

CALIFORNIA COASTAL COMMISSION

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Staff Report: July 21, 2005
Hearing Date: August 9-12, 2005
Commission Action:

**STAFF REPORT: REGULAR CALENDAR****APPLICATION NUMBER:** 5-04-328**APPLICANTS:** Aaron & Joann Sloman**PROJECT LOCATION:** 309 Canal Street, City of Newport Beach (County of Orange)

PROJECT DESCRIPTION: Addition and remodel of an existing 1,170 square foot one-story, single-family residence with an attached 200 square foot one-car garage, located on a water front parcel (Semeniuk Slough). Post project the two-story, single-family residence will be 2,355 square feet with an attached 440 square foot two-car garage. No grading is proposed.

SUMMARY OF STAFF RECOMMENDATION:

Commission staff is recommending **APPROVAL** of the proposed project subject to **Seven (7) Special Conditions** requiring: **1)** revised project plans adhering to the "accessory structure stringline" and the "principal structure stringline," **2)** future development agreement; **3)** submittal of and conformance with a construction staging plan; **4)** conformance with certain requirements related to the storage and management of construction debris and equipment; **5)** submittal of a revised drainage and run-off control plan; **6)** adherence to requirements for exterior lighting adjacent to the wetland; and **7)** a deed restriction against the residential property, referencing all of the special conditions contained in this staff report. The major issue of this staff report concerns waterfront development that could be affected by flooding and erosion during extreme storm events and development adjacent to a wetland (Semeniuk Slough).

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 City of Newport Beach only has a certified Land Use Plan. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act. The certified Land Use Plan may be used for guidance.

LOCAL & OTHER AGENCY APPROVALS RECEIVED: City of Newport Beach Planning Department Approval-In-Concept No. 1846-2004 dated July 21, 2004; and Department of the Army License No. DACW09-3-05-0431 dated March 15, 2005.

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach certified Land Use Plan; Coastal Development Permits: 5-03-153-[Rich], 5-02-060-[NSCA]; 5-01-451-[Walton]; 5-00-359-[Debonis & Faubion Construction]; 5-00-360-[Debonis & Faubion Construction]; Letter to William B. Guidero from Commission staff dated September 13, 2004; Information received from William B. Guidero

on October 1, 2004; Letter to William B. Guidero from Commission staff dated October 29, 2004; Information received from William B. Guidero on November 9, 2004; Information received from William B. Guidero on December 8, 2004, Information received from William B. Guidero on December 9, 2004; Letter to William B. Guidero from Commission staff dated December 9, 2004; and Information received from William B. Guidero on December 9, 2004.

LIST OF EXHIBITS

1. Location Map
 2. Assessor's Parcel Map
 3. Existing Site Plan
 4. Site Plan/Floor Plans/Elevation Plans
 5. Stringline Plan
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I. STAFF RECOMMENDATION, MOTION AND RESOLUTION OF APPROVAL

MOTION: *I move that the Commission approve Coastal Development Permit No. 5-04-328 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion 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.

RESOLUTION TO APPROVE THE PERMIT:

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 permittees 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 permittees to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. REVISED PROJECT PLANS

- A. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit, for the Executive Director's review and approval, two (2) full size sets of revised project plans. The revised plans shall demonstrate that the proposed project has been modified to conform to the "principal structure stringline" and is consistent with the "accessory structure stringline", which are generally depicted on Exhibit #5 of the staff report dated July 21, 2005.
- B. 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 to this coastal development permit unless the Executive Director determines that no amendment is required.

2. FUTURE DEVELOPMENT RESTRICTION

This permit is only for the development described in Coastal Development Permit No. 5-04-328. 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. 5-04-328. Accordingly, any future improvements to the single-family residence 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. 5-04-328 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

3. STAGING AREA FOR CONSTRUCTION

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittees shall submit a plan for the review and approval of the Executive Director which indicates that the construction staging area(s) and construction corridor(s) will avoid impacts to wetlands.

- (1) The plan shall demonstrate that:
 - (a) Construction equipment, materials or activity shall not occur outside the staging area and construction corridor identified on the site plan required by this condition; and
 - (b) Construction equipment, materials, or activity shall not be placed in any location which would result in impacts to wetlands.
- (2) The plan shall include, at a minimum, the following components:
 - (a) A site plan that depicts:
 1. limits of the staging area(s);
 2. construction corridor(s);
 3. construction site;
 4. location of construction fencing and temporary job trailers with respect to existing wetlands.

B. 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 to this coastal development permit unless the Executive Director determines that no amendment is required.

4. STORAGE OF CONSTRUCTION MATERIALS, MECHANIZED EQUIPMENT AND REMOVAL OF CONSTRUCTION DEBRIS

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

- A.** No construction materials, debris, or waste shall be placed or stored where it may enter a storm drain or be subject to tidal erosion and dispersion;
- B.** Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of construction;
- C.** Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of construction-related materials, and to contain sediment or contaminants associated with construction activity, shall be implemented prior to the on-set of such activity. BMPs and GHPs which shall be implemented include, but are not limited to: stormdrain inlets must be protected with sandbags or berms, all stockpiles must be covered, and a pre-construction meeting should be held for all personnel to review procedural and BMP/GHP guidelines. All BMPs shall be maintained in a functional condition throughout the duration of the project.
- D.** Construction debris and sediment shall be properly contained and secured on site with BMPs, to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking. Construction debris and sediment shall be removed from construction areas as necessary to prevent the accumulation of

sediment and other debris, which may be discharged into coastal waters. Debris shall be disposed at a debris disposal site outside the coastal zone.

