

CALIFORNIA COASTAL COMMISSION

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Hearing Date: January 7-10, 2003
Commission Action:

**FR 8c****STAFF REPORT: REGULAR CALENDAR****RECORD PACKET COPY****APPLICATION NUMBER:** 5-02-203**APPLICANTS:** Lawrence & Lana Tabak**AGENT:** Fleetwood B. Joiner**PROJECT LOCATION:** 3431 Ocean Boulevard, City of Newport Beach, County of Orange

PROJECT DESCRIPTION: Demolition of an existing three (3) story single family residence and construction of a new 6,539 square foot four (4) story single family residence with an attached 782 square foot three (3) car garage on a coastal bluff face at a maximum height of 24 feet above finished grade. Associated construction consists of retaining walls, demolition and replacement of existing wooden staircase to the beach with at grade concrete stairs and railings in a new location, pool and decks. Grading will consist of 2,995 cubic yards of cut, 30 cubic yards of fill and 2,965 cubic yards of export to an area outside of the coastal zone.

SUMMARY OF STAFF RECOMMENDATION:

The subject site is located on a coastal bluff top, which descends down the bluff face. The lot is located between the first public road and the sea in Corona Del Mar (Newport Beach) and is immediately inland of Corona Del Mar State Beach, which is a public beach. The applicants propose to demolish and construct a single family residence starting from the top of the bluff and then down the bluff face, which is immediately inland of a public beach. Associated construction includes retaining walls, elevator, demolition and replacement of existing wooden staircase to the beach with at grade concrete stairs and railings in a new location, pool, decks, BBQ and planters. The primary issues addressed in this staff report are the conformance of the proposed development with the geologic hazard, visual resources and public access policies of the Coastal Act.

The applicants previously applied for a Coastal Development Permit (CDP #5-01-191) for the project site. The proposed project was for demolition of an existing three (3) story single family residence and construction of a new 6,305 square foot five (5) story single family residence with an attached 782 square foot three (3) car garage, down a coastal bluff face to a maximum height of 24 feet above finished grade. On January 8, 2002, the Commission denied the Coastal Development Permit Application #5-01-191 (Tabak). The currently proposed project (CDP #5-02-203) has been reduced in mass and although the proposed project still encroaches seaward, as

conditioned herein, it will conform to the community character and have a less adverse impact on the existing vegetated bluff face than the originally proposed project (CDP #5-01-191).

Staff is recommending **APPROVAL** of the proposed project with eight (8) Special Conditions regarding: 1) assumption of risk; 2) no future shoreline protective device; 3) future development restriction; 4) evidence of conformance with geotechnical recommendations; 5) revised plans showing: (a) that the proposed pool does not extend seaward of the 40 foot contour line, (b) that the proposed stairway is removed from the plans, (c) to show the existing stairway and (d) to include a note stating that no work is allowed or authorized on the existing stairway as part of this Coastal Development Permit #5-02-203; 6) the submission of a revised drainage and run-off control plan; 7) the submission of a revised landscaping plan; and 8) a deed restriction against the property, referencing all of the Special Conditions contained in this Staff Report.

LOCAL APPROVALS RECEIVED: Approval in Concept (#0843-2001) 2nd Revision from the City of Newport Beach Planning Department dated June 3, 2002; Modification Permit No. 2002-049 from the City of Newport Beach Planning Department.

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permits 5-01-453 (Jackson), 5-01-199 (Butterfield), 5-01-191 (Tabak), 5-01-112 (Ensign), 5-01-080 (Palmero), and 5-00-452 (Cowan); City of Newport Beach Land Use Plan; *Summary of Geotechnical Conditions, 3431 Ocean Boulevard, Corona Del Mar, California*, prepared by Geofirm (Project No. 70934-00/ Report No. 8-2879) dated August 3, 1998; *Geotechnical Evaluation of Marine Erosion Potential, 3431 Ocean Boulevard, Corona Del Mar, California* prepared by Geofirm (Project No. 70934-01/ Report No. 01-3824) dated October 10, 2001; *Review of Coastal Commission Comments Regarding Proposed Residential Development, 3431 Ocean Boulevard, Corona Del Mar, California*, prepared by Geofirm (Project No. 70934-01/ Report No. 01-3753) dated July 12, 2001; Letter from Geofirm dated July 12, 2001; Letter from Thomas Stewart dated August 3, 2001; Letter from Jerry W. Tucker, Structural Engineer, dated July 5, 2001, Letter from ACE Civil Engineering received August 7, 2001; Letter from Randy Beard of Pure Pool, LLC dated October 10, 2001, Letter from Thomas Stewart to Staff dated June 12, 2002; *Geotechnical Review of Revised Conceptual Architectural Plans for Proposed Residence, 3431 Ocean Boulevard, Corona Del Mar, California* prepared by Geofirm (Project No. 70934-01/Report No. 02-3941) dated April 30, 2002; Letter from ACE Civil Engineering received April 30, 2002; Letter from Jerry W. Tucker, Structural Engineer, dated May 1, 2002; Letter from Randy Beard of Pure Pool, LLC dated May 10, 2002; Letter from Thomas Stewart to Staff dated July 9, 2002; Letter from Farmers Insurance Group to Lawrence Tabak dated June 26, 2002; Letter from Staff to Fleetwood Joiner dated July 19, 2002; Letter from Thomas Stewart to Staff dated August 16, 2002; and Letter to Thomas Stewart from Staff dated September 19, 2002.

LIST OF EXHIBITS

1. Vicinity Map
2. Assessor's Parcel Map
3. Assessor's Parcel Map
4. Area Picture
5. Existing Residence Site Plan
6. Existing Residence/Proposed Residence Profile Plans

7. Site Plan
8. Magnified View of Site Plan
9. Site Plan View Study
10. Grading Plan
11. Landscape Plan
12. Floor Plans
13. Elevations Plans
14. Foundation Plan

STAFF RECOMMENDATION:

Staff recommends that the Commission adopt the following motion and resolution:

MOTION:

"I move that the Commission approve Coastal Development Permit No. 5-02-203 pursuant to the staff recommendation."

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

I. APPROVAL WITH CONDITIONS

The Commission hereby **GRANTS** 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 feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. 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. ^{oJ} ³²⁾ 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 CONDTIONS

1. Assumption of Risk, Waiver of Liability and Indemnify

- A. By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from flooding and wave uprush; (ii) to assume the risks to the applicants and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

2. No Future Shoreline Protective Device

- A(1). By acceptance of this Permit, the applicants agree, on behalf of themselves and all other successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-02-203 including, but not limited to, the residence, and any future improvements, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions or other natural hazards in the future. By acceptance of this permit, the applicants hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
- A(2). By acceptance of this Permit, the applicants further agree, on behalf of themselves and all successors and assigns, that the landowner shall remove the development authorized by this permit, including the house, garage, foundations, and patio, if any government agency has ordered that the structure is not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

3. **Future Development**

- A. This permit is only for the development described in Coastal Development Permit No. 5-02-203. 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. 5-02-203. Accordingly, any future improvements to the single family house authorized by this permit, including but not limited to change in use from a permanent residential unit and 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. 5-02-203 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

4. **Conformance with Geotechnical Recommendations**

- A. All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with all recommendations contained in the geologic engineering reports: *Summary of Geotechnical Conditions, 3431 Ocean Boulevard, Corona Del Mar, California*, prepared by Geofirm (Project No. 70934-00/ Report No. 8-2879) dated August 3, 1998; *Geotechnical Evaluation of Marine Erosion Potential, 3431 Ocean Boulevard, Corona Del Mar, California* prepared by Geofirm (Project No. 70934-01/ Report No. 01-3824) dated October 10, 2001; *Review of Coastal Commission Comments Regarding Proposed Residential Development, 3431 Ocean Boulevard, Corona Del Mar, California*, prepared by Geofirm (Project No. 70934-01/ Report No. 01-3753) dated July 12, 2001; and *Geotechnical Review of Revised Conceptual Architectural Plans for Proposed Residence, 3431 Ocean Boulevard, Corona Del Mar, California* prepared by Geofirm (Project No. 70934-01/Report No. 02-3941) dated April 30, 2002.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit, for the Executive Director's review and approval, evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all the recommendations specified in the above-referenced geologic engineering reports.
- C. The permittees shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment unless the Executive Director determines that no amendment is required.

5. **Revised Project Plans**

- A. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit, for the Executive Director's review and approval, two (2) full size sets of revised project plans. The revised plans shall show: (a) that the

proposed pool does not extend seaward of the 40 foot contour line, (b) that the proposed stairway is removed from the plans, (c) to show the existing stairway and (d) to include a note stating that no work is allowed or authorized on the existing stairway as part of this Coastal Development Permit #5-02-203.

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

6. **Drainage and Runoff Control Plan**

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit, for review and approval of the Executive Director, a drainage and runoff control plan. The drainage and runoff control plan shall show that all roof drainage, including roof gutters and collection drains, and sub-drain systems for all landscape and hardscape improvements for the residence and all yard areas, shall be collected on site for discharge to the beach through the use of piping without allowing water to percolate into the ground, in a manner which minimizes the erosion of soil.
- B. The permittees shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.
- C. The applicants shall maintain the functionality of the approved drainage and runoff control plan to assure that water is collected and discharged to the beach without percolating into the ground.

7. **Landscaping Plan**

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit, for the review and approval of the Executive Director, a landscaping plan that demonstrates the following:
 - (1) All planting shall provide 90 percent coverage within 90 days and shall be repeated if necessary to provide such coverage;
 - (2) All plantings shall be maintained in good growing condition throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan;
 - (3) Landscaped areas in the rear yard area not occupied by hardscape shall be planted and maintained for erosion control and native habitat enhancement purposes. To minimize the need for irrigation and minimize encroachment of non-native plant species into adjacent existing native plant areas all landscaping shall consist of native drought resistant plants. Invasive, non-

indigenous plant species that tend to supplant native species shall not be used;

- (4) Landscaped areas in the front yard area shall consist of native drought tolerant plants. Other vegetation which is placed above-ground pots or planters or boxes may be non-invasive, non-native ornamental plants.
- (5) No permanent in-ground irrigation systems shall be installed on site. Temporary above ground irrigation is allowed to establish plantings.

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

8. Deed Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the landowners have executed and recorded against the parcel 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, Description, Local Government Approval and History

1. Project Location and Description

a. Project Location

The proposed project is located at 3431 Ocean Boulevard in Corona Del Mar, City of Newport Beach, County of Orange (Exhibits #1-4). The subject site is immediately inland of Corona Del Mar State Beach, a public beach.

The project site is located in a developed area where the overall appearance of the bluff is natural and undeveloped. The subject property cascades from the top of the bluff down the bluff face to

the toe of the bluff. The property consists of a partially graded and natural sea bluff. Upper portions of the bluff near Ocean Boulevard have been terraced with slopes and retaining walls to accommodate driveway access and the existing three story home. Lower portions of the bluff to the rear of the home appear to be in a generally natural state but are landscaped with non-native shrubs, trees and ice plant. The bluff descends moderately 50+/- feet from the rear of the existing structure with an overall slope near 1.5:1 (horizontal: vertical). Maximum relief from the front of the property to the beach below is 70 +/- feet.

The site is currently developed with a single family residence located at the top of the bluff (Exhibits #5-6). To the north, at the top of the bluff is Ocean Boulevard. To the northwest are existing residential developments. To the southeast are a natural vegetated bluff, a bluff park known as Inspiration Point and a public access way from Inspiration Point to the beach (Corona Del Mar State Beach) consisting of a concrete pathway, retaining wall and a grouted rock revetment. To the southwest of the project site is sandy beach, further southwest is the Breakers Drive street end and even further southwest is the Corona Del Mar State Beach Parking Lot. To the south, at the toe of the slope is existing vegetation, and south of the project site property line is the public access way from Inspiration Point to the beach consisting of a concrete pathway, retaining wall and a grouted rock revetment and a +/- 40 foot wide sandy public beach. The bluff face below the residence remains relatively undisturbed and vegetated, with exception of an existing wooden stairway located along the southeastern property line. The pattern of development along this segment of Ocean Boulevard primarily consists of structural development sited at the top of the bluff with minimal disturbance of the bluff face (i.e. stairways only) below the residences down to the toe of the bluff.

b. Project Description

The proposed project will consist of demolition of an existing three (3) story single family residence and construction of a new 6,539 square foot four (4) story single family residence with an attached 782 square foot three (3) car garage, on a coastal bluff face at a maximum height of 24 feet above finished grade (Exhibits #6-14). The roof height of the proposed project will not exceed the top of curb of Ocean Boulevard as required by the City of Newport Beach Municipal Code. Associated construction consists of retaining walls, elevator, pool, 5 to 7 foot high pool wall, walls, gates, fireplace, decks, BBQ and planters (Exhibits #6-14).

Grading will consist of 2,995 cubic yards of cut, 30 cubic yards of fill and 2,965 cubic yards of export to an area outside of the coastal zone. This will be accomplished by grading the face of the bluff and the area below the existing structure.

A caisson and grade beam foundation system will support the proposed residence.

The proposed project also includes the demolition and replacement of an existing wooden staircase to the beach with at grade concrete stairs and railings in a new location, along the northeastern side yard property line. Commission staff is currently evaluating whether the existing stairway is pre-coastal or not. Currently, no repair or maintenance of the existing stairway is proposed. However, demolition and replacement of an existing wooden staircase in a new location is being proposed.

When information that concludes that the existing stairway is either pre-coastal or not, then the Commission would then be able to act on any future requests to repair and/or maintain this stairway. If found to be pre-coastal, the stairway could be repaired and maintained, such as

replacement of planks or new paint, etc, in accordance with Section 30610 (d) of the Coastal Act. If the stairway is determined not to be pre-coastal, then enforcement action would be recommended to remove the existing stairway. Therefore, the Commission imposes a Special Condition to have the applicants remove any reference to the proposed new stairway from the current project plans. Special Condition No. 5 requires the applicants to submit revised plans that show: (1) that the proposed stairway is removed from the plans, (2) to show the existing stairway and (3) to include a note stating that no work is allowed or authorized on the existing stairway as part of this Coastal Development Permit #5-02-203.

2. Local Government Approval

Modification Permit

The proposed development conforms with the applicable standards for development in the R-1 District, except for encroachments into the front yard setback area. The City of Newport Beach approved this exception through a Modification Permit, which allows the basement, two living levels below grade and the third entry level to encroach 5 feet into the required 10 foot front yard setback.

3. Prior Commission Action at the Subject Site

On January 8, 2002, the Commission denied Coastal Development Permit Application #5-01-191 (Tabak). The proposed project was for demolition of an existing three (3) story single family residence and construction of a new 6,305 square foot five (5) story single family residence with an attached 782 square foot three (3) car garage, down a coastal bluff to a maximum height of 24 feet above finished grade. Additional construction would have consisted of retaining walls, elevator, new concrete steps to the beach, spa and pool, kayak storage, shower, trash enclosure, waterfalls, decks, BBQ, tree wells, planters, an aqueduct, and a loggia. Grading would have consisted of 2,395 cubic yards of cut, 23 cubic yards of fill and 2,372 cubic yards of export. A caisson and grade beam foundation system would have supported the proposed structure.

