

**THE BOARD OF DIRECTORS OF THE BROAD BEACH
GEOLOGIC HAZARD ABATEMENT DISTRICT**

RESOLUTION NO. 2020/01

RESOLUTION: (A) ADOPTING NEW ENGINEER'S REPORT, (B) DECLARING THE INTENTION TO ORDER AN ASSESSMENT WITHIN THE TERRITORY OF THE BROAD BEACH GEOLOGIC HAZARD ABATEMENT DISTRICT ("BBGHAD"), AND (C) FIXING A HEARING FOR APRIL 26, 2020 TO CONSIDER THE PROPOSED ASSESSMENT AND ANY PROTESTS AGAINST THE PROPOSED ASSESSMENT.

WHEREAS, on September 12, 2011 the Malibu City Council adopted Resolution No. 11-41 approving and ordering the formation of the Broad Beach Geologic Hazard Abatement District ("BBGHAD") and appointing five landowners to serve as the initial Board of Directors of the BBGHAD (BBGHAD Board);

WHEREAS, the BBGHAD is: a) a political subdivision of the State of California, governed in accordance with GHAD Law (Pub. Res. Code §§ 26500 *et seq.*); and b) a legal entity separate and distinct from the City of Malibu, and the BBGHAD's operations are independent of the City of Malibu functions;

WHEREAS, on November 6, 2011, the BBGHAD Board approved the Plan of Control, the document that describes the duties and responsibilities of the BBGHAD;

WHEREAS, in order to pay for the cost and expenses of constructing and operating the improvements for the BBGHAD, as described in the Plan of Control, pursuant to Public Resources Code sections 26500 *et seq.*, it will be necessary to provide for a reliable source of funding;

WHEREAS, Public Resources Code sections 26587 and 26650 *et seq.* authorize, after a noticed public hearing, the levy and collection of an assessment pursuant to the Municipal Improvement Act of 1913, Streets & Highways Code sections 10000 *et seq.*, upon specially benefited property within the GHAD to pay for the construction, improvement, maintenance and operation of BBGHAD improvements (the "Project"). Article XIII(D) of the California Constitution identifies additional requirements for the levy and collection of assessments;

WHEREAS, on January 22, 2012, the BBGHAD Board held a public hearing and adopted Resolution No. 2012/01, which, among other points, declared the BBGHAD Board's intent to order a proposed assessment within the territory of the BBGHAD and fixed a hearing date of March 11, 2012 to consider the proposed assessment and any protests thereon; the assessment was based on the Engineer's Report dated January 18, 2012 and attached to Resolution No. 2012/01.

WHEREAS, on March 11, 2012, the BBGHAD Board held a public hearing and, among other actions, adopted Resolution Nos. 2012/03 (accepting the Statement of Assessment Ballots)

and 2012/04 (confirming the assessment and authorizing the levy and collection of the assessment within the BBGHAD);

WHEREAS, the Assessment specified in Resolution Nos. 2012/03 and 2012/04 contemplates the BBGHAD's placement of significant sand nourishment throughout the BBGHAD's boundaries, including the western portion of the BBGHAD;

WHEREAS, in or about January 2015 and prior to the BBGHAD securing final permits to conduct the contemplated beach restoration, the BBGHAD learned of facts and permitting realities that a portion of the west end, west of 31380 Broad Beach Road, could not receive direct sand nourishment as part of the Project because the Project, as originally conceived, cannot achieve regulatory approval without changes to its design and without significant mitigation;

WHEREAS, on July 19, 2015, the BBGHAD Board held a public hearing and adopted Resolution No. 2015/03, which, among other points, declared the BBGHAD Board's intent to order a proposed assessment within the territory of the BBGHAD and fixed a hearing date of September 6, 2015 to consider the proposed assessment and any protests thereon ("2015 Assessment"); the 2015 Assessment is based on the Engineer's Report dated July 15, 2015 ("2015 Engineer's Report"), and attached to Resolution No. 2015/03.

WHEREAS, on or about September 6, 2015, the BBGHAD Board held a public hearing and, among other actions, adopted Resolution Nos. 2015/04 (accepting the Statement of Assessment Ballots) and 2015/05 (confirming and adopting the 2015 Assessment and authorizing the levy and collection of the assessment within the BBGHAD);

WHEREAS, the Assessment specified in Resolution Nos. 2015/04 and 2015/05 contemplates the BBGHAD's placement of significant sand nourishment east of 31380 Broad Beach Road, and no direct sand placement west of this address;

WHEREAS, since the adoption of the 2015 Assessment, the BBGHAD has continued to obtain certain permits and pursue other permits necessary to implement the Project; during this permitting period, the BBGHAD staff has concurrently finalized commercial arrangements for, among other items, sand source, sand transportation to Project area, and actual construction of the Project;

WHEREAS, due to added Project costs imposed by the various permits for the implementation of the Project, the BBGHAD staff determined that such costs exceeded those contemplated in the 2015 Assessment and 2015 Engineer's Report;

WHEREAS, on July 23, 2017, the BBGHAD Board held a public hearing and adopted Resolution No. 2017/05, which, among other points, declared the BBGHAD Board's intent to order a proposed assessment within the territory of the BBGHAD and fixed a hearing date to consider the proposed assessment and any protests thereon ("2017 Assessment"); the 2017 Assessment is based on the Engineer's Report dated June 22, 2017 ("2017 Engineer's Report"), and attached as Exhibit 1 to Resolution No. 2017/05.

WHEREAS, on or about September 10, 2017, the BBGHAD Board held a public hearing and, among other actions, adopted Resolution No. 2017/08 (accepting the Statement of

Assessment Ballots) and on or about November 12, 2017, adopted Resolution No. 2017/09 (confirming and adopting the 2017 Assessment and authorizing the levy and collection of the assessment within the BBGHAD);

WHEREAS, following the implementation of the 2017 Assessment, owners of four (4) BBGHAD-assessed parcels filed litigation challenging the 2017 Assessment, Mark Magidson, Trustee of the Magidson Revocable Trust of 1987 (2006 Restatement), and Malibu-Broad Beach S-1, LLC a California Limited Liability Company through its Manager Mark Magidson; Alexander Haagen III, as Managing Member of 30956 BB, LLC and BB Malibu Place LLC; Mike Schwab; Cheryl Schwab; Andrew Leigh; Barbara Leigh v. Broad Beach Geologic Hazard Abatement District; Board of Directors of the Broad Beach Geologic Hazard Abatement District, Los Angeles County Superior Court Case No. BS170769 (Beckloff) ("Reef Group Action"), and the BBGHAD subsequently filed litigation seeking the Court's validation of the 2017 Assessment, Broad Beach Geologic Hazard Abatement District v. All Persons Interested in the Validity of Resolution No. 2017/09 of the BBGHAD Board, LASC Case No. BC 684646 (Beckloff) ("Validation Action"). The Court consolidated the Reef Group Action and the Validation Action for trial purposes;

WHEREAS, on or about September 17, 2019, the Court issued its Order Granting Writ Claim and Order Denying Validation ("Order") granting certain of the relief requested by the property owners in the Reef Group Action and denying the Validation Action;

WHEREAS, on or about January 22, 2020, the Court supplemented its writing in connection with the Reef Group Action and the Validation Action with its Statement of Decision;

