

CALIFORNIA COASTAL COMMISSION

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

Filed: August 28, 2003
49th Day: October 16, 2003
180th Day: February 24, 2004
Staff: ALB-LB
Staff Report: October 16, 2003
Hearing Date: November 4-7, 2003
Commission Action:

**W4b****STAFF REPORT: CONSENT CALENDAR****APPLICATION NUMBER:** 5-03-299

RECORD PACKET COPY

APPLICANT: 29th Street Partners, L.L.C.**PROJECT LOCATION:** 405, 407, 409, 411, & 413 29th Street, Newport Beach, County of Orange

PROJECT DESCRIPTION: Demolition of an existing 8,100 square foot warehouse and construction of four (4) three-story, 31' high, mixed use (artist studio/warehouse on ground floor and residential above) structures with four (4) off-street parking spaces per structure (16 spaces total). The project also involves a subdivision to create four individual parcels where five currently exist. Approximately 125 cubic yards of grading (25 cy cut and 100 cy fill) is proposed for site preparation.

LOCAL APPROVALS RECEIVED: City of Newport Beach Lot Line Adjustments LA2003-020 and LA2003-024 and Planning Department Approval-in-Concept No. 1614-2003 dated July 3, 2003.

SUMMARY OF STAFF RECOMMENDATION:

The applicant is proposing to construct a mixed-use development consisting of four individual buildings in the Cannery Village area of Newport Beach. Each of the four buildings will provide artist studio/warehouse space on the ground floor and a residential unit on the upper two floors. Parking will be provided on site through residential garages and separate on-site commercial parking spaces accessible via the alley and the frontage street. The site is currently developed with an 8,100 square foot single story warehouse structure that will be demolished as part of this project. The major issues of the staff report include parking, land use, and water quality.

Staff recommends the Commission **APPROVE** the proposed development with five (5) special conditions requiring 1) acknowledgement of land use restrictions through a future improvements condition; 2) submittal of a Parking Management Plan, 3) conformance with construction best management practices, 4) submittal of a Water Quality Management Plan; 5) recordation of a deed restriction against the property, referencing all of the Special Conditions contained in this staff report.

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach Certified Land Use Plan (LUP), Coastal Development Permits: 5-02-093 (Cannery Lofts) and 5-00-056 (Weeda)

LIST OF EXHIBITS:

1. Location Map
2. Assessor's Parcel Map
3. Project Plans

STAFF RECOMMENDATION:

MOTION: *I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

STAFF RECOMMENDATION TO ADOPT CONSENT CALENDAR:

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the 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. Future Development

- A. This permit is only for the development described in Coastal Development Permit No. 5-03-299, which specifies that the ground floor of each structure will be utilized solely as an artist studio/warehouse space. The tenant occupying the ground floor shall only sell goods produced on site.
- B. Except as provided in Public Resources Code Section 30610 and applicable regulations, any future development as defined in PRC section 30106, including but not limited to, a change in the density or intensity of land use shall require an amendment to Permit No. 5-03-299 from the California Coastal Commission or shall require an additional coastal development permit from the California Coastal Commission or from the applicable certified local government.

2. Parking Management Plan

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and written approval of the Executive Director, a parking management plan for the development approved by CDP No. 5-03-299.
1. The parking plan shall demonstrate that parking is designated on-site in the following manner: two (2) parking spaces for exclusive use by tenants of the residential units and two (2) spaces for use by employees and customers of the artist studio/warehouse spaces.
2. The parking plan shall include, at a minimum, the following components:
- (a) A signage plan, depicting the design (e.g., dimensions, wording, etc.) of the posted parking signs. Signs shall be placed at both the front and rear of the buildings.
- (b) A site plan depicting the locations where residential, employee and customer parking signs will be installed.
- B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3. Construction Best Management Practices

The permittee shall comply with the following construction-related requirements:

- (a) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of construction-related materials, and to contain sediment or contaminants associated with construction activity, shall be implemented prior to the on-set of such activity;
- (b) No construction materials, debris, or waste shall be placed or stored where it may enter a storm drain or be subject to tidal erosion and dispersion;
- (c) Construction debris and sediment shall be properly contained and secured on site with BMPs, to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
- (d) Construction debris and sediment shall be removed from construction areas as necessary to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. All debris and trash shall be disposed of in the proper trash and recycling receptacles at the end of each construction day;
- (e) The discharge of any hazardous materials into any receiving waters shall be prohibited;
- (f) A pre-construction meeting should be held for all personnel to review procedural and BMP/GHP guidelines;
- (g) All BMPs shall be maintained in a functional condition throughout the duration of the project.
- (h) Debris shall be disposed at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is required.

4. Water Quality Management Plan

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and approval of the Executive Director, a Water Quality Management Plan (WQMP), including supporting calculations, written descriptions, and appropriate plans for the post-construction project site. The plan shall include, but is not limited to, the following requirements:

1. Water Quality Goals

- a. The WQMP shall be prepared by a licensed water quality professional and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to minimize, to the maximum extent practicable, the pollutant load of storm water and nuisance flow leaving the developed site.
- b. The WQMP shall indicate how it shall minimize to the maximum extent practicable or eliminate the contribution of 303(d)-listed and TMDL-listed pollutants for Lower Newport Bay.
- c. As proposed, impervious surfaces shall be minimized to the maximum extent practicable.

2. Structural Treatment Best Management Practices (BMPs)

- a. Post-construction structural BMPs (or suites of BMPs) should be designed to treat, infiltrate or filter the amount of storm water runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.
- b. Runoff from all parking areas, roads, and driveways shall be collected and directed through a system of appropriate structural and/or non-structural BMPs. The filter elements shall be designed to minimize to the maximum extent practicable vehicular contaminants (oil, grease, automotive fluids, heavy metals), sediments, and floatables and particulate debris.

