

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: CONSENT CALENDAR

Application No.: 5-15-0983

Applicant: KPMW Integral, LLC, a California Limited Liability Company

Agent: Urban Arena, LLC; Attention: Bryce Sigourney

Location: 1572 E. Oceanfront, City of Newport Beach (County of Orange)

Project Description: Demolition of an existing single-family residence and construction of a new 5,692 square foot, two-story with a basement, single-family residence with an attached 642 square foot three car garage on a beach fronting lot.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The applicant is proposing the demolition of an existing single-family residence and construction of a new single-family residence on a beach fronting lot. The major issues raised by this proposed development concern beachfront development that could be affected by waves, erosion, storm conditions, sea level rise or other natural hazards in the future and potential adverse impacts from beach encroachments.

Due to its oceanfront location, the project site may be potentially exposed to the hazard of waves, erosion, storm conditions, sea level rise or other natural hazards. However, the project is consistent with previous Commission approvals in the area and conditions have been imposed in order to minimize potential adverse impacts from the development consistent with the Coastal Act.

Staff is recommending **approval** of the proposed project with Eight (8) Special Conditions regarding: 1) submittal of final revised plans; 2) no future shoreline protective device; 3) assumption of risk, waiver of liability and indemnity; 4) future development; 5) storage of construction materials, mechanized equipment, and removal of construction debris; 6) landscape controls; 7) Regional Water Quality Control Board (RWQCB) approval; and 8) a deed restriction against the property, referencing all of the Special Conditions contained in this staff report.

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. The City of Newport Beach only has a certified Coastal Land Use Plan 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 Coastal Land Use Plan may be used for guidance.

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APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

- Exhibit No. 1 – Location Map
- Exhibit No. 2 – Site Plan
- Exhibit No. 3 – Floor Plans& Roof Plan
- Exhibit No. 4 – Elevation Plans

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 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 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

This permit is granted subject to the following special conditions:

1. Final Revised Plans.

- A. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the Executive Director's review and approval, two (2) full size sets of the following final revised plans, modified as required below:
1. The final revised site, floor, elevation, grading, drainage, shoring, foundation, etc. that substantially conform with the plans dated February 8, 2015, except they shall be modified as required below:
 - a. The plan shall identify the unpermitted lawn/planted area seaward of the oceanward property line and encroaching onto the public right-of-way and it shall be shaded and clearly marked: *“These elements are not part of Coastal Development Permit approval No. 5-15-0983.”*
 2. The final revised dewatering plans that substantially conform with the plans dated August 13, 2015, except they shall be modified as required below:
 - a. The entire length of the discharge pipe to be placed on the public beach shall be buried;
 - b. Dewatering activities shall only take place during the non-summer period, which is between the first week of September (Labor Day) and the last week of May (Memorial Day);
 - c. Dewatering activities shall be monitored to ensure there are no adverse impacts to public access and water quality;
 - d. All infrastructure associated with construction dewatering activities shall be removed immediately after construction dewatering activities are complete;
 - e. All areas disturbed by dewatering activities including, but not limited to, the beach shall be returned to pre-construction condition; and
 - f. The applicant shall provide photo documentation of pre and post-dewatering conditions as evidence of compliance with this condition.
 3. The final sump pump/flooding plans that substantially conform with the plans dated February 9, 2015, except they shall be modified as required below:
 - a. Flood shields in a defensive barrier along the beach-side elevation by the means of designed sandbags. This would be a temporary measure in the event of any extreme conditions in the case of any immediate threats to flooding or sea level rise.
- B. All final revised plans shall be prepared and certified by a licensed professional or professionals as applicable (e.g., architect, surveyor, geotechnical engineer), based on current information and professional standards, and shall be certified to ensure that they are consistent with the Commission’s approval and with the recommendations of any required technical reports

- C. The permittee shall undertake development in conformance with the approved final revised plans unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

2. No Future Shoreline Protective Device.

- A. By acceptance of the permit, the applicant/landowner agrees, on behalf of itself and all successors and assignees, that no new shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-15-0983 including, but not limited to, the residence, garage, driveway/patios, and any other future improvements in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, sea level rise, or any other coastal hazards in the future. By acceptance of this permit, the applicant/landowner hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under applicable law.
- B. By acceptance of this permit, the applicant/landowner further agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this permit including, but not limited to, the residence, garage, and driveway/patios, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above, or if any public agency requires the structure to be removed, or if the State Lands Commission requires the structures to be removed in the event that they encroach on to State tidelands. If any portion of the development at any time encroaches onto public property, the permittee shall either remove the encroaching portion of the development or apply to retain it. Any application to retain it must include proof of permission from the owner of the public property. The permittee shall obtain a coastal development permit for removal of approved development unless the Executive Director determines that no coastal development permit is legally required.

- 3. 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 waves, erosion, storm conditions, liquefaction, flooding, and sea level rise; (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.

- 4. Future Development.** This permit is only for the development described in Coastal Development Permit No. 5-15-0983. 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. 5-15-0983. Accordingly, any future improvements to the residence and garage, foundations and patio 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. 5-15-0983 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

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 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; and
- 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 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 (<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>). Use of reclaimed water for irrigation is encouraged. If potable water is used for irrigation only drip or micro spray irrigation systems may be used. Other water conservation measures shall also be considered, such as use of weather based irrigation controllers.
- 7. Regional Water Quality Control Board (RWQCB) Approval.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the applicant shall provide to the Executive Director a copy of a permit issued by Regional Water Quality Control Board, 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 Regional Water Quality Control Board. 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.
- 8. 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 landowners have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. PROJECT LOCATION AND DESCRIPTION

The project site is a beach fronting lot located at 1572 E. Oceanfront within the City of Newport Beach, Orange County (**Exhibit No. 1**). Currently, an existing two-story single-family residence with an attached two (2) car garage occupies the project site. The lot size is 3,200 square feet and the City of Newport Beach Coastal Land Use Plan (CLUP) designates the site as Single-Unit Residential Detached (RSD) and the proposed project adheres to this designation. The project is located within an existing urban residential area, located generally south of the Balboa Pier.

