

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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**Th7e**

Filed:	6/16/2015
180th Day:	12/13/2015
Staff:	S. Vaughn-LB
Staff Report:	7/23/2015
Hearing Date:	8/13/2015

STAFF REPORT: CONSENT CALENDAR

Application No.: 5-15-0445

Applicant: Abhay Parikh & Dipti Itchhaproia

Agent: Brent Sears

Location: 1570 East Ocean Front, Newport Beach, Orange County (APN 048-202-22)

Project Description: Demolition of a 2-story single-family residence and attached 2-car garage and construction of a 3,929 sq. ft., 3-story, 29-foot high, single-family residence with an attached 603 sq. ft. 3-car garage.

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION:

The applicant proposes to demolish a 2,712 square foot, two-story, beach front, single-family residence and construct a 3,929 square foot, three-story, 29-foot high, single-family residence with an attached 603 square foot, three-car garage and a 167 square feet balcony. The proposed project includes grading of approximately 10 cubic yards of cut and 157 cubic yards of fill, 110 square feet of landscaping, deck drains that will direct runoff to a bottomless trench drain, and new block walls along the side property lines.

Staff is recommending **approval** of the proposed coastal development permit with **nine (9)** special conditions. The special conditions regarding: **1)** Assumption of Risk, Waiver of Liability, and Indemnity; **2)** No future Shoreline Protection; **3)** Conformance With Recommendations of the Geotechnical and Soils Engineering Reports; **4)** Conformance with Drainage and Runoff Control Plans; **5)** Construction Best Management Practices; **6)** Landscaping; **7)** Bird Strike Prevention; **8)** Future Development; and **9)** Deed Restriction.

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APPENDICES

Appendix A - Substantive File Documents

EXHIBITS

Exhibit 1 - Vicinity Map

Exhibit 2 – Site Plans

Exhibit 3 – Drainage Plan

I. MOTION AND RESOLUTION

Motion:

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

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

Resolution:

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

This permit is granted subject to the following 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 of 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

This permit is granted subject to the following special conditions:

1. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant(s) acknowledge and agree (i) that the site may be subject to hazards from waves, erosion, storm conditions, liquefaction, flooding and sea level rise; (ii) to assume the risks to the applicant(s) and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
2. **No Future Shoreline Protective Device.**
 - A. By acceptance of this permit, the applicant(s) agrees, on behalf of themselves and all other successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-15-0445 including, but not limited to, the residence, garage, foundations, and patio, and any future improvements, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, or other natural hazards in the future. By acceptance of this permit, the applicant(s) and landowner(s) hereby waives, 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 applicant(s) further agree, on behalf of themselves and all successors and assigns that the landowners shall remove the development authorized by this permit, including the residence, garage, foundations, and patio, if any government agency has ordered that the structure is not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the 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.
3. **Recommendations of the Geotechnical and Soils Engineering Reports.** All final design and construction plans shall be consistent with all recommendations contained in the *Preliminary Geotechnical Engineering Investigation – Proposed Residential Development – Located at 1570 East Ocean Front, in the City of Newport Beach, California* report prepared by NorCal Engineering, dated July 21, 2014 and the *Coastal Hazards and Wave Runup Study* report prepared by GeoSoils Inc., dated January 30, 2015 and updated May 28, 2015. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

- 4. Conformance with the submitted Drainage and Run-Off Control Plan.** The applicant(s) shall conform to the drainage and run-off control plan submitted on April 22, 2015 to the South Coast Region office showing roof drainage and paved walkways designed to slope into a bottomless trench drain at the landward side of the property and a sump pit with sump pump at the seaward side of the property. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
- 5. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris.** The permittee shall comply with the following construction-related requirements:
- (a) No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
 - (b) No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers.
 - (c) Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.
 - (d) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
 - (e) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
 - (f) The applicant(s) shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
 - (g) Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. 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 unless the Executive Director determines that no amendment or new permit is legally required.
 - (h) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
 - (i) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
 - (j) The discharge of any hazardous materials into any receiving waters shall be prohibited.
 - (k) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials.

Measures 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. The area shall be located as far away from the receiving waters and storm drain inlets as possible.

- (l) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity.
 - (m) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.
- 6. Landscaping - Drought Tolerant, Non Invasive Plants.** Vegetated landscaped areas shall consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>).
- 7. Bird Strike Prevention.** Ocean front deck railing systems, fences, screen walls and gates subject to this permit shall use materials designed to minimize bird-strikes with the deck railing, fence, or gate. 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 they contain UV-reflective glazing that is visible to birds or appliqué (e.g. stickers/decals) designed to reduce bird-strikes by reducing reflectivity and transparency are also used. Any appliqué 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 appliqué. All materials and appliqué 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.
- 8. Future Development.** Pursuant to Title 14 California Code of Regulations Section 13250(b) (6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by Coastal Development Permit No. 5-15-0445. Accordingly, any future improvements to the single-family house authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-15-0445 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

9. **Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcels governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS:

A. PROJECT DESCRIPTION & LOCATION

The proposed project involves the demolition of a 2,712 square foot, two-story, single-family residence on a 3,211 sq. ft. beach front lot and the construction of an approximately 3,929 sq. ft., three-story, approximately 29-foot high, single-family residence with an attached 603 sq. ft., three-car garage and a 167 sq. ft. balcony (**EXHIBIT 2**).

