

**CALIFORNIA COASTAL COMMISSION**

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Staff: MV-LB  
Staff Report: 2/13/03  
Hearing Date: 3/4-7/03  
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NUMBER: 5-02-174

APPLICANT: Erik Anderson

AGENT: Charlie Williams, MSA

PROJECT LOCATION: 2210 Channel, Newport Beach, Orange County

**PROJECT DESCRIPTION:** Demolition of two existing single family residences and construction of a new, two story, 6,881 square foot, 29 foot high at maximum point, single family residence with an attached four car, 887 square foot garage and a 391 square foot basement. In order to accommodate the proposed basement, 148 cubic yards of grading is proposed. Also proposed is a parcel map to combine the multiple existing lots on which the development described above will occur, into a single legal lot.

Lot Area:	9,262 square feet
Building Coverage:	4,186 square feet
Pavement Coverage:	3,205 square feet
Landscape Coverage:	1,871 square feet
Parking Spaces:	4
Zoning:	R-1
Ht above final grade	29 feet

**SUMMARY OF STAFF RECOMMENDATION:**

Staff is recommending approval of the proposed project subject to five special conditions which are necessary to assure that the project conforms with Sections 30230 and 30231 of the Coastal Act regarding water quality, and Section 30253 of the Coastal Act regarding hazard. Special condition No. 1 requires that the basement be designed and constructed consistent with the geotechnical consultant's recommendations. Special condition No. 2 requires that the applicant assume the risk of constructing below groundwater level on a waterfront lot. Special condition No. 3 requires conformance with the geotechnical recommendations. Special condition No.4 notifies the applicant that if the location of the disposal site for the excess cut material and other construction debris is within the coastal zone, a coastal development permit or an amendment to this permit are required before disposal can take place. Special condition No. 5 requires the applicant to record a deed restriction against the property, referencing all of the Special Conditions contained in this staff report.

**LOCAL APPROVALS RECEIVED:** City of Newport Beach, Approval in Concept No. 0314-2002.

**SUBSTANTIVE FILE DOCUMENTS:** Geotechnical Investigation for Foundation Design, prepared by Geofirm, dated March 12, 2002; City of Newport Beach certified Land Use Plan.

**STAFF RECOMMENDATION:**

Staff recommends that the Commission **APPROVE** the permit application as conditioned.

**MOTION:**

*I move that the Commission approve CDP #5-02-174 pursuant to the staff recommendation.*

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

The staff recommends that the Commission adopt the following 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. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
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. Basement Design and Construction

- A. Final design and construction plans for the basement shall be consistent with the geotechnical recommendation which requires that the basement will be designed to resist hydrostatic loading, to accommodate hydraulic uplift forces and to incorporate fail proof waterproofing. **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 for the basement and certified that each of those final plans is consistent with the requirement identified above.
- 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.

#### 2. Assumption of Risk, Waiver of Liability and Indemnity

By acceptance of this permit, the applicant acknowledge and agrees (i) that the site may be subject to hazards due to excavation below ground water level on a water front site; (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.

3. **Conformance of Design and Construction Plans to Geotechnical Information**

- A. All final design and construction plans, including grading, foundations, site plans, elevation plans, and drainage plans, shall be consistent with all recommendations contained in the Geotechnical Investigation prepared by Geofirm, dated March 12, 2002. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, evidence that the geotechnical consultant has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the recommendations specified in the above-referenced geologic evaluation approved by the California Coastal Commission for the project site.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required

4. **Location of Debris Disposal Site**

The applicant shall dispose of all demolition and construction debris resulting from the proposed project at an appropriate location. If the disposal site is located within the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.

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 Description and Location

The applicant proposes to demolish two existing single family residences and construct a new, two story, 6,881 square foot, 29 foot high at maximum point, single family residence with an attached four car, 887 square foot garage and a 391 square foot basement. In order to accommodate the proposed basement, 148 cubic yards of grading is proposed. Also proposed is a parcel map to combine the existing lots, on which development described above will occur, into a single legal lot.

The applicant indicates that the location of the disposal site for the excess cut material is "a certified County disposal site." A special condition is imposed that notifies the applicant that if the disposal site is located within the coastal zone, an amendment to this permit or a new coastal development permit is required.

The subject site fronts on Newport Harbor and is between the first public road and the sea. The nearest public access in the project vicinity is located approximately 100 feet north of the subject site at a small public sandy beach. Public access is also available approximately 2 blocks south of the subject site at the wide sandy public beach that runs the length of the Balboa Peninsula and the Jetty View Park.

##### B. Parcel Map

The proposed project includes lot consolidation and recordation of a new parcel map. The new parcel map is to be recorded to combine two existing lots (23 and 24), a third lot known as the northern half of Lot 22<sup>1</sup>, and two other lots created out of lettered lot "M,"<sup>2</sup> all

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<sup>1</sup> Lot 22 was divided into two separate lots when the northern half of the lot was sold off along with Lot 23, in 1925. However, the two portions were never renumbered. For convenience, this report continues the tradition of referring to the entire area that was originally created as Lot 22 (as part of a 1923 subdivision) as "Lot 22." The portion of Lot 22 subject to this permit is the same portion that was sold with Lot 23 in 1925, and which has technically continued to exist as a separate parcel ever since. Thus, it is its own, separate legal lot, but it is nevertheless referred to herein as the "northern half of Lot 22."

<sup>2</sup> Much in the same way that Lot 22 was divided in two in 1925 (see prior note), it is also true that the area referred to as "Lot M" throughout this report actually comprises multiple, separate lots. Originally, the entire "Lot M area" was created as a single lot, as part of the subdivision of a large parcel of land in the Newport Peninsula area in 1923. However, also as part of that subdivision, 24 separate lots were created adjacent to (and west of) Lot M, along Channel Road (numbered as Lots 2-25 in Block P of Tract 518 – see Exhibit E). As at least some of those lots within Block P were sold off, Lot M was divided up, and "that portion of Lot M" lying directly adjacent to any given numbered lot was sold off *with* the numbered lot. Consequently, the area of Lot M adjacent to Lot 24, for example, has been a separate lot since it was sold off in 1928. The City, however, continues to refer to the entire area that made up Lot M, as it was created in 1923, as "Lot M," and, for convenience, this report does the same.

into a single legal lot. All of the lots underlie the proposed residential and associated development. Proposed development within the portion of Lot M to be consolidated includes hardscape, planters, and a portion of the pool. The lot consolidation is a routine requirement of the City when development crosses lot lines.

The City's certified Land Use Plan (LUP) maps indicate that Lot M, which is adjacent to the harbor, is designated Recreational and Environmental Open Space (REOS). Commission staff brought this to the attention of the applicant and questioned whether including Lot M in the lot consolidation and constructing residential and associated development on it was appropriate. The applicant responded by providing the history of the lots dating back to the 1920s. In addition, City staff provided information as to why they believe their land use map was altered such that the REOS designation was inadvertently and unintentionally shown as applying to Lot M.

In 1989 the Commission approved LUP amendment (LUPA) 1-89 to the City's certified LUP. LUPA 1-89 was a comprehensive update to the LUP, which was originally certified in 1982. As part of the comprehensive update, the amendment replaced the existing black and white LUP maps with new, larger scale, colored maps. The previously certified (prior to the 1989 LUP amendment) LUP maps do not identify Lot M as REOS. In the originally certified maps, there is no land use designation distinction between Lot M and the adjacent residential lots. City staff has indicated that the apparent change in land use designation for Lot M was a mistake caused by the City's new (in 1989) GIS system. Apparently, a small portion of Lot M that is technically a separate legal lot falls within Jetty View Park. The portion in Lot M that falls within the park was and is designated REOS. Perhaps because Lot M was not shown as the separate legal lots that it really is, in preparing the new colored maps, the GIS system did not differentiate between the portion of Lot M that was designated REOS because it was part of the park, and the remainder of Lot M, which was designated Low Density Residential. Instead, the GIS system simply showed the REOS designation as applying to the entire Lot M.

In addition to the background information provided by the City, the applicant has submitted a history of the subject lots dating back to the 1920s. As is explained in detail in footnote 1, the portion of Lot M that abuts residential lots (including the subject lots) was segmented and joined to the adjacent residential lots in approximately 1923. The Lot M segments have been in separate, private ownership since at least that time.

The staff report prepared for LUP Amendment 1-89 acknowledges that the LUP maps are being changed from black and white to larger scale, color maps. LUPA 1-89 did include land use designation changes that are specified in the City's submittal and discussed in the Commission staff report. However, a land use designation change for Lot M is not identified or discussed.

Further, all the evidence appears to indicate that there is no history of public use along Lot M. Long time, existing development within the Lot M vicinity precludes public use. Such development includes bulkheads and private boat docks and ramps. Thus, there is no history of public use in the project vicinity.

