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

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STAFF REPORT: CONSENT CALENDAR

APPLICATION NUMBER:	5-04-361
APPLICANTS:	James & Judy Watson
AGENTS:	Susan Philips & Robert McCone
PROJECT LOCATION:	250 Ocean Avenue, City of Seal Beach, County of Orange
PROJECT DESCRIPTION:	Demolition of an existing single-family residence and construction of a new ocean-fronting 7,436 square foot three-level single-family residence with an attached 675 square foot three (3)-car garage. Grading consists of 400 cubic yards of cut and 400 cubic yards of export.

SUMMARY OF STAFF RECOMMENDATION:

The applicant is proposing demolition and construction of a new beach fronting single-family residence. The major issue of this staff report concerns beachfront development that could be affected by flooding during strong storm events.

Commission staff is recommending <u>APPROVAL</u> of the proposed project with Seven (7) Special Conditions regarding: 1) assumption of risk; 2) no future shoreline protective device; 3) additional approvals for any future development; 4) evidence of conformance with geotechnical recommendations; 5) conformance with the submitted drainage and run-off control plan; 6) submittal of a revised landscape plan; and 7) a deed restriction against the property, referencing all of the Special Conditions contained in this staff report.

SUBSTANTIVE FILE DOCUMENTS: De-Minimus Waiver #5-98-128-[Watson], Coastal Development Permit #5-99-477-[Watson], De-Minimus Waiver #5-03-123-[Watson]; *"Preliminary Geotechnical Investigation For Watson Residence 250 Ocean Avenue City Of Seal Beach, California For Kollin Design Group (W.O. 4441-A1-OC)"*, prepared by *Geosoils, Inc.* dated August 10, 2004; *Wave Runup Study, 250 Ocean Avenue, Seal Beach, CA* prepared by *Skelly Engineering* dated *June 2004*; Letter from Commission staff to Kollin Design Group dated October 1, 2004; Letter from Watson & Associates to Commission staff dated September 29, 2004; Letter from Curd Engineering dated October 7, 2004; Letter from Kollin Design Group to Commission staff dated October 13, 2004, Letters from Watson & Associates to Commission staff dated January 25, 2005, Letter from Kollin Design Group to Commission staff dated January 25, 2005, Letter from Kollin Design Group to Commission staff dated January 25, 2005; and; Letter from *Geosoils, Inc.* dated January 26, 2005.

LOCAL APPROVALS RECEIVED: City of Seal Beach Approval-in-Concept dated August 31, 2004.

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LIST OF EXHIBITS

- 1. Location Map
- 2. Assessor's Parcel Map
- 3. Site Plan
- 4. Floor Plans
- 5. Section Plan
- 6. Elevations Plans
- 7. Drainage Plan

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 <u>YES</u> 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. <u>Notice of Receipt and Acknowledgment.</u> 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. <u>Expiration.</u> 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. <u>Interpretation.</u> Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. <u>Assignment.</u> 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. <u>Terms and Conditions Run with the Land.</u> 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

By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from flooding and wave uprush; (ii) to assume the risks to the applicants 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. By acceptance of this permit, the applicants agree, on behalf of themselves and all successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-04-361 including, but not limited to, the residence, garage, foundations, and any other 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 applicants hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30'235.

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B. By acceptance of this permit, the applicants agree, on behalf of themselves and all successors and assigns, that the permittees shall remove the development authorized by this permit, including the residence, garage, foundations, and any other future improvements, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that any portion of the development is destroyed, the permittees 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

This permit is only for the development described in Coastal Development Permit No. 5-04-361. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply to this development governed by the Coastal Development Permit No. 5-04-361. Accordingly, any future improvements to the structure authorized by this permit, including but not limited to, 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. 5-04-361 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

4. Conformance with Geotechnical Recommendations

- A. All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with all recommendations contained in the geologic engineering investigations: *Preliminary Geotechnical Investigation For Watson Residence 250 Ocean Avenue City Of Seal Beach, California For Kollin Design Group (W.O. 4441-A1-OC),* prepared by *Geosoils, Inc.* dated August 10, 2004 and letter from *Geosoils, Inc.* dated January 26, 2005.
- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants 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 and certified that each of those final plans is consistent with all the recommendations specified in the above-referenced geologic engineering report.
- **C.** The permittees 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 unless the Executive Director determines that no amendment is required.

5. Drainage and Run-Off Control Plan

The applicants shall conform with the drainage and run-off control plan received on February 17, 2005 showing roof drainage and runoff from all impervious areas directed to

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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. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

6. Landscaping Plan

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit two (2) full size copies of a revised landscaping plan to the Executive Director for review and approval. The landscaping plans shall show the following change to the project:

Landscaping shall only consist of native plants or non-native drought tolerant plants, which are non-invasive.

B. The permittees shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan 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.

7. Deed Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the landowners have executed and recorded 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 (hereinafter referred to as the 'Standard and Special Conditions"); and (2) imposing all Standard and 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 applicant's entire parcel or parcels. 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 it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

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IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. <u>PROJECT LOCATION, DESCRIPTION AND PRIOR COMMISSION ACTION AT</u> <u>SUBJECT SITE</u>

1. Project Location and Description

The project site is located at 250 Ocean Avenue in the City of Seal Beach, Orange County (Exhibits #1-2). The lot size is 9,800 square feet (25' x 79') and the City of Seal Beach Zoning Code designates use of the site for Residential Low Density and the proposed project adheres to this designation. The proposed project is development within an existing urban residential area, located northwest of the Seal Beach Municipal Pier. Though the project site is in an urban residential area, it is located just inland of the beach and will be on a site which slopes upward as it goes inland. The project is between the first public road and the sea and there is a wide sandy beach, approximately 400 feet wide, between the subject property and the mean high tide line.

