

CALIFORNIA COASTAL COMMISSION

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Staff: Fernie Sy-LB
Staff Report: May 24, 2007
Hearing Date: June 13-15, 2007
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NO.: 5-06-276
APPLICANTS: Steve & Louise Bubalo
AGENTS: Marshall Innins Design Group, Attn: Marshall Innins
PROJECT LOCATION: A-10 Surfside, City of Seal Beach (County of Orange)

PROJECT DESCRIPTION: Demolition of an existing single-family residence and construction of a new ocean-fronting, 5,057 square foot, three-story single-family residence and 449 square feet of seaside deck/patio areas and an attached 685 square foot three (3)-car garage. No grading is proposed. In addition, a lot line adjustment is being proposed (part of which is an 'after-the-fact' request) that will shift the residential lot 2-feet seaward of its present location so that Surfside Avenue can be widened by 2-feet for improved emergency vehicle access.

LOCAL APPROVALS RECEIVED: Approval-In-Concept dated October 4, 2006 from the City of Seal Beach Public Works Department and Approval-In Concept dated June 8, 2006 from the City of Seal Beach Planning Department.

SUMMARY OF STAFF RECOMMENDATION:

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

Staff is recommending **APPROVAL** of the proposed project with **SEVEN (7) SPECIAL CONDITIONS** regarding: **1)** assumption of risk; **2)** no future shoreline protective device; **3)** future development; **4)** that the applicants agree to remove the patio and decks if Surfside Colony, Ltd. ever proposes a protective device to protect the patio and decks; **5)** conformance with the submitted drainage and run-off control plan (including landscape controls); **6)** a deed restriction against the property, referencing all of the Special Conditions contained in this staff report; and **7)** condition compliance.

The proposed development includes elements that are on the applicants' property (the residence) and elements that are on property owned by Surfside Colony, Ltd. (the ground level patio) or cantilevered over property owned by Surfside Colony, Ltd. (the second and third floor decks). In prior approvals the Commission had required Surfside Colony, Ltd. to execute lease restrictions acknowledging the restrictions outlined in **SPECIAL CONDITIONS NO. 1, 2 and 3** above. However, Surfside Colony, Ltd. has refused to execute such lease restrictions and the applicants were unable to obtain release of their coastal development permits. As an alternative, the

Commission accepted a prior applicant's proposal [CDP No. 5-00-257-(Cencak)] to eliminate the requirement for the lease restrictions and add a Special Condition that requires the owner of the residential property to remove the development on Surfside Colony, Ltd. land if Surfside Colony, Ltd. were to seek shoreline protection measures to protect the development on their land that is approved by this permit. This approach has been continued by the Commission on subsequent Surfside Colony approvals. **SPECIAL CONDITION NO. 4** would implement this same requirement at the subject property in lieu of the lease restrictions, which the Commission would normally require the applicants to obtain from Surfside Colony, Ltd.

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 Seal Beach does not have a certified Local Coastal Program. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act.

SUBSTANTIVE FILE DOCUMENTS: *Preliminary Foundation Soils Exploration at A-10 Surfside Avenue, Seal Beach, CA 90740 (Job No. F-10548-06)* prepared by Geo-Etka, Inc. dated January 6, 2006; Notice of Application Submittal & Invitation to Join as Co-Applicant dated August 3, 2006; Letter from Surfside Colony, Ltd. to Commission staff dated August 7, 2006; Letter from Commission staff to Marshall Innins Design Group dated August 3, 2006; Letter from Marshall Innins Design Group to Commission staff dated October 31, 2006; *Coastal Hazard and Wave Runup Study, A-10 Surfside Avenue, Seal Beach, CA* prepared by Geosoils, Inc. dated October 2006; Letter from Commission staff to Marshall Innins Design Group dated November 28, 2006; and Letter from Marshall Innins Design Group to Commission staff dated December 20, 2006.

LIST OF EXHIBITS

1. Location Maps
 2. APN Map
 3. Site Plan
 4. Floor Plan
 5. Elevations
 6. Section Plans
 7. Drainage Plan
 8. Foundation Plan
 9. Lot Line Plan
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I. STAFF RECOMMENDATION, MOTION AND RESOLUTION OF APPROVAL

MOTION: *I move that the Commission approve Coastal Development Permit No. 5-06-276 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of 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 policies of the Coastal Act. 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 applicants acknowledge and agree (i) that the site may be subject to hazards from flooding and wave uprush; (ii) to assume the risks to the applicants and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

2. NO FUTURE SHORELINE PROTECTIVE DEVICE

- A.** By acceptance of this permit, the applicants agree, on behalf of themselves and all 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. 5-06-276 including, but not limited to, the residence, decks, 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 applicants hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
- B.** By acceptance of this permit, the applicants further agree, on behalf of themselves and all successors and assigns, that the landowners shall remove the development authorized by this permit, including the residence, garage, decks, 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. FUTURE DEVELOPMENT

This permit is only for the development described in Coastal Development Permit No. 5-06-276. 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. 5-06-276. 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. 5-06-276 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

4. FUTURE REMOVAL OF STRUCTURES AND LAND OWNED BY SURFSIDE COLONY, LTD.

By acceptance of this permit, the applicants agrees, on behalf of themselves and all other successors and assigns, that in the event that Surfside Colony, Ltd. would seek shoreline protection measures for the herein approved patio and/or decks and not for the principal structure on the applicants' property, the applicants and any successors in interest shall agree to remove the permitted patio and/or decks.

5. DRAINAGE AND RUN-OFF CONTROL PLAN

The applicants shall conform with the drainage and run-off control plan received on December 21, 2006 showing roof drainage and runoff from all impervious areas directed to dry wells or vegetated/landscaped areas. Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

6. DEED RESTRICTION

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the landowners have executed and recorded 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.

7. CONDITION COMPLIANCE

Within 90 days of Commission action on this coastal development permit application, or within such additional time as the Executive Director may grant for good cause, the applicants shall satisfy all requirements specified in the conditions hereto that the applicants are required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. PROJECT LOCATION, DESCRIPTION AND PRIOR COMMISSION ACTION AT SUBJECT SITE

1. Project Location and Description

The lot is located at A-10 Surfside Avenue in the private community of Surfside Colony, in the City of Seal Beach, Orange County (Exhibits #1-2). Surfside Colony is a gated residential community comprised of three rows of homes (one of which is beachfront) that parallel the beach and ocean, which are accessed via a private road system. The subject site is a beachfront lot located between the first public road and the sea. There is an approximately 300-foot wide sandy beach between the subject property and the mean high tide line. The lot size is 2,106 square feet and the City of Seal Beach Zoning Code designates use of the site for Residential Low Density and the proposed project adheres to this designation. The proposed development is in an existing private, gated residential community, located south of the Anaheim Bay east jetty and is consistent with development in the vicinity and prior Commission actions in the area. A pre-Coastal (1966) boundary agreement between Surfside Colony, Ltd. and the California State Lands Commission fixes the boundary between state tide and submerged lands and private uplands in Surfside Colony. As a result of this boundary agreement, Surfside Colony, Ltd. owns a strip of the beach, up to 80-feet in width, adjacent to/seaward of the homes fronting the ocean. The beach seaward of Surfside Colony's land is public and available for lateral public access and recreation. Vertical access to the beach is available at the end of Anderson Street to the south of the Surfside Colony community. In addition, the Commission conditioned permit P-75-6364 to allow public access through the gates at the southeastern end of Surfside Colony during daylight hours.

The applicants are proposing the demolition of an existing single-family residence and construction of a new ocean-fronting, 5,057 square foot, 35-foot high, three-story single-family residence and 449 square feet of seaside deck/patio areas and an attached 685 square foot three (3)-car garage (Exhibits #3-8). The 1st floor patio and 2nd floor deck are located on the seaward side of the new residence and will extend 10-feet seaward beyond the residential property line and the 3rd floor deck will extend 5- feet beyond the property boundary, into/over land that is leased by the Surfside Colony, Ltd. to the applicants. The decks will have a 3-foot high glass railing. No grading is proposed. Drainage from the roof drains and surface drainages will be directed onto permeable surfaces before entering the main storm drain system. The foundation for the residence will consist of caissons and grade beams.

In addition, a lot line adjustment (LLA) is being proposed (part of which is an 'after-the-fact' request) that will, in effect, shift the residential lot 2-feet seaward of it's present location. This LLA will move a 39-foot long by 2-foot wide portion of the residential lot from the landward side to the seaward side of the lot¹. The 39' (l) x 2' (w) portion of land removed

¹ A 26' (l) x 2' (w) portion of the 39' (l) x 2'(w) area that is the subject of this request has already been moved in a previously recorded lot line adjustment, for which the applicant is requesting after the fact approval.

from the landward side of the residential lot will become part of the common area lot developed with Surfside Avenue so that this road can be expanded for improved emergency vehicle access. The 39' (l) by 2' (w) portion added to the residential lot on the seaward side will be taken from Surfside Colony's approximately 80' foot wide strip of land described in the first paragraph above (Exhibit #9).

