

CALIFORNIA COASTAL COMMISSION

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Staff: Liliana Roman-LB
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Commission Action:



Item W10c

STAFF REPORT: REGULAR CALENDAR

- APPLICATION NUMBER:** 5-10-298
- APPLICANT:** Advanced Group 99-D (a.k.a. 'AERIE')
- AGENT:** Brion Jeannette Architecture
- PROJECT LOCATION:** 201-205 Carnation Ave, 207 Carnation Ave and a portion of 101 Bayside Place, City of Newport Beach (Orange County)
- PROJECT DESCRIPTION:** Demolition of an existing 13,688 sq. ft., 4-level, 14-unit apartment while retaining existing on-grade stairway on the bluff face and existing two-slip dock system, demolition of a 2,810 sq. ft. single-family residence, and construction of a new 51,124 sq. ft., 7-unit, 33-foot tall, 5-level condominium structure (three levels visible from grade/street level and all five levels visible from the seaward side) with 18 parking spaces and common amenities including a fitness facility, meeting room, patio, pool and spa; hardscape and landscaping improvements; grading consisting of 9,810 cu. yds. of cut; lot line adjustment to merge a 584 sq. ft. portion of 101 Bayside Place with the parcel identified as 201-205 Carnation Avenue and with the parcel identified as 207 Carnation Ave into one single 61,284 sq. ft. lot for residential purposes; and tentative tract map to subdivide the air space for seven residential condominium units.
- LOCAL APPROVALS:** Environmental Impact Report (SCH2007021054) certified by the City of Newport Beach on 7/14/09; Proposed Coastal Land Use Plan Amendment (LC2005-002); Approval in Concept dated 8/12/09; Tentative Tract Map (NT2005-004/TT16882) approved 8/12/09.
- OTHER AGENCY APPROVALS RECEIVED:** Regional Water Quality Control Board 401 Water Quality Certification
- SUBSTANTIVE FILE DOCUMENTS:** See Appendix I at the end of the staff report

SUMMARY OF STAFF RECOMMENDATION: Staff recommends the Commission **approve** the proposed demolition of existing structures, construction of a 7-unit condominium structure, lot merger, and tentative tract map for condominium purposes with special conditions pertaining to: 1) Public Rights; 2) Scope of Approval; 3) Assumption of Risk, Waiver of Liability and Indemnity; 4) Construction Responsibilities and Debris Removal; 5) Permanent Drainage and Runoff Control Plan; 6) No Future Blufftop or Shoreline Protection Devices; 7) Future Improvements; 8) Landscaping; 9) Restrictions on development Within View Corridor; 10) Covenants, Conditions & Restrictions; 11) City of Newport Beach Approval; 12) Construction/Development Phasing; 13) Pool Protection Plan; 14) Final Project Plans 15) Bird Strike Prevention; 16) Future

Foundation/Subsurface Structure Exposure Plans; 17) Prohibition on Public Access Controls; and 18) Liability for Costs and Attorney Fees. The primary issues associated with this development are landform alteration, visual resources, biological resources and water quality.

STAFF NOTE: The Commission took action on a project at this site in April 2010, voting to deny CDP application 5-09-162(Advanced Group 99-D) for proposed construction of a new 61,709 sq. ft., 8-unit, 32-foot tall, 6-level condominium structure including three levels above street level and three levels that were below street level/subterranean (one of which daylighted on the west bluff side), 25 parking spaces and common amenities including a fitness facility, lounge, patio, locker room, massage rooms, pool and spa; hardscape and landscaping improvements; and grading consisting of 25,240 cu. yds. of cut. At that April 2010 hearing, the Commission expressed concerns regarding the amount of proposed grading, landform alteration, bulk of proposed structure, and use of parking elevators. The applicant modified the project after taking into consideration the Commission’s concerns and comments from the April 2010 action.

A revised project then returned to the Commission at its March 2011 hearing under CDP application 5-10-298. However, after Commission deliberation, mainly on topics related to the amount of proposed grading and the size/mass of the proposed condominium structure, the applicant requested and the Commission granted a continuation to a later hearing. The applicant has now re-submitted further revised project plans incorporating the March 2011 hearing Commission comments and staff conditions from the March 2011 staff report for CDP application 5-10-298. As currently proposed, the applicant has revised plans to bring all development, specifically cantilevered decks, cantilevered patios, and cantilevered pool areas behind a plane extended vertically from the 50.7’ elevation defined by the City of Newport Beach as the Predominant Line of Existing Development (PLOED). The pool was also moved from the west bluff to the north bluff section of the site in an area previously proposed to be interior basement space. The bottom of the pool and all other excavation has been raised to above the PLOED.

The matrix below shows the Commissions’ concerns/comments from the April 2010 and March 2011 hearings and the applicant’s response to those comments/revisions:

Previous Commissioners comments/concerns	Applicant’s response in redesigned project
Protection of coastal bluff/minimize landform alteration – size of cut for subterranean levels maximizing size of development rather than “going underground” to minimize the impact above on the bluff top	<p>Reduced grading by 61% or 15,430 cu.yds. (originally was 25,240 cu.yds. now 9,810 cu.yds.).</p> <p>Grading on north bluff reduced from original April 2010 submittal.</p> <p>Current submittal has the structure daylighting at 51.14’ elevation at an ‘on grade’ patio along the west bluff and daylighting at the 61.31’ elevation along the proposed pool on the north bluff.</p> <p>Grading for basement level and pool on the north bluff leaves a 5’- 11’ high triangle wedge of intact rock as part of the exposed north bluff face</p>
Development below the Predominant Line of Existing Development (PLOED) at the 50.70’ contour line	Eliminated sub-basement and basement levels below the PLOED from the March 2010 proposal, thereby eliminating a 22’ deep cut below PLOED. Total cut below existing grade/street level is now 20-24’ deep. No excavation occurs below the PLOED.

Development below the Predominant Line of Existing Development (PLOED) at the 50.70' contour line (cont.)	<p>Lowest level of proposed structure raised to elevation 51.20'/daylighting at 50.70' PLOED; March 2010 proposal had the lowest level (basement) at elevation 30.0.'</p> <p>Reconfigured pool from the west bluff to north bluff and raised the bottom of the pool to the 51.70' elevation with water level at 56.70' elevation.</p>
Possibility of bluff failure for the trapezoidal section of bluff façade left intact in front of basement levels during construction and/or during life of project	Eliminated grading of bluff for sub-basement and basement levels below the PLOED thereby eliminating trapezoidal bluff section on the west bluff
Mass of structure/above ground levels	<p>Reduced number of units by one</p> <p>Reduced total sq. ft. by 10,585 (17% less); April 2010 submittal was 61,709 sq. ft., current submittal is 51,124 sq. ft.</p> <p><i>(Staff notes that most of the reduction in square footage is below grade and does not change appearance of structure at street level)</i></p> <p>Removed cantilevered decks from proposed view corridor.</p> <p>Setback cantilevered decks inland of 50.70' elevation PLOED</p>
Use of car elevators for entry into parking structure possibly causing on-street traffic/queuing problems	Eliminated elevators/replaced with driveway ramp

Furthermore, the cross-sections of the project provided in Exhibit #6 clearly depict the revised project compared to the project proposal at the March 2011 Commission hearing.

The proposed project originally also included demolition of an existing 2-slip floating dock structure and replacement with a new 7-slip floating dock and guest side-tie. Staff had recommended denial of that portion of the project. The applicant subsequently withdrew that part of the application. Thus, the dock expansion is not being considered at this time.

Exhibit #14 contains 22 letters of correspondence in support and opposition to the proposed project. Nineteen (19) letters in support, two (2) letters in opposition and one (1) ex-parte communication from a Commissioner.

LIST OF EXHIBITS:

1. Location Map
2. Assessors Parcel Map
3. Topographic Survey
4. Zoning Map/Lot Line Adjustment/Categorical Exclusion Zone
5. Project Plans

6. Building Sections Comparing Previous to Current Proposal
7. City of Newport Beach Definition of Predominant Line of Existing Development (PLOED)
8. Public Views of the Proposed Project
9. Proposed View Corridor
10. Conceptual Grading Plan
11. Conceptual Landscape Plan
12. Tentative Tract Map for Condominium Purposes
13. List of Substantive File Documents
14. Correspondence

I. STAFF RECOMMENDATION:

MOTION: *I move that the Commission approve Coastal Development Permit No. 5-10-298 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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.

RESOLUTION TO APPROVE THE PERMIT:

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 on which the Commission voted on the application. 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. **PUBLIC RIGHTS**

The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights that exist or may exist on the property. The permittee shall not use this permit as evidence of a waiver of any public rights that may exist on the property.

2. **SCOPE OF APPROVAL**

This coastal development permit does not authorize demolition of the existing 2-slip floating dock structure and/or replacement with a new 7-slip floating dock and guest side-tie as has been authorized by the City of Newport Beach. Any demolition, replacement or expansion of the existing 2-slip floating dock and dock related structures (i.e., piers, gangway) shall require separate review and approval by the Commission. No demolition or work is proposed to an existing pre-Coastal Act concrete step bluff stairway below the 50.7' elevation contour line.

3. **ASSUMPTION OF RISK, WAIVER OF LIABILITY AND INDEMNITY**

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

4. **CONSTRUCTION BEST MANAGEMENT PRACTICES**

A. The permittee shall comply with the following construction-related requirements:

- (1) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, rain, or tidal erosion and dispersion;
- (2) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- (3) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;

- (4) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMP's shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and
- (5) All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

B. Best Management Practices (BMP's) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the onset of such activity. Selected BMP's shall be maintained in a functional condition throughout the duration of the project. Such measures shall be used during construction:

- (1) The applicant shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. It shall be located as far away from the receiving waters and storm drain inlets as possible;
- (2) The applicant shall develop and implement spill prevention and control measures;
- (3) The applicant shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50 feet away from a storm drain, open ditch or surface water; and
- (4) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.

5. PERMANENT DRAINAGE AND RUNOFF CONTROL PLAN

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit to the Executive Director, two (2) copies of a final Permanent Drainage and Runoff Control Plan for the post-construction project site, prepared by a licensed civil engineer or qualified water quality professional. The Plan shall include detailed drainage and runoff control plans with supporting calculations. The plans shall incorporate Best Management Practices (BMPs) including site design, source control and treatment control measures designed to reduce, to the maximum extent practicable, the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site. The consulting civil engineer or water quality professional shall certify in writing that the final Permanent Drainage and Runoff Control Plan is in substantial conformance with the Final Water Quality Management Plan and the Storm Water Pollution Prevention Plan and the following minimum requirements:

- a. The plan shall demonstrate the use of distributed small-scale controls or integrated Best Management Practices (BMPs) that serve to minimize alterations to the natural pre-

- development hydrologic characteristics and conditions of the site, and effectively address pollutants of concern.
- b. Post-development peak runoff rate and average volume from the site shall be maintained at levels similar to pre-development conditions.
 - c. Selected BMPs shall consist, or primarily consist, of site design elements and/or landscape based systems or features that serve to maximize site permeability, avoid directly connected impervious area and/or retain, infiltrate, or filter runoff from rooftops, driveways and other hardscape areas, where feasible.
 - d. Landscaping materials shall consist primarily of native or other low-maintenance plant selections which have low water and chemical treatment demands. An efficient irrigation system designed based on hydrozones and utilizing drip emitters or micro-sprays or other efficient design should be utilized for any landscaping requiring water application.
 - e. Runoff shall be discharged from the developed site in a non-erosive manner. Energy dissipating measures shall be installed at the terminus of outflow drains where necessary. The consulting engineer shall provide plan details and cross sections for any rock rip rap and/or other energy dissipating devices or structures associated with the drainage system. The drainage plans shall specify, the location, dimensions, cubic yards of rock, etc. for the any velocity reducing structure with the supporting calculations showing the sizing requirements and how the device meets those sizing requirements. The engineer shall certify that the design of the device minimizes the amount of rock and/or other hardscape necessary to meet the sizing requirements.
 - f. Post-construction structural BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.
 - g. All BMPs shall be operated, monitored, and maintained in accordance with manufacturer's specifications where applicable, or in accordance with well recognized technical specifications appropriate to the BMP for the life of the project and at a minimum, all structural BMPs shall be inspected, cleaned-out, and where necessary, repaired prior to the onset of the storm season (October 15th each year) and at regular intervals as necessary between October 15th and April 15th of each year. Debris and other water pollutants removed from structural BMP(s) during clean-out shall be contained and disposed of in a proper manner.
 - h. For projects located on a hillside, slope, or which may otherwise be prone to instability, final drainage plans should be approved by the project consulting geotechnical engineer.
 - i. Should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.
 - j. The final Permanent Drainage and Runoff Control Plan shall be in conformance with the site/ development plans approved by the Coastal Commission. Any changes to the Coastal Commission approved site/development plans required by the consulting civil engineer/water quality professional or engineering geologist shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is legally required.

6. NO FUTURE BLUFFTOP OR SHORELINE PROTECTION DEVICES

- A. By acceptance of this Permit, the applicant agrees, on behalf of itself and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-10-298 including, but not limited to, the structure, foundations, patios, balconies and any other future improvements in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, sea level rise or other natural coastal hazards in the future. By acceptance of this Permit, the applicant/landowner hereby waives, on behalf of itself 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/landowner further agrees, on behalf of itself and all successors and assigns, that the landowner(s) shall remove the development authorized by this Permit, including the residence, foundations, patios, balconies and any other future improvements if any government agency has ordered that the structures 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.

7. FUTURE IMPROVEMENTS

This permit is only for the development described in Coastal Development Permit No. 5-10-298. Additional development, including but not limited to construction of docks, piers, gangways, decks, patios and associated structures, demolition and reconstruction of bluff stairway and landscaping shall require an amendment to Permit No. 5-10-298 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government. In addition, pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply to the entire parcel, newly created by the lot-line adjustment approved under this permit. Accordingly, any future improvements to the development authorized by this permit, including but not limited to repair and maintenance activities 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. 5-10-298 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

8. LANDSCAPE PLANS

- A. All landscaping shall consist of native or non-native drought tolerant non-invasive plant species. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), 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. All plants shall be low water use plants as identified by

California Department of Water Resources (See: <http://www.owue.water.ca.gov/docs/wucols00.pdf>). Any existing landscaping that doesn't meet the above requirements shall be removed;

- B. Proposed landscaping shall not adversely impact public views of the bay, beach and ocean provided through the site. All landscaping within the view corridor to the bay, beach and ocean shall be comprised of plant species with a 3' high growth maximum that, at maximum growth (width/height), do not reduce, obstruct, or in any way interfere with, public views. The required Revised Landscape Plans shall provide information regarding the maximum height and width of the proposed landscaping vegetation. Landscaping shall be trimmed/maintained such that impacts upon public views are avoided. Once planted, if the Executive Director determines that any landscaping within the view corridor to the bay, beach and ocean is causing an impact upon public views, the applicant shall replace such landscaping with different plant species that meet the requirements of this special condition, as directed by the Executive Director;
- C. All planting shall provide 90 percent coverage of the designated landscaped area within 90 days and shall be repeated if necessary to provide such coverage; and
- D. 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;
- E. 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 legally required.

9. RESTRICTIONS ON DEVELOPMENT WITHIN THE VIEW CORRIDOR

No development other than the proposed bench, water fountain and landscaping shall be sited within the proposed 44-degree wide view corridor located at the corner of Ocean Blvd. and Carnation Ave. as generally depicted in Exhibit 9 of the staff report dated May 26, 2011. The landscaped area within the view corridor shall only be planted with low-growing native or non-native drought tolerant non-invasive vegetation that does not reduce, obstruct, or in any way interfere with public views through the view corridor, consistent with the requirements of **Special Condition 8**.

10. COVENANTS, CONDITIONS AND RESTRICTIONS (CC&R'S)

- A. The applicant shall establish covenants, conditions and restrictions (CC&R's), or an equivalent thereof, for the proposed residential development to, among other things, address maintenance of the public view corridor at the corner of Ocean Blvd. and Carnation Ave and to notify present and future owners of all the requirements of this coastal development permit. The CC&R's shall reflect the following requirements of this coastal development permit: 1) The location, presence of, and requirement to maintain the 44-degree wide view corridor at the proposed viewpoint at elevation 69-feet at the corner of Carnation Ave and Ocean Blvd. as shown on Exhibit 9 of this staff report and required pursuant to **Special Condition 8 and 9**; 2) long-term maintenance of the proposed park bench and drinking fountain; 3) the presence and content of a

requirement identified in **Special Condition 7** of the permit regarding the need to obtain a coastal development permit for future development; and 4) the presence and content of a requirement identified in **Special Condition 6** of the permit regarding no future blufftop and shoreline protection devices; 5) the requirements identified in **Special Condition 5** of this permit relative to the permanent drainage and runoff control plan; 6) the requirements identified in **Special Condition 14** of the permit regarding pool protection plan; (7) the requirements identified in **Special Condition 3** of this permit relative to the assumption of risk, waiver of liability and indemnity; (8) the requirements of **Special Condition No. 15** regarding bird strike hazard prevention; (9) the requirements of **Special Condition No. 16** relative to mitigation of the visual impact of future exposure of foundations and other subsurface structures; (10) the requirements of **Special Condition No. 17** prohibiting public access controls and restrictions on use of the public viewpoint; (11) the requirements of **Special Condition No. 18** relative to the permittees liability for costs and attorneys fees; and (12) notice pursuant to **Special Condition 1** that the Commission's approval of the proposed development does not waive any public rights that may exist on the property. The CC&Rs shall specify that any amendment to the CC&Rs affecting implementation of the requirements of this permit does not become effective until the Executive Director determines that the amendment is consistent with the Conditions of this permit.

- B. As soon as an owner's association or similar entity comprised of the individual owners of the development is legally created and binding on all owners, the applicant shall transfer, and the owner's association or similar entity shall accept, responsibility for the easement areas indicated in this permit.
- C. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, and prior to recordation of any CC&R's, parcel maps or tract maps associated with the approved project, said CC&R's and Tract and parcel maps shall be submitted to the Executive Director for review and approval. The Executive Director's review shall be for the purpose of ensuring compliance with the standard and special conditions of this coastal development permit. Any CC&R's, parcel map conditions or notes, or tract map provisions which the Executive Director determines are not consistent with any of the Conditions of this permit shall be modified to be consistent with the Conditions of the permit before recordation.
- D. Simultaneous with the recording of the final parcel/tract map(s) approved by the Executive Director, the permittee shall record the covenants, conditions and restrictions approved by the Executive Director, against the property.

11. **CITY OF NEWPORT BEACH APPROVAL**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, applicant shall provide to the Executive Director a copy of a permit issued by the City of Newport Beach, or letter of permission, or evidence that no permit or permission is required for the proposed placement of a park bench and water fountain within the public-right-of-way at the corner of Ocean Blvd. and Carnation Avenue. The applicant shall inform the Executive Director of any changes to the project required by the City of Newport Beach. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

12. CONSTRUCTION/DEVELOPMENT PHASING

Consistent with the applicant's proposal, construction of a park bench and water fountain within the public-right-of-way at the corner of Ocean Blvd. and Carnation Avenue for view corridor access depicted on the final plans approved by the Executive Director shall be phased so that they are available to the public prior to or concurrent with initial occupation of the development approved by this coastal development permit.

13. POOL PROTECTION PLAN

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

14. 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 revised project plans with City of Newport Beach Approval in Concept. The final revised project plans shall be in substantial conformance with the plans dated April 11, 2011 and submitted to the Commission on May 9, 2011 and conform to the requirements of the special conditions of this permit and indicate the final layout of all development including but not limited to: grading, buildings, water quality management system, decks and existing docks and piers. No work to the existing docks and piers is authorized by this coastal development permit approval. The plans shall be revised to include the following:

- 1) Depiction of all existing development on the site, including the existing bluff stairs and the existing dock system configuration as no demolition or work is proposed for the site below the 50.7' elevation contour and no dock structure replacement is authorized by this permit.
- 2) Depiction of proposed park bench and drinking fountain view corridor access improvements outside of the project property line on the public-right-of-way at the corner of Ocean Blvd. and Carnation Ave.
- 3) No development shall be sited seaward of the Predominant Line of Existing Development (PLOED) at elevation 50.70' (e.g., grading, enclosed living space, cantilevered decks, cantilevered patios, fences, guardrails and cantilevered pool areas).

- 4) No development (e.g. grading, foundations, structures, etc.) shall occur below the PLOED at elevation 50.70' (except to install the 31 caissons/piles for the pile-supported retaining wall depicted on the conceptual grading plan dated April 11, 2011 and any tieback anchors).
 - 5) Grading of the bluff face shall be minimized wherever possible. No further grading of the north bluff face (Carnation Ave. bluff) than as proposed in the plans dated April 11, 2011 (the lowermost exposed visible surface of the development on the west bluff or "Ocean Blvd. bluff" at the 51.14' elevation, approximately half a foot above the established PLOED at 50.70' elevation and on the north or "Carnation Ave. bluff" the lowermost exposed visible surface is at 61.31' elevation).
- 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 legally required.

15. BIRD STRIKE PREVENTION

- A. Ocean front glass railings, fences, screen walls and gates subject to this permit shall use materials designed to minimize bird-strikes with the railing, screen wall, fence, or gate. Such materials may consist, all or in part, of wood; metal; frosted or partially-frosted glass, Plexiglas or other visually permeable barriers that are designed to prevent creation of a bird strike hazard. Clear glass or Plexiglas shall not be installed unless an ultraviolet-light reflective coating and/or appliques (e.g. stickers/decals) specially designed to reduce bird-strikes by reducing reflectivity and transparency are also used. Any coating or appliques used shall be installed to provide coverage consistent with manufacturer specifications (e.g. one applique for every 3 foot by 3 foot area) and the recommendations of the Executive Director. Use of opaque or partially opaque materials is preferred to clear glass or Plexiglas and appliques. All materials, coatings and appliques shall be maintained throughout the life of the development to ensure continued effectiveness at addressing bird strikes and shall be maintained at a minimum in accordance with manufacturer specifications and as recommended by the Executive Director. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit final revised plans showing the location, design, height and materials of glass railings, fences, screen walls and gates for the review and approval of the Executive Director. Said plans shall reflect the requirements of this special condition.
- B. The permittee shall undertake development in accordance with the approval 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 legally required.

16. FUTURE FOUNDATION/SUBSURFACE STRUCTURE EXPOSURE PLANS

In the event any project features initially proposed to be subsurface subsequently become exposed to view from public vantage points including but not limited to the bay or beaches in the vicinity of the site, the permittee shall, through the coastal development permit process, seek to remedy the visual impact of the exposed structure(s) through, among other possible means, aesthetic treatment of the exposed structures such that they match

the appearance of surrounding terrain to the extent feasible and minimize visual impact of the exposed structures.

17. PROHIBITION ON PUBLIC ACCESS CONTROLS

All public use and/or entry controls (e.g. gates, gate/guard houses, guards, fences, vegetation, signage, etc.) and any other kind of restriction on use by the general public of the public viewpoint (e.g. hours of operation, etc.) shall be prohibited. The viewpoint shall be open for use by the general public 24 hours per day.

18. LIABILITY FOR COSTS AND ATTORNEYS FEES

The Permittees shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees -- including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys fees that the Coastal Commission may be required by a court to pay -- that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the applicant against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. PROJECT LOCATION & DESCRIPTION

Project Location

The project site is an approximately 1.4-acre site comprised of 201-205, 207 Carnation Avenue and a portion of 101 Bayside Place in the City of Newport Beach, Orange County (Exhibit 1). The site is surrounded by residential uses, bounded to the north by existing single-family residences and Bayside Place; to the east and southeast by Carnation Avenue and existing single-family residences, to the south is the large Channel Reef condominium complex with approximately 50 units and west of the site is the main entrance to Newport Bay from the Pacific Ocean and the eastern end of Balboa Peninsula.

The site consists of a steep coastal bluff lot on the west-side of the site (adjacent to Ocean Blvd.) which is subject to tidal action with a rocky intertidal area at the base of the bluff forming a small cove beach with natural rock outcroppings; and a coastal bluff on the north-side of the site (adjacent to Carnation Ave) which is not subject to tidal action due to the presence of existing homes at the toe of the bluff. The portion of the site subject to tidal action does not currently have any shoreline protection (i.e., bulkhead, seawall, etc). The bluff top and portions of bluff face are developed with single and multi-family residential structures both on the subject site and adjacent to the site. The site is visible from the water along Newport Harbor and from public beach areas on Balboa Peninsula across harbor. The City's certified Coastal Land Use Plan (CLUP) designates the intersection of Ocean Blvd and Carnation Ave (looking from the bluff out towards the bay) as a Public View Point.

The project site consists of two parcels (201-205 Carnation Avenue & 207 Carnation Avenue), both designated as Multiple-Unit Residential (RM – 20 units/acre), and a small portion (584 sq. ft.) of a third parcel at 101 Bayside Place which is designated Two-Family Residential (R-2 – 6 to 10 units/acre) in the City's Coastal Land Use Plan. The site is between the first public road and the sea (Newport Bay). The parcel at 201-205 Carnation Ave. is currently developed with a 13,688 sq. ft. 4-storey, 14-unit apartment building, an on-grade staircase down the bluff to a private cove beach, a 2-slip dock structure that extends beyond the private property line and into Newport Bay Channel and state coastal waters. The existing residential dock extends beyond the property line to an area that is subject to the public easement in navigable waters. The property at 207 Carnation Avenue is developed with a single family residence. The 584 sq.ft. portion of 101 Bayside Place proposed to be incorporated into the subject site is not developed, though the remainder of the parcel has a single family residence on it that won't be involved in the proposed project.

Upon completion of the lot consolidation, the maximum density that would be permitted on the site is nine (9) dwelling units; the applicant proposes to construct seven (7) condominium units.

Project Description

The proposed project consists of demolition of all existing structures on the bluff top including impervious surfaces with the exception of the circa 1961 bluff stairway/concrete landing and existing two-slip dock system. No work is proposed for the existing bluff stairway (except for removal of the uppermost portion that is within the development footprint) or the two-slip dock system. Construction of a proposed 51,124 sq. ft., 5-level (three levels visible from grade/street level and all five levels visible from the seaward side), 33' tall (from natural grade), 7-unit condominium building with 18 parking spaces, and common in-door amenities including a fitness facility, meeting room, patio, pool and spa. Approximately 9,810 cubic yards of cut will be required for the proposed basement and first floor. The excavation will be a total of 20-24 feet deep from street level. A three level structure will be visible from Carnation Ave. at 33 feet tall above the existing street/natural grade. A five level structure will be visible from Newport Bay at approximately 50 feet tall (as the basement and first level daylight along the bluff). See Exhibit 5 for project plans. The proposed development meets the City's 33' above natural grade height limit for the area.

