

CALIFORNIA COASTAL COMMISSION

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

Filed: July 16, 2003
49th Day: September 3, 2003
180th Day: January 12, 2004
Staff: ALB-LB **ALB**
Staff Report: August 21, 2003
Hearing Date: September 10-12, 2003
Commission Action:



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STAFF REPORT: CONSENT CALENDAR**APPLICATION NUMBER:** 5-03-232**RECORD PACKET COPY****APPLICANT:** Scott Merrill**PROJECT LOCATION:** 546 Ocean Avenue, Seal Beach, County of Orange

PROJECT DESCRIPTION: Remodel and 1175 square foot addition to an existing three-level, 2758 square foot single-family residence with an attached 447 square foot 2-car garage on a beachfront lot. No grading is proposed. No work to the rear (beachfront) yard is proposed.

LOCAL APPROVALS RECEIVED: City of Newport Beach Approval-in-Concept (No. 0624-2003) dated May 27, 2003.

SUMMARY OF STAFF RECOMMENDATION:

The applicant is proposing an addition and remodel of a beach fronting single-family residence. The major issues of this staff report relate to beachfront development that could be affected by flooding during strong storm events.

Staff is recommending **APPROVAL** of the proposed project subject to five (5) special conditions requiring: 1) assumption of risk; 2) no future shoreline protective device; 3) future development be submitted to the Commission for permit amendment; 4) submittal of a drainage and run-off control plan; and 5) recordation of a deed restriction against the property, referencing all of the Special Conditions contained in this staff report.

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permits: 5-02-332 (Lineberger); 5-02-306 (Cross); 5-02-274 (Datt); 5-02-255 (Cross); 5-02-211 (Sork); 5-02-198 (Newell); 5-02-177 (Thorne); 5-02-145 (Collins); 5-02-144 (Collins); 5-01-401 (Collins); 5-01-400 (Collins); 5-01-396 (Collins & Fluter); 5-01-304 (Caesar); 5-01-298 (Ryan); 5-01-197 (Jacobs & Dolansky); 5-01-186 (Doukoullos); 5-01-084 (Muench); 5-00-492 (Palm); 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, and *Wave Runup & Coastal Hazard Study* for 546 Ocean Avenue prepared by Skelly Engineering dated July 2003.

LIST OF EXHIBITS:

1. Location Map
 2. Assessor's Parcel Map
 3. Project Plans
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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. **Assumption of Risk, Waiver of Liability and Indemnity**

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

2. **No Future Shoreline Protective Device**

- A(1). By acceptance of this Permit, the applicant agrees, on behalf of himself and all other successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-03-232 including, but not limited to, the residence, and any future improvements, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions or other natural hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of 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 landowner shall remove the development authorized by this permit, including the house, garage, foundations, and patio, 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 portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

3. **Future Development**

- A. This permit is only for the development described in Coastal Development Permit No. 5-03-232. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by Coastal Development Permit No. 5-03-232. Accordingly, any future improvements to the single family

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residence authorized by this permit, including but not limited to a change in the intensity of use (including a change in the physical number of residential units or a change in the number of parking spaces) and 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. 5-03-232 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

4. Drainage and Run-Off Control Plan

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for review and approval of the Executive Director, a drainage and runoff control plan showing roof drainage and runoff from all impervious areas directed to dry wells or vegetated/landscaped areas. Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants which are non-invasive.
- 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.

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 546 Ocean Avenue within the City of Seal Beach, Orange County (Exhibits 1 & 2). The site is a beachfront lot located between the first public road and the sea. The project is sited within an existing residential area, located generally northwest (upcoast) of the Seal Beach Municipal Pier. There is an approximately 380 foot wide sandy beach between the subject property and the mean high tide line. Due to its beachfront location, the project site may be potentially exposed to the hazard of wave uprush during a severe storm event.

The proposed project will not have an adverse effect on public access. The proposed project is an addition to an existing residence on the beach. The beach seaward of the subject site is available for lateral public access. Vertical access to this beach is available 45 feet (1 lot) southeast of the subject site at the end of Sixth Street and approximately 200 feet (6 lots) northwest of the subject site at the end of Fifth Street.