Lot M was not identified in LUPA 1-89 as one of the sites subject to a land use designation change. In addition, prior to the 1989 LUP amendment, Lot M was certified as low density residential. Both of these facts support the argument that the change was made in error. As well, there is no history of public use at the site. For these reasons the Commission finds that the proposed lot consolidation of (among others), and residential development on, Lot M, is acceptable.

**C. Water Quality**

Section 30230 of the Coastal Act states:

*Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Section 30231 of the Coastal Act states:

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

1. Site Drainage

The project site fronts on Newport Harbor. Drainage from the site is proposed to be pumped back to the street. However, drainage from the street will enter the City's storm drain system which empties into Newport Harbor (Lower Newport Bay). Newport Bay is on the federal Clean Water Act 303(d) list of "impaired" water bodies. See 33 U.S.C. Section 1313(d). The designation as "impaired" means that water quality within the harbor does not meet State and/or Federal water quality standards designed to meet the 1972 Federal Clean Water Act goal established for this water body. The listing is made by the California Regional Water Quality Control Board, Santa Ana Region (RWQCB), and the State Water Resources Control Board (SWRCB), and confirmed by the U.S. Environmental Protection Agency. Further, the RWQCB has targeted the Newport Bay watershed, which would include Newport Harbor, for increased scrutiny as a higher priority watershed under its Watershed Initiative. Sections 30230 and 30231 of the Coastal Act require the protection of biological productivity, public recreation, and marine resources.

Development adjacent to coastal waters has the potential to impact water quality and marine resources. The bay provides an opportunity for water oriented recreation and also

serves as a home for marine habitat. The coastal recreational activities and the sensitivity of the bay habitat necessitate that water quality issues are addressed during the review of this project.

The proposed residential development has impervious surfaces, such as roofs where pollutants such as particulate matter may settle, as well as driveways where pollutants such as oil and grease from vehicles may drip. During storm events, the pollutants which have collected upon the roof and upon other impervious surfaces created by the proposed project may be discharged from the site into the storm water system and eventually into coastal waters which can become polluted from those discharges. Water pollution results in decreases in the biological productivity of coastal waters.

Typically, water quality impacts to coastal waters can be avoided or minimized by directing storm water discharges from roof areas and other impervious surfaces to landscaped areas where pollutants may settle out of the storm water. In addition, reducing the amount of impervious surface area and increasing pervious areas, allowing water to infiltrate, can improve water quality by decreasing the amount of run-off leaving the site. Also directing runoff to filtration devices such as trench drains when it cannot feasibly be directed to landscaped areas further increases water quality.

The applicant has submitted a grading plan depicting the site drainage. The grading/drainage plan indicates that most of the site drainage will be directed to landscaped areas to the maximum extent feasible. The remaining site drainage will be directed to a pump and pumped to the street. The drainage lines that lead to the pump will be perforated to allow water to permeate through the site as it travels to the pump. In addition, the pump will be connected via perforated pipe to a drainage pit, which will collect overflow, allowing it to permeate back into the site. Thus, as proposed the site drainage will permeate on site to the maximum extent feasible, and untreated runoff from the site will be minimized. Therefore the Commission finds that the project will protect coastal water quality and the related recreational activities, marine resources and biological productivity. Therefore, with regard to site drainage, the Commission finds that the proposed development is consistent with Sections 30230 and 30231 which require that coastal water quality be maintained and enhanced.

## 2. Basement Dewatering

The proposed development includes 148 cubic yards of excavation to accommodate a 375 square foot basement. A Geotechnical Investigation was prepared for the site by Geofirm and is dated March 12, 2002. The Geotechnical Investigation observed a maximum ground water depth of 8.8 feet below grade. The floor of the basement will be located approximately 10 feet below grade, below anticipated groundwater levels. Thus, de-watering will be necessary during construction of the basement. De-watering is not anticipated to be necessary once construction is complete.

Sections 30230 and 30231 of the Coastal Act require that adverse effects from the proposed de-watering on coastal waters and the marine environment be minimized. In order to assure that these adverse effects are minimized, best management practices



(BMPs) must be incorporated into the project. BMPs are used for many reasons including to reduce the magnitude of pollutants introduced into coastal waters.

The proposed de-watering during construction will involve the following measures. The groundwater is proposed to be pumped from screened well points into a desilting tank where suspended solids will be allowed to settle out. From that point the water will gravity flow into an adjacent water storage tank, allowing further settling to occur. Water samples will be taken at that point. Clean water will be pumped either into the storm drain (which ultimately flows into Newport Harbor) or will be pumped directly into the harbor.

In addition, the proposed de-watering project has received approval from the California Regional Water Quality Control Board (RWQCB), Santa Ana Region (see exhibit C). Under the terms of Order No. 98-67, the de-watering project is required to be consistent with Monitoring and Reporting Program No. 98-67-144, which specifies the frequency of sampling and the constituents to be monitored.

The Geotechnical investigation prepared for the proposed project states:

"Groundwater is anticipated above the required construction excavations and the future basement level at all times. Thus dewatering of the site should be anticipated for basement construction and fail proof waterproofing of subgrade construction will be required. Retaining walls must be designed to resist partial hydrostatic loading and the foundation/basement slab will need to be designed to accommodate hydraulic uplift forces. A possible rise in ground water to elevation 8 feet, 6.5+/- feet above the anticipated basement floor elevation, should be considered in hydraulic uplift forces and hydrostatic loading on retaining walls."

If the proposed basement level is designed to resist hydrostatic loading and to accommodate hydraulic uplift forces and fail proof waterproofing is incorporated into the design, as recommended in the Geotechnical Investigation, the likelihood that de-watering may be needed after construction is substantially decreased. If de-watering does not need to occur after construction, the ground water will remain in place, eliminating the need for it to be pumped to the storm drain and ultimately to the ocean. Pumping ground water introduces the possibility of contact with contaminants during the pumping and discharge process. Such contaminants, along with any that may already exist in the ground water, are then discharged into coastal waters. Thus, if pumping is avoided, adverse impacts to coastal waters are minimized.

It appears to be the applicant's intent to construct the basement level as recommended by the geotechnical consultant. However, it is not explicitly stated in the application. Therefore, in order to assure that the basement level is constructed in a manner that will minimize the need for extended de-watering, and thus minimize adverse impacts to coastal waters, a special condition is imposed which requires that the basement level be designed and constructed to resist hydrostatic loading, to accommodate hydraulic uplift forces, and to incorporate fail proof waterproofing, per the geotechnical recommendations. The applicant shall, as a condition of approval, submit evidence that the proposed project has been reviewed and approved by an appropriate licensed professional, indicating that the basement is designed to resist hydrostatic loading, to accommodate hydraulic uplift forces and to incorporate fail proof waterproofing.

Best management practices have been incorporated into the proposed project's de-watering component. These include directing the groundwater to settling tanks prior to discharge, and conformance with the sampling and monitoring requirements of the RWQCB. In addition to these measures, the project has been conditioned to assure that

the basement level will be designed to resist hydrostatic loading, to accommodate hydraulic uplift forces, and to incorporate fail proof waterproofing. This special condition is necessary to minimize the likelihood of future de-watering and associated adverse water quality impacts. Therefore, the Commission finds, that as conditioned, the proposed development is consistent with Sections 30230 and 30231 which require that coastal water quality be maintained and enhanced.

**D. Hazard**

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.*

The subject site is a harbor front lot. The proposed project includes 148 cubic yards of cut to accommodate the proposed basement. Sub-grade excavation that extends below groundwater level on a waterfront lot creates the potential for instability at the site. Section 30253 of the Coastal Act requires that new development assure stability and structural integrity. A site specific Geotechnical Investigation was prepared for the proposed development by Geofirm, dated March 12, 2002. Preparation of the Geotechnical Investigation included review of pertinent geotechnical maps and literature; reconnaissance of the property and nearby areas; excavation and logging of two exploratory borings in order to determine the distribution and character of subsurface materials, the elevation of groundwater, and to obtain bulk soil samples for laboratory testing; and monitoring of groundwater levels to evaluate groundwater response in relation to tidal fluctuation.