Proposed landscaping consists of drought tolerant, non-invasive plant species. The coastal bluff is proposed to be restored with plants native to coastal bluff habitat (Exhibit 11). The proposed project is designed to collect surface runoff via catch basins and drain pipes directed to the subterranean parking area where runoff will be treated with a filter system prior to discharge into Newport Bay. The applicant has submitted a Water Quality Monitoring Program (WQMP) and Storm Water Pollution Prevention Plan (SWPPP).

The City requires two parking spaces per unit and 0.5 per guest. As proposed, the project provides the required 14 spaces for residents and 4 spaces for guests, for a total of 18 off-street parking spaces. Additionally, the project would create three (3) new on-street public parking spaces as the length of the driveway curb cut will be substantially reduced as compared to the existing curb cut at the subject site.

The pattern of existing development in the area involves development on the bluff face. In recognition of this pattern, the City's Coastal Land Use Plan (CLUP) contains policies that allow for bluff face development, provided that development complies with the 'predominant line of existing development' (PLOED). The City established a predominant line of existing visible surface bluff face development (PLOED) for the site at elevation 50.7' (See Exhibit 7). New visible surface development on the bluff face is proposed at 51.14' elevation approximately half foot above the

City established PLOED of elevation 50.7'. The natural bluff will be maintained below the 50.70' elevation.

As proposed, the lowest level finished floor daylights at the 51.14' elevation at an "on-grade" patio at the lowest basement level on the west bluff face. The slab of the structure at the lowest level is at 51.20' elevation. A pool is proposed on the lowest level of the structure with the bottom of the pool at the 51.70' elevation with the water level at 56.70' elevation. The lowermost exposed visible surface of the development on the west bluff or "Ocean Blvd. bluff" face will be at the 51.14' foot elevation, approximately half a foot above the established PLOED at 50.70' elevation. On the north or "Carnation Ave. bluff" face, the lowermost exposed visible surface is at 61.31' elevation. Currently, the lowermost exposed visible surface of the existing 14-unit apartment building is the bottom of a retaining wall at elevation 42.3' on the north bluff face (See Exhibit 7, page 2 of 3) and the lowermost exposed visible surface of the existing single-family residence at 207 Carnation Ave. is approximately at the 70-foot elevation on the bluff (per the topographic survey). However, there is no major excavation underneath the existing structures (i.e. no basements).

The applicant proposes to enhance scenic views to the harbor and ocean from public vantage points by expanding an existing public view corridor at the southern end of the project site at the corner of Ocean Blvd. and Carnation Avenue (i.e. the public viewpoint identified in the CLUP) and providing a public bench and drinking fountain at this view corridor and creating a new view corridor at the northern end of the project site from Carnation Avenue (Exhibit 9).

Additionally, the applicant is requesting a lot line adjustment and tentative tract map to combine a 584 sq. ft. portion of 101 Bayside Place with the two lots at 201-205 Carnation Avenue and at 207 Carnation Ave into a single 61,284 sq. ft. lot for residential purposes; and to subdivide the air space for seven residential condominium units (Exhibit 4).

B. GEOLOGY/LANDFORM ALTERATION/SHORELINE PROTECTION

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

New development shall:

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

The City of Newport Beach Certified Land Use Plan (LUP) policies regarding natural landform protection may be used for guidance, but are not the legal standard of review.

LUP Policy 4.4.3-8:

Prohibit development on bluff faces, except private development on coastal bluff faces along Ocean Boulevard, Carnation Avenue and Pacific Drive in Corona del Mar determined to be consistent with the predominant line of existing development or public improvements providing public access, protecting coastal resources, or providing for public safety. Permit such improvements only when no feasible alternative exists and when designed and constructed to minimize alteration of the bluff face, to not contribute to further erosion of the bluff face and to be visually compatible with the surrounding area to the maximum extent feasible.

LUP Policy 4.4.3-9:

Where principal structures exist on coastal bluff faces along Ocean Blvd., Carnation Ave., and Pacific Dr., in Corona del Mar, require all new development to be sited in accordance with the predominant line of existing development in order to protect public coastal views. Establish a predominant line of development for both principal and accessory improvements. The setback shall be increased where necessary to ensure safety and stability of the development.

The site consists of a steep coastal bluff lot on the west-side of the site (Ocean Blvd.) which is subject to tidal action with a rocky intertidal area at the base of the bluff forming a small cove beach with natural rock outcroppings; and a coastal bluff on the north-side of the site (Carnation Ave) which is not subject to tidal action due to the presence of existing single family residences at the toe of the bluff. The portion of the site subject to tidal action does not currently have any shoreline protection (i.e., bulkhead, seawall, etc); however, the single-family residences at the toe of the bluff have bulkhead protection from tidal action. The bluff top and portions of bluff face are developed with single and multi-family residential structures both on the subject site and adjacent to the site. The geologic units underlying the site include artificial fill (to maximum depths of 13 feet), marine and non-marine terrace deposits (16-19 feet below existing grades) and dense sandstone bedrock of the Monterey Formation.

The bedrock present on-site is generally massive, dense and well-cemented. The project proposes 9,810 cu. yds. of cut to accommodate the basement and first floor. The excavation for the basement level requires installation of a caisson shoring wall (31 caissons). The caissons are comprised of 19, 36" diameter caissons along the perimeter wall facing Carnation Avenue and 12, 30" diameter caissons along the north perimeter wall. The caisson shoring wall required for the excavation phase will not be removed but be kept in place, however, caissons are not required to support the foundation of the proposed building structure.

The proposed basement slab is at the 51.20' elevation with the lowermost portion of the structure and daylights on the west-facing bluff at an "on-grade" patio at elevation 51.14' and the north-facing bluff daylights at different locations ranging from elevation 61.31' at the lowest level and elevation 65' at its highest level. Excavations for and construction of the basement level and pool on the north-facing bluff proposes to leave a wedge of intact rock as part of the exposed north bluff face ranging from 10-20 feet in width. The north bluff face area is proposed to be graded down an additional 10' from previous March 2011 proposal to accommodate the proposed pool in this location. The March 2011 proposal maintained the natural bluff from a range of elevation of 50.7' to 70.0' elevation at its highest level.

The applicant submitted a Conceptual Grading Plan prepared by Hunsaker & Associates, Inc. dated April 18, 2011. A geotechnical investigation, Conceptual Grading Plan Review Report by Neblett & Associates dated September 30, 2008 consisted of the review of available geologic literature, maps, aerial photographs, geotechnical reports and other geotechnical data for the site and surrounding area; geotechnical analysis of subsurface conditions as related to slope stability, geotechnical criteria for site grading, foundation design and construction of the proposed development. The report combined the findings from earlier 2003 and 2005 Neblett & Associates preliminary geologic and geotechnical investigation for the site. Additionally, a letter from SoilWorks dated August 23, 2010 maintains that the aforementioned reports remain applicable to date for the subject project. A second letter from SoilWorks dated April 11, 2011 concludes that the revisions to the conceptual architectural and grading plans are acceptable from a geotechnical standpoint, the revisions will reduce the planned excavation depths and associated exports required, and the trapezoidal section of bluff face resulting from planned grade cuts along the northerly side of structure remain unchanged from previous plans [March 2011].

The underlying geologic units at the site include artificial fill to a maximum depth of 13 feet and terrace deposits which range from approximately in depth from 16-19 feet below the existing site grade, in turn underlain by Monterey Formation bedrock. The bedrock present on site is generally massive, dense and well-cemented. The prevailing strike and dip orientation of the bedrock is into slope with respect to proposed excavation cuts, and therefore favorable from a slope stability standpoint. Based on the results of stability analyses provided by the geotechnical investigation, the site is considered to be grossly stable. A 1.93 factor of safety under static conditions was computed at the toe of the proposed excavation for the originally proposed sub-basement level and a 3.63 factor of safety under static conditions was computed at the base of excavation. The factors of safety for the currently proposed project will equal or exceed these figures.

Wave erosion along the base of the west-side bluff slope and lateral retreat of the bedrock seacliff was considered unlikely over the next 75 years and no faults were located on the property. The report states that due to the resistant character of the bedrock materials of the bluff face the rate of surface erosion is very slow and not a factor in bluff retreat.

Both the north and west facing bluffs are composed of bedrock bluff resistant to weathering degradation, no open fractures or adverse bedding planes were observed that would jeopardize the bluff's integrity and stability. In view of the resistant nature of the bedrock bluff the geotechnical reports conclude that any remaining trapezoidal section of bedrock on the non-marine erosion north-bluff face will have sufficient strength to remain in place during the economic life of the proposed new structure. The Commission's staff geologist has reviewed the submitted geotechnical reports, preliminary grading and drainage plans and agrees with the report's conclusions.

Bluff Setback - Use of Predominant Line of Existing Development

In the City of Newport Beach, the Commission typically imposes a minimum bluff edge setback of 25 feet from the edge of the bluff for primary structures on bluff top lots subject to marine erosion (e.g. the enclosed living area of residential structures). However, the Commission has used a different approach in areas like Corona del Mar where there is already development on the bluff face. Specifically, the Commission has used the City's bluff setback LUP provision to maintain an equitable approach to setback conditions that are consistent with the prevailing patterns of development in Corona del Mar and that are appropriate given the relatively stable geology of the area. In the Corona del Mar community, the City's CLUP has specific policies permitting new *bluff face* development (i.e., no bluff edge setback) on lots with pre-existing bluff face development if determined to be consistent with the predominant line of existing development (PLOED), but only when no feasible alternative exists and when designed and constructed to minimize alteration of the bluff face, to not contribute to erosion of the bluff face and to be visually compatible with the surrounding area. These setbacks are deemed acceptable within this area of Corona del Mar based on the relatively stable, underlying bedrock of the bluffs in the area. The intent of the setback is to substantially reduce the likelihood of new development from grading down further and altering the remaining bluff face (as substantial pre-Coastal Act development on the bluff face exists in this area of Corona del Mar).

Furthermore, the Commission finds that development on the upper portion of the bluff face does not result in a geologic hazard in this case because, as indicated in the geotechnical report, the geologic stability of the site is adequate to support the proposed development. Applying a PLOED setback would be appropriate for the proposed project considering that the proposed new structure would not daylight lower down the bluff face than the lowest point of visible development on the existing pre-Coastal Act structure on this bluff.

Future Bluff and Shoreline Protection

Section 30253 of the Coastal Act requires, in part, that new development be constructed in a manner that ensures that it will not require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The west-facing bluff along Ocean Blvd. at this site is subject to tidal action. In general, bluff lots are inherently hazardous. It is the nature of bluffs to erode. Bluff failure can be episodic, and bluffs that seem stable now may not be so in the future. The proposed development could not be recommended for approval and deemed consistent with Section 30253 of the Coastal Act *if* projected bluff retreat would affect the proposed development and necessitate construction of a protection device. A protective device may be a seawall at the base of the bluff, or a rock anchor system, or shotcrete wall on the bluff face. If new development necessitates future protection, the landform and shoreline processes could be dramatically altered by the presence of the protective system. Currently, the single-family residences constructed at the toe of the north bluff (Carnation Ave. side) are protected from tidal action by bulkheads along these Bayside Place lots.

The Coastal Act limits construction of these protective devices because they have a variety of negative impacts on coastal resources including adverse affects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beach.

As the project proposes complete redevelopment of the site, it can only be found consistent with Section 30253 of the Coastal Act if a shoreline/bluff protective device is not expected to be needed in the future. The applicant submitted a "Coastal Hazard Study" prepared by GeoSoils Inc., dated October 2006 which finds the site safe from flooding, erosion damage, wave runup hazard over the next 75 years (the economic lifetime of the project). The applicant also submitted a "Coastal Hazard Study Update for 201-207 Carnation, Corona del Mar, CA" by GeoSoils dated December 2010 which finds that the proposed project design changes result in less potential impact from coastal hazards. As proposed, the project will not require the construction of shoreline protection devices that would substantially alter natural landform along the bluff or the rocky outcroppings as the proposed residential structure would be located above areas subject to wave and storm surge, seiches and/or tsunamis.

Furthermore, the applicant's geotechnical consultant has indicated that the site is grossly stable, that the project should be safe for the life of the project (75 years), and therefore, that no shoreline protection devices will be needed. The Commission's staff geologist reviewed the submitted geotechnical and coastal hazard studies and agreed with their conclusions. If not for the information provided by the applicant that the site is safe for development, the Commission could not conclude that the proposed development will not in any way "require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs." The proposed development appears to be safe from erosion on the basis of available information and is therefore consistent with Coastal Act section 30253(a). Nonetheless, the project would perpetuate exposure to threats from erosion by increasing the amount of development close to the bluff. The record of coastal development permit applications and Commission actions has also shown that geologic conditions change over time and that predictions based upon the geologic sciences are inexact. Even though there is evidence that geologic conditions change, the Commission must rely upon, and hold the applicant to the geotechnical analysis they submitted, which states that the site is safe for development without the need for protective devices. To minimize the project's potential future impact on shoreline processes, **Special Condition 6** prohibits construction of any future bluff or shoreline protective device(s) such as revetments, seawalls, cliff retaining walls, shotcrete walls, and other such construction that armors or otherwise substantially alters the bluff face to protect the proposed new development if approved pursuant to this CDP in the event that the

development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, sea level rise or other natural coastal hazards in the future. This, as conditioned, the project conforms to Section 30253 of the Coastal Act.

Drainage

Section 30253 of the Coastal Act requires, in part, new development to neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area. The applicant is taking drainage design measures to bring the development into further compliance with section 30253. Regarding drainage on the site, the geotechnical report concludes that the proposed development should improve site drainage. As discussed in the section on water quality, proposed site drainage measures will re-direct existing site surface drainage away from the bluff, thereby further reducing potential bluff erosion. Landscaping is proposed to be drought tolerant, native coastal bluff vegetation with no permanent irrigation system. Additionally, as the applicant is proposing a basement level swimming pool, in order to prevent possible bluff instability caused by water saturated slopes, **Special Condition 13** requires a pool leak prevention and detection system. Such pool leak prevention and detection systems are typically required where new swimming pools are proposed in conjunction with development near a bluff.

Future Development

The proposed 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 at the project site potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act. In order to ensure that development on the site does not occur which could potentially adversely impact the geologic stability concerns expressed in this staff report, the Commission imposes **Special Condition 7**. This condition informs the applicant that future development at the site requires an amendment to this permit (5-10-298) or a new coastal development permit. Future development includes, but is not limited to, structural additions, accessory structures, landscaping, and fencing.

As conditioned, the project is required to prohibit construction of protective devices (such as blufftop or shoreline protective devices) in the future; and to require that the landowner and any successor-in-interest assume the risk of undertaking the development. Only as conditioned does the Commission find that the development conforms to the requirements of Section 30253 of the Coastal Act regarding the siting of development in a hazardous location.

C. SCENIC VIEWS

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

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

The proposed project height will be approximately 13-feet higher than the existing multi-family structure and approximately 20-feet higher than the portion of the existing single-family structure currently on the site. The proposed project, although 13-feet higher than the existing tallest structure on the site, meets the City of Newport Beach's Land Use Plan 28'/33' height limit for this area. The proposed development will also be consistent with the height of other structures in the

area which predominantly meet the City's 28' height limit in the area. The proposed structure is also substantially smaller than the pre-Coastal Act Channel Reef condominium development farther south at 2525 Ocean Blvd. on a 1.21 acre bayfront lot.¹

The CLUP designates the intersection of Ocean Blvd and Carnation Ave as a Public View Point. Views of the harbor and Balboa Peninsula from Carnation Avenue and Ocean Blvd. presently exist along a 25 degree wide view corridor between the site's existing apartment structure and the abutting residential structure to the south at this Public View Point.

Proposed Public View Corridor from the Project's Street-Side

Currently, there is an existing 25-degree view corridor "cone" the tip of which starts at the corner of Ocean Blvd. and Carnation Avenue and expands to the corners of the existing 14-unit apartment building structure at 207 Carnation and single-family residence at 2495 Ocean Blvd. The applicant proposes to enhance public views out to the bay by increasing the existing 25-degree view corridor "cone" to a 44-degree wide (a 76% increase) corridor "cone" the tip of which starts at the corner of Ocean Blvd. and Carnation Avenue and expands to the corner of the proposed new structure at 207 Carnation and the existing single-family residence at 2495 Ocean Blvd. The applicant also proposes to provide a park bench and drinking fountain at the public viewpoint at a 69' elevation, landward of the project property line on the public-right-of-way adjacent to the site.

As the CLUP designates the intersection of Ocean Blvd and Carnation Ave as a "Public View Point", and the entire site is proposed for redevelopment, it is feasible to restore and enhance visual quality at this intersection. The permitted development should be sited and designed to protect views to and along the ocean and scenic coastal areas beyond (West Jetty, Balboa Peninsula). **Special Condition 10** requires the applicant to incorporate notice of the presence of the view corridor and the need to protect it in their CC&R's and for the CC&R's to address long-term maintenance of the proposed public view corridor and amenities at the corner of Ocean Blvd. and Carnation Ave. as well as reflect all of the special conditions of this coastal development permit pertaining to the proposed view corridor (i.e., location and presence). Additionally, **Special Condition 9** requires that no development other than the proposed park bench and drinking fountain be sited within the proposed view corridor and that vegetation within the view corridor be low-growing to avoid view impacts. Furthermore, **Special Condition 17** prohibits entry controls (e.g. gates, gate/guard houses, guards, fences, vegetation, signage, etc.) and any other kind of restriction on use by the general public of the public viewpoint (e.g. hours of operation, etc.), making the viewpoint available for use by the general public at all times.

Views of the Site from the Water

The site is located at the entrance to Newport Beach harbor along the east jetty side and is highly visible from the water and from the west jetty on the Balboa Peninsula, specifically looking inland from the West Jetty View Park.

The proposed development would result in a 51,124 sq. ft., 5-level condominium complex. The view from grade/street level would be of a three level structure at 33' tall and the view from the water/seaward side along Newport Bay would be an approximately 50' tall 5-level structure as the basement and first floor daylight on the bluff side. The surrounding area is mostly comprised of single-family residences (ranging between 2,200 sq. ft. – 5,200 sq. ft.) and 2-4 unit condominium structures (ranging between 4,000 to 8,000 sq. ft.) on Carnation Ave and Bayside Place; and the

¹ The Channel Reef building has about 48 residential units, in a building with 7 floors, all above grade.

much larger pre-Coastal Act, seven-storey, 48-unit Channel Reef condominium structure on Ocean Blvd.

Visual simulations of an older version of the project provided in the EIR study demonstrate that the then proposed development would be consistent with the pattern of existing development in the area. The project has since been modified to address Commission comments/concerns regarding the amount of grading into the bluff below the PLOED. The resulting project as proposed in this submittal is approximately 5' taller at 33' tall than the original proposal 28' tall proposal reviewed in the EIR. The proposed project meets the same 33' above natural grade height restriction as the single-family residences and condominiums on Carnation Ave and is significantly smaller than the Channel Reef condominiums on Ocean Blvd., all visible from Newport Bay.

Use of Predominant Line of Existing Development (PLOED) for Bluff Setbacks

Pursuant to the Certified LUP Policy 4.4.3-8, the City established a predominant line of existing bluff face development (PLOED) for the site at elevation 50.7 feet (See Exhibit 7, page 1 of 2) by taking the median elevation of seven structures along Ocean Blvd and Carnation Ave. This PLOED is for the principal structures only². New visible surface development is proposed to be at the 51.14' elevation approximately half a foot above the established PLOED at 50.70' elevation along the west bluff or "Ocean Blvd. bluff" face. On the north or "Carnation Ave. bluff" face, the lowermost exposed visible surface is at 61.31' elevation. While the project consists of grading into the bluff top to accommodate the structure's subterranean levels, this grading will not impact the completed structure's daylighting at the City-determined PLOED and, therefore, does not alter a landform in a manner that causes visual resource impacts.

The dock exit is proposed from the lowest level on the west bluff from an "at-grade" patio at elevation 51.14' along the west bluff. No further cut/excavation is proposed below the PLOED level. The natural bluff will be maintained below the 50.7' PLOED elevation.

Currently, the lowest extent of the foundation visible on the bluff surface of the existing 14-unit apartment building (201-205 Carnation Ave) on the west bluff is the bottom section of an exposed retaining wall at elevation 42.3' (NAVD 88) on the west bluff (Exhibit 7, page 2 of 3). The lowermost exposed visible surface of the existing single-family residence (207 Carnation Ave) on the north bluff is the residential structure's corner at the ground at approximately the 70.0' elevation (per topographic survey, Exhibit 3). However, the existing structures do not have subsurface excavations down to those elevations or below. The exposed development on the west bluff is a retaining wall on the face of the bluff supporting a patio/walkway around the existing building at the top of the bluff at elevations 56.95' - 53.7'. The corner of the 14-unit apartment building itself where it touches the ground at the west bluff is at elevations ranging from 57.6' – 56.1'.

New development along most of the north bluff face is proposed to daylight at approximately elevation 65.0' and at elevation 70.0' at the highest level as the two lower levels of the structure will mostly be underground along the north bluff face. The proposed lowest level will grade down to the 50.70' elevation, the lowermost exposed visible surface of the development on the west bluff face will be maintained at the PLOED of 50.70' which will also be visible from the north bluff view. As proposed, applying a PLOED at elevation 50.70' would not result in greater landform alteration on the north bluff.

Both the Coastal Act, section 30251, in particular, and the policies of the CLUP require that landform alteration be minimized to ensure that the development does not impact scenic and visual qualities of natural landforms. The intent of the CLUP policies that permit continued development

² The City did not attempt to identify a separate PLOED for accessory development such as decks.

on the bluff face is intended to minimize further bluff alteration than that which has already taken place pre-Coastal Act. As noted above, the Commission has typically applied the City's PLOED determination when evaluating the visual and scenic impacts of bluff face development. Further, when the Commission evaluates whether proposed development alters landforms in this area and results in visual and scenic resource impacts, it considers (1) past Commission action in the area, (2) the pattern of existing development, and (3) the likely impacts to the site under the existing categorical exclusion order that currently applies to property located along Carnation Avenue.³ First, the Commission has granted coastal permits for residential development along Ocean Avenue where conforming to the existing pattern of development resulted in removal of some existing bluff face (uppermost area) and was found to minimize landform alteration (e.g. 5-02-203 [Tabak], 5-05-328 [Palermo], 5-03-100-[Halfacre]) because the lower portion of the bluff was preserved. Second, the existing pattern of development is also important here. All of the properties adjacent to the site along Ocean Avenue are developed in a manner that impacted the bluff face. Moreover, the properties to the north of the site along Carnation Avenue have also all involved bluff face development. Third, under the Commission-approved categorical exclusion order, the portion of this project site that is now 207 Carnation Avenue could be re-developed with a single family residence. The lot owner would be able to develop down the bluff to 10 feet from the bayside property line, which would result in greater bluff face development, similar to what exists further north along Carnation Avenue.

As proposed, the project does not extend below the 50.70' elevation in an effort to protect public views of the bluff by not altering the bluff below the predominant line of existing development. Along the north facing bluff, the applicant is proposing to preserve some bluff face that is located above the 50.7 foot elevation. The applicant is also proposing a landscape plan which includes the removal of non-native invasive plants from the natural bluff and re-planting with drought-tolerant, non-invasive plant species native to coastal bluff habitat.

In the previous March 2011 submittal which the Commission reviewed, the applicant proposed to cantilever decks, and portions of a patio and pool seaward of the PLOED. However, the applicant has revised the project plans so that all accessory structures (i.e., decks, patio, pool) are now proposed behind a plane extended vertically from the 50.7' elevation, the agreed upon PLOED, thereby reducing the visual impact of cantilevered development over the coastal bluff.

As proposed, the Commission finds the development consistent with past permit approvals in this area, consistent with the pattern of development in the area, would result in less impact to the bluff than could otherwise occur on the north bluff (Carnation Ave portion of the site) under the categorical exclusion order and does not adversely impact scenic and visual qualities along the bluff face.

Future Exposure of Subsurface Structures

The proposed project includes subsurface structures including basement and shoring walls. For the most part, those structures are located along the inland portion of the property adjacent to the roads. So, except for an unforeseen catastrophic event, those structures wouldn't become exposed to public views. However, along the north facing bluff there is an area of the structure that would be below ground surface, and within 0 to 20 feet of the bluff face (i.e. there would be a

³ 215 Carnation Avenue falls within the boundaries of the Categorical Exclusion Order E-77-5 adopted by the Commission in 1977 for the demolition and/or construction of single-family and two-family residences and their appurtenant facilities in R1 thru R-4 zones. Structures are only subject to this exclusion if they provide two parking spaces and are designed so that the gross structural area, including storage, parking and stairways does not exceed 1.5 times the buildable area on non-conforming lots (4,000 sq. ft. of less) and in areas where a majority of the lots are non-conforming.

'wedge' of soil and rock between the wall of the structure and the bluff face. The applicants geologist has considered the effects of erosion and does not anticipate those structures would become exposed over the life of the proposed development. However, if they do become exposed, adverse public view impacts could result. Though, it should be noted that even if fully exposed, those structures would not extend below the PLOED at 50.7 feet. Nevertheless, in order to address the potential visual issue, the Commission imposes **Special Condition 16**, which requires the applicants to address the visual impacts if they do arise in the future.

The Commission finds that the project, as conditioned, will avoid adverse impacts to public views, conforms to community character, and is consistent with Section 30251 of the Coastal Act.

D. MARINE AND LAND RESOURCES

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

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.

Section 30240 of the Coastal Act states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

Sensitive Habitats and Resources

A Biological Constraints Analysis was prepared by P&D Consultants, dated June 10, 2005 documenting the biological resources on the site and a Biological Impact Report for AERIE Residential Project was prepared by ICF Jones & Stokes dated December 2008. The studies found the dominant vegetation on the site to be ornamental plant species (i.e., English ivy, sweet fennel, umbrella sedge and fan palm) and remnant southern coastal bluff scrub community on the rocky outcrop along the northern project boundary extending into Newport Bay. The coastal bluff face is densely vegetated with ornamental species and native plants (i.e., California buckwheat,

coastal prickly pear, California sagebrush, bush sunflower, lemonade berry and coastal goldenbush).