The proposed project site is located at 1570 East Ocean Front in the City of Newport Beach, Orange County (**EXHIBIT 2**). The lot is 40-feet wide by 80.5-feet deep and fronts the sandy beach. Public access to the beach is located approximately 120 feet down coast from the site at the end of I street and approximately 600 feet up coast from the site at G Street. The beach front lot is zones R-1 (Single-unit Residential) by the City of Newport Beach. The applicant received Approval-in-Concept for the proposed project from the City of Newport Beach Planning Division on April 9, 2015. The beach fronting the site is approximately 300 – 400 feet wide. The subject lot is located within a row of residentially developed lots. Public parking is available at the street ends and along the residential streets. The proposed residence will be setback approximately ten ft. from the oceanfront property line, which is consistent with the pattern of development in the area (**EXHIBIT 2**).

The beach immediately adjacent to the property is publicly owned. Encroachment of landscaping or other development is not permitted on the sandy beach beyond the seaward property line. No landscaping or other development is proposed seaward of the applicant's seaward property line. However, there are instances of encroachment on the sandy beach in the vicinity of the subject site including placement of unpermitted landscaping, hardscape, and other structures, which are the subject of an on-going enforcement action by Commission staff.

The submitted coastal hazards study considers a “worst case scenario” of 5.5 feet rise in sea level over the next 85 years. The study concludes that “wave runup and over topping will not significantly impact the project site over the life of the proposed improvements; [that] the proposed development will neither create nor contribute significantly to erosion, geologic instability, or destruction of the site, or adjacent area; [that] there are no recommendations necessary for wave runup protection; [and that] the proposed project minimizes risks from flooding.” In the case of the proposed project, the applicant does not propose the construction of any shoreline protective device to protect the proposed development.

The proposed project is consistent with the height limit for the area and the Commission's parking requirement of two parking spaces per residential unit with an attached three-car garage. Additionally, the applicant will comply with Best Management Practices that are designed to treat, infiltrate or filter all stormwater runoff from non-permeable surfaces. The applicant is proposing to install a bottomless trench drain at the landward side of the property that will filter all water collected from non-permeable surfaces (**EXHIBIT 3**).

B. ACCESS

As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

C. DEVELOPMENT

Development adjacent to the ocean is inherently hazardous. Development which may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon, among other things, public access, visual resources and shoreline processes. To minimize the project's impact on shoreline processes, and to minimize risks to life and property, the development has been conditioned to require a future improvements condition and to require that the landowner and any successor-in-interest assume the risk of undertaking the development. As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

D. HAZARDS

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

E. WATER QUALITY

The proposed site was previously developed with a residential structure. The proposed project will not significantly increase site runoff from the previous development and the project will comply with the City of Newport Beach's water quality requirements. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health

F. DEED RESTRICTION

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes one additional condition requiring that the property owner record a deed restriction against the property, referencing all of the above Special

Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, 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.

G. LOCAL COASTAL PROGRAM

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The City of Newport Beach does not have a certified LCP. The proposed development is consistent with Chapter 3 of the Coastal Act. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 of the Coastal Act.

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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

5-15-0445 (Abhay Parikh & Dipti Itchhaproia)

Appendix A - Substantive File Documents

Preliminary Geotechnical Engineering Investigation, Proposed Residential Development, 1570 East Ocean Front, Newport Beach, California, NorCal Engineering, July 21, 2014

Coastal Hazards and Wave Runup Study, 1570 East Oceanfront, Newport Beach, California, GeoSolis Inc., January 30, 2015, updated May 28, 2015



