

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

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Hearing Date: January 12-14, 2005
Commission Action:

**STAFF REPORT: REGULAR CALENDAR****APPLICATION NUMBER:** 5-04-035**APPLICANTS:** Bob & Anne Hoff**AGENT:** D.B. Neish, Inc.**PROJECT LOCATION:** 4521 Brighton Road, Corona Del Mar (City of Newport Beach),
County of Orange

PROJECT DESCRIPTION: Substantial demolition, remodel and addition of 855 square feet to an existing one-story 4,242 square foot single-family residence on a coastal bluff top lot. In addition, the proposed project consists of: demolition of an existing 691 square foot detached three-car garage and construction of a new 799 square foot detached three-car garage; replacement of an existing staircase leading from the residence to the beach; and removal of an existing pool and spa and construction of a new pool and spa. No grading is proposed.

SUMMARY OF STAFF RECOMMENDATION:

The subject site is a coastal bluff top lot located between the first public road and the sea in Corona Del Mar (Newport Beach). There is evidence of ongoing bluff erosion at the site, including the presence of five (5) sea caves. The proposed residential remodel includes the demolition of more than 50% of the existing structure and the beach access stairway. Therefore, the project is considered new development and the existing and proposed portions of the structure must be appropriately setback from the *natural* bluff edge. A minimal bluff edge setback or application of a stringline would achieve the required setback. However, application of a stringline would be very restrictive and would severely limit the development envelope. A more equitable approach at this site is application of a minimal 25-foot bluff edge setback. In addition, the Commission does not allow construction of a new stairway along the bluff, as is the case in this project since more than 50% of the existing stairway will be demolished and rebuilt. Also, since no permit for the construction of the existing stairway can be found, the stairway may have been built without a permit and thus a possible violation of the Coastal Act may have occurred. The primary issues addressed in this staff report are the conformance of the proposed development with the geologic hazard, visual resource, and water quality policies of the Coastal Act.

Commission staff is recommending **APPROVAL** of the proposed project with **Ten (10) Special Conditions** regarding: **1)** assumption of risk; **2)** revised project plans showing the existing residence and the proposed additions to be setback, at minimum, 25-feet from the *natural* bluff edge and that any existing or proposed hardscape and appurtenances be, at minimum, 10-feet

from the *natural* bluff edge and that no work is proposed to the existing stairway; **3)** no future blufftop protective device; **4)** no future shoreline protective device; **5)** additional approvals for any future development; **6)** evidence of conformance with geotechnical recommendations; **7)** submittal of a final drainage and run-off control plan; **8)** submittal of a pool protection plan; **9)** submittal of a final landscaping plan; and **10)** a deed restriction against the property, referencing all of the special conditions contained in this staff report.

LOCAL APPROVALS RECEIVED: Approval in Concept (#3310-2004) from the City of Newport Beach Planning Department dated January 5, 2004.

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permits #5-96-087-[Casanova], #5-96-150-[Pritt] and #5-96-156-[DAFA]; City of Newport Beach Land Use Plan, Letter from Commission staff to John McNeely dated March 4, 2004; Letters from John McNeely dated July 9, 2004; Letter from David A Pedersen to Commission staff dated March 12, 2004; *Preliminary Geotechnical Investigation-Proposed Additions and Remodel to Existing Residence, 4521 Brighton Road, Corona Del Mar, California (Project No. 040850/Report No. 04-093)* prepared by ViaGeos dated July 9, 2004; *Geotechnical Evaluation of Geologic Hazards and Marine Erosion Potential, 4521 Brighton Road, Corona Del Mar, California (Project No. 040850/Report No. 04-093)* prepared by ViaGeos dated July 9, 2004; and Letter to Commission staff from Ann Hoff dated August 6, 2004.

LIST OF EXHIBITS

1. Location Map
 2. Assessor's Parcel Map
 3. Existing Floor Plan
 4. Demolition Plan
 5. Site Plan
 6. Floor Plan
 7. Elevations Plan
 8. Foundation Plan
 9. Landscape Plan
 10. Stairway Section
 11. Site Plan showing the proposed and existing southwestern residential and accessory setback from the *natural* bluff edge
 12. Site Plan showing the existing southeastern residential and accessory setback from the *natural* bluff edge
 13. Site Plan showing Commission staff's proposed 25-foot habitable space setback and 10-foot accessory setback from *natural* bluff edge
 14. Cross Section of the Existing Sea Cliff
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STAFF RECOMMENDATION:

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

MOTION:

"I move that the Commission approve Coastal Development Permit No. 5-04-035 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 further 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.** 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 CONDITONS**

1. **Assumption of Risk, Waiver of Liability and Indemnify**

By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from bluff and slope instability, erosion, landslides 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. **Revised Project Plans**

A. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, for review and approval of the Executive Director, two (2) full size sets of revised project plans. The revised plans shall demonstrate the following:

- 1) That the existing residence and the proposed additions to the residence shall be, at minimum, setback 25-feet from the *natural* bluff edge and any existing hardscape and appurtenances and any proposed hardscape and appurtenances be setback, at minimum, 10-feet from the *natural* bluff edge as generally depicted on Exhibit #13 of the December 16, 2004 staff report; and
- 2) That there is no work proposed to the existing stairway. Any development on or changes to the existing stairway will be through a separate application and the submitted application must include information documenting when the existing stairway was built.

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.

3. **No Future Blufftop Protective Device**

A. By acceptance of this Permit, the applicants agree, on behalf of themselves and all other successors and assigns, that no bluff protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-04-035 including, but not limited to, the residence and hardscape and any future improvements, in the event that the development is threatened with damage or destruction from bluff and slope instability, erosion, landslides, wave

uprush 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.

- B. 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 residence and hardscape, if any government agency has ordered that the structure(s) is/are 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.
- C. In the event the edge of the bluff recedes to within ten (10) feet of the principal residence but no government agency has ordered that the structures are not to be occupied, a geotechnical investigation shall be prepared by a licensed coastal engineer and geologist retained by the applicants, that addresses whether any portions of the residence are threatened by bluff and slope instability, erosion, landslides or other natural hazards. The report shall identify all those immediate or potential future measures that could stabilize the principal residence without bluff protection, including but not limited to removal or relocation of portions of the residence. The report shall be submitted to the Executive Director and the appropriate local government official. If the geotechnical report concludes that the residence or any portion of the residence is unsafe for occupancy, the permittee shall, within 90 days of submitting the report, apply for a coastal development permit amendment to remedy the hazard which shall include removal of the threatened portion of the structure.

4. No Future Shoreline Protective Device

- A. 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. 5-04-035 including, but not limited to, the residence and hardscape 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.
- B. By acceptance of this Permit, the applicants further agree, on behalf of themselves and all successors and assigns, that the landowners shall remove the development authorized by this permit, including the residence and hardscape, 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 landowners 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.

5. Future Development

This permit is only for the development described in Coastal Development Permit No. 5-04-035. 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. 5-04-035. Accordingly, any future improvements to the single-family house authorized by this permit, including but not limited to improvements to the residence, hardscape, stairway, seawall, 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. 5-04-035 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government. Additionally, this permit does not authorize any work on the existing stairway or seawall.

6. 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 investigations: *Preliminary Geotechnical Investigation-Proposed Additions and Remodel to Existing Residence, 4521 Brighton Road, Corona Del Mar, California (Project No. 040850/Report No. 04-093)* prepared by ViaGeos dated July 9, 2004; *Geotechnical Evaluation of Geologic Hazards and Marine Erosion Potential, 4521 Brighton Road, Corona Del Mar, California (Project No. 040850/Report No. 04-093)* prepared by ViaGeos dated July 9, 2004.
- 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 report.
- 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.

7. 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, two (2) full size sets of final drainage and run-off control plans. 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 street through piping without allowing water to percolate into the ground.

- 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 street without percolating into the ground.

8. Pool Protection Plan

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit, for review and approval of the Executive Director, two (2) full size sets of final pool plans prepared by an appropriately licensed professional that incorporates mitigation of the potential for geologic instability caused by leakage from the proposed swimming pool and spa. The final pool plan shall incorporate and identify on the plans the follow measures, at a minimum: 1) installation of a pool leak detection system such as, but not limited to, leak detection system/moisture sensor with alarm and/or a separate water meter for the pool and spa which are separate from the water meter for the house to allow for the monitoring of water usage for the pool and spa, and 2) use of materials and pool design features, such as but not limited to double linings, plastic linings or specially treated cement, to be used to waterproof the undersides of the pool and spa to prevent leakage, along with information regarding the past and/or anticipated success of these materials in preventing leakage; and where feasible 3) installation of a sub drain or other equivalent drainage system under the pool that conveys any water leakage to an appropriate drainage outlet. The applicants shall comply with the final pool plan approved by the Executive Director.

9. Landscaping Plan

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit, in a form and content acceptable to the Executive Director, two (2) full size sets of final landscaping plans prepared by an appropriately licensed professional which demonstrates the following:
 - (1) The plan shall demonstrate that:
 - (a) All planting shall provide 90 percent coverage within 90 days and shall be repeated if necessary to provide such coverage;
 - (b) 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;

- (c) Landscaped areas in the rear yard area not occupied by hardscape shall be planted and maintained for erosion control. To minimize the need for irrigation and minimize encroachment of non-native plant species into adjacent or nearby native plant areas, all landscaping shall consist of native or non-native non-invasive, drought resistant plants. Any existing landscaping that is not non-invasive and drought resistant shall be removed.
 - (d) Landscaped areas in the front (street-facing) and side yards shall consist of native or non-invasive non-native drought tolerant plant species.
 - (e) No permanent irrigation system shall be allowed within the property. Any existing in-ground irrigation systems shall be disconnected and capped. Temporary above ground irrigation to allow the establishment of the plantings is allowed. The landscaping plan shall show all the existing vegetation and any existing irrigation system.
- (2) The plan shall include, at a minimum, the following components:
- (a) A map showing the type, size, and location of all plant materials that will be on the developed site, the irrigation system, topography of the developed site, and all other landscape features, and
 - (b) a schedule for installation of plants.

B. The permittees shall undertake development in accordance with the approved 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.

10. 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(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the special conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either

this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Location, Project Description and Previous Commission Action On-Site

1. Project Location and Description

The proposed single-family residence at 4521 Brighton Road is on a lot situated on the oceanward side of Brighton Road in the community of Cameo Shores (Newport Beach) (Exhibits #1-2). The project is located within an existing developed urban residential area. The residential development along this southern portion of Brighton Road is located on top of a coastal bluff. To the North, East and West of the project site are existing single-family residential development. To the South of the project site is a sea cliff/bluff, a rocky beach and the Pacific Ocean. The project site is a relatively flat parcel. At the rear of the lot is a sea cliff that is roughly 30-feet high with the rocky coastline below (Exhibit #14). Five (5) sea caves are located at the base of the sea cliff. A section of the southeastern portion of the bluff top consists of a landscape covered concrete deck which is supported by concrete columns. Also at the rear of the lot is an existing spiral metal staircase that encroaches onto the adjacent southeastern property leading to a grassy lawn and then concrete steps leading to the rocky beach. Above the grassy lawn area, adjacent to the metal stair is an existing concrete retaining wall, which supports the overhanging landscape covered concrete deck that also encroaches onto the adjacent southeastern property. On the adjacent southeast property at the base of the former natural sea cliff is a seawall, which supports the grassy area and as well encroaches onto the adjacent southeastern property.

The proposed project consists of a substantial demolition; remodel and addition of 855 square feet to an existing one-story 4,242 square foot single-family residence on a coastal bluff top lot (Exhibits #3-10). The existing house is generally setback approximately 19-25 feet from the *natural* bluff edge. Most of the partition walls throughout the interior will be removed while 230 linear feet of existing exterior wall will be demolished and 235 linear feet of existing exterior wall will remain intact. In addition, the existing garage will be completely demolished. New square footage along the oceanward side consists of infill type additions, and the bulk of the proposed additional square footage occurs along the landward side of the property for a new guest room (replaces a covered cabana structure) and new garage. No new additions are more oceanward than the existing residence. Also, the proposed project consists of: the demolition of an existing 691 square foot detached three-car garage and construction of a new 799 square foot detached three-car garage; replacement of an existing spiral staircase leading from the residence to the beach; removal of an existing pool and spa and construction of a new pool and spa, landscape and hardscape work, and new portions of 6-foot high side yard property line walls. Work will also be done the existing roof: much of the roof over the oceanward portions of the residence is proposed to remain in place, with oceanward projections to be removed and reshaped. Almost all of the existing residence's floor slab will remain with minor revisions to suit the revised wall lines. The new additions will be founded on new slab on grade foundation. No grading is proposed.