The applicants are proposing to demolish an existing single-family residence and construct a new ocean-fronting 7,436 square foot three-level (2,782 square foot lower level, 1,988 square foot main level, 2,666 square foot upper level) single-family residence with a 375 square foot main level balcony, 281 square foot upper level balcony and a 189 square foot sun deck with an attached 675 square foot three (3)-car garage (Exhibits #3-6). The resultant structure would be 3 stories (33-feet high) on the beach side and 2 stories (25feet high) on the street side. Also, the proposed residence will have an elevator from the lower floor to the sun deck and located on the sun deck will be an approximately 5-1/2-foot x 6-1/2-foot elevator housing structure that is 7-feet tall. In addition, new landscaping will take place in the front yard (fronting Ocean Avenue), but no new landscaping will take place in the rear yard (fronting the public beach). Furthermore, grading consists of 400 cubic yards of cut and 400 cubic yards of soil export to a location outside of the coastal zone.

As stated previously, the proposed residence will have a non-habitable architectural feature that is (6-feet (w) x 6.5-feet (I) x 7-feet (h)). This non-habitable structure will exceed the City's 25-foot (street side) height limit by 7-feet to house an elevator for a total height of 32feet above finished grade on the street side. This elevator enclosure will be located on the sun deck, which is located toward the middle of the roof. The location of this small nonhabitable feature, which exceeds City height limits will not result in any significant adverse public visual impacts. In addition, the Commission previously approved De-Minimus Waiver #5-98-128-[Watson] in 1998 for additions to an existing residence located on the project site, which also consisted of a non-habitable roof top structure (roof deck stair enclosure) that exceeded the roof height by approximately 4-1/2-feet (discussed further in the staff report). Also, there are other residences located on Ocean Avenue where the height is exceeded by a small non-habitable structure located on the roof similar to the one proposed. One such residence is located at 300 Ocean Avenue, which is located immediately downcoast of the project site across from a street end adjacent to the project site. Another residence is located further downcoast of the project site at 404 Ocean Avenue.

The applicant has submitted a narrative stating that the foundation for the proposed residence would consist of continuous spread footings and conventional retaining walls. In regards to property line walls, the geologist has stated that due to shoring along the north, south and east sides of the project site, construction of caissons for property line walls would not be necessary.

The proposed residence would conform to the informal stringline established by an abandoned right-of-way (alley). The abandoned alley runs between, and parallel to, Ocean Avenue and the beach. The abandoned alley extends across the middle of the lots located both north of the Seal Beach municipal pier and seaward of Ocean Avenue. The City has established the landward boundary of the abandoned alley as the limit, or stringline, for seaward encroachment of enclosed living space and the City has established the seaward boundary of the abandoned alley as the limit, or stringline, for seaward encroachment of enclosed living area of the proposed home would not encroach past the inland boundary of the abandoned street right-of-way that the City uses as the stringline for beachfront development of residential structures. In addition, the proposed decks would not encroach past the seaward boundary of the abandoned street right-of-way that the City uses as the stringline for beachfront development of residential structures. In addition, the proposed decks would not encroach past the seaward boundary of the abandoned street right-of-way that the City uses as the stringline for beachfront development of new patios and decks. Through it's various permit actions, the Commission has found that these living space and patio/deck stringlines establish appropriate limits of development along this stretch of Ocean Avenue located upcoast of the Seal Beach pier.

The applicant is proposing water quality improvements as part of the proposed project, consisting of rooftop and surface drainage directed to permeable areas (Exhibit #7). Any vegetated landscaped areas located on site shall only consist of native plants or non-native drought tolerant plants, which are non-invasive.

The applicants have submitted a landscape plan. The placement of vegetation that is considered to be invasive which could supplant native vegetation should not be allowed. Invasive plants have the potential to overcome native plants and spread quickly. Invasive plants are generally those identified by the California Invasive Plant Council (http://www.caleppc.org/) and California Native Plant Society (www.CNPS.org) in their publications. Furthermore, any plants in the landscaping plan should be drought tolerant to minimize the use of water. The term drought tolerant is equivalent to the terms 'low water use' and 'ultra low water use' as defined and used by "A Guide to Estimating Irrigation Water Needs of Landscape Plantings in California" prepared by University of California Cooperative Extension and the California Department of Water Resources dated August 2000 available at http://www.owue.water.ca.gov/landscape/pubs/pubs.cfm. The submitted landscape plan consists of plants (creeping red fescue and scotch/Irish moss) that are considered non-invasive and also drought tolerant. However, the plan also includes some vegetation (turf and Japanese Garden Shrub/trees), whose drought tolerance and invasiveness could not be determined. If the applicant can demonstrate to the Executive Director that these plants are both non-invasive and drought tolerant, they may be retained as part of the plan. Otherwise, those species should be removed from the plan. Therefore, the Commission is imposing Special Condition No. 6, which requires submittal of a revised landscape plan, which only consists of native or non-native drought tolerant plants, which are non-invasive.

