

CALIFORNIA COASTAL COMMISSION

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

Tues 9d

Filed: June 1, 2001
49th Day: July 20, 2001
180th Day: November 28, 2001
Staff: FSY-LB FS
Staff Report: June 18, 2001
Hearing Date: July 10-13, 2001
Commission Action:

**STAFF REPORT: REGULAR CALENDAR****APPLICATION NUMBER:** 5-01-084**RECORD PACKET COPY****APPLICANT:** Michael Muench**AGENT:** Lohrbach & Associates**PROJECT LOCATION:** 2046 East Oceanfront, City of Newport Beach, County of Orange

PROJECT DESCRIPTION: Demolish an existing single-family residence. Construction of a 24 foot high, 4,310 square foot single family, three-story residence with a basement and an attached 416 square foot, two-vehicle garage on a beachfront parcel. In addition, construction of a walkway along the west and east side of the property, a patio and a landscape wall on the seaward side of the residence, a front yard parking area and a concrete driveway. Grading for purposes of construction of a basement is proposed for this project. There will be 100 cubic yards of backfill and 800 cubic yards of export. Total grading will be 900 cubic yards.

Lot Area:	3,184.4 square feet
Building Coverage:	2,012 square feet
Paved Area:	845 square feet
Landscape Coverage:	327 square feet
Parking Spaces:	2
Zoning:	R-1
Ht above grade:	24 feet

LOCAL APPROVALS RECEIVED: City of Newport Beach Approval-in-Concept # 2327-2000 dated October 31, 2000 and Regional Water Quality Control Board (RWQCB) Santa Ana Region Dewatering Approval Dated May 31, 2001.

SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending **APPROVAL** of the proposed project subject to three (3) special conditions requiring 1) recordation of an assumption-of-risk deed restriction; 2) recordation of a no future protective device deed restriction; and 3) recordation of a future development deed restriction. The major issues of this staff report concern beachfront development that could be affected by flooding during strong storm events and the necessity for a future protective structure to protect the residence.

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permits: 5-00-492 (Palm), 5-00-466 (Steffensen), 5-00-420 (Collins); 5-00-285 (Collins); 5-00-262 (Puntoriero); 5-00-261 (Pearson); 5-00-192 (Blumenthal); 5-00-114 (Heuer); 5-00-086 (Wells); 5-00-059 (Danner); 5-99-477 (Watson); 5-97-380 (Hasket); 5-87-813 (Corona); 5-86-676 (Jonbey); City of Newport Beach certified Land Use Plan; *Wave Action Study* for 2046 East Oceanfront,

Newport Beach, CA prepared by Skelly Engineering dated April 2001; *Geotechnical Investigation, Proposed Single-Family Residence, 2046 East Oceanfront, Newport Beach, California* prepared by Petra dated October 27, 1999; letter from Jerry W. Tucker, Structural Engineer, dated May 31, 2001; and Regional Water Quality Control Board (RWQCB) Santa Ana Region Dewatering Approval Dated May 31, 2001.

LIST OF EXHIBITS

1. Location Map
 2. Assessor's Parcel Map
 3. Assessor's Parcel Map
 4. Site Plan
 5. Project Plans
 6. Letter from Jerry W. Tucker, Structural Engineer, dated May 31, 2001
 7. Regional Water Quality Control Board (RWQCB) Santa Ana Region Dewatering Approval Dated May 31, 2001
-

STAFF RECOMMENDATION:

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

MOTION:

I move that the Commission approve CDP No. 5-01-084 pursuant to the staff recommendation.

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

RESOLUTION:

I. APPROVAL WITH CONDITIONS

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and 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. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

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

III. SPECIAL CONDITIONS

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

2. No Future Shoreline Protective Device

A(1). By acceptance of this permit, the applicant agrees, on behalf of himself and all successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-01-084 including future improvements, in the event that the property is threatened with damage or destruction from waves, erosion, storm conditions or other natural hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of himself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.

A(2). By acceptance of this permit, the applicant further agrees, on behalf of himself and all successors and assigns, that the landowners shall remove the development authorized by this permit, including the house, garage, foundations, and patios, if any government agency has ordered that the structure is not to be occupied due to any of the hazards identified above. In the event that any portion of the development is destroyed, the permittee 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 THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, which reflects the above restriction on development. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

3. Future Development Deed Restriction.

A. This permit is only for the development described in Coastal Development Permit No. 5-01-084. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply to this development. Accordingly, any future improvements to the structure authorized by this permit, including but not limited to, change in use to a permanent residential unit, repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-01-084 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 in the restricted area. The deed restriction shall include legal descriptions of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the

restriction. 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. PROJECT LOCATION AND DESCRIPTION

The subject site is located at 2046 East Oceanfront on the Balboa Peninsula within the City of Newport Beach, Orange County (Exhibits #1-3). The site is a beachfront lot located between the first public road and the sea. The site is located south of the portion of Oceanfront fronted by the City's paved beachfront public lateral accessway. The project is located within an existing urban residential area, located generally south of the Balboa Pier. There is a vegetated sand dune and a wide sandy beach (approximately 350-380 feet wide) between the subject property and the mean high tide line. Vertical public access to this beach is available approximately 90 feet east and 270 feet west of the subject site at the end of "M" Street and "L" Street, respectively.

The applicant is proposing to demolish an existing single-family residence and construct a 24 foot high, 4,310 square foot single family three-story residence with a basement and an attached 416 square foot, two-vehicle garage on a beachfront parcel (Exhibits #4-5). The third floor will have a bedroom and bathroom, roof deck with a fireplace, a spa and a reflecting pool. The construction of a spa and reflecting pool on the roof (third floor) raise structural concerns for the proposed residence. Consequently, a letter dated May 31, 2001 from Jerry W. Tucker, Structural Engineer, states that the additional loading of the spa and reflecting pool have been taken into account in the design of the structure (Exhibit #6). Approximately 900 cubic yards of grading (100 cubic yards of fill and 800 cubic yards of export) is required for basement excavation. Dewatering of the site is necessary for construction for this subterranean feature. As such, the RWQCB has approved the discharge of wastewater under the terms and conditions of the Regional Board's general permit, Order No. 98-67 (Exhibit #7). The wastewater will be discharged into the existing storm drain system.

The proposed project also includes: a rear porch, front yard parking area, concrete driveway, walkways along the west and east side of the property, a rear patio with a barbecue surrounded by a patio wall on the seaward side of the property, retaining walls separating the upper and lower pads, retaining walls for the basement, a second floor deck, elevator, planters, tempered glass railings and skylights.