The applicant is proposing to remodel and add on to an existing three-level, 2758 square foot single-family residence with an attached 447 square foot 2-car garage, including a 123 square foot addition to the street (second) level and a 1052 square foot addition to the upper (third) level of the residence. The resultant structure will be a 3933 square foot single-family residence with an attached 423 square foot two-car garage. No grading is proposed. No work to the existing rear (beachfront) yard is proposed. Pursuant to Section 13250 of the California Code of Regulations, the project requires a coastal development permit because the applicant is proposing improvements to a single-family structure located on a beach. In addition, the project is located between the first public road and the sea and would result in more than a 10% increase in the floor area of the existing residence.

The applicant has indicated that existing drainage patterns will not change as a result of the proposed improvements. Nevertheless, the proposed project would result in an increase in the quantity of impervious surfaces on the site. Accordingly, a drainage and runoff control plan must be submitted to show roof drainage and runoff from new impervious areas directed to dry wells or vegetated/landscaped areas.

B. HAZARDS

Development adjacent to the ocean is inherently hazardous. Development that may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon, among other things, public access, visual resources and shoreline processes. To minimize the project's impact on shoreline processes, and to minimize risks to life and property, the development has been conditioned to: require an appropriate set-back from the water; require a drainage and runoff control plan to direct, treat, and minimize the flow of water offsite; prohibit construction of protective devices (such as a seawall) in the future; and to require that the landowner and any successor-in-interest assume the risk of undertaking the development. As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

C. 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 improvements special condition be imposed. As conditioned the development conforms to the Chapter 3 policies of the Coastal Act.

D. PUBLIC ACCESS

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

E. 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.

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.