No terrestrial special status plant, animal or avian species that have the potential to occur at the project site were observed to exist on the project site during the biological surveys with the exception of the federal and state designated endangered California Brown Pelican. California Brown Pelicans are commonly observed locally and have acclimated to human activities. It is found foraging in Newport Bay year-round but does not breed locally. As California Brown Pelicans do not breed on the mainland California coast; project implementation would not have an impact on nesting or overall foraging activities except for the proposed dock demolition and expansion (discussed in the denial findings). The California Least Tern may use the proposed area for foraging. However, the California Least Tern population in Newport Bay nests on a small island within the Upper Newport Bay Ecological Reserve several miles from the proposed project site. Given the distance from the nesting site and the high levels of human activity already occurring at the proposed project site, the project would not have an impact on Least Tern nesting or overall foraging activities.

Based on the above, the proposed project would not affect federally-listed endangered or threatened species, or their critical habitat.

The proposed project includes decks/balconies with 42" tall glass guardrails. Due to the coastal bluff top location of the proposed deck glass guardrails there is a substantial risk of bird strikes to the glass railing. Glass walls are known to have adverse impacts upon a variety of bird species. Birds are known to strike glass walls causing their death or stunning them which exposes them to predation. Some authors report that such birds strikes cause between 100 million to 1 billion bird deaths per year in North America alone. Birds strike the glass because they either don't see the glass, or there is some type of reflection in the glass which attracts them (such as the reflection of bushes or trees that the bird might use for habitat). Some type of boundary treatment is typically required where the backyards of residences abut coastal bluffs. To provide further protection to coastal avian species, **Special Condition 15** requires the applicant submit final revised plans showing a treatment to the tempered glass screenwall to address bird strike issues, necessary to protect against significant disruption of habitat values.

There are a variety of methods available to address bird strikes against glass. For instance, glass appliqués may be used or glass can be frosted or etched in a manner that renders the glass more visible and less reflective. In the case of fences, screen walls or guardrails, alternative materials can be used, such as wood, stone, or metal. Use of frosted or etched glass, wood, stone or metal material is preferable to appliqués because of the lower maintenance and less frequent replacement that is required. Thus, as conditioned, the proposed development is consistent with Section 30240.

Bluff Habitat

The applicant submitted a landscaping plan proposing to remove non-native plants (i.e. iceplant, bougainvillea, arundo, acacia, myoporum) from the coastal bluff and replant with a hydroseed method and container plantings of drought-tolerant, bluff native plant species such as coastal Manzanita, sage, California brittlebush and lupine. Temporary irrigation of the natural bluff area is proposed for the first season then discontinued.

Project Impacts on Water Quality

Proposed changes to the landward portion of the project (i.e., demolition of existing development, grading, construction of new structures, hardscape and landscaping) will result in an increase of

impervious surface area causing an increase of stormwater runoff from the landward portion project site. The site is currently approximately 22% impervious and 78% pervious, post-project construction, the site will consist of approximately 28% impervious surface and 72% pervious.

Although the proposed project would result in an increase in impervious area, the project will not change the existing off-site drainage patterns. Moreover, the total discharge from the site post-construction is estimated to be 1.95 cfs or a 15% reduction in surface runoff when compared to the existing 2.31 cfs. Improvements to the storm drain system will capture more runoff and reduce sheet flows that currently directly impact Newport Bay. As proposed, new filtration measures will be added to the storm drain system to improve water quality.

To match the existing flow to the 24" drainage pipe from the proposed site, drainage from the entire site will be directed to a pump vault designed to store, treat and discharge the peak flow at a reduced discharge rate, thereby reducing the discharge from the proposed condition to that of the existing condition. The maximum pump discharge allowed for the pump would be 0.50 cfs, which is slightly less than the 0.51 cfs currently being discharged. Runoff from the site currently simply drains northerly and westerly as sheetflow to Newport Bay and southerly off the property as sheetflow to the existing catch basin located just south of the project at the corner of Carnation Ave and Ocean Blvd. The runoff is then discharged westerly to Newport Bay.

The applicant has also submitted a Storm Water Pollution Prevention Plan (SWPP) identifying potential pollutant sources, providing selected best management practices (BMPs) and proposed site monitoring for the project's construction phase, including construction phase sediment and erosion control plans and permanent post-construction BMPs (such as storm water filters) for the protection of water quality.

The applicant proposes and **Special Condition 4** requires best management practices to ensure that water quality of Newport Bay is not impacted during construction. Additionally, the applicant proposes and **Special Condition 5** require compliance with the submitted Water Quality Management Plan (WQMP) and Storm Water Pollution Prevention Plan (SWPPP) to ensure that runoff from the site is appropriately managed to avoid pollution and erosion from entering Newport Bay post project construction. The Commission finds it necessary to identify the permittee's responsibilities regarding construction and the utilization of best management practices and has conditioned the project accordingly. Therefore, only as conditioned does the Commission find that the proposed project conforms to Sections 30230 and 30231 of the Coastal Act.

E. PUBLIC ACCESS AND RECREATION

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

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

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

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

The proposed project is located seaward of the first public road and within coastal waters. The subject site consists of a coastal bluff lot with a cove beach and rocky intertidal area and is currently developed with a private residential 2-slip dock structure. Direct public access from the street to the bay is not currently available on site, however, the on-site cove beach (within the adjudicated private property line) is accessible to the public from the harbor (water) side.

The nearest access to a public beach is available approximately 700 feet south of the site at China Cove Beach and also at Corona del Mar State Beach approximately 1,500 feet south of the site. Begonia Park is a local bluff top park located approximately 550 feet northeast of the site. The nearest public access to the bay for boaters is at a public launch site approximately 1,500 feet northwest of the site at the Orange County Harbor Patrol facility.

Parking

When a private development does not provide adequate on-site parking, users of that development who arrive by automobile are forced to occupy public parking used by visitors to the coastal zone. Access to the closest public beach and a local recreation park is located within walking distance from the site. Public parking for these coastal resources are on-street along Ocean Blvd. The relative proximity of these public coastal access facilities to the project site gives good reason for the need for adequate parking for private development. Insufficient parking on the project site may result in users of that development taking up spaces that the public may use to access coastal resources. Thus, all private development must provide adequate on-site parking or alternative public transportation to minimize adverse impacts on public access.

The City requires two parking spaces per unit and 0.5 per guest. Per City requirements, the project provides the required 14 spaces for residents and 4 spaces for guests, for a total of 18 off-street parking spaces. The Commission has consistently found that two parking spaces are adequate to satisfy the parking demand generated by one individual residential unit. Parking areas will be located on the basement and first level accessible by driveway ramp. Additionally, the project would create three (3) new on-street parking public parking spaces as the length of the existing driveway curb cut will be substantially reduced with the proposed project.

To avoid parking impacts during the project construction phase, a Construction Traffic Management and Control Plan dated March 17, 2009 was prepared by Brion Jeannette Architecture indicating that off-site parking for construction crew and shuttle service to the site will be provided and on-street construction parking would be prohibited. Construction crew would park on-site once the proposed grading and subterranean parking garages constructed. The project construction staging area will also be on-site along the Carnation Ave. frontage. Street closures are not proposed.

As proposed, the development is consistent with the Commission's typically applied parking standards and would not affect the public's ability to gain access to and/or to make use of the coast and nearby recreational facilities. Therefore, the Commission finds the proposed development consistent with the public access and recreation policies of the Coastal Act.

Public Rights

The Commission is not authorizing any new development in open coastal waters that would obstruct public use of or access to those waters. **Special Condition 7** clarifies that future development, including but not limited to new development associated with the site require review by the Commission. In addition, **Special Condition 1** affirms that approval of the proposed 7-unit condominium complex on the private lot does not constitute a waiver of any public rights that exist or may exist at the site. As conditioned, the proposed development will not have any new adverse impacts on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms with the public access and recreation policies of the Coastal Act including Section 30210.

F. COSTS AND ATTORNEYS FEES

Title 14, section 13055(g) of the California Code of Regulations authorizes the Commission to require applicants to reimburse the Commission for expenses incurred in processing CDP applications. Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its action on the pending CDP application. Therefore, consistent with the Commission's regulations, the Commission imposes **Special Condition 18**, requiring reimbursement of any costs and attorneys fees the Commission incurs "in connection with the defense of any action brought by a party other than the Applicant/Permittee ... challenging the approval or issuance of this permit."

G. LOCAL COASTAL PROGRAM

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The Land Use Plan for the City of Newport Beach was effectively certified on May 19, 1982. The certified LUP was updated on October 2005 and in October 2009. 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 an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of the Commission's 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 feasible mitigation

measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The City of Newport Beach Planning Department is the lead agency for California Environmental Quality Act (CEQA) purposes. On July 14, 2009 the City Council certified the Final Environmental Impact Report and a Statement of Overriding Considerations pursuant to CEQA Guidelines Section 15126(b). The Statement of Overriding Considerations is in regard to unavoidable adverse impacts associated with noise levels during the construction phase of the proposed project. Construction phase noise will not significantly disrupt wildlife or other Coastal Act resources and therefore, the Commission does not have the authority to address it. Although the EIR found unavoidable adverse impacts due to noise levels, those impacts do not raise Coastal Act concerns.

The project consists of demolition of an existing 13,688 sq. ft., 4-level, 14-unit apartment while retaining an on-grade stairway on the bluff face and retaining an existing two-slip dock system; demolition of a 2,810 sq. ft. single-family residence, and construction of a new 51,124 sq. ft., 7-unit, 33-foot tall from natural grade, 5-level condominium structure (three levels visible from grade/street level and all five levels visible from the seaward side) with 18 parking spaces and common amenities including a fitness facility, meeting room, patio, pool, hardscape and landscaping improvements; grading consisting of 9,810 cu. yds. of cut; lot line adjustment to merge two lots and a 584 sq. ft. portion of 101 Bayside Place with the parcels identified as 201-205 Carnation Avenue into a single 61,284 sq. ft. lot for residential purposes; and tentative tract map to combine to subdivide the air space for seven residential condominium units.

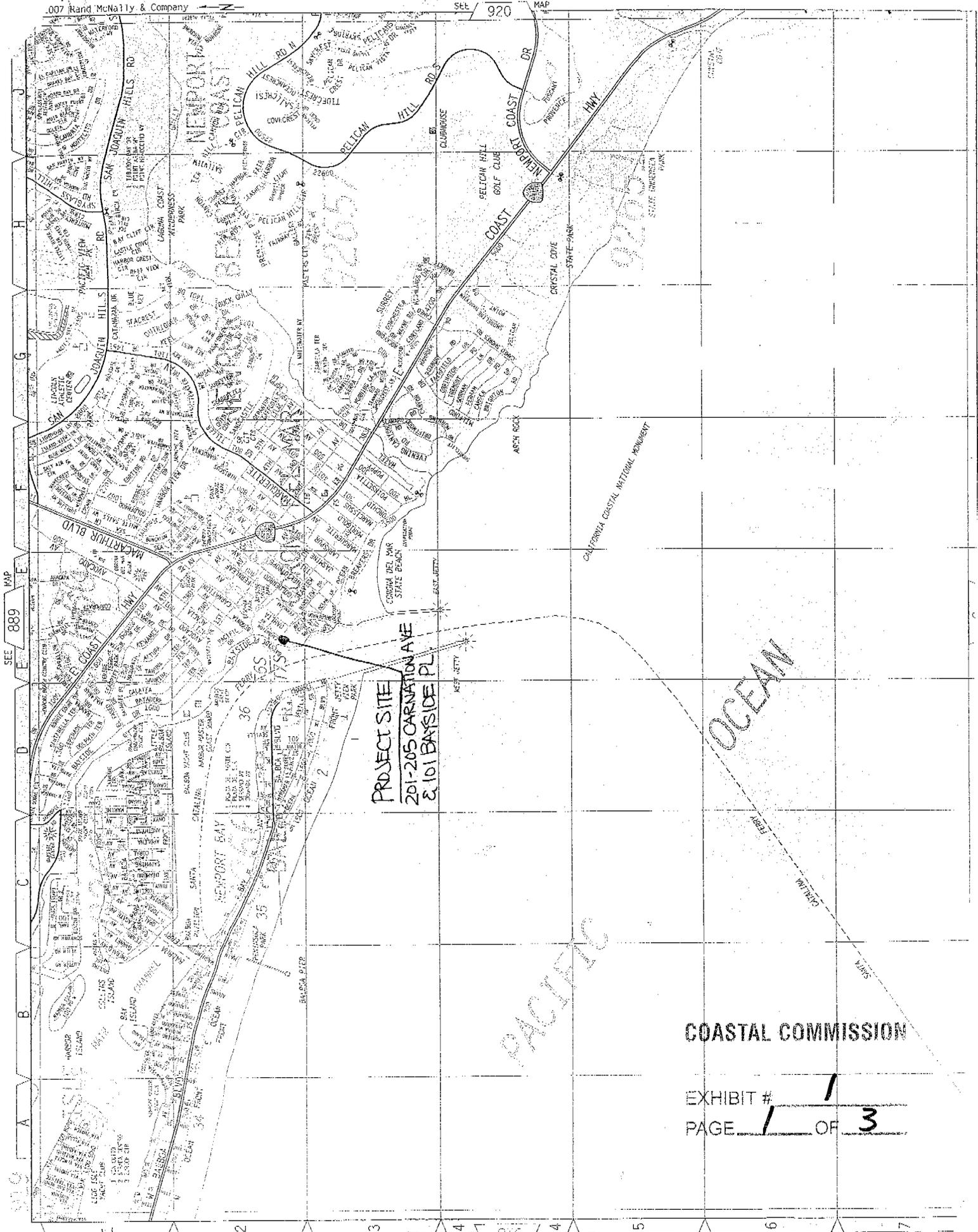
Project alternatives reviewed and considered during the EIR process included a no project alternative, a reduced intensity alternative with three single-family residential projects, a reduced intensity alternative with a 5-unit multi-family residential project, and two alternatives of an 8-unit multiple-family residential project with reduced grading as described below:

- No Project Alternative – full occupancy of existing 14-unit apartment units and single-family residence, increases long-term project-related traffic trips due to greater site density, would not result in improvement to aesthetic character of the site, eliminates construction-related impacts, eliminates grading and landform alteration, eliminates view shed impacts caused by the expanded dock project, would not result in enhanced views from the public viewpoint at the corner of Ocean Blvd. and Carnation Ave., would not result in “state of the art” energy features, water quality upgrades, catch basin improvements and undergrounding of overhead power lines.
- 3-Single-Family Residences/3-Slip Dock Replacement – results in subdivision of the existing property into three single-family lots, each residence would consist of two above-grade living levels, basement level and roof deck, maintain a PLOED at elevation 50.7 feet; still result in improvement to aesthetic character of the site construction related impacts would not be reduced, if built to max building height would not result in enhanced views from the public viewpoint at the corner of Ocean Blvd. and Carnation Ave., reduces amount of grading to 10,000 cubic yards cut, up to 75 caissons would be required, view from harbor would be of three structures at the PLOED elevation of 50.7 feet, replacement of existing 3-slip dock with a new larger 3-slip dock accommodating larger vessels would eliminate some water view shed impacts caused by a significantly expanded dock project, would not result in increased on-street parking, would not result in “state of the art” energy features, water quality upgrades, catch basin improvements and undergrounding of overhead power lines.
- 5-Unit Multiple-Family Residential Project/5-Slip Dock Expansion - elimination of sub-basement and basement levels with basically the same four above grade levels, elimination of 25 caissons below the building perimeter due to change in foundation design, meet parking requirements for 5 units but eliminates extra guest parking, elimination of 12,240

cubic yards of excavation, still result in improvement to aesthetic character of the site, still result in enhanced views from the public viewpoint at the corner of Ocean Blvd. and Carnation Ave., would not result in “state of the art” energy features, water quality upgrades, catch basin improvements and undergrounding of overhead power lines, slight reduction in construction phase impacts,

- 8-Unit Multiple-Family Residential Project with Reduced Grading/8 Slip Dock Expansion – elimination of sub-basement level, elimination of 25 caissons, would require 9,229 cubic yards less grading; perimeter walls pulled back to 50.7 PLOED, still comply with parking requirements though extra guest parking spaces eliminated; still result in improvement to aesthetic character of the site, still result in enhanced views from the public viewpoint at the corner of Ocean Blvd. and Carnation Ave., would not result in “state of the art” energy features, water quality upgrades, catch basin improvements and undergrounding of overhead power lines.

Mitigation measures were required for approval of this CEQA document. The Coastal Commission adopts additional mitigation measures, found below, to ensure that the project it is approving will conform to the requirements of the Coastal Act. 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 public access, water quality, and biological policies of the Coastal Act. Mitigation measures include special conditions related to: 1) Public Rights; 2) Scope of Approval; 3) Assumption of Risk, Waiver of Liability and Indemnity; 4) Construction Responsibilities and Debris Removal; 5) Permanent Drainage and Runoff Control Plan; 6) No Future Blufftop or Shoreline Protection Devices; 7) Future Improvements; 8) Landscaping; 9) Restrictions on development Within View Corridor; 10) Covenants, Conditions & Restrictions; 11) City of Newport Beach Approval; 12) Construction/Development Phasing; 13) Pool Protection Plan; 14) Final Project Plans 15) Bird Strike Prevention; 16) Future Foundation/Subsurface Structure Exposure Plans; 17) Prohibition on Public Access Controls; and 18) Liability for Costs and Attorney Fees. With the proposed mitigation measures and required conditions, the proposed project would have no greater coastal resource impacts than the alternatives considered. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and is consistent with the requirements of the Coastal Act and CEQA.



PROJECT SITE
 201-205 CARNATION AVE
 & 101 BAYSIDE PL

COASTAL COMMISSION

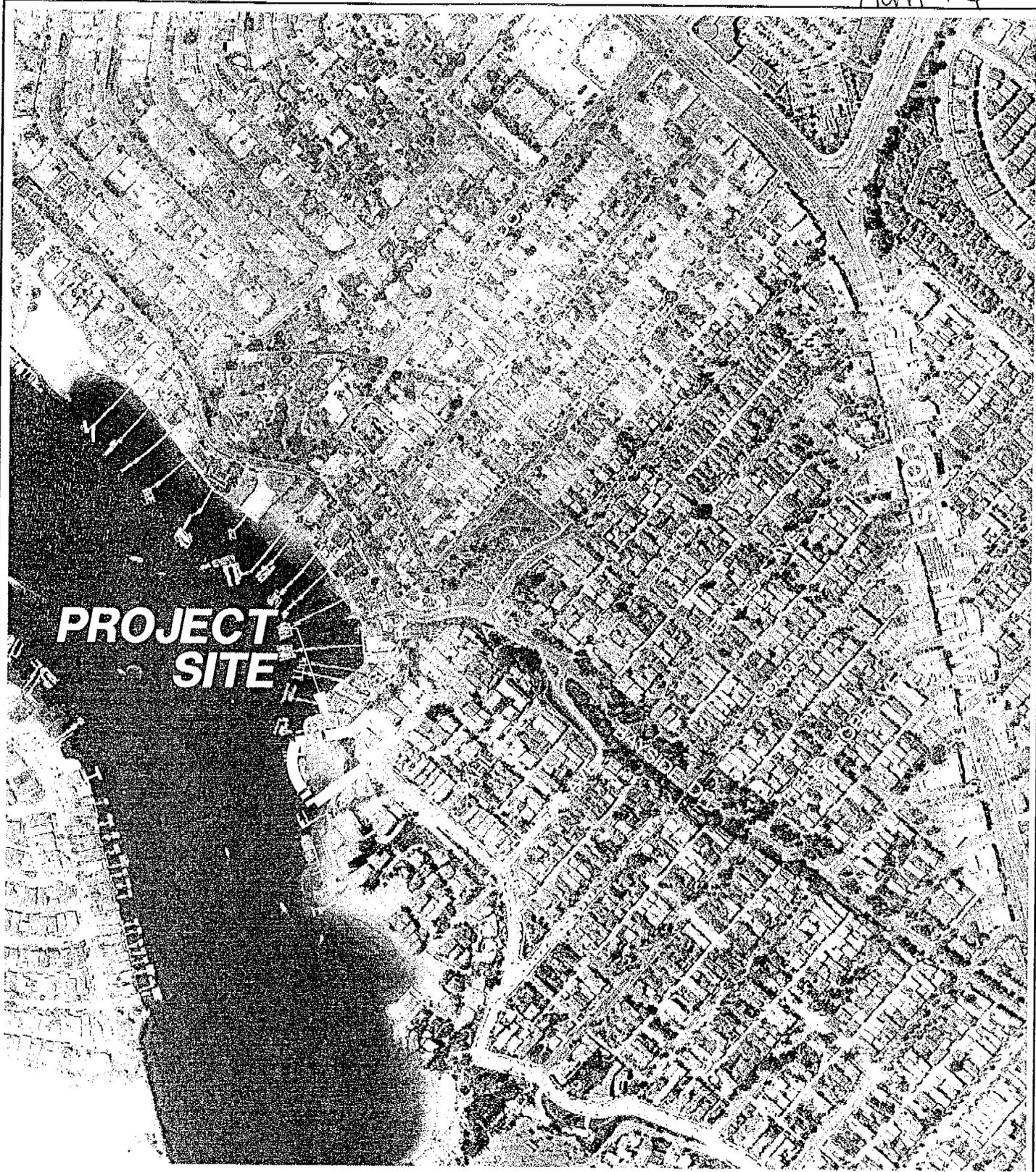
EXHIBIT # 1
 PAGE 1 OF 3

SEE 889 MAP

ORANG (C)

SEE 918 MAP

Item #40



PROJECT SITE

Location Map

AERIE
201-207 CARNATION AVENUE
CORONA DEL MAR, CALIFORNIA

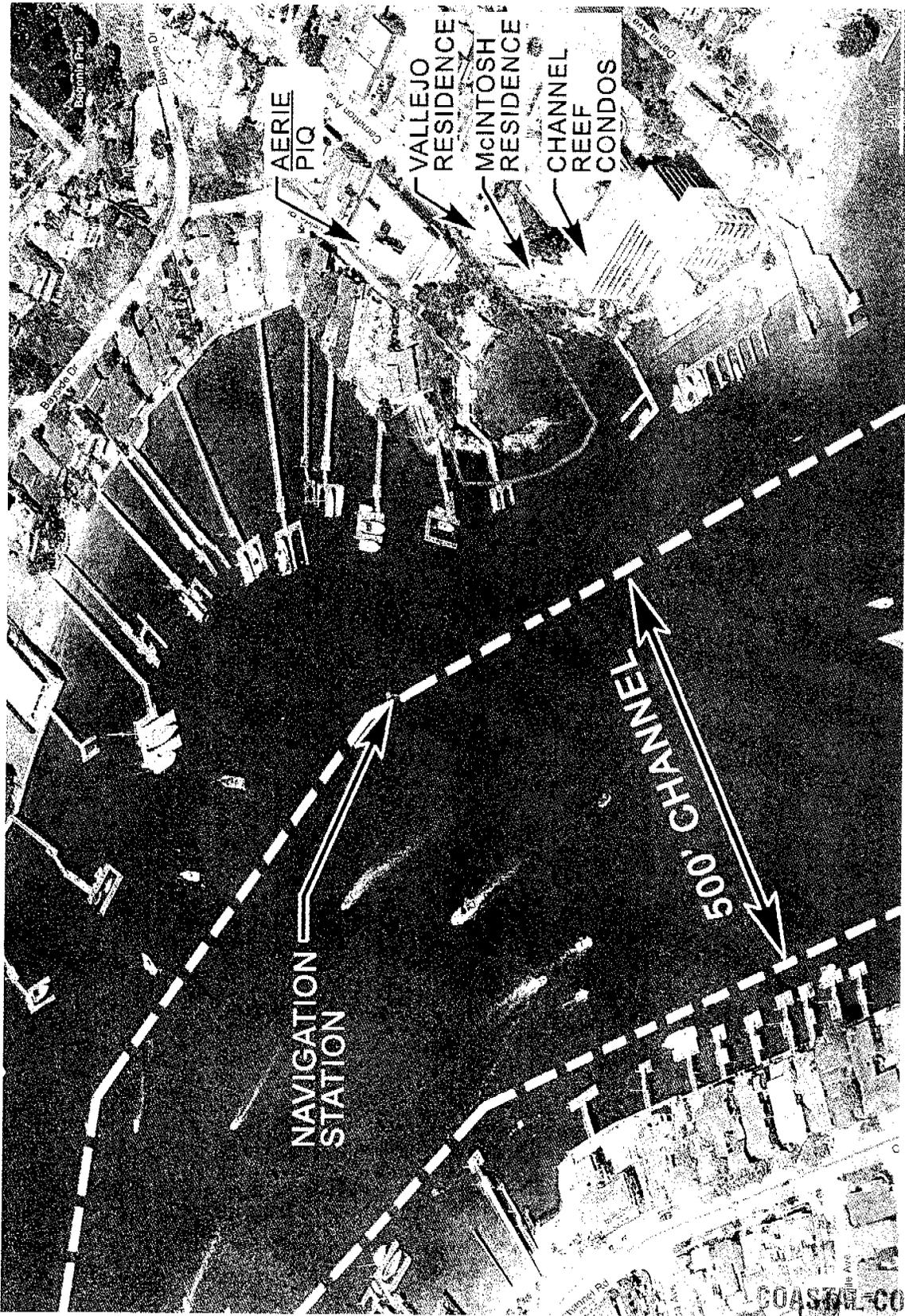
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Advanced Real Estate Services, Inc.
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EXHIBIT # 1
PAGE 2 OF 3

