

CALIFORNIA COASTAL COMMISSION

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Staff: Ryan Todaro-LB
Staff Report: June 22, 2006
Hearing Date: July 12-14, 2006
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NUMBER: 5-05-503

APPLICANT: Martin Burke

PROJECT LOCATION: 507-631 Paseo De La Playa, Torrance,
Los Angeles County

PROJECT DESCRIPTION: After-the-fact approval of and replacement of an approximately 8 foot-high, 1,000 foot-long section of chain-link fence along the toe of a bluff and on the sandy beach.

SUMMARY OF STAFF RECOMMENDATION:

The applicant is requesting after-the-fact approval of, and authorization for replacement of, an approximately 8 foot-high, 1,000 foot-long section of chain-link fence along the toe of a bluff and on the sandy beach. Staff recommends that the Commission **deny** the application because it is inconsistent with Sections 30210, 30240 (b) and 30251 of the Coastal Act. **(The motion is on page 4 of this report.)**

Section 30210 protects public access by requiring that maximum access 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. It is necessary to ensure that new development (or anything appropriately treated as "new" development) be sited and designed to prevent seaward encroachment of existing bluff top development that would impact public access to or use of coastal resources to which the public has a legal right of access, such as the sandy beach in front of the subject fence.

Section 30240 (b) protects parks and recreation areas by requiring that development be sited and designed to prevent impacts that would significantly degrade those areas or be incompatible with their continuance. The proposed project, as submitted, would be a significant new development encroaching seaward from any recognized existing development, and it would degrade the recreational character of the sandy beach.

Section 30251 protects the scenic and visual qualities of coastal areas and requires the Commission to minimize the alteration of natural landforms. The proposed fence substantially alters the appearance of the area at the toe of the bluff. Establishing a limit of development and setting development farther back from the toe of the coastal bluff decreases a development's visibility from public vantage points, thus protecting views and the scenic quality of the area as well as preventing alteration of the natural landform. The fence changes the quality of the view from and along the public beach at the toe of the Torrance bluff. The toe of the bluff, where the fence is proposed to be located, is immediately inland of Torrance Beach, which is a public beach and is heavily used by visitors from Redondo Beach, Torrance, and other south Los Angeles County communities and by occasional visitors from farther inland, farther north, and elsewhere looking for a quiet beach. The bluff rises steeply (as much as a 1:1.5 slope) from the inland side off the beach and is covered with a mixture of native and introduced vegetation, dominated by coastal bluff scrub. Constructing a chain link fence at the toe of the bluff at the inland edge of the sandy beach changes the quality and experience of the area from an undeveloped, almost rural space with the backdrop of an undeveloped bluff, to a developed urban neighborhood.

While there are exceptions, the overall appearance of the bluff along Paseo de la Playa is natural and undeveloped. The Commission has approved only minor development near the toe of the bluff; no "structures" have been approved other than paths and walls. However, in 1973, the Commission approved a 560-foot long chain-link fence at the toe of the bluff (Permit No. A-12-20-73-2419) along 5 lots (429, 433, 437, 441 and 445 Paseo de la Playa) to the north of the subject site, and in 1975, the Commission approved a 410-foot long chain-link fence at the toe of the bluff (Permit No. P-3-19-75-4949) along 1 lot (635-649 Paseo de la Playa) to the south. The applicant cites security and liability (due to the steep and unstable nature of the bluffs) as reasons for the proposed fence. The applicant also cites the provisions of a 1988 BLA, which he claims authorizes the construction and maintenance of the proposed fence.

This application was first heard at the Commission's May 2006 meeting in Costa Mesa and was continued because, at that hearing, the applicant asserted, for the first time, that the subject fence was pre-coastal (meaning that it was installed prior to the adoption of the Coastal Act or its predecessor, and thus, did not require any authorization under those laws). The Commission postponed its decision and directed the applicant to submit evidence to validate this claim. The applicant has since submitted declarations from local lifeguards and residents stating that they recall a fence being in existence at this site from the early 1950's, the 1960's, or the early 1970's; 1970-1975 photographs from the Torrance City Attorney's office, a historic book with a 1930's photograph, 1964 newspaper articles describing the bluff cave-in death of a teenager, letters from the Assistant Attorney General to the City of Torrance, Boundary Agreement documents, a letter from the City of Torrance to the Commission, and materials from the Commission's files for Coastal Development Permit No. A-12-20-73-2419 and Coastal Development Permit No. P-3-19-75-4949. Staff has reviewed all of the submitted information described above, as detailed in Section E of this staff report. Staff does not believe that the applicant has demonstrated

that the existing fence was in place prior to 1973. Therefore, the fence needed Coastal Act Authorization, and since there was no Coastal Act authorization for it, the Commission should consider it unpermitted development and treat this application as an application for a new fence.

The primary issues addressed in this staff report are the conformance of the proposed development with the visual resources and public access policies of the Coastal Act. Staff recommends that the Commission **DENY** the request.

There are feasible alternatives or mitigation measures that exist, such as locating the fence on top of the bluff and adjacent to the single-family residences or constructing a low split-rail fence for demarcation purposes at the toe of the bluff as part of a project to restore the natural vegetation on the bluff. Such alternatives would preserve the integrity of the coastal bluff and would avoid the seaward encroachment of development with its associated risks and adverse visual impacts.

Section 30600(c) 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 Torrance only has a certified Land Use Plan (LUP) and has not exercised the options provided in 30600(b) or 30600.5 to issue its own permits. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act. The certified LUP may be used for guidance.

LOCAL APPROVALS RECEIVED: City of Torrance, Approval in Concept, 1/18/06

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit No. A-12-20-73-2419 (Muller, Marlow, Hood), Coastal Development Permit No. P-3-19-75-4949 (D'Azur Villas Incorporated), Coastal Development Permit No. 5-90-104-A5 (Campbell), Coastal Development Permit No. 5-01-409 (Conger), Coastal Development Permit No. 5-04-324 (Bredesen), State Lands Commission Boundary Line Agreement No. 257, recorded 9/12/1988.

EXHIBITS:

1. Vicinity Map
2. Assessor's Parcel Map/Site Plan
3. State Lands Commission Boundary Line Agreement
4. Coastal Development Permits No. A-12-20-73-2419 and No. P-3-19-75-4949
5. Information Submitted By Applicant Since May 2006 Meeting
6. Department of Navigation and Ocean Development 1972 Aerial Oblique Photos

I. STAFF RECOMMENDATION:

MOTION: *I move that the Commission approve Coastal Development Permit No. 5-05-503 for the development proposed by the applicant.*

STAFF RECOMMENDATION OF DENIAL:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY THE PERMIT:

The Commission hereby **DENIES** a coastal development permit for the proposed development on the ground that the development will not conform with the policies of Chapter 3 of the Coastal Act and will 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 would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

II. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares as follows:

A. PROJECT DESCRIPTION

Project Location

The project site is located within an existing residential area, on the beach and at the toe of a coastal bluff, at 507, 511, 515, 517, 521, 525, 529, 533, 537, 601, 605, 609, 613, 617, 627 and 631 Paseo de la Playa), City of Torrance, Los Angeles County (Exhibit #1). The site is along the base of the bluff on 15 of these 16 residential lots, between the first public road, Paseo de la Playa, and the sea. The bluff varies in height from approximately 60 feet at the Los Angeles County Torrance Beach Park to the north of the residential lots to 120 feet near the boundary of Palos Verdes Estates. The bluff tops of all 28 residential lots along this stretch of Paseo de la Playa, from the County parking lot to the north to the Cote d'Azur Villas condominium complex to the south, have been developed with single-family residences. Torrance Beach, the beach seaward of the toe of the bluff, is publicly available. Vertical public access to this beach is available to pedestrians via public parking lots and footpaths located at the Torrance Beach Park, which is approximately 750 feet to the north of the project site (Exhibit #1). There is also a vertical beach public access way

and public parking in Palos Verdes Estates located approximately $\frac{3}{4}$ of a mile to the south of project site.

Project Description

The applicant requests after-the-fact approval of, and authorization for the replacement of, an approximately 8 foot-high, 1,000 foot-long section of chain-link fence along the toe of a bluff and on the sandy beach. This fence would be located along the rear property lines of 16 residential lots, spanning from 507 Paseo de la Playa south to 631 Paseo de la Playa, except for 623 Paseo de la Playa (Exhibit #2).

Prior Development at Subject Site and Surrounding Area and Related Legal Actions

In a search through Commission files, staff did not locate any records for issuance of a coastal development permit for the fence that currently exists on the subject site. The applicant indicated to staff that after receiving permission from the State Lands Commission to construct a fence along the newly demarcated boundary, at the end of the boundary line negotiations that resulted in the 1988 Boundary Line Agreement (BLA), the applicants assumed that they had received all necessary permits for the fence from the State. However, there is no evidence that the Commission or its staff formally or informally approved construction of the fence. Therefore, development has occurred on site without benefit of the required coastal development permit. Staff also notes that the applicant's claim of a good faith belief in his legal right to build the fence based on a BLA conflicts with other statements from the applicant regarding the building of the fence. The applicant initially stated that he believed that the fence that currently exists on the site was constructed before the BLA was finalized, shortly after there was a conceptual understanding in the negotiations, in the early 1980's. Subsequently, at the Commission's May 2006 hearing on this matter, he indicated that he thought the fence had been in place since prior to 1973.

In the California Supreme Court's 1970 decision in Gion v. City of Santa Cruz, 2 Cal. 3d 29, the Court established the standard for implied dedication of private land to public use. Shortly thereafter, the City of Torrance was experiencing a lot of development and there was a drive by private developers to build condominiums on beachfront property and to seek to exclude the public from beach areas traditionally used by the public. A series of additional suits ensued in Torrance, with the City seeking to confirm the existence of public rights. In some cases, property owners and residents of bluff top lots sought preemptively to resolve similar issues related to their lots, which extended down to the Mean High Tide Line (MHTL), as well as where that MHTL was located. In 1988, the City of Torrance, State Lands Commission, Attorney General (on behalf of the People of the State), and private property owners and residents on the bluff in Torrance finalized a BLA to settle these issues. With respect to the prescriptive rights issue, the property owners agreed that the sandy beach area (the area above the newly-established line between public trust land and private land) was subject to a public easement for beach and recreational purposes in exchange for a provision in the agreement that stated that the owners would

have “the continuing right to construct, repair and maintain an eight (8) foot-high chain link fence on the landward boundary line of the Sandy Beach Portion.”

This BLA was completed after the City of Torrance brought a series of actions against beachfront property owners in this area to confirm the existence of public prescriptive rights on the sandy beach. The property owners and residents subject to this agreement settled the boundary with the City and the State Lands Commission and, in doing so, gave up any rights to the sandy beach below the bluffs. Previously their property lines extended to the mean high tide line, but the exact location of that line was indeterminate. In the settlement, the property owners granted an easement for beach use purposes to the State and City, on behalf of the People, and the State Lands Commission agreed to the location of the boundary, the location of the fence and the right to enter the beach to repair the fence.

The City was anxious to resolve this issue to protect public rights on the beach, which had traditionally been used by the public. Thus, this BLA was created. According to the applicant, who has been a resident of one of the bluff top lots since 1972 and who represented the property owners and residents in the settlement, the ability to construct, repair and maintain this fence was a key part of the BLA for the private property owners. This was confirmed to Commission staff by representatives of the State Lands Commission and the Attorney General's office. Mr. Burke has indicated that the landowners would not have settled the dispute as they did had they not understood that they were gaining an unimpeded right to construct and maintain the fence. There were several lawsuits concerning public rights on the Torrance Beach in the 1970's and early 1980's. The Commission was not a party to these suits or to this agreement.

Permit History for Bluff Development in Project Vicinity

Figure 1 and 2 on the following two pages summarizes the permit history of bluff development for the 28 residential lots located along this stretch of Paseo de la Playa in Torrance. At the Commission's May 2006 hearing, the Commission requested a new exhibit showing all the lots located along this stretch of Paseo de la Playa, from the City's beach parking lot at the north end, to the lot at the southern end of the beach where the condominiums are located (see Exhibit #2).

FIGURE 1 TORRANCE BLUFFS INVENTORY OF BLUFF FACE DEVELOPMENT PERMITTED AND PRE-COASTAL DEVELOPMENT			
Pre-coastal	Development	Location	Permit Number
1	Fences		
		413/417, 421, 425	NA
3	Stairways/paths		
		413/417	NA
		601	NA
		627	NA
2	Patios/decks ¹		
		413/417	NA
		627	NA
0	Shade structures		
			NA
0	Retaining walls		
			NA
Approved			
2	Fences		
	(5 lots)	429, 433, 437, 441, 445	A-12-20-73- 2419
	(1 lot)	635-649	P-3-19-75- 4949
3	Stairways/paths		
		429	5-85-755
		433	5-90-1041A3
		515	5-90-1079
0	Shade structures		
			NA
3	Retaining walls		
		429	5-85-755
		433	5-90-1041A3
		449 ²	5-90-355

¹ Patios/decks listed above are located below concrete drainage swale marking the "historic top of bluff".

² Low wall constructed as part of upper bluff repair, not highly visible.

FIGURE 2 TORRANCE BLUFFS INVENTORY OF BLUFF FACE DEVELOPMENT UNPERMITTED DEVELOPMENT			
Unpermitted		Location	ATF Permit Number
3	Fences		
	(3 lots)	449, 501, 505	
	(16 lots)	507, 511, 515, 517, 521, 525, 529, 533, 537, 601, 605, 609, 613, 617, 627, 631	5-05-503
	(1 lot)	623	
4	Stairways/paths ³		
		425*	
		437*	
		445	
		[601 ⁴]	
		605	
3	Patios/decks		
		429	
		433	
		437	
4	Shade structures		
		413	
		429	
		433	
		437	

The Commission has approved very little development near the toe of the bluff. In 1973, the Regional Commission approved a 560 foot-long fence at the toe of the bluffs along five lots separating the inhabited portion of the private property and the bluff face from the sandy beach (Permit No. A-12-20-73-2419) and in 1975, the Commission approved a 410-foot long chain-link fence at the toe of the bluff (Permit No. P-3-19-75-4949).

When the Commission's predecessor agency came into being in 1973, there were three improved bluff face accessways on this bluff. There were two platforms perched on the bluff face -- one at each end of the row of lots. Since 1973, the Commission and the

³ A web of unpermitted paths existed across several lots in 1972. An asterisk indicates that these were further modified without a CDP after 1973.

⁴ This stairway has been rebuilt in a new location. Since there was a stairway on this lot in 1972, even though a permit was needed for its relocation, the relocated stairway is not included in staff report total as "unpermitted".

predecessor Commission has approved one fence as well as three ramps or stairways down the bluff face to the toe of the bluff on the 28 lots along Paseo de la Playa. In one (5-85-755), the applicant asserted the need for safe access for permission to build a concrete walkway, a wall at the toe of the bluff and a patio above the beach. In the second (5-90-1041A3), the Commission approved a narrow property line stairway, sited along an existing wall to reduce visual impacts, as part of a bluff reconstruction and restoration that the owners requested to repair a massive slope failure. The absence of the promised landscaping at these sites has been referred to the Commission's Enforcement staff. Another lot received a permit in 1991 to stabilize an "existing path " with redwood beams (5-90-1079 (Wright)). During consideration of the third stairway (5-90-1079), the applicant provided persuasive evidence that placement of redwood ties was merely a repair and stabilization of a pre-existing soft-footed path.

In an effort to minimize development beyond the upper bluff, where it would have adverse visual impacts on the beach-going public, the Commission has, for the most part, prohibited development below the mid-bluff area, except in conjunction with bluff restoration. The Commission approved a walkway to an upper bluff terrace at 437 Paseo de la Playa, conditioned not to extend seaward of a swale marking the historic top of the bluff. The Commission approved remedial sand colored concrete terrace drains and bluff restoration (5-90-868) at 441 Paseo de la Playa, but no stairway and no development below mid-bluff. An owner of another lot received approval for a property line fence, extending down the bluff. The Commission denied an application for construction of stairs down the bluff face, a covered observation deck located towards the toe of the bluff but approved the part that included bluff restoration for the endangered El Segundo Blue butterfly on a down coast site at 613 Paseo de la Playa (5-03-328 Carey)⁵. The Commission acknowledges that several lots have inconspicuous pioneered paths down the bluff, shared with adjacent lots or the public; these are not improved and appear in 1973 photographs.

The Commission has approved five new houses on the bluff top lots and a number of additions to existing single-family houses and appurtenant structures, such as pools, jacuzzis and patios on the top of the bluff. Most of the approved additions were at the top of the bluff, or inland of a three foot wide concrete lined drainage structure parallel to the bluff edge, which represents the historic top of bluff north of 449 Paseo de la Playa. In approving this development, the Commission routinely imposed conditions limiting development to a 25-foot bluff edge set back. In making these approvals, the Commission agreed with the applicants that a concrete swale allocated about ten feet below the house pads and parallel to the bluff edge represented the historic edge between the top of the bluff and the bluff face (5-01-405A (Conger), P-5-77-716 (Warren)).

Of the twenty-eight residential lots on Paseo de la Playa, six (6) have approved stairs or hardened footpaths that extend down the bluff, three of which are pre-coastal, and three of which received coastal development permits allowing the construction of stairs/walkway to

⁵ The Commission's Enforcement Division is currently investigating unpermitted development along the bluffs at Paseo de la Playa in Torrance, including stairways and toe of slope improvements.

the beach. Four additional lots have unpermitted ramps or stairways under investigation; one property that had a pre-coastal stairway appears to have relocated the stairway without seeking a coastal development permit. However, eighteen (18) lots do not appear to have any stairs or walkways extending down the bluff face.

B. SCENIC RESOURCES

Section 30251 of the Coastal Act states, in relevant part:

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...