2. Prior Commission Action at the Subject Site

On June 4, 1973, the Commission approved Coastal Development Permit No. P-590-[Delacy] for the construction of a new 2-story, single-family residence. The permit was issued on June 8, 1973.

B. HAZARDS

Section 30253 of the Coastal Act states, in part:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Section 30251 of the Coastal Act states that:

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

1. Wave Uprush and Flooding Hazards

The subject site is located at the southern end of Surfside Colony, a private beachfront community in the City of Seal Beach and there is an approximately 300-foot wide sandy beach between the subject property and the mean high tide line (Exhibits #1-2). Unlike the southern end, the northern end of Surfside Colony is subject to uniquely localized beach erosion due to the reflection of waves off the adjacent Anaheim Bay east jetty. These reflected waves combine with normal waves to create increased wave energy that erodes the beach in front of Surfside Colony more quickly than is typical at an unaltered natural beach. Since the erosion is the result of the federally owned jetty, the U.S. Army Corps of Engineers has periodically replenished the beach. The beach nourishment provides Surfside Colony a measure of protection from wave hazards. However, when the beach

erodes, development at Surfside Colony may be exposed to wave uprush and subsequent wave damage.

Even though wide sandy beaches afford protection of development from wave and flooding hazards, development in such areas is not immune to hazards. For example, in 1983, severe winter storms caused heavy damage to beachfront property in Surfside Colony. Additionally, heavy storm events such as those in 1994 and 1998 caused flooding of the Surfside Colony community.

The especially heavy wave action generated during the 1982-83 El Nino winter storms caused Surfside Colony to apply for a coastal development permit for a revetment to protect the homes at Surfside Colony's northern end. The Commission approved Coastal Development Permit No. 5-82-579 for this revetment, and Coastal Development Permit No. 5-95-276 for the repair of the revetment. The Commission also approved Consistency Determinations CD-028-97 and CD-67-97 for beach nourishment at Surfside Colony performed by the U.S. Army Corps of Engineers completed in July 1997. The Commission also approved a beach nourishment project at Surfside Colony in Consistency Determination CD-65-99.

The revetment and widened beach protect the northern end of Surfside Colony from wave uprush. However, an approximately 300-foot wide sandy beach provides the only protection for the central and southern areas of Surfside Colony where the subject site, A-10 Surfside, is located. No revetment protects this lot. At present, the beach material placed at the northern end of Surfside Colony is naturally transported to the central and southern beach areas, thereby serving as the primary source of material for the wide sandy beach in front of the subject property.

Even though the site is protected by a wide sandy beach, this does not preclude wave uprush damage and flooding from occurring at Surfside Colony during extraordinary circumstances. Strong storm events like those that occurred in 1994 and 1997 can cause large waves to flood any portion of Surfside Colony. To further analyze the suitability of the site for the proposed development relative to potential wave hazards, Commission staff requested the preparation of a wave run-up, flooding, and erosion hazard analysis, prepared by an appropriately licensed professional (e.g. coastal engineer), that anticipates wave and sea level conditions (and associated wave run-up, flooding, and erosion hazards) through the life of the development. For a 75 to 100 year structural life, the hazard analysis would need to take the 1982/83 storm conditions (or 1988 conditions) and add in 2 to 3 feet of sea level rise in order to determine whether the project site would be subject to wave run-up, flooding, and erosion hazards under those conditions. The purpose of this analysis is to analyze the potential for future storm damage and any possible mitigation measures, which can be incorporated into the project design.

In response, the applicants provided the following: *Coastal Hazard and Wave Runup Study, A-10 Surfside Avenue, Seal Beach, CA* prepared by *Geosoils, Inc.* dated October 2006, which addresses the potential of hazard from flooding and wave attack at the subject site. The report concludes the following:

"In conclusion, coastal hazards will likely not impact the proposed development property over the next 75 years. The proposed development will neither create nor contribute to erosion, geologic instability, or destruction of the site or adjacent area.

There are no recommendations necessary for wave runup protection. The proposed project minimizes risks from flooding. However, the property is relatively low-lying and proper site drainage and drainage control will be necessary.”

Commission staff has reviewed the Coastal Hazard and Wave Runup Study and, based on the information provided and subsequent correspondence, concurs with the conclusion that the site is not subject to hazards from flooding and wave uprush at this time. Therefore, the proposed development can be allowed under Section 30253 of the Coastal Act, which requires new development to “*assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices...*”

Although the applicants’ report indicates that the site is safe for development at this time, beach areas are dynamic environments, which may be subject to unforeseen changes. Such changes may affect beach processes, including sand regimes. The mechanisms of sand replenishment are complex and may change over time, especially as beach process altering structures, such as jetties, are modified, either through damage or deliberate design. Therefore, the presence of a wide sandy beach at this time does not preclude wave uprush damage and flooding from occurring at the subject site in the future. The width of the beach may change, perhaps in combination with a strong storm event like those which occurred in 1983, 1984 and 1998, resulting in future wave and flood damage to the proposed development. In order to address this situation with respect to Coastal Act policy, **THREE (3) SPECIAL CONDITIONS** are necessary.

a. Assumption of Risk

The proposed project has decks and a patio area which encroach 10-feet seaward beyond the subject site’s seaward property line onto a 10-foot wide strip of land owned by Surfside Colony, Ltd. (which serves as the homeowners’ association). Surfside Colony, Ltd. leases its property to the applicants and adjacent homeowners for construction of patios. The proposed development is consistent with existing development in Surfside Colony. However, while the proposed project will not be located any further seaward than other residences in the area, the subject site is still subject to significant wave hazards, as described previously.

Even though the site is protected by a wide sandy beach, this does not preclude wave uprush damage and flooding from occurring at Surfside Colony during extraordinary circumstances. Therefore, the Commission finds it necessary to require **SPECIAL CONDITION NO. 1**, which requires an assumption of risk. With this standard waiver of liability condition, the applicants are notified that the lot and improvements are located in an area that is potentially subject to flooding and wave uprush hazards that could damage the applicants’ property. The applicants are also notified that the Commission is not liable for such damage as a result of approving the permit for development. In addition, the condition insures that future owners and lessors of the property will be informed of the risks and the Commission’s immunity of liability.

b. Future Shoreline Protective Devices

The Coastal Act limits construction of protective devices because they have a variety of negative impacts on coastal resources including adverse effects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beach. Under Coastal Act Section 30235, a shoreline protective structure must be approved if: (1) there is an existing principal structure in imminent danger from erosion; (2) shoreline altering construction is required to protect the existing threatened structure; and (3) the required protection is designed to eliminate or mitigate the adverse impacts on shoreline sand supply.

The Commission has generally interpreted Section 30235 to require the Commission to approve shoreline protection for development only for existing principal structures. The construction of a shoreline protective device to protect new development would not be required by Section 30235 of the Coastal Act. In addition, allowing the construction of a shoreline protective device to protect new development would conflict with Section 30251 of the Coastal Act which states that permitted development shall minimize the alteration of natural land forms, including beaches which would be subject to increased erosion from such a device.

In the case of the current project, the applicants do not propose the construction of any shoreline protective device to protect the proposed development. However, as previously discussed, the subject beachfront area has experienced flooding and erosion during severe storm events, such as El Nino storms. It is not possible to completely predict what conditions the proposed structure may be subject to in the future. Consequently, it is conceivable the proposed structure may be subject to wave uprush hazards which could lead to a request for a protective device.

Shoreline protective devices can result in a number of adverse effects on the dynamic shoreline system and the public's beach ownership interests. First, shoreline protective devices can cause changes in the shoreline profile, particularly changes in the slope of the profile resulting from a reduced beach berm width. This may alter the usable area under public ownership. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines. This reduces the actual area in which the public can pass on public property.

The second effect of a shoreline protective device on access is through a progressive loss of sand as shore material is not available to nourish the bar. The lack of an effective bar can allow such high wave energy on the shoreline that materials may be lost far offshore where it is no longer available to nourish the beach. A loss of area between the mean high water line and the actual water is a significant adverse impact on public access to the beach.

Third, shoreline protective devices such as revetments and bulkheads cumulatively effect shoreline sand supply and public access by causing accelerated and increased erosion on adjacent public beaches. This effect may not become clear until such devices are constructed individually along a shoreline and they reach a public beach. As set forth in earlier discussion, this portion of Seal Beach is currently characterized as having a wide sandy beach. However, the width of the beach can vary, as demonstrated by severe storm events. The Commission notes

that if a seasonal eroded beach condition occurs with greater frequency due to the placement of a shoreline protective device on the subject site, then the subject beach would also accrete at a slower rate. The Commission also notes that many studies performed on both oscillating and eroding beaches have concluded that loss of beach occurs on both types of beaches where a shoreline protective device exists.