The Geotechnical investigation prepared for the proposed project states:

*"Groundwater is anticipated above the required construction excavations and the future basement level at all times. Thus dewatering of the site should be anticipated for basement construction and fail proof waterproofing of subgrade construction will be required. Retaining walls must be designed to resist partial hydrostatic loading and the foundation/basement slab will need to be designed to accommodate hydraulic uplift forces. A possible rise in ground water to elevation 8 feet, 6.5+/- feet above the anticipated basement floor elevation, should be considered in hydraulic uplift forces and hydrostatic loading on retaining walls."*

Regarding the feasibility of the proposed project the Geotechnical Investigation concludes:

*"Development of the property for proposed construction is considered geotechnically feasible and safe if the recommendations of this report are followed in design, construction, and long-term maintenance of the property."*

The geotechnical consultant has found that the proposed development is feasible provided the recommendations contained in the Geotechnical Investigation prepared by the consultant are implemented in design and construction of the project. The geotechnical recommendations address grading, removal of existing improvements, compaction standards, acceptable construction slopes, structural design of foundations, structural design of retaining walls, monitoring, dewatering, concrete, seismic design, hardscape design, utility trench backfill, foundation plan review, observation and testing, and jobsite safety. 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 the applicant shall submit grading and foundation plans indicating that the recommendations contained in the Geotechnical Investigation prepared by Geofirm, dated March 12, 2002, have been incorporated into the design of the proposed project.

In addition, the Commission imposes a special condition which makes the applicant and any future owners aware of the inherent risk involved with excavation below ground water level on waterfront lots.

The Commission finds that only as conditioned as described above, can the proposed development be found to be consistent with Section 30253 of the Coastal Act. As conditioned, the Commission finds the proposed development is consistent with Section 30253 of the Coastal Act which requires that risks be minimized and geologic stability be assured.

**E. Public Access & Recreation**

Section 30604(c) of the Coastal Act requires that every coastal development permit issued for any development between the nearest public road and the sea include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3.

The subject site fronts on Newport Harbor and is between the first public road and the sea. The nearest public access in the project vicinity is located approximately 100 feet north of the subject site at a small public sandy beach. Public access is also available approximately 2 blocks south of the subject site at the wide sandy public beach that runs the length of the Balboa Peninsula, and at Jetty View Park. The proposed development, as conditioned, will not result in any significant adverse impacts to existing public access or recreation in the area. Therefore the Commission finds that the project is consistent with the public access and recreations policies of the Coastal Act.

**F. 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 including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

**G. Local Coastal Program**

Section 30604(a) 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.

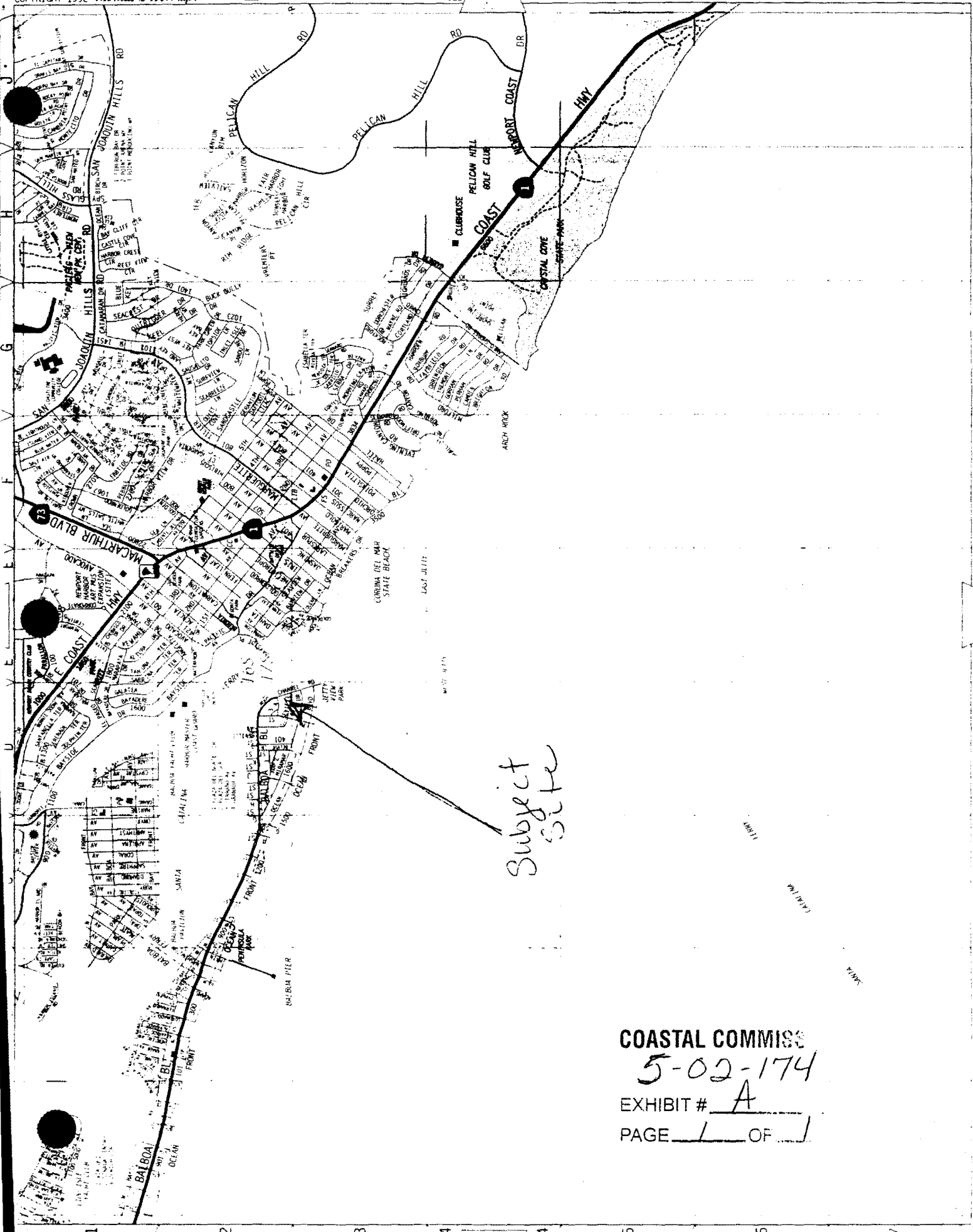
The Newport Beach Land Use Plan was effectively certified on May 19, 1982. The City currently has no certified Implementation Plan. Therefore, the Commission issues CDP's within the City based on the development's conformance with the Chapter 3 policies of the Coastal Act. The LUP policies may be used for guidance in evaluating a development's consistency with Chapter 3.

As conditioned the proposed development is consistent with 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 (Implementation Plan) for Newport Beach that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

**H. 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 proposed project as conditioned has been found consistent with the water quality, public access, and hazard policies of the Coastal Act. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.



Subject Site

COASTAL COMMISS  
 5-02-174  
 EXHIBIT # A  
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CITY OF NEWPORT BEACH

PLANNING DEPARTMENT  
3300 NEWPORT BOULEVARD  
NEWPORT BEACH, CA 92658  
(949) 644-3200; FAX (949) 644-3229

RECEIVED  
AUG 19 2002  
COMMUNITY DEVELOPMENT

July 31, 2002

California Coastal Commission  
South Coast Area Office  
200 Oceangate, 10<sup>th</sup> Floor, Suite 1000  
Long Beach, California 90802

ATTN: *Meg Vaughn*

Re: Application CDP 5-00-179 for Parcel Map No. NP2002-005  
2210 Channel Road

The City of Newport Beach has approved in concept the plans for the project listed above. This project is in full compliance with the Zoning Code (Districting Map 12, Exhibit A), the Land Use Element of the General Plan (Exhibit B) and the Land Use Plan of the Local Coastal Program (see discussion below). This includes the approval of the lot line adjustment to combine existing lots that include Lot M of Tract 518.

Public Works Department has researched Lot M and found that the City has not established Lot M for any future easement or public right-of-way. As far as can be determined, there are no proposals to establish that lot for any City use and the City has no intention of acquiring any portion of Lot M for public use. Additionally, there are no deed restrictions or reservations for future dedication placed on any portion of Lot M to that effect.

Marina Marrelli of our office researched Metroscan (our interface w/Orange County Assessor) and it shows that portions of Lot M have all been included with the adjacent residential lots along Channel Road.

The Land Use Element of the City of Newport Beach General Plan and Title 20 of the Municipal Code (Zoning Code) show that the residential lots with attached portions of Lot M are all zoned and designated R-1 (Exhibit A). I have enclosed an aerial photo (Exhibit C) showing 2210 Channel.

It appears that the Local Coastal Program (LCP) Map Page I 10 and J-10 (Exhibits D and E) that you refer to is erroneous since it shows Lot M as Recreational and Environmental Open Space (REOS) and extends down the peninsula along the front of the residential lots at the water side. This is not consistent with the R-1 District designation on Districting Map 12 (Excerpt from the 1943 edition of the Zoning Ordinance, Map 12 Exhibit F) or the Land Use Element designation of single-family detached land use (Exhibit B).

The LCP Map Book was produced by our -at that time- fledgling GIS (Geographic Information Systems) Department. The information in the database that generated the maps was transcribed from hand colored Land Use Maps pages G-13 and H-12 (Exhibits G and H). These hand colored maps were the root of the LCP Maps.