3. Source Control BMPs

- a. The applicant shall regularly sweep all parking areas and walkways in order to prevent dispersal of pollutants that might collect on those surfaces.
- b. All rooftop drainage shall be directed to vegetated or other permeable areas.
- c. All detergents and cleaning components used on site, outdoors, or where it has the potential to be dispersed by water shall comply with the following criteria: detergents shall be phosphate-free, biodegradable, and non-toxic to marine wildlife; amounts used shall be minimized to the maximum extent practicable; no fluids containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates, or lye shall be used.
- d. Spraying down or washing down impervious surfaces, including but not limited to parking areas, sidewalks, rooftops, or driveways, is prohibited unless the water used is directed through the sanitary sewer system or an appropriate structural BMP designed to reduce pollutants to the maximum extent practicable.
- e. Educational materials including, but not limited to, such topics as 1) water quality impairments of Lower Newport Bay and the Rhine Channel, 2) good housekeeping practices for residential and commercial water quality issues, and 3) structural and non-structural BMPs used on-site shall be distributed to future owners and/or tenants.

4. Inspection and Maintenance of BMPs

- a. All structural BMPs shall be operated, monitored, and maintained for the life of the project and at a minimum, all structural BMPs shall be inspected, cleaned-out, and where necessary, repaired, at the following minimum frequencies: (1) prior to October 15th each year; (2) after every major storm, and (3) at least twice during the dry season (between April 15 and October 15).
- b. Debris and other pollutants removed from structural BMP(s) during clean-out shall be contained and disposed of in a proper manner.

- c. The applicant shall submit a signed agreement verifying the party or entity responsible for maintenance of structural and non-structural BMPs for the life of the project. If the property or responsibility is transferred, conditions in the sales or lease agreement or any other sufficient document shall require the recipient to assume responsibility for the maintenance procedures certified in this permit.
 5. It is the applicant's responsibility to maintain the drainage system and the associated structures and BMPs according to manufacturer's specification.
 - B. The permittee shall undertake development in accordance with the approved final plan and schedule and other requirements. Any proposed changes to these requirements shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.
5. Deed Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. PROJECT LOCATION AND DESCRIPTION

The subject site is located at 405, 407, 409, 411 and 413 29th Street in the City of Newport Beach, Orange County (Exhibits 1 & 2). The site consists of five contiguous inland lots (totaling 13,032 square feet) located within the Cannery Village area. The Cannery Village area is located between 32nd Street and 26th Street on the Balboa Peninsula. Cannery Village is a mixed-use district with commercial, industrial, and residential uses. In this district, residential development is allowed on the upper floors in conjunction with ground floor commercial usage. The subject site is located approximately 400 feet from the Rhine Waterway. The nearest public coastal access to the Rhine Waterway is available at the corner of Lido Park Drive and Lafayette Avenue, northeast of the project site.

The project involves demolition of an existing 8,100 square foot warehouse and construction of four (4) three-story, 31' high, mixed use (artist studio/warehouse on ground floor and residential above) structures with four (4) off-street parking spaces per structure (16 spaces total), as shown in Exhibit 3. The project also involves a subdivision to create four individual parcels where five currently exist. Approximately 125 cubic yards of grading (25 cy cut and 100 cy fill) is proposed for site preparation.

Two building designs are proposed. (Two of each will be constructed.) Type A will provide 1,000 square feet of commercial space on the ground floor with a 2,335 square foot residence above. Type B will provide 1,000 square feet of commercial space on the ground floor with a 2319 square foot residence above. All of the ground floor commercial spaces are proposed to be used as artist studios/warehouses. The tenant occupying the ground floor will only sell goods produced on site.

Each residence will be served by a two-car garage accessible from the alley. Each ground floor commercial space will be served by two off-street parking spaces—one space accessible from the alley and one space accessible from the frontage street (29th Street). The proposed development provides parking that meets the Commission's regularly-used standard of two spaces per residential unit. The proposed development also provides parking that is deemed adequate to serve the parking demand of the proposed artist studio/warehouse use on the ground floor, but will not be sufficient to serve a general commercial use. As such, the use of the ground floor spaces are restricted to the proposed use of artist studio/warehouse and any changes in the type or intensity of use will require an amendment or new permit. In addition, a parking management plan must be submitted prior to permit issuance to ensure that appropriate signage is provided.

The applicant proposes to utilize a water quality management plan that will incorporate structural and non-structural Best Management Practices (BMPs) designed to reduce the load of storm water and dry weather flows leaving the site. Anticipated BMPs include street sweeping, catch basin inspection and cleaning, onsite runoff collection and landscaping with native plant species to minimize the need for irrigation. Roof drains will daylight into or drain toward landscaped areas. The proposed project will create permeable area where there is none currently. The project represents an improvement over existing water quality conditions at the subject site. Nonetheless, the applicant has not submitted a final water quality management plan. Accordingly, a final plan must be submitted for review and approval prior to permit issuance.

B. DEVELOPMENT

The development is located within an existing developed area and is compatible with the character and scale of the surrounding area. However, the proposed project raises concerns that future development of the project site potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act. To assure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission finds that a future development special condition must be imposed that restricts the allowable land use. As conditioned, the development conforms to the Chapter 3 policies of the Coastal Act.

C. PUBLIC ACCESS

The proposed development, as conditioned, will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities. Therefore, as conditioned, the development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

D. WATER QUALITY

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, reducing runoff through the use of permeable surfaces, the use of non-invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site, and for the use of post-construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms to Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

E. DEED RESTRICTION

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes one additional condition requiring that the property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land to which the site is subject.

F. LOCAL COASTAL PROGRAM

Section 30600(c) 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. Pursuant to Section 30604(a), 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.