5. **SUBMITTAL OF A REVISED DRAINAGE AND RUNOFF CONTROL PLAN**

- A. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, two (2) full size sets of revised 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. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property.
- 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.

6. **LIGHTING**

No lighting associated with the project shall significantly impact adjacent wetland habitat. All replaced or new lighting within the development shall be directed and shielded so that light is directed toward the ground and away from the wetlands (Semenuk Slough).

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 landowner has executed and recorded against the residential parcel 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 residential parcel 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 project site is located at 309 Canal Street in the City of Newport Beach, Orange County (Exhibits #1-2). The lot size is approximately 2,102 square feet and the City of Newport Beach Land Use Plan (LUP) designates use of the site for Single-Family Detached Residential and the proposed project adheres to this designation. The project site faces upon the tidally influenced Semeniuk Slough located inland of Pacific Coast Highway. Semeniuk Slough is a remnant channel of the Santa Ana River, which formed when the Santa Ana River entered Newport Bay in the vicinity of present day River Avenue. Semeniuk Slough branches off the Santa Ana River and receives water from the Banning Channel and adjacent oil fields, wetlands and upland areas. While Semeniuk Slough is tidally influenced, there is presently no open boating passage between the slough and the bay or ocean. Semeniuk Slough is a wetland considered an environmentally sensitive habitat area and unique coastal resource in the City's Certified Land Use Plan. The Semeniuk Slough is within the City of Newport Beach and is designated as Recreational and Environmental Open Space in the certified Land Use Plan. The land on the far side of the slough is relatively undeveloped where there are wetlands and some oil production facilities. This relatively vacant land is within unincorporated Orange County and is part of the approximately 75-acre area known as the Newport Banning Ranch. The City's certified Land Use Plan indicates that lateral public access along the slough is present on the far (north) side of the slough. Public access is also available at the Lancaster Street, street end.

The project site is composed of two separate but adjacent areas of land. The 1st property is the applicants' owned property where there is an existing one-story single-family residence with an attached 200 square foot one-car garage located on site (a.k.a. 'residential parcel/property'). The 2nd property is land owned by the Army Corps of Engineers (ACOE) and licensed to the applicants and an existing 10'-5" x 24'-5" wooden deck is located on this parcel. The existing single-family residence is located approximately 17' (the existing habitable area of the residential development is setback 6'-5" from the rear property line plus there is an existing 10'-5" wide wooden deck) from the Semeniuk Slough. The water's edge is actually located on Federal land (ACOE) that the applicants had obtained a license to use from the ACOE. No work is proposed under this application on the ACOE's property adjacent to the water (Semeniuk Slough).

The residential parcel is flanked on the east by an empty lot and then, on the lot beyond, an existing single-family residence; on the west by a single-family residence; on the south by Canal Street; and on the north by ACOE owned land and the Semeniuk Slough. On this northern area of land owned by the ACOE is an existing 10'-5" x 24'-5" wooden deck.

On the Residential Property Owned by the Applicants

The applicants are proposing an addition and remodel of an existing 1,170 square foot one-story, single-family residence with an attached 200 square foot one-car garage, located on a water front parcel (Semeniuk Slough). The proposed project includes: 1) demolition of 240 square feet of livable area on the existing 1st floor at the street side of the residence and demolition of an existing 200 square foot one-car garage, which in total accounts for approximately 31% of the existing exterior walls (approximately 69% of the existing exterior walls will remain in place; 2) construction

of a 440 square foot two-car garage at the street side of the residence; 4) an addition of 50 square feet to the existing 1st floor near the street side of the residence; 5) a new 1,195 square foot 2nd floor; 6) a new 180 square foot 3rd floor; and 7) a total of 420 square feet of roof deck and 2nd floor deck. Post project the two-story, single-family residence will be 2,355 square feet with an attached 440 square foot two-car garage (Exhibit #4). No grading is proposed.

On Land Owned by the ACOE

No work is proposed on the land owned by the ACOE and licensed to the applicants.

Commission staff has determined that no previous coastal development permits were issued for the existing wooden deck located on the ACOE owned lands. The applicants are not seeking authorization for this existing unpermitted development through this application. The matter has been referred to the Commission's enforcement division for further investigation.

B. VISUAL QUALITY

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The proposed project includes the remodel and addition to an existing residential structure on a waterfront lot. If not sited appropriately, this structure would have adverse impacts upon views to and along the slough and would be visually incompatible with the character of the surrounding area. Furthermore, appropriate siting can restore and enhance visual quality.

The site is visible from a trail, which runs along the north side of the slough on the opposite shore from the proposed development. Development on this waterfront parcel can affect public views along the coast from the public areas. Degradation of those views would be inconsistent with Section 30251 of the Coastal Act. Degradation of views can occur when development is not consistent with the character of surrounding development. For instance, development seaward of the line of development established for an area can interfere with views to and along the shoreline leading to degradation of those views.

The Commission has recognized that, in a developed area, where new construction is generally infilling and is otherwise consistent with the Coastal Act policies, no part of the proposed development should be built further seaward than a line drawn between the nearest adjacent corners of either decks or structures of the immediately adjacent homes. These lines establish the existing line of development in the area. In order to determine whether the proposed project is consistent with the established line of development, the Commission has typically used two methods to review waterward encroachment of development toward the slough along this section of Canal Street in Newport Beach: 1) setbacks from the slough-front property line; and 2) string line evaluation. The City of Newport Beach setback requirement for in this area is 5-feet. The

proposed second floor habitable area addition would be setback 6'-5" from the rear property line and would not project beyond the footprint of the existing first floor. Also, the proposed 2nd floor deck encroaches 2' waterward, but is set back 5-feet from the rear property line. Therefore, the project conforms to the city setback requirements. However, use of the City setback and/or stringline to establish the waterward limit of development is determined at a site-specific level. Setbacks and string lines are applied to limit new development from being built any further waterward than existing adjacent development. The use of either the City setbacks or the stringline will have an impact upon where the habitable area in the rear and the 2nd floor deck will be located.