WHEREAS, the Reef Group subsequently filed and served its Proposed Order Granting Petition for Writ of Mandate in the Reef Group Action and its Proposed Judgement in the Validation Action; the BBGHAD has filed objections to both the Proposed Order Granting Petition for Writ of Mandate and the Proposed Judgement;

WHEREAS, among other principles, the BBGHAD Board seeks to ensure that the BBGHAD: a) complies with all legal requirements, including those specified in the Order and Statement of Decision, b) levies and collects an Assessment commensurate with, and no greater than, the special benefits received by each and every real property owner within the BBGHAD; and c) treats each and every BBGHAD property owner in a fair, just, and equitable manner;

WHEREAS, to these ends, the BBGHAD adopted Resolution No. 2019/07 on or about December 22, 2019 and circulated a new DRAFT Engineer's Report soliciting public comment;

WHEREAS, the BBGHAD has received various written questions and comments on the new DRAFT Engineer's Report and, where it deemed appropriate, revised the new, proposed Engineer's Report accordingly;

WHEREAS, this Resolution No. 2020/01 declares, pursuant to Streets & Highways Code section 10200 and Public Resources Code section 26651, the Board's intention to: a) order a new assessment, b) adopt and notify all interested parties of the availability of a new Engineer's

Report (**Exhibit 1**) ("2020 Engineer's Report"), and c) fix a hearing for no earlier than April 1, 2020 to consider the proposed assessment and any protests; and

WHEREAS, this action is exempt from the provisions of the California Environmental Quality Act (Pub. Res. Code §§ 21000 *et seq.*) in accordance with Public Resources Code sections 21080(b)(4) [mitigation of emergencies] and 26559 [GHAD services].

The Board of Directors of the BBGHAD HEREBY RESOLVES THAT:

1. The BBGHAD Board declares its intention, consistent with the requirements of Article XIII D of the California Constitution, Public Resources Code sections 26587 and 26650 *et seq.*, Streets & Highways Code sections 10000 *et seq.*, and Government Code section 53750 *et seq.*, to order that the cost and expenses of constructing, improving, maintaining implementing, and operating any BBGHAD improvements to be assessed against those parcels within the BBGHAD as identified in the attached revised Engineer's Report and specifically identified in Exhibit F (Assessment Diagram) that are specially benefited by the BBGHAD improvements and that those improvements, maintenance, implementation and operations be thereafter conducted.
2. The BBGHAD Board further declares its intention to assess against those parcels shown on the Assessment Diagram for 2020 and for subsequent years, all or part of the amounts specified in the 2020 Engineer's Report.
3. Notwithstanding Paragraph 2 above, the BBGHAD Board shall not order this proposed assessment if a majority protest exists as defined in Section 4(e) of Article XIII D of the California Constitution.
4. Each of the parcels identified on the Assessment Diagram will receive a particular and distinct special benefit in the form of BBGHAD improvements and services. These special benefits are described in detail in the Plan of Control dated November 3, 2011 and the 2020 Engineer's Report. The special benefits from the improvements include protection from: erosion due to wave action, flooding from sea level rise and storms, tsunamis, and wave action to private property improvements within the BBGHAD and such other benefits as are described in the Plan of Control and the 2020 Engineer's Report. The improvements will also specially benefit private property within the BBGHAD by, *inter alia*, increasing the performance and longevity of existing shoreline protective devices within the BBGHAD and providing protection for the bluffs at the BBGHAD's west end. Adding sand to the seaward side of existing shoreline protective devices (revetment, caissons, and seawalls) will better balance the soil pressures that act upon the landward side of the device and adding sand to a beach fronting a device that has been denuded of sand will move the wave-breaking impact area seaward and away from directly impinging on the protective device. The wider beach will reduce environmental loading on the protective device structures. Further, the anticipated indirect sand deposition at the BBGHAD's west end will provide added protection of natural bluffs.
5. Consistent with the Order, Statement of Decision, and all other applicable authorities, the 2020 Engineer's Report separates and quantifies the general benefits and special benefits created by the Project, refines the BBGHAD's apportionment of the special benefits

created by the Project among the assessed parcels, specifies that the BBGHAD will levy the assessment on the County of Los Angeles ("County") for the vertical public accessways owned by the County within the BBGHAD, explains how the BBGHAD can build the Project as permitted or amended (accounting for opposition from certain BBGHAD property owners), and outlines the currently known relevant facts affecting the proposed assessment and a potential amendment of certain permitting for the Project.

6. The BBGHAD Board has reviewed and considered the 2020 Engineer's Report. The BBGHAD Board directs the BBGHAD Manager to incorporate comments, if any, as directed by the Board at its meeting on February 16, 2020 to the 2020 Engineer's Report and to attach a final Engineer's Report to the Notice of Adoption of Resolution by the Board of the Directors of the Broad Beach Geologic Hazard Abatement District ("Notice"). The final Engineer's Report shall substantiate that the amount of the proposed assessment on each parcel is proportional to, and no greater than, the special benefits conferred on that parcel. As so amended, the 2020 Engineer's Report is hereby approved.

7. No later than three (3) business days after the adoption of this Resolution, the BBGHAD Board directs the BBGHAD Clerk to mail the Notice (substantially in the same form as **Exhibit 3**) and Boundary Map (**Exhibit 2**) to each owner of real property (as shown on the last equalized property tax roll of the County) within the BBGHAD as shown on the Assessment Diagram. A colored custom sealable return envelope, Ballot, and Notice and the 2020 Engineer's Report shall be attached to the Notice and mailed to each property owner in the BBGHAD boundaries in conformity with Government Code § 53753.

8. The BBGHAD Board will conduct a public hearing on April 26, 2020 at 9:00 a.m. at **30237 Morning View Drive, Room 3, Malibu, CA 90265** to consider the proposed assessment and any protests against the proposed assessment.

9. The following sub-paragraphs provide the procedures for returning and tabulating the ballots:

a. A copy of the related Notice, a sealable Ballot and return envelope (all in a distinct color), and the 2020 Engineer's Report will be sent to each of the property owners within the BBGHAD. On the face of the envelope mailed to each property owner, the statement "OFFICIAL BALLOT ENCLOSED" shall be set forth in 16-point bold type. Property owners may complete and mail or hand-deliver completed ballots to the BBGHAD Clerk, c/o Elkins Kalt Weintraub Reuben Gartside LLP, 10345 W. Olympic Blvd., Los Angeles, CA 90064, or may submit completed ballots at the public hearing on April 26, 2020. The Ballot may be withdrawn or changed at any time prior to the conclusion of the public testimony on the proposed assessment at the public hearing.

b. Proposed assessment Ballots shall remain sealed until the tabulation of the Ballots commences at the conclusion of the public hearing on April 26, 2020. Immediately after the public hearing on the proposed assessment, the BBGHAD Clerk (or Election Official) shall tabulate the ballots. In tabulating the ballots, the ballots shall be weighted according to the proportional financial obligation of the affected property. Here, the proportional financial obligation of each affected parcel is governed by a formula that has been derived by the BBGHAD's

Assessment Engineers which estimates the special benefit conveyed by the Project. The formula includes several factors, which are weighted based on their relative effect on special benefit. Special benefit is derived considering the following factors, and weighting has been applied to each factor to note its relative importance as compared to other factors. These factors are supported by the Coastal Engineering Appendix (Exhibit C to the 2020 Engineer's Report) with respect to analysis of shore protection components, including sand placement, revetment, seawall, and bluff features, and from real estate appraisals and market analyses as well as publicly available property value assessments, for consideration of other values. After considering all evidence available to the Assessment Engineers, including analyses of coastal engineering processes, the Court's Order and Statement of Decision, the Assessment Engineers applied their professional judgment to create the values and formula specified at pages 12-13 of the 2020 Engineer's Report.

c. Only those parcels which submit valid ballots on the 2020 Assessment will have their votes counted; and the votes will be weighted in accordance with the formula specified at pages 12-13 of the 2020 Engineer's Report.

d. At the hearing, the BBGHAD Board shall consider any objections or protests to the proposed assessment and certify the tabulation of the ballots. The BBGHAD Board shall not impose the proposed assessment if a majority protest exists at the April 26, 2020 consideration of this matter. A majority protest exists if, upon conclusion of the hearing, weighted ballots submitted in opposition to the proposed assessment exceed the weighted ballots submitted in favor of the proposed assessment.

