

CALIFORNIA COASTAL COMMISSION

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



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Filed: 10/2/03
49th Day: 11/20/03
180th Day: 3/30/04
Staff: MV-LB
Staff Report: 12/18/03
Hearing Date: 1/14-16/04
Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NUMBER: 5-03-273

APPLICANTS: JOHN POWELSON & C.E. MYRA MAHER

AGENT: Randy Allison

PROJECT LOCATION: 207 & 209 6th Street, Seal Beach, Orange County

PROJECT DESCRIPTION: Demolition of one three-unit structure at 207 6th Street and one two-unit structure at 209 6th Street and construction of two new single family residences, one new residence on each lot. Each new residence will be two stories, 25 feet high, 2,877 square feet with an attached two car garage.

LOCAL APPROVALS RECEIVED: City of Seal Beach Approval Concept dated 6/25/03.

SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending **APPROVAL** of the proposed development with no special conditions.

SUBSTANTIVE FILE DOCUMENTS: City of Seal Beach Council Policy regarding Locally Recognized Historic Buildings or Structures.

STAFF RECOMMENDATION:

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

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

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: NONE

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION

The applicant is proposing to demolish one three-unit structure at 207 6th Street and one two-unit structure at 209 6th Street and to construct two new single family residences, one new residence on each lot. Each new residence will be two stories, 25 feet high, 2,877 square feet with an attached two car garage. The subject site is not located between the sea and the first public road.

The three unit structure at 207 6th Street which is proposed to be demolished was constructed in 1917. The City of Seal Beach has identified, via City Council Policy, historic buildings within the City of Seal Beach. Neither of the buildings proposed for demolition are on the City's list of historic buildings. In addition, none of the buildings identified on the City's list are in the project vicinity. The buildings in the immediate project vicinity are much newer (approximately 1950's to present); most appear to have been constructed within the last five to ten years. Thus the structures proposed for demolition are not part of a community of historic significance. In addition, the proposed structures will be similar to others in the immediate vicinity. Thus, the proposed structures will be visually compatible with the character of the surrounding area as required by Section 30251 of the Coastal Act.

The applicant has submitted a drainage and runoff control plan that includes measures to enhance the quality of site drainage water. The measures include construction of four deep dry pits (3' wide by 4' long by 4' deep) filled with 1 ½" drain rock with a grated surface inlet. The dry pits will be located at each corner of the two lots and the majority of site drainage will be directed to these pits. The proposed drainage and runoff control plan is adequate to protect water quality as required by Sections 30230 and 30231 of the Coastal Act.

B. 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.

C. 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 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 conforms with 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.

D. UNPERMITTED DEVELOPMENT

Unpermitted development has been carried out on the subject site without the required coastal development permit. The unpermitted development at the site consists of demolition of the existing structures on the site. Approval of this permit will resolve all issues related to the identified after-the-fact or otherwise unpermitted development on the site.

Although development has taken place prior to Commission action on this permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

E. 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. The Seal Beach has neither a certified LCP nor a certified Land Use Plan. The proposed development is consistent with Chapter 3 of the Coastal Act. Approval of the project will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 of the Coastal Act.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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 is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

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MAP SEC.

