

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA  
 7575 METROPOLITAN DRIVE, SUITE 103  
 SAN DIEGO, CA 92108-4402  
 767-2370

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## STAFF REPORT AND RECOMMENDATION ON APPEAL

LOCAL GOVERNMENT: City of Carlsbad

DECISION: Approval with Conditions

APPEAL NO.: A-6-CII-01-20

APPELLANTS: Commissioner Patrick Kruer and Commissioner Patricia McCoy.

APPLICANT: Thoryk Architecture

PROJECT DESCRIPTION: Demolition of an existing 3,344 -sq. ft. three unit residential structure and construction of a two-story, 28-foot high, 3,572 sq.ft. single family dwelling, concrete deck, attached 416-sq.ft garage, wooden bluff stairway, drainage improvements and 40 cubic yards of balanced grading on an 8,712 sq.ft. blufftop site.

PROJECT LOCATION: 3075 Ocean Street, Carlsbad (San Diego County) APN 155-104-04

### STAFF NOTES:

At its March 2001 hearing, the Commission found "substantial issue" exists with respect to the grounds on which the subject appeal was filed.

### SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending approval of the proposed project with special conditions. The main issues raised by this proposal have been addressed by the applicant's redesign of the project to preserve the on-site coastal bluff. Also, a wave study indicates the proposed siting of the residence will not result in the need for additional shoreline bluff protection. Staff recommends the Commission approve conditions requiring final plans acknowledging City approval of the redesigned project, final seawall plans and a survey to establish the seaward extent of shoreline protection on this lot so that any future maintenance will be done on private property, a long term monitoring program to document changes to the seawall and its effect on the shoreline, a future improvements condition that would ensure ocean views would be maintained through lot sideyards and other conditions consistent with the Commission's review of shorefronting development.

As recommended, the project can be found consistent with the new development policies of the certified LCP.

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**SUBSTANTIVE FILE DOCUMENTS:** Certified City of Carlsbad Local Coastal Program (LCP)/Mello II Segment, Carlsbad Coastal Development Permit CDP 99-53; Appeal #A-6-CII-01-20

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**I. PRELIMINARY STAFF RECOMMENDATION:**

The staff recommends the Commission adopt the following resolution:

**MOTION:**                    *I move that the Commission approve Coastal Development Permit No. A-6-CII-01-20 pursuant to the staff recommendation.*

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO APPROVE THE PERMIT:**

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of the certified Local Coastal Program and with the public access and recreation policies of the Coastal Act. 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.**

See attached page.

**III. Special Conditions.**

The permit is subject to the following conditions:

1. **Final Plans.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval, final site, building and elevation plans for the permitted development that have been approved by the City of Carlsbad. Said plans shall be in

substantial conformance with the plans submitted by the applicant dated March 16, 2001 by Thoryk Architecture, but shall be revised to include the following:

- a. No grading on the face of the bluff shall occur

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

2. Final Surveyed Seawall Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT the applicant shall submit to the Executive Director for review and written approval, final seawall plans for the proposed project that have been approved by the City of Carlsbad. Said plans shall be in substantial conformance with the site plan prepared by Snipes-Dye Associates, date stamped received 4/17/2001 and the seawall survey dated 2/14/2001 by Skelly Engineering. The plans shall identify permanent bench marks from the property line or another fixed reference point from which the elevation and seaward limit of the seawall can be referenced for measurements in the future, and shall indicate the following:

- a. The toe of the existing seawall/riprap shall extend no further seaward than 118-feet west of the easterly property boundary at an elevation of +4.7-ft. Mean Sea Level (MSL).
- b. The top of the seawall is at elevation +8.7 -ft MSL and the top of the riprap slope is at +14MSL.

3. Long-Term Monitoring Program. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director, a long-term monitoring plan for the beach and shoreline protection. The purpose of the plan is to monitor and record the changes in beach profile fronting the site and to identify damage/changes to the seawall such that repair and maintenance is completed in a timely manner to avoid further encroachment of the seawall on the beach. The monitoring plan shall incorporate, but not be limited to the following:

- a. An evaluation of the current condition and performance of the seawall, addressing, among other things, the exposure of any geotextile material or underlining fabric, any migration or movement of rock which may have occurred on the site and any significant weathering or damage to the seawall that may adversely impact its future performance.
- b. Measurements taken from the benchmarks established in the survey as required in Special Condition #2 of CDP # A-6-CII-01-20 to determine settling or seaward movement of the seawall and changes in the beach profile fronting the site.

- c. Recommendations on any necessary maintenance needs, changes or modifications to the seawall to assure its continued function and to assure no encroachment beyond the permitted toe.

The above-cited monitoring information shall be summarized in a report prepared by a licensed engineer familiar with shoreline processes and submitted to the Executive Director for review and written approval. The report shall be submitted to the Executive Director and the City of Carlsbad after each winter storm season but prior to July 1st of each year starting with July 1, 2001.

The permittee shall undertake development in accordance with the approved monitoring program. Any proposed changes to the approved program shall be reported to the Executive Director and the City of Carlsbad Engineering Department. No changes to the program shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. Maintenance Activities. The permittee shall be responsible for the maintenance of the existing seawall/riprap in its approved state. Based on the information and recommendations contained in the monitoring report required in Special Condition #3 of CDP #A-6-CII-01-20 above, any stones or materials that become dislodged or any portion of the seawall that is determined to extend beyond the approved toe shall be removed from the beach. However, if it is determined that repair and/or maintenance to the seawall/riprap is necessary, the permittee shall contact the Commission office to determine whether an amendment to this permit is necessary.

5. Construction Schedule/Staging Areas/Access Corridors. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, detailed plans identifying the location of access corridors to the construction sites and staging areas, and a final construction schedule. Said plans shall include the following criteria specified via written notes on the plan:

- a. Use of sandy beach and public parking areas outside the actual construction site, including on-street parking, for the interim storage of materials and equipment is prohibited.
- b. No work shall occur on the beach during the summer peak months (start of Memorial Day weekend to Labor day) of any year.
- c. Equipment used on the beach shall be removed from the beach at the end of each workday.

- d. Access corridors shall be located in a manner that has the least impact on public access and existing public parking areas. Use of public parking areas for staging/storage areas is prohibited.

The permittee shall undertake development in accordance with the plans and construction schedule. Any proposed changes to the approved plans or construction schedule shall be reported to the Executive Director. No changes to the plans or schedule shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

6. Assumption of Risk.

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from wave action and erosion; (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.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

7. Side Yard Setbacks/Seawall Maintenance/Future Development. This permit is only for the development described in Coastal Development Permit No. A-6-CII-01-20. Pursuant to Title 14 California Code of Regulations section 13250(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(a) shall not apply to any future improvements to the single-family house authorized by this permit. Any future improvements shall require an amendment to Permit No. A-6-CII-01-20 from the Coastal Commission. Any revisions to the see-through fence or other improvements within the side yards shall require a coastal development permit or permit amendment approval. Additionally, no maintenance or augmentation to the existing seawall/riprap is approved with this permit. Any such activities shall require an amendment to Permit No. A-6-CII-01-20 from the Coastal Commission unless the Executive Director determines that no amendment is required.

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restrictions on development. The deed restriction shall include legal descriptions of the applicant's entire parcel(s). The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director

8. Drainage Plan. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and written approval of the Executive Director, a final drainage and runoff control plan, with supporting calculations, that has been approved by the City of Carlsbad. This plan shall document that runoff from the roof, driveway and other impervious surfaces will be collected and appropriately discharged. The plan shall show how all runoff from the impervious surfaces of the development shall be collected and directed away from the bluff face and towards the on-site vegetation. This plan shall be subject to the review and written approval of the Executive Director.

