

CALIFORNIA COASTAL COMMISSION

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Th6b

Filed:	11/22/2015
180th Day:	06/16/2016
Staff:	M. Revell-LB
Staff Report:	03/24/2016
Hearing Date:	04/14/2016

STAFF REPORT: CONSENT CALENDAR

Application No.: 5-15-1799

Applicant: Delphi Properties 1722 Strand, LLC

Agent: Srour and Associates, LLC

Location: 212 The Strand, Hermosa Beach, Los Angeles County
(APN 4188-007-002)

Project Description: Demolition of two structures consisting of four residential units on one lot, and construction of a 30-foot high, two floors over basement, 4,403 square foot, single-family residence with a 383 square foot attached garage. Grading consists of 339 cubic yards of cut.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

Delphi Properties 1722 Strand, LLC requests a permit to demolish two structures consisting of four residential units on one lot, and construct a new single family residence on a beachfront lot. The primary Coastal Act issues raised by the subject development are: 1) beachfront development that could be subject to natural hazards such as wave attack and flooding during strong storm events; and 2) water quality.

Staff recommends **APPROVAL** of Coastal Development Permit Application 5-15-1799, with **seven SPECIAL CONDITIONS** regarding: 1) water quality, drainage and landscaping plans; 2) deviation from approved encroachments; 3) City's right to revoke encroachment permit; 4) waiver of liability and indemnity; 5) future development; 6) no future shoreline protective device; and 7) a deed restriction against the property, referencing all of the Special Conditions contained in this staff report.

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. Water Quality, Drainage and Landscaping Plans.

- A. The applicant shall conform to the drainage and run-off control plan received on October 23, 2015, showing roof drainage and runoff from all impervious areas directed to landscaped areas, infiltration/retention structure, or permeable concrete wherever possible. Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California 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. The applicant shall incorporate Best Management Practices (BMPs) into the construction and post-construction phases of the subject development. The proposed plans also comply with the state of California's CalGreen Standards.
- B. The permittee shall undertake development in accordance with the approved final landscaping and drainage plans. 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.

2. Deviation from Approved Encroachments

- A. A patio, which extends approximately 6 feet into the public right-of-way, for approximately 30 feet along the seaward side of the property line is the only development allowed by this Coastal Development Permit 5-15-1799) in the City of Hermosa Beach Encroachment Area that extends approximately 6 feet into the public right-of-way from the beachfront property line at 212 The Strand as generally depicted in **Exhibit 2**. Any development in the Oceanfront public right-of-way, including additional improvements, repairs, and maintenance, cannot occur without an amendment to this coastal development permit or a new coastal development permit from the Coastal Commission, unless the Executive Director determines through written confirmation that no amendment or new permit is legally required.
- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit evidence, for the review and approval of the Executive Director that the applicant has made the initial payment to the City's public access impact mitigation program (i.e. annual payment to City for encroachment.) The applicant and all other

successors and assigns must remain enrolled in the City's public access impact mitigation program (i.e. annual payment to City for encroachment) and make the recurring annual payment so long as the encroachment remains in place.

- 3. City's Right to Revoke Encroachment Permit.** Approval of this coastal development permit shall not restrict the City's right and ability to revoke, without cause, the approved City encroachment permit in order to construct public access and recreation improvements within the public right-of-way.
- 4. Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding, sea level rise, erosion and wave uprush; (ii) to assume the risks to the applicant 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.
- 5. Future Development.** This permit is only for the development described in Coastal Development Permit No. 5-15-1799. Pursuant to Title 14 California Code of Regulations section 13250(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(b) shall not apply to the development governed by the coastal development permit No. 5-15-1799. Accordingly, any future improvements to the structure authorized by this permit shall require an amendment to Permit No. 5-15-1799 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.
- 6. No Future Shoreline Protective Device**

 - A. By acceptance of this permit, the applicant agrees, on behalf of himself 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. 5-15-1799 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, sea level rise, storm conditions or other natural hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of himself 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 further agrees, on behalf of himself and all successors and assigns, that the landowner(s) 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.

