

CALIFORNIA COASTAL COMMISSION

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TH 14b

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Hearing Date: November 16-18, 2005
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NO.: 5-05-196 **RECORD PACKET COPY**

APPLICANT: Delphine Lee

AGENT: C.J. Light Associates, Attn: Christine Light & Alex Villalpando

PROJECT LOCATION: 4651 Brighton Road, Corona Del Mar (City of Newport Beach)
(Orange County)

PROJECT DESCRIPTION: Demolition and construction of a new 6,995 square foot, one-story plus basement single-family residence with a 980 square foot three (3)-car garage on a coastal bluff top lot. In addition, hardscape and landscape work is proposed. Grading will consist of 1,225 cubic yards.

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). The bluff at this site is subject to marine erosion/wave attack. The primary issues addressed in this staff report are the conformance of the proposed development with the geologic hazard policies of the Coastal Act. The applicant had originally submitted site plans indicating that a 25-foot setback is proposed. However, the 25-foot setback was incorrectly drawn and actually only showed a 20-foot bluff edge setback. In order to correct this, the applicant has submitted a preliminary revised site plan showing the correctly drawn 25-foot setback and has re-sited the house accordingly. Thus, the proposed residence will be setback a minimum of 25-feet from the bluff edge. However, a complete set of final revised project plans have not been submitted showing this correctly drawn 25-foot setback from the bluff edge. In regards to the 10-foot bluff edge setback for hardscape and other appurtenances, the originally submitted site plan shows hardscape features and drainage features are located within the 10-foot bluff edge setback. Therefore, the accessory development does not conform to the 10-foot bluff edge setback. Therefore, a Special Condition has been imposed requiring the applicant to submit revised final project plans showing that the proposed residence, at minimum, is setback 25-feet from the bluff edge and that any existing or proposed hardscape and appurtenances be, at minimum, 10-feet from the bluff edge as generally depicted on Exhibit #4 of this staff report.

Commission staff is recommending **APPROVAL** of the proposed project with **Nine (9) Special Conditions** regarding: **1)** assumption of risk; **2)** revised final project plans showing the proposed residence set back, at minimum, 25-feet from the bluff edge (as indicated on preliminary revised plans) and that any existing or proposed hardscape and appurtenances be, at minimum, 10-feet from the bluff edge; **3)** no future bluff or shoreline protective devices; **4)** additional approvals for any future development; **5)** evidence of conformance with geotechnical recommendations; **6)** submittal of a final drainage and run-off control plan; **7)** submittal of a final landscaping plan; **8)** a

deed restriction against the property, referencing all of the special conditions contained in this staff report, and 9) condition compliance.

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. The City of Newport Beach only has a certified Land Use Plan (LUP) and has not exercised the options provided in 30600(b) or 30600.5 to issue its own permits. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act. The certified LUP may be used for guidance.

The project site composes of two separate adjacent parcels owned by the applicant. One of those parcels lies within an area that was recently annexed by the City of Newport Beach from the County of Orange. The County of Orange has a certified Local Coastal Program and while this parcel is now located within the City of Newport Beach, the parcel lying within the former County area is still under the jurisdiction of the County of Orange for Coastal permitting purposes.

LOCAL APPROVALS RECEIVED: Approval-in-Concept (#3477-2004) from the City of Newport Beach Planning Department dated May 18, 2005.

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach Certified Land Use Plan; Letter from Commission staff to C.J. Light Associates dated June 16, 2005; Letter from C.J. Light Associates to Commission staff dated July 7, 2005; Memo from TMM Structural Engineers, Inc. to C.J. Light Associates dated July 7, 2005; *Geotechnical and Geologic Investigation of Proposed New Residence and Pool at 4651 Brighton Road, Newport Beach, CA (W.O. 265504-01)*, prepared by Coast Geotechnical dated January 20, 2005; *Addendum for Proposed Basement Construction, 4651 Brighton Road, City of Newport Beach, California* prepared by Coast Geotechnical dated July 7, 2005; *Biological Analysis* by PCR dated June 28, 2005; *Coastal Hazard and Wave Runup Study for 4651 Brighton Road, Corona Del Mar, CA* prepared by Geosoils, Inc. dated June 2005; and *Response to Verbal Communication from Coastal Commission, 4651 Brighton Road, City of Newport Beach, CA (W.O. 265504-05)*, prepared by Coastal Geotechnical dated October 25, 2005.

EXHIBITS

1. Vicinity Map
2. Assessor's Parcel Map
3. Site Plan Showing the OTD Easement for Lateral Public Access
4. Preliminary Revised Plans

STAFF RECOMMENDATION:

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

MOTION:

"I move that the Commission approve Coastal Development Permit No. 5-05-196 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 CONDITIONS

1. Assumption of Risk, Waiver of Liability and Indemnify

By acceptance of this permit, the applicant acknowledges and agrees (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 applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and

employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

2. Revised Project Plans

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

That the proposed residence shall be, at minimum, setback 25-feet from the bluff edge (consistent with plans submitted by the applicant on October 26, 2005) and any existing hardscape and appurtenances and any proposed hardscape and appurtenances be setback, at minimum, 10-feet from the bluff edge as generally depicted on Exhibit #4 of the November 2005 staff report. The bluff edge presently follows the 30-foot elevation contour as generally depicted on Exhibit #4 of the November 2005 staff report.

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

3. No Future Blufftop or Shoreline Protective Devices

- A.** By acceptance of this Permit, the applicant agrees, on behalf of herself and all other successors and assigns, that no bluff protective device(s) or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-05-196 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, storm conditions or other natural hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of herself 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 applicant further agrees, on behalf of herself 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 applicant, 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. Future Development

This permit is only for the development described in Coastal Development Permit No. 5-05-196. 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. 5-05-196. Accordingly, any future improvements to the single-family house authorized by this permit, including but not limited to improvements to the residence, hardscape, 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 seawall.