The proposed project was primarily inconsistent with Sections 30240, 30251 and 30253 of the Coastal Act and the City of Newport Beach Land Use Plan (LUP) regarding coastal bluff sites. The pattern of development along this segment of Ocean Boulevard is such that structures are sited at the top of the coastal bluff, while the bluff face below the house remains largely undisturbed and vegetated. Although several lots have stairways traversing the bluff face and some have unpermitted development at the toe of the bluff, the overall appearance of the bluff in this area is natural and undeveloped. Additionally, the toe of the bluff is immediately inland of Corona Del Mar State Beach, which is a public beach. The project site is consequently highly visible from the public beach. In addition, the proposed development was inconsistent with Sections 30240, 30251 and 30253 in that the proposed development constituted new development seaward of the existing line of development, altered a largely undeveloped vegetated coastal bluff through grading, utilized retaining walls and caissons to support the proposed development, and would have had an adverse impact on public use of a public beach.

Furthermore, alternatives to the proposed project existed. For example, the existing house could have been remodeled or the existing home could be demolished and rebuilt consistent with the community character, where development is located at the top of the bluff, while the bluff face remains largely undisturbed and vegetated. Such alternatives would be consistent with the existing pattern of development, would preserve the integrity of the coastal bluff and would avoid

the seaward encroachment of development. In denying the proposed development, the Commission found that the proposed project would have adverse impacts on the naturally appearing landform and a cumulative adverse impact on visual and public access coastal resources.

The currently proposed project (CDP #5-02-203) has been reduced in mass and although the proposed project still encroaches seaward, as conditioned herein, it will conform to the community character and have a less adverse impact on the existing vegetated bluff face than the originally proposed project (CDP #5-01-191).

4. Prior Commission Action in Subject Area

a. 5-01-174 (Leonard), 3124 Ocean Boulevard

At the July 2002 Commission Hearing, the Commission approved Coastal Development Permit #5-01-174 for the demolition of an existing duplex and construction of a new duplex. The project is located approximately 872 feet northwest of the project site. The primary issues of the proposed project were the appropriateness of approving the project given landform alteration, the importance of preserving scenic resources and community character. As submitted, the proposed project raised issues with Sections 30251 and 30253 of the Coastal Act and the City of Newport Beach Land Use Plan (LUP) regarding development on coastal bluffs; however, the Commission found that the specific location of the proposed development was in an area where bluff face development already exists and has been allowed by the Commission, even though development on bluff faces more generally is not routinely approved by the Commission because it raises concerns with Section 30251 and Section 30253 of the Coastal Act.

b. 5-01-112 (Ensign), 3415 Ocean Boulevard

At the February 2002 Commission Hearing, the Commission approved Coastal Development Permit #5-02-112 for the after-the-fact approval of a new switchback bluff face stairway with keystone-type earth retention blocks, landscaping and in-ground irrigation. The project is located two lots northwest of the subject site. The primary issues before the Commission were the appropriateness of approving the project given landform alteration, the importance of preserving scenic resources, community character and impacts to public access. As submitted, the proposed project raised issues with Sections 30240, 30251 and 30253 of the Coastal Act and the City of Newport Beach Land Use Plan (LUP) regarding development on coastal bluffs. The Commission found that the proposed (and existing) walkway, as conditioned, does not present an adverse visual impact because it follows the natural topography of the bluff, was effectively screened with vegetation and was consistent with the character of the surrounding area.

c. 5-01-080 (Palmero), 3317 Ocean Boulevard

At the January 2002 Commission Hearing, the Commission denied Coastal Development Permit #5-01-080 (Palmer) for the construction of a pool house, pool, spa and exercise room on a lower portion of the bluff face down to the toe of the bluff. The project is located six lots northwest of the subject site. The primary issues of the proposed project were the appropriateness of approving the project given landform alteration, the importance of preserving scenic resources, the seaward encroachment of the development, the community character, and impacts to public access. In denying the proposed development, the Commission found that the project, as submitted, was

primarily inconsistent with the Sections 30240, 30251 and 30253 of the Coastal Act and the City of Newport Beach Land Use Plan (LUP) regarding coastal bluff sites.

d. 5-01-199 (Butterfield), 3401 Ocean Boulevard

At the December 2001 Commission Hearing, the Commission approved in part and denied in part Coastal Development Permit #5-01-199 (Butterfield) for the after-the-fact approval of a new "sand pit" cut-out at the toe of the bluff, consisting of three (3) 32" high, 15' long retaining walls enclosed by a rope attached to four wooden posts in the sand, and replacement of a decorative gate and lattice panels on the existing bluff face stairway. The project is located three lots northwest of the subject site. The Commission denied the toe of slope cut-out and approved the portion of the lattice work and gate located on a previously approved landing area. The Commission found that the gate replacement and lattice enclosures on the previously permitted landing areas to be consistent with the scenic and visual resources policies of the Coastal Act, as they will not obstruct views to or along the shoreline and are in keeping with the pattern of development in the area and therefore is consistent with Section 30251 of the Coastal Act. However, the Commission found that the proposed sand pit cut-out would not minimize alteration natural landforms, was not visually compatible with the character of surrounding development and would affect the scenic and visual qualities of the subject area. As such, the portion of the proposed project involving the establishment of a sand pit cut-out area was inconsistent with Section 30251 of the Coastal Act.

e. 5-00-452 (Cowan), 3030 & 3030 ½ Ocean Boulevard

At the May 2001 Commission Hearing, the Commission approved Coastal Development Permit 5-00-452 (Cowan) for the construction of a residential development stepped up into the bluff at 3030 & 3030 ½ Breakers Drive. The project is located approximately 1,172 feet northwest of the subject site. The project site is well setback from the ocean by a public sandy beach, an approximately 200 foot wide parking lot for Corona Del Mar State Beach, vegetation, a wall, and Breakers Drive. The primary issue addressed by the staff report was consistence with the geologic hazard policies of the Coastal Act. The Commission found that the specific location of the proposed development is in a limited area where bluff face development already exists and has been allowed by the Commission, but development on the bluff face is not routinely approved by the Commission because it raises concerns with Section 30251 and Section 30253 of the Coastal Act. In addition, the Commission concluded that the project would not have a cumulative adverse impact.

B. Future Consideration of Proposed Stairway

The proposed project also includes the demolition and replacement of an existing wooden staircase to the beach with at grade concrete stairs and railings in a new location, along the northern property line (Exhibits #6-14). The applicants state that the existing stairway on site at the rear of the property is approximately 50 years old. The applicants further state that the stairway needs to be replaced for safety and visual reasons.

Commission staff is currently evaluating whether the existing stairway is pre-coastal or not. Staff searched for aerials for the subject site dated 1972, but at this time such aerials could not be found. Furthermore, a search of the Commission records does not show a Coastal Development Permit for the stairs. Aerials from 1986 were found that showed that there was some sort of stairway or walkway on the site leading to the beach. However, the existing configuration of the stairway does not appear to match the configuration seen in the 1986 aerials.

Currently, no repair or maintenance of the existing stairway is proposed. However, demolition and replacement of an existing wooden staircase in a new location is being proposed.

When information that concludes whether the existing stairway is either pre-coastal or not, then the Commission would then be able to act on any future requests to repair and/or maintain this stairway. If found to be pre-coastal, the stairway could be repaired and maintained, such as replacement of planks or new paint, etc, in accordance with Section 30610 (d) of the Coastal Act. If the stairway is determined not to be pre-coastal, then enforcement action would be recommended to remove the existing stairway. No permit on record has been found for the existing stairway. Additionally, the applicants have not proposed or submitted an application to repair and maintain the existing stairway.

In the event that the existing stairway is determined to be pre-coastal, then the stairway would be allowed. However, the applicants are proposing to demolish the stairway and build a new stairway. This would qualify as new development, not as repair and maintenance. As new development the proposed stairs would be inconsistent with Sections 30253, 30251 and 30240 of the Coastal Act in that the proposed development may result in erosion, result in the alteration of natural landforms and will have an adverse impact on public use of a public beach. The Commission therefore requires that the new stairway be removed from the project plans and imposes Special Condition No. 5.

Therefore, the Commission imposes a Special Condition to have the applicants remove any reference to the proposed new stairway from the current project plans. Special Condition No. 5 requires the applicants to submit revised plans that show (1) that the proposed stairway is removed from the plans, (2) to show the existing stairway and (3) to include a note stating that no work is allowed or authorized on the existing stairway as part of this Coastal Development Permit #5-02-203.

C. Geological Hazard

Section 30253 of the Coastal Act states, in relevant part:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

The findings in this section of the staff report include generalized findings regarding the susceptibility of coastal bluffs to erosion and site-specific findings from the geological report.

1. General Findings on Bluff Erosion

The proposed development is located on a coastal bluff and bluff face, which is subject to wave attack and erosion (Exhibits #1-4). Coastal bluffs in California are located at the intersection of land and ocean, are composed of relatively recent uplifted geologic materials and are exposed to severe weathering forces. Development on a coastal bluff and bluff face is inherently risky due to the potential for bluff failure. Bluff development poses potential adverse impacts to the geologic stability of bluffs and the stability of residential structures.

Coastal bluff erosion is caused by a combination of inherent environmental factors and erosion caused by man. Environmental factors include gravity, seismicity, wave attack, wetting and drying of bluff face soils, wind erosion, salt spray erosion, rodent burrowing and piping, percolation of rain water, poorly structured bedding, surface water runoff and poorly consolidated soils.

Factors attributed to man include: improper irrigation practices; building too close to the bluff edge; improper site drainage; use of impermeable surfaces which concentrate runoff; use of water-dependent vegetation; pedestrian or vehicular movement across the bluff top, face and toe, and breaks in irrigation lines, water or sewer lines. In addition to irrigation water or runoff at the bluff top, increased residential development inland leads to increased water percolating beneath the surface soils and potentially outletting on the bluff face along fracture lines in the bluff or points of contact of different geologic formations, forming a potential slide plane.

2. Site Specific Bluff Information

a. Bluff Erosion and Slope Stability

Development on a coastal bluff face is inherently risky due to the potential for bluff failure. To address bluff erosion and slope stability, the *Summary of Geotechnical Conditions, 3431 Ocean Boulevard, Corona Del Mar, California*, prepared by Geofirm (Project No. 70934-00/ Report No. 8-2879) August 3, 2001 states: "*The lower sea bluff is backed by competent bedrock materials which are mantled with a thick slope wash. Historically the mode of sea cliff erosion and bluff retreat is piecemeal block toppling largely controlled by joints in the bedrock and episodically slumping of the marine terrace deposits in the upper bluff. These erosional processes were typically initiated by episodic wave erosion at the base of the sea cliff. However, since construction of the Newport Harbor jetties the beach and lower sea cliff are protected from westerly storm surf and swells and significant erosion of the toe of the sea bluff is considered unlikely. The upper bluff has been terraced and fattened with development and is no longer subject to significant instability.*" Consequently, the *Summary of Geotechnical Conditions* concludes: "*No geotechnical conditions are manifest which would prevent residential development.*"

Although the coastal sea bluff is considered to be no longer subject to significant instability, the *Summary of Geotechnical Conditions* states: "*Minor sloughing of the slopewash is possible but it is not anticipated to be a significant factor and should not adversely affect proposed site improvements with appropriate foundation design. The slopewash is also subject to long-term creep which can also be mitigated with foundation design.*" The site is eroding and the rate of erosion can be accelerated by heavy rainfall, storm surges, and poor landscaping, irrigation and maintenance practices. The *Summary of Geotechnical Conditions* determined that no additional measures for mitigation of erosion are recommended provided that the existing slope protection and proper landscaping are maintained. The *Summary of Geotechnical Conditions, 3431 Ocean Boulevard, Corona Del Mar, California*, prepared by Geofirm (Project No. 70934-00/ Report No. 8-

2879) August 3, 2001 was completed for the originally designed project (CDP #5-0-191) that was denied by the Commission at the January 2002 Hearing. The proposed project has been revised and a new updated geotechnical investigation entitled: *Geotechnical Review of Revised Conceptual Architectural Plans for Proposed Residence, 3431 Ocean Boulevard, Corona Del Mar, California* prepared by Geofirm (Project No. 70934-01/Report No. 02-3941) dated April 30, 2002 was completed. This updated geotechnical investigation repeats the conclusion that no additional mitigation measures are needed for mitigation of erosion: "*A shoreline protective device or bluff retention system will not be required during the life span of the proposed residence.*"

Along the urbanized seacliffs of southern California, geologic instability has been increased through the addition of large volumes of irrigation water required to maintain lawns and non-native vegetation in the yards of cliff top homes. In approving development on a coastal bluff the Commission must condition the development to minimize potential erosion or, as it is stated in Section 30253 "*...to neither create nor contribute significantly to erosion...*".

The role of water/percolation in association with water-dependent vegetation is documented in this staff report. The Commission has also acted on many coastal development permits in which an applicant has applied for bluff protective measures following the failure of irrigation lines, water or sewer lines which then cause slope failure (the applicants have stated that drip irrigation will be used to maintain new trees only). It is extremely difficult to discover breaks in in-ground irrigation lines until after a certain period of time passes and plants start to die. By then the slope may have become saturated. It is also difficult to assess the longterm damage caused by the accumulation of water on bluff top soils due to watering of lawns and other water intensive vegetation. It is estimated that watering a lawn on a regular basis is the equivalent of 60 inches of rainfall a year. This irrigation has led to a slow, steady rise in the water table that has progressively weakened cliff material and lubricated joint and fracture surfaces in the rock along which slides and block falls are initiated. The average rainfall in southern California is 12 to 20 inches per. In addition to these effects, surface runoff discharged through culverts at the top or along the face of the bluffs leads to gulying or failure of weakened surficial materials. Also, although the consulting geologists routinely make recommendations concerning landscaping and site drainage, geologists do not review landscaping plans. In this respect the Commission fills an important role in minimizing landsliding and erosion.

The project site is already developed with an existing single-family residence and the existing site drainage is by sheetflow down the bluff face. In regards to the drainage and run-off for the proposed project, the project floor plans (Exhibit #12) include a note stating that: "*Roof drains for all terraces will be provided within the building perimeter. All downspouts will connect to a manifold and drained to the beach to minimize erosion of soil.*" The project plans show location of roof and deck drains and note that they will be connected to the manifold and drain line. However, the location of the drain line and manifold were not shown on the project plans. To ensure that drainage does not increase the potential for site erosion, the Commission is imposing a Special Condition, which requires the applicants to submit a revised drainage and runoff control plan for the review and approval of the Executive Director.

The applicants have submitted a landscaping plan (Exhibit #11) detailing what the landscaping improvements involve. Currently, upper portions of the bluff have been terraced with slopes and retaining walls to accommodate driveway access and the existing three story home, while lower portions of the bluff appear to be in a generally natural state but are landscaped with non-native shrubs, trees and ice plant. The submitted landscaping does not specifically identify what vegetation will be used. It instead states that the "*Native Vegetation from Allowed Plant List*" will

be used. The Commission does not have nor do the applicants provide a "Native Vegetation Allowed Plant List." To address this deficit in information, the applicants need to specifically identify plants to be used and then Staff will evaluate the submitted material. Use of non-native vegetation that is invasive can have an adverse impact on the existence of native vegetation. To minimize any effect on any native vegetation in the area, native drought tolerant vegetation, which would not supplant native species, should be used. Therefore, the Commission imposes a Special Condition, which requires the applicants to submit a revised landscaping plan, which specifically lists the native drought tolerant non-invasive plants that are to be used.