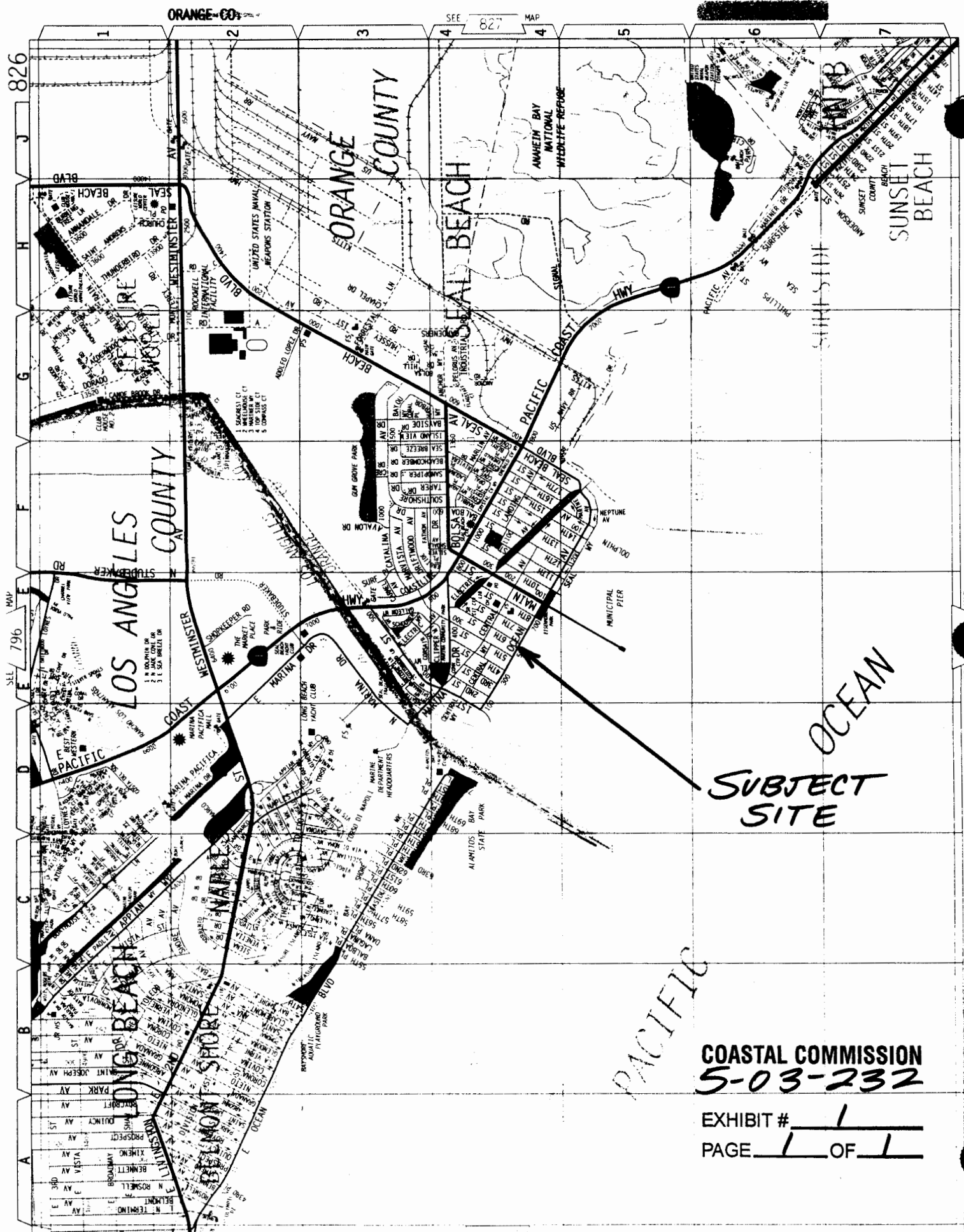
G. LOCAL COASTAL PROGRAM

Coastal Act section 30604(a) states that, prior to certification of a local coastal program (LCP), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. On July 28, 1983, the Commission denied the City of Seal Beach Land Use Plan (LUP) as submitted and certified it with suggested modifications. The City did not act on the suggested modifications within six months from the date of Commission action. Therefore, pursuant to Section 13537(b) of

the California Code of Regulations, the Commission's certification of the land use plan with suggested modifications expired. The LUP has not been resubmitted for certification since that time. The proposed development, as conditioned, is consistent with the Chapter Three policies of the Coastal Act. Therefore, the Commission finds that the proposed development as conditioned would not prejudice the ability of the City to prepare a certified coastal program consistent with the Chapter Three policies of the Coastal Act.

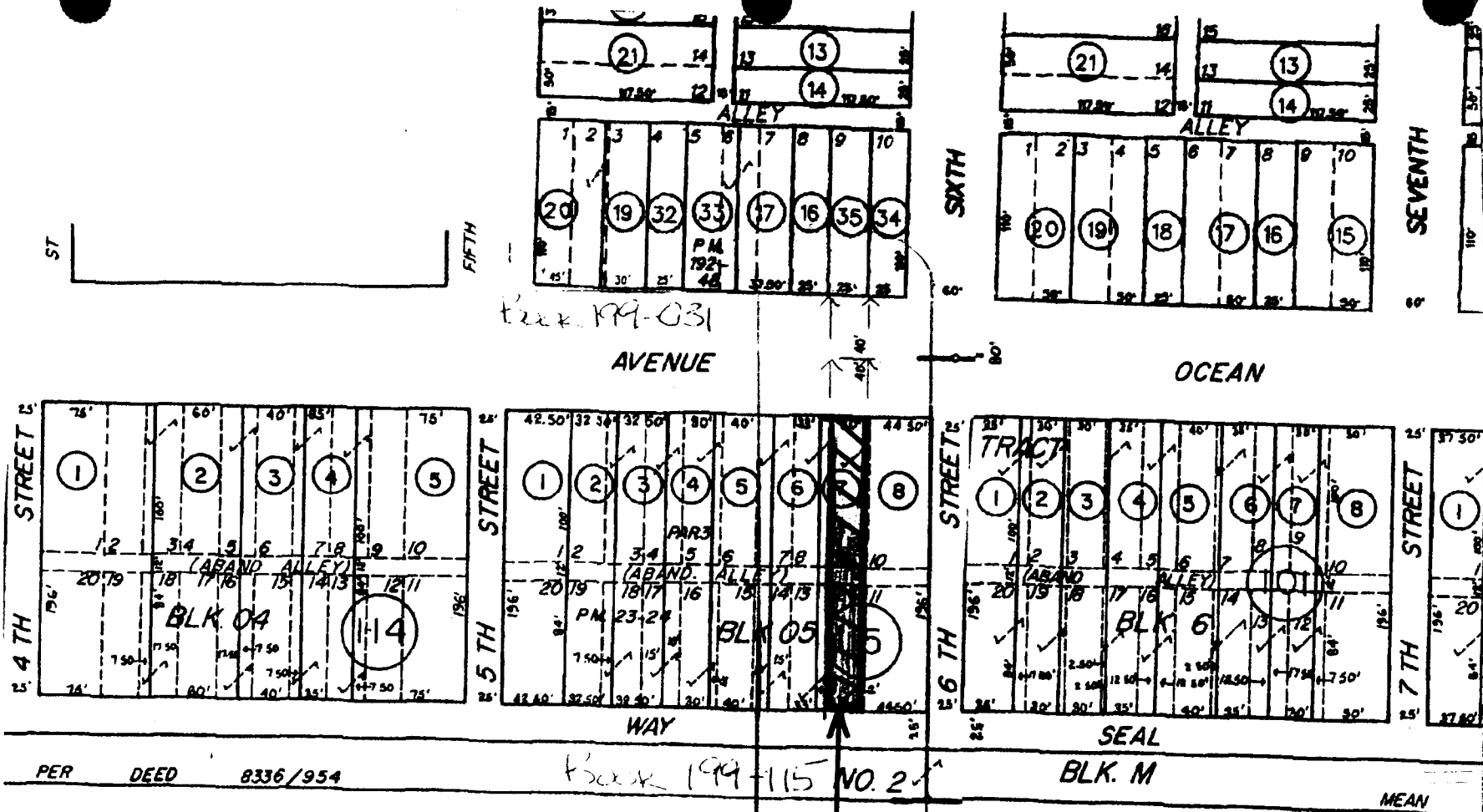
H. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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.