5. 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 (excepting those recommendations pertaining to a pile/caisson foundation system which is not proposed by the applicant nor authorized by this coastal development permit): *Geotechnical and Geologic Investigation of Proposed New Residence and Pool at 4651 Brighton Road, Newport Beach, CA (W.O. 265504-01)*, prepared by Coast Geotechnical dated January 20, 2005; *Addendum for Proposed Basement Construction, 4651 Brighton Road, City of Newport Beach, California* prepared by Coast Geotechnical dated July 7, 2005; and *Response to Verbal Communication from Coastal Commission, 4651 Brighton Road, City of Newport Beach, CA (W.O. 265504-05)*, prepared by Coastal Geotechnical dated October 25, 2005; and *Memo from TMM Structural Engineers, Inc. to C.J. Light Associates* dated July 7, 2005.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant 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 (excepting those recommendations

pertaining to a pile/caisson foundation system which is not proposed by the applicant nor authorized by this coastal development permit) specified in the above-referenced geologic engineering report.

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

6. Drainage and Runoff Control Plan

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant 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 permittee 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 applicant 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.

7. Landscaping Plan

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant 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 not occupied by hardscape shall be planted and maintained for slope stability and 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 and/or drought tolerant non-invasive plant species. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property. Any existing landscaping that doesn't meet the above requirements shall be removed.

- (d) 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 permittee 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.

8. Generic Deed Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner has 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.

9. **Condition Compliance**

Within 90 days of Commission action on this coastal development permit application, or within such additional time as the Executive Director may grant for good cause, the applicants shall satisfy all requirements specified in the conditions hereto that the applicants are required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. PROJECT LOCATION, PROJECT DESCRIPTION, LOT LINE ADJUSTMENT AND PREVIOUS COMMISSION ACTION ON SITE

1. **Project Location**

The project site consists of two adjacent lots situated on the seaward side of Brighton Road at the intersection with Cameo Shores 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 east of the project site is the Pelican Hill Golf Course and Crystal Cove State Park. To the west of the project site is an existing single-family residential development. To the north of the project site is the intersection of Brighton Road and Cameo Shores Road. To the south of the project site is a coastal bluff, rocky beach and the Pacific Ocean. Topographically, a level building pad, an ascending slope and a coastal bluff characterize the site. The coastal bluff along the ocean frontage of the lot is approximately 30-feet in height and is retained by a seawall about 12 to 16-feet high except for the southeast corner of the lot where vertical bedrock is exposed. The natural bluff areas are located above and to the east of the seawall are near vertical and composed of exposed bedrock, except for the southwest corner of the lot where erosion protection has been installed (two courses of 3-foot square wire cages filled with crushed rock). No work on the existing seawall or erosion protection is proposed with the submitted application. Along the eastern property line (which abuts the golf course and State Park) is an ascending slope with a gradient of about 1.5:1 (H:V) with an estimated height of about 25-feet. A railroad tie wall retains a portion of this slope.

2. **Project Description**

The proposed project consists of demolition of an existing single-family residence with a detached garage and construction of a new 6,995 square foot (6,010 square foot 1st floor and 985 square foot basement), one-story plus basement single-family residence, 14-feet above finished grade with a 980 square foot three (3)-car garage on a coastal bluff top lot. In addition, retaining walls, hardscape and landscape work is proposed. Also, an existing pool and spa located within the center of the lot will be demolished and a new pool and spa located along the eastern sideyard will be constructed. Grading will consist of 1,225 cubic yards (1,125 cubic yards of cut, 100 cubic yards of fill and 1,025 cubic yards of export to a location outside of the Coastal Zone).

The applicant had originally submitted site plans indicating that a 25-foot setback is proposed. However, the 25-foot setback was incorrectly drawn and actually only showed a 20-foot bluff edge setback. In order to correct this, the applicant has submitted a revised preliminary site plan showing the correctly drawn 25-foot setback and has re-sited the house accordingly. In regards to the 10-foot bluff edge setback for hardscape and other appurtenances typically required by the Commission in this area, the originally submitted site plan shows hardscape features and drainage features are located within the 10-foot bluff edge setback. Thus, the proposed accessory development doesn't conform with Commission requirements.

As stated previously, the project site is comprised of two separate but adjacent parcels owned by the applicant (Exhibit #2). The parcel (No. 11) where the proposed residence will be located as well as associated rear yard improvements is located within the City of Newport Beach and is not under the jurisdiction of a Local Coastal Program. The City of Newport Beach does not have a certified Local Coastal Program, only a certified Land Use Plan (LUP). Therefore, the Coastal Commission is the coastal development permit issuing entity for development on that parcel and the standard of review is Chapter 3 of the Coastal Act. The certified LUP may be used for guidance.

The remaining parcel (No. 22) located to the east and adjacent to the Pelican Hill Golf Course and Crystal Cove State Park was recently annexed by the City of Newport Beach from the County of Orange. The development on this parcel would consist of the new pool and spa described above and some other non-habitable appurtenances. The County of Orange has a certified Local Coastal Program and while this parcel is now located within the City of Newport Beach, it is still under the jurisdiction of the County of Orange for Coastal permitting purposes. Therefore, a coastal development permit from the County of Orange for development on this parcel is necessary.

3. Lot Line Adjustment

In 1993, the City of Newport Beach approved a lot line adjustment (No. 93-3) for the project site in conjunction with an adjacent site owned by the Irvine Company. The lot line adjustment resulted in a portion of an adjacent lot (approximately 0.05 acres) being added to the subject lot. However, no Coastal Commission approval was obtained for this lot line adjustment. A request for "after-the-fact" approval of this lot line approval has been included with the proposed project.

4. Prior Commission Actions at Subject Site

At the October 1977 Regional Commission Hearing, the Commission approved Permit No. A-9-27-77-1902-(Gordon) for construction of approximately 324 square feet of concrete patio, 75-feet of concrete block wall, 16-feet of tempered glass railing with associated lighting, landscaping and irrigation in conjunction with an existing single-family residence on a bluff top lot. The Commission approved the project subject to two (2) Special Conditions. Special Condition No. 1 required the applicant to submit revised plans which showed: a) no portion of the project, with exception of landscaping and irrigation, within the 25-foot bluff top line, b) landscaping and irrigation plan utilizing drought tolerant resistant planting, and c) location of lighting standards. Special Condition No. 2 required the applicant submit a signed and notarized statement that the project will not contribute to the erosion of geological instability of the bluff. The Special

Conditions were never satisfied. Thus, the permit expired on October 16, 1979.

