

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
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**TH 5a**

Filed: May 24, 2006  
49th Day: July 12, 2006  
180th Day: November 20, 2006  
Staff: Fernie Sy-LB  
Staff Report: September 21, 2006  
Hearing Date: October 11-13, 2006  
Commission Action:

**STAFF REPORT: CONSENT CALENDAR**

**APPLICATION NUMBER:** 5-05-157

**APPLICANT:** Ramona Ward

**AGENT:** Gary Sullivan

**PROJECT LOCATION:** 3036 Breakers Drive, City of Newport Beach (Corona Del Mar),  
County of Orange

**PROJECT DESCRIPTION:** Demolition of an existing one story single-family residence over an existing garage (two-stories all together) and construction of a new 2,787 square foot two-story single-family residence over a 1,090 square foot four-car garage (three-story all together), located at the base of a bluff approximately 31'-6"-feet above existing grade. Grading will consist of 65 cubic yards of export to a location outside of the Coastal Zone.

**LOCAL APPROVALS RECEIVED:** City of Newport Beach Approval-In-Concept (No. 3024-2004) dated March 24, 2005.

**SUMMARY OF STAFF RECOMMENDATION:**

The subject site is a coastal bluff lot that includes bluff top, face and toe and is immediately inland of a private street, a public parking lot and public beach (Corona Del Mar State Beach). The primary issues addressed in this staff report are the conformance of the proposed development with the geologic hazard policies of the Coastal Act.

Staff is recommending **APPROVAL** of the proposed project with **Eight (8) Special Conditions** regarding: **1)** assumption of risk; **2)** no future shoreline or bluff protective devices; **3)** additional approvals for any future development; **4)** submittal of Final Project Plans; **5)** evidence of conformance with geotechnical recommendations; **6)** conformance with the Drainage and Run-Off Control Plan; **7)** submittal of a Landscaping Plan; and **8)** a Deed Restriction against the property, referencing all of the Special Conditions contained in this Staff Report.

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 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 Land Use Plan may be used for guidance.

**SUBSTANTIVE FILE DOCUMENTS:** City of Newport Beach certified Land Use Plan; Letter from Commission staff to Gary Sullivan dated May 20, 2005; Letter from Gary Sullivan to Commission staff received May 24, 2006; Information from Gary Sullivan to Commission staff received June 23, 2006; and *Preliminary Geotechnical Investigation (Report No. 71563-00/Report No. 05-5595)* prepared by Geo Firm dated July 6, 2005.

**LIST OF EXHIBITS**

1. Location Maps
  2. Site Plan
  3. Floor Plans
  4. Comparative Elevation
- 

**STAFF RECOMMENDATION:**

Staff recommends that the Commission **APPROVE** the permit application with special conditions.

**MOTION:**

*I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION:**

**I. APPROVAL WITH CONDITIONS**

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of 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. NO FUTURE SHORELINE/BLUFF PROTECTIVE DEVICES

- A(1).** By acceptance of this Permit, the applicant agrees, on behalf of herself and all other successors and assigns, that no shoreline/bluff protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-05-157 including, but not limited to, the residence, and any future improvements, in the event that the development is threatened with damage or destruction from bluff and slope instability, landslides, waves, erosion, 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.

- A(2).** 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 house, garage, and foundations, if any government agency has ordered that the structure is not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

**3. FUTURE DEVELOPMENT**

- A.** This permit is only for the development described in Coastal Development Permit No. 5-05-157. 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. 5-05-157. Accordingly, any future improvements to the single-family residence and appurtenances authorized by this permit, including a 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. 5-05-157 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

**4. FINAL PROJECT PLANS**

- A. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,**** the applicant shall submit, for the Executive Director's review and approval, two (2) full size sets of Final Project Plans (i.e. site plan, floor plans, elevations, cross-sections, grading, foundation, etc.) that substantially conform with the preliminary plans submitted on May 24, 2006.
- 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.