The Coastal Act protects the visual quality of coastal areas, and particularly of the ocean, the areas along the ocean, and general scenic areas within the Coastal Zone. While the City of Torrance's certified Land Use Plan includes a discussion of views that centers on views from private homes, the Land Use Plan also discusses views to and along Torrance beach, and it includes drawings of the view along Torrance beach, with the cliffs rising up as the backdrop of the beach.

While some bluff faces in southern California have been subdivided and developed, development generally does not extend down the Torrance bluffs. The bluffs extend from about 60 feet high at the north end to almost one hundred twenty feet high as the coast curves toward Palos Verdes. The bluff also becomes steeper, changing from a 2:1 slope covered with dune sand to a rocky cliff. From the beach, the roofs of some of the houses on the top of the bluff, parts of the rear walls of those houses and the edges of some patios are visible. With few exceptions, there is little development along the face of the Torrance bluffs.

The bluff face still resembles the bluff face shown in the sketch in the proposed 1981 LUP, irregular cliffs overlain by blown sand, vegetated with a mixture of ice plant and native plants. The roofs and rear windows of some of the houses and the edges of decks are visible from the beach, but generally the bluff front appears undisturbed. Development along the bluffs must be sited and designed to protect views to and along the beach and to minimize the alteration of excising natural landforms. New development must also be sited and designed to be visually compatible with the relatively undisturbed character of the surrounding area.

The proposed project is located at the toe of the bluff and immediately adjacent to the public beach. The bluff face at this site is highly visible from the sandy beach. The applicant requests after-the-fact approval of and authorization for replacement of a chain-link fence. Pursuant to Section 30251 of the Coastal Act, new development must be

visually compatible with the surrounding area. Comparing the proposed fence to the site without any fence, as we must, since the existing fence is not authorized under the Coastal Act, the fence obviously and significantly changes the view of the bluff from the beach.

The Commission finds that the project, as currently proposed, is not sited and designed to protect scenic and visual qualities of the site as an area of public importance. Denial of the proposed project would preserve existing scenic resources and would be consistent with preserving the existing community character where approved (or pre-coastal) development occurs solely at the top of the coastal bluff (on 22 out of 28 lots). The placement of a chain link fence at the toe of the bluff would result in an adverse visual effect when viewed from public vantage points along the beach.

Allowing the proposed project would also lead to seaward encroachment of new development in an area where additional unpermitted development has occurred and threatens to affect the community character. The Commission finds that the proposed project is not visually compatible with the character of the surrounding area. An 8-foot high chain-link fence has a greater visual impact because of its industrial-like appearance and height compared to a less confrontational alternative such as a low split rail fence, and even a low, split-rail fence detracts from a totally open, natural-looking environment. Consequently, the proposed project increases adverse impacts upon visual quality in the subject area. Therefore, the Commission finds that the proposed project is inconsistent with Section 30251 of the Coastal Act and therefore must be denied. Denial of the project is consistent with the Commission's recent action on applications 5-01-018 (Conger), where the Commission approved ancillary structures that were located above the historic top of the bluff, but rejected all development seaward of that line; and 5-04-328(Carey), both instances where the Commission denied bluff face stairs.

C. 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 30240 (b) of the Coastal Act states:

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 project is adjacent to a public beach, which is a recreation area. In fact, pursuant to the BLA, there is an easement over the area expressly for "beach and

recreational purposes." The fence has an impact that significantly degrades the character of the beach as a recreational area and is incompatible with that recreational character because visitors generally do not want to lie on the sand at the base of a private, 8-foot tall, chain link fence, and it transforms the experience of the area from one of open space to one of being in the shadow of someone's fenced in yard. The project may also have indirect impacts on public recreation by increasing the number of lots where there is permitted private development directly adjacent to other public beaches. This change in effect, moves the edge of private development structures closer to the public areas. The project site is located at the toe of a bluff and on the sandy beach, on the seaward side of Paseo de la Playa, which is the first public road immediately inland of Torrance Beach. The project site is highly visible from the sandy public beach.

Public access is available directly seaward of the toe of the bluff at Torrance Beach. Development at this site, if approved, must be sited and designed to be compatible with Section 30240 (b) of the Coastal Act. Section 30240 (b) of the Coastal Act states that development in areas adjacent to parks and recreation areas shall be sited and designed to prevent impacts that would significantly degrade those areas or be incompatible with their continuance. The proposed project, as submitted, would be a significant new development located seaward of the permitted development that exists on these fifteen lots, which are single family houses at the top of the bluffs. By moving the fence to the toe of the bluff, the applicants have moved the line of development seaward of its previously approved location.

As described previously, the applicant is requesting after-the-fact approval of, and authorization for the replacement of, an approximately 8 foot-high, 1,000 foot-long section of chain-link fence along the toe of a bluff and on the sandy beach. While the requested structure does not physically impede public access to the adjacent beach area, new private structures adjacent to the beach often facilitate private use of the public beach adjacent to the new private structures. A growing number of property owners along Paseo de la Playa may seek to intensify use of their properties along the face and toe of the bluff if the proposed project is approved. Increased intensification of private development located along the coastal bluffs adjacent to Torrance Beach will result in a less inviting beach appearance to the general public discouraging public use of the beach.

The Commission finds that the area directly seaward of the development is a publicly owned recreation area and that the proposed project would decrease the distance from the public beach to private residential uses, thereby significantly degrading the area for public recreation and would therefore be inconsistent with Section 30240 (b). Therefore, the Commission finds that the proposed project is inconsistent with the public access policies and Sections 30210 and 30240 (b) of the Coastal Act and must be denied.

D. UNPERMITTED DEVELOPMENT

The development that occurred on site without benefit of the required coastal development permit includes the construction of an approximately 8 foot-high, 1,000 foot-long section of chain-link fence along the toe of a bluff and on the sandy beach. This development is located adjacent to the public beach and is visible from the public beach. In this case, because the proposed project, including the request for after-the-fact approval of the unpermitted development, would be inconsistent with the Chapter 3 policies of the Coastal Act, staff is recommending denial of this application. The Commission's enforcement division will evaluate further actions to address this matter.

Although the BLA states that the property owners get "the continuing right to construct, repair and maintain an eight (8) foot chain link fence on the landward boundary line of the Sandy Beach Portion," the Commission is not bound by this, since the Commission was not a party to this agreement. Neither the State Lands Commission nor the Attorney General, acting on behalf of the people of California, can waive the permit requirement on the Commission's behalf. There is no evidence of intent to do so, other than the very fact that the agreement articulates a right to build a fence.

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

E. INFORMATION SUBMITTED BY APPLICANT SINCE THE MAY 2006 HEARING

This application was first heard at the Commission's May 2006 meeting in Costa Mesa and was continued because the applicant asserted, for the first time, that the subject fence was pre-coastal (meaning that it was installed prior to the adoption of the Coastal Act or its predecessor, and thus, did not require any authorization under those laws). The Commission directed the applicant to submit evidence to validate this claim. On June 8, 2006, the applicant submitted the following: declarations from local lifeguards and residents stating that they recall a fence being in existence at this site from the early 1950's, the 1960's, or the early 1970's; photographs from the Torrance City Attorney's office, which were taken between 1970-1975; a historic book with a 1930's photograph of Redondo Beach taken from the Palos Verdes Peninsula; 1964 newspaper articles describing the bluff cave-in death of a teenager; 2 letters from the Assistant Attorney General to the City of Torrance, dated December 11, 1987 and September 21, 1988; and what appears to be a report and recommendation from the Torrance City Attorney to the Mayor and City Council dated August 12, 1988, regarding the BLA (Exhibit # 5A). On June 14, 2006, the applicant submitted another declaration from an area resident stating that the fence was in existence in the mid-1960's and recalling another bluff cave-in death in the

late 1950's, a letter from the City of Torrance to the Commission, and materials from the Commission's files for Coastal Development Permit No. A-12-20-73-2419 and Coastal Development Permit No. P-3-19-75-4949 (Exhibit #5B).

Declarations

The applicant submitted a total of 8 declarations from local lifeguards and residents (Exhibits #5A and #5B). In some of them, the declarants just say they can't remember a time when the fence wasn't there but they don't specifically state they remember it being there pre-1973. Given that 1973 was over 30 years ago, it is hard to believe people would remember that detail for that length of time. Still, these declarations do offer some evidentiary support for the applicant's claim that the fence existed prior to 1973. Three declarations recount a specific instance of someone hurting his arm on the fence, making their certainty more credible, but this incident is recounted as having occurred in the late summer of 1974, not prior to the Coastal Act and its predecessor. Other declarations recall a fence in the 1950's and 1960's, but once again, that was over 40-50 years ago, and there are no photographs or other materials to substantiate those claims. In sum, these declarations offer some limited support for a factual determination that the fence is pre-Coastal.

Photographs

The applicant submitted 5 photographs from a City of Torrance file, which were taken between 1970-1975. They show a fence, but since the photos are not individually labeled with a specific date, it cannot be determined that the fence appearing in the pictures existed before 1973. The photograph from the historic book does not clearly show a fence at this location. These photographs will be available at the hearing for review. More significantly, the 1972 aerial oblique photos of the Torrance Bluffs taken by the Department of Navigation and Ocean Development and obtained from the Commission's files (Exhibit # 6) do not show a fence at this location. Such pictorial evidence is highly reliable. Therefore, the Commission believes that the fence in question was installed sometime between 1973 and 1975. If it were built between the beginning of 1973 and the summer of 1974, this would also be consistent with the three declarations recounting the incident involving the arm injury.

Newspaper Articles

The applicant submitted several newspaper articles that describe deaths caused by cliff cave-ins (Exhibit #5A). The 1964 articles describe how a homeowner jumped a chain link fence at the rear of the property and then ran down the hill to help with the rescue. This would suggest that there was a fence located at the top of the bluff, not at the base of the bluff. The article makes no reference to a fence at the base of the bluff and arguably even implies there was none, since the victim had access to the bluff in order to enter the cave, and his girlfriend, who was with him at the time, is reported as having run from the cave-in, which would have been impeded by the existence of a fence. In this sense, this article

may conflict with one of the declarations, which states that there was a fence at this location in the mid-1950s and early 1960, further calling the credibility of that declaration into question.

These articles may have been submitted not to show that the fence is pre-Coastal, but to demonstrate the dangers involved if the public is given access to the bluff face. The Commission is cognizant of the dangers. However, although Section 30210 requires the Commission to consider public safety needs in ensuring the provision of "maximum access . . . and recreational opportunities," there are other means of protecting the public from the dangers posed by these cliffs, such as a less imposing fence and/or signage to indicate the dangers.

Letters/Correspondence and Reports

The applicant submitted two letters between the City of Torrance and the Attorney General's office, as well as what appears to be a report and recommendation from the City of Torrance City Attorney to the Mayor and City Council, dated August 12, 1988, regarding the Boundary Agreement (Exhibits #5A and #5B). There is nothing in this information that indicates when the subject fence was installed. The applicant points to the Deputy Attorney General's statement that the agreement was "fully effective" as evidence that the Commission's participation in the agreement must not have been required, but that inference is not warranted from this simple statement, which is irrelevant to the question of the legal effect of the document or whether it can or does bind this Commission. The applicant also points to the statement in the City Attorney's report that the Coastal Commission stands ready to sign the agreement. There is no indication of why the City Attorney believed that, but it only highlights that at the time of the agreement, the City recognized that the Coastal Commission should have been executing the agreement. Among the various entities this report indicates were ready to sign, it is only the Coastal Commission whose signature does not appear on the agreement.

Coastal Development Permits

The applicant also submitted some information from the files of Coastal Development Permit No. A-12-20-73-2419, which was approved in 1973, and Coastal Development Permit No. P-3-19-75-4949, which was approved in 1975 (Exhibit #5B). The applicant points to the fact that a parcel map in the latter permit file indicates the presence of an existing fence from 449 to 631 Paseo De La Playa. It appears that this parcel map was submitted by the applicant for Coastal Development Permit No. P-3-19-75-4949 to show the property owners within 100 feet of that project for public noticing purposes.

However, the Commission has reviewed additional information from the files of both of these permits (Exhibits #4A and #4B). The findings from Coastal Development Permit No. P-3-19-75-4949, which authorized a 410 foot-long fence, states that the only fence that existed on the beach at the time, which was 1975, was the 560 foot-long fence approved by the Commission in 1973 under Coastal Development Permit No. A-12-20-73-2419,

which was at the northern end of this section of the beach. This appears to conflict with the notation regarding an existing fence in the permit application for this 1975 permit. The Commission finds the most likely resolution of this apparent conflict to be that the indication of the existing fence was either wrong (which would explain why it wasn't included as an exhibit to the permit), referring to a fence farther up the slope, or referring to an unpermitted fence, which would explain why the Commission did not recognize it in its findings approving the new fence. The Commission also notes that its staff recommended denial of the proposed 410 foot-long fence, and although the Commission approved it, the revised findings stated that it was to be considered temporary, pending resolution of a lawsuit. The Commission has not approved any other fences on the beach since 1975.

Conclusion

In summary, the Commission has reviewed all of the submitted information described above and does not believe that the applicant has demonstrated that the subject fence was in place prior to 1973. Since the fence was installed after 1972, and there was no Coastal Act authorization for the fence, the Commission considers it unpermitted development and has treated this application as an application for a new fence.

F. 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 that conforms with the Chapter 3 policies of the Coastal Act.

On June 18, 1981, the Commission approved with suggested modifications the City of Torrance Land Use Plan (LUP). Torrance identified the beach area as an important resource in its Land Use Plan and included photographs of the bluffs in its document. However, the City did not accept the Commission's suggested modifications, and the conditionally certified LUP expired. The area that was not resolved included development standards for the beach and the bluffs; where the boundary line issues were unresolved. Because the City of Torrance does not have a certified LUP, the standard for this review is the Coastal Act.

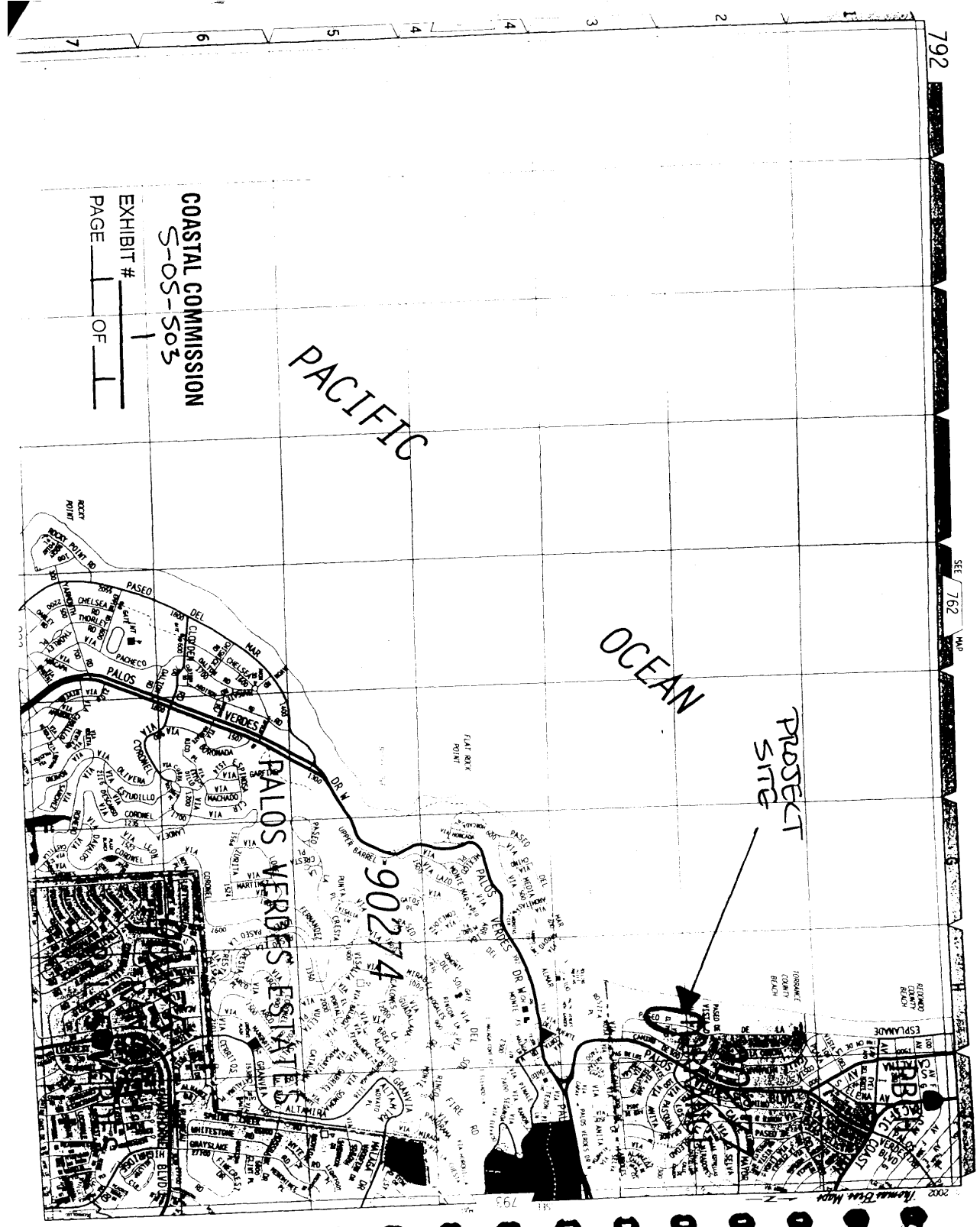
The construction of the proposed project is inconsistent with the Chapter 3 policies of the Coastal Act discussed previously, specifically Sections 30210, 30240(b) and 30251. Development at the toe of the bluff and on the sandy beach would cause adverse impacts to coastal scenic resources and public access. Section 30240 (b) of the Coastal Act states that development in areas adjacent to parks and recreation areas shall be sited and designed to prevent impacts that would significantly degrade those areas. Section 30251 of the Coastal Act states that permitted development should minimize landform alteration and visual impacts. By approving development that is inconsistent with Chapter 3 policies of the Coastal Act, the proposed development would prejudice the City's ability to prepare

a Local Coastal Program for the City of Torrance that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a). Therefore, approval of the project is found inconsistent with Section 30604(a), and the project must be denied.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse effect the activity may have on the environment.