Fourth, if not sited in a landward location that ensures that the seawall is only acted upon during severe storm events, beach scour during the winter season will be accelerated because there is less beach area to dissipate the wave's energy. Finally, revetments, bulkheads, and seawalls interfere directly with public access by their occupation of beach area that will not only be unavailable during high tide and severe storm events but also potentially throughout the winter season.

Section 30253 (2) of the Coastal Act states that new development shall neither create nor contribute to erosion or geologic instability of the project site or surrounding area. Therefore, if the proposed structure requires a protective device in the future it would be inconsistent with Section 30253 of the Coastal Act because such devices contribute to beach erosion.

In addition, the construction of a shoreline protective device to protect new development would also conflict with Section 30251 of the Coastal Act which states that permitted development shall minimize the alteration of natural land forms, including sandy beach areas which would be subject to increased erosion from shoreline protective devices. The applicants are constructing the proposed residence using a caisson and grade beam foundation. The applicants' wave run-up analysis has indicated that there are no recommendations necessary for wave runup protection. Based on the information provided by the applicants, no other mitigation measures, such as a seawall, are anticipated to be needed in the future. The coastal processes and physical conditions are such at this site that the project is not expected to engender the need for a seawall to protect the proposed development. There is currently a wide sandy beach in front of the proposed development that currently provides substantial protection from wave activity.

To further ensure that the proposed project is consistent with Sections 30251 and 30253 of the Coastal Act, and to ensure that the proposed project does not result in future adverse effects to coastal processes, the Commission imposes **SPECIAL CONDITION NO. 2**, which prohibits any future shoreline protective devices. This condition is necessary because it is impossible to completely predict what conditions the proposed structure may be subject to in the future. By imposing this Special Condition, the Commission requires that no shoreline protective devices shall ever be constructed to protect the development approved by this permit in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions or other natural hazards in the future. The Commission also requires that the applicants remove the structure if any government agency has ordered that the structure be removed due to wave uprush and flooding hazards. In addition, in the event that portions of the development are destroyed on the beach before they are removed, the landowner 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.

c. Future Development

As discussed previously, the project site is located on a beachfront lot that may be subject to future flooding and wave attack as coastal conditions change. Since coastal processes are dynamic and structural development may alter the natural environment, future development adjacent to the beach could adversely affect future shoreline conditions if not properly evaluated. For this reason, the Commission imposes **SPECIAL CONDITION NO. 3**, which states that 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 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government. This condition ensures that any future development on this site that may affect shoreline processes receives review by the Commission.

CONCLUSION

To ensure that the proposed project does not result in future adverse effects to coastal processes, **THREE (3) SPECIAL CONDITIONS** have been imposed. **SPECIAL CONDITION NO. 1** requires an assumption of risk. **SPECIAL CONDITION NO. 2** prohibits any future shoreline protective devices. **SPECIAL CONDITION NO. 3** states that 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 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government. Only as conditioned, the Commission finds that the proposed project is consistent with Sections 30251 and 30253 of the Coastal Act.

C. PUBLIC ACCESS

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

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

(2) adequate access exists nearby...

The subject site is a beachfront lot located between the nearest public roadway and the shoreline in the private community of Surfside Colony. A pre-Coastal (1966) boundary agreement between Surfside Colony, Ltd. and the California State Lands Commission fixes the boundary between state tide and submerged lands and private uplands in Surfside Colony. As a result of this boundary agreement, Surfside Colony, Ltd. owns a strip of the beach, up to 80-feet in width, adjacent to the homes fronting the ocean. The beach seaward of this area is available for lateral public access.

The proposed project has decks and a patio area which encroach a maximum 10-feet seaward beyond the subject site's seaward property line onto a ten foot wide strip of land owned by Surfside

Colony, Ltd. (which serves as the homeowners' association). Surfside Colony, Ltd. leases its property to the adjacent homeowners for construction of patios. Enclosed living area is not allowed to encroach past the individual homeowner's seaward property line onto Surfside Colony land. The applicants have obtained a lease from Surfside Colony, Ltd. for the proposed encroachment. The applicants have invited Surfside Colony, Ltd. to join as co-applicant; however, Surfside Colony, Ltd. has not chosen to join.

In past permits, the Commission has consistently allowed the seaward property line of individually owned beachfront lots in Surfside Colony to serve as the enclosed living area stringline. The Commission has also consistently allowed the seaward edge of the 10-foot wide strip of land owned by Surfside Colony, Ltd. to serve as the deck stringline. These stringlines serve to limit encroachment of development onto the beach. The proposed development would conform to these stringlines.

The proposed project includes a lot line adjustment consisting of transferring a 13' (l) x 2' (w) portion of land from the east (landward side) of the property to the west (ocean side) of the property. Additionally, the applicants are requesting an After-The-Fact approval for the transfer of a 26' (l) x 2' (w) portion of land from the east (landward side) of the property to the west (ocean side) of the property. The applicants state that this After-The-Fact development took place a couple of years ago. Surfside Colony, Ltd. has in the past performed similar types of lot-line adjustments on many of the building lots in the community. The reason for these lot line adjustments was that Surfside Colony, Ltd. wanted to widen their interior street by giving inches or feet to the homeowner at the rear (towards ocean) in trade for the equal land at the street side so the interior street could be made wider to better handle emergency vehicles. The minimal 2-foot lot extension would encroach onto the beach on property owned by the Surfside Colony, Ltd., as discussed above. However, this encroachment would not adversely impact lateral public access to the beach as public access seaward of the portion of the beach owned by Surfside Colony, Ltd. would remain and still be accessible. Vertical access to the beach is available at the end of Anderson Street to the south of the Surfside Colony community and public parking exist nearby in Sunset Beach, an unincorporated area of Orange County at the southeastern end of Surfside Colony. In addition, the proposed project provides parking consistent with the standard of two parking spaces per residential dwelling unit, which the Commission has regularly used for development in Surfside Colony.

CONCLUSION

To ensure that any the future development will not adversely impact public access, **ONE (1) SPECIAL CONDITION** have been imposed. **SPECIAL CONDITION NO. 3** states that 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 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government. Only as conditioned, the Commission finds that the proposed project is consistent with Section 30212 of the Coastal Act.

D. WATER QUALITY

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The protection of water quality is an important aspect of the Coastal Act. Water from the project site lot will flow into the City of Seal Beach's Storm drain system and will ultimately drain to the Pacific Ocean. Recent beach closures occurring throughout Orange County, including those in Huntington Beach and Laguna Beach, have been attributed to polluted urban runoff discharging into the ocean through outfalls. As illustrated by these beach closures, polluted runoff negatively affects both marine resources and the public's ability to access coastal resources.

The applicants are proposing water quality improvements as part of the proposed project, including downspouts and on site drainage directed to permeable areas (Exhibit #7). The measures proposed by the applicants are acceptable. However, in order to make sure that the proposed water quality measures are implemented, the Commission imposes **SPECIAL CONDITION NO. 5**, which requires the applicants to conform with the submitted drainage and run-off control plans. Any vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property.

The placement of vegetation that is considered to be invasive which could supplant native vegetation should not be allowed. Invasive plants have the potential to overcome native plants and spread quickly. Invasive plants are generally those identified by the California Invasive Plant Council (<http://www.cal-ipc.org/>) and California Native Plant Society (www.CNPS.org) in their publications.

Furthermore, any plants in the landscaping plan should be drought tolerant to minimize the use of water. The term drought tolerant is equivalent to the terms 'low water use' and 'ultra low water use' as defined and used by "A Guide to Estimating Irrigation Water Needs of Landscape Plantings in California" prepared by University of California Cooperative Extension and the California Department of Water Resources dated August 2000 available at <http://www.owue.water.ca.gov/landscape/pubs/pubs.cfm>.

CONCLUSION

To minimize the adverse impacts upon the marine environment, **ONE (1) SPECIAL CONDITION** have been imposed. **SPECIAL CONDITION NO. 5** requires the applicants to conform with the

submitted drainage and run-off control plans. Only as conditioned does the Commission finds that the proposed project is consistent with Section 30231 of the Coastal Act.

E. DEED RESTRICTION

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes **SPECIAL CONDITION NO. 6**, which requires 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.

F. VIOLATION

Development has occurred on the subject site in the form of a lot-line adjustment which transferred a 26' (l) x 2' (w) portion of land from the east (landward side) of the property to the west (ocean side) of the property without a coastal development permit.

To ensure that the unpermitted development component of this application is resolved in a timely manner, **SPECIAL CONDITION NO. 7**, which requires that the applicants satisfy all conditions of this permit, which are prerequisite to the issuance of this permit within 90-days of Commission action. Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to any alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

G. LOCAL COASTAL PROGRAM

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 permit may only be issued if the Commission finds that the proposed development will not prejudice the ability of the local government to prepare a Local Coastal Program, which conforms with Section 30604 of the Coastal Act.