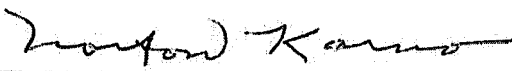
e. Inquiries regarding the proposed assessment may be made by mail or telephone to the BBGHAD Clerk, Heike Fuchs, c/o Elkins Kalt Weintraub Reuben Gartside LLP, 10345 W. Olympic Blvd., Los Angeles, CA 90064, phone (310) 345-2268. All public comments on the 2020 Engineer's Report or proposed assessment must be: 1) in writing, and 2) received at the address in this paragraph 9e by no later than the close of business on April 15, 2020.

10. Following the public hearing, the BBGHAD Board shall consider the adoption of the canvas of votes for the BBGHAD.

11. Upon authorization of the proposed assessment, the BBGHAD Board shall levy an authorized assessment on each parcel in 2020 and subsequent years.

12. This Resolution shall become effective immediately upon its passage and adoption.

DATED: February 16, 2020



NORTON KARNO, Chair

I, Heike Fuchs, Clerk of the Broad Beach Geologic Hazard Abatement District, hereby certify that the foregoing resolution was duly adopted by the Board of Directors of the District at a regular meeting held on the 16th day of February 2020 by the following vote:

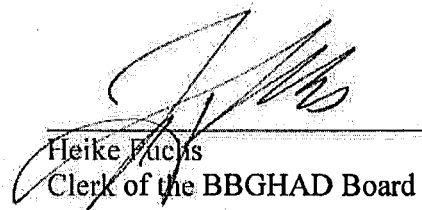
AYES: Karno, Grossman, Marine

NOES: None

ABSENT: Kuba and Needleman

ABSTAIN: None

ATTEST:



Heike Fuchs
Clerk of the BBGHAD Board

EXHIBIT 1 to RESOLUTION 2020/01

2020 ENGINEER'S REPORT

**To avoid sending 2 copies of the New Engineer's Report,
see Notice of Adoption (enclosed) Exhibit 1.**

EXHIBIT 2 to RESOLUTION 2020/01

BBGHAD BOUNDARY MAP

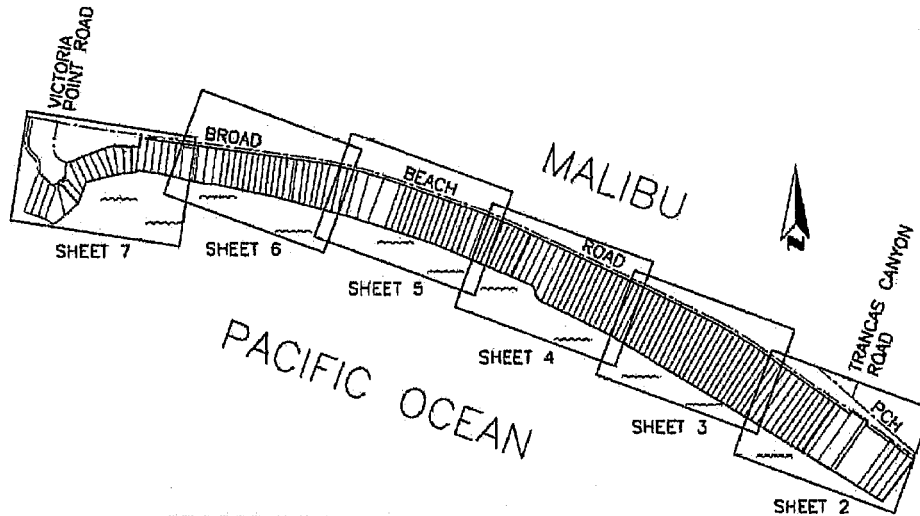
03/14/11

EXHIBIT

2

SHEET 1 OF 7

PLOT TO ACCOMPANY LEGAL DESCRIPTION

**RECORD INFORMATION**

THE CENTERLINES, RIGHTS-OF-WAY, AND PROPERTY LINES SHOWN HEREON ARE BASED ON THE FOLLOWING RECORD MAPS AS FILED IN THE OFFICE OF THE LOS ANGELES COUNTY RECORDER:

TRACT NO. 12314	BOOK 232	PAGES 23-24
TRACT NO. 12909	BOOK 263	PAGES 37-38
TRACT NO. 31986	BOOK 1081	PAGES 78-79
TRACT NO. 32003	BOOK 1081	PAGES 28-29
TRACT NO. 25166	BOOK 695	PAGES 29-31
RECORD OF SURVEY	BOOK 76	PAGES 20-21
F.M. 11698-1		PAGES A1-A8
F.M. 11260-2		PAGES A1-A13

DEEDS REFERENCED AS XX-XXXXXX INDICATE RECORDED INSTRUMENT NUMBER IN THE LOS ANGELES COUNTY RECORDERS OFFICE.

▲ 50-FOOT STRIP OF LAND DESCRIBED IN DEEDS RECORDED IN BOOK 21735, PAGE 135 AND BOOK 21722, PAGE 190, FILED IN THE OFFICE OF THE LOS ANGELES COUNTY RECORDER

LINE TABLE

LINE	BEARING	DISTANCE
L1	S07°28'30"W	65.06'
L2	N84°58'01"W	131.25'
L3	S76°12'50"W	31.00'
L4	N17°26'00"W	11.00'
L5	S72°34'00"W	105.92'
L6	S64°51'00"W	68.42'
L7	S04°26'30"W	110.00'
L8	S56°26'55"W	59.24'
L9	S32°46'52"E	27.00'
L10	N57°13'08"E	16.36'
L11	S34°49'30"W	10.07'
L12	N48°39'15"W	100.66'
L13	S34°49'30"W	32.91'
L14	N55°10'30"W	121.95'

CURVE TABLE

CURVE	DELTA ANGLE	ARC LENGTH	RADIUS
C1	7°43'00"	134.68'	1000.00'
C2	29°35'30"	51.65'	100.00'