As described above, the proposed project would have adverse environmental impacts. There are feasible alternatives or mitigation measures available, such as locating the fence on top of the bluff and adjacent to the single-family residences or constructing a low split-rail fence for demarcation purposes at the toe of the bluff as part of a project to restore the natural vegetation on the bluff, which could be structured so as to be consistent with Chapter 3 of the Coastal Act, depending on the details. Therefore, the proposed project is not consistent with CEQA or the policies of the Coastal Act because there are feasible alternatives that would lessen significant adverse impacts the activity would have on the environment. Therefore, the project must be denied.



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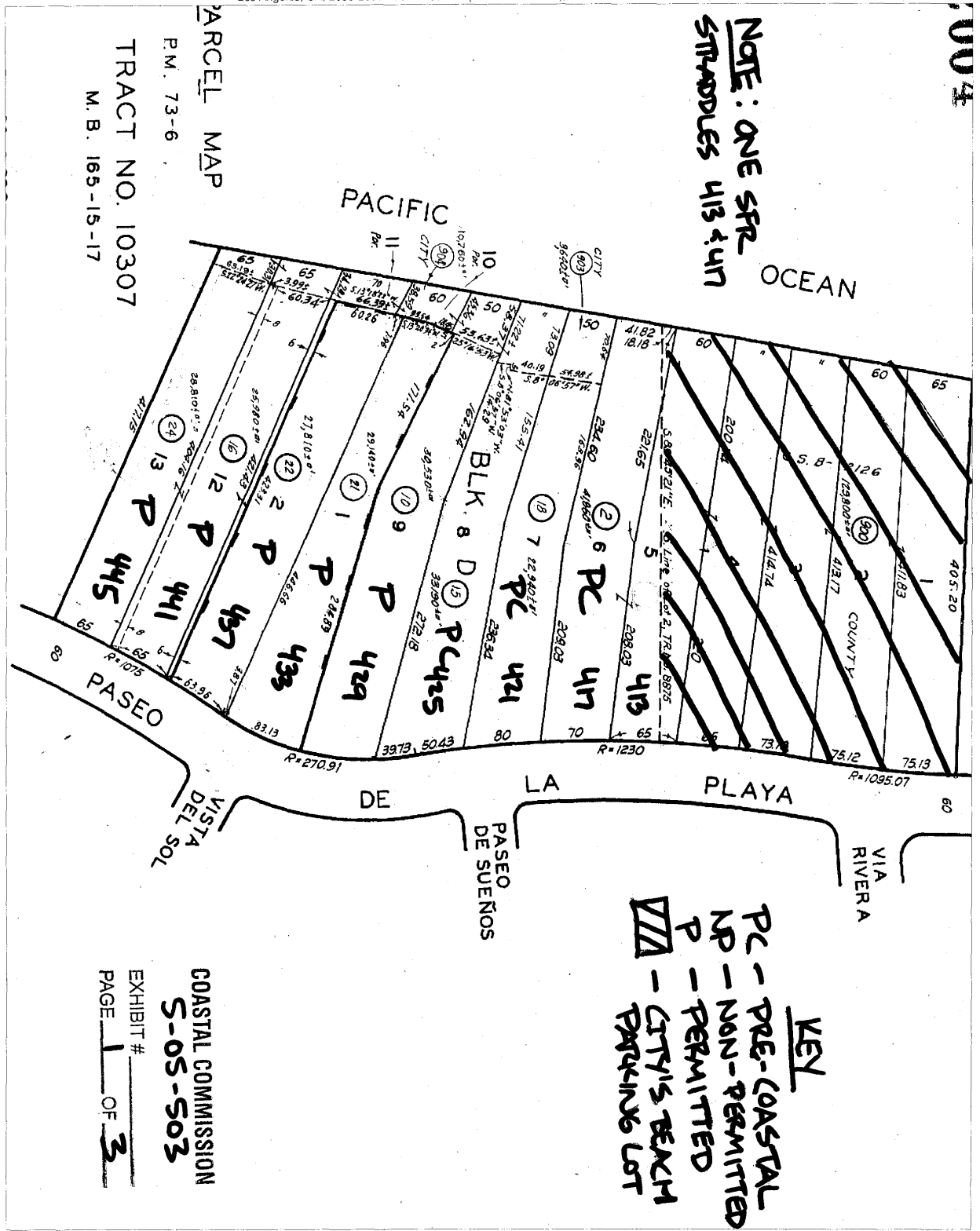
PROJECT SITE

90274

PALOS VERDES ESTATES



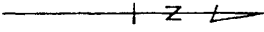
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Los Angeles, CA, 2005-2006 - 7512-002-009 (Alt: 7512-002-009), 517 PASEO DE LA PLAYA, REDONDO BEACH CA 90277-6541, Sheet: 1 of 1

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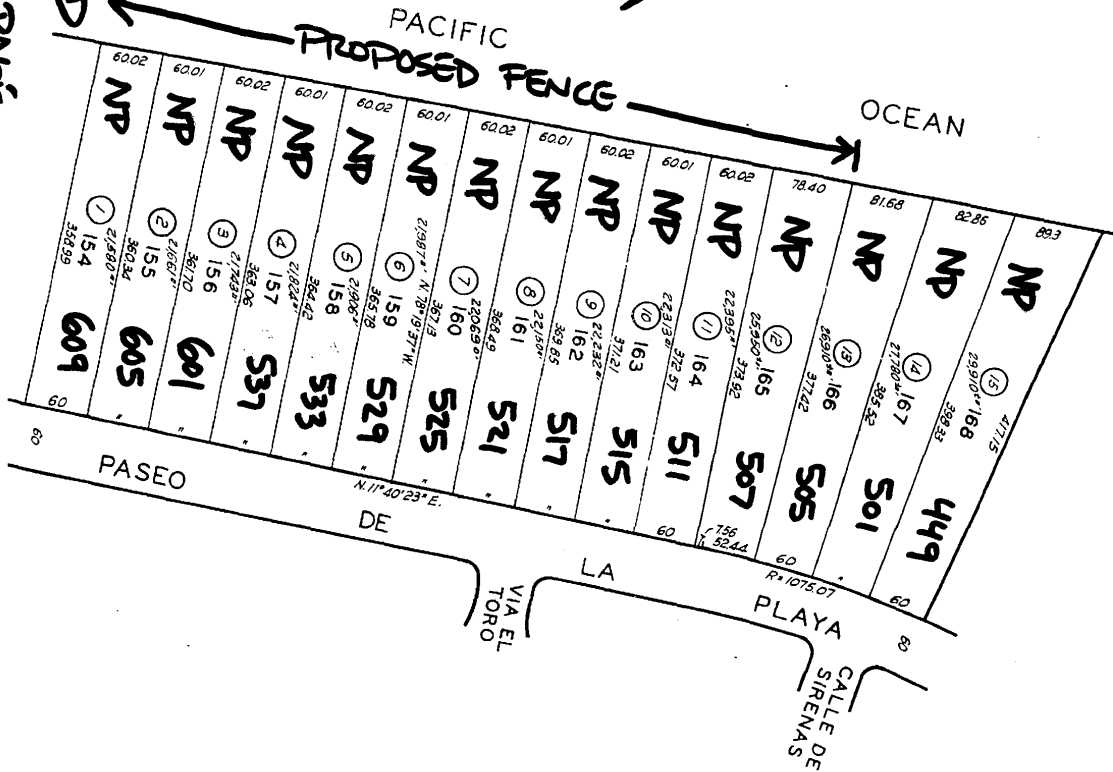
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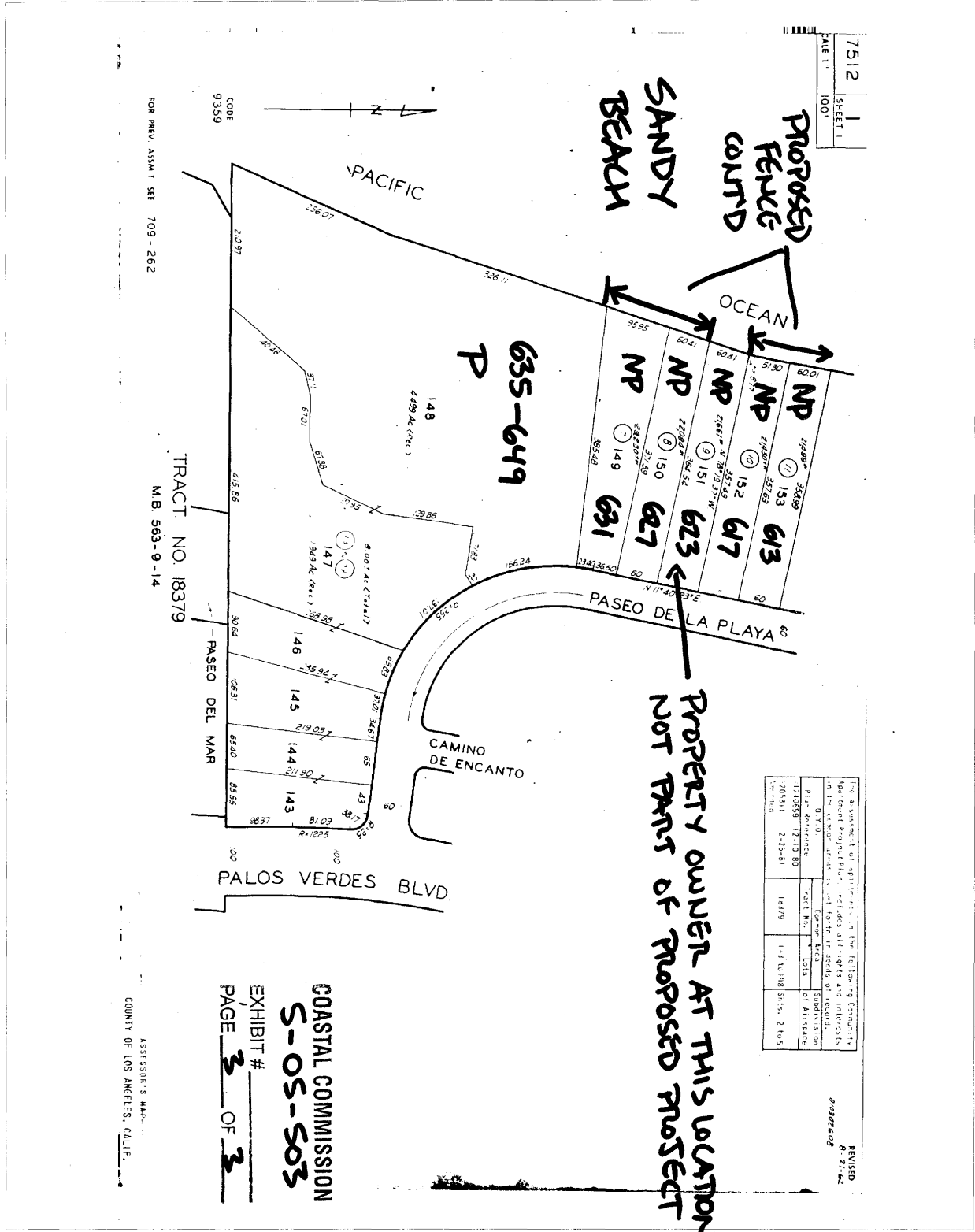


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Recorded at the request of:
State of California
State Lands Commission

WHEN RECORDED mail to:
State Lands Division
1807 - 13th Street
Sacramento, California 95814

STATE OF CALIFORNIA
OFFICIAL BUSINESS - DOCUMENT
entitled to free recordation
pursuant to Government Code
Section 6103

RECORDED IN OFFICIAL RECORDS
RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA
1 MIN 2 PM SEP 12 1998
PAST.

S.L.C. - S.L.A. No. 257

NO TAX DUE _____

Above Space for Recorder's Use

FREE G

57

BOUNDARY AGREEMENT

This agreement is entered into at Torrance, California,
by and between the City of Torrance, a municipal corporation
(hereinafter referred to as the "City"), the State of California
(hereinafter referred to as the "State"), acting by and through
the State Lands Commission (hereinafter referred to as the
"Commission"), the State, acting by and through the Attorney
General on behalf of the People of the State (hereinafter
referred to as the "Attorney General"), and the owners of certain
interests in certain real property who execute counterparts to
this agreement (hereinafter individually referred to as the
"Respective Owner" and collectively referred to as the "Owner").

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WITNESSETH:

1. WHEREAS, the State received title to the tidelands and submerged lands within the State upon being admitted to the United States by virtue of its sovereignty; and
2. WHEREAS, the Commission, pursuant to Division 6 of the Public Resources Code, has jurisdiction over all tidelands and submerged lands owned by the State; and
3. WHEREAS, the Owner is the owner of fee, or holder of an option to purchase, leasehold, or other interests in and to certain lots of real property located in Tract 18379, City of Torrance, County of Los Angeles, State of California, as per map recorded in Book 563, pages 9 through 14 of Maps, Records of said County; and
4. WHEREAS, said real property abuts and is situated adjacent to the sovereign tidelands owned by the State; and
5. WHEREAS, the ordinary high water mark constitutes the common boundary between the lands owned by the State by virtue of its sovereignty, that is the submerged and tidelands, and the lands owned by the Owner, that is the uplands; and
6. WHEREAS, there is substantial doubt and uncertainty as to the true location of said common boundary; and
7. WHEREAS, the Commission, pursuant to Section 6357 of the Public Resources Code,
may establish the ordinary high-water mark of . . . tide, or submerged lands of this State, by agreement, arbitration, or

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action to quiet title, whenever it is deemed expedient or necessary"; and

8. WHEREAS, each of the parties hereto considers it expedient and necessary and in the best interests of each of them and the public in general to describe and fix permanently the common boundary between the lands owned by the State by virtue of its sovereignty and the Owner's lands and forever set at rest any and all questions relating to the location of said boundary line; and

9. WHEREAS, the California Supreme Court in the case of Gion v. City of Santa Cruz (1970) 2 Cal.3d 29, clarified the common law doctrine of implied dedication arising from public use of land for a prescriptive period of five (5) years without asking or receiving permission from the landowner, with actual or presumed knowledge of said public use in any significant way during said time; and

10. WHEREAS, certain lands, abutting and landward of the ordinary high-water mark herein agreed to be said common boundary, have been used by members of the public for beach access and recreational purposes, for more than five (5) years continuously, openly, notoriously and adversely to claims of private ownership, which public use has resulted in the dedication of said certain lands to the public; and

11. WHEREAS, the City, on behalf of itself and as Trustee for the People of the State, has filed a quiet title action to preserve and protect the rights of the public in and to said

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property, City of Torrance v. Don Ja Ran Construction Co., Inc.
et al., S. W. C. 20629; and

12. WHEREAS, the exact location of said public rights acquired through implied dedication is uncertain and subject to dispute; and

13. WHEREAS, it is a further intent of this agreement to settle said quiet title action and to set at rest all questions regarding the location and extent of said public rights over said uplands, specifically described in this Agreement, as between the parties hereto; and

14. WHEREAS, the Attorney General is a party to this Agreement by virtue of his representation of the People of the State in implied dedication matters; and

15. WHEREAS, the provisions of this Agreement regarding said public rights will define and permanently recognize the rights of the various parties therein, and, as to the affected lands in the ownership of the private parties to this Agreement which are specifically found not to be subject to said public rights, this Agreement will clear the title thereof of any cloud created by the uncertainty as to the location and extent of said public rights;

16. WHEREAS, as a part of this Agreement, the State will lease to the City the area within one thousand (1,000) feet waterward of the Agreed Boundary Line (together with an abutting parcel of property) for public recreational purposes.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. In order to locate, describe and permanently establish

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the true and correct boundary line between the lands owned by the State by virtue of its sovereignty, and the lands owned by the other parties to this Agreement, abutting and upland of said sovereign lands, it is agreed that said boundary line is and shall be as shown on Exhibit "A" attached hereto and incorporated herein by reference (hereinafter referred to as "Agreed Boundary Line"), and described in Exhibit "B" attached hereto and incorporated by reference.

2. It is the intent of the parties hereto that the Agreed Boundary Line shall be permanent and fixed and not subject to change by reason of erosion or accretion caused by natural or artificial processes.

3. The Owner and City hereby quitclaim, release, and remise all of their rights, title and interest in and to all that real property located oceanward of the Agreed Boundary Line set forth in Paragraph 1 above to the State, acting by and through the Commission. The State, by virtue of its sovereignty, acting by and through the Commission, and the City, hereby quitclaim, release, and remise all of their right, title and interests within Tract 18379 hereinabove described, landward of said Agreed Boundary Line, excepting and reserving the public rights hereinafter described in Paragraphs 4 and 9 and those easements, rights of way and dedications to the City which are of record, to the Respective Owners who execute this Agreement or counterpart of the Agreement, provided that should any portion of the lands upland of said Agreed Boundary Line ever become covered by the navigable waters of Santa Monica Bay, said portion shall

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be subject to an easement for purposes of commerce, navigation and fisheries so long as said condition exists, but subject to the right of the Respective Owners of said lands to restore said portion of such lands to its prior dry condition within a reasonable time. Nothing in this paragraph shall affect the public rights referred to in Paragraphs, 4, 5 and 6 below.

4. It is agreed by and between each of the parties hereto that that real property described in Exhibit "C" attached hereto and incorporated herein by reference (hereinafter referred to as the "Sandy Beach Portion"), and shown on Exhibit "A" is subject to a public easement for beach and recreational purposes, by virtue of the public's use of said property for beach and recreational purposes for more than five (5) years continuously, openly and notoriously by the public without requesting or receiving permission for such use and without objection or interference from anyone being made to such use, and as such has been adverse to claims of private ownership and has resulted in a dedication of said property to the public. Said public uses have included, but have not been limited to strolling, bathing, sunbathing, picnicking, playing, viewing, fishing, as well as public protection, policing and erosion control. It is also agreed that said rights shall be held by the City in trust for, and on behalf of, the People of the State, provided, however, that the City may not terminate or relocate such rights without the concurrence of the Owner, the Commission, and Attorney General.