1570 E Ocean Front



Google

COASTAL COMMISSION

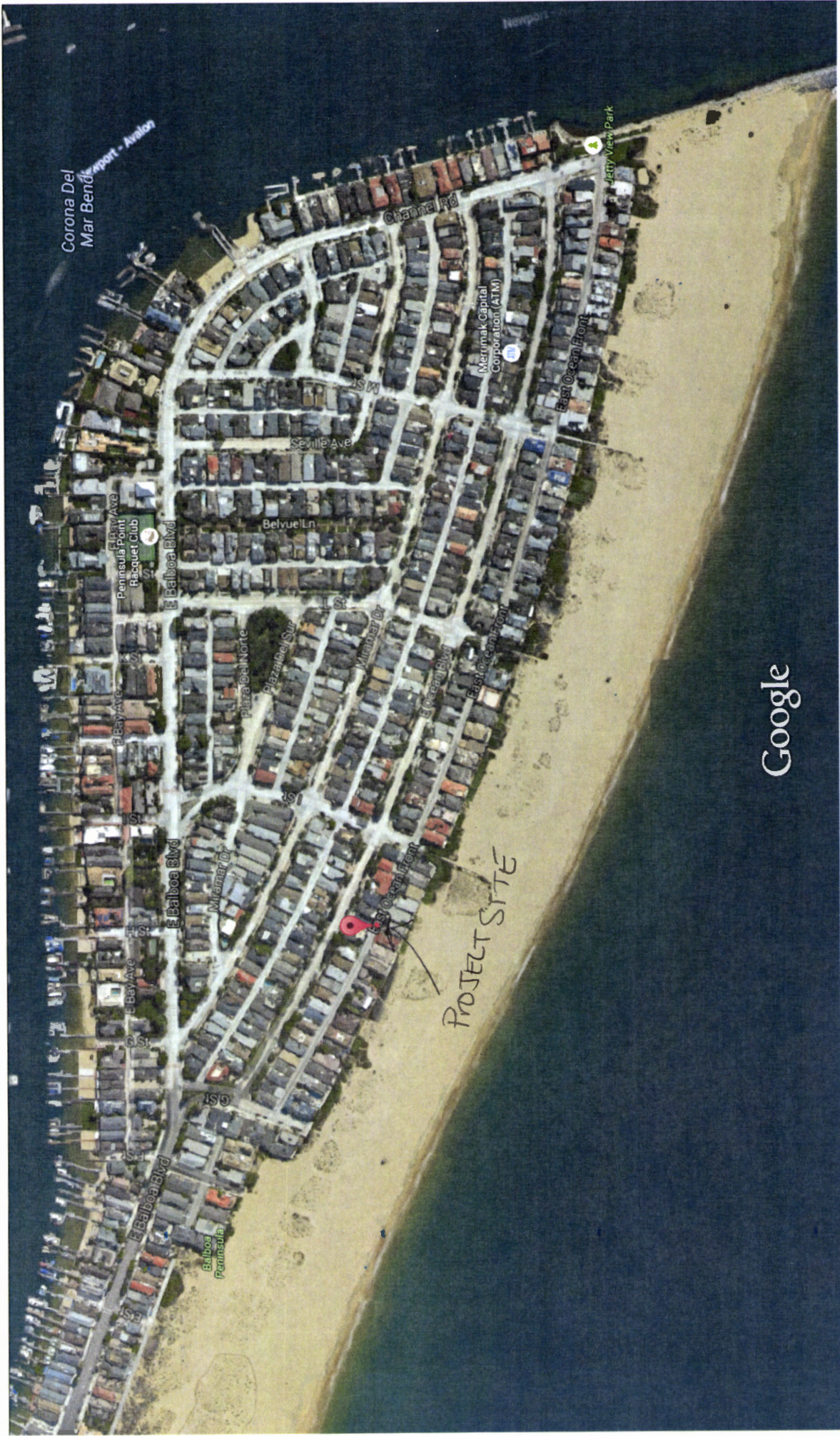
EXHIBIT # 2

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Map data ©2015 Google 5 mi



Google 1570 E Ocean Front



Google

Map data ©2015 Google 200 ft

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EXHIBIT # 1
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5-150445

RECEIVED
South Coast Region

APR 22 2015

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PROJECT DATA

LEGAL DESCRIPTION
 BLOCK 15
 LOT 116
 COUNTY: SAN DIEGO
 COUNTY CHANGE
 ZONE: R-1

JOB ADDRESS
 1575 EAST OCEANFRONT
 NEWPORT BEACH

OWNER
 ABHAY PARIKH & DIPTI
 17000 WILLOW
 NEWPORT BEACH, CA 92629

SITE DATA
 LOT SIZE: 40,007.00 SQ. FT.
 LOT AREA: 3,111 S.F.
 BUILDABLE AREA
 P.A.S. = 2 X BUILDABLE AREA =
 4,782 S.F.

HEIGHT
 25' TOP OF PLAY ROOF
 25' TOP OF RIDGE

OPEN VOLUME
 15% OF BUILDABLE AREA =
 717.3 S.F.

2ND FLOOR = 65 S.F.
3RD FLOOR = 25 S.F.
TOTAL INCREASE = 25 S.F.

BUILDING DATA
 DESCRIPTION: CHANGING
 CONST. TYPE: VPT/SPRINKLERED
 OCCUPANCY GROUP: R-3/U-1

FOOTAGE DATA
 EXISTING REMOVED:
 FIRST FLOOR = 955.00 S.F.
 SECOND FLOOR = 374.00 S.F.
 GARAGE = 374.00 S.F.
 BALCONY = 271.00 S.F.
 TOTAL REMOVED = 1,974.00 S.F.

NEW LIVING:
 FIRST FLOOR = 1,377.00 S.F.
 SECOND FLOOR = 330.00 S.F.
 THIRD FLOOR = 330.00 S.F.
 TOTAL LIVING = 5,829.00 S.F.
 TOTAL BUILDING AREA = 6,033.00 S.F.
 BALCONY = 117.00 S.F.