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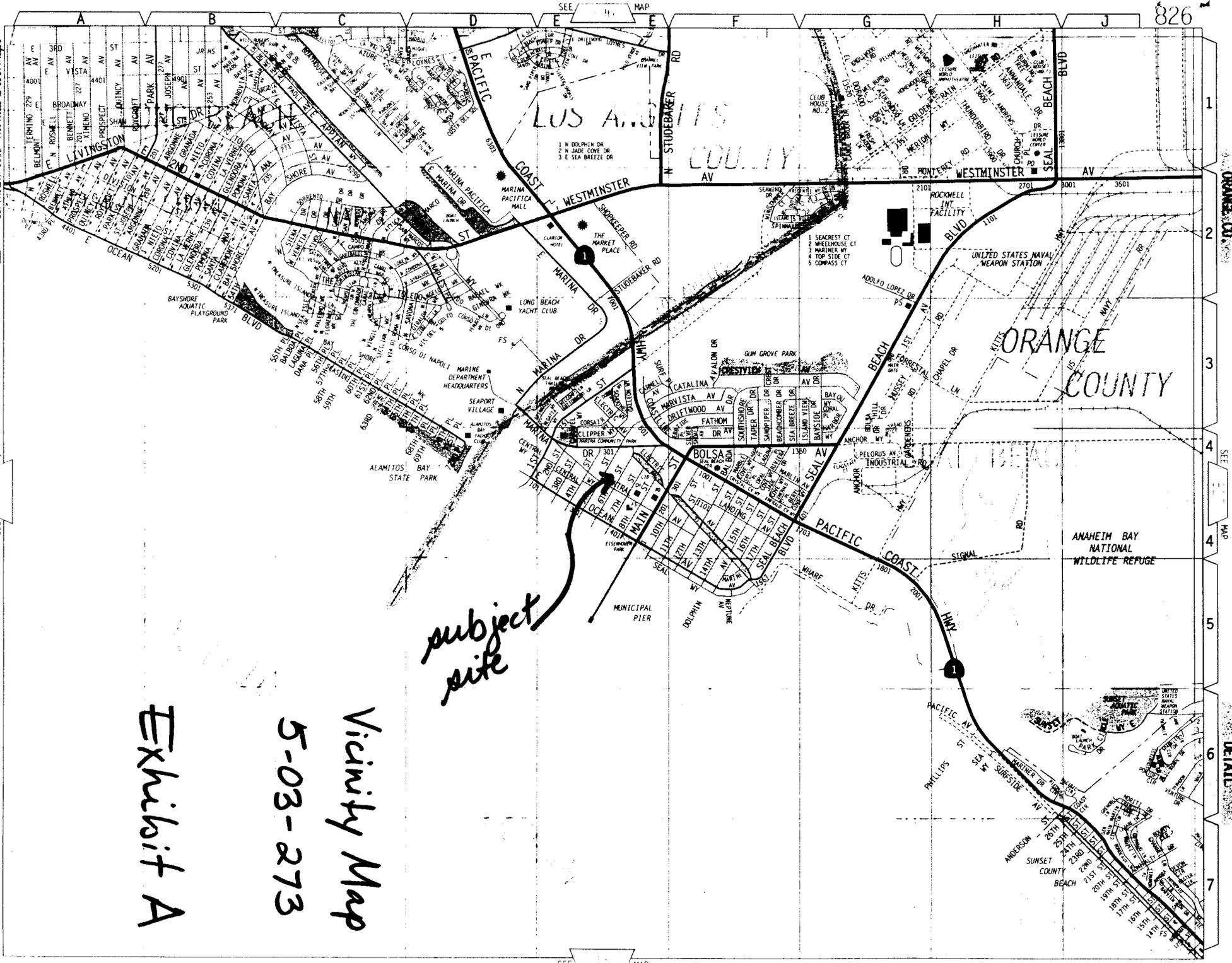