As stated previously, work is proposed on the existing spiral metal staircase leading to a grassy lawn and then concrete steps leading to the rocky beach. The work will consist of removal and replacement of the current metal stair with a new straight steel frame staircase of similar appearance. At minimum, 50% of the existing stairway would be demolished and rebuilt. Currently the spiral staircase encroaches onto the eastern adjacent neighbor's property (Exhibit #5).

No previous permits for the residence, stairway, landscaped deck, retaining wall or seawall have been issued by the Commission. The applicants state that a building permit from the City of Newport Beach was issued for the house in 1962, but the permit did not specify the stairway, landscaped deck, retaining wall or seawall. Also, no original plans are known to remain of the residence. The applicants also assert that the existing stairs are currently configured slightly different than shown on a survey from 1990. In addition, a submitted geotechnical investigation *Geotechnical Evaluation of Geologic Hazards and Marine Erosion Potential* prepared by ViaGeos (Project No. 040850/Report No. 04-093) dated July 9, 2004 speculates that these accessory structures may have been built in the late 1970's around the same time the applicants estimate that the seawalls on the adjacent two properties was constructed. Since no coastal development permits have been found in regards to construction of the stairway, landscaped deck, retaining wall or seawall, if they were built after the passage of the Coastal Act, a violation may have occurred.

2. Prior Commission Actions in Project Vicinity

On February 11, 1980, the Commission approved Coastal Development Permit #80-6552-(Thompson & Sork) to replace a damaged wooden seawall with a concrete wall and to recontour an existing slope behind the retaining wall of two (2) adjoining single-family lots located at 4527-4533 Brighton Road. The permit was issued on February 20, 1980.

In December 1982, the Commission approved Emergency Permit #5-82-853-G-(Sork) to reconstruct a previously existing wooden retaining wall which had been damaged by storm surf and tidal action.

On June 23, 1983, the Commission approved Coastal Development Permit #5-83-175-(Sork) for construction of a seawall located at 4533 Brighton Road. The permit was issued on June 24, 1983.

On December 14, 1983, the Commission approved Coastal Development Permit #5-83-844-A-(Thompson) to delete a lateral access special condition for Coastal Development Permit #80-6552-(Thompson & Sork). The project sites are located at 4527-4533 Brighton Road. The permit was issued on December 14, 1983.

B. Geological Hazards

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

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, which is subject to wave attack and erosion. Coastal bluffs in California, located at the intersection of land and ocean, are composed of relatively recent uplifted geologic materials and are exposed to severe weathering forces.

Coastal bluff erosion is caused by a combination of inherent environmental factors and erosion caused by human activity. 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 human activity 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

Site Stability and Erosion

The applicants have submitted a geotechnical investigation *Geotechnical Evaluation of Geologic Hazards and Marine Erosion Potential* prepared by ViaGeos (Project No. 040850/Report No. 04-093) dated July 9, 2004. The purpose of this geotechnical investigation was: "... to investigate and determine whether site topographic and geologic conditions in the coastline environment pose significant hazards or risks with respect to the

planned construction." The project site is a relatively flat parcel and is underlain near the surface by bedrock strata. The property consists of three topographic elements: a graded level building pad, a near vertical to overhanging sea cliff, and a wave cut platform with overlying beach deposit mantle which extends from the base of the sea cliff into the ocean. At the rear of the lot is a sea cliff that is roughly 30-feet high with the rocky coastline below (wave cut platform) (Exhibit #14). Five (5) sea caves are located at the base of the sea cliff. A small portion of the rear yard bluff consists of an at grade landscape covered concrete deck supported by concrete columns (Exhibit #10). Also at the rear of the lot is an existing spiral metal staircase leading to a grassy lawn and then concrete steps leading to the rocky beach. Above the grassy lawn area, adjacent to the metal stair is an existing concrete retaining wall that supports an overhanging extension of the lawn at the upper house elevation. On the adjacent southeast property at the base of the former natural sea cliff is a seawall, which supports grassy area.

The investigation describes the subject site coastline physiology as such: "*The subject property is located on the bluff top at the northwesterly end of a small pocket beach which is defined by a low but prominent headland and off-shore arch rock at the southeasterly end and a lesser promontory which extends seaward along the northwesterly property margin of the subject site.*" A small rocky beach extends along the shoreline south of the project site at the base of the bluff. The investigation also states that: "*The landward side of the beach is bordered by sea walls constructed against the base of the bluff slope along the rear portions of the two adjacent properties extending southeasterly from the site. The bluff slopes behind the sea walls have been graded, terraced and landscaped.*"

As stated before, there are five (5) sea caves that are located at the base of the cliff face and they extend several feet into the base of the cliff face. The largest cave, which is located adjacent to the concrete steps, is 8-feet wide at the opening and extends up to 8-feet into the cliff base below the vertical portion of the cliff. The maximum horizontal overhang of the cliff face is approximately 18-feet at the location of one of the sea caves.

This geotechnical investigation evaluated wave-uprush that could adversely impact the project site: "*The shoreline and sea cliff at the site and vicinity are subject to episodic swell and wind wave events which result in coastal erosion.*" The shoreline and cliff are exposed to short period wind swells from local storms and longer period-ocean swells from distant storms. The sea cliff is not directly affected by swells and wind waves from the west due to the small promontory and off shore rocks located at the northwesterly boundary of the pocket beach. However, the sea cliff is directly affected by wind wave and swell energy from the south and is considered to have the greatest erosion potential for the site. Ongoing erosion causing removal of bedrock located along the base of the cliff and relatively soft zone shaley rock strata in the middle of the cliff face has caused the sea cliff overhang. At high tide, the ocean level is just seaward of the base of the sea cliff and slightly seaward of the base of the concrete steps and seawall. At medium or low tide, the base of the sea cliff is not exposed to wave run-up.

In regards to bluff stability on site, the geotechnical investigation states that any potential for deep-seated bedrock landsliding is very low due to favorable geologic structure and the high strength, cemented character of the rock, but it does admit that erosion and instability has occurred. The geotechnical investigation acknowledges that sea cliff erosion and instability has occurred and is evident by piecemeal spalling and block fall of very small to moderate sized rock blocks and by block toppling along steeply dipped prominent joints

where locally exposed in the cliff face. In addition, the investigation states: "*Additional minor undercutting of the overhang and enlargement of the small sea caves is considered likely in the future. Continued cliff erosion by wave action is likely to be most active in the lower cliff and within the zone of apparently relatively softer lithologies exposed in the middle cliff face which will lead to gradual thinning of the overhanging rock. The overhanging rock mass may be subject to partial collapse and some landward retreat of the cliff edge is likely during the life span of the proposed improvements [Exhibit #14].*" Furthermore, the investigation states that block toppling of a joint controlled rock mass adjacent to the lower concrete steps is likely in the near future where opening joints are currently exposed. However, the investigation claims that even though the toppling would result in several cubic yards of rock strata, it would not result in significant bluff edge retreat.

The geotechnical investigation concludes that the sea cliff may experience instability and some bluff edge retreat, however it should remain grossly stable in the area of the existing structure and proposed additions over the next 75 to 100+/- years. Furthermore, minor erosion will occur from wave erosion during wave events that will occur with high tides. It also states that portions of the overhang beneath the rear yard may collapse over time, with or without additional undercutting at the base of the sea cliff (Exhibit #14). However, the investigation claims: "*... such is not likely to result in significant lay back of the cliff profile to an angle which is flatter than a sub-vertical projection upward from the current base of the cliff. Therefore, the existing residence and proposed additions are unlikely to be adversely impacted by the probable instability. A shoreline protective devise is not considered to be warranted.*" Moreover, the investigation states: "*The proposed replacement steps from the rear patio to the terrace below will be protected by the existing seawall on the adjoining property and should not be adversely impacted by marine erosion. The lower concrete steps may be subject to minor rock falls from the immediately adjacent vertical sea cliff. The landing at beach level may be continually undermined by slow erosion of the supporting bedrock.*" While the geotechnical investigations declares that the existing residence and additions are not likely to be adversely impacted by instability, potential erosion and instability raise a significant concern.

As stated previously, coastal bluff erosion is caused by a combination of inherent environmental factors and erosion caused by human activity. Some examples of environmental factors include percolation of rainwater and surface water runoff and poorly consolidated soils. Various factors attributed to human activity include improper irrigation practices; improper site drainage; use of impermeable surfaces which concentrate runoff; use of water-dependent vegetation; and breaks in irrigation lines, water or sewer lines. Therefore, drainage on site and any vegetation proposed should not contribute to any potential coastal bluff erosion. The applicants have not submitted a drainage and run-off control plan, but a letter from the landscape architect dated March 12, 2004 has been submitted which addresses the drainage on site. The letter states that an existing system on site that directs drainage to the street will be removed and replaced and that the new drainage system will provide a "wet well" system. Part of the proposed project also consists of a replacing an existing pool and spa located on the landward side of the property. However, the applicants have not proposed any measures (i.e. having the pool double lined and installing a pool leak detection system) to ensure that potential for infiltration into the bluff is minimized. The applicants have submitted a preliminary landscaping plan (Exhibit #9) and narrative discussing the existing and proposed landscaping. However, the limited information submitted regarding the existing and

proposed landscaping prevented Commission staff from determining if the plants were invasive or drought tolerant. There is also an existing lawn area that is currently irrigated by an automatic irrigation system with sub-surface piping and pop-up heads. This system will be repaired and modifications made and will continue to be used.

Geotechnical Issues

To address geotechnical issues, the applicants have submitted a geotechnical investigation entitled *Preliminary Geotechnical Investigation* prepared by ViaGeos (Project No. 040850/Report No. 04-093) dated July 9, 2004. The report presents the findings and recommendations of their investigation onsite and certain regional geotechnical conditions for design and construction of additions and remodel of the existing single-family residence on site. The scope of the investigation included such activities as: review of the referenced geologic maps and reports and interpretation of aerial photographs; reconnaissance of the property and nearby areas and geologic mapping of the sea cliff along the rear of the site; geologic review and sampling of five shallow, manually excavated trenches to determine the distribution of near surface materials and to expose foundations; and geotechnical analysis of site conditions in relation to proposed improvements and formulation of foundation design and site development recommendations.

The investigation states that a cursory review of the existing residence exterior reveals no obvious or significant evidence of distress relating to foundations or soil conditions. It further states that while some floor slabs are cracked, this appears to be related to inadequate reinforcement and slab thickness.

The geotechnical investigation concludes: *"The proposed development is considered geotechnically feasible provided the recommendations of this report are incorporated in design, construction and maintenance of the site and improvements. The proposed construction is not anticipated to impact adjoining properties providing construction methods and care are utilized."*

This geotechnical investigation included recommendations for the proposed project. Among those recommendations are: 1) all hardscape elements should be founded entirely in geotechnically reviewed subgrade soil; 2) conventional slab-on-grade should be at least 5 inches thick; and 3) all runoff onto and from the proposed development must be intercepted, controlled, and discharged off site by proper civil engineering.

In order to avoid adverse impacts of the proposed development on bluff erosion and instability, and prevent the necessity for bluff or shoreline protective structures, as required by Section 30253 of the Coastal Act, **Ten (10) Special Conditions** are being imposed. These special conditions are more thoroughly discussed later in this report in Section 3 below.

3. 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 prevent the necessity for bluff or shoreline 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 findings in sections 1-2 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. Revised Plans

Development on coastal bluffs is inherently risky due to the potential for slope failure. Bluff top development poses potential adverse impacts to the geologic stability of cliffs and the stability of residential structures. To meet the requirements of the Coastal Act, bluff top developments must be sited and designed to assure geologic stability and structural integrity for their expected economic lifespans while minimizing alteration of natural landforms. As stated previously in the geotechnical investigations, the project site is subject to wave uprush that results in coastal erosion. The applicants' geotechnical report states that erosion is apparent by the sea cliff overhang located at the base of the bluff: *"On going, more active erosion and removal of bedrock within the wave impact zone along the base of the cliff and erosion of an apparent relatively soft zone of shaley rock strata in the middle of the cliff face has resulted in the sea cliff overhang."* Sea cliff erosion and instability is exemplified by the piecemeal spalling and block fall of very small to moderate sized rock blocks. The geotechnical investigation further states: *"Additional minor undercutting of the overhang and enlargement of the small sea caves is considered likely in the future. Continued cliff erosion by wave action is likely to be most active in the lower cliff and within the zone of apparently relatively softer lithologies exposed in the middle cliff face which will lead to gradual thinning of the overhanging rock. The overhanging rock mass may be subject to partial collapse and some landward retreat of the cliff edge is likely during the life span of the proposed improvements."* Furthermore, the investigation states that block toppling of a joint controlled rock mass adjacent to the lower concrete steps is likely in the near future where opening joints are currently exposed.