The applicant proposes to demolish an existing two-story single-family residence with an attached two (2) car garage and construct a new 5,692 square foot, approximately 29-foot high, two-story single-family residence with a basement and attached 642 square foot three (3) car garage on a beach fronting lot (**Exhibits No. 2-4**). The roof will incorporate a roof top deck, spa and lap pool. Grading will consist of approximately 1,100 cubic yards of cut and export to a location outside of the Coastal Zone.

Shoring is proposed with the project. The bottom of the basement will be constructed with a mat slab supported by a uniform grid of caissons. The mat slab will include a waterproof membrane. All basement walls will be designed taking into consideration the water table above the basement floor level.

Glass railings are proposed on the 2nd floor oceanfronting exterior decks and they will be acid etched in order to avoid bird strikes.

Located oceanward of the applicant's property line on the public beach, there is existing unpermitted development consisting of a lawn/planted area. The applicant states that this lawn/planted area existed prior to their purchasing the property and furthermore state that they did not install this lawn/planted area. The applicant is not proposing any work within this area. This will be further discussed in the staff report.

There is an approximately 375-foot wide sandy beach between the subject property and the Pacific Ocean. Due to its oceanfront location, the project site may be potentially exposed to the hazard of waves, erosion, storm conditions, sea level rise or other natural hazards.

Due to its beach fronting location, the project site may be exposed to coastal hazards from sea level rise, erosion, wave attack, flooding and other coastal hazards. To analyze the suitability of the proposed development relative to potential hazards; the applicant has submitted the following coastal hazard analysis of the wave and water level conditions expected at the site as a result of extreme storm, wave action and sea level rise over the next 75-100 years for the planned 75-year life of the proposed residence: *Coastal Hazard and Wave Runup Study, 1572 East Oceanfront, Newport Beach, California* prepared by *Geosoils, Inc.* dated August 24, 2015 and *Additional Comments Regarding Potential Sea Level Rise Impacts to Proposed Residential Development, 1572 East*

Oceanfront, Newport Beach, California Coastal Commission Development Permit Application Number 5-15-0983 prepared by *Geosoils, Inc.* dated June 3, 2016. The studies states that there is a relatively wide beach, approximately 375-feet wide, in front of the property 99.99% of the time; however, it also states that the site experiences short-term erosion that is temporary and largely the result of an energetic winter. However, the analyses states that there is no evidence of any long-term erosional trend at the site as wave run-up has not reached the site and the site has not been subject to wave attack for at least 60 years.

The analyses state that the historical highest ocean water elevation in this project area is +7.51 feet NAVD88. At +10.08 feet NAVD88, the finished floor elevation of the first floor of the proposed residence will be +2.57 feet above historical highest ocean water elevation. However, the proposed development also includes a basement, which has a finished floor elevation of -1.25 feet NAVD88. The basement finished floor elevation is below the historical highest ocean water elevation and would result in flooding under any sea level rise scenario.

Based on sea level rise projections from the National Research Council (NRC) 2012 report, a 3-foot rise in sea level over the next 100 years would result in an extreme high tide still water level of +10.5 feet NAVD88 (+7.51 feet NAVD88 + 3 feet = +10.51 feet NAVD88) and thus the proposed finished first floor elevation of 10.08 feet NAVD88 would be 0.42 inches below the flooding height. If there were to be a 5.5-foot rise (the upper range of the NRC projections for southern California), an extreme high tide still water level of +13 feet NAVD88 (+7.51 feet MLLW + 5.5 feet = +13.01 feet NAVD88) could result. Such a rise would exceed the finished first floor elevation, resulting in water up to 2.93 feet higher than the floor during peak tide or tide and wave events. Therefore, the proposed development may be impacted by future flooding hazards if sea level rise approaches the middle and upper range of the NRC projections. In addition, the proposed basement with a finished floor elevation of -1.25 feet NAVD88 would flood under any sea level rise scenario.

While the analyses provide these scenarios that would result in flooding of the site from sea level rise, the analysis also investigated wave overtopping in conjunction with these sea level rise scenarios. The analyses state that the site is over 375-feet away from the ocean, so for the 5.5 feet of sea level rise scenario, the wave bore may travel about 100-feet from the shoreline which is short of the site. Additionally, the analyses conclude that wave runup and overtopping will not significantly impact the site over the life [75 years] of the proposed development: *“The overtopping waters over the next 85 years will likely not reach the seaward side of the subject site. If any water reaches the site, it will not have sufficient velocity to cause erosion or damage.”* Additionally, beach erosion rate was calculated to be 1.22 feet per year or 91.5-feet over the 75 year life of the proposed development and if the beach retreats 91.5-feet in the next 75 years then the site will be 283.5-feet from the shoreline (375-foot wide existing beach – 91.5-feet = 283.5-feet). The analyses conclude that a beach width of 200-feet is sufficient to protect the back shore from extreme events and that the site is safer from shoreline erosion over the design life of the development due to the setback from the current shoreline and that the proposed development will not need a shoreline protective device over the life of the development (75 years).

Additionally while the analyses conclude that the non-subterranean portion of the structure will not be impacted by coastal hazards over the next 75 years, Commission staff requested further analysis

of the impact of sea level rise on ground water that may impact the basement and foundation. In response, the applicant submitted the following: *Response to California Coastal Commission Notice of Incomplete Application, Coastal Development Permit Application Number 5-15-0983, dated October 8, 2015* prepared by *Geosoils, Inc.* October 13, 2015. In this additional analysis, the engineer recommends that all below grade foundations be water proofed. In conclusion, Geosoils states that with the water proofing proposal and basement and foundation design they have reviewed that a rise in the future groundwater elevation due to sea level rise will not adversely impact the proposed development.

