

CALIFORNIA COASTAL COMMISSION

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Commission Action:	

**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NO.: 5-03-100

APPLICANTS: Marion and Lulu Halfacre

AGENT: Architectural Design Solutions: Attn: Mark S. Dwyer

PROJECT LOCATION: 3425 Ocean Boulevard, City of Newport Beach
(Orange County)

PROJECT DESCRIPTION: Convert an existing basement of a single-family dwelling to living area and construct a new deck and also construct a new sundeck on the bluff face and new stairway down to the toe of the bluff. In addition, remove and replace existing side yard and rear yard fences.

SUMMARY OF STAFF RECOMMENDATION:

The subject site 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 convert an existing basement of a single-family dwelling to living area, including a significant seaward encroachment of the living area, construct a new deck and also construct a new sundeck on the bluff face and new stairway down to the toe of the bluff. The primary issues before the Commission is the appropriateness of approving the project given the importance of preserving scenic resources, minimizing landform alteration and avoiding development in hazard prone locations. Staff recommends that the Commission **DENY** the proposed project.

As submitted, the proposed project is inconsistent with the Sections 30251 and 30240 (b), of the Coastal Act and the City of Newport Beach Land Use Plan (LUP) regarding development on coastal bluffs. The pattern of development along this segment of Ocean Boulevard consists of structures that are sited upon the upper bluff face, while the lower bluff face remains largely undisturbed and vegetated. With some exceptions, the overall appearance of the bluff in this area is natural and undeveloped. The exceptions include 1) lots that have pre-coastal, Commission-approved, or unpermitted stairways traversing the bluff face and 2) lots that have unpermitted development at the toe of the bluff (including projects that are currently subject to a Commission cease and desist order or are under investigation by the Commission's Enforcement staff). In certain cases, the Commission has approved a bluff face stairway where it was demonstrated that a pre-coastal bluff access was present down the bluff face. This site can be distinguished from these other sites by the fact it was vacant at the time the Coastal Act became law. Finally, 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.

Commission staff notes that there has been an increased amount of development activity along this segment of Ocean Boulevard over the last several years. Denial of this project would be consistent with prior actions by the Commission where the Commission has prohibited significant encroachments upon the lower bluff face. For instance, the Commission denied a proposal that included development upon the lower bluff face at the site adjacent to but down-coast of this site (5-01-191-(Tabak)). Similarly, the Commission denied a proposal 5 lots up-coast of this site with a similar development proposal (5-01-080). Where the Commission has approved development upon the lower bluff, the Commission has limited those encroachments. For instance, in a more recent proposal on the Tabak site (5-02-203), living space additions were restricted to the 48-foot bluff elevation contour, and accessory improvements were limited to the 33-foot elevation contour. However, the remainder of the lower bluff, below the 33-foot elevation contour was required to remain undeveloped. The project proposed in this application exceeds these previously defined limits.

Furthermore, alternatives to the proposed project exist. For example, the existing house could be remodeled or the existing home could be demolished and rebuilt consistent with the community character, where development is located at upper bluff face, while the lower 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. Therefore, staff recommends that the project be **DENIED**, as it would have adverse impacts on the naturally appearing landform and a cumulative adverse impact on visual and public access coastal resources.

LOCAL APPROVALS RECEIVED: Approval in Concept (#2842-2002) from the City of Newport Beach Planning Department dated February 27, 2003; and Modification Permit No. MD2003-016 (PA2003-036) from the City of Newport Beach Planning Department dated February 26, 2003.

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach Certified Land Use Plan; Coastal Development Permit #P-6-7-77-1084-[Walker]; Coastal Development Permit #PE-80-1084; *Geotechnical Investigation for Proposed Additions at 3425 Ocean Boulevard, Corona Del Mar, California (W.O. 209002)* prepared by Coast Geotechnical dated November 4, 2002; Letter to Architectural Design Solutions, Inc. from Commission staff dated April 9, 2003; Response packet from Architectural Design Solutions, Inc to Commission staff received February 18, 2004; *Wave-Runup & Coastal Hazard Study, 3425 Ocean Boulevard, Corona Del Mar, CA* prepared by Skelly Engineering dated September 2003; Letter from Coast Geotechnical to Architectural Design Solutions, Inc. dated November 29, 2003.; Letter Architectural Design Solutions, Inc. from Commission staff dated March 19, 2004; Letter from Skelly Engineering to Architectural Design Solutions, Inc dated April 6, 2004 and Response packet from Architectural Design Solutions, Inc to Commission staff received May 5, 2004; February 18, 2004.

EXHIBITS

1. Vicinity Map
2. Assessor's Parcel Map
3. Topographic Plan
4. Grading Plan
5. Site Plan
6. Demolition Plan
7. Floor Plans
8. Sections
9. Elevations
10. Elevations/Section
11. Foundation Plan

STAFF RECOMMENDATION:

I. STAFF RECOMMENDATION OF DENIAL

Staff recommends that the Commission **DENY** the coastal development permit application by voting **NO** on the following motion and adopting the following resolution.

A. Motion

I move that the Commission approve Coastal Development Permit No. 5-03-100 for the development proposed by the applicants.

B. Staff Recommendation of Denial

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

C. Resolution to Deny the Permit

The Commission hereby **DENIES** a coastal development permit for the proposed development on the ground that the development will not conform with the policies of Chapter 3 of the Coastal Act and will 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 would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

II. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares as follows:

A. **PROJECT LOCATION, DESCRIPTION, LOCAL GOVERNMENT APPROVAL AND PRIOR COMMISSION ACTION**

1. Project Location

The proposed project is located at 3425 Ocean Boulevard in Corona Del Mar, City of Newport Beach, County of Orange (Exhibits #1-2). The subject site is immediately inland of Corona Del Mar State Beach, a public beach. The project site is located along a stretch of Ocean Boulevard where single-family residences have been developed upon the upper bluff face, but where lower bluff face is natural and undeveloped. The subject property is accessed by a common descending private driveway off Ocean Boulevard. The single-family residence is terraced down the upper coastal bluff face. Between the lower most portion of the residence and the beach below, is a slope about forty feet in height descending at a gradient of about 1.5:1 (H:V) with locally steeper areas. Lower portions of the bluff appear to be in a generally natural state but are landscaped with shrubs, trees and ice plant.

The subject site is currently developed with a 2,805 square foot single-family residence upon the upper bluff face. Ocean Boulevard is located to the north (inland of the existing residence), at the top of the bluff. Up-coast, to the west, are existing single-family homes. Down-coast, to the east is an existing single-family home, and further beyond is a natural vegetated bluff, a bluff park know 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. Seaward, to the south of the project site is sandy beach (Corona Del Mar State Beach). The bluff face remains relatively undisturbed and vegetated, with exception of an existing wooden fence located along the rear side yard. The pattern of approved development along this segment of Ocean Boulevard primarily consists of structural development sited upon the upper bluff face and minimal disturbance of the lower bluff face (i.e. stairways only).

2. Project Description

The proposed project consists of additions to an existing 2,805 square foot, three-level single-family residence with two 2nd floor decks¹ and with a 395 square foot two-car garage located on a coastal bluff face, as follows: 1) conversion of an existing 580 square foot basement to living area plus a 235 square foot (7-foot wide by 34-foot long) seaward side living space addition to the basement level; 2) a new 300 square foot basement-level deck upon the bluff face; and 3) a new stairway down to the toe of the bluff and beach with connection to a new 760 square foot sundeck on the bluff face near the toe (Exhibits #3-11). The basement-level deck and stairway will be supported by an exposed caisson foundation system (15-24" caissons) (Exhibit #4). Also, the following components are part of the proposal: retaining walls, planters, removal and replacement of the existing side yard and rear yard fences, underground irrigation, and landscaping (Exhibits #3-11).

