

**CALIFORNIA COASTAL COMMISSION**

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

**W19d**

Go to original staff report

**ADDENDUM**

February 5, 2013

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **ADDENDUM TO ITEM W19d, COASTAL COMMISSION PERMIT APPLICATION NO. 5-12-168-(FISCHER) FOR THE COMMISSION MEETING OF WEDNESDAY, FEBRUARY 6, 2013.**

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**Changes to Staff Report**

Commission staff recommends modification and additions to the Summary of Staff Recommendation and Section IV (Findings and Declarations) of the staff report. Language to be added to the findings is shown in **bold, underlined italic** and language to be deleted is in ~~strike-out~~, as shown below

Page 2 – Modify the Summary of Staff Recommendation, as follows:

At the February 2012 CCC Hearing, a similar project (CDP NO. 5-11-168) at the same location by the same owner was scheduled to be heard. However, the project was withdrawn after the Staff Report had been prepared and distributed. The Staff recommendation for this previous project was for denial and the issues that were raised are similar to the issues raised by the current proposal. One of those concerns related to reported site instability. Since then, the applicant undertook additional soils testing which revealed that their prior stability analysis was ~~wrong and that the project site is in fact stable (i.e. factor of safety exceeds 1.5)~~ **overly conservative. This later geotechnical report indicated that the slope below the pad cut into the coastal bluff has a factor of safety against sliding exceeding 1.5. The Commission's geologist does not concur with this analysis, however, and recommends that additional modeling of slope stability be performed to fully assess the stability of the slope.** ~~Otherwise, the project remains essentially the same~~ **as previously proposed** except for two project components that have been revised with the current proposal, as follows: 1) caissons that were once proposed under a new retaining wall along the western property line (rear yard) near the bluff face have now been eliminated; and 2) the grading has been reduced from 2,750 cubic yards to 2,213 cubic yards.

Page 8 – Modify Section II.A, as follows:

**4. PRIOR COMMISSION ACTIONS ON SIMILAR DEVELOPMENT NEAR THE PROJECT SITE**

**a. 3225 Ocean Boulevard (Upcoast of the project site) (Evensen)**

On January 12, 2011, the Commission denied Coastal Development Permit No. 5-10-032 (Evensen) for: demolition of an existing 2,023 square foot 2-1/2-level single-family residence at the top of a coastal bluff and demolition of a 1,346 square foot detached 1-story 3-car garage at the toe of the bluff and construction of a new 4,715 square foot four-story single-family residence and a tunnel and elevator to a 1,084 square foot 1-story 3-car garage, all of which spanned the bluff face. Grading would have consisted of 944 cubic yards of cut, 16 cubic yards of fill and 928 cubic yards of export to a location outside of the Coastal Zone. The project site is a bluff face property located at 3225 Ocean Boulevard, located further upcoast from the Fischer project. South of the project site is Breakers Drive (a private street), vegetation, and a sandy public beach at Corona Del Mar State Beach. East and west of the project site are residential uses and to the north is Ocean Boulevard.

The proposed Evensen development located on the bluff face is similar to the Fischer project and both projects raise similar issues resulting in inconsistencies with the City's certified LUP and the Coastal Act. The primary issues raised before the Commission were the appropriateness of approving the project given the importance of preserving scenic resources and consistency with the pattern of development in the area, minimizing landform alteration and avoiding development in hazard prone locations. The predominant line of existing development for this area was the 56-foot contour elevation which was also in line with the furthest development limit on the bluff face for the existing residence. The proposed development would have resulted in significant development that would have disturbed the entire bluff face and exceeded the predominant line of existing development, which would have caused visual impacts on the property. Thus, the Evensen project was denied.

Similarly, the Fischer project, as proposed, would encroach seaward of the predominant line of existing development and encroach lower onto the bluff face than adjacent development which would be inconsistent with the PLOED. This would result in development that is inconsistent with the character of surrounding areas and has adverse impacts on a variety of coastal resources. Currently, a revised Evensen project has been submitted for Commission review. As proposed, the revised project has now limited development to the PLOED located at the 56-foot contour, which is the limit of existing development on the bluff face.

a. 201-205 Carnation Ave, 207 Carnation Ave and a portion of 101 Bayside Place 3225 Ocean Boulevard (Upcoast of the project site) (Advanced Group 99-D)

On June 15, 2011, the Commission approved Coastal Development Permit No. 5-10-298 (Advanced Group 99-D) for 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-feet 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. The project locations are bluff face properties located at 201-205 Carnation Ave, 207 Carnation Ave and a portion of 101 Bayside Place 3225 Ocean Boulevard, located further upcoast from the Fischer project. West of the properties is a coastal bluff. North and south of the project sites are residential uses and to the east is Carnation Avenue.

The Commission denied a project at this site in April 2010, CDP application 5-09-162(Advanced Group 99-D) for proposed construction of a new 61,709 sq. ft., 8-unit, 32-feet 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 into the bluff and below the PLOED established by the City, landform alteration, bulk of proposed structure, and use of parking elevators. The applicant submitted a revised project and returned to the Commission at its March 2011 hearing under CDP application 5-10-298; however, after Commission deliberation, the hearing was continued due to continuing concerns related to the amount of proposed grading and the size/mass of the proposed condominium structure. The applicant then re-submitted further 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 was raised to above the PLOED.*

*This project raised similar concerns to Fischer regarding inconsistency with the established PLOED and the City's certified LUP and the Coastal Act. As originally proposed, the proposed development would have resulted in development that would have significantly disturbed the bluff face and exceeded the predominant line of existing development, which would have caused significant landform alteration and visual impacts on the property. However with the applicant's revisions to the project that reduced landform alteration and all grading and development raised above the PLOED, the Advanced Group 99-D was subsequently approved.*

#### 4-5. STANDARD OF REVIEW

Page 12-13 – Modify Section II.B.1, as follows:

For the northern property, the bottom of the retaining wall is used to establish the PLOED instead of the finished floor elevation of the same principal structure (which is located further up the bluff face and landward of the retaining wall) because the bottom of the retaining wall is the furthest point of development on that property and corresponds to the established line of development both upcoast and downcoast of the site. The southern property does not have the same type of situation. In contrast, the southern property (which is used to also establish the PLOED) only has a principal structure finished floor elevation and no other retaining wall, etc., further down the bluff face, which thus clearly identifies the PLOED on that site. Based on the location of the PLOED established by these adjacent properties, the PLOED for the proposed property is at elevation 56.9-feet and consequently the proposed development is located about 11-feet below this established line identified by Commission staff (and the City in its May 19, 2011 staff report).

*The applicant's interpretation is that the existing property is already developed to the existing westerly retaining wall which establishes the PLOED and that the project does not further impact the natural bluff. In its current state, the property is disturbed to the westerly extent of the existing retaining wall (as identified previously); however, the excavation for the principal structure does not extend to that same elevation on this site or for the residences to the north and south. Approval of such work would establish a new pattern of development that involves excavation for the ground floor of the principal structures requiring grading to a lower elevation within the bluff and extending the line of the homes further seaward. Pursuant to the certified LCP Land Use Plan, the PLOED is to be established for both principal and accessory structures. How the PLOED is to be determined is a critical component of the LCP Implementation Plan in order to implement the policy of the LUP designed to limit further seaward encroachment by new development and additional alteration of the natural bluff*



**landform. Approval of the development, as proposed, would set an adverse cumulative impact of additional landform alteration and would prejudice preparation of a certifiable LCP.**

As proposed the bottom floor of the proposed residence will daylight 24-feet more down the bluff face than the finished floor of the adjacent residence to the north and would daylight 11-feet more down the bluff face than the finished floor elevation of the adjacent residence to the south (Exhibits #5-6). The new development would also be about 11-feet lower than the PLOED identified by Commission staff (and the City in its May 19, 2011 staff report).