On July 28, 1983, the Commission denied the City of Seal Beach Land Use Plan (LUP) as submitted and certified it with suggested modifications. The City did not act on the suggested modifications within six months from the date of Commission action. Therefore, pursuant to Section 13537(b) of the California Code of Regulations, the Commission's certification of the land use plan with suggested modifications expired. The LUP has not been resubmitted for certification since that time.

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

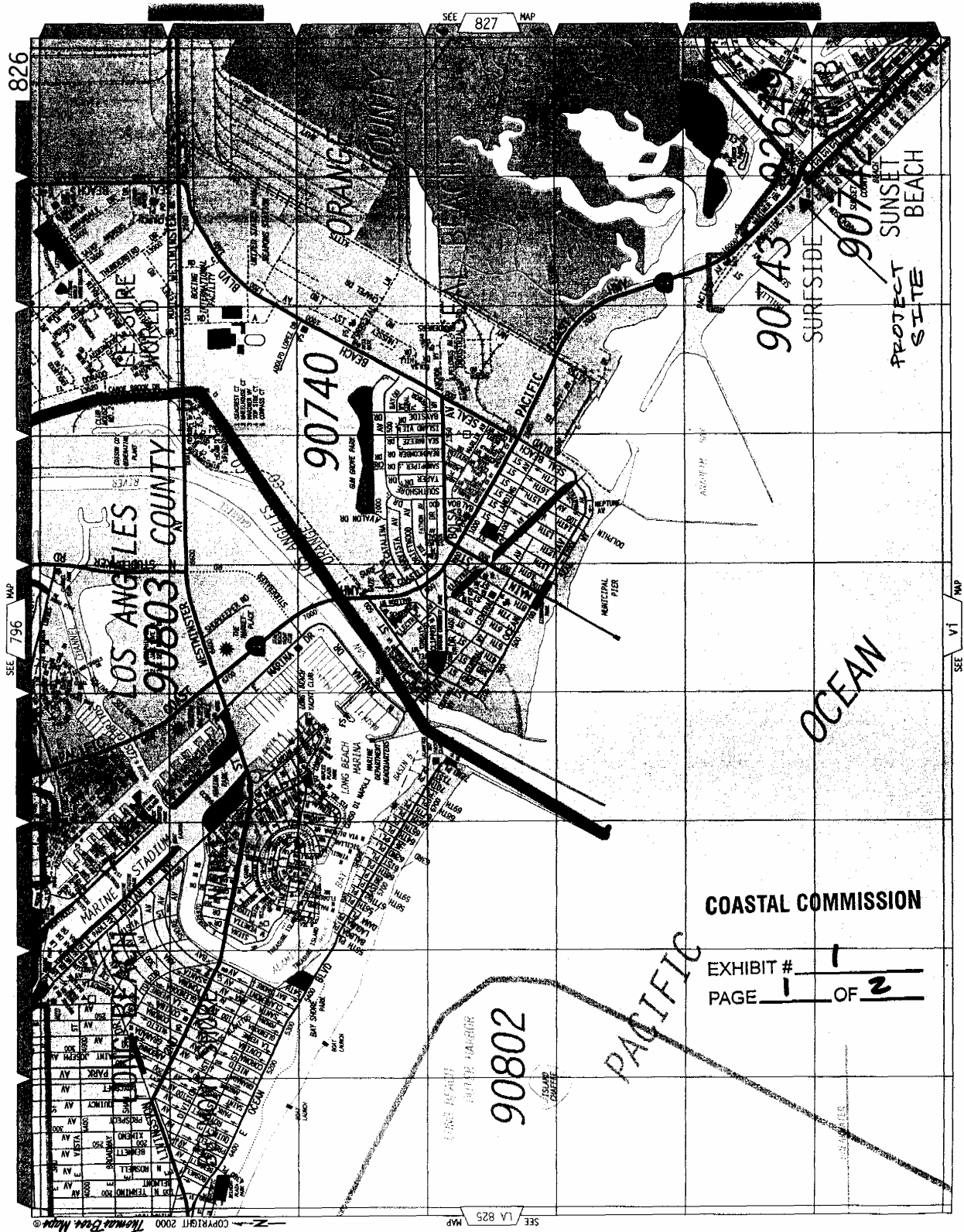
H. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

The City of Seal Beach is the lead agency for California Environmental Quality Act (CEQA) purposes. The project was determined by the City to be Categorical Exempt (Class 15303, Item 9).

The proposed project is located in an urban area. All infrastructure necessary to serve the site exists in the area. As conditioned, the proposed project has been found consistent with the hazards, public access, and water quality policies of Chapter 3 of the Coastal Act. Mitigation measures include: **1)** assumption of risk; **2)** no future shoreline protective device; **3)** future development; **4)** that the applicants agree to remove the patio and decks if Surfside Colony, Ltd. ever proposes a protective device to protect the patio and decks; **5)** conformance with the submitted drainage and run-off control plan (including landscape controls); **6)** a deed restriction against the property, referencing all of the Special Conditions contained in this staff report; and **7)** condition compliance.

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



826

SEE 827 MAP

SEE 796 MAP

SEE V1 MAP

THE MAPS ARE MADE BY THE CALIFORNIA STATE PLANNING BOARD. COPYRIGHT 2000.