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

#### IV. Findings and Declarations:

1. Project Description/Permit History. The proposal includes demolition of an existing 3,344 -sq.ft. three unit residential structure and construction of a two-story, 28-foot high, 3,572 sq.ft. single family dwelling, concrete deck, attached 416-sq.ft garage, wooden bluff stairway, drainage improvements and 40 cubic yards of balanced grading on an 8,712 sq.ft. blufftop site in the City of Carlsbad.

The project site is a coastal bluff located on the west side of Ocean Street, between Oak and Carlsbad Village Drive in the northern part of the City of Carlsbad. The eastern third of the lot (street side) is relatively flat, with steep slopes towards the middle of the lot, than leveling out as it reaches the beach. An existing wooden stairway provides private access to the beach portion of the lot down the bluff face. Demolition of the stairway is proposed and a new wooden stairway is proposed several yards south of the present alignment. No grading of the bluff face is proposed to install the stairway. The site contains an existing 4-foot high concrete seawall with a quarry stone toe and quarry stone on the slope above the wall. The existing shoreline protection extends across 5 properties, is about 260 feet in length and was permitted by the Commission in CDP #6-83-184. The Commission's approval included conditions that required an offer to dedicate a public access easement from the seawall to the mean high tide line and that the applicants assume the risk of developing in a hazardous area. The conditions were complied with and the permit was issued.

As approved by the City, the project proposed grading on the face of the coastal bluff. The grading was proposed to install a mechanical equipment room, planter, drainage improvements and concrete stairway. Additionally, cosmetic "boulders" were proposed on the face of the bluff. Subsequent to the City's approval and in response to Commission staff concerns, the applicant has redesigned the project to eliminate grading on the bluff face. This has resulted in the deletion of the preceding improvements. Thus, the mechanical equipment room, planter, concrete stairway and cosmetic "boulders" are no longer part of the project. Special Condition #1 requires final plans in substantial conformance with the plans submitted by the applicant and approved by the City of Carlsbad which indicate the previously approved improvements have been deleted and that no grading of the face of the bluff will occur.

The project area is an established residential infill area (Residential Medium High Land Use Designation based on a density of 19 du/ac) with nearby commercial development located inland of the project site. Carlsbad State Beach is located approximately 300 feet to the south of the project site; a vertical accessway is located about 220 feet to the north of the site, providing access between Ocean Street and the beach.

The standard of review is consistency with the certified City of Carlsbad Local Coastal Program, Mello II segment and the public access and recreation policies of the Coastal Act.

2. Stringline. The proposed project involves construction of a single family dwelling on a bluff top lot. The certified LCP prohibits new development along the ocean from extending further seaward than a "stringline" drawn between adjacent sites. The goal of limiting new development from extending beyond the stringline is to restrict encroachment onto the shoreline and preserve public views along the shoreline. Section 21.204.050B of the Coastal Shoreline Development Overlay provides:

New development fronting the ocean shall observe at a minimum, an ocean setback based on a "stringline" method of measurement. No enclosed portions of a structure shall be permitted further seaward than allowed by a line drawn between the adjacent structure to the north and south; no decks or other appurtenances shall be permitted further seaward than those allowed by a line drawn between those on the adjacent structures to the north and south. A greater ocean setback may be required for geologic reasons and if specified in the Local Coastal Program.

Additionally, Policy 7-12 of the Mello II LUP states:

Seaward of Ocean Street

New development on the seaward side of Ocean Street shall observe at a minimum, an ocean setback based on a "stringline" method of measurement. No enclosed portions of a structure shall be permitted further seaward than allowed

by a line drawn between the adjacent structure to the north and south; no decks or other appurtenances shall be permitted further seaward than those allowed by a line drawn between those on the adjacent structures to the north and south. The policy shall be used on single family, "infill" parcels, and a greater ocean setback may be required for geologic reasons.

The proposed project is new development on the seaward side of Ocean Street. The certified LCP requires that no enclosed portions of a structure shall be permitted further seaward than allowed by a line drawn between the adjacent structure to the north and south. Consistency with the stringline assures, among other things, that new development will not adversely impact public views. As approved by the City, a below grade mechanical equipment room associated with the main residence was proposed further seaward than the residences on adjacent lots and as such was inconsistent with the house stringline. In response to Commission staff concerns, the applicant subsequently redesigned the project to relocate the mechanical equipment room under the home and off the bluff. Special Condition #1 requires final plans addressing the redesign of the project.

In one other previous permit decision the Commission has interpreted the above cited stringline provisions of the LCP to require that the "stringline" be measured from the nearest point of adjacent structures (ref. CDP 6-90-299/Rowe) when the nearest point was an architectural embellishment. In all other permit decisions, the Commission has required that new development not extend any further seaward than like development on adjacent lots. In this particular case, the proposed structure will extend no further seaward than the adjacent structures. Thus, while there are two ways to interpret the LCP stringline provisions, the proposed home will extend no further seaward than the homes on each side and will not adversely affect public views from the beach or from nearby vertical accessways or public parklands. Thus, the Commission finds the proposed project is consistent with the stringline provisions of the certified LCP.

Additionally, the proposed deck, which is seaward of the residence, is consistent with the deck stringline on adjacent lots. Thus, because the proposed new development would not extend further seaward than the similar structures on adjacent lots, the proposed project will not result in impacts to public views along the shoreline. Consequently, the Commission finds the proposed project can be found consistent with the stringline provisions of the LCP with regards to both the main residence and accessory stringlines.

3. Landform Alteration/Coastal Bluff Preservation. The Mello II LCP contains policies that address bluff preservation. Section 21.204.030A (Permitted Beach Uses) of the Coastal Shoreline Development Overlay Zone provides:

Permitted uses and developments are limited to the following uses and require a Coastal Development permit according to the requirements of this zone:

A. Steps and Stairways for access from the top of the bluff to the beach



In addition, Section 21.204.050 of the Coastal Shoreline Development Overlay Zone provides:

Uses permitted by the underlying zone map may be permitted on non-beach areas subject to granting of a Coastal Development permit for coastal shoreline development issued pursuant to the procedures of Chapter 21.201 of this title, unless specifically prohibited by policies or other applicable ordinances in the approved Carlsbad Local Coastal Program. Non-beach areas are defined as areas at elevations of 10 feet or more above mean sea level. Permitted uses are subject to the following criteria:

- a. Grading and Excavation - Grading and excavation **shall be the minimum necessary** (emphasis added) to complete the proposed development consistent with the provisions of this zone and the following requirements:

[...]

- 1). Building sites shall be graded to direct surface water away from the top of the bluff, or alternatively, drainage shall be handled in a manner satisfactory to the City which will prevent damage to the bluff by surface and percolating water.
- 2) No excavation, grading or deposit of natural materials shall be permitted on the beach or the face of the bluff except to the extent necessary to accomplish construction pursuant to this section.

This overlay is intended to provide land use regulations along the Carlsbad shoreline including beaches, bluffs and the land area immediately landward. The purpose of the overlay zone is to ensure that the public's interest in maintaining the shoreline as a unique recreational and scenic resource is adequately protected. Additionally, the overlay ensures public safety and public access will be maintained and promotes avoidance of the adverse geologic and economic effects of bluff erosion.