The submitted geotechnical investigation does not include a discussion regarding the appropriate setback for the proposed project. However, it does discuss the factors of safety for the development. The geotechnical investigation states: *"The results of stability analyses indicate that the factors of safety for static and pseudo-static conditions are in excess of 1.5 and 1.1, respectively."* While this information discusses the stability of the site, the investigation fails to discuss the appropriate setback necessary for the development.

The Commission has typically required that structures be setback at least 25-feet from the *natural* bluff edge and hardscape features and other site appurtenances be setback at least 10-feet from the *natural* bluff edge to minimize the potential that the development will contribute to slope instability. The southwestern end of the existing residential structure is at minimum 19-feet from the *natural* bluff edge (Exhibit #11). Portions of the proposed additions are also located within the typically required 25-foot setback from *natural* bluff edge. Therefore, portions of the existing structure and proposed elements do not adhere to the typically required 25-foot setback along the southwestern end of the development. As previously discussed, there is an existing landscaped deck at the same elevation of the rear

yard located on the southeastern side of the development. The 25-foot setback at this location should be taken from the *natural* bluff edge and not the *man made* concrete bluff edge. Therefore, the southeastern end of the existing residential structure is setback at a minimum 13-feet from the *natural* bluff edge (Exhibit #12). Portions of the proposed additions are also located within the typically required 25-foot setback from *natural* bluff edge.

The proposed substantial residential remodel includes demolition of 230 linear feet of existing exterior wall, while 235 linear feet of existing exterior wall will remain intact. In addition, the existing garage will be completely demolished. Therefore, demolition of the entire existing garage and 230 linear feet of existing exterior wall result in greater than 50% demolition. Therefore, the proposed project is considered "new development" since greater than 50% of the existing exterior walls are being demolished, thus resulting in a substantial remodel and addition project. Consequently, new development must be sited and designed to prevent any adverse impacts to the site. Repairs to the existing stairway for maintenance purposes would be allowable if it was built before the Coastal Act or has a coastal development permit. However, the Commission does not allow construction of a new stairway along the bluff, as is the case in this project since at minimum 50% of the existing stairway would be demolished and rebuilt, which would be considered new development. Also, since no permit for the construction of the existing stairway can be found, the stairway may have been built without a permit and thus a possible violation of the Coastal Act may have occurred. Also, while the geotechnical investigation states that the factors of safety for static and pseudo-static conditions are in excess of 1.5 and 1.1, respectively, the investigation does not state an appropriate setback for the proposed project. A minimal setback may be warranted where slopes are stable and historic bluff retreat has been minimal. In this case, while the geotechnical report states that the potential for deep-seated landsliding is very low, it does admit that there are erosion and instability issues on site. This is evident by the erosion of the sea cliff and the five (5) sea caves found at the base of the sea cliff. As discussed further below, coastal bluffs are naturally prone to erosion and landslide hazards. The Commission has typically required that structures be setback at least 25-feet from the *natural* bluff edge and hardscape features and other site appurtenances be setback at least 10-feet from the *natural* bluff edge to minimize the potential that the development will be affected by erosion and landslide hazards. Therefore, the Commission is imposing **Special Condition No. 2**, which requires the applicants to submit revised project plans showing relocation of the existing residence and the proposed additions to be setback, at minimum, 25-feet from the *natural* bluff edge and that any existing or proposed hardscape and appurtenances be, at minimum, 10-feet from the *natural* bluff edge as generally depicted on Exhibit #13 of the December 16, 2004 staff report to minimize the potential that the development will contribute to slope instability. Approximately 330 square feet of existing and proposed livable square footage would need to be removed due to this special condition. The majority of the portion that would be removed is located on the southeastern side of the development as shown on Exhibit #13 (page 2). In this location, the applicant intends to retain an existing section of the habitable area and also convert an open area section to habitable living space. The special condition also requires that the revised plan show that there is no work proposed to the existing stairway. Any development on

the existing stairway would be through a separate application and the submitted must be accompanied with information regarding when the existing stairway was built.

c. Bluff and Shoreline Protective Devices

Coastal bluff lots are inherently hazardous, especially those located adjacent to the ocean. 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 or wave up-rush 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. 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.

No bluff 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 bluff and shoreline protective device is not expected to be needed in the future. Therefore, the Commission imposes **Special Condition No. 3** and **Special Condition No. 4**. **Special Condition No. 3** states that no bluff protective devices shall be permitted to protect the proposed development. **Special Condition No. 4** states that no shoreline protective devices shall be permitted to protect the proposed development.

d. Future Development

The development is located within an existing developed area and, as conditioned, is compatible with the character and scale of the surrounding area. However, without controls on future development, the applicants could construct future improvements to the single-family house, including but not limited to improvements to the residence and hardscape, that would have negative impacts on coastal resources, and could do so without first acquiring a coastal development permit, due to exemption for improvements to existing single-family residences in Coastal Act Section 30610 (a). Besides the existing residence, the project site also contains an existing seawall and stairway leading to the rocky beach, both on the southeastern portion of the lot. This permit does not allow work to take place on the seawall or the stairway. Furthermore, any development on the existing seawall or stairway will be through a separate application. In addition, any work proposed to the stairway must be accompanied with information regarding when the existing

stairway was built. 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 imposes **Special Condition No. 5**, a future improvements special condition. As conditioned the development conforms with the Chapter 3 policies of the Coastal Act relating to geologic hazards.

e. 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 in regards to the design and construction of the project. The geotechnical recommendations address things such as foundations and runoff on site. In order to insure that risks of development are minimized, as per Section 30253, the Commission imposes **Special Condition No. 6**, which states that the geotechnical consultants' 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 foundation plans reviewed and signed by a consulting geologist.

f. Drainage and Runoff, Pool and Landscaping Special Conditions

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

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. It is difficult to assess the long-term damage caused by the accumulation of water on bluff topsoils due to watering of lawns and other water intensive vegetation. Landscape irrigation alone is estimated to add the equivalent of 50 to 60 inches of additional rainfall each year to garden and lawn areas. 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. Also, the weight of the saturated soils weakens the cliff. 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. In this respect the Commission fills an important role in minimizing landsliding and erosion.

The Commission has 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. 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.

The applicants have not submitted a drainage and run-off control plan, but state:

"Site drainage currently is directed toward the street, and that system shall be maintained or reinstalled in place. To comply with City runoff control standards, French drain type filters will probably be required in the last 15' of drain before the street discharge." In addition, the applicants have submitted a letter from the landscape architect dated March 12, 2004 which addressing the drainage on site: "The site drainage system will be removed and replaced as required [site drainage is currently directed toward the street]. The new drainage system will comply with the City's water filtration requirements which will utilize a "wet well" system to leach water in to the soil with the anticipation to filter the runoff. Just inside the property line nearest to the street is where the perforated wet wells will be located. I will direct all site drainage towards the street and away from the bluff edge." Since a drainage and run-off control plan has not been submitted, the Commission is imposing **Special Condition No. 7**, which requires the applicants to submit a final drainage and run-off control plan.

The proposed project consists of a replacing an existing pool and spa located on the landward side of the property. If water from the proposed pool and spa is not properly controlled there is a potential for bluff failure due to the infiltration of water into the bluff. For this reason, the potential for infiltration into the bluff should be minimized. This can be achieved by various methods, including having the pool double lined and installing a pool leak detection system to prevent the infiltration of water into the bluff due to any possible pool or spa problems. However, the applicants have not proposed any such measures. Therefore, the Commission imposes **Special Condition No. 8**, which requires the applicants to submit a pool protection plan.

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 applicants have submitted a preliminary landscaping plan (Exhibit #9) and stated that: "Landscape work as proposed in keeping with the existing planting scale, and subject to the requirements of the bluff top location, including drought resistant and non-invasive species. Most existing hardscape is removed and replaced by more permeable walking surfaces, or lawn. Site drainage currently is directed toward the street, and that system shall be maintained or reinstalled in place. To comply with City runoff control standards, French drain type filters will probably be required in the last 15' of drain before the street discharge." In addition, a letter from the Landscape Architect dated March 12, 2004 has been submitted stating that the existing landscape along the bluff edge consists of 3- to 4- wide buffer planting consisting of *Raphiolepis*, *Carisa*, *Juniper*, *Pittosporum*, *Rosemary* and *Myoporum*. Most of the existing vegetation will remain except for the *Raphiolepis*, which will be replaced with *Ceanothus* (*Carmel Creeper*). While Commission staff was able to determine that *Myoporum* is invasive, the remaining limited information submitted regarding the existing and proposed landscaping prevented Commission staff from determining if the plants were invasive or drought tolerant. The use of non-native vegetation that is invasive can have an adverse impact on the existence of native vegetation. Invasive plants are generally those identified by the California Invasive Plant Council (<http://www.caleppc.org/>) and California Native Plant Society (www.CNPS.org) in their publications. As discussed previously, any plants in the landscaping plan should be drought tolerant to

minimize the use of water. The term "drought tolerant" is equivalent to the terms 'low water use' and 'ultra low water use' as defined and used by "A Guide to Estimating Irrigation Water Needs of Landscape Plantings in California" prepared by University of California Cooperative Extension and the California Department of Water Resources dated August 2000 available at <http://www.owue.water.ca.gov/landscape/pubs/pubs.cfm>.

There is also an existing lawn area that is currently irrigated by an automatic irrigation system with sub-surface piping and pop-up heads. The applicant proposes continued use of the existing irrigation system after it is repaired and modified.

While the geotechnical investigation states that in regards to bluff stability on site that any potential for deep-seated bedrock landsliding is very low due to favorable geologic structure and the high strength, cemented character of the rock, it does admit that erosion and instability has occurred. Therefore, any existing and proposed development on site must minimize any potential adverse impacts to the bluff. Therefore, the existing in-ground irrigation system, which is being proposed to be repaired and modified, should be removed. In addition, any existing and proposed landscaping should be non-invasive and drought tolerant. If there is any existing non-invasive, non-drought tolerant vegetation on-site, it should be removed.

Due to the potential impacts to the bluff from infiltration of water into the bluff, the Commission imposes **Special Condition No. 9**, which requires that the applicants shall prepare prior to issuance of this permit a final landscape plan, which shall be submitted for the review and approval of the Executive Director. To minimize the potential for the introduction of non-native invasive species and to minimize the potential for future bluff failure, a final landscaping plan shall be prepared by a licensed landscape architect and shall incorporate the following criteria: 1) to minimize the introduction of water into the ground, no permanent in-ground irrigation shall be permitted, any existing in-ground irrigation system shall be disconnected and capped, temporary above ground irrigation to establish the plantings is permitted; and 2) landscaping shall consist of native or deep rooted drought tolerant non-native plants which are non-invasive. Invasive, non-indigenous plant species which tend to supplant native species shall not 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. 10** 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 **Ten (10) 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)** revised project plans showing the existing residence and the proposed additions to be setback, at minimum, 25-feet from the *natural* bluff edge and that any existing or proposed hardscape and appurtenances be, at minimum, 10-feet from the *natural* bluff edge and that no work is proposed to the existing stairway; **3)** no future blufftop protective device; **4)** no future shoreline protective device; **5)** additional approvals for any future development; **6)** evidence of conformance with geotechnical recommendations; **7)** submittal of a drainage and run-off control plan; **8)** submittal of a pool protection plan; **9)** submittal of a final landscaping plan; and **10)** 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.

C. **Scenic Resources**

Section 30251 of the Coastal Act pertains to visual resources. It states:

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...

Section 30251 of the Coastal Act requires that scenic and visual qualities of coastal areas be protected. The project is located on a blufftop lot overlooking a rocky beach and the ocean below. The site is visible from public vantage points located at the rocky beach and ocean below the site. Because the project will potentially affect views from public vantage points any adverse impacts must be minimized. Consequently, it is necessary to ensure that the development will be sited to protect views to and along the bluffs and minimize the alteration of existing landforms.

Establishing a limit of development and setting development further back from the edge of the coastal bluff decreases a development's visibility from public vantage points. For these reasons, the Commission typically imposes some type of bluff top set back.

City Setback

The plans submitted by the applicants show that the project conforms to the City zoning setback requirement of 6-feet, but conformance with the City required setback however does not address the potential visual and scenic resource impacts that the oceanward encroaching development will have on the project site. Adhering to the City setback of 6-feet for development located on the bluff would not achieve the objectives of Coastal Act Section 30251.

Stringline

Since the City's setback cannot be used to evaluate the potential impacts that the oceanward encroaching development will have on the project site, the applicability of the structural and deck stringlines will be evaluated. 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. Considering the applicability of a stringline, there is a residence immediately north and south of the project site. Therefore, a stringline can be applied this case. However, application of this stringline would require extensive portions of the existing residence to be pulled back to comply with the stringline. Use of the stringline is not necessary in this case, as the Commission has imposed **Special Condition No. 2**, which requires the applicants to submit revised project plans showing the existing residence and the proposed additions to be setback, at minimum, 25-feet from the *natural* bluff edge and that any existing or proposed hardscape and appurtenances be, at minimum, 10-feet from the *natural* bluff edge. Adhering to this special condition would make the existing and proposed development compatible with the pattern of development in the area and would not necessitate the significant pullback of existing development as required by the stringline.