B. PREVIOUS COMMISSION ACTION ON BEACHFRONT LOTS

The Commission has recently approved new development and residential renovation projects on beachfront lots in Orange County and southern Los Angeles with special conditions requiring the recordation of an assumption of risk deed restriction and no future protective device deed restriction. The Commission is imposing these special conditions as new development which will necessitate a shoreline protective device in the future cannot be permitted. Though this project is in Orange County, projects in both Orange County and Los Angeles County are used for comparative purposes in the current situation because of their similar site characteristics, including the existence of a wide sandy beach between the subject site and the mean high tide line. Since 1999, the Commission has approved coastal development permits with the no future shoreline

protective device and assumption-of-risk special conditions in Los Angeles County and Orange County. Recent Los Angeles County examples in Hermosa Beach include Coastal Development Permits 5-00-086 (Wells); 5-00-059 (Danner) and 5-00-114 (Heuer). The most recent Orange County examples in Seal Beach and Newport Beach include Coastal Development Permits 5-00-492 (Palm), 5-00-466 (Steffensen), 5-00-420 (Collins), 5-00-285 (Collins), 5-00-262 (Puntoriero), 5-00-261 (Pearson), 5-00-192 (Blumenthal) and 5-99-477 (Watson).

C. HAZARDS

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

New development shall:

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

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

Section 30251 of the Coastal Act states that:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

1. Wave Uprush and Flooding Hazards

The subject site is located on a beachfront parcel on the Balboa Peninsula generally south of the Balboa Pier. Presently, there is a vegetated sand dune and a wide sandy beach between the subject development and the ocean. According to the Wave Runup Study prepared by Skelly Engineering dated April 2001, the mean high tide line is approximately 350-380 feet from the seaward edge of the subject property. This wide sandy beach presently provides homes and other structures in the area some protection against wave uprush and flooding hazards. However, similar to other nearby beach fronting sites such as those at A1 through A91 Surfside in Seal Beach, the wide sandy beach is the only protection from wave uprush hazards. Similar situations exist in downtown Seal Beach and Hermosa Beach (Los Angeles County).

Even though wide sandy beaches afford protection of development from wave and flooding hazards, development in such areas is not immune to hazards. For example, in 1983, severe winter storms caused heavy damage to beachfront property in Surfside, which is approximately 26 miles northwest of Newport Beach. Additionally, heavy storm events such as those in 1994 and 1998 caused flooding of the Surfside community. As a result, the Commission has required

assumption-of-risk deed restrictions for new development on beachfront lots throughout Orange County and southern Los Angeles County.

Section 30253 (1) states that new development shall minimize risks to life and property in areas of high geologic, flood, and fire hazard. Based on historic information and current conditions at the subject site, the proposed development appears to be sufficiently setback from potential wave hazards to satisfy this requirement. There is currently a vegetated sand dune and a wide sandy beach in front of the proposed development. In addition, the existing development was not adversely affected by the severe storm activity, which occurred in 1983, 1994, and 1998. Since the proposed development is no further seaward of existing development, which has escaped storm damage during severe storm events, the proposed development is not anticipated to be subject to wave hazard related damage. Nonetheless, any development on a beachfront site may be subject to future flooding and wave attack as coastal conditions (such as sand supply and sea level) change.

Due to the continuing problem of coastal erosion, the Resource Agency of California on March 26, 2001 issued a Draft Policy on Coastal Erosion: *"There is a compelling need to adopt and implement clear and consistent policies to coastal erosion to protect the state's substantial resources along the coast. These policies must provide for the maintenance of critical infrastructure and the protection of natural resources, while at the same time considering the dynamic and sometimes unpredictable nature of the state's coastal bluffs, beaches, and sand resources. The need for action is emphasized by numerous factors."* These numerous factors that have caused the need for action are: 1) the coast is actively eroding, 2) natural sand supply to beaches has decreased, 3) storm activity threatens the coast, 4) coastal populations continue to increase and 5) natural processes and human activities do not respect political boundaries. Thus, development on the coast is subject to hazards and risks that cause coastal erosion. The proposed development may be subject to such hazards and risks, such as future flooding and wave attack caused by storms.

To further analyze the suitability of the site for the proposed development relative to potential wave hazards, Commission staff requested the preparation of a wave run-up, flooding, and erosion hazard analysis, prepared by an appropriately licensed professional (e.g. coastal engineer), that anticipates wave and sea level conditions (and associated wave run-up, flooding, and erosion hazards) through the life of the development. For a 75 to 100 year structural life, the hazard analysis would need to take the 1982/83 storm conditions (or 1998 conditions) and add in 2 to 3 feet of sea level rise in order to determine whether the project site would be subject to wave run-up, flooding, and erosion hazards under those conditions. The purpose of this analysis is to determine the potential for future storm damage and any possible mitigation measures, which could be incorporated into the project design.

The applicant provided the Wave Action Study prepared by Skelly Engineering dated April 2001 which addresses the potential of hazard from flooding and wave attack at the subject site. The report concludes the following:

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

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

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

Given that the applicant has chosen to implement the project despite potential risks from wave attack, erosion, or flooding, the applicant must assume the risks. Therefore, the Commission imposes Special Condition No. 1 for an assumption-of-risk agreement. In this way, the applicant is notified that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires the applicant to indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand the hazards. In addition, the condition ensures that future owners of the property will be informed of the risks and the Commission's immunity from liability. As conditioned, the Commission finds the proposed project is consistent with Section 30253 of the Coastal Act.

The assumption-of-risk condition is consistent with prior Commission actions for development along the beach. For instance, the Executive Director issued Administrative Permits 5-86-676 (Jonbey), 5-87-813 (Corona) and most recently 5-97-380 (Haskett) with assumption-of-risk deed restrictions for improvements to existing homes. In addition, the Commission has consistently imposed assumption-of-risk deed and no future protective device restrictions on new development. Examples include Coastal Development Permits 5-00-492 (Palm), 5-00-466 (Steffensen), 5-00-420 (Collins); 5-00-285 (Collins); 5-00-262 (Puntoriero); 5-00-261 (Pearson); 5-00-192 (Blumenthal) and 5-99-477 (Watson).

2. Future Shoreline Protective Device

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

The Commission has generally interpreted Section 30235 to require the Commission to approve shoreline protection for development only for existing principal structures. The construction of a

shoreline protective device to protect new development would not be required by Section 30235 of the Coastal Act. The proposed project involves the demolition of an existing structure and construction of a new single family residence. The proposed single family home is new development. Allowing new development that would eventually require a shoreline protective device would conflict with Section 30251 of the Coastal Act; which states that permitted development shall minimize the alteration of natural landforms, including beaches which would be subject to increased erosion from such devices.

In the case of the current project, the applicant does not propose the construction of any shoreline protective device to protect the proposed development. While the Commission recognizes that the applicant is proposing a wall parallel to the seaward property line, the wall is not designed to function as a shoreline protective device and cannot be relied upon to provide protection from wave uprush. The Wave Runup Study concludes that the *"There is little if any long term beach erosion at the site."* However, as previously discussed, nearby beachfront communities have experienced flooding and erosion during severe storm events, such as El Nino storms. Therefore, 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 residence may be subject to wave uprush hazards.