However, the colored map H-12 was erroneous since it did not completely show Lot M as Zoned R-1, as established by Districting Map No. 12 (Excerpt of 1998 edition of the

**COASTAL COMMISSION**

*5-02-174*

EXHIBIT # *B*

PAGE *1* OF *2*

Zoning Code, Exhibit A). LCP Map G-13 shows the Lot M areas adjacent to R-1 lots as R-1 (colored yellow), consistent with Districting Map 12. However, LCP Map H-12, the adjacent map page (where 2210 Channel Road is located), does not show any color on the extension of Lot M and is not consistent with Districting Map 12. It should have been yellow to be consistent with Districting Map 12. It is obvious to me that the intent was to continue the yellow up to Peninsula Point Park that is zoned R-1 on Districting Map 12 and designated Open Space on the Land Use Element of the General Plan and the LCP Map J-10.

A small portion of Lot M is within the Peninsula Point Park, but the entire Lot M was somehow depicted as one lot. Therefore since the GIS system could not shade just a portion of a polygon, the entire polygon (Lot M) was shaded green instead of yellow adjacent to the R-1 lots south of Peninsula Point Park. In the preparation of the LCP Map Book adopted on October 24, 1988 containing 78 pages, that discrepancy was not caught. It is possible that there may be other sites that have the same problem but have not come to light.

It is the City's intent to rectify the discrepancy with the upcoming LCP certification. However, in the interest of preserving the intent of the Land Use Element and recognizing that the description on the LCP map is erroneous because it is not consistent with Districting Map 12, we ask that the Coastal Commission take this information into consideration in its review of the parcel map referenced above.

Sincerely,

*Patricia L. Temple*

Patricia Temple  
Planning Director

Enclosures: Exhibit A, Current Districting Map-1998 Zoning Ordinance  
Exhibit B, Land Use Element of the General Plan  
Exhibit C, 2210 Channel Road aerial photo  
Exhibit D, LCP Map Page No. J10  
Exhibit E, LCP Map Page No. J10  
Exhibit F, Districting Map 12-1943 Zoning Ordinance  
Exhibit G, Land Use Map Page No. G-13  
Exhibit H, Land Use Map Page No. H-12

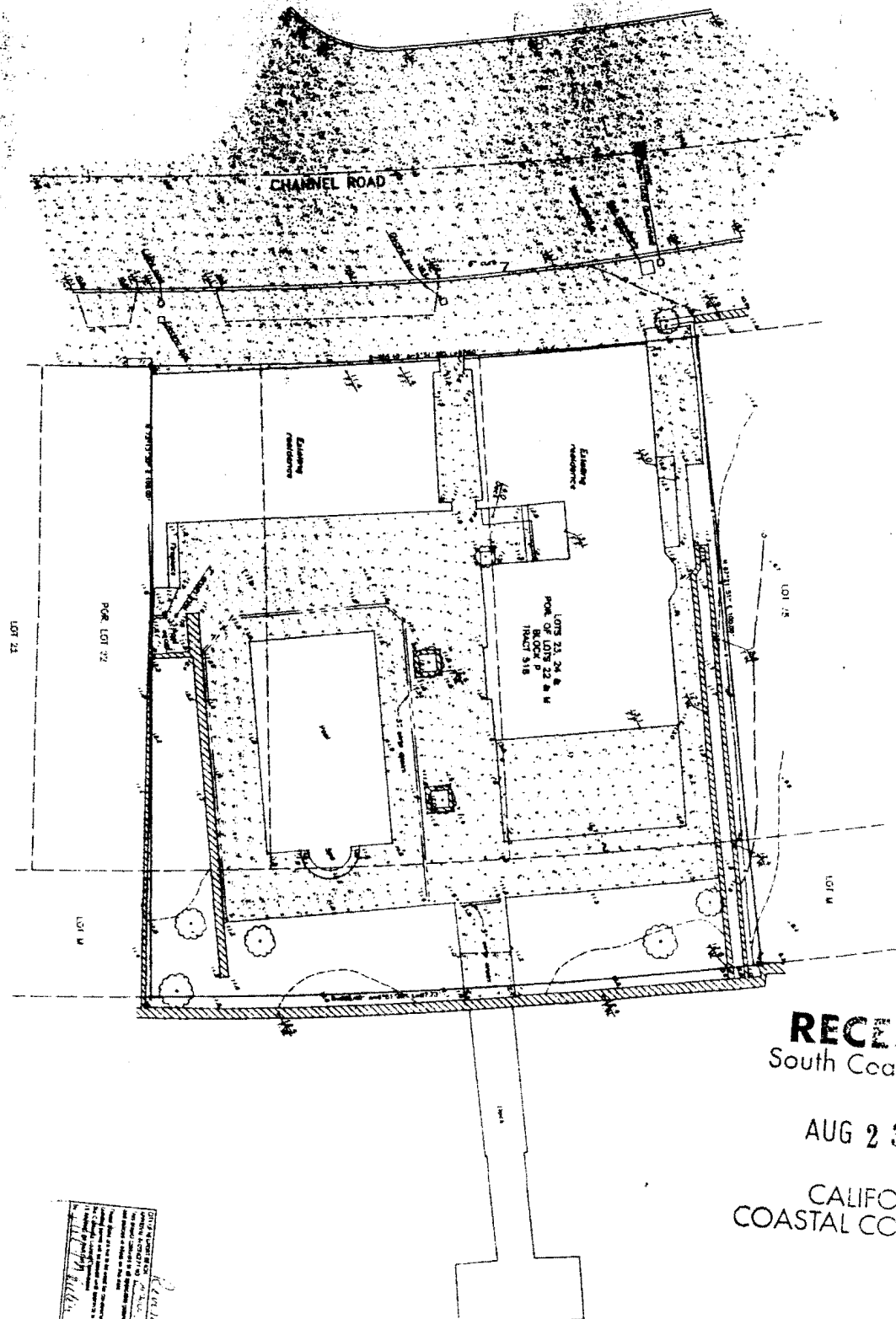
cc: Charlie Williams  
Morris Skendarian & Associates  
2094 South Coast Highway, #3  
Laguna Beach, CA 92651

F: USERS PLN Shared 2LETTERS 2210 Channel-CCC.doc

*without  
enclosures  
P2*







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EXISTING  
TO BE  
DEMOLISHED



C2



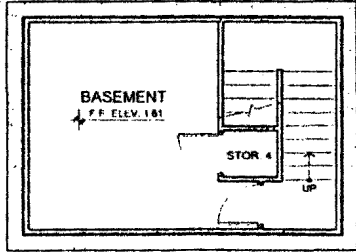
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DATE: 10/10/01  
BY: [Signature]  
CHECKED: [Signature]  
SCALE: AS SHOWN  
PROJECT: TRACT 518, NEWPORT BEACH, CALIFORNIA

NO.	DATE	DESCRIPTION	BY	CHECKED
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2				
3				