**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 report: *Preliminary Geotechnical Investigation (Report No. 71563-00/Report No. 05-5595)* prepared by Geo Firm dated July 6, 2005. The geotechnical investigation states that the foundation system will consist of concrete slab, conventional footings, retaining walls and a caisson and grade beam system. If a caisson and grade beam foundation is determined to no longer be necessary,

the applicant shall submit a revised geotechnical investigation for review by the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

- 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 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. CONFORMANCE WITH THE DRAINAGE AND RUNOFF CONTROL PLAN**

The applicant shall conform with the Drainage and Run-Off Control Plan received on May 24, 2006 showing that roof drainage and runoff from all impervious areas shall be collected on site for discharge, without allowing water to percolate into the bluff face, to the gravel filled catch basins located near the street (Breakers Drive) at the base of the site, which are also integrated with existing drain lines on Breakers Drive. The applicants shall maintain the functionality of the approved Drainage and Run-Off Control Plan to assure that water is collected and discharged to the catch basins without percolating into the bluff face. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**7. LANDSCAPE PLAN**

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, a Landscaping Plan that 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 erosion control and native habitat enhancement purposes. To minimize the need for irrigation and minimize

encroachment of non-native plant species into adjacent existing or nearby native plant areas, all landscaping shall consist of native 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.

(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 temporary 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. **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.

## IV. **FINDINGS AND DECLARATIONS:**

The Commission hereby finds and declares:

**A. PROJECT LOCATION AND DESCRIPTION**

The subject site is located in a gated community at 3036 Breakers Drive between the Corona Del Mar beach access driveway and Breakers Drive within the City of Newport Beach, Orange County (Exhibit #1). The property has steep slopes as it is part of the coastal bluff and vehicular access is provided at the base of the bluff on Breakers Drive, a private street. The lot size is 6,147 square feet and the City of Newport Beach Land Use Plan (LUP) designates use of the site for Medium Density Residential and the proposed project adheres to this designation. The project is located within an existing developed urban residential area and the historic bluff has been substantially altered by other similar residential structures. The existing and proposed structure is located at the base of the bluff (lower portion of the lot), while there is an existing residential structure located at the upper (North) portion of lot (3047 Ocean Boulevard) that will remain. The essentially square-shaped property fronts approximately 50-feet on Breakers Drive and extends Northerly approximately 59-feet to the rear property boundary adjacent to Ocean Boulevard. The site is underlain at the surface and at depth by bedrock strata of the late Miocene age Monterey Formation, which is overlain along the upper bluff by marine terrace deposits and at the base of the bluff by beach deposits. To the North of the project site is an existing residential structure and then Ocean Boulevard. To the East and West of the project site exist residential developments. To the South of the project site is Breakers Drive, vegetation, an approximately 200-foot wide parking lot for Corona Del Mar State Beach and then Corona Del Mar State Beach.

The pattern of development along this segment of Breakers Drive (3002-3036 Breakers Drive) is such that residential structures cover a substantial portion of the bluff face (Exhibit #4). The proposed project is infill development similar to the existing development in this limited area. Thus, the proposed project would be consistent with the character of the surrounding area.

The applicant is proposing to demolish an existing one story single-family residence over an existing garage and construct a new 2,787 square foot two-story single-family residence over a 1,090 square foot four-car garage (three-story all together), located at the base of a bluff approximately 31'-6"-feet above finished grade (Exhibits #2-4). In addition, there will be 291 square feet of deck on the 2<sup>nd</sup> floor and 290 square feet of deck on the 3<sup>rd</sup> floor. Grading will consist of 65 cubic yards of export to a location outside of the Coastal Zone. The foundation system will consist of concrete slab, conventional footings, retaining walls and possibly a caisson and grade beam system.

In order to analyze hazards on site, the applicant has submitted: *Preliminary Geotechnical Investigation (Report No. 71563-00/Report No. 05-5595)* prepared by Geo Firm dated July 6, 2005, which states that no evidence of gross instability was observed and no former gross instability has been reported in the adjacent upslope terrain. The Commission's staff geologist has reviewed the project and agrees with the investigations' conclusions.