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

IV. FINDINGS AND DECLARATIONS:

A. PROJECT DESCRIPTION AND LOCATION

The applicant is proposing to demolish two existing structures consisting of 4 residential units on one lot, and construct a two story over basement, approximately 30-foot high, single-family residence with 4,403 square feet of living space; 383 square foot two-car garage; 1,442 square foot basement; and a 172 square foot roof deck with swimming pool (**Exhibit 2 and 3**). The site is located in a Multiple Family Residential (R-3) zone, and the proposed single-family residence adheres to this designation. Minimal landscaping is proposed utilizing native or non-native drought tolerant plants. Grading consists of 339 cubic yards of cut, which will be exported to a commercial dump site located outside of the Coastal Zone.

The subject site is a residential lot located at 212 The Strand in the City of Hermosa Beach, Los Angeles County (**Exhibit 1**). The site is a relatively level beachfront lot located within a developed urban residential area approximately one-half mile south of the Hermosa Beach Pier, between the first public road and the sea. The lot size is approximately 2,380 square feet on the inland side of The Strand – an improved public right-of-way that separates the residential development from the public beach. The Strand is used by both residents and visitors for recreational purposes such as walking, jogging, biking, etc., as well as for access to the shoreline. The Strand extends for approximately 4 miles, from 45th Street (the border between El Segundo and Manhattan Beach) to Herdondo Street (the border between Hermosa Beach and Redondo Beach). Vertical public access to the beach is available via the public right-of-way at the western end of 2nd Street, located approximately 50 feet south of the site.

According to the Coastal Hazard and Wave Runup Study dated July 24, 2015 prepared by Geosoils, Inc. of Carlsbad, CA for this property, because there is a wide sandy beach (approximately 550 feet wide) between the subject property and the Pacific Ocean, wave runup and overtopping will not significantly impact this site over the life of the proposed improvements. In the event that the project site does become vulnerable to wave runup and overtopping, **Special Condition 6** requires that no future shoreline protective device will be constructed. Given that the applicant has chosen to implement the project on a beachfront lot despite risks from liquefaction, wave attack, erosion, sea level rise, and storm flooding, the applicant must assume the risks and agree to no future shoreline protective devices. Therefore, the Commission imposes **Special Condition 4**.

The project site has an existing patio (approximately 6 x30 ft.) that currently encroaches into the public right-of-way at the seaward side of the property. The area of the patio encroachment is currently privately developed and used in tandem with the existing patio on the project site. The encroachment area is under a separate lease agreement, and is subject to review, approval, and revocation by the City of Hermosa Beach Public Works Department. The proposed encroachment, however, is consistent with previously issued permits in the area. The applicants are proposing to add new pavers to the patio, as well as a new planter and 30" wall in the encroachment area. To ensure that the applicant maintains their encroachment permit with the City, which is revocable by the City of Hermosa Beach Public Works Department, the Commission imposes **Special conditions 2 and 3** regarding the applicant's rights and obligations related to the encroachment.

The project includes a drainage system to manage and increase on-site percolation of runoff, including gutters and downspouts, which are directed to onsite planters and permeable pavers. In addition, the proposed project includes infiltration tanks located on the North East side of the property, and overflow from these tanks will be directed to the public right-of-way and storm drain system. Best management practices will also be incorporated throughout the course of construction. To ensure that the project conforms to the drainage and run-off control plan received on October 23, 2015, the Commission imposes **Special Condition 1**.

B. 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.

C. DEVELOPMENT

The development is located in an existing developed area and is compatible with the character and scale of the surrounding area. However, the proposed project raises concerns that future

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

D. PUBLIC 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.

E. WATER QUALITY

The proposed development has a potential for discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, one or more of the following: the appropriate management of equipment and construction materials, construction-phase erosion control measures, reduction in runoff through the use of trench drains, percolation pits, and permeable surfaces, the use of non-invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site, and for the use of post-construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms to 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 a 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, 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 Land Use Plan (LUP) for Hermosa Beach was effectively certified on April 21, 1982, however, because

Hermosa Beach does not have a certified LCP, the Coastal Act is the standard of review for this project.