At the March 1986 Commission Hearing, the Commission approved Administrative Permit No. 5-86-075-(Tarantello) for construction of a new 6-foot high concrete seawall across the rear area of the lot adjacent to the pocket beach. The approved project was an extension of a seawall (5-85-679) approved by the Commission located upcoast and adjacent to the subject site. The Commission approved the project subject to one (1) Special Condition, which required the applicant to provide an irrevocable offer to dedicate a lateral access easement. The offered easement allows for public access across the lot in an area seaward of the seawall (Exhibit #3). The permit was issued on November 19, 1986. The offer was recorded and the seawall was constructed. The offered access easement has not yet been accepted and will expire October 2007. The proposed project will have no effect on this offered lateral access easement.

B. GEOLOGIC HAZARD

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 are 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 man. Environmental factors include gravity, seismicity, wave attack, wetting and drying of bluff face soils, wind erosion, salt spray erosion, rodent burrowing and piping, percolation of rain water, poorly structured bedding, surface water runoff and poorly consolidated soils.

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

bluff face along fracture lines in the bluff or points of contact of different geologic formations, forming a potential slide plane.

2. Site Specific Bluff Information

Erosion

To address bluff erosion, the applicant has submitted a geotechnical investigation entitled: *Geotechnical and Geologic Investigation of Proposed New Residence and Pool at 4651 Brighton Road, Newport Beach, CA (W.O. 265504-01)*, prepared by Coast Geotechnical dated January 20, 2005. The geotechnical investigation states that the site is underlain by predominantly fine grained thinly bedded sedimentary rocks of the Monterey formation, which is overlain by minor artificial fill and non-marine terrace deposits. In addition, bedrock structure is well exposed along the coastal bluff and is generally neutral to the slope face with an east west strike and southerly to northerly dip. Furthermore, this investigation states: "*The subject site slopes do not exhibit morphological features associated with deep-seated failures ... The coastal bluff shows geologic structure and bedrock strengths that are favorable for gross stability and a seawall protects the toe of the bluff. The upper portions of the bluff are subject to minor bluff retreat due to slope steepness and weathering.*" Moreover, the geotechnical investigation states: "*Significant recorded slope failures have not occurred along this bluff. At similar locations failures have been attributed to unique localized conditions. These conditions have been identified as near vertical gradients, poor lot drainage, broken irrigation lines, intense rainfall and poorly placed fills. The failures have generally been restricted to areas near the top of the bluff and to our knowledge have not affected residential structures. The coastal bluff was shown to have a factor of safety of 1.5 or greater for gross stability under static and seismic conditions. The potential does exist for small rocks zones to fail due to slope steepness and weathering.*" In regards to long term bluff retreat on site, the investigation states that based on aerial photographs significant bluff retreat has not occurred in the past fifty years at this site. The portion of the bluff protected by the existing seawall has minimal risk for long-term bluff retreat. However, the small-unprotected bluff area has the potential for episodic bluff retreat to occur due to moisture changes in the cliff, seismic activity and weathering.

In response to the geotechnical investigation's discussion that the upper bluff area is subject to surficial instability, Commission staff requested that additional information be submitted. In response, the applicant submitted *Response to Verbal Communication from Coastal Commission, 4651 Brighton Road, City of Newport Beach, CA (W.O. 265504-05)*, prepared by Coastal Geotechnical dated October 25, 2005. If the surficial instability were construed as bluff retreat, an additional setback landward of the 1.5 factor of safety line may be necessary by the Coastal Commission. However, the investigation provides information that a minimum 10-foot landward setback between the 1.5 factor of safety line and the proposed residence is considered adequate for any upper bluff retreat over the 75 year life span of the structure. In addition, overall bluff retreat is not likely due to the lower bluff being protected by the seawall. The 1.5 factor of safety line intersects the bluff top approximately 15 feet landward of the bluff edge. An additional 10-foot setback from this point results in a 25-foot setback required from the bluff edge to address geologic and erosion issues.

The Commission's staff Geologist has reviewed these geotechnical investigations and has concurred that these investigations have adequately addressed concerns regarding bluff erosion and slope stability of the project site.

Geotechnical Issues

To address geotechnical issues, the applicant has submitted *Geotechnical and Geologic Investigation of Proposed New Residence and Pool at 4651 Brighton Road, Newport Beach, CA (W.O. 265504-01)*, prepared by Coast Geotechnical dated January 20, 2005; and *Addendum for Proposed Basement Construction, 4651 Brighton Road, City of Newport Beach, California* prepared by Coast Geotechnical dated July 7, 2005. The purposes for this investigations were to evaluate the project soil and bedrock conditions and to provide geotechnical engineering conclusions and recommendations relative to the proposed development. The scope of the investigation included: research of readily available geotechnical records for the sites and environs; identification of the sites' subsurface soil and bedrock conditions by exploration and observation; collection of soil and bedrock samples; geotechnical laboratory testing; engineering analyses of the obtained data; and summary of the findings and recommendations.

The geotechnical investigation concludes:

Development of the site as proposed is considered feasible from a geotechnical and geologic engineering standpoint, provided that the recommendations stated herein are incorporated in the design and are implemented in the field. These recommendations are subject to change based on review of grading and foundation plans.

This geotechnical investigation included recommendations for the proposed project. Among those recommendations are: 1) grading will be necessary to excavate and recompact existing soft and loose surficial soil and to backfill the existing pool; 2) drainage should be directed away from structures via non-erodible conduits to suitable disposal areas; and 3) the pool should be a freestanding design, supported entirely by bedrock.

In addition, the geotechnical investigation states that the foundation for the proposed residence will consist of continuous footings. The investigation also states that piles could be considered, but the applicant has verified that this is not proposed as part of the foundation system. Furthermore, a *Memo from TMM Structural Engineers, Inc. to C.J. Light Associates* dated July 7, 2005 states that the proposed foundation for the residence will consist of conventional footings and slab on grade.