1. City Setbacks

Section 30251 of the Coastal Act states that permitted development shall be designed "to be visually compatible with the character of the surrounding area." Therefore, proposed development must be compatible with its surroundings. Though the plans submitted by the applicant show that the project conforms to the City zoning setback requirements of 5-feet, conformance to the City required setback would allow waterward encroaching development here. Allowing development to comply with the City setbacks would not achieve the objectives of Coastal Act Section 30251, as the proposed project would encroach waterward significantly and would not, therefore, be compatible with the character of the surrounding area. Section 30251 of the Coastal Act states that permitted development should protect views and be visually compatible with the surrounding area. Therefore, the City setback cannot be used in this particular situation.

2. Stringline Policy

The stringline policy is used by the Commission as one means of determining the appropriate setback for coastal developments. Since the City setback cannot be used in this particular situation, the stringline will be used instead. This policy applies to infilling development and establishes two separate types of stringlines, a structural stringline for the principal structure and an accessory structure (i.e., deck, patios, etc.) stringline. A structural stringline for principal structures refers to the line drawn between the *nearest* adjacent corners of adjacent principal structures. Similarly, an accessory structure (i.e., deck, patios, etc.) stringline refers to the line drawn between the *nearest* adjacent corners of adjacent accessory structures.

A principal structure stringline and accessory structure stringline use the corners of *nearest* adjacent principal structures and accessory structures, normally located to the adjacent sides of the development. However, in this case there is an existing empty lot to the east instead of an existing principal structure or accessory structure. In this case the residence located east of this empty lot is used and serves as the *nearest* adjacent corner for principal structures and accessory structures

The applicants have submitted a stringline drawing to Commission staff for analysis (Exhibit #5). The applicants' stringline drawing shows an "accessory structure stringline" which is consistent with Section 30251 of the Coastal Act; however, it does not show a "principal structure stringline". In order to show the "principal structure stringline", Commission staff used the applicants' stringline drawing and drew the "principal structure stringline" based on the standard of Section 30251 of the Coastal Act which would protect against adverse visual impacts (Exhibit #5). Adhering to the "principal structure stringline"

would require the applicants to remove approximately 23 square feet of the proposed 2nd floor habitable area on the Semeniuk Slough side of the residence.

The proposed 2nd floor addition to the principal structure does not adhere to the "principal structure stringline" which limits incremental waterward encroachment. However, the proposed deck conforms with the "accessory structure stringline" and is consistent with Section 30251 of the Coastal Act. Therefore, revised project plans must be submitted which change the 2nd floor habitable area addition to conform with the "principal structure stringline" and which also show that proposed accessory improvement (as previously proposed) conform with the "accessory structure stringline". The proposed project, as conditioned, will be consistent with Section 30251 of the Coastal Act.

3. **Cumulative Impacts**

The proposed project, as submitted, does not conform to the existing pattern of development. If allowed it would set a precedent for future development to encroach waterward in the subject area. Over time, incremental impacts can have a significant cumulative adverse visual impact. Approval of the proposed project as currently designed would set a precedent for the construction of other such development along the Semeniuk Slough that would significantly cause adverse visual impacts and encroach waterward. Scenic resources would not be preserved. By imposing **Special Condition No. 1**, which requires the applicants to supply revised project plans showing that the proposed project adheres to the "principal structure stringline" and "accessory structure stringline" based on Section 30251, the appearance of the project will conform with the character of the area. The proposed project, as conditioned, will be consistent with Section 30251 of the Coastal Act and will conform to the character of the surrounding area.

The Commission finds that the project, as conditioned, protects views and is visually compatible with the surrounding area. **Special Condition No. 1** has been imposed which requires the applicants to supply revised project plans showing that the proposed project adheres to the "accessory structure stringline" and the "principal structure stringline" based on Section 30251 of the Coastal Act. Adhering to the "principal structure stringline" would require the applicants to move the habitable area proposed on the 2nd floor landward. The Commission finds that the proposed project, as conditioned, is visually compatible with the character of the surrounding area. Therefore, as conditioned, the Commission finds that the proposed project is consistent with Section 30251 of the Coastal Act.

C. **FLOODING AND EROSION HAZARDS**

Section 30253 of the Coastal Act states, in relevant 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 located adjacent to Semeniuk Slough, a tidally influenced wetland that branches off the Santa Ana River. Currently, no seawall/bulkhead exists on site. Semeniuk Slough is part of the Lower Santa Ana River Marsh. Water elevation within the slough is presently controlled by a series of flood control gates and one-way drainage pipes. These water elevation control devices allow for normal tidal circulation but minimize flooding hazards present when higher water levels occur within the Santa Ana River during storm events. The purpose of the culvert and drainage pipe system is to allow unrestricted circulation and normal tidal flows into and out of the marsh area and prevent flooding of the interior marsh and slough during times of river flood stage. The existing flood control devices are part of a 1.84 square mile marsh restoration and enhancement project known as the Federal Lower Santa Ana River Project which is part of the Santa Ana River Mainstem Project designed by the U.S. Army Corps of Engineers. The Federal Lower Santa Ana River Project includes habitat restoration, tidal circulation improvements, and flood control devices.