As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP 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.

APPENDIX A

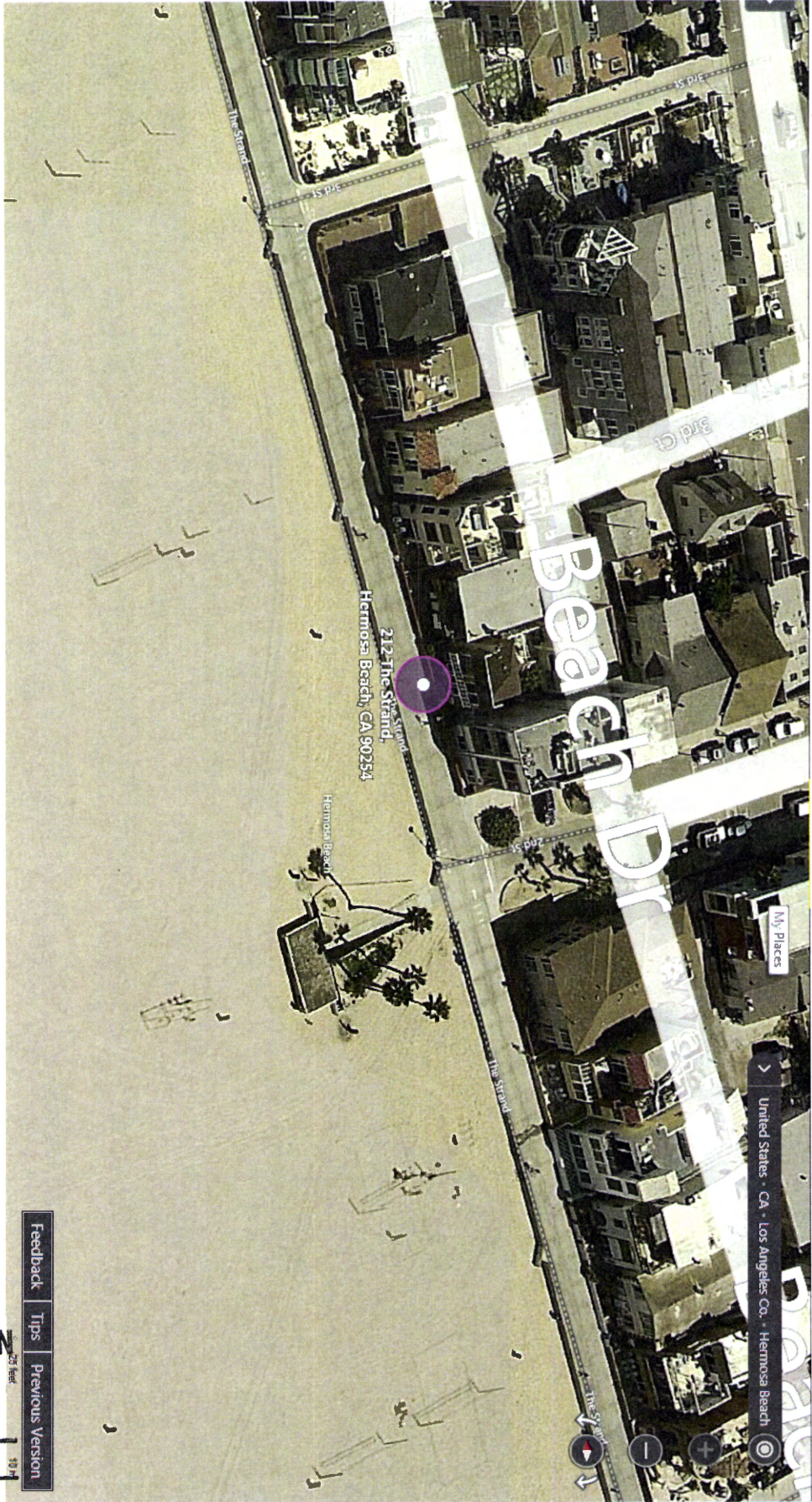
Substantive File Documents: City of Hermosa Beach Certified Land Use Plan; City of Hermosa Beach Approval-in-Concept, dated October 20, 2015; Coastal Development Permit Application File No. 5-15-1799; Coastal Hazard and Wave Runup Study, 212 The Strand, Hermosa Beach, July 24, 2015 prepared by Geosoils, Inc. of Carlsbad, California.



