

CALIFORNIA COASTAL COMMISSION

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

Filed: August 7, 2007
49th Day: September 25, 2007
180th Day: February 3, 2008
Staff: Liliana Roman-LB
Staff Report: November 20, 2007
Hearing Date: December 12-14, 2007
Commission Action:



Item W4a

STAFF REPORT: CONSENT CALENDAR

APPLICATION NUMBER: 5-07-217

APPLICANT: Steve Dipietrantonio

AGENT: Greg Bonano

PROJECT LOCATION: 3611 Seashore Drive, City of Newport Beach, County of Orange

PROJECT DESCRIPTION: Demolition of an existing single family residence and construction of a new 2,283 square foot, two-story single family residence with an attached 374 square foot two-car garage on a beachfront lot. No grading and minimum landscaping is proposed.

LOCAL APPROVALS RECEIVED: City of Newport Beach Approval-In-Concept (No. 0455-2007) dated June 18, 2007.

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach certified Land Use Plan and *Coastal Hazard and Wave Runup Study for 3611 Seashore Drive, Newport Beach, CA prepared by Geosoils, Inc. dated July 2007.*

SUMMARY OF STAFF RECOMMENDATION:

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

Staff is recommending **APPROVAL** of the proposed project with six (6) special conditions regarding: 1) assumption of risk; 2) no future shoreline protective device; 3) conformance with the submitted drainage and run-off control plan (with landscape controls); 4) storage of construction materials, mechanized equipment and removal of construction debris; 5) future development; and 6) a deed restriction against the property, referencing all of the Special Conditions contained in this staff report. Proposed landscaping is comprised of native, drought tolerant, non-invasive plant species.

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 Newport Beach only has a certified Land Use Plan 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 Land Use Plan may be used for guidance.

LIST OF EXHIBITS

1. Location Map
 2. Assessor’s Parcel Map
 3. Project Plans
-

STAFF RECOMMENDATION:

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

MOTION:

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

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION:

I. APPROVAL WITH CONDITIONS

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Assumption of Risk, Waiver of Liability and Indemnity

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding and wave uprush; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

2. No Future Shoreline Protective Device

- A. By acceptance of this permit, the applicant agrees, on behalf of himself and all other successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-07-217 including, but not limited to, the residence, garage, foundations, and patio, and any future improvements, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions or other natural hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of himself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
- B. By acceptance of this permit, the applicant further agrees, on behalf of himself and all successors and assigns, that the landowners shall remove the development authorized by this permit, including the residence, garage, foundations, and patio, if any government agency has ordered that the structure is not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowners shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

3. Drainage and Run-Off Control Plan

The applicant shall conform to the drainage and run-off control plan dated June 25, 2007 showing roof drainage and paved walkways designed to slope into pervious gravel areas for bio-filtration or to catch basins. Landscaped areas shall consist of drought tolerant, non-invasive plant species. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris

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

- (a) No construction materials, debris, or waste shall be placed or stored where it may enter the storm drain system leading to the Pacific Ocean;
- (b) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- (c) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into the storm drain system and a pre-construction meeting to review procedural and BMP guidelines;
- (d) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. Debris shall be disposed of outside the coastal zone, as proposed by the applicant.

5. Future Development

This permit is only for the development described in Coastal Development Permit No. 5-07-217. Pursuant to Title 14 California Code of Regulations Section 13250(b) (6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by Coastal Development Permit No. 5-07-217. Accordingly, any future improvements to the single-family house authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-07-217 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

6. Generic Deed Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner(s) have executed and recorded against the parcel(s) governed by this permit

a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. PROJECT LOCATION AND DESCRIPTION

The subject site is located at 3611 Seashore Drive within the City of Newport Beach, Orange County (Exhibits 1 & 2). The lot area is 2,000 square feet. The City of Newport Beach Land Use Plan (LUP) designates the site as RH-A High Density Residential. The project is located within an existing urban residential area, located between the mouth of the Santa Ana River and the Newport Pier.

The site is a beachfront lot located between the first public road and the sea. There is a wide sandy beach (approx. 300 feet wide) between the subject property and the Pacific Ocean. Due to its oceanfront location, the project site may be potentially exposed to the hazard of wave uprush during a severe storm event.