¹ The City of Newport Beach Planning Department approved (Variance No. 1153) in May of 1989 the construction of these two 2nd floor balconies. One of the conditions of approval for the City permit was that the project obtains Coastal Commission approval. However, no such approval for the construction of the two 2nd floor balconies was acquired.

No work is proposed on the two upper livable floors. Grading will consist of 29 cubic yards of cut, 21 cubic yards of import and 50 cubic yards of fill.

3. Local Government Approval

The proposed development conforms with the applicable standards for development in the R-1 District, except for encroachments into the side yard setback area. The City of Newport Beach approved this exception through a Modification Permit No. MD2003-016 (PA2003-036), which allows an 8-foot high protective guardrail to encroach 4-feet into the 4-foot required side yard setback where the Zoning Code limits the height of structures to 6-feet maximum.

4. Prior Commission Action at the Subject Site

a. Coastal Development Permit #P-5-16-77-883 (Cooper)

On July 11, 1977, the South Coast Regional Commission approved Coastal Development Permit #P-6-7-77-1084-(Walker) for the construction of a three-story single-family dwelling with an attached three-car garage. The permit was approved with three (3) special conditions, which required: 1) a statement from a registered geologist/engineer verifying that the plans conform to the geology report recommendations; 2) submittal of a detailed and complete slope restoration and maintenance plan to include drought resistant vegetation cover and landscaping; and 3) submittal of a detailed and complete study and plan indicating method of protection of tidepools, marine resources from construction impacts; and also a signed and notarized statement agreeing to these studies and plans. The applicant completed condition compliance and the permit was issued on July 25, 1977.

b. Coastal Development Permit #PE-80-1084-(Walker)

On March 30, 1980, the South Coast Regional Commission approved Coastal Development Permit #PE-80-1084-(Walker) for a one-year permit extension that would expire March 30, 1981. The permit was approved with no Special Conditions and was issued on April 17, 1980.

5. Prior Commission Action in Subject Area

a. 5-01-191-(Tabak), 3431 Ocean Boulevard (Located Down-coast & Adjacent to Subject Site)

At the January 2002 Commission Hearing, the Commission denied Coastal Development Permit Application #5-01-191-(Tabak) for the demolition of an existing three (3) story single family residence and construction of a new single family residence. The proposed structure would have covered virtually the entire upper and lower bluff face areas. 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.

b. 5-02-203-(Tabak), 3431 Ocean Boulevard (Located Down-coast & Adjacent to Subject Site)

At the January 2003 Commission Hearing, the Commission approved Coastal Development Permit Application #5-02-203-(Tabak) for the demolition of an existing three (3) story single family residence and construction of a new single family residence and also demolition and replacement of existing wooden staircase to the beach,. The proposed project had been reduced compared with a prior proposal. The Commission found that the proposed development was consistent with the pattern of development in the immediate vicinity and the project would not have a cumulative adverse impact on visual coastal resources. Under this proposal, living space additions were restricted to the 48-foot bluff elevation contour, and accessory improvements were limited to the 33-foot elevation contour. However, no other additions were allowed below the 33-foot elevation contour upon the lower bluff face.

c. 5-01-112-(Ensign), 3415 Ocean Boulevard (Located 1 Lot Up-coast of Subject Site)

At the February 2002 Commission Hearing, the Commission approved Coastal Development Permit #5-02-112-(Ensign) 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 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 stairway that may have followed a pre-costal Act pathway, 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. Unlike the subject application, the Ensign proposal did not include 2 new decks and new living space on the bluff face.

d. 5-01-080-(Palmero), 3317 Ocean Boulevard (Located 5 Lots Up-Coast of Subject Site)

At the January 2002 Commission Hearing, the Commission denied Coastal Development Permit #5-01-080-(Palmero) 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 five 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.

e. 5-01-199-(Butterfield), 3401 Ocean Boulevard (Located 2 Lots Up-Coast of Subject Site)

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 pre-Coastal Act bluff face stairway. The project is located two 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.

C. SCENIC 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...

The City of Newport Beach Land Use Plan (LUP) was certified on May 19, 1982. Since the City only has an LUP, the policies of the LUP are used only as guidance. The Newport Beach LUP includes the following policies that relate to development at the subject site:

Development of Coastal Bluff Sites, Policy 2 (b) states,

Grading, cutting and filling of natural bluff face or bluff edges shall be prohibited in order to preserve the scenic value of bluff areas, except for the purpose of performing emergency repairs, or for the installation of erosion-preventive devices or other measures necessary to assure the stability of the bluffs.

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 upper bluff face, while the lower 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 (either the subject of a cease and desist order issued by the Commission currently under investigation by the Commission's Enforcement staff), the overall appearance of the bluff in this area is natural and undeveloped, thus giving it a "natural" look. 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 a significant new development encroaching seaward. This seaward encroachment also raises the concern over cumulative impacts if others propose to develop the coastal bluff face in a similar manner.

1. Scenic Resources and Landform Alteration

The applicant is proposing an addition of 235 square feet to an existing 580 square foot basement and conversion of this basement to living area of a existing 2,805 square foot, three-level single-family residence with a 395 square foot two-car garage located on a coastal bluff (Exhibits #3-11). In addition, the project consists of a new 300 square foot basement deck and also a new 760 square foot sundeck on the bluff face and a new stairway down to the toe of the bluff. The basement deck and stairway will be supported by an exposed caisson foundation system (15-24" caissons) (Exhibit #4). Also, the following components are also part of the proposed: retaining walls, planters, removal and replacement of the existing side yard and rear yard fences underground irrigation, and landscaping (Exhibits #3-11). No work is proposed on the two upper floors. Grading will consist of 29 cubic yards of cut, 21 cubic yards of import and 50 cubic yards of fill. The proposed project will affect public views of the vegetated bluff from the adjacent public beach (Corona Del Mar State Beach), and would be inconsistent with the pattern of development in the subject area. The Commission finds that the proposed project does not minimize alteration of natural landforms, is not visually compatible with the character of surrounding development and will affect the scenic and visual qualities of the subject area. As such, the proposed project is inconsistent with Section 30251 of the Coastal Act and the City's LUP policy regarding coastal bluff sites as discussed below.

a. Landform Alteration

The Coastal Act also requires new development to be sited to "*protect views to and along the ocean and scenic coastal areas*" and "*minimize the alteration of natural land forms.*" The proposed project would be located along a coastal bluff face. The existing bluff face 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 would significantly alter the appearance of the vegetated bluff. This is very evident with the applicants' proposal to use an exposed caisson foundation system to support the new basement level deck and new stairs to the toe of the bluff. As such, new development at the subject site must be appropriately sited to minimize adverse

effects to existing scenic resources. Thus, the proposed project is inconsistent 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. Grading, cutting and filling are allowed, though, if it is for the purpose of performing emergency repairs or for the installation of erosion-preventive devices to assure the stability of the bluffs. The existing condition of the bluff is such that no protective devices are needed to secure the stability of the existing bluff, but the proposed project would necessitate the need for these protective structures that would then alter the natural land form and thus be inconsistent with the City LUP policy regarding coastal bluff sites. The proposed project would cause the alteration of natural land forms and would have adverse impacts on the coastal scenic views of the area thus violating the City's LUP policy on coastal bluff sites.

b. City Setback, Stringline Analysis and Geologic Setback

Seaward encroachment of new development can often have adverse impacts on a variety of coastal resources. For example, the seaward encroachment of private development toward a beach can discourage public utilization of the beach adjacent to such development. The seaward encroachment of structures can also have adverse visual impacts. In addition, the seaward encroachment of structures can increase the hazards to which the new development will be subjected (the hazard and access issues are discussed elsewhere in these findings). Therefore, the Commission has often used either 1) City-required setbacks from the seaward property line; 2) a string line evaluation; or 3) a minimal 25-foot setback in areas where geologic conditions are such that the site can be presumed stable for the useful economic life of the development. If a stringline is used, two types of string lines are applied to evaluate a proposed project—a structural string line and a deck string line. A structural string line refers to the line drawn between the *nearest* adjacent corners of the adjacent structures on either side of the subject site. Similarly, a deck string line refers to the line drawn between the nearest adjacent corners of adjacent decks on either side of the subject site. Setbacks, string lines and geologic setbacks 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 Setback

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. The plans submitted by the applicants show that the project conforms to the City zoning setback requirement of 10-feet, but conformance to the City required setback however does not address the potential impacts that the seaward encroaching development will have on the project site. Adhering to the City setback of 10-feet would allow development on the lower bluff face and would not achieve the objectives of Coastal Act Section 30251. 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 the bluff face in the manner proposed.