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

The second effect of a shoreline protective device on access is based upon if there is a sand bar located near the shoreline protective device. A shoreline protective device would cause a progressive loss of sand shore material that would in turn not be available to nourish the sand bar. The sand bar would have reduced the impact of the wave energy, but the erosion of it would allow waves with greater energy intensity to break further up the shore and also cause scour. This would in turn cause a loss of area between the mean high water line and the actual water and is a significant adverse impact on public access to the beach.

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

Fourth, if not sited in a landward location that ensures that the seawall is only acted upon during severe storm events, beach scour during the winter season will be accelerated because there is less beach area to dissipate the wave's energy. Finally, revetments, bulkheads, and seawalls

interfere directly with public access by their occupation of beach area that will not only be unavailable during high tide and severe storm events, but also potentially throughout the winter season.

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

To further ensure that the proposed project is consistent with Sections 30251 and 30253 of the Coastal Act, and to ensure that the proposed project does not result in future adverse effects to coastal processes, the Commission imposes Special Condition No. 2 which requires the applicant to record a deed restriction that would prohibit the applicant, or future land owner, from constructing a shoreline protective device for the purpose of protecting any of the development proposed as part of this application. This condition is necessary because it is impossible to completely predict what conditions the proposed structure may be subject to in the future. Consequently, as conditioned, the development can be approved subject to Section 30251 and 30253.

By imposing the "No Future Shoreline Protective Device" special condition, the Commission requires that no shoreline protective devices shall ever be constructed to protect the development approved by this permit in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions or other natural hazards in the future.

3. Future Development

As discussed previously, the project site is located on a beachfront lot that may be subject to future flooding and wave attack as coastal conditions change. Since coastal processes are dynamic and structural development may alter the natural environment, future development adjacent to the beach could adversely affect future shoreline conditions if not properly evaluated. For this reason, the Commission is imposing a deed restriction special condition (Special Condition No. 3) which states that any future development or additions on the property, including but not limited to hardscape improvements, grading, landscaping, vegetation removal and structural improvements, requires a coastal development permit from the Commission or its successor agency. Section 13250 (b) of Title 14 of the California Code of Regulations specifically authorizes the Commission to require a permit for improvements that could involve a risk of adverse environmental effect. This condition ensures that any future development on this site that may affect shoreline processes receives review by the Commission.

4. Conclusion

The Commission finds that hazards potentially exist from wave uprush and flooding at the subject site. Therefore, to ensure that the proposed project is consistent with Sections 30251 and 30253 of the Coastal Act, and to ensure that the proposed project does not result in future adverse effects to coastal processes, Special Conditions No. 1, 2 and 3 require the applicant to record assumption-of-risk, no future shoreline protective devices and future development deed restrictions. As conditioned, the Commission finds that the proposed project is consistent with Coastal Act Sections 30251 and 30253.

D. PUBLIC ACCESS AND PARKING

Section 30252 of the Coastal Act states, in part:

The location and amount of new development should maintain and enhance public access to the coast by: (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation.

The subject site is a beachfront lot located between the nearest public roadway and the shoreline on the Balboa Peninsula in the City of Newport Beach. There is a wide public sandy beach (approximately 350-380 feet wide) seaward of the subject site which provides lateral public access. Vertical public access to this beach is available approximately 90 feet east and 270 feet west of the subject site at the end of "M" Street and "L" Street, respectively. Therefore, the Commission finds adequate access is available nearby and the proposed development is consistent with Section 30252 of the Coastal Act.

When a private development does not provide adequate on-site parking, users of that development who arrive by automobile are forced to occupy public parking used by visitors to the coastal zone. Thus, all private development must provide adequate on-site parking to minimize adverse impacts on public access.

The Commission has consistently found that two parking spaces are adequate to satisfy the parking demand generated by one individual residential unit. The proposed single family residence provides two parking spaces located in an attached garage and one additional one car front yard parking space. Therefore, as currently designed, the development exceeds the parking required. Thus, the Commission finds that the proposed development is consistent with Section 30252 of the Coastal Act regarding parking.

E. LOCAL COASTAL PROGRAM

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

The City of Newport Beach Land Use Plan (LUP) component of its LCP was originally certified on May 19, 1982. The City currently has no certified implementation plan. Therefore, the Commission issues CDPs within the City based on the development's conformance with the Chapter 3 policies of the Coastal Act. The LUP policies may be used for guidance in evaluating a development's consistency with Chapter 3. As explained above, the proposed development is consistent with the Chapter 3 policies of the Coastal Act and with the LUP. Therefore, approval of

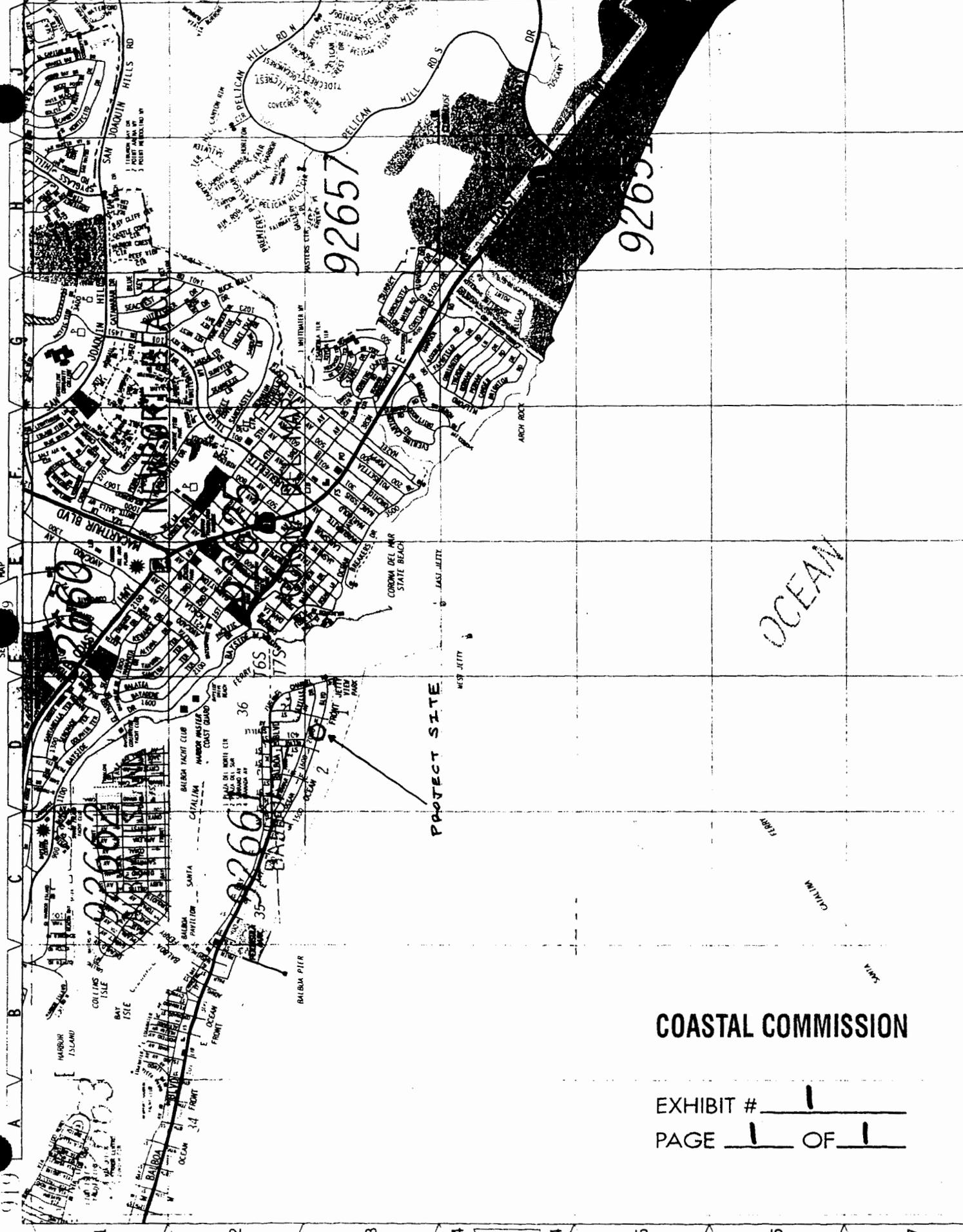
the proposed development will not prejudice the City's ability to prepare a Local Coastal Program for Newport Beach that is consistent with the Chapter 3 policies of the Coastal Act, as required by Section 30604 (a).

