

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
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(562) 590-5071

**W14d****ADDENDUM**

February 8, 2011

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: STAFF REPORT ADDENDUM TO **ITEM W14d**, APPLICATION FOR COASTAL DEVELOPMENT PERMIT NO. **#5-10-125 (YESKIN ET. AL.)** FOR THE COMMISSION MEETING OF **February 9, 2011**.

**A. Correspondence.**

Note to Commissioners: Correspondence has been received from opponents to the proposed project. Those letters are contained in the main addendum handed out to you with the green cover sheet.

The following changes to the staff report, partly in response to the letters noted above, is a separate handout that is not contained in the addendum with the green cover sheet.

**B. Revisions to Staff Report**

Commission staff recommends the following revisions to the staff report. Deleted language is in **bold strike through** and new language is in **bold, underlined italic**, as shown below:

For Clarification Purposes, Revise Special Condition No.2, beginning at bottom of page 5, as follows:

**2. OFFERS TO DEDICATE PUBLIC ACCESS AND RECREATIONAL USE EASEMENTS**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the landowner(s) shall execute and record document(s) in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or non-profit entity acceptable to the Executive Director, easement(s) for public pedestrian access and passive recreational use of the following ~~Public~~ **Public** ~~Accessway~~, **Public** ~~Viewpoint~~ and ~~Beach~~ **Beach** ~~Access~~, **as those terms are defined in the Memorandum of Understanding that became fully executed on June 17, 2008, between the Commission and the Owners of lots 5-11 of Tract 4947 in the City of San Clemente, and** as **these areas are** generally depicted on Exhibit 4 to the staff report dated January 27, 2011: 1) a minimum 5 foot wide strip of land, on Lots 7, 8, 10 (**Lot 7/Parcel 1, Lot 8/Parcel 2, Lot 9/Parcel 3, Lot 10/Parcel 4 of proposed Lot Line Adjustment No. LL 10-071**), and 11, Tract 4947 (~~Lot 7/Parcel 1, Lot 8/Parcel 2, Lot 9/Parcel 3, Lot 10/Parcel 4, and Lot 11 of proposed Lot Line Adjustment No. LL 10-071~~), extending from the boundary between Lot 6 and Lot 7, Tract 4947 (Lot 7/Parcel 1 of proposed LLA LL 10-071), along each lot's entire easterly boundary with Boca del Canon, to the lot boundary between Lot 11 and Lot 12, Tract 4947 (**Public Accessway**); 2) a minimum 15 foot wide, by approximately 59 foot long, strip of land on Lot 11, Tract 4947, extending from Boca del Canon to the southwesterly/most seaward lot boundary (**Beach Access**); 3) a minimum 6 foot wide by 119 foot long strip of land, on Lot 11, Tract 4947, extending along that lots entire southwesterly/most seaward lot boundary (**Beach Access**); 4) a minimum 5 foot wide strip of land on Lots 7, 8, and 9, Tract 4947 (Lot 7/Parcel 1, Lot 8/Parcel 2, Lot 9/Parcel 3 of proposed Lot Line Adjustment No. LL 10-071), extending from the boundary between Lot 6 and Lot 7 (Lot 7/Parcel 1 of proposed Lot Line Adjustment No. LL 10-071), Tract 4947, along each lot's westerly boundary with La Rambla and its unnamed public right-of-way extension, to a line at N 32°52'22" E where it will join (**Public Accessway**); 5) a minimum 10 foot wide strip of land along the

entire westerly boundary of Lot 9, Tract 4947 (Lots 8/Parcel 2 and Lot 9/Parcel 3 of Lot Line Adjustment No. LL 10-071) to the west corner of Lot 9, Tract 4947 (Lot 9/Parcel 3 of proposed Lot Line Adjustment No. LL 10-071) (**Public Viewpoint**); and 6) on Lot 6, a minimum 5 foot wide and about 7 foot long strip of land at the southwest corner of the lot to provide a continuous 5 foot wide accessway from the end of La Rambla to Lot 7, Tract 4947 (Lot 7/Parcel 1 of proposed Lot Line Adjustment No. LL 10-071) (**Public Accessway**). Minor adjustments to the aforementioned easement alignments may be authorized by the Executive Director to ensure that continuous 5 foot wide accessways are formed which connect with the easements offered for dedication in conjunction with the development of Lot 6, Tract 4947.

The recorded document(s) described above shall reflect the following restrictions: i) The ~~p~~**Public a**~~Accessway, **Public Viewpoint and Beach Access** easements~~ shall be open to the general public for use 24-hours per day **in accordance with SPECIAL CONDITION NO. 3**; ii) The landowner(s) shall, or, at the election of the easement holder, the easement holder shall, maintain the easement areas in accordance with the Management and Maintenance Program approved by the Executive Director in accordance with SPECIAL CONDITION NO. 4; iii) Any development, as defined in Section 30106 of the Coastal Act, that diminishes permanent public pedestrian access and passive recreational use of the easements ~~is are~~ prohibited; iv) No development, as defined in Section 30106 of the Coastal Act, shall occur within the public access easements except for the following development: grading and construction necessary to construct the public access walkway and steps/ramps and appurtenances (e.g. public access signs, benches, trash receptacles, safety fencing) in accordance with the final plans approved by the Executive Director pursuant to SPECIAL CONDITION NO. 1, underground utilities to serve the proposed development on the subject lots in accordance with the final plans approved by the Executive Director pursuant to SPECIAL CONDITION NO. 1, vegetation removal and planting in accordance with the final landscape plan approved by the Executive Director pursuant to SPECIAL CONDITION NO. 12, construction of drainage devices in accordance with the final plans approved by the Executive Director pursuant to SPECIAL CONDITION NO. 1, and maintenance and repair of the approved development within the easements as identified in the Management and Maintenance Program approved by the Executive Director pursuant to SPECIAL CONDITION NO. 4; **v) Landowners must continue to comply with the obligations, terms and conditions of the Memorandum of Understanding in accordance with SPECIAL CONDITION NO. 6.**

The recorded document(s) shall include legal descriptions and graphic depictions...[no subsequent changes]

For Clarification Purposes, Revise Special Condition No. 6, bottom of page 7, as follows:

6. COMPLIANCE WITH MEMORANDUM OF UNDERSTANDING

The landowners(s) (herein "Landowner(s)") of Lots 5, 6, 7, 8, 9, 10, and 11 of Tract 4947 (herein "the Lots") shall continue to comply with the requirements of the Memorandum of Understanding (MOU), **attached to the staff report dated January 27, 2011, as Exhibit 7**, that became fully executed on June 17, 2008, between the California Coastal Commission and the Landowners regarding the provision of public pedestrian access and visual access upon and/or over the Lots and compliance with development phasing requirements. Among the requirements is that the Landowners shall make the public accessways, public viewpoint, and beach access safely usable by the public, and to construct and open these facilities for public use, within 5 years of the date the MOU was executed, which is June 17, 2013.

To Address Future Shoreline Protection, Add new Special Condition No. 17 and renumber Generic Deed Restriction as Special Condition No. 18 (and update all references thereto), bottom of page 11, as follows:

**17. No Future Bluff or Shoreline Protective Device**

- A. By acceptance of this permit, the applicants agree, on behalf of themselves and all other successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-10-125 including, but not limited to, the residences, garages, foundations, and patios, and any future improvements, in the event that the development is threatened with damage or destruction from waves, erosion, sea level rise, landslide, 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 landowner(s) shall remove the development authorized by this permit, including the residences, garages, foundations, and patios, and any future improvements, if any government agency has ordered that the structures are 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(s) 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.**

Add following to Section II.A.2 of the staff report, at the bottom of page 14:

**Except for the most recent revision to the plans for Lot 11, submitted in December 2010, the City of San Clemente has granted approvals in concept for the project plans for stabilization of the site (including geologic review), project plans for each of the homes, the public accessways, beach access, and viewpoint. The City also reviewed and approved the development plans for Lot 11 that were initially submitted to the Commission. With the same exception for the latest plan revisions for Lot 11, the local community association (the La Ladera Community Association) also reviewed and approved the plans for all of the proposed homes. However, with regard to Lot 11, the applicant made subsequent revisions to those development plans to respond to changes to the mapped location of the bluff edge. The new revised design for the home on Lot 11 is smaller in size (was 4,677 sq.ft, now 2,854 sq.ft) and located further landward than the design previously approved by the City and the La Ladera Community Association. Furthermore, the Orange County Fire Authority has reviewed and granted their preliminary approval. Revised final plans are required pursuant to Special Condition 1, all of which will need final review and approval from the City following Commission action and prior to issuance of this permit.**

**Also, the City of San Clemente Public Works department granted its approval in concept of the proposed lot line adjustment (see letter dated August 10, 2010 by William E. Cameron, Director/City Engineer that is part of file materials for this application).**

Add following to Section II.B (Public Access).1.b of the staff report, at the bottom of page 21:

...as previously agreed in the MOU, continued compliance with the MOU remains essential. Therefore, the Commission imposes Special Condition 6.

In a letter dated February 2, 2011, received by the Commission on February 4, 2011, Mr. Craig F. Cooper states that the proposed public beach access across Lot 11 is not equivalent in time, place or manner to the existing access across Lot 11 used by the public. Mr. Cooper suggests that the proposed access won't reach the existing Coastal Trail located seaward of the site in the same way as the existing access because it doesn't include the "several pathways" across the subject lots. Notably, the Coastal Act (which is the standard of review in this case), Section 30214 provides that "[t]he public access polices shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case." Here, the facts and circumstances of this case, including the parcel configuration, the design and placement of the proposed development and geologic and topographic constraints, dictate the precise placement of the accessway proposed in this application. While there may be several existing pathways across the subject lots, the existing pathways essentially all converge at one point on the bluff top and at the base of the bluff. The existing footpath at first cuts directly across Lot 11, at about the center point of the lot boundary adjacent to Boca Del Canon, and then veers to the north, diagonally across the lot as it descends a slope from about elevation 40 to elevation 24 where the slope meets the Coastal Trail; whereas, the proposed beach access is an "L" shape that begins from Boca del Canon, then follows the boundaries of Lot 11 along its southwesterly/seaward sides (about 15 feet southwesterly of the footpath), where it would connect to the Coastal Trail at the same point the existing footpath does. Although the proposed access is aligned toward the boundaries of the lot, as opposed to through the center of the lot like the existing access, the endpoints of the existing and proposed accessways on the seaward/beach trail side of Lot 11 are virtually the same. Therefore, given the circumstances of this case, the proposed accessway is equivalent in time, place and manner as the existing accessway.

Furthermore, Mr. Cooper suggests that the access across Lot 11 doesn't meet a minimum 10 foot wide standard for public accessways stated in Policy IX.15.a in Section 303B of the San Clemente Land Use Plan; nor does it comply with a 10-foot buffer between the accessway and residential structure called for in Policy IX.15.b. of the LUP (which is guidance, and is not the standard of review, in this case, because the City does not have a certified Local Coastal Program). Consistent with section 30214 noted above, the facts and the circumstances of this case dictate the precise placement of the accessway and its width. As described previously, the first segment of the proposed "L" shaped easement on Lot 11 is 15 feet wide, from Boca Del Canon to the seaward side of the lot. This width is necessary to accommodate a switchback pathway that descends from about elevation 36 feet (finished grade at Boca del Canon) to elevation 27 feet on the seaward side of the lot in an ADA compliant way. Then, the second segment of the "L" shaped easement, along the seaward side of the lot, is 6 feet wide, to accommodate a path that descends from elevation 27 feet, to elevation 24 feet at the Coastal Trail. So, some portions of the proposed access are wider, and some parts are narrower, than the guidance provided in the San Clemente LUP. Nevertheless, the width proposed is what is required in this case to construct an ADA compliant pathway, and is sufficient to provide public access across the site to the beach in a manner that is equivalent or better than what exists today (which is not ADA compliant).

Also, the accessway and proposed house on Lot 11 have been designed to address privacy issues. First the wall of the home that abuts the 15 foot wide easement area/switchback is a solid wall without windows or doors. So, there will be minimal transmission of light/noise between the home and the accessway along that area. Along the seaward side of the lot and proposed home, there is a 5 to 9 foot

wide separation between the accessway and the decks and living space. Furthermore, there would be several feet of vertical separation between the elevation of the decks and the surface of the accessway. Finally, the applicant is proposing to plant screening vegetation between the accessway and the home/decks. The proposed lateral and vertical separation combined with vegetation to provide screening between the accessway and the home/decks will provide an adequate privacy buffer in this case. Although guidance, it is important to note that San Clemente LUP Policy IX.15.b. contains a provision for enlarging or diminishing the size of a privacy buffer 'depending on individual site characteristics'. In this case, the Commission finds that the proposed privacy buffer is adequate given the characteristics of this site.

Finally, Mr. Cooper suggests that the adverse impacts upon public access described above could be addressed by alternatives to the proposed project that have not been considered by the Commission. The alternatives suggested to address access are 'no project', 'reduced density', and 'a lot line adjustment between lots 10 and 11'. The 'no project' alternative would avoid construction of homes at this time and the attendant impacts on existing access. However, that alternative also would not result in permanently securing public rights of access to the beach and to a public viewpoint through easements and the construction of formal accessways and viewpoints like the project proposed by the applicant and conditioned by the Commission. Mr. Cooper suggests that reducing the density of the homes from five homes to four homes would allow Lot 11 to remain undeveloped and thus the existing access across Lot 11 would remain undisturbed. While that alternative would forestall the currently proposed impact it would not permanently forestall future proposals to develop that lot nor result in permanently securing public access. The proposed project, as conditioned, would. Lastly, Mr. Cooper suggests that moving the lot line between lots 10 and 11 '20 feet eastward' would make it possible to develop those lots and avoid construction in the area used now for public access. The purported benefit of this is unclear; whereas the proposed project, as conditioned, will supply public access across Lot 11 that is equivalent in time, place and manner to the existing access, and will result in permanently securing that access for the public.

...As conditioned, the Commission finds the proposed project will provide access that is equivalent in time, place and manner to the existing access and is, therefore, consistent with Section 30214.

Add the following to Section II.C.1.(Geology/Hazards-Site Stabilization) of the staff report, at the bottom of page 24:

In a letter dated February 3, 2011, Mr. Casey Armstrong argues that the proposed development fails to stabilize the landslide mass in a comprehensive manner. He claims that the staff report did not address unstable landslide material on property adjacent to the subject property, on lots 28 and 29. As noted, above, staff indicated that the adjacent lots, lots 28 and 29, are not part of the proposed development plan. As such, the commission cannot exert jurisdiction and place conditions over lots that are not included in an application for development and, to staff's knowledge, are not even owned by the applicants.

Add following to Section II.C.3 (Geology/Hazards-Other Special Conditions) of the staff report, at the top of page 28, after Section 'e':

f. Future Protective Device

The subject site is a beachfront site that includes some coastal bluff, all of which is currently separated from the effects of wave/tidal erosion by railroad tracks that are protected by an existing revetment. In general, bluff lots are inherently hazardous. It is the nature of bluffs to erode. Bluff

failure can be episodic, and bluffs that seem stable now may not be so in the future. Even when a thorough professional geotechnical analysis of a site has concluded that a proposed development is expected to be safe from bluff retreat hazards for the life of the project, it has been the experience of the Commission that in some instances, unexpected bluff retreat episodes that threaten development during the life of a structure sometimes do occur. (See, for example, CDPs P-80-7431 & 5-99-332-A1: Kinard/Frahm; CDPs 5-88-177 & 5-93-254G: Arnold; CDPs 5-84-46 & 5-98-39: Denver/Canter; CDPs 5-95-23 & 5-99-56: Bennet; and CDPs 6-88-515 & 6-99-114G: McAllister). In the Commission's experience, geologists cannot predict with absolute certainty if or when bluff failure on a particular site may take place, and cannot predict if or when a residence or property may become endangered as a result of impacts from coastal or geologic hazards.

Section 30253 of the Coastal Act requires that new development shall not require construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The proposed development could not be approved as being consistent with Section 30253 of the Coastal Act if projected bluff retreat would affect the proposed development and necessitate construction of a bluff or shoreline protection device.

The Coastal Act limits construction of these protective devices because they have a variety of negative impacts on coastal resources including adverse affects 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 residential development only for existing principal structures. The construction of a shoreline protective device to protect a new residential development would not be required by Section 30235 of the Coastal Act. In addition, the construction of a shoreline protective device to protect new residential development would conflict with Section 30251 of the Coastal Act which states that permitted development shall minimize the alteration of natural land forms, including coastal bluffs which would be subject to increased erosion from such a device.

Although the proposed project involves significant geologic remediation, the structures are not for the purposes of shoreline protection. The proposed caisson array is for purposes of bluff stabilization to minimize risk to life and property consistent with section 30253(a), not for purposes of shoreline or bluff protection.

The proposed development constitutes new development for the purposes of Sections 30235 and 30253. Because the proposed project is new development, it can only be found consistent with Section 30253 of the Coastal Act if a shoreline/bluff protective device is not expected to be needed in the future. With geologic remediation, the applicant's geotechnical consultant has indicated that the site will be stable, that the project should be safe for the life of the project. If not for the information provided by the applicant that the site is safe for development, the Commission could not conclude that the proposed development will not in any way "require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs." However, as stated above, geologic conditions change over time and predictions based upon the geologic sciences are inexact. Even though there is evidence that geologic conditions change, the Commission must rely upon, and hold the applicant to their information which states that the site is safe for development without the need for protective devices. Therefore, the Commission imposes Special Condition 17, which prohibits the applicants and their successors in interest from constructing shoreline/bluff protective devices to protect the proposed development and requiring that the applicants waive, on behalf of

**themselves and all successors and assigns, any right to construct protective devices for the proposed project that may exist under Section 30235 of the Coastal Act.**

Add following to Section II.D (Public Views) of the staff report, at the top of page 30:

...the Commission imposes Special Condition 14, which requires the applicants to address the visual impacts if they do arise in the future.

**In a letter dated February 2, 2011,, received by the Commission on February 4, 2011, Mr. Craig F. Cooper suggests that the project as conditioned by the Commission would not address adverse impacts upon public views across Lot 11 and that there are alternatives to the proposed project, that have not been considered by the Commission, that would substantially lessen those significant adverse effects. The Commission does not concur with that analysis. The alternatives suggested by Mr. Cooper to address visual impacts are 'reduced density'; 'lot line adjustment between Lots 10 and 11'; and 'reduced height/square footage/lot coverage on Lots 7, 8 and 9'. To begin with, the Commission must point out that the design of the proposed project, including changing the configuration of Lots 7, 8, 9, and 10, is the result of extensive alternatives analysis by the applicants, in consultation with the Commission, in the context of the comprehensive plan required by a Memorandum of Understanding between the property owners and the Commission. The resultant alternative, which is now being proposed, is a significant reduction of adverse visual impacts that would have resulted from developing the lots in their existing configuration. The proposed project results in less public view blockage than any development alternative previously submitted to the Commission. Mr. Cooper suggests that reducing the density of the development from five homes to four would be a further improvement by allowing Lot 11 to remain undeveloped and/or moving the lot line between lots 10 and 11 to allow development on Lot 11 to be located outside the existing view corridor. First, the significance of the public view across Lot 11 must be examined. Mr. Cooper suggests that there are whitewater ocean views available from Boca del Canon across the subject site. Mr. Cooper hasn't demonstrated that such a view exists. However, to the extent such view does exist, it must be noted that the proposed project, as conditioned, includes a public viewpoint from the bluff top that overlooks Lot 11 and offers significant public coastal views, including whitewater, up and down the coast. As conditioned, these public views will be unobstructed by development proposed on the subject lots. Furthermore, that viewpoint will be secured permanently for public use via a public easement. Neither of these permanent benefits would be realized without the proposed project. In addition, the project as proposed, includes a fifteen foot wide public access easement through which public views to the ocean will remain available. The difference between that view and the one suggested by Mr. Cooper hasn't been made clear, nor the significance demonstrated.**

**Mr. Cooper suggests that reducing the height, square footage, and lot coverage will address adverse visual impacts. The Commission concurs that reducing the height of the proposed structures is required. Special Condition No. 1 addresses heights and requires them to be reduced in some cases. However, the relevance of square footage and lot coverage to view issues, in this case, is not clear. In the context of the letter, Mr. Cooper appears to be suggesting that the homes are too large for the area and aren't consistent with community character. However, the applicant's architect has provided data showing that the homes proposed here are similar in size to other homes in the area. Furthermore, the Commission notes that the La Ladera Community Association, which is charged by the local community with the responsibility of reviewing architecture for consistency with community character, has approved the proposed home designs and their sizes. While smaller homes may be feasible, reducing the sizes of the homes in this case would not address an adverse impact on public views that is not already addressed by the alternative chosen by the Commission.**

...Therefore, as conditioned, the Commission finds the proposed development consistent with Section 30251 of the Coastal Act.

Add the following to Section II.J. (Consistency with the California Environmental Quality Act (CEQA)) of the staff report at page 34, adding the following language to the second paragraph:

The City of San Clemente is the lead agency for purposes of CEQA compliance. The City determined that the project is categorically exempt from CEQA; ~~however. However~~, the Commission adopts additional mitigation measures. The proposed project has been conditioned in order to be found consistent with the public access, visual resource, environmentally sensitive habitat, geologic hazards, and water quality policies of the Coastal Act. Mitigation measures, in the form of special conditions require 1) Revised Project Plans to address issues related to public access, views, and water quality; 2) Offers to Dedicate Easements, 3) Prohibition on Gates and Hours, 4) Accessway Management and Maintenance, 5) Phasing, 6) Compliance with Memorandum of Understanding regarding Provision of Off-site Access and Phasing (MOU), 7) Conformance with Geotechnical Recommendations, 8) Assumption of Risk, Waiver of Liability and Indemnity, 9) Debris Disposal, 10) Construction Storage, 11) future development , 12) landscaping, 13) fire authority requirements, 14) visual impact mitigation requirements for exposed structures, 15) bird strike prevention measures, 16) liability for costs and attorneys fees, **17) No Future Bluff or Shoreline Protective Device;** and ~~187~~ a deed restriction. **The Commission has considered alternatives throughout the staff report in section II. It finds that the alternatives considered are not feasible. Thus, As conditioned,** there are no feasible alternatives ~~or feasible mitigation measures~~ available which would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, **as conditioned,** the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.



AGENDA NO. W14d  
APPLICATION NO. 5-10-125  
CRAIG F. COOPER-  
OPPOSITION

California Coastal Commission  
South Coast Area office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802

RE: Staff Report W14d  
Application Number 5-10-125  
Lots 7-11 Boca Del Canon Tract 4947

RECEIVED  
CRAIG F. COOPER  
FEB - 4 2011

CRAIG F. COOPER  
COASTAL OPPOSITION

This communication and request is sent in response to the Staff Report referenced above. That report describes the proposed development of five lots southwesterly of the intersection of La Rambla and Boca Del Canon with a recommendation for Commission approval. The Staff Report has material omissions and information that requires correction. We are taking this opportunity to provide information that we believe the Commission needs in order to make an informed decision.

Before registering our comments and requests, we bring to your attention the fact that the Applicants request for a Coastal Permit is premature. Applicants are requesting a decision from the Coastal Commissioners without plan approval from the City of San Clemente or La Ladera Community Association, the H.O.A. that include the lots in this proposed project. The City of San Clemente is the "lead agency" in the approval process. This project has not received final review by the City of San Clemente Planning Department and has not been presented to the City Planning Commission or the City Council. The California Coastal Commission has no idea if the City of San Clemente will accept the public access that is proposed or if they will maintain said access. No government entity has addressed the issue of enforcement related to the operation and maintenance of a ramped, below ground level access. Most important to the Commissioners understanding of this process is that the proposed plan for public access is out of compliance with the San Clemente Land Use Plan in several important respects. Information about the failure to meet San Clemente Land Use Plan requirements is included in these comments.

Coastal Commission Staff has recommended approval of a coastal development permit and drafted a resolution to approve the permit. The rationale offered as support for approval of a coastal permit is based on these two findings: "1), feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on 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." As we will demonstrate in this report, neither of those statements is accurate.

The proposed new public access is not properly designed, and most importantly, is not in compliance with requirements stipulated for this specific site as referenced in the San Clemente Land Use Plan. These requirements are very specific and describe the criteria for a public access at Boca Del Canon, and also, the requirements for a maintaining a visual corridor.

With respect to the finding that there are no further feasible mitigation measures or alternatives we will demonstrate that proposed construction over the existing public access can be further mitigated in a number of ways. We offer alternatives in this response to the Staff Report.

### **Public Access**

The discussion of Public Access is found on page 15 of the Staff Report. On page 17, there is a description of the “several pathways” across the subject lots that provide access to the coastal trail and beach. Assuming development of the project as requested by the applicants, there would be only one path utilizing Boca Del Canon and the access through lot 11. Thus, this single access assumes critical importance in determining whether the proposed new access is equivalent in time, place, and manner to the access that would be lost as a result of the proposed project. It does not.

*The Staff Report (p.15) cites San Clemente Land Use Plan, Section 303B, Policy IX.15:*

*“New developments lying between the first public roadway and the shoreline shall provide both physical and visual access to the coastline.*

- a. *Any new development proposed by the private communities listed below shall be required to provide an irrevocable offer of dedication of an easement to allow public vertical access to the mean high tide line ... The access easement shall measure at least 10 feet wide. Development permits will require public vertical access for new development at the following private communities: ...La Ladera (Boca del Canon )”*

The description of the proposed access through lot 11 is described on page 20 of the Staff Report. The access cited would connect a sidewalk easement down Boca Del Canon to lot 11.

*“That easement then connects to a 15 foot wide, by approximately 59 foot long easement on lot 11 that extends from Boca Del Canon to the southwesterly/most seaward lot boundary. Finally, a 6 foot wide by 119 foot long easement, also on lot 11, extends along that lot's entire southwesterly/most seaward lot boundary.”*

The proposed public access has two segments, a vertical ramp system that is 15 feet wide and a north/south element that is proposed to be just 5 feet wide. As a result, the proposed public access does not meet the required San Clemente Land Use Plan standard of being “at least 10 feet wide”. Under the applicant’s proposal, the existing public access path to the coastal trail and beach would be replaced by a vertical ramp system leading to electrical equipment and a sewer pump station. From Boca Del Canon, a person trying to reach the coastal trail would wind through a series of ramps. Once reaching the bottom of the ramp, the access path would turn north, behind the pump station until connecting with the existing lower access path. This does not constitute anything equivalent to the existing public access and does not satisfy San Clemente Land Use Plan, Section 303B, Policy IX.15.

## Public Views

The Staff Report (p.28) cites Section 30251 of the Coastal Act, which reads in part: *“The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance.....”*

The Staff Report continues: *“San Clemente Land Use Plan, Section 305A (Coastal Visual Resources Goals and Policies), Policy XII.9 states: Promote the preservation of significant public view corridors to the ocean”*

The Staff Report continues on page 29: *“....Finally, the applicants are proposing a 15 foot wide corridor, that is adjacent to and pairs up with a 10 foot wide utility easement on lot 12, that together will form a 25 foot wide corridor across Lot 11. Thus, there will be views across Lot 11 that will be substantially similar to those that exist today.”*

The existing view at the southerly portion of Lot 11 affords a panoramic view of the beach and ocean. From the sidewalk, the natural opening to the sea is approximately 100 feet. A few steps onto the access path reveal a view from Cotton’s Point to the Dana Point Headlands.

The assertion that there will be a “25 foot wide corridor across Lot 11” is misleading. The 10 foot wide easement cited on Lot 12 is for an underground drain. The surface of that easement is landscaped and contains a hedge that could be 8-10 feet high. The property owner on Lot 12 is under no constraints with respect to landscape and could plant trees that would shield his residence from the proposed access and effectively block all but 15 feet of the proposed view corridor. The proposed ramp would block any view once the public departs the sidewalk. Gone would be the view of whitewater, Seal Rock, Santa Catalina Island and the San Clemente Pier.

There is another major compliance issue with applicant’s public access proposal. There are provisions in the San Clemente Land Use Plan to provide separation and privacy between public access and private property. The proposed residence on Lot 11 is separated from the proposed public access by 12-18 inches. Although not cited in the Staff Report, San Clemente Land Use Plan, Section IX.15 includes provision for view protection from residential structures. Section IX.15, b. reads, in part:....

*“In areas where a residential structure exists in the vicinity of the proposed access, the accessway shall be sited and designed to provide a buffer area between the accessway and the structure. Generally, a 10-foot buffer between the accessway and the residential structure will be adequate to protect the privacy of those potentially affected. This dimension may be enlarged or diminished depending on individual site characteristics.”*

The design of the public access and residence on Lot 11 does not meet the requirements of The San Clemente Land Use Plan.

The issue of public views is addressed in the Staff Report on page 28:

*“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.....”*

The report goes on to validate the importance of preserving public views at the La Rambla – Boca Del Canon location

Coastal Commission Staff’s recommendations do not go far enough to protect the viewshed toward the beach, ocean, and bluffs. The eastward side of the bluff top is the viewshed from the La Rambla gate entrance, the view from Boca Del Canon, and the view from the homes surrounding Toledo Canyon. The eastern or inland side of the bluff top forms a ridgeline with the ocean beyond. To meet the public views requirement all of the proposed homes, including Lot 8, should be held below the inland bluff level or ridgeline. We request that Special Condition 1. D. Height of Structures and Landscaping be re-written to protect the ridgeline (bluff level) formed at the Boca Del Canyon side of Lots 7-11.

### **Resolution To Approve is Flawed**

The Resolution to Approve the Permit, prepared by Staff, states that “there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.” In fact, viable alternatives are available.

#### Alternatives

Failure to approve the proposed project will neither eliminate all economical beneficial or productive use of the applicant’s property, nor unreasonably limit investment-backed expectations of the subject property. Several alternatives to the proposed development exist. Among those possible alternative developments are the following (though this list is not intended to be, nor is it, comprehensive of all possible alternatives):

#### 1. No Project

No changes to the existing site conditions would result from the “no project” alternative. As such, there would be no impacts to existing public access. The property would remain as an undeveloped lot. This alternative would result in the least amount of effects to the environment and also would not have any adverse effect on the value of the property, though it would not, in and of itself, put the property to any productive economic use.

## 2. Reduced Density

Tract 4947 provides for four residences along Boca Del Canyon where applicants now seek to build five homes. By adjusting the lot lines as requested by applicant, there would be an opportunity to construct homes on Lots 7-10 and leave Lot 11 undeveloped. This alternative would provide applicants with an opportunity to build the four residences as provided by tract map 4947 and leave the visual corridor and public access undisturbed. No variance would be required.

## 3. Lot Line Adjustment/Reconfiguration/Comprehensive Development Plan

A lot line adjustment between Lots 10 & 11 would provide the greatest range of flexibility with regard to the design and construction of homes on these lots. Adjusting the lot line between these lots approximately 20 feet eastward would allow the applicants to shift the building pad of lot 11 eastward so that the existing public access and view corridor would be undisturbed. The residence on Lot 11 could achieve a whitewater view and the public would retain the panoramic view and coastal trail access they now enjoy. It is unlikely that a variance from bluff edge would be required.

## 4. Lots 7,8 & 9- Reduced Height/Square Footage/ Reduced Lot Coverage

As described in the Public Views section of this report, the proposed homes on these lots obstruct public views. As designed, the homes significantly exceed the size and lot coverage of comparably sized residences in the neighborhood. The lot coverage and mass of these homes derives from a combination of (1) The applicants design plan of four levels on Lots 8 & 9, and, (2) Taking advantage of a 1963 tract ruling that allows variance from the City of San Clemente 20 foot front yard setback requirement.

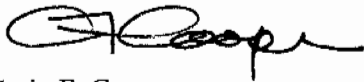
Restricting the design of these homes to 3 levels would conform to the character of the community and resolve the issue of view obstruction. Clearly, it would be both feasible and more consistent to construct smaller residences on these lots. Smaller residences could be both lower in height as well as sited in a manner that reduces or avoids adverse visual impacts.

**Summary**

1. This project should be reviewed by the City of San Clemente Planning Commission and City of San Clemente City Council before Coastal Commission considers issuing a Coastal Permit.
2. The Staff Report finding that "There are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment" is not accurate.
3. We have outlined a number of further mitigation measures that would substantially lessen the adverse impacts of this proposed development.
4. The proposed public access over Lot 11 does not meet specific requirements of the San Clemente Land Use Plan with respect to the easement requirements.
5. The proposed development does not meet the requirements of Section 30251 of the Coastal Act with respect to the protections of the scenic and visual requirements of the site. Contrary to the statement in the Staff Report that "There will be views across Lot 11 that are substantially similar to those that exist today", almost all of the ocean view would be gone.
6. The development does not provide a required buffer between the proposed residence and public access on Lot 11, thus the plan is not in compliance with San Clemente Land Use Plan, Section 1X.15.
7. The Staff Report cites the importance of the viewshed from the gate at Boca Del Canon-La Rambla. That view would be adversely impacted if structures were allowed above the eastern ridgeline of the coastal canyon bluff.

I respectfully request the Commissioners withhold their approval of the Resolution To Approve The Permit as presented in Staff Report W14d.

Sincerely,



Craig F. Cooper  
317 Boca Del Canon  
San Clemente, Ca 92672

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California Coastal Commission

California Coastal Commission  
45 Fremont Street, Ste. 2000  
San Francisco, California 94105

Staff report W14d  
Application Number 5-10-125  
Casey Armstrong  
OPPOSITION

February 3, 2011

Dear Commissioners:

I am a resident of the neighborhood where a proposal to develop a landslide property, if approved, is likely to result in a loss of public view corridor, and likely will leave the property with ongoing distress from poorly considered mitigation of erosion and earth movement. This letter is sent in response to the subject Staff Report describing and recommending approval of a proposed development of five lots southwesterly of the intersection of La Rambla and Boca Del Canon streets in San Clemente, California. Within the Staff Report the site is discussed as being subject to hazards from landslide, erosion, and earth movement. Below, I discuss several issues at odds with the Staff Report assertion that the subject Application (“Application”) is comprehensive in scope and that the Application proposal satisfactorily mitigates the site hazard of landslide, erosion, and earth movement. Additionally, the Staff Report presents Special Condition 1D regarding a height limitation to the proposed structures intended to preserve public view corridor. Language in 1D, and elsewhere in the Report, compromises the intent and the enforceability of the height limitation.

The Staff Report recommendation for Commission approval is based upon reliance that issues related to these important elements of the Application proposal are satisfactorily addressed and mitigated. Because of that erroneous basis, respectfully, the Application should be denied pending a subsequent revised proposal with truly satisfactory resolution to the issues discussed in this letter to you. These issues are:

**1) Compromising of Special Condition 1D Intent.**

The Staff Report presents Special Condition 1D with the stated purpose of limiting all homes and other structures to not exceed the elevation of the finished surface of the public walkway, at approximate elevation of 92.5 feet, thereby preserving the public view corridor consistent with Section 30251 of the Coastal Act. By beginning Special Condition 1D with the statement “Except as specified herein” the Staff Report is not

clear what “approximately 92.5” feet is intended to mean. Lot 7 is given an allowable height limit of 95 feet which allows for portions of the lot 7 residence and retention wall to exceed portions of the adjacent elevation of the public walkway. Lot 8 is shown as extending to a height of 96 feet with a later discussion in the Report indicating lot 8 existing plans require further modification. Lot 8 is discussed further on page 29 at Findings and Declarations, item D; Public Views where it is stated “the roof heights are largely below the existing elevation of La Rambla, and the undeveloped bluff top areas seaward of the end of La Rambla, and below the proposed public walkway and viewpoint”..... Exhibit G-4, cross section A-A’ shows the elevation of La Rambla in excess of 100 feet. Use of the term “largely” implies not all and suggests somewhere in the Report that not all of the roof heights need be below a certain height limitation. Indeed, as cited above lots 7 and 8 are presently shown to exceed the intended limitation.

The stated intent of Special Condition 1D is to maintain the public view corridor by implementing a height restriction. Special Condition 1D fails in its construction to implement this height restriction by not applying a specific height limitation of 92.5 feet to all of the lots without equivocation. Terms which equivocate such as “except as provided herein”, and “approximately” and “largely” should be removed from the Special Condition 1D, and page 29, yielding an enforceable height limitation that will serve to reduce future uncertainty and/or litigation.

## **2) Request for setback reduction.**

“Section 30253 of the Coastal Act requires that risks and geologic instability be minimized and requires new development to be designed to assure it is stable and has structural integrity throughout the life of the structure”. Approval of the proposed development does not fulfill the requirement of Section 30253 of the Coastal Act. In contrast to all guidelines, allowing for construction of lot 11, as proposed, the subject Application requests to encroach 9 feet into the 25 foot setback typically required by the City of San Clemente. Staff Report states the city requirement is typically applied except “provided that a site specific geologic analysis doesn’t recommend a larger (*not a lesser*) bluff edge setback”.



The site is underlain by Capistrano Formation sedimentary rocks which are easily eroded in the natural undisturbed state. This site is underlain by these same friable/easily eroded sediments not in the undisturbed state, rather in an extremely disturbed state, as landslide debris! A site visit shows the ocean facing bluff face retreating with multiple gullies having been eroded by water draining off of the small bluff top area of collection, demonstrating a little water will do a lot of damage to this site. Even though the area is not exposed to wave action, moisture and rainwater has, and continues to, severely erode the bluff face. Rains just this year have led to blocks of sediment falling off of the bluff face, and led to advanced erosion of deeper incised gullies along the bluff face.

In this circumstance where erosion easily alters conditions and is actively causing retreat of the natural bluff face, no reduction of setback should be considered. Staff Report, page 25 states "Setting development back from the edge of the bluff can substantially decrease risk because the further landward from the bluff edge development is located, the less likely it is that the development may become threatened by bluff retreat". The setback as provided in the City of San Clemente Certified LUP, Policy VII.14 of a *minimum* 25 feet should be adhered to and best safe practice would be to increase this setback beyond the minimum.

### **3) Allowance for exposure of caisson supports through erosion.**

The Staff Report at page 25 states: "approximately 30 caissons are proposed to be located within 25 feet of the bluff edge. These structures will be located below ground surface. Thus, they would not *immediately* have an adverse visual impact. However, over time erosion could expose these structures, and make them visible from various vantage points"..... This statement is further supported and expanded to other structures which subsequent to construction must be addressed when exposed. Staff Report at page 10, includes Special Condition 14. "Future Caisson/Shear Pin/Retaining Wall Exposure Plans". In this Special Condition staff proposes addressing exposed elements by making them more aesthetic through matching their appearance with the surrounding terrain. The question arises as to what circumstance will stop the process that exposes the element in the first place? Also, what will stop ongoing exposure by erosion, ultimately will the entire element be exposed? If development as proposed *cannot* be achieved without the

expectation of exposing the support system, then the Application should be denied and reconsidered with an alternative proposal.

**4) The Proposed development fails to stabilize the landslide mass in a comprehensive manner.**

A large portion of the landslide remains unsupported. A review of Exhibit 5a, Overall Site Plan, shows an estimated 30-40% of the landslide mass adjacent to the subject Application lots will have no support system. Site Plan Grading Sections G5 C-C' (note on the site plan this section is identified as D-D'), G6 E-E', G6 F-F', G7 G-G', G7 H-H', G8 I-I', and G8 J-J' all show no caisson support for the landslide mass west of the lots included in the subject Application. Without a comprehensive plan to address the entire landslide mass, how will this unsupported mass be addressed? This unsupported landslide mass is unconfined to the west of the subject lots. The Staff Report at page 24 states: "However, these stabilization measures will not change hazard conditions on lots that are affected by the landslide, but are not part of the proposed development plan, such as Lots 28 and 29, which are located seaward of /adjacent to Lots 7,8,and 9." Further, Figure 4 of the Update Geotechnical Grading Plan Review, Lots 7 through 11 . . . . . dated February 9, 2010, prepared by the Applicant's geotechnical consultant shows in plan-view a significant area of the landslide mass which "May be subject to Future Landslides". If a landslide should occur in this area, as suggested by Figure 4, then the entirety of the extensive caisson support system proposed in the Application will be subject to exposure on its western margin. Subsequent erosion of fragile landslide scarps developed as a consequence of landslide will exacerbate exposure of the caisson support system. Following these events, one or both, a logical consequence of allowing the proposed Application to proceed in this circumstance is the future request for installation of retaining wall devices to minimize damage to the support system and the adjacent structures. If no structures and consequently no support system is installed, then the landslide mass will be allowed to erode and degrade in a natural state and the risk of installing future retaining devices is reduced, if not eliminated entirely.

Also of note in the Staff Report, as presently proposed each home descending down Boca Del Canon is only slightly lower in elevation to the preceding home which yields a monolithic appearance to the entirety of the

homes as viewed along the existing view corridor, and as viewed from other vantage points. An enhanced amphitheater design of the homes as they descend Boca Del Canon, similar to the design of homes located directly across Boca Del Canon, would be a better fit with the existing neighborhood and would preserve public views.

In conclusion, the important issues as discussed above remain vague or simply unresolved in the subject Application. The Application is not ready for approval as a comprehensive package. The Application fails to satisfactorily address these issues and we respectfully request a denial of the Application as proposed, with direction to the applicants to address these critical unresolved issues in a future Application.

Thank you for taking time to consider this matter.

Casey Armstrong  
San Clemente, California

CC: Karl Schwing

AGENDA # W14d  
APPLICATION # 5-16-125  
RONALD C. REDCAY - OPPOSITION

February 2, 2011

California Coastal Commission  
South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, California 90802-4303

Re: Application Number 5-10-125  
Staff Report: January 27, 2011  
Hearing Date: February 9, 2011

I am a California attorney who owns a house across the coastal canyon from the lots on which applicants propose to build five houses adjacent to a coastal bluff oceanward of La Rambla and Boca Del Canon in San Clemente. I submit these comments to raise several questions raised by the Staff Report, dated January 27, 2011 ("Staff Report") recommending approval of the proposed project and provide comments that hopefully will be useful to the Commission in considering whether to grant the requested permit. The questions raised by this letter focus on legal aspects of the Staff Report and are intended to complement the factual comments submitted herewith by others. For the reasons discussed more fully below, I respectfully submit that the Commission should deny the permit, at least until the concerns underlying these questions can be adequately addressed.

Question 1: In Finding The Project Consistent With  
CEQA, Did The Staff Report Apply CEQA Standards Or  
Did It Rely On The City's Categorical Exemption?

The Staff Report is somewhat ambiguous regarding the role, if any, that the City of San Clemente's categorical exemption played in the Report's critical, concluding finding that "the proposed project can be found consistent with the requirement of the Coastal Act to conform to CEQA." (Staff Report, at 34) After correctly stating that "Section 21080.5 (d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment," the Report then creates some confusion by mentioning that the City of San Clemente, as the "lead agency for purposes of CEQA compliance," determined "that the project is categorically exempt from CEQA." That mention suggests that the Staff somehow relied on the City's exemption determination, which as discussed below would

be improper in these circumstances. But, the Staff Report then suggests in several respects that it did not rely on the City's exemption determination: First, after using the word "However" to suggest that it did not rely on the exemption, it states that the Commission has adopted additional mitigation measures. Second, the Report states that the project, as so conditioned, complies with the requirements of Section 21080.5(d)(2)(A) of CEQA, suggesting that it applied the substantive standards of CEQA. (*Id.* at 34) *See also* Staff Report, at 3 ("Approval of the permit complies with the California Environmental Quality Act because feasible mitigation measure have been approved and there are no further feasible mitigation measures").

The question whether the Staff Report relies on the City's exemption determination is important because such reliance in these circumstances would be legally improper. The pertinent circumstances are that it is *undisputed* that there is a "reasonable possibility" that the proposed project, without mitigation measures, would pose a significant effect on the environment due to unusual circumstances. I say this is undisputed because the Staff Report itself recognizes that without mitigation measures both public access and geologic hazard issues would pose significant adverse environmental effects, and imposes conditions to mitigate these effects. Given that the fact (and also the threat of significant cumulative impacts from projects of the same type), a categorical exemption, like that used by the City is improper under Cal. Code Regs. § 15300.2. A group of neighbors (including me) have filed a petition in the Superior Court of Orange County challenging the City's exemption determination on these grounds. *Lee Strother, et al. v. City of San Clemente*, Case No. 30-2010-00405955, filed September 7, 2010. Moreover, even if the City's exemption determination had not been challenged, the Commission, as a "responsible agency," must proceed to evaluate project and cumulative impacts, mitigation measures and alternatives under the normal CEQA rules where, as here, there is evidence in the record that satisfies one or more of the exceptions to a categorical exemption that the lead agency invoked.