The proposed project will not have an adverse effect on public access. No seaward encroachments exist or are proposed as part of the project. Additionally, the proposed project is consistent with the City's 5-foot required setback from the seaward property line. Vertical public access to this beach is available at the end of 37th Street, approximately 60 feet north of the site. Lateral public access is available along the wide sandy beach seaward of the subject site.

The applicant is proposing to demolish an existing 741 sq. ft. one-story single family residence and construct a new 2,283 sq. ft., 28' high, three-story single-family residence with an attached 374 sq. ft. two-car garage on a beachfront lot (Exhibit 3). In addition, the proposed project consists of hardscape and landscape improvements, including a new concrete side yard walkway along the south side of the property and concrete patio on the oceanfront side. The applicant proposes water quality improvements as part of the proposed project such as directing roof runoff to subterranean French drain systems at both ends of the property and a larger French drain running the width of the property at the west (ocean-facing) side of the property. Minimal planter landscaping is proposed utilizing non-invasive drought tolerant California native manzanita shrubs.

B. HAZARDS

Development adjacent to the ocean is inherently hazardous. Development which may require a protective device in the future cannot be allowed due to the adverse impacts such devices have

upon, among other things, public access, visual resources and shoreline processes. To minimize the project's impact on shoreline processes, and to minimize risks to life and property, the development has been conditioned to comply with one or more of the following: require an appropriate set-back from the water; require a drainage and runoff control plan to direct, treat, and minimize the flow of water offsite; prohibit construction of protective devices (such as a seawall) in the future; and to require that the landowner and any successor-in-interest assume the risk of undertaking the development. As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

C. DEVELOPMENT

The development is located within an existing developed area and is compatible with the character and scale of the surrounding area. However, the proposed project raises concerns that future development of the project site potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act. To assure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission finds that a future improvements special condition be imposed. As conditioned the development conforms to the Chapter 3 policies of the Coastal Act.

D. PUBLIC ACCESS

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

E. WATER QUALITY

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, reducing runoff through the use of permeable surfaces, the use of non-invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site, and for the use of post-construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms to Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

F. DEED RESTRICTION

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes one additional condition requiring that the property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the property. Thus, as conditioned, any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land

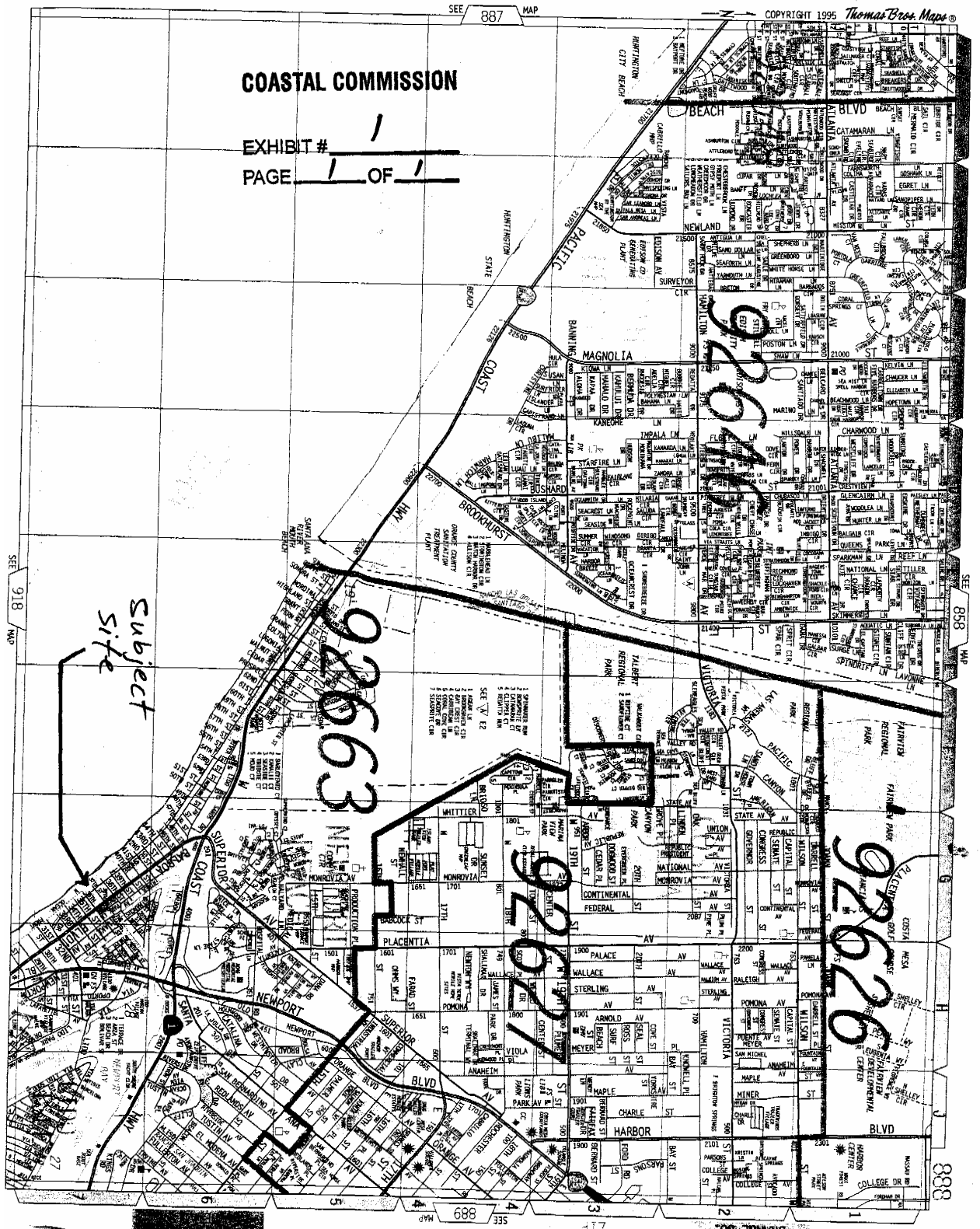
including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