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of the Commission's regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The project is located in an urbanized area. Development already exists on the subject site. The proposed development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. The conditions also serve to mitigate significant adverse impacts under CEQA. Conditions imposed are recordation of assumption-of-risk, no future shoreline protective device and future development deed restrictions. There are no feasible alternatives or mitigation measures available which will lessen any significant adverse impact the activity would have on the environment. Therefore, the Commission finds that the proposed project is consistent with CEQA and the policies of the Coastal Act.

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

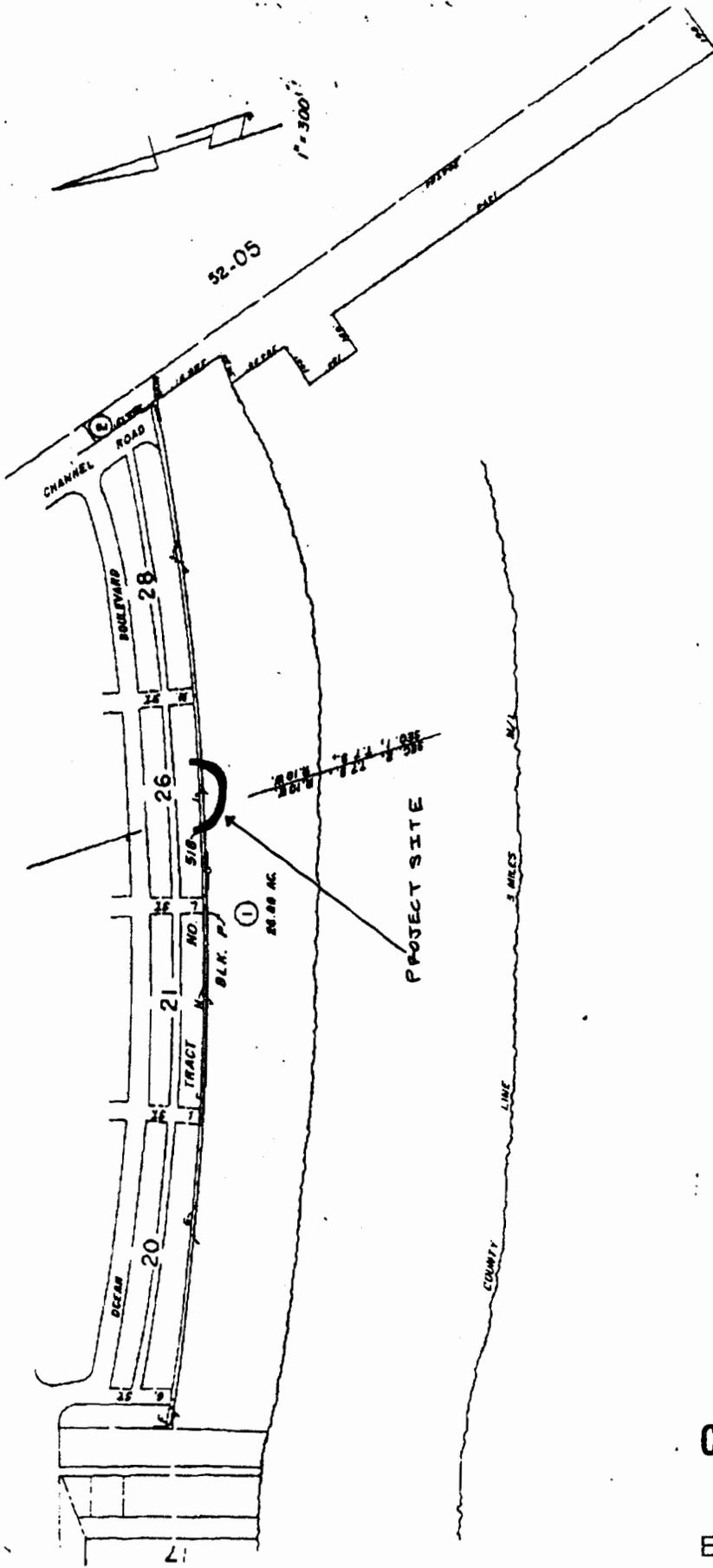


COASTAL COMMISSION

EXHIBIT # 1

PAGE 1 OF 1

PUR. SEC. 10 C, 1.1 D, 11.10 W.