COASTAL COMMISSION
5-03-232

EXHIBIT # 1
PAGE 1 OF 1



SUBJECT
SITE

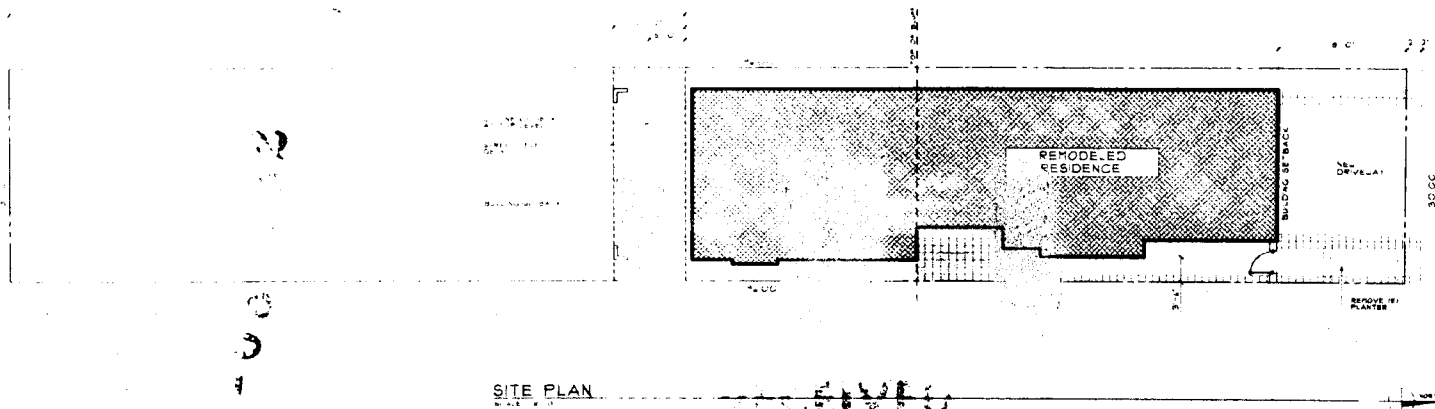
100' CIRCULAR RADIUS
* RADIALS LINE TAKEN
FROM INTERSECTING
STREETS ETC.
SITE 5410 CREAN AVE
AND 199-115-07

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5-03-232

EXHIBIT # 2
PAGE 1 OF 1



OWNER/APPLICANT
SCOTT MERRILL
546 OCEAN AVE
SEAL BEACH, CA
542 430 0300

VICINITY MAP

REV	DATE	BY	CHKD
1	04/01/03	REYBUN	
2	04/01/03	REYBUN	
3	04/01/03	REYBUN	
4	04/01/03	REYBUN	
5	04/01/03	REYBUN	
6	04/01/03	REYBUN	
7	04/01/03	REYBUN	

SYMBOLS

- BUILDING SECTION
- INTERIOR ELEVATION
ELEVATION LETTER
SHEET NUMBER
WALL NUMBER
- DETAIL REFERENCE
DETAIL NUMBER
SHEET NUMBER
- CONSTRUCTION NOTES
- DOOR SYMBOL
- WINDOW SYMBOL