To further compensate for any possible flooding, the applicant has proposed to use a sump pump design. The plan will include two (2) separate sump lines and ejection tanks, with an additional bottomless overflow drain pit for tertiary overflow. Each of these pumps will be located at the basement level. Subsequent to the submittal of the sump pump/flooding plan, the applicant additionally states that they will provide flood shields in a defensive barrier along the beach-side elevation by the means of designed sandbags, but this would be a temporary measure in the event of any extreme conditions in the case of any immediate threats to flooding or sea level rise. While the applicant has discussed this additional measure, the applicant has not provided any plans for this recently added protective measure. Thus in order to have the most up to date plan, the Commission imposes **Special Condition No. 1**, which requires the applicant to submit final sump pump/flooding plans.

The proposed project was analyzed to determine if it will be impacted by sea level rise and based upon the analyses above it has been determined that no future shoreline protective device for the proposed residence is necessary. Additionally, the impact of sea level rise on groundwater levels in Newport Beach has recently been the subject of some concern due to the high groundwater levels in the coastal areas of the City. The applicant's studies conclude that the raised groundwater level will not adversely impact the structure, because the development will be waterproofed in compliance with the current construction standards. Furthermore, the basement and foundation design have taken the groundwater level into consideration. In addition, the basement is not designed as a shoreline protective device nor will it act like one. Therefore, the subterranean basement is not considered to be a shoreline protective device.

The Commission's coastal staff engineer has reviewed the submitted analyses and overall concurs with the analyses concluding that the proposed residence will not be impacted by coastal hazards over the next 75 years (the normal life of a structure).

Although the applicant's reports indicate that the site is safe for development at this time, beach areas are dynamic environments and may be subject to unforeseen changes. Such changes may affect beach processes. To minimize the project's potential future impact on shoreline processes, the Commission imposes **Special Condition No. 2**, which prohibits construction of any future shoreline protective device(s) to protect the development approved pursuant to Coastal Development Permit No. 5-15-0983 including, but not limited to residence and garage, foundations, patio and any other future improvements in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, flooding, sea level rise or other natural coastal hazards in the future. Although no shoreline protection is necessary, the proposed

development is located in an area where coastal hazards exist and can adversely impact the development. Therefore, the Commission imposes **Special Condition No. 3**, which requires the applicant to assume the risk of development.

Since coastal processes are dynamic and structural development may alter the natural environment, future development adjacent to the beach could adversely affect future shoreline conditions if not properly evaluated and potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act. In order to ensure that development on the site does not occur which could potentially result in adverse impacts to coastal processes, the Commission imposes **Special Condition No. 4**, which informs the applicant that future development at the site requires an amendment to Coastal Development Permit No. 5-15-0983 or a new coastal development permit.

The proposed project is considered development and there is an opportunity to improve water quality. To minimize erosion and prevent debris from being dispersed down the storm drain system leading to the ocean during construction, the Commission imposes **Special Condition No. 5**, which provides construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris. To minimize any impacts to water quality the proposed project may have after construction, the applicant has submitted a Grading/Drainage and Run-Off Control Plan that shows rooftop and surface drainage directed to bottomless trench drains and French drains.

Due to the high groundwater level, construction of the subterranean basement will require temporary dewatering. The applicant has submitted a dewatering plan that will use include the use of 10 dewatering wells, 24 inch in diameter, approximately 42-feet deep and assumes the water table is at elevation +5+/- . The wells are assumed to be at elevation +11. The water will be discharged to beach at high tide via a discharge pipe along the public beach. The applicant states that no dewatering will occur on the beach during the busy summer months.

There are a variety of Coastal Act issues raised by the temporary dewatering plan including impacts to public access caused by the pipe crossing a public beach, water quality issues raised by the discharge of groundwater to the ocean, and the potential for beach erosion caused by high velocity flows at the outfall of the temporary pipe. Alternatives to the proposed beach discharge were considered but found to be infeasible. Thus, each of these issues raised by the proposed plan have been addressed, in part by revisions to the applicant's submittal, and in part through the special conditions imposed on this permit. The special conditions require final plans incorporating all of the applicant's proposed changes as well as provisions necessary to assure there is no adverse impact to access and water quality. The Commission imposes **Special Condition No. 1** which requires the applicant to submit revised dewatering plans that incorporate the following: 1) limit dewatering activities to the non-summer period, which is between the first week of September (Labor Day) and the last week of May (Memorial Day); 2) bury the entire length of the temporary discharge pipe on the public beach; 3) immediately remove of all infrastructure associated with dewatering activities once dewatering is complete; and 4) return all areas disturbed by dewatering activities to pre-construction condition.

In addition, the Commission imposes **Special Condition No. 7**, which requires the applicant to submit final approval of the dewatering plan from the Regional Water Quality Control Board (RWQCB), as evidence that dewatering will not adversely impact water quality in this area.

As conditioned, the proposed project will not have an adverse effect on public access. The project site is located south of the portion of Ocean Front fronted by the City's paved beachfront public lateral access way (boardwalk). The Commission has found through previous permit actions in this area that the City's setback in this area is acceptable for maintaining public access. The proposed project is consistent with the City's 10-foot required setback from the seaward property line. Vertical public access to this beach is available approximately 112 feet south of the project site at the "I" Street, street end. Lateral public access is available along the wide sandy beach seaward of the subject site. The proposed development provide adequate parking based on the Commission's regularly used parking standard of two (2) parking spaces per individual dwelling unit.

Currently, no landscaping is being proposed. If it were proposed in the future, the placement of any vegetation that is considered to be invasive which could supplant native vegetation should not be allowed and water-efficient practices should be followed. Therefore in order to minimize the use of water and the spread of invasive vegetation, the Commission imposes **Special Condition No. 6**, which imposes landscape controls that require that all vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive.