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2. Local Government Approval

Minor Plan Review 04-8

On August 18, 2004, the City of Seal Beach Planning Commission approved Minor Plan review 04-8, which allowed construction of a deck off of the residence to be located approximately 10-feet into the rear yard setback area (fronting the public beach). The proposed edge of the deck is 86-feet from the rear property line, and is not proposed to encroach into the side yard setback area at all.

Height Variation 04-04

On August 18, 2004, the City of Seal Beach Planning Commission approved Height Variation 04-04, which allowed construction of a non-habitable architectural feature in excess of the height limit by 7-feet to house an elevator.

3. Prior Commission Action at the Subject Site

On June 10, 1998, the Commission approved De-Minimus Waiver #5-98-128-[Watson] for the addition of: 1) 263 square feet to the street level; 2) a 2,511 square foot third level; and 3) a roof deck, to an existing two-story single-family residence with an attached 607 square foot two-car garage. The only changes to the basement (beach lower level) are new doors and windows. The resultant structure would be three-stories and contain 5,985 square feet, and 33-feet high on the beach side and 25 feet high on the street side (excluding the height of the roof deck stair enclosure. No development was ever carried out.

On March 14, 2000, the Commission approved Coastal Development Permit #5-99-477-[Watson]. The proposed project consisted of an interior remodel of the existing basement and the addition of: 1) 263 square feet to the street level, 2) a new 2439 square foot second level, and 3) a new roof deck. The resultant structure would be a 5,864 square foot 2-story single-family residence (plus a partly subterranean beach level "basement"), with an attached 607 square foot 3-car garage and roof deck. The proposed project also included the construction of a new entry fover at the first floor level and an entirely new second floor level with a master bedroom, bathroom, study and exercise room. Interior remodeling of the first floor living area was also proposed. However, no addition to the existing basement was proposed. Additionally, no seaward encroachment was proposed by the current project and no modifications to the existing seaside lawn and patio were proposed. But, the columns, which support the balconies located on the seaward side of the residence, would be realigned to match the new window placement. New 2nd and 3rd level seaside balconies were also proposed. The resultant structure would be 25-feet high from the street level (2 stories visible) and 35-feet high on the ocean side beach level (3 stories visible). Accordingly, the existing beach level living area (i.e. partly subterranean basement) is not visible from street level. No grading was proposed. The permit was approved with three (3) Special Conditions: Special Condition No.1 required an assumption of risk deed restriction; Special Condition No. 2 required a no future shoreline protective device deed restriction; and Special Condition No. 3 required a future development deed restriction.

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On May 6, 2003, the Commission approved De-Minimus Waiver #5-03-123-[Watson] for the addition and remodel of an existing 3,210 square foot single-family residence, consisting of a 535 square foot second story addition on the inland (street-facing) side of the structure and enclosure of a 260 square foot vestibule in the center of the structure. No seaward expansion of the structure is proposed. The resultant structure would be a two-story 4,005 square foot single-family residence with a detached 606 square foot threecar garage. The project also included ancillary improvements within the rear yard (oceanfacing) portion of the property, consisting of a new water feature, built-in barbeque, spa/lap pool and outdoor fireplace.

B. <u>HAZARDS</u>

Development adjacent to the ocean is inherently hazardous. Development which 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. <u>DEVELOPMENT</u>

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 with 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, as conditioned, 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

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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.

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 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.

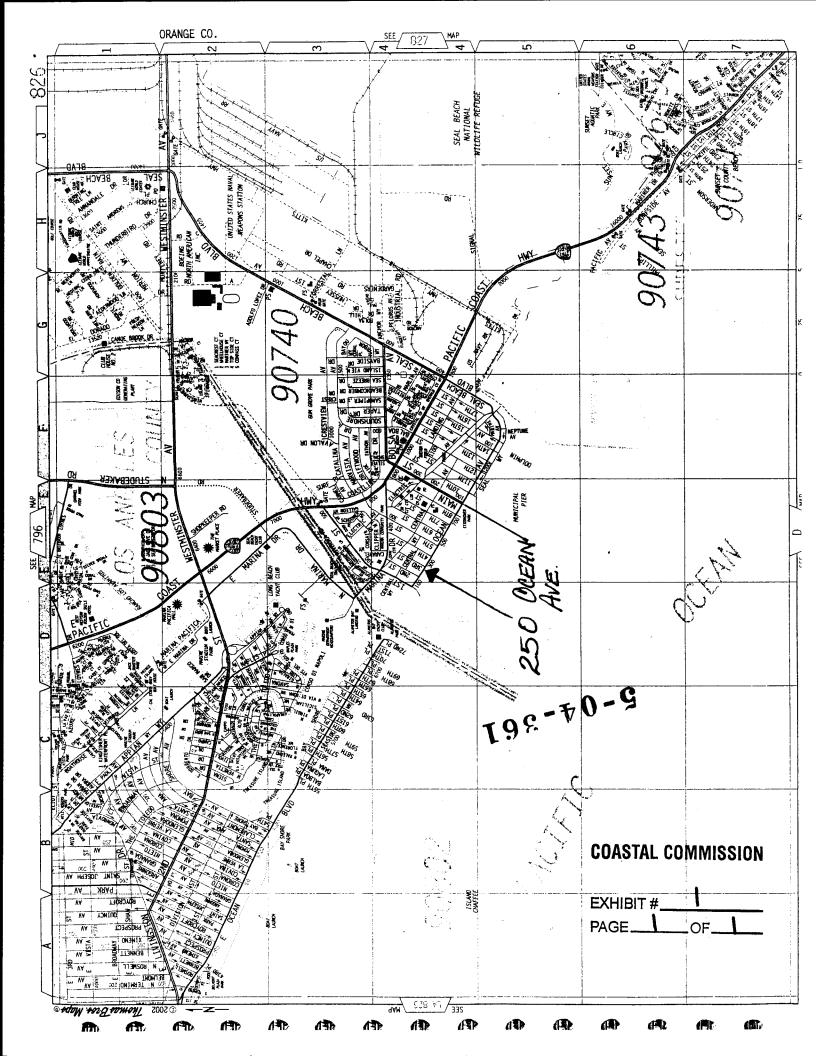
On July 28, 1983, the Commission denied the City of Seal Beach Land Use Plan (LUP) as submitted and certified it with suggested modifications. The City did not act on the suggested modifications within six months from the date of Commission action. Therefore, pursuant to Section 13537(b) of the California 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.