5. It is agreed by and between the parties that said public rights shall extend solely for beach, recreational, and public

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uses including but not limited to: ingress, egress, viewing, strolling, photography, painting, fishing, swimming, bathing, surfing, picnicking, sunbathing, beach games, and all other uses associated with beach and shoreline recreational areas, together with the right of City to provide lighting for public protection, life guarding, life guarding facilities, cleaning and sanitation and associated services, trash pickup and occasional erosion control. Said lighting shall be equipped with guards or other devices to restrict glare onto Owners' premises.

6. The public easement hereby shall include the right to locate sanitation and protection facilities and lighting in accordance with the provisions of Title 17, Section 7982(a), of the California Administrative Code regulating "sanitation of public beaches," which provides:

"Toilets shall be provided on the basis of not less than one per each sex per 1,000 people or one per 500 people if sex is not designated, at the time of maximum use, but not less than one or two units depending on whether or not sex is designated. Urinals may be substituted for toilets up to two-thirds of the requirement, and portable toilets may be used to meet this requirement. Toilets shall be located in accordance with actual use patterns on the beach."

7. Notwithstanding the public easement the Owner has the continuing right to construct, repair and maintain an eight (8) foot chain link fence on the landward boundary line of the Sandy Beach Portion and to have access to the Sandy Beach Portion to facilitate said construction, repair and maintenance.

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8. The City and the State further agree that in the event any construction is contemplated upon the Sandy Beach Portion, the City and/or the State shall give the Owner ninety (90) days' notice of said contemplated construction. Said Notice shall consist of reasonably posted notice along the landward boundary line of the Sandy Beach Portion. If the Owner believes that the contemplated construction exceeds the extent of the easement described above, then the Owner shall, within said ninety (90)-day period bring a declaratory relief action in the Superior Court of the State of California, to determine whether said proposed construction exceeds the extent of the easement. The failure of the Owner to object in one or more particular cases shall not constitute a waiver of a subsequent right to bring such declaratory relief action.

9. Each Respective Owner hereby grants to the City, as Trustee for the People of the State of California, the public easement over and across the Sandy Beach Portion, as described Paragraphs 4, 5 and 6 above.

10. The City agrees to dismiss, as to each Respective Owner signing this Agreement, or counterpart to this Agreement, any pending quiet title action it has filed against the Respective Owner's property hereinbefore described. Each such Respective Owner consents to said dismissal and waives any and all claims whatsoever arising therefrom, including but not limited to any and all claims for costs and attorneys' fees, except as specifically provided in paragraph 11.

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11. The parties agree that that portion of each Respective Owner's real property within Tract 18379 located landward of the Sandy Beach Portion is not subject to a public easement or dedication of the type hereinbefore described provided that said Respective Owner executes this Agreement, or counterpart to this Agreement. Said portion of the Owner's real property within Tract 18379 located landward of the Sandy Beach Portion is hereinafter referred to as the "Residential Portion." The State, the Commission, the Attorney General, and the City, and each of them, hereby remise, release and quitclaim any claims of such implied dedication rights over that part of the Residential Portion owned by each Respective Owner who executes this Agreement, or counterpart to this Agreement.

12. This agreement will supersede and control over certain quitclaim deeds to the City executed by leasehold owners in the following documents:

Quitclaim deed from Wen Y. Chao and Ching Ju Chao to the City of Torrance, recorded January 5, 1972, in book D 5310, page 919 in the Records of Los Angeles County (lot 157); quitclaim deed from John P. Maginnis and Anne M. Maginnis to the City of Torrance, recorded January 5, 1977, in book D 5310, page 921 in the records of Los Angeles County (lot 149); quitclaim deed from Lloyd C. Ownbey and Ida Pearl Ownbey to the City of Torrance, recorded January 5, 1972, in book D 5310, page 923 in the records of Los Angeles County (lot 150); quitclaim deed from Bruce B. Anson and Penelope J. Anson to the

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City of Torrance, recorded January 5, 1977, in book D 5310, page 925 in the records of Los Angeles County (lot 158); quitclaim deed from Shirley K. Newton to the City of Torrance, recorded March 26, 1975, in book D 6598, page 755 in the records of Los Angeles County (lot 160); quitclaim deed from W. Thomas Allen and Beverly A. Allen to the City of Torrance, recorded March 26, 1975, in book 6598, page 757 in the records of Los Angeles County (lot 168).

The respective rights of the parties shall be as set forth in this agreement, as the reason for the establishment of this boundary line is to bring the landward boundary of the "Sandy Beach Portion" into a uniform description based upon physical landmarks. It is also in recognition of the fact that the owners of fee title to the property described in said quitclaim deeds did not join in the conveyance.

13. It is recognized that consideration exists in the exchange of mutual releases, releases and quitclaims, in that the establishment of a fixed boundary line is of value to all the parties.

14. The Commission shall issue a 49-year permit to the City for the use of those lands lying within one thousand feet waterward of the Agreed Boundary Line set forth in Paragraph 1 above for beach park purposes and such other uses as set forth herein. The specific details, legal description of the lands included within said permit and form of said permit which shall be issued shall be substantially as set forth in Exhibit "D."

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attached hereto and incorporated herein by reference. The Commission shall approve and authorize the issuance of said permit as a part of authorizing the execution of this Agreement. Any act required by a provision of this paragraph to be performed after the effective date of this Agreement shall be severable, separate and distinct from other provisions of this Agreement. Should the Commission or the City fail to perform any act required by this paragraph after said effective date, said failure shall in no way affect the consideration supporting this Agreement or the validity or binding nature thereof. Nothing herein, however, shall affect or diminish the rights of the Commission or the City at law or in equity, to enforce the provisions of this paragraph or this Agreement.

15. The City shall be responsible for recording this Agreement. The premiums and costs of any title insurance policies shall be borne by the party requesting such insurance.

16. This Agreement shall become effective upon the occurrence of all of the following acts:

(a) Execution of this Agreement, or counterpart of this Agreement, by the City, the Commission, the Attorney General, and by the Respective Owners of at least one-half of the lots specified in the "Owner's List" attached hereto as Exhibit "E," and incorporated by reference, provided that in the event any Respective Owner listed in Exhibit E voluntarily or involuntarily disposes of any interest affected by this Agreement prior to the recording of this Agreement, the execution of this Agreement or counterpart to this Agreement

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shall be by the successor-in-interest of each Respective Owner to the extent said interest was disposed of by each such Respective Owner; and

(b) Execution of this Agreement, or counterpart to this Agreement by authorized representatives of DON JA RAN CORPORATION and PEERLESS BUILDING CORPORATION, or their respective successors or assigns; and

(c) Recordation of this Agreement in the Office of the County Recorder for the County of Los Angeles. In the event said recordation does not occur prior to September 15, 1988, this Agreement shall be void and without force and effect. The effective date of this Agreement shall be the date of recordation thereof.

17. Upon becoming effective, this Agreement shall be binding upon and inure to the benefit of the parties who execute this Agreement and their heirs, successors and assigns.

18. Any Respective Owner who has not executed this Agreement or counterpart to this Agreement prior to the effective date described in paragraph 15, may, within ten years of the effective date, execute this Agreement or counterpart to this Agreement as to the Respective Owner's property.

19. This Agreement may be executed in any number of counterparts and each executed counterpart shall have the same force and effect as an original and as if all of the parties to this Agreement and the aggregate counterparts had executed the same instrument. Any signature page of this Agreement or counterpart to this Agreement may be detached from this Agreement

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or any counterpart to this Agreement without impairing any signature thereon and may be attached to this Agreement or counterpart to this Agreement identical in form thereto but for having attached to it one or more additional signature pages. In the execution of this Agreement or counterpart to this agreement each party hereto shall furnish such acknowledgements and certifications as may be necessary to permit the recordation of this Agreement in the Office of the County Recorder of the County of Los Angeles.

20. So long as authorized by applicable laws to do so, each of the parties hereto will do such further acts and execute, acknowledge and deliver all further conveyances and other instruments as may be necessary to more fully assure to each party hereto all of the respective properties, rights, titles, interests, estates, remedies, powers and privileges to be conveyed or provided for herein.

21. The parties agree that all provisions of this Agreement which remain to be performed after the effective date hereof shall survive such execution and shall continue in full force and effect. Upon said effective date, all such provisions of this Agreement shall be severable, separate and distinct from the other provisions of this Agreement. Should any party fail to comply with any or all of such provisions thereafter, such failure shall in no way affect the consideration supporting this Agreement, or counterpart to this Agreement, or the validity or binding nature thereof. Nothing herein, however, shall affect or diminish the rights of any party hereto at law or in equity, or

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both, to enforce the provisions of this Agreement, or counterpart to this Agreement against any other party hereto.

22. The provisions set forth in this Agreement have been determined for purposes of compromise and settlement. In the event this Agreement is not executed by the Owner, nothing herein shall be an admission of any party hereto in any proceeding, whether judicial or otherwise, to evidence the location, character, condition or legal status of said property or interest therein that is the subject of this Agreement, or the belief, statement, knowledge, or intent of any party hereto with respect thereto.

23. Nothing herein shall constitute an admission or expression by any party to this Agreement as to the location of the ordinary high water mark or as to the existence, extent or nonexistence of public implied dedication rights over or upon any real property other than said property of Owner.

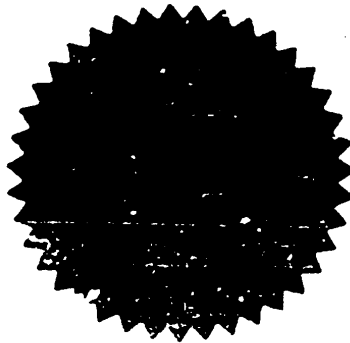
24. This Agreement constitutes the entire agreement between the parties and none of the parties rely upon any warranty or representation not contained herein.

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IN APPROVAL WHEREOF, I GEORGE DEURMEJIAN, Governor of the State of California have set my hand and caused the Seal of the State of California to be hereunto affixed pursuant to Section 6107 of the Public Resources Code of the State of California. Given under my hand at the City of Sacramento, this 1st day of September in the year of our Lord one thousand nine hundred eighty eight.


GEORGE DEURMEJIAN
Governor of the State of California



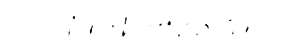
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ATTORNEY:


MARSHALL F. [unclear]
Secretary of State

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RONALD REAGAN, Governor

CALIFORNIA COASTAL ZONE CONSERVATION COMMISSION

SOUTH COAST REGIONAL COMMISSION

666 E. OCEAN BOULEVARD, SUITE 3107

P. O. BOX 1450

LONG BEACH, CALIFORNIA 90801

(213) 436-4201 (714) 846-0648

COASTAL COMMISSION



EXHIBIT # 4A
PAGE 1 OF 1

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JAN 17 1974

SCRZCC

ADMINISTRATIVE PERMIT

Application Number: A-12-20-73-2419

Name of Applicant: Doris Muller 116 W. Mountain St., Apt. 8, Glendale 91202
Hobbs Marlow 11520 San Vincente Blvd., Los Angeles 90049
Robert Hood 517 Paseo de la Playa, Redondo Beach 90277

Development Location: 429, 433, 437, 441 and 445 Paseo de la Playa City of
Torrance

Development Description: Placement of a chain link fence of 560 feet

Approx. \$2,016.00

1. In accordance with Section 27422, Public Resources Code, the Executive Director on behalf of the South Coast Regional Commission finds that said development will not have a substantial adverse environmental or ecological effect and is consistent with code, Sections 27001 and 27302.
2. Wherefore, administrative permit A-12-20-73-2419 is approved/~~denied~~.
 - A. This permit shall not become effective until the verification has been returned to the South Coast Regional Commission upon which copy the permittee has acknowledged that he has received a copy of the permit and understands its contents. Said acknowledgment should be returned within ten working days following issuance of this permit.
 - B. That upon completion of the development authorized by this permit the permittee shall promptly complete the Notice of Completion and file it with the South Coast Regional Commission.

Executed at Long Beach, California

December 31, 1973
Date

M. J. Carpenter
Executive Director

STATE OF CALIFORNIA

Edmund G. Brown, Jr., Governor

CALIFORNIA COASTAL ZONE CONSERVATION COMMISSION
SOUTH COAST REGIONAL COMMISSION
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COASTAL COMMISSION

RESOLUTION OF APPROVAL AND PERMIT

EXHIBIT # 4B
PAGE 1 OF 8

Application Number: P-3-19-75-4949
Name of Applicant: D'Azur Villas Incorporated
635-649 Paseo de la Playa, Redondo Beach 90277

Permit Type: Standard
 Emergency

Development Location: 635-649 Paseo de la Playa, Torrance

Development Description: Installation of 410 ft. of 6' high chain
link fence on the westerly line of Lot 148 with entrance
gate

Commission Resolution:

- I. The South Coast Conservation Commission finds that the proposed development:
 - A. Will not have a substantial adverse environmental or ecological effect.
 - B. Is consistent with the findings and declarations set forth in Public Resources Code Sections 27001 and 27302.
 - C. Is subject to the following other resultant statutory provisions and policies:
City of Los Angeles ordinances.
 - D. Is consistent with the aforesaid other statutory provisions and policies in that:
approval in concept has been issued.
 - E. The following language and/or drawings clarify and/or facilitate carrying out the intent of the South Coast Regional Zone Conservation Commission:
application, site map, plot plan and approval in concept.

Resolution of Approval and Permit

page 4

II. Whereas, at a public hearing held on July 28, 1975 (date) at Torrance (location) by a 8 to 1 vote here- by approves the application for Permit Number P-3-19-75-4949 pursuant to the California Coastal Zone Conservation Act of 1972, subject to the following conditions imposed pursuant to the Public Resources Codes Section 27403:

1. The fence shall be located as close as possible to the foot of the cliff and shall be built in accordance with the specifications set forth in the Building Permit No. 67778 issued by the City of Torrance on February 20, 1975. 2. Said fence shall be temporary in nature and subject to relocation upon resolution of litigation. 3. The granting of any such permit and/or the construction of any such fence shall be without prejudice to the final determination of the rights of the parties.

III. Said terms and conditions shall be perpetual and bind all future owners and possessors of the property or any part thereof unless otherwise specified herein.

IV. The grant of this permit is further made subject to the following:

A. That this permit shall not become effective until the attached verification of permit has been returned to the South Coast Regional Conservation Commission upon which copy all permittees have acknowledged that they have received a copy of the permit and understood its contents. Said acknowledgment should be returned within ten working days following issuance of this permit.

B. That said development is to be commenced on or before 360 days from effective date of issuance.

V. Therefore, said Permit (Standard, ~~Emergency~~) No. P-3-19-75-4949 is hereby granted for the above described development only, subject to the above conditions and subject to all terms and provisions of the Resolution of Approval by the South Coast Regional Conservation Commission.

VI. Executed at Long Beach, California on behalf of the South Coast Regional Conservation Commission on August 11, 1975.

COASTAL COMMISSION

EXHIBIT # 4B
PAGE 2 OF 8

M.J. Carpenter
M.J. Carpenter
Executive Director

2474

77 wk

STATE OF CALIFORNIA

Edmund G. Brown Jr. Governor

CALIFORNIA COASTAL ZONE CONSERVATION COMMISSION

SOUTH COAST REGIONAL COMMISSION

666 E. OCEAN BOULEVARD, SUITE 3107

P. O. BOX 1450

LONG BEACH, CALIFORNIA 90801

(213) 436-4201 (714) 846-0648



*5/16 AG referring app
to committee
AG wants construction
5/16 P.M. 6:00
continued by applicant*

*28 July 75
per applicant
plus City of Torrance
continuation*

8-1

To: Commissioners
From: Executive Director
Subject: Staff Summary and Recommendations
Application No.: P-3-19-75-4949
Attachments: 1. Location Map
2.
3.
4.

1. Administrative Action:

The application has been reviewed and is complete. The 90 day hearing period expires on 6-19-75. Public hearing is scheduled for 7/28/75. Continuations, (if any) were granted as follows:

a. 5/19/75 b. _____ c. _____

2. Applicant:

D'Azur Villas Incorporated 213/378-5192
Applicant's full name Telephone number
635-649 Paseo de la Playa
Address
Redondo Beach, CA 90277

OR Gerald A. Herfurth 213/378-5192
Representative's name Telephone number
Address

3. Project Location:

(a) City Torrance
(b) County L.A.
(c) Street Paseo de la Playa
(d) Area is zoned R-4

COASTAL COMMISSION
5-05-503
EXHIBIT # 4B
PAGE 3 OF 8

12474 *Amc*

a. Project Description:

PROJECT: Installation of 410 ft. of 6 ft. high chain link fence on the
westerly line of Lot 148 with entrance gate

LOCATION: 635-649 Paseo de la Playa, Torrance, Co. of L.A.

AGENCY APPROVAL:

Homeowners Assoc. Health Dept.
XXX Building Dept. #67778 RWQCB
APCD

DISTANCE FROM MEAN HIGH TIDE: approx. 10 yds.

PRESENT USE OF PROPERTY: vacant

DENSITY: N.A. GROSS NET

ON-SITE PARKING: N.A.

UNIT MIX: NA

UNIT COST OR RENTAL: \$1,850

EIR: Categorically Exempt

BUILDING HEIGHT: 6 ft.

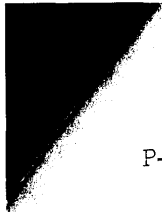
COASTAL COMMISSION

5-05-503

SITE SIZE: 410 linear feet

EXHIBIT # 4B

PAGE 4 OF 8



P-4949

Project Description:

The proposed project involves the erection of 410 linear feet of 6 ft. high chain link fence. The fence is proposed for installation along the base of the bluffs which separate the applicants property from the county beach.