Oceanward of the applicant's rear property line is the public beach where there is existing unpermitted development consisting of a lawn/planted area. The applicant states that this lawn/planted area existed prior to their purchasing of the property and furthermore state that they did not install this lawn/planted area. The applicant states that no work to the area seaward of their property line is proposed under this Coastal Development Permit application (CDP No. 5-15-0983). Therefore, this permit does not include a proposal to legalize the existing landscaping or other improvements that may be present seaward of the property line. To ensure the applicant or any future landowners are aware that this permit does not include approval of anything seaward of the property line **Special Condition No. 1** requires the applicant submit revised project plans identifying the development present in that area shaded and clearly marked "*These elements are not part of Coastal Development Permit approval No. 5-15-0983*" on each set of plans where the unpermitted encroachment is shown to clearly denote that the unpermitted encroachment is not approved by this permit action.

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 No. 8**, which requires 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.

B. PRIOR COMMISSION PERMIT ACTIONS

On November 16, 1993, the Commission approved Administrative Permit No. 5-93-334 (Marconi). Administrative Permit No. 5-93-334 (Marconi) allowed the following: 1) 1st floor: addition of 82 square feet of living space to an existing single-family residence and addition of 172 square feet to

the existing three car garage area, including a new enclosed entry stairway; and 2) 2nd floor: enclosure of an existing outdoor room, approximately 667 square feet in size, with a new roof, and parts of the existing roof to be raised. The project was separated into two parts, with Phase 1 consisting of the additions to the existing 1st and 2nd floors and Phase 2 being the raising of the existing roof. The Commission approved the project subject to two (2) Special Conditions: 1) any revisions to the plans for either Phase 1 or Phase 2 required an amendment to the permit and 2) a future development restriction.

C. 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 run-off 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.

D. DEVELOPMENT

The development is located within an existing developed area and is compatible with the character and scale of the surrounding area. However, the proposed project raises concerns that future development of the project site potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act. To assure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission finds that a future improvements special condition be imposed. As conditioned the development conforms with the Chapter 3 policies of the Coastal Act.

E. PUBLIC ACCESS

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

F. WATER QUALITY

The proposed development has a potential for a discharge of polluted run-off from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, reducing run-off through the use of permeable surfaces, the use of non-invasive drought tolerant vegetation to reduce and treat the run-off discharged from the site, and for the use of post-construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned,

conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

G. UNPERMITTED DEVELOPMENT

Development has occurred oceanward of the applicant's rear property line on the public beach consisting of, but not limited to, installation of a lawn/planted area on the sandy beach without benefit of the required coastal development permit including. Commission Enforcement staff is currently considering options to resolve the unpermitted development.

Although development has occurred prior to submission of this coastal development permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Commission review and action on this permit application does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal development 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 one additional condition requiring that the property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

I. LOCAL COASTAL PROGRAM (LCP)

The LUP for the City of Newport Beach was effectively certified on May 19, 1982. The certified LUP was updated on October 8, 2009. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Coastal Land Use Plan for the area. 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.

J. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

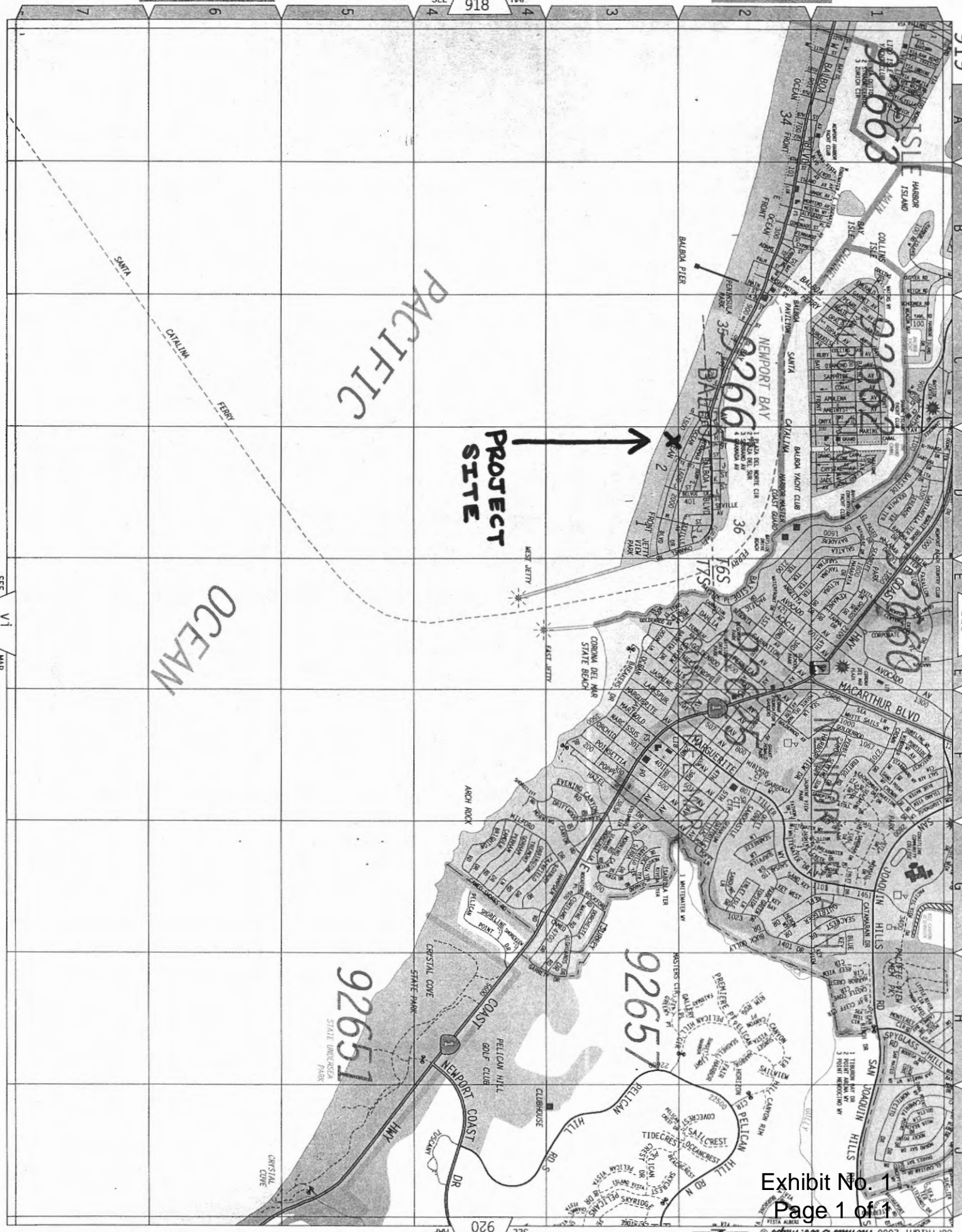
The City of Newport Beach is the lead agency responsible for certifying that the proposed project is in conformance with the California Environmental Quality Act (CEQA). The City determined that in accordance with CEQA, the project is ministerial or categorically exempt. Section 13096(a) of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA).