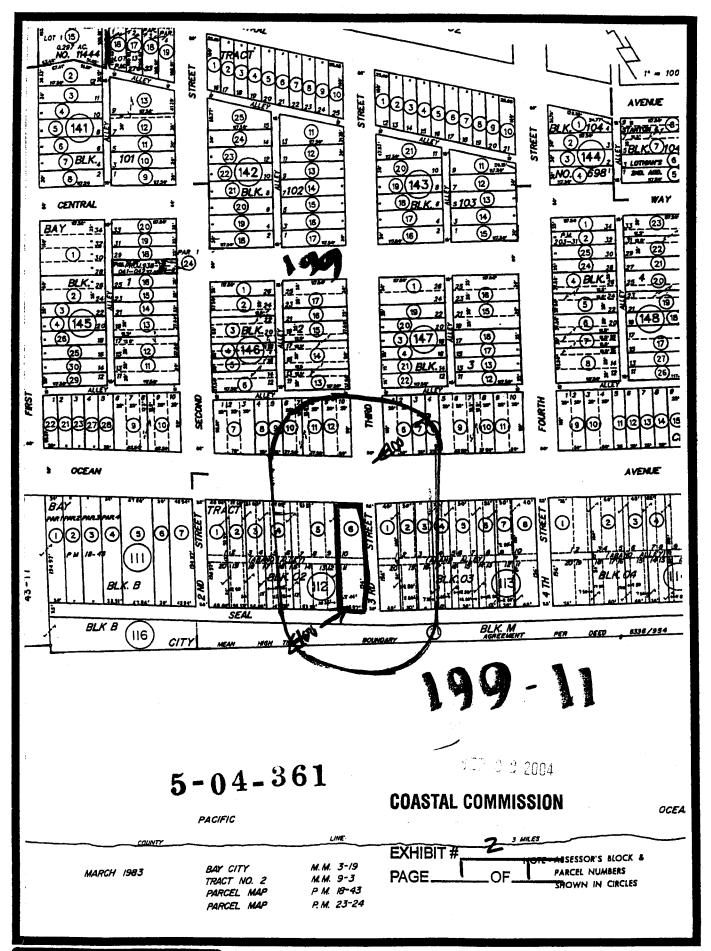
The proposed development is consistent with the Chapter Three policies of the Coastal Act. Therefore, the Commission finds that the proposed development would not prejudice the ability of the City to prepare a certified coastal program consistent with the Chapter 3 policies of the Coastal Act.

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT

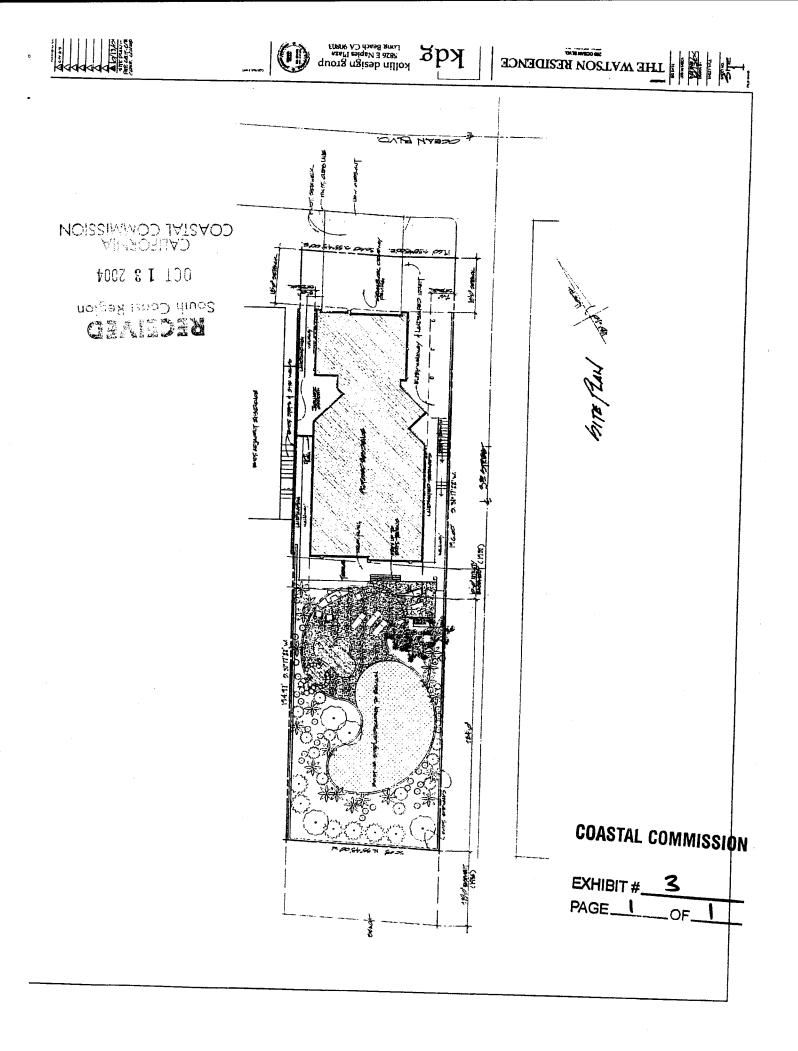
As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect, which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified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