Exhibit A

5-03-273

Vicinity Map

subject site

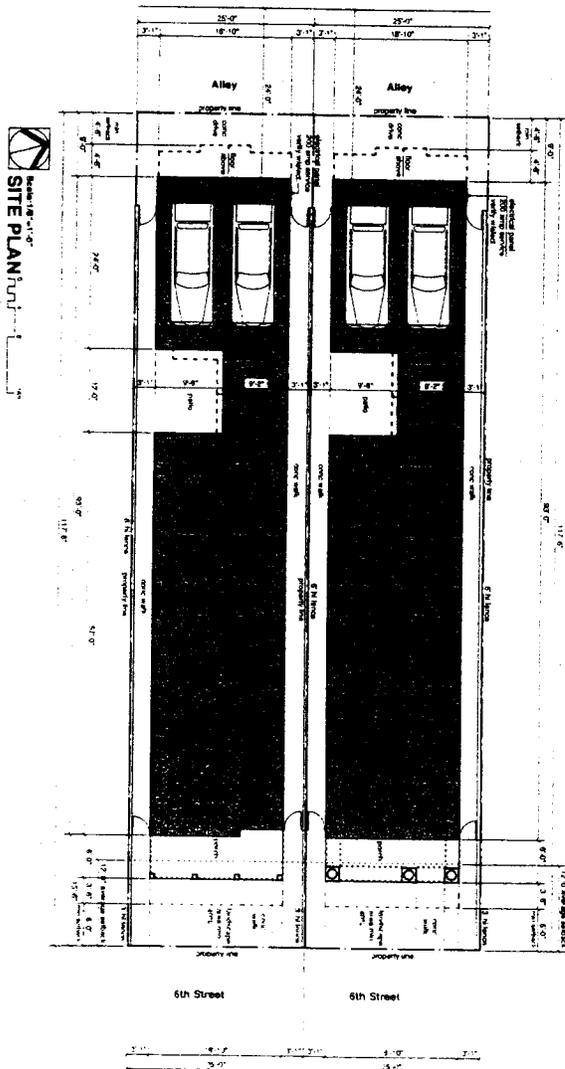
826

ORANGE CO.

SEE MAP

DETAIL

Notes
 1. Building setbacks shall be provided on the building in such a manner as to be clearly visible and readily from the street. The use of landscaping or other means to obscure setbacks is prohibited.
 2. The installation of a drainage system is prohibited. The solid waste, petroleum products, and other materials shall be disposed of in accordance with the state or local laws and regulations. Construction activities shall be performed in accordance with the state or local laws and regulations.



SITE PLAN
 A-1

Site Plan

5-03-273

EXHIBIT B

A-1 10/1/17	INSURANCE 10/1/17		Project: 2-SINGLE FAMILY HOMES 207 & 209 6th STREET NEAL BEACH, CA	Client: ALLISON / POWELSON 10671 DEACH BLVD, SUITE 101 HUNTINGTON BEACH, CA	Architect: BEGOVICH+HAUG ARCHITECTS 2700 E. Spring St., Ste. 150 Long Beach, CA 90806 562.986.1174
			DIVISION: 10/1/17	10/1/17	10/1/17

**CITY OF SEAL BEACH
COUNCIL POLICY**

Number: 501
Authority: Council
Action: Adoption
Subject: Historic Buildings
Effective: 08/14/00

FILE COPY

**LOCALLY RECOGNIZED HISTORIC
BUILDINGS OR STRUCTURES**

1. PURPOSE AND INTENT

1.1 This City Council policy shall establish the "Locally Recognized Historic Building or Structure" listing for the City of Seal Beach in accordance with the provisions of Section 28-2403.1 of the Code of the City of Seal Beach and in order for the specified structures to comply with the definition of a "Historic Building" in the 1997 Uniform Code for Building Conservation:

- 227 10TH STREET – Proctor House (1905)
- 112 CENTRAL AVENUE – Krenwinkel House (1924)

2. CITY OF SEAL BEACH CONDITIONAL USE PERMIT PROVISIONS REGARDING HISTORIC BUILDINGS:

2.1 The above-mentioned buildings or structures are deemed eligible to apply for Conditional Use Permit approval for substantial preservation, renovation, or rebuilding subject to the provisions of Section 28-2403.1 of the Code of the City of Seal Beach, which is reproduced below for ease of reference:

3. ORDINANCE PROVISIONS REGARDING HISTORIC STRUCTURES:

3.1 Section 28-2403 of the Code of the City of Seal Beach states:

Section 28-2403.1. Exceptions for Nonconforming Historic Buildings.