SEE LA 825 MAP

COASTAL COMMISSION

EXHIBIT # 1
PAGE 1 OF 2

90802

90740

90743

90744

PROTECT SITE

OCEAN

PACIFIC

ORANGE COUNTY

LOS ANGELES COUNTY

MARINE STADIUM

SUNSET BEACH

SURFSIDE

LONG BEACH

MARINA

BEACH

PIER

WALKWAY

TRAIL

DRIVE

AVENUE

ROAD

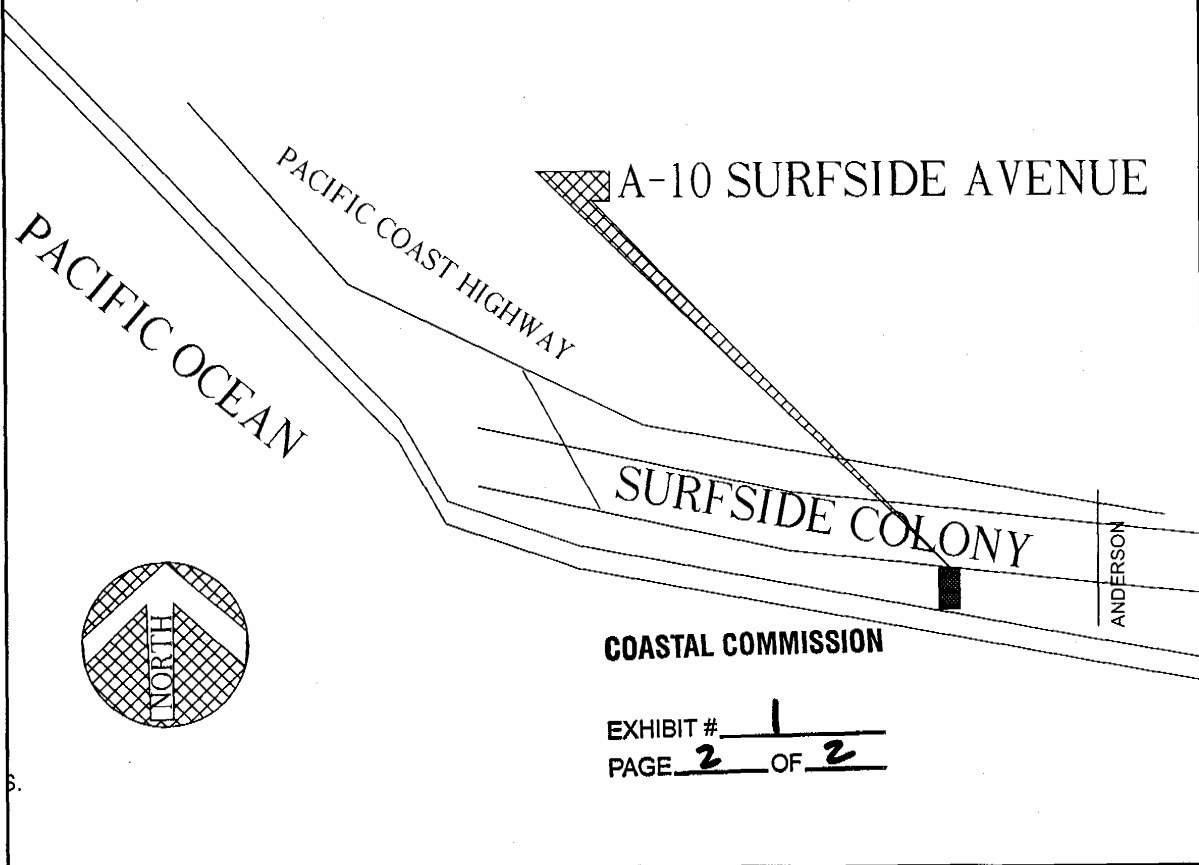
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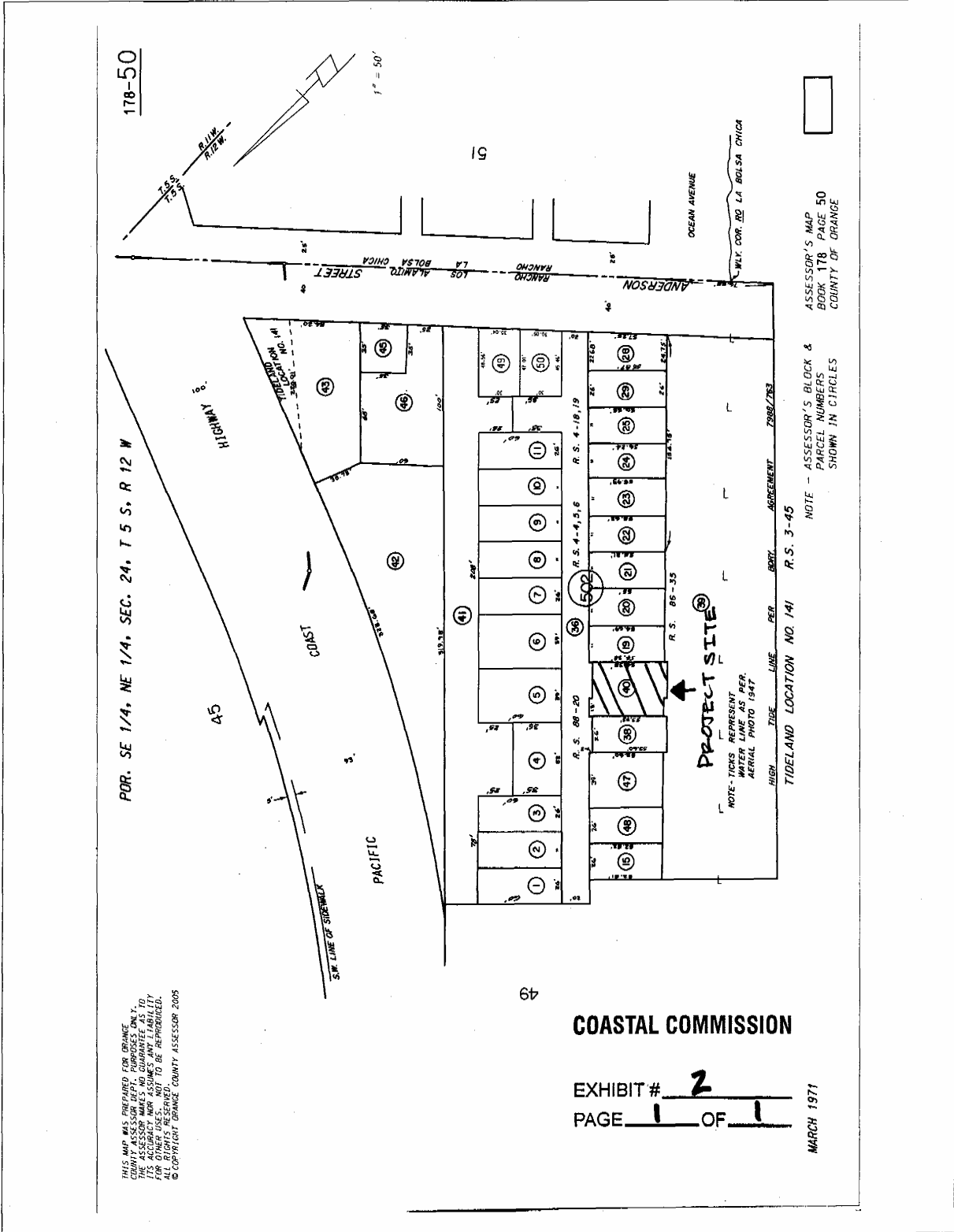
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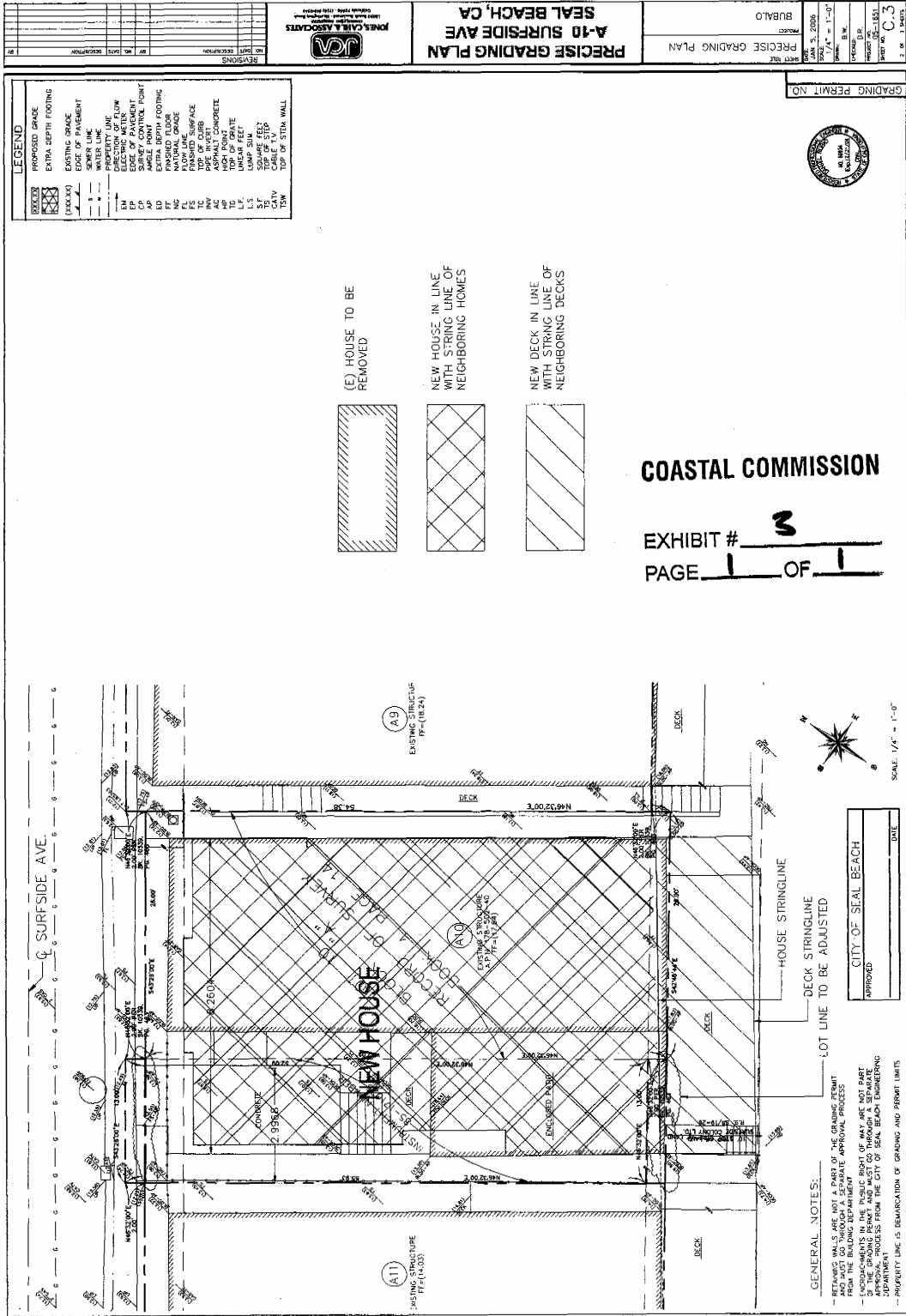
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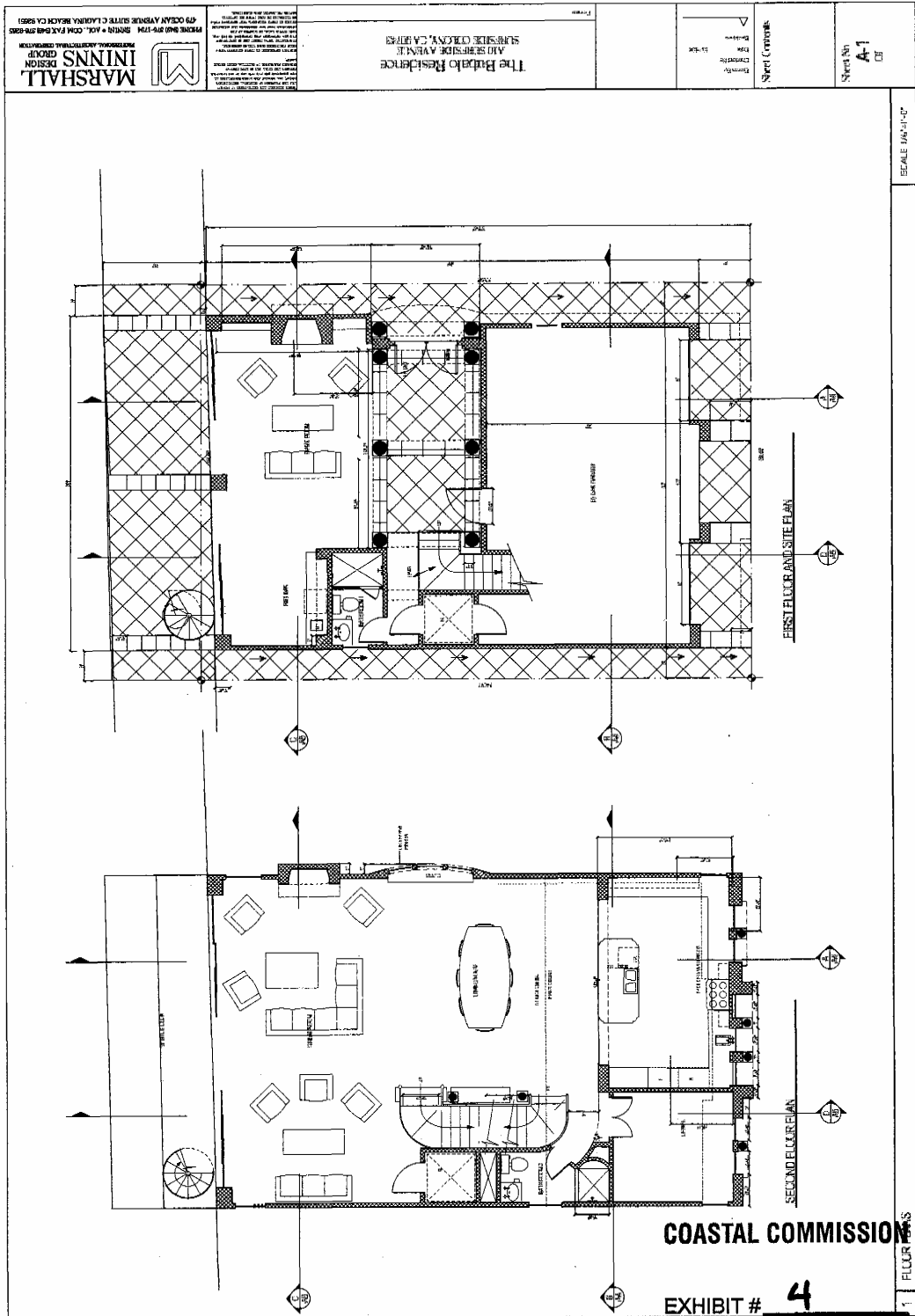
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VICINITY MAP