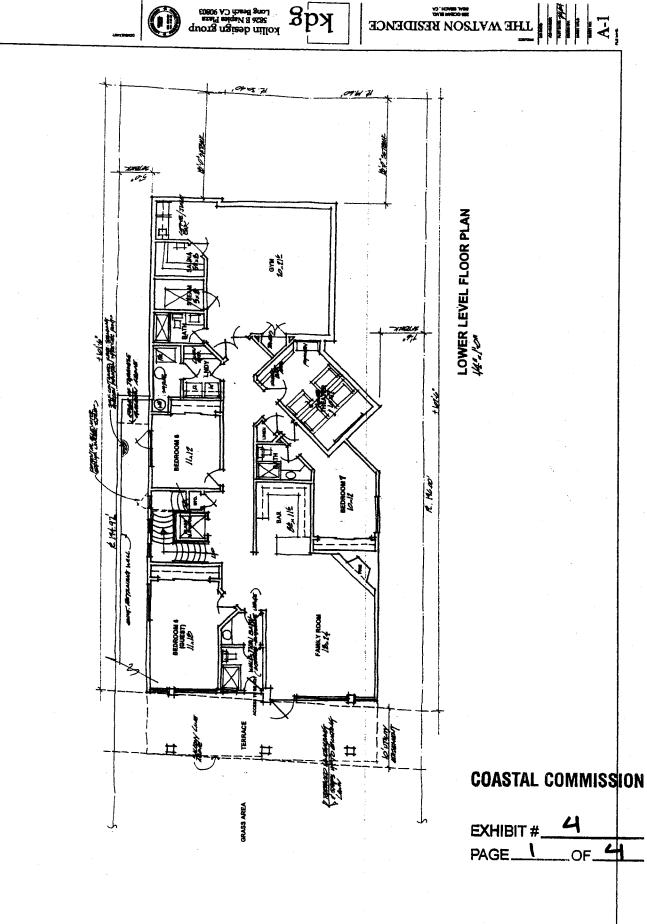
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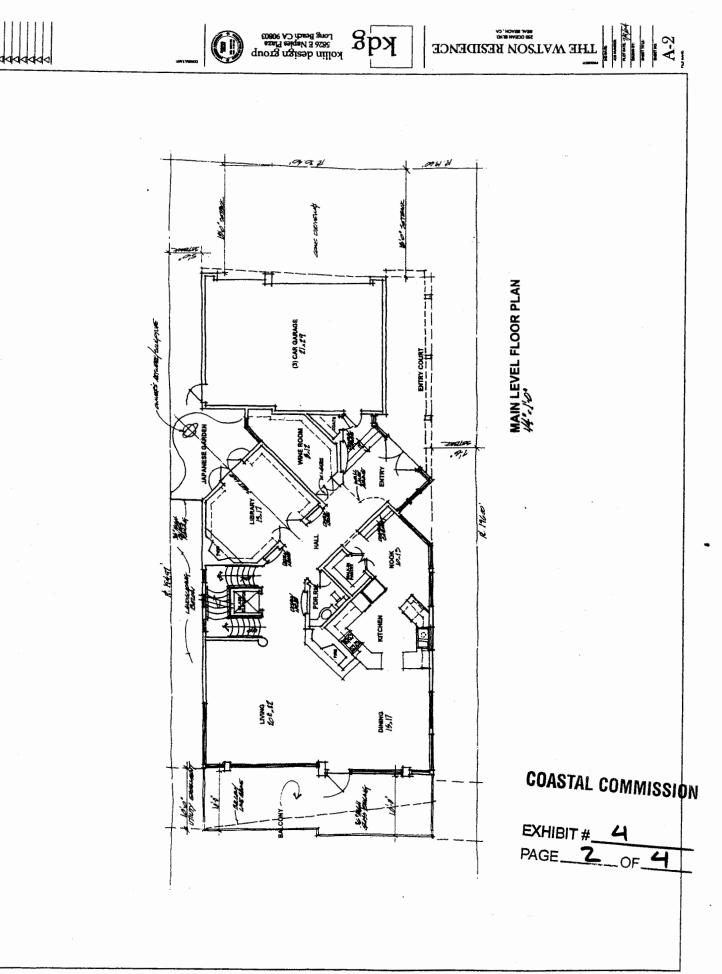