- A. A locally recognized historic building or structure may be substantially preserved, renovated or rebuilt subject to the issuance of a Conditional Use Permit.
- B. In reviewing the application for the historic building or structure, the Planning Commission shall evaluate and make findings on the following:
 - 1. The local historic significance of the building or structure
 - 2. The existing structure

5-03-273
EXHIBIT D

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Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NUMBER: 5-03-335

APPLICANTS: TOM & CAROLINE BELL

AGENT: Jay Earl

PROJECT LOCATION: 17072 Baruna Lane, Huntington Beach, Orange County

PROJECT DESCRIPTION: Construct a new, 83 foot long, concrete patio deck cantilevered 5' beyond the bulkhead.

LOCAL APPROVALS RECEIVED: City of Huntington Beach Approval in Concept dated 8/18/03

SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending **APPROVAL** of the proposed project with one special condition which requires that proper construction methods be employed during construction of the cantilevered deck. Special condition No. 1 describes appropriate construction methods to assure protection of water quality.

SUBSTANTIVE FILE DOCUMENTS: City of Huntington Beach certified Local Coastal Program (used as guidance in this area of original permit jurisdiction).

I. STAFF RECOMMENDATION:

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

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

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

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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. Construction Responsibilities and Debris Removal

- (a) No construction materials, equipment, debris, or waste shall be placed or stored where it may be subject to wave, wind, or rain erosion and dispersion.
- (b) Any and all construction material shall be removed from the site within 10 days of completion of construction.
- (c) Machinery or construction materials not essential for project improvements shall not be allowed at any time in the intertidal zone.
- (d) If turbid conditions are generated during construction a silt curtain shall be utilized to control turbidity.
- (e) Floating booms shall be used to contain debris discharged into coastal waters and any debris discharged shall be removed as soon as possible but no later than the end of each day.
- (f) Non-buoyant debris discharged into coastal waters shall be recovered by divers as soon as possible after loss.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. PROJECT LOCATION AND DESCRIPTION

The applicant proposes to construct a new concrete deck, cantilevered five feet beyond the bulkhead. The deck is proposed to be 83 feet long. The nearest public access in the area is at Bolsa Chica State Beach, located approximately ½ mile to the southwest).

The proposed deck would cantilever over the water of Huntington Harbor. In this area of Huntington Harbor, the water area is owned by the City of Huntington Beach. The applicant retains wharfage rights to the water area. Wharfage rights allow boating related uses such as boat docks. However the wharfage rights do not address patio uses within the area. The City of Huntington Beach, as the owner of the area over which the proposed deck will cantilever, has given permission for the project to occur via a letter dated December 2, 2003. The letter is from the Director of Administrative Services/Acting Real Estate Services Manager (see exhibit C). In addition, the City has declined in writing to join in the application as a co-applicant. The California State Lands Commission has indicated to Commission staff that they will only consider reviewing cantilever projects within areas of Huntington Harbor owned by the State (i.e. Main and Midway Channels). The subject site cantilevers over water owned by the City of Huntington Beach, not the

State.

Eelgrass and *Caulerpa taxifolia* surveys were conducted at the subject and "no eelgrass or evidence of eelgrass litter (dead eelgrass leaves), or the invasive algae *Caulerpa taxifolia* was found within the project area where improvements will be made."

The applicant has proposed a drainage plan that would direct drainage from the proposed cantilevered deck back onto the lot. No drainage from the cantilevered deck will enter directly into the harbor waters.

The subject site is in an area of the Commission's original permit jurisdiction. However, the City's certified Local Coastal Program may be used as guidance. The proposed development is consistent with the City's certified LCP Implementation Plan, specifically Chapter 210, which provides standards for cantilevered decks in Huntington Harbor.