Due to the fragile nature of coastal bluffs and their susceptibility to erosion, the Commission requires Special Conditions regarding submittal of a drainage and runoff-control plan and a revised landscaping/planting plan for the review and approval of the Executive Director. To minimize any effect on any native vegetation in the area, native drought tolerant vegetation, which would not supplant native species, should be used. A further discussion of these two Special Conditions can be found later in this staff report on page 23.

b. Geotechnical Issues

Development on coastal bluff faces is potentially hazardous due to the potential for slope failure. To address site-specific geotechnical issues, the applicants have submitted a *Summary of Geotechnical Conditions, 3431 Ocean Boulevard, Corona Del Mar, California*, prepared by Geofirm (Project No. 70934-00/ Report No. 8-2879) August 3, 2001. The primary objectives of the geotechnical investigation were: "...to assess the existing geologic setting and characteristics of the site and to evaluate geotechnical conditions relevant to proposed development of the property." The findings of the *Summary of Geotechnical Conditions* are based on: site reconnaissance, excavation and logging of four exploratory trenches, geologic mapping and reconnaissance of sea cliff bedrock exposures on the site and on adjacent properties, interpretation of stereoscopic pairs of aerial photographs, review of published regional maps and literature, and review of previous reports by this office pertaining to nearby properties.

The *Summary of Geotechnical Conditions* states that the property is situated at the seaward boundary of a regionally extensive marine terrace, which lies at the coastal margin of the San Joaquin Hills. Marine and subaerial erosion of this terrace during geologic time has created the sea bluff, which forms the property. The site is underlain locally at the surface and at depth by bedrock strata of the Monterey Formation, which is overlain along the upper bluff by marine terrace deposits. Slopewash derived from terrace deposits mantles the bluff face. Uncertified fill occurs at scattered locations across the property.

Although the *Summary of Geotechnical Conditions* states that the proposed project is feasible from an engineering perspective, the report discussed some major concerns of the proposed project. These concerns deal with the state of fill, slopewash, marine terrace deposits and the bluff.

In regards to the state of fill, slope wash and marine terrace deposits, the *Summary of Geotechnical Conditions* states that: "Marine terrace deposits have low cohesion and are prone to caving in steep sided excavations. Shoring of excavations should be anticipated where high cuts are required for the proposed new construction." Also, the *Summary of Geotechnical Conditions* states that: "Fill and slopewash which underlie portions of the lot are considered unsuitable for structural support, but may be recompacted to produce an acceptable engineered fill." In addition, the *Summary of Geotechnical Conditions* states that: "The site is not likely to be affected by gross

instability. Surficial instability of the bluff slope in the form of shallow slumping and soil creep is possible but can be mitigated with foundation design."

Although the *Summary of Geotechnical Conditions* stated that the state of fill, slopewash, marine terrace deposits and bluff were major concerns with the proposed project, the *Summary of Geotechnical Conditions* still concluded that the construction of the proposed residence is feasible from the engineering perspective provided the applicants comply with the recommendations contained in the report. Recommendations include conventional foundations in conjunction with caissons, grade beams and structural slabs in near slope areas and shoring should be anticipated where significant excavation into slope is required. As stated previously, the proposed project will utilize retaining walls and caissons.

Additionally, the consultant states that there are no known active faults or projections of active faults transecting the site and indicates that no groundwater was observed on site.

The submitted *Summary of Geotechnical Conditions* was only a summary of the geotechnical conditions of the site. The submitted *Summary of Geotechnical Conditions* did not elaborate on the details regarding such items as site drainage, site preparation and structural design of foundation for the proposed project. In response to these missing discussions, the applicants' agent states: *"The recommended supplemental field exploration and testing will be accomplished in the appropriate phase of the project."* In addition, the applicants submitted a letter from the Engineering Geologist regarding the validity of the *Geotechnical Investigation* and also addressing the geotechnical feasibility of the project. The letter dated July 5, 2001 states: *"The shallow slumping and soil creep will be mitigated by the use of caissons, structural concrete slabs and grade beams. The caisson will be set back from the slope and will be designed for creep loads to provide stability for the new structure. ... A shoring design will be developed to protect the adjacent properties with a proper monitoring system. ... The overall structural design will follow the final recommendations of the soils engineer to provide very conservative structurally sound foundations to protect both the new structure and over stability of the bluff."*

When the original Coastal Development Permit Application #5-01-191 was submitted for the previous project, it was determined that the original *Summary of Geotechnical Conditions* was three years old then (currently it is now four years old). Therefore, an updated investigation was requested during the permit application process for Coastal Development Permit Application #5-01-191. This updated investigation is now also being used in review of the current Coastal Development Permit Application #5-02-203 for the project site and it assures that the geologic conditions have not undergone any changes. A *Review of Coastal Commission Comments Regarding Proposed Residential Development, 3431 Ocean Boulevard, Corona Del Mar, California, Coastal Development Permit Application 5-01-191* dated July 12, 2001 prepared by Geofirm (Project No. 70934/ Report No. 01-3753) states: *"The site is essentially unchanged since the date of our previous site exploration and report and our conclusions remain unchanged. ... Proposed development, as depicted on the architectural drawings, is considered geotechnically feasible. ... A shoreline protective device or bluff retention system will not be required during the life span of the proposed residence, assuming appropriate foundation design. ... Proposed development will not adversely impact adjacent properties, bluff slopes or the beach, providing appropriate engineering design and care during construction. ... Supplemental field exploration is recommended to include soil borings and laboratory testing of earth materials."*

The original *Summary of Geotechnical Investigation, Geotechnical Evaluation of Marine Erosion Potential and Review of Coastal Commission Comments Regarding Proposed Residential*

Development were done for the originally designed project that was denied a Coastal Development Permit at the January 2002 Coastal Commission Hearing. The applicants have since submitted an updated *Geotechnical Investigation (Geotechnical Review of Revised Conceptual Architectural Plans for Proposed Residence, 3431 Ocean Boulevard, Corona Del Mar, California* prepared by Geofirm (Project No. 70934-01/Report No. 02-3941) dated April 30, 2002) that has reviewed and evaluated the new revised project. This *Geotechnical Investigation* states: "The revised plans indicate the proposed residence has been relocated toward the front of the property, with the rear of the residence positioned 67+/- feet seaward of the front property boundary versus 90+/- feet as was previously proposed. The lowest floor level has been elevated to 40.5+/- feet from the previously proposed 23.5 feet. Extensive exterior improvements along rear portions of the property, near the base of the sea bluff, have been scaled back to consist of a smaller pool and terrace positioned midslope. The proposed residence will be constructed into the bluff face with proposed excavations to 35 +/- feet high." The *Geotechnical Investigation* concludes the following: "The site is essentially unchanged since the date of our previous site investigations and reports and our conclusions remain unchanged. The referenced reports/letters remain valid for preliminary design planning purposes."

Furthermore, an updated letter dated May 1, 2002 from the Engineering geologist which addresses the geotechnical feasibility of the project when compared to the prior project states: "The comments and recommendations made in the July 5, 2001 letter still remain valid with the following additional comments: 1) It will be less difficult to meet the structural requirements for the revised design. The retaining walls, shoring, and foundations can be constructed with far less difficulty 2) The construction of the residence will not be affected by possible marine erosion and therefore will be less difficult to build."

In addition, a letter from Randy Beard of Pure Pool, LLC dated May 10, 2002 states that a double wall with a monitoring device will be constructed around the pool to alleviate any possible leakage damage to the bluff area.

In order to mitigate the impacts of the proposed development on bluff erosion and instability, and prevent the necessity for bluff protective structures, as required by Section 30253 of the Coastal Act, eight (8) Special Conditions are being imposed: 1) assumption of risk; 2) no future shoreline protective device; 3) future development restriction; 4) evidence of conformance with geotechnical recommendations; 5) revised plans showing: (a) that the proposed pool does not extend seaward of the 40 foot contour line, (b) that the proposed stairway is removed from the plans, (c) to show the existing stairway and (d) to include a note stating that no work is allowed or authorized on the existing stairway as part of this Coastal Development Permit #5-02-203; 6) the submission of a revised drainage and run-off control plan; 7) the submission of a revised landscaping plan; and 8) a deed restriction against the property, referencing all of the Special Conditions contained in this Staff Report. These Special Conditions are more thoroughly discussed beginning on page 20 of this staff report.

3. Wave Uprush and Flooding Hazards

The subject site is located on a beachfront parcel in Corona Del Mar. Presently, at the toe of the bluff is existing vegetation, and south of the project site property line is the public access way from Inspiration Point to the beach consisting of a concrete pathway, retaining wall and a grouted rock revetment and a sandy beach between the subject development and the ocean. According to the *Geotechnical Evaluation of Marine Erosion Potential* prepared by Geofirm (Project No. 70934-01/Report No. 01-3824) dated October 10, 2001, the sandy beach located in front of the proposed

project is presently +/- 40 feet wide. The bluff contour and beach form a tight northwesterly facing crescent where the beach and bluff converge at Inspiration Point. The subject property is located at the northwesterly limb of this crescent. The shoreline fronting the site is located just to the east of the east jetty at the entrance to Newport Bay. The south jetty at the entrance of the bay acts to hold the beach in place, while the pair of jetties shelters the area from wave energy from the north and the west

To further analyze the suitability of the site for the proposed development relative to potential wave hazards, Commission staff requested the preparation of a wave run-up, flooding, and erosion hazard analysis, prepared by an appropriately licensed professional (e.g. coastal engineer), that anticipates wave and sea level conditions (and associated wave run-up, flooding, and erosion hazards) through the life of the development. For a 75 to 100 year structural life, the hazard analysis would need to take the 1982/83 storm conditions (or 1998 conditions) and add in 2 to 3 feet of sea level rise in order to determine whether the project site would be subject to wave run-up, flooding, and erosion hazards under those conditions. The purpose of this analysis is to determine the potential for future storm damage and any possible mitigation measures, which could be incorporated into the project design.

The applicants have provided the *Geotechnical Evaluation of Marine Erosion Potential* prepared by Geofirm (Project No. 70934-01/ Report No. 01-3824) dated October 10, 2001, which addresses the potential of hazard from flooding and wave attack at the subject site. The *Evaluation* states: *"Since the construction of the Newport Bay jetty in 1937, the shoreline at the rear of the property line has been protected from westerly waves and swells and such will not adversely impact the site in the future. ... However, the adjacent shoreline is exposed to southeasterly to southwesterly swells and windwaves. ... Coastal erosion from anomalous high swell/wind wave events at any location is possible, especially when concurrent with higher tides."*

The submitted *Geotechnical Evaluation of Marine Erosion Potential* states the following: *"Based upon review of the previous topographic maps and reconnaissance of current conditions, it is my conclusion that no significant permanent erosion has occurred below the subject property since that time [1959]. However, erosion at the inner curve of the crescent between the revetment and the rock point remains active [Inspiration Point] and evidence of minor undercutting of the readily erodable slopewash on the adjacent property to the northwest was also observed."*

In addition, the *Geotechnical Review of Revised Conceptual Architectural Plans for Proposed Residence, 3431 Ocean Boulevard, Corona Del Mar, California* prepared by Geofirm (Project No. 70934-01/Report No. 02-3941) dated April 30, 2002 states: *"A shoreline protective device or bluff retention system will not be required during the life span of the proposed residence."*

The subject site is a bluff face lot located between the first public road and the sea. In general, bluff face lots are inherently hazardous. It is the nature of bluffs to erode. Bluff failure can be episodic, and bluffs that seem stable now may not be so in the future. Even when a thorough professional geotechnical analysis of a site has concluded that a proposed development is expected to be safe from bluff retreat hazards for the life of the project, it has been the experience of the Commission that in some instances, unexpected bluff retreat episodes that threaten development during the life of a structure sometimes do occur (e.g. coastal development permit files 5-99-332 A1 (Frahm); P-80-7431 (Kinard); 5-93-254-G (Arnold); 5-88-177(Arnold)). In the Commission's experience, geologists cannot predict with absolute certainty if or when bluff failure on a particular site may take place, and cannot predict if or when a residence or property may become endangered.

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

The Coastal Act limits construction of these protective devices because they have a variety of negative impacts on coastal resources including adverse affects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beach. Under Coastal Act Section 30235, a shoreline protective structure must be approved if: (1) it is required to serve coastal dependent uses; (2) there is an existing principal structure in imminent danger from erosion; and (3) the required protection is designed to eliminate or mitigate the adverse impacts on shoreline sand supply.

The Commission has generally interpreted Section 30235 to require the Commission to approve shoreline protection for residential development only for existing principal structures. The construction of a shoreline protective device to protect a new residential development would not be allowed by Section 30235 of the Coastal Act. In addition, the construction of a shoreline protective device to protect new residential development would conflict with Section 30251 of the Coastal Act which states that permitted development shall minimize the alteration of natural land forms, including coastal bluffs which would be subject to increased erosion from such a device.

No shoreline protection device is proposed. However, because the proposed project includes new development, it can only be found consistent with Section 30253 of the Coastal Act if a shoreline/bluff protective device is not expected to be needed in the future. The applicants' geotechnical consultant has indicated that the site is stable and that no shoreline protection devices will be needed. If not for the information provided by the applicants that the site is safe for development, the Commission could not conclude that the proposed development will not in any way "require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs." However, as stated above, the record of coastal development permit applications and Commission actions has also shown that geologic conditions change over time and that predictions based upon the geologic sciences are inexact. Even though there is evidence that geologic conditions change, the Commission must rely upon, and hold the applicants to their information, which states that the site is safe for development without the need for protective devices. Therefore, the Commission imposes a Special Condition, which states that no protective devices shall be permitted to protect the proposed development and that the applicants waive, on behalf of themselves and all successors and assigns and is further discussed on pages 21-22 of this staff report.

4. Certified LUP Hazard Policies

The City of Newport Beach certified Land Use Plan includes policies regarding the development on coastal bluffs. Pages 25-27 of the LUP contain policies regarding definition of a bluff, grading, provision of geologic reports, setbacks and building in hazardous areas.

The policy on grading requires that the alteration of natural coastal landforms be minimized and that waivers of liability are required in areas of geologic hazard. Another LUP requirement is the submittal of a site-specific geologic report to assess areas of potential geologic instability.

The certified LUP includes a discussion of hazard areas, which it defines as areas where natural processes can pose a threat to the public health, safety, and welfare. It further defines specific geologic hazards as earthquake faults, existing or potential landslides, areas with expansive or collapsible soil, excessive settlement and subsidence, flood hazard areas, and areas subject to potential erosion and siltation. Coastal bluffs qualify as areas of geologic hazard and areas subject to erosion.