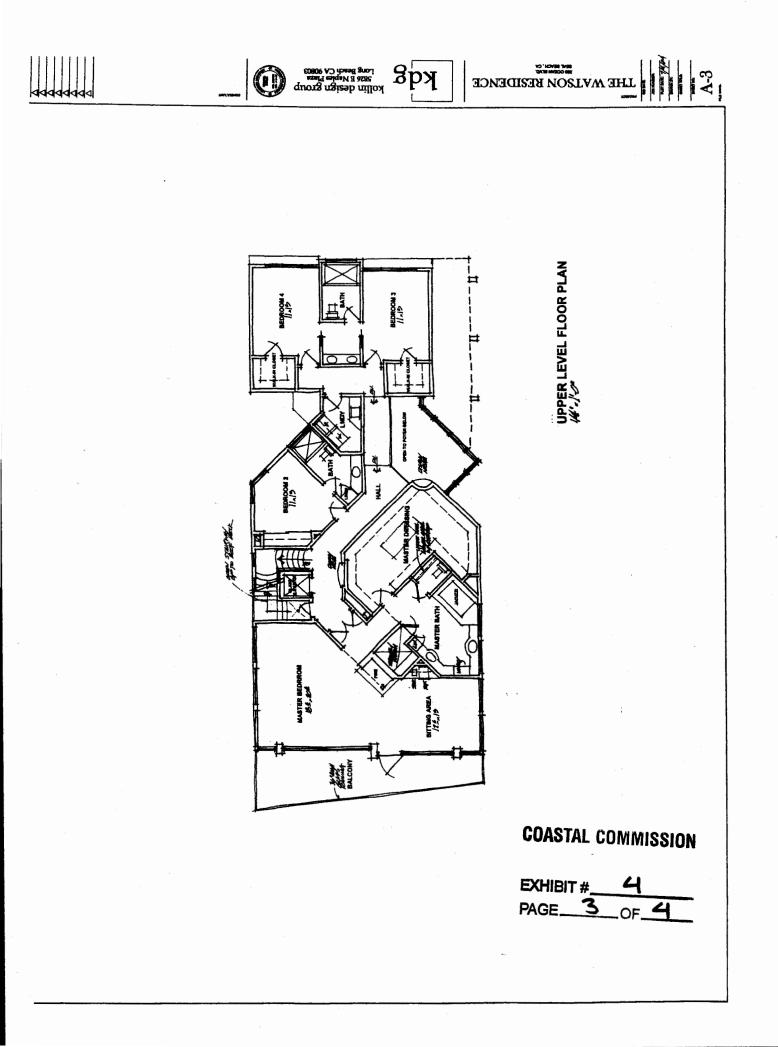
Ownership Map

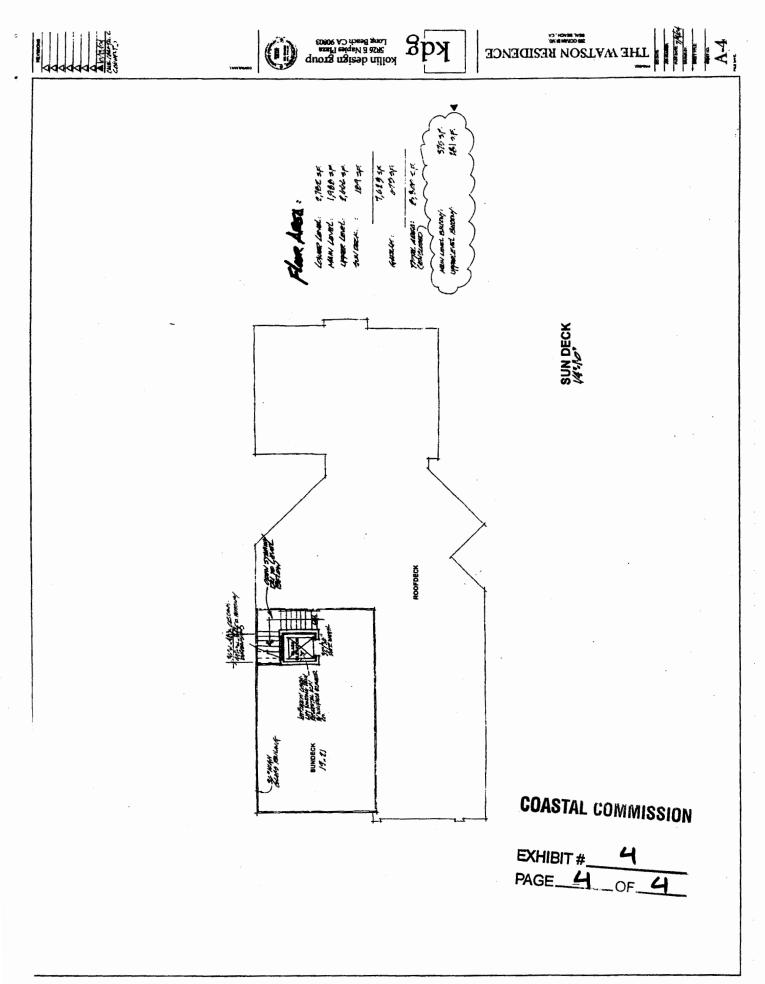