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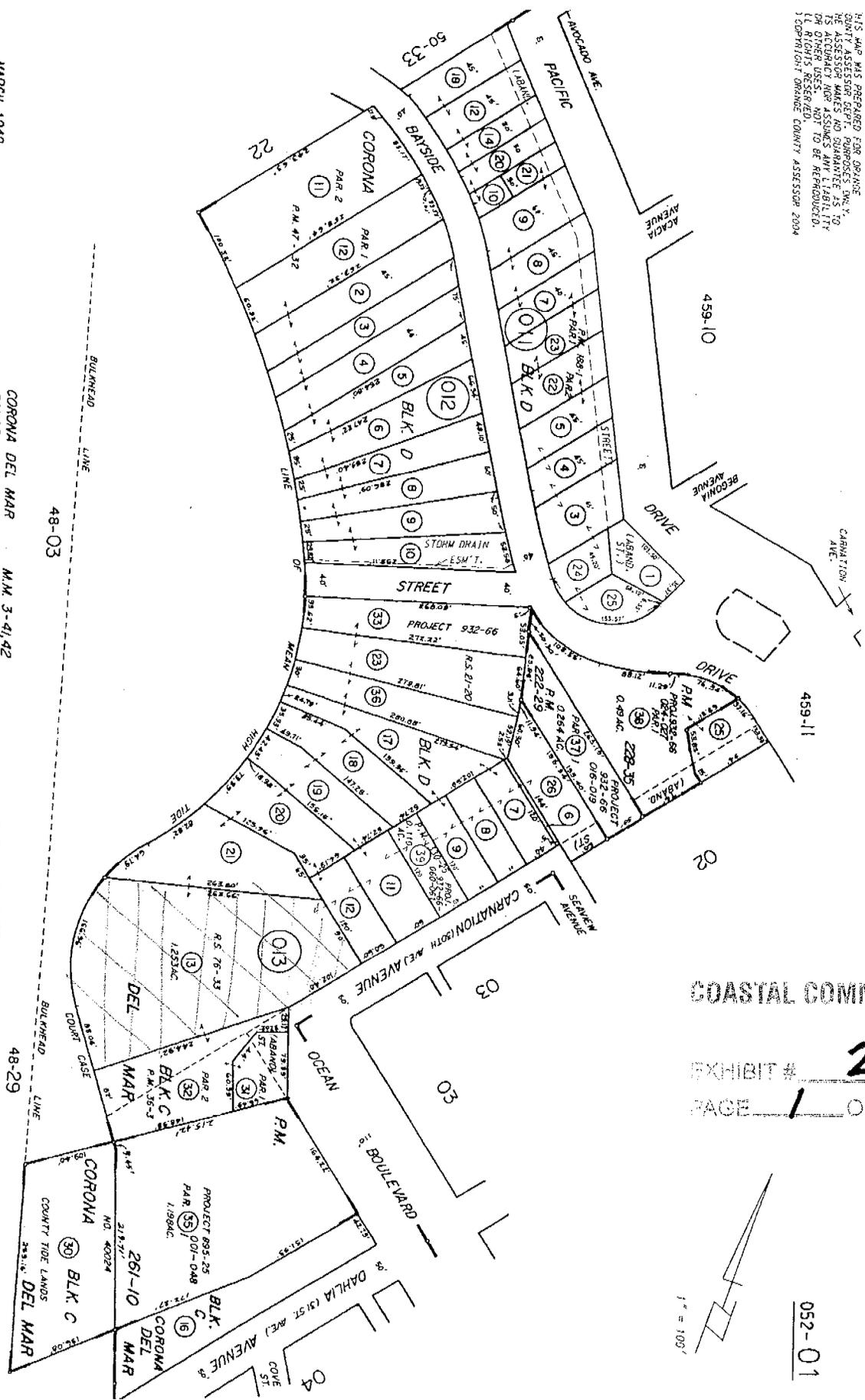
AERIE PROJECT SITE

COASTAL COMMISSION

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MARCH 1949
 CORONA DEL MAR
 PARCEL MAP
 PARCEL MAP
 PARCEL MAP
 M.M. 3-41-42
 P.M. 36-3
 P.M. 47-32, 188-1
 P.M. 222-29, 228-35, 261-10

NOTE - ASSESSOR'S BLOCK & PARCEL NUMBERS SHOWN IN CIRCLES
 ASSESSOR'S MAP BOOK 052 PAGE 01
 COUNTY OF ORANGE



COASTAL COMMISSION

EXHIBIT # 2
 PAGE 1 OF 1

052-01

TOPOGRAPHIC SURVEY
 W.O. NO. 751-5 DATE OF EXHIBIT: MAY, 2007

COASTAL COMMISSION

EXHIBIT # 3
 PAGE 1 OF 2

PREPARED FOR:



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 FAX 949-955-9901

PREPARED BY:

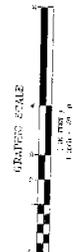


HUNSAKER & ASSOCIATES
 A R E S
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 CONSULTANTS
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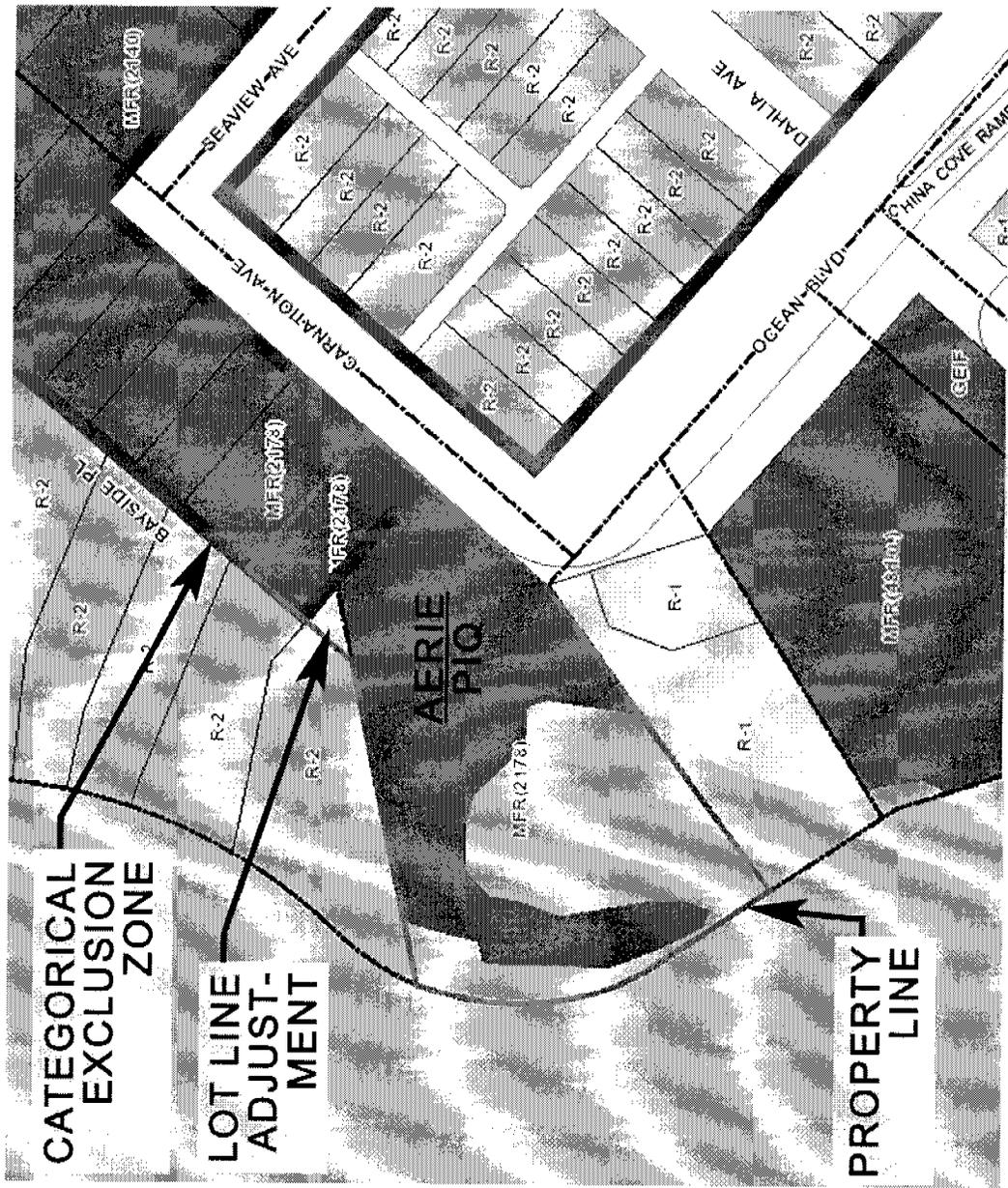


BENCHMARK DESCRIPTION:
 3K-26A-65

UEN: 49335 DATUM: NAVD83 YEAR LEVEL: 1994
 BENCH: CORNER OF S. CAROLINE ST. ALONG AN INTERIOR WALL AT THE INTERSECTION
 OF "MESSER NEW BRK" AND "SEA" ARE



DATE:	05/01/07
DATE REVISION:	05/01/07
DATE PLOTTED:	05/01/07



CATEGORICAL
EXCLUSION
ZONE

LOT LINE
ADJUST-
MENT

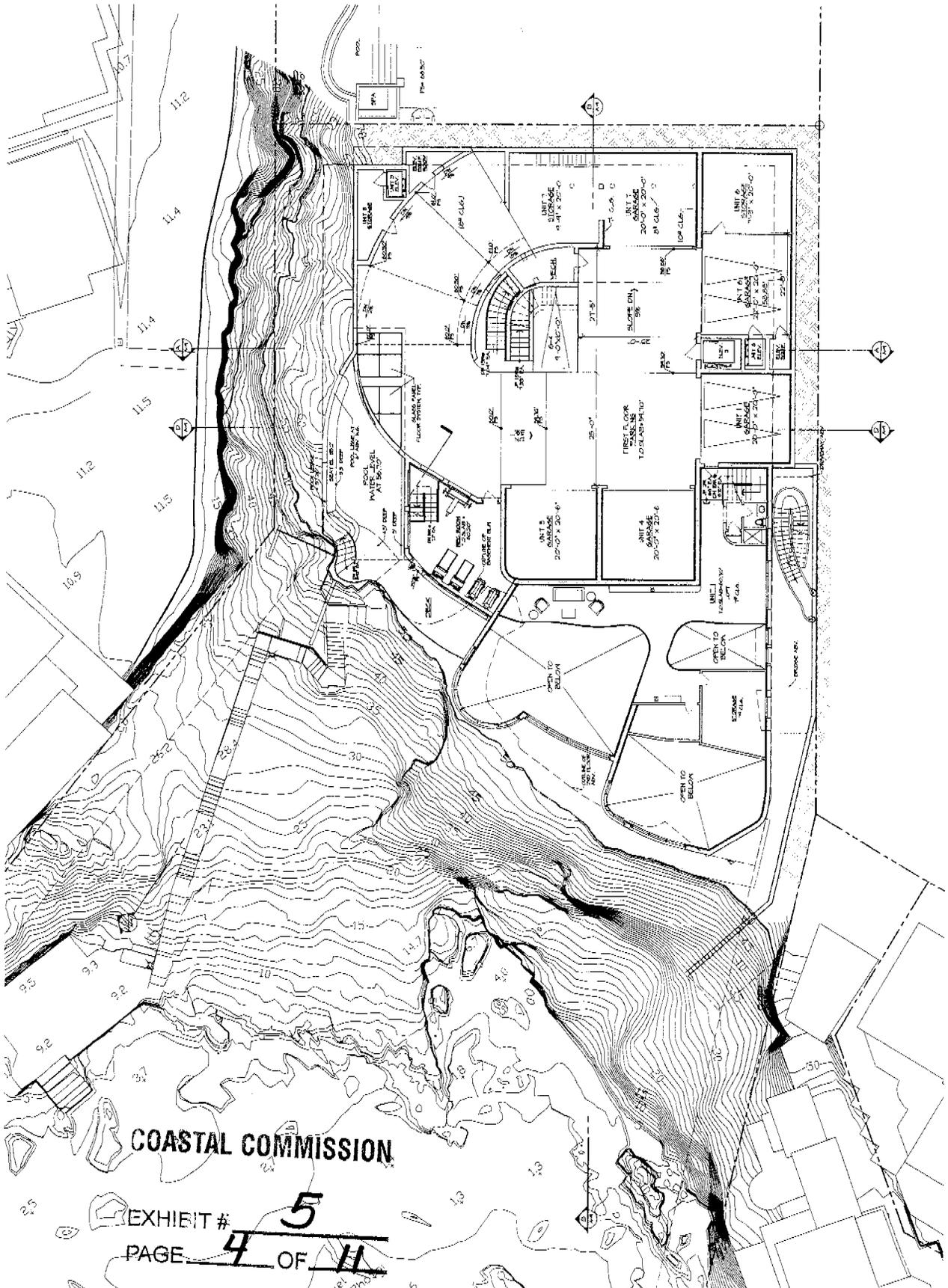
PROPERTY
LINE

CATEGORICAL EXCLUSION ZONE/ ZONING MAP/ LOT LINE ADJUSTMENT

COASTAL COMMISSION

EXHIBIT # 4
PAGE 1 OF 1

DATE	11/11/11
PROJECT NO.	11-11-11
CLIENT	ARIE
ARCHITECT	RION JEANNETTE ARCHITECTURE
SCALE	AS SHOWN
DATE	11/11/11



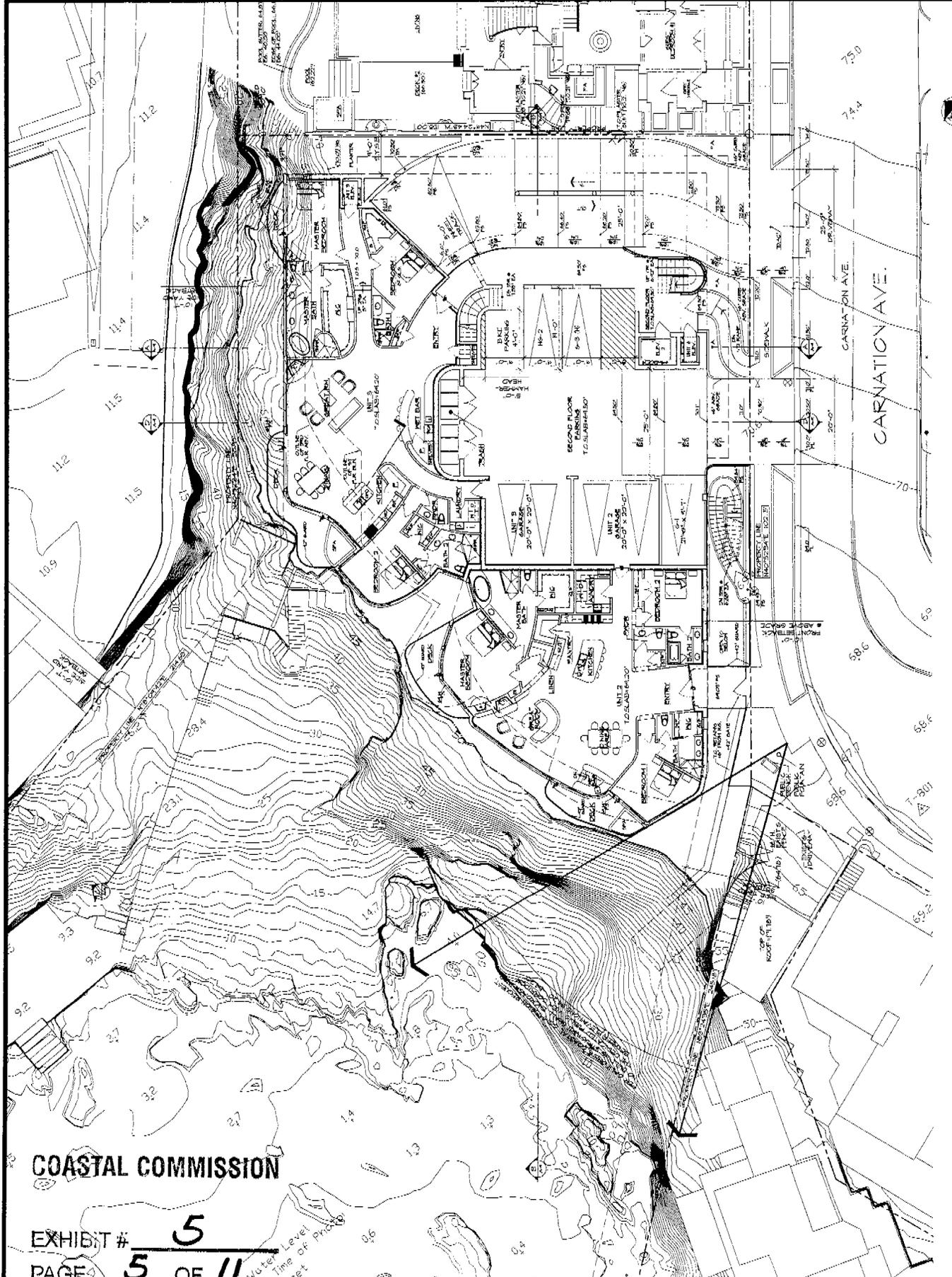
SCALE: 1/8" = 1'-0"

FIRST FLOOR PLAN

COASTAL COMMISSION

EXHIBIT # 5
PAGE 4 OF 11

Client:	AFRIE
Architect:	Bron Jeannette Architecture
Revision:	
Scale:	
Date:	



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

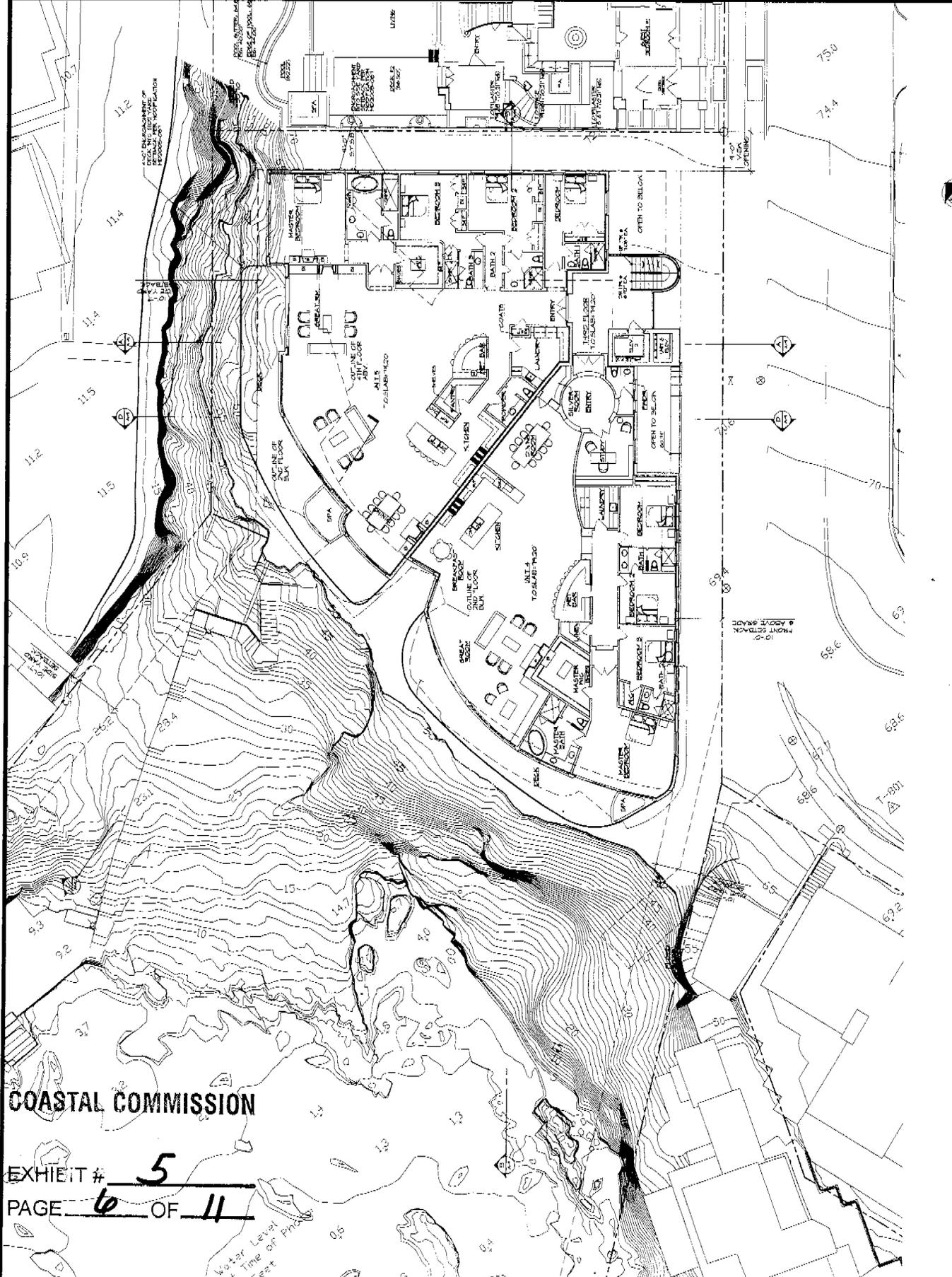
SECOND FLOOR PLAN

COASTAL COMMISSION

EXHIBIT # **5**
PAGE **5** OF **11**

Water Level
Time of Photo

DATE:	10/11/10
BY:	BRON JEANETTE ARCHITECTS
PROJECT:	201 - 207 CARNATION AVE
LOCATION:	CORONA DEL MAR, CA
DATE:	10/11/10
BY:	BRON JEANETTE ARCHITECTS
PROJECT:	201 - 207 CARNATION AVE
LOCATION:	CORONA DEL MAR, CA



ARRIE
201 - 207 CARNATION AVE
CORONA DEL MAR, CA

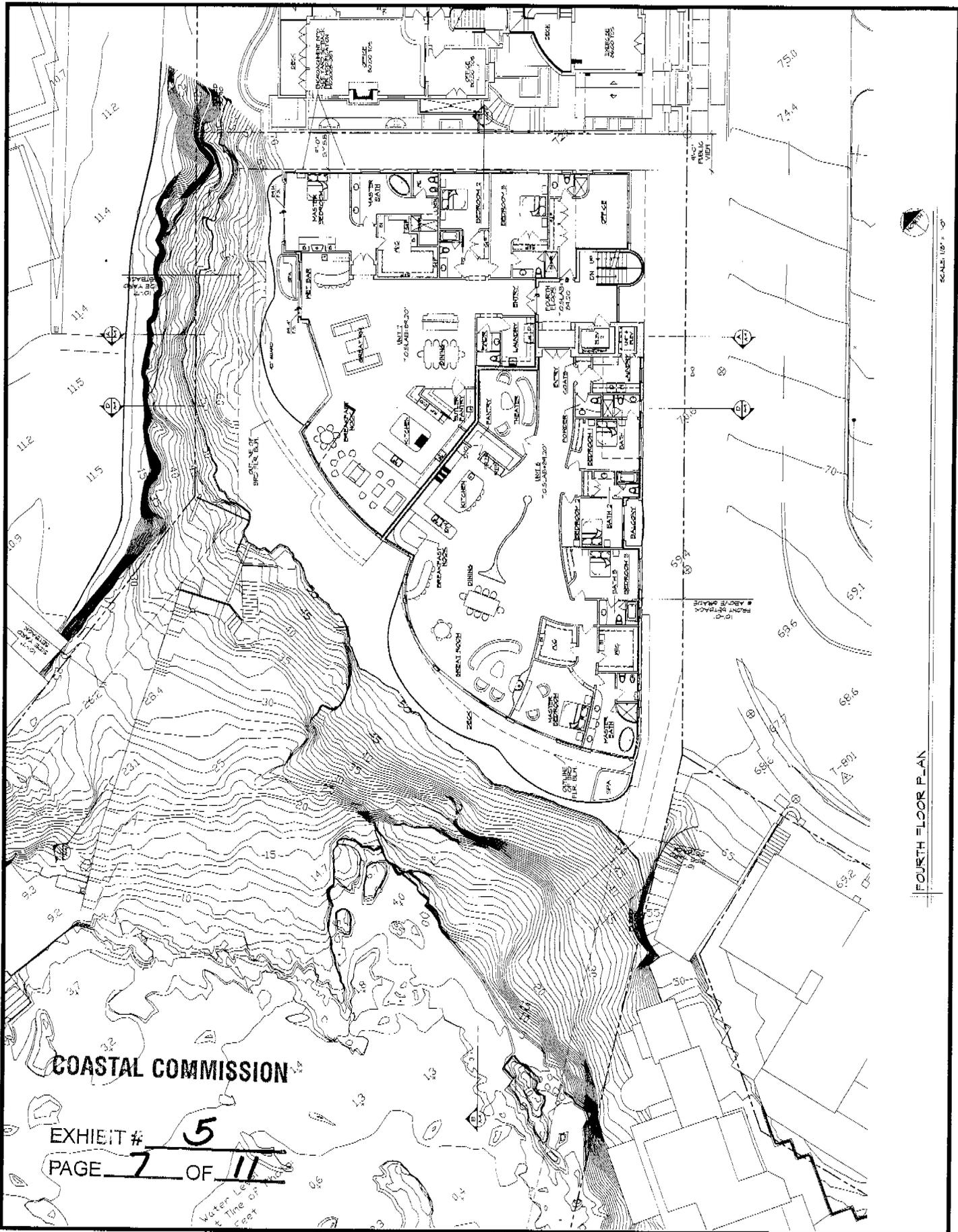
Bron Jeannotte Architecture

FLOOR PLAN

DATE	DESCRIPTION
10/15/11	REVISED



A-6



COASTAL COMMISSION

EXHIBIT # 5
PAGE 7 OF 11

FOURTH FLOOR PLAN

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

COASTAL COMMISSION

EXHIBIT # 5
PAGE 10 OF 11

APR 2017
CORONA DEL MAR, CA
201-207-0441

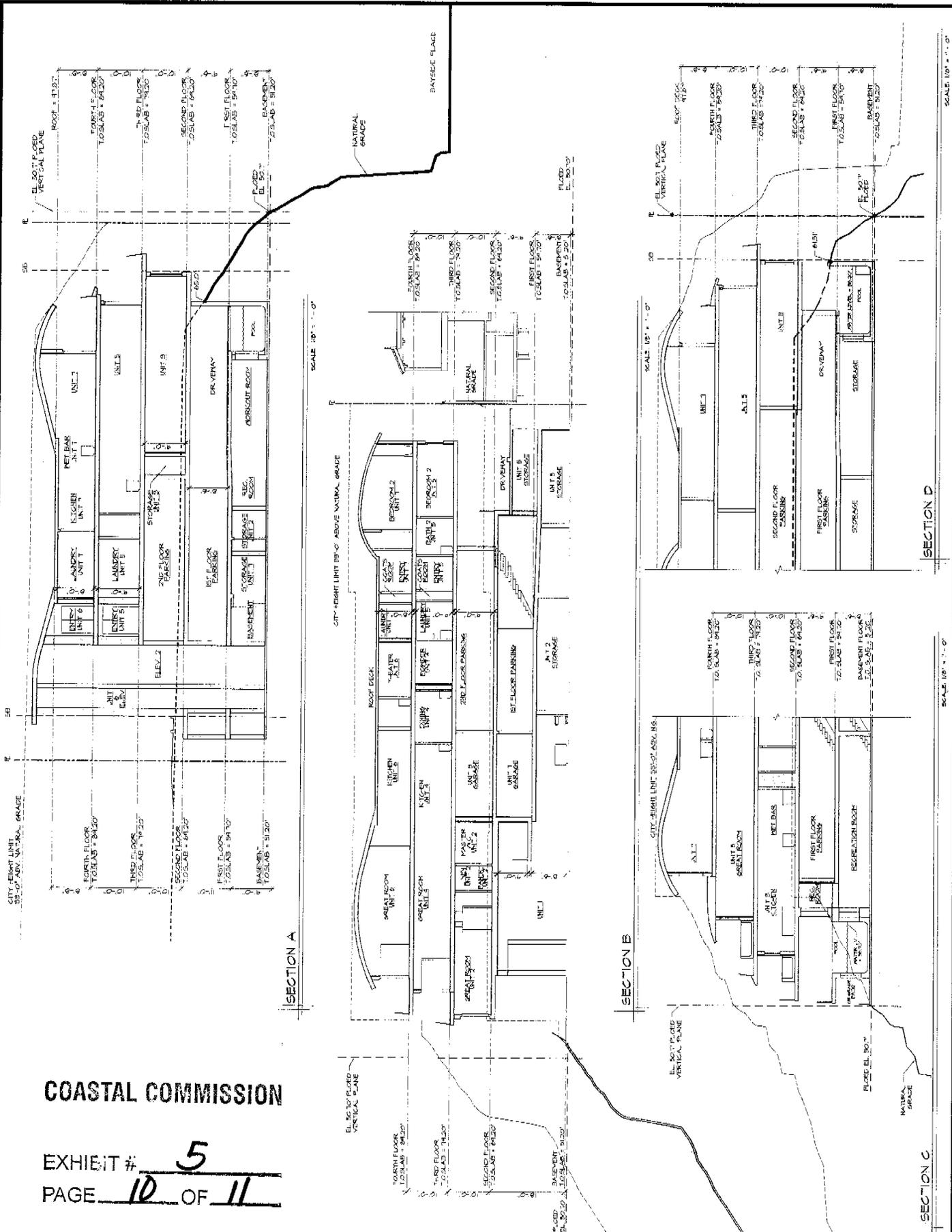
From Jeannette Architectural

BUILDING SECTIONS

Drawn	Reviewed
Checked	Approved
Scale	Use No.