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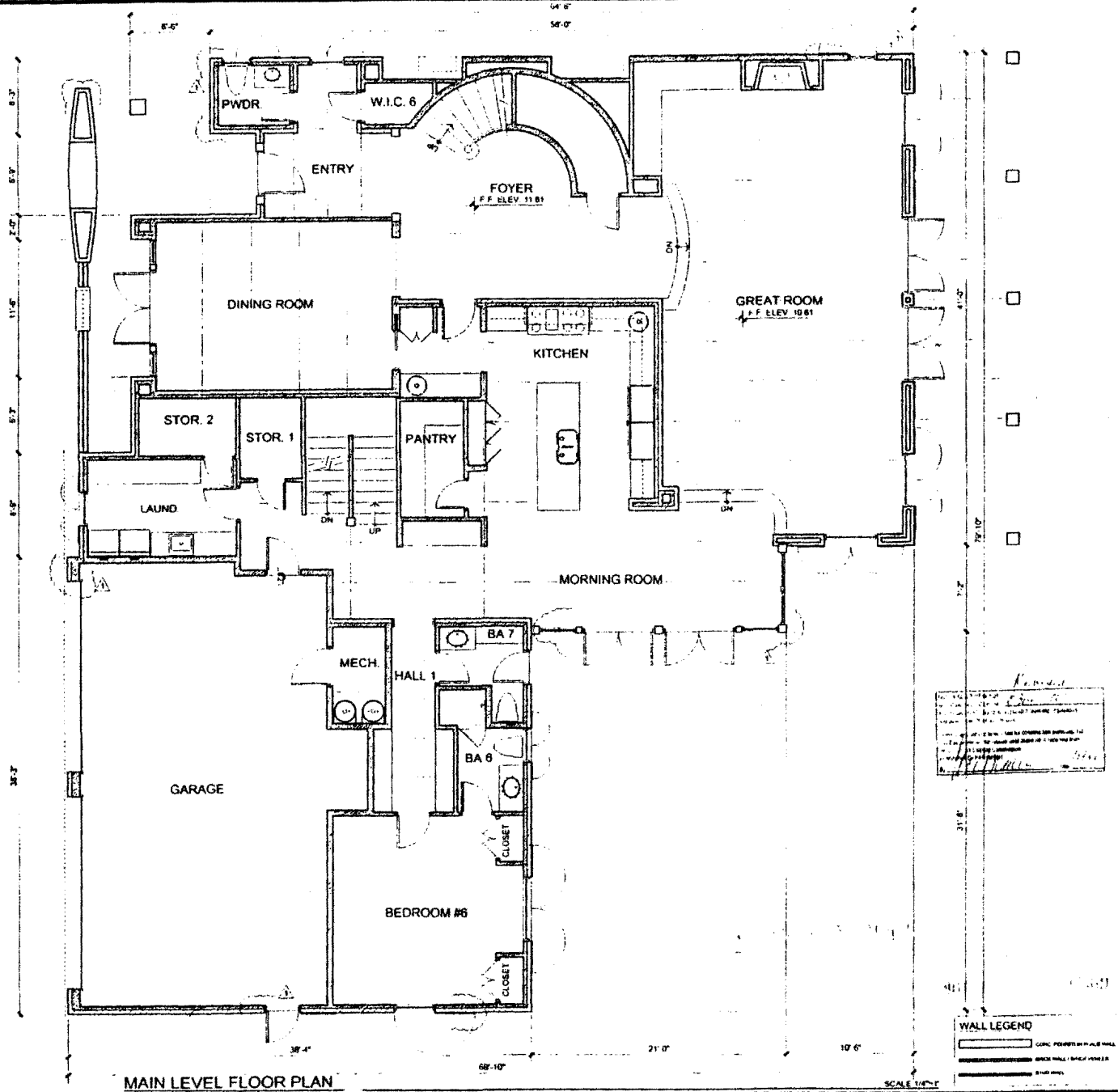
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COASTAL COMMISSION



BASEMENT LEVEL FLOOR PLAN

SCALE 1/4"=1'



MAIN LEVEL FLOOR PLAN

SCALE 1/4"=1'

**WALL LEGEND**

[Symbol]	GLAZED PARTITION WALL
[Symbol]	GLAZED WALL / GLASS PARTITION
[Symbol]	STAIR WALL

*Handwritten notes and signatures:*  
 Approved by [Signature]  
 Date: 8/23/02  
 [Signature]

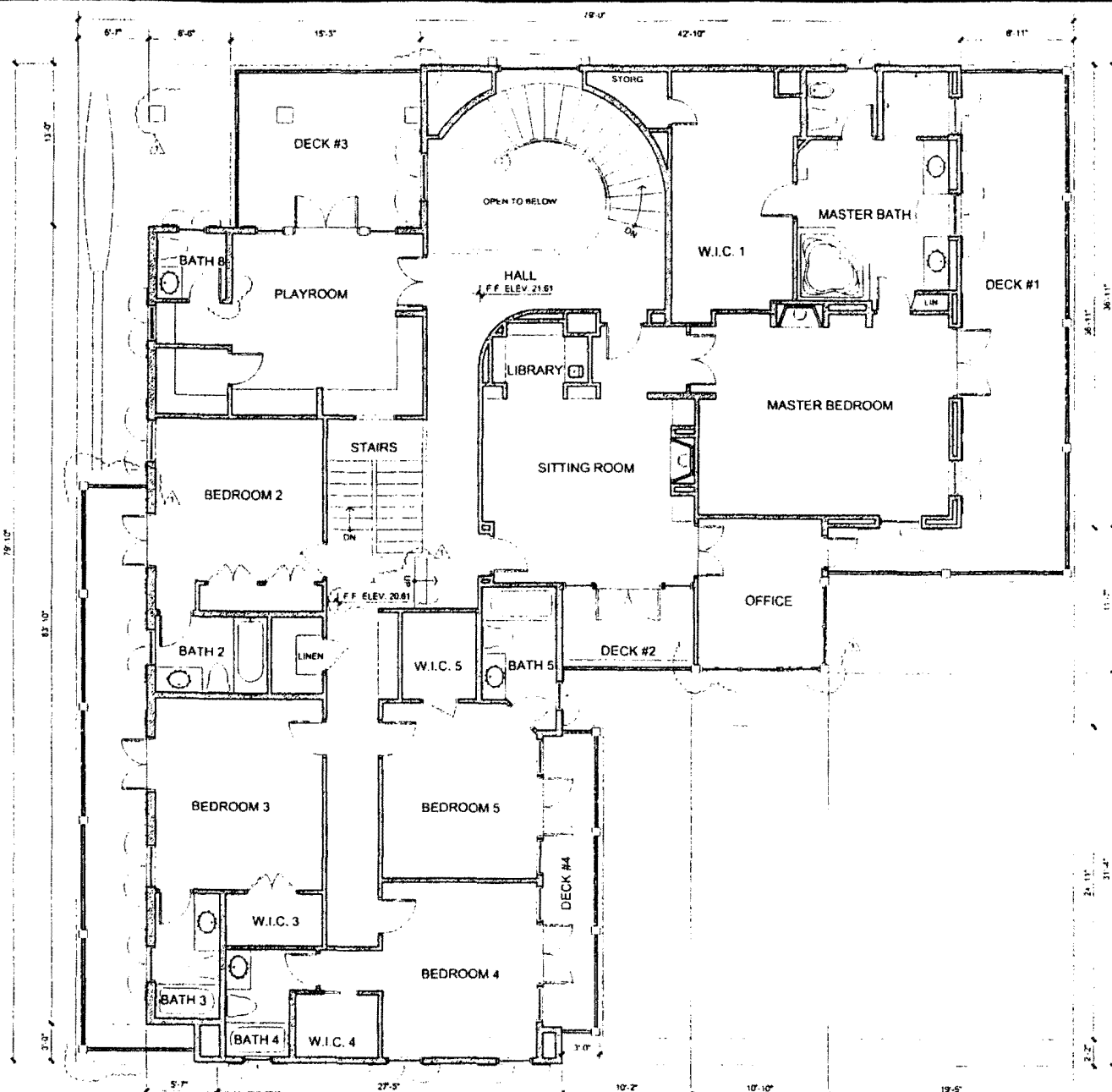
REVISION	BY
1.14 REV. REVISION	CW
9/2/02	



MSM  
Morris Construction  
& Architecture, Inc.

**ANDERSON RESIDENCE**  
2210 CHANNEL ROAD  
NEWPORT BEACH, CA

Drawn	LW
Checked	GL
Date	2/20/02
Scale	1/4"=1'
Sheet No.	0123
Project	A-1



UPPER LEVEL FLOOR PLAN

SCALE 1/4"=1'-0"