The submitted geotechnical investigation states that the proposed foundation will consist of concrete slab, conventional footings, retaining walls and a caisson and grade beam system. The applicant has submitted foundation plans; however, these plans do not identify use of a caisson and grade beam system in addition to the concrete slab, conventional footings, and retaining walls. Therefore, **Special Condition No. 4** has been imposed, which requires submittal of Final Project Plans, including Foundation Plans, that substantially conform with the preliminary plans but include the modifications necessary to conform with the geotechnical recommendations. The Commission

is also imposing **Special Condition No. 5**, which requires the applicant to submit evidence of conformance with the geotechnical investigation. As stated previously, the geotechnical investigation says that a caisson and grade beam system will be part of the foundation. If a caisson and grade beam foundation is determined to no longer be necessary, **Special Condition No. 5** requires that the applicant submit a revised geotechnical investigation for review by the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

The applicants have submitted a Drainage and Run-Off Control Plan that shows how the on site roof and surface runoff will be directed away from the bluff face via use of drain lines directed to gravel filled catch basins located near the street (Breakers Drive) at the base of the bluff, which are also integrated with existing drain lines. No water runoff on site will be allowed to percolate on the bluff face as water runoff will be directed to the catch basins located at the base of the bluff that are also integrated with the existing drain lines on Breakers Drive. To ensure that drainage does not increase the potential for site erosion, the Commission is imposing **Special Condition No. 6**, which requires the applicants to conform to the submitted Drainage and Runoff Control Plan received on May 24, 2006.

The applicant has stated that landscaping may possibly be part of the project; however, no plans have been submitted. 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 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.cal-ipc.org/>) and California Native Plant Society ([www.CNPS.org](http://www.CNPS.org)). No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive 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.

Furthermore, any plants in the landscaping plan should be drought tolerant to minimize the use of water. Reducing the amount of irrigation water used can address both geologic stability issues as well as water quality/dry-weather urban runoff issues. 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>. Therefore, the Commission imposes **Special Condition No. 7**, which requires the applicants to submit a Landscaping Plan, which consists of native drought tolerant plants that are non-invasive.

The subject site is located on a gated street adjacent to the Corona Del Mar Street Beach parking lot. The nearest public roadway is the beach access road. Corona Del Mar State Beach provides public access and recreational opportunities. The proposed development would not interfere with access to or use of the beach. 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.

## **B. HAZARDS**



Development adjacent to the ocean and the edges of coastal bluffs and hillsides is inherently hazardous. Development which may require a bluff, hillside, or shoreline protective device in the future cannot be allowed due to the adverse impacts such devices have upon public access, visual resources, and shoreline processes. To minimize risks to life and property and to minimize the adverse effects of development on coastal bluffs, hillsides, and shoreline processes the development has been conditioned to require one or more of the following: adherence to the geotechnical recommendations, an appropriate set-back from the edge of a bluff or hillside, to prohibit the construction of protective devices (such as a retaining wall or shoreline protective device) in the future, for a drainage and runoff plan to minimize the percolation of water into the hillside or bluff, and to require that the landowner or any successor-in-interest assume the risk of undertaking the development. As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

**C. DEVELOPMENT**

The development is located within an existing developed area and is compatible with the character and scale of the surrounding area. However, the proposed project raises concerns that future development of the project site potentially may result in a development, which is not consistent with the Chapter 3 policies of the Coastal Act. To assure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission finds that a future improvements special condition be imposed. As conditioned the development conforms with the Chapter 3 policies of the Coastal Act.