Approximately 2,965 cubic yards of grading will be required to deepen the footprint of the residence. Although not a minimal amount of grading, the amount does not result in extensive landform alteration, because a large portion of the proposed grading is located below and within the already existing footprint. As per the LUP requirements, an Assumption of Risk Special Condition is being required, which is further discussed on pages 21 of this staff report, and a comprehensive geological report was supplied with the application. Therefore, the proposed development is consistent with the certified LUP policies.

5. Setbacks

Development on coastal bluffs is inherently risky due to the potential for slope failure. Development at this site, if approved, must be sited and designed to minimize risks to life and property to assure structural integrity and not contribute significantly to erosion or requirement of a protective device. The proposed project, as submitted, would be encroaching seaward. This seaward encroachment also raises the concern over cumulative impacts if others propose to develop the coastal bluff face. The Commission has generally used one of three options for determining the appropriate setback for coastal bluff developments: 1) stringline policies of the Commission, 2) the 25-foot setback from the top of the bluff, and 3) the City setbacks from the seaward property line. The use of one of the three options for determining the appropriate setback for coastal bluff development and the proposed new stairway are discussed in reference to the project's conformance with the visual resources and public access policies of the Coastal Act. These discussions are located on pages 24-30 of this staff report.

6. Conclusions and Special Conditions

Section 30253 of the Coastal Act states that new development shall minimize the impacts of the proposed development on bluff erosion and instability, and prevent the necessity for bluff protective structures. William Kockelman, U.S. Geological Survey, wrote an article entitled "Some Techniques for Reducing Landslide Hazards" that discusses several ways to minimize landslide hazards such as bluff erosion and instability, including:

- A. Require a permit prior to scraping, excavating, filling, or cutting any lands.
- B. Prohibit, minimize, or carefully regulate the excavating, cutting and filling activities in landslide areas.
- C. Provide for the proper design, construction, and periodic inspection and maintenance of weeps, drains, and drainage ways, including culverts, ditches, gutters, and diversions.
- D. Regulate the disruption of vegetation and drainage patterns.
- E. Provide for proper engineering design, placement, and drainage of fills,

including periodic inspection and maintenance.

Kockelman also discusses the option of disclosure of hazards to potential buyers by the recordation of hazards in public documents. The recordation of hazards via the assumption of risk is one means the Commission utilizes to inform existing and future buyers of property of the potential threat from soil erosion and slope failure (landslide) hazards. Several of these recommendations are routinely required by local government, including requiring permits for grading, minimizing grading, and requirements for proper engineering design.

The Commission has imposed many of these same recommendations, including requiring the consulting geologist to review foundation and drainage plans in order to confirm that the project conforms to the policies of the Coastal Act. The findings in the staff report regarding the general causes of bluff erosion and the specific findings from the geotechnical report confirm that the coastal bluff at this location is eroding and that measures to minimize bluff erosion are necessary. The following Special Conditions will mitigate the impacts of the proposed development on bluff erosion and instability, and will prohibit bluff protective structures, as required by Section 30253 of the Coastal Act.

a. Assumption of Risk

Coastal bluffs in southern California are recently emergent landforms in a tectonically active environment. Any development on an eroding coastal bluff involves some risk to development.

Although adherence to the geotechnical consultant's recommendations will minimize the risk of damage from erosion, the risk is not entirely eliminated. The coastal bluff is subject to wave attack and is undergoing erosion and sloughing on the southwestern portion of the site. The findings in sections 1-5 above, including site specific geologic information, support the contention that development on coastal bluffs involves risks and that structural engineering can minimize some of the risk but cannot eliminate it entirely. Therefore, the standard waiver of liability condition has been attached via Special Condition No. 1.

By this means, the applicants and future buyers are notified that the proposed development is located in an area that is potentially subject to bluff erosion that can damage the applicants' property. In addition, the condition insures that the Commission does not incur damages as a result of its approval of the Coastal Development Permit.

b. Future Protective Device

Although the applicants' report indicates that the site is safe for development at this time, beach areas are dynamic environments, which may be subject to unforeseen changes. Such changes may affect beach processes, including sand regimes. The mechanisms of sand replenishment are complex and may change over time, especially as beach process altering structures, such as jetties, are modified, either through damage or deliberate design. Therefore, the presence of a wide sandy beach and a revetment at this time does not preclude wave uprush damage and flooding from occurring at the subject site in the future. The width of the beach may change, perhaps in combination with a strong storm event like those, which occurred in 1983, 1994 and 1998, resulting in future wave and flood damage to the proposed development.

No shoreline protection device is proposed. However, because the proposed project includes new development, it can only be found consistent with Section 30253 of the Coastal Act if a

shoreline/bluff protective device is not expected to be needed in the future. The applicants' geotechnical consultant has indicated that the site is stable and that no shoreline protection devices will be needed. If not for the information provided by the applicants that the site is safe for development, the Commission could not conclude that the proposed development will not in any way "require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs." However, as stated previously, the record of coastal development permit applications and Commission actions has also shown that geologic conditions change over time and that predictions based upon the geologic sciences are inexact. Even though there is evidence that geologic conditions change, the Commission must rely upon, and hold the applicants to their information, which states that the site is safe for development without the need for protective devices. Therefore, the Commission imposes Special Condition No. 2 which states that no protective devices shall be permitted to protect the proposed development and that the applicants waive, on behalf of themselves and all successors and assigns on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.

c. Future Development

The development is located within an existing developed area and is compatible with the character and scale of the surrounding area. However, without controls on future development, the applicants could attempt to construct amenities to the proposed home that would have negative impacts on coastal resources, and could attempt to do so without first acquiring a coastal development permit. In order to prevent the current authorization from allowing such future negative effects, it is necessary to ensure that any future development -- including the development of amenities that would otherwise/normally be exempt -- will require a permit. 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 (Special Condition No. 3) must be imposed. As conditioned the development conforms with the Chapter 3 policies of the Coastal Act relating to geologic hazards.

d. Conformance with Geologic Recommendations

The geotechnical consultant has found that the proposed development is feasible provided the recommendations contained in the geotechnical report prepared by the consultant are implemented as regards the design and construction of the project. The geotechnical recommendations address foundations, excavation, retaining walls, and footings. In order to insure that risks of development are minimized, as per Section 30253, the Commission imposes Special Condition No. 4, which states that the geotechnical consultant's recommendations should be incorporated into the design of the project. As a condition of approval the applicants shall submit for the review and approval of the Executive Director all final design and construction plans, including foundations, grading and drainage plans signed by a consulting geologist.

e. Revised Plans

There is a distinct community character in the project area where development is located at the top of the bluff, while the bluff face remains largely undisturbed and vegetated. In order to minimize seaward encroachment and assure geologic stability and structural integrity for their expected economic lifespans while minimizing alteration of natural landforms and be consistent with the community character of the area where development is located at the top of the bluff, while the bluff face remains largely undisturbed and vegetated, the permit is being conditioned (Special

Condition No. 5) to require the applicants to supply revised project plans showing: (a) that the proposed pool does not extend seaward of the 40 foot contour line, (b) that the proposed stairway is removed from the plans, (c) to show the existing stairway and (d) to include a note stating that no work is allowed or authorized on the existing stairway as part of this Coastal Development Permit #5-02-203. Thus, the proposed project, as conditioned, would be consistent with Section 30253 of the Coastal Act.

f. Drainage and Runoff and Landscaping Special Conditions

In approving development on a coastal bluff the Commission must condition the development to minimize potential erosion or, as it is stated in Section 30253 "...to neither create nor contribute significantly to erosion..."

In regards to the drainage and run-off for the proposed project, the project floor plans (Exhibit #12) include a note stating that: *"Roof drains for all terraces will be provided within the building perimeter. All downspouts will connect to a manifold and drained to the beach to minimize erosion of soil."* The project plans show location of roof and deck drains and note that they will be connected to the manifold and drain line. However, the location of the drain line and manifold were not shown on the project plans. To ensure that drainage does not increase the potential for site erosion, the Commission is imposing Special Condition No. 6, which requires the applicants to submit a revised drainage and runoff control plan for the review and approval of the Executive Director.

Because of the fragile nature of coastal bluffs and their susceptibility to erosion, the Commission requires a Special Condition regarding the types of vegetation to be planted. The submitted landscaping plan (Exhibit #11) does not specifically identify any vegetation to be used. It instead states that the *"Native Vegetation from Allowed Plant List"* will be used. The Commission does not have nor do the applicants provide a "Native Vegetation Allowed Plant List." To address this deficit in information, the applicants need to specifically identify plants to be used and then Staff will evaluate the submitted material. Therefore, the Commission imposes Special Condition No. 7, which requires the applicants to submit a revised landscaping plan, which specifically lists the native drought tolerant non-invasive plants that are to be used.

g. Deed Restriction

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes Special Condition No. 8 requiring that the property owners 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 owners 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.

h. Conclusion

The Commission has required several Special Conditions which are intended to bring the proposed development into conformance with Section 30253 of the Coastal Act. These Special Conditions include: 1) assumption of risk; 2) no future shoreline protective device; 3) future development restriction; 4) evidence of conformance with geotechnical recommendations; 5)

revised plans showing: (a) that the proposed pool does not extend seaward of the 40 foot contour line, (b) that the proposed stairway is removed from the plans, (c) to show the existing stairway and (d) to include a note stating that no work is allowed or authorized on the existing stairway as part of this Coastal Development Permit #5-02-203; 6) the submission of a revised drainage and run-off control plan; 7) the submission of a revised landscaping plan; and 8) a deed restriction against the property, referencing all of the Special Conditions contained in this Staff Report. Only as conditioned to comply with the provisions of these Special Conditions does the Commission find that the proposed development conforms with Section 30253 of the Coastal Act.

D. Visual Resources

Section 30251 of the coastal Act states, in relevant part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The certified LUP contains policies pertaining to the protection of specific view areas in the City of Newport Beach, including views along Ocean Boulevard. On page 28 of the LUP it states:

Where coastal views from existing roadways exist, any development on private property within the sight lines from the roadway shall be sited and designed to maximize protection of the coastal view. This policy is not intended to prohibit development on any site.

The proposed project is located along a coastal bluff face immediately inland of Corona Del Mar State Beach. Because of its' location the project site is highly visible from the sandy public beach. The pattern of development along this segment of Ocean Boulevard is such that structures are sited at the top of the bluff, while the bluff face remains largely undisturbed and vegetated. Although several lots have stairways traversing the bluff face and some have unpermitted development at the toe of the bluff, the overall appearance of the bluff in this area is natural and undeveloped. Development at this site, if approved, must be sited and designed to be visually compatible with the undisturbed character of the surrounding area. It is also necessary to ensure that new development be sited and designed to protect views to and along the beach area and minimize the alteration of existing landforms and seaward encroachment of development. The proposed project, as submitted, would be encroaching seaward. This seaward encroachment also raises the concern over cumulative impacts if others propose to develop the coastal bluff face. But, the currently proposed project (CDP #5-02-203) has been reduced in mass, and although the proposed project still encroaches seaward, as conditioned, it conforms to the community character.

1. Landform Alteration & Community Character

The applicants are proposing to demolish an existing three (3) story single family residence and construct a new 6,539 square foot four (4) story single family residence with an attached 782

square foot three (3) car garage, down a coastal bluff to a maximum height of 24 feet above finished grade (Exhibits #6-14). The roof height of the proposed project will not exceed the top of the curb of Ocean Boulevard, as required by the City of Newport Beach Municipal Code. Associated construction consists of retaining walls, elevator, pool, 5 to 7 foot high pool walls, walls, gates, fireplace, decks BBQ, planters and demolition and replacement of the existing wooden staircase to the beach with at grade stairs and railings in a new location.

The proposed project will include grading consisting of 2,995 cubic yards of cut, 30 cubic yards of fill and 2,965 cubic yards of export. As submitted, the proposed project has elements that encroach seaward, such as the proposed pool. The proposed project will affect public views of the vegetated bluff from the adjacent public beach (Corona Del Mar State Beach), inconsistent with the pattern of development in the subject area.

a. Landform Alteration

Section 30251 of the Coastal Act requires new development to be sited to "*minimize the alteration of natural land forms.*" The proposed project would be located along a coastal bluff face. The existing bluff is a natural landform visible from public vantage points such as the beach (Corona Del Mar State Beach) and Inspiration Point. Any alteration of this landform would affect the scenic views of the coastline when viewed from the State Beach and Inspiration Point. The proposed project has elements that encroach seaward that would have an adverse visual impact, such as the proposed pool. In order to minimize landform alteration on the project site, the Commission is imposing Special Condition No. 5, which requires the submission of revised project plans showing: (a) that the proposed pool does not extend seaward of the 40 foot contour line, (b) that the proposed stairway is removed from the plans, (c) to show the existing stairway and (d) to include a note stating that no work is allowed or authorized on the existing stairway as part of this Coastal Development Permit #5-02-203 (Exhibit #8). As such, new development at the subject site, as conditioned, is sited to minimize adverse effects to existing scenic resources. Thus, as conditioned, the proposed project is consistent with Section 30251 of the Coastal Act regarding scenic resources.

The City's LUP policy regarding coastal bluffs states that grading, cutting and filling of natural bluff face or bluff edges is prohibited in order to preserve the scenic value of the bluff area. The policy on grading requires that the alteration of natural coastal landforms be minimized and that waivers of liability are required in areas of geologic hazard.

Approximately 2,965 cubic yards of grading will be required to deepen the footprint of the residence. Although not a minimal amount of grading, the amount does not result in extensive visible landform alteration, because a large portion of the proposed grading is located below and within the already existing footprint. Thus, this aspect of the project is consistent with Coastal Act Section 30251. In addition, as per the LUP requirements, an Assumption of Risk Special Condition is being required. Therefore, as conditioned, the proposed development is consistent with the certified LUP policies as well.

b. Setback Analysis & Community Character

Seaward encroachment of new development can often have adverse impacts on a variety of coastal resources. For example, the seaward encroachment of private development onto a beach can discourage public utilization of the beach by making it appear private or otherwise inhospitable to visitors. The seaward encroachment of structures can also have adverse visual impacts. In

addition, the seaward encroachment of structures can increase the hazards that the new development will be subject to. Therefore, the Commission has often used one of three options for determining the appropriate setback for coastal bluff developments: 1) stringline policies of the Commission, 2) the 25-foot setback from the top of the bluff and 3) the City setbacks from the seaward property line. Setbacks and string lines are applied to limit new development from being built any further seaward than existing adjacent development. If not properly regulated the continued seaward encroachment of development can have a significant cumulative adverse impact on coastal resources.

City Setbacks

The project site is located in a developed area where the overall appearance of the bluff is natural and undeveloped. Section 30251 of the Coastal Act states that permitted development shall be designed "*to be visually compatible with the character of the surrounding area.*" Therefore, proposed development must be compatible with its' surroundings. Though the plans submitted by the applicant show that the project conforms to the City zoning setback requirement of 10 feet, conformance to the City required setback would allow seaward encroaching development here. Allowing development to comply with the City setback of 10 feet at the toe of the bluff would not achieve the objectives of Coastal Act Section 30251, as the proposed project would encroach seaward significantly. Section 30251 of the Coastal Act states that permitted development should minimize landform alteration, visual impacts and the cumulative adverse impact that would occur if other lots develop similarly – in this case, developing the bluff face. Therefore, the City setback cannot be used in this particular situation.