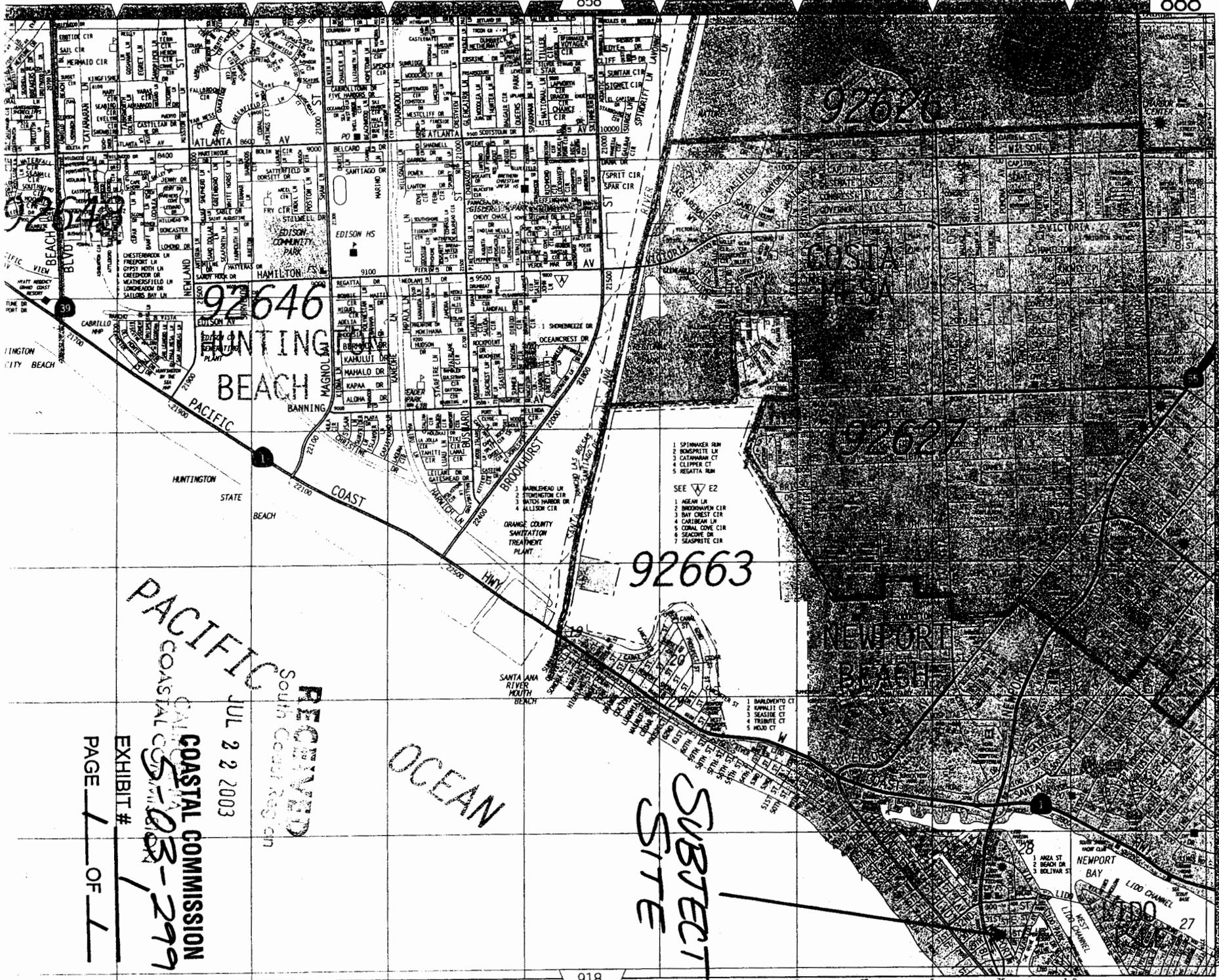
The Newport Beach Land Use Plan (LUP) was effectively certified on May 19, 1982. The proposed development, as conditioned, is consistent with the policies of the certified Land Use Plan and Chapter 3 of the Coastal Act, specifically those relating to land use and public access.

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

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

H:\Staff Reports\Nov03\5-03-299 (29th Street).doc



- SEE E2
- 1. OPTIMIZER RUN
 - 2. BIRCHMISTLE LN
 - 3. CATAPARAN CT
 - 4. CLIPPER CT
 - 5. REGATTA RUN
-
- 1. AEGEAN LN
 - 2. BIRCHMISTLE LN
 - 3. BAY CREST CIR
 - 4. CARIBBEAN LN
 - 5. CORAL COVE CIR
 - 6. SEAGRASS DR
 - 7. SEASPRITE CIR