The Commission has found in past permit decisions that "the minimum necessary" for new development on the bluff face means at-grade and ephemeral structures (like the existing and proposed wooden stairs on the site) that do not require grading and substantial foundations which makes such improvements more "permanent" (ref. CDP Nos. 6-92-100/Fulton; 6-92-252/Meiberger; 6-92-232/Weldon and 6-93-006/Gilstrap). As noted, the City originally approved improvements on the bluff face (a mechanical equipment room, a concrete planter, concrete stairs, a drainage device and "cosmetic" boulders). In response to concerns raised by Commission staff relative to this issue, the applicant has redesigned the project to eliminate the previously proposed and approved improvements. As noted, a private wooden stairway currently exists on the bluff face and is proposed to be relocated. However, its re-installation would not require grading or substantial alteration and as such would not be a "permanent" structure. Therefore, as modified by the applicant, no grading or landform alteration of the bluff is proposed. Special Condition #1 requires the applicant to submit final plans for the development that

have been approved by the City of Carlsbad and which specifically note that no grading will occur on the bluff face. Based on the above, the Commission finds the proposed development can be found consistent with the bluff preservation provisions of the certified LCP.

4. Shoreline Development/Hazards. The Mello II LUP contains policies that address coastal erosion. Policy 4-1 provides:

(a) Development Along Shoreline

For all new development along the shoreline, including additions to existing development, a site specific geologic investigation and analysis similar to that required by the Coastal Commission's Geologic Stability and Bluff Top Guidelines shall be required; for permitted development, this report must demonstrate bluff stability for 75 years, or the expected lifetime of the structure, whichever is greater. Additionally, permitted development shall incorporate, where feasible, subdrainage systems to remove groundwater from the bluffs, and shall use drought-resistant vegetation in landscaping, as well as adhering to the standards of erosion control contained in the Carlsbad Master Drainage Plan. A waiver of public liability shall be required for any permitted development for which an assurance of structural stability cannot be provided.

Additionally, Section 21.204.110 of the Coastal Shoreline Development Overlay zone requires that new development must be sited appropriately with respect to hazards.

The above LUP policy requires that bluff stability must be demonstrated through a geotechnical reconnaissance. The geotechnical report for the project analyzes both the impact on the coastal bluff from the project and the risk factors involved in siting the project as proposed. The geotechnical report concludes the project site is grossly stable and will accommodate the project without adversely affecting bluff stability or the integrity of the home. However, the LCP also requires that a geotechnical report evaluate how bluff stability would be affected by marine erosion. The geotechnical report relied on by the City did not acknowledge the existence of the existing concrete seawall with a riprap toe and riprap on the slope above the seawall; thus, the effect of wave uprush on bluff stability was not addressed. By failing to identify the existing shoreline protection, the geotechnical report also failed to address the adequacy of the existing protection to protect the proposed improvements and the potential need for future protection. Thus, while the LCP allows shoreline protection to protect existing development, in this case, the required findings were not made to ensure the proposed development is appropriately sited so as to be safe from coastal erosion without requiring future additional shoreline protection.

The site contains an existing 4-foot high concrete seawall and riprap on the slope above the wall which was permitted by the Commission in CDP #6-83-184. As noted, the City's approval did not recognize the seawall. In response to concerns raised by Commission staff relative to the need for protection for the proposed development, the

applicant has performed a wave action study on the site. The report notes the top of the seawall is at about 8.7 Mean Sea Level (MSL) and the crest of the quarry stone protection behind the seawall is at about elevation +14 MSL. The slope above the quarry stone is vegetated and extends up to a concrete patio at about +28 MSL. The quarry stones that makes up the slope protection are angular in shape and range in size from 400 lbs. to about 4 tons. The quarry stone at the toe of the seawall extends seaward about 4-feet from the wall and does not extend below the footing of the wall at about +4.7 MSL. The report concludes the existing shoreline protection is in good condition and will not be subject to wave overtopping.

According to the wave runup study, the calculated maximum runup is to +13 MSL which is below the top of the quarry stone slope protection. The lowest elevation of the concrete deck is about +28 MSL; thus, the deck will not be subject to wave runup. The report notes the shore protection has functioned with no significant damage to the slope, and no damage whatsoever to the improvements since 1983.

The report recommends that long term stability of the site will depend on the maintenance of the shore protection. Maintenance includes the repositioning of the quarry stones lost due to the combined effects of settlement, scour and wave action dislodging the stones. The report notes that no new stones are needed at this time and that the maintenance of the shore protection does not require any further seaward encroachment of the shoreline structure's footprint. The report also recommends that because the vegetated slope above the shore protection will be subject to spray and possibly wave thrown cobbles during storm events, if this vegetation is lost, new vegetation should be placed as soon as possible.

The Commission's coastal engineer has reviewed the report and concludes the report's findings and conclusions are well supported by analysis and present good engineering evaluation and assumptions. Thus, based on the above, the Commission finds the required findings are made to ensure the proposed development is appropriately sited so as to be safe from coastal erosion without requiring future additional shoreline protection.

The Commission is interested in establishing the seaward extent of shoreline protective devices in this area. The report indicates the seawall toe is 118- feet west of the easterly property boundary at an elevation of 4.7-ft. Mean Sea Level (MSL). The report also notes the top of the seawall is at elevation +8.7 -ft MSL and the top of the riprap slope above the seawall is at +14MSL.

Based on the preceding discussion, the Commission finds that no additional rock is authorized seaward of these locations. Special Condition #2 requires that the surveyed toe of the seawall be shown on a final site plan to establish its permitted seaward extent as identified above.

Special Condition #3 requires a long-term monitoring plan to monitor and record the changes in beach profile fronting the site and to identify damage/changes to the seawall such that repair and maintenance is completed in a timely manner to avoid further

encroachment of the seawall on the beach. The concern is that any future development on the site has the potential to extend shoreline protection seaward onto public beach. This condition will assure seawall maintenance will occur in a timely and orderly way and without adverse impacts to public access.

Special Condition #4 identifies that the applicant shall be responsible for the maintenance of the existing concrete seawall and companion riprap in its approved state. Based on the information and recommendations contained in the monitoring report required in Special Condition #3 of CDP #A-6-CII-01-20 above, any stones or materials that become dislodged or any portion of the seawall that is determined to extend beyond the approved toe shall be removed from the beach. However, if it is determined that repair and/or maintenance to the revetment is necessary, the permittee shall contact the Commission office to determine whether an amendment to this permit is necessary.

Although the wave uprush study finds the existing revetment would protect the proposed reconstruction, Special Condition #6 requires the applicant to execute assumption of risk documents, providing that the applicant understands that the site is subject to hazards based on its location on the coast and that the applicant assumes the risk of developing the property

Special Condition #7 also requires that any future improvements to the single family house or seawall 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, shall require an amendment from the Commission. The concern is that future improvements to the seawall are limited to its existing seaward footprint to assure no impacts to public access by further encroachment onto the beach.

In summary, as conditioned so that no further seaward encroachment of the seawall/riprap is permitted with this action or in the future and that maintenance and monitoring of shoreline conditions relative to the seawall are done to minimize public access impacts, the Commission finds the proposed project conforms to the certified Carlsbad LCP.

5. Public Access and Recreation. Section 30604(c) of the Coastal Act requires that a specific access finding be made for all development located between the sea and the first coastal roadway. Additionally, Section 21.204.070(A)1 of the Coastal Shoreline Development Overlay requires that "Development shall be sited and designed in a manner which does not interfere or diminish the potential public rights based on historic public use...." The subject lot extends to the mean high tide line and includes sandy beach that has been historically used by the public. Section 21.204.060 (Requirements for Public Access) provides:

A. Lateral Public Access:

1. Minimum Requirements. Development shall be conditioned (emphasis added) to provide the public with the right to a minimum 25 feet of dry sandy beach at all times of the year. The minimum requirement applies to all new developments proposed along the shoreline requiring any type of local permit including a building permit, minor land division or any other type of discretionary or nondiscretionary action.