The 25-foot setback from the top of the bluff

The Commission typically requires that structures be setback at least 25 feet from the top of slope and hardscape features be setback at least 10 feet from the canyon hillside edge to minimize the potential that the development will contribute to slope instability. However, the development site is located primarily on a coastal bluff face. Therefore, the 25-foot setback policy is not applicable to this project.

Stringline Policy

The stringline policy is used by the Commission as one means of determining the appropriate setback for coastal bluff developments. The stringline is typically used in this area and the geotechnical investigation states that the subject property is considered suitable for the proposed project. This policy applies to infilling development and establishes two separate types of stringlines, an enclosed living space stringline (structural) and a deck stringline.

A structural stringline refers to the line drawn from the nearest adjacent corners of adjacent structures. Similarly, a deck stringline refers to the line drawn from the nearest adjacent corners of adjacent decks. However, applying the structural and deck stringline on the project site is not possible since there are no adjacent structures or decks southeast of the project site, only the natural vegetated bluff. Thus, the stringline cannot be applied to this project.

Though the application of the three set back policies above cannot be applied with this project, an alternative strategy can be used to limit seaward encroachment of new development that can often have adverse impacts on a variety of coastal resources. There is a distinct community character in the project area where development is located at the top of the bluff, while the bluff face remains largely undisturbed and vegetated. The homes located along the stretch from 3317-3431 Ocean Boulevard have homes based at the top of the bluff face. If modified so that the proposed pool does not extend seaward of the 40 foot contour line, the proposed project would conform to the character of the surrounding area. In order to assure geologic stability and structural integrity for their expected economic lifespans while minimizing alteration of natural landforms and to be consistent with the community character of the area, the proposed pool should not extend seaward of the 40 foot contour line (Exhibit #8). By imposing Special Condition No. 5, which requires that the proposed pool does not extend seaward of the 40 foot contour, the appearance of the project will conform with the character of the area, where the bluff face remains largely undisturbed and vegetated. The proposed project, as conditioned, will be consistent with Section 30251 of the Coastal Act and will conform to the character of the surrounding area.

c. Cumulative Impacts

The proposed project, as submitted, does not conform to the existing pattern of development located on the bluff face. If allowed it would set a precedent for future development to encroach seaward in the subject area. Over time, incremental impacts can have a significant cumulative adverse visual impact. Applicants have begun to request construction on the bluff face, and if development were approved the bluff along the unimproved portion of Breakers Drive could eventually become a wall of buildings located on the bluff face, thus causing significant adverse visual impacts. This process has already started as additional applications have been submitted for development in the subject area, as discussed previously. The previous proposed project on site (CDP #5-01-191) was denied for this reason. The currently proposed project is located along a coastal bluff immediately inland of Corona Del Mar State Beach, a public beach. The site is highly visible from the sandy beach. Although several lots have stairways traversing the bluff face and some have unpermitted development at the toe of the bluff, the overall appearance of the bluff in this area is natural and undeveloped. Approval of the proposed project as currently designed would set a precedent for the construction of other such development along the bluff face and the toe of the bluff that would significantly alter the natural land form and cause adverse visual impacts and encroach seaward. Scenic resources would not be preserved. Development at this site must be sited and designed to be visually compatible with the undisturbed character of the surrounding area. The currently proposed project (CDP #5-02-203) has been reduced in mass and although the proposed project still encroaches seaward, as conditioned herein, it will conform to the community character and have a less adverse impact on the existing vegetated bluff face than the originally proposed project (CDP #5-01-191). By imposing Special Condition No. 5, which requires that the proposed pool does not extend seaward of the 40 foot contour, the appearance of the project will conform with the character of the area, where the bluff face remains largely undisturbed and vegetated. The previous discussion of the recently approved or denied permits in this project area shows the importance of how projects must conform to the character of the area. The proposed project, as conditioned, will be consistent with Section 30251 of the Coastal Act and will conform to the character of the surrounding area.

2. Conclusion

The Commission finds that the project, as conditioned, is sited and designed to protect scenic and visual qualities of the site as an area of public importance. The Commission finds that the

proposed project will minimize the alteration of natural landforms and, as conditioned, is visually compatible with the character of the surrounding area. Therefore, as conditioned, the Commission finds that the proposed project is consistent with Section 30251 of the Coastal Act and with the City's LUP policy regarding coastal bluff sites.

E. Public Access and Recreation

Section 30212 of the Coastal Act states, in relevant part:

- (a) *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:*
 - (2) *adequate access exists nearby.*

Section 30240 (b) of the Coastal Act, in relevant part states:

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

The proposed development is located on the seaward side of Ocean Boulevard in Corona del Mar. The proposed development is located between the sea and the first public road. Access to the Pacific Ocean and sandy beach is provided at Corona del Mar State Beach south of the project site and to the southeast and at bluff park know as Inspiration Point via a public access way from Inspiration Point to the beach (Corona Del Mar State Beach) consisting of a concrete pathway (Exhibits #1-4). Therefore, ample access to the shoreline exists nearby, and the development at this site is compatible with Section 30212 of the Coastal Act.

In addition, the bluff descends moderately 50+/- feet from the rear of the existing structure with an overall slope near 1.5:1 (horizontal: vertical). To the south, at the toe of the slope is existing vegetation, and south of the project site property line is the public access way from Inspiration Point to the beach consisting of a concrete pathway, retaining wall and a grouted rock revetment and a +/- 40 foot wide sandy public beach (Corona Del Mar State Beach). Consequently, development at this site must be sited and designed to be compatible with Section 30240 (b) of the Coastal Act. Section 30240 (b) of the Coastal Act states that development in areas adjacent to parks and recreation areas shall be sited and designed to prevent impacts, which would significantly degrade those areas. It is necessary to ensure that new development is sited and designed to prevent seaward encroachment of development that would impact public use of coastal resources. Although the project site is already developed with an existing single-family residence, the proposed project, as submitted, includes project elements with seaward encroachment.

The proximity of the proposed project to the public beach raises Coastal Act concerns, as it would be seaward encroaching development that would discourage use of the public beach. The project would diminish the value of the beaches for public use by discouraging use of the public beach through the presence of a proposed pool that is to be located at the 33 foot contour line (Exhibit #8). The proposed pool would be an imposing structural feature that would affect public use of the beach by forcing the public to move more seaward and thus have an impact on public use of the beach. Thus, the proposed project would adversely impact public use of the public beach inconsistent with Section 30240 (b) of the Coastal Act.

Though the application of the stringline cannot be applied with this project, the basis of the stringline is to prevent seaward encroachment of new development that can often have adverse impacts on a variety of coastal resources and the proposed project would encroach seaward. Over time, incremental impacts can have a significant cumulative adverse impact to public access. Approval of the currently proposed project would set a precedent for the construction of other such development along the bluff face that would cause adverse public access impacts and encroach seaward. Public access resources would not be preserved, and Section 30240 (b) would be violated. Development at this site must be sited and designed to limit seaward encroachment. Pulling the development landward would reduce public use impacts and prevent the occurrence of a significant cumulative adverse public use impact. Therefore, the Commission imposes Special Condition No. 5, which requires the applicants to submit revised plans demonstrating that the proposed pool does not extend seaward of the 40 foot contour line (Exhibit #8).

The number of residential units on-site would not increase as a result of the proposed development. Thus, the proposed development would not result in an intensification of use on the site. Also, the proposed project provides three off-street parking spaces per residential dwelling unit, thus avoiding any adverse impacts on public parking used for coastal access. Additionally, due to the fact a public beach is available near the project site and that Special Condition No. 5 requires the applicants to supply revised project plans showing that the proposed pool does not extend seaward of the 40 foot contour line, the Commission finds that the proposed development conforms with Section 30212 and 30240 of the Coastal Act.

F. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with the Chapter 3 policies of the Coastal Act.

The Newport Beach Land Use Plan was effectively certified on May 19, 1982. The certified LUP was updated on January 9, 1990. The City currently has no certified implementation plan. Therefore, the Commission issues CDP's within the City based on the development's conformance with the Chapter 3 policies of the Coastal Act. The LUP policies may be used for guidance in evaluating a development's consistency with Chapter 3. As per the LUP requirements, an Assumption of Risk Special Condition is being required and a comprehensive geological report was supplied with the application.

The proposed development, as conditioned, is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

G. California Environmental Quality Act

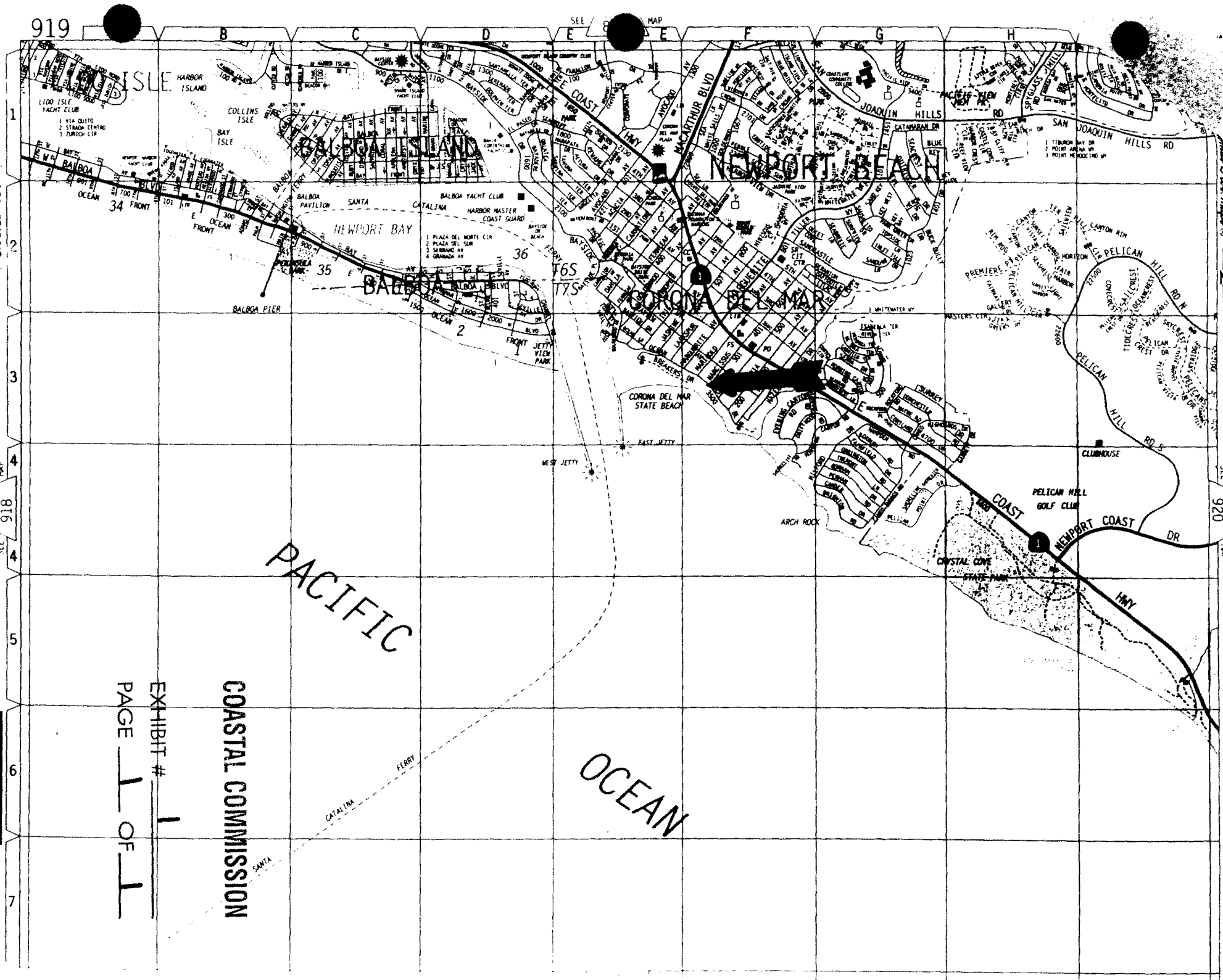
Section 13096(a) of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a

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

The proposed project is located in an urban area. All infrastructure necessary to serve the site exists in the area. As conditioned, the proposed project has been found consistent with the hazard, visual resource and public access policies of Chapter 3 of the Coastal Act. Mitigation measures include Special Conditions requiring conformance with geotechnical recommendations, submittal of a drainage and run-off control plan and submittal of a final landscaping plan.

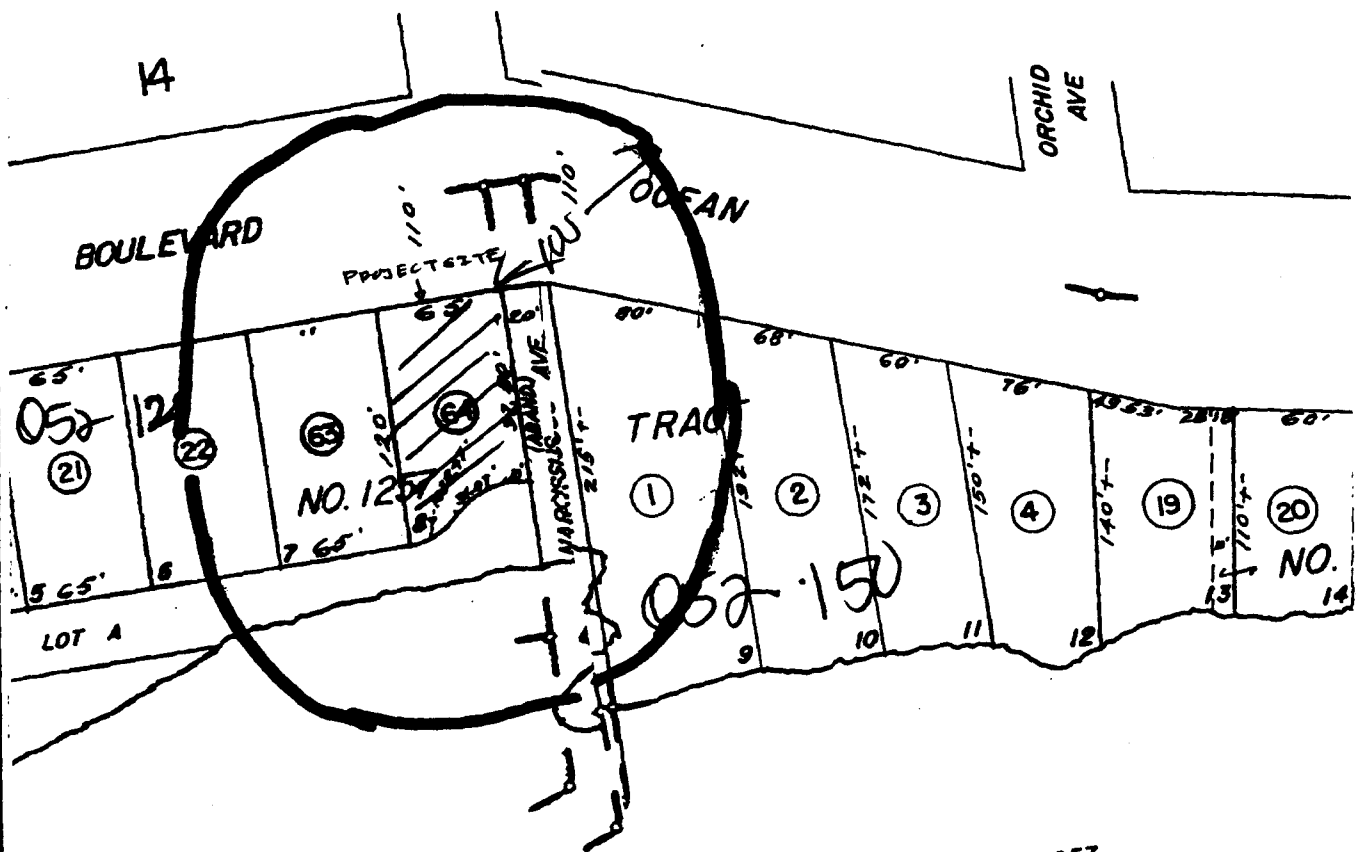
As conditioned, there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate 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.