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, **Nine (9) Special Conditions** are being imposed. These special conditions are more thoroughly discussed later in this report in Section 6 below.

3. Certified LUP Hazard Policies

A recently updated certified Land Use Plan (LUP) (approved with suggested modifications by the Commission at the October 2005 hearing) includes policies regarding development

on coastal bluffs.

The recently certified LUP requires that all new blufftop development located on a bluff subject to marine erosion to be sited in accordance with the predominant line of existing development in the subject area, but not less than 25 feet from the bluff edge. As conditioned, to submit revised final project plans showing that the proposed residence shall be, at minimum, setback 25-feet from the bluff edge (consistent with plans submitted by the applicant on October 26, 2005) the project adheres to this LUP policy.

Another LUP policy states that on bluffs subject to marine erosion, new accessory structures such as decks, patios and walkways that do not require structural foundations are to be sited in accordance with the predominant line of existing development in the subject area, but not less than 10 feet from the bluff edge. Furthermore, the LUP policy requires accessory structures to be removed or relocated landward when threatened by erosion, instability or other hazards. The proposed accessory development does not require structural foundations for any decks, patios, etc., however, the development doesn't conform with the 10-foot bluff edge setback. As discussed more fully below, conditions imposed by the Commission will bring the proposal into conformance with the recently certified LUP policy.

4. Bluff Top Setback

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 bluffs 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. In order to assure that this is the case, a development setback line must be established that places the proposed structures a sufficient distance from unstable or marginally stable bluffs to assure their safety, and that takes into account bluff retreat over the life of the structures, thus assuring the stability of the structures over their design life. The goal is to assure that by the time the bluff retreats sufficiently to threaten the development, the structures themselves are obsolete. Replacement development can then be appropriately sited behind a new setback line.

The first aspect to consider in establishing development setbacks from the bluff edge is to determine whether the existing coastal bluff meets minimum requirements for slope stability. If the answer to this question is "yes," then no setback is necessary for slope stability considerations. If the answer is "no," then the distance from the bluff edge to a position where sufficient stability exists to assure safety must be found. In other words, we must determine how far back from the unstable or marginally slope must development be sited to assure its safety. Assessing the stability of slopes against landsliding is undertaken through a quantitative slope stability analysis. In such an analysis, the forces resisting a potential landslide are first determined. These are essentially the strength of the rocks or soils making up the bluff. Next, the forces driving a potential landslide are determined. These forces are the weight of the rocks as projected along a potential slide surface. The resisting forces are divided by the driving forces to determine the "factor of safety." A value below 1.0 is theoretically impossible, as the slope would have failed already. A value of 1.0 indicates that failure is imminent. Factors of safety at increasing values above 1.0 lend increasing confidence in the stability of the slope. The industry-

standard for new development is a factor of safety of 1.5.

In this case, the applicant has submitted slope stability analyses, supported by site-specific soil and rock strength parameters that demonstrate that the portion of the bluff 15-feet and more inland of the bluff edge has a factor of safety of 1.50 under static and seismic conditions. The Commission's staff Geologist has reviewed these calculations and concurs that the portion of the coastal bluff 15-feet inland of the bluff edge is safe from global instability.

The second aspect to be considered in the establishment of a development setback line from the edge of a coastal bluff is the issue of more gradual, or "grain by grain" erosion. In order to develop appropriate setbacks for bluff top development, we need to predict the position of the bluff edge into the future. In other words, at what distance from the bluff edge will bluff top development be safe from long-term coastal erosion?

At the subject property, the applicant has submitted materials that indicate that significant bluff retreat has not occurred in the past fifty years. The portion of the bluff area protected by the seawall has minimal risk for long-term bluff retreat. The investigation goes on to say that the portion of the bluff not protected by the seawall has the potential for bluff retreat. However, an additional geotechnical investigation clarifies that since the proposed residence is situated a minimum of 10-feet landward of the 1.5 factor of safety line (which is 15 feet from the bluff edge, for a total 25 foot bluff edge setback), the proposed buffer is considered adequate for any upper bluff retreat over the seventy-five year life span of the structure.

The development setback necessary to assure stability for the design life of the structure is thus 15-feet. To this, a buffer, generally a minimum of 10-feet, should be added to address uncertainty in the analysis, to allow for any future increase in the long-term bluff retreat rate, to assure that the foundation elements aren't actually undermined at the end of the design life of the development, and to allow access for remedial measures. Thus a minimum setback to assure stability for the life of the development at this site would be approximately 25-feet.

In this area, the Commission has generally used a 25-foot setback for primary structures from the top of the bluff (e.g. CDP #5-04-013-[Primm] and #5-04-035-[Hoff]) as an absolute minimum development setback.

The Commission typically requires that structures be setback at least 25-feet from the bluff edge and hardscape and accessory features be setback at least 10-feet from the bluff edge to minimize the potential that the development will contribute to slope instability. The applicant had originally submitted site plans indicating that a 25-foot setback is proposed. However, the 25-foot setback was incorrectly drawn and actually only showed a 20-foot setback. In order to correct this, the applicant has submitted a preliminary revised site plan showing the correctly drawn 25-foot setback and has re-sited the development accordingly. Thus, proposed residence will be setback a minimum of 25-feet from the bluff edge (within this 25-feet, the residence is setback 10-feet from the 1.5 factor of safety line). The originally submitted site plan shows that hardscape features and drainage features are located within the 10-foot bluff edge setback. Therefore, the accessory development does not conform to the 10-foot bluff edge setback.