G. LOCAL COASTAL PROGRAM

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The Land Use Plan for the City of Newport Beach was effectively certified on May 19, 1982. The certified LUP was updated on October 13, 2005. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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



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EXHIBIT # 1
PAGE 1 OF 1

Subject Site

92663

92676

92627

92626

SEE 887 MAP

COPYRIGHT 1995 Thomas Bros. Maps

SEE 918 MAP

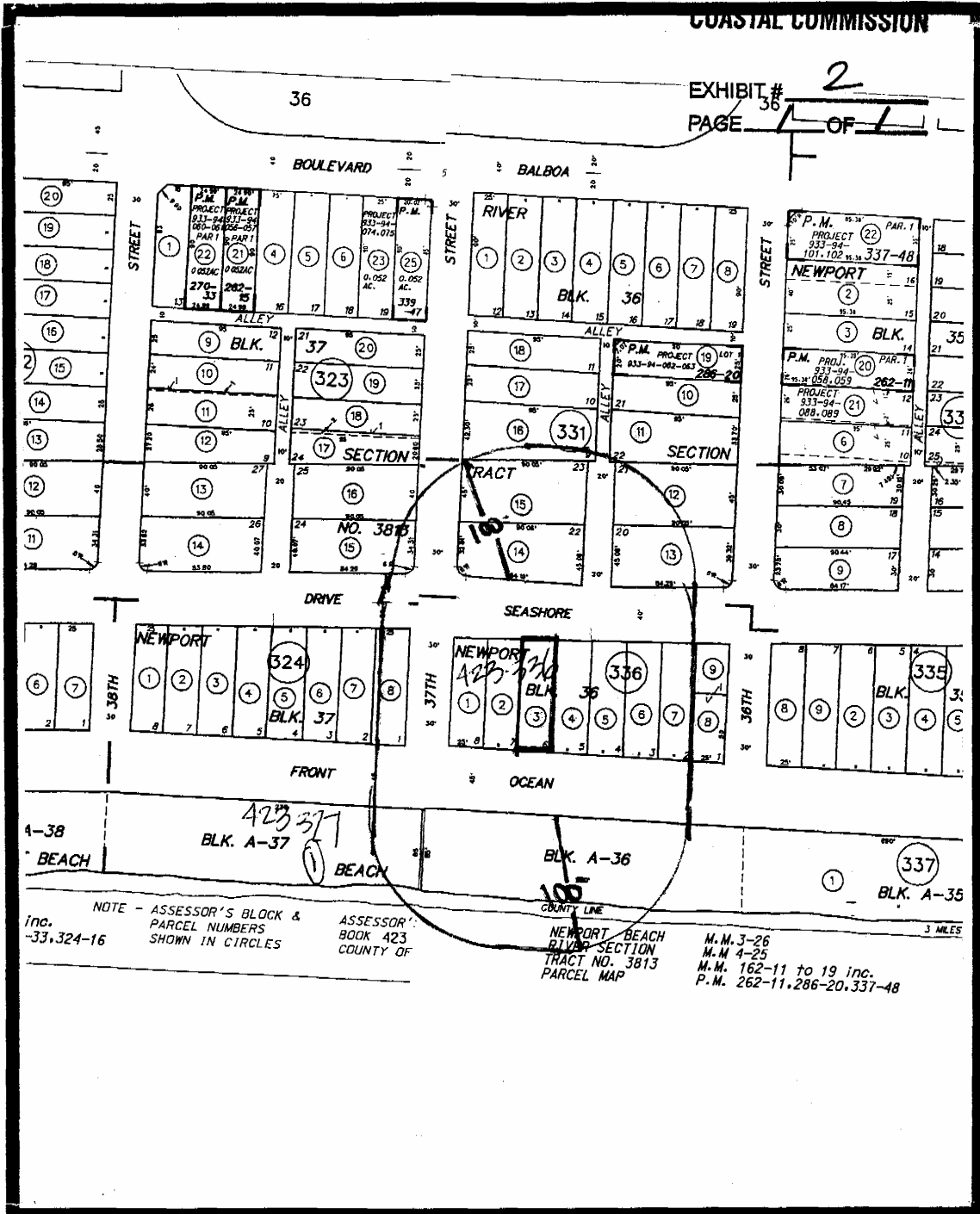
SEE 888 MAP

888

SEE 889 MAP

ZIP 97130

ORANGE CO.



NOTE - ASSESSOR'S BLOCK & PARCEL NUMBERS SHOWN IN CIRCLES

ASSESSOR'S BOOK 423 COUNTY OF

NEWPORT BEACH RIVER SECTION TRACT NO. 3813 PARCEL MAP

M.M. 3-26
 M.M. 4-25
 M.M. 162-11 to 19 inc.
 P.M. 262-11, 286-20, 337-48

Ownership Map

SUSAN W. CASE, INC.
 917 GLENNEYRE ST #7
 LAGUNA BEACH CA 92651
 (949) 494-6105

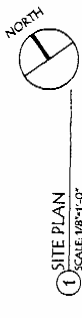
COASTAL COMMISSION

EXHIBIT # 3
PAGE 1 OF 7

SYMBOLS LEGEND	PROJECT DIRECTORY	PROJECT INFORMATION	INDEX OF DRAWINGS
<p>WINDOW TAG</p> <p>DOOR TAG</p> <p>SECTION LINE</p> <p>ELEVATION</p> <p>FLOOR NAME</p> <p>SECTION</p> <p>SECTION 2</p>	<p>OWNER</p> <p>Chaparral Development P.O. Box 10664 Irvine, CA 92617 Phone: (949) 23-2345</p> <p>DESIGN ENGINEER</p> <p>1441 Oceanway St Irvine, CA 92617 Phone: (714) 262-2231</p> <p>REGISTERED ARCHITECT</p> <p>3000 La Jolla Village Drive San Diego, CA 92161 Phone: (619) 594-9300</p> <p>NOTES</p> <p>1. Drawing submitted for review by project architect in accordance with local and state codes.</p>	<p>LEGAL DESCRIPTION</p> <p>8411 Real Estate Lot 5 Block 20 Tract: Newport Beach tral</p> <p>PROJECT DESCRIPTION</p> <p>Demolish existing structure and construct new residence</p> <p>PROJECT DATA</p> <p>444 S.F. Second Floor 1,216 S.F. Third Floor 1,011 S.F. Total Living Area 2,227 S.F.</p> <p>OWNER</p> <p>3611 Seashore Irvine, CA 92617 Phone: (949) 23-2345</p> <p>NOTES</p> <p>1. Drawing submitted for review by project architect in accordance with local and state codes.</p>	<p>STRUCTURAL</p> <p>SGN Structural General Notes B-1 1st Floor Framing B-2 2nd Floor Framing B-3 3rd Floor Framing B-4 4th Floor Framing B-5 5th Floor Framing B-6 6th Floor Framing B-7 7th Floor Framing B-8 8th Floor Framing B-9 9th Floor Framing B-10 10th Floor Framing B-11 11th Floor Framing B-12 12th Floor Framing B-13 13th Floor Framing B-14 14th Floor Framing B-15 15th Floor Framing</p> <p>CIVIL</p> <p>Topographic Map Grading Plan</p> <p>LANDSCAPE</p> <p>Topographic Map Grading Plan</p> <p>MECHANICAL</p> <p>Topographic Map Grading Plan</p>
<p>VICINITY MAP</p>			
<p>SITE PLAN</p> <p style="text-align: right;">SCALE: 1/8"=1'-0"</p>			

