CALIFORNIA COASTAL COMMISSION

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Staff:
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Commission Action:

November 19, 2010 January 17, 2011 May 28, 2011 Fernie Sy-LB April 21, 2011 May 11-13, 2011



STAFF REPORT: CONSENT CALENDAR

APPLICATION NUMBER: 5-10-134

APPLICANTS: Mathew & Linda Tachdian

AGENT: Gulian Design, Attn: Edward Gulian, AIA

PROJECT LOCATION: 700 Ocean Avenue, City of Seal Beach (County of Orange)

PROJECT DESCRIPTION: Redevelopment of the site including significant demolition, addition

and remodel of an existing 2,420 square foot single family residence over a basement and a 400 square foot attached two-car garage on a beach front lot. The proposed project includes: 1) an addition of 1,460 square feet to the existing basement; 2) an addition of 200 square feet to the existing garage; 3) an addition of 160 square feet to the existing 1st floor; and 4) an addition of a new 2,280 square foot 2nd floor. Post project the two-story with a basement, single-family residence will consist of 6,120 square feet with an attached 600 square foot two and a half-car garage. The resultant structure will be three-stories on the beach side and two-stories on the street side. The maximum height of the structure will be 25-feet above finished grade. Grading will consist of 450 cubic yards of export to a location

outside of the Coastal Zone.

LOCAL APPROVALS RECEIVED: City of Seal Beach Approval-in-Concept dated June 10, 2010.

SUMMARY OF STAFF RECOMMENDATION:

The applicants are proposing the significant demolition, addition and remodel of an existing beach fronting single-family residence. Given the quantity of demolition, the proposal is being treated as new development. The major issue of this staff report concerns beachfront development that could be affected by flooding during strong storm events.

Staff is recommending <u>APPROVAL</u> of the proposed project with **SEVEN** (7) **SPECIAL CONDITIONS** regarding: 1) assumption of risk; 2) no future shoreline protective device; 3) future development; 4) submittal of Foundation Plans and also evidence of conformance with geotechnical recommendations; 5) conformance with the submitted Drainage and Run-Off Control Plan, 6) landscape controls; and 7) a deed restriction against the property, referencing all of the Special Conditions contained in this staff report.

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

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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: Coastal Hazard & Wave Runup Study, 700 Ocean Avenue, Seal Beach, CA prepared by Geosoils, Inc. dated May 2005; Letter from Commission staff to Gulian Design dated July 13, 2010; Information from Gulian Design to Commission staff received November 29, 2011; Geotechnical Engineering Investigation, Proposed Residential Development, 700 Ocean Avenue Seal Beach, California (Project Number 15427-10) prepared by NorCal Engineering dated October 5, 2010; Letter from Gulian Design to Commission staff dated December 29, 2010; and Information from Gulian Design to Commission staff received January 6, 2011, 2011.

LIST OF EXHIBITS

- 1. Location Map
- 2. Accessor Parcel Map
- 3. Site Plan
- 4. Floor Plans
- 5. Roof Plan
- 6. Elevation 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 <u>YES</u> vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION:

I. APPROVAL WITH CONDITIONS

The Commission hereby <u>APPROVES</u> 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

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environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

- 1. <u>Notice of Receipt and Acknowledgment.</u> The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. <u>Expiration.</u> If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. <u>Interpretation.</u> Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. <u>Assignment.</u> The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. <u>Terms and Conditions Run with the Land.</u> These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. ASSUMPTION OF RISK, WAIVER OF LIABILITY AND INDEMNITY

By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from sea level rise, flooding, wave attack, and erosion; (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. 5-10-134 including, but not limited to, the residence, garage, foundations, and any future improvements, in the event that the development is threatened with damage or destruction from waves, erosion, sea level rise, storm conditions or other natural hazards in the future. By acceptance of this permit, the

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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, and foundations, 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 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.

3. **FUTURE DEVELOPMENT**

This permit is only for the development described in Coastal Development Permit No. 5-10-134. 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. 5-10-134. 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. 5-10-134 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

4. FOUNDATION PLANS AND GEOTECHNICAL RECOMMENDATIONS

- A. All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with all recommendations contained in the geologic engineering investigation: Geotechnical Engineering Investigation, Proposed Residential Development, 700 Ocean Avenue Seal Beach, California (Project Number 15427-10) prepared by NorCal Engineering dated October 5, 2010.
- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, for the Executive Director's review and approval, two (2) full size sets of Foundation Plans and also evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans, including foundations, grading and drainage plans, and certified that each of those final plans is consistent with all the recommendations specified in the above-referenced geologic engineering report.
- C. The permittees shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment unless the Executive Director determines that no amendment is legally required.

5. DRAINAGE AND RUN-OFF CONTROL PLAN

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The applicants shall conform with the Drainage and Run-Off Control Plan received on January 6, 2011 showing roof drainage and runoff from all impervious areas directed to infiltration trenches/pits or vegetated/landscaped areas. 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 legally required.