The project site is currently vegetated with ice plant which grows on the sluff material from the bluffs which are eroding.

The bluff areas along Torrance Beach are frequented by a variety of recreational enthusiasts including hang gliders which use the bluffs as a launching area contributing to the bluff erosion.

Coastal Planning Issues:

There currently exists approx. 560 linear ft. of chain link fence along a portion of the Torrance Beach bluffs in the project area. This installation was approved by the Commission as an administrative permit (A-2419) on Dec. 31, 1973.

As erected this fence exhibits an adverse visual impact on this portion of the beach which is uncluttered by structures and is in a natural state. To allow further extensions of this type of fencing along the base of the bluffs would in the opinion of staff, deteriorate the aesthetic qualities inherent in this area of the coastline.

COASTAL COMMISSION

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EXHIBIT #

4B

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Findings:

1. The proposed project is not consistent with Section 27001 of the Act which mandates in part the permanent protection of the remaining natural and scenic resources.
2. The proposed project is not consistent with Section 27302 (a) of the Act which mandates the maintenance, restoration, and enhancement of the overall quality of the coastal zone environment, including, but not limited to, its amenities and aesthetic values.

STAFF RECOMMENDATION: Denial

Staff Planner

8 Votes:

Dadasovich

Conditions:

mc

- 1.
- 2.
- 3.

} as per attached City of Tananae letter.

COASTAL COMMISSION

5-05-503

EXHIBIT #

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OF

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ADDENDUM - P-4949

Condition:

The fence be temporary and subject to removal upon resolution of the litigation entitled "City of Torrance vs. Don Jaran, etc." case number SWC 20628.

The granting of the permit does not constitute waiver of any public right by reason of implied dedication or effect the determination of the mean high tide line.

COASTAL COMMISSION
5-05-503
EXHIBIT # 4B
PAGE 7 OF 8

*11 Aug 75
approved*

29 July 1975

P-4949 (410 ft. of 6 ft. chain link fence, Torrance)

REVISED FINDINGS:

1. The fence installation's primary purpose is to protect the natural bluffs from misuse by the public and to reduce man-made erosion.
2. The fence installation can be considered to be of a temporary nature.
3. That although the fence is aesthetically disturbing, it is also a necessity to protect the natural bluffs from climbers and other misuses.
4. The project will not create any substantial ecological or environmental effect.

COASTAL COMMISSION

5-05-503

EXHIBIT # 4B

PAGE 6 OF 8

BURKE, WILLIAMS & SOBELSON LLP
1111 West Flower Street, Suite 2100
Long Beach, California 90802-4416
Phone: 213.236.8600 Fax: 213.236.3777
WWW.WMSLAW.COM

COASTAL COMMISSION

5-05-503

EXHIBIT # 5A

PAGE 1 OF 26

June 8, 2006

Via Messenger

Ms. Pam Emerson
California Coastal Commission
200 OceanGate, 10th Floor
Long Beach, CA 90802-4416

Re: Torrance Beach Fence

Dear Ms. Emerson:

At the suggestion of the Coastal Commission, I have enclosed the following data in support of our application for a permit to have a truck on the Torrance Beach for purposes of repairing our fence.

EXHIBIT 1: DECLARATIONS:

David Story. As stated in his Declaration, Chief Story was a Los Angeles County Lifeguard from 1970 to 2006 when he retired as Southern Section Chief of the Los Angeles County Lifeguards (Southern Section runs from San Pedro to Marina del Rey). Mr. Story declares his familiarity with the Torrance Beach and cannot recall a time when there wasn't a chain link fence where the bluffs meet the sand below Paseo de la Playa.

Gary Crum. As stated in his Declaration, Chief Gary Crum served as a Los Angeles County Lifeguard for 37 years before retiring as the Southern Section Chief of the Lifeguards. (He was succeeded as Chief by David Story) Chief Crum recites his early years in charge of the Junior Lifeguards at Torrance Beach and his recollection of a chain link fence at the base of the bluffs during that time period.

Norman Stern. Mr. Stern is an attorney and has been for over 50 years. As stated in his Declaration, he personally participated in the acquisition of the bluff property from movie mogul Louis B. Mayer. Mr. Stern is and was an officer in Peerless Construction, who developed the houses on Paseo de la Playa. Norman Stern attests that a fence existed at the base of the bluffs in late 1953 or early 1954 and in the early 1960s.

Dr. Kenneth Wright. As stated in his Declaration, Dr. Wright lived on Paseo de la Playa with his family since 1966. He recalls a specific incident in 1974 when he injured his arm badly enough to require stitches while climbing over the chain link fence to go

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South Coast Region
JUN 8 2006
CALIFORNIA
COASTAL COMMISSION

COASTAL COMMISSION

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EXHIBIT # SA

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surfing on the beach. He clearly recalls that there was a fence below the family property since at least 1968.

Joann Wright. As stated in her Declaration, she remembers the incident involving her brother, Kenneth, and has the same recollection concerning a chain link fence being there since 1968.

Dr. Howard Wright. As stated in his Declaration, Dr. Wright also recalls his brother Kenneth's injury to his arm while climbing the chain link fence and has the same recollection as his brother and sister.

Shirley Morris. As stated in Ms. Morris' Declaration, she moved to 525 Paseo de la Playa with her family in the mid-1960s. She also recalls the chain link fence at the base of the hill since at least 1968.

EXHIBIT 2: PHOTOGRAPHS

Enclosed are 5 photographs taken from an envelope in the Torrance City Attorney's office which envelope was entitled Photos – 1970 to 1975. A copy of the envelope is also attached. These photos I believe were also exhibits to the filing by the then-City Attorney of Torrance before the Coastal Zone Conservation Commission of the State of California. This was probably filed in 1975. An examination of the photos reveals a fence below the bluffs in question.

EXHIBIT 3: HISTORIC BOOK

Attached as Exhibit 3 is the Historic Book commission by the Historical Commission of Redondo Beach. On page 104 is a 1930 Bird's eye-view of Redondo Beach from the Palos Verdes Peninsula which shows a fence at the base of the Torrance Bluffs.

EXHIBIT 4: NEWSPAPER CLIPPINGS

Also attached is a newspaper clipping which was also a exhibit before the Coastal Zone Conservation Commission depicting or describing the death of a youngster on the bluffs in question because of a cave-in.

EXHIBIT 5: CALIFORNIA ASSISTANT ATTORNEY GENERAL

During the time the Boundary Agreement was executed, N. Gregory Taylor was an Assistant Attorney General in charge of both the State Lands Commission and the Coastal Commission. In his dual correspondence with the Torrance City Attorney's Office, with a copy to the undersigned, as legal representative of the homeowners, Mr. Taylor affirms that the Boundary Agreement, after recordation, is now fully effective. Patently, if the Boundary Agreement with its references to the fence and the homeowners' right to repair required Coastal Commission approval, then it was not "fully effective."

Obviously Mr. Taylor was aware of the applicable Coastal Commission statutes specifying that the Coastal Commission had no authority over Boundary Agreements. If he felt otherwise, he would have been duty bound to include the Coastal Commission as a party to the Boundary Agreement or, at a minimum, to provide that it was subject to the Coastal Commission's approval.

EXHIBIT 6: INVOLVEMENT OF THE COASTAL COMMISSION

At the date this document is prepared the undersigned has not had an opportunity to view the Coastal Commission's files which were requested pursuant to an official records request. But, the City Attorney of Torrance, in seeking City Council approval of the 1988 Boundary Agreement, mentions that the Coastal Commission stands ready to sign the Boundary Agreement. He could not have made this statement unless he knew the Coastal Commission was aware of the Boundary Agreement. The Staff of the Coastal Commission took no action with respect to the Boundary Agreement, thus confirming the above legal conclusions reached by Mr. Taylor.

Very truly yours,

BURKE, WILLIAMS & SORENSEN LLP



Martin L. Burke, Of Counsel

cc: Jamee Patterson, Esq., (via fax, w/o encl.)

COASTAL COMMISSION
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EXHIBIT # SA
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DECLARATION OF DAVID STORY

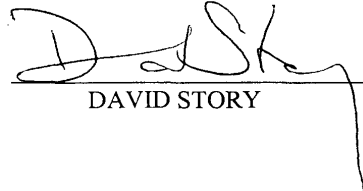
I, DAVID STORY, declare:

I am a person over the age of eighteen years and, not a party to the application to the Coastal Commission in regard to the chain link fence at the base of the bluffs below Paseo de la Playa. I have personal knowledge of the facts set forth below and if called as a witness, I could and would competently testify thereto.

1. I joined the Los Angeles County Life Guards in 1970 and I retired as Southern Section Chief of the Life Guards in 2006. I succeeded Gary Crum as Southern Section Chief. The Southern Section includes San Pedro to Marina del Rey.
2. I am very familiar with the layout of the Torrance Beach and its surroundings.
3. Since I joined the Life Guards in 1970, I cannot recall a time when there was not a chain link fence where the bluffs meet the sand below Paseo de la Playa.

I declare under penalty of perjury of the laws of the State of California, that the foregoing is true and correct.

Executed this 6 day of June, 2006 at Los Angeles County, California.


DAVID STORY

COASTAL COMMISSION

5-05-503

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DECLARATION OF GARY CRUM

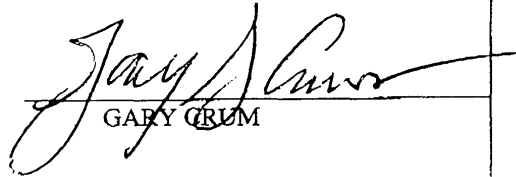
I, GARY CRUM, declare:

I am a person over the age of eighteen years and, not a party to the application to the Coastal Commission in regard to the chain link fence at the base of the bluffs below Paseo de la Playa. I have personal knowledge of the facts set forth below and if called as a witness, I could and would competently testify thereto.

1. After serving for 37 years with the Los Angeles County Life Guards, I retired as Southern Section Chief of the Life Guards in HERMOSA BEACH. The Southern Section ~~runs~~ runs from San Pedro to Marina del Rey.
2. In the late 1960s and early 1970s I was in charge of the Jr. Life Guard Program at the Torrance Beach and I am very familiar with the layout of this beach and its surroundings.
3. During this period of time I recall a chain link fence where the bluffs meet the sand below Paseo de la Playa.

I declare under penalty of perjury of the laws of the State of California, that the foregoing is true and correct.

Executed this 7 day of June, 2006 at Los Angeles County, California.


 GARY CRUM

COASTAL COMMISSION

S-05-503

EXHIBIT # 5A

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DECLARATION OF NORMAN L. STERN

I, NORMAN L. STERN, do hereby declare:

I am a person over the age of eighteen years of age. I am an attorney at law admitted to practice in 1948 and have been a member of the Bar of State of California continuously from that date on.

I am the attorney for Peerless Building Corporation and an officer of that Corporation, one of the parties who have participated as to the subject area since early 1954.

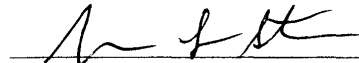
If called as a witness I could and would testify to the following:

1. I currently reside in Los Angeles County.
2. I have an office at 14044 Ventura Blvd., Sherman Oaks, CA.
3. I participated in the negotiation to purchase the subject property from Louis B. Mayer.
4. I recall walking the property and examining same as part of the due diligence prior to the purchase agreement. This was in late 1953 or early 1954.
5. I recall during this examination that there was a metal fence at the bottom of the slope..
6. I also recall re-examining the property in preparation for the recordation of the map for Tract 18739 that there was the same metal fence in place at the bottom of the slope in front of the area where lots 149 to 168 exist. This must have been in approximately early 1960.

I attach as exhibits to this declaration a photocopy of the signing ceremony of the purchase of this land and a copy of Tract 18379.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct.

Executed at Los Angeles, California on June 6, 2006



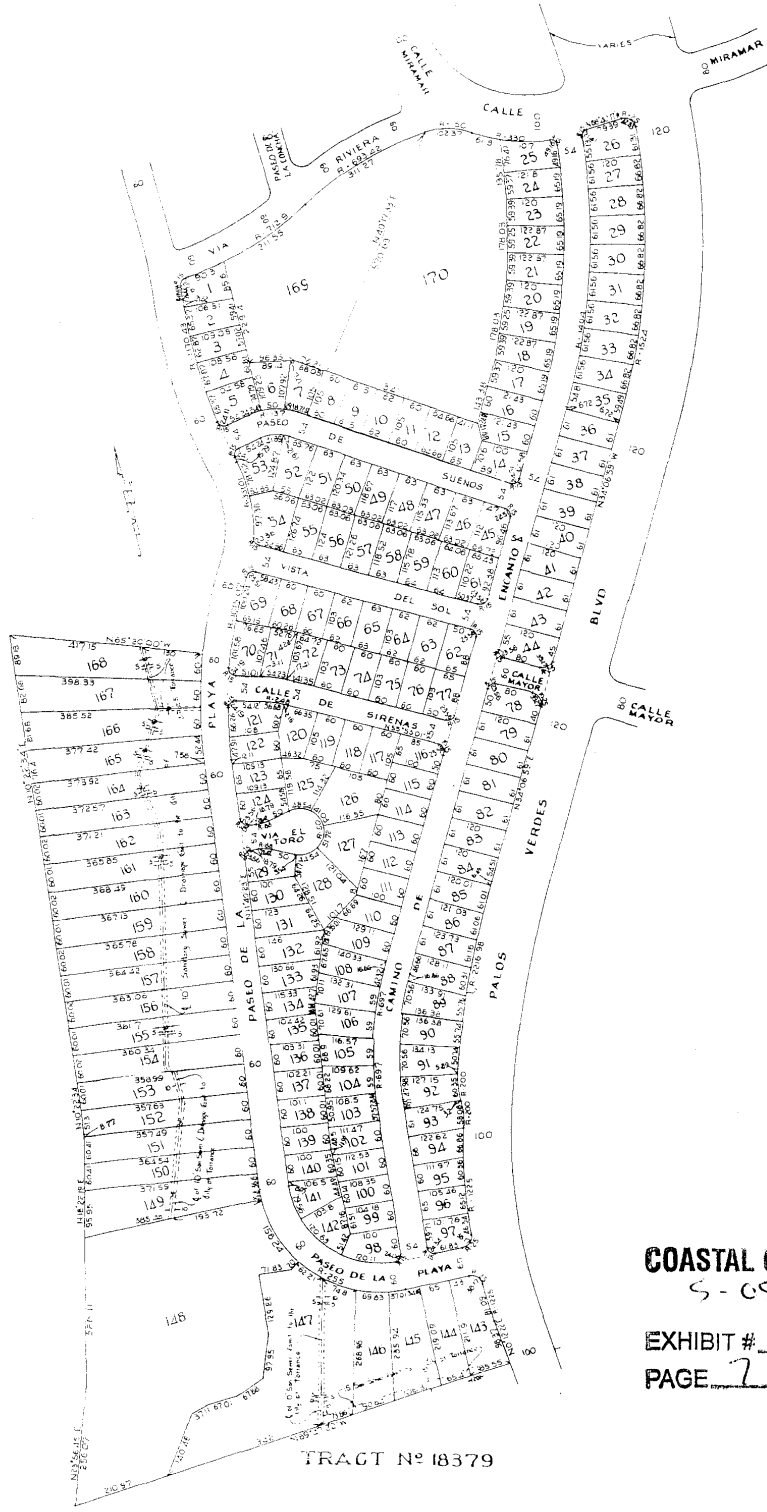
Norman L. Stern

COASTAL COMMISSION

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TRACT No 18379

THIS IS NOT A SURVEY OF THE LAND BUT IS COMPILED FOR INFORMATION ONLY FROM DATA SHOWN BY OFFICIAL RECORDS



LAND DEAL COMPLETED—Plans for a \$9,000,000 home community have been disclosed in announcement that a 144-acre site has been acquired from Louis B. Mayer. The property is in the Hollywood Riviera district, off the Hollywood Palms Verdes Parkway, west of Coast Highway. Shown above, closing the deal are, from left, Norman Stern, attorney for the developers, the Don-Ja-Ren Construction Co. and Peerless Building Corp.; Mayer and Frank W. Peck, associated with New S. McCarthy, attorney for Mayer. Grading work has already begun on new project.

Ocean Frontage Tract Planned

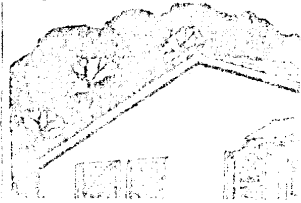
Grading has been started for a new \$9,000,000 community of 550 homes on a 144-acre ocean-frontage site acquired from former MGM head Louis B. Mayer in the Hollywood Riviera district, adjoining Palms Verdes, it was learned yesterday.

Acquisition of the land was confirmed by J. George White, president of the Don-Ja-Ren Construction Corp. and Nelson Hirsch, president of the Peerless Building Corp.

DuBois Named

The sponsor sale agent, Charles E. DuBois, has been named to plan the new community development.

The project is located west of the Hollywood Palms Verdes Parkway, west of the Coast Highway (Southern Blvd.) on the ocean frontage side of the hill past Beverly Hills.



COASTAL COMMISSION

5-05-503

EXHIBIT #

SA

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OF

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DECLARATION OF JOANNE WRIGHT

I, JOANNE WRIGHT, declare:

I am a person over the age of eighteen years and, not a party to the application to the Coastal Commission in regard to the chain link fence at the base of the bluffs below Paseo de la Playa. I have personal knowledge of the facts set forth below and if called as a witness, I could and would competently testify thereto.

1. I currently reside at Santa Barbara California CA.

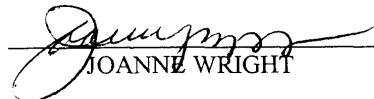
2. With my parents, in 1966 I moved to 515 Paseo de la Playa in Redondo Beach, California. I graduated from South High School in 1972 and thereafter graduated from Scripps College and Claremont College Graduate schools.