Stringline

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. 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 a string line evaluation to review seaward encroachment of development. If a stringline is used, two types of string lines are applied to evaluate a proposed project—a structural string line and a deck string line. A structural string line refers to the line drawn from the *nearest* adjacent corners of adjacent structures. Similarly, a deck string line refers to the line drawn from the nearest adjacent corners of adjacent decks. 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.

The applicant has submitted a structural stringline plan and it shows that the proposed improvements would project seaward significantly. More specifically, the proposed improvements extend further seaward than the existing adjacent residences, and seaward of the Tabak residence recently approved by the Commission located to the adjacent east of the project site. Currently, the existing residence exceeds the structural stringline established by the adjacent neighbors. Allowing the proposed basement expansion would further exacerbate development upon the lower bluff face. The existing deck on site as well exceeds the deck stringline established by the adjacent neighbors. By allowing the proposed decks, the development would additionally and significantly impact the lower bluff, which is currently natural and undeveloped. In January of 2002 the adjacent neighbor to the east of the project site obtained a Coastal Development Permit #5-02-203-[Tabak] for the demolition of an existing three (3) story single family residence and construction of a new single family residence. The habitable area for CDP#5-02-203 extends out to the 48-foot contour, while the proposed pool extends to 33-foot contour (the Commission placed a special condition limiting the pool to extend to the 33 foot contour line). The proposed project's livable area extends to the 46-foot contour line, while the lower level deck extends to the 14-foot contour line. Thus, the proposed project is a significant development on the bluff face inconsistent with a recent Commission approval adjacent to the site and results in a significant adverse impact on coastal resources.

The basis of the stringline is to prevent seaward encroachment of new development that can have adverse impacts on a variety of coastal resources. The proposed project would encroach seaward. There is a distinct community character where development is located upon the upper bluff face, while the lower bluff face remains largely undisturbed and vegetated. While the development

(CDP#5-02-203) to the adjacent east has been approved by the Commission and does allow some further encroachments upon the lower bluff face, that development is not as significant as the proposed project. The proposed project would result in seaward encroachment and also be a visible intensification of use of the site, inconsistent with the surrounding undeveloped area. Thus, the proposed project must be denied because it proposes of seaward encroachment which would have adverse impacts on coastal resources and would violate Section 30251 of the Coastal Act.

Geologic Setback

In cases where use of a stringline to limit seaward encroachment of development is not appropriate, the Commission will use a geologic bluff edge setback for primary structures and accessory improvements. Such a setback is derived for site-specific conditions and is designed to assure stability of the development for its useful economic life. A minimal setback may be warranted where those slopes are stable and historic bluff retreat has been minimal. In these cases, the Commission typically requires that structures be setback at least 25-feet from the bluff edge and hardscape features be setback at least 10-feet from the bluff edge to minimize the potential that the development will contribute to visual impacts. However, the development site is located entirely on a coastal bluff face. Therefore, application of a bluff edge setback is not appropriate for this project.

c. Cumulative Impacts

The 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 (either the subject of a cease and desist order issued by the Commission or currently under investigation by the Commission's Enforcement staff), the overall appearance of the bluff in this area is natural and undeveloped. Approval of the proposed project would set a precedent for the construction substantial new 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. Therefore, the Commission cannot allow the proposed project to be constructed as submitted.

Conclusion

The Commission finds that the proposed project, as currently proposed, is not sited and designed to protect scenic and visual qualities of coastal areas as a source of public importance. Denial of the proposed project would preserve existing scenic resources and would be consistent with preserving the existing community character where development occurs at the top of the coastal bluff. The alteration of the bluff would result in an adverse visual effect when viewed from public vantage points such as the beach and Inspiration Point. Allowing the proposed project would also lead to seaward encroachment of new development in an area where extensive unpermitted development has occurred that has encroached seaward and affected the community character. These are matters the Commission is presently trying to resolve through

the coastal development permit process, and enforcement actions as necessary. The Commission finds that the proposed project would result in the alteration of natural landforms and would not be visually compatible with the character of the surrounding area. Consequently, the proposed project would increase adverse impacts upon visual quality in the subject area. Therefore, the Commission finds that the proposed project is inconsistent with Section 30251 of the Coastal Act and with the City's LUP policy regarding coastal bluff sites and therefore must be denied.

D. PUBLIC ACCESS

Section 30240 (b) of the Coastal Act 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 project site is bluff face on the seaward side of Ocean Boulevard, which is the first public road immediately inland of Corona del Mar State Beach. 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 upon the upper bluff, while the lower 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 (either the subject of a cease and desist order issued by the Commission or currently under investigation by the Commission's Enforcement staff), the overall appearance of the bluff in this area is natural and undeveloped. Public access is available directly seaward of the toe of the bluff on the sandy public beach (Corona del Mar State Beach). Development at this site, if approved, 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 be sited and designed to prevent seaward encroachment of development that would impact public access to coastal resources. The proposed project, as submitted, would be a significant new development encroaching seaward.

The proximity of the proposed project to Corona Del Mar State Beach, a public beach, raises Coastal Act concerns, as it would be new seaward encroaching development that would discourage use of the public beach. The project would diminish the value of the beach for public use by discouraging public access to the beach through the presence of a lower level deck and 5 to 11-foot high retaining walls located approximately 30 feet from the rear yard (south) property line, which is adjacent to the public beach. The edge of the new lower level deck and the retaining walls will be located approximately where the existing fence is located. The proposed lower level deck and retaining walls would be imposing structural features that would affect public use of the beach by discouraging the public from using the public beach area intended for public use adjacent to the retaining walls and fence. This would force 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 access to the public beach.

The Commission finds that the proposed project, as currently proposed, is not sited and designed to protect public access to coastal resources. Denial of the proposed project would preserve existing public access resources and would be consistent with preserving the existing

community character where development occurs at the top of the coastal bluff. Allowing the proposed project would also lead to seaward encroachment of new development in an area where extensive unpermitted development has occurred that has encroached seaward and affected the community character. The Commission finds that the area in front of the development is a recreation area and that the proposed project would degrade that area and, by discouraging public use of the area, would be incompatible with Section 30240 (b). Therefore, the Commission finds that the proposed project is inconsistent with Section 30240 (b) of the Coastal Act and must be denied.

D. HAZARDS

Section 30253 of the Coastal Act states, in pertinent 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.*

Development on a bluff is inherently risky due to the potential for bluff erosion and collapse. Bluff development poses potential adverse impacts to the geologic stability of bluffs and the stability of residential structures. In general, bluff instability is caused by environmental factors and impacts caused by humans. Environmental factors include seismicity, wave attack, drying and wetting of soils, wind erosion, salt spray erosion, rodent burrowing, percolation of rain water, poorly structured bedding, and soils conducive to erosion. Factors attributed to humans that may be relevant to this site include irrigation, over-watering, building too close to the bluff edge, improper site drainage, use of impermeable surfaces that increase runoff, use of water-dependent vegetation, and breaks in water or sewage lines.