5. Coastal Hazards

To analyze the suitability of the site for 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 applicant has provided *Coastal Hazard and Wave Runup Study for 4651 Brighton Road, Corona Del Mar, CA* prepared by *Geosoils, Inc.* dated June 2005, which addresses the potential of hazard from flooding and wave attack at the subject site. The study states that at the base of the bluff is a steel reinforced concrete seawall constructed in 1986 and is in good to fair condition, with minor signs of reinforced steel rusting. The seawall is fronted by a sand pocket beach. The pocket beach is approximately 200-feet long and maintains an average width of about 40-feet. Rocky headlands are located to either side of the site and they form the boundaries of the pocket beach and also are the reason why there is little, if any, up-coast and down-coast movement of sand along the shoreline. A review of aerial photographs over the last four decades shows little if any shoreline retreat and the long-term shoreline erosion rate is approximately zero. The seawall has prevented wave attack in the past and will continue to provide protection in the future. In addition, the study states that the proposed improvements are above any potential wave runup of ocean induced flooding. The applicant has also indicated that the proposed development has been sited such that it does not rely upon the existing seawall. Various other findings are discussed in this study and it concludes by stating: "*... coastal hazards will not significantly impact this property over the life of the improvements at the top of the bluff. The improvements 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. The improvements minimize risk from flooding.*"

Although the applicant's investigations indicate 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. For example, the study states that there is no general overall shoreline retreat in the area due to the sheltering effect of the rocky headlands. As long as the rocky headlands are present the study concludes that the beach should be fairly stable. However, if something were to happen that would cause damage to the rocky headlands, then shoreline retreat may occur. Therefore, the proposed development is located in an area where coastal hazards exist and can adversely impact the development.

6. Conclusions and Special Conditions

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

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

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

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

a. Assumption of Risk

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

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

By this means, the applicant 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 applicant's 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.

The Commission has typically required that structures be setback at least 25-feet from the bluff edge and hardscape features and other site appurtenances be setback at least 10-feet from the bluff edge to minimize the potential that the development will contribute to slope instability. The applicant had originally submitted site plans indicating that a 25-foot setback is proposed. However, the 25-foot setback was incorrectly drawn and actually only showed a 20-foot bluff edge setback. In order to correct this, the applicant has submitted a preliminary revised site plan showing the correctly drawn 25-foot setback and has re-sited the house accordingly. Thus, proposed residence will be setback a minimum of 25-feet from the bluff edge. However, a complete set of final revised project plans have not been submitted showing this correctly drawn 25-foot setback from the bluff edge. In regards to the 10-foot bluff edge setback for hardscape and other appurtenances, the originally submitted site plan shows a hardscape features and drainage features are located within the 10-foot bluff edge setback. Therefore, the accessory development does not conform to the 10-foot bluff edge setback. Therefore, the Commission is imposing **Special Condition No. 2**, which requires the applicant to submit revised final project plans showing that the proposed residence, at minimum, is setback 25-feet from the bluff edge and that any existing or proposed hardscape and appurtenances be, at minimum, 10-feet from the bluff edge as generally depicted on Exhibit #4 of the November 2005 staff report to minimize the potential that the development will contribute to slope instability.

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.

While an existing seawall does exist on site, the proposed development is not reliant upon this existing wall nor is the applicant requesting a bluff or shoreline protection device. Because the proposed project includes new development, it can only be found consistent with Section 30253 of the Coastal Act if a bluff or shoreline protective device is not expected to be needed in the future. Therefore, the Commission imposes **Special Condition No. 3**, which states that no future bluff or 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 applicant 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. This permit does not allow work to take place on the seawall. Therefore, 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. 4**, 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 as regards the design and construction of the project. The geotechnical recommendations address foundations, excavation, and footings. In order to insure that risks of development are minimized, as per Section 30253, the Commission imposes **Special Condition No. 5**, which states that the geotechnical consultant's recommendations should be incorporated into the design of the project. As a condition of approval the applicant shall submit for the review and approval of the Executive Director foundation plans reviewed and signed by a consulting geologist.

f. Drainage and Runoff 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 gullying 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 applicant has submitted a drainage and run-off control plan and a narrative: "*All drainage at bluff edge to drain away from bluff top. Area drains will be regularly located and will take water away from the bluff and towards the front of the property. Roof drains shall be connected to the site drainage system. Whenever possible, roof drains will spill into planters and overflow water will then go into planter drains. Hardscape areas will also have area drains that will also be discharged towards the street.*" While the applicant states that drainage will be directed toward the street, which would adequately deal with possible adverse impacts due to water accumulation on site, the drainage and run-off control plan locates some area drains within the 10-foot setback from the bluff edge. Hardscape features and other site appurtenances (i.e. area drains and drain lines) should be setback at least 10-feet from the bluff edge to minimize the potential that the development will be affected by erosion and landslide hazards. Thus, the Commission is imposing **Special Condition No. 6**, which requires the applicant to submit a revised drainage and run-off control 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 applicant has stated that she intends to landscape the site; however, there are currently no landscape plans. A *Biological Analysis* by PCR dated June 28, 2005 states that the site consists of non-native ornamental vegetation and is landscaped primarily with turf and iceplant. The biological

analysis further states that the proposed project will not impact any native vegetation, nor any sensitive plant or wildlife species or any ESHA's as defined by the Coastal Commission. Any proposed vegetated landscaped areas located on site should only consist of native plants or non-native drought tolerant plants, which are non-invasive. 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. In addition, 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>.

Due to the potential impacts to the bluff from infiltration of water into the bluff, the Commission imposes **Special Condition No. 7**, which requires that the applicant 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. 8** requiring that the property owner records 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.

CONCLUSION

The Commission has required **Eight (8) 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 proposed residence be setback, at minimum, 25-feet from the bluff edge and that any existing or proposed hardscape and appurtenances be, at minimum, 10-feet from the bluff edge; 3) no future blufftop

or shoreline protective device; **4)** additional approvals for any future development; **5)** evidence of conformance with geotechnical recommendations; **6)** submittal of a final drainage and run-off control plan; **7)** submittal of a final landscaping plan; and **8)** a deed restriction against the property, referencing all of the special conditions contained in this staff report. Only as conditioned to comply with the provisions of these special conditions does the Commission find that the proposed development conforms with Section 30253 of the Coastal Act.

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 edge set back.

City Setback

The plans submitted by the applicant shows that the project conforms to the City zoning setback requirement of 6-feet from the rear property line, 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 west of the site, but there is no residence to the east of the site. Therefore, a stringline cannot be applied this case. In addition, use of the stringline is not necessary in this case, as the Commission has imposed **Special Condition No. 2**, which requires the applicant to submit revised project plans showing the proposed residence be setback, at minimum, 25-feet from the bluff edge and that any proposed hardscape and appurtenances be, at minimum, 10-feet from the bluff edge. Also, by adhering to this special

condition, it would reduce the visual impacts and make the proposed development compatible with the pattern of development in the area.