Coastal areas are dynamic environments, which may be subject to unforeseen changes. Such changes may affect flooding and erosion regimes. Hydraulics are complex and may change over time, especially as flood control structures such as flood control gates and drainage pipes are modified, either through damage or deliberate design. Flood and erosion hazards at the site are presently managed by mechanical structures. These existing flood control devices in the project area function in a manner that reduces flooding hazards. However, damage to these flood control devices could dramatically change flooding hazards at the site. Since coastal processes are dynamic and structural development may alter the natural environment, future development adjacent to the water could adversely affect future shoreline conditions if not properly evaluated. For this reason, the Commission is imposing **Special Condition No. 2** which states that any future development or additions on the property, including but not limited to hardscape improvements, grading, landscaping, vegetation removal and structural improvements, requires a coastal development permit from the Commission or its successor agency. Section 13250 (b) of Title 14 of the California Code of Regulations specifically authorizes the Commission to require a permit for improvements that could involve a risk of adverse environmental effect. This condition ensures that any future development on this site that may affect shoreline processes receives review by the Commission. As conditioned, the Commission finds that the proposed project is consistent with Coastal Act Section 30253.

D. BIOLOGICAL RESOURCES AND WATER QUALITY

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.

Section 30240(b) of the Coastal Act states:

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would

significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The proposed development is occurring adjacent to Semeniuk Slough, which is a wetland as defined under the Coastal Act. One of the main reasons for preserving, expanding, and enhancing Southern California's remaining wetlands is because of their important ecological function. First and foremost, wetlands provide critical habitat, nesting sites, and foraging areas for threatened or endangered species. Wetlands also serve as migratory resting spots on the Pacific Flyway a north-south flight corridor extending from Canada to Mexico used by migratory bird species. In addition, wetlands serve as natural filtering mechanisms to help remove pollutants from storm runoff before the runoff enters into streams and rivers leading to the ocean. Further, wetlands serve as natural flood retention areas.

Moreover, preserving, expanding, and enhancing Southern California's remaining wetlands is particularly critical because of their scarcity. As much as 75% of coastal wetlands in southern California have been lost, and, statewide up to 91% of coastal wetlands have been lost.

Development, including grading and the construction of residential structures, could cause impacts upon adjacent wetlands by discharging silt to the wetlands. In addition, occupation and use of residential structures adjacent to wetlands can cause disturbances to the biological resources in the wetlands.

Section 30240(b) of the Coastal Act requires that development in areas adjacent to environmentally sensitive habitat areas, such as wetlands, must be sited and designed to prevent impacts which would significantly degrade those areas. In addition, Section 30231 of the Coastal Act requires that the biological productivity and quality of coastal waters and wetlands be maintained. One way the Commission has sought to protect wetlands is to establish a buffer between wetlands and proposed development. Buffer areas are undeveloped lands surrounding wetlands. Buffer areas serve to protect wetlands from the direct effects of nearby disturbance. In addition, buffer areas can provide necessary habitat for organisms that spend only a portion of their life in the wetland such as amphibians, reptiles, birds, and mammals. Buffer areas provide obstructions which help minimize the entry of domestic animals and humans to wetlands. Buffers also provide visual screening between wetland species that are sensitive to human impacts, such as lighting. Buffers can also reduce noise disturbances to wetland species from human development.

The proposed-to-be-remodeled single-family residence is located approximately 17' (the proposed habitable area is setback 6'-5" from the rear property line and there is an existing 10'-5" wide wooden deck) from the Semeniuk Slough. However, this buffer is much smaller than the 100-foot buffer normally required by the Commission for development adjacent to wetlands. However, since the subject lot is only approximately 80-feet deep, a 100-foot buffer would preclude the construction of any development on the lot.

The lot upon which the proposed development is being constructed pre-dates the Coastal Act. This lot was part of a larger residential subdivision which, like this lot, were developed with residential structures which are similar to the proposed development in square footage, dimension, and setback. The proposed development is in-fill development. Any impacts upon Semeniuk slough related to light, noise and other disturbance related impacts have already been caused by the presence of the existing pre-Coastal Act development on this site and flanking the proposed project site. The presence of the proposed development would not cause any significant

encroachment upon the wetlands. Also, the additional light, noise and related impacts caused by the proposed development would not be significant compared with the pre-existing development.

However, as described above, the addition to the habitable area is not consistent with the visual resource protection policies of the Coastal Act and the Commission is requiring the addition to be set back to conform with the principal structure stringline. The additional set back will have biological benefits as well as it increases the separation between the addition to the residence and wetlands. Therefore, as conditioned, the proposed development is adequately setback from the Semeniuk Slough.

If construction equipment and staging is not appropriately managed, adverse impacts upon the Semeniuk Slough could occur. For instance, soil stockpiles could erode causing sedimentation of wetlands. In addition, if not sited appropriately, construction equipment and activity could cause trampling of the wetlands. Therefore, the Commission imposes **Special Condition No. 3**, which requires that, prior to issuance of the coastal development permit, the permittees shall submit a plan for the review and approval of the Executive Director which indicates that the construction staging area(s) and construction corridor(s) will avoid impacts to wetlands. The plan shall demonstrate that construction equipment or activity shall not occur outside the staging area and construction corridor identified on the site plan required by this condition and that construction equipment and activity shall not be placed in any location which would result in impacts to wetlands. The plan shall include, at a minimum, the following components: a site plan that depicts the limits of the staging area(s); construction corridor(s); construction site; the location of construction fencing and temporary job trailers with respect to existing wetlands.

In addition, in order to ensure that construction and materials are managed in a manner which avoids impacts to adjacent wetlands, the Commission imposes **Special Condition No. 4**, which requires that construction materials, debris, or waste be placed or stored where it will not enter storm drains or be subject to tidal erosion and dispersion; removal of debris within 24 hours of completion of construction; implementation of Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed such that construction debris and sediment are properly contained and secured on site and to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking.