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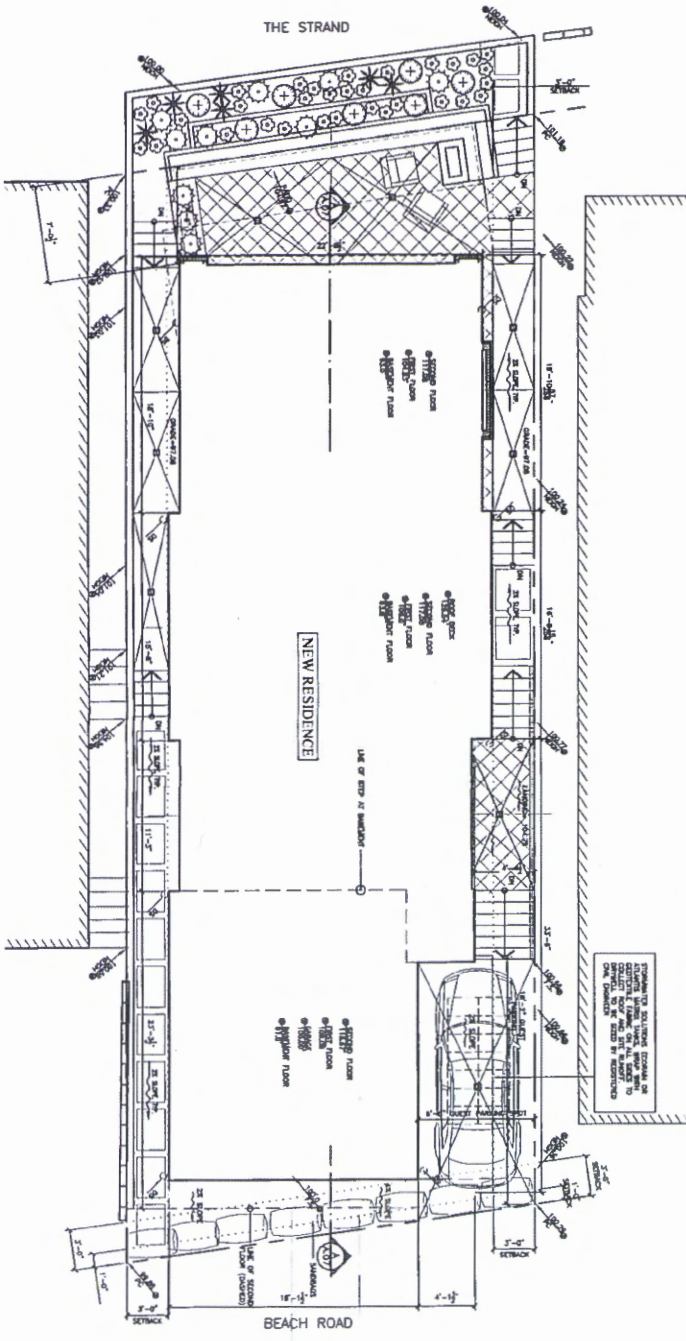
EXHIBIT # 1
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EXHIBIT # 1
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CONFORM TO CALIFORNIA CODES OF CONSTRUCTION, LOCAL ORDINANCES, AND ALL APPLICABLE REGULATIONS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS.