Section 21.204.070(A)1 of the Coastal Shoreline Development Overlay requires that "mechanisms for guaranteeing the continued public use of the site shall be required in accordance with Section 21.204.080. Section 21.204.080 identifies that legal instruments (Deed restrictions, Offers to Dedicate, Outright Grant of Fee Interest, etc.) are required for guaranteeing public access unless an area of "equivalent public access" has been provided in the immediate area of the project site. As noted, the Commission previously approved shoreline protection on this site. Its approval included a requirement that an easement for public access and public recreation be recorded to extend seaward of the concrete seawall to the mean high tide line. Since the easement has been recorded and runs with the land, it is not being required with this action. The Commission finds that further encroachment of the seawall/riprap would result in rock being placed within the public access easement area. This would result in adverse public access impacts as sandy beach historically used by the public would be displaced by shoreline protection. The final survey of the metes and bounds of the seawall/riprap required in Special Condition #2 will assure this future encroachment will not happen.

Vertical access from the first public roadway to the beach exists between 200-300 feet north and south of the project site by way of a vertical accessway and access improvements associated with Carlsbad State Beach respectively. Thus, the Commission finds adequate lateral and vertical access exists in the project area.

Project construction has the potential to adversely affect public access in the area. This area includes nearby public parking spaces at Carlsbad State Beach and several on-street parking spaces near the beach and vertical accessway located to the north that if usurped by construction and staging equipment and materials would result in a decrease of public access in the area. To ensure that adverse public access impacts will be avoided during project construction, Special Condition #5 requires detailed plans identifying the location of access corridors to the construction site and staging areas. Use of sandy beach and public parking areas located outside of the actual construction site, including on-street parking, for the interim storage of materials and equipment is prohibited. The condition also includes other provisions to ensure that the project has the least impact on public access/parking areas during its construction. The Commission finds that based on the above, the proposed project is consistent with the public access and recreation policies of the Coastal Act and the Carlsbad LCP.

6. Public Views. The following policies and goals of the certified Mello II LCP address protection of public views and are applicable to the proposed development:

Policy 8-1

The Scenic Preservation Overlay Zone should be applied where necessary throughout the Carlsbad Coastal Zone to assure maintenance of existing views and panoramas. Sites considered for development should undergo individual review to determine if the proposed development will obstruct views or otherwise damage the visual beauty of the area. The Planning Commission should enforce appropriate height limitations and see-through construction, as well as minimize any alterations to topography.

In addition, Section 21.40.135 of the City's certified LCP Implementation Plan is applicable to the proposed development and states, in part:

Within the coastal zone, existing public views and panorama shall be maintained. Through the individualized review process, sites considered for development shall be conditioned so as to not obstruct or otherwise damage the visual beauty of the coastal zone. In addition to the above, height limitations and see-through construction techniques should be employed. Shoreline development shall be built in clusters to leave open areas around them to permit more frequent views of the shoreline. Vista points shall be incorporated as a part of larger projects.

Additionally, Section 21.204.100 (B & C) of the Coastal Shoreline Development Overlay Zone of the City's certified LCP is applicable and states:

- B. Appearance – Buildings and structures will be so located on the site as to create a generally attractive appearance and be agreeably related to surrounding development and the natural environment.
- C. Ocean Views – Buildings, structures, and landscaping will be so located as to preserve the degree feasible any ocean views as may be visible from the nearest public street.

The proposal includes the demolition of an existing 28-foot high, 3,344-sq. ft. three unit residential structure construction of a two-story, 28-foot high, 3,572 sq.ft. single family dwelling. The project area contains structures of similar size and scale as the proposed structure. As this section of beachfronting development is zoned multi-family, the majority of the structures are large multi-unit buildings that typically range in size from 2,500 sq.ft. to as much as 5,000 sq.ft. The proposed project is actually a decrease in the density and intensity of current development as it is proposed as a single-family dwelling. Regarding community character, the proposed development is consistent with the scale and pattern of existing single and multi-family development in the area, does not exceed the height limitations imposed within the Mello II LCP, does not exceed the building density limitations imposed by local ordinance and architecturally is in conformance with the development and design standards within the surrounding community. Therefore, the

project can be found consistent with the LCP requirement that development must be agreeably related to surrounding development and the natural environment.

Regarding the preservation of ocean views, as noted, the project is consistent with the stringline of development in the area and as such, new development will not adversely affect ocean views to and along the shoreline. The project proposes 5-foot side yard setbacks. The site plan indicates "see through" fences will be installed in the side yards to preserve public views. However, such fences could be replaced with a solid fence sometime in the future and preservation of public views is required by the certified LCP. The Commission finds that no future development should be permitted within the sideyards that would result in public views being obstructed to the ocean. Special Condition #7 requires that any future improvements to the single family house authorized by this permit, including but not limited to the replacement of see-through fences with solid materials identified as requiring a permit in Public Resources section 30610(d) and Title 14 California Code of Regulations sections 13252, shall require an amendment from the Commission.

Therefore, because the proposed project can be found consistent with the character of existing development and as conditioned to require that the Commission reviews any future development proposals that could obstruct public views to the ocean, the Commission finds the project can be found consistent with the visual resource provisions of the certified LCP.

7. Water Quality. Chapter 15.12.020 of the "Stormwater Management And Discharge Control Ordinance, of the certified Carlsbad Zoning Ordinance identifies "Best Management Practices" as follows

"Best Management Practices" or (BMPs) means schedules of activities, prohibitions of practices, general food housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce to the maximum extent practicable (MEP) the discharge of pollutants directly or indirectly into waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Chapter 15.12.010 defines the purpose and intent of the ordinance. The purpose of the chapter is to ensure the future health, safety, and general welfare of the residential, commercial and industrial sectors of the City of Carlsbad by...:

- C. Reducing pollutants in storm water discharges, including those pollutants taken up by storm water as it flows over urban areas (Urban runoff), to the maximum extent practicable
- D. Reducing pollutants in storm water discharges in order to achieve applicable water quality objectives for surface waters in San Diego County.

The intent of the ordinance is to protect and enhance the water quality of watercourses and wetlands in a manner pursuant to and consistent with the Clean Water Act and California Regional Water Control Board NPDES Permit No. CA108758, Order 90-42 and any amendment, revision or reissuance thereof.

Policy 4-6 of the Mello II LUP, "Sediment Control" Practices, provides:

Apply sediment control practices as a perimeter protection to prevent off-site drainage. Preventing sediment from leaving the site should be accomplished by such methods as diversion ditches, sediment traps, vegetative filters and sediment basins. Preventing erosion is of course the most efficient way to control sediment runoff.

In its approval, the City made findings that the project must comply with its NPDES permit by utilizing best management practices to eliminate or reduce surface pollutants when planning any changes to the landscaping and surface improvements. The certified Stormwater Ordinance requires that both the quantity and quality of runoff be addressed to maintain water quality. The City found that quantity would be addressed by collecting runoff in a proposed drainage system that uses drains, swales and an energy dissipater near the toe of the bluff. The City found that the project maintained approximately the same amount of impervious surfaces as the home proposed to be demolished, and for that reason, quality of runoff need not be addressed. The certified LCP requires that best management practices be utilized to assure the quality of the water leaving the site has been addressed to the maximum extent practicable.

As approved by the City, the project proposed drainage improvements on the bluff face. As noted, the project has been redesigned so the drainage swale and companion dissipater have been relocated from the toe of the bluff to the base of the concrete deck. In this way, no grading will be required on the bluff face to install the drainage improvements. Below the dissipater is existing ice plant on the bluff which is proposed to remain. Runoff leaving the dissipater will be filtered as it passes through the ice plant vegetation before it enters the beach portion of the site. As filtered through vegetation, water quality leaving the site should be maintained.