926-299

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 EXHIBIT # S-03-299

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SUBJECT SITE

5-0-0000

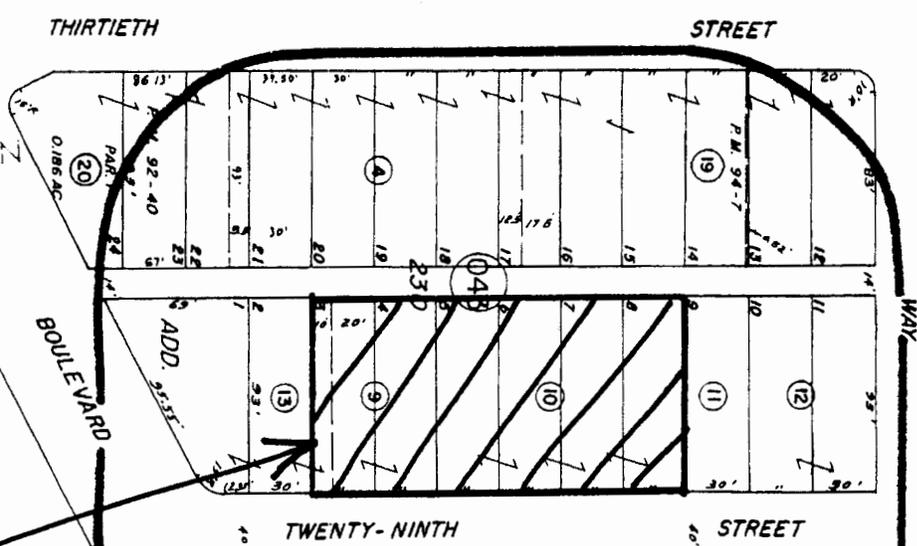
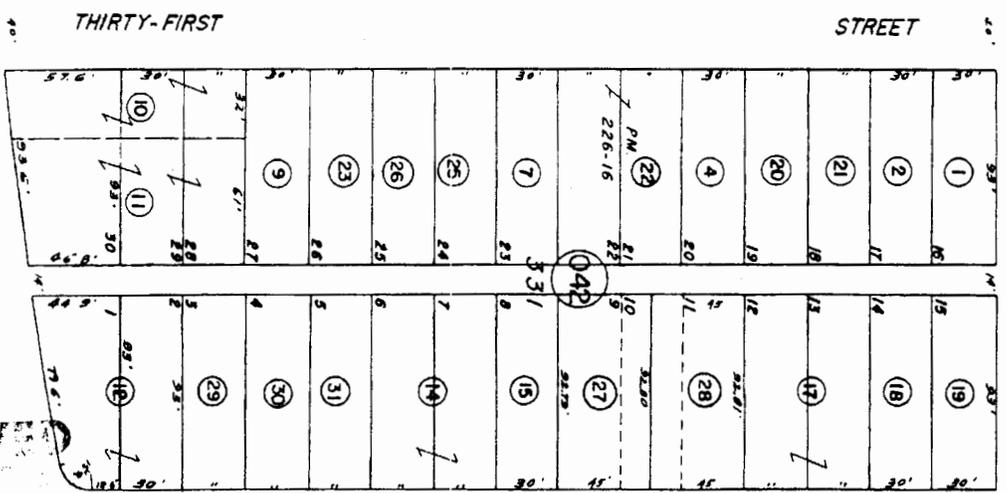
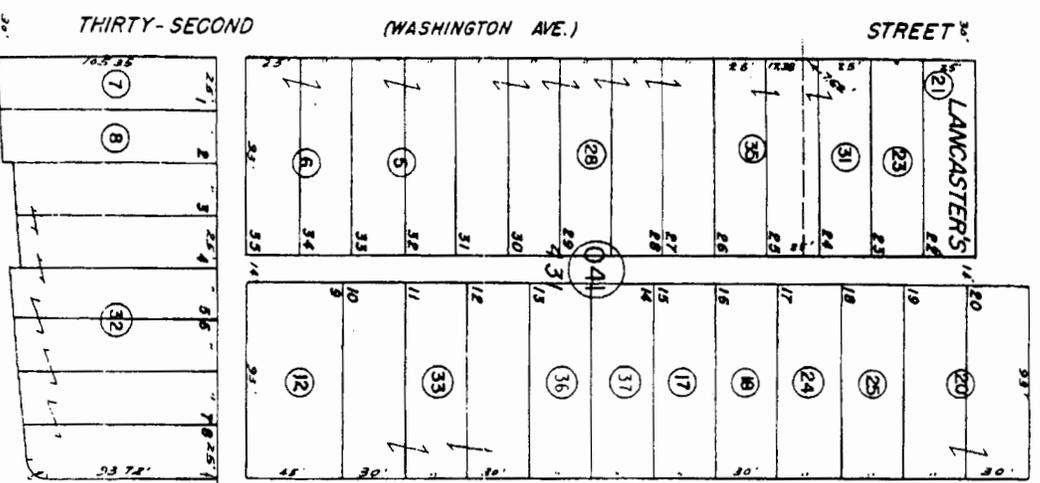
COASTAL COMMISSION
EXHIBIT # 2
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MARCH 1999

LANCASTERS ADD.
PARCEL MAP

M M 5-14
P M 92-40
P M 92-7 (STREET NAME)

NEWPORT



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

ASSESSOR'S MAP BOOK OF 04 COUNTY OF ORANGE

SUBJECT

1" = 60'

THIS MAP WAS PREPARED FOR ORANGE COUNTY ASSESSOR DEPT. PURPOSES ONLY. THE ASSESSOR MAKES NO GUARANTEE AS TO ITS ACCURACY NOR ASSUMES ANY LIABILITY FOR OTHER USES. NOT TO BE REPRODUCED. ALL RIGHTS RESERVED. © COPYRIGHT ORANGE COUNTY ASSESSOR 2000

047-04



1. 5'x8' Drive
 1:1/8" = 1'-0"

2. 5'x8' Drive
 1:1/8" = 1'-0"

3. 5'x8' Drive
 1:1/8" = 1'-0"

4. 5'x8' Drive
 1:1/8" = 1'-0"

5. 5'x8' Drive
 1:1/8" = 1'-0"

COASTAL COMMISSION
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 EXHIBIT # 3
 PAGE 1 OF 7



ARCHITECTURE
 200 Broadway, Suite 2000, Oakland, CA 94612
 (415) 778-1200

OWNER
 29th St. Partners LLC
 425 West 20th Street
 Newport Beach, CA 92660
 (949) 572-0022
 (949) 946-1288 Fax