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EXHIBIT # 2
PAGE 1 OF 1

TOMIARO
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PROJECT
NEW
RESIDENCE
212 THE STRAND
HERMOSA BEACH
CA 90254

STAIR

REVISIONS

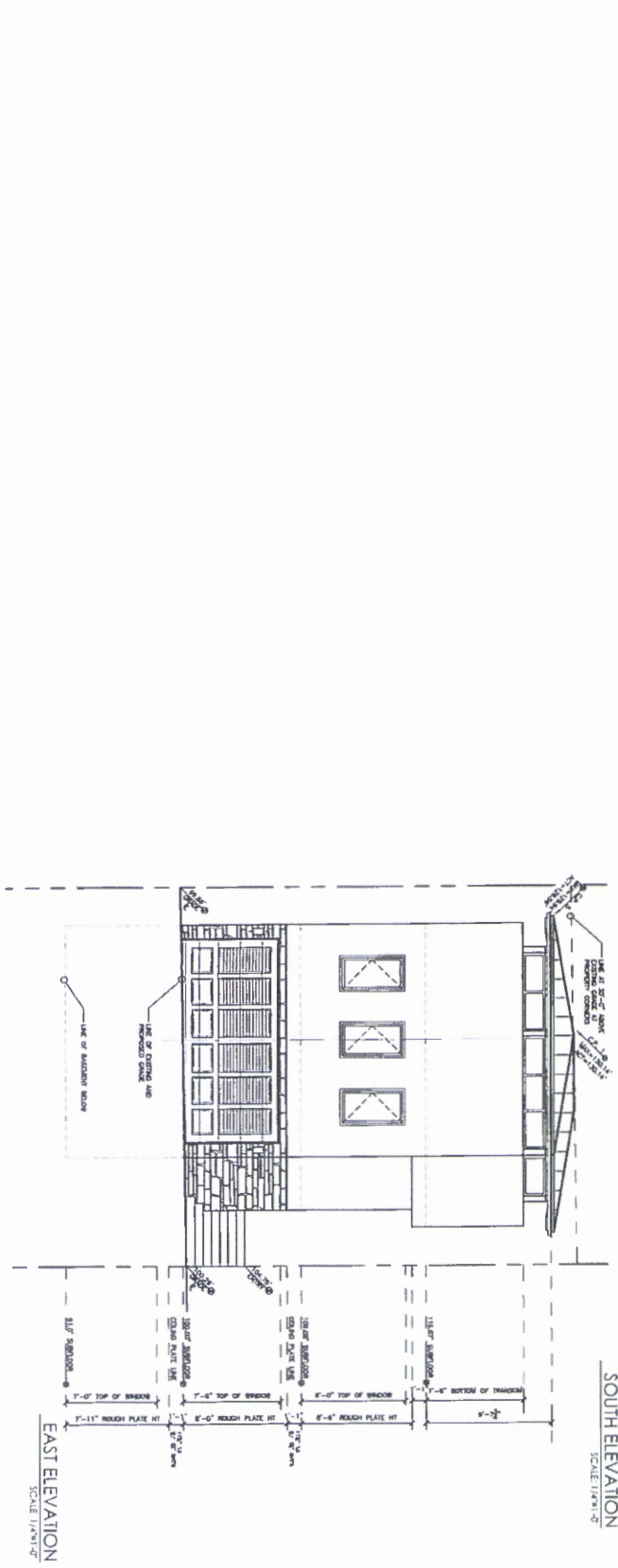
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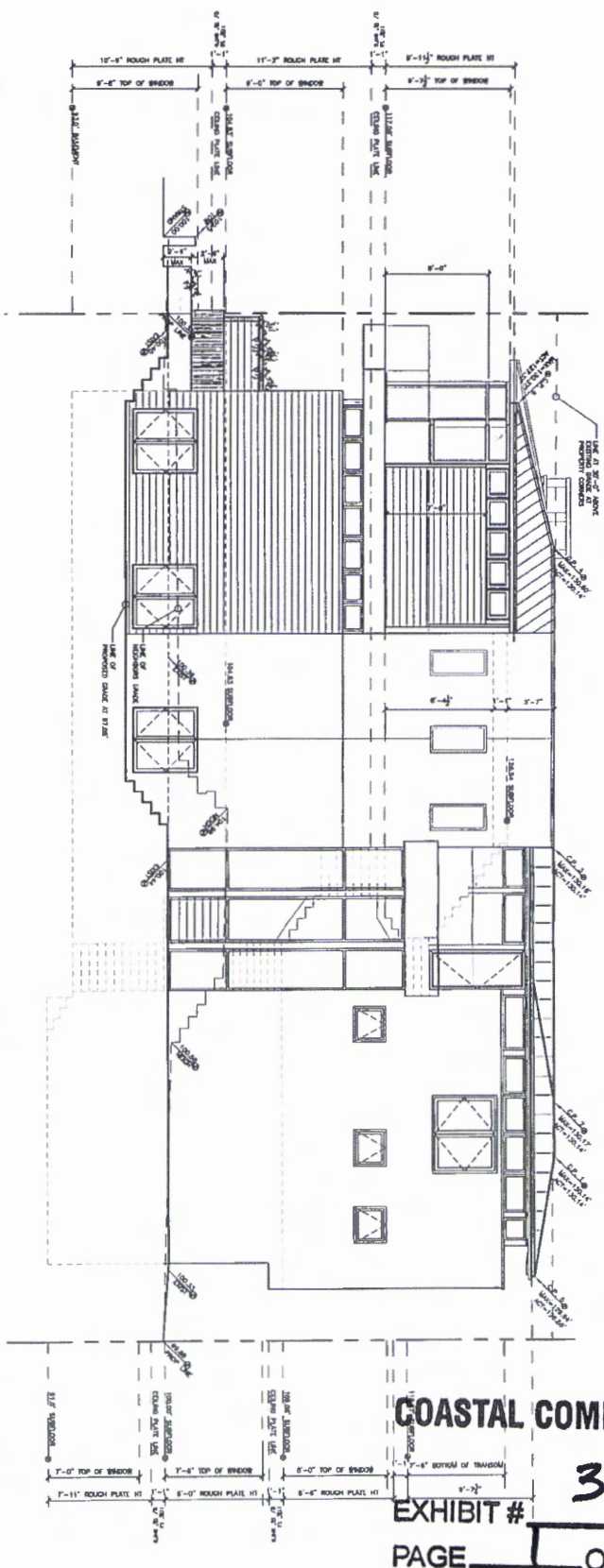
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TOMIARO ARCHITECTURE.