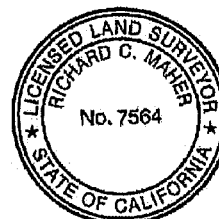
LEGEND

P.O.B. POINT OF BEGINNING
 C CENTERLINE

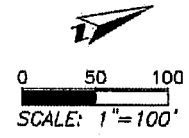
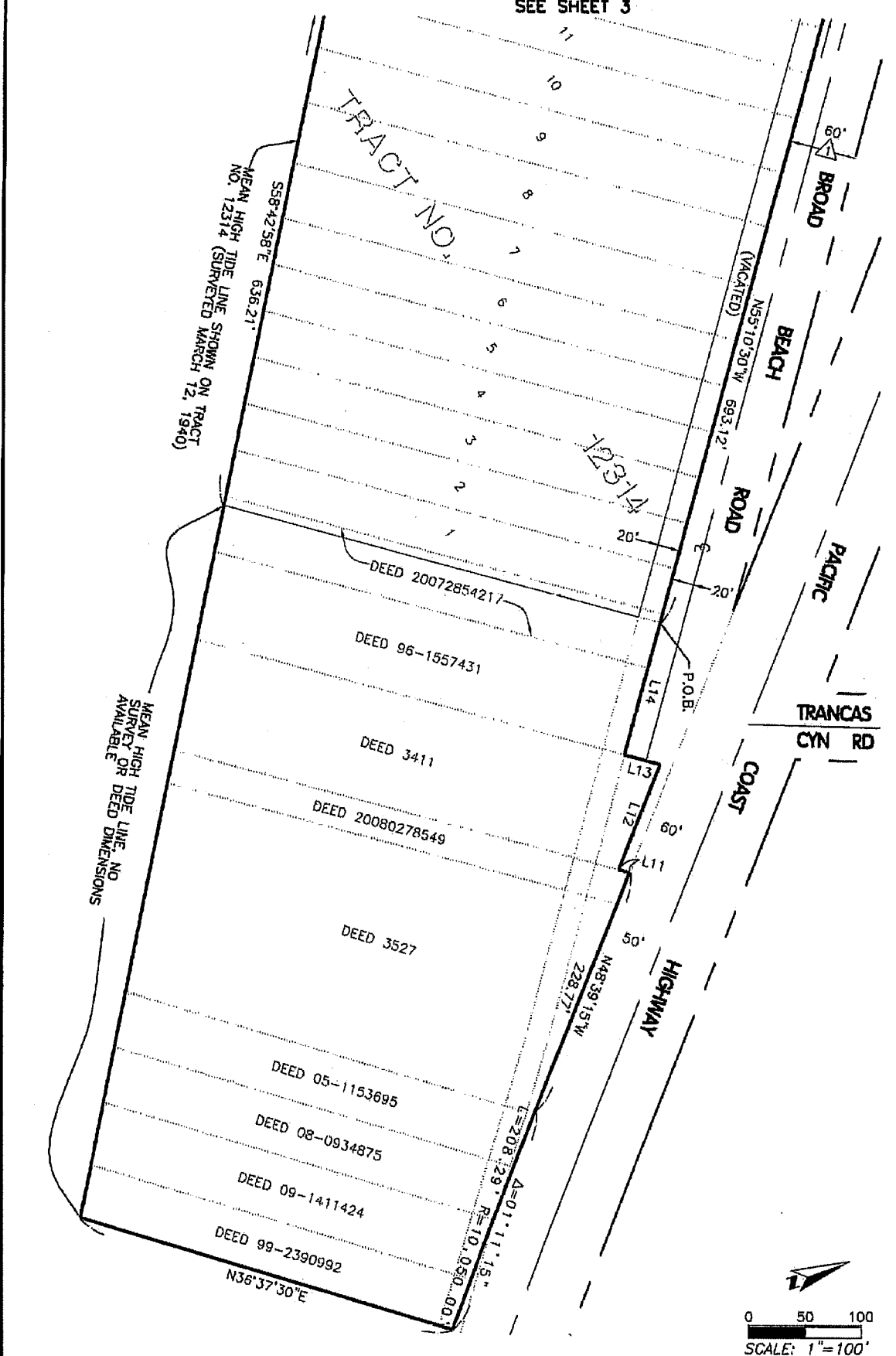
PREPARED BY:

Richard C. Maher 3/14/11
 RICHARD C. MAHER, PLS 7564 DATE

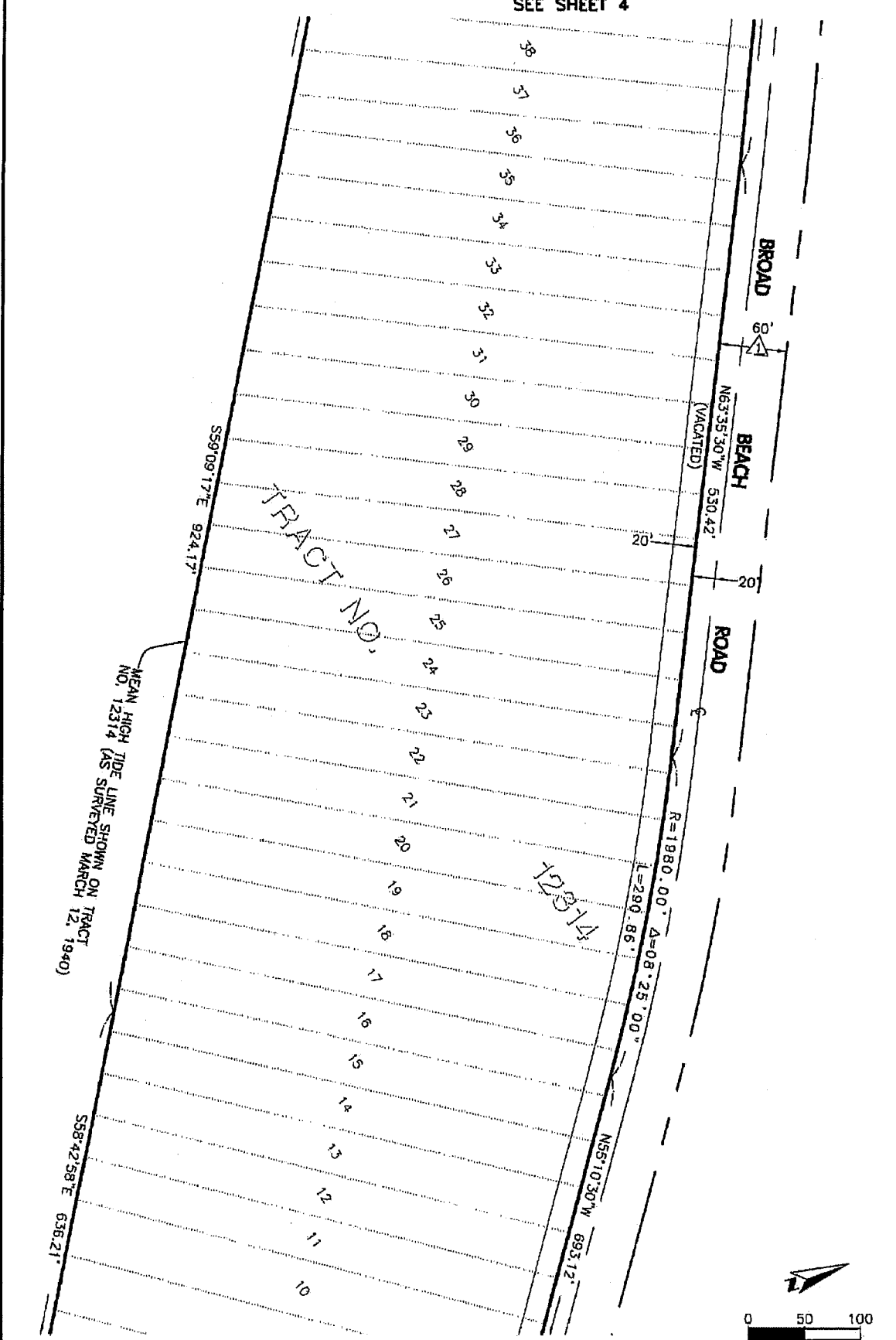
THIS DOCUMENT IS PRELIMINARY UNLESS SIGNED



SEE SHEET 3



SEE SHEET 4



MEAN HIGH TIDE LINE SHOWN ON TRACT NO. 12314 (AS SURVEYED MARCH 12, 1940)

TRACT NO.