In addition, the future development restriction will ensure that improvements are not made at the blufftop, which could affect the visual appearance of the coastal, bluff or affect the stability of the bluff. The landscaping condition requires that the applicants install native or non-native and/or drought tolerant non-invasive plants throughout the site.

Therefore, the Commission finds that, as proposed and conditioned, the project will not obstruct significant coastal views from public vantage points and is consistent with the visual resource protection policies of Section 30251 of the Coastal Act.

D. Water Quality

Section 30230 of the Coastal Act states, in pertinent part:

Marine resources shall be maintained, enhanced, and where feasible, restored.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Single-family residences have the potential to increase local runoff due to the creation of impervious areas. This runoff could carry with it pollutants such as suspended solids, oil and grease, nutrients, and synthetic organic chemicals. This is especially of a concern in locations that

are adjacent to coastal waters, such as the proposed project. As a result, any runoff should be directed away from the rear of the site, which is adjacent to coastal waters. In addition to preventing runoff from adversely impacting marine resources, drainage directed away from the rear of the lot will minimize adverse geologic impacts to the bluff. The applicants have not submitted a drainage and run-off control plan, but a letter from the landscape architect dated March 12, 2004 has been submitted which addresses the drainage on site: "*The site drainage system will be removed and replaced as required [site drainage is currently directed toward the street]. The new drainage system will comply with the City's water filtration requirements which will utilize a "wet well" system to leach water in to the soil with the anticipation to filter the runoff. Just inside in the property line nearest to the street is where the perforated wet wells will be located. I will direct all site drainage towards the street and away from the bluff edge.*" Therefore, the Commission imposes **Special Condition No. 6**, which requires the applicants to submit a final drainage and run-off control plan. Only as conditioned for additional infiltration of site runoff does the Commission find the proposed development to be consistent with Sections 30230 and 30231 of the Coastal Act.

E. Public Access and Recreation

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

- (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 30252 of the Coastal Act states, in relevant part states:

The location and amount of new development should maintain and enhance public access to the coast by...

- (4) *providing adequate parking facilities or providing substitute means of serving the development with public transportation...*

The subject site is located between the nearest public roadway and the shoreline. Adequate access and public recreation opportunities exist nearby at Little Corona Beach to the northwest and Crystal Cove State Beach and Park to the southeast. The site is currently developed with a single-family residence. Upon completion of the project, the development will remain as a single-family residence. The proposed development would provide adequate parking based on the Commission's regularly used parking standard of two (2) parking spaces per individual dwelling unit. Therefore, the Commission finds that the proposed development would be consistent with Section 30212 and 30252 of the Coastal Act regarding public access.

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 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 hazardous 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.

The certified LUP also contains a discussion of bluff top setbacks. However, the setback policies pertain only to all new tracts and subdivisions, residential developments greater than four residences, and commercial development. This policy states: "*As a general guideline, the property line setback from the edge of a bluff should be no closer to the edge of the bluff than the point at which the top of the bluff is intersected by a line drawn from the solid toe of the bluff at an angle of 26.6 degrees to the horizontal.*"

The intent of this policy section, as stated in the certified LUP, is to require setbacks in new subdivision development for public access purposes. Because the proposed development is a single-family residence it is exempt from this policy. Therefore, there are no specific LUP policies, which would provide guidance as to bluff setbacks in this instance.

No grading is proposed in conjunction with the project and therefore no extensive landform alteration will take place. As per the LUP requirements, an assumption of risk special condition is being required and a comprehensive geological report was supplied with the application. Therefore, the proposed development is consistent with the guidance as provided by certified LUP policies.

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

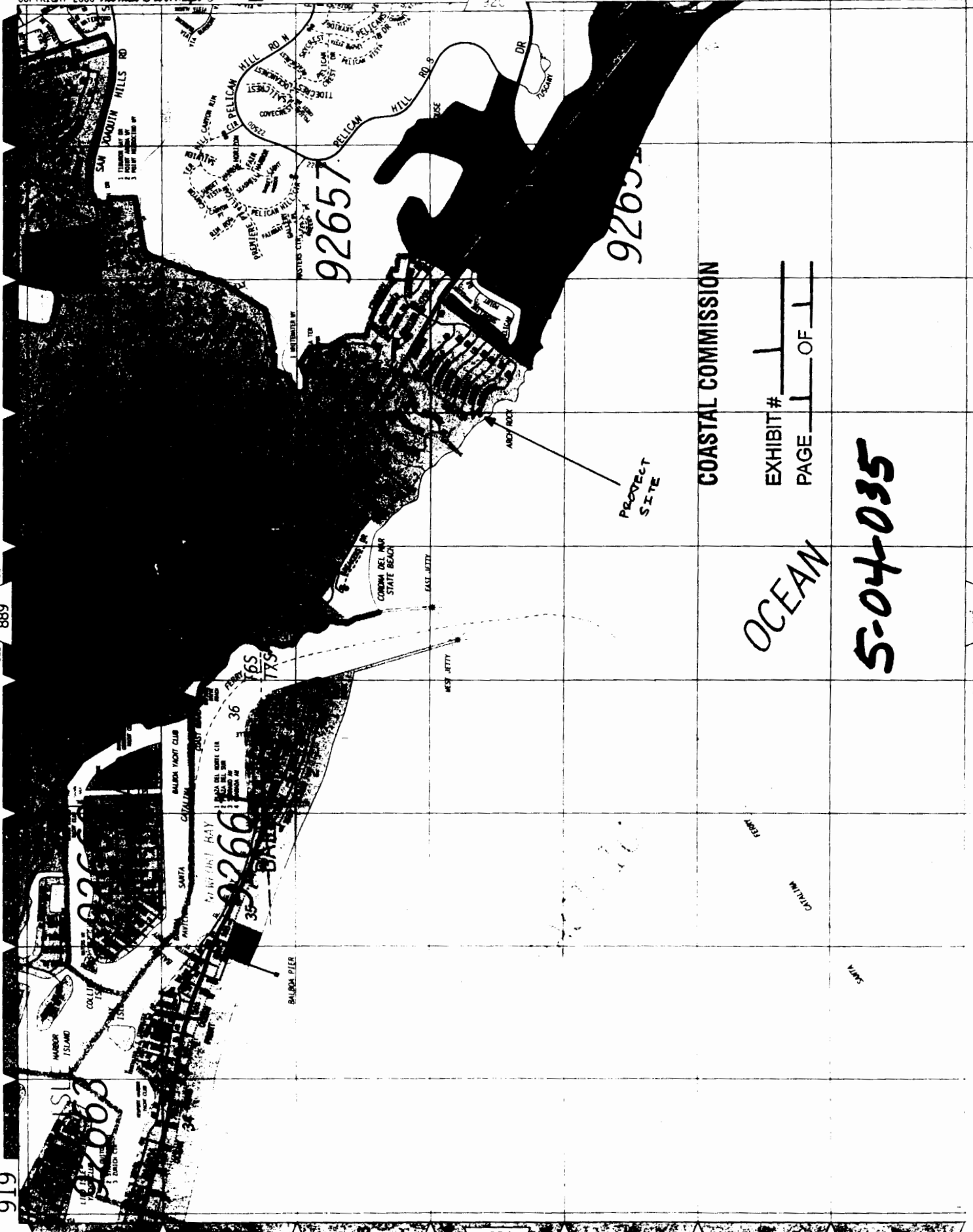
Section 13096(a) of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California 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, public access, and water quality policies of Chapter 3 of the Coastal Act. Mitigation measures include special conditions requiring conformance with geotechnical recommendations and setback requirements, submittal of a final 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.

SEE 889 MAP

919



COASTAL COMMISSION

OCEAN

PROTECT SITE

92657

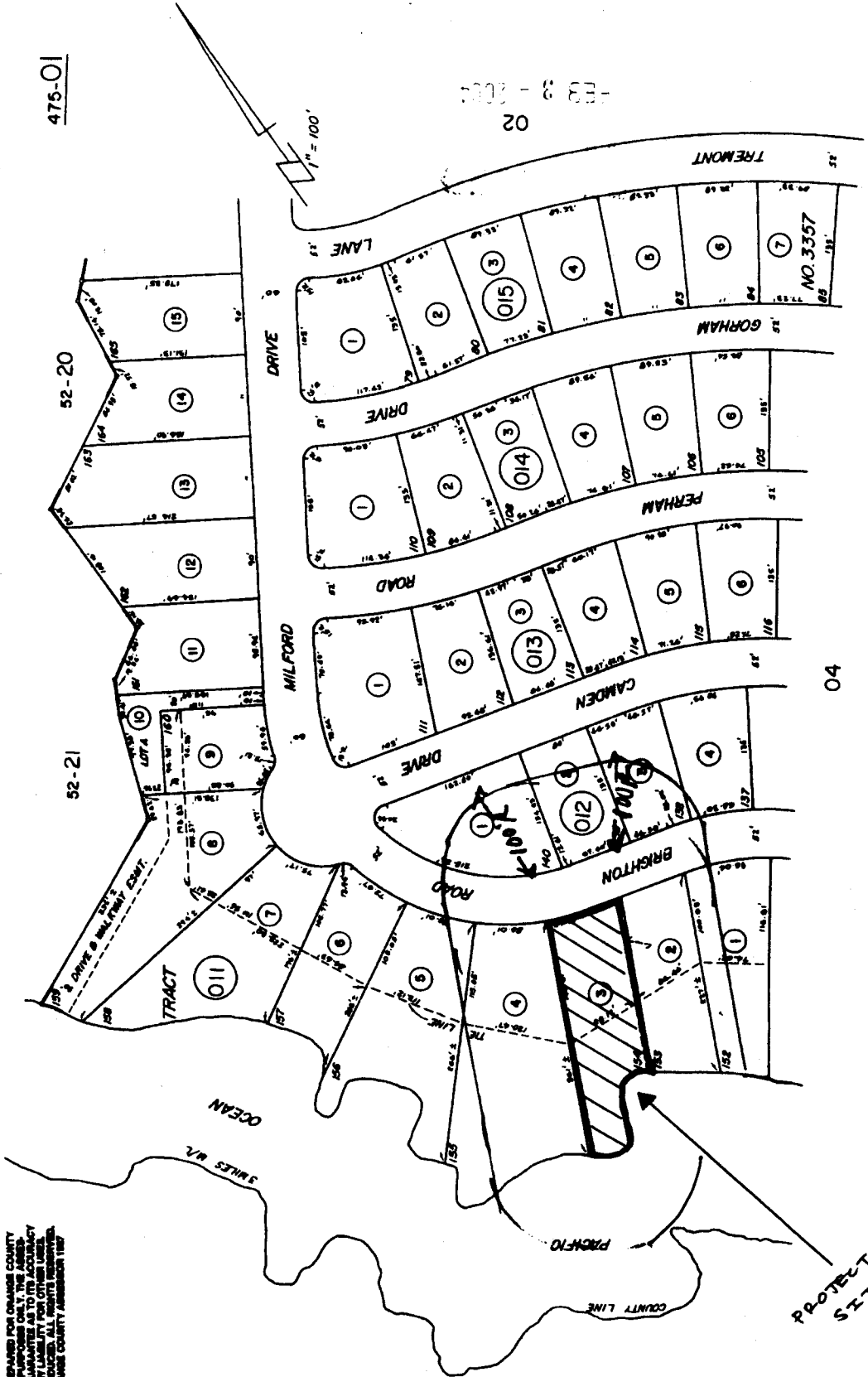
92658

EXHIBIT # 1
PAGE 1 OF 1

5-04-035

THIS MAP WAS PREPARED FOR ORANGE COUNTY ASSESSOR'S DEPT. PURPOSES ONLY. THE ASSESSOR MAKES NO WARRANTY AS TO ITS ACCURACY NOR TO BE RESPONSIBLE FOR ANY ERRORS OR OMISSIONS. OCCUPANTS ORANGE COUNTY ASSessor 1982

475-01



02 FEB 9 - 2001

ASSESSOR'S MAP
BOOK 475 PAGE 01
COUNTY OF ORANGE

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

TRACT NO. 3357 M. M. 107 - 1 TO 7 INC.