Special Condition #8 requires a drainage and runoff control plan which indicates that runoff from impervious surfaces will be collected and directed away from the bluff face and towards the on-site vegetation. The Commission finds that as conditioned the project minimizes adverse impacts to coastal resources in a manner consistent with the stormwater management policies of the certified LCP.

8. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's administrative regulations requires Commission approval of a coastal development permit or amendment to be supported by a finding showing the permit or permit amendment, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA

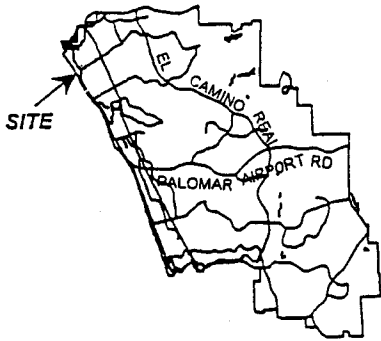
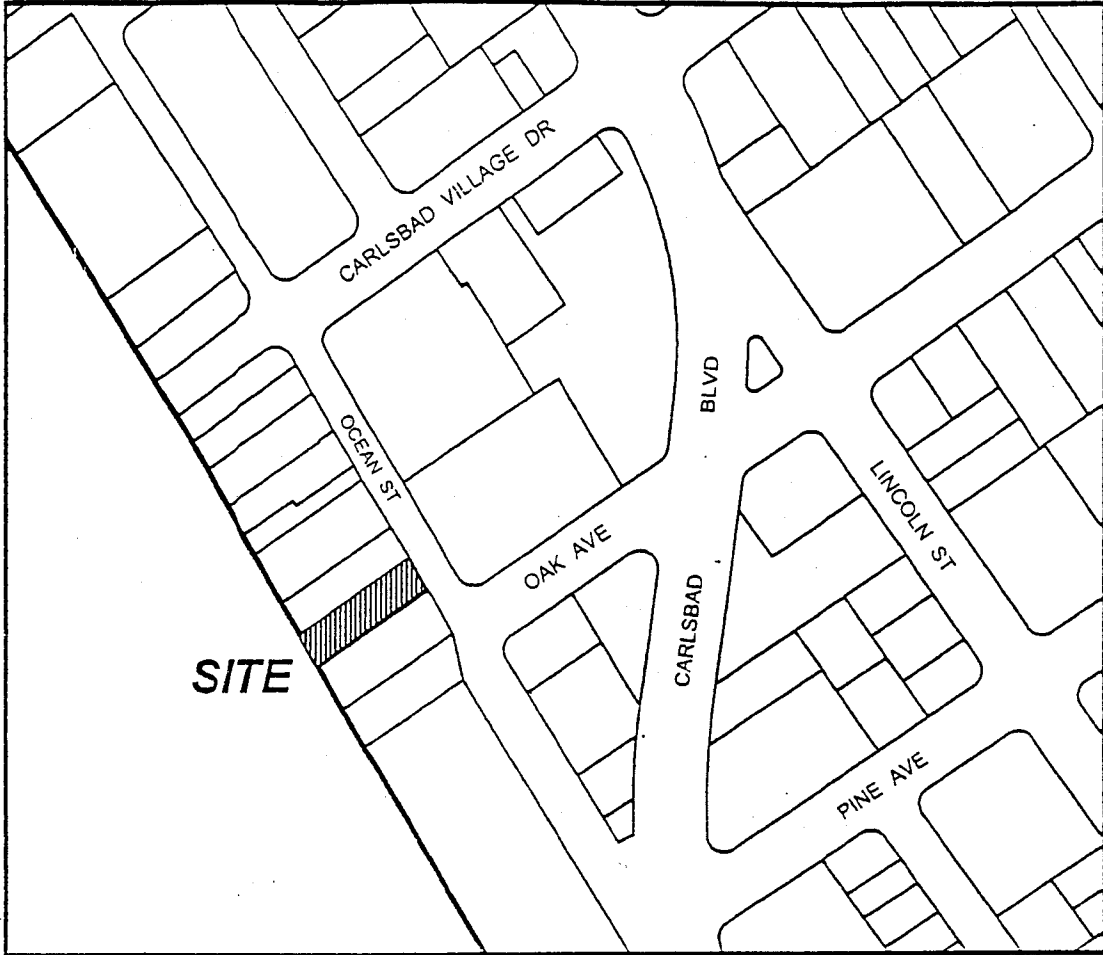


prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project, as conditioned, is consistent with the visual, public access and hazard policies of the Carlsbad LCP. Mitigation measures will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which 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.

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.

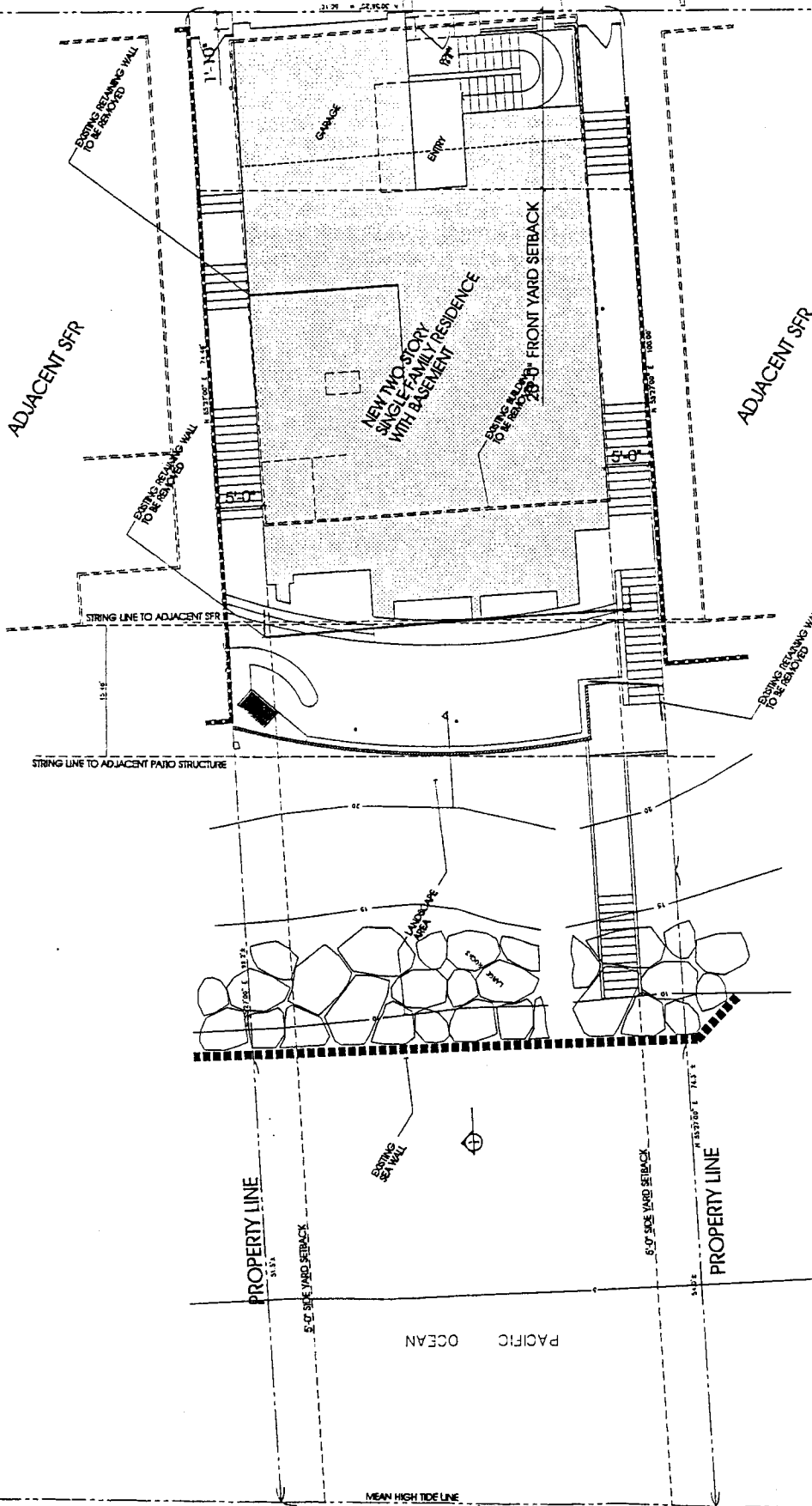


# QUIRK RESIDENCE

CDP 00-50/V 00-401

EXHIBIT NO. 1
APPLICATION NO. <b>A-6-CII-01-20</b>
Location Map
California Coastal Commission
California Coastal Commission