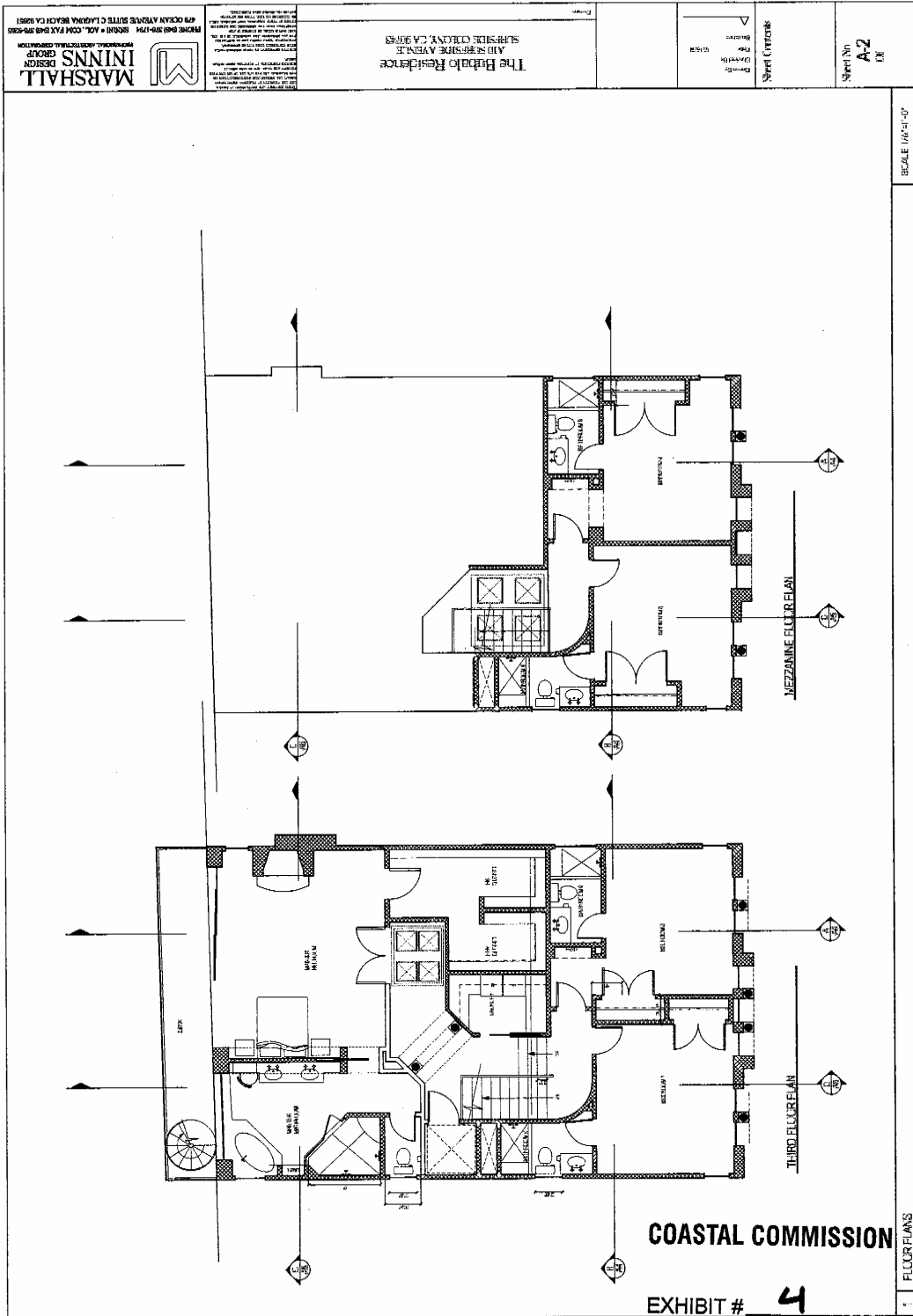








COASTAL COMMISSION
 EXHIBIT # 4
 PAGE 1 OF 2