MARCH 1982

PROTECT
SITE

COASTAL COMMISSION

EXHIBIT # 2
PAGE 1 OF 1

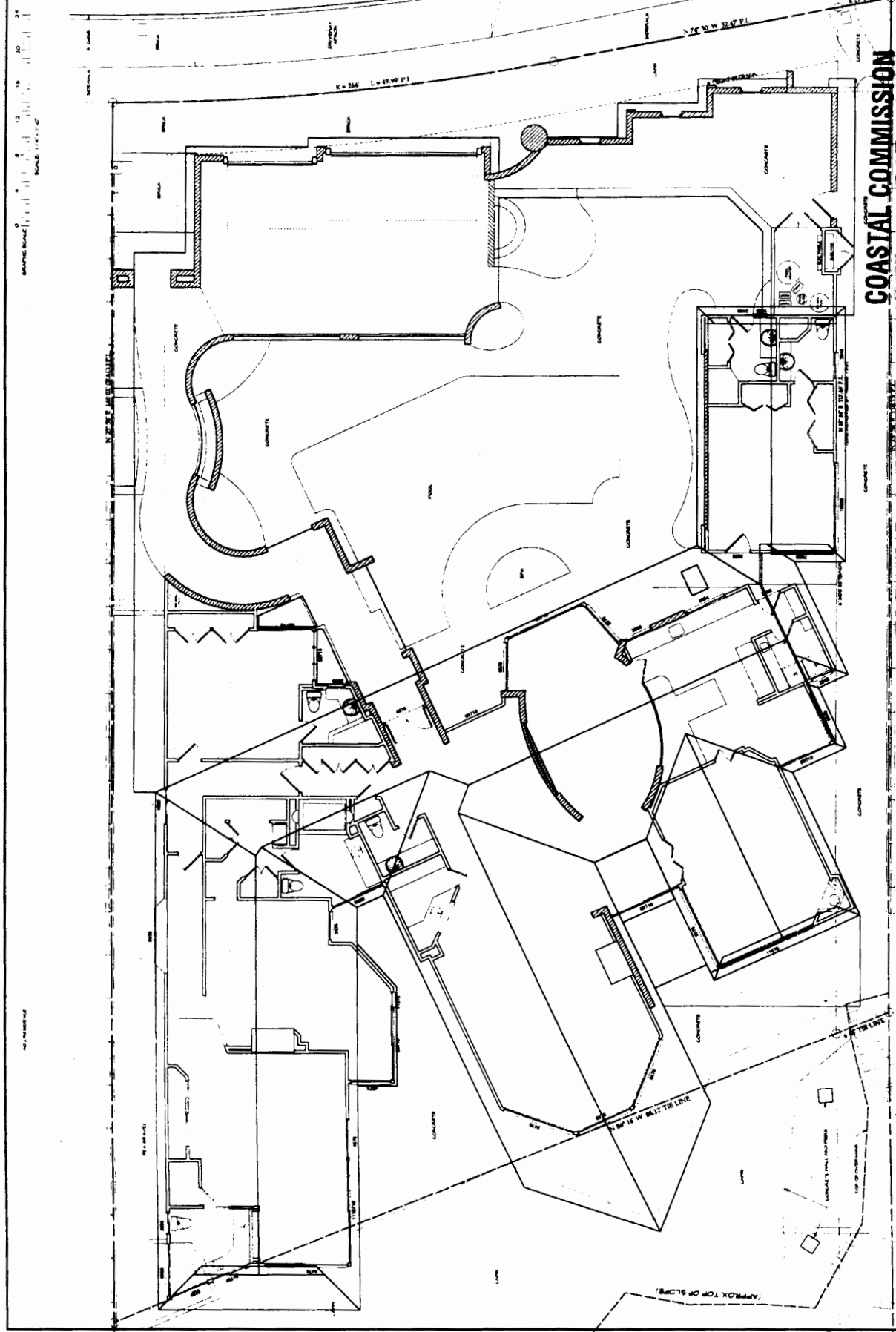
1799.000 Feet

CHAD MCNEELY
PLANNING SERVICES
11111 MAIN STREET, SUITE 100
DANA POINT, CALIFORNIA 92629
TEL: 949.441.1111 FAX: 949.441.1112

COASTAL COMMISSION

EXHIBIT # 3
PAGE 1 OF 1

FLOOR PLAN



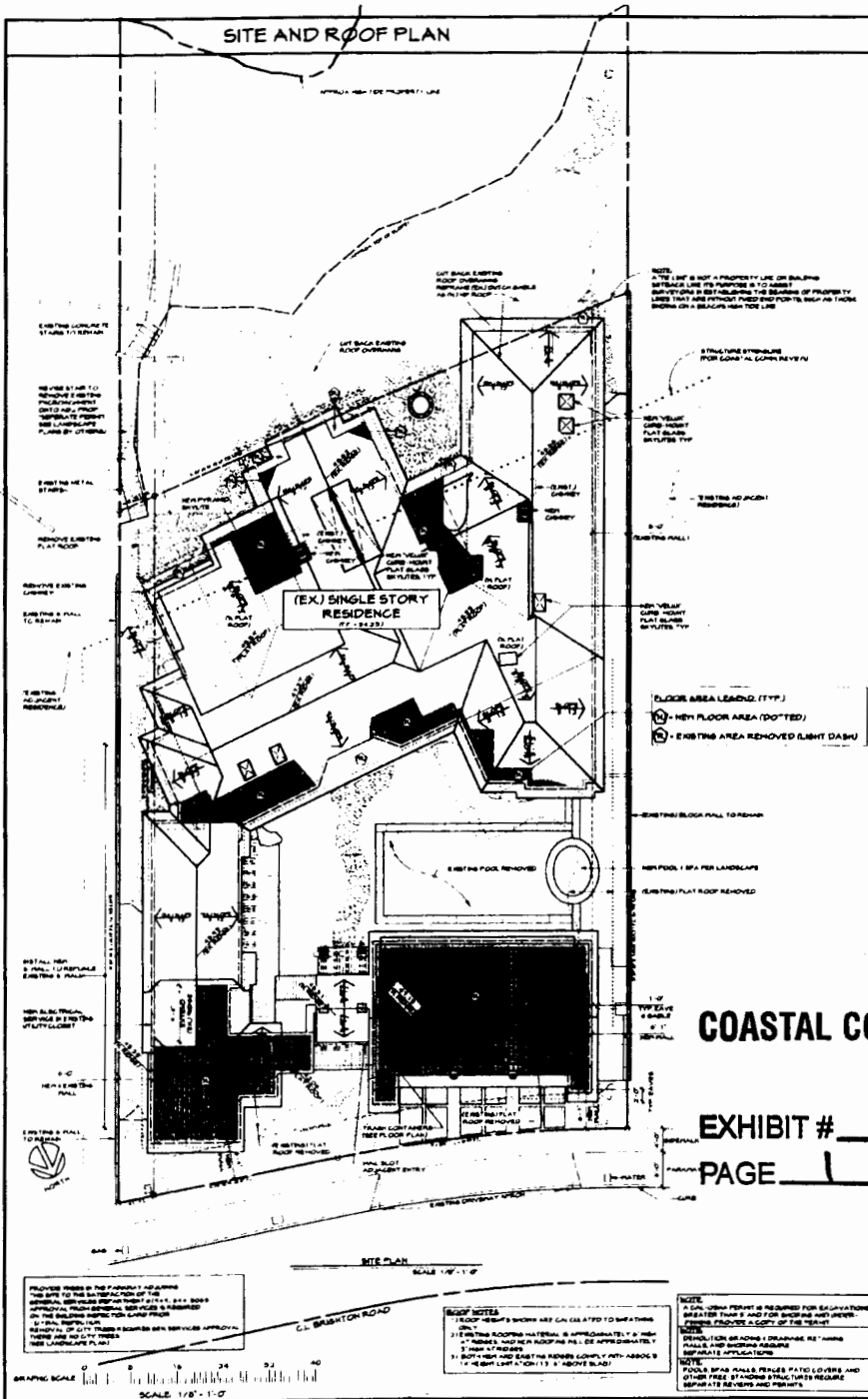
SCALE 1/8" = 1'-0"

NO. 1

NO. 2

NO. 3

SECTION



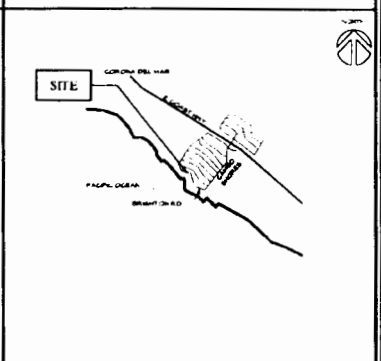
GENERAL NOTES

ALL THIS SECTION HAS TO BE ON THE CONSTRUCTION AND BE SUBJECT TO THE APPROVAL OF THE LOCAL AGENCIES AND THE STATE OF CALIFORNIA. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AGENCIES AND THE STATE OF CALIFORNIA. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AGENCIES AND THE STATE OF CALIFORNIA.

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VICINITY MAP



PROJECT DATA

LEGAL DESCRIPTION

LOT: 1344 PART OF LOT 93 OVER NEUB. 133.
 BLOCK: 3991
 TRACT: 10
 LOTS: 10
 TYPE OF CONSTRUCTION: 1/2
 APPROVED: NO

BUILDING AREAS

	EXISTS	REMOVED	NEW	TOTAL
LIVING AREAS	4,242.0	(1,307.4)	894.3	4,198.9
COVERED PATIOS				
DETACHED GARAGE	811.0	(811.0)	144.3	144.3
REMODEL AREA(S)				

LOT COVERAGE

LOT 800 - 130,000 SF
 LOT 801 TO TOP OF BLUFF - 113,387 SF
 PROPOSED ROOF FOOTPRINT - 846.4
 MAX ROOF COVERAGE - 100% (LOT AREA TO BLUFF) - 1,192.4 SF

OWNER: 18 BLUFF BLVD, RYME, CA 92612 (714) 850-8714

DESIGNED BY: NLR CONSULTING, 3001 N. LAKE FOREST DRIVE, SOUTH PLAZA, CA 92693 (714) 444-4415

PLAN PREPARATION: JERRY TUCKER & ASSOCIATES, INC., 350 EAST 11TH STREET, SUITE 210, COSTA MESA, CA 92626 (714) 444-4415

STRUCTURAL ENGINEER: JERRY TUCKER & ASSOCIATES, INC., 350 EAST 11TH STREET, SUITE 210, COSTA MESA, CA 92626 (714) 444-4415

ENERGY CONSULTANT: SOUTHCOAST ENERGY CONSULTANTS, 8843 LA CARTA AVE, FONTANA VALLEY, CA 91706 (714) 846-5422

LANDSCAPE ARCHITECT: DAVID PERDUE, 30211 AGADA STREET, HERNDON BEACH, CA 92640 (714) 293-8444

COASTAL COMMISSION

EXHIBIT # 5
 PAGE 1 OF 1

SHEET INDEX

A-1	SITE PLAN / PROJECT DATA
A-2	FLOOR PLAN
A-2-1	AS-BUILT FLOOR PLAN
A-2-2	DEMOLITION FLOOR PLAN
A-2-3	FLOOR SLAB PLAN
A-3	EXTERIOR ELEVATIONS
A-4	ADDITIONAL EXTERIOR ELEVATIONS / DOOR & WINDOW SCHEDULES
6R-1	SITE SURVEY
S-1	FOUNDATION PLAN
S-2	ROOF FRAMING PLAN
S-3	BUILDING SECTIONS
S-4	BUILDING SECTIONS
96H	STRUCTURAL GENERAL NOTES / TYPICAL DETAILS
SD-1	SHEAR SCHEDULE / FOUNDATION DETAILS
SD-2	STRUCTURAL DETAILS
SD-3	STRUCTURAL DETAILS
AD-1	ARCHITECTURAL DETAILS
AD-2	ARCHITECTURAL DETAILS
T-24	ENERGY COMPLIANCE NOTES

JOHN F. MCNEELY, INC.
 11 AVENUE 207 E. 100
 15 MARINE DRIVE, SUITE 200
 COSTA MESA, CALIFORNIA 92626
 TEL: (714) 444-4415