COASTAL COMMISSION
EXHIBIT # 1
PAGE 1 OF 1



052-12

14



NOTE = DIM ON TR NO 1257,
TO ORDINARY HIGH TIDE LINE

COUNTY

COASTAL COMMISSION

EXHIBIT # 2

PAGE 1 OF 1

Ownership Map

MARCH 1949

TR NO. 1006	M.M. 33-29
TR NO. 1026 (M.M. 33-30)	R.S. 12-35
TR NO. 1257	M.M. 30-25
CORONA DEL MAR	M.M. 3-42
PARCEL MAP	P.M. 204-1, 301-11

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

ASSISTANT'S MAP
BOOK 052 PAGE 12
COUNTY OF ORANGE

COASTAL COMMISSION

EXHIBIT # 3
PAGE 1 OF 1

INSPIRATION POINT

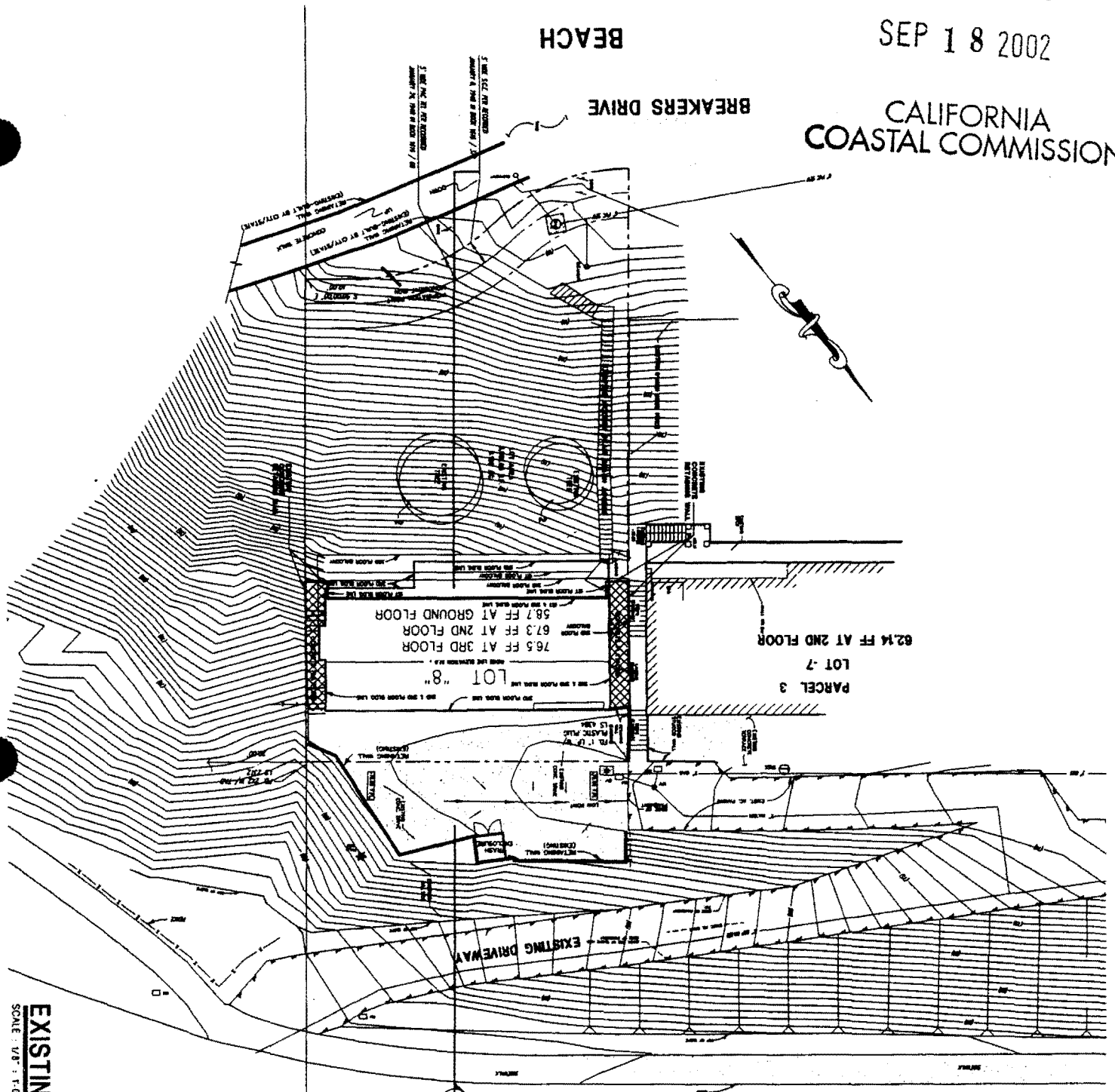
PAGE 1 OF 1

SEP 18 2002

CALIFORNIA
COASTAL COMMISSION

BEACH

BREAKERS DRIVE

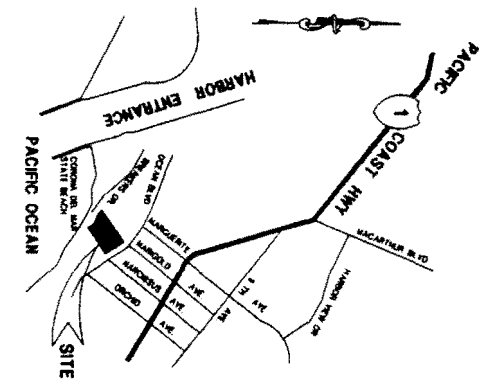


OCEAN BOULEVARD

COASTAL COMMISSION

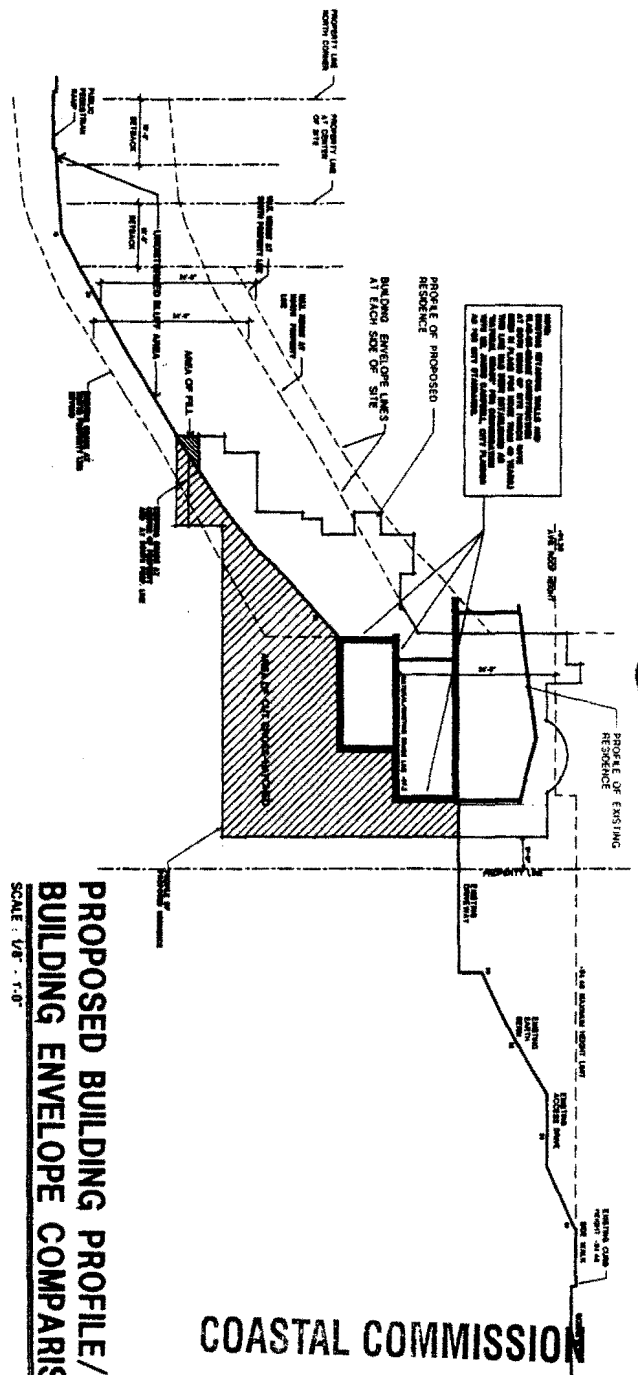
EXHIBIT # **5**
PAGE **1** OF **1**

VICINITY MAP



EXISTING RESIDENCE SITE PLAN
SCALE: 1/8" = 1'-0"

2. EXISTING IMPROVEMENTS
TO BE REMOVED



**EXISTING RESIDENCE
SITE SECTION AA**

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

**PROPOSED BUILDING PROFILE/
BUILDING ENVELOPE COMPARISON**

SCALE : 48" - 1'-0"

COASTAL COMMISSION

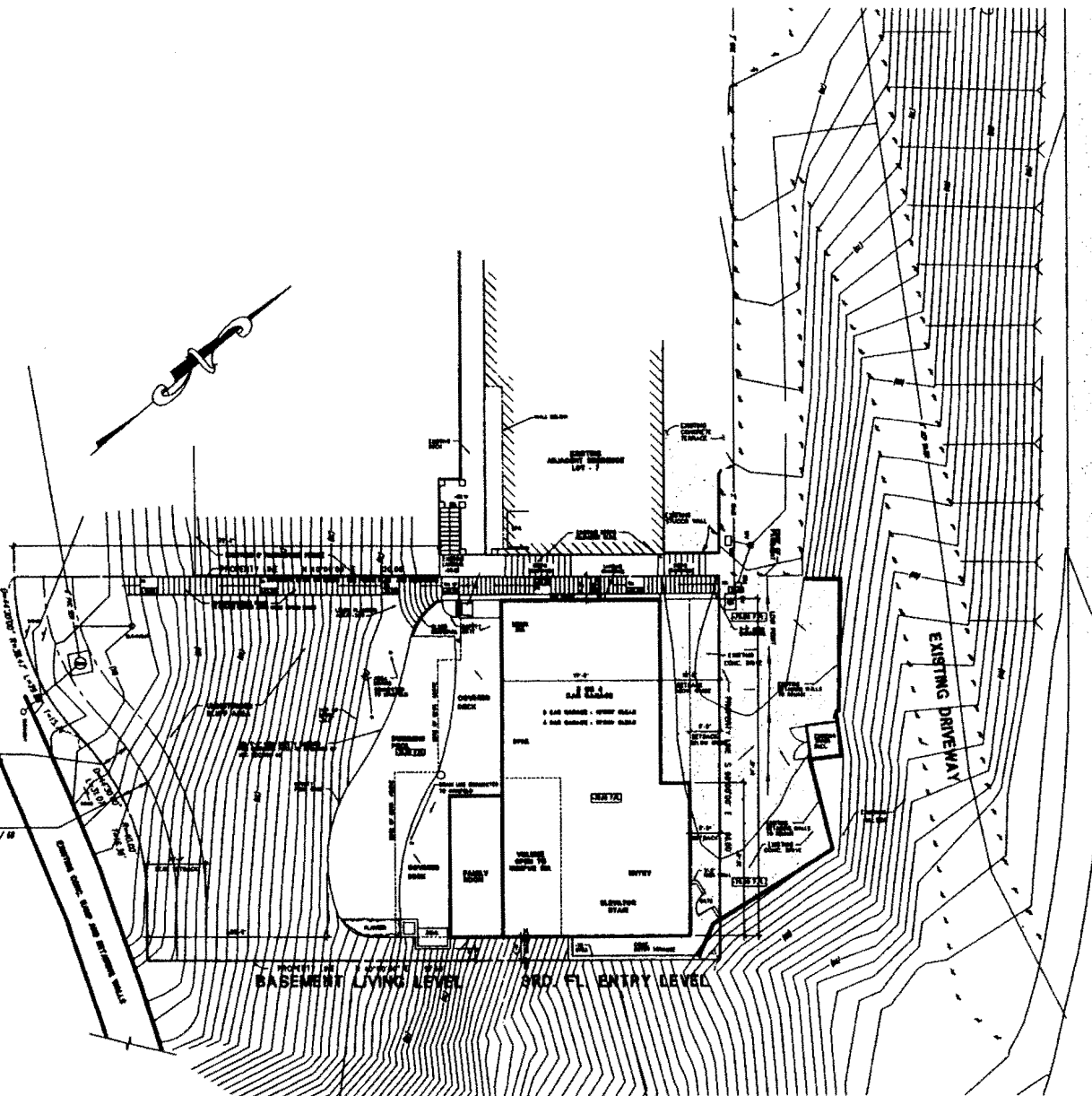
EXHIBIT # 6
PAGE 1 OF 1

BEACH

BREAKERS DRIVE

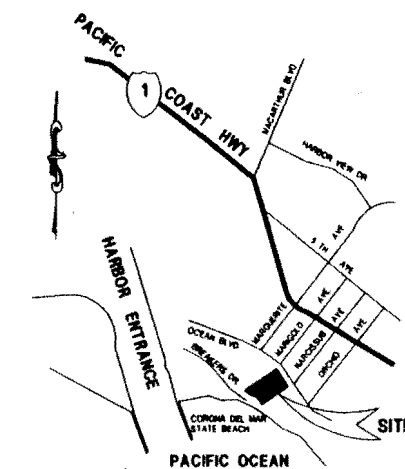
5' MIN. S.C.E. PER FOOTING
JANUARY 8, 1988 IN BOOK 1586 / 21

5' MIN. P.M.C. PER FOOTING
JANUARY 12, 1988 IN BOOK 1586 / 21



NOTE:
PLAN SHOWN IS A COMPOSITE OF BASEMENT
PLAN AND 3RD FLOOR PLAN SHOWING
BUILDING FOOTPRINTS AT TOP AND BOTTOM
OF SITE