OCEAN STREET



SITE PLAN  
1/8"=1'-0"

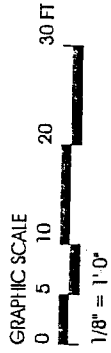
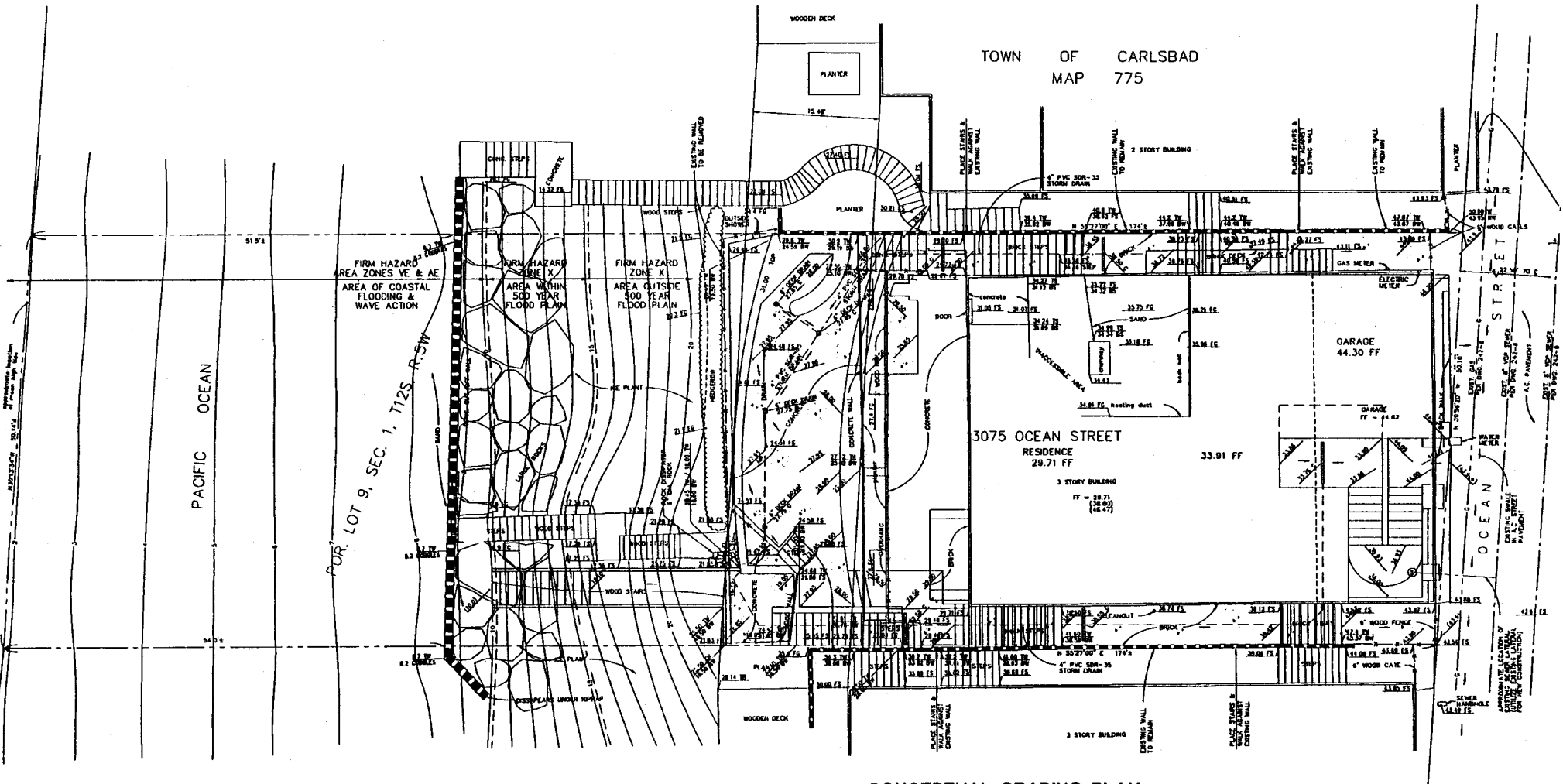


EXHIBIT NO. 2
APPLICATION NO.
<b>A-6-CII-01-20</b>
Site Plan

California Coastal Commission

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CONCEPTUAL GRADING PLAN

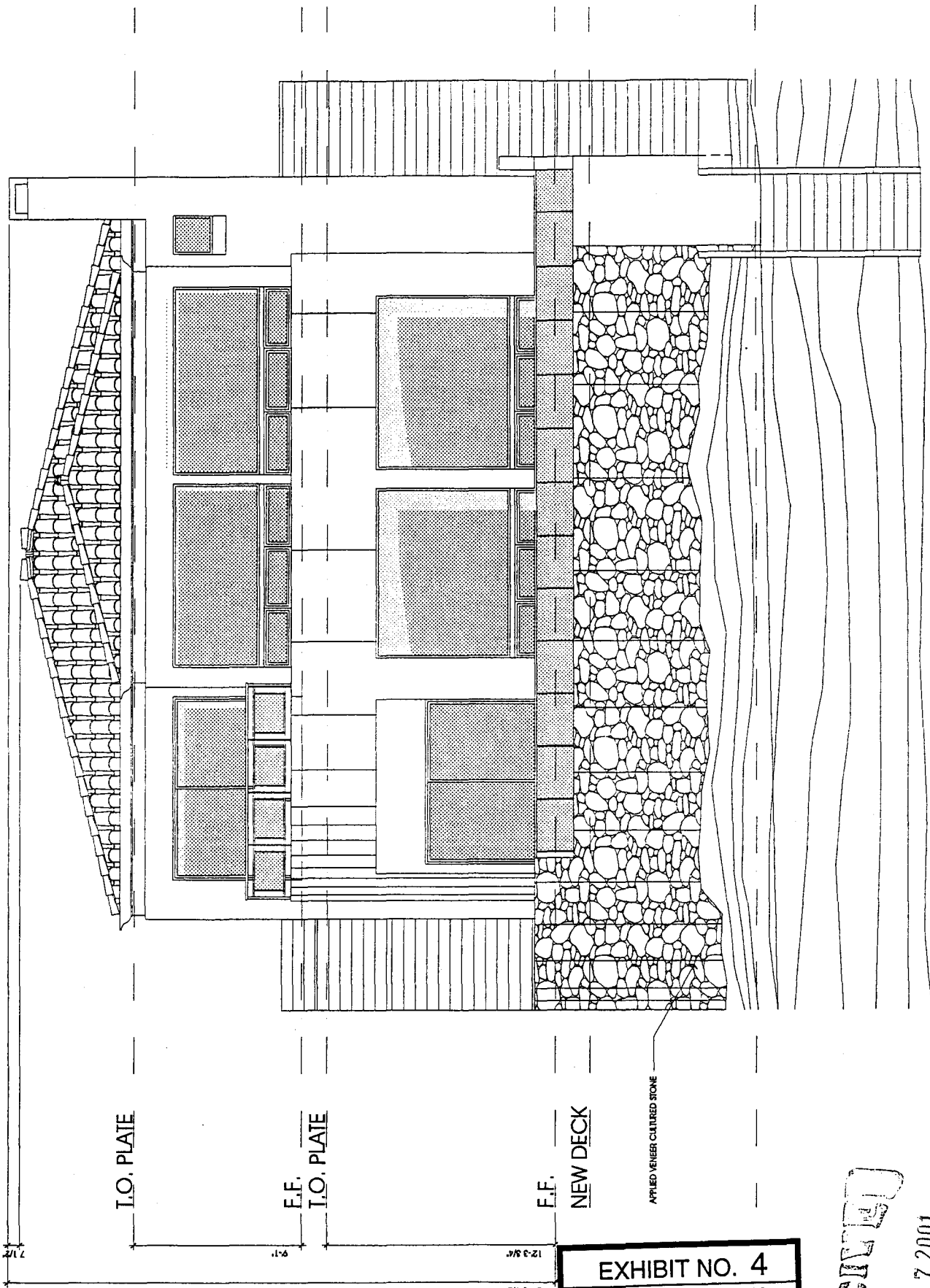
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SAN DIEGO COAST DISTRICT