Page 15 – Modify Section II.C., as follows:

Development on a bluff is inherently risky due to among other things, the potential for bluff erosion and collapse. Bluff top development poses potential adverse impacts to the geologic stability of bluffs and the stability of structures. Bluff instability is caused by a variety of factors. Steep terrain is inherently unstable, but coastal bluffs are especially unstable due to wave attack, which is exacerbated by accelerating sea level rise. Contributing factors include poor site conditions (adverse geologic structure, especially erodible bedrock or soils, high ground water, etc). Human activity can exacerbate bluff instability including building too close to the bluff edge, improper site drainage, over irrigation, use of impermeable surfaces that increase runoff, use of water-dependent vegetation, and breaks in water or sewage lines. Thus, it is necessary that new development minimize risks to life and property in areas of high geologic hazard and that stability and structural integrity are assured and neither create or contribute significantly to erosion and geologic instability to be consistent with Section 30253 of the Coastal Act and the following policy of the certified City of Newport Beach Land Use Plan:

Pages 16-17 – Modify Section II.C.1.a., as follows:

1. SITE SPECIFIC BLUFF INFORMATION

a. Geotechnical Data

To address site-specific issues, the applicants have submitted the following geotechnical investigations: *Report of Geotechnical Investigation for Proposed Residence at 3725 Ocean Boulevard, Corona Del Mar Area, City of Newport Beach, California (Project No. 11-5195-1)* prepared by Associated Soils Engineering, Inc. dated June 30, 2011; *Report* prepared by Associated Soils Engineering, Inc. dated August 31, 2011; *Updated Coastal Bluff Stability Analysis, 3725 Ocean Boulevard, Corona Del Mar, City of Newport Beach, California* prepared by Associated Soils Engineering, Inc. dated March 7, 2012; and *Review of Cantilevered Patio and Retaining Wall, 3725 Ocean Boulevard, Corona Del Mar, City of Newport Beach, California* prepared by Associated Soils Engineering, Inc. dated June 14, 2012. These geotechnical investigations state that the sea cliff portion of the bluff exposes Monterey Formation bedrock

comprised of resistant sandstone and siltstone beds that dip into the bluff face. The toe of the bluff is protected by rocky debris that has accumulated at the base of the cliff. These investigations analyzed the onsite bluff retreat/erosion and state that the primary mode of bluff retreat is from the occasional rockfall and isolated wedge failures from oversteepened sections of the bluff and concludes that the process is very slow. Additionally, the information provided states that the bedrock materials backing the bluff are anticipated to remain seismically and grossly stable. These reports conclude the coastal bluff on the site is grossly stable and that the project is feasible from an engineering perspective provided the applicant complies with the recommendations contained in the investigations.

*Specifically, the March 7, 2012 report contains slope stability analyses that make use of assigned soil strength parameters that greatly exceed those used in the analyses in the August 31, 2011 report. These soil strengths were derived, in part, from unconfined compression tests on three samples of bedrock from the bluff face. With these very high strength parameters, the computer program used for the slope stability analyses was unable to calculate a realistic factor of safety. The report concluded that “the result of our updated analysis indicates a factor-of-safety (FOS) greater than 1.5 against landsliding exists out to the bluff face located on the subject property.” The Commission’s staff geologist has reviewed these reports and disagrees with this conclusion. Although the unconfined compressive strength tests indicate that there do exist materials in the bluff with very high strengths, the overall bluff stability could not be evaluated because the computer program was not able to adequately calculate a factor of safety against sliding. Accordingly, he recommends that additional modeling be performed to fully evaluate the stability of the slope.*

Some of the recommendations for construction of the project included *in the above referenced geotechnical reports include* a foundation system with a concrete mat slab with permanent shoring walls with soldier piles. While the applicant’s geologist has concluded that the project can be constructed as long as it adheres to the recommendation found in the geotechnical investigations, it still results in development taking place in a potentially hazard prone location. Any approved development should be sited and designed to avoid future exposure of the foundation system and to avoid the need for protective devices that would alter the natural landform of the bluff in the future.

**From:** "David B. Neish"

**Date:** January 31, 2013 12:56:44 PM PST

**To:** "Jana Zimmer"

Jana, attached is the briefing booklet for the Fischer application Item No. (WED. 19d) that you can review. If you have any questions, please let me know. Obviously, we are not in agreement with the CCC Staff recommendation.

Ex Parte Communication received 1/31/13

An aerial photograph of the Corona Del Mar coastline in Laguna Beach, California. The image shows a sandy beach curving along a dark blue ocean. A long pier extends from the beach into the water. The background is filled with a dense residential neighborhood with a grid-like street pattern.