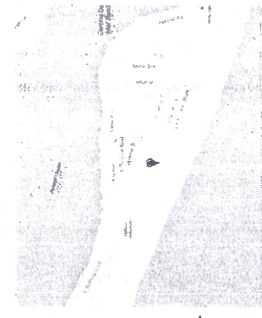
EXISTING 2 STORY 3RD AND 4TH FLOOR CONDO UNIT
 ATTACHED 2 CAR GARAGE
 SINGLE FAMILY RESIDENCE WITH
 NEW 6' HIGH GATE AT EAST
 NEW 6' HIGH GATE AT EAST
 NEW 5' HIGH GATE AT BEACH
 PROPERTY LINE

CUSTOM RESIDENCE
 FOR
 Abhay Parikh & Dipiti Ichhaporia
 AT
 1575 East Oceanfront, Newport Beach
 92629

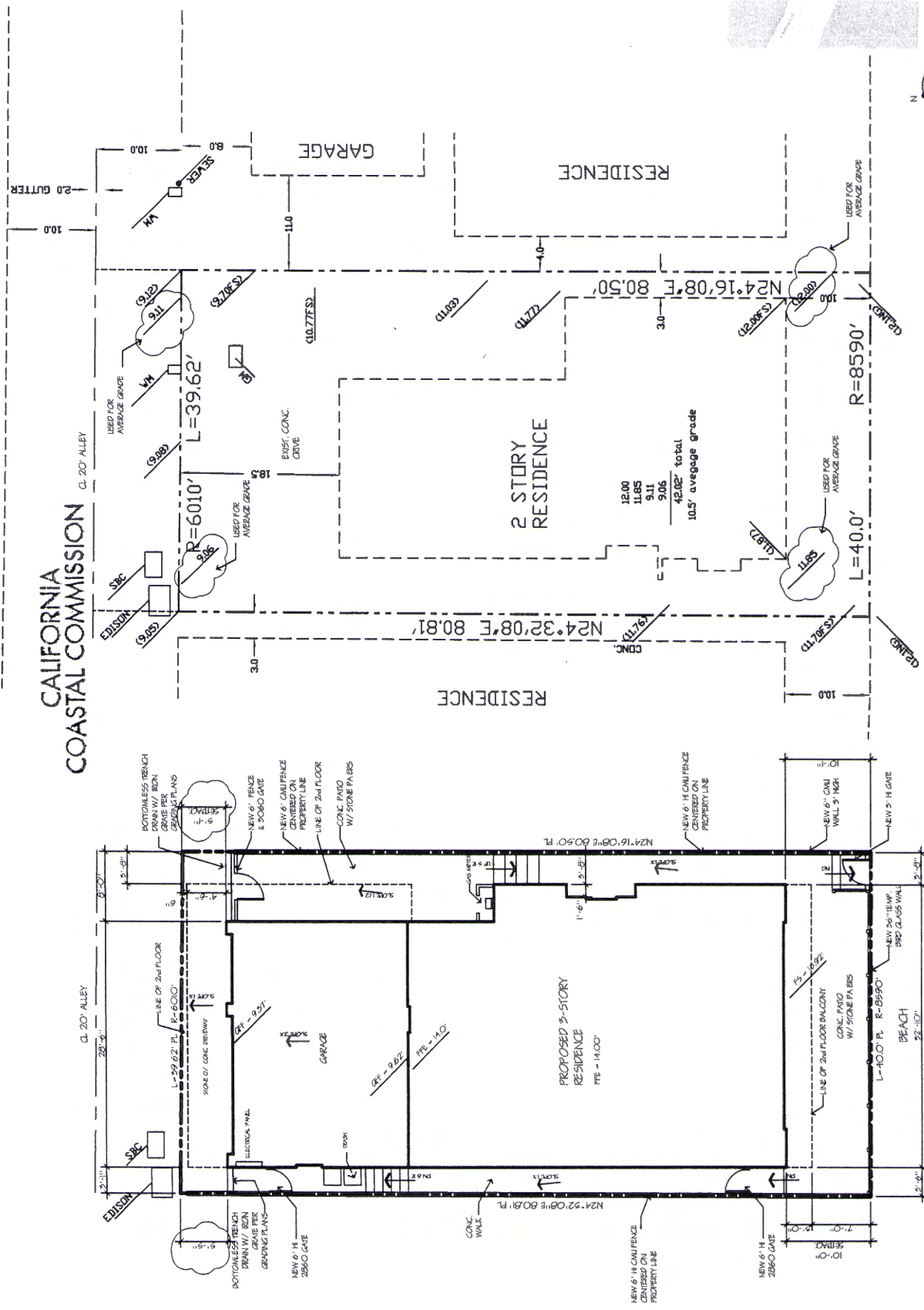
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 Date: 3/20/19