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 can result in decreases in the biological productivity of coastal waters. In addition, impervious surfaces magnify peak flows dramatically which can lead to erosion. In order to mitigate these impacts, the applicants have submitted a drainage runoff and control plan that shows downspouts will be used to direct rooftop drainage to permeable areas. Sand bags will be used during construction during to prevent any runoff from entering the Semeniuk Slough. However, the submitted drainage and runoff control plan does not show how surface water runoff will be dealt with on site. Therefore, revised drainage and runoff control plans are necessary. Thus, the Commission imposes **Special Condition No. 5**, which requires submittal of revised drainage and runoff control plans. The placement of any vegetation in this revised drainage and runoff control plan 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 drainage and runoff control plan should be drought tolerant

(preferably native to coastal Orange County) 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>.

An additional concern is the impact lighting may have upon the wetland. Thus, **Special Condition No. 6** has been imposed, which requires that all replaced or new lighting within the development shall be directed and shielded so that light is directed toward the ground and away from the wetlands.

In order to assure that no impacts to wetlands or water quality occur with the proposed project, **Special Conditions No. 3, 4, 5 and 6** have been imposed which require submittal of and conformance with a construction staging plan; conformance with certain requirements related to the storage and management of construction debris and equipment, submittal of a revised drainage and runoff control plan and direction of new or replaced exterior lighting on site. As conditioned, the Commission finds that the proposed project is consistent with Coastal Act Sections 30231 and 30240(b) of the Coastal Act.

E. PUBLIC ACCESS

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 of the Coastal Act states, in relevant part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(2) adequate access exists nearby...

The subject site is a waterfront lot located between the nearest public roadway and the shoreline in the City of Newport Beach. There is wetland adjacent to the subject site. Public access is available adjacent to the project site along the Federal land adjacent to the slough and at the Lancaster Street, street end approximately 60-feet south of the project site (Exhibit #2). The City's certified Land Use Plan indicates that lateral public access along the slough is present on the far (north) side of the slough.

When a private development does not provide adequate on-site parking, users of that development who arrive by automobile are forced to occupy public parking used by visitors to the coastal zone. Thus, all private development must provide adequate on-site parking to minimize adverse impacts on public access.

The Commission has consistently found that two parking spaces are adequate to satisfy the parking demand generated by one individual residential unit. The existing single-family residence has only a one-car garage, which is inconsistent with the Commission's typical parking requirements for one residential unit. However, the proposed project will result in a two-car garage. Thus, as proposed, the development is consistent with the parking typically required by the Commission. Therefore, as proposed, the Commission finds adequate access is available nearby, sufficient parking is provided on site and thus, the proposed development is consistent with Sections 30210, 30211 and 30212 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 **Special Condition No. 7** requiring that the property owners record a deed restriction against the residential 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 that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction 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 certified LUP was updated on January 9, 1990. 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.

The proposed development, as conditioned, is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, 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.

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096(a) of Title 14 of the California Code of 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 further feasible

mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project is located in an urban area. All infrastructure necessary to serve the site exists in the area. As conditioned, the proposed project has been found consistent with the hazard, biological resource and water quality protection, visual resource and public access policies of Chapter 3 of the Coastal Act. Mitigation measures include: **1)** revised project plans adhering to the "accessory structure stringline" and the "principal structure stringline," **2)** future development agreement; **3)** submittal of and conformance with a construction staging plan; **4)** conformance with certain requirements related to the storage and management of construction debris and equipment; **5)** submittal of a revised drainage and run-off control plan; **6)** conformance to requirements for exterior lighting adjacent to the wetland; and **7)** a deed restriction against the residential property, referencing all of the special conditions contained in this staff report.