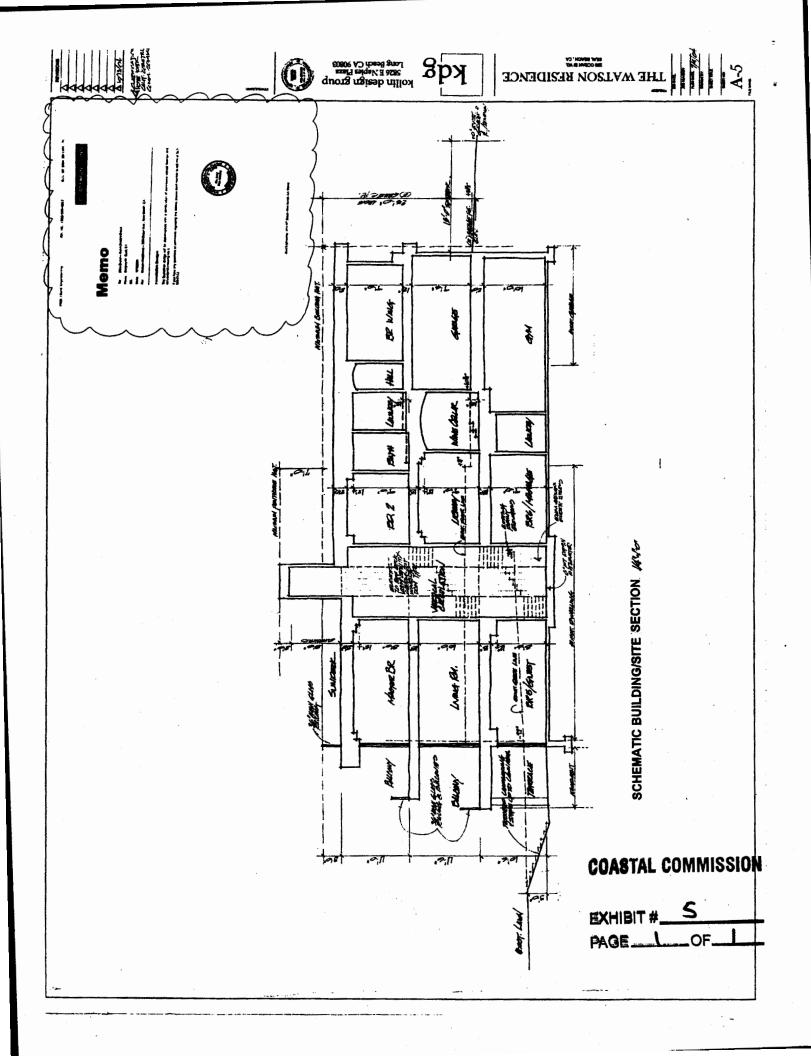
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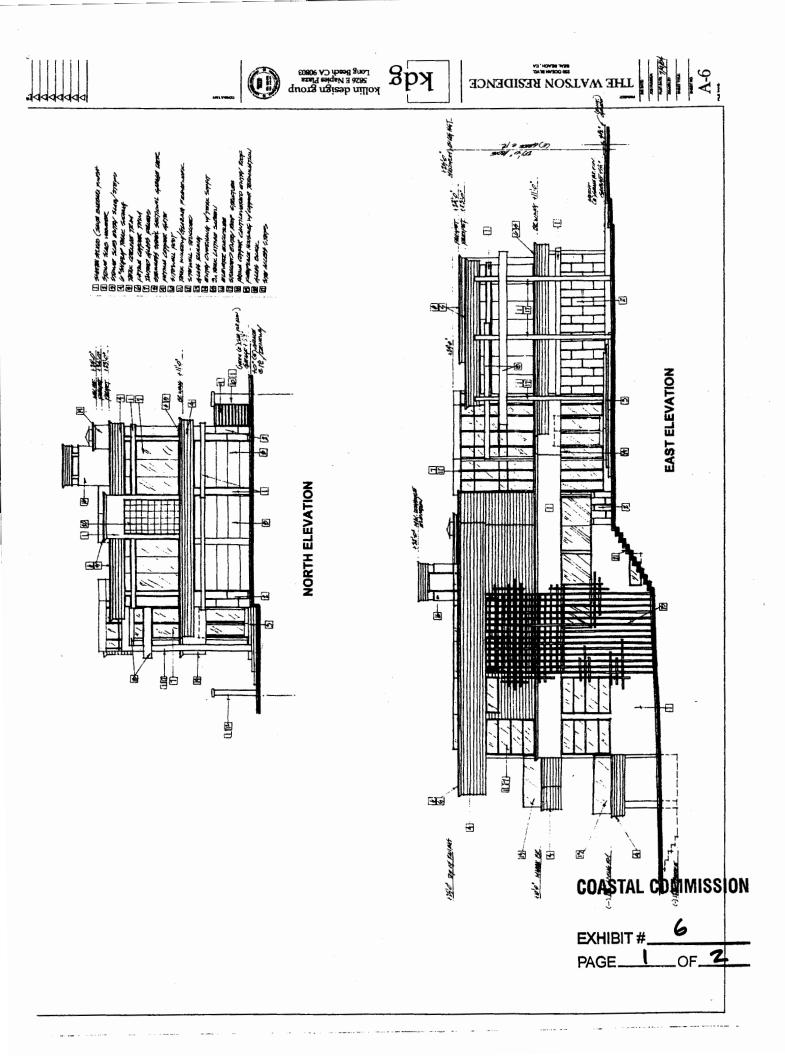