Although the proposed development is categorically exempt from CEQA, the Commission has imposed conditions to ensure conformity with Coastal Act requirements. As conditioned, there are

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

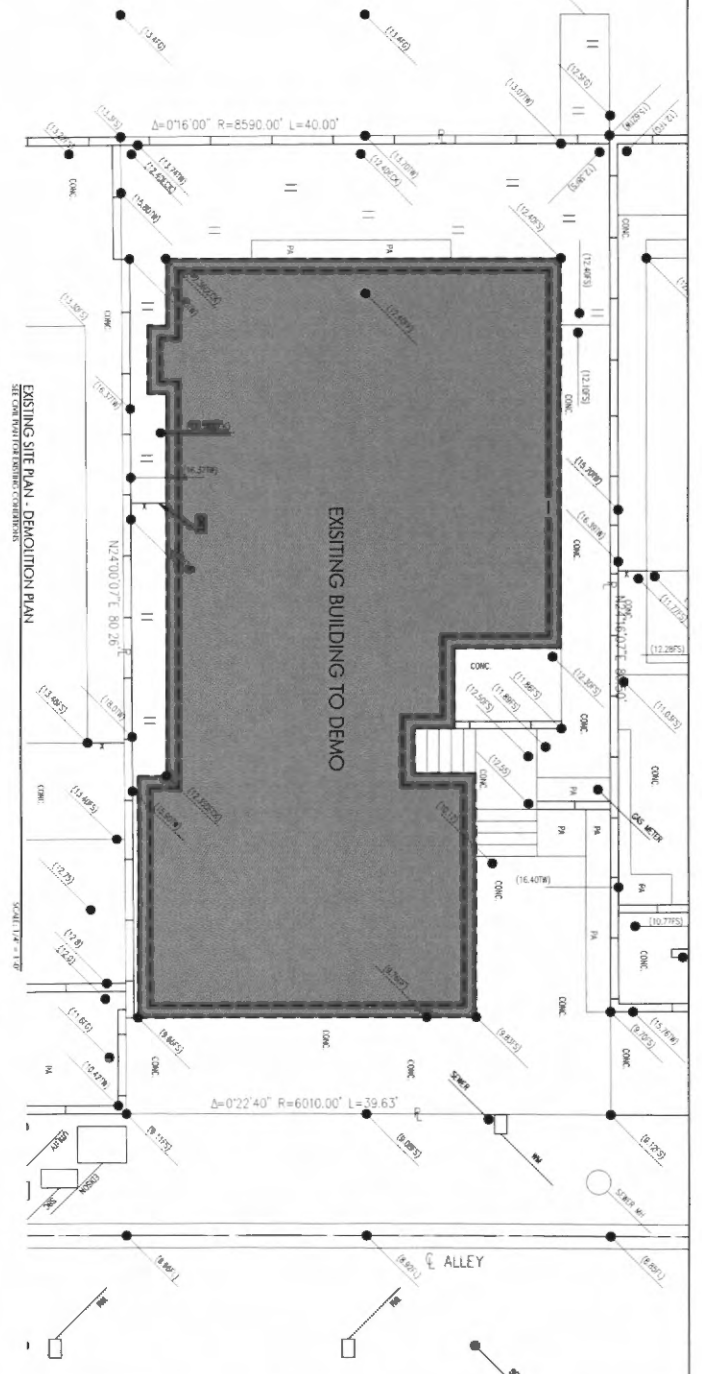
APPENDIX A

SUBSTANTIVE FILE DOCUMENTS: Administrative Permit No. 5-93-334 (Marconi); Approval-In-Concept from the City of Newport Beach Planning Department dated February 19, 2015; *Preliminary Geotechnical Investigation, Proposed Residential Development, 1572 East Oceanfront Avenue, Newport Beach, California (Project Number 17837-14)* prepared by NorCal Engineering dated December 26, 2014; *Supplemental Subsurface Investigation – Proposed Residential Development – Located at 1572 East Oceanfront Avenue, in the City of Newport Beach, California (Project Number 17837-15)* prepared by NorCal Engineering dated October 22, 2015; *Supplemental Geotechnical Investigation – Proposed Residential Development – Located at 1572 East Oceanfront Avenue, in the City of Newport Beach, California (Project Number 17837-14)* prepared by NorCal Engineering dated March 13, 2015; Letter from Commission staff to agent dated August 14, 2015; Letters from applicant to Commission staff dated September 3, 2015; Letter from Commission staff to agent dated October 8, 2016; Letter from Dale Hinkle, P.E., PLLC dated August 31, 2015; *Coastal Hazard and Wave Runup Study, 1572 East Oceanfront, Newport Beach, California* prepared by *Geosoils, Inc.* dated August 24, 2015; *Response to California Coastal Commission Notice of Incomplete Application, Coastal Development Permit Application Number 5-15-0983, dated October 8, 2015* prepared by *Geosoils, Inc.* dated October 13, 2015; and *Additional Comments Regarding Potential Sea Level Rise Impacts to Proposed Residential Development, 1572 East Oceanfront, Newport Beach, California Coastal Commission Development Permit Application Number 5-15-0983* prepared by *Geosoils, Inc.* dated June 3, 2016.