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COASTAL COMMISSION

APPROVED FOR CONSTRUCTION

WALL LEGEND

[Symbol]	CONCRETE WALL
[Symbol]	BRICK WALL
[Symbol]	STUCCO WALL

REVISION	BY
1. CLIENT REVISIONS 5/22/02	OW



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**ANDERSON RESIDENCE**  
2210 CHANNEL ROAD  
NEWPORT BEACH, CA

DATE FOR CONSTRUCTION  
SCALE 1/4"=1'-0"  
DATE 8/23/02  
A-2

CS

NO.	REVISION
1	REVISED PER COMMENTS ON 2/20/02



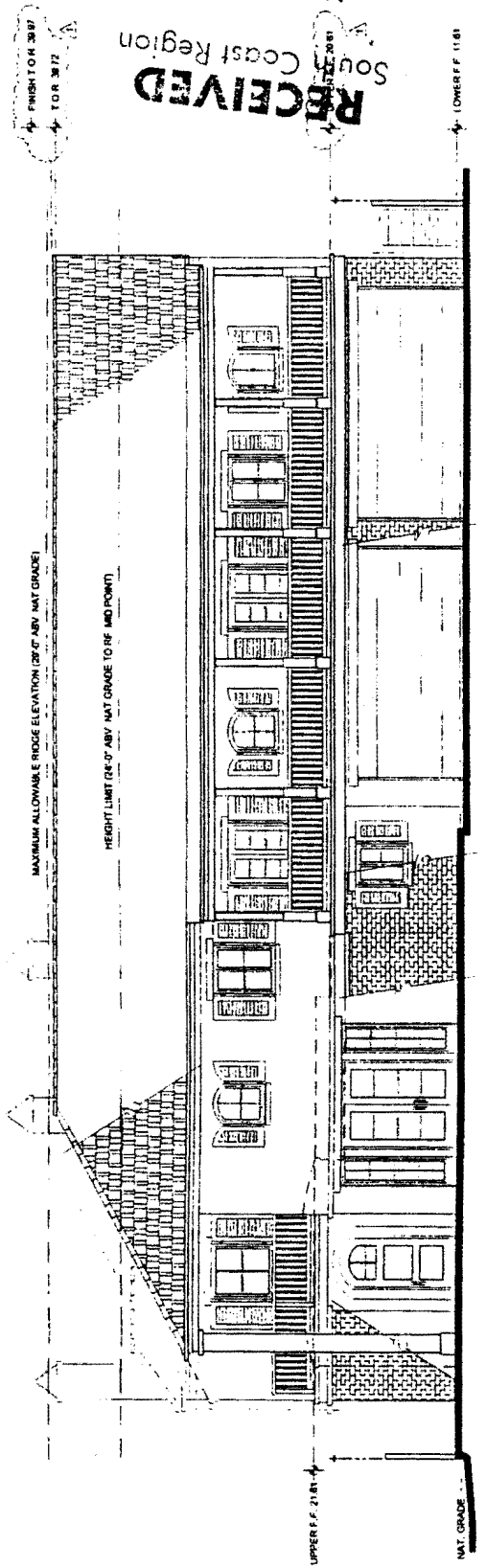
**WSVA**  
 ARCHITECTS  
 15410 BAYVIEW AVENUE  
 NEWPORT BEACH, CA 92659  
 TEL: 949.461.1111  
 FAX: 949.461.1112  
 WWW.WSVA.COM

**ANDERSON RESIDENCE**  
 2210 CHANNEL ROAD  
 NEWPORT BEACH, CA

DATE	10/20/01
DRAWN BY	JACOB
CHECKED BY	JACOB
SCALE	1/4" = 1'-0"
DATE	10/20/01
NO.	1

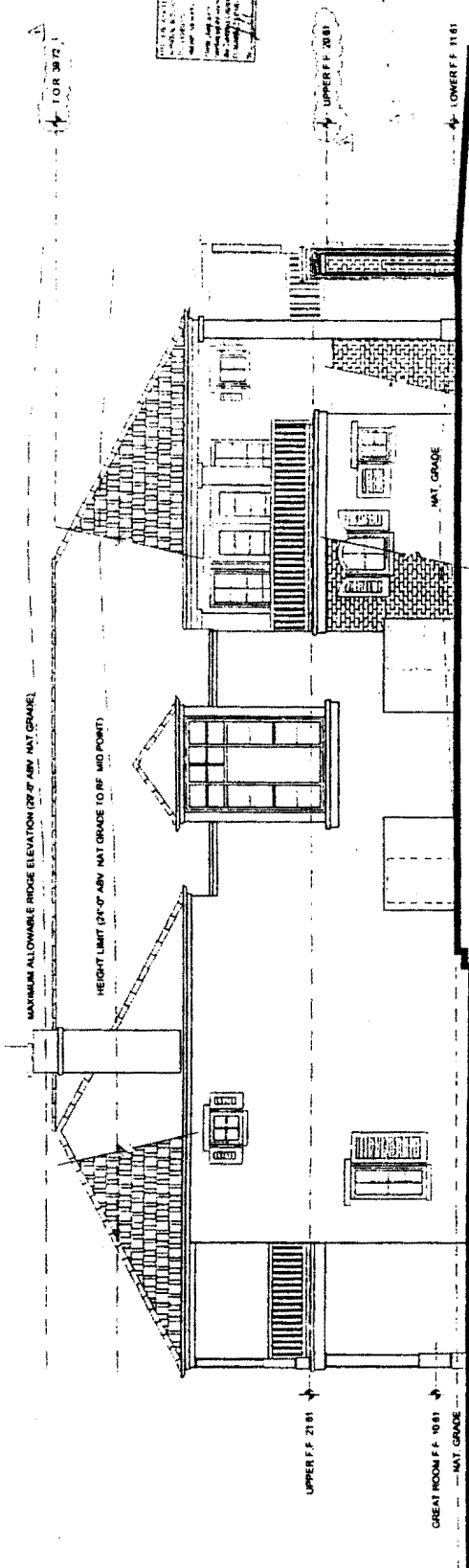
A-3

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 CALIFORNIA  
 COASTAL COMMISSION



**NORTH ELEVATION (FRONT)**

SCALE 1/4" = 1'-0"



**EAST ELEVATION (LEFT SIDE)**

SCALE 1/4" = 1'-0"

DATE: 10/20/01  
 DRAWN BY: JACOB  
 CHECKED BY: JACOB  
 SCALE: 1/4" = 1'-0"  
 DATE: 10/20/01  
 NO.: 1

MAXIMUM ALLOWABLE RIDGE ELEVATION (29'-0" ABV. NAT GRADE)

HEIGHT LIMIT (24'-0" ABV. NAT GRADE TO RF. MID POINT)

UPPER F.F. 20.81

LOWER F.F. 11.81

T.O.R. 37.2

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SOUTH ELEVATION (REAR)

SCALE 1/4"=1'

MAXIMUM ALLOWABLE RIDGE ELEVATION (29'-0" ABV. NAT GRADE)

HEIGHT LIMIT (24'-0" ABV. NAT GRADE TO RF. MID POINT)

UPPER F.F. 20.81

LOWER F.F. 11.81

T.O.R. 39.7

APPROVED FOR CONSTRUCTION BY  
DATE: 08/23/02  
PROJECT: 2210 CHANNEL ROAD  
NEWPORT BEACH, CA  
FOR: [Signature]  
BY: [Signature]

UPPER F.F. 21.61

GREAT ROOM F.F. 10.81

WEST ELEVATION (RIGHT SIDE)

SCALE 1/4"=1'

SYMBOL	DESCRIPTION
1	CLIENT APPROVALS
2	DATE
3	BY
4	DATE
5	BY
6	DATE
7	BY
8	DATE
9	BY
10	DATE



ANSA  
Architectural & Associates AIA

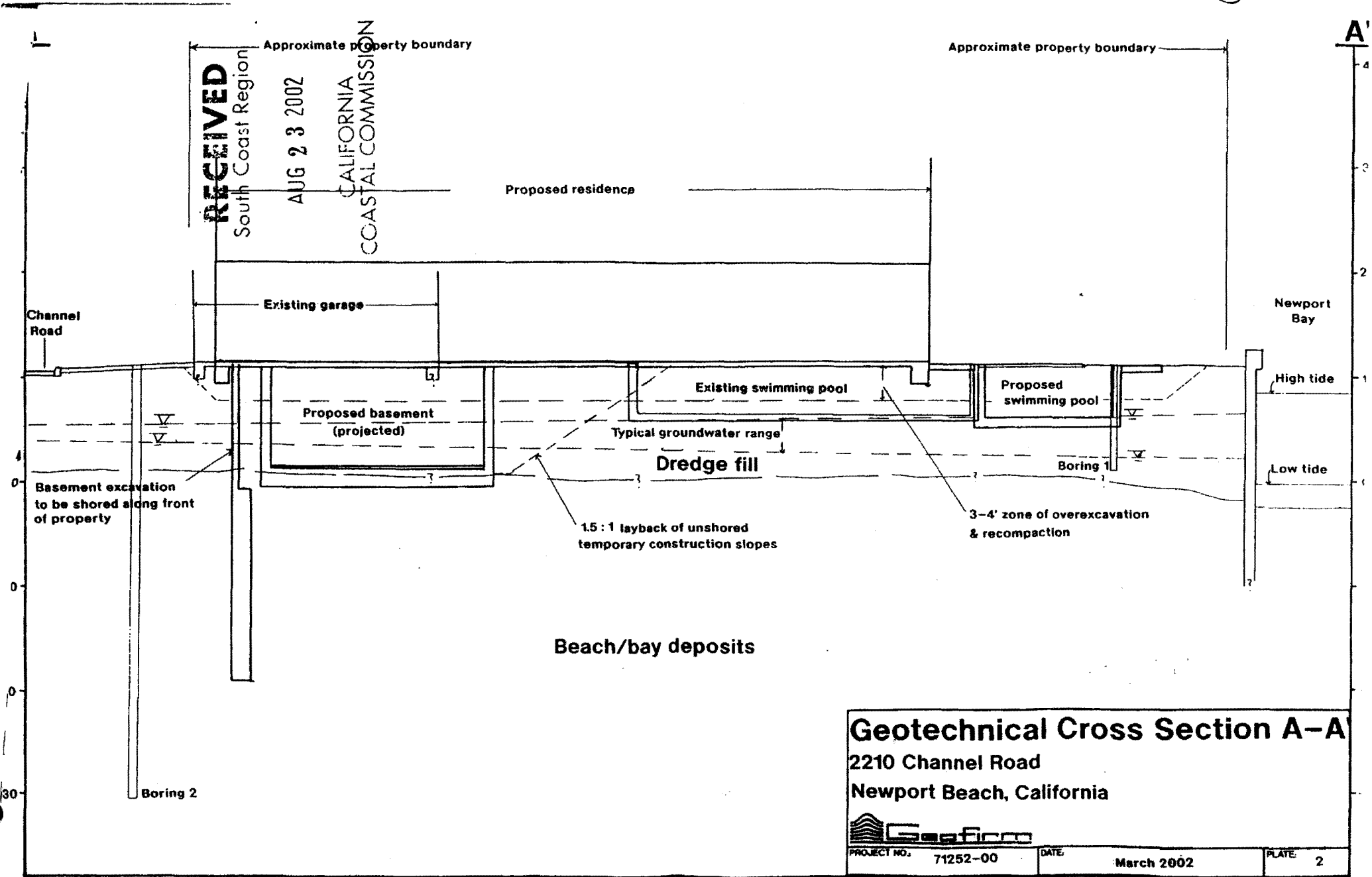
By the undersigned, I hereby certify that the above information is true and correct to the best of my knowledge and belief, and that I am a duly licensed architect in the State of California.