As conditioned, there are no feasible alternatives or additional 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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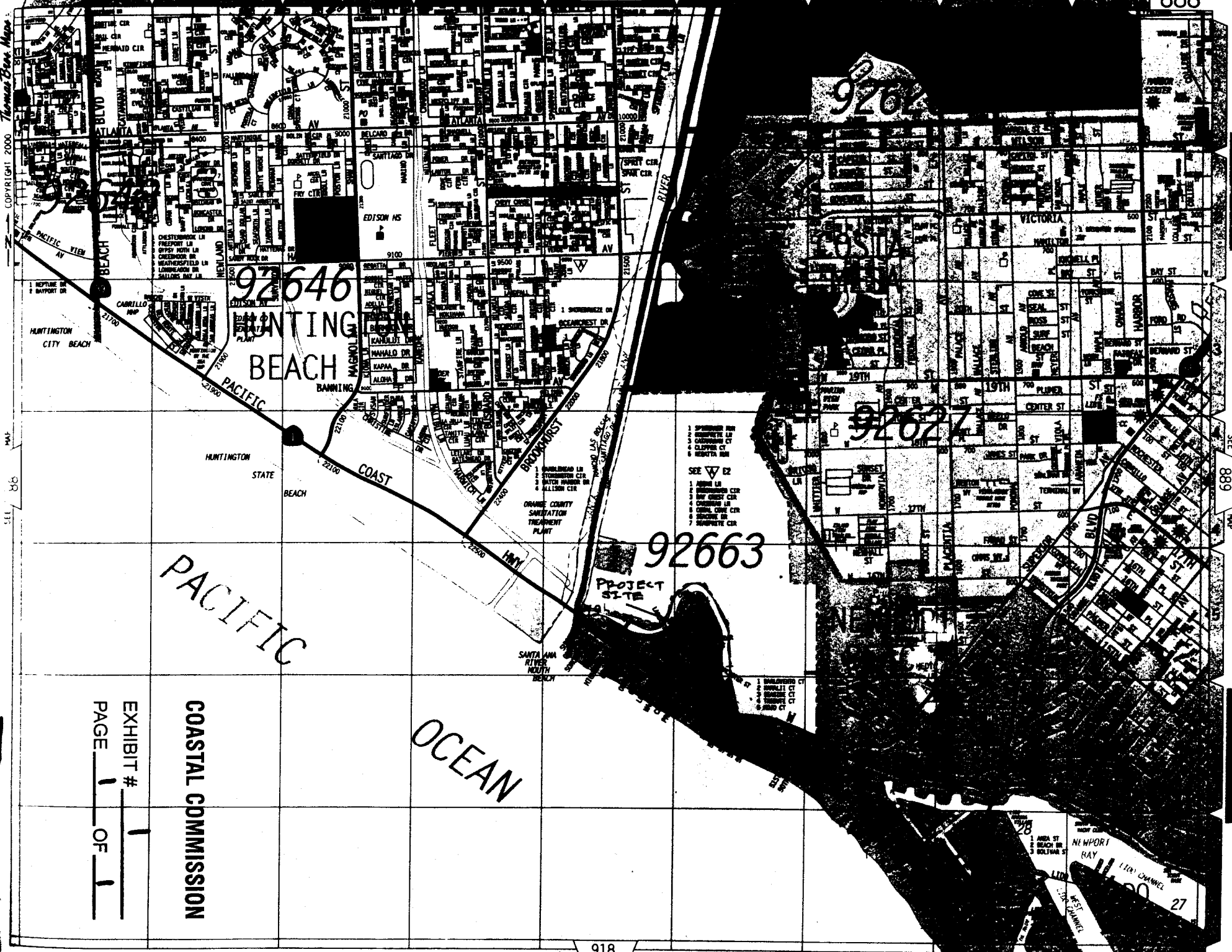


EXHIBIT # 1
PAGE 1 OF 1

COASTAL COMMISSION

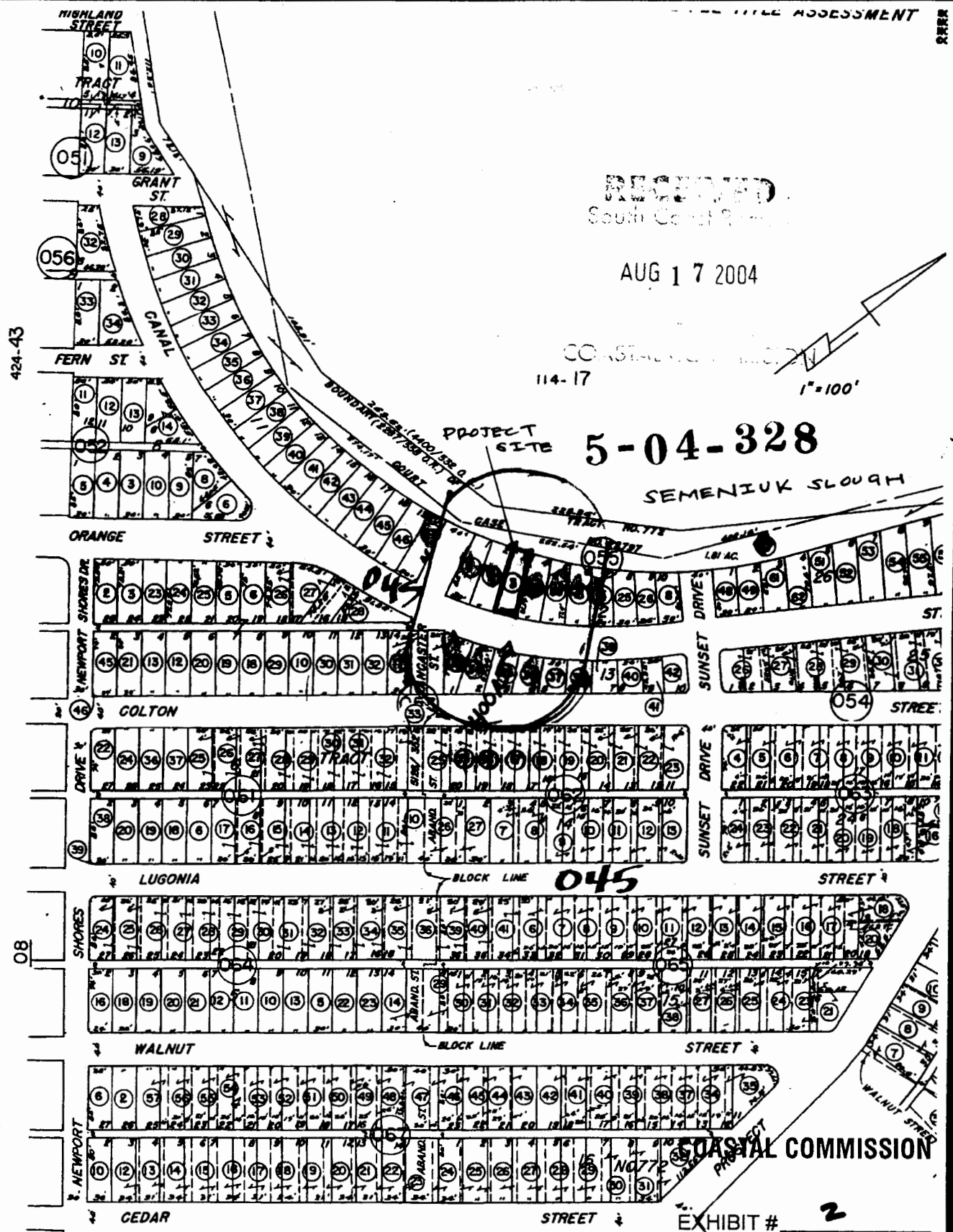
PREPARED
South Coast

AUG 17 2004

CONSTRUCTION 114-17 1"=100'