HMR
ARCHITECTS
AIA

221 MAIN ST.
SUITE
HUNTINGTON
BEACH, CA
92648

1/4 336 300W
1/4 420 3360 7A

ARCHITECT

STATISTICS

APR. 04 01
CONSTRUCTION TIME 1.5
OCCUPANCY GROUP 3
AREAS EXISTING BEACH LEVEL 38.5'±
EXISTING STREET LEVEL 28.5'±
EXISTING SECOND FLOOR 18.5'±
TOTAL EXISTING 75.5'±
ADDED STREET LEVEL 23.5'±
ADDED SECOND FLOOR 18.5'±
TOTAL ADDED 42.0'±
TOTAL FINISH 117.5'±
EXISTING GARAGE 44.5'±
NEW GARAGE 42.5'±
LOT SIZE 30.7'± x 100.0'±
LOT COVERAGE 33.8%
PARKING 12 1/2 CAR GARAGE

PROJECT NAME
MERRILL RESIDENCE REMODEL
546 OCEAN AVE
SEAL BEACH

DATE 04/01/03

JOB NO. 222.00

CADD PRG 22.2.00

SCALE AS NOTED

SHEET NAME
SITE PLAN

SHEET NUMBER
A1

SHEET INDEX

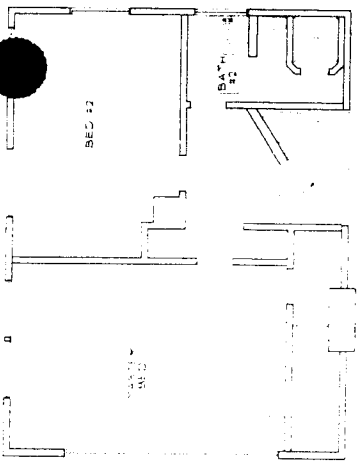
- A1 SITE PLAN
- A2 FLOOR PLANS
- A3 BUILDING ELEVATIONS
- A4 BUILDING SECTIONS

GENERAL NOTES

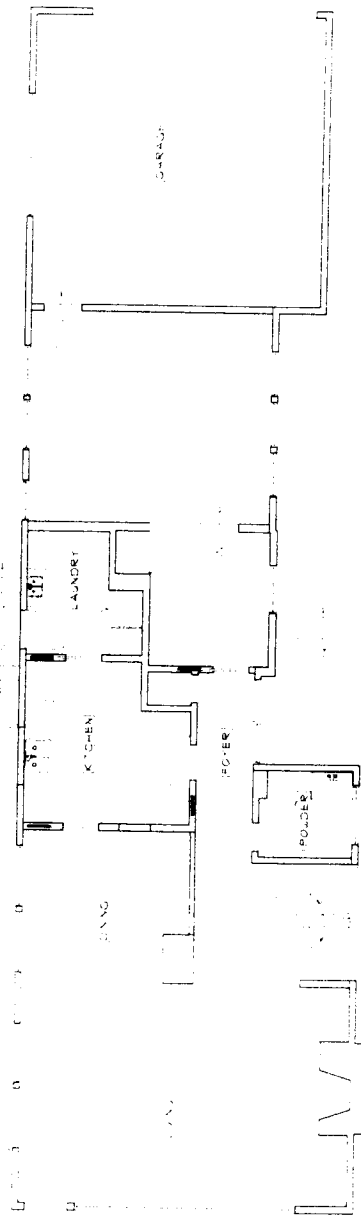
MERRILL RESIDENCE ADDITION/REMODEL 546 OCEAN AVENUE SEAL BEACH, CA.

COASTAL COMMISSION
EXHIBIT # **3**
5-03-232
PAGE **1** OF **5**

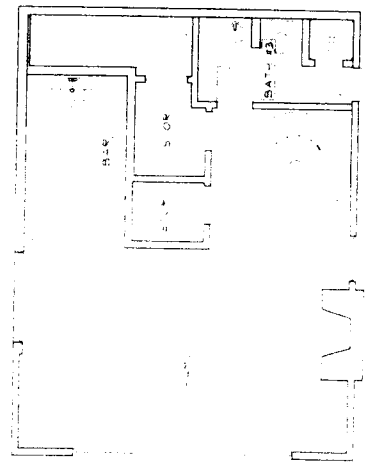
ST/03/03



UPPER LEVEL FLOOR PLAN 1/8 S.



STREET LEVEL FLOOR PLAN 3/8 S.



BEACH LEVEL FLOOR PLAN 1/8 S.