As noted above, the Staff Report, at least at one level, can be read as complying with these legal principles by not relying upon the City's exemption determination. But, the Staff Report is not clear. More importantly, as discussed below in connection with Question 2, the Staff Report, in fact, did not comply with the normal CEQA rules, which suggests that it did (improperly) rely on the erroneous exemption determination. This ambiguity requires clarification.

Question 2: Did The Staff Report Consider Project  
Alternatives And Cumulative Impacts As Required By  
CEQA?

The Commission's CEQA documentation for coastal development permits must, among other things, discuss feasible project alternatives and cumulative impacts. The staff reports for the 2007 permit applications for adjacent lots 5 and 6 contained section addressing these required matters (albeit not satisfactorily). However, this Staff Report contains no such discussion. This failure by itself violates CEQA. Moreover, as discussed in the accompanying set of fact comments, there are several feasible alternatives that could mitigate the adverse environmental effects of the project. The Staff Report (and the Commission's decision) needs to address those alternatives. They also need to address the cumulative impacts of lost beach access, degraded ocean views, and loss of open space in the coastal zone that will result from similar projects.

Question 3: Do The Staff Report Recommendations  
Adequately Protect The Public And The Commission?

The Staff Report recognizes several serious environmental issues with the project. For example, it recognizes (and makes applicants acknowledge) "that the site may be subject to hazards from landslide, erosion and earth movement." (*Id.* at 8) It also finds: "[n]o portion of the site can be developed without significant geologic stabilization measures," and identifies a support system based upon caissons, sheer pins and caisson-support walls. (*Id.* at 24) However, the Staff Report raises several questions it does not answer regarding the adequacy of this support system to protect the public's interest. First, it notes that "these stabilization measures will not change hazard conditions on lots that are affected by the landslide, but are not part of the proposed development plan, such as Lots 28 and 29, which are located seaward of/adjacent to Lots 7, 8, and 9." Second, it notes that while these caissons will "not immediately have an adverse visual impact," "over time, erosion could expose these structures, and make them visible from various vantage points such as the public beach and Coastal Trail and other viewpoints." (*Id.* at 25) Yet, the only "mitigation" measure recommended to address this adverse visual impact is that they be colored, not recovered (*see id.* at 14). That is not adequate.

Moreover, the Staff, recognizing the significance of the geologic hazard, recommends that the applicants not only waive claims against, but also indemnify, the Commission for allowing a hazardous project. (*Id.* at 8) These financial provisions provide no protection for the public, who may be adversely impacted structurally (for

example, houses adjacent to or near the project may suffer physical damage from resulting geologic instability) and whose views will be hopelessly damaged if there is another landslide at this site. Furthermore, the protection afforded the Commission may be hollow because there is no assurance that the applicants, much less their assignees, could meet their financial obligations under the indemnity. This need may be particularly important here where the applicants recently have been sued for failing to pay a promissory note in the sum of \$5,700,000 secured by a deed of trust on the subject properties. *See Hudson Lending Co., LLC v. Boca Del Canon, LLC, et al.* [including as named defendants all of the applicants], Case No. 30-2010-00433807, Orange County Superior Court, filed December 16, 2010.

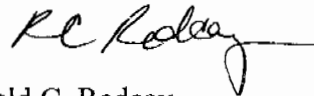
The Staff Report also recognizes adverse view impacts resulting from the height of several of the proposed structures. It purports to address these impacts by requiring that “[a]ll final project plans must be revised to ensure compliance with Special Condition 1 [which “prohibits structures from exceeding the heights of the adjacent public walkway” i.e. the height of the bluff].” (*Id.* at 29) However, the Staff Report needs more clearly to indicate how this important restriction will be made effective and enforceable. A better course would be to require submission of revised plans complying with this requirement before approving the permits.

Question 4: Should The Commission Defer This Hearing  
Or Deny The Application Pending Future Developments?

The absence here of final, complying project plans is just one of many factors suggesting that approval at this point is premature. As noted in the accompanying fact comments, the final plans for the public access are still subject to City review and approval. There are many other areas where the Staff Report indicates the need for further action by Staff or the Executive Director. Given the sensitivity of this project, it would be appropriate not to proceed until these important issues are resolved. Apparently the time for considering this application has been extended until April 30, 2011 (Staff Report, at 1) -- why not defer consideration at least until then, or to some later time to which applicants would agree? Alternatively, the Commission should deny the application without prejudice to later consideration after these issues, such as City approval, are resolved. That would allow meaningful public input on this important application.

California Coastal Commission  
February 2, 2011  
Page 5

Respectfully submitted,

A handwritten signature in black ink, appearing to read "RC Redcay", with a long horizontal flourish extending to the right.

Ronald C. Redcay  
316 West Avenida Gaviota  
San Clemente, California



**CALIFORNIA COASTAL COMMISSION**

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

**W14d**

Filed: August 3, 2010  
49th Day: September 21, 2010  
180th Day: January 30, 2011  
Time Extended: April 30, 2011  
Staff: Karl Schwing-LB  
Staff Report: January 27, 2011  
Hearing Date: February 9-11, 2011  
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NUMBER:** 5-10-125

**APPLICANTS:** David Yeskin, Rachel Staver, Mark Schneider,  
Hadi Fakouri & Catherine Grewe

**AGENTS:** Robert J. Krup, Attorney  
David York, Architect

**PROJECT LOCATION:** Five lots southwesterly of the intersection of La Rambla and Boca Del Canon (Lot 7 (323 La Rambla), Lot 8 (325 La Rambla), & Lots 9-11, Tract 4947), San Clemente, Orange County

**PROJECT DESCRIPTION:** Lot line adjustment to reconfigure five existing lots; stabilize landslide in a comprehensive fashion using a series of caissons and shear pins; construct new public accessway to new viewpoint and construct new public access corridor to new beach access, with corresponding offers-to-dedicate easements; grade lots; and construct five single family residences, one on each lot, ranging in size from 2854 sq. ft. to 6229 sq.ft., and ranging in height from approximately 31 ft. to 45 ft., plus landscaping.

**LOCAL APPROVALS RECEIVED:** City of San Clemente Approvals in Concept, dated 5/21/2010, 6/1/2010, 8/13/2010.

**SUBSTANTIVE FILE DOCUMENTS:** City of San Clemente certified Land Use Plan (LUP); and see Appendix A

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**SUMMARY OF STAFF RECOMMENDATION:**

Staff is recommending **APPROVAL** of the proposed project with special conditions. The major issues, discussed in more detail below, relate to landslide hazards and the protection of public rights to access over the property that may have been acquired through public use and assurances related to provision of physical and visual access to a public viewpoint and accessways to the ocean. The applicants have worked with staff to develop an access plan, that in staff's opinion, if implemented, would provide access that is equivalent in time, place, and manner to the access that would be lost as a result of the proposed project. That access would be implemented through Special Condition 1 (Revised Project Plans/Sign Plan), Special Condition 2 (Offers to Dedicate Easements), Special Condition 3 (Prohibition on Public Access Restrictions), Special Condition 4 (Accessway Management and Maintenance), Special Condition 5 (Phasing) and Special Condition 6 (Continued compliance with a Memorandum of Understanding regarding Provision of Off-site Access and Phasing (MOU)). Geologic issues (i.e. onsite landslide conditions) are addressed through Special Condition 7 (Conformance with Geotechnical Recommendations) and Special Condition 8 (Assumption of Risk, Waiver of Liability and Indemnity). Water quality issues are addressed through Special Conditions 9 (Debris Disposal) and 10 (Construction Storage). Requirements related to future development (Special Condition 11), landscaping (Special

Condition 12), fire authority requirements (Special Condition 13), visual impact mitigation requirements for exposed structures (Special Condition 14), bird strike prevention measures (Special Condition 15), liability for costs and attorneys fees (Special Condition 16), and deed restriction requirements (Special Condition 17) are also imposed.

The subject site includes 5 of 9 once-vacant lots located seaward of the first public road inland of and parallel to the sea ("first public road"), at the mouth of Toledo Canyon, along coastal bluffs within and adjacent to the La Ladera residential community in the southerly area of the City of San Clemente. Two (2) of the nine vacant lots (part of separate Tract No. 822 that are not part of this application) were once developed with single family residences, but those residences were destroyed in a landslide in 1966, and those lots have remained vacant since that time. Two other lots, Lots 5 and 6, were approved for development by the Commission in 2007, subject to conditions similar to those recommended by staff on this permit application. The entire nine-lot area and the privately owned street, Boca del Canon, is the subject of an ongoing prescriptive rights survey. Surveys submitted to date show substantial public use of the subject site, the other lots, and Boca del Canon, for the past several decades for access to the beach and ocean. The survey also indicates substantial public use of these properties for public viewing to and along the bluffs, beaches and ocean (i.e. visual access). As proposed and conditioned, public access and a public viewpoint will be provided.

There are several constraints associated with the development of the subject site. These constraints include the need to reserve areas to accommodate the existing and historic public use of the properties for public access and viewing and the need to address adverse geologic conditions on the property in a manner that is consistent with Coastal Act requirements regarding visual impacts, landform alteration, hazard minimization, and avoidance of bluff protective devices to accommodate new development. Commission staff believes that these issues are best addressed in the context of a comprehensive development plan that involves all of the undeveloped lots. Unlike past proposals, the current effort comprehensively addresses the issues on the lots that are under the control of the applicants.

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

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**LIST OF EXHIBITS:**

1. Vicinity Map
2. Parcel Map
3. Aerial Photo
4. Applicants' Access Easement Alignments
5. Site Plans/Elevations (Exhibits 5a to 5f)
6. Proposed Lot Line Adjustment
7. Memorandum of Understanding
8. Proposed Stabilization Plan
9. Location of Bluff Edge on Lot 11
10. Applicant's View Analysis

Click on the link at left  
to go to exhibits 7-10.

**STAFF RECOMMENDATION:**

MOTION: *I move that the Commission approve Coastal Development Permit No. 5-10-125 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.

**I. 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 Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

**II. STANDARD CONDITIONS**

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date 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. **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. REVISED FINAL PROJECT PLANS**

**PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit, for the Executive Director's review and approval, two (2) full size sets of Revised Final Project Plans, in substantial conformance with preliminary plans identified in Appendix A – Substantive File Documents, attached to the staff report dated January 27, 2011, except as revised per this condition. The submitted plans shall have received final review and approval from the City of San Clemente, and shall conform with the requirements of the special conditions of this permit and the specific changes identified in this condition below and indicate the final layout of all development including but not limited to grading, foundations and stabilization structures (e.g. caissons and shear pins), lot lines, utilities and easements, water quality management system and drainage, public accessways, signs, walls, steps, fences, gates, landscaping and the residences:

**A. Accessway/Sidewalk Improvements:**

1. Within the 5 foot wide public access easement identified in Special Condition 2 below, remove all development that is inconsistent with the requirements of Special Condition 2;
2. Final public access walkway, viewpoint and beach accessway plans shall indicate construction of concrete sidewalks and/or other surfaces approved by the Executive Director, concrete steps and ramps, benches, trash receptacles, lighting, safety fencing, and landscaping within the easements required in Special Condition 2, all in substantial conformance with the preliminary plans submitted by the applicants identified in Appendix A – Substantive File Documents, attached to the staff report dated January 27, 2011. Improvements shall meet the requirements of the Americans with Disabilities Act, as determined by the City, and conform to any applicable City specifications for the design of facilities in public areas. Said plan(s) shall identify walkway alignment, width, surface and materials;

**B. Public Access Sign Plan:**

1. The final plans submitted for review and approval to the Executive Director shall include a detailed signage plan that directs the public to the public access walkways, beach access, and viewpoint on the project site. Signs shall invite and encourage public use of access opportunities and shall identify and direct the public to their locations. Signage shall include facility identification/directional monuments (e.g. location of amenities); informational signage and circulation; and roadways signs. Signs and displays not explicitly permitted in this document shall require an amendment to this permit unless the Executive Director determines that no amendment is legally required.

**C. Grading/Drainage Plans:**

1. Final grading and drainage plan(s) prepared by an appropriately licensed professional that has been reviewed and approved by the City of San Clemente. The plan shall incorporate the following criteria:
2. Runoff from all roofs, patios, driveways and other impervious surfaces and slopes on the site shall be directed to dry wells or vegetated/landscaped areas to the maximum extent practicable within the constraints of City requirements;

3. Where City code prohibits on-site infiltration, runoff shall be collected and discharged via pipe or other non-erosive conveyance to the frontage street to the maximum extent practicable. Runoff from impervious surfaces that cannot feasibly be directed to the street shall be discharged via pipe or other non-erosive conveyance to an alternative outlet point to avoid ponding or erosion either on- or off- site;
4. The functionality of the approved drainage and runoff control plan shall be maintained throughout the life of the development.

D. Height of Structures and Landscaping:

1. Except as specified herein, the height of the homes and all other structures, fencing, and landscaping shall not exceed the height of the finished surface of the public walkway and viewpoint along La Rambla and its unimproved extension, approximately at elevation 92.5 feet, depicted on the final plans approved by the Executive Director pursuant to Special Condition 1.A.2. The height of the proposed homes shall not exceed the following: Lot 7 (Elevation 95 feet), Lot 8 (Elevation 92 feet), Lot 9 (Elevation 88.25 feet), Lot 10 (Elevation 78 feet), Lot 11 (Elevation 60 feet); any projections (e.g. chimneys, vents, etc.) over these heights shall be lowered to conform to these heights. Exceptions to these requirements may be made for a) safety fencing along the public walkway and viewpoint, but which must be designed to minimize view impacts and shall not exceed 42 inches above the surface of the walkway or viewpoint; and b) native landscaping which shall not exceed 42 inches above the surface of the walkway or viewpoint (as further specified in the landscaping condition below).

The permittee 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 to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**2. OFFERS TO DEDICATE PUBLIC ACCESS AND RECREATIONAL USE EASEMENTS**

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the landowner(s) shall execute and record document(s) in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or non-profit entity acceptable to the Executive Director, easement(s) for public pedestrian access and passive recreational use of the following public accessways, viewpoint and beach access, as generally depicted on Exhibit 4 to the staff report dated January 27, 2011: 1) a minimum 5 foot wide strip of land, on Lots 7, 8, 10, and 11, Tract 4947 (Lot 7/Parcel 1, Lot 8/Parcel 2, Lot 9/Parcel 3, Lot 10/Parcel 4, and Lot 11 of proposed Lot Line Adjustment No. LL 10-071), extending from the boundary between Lot 6 and Lot 7, Tract 4947 (Lot 7/Parcel 1 of proposed LLA LL 10-71), along each lot's entire easterly boundary with Boca del Canon, to the lot boundary between Lot 11 and Lot 12, Tract 4947; 2) a minimum 15 foot wide, by approximately 59 foot long, strip of land on Lot 11, Tract 4947, extending from Boca del Canon to the southwesterly/most seaward lot boundary; 3) a minimum 6 foot wide by 119 foot long strip of land, on Lot 11, Tract 4947, extending along that lot's entire southwesterly/most seaward lot boundary; 4) a minimum 5 foot wide strip of land on Lots 7, 8, and 9, Tract 4947 (Lot 7/Parcel 1, Lot 8/Parcel 2, Lot 9/Parcel 3 of proposed Lot Line Adjustment No. LL 10-071), extending from the boundary between Lot 6 and Lot 7 (Lot 7/Parcel 1 of proposed Lot Line Adjustment No. LL 10-071), Tract 4947, along each lot's westerly boundary with La Rambla and its unnamed public right-of-way extension, to a line at N 32°52'22" E where it will join; 5) a minimum 10 foot wide strip of land along the entire westerly boundary of Lot 9, Tract 4947 (Lots 8/Parcel 2 and Lot 9/Parcel 3 of Lot Line Adjustment No. LL 10-071) to the west corner of Lot 9, Tract 4947 (Lot 9/Parcel 3 of proposed Lot Line

Adjustment No. LL 10-071); and 6) on Lot 6, a minimum 5 foot wide and about 7 foot long strip of land at the southwest corner of the lot to provide a continuous 5 foot wide accessway from the end of La Rambla to Lot 7, Tract 4947 (Lot 7/Parcel 1 of proposed Lot Line Adjustment No. LL 10-071). Minor adjustments to the aforementioned easement alignments may be authorized by the Executive Director to ensure that continuous 5 foot wide accessways are formed which connect with the easements offered for dedication in conjunction with the development of Lot 6, Tract 4947.

The recorded document(s) described above shall reflect the following restrictions: i) The public accessway easements shall be open to the general public for use 24-hours per day; ii) The landowner(s) shall, or, at the election of the easement holder, the easement holder shall, maintain the easement areas in accordance with the Management and Maintenance Program approved by the Executive Director in accordance with SPECIAL CONDITION NO. 4; iii) Any development, as defined in Section 30106 of the Coastal Act, that diminishes permanent public pedestrian access and passive recreational use of the easements are prohibited; iv) No development, as defined in Section 30106 of the Coastal Act, shall occur within the public access easements except for the following development: grading and construction necessary to construct the public access walkway and steps/ramps and appurtenances (e.g. public access signs, benches, trash receptacles, safety fencing) in accordance with the final plans approved by the Executive Director pursuant to SPECIAL CONDITION NO. 1, underground utilities to serve the proposed development on the subject lots in accordance with the final plans approved by the Executive Director pursuant to SPECIAL CONDITION NO. 1, vegetation removal and planting in accordance with the final landscape plan approved by the Executive Director pursuant to SPECIAL CONDITION NO. 12, construction of drainage devices in accordance with the final plans approved by the Executive Director pursuant to SPECIAL CONDITION NO. 1, and maintenance and repair of the approved development within the easements as identified in the Management and Maintenance Program approved by the Executive Director pursuant to SPECIAL CONDITION NO. 4.

The recorded document(s) shall include legal descriptions and graphic depictions, prepared by a licensed surveyor, of both the entire project site and the area of the offered easements. The offered easements shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the interest being conveyed. The offered easements shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

### **3. PROHIBITION ON PUBLIC ACCESS CONTROLS**

All public use and/or entry controls (e.g. gates, gate/guard houses, guards, fences, vegetation, signage, etc.) and any other kind of restriction on use by the general public of the public accessways, viewpoint, and beach access required in Special Condition No. 2 (e.g. hours of operation, etc.) shall be prohibited. The public accessways, viewpoint, and beach access shall be open for use by the general public 24 hours per day.

### **4. PUBLIC ACCESSWAY MANAGEMENT AND MAINTENANCE PROGRAM**

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittees shall provide, for the review and approval of the Executive Director, a final Management and Maintenance Program for the proposed public accessways, beach access and viewpoint described in Special Condition No.2. The final program shall include the following:

#### **A. IDENTIFY ALL ENTITIES RESPONSIBLE FOR MANAGEMENT AND MAINTENANCE.**

In general, the owner of the land shall open the public accessway easement areas for

public use and maintain them until such time as any easement required to be offered by this permit is accepted. Where an easement is accepted by an entity in accordance with the terms and conditions of this permit, the holder of the easement shall be responsible for management and maintenance of the facilities within the easement unless the arrangements between the landowner and the easement holder dictate that the landowner shall retain all or part of said management and maintenance responsibility. All management and maintenance shall occur in accordance with the approved Management and Maintenance Program.

- B. IDENTIFICATION OF MANAGEMENT AND MAINTENANCE ACTIVITIES AND ASSOCIATED FUNDING PROGRAM.** The Management and Maintenance Program shall include identification of management and maintenance activities including a funding program that will provide for the actual cost of maintenance and periodic repair and replacement of the public access walkways and associated appurtenances including, but not limited to, surfaces, landscaping (if any), signage, and safety fencing.

The permittees shall undertake development in accordance with the approved final program. Any proposed changes to the approved final program shall be reported to the Executive Director. No changes to the approved final program shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**5. CONSTRUCTION/DEVELOPMENT PHASING**

Geologic stabilization measures to make Lots 7-11 safely buildable, as approved in this coastal development permit, shall be completed in their entirety prior to construction of any residences on the subject sites. Construction of the public accessway, beach access, and viewpoint improvements approved by the Executive Director pursuant to Special Condition 1 shall be phased so that the accessways, beach access and viewpoint are open and available to the public as soon as possible, but no later than prior to or concurrent with initial occupation of the first residence that is completed that was approved by this coastal development permit and no later than the requirements of Special Condition No. 6, whichever occurs first.

**6. COMPLIANCE WITH MEMORANDUM OF UNDERSTANDING**

The landowners(s) (herein "Landowner(s)") of Lots 5, 6, 7, 8, 9, 10, and 11 of Tract 4947 (herein "the Lots") shall continue to comply with the requirements of the Memorandum of Understanding (MOU) that became fully executed on June 17, 2008, between the California Coastal Commission and the Landowners regarding the provision of public pedestrian access and visual access upon and/or over the Lots and compliance with development phasing requirements. Among the requirements is that the Landowners shall make the public accessways, public viewpoint, and beach access safely usable by the public, and to construct and open these facilities for public use, within 5 years of the date the MOU was executed, which is June 17, 2013.

**7. CONFORMANCE WITH 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 reports listed in Appendix A, substantive file documents, of the findings dated January 27, 2011. 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.

- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, evidence that an appropriately licensed professional has reviewed and approved all final design and construction 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 permittee 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.

**8. 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 landslide, erosion, and earth movement; (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.

**9. LOCATION OF DEBRIS DISPOSAL SITE**

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall identify in writing, for the review and approval of the Executive Director, the location of the disposal site of the demolition and construction debris resulting from the proposed development. Disposal shall occur at the approved disposal site. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.

**10. STORAGE OF CONSTRUCTION MATERIALS, MECHANIZED EQUIPMENT AND REMOVAL OF CONSTRUCTION DEBRIS**

- A. The permittee shall comply with the following construction-related requirements:
1. No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, rain, or tidal erosion and dispersion;
  2. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
  3. Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. Debris shall be disposed of outside the coastal zone.
  4. Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and



5. All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.
- B. Best Management Practices (BMPs) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the on-set of such activity. Selected BMPs shall be maintained in a functional condition throughout the duration of the project. Such measures shall be used during construction:
1. The applicants shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. It shall be located as far away from the receiving waters and storm drain inlets as possible;
  2. The applicants shall develop and implement spill prevention and control measures;
  3. The applicants shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50-feet away from a storm drain, open ditch or surface water; and
  4. The applicants shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.

## **11. FUTURE DEVELOPMENT**

This permit is only for the development described in Coastal Development Permit No. 5-10-125. 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 any of the subject lots. Accordingly, any future improvements to the development authorized by this permit, including but not limited to repair and maintenance activities 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. 5-10-125 from the Commission or shall require an additional coastal development permit from the Commission.

## **12. FINAL LANDSCAPING PLAN**

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, in a form and content acceptable to the Executive Director, two (2) sets of a final revised landscaping plans prepared by an appropriately licensed professional which demonstrates the following:
1. All areas affected by construction activities not occupied by structural development shall be re-vegetated for habitat enhancement and erosion control purposes;
  2. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest 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 existing landscaping

affected by construction activities that doesn't meet all of the requirements in this special condition shall be removed;

3. Landscaped areas shall be planted and maintained for erosion control and native habitat enhancement purposes. To minimize the need for irrigation and minimize encroachment of non-native plant species into adjacent existing native plant areas, all landscaping shall consist of drought tolerant plants, non-invasive plants, preferably native to coastal Orange County and appropriate to the habitat type. Invasive, non-native plant species that tend to supplant native species shall not be used;
  4. All planting will be completed within 60 days after completion of construction;
  5. No permanent in-ground irrigation systems shall be installed on the site. Temporary above ground irrigation is allowed to establish plantings.
  6. All vegetation shall be maintained in good growing condition throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscaping plan.
  7. All landscaping shall comply with the maximum height requirements established in Special Condition No. 1. The applicants shall demonstrate that each of the selected plant species' maximum typical growth height does not exceed the maximum height requirement. Plants which ultimately grow to exceed the height requirement shall be trimmed, or removed and replaced, as necessary, to ensure ongoing compliance with the maximum height requirement.
- B. The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

### **13. ORANGE COUNTY FIRE AUTHORITY APPROVAL**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall provide to the Executive Director a copy of a permit issued by the Orange County Fire Authority (OCFA) or letter of permission, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the OCFA. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

### **14. FUTURE CAISSON/SHEAR PIN/RETAINING WALL EXPOSURE PLANS**

In the event any project features initially proposed to be subsurface subsequently become exposed to view from the beach below the site, the permittee shall, through the coastal development permit process, seek to remedy the visual impact of the exposed structure(s) through, among other possible means, aesthetic treatment of the exposed structures such that they match the appearance of surrounding terrain to the extent feasible and minimize visual impact of the exposed structures.

## **15. BIRD STRIKE PREVENTION**

- A. Where the backyard of the residence abuts coastal bluffs, there shall be walls, fences, gates, safety devices and boundary treatments, as necessary, to protect coastal bluff habitat. Such structures/devices shall be in conformance with the view protection provisions of Special Condition No. 1. Bluff top fences and gates subject to this permit shall use materials designed to minimize bird-strikes with the wall, fence, gate, safety device or boundary treatment. Material selection and structural design shall be made in consultation with a qualified biologist, the California Department of Fish and Game and the United States Fish and Wildlife Service (herein 'Resource Agencies'), and the Executive Director of the Commission. Such materials may consist, all or in part, of wood; wrought iron; frosted or partially-frosted glass, Plexiglas or other visually permeable barriers that are designed to prevent creation of a bird strike hazard. Clear glass or Plexiglas shall not be installed unless appliqués (e.g. stickers/decals) designed to reduce bird-strikes by reducing reflectivity and transparency are also used. Any appliqués used shall be installed to provide coverage consistent with manufacturer specifications (e.g. one appliqué for every 3 foot by 3 foot area) and the recommendations of the Executive Director. Use of opaque or partially opaque materials is preferred to clean glass or Plexiglas and appliqués. All materials and appliqués shall be maintained throughout the life of the development to ensure continued effectiveness at addressing bird strikes and shall be maintained at a minimum in accordance with manufacturer specifications and as recommended by the Executive Director. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit final revised plans showing the location, design, height and materials of fences, and gates for the review and approval of the Executive Director. Said plans shall reflect the requirements of this special condition. The plans shall have received prior review and approval by the City of San Clemente.
- B. The permittee shall undertake development in accordance with the approval 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 to this coastal development permit unless the Executive Director determines that no amendment is legally required.

## **16. LIABILITY FOR COSTS AND ATTORNEYS FEES**

The Permittees shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees -- including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys fees that the Coastal Commission may be required by a court to pay -- that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the applicant against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

## **17. GENERIC 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 landowner(s) have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that

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

## II. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

### A. PROJECT DESCRIPTION, LOCATION AND BACKGROUND

The subject sites are located along La Rambla/Boca Del Canon streets and include Lot 7 (323 La Rambla), Lot 8 (325 La Rambla), & Lots 9-11, of Tract 4947, in the City of San Clemente, Orange County (Exhibits 1, 2 & 3). The subject lots are irregularly shaped trapezoids ranging in size from 5998 square feet to 11262 square feet. In total, the lots comprise 0.9 acres. The lots are designated for residential use ("RL" (4.5 units/gross acre)) in the certified Land Use Plan. The lots are located southwesterly of the intersection of La Rambla street and Boca del Canon street. La Rambla follows the northerly and westerly boundaries of the lots, and Boca del Canon runs along the easterly property boundaries. Three of the five existing lots each contain a small level area at their lower elevations along Boca del Canon, which then rises steeply to the west/northwest toward the top of the lots along La Rambla. One of the existing lots, Lot 9, is bluff top and bluff face. The fifth lot, Lot 11, also includes some bluff face area. These lots are affected by a landslide that extends to about 50 feet below the top of bluff.

The proposed project includes 1) a lot line adjustment to reconfigure four of the five existing lots (Exhibit 6), 2) stabilization of a landslide on the lots, in a comprehensive fashion, using a series of caissons and shear pins (Exhibit 8), 3) construction of a new improved public accessway to new developed public viewpoint, from La Rambla with corresponding offers to dedicate easements (Exhibit 4); 4) construction of a new public accessway corridor along Boca del Canon street to a new improved public beach access across Lot 11, with corresponding offers-to-dedicate easements (Exhibit 4), 5) grading the lots and constructing five single family residences, one on each lot (as reconfigured), ranging in size from 2854 sq. ft. to 6229 sq.ft., and ranging in height from approximately 31 ft. to 45 ft., plus landscaping (Exhibits 5a to 5f). The structures will have 3 to 4 floors, one of which will be a basement. Details of the homes are in the following chart:

	House (sq.ft.)	Garage (sq.ft.)	Decks (sq.ft.)	Levels Flrs/Bsmnt (total)	Height (ft.)	Grading (cu. yds)		
						Cut	Fill	Total
Lot 7	4910	842	421	2/1 (3)	34.5	3287	250	3537
Lot 8	4320	783	545	3/1 (4)	45	2580	200	2780
Lot 9	5277	952	617	3/1 (4)	42.75	2535	125	2660
Lot 10	4567	777	882	2/1 (3)	35.85	2400	1250	3650
Lot 11	2422	432	900	2/1 (3)	31.5	657	120	777
Lot 11 accessway						182		182
								13586

The proposed lot line adjustment affects Lot No. 7, 8, 9, and 10 (Exhibit 6). As currently configured, Lot 9 has no street frontage on Boca del Canon. Thus, access to that lot could only be

gained via an undeveloped extension of La Rambla street at the bluff top. In order to develop the lot, La Rambla street would need to be extended into the undeveloped area on the bluff top, which would require substantial stabilization measures. Furthermore, subsequent development of Lot 9 in its present configuration would place development within a significant public viewshed that is currently available from La Rambla street. These issues are avoidable by reconfiguring lot lines such that Lot 9 has access from Boca del Canon street. In the new lot configuration, Lot 9 can be accessed from Boca del Canon street, La Rambla street does not need to be stabilized or extended, and development on the bluff top in the viewshed is avoided. Following is a description of the existing and proposed lot sizes:

	Existing Lot Size (sq.ft.)	Proposed Lot Size (sq.ft.)	Difference
Lot 7	8513	7626	-887
Lot 8	6738	6360	-378
Lot 9	11266	13516	+2250
Lot 10	7504	6519	-985
Lot 11	5998	5998	0

#### 1. History of Land Division and Ownership

The subject sites are 5 of 9 lots located seaward of the first public road inland of and parallel to the sea ("first public road"), at the mouth of Toledo Canyon, along coastal bluffs within and adjacent to the La Ladera residential community in the southerly area of the City of San Clemente. Seven (7) of these nine lots, including the subject sites, were identified on Tract No. 4947, which was filed with the County in 1963 (a subdivision with 26 numbered lots), and, until recently, have remained vacant since the filing of the map (Lot No. 5-11, Tract 4947). Two of these seven lots, Lots 5 and 5, have been approved for development (see Cragun and Alvarez CDPs below) with homes, one of which has now been completed (Lot 5). Another two (2) of the nine vacant lots (Lots 28 and 29 that are part of separate Tract No. 822) were once developed with single family residences, but those residences were destroyed in a landslide in 1966, and those lots have remained vacant since that time. The entire nine-lot area and the privately owned street, Boca del Canon, are the subject of a prescriptive rights survey. Surveys submitted to date show substantial public use of the subject sites, the other four lots, and Boca del Canon, for the past several decades for access to the beach and ocean. The survey also indicates substantial public use of these properties for public viewing to and along the bluffs, beaches and ocean (i.e. visual access).

#### 2. Prior Recent Commission Actions

In 2007, the Commission granted CDP No. 5-07-056 (Cragun) and 5-07-070 (Alvarez) to develop two of the nine undeveloped lots (Lot No. 5 and 6) with one single family residence on each lot. Those two lots were adjacent to but not within the landslide area; the lots that are the subject of this application are in the landslide. The Commission required and the applicants agreed to offer to dedicate and to construct public accessways across Lots 5 and 6 (Exhibit 7). These applicants, Cragun and Alvarez, as well as the owners of five of the other lots (Lots 7-11), also agreed to participate in the formation of a Memorandum of Understanding (MOU) regarding the future development on the remainder of the lots. The main tenets of the MOU are to outline the manner in which the public would continue to have access across the lots and to the beach, as well as access to and views from a public viewpoint.

The Commission and the applicants recognized that any effort to seek development approvals for each lot individually would significantly limit the range of alternatives that must be considered in

order to achieve a plan that is consistent with all Coastal Act policies. Since there are constraints associated with the development of the lots, such as the need to reserve areas to accommodate the existing and historic public use of the properties for public access and viewing, and the need to address adverse geologic conditions on the property in a manner that is consistent with Coastal Act requirements regarding visual impacts, landform alteration, hazard minimization, and avoidance of bluff protective devices that alter natural landforms, the applicants agreed to provide a comprehensive development plan that involves all of the undeveloped lots. The MOU was signed by the applicants of the subject application and was recorded against their land.

In 2009, applications for development of lots 7 and 8 were submitted by the owners of those lots (5-09-134 and 5-09-135). Pursuant to the requirements of the MOU, the Executive Director withheld filing those applications until a comprehensive plan for stabilizing the site and providing the required public accessways, viewpoint and beach access were developed. The applicants filed an appeal of the non-filing, and on December 9, 2009, the Commission held a hearing on that appeal (see 5-09-133-EDD and 5-09-134-EDD). The Commission upheld the Executive Director's decision not to file the applications and to request additional information. The applicants subsequently withdrew those applications, and prepared and submitted the information requested by the Executive Director. The plan ultimately submitted involved lot line adjustments to change the location of the lot lines for Lots 7, 8, 9, and 10. This new lot arrangement consolidates development along Boca del Canon and away from the bluff edge and allows Lot 9 to be developed with street access from Boca del Canon instead of La Rambla, which substantially reduces the public view impacts associated with developing that lot. The plan also included stabilizing the lots in a comprehensive fashion using a series of caissons and shear pins, which the property owners have stated involves the least amount of landform alteration to stabilize the lots, instead of mass grading. The Executive Director issued approval of the comprehensive plan on July 8, 2010. At about the same time, the current application (5-10-125) was submitted for that development plan for Lots 7-11.

On August 8, 2006, the Commission approved Coastal Development Permit 5-05-412 for the removal of an existing mechanized vehicular gate and construction of a new gate across the privately owned Boca del Canon street at the entrance to the La Ladera private neighborhood, between 311 La Rambla and 317 La Rambla (the subject site). The Commission imposed five (5) special conditions, which require: 1) submittal of revised plans showing reduction in project scope; 2) submittal of a signage plan; 3) that future development obtain Commission approval; 4) recordation of a deed restriction; and 5) clarifying that the Commission's approval of the project does not constitute a waiver of any public rights that may exist on the property. The sidewalks and gutters are currently unobstructed and are proposed to remain unobstructed such that the existing pedestrian access currently in use would remain available. However, the applicant did not offer to formalize the existing access (i.e. through dedication or other legal instrument). In addition, the Commission did not identify sufficient nexus between the limited gate project and public pedestrian access to mandate formalized public access over the privately owned street (Boca del Canon), in part, due to insufficient information regarding the nature of the existing public access.

Since the Commission's action, a prescriptive rights survey has been initiated that includes Boca del Canon and the nine vacant lots between this road and the beach. Survey submissions to date provide a strong indication of continuous public use of Boca del Canon and the other nine lots over the last several decades to gain physical access to the beach and visual access to the ocean. Thus there is strong evidence that a public right of access acquired through use has developed (i.e. that an implied dedication has occurred). Notwithstanding various efforts by the owners to restrict the use, the public has continued to use the accessways.

**B. PUBLIC ACCESS**

Section 4 of Article X of the California Constitution states, in part:

*No individual, partnership, or corporation, claiming or possessing the frontage...of a...navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose...; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof.*

Section 30210 of the Coastal Act states:

*In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Section 30211 of the Coastal Act states,

*Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

Section 30212 of the Coastal Act states, in pertinent 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:*

*(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,*

*(2) adequate access exists nearby, or,*

*(3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

Section 30214 of the Coastal Act states, in pertinent part,

*(a)The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case...*

San Clemente Land Use Plan, Section 295, describes access in the subject area as follows:

*Access Point 11: La Boca del Canon*

*This private access is reached by either Avenida Presidio or El Camino Real exits from the I-5 Freeway. It is located on La Boca del Canon, a private residential street which connects to West Paseo de Cristobal. The beach is reached by crossing the railroad track via two at-grade locations.*

San Clemente Land Use Plan, Section 303 B (Coastal Access Policies), states:

*IX.4 The maintenance and enhancement of public non vehicular access to the shoreline shall be of primary importance when evaluating any future public or private improvements in the Coastal Zone.*

San Clemente Land Use Plan, Section 303 B (Coastal Access Policies), Policy IX.12, states:

*A resting/viewplace should be provided at appropriate accessways near the inland entry point. Such facilities would be of benefit to older people or others who would find negotiating steep accessways tiring, and would capitalize on the panoramic coastal views available from the bluff edges.*

San Clemente Land Use Plan, Section 303 B (Coastal Access Policies), Policy IX.15, states, in part:

*New developments lying between the first public roadway and the shoreline shall provide both physical and visual access to the coastline.*

- a. *Any new development proposed by the private communities listed below shall be required to provide an irrevocable offer of dedication of an easement to allow public vertical access to the mean high tide line....The access easement shall measure at least 10 feet wide. Development permits will require public vertical access for new development at the following private communities: ...La Ladera (La Boca del Canon)*
- b...

San Clemente Land Use Plan, Section 303 B (Coastal Access Policies), Policy IX.17, states, in part:

*For the purpose of determining when a project is required to provide access, the following shall be considered:*

- a. ...
- b. *The provision and protection of public access to the shoreline can be considered a "legitimate governmental interest." If the specific development project places a burden on this interest, then the City may have grounds to deny the development or impose conditions on the development to alleviate the burden.*

*The following questions should be addressed to determine whether or not a development project places a burden on public access which would justify either requiring the dedication of public access or recommending denial of the project:*

- 1...
- 2. *Does the project interfere with public access rights that have been "acquired through use"?*

*Example - Is there reasonable evidence that the project may block a prescriptive easement?*

*If there is evidence of a prescriptive easement, then the City may recommend postponing the project until the landowner establishes clear title. If a prescriptive easement exists, then the City may deny the project or require that the project be modified to preserve the access easement.*



- 3...
- 4...
- 5...
- 6...

Assuring public access to the shoreline, including the protection of existing public access, is one of the strongest mandates of the Coastal Act. Section 30604(c) of the Coastal Act requires that any approval of a permit application for development between the nearest public road and the shoreline of any body of water within the coastal zone shall include a finding that the project is consistent with the public access and recreation policies of the Coastal Act, even in an area with a certified LCP. The proposed development is located between the first public road and the sea at the convergence of a coastal bluff and coastal canyon inland of the beach, bluff face and Orange County Transit Authority (OCTA) railroad tracks.

The subject sites, as well as the privately owned and gated (to vehicles) street, Boca del Canon, appear to have been used extensively for at least the past several decades, and continue to be used today, by the public as informal modes of vertical access to the adjacent bluff top, beaches and ocean below. There are several pathways across these lots that offer different modes of access. For example, an informal network of footpaths crosses these lots and leads to a bluff top view point of the beaches and ocean as well as to a network of other footpaths that eventually lead down the bluff to the beach and ocean. There are presently no physical obstructions to individuals using these footpaths. Signs were posted sometime in 2007 indicating 'no trespassing', although those signs have not been permitted by the Commission, and the public has continued uninterrupted use of the various established pathways through the subject site. Another mode of access is to utilize the existing paved gated street (Boca del Canon) and narrow sidewalks that descend from La Rambla down a steep incline to an informal footpath that crosses Lot No. 11 to the beach. Individuals using the road must navigate around the existing vehicular gate at the entryway to the street to utilize this access. The route down Boca del Canon and the dirt path that crosses Lot No. 11 is listed as a secondary access point in the City's certified Land Use Plan, but identifies this as a 'private access'. Except for portions of footpaths that were authorized to be relocated into formalized accessways on Lots 5 and 6 through coastal development permits, the remainder of these informally used modes of access have not been secured for public use through any formal means such as a written declaration of public rights or a judicial determination of an implied dedication for public use.

The preservation of these accessways is important due to their historical use, as well as a means of connecting to the San Clemente Coastal Trail. The San Clemente Coastal Trail (approved by the Commission April 2004 and now built) is a three-mile long pedestrian accessway that passes in front (seaward) of the La Ladera private neighborhood. The footpaths described above provide direct access from inland areas to the Coastal Trail. For these reasons, and because of the statutory mandates listed above, the goal in this circumstance must be to—at a minimum—protect the existing public access and prohibit development that would increasingly privatize the area.

The nearest formal vertical coastal access available is approximately 1/2 mile upcoast of the subject site via the T-Street public access point. The T-Street public access point is an enclosed pedestrian overpass leading from Paseo de Cristobal to the beach below. Lateral access along the Pacific Ocean and sandy beach is available adjacent to the T-Street access point, seaward of the OCTA railroad tracks. There is another formal access point approximately 3/4 mile downcoast of the subject site, known as Lost Winds, which is accessible from Calle de Los Alamos. However, this accessway is described in the City's LUP as being within a residential area that is more difficult for non-residents to find.

In order to more fully investigate potential public use of the subject site, Commission staff distributed a "Prescriptive Rights Study Public Use Questionnaire and Declaration" to City staff in

the Planning Division, the San Clemente Sun Post News, the South Orange County Chapter of the Surfrider Foundation, and members of the public who requested the form, among others. The questionnaire and accompanying documents were also posted on the Coastal Commission's website at <http://www.coastal.ca.gov/access/BocadelCanon.pdf>. (A summary of results submitted to date are included in the substantive file documents) The Sun Post News printed a brief write-up on August 3, 2006 informing readers of the prescriptive rights analysis underway.

In order to approve the proposed project, the Commission would have to find the project, as submitted or as the Commission would condition it, to be consistent with the policies of Chapter 3 of the Coastal Act, including the public access policies outlined in Sections 30211 and 30212 listed above.

1. Consistency with Section 30211

Section 30211 states, in part, that "*development shall not interfere with the public's right of access to the sea where acquired through use.*" Applicants for coastal development permits must demonstrate that the proposed development is consistent with the Coastal Act, including the requirements of Section 30211. In implementing this section of the Act, the permitting agency, in this case the Commission, must consider whether a proposed development will interfere with public access to an area used by the public for access to the sea. If the agency finds that there may be such an interference, then it also must determine whether there is substantial evidence to support the conclusion that the area has been impliedly dedicated to public use. Because the authority to make the final determination on whether such a dedication has taken place resides with the courts, both the Commission's Legal Division and the Attorney General's Office have recommended that agencies dealing with implied dedication issues should use the same analysis as the courts. Essentially, this requires the agencies to consider whether there is substantial evidence indicating that the basic elements of implied dedication have been met.

A right of access through use is, essentially, an easement over real property which comes into being without the explicit consent of the owner. The doctrine of implied dedication was confirmed and explained by the California Supreme Court in Gion v. City of Santa Cruz (1970) 2 Cal.3d 29. In the implied dedication context, the public's use of private property must continue for the length of the "prescriptive period," before an easement comes into being.

The rule that an owner may lose rights in real property if it is used without consent for the prescriptive period derives from common law. It discourages "absentee landlords" and prevents a landowner from a long-delayed assertion of rights. The rule relates to the statute of limitation after which the owner cannot assert normal full ownership rights to terminate an adverse use. In California, the statute of limitation, and thus the prescriptive period, is five years.

For the public to obtain an easement by way of implied dedication, it must be shown that:

- a) The public has used the land for a period of five years or more as if it were public land;
- b) Without asking for or receiving permission from the owner;
- c) With the actual or presumed knowledge of the owner;
- d) Without significant objection or bona fide attempts by the owner to prevent or halt the use, and
- e) The use has been substantial, rather than minimal.

In general, when evaluating the conformance of a project with Section 30211, the Commission cannot determine conclusively whether implied dedication rights actually do exist; rather, that determination can only be made by a court of law. However, the Commission is required under Section 30211 to prevent development from interfering with the public's right of access to the sea where acquired through use or legislative authorization. As a result, the Commission must review

the available evidence and make its own assessment of whether there is substantial evidence of such use. Where there is substantial evidence that such use has occurred, and thus that such public rights exist, the Commission must ensure that proposed development would not interfere with any such rights.