6. LANDSCAPING

Vegetated landscaped areas shall only consist of non-invasive drought tolerant non-native plants and/or plants native to coastal Orange County and appropriate to the habitat type. Native plants shall be from local stock wherever possible. No plant species listed as problematic and/or invasive by the California Native Plant Society (http://www.CNPS.org/), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (http://www.cal-ipc.org/), 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. All plants shall be low water use plants as identified by California Department of Water Resources (See: http://www.owue.water.ca.gov/docs/wucols00.pdf).

7. <u>DEED RESTRICTION</u>

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.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. PROJECT LOCATION AND DESCRIPTION

The project site is a beach front lot located at 700 Ocean Avenue in the City of Seal Beach, Orange County (Exhibits #1-2). The lot size is approximately 7,350 square feet and is currently zoned as Residential Low Density in the City of Seal Beach Zoning Code (not certified by the Commission). The proposed project is development within an existing urban residential area, located northwest (upcoast) of the Seal Beach Municipal Pier. Though the project site is in an urban residential area, it is located just inland of the beach and will be on a site which slopes upward as it goes inland. The project is between the first public road and the sea and there is a wide sandy beach, approximately 640 feet wide, between the subject property and the mean high tide line.

The applicants are proposing to redevelop the site including the significant demolition, addition and remodel of an existing 2,420 square foot single family residence over a basement and a 400 square foot attached two-car garage on a beach front lot (Exhibits #3-6). As stated, the proposed project includes significant demolition of the existing structure. In this case, more than 50% of the existing interior and exterior walls of the structure are being demolished. The proposed project more specifically consists of substantial demolition of the existing structure and: 1) an addition of 1,460 square feet to the existing basement; 2) an addition of 200 square feet to the existing garage; 3) an addition of 160 square feet to the existing 1st floor; and 4) an addition of a new 2,280 square foot 2nd floor. The project also includes landscaping in the front and rear yard (beachfronting). No additional work is proposed in the rear yard. The guardrails on all proposed beach fronting decks will be made up of 1/2" tempered glass with a smoke film to protect against any potential bird strikes caused by transparent glass. The applicant has stated that foundation for the proposed residence will utilize the existing foundation and also include continuous spread footings. mat foundation, and concrete slab for the new additions. However, no such plans have been submitted that show this. Therefore, the Commission imposes SPECIAL CONDITION NO. 4, which requires the applicant to submit a Foundation Plan. Post project the two-story with a basement, single-family residence will consist of 6.120 square feet with an attached 600 square foot two and a half-car garage. The resultant structure will be three-stories on the beach side and two-stories on the street side. The maximum height of the structure will be 25-feet above finished grade. Grading will consist of 450 cubic yards of export to a location outside of the Coastal Zone.

The proposed residence would conform to the informal stringline established by a 12-foot wide abandoned right-of-way (alley) that the City and Commission have used as a reference point in past actions along Ocean Avenue. The abandoned alley runs between, and parallel to, Ocean Avenue and the beach. The abandoned alley extends across the middle of the lots located both upcoast of the Seal Beach municipal pier and seaward of Ocean Avenue. The City has established the landward boundary of the abandoned alley as the limit, or stringline, for seaward encroachment of enclosed living space and the City has established the seaward boundary of the abandoned alley as the limit, or stringline, for seaward encroachment of new covered patios or decks. Using this rationale, residential structures need to be setback approximately 96-feet from the inland property line and patios and decks would need to be setback approximately 86-feet from the seaward property line. Other low-lying appurtenances such as landscaping, hardscape, pools, and spas, are allowed seaward of the enclosed patio stringline, up to the seaward property line of the site. The enclosed living area of the proposed home would not encroach past the inland boundary of the abandoned street right-of-way that the City uses as the stringline for beachfront development of residential structures. In addition, the proposed decks would not encroach past

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the seaward boundary of the abandoned street right-of-way that the City uses as the stringline for beachfront development of new patios and decks. Through its various permit actions, the Commission has found that these living space and patio/deck stringlines establish appropriate limits of development along this stretch of Ocean Avenue located upcoast of the Seal Beach pier.

Vertical public access to the beach is available at the adjacent 7th Street, street end (Exhibit #1-2). The beach seaward of the site is public.

The applicants are proposing water quality improvements as part of the proposed project, consisting of rooftop and surface drainage directed to infiltration trenches and permeable areas.

The applicants have stated that landscaping is proposed, but no plans have been submitted. The placement of any 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 landscape plan should only be drought tolerant to minimize the use of water (and preferably native to coastal Orange County). 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" (a.k.a. WUCOLS) 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. To make sure that vegetated landscaped areas only consist of drought tolerant non-native non-invasive plants and/or plants native to coastal Orange County and appropriate to the habitat type, the Commission imposes SPECIAL **CONDITION NO. 6**, which requires only this type of vegetation. This will minimize the potential for the introduction of non-native invasive species.