409-415 29th St.
 Newport Beach, CA 92660

409-415 29th St.
 Newport Beach, CA 92660

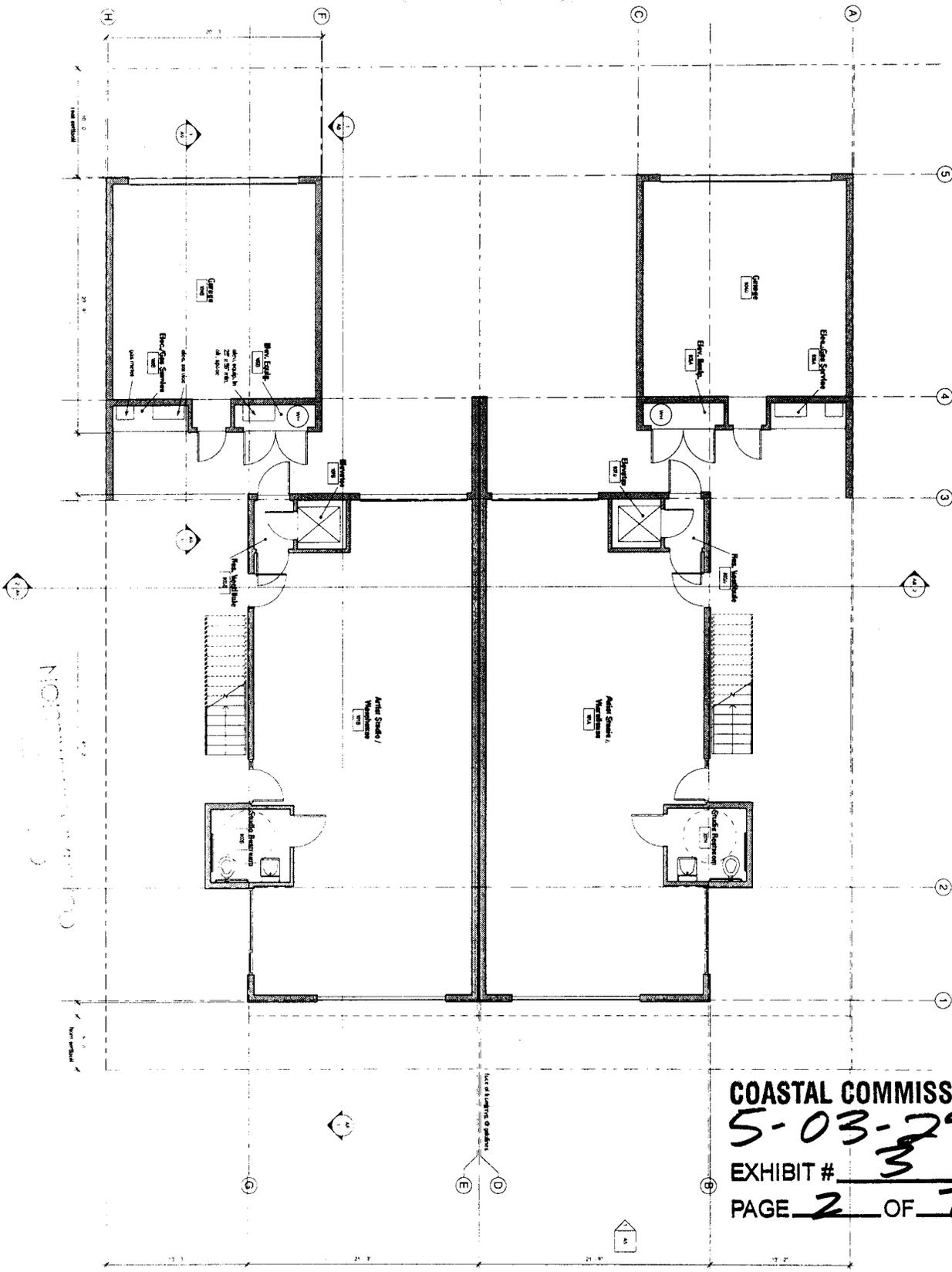
Site Plan

AS

COASTAL COMMISSION
 SOUTH COAST DISTRICT

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First Floor Plan
 1/4" = 1'-0"



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 5-03-299
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A1

First Floor
 Plan

409-415 29th St.
 Newport Beach, CA

409-415 29th St.
 Newport Beach, CA

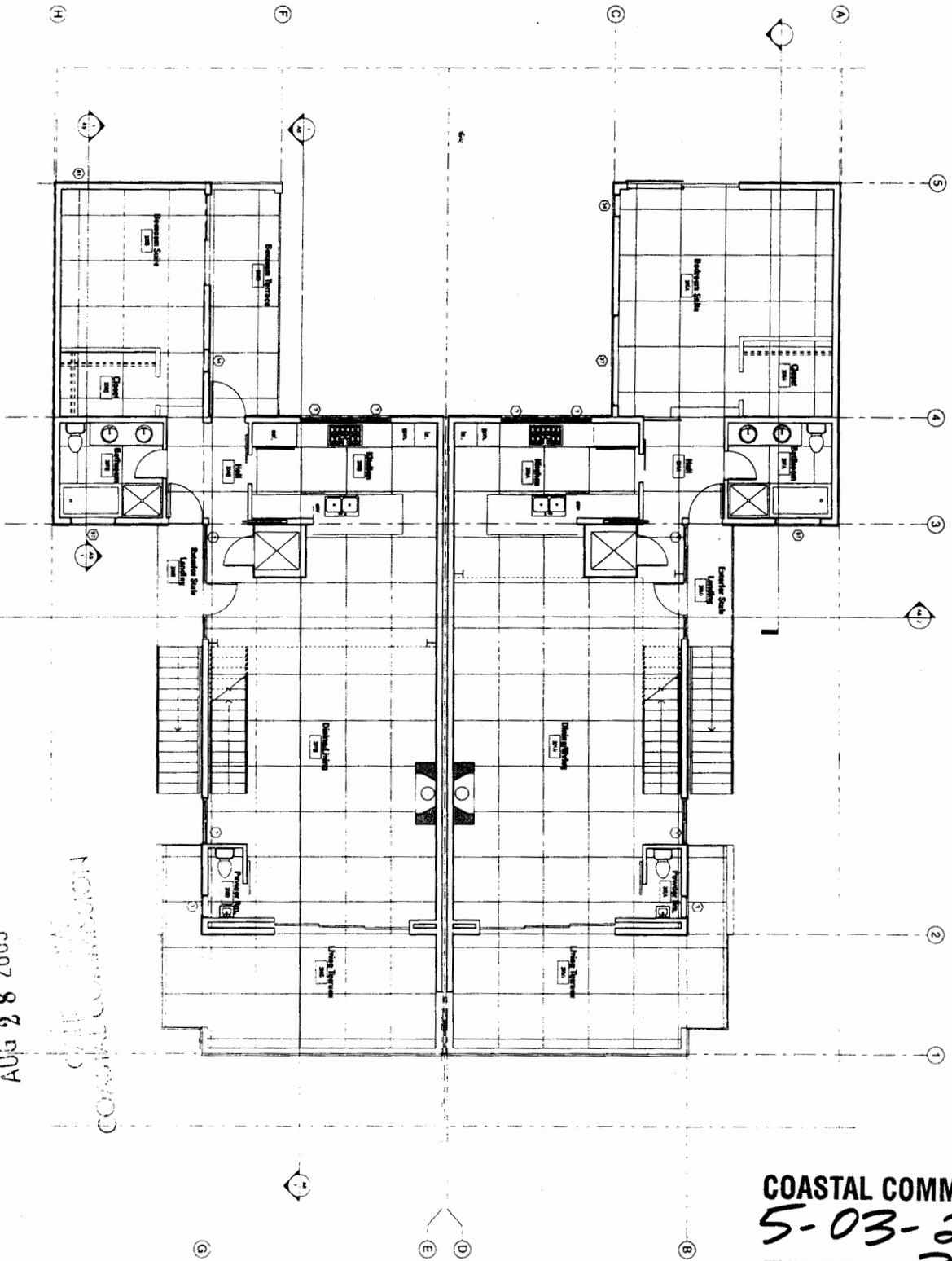
OWNER
 29th St. Partners LLC
 43 West 29th Street
 Newport Beach, CA 92660
 (949) 415-4000
 (949) 415-1000 fax