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 applicant install native and/or non-native, 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 applicant has submitted a drainage and run-off control plan and a narrative: "*All drainage at bluff edge to drain away from bluff top. Area drains will be regularly located and will take water away from the bluff and towards the front of the property. Roof drains shall be connected to the site drainage system. Whenever possible, roof drains will spill into planters and overflow water will then go into planter drains. Hardscape areas will also have area drains that will also be discharged towards the street.*" While the applicant states that drainage will be directed toward the street, which would adequately deal with possible adverse impacts due to water accumulation on site, the drainage and run-off control plan locates some area drains within the 10-foot setback from the bluff edge. Hardscape features and other site appurtenances (i.e. area drains and drain lines) should be setback at least 10-feet from the bluff edge to minimize the potential that the development will be affected by erosion and landslide hazards. Thus, the Commission is imposing **Special Condition No. 6**, which requires the applicant to submit a revised drainage and run-off control plan.

Typically, adverse water quality impacts to coastal waters can be avoided or minimized by directing storm water discharges from roof areas and other impervious surfaces to landscaped areas where pollutants may settle out of the storm water. In addition, reducing the quantity of impervious surfaces and increasing pervious water infiltration areas can improve water quality.

However, these common techniques of addressing water quality problems, by design, result in increased infiltration of water into the ground. As noted in the hazard section of these findings, the infiltration of water into the bluff is a primary potential source of bluff instability at the project site. Therefore, increasing the quantity of pervious areas, directing runoff to those pervious areas, and encouraging water infiltration for water quality purposes could have adverse impacts upon bluff stability.

There are measures, however, that would contribute to increased water quality that could feasibly be applied even to bluff top lots such as the subject site without increasing instability. In general, the primary contributors to storm drain pollution stemming from single family residential development are irrigation, fertilizers, swimming pool discharges, and pet waste. These can be eliminated or significantly reduced even on bluff top lots. For example, permanent, in-ground irrigation tends to result in over-watering, causing drainage to run off site. Irrigation runoff carries with it particulates such as soil, debris, and fertilizers. Limiting irrigation to that necessary to establish and maintain plantings reduces the chance of excess runoff due to over-irrigation. Permanent, in-ground irrigation, in general, is set by timer and not by soil moisture condition. Thus, the site is irrigated on a regular basis regardless of the need, resulting in over-saturation and run off. The run off, carrying soil, fertilizer, etc, is then directed either to the storm drain system (which then enters the ocean) or directly over the bluff to the rocky beach and ocean below. This can be avoided by limiting irrigation on bluff top lots.

Another way to improve water quality on bluff top lots without jeopardizing stability is the use of native/drought tolerant plantings. Low water use, drought tolerant, native plants require less water than other types of vegetation, thereby minimizing the amount of water introduced into the bluff top. As these plantings use less water than ornamental plants, incidents of over-watering, causing saturation and excess runoff, is substantially reduced. As previously stated, reducing site runoff reduces the extent of pollutants carried into the storm drain system and into the ocean.

Due to the potential for increased hazards in bluff top areas, which could be caused by encouraging water infiltration for water quality purposes, maximizing on site retention of drainage is not required. However, the measures described above including no permanent irrigation and the use of native/drought tolerant plants, can help to increase water quality in the area. In addition, the proposed drainage plan indicates that collected drainage will be filtered prior to being pumped to the street. **Special Condition No. 7** requires primarily native and drought tolerant vegetation and prohibits permanent irrigation.

Only as conditioned 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.

An existing OTD for lateral public access is located on the project site. The OTD was required by a previous permit (Administrative Permit No. 5-86-075-(Tarantello)). The proposed project will have no effect on this offered lateral access easement.

Therefore, the Commission finds that the proposed development would be consistent with Section 30212 and 30252 of the Coastal Act regarding public access.

F. VIOLATIONS

Development has occurred on the subject site including a lot line adjustment without the required coastal development permit. The applicants have included the lot line adjustment into the proposed project.

To ensure that the unpermitted development component of this application is resolved in a timely manner, **Special Condition No. 9** requires that the applicants satisfy all conditions of this permit, which are prerequisite to the issuance of this permit within 90 days of Commission action. Although construction has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to any alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

G. LOCAL COASTAL PROGRAM (LCP)

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

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

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

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 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 policies of Chapter 3 of the Coastal Act. Mitigation measures include Special Conditions requiring conformance with geotechnical recommendations, submittal of a drainage and run-off control plan and submittal of a final landscaping plan.

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



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EXHIBIT # 1

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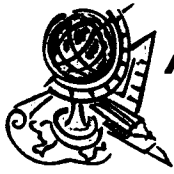
CALIFORNIA
COASTAL COMMISSION