JOHN F. MCNEELY, INC.
 4571 BRIGHTON ROAD
 CORONA DEL MAR, CALIFORNIA

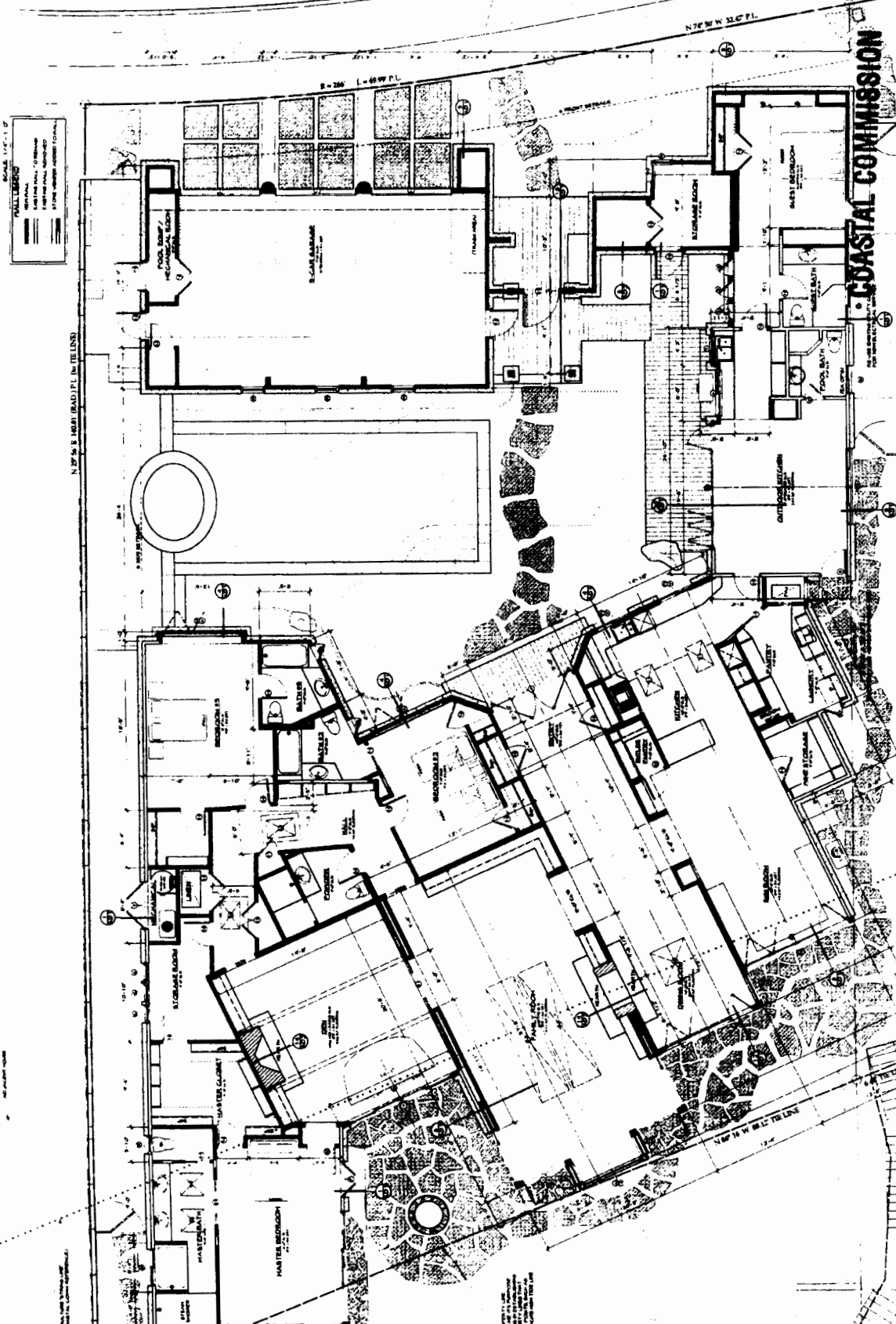
APRIL 11 2004
 M83
A1

HOLLY RESIDENCE
4311 BRIGHTON ROAD
CORONA DEL MAR, CALIFORNIA

JOHN F. MCNEELY, INC.
PLANNERS & DESIGNERS
11100 BAYVIEW DRIVE, SUITE 100
LOS ANGELES, CALIFORNIA 90048

EXHIBIT # 6
PAGE 1 OF 1 NORTH

FLOOR PLAN



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

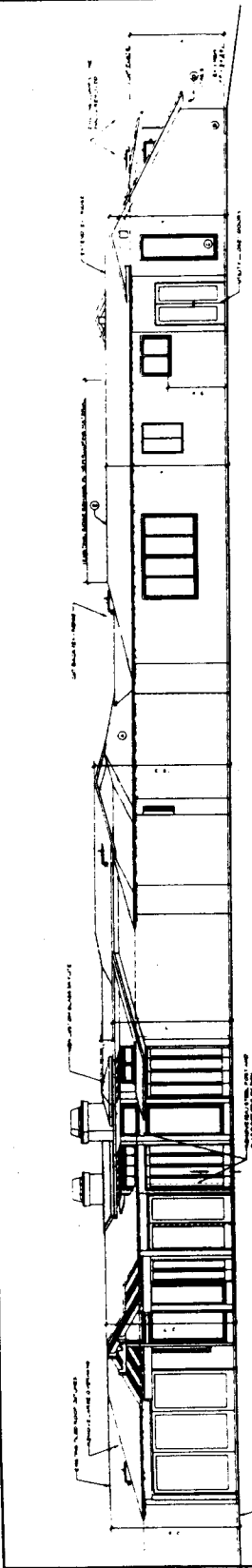
REVISIONS

DATE

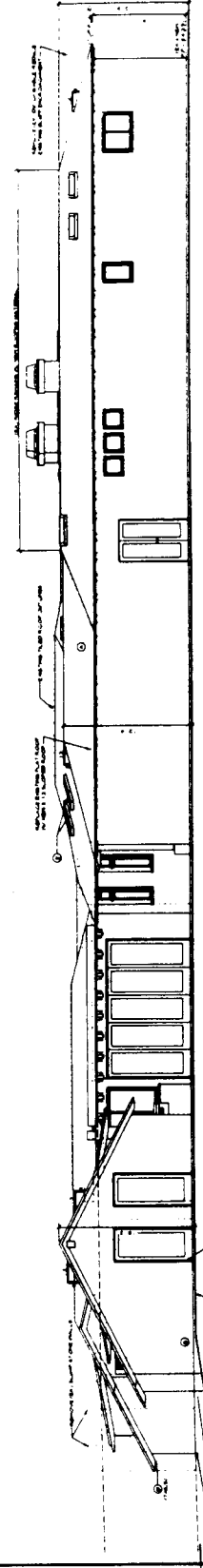
BY

APP'D

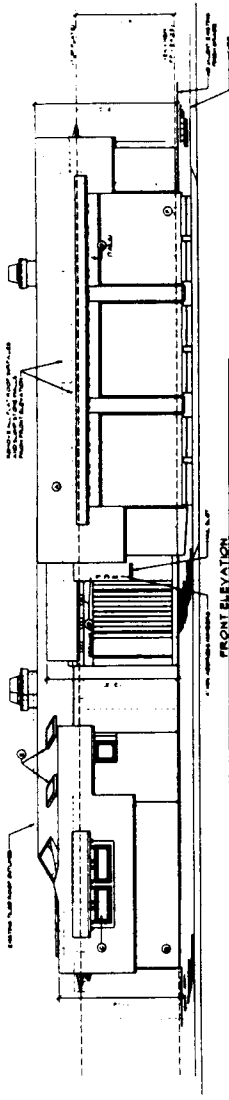
DATE



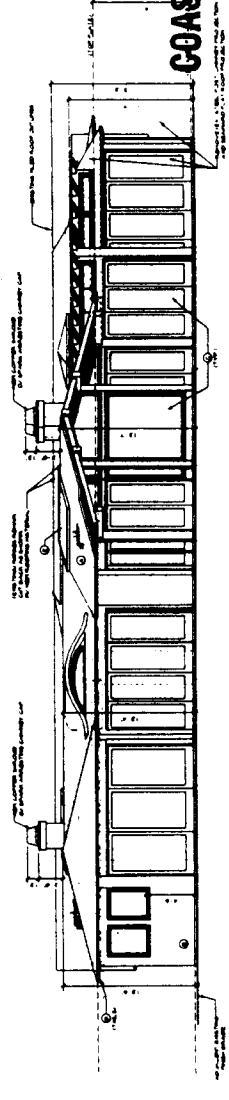
LEFT SIDE ELEVATION



RIGHT SIDE ELEVATION



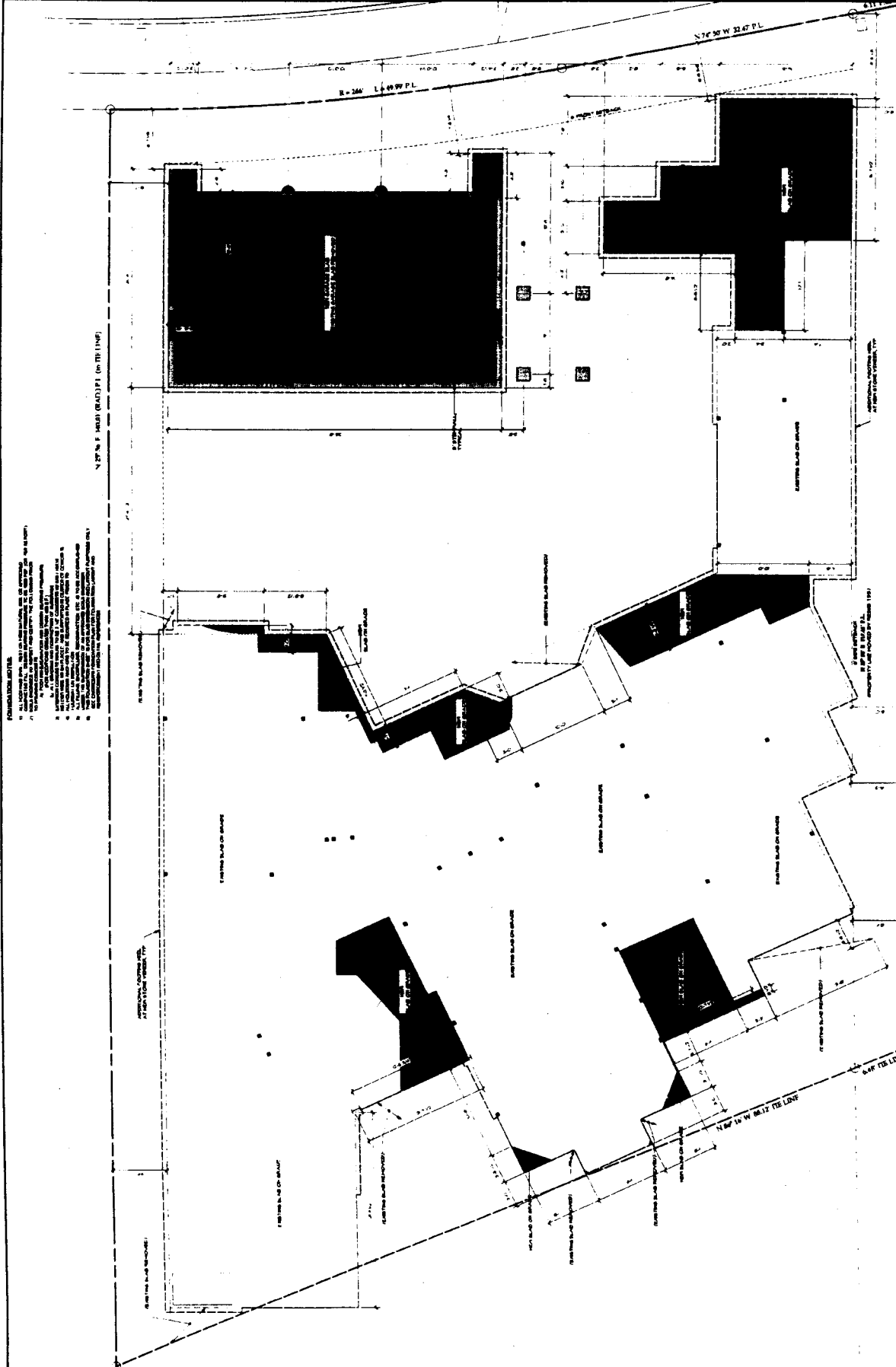
FRONT ELEVATION



REAR ELEVATION

COASTAL COMMISSION

- 1. ALL MATERIALS TO BE APPROVED BY THE COASTAL COMMISSION.
- 2. ALL MATERIALS TO BE MATCHED TO THE EXISTING HOUSE.
- 3. ALL MATERIALS TO BE MATCHED TO THE EXISTING HOUSE.
- 4. ALL MATERIALS TO BE MATCHED TO THE EXISTING HOUSE.
- 5. ALL MATERIALS TO BE MATCHED TO THE EXISTING HOUSE.
- 6. ALL MATERIALS TO BE MATCHED TO THE EXISTING HOUSE.
- 7. ALL MATERIALS TO BE MATCHED TO THE EXISTING HOUSE.
- 8. ALL MATERIALS TO BE MATCHED TO THE EXISTING HOUSE.
- 9. ALL MATERIALS TO BE MATCHED TO THE EXISTING HOUSE.
- 10. ALL MATERIALS TO BE MATCHED TO THE EXISTING HOUSE.