MARCH 1949

TR. NO. 518

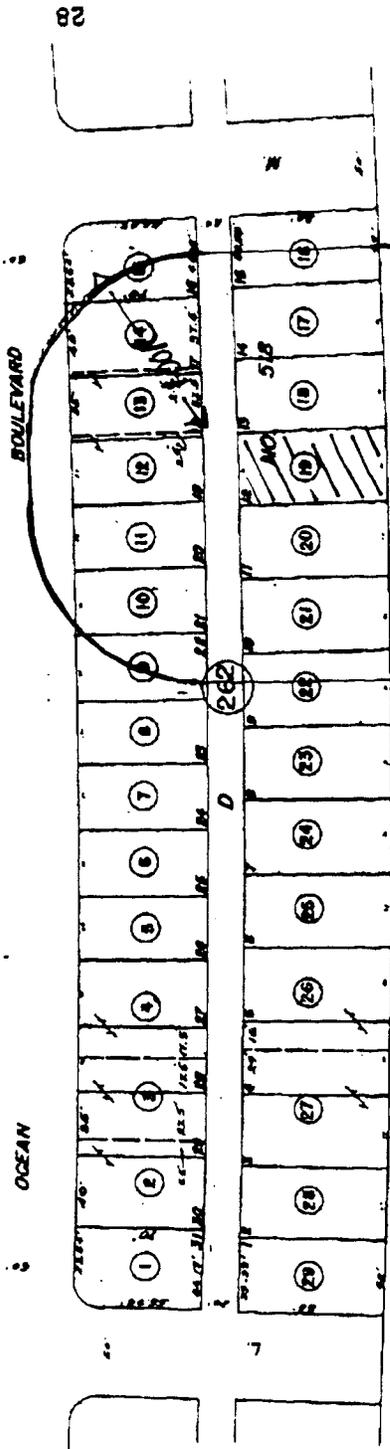
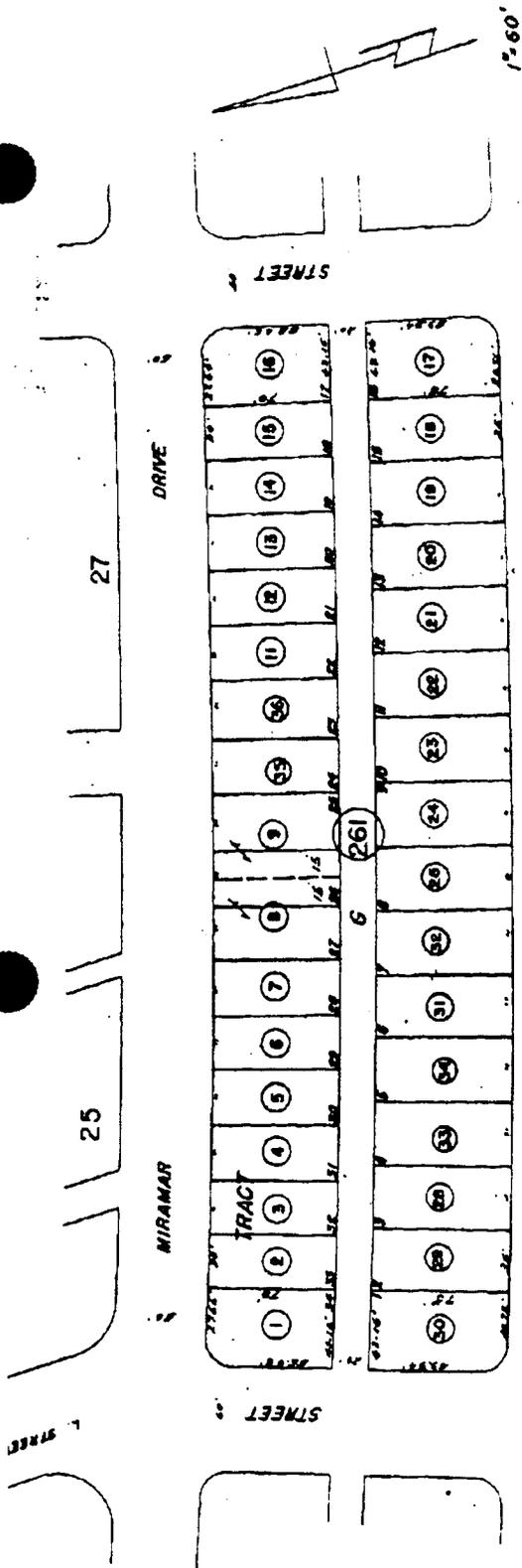
M.M. 17-33-36

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

ASSESSOR'S MAP BOOK 48 PAGE 31 COUNTY OF ORANGE

COASTAL COMMISSION

EXHIBIT # 2
PAGE 1 OF 1



MARCH 1949

TR. NO. 518 M.M. 17-33-36

ASSESSOR'S MAP
BOOK 48 PAGE 26
COUNTY OF ORANGE

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

PROJECT SITE

COASTAL COMMISSION

EXHIBIT # 3
PAGE 1 OF 1

4

MUENCH RESIDENCE

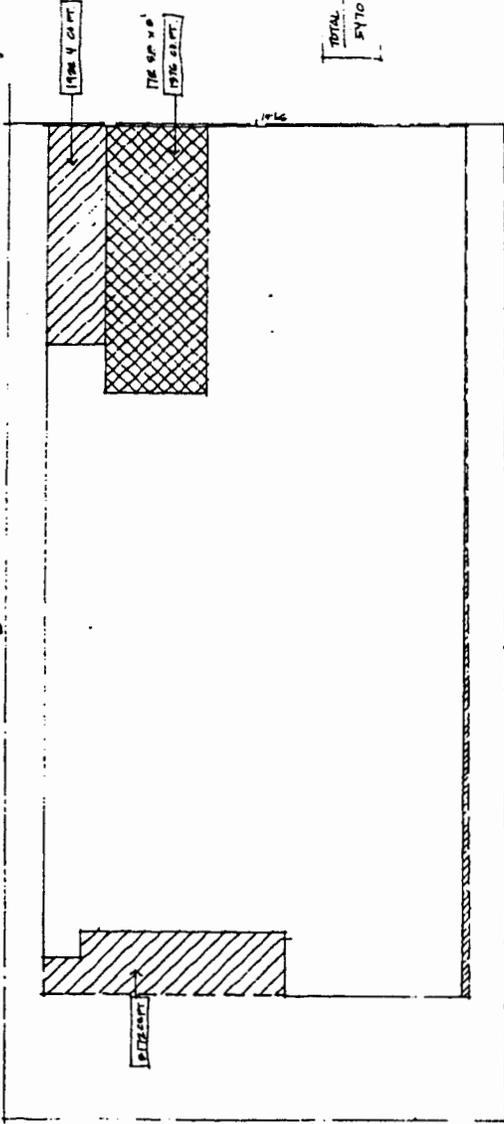
Custom Residence
 Joseph Bank, CA 92661

Lohrbach

1981 Coastal Commission
 1981 Coastal Commission
 1981 Coastal Commission
 1981 Coastal Commission

1981 Coastal Commission
 1981 Coastal Commission
 1981 Coastal Commission
 1981 Coastal Commission

TOTAL OPEN SPACE
 5470 sq. ft.