5-04-328

SEMENIUK SLOUGH



424-43

08

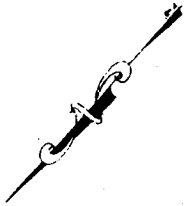
07

EXHIBIT # 2
PAGE 1 OF 1

MARCH 1940

Ownership Map

PREPARED BY: SUSAN W. CASE, INC.
917 GLENNEYRE ST #7
LAGUNA BEACH CA 92651
949 494-6105

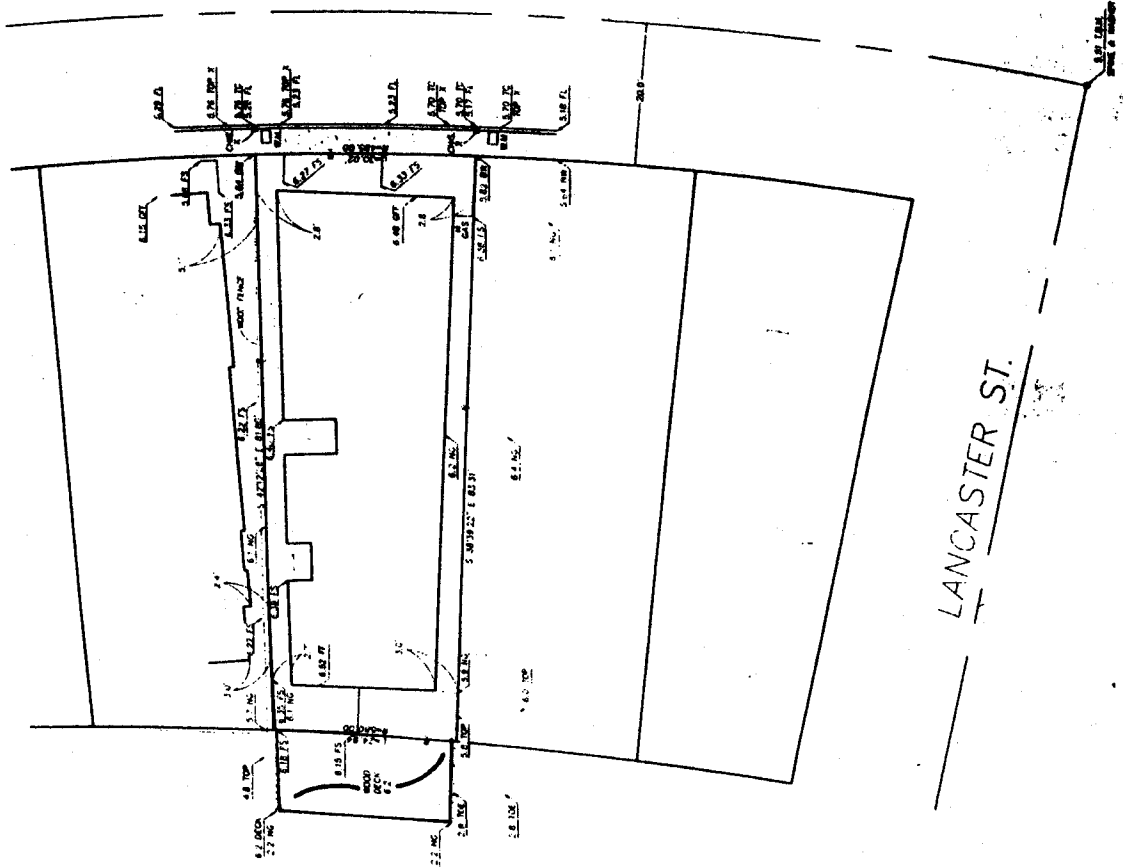


RECEIVED
South Coast Region

OCT 01 2004

CALIFORNIA
COASTAL COMMISSION

CANAL ST.



LANCASTER ST.