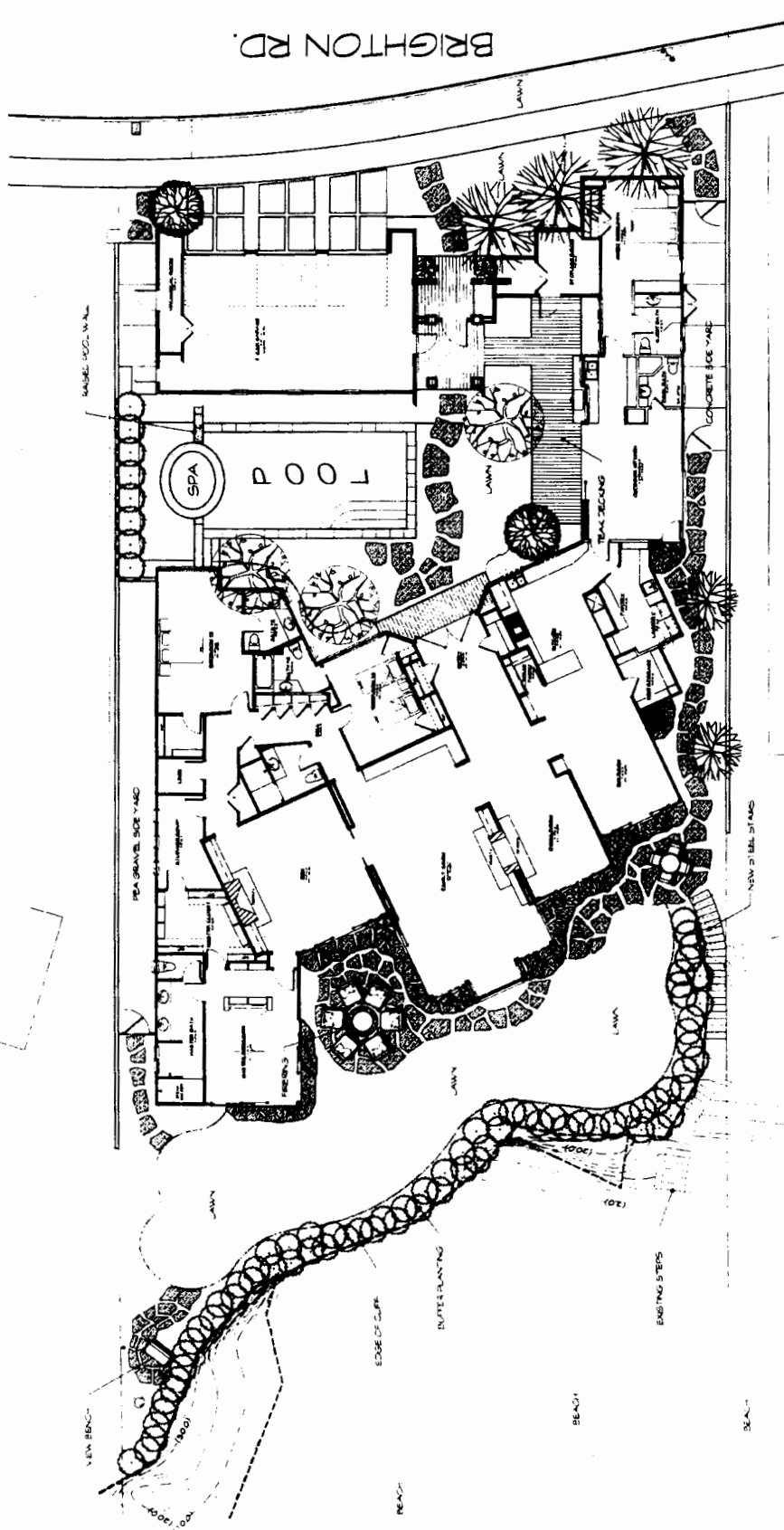


COASTAL COMMISSION

CONCRETE SLAB PLAN

EXHIBIT # 2
 PAGE 1 OF 1

- PERMITS AND NOTES:**
1. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA BUILDING CODE AND ALL APPLICABLE ORDINANCES.
 2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE LOCAL JURISDICTIONS.
 3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE EXISTING CONDITIONS AND THE ACCURACY OF THE INFORMATION PROVIDED BY THE ARCHITECT.
 4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE LOCAL JURISDICTIONS.
 5. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE LOCAL JURISDICTIONS.
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 10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE LOCAL JURISDICTIONS.



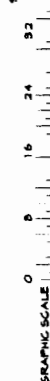
BRIGHTON RD.

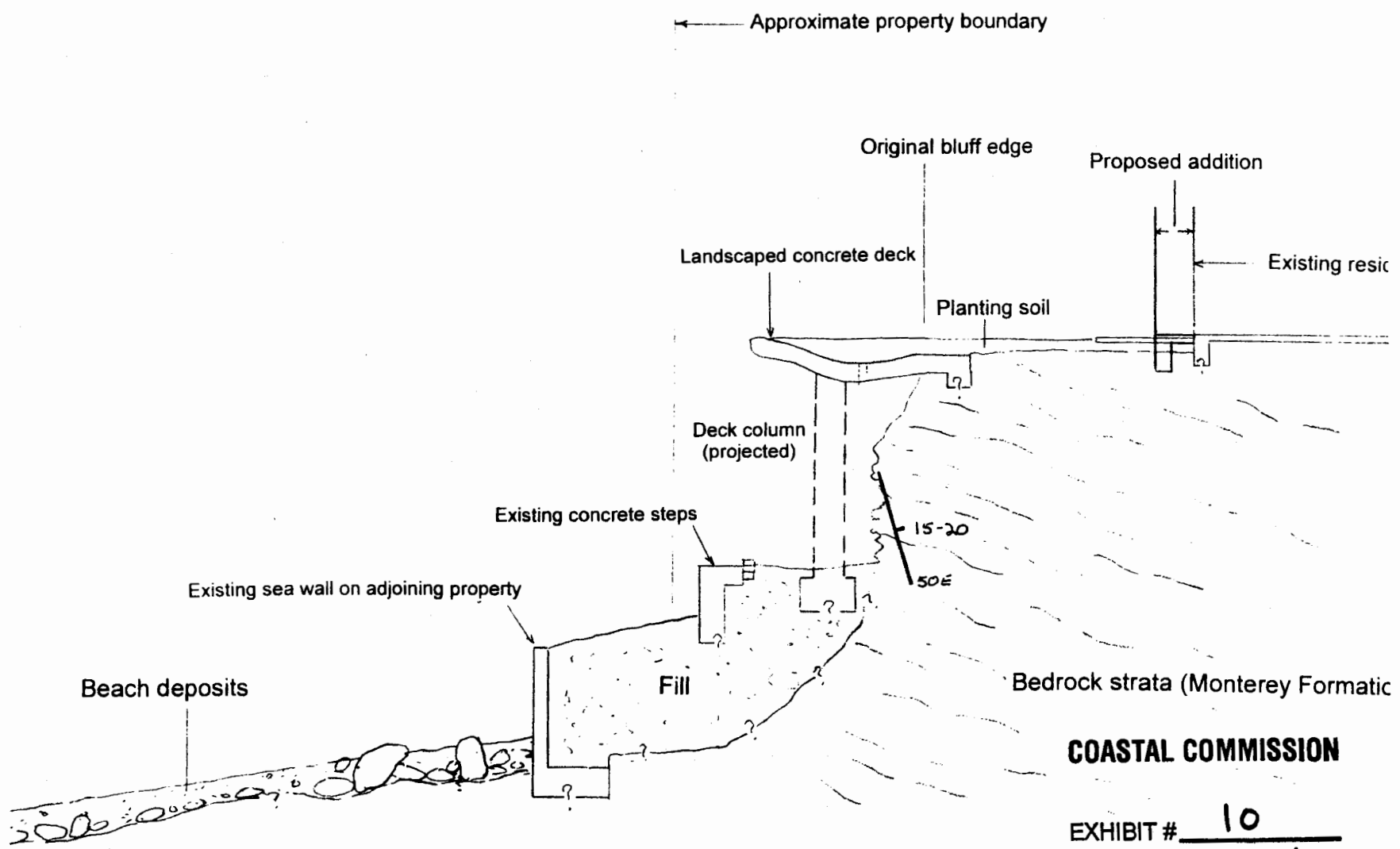
COASTAL COMMISSION

EXHIBIT # 9
PAGE 1 OF 1



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





COASTAL COMMISSION

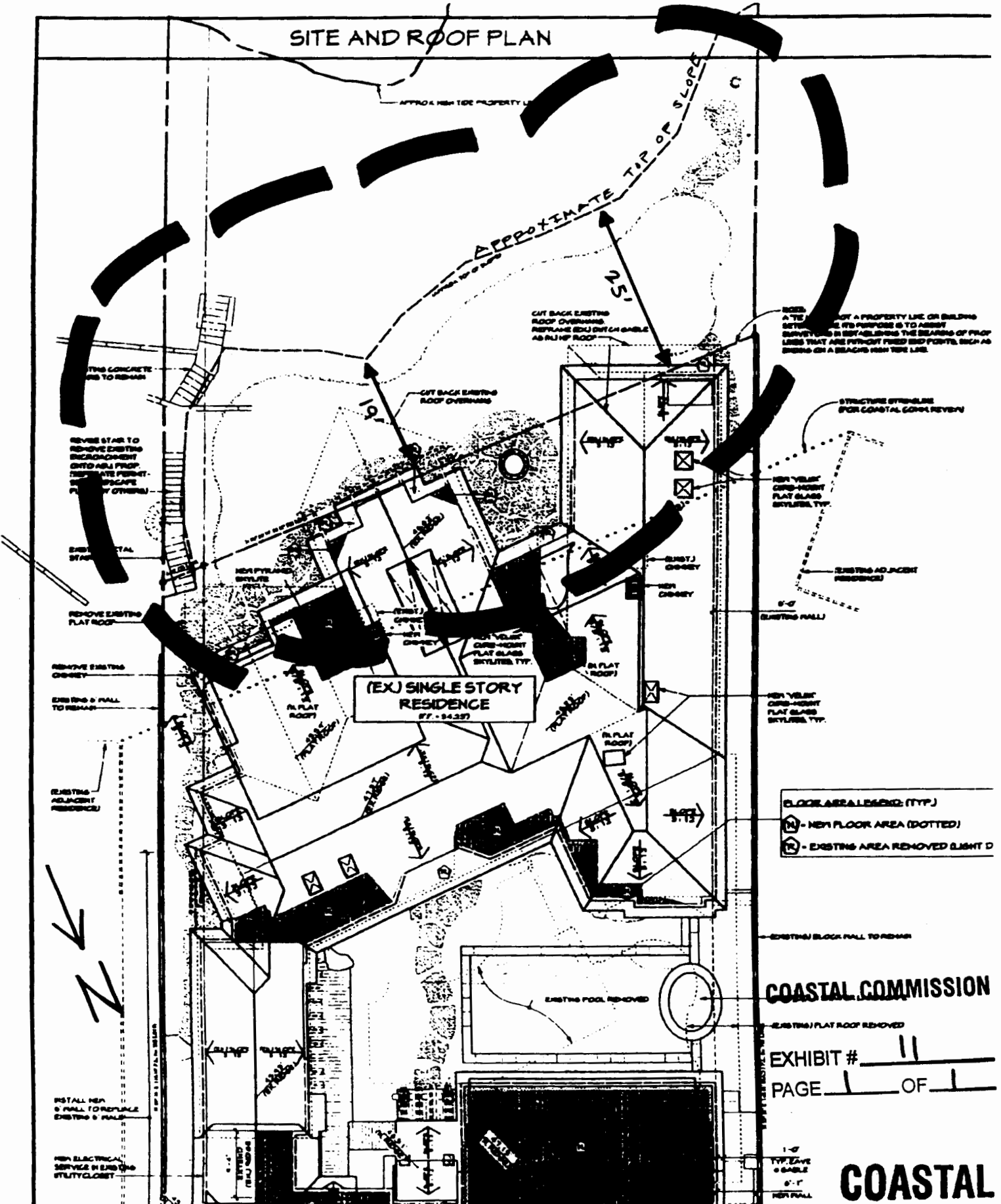
EXHIBIT # 10
 PAGE 1 OF 1

SCALE: 1" = 10'

————— N17W —————→

PLATE 3 Geotechnical C
 4521 BRIGHTON ROAD

SITE AND ROOF PLAN



DO NOT A PROPERTY LINE OR BUILDING SETBACK LINE ITS PURPOSE IS TO ASSIST SURVEYORS IN DETERMINING THE BEARING OF PLAT LINES THAT ARE PERMANENT FIXED POINTS, SUCH AS BEAMS ON A BEACHS HIGH TIDE LINE.

STRUCTURE STRIKELINE FOR COASTAL CONSTRUCTION

NEW VULCAN CORE-HOIST FLAT GLASS SKYLIGHT TYP.