ANDERSON RESIDENCE  
2210 CHANNEL ROAD  
NEWPORT BEACH, CA

1	DATE
2	BY
3	DATE
4	BY
5	DATE
6	BY
7	DATE
8	BY
9	DATE
10	BY

A-4

C7



### Geotechnical Cross Section A-A

2210 Channel Road  
Newport Beach, California



PROJECT NO.	71252-00	DATE	March 2002	PLATE	2
-------------	----------	------	------------	-------	---

SCALE: 1" = 8'

N67E

18



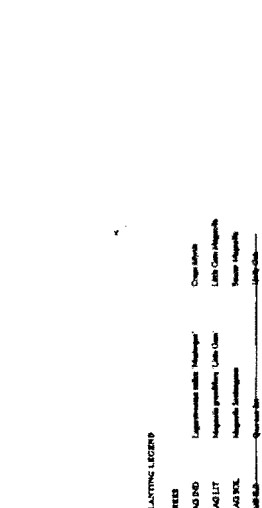
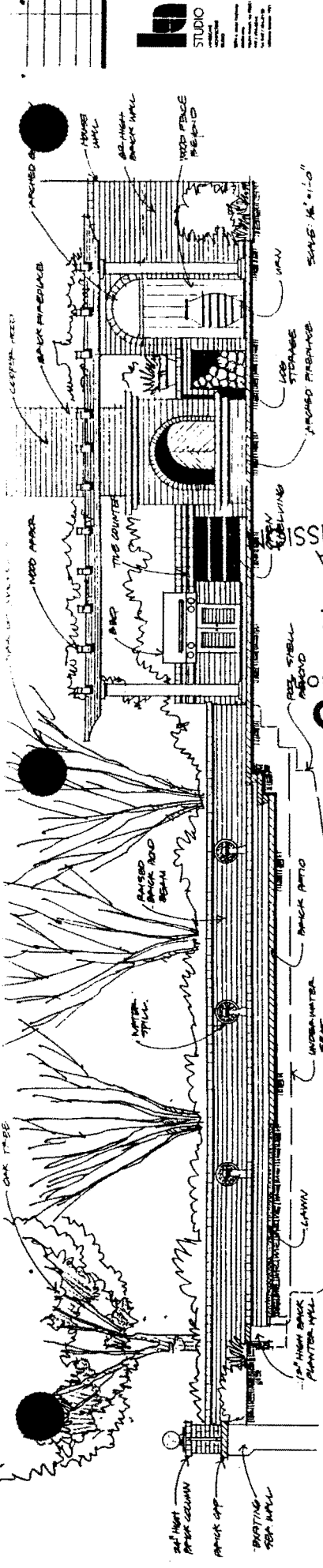
STUDIO 16  
ARCHITECTS  
1130 18TH AVENUE  
NEWPORT BEACH, CA 92660  
TEL: 949 451-4000  
WWW.STUDIO16ARCHITECTS.COM

ANDERSON RESIDENCE  
2210 CHANNEL ROAD  
NEWPORT BEACH, CA

PRELIMINARY  
LANDSCAPE  
PLAN

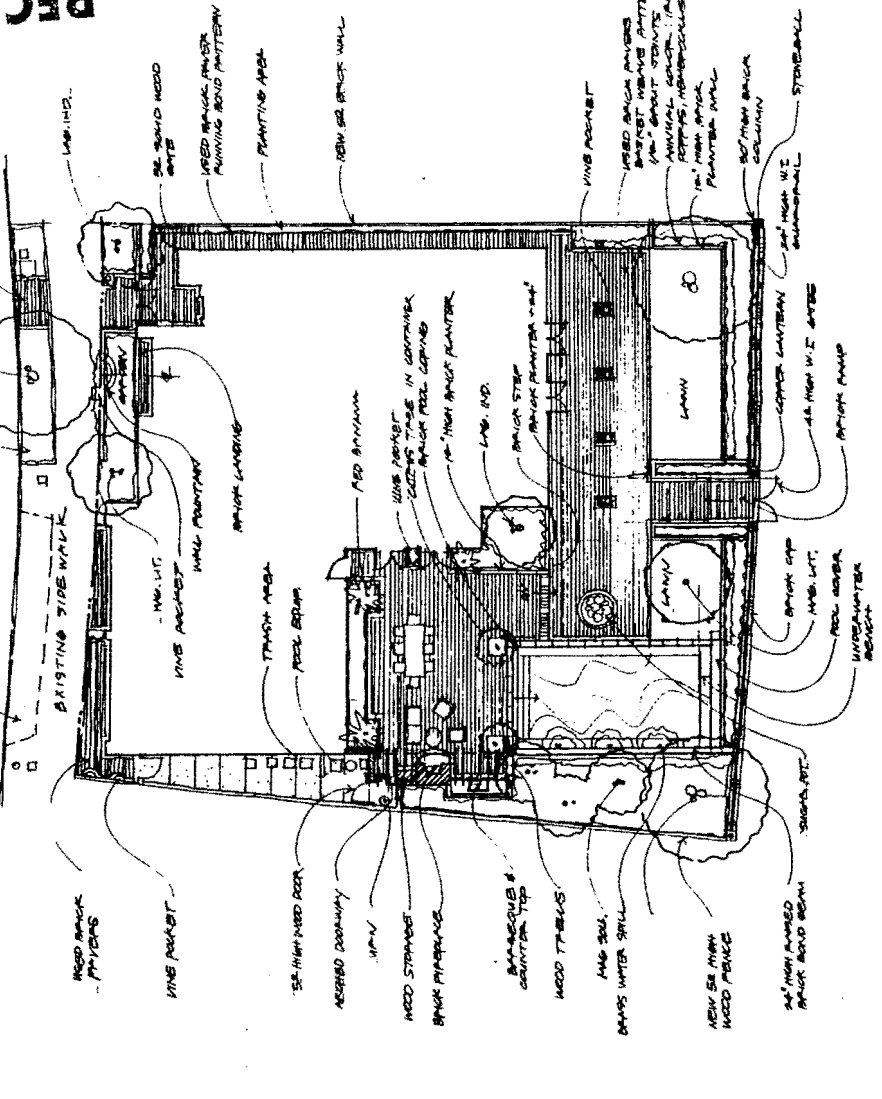


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AUG 23 2002  
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PLANTING LEGEND