12314

BROAD 60'

BEACH

N63°35'30"W 530.42' (VACATED)

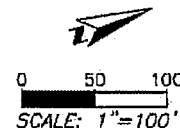
ROAD

R=1980.00' Δ=08°25'00"
L=290.85'

N65°10'30"W 693.12'

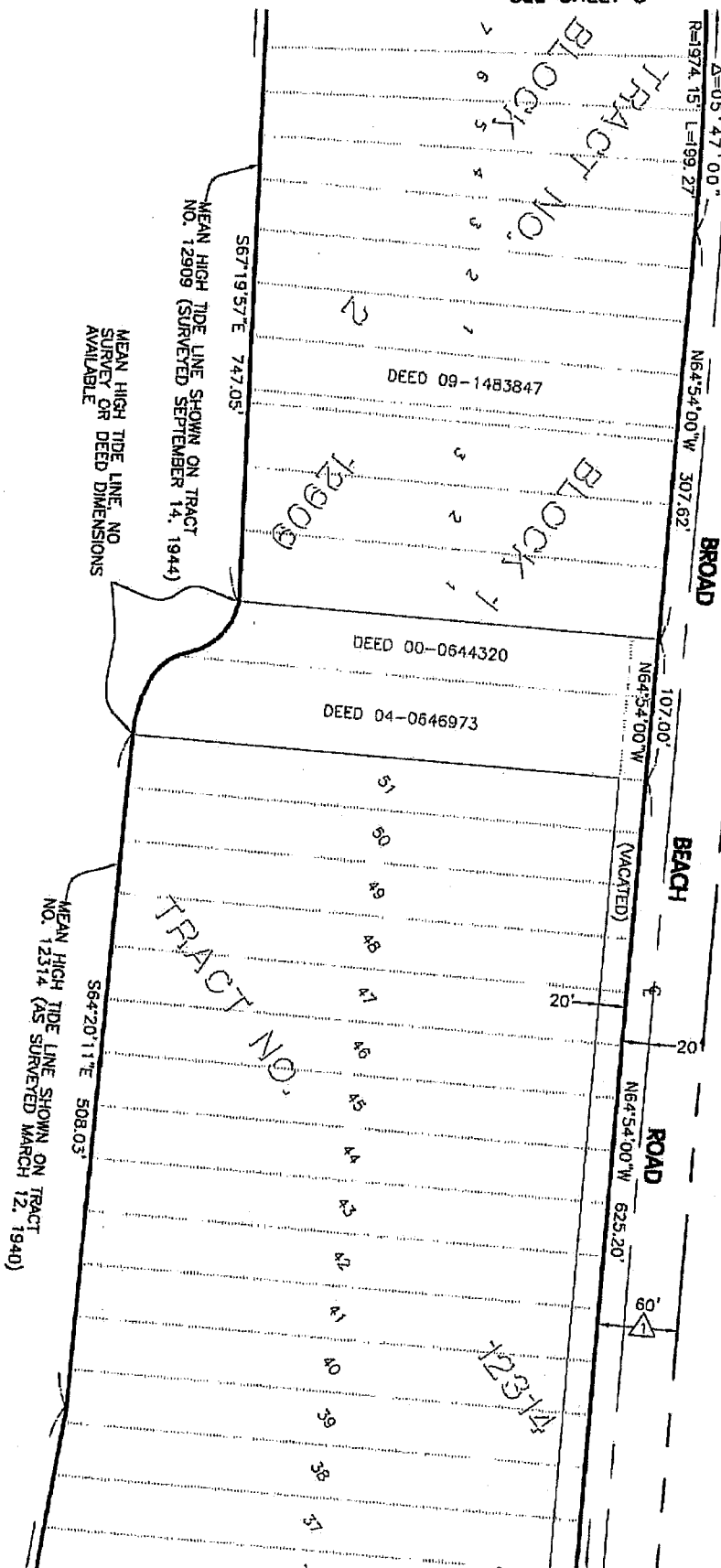
S59°09'17"E 924.17'

S58°42'58"E 636.21'

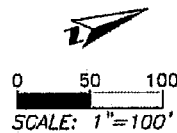


SEE SHEET 2

SEE SHEET 5



SEE SHEET 3



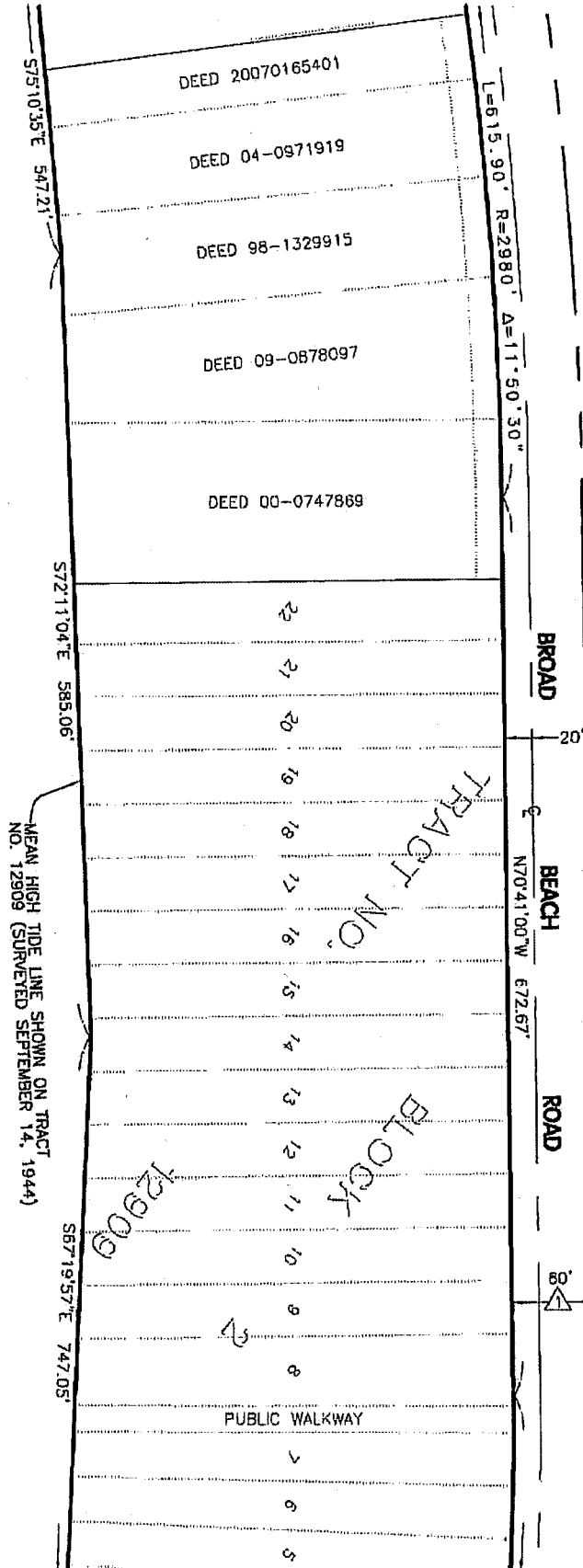
03/14/11

EXHIBIT "B"