1. Site Specific Bluff Information

a. Geotechnical Issues

To address site-specific geotechnical issues, the applicants have submitted several reports including a *Geotechnical Investigation for Proposed Additions at 3425 Ocean Boulevard, Corona Del Mar, California (W.O. 209002)* prepared by Coast Geotechnical dated November 4, 2002; and a Letter from Coast Geotechnical to Architectural Design Solutions, Inc. dated November 29, 2003. The information provided states that the slope is grossly stable and that proposed project is not expected to impact the slope's gross stability and further states that surficial slope stability could be improved through proper slope maintenance. However, the investigations also raise major concerns regarding the proposed project. For instance, the investigation states that possible evidence of past surficial failures is present and they most likely occurred due to heavy vegetation, loose surficial soils, and over-irrigation. In addition, the subject slope does show signs of creep within the undocumented fills and slope wash. The investigations also state that a foundation consisting of 24-inch caissons would be necessary to support the proposed

improvements. While the original geotechnical investigation does recommend deep caisson foundations, a later investigation goes on to provide parameters for deepened footings bearing on bedrock. The information submitted ultimately concludes the coastal bluff on the site is grossly stable and that the project is feasible from an engineering perspective provided the applicant complies with the recommendations contained in the investigation.

The Commission's staff geologist has reviewed the project and agrees with the investigations' conclusions. The slope will be subject to subaerial erosion and surficial instabilities, but the geotechnical report makes recommendations that should assure safety of the development against such instabilities as soil creep. The project can be built, but only with the support of fairly massive foundation elements.

2. Coastal Hazards

To 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). 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 *Wave-Runup & Coastal Hazard Study, 3425 Ocean Boulevard, Corona Del Mar, CA* prepared by Skelly Engineering dated September 2003, which addresses the potential of hazard from flooding and wave attack at the subject site. The study states that there is a wide (200 feet wide) sandy beach in front of the property 99.9% of the time and that aerial photographs over the last three decades show no overall shoreline retreat in general. This beach is due, in part, to the sheltering effect of the Newport Harbor jetties, and as long as these jetties are present the beach should be fairly stable. Various other findings are discussed in this study and it concludes by stating: " ... wave runup and overtopping will not significantly impact this property over the life of the proposed improvements. The proposed development will neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or adjacent area. There are no recommendations necessary for wave or wave runup protection. No shore protection is proposed or should be necessary in the next 75 years. The proposed project minimizes risks from flooding."

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.

3. Conclusion

The proposed development is located in a hazard prone environment. On the other hand, geotechnical investigations conclude that the proposed project is feasible from the engineering perspective, but only given a significant engineering effort. This engineering effort would require installation of a caisson foundation system to support the new accessory improvements in an area where hazards do exist. The fact that a project could technically be built at this location is not sufficient to conclude that it *should* be

undertaken. The project should be designed so that no massive engineering solutions are required for construction of the proposed project.

Due to the project's impact on coastal views and the alteration of natural landforms, possible project alternatives were requested from the applicants in order to find an approvable project that would limit impact on coastal views and alteration of natural landforms. The applicants have stated that they feel that the current project proposal is the best and least impacting; therefore, no other alternatives were submitted. An alternatives analysis conducted by staff has been provided in Section II E. of this staff report.

E. ALTERNATIVES

Denial of the proposed project will neither eliminate all economically beneficial or productive use of the applicants' property, nor unreasonably limit the owners' reasonable investment-backed expectations of the subject property. The applicants already possess a substantial residential development of significant economic value of the property. In addition, several alternatives to the proposed development exist. Among those possible alternative developments are the following (though this list is not intended to be, nor is it, comprehensive of the possible alternatives):

1. No Project

No changes to the existing site conditions would result from the "no project" alternative. As such, there would be no disturbance of the bluff face. The bluff face would remain as an undeveloped vegetated slope and would be consistent with community character as development occurs at the base of the coastal bluff. The applicants would still have full use of the residence. This alternative would result in the least amount of effects to the environment and also would not have any adverse effect on the value of the property.

2. Remodeling of the Existing Home

An alternative to the proposed project would be remodeling of the existing home located at the top of the bluff. As such, there would be no disturbance of the bluff face or the toe of the bluff. The bluff face would remain as an undeveloped vegetated slope and would be consistent with community character as development occurs at the top of the coastal bluff.

In addition, improvements and additions to the existing development such as an outdoor rear deck or yard on the bluff face reflective of prior Commission approvals such as CDP #5-02-203-[Tabak] could be considered. CDP #5-02-203 allowed habitable area to extend to the 48-foot contour and allowed a pool to extend to the 33-foot contour.

3. Demolishing and Rebuilding the Existing Home

Another alternative to the proposed project would be demolishing and rebuilding the existing home, consistent with the pattern of development, located upon the upper bluff face. As such, there would be no disturbance of the lower bluff face or the toe of the bluff. The lower bluff face would remain as an undeveloped vegetated slope and would be consistent with community character as development occurs at the top of the coastal bluff.

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 City of Newport Beach Land Use Plan (LUP) was certified on May 19, 1982. Since the City only has an LUP, the policies of the LUP are used only as guidance. The Newport Beach LUP includes the following policies that relate to development at the subject site:

Public Access, Policy 4 states,

Public access in coastal areas shall be maximized consistent with the protection of natural resources, public safety, and private property rights.

Development of Coastal Bluff Sites, Policy 2 (b) states,

Public Views. The location and design of a proposed project shall take into account public view potential.

Development of Coastal Bluff Sites, Policy 2 (b) states,

Grading, cutting and filling of natural bluff face or bluff edges shall be prohibited in order to preserve the scenic value of bluff areas, except for the purpose of performing emergency repairs, or for the installation of erosion-preventive devices or other measures necessary to assure the stability of the bluffs.

The construction of the proposed project is inconsistent with the policies in the City's certified LUP and as well as Chapter 3 policies of the Coastal Act discusses previously, specifically Sections 30251 and 30240 (b). Development on the coastal bluff would cause adverse impacts to the natural landform, the coastal scenic resources and public access, which is inconsistent with these Sections of the Coastal Act. 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 the bluff face in the manner now proposed at the subject site. 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 and be incompatible with their recreational use. The proposed development would prejudice the City's ability to prepare a Local Coastal Program for Newport Beach that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a). Therefore, the project is found inconsistent with the policies in the City's certified LUP and the Chapter 3 policies of the Coastal Act and must be denied.