COASTAL COMMISSION

EXHIBIT # 3

PAGE 1 OF 1

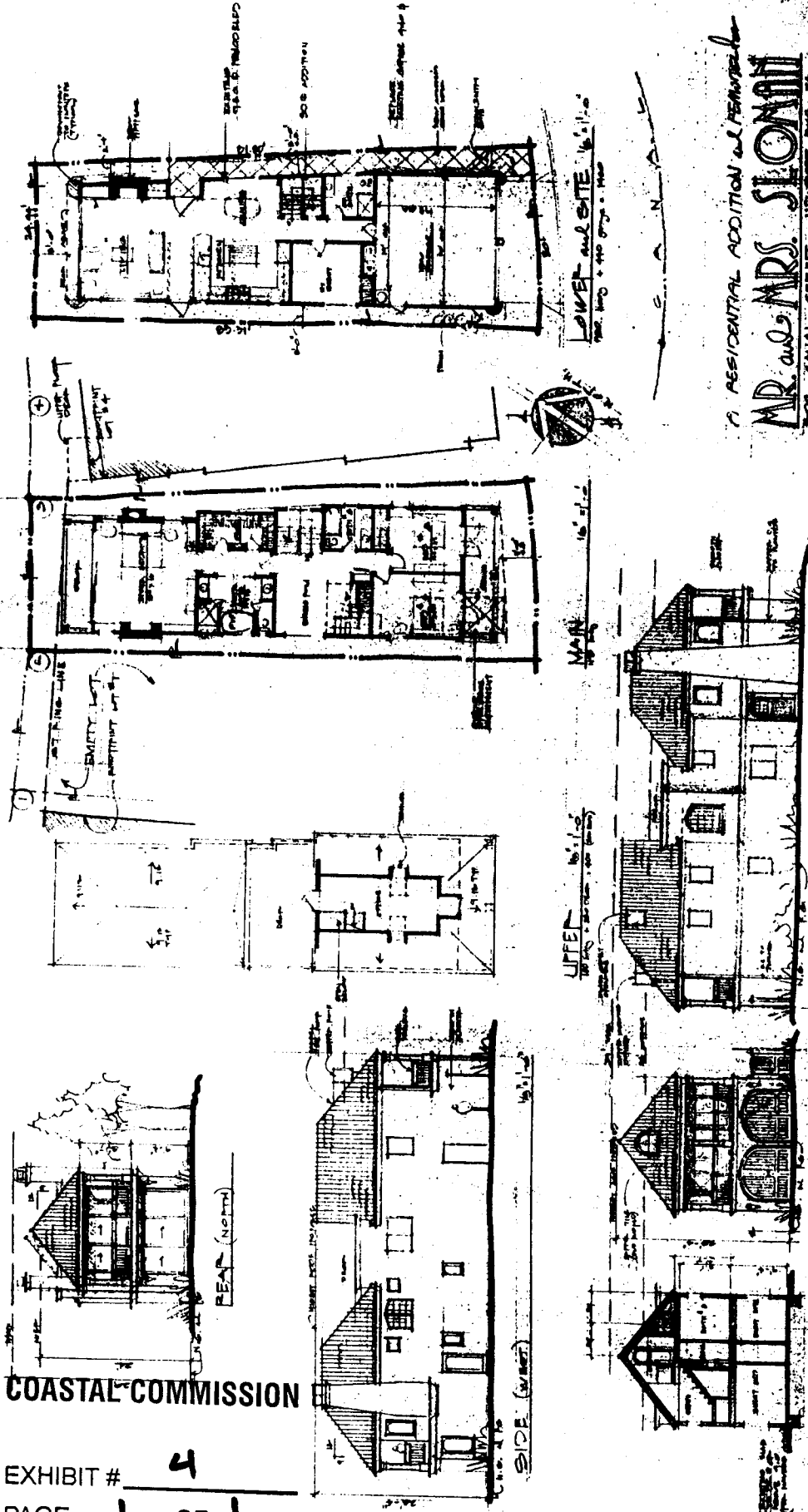
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 TOTAL FLOOR AREA: 1111.180
 TOTAL VOLUME: 4400.000
 TOTAL HEIGHT: 4.000
 TOTAL PERIMETER: 140.000
 TOTAL AREA: 1111.180
 TOTAL FLOOR AREA: 1111.180
 TOTAL VOLUME: 4400.000
 TOTAL HEIGHT: 4.000
 TOTAL PERIMETER: 140.000

LEGAL DESCRIPTION

TRACT 277
 BLOCK 12
 LOT 10
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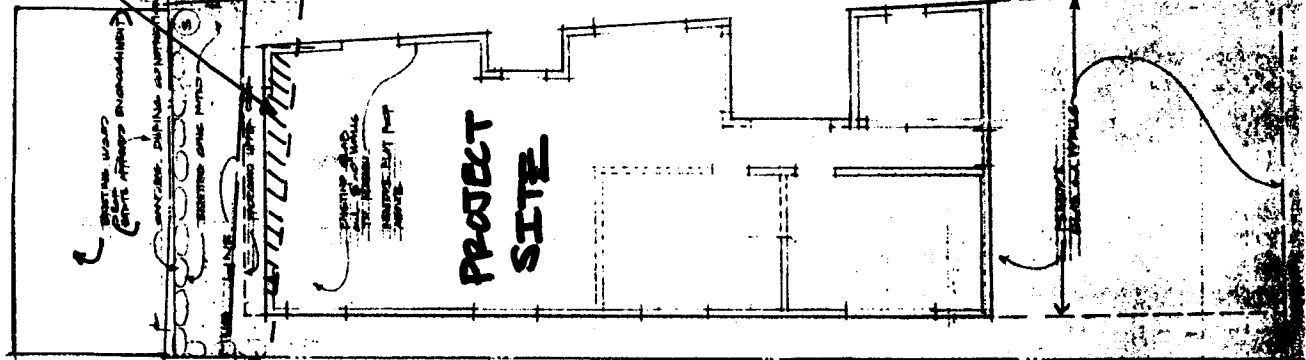


RESIDENTIAL ADDITION & REPAIRS
 MR. and MRS. STONAMI
 201 ZANAL STREET, JANA, CA 94024

COASTAL COMMISSION

EXHIBIT # 4
 PAGE 1 OF 1

HABITABLE AREA
TO BE REMOVED
IN ORDER TO BE
CONSISTENT W/
PRINCIPAL STRUCTURE
STIPING LINE



APPLICANTS'
ACCESSORY STRUCTURE
STIPING LINE

PRINCIPAL
STRUCTURE
STIPING LINE
(DONE BY
COMMISSION
STAFF)

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OCT 01 2004

CALIFORNIA
COASTAL COMMISSION

LINE MARK
DECK
EXISTING
RESIDENCE
(HABITABLE
AREA)

EMPTY LOT

LEASING
COMMERCIAL
RENTAL



COMM/STIPING

MR. & MRS. S. J. STONM
1201 CANAL STREET
SAN FRANCISCO, CALIF.

COASTAL COMMISSION

EXHIBIT # 5

PAGE 1 OF 1