Most of the existing residences that front along the waters of Huntington Harbor have cantilevered decks. In addition, the owner of the water area over which the cantilever will occur has given permission for the work to occur within its property. The proposed deck is similar in function to the other cantilevered decks associated with residential development within Huntington Harbor. The proposed development is consistent with past Commission actions in the area. Thus the proposed deck will have no adverse impact on coastal access or resources in the project vicinity, and is consistent with the Chapter 3 policies of the Coastal Act.

B. 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, the development, as conditioned, conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

C. 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 with 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.

D. 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. An LCP for the City of Huntington Beach was effectively certified in March 1985. However, the proposed development is occurring within an area of the Commission's original permit jurisdiction, due to the project location seaward of the mean high tide line. Consequently, the standard of review is the Coastal Act and the City's LCP is used only as guidance. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified LCP for the area.

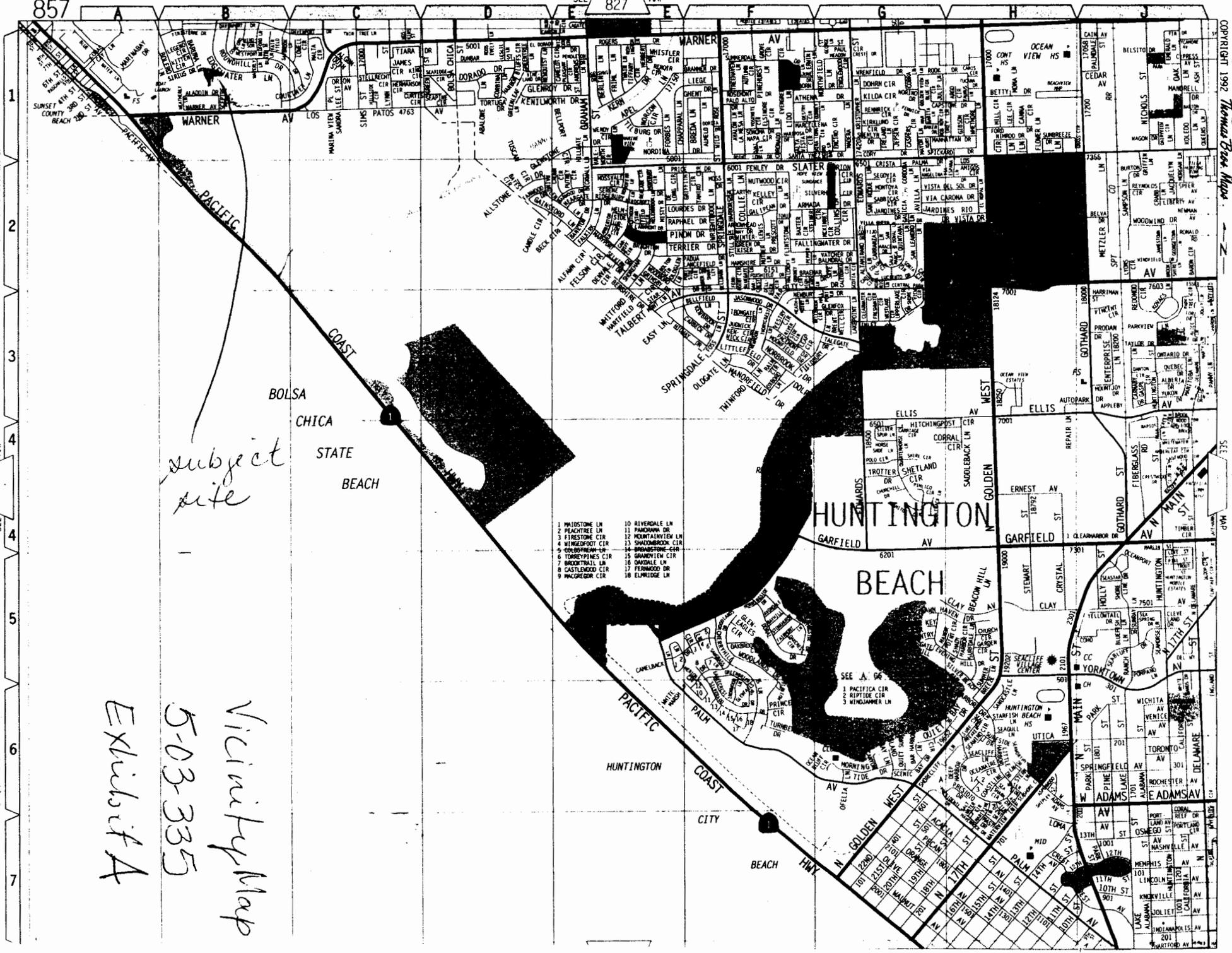
E. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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.