# **Fischer Residence**

January / 2013

**Corona Del Mar**

**Coastal Commission Application #5-12-168**



933 SOUTH PACIFIC COAST HIGHWAY  
LAGUNA BEACH, CALIFORNIA 92651  
949.494.0476 Fax 949.494.8026





Project Site →

## Exhibit 1

January / 2013

- Corona Del Mar
- Ocean Front Project Site



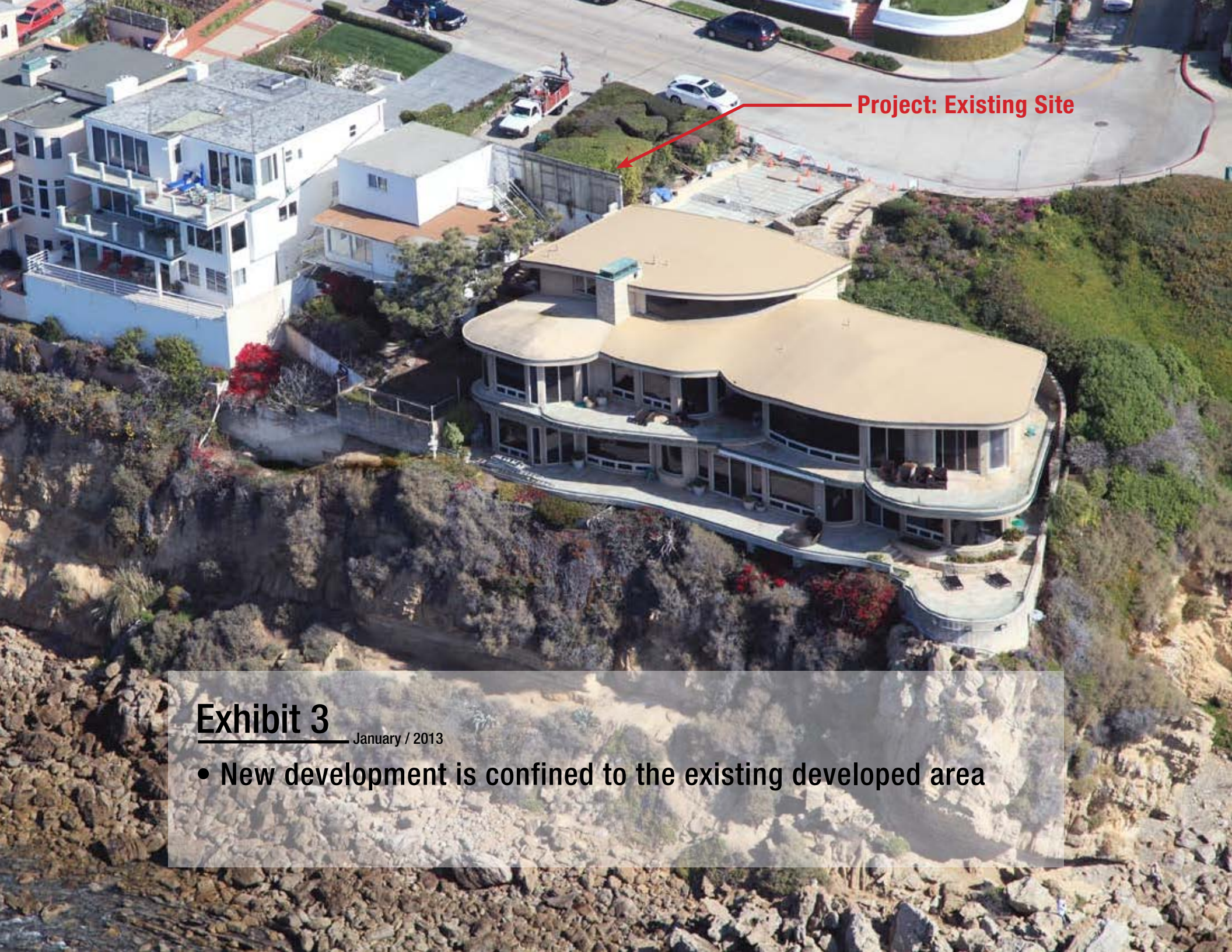


## Exhibit 2

January / 2013

- Fischer 10 House Neighborhood
- Beach Recreation Area
- Neighborhood Park





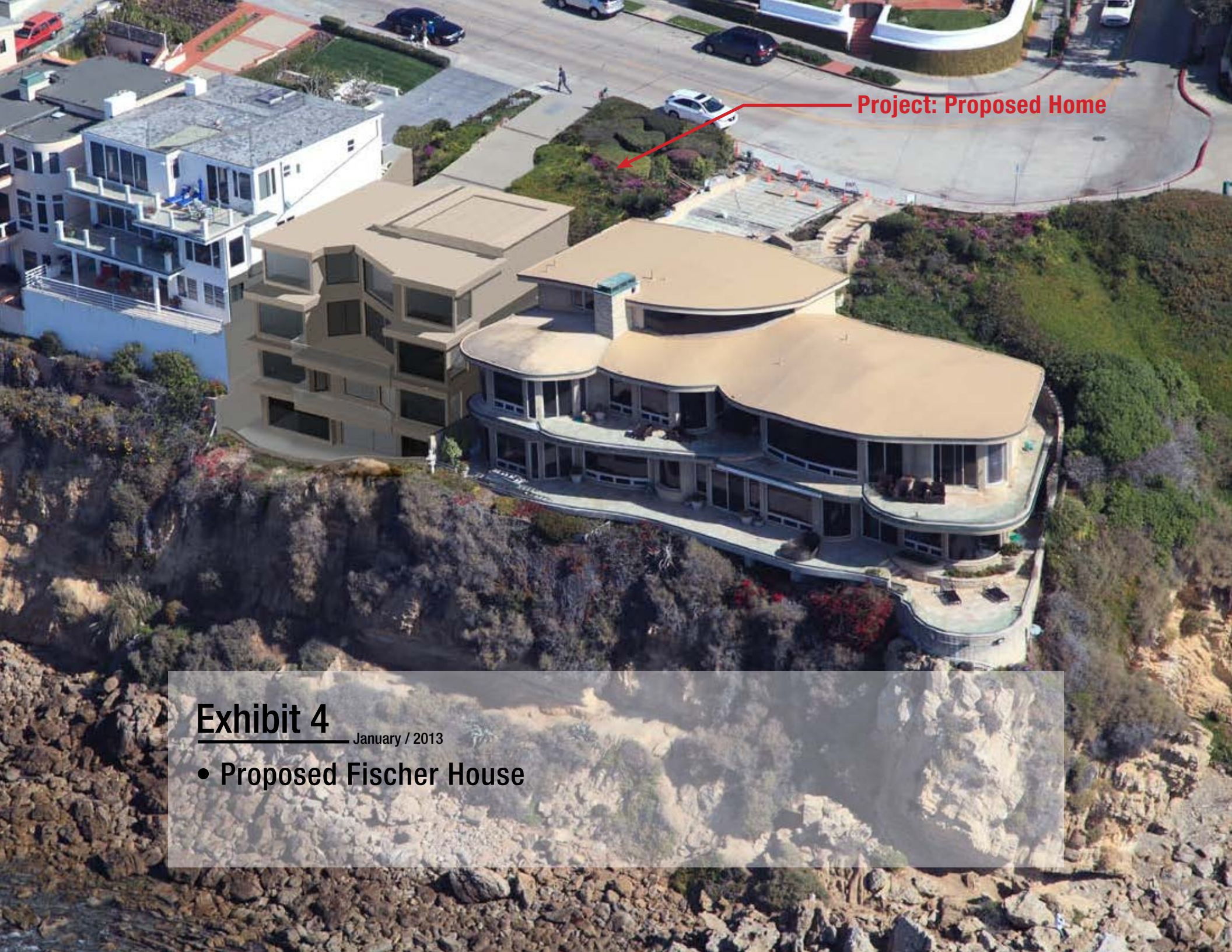
**Project: Existing Site**

## **Exhibit 3**

January / 2013

- New development is confined to the existing developed area





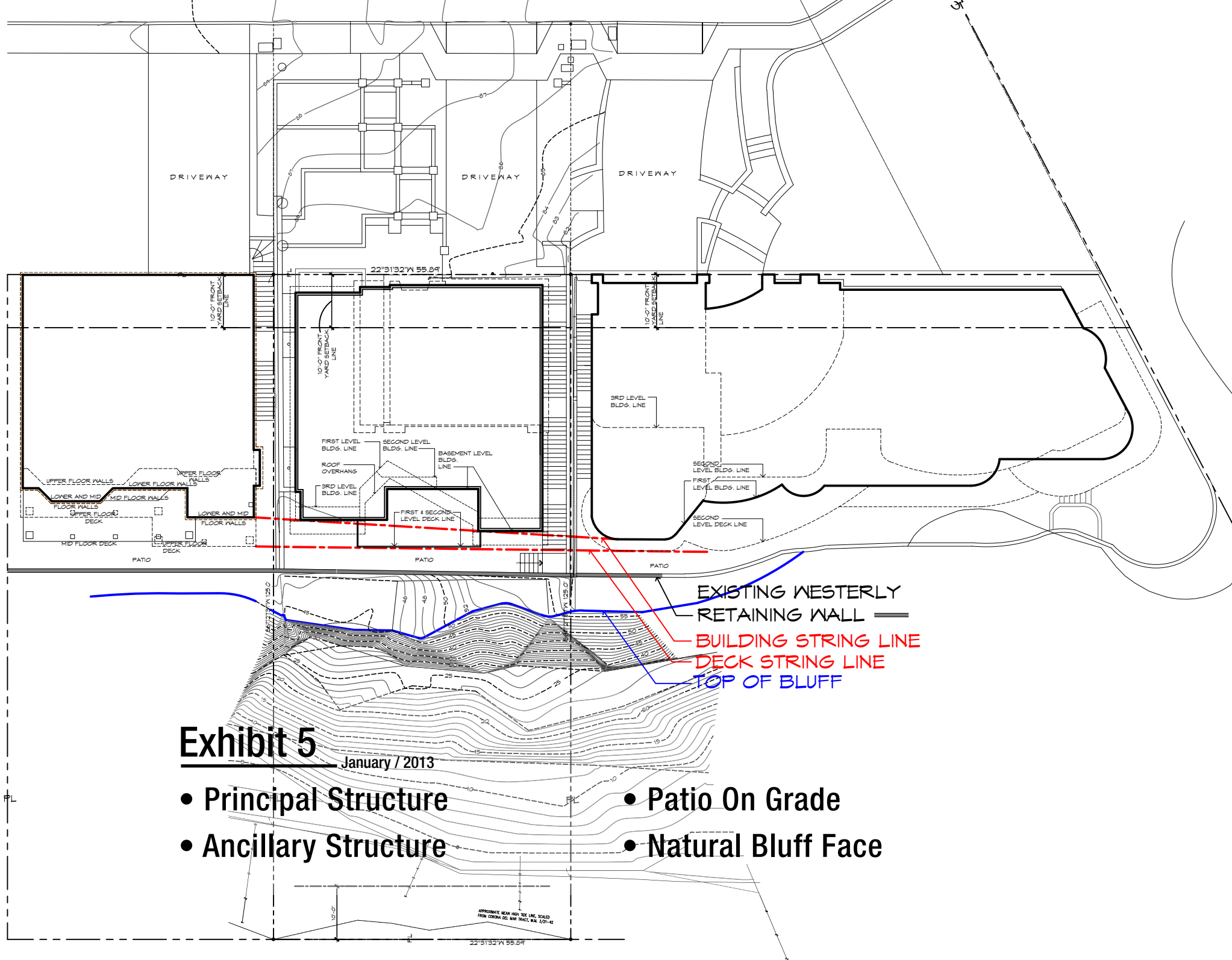
Project: Proposed Home

## Exhibit 4

January / 2013

- Proposed Fischer House







3729

Fischer Residence - 3725  
**Project Site**

## Exhibit 6

January / 2013

- Street View Of Existing Houses • Ocean Blvd.