EXISTING ADJACENT RESIDENCE

EXISTING HALL

NEW VULCAN CORE-HOIST FLAT GLASS SKYLIGHT TYP.

- FLOOR AREA LEGEND: (TYP.)
- (N) - NEW FLOOR AREA (DOTTED)
 - (R) - EXISTING AREA REMOVED (DASHED)

COASTAL COMMISSION

EXISTING FLAT ROOF REMOVED

EXHIBIT # 11

PAGE 1 OF 1

1-0
TYP. EAVE
6-0
8-0
NEET WALL

COASTAL



PEA GRAVEL

COASTAL COMMISSION

EXHIBIT # 12
PAGE 1 OF 1

(APPROX TOP OF SLOPE)

NATURAL BLUFF EDGE

TOP OF WY BALD TIE LINE

LANDSCAPE COVERED CONCRETE DECK
CONCRETE WALL AND FLOOR

PROPOSED ADDITION AREA

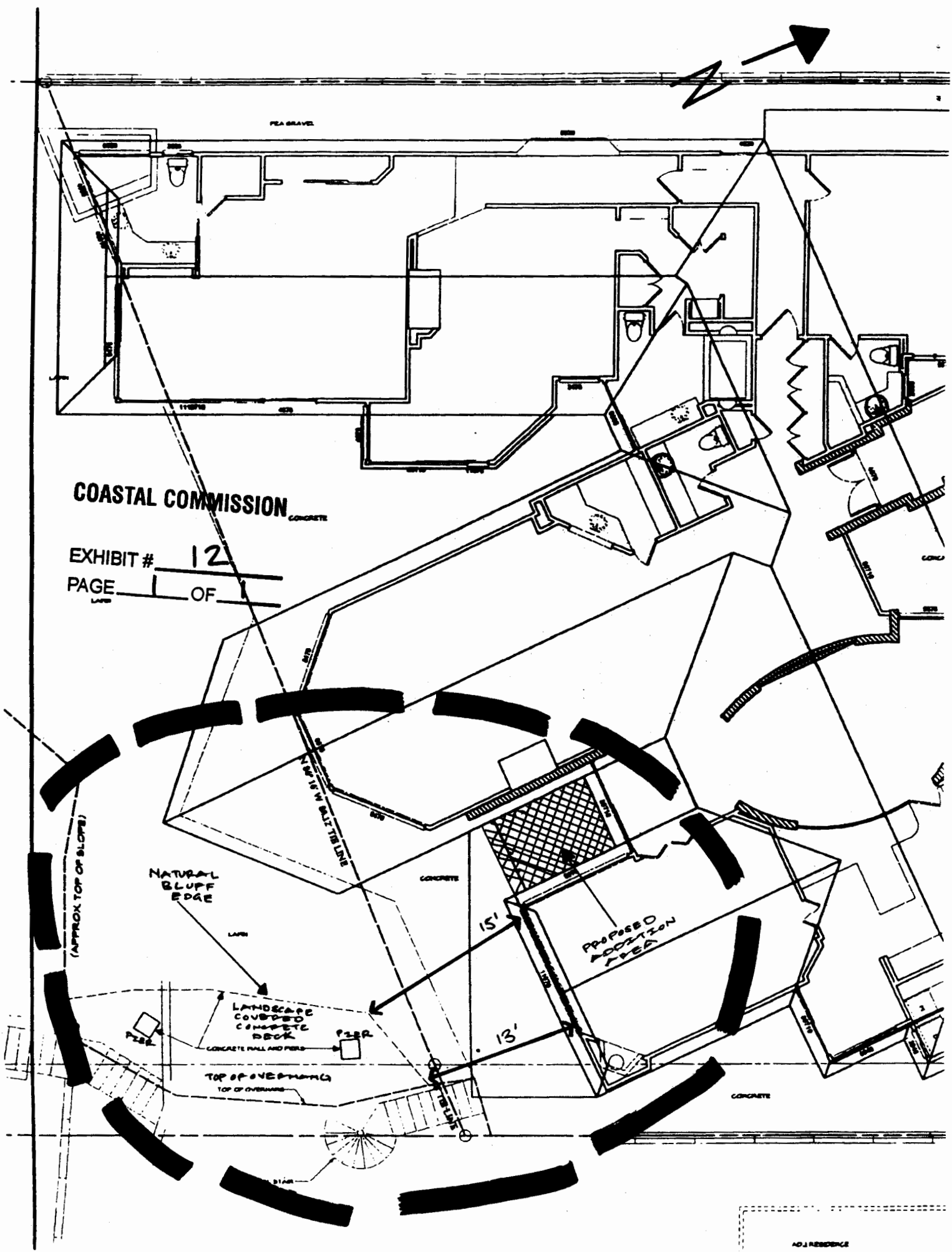
15'

13'

TOP OF OVERHANG
TOP OF OVERHANG

STAIR

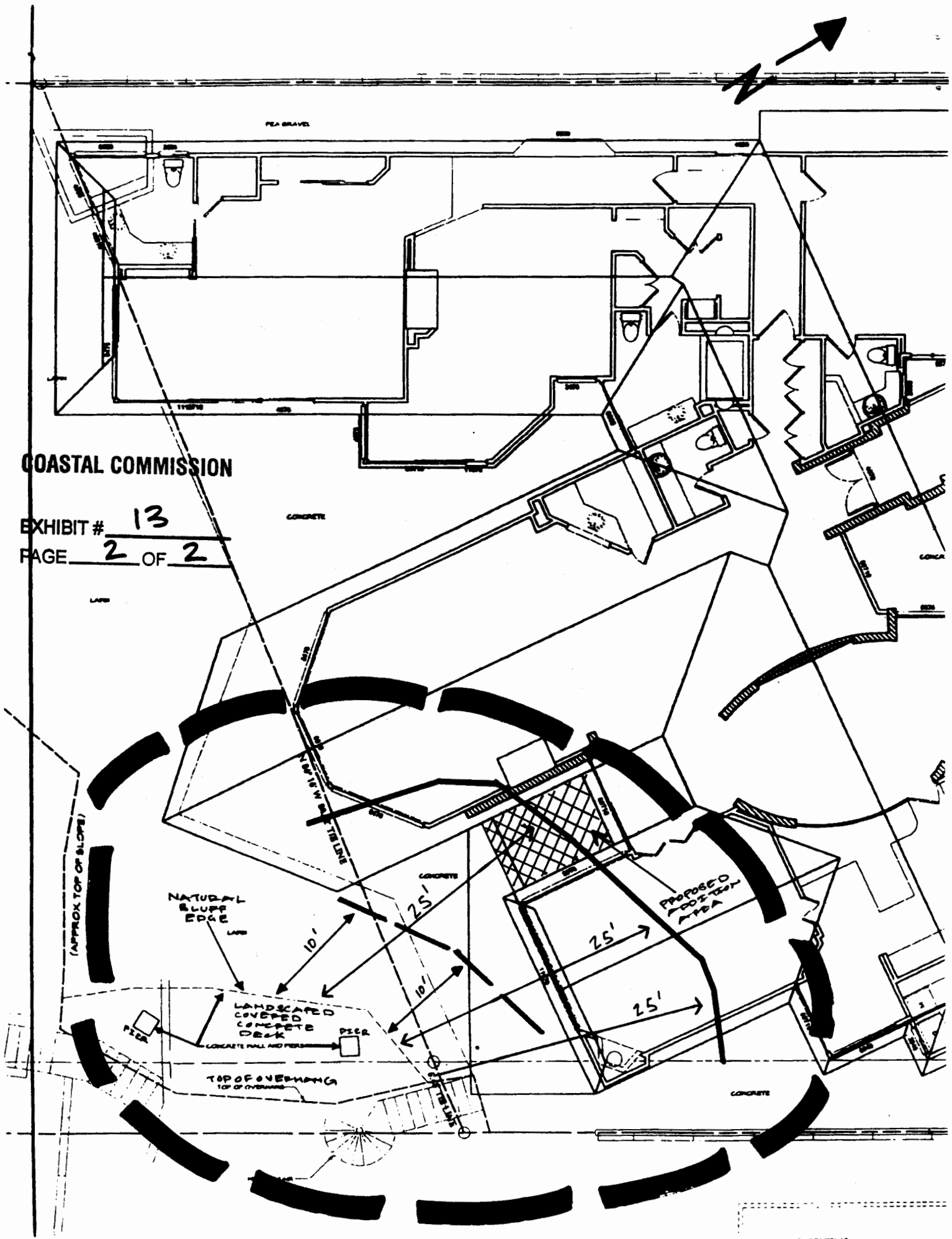
ADJ. RESIDENCE



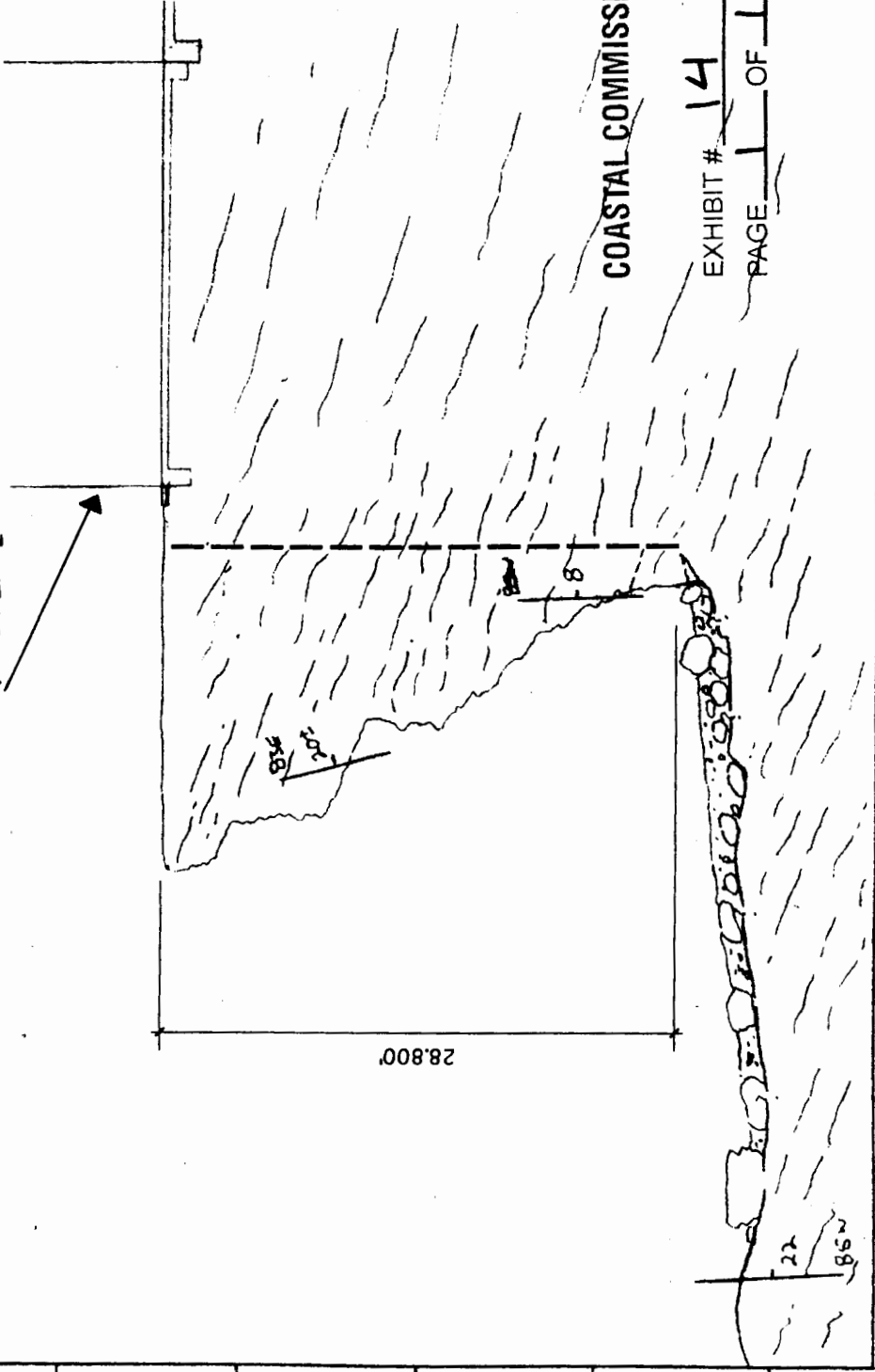


COASTAL COMMISSION

EXHIBIT # 13
PAGE 2 OF 2



EXISTING
SINGLE-FAMILY
RESIDENCE



COASTAL COMMISSION

EXHIBIT # 14

PAGE 1 OF 1

scale 1/8" = 1'-0"

A 73

02 E