**D. PUBLIC ACCESS**

The proposed development will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities. Therefore, as proposed the development, as conditioned, conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

**E. WATER QUALITY**

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. Furthermore, uncontrolled runoff from the project site and the percolation of water could also affect the structural stability of bluffs and hillsides. To address these concerns, the development, as proposed and as conditioned, incorporates design features to minimize the infiltration of water and the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, the use of non-invasive drought tolerant vegetation, and for the use of post-construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health

**F. 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 one additional condition requiring that the

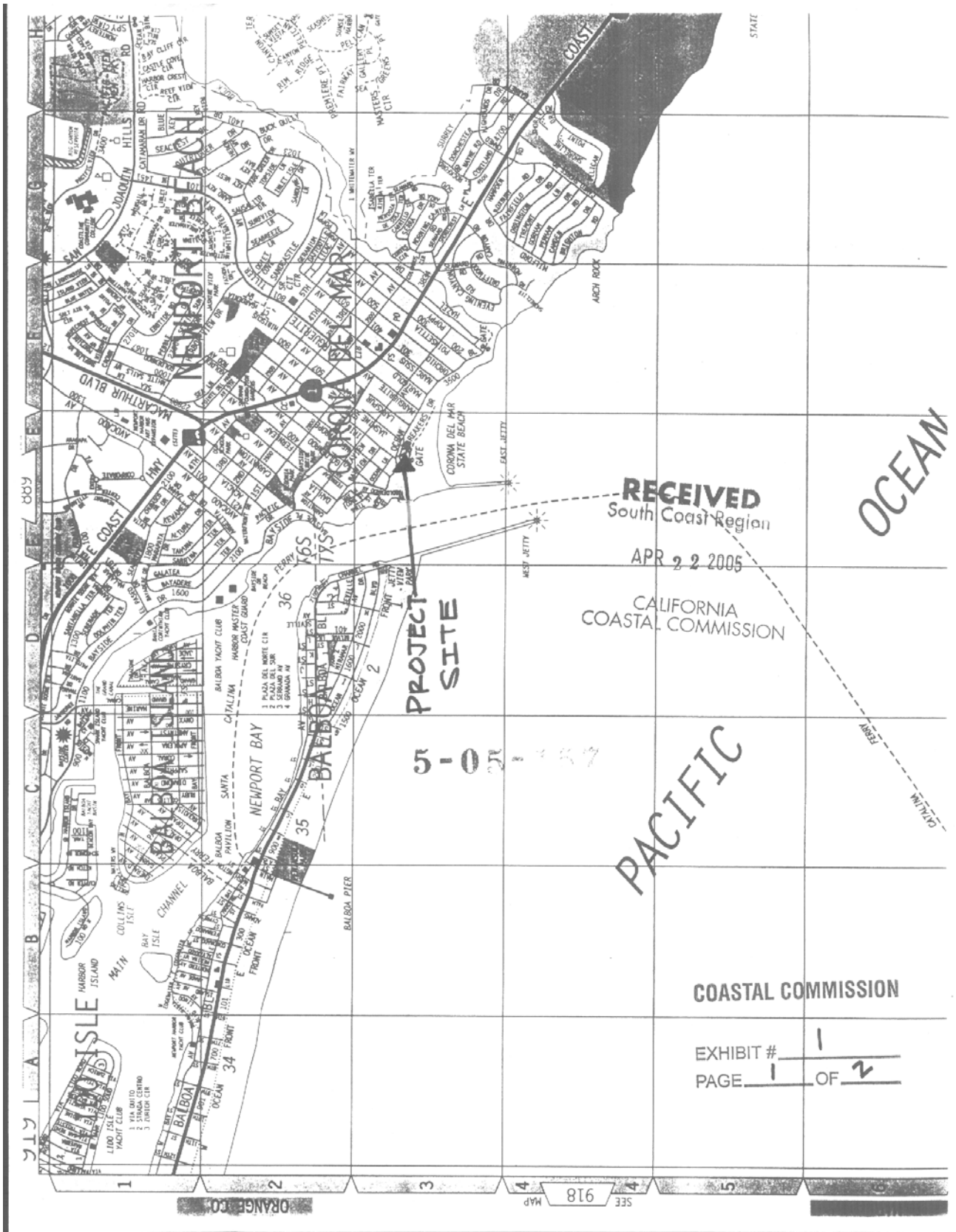
property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, any prospective future owner will receive actual notice 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.