An exception to the need to assess the evidence of an implied dedication exists when an applicant proposes public access as part of the project. If the applicant were to propose public access, the Commission could evaluate the extent to which the proposed public access elements are equivalent in time, place and manner to any public rights that *may* exist. To the extent any proposed dedication of access is equivalent, proposed development is considered not to interfere with any existing public access rights.

a. Potential for Development to Interfere with Public's Access to Sea Across this Lot

As described previously, the applicant's proposed project involves the construction of five new single-family residences with attached garages and associated landscaping and hardscape. The proposed structures would be sited on vacant lots, which members of the public contend have been used for coastal access. The Commission has received 171 responses to its prescriptive rights questionnaire, which reveal that the property has been used by a wide variety of people, both local and from far away, for many years as if the land were public land. As depicted on many of the questionnaires returned, the lots have typically been crossed in a number of different ways. For example, one way is by beginning from the northeasterly corner of the site and subsequently across the lots via an alignment that roughly bisects the properties lengthwise. Users would stand on the level bluff top area to observe the ocean view and/or continue down the bluff face to a low point on Lot 11 where they can subsequently descend to the Coastal Trail and/or beach. Another mode of access, is via pathways along Boca del Canon which also coalesce at Lot 11, where people again descend the slope to the Coastal Trail and/or beach. A review of available photographs also shows various paths crossing the lots in these ways. Construction of houses on these lots would obstruct these modes of access across the properties.

b. Provision of Public Access Equivalent in Time, Place and Manner

As noted previously, where there is substantial evidence of the existence of a public access right acquired through use, and a proposed development would interfere with that right, which is the situation presented here, the Commission may deny a permit application under Public Resources Code Section 30211. However, consistent with Public Resources Code Section 30214, the Commission could also consider alternatives that would preclude the interference or adverse effect through modification or relocation of the development and/or an offer of public access that is equivalent in time, place and manner.

As described above, the public currently obtains access to an informal bluff top viewpoint and the beach by crossing, generally diagonally, across the project site, and then continuing on footpaths toward the viewpoint and beach access that are located on the lots. The public also obtains access to the beach by walking along the perimeter of the property along Boca del Canon (the private street), continuing down along Boca del Canon which descends to beach level, and then across an informal footpath over Lot 11, Tract 4947, to the beach.

The applicants' proposed project would construct homes with appurtenances that would obstruct the access across the lots. However, the applicants are proposing to provide alternative access in two ways. The first involves construction of a sidewalk along the perimeter of their property that abuts La Rambla, and an undeveloped extension of La Rambla. This access would connect with sidewalks already built or permitted to be built on Lots 5 and 6 that are located landward of these sites, and lead out to a viewpoint on the bluff top that would be developed as part of the project. Thus, the public would still be able to gain access to the viewpoint, although via a different

alignment than is presently used. The applicants are proposing to dedicate easements for the accessway and viewpoint, and to construct and maintain the accessway improvements. Special Conditions 1, 2, and 5 requires the applicant to implement the proposed access.

The second access would be provided along the property perimeter that abuts Boca del Canon, and would provide a complete continuous accessway from La Rambla to the beach. The applicants would be extending the easements/sidewalks already offered and partly built on Lots 5 and 6 under separate coastal development permits, across their lots, to create a continuous access corridor that reaches the beach. Five foot wide easements would extend from the boundary between Lot 6 and Lot 7, Tract 4947, along each lot's boundary with Boca del Canon, to the lot boundary between Lot 11 and Lot 12, Tract 4947. That easement then connects to a 15 foot wide, by approximately 59 foot long, easement on Lot 11 that extends from Boca del Canon to the southwesterly/most seaward lot boundary. Finally, a 6 foot wide by 119 foot long easement, also on Lot 11 extends along that lots entire southwesterly/most seaward lot boundary. The applicants would construct 4 foot wide sidewalks within the 5 foot wide easements along Boca del Canon, to a switchback ADA compliant ramp system that descends down to the Coastal Trail and beach. The proposed easements are wide enough to accommodate the walking surfaces, and fencing, signs, trash receptacles or other appurtenances that are necessary to make the accessways useful to the public. Special Conditions 1, 2, and 5 implement the applicants' proposal.

Uses that would be allowable in the access easements include grading and construction necessary to construct the public access walkway and steps/ramps and appurtenances (e.g. public access signs, benches, trash receptacles, safety fencing) in accordance with the final plans approved by the Executive Director pursuant to SPECIAL CONDITION NO. 1, underground utilities to serve the proposed development on the subject lot in accordance with the final plans approved by the Executive Director pursuant to SPECIAL CONDITION NO. 1, vegetation removal and planting in accordance with the final landscape plan approved by the Executive Director pursuant to SPECIAL CONDITION NO. 12, construction of drainage devices in accordance with the final plans approved by the Executive Director pursuant to SPECIAL CONDITION NO. 1, and maintenance and repair of the approved development within the easement as identified in the Management and Maintenance Program approved by the Executive Director pursuant to SPECIAL CONDITION NO. 4. Therefore the Commission imposes Special Condition 1.

Since the applicant is proposing alternative access in lieu of preserving existing access, the landowner(s) must maintain the easement such that the easement and its physical improvements are safe to use by the general public. The applicants must also construct, open and maintain the accessways, beach access and viewpoint for public use, even if no other entity acceptable to the Executive Director, chooses to accept the easements and maintain and accept liability for them. This is necessary in this case to find the proposed access to be equivalent in time, place and manner to the existing access. Therefore, Special Condition 2 requires the landowner(s) to maintain the easement area in accordance with a Management and Maintenance Program that is to be submitted by the applicant for approval by the Executive Director in accordance with SPECIAL CONDITION NO. 4. Special Condition 2 allows the easement holder to take responsibility for such maintenance if the easement holder so chooses. Special Condition No. 4 requires the landowners to open and maintain the accessways, beach access and viewpoint for public use even if no public entity chooses to accept, maintain, and accept liability for them.

Furthermore, the sites become visually prominent as one approaches the bluffs from inland public streets. Presently, an individual walking from West Paseo de Cristobal toward the site along La Rambla street sees an existing vehicular gate at the head of Boca del Canon street, which is the entryway to the La Ladera residential community. The subject sites are located to the right side of the gated entry. The existing gate is a visual deterrent to public access. A home approved on Lot 5 also provides a visual deterrent. Signs are required on that lot to address impacts created by

that development. However, the individual approaching the site can still see across the lots toward the bluffs and ocean beyond. In the current condition, there are clear visual cues available to guide individuals across the subject lot toward the bluffs and beach access beyond. Any alternative access proposed would need to address this issue as well.

Presently, there is a clear visual connection from La Rambla to the bluff top and ocean beyond. Upon construction of the proposed residences, that visual connection will be significantly diminished, especially if the homes exceed the height of La Rambla street which would obstruct views across the site toward the bluff top and ocean. Without that visual connection, the public will not be aware of the view point and beach access available. To the maximum extent possible, the project must be designed to preserve this visual connection. Thus, Special Condition No. 1 requires that development be designed such that the structures don't exceed the elevation of the proposed accessway extending along and seaward from La Rambla street. Even so, with development of the properties, the visual connection will be reduced, so signs are also necessary to inform the public of the access and view opportunities available and instruct them on how to gain such access. Therefore, the Commission imposes Special Condition 1 which requires the applicant to prepare a public access sign plan. Signs shall invite and encourage public use of access opportunities and shall identify and direct the public to their locations.

The proposed project will result in a temporary interruption of public access during construction of the residences and the public accessways. To the maximum extent possible, the proposed public accessways should be made open and available for public use upon completion of construction. However, at the latest, that access must be restored prior to or concurrent with the occupation of the first residence built. Therefore, the Commission imposes Special Condition 5.

Also, there are currently no restrictions on the time of day, on the subject site, that the public chooses to use the area for public access and viewing. In order to be sure these existing conditions are carried forward to the proposed public accessways, beach access, and viewpoint, the Commission imposes Special Condition 2 and 3, which preserve the existing condition.

Development of the subject sites will limit future access options over the lots to the alignments the applicants are currently proposing. When considering development of the subject site, the Commission must also consider whether the access being offered will provide meaningful connection to accessways located off site. The provision of such access and the means of doing so are primary considerations. Securing agreement from those off-site property owners that appropriate physical and visual access will be provided and documented through a memorandum of understanding (MOU), has been a significant step in the direction the Commission wishes to take. Through the MOU signed by the owners of the subject lots, and lots 5 and 6, and the subsequent work undertaken by the owners in consultation with the Executive Director, the uncertainty surrounding the means of providing safe access no longer exists. However, to assure the access is provided as previously agreed in the MOU, continued compliance with the MOU remains essential. Therefore, the Commission imposes Special Condition 6.

As conditioned, the Commission finds the proposed project will provide access that is equivalent in time, place and manner to the existing access and is, therefore, consistent with Section 30214.

## 2. Analysis of Project with regard to Section 30212

Section 30212 of the Coastal Act states that public access from the nearest public roadway to the shoreline and along the coast must be provided in conjunction with new development projects except where 1) it would be inconsistent with the protection of fragile coastal resources or 2) adequate access exists nearby. The Commission notes that Section 30212 is a separate section of the Act from Section 30211, the policy which states that development shall not interfere with the public's right of access to the sea where acquired through use. The limitation on the requirement

for the provision of new access imposed by Section 30212 does not pertain to Section 30211. Even if the public's implied dedication rights of access have accrued over trails in areas near other public access, so that one could argue that preservation of those trails would be duplicative, Section 30211 requires that development not be allowed to interfere with those rights. As such, the presence of formal public access in the vicinity of the subject site would not preclude the potential for public rights on the subject site requiring Commission protection. The analysis regarding the existence of adequate alternative public access is only relevant in the context of assessing the proposed project's consistency with Section 30212.

In this case, the nearest formal vertical coastal access available is approximately 1/2 mile upcoast of the subject site via the T-Street public access point. The T-Street public access point is an enclosed pedestrian overpass with stairs leading from Paseo de Cristobal to the beach below. Lateral access along the Pacific Ocean and sandy beach is available adjacent to the T-Street access point, seaward of the OCTA railroad tracks. There is another formal access point approximately 3/4 mile downcoast of the subject site, known as Lost Winds, that provides access to the beach from Calle de Los Alamos via a steep stairway. This accessway is described in the City's LUP as being within a residential area that is more difficult for non-residents to find. Both accessways contain stairways that are more difficult to use by those of limited mobility.

According to the City's certified Land Use Plan, the subject site is located within an area of the City that individuals tend to prefer for beach access due to the presence of support facilities and more direct accessibility from major transportation routes than other areas within the City. The subject site is accessible from Paseo de Cristobal, which is one of a few streets that provide easy accessibility to the beach from the El Camino Real/Interstate 5 freeway exits. Clearly, adequate formalized public access does not exist to serve existing recreational demand, as evidenced by the significant informal use of the site for access. In this case, and particularly where there is substantial evidence of an implied dedication over the subject site, Section 30212 requires that access across these lots be provided in connection with the new development. Since the proposed project offers such access, as conditioned, the proposed project can be found consistent with Section 30212 of the Coastal Act.

### 3. Conclusion

As discussed previously, the Commission cannot approve development that is inconsistent with the public access policies of the Coastal Act. Substantial evidence has been presented to indicate that implied dedication rights of access to the ocean have been acquired at this site and would be adversely impacted by the proposed development at this location. As conditioned, development at the subject site would not interfere with the public's right of access over this site. Therefore, the Commission hereby finds the proposed project consist with Section 30211 and 30212 of the Coastal Act.

### C. GEOLOGY/HAZARDS

Section 30253 of the Coastal Act states, in pertinent 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.*

The City of San Clemente Certified LUP contains policies related to new development in hazard prone areas. Although the standard of review for projects in San Clemente is the Coastal Act, the policies of the Certified LUP are used as guidance. These policies include the following:

Policy VII.13:

*Development shall be concentrated on level areas (except on ridgelines and hilltops) and hillside roads shall be designed to follow natural contours. Grading, cutting, or filling that will alter landforms (e.g.; bluffs, cliffs, ravines) shall be discouraged except for compelling reasons of public safety. Any landform alteration proposed for reasons of public safety shall be minimized to the maximum extent feasible. ...*

Policy VII.14 states:

*Proposed development on blufftop lots shall be set back at least 25 feet from the bluff edge, or set back in accordance with a stringline drawn between the nearest corners of adjacent structures on either side of the development. This minimum setback may be altered to require greater setbacks when required or recommended as a result of a geotechnical review.*

Policy VII.17 of the LUP also limits the type of development allowed on bluff faces. It states:

*New permanent structures shall not be permitted on a bluff face, except for engineered staircases or accessways to provide public beach access where no feasible alternative means of public access exists.*

Development upon property along coastal bluffs is inherently hazardous. Development that requires a bluff or shoreline protective device or that may require one in the future cannot be allowed due to the adverse impacts such devices have upon public access, visual resources, natural landforms, and shoreline processes.

A 2010 geologic report<sup>1</sup> describes the subject site as "...an irregular shaped area located between Boca del Canon and La Rambla streets...The site is located along an altered coastal bluff that slopes relatively steeply to the west, south, and east. Generally, site topography consists of a bluff that runs parallel to the coastline and pinches out toward the south. The bluff rises above the existing beach area beginning at an elevation of approximately 30 feet mean sea level (MSL) to a maximum elevation of approximately 100 feet MSL at the north end of the site. The site is bordered by surface streets and existing residential structures to the north, south, and east, and to the west by an Amtrak easement."

The report goes on to state the subject site consists "...of Capistrano Formation siltstone bedrock, mantled by the recent landslide at the site, terrace materials and zones of artificial fill that were disturbed in the slide." Several lots, Lots 7, 8, and 10, are located along a steep slope approximately 30 feet high that descends in an easterly direction to the street Boca Del Canon, which runs along the bottom of a coastal canyon. The lowermost portion of these lots, a small bench adjacent to Boca del Canon, is flat, likely the result of excavation that occurred when Boca del Canon was constructed. Several of the lots, Lots 9 and 11, are located along a coastal bluff. The coastal bluff is separated from the beach by a railroad track that is protected by a revetment, so, the bluff is no longer subject to wave attack.

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<sup>1</sup> Report by Lawson & Associates titled Update Geotechnical Grading Plan Review, Lots 7 through 11...dated February 9, 2010

However, all of these lots are underlain by a large landslide. In May of 1966 a large block slid on a clay seam in the Capistrano Formation approximately 52 feet below the ground surface, destroying several houses which were located on the west-facing coastal bluffs. The 2010 geologic report suggests that the excavation of a 1:1 graded slope at the toe of the current landslide that occurred in conjunction with other development in the area in the 1950s may have been a contributing factor. The report states the "...net vertical displacement of the landslide was reported to be approximately 5.5 feet, and the horizontal displacement was approximately 8 feet during the time of major movement in May of 1966. The landslide likely moved by incremental amounts at various times since then, although no formal monitoring has been performed...the site remains in a topographically hummocky condition and includes pockets of debris from the former structures, variable vegetation, piping holes, and erosion gullies."

## **1. Site Stabilization**

Slope stability analyses of the subject site indicate the entire site has less than a 1.5 factor of safety. No portion of the site can be developed without significant geologic stabilization measures. Thus, there is no area on the site where development could be concentrated such that use of stabilization measures could be avoided.

The applicant considered a variety of different methods for stabilizing the site including mass grading, use of tie back walls, and the proposed solution of using an array of caissons, shear pins, and caisson supported walls throughout the site, plus some removal of landslide material on Lots 10 and 11.

Mass grading of the subject site would have involved excavation of virtually the entire site and recompaction, involving about 250,000 cubic yards of grading. This stabilization approach would have required excavation and recompaction of the bluff face, and the placement of a caisson support wall on the bluff face. Stabilization using a tie back wall would have involved similar quantities of grading, and the construction of a vertical wall along the coastal bluff. These alternatives were rejected because they would involve significant grading and construction of walls that would significantly alter natural landforms and are thus inconsistent with section 30253 of the Coastal Act.

The proposed solution is to use an array of caissons, shear pins, and caisson-supported walls, and to remove unsuitable landslide material on Lots 10 and 11. Except for the caisson-supported walls that would be integrated into the foundations of the proposed homes (which isn't necessarily part of the slope stabilization system), the support system would be entirely below the ground surface. There would be no significant excavation and recompaction of soils on Lots 7-9. Grading and recompaction of soils is proposed on Lots 10 and 11, but this would occur inland of a bluff edge setback. No grading on the bluff face is proposed. Instead, the stabilization largely relies on drilling about two hundred caissons. These are required in order to pierce the clay seam that is the greatest contributor to slope instability, and embed them into competent bedrock below the clay seam. The caissons will, essentially, hold the soils in place. Although this method involves placement of many caissons, the applicants have concluded, and the Commission's staff geologist has agreed, that it involves the least amount of landform alteration of the available alternatives.

These stabilization measures will increase the factor of safety to 1.5 or greater on lots 7-11. However, these stabilization measures will not change hazard conditions on lots that are affected by the landslide, but are not part of the proposed development plan, such as Lots 28 and 29, which are located seaward of/adjacent to Lots 7, 8 and 9.



## 2. Bluff Edge Setback

Section 30253 of the Coastal Act requires that risks and geologic instability be minimized and requires new development to be designed to assure it is stable and has structural integrity throughout the life of the structure. Setting development back from the edge of the bluff can substantially decrease risk because the further landward from the bluff edge development is located, the less likely it is that the development may become threatened by bluff retreat. Likewise, setbacks decrease the likelihood of geologic instability. The added weight of development, watering or irrigating plants, and human activity closer to the bluff edge can all increase the rate of erosion and bluff retreat. In addition, Section 30251 of the Coastal Act requires that scenic and visual qualities of coastal areas be protected. Setting development further back from the edge of the coastal bluff decreases the project's visibility from public areas. For these reasons, the Commission typically imposes some type of setback from the bluff edge on new development. Further, setting development back away from the bluff edge reduces the likelihood that a shoreline or bluff protection device may be needed in the future. Section 30253 prohibits development that would "in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs." If new development necessitates future protection, the landform and shoreline processes could be dramatically altered by the presence of the protective system. The Coastal Act limits construction of these 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. For all these reasons, the Commission typically imposes some kind of bluff edge setback with new development.

In the City of San Clemente, the Commission has typically required a 25 foot bluff edge setback, provided that a site specific geologic analysis doesn't recommend a larger bluff edge setback. Site stability and the pattern of existing development in the area can also be a consideration.

Except for below-ground stabilization measures, and for development on Lot 11 (discussed below), the applicants are proposing that the homes and all appurtenances be located with at least a 25 foot setback from the bluff edge.

The location of the array of caissons and shear pins is dictated by the stabilization needs of the subject site. In order to achieve the level of stability required to accommodate development and make the public accessways and viewpoint safely usable, approximately 30 caissons are proposed to be located within 25 feet of the bluff edge. These structures will be located below the ground surface. Thus, they would not immediately have an adverse visual impact. However, over time, erosion could expose these structures, and make them visible from various vantage points such as the public beach and Coastal Trail, and other viewpoints. The applicants' geologist considered this issue in locating the proposed structures and sited them in a location that should not become exposed over the life of the proposed development (see Letter by Lawson & Associates dated May 12, 2010). This is based on observations of past erosion and future erosion estimates. The Commission's staff geologist has reviewed these estimates and the geologists' conclusions and concurs with their analysis.

Lot 11 is the most seaward of the subject lots, and is a transitional area between the bluff face and where the slope turns inland toward the canyon. The bluff edge cuts across the northerly, seaward most corner of the lot. The location of the bluff edge on this lot has been the source of some debate between the applicant and opponents of the proposed project. Opponents identify a bluff edge that is about 22 feet landward of the location initially identified by the applicant's geologist (see Letter by Samuel Salkin Enterprises, Inc. received on October 12, 2010). The applicant subsequently made some refinements to their bluff edge determination, which was drawn quite similar to the opponents suggestions, though there still was some disparity between the applicants and the opponents determination. The Commission's geologist has reviewed the information about

the location of the bluff edge submitted by the opponents and the applicant, and visited the subject site, and determined that the bluff edge is located roughly where the opponents, and the applicant's revised lines, with a few refinements of his own (see Exhibit 9). The Commission's geologist made his determination based on guidance contained in the City of San Clemente's Coastal Element (certified Coastal Land Use Plan) which states that a bluff is a feature "...having vertical relief of ten feet or more..." and the definition of bluff edge located in California Code of Regulations, Title 14, § 13577 (h) (2) (which is also contained in the LUP).

The home design originally proposed on Lot 11 conformed to a 25 foot setback from the bluff edge initially drawn by the applicant. However, since the bluff edge was found to be located up to 22 feet landward of the position originally drawn, the home had to be redesigned, and moved further landward. There are several constraints on Lot 11 that were considered by the applicant in their redesign. First, Lot 11 is the location where public access surveys found heavy public use to gain access to the beach. Thus, the applicants have proposed to construct a new beach access across Lot 11, within a 5 foot to 15 foot wide access easement to be dedicated by the applicants. This easement constrains development on three sides (the south, southwesterly and southeasterly sides) of this five-sided lot. Establishing a setback from the bluff edge further constrains development along the remaining two sides of the lot (i.e. the northwesterly and northeasterly sides). The applicant also needs to provide property line setbacks from the northeasterly property line, and from Boca del Canon street that abuts the property on its southeast side. The applicant is also required by the City to have a 2-vehicle garage located on site, for which there is a minimum depth requirement. Given all these constraints, the applicant devised a home design that is setback 16 feet from the currently accepted location of the bluff edge. The applicant prepared a site-specific geologic analysis of this siting (see Letter by Lawson & Associates titled Updated grading plan review for Lot 11, Tract 4947...dated January 5, 2011), which determined that, with the planned site stabilization measures, the development was safe from the anticipated effects of erosion over the life of the proposed development.

The Commission's geologist has reviewed this information, and concurs that with the stabilization measures proposed, the site is safe for development. In this particular case, the Commission can find development that requires stabilization measures to be consistent with Section 30253 because the site is located inland of the railroad corridor and not subject to wave action. The proposed stabilization does not result in the adverse impacts to sand supply, beach access and recreation normally associated with shoreline protective devices. The Commission's staff geologist has reviewed the submitted information and visited the site, and concurs that the proposed development would 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 as required by Section 30253 of the Coastal Act.

### **3. Other Special Conditions**

#### **a. Conformance with Geotechnical Recommendations**

The geologic consultant has found that the subject site is suitable for the proposed development provided the recommendations contained in the geotechnical investigation prepared by the consultant are implemented in design and construction of the project. Adherence to the recommendations contained in the above-mentioned geotechnical investigations, and those outlined in the list of substantive file documents, is necessary to ensure that the proposed project assures stability and structural integrity, and neither creates nor contributes significantly to erosion, geologic instability, or destruction of the site or surrounding area. Therefore, Special Condition 7 requires that the applicant conform to the geotechnical recommendations in the above mentioned geotechnical investigation.

b. Assumption of Risk

Although adherence to the geotechnical consultant's recommendations will minimize the risk of damage from landslide, earth movement and erosion, the risk is not eliminated entirely. The site is within a significant landslide hazard area. Given that the applicants have chosen to implement the project despite risks from erosion, landslides and earth movement, the applicants must assume the risks. Therefore, the Commission imposes Special Condition 8, requiring the applicants to assume the risk of the development. In this way, the applicants are notified that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires the applicants to indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand the hazards. In addition, the condition ensures that future owners of the property will be informed of the risks and the Commission's immunity from liability. As conditioned, the Commission finds the proposed project is consistent with Section 30253 of the Coastal Act.

c. Future Development

In order to ensure that development on the site does not occur which could potentially adversely impact the geologic stability (or other conditions at the site such as public access and views), the Commission imposes Special Condition 11. This condition informs the applicant that future development at the site requires an amendment to this permit or a new coastal development permit. Future development includes, but is not limited to, structural additions, landscaping and fencing.

d. Landscaping

Because hazards exist, the Commission requires a special condition regarding the types of vegetation to be planted. The installation of in-ground irrigation systems, inadequate drainage, and landscaping that requires intensive watering are potential contributors to accelerated weakening of some geologic formations; increasing the lubrication along geologic contacts and increasing the possibility of failure, landslides, and sloughing. Use of non-native vegetation that is invasive can have an adverse impact on the existence of native vegetation in nearby Toledo Canyon and on the bluff face. Invasive plants are generally those identified by the California Invasive Plant Council ([www.cal-ipc.org](http://www.cal-ipc.org)) and California Native Plant Society ([www.CNPS.org](http://www.CNPS.org)) in their publications.

All 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>.

Low water use, drought tolerant, native plants require less water than other types of vegetation, thereby minimizing the amount of water introduced into the bluff top. Drought resistant plantings encourage root penetration which increases bluff stability. Therefore, the Commission imposes Special Condition 12, which requires that prior to the issuance of this permit, the applicant shall prepare a revised landscape plan, which shall be submitted for the review and approval of the Executive Director. To minimize the potential for the introduction of non-native invasive species and to minimize the potential for future bluff failure, a revised landscaping plan consistent with the requirements in the special condition shall be prepared by a licensed landscape architect. As conditioned, to minimize infiltration of water, the development will be consistent with Section 30253 of the Coastal Act.

e. Development Phasing

According to the geological consultant, the proposed stabilization plan is an integrated one which cannot be carried out in a piecemeal fashion. In order for the stabilization to be successful, the entire stabilization plan must be carried out. With the proposed design, the lots cannot be individually stabilized and developed. Thus, in order to ensure structural integrity, the Commission requires the applicants to carry out the entire stabilization plan prior to commencement of construction of any of the proposed single family residences. Therefore, the Commission imposes Special Condition 5, regarding development phasing.

Therefore, as conditioned, the Commission finds the proposed development will be consistent with Section 30253 of the Coastal Act.

**D. PUBLIC VIEWS**

Section 30251 of the Coastal Act states:

*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.*

San Clemente Land Use Plan, Section 305 A (Coastal Visual Resources Goals and Policies), Policy XII.9, states:

*Promote the preservation of significant public view corridors to the ocean.*

The subject site is located seaward of the first public road. Section 30251 of the Coastal Act requires that scenic and visual qualities of coastal areas be considered and protected. Consequently, impacts that the proposed project may have on existing public views must be considered.

As noted previously, the subject site is located prominently in the viewshed toward the beach, ocean, and bluffs. Public views across the site and to the sea currently exist from a public roadway, La Rambla. Furthermore, for those that have accessed the beach via Boca del Canon, there are views across the site from that street. Finally, the public has utilized the subject sites as a viewpoint, as discussed in the public access section of these findings.

The proposed project would place structures on each of the lots, as reconfigured through the proposed lot line adjustments. As discussed in the project description, one of the benefits of the proposed lot line adjustment is that Lot 9 has been reconfigured such that development can be placed along Boca del Canon street, instead of on the bluff top within the viewshed available from La Rambla. This is a significant improvement over development of the lots in their existing configuration. This will protect significant public views available from La Rambla.

The applicants are also proposing to construct an accessway to a constructed and dedicated public viewpoint, to be located on existing Lot 9 (the easement will be on both Lots 8 and 9 as those lots are reconfigured in the lot line adjustment). This viewpoint will have unobstructed ocean views, both upcoast and downcoast.

Finally, the applicants are proposing a 15 foot wide corridor, that is adjacent to and pairs up with a 10 foot wide utility easement on Lot 12, that together will form a 25 foot wide corridor across Lot 11. Thus, there will be views across Lot 11 that are substantially similar to those that exist today.

The applicants have prepared a visual simulation showing the appearance of the proposed development from various public vantage points (see Exhibit 10). The view simulations show that small portions of the proposed homes on Lots 9 and 10 will be visible from the beach in front of the subject site. The home on Lot 11 will be fully visible from the beach in front of the subject site, however, it would be located no further seaward than an existing home that is constructed adjacent to/downcoast of Lot 11, on Lot 12.

The visual simulation also shows how the homes will appear from vantage points on La Rambla. As designed, the homes are set into the hillside that fronts Boca del Canon, and the roof heights are largely below the existing elevation of La Rambla, and the undeveloped bluff top areas seaward of the end of La Rambla, and below the proposed public walkway and viewpoint that will be constructed seaward of the end of La Rambla. Except for Lot 8, the proposed top elevation of the roofs of these homes are such that views from the proposed walkway and viewpoint will be protected (thus, future projections over those heights must be prohibited, as outlined in Special Condition 1). However, the proposed home on Lot 8 (as reconfigured in the LLA) does project higher than the elevation of the proposed public walkway adjacent to it. The applicant has made multiple revisions to lower the roof height of that structure. The current version of the plans indicates the roof elevation is at 96 feet, whereas the public walkway elevation is at 92 feet. Even though this four foot project seems small, the position of this home on the ground places it within the public's view of the ocean. Any projections above the elevation of the proposed public walkway out to the viewpoint will have adverse public view impacts from La Rambla and the walkway. Such view blockage raises an issue as to the proposed project's consistency with Section 30251 of the Coastal Act which requires that development be sited and designed to protect views to and along the ocean and scenic coastal areas. In order to assure that all structures do not project into the public viewshed, including those on Lot 8, the Commission imposes Special Condition 1. Special Condition 1 prohibits structures from exceeding the height of the adjacent proposed public walkway. All final project plans must be revised to ensure compliance with Special Condition 1, which relates to structures and landscaping.

Although the project will have some impact upon public views, public views to and along the ocean will remain accessible upon completion of the proposed project, as described above. The proposed components of the project which address visual resources preservation are required for conformity with the Coastal Act. The continued provision of the viewpoint on the subject site is critical to a finding of consistency with Section 30251 of the Coastal Act in this case. Thus, the Commission imposes Special Condition No. 2, which requires the applicants to offer to dedicate the public access and viewpoints they are proposing.

Furthermore, Special Condition 1, 4, 5, 6, 11, and 14 all include provisions necessary to assure the consistency of the proposed development with Section 30251 of the Coastal Act. Special Condition 1 requires final plans that conform to the applicants preliminary plans to provide for the construction of the accessway and viewpoint, and contains provisions to ensure that existing views are protected. Special Condition 4 establishes requirements related to management and maintenance of the accessway and viewpoint, which essentially requires the landowners to open and maintain the areas unless and until an entity acceptable the Executive Director accepts dedication and agrees to assume maintenance responsibility. Special Conditions 5 and 6 require that the accessways and viewpoint be made available as soon as possible, but no later than June 17, 2013, or later than the occupation of the first residence, whichever comes first. The requirement to construct and open the accessways and viewpoint were previously agreed to by the applicants and other involved landowners through a memorandum of understanding. Continued conformance with that MOU is required.

Special Condition 11 addresses permit requirements for future development at the site. Such development would need to be reviewed for conformity with the Coastal Act, and to ensure ongoing conformity with the Commission's action on this permit.

As described in the geologic hazards findings, the proposed project includes subsurface stabilization measures. The applicants have sited those structures such that they are not anticipated to become exposed over the life of the proposed development. However, if they do become exposed, adverse public view impacts could result. In order to address that issue, the Commission imposes Special Condition 14, which requires the applicants to address the visual impacts if they do arise in the future.

Therefore, as conditioned, the Commission finds the proposed development consistent with Section 30251 of the Coastal Act.

#### **E. CANYON & BLUFF HABITAT**

Section 30240(b) of the Coastal Act states:

- (b) *Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

San Clemente's certified Land Use Plan (LUP) discusses the importance of coastal canyons and states:

*In most cases, coastal canyons are designated for natural open space, which limits potential development and helps to ensure preservation.*

Policy VII.12 of the certified LUP states:

*Encourage activities which improve the natural biological value, integrity and corridor function of the coastal canyons through vegetation restoration, control of alien plants and animals, and landscape buffering.*

Policy XV.13 of the certified LUP states:

*The removal of native vegetation and the introduction of non-native vegetation in the canyons shall be minimized. The use of native plant species in and adjacent to the canyons shall be encouraged.*

The City of San Clemente Certified LUP includes coastal bluffs and canyons under the "Environmentally Sensitive Habitat" heading. The LUP reads,

*"The coastal bluffs and canyons contain important natural habitat....The coastal bluffs support Coastal Bluff Scrub habitat, a variation or subset of Coastal Sage Scrub. This habitat is characterized by species especially tolerant of coastal conditions...The primary environmental value of these habitat areas is that they represent an ever diminishing resource within urbanized portions of the coast."*

#### **1. Canyon Habitat**

The proposed development is located adjacent to Toledo Canyon, one of seven coastal canyons designated as environmentally sensitive habitat area (ESHA) in the certified LUP. The applicant's

property is separated from the area designated 'canyon' in the certified LUP by a road, Boca del Canon.

San Clemente's certified LUP advocates the preservation of native vegetation and discourages the introduction of non-native vegetation in coastal canyons. While no rare or endangered species have been reported to exist within the coastal canyon habitat of San Clemente, the City has designated all coastal canyons, including Toledo Canyon, as environmentally sensitive habitat areas (ESHA). The coastal canyons act as open space and potential wildlife habitat, as well as corridors for native fauna. Decreases in the amount of native vegetation due to displacement by non-native vegetation have resulted in cumulative adverse impacts upon the habitat value of the canyons. As such, the quality of canyon habitat must be assessed on a site-by-site basis.

The canyon adjacent to the subject site is considered somewhat degraded due to the presence of both native and non-native plant species. No portion of the applicant's site contains resources that rise to the level of ESHA. However, to decrease the potential for site instability, deep-rooted, low water use, plants, preferably native to coastal Orange County should be selected for general landscaping purposes in order to minimize irrigation requirements and saturation of underlying soils. Low water use, drought tolerant, native plants require less water than other types of vegetation, thereby minimizing the amount of water introduced into the canyon slope. Drought resistant plantings and minimal irrigation encourage root penetration that increases slope stability. 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>.

Additionally, since the proposed development is adjacent to a coastal canyon where the protection and enhancement of habitat values is sought, 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/](http://www.CNPS.org/)) in their publications. The Commission typically requires that applicants utilize native plant species, particularly where the project site includes land within a coastal canyon. However, the subject site is separated from Toledo Canyon by a road and other parcels developed with single family residences. Thus, while strongly encouraging use of plant species native to coastal Orange County, use of non-native plant species that are drought-tolerant and non-invasive may also be used.

Therefore, Special Condition 12 requires submittal of a revised landscape plan that replaces plants requiring 'medium water use' or higher water use with non-invasive plants of 'low water use' or 'ultra low water use' and also encourages use of a native plant palette. Additionally, because the site is located adjacent to a canyon, the applicant must contact the Orange County Fire Authority (OCFA) for their review and concurrence with the landscape plan. Special Condition 13 requires the applicant to provide written evidence of OCFA approval of a fuel modification plan, or that no fuel modification plan is required.

## **2. Bluff Habitat**

The proposed development is located on a coastal bluff site, and bluffs are designated as environmentally sensitive habitat area (ESHA) in the City's LUP certified in 1995. No portion of the subject site contains resources that rise to the level of ESHA. Nevertheless, preservation and enhancement of the City's coastal bluffs is a goal supported by both the environmental protection policies of the Coastal Act, and the certified LUP. Encroachment into the bluff by development increases the potential for the introduction of non-native plant species, and predation of native

species by domestic animals, and destabilization of the bluff from excess irrigation. Encroaching development also threatens the visual quality of coastal bluffs. San Clemente's certified LUP advocates the preservation of native vegetation and discourages the introduction of non-native vegetation on coastal bluffs.

The proposed development will avoid development on the bluff face. The applicants are not proposing any landscaping or bluff vegetation removal as part of the proposed project as the proposed work will take place landward of the bluff edge. **Special Condition 12** requires the applicant re-vegetate areas affected by construction with drought tolerant non-invasive plants, plants, preferably native to coastal Orange County and appropriate to the habitat type.

### 3. Bird Strike Hazard

Due to the coastal bluff top location, there is a substantial risk of bird strikes to any glass walls. Glass walls are known to have adverse impacts upon a variety of bird species. Birds are known to strike glass walls causing their death or stunning them which exposes them to predation. Some authors report that such birds strikes cause between 100 million to 1 billion bird deaths per year in North America alone. Birds strike the glass because they either don't see the glass, or there is some type of reflection in the glass which attracts them (such as the reflection of bushes or trees that the bird might use for habitat). Some type of boundary treatment is typically required where the backyards of residences abut coastal bluffs. To provide further protection to coastal avian species, **Special Condition 15** requires the applicant submit final revised plans showing a treatment to any walls, fences, gates, etc. to address bird strike issues, necessary to protect against significant disruption of habitat values.

There are a variety of methods available to address bird strikes against glass. For instance, glass can be frosted or etched in a manner that renders the glass more visible and less reflective. Where clear glass is used, appliqués (e.g.) stickers can be affixed to the glass that have a pattern that is visible to birds. Some appliqués incorporate features that allow humans to see through the glass, but which are visible birds. Usually appliqués must be replaced with some frequency in order to retain their effectiveness. In the case of fences or walls, alternative materials can be used, such as wood, stone, or metal (although this approach isn't usually palatable when there is a desire to see through the wall). Use of frosted or etched glass, wood, stone or metal material is preferable to appliqués because of the lower maintenance and less frequent replacement that is required.

The special conditions of this staff report are designed to protect and enhance Toledo Canyon and the coastal bluffs as an environmentally sensitive habitat area. Therefore, as conditioned, the Commission finds that the proposed development is consistent with Section 30240(b) of the Coastal Act and the policies of the certified LUP.

## F. WATER QUALITY

Section 30230 of the Coastal Act states, in pertinent part:

*Marine resources shall be maintained, enhanced, and where feasible, restored...*

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.*

During construction, the applicants will be required to implement best management practices (BMPs) designed to minimize erosion and prevent debris from entering the storm drain system. Special Condition 10 imposes these requirements. Due to the potential for increased landslide hazards in the area, which could be caused by encouraging water infiltration for water quality purposes, maximizing on site retention of drainage is not required. After construction, site runoff will be directed to area drains and piped directly to existing City storm drains at the street. Special Condition 1 requires submittal of final drainage and runoff control plan prior to permit issuance.

Combined with the use of non-invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site, the project will minimize the project's adverse impact on coastal waters to such an extent that it will not have a significant impact on marine resources, biological productivity or coastal water quality. Therefore, the Commission finds that the proposed development, as conditioned, conforms to Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to protect marine resources, promote the biological productivity of coastal waters and to protect human health.

#### **G. COSTS AND ATTORNEYS FEES**

Title 14, section 13055(g) of the California Code of Regulations authorizes the Commission to require applicants to reimburse the Commission for expenses incurred in processing CDP applications. Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its action on the pending CDP application. Therefore, consistent with the Commission's regulations, the Commission imposes Special Condition 15, requiring reimbursement of any costs and attorneys fees the Commission incurs "in connection with the defense of any action brought by a party other than the Applicant/Permittee ... challenging the approval or issuance of this permit."

#### **H. 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 14, which requires that the property owners record deed restrictions against their 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, this permit ensures that any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development, including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

#### **I. LOCAL COASTAL PROGRAM**

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program that conforms to Chapter 3 policies of the Coastal Act. The Commission certified the Land Use Plan for the City of San Clemente on May 11, 1988, and certified an amendment approved in October 1995. On April 10, 1998, the Commission certified with suggested modifications the Implementation Plan portion of the Local Coastal Program. The suggested modifications expired on October 10, 1998. The City re-submitted on June 3, 1999, but withdrew the submittal on October 5, 2000.

The proposed development, as conditioned, is consistent with the policies contained in the certified Land Use Plan. Moreover, as discussed herein, the development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. Therefore, approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program for San Clemente that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

**J. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

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

The City of San Clemente is the lead agency for purposes of CEQA compliance. The City determined that the project is categorically exempt from CEQA. However, the Commission adopts additional mitigation measures. The proposed project has been conditioned in order to be found consistent with the public access, visual resource, environmentally sensitive habitat, geologic hazards, and water quality policies of the Coastal Act. Mitigation measures, in the form of special conditions require 1) Revised Project Plans to address issues related to public access, views, and water quality; 2) Offers to Dedicate Easements, 3) Prohibition on Gates and Hours, 4) Accessway Management and Maintenance, 5) Phasing, 6) Compliance with Memorandum of Understanding regarding Provision of Off-site Access and Phasing (MOU), 7) Conformance with Geotechnical Recommendations, 8) Assumption of Risk, Waiver of Liability and Indemnity, 9) Debris Disposal, 10) Construction Storage, 11) future development , 12) landscaping, 13) fire authority requirements, 14) visual impact mitigation requirements for exposed structures, 15) bird strike prevention measures, 16) liability for costs and attorneys fees, and 17) a deed restriction. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.

Appendix A – Substantive File Documents

1. Plans titled Comprehensive Plan, Alternative Plan Lot Line Adjustment, rec'd 2/11/2010, with revisions to sheets C-1, C-4 and C-7, rec'd and dated 4/1/2010
2. Plans titled View Point Construction Lot 8 rec'd 4/1/2010
3. Plans titled ADA Access Ramp Lot 11 rec'd 4/1/2010
4. Plans titled Bluff Restoration (Landscape Plans) rec'd 4/1/2010
5. View Analysis dated 3/30/2010 by David York, Architect rec'd 4/1/2010
6. Project Memorandum by Lawson & Associates dated March 24, 2010, regarding geotechnical response to California Coastal Commission's Letter dated March 12, 2010
7. Letter from Robert Krup dated March 24, 2010
8. Letter from Robert Krup dated March 31, 2010
9. Letter from Robert Krup dated February 11, 2010
10. Comparison of Grading Alternatives dated 2/10/2010 by David York, Architect
11. Plans titled Alternative Grading Plans (mass grading, tie back wall) rec'd 2/11/2010
12. Report by Lawson & Associates titled Response to California Coastal Commission Review Comments Regarding Consideration of Alternative Design Concepts... dated February 8, 2010.
13. Report by Lawson & Associates titled Update Geotechnical Grading Plan Review, Lots 7 through 11...dated February 9, 2010.
14. Letter by Lawson & Associates titled Updated Geotechnical Review of Viewpoint Stabilization, Lots 7 through 11...dated February 24, 2010.
15. Letter by Lawson & Associates titled Response to sheet and review checklist by Dr. Peter Borella...dated March 12, 2010
16. Letter by Lawson & Associates titled Geotechnical response to California Coastal Commission's letter dated March 12, 2010 dated March 24, 2010
17. Letter by Lawson & Associates titled Request for information regarding exposure of proposed landslide stabilization caissons due to slope erosion or bluff recession...dated May 12, 2010.
18. Letter by Lawson & Associates titled Geotechnical response to California Coastal Commission letter dated July 2, 2010...dated July 14, 2010.
19. Letter by Lawson & Associates titled Request for information regarding removal of caissons if viewpoint on Lot 8 is considered non-structural, Lots 7 through 11...dated November 11, 2010.
20. Letter by Samuel Salkin Enterprises, Inc. Civil & Structural Engineering titled An engineering investigation to determine location of the bluff top of Lot 11, Tract 4947...undated but received on October 12, 2010 under cover letter from Craig Cooper dated October 11, 2010
21. Letter from Robert Krup dated January 4, 2011 regarding bluff edge location on Lot 11 and revised home design.
22. Memo from David York, Architect, dated November 28, 2010, regarding bluff edge location on Lot 11.
23. Memo from David York, Architect, dated December 16, 2010, regarding roof height on Lot 8
24. Letter by Lawson & Associates titled Updated grading plan review for Lot 11, Tract 4947...dated January 5, 2011
25. Memo from David York, Architect, dated December 16, 2010, regarding bluff edge setback and lot constraints.
26. Summary of Results from Prescriptive Rights Survey as of October 31, 2006
27. Plans for Lot 8 including grading and roof plans and elevations submitted 12/27/2010
28. Plans for Lot 11, including plans for grading, floor, elevation, roof, comprehensive sections, grading sections, and landscaping submitted 12/27/2010
29. Precise grading plan for Lots 7-11 submitted 7/29/2010 with revisions to Lot 10 received 8/29/2010
30. Plans for Lots 7-11, including grading, floors plans, elevations, and landscaping received June 3, 2010.