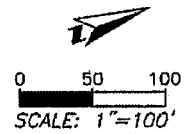
SHEET 5 OF 7

PLAT TO ACCOMPANY LEGAL DESCRIPTION

SEE SHEET 6



SEE SHEET 4



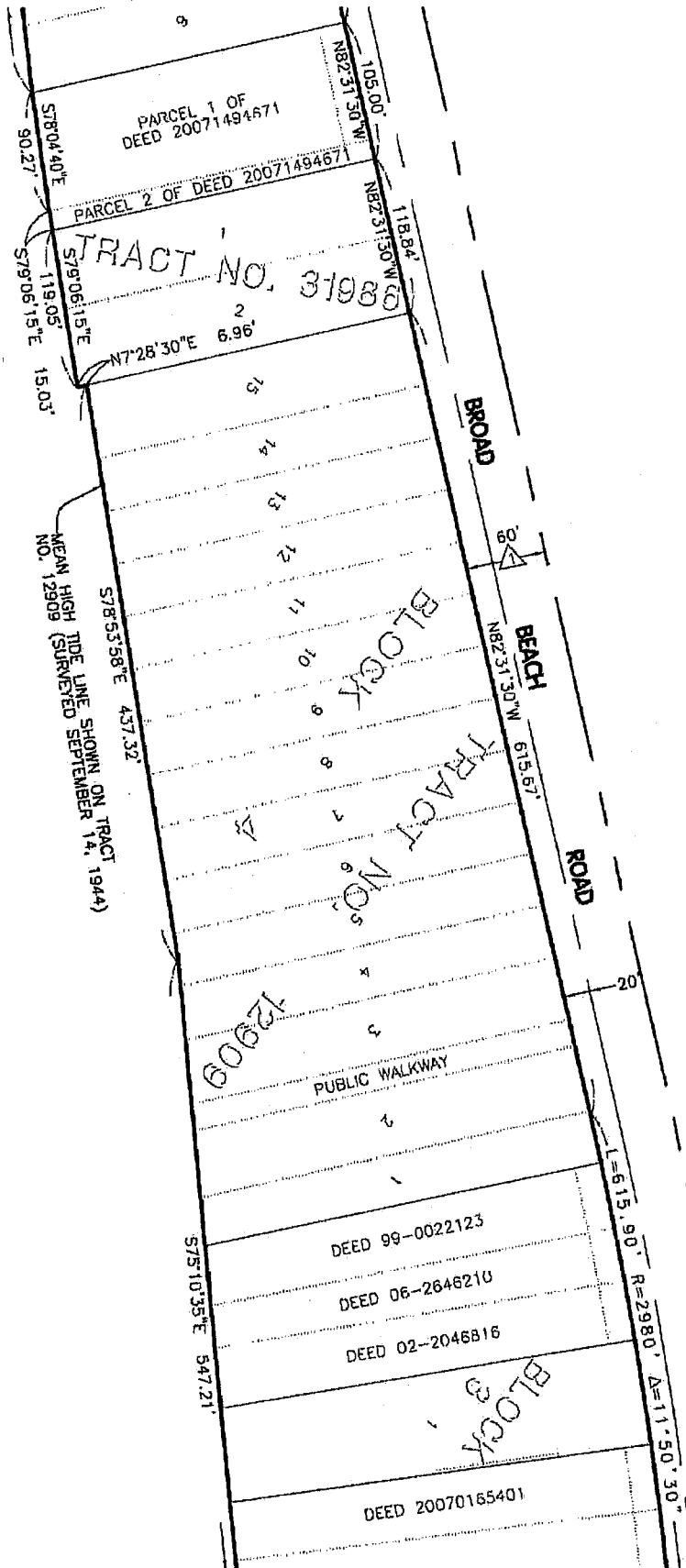
03/14/11

EXHIBIT "B"

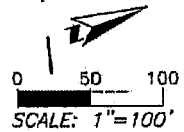
SHEET 6 OF 7

PLAT TO ACCOMPANY LEGAL DESCRIPTION

SEE SHEET 7



SEE SHEET 5

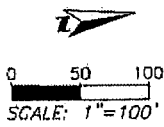
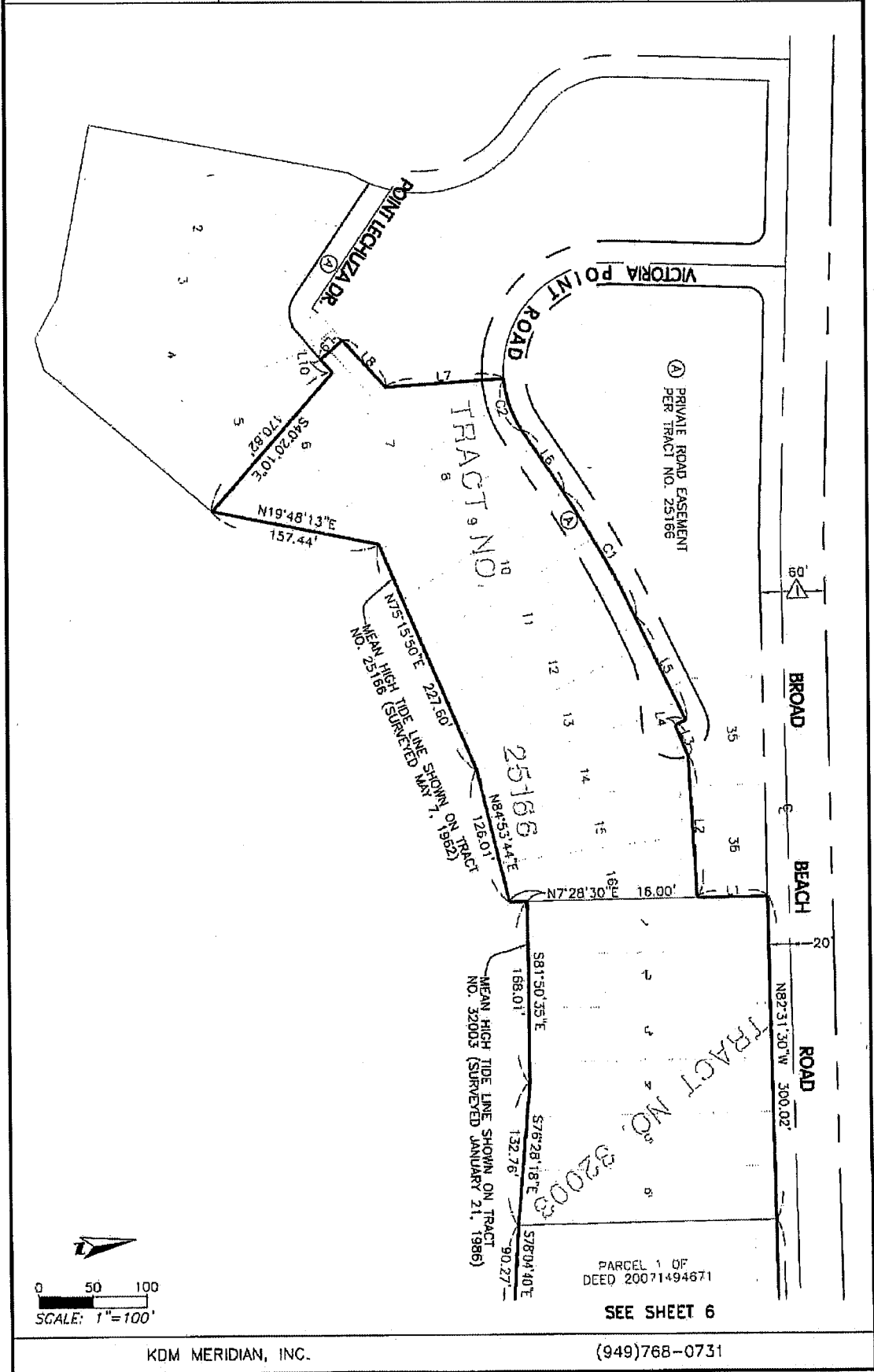