AS-BUILT PLANS

RECEIVED

NOV 19 1990

ARCHITECTS

REVISION	DATE	BY	CHKD
△ REVISION			
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HMR ARCHITECTS AIA
 221 MAIN ST
 SUITE 1
 SAN ANTONIO
 BEACH, CA
 92648
 415-521-1100
 415-521-1101

ARCHITECT

PROJECT NAME
 HERRILL
 RESIDENCE
 OCEAN AVE
 SEAL BEACH

DATE: 04.17.02

JOB NO: 222702

CLIENT: HERRILL, J & S

SCALE: 1/8" = 1'-0"

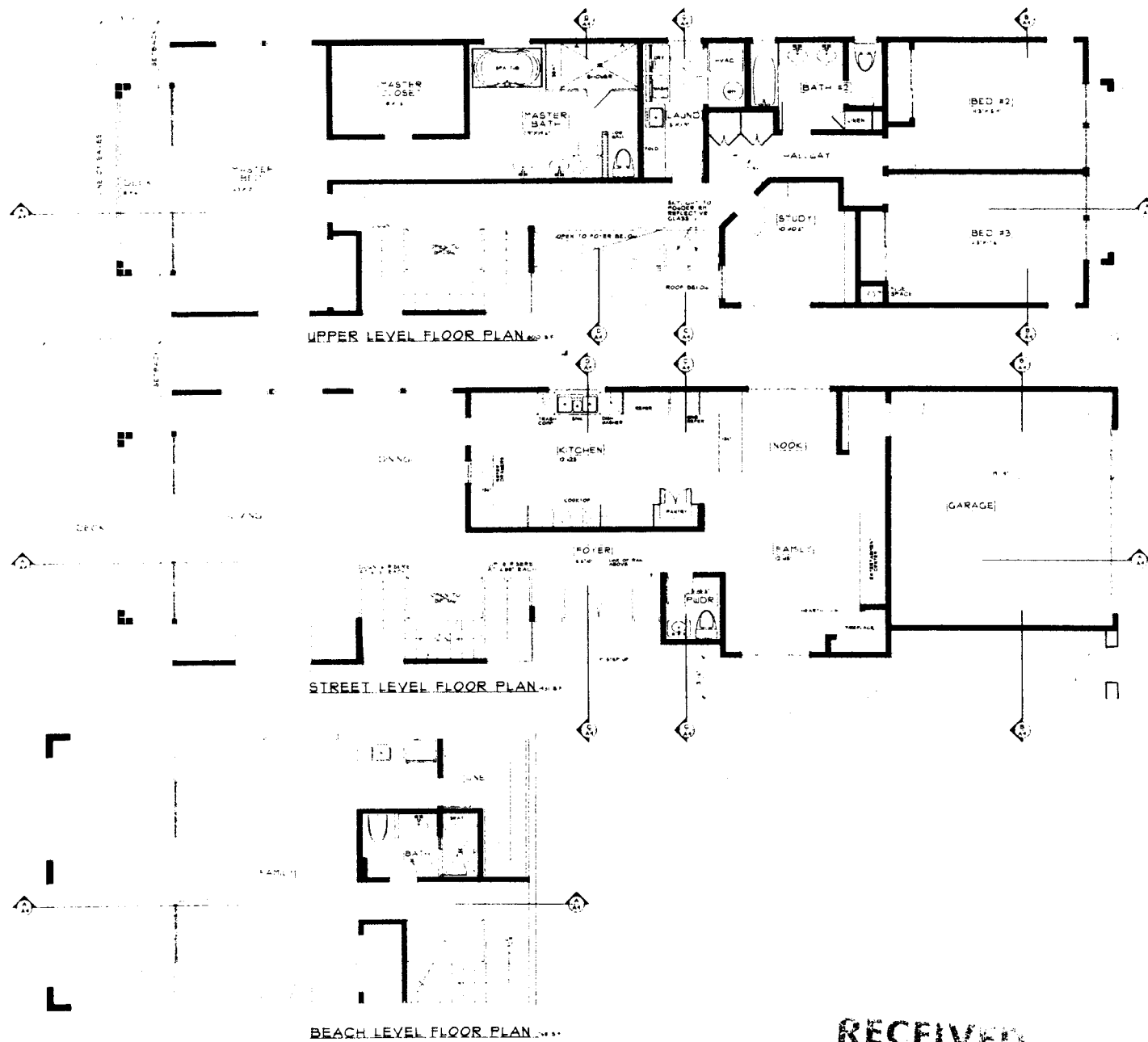
SHEET NAME

AS-BUILT
 FLOOR PLANS

SHEET NUMBER

ABP

3/5

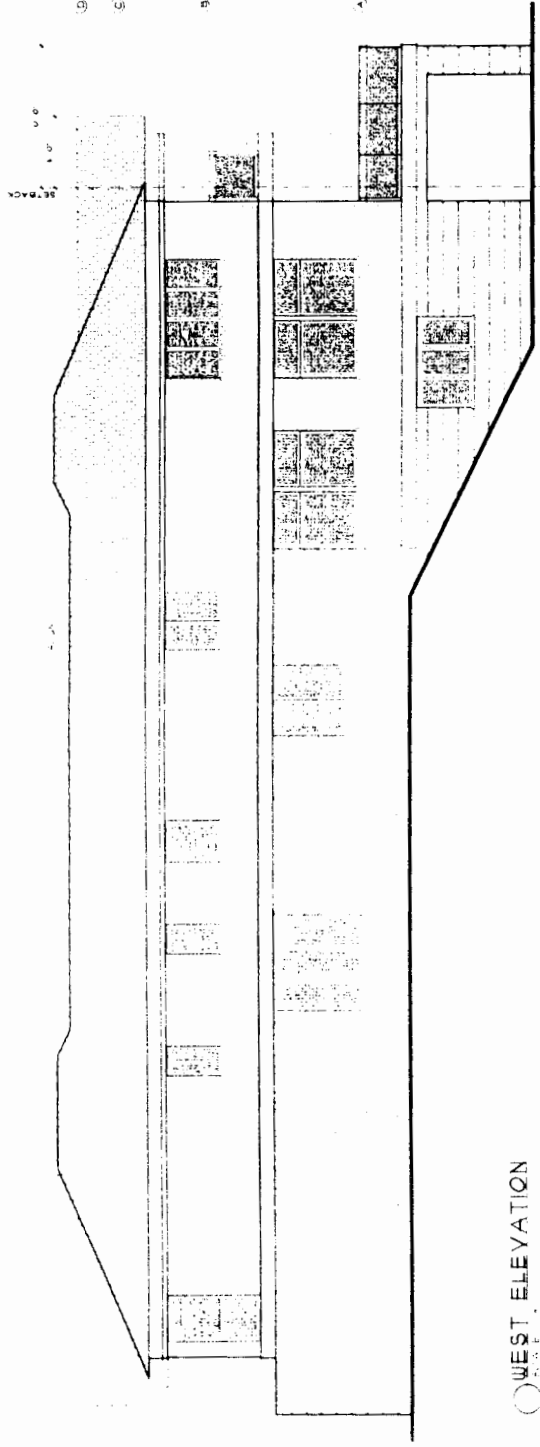


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South Coast Region