3719



3729

Fischer Residence - 3725  
Proposed Project  
**First Submittal**

**Exhibit 7A** January / 2013

- Existing Adjacent Houses Have Coastal Approval





3719



3729

Fischer Residence - 3725  
Proposed Project  
**Revised Second  
Submittal**

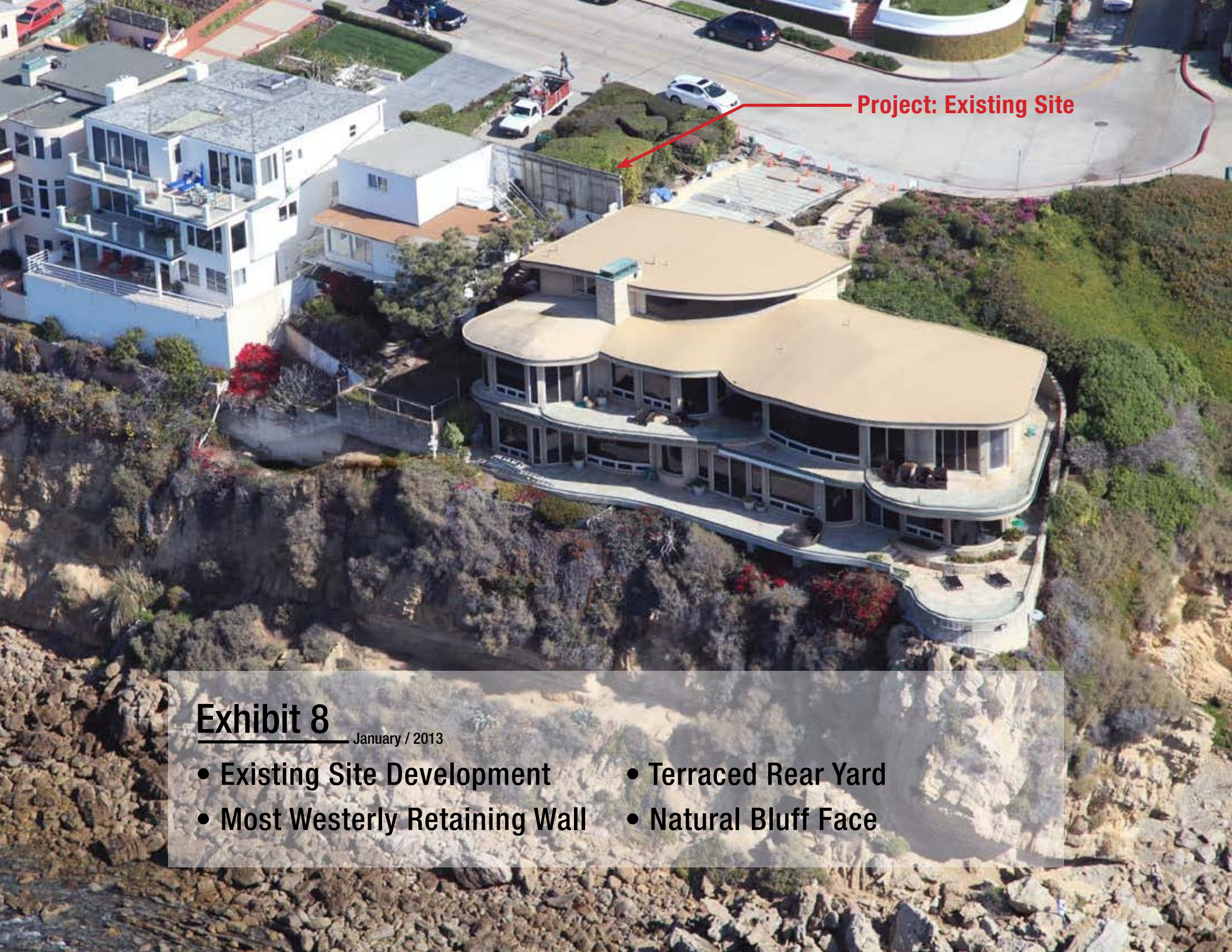
**Exhibit 7B** January / 2013

- Existing Adjacent Houses Have Coastal Approval



3719





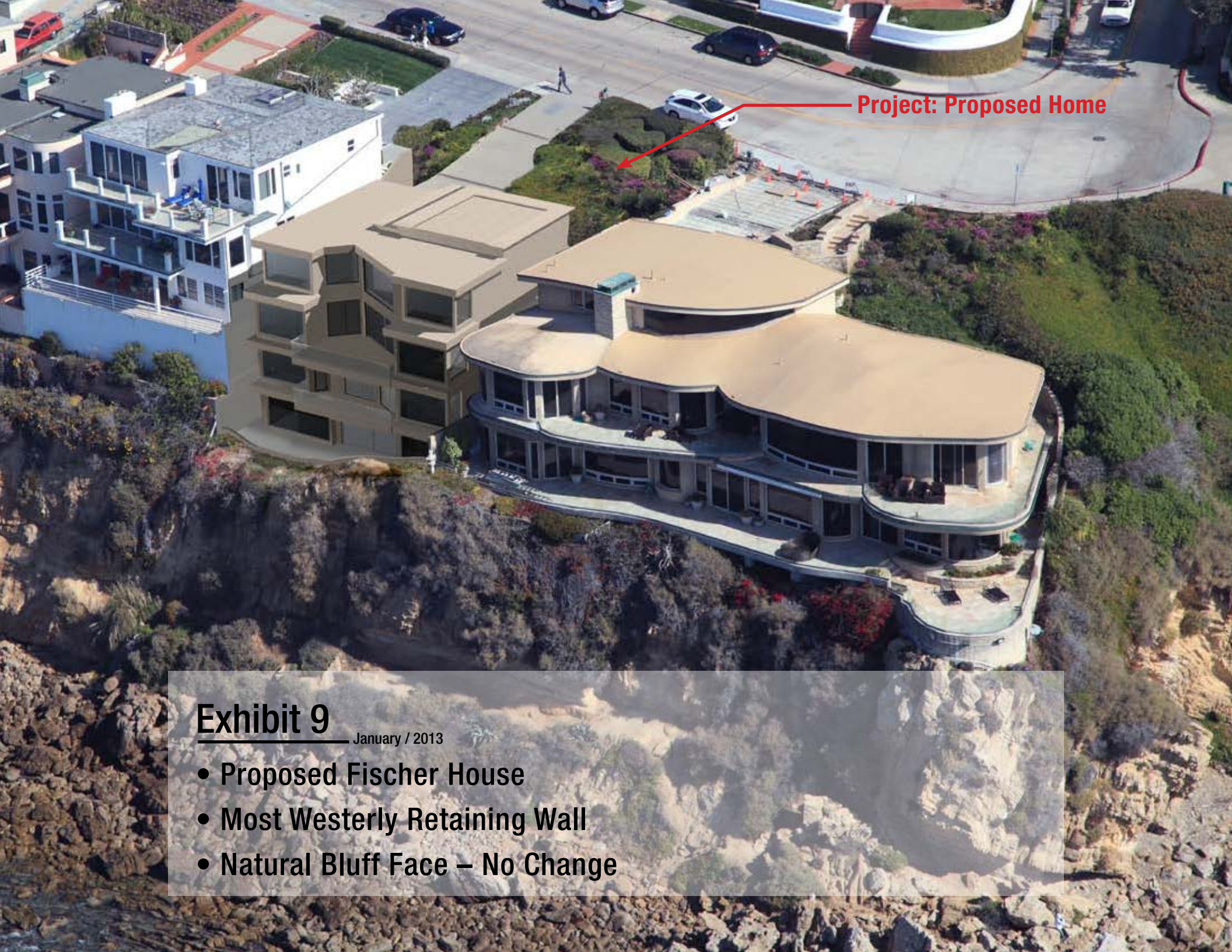
**Project: Existing Site**

## **Exhibit 8**

January / 2013

- Existing Site Development
- Terraced Rear Yard
- Most Westerly Retaining Wall
- Natural Bluff Face





Project: Proposed Home

## Exhibit 9

January / 2013

- Proposed Fischer House
- Most Westerly Retaining Wall
- Natural Bluff Face – No Change





## **Exhibit 10**

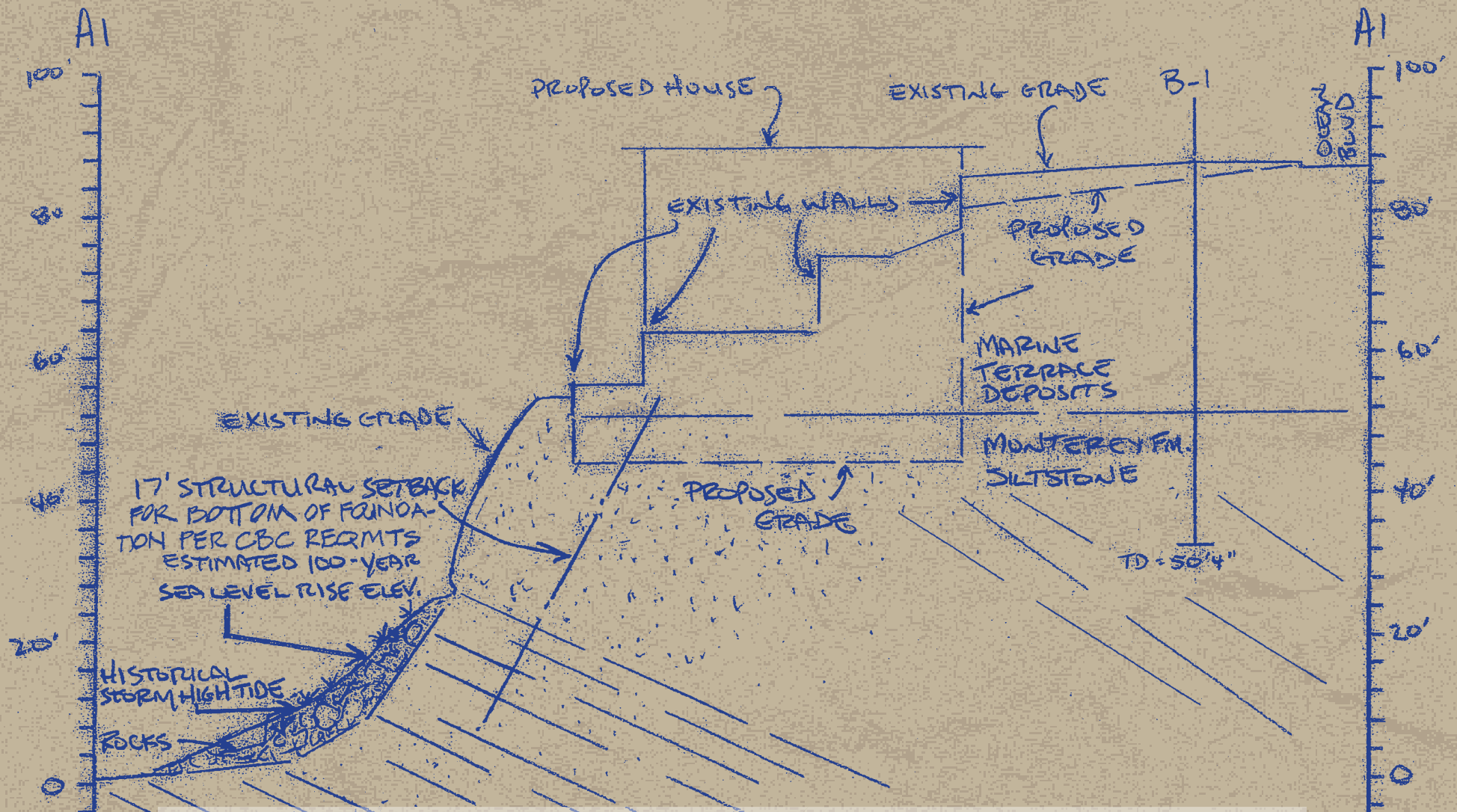
January / 2013

- **10 House Neighborhood with 3, 4 And 5 Story Homes**





**Project: Existing Site**



## Exhibit 11

January / 2013

- Grossly Stable Geologic Formation
- Factor Of Safety Exceeds 1.5
- Bedding Is Favorable