B. <u>HAZARDS</u>

Development adjacent to the ocean is inherently hazardous. Development which may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon, among other things, public access, visual resources and shoreline processes. To minimize the project's impact on shoreline processes, and to minimize risks to life and property, the development has been conditioned to: require an appropriate set-back from the water; require a drainage and runoff control plan to direct, treat, and minimize the flow of water offsite; prohibit construction of protective devices (such as a seawall) in the future; and to require that the landowner and any successor-in-interest assume the risk of undertaking the development. As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

C. 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

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development of the project site potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act. To assure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission finds that a future improvements special condition be imposed. As conditioned the development conforms with the Chapter 3 policies of the Coastal Act.

D. PUBLIC ACCESS

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

E. WATER QUALITY

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

F. <u>DEED RESTRICTION</u>

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 (LCP)

Section 30604 of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified local coastal program. The permit may only be issued if the Commission finds that the proposed development will not prejudice the ability of the local government to prepare a Local Coastal Program, which conforms with the Chapter 3 policies of the Coastal Act.

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

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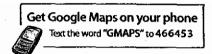
use plan with suggested modifications expired. The LUP has not been resubmitted for certification since that time.

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

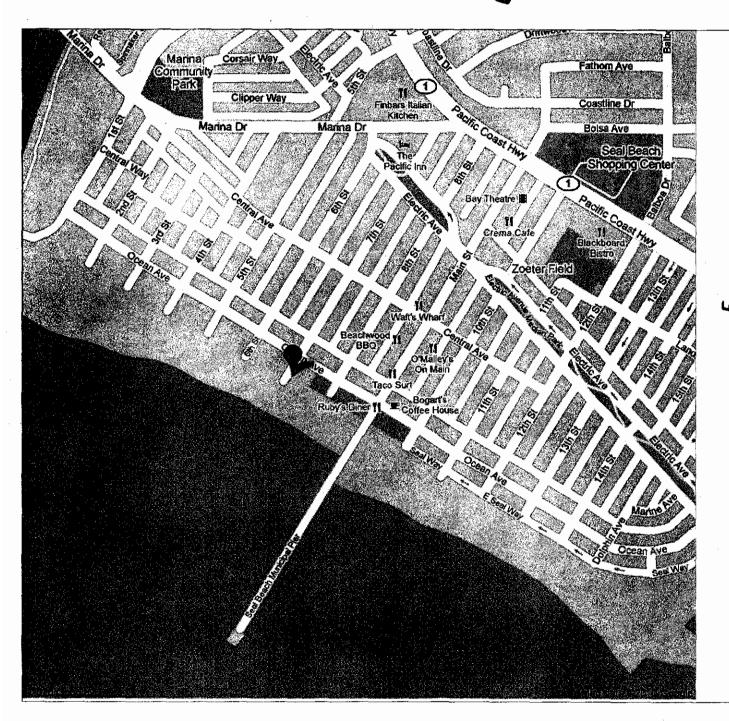
H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The City of Seal Beach is the lead agency responsible for certifying that the proposed project is in conformance with the California Environmentally Quality Act (CEQA). The City determined that in accordance with CEQA, the project is Categorically Exempt from Provisions of CEQA under Guidelines Section 15303 for the construction. Section 13096(a) of the Commission's administrative 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).

Although the proposed development is categorically exempt from CEQA, the Commission has imposed conditions to ensure conformity with Coastal Act requirements. 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 consistent with the requirements of the Coastal Act and CEQA.



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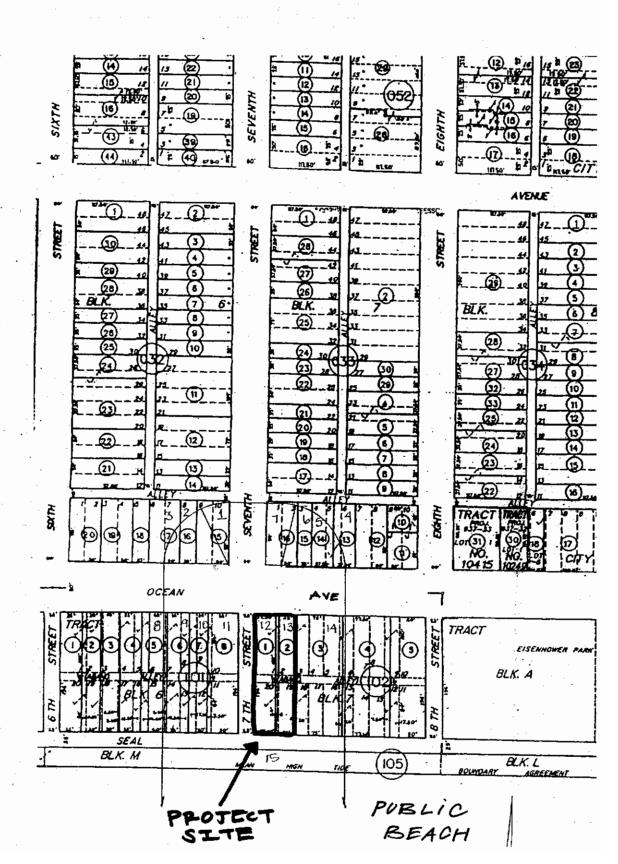
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EXHIBIT # 2
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