PROJECT SITE

Exhibit No. 1
Page 1 of 1



EXISTING PLAN - DEMOLITION NOTES

1. SEE SHEET A0.1 FOR SITE PLAN.
2. ALL EXISTING BUILDINGS TO BE DEMOLISHED BY 12/31/2018.
3. ALL EXISTING UTILITIES TO BE REMOVED BY 12/31/2018.
4. ALL EXISTING CONCRETE FOUNDATIONS TO BE REMOVED BY 12/31/2018.
5. ALL EXISTING CURBS AND GUTTERS TO BE REMOVED BY 12/31/2018.
6. ALL EXISTING DRIVEWAYS TO BE DEMOLISHED BY 12/31/2018.
7. ALL EXISTING FENCES TO BE DEMOLISHED BY 12/31/2018.
8. ALL EXISTING SIGNAGE TO BE DEMOLISHED BY 12/31/2018.
9. ALL EXISTING LANDSCAPING TO BE DEMOLISHED BY 12/31/2018.
10. ALL EXISTING UTILITIES TO BE RELOCATED BY 12/31/2018.
11. ALL EXISTING UTILITIES TO BE DELETED BY 12/31/2018.
12. ALL EXISTING UTILITIES TO BE RELOCATED BY 12/31/2018.
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19. ALL EXISTING UTILITIES TO BE DELETED BY 12/31/2018.
20. ALL EXISTING UTILITIES TO BE RELOCATED BY 12/31/2018.