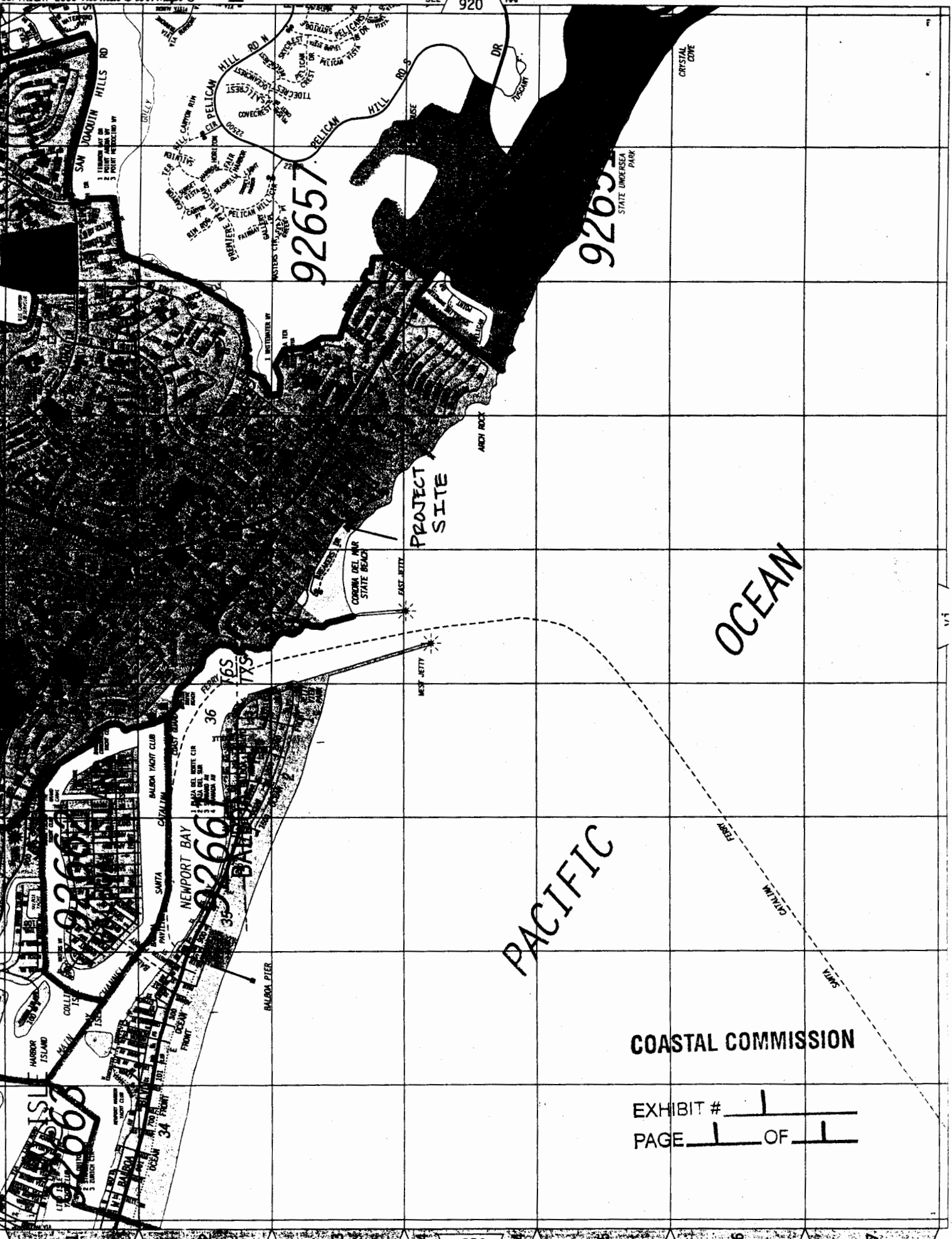
G. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, 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 feasible mitigation measures available which would substantially lessen any significant adverse effect, which the activity may have on the environment.

As described above, the proposed project would have adverse environmental impacts. There are feasible alternatives or mitigation measures available, such as remodeling of the existing home. Therefore, the proposed project is not consistent with CEQA or the policies of the Coastal Act because there are feasible alternatives, which would lessen significant adverse impacts, which the activity would have on the environment. Therefore, the project must be denied.

H:\FSY\Staff Reports\Nov04\5-03-100-[Halfacre]RC(CDM)



92657

92652

92666

92666

PROJECT SITE

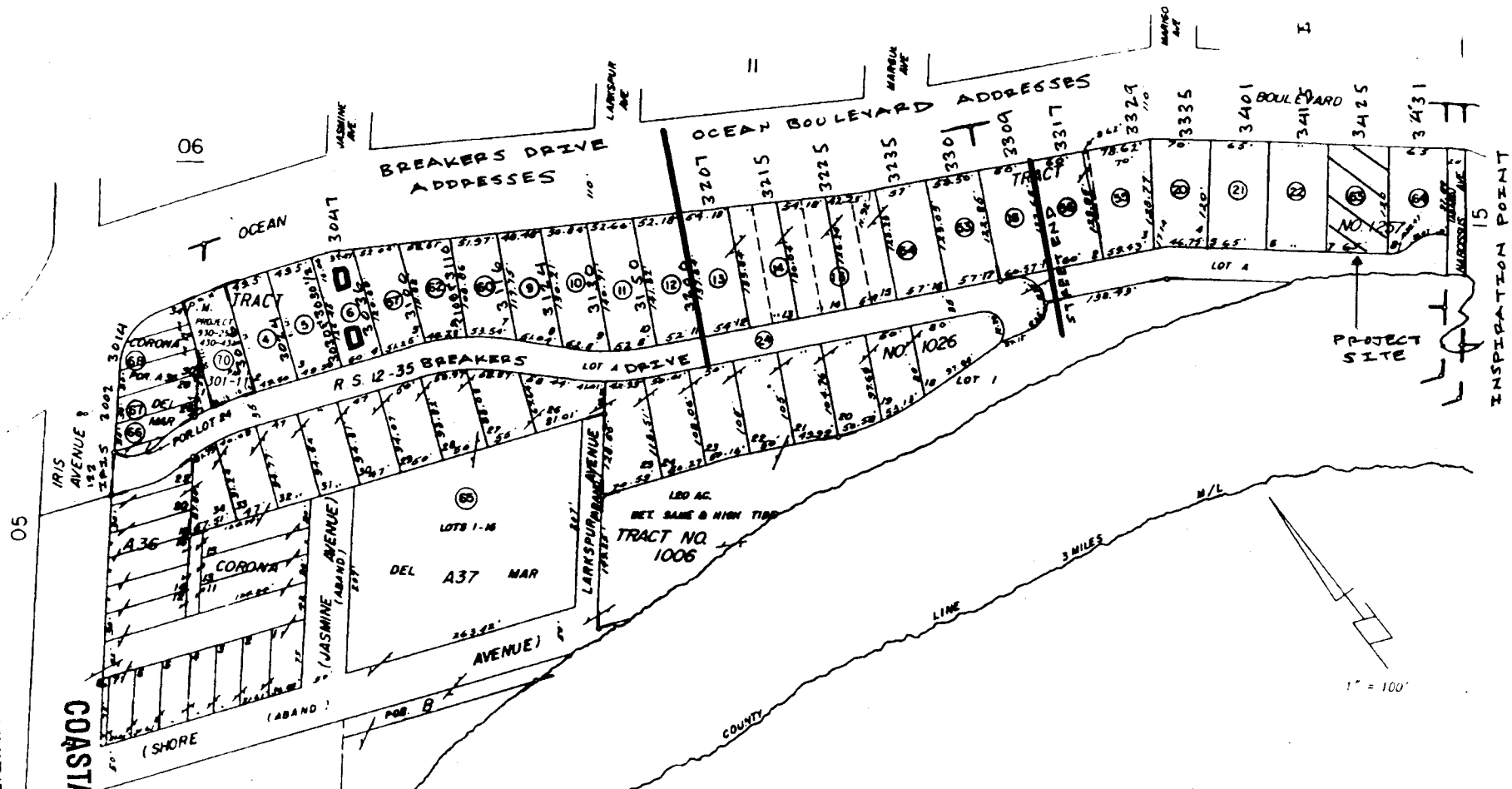
OCEAN

PACIFIC

COASTAL COMMISSION

EXHIBIT # 1
PAGE 1 OF 1

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COASTAL COMMISSION

MARCH 1949

TR. NO. 1006
TR. NO. 1026 (M.M. 33-38)
TR. NO. 1257
CORONA DEL MAR
PARCEL MAP

M.M. 33-29
R.S. 12-35
M.M. 38-25
M.M. 3-42
P.M. 284-1.301-11

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

ASSESSOR'S MAP BOOK 052 PAGE 12 COUNTY OF ORANGE

1" = 100'