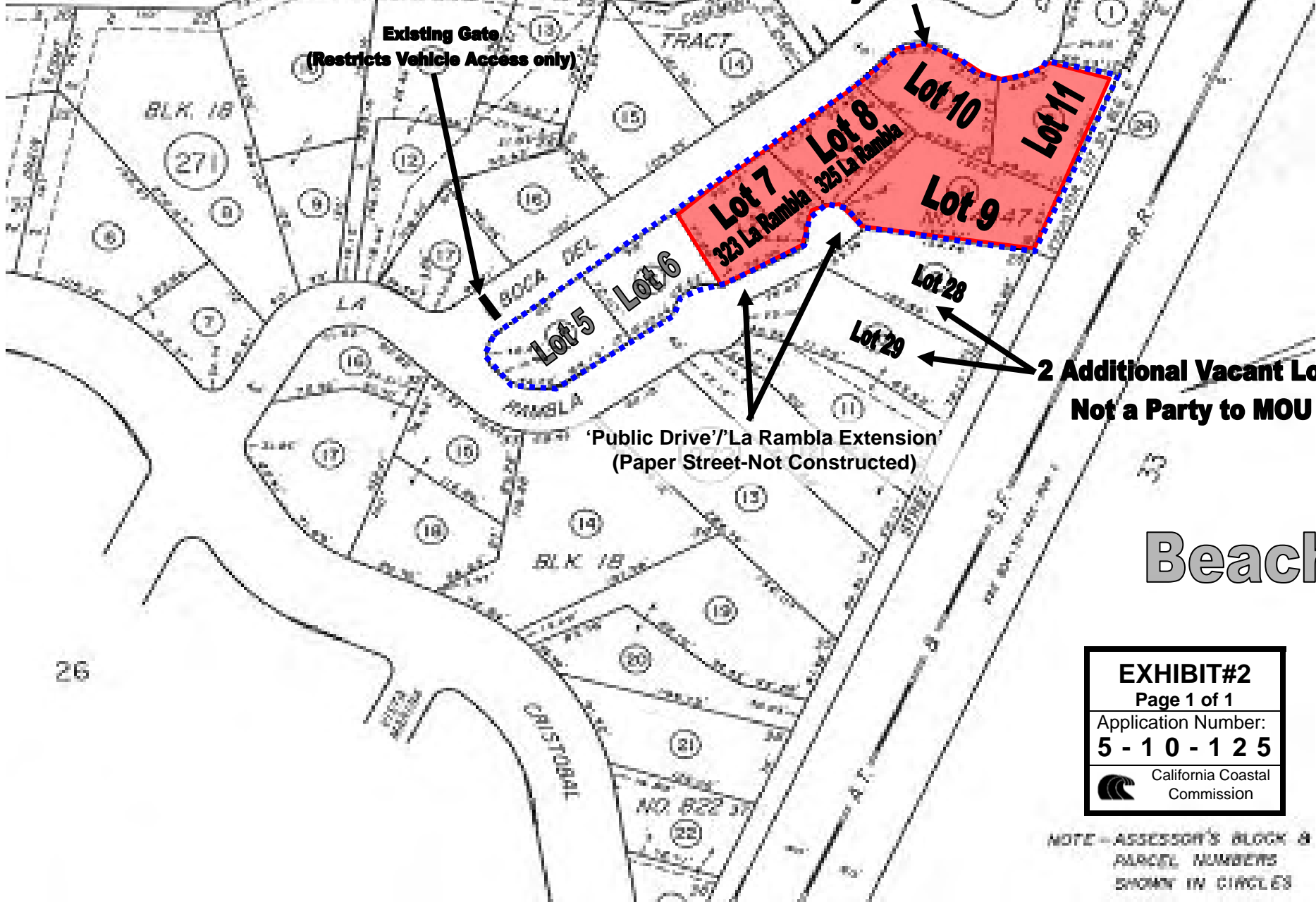


FOR ORANGE COUNTY  
SOLD ONLY. THE ASSessor  
TREATS TO ITS ACCURACY  
LITY FOR OTHER USES.  
ALL RIGHTS RESERVED.  
COUNTY ASSessor

28

**Dashed Line =  
Area of 7 Vacant Lots  
Subject to MOU**

**Existing Gate  
(Restricts Vehicle Access only)**



**2 Additional Vacant Lots  
Not a Party to MOU**

**Beach**

<b>EXHIBIT#2</b>
Page 1 of 1
Application Number: <b>5 - 1 0 - 1 2 5</b>
 California Coastal Commission

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





Oblique Aerial View of the Nine Vacant Lots, Including the Subject Sites, Lots 7-11

<b>EXHIBIT#3</b>
Page 1 of 1
Application Number: <b>5 - 1 0 - 1 2 5</b>
 California Coastal Commission



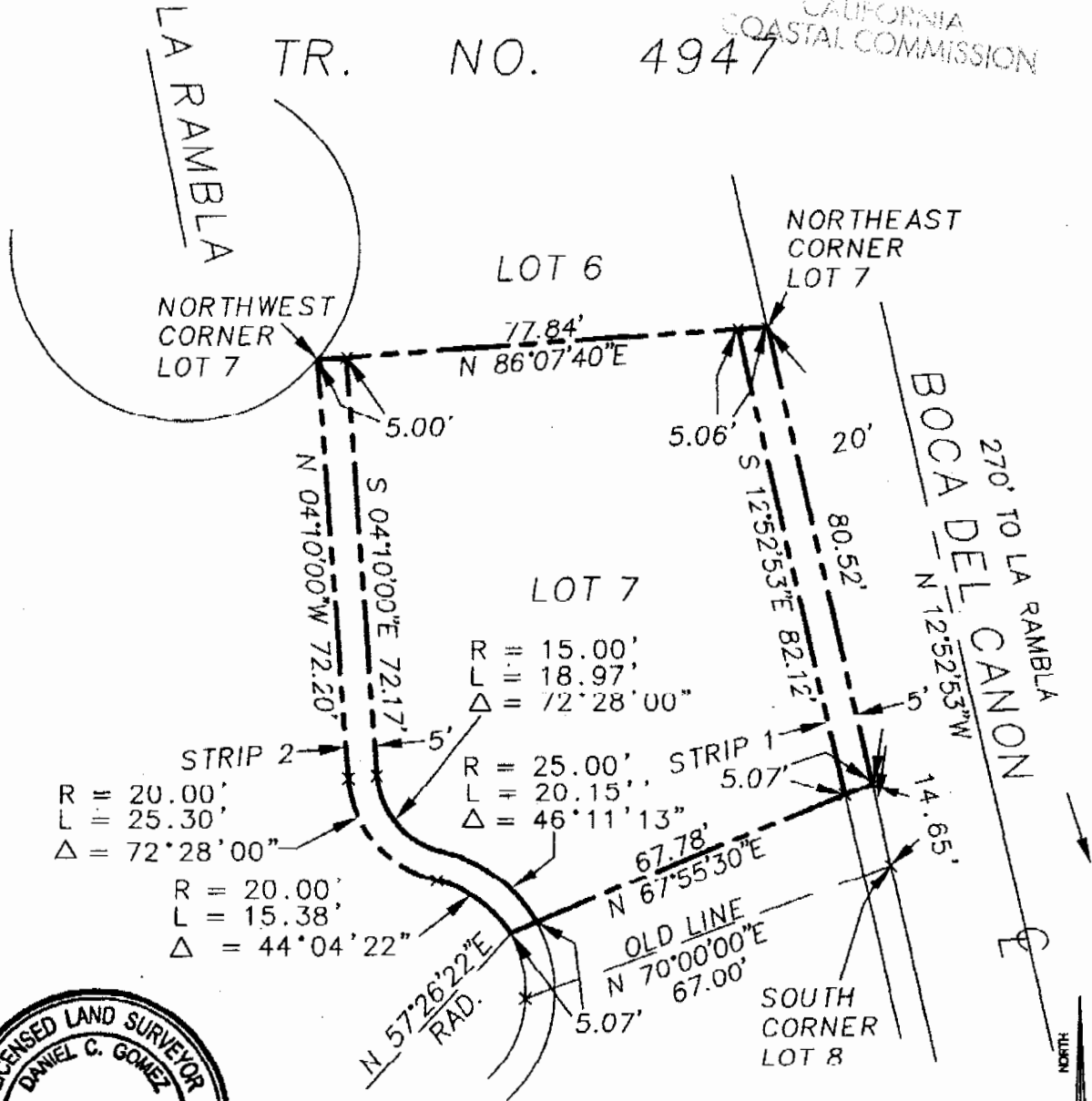
EASEMENT  
EXHIBIT "C"  
(MAP)

RECEIVED  
South Coast Region

JUN 23 2010

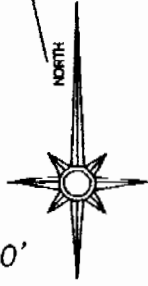
CALIFORNIA  
COASTAL COMMISSION

TR. NO. 4947



M. B. 180 / 44 - 46

SCALE 1" = 30'



PREPARED UNDER THE SUPERVISION OF:

*Daniel Gomez* 6/7/10  
 DANIEL C. GOMEZ, L.S. 5558, EXP. 09/30/11

**LANDMARK SURVEYS**  
 SURVEYING, MAPPING, ENGINEERING.  
 DANIEL C. GOMEZ PLS.  
 9342 NARNIA DR, RIVERSIDE, CA 92503  
 PHONE: (951) 358-1305  
 FAX: (951) 358-1306

EASEMENT  
EXHIBIT "C"  
(LEGAL)

PUBLIC INGRESS-EGRESS EASEMENT

THAT PORTION OF LOT 7 OF TRACT NO. 4947 AS SHOWN ON MAP RECORDED IN BOOK 180 PAGES 44 THROUGH 46 INCLUSIVE OF MAPS RECORDS OF ORANGE COUNTY, STATE OF CALIFORNIA DESCRIBED AS FOLLOWS:

STRIP 2: BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 7 OF SAID MAP;

THENCE ALONG THE WEST LINE OF SAID LOT 7 SOUTH 4°10'00"EAST 72.20 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 20.00 FEET;

THENCE SOUTHERLY AND SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 72°28'00" AN ARC DISTANCE OF 25.30 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 20.00 FEET;

THENCE SOUTHEASTERLY AND SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 44°04'22" AN ARC DISTANCE OF 15.38 FEET, A RADIAL LINE THROUGH SAID POINT BEARS NORTH 57°26'22"EAST;

THENCE NORTH 67°55'30"EAST 5.07 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 25.00 FEET;

THENCE PARALLEL WITH THE SOUTHWESTERLY LINE OF SAID LOT 7 AND NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 46°11'13" AN ARC DISTANCE OF 20.15 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 15.00 FEET;

THENCE PARALLEL WITH SAID SOUTHWESTERLY LINE OF AND NORTHWESTERLY AND NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 72°28'00" AN ARC DISTANCE OF 18.97 FEET;

THENCE PARALLEL WITH THE WEST LINE OF SAID LOT 7 NORTH 4°10'00" WEST 72.17 FEET TO THE NORTH LINE OF SAID LOT 7;

THENCE ALONG SAID NORTH LINE SOUTH 86°07'40" WEST 5.00 FEET TO THE POINT OF BEGINNING.

THIS DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION.



*Daniel C. Gomez*  
Daniel C. Gomez, L.S. 5558

6/7/10  
Date



EASEMENT  
EXHIBIT "C"  
(LEGAL)

PUBLIC INGRESS-EGRESS EASEMENT

THAT PORTION OF LOT 7 OF TRACT NO. 4947 AS SHOWN ON MAP RECORDED IN BOOK 180 PAGES 44 THROUGH 46 INCLUSIVE OF MAPS RECORDS OF ORANGE COUNTY, STATE OF CALIFORNIA DESCRIBED AS FOLLOWS:

STRIP 1: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 7 OF SAID MAP;

THENCE ALONG THE EAST LINE OF SAID LOT 7 SOUTH 12°52'53"EAST 80.52 FEET;

THENCE SOUTH 67°55'30"WEST 5.07 FEET TO A POINT THAT IS 5.00 FEET MEASURED AT RIGHT ANGLES FROM SAID EAST LINE;

THENCE PARALLEL WITH SAID EAST LINE NORTH 12°52'53"WEST 82.12 FEET TO THE NORTH LINE OF SAID LOT 7;

THENCE ALONG SAID NORTH LINE NORTH 86°07'40"EAST 5.06 FEET TO THE POINT OF BEGINNING.

THIS DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION.

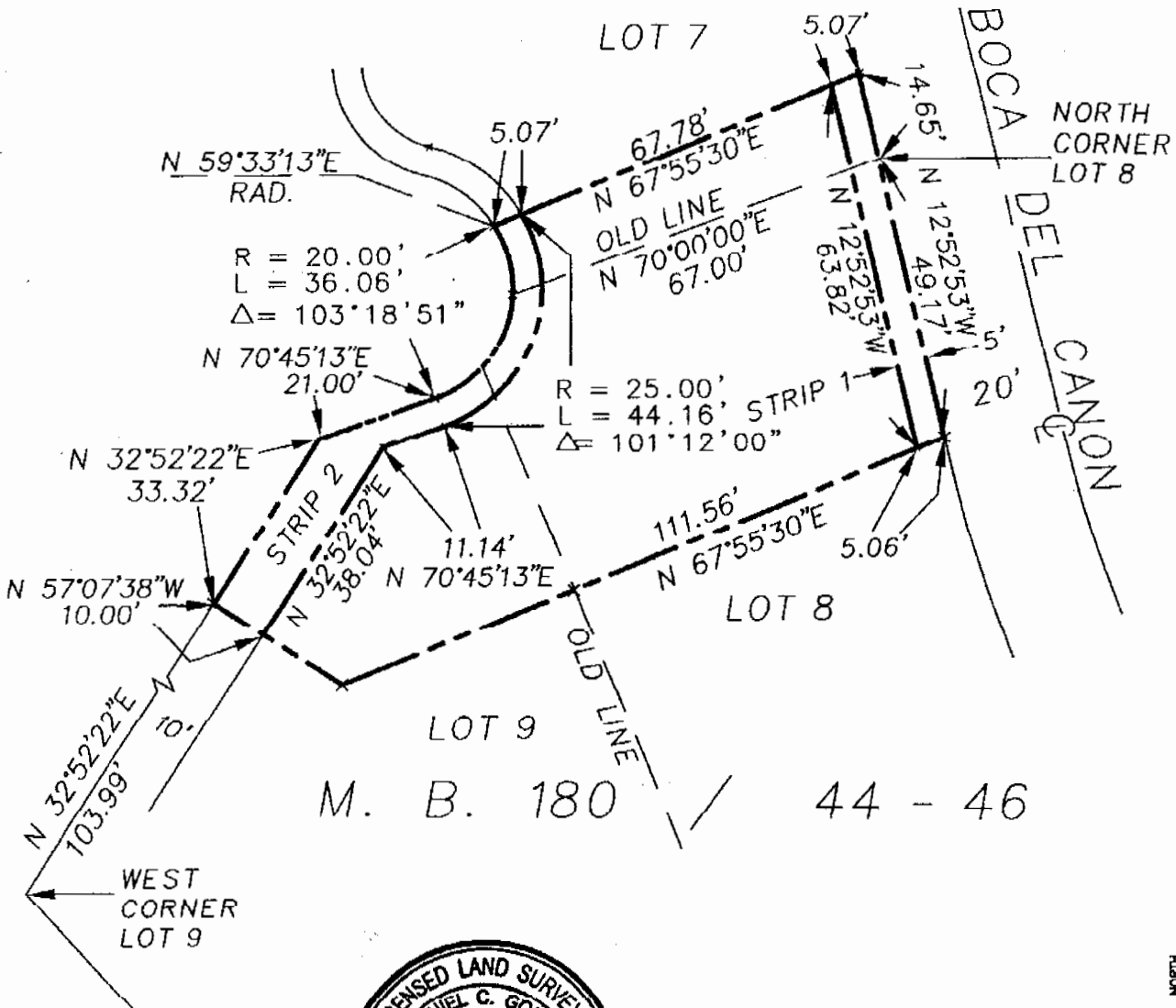


*Daniel C. Gomez*  
Daniel C. Gomez, L.S. 5558

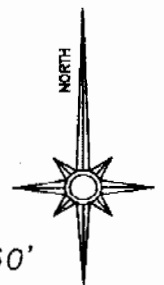
*6/7/10*  
Date

EASEMENT  
EXHIBIT "C"  
(MAP)

TR. NO. 4947



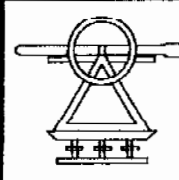
M. B. 180 / 44 - 46



SCALE 1" = 30'

PREPARED UNDER THE SUPERVISION OF:

*Daniel Gomez* 6/7/10  
 DANIEL C. GOMEZ, L.S. 5558, EXP. 09/30/11



**LANDMARK SURVEYS**  
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 FAX: (951) 358-1306

EASEMENT  
EXHIBIT "C"  
(LEGAL)

PUBLIC INGRESS-EGRESS EASEMENT

THAT PORTION OF LOT 7 AND LOT 8 OF TRACT NO. 4947 AS SHOWN ON MAP RECORDED IN BOOK 180 PAGES 44 THROUGH 46 INCLUSIVE OF MAPS RECORDS OF ORANGE COUNTY, STATE OF CALIFORNIA DESCRIBED AS FOLLOWS:

STRIP 1: BEGINNING AT THE NORTH CORNER OF SAID LOT 8 OF SAID MAP;

THENCE ALONG THE EAST LINE OF SAID LOT 8 SOUTH 12°52'53"EAST 49.17 FEET,

THENCE SOUTH 67°55'30"WEST 5.06 FEET TO A POINT THAT IS 5.00 FEET MEASURED AT RIGHT ANGLES FROM SAID EAST LINE;

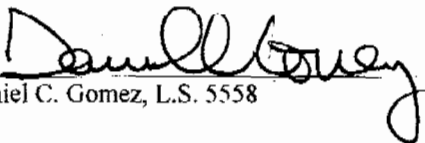
THENCE PARALLEL WITH SAID EAST LINE NORTH 12°52'53"WEST 63.82 FEET;

THENCE NORTH 67°55'30"EAST 5.07 FEET TO SAID EAST LINE;

THENCE ALONG SAID EAST LINE SOUTH 12°52'53"EAST 14.65 FEET TO THE POINT OF BEGINNING.



THIS DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION.

  
Daniel C. Gomez, L.S. 5558  
6/7/10  
Date

CASEMENT  
EXHIBIT "C"  
(LEGAL)

PAGE 3 OF 3

PUBLIC INGRESS-EGRESS EASEMENT

THAT PORTION OF LOT 8 AND LOT 9 OF TRACT NO. 4947 AS SHOWN ON MAP RECORDED IN BOOK 180 PAGES 44 THROUGH 46 INCLUSIVE OF MAPS RECORDS OF ORANGE COUNTY, STATE OF CALIFORNIA DESCRIBED AS FOLLOWS:

STRIP 2: COMMENCING AT THE WEST CORNER OF SAID LOT 9 OF SAID MAP;

THENCE ALONG THE NORTHWEST LINE OF SAID LOT 9 NORTH 32°52'22"EAST 103.99 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID NORTHWEST LINE NORTH 32°52'22"EAST 33.32 FEET;

THENCE ALONG THE NORTH LINE OF SAID LOT 9, NORTH 70°45'13"EAST 21.00 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 20.00 FEET;

THENCE EASTERLY, NORTHEASTERLY, AND NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 103°18'51" AN ARC DISTANCE OF 36.06 FEET TO A POINT, A RADIAL BEARING THROUGH SAID POINT BEARS NORTH 59°33'13"EAST;

THENCE NORTH 67°55'30"EAST 5.07 FEET TO A POINT ON A LINE THAT LIES 5.00 FEET MEASURED RADIALLY FROM LAST SAID CURVE, SAID POINT BEING THE BEGINNING OF A CURVE CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 25.00 FEET;

THENCE SOUTHERLY, SOUTHWESTERLY AND WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 101°12'00" AN ARC DISTANCE OF 44.16 FEET;

THENCE PARALLEL WITH SAID NORTH LINE SOUTH 70°45'13"EAST 11.14 FEET;

THENCE PARALLEL WITH SAID NORTHWEST LINE SOUTH 32°52'22"WEST 38.04 FEET;

THENCE NORTH 57°07'38"WEST 10.00 FEET TO THE TRUE POINT OF BEGINNING.

THIS DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION.



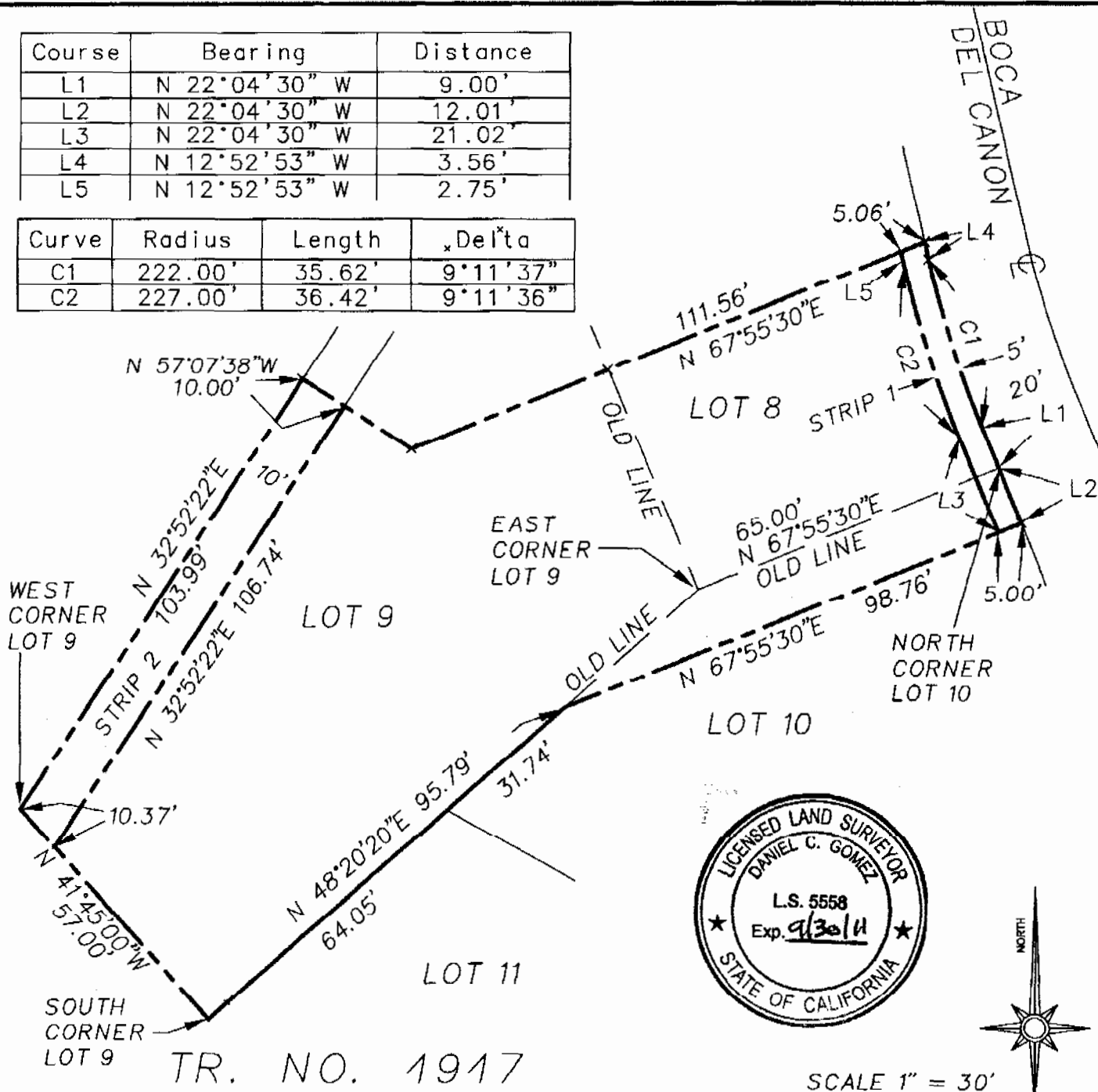
Daniel C. Gomez, L.S. 5558

*Daniel C. Gomez* 6/7/10  
Date

# EASEMENT EXHIBIT "C" (MAP)

Course	Bearing	Distance
L1	N 22°04'30" W	9.00'
L2	N 22°04'30" W	12.01'
L3	N 22°04'30" W	21.02'
L4	N 12°52'53" W	3.56'
L5	N 12°52'53" W	2.75'

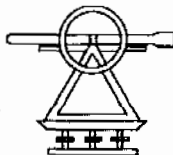
Curve	Radius	Length	Δ Delta
C1	222.00'	35.62'	9°11'37"
C2	227.00'	36.42'	9°11'36"



TR. NO. 1917

PREPARED UNDER THE SUPERVISION OF:

*Daniel Gomez* 611610  
 DANIEL C. GOMEZ, L.S. 5558, EXP. 09/30/11



**LANDMARK SURVEYS**

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EASEMENT  
EXHIBIT "C"  
(LEGAL)

PAGE 2 OF 3

PUBLIC INGRESS-EGRESS EASEMENT

THAT PORTION OF LOT 8 AND LOT 10 OF TRACT NO. 4947 AS SHOWN ON MAP RECORDED IN BOOK 180 PAGES 44 THROUGH 46 INCLUSIVE OF MAPS RECORDS OF ORANGE COUNTY, STATE OF CALIFORNIA DESCRIBED AS FOLLOWS:

STRIP 1: BEGINNING AT THE NORTH CORNER OF LOT 10 OF SAID MAP;

**THENCE** ALONG THE NORTHEAST LINE OF SAID LOT 10 SOUTH 22°04'30"EAST 12.01 FEET;

**THENCE** SOUTH 67°55'30"WEST 5.00 FEET TO A POINT THAT IS 5.00 FEET, MEASURED AT RIGHT ANGLES FROM SAID NORTHEAST LINE;

**THENCE** PARALLEL WITH SAID LINE NORTH 22°04'30"WEST 21.02 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE EAST AND HAVING A RADIUS OF 227.00 FEET;

**THENCE** PARALLEL WITH THE NORTHEAST LINE OF SAID LOT 8, NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 9°11'36" AN ARC DISTANCE OF 36.42 FEET;

**THENCE** CONTINUING PARALLEL WITH SAID NORTHEAST LINE NORTH 12°52'53"WEST 2.75 FEET;

**THENCE** NORTH 68°00'44"EAST 5.06 FEET TO SAID NORTHEAST LINE;

**THENCE** ALONG SAID NORTHEAST LINE SOUTH 12°52'53"EAST 3.56 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE EAST AND HAVING A RADIUS OF 222.00 FEET;

**THENCE** CONTINUING ALONG SAID NORTHEAST LINE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 9°11'37" AN ARC DISTANCE OF 35.62 FEET;

**THENCE** CONTINUING ALONG SAID NORTHEAST LINE SOUTH 22°04'30"EAST 9.00 FEET TO THE POINT OF BEGINNING.

THIS DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION.



*Daniel C. Gomez*  
Daniel C. Gomez, L.S. 5558

*6/16/10*  
Date

EASEMENT  
EXHIBIT "C"  
(LEGAL)

PUBLIC INGRESS-EGRESS EASEMENT

THAT PORTION OF LOT 9 OF TRACT NO. 4947 AS SHOWN ON MAP RECORDED IN BOOK 180 PAGES 44 THROUGH 46 INCLUSIVE OF MAPS RECORDS OF ORANGE COUNTY, STATE OF CALIFORNIA DESCRIBED AS FOLLOWS:

STRIP 2: BEGINNING AT THE WEST CORNER OF SAID LOT 9 OF SAID MAP;

THENCE ALONG THE NORTHWEST LINE OF SAID LOT 9 NORTH 32°52'22"EAST 103.99 FEET;

THENCE SOUTH 57°07'38"EAST 10.00 FEET TO A POINT THAT IS 10.00 FEET MEASURED AT RIGHT ANGLES FROM SAID NORTHWEST LINE;

THENCE PARALLEL WITH SAID NORTHWEST LINE SOUTH 32°52'22"EAST 106.74 FEET TO THE SOUTHWEST LINE OF SAID LOT 9;

THENCE ALONG SAID SOUTHWEST LINE NORTH 41°45'00"WEST 10.37 FEET TO THE POINT OF BEGINNING.

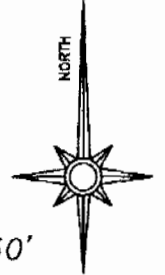
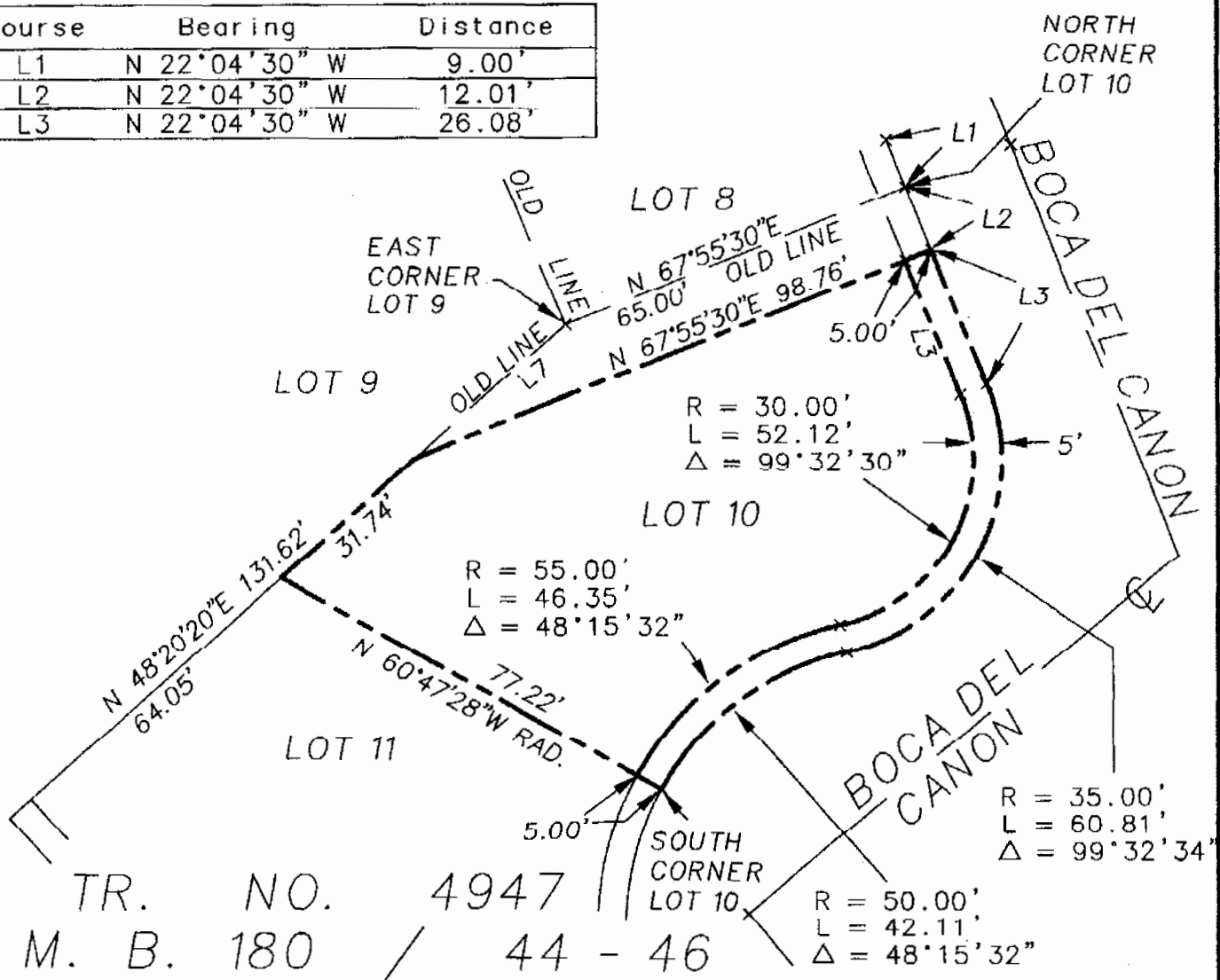
THIS DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION.




Daniel C. Gomez      6/16/10  
Daniel C. Gomez, L.S. 5558      Date

# EASEMENT EXHIBIT "C" (MAP)

Course	Bearing	Distance
L1	N 22°04'30" W	9.00'
L2	N 22°04'30" W	12.01'
L3	N 22°04'30" W	26.08'



PREPARED UNDER THE SUPERVISION OF:  
*Daniel Gomez* 67710  
 DANIEL C. GOMEZ, L.S. 5558, EXP. 09/30/11



**LANDMARK SURVEYS**

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 FAX: (951) 358-1306



EASEMENT  
EXHIBIT "C"  
(LEGAL)

PUBLIC INGRESS-EGRESS EASEMENT

THAT PORTION OF LOT 10 OF TRACT NO. 4947 AS SHOWN ON MAP RECORDED IN BOOK 180 PAGES 44 THROUGH 46 INCLUSIVE OF MAPS RECORDS OF ORANGE COUNTY, STATE OF CALIFORNIA DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTH CORNER OF LOT 10 OF SAID TRACT AND MAP;

THENCE ON A RADIAL BEARING ALONG THE SOUTHWEST LINE OF SAID LOT 10 NORTH 60°47'28" WEST 5.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHEAST AND HAVING A RADIUS OF 55.00 FEET;

THENCE NORTHEASTERLY AND PARALLEL WITH THE SOUTHEASTERLY LINE OF SAID LOT 10 ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 48°15'32" AN ARC DISTANCE OF 46.35 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 30.00 FEET;

THENCE PARALLEL WITH THE EASTERLY LINE OF SAID LOT 10 NORTHEASTERLY AND NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 99°32'30" AN ARC DISTANCE OF 52.12 FEET;

THENCE PARALLEL WITH THE NORTHEAST LINE OF SAID LOT 10, NORTH 22°04'30" WEST 26.08;

THENCE NORTH 67°55'30" EAST 5.00 FEET TO THE SOUTHWEST LINE OF BOCA DEL CANON AS SHOWN ON SAID MAP;

THENCE ALONG SAID SOUTHWEST LINE SOUTH 22°04'30" EAST 26.08 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE EAST AND HAVING A RADIUS OF 35 FEET;

THENCE ALONG THE SOUTHEAST LINE OF SAID LOT 10 SOUTHERLY AND SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 99°32'34" AND ARC DISTANCE OF 60.81 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE TO THE SOUTHEAST AND HAVING A RADIUS OF 50.00 FEET;

THENCE CONTINUING ALONG SAID SOUTHEAST LINE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 48°15'32" AN ARC DISTANCE OF 42.11 FEET TO THE POINT OF BEGINNING.



THIS DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION.

*Daniel C. Gomez*  
Daniel C. Gomez, L.S. 5558

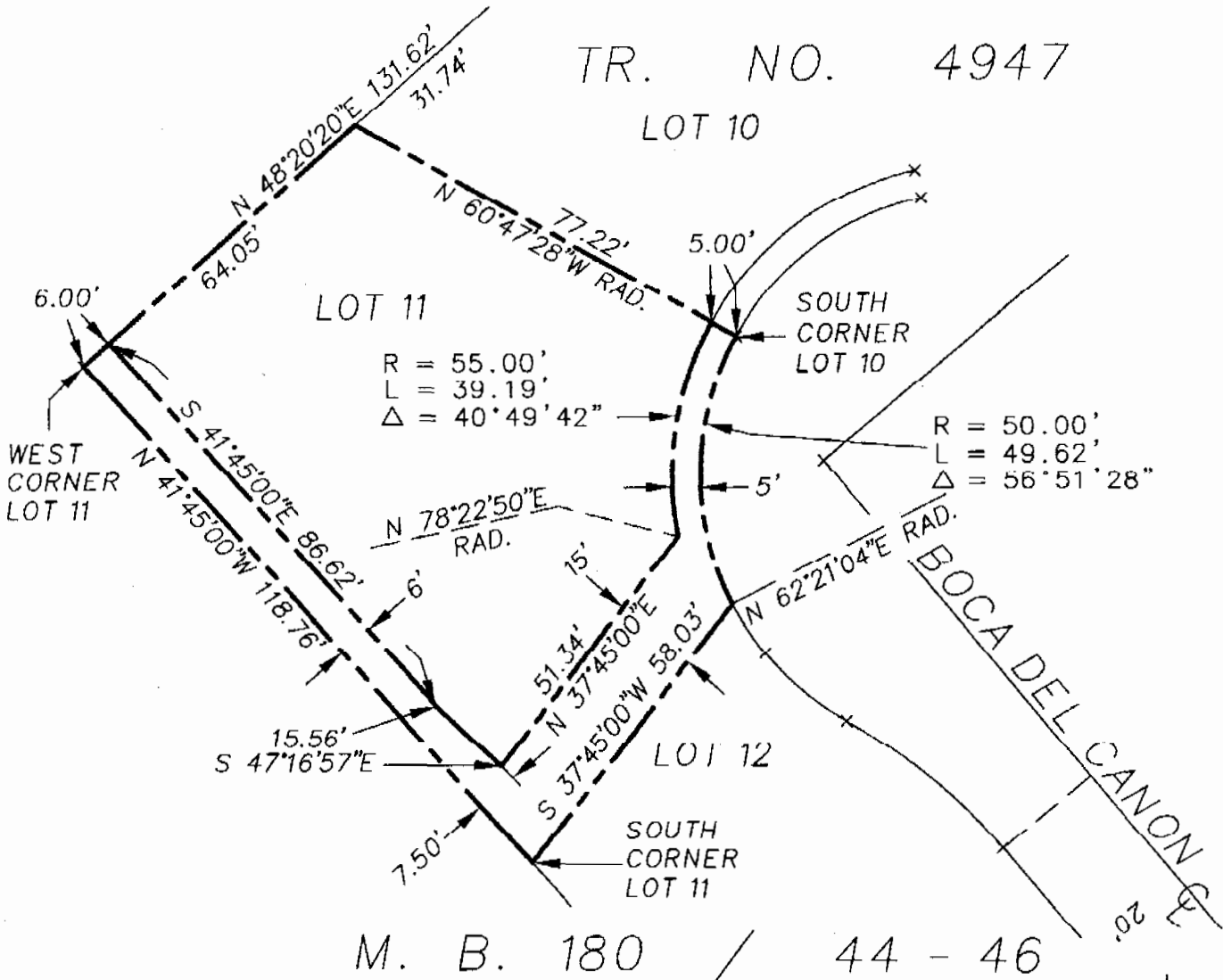
6/7/10  
Date

# EASEMENT EXHIBIT "C" (MAP)

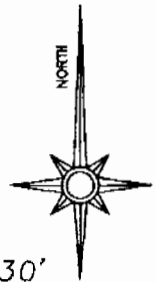
TR. NO. 4947

LOT 10

LOT 11



M. B. 180 / 44 - 46



SCALE 1" = 30'

PREPARED UNDER THE SUPERVISION OF:

*Daniel Gomez*  
 DANIEL C. GOMEZ, L.S. 5558 EXP. 09/30/11



### LANDMARK SURVEYS

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 PHONE: (951) 358-1305  
 FAX: (951) 358-1306

EASEMENT  
EXHIBIT "C"  
(LEGAL)

PUBLIC INGRESS-EGRESS EASEMENT

THAT PORTION OF LOT 11 OF TRACT NO. 4947 AS SHOWN ON MAP RECORDED IN BOOK 180 PAGES 44 THROUGH 46 INCLUSIVE OF MAPS RECORDS OF ORANGE COUNTY, STATE OF CALIFORNIA DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTH CORNER OF LOT 10 OF SAID TRACT AND MAP;

**THENCE** ON A RADIAL BEARING ALONG THE NORTHEAST LINE OF SAID LOT 11 NORTH 60°47'28" WEST 5.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE EAST AND HAVING A RADIUS OF 55.00 FEET;

**THENCE** SOUTHERLY ALONG SAID CURVE AND PARALLEL WITH THE EAST LINE OF SAID LOT 11 THROUGH A CENTRAL ANGLE OF 40°49'42" AN ARC DISTANCE OF 39.19 FEET TO A POINT THAT LIES 15.00 FEET NORTHEAST, MEASURED AT RIGHT ANGLES TO THE SOUTHEAST LINE OF SAID LOT 11;

**THENCE** PARALLEL WITH SAID SOUTHEAST LINE SOUTH 37°45'00" WEST 51.34 FEET TO A POINT THAT IS 7.50 FEET NORTHEAST, MEASURED AT RIGHT ANGLES TO THE SOUTHWEST LINE OF SAID LOT 11;

**THENCE** NORTH 47°16'57" WEST 15.56 FEET TO A POINT THAT IS 6.00 FEET NORTHEAST, MEASURED AT RIGHT ANGLES TO SAID SOUTHWEST LINE OF SAID LOT 11;

**THENCE** PARALLEL WITH SAID SOUTHWEST LINE NORTH 41°45'00" WEST 86.62 FEET TO THE NORTHWEST LINE OF SAID LOT 11;

**THENCE** ALONG SAID NORTHWEST LINE SOUTH 48°20'20" WEST 6.00 FEET TO THE WEST CORNER OF SAID LOT 11;

**THENCE** ALONG THE SOUTHWEST LINE OF SAID LOT 11 SOUTH 41°45'00" EAST 118.76 FEET TO THE SOUTH CORNER OF SAID LOT 11;

**THENCE** ALONG THE SOUTHEAST LINE OF SAID LOT 11 NORTH 37°45'00" EAST 58.03 FEET TO THE WEST LINE OF BOCA DEL CANON AS SHOWN ON SAID MAP, SAID WEST LINE BEING A CURVE CONCAVE TO THE WEST AND HAVING A RADIUS OF 50.00 FEET, A RADIAL LINE THROUGH SAID POINT BEARS NORTH 62°21'04" EAST;

**THENCE** NORTHERLY ALONG SAID WEST LINE THROUGH A CENTRAL ANGLE OF 56°51'28" AN ARC DISTANCE OF 49.62 FEET TO THE POINT OF BEGINNING.

THIS DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION.



*Daniel C. Gomez*  
Daniel C. Gomez, L.S. 5558

*6/16/10*  
Date

EASEMENTS  
EXHIBIT "A"  
(LEGAL)

EASEMENT B: (5' PUBLIC INGRESS-EGRESS EASEMENT)

**THAT PORTION** OF LOT 6, TRACT No. 4947, IN THE CITY OF SAN CLEMENTE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON THE MAP FILED IN BOOK 180, PAGES 44 THROUGH 46 INCLUSIVE OF MISCELLANEOUS MAPS, RECORDS OF SAID COUNTY, DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE SOUTHWESTERLY CORNER OF SAID LOT 6;

**THENCE** NORTH  $86^{\circ}07'40''$  EAST 5.00 FEET ALONG THE SOUTHERLY LINE OF SAID LOT 6 TO A POINT LYING 5.00 FEET EASTERLY AND PARALLEL WITH THE WESTERLY LINE OF LOT 7, TRACT No. 4947, IN THE CITY OF SAN CLEMENTE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON THE MAP FILED IN BOOK 180, PAGES 44 THROUGH 46 INCLUSIVE OF MISCELLANEOUS MAPS, RECORDS OF SAID COUNT, HAVING A BEARING OF NORTH  $4^{\circ}10'50''$  WEST;

**THENCE** NORTH  $4^{\circ}10'50''$  WEST 6.53 FEET TO THE WESTERLY LINE OF SAID LOT 6 TO A POINT ON A NON-TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 30.00 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH  $64^{\circ}29'55''$  EAST;

**THENCE** SOUTHWESTERLY ALONG SAID CURVE 8.23 FEET THROUGH A CENTRAL ANGLE OF  $15^{\circ}43'05''$  ALONG SAID LOT 6 BACK TO THE **POINT OF BEGINNING.**

ALL AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

THIS MAP WAS PREPARED BY  
ME OR UNDER MY DIRECTION.