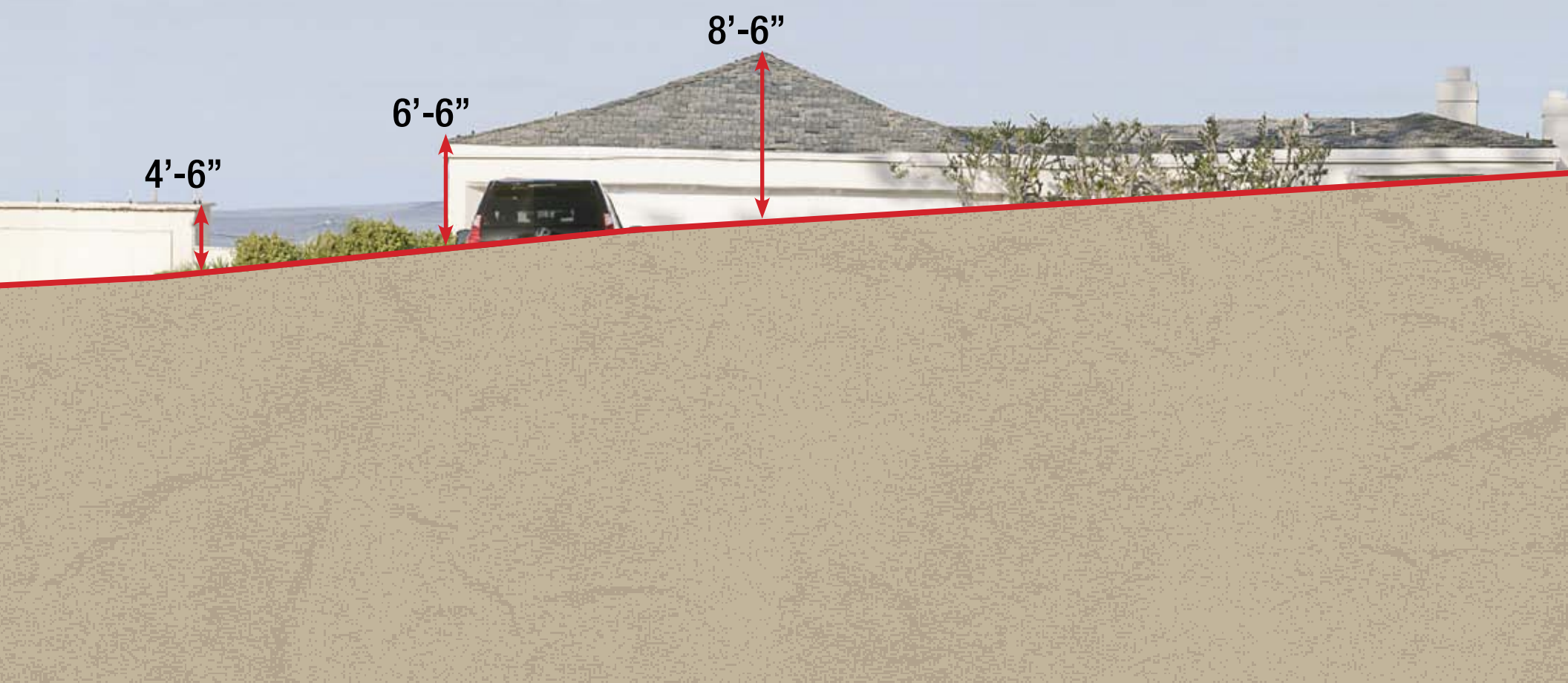




## Exhibit 12

January / 2013

- Existing House Blocks The Ocean View
- Height Above Curb Dimensions





## **Proposed Home Overlaid On Existing Home**

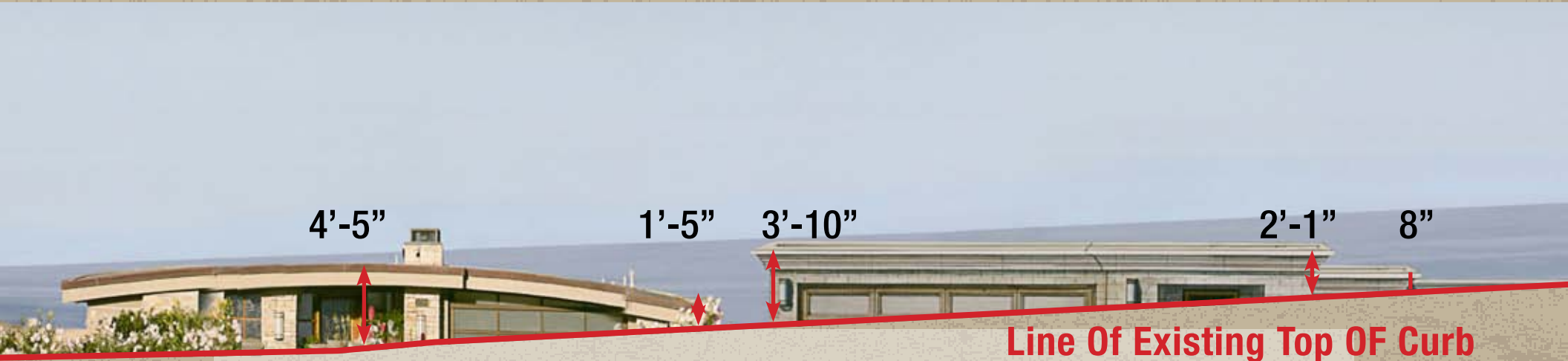
### **Exhibit 13** January / 2013

- The Proposed House Is Lowered To The maximum Extent Feasible
- Garage And Driveway Moved To The Low Side
- Steep Driveway



#3729 / Variance approved to build above curb 4'5"  
and encroach into 10' front yard S.B.

#3725 / Request to build above curb 3'10" and  
encroach into 10' front yard S.B.