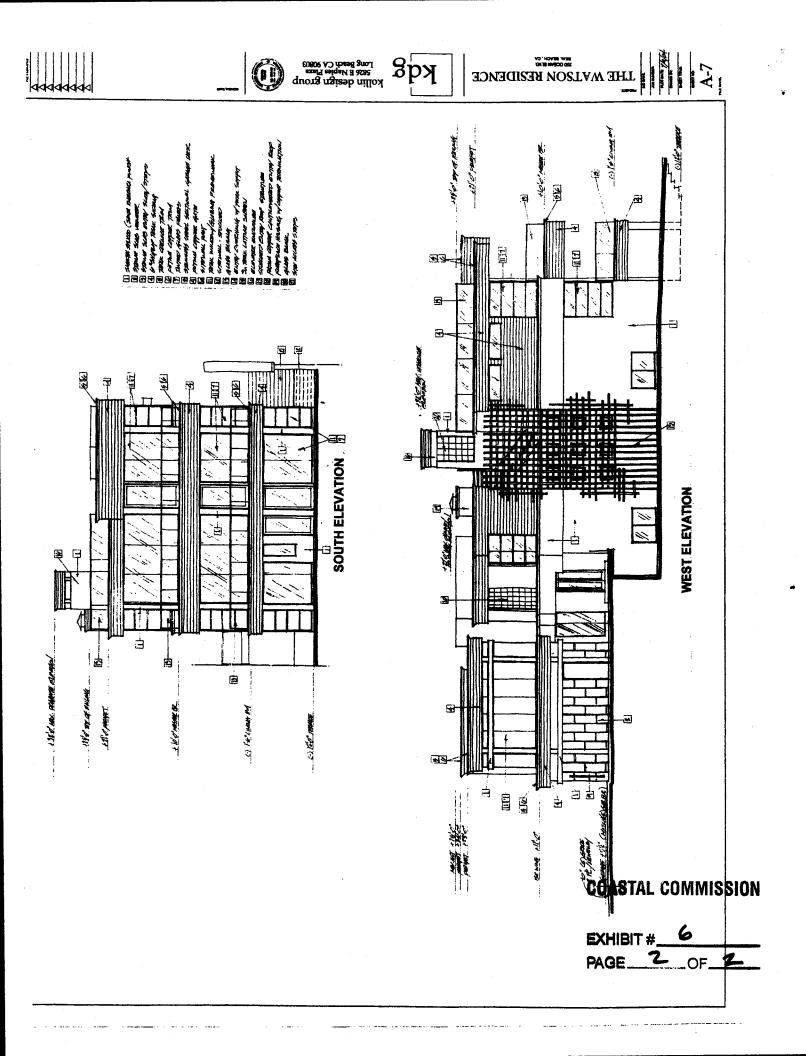


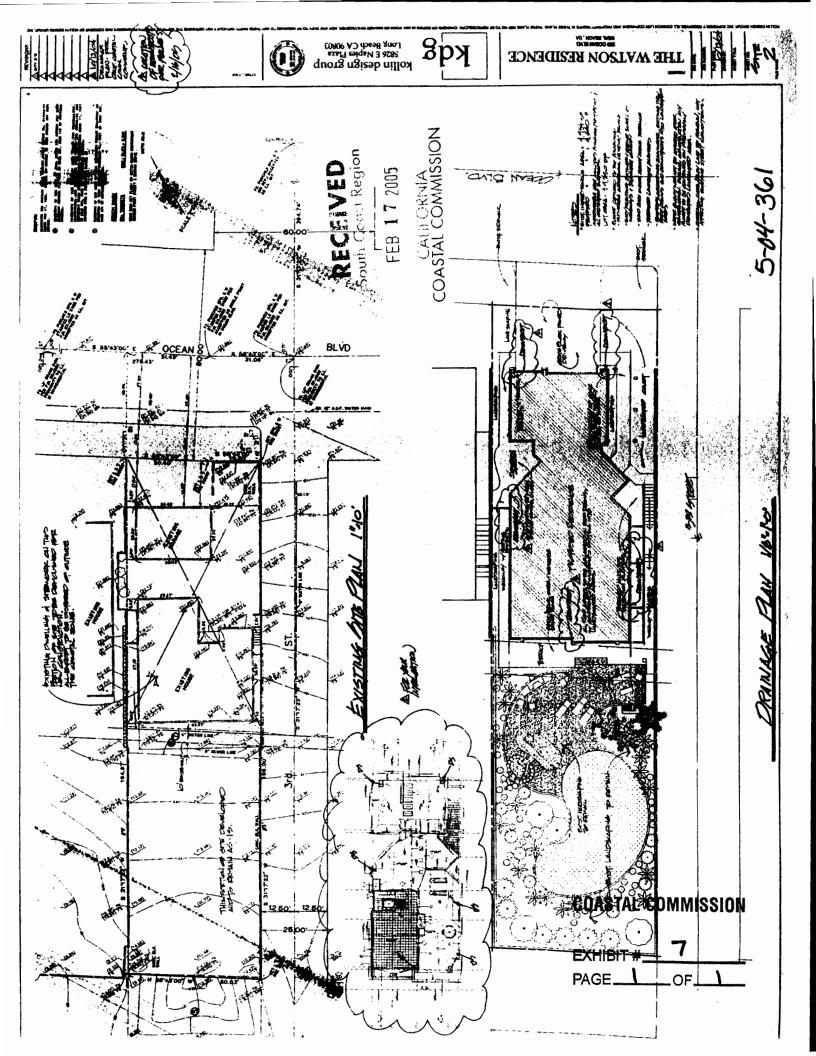
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