TREES	SHRUBS AND PERENNIALS	GROUNDCOVERS AND PERENNIALS
DB CAN (Cedar Canary)	DB CAN (Cedar Canary)	DB CAN (Cedar Canary)
DB DO (Dogwood)	DB DO (Dogwood)	DB DO (Dogwood)
DB LIT (Lily of the Valley)	DB LIT (Lily of the Valley)	DB LIT (Lily of the Valley)
DB MEX (Mexican Fan Palm)	DB MEX (Mexican Fan Palm)	DB MEX (Mexican Fan Palm)
DB PAL (Date Palm)	DB PAL (Date Palm)	DB PAL (Date Palm)
DB S (Sagebrush)	DB S (Sagebrush)	DB S (Sagebrush)
DB T (Tulip Tree)	DB T (Tulip Tree)	DB T (Tulip Tree)
DB Y (Yucca)	DB Y (Yucca)	DB Y (Yucca)
DB Z (Zebra Grass)	DB Z (Zebra Grass)	DB Z (Zebra Grass)
DB A (Anemone)	DB A (Anemone)	DB A (Anemone)
DB B (Borage)	DB B (Borage)	DB B (Borage)
DB C (Canna)	DB C (Canna)	DB C (Canna)
DB D (Daisy)	DB D (Daisy)	DB D (Daisy)
DB E (Echinacea)	DB E (Echinacea)	DB E (Echinacea)
DB F (Fuchsia)	DB F (Fuchsia)	DB F (Fuchsia)
DB G (Geranium)	DB G (Geranium)	DB G (Geranium)
DB H (Hydrangea)	DB H (Hydrangea)	DB H (Hydrangea)
DB I (Impatiens)	DB I (Impatiens)	DB I (Impatiens)
DB J (Jasmine)	DB J (Jasmine)	DB J (Jasmine)
DB K (Kalanchoe)	DB K (Kalanchoe)	DB K (Kalanchoe)
DB L (Lupinus)	DB L (Lupinus)	DB L (Lupinus)
DB M (Mandarin Orange)	DB M (Mandarin Orange)	DB M (Mandarin Orange)
DB N (Nectarine)	DB N (Nectarine)	DB N (Nectarine)
DB O (Orange)	DB O (Orange)	DB O (Orange)
DB P (Peach)	DB P (Peach)	DB P (Peach)
DB Q (Quince)	DB Q (Quince)	DB Q (Quince)
DB R (Raspberry)	DB R (Raspberry)	DB R (Raspberry)
DB S (Sage)	DB S (Sage)	DB S (Sage)
DB T (Tea Olive)	DB T (Tea Olive)	DB T (Tea Olive)
DB U (Ulm)	DB U (Ulm)	DB U (Ulm)
DB V (Viburnum)	DB V (Viburnum)	DB V (Viburnum)
DB W (Weeping Willow)	DB W (Weeping Willow)	DB W (Weeping Willow)
DB X (Xanthoxylum)	DB X (Xanthoxylum)	DB X (Xanthoxylum)
DB Y (Yucca)	DB Y (Yucca)	DB Y (Yucca)
DB Z (Zebra Grass)	DB Z (Zebra Grass)	DB Z (Zebra Grass)





**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](http://www.swrcb.ca.gov/rwqcb8).*

September 18, 2002

Dale Scheffler, President  
D. J. Scheffler, Inc.  
2500 W. Pomona Blvd.  
Pomona, CA 91768-3218

**REVISED WASTE DISCHARGE REQUIREMENTS, ORDER NO. 98-67, NPDES NO. CAG998001 (DE MINIMUS DISCHARGES), DEWATERING AT VARIOUS LOCATIONS**

Dear Mr. Scheffler:

On January 15, 2002, you were authorized to discharge wastewater from a construction site in Newport Beach under the terms and conditions of the Regional Board's general permit, Order No. 98-67. On September 16, 2002, you submitted a Notice of Intent to broaden this authorization to include discharges of construction dewatering wastes from various sites throughout the Region.

Effective immediately, you are authorized to discharge wastewater under the terms and conditions of Order No. 98-67. Enclosed is revised Monitoring and Reporting Program No. 98-67-144, which specifies the frequency of sampling and the constituents to be monitored. Please note that modifications to the sampling frequency and required constituents can be considered on a case-by-case basis.

Compliance with the terms of Order No. 98-67 does not relieve you of the responsibility to comply with local agency (county, city) requirements. To assure that you are aware of any County requirements for discharges in Orange County, you must contact Doug Witherspoon at (714) 834-2366 in advance of any discharges. For Riverside County projects, please call Mark Wills at (909) 955-1273, and for San Bernardino County projects, please call Naresh Varma at (909)387-7995. Furthermore, you must also make advance contact with the stormwater discharge coordinator(s) for the city(-ies) in which the discharge(s) are to occur.

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 as soon as possible so that we can rescind this authorization and avoid billing you the annual fee.

COASTAL COMMISSION

5-02-174

EXHIBIT #

D

California Environmental Protection Agency

PAGE 1 OF 2

RECEIVED SEP 18 2002



Mr. Dale Scheffler

2

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

Sincerely,

Gerard J. Thibeault  
Executive Officer

Enclosure: Revised Monitoring and Reporting Program No. 98-67-144

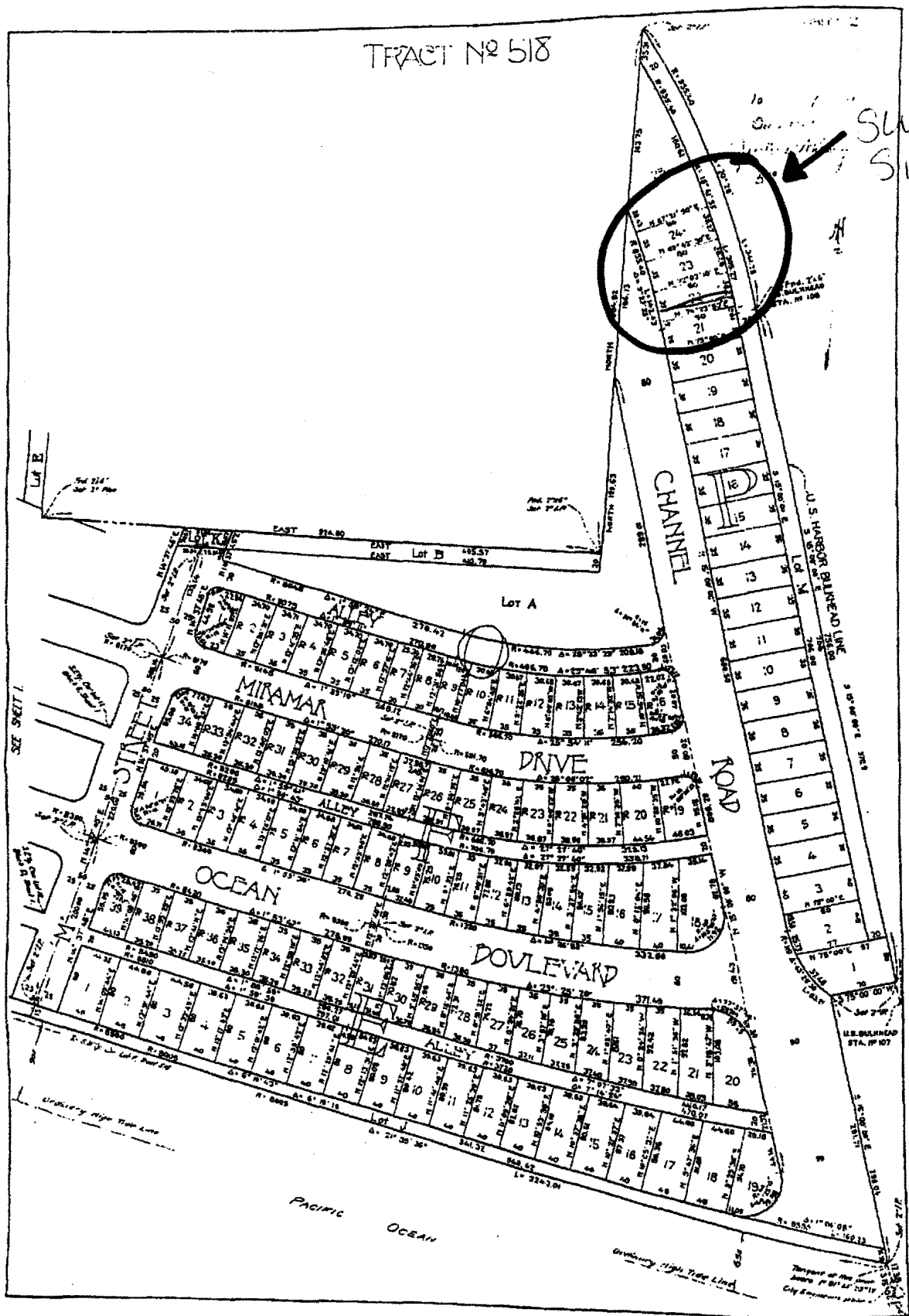
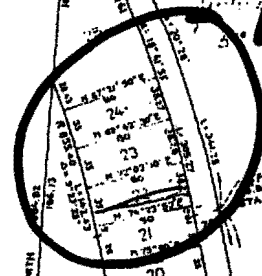
cc w/o enclosure: USEPA Permits Issuance Section (WTR-5) - Terry Oda  
State Water Resources Control Board, Division of Water Quality - Jim Maughan  
Orange Co. Facilities and Resources Dept., Flood Control - Herb Nakasone  
Riverside Co. Flood Control Dept. - Mark Willis  
San Bernardino Co. Dept. of Public Works, Flood Control Operations - Naresh Varma

GSR/SchefflerBeckerReauthVariousSites.ltr

12

TRACT No 518

Subject Site



THIS MAP SHOULD BE USED FOR REFERENCE PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. PARCELS MAY NOT COMPLY WITH LOCAL SUBDIVISION OR BUILDING ORDINANCES.

COASTAL COMMISSION

5-02-174

EXHIBIT # E

PAGE 1 OF 1