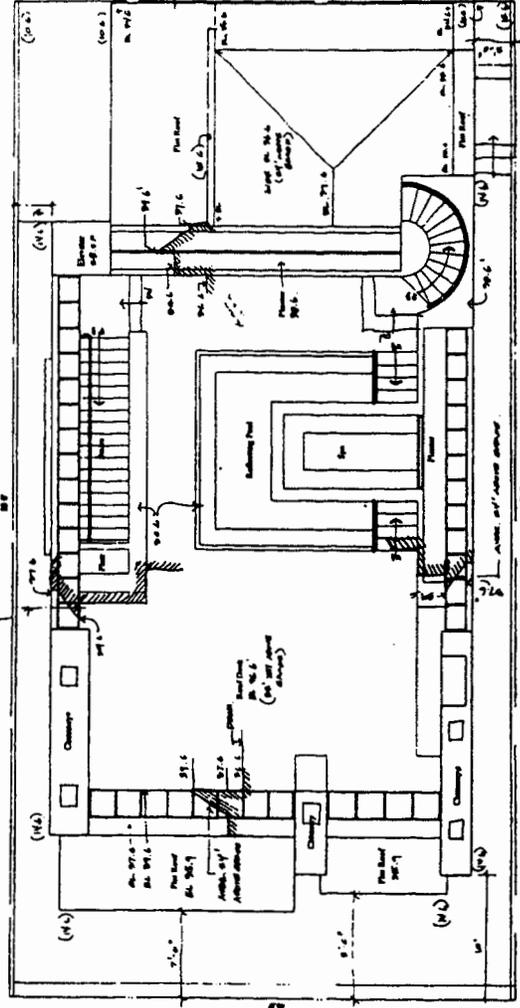
OPEN SPACE PLAN

1981 Coastal Commission
 1981 Coastal Commission
 1981 Coastal Commission
 1981 Coastal Commission

1981 Coastal Commission
 1981 Coastal Commission
 1981 Coastal Commission
 1981 Coastal Commission

BUILDING / SITE DATA
 SITE AREA 9189 SF
 AREA WITH SETBACK 8361 SF
 AVAILABLE FOOTPRINT 9176 SF
 FOOTPRINT PERMITTED (Per setbacks) 4726 SF
 OPEN SPACE MAINTAINED 5470 SQ. FT.
 LOT AREA 84,000 SQ. FT.

* OTHER APPLICABLE IN CONJECTURE ONLY.
 THIS PLAN IS FOR INFORMATION ONLY.
 IT IS NOT TO BE USED FOR ANY OTHER PURPOSE.
 ALL MEASUREMENTS ARE TO FACE UNLESS NOTED OTHERWISE.



COASTAL COMMISSION

EXHIBIT # 5
 PAGE 1 OF 5

FLOOR FINISHES

- 1. All floor finishes shall be installed in accordance with the manufacturer's instructions.
- 2. All floor finishes shall be installed on a clean, dry, and level substrate.
- 3. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 4. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 5. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 6. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 7. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 8. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 9. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 10. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 11. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 12. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 13. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 14. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 15. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 16. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 17. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 18. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 19. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 20. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 21. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 22. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 23. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 24. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 25. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 26. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 27. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 28. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 29. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 30. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 31. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 32. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 33. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 34. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 35. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 36. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 37. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 38. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 39. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 40. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 41. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 42. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 43. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 44. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 45. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 46. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 47. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 48. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 49. All floor finishes shall be installed in a clean, dry, and well-ventilated area.
- 50. All floor finishes shall be installed in a clean, dry, and well-ventilated area.

MUENCH RESIDENCE

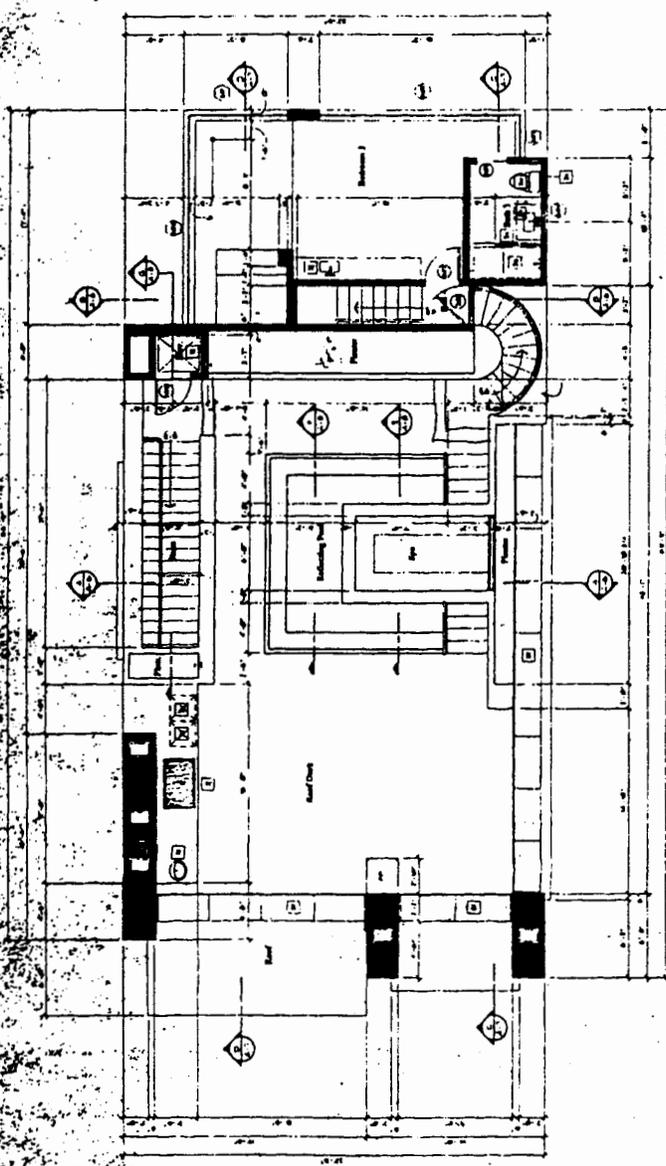
Custom Residence
 2005 E. Green Road
 Newport Beach, CA 92660