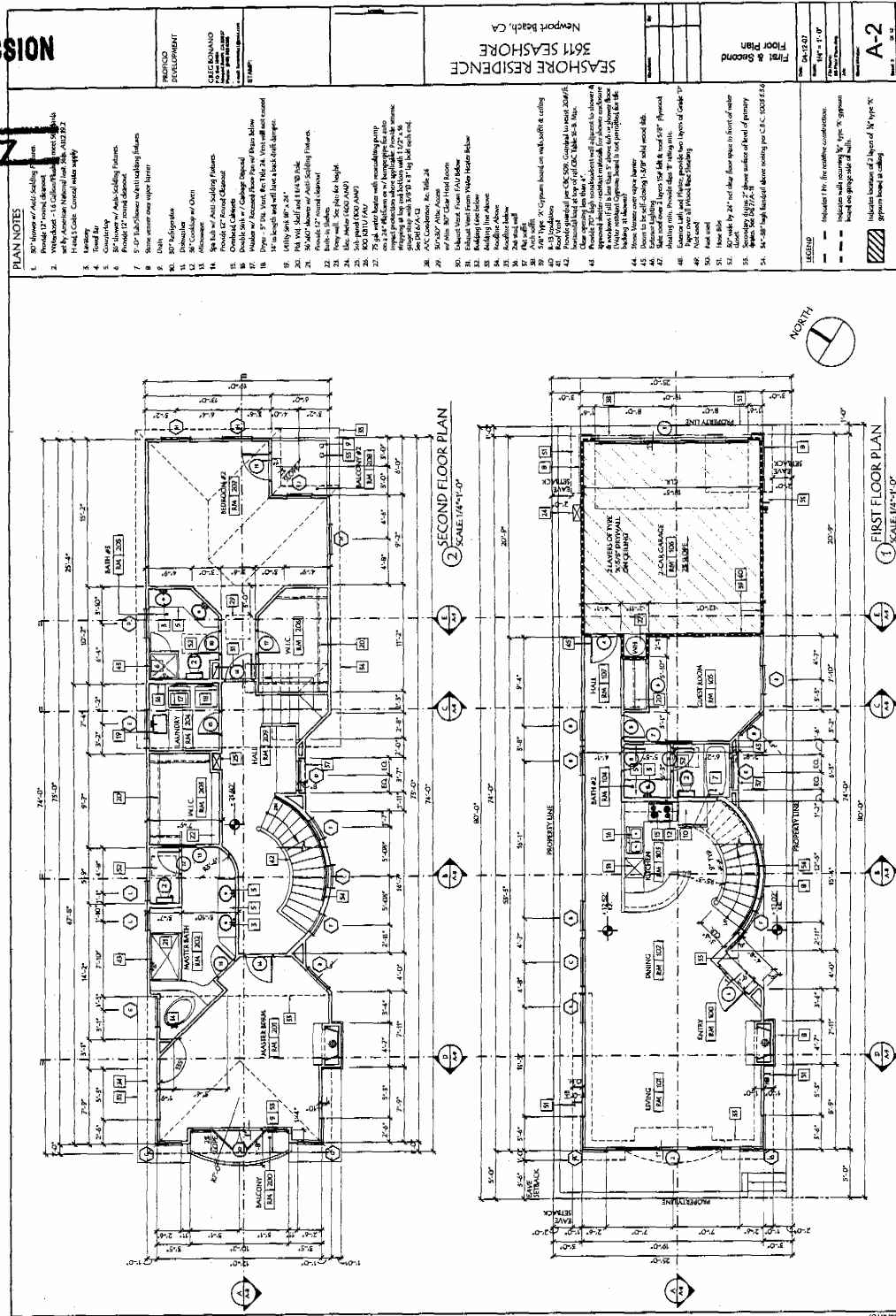
SEASHORE RESIDENCE
3611 SEASHORE

Site 04/13/07
Drawn by
Checked by
Scale
Sheet Number
Title Sheet



COASTAL COMMISSION

EXHIBIT # 3
 PAGE 2 OF 7



SEASHORE RESIDENCE
 3611 SEASHORE
 Newport Beach, CA

First & Second
 Floor Plan
 Date: 04-12-07
 Scale: 1/8" = 1'-0"