RONALD D. MIEDEMA, L.S. 4653  
MY LICENSE EXPIRES: 09/30/2009  
DATE: 02/06/2008

# EASEMENT EXHIBIT "B" (MAP)

END WESTERLY RIGHT OF WAY LINE (BOCA DEL CANYON)

LINE DATA:

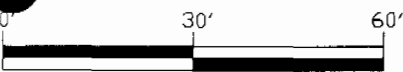
PT.#	BEARING	LENGTH
1	N04°10'50"W	6.53'

CURVE DATA:

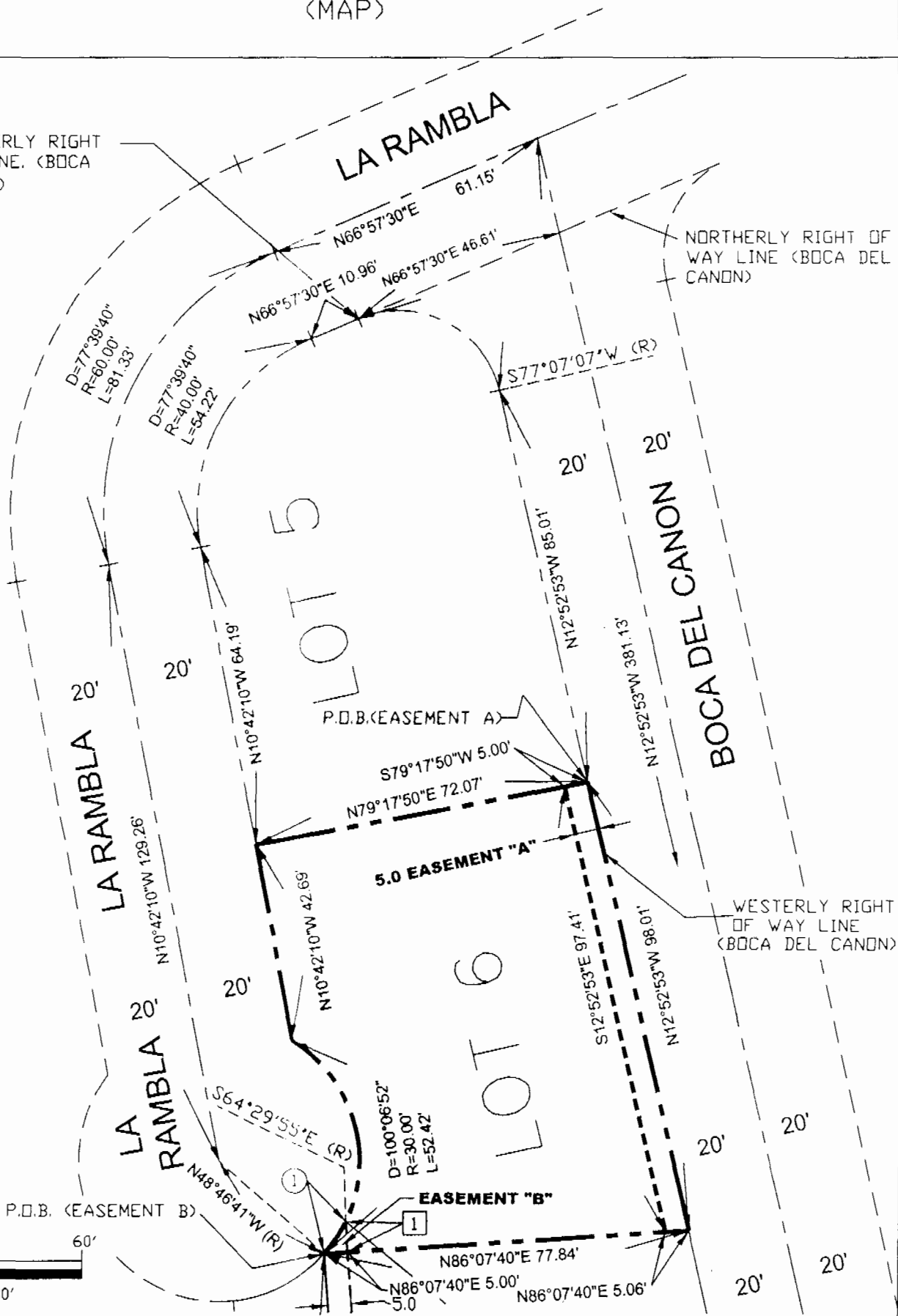
PT.#	DELTA	RADIUS	LENGTH
1	15°43'05"	30.00'	8.23'



NORTH P.O.B. (EASEMENT B)

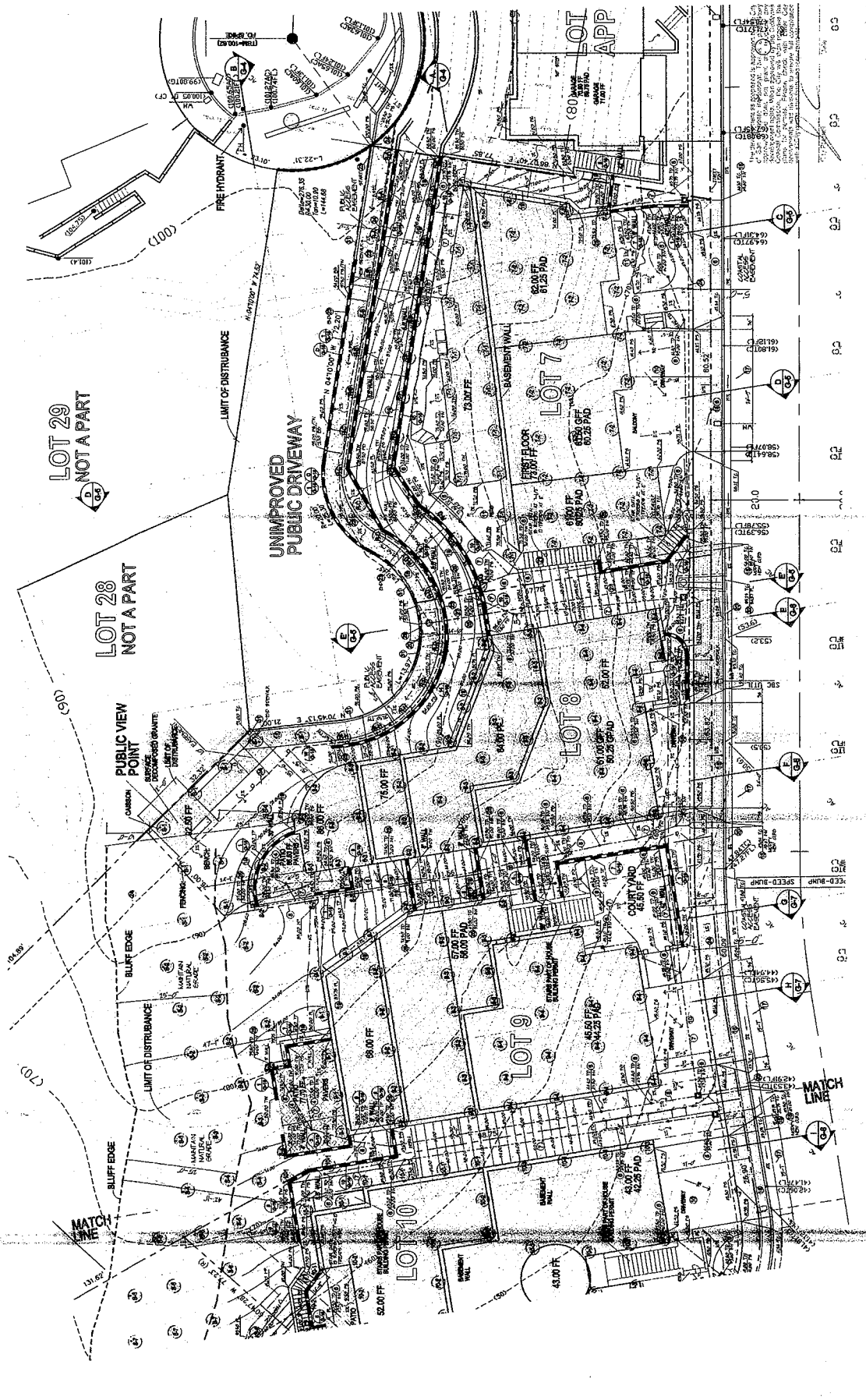


SCALE 1" = 30'









SEE SHEET G-3 FOR CONSTRUCTION NOTES AND CONSTRUCTION SCHEDULE

**GRADING PLAN  
LOT 7, 8 AND 9**

DAVID YORK ARCHITECT  
215 W. AVENUE, LOS ANGELES, CA 90012  
(213) 487-4864

G-2

THESE PLANS WERE PREPARED UNDER THE SUPERVISION OF:  
DAVID YORK ARCHITECT LP NO. 0008 DATE

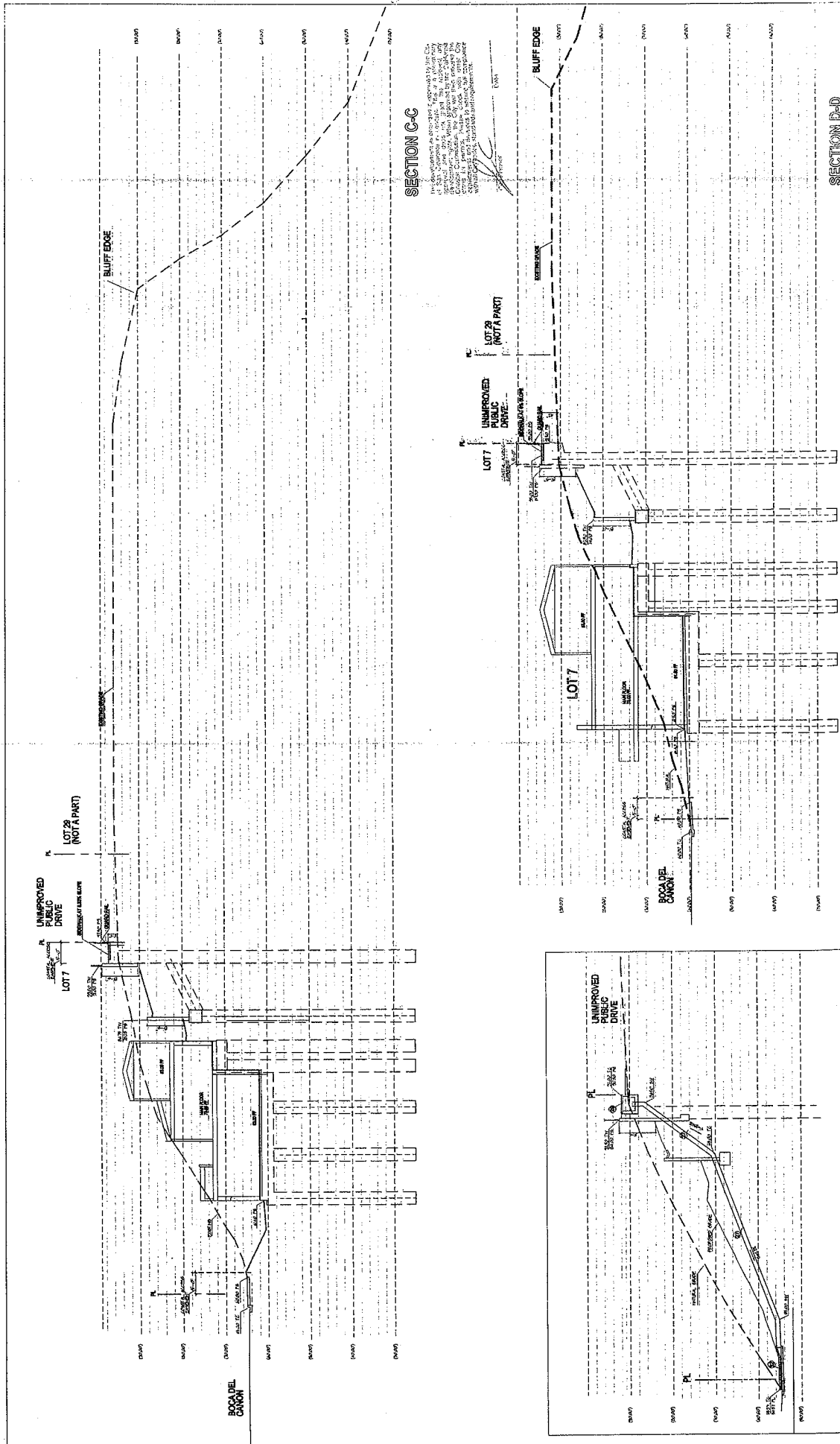
SOILS AND GEOTECHNICAL CERTIFICATION  
IN ACCORDANCE WITH THE REQUIREMENTS OF THE  
UNIFORM BUILDING CODES AND THE CALIFORNIA  
UNIFORM BUILDING CODES AS ADOPTED IN  
FOR THE PROJECT AND GEOTECHNICAL REPORT  
DATED: 01/11/00 BY: GEOTECHNICAL

SOILS ENGINEER:  
LEE CALLE - 1/11/00  
SMA - 1/11/00  
PT. 1/11/00 1/11/00









**GRADING SECTIONS**

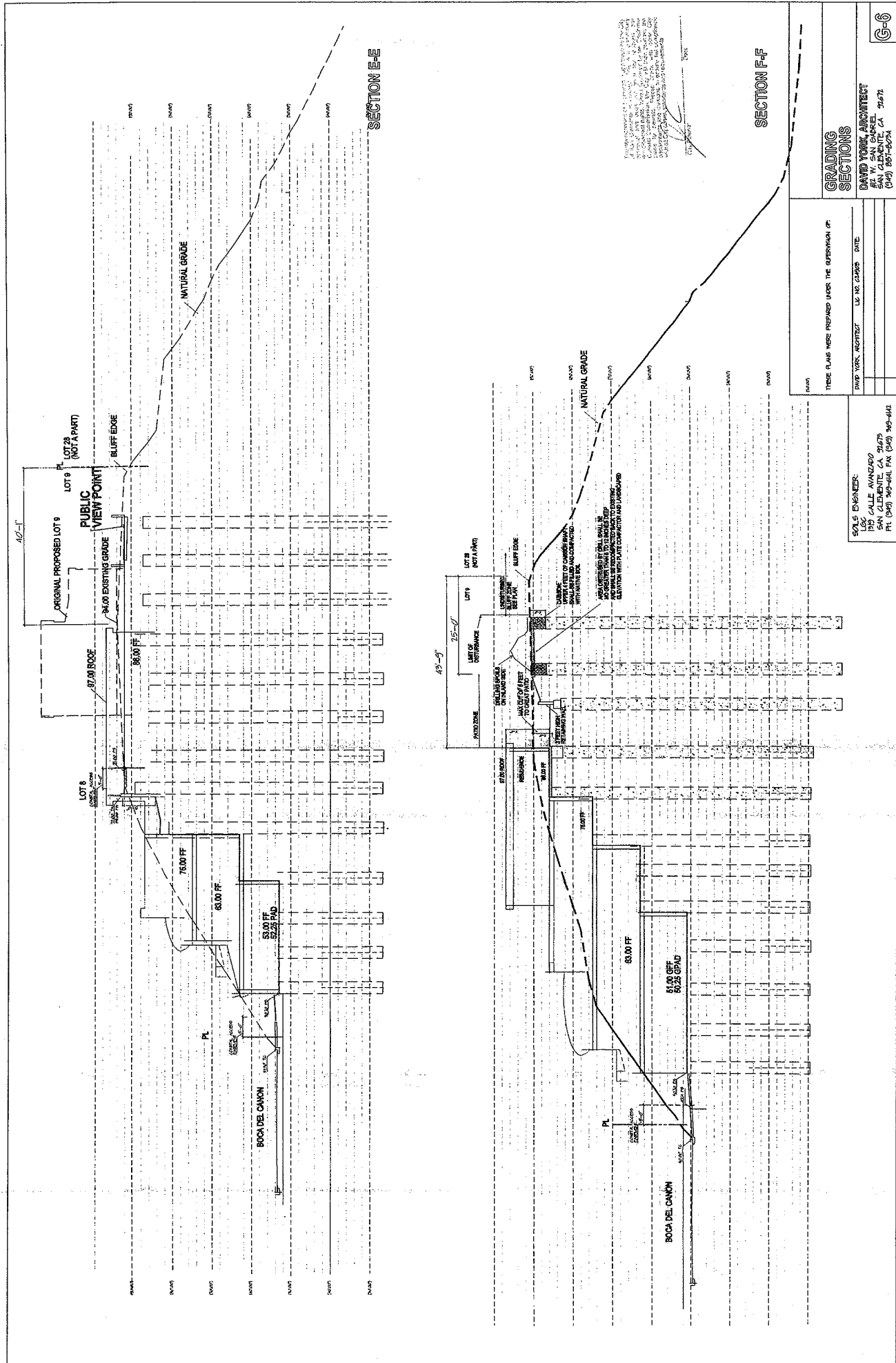
**DAVID YORK ARCHITECT**  
 812 W. SAN CAROL  
 SAN CLEMENTE, CA 92671  
 (949) 851-8024

G-5

THESE PLANS WERE PREPARED UNDER THE SUPERVISION OF:

DAVID YORK ARCHITECT	LC NO. 012398	DATE

**SOILS ENGINEER:**  
 199 CALLE AVANZADO  
 SAN CLEMENTE, CA 92673  
 PH. (949) 365-4141 FAX (949) 365-4441

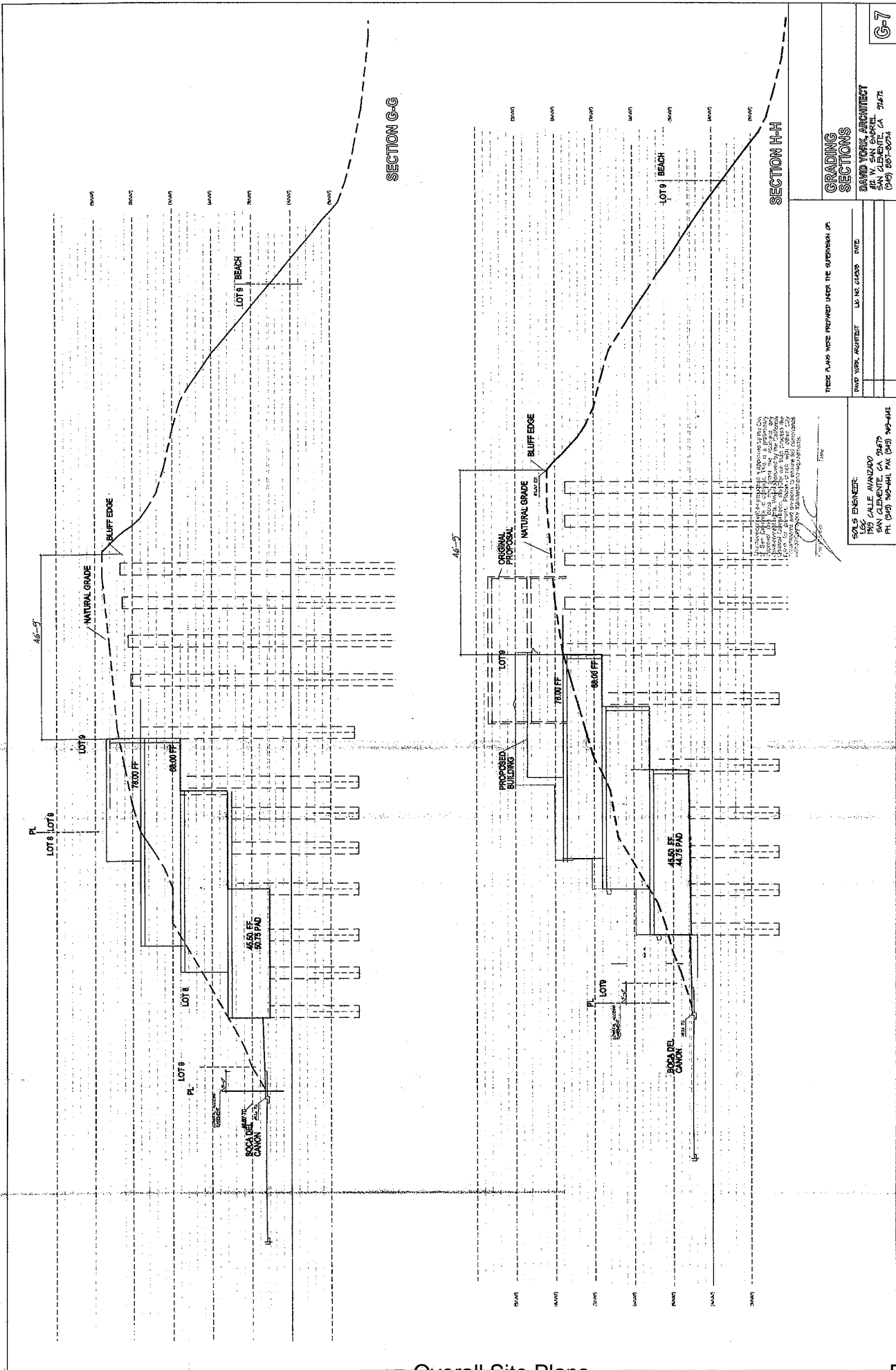


**GRADING SECTIONS**  
 DAVID YORK ARCHITECT  
 #10 W. SAN CARLOS ST.  
 SAN CARLOS, CA 95070  
 (916) 887-5074

THESE PLANS WERE PREPARED UNDER THE SUPERVISION OF  
 DAVID YORK ARCHITECT U.S. NO. 224205 DATE

SCALE ENGINEER:  
 LEO C. CALLE, AIA/LEED AP  
 SAN CARLOS, CA 95070  
 P.E. (510) 949-4141, P.A. (510) 949-4141

G-6



SECTION G-G

SECTION H-H

GRADING SECTIONS

DAVID YORK, ARCHITECT  
 441 W. SAN CAROL  
 SANTA ANA, CA 92701  
 (714) 952-8071

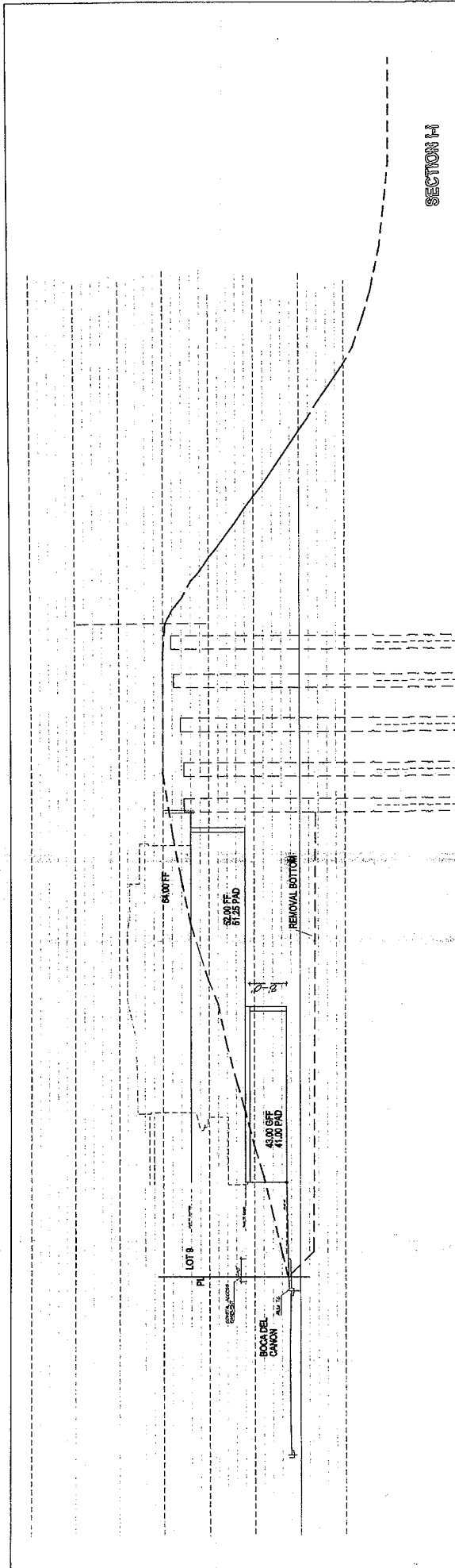
G-7

THESE PLANS WERE PREPARED UNDER THE SUPERVISION OF

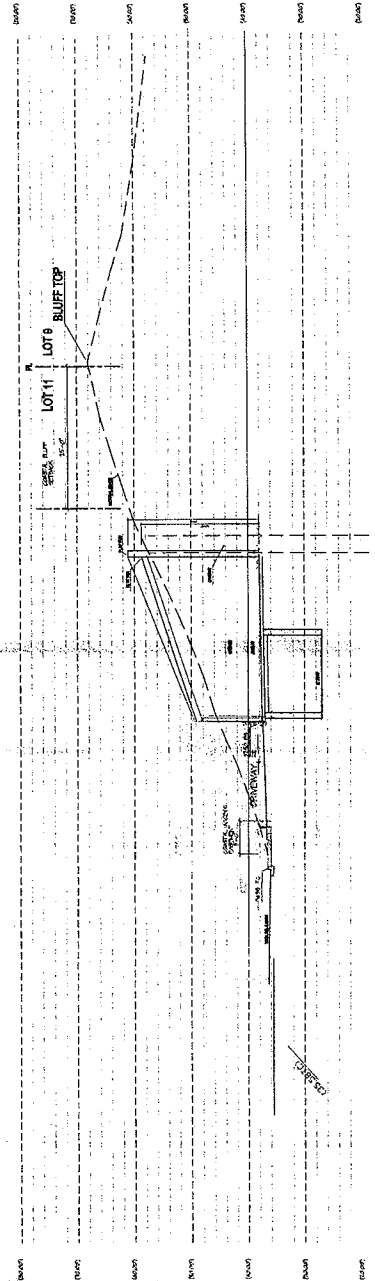
DAVID YORK, REGISTERED  
 CIVIL ENGINEER, P.E.  
 LICENSE NO. 42499

SOILS ENGINEER:  
 LEO A. MURPHY, P.E.  
 1000 W. GARDEN ST.  
 SANTA ANA, CA 92704  
 (714) 942-4444 FAX (714) 942-4442

1. See Section G-G for a preliminary description of the site. This is a preliminary plan showing the proposed building footprint and grading. The plan is subject to change without notice. The plan is not to be used for construction without the approval of the engineer of record.



SECTION H



SECTION J-J

THESE PLANS WERE PREPARED UNDER THE SUPERVISION OF  
 DAVID YORK ARCHITECT  
 100 N. SAN GABRIEL  
 SAN GABRIEL, CA 91761  
 (916) 897-8074

DATE: \_\_\_\_\_

COMPREHENSIVE SECTIONS

DAVID YORK ARCHITECT  
 100 N. SAN GABRIEL  
 SAN GABRIEL, CA 91761  
 (916) 897-8074

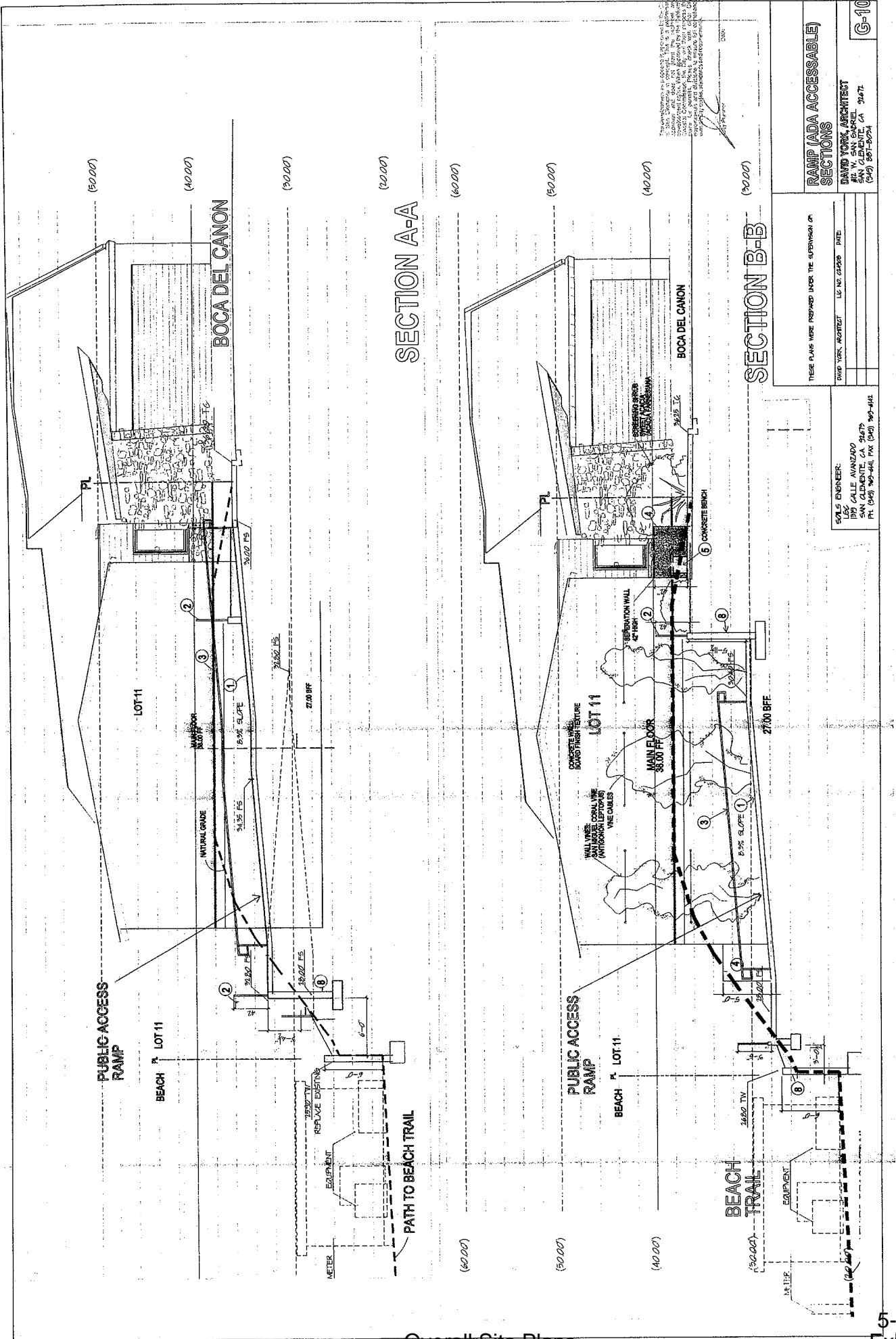
THESE PLANS WERE PREPARED UNDER THE SUPERVISION OF:

DAVID YORK ARCHITECT	DATE

SEALS ENGINEER:  
 1536 CALLE AVANZADO  
 SAN GABRIEL, CA 91761  
 (916) 897-8074

G-3





SECTION A-A

SECTION B-B

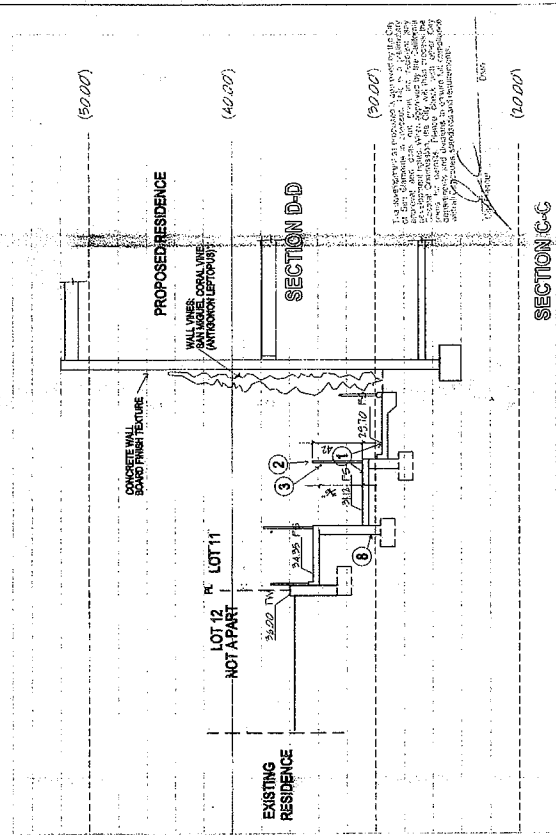
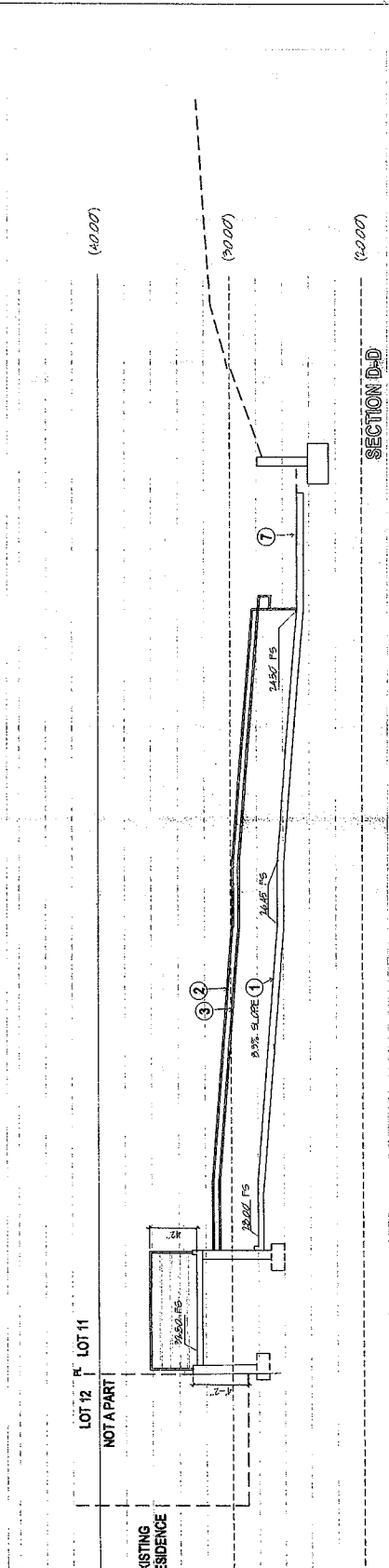
RAMP (ADA ACCESSABLE) SECTIONS

THESE PLANS WERE PREPARED UNDER THE SUPERVISION OF:  
 DAVID YORK ARCHITECT LLP NO. 00485 DATE:

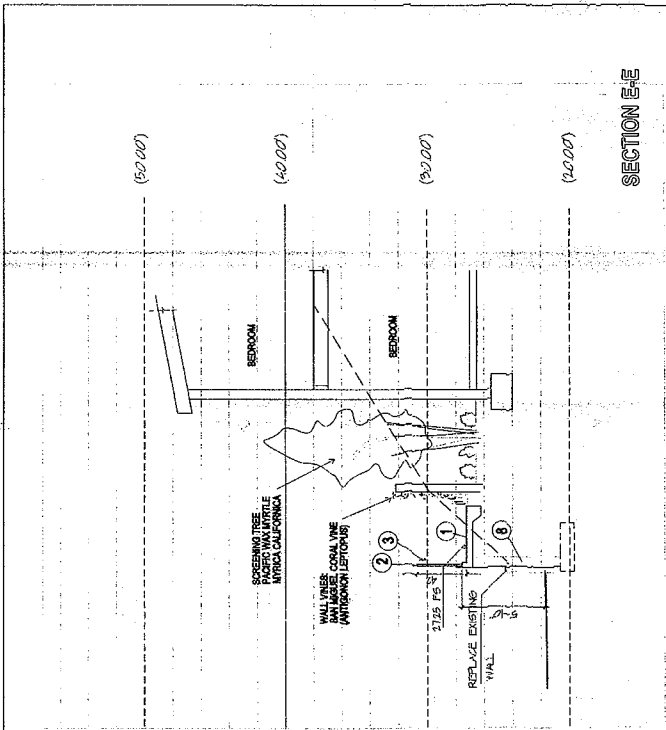
SOILS ENGINEER:  
 BPC CALLE AVANZADO  
 SAN Geronimo, CA 9467  
 (415) 942-4041 FAX (415) 942-4042

DAVID YORK ARCHITECT LLP NO. 00485 DATE:

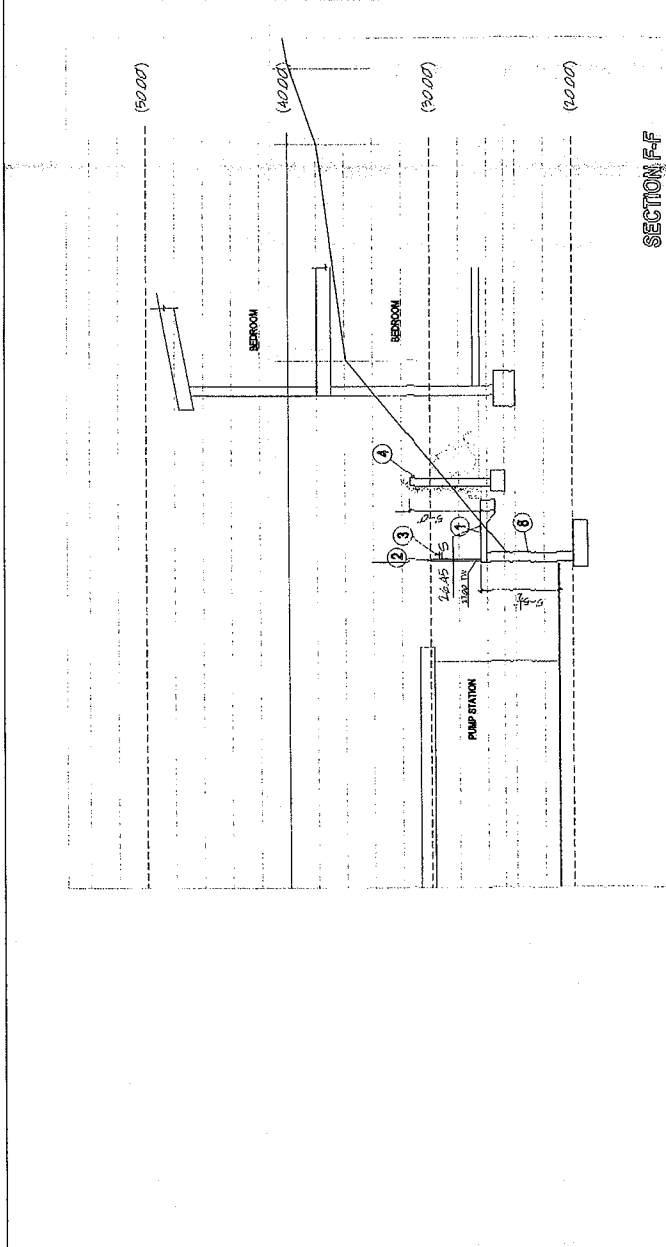




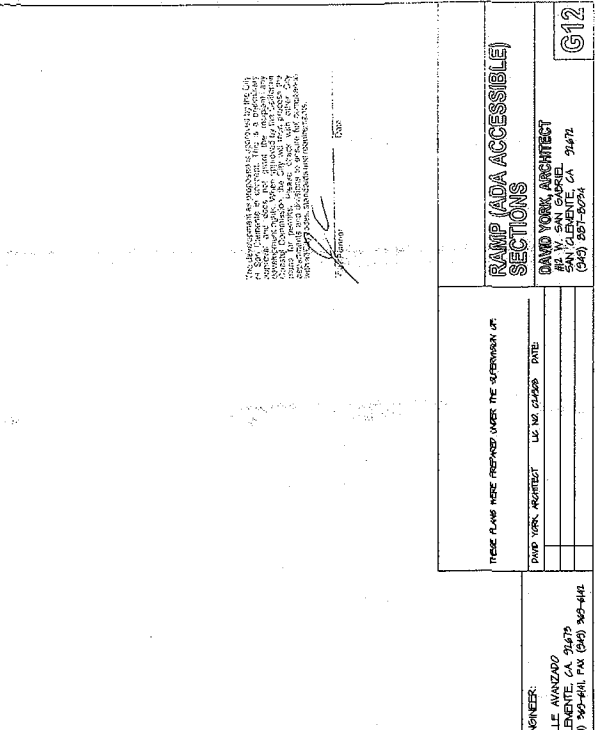
THESE PLANS WERE PREPARED UNDER THE SUPERVISION OF: DAVID YORK, ARCHITECT      LIC. NO. 21429      DATE:	
SOILS ENGINEER: DR. GALE AVANZADO SAN CLEMENTE, CA 92673 TEL. (949) 395-8441 FAX (949) 395-8442	
<b>RAMP (ADA ACCESSABLE) SECTIONS</b>	
<b>DAVID YORK ARCHITECT</b> 1000 N. GARDEN ST. SAN CLEMENTE, CA 92672 (949) 387-8024	
<b>G11</b>	



SECTION E-E



SECTION F-F



SECTION G-G

THESE PLANS WERE PREPARED UNDER THE SUPERVISION OF  
 DAVID YORKE ARCHITECT  
 221 W. SAN CAROL  
 SAN CAROL, CA 94171  
 (415) 352-5474

RAMP (ADA ACCESSIBLE)	
SECTION	DATE

SEALS ENGINEER  
 LEE CALLE AVANZADO  
 2415  
 FT. (949) 492-4411 FAX (949) 492-4412

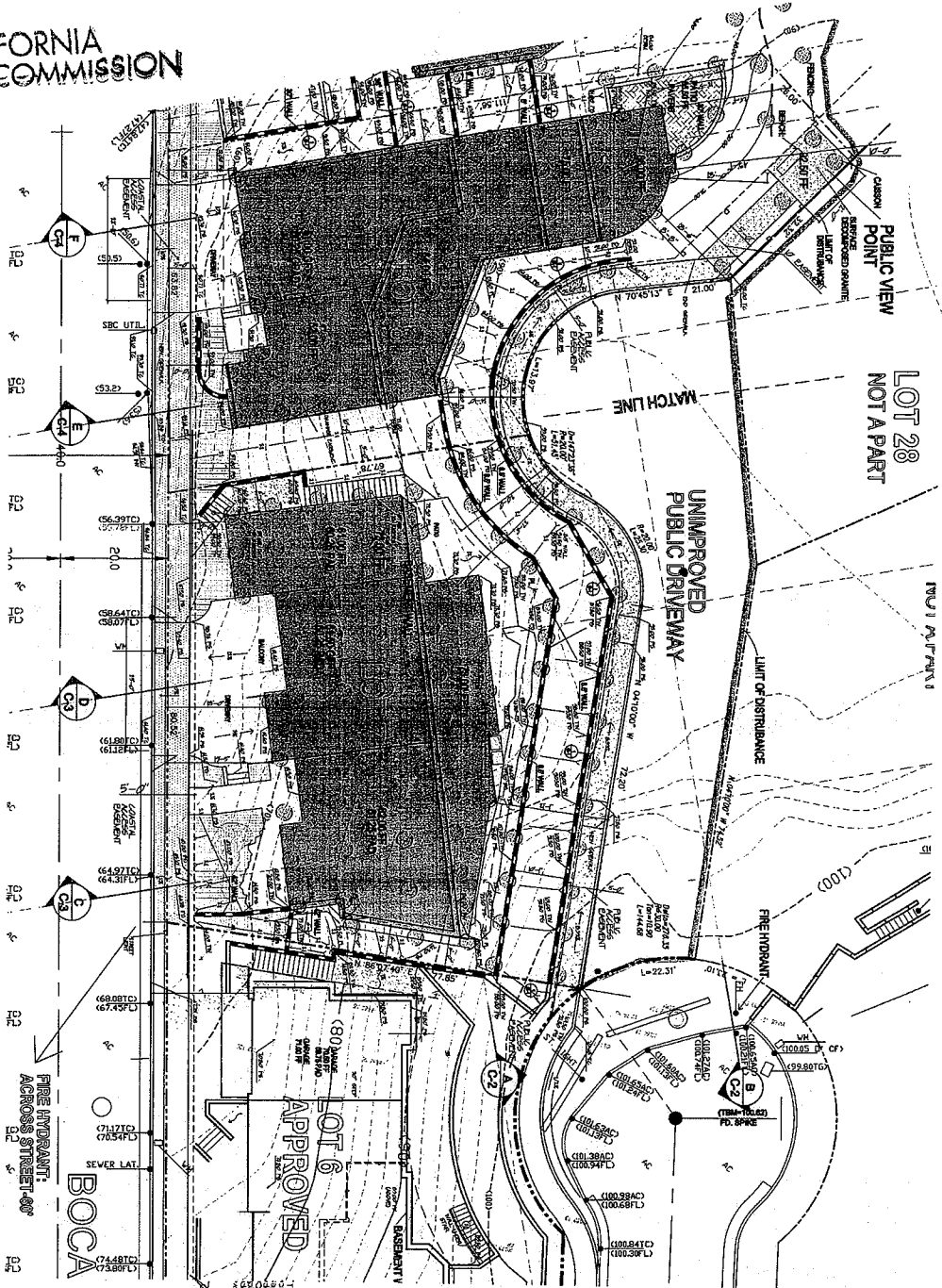
G12

**RECEIVED**  
South Coast Region

JUN 3 - 2010

5-10-125

CALIFORNIA  
COASTAL COMMISSION



SOILS ENGINEER:  
L&C (ALEX AWAZD)  
SAN FRANCISCO, CA 94109  
PH (415) 779-4141 FAX (415) 779-4148

SOILS AND GEOTECHNICAL CERTIFICATION  
THIS GRADING PLAN HAS BEEN REVIEWED BY THE  
ENGINEER WITH THE RECOMMENDATIONS AS SHOWN IN  
THE PLAN. THE ENGINEER'S AND GEOTECHNICAL INSPECTION  
ENTIRELY SEPARATE OF PRELIMINARY ENGINEERING INSPECTION

DATE: \_\_\_\_\_  
PREPARED BY: \_\_\_\_\_  
BY: \_\_\_\_\_  
GEOTECHNICAL

THESE PLANS HAVE BEEN PREPARED UNDER THE SUPERVISION OF  
DAVID YORK ARCHITECT, LICENSED ARCHITECT  
DATE: \_\_\_\_\_  
BY: \_\_\_\_\_  
ARCHITECT

PRELIMINARY  
GRADING PLAN  
LOT 7  
G-1

DAVID YORK ARCHITECT  
412 W. SAN CAROL  
SAN GABRIEL, CA 91776  
(951) 897-0224

**BUILDING SHALL HAVE  
PRESSURIZED SYSTEM  
PER BOCA APPROVAL**

BOCA

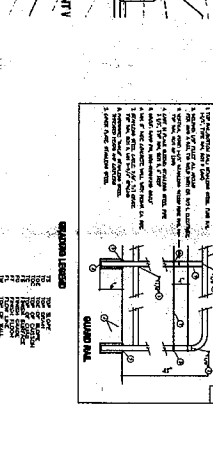
5/11/10

DATE

PROJECT: PRELIMINARY GRADING PLAN  
774 40 LINDSEY DRIVE  
SAN GABRIEL, CALIFORNIA 91776  
OWNER: DAVID YORK ARCHITECT  
412 W. SAN CAROL  
SAN GABRIEL, CALIFORNIA 91776

GROUND QUANTITIES (TOTAL VOLUMES)  
LIFT NO. QUANTITY (CUBIC FEET)  
LIFT 1 1287  
LIFT 2 1287  
TOTAL 2574

NOTE: ALL QUANTITIES ARE APPROXIMATE AND BASED ON THE ASSUMPTIONS AND CONDITIONS SHOWN ON THESE PLANS. THE CONTRACTOR SHALL VERIFY ALL QUANTITIES AND CONDITIONS IN THE FIELD.