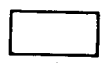
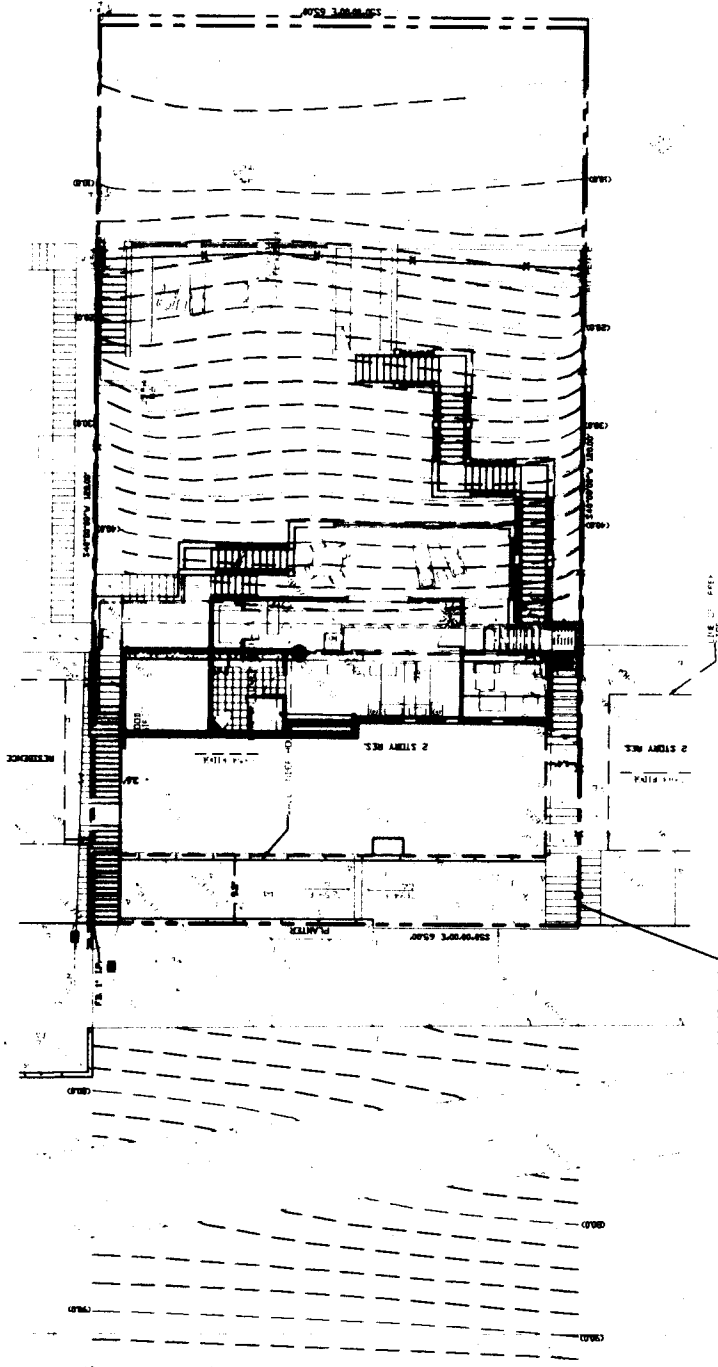


EXHIBIT # 2
PAGE 1 OF 1



SRV-2
02/17/04

DATE: 02/17/04
BY: [illegible]

PROJECT: [illegible]

SCALE: [illegible]


DATE: [illegible]

[illegible]

COASTAL COMMISSION

EXHIBIT # 3
PAGE 1 OF 1

REVISION	DATE
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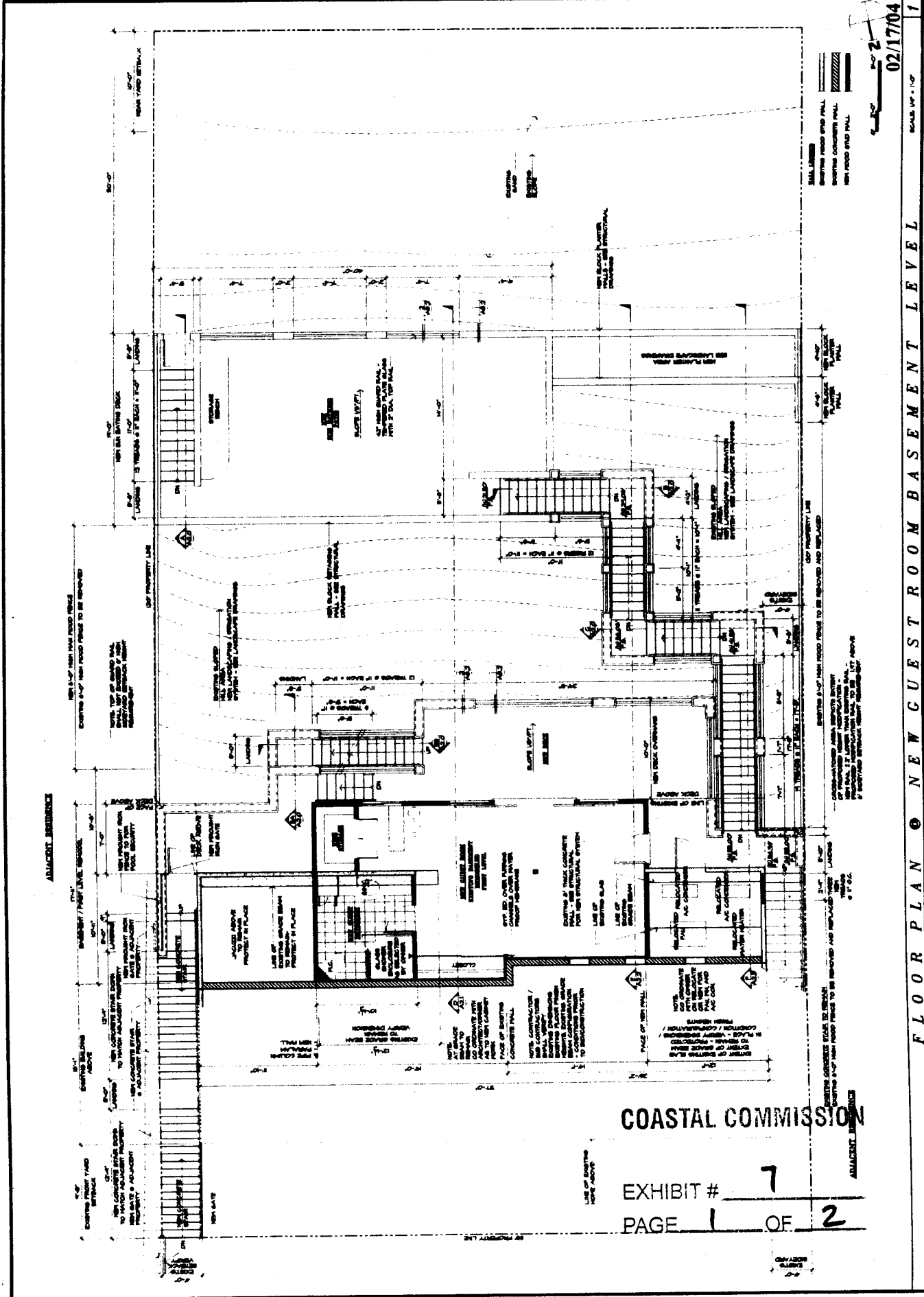