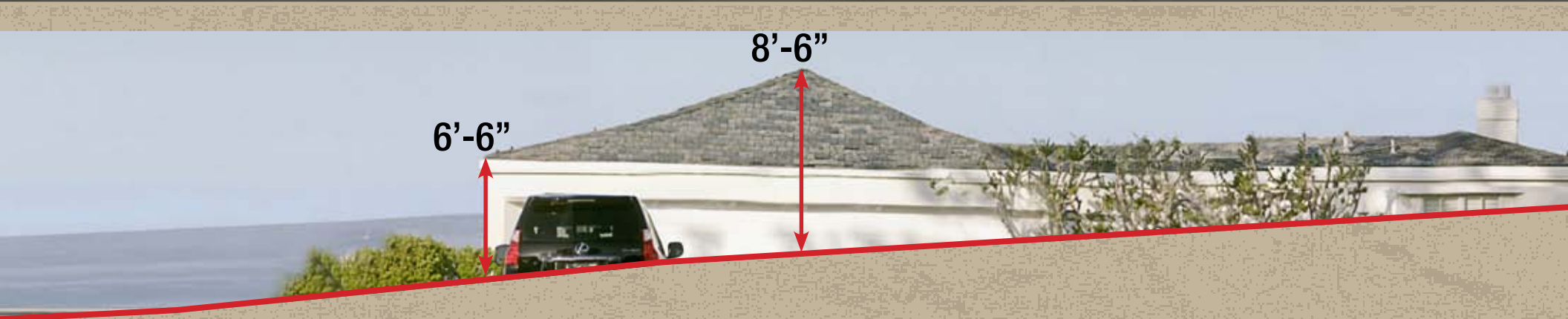
## Exhibit 14

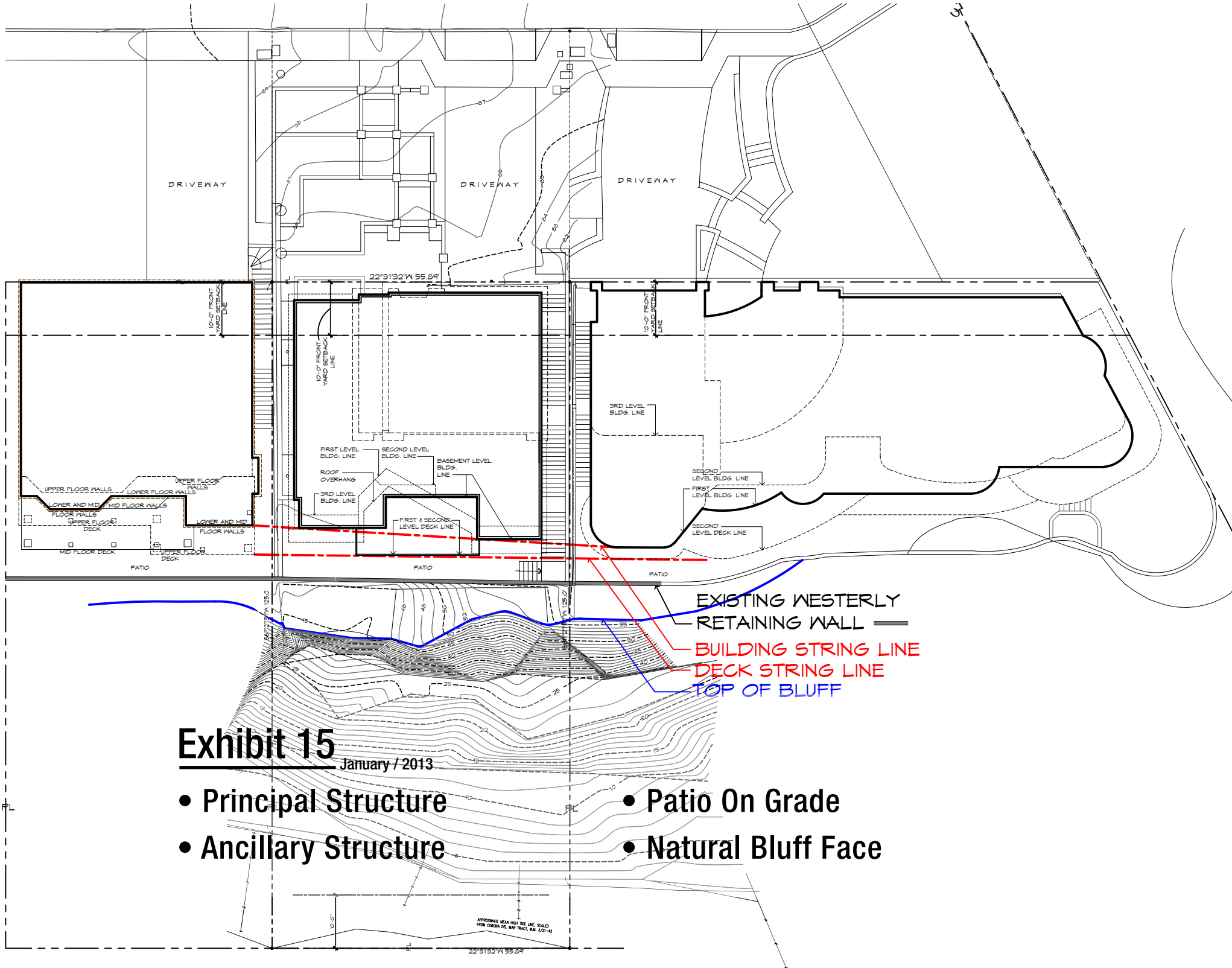
January / 2013

- New View To The Ocean



#3719 / To build additions above curb and encroach into 10' front yard S.B.



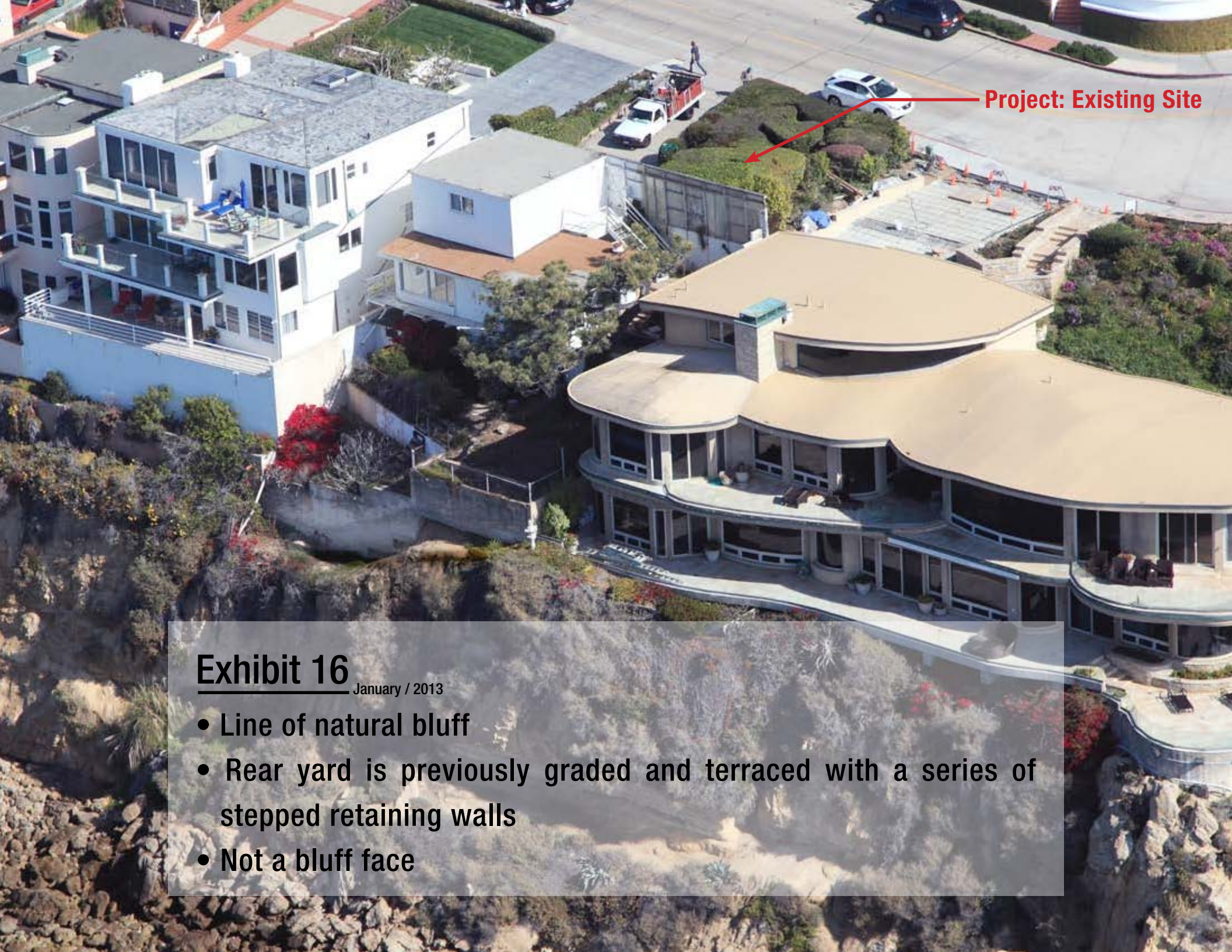


## Exhibit 15

January / 2013

- Principal Structure
- Ancillary Structure
- Patio On Grade
- Natural Bluff Face