**G. LOCAL COASTAL PROGRAM**

The LUP for the City of Newport Beach was effectively certified on May 19, 1982. At the October 2005 Coastal Commission Hearing, the certified LUP was updated. As conditioned, the proposed development 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**

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that 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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South Coast Region  
APR 22 2005

CALIFORNIA  
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PROJECT  
SITE

5-05-157

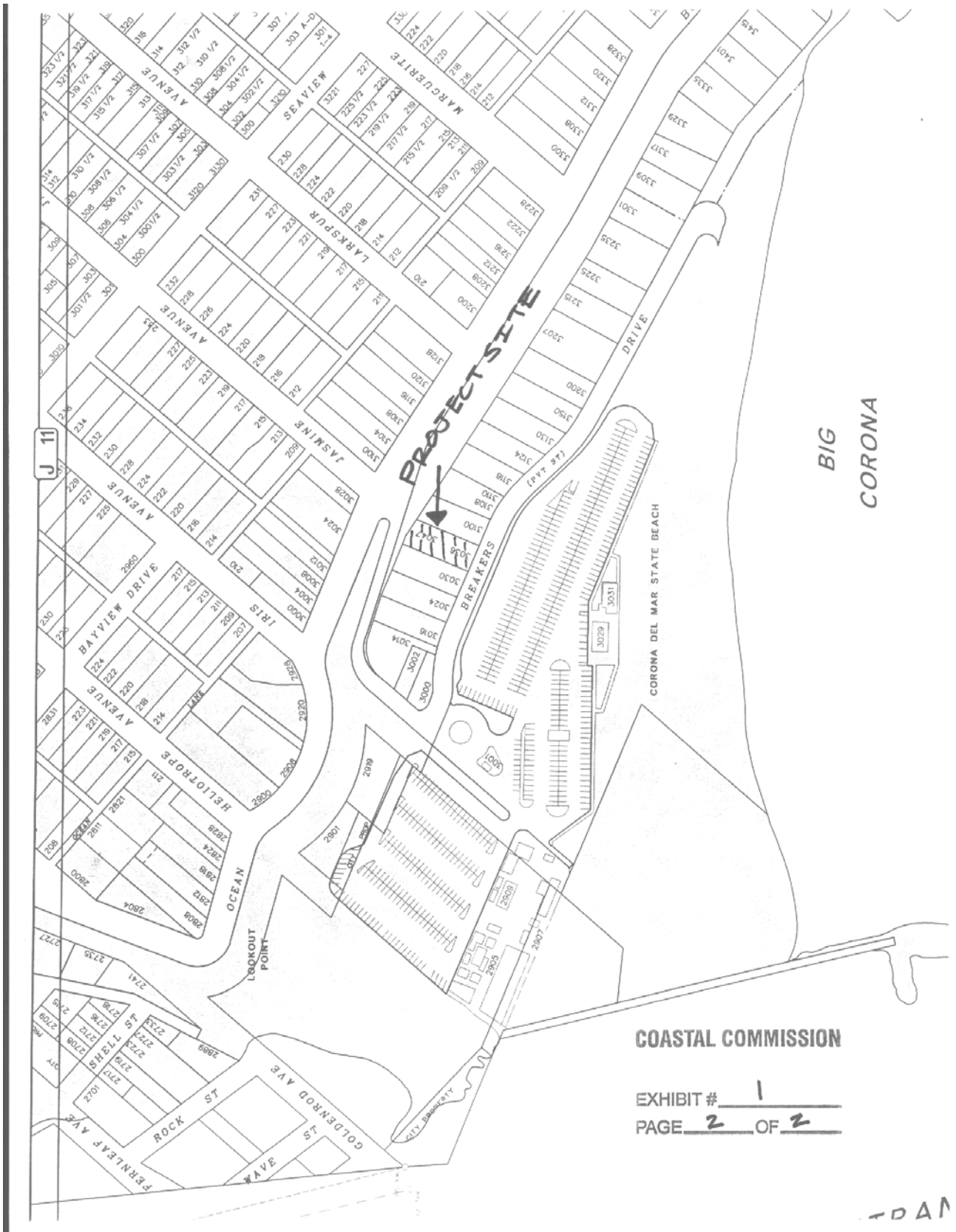
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EXHIBIT # 1  
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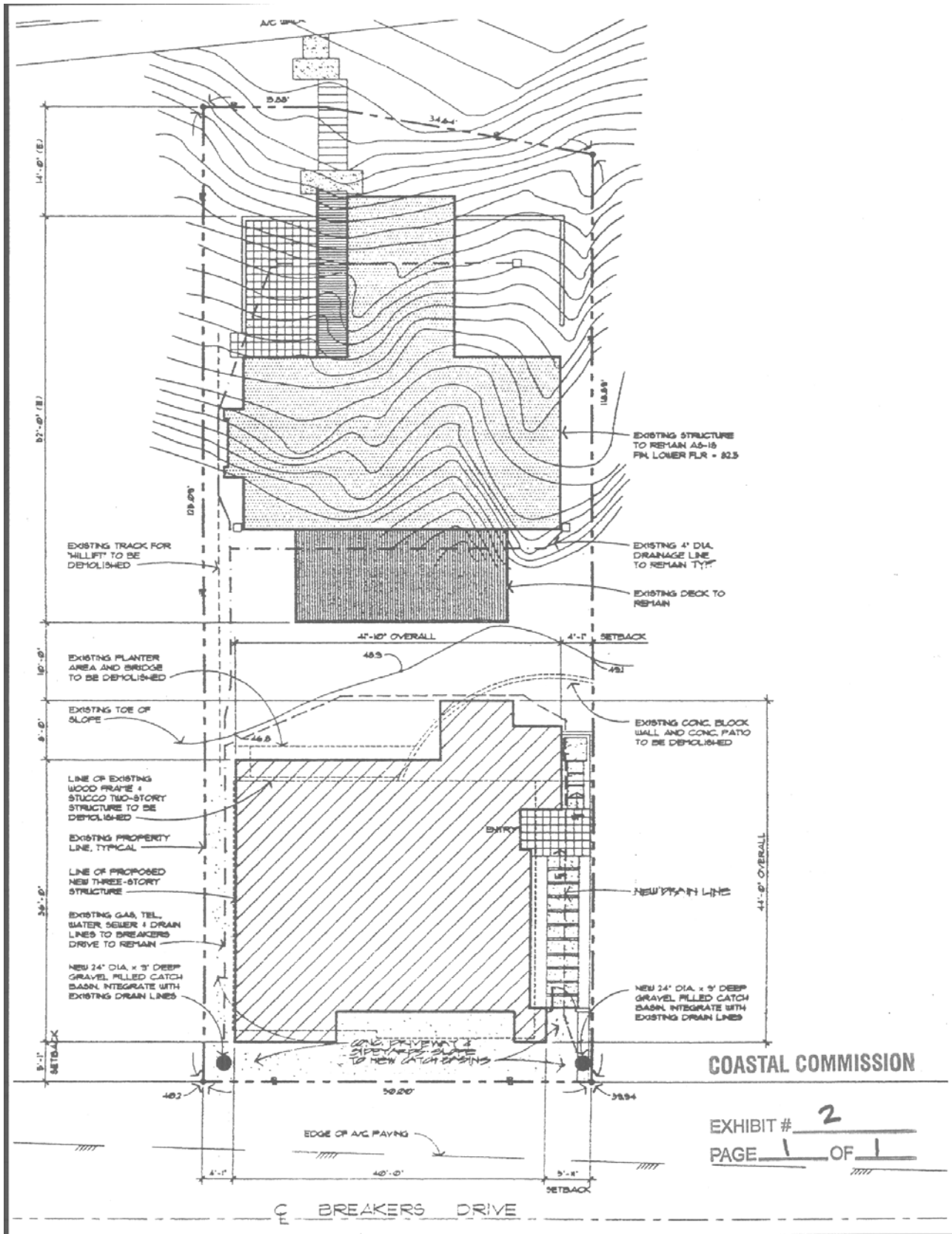
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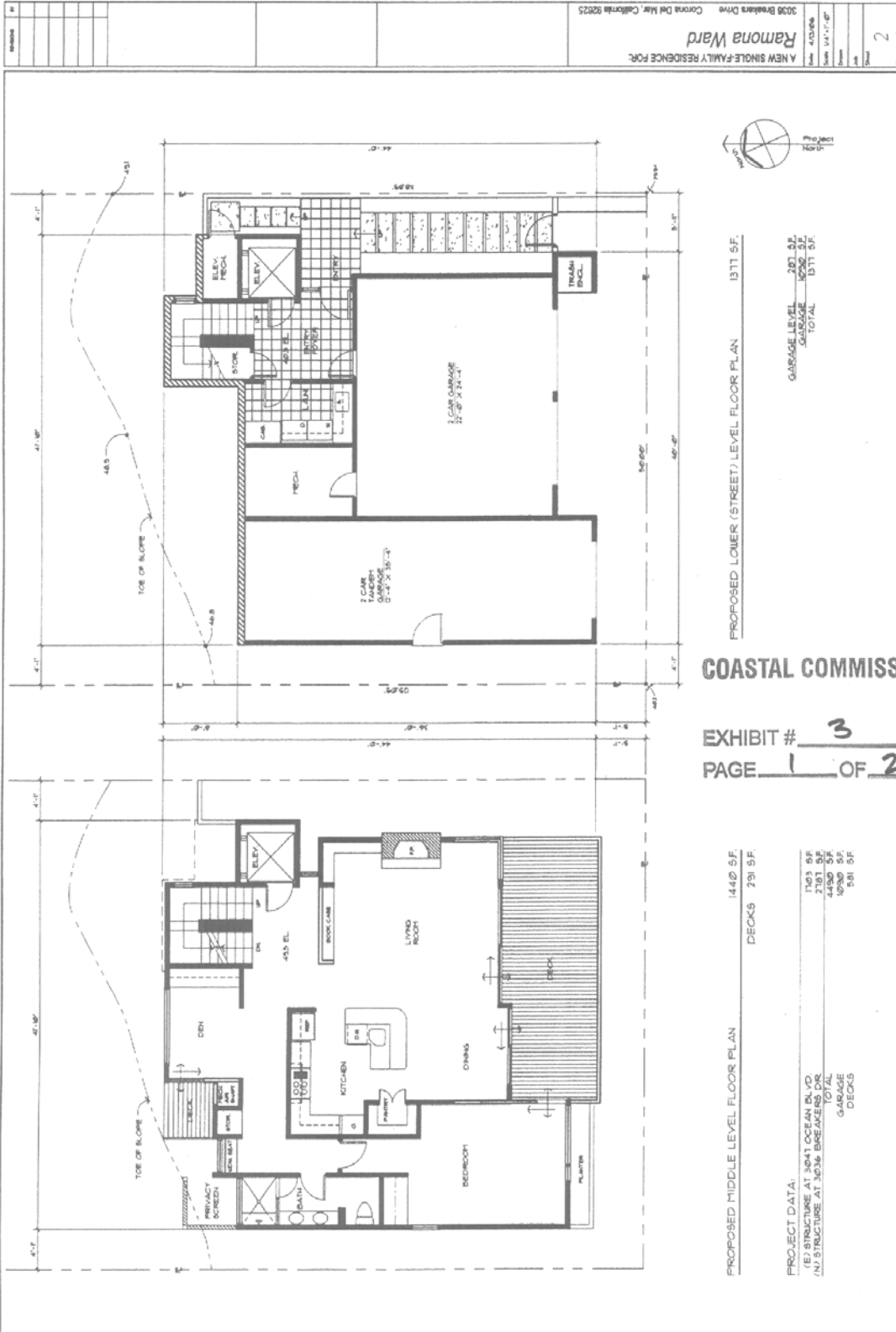