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 13589
 License No. 13589
 State of California

SA

Second Floor Plan



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A2

Second Floor
Plan

409-415 29th St.
Hempstead Harbor, CA

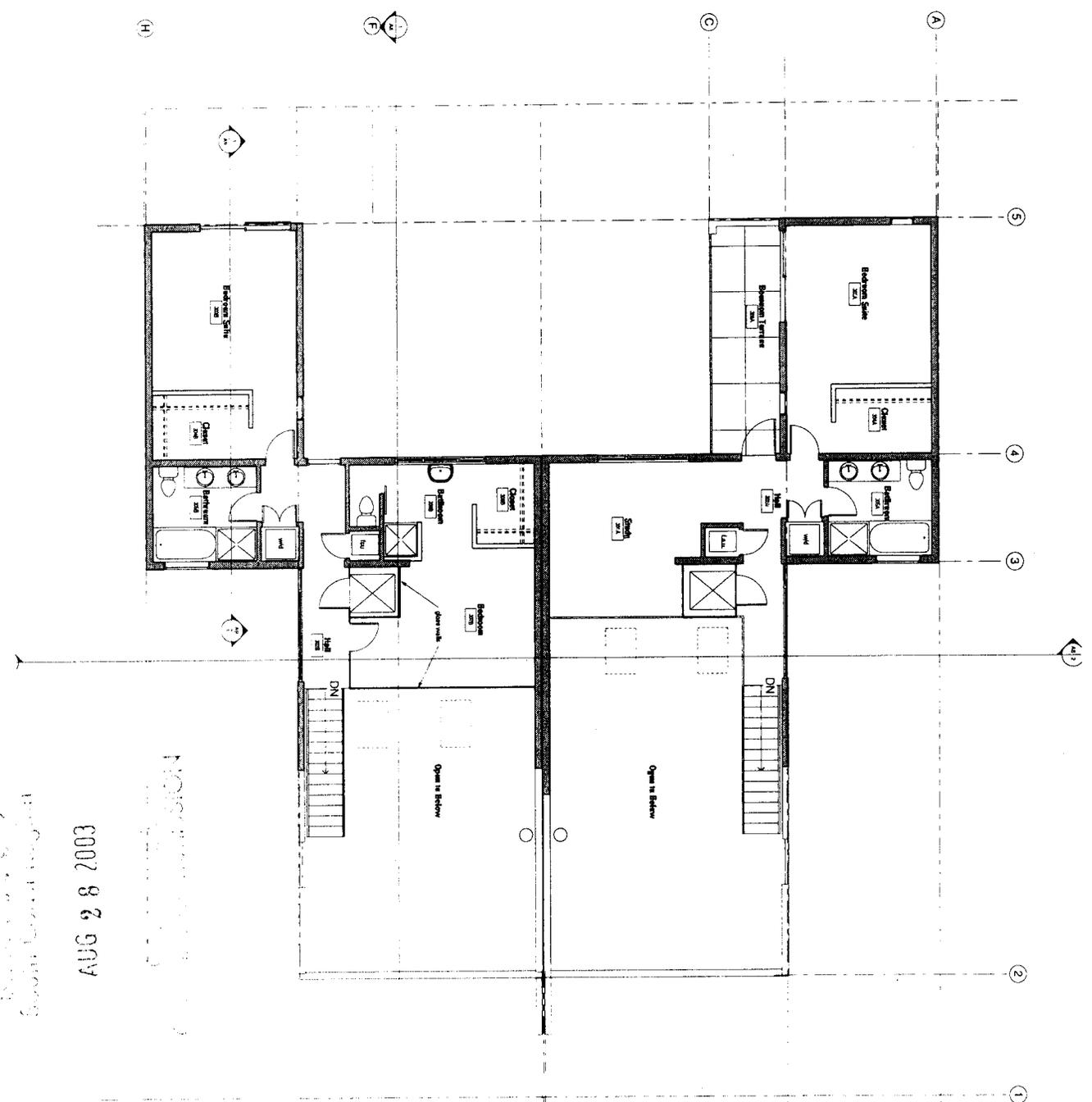
409-415 29th St.