URBAN ARENA
ARCHITECTS

BOHEMIAN JAZZ EXCHANGE, LLC

CREDIT

PROJECT

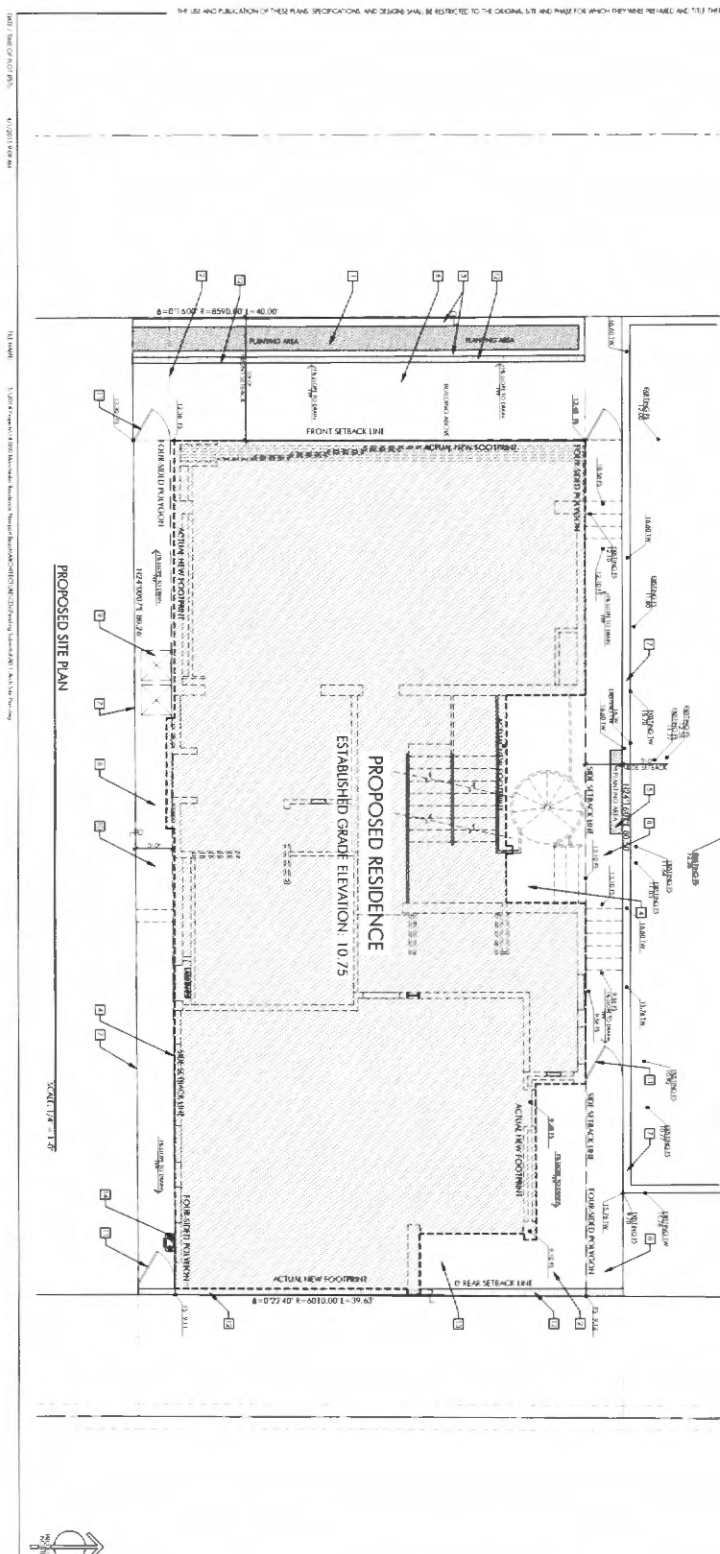
CUSTOM RESIDENCE

SITE TITLE

SHEET NUMBER
A0.1

REVISIONS

SEAL



PROPOSED SITE PLAN

PROPOSED RESIDENCE

ESTABLISHED GRADE ELEVATION: 10.75

WALL LEGEND

FOUNDATION NOTES

SITE PLAN NOTES

SITE PLAN REV NOTES

BOHEMIAN JAZZ EXCHANGE, LLC

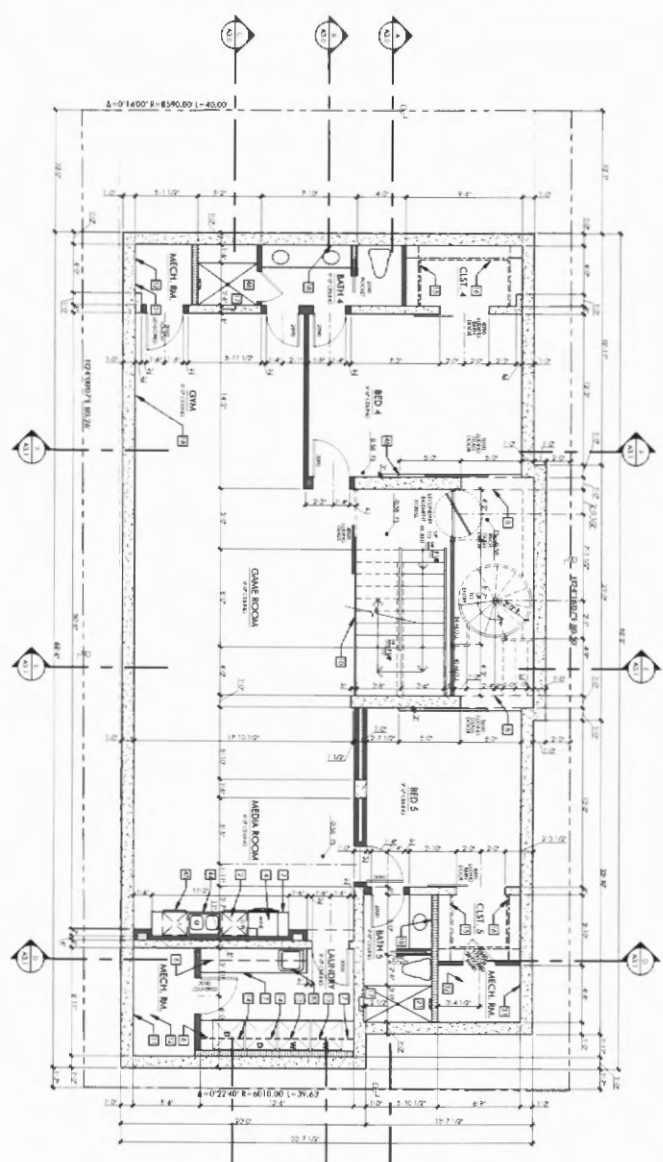
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PROJECT

CUSTOM RESIDENCE

SITE TITLE

SHEET NUMBER
A0.1



BASEMENT LEVEL FLOOR PLAN

SCALE: 1/8" = 1'-0"

FLOOR PLAN NOTES

1. REFER TO THE ARCHITECT'S SPECIFICATIONS FOR MATERIALS AND FINISHES.
2. REFER TO THE ARCHITECT'S SPECIFICATIONS FOR MECHANICAL SYSTEMS.
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FLOOR PLAN KEY NOTES

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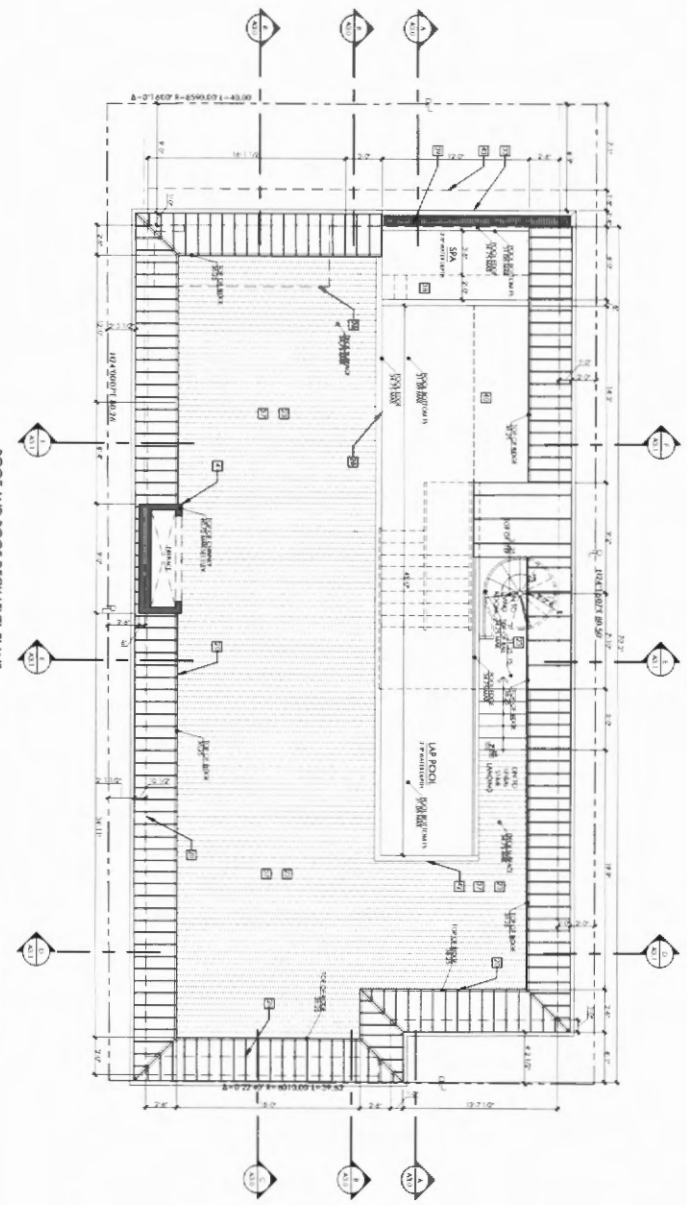
WALL LEGEND

- 2 X 8 FRAMED WALL
- 2 X 6 FRAMED WALL
- 2 X 4 FRAMED WALL
- CONCRETE WALL

PROJECT: CUSTOM RESIDENCE EXCHANGE, LLC
 ARCHITECT: BOHEMIAN JAZZ ARCHITECTS, LLC
 SHEET NUMBER: A1.0
 DATE: 11/15/2023

URBAN ARENA
 1115 East Hill Avenue, Suite 7
 Chicago, Illinois 60610
 Office: (773) 462-1115
 Client: Alex Dugas