<p>California Coastal Commission</p>	EXHIBIT NO. 3
	APPLICATION NO.
	A-6-CII-01-20
	Grading Plan

Page 1 of 1



I.O. PLATE

E.F.  
I.O. PLATE

E.F.  
NEW DECK

APPLIED VENEER CULTURED STONE

2'-11"

2'-11"

12'-3 3/4"

20'-5 1/2"

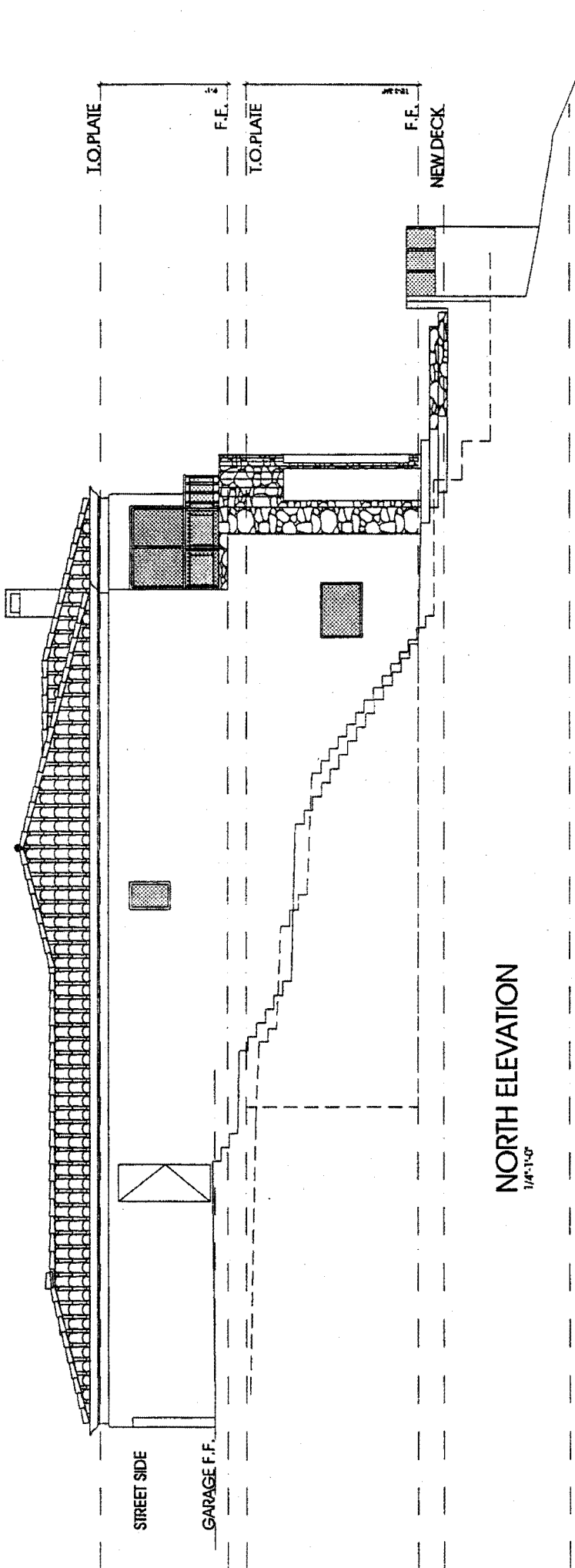
EXHIBIT NO. 4
APPLICATION NO.
<b>A-6-CII-01-20</b>
West Elevation
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WEST ELEVATION  
1/4"=1'-0"

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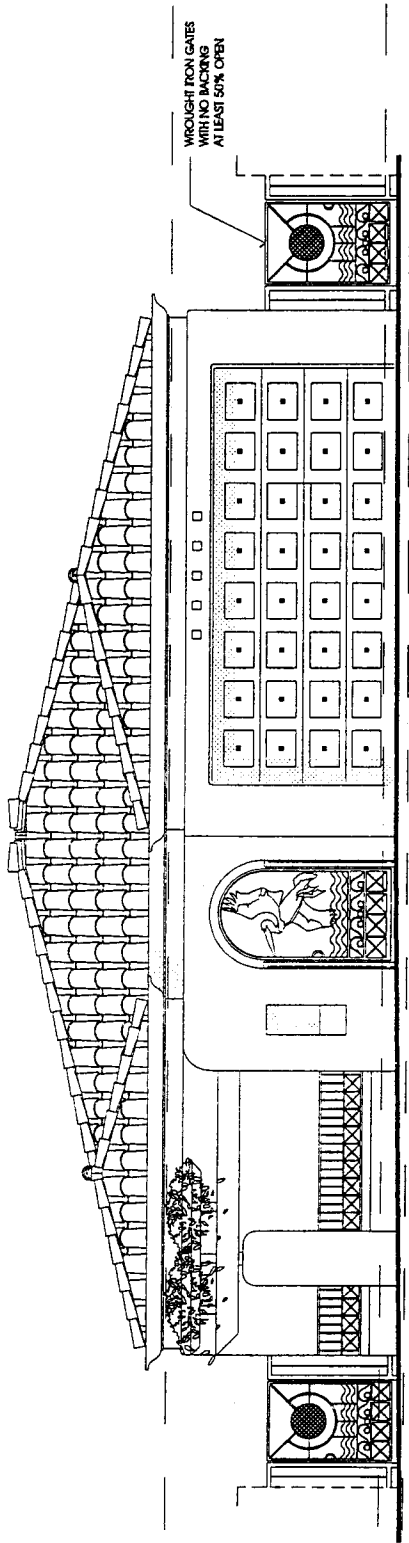
NORTH ELEVATION  
1/4"=1'-0"

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EXHIBIT NO. 5
APPLICATION NO.
<b>A-6-CII-01-20</b>
North Elevation
 California Coastal Commission



T.O. PLATE

EIN, GARAGE  
FIRST FLOOR F.F.