A-2

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EXHIBIT # **3**
 PAGE **6** OF **7**

PERMITS PERMITS PERMITS	SEASHORE RESIDENCE 3611 SEASHORE Newport Beach, CA						Building Sections Date: 04-18-07 Scale: 1/4" = 1'-0" Drawing No.: A-8
<p>PLAN NOTES</p> <ol style="list-style-type: none"> 1. See notes on other sheets. 2. Watermark - 24' (allow) fall to meet 24' water table. 3. 2'-0" (allow) fall to meet 24' water table. 4. Utility. 5. 3'-0" (allow) fall to meet 24' water table. 6. 3'-0" (allow) fall to meet 24' water table. 7. 3'-0" (allow) fall to meet 24' water table. 8. 3'-0" (allow) fall to meet 24' water table. 9. 3'-0" (allow) fall to meet 24' water table. 10. 3'-0" (allow) fall to meet 24' water table. 11. 3'-0" (allow) fall to meet 24' water table. 12. 3'-0" (allow) fall to meet 24' water table. 13. 3'-0" (allow) fall to meet 24' water table. 14. 3'-0" (allow) fall to meet 24' water table. 15. 3'-0" (allow) fall to meet 24' water table. 16. 3'-0" (allow) fall to meet 24' water table. 17. 3'-0" (allow) fall to meet 24' water table. 18. 3'-0" (allow) fall to meet 24' water table. 19. 3'-0" (allow) fall to meet 24' water table. 20. 3'-0" (allow) fall to meet 24' water table. 21. 3'-0" (allow) fall to meet 24' water table. 22. 3'-0" (allow) fall to meet 24' water table. 23. 3'-0" (allow) fall to meet 24' water table. 24. 3'-0" (allow) fall to meet 24' water table. 25. 3'-0" (allow) fall to meet 24' water table. 26. 3'-0" (allow) fall to meet 24' water table. 27. 3'-0" (allow) fall to meet 24' water table. 28. 3'-0" (allow) fall to meet 24' water table. 29. 3'-0" (allow) fall to meet 24' water table. 30. 3'-0" (allow) fall to meet 24' water table. 31. 3'-0" (allow) fall to meet 24' water table. 32. 3'-0" (allow) fall to meet 24' water table. 33. 3'-0" (allow) fall to meet 24' water table. 34. 3'-0" (allow) fall to meet 24' water table. 35. 3'-0" (allow) fall to meet 24' water table. 36. 3'-0" (allow) fall to meet 24' water table. 37. 3'-0" (allow) fall to meet 24' water table. 38. 3'-0" (allow) fall to meet 24' water table. 39. 3'-0" (allow) fall to meet 24' water table. 40. 3'-0" (allow) fall to meet 24' water table. 41. 3'-0" (allow) fall to meet 24' water table. 42. 3'-0" (allow) fall to meet 24' water table. 43. 3'-0" (allow) fall to meet 24' water table. 44. 3'-0" (allow) fall to meet 24' water table. 45. 3'-0" (allow) fall to meet 24' water table. 							
<p>BUILDING SECTION (A) SCALE 1/4" = 1'-0"</p>							
<p>BUILDING SECTION (B) SCALE 1/4" = 1'-0"</p>							
<p>BUILDING SECTION (C) SCALE 1/4" = 1'-0"</p>							

LEGEND

- Indicates 11th floor construction.
- Indicates wall construction.
- Indicates location of 2' layer of 'N' Type 'X' gypsum board ceiling.

Scale: 1/4" = 1'-0"

Date: 04-18-07

Drawing No.: A-8

Project: SEASHORE RESIDENCE

Location: 3611 SEASHORE, Newport Beach, CA

Architect: Dipietrantonio

Engineer: Dipietrantonio

Permit No.: 123456

Revision: 1

Scale: 1/4" = 1'-0"

Date: 04-18-07

Project: SEASHORE RESIDENCE