3. I remember the incident in the summer of 197~~7~~⁷ when my brother, Kenneth Wright, injured himself by tearing the skin of his arm while climbing over the chain link fence at the bottom of our property as he was climbing over it to go surf boarding at the beach at the base of the bluffs. I recall this incident because my brother's injury was severe enough to require being taken to the hospital to get stitches.

4. To the best of my recollection that chain link fence had been at the base of our property since at least 1968.

I declare under penalty of perjury of the laws of the State of California, that the foregoing is true and correct.

Executed this 5th day of June, 2006 at Torrance, California.


JOANNE WRIGHT

COASTAL COMMISSION

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EXHIBIT # SA

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DECLARATION OF HOWARD WRIGHT

I, HOWARD WRIGHT, declare:

I am a person over the age of eighteen years and, not a party to the application to the Coastal Commission in regard to the chain link fence at the base of the bluffs below Paseo de la Playa. I have personal knowledge of the facts set forth below and if called as a witness, I could and would competently testify thereto.

1. I currently reside 9772 Fall Ridge Trails in St. Louis, Missouri 63127, where I have a dental practice.

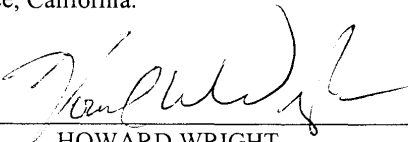
2. With my parents, in 1966 I moved to 515 Paseo de la Playa in Redondo Beach, California. I graduated from South High School in 1974 and graduated from Washington University Dental School in 1983.

3. I remember the incident in the summer of 197~~7~~⁴ when my brother, Kenneth Wright, injured himself while climbing over the chain link fence at the bottom of our property going surfing at the beach at the base of the bluffs. I recall this incident because my brother injured himself by tearing the skin of his arm and required being taken to the hospital to get stitches.

4. To the best of my recollection, that chain link fence had been at the base of our property since at least 1968.

I declare under penalty of perjury of the laws of the State of California, that the foregoing is true and correct.

Executed this ___ day of June, 2006 at Torrance, California.



HOWARD WRIGHT
June 1 2006

COASTAL COMMISSION
5-05-503
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DECLARATION OF SHIRLEY MORRIS

1
2 I, SHIRLEY MORRIS, declare:

3 I am a person over the age of eighteen years and, not a party to the application to the
4 Coastal Commission in regard to the chain link fence at the base of the bluffs below Paseo de la
5 Playa. I have personal knowledge of the facts set forth below and if called as a witness, I could
6 and would competently testify thereto.

7 1. In the mid-1960s with my children and my then-husband, I moved to 525 Paseo
8 de la Playa in Redondo Beach, California.

9 2. To the best of my recollection that chain link fence had been at the base of our
10 property where the bluffs met the sand since at least 1968.

11 I declare under penalty of perjury of the laws of the State of California, that the foregoing
12 is true and correct.

13 Executed this 2 day of June, 2006 at Los Angeles County, California.

14
15 
16 _____
17 SHIRLEY MORRIS

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24 **COASTAL COMMISSION**

25 S-05-503

26 EXHIBIT # SA

27 PAGE 11 OF 26

DECLARATION OF KENNETH WRIGHT

I, KENNETH WRIGHT, declare:

I am a person over the age of eighteen years and, not a party to the application to the Coastal Commission in regard to the chain link fence at the base of the bluffs below Paseo de la Playa. I have personal knowledge of the facts set forth below and if called as a witness, I could and would competently testify thereto.

1. I currently reside at 19 Latigo Lane, Rolling Hills, California 90274.

2. I am a medical doctor practicing in Los Angeles County, California.

3. With my parents, in 1966 I moved to 515 Paseo de la Playa in Redondo Beach, California. I graduated from South High School in 1968 and graduated from Boston University Medical School in 1977.

4. I clearly recall an incident which occurred to me in the late summer of 1974 before going back to medical school. I was living with my parents at 515 Paseo de la Playa and I was going surfing on the beach at the base of our property. I put my surfboard over the chain link fence and proceeded to climb over the fence to go onto the beach. In doing so I tore the skin under my arm, which required stitches. I had to climb over the chain link fence because the gate to the fence could not be opened because of the build up of sand, which obviously had been there for some time.

5. To the best of my recollection that chain link fence had been at the base of our property since at least 1968.

I declare under penalty of perjury of the laws of the State of California, that the foregoing is true and correct.

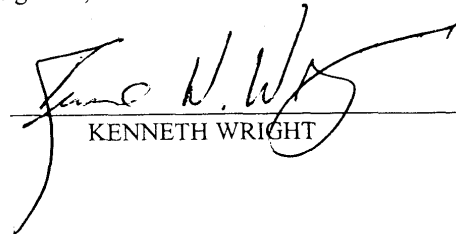
Executed this 5 day of June, 2006 at Rolling Hills, California.

COASTAL COMMISSION

5-05-503

EXHIBIT # 5A

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KENNETH WRIGHT

Cliff-Base Cave Ceiling Collapses

OCT 22 1964

More than a tone of earth buried a Harbor City youth this morning at the base of a cliff overlooking Torrance Beach.

Robert Edward Henderson, 19, of 1340 W. 253rd St., was not breathing when a doctor and a policeman dug him out, it was reported.

Henderson and his girlfriend, Verna Staton, 20, of 1344 W. 253rd St., Harbor City, had been trying to enlarge a cave at the base of the cliff, police said.

The cave was at the rear of 449 Paseo de la Playa, Torrance, the home of Dr. James Casey.

Ceiling Collapsed

The girl escaped the cave-in after a portion of the cave ceiling collapsed, Torrance Officer Robert Lydon learned.

"Get out," Henderson was reported to have yelled at the girl as part of the ceiling fell.

Henderson did not have time to get out of the cave before the rest of it caved in, the girl told investigators.

The girl ran, screaming hysterically, from the mouth of the cave.

Thought of Slide

"As soon as I heard her screams," Dr. Casey said "I thought of a landslide."

The cliff is a slide area.

"I grabbed a shovel, hurdled the chain link fence at the rear of my property and scrambled down the cliff."

Dr. Casey was the first rescuer to arrive at the scene, Officer Lydon, who arrived moments later, said.

The two men dug 15 minutes before unearthing the apparently lifeless Henderson.

"He was not breathing and he did not have a pulsebeat," Dr. Casey said.

Artificial Respiration

The doctor and the policeman alternated administering artificial respiration.

Three Torrance Fire Department units arrived on the scene a short while later, and firemen administered oxygen while the artificial respiration was continued.

Henderson began breathing again 20 minutes after he had been unearthed, Casey said.

"It's hard to say in how bad a shape he's in," Casey said.

"I think he has a partially collapsed lung."

Doctors at Little Company of Mary Hospital, Torrance, were too busy administering to the youth to report on his condition.



OCT 22 1964

Daily Breeze photo

Site Was Nearly His Grave

Robert Henderson's breathing is restored by Torrance Fireman Steven Buckalew at the site of a Torrance Beach cliff cave-in this morning. Tor-

rance Officer Robert Lydon hovers over the victim, 19, of Harbor City. Lydon was one of the first rescuers at the scene.

COASTAL COMMISSION

5-05-503

EXHIBIT # SA

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EXHIBIT P

Death Wins Long Fight

NOV 6 1964

A Harbor City youth yesterday lost his 15-day fight for life.

Robert E. Henderson, 18, was buried under a ton of sand when a cave he and a girl friend were exploring at Torrance Beach collapsed Oct. 22.

Henderson, 1340 W. 253rd St., never regained consciousness.

The accident occurred in a cave at the rear of and below 449 Paseo de la Playa.

The girl, Verna Staton, 20, of 1344 W. 253rd St., and Henderson had been trying to enlarge a cave at the base of the cliff, police said.

The girl escaped the cave in after a portion of the cave's ceiling collapsed.

"Get out," Henderson was reported to have yelled at the girl as the sand began falling.

The girl ran, screaming, from the mouth of the cave.

Heard by Doctor

Dr. James Casey, whose home is above the cave site, heard the girl yelling. He thought more of the cliff, which has a history of landslides, was slipping.

He grabbed a shovel, nudged the chain link fence at the rear of the property and scrambled down the cliff.

Dr. Casey and Torrance Police Officer Robert Lydon dug

15 minutes before unearthing the apparently lifeless Henderson.

"He was not breathing and he did not have a pulsebeat," Dr. Casey said.

The victim was administered artificial respiration until three Torrance Fire Department units arrived. Firemen administered oxygen until Henderson began breathing again 20 minutes after he had been unearthed, Dr. Casey said.

He was taken to Little Company of Mary Hospital, Torrance, where he remained until yesterday when he was transferred to Harbor General Hospital, Carson, at 9:32 a.m. He died at 10 a.m.

Funeral services are scheduled at 1 p.m. tomorrow at the A. M. Gamby Chapel, Lomita.

Survivors include his mother, Luella Henderson, of the 253rd Street address; his father, Carson Henderson, of Colorado; brothers, Richard and John, of Harbor City, William, of Bishop, and Charles, of Colorado and a sister, Janette Ives, of Harbor City.

The Rev. Ernest Thompson will officiate. Interment will be at Pacific Crest Cemetery.

The youth had lived in the South Bay 4 months.

Youth Buried NOV 1964 by Cave-in Dies

Robert E. Henderson, 19, who was buried under a ton of sand when a cave on the beach at Torrance collapsed Oct. 22, lost a 15-day fight for life at Harbor General Hospital Thursday.

The accident occurred while Henderson and a girl friend, Verna Staton, 20, were exploring a small cave opposite the 500 block of Paseo de la Playa, according to police. Miss Staton fled to safety but Henderson was trapped.

Henderson lived at 1340 W. 253rd St., and Miss Staton next door at 1344.

COASTAL COMMISSION

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EXHIBIT #

5A

PAGE 14 OF 26

JOHN K. VAN DE KAMP
Attorney General

State of California
DEPARTMENT OF JUSTICE



3580 WILSHIRE BOULEVARD, ROOM 800
LOS ANGELES 90010
(213) 736-2304

RECEIVED
SEP 22 1988

(213) 736-2086

September 21, 1988

OFFICE OF
CITY ATTORNEY

Hon. Stanley E. Remelmeyer
City Attorney
City of Torrance
3031 Torrance Boulevard
Torrance, California 90503

Dear Stan:

Re: Torrance Boundary Line Agreement

This is to confirm my telephone call to Marilyn van Oppen of your office telling her that the above Agreement and State Lands Lease to the City were recorded on September 12, 1988 in the Los Angeles County Recorder's Office as documents numbers 881458133 and 881458132, respectively. Both documents are now fully effective.

Alan Scott of the State Lands Commission staff will distribute copies of the documents to all parties as soon as they are returned by the Recorder.

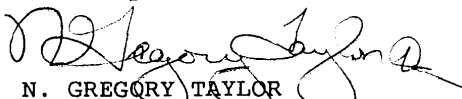
Is there anything remaining to do with the old case the City brought to resolve this problem years ago - City of Torrance v. Don Ja Ran? If we can be of any assistance on this please let us know.

On behalf of the State people, I would like to express my appreciation to everyone who worked to make this a reality. This resolves the boundary problem to the mutual satisfaction of all concerned.

Best regards.

Very truly yours,

JOHN K. VAN DE KAMP
Attorney General


N. GREGORY TAYLOR
Assistant Attorney General

COASTAL COMMISSION

5-05-503

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PAGE 15 OF 26

NGT:cm

cc: Ralph H. Nutter
Norman L. Stern
Martin Burke
Alan Scott

JOHN K. VAN DE KAMP
Attorney General

State of California
DEPARTMENT OF JUSTICE



December 11, 1987

3580 WILSHIRE BOULEVARD, ROOM 800
LOS ANGELES 90010
(213) 736-2304

Stanley Remelmeyer
City Attorney
City of Torrance
3031 Torrance Boulevard
Torrance, California 90503

Re: City of Torrance v. Don Ja Ran
BLA 257 - Cost

Dear Stan:

I have forwarded the bill for the updated title report to our accounting office for payment.

Your letter seems to imply this matter is now concluded. Quite the contrary is true, however. To date, I have received no executed copies from anyone. When these are received, we will compile one original copy for the Governor's signature. When that is completed, then the agreement will be recorded and become effective. (The lawsuit also needs to be dismissed.)

It is most urgent that this be completed as soon as possible. Please let me know when you and Judge Nutter are available for a meeting to discuss the mechanics of completing this. Marty Burke should also be included in the meeting.

Alan Scott of State Lands is now a Notary and is available to spend several days getting necessary signatures when this is acceptable for all concerned.

Again, the transaction is not completed and the value of the recent date down of the title company is becoming less each day. Please let me know when we can meet to complete this matter.

Very truly yours,

JOHN K. VAN DE KAMP
Attorney General

A handwritten signature in cursive script, appearing to read "Greg Taylor".

N. GREGORY TAYLOR
Assistant Attorney General

NGT:ca

cc: Judge Ralph Nutter
Martin Burke
Jack Rump
Alan Scott

RECEIVED
DEC 23 1987

COASTAL COMMISSION
S-05-503

OFFICE OF
CITY ATTORNEY

EXHIBIT # SA
PAGE 16 OF 26

August 12, 1988

Council Meeting of
August 16, 1988

Honorable Mayor and Members
of the City Council
Torrance, California

Members of the Council:

SUBJECT: Ratification of Torrance Beach Boundary Agreement

ABSTRACT

Recommendation of the City Attorney that the City execute an agreement, between the State of California, the Attorney General, the State Lands Commission, and certain private upland landowners, setting a permanent boundary between certain privately owned lots and the abutting sandy beach at South Torrance Beach; establishing a public easement over the sandy beach portion of those lots; and, leasing the area 1,000 feet waterward of the permanent boundary line to the City of Torrance. Resolution.

BACKGROUND

The beach front lots which are subject to this Boundary Agreement are Lots 143 to 168, inclusive, of Tract 18379. They are located on the west side of Paseo De La Playa from Calle De Sirenas south to the boundary line between the City of Torrance and Palos Verdes Estates.

The City and/or State has already acquired from other beach front owners the necessary title or easement for public recreation purposes.

The Fee Title owners and original developers of the beach front lots subject to this Agreement are Don Ja Ran Construction Co., Inc. and Peerless Building Corporation as to the 6 lots making up the condominium development at the southern end of the cliffs and 18 of the 20 lots developed R-1.

Lots 143 thru 148 are currently developed as the Cote De Azure Apartment/Condominiums. The condominiums are individually owned with a land lease running to 2015.

Only two of the remaining 20 lots, all of which are developed in single family residences, have been sold by Don Ja Ran to other parties. Fee Title to Lot 149 is currently owned by Stuart Lichter and Fee Title to Lot 154 is currently owned by Young-Shik Kim. The 18 lots still owned by Don Ja Ran and Peerless are subject to land leases running to 2015.

One of the primary goals of the City, since the lots were created by subdivision in the middle 1950s, has been to keep the private owners from building permanent structures on the sandy beach portion of their privately owned property. In the years just prior to the passage of the Coastal Initiative, the fee owners talked of building a hotel on the beach and made verbal claims of beach ownership 200 feet waterward of the base of the cliffs.

COASTAL COMMISSION

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On the other hand, the subsequent leasehold owners have been jealous of their privacy and concerned about the possibility of night lighting on the beach and overuse or over development on the part of the public entities in control of the public beach and tidelands.

Under common law, the ordinary high water mark, or mean high tideline, constitutes the common boundary between the lands owned by the State and the lands abutting which are in private ownership.

At Torrance Beach as well as all along the California coastline, a continuing problem, making clear lines of ownership difficult, has been the ever changing location of that ordinary high water mark. Because of changes in the size of the sandy portion of the beach, both man-made and natural, the mean high tideline has changed many times over the years and is still subject to change.

During these periods of change in beach size and controversy over its ownership, the sandy portion of the beach, just below the cliffs, was used for beach access and public recreation purposes on a regular basis without permission from the upland owners. Under the Gion Decision, this continued usage has given the public what is known as a prescriptive easement or implied dedication of certain of those lands for public recreation purposes.

In 1971 the city filed an action to quiet title and to preserve and protect the rights of the public to the sandy beach portion of the uplands, City of Torrance v. Don Ja Ran Construction Co., Inc., et al., SWC 20629, which case is still pending and will be settled as to those parties signing the Boundary Agreement.

This suit was based on the California Supreme Court decision in the case of Gion v. City of Santa Cruz (1970) 2 Cal.3d 29, which clarified the common law doctrine of implied dedication arising from public use of land for a prescriptive period of five (5) years without asking or receiving permission from the landowner, who has actual or presumed knowledge of said use in any significant way during the time period involved.

During the initial years this lawsuit was handled by various Deputy City Attorneys and due to frequent turnover in that position some continuity was lost. Therefore, Ralph Nutter was hired to represent the City at about the same time Martin Burke, (of Burke, Williams and Sorensen) who lives on one of the lots involved, began to represent the interests of the Fee owners and leasehold tenants.

Mr. Nutter, in turn, sought help from the State of California as Fee owner of the tide and submerged lands. The State Attorney General's Office, in the person of Assistant Attorney General for coastal matters, N. Gregory Taylor, assumed a leading roll in agreement negotiations with the private owners on behalf of the Governor's Office and the State Lands Commission.

Los Angeles County, which has provided lifeguard and custodial services on Torrance Beach since 1945, became involved as an agent of the State. And John Knox Smith, a Los Angeles

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EXHIBIT # SA

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3.

County Engineer, worked on the geological aspects of setting the boundary line on Torrance Beach while he was still in the employ of the County. After his retirement, John worked on the project for several years for the City of Torrance

Ralph Nutter played a key role in formulating the terms of the agreement and coordinating the necessary changes requested by the State and the private owners. Marty Burke represented the fee and leaseholder's interests; explained the agreement to them; and, has been securing the signatures of these parties for the past year.