MAY 29 2003

CALIFORNIA
SPECIAL COMMITTEE

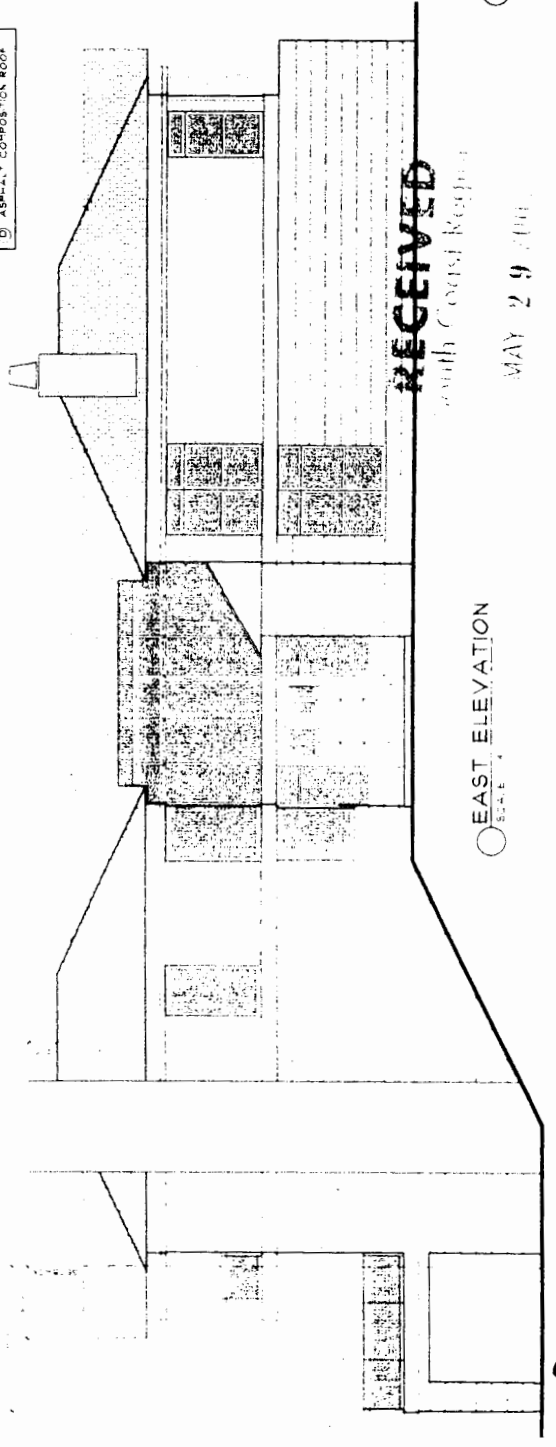
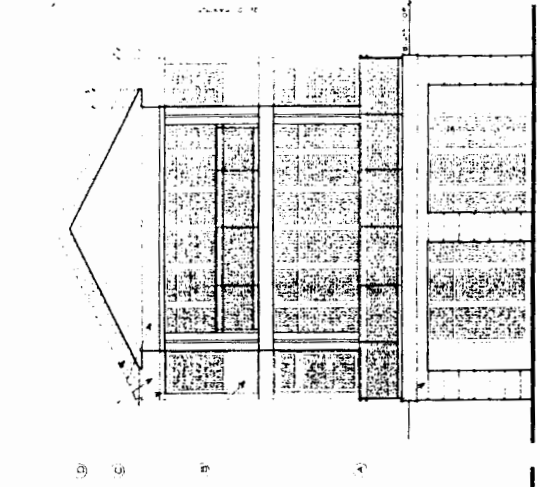
HMR ARCHITECTS AIA	
221 MAIN ST. SUITE 1 HUNTINGTON BEACH, CA 92648	
T4 536 2009 T4 536 3009 fax	
ARCHITECT	
WILLIAM J. REEDER	
PROJECT NAME MERRILL RESIDENCE REMODEL 546 OCEAN AVE SEAL BEACH	
DATE	04.09.03
JOB NO.	22.1.00
DATE FILED	05.03.2003
SCALE	1/4" = 1'-0"
SHEET NAME	
FLOOR PLANS	
SHEET NUMBER	
A2	



○ WEST ELEVATION
SCALE 1/4"

- FINISH LEGEND**
- (A) 7/8" REDWOOD PLANKS
 - (B) 4" SLP AP-HARDE BOARD
 - (C) SONG
 - (D) REDWOOD TRM