OWNER
29th St. Partners LLC
431 West 29th Street
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5-03-299
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ARCHITECTURE
 2000
 2000



OWNER
 29th St. Partners LLC
 29th St. Partners LLC
 409-415-29th St.
 Newport Beach, CA 92660

409-415-29th St.
 Newport Beach, CA 92660

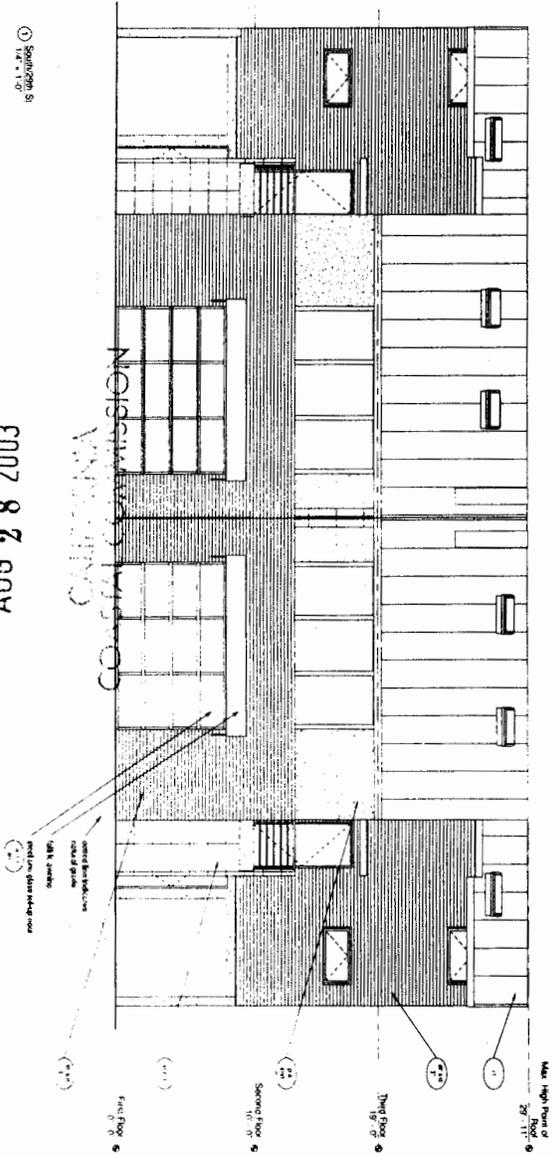
Third Floor
 Plan

A3

RESEARCH
South Coast Region

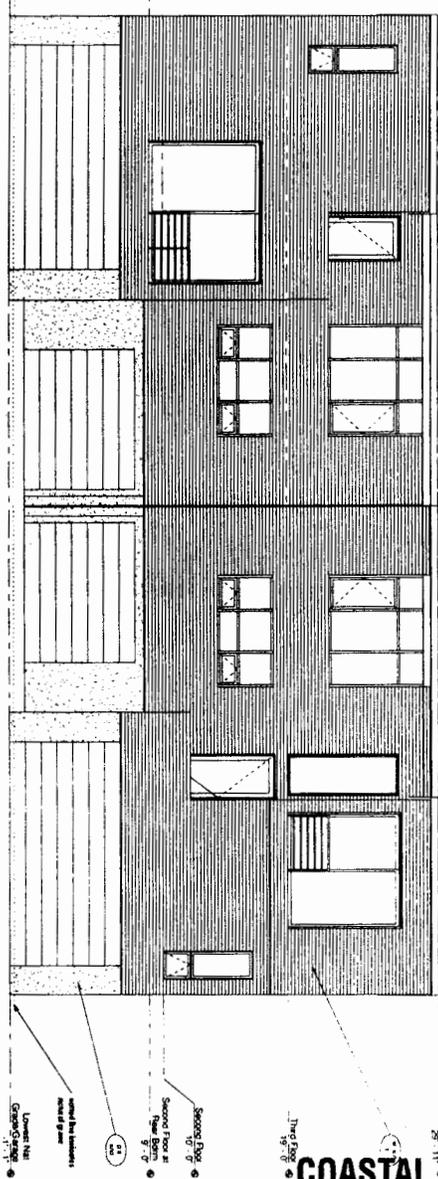
AUG 28 2003

① Southside St
1/4" = 1'-0"



Project	City Planning
Client	City of San Diego
Architect	RESEARCH ARCHITECTURE
Scale	1/4" = 1'-0"
Date	August 28, 2003
Sheet	05

② Northside
1/4" = 1'-0"



Max. High Point of 32' 11 1/2"
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A5