A-10



SECTION A

SECTION B

SECTION C

SECTION D

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

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

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

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

ARIE
201 - 207 CARNATION AVE
CORONA DEL MAR, CA

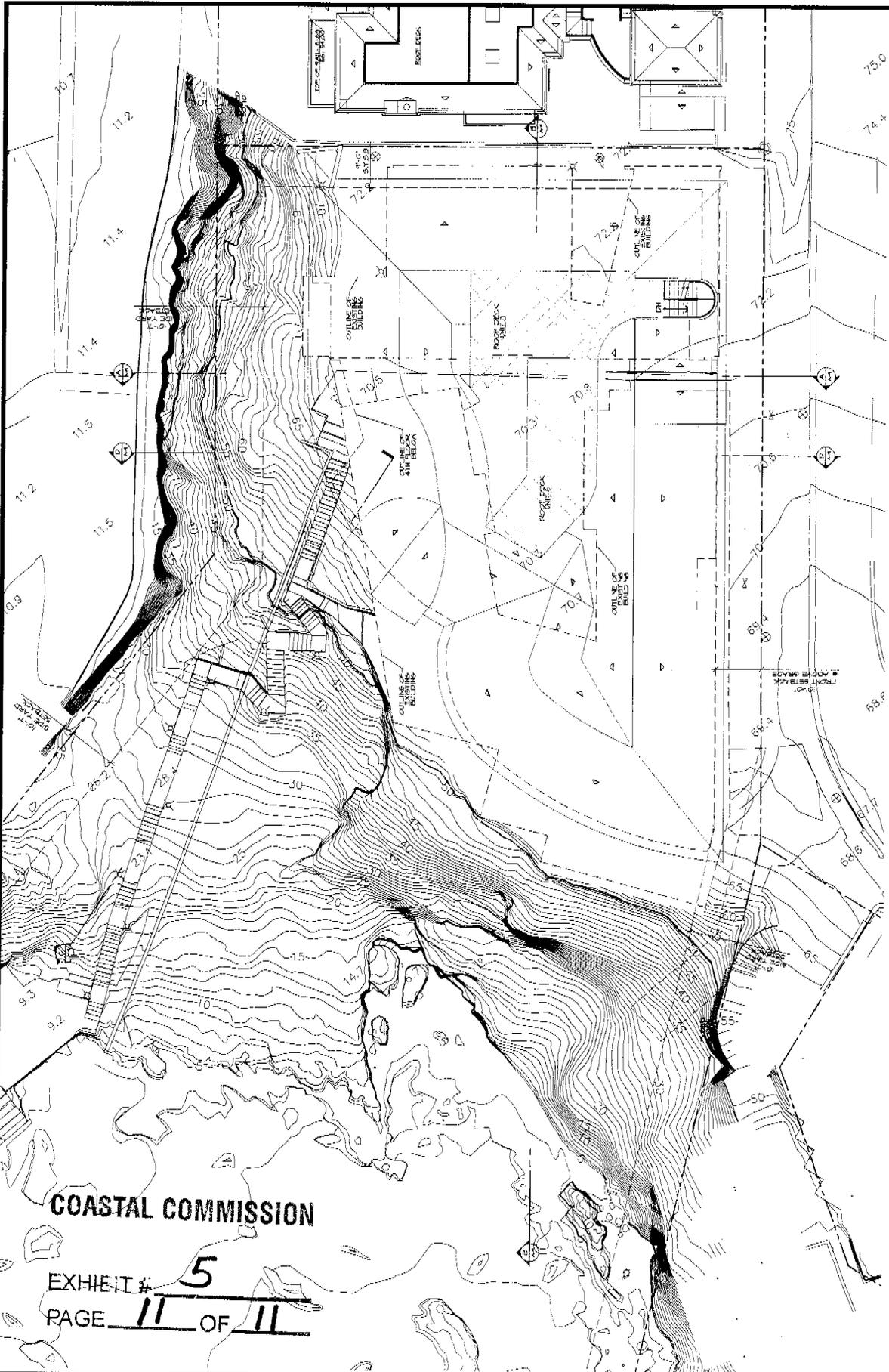
Bron Jeannotte Architecture

ROOF
PLAN

DATE	10/10/07
PROJECT	201 - 207 CARNATION AVE
REVISION	1
SCALE	AS SHOWN
DATE	10/10/07



A-10

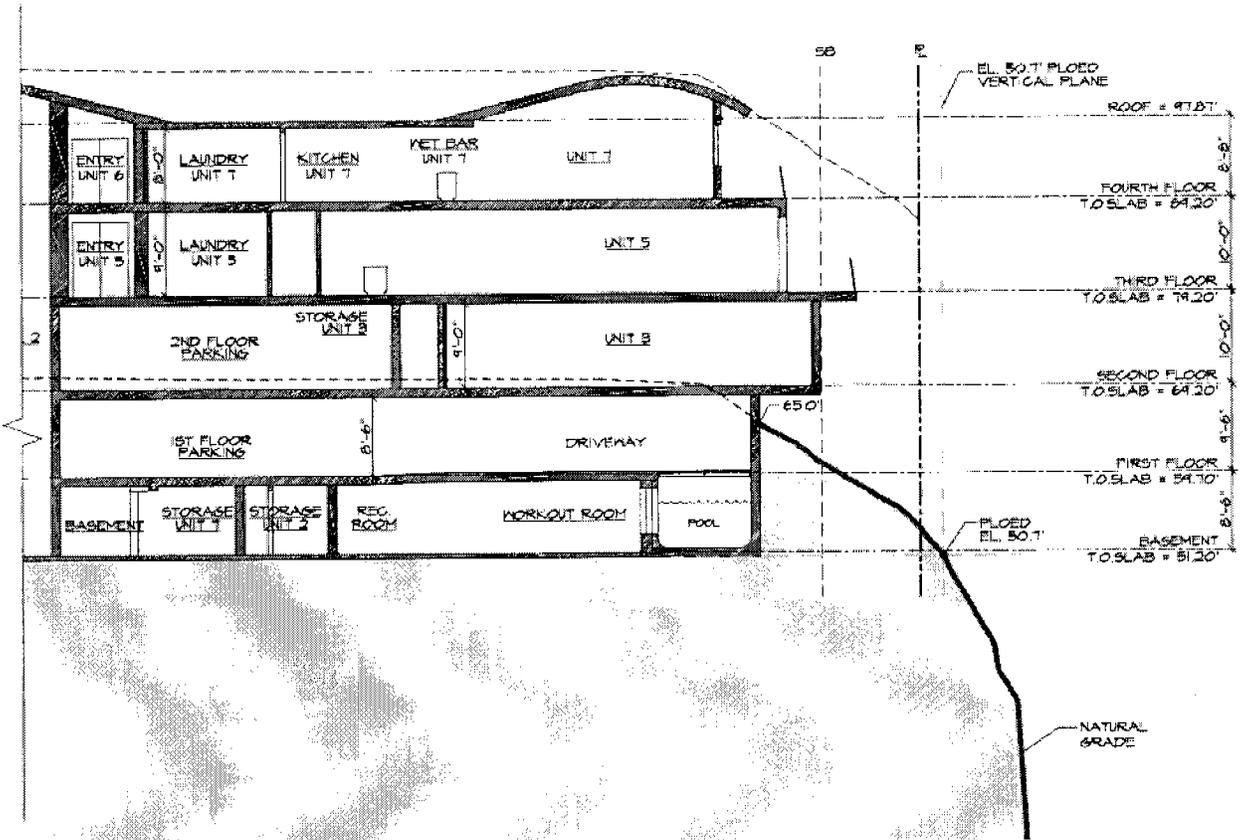


SCALE 1/8" = 1'-0"

ROOF PLAN

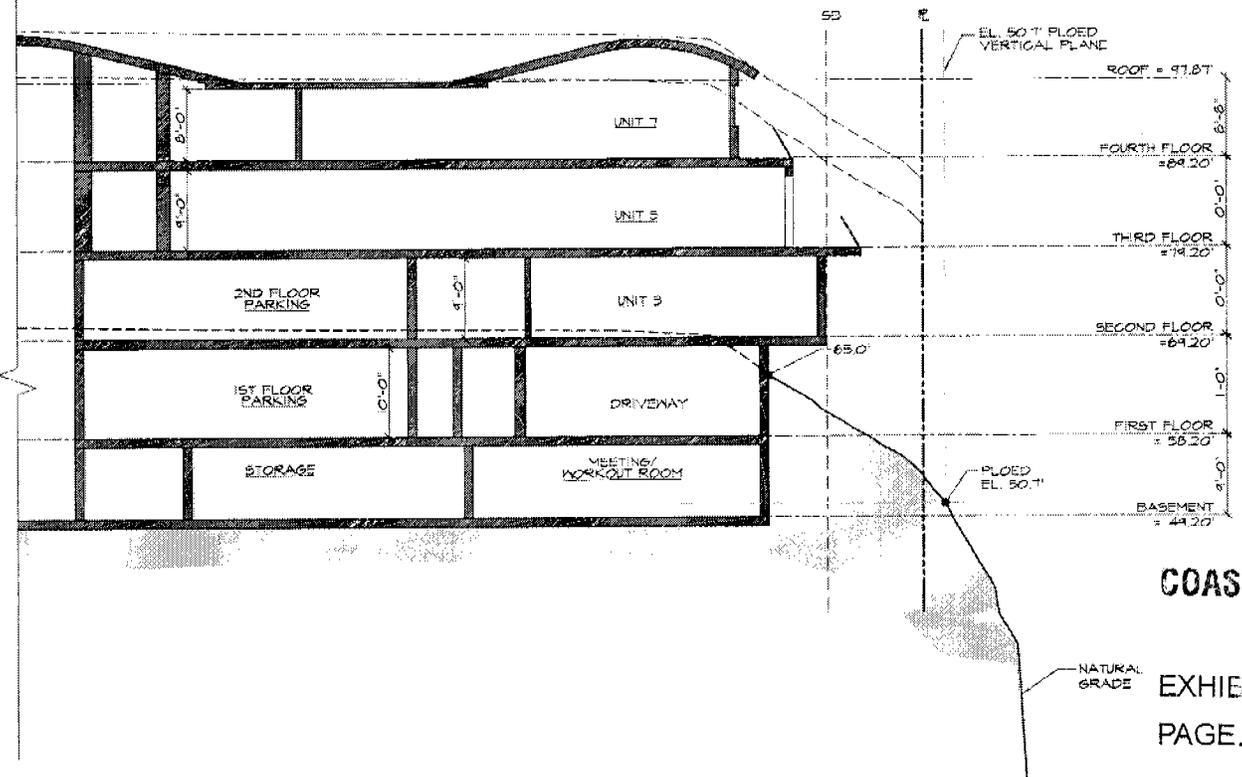
COASTAL COMMISSION

EXHIBIT # 5
PAGE 11 OF 11



REVISED 7 UNIT PROJECT (4.18.2011) - SECTION A

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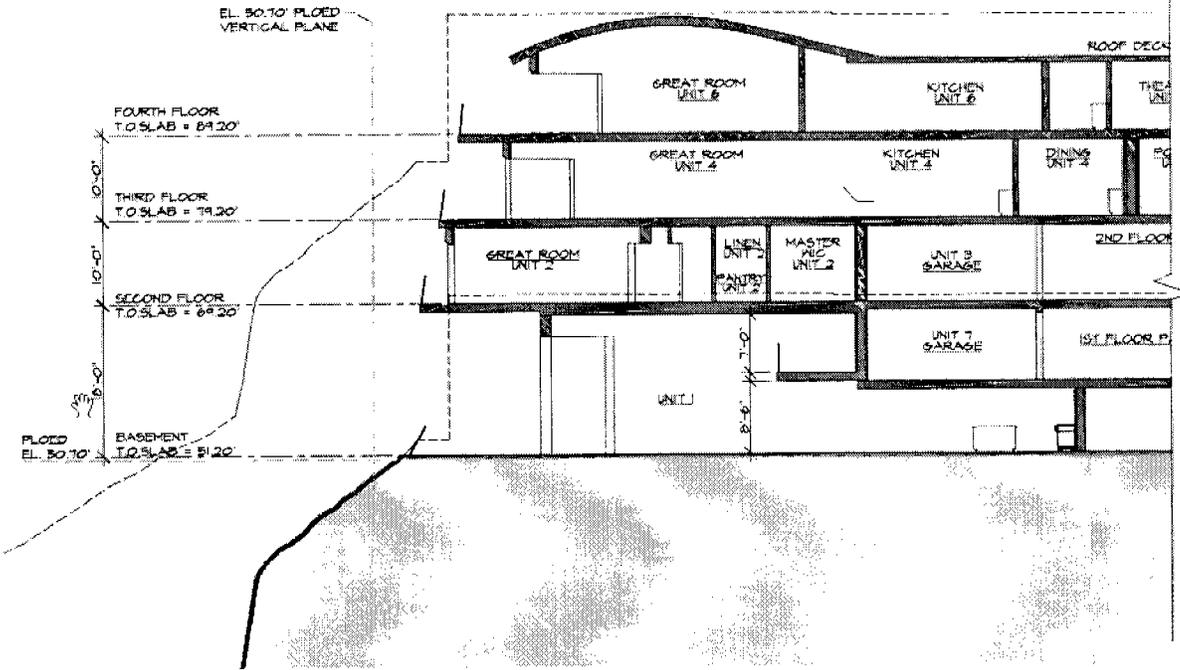