03/14/11

EXHIBIT "B"

SHEET 7 OF 7

PLAT TO ACCOMPANY LEGAL DESCRIPTION



PARCEL 1 OF DEED 20071494671

SEE SHEET 6

EXHIBIT 3 to RESOLUTION 2020/01

EXEMPLAR NOTICE OF
ADOPTION OF RESOLUTION

(parcel-specific Notices to be sent to all
BBGHAD parcel owners)

Owner

Address

APN: 4470-014-XXX

**NOTICE OF BROAD BEACH GEOLOGIC HAZARD ABATEMENT DISTRICT
BOARD OF DIRECTORS' ADOPTION OF RESOLUTION FOR
PROPERTY OWNER VOTE ON A NEW ASSESSMENT**

A. On September 12, 2011, the Malibu City Council adopted Resolution No. 11-41, approving and ordering the formation of the Broad Beach Geologic Hazard Abatement District ("BBGHAD") and appointing five (5) landowners to act as the initial Board of Directors ("BBGHAD Board").

B. On November 6, 2011, the BBGHAD Board adopted Resolution No. 2011/03, which adopted the Plan of Control. The BBGHAD Plan of Control describes the improvements to be implemented by the BBGHAD in addition to its other responsibilities and obligations.

C. On March 11, 2012, the BBGHAD Board adopted Resolution No. 2012/03, which accepted the Certification of Tabulation Official and Statement of Assessment Ballots from the BBGHAD Clerk that the benefit assessment passed as a result of a vote by BBGHAD property owners. On the same day, the BBGHAD Board adopted Resolution No. 2012/04, which confirmed the assessment and authorized the levy and collection of the BBGHAD's assessment.

D. In or about January 2015 and prior to the BBGHAD securing final permits to conduct the contemplated beach restoration, the BBGHAD learned of facts and permitting realities that a portion of the west end, west of 31380 Broad Beach Road, could not receive direct sand nourishment as part of the Project because the Project, as originally conceived, could not achieve regulatory approval without changes to its design and without significant mitigation;

E. Subsequently, in July 2015, the BBGHAD Board held a public hearing and, through Resolution No. 2015/03, declared its' intent to order a new, proposed assessment within the BBGHAD and fixed a hearing date to consider the proposed assessment and any protests thereon ("2015 Assessment"); the 2015 Assessment is based on the Engineer's Report dated July 15, 2015 ("2015 Engineer's Report").

F. On or about September 6, 2015, the BBGHAD Board held a public hearing and, among other actions, adopted Resolution Nos. 2015/04 (accepting the Statement of Assessment Ballots) and 2015/05 (confirming and adopting the 2015 Assessment and authorizing the levy and collection of the assessment within the BBGHAD);

G. The 2015 Assessment contemplates the BBGHAD's placement of significant sand nourishment east of 31380 Broad Beach Road, and no direct sand placement west of this address;

H. Since the adoption of the 2015 Assessment, the BBGHAD obtained certain additional permits necessary to implement the Project; during this permitting period, the BBGHAD staff concurrently finalized commercial arrangements for, among other items, sand source, sand transportation to Project area, and actual construction of the Project;

I. In or about 2017, BBGHAD staff has obtained updated cost estimates for components necessary to implement the Project and such costs exceeded those contemplated in the 2015 Assessment and 2015 Engineer's Report;

Owner
Address
APN: 4470-014-XXX

J. Therefore, on July 23, 2017, the BBGHAD Board held a public hearing and adopted Resolution No. 2017/05, which, among other points, declared the BBGHAD Board's intent to order a proposed assessment within the territory of the BBGHAD and fixed a hearing date to consider the proposed assessment and any protests thereon ("2017 Assessment"); the 2017 Assessment is based on the Engineer's Report dated June 22, 2017 ("2017 Engineer's Report"), and attached as Exhibit 1 to Resolution No. 2017/05.

K. On or about September 10, 2017, the BBGHAD Board held a public hearing and, among other actions, adopted Resolution Nos. 2017/08 (accepting the Statement of Assessment Ballots) and 2017/09 (confirming and adopting the 2017 Assessment and authorizing the levy and collection of the assessment within the BBGHAD);

L. Subsequently, four (4) BBGHAD property owners filed suit challenging the 2017 Assessment, Mark Magidson, Trustee of the Magidson Revocable Trust of 1987 (2006 Restatement), and Malibu-Broad Beach S-1, LLC a California Limited Liability Company through its Manager Mark Magidson; Alexander Haagen III, as Managing Member of 30956 BB, LLC and BB Malibu Place LLC; Mike Schwab; Cheryl Schwab; Andrew Leigh; Barbara Leigh v. Broad Beach Geologic Hazard Abatement District; Board of Directors of the Broad Beach Geologic Hazard Abatement District, Los Angeles County Superior Court Case No. BS170769 (Beckloff) ("Reef Group Action"), and the BBGHAD subsequently filed litigation seeking the Court's validation of the 2017 Assessment, Broad Beach Geologic Hazard Abatement District v. All Persons Interested in the Validity of Resolution No. 2017/09 of the BBGHAD Board, LASC Case No. BC 684646 (Beckloff) ("Validation Action"). The Court consolidated the Reef Group Action and the Validation Action for trial purposes;

M. On or about September 17, 2019, the Court issued its Order Granting Writ Claim and Order Denying Validation ("Order") granting certain of the relief requested by the property owners in the Reef Group Action and denying the Validation Action.

N. On or about January 22, 2020, the Court supplemented its writing in connection with the Reef Group Action and the Validation Action with its Statement of Decision.

O. The Reef Group subsequently filed and served its Proposed Order Granting Petition for Writ of Mandate in the Reef Group Action and its Proposed Judgement in the Validation Action; the BBGHAD has filed objections to both the Proposed Order Granting Petition for Writ of Mandate and the Proposed Judgement.

P. Among other principles, the BBGHAD Board seeks to ensure that the BBGHAD: a) complies with all legal requirements, including those specified in the Order, b) levies and collects an Assessment commensurate with the special benefits received by each and every real property owner within the BBGHAD; and c) treats each and every BBGHAD property owner in a fair, just, and equitable manner; and

Q. The BBGHAD Board intends to order the vote on the proposed assessment contemplated herein to be based on the Engineer's Report dated February 16, 2020 (Exhibit 1)

Owner
Address
APN: 4470-014-XXX

("2020 Engineer's Report") and to set a BBGHAD Board meeting for March 15, 2020 to consider the proposed assessment specified in the 2019 Engineer's Report.