Exhibit No. 3
 Page 1 of 3



ROOF AND ROOF DECK LEVEL PLANS

- FLOOR PLAN KEY NOTES**
1. REFER TO THE FOUNDATION PLAN FOR
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- ROOF LEGEND**
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 - 10. REFER TO THE FOUNDATION PLAN FOR

- ROOF PLAN**
- PROJECT: CUSTOM RESIDENCE
- CLIENT: BOHEMIAN JAZZ EXCHANGE, LLC
- ARCHITECT: [Firm Name]
- DATE: [Date]
- SHEET NUMBER: A1.2

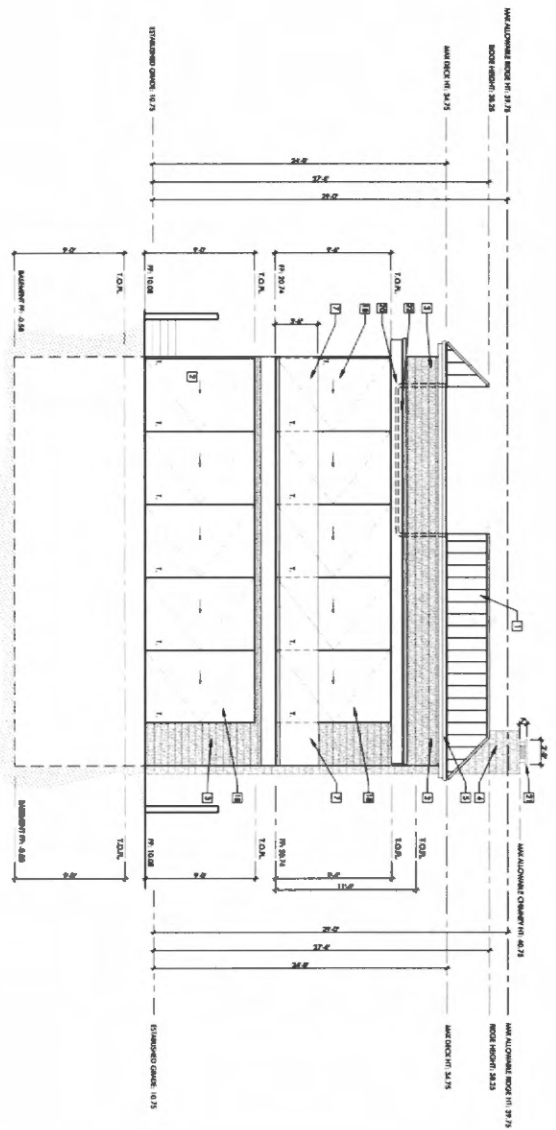
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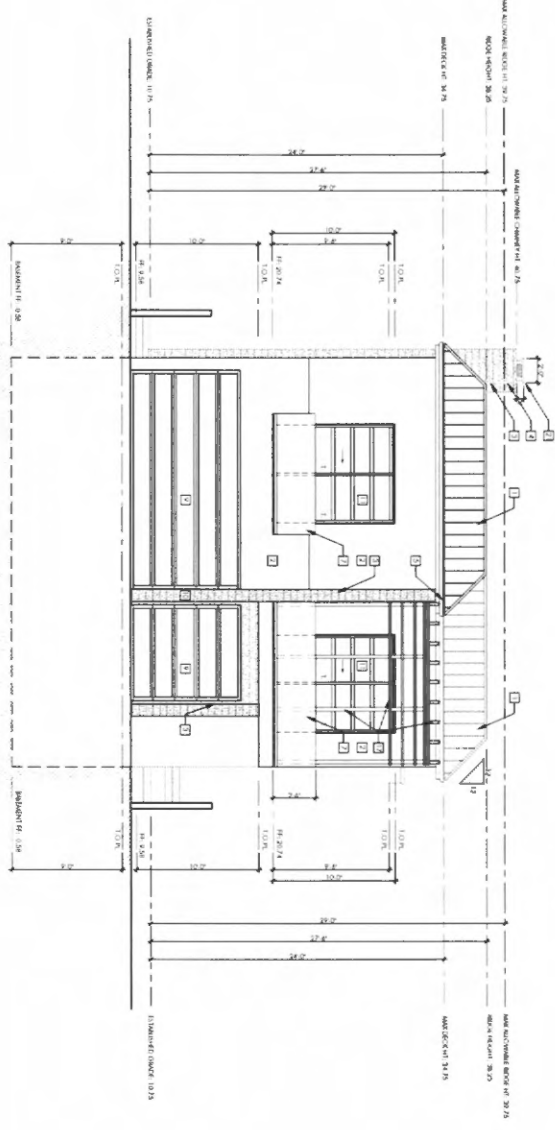
Exhibit No. 3
Page 3 of 3

SHEET NUMBER
A1.2



FRONT ELEVATION

SCALE: 1/8" = 1'-0"



REAR ELEVATION

SCALE: 1/8" = 1'-0"

- ELEVATION LEGEND**
- 1. FINISHED GRADE: 61'7 1/2"
 - 2. FINISHED GRADE: 61'7 1/2"
 - 3. FINISHED GRADE: 61'7 1/2"
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P/C NO. A2011-001S
 JOB NO. 14186
 SCALE: 1/8" = 1'-0"
 DATE: 2/19/15

CLIENT:
 BOHEMIAN JAZZ
 EXCHANGE, LLC
 800 S. GARDNER, SUITE 100
 DENVER, CO 80202
 TEL: 303.733.1111

PROJECT:
 CUSTOM
 RESIDENCE
 5372 1/2 COLLETT
 DENVER, CO 80202
 TEL: 303.733.1111

SHEET TITLE:
 ELEVATIONS

SHEET NUMBER:
 A2.1

URBAN ARENA
 2115 Red Hill Avenue, Suite 100
 92512-3248 San Diego, CA 92123
 Orange County - San Diego

Exhibit No. 4
Page 2 of 2