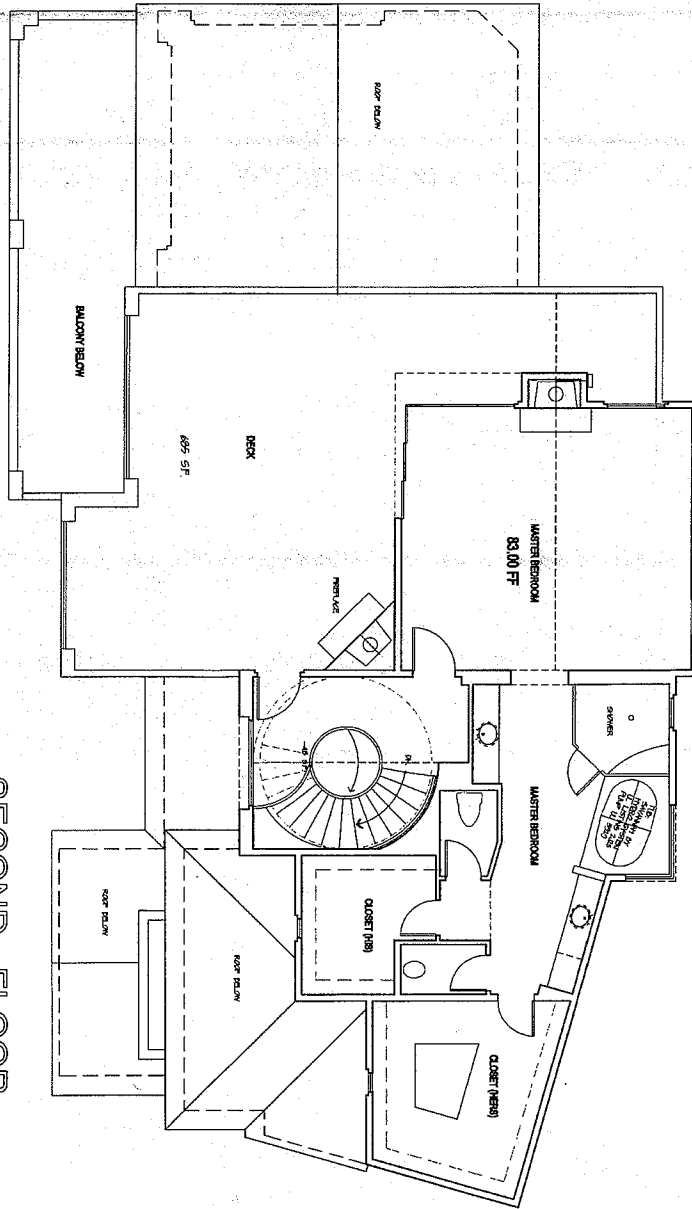
SHEET INDEX	NO.	DESCRIPTION
	G-1	PRELIMINARY GRADING PLAN
	C-1	COMPREHENSIVE PLAN
	C-2	SECTIONS
	C-3	SECTIONS
	7-1	BASEMENT FLOOR PLAN
	7-2	FIRST FLOOR PLAN
	7-3	SECOND FLOOR PLAN
	7-4	ROOF PLAN
	7-5	EXTERIOR ELEVATIONS
	7-6	EXTERIOR ELEVATIONS

Plans for Lot 7





# SECOND FLOOR

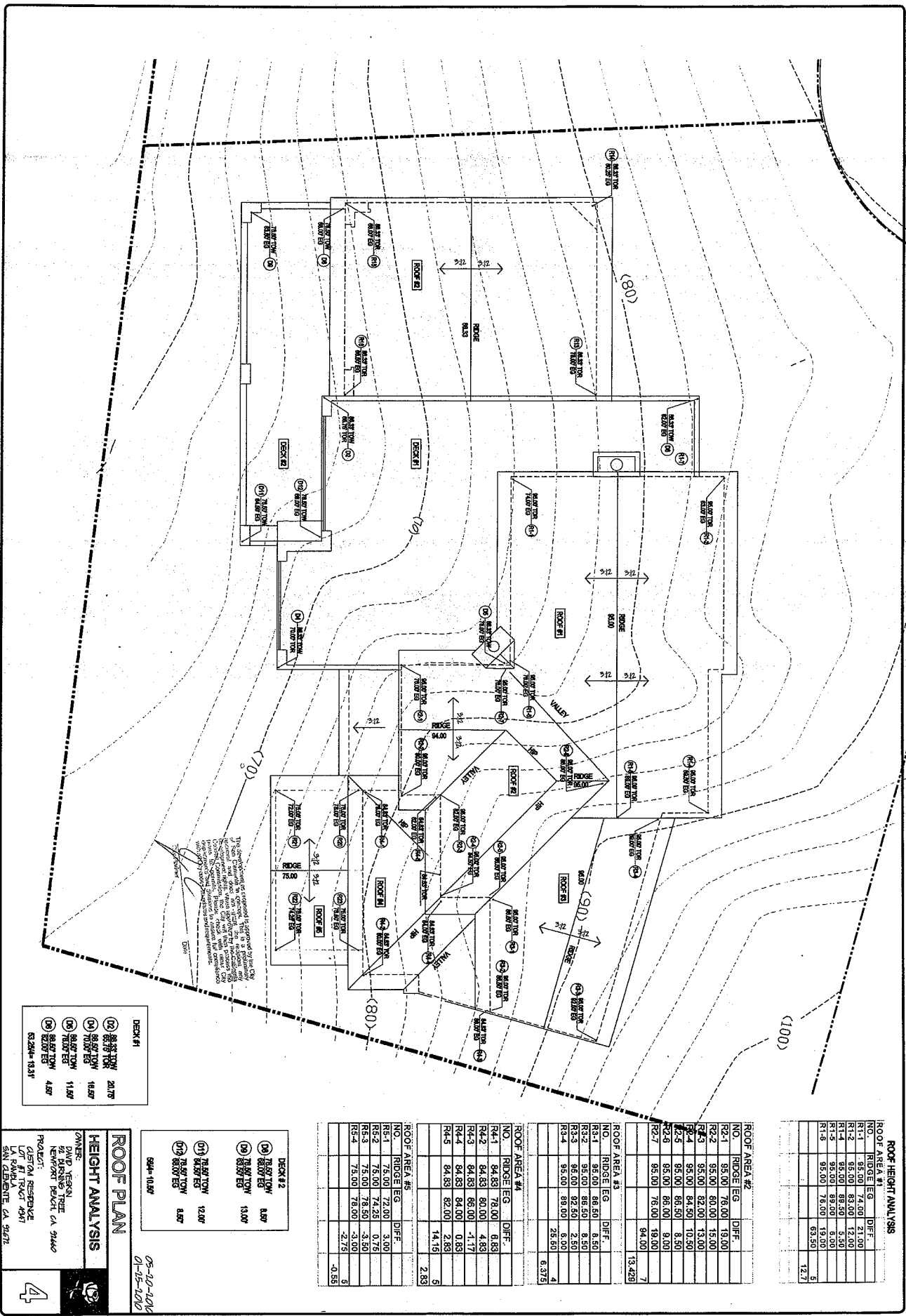


The floor plan and all other documents are approved by the City of San Clemente, California. This is a preliminary plan and is not to be used for construction. The City of San Clemente, California, is not responsible for the accuracy of the information provided herein. The City of San Clemente, California, is not responsible for the accuracy of the information provided herein.

FIRST FLOOR	2,493 SF
SECOND FLOOR	1,254 SF
BASEMENT	1,349 SF
TOTAL	5,096 SF
DECK	1,000 SF
GARAGE	842 SF

**FLOOR PLAN**  
**LOT #7**  
 OWNERS: YESHAI  
 24 PARKWAY TREE  
 NEWPORT BEACH, CA 92640  
 PROJECT: CUSTOM RESERVE  
 LOT #7 TRACT 1041  
 SAN CLEMENTE, CA 92672

05-15-2010



DECK #1

12	ROOF TYP	20.75
13	ROOF TYP	16.87
14	ROOF TYP	11.87
15	ROOF TYP	4.87
16	ROOF TYP	18.87

**ROOF PLAN**  
**HEIGHT ANALYSIS**

OWNER:  
 DAVID YORCK  
 52 MENARD TREE  
 NEWPORT BEACH, CA 92640

PROJECT:  
 DESIGN RESPONSE  
 LA FARMERIA  
 SAN CLEMENTE, CA 92672

05-10-10/06  
 01-15-10/06

DECK #2

17	ROOF TYP	8.87
18	ROOF TYP	13.00
19	ROOF TYP	12.00
20	ROOF TYP	8.87

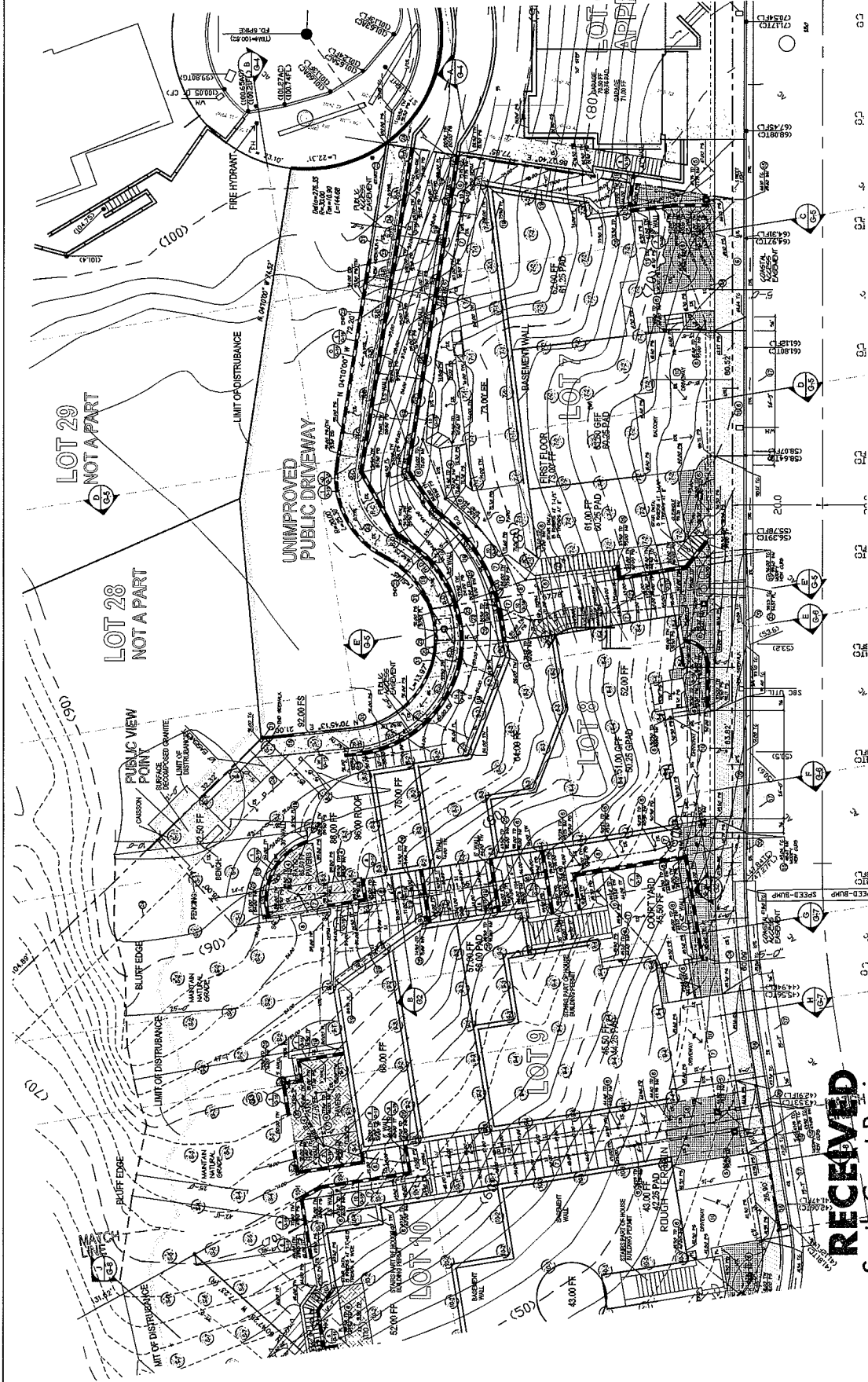
NO.	ROOF AREA #1	DIFF.
R1-1	75.00	7.00
R1-2	75.00	7.25
R1-3	75.00	7.50
R1-4	75.00	7.80
R1-5	75.00	8.10
R1-6	75.00	8.40
R1-7	75.00	8.70
R1-8	75.00	9.00
R1-9	75.00	9.30
R1-10	75.00	9.60
R1-11	75.00	9.90
R1-12	75.00	10.20
R1-13	75.00	10.50
R1-14	75.00	10.80
R1-15	75.00	11.10
R1-16	75.00	11.40
R1-17	75.00	11.70
R1-18	75.00	12.00
R1-19	75.00	12.30
R1-20	75.00	12.60
R1-21	75.00	12.90
R1-22	75.00	13.20
R1-23	75.00	13.50
R1-24	75.00	13.80
R1-25	75.00	14.10
R1-26	75.00	14.40
R1-27	75.00	14.70
R1-28	75.00	15.00
R1-29	75.00	15.30
R1-30	75.00	15.60
R1-31	75.00	15.90
R1-32	75.00	16.20
R1-33	75.00	16.50
R1-34	75.00	16.80
R1-35	75.00	17.10
R1-36	75.00	17.40
R1-37	75.00	17.70
R1-38	75.00	18.00
R1-39	75.00	18.30
R1-40	75.00	18.60
R1-41	75.00	18.90
R1-42	75.00	19.20
R1-43	75.00	19.50
R1-44	75.00	19.80
R1-45	75.00	20.10
R1-46	75.00	20.40
R1-47	75.00	20.70
R1-48	75.00	21.00
R1-49	75.00	21.30
R1-50	75.00	21.60
R1-51	75.00	21.90
R1-52	75.00	22.20
R1-53	75.00	22.50
R1-54	75.00	22.80
R1-55	75.00	23.10
R1-56	75.00	23.40
R1-57	75.00	23.70
R1-58	75.00	24.00
R1-59	75.00	24.30
R1-60	75.00	24.60
R1-61	75.00	24.90
R1-62	75.00	25.20
R1-63	75.00	25.50
R1-64	75.00	25.80
R1-65	75.00	26.10
R1-66	75.00	26.40
R1-67	75.00	26.70
R1-68	75.00	27.00
R1-69	75.00	27.30
R1-70	75.00	27.60
R1-71	75.00	27.90
R1-72	75.00	28.20
R1-73	75.00	28.50
R1-74	75.00	28.80
R1-75	75.00	29.10
R1-76	75.00	29.40
R1-77	75.00	29.70
R1-78	75.00	30.00
R1-79	75.00	30.30
R1-80	75.00	30.60
R1-81	75.00	30.90
R1-82	75.00	31.20
R1-83	75.00	31.50
R1-84	75.00	31.80
R1-85	75.00	32.10
R1-86	75.00	32.40
R1-87	75.00	32.70
R1-88	75.00	33.00
R1-89	75.00	33.30
R1-90	75.00	33.60
R1-91	75.00	33.90
R1-92	75.00	34.20
R1-93	75.00	34.50
R1-94	75.00	34.80
R1-95	75.00	35.10
R1-96	75.00	35.40
R1-97	75.00	35.70
R1-98	75.00	36.00
R1-99	75.00	36.30
R1-100	75.00	36.60

NO.	ROOF AREA #2	DIFF.
R2-1	95.00	78.00
R2-2	95.00	80.00
R2-3	95.00	82.00
R2-4	95.00	84.00
R2-5	95.00	86.00
R2-6	95.00	88.00
R2-7	95.00	90.00
R2-8	95.00	92.00
R2-9	95.00	94.00
R2-10	95.00	96.00
R2-11	95.00	98.00
R2-12	95.00	100.00
R2-13	95.00	102.00
R2-14	95.00	104.00
R2-15	95.00	106.00
R2-16	95.00	108.00
R2-17	95.00	110.00
R2-18	95.00	112.00
R2-19	95.00	114.00
R2-20	95.00	116.00
R2-21	95.00	118.00
R2-22	95.00	120.00
R2-23	95.00	122.00
R2-24	95.00	124.00
R2-25	95.00	126.00
R2-26	95.00	128.00
R2-27	95.00	130.00
R2-28	95.00	132.00
R2-29	95.00	134.00
R2-30	95.00	136.00
R2-31	95.00	138.00
R2-32	95.00	140.00
R2-33	95.00	142.00
R2-34	95.00	144.00
R2-35	95.00	146.00
R2-36	95.00	148.00
R2-37	95.00	150.00
R2-38	95.00	152.00
R2-39	95.00	154.00
R2-40	95.00	156.00
R2-41	95.00	158.00
R2-42	95.00	160.00
R2-43	95.00	162.00
R2-44	95.00	164.00
R2-45	95.00	166.00
R2-46	95.00	168.00
R2-47	95.00	170.00
R2-48	95.00	172.00
R2-49	95.00	174.00
R2-50	95.00	176.00
R2-51	95.00	178.00
R2-52	95.00	180.00
R2-53	95.00	182.00
R2-54	95.00	184.00
R2-55	95.00	186.00
R2-56	95.00	188.00
R2-57	95.00	190.00
R2-58	95.00	192.00
R2-59	95.00	194.00
R2-60	95.00	196.00
R2-61	95.00	198.00
R2-62	95.00	200.00
R2-63	95.00	202.00
R2-64	95.00	204.00
R2-65	95.00	206.00
R2-66	95.00	208.00
R2-67	95.00	210.00
R2-68	95.00	212.00
R2-69	95.00	214.00
R2-70	95.00	216.00
R2-71	95.00	218.00
R2-72	95.00	220.00
R2-73	95.00	222.00
R2-74	95.00	224.00
R2-75	95.00	226.00
R2-76	95.00	228.00
R2-77	95.00	230.00
R2-78	95.00	232.00
R2-79	95.00	234.00
R2-80	95.00	236.00
R2-81	95.00	238.00
R2-82	95.00	240.00
R2-83	95.00	242.00
R2-84	95.00	244.00
R2-85	95.00	246.00
R2-86	95.00	248.00
R2-87	95.00	250.00
R2-88	95.00	252.00
R2-89	95.00	254.00
R2-90	95.00	256.00
R2-91	95.00	258.00
R2-92	95.00	260.00
R2-93	95.00	262.00
R2-94	95.00	264.00
R2-95	95.00	266.00
R2-96	95.00	268.00
R2-97	95.00	270.00
R2-98	95.00	272.00
R2-99	95.00	274.00
R2-100	95.00	276.00

NO.	ROOF AREA #3	DIFF.
R3-1	95.00	88.50
R3-2	95.00	91.50
R3-3	95.00	94.50
R3-4	95.00	97.50
R3-5	95.00	100.50
R3-6	95.00	103.50
R3-7	95.00	106.50
R3-8	95.00	109.50
R3-9	95.00	112.50
R3-10	95.00	115.50
R3-11	95.00	118.50
R3-12	95.00	121.50
R3-13	95.00	124.50
R3-14	95.00	127.50
R3-15	95.00	130.50
R3-16	95.00	133.50
R3-17	95.00	136.50
R3-18	95.00	139.50
R3-19	95.00	142.50
R3-20	95.00	145.50
R3-21	95.00	148.50
R3-22	95.00	151.50
R3-23	95.00	154.50
R3-24	95.00	157.50
R3-25	95.00	160.50
R3-26	95.00	163.50
R3-27	95.00	166.50
R3-28	95.00	169.50
R3-29	95.00	172.50
R3-30	95.00	175.50
R3-31	95.00	178.50
R3-32	95.00	181.50
R3-33	95.00	184.50
R3-34	95.00	187.50
R3-35	95.00	190.50
R3-36	95.00	193.50
R3-37	95.00	196.50
R3-38	95.00	199.50
R3-39	95.00	202.50
R3-40	95.00	205.50
R3-41	95.00	208.50
R3-42	95.00	211.50
R3-43	95.00	214.50
R3-44	95.00	217.50
R3-45	95.00	220.50
R3-46	95.00	223.50
R3-47	95.00	226.50
R3-48	95.00	229.50
R3-49	95.00	232.50
R3-50	95.00	235.50
R3-51	95.00	238.50
R3-52	95.00	241.50
R3-53	95.00	244.50
R3-54	95.00	247.50
R3-55	95.00	250.50
R3-56	95.00	253.50
R3-57	95.00	256.50
R3-58	95.00	259.50
R3-59	95.00	262.50
R3-60	95.00	265.50
R3-61	95.00	268.50
R3-62	95.00	271.50
R3-63	95.00	274.50
R3-64	95.00	277.50
R3-65	95.00	280.50
R3-66	95.00	283.50
R3-67	95.00	286.50
R3-68	95.00	289.50
R3-69	95.00	292.50
R3-70	95.00	295.50
R3-71	95.00	298.50
R3-72	95.00	301.50
R3-73	95.00	304.50
R3-74	95.00	307.50
R3-75	95.00	310.50
R3-76	95.00	313.50
R3-77	95.00	316.50
R3-78	95.00	319.50
R3-79	95.00	322.50
R3-80	95.00	325.50
R3-81	95.00	328.50
R3-82	95.00	331.50
R3-83	95.00	334.50
R3-84	95.00	337.50
R3-85	95.00	340.50
R3-86	95.00	343.50
R3-87	95.00	346.50
R3-88	95.00	349.50
R3-89	95.00	352.50
R3-90	95.00	355.50
R3-91	95.00	358.50
R3-92	95.00	361.50
R3-93	95.00	364.50
R3-94	95.00	367.50
R3-95	95.00	370.50
R3-96	95.00	373.50
R3-97	95.00	376.50
R3-98	95.00	379.50
R3-99	95.00	382.50
R3-100	95.00	385.50







**RECEIVED**  
South Coast Region

DEC 27 2010

CALIFORNIA  
COASTAL COMMISSION

SEE SHEET G-2 FOR CONSTRUCTION NOTES AND CONSTRUCTION SCHEDULE

THESE PLANS WERE PREPARED UNDER THE SUPERVISION OF:

DATE: \_\_\_\_\_  
BY: \_\_\_\_\_

ENTITLED: OFFICE OF PRELIMINARY GEOTECHNICAL INVESTIGATION

SOILS ENGINEER:  
DR. GUY S. CAYLE, AVIZADO  
SAN CLEMENTE, CA 92679  
PH (949) 395-4441 FAX (949) 395-4441

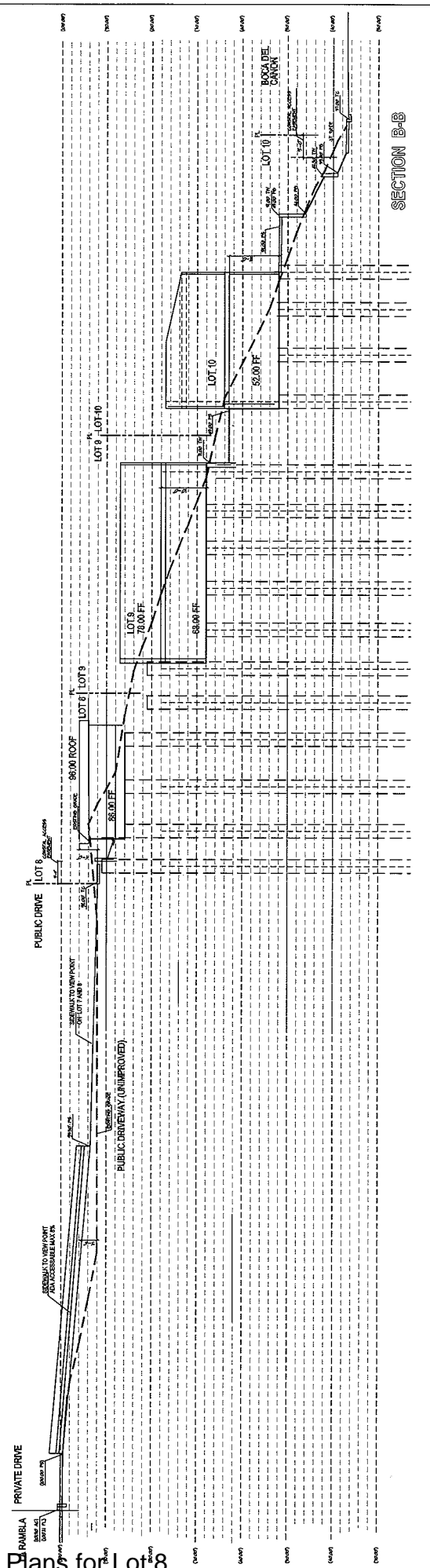
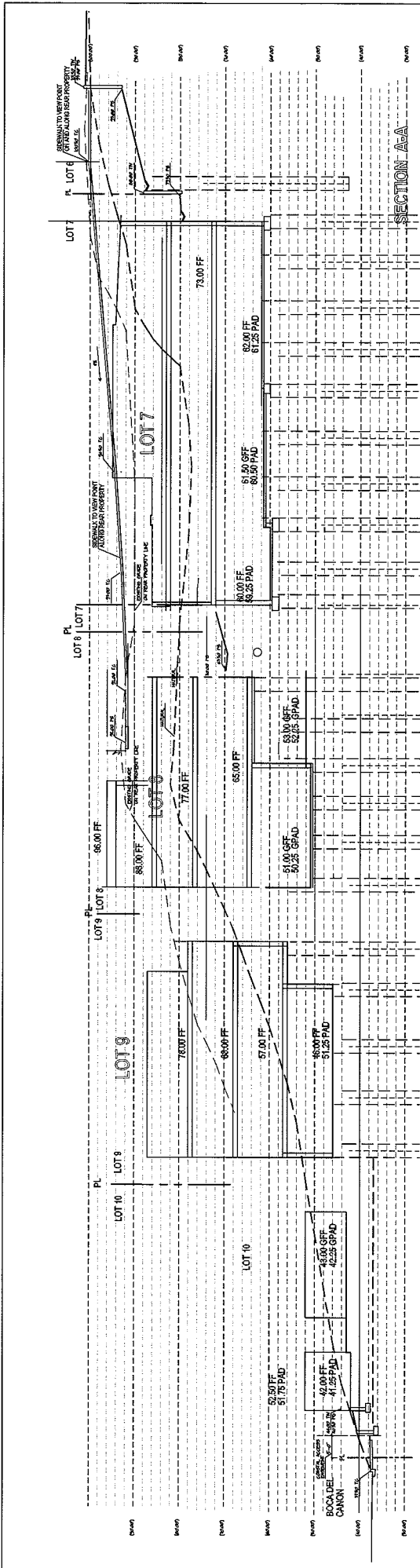
SOILS ENGINEER:  
DR. GUY S. CAYLE, AVIZADO  
SAN CLEMENTE, CA 92679  
PH (949) 395-4441 FAX (949) 395-4441

SEE SHEET G-2 FOR CONSTRUCTION NOTES AND CONSTRUCTION SCHEDULE

GRADING PLAN  
LOT 7, 8 AND 9

DAVID YORK ARCHITECT  
2151 CALLE AVIZADO  
SAN CLEMENTE, CA 92679  
PH (949) 397-2574

G-2



THESE PLANS WERE PREPARED UNDER THE SUPERVISION OF:

DAVID YORK ARCHITECT  
 1421 W. AVENIDA SAN GABRIEL  
 SAN GABRIEL, CA 91776  
 (PH) 867-5024

SOILS ENGINEER:  
 LSC  
 1919 CALLE AVANZADO  
 SAN CLEMENTE, CA 92673  
 PH (949) 392-4444 FAX (949) 392-4444

DATE: \_\_\_\_\_  
 TIME: \_\_\_\_\_

DATE: \_\_\_\_\_  
 TIME: \_\_\_\_\_

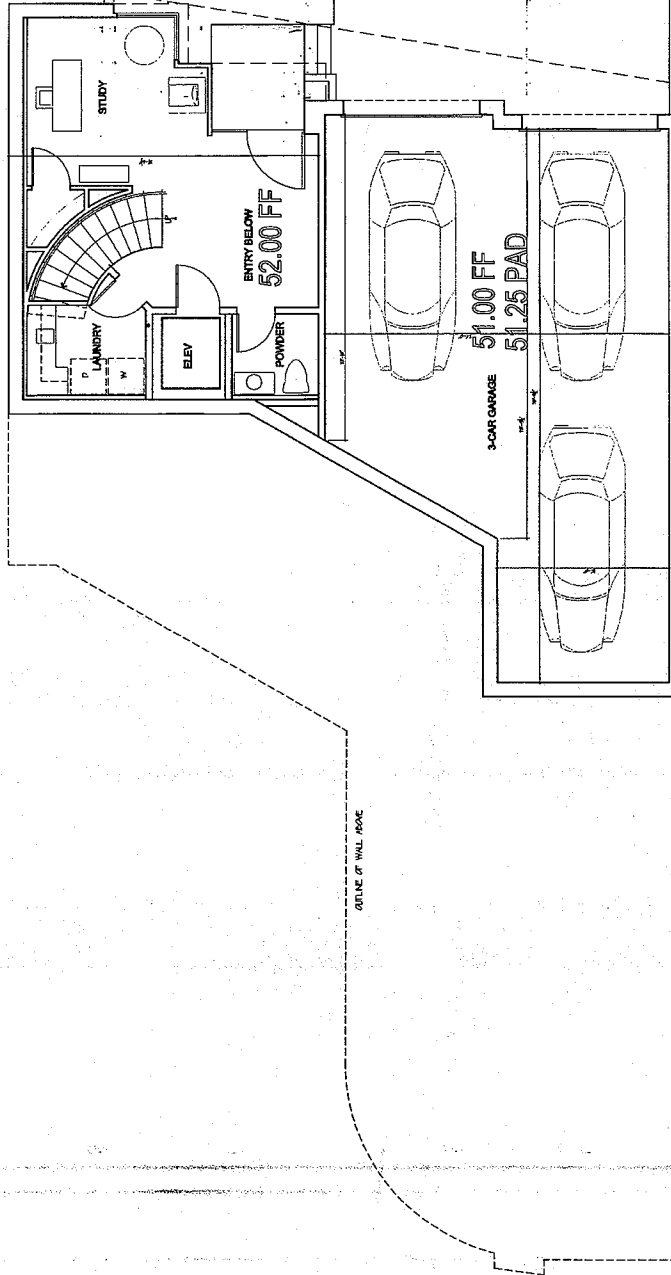
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DATE: \_\_\_\_\_  
 TIME: \_\_\_\_\_

DATE: \_\_\_\_\_  
 TIME: \_\_\_\_\_





The development is proposed to be approved by the City of San Clemente as a residential development. The project is subject to the City of San Clemente's zoning ordinance and other applicable laws, rules, regulations, codes, and ordinances. Please check with the City of San Clemente for any applicable laws, rules, regulations, codes, and ordinances.

FIRST FLOOR	1575 SF
SECOND FLOOR	1475 SF
THIRD FLOOR	817 SF
BASEMENT	409 SF
TOTAL	4276 SF
DECK	945 SF
GARAGE	709 SF
	1-10-10
	1-10-10

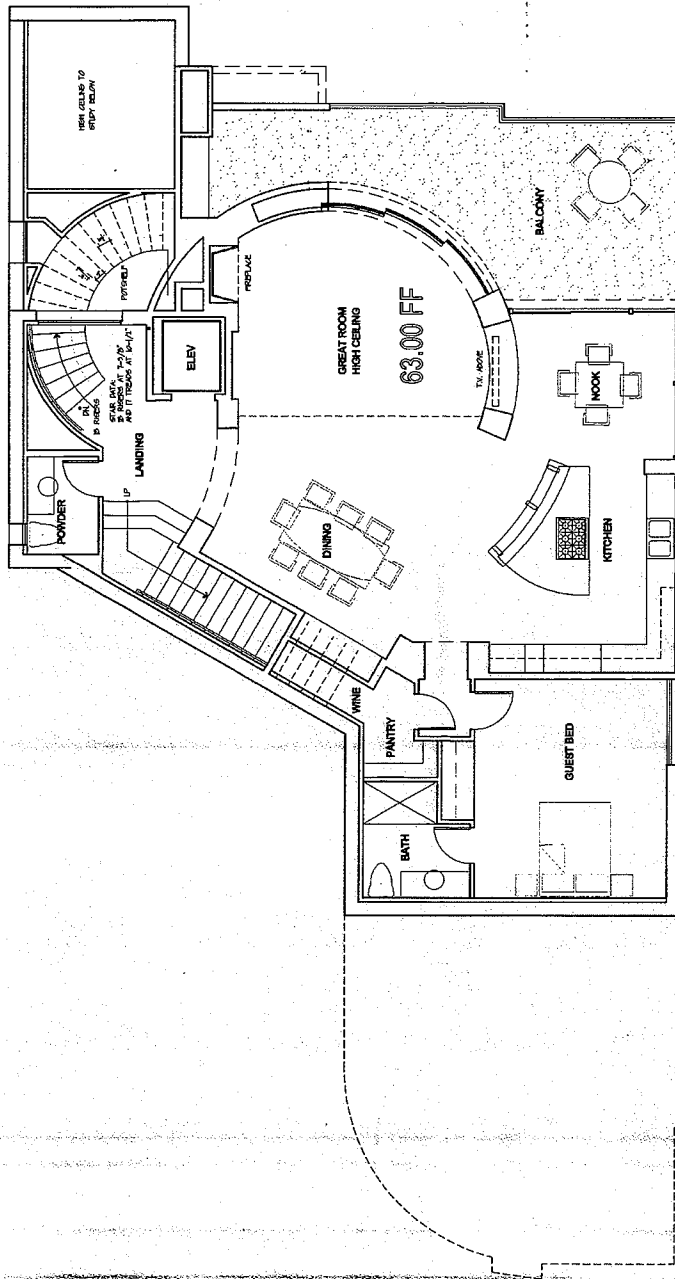
BASEMENT FLOOR

**FLOOR PLAN**

**LOT 8**

OWNER: STANLEY  
 17111 W. 15th Street  
 18 CAJON LINDO  
 SAN CLEMENTE, CA. 92673

PROJECT:  
 CUSTOM RESIDENCE  
 2551 LA RAMBLA  
 SAN CLEMENTE, CA. 92672



FIRST FLOOR	1925 SF
SECOND FLOOR	1475 SF
THIRD FLOOR	837 SF
BASEMENT	493 SF
<b>TOTAL</b>	<b>4320 SF</b>
DECK	545 SF
GARAGE	783 SF
	5-10-10
	4-8-10

**FLOOR PLAN**

**LOT 8**

OWNER:  
RACHEL STAYER  
14000 W. SAN CLEMENTE  
SAN CLEMENTE, CA 92673

PROJECT:  
CUSTOM RESIDENCE  
LOT 8 TRACT 4847  
SAN CLEMENTE, CA 92672

**2**

FIRST FLOOR



This document is prepared in accordance with the California Building Code, and shall not be construed as a contract. The architect's responsibility is limited to the design and construction of the building. The architect does not warrant the accuracy of the information provided. The architect is not responsible for the accuracy of the information provided by others. The architect is not responsible for the accuracy of the information provided by others. The architect is not responsible for the accuracy of the information provided by others.

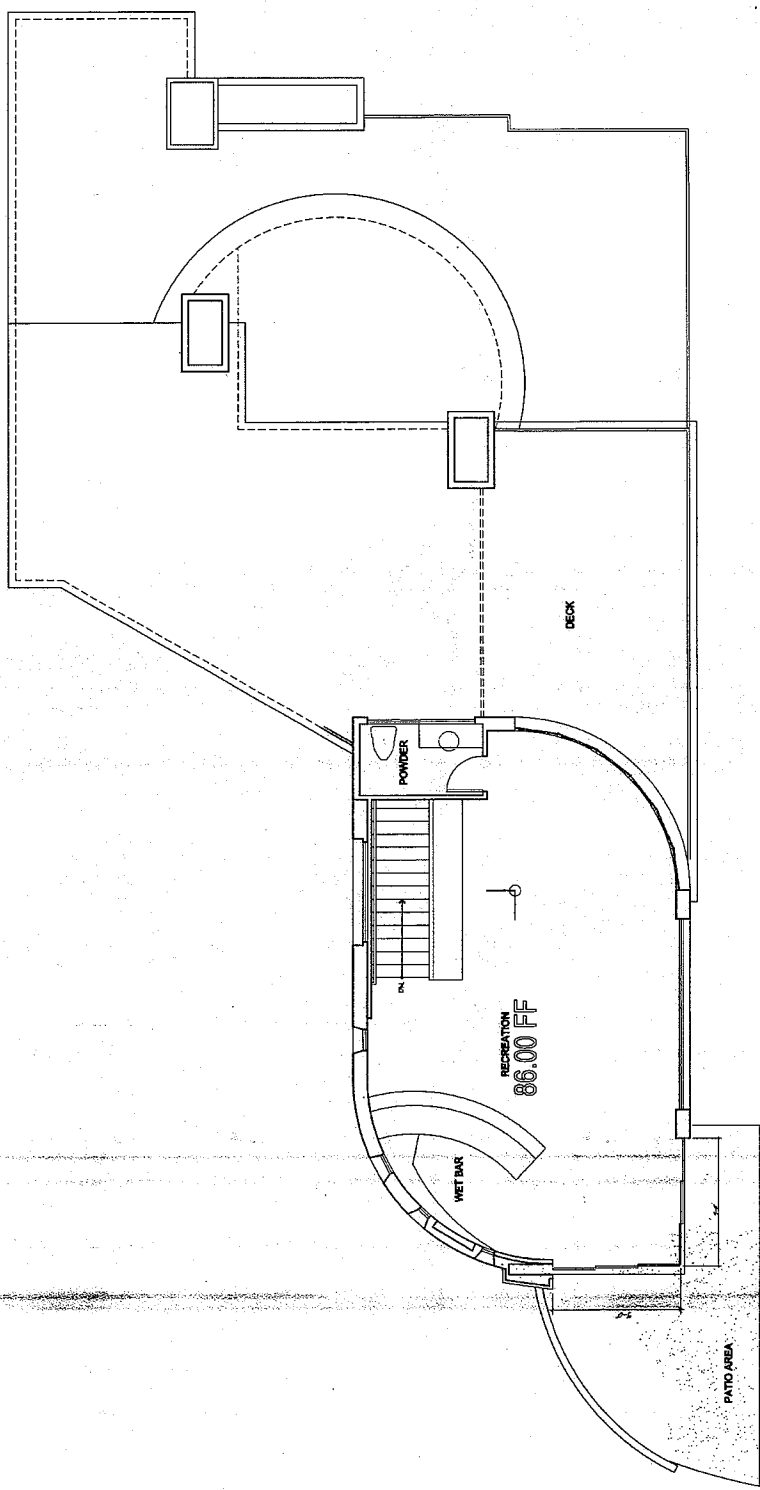
FIRST FLOOR	1935 SF
SECOND FLOOR	1475 SF
THIRD FLOOR	827 SF
PAGEMENT	493 SF
TOTAL	4730 SF
DECK	545 SF
GARAGE	783 SF
5-20-10	
4-6-10	

FLOOR PLAN

LOT 8

OWNER:  
RACHEL STAWER  
13 CAMINO LINDO  
SAN CLEMENTE, CA. 92673  
PROJECT:  
OFFICE RESIDENCE  
LOT 8 TRACT 4047  
328 LA PAROLA  
SAN CLEMENTE, CA. 92672

4



THIRD FLOOR

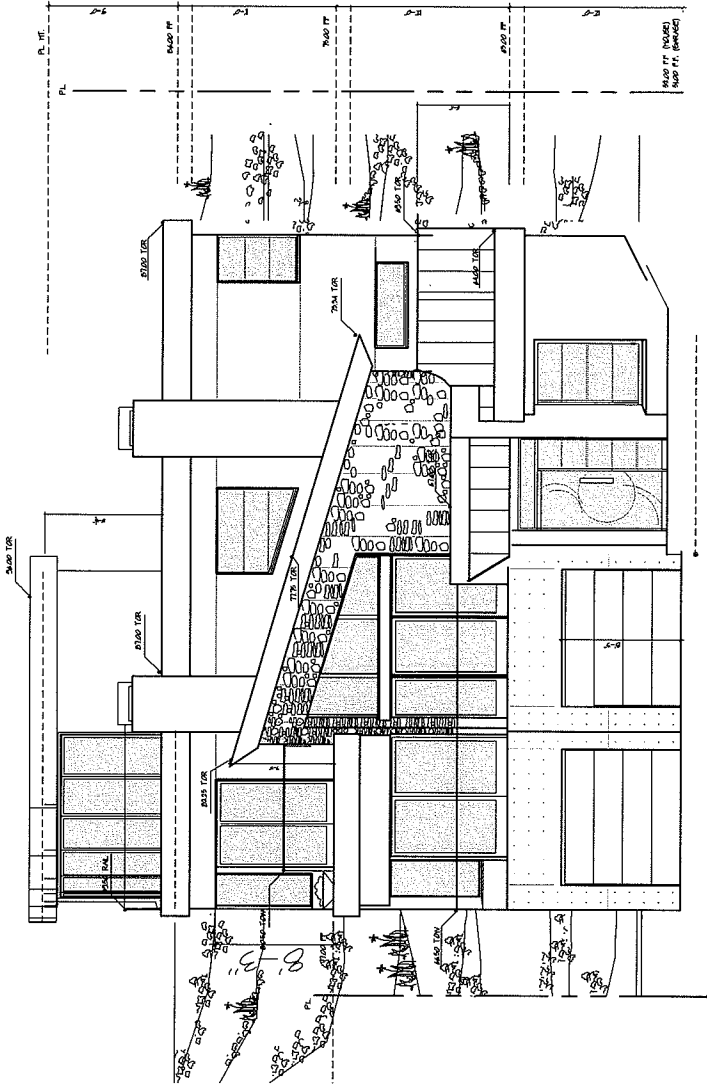




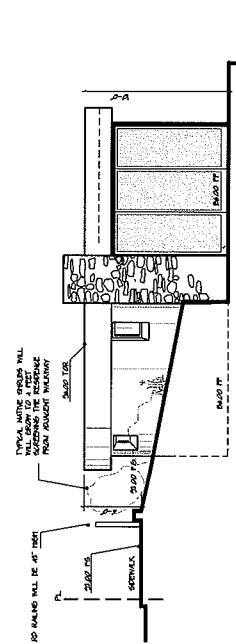
12/07/10



6



SOUTH ELEVATION



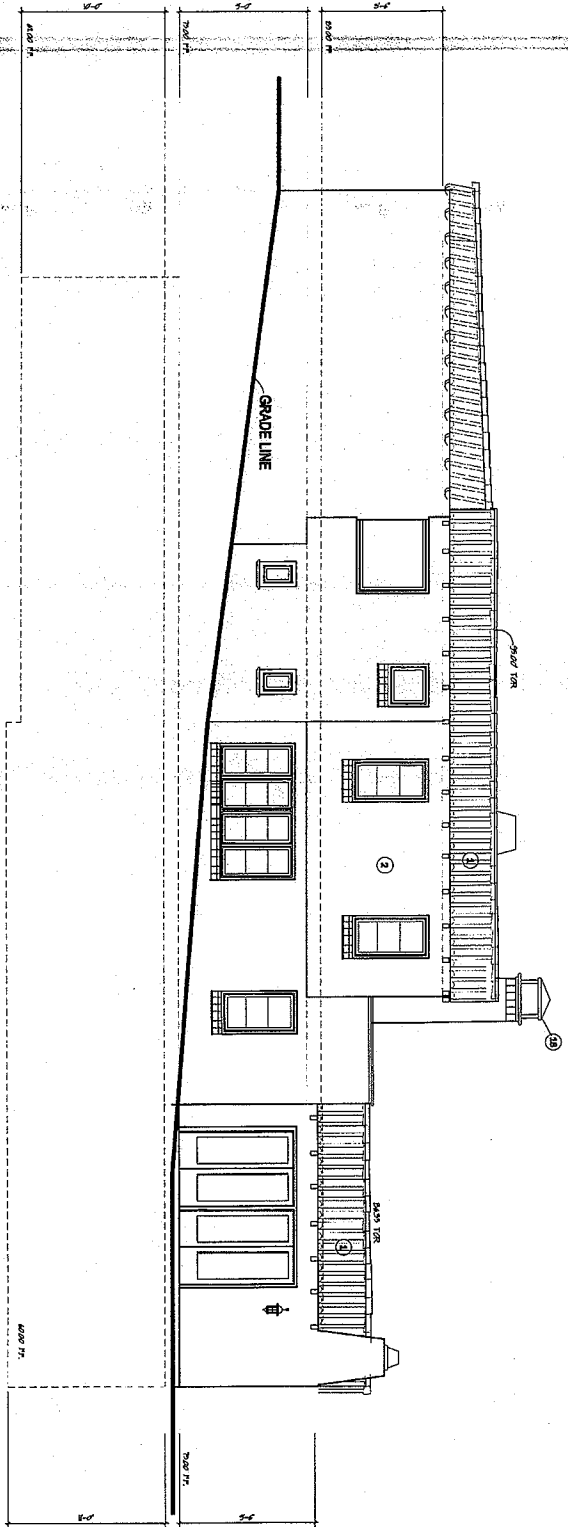
NORTH ELEVATION

ELEVATION

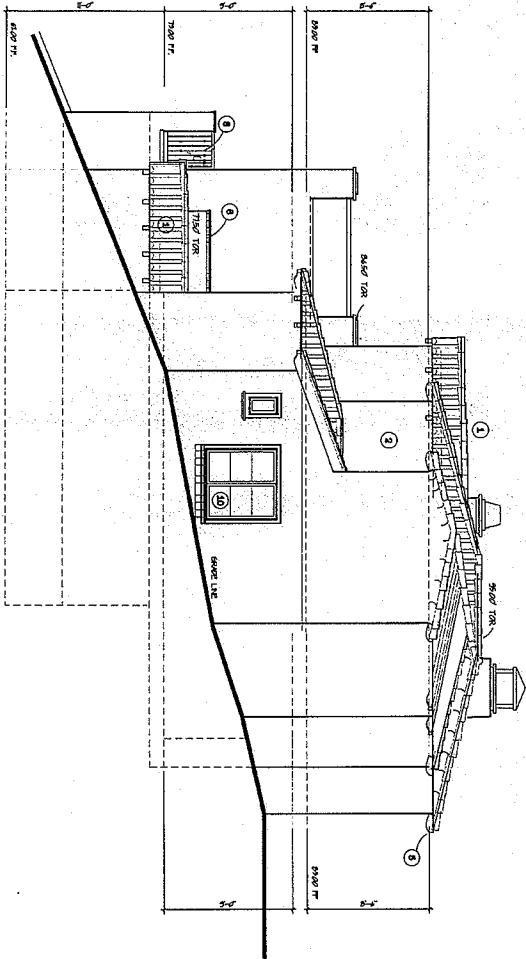
LOT #8

OWNER:  
 RACHEL STAYER  
 3 CAMINO LIERZO  
 SAN CLEMENTE, CA 92673

PROJECT:  
 CUSTOM RESIDENCE  
 LOT # 8 TRACT 4847  
 325 LA RAMBLA  
 SAN CLEMENTE, CA 92672



NORTH ELEVATION



EAST ELEVATION

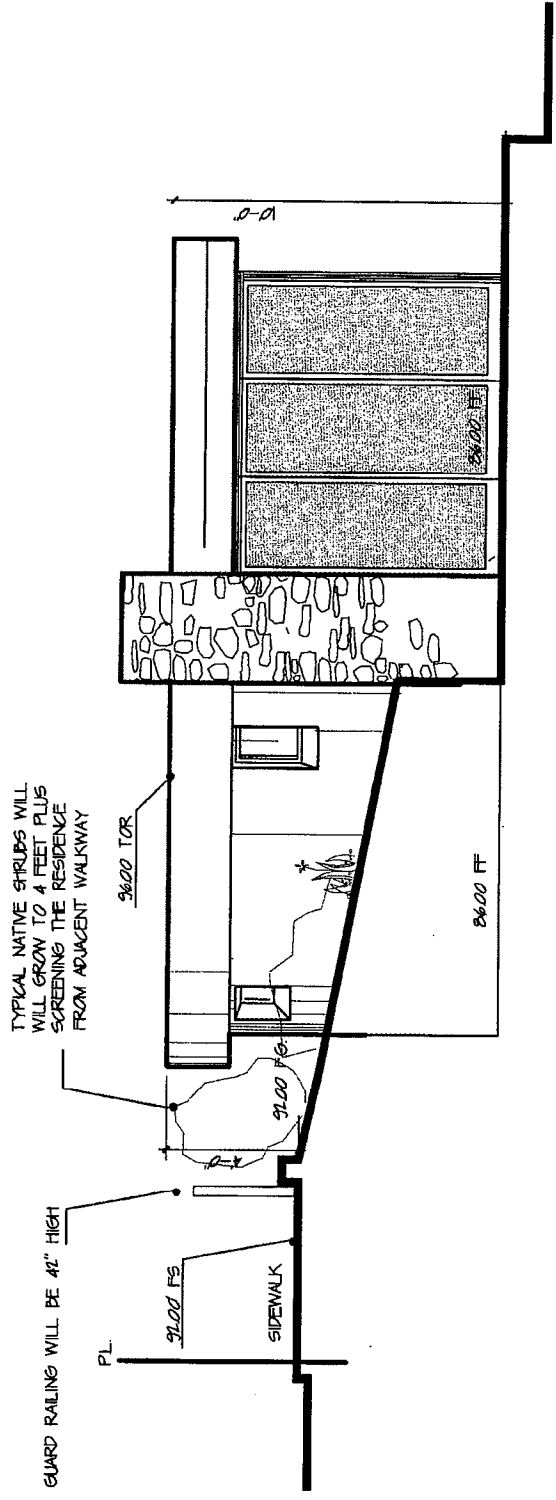
The design of a project is approved by the City of Newport Beach and the Newport Beach Planning and Zoning Commission, the City of Newport Beach and the Newport Beach Planning and Zoning Commission. The design is subject to the conditions and requirements of the City of Newport Beach and the Newport Beach Planning and Zoning Commission. The design is subject to the conditions and requirements of the City of Newport Beach and the Newport Beach Planning and Zoning Commission.