Stilton Builders
 425 31st Street
 Newport Beach, CA 92663
 949 463 4128

FIRST LEVEL FLOOR/STAIR/DECK PLANS
HALFACRE REMODEL
 3425 OCEAN BLVD
 CORONA DEL MAR, CA

MARK S. BELL
ARCHITECTURAL DESIGN
SOLUTIONS, INC.
 (949) 724-9650



SHEET NO.
A-1.0
 OF
 2009-08

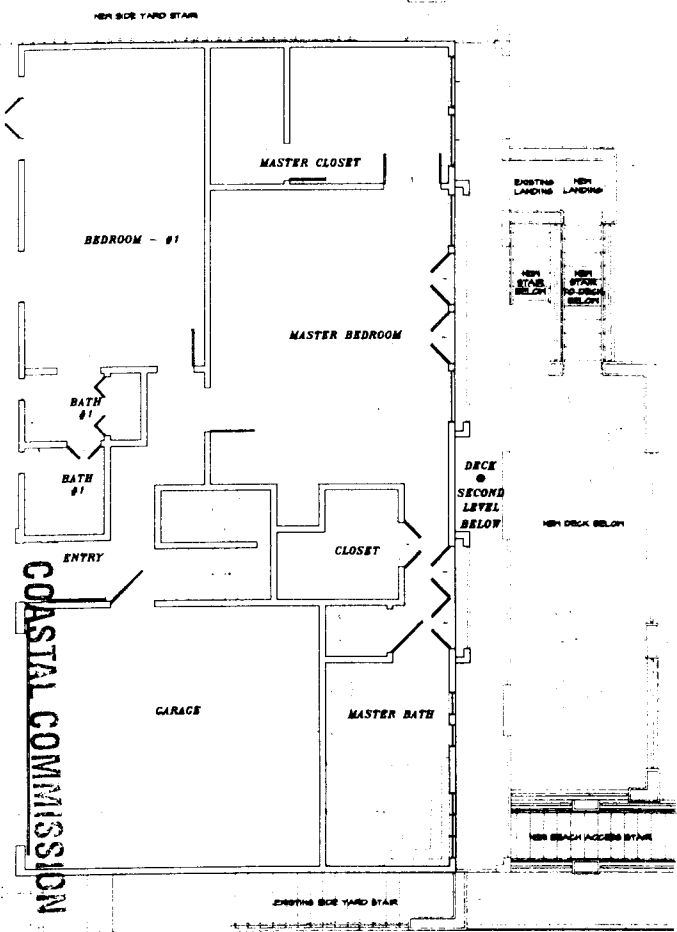


SCALE: 1/4" = 1'-0"
 02/17/04
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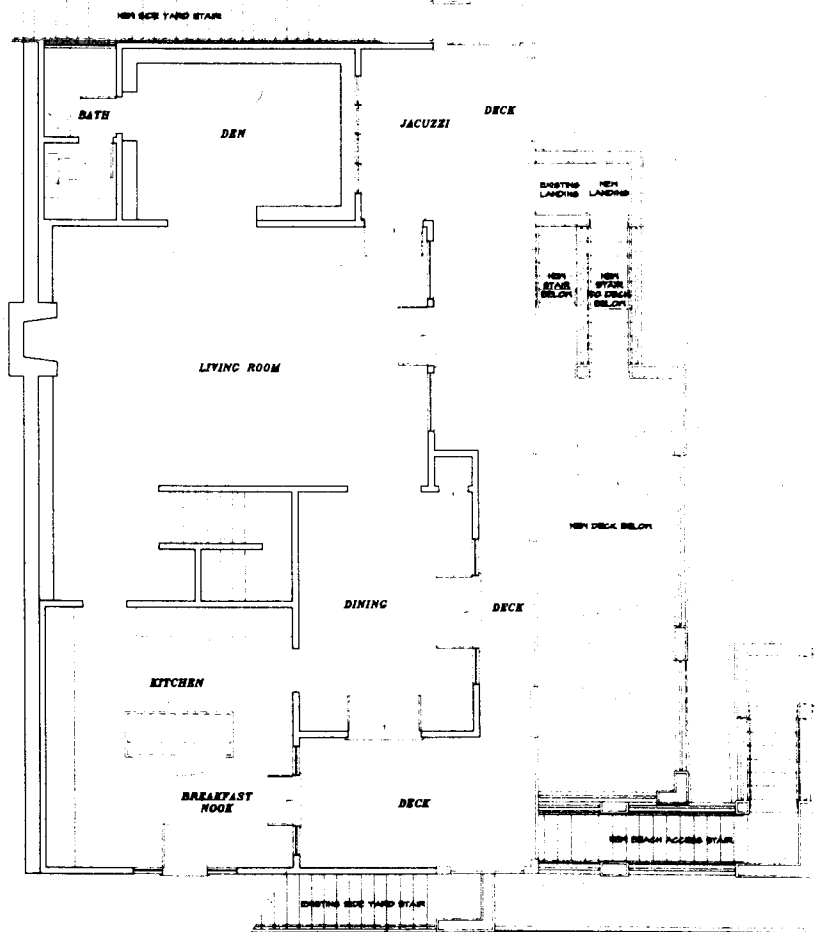
FLOOR PLAN @ NEW GUEST ROOM BASEMENT LEVEL

COASTAL COMMISSION
 EXHIBIT # **7**
 PAGE **1** OF **2**

EXHIBIT # 7
 PAGE 2 OF 2



EXISTING SECOND LEVEL FLOOR PLAN - GRADE
 FOR REFERENCE ONLY - NO WORK TO BE PERFORMED




EXISTING FIRST LEVEL FLOOR PLAN
 FOR REFERENCE ONLY - NO WORK TO BE PERFORMED

DATE: 02/17/04
 SCALE: 1/8" = 1'-0"

#	REVISION	DATE
1		
2		
3		
4		

DATE: _____
 DRAWN BY: _____
 CHECKED BY: _____

Hilton Builders
 425 31st Street
 Newport Beach, Ca. 92663
 949 463 4128



EXISTING SECOND/THIRD LEVELS
 FOR REFERENCE ONLY - NO WORK TO BE PERFORMED

HALFACRE REMODEL
 3488 OCEAN BLVD
 CORONA DEL MAR, CA.

MARK S. BETH
 ARCHITECT
ARCHITECTURAL DESIGN SOLUTIONS, INC.
 (949) 741-9650



SHEET NO.
A-1.2
 OF _____
 JOB NO.
 2009-06

NO.	REVISION	DATE
1	ISSUED FOR PERMITS	04/05/2004
2	REVISED PER COMMENTS	05/10/2004
3	REVISED PER COMMENTS	06/01/2004
4	REVISED PER COMMENTS	06/15/2004
5	REVISED PER COMMENTS	07/01/2004
6	REVISED PER COMMENTS	07/15/2004
7	REVISED PER COMMENTS	08/01/2004
8	REVISED PER COMMENTS	08/15/2004
9	REVISED PER COMMENTS	09/01/2004
10	REVISED PER COMMENTS	09/15/2004