From 1971, when the quiet title action was first filed, to 1987, when the terms of this Agreement were finally hammered out and agreed to, the City of Torrance has spearheaded the project. All parties in interest now wish to settle the quiet title action by: setting a permanent boundary between the public and private lands; spelling out the uses to which the privately owned portion of the beach may be subject under a public recreation easement; and, having the State lease to the City of Torrance the area within 1,000 feet waterward of the Agreed Boundary Line (See attached Exhibits "3" and "4").

By the terms of the Agreement, a majority of the private parties with ownership interests in the upland lots abutting the public lands must ratify by signing a counterpart copy of the Boundary Agreement. Well over the required 1/2 of all the private parties with ownership interests have ratified the Boundary Agreement and we plan to secure the rest of the 4 or 5 signatures needed this fall.

Don Ja Ran and Peerless have already signed the Agreement which will be executed by the Governor and State Lands Commission within the next few weeks.

ANALYSIS

The attached Exhibit "A" shows the "Agreed Boundary Line" and the "Sandy Beach Portion of South Torrance Beach" which are the subjects of the Boundary Agreement. The Boundary Agreement is the fruit of more than 16 years labor on the part of the City of Torrance, with the help of the individuals and other governmental agencies already mentioned.

In addition to the private ownership ratification, the multiplicity of governmental jurisdictions involved in state beach and coastal land management (the Governor's Office, the State Lands Commission, the Coastal Commission and the State Attorney General's Office) stand ready to sign the Agreement.

By the terms of the Agreement, it must be recorded by September 15, 1988 or it will be null and void. The several private parties who have not signed it as yet have 10 years from the date of ratification to do so. And, we feel confident that we will be able to secure their signatures in the near future.

Under the terms of the Agreement, the private upland owners who sign will be dismissed from the court action to quiet title.

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4.

A mutually agreed permanent boundary line will be established with a recreation easement granted to the public across the sandy beach portion of the privately owned uplands. No permanent structures will be allowed to be built on this sandy beach by the private upland owners.

If the need arises and upon proper notification to the private upland owners, the City and/or the State may locate sanitation, lifeguard and lighting facilities on the sandy beach which is subject to the public recreation easement.

In addition, it provides:

o for removal of any cloud to the title of the privately owned lands affected by the agreement whose owners have signed the agreement;

o that the State will lease to the City the area within 1,000 feet waterward of the agreed boundary line;

o that the Agreed Boundary Line will be permanent, fixed and not subject to change by natural or artificial processes;

o that the Sandy Beach Portion of the private property is subject to a public easement for beach and recreational purposes;

o that the public easement shall include the right to locate sanitation, protection and lighting facilities as provided for in Title 17, Section 7982(a) of the California Administrative Code;

o that there shall be a 90 day notice to the private upland owners in the event that the City and/or State contemplates any construction on the Sandy Beach Portion;

o that the private owners have a right and means to object and secure a judicial decision regarding the need for such construction;

o that the private owners have the right to construct, repair and maintain an 8 foot chain link fence on the landward side of the Sandy Beach Portion;

o that each respective Owner signing the Agreement grants to the City the public easement for recreational purposes;

o that the City shall dismiss the pending quiet title action against each respective Owner who signs the Agreement;

o that the portion of each respective Owner's real property located landward of the Sandy Beach Portion is not subject to a public easement or dedication;

o that the agreement shall supersede certain quitclaim deeds to the City executed by leasehold owners; and,

o that consideration exists in the value of the exchange of the foregoing promises and the establishment of a permanent, fixed boundary line.

COASTAL COMMISSION

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EXHIBIT # 5A

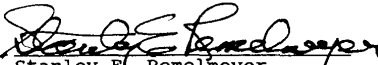
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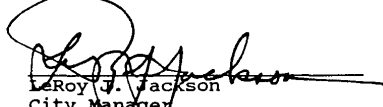
RECOMMENDATION

It is the recommendation of the City Attorney that the attached Resolution ratifying State Lands Commission Boundary Line Agreement No. 256 and authorizing the Mayor to sign the Agreement and the City Clerk to attest the same be adopted.

Respectfully submitted,


Stanley E. Remelmeyer
City Attorney

CONCUR:


LeRoy J. Jackson
City Manager

Attachments: Exhibit A, Location Map
Exhibit 3, Lease Parcel 1
Exhibit 4, Lease Parcel 2
Resolution

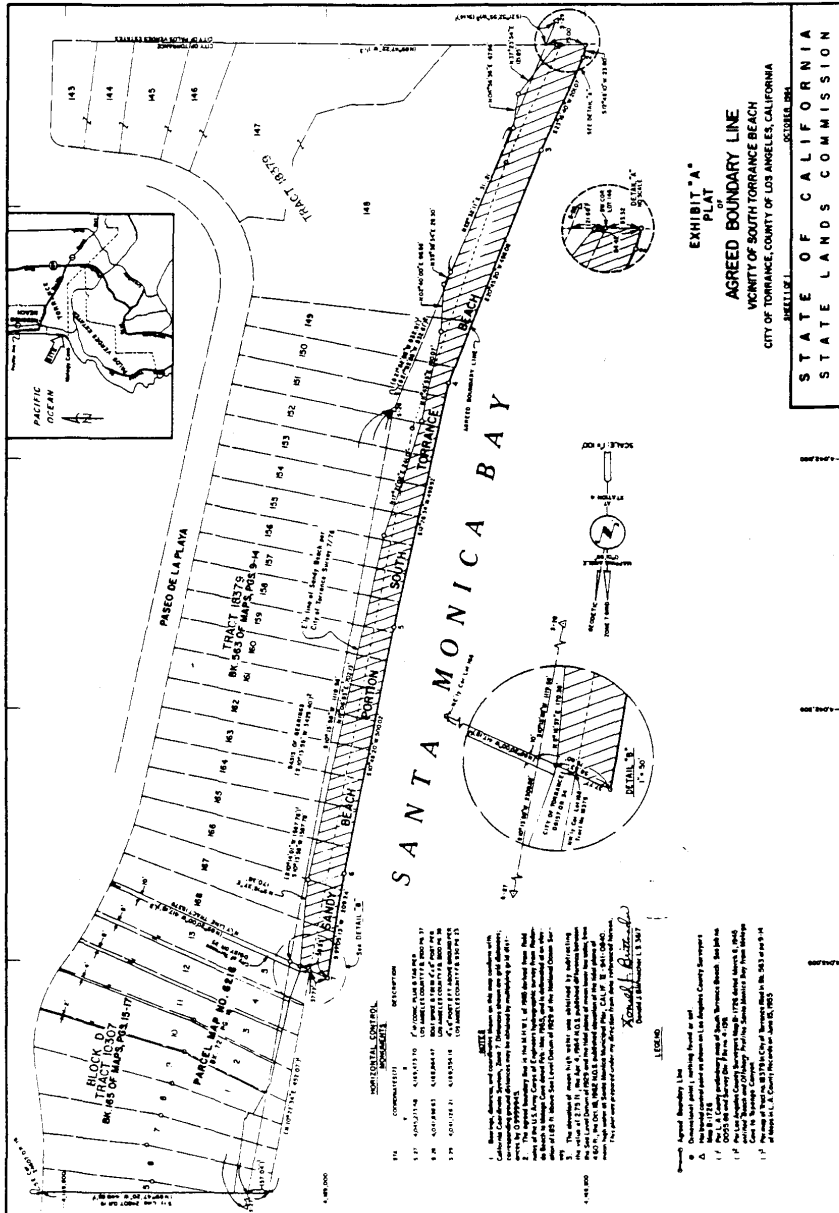
COASTAL COMMISSION

5-05-503

EXHIBIT # SA

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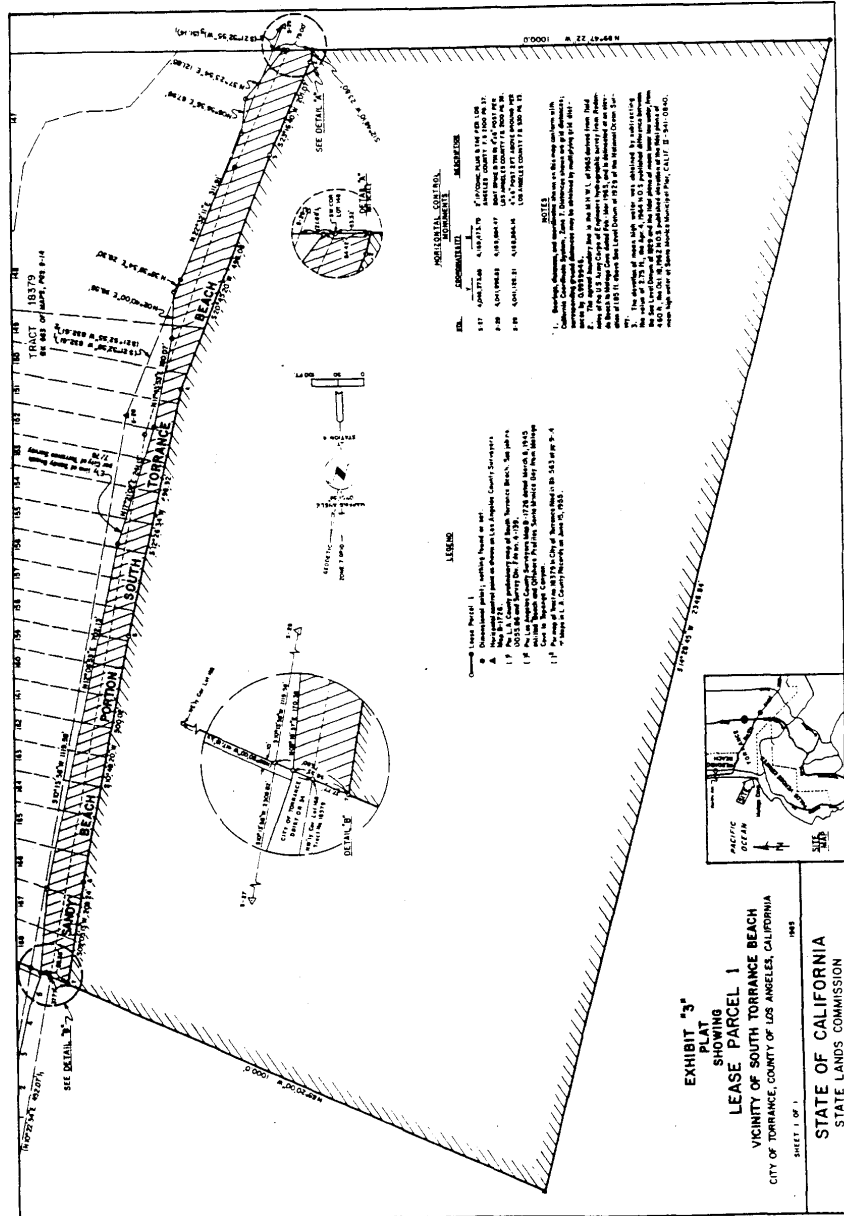


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5-05-503
EXHIBIT # SA
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EXHIBIT "A"

PREPARED UNDER W 20950

7.



COASTAL COMMISSION EXHIBIT "3"
5-05-503
EXHIBIT # SA
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8.

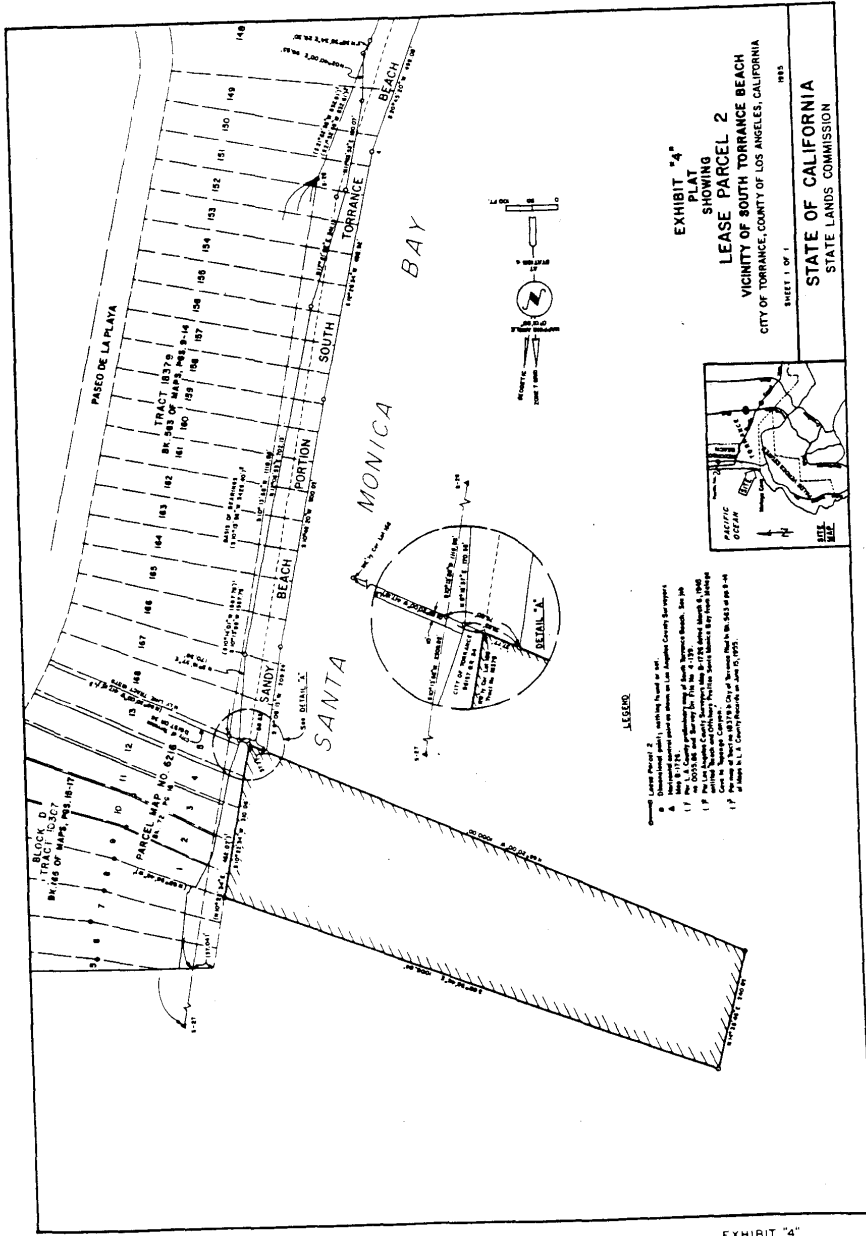


EXHIBIT "4"

COASTAL COMMISSION
5-05-503
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9.

RESOLUTION NO. 88-205

A RESOLUTION OF THE CITY OF TORRANCE RATIFYING SOUTH TORRANCE BEACH BOUNDARY AGREEMENT S.L.C. - B.L.A. NO. 256, BETWEEN THE CITY OF TORRANCE, THE STATE OF CALIFORNIA, THE STATE LANDS COMMISSION, AND CERTAIN UPLAND LANDOWNERS, WHICH SETS A PERMANENT BOUNDARY LINE BETWEEN THE PUBLIC TIDELANDS AND PRIVATE UPLANDS AND ESTABLISHES A PUBLIC EASEMENT FOR RECREATIONAL PURPOSES ACROSS THE SANDY BEACH PORTION OF THE PRIVATELY OWNED UPLANDS AND LEASES TO THE CITY OF TORRANCE THE AREA WITHIN ONE THOUSAND (1,000) FEET WATERWARD OF THE AGREED BOUNDARY LINE FOR PUBLIC RECREATIONAL PURPOSES.

WHEREAS, the State received title to the tidelands and submerged lands within the State upon being admitted to the United States by virtue of its sovereignty; and

WHEREAS, the uplands are subject to private fee ownership, or holder of an option to purchase, leasehold, or other interests in and to certain lots of real property located in Tract 18379, City of Torrance, County of Los Angeles, State of California, as per map recorded in Book 563, pages 9 through 14 of Maps, Records of said County; and

WHEREAS, said real property abuts and is situated adjacent to the sovereign tidelands owned by the State; and

WHEREAS, the ordinary high water mark constitutes the common boundary between the lands owned by the State by virtue of its sovereignty, that is the submerged and tidelands, and the privately owned uplands; and

WHEREAS, there is substantial doubt and uncertainty as to the true location of said common boundary; and

WHEREAS, each of the parties in interest considers it expedient and necessary and in the best interests of each of them and the public in general to describe and fix permanently the common boundary between the lands owned by the State by virtue of its sovereignty and the privately owned uplands and forever to set at rest any and all questions relating to the location of said boundary line; and

WHEREAS, certain, lands, abutting and landward of the ordinary high-water mark herein agreed to be said common boundary, have been used by members of the public for beach access and recreational purposes, for more than five (5) years continuously, openly, notoriously and adversely to claims of private ownership, which public use has resulted in the dedication of said certain lands to the public; and

WHEREAS, the exact location of said public rights acquired through implied dedication is uncertain and subject to dispute; and

COASTAL COMMISSION

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EXHIBIT # SA

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10.

WHEREAS, to resolve said problems, the City of Torrance, the State of California, the State Lands Commission, and the abutting upland landowners have entered into the South Torrance Boundary Agreement; and

WHEREAS, the provisions of the South Torrance Boundary Agreement regarding said public rights will define and permanently recognize the rights of the various parties therein, and, as to the affected privately owned uplands which are specifically found not to be subject to said public rights, this Agreement will clear the title thereof of any cloud created by the uncertainty as to the location and extent of said public rights; and

WHEREAS, as a part of the South Torrance Boundary Agreement, the State will lease to the City the area within one thousand (1,000) feet waterward of the Agreed Boundary Line (together with an abutting parcel of property) for public recreational purposes.

NOW, THEREFORE, The City Council of the City of Torrance does resolve as follows:

1. That Boundary Agreement, S.L.C. - B.L.A. No. 256 between the City of Torrance, the State of California, the State Lands Commission, and certain upland landowners is hereby approved and ratified; and

2. The Mayor is hereby authorized to execute said Boundary Agreement on behalf of the City and the City Clerk is authorized to Attest such signature.