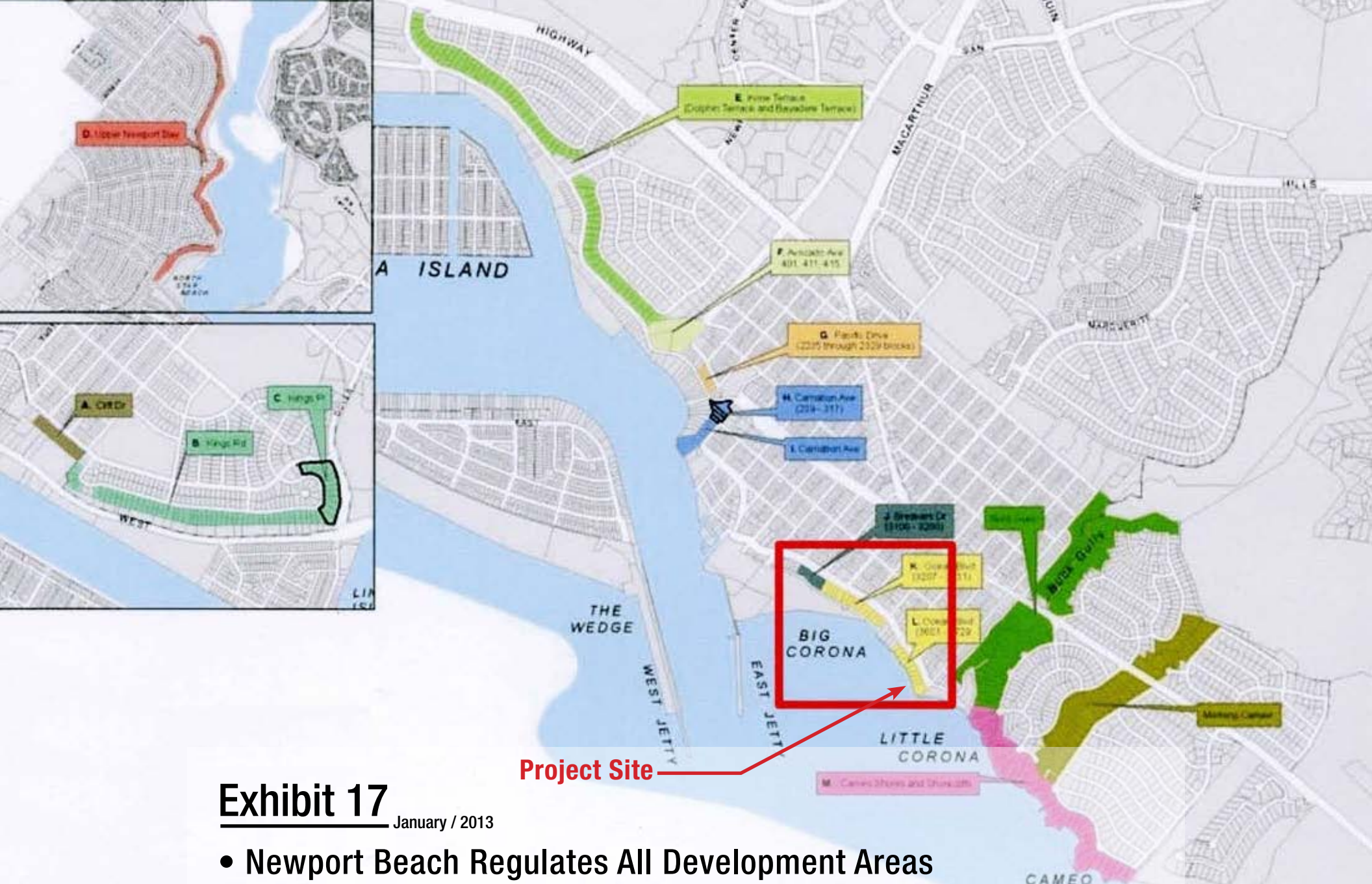
Project: Existing Site

## Exhibit 16

January / 2013

- Line of natural bluff
- Rear yard is previously graded and terraced with a series of stepped retaining walls
- Not a bluff face





## Exhibit 17

January / 2013

- Newport Beach Regulates All Development Areas Of Bluff Properties.

# **The Following Exhibits Are A Discussion Of The PLOED**

**PLOED: Predominate Line Of Existing Development**

**PLOED Has 2 Interpretations:**

- (1) Looking Down On A Vertical Plane:  
Similar To A String Line In Plan View**
- (2) Looking At An Elevation Straight On:  
With A Horizontal Contour Line**

**Exhibit 18** January / 2013



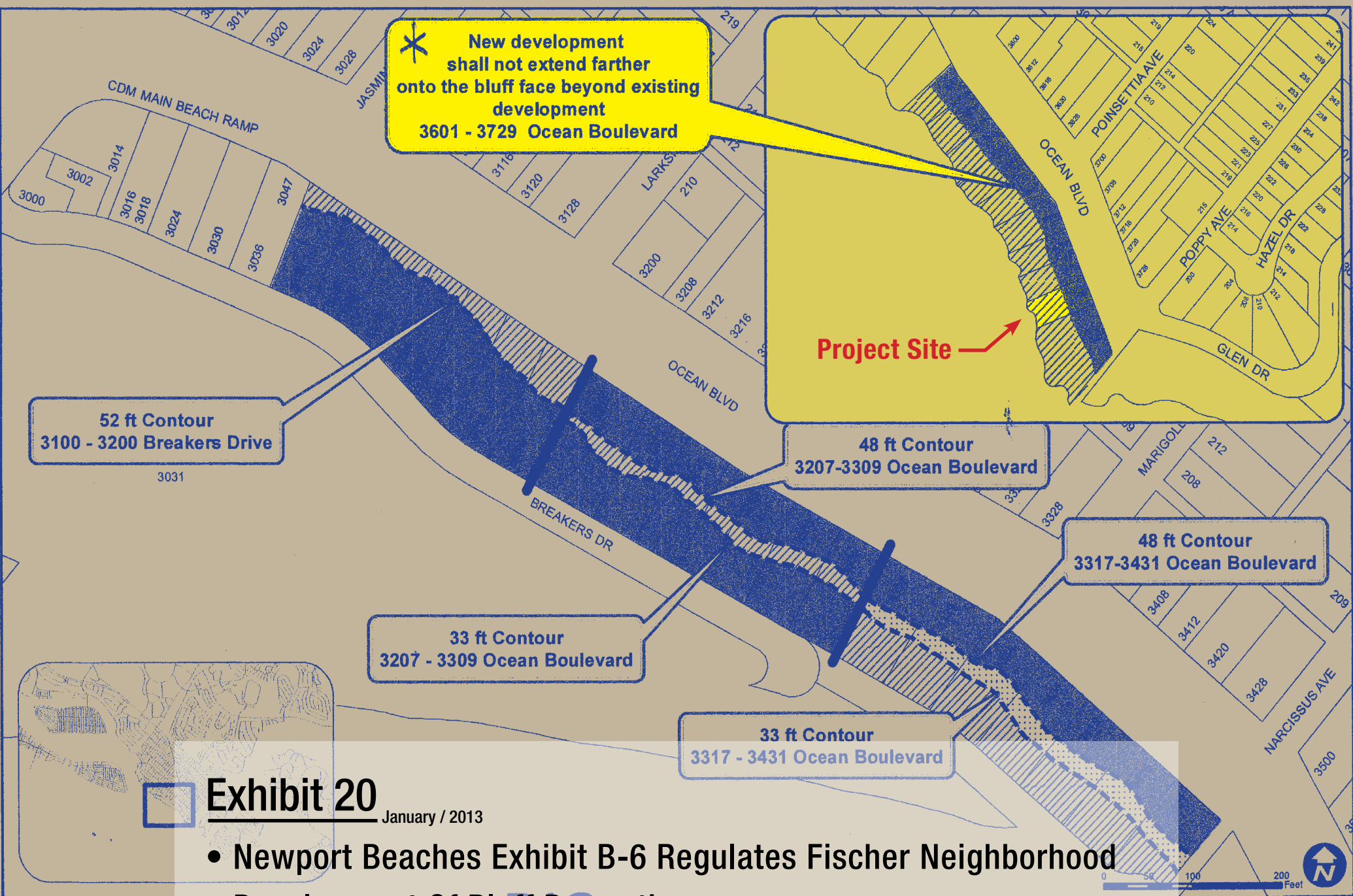


## Exhibit 19

January / 2013

- Newport Beach Regulates Ocean Blvd Development  
On Bluff Properties





## Exhibit 20

January / 2013

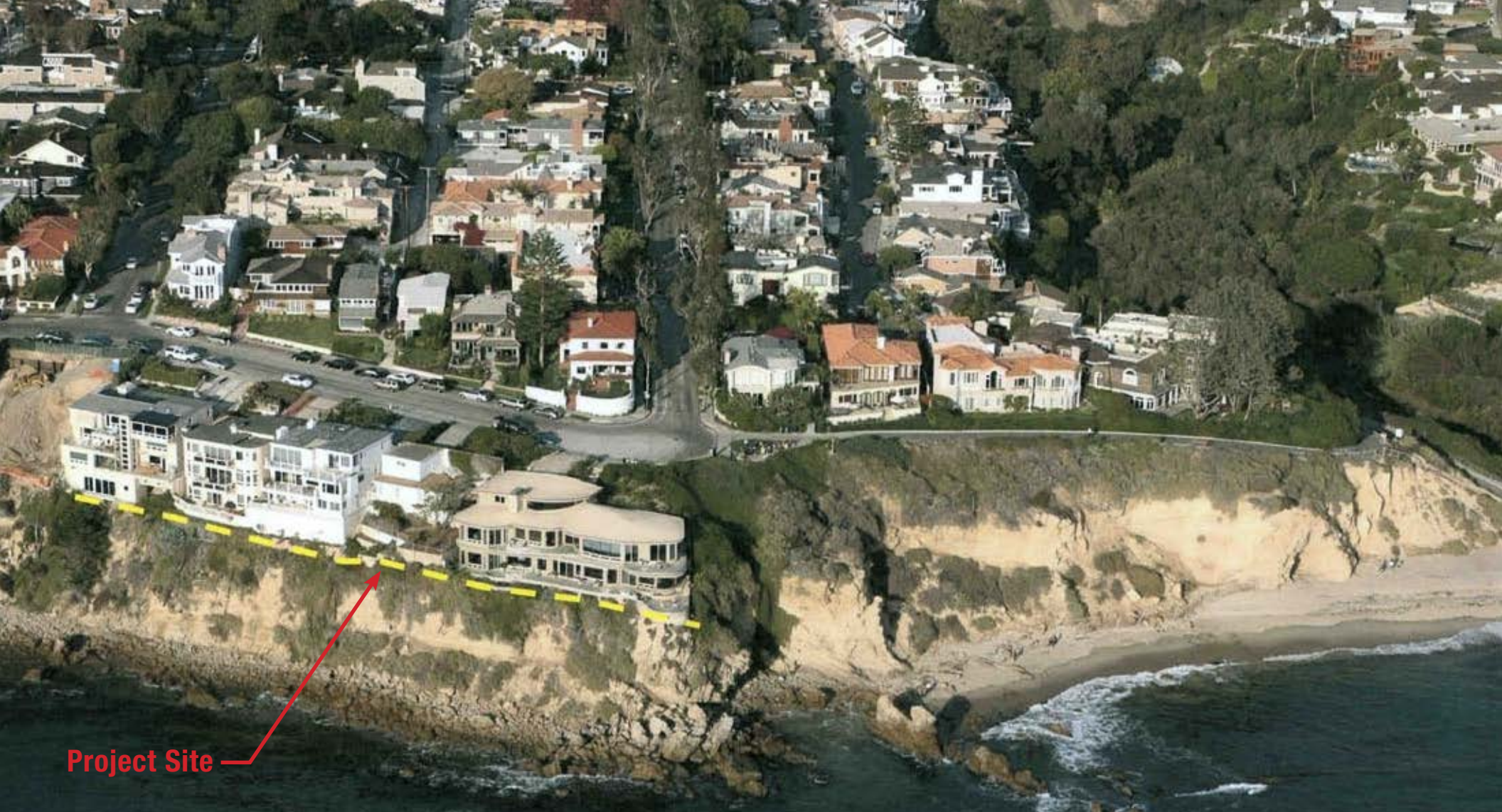
- Newport Beaches Exhibit B-6 Regulates Fischer Neighborhood Development Of Bluff Properties