OCEAN BOULEVARD



VICINITY MAP

TABULATIONS:	
3RD FLOOR ENTRY LEVEL:	607 SF
2ND FLOOR BEDROOM LEVEL:	1824 SF
1ST FLOOR MASTER BEDROOM LEVEL:	2053 SF
BASEMENT LIVING LEVEL:	2055 SF
TOTAL ENCL LIVING AREA:	6539 SF
GARAGE AREA:	782 SF
TOTAL BUILDING AREA (INCL GARAGE):	7321 SF
TOTAL SITE AREA (WITHIN PROPERTY LINE):	6951 SF
SITE BUILDABLE AREA (WITHIN SETBACKS):	4883 SF
ALLOWABLE BUILDING AREA (INCLUDING GARAGE):	7325 SF
4883 SF X 15 :	7325 SF

PROPOSED RESIDENCE SITE PLAN

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

COASTAL COMMISSION

EXHIBIT # 7

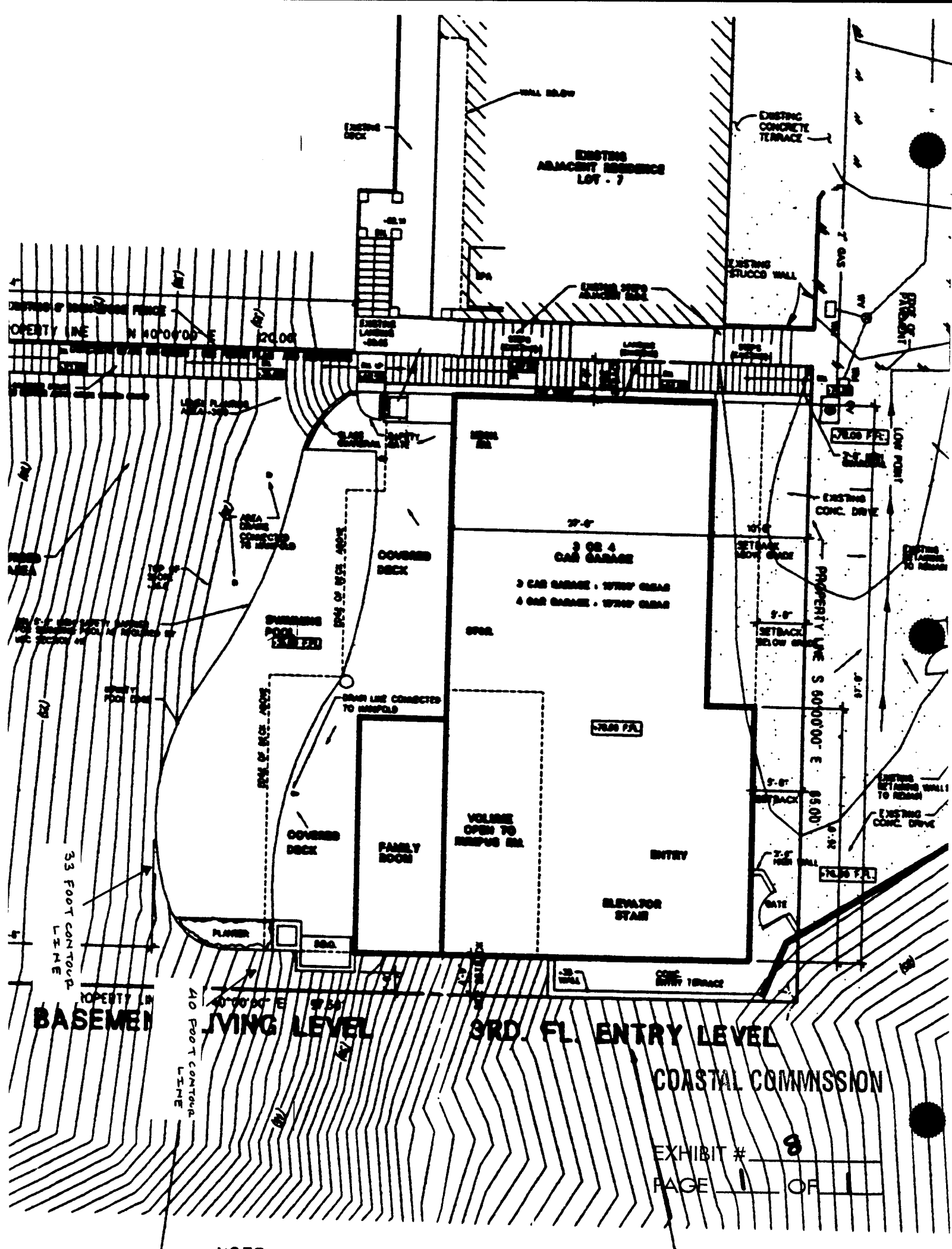
PAGE 1 OF 1

THE TABAK RESIDENCE

1831 OCEAN BLVD.
CORONA DEL MAR, CALIFORNIA

FLETCHER & JONES
AND ASSOCIATES
ARCHITECTS
1831 OCEAN BLVD.
CORONA DEL MAR, CALIFORNIA

THESE DRAWINGS ARE THE PROPERTY OF FLETCHER & JONES AND ASSOCIATES AND SHALL NOT BE MODIFIED OR USED ON ANY OTHER PROJECT WITHOUT WRITTEN PERMISSION.
SHEET
A3



PACIFIC OCEAN

SAND BEACH

BREAKERS DRIVE

ADJACENT
LOT 7

EXISTING RESIDENCE
UPPER FLOOR 14' x 14'
LOWER FLOOR 14' x 14'

PROPOSED BLDG.

UPPER FLOOR 14' x 14' x 14'
LOWER FLOOR 14' x 14' x 14'

14' x 14' x 14'

14' x 14' x 14'

14' x 14' x 14'

PUBLIC BEACH ACCESS RAMP

NOTE:
THE PROPOSED RESIDENCE ON LOT 7
DOES NOT PROJECT BEYOND THE EXISTING
OCEAN VIEW WINDOW OF THE ADJACENT
EXISTING RESIDENCE ON LOT 7, AS DEFINED
BY THE PROFILE OF THE EXISTING NATURAL
HILLSIDE TO THE SOUTH.

MAX. VIEW LINE FROM UPPER FLOOR OF ADJACENT RESIDENCE LOT 7

MAX. VIEW LINE FROM LOWER FLOOR OF ADJACENT RESIDENCE LOT 7

MAX. VIEW LINE FROM UPPER FLOOR OF ADJACENT RESIDENCE LOT 7

EXISTING WALK

OCEAN

BLVD.

COASTAL COMMISSION

EXHIBIT # 9
PAGE 1 OF 1

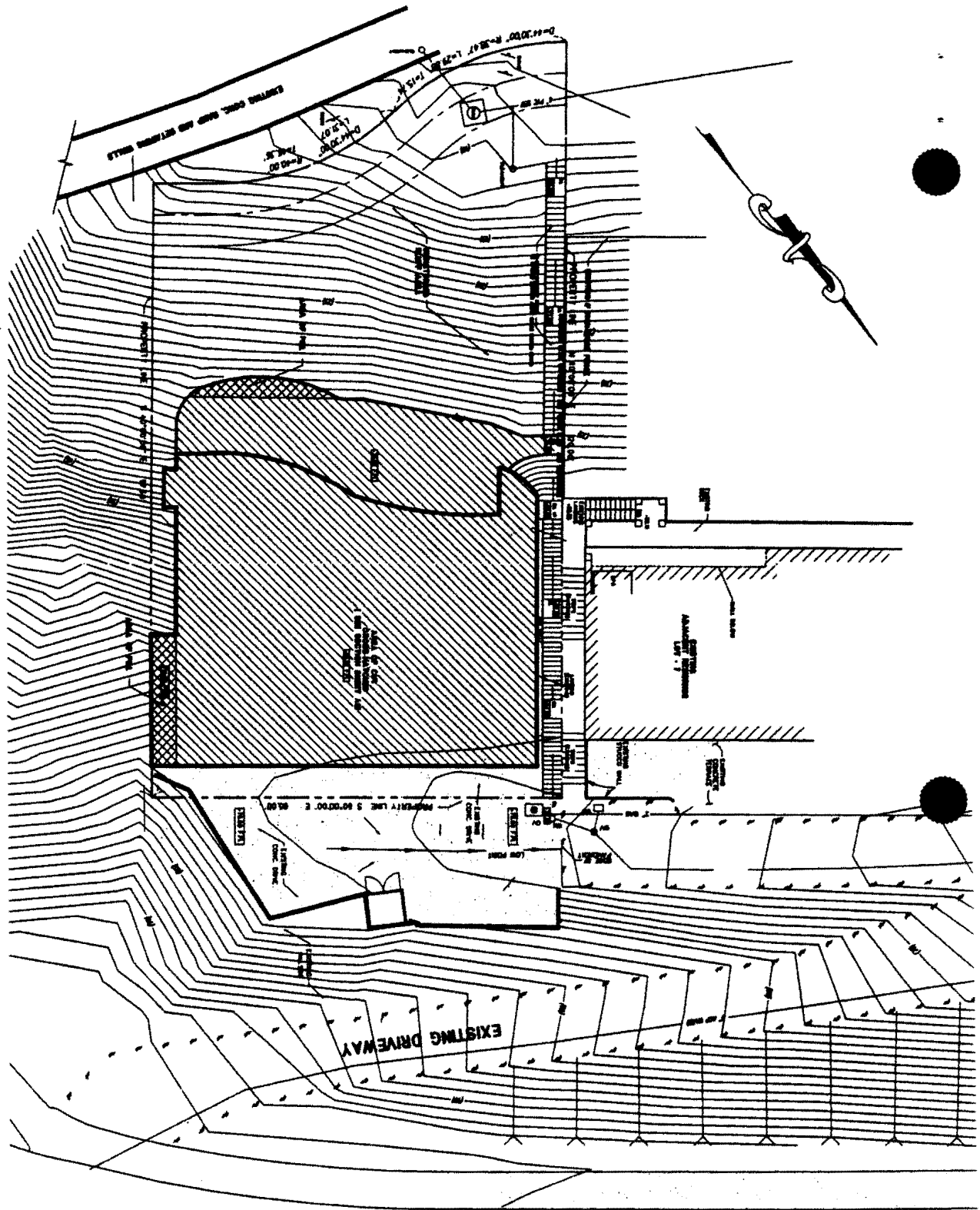
PUBLIC
OBSERVATION DECK

EXISTING NATURAL
HILLSIDE



SITE PLAN VIEW STUDY

SCALE 1" = 10'-0"



OCEAN BOULEVARD

COASTAL COMMISSION

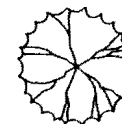
EXHIBIT # 10
PAGE 1 OF 1

SITE GRADING PLAN
SCALE: 1/8" = 1'-0"

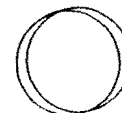
OCEAN BOULEVARD

PLANTING LEGEND:

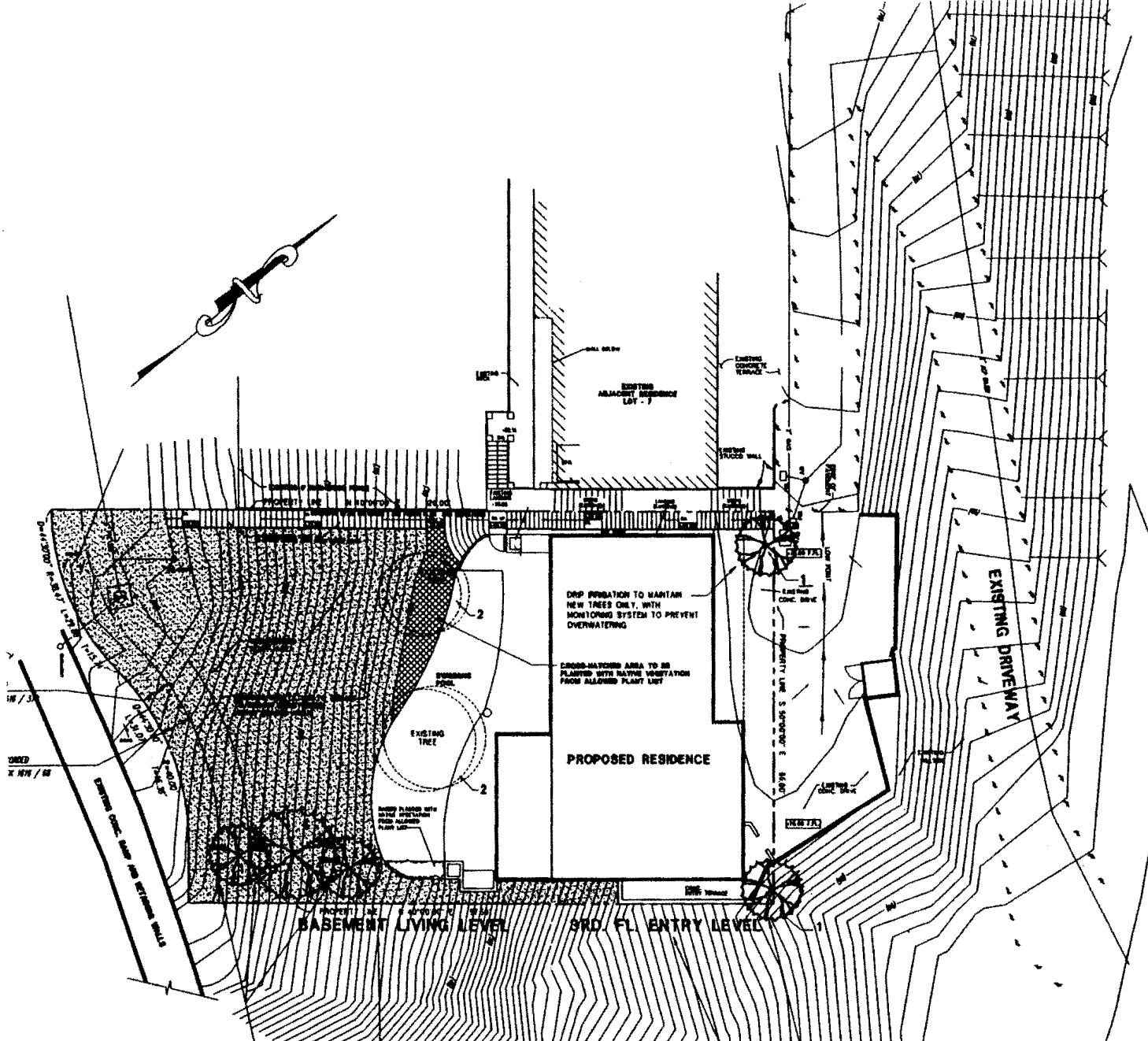
SYMBOL



1 NATIVE VEGETATION FROM ALLOWED PLANT LIST



2 EXISTING MYOPORUM TREE TO BE REMOVED



SITE LANDSCAPE PLAN

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



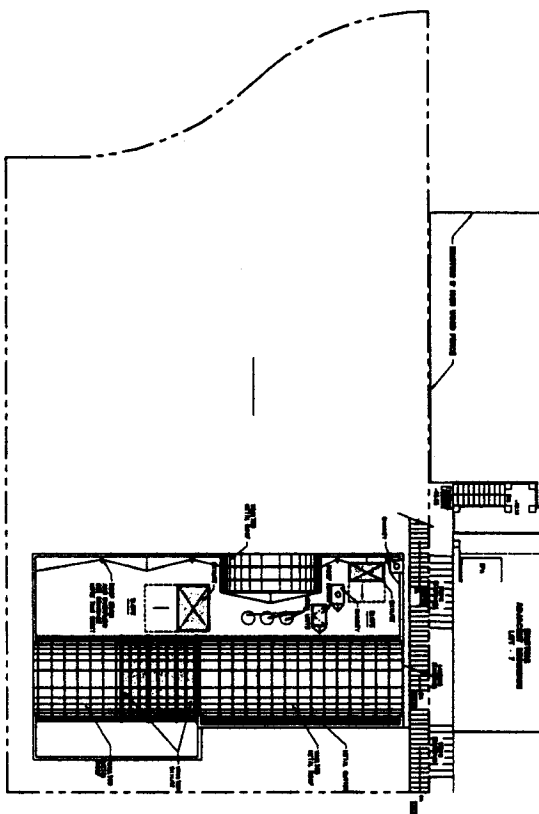
PLANTING LEGEND:

**1 NATIVE VEGETATION
FROM ALLOWED PLANT LIST**

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

3RD. FL. ENTRY LEVEL

PAGE 1 OF 2



ROOF PLAN

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

NOTE: ROOF DRAINS AND DECK DRAINS FOR ALL TERRACES WILL BE PROVIDED WITHIN THE BUILDING PERIMETER. ALL DOWNSPOUTS WILL CONNECT TO A WATERFALL AND DRAINED TO THE BEACH TO MINIMIZE EROSION OF SOIL.