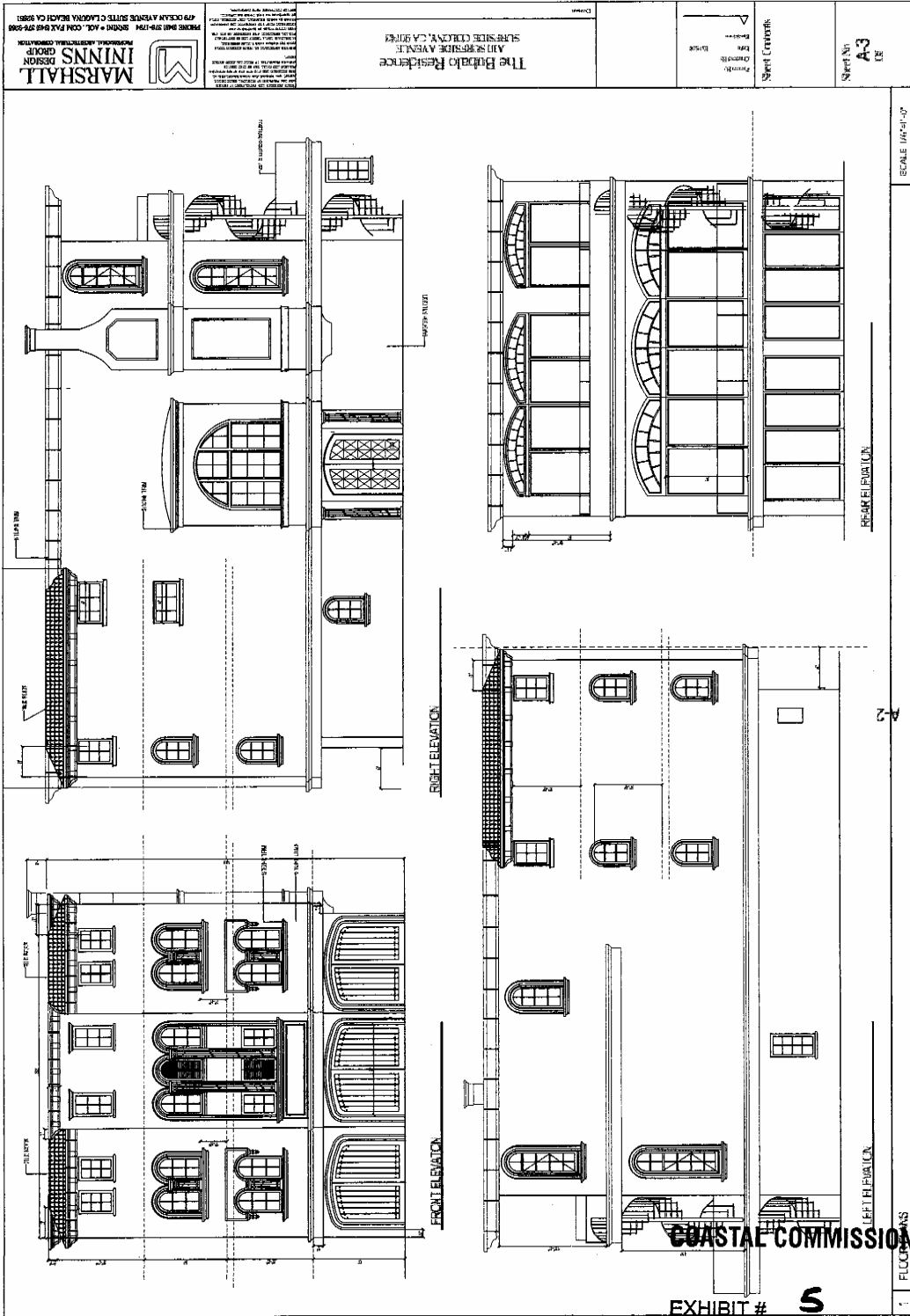
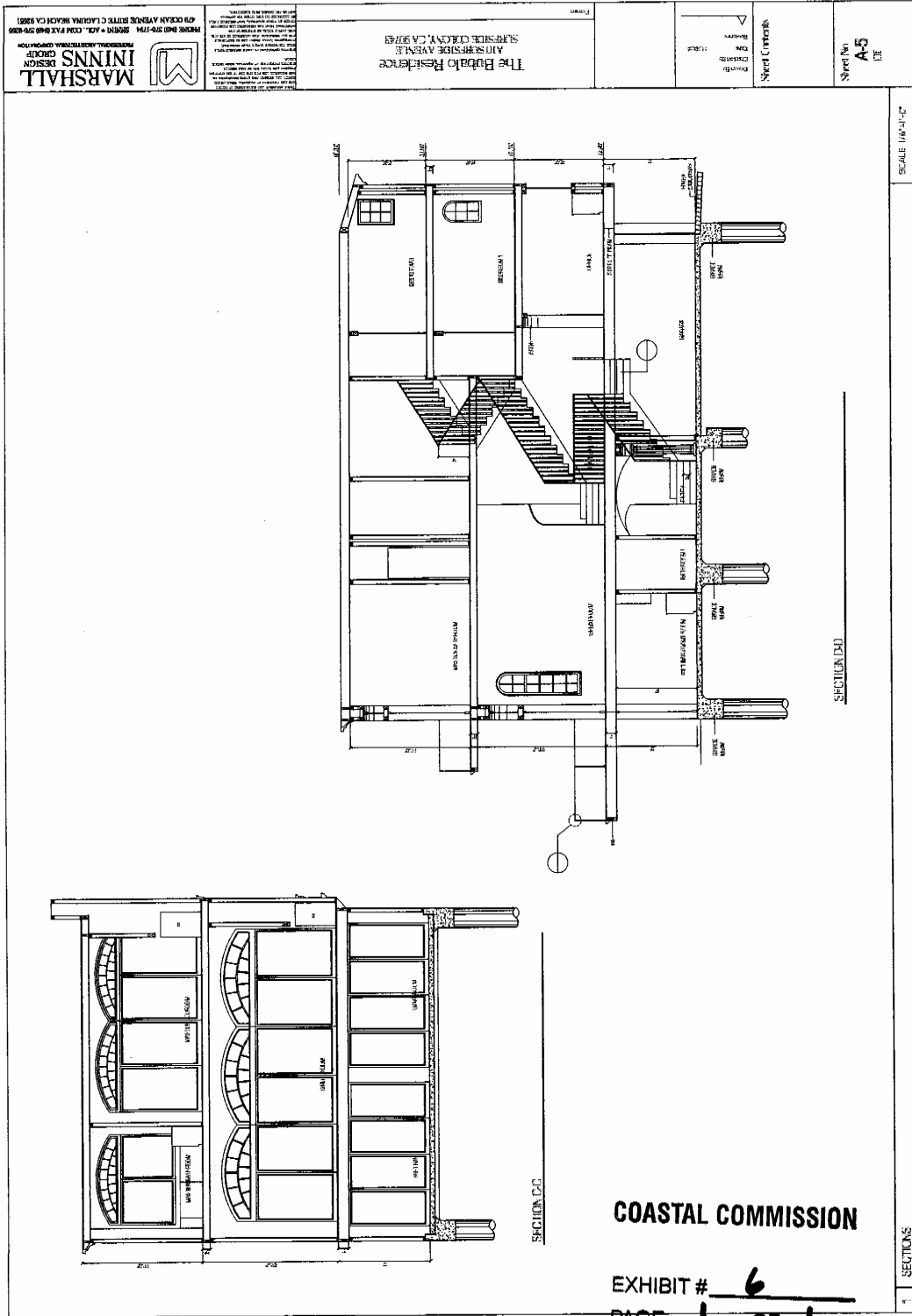
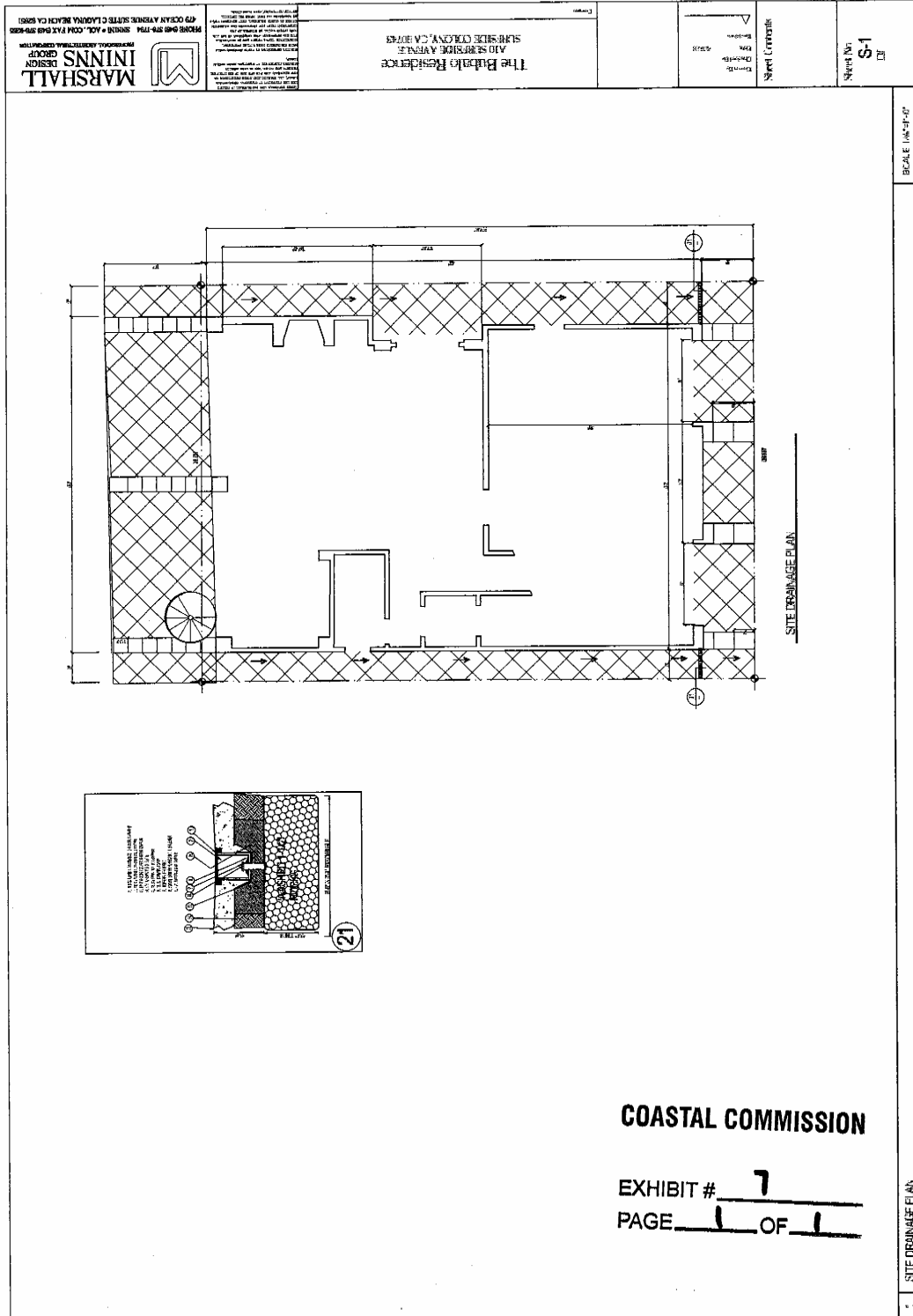