DATE: 01-15-2010

ELEVATION  
 LOT #7  
 OWNER: DAVID YORCK ARCHITECT  
 PROJECT: GUSTON RESERVE  
 LOT #1 TRACT 4941  
 SAN CLEMENTE, CA 92673



12/27/10



NORTH ELEVATION





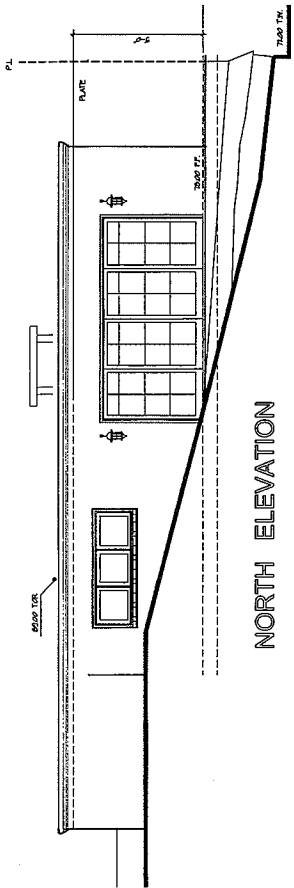
ELEVATION

LOT #9

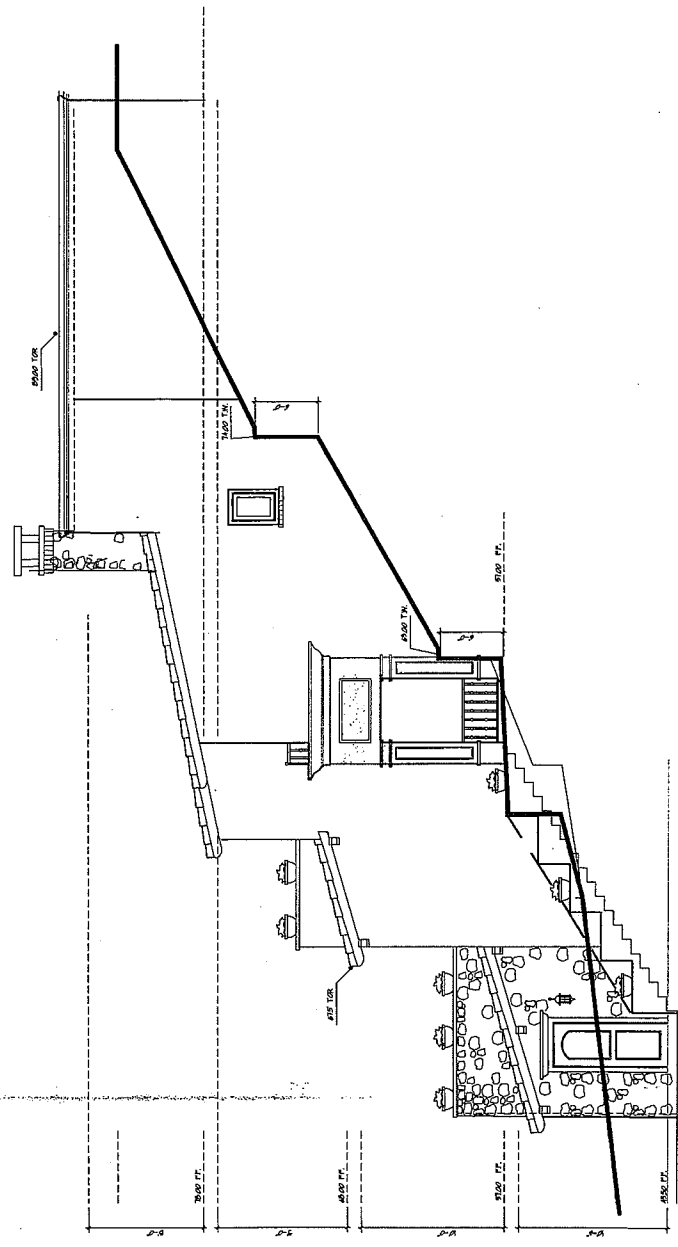
OWNER:  
HADI FAKOURI  
28845 CANADA RD.  
LIVING FOREST, CA. 92630  
PROJECT:  
CUSTOM RESIDENCE  
LOT #10 TRACT 4947  
LA RAMBLA  
SAN CLEMENTE, CA. 92672

This development is proposed to be constructed in accordance with the City of San Clemente's General Ordinance No. 100000, which requires that all new construction be designed to be aesthetically pleasing and to be in harmony with the surrounding environment. The City of San Clemente is a community with a rich history and a strong sense of community. The City of San Clemente is a community with a rich history and a strong sense of community. The City of San Clemente is a community with a rich history and a strong sense of community.

*[Signature]*  
City Planner



NORTH ELEVATION



EAST ELEVATION

FIRST FLOOR 1914 SF  
 SECOND FLOOR 1036 SF  
 THIRD FLOOR 1091 SF  
 BASEMENT 316 SF

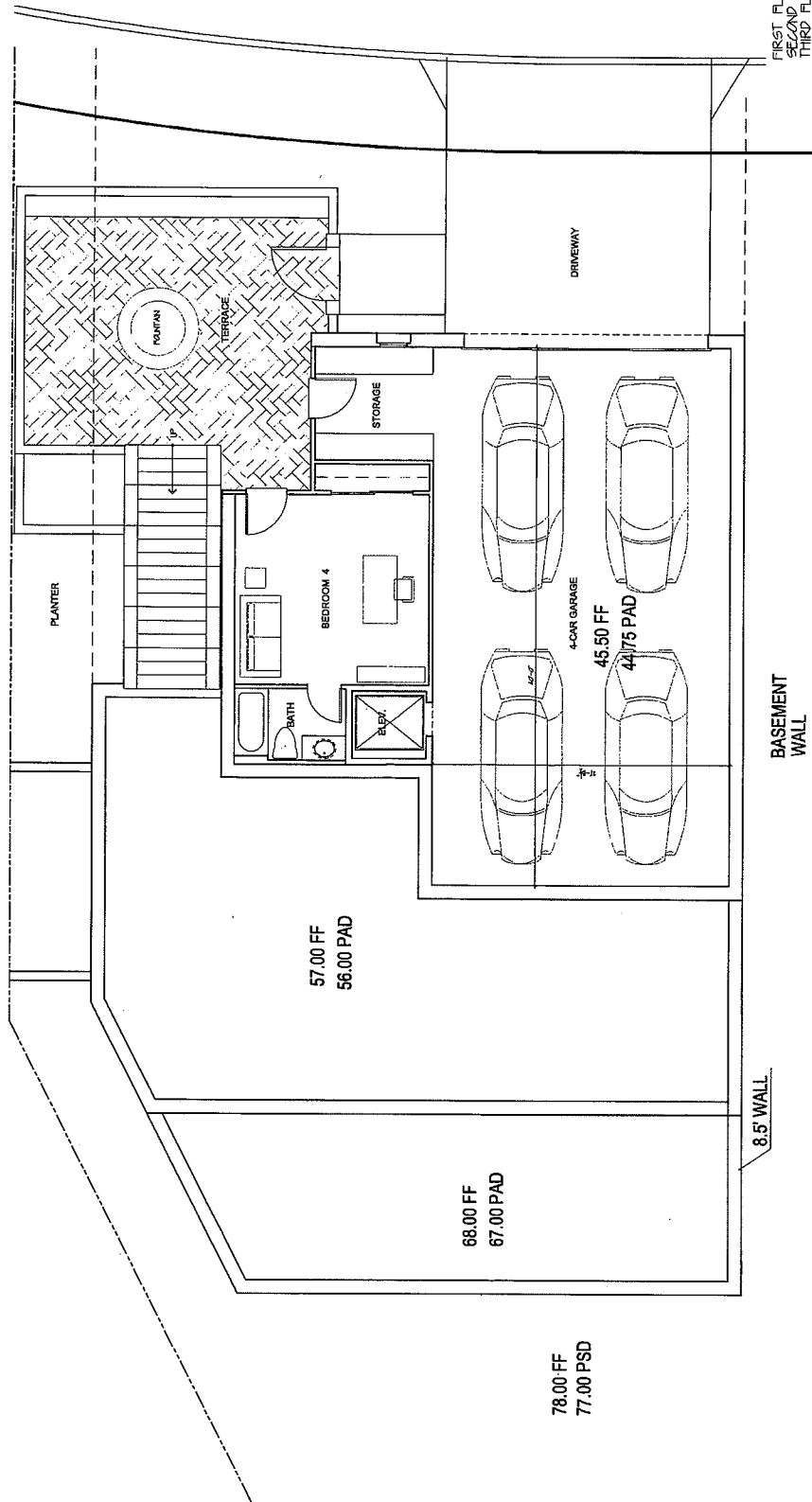
TOTAL 5277 SF  
 DECK 517 SF  
 GARAGE 391 SF  
 01-25-2010

FLOOR PLAN

LOT 9

OWNER:  
 SCHNEIDER  
 1881 AVENIDA SALVADOR  
 SAN CLEMENTE, CA. 92722  
 PROJECT:  
 CONCEPT RESERVE  
 LOT 9 TRACT 4047  
 325 LA PARRILLA  
 SAN CLEMENTE, CA. 92722

1



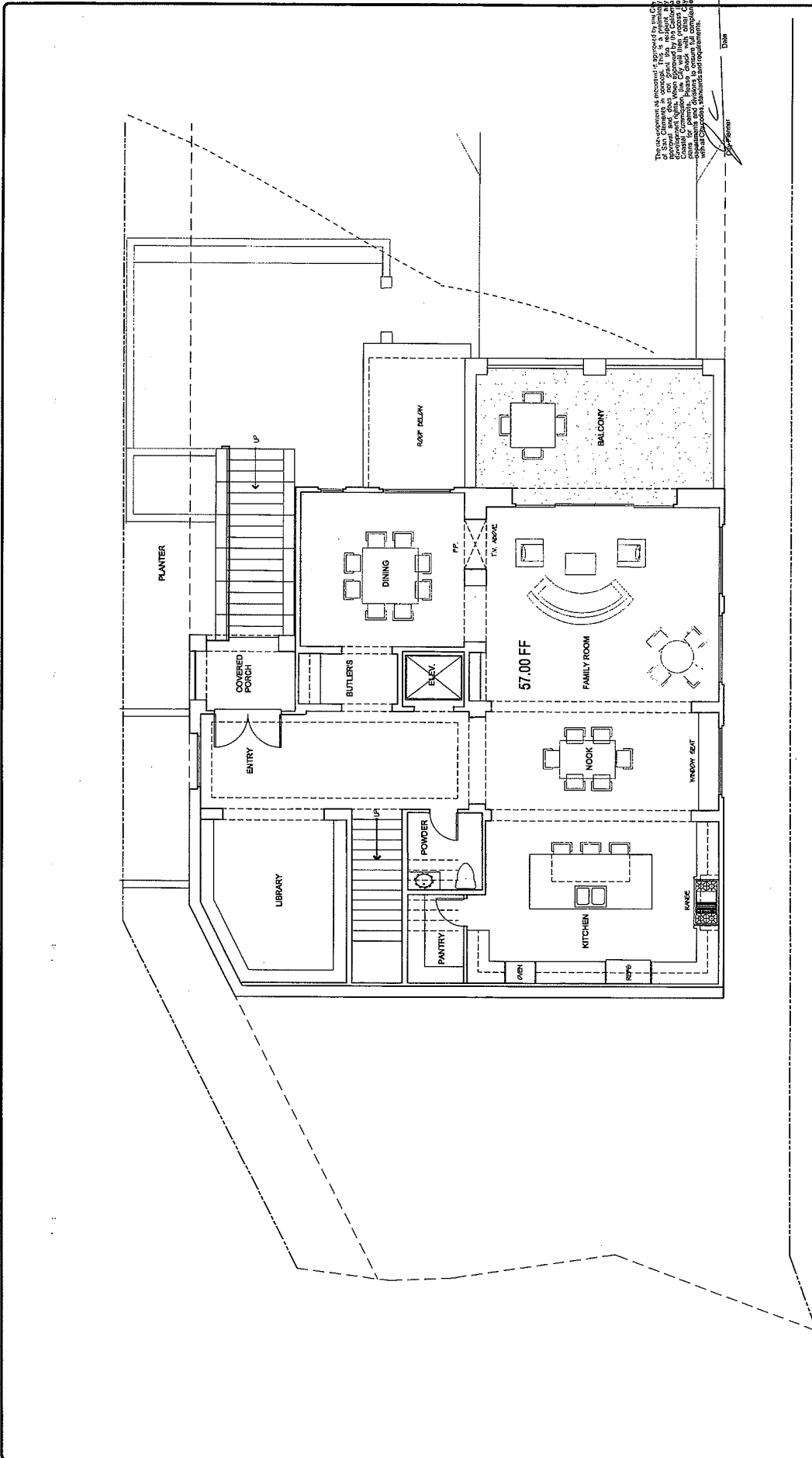
BASEMENT

N67°55'30"E 98.75'

This document is prepared in accordance with the City of San Clemente, in accordance with the provisions of the California State Building Code, and the California State Building Code. It is intended for use as a guide only. Please check with your local building department for any applicable codes and regulations.

DATE

DATE

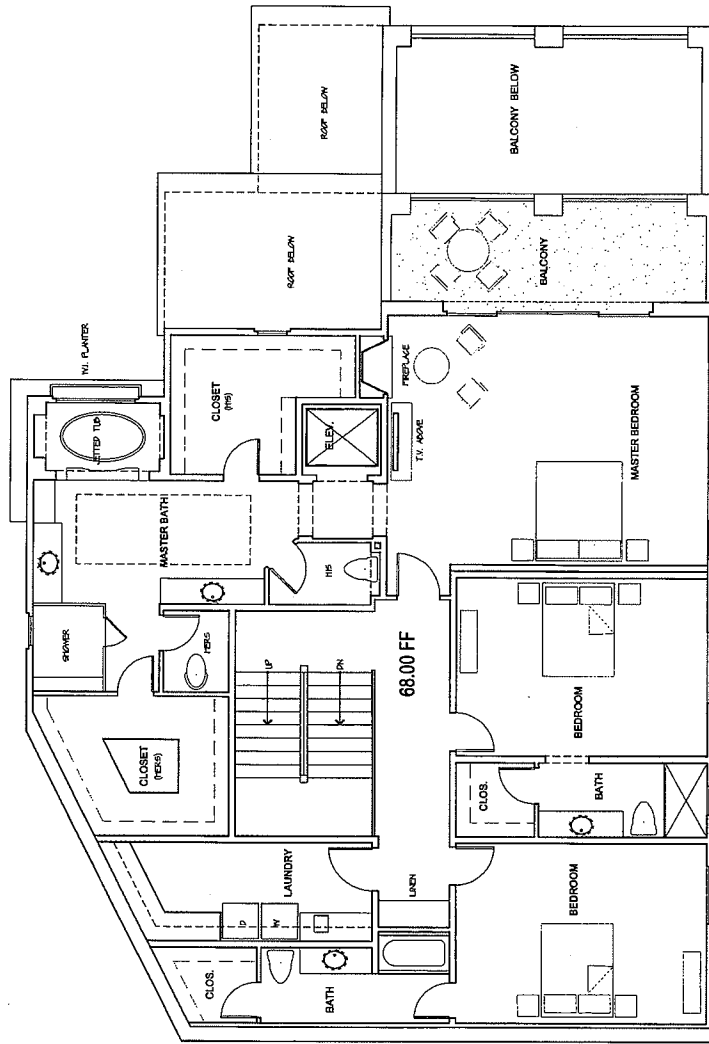


The information provided in this plan is for informational purposes only and does not constitute an offer of any financial product or service. It is not intended to be used as a basis for any investment decision. The information is provided for your information only and is not intended to be used as a basis for any investment decision. The information is provided for your information only and is not intended to be used as a basis for any investment decision.

# FIRST FLOOR

**FLOOR PLAN**  
**LOT 9**  
 OWNER: SAN CLEMENTE SALVADOR  
 300 AVENIDA SALVADOR  
 SAN CLEMENTE, CA. 92672  
 PROJECT: CUSTOM RESIDENCE  
 300 AVENIDA SALVADOR  
 SAN CLEMENTE, CA. 92672

FIRST FLOOR	1,214 SF
SECOND FLOOR	2,226 SF
THIRD FLOOR	1,291 SF
BASEMENT	316 SF
<b>TOTAL</b>	<b>5,077 SF</b>
DECK	617 SF
CARAGE	391 SF
	01-15-2010



The development of this floor plan is subject to the City of San Clemente's Ordinance No. 100, which requires that all floor plans be approved by the City of San Clemente. The City of San Clemente is not responsible for any errors or omissions in this floor plan. It is the responsibility of the client to verify all information and requirements with the City of San Clemente.

DATE: 01-25-2010

# SECOND FLOOR

**FLOOR PLAN** 1-25-10  
**LOT 9**  
 OWNER: SCHNEIDER  
 1801 AVENIDA SALVADOR  
 SAN CLEMENTE, CA. 92672  
 PROJECT: RESIDENCE  
 LOT 9 TRACT 4847  
 SAN CLEMENTE, CA. 92672

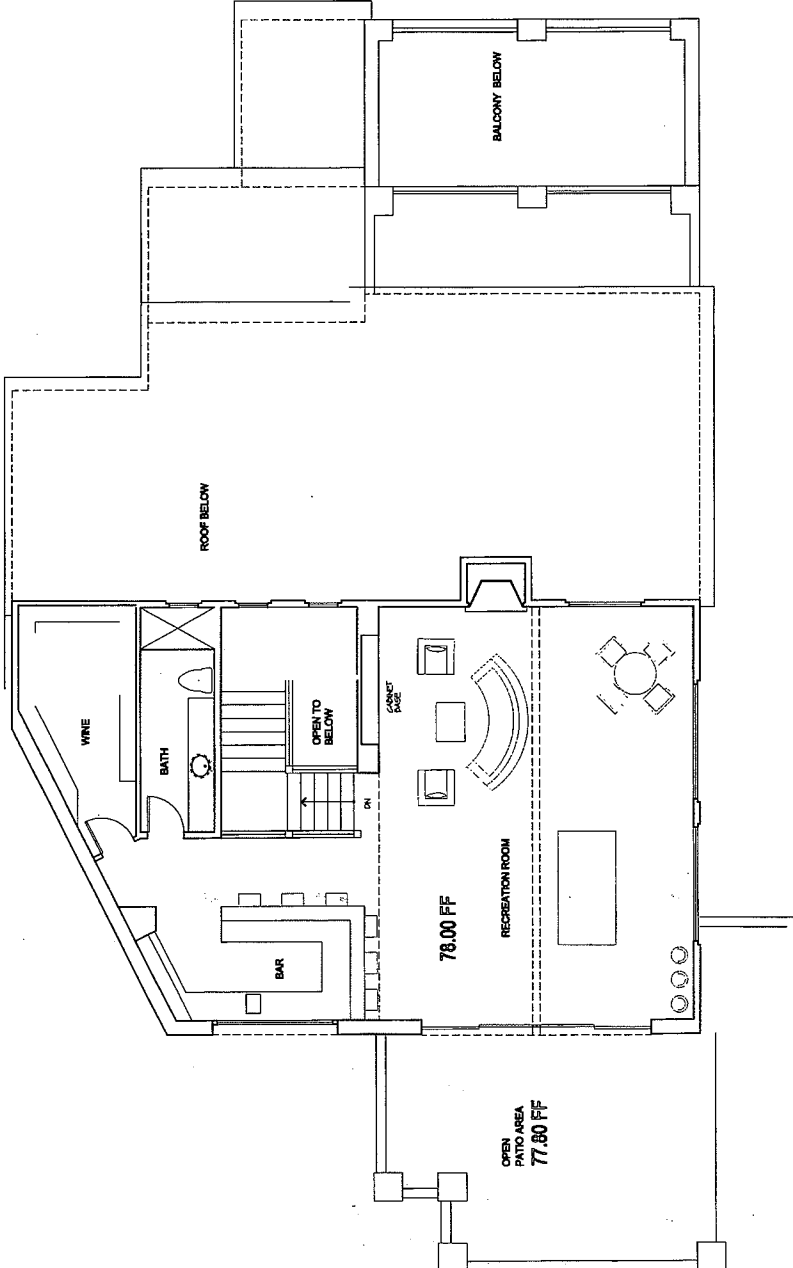
FIRST FLOOR	1314 SF
SECOND FLOOR	1026 SF
THIRD FLOOR	1051 SF
BASEMENT	216 SF
<b>TOTAL</b>	<b>5277 SF</b>
DECK	617 SF
GARAGE	352 SF
01-25-2010	



This document is a preliminary drawing prepared by the City of San Clemente in accordance with the provisions of the California Building Code, which is hereby approved by the California State Board of Building and Fire Safety. This document is not to be used for any other purpose without the written consent of the City of San Clemente.

**FLOOR PLAN**  
**LOT 9**  
 OWNER: JAMES AND ANNE AVILA SALVADOR  
 181 AVENIDA SALVADOR  
 SAN CLEMENTE, CA. 92672  
 PROJECT: CUSTOM RESIDENCE  
 3311 AVENUE 44TH  
 SAN CLEMENTE, CA. 92672

FIRST FLOOR	1914 SF
SECOND FLOOR	1096 SF
THIRD FLOOR	1051 SF
BASEMENT	916 SF
TOTAL	5277 SF
DECK	471 SF
GARAGE	351 SF
	01-15-2010



THIRD FLOOR (BLUFF LEVEL)

Plans for Lot 9

ROOF HEIGHT ANALYSIS

NO.	ROOF #	ELEV.	DIFF.
R-1	81.45	81.00	0.45
R-2	81.45	81.00	0.45
R-3	81.45	81.00	0.45
R-4	81.45	81.00	0.45

NO.	ROOF #	ELEV.	DIFF.
R-1	81.45	81.00	0.45
R-2	81.45	81.00	0.45
R-3	81.45	81.00	0.45
R-4	81.45	81.00	0.45

ROOF #	ROOF TOR ELEV.	DIFF.
(R1)	71.87 TOR	7.87
(R2)	71.87 TOR	2.87
(R3)	71.87 TOR	8.37
(R4)	71.87 TOR	12.87
31.47/4 = 7.87		

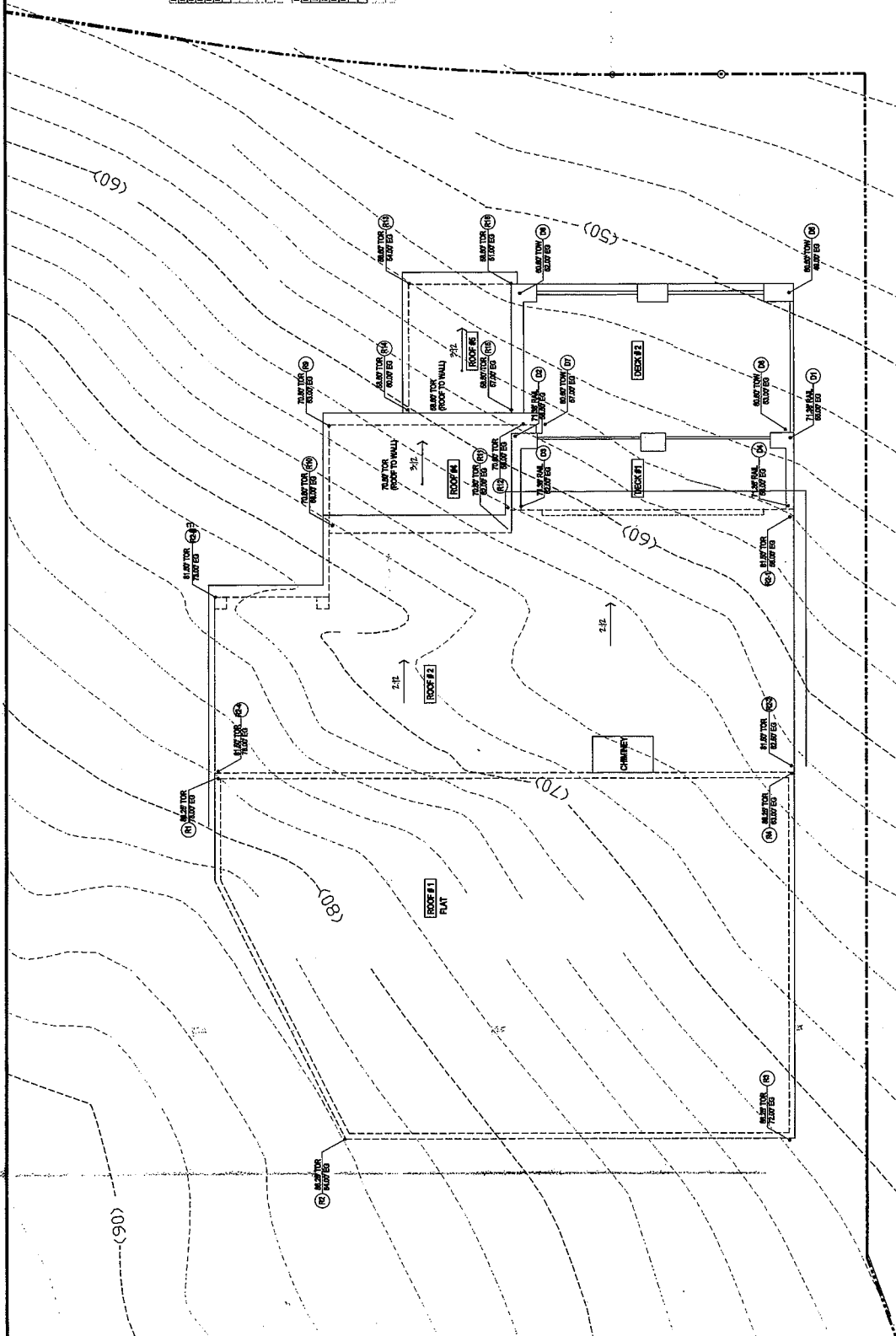
ROOF #	ROOF TOR ELEV.	DIFF.
(R1)	80.87 TOR	4.87
(R2)	80.87 TOR	-1.47
(R3)	80.87 TOR	1.87
(R4)	80.87 TOR	7.87
12.47/4 = 3.12		

This document is a preliminary drawing. It is not to be used for construction or for any other purpose without the written consent of the architect. The client is responsible for obtaining all necessary permits and for ensuring full compliance with all applicable codes and regulations.

DATE: \_\_\_\_\_

ROOF PLAN  
LOT 9

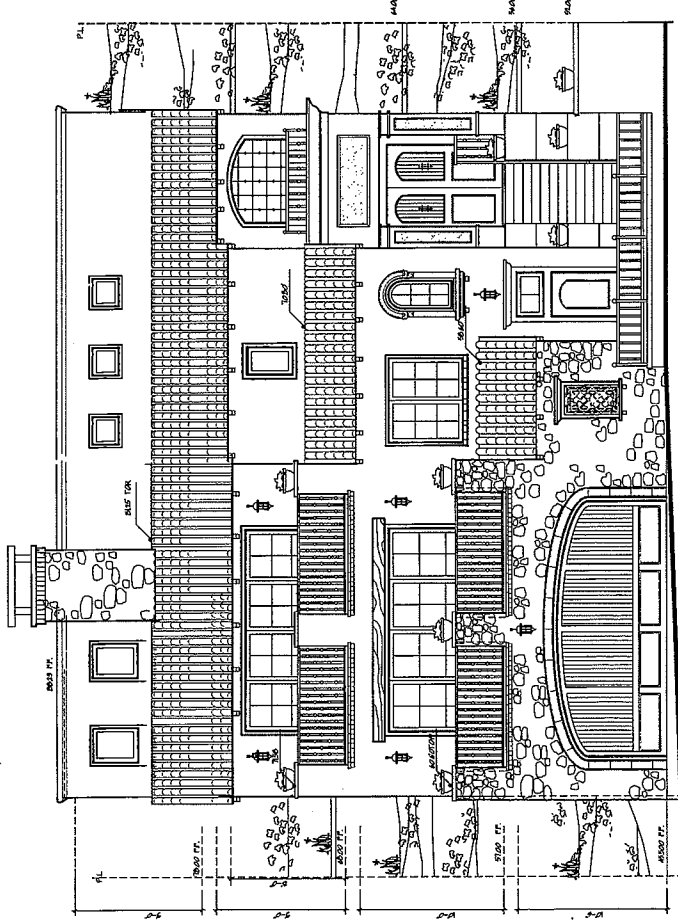
OWNER:  
SCHNEIDER  
100 AVENIDA UNIVOSA  
SAN CLEMENTE, CA. 92672  
PROJECT:  
CUSTOM RESIDENCE  
LOT #9 TRACT 4847  
SAN CLEMENTE, CA. 92672



DECK #2	DECK TOR ELEV.	DIFF.
(D1)	80.87 TOR	11.87
(D2)	80.87 TOR	6.87
(D3)	80.87 TOR	3.87
(D4)	80.87 TOR	7.87
31.47/4 = 7.87		

DECK #1	DECK TOR ELEV.	DIFF.
(D1)	71.87 TOR	18.37
(D2)	71.87 TOR	12.87
(D3)	71.87 TOR	8.37
(D4)	71.87 TOR	15.37
31.47/4 = 7.87		

ROOF PLAN



SOUTH ELEVATION

The development as proposed is approved by the City of San Clemente, in compliance with the applicable zoning ordinance, and all other applicable laws, regulations, codes, standards and requirements. The applicant hereby certifies that the information provided herein is true and correct, and that the applicant is not aware of any facts or circumstances which would render the information provided herein false or misleading. The applicant hereby certifies that the information provided herein is true and correct, and that the applicant is not aware of any facts or circumstances which would render the information provided herein false or misleading.

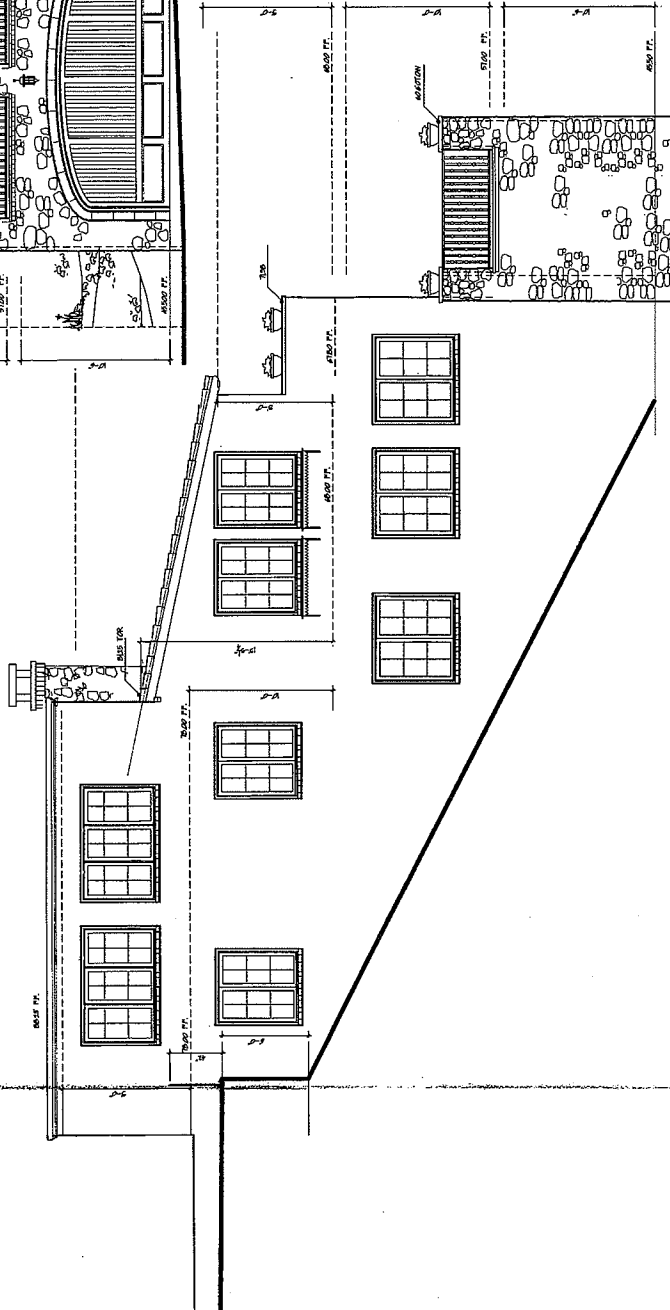
DAVID YORK  
ARCHITECT

ELEVATION

LOT #9

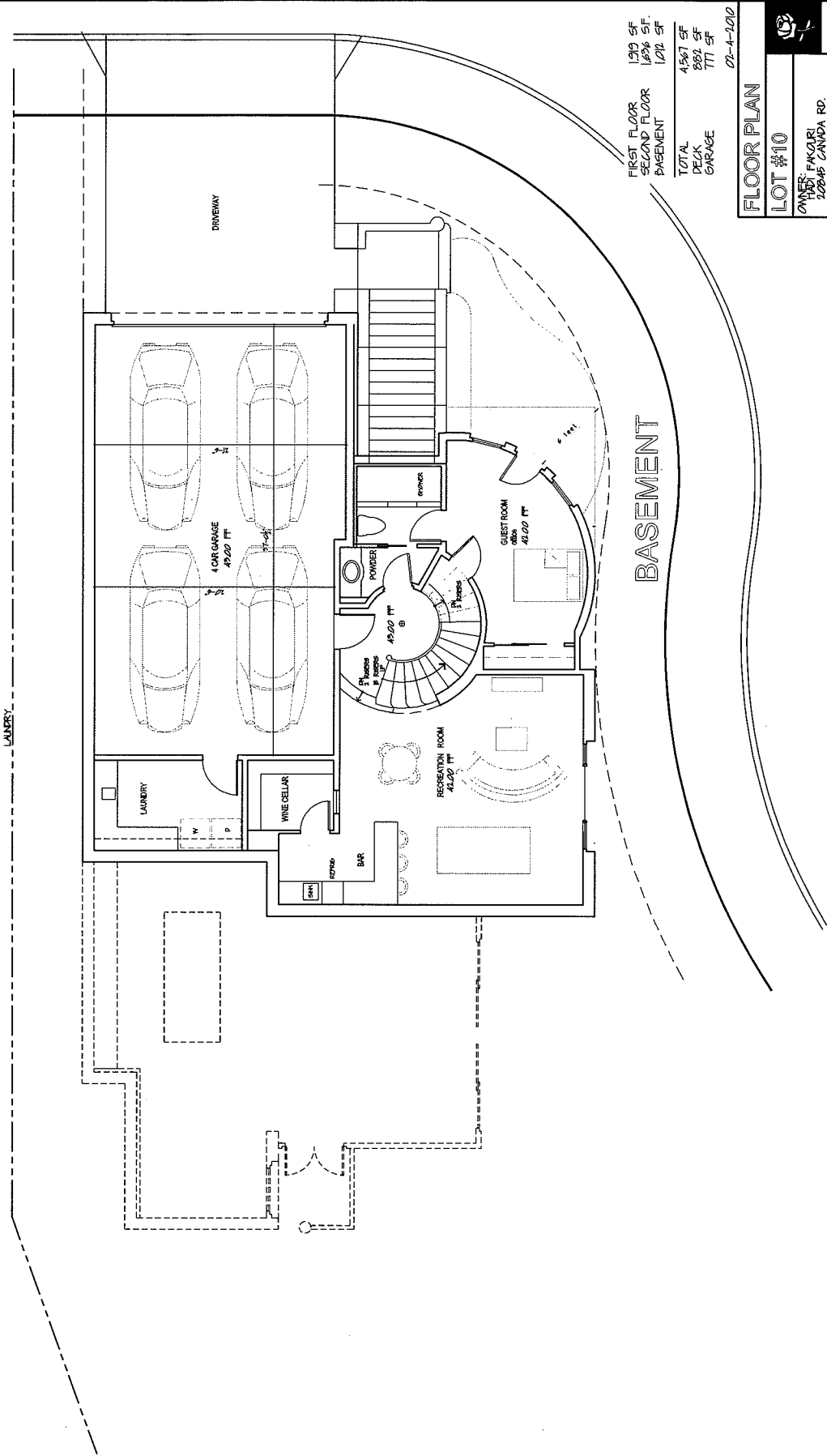
OWNER: FAKOURI  
20845 CANADA RD.  
LAKE FOREST, CA. 92650  
PROJECT:  
CUSTOM RESIDENCE  
LOT #10 TRACT 4847  
SAN CLEMENTE, CA. 92672

6



WEST ELEVATION



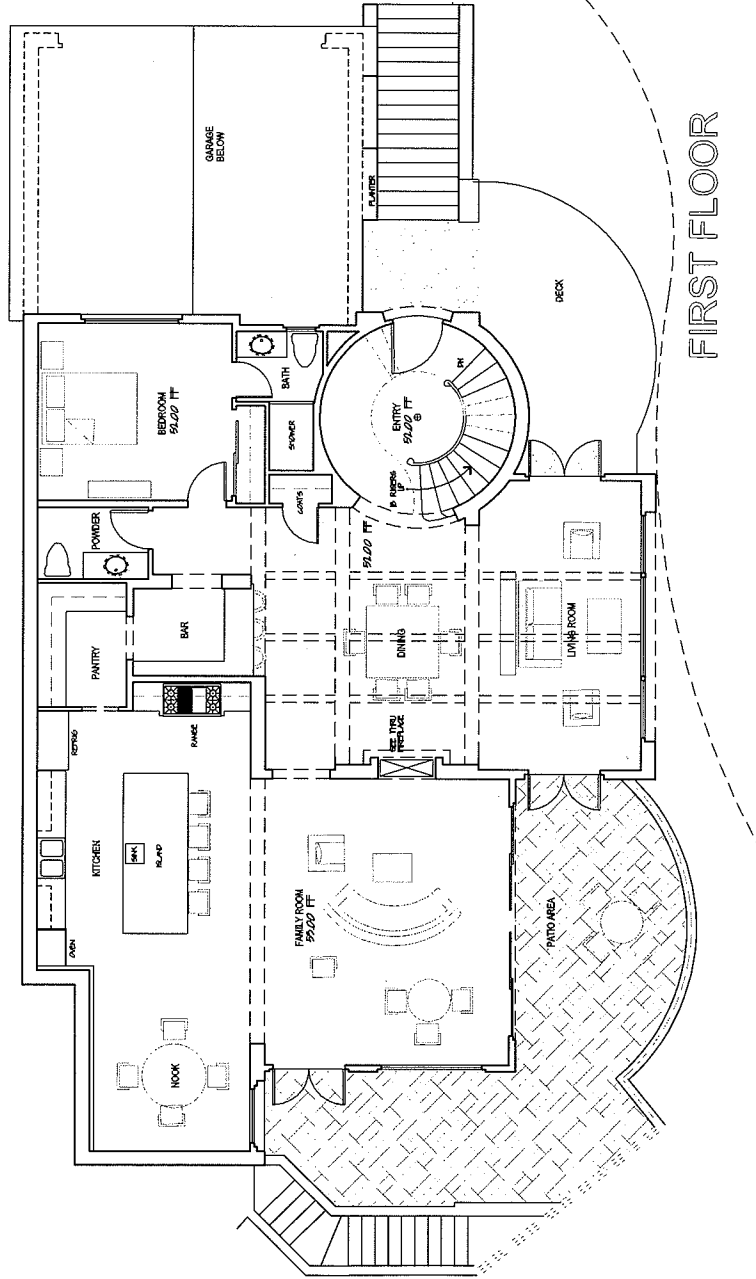


FIRST FLOOR	1290 SF
SECOND FLOOR	1424 SF
BASEMENT	1212 SF
TOTAL	4367 SF
DECK	882 SF
GARAGE	711 SF
02-4-2010	

**FLOOR PLAN**  
**LOT #10**  
 OWNER: HANF FAKARI  
 10845 CANADA RD.  
 LAKE FOREST, CA 92650  
 PROJECT: RESIDENCE  
 LOT #10 TRACT 4371  
 LA RANCHA  
 SAN CLEMENTE, CA 92671