COASTAL COMMISSION

EXHIBIT # 6
PAGE 1 OF 4

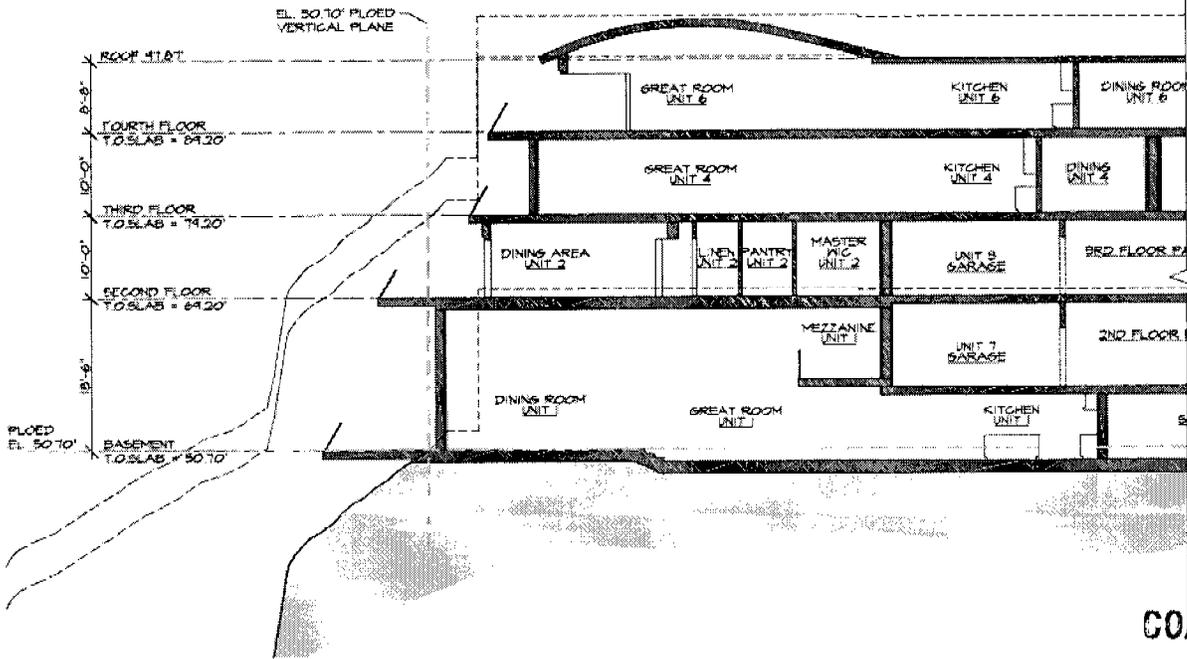
PRESENTED AT MARCH 2011 CCC HEARING - SECTION A

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



REVISED 7 UNIT PROJECT (4.18.2011) - SECTION B

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

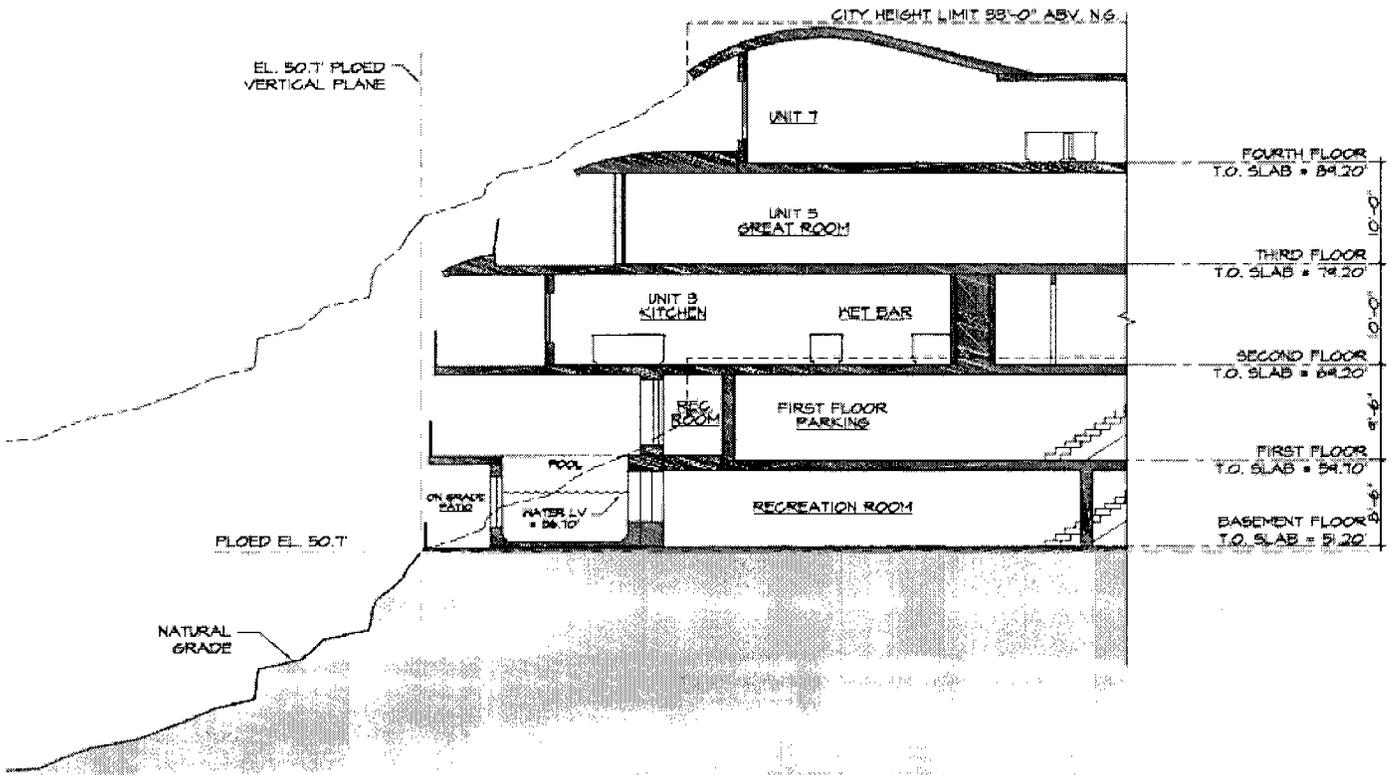


COASTAL COMMISSION

EXHIBIT # 6
PAGE 2 OF 4

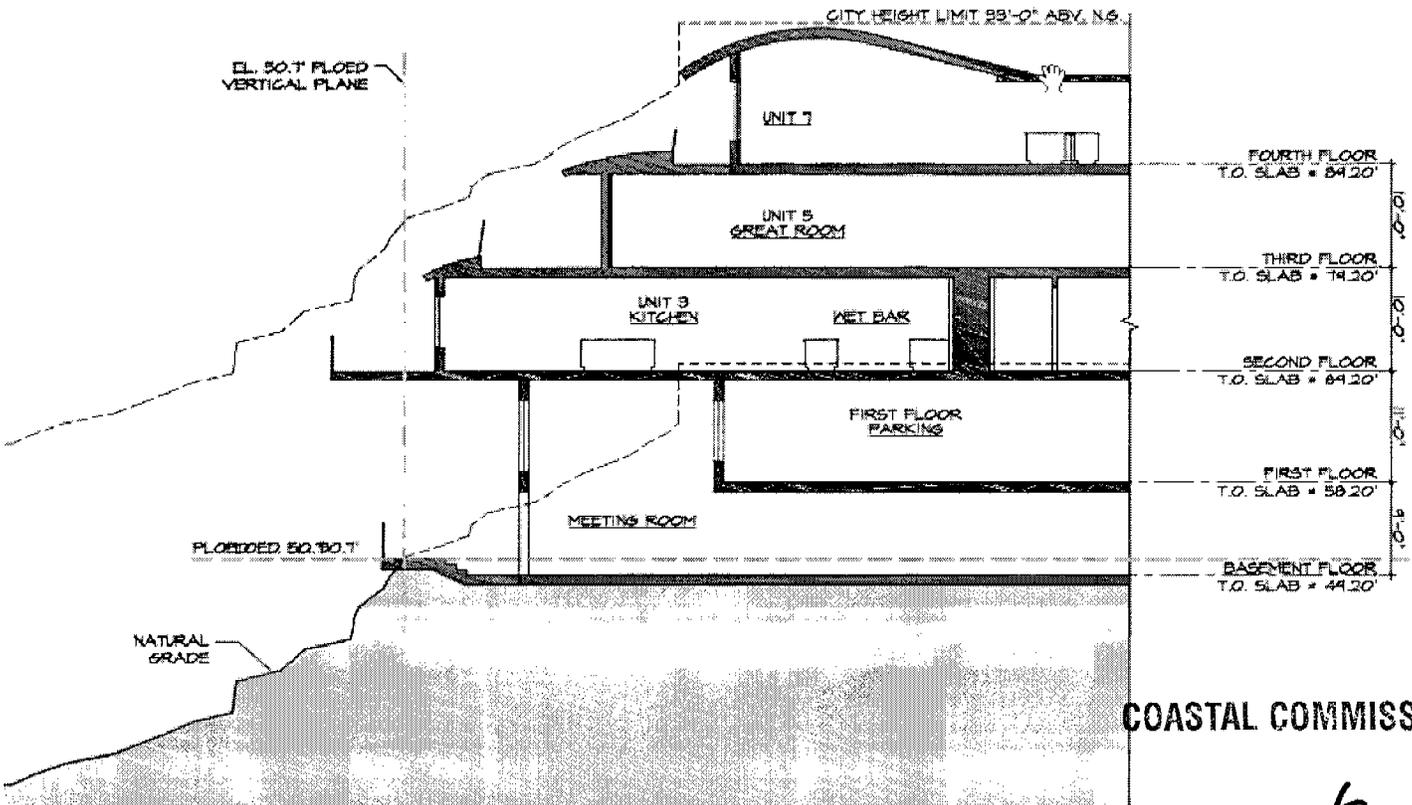
PRESENTED AT MARCH 2011 CCC HEARING - SECTION B

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



REVISED 7 UNIT PROJECT (4.18.2011) - SECTION C

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

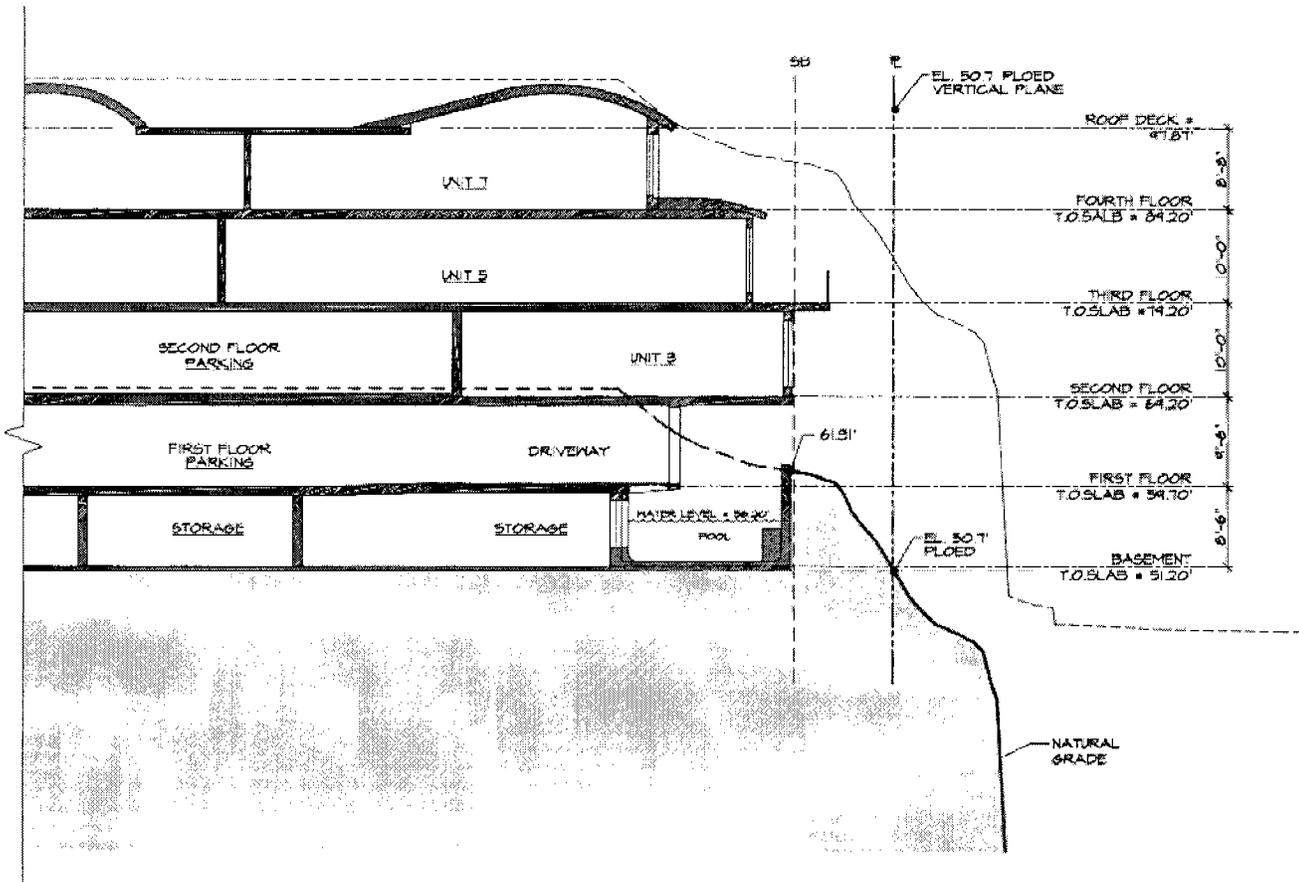


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EXHIBIT # 6
PAGE 3 OF 4

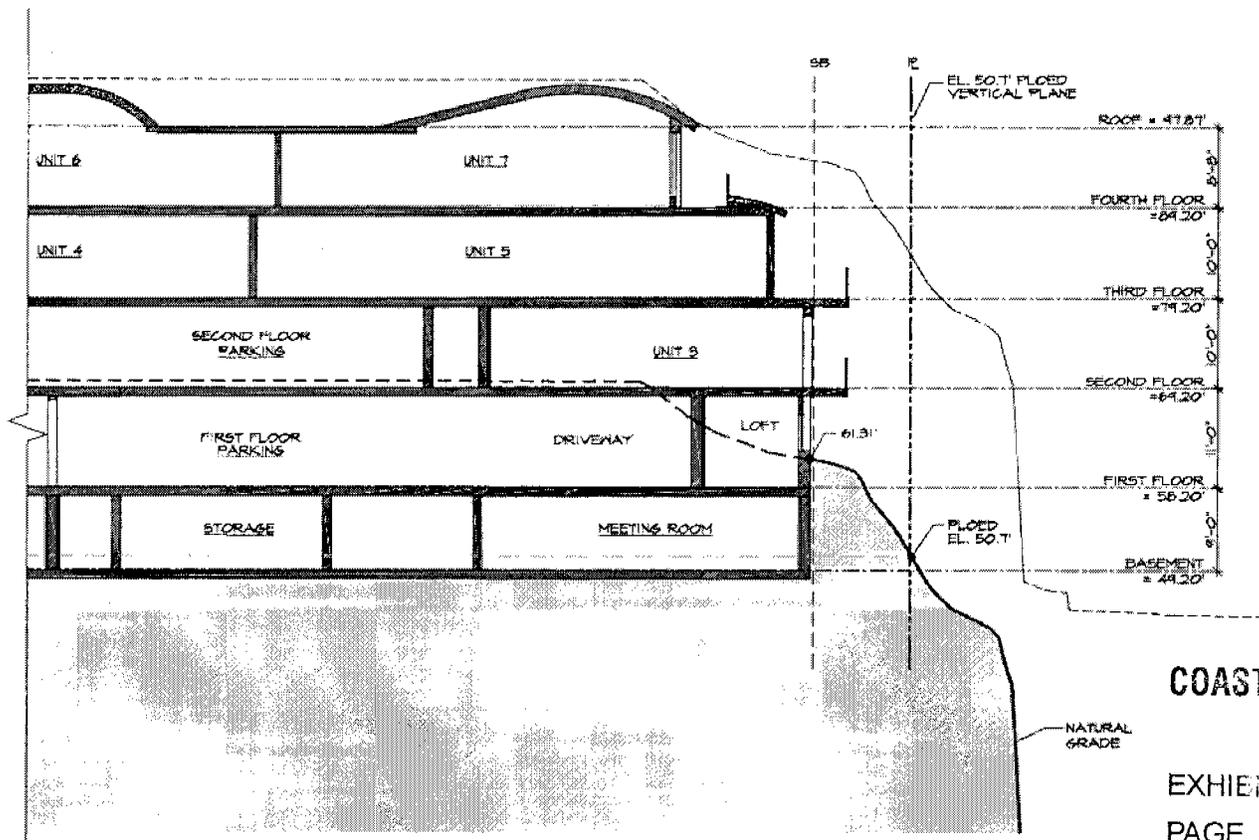
PRESENTED AT MARCH 2011 CCC HEARING - SECTION C

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



REVISED 7 UNIT PROJECT (4.18.2011) - SECTION D

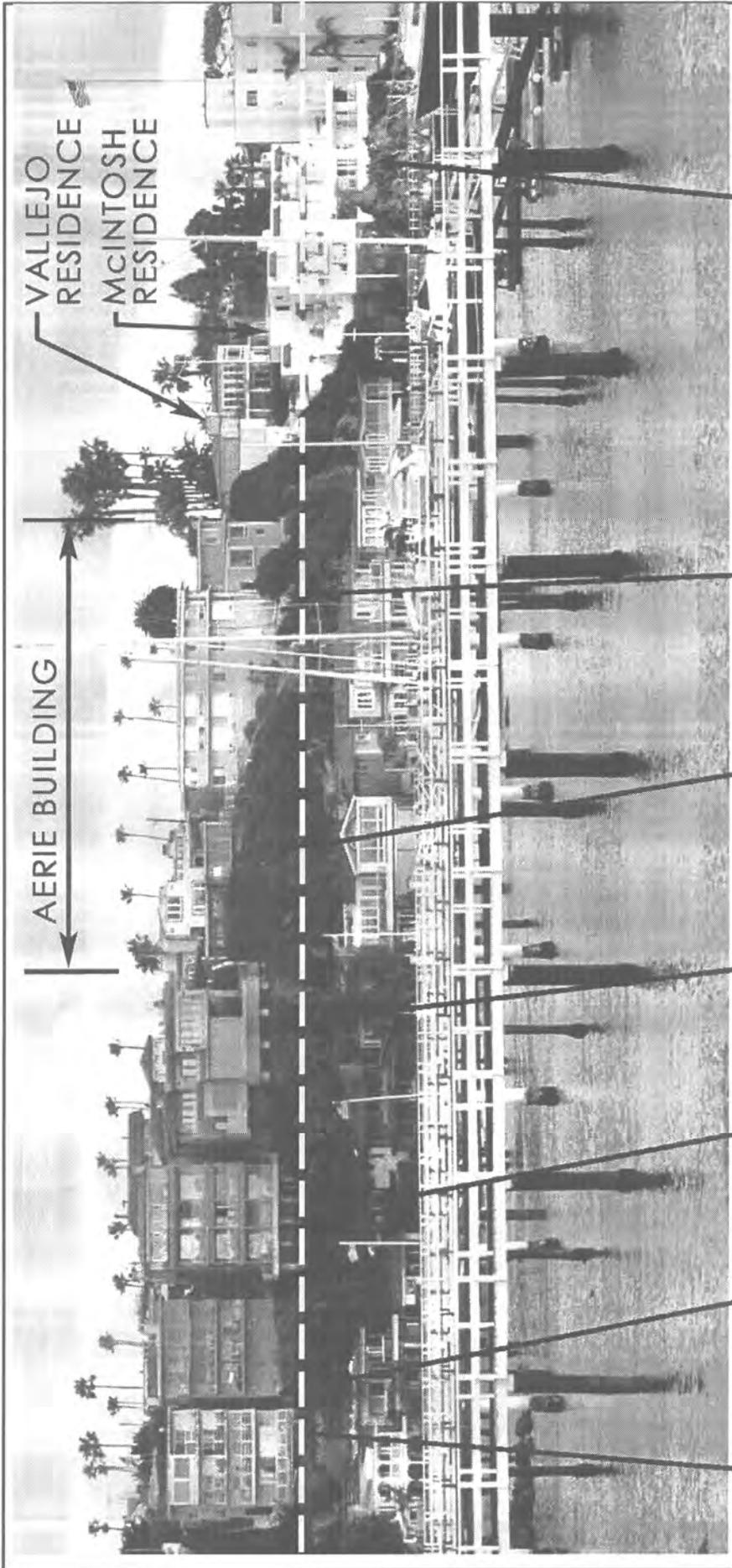
SCALE: 1/8" = 1' - 0"



COASTAL COMMISSION

EXHIBIT # 6
PAGE 4 OF 4

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



AERIE BUILDING

VALLEJO RESIDENCE
MCINTOSH RESIDENCE

24.1 feet

42.3 feet

65 feet approx.

57.8 feet

48.1 feet

58.2 feet

50.7 feet

Median elevation of the seven structures is 50.7 feet MSL.

CITY OF NEWPORT BEACH DEFINITION OF FLOED



COASTAL COMMISSION

7
2 OF 3

EXISTING SITE



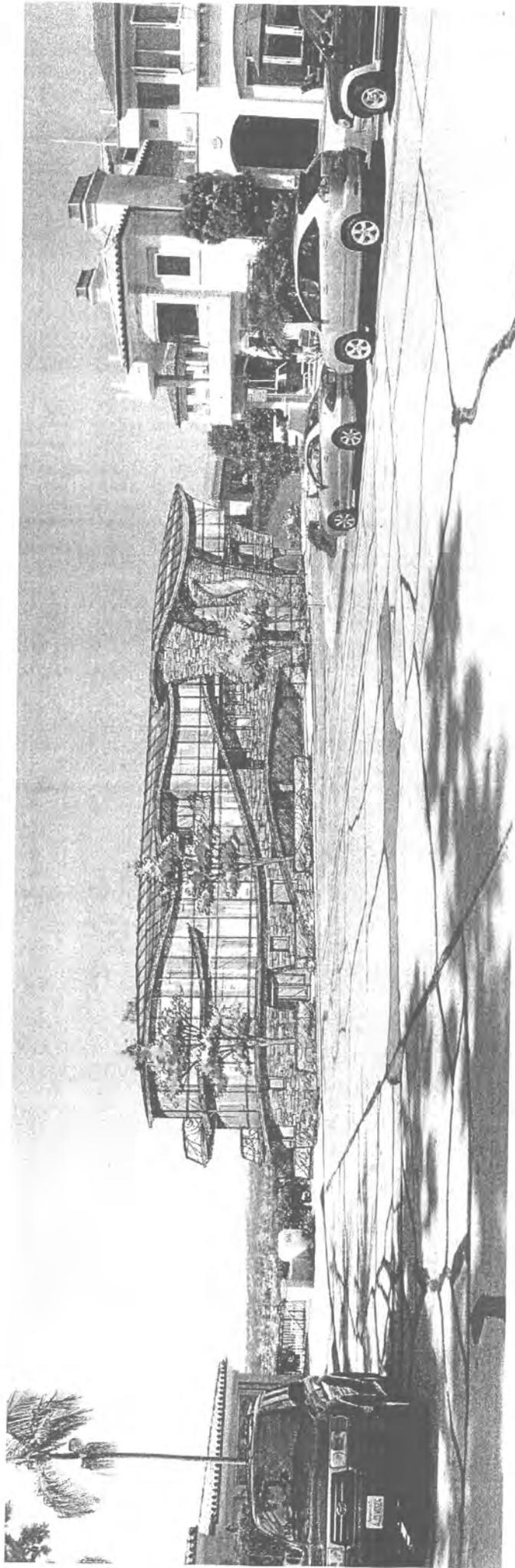
COASTAL COMMISSION

EXHIBIT # 7
 PAGE 3 OF 3

**MCINTOSH RESIDENCE CDP# 5-82-365
 COMPLETED 8-25-1987**



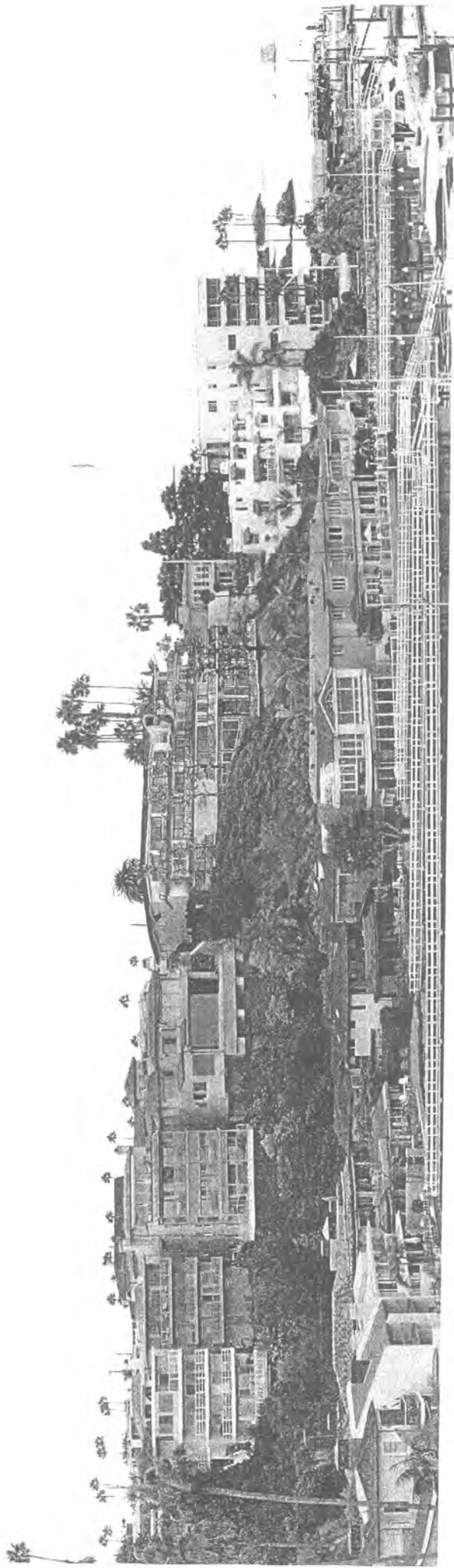
TODAY'S VIEW 2010



COASTAL COMMISSION

EXHIBIT # 8

PAGE 2 OF 3



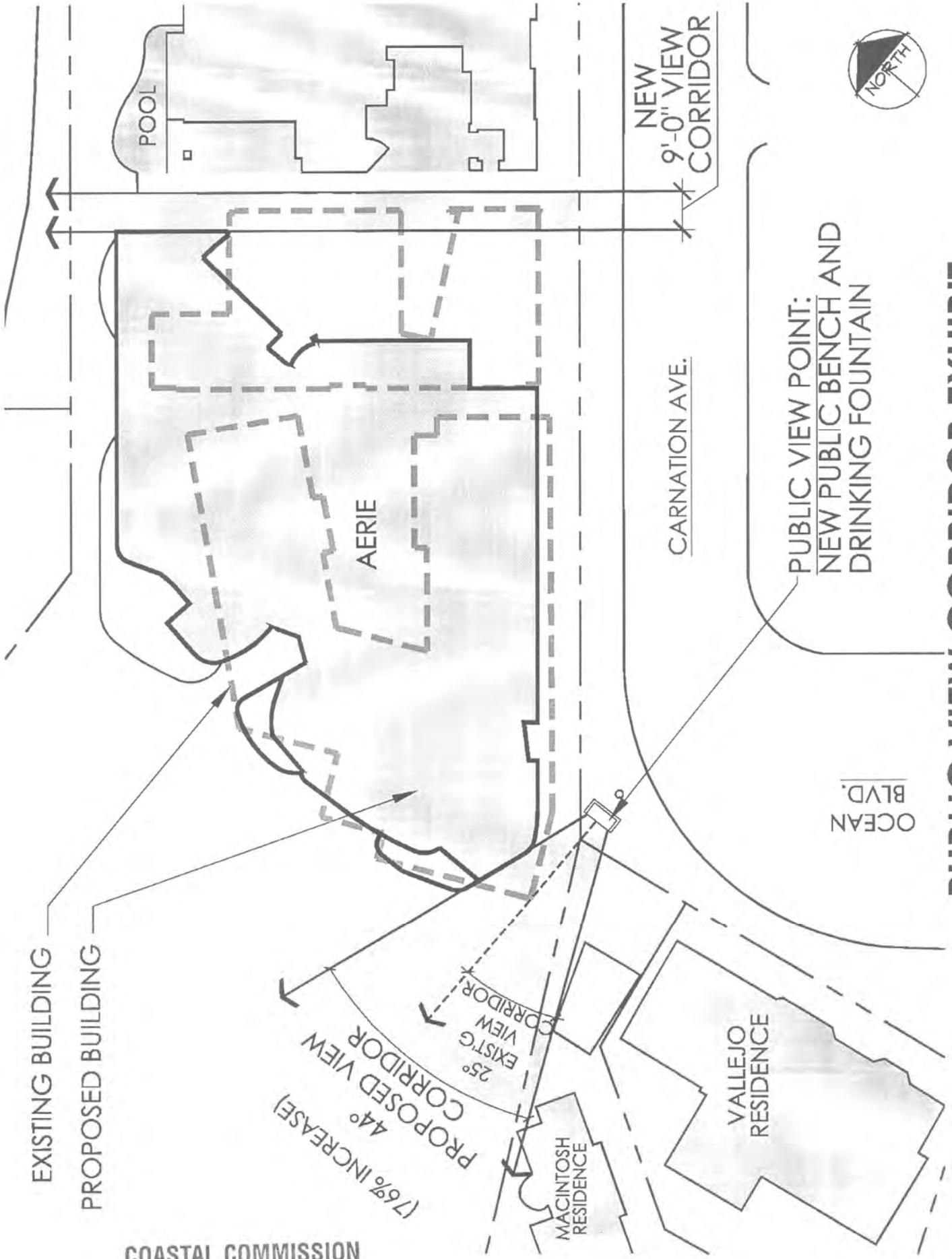
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EXHIBIT # 8
PAGE 3 OF 3

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South Coast Region

FEB 22 2011

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COASTAL COMMISSION



EXISTING BUILDING
PROPOSED BUILDING

PROPOSED VIEW CORRIDOR
44°
(7.6% INCREASE)

EXIST'G VIEW CORRIDOR
25°

NEW 9'-0" VIEW CORRIDOR

CARNATION AVE.

OCEAN BLVD.

PUBLIC VIEW POINT:
NEW PUBLIC BENCH AND
DRINKING FOUNTAIN

VALLEJO
RESIDENCE

MACINTOSH
RESIDENCE

AERIE

POOL

PUBLIC VIEW CORRIDOR EXHIBIT

COASTAL COMMISSION

VICINITY MAP



SITE ADDRESS

207 CARWATER AVENUE
 207 CARWATER AVENUE
 CORONA DEL MAR, CA 92623

EARTHWORK QUANTITIES

CUM. 9,812 CY
 EXPOSED 9,812 CY

SHEET INDEX

SHEET 1
 SHEET 2
 SHEET 3



PROPERTY OWNER:
 ADVANCED GROUP 39-D
 22782 Rockfield Boulevard, Ste 100
 Irvine, CA 92630
 PHONE: (949) 595-5900
 FAX: (949) 595-5901

PREPARED FOR:

DEVELOPER:

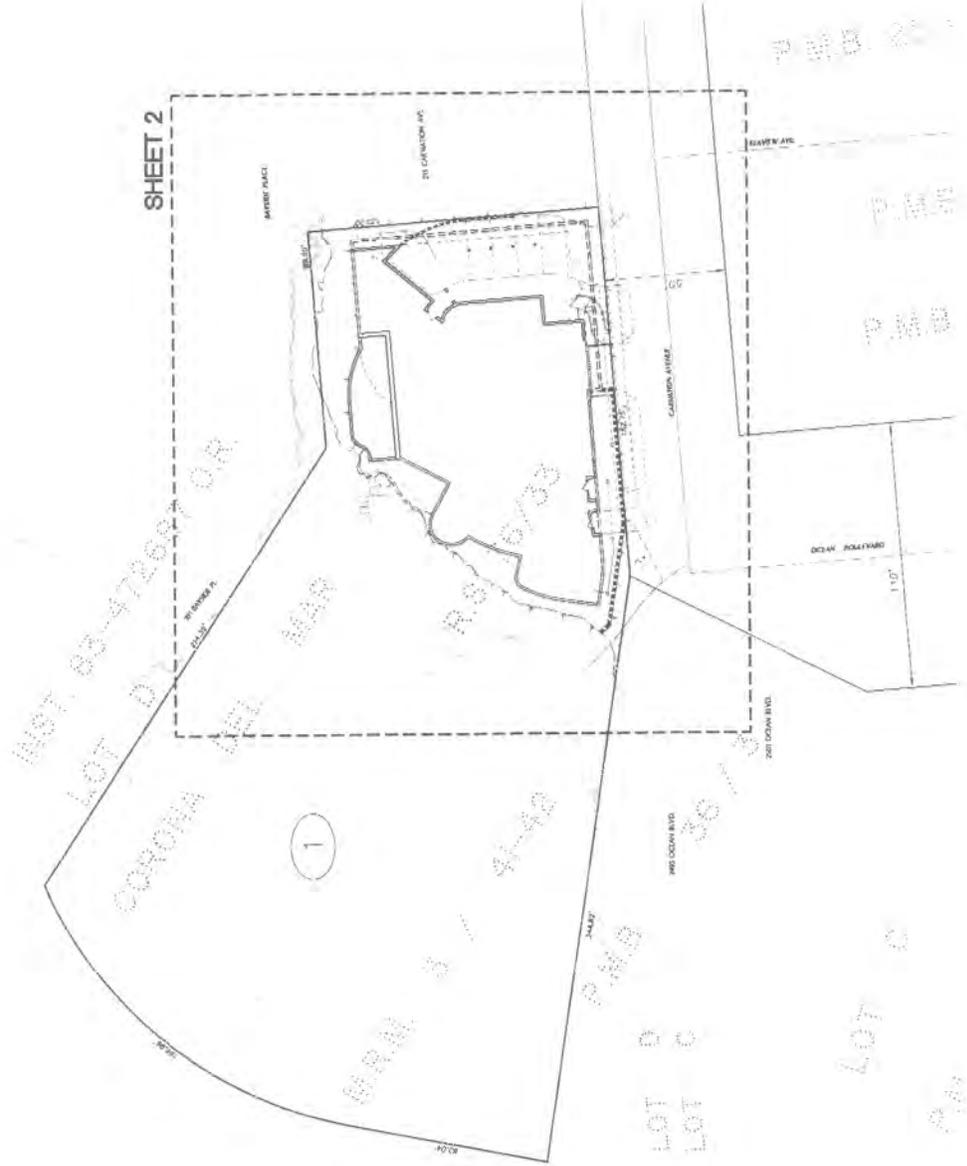


REGISTERED ARCHITECTS
 13311 S. ALHAMBRA
 IRVINE, CA 92618
 PHONE: (949) 453-1111
 FAX: (949) 453-1111



2070 N. CARWATER AVENUE
 CORONA DEL MAR, CA 92623
 PHONE: (949) 595-5900
 FAX: (949) 595-5901

CONCEPTUAL
 GRADING PLAN
 TTM NO. 16882



COASTAL COMMISSION

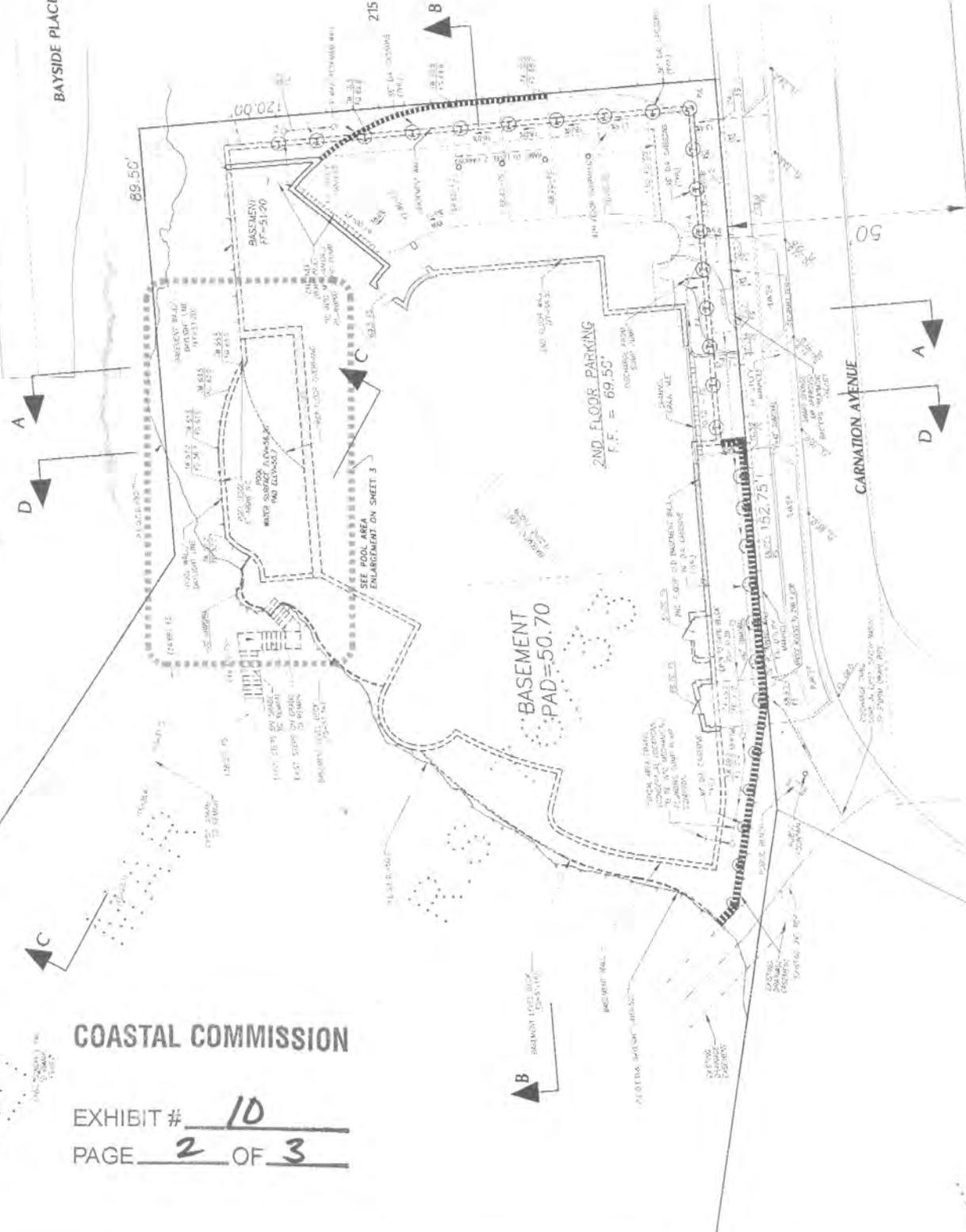
EXHIBIT # 10
 PAGE 1 OF 3



BAYSIDE PLACE

215 CARNATION AVE

CARNATION AVENUE



LEGEND

- ① IMPROVED PAVEMENT (CONCRETE) WITH FINISH
- ② ASPHALT DRIVEWAY
- ③ ASPHALT DRIVEWAY WITH FINISH
- ④ ASPHALT DRIVEWAY WITH FINISH AND CURB
- ⑤ ASPHALT DRIVEWAY WITH FINISH AND CURB AND SIDEWALK
- ⑥ ASPHALT DRIVEWAY WITH FINISH AND CURB AND SIDEWALK AND BIKEWAY
- ⑦ ASPHALT DRIVEWAY WITH FINISH AND CURB AND SIDEWALK AND BIKEWAY AND LANDSCAPE
- ⑧ ASPHALT DRIVEWAY WITH FINISH AND CURB AND SIDEWALK AND BIKEWAY AND LANDSCAPE AND LIGHTING
- ⑨ ASPHALT DRIVEWAY WITH FINISH AND CURB AND SIDEWALK AND BIKEWAY AND LANDSCAPE AND LIGHTING AND SIGNAGE
- ⑩ ASPHALT DRIVEWAY WITH FINISH AND CURB AND SIDEWALK AND BIKEWAY AND LANDSCAPE AND LIGHTING AND SIGNAGE AND FURNITURE