NOTICE IS HEREBY GIVEN that:

On February 16, 2020, the BBGHAD Board adopted Resolution No. 2020/01 declaring its intention to impose a new assessment on the property within the BBGHAD boundaries and fixing a public hearing to consider adoption of this assessment to finance the cost and expenses of the maintenance and operation of the improvements implemented by the BBGHAD as allowed by Public Resources Code Section 26650 *et seq.* The total yearly BBGHAD estimated budget from 2020-2032 is specified in the attached 2020 Engineer's Report and is listed for 2020-2023 on the attached Exhibit 2. Exhibit 2 also specifies: a) your parcel's lineal beach frontage according to the BBGHAD survey, b) the amount anticipated to be assessed in 2020 (unchanged by Resolution No. 2020/01), c) the maximum dollar amount per lineal foot per year that can be assessed according to the proposed assessment (not including CPI increases), and d) the total, maximum annual assessment that can be levied for your parcel according to the proposed assessment (not including CPI increases). As in past years, the BBGHAD anticipates that your annual assessment will be adjusted to reflect the annual percentage change in the Los Angeles Metropolitan Area Consumers Price Index for All Urban Consumers. The assessment for each parcel will be levied beginning with the 2020 fiscal year. Unless the BBGHAD is terminated, the assessment will continue to be levied in perpetuity.

The BBGHAD's 2020 Engineer's Report, attached as Exhibit 1, was prepared by a registered engineer certified in the State of California, and describes in detail the reason for the assessment and the basis upon which the amount of the proposed assessment was calculated. The 2020 Engineer's Report specifically states the yearly estimated budget, the total assessment that will be chargeable to the entire BBGHAD territory, the proposed estimated assessments to be levied each year against each parcel of property, and a description of the method used in formulating the estimated assessment. A copy of the Engineer's Report can also be downloaded from the BBGHAD's website or can be reviewed at the office of the BBGHAD's Project Counsel, Ken Ehrlich, c/o Elkins Kalt Weintraub Reuben Gartside LLP, 10345 W. Olympic Blvd., Los Angeles, CA 90064.

The BBGHAD Board will conduct a public hearing on the proposed assessment on **April 26, 2020 at 9:00 a.m. at 30237 Morning View Drive, Room 3, Malibu, CA 90265.**

The following paragraphs provide the procedures for returning and tabulating the ballots:

1. A copy of this Notice of Adoption of Resolution, a sealable Ballot and the Engineer's Report has been sent to each of the property owners within the BBGHAD. The Ballot may be completed and mailed or hand delivered to the BBGHAD Clerk, c/o Elkins Kalt Weintraub Reuben Gartside LLP, 10345 W. Olympic Blvd., Los Angeles, CA 90064, or may be submitted at the public hearing on April 26, 2010. If you choose to vote by mail, your completed Ballot must be sealed in the enclosed envelope and received in sufficient time to be considered by 9:00 a.m. April 26, 2020 (**NOTE:** Since there will be no U.S. Mail or overnight mail delivery received at this commercial address on Saturday April 25 or Sunday April 26, **ballots sent by**

Owner
Address
APN: 4470-014-XXX

U.S. Mail or overnight mail must be received by Friday, April 24, 2020). If you choose to vote in person, please deliver your sealed ballot to the BBGHAD Clerk before the conclusion of the public hearing at the BBGHAD meeting scheduled for 9:00 a.m. on April 26, 2020. The Ballot may be withdrawn or changed at any time prior to the conclusion of the public testimony on the proposed assessment at the public hearing.

2. Immediately after the close of the public hearing, the BBGHAD Clerk or Election Official shall tabulate the ballots. In tabulating the ballots, the ballots shall be weighted according to the proportional financial obligation of the affected property as calculated by the Assessment Engineers. The proportional financial obligation of each affected parcel is governed by a formula, stated at pages 12-13 of the Engineer's Report, derived by the BBGHAD's Assessment Engineers that estimates the special benefit conveyed by the Project. The formula identifies the special benefit conveyed by the Project to each parcel within the BBGHAD. The formula weights these factors based on their relative contribution to special benefit the Project provides. Special benefit is derived considering six factors, and weighting has been applied to each factor to determine its relative importance as compared to other factors. These factors are supported by the Engineer's Report and the Coastal Engineering Appendix (Exhibit C to the 2020 Engineer's Report) with respect to analysis of shore protection components, including sand placement, revetment, seawall, recreation, and bluff features, and from real estate appraisals and market analyses as well as publicly available property value assessments, for consideration of other values. After considering all evidence available to the Assessment Engineers, including analyses of coastal engineering processes, the Assessment Engineers applied their professional judgment to the factor values regarding the relative efficacy of protective devices and projections of the effects of the Project.

Only those parcels which submit valid ballots for the 2020 Assessment will have their votes counted; and the votes will be weighted in accordance with the above-referenced formula.

3. At the hearing, the BBGHAD Board shall consider any objections or protests to the assessment and certify the tabulation of the ballots. The BBGHAD Board shall not impose the assessment if there is a majority protest. A majority protest exists if, upon conclusion of the hearing, weighted ballots submitted in opposition to the assessment exceed the weighted ballots submitted in favor of the assessment.

4. Public comments or inquiries regarding the proposed assessment may be made in writing by mail to the BBGHAD Clerk, Heike Fuchs, c/o Elkins Kalt Weintraub Reuben Gartside LLP, 10345 W. Olympic Blvd., Los Angeles, CA 90064. All public comments or inquiries on the 2020 Engineer's Report or proposed assessment must be: 1) in writing, and 2) received at the address in this paragraph 4 by no later than the close of business on April 15, 2020.

Owner
Address
APN: 4470-014-XXX

EXHIBIT 1 to NOTICE OF ASSESSMENT

2020 ENGINEER'S REPORT

Owner
Address
APN: 4470-014-XXX

EXHIBIT 2 to NOTICE OF ASSESSMENT

PARCEL-SPECIFIC INFO, COSTS, & BBGHAD BUDGET

EXHIBIT 4 to RESOLUTION NO. 2020/01

BALLOT EXEMPLAR

(parcel-specific Ballots to be sent to all
BBGHAD parcel owners)

BBGHAD 2020 ENGINEER'S REPORT & ASSESSMENT

BALLOT

Identification of Parcel(s): [REDACTED] **and commonly known as** [REDACTED] **Malibu, CA 90265**

BBGHAD
Surveyed
Frontage
(feet) Maximum
2020 Annual
BBGHAD
Assessment
(not
including
CPI)

Record(s) Owner:

[REDACTED]

48 \$60,202.59

_____ Yes, I/we approve the proposed annual benefit assessment described in the attached Notice on the property described by the parcel numbers identified in this Ballot.

_____ No, I/we do not approve the proposed annual benefit assessment described in the attached Notice on the property described by the parcel numbers identified in this Ballot.

Signature of Record Owner or Authorized Representative of the above-identified parcel(s)

[REDACTED]

By _____

By signing above, I hereby declare under penalty that I am/we are the record owner of the parcel(s) above.

Mail or deliver sealed Ballot to:

Clerk of the Board of Directors,
Broad Beach Geologic Hazard Abatement
District c/o Elkins Kalt Weintraub Reuben
Gartside LLP
10345 W. Olympic Blvd.
Los Angeles, CA 90064