EXHIBIT # 12
PAGE 2 OF 2



1ST FLR. MASTER BEDROOM LEVEL



1 NATIVE VEGETATION
FROM ALLOWED PLANT LIST

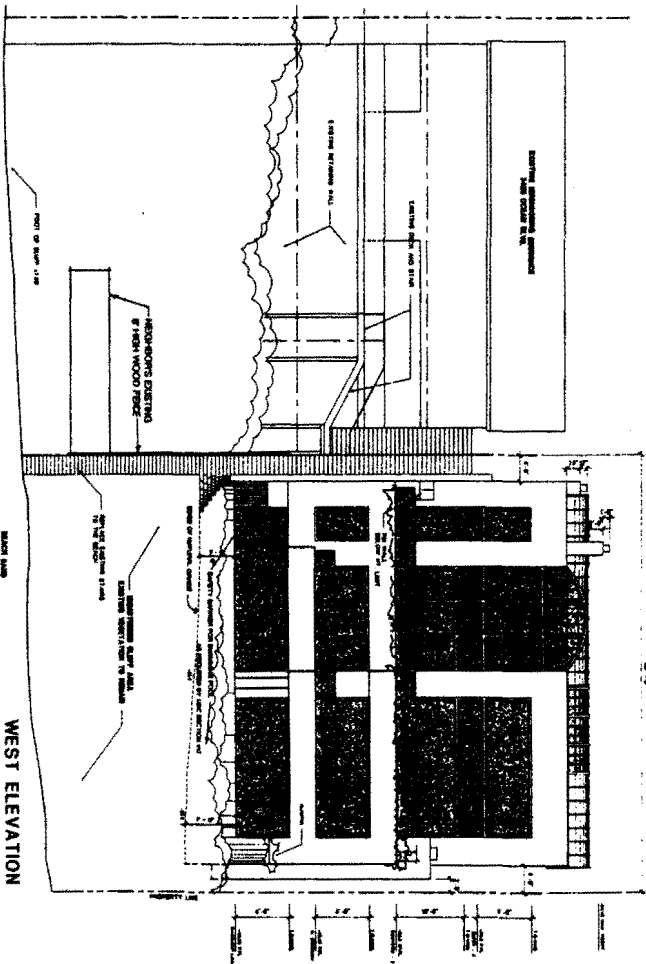


SCALE : 1/8" = 1'-0"

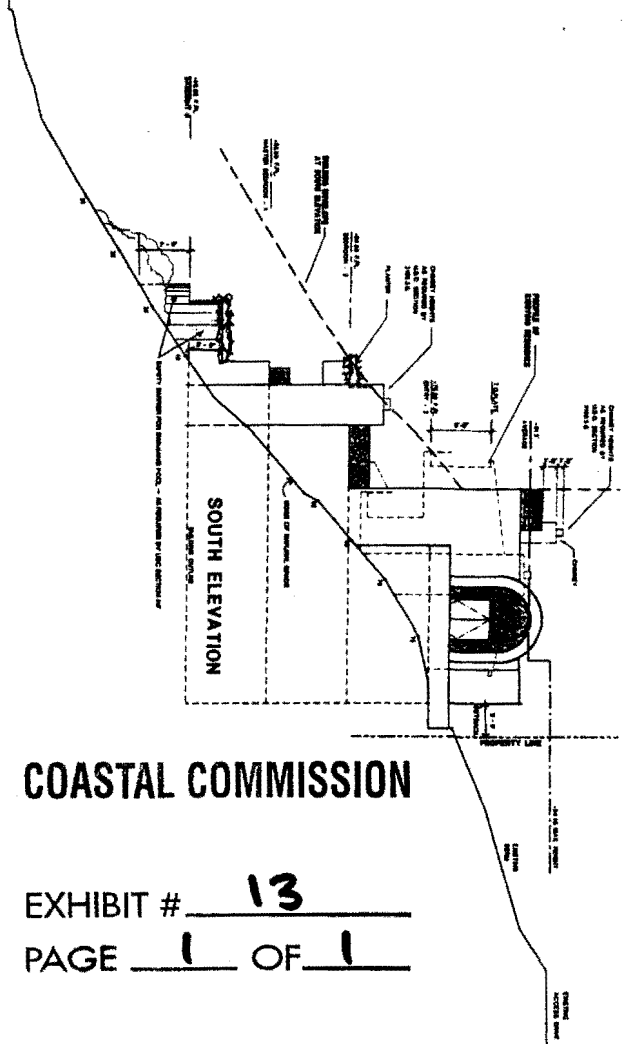
[illegible]

COASTAL COMMISSION

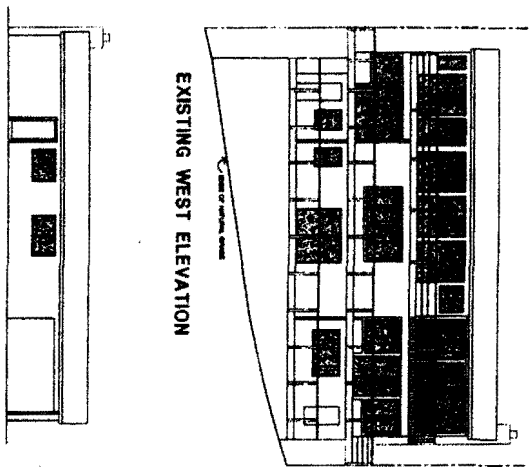
EXHIBIT # 13
PAGE 1 OF 1



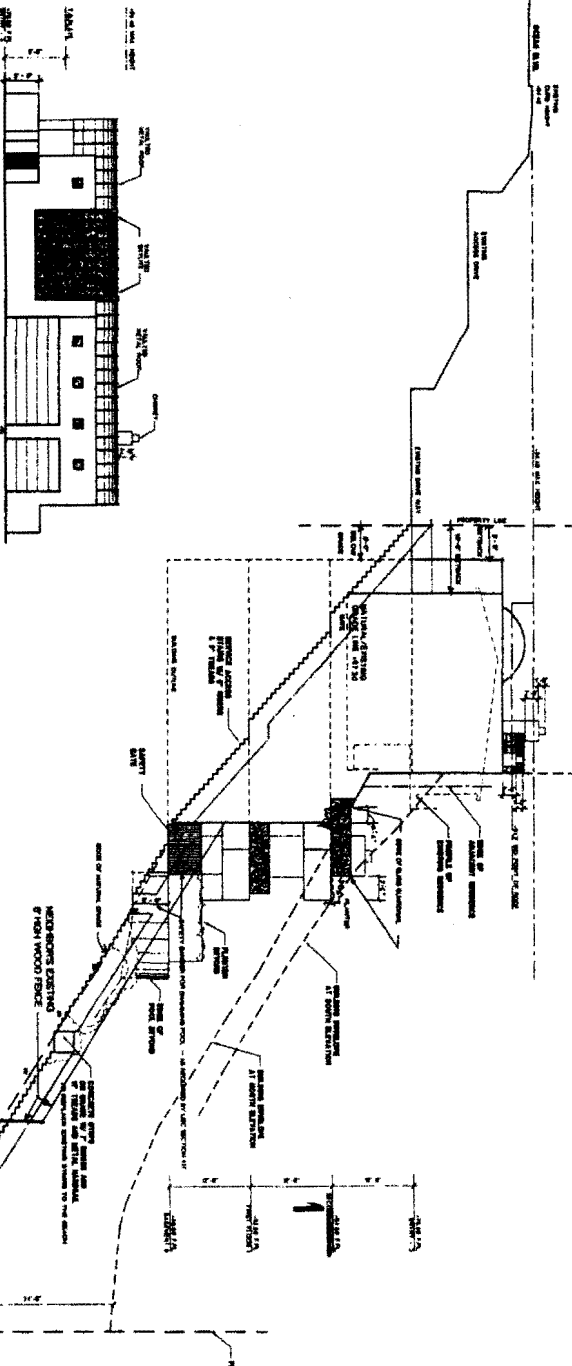
WEST ELEVATION



SOUTH ELEVATION



EXISTING WEST ELEVATION



NORTH ELEVATION

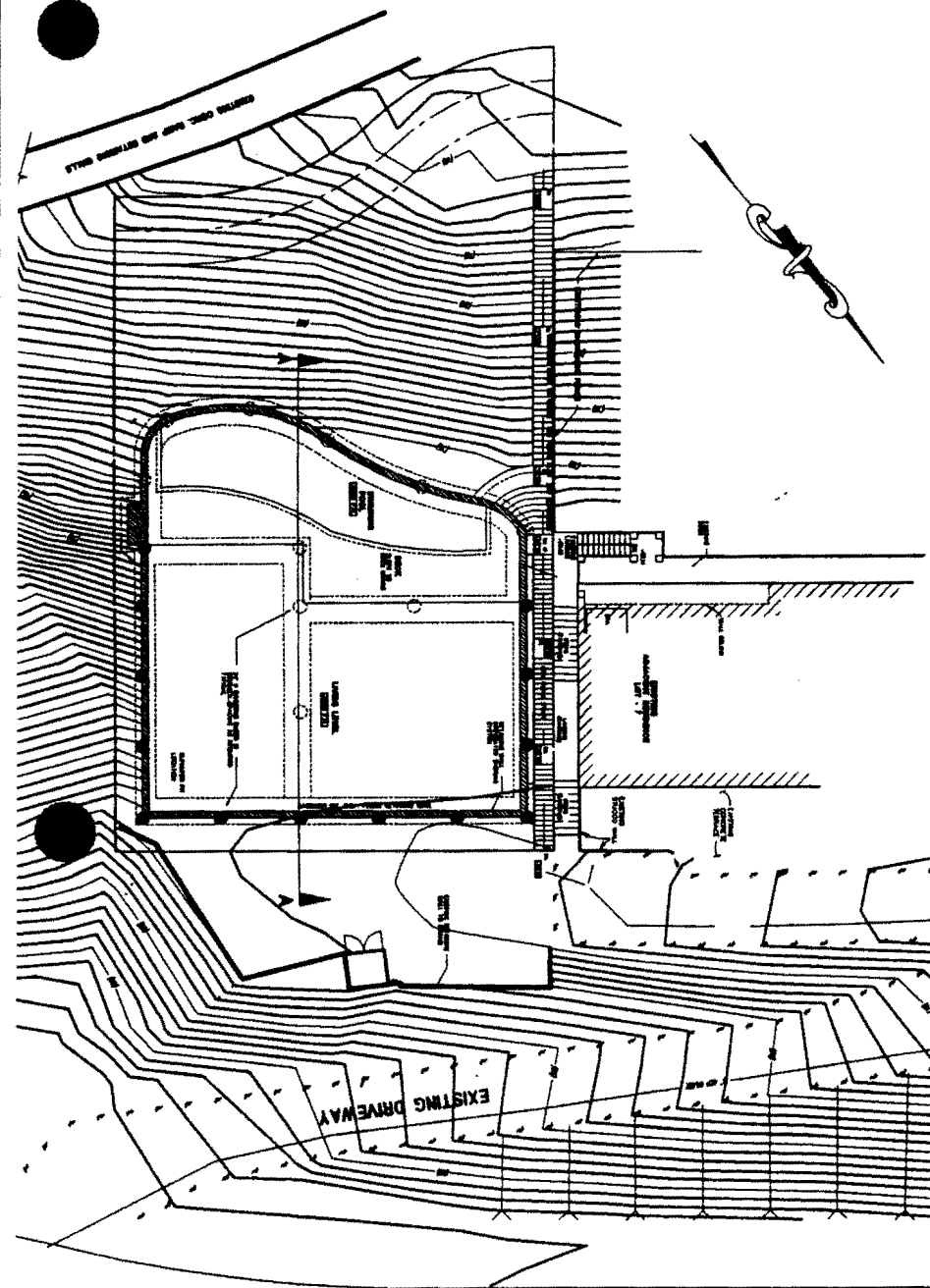
EAST ELEVATION

EXISTING EAST ELEVATION

EXTERIOR ELEVATIONS

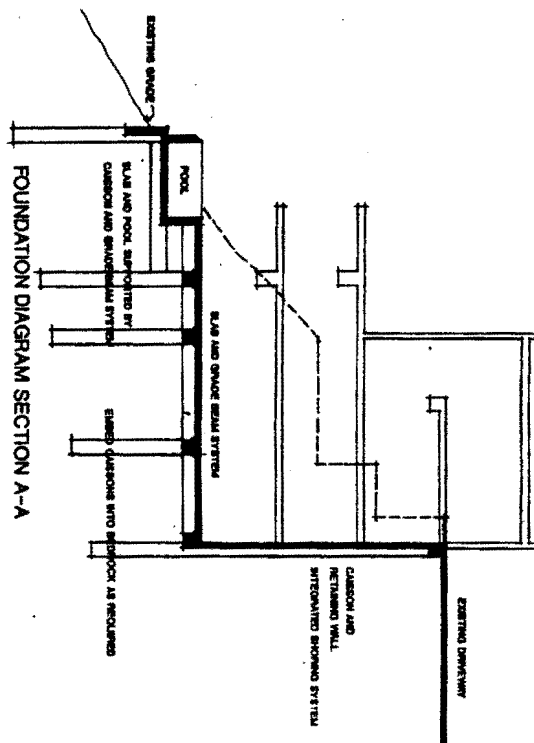
SCALE 1/8" = 1'-0"

BREAKERS DRIVE



OCEAN BOULEVARD

FOUNDATION PLAN
SCALE 1/8" = 1'-0"



COASTAL COMMISSION

EXHIBIT # 14
PAGE 1 OF 1

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