Lohrbach

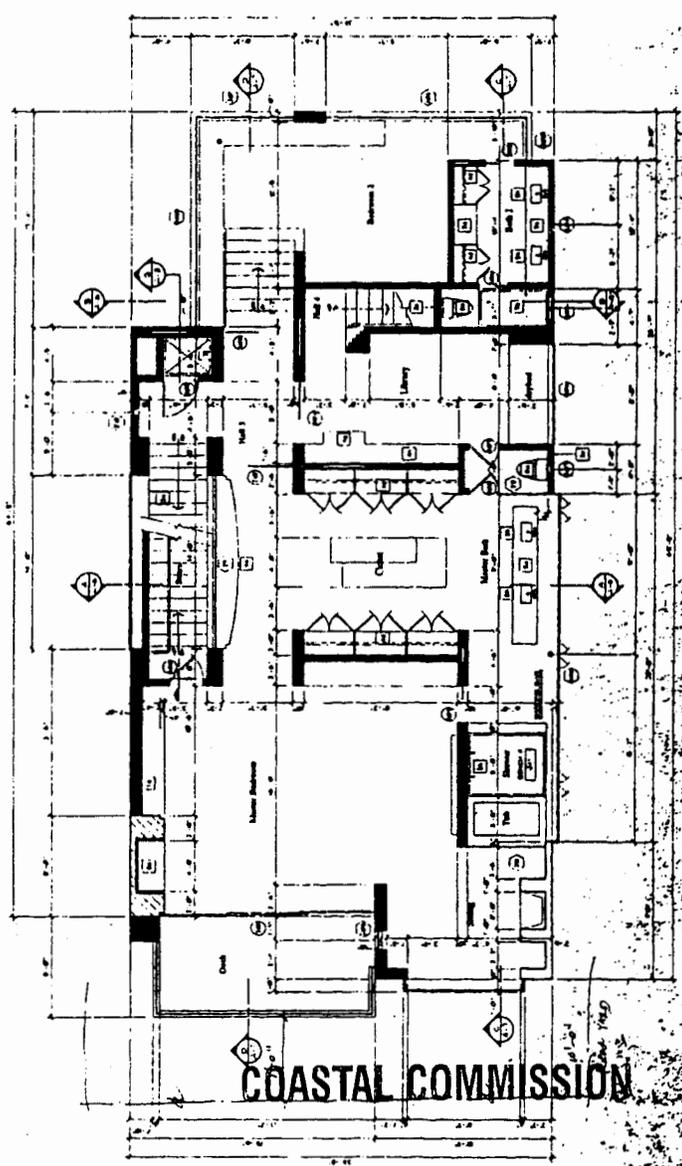


2107 ACCE
 1/15/14
 Muench

Wall Notes



Third Floor/ Roof Plan

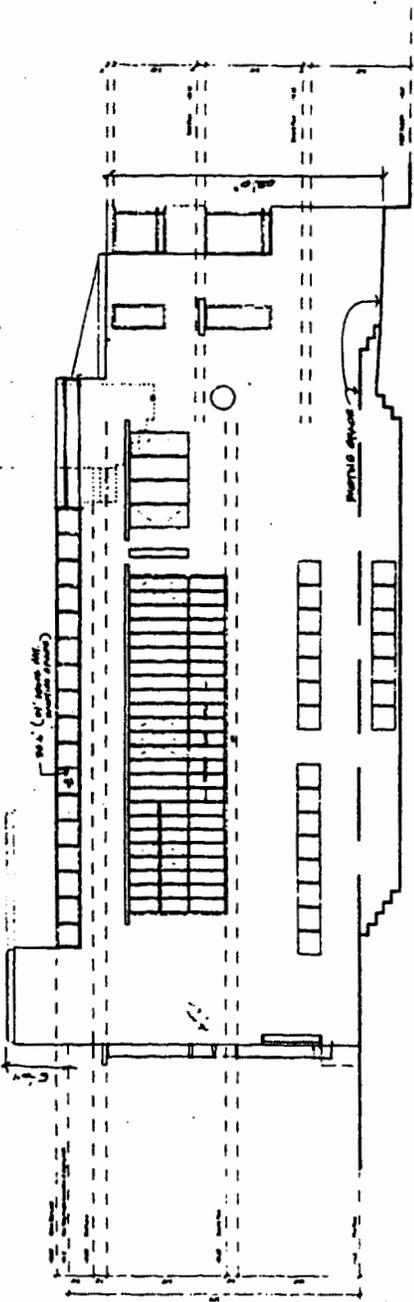


Second Floor Plan

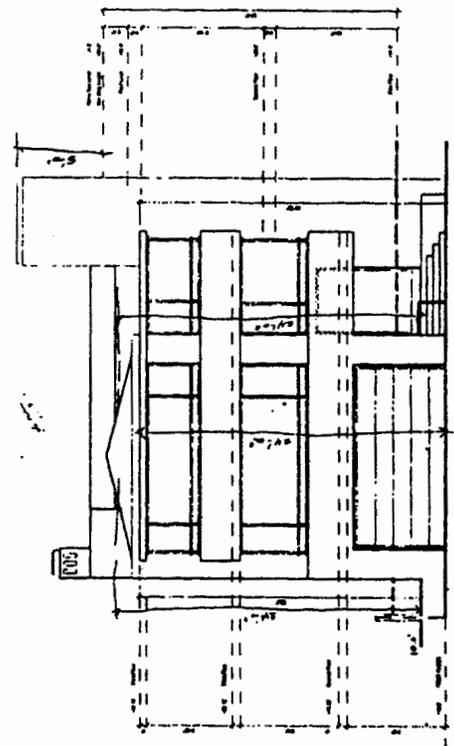
COASTAL COMMISSION

Elevation Keynotes

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35
- 36
- 37
- 38
- 39
- 40
- 41
- 42
- 43
- 44
- 45
- 46
- 47
- 48
- 49
- 50
- 51
- 52
- 53
- 54
- 55
- 56
- 57
- 58
- 59
- 60
- 61
- 62
- 63
- 64
- 65
- 66
- 67
- 68
- 69
- 70
- 71
- 72
- 73
- 74
- 75
- 76
- 77
- 78
- 79
- 80
- 81
- 82
- 83
- 84
- 85
- 86
- 87
- 88
- 89
- 90
- 91
- 92
- 93
- 94
- 95
- 96
- 97
- 98
- 99
- 100



Left Elevation

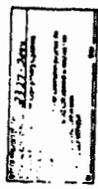


Front Elevation

MUENCH RESIDENCE
 Custom Residence
 2045 Ocean Front Reserves
 Newport Beach, CA 92661

Lohrbach
 2045 Ocean Front Reserves
 Newport Beach, CA 92661
 Tel: 949.440.1000
 Fax: 949.440.1001

PROOF AND
 LEFT ELEVATION
 ELEVATIONS



COASTAL COMMISSION

EXHIBIT # 5
 PAGE A OF 5



JERRY TUCKER & ASSOCIATES, INC.
CONSULTING STRUCTURAL ENGINEERS

RECEIVED
South Coast Region

May 31, 2001

JUN 01 2001

CALIFORNIA
COASTAL COMMISSION

State of California
California Coastal Commission
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416
Attn: Fernie Sy

Re: The Muench Residence, 2046 Ocean Front Blvd, Newport Beach.

Dear Mr. Sy:

This letter is in regards to your question regarding the spa on the roof. The roof structure and all the loading from the roof structures to floor beams below, has been calculated for the additional loading of the spa, the reflecting pool and all other elements on the roof. Both the vertical load analysis and the lateral load analysis has taken into account this additional loading.