4651 Brighton Road

Vicinity Map

Cameo Shores • Newport Beach • California • 92625

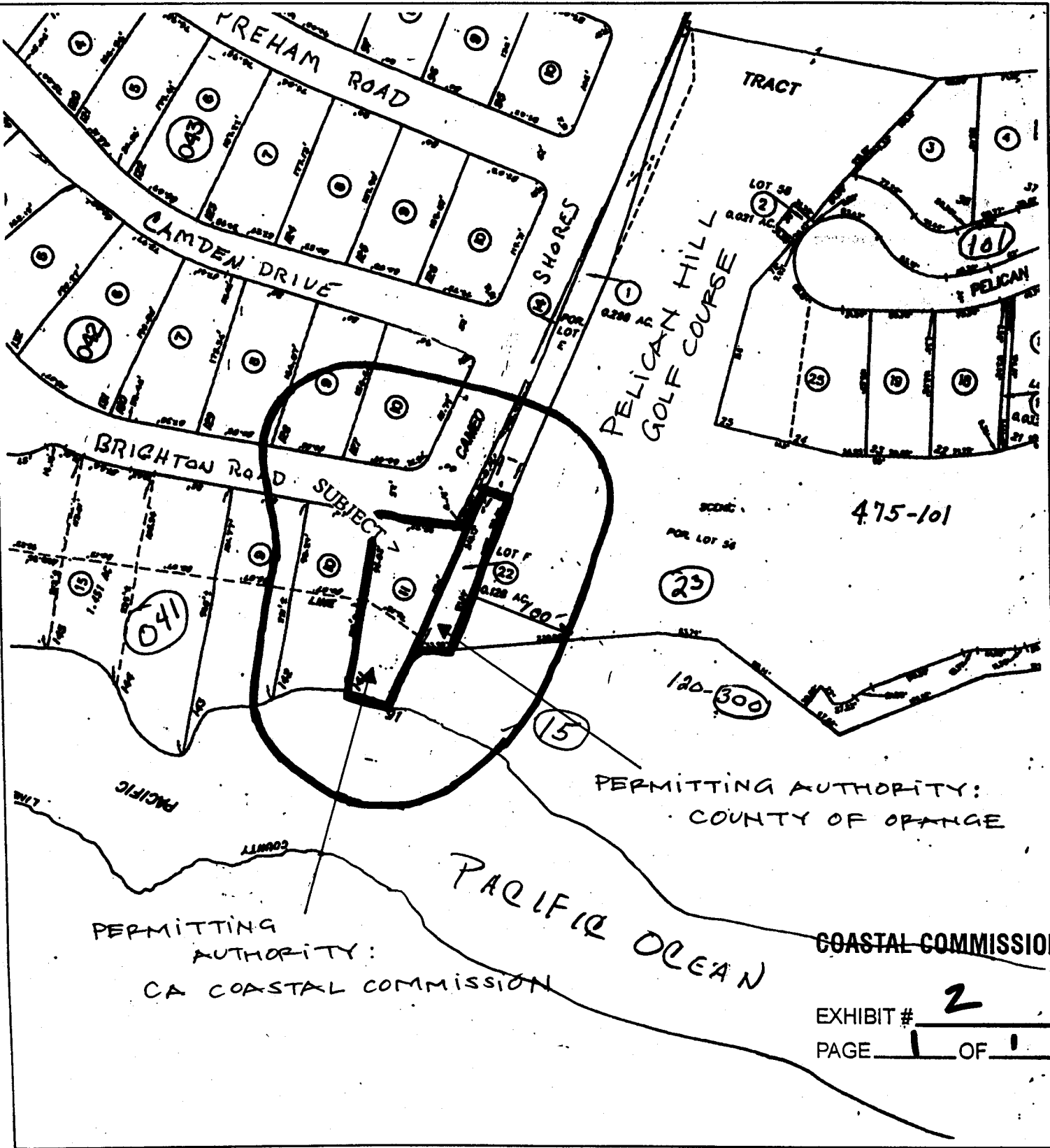


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Subject: 4651 Brighton Road
Corona Del Mar, CA 92625