INTRODUCED, APPROVED AND ADOPTED this _____ day of _____, 1988.

Mayor of the City Torrance

ATTEST:

City Clerk of the City of Torrance

APPROVED AS TO FORM:

Stanley E. Remelmeyer
City Attorney

COASTAL COMMISSION

S-05-503

EXHIBIT # SA

PAGE 26 OF 26

06/14/2006 12:47 FAX 213 236 2700

BURKE WILLIAM

002/008

444 South Flower Street, Suite 2400
Los Angeles, California 90071-2953
voice 213.236.0600 • fax 213.236.2700
www.bwslaw.com

BURKE, WILLIAMS & SORENSON, LLP

June 14, 2006

Via Facsimile

Ms. Pam Emerson
California Coastal Commission
200 OceanGate, 10th Floor
Long Beach, CA 90802-4416

Mr. Ryan Todaro
California Coastal Commission
200 OceanGate, 10th Floor
Long Beach, CA 90802-4416

Re: Torrance Beach Fence

Dear Ms. Emerson and Mr. Todaro:

I am enclosing herewith the Declaration of Chuck Morton, who lived on a cul de sac just off of Paseo de la Playa. He recalls the chain link fence below the 20 homes on the bluff during the mid-1960s. He moved away in 1969.

Mr. Morton also recalls when his neighbor, John Dunning, was killed around 1958/59 in a Paseo de la Playa bluff cave-in. I previously noted in the Torrance City Attorney material references to two deaths on the bluffs, but this is the first time I have been able to identify Mr. Dunning's death. The other death was noted in the newspaper clippings I previously sent you.

During the last Coastal Commission hearing in Orange County, the Commissioners were discussing the impact of a proposed Orange County development and the statement "the cat is already out of the bag" was used two or three times by different Commissioners. With this "equal protection of the law" concern in mind, I am also attaching a letter dated November 30, 1973 from the Torrance City Attorney's office to a South Coast Regional Zone Conservation Commission concerning the chain link fence at the bottom of the five undeveloped lots and whether this required Coastal Commission approval. Also enclosed is a copy of the Administrative Permit in which it was found that this development, i.e., the fence, will not have a substantial adverse environmental or ecological effect and is consistent with the enumerated Code sections.

Your Commission also approved the Condominium chain link fence in 1975. I am enclosing copies of the Revised Findings which recognized that "...although the

COASTAL COMMISSION

5-05-503

EXHIBIT #

SB

PAGE 1 OF 7

RECEIVED

South Coast Region

JUN 14 2006

CALIFORNIA
COASTAL COMMISSION

06/14/2006 12:47 FAX 213 236 2700

BURKE WILLIAM

003/008

BURKE, WILLIAMS & SORENSEN, LLP

Ms. Pam Emerson
Mr. Ryan Todaro
June 14, 2006
Page 2.

fence is aesthetically disturbing, . . . it is also a necessity to protect the natural bluffs from climbers and other misuses. . . ."

I would submit to you that our current application is factually the same as the prior fence applications to the north and south previously approved by the Coastal Commission, the "cat is out of the bag" argument is applicable.

Please note in said 1975 application that the map for the proposed condominium fence also shows the existing fence running at the base of the 20 homes.

I believe I have adequately responded to the Commission's request for historical data on the existence of the fence. Notwithstanding this effort, I do not want to lose sight of the statutory argument that the Coastal Commission has no jurisdiction over "developments" which are the subject matter of a Boundary Agreement after said Boundary Agreement has been executed by the Governor. Nor do I wish to lose sight of the fact that our initial application simply asked for permission to have a truck on the beach to repair/ replace our existing fence.

I am also concerned about the necessity for any required mailings and securing our place on the July Calendar. I will prepare the envelopes as soon as I hear from Ryan.

Very truly yours,

BURKE, WILLIAMS & SORENSEN LLP



Martin L. Burke, Of Counsel

cc: Jamee Patterson, Esq., (via fax, w/o encl.)

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5-05-503
EXHIBIT # SB
PAGE 2 OF 2

COASTAL COMMISSION

5-05-503

EXHIBIT # 5B

PAGE 3 OF 7

DECLARATION OF CHUCK MORTON

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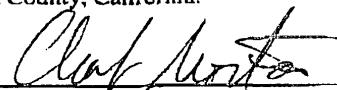
I, CHUCK MORTON declare:

I am a person over the age of eighteen years and not a party to the application to the Coastal Commission in regard to the chain link fence at the base of the bluffs below Paseo de la Playa. I have personal knowledge of the facts set forth below and if called as a witness, I could and would competently testify thereto.

1. I moved with my parents to 210 Via El Toro in 1956. At the time I was 7 years old. Via El Toro is the small cul de sac on the east side of Paseo de la Playa, about two-thirds of the way up the hill.
2. My parents unsuccessfully opposed the development of the 20 homes on Paseo de la Playa.
3. After the 20 homes were built around the mid-1960s, I can remember walking down the hill to go surfing at the Torrance Beach. At that time, I have a clear recollection of a chain link fence below the 20 homes where the bluffs meet the sand.
4. I joined the Army in 1969 and for all practical purposes have not been back to Paseo de la Playa since going into the Army.
5. John Dunning lived next door to us on Via El Toro. He was 4 or 5 years older than I was. Around 1958-1959 he was killed in a Paseo de la Playa bluff cave in. Obviously, his death had quite an impact on our family and myself. These bluffs are and were unstable.
6. I currently work for the California Department of Transportation and reside in Napa County California.

I declare under penalty of perjury of the laws of the State of California, that the foregoing is true and correct.

Executed this 13th day of June, 2006 in Alameda County, California.


CHUCK MORTON

06/14/2006 12:47 FAX 213 236 2700

BURKE WILLIAM

005/008

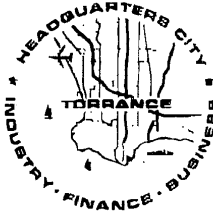
COASTAL COMMISSION

5-05-503

EXHIBIT # SB

PAGE 4 OF 7

STANLEY E. REMELMEYER
CITY ATTORNEY



CITY OF TORRANCE

3031 TORRANCE BOULEVARD, TORRANCE, CALIFORNIA
TELEPHONE (213) 328-5310

November 30, 1973

RECEIVED

DEC 3 1973

SCRZGG

Commissioner Melvin Carpenter
South Coast Regional Zone
Conservation Commission
Post Office Box 1450
Long Beach, California 90801

Dear Mr. Carpenter:

Pursuant to our conversation of Wednesday, November 28, 1973, I am sending you copies of two documents concerning the City of Torrance's lawsuit and settlement against three property owners of five vacant lots on the Torrance Beach. This area has been recently fenced in by the lot owners and by the adjoining homeowner, Mrs. Peggy Doll. There is a dispute as to whether or not a permit from the Coastal Commission was necessary before construction of the fence. My purpose in sending these documents is to give you background information on the City's lawsuit and also to acquaint you with the City and County Department of Beaches' plans for the beach.

The first document I am enclosing, is a packet prepared by our office to explain the terms of the settlement to the Torrance City Council. The City Council approved the settlement on October 9 of this year. The second document is a memorandum from our office to the Torrance Police Department concerning the legal title to the five lots.

Throughout the length of the negotiations, our office worked closely with Dick Fitzgerald and Dwight Crum of the County Department of Beaches in reaching the terms of the settlement. Their ideas have been incorporated.

All that remains is to finalize the settlement with the State Attorney General's office, since the State joined the City of Torrance when it sued on behalf of the public. We expect that this will be accomplished sometime next week. I hope that these documents will help you in your consideration of the case.

Sincerely,

STANLEY E. REMELMEYER, City Attorney

By Jonathan Ainsworth
Jonathan Ainsworth

JA:mp
atts

06/14/2006 12:48 FAX 213 236 2700

BURKE WILLIAM

006/008

STATE OF CALIFORNIA

RONALD REAGAN, Governor

CALIFORNIA COASTAL ZONE CONSERVATION COMMISSION
 SOUTH COAST REGIONAL COMMISSION
 666 E. OCEAN BOULEVARD, SUITE 3107
 P. O. BOX 1450
 LONG BEACH, CALIFORNIA 90801
 (213) 436-4201 (714) 846-0648

COASTAL COMMISSION
 5-05-503

EXHIBIT # 5B
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RECEIVED

JAN 17 1974

ADMINISTRATIVE PERMIT

SCRZCC

Application Number: A-12-20-73-2419

Name of Applicant: Doris Muller 116 W. Mountain St., Apt. 8, Glendale 91202
Hobbs Marlow 11520 San Vincente Blvd., Los Angeles 90049
Robert Hood 517 Paseo de la Playa, Redondo Beach 90277

Development Location: 429, 433, 437, 441 and 445 Paseo de la Playa City of Torrance

Development Description: Placement of a chain link fence of 560 feet

Approx. \$2,016.00

1. In accordance with Section 27422, Public Resources Code, the Executive Director on behalf of the South Coast Regional Commission finds that said development will not have a substantial adverse environmental or ecological effect and is consistent with code, Sections 27001 and 27002.
2. Wherefore, administrative permit A-12-20-73-2419 is approved/~~denied~~.
 - A. This permit shall not become effective until the verification has been returned to the South Coast Regional Commission upon which copy the permittee has acknowledged that he has received a copy of the permit and understands its contents. Said acknowledgment should be returned within ten working days following issuance of this permit.
 - B. That upon completion of the development authorized by this permit the permittee shall promptly complete the Notice of Completion and file it with the South Coast Regional Commission.

Executed at Long Beach, California

December 31, 1973

Date

M. J. Carpenter
Executive Director

1

*11 Aug 75
approved*

29 July 1975

P-4949 (410 ft. of 6 ft. chain link fence, Torrance)

REVISED FINDINGS:

1. The fence installation's primary purpose is to protect the natural bluffs from misuse by the public and to reduce man-made erosion.
2. The fence installation can be considered to be of a temporary nature.
3. That although the fence is aesthetically disturbing, it is also a necessity to protect the natural bluffs from climbers and other misuses.
4. The project will not create any substantial ecological or environmental effect.

COASTAL COMMISSION

5-05-503

EXHIBIT #

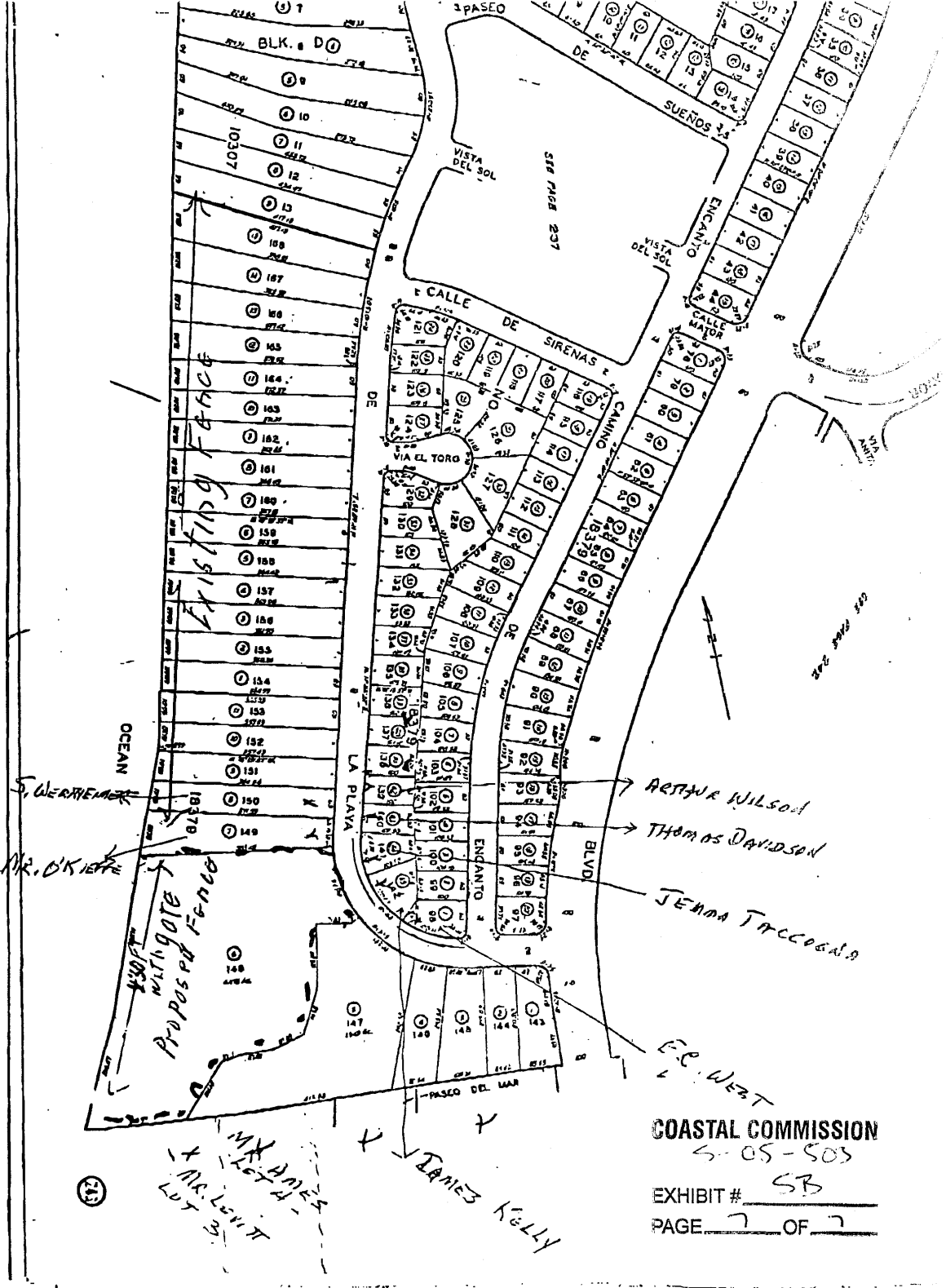
SB

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06/14/2006 12:48 FAX 213 236 2700

BURKE WILLIAM

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COASTAL COMMISSION

5-05-503

EXHIBIT # SB

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EXHIBIT # 6
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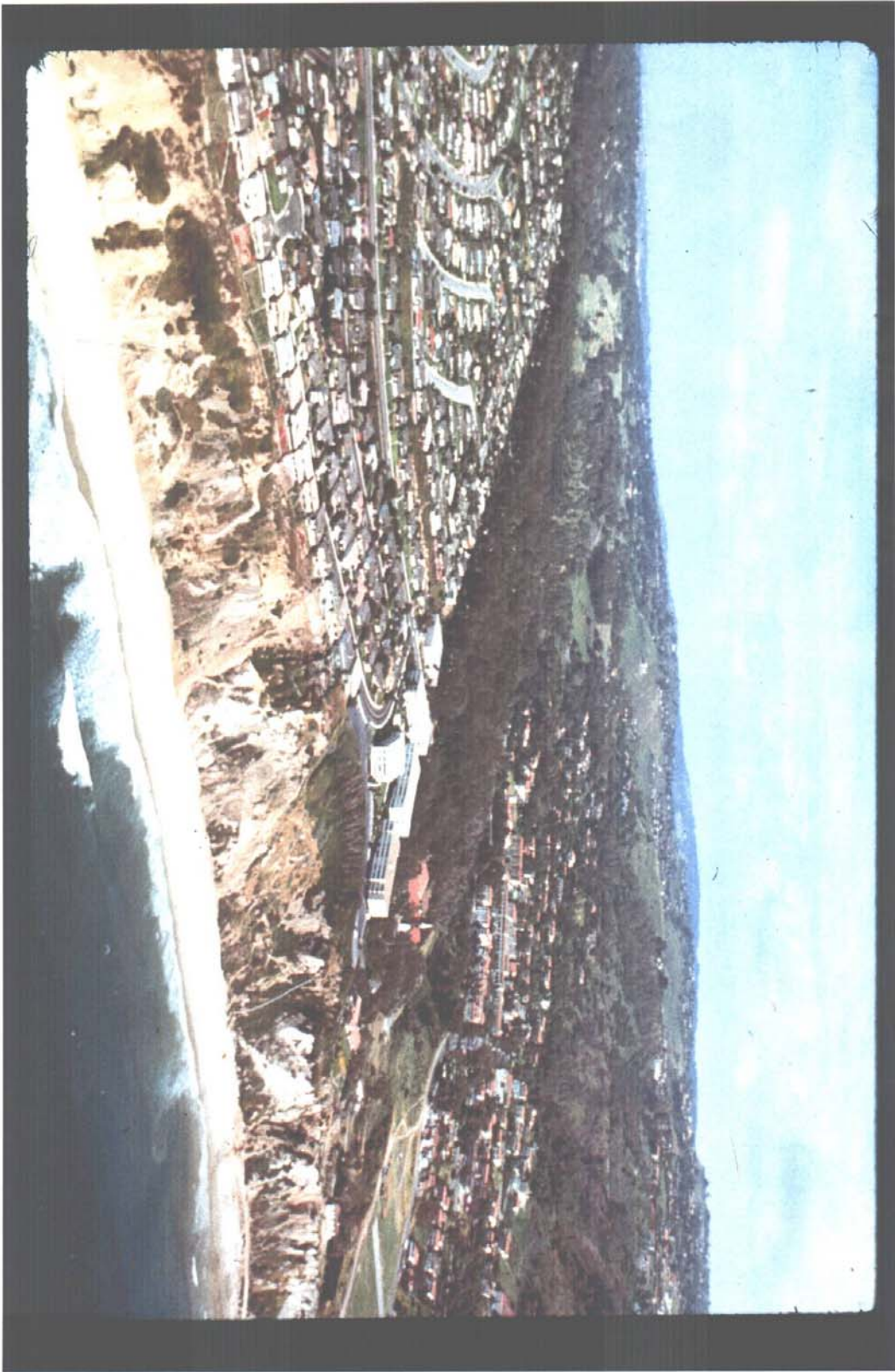


EXHIBIT # 6
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