If you have any questions please call me at 949-645-2422.

Sincerely,



Jerry W. Tucker
Structural Engineer

VALID ONLY IF SIGNED
IN RED

COASTAL COMMISSION

EXHIBIT # 6
PAGE 1 OF 1



California Regional Water Quality Control Board Santa Ana Region



Winston H. Hickox
Secretary for
Environmental
Protection

Internet Address: <http://www.swrcb.ca.gov/rwqcb8>
3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (909) 782-4130 - FAX (909) 781-6288

Gray Davis
Governor

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at www.swrcb.ca.gov/rwqcb8.

May 31, 2001

Mark A. Falcone
412 Myrtle Street
Laguna Beach, CA 92651

WASTE DISCHARGE REQUIREMENTS, ORDER NO. 98-67, NPDES NO. CAG998001 (DE MINIMUS DISCHARGES), 2046 E. OCEANFRONT BOULEVARD, NEWPORT BEACH, ORANGE COUNTY

Dear Mr. Falcone:

On May 30, 2001, you submitted a complete Notice of Intent to discharge wastewater associated with the construction of a subterranean basement at the above-referenced site under the terms and conditions of the Regional Board's general permit, Order No. 98-67.

Effective immediately, you are authorized to discharge wastewater from this project under the terms and conditions of Order No. 98-67. Enclosed is Monitoring and Reporting Program No. 98-67-128, which specifies the frequency of sampling and the constituents to be monitored. Please note that modifications to the sampling frequency and constituents to be monitored can be considered on a case-by-case basis.

Order No. 98-67 will expire on July 1, 2003. If you wish to terminate coverage under this general permit prior to that time, please notify us immediately upon project completion so that we can rescind your authorization and avoid billing you an annual fee of \$400.00.

If you have any questions regarding the permit or the monitoring and reporting program, please contact Bill Norton at (909) 782-4381 or Susan Beeson at (909) 782-4902.

Sincerely,

for Gerard J. Thibeault
Executive Officer

RECEIVED
South Coast Region

JUN 01 2001

CALIFORNIA
COASTAL COMMISSION

Enclosures: Order No. 98-67 & Monitoring and Reporting Program No. 98-67-128

cc w/enc: Lohrbach - Ed Lohrbach

cc w/o enc: U.S. EPA, Region IX - Terry Oda (WTR-5)
SWRCB, DWQ - James Kassel
Orange County Public Resources and Facilities, Flood Control - Herb Nakasone

COASTAL COMMISSION

EXHIBIT # 7
PAGE 1 OF 4

California Environmental Protection Agency



California Regional Water Quality Control Board
Santa Ana Region

Monitoring and Reporting Program No. 98-67-128
For
Mark A. Falcone
2046 E. Oceanfront Boulevard, Newport Beach

I Monitoring and Reporting Requirements

1. All monitoring reports, or information submitted to the Regional Board shall be signed and certified in accordance with CCFR 122.22.
2. All sampling, sample preservation, and analysis shall be performed in accordance with the latest edition of 40 CFR Part 136 "Guidelines Establishing Test Procedures for the Analysis of Pollutants," promulgated by the United States Environmental Protection Agency, unless otherwise noted. In addition, the Board and/or EPA, at their discretion, may specify test methods which are more sensitive than those specified in 40 CFR 136. All analyses shall be conducted at a laboratory certified for such analyses by the State Department of Health Services or EPA, or at laboratories approved by the Executive Officer or the Regional Board.
3. Whenever the discharger monitors any pollutant more frequently than is required by this general permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the discharge monitoring report specified by the Executive Officer.
4. The discharger shall assure that records of all monitoring information are maintained and accessible for a period of at least five years from the date of the sample, report, or application. This period of retention shall be extended during the course of any unresolved litigation regarding this discharge or by the request of the Board at any time. Records of monitoring information shall include:
 - a. The date, exact place, and time of sampling or measurements;
 - b. The individual(s) who performed the sampling and/or measurements;
 - c. The date(s) analyses were performed;
 - d. The individual(s) who performed the analyses;
 - e. The analytical techniques or methods used;
 - f. All sampling and analytical results;
 - g. All monitoring equipment calibration and maintenance records;
 - h. All original strip charts from continuous monitoring devices;
 - i. All data used to complete the application for this general permit, and;
 - j. Copies of all reports required by this general permit.
5. Weekly samples shall be collected on a representative day of each week.

COASTAL COMMISSION

EXHIBIT # 7
PAGE 2 OF 4

II Effluent Monitoring

1. A sampling station shall be established for the point of discharge where representative samples of the discharge can be obtained before the discharge mixes with the receiving waters.
2. The following shall constitute the effluent monitoring program:

Constituent	Type of Sample	Units	Minimum Frequency of Sampling and Analysis
Flow	---	gpd	Daily
Sulfides	Grab	mg/l	Once per discharge event and then weekly thereafter for continuous discharges
Suspended Solids	Grab	mg/l	Once per discharge event and then weekly thereafter for continuous discharges
Total Residual Chlorine ¹	Grab	mg/l	Once per discharge event and then weekly thereafter for continuous discharges

III Reporting

1. Five days prior to the discharge, the discharger shall notify the Regional Board staff by phone or by a fax letter indicating the date and time of the proposed discharge.
2. The results of the above analyses shall be reported to the Regional Board within 24 hours of finding any discharge that is in violation of any provision of the Order.
3. Monitoring reports shall be submitted by the 30th day of the month. The monitoring reports shall cover the previous month's monitoring activities and shall include:
 - a. The results of all laboratory analyses for constituents required to be monitored (see Section (II, above).
 - b. The daily flow data,
 - c. A summary of the discharge activities (when and where discharge occurred, description of type of discharge, etc.) including a report detailing the discharger's compliance or noncompliance with the requirements of the general permit and discharge authorization letter, and
 - d. For every item where the requirements of the general permit and discharge authorization letter are not met:

¹ If chlorine is used for treatment or disinfection of wastes.

COASTAL COMMISSION

EXHIBIT # 7
PAGE 3 OF 4

- (1) A statement of the actions undertaken or proposed which will bring the discharge into full compliance with requirements at the earliest time, and
 - (2) A timetable for implementing the proposed actions.
- e. If no discharge occurs during the previous monitoring period, a letter to that effect shall be maintained in lieu of a monitoring report.
4. Upon completion of the project, the discharger shall notify the Executive Officer of the Regional Board in writing about cessation of the discharge and request for termination of coverage under the permit.
 5. All reports shall be signed by a responsible officer or duly authorized representative of the discharger and shall be submitted under penalty of perjury.

Ordered by K. J. V. Bittel
for Gerard J. Thibeault
Executive Officer

May 31, 2001

COASTAL COMMISSION

EXHIBIT # 7
PAGE 4 OF 4