PROPERTY OWNER:
 ADVANCED GROUP 59-D
 23732 Rockfield Boulevard, Suite 100
 Rockfield, CA 94587
 PHONE: (925) 585-5900
 FAX: (925) 585-5901

PREPARED FOR:
 DEVELOPER

PREPARED BY:



H & A ENGINEERS & ARCHITECTS
 1500 MARINA DEL MAR BLVD
 LA JOLLA, CA 92037
 PHONE: (619) 451-1000
 FAX: (619) 451-1001



1500 MARINA DEL MAR BLVD
 LA JOLLA, CA 92037
 PHONE: (619) 451-1000
 FAX: (619) 451-1001

**CONCEPTUAL
 GRADING PLAN
 TTM NO. 16882**

COASTAL COMMISSION

EXHIBIT # 10
 PAGE 2 OF 3



APPENDIX I – LIST OF SUBSTANTIVE DOCUMENTS

EXHIBIT # 13
PAGE 1 OF 2

1. Keeton Kreitzer Consulting; Environmental Impact Report, SCH No. 2007021054, Aerie PA2005-196, March 2009.
2. Keeton Kreitzer Consulting; Mitigated Negative Declaration, SCH No. 2008051082, Aerie PA2005-196, 2008.
3. AEI Consultants; Pre-Demolition Asbestos/ Lead-Based Paint Survey, 201-207 Carnation Avenue; December 13, 2007.
4. Austin-Foust Associates, Inc.; Aerie Corona del Mar Condominium Project Traffic Assessment; March 4, 2009. (Please refer Appendix C in the EIR)
5. Coastal Resource Management, Inc.; Eelgrass (Zostera Marina) Impacted Assessment for a Dock Renovation Project Located in Carnation Cove; May 12, 2008 (Revised March 4, 2009). (Please refer to Appendix J in the EIR)
6. Coastal Resource Management, Inc.; Sand Dollar Bed Exhibit; 2009.
7. GeoSoils, Inc.; Coastal Hazard Study; October 4, 2006.
8. GeoSoils, Inc.; Bluff and Shoreline Reconnaissance in the Vicinity of 201-207 Carnation Avenue, Corona del Mar; June 11, 2007.
9. GMU Geotechnical, Inc.; Summary Letter of third Party Geotechnical Review, Proposed Condominium Project; October 29, 2008.
10. Hunsaker & Associates Irvine, Inc.; Hydrology Analysis for Tentative Tract 16882; February 2, 2009.
11. Hunsaker & Associates Irvine, Inc.; Conceptual Water Quality Management Plan; December 30, 2007, Revised January 28, 2009.
12. Hunsaker & Associates Irvine, Inc.; Storm Water Pollution Prevention Plan; March 17, 2007; (Revised January 20, 2009).
13. Hunsaker & Associates Irvine, Inc.; Elevation Certification; April 12, 2007.
14. Hunsaker & Associates Irvine, Inc.; Water Quality Management Plan Exhibit; May 12, 2009.
15. ICF/ Jones & Stokes; Biological Impact Report for Aerie Residential Project; December 2008. (Please refer Appendix H in the EIR)
16. Brion Jeannette Architecture; Preliminary Construction Management Plan; October 30, 2008 (Revised December 23, 2008). (See refer to Appendix B in the EIR)
17. Brion Jeannette Architecture; Aerie Project Overview; May 8, 2006 (Revised February 15, 2007).
18. Leighton & Associates, Inc.; Preliminary Geotechnical Engineering Exploration and Analysis for the Proposed Aerie Dock Replacement; August 25, 2008 (Revised September 19, 2008).
19. LSA Associates, Inc.; Results of Cultural and Paleontological Resources Records Searches for the Carnation Villa Project; July 12, 2005.
20. Neblett & Associates, Inc.; Revised Plan Review and Response to Comments Aerie - 8 Unit Condominium Project; December 19, 2008.
21. Neblett & Associates, Inc.; Conceptual Grading Plan Review Report, Condominium Project, TTM 16882; September 20, 2008.
22. Neblett & Associates, inc.; 2007 CBC Seismic Design parameters (Update Letter Report); May 12, 2008.
23. Neblett & Associates, Inc.; Review of Architectural Plan; November 27 and December 17, 2007.

24. Noble Consultants; Coastal Engineering Assessment for the "Aerie" Dock Project (Letter Report); May 9, 2008.
25. P&D Consultants; Phase I Environmental Site Assessment; May 26, 2006.
26. P&D Consultants; Biological Constraints Analysis for Aerie Residential Project; June 10, 2005.
27. The Planning Center; Construction Noise and Vibration Study for: Aerie Residential Development; March 2009. (Please refer to Appendix F in the EIR)
28. Robert Mitchell & Associates; Existing Vegetation Map (Sheets L-1 and L-2); April 25, 2008. (Please refer to Sheets L-1 and L-2 in the AIC approved plans)
29. Synectecology; Aerie Residential Development Air quality Focused Analysis; December 22, 2008. (Please refer to Appendix D in the EIR)
30. Wieland Acoustics, Inc.; Environmental Noise Study for the Construction of the Proposed Carnation Cove Dock Replacement Project in the City of Newport Beach; March 12, 2009. (Please refer to Appendix E in the EIR)
31. Neblett & Associates, Inc.; Response to Comments (prepared by David H. Lee & Associates, Inc.); August 11, 2008.
32. SoilWorks; Conceptual Grading and Architectural Plan Review; August 9, 2010
33. SoilWorks; Transfer of Geotechnical Consultant of Record; August 23, 2010
34. GeoSoils, Inc.; Coastal Hazard Study Update for 201-207 Carnation, Corona del Mar, CA; December 21, 2010
35. SoilWorks; Review of Revised Conceptual Plans; April 11, 2011

COASTAL COMMISSION

EXHIBIT # 13
PAGE 2 OF 2

Marilyn L Beck
303 Carnation Avenue
Corona del Mar, CA 92625
mdb@becktrustee.com

COASTAL COMMISSION

EXHIBIT # 14
PAGE 1 OF 28

May 3, 2011

Sherilyn Sarb, Deputy Director
California Coastal Commission
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

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South Coast Region

MAY 03 2011

CALIFORNIA
COASTAL COMMISSION

Re: AERIE 5-10-298

Dear Ms. Sarb:

Per your request, the opponents of this project have met and discussed the revised plans and have put together below a statement of our concerns for discussion purposes with Staff.

As you know, there has been major opposition to the Aerie project in the Corona del Mar neighborhood, and the single most significant issue of opposition has been the size and scale of the proposal, coupled with the resulting destruction of the coastal bluff related to its mass. Both the Coastal Act and the City's Land Use Plan require 'minimized development of natural land forms' and development to be 'visually compatible with the character of surrounding areas'. We have had a hard time understanding how a project of this massive size in this location conforms to these standards. Below is an outline of our concerns:

Major Concerns of the Opposition:

- Destruction of coastal bluff for subterranean levels
- Size, bulk, scale, mass of structure relative to previous structure and neighborhood
- Resulting impact on character of neighborhood
- Precedent for development of Carnation and elsewhere in Corona del Mar
- Marina – Project segmentation

Destruction of the Bluff:

As originally proposed there was significant excavation of the bluff. While the project still excavates two levels below the street into the bluff, it is now above and behind the 50.7 predominant line of development as set by the City and is purportedly more consistent with other development on the Carnation bluff. We are all very pleased that this condition is finally being respected, notwithstanding the fact that there remains proposed quite a bit of bluff excavation.

Size, Bulk, Scale, and Mass of Structure:

The proposed square footage has increased to 51,443. This largely due to moving the pool to the north-west side of the project and enclosing what had been open space around the original pool for inclusion in Basement and First Floor level unit. The re-configured building appears to be more of a 'box' with the removal of the open spaces as in earlier designs. This allows the project to move up the slope and to be pulled inside the vertical and horizontal 50.7' PLOED parameters without losing square footage (and in fact, results in an increase in square footage by a few hundred feet.)

One of the hopes throughout this process was that if the project was brought within the horizontal and vertical 50.7' PLOED, the collateral effect would be to reduce the overall square footage and mass of the building.

The overall square footage is an important issue because there has been a belief all along that Aerie is larger than the lot size actually tolerates. Because of an anomaly in the City Code, the Maximum Floor Area was calculated using the total lot size including submerged land and steep slopes. The relevant calculation parameters are as follows:

- The Aerie lot is 61,284 sq feet
- 28,413 sq feet is submerged land
- 11,926 sq feet is steep slope of more than 50%
- Total of submerged and slope: 40,339 sq feet
- Lot size without submerged land/slope: 20,945 sq feet

If the 'buildable' lot size was considered at 20,945 sq feet (without the submerged land and slope), using the City code Floor Area Ratio of 1.5, the actual square footage should be in the range of 32,000 to 40,000 sq ft (adjusted for setbacks). The City Code allows submerged land and slope to be used in calculating Maximum Floor Area, despite that submerged land and slope are removed in calculating density. Thus, Aerie was able to use the total size of the lot, including submerged land and slope, less the setbacks, and obtain approval for a project which is larger in scale and size than all other properties in Corona del Mar (with the exception of the pre-Coastal Act Channel Reef building built in 1962).

To put this in another perspective, there are a total of 10 properties along the Carnation Avenue bluff, including the two parcels that make up Aerie. The 8 other properties on the Carnation bluff consist of 3 single family homes and 5 multi-family properties of 2, 3 and 4 units. The total sq footage of these 8 properties combined is just over 34,000. If you add in the two structures currently on Aerie's site the total is just over 50,800 for all 10 properties. Aerie is larger than all the current Carnation Avenue properties combined. Furthermore, Aerie is the largest single development of any kind, residential or commercial, in Corona del Mar since Channel Reef was built 49 years ago.

Because other issues, such as those related to the PLOED, have overshadowed this one, it has never been properly considered as part of the consideration of whether the project conforms with the character of the surrounding neighborhood.

Character of Neighborhood:

Corona del Mar is a unique enclave of Newport Beach, particularly the 'flower streets' of the village area of Corona del Mar. Most of the properties are either single family homes/duplexes or small multi-family condos of 2 to 4 units. The one exception is the pre-Coastal Act Channel Reef building.

Very few homes in the village have swimming pools and many do not even have garages. Re-development has taken place over the years and beach cottages are being replaced by larger homes, but properties of more than 4/5,000 square feet are rare.

Aerie is exceptional because it would have livable square footage for 7 units of 32,549 sq feet or about 4,650/unit. The largest unit in the complex is 6,543 sq feet. The others are 5329, 4800, 4771, 4600, 3453, 3048. Individually, these are each very large living spaces in this neighborhood and combined into a condo complex, they are absolutely massive. To give a perspective, the McIntosh home adjacent to the Aerie property, one of the larger homes in the village is 6,500 sq feet, smaller than one of the Aerie units.

Aerie has an additional 8,592 sq feet for parking and still another 10,000 sq feet for amenities and storage. Given the nature of Corona del Mar, and in particular the village beach area where Aerie is located, it is difficult to see how this conforms to the 'character of the neighborhood' or 'minimizing development'.

Precedent:

There is a strong belief that Aerie will set a dangerous precedent for the future of development in Corona del Mar -- in particular future development on the Carnation Avenue bluff. There are four other 'original condition' properties contiguous to one another on this bluff, and two are currently on the market. There is a concern that a developer could build another Aerie-type condo project similar in size to this one by combining these lots. There is significant concern that the quality and character of the village will be compromised by a development of this type.

Marina:

The Marina has purportedly been removed from the current submittal, but remains a major area of concern. There was strong opposition to this component when it originally came before the Harbor Commission, and the opposition remains unconvinced that this type of development at this location is either environmentally acceptable or strategically safe. Because the applicant has proposed the project multiple times in the past, only to remove it on the eve of hearing, we believe it is being inappropriately segmented from the rest of the project impact considerations. We therefore believe a deed restriction setting the future parameters of a reconstructed dock should be included as part of this consideration.

We look forward to an opportunity to discuss these concerns with you, and thank you again for your consideration of these issues.

Sincerely,

/s/
Marilyn Beck

Cc: Marco Gonzalez

COASTAL COMMISSION

EXHIBIT # 14
PAGE 4 OF 28

May 12, 2011

Application Number: 5-10-298
SUPPORT

California Coastal Commission
Ms. Sherilyn Sarb
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

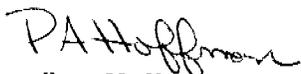
RE: AERIE 7 unit condominium project in Newport Beach, Application #: 5-10-298

Dear Ms. Sarb:

I have followed the process of approvals for the AERIE development since the very beginning many years ago. This is a beautiful proposed condominium project that will replace an old, ugly apartment building. The developer has done everything possible to satisfy the demands of the neighbors, City and Coastal Commission. This plan has evolved into what will be a first class project. The stunning view of the ocean is actually increased for the public, and the developer has more than answered any environmental concerns. The project decreases the number of units from the current 15 to 7. The creation of jobs during the development is very much needed. The neighbors will be happy when their property values are increased as a result of the replacement of the current eyesore with a magnificent architectural delight.

I strongly support the approval of this application and applaud the developer for his vision, cooperative efforts, and commitment to this amazing project.

Sincerely,



Patty Hoffman
22881 Aspan Street
Lake Forest, CA 92630

Cc: Liliana Roman

COASTAL COMMISSION

May 12, 2011

Application Number: CDP 5-10-298

EXHIBIT # 14
PAGE 5 OF 28

SUPPORT

California Coastal Commission
Ms. Sherilyn Sarb
200 Ocean Gate, 10th Floor
Long Beach, CA 90802-4416

RE: AERIE 7 unit condominium project in Newport Beach, Application #: CDP 5-10-298

Dear Ms. Sarb:

I have followed the process of approvals for the AERIE project since the very beginning. This will be a beautiful condominium project that will enhance the neighborhood and add property value. This project will replace a very old, and eyesore of an apartment building. The developer has done everything possible to satisfy the demands of the neighbors, City Council and the Coastal Commission. The plan has evolved into what will be an environmentally considerate first class project. The views of the ocean will actually be increased for the public and other residents in the area. The developer has worked to meet all the environmental concerns. The developer has decreased the current number of 15 units to 7. The creation of jobs during the development is very much needed in these economic times. The neighbors surrounding this project will be very happy when their property values have been increased as a result of the replacement of the current apartment structure with a beautiful development that blends more harmoniously into the environment.

I strongly support the approval of this application and congratulate the developer for his vision, concern with the environment, cooperative efforts, and commitment to this amazing project.

Sincerely,



Glenda Richardson
22803 Islamare Lane
Lake Forest, CA 92630

CC: Ms. Liliana Roman

Liliana RomanEXHIBIT # 14
PAGE 6 OF 28

From: Marilyn [mdb@becktrustee.com]
Sent: Thursday, May 19, 2011 9:56 AM
To: Liliana Roman
Cc: Marco Gonzalez
Subject: Aerie - For Sherilyn Sarb

RECEIVED
South Coast Region

MAY 19 2011

CALIFORNIA
COASTAL COMMISSION

Liliana, this message below is for Sherilyn Sarb, and for you. Thanks.

Marilyn

Dear Sherilyn,

I very much appreciated talking with you a week ago, appreciated your thoughts and your willingness to listen to our concerns. You suggested we wait to review the final plans before determining our position, which we have done. We had another meeting with Rick Julian on Saturday, May 14th, there were six of the group of people opposing the project and Mr. Julian. We met at the property and reviewed the latest changes. Prior to the meeting, I provided Mr. Julian with an outline of our concerns, similar to what we had sent to you. We strongly urged Mr. Julian to consider our request to reduce the overall size by 10,000 square feet. We gave him our assurance that we would cease our opposition to the project if it were closer to 40,000 sq feet rather than over 51,000. Our request does not include the marina which we continue to oppose. We do not believe that a reduction of 10,000 square feet is unreasonable, and we urge staff to also consider this request in preparation of your report on the current submittal. I will outline the reasons below.

Separating the Two Parcels - Greater Impact to Bluff in the Exclusion Zone:

When we spoke, you mentioned that one of your considerations was the impact to the bluff in the event Aerie was not built and the two parcels were separated and developed individually. You made the point that the single family house falls into the Exclusion Zone, outside of the CCC jurisdiction. This could potentially mean development of this parcel further down the bluff, possibly to Bayside Place, causing greater destruction of the bluff. I didn't think about it at the time we were talking, but upon further reflection I realized that this is no longer an issue. The City has set a 50.7' PLOED for ALL properties on the Carnation Avenue bluff. No new future development may go below the 50.7 PLOED anywhere on this bluff. Thus, separating the two Aerie parcels will not have any greater damaging effect to the bluff.

Precedent for Future Development:

Opposition in the Corona del Mar neighborhood has been largely focused on two aspects: 1) Size and Scale; and 2) Destruction of the bluff. These two issues are inter-related. As I pointed out in my letter to you, the lot size is stated at 1.4 acres, but more than 60% is either submerged land or steep bluff. The actual buildable size of the lot is considerably smaller, yet the developer has been allowed the entire site in calculating his Floor Area Ratio (FAR). He began this project proposing a building of 74,000+ square feet. The City reduced it to 61,000+, he is now at 51,124. If the submerged land and steep slope were removed from this calculation, the project would be less than 35,000 square feet.

It is inconceivable that a neighborhood of the make-up of Corona del Mar would have a project

5/19/2011

EXHIBIT # 14
PAGE 7 OF 28

approved of more than 50,000 square feet anywhere at all, least of all on a protected coastal bluff. This is a village made up of single family homes averaging less than 4,000 sq feet, and two-three-fourplex condos with units averaging 2000 square feet. Mr. Julian is proposing 7 condos which average 4600/unit. He has one unit that is 6,543 sq ft, another that is 4,629. The smallest unit is over 3,000 sq ft, larger than most single family homes in the neighborhood. This is the 'liveable' square footage. If you consider the parking and amenities, this project has a **ratio of 7,300 sq feet per unit!** This is an astounding figure for the village of Corona del Mar. There is absolutely nothing to compare to it. Not even Channel Reef has units of this size. And nothing has been built of this enormous square footage in Corona del Mar, either residential or commercial, since Channel Reef. The largest construction of any kind was completed last year, the Senior Center, and it is only 34,000 square feet. We cannot conceive how 51,000+ sq ft meets the Coastal Act requirement to 'minimize development' and be in the 'character of the neighborhood'. It certainly is not in the character of this neighborhood.

Precedent is very important because the Carnation Avenue bluff has several other 'original' state properties, contiguous to one-another, and two are currently on the market. Allowing Aerie will allow for future similar development. Developers will begin buying up adjoining properties and creating ever-larger developments, especially in areas such as Corona del Mar with many properties zoned multi-family. This is very dangerous and will ultimately completely change the character of this coastal community.

Revisions by Applicant and Destruction of Bluff

We recognize that the Applicant has made significant improvements to the plans by moving the project above the 50.7 PLOED and behind the vertical 50.7 PLOED. We have asked for this from the outset of our campaign and are pleased that at least the major excavation of the bluff has been reduced. Our desire in opposing the project has been to save the destruction of this important coastal bluff and we believe that the views from the harbor have been improved by these changes. Unfortunately, the overall square footage has stayed the same. In order to accomplish this, the building has been pushed upward and the open spaces removed. Much of the mass is now concentrated on the Carnation Avenue side creating a much larger, solid looking box. So whereas the bluff excavation has been reduced, the mass of the building has increased.

In reviewing the floor plans, the building is now at 51,124 sq feet of which 32,232 sq ft is liveable space. The parking is 8,592 sq ft. This leaves 10,300 square feet for storage, amenities, fitness room, pool, etc. If this building were proposed in another location, not in the coastal village of Corona del Mar, these number might be acceptable. But homes in Corona del Mar do not have these types of amenities. Many homes do not even have garages. And more than 90% of the homes do not have swimming pools. We are not suggesting that Aerie go without these amenities, but we are suggesting that proposing condo units of 6500 sq feet and having fitness rooms, storage rooms, pool, etc., is too much. It is all out of scale and out of character with Corona del Mar.

Conclusion:

We are aware that this is the third time this project is coming before the Commission and we are all wanting it to be resolved. But not at the expense of the bluff and the neighborhood. The Coastal Act requires new development on a coastal bluff to be MINIMIZED and WITHIN THE CHARACTER OF THE NEIGHBORHOOD. Aerie continues to fail as to both these standards.

We urge you to please consider these points. We are more than willing to meet with you, with Mr. Julian, to work out a compromise that will allow him to proceed with his project, but that will protect the bluff and the neighborhood, and uphold the standards of the California Coastal Act. As the project is

proposed today, we unfortunately continue to believe strongly that it is wrong for Corona del Mar, wrong for the Carnation Avenue bluff, and sets a very damaging precedent.

Thank you.

Marilyn Beck

cc: Liliana Roman
Marco Gonzalez

COASTAL COMMISSION

EXHIBIT # 14
PAGE 8 OF 28

JOHN H. CUMMINGS
2600 OCEAN BOULEVARD
CORONA DEL MAR, CA 92625

COASTAL COMMISSION

May 17, 2011

EXHIBIT # 14
PAGE 9 OF 28

Ms. Sherilyn Sarb
California Coastal Commission
200 Oceangate
10th Floor
Long Beach, CA 90802-4416

Re: Application No. 5-10-298
AERIE, NEWPORT BEACH

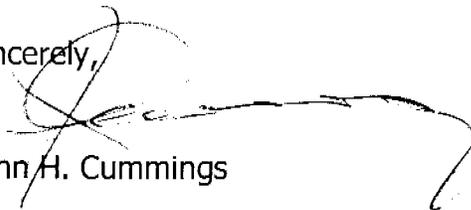
Dear Ms. Sarb:

It is our understanding that the AERIE Project located on Carnation Avenue & Ocean Boulevard is before the California Coastal Commission for review and approval. We have personally visited with the applicant, Rick Julian, and we have also seen the model of the proposed development. We support the development of the AERIE Project and are very impressed by the fact that it now consists of seven (7) residential units. This seven (7) unit development will replace an outdated eyesore that consists of fifteen (15) units. The coastal bluff has been a concern of the City of Newport Beach local residents and of course, the California Coastal Commission. The proposed AERIE is consistent with the General Plan and Zoning of the City of Newport Beach.

In summation, we the undersigned, being neighbors in close proximity to the development are in support of this well thought out and extremely high-caliber development. It is our understanding that several utility poles on Carnation Avenue will be removed, which will be a considerable improvement to the area.

Thank you for reviewing our letter of support of the AERIE project. If you have any questions, please do not hesitate to call the undersigned.

Sincerely,


John H. Cummings

JHC:jst

COASTAL COMMISSION

15 May 2011 EXHIBIT # 14
PAGE 10 OF 28

Application Number: CDP 5-10-298

SUPPORT

California Coastal Commission
Ms. Sherilyn Sarb
200 OceanGate, 10th Floor
Long Beach, CA 90802-4416

RE: AERIE 7 unit condominium project in Newport Beach, Application #: CDP 5-10-298

Dear Ms. Sarb:

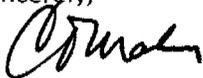
This letter is to express my support for the Aeries project on Ocean Blvd in Corona del Mar.

I especially appreciate the increased view corridor on the southwest side of the project. People who walk on Ocean Blvd very often pause at this corridor and enjoy the awesome view of the Newport Beach harbor. The enlarged panorama will be much appreciated.

There exists today an unsightly legacy of telephone poles and above-ground wiring. I am pleased that this will be relocated underground.