Revision: 1.00 - Issue

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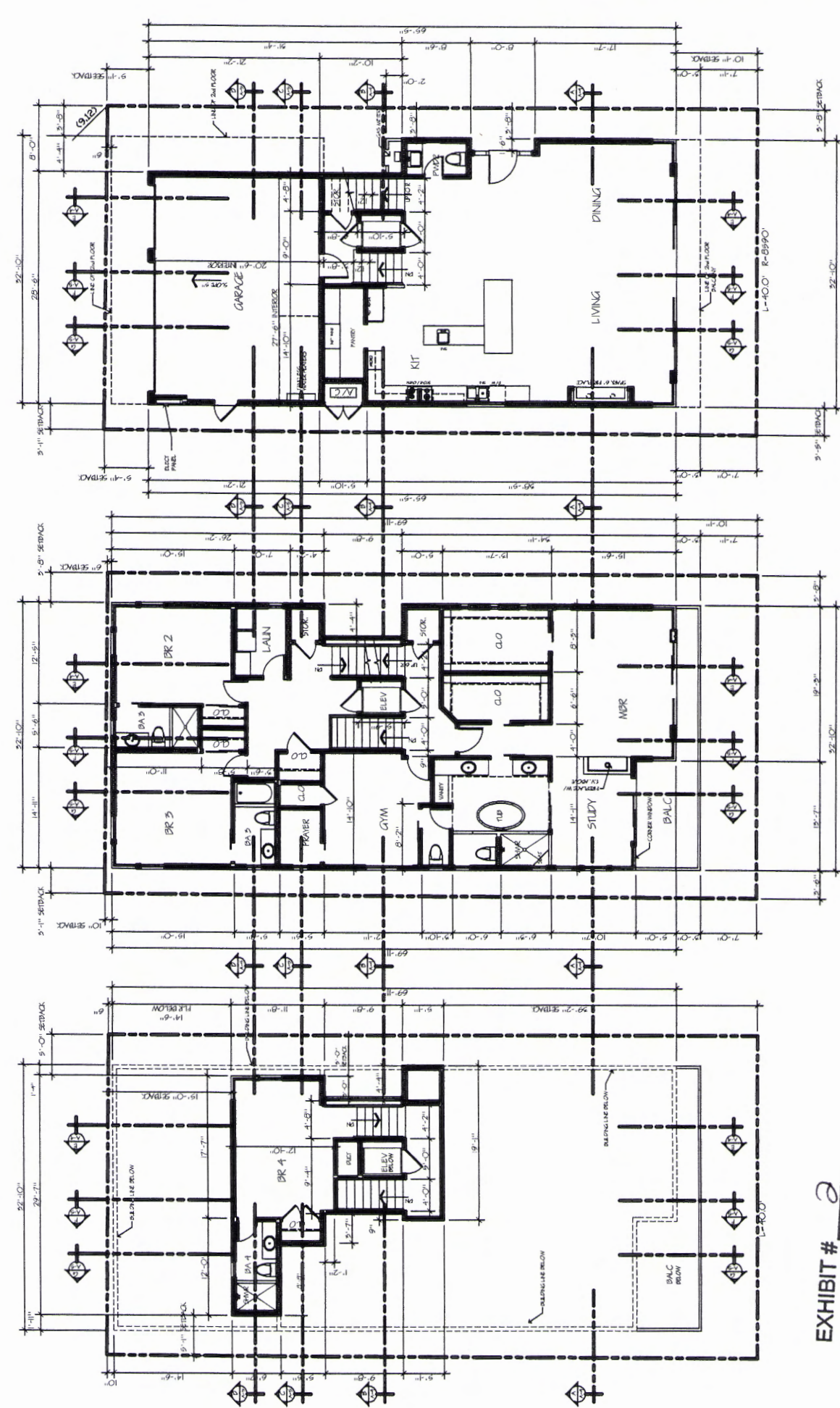
VICINITY MAP
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EXISTING SITE SURVEY
 SCALE: 3/16" = 1'-0"

PROPOSED SITE PLAN
 SCALE: 3/16" = 1'-0"

EXHIBIT # 5-15-0445
 PAGE 1 OF 3



LEGEND & SYMBOLS
SEE SHEET "1" FOR MORE SYMBOLS

- NEW 2 X 4 STUDS
- NEW 2 X 6 STUDS
- NEW 2 X 8 STUDS
- NEW 2 X 10 STUDS
- NEW 2 X 12 STUDS
- NEW 2 X 14 STUDS
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- NEW 2 X 86 STUDS
- NEW 2 X 88 STUDS
- NEW 2 X 90 STUDS
- NEW 2 X 92 STUDS
- NEW 2 X 94 STUDS
- NEW 2 X 96 STUDS
- NEW 2 X 98 STUDS
- NEW 2 X 100 STUDS

FIRST FLOOR PLAN
SCALE: 3/8" = 1'-0"

SECOND FLOOR PLAN
SCALE: 3/8" = 1'-0"

THIRD FLOOR PLAN
SCALE: 3/8" = 1'-0"

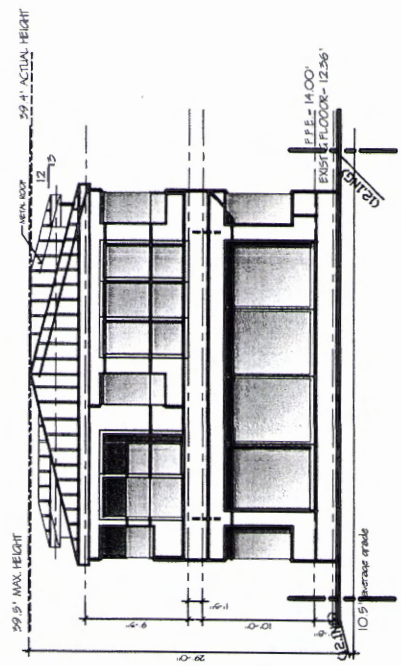
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PAGE 2 OF 3