Front and Rear Elevations

409-415 29th St.
San Diego, CA

409-415 29th St.
San Diego, CA

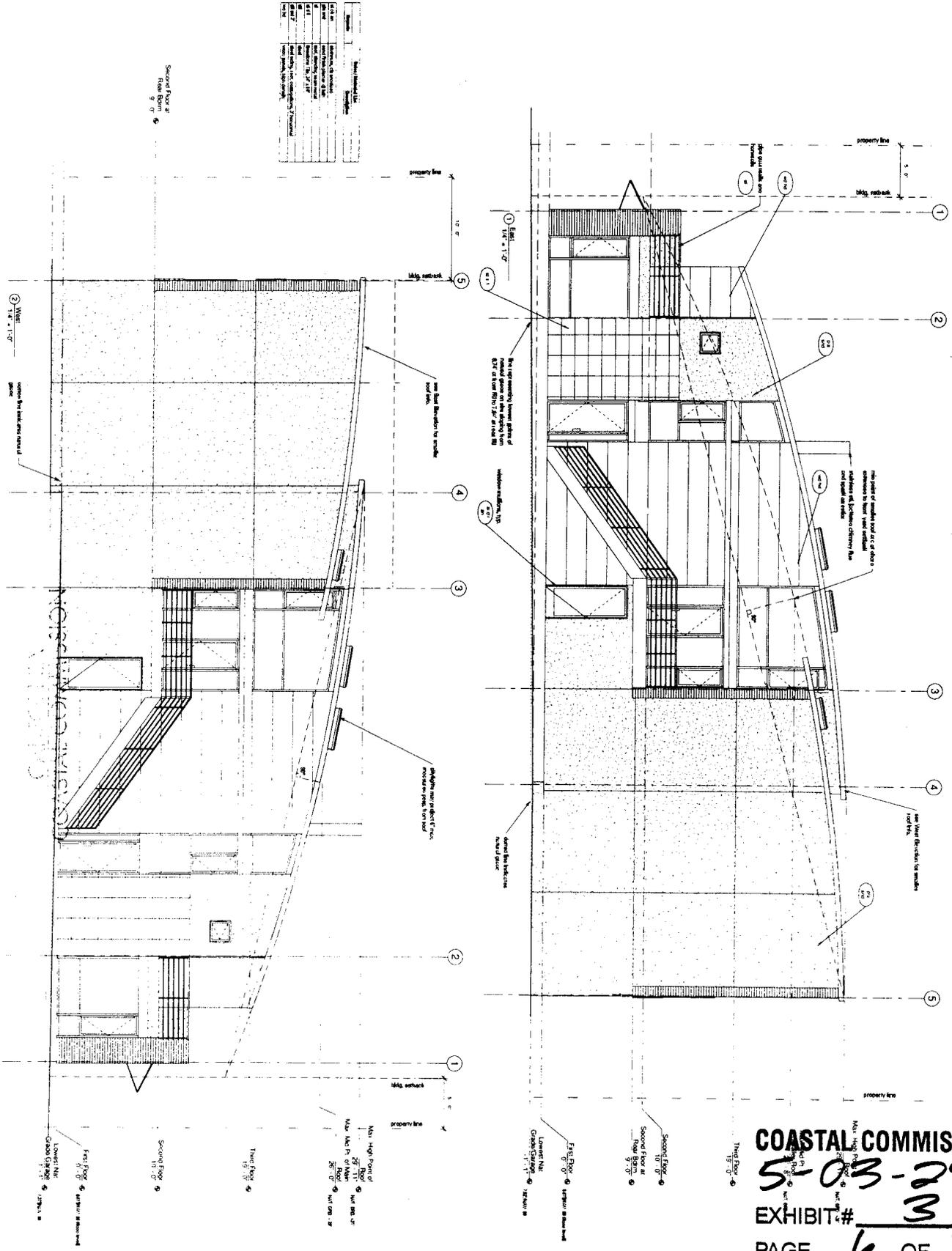
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SA

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SA
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 1234 Main St.
 Charleston, SC 29401
 Phone: 803-123-4567

OWNER
 29th St. Partners LLC
 425 West 29th Street
 Charleston, SC 29401
 Phone: 803-123-4567

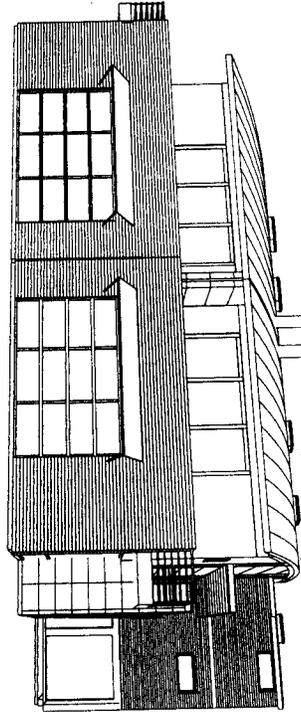
409-415 29th St.
 Charleston, SC 29401

Side
 Elevations

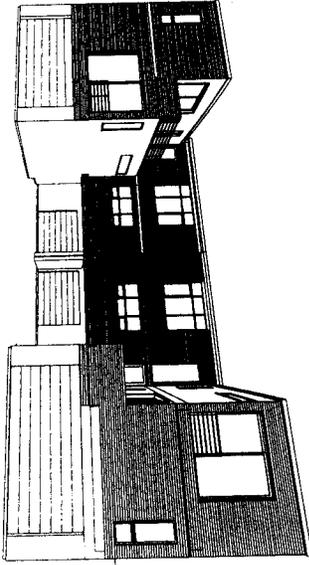
A6

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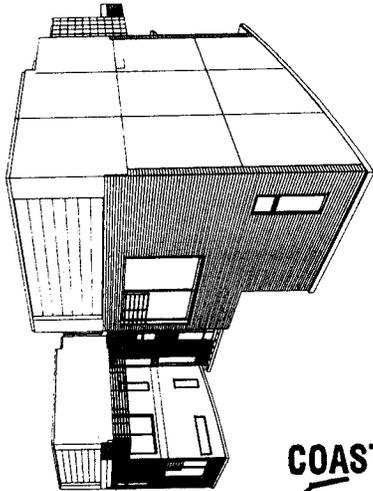
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South Coast Region



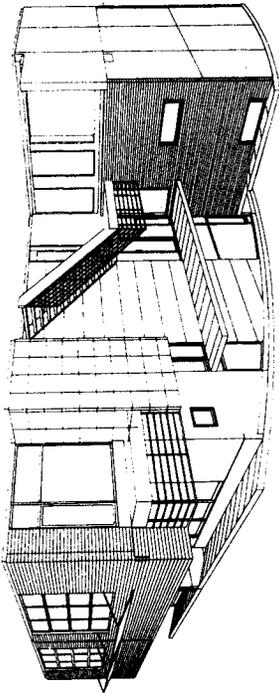
① View from 29th St.



② View from 4th St.



① Aerial View, Corner



② Street View, Corner

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EXHIBIT # 3

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SA



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Beverly Hills, CA 90210

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(949) 562-1200 FAX

409-415 29th St.

409 - 415 29th St.
Newport Beach, CA
92660

Perspective
Views

A7