 - (E) ASPHALT COMPOSITION ROOF

○ BEACH ELEVATION
SCALE 1/4"

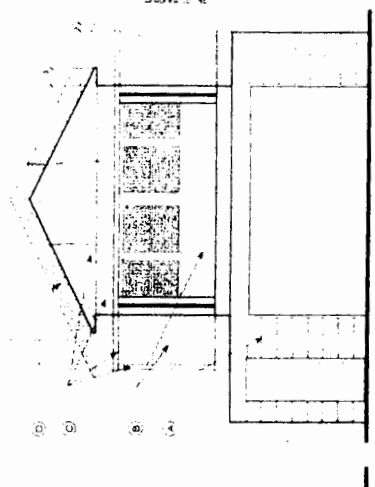


○ EAST ELEVATION
SCALE 1/4"

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○ STREET ELEVATION
SCALE 1/4"



		HHR ARCHITECTS AIA 221 MAIN ST. SUITE 100 HUNTINGTON BEACH, CA 92648	14 1/2" x 20 1/2" 1/4" = 1'-0"	ARCHITECT PROJECT NAME HERBELL RESHORE OCEAN AVE SEAL BEACH	SHEET NO. 1 OF 10 JOB NO. 333-00 DRAWN BY J.J. BARR SCALE 1/4" = 1'-0" SHEET NAME CONCEPTUAL ELEVATIONS SHEET NUMBER	A3
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4/E

(A) BUILDING SECTION
SCALE 1/4" = 1'-0"