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Job Number: 6-14-2
Date: 2/20/15

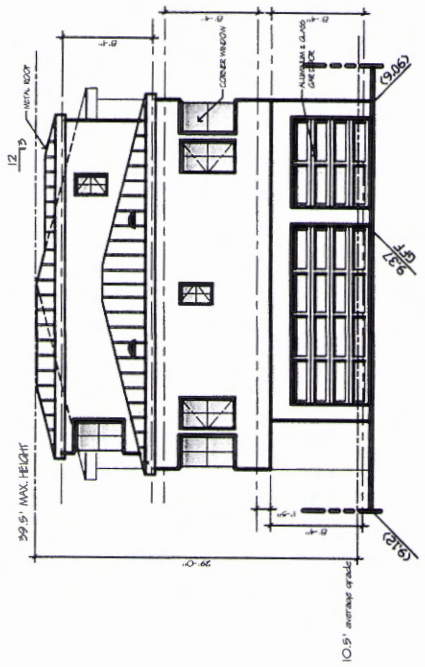
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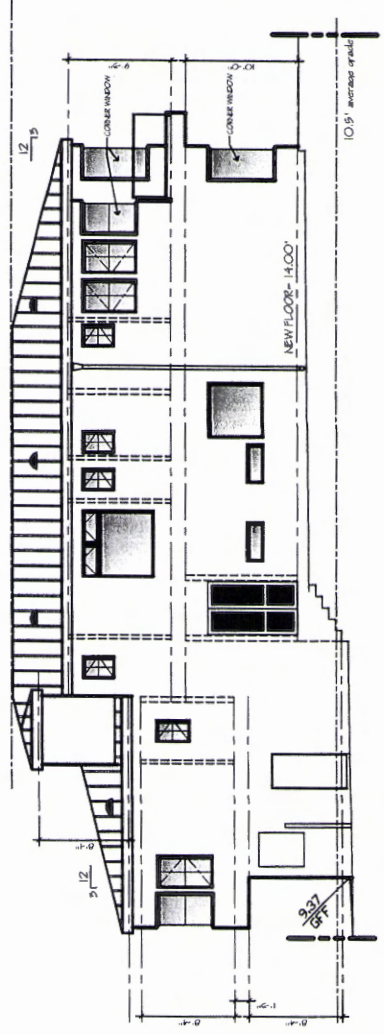


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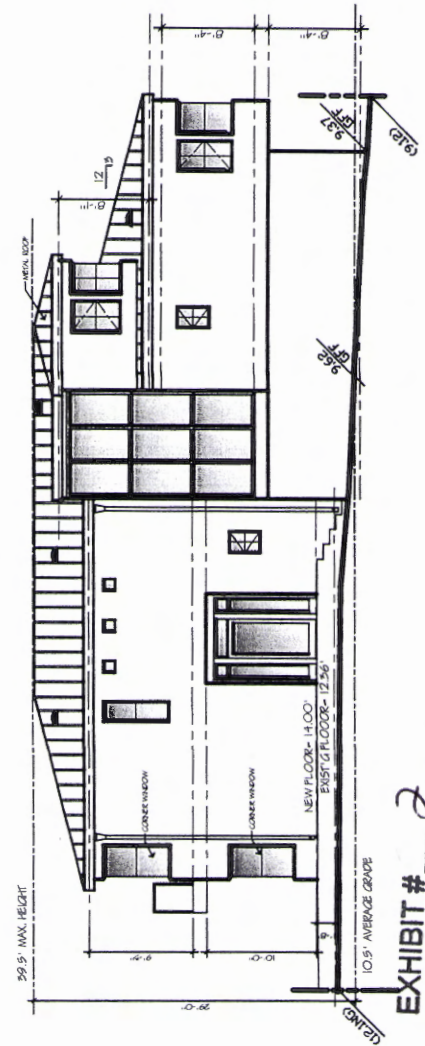
SOUTH ELEVATION