ORANGE CO.

SEE MAP

DETAIL



subject site

Exhibit A
5-03-335
Vicinity Map

- 1 MIDSTONE LN
- 2 PEACHTREE LN
- 3 TRESTONE CIR
- 4 WINGED-FOOT CIR
- 5 GOLDFRAME LN
- 6 TORREY PINES CIR
- 7 BROOKTRAIL LN
- 8 CASTLEWOOD CIR
- 9 MCGREGOR CIR
- 10 RIVERDALE LN
- 11 PANORAMA DR
- 12 MOUNTAINVIEW LN
- 13 SHADONBROOK CIR
- 14 BRIMSTONE CIR
- 15 GRANVIEW CIR
- 16 OAKDALE LN
- 17 PENWOOD DR
- 18 ELMWIDE LN

HUNTINGTON BEACH

GARFIELD AV

ELLIS AV

SLATER AV

WARNER AV

PACIFIC COAST

ERNEST AV

GOTHARD ST

REPAIR LN

AV

WICHITA AV

SEE MAP



CITY OF HUNTINGTON BEACH

2000 MAIN STREET

CALIFORNIA 92648

ADMINISTRATIVE SERVICES

RECEIVED
South Coast Region

DEC 8 2003

CALIFORNIA
COASTAL COMMISSION

December 2, 2003

Meg Vaughn, Coastal Program Analyst
California Coastal Commission
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

Re: Coastal Development Permit Application Nos. 5-03-268 & 5-03-335

Ms. Vaughn:

This letter responds to your November 20, 2003 letter requesting authorization to construct a rear patio decks that cantilever 5' beyond the bulkhead over the harbor waters. The intent of this letter is to give the applicants of California Coastal Commission Permit Application Number: 5-03-268 & 5-03-335 the necessary authorization to carry out the proposed project as stated in the permit application.

As Director of Administrative Services and the Acting Real Estate Services Manager, I authorize the construction of rear patio decks that cantilever 5' beyond the bulkhead over the harbor waters as stated in California Coastal Commission Permit Application Number: 5-03-268 & 5-03-335.

If you have any questions regarding this authorization please feel free to call me at (714) 536-5358.

Sincerely,

Clay Martin
Director of Administrative Services

5-03-335

EXHIBIT
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DRUG USE
IS
LIFE ABUSE

CALIFORNIA COASTAL COMMISSION

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



Co-Applicant Response Form

Coastal Development Permit Application No. Type Application Number

Please check one of the following:



No, please do not add me as co-applicant. Even though I decline to join as co-applicant, I understand that I must comply with the terms and conditions of any coastal development permit issued for the property if any development approved by the permit is undertaken.

Yes, please add me as co-applicant.

If you responded "yes" to the above question, please also notify Commission staff whether any representatives (a.k.a. 'agent') will communicate on your behalf, for compensation, with the Commission or Commission staff. You may authorize the current agent to act as your representative or you may authorize any other agent(s) by filling out the information below:

I hereby authorize _____ to act as my representative and to bind me in all matters concerning this application.

(Co-Applicant's Signature)

(Date)

Please return this form to : California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, CA, 90802

C-2