The aesthetics of the neighborhood will be GREATLY improved with the completion of this project, and I do hope that you find all aspects of it to be in order,

Very Sincerely,



Charles D. Mabry
706 Larkspur Ave.
Corona del Mar, CA 92625

May 13, 2011

COASTAL COMMISSION

Application Number: CDP 5-10-298

EXHIBIT # 14
PAGE 11 OF 28

California Coastal Commission
Ms. Sherilyn Sarb
200 OceanGate, 10th Floor
Long Beach, CA 90802-4416

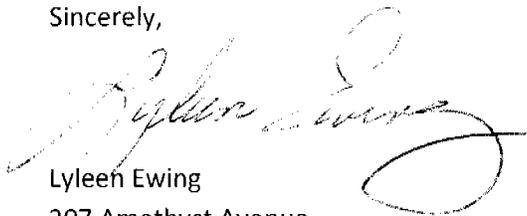
RE: AERIE 7 unit condominium project in Newport Beach, Application #: CDP 5-10-298

Dear Ms. Sarb:

This letter is being written in full support of the beautiful, Aerie residential project. The existing apartment house of 12, one bedroom units is not only inappropriate for the neighborhood, but is an eye sore, as well.

Richard Julian has demonstrated his dedication to enhancing our precious beach neighborhood, not only for the immediate residents, but for the public at large, who enjoy visiting the Ocean Blvd. promenade. Mr. Julian's design not only allows for a considerably wider view window to the bay and sunsets, but also enhances the views looking up from the water. Boaters entering and leaving Newport Harbor through the jetty, now look up to a barren cliff with a huge, unattractive, box-like building on top. It is a sorry "Hello" and a sorry "Good Bye" to our visitors to the harbor. It is inconceivable to me that there should be any question of the approval of this quality project. Please, I ask you as a 50 year resident, give us the Aerie project and all of the amenities it will afford!

Sincerely,



Lyleen Ewing
207 Amethyst Avenue
Newport Beach, CA 92662

Date 5/16/11

Application Number: CDP 5-10-298

SUPPORT

California Coastal Commission

Ms. Sherilyn Sarb
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

EXHIBIT # 14
PAGE 12 OF 28

RE: AERIE 7 unit condominium project in Newport Beach, Application #: CDP 5-10-298

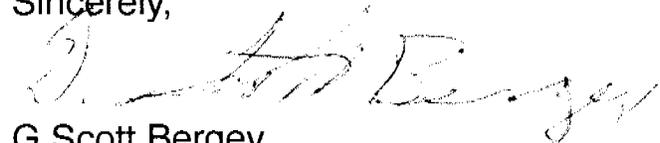
Dear Ms. Sarb:

We live 3 houses from the Aeries property and continue to be in full support of the Aeries project. The Julian's have done everything in their power to satisfy all concerned. The benefits for the neighborhood and the city far outweigh any negatives (the main one seeming to be the length of time to build the project...but something WILL be built there eventually right...?).

The two neighbors to the left who so vehemently object to this project live in houses that could not today be built under the same constraints that Aeries is asked to adhere to. These two neighbors have been the main cog in the wheel and have been, in my opinion, very self serving with regards to this matter. Mr. Julian has listened carefully to them, the other neighbors, city officials and esteemed organizations such as your own and he has changed the project to satisfy all.

Please give us your 'stamp of approval' and help lead our neighborhood in building a lovely corner of Corona del Mar.

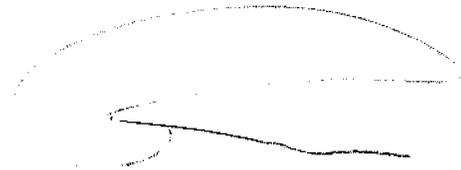
Sincerely,



G.Scott Bergey

Grace Bergey 214 Carnation Ave., Corona del Mar, Ca. 92625

CC. Ms. Liliana Roman



KENT S. MOORE
210 CARNATION AVE.
CORONA DEL MAR, CA 92625
(949) 673-7692

May 19, 2010 **COASTAL COMMISSION**

California Coastal Commission
Ms. Sherilyn Sarb
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

EXHIBIT # 14
PAGE 13 OF 28

RE: Aerie 7 unit condominium project in Newport Beach, Application # CDP 5-10-298

Dear Ms. Sarb:

I am, once again, writing a letter in support of Mr. Richard Julian's Aerie Project and have noted that he has further reduced the scope of this development. I have reviewed the conceptual drawings and am impressed with the way the coastal bluff face has been preserved and the view corridors greatly enhanced. The neighbors are very appreciative of these modifications and I know both residents and visitors walking in this area of town will enjoy viewing the bay and peninsula from this scenic spot.

As you are aware, I have lived at this corner of Corona del Mar for over 40 years now and have closely observed all new development in the area. The under grounding of the utilities and condo parking arrangements would be greatly appreciated by all of us as would the creation of the three new parking spaces on the street. This would certainly go a long way in helping to alleviate neighborhood congestion during the summer months.

Ms. Sarb, the vast majority of the neighbors support this beautiful and thoughtful development so I do hope the Commission will allow Mr. Julian to finally move forward with his project. It will be a great addition to our village of Corona del Mar and, as a resident member of the Corona del Mar Chamber of Commerce, I know that many of my friends and colleagues would echo my sentiments.

Please feel free to call me anytime if I can be of further assistance to you or staff.

Sincerely,



Kent S. Moore

c. Ms. Liliana Roman

IRVING X. BURG
2301 BAYSIDE DRIVE
CORONA DEL MAR, CA 92625
(949) 675-3235 FX: (949) 673-7081

COASTAL COMMISSION

EXHIBIT # 14
PAGE 14 OF 28

May 17, 2011

California Coastal Commission
Ms. Sherilyn Sarb
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

Dear Coastal Commission:

I have lived on the Newport Bay beach front, below & about 9 houses NW of the AERIE 7 unit condominium project for 39 years, and eagerly await your approval. I was here when the Coastal Commission was created and eagerly supported that too. I know you give serious thought to how any project will impact the land, shore, neighbors and the public, so I explain why the Coastal Commission should push forward on approving Application #: CDP 5-10-298.

Our view of the hill top on our left will change from one showing a not cared for and vacant buildings disgrace, to one showing a attractively landscaped 7 unit condominium in a park like setting.

The redesign of the piers and floats will not only improve the tide movement in the bay (I am opposite the 1st entry buoy in the bay); but also cleans up the mooring congestion that now exists.

It will also increase the stabilization of the hillside leading to the bay.

Because of the reduction in units, increase of garage and street parking, it should also reduce traffic and parking problems.

Since I cannot find a single public or neighborly reason for a denial I do hope approval is given. I realize that as a CA licensed Mechanical Engineer the Coastal Commission is much more qualified than I in finding any building or design defect that would make this project, as presented, not qualified for approval.

Thank you for permitting this neighbor of the project to express his opinion.

Sincerely,


Irving X. Burg

CC: Ms. Lilliana Roman

May 18, 2011

Application Number: CDP 5-10-298

SUPPORT

COASTAL COMMISSION

EXHIBIT # 14
PAGE 15 OF 28

California Coastal Commission
Ms. Sherilyn Sarb
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

RE: AERIE 7 unit condominium project in Newport Beach, Application #: CDP 5-10-298

Dear Ms. Sarb:

As residents of Newport Beach for the past 24 years, we would be proud and happy to have the AERIE 7 Project as part of our local scene.

From the projected plans we have seen, this Project will add to the beauty of the City and the Coastline, giving a new sparkle to the area where it will be located.

Additionally, we have used Brion Jeannette as our architect, when rebuilding our home on the Balboa Peninsula Point, and we were very pleased with the aesthetic and environmental concepts that he brought to this project.

We wholeheartedly support the Approval of this.

You may feel free to give a copy of this letter to Ms. Liliana Roman

Very truly yours,



Dr. and Mrs. Melvin A. Lipson
14 Belcourt Drive
Newport Beach, CA 92660

IN SUPPORT

May 19, 2011

COASTAL COMMISSION

California Coastal Commission
Ms. Sherilyn Sarb
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

EXHIBIT # 14
PAGE 16 OF 28

RE: Application # CDP 5-10-298

Dear Ms. Sarb,

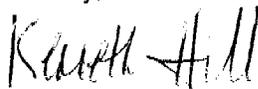
Having lived in Southern California all my life and being an avid walker, I've enjoyed walking the coastline along Newport Beach and Corona del Mar.

I am very familiar with this project, having read the articles in the local papers and I am in total support of this project.

I feel this new building will not only enhance the corner of Ocean and Carnation, but it will open up a nice view corridor for all to sit and enjoy the views.

I am hoping for approval of this project during your June hearing!

Sincerely,



Kenneth Hill
Aliso Viejo

COASTAL COMMISSION

May 16, 2011

California Coastal Commission
Ms. Sherilyn Sarb
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

EXHIBIT # 14
PAGE 17 OF 28

RE: AERIE 7 unit condominium project in Newport Beach, Application #: CDP 5-10-298

Dear Ms. Sarb:

I am writing this letter to express my delight that the above referenced project was overwhelmingly approved. Although there are several benefits to this project, for me the visual improvements and new public parking are especially beneficial.

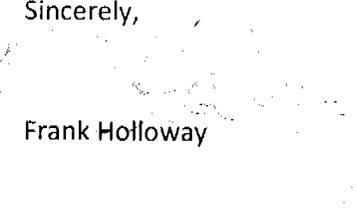
Improving aesthetics is always a plus and especially so in the beautiful city of Corona del Mar. The expansion of the public view with the addition of the public bench and drinking fountain as well as the removal of the two utility poles and relocated underground parking are great ways to enhance the beauty of this location.

As you are well aware, parking is always an issue. Additional parking will benefit everyone from residents to visitors and even tourists.

I look forward to seeing these improvements come to life in the near future.

Thank you for your time.

Sincerely,


Frank Holloway

cc: Ms. Liliana Roman

RICHARD & REGINA HUNSAKER
117 Coral Avenue
Newport Beach, CA 92662-1144

COASTAL COMMISSION

May16, 2011

EXHIBIT # 14
PAGE 18 OF 28

Application Number 5-10-298
SUPPORT

Ms. Sherilyn Sarb
CALIFORNIA COASTAL COMMISSION
200 Ocean gate, 10th Floor
Long Beach, CA 90802

Subject: **AERIE 7 Unit Condominium Project in Newport Beach.**
APPLICANT: Advanced Group 99-D, A California Limited Partnership,
Attn: Mr. Richard Julian, President # CPD 5-10-298

Dear Ms. Sarb:

The AERIE Project includes a host of community benefits that are being provided by the applicant.

1. View Corridors – Views from the “public view point” at Carnation Avenue and Ocean Boulevard will be enhanced by approximately 76 percent as a result of the Project. A public bench and drinking fountain will be added at this “public view point” to enhance the public viewing experience. The Project also includes a view “window” at the northerly property line, which currently does not exist.
2. New Public Parking. The Project will create three additional on Street public parking spaces that will accommodate visitors to the area, particularly during the peak summer/ tourist season.
3. Other improvements:
 - The Aerie Project reduces the number of dwelling units permitted by the existing zoning. There are 7 units in the Aerie project versus the 15 existing units.
 - Reduced traffic with reduced number of units.
 - The Aerie Project utilizes 19% of the site, preserving the remaining 81% as open space, twice the amount of open space required by code.
 - The Project will implement state of the art water quality facilities. Storm flows from the Aerie Project will be treated before discharging into Newport Bay.

As a resident to Newport Beach I am in support of the Aerie Development as it will have a positive impact on the existing neighbor hood

Very truly yours


Richard Hunsaker
CC. Ms. Liliانا Roman
(fclrh\2011\01-rh.doc)

COASTAL COMMISSION

EXHIBIT # 14
PAGE 19 OF 28



May 21, 2011

Application Number: CDP 5-10-298 SUPPORT

Ms. Sherilyn Sarb
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

Dear Sherilyn:

Marilyn Beck forwarded to me a copy of her on-going opposition outline that she gave to you a couple of weeks ago. I felt that this outline deserved a rebuttal. I will address her specific points:

1) Destruction of the bluff – I am pleased to hear that our last major change in grading has finally reached her approval as indicated in her response “...we are all very pleased that this condition is finally being respected...” After removing all levels below the PLOED, excavation is now minimal. We respected the bluff throughout our design work, and in fact we are preserving the entire bluff face, **even above the PLOED.**

2) Size, Bulk, Scale and Mass of Structure – I am happy to see that Mrs. Beck has given her approval of the view from the harbor side. The building is actually much smaller than what is allowed, based on all criteria of the City. In focusing on the design of this property, we chose from the beginning to hide as much of the garages, drives, and mechanical, within the building so that the public would receive a considerable amount of benefit from the aesthetical quality of the project. As you review the sweeping contours and designs of our building, I hope you will agree that it is quite the opposite of a boxy design.

3) Character of the Neighborhood – As you will see from the attached zoning plan of the neighborhood, nearly all of the properties are either multi-family residential or R2 units. The only exceptions to the multi-family zoning are the parcels occupied by the Vallejo and MacIntosh homes. These parcels were zoned multi-family until changed during the process through which the MacIntoshes received approval to build their home. The Planning

Commission and City Council chose to down-zone the parcel(s) so the site could never be improved with larger structures than what are already there. Her statement that the MacIntosh house is 6,500 square feet is not correct.

EXHIBIT # 14
PAGE 20 OF 28

According to the Multiple Listing Service (the property is currently listed for sale) it is 7,524 square feet. Many other houses along the bay are far in excess of that size.

As to pools, not only does the adjacent MacIntosh home have a pool, but also the Sprague home to the northwest, and the adjacent property to the northeast, both contiguous, have pools as do many homes in the area.

4) Precedent – The four homes that lie between AERIE and Mrs. Beck's home are indeed much older properties. As you have undoubtedly seen from the pictures we have provided of the bluff face, all of these properties are indeed monolithic designs that truly are boxy buildings. In any event, all of these properties are in the Coastal Exclusion Zone and not subject to the same jurisdiction and restrictions as AERIE.

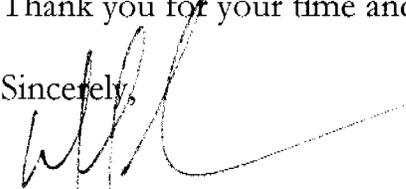
5) Marina – Apparently Mrs. Beck is not aware that the docks are not included within the AERIE application which is before the Commission, so there is no need to respond to her comments.

I hope this makes it clear that we in no way agree with any of the points made by Marilyn Beck. The opposition to AERIE for the most part has been led by Marilyn Beck, Lisa Vallejo, and Kathy MacIntosh. Curiously, none of their properties have been subject to the same restrictions that they have asked to be imposed upon AERIE.

On the flip side, there has been a tremendous amount of support for AERIE. Over fifty people raised their hands when asked to show support at the April 2010 Coastal Commission meeting, versus three opponents. In Santa Cruz over twenty supporters were present, versus the three in opposition. All of these supporters, like us, hope that we will obtain the approval next month and move forward with AERIE.

Thank you for your time and consideration.

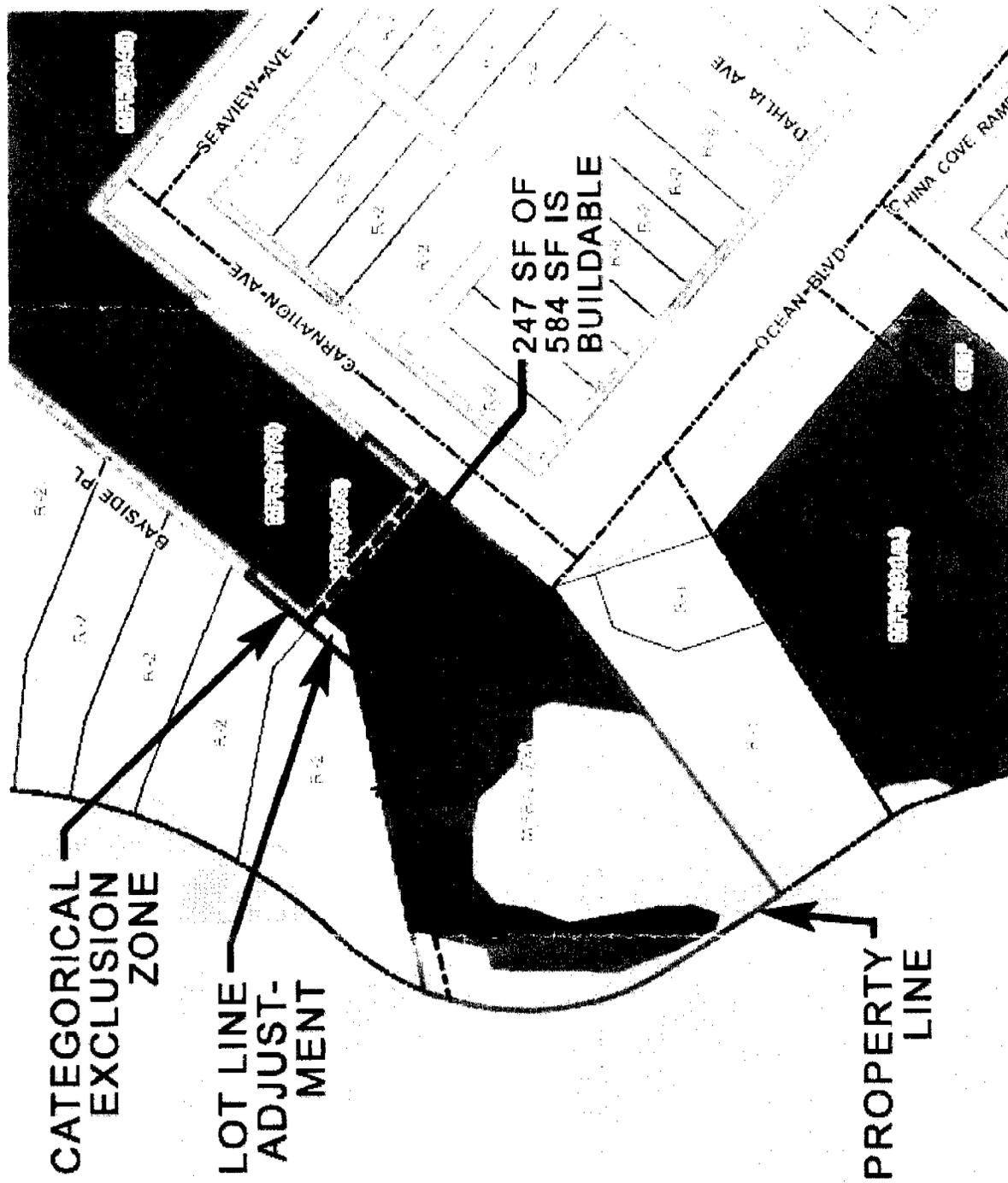
Sincerely,



RICK JULIAN

EXHIBIT # 14

PAGE 21 OF 28



ZONING MAP • LOT LINE ADJUSTMENT

COASTAL COMMISSION

EXHIBIT # 14
PAGE 22 OF 28

May 20, 2011
Paula and Melvin Feldman
4618 Dorchester Road
Corona del Mar, CA 92625

May 20, 2011

California Coastal Commission
Ms. Sherilyn Sarb
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416
CC: Ms. Liliana Roman

Ref: Application Number: 5-10-298
AERIE, Newport Beach

Dear Ms. Sarb,

We have learned that the Aerie project on Carnation and Ocean Blvd in Corona del Mar is once again up for the Coastal Commission's review. We have been following this project with great anticipation for about 4 years. We watched it go through our own City Planning Commission and City Council hearings and two public hearings at your Commission. We fully support this project and believe it will be both an enhancement to our community and to the public visiting our community.

We walk along Ocean Blvd and Carnation regularly and the public views from this vantage point are spectacular yet the owner of this project has agreed to widen the view corridor even more than is required by our city's Zoning ordinances, add a public drinking fountain and viewing bench, remove two ugly power poles, and create 3 new street parking spaces. The existing building is old and dilapidated, the new building will be half as many living units than currently exist and is architecturally stunning.

We believe this project is less in size than other adjacent developments and urge you to support it so that these improvements to our community can begin.

Sincerely,

Paula and Melvin Feldman

Paula D. Feldman
Melvin S. Feldman

COASTAL COMMISSION

Application # CDP5-10-298

WILLIAM J. McCAFFREY JR.

2525 OCEAN BOULEVARD, APT. G-4

CORONA DEL MAR, CALIFORNIA 92625

EXHIBIT # 14
PAGE 23 OF 28

May 20, 2011

Dear Ms Sarb:

I am writing to express my strong support for the Aerie condominium project, application number CDP5-10-298, which is one house from me in Newport Beach, where I have lived for over 25 years.

The applicant has included many features which will benefit the public, many on his own initiative and some in response to third party suggestions.

Moreover, it will replace a structure which is an eyesore for neighbors on land and boaters in the channel.

I urge the Commission to approve this project.

Sincerely,
William J. McCaffrey Jr.

cc: Ms Liliana Roman

MICHAEL L. TOERGE
2524 OCEAN BLVD.
CORONA DEL MAR, CA 92625
(949) 675-9312 TEL

COASTAL COMMISSION

EXHIBIT # 14
PAGE 24 OF 28

May 20, 2011

CALIFORNIA COASTAL COMMISSION
MS. SHERILYN SARB
200 OCEANGATE, 10TH FLOOR
LONG BEACH, CA 90802-4416

RE: AERIE 7 unit condominium project in Newport Beach, Application #: CDP 5-10-298

Dear Ms. Sarb:

I have been a planning commissioner in the city of Newport Beach since September 2003. I was on the city's sub-committee that prepared Newport Beach's Local Coastal Plan which was subsequently approved by the Coastal Commission. I have studied the Aerie project meticulously over the past 6 years since the plans were released publically. I have consistently and publically opposed the project for very specific reasons; initially due to the extreme excavation and removal of over 30,000 cubic yards of bluff and more recently due to excessive square footage, out of scale proportions and encroachment of improvements below and beyond the predominate line of existing development. My opposition remained until the most recent modifications to the project, namely the reduction in size to 51,124 square feet, the reduction in excavation to 9,810 cubic yards of material and the removal of improvements below and beyond the predominate line of existing development.

Based upon my many on-site inspections and my review of the project modifications presented in the project briefing book dated May 16, 2011 which refers to building plans dated May 9, 2011, I now feel the project meets the requirements of the City of Newport Beach General Plan, Zoning Code and Local Coastal Plan.

If you, your staff or the commissioners have questions, please contact me at your convenience. My office telephone number is (949) 723-1075 and my cell phone is (714) 742-8114.

Sincerely,


Michael Toerge



CITY OF NEWPORT BEACH

OFFICE OF THE CITY COUNCIL

COASTAL COMMISSION

Mayor

Michael F. Henn

Mayor Pro Tem

Nancy Gardner

Council Members

Keith D. Curry

Leslie J. Daigle

Rush N. Hill, II

Steven J. Rosansky

Edward D. Selich

EXHIBIT # 14
PAGE 25 OF 28

May 20, 2011

Members of the California Coastal Commission
c/o Ms. Sherlyn Sarb
200 Occangate, 10th Floor
Long Beach, CA 90802-4416

RE: AREIE 7 unit Condominium project in Newport Beach
Application Number CDP 5-10-298 SUPPORT

Dear Commissioners:

As a member of the Newport Beach City Council, I have participated in the processing of the AREIE project since its beginnings. I believe the applicant has been responsive to the requests of the City and the neighbors in the planning and execution of this project. It will be a tremendous asset to our community.

Having reviewed the most recent changes resulting from the Coastal Commission process to date, I understand that the project has been greatly reduced from what was originally proposed and approved by the City. The actions of the Commission significantly reduced the size and mass of the project. I am completely in favor of the project as it stands and encourage you to approve this project when it is next before your honorable body. Thank you for your favorable consideration.

Sincerely,

Keith D. Curry
Council Member, District 7

COASTAL COMMISSION

EXHIBIT # 14
PAGE 26 OF 28

G. Ross Roskamp
4 Ritz Cove Drive
Dana Point, CA 92629

May 21, 2011

California Coastal Commission
Ms. Sherilyn Sarb
200 Ocean Gate, 10th Floor
Long Beach, CA 90802-4416

RE: AERIE 7 unit condominium project in Newport Beach, Application #: CDP 5-10-298

Dear Ms. Sarb:

I SUPPORT the AERIE Project and encourage the Commission to approve the replacement of the current 60 year old eyesore. Below are some of the reasons:

New and/or Improved View Corridors: Public viewing from Carnation Avenue and Ocean Boulevard will be enhanced, along with a drinking fountain and bench while observing the view.

Additional Parking: The Project will create three additional on-street public parking spaces. .

Visual Improvements: Removal of two utility poles will enhance the overall aesthetics of that intersection.

Other Improvements: Aerie Upgrades an existing deficient catch basin and enhances water quality of the new storm drain system.

Energy Efficiency: Aerie is designed to utilize "green" architecture. Such design has been endorsed by the local coastal watchdog, COASTKEEPERS.

I encourage your approval of this project that has been five years in the design and approval process.

Sincerely,



G. Roskamp

COASTAL COMMISSION

May 23, 2011

Application Number: CDP 5-10-298

EXHIBIT # 14 SUPPORT
PAGE 27 OF 28

California Coastal Commission
Ms. Sherilyn Sarb
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

RE: AERIE 7 unit condominium project in Newport Beach, Application #: CDP 5-10-298

Dear Ms. Sarb:

After carefully reviewing the proposed condominium project, I would like to express my support for approval.

As our city steadily grows older, upgrades and beautification projects become both desirable and necessary. The AERIE project does both.

While I wholeheartedly support the role of the California Coastal Commission, It is not obvious to me how this beautiful, new structure could damage or detract from the natural coastline of California.

In a depressed economy, I am delighted to see someone willing to invest in new construction of this magnitude.

Your consideration to approve this project is greatly appreciated.

Very Truly Yours,



Robert L. Leathers
115 Milford Drive,
Corona Del Mar, CA 92625

CC: Ms. Liliana Roman

COASTAL COMMISSION

RECEIVED
South Coast Region

EXHIBIT # 14
PAGE 28 OF 28

MAY 23 2011

From: Donna Andrews <dandrews@leeandrewsgroup.com>

Date: Fri, 20 May 2011 13:21:08 -0700

To: <dayna.bochco@bochcomedia.com>

Conversation: Aerie/Ex Parte Request

Subject: Aerie/Ex Parte Request

CALIFORNIA
COASTAL COMMISSION

Dear Commissioner Bochco,

Congratulations on your appointment to the California Coastal Commission.

We respectfully request an ex parte to provide a brief update on the AERIE project which will be before you at the June 2011 Coastal Commission meeting. As you may know, this project was continued by the Commission at the March 2011 hearing.

Since then the AERIE project team has been working diligently with coastal staff to address concerns raised at the hearing. As such, we would like to discuss with you the modifications that have been made to the proposed project.

Please advise your availability for a meeting or call.

Feel free to contact us at 213-891-2965 or via email if you have any questions.

Thanks,

Donna Andrews

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