NORTH ELEVATION



WEST ELEVATION

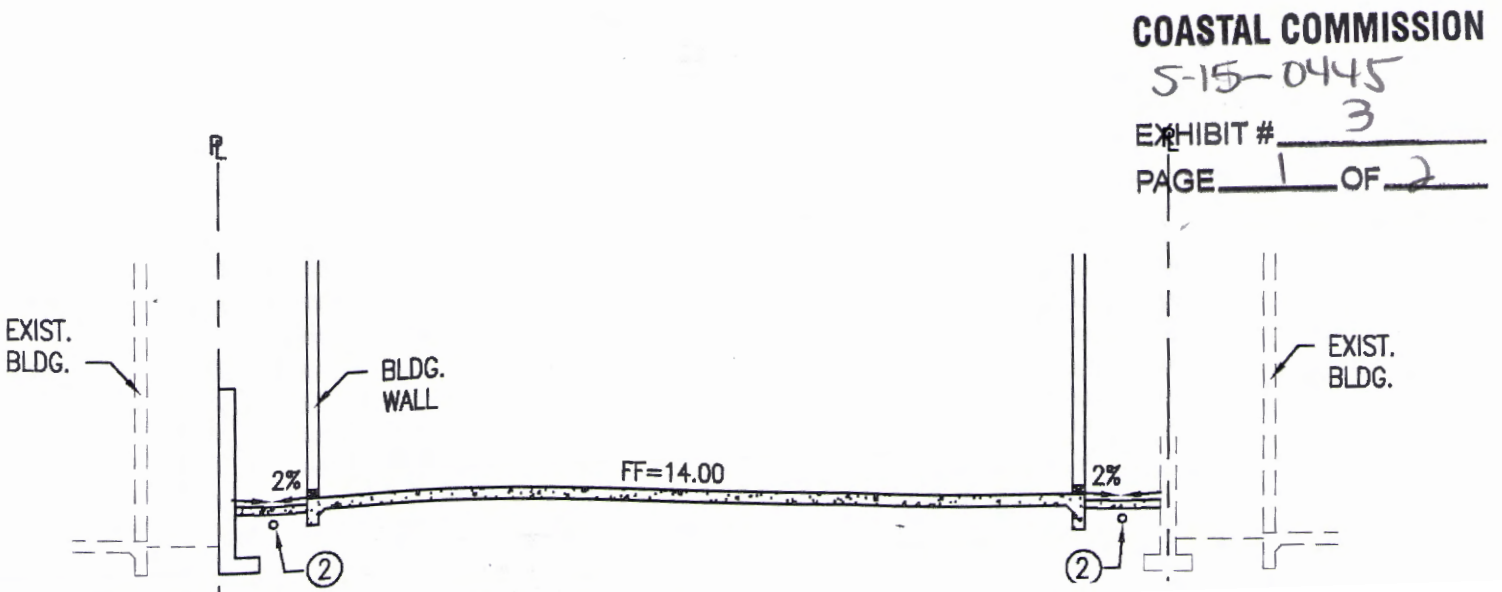
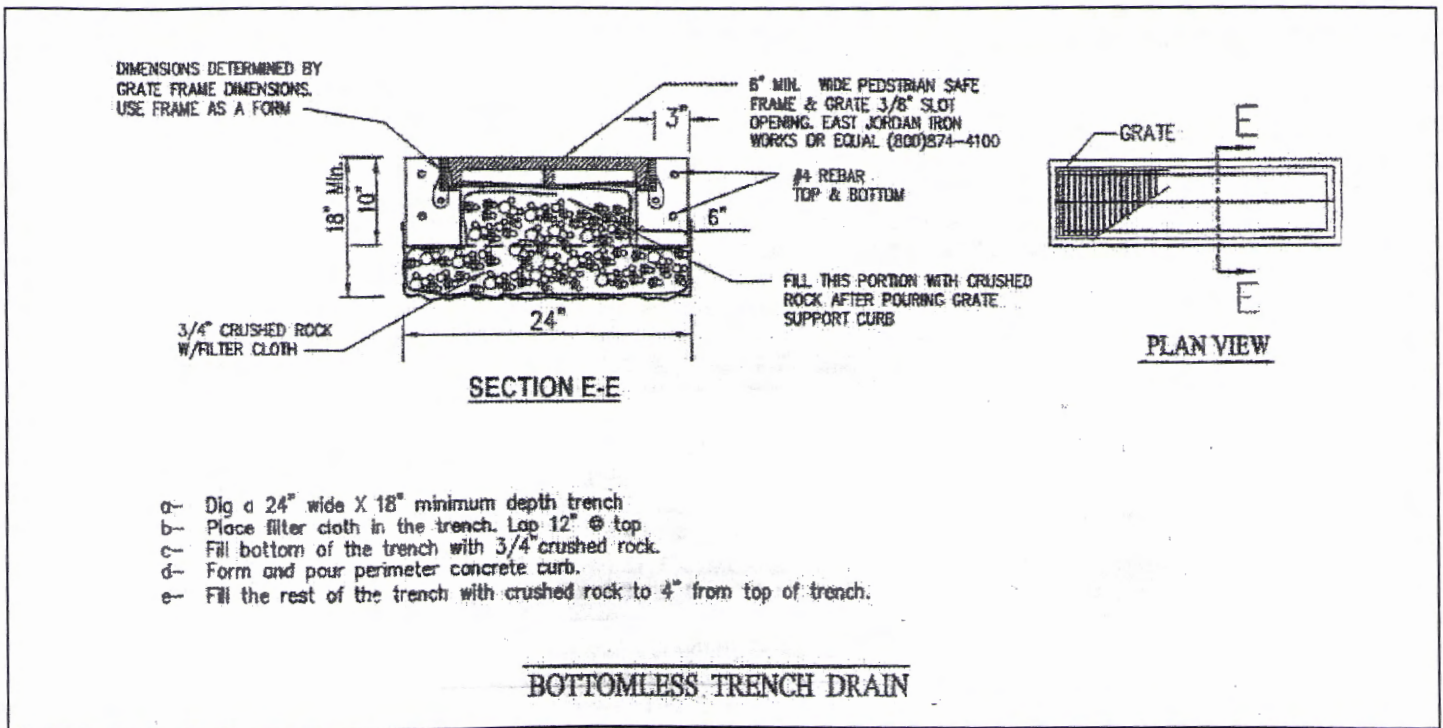