EAST ELEVATION

1/4"=1'-0"

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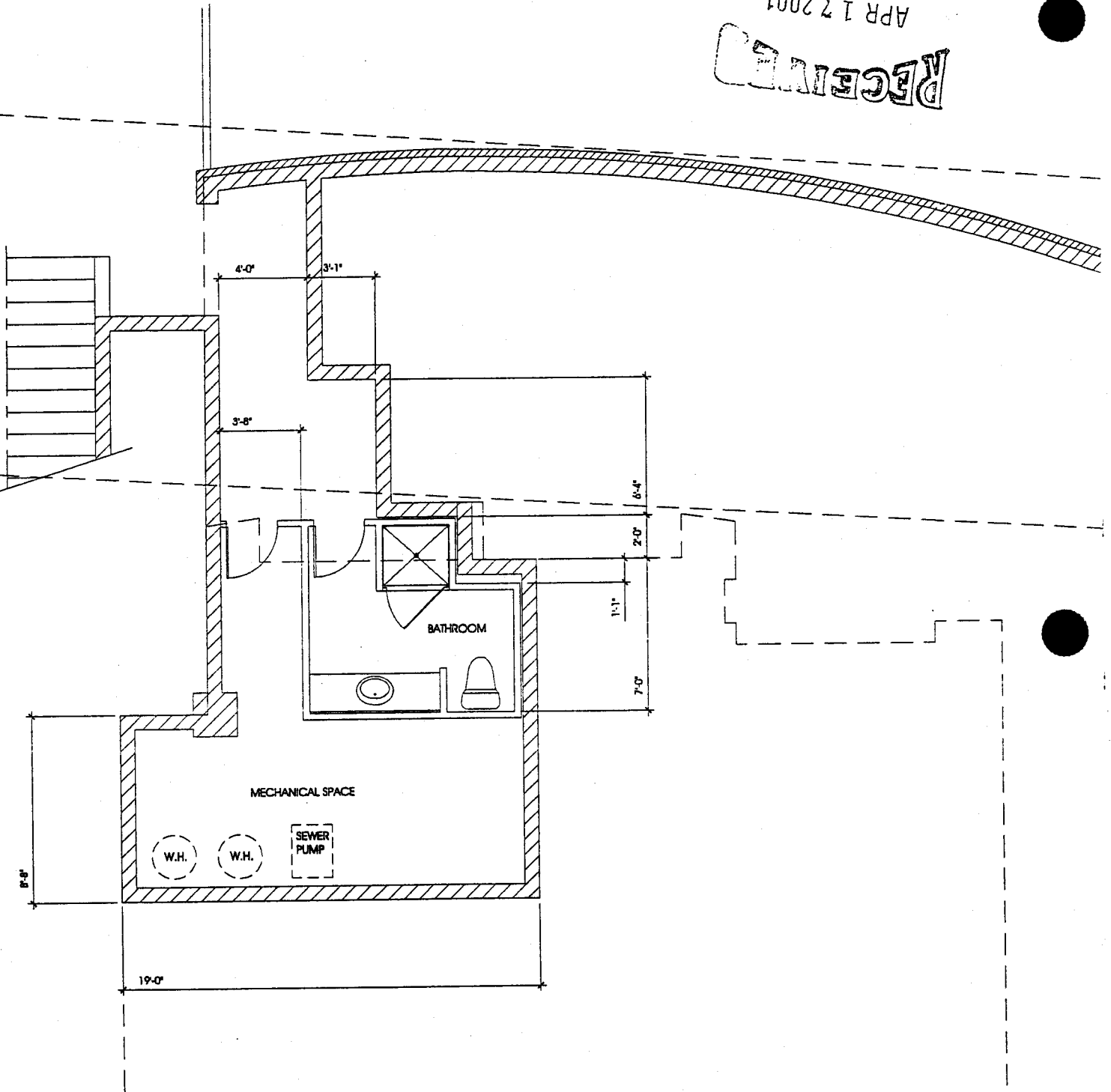
EXHIBIT NO. 6  
APPLICATION NO.  
**A-6-CII-01-20**  
East Elevation



California Coastal Commission

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# PARTIAL LOWER LEVEL

92 SF

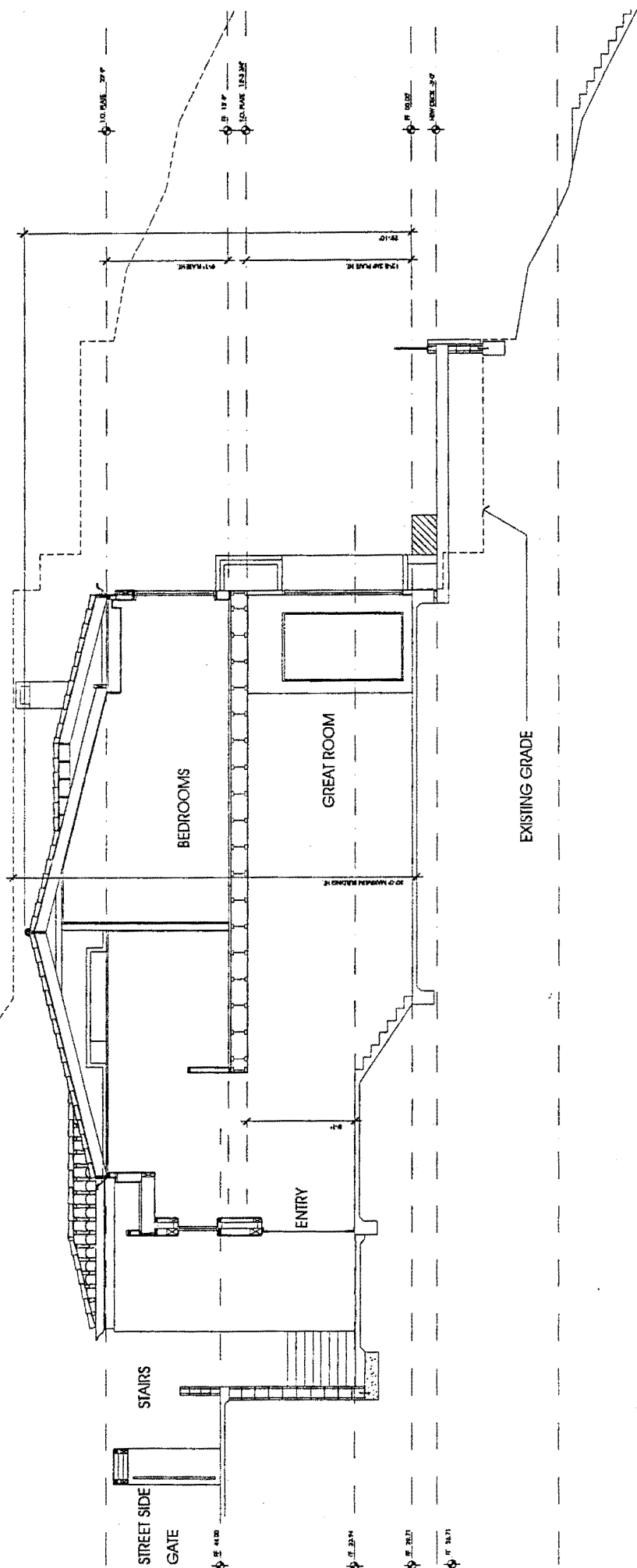
EXHIBIT NO. 7
APPLICATION NO.
<b>A-6-CII-01-20</b>
Partial Lower Level
Page 1 of 1
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**SECTIONS**  
1/4" = 1'-0"

EXHIBIT NO. 8  
APPLICATION NO.  
**A-6-CII-01-20**  
Section  
Page 1 of 1  
California Coastal Commission