475-101

PERMITTING AUTHORITY:
COUNTY OF ORANGE

PERMITTING
AUTHORITY:
CA COASTAL COMMISSION

COASTAL COMMISSION

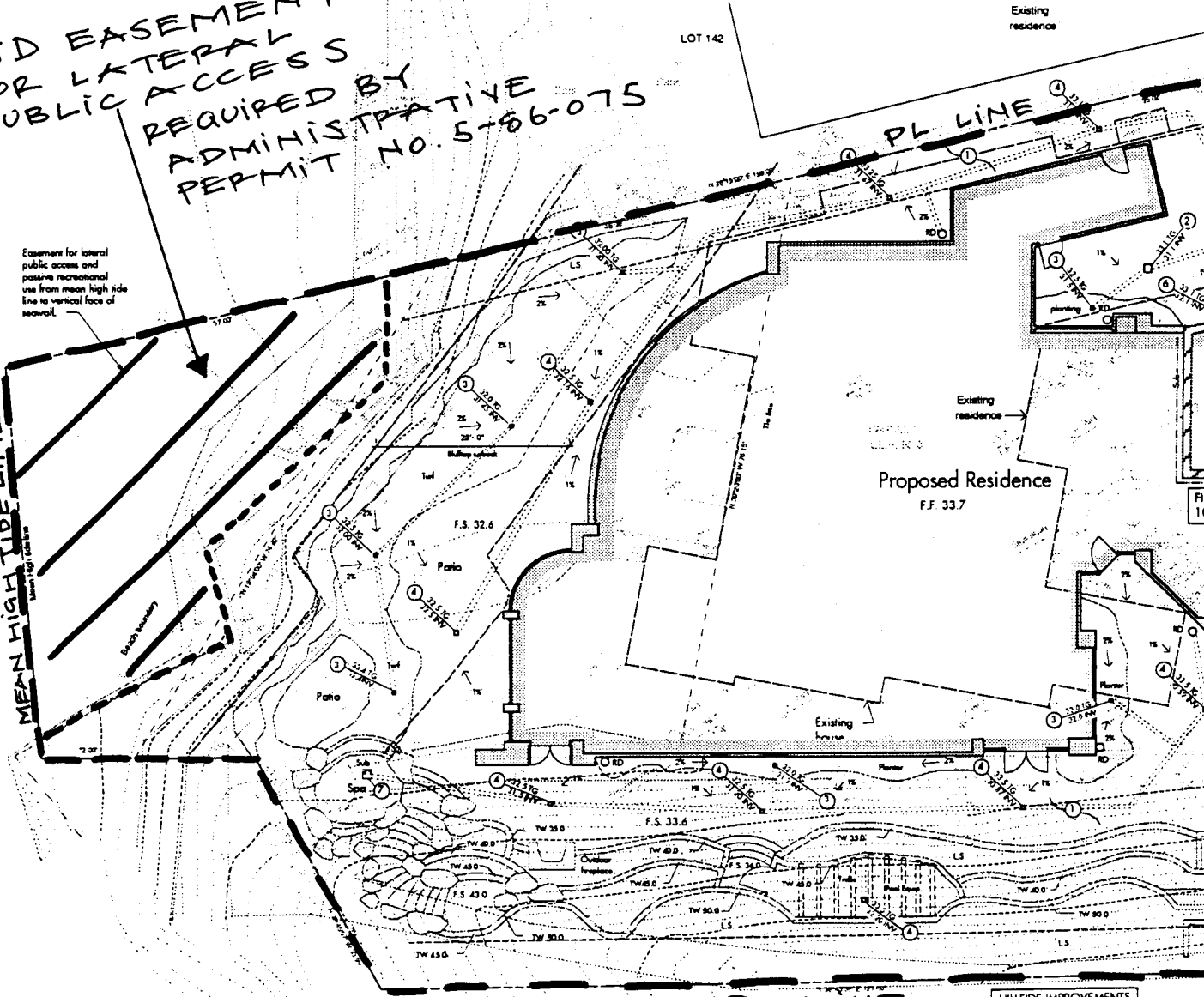
EXHIBIT # 2
PAGE 1 OF 1

OTD EASEMENT
FOR LATERAL
PUBLIC ACCESS
REQUIRED BY
ADMINISTRATIVE
PERMIT NO. 5-86-075

Easement for lateral
public access and
passive recreational
use from mean high tide
line to vertical face of
seawall.

PACIFIC OCEAN

MEAN HIGH TIDE LINE



HILLSIDE IMPROVEMENTS
CUT ± 600 C.Y.

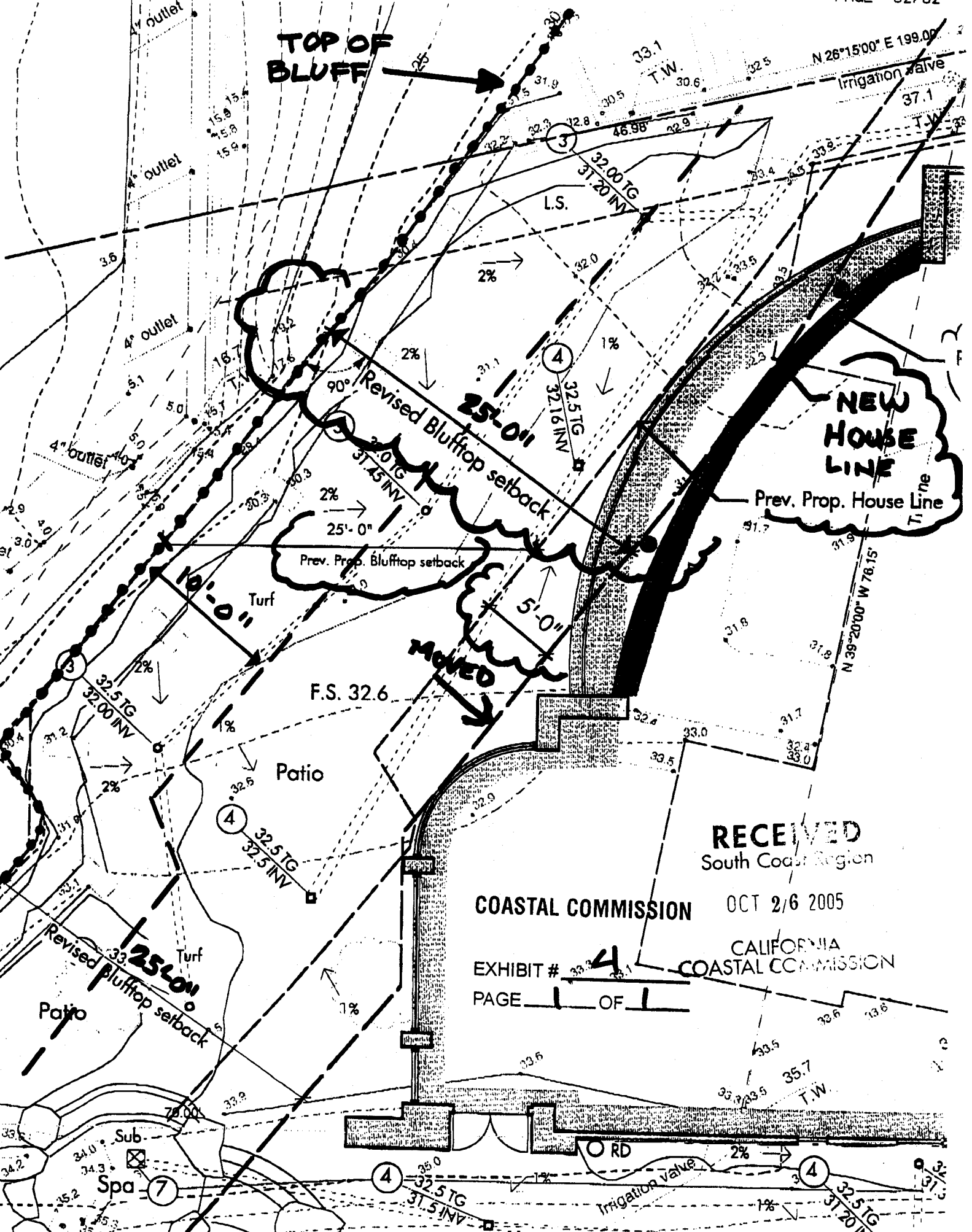
CRYSTAL CONE
STATE PARK

COASTAL COMMISSION

EXHIBIT # 3
PAGE 1 OF 1

Legend

110.50	EXISTING GRADE	FF	FINISH FLOOR (CONCRETE)
EG	EXISTING GRADE	GW	GAS METER
F.S.	FINISH SURFACE	WM	WATER METER
T.C.	TOP CURB	PH	FIRE HYDRANT
F.L.	FLOW LINE	HP	HIGH POINT
B.W.	BACK OF SIDEWALK	GB	GRADE BREAK
T.W.	TOP OF WALL	LS	LANDSCAPING
T.R.	TOP OF RAILING	ED	ROOF DRAIN
IN	INVERT ELEV.	BW	BLOCK WALL
		WL	WATER LINE
		GL	GAS LINE



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 EXHIBIT # **4**
 PAGE **1** OF **1**