colony, Ltd.*

P.O. BOX 235 • SURFSIDE, CALIFORNIA 90743  
OFFICE (562) 592-2352 • FAX (562) 592-2687



December 1, 1999

State of California  
Coastal Commission

Att: Ms. Anne Kramer

Dear Ms. Kramer:

Subject: EVANS RESIDENCE/SURFSIDE COLONY

Please be advised that the Board of Directors and the Architectural Committee of Surfside Colony, Ltd. have reviewed and approved the plans for a deck addition and other additions at the Evans residence commonly referred to as A-8. Surfside Colony.

If there is any other information you might require, please let us know.

Very truly yours,

Judith Norton  
Administrative Manager

cc: Board of Directors  
Architectural Committee

COASTAL COMMISSION  
5-77-423 LEASE

EXHIBIT # 6  
PAGE 1 OF 6

92.00/yr.

A-ROW FRONTAGE LEASE

THIS LEASE, made and entered into this 14 day of November, 19 94, in the County of Orange, State of California, by and between SURFSIDE COLONY, LTD, ("Surfside"), a California corporation, and David [unclear] ("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 8 (the "Adjacent Property"), which Adjacent Property has been improved with an existing single-family residence (the "Residence"). The Premises consists of a strip of land ten feet (10') in depth extending between the westerly extensions of the northerly and southerly lot lines of the Adjacent Property.

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

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

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

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

COASTAL COMMISSION  
5-99-423 LEASE

EXHIBIT # 6  
PAGE 2 OF 6

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

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

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

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

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

9. Condition of Premises. Lessee acknowledges that it has inspected the Premises and that no statement or representation as to the past, present or future condition or suitability for building 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.

COASTAL COMMISSION

5-99-423-LEASE

EXHIBIT # 6

PAGE 3 OF 6

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

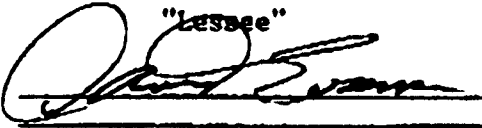
11. Compliance with Laws, Rules and Regulations. Lessee agrees to comply with all applicable laws, rules and regulations with respect to the use of the Premises and the Adjacent Property, including, without limitation, such rules and regulations as Surfside may adopt and issue from time to time.

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

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

"Surfside"

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

"Lessee"  
  
 \_\_\_\_\_

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

**COASTAL COMMISSION**  
 5-99-423 LEASE

EXHIBIT # 6  
 PAGE 4 OF 6

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

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

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

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

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

SURFSIDE COLONY, LTD.  
a California corporation

By [Signature]  
President

By [Signature]  
Secretary

LESSEE  
[Signature]

COASTAL COMMISSION  
5-79-423 LEASE

EXHIBIT # 6  
PAGE 5 OF 6



EXHIBIT A

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

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

2. Unenclosed deck regulations:

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

3. Windscreen regulations:

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

COASTAL COMMISSION  
 5-99-423 LEASE  
 EXHIBIT # 6