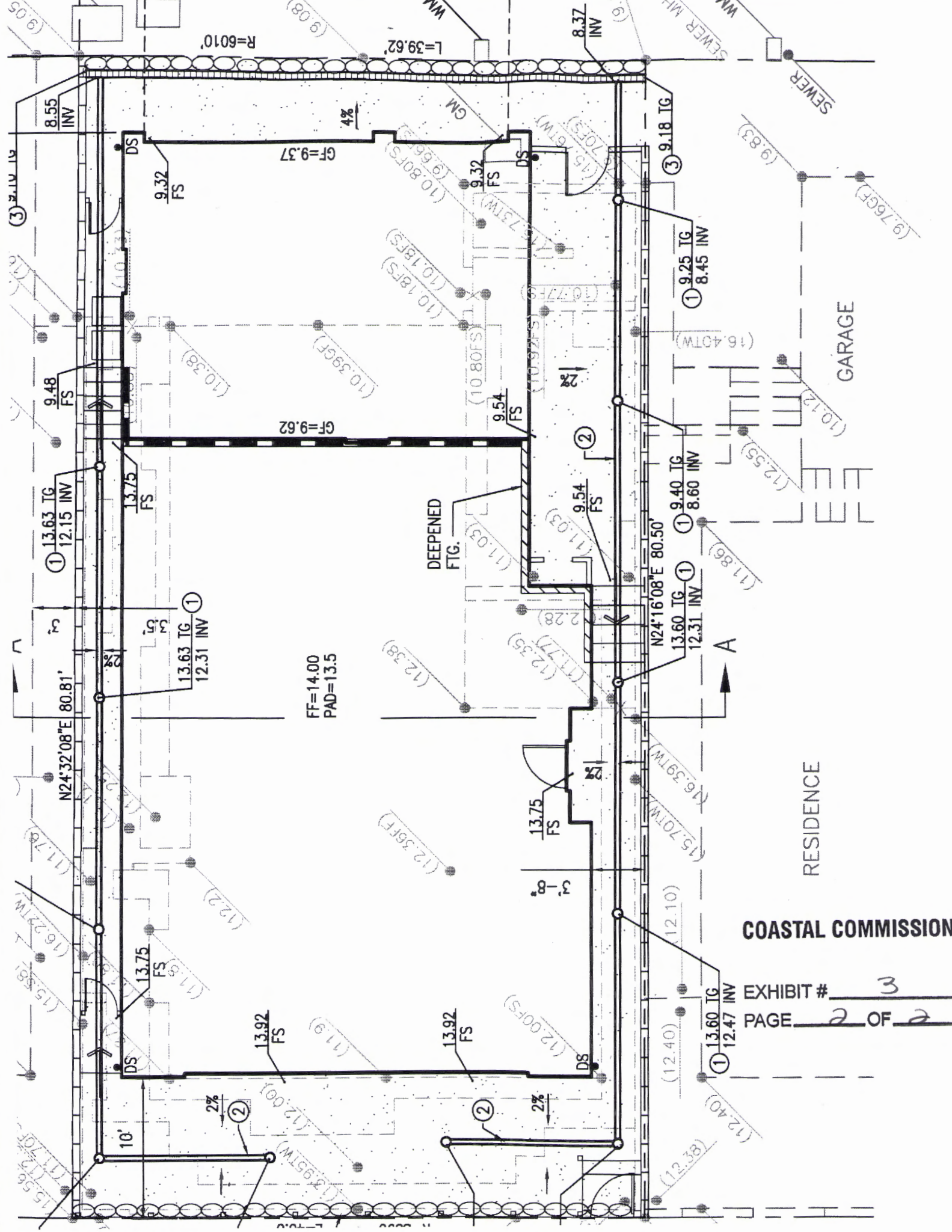
EAST ELEVATION

EXHIBIT # 2
PAGE 3 OF 3

CONSTRUCTION NOTES

- ① INSTL. 4" DIA. DECK DRAIN, NDS 910B OR EQUAL
- ② INSTL. 4" DIA. DRAIN PIPE, SDR 35, PVC
- ③ CONST. BOTTOMLESS TRENCH DRAIN PER CITY DETAIL HEREON
- ④ INSTL. TEMP. EROSION CONTROL, GRAVEL BAGS, 2 HIGH
- ⑤ PROTECT EXIST. WATER METER
- ⑥ INSTALL SEWER CLEANOUT PER CITY STD. 406-L





FF=14.00
PAD=13.5

DEEPEMED
FTG.

GARAGE

RESIDENCE

COASTAL COMMISSION

EXHIBIT # 3
PAGE 2 OF 2