William Builders
 425 31st Street
 Newport Beach, CA 92663
 949 429 4128

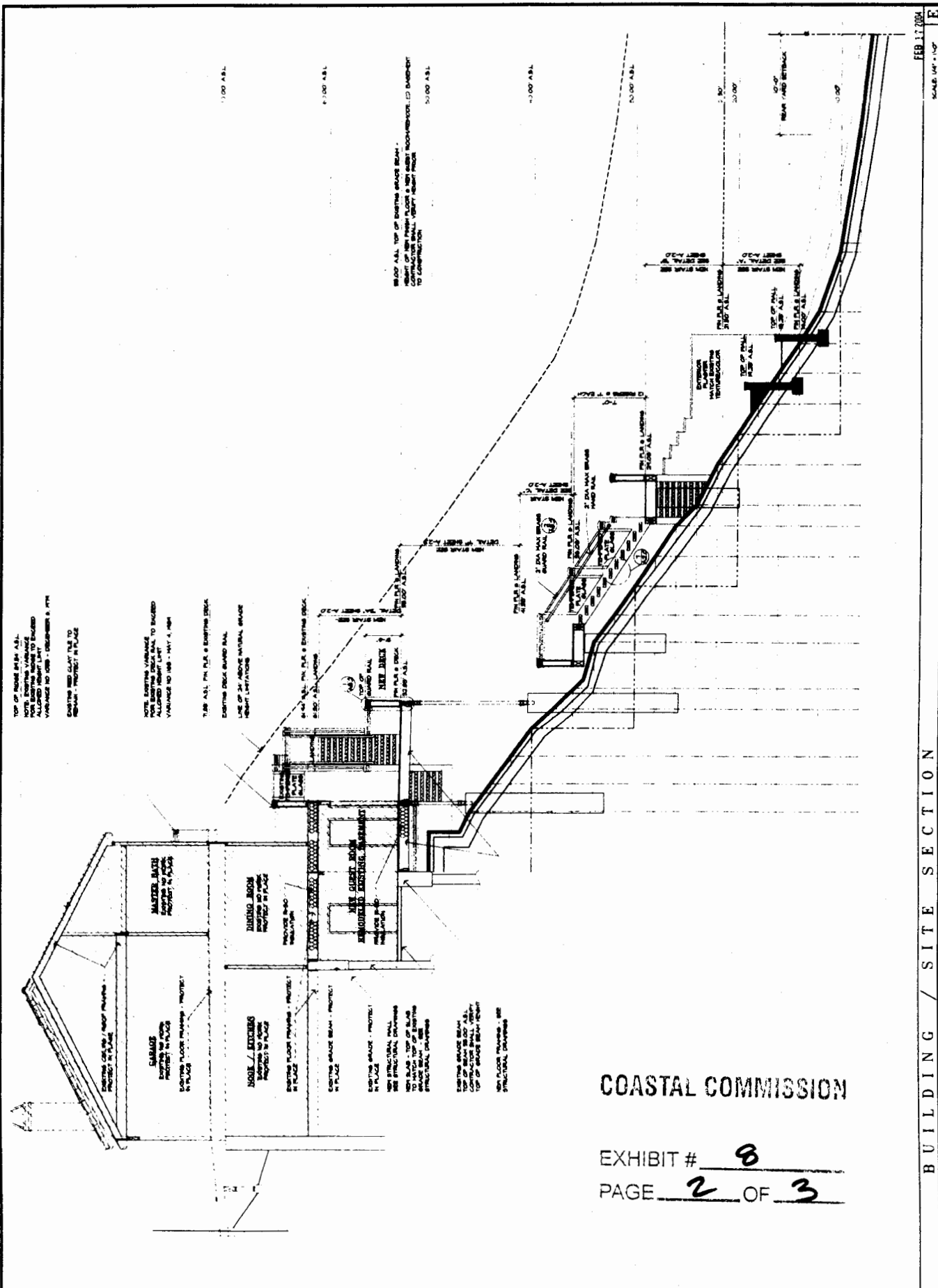


BUILDING / SITE SECTION
HALFACRE REMODEL
 3425 OCEAN BLVD.
 CORONA DEL MAR, CA

MARK S. PETERSON
ARCHITECTURAL DESIGN
SOLUTIONS, INC.



SHEET NO. **A-2.2**
 JOB NO. 2004-04
 DATE FEB 17 2004
 SCALE 1/4" = 1'-0"



BUILDING / SITE SECTION

NO.	DATE	REVISION
1		ISSUED FOR PERMITS
2		REVISED PER COMMENTS
3		REVISED PER COMMENTS
4		REVISED PER COMMENTS
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William Builders
 425 31st Street
 Newport Beach, CA 92663

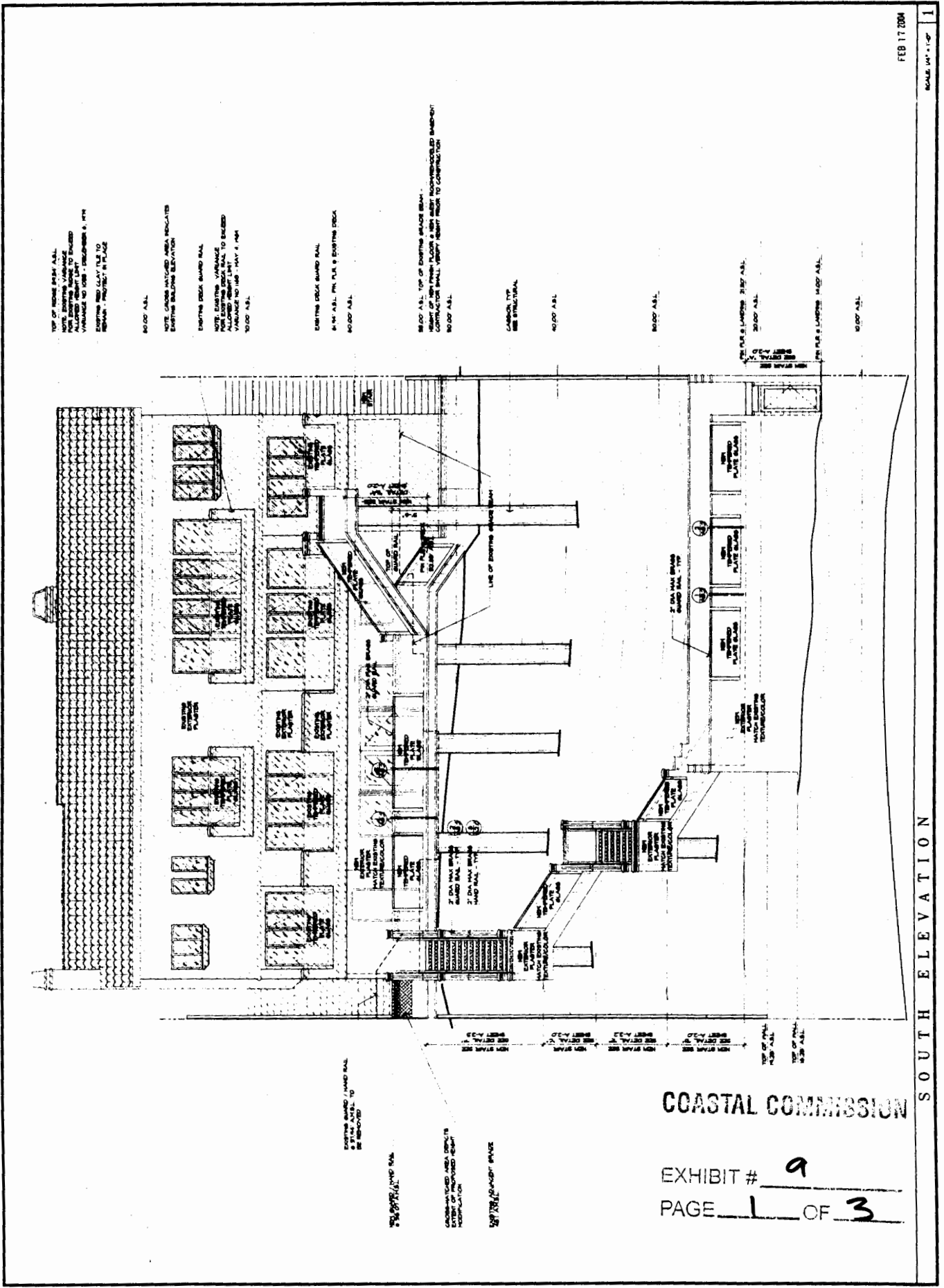


SOUTH EXTERIOR ELEVATION
 HALFACRE REMODEL
 3425 OCEAN BLVD.
 LAGUNA BEACH, CA 92653

MARK S. PETERSON
 ARCHITECTURAL DESIGN
 SOLUTIONS, INC.



SHEET NO.
 A-3.0
 JOB NO.
 2009-06



TOP OF FINISH PLUMB A.S.L.
 WITH EXISTING RAISE TO EXISTING
 FINISH PLUMB A.S.L. VARIANCE NO. 08
 DATE: MAY 4, 1991

EXISTING DECK BOUND RAIL
 WITH EXISTING VARIANCE
 FOR EXISTING DECK RAIL TO EXISTING
 FINISH PLUMB A.S.L. VARIANCE NO. 08
 DATE: MAY 4, 1991

EXISTING DECK BOUND RAIL
 8\"/>

EXISTING DECK BOUND RAIL
 8\"/>

MEAS. A.S.L. TOP OF EXISTING BRACE BEAM
 WITH EXISTING VARIANCE FOR EXISTING
 BRACE BEAM TO EXISTING FINISH PLUMB
 A.S.L. VARIANCE NO. 08 DATE: MAY 4, 1991

REMOVE THE
 EXISTING BRACE

40\"/>

80\"/>

EXISTING FINISH PLUMB 2\"/>

EXISTING FINISH PLUMB 40\"/>

COASTAL COMMISSION

EXHIBIT # 9
 PAGE 1 OF 3

FEB 17 2004

SOUTH ELEVATION

SCALE 1/4\"/>