EXHIBIT # **5**
 PAGE **1** OF **1**





	STRUCTURES WEST 1410 S. A. VANCE RD. LOS ANGELES, CA 90044 (310) 551-1111 FAX (310) 551-1112	THE BUBALO RESIDENCE CUSTOM SINGLE FAMILY HOME SURFIDE COLONY, CALIFORNIA AND SURFIDE AVENUE	01.0 SHEET
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1. SLAB AND FOUNDATION PER SOILS REPORT.
2. SEE SOILS REPORT FOR GRADE AND SOIL REQUIREMENTS.
3. SEE ARCH PLAN FOR DRIPS AND SLAB BREAKS.
4. ALL AIDS SHALL HAVE A 4" CORNER EDGE DISTANCE OF 5" OR PER SHMP. SPEC.
5. VERIFY ALL DIMENSIONS & ARCH PLANS PRIOR TO CONSTRUCTION.
6. ALL 1" SPACING BARS AT 12" OC W/ 1" OR FIBERGLASS W/ 12" OR ON PLAN.
7. ALL 1" SPACING BARS AT 12" OC W/ 1" OR FIBERGLASS W/ 12" OR ON PLAN.
8. ALL 1" SPACING BARS AT 12" OC W/ 1" OR FIBERGLASS W/ 12" OR ON PLAN.
9. ALL 1" SPACING BARS AT 12" OC W/ 1" OR FIBERGLASS W/ 12" OR ON PLAN.
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20. ALL 1" SPACING BARS AT 12" OC W/ 1" OR FIBERGLASS W/ 12" OR ON PLAN.

ANCHOR BOLT SCHEDULE

ID	TYPE	SIZE	OC
1	1"	12"	OC
2	1"	12"	OC
3	1"	12"	OC
4	1"	12"	OC
5	1"	12"	OC
6	1"	12"	OC
7	1"	12"	OC
8	1"	12"	OC
9	1"	12"	OC
10	1"	12"	OC

PILE SCHEDULE

ID	TYPE	SIZE	OC
1	1"	12"	OC
2	1"	12"	OC
3	1"	12"	OC
4	1"	12"	OC
5	1"	12"	OC
6	1"	12"	OC
7	1"	12"	OC
8	1"	12"	OC
9	1"	12"	OC
10	1"	12"	OC

SLAB-ON-GRADE

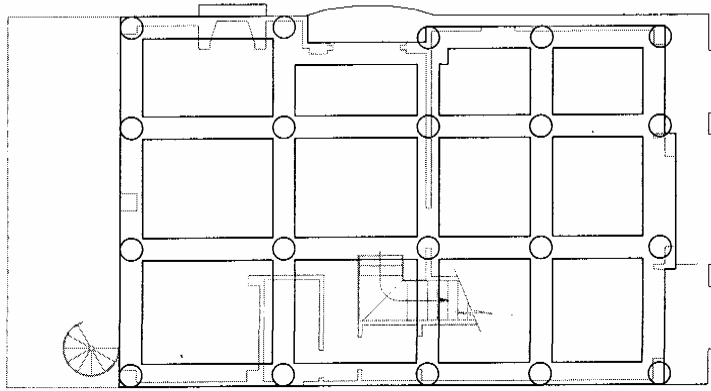
ALL SLAB-ON-GRADE SHALL BE AT ALL INTERSECTIONS. 2" MAX. SPACING BARS AT 12" OC W/ 1" OR FIBERGLASS W/ 12" OR ON PLAN.

GRADE BEAM SCHEDULE

ID	TYPE	SIZE	OC
1	1"	12"	OC
2	1"	12"	OC
3	1"	12"	OC
4	1"	12"	OC
5	1"	12"	OC
6	1"	12"	OC
7	1"	12"	OC
8	1"	12"	OC
9	1"	12"	OC
10	1"	12"	OC

HOLD-DOWN SCHEDULE

ID	TYPE	SIZE	OC
1	1"	12"	OC
2	1"	12"	OC
3	1"	12"	OC
4	1"	12"	OC
5	1"	12"	OC
6	1"	12"	OC
7	1"	12"	OC
8	1"	12"	OC
9	1"	12"	OC
10	1"	12"	OC



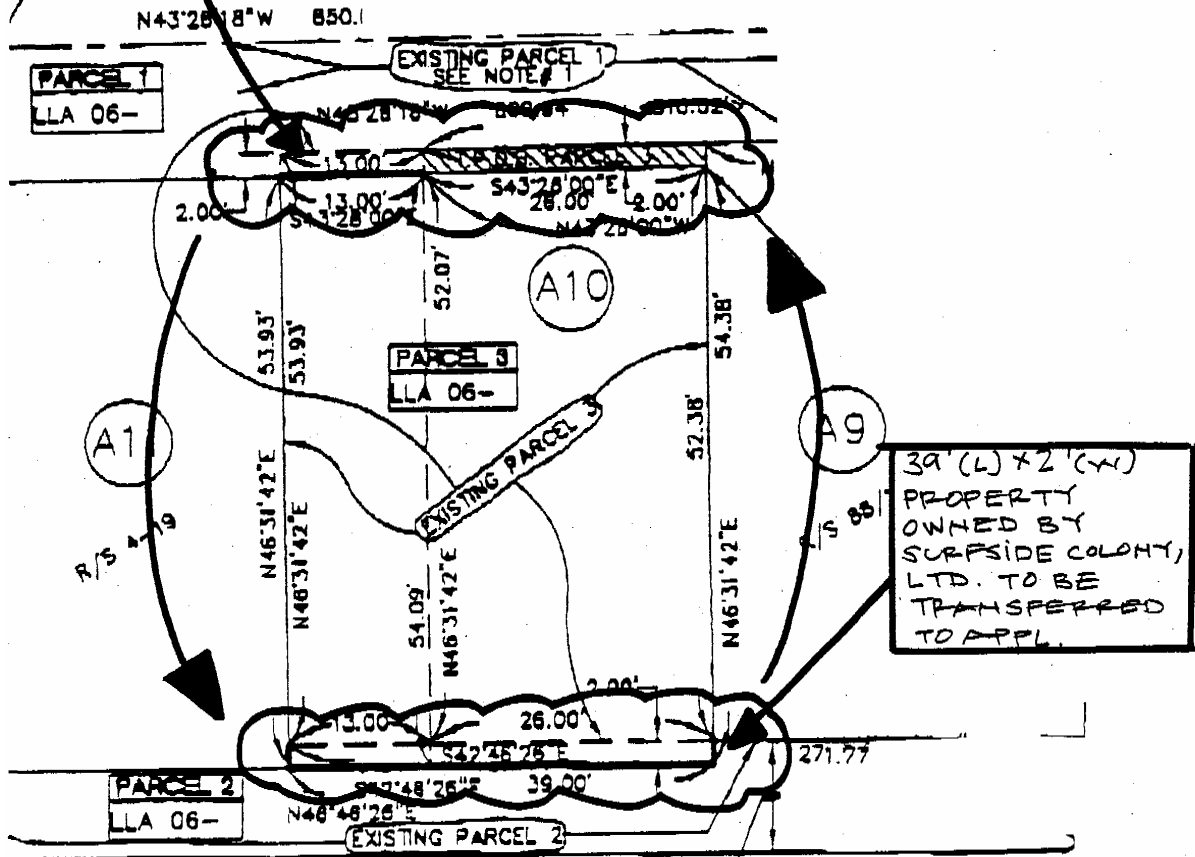
FOUNDATION PLAN
 SCALE: 1/4" = 1'-0"

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COASTAL COMMISSION
 EXHIBIT # 9
 PAGE 1 OF 1

39'(L) X 2'(W)
 PROPERTY OWNED BY APPL. TO BE TRANSFERRED TO SURFSIDE COLONY, LTD.

SURFSIDE AVE.



39'(L) X 2'(W)
 PROPERTY OWNED BY SURFSIDE COLONY, LTD. TO BE TRANSFERRED TO APPL.

SURFSIDE BEACH

COASTAL COMMISSION

EXHIBIT # 9
 PAGE 1 OF 1