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EXHIBIT # 1  
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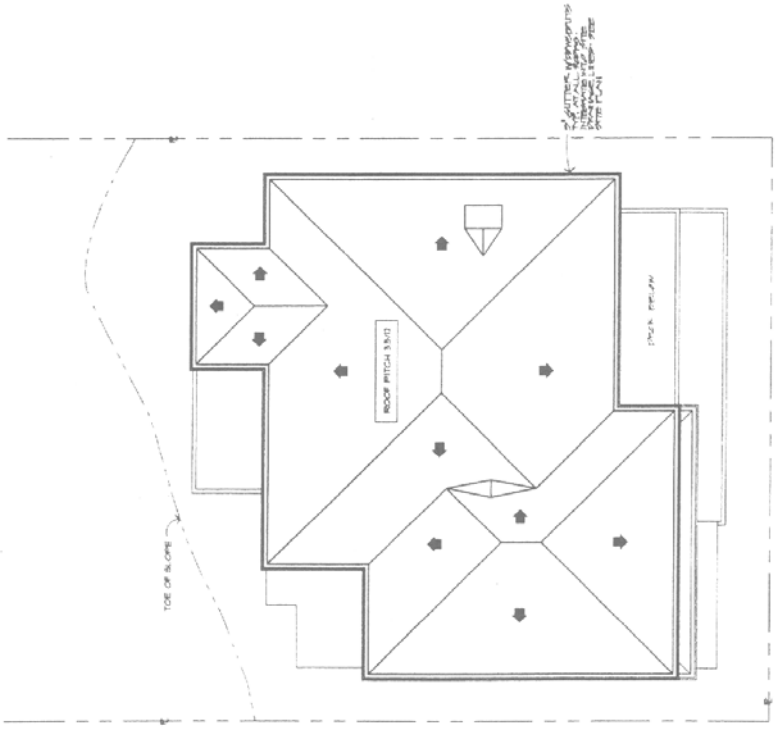
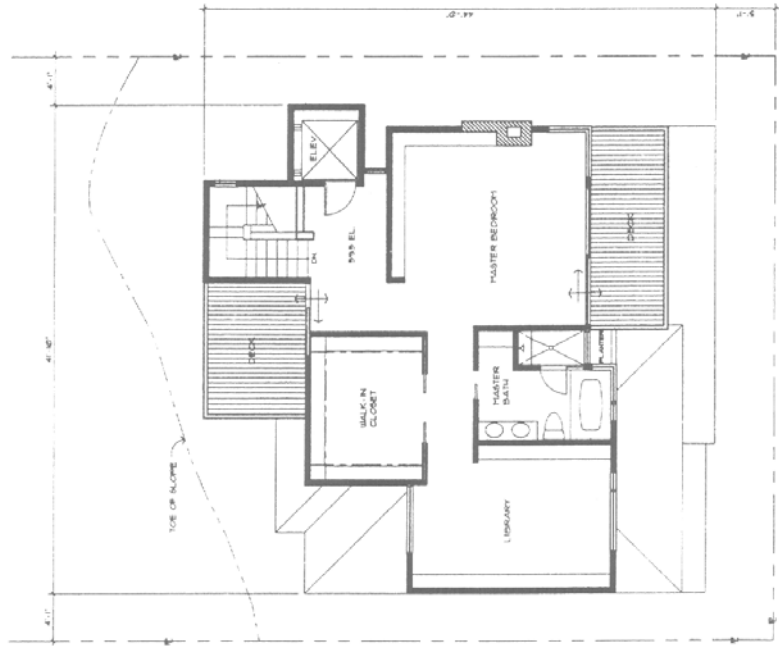
**COASTAL COMMISSION**

EXHIBIT # 3  
 PAGE 1 OF 2

A NEW SINGLE-FAMILY RESIDENCE FOR:  
**Ramona Ward**  
 3038 Breakers Drive Corona Del Mar, California 92625

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A NEW SINGLE-FAMILY RESIDENCE FOR: <b>Ramona Ward</b>		3036 Breakers Drive Corona Del Mar, California 92625
Sheet	400-1000	
Scale	1/4" = 1'-0"	
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EXHIBIT # 3  
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EXHIBIT # 4  
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*PROPOSED*