Plans for Lot 10

5-125  
 Exhibit 5e  
 02/25/10



FIRST FLOOR	1919 SF
SECOND FLOOR	1424 SF
BASEMENT	1021 SF
TOTAL	4367 SF
DECK	880 SF
GARAGE	771 SF
02-A-200	
9-4-2010	

**FLOOR PLAN** 9-4-2010

**LOT #10**

OWNER: HADI FAKARI  
 20845 CANADA RD.  
 LAKE FOREST, CA 91650

PROJECT: RESERVE  
 CUSTOM TRACT 4547  
 LA RAMBLA  
 SAN CLEMENTE, CA 92672

2

FIRST FLOOR

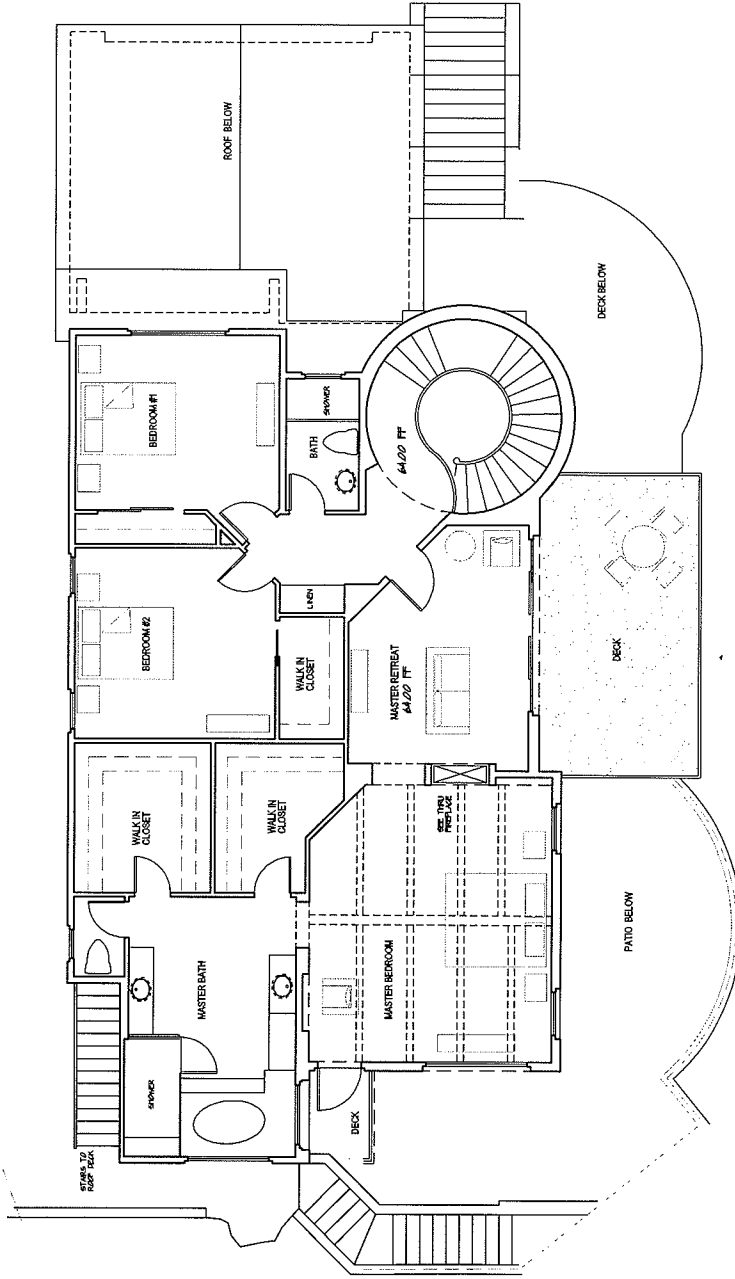
8/25/10

FIRST FLOOR	1939 SF
SECOND FLOOR	1824 SF
BASEMENT	1021 SF
TOTAL	4587 SF
DECK	982 SF
GARAGE	771 SF
	01-A-200

FLOOR PLAN

LOT 10

OWNER:  
HADI FAKOURI  
20245 CANADA RD.  
LAKE FOREST, CA 91430  
PROJECT:  
CUSTOM RESERVE  
LAKE FOREST 4347  
SAN CLEMENTE, CA 92672



SECOND FLOOR

01/25/10

ROOF AREA #1

NO.	RIDGE	EG	DIFF.
R1.1	75.66	54.00	21.66
R1.2	75.66	58.00	17.66
R1.3	75.66	53.00	22.66
R1.4	75.66	51.00	24.66
			86.64
			21.66

ROOF AREA #2

NO.	RIDGE	EG	DIFF.
R2.1	75.50	59.75	15.75
R2.2	75.40	63.00	12.40
R2.3	75.40	68.00	6.40
R2.4	75.40	68.00	9.40
			43.95
			10.988

ROOF AREA #3

NO.	RIDGE	EG	DIFF.
R3.1	76.50	54.00	22.50
R3.2	76.50	58.00	18.50
R3.3	76.50	51.00	25.50
R3.4	76.50	50.00	26.50
			93.00
			23.25

ROOF AREA #4

NO.	RIDGE	EG	DIFF.
R4.1	77.63	65.00	11.63
R4.2	77.63	65.00	12.63
R4.3	77.63	57.00	20.63
R4.4	77.63	53.00	24.63
R4.5	77.63	48.50	29.13
R4.6	77.63	50.25	27.38
R4.7	77.63	54.00	23.63
R4.8	77.63	58.00	19.63
R4.9	77.63	61.00	16.63
			187.72
			20.88

ROOF AREA #5

NO.	RIDGE	EG	DIFF.
R5.1	74.00	47.00	27.00
R5.2	74.00	50.00	24.00
R5.3	74.00	51.00	23.00
R5.4	74.00	48.00	26.00
			100.00
			25

ROOF AREA #6

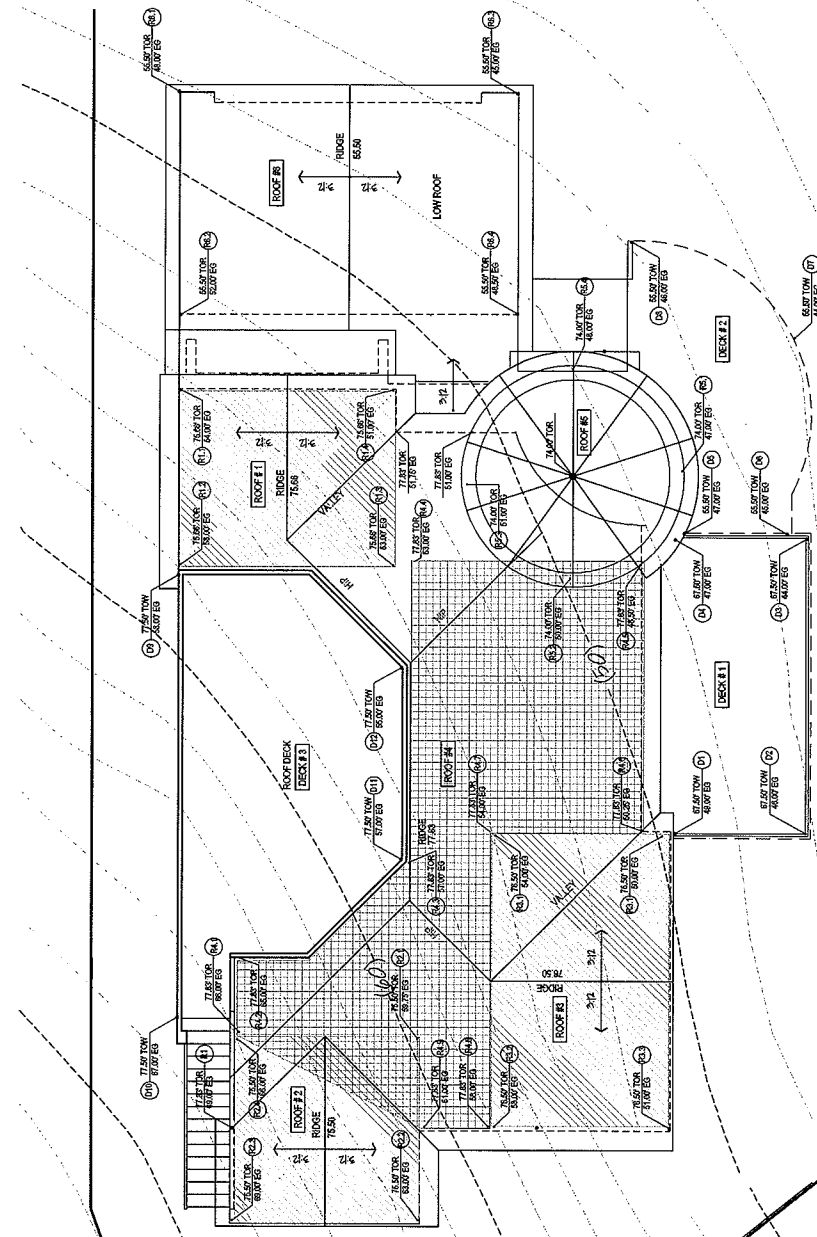
NO.	RIDGE	EG	DIFF.
R6.1	55.50	48.00	7.50
R6.2	55.50	53.00	2.50
R6.3	55.50	45.00	10.50
R6.4	55.50	48.50	7.00
			27.50
			6.875

ROOF PLAN 5-2022

LOT 10

OWNER: E. K. OBI  
 12246 CANADA RD  
 LAKE FOREST, CA 92650  
 PROJECT: CUSTOM RESERVE  
 LOT #10, TRACT 4847  
 SAN CLEMENTE, CA 92672

4



ROOF PLAN

DECK AREA #3

NO.	RIDGE	EG	DIFF.
D9	77.50	58.00	19.50
D10	77.50	57.00	10.50
D11	77.50	57.00	20.50
D12	77.50	55.00	22.50
			73.00
			18.25

DECK AREA #2

NO.	RIDGE	EG	DIFF.
D5	55.50	47.00	8.50
D6	55.50	45.00	10.50
D7	55.50	44.00	11.50
D8	55.50	46.00	9.50
			40.00
			4
			21

DECK AREA #1

NO.	RIDGE	EG	DIFF.
D1	67.50	49.00	18.50
D2	67.50	46.00	21.50
D3	67.50	44.00	23.50
D4	67.50	47.00	20.50
			84.00
			4
			21

8/25/10



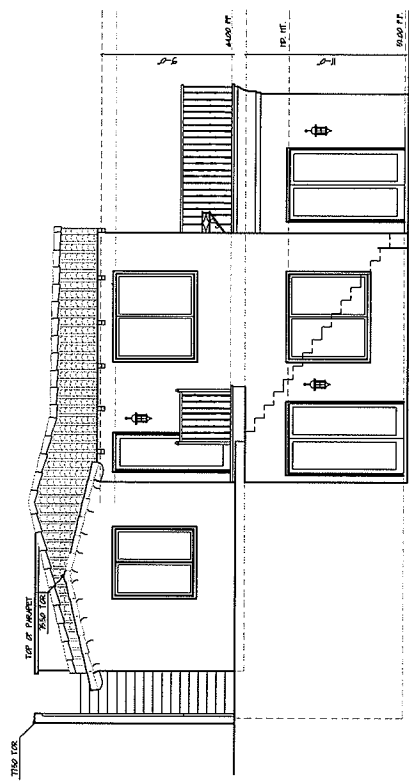


01-25-2010

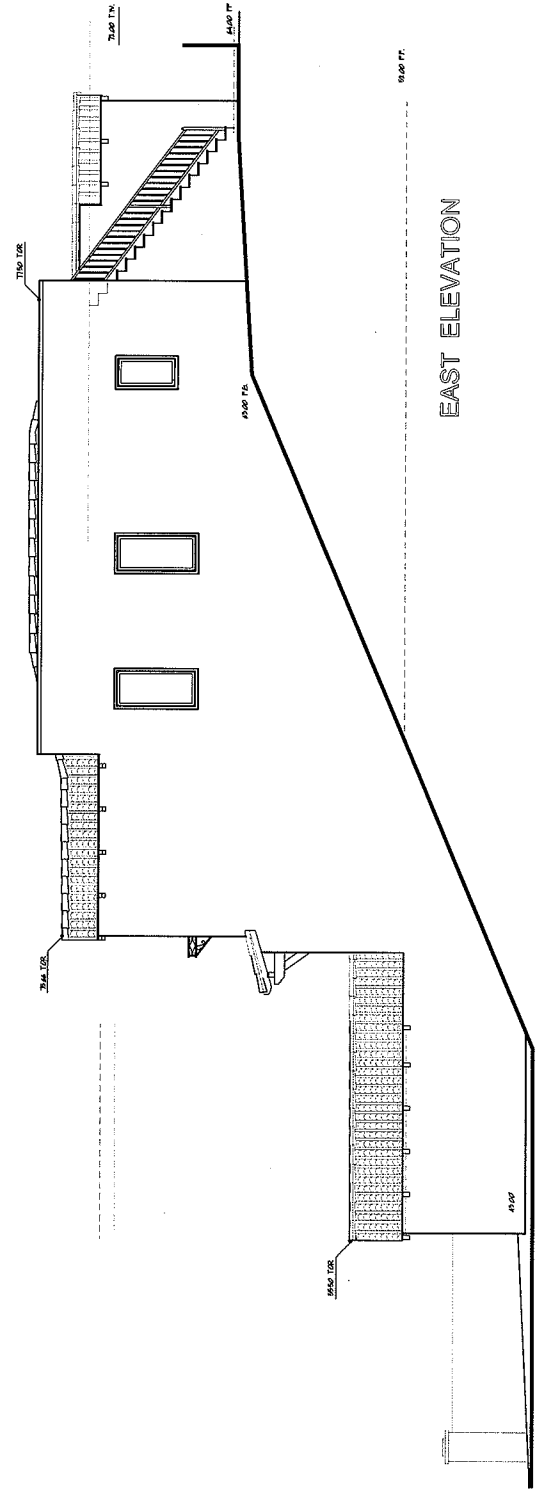
ELEVATION

LOT #10

OWNER: HANI FAKOURI  
22845 CANADA RD.  
LADE FOREST, CA 92650  
PROJECT: CUSTOM RESIDENCE  
LA PERMIT N001-4847  
SAN CLEMENTE, CA 92672



NORTH ELEVATION

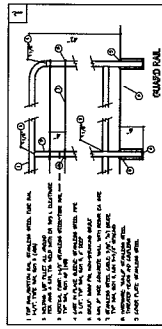


EAST ELEVATION

8/25/10



SHEET INDEX	
NO.	DESCRIPTION
G-1	PRECISE GRADING PLAN
C-1	COMPREHENSIVE PLAN
C-6	SECTIONS
C-7	SECTIONS
11-1	BASEMENT FLOOR PLAN
11-2	FIRST FLOOR PLAN
11-3	SECOND FLOOR
11-4	ROOF PLAN
11-5	EXTERIOR ELEVATIONS
11-6	EXTERIOR ELEVATIONS



**GROUND QUANTITIES LOT 11E ADJUSTMENTS**

LOT 11E  
 1. 4" RADIUS CURVE DATA, "T"

**GROUND QUANTITIES LOT 11E ADJUSTMENTS**

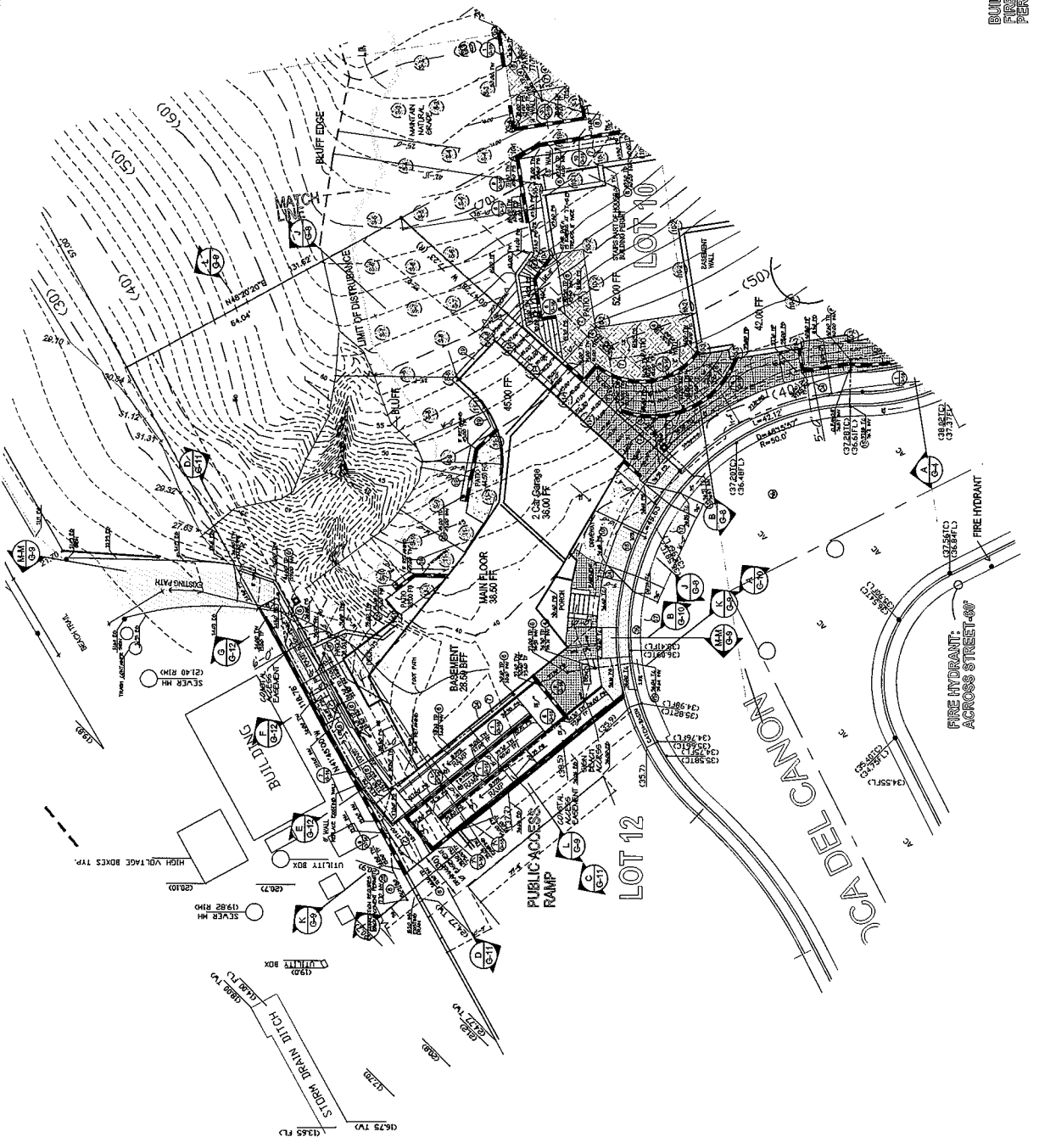
LOT 11E  
 1. 4" RADIUS CURVE DATA, "T"

**GROUND QUANTITIES LOT 11E ADJUSTMENTS**

LOT 11E  
 1. 4" RADIUS CURVE DATA, "T"

**GROUND QUANTITIES LOT 11E ADJUSTMENTS**

LOT 11E  
 1. 4" RADIUS CURVE DATA, "T"



**SCALE 1" = 100'**

**BUILDING SHALL HAVE  
 FIRESPRINKLER SYSTEM  
 PER OCA APPROVAL**

**SOLE ENGINEER:**  
 LSC  
 195 CALLE ANAZAO  
 SAN ANTONIO, CA 95471  
 (415) 945-2441 FAX (415) 945-4445

**PRELIMINARY  
 GRADING PLAN LOT 11**

**DAVID YORK ARCHITECT**  
 111 W. SAN CAROL  
 SAN ANTONIO, CA 95471  
 (415) 947-6004

**G1**

Plans for Lot 11 and Beach Access





FIRST FLOOR	1076 SF
SECOND-MASTER	510 SF
BASEMENT	876 SF
TOTAL LIVING	2462 SF
DECK	900 SF
GARAGE	432 SF
	12/10/10

**BASEMENT**

**LOT #11**

OWNER:  
 GRENE  
 15 CAMINO LIENZO  
 SAN CLEMENTE, CA. 92673  
 PROJECT:  
 CUSTOMER RESIDENCE  
 LA RAMBLA  
 SAN CLEMENTE, CA. 92672



Plans for Lot 11 and Beach Access

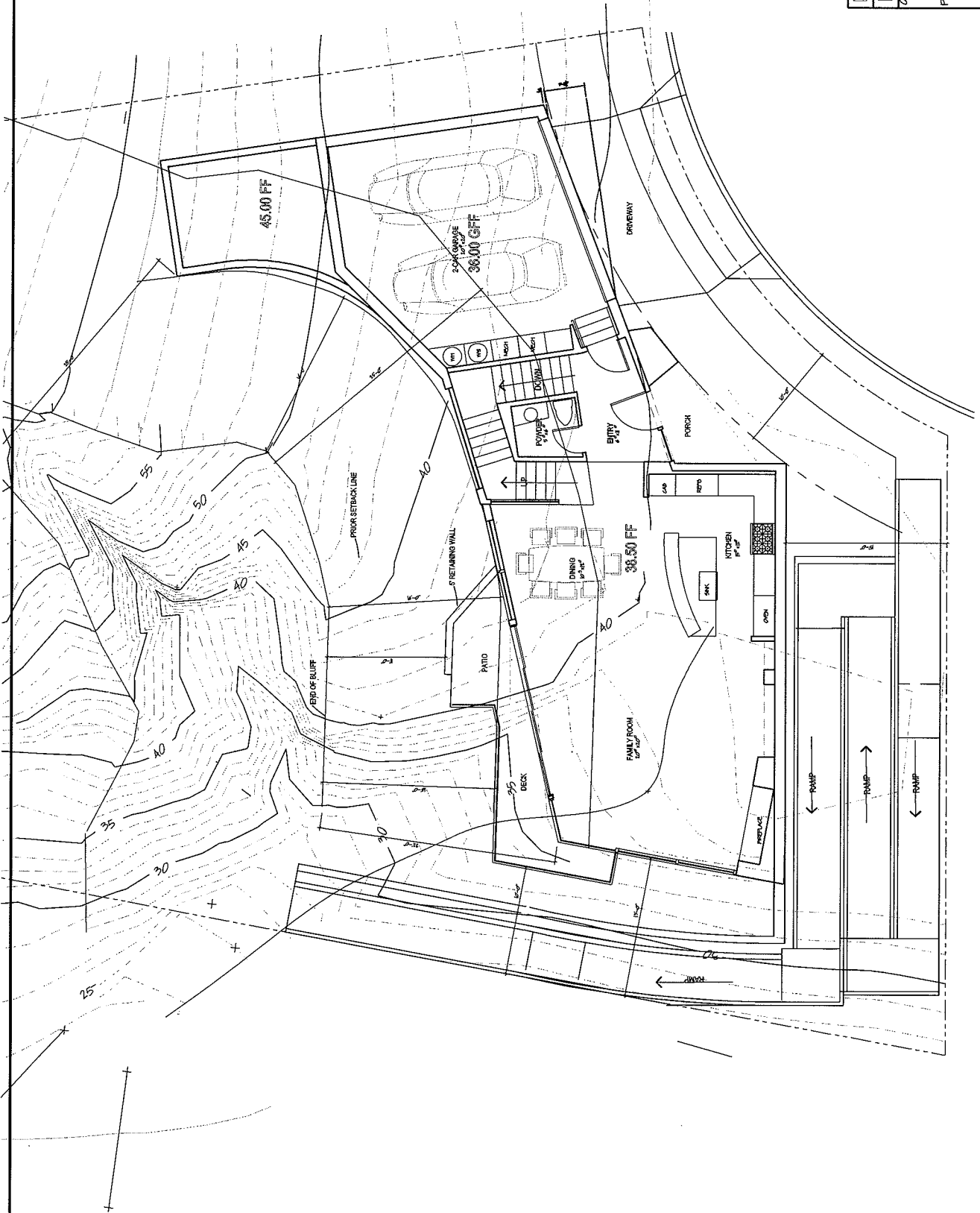
FIRST FLOOR	1076 SF
SECOND-MASTER	510 SF
BASEMENT	816 SF
TOTAL LIVING	2422 SF
DECK	900 SF
GARAGE	491 SF
	12/10/10

**FIRST FLOOR**

**LOT #11**

OWNER:  
 GREVE  
 19 CAMINO LIENZO  
 SAN CLEMENTE, CA. 94819  
 PROJECT:  
 CUSTOM RESIDENCE  
 LA RAMBLA  
 SAN CLEMENTE, CA. 94671

2



Plans for Lot 11 and Beach Access

**3**

**SECOND FLOOR**

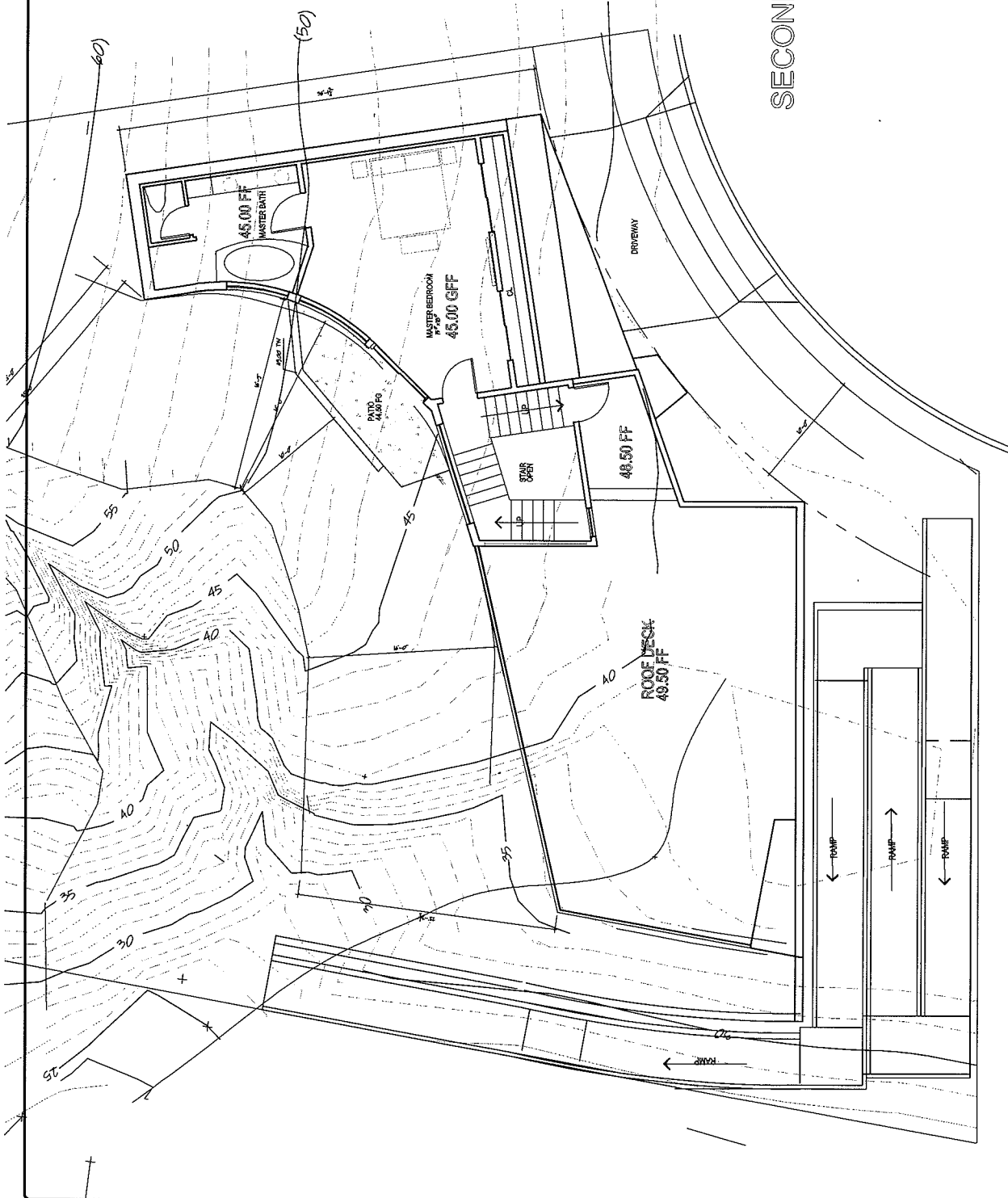
**LOT #11**

OWNER:  
GREVE  
19 CAMINO LIENZO  
SAN CLEMENTE, CA. 92673

PROJECT:  
CUSTOM RESIDENCE  
LA PALMA  
SAN CLEMENTE, CA. 92672

FIRST FLOOR	10% SF
SECOND-MASTER	510 SF
BASEMENT	876 SF
TOTAL LIVING	2422 SF
DECK	900 SF
GARAGE	492 SF
	12/10/10

**SECOND**



Plans for Lot 11 and Beach Access



4

ROOF PLAN

LOT #11

OWNER:  
 BREWSTER LEONZO  
 SAN CLEMENTE, CA. 92673  
 PROJECT:  
 CUSTOM RESIDENCE  
 LOT #11 TRACT 4587  
 SAN CLEMENTE, CA. 92672

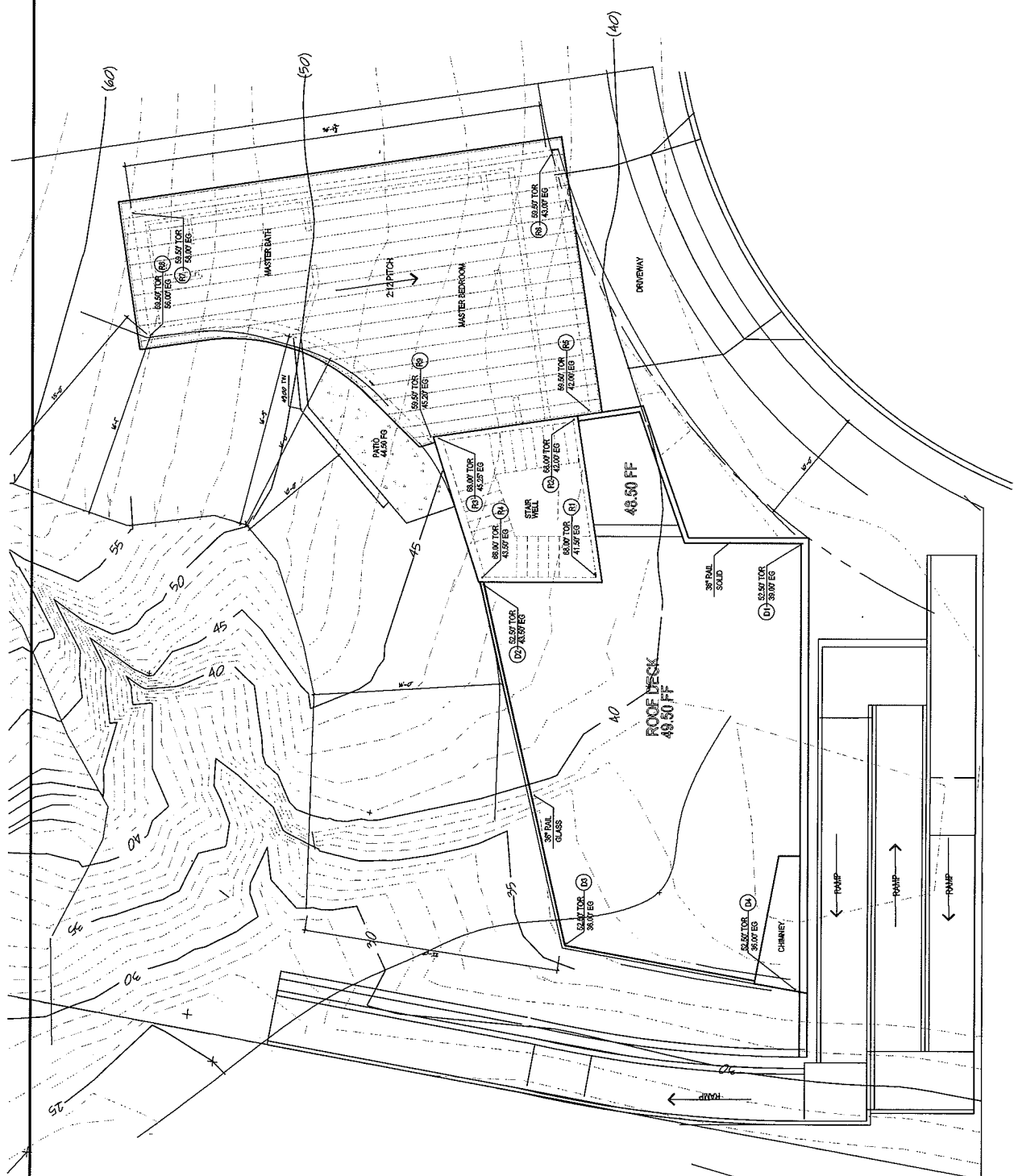
ROOF AREA #1			
NO.	RIDGE EG	DIFF.	
R1	67.10	41.60	15.60
R2	67.10	42.00	15.90
R3	67.10	43.00	13.90
R4	67.10	43.60	66.15
			14.0

ROOF AREA #2			
NO.	RIDGE EG	DIFF.	
R5	59.50	42.00	17.50
R6	59.50	43.00	16.50
R7	59.50	58.00	1.50
R8	59.50	56.00	3.50
R9	59.50	45.25	14.25
			35.75
			7.15

ROOF DECK			
NO.	RIDGE EG	DIFF.	
D1	52.00	39.00	13.00
D2	52.00	43.50	8.10
D3	52.00	39.00	16.00
D4	52.00	39.00	55.90
			14.0



Plans for Lot 11 and Beach Access

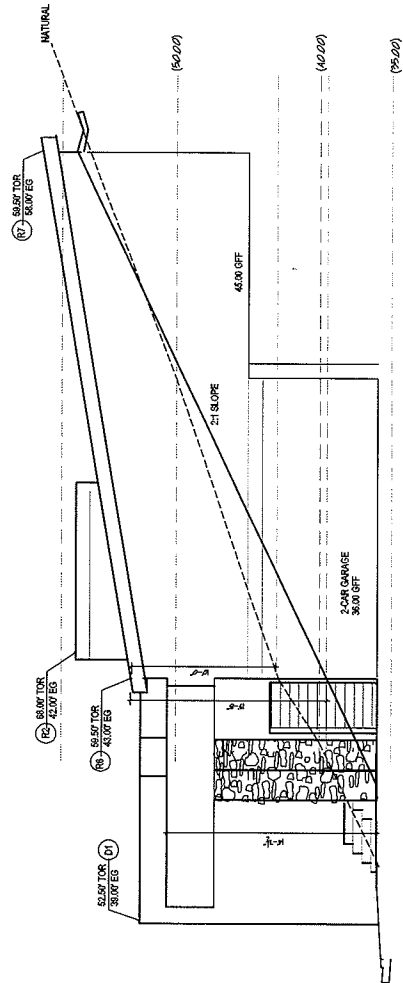
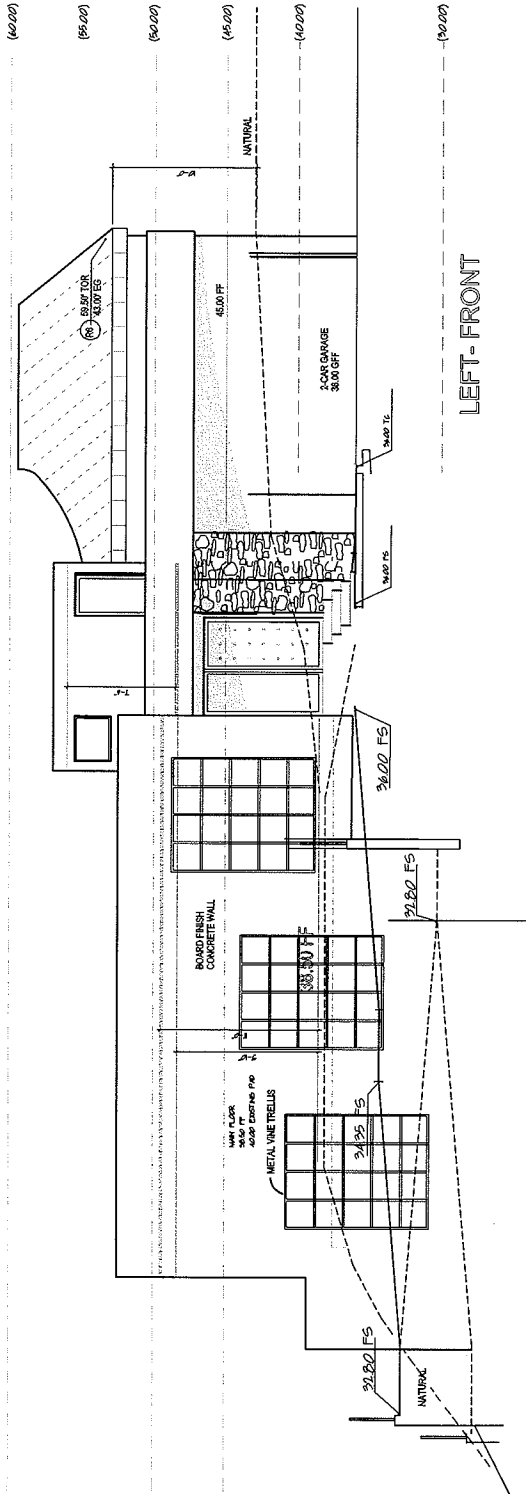




ELEVATION

LOT #11

OWNER:  
 BREWE  
 15 LAVINO LIENZO  
 SAN CLEMENTE, CA 92673  
 PROJECT:  
 CUSTOM RESIDENCE  
 LOT #11 TRACT 1557  
 SAN CLEMENTE, CA 92672



Plans for Lot 11 and Beach Access

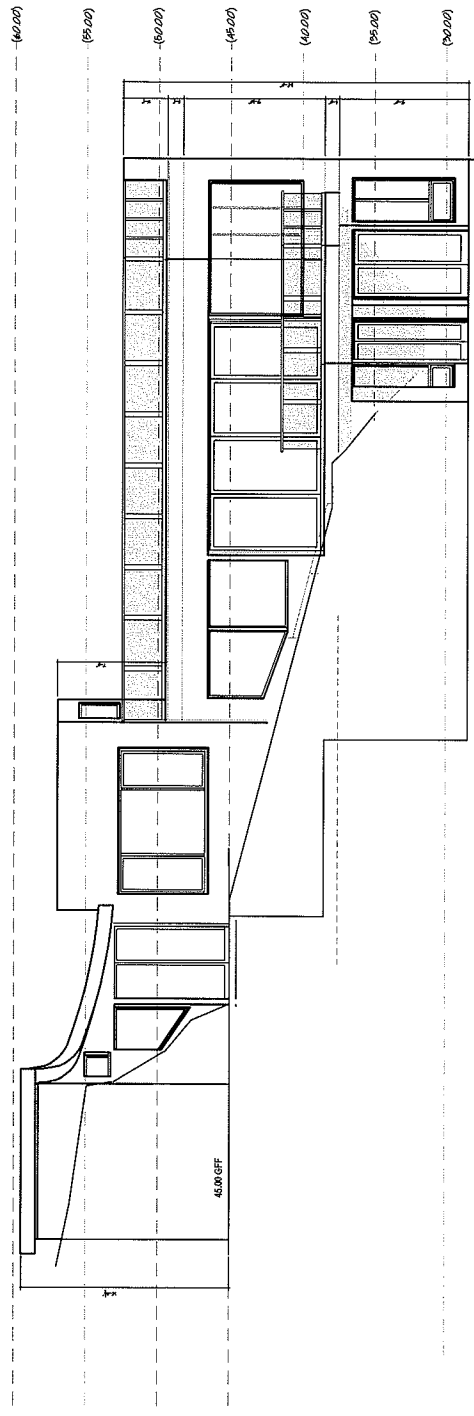
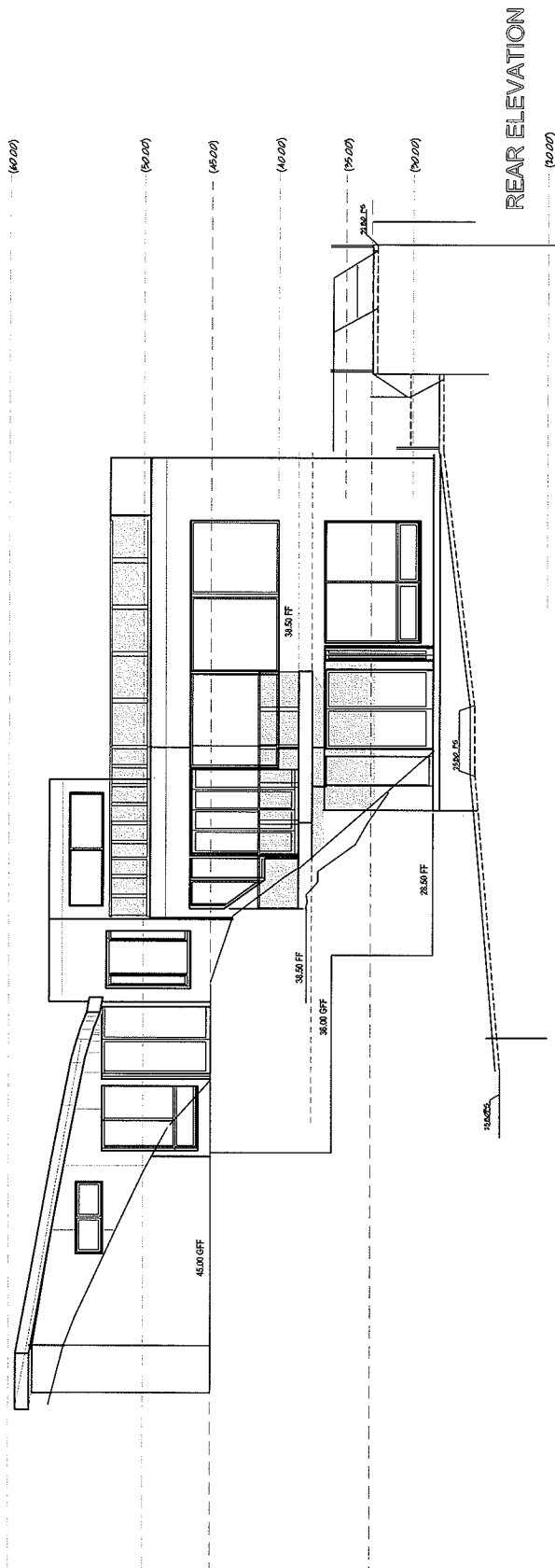


6

ELEVATION

LOT #11

OWNER: UREVE  
BY: CAMINO LIENZO  
SAN CLEMENTE, CA 92673  
PROJECT: CUSTOM RESIDENCE  
LA RAMA SOCI 401  
SAN CLEMENTE, CA 92672



Plans for Lot 11 and Beach Access