SHEET NO. **A.01**
SITE PLAN
SCALE: 1/8" = 1'-0"



EAST ELEVATION
SCALE 1/4"=1'-0"



SOUTH ELEVATION
SCALE 1/4"=1'-0"

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EXHIBIT #
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A.05

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NEW RESIDENCE
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HERMONS BLANCH
CA 90254

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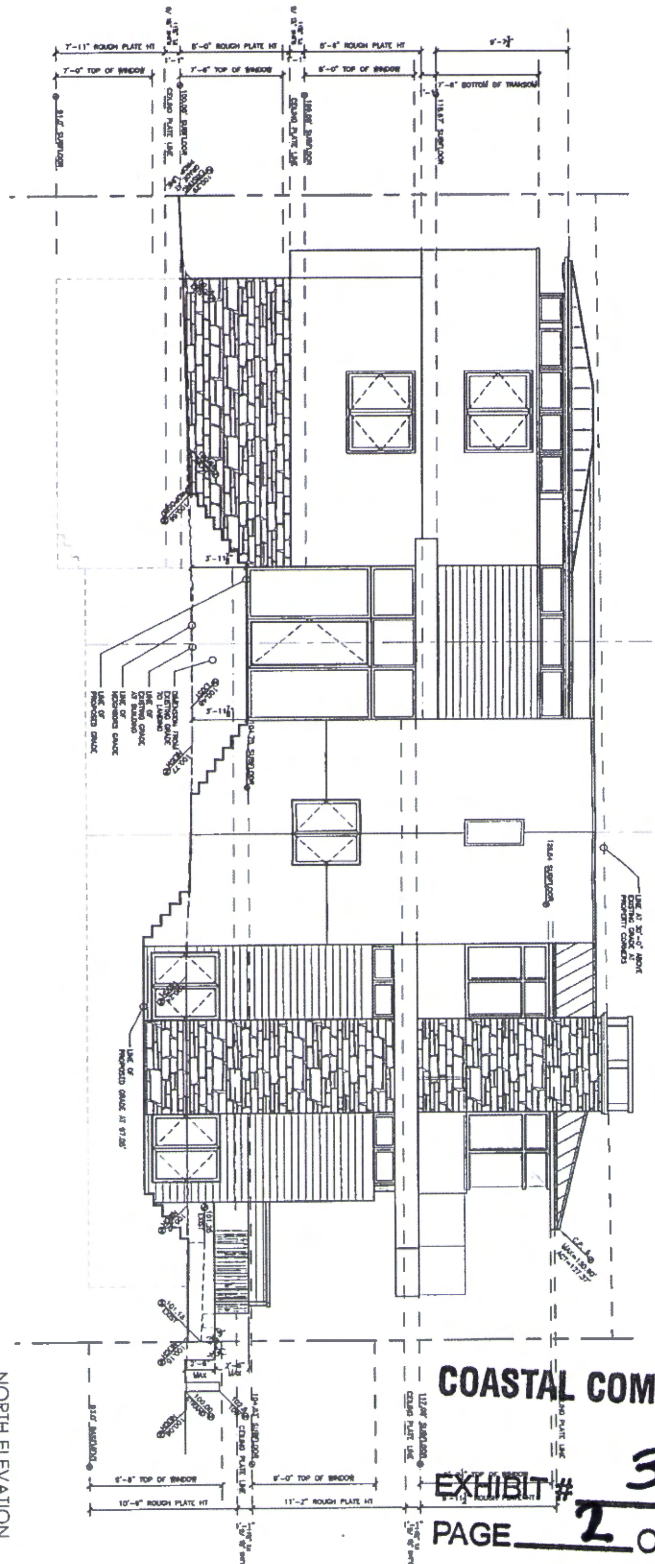
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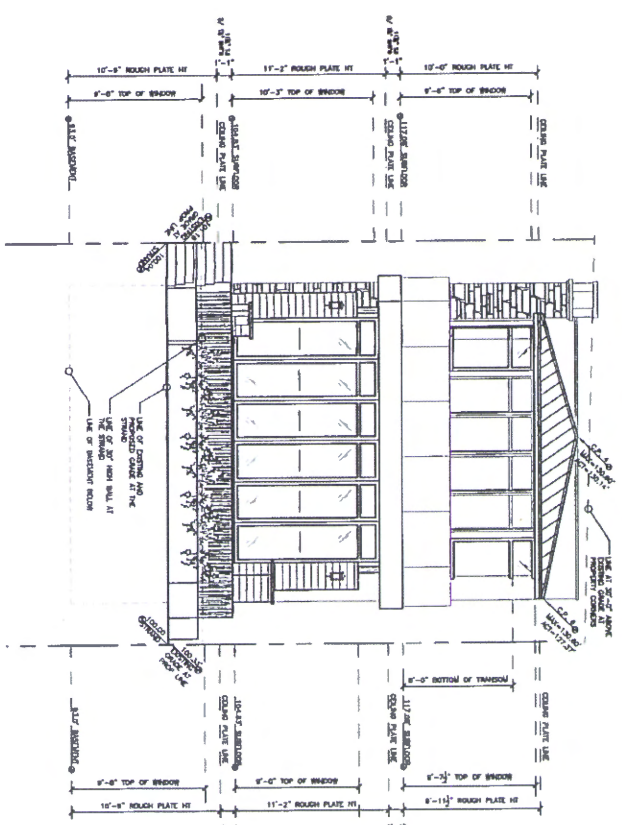
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NORTH ELEVATION
 SCALE 1/8"=1'-0"



WEST ELEVATION
 SCALE 1/8"=1'-0"

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