### B-6 Ocean Boulevard / Breakers Drive

Development Areas Delineated By:		
—	Specified Distance from Front Property Line	Development Area A
...	Specified Distance Below Top of Curb	Development Area B
- - -	Specified Contour	Development Area C







**Project Site**

## Exhibit 21

January / 2013

- Newport Beaches Analysis Of Fischer Neighborhood  
Illustrating Westerly Edge Of Existing Development





## Exhibit 22

January / 2013

- Beach Elevation Of Fischer Neighborhood  
Illustrating Westerly Edge Of Existing Development





Project Site





## Exhibit 23

January / 2013

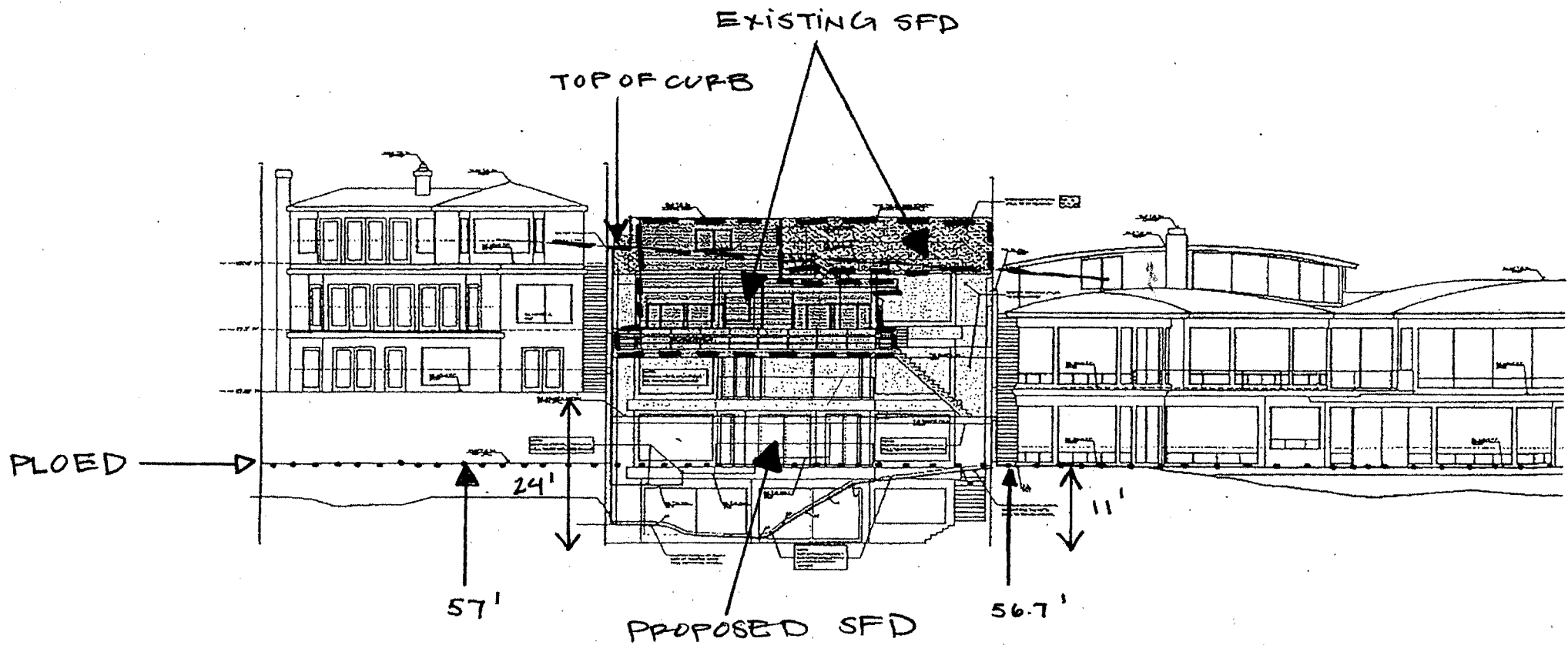
- Proposed Residence Has No Impact On The Natural Bluff





**Proposed Project**





COASTAL COMMISSION

## Exhibit 24A

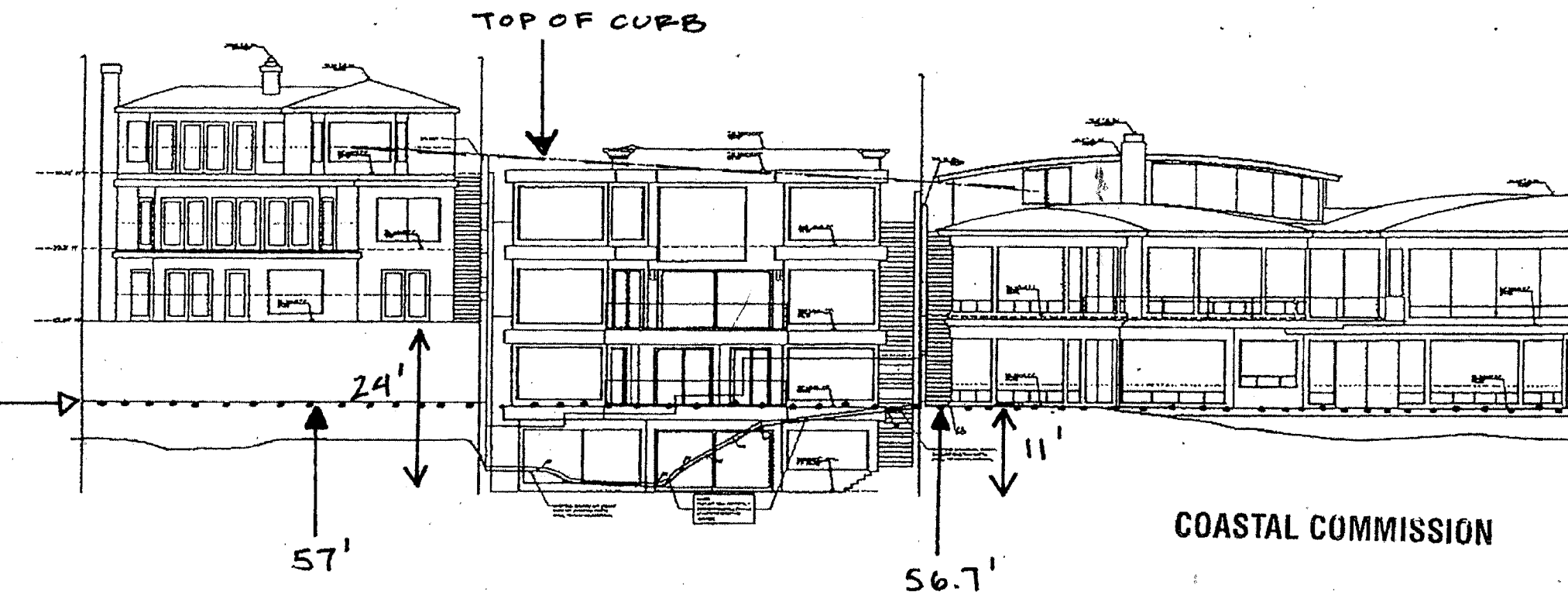
January / 2013

EXHIBIT # S  
PAGE 1 OF 1

- Coastal Staff Exhibit #5
- View From Ocean With New Home Overlaid  
On Existing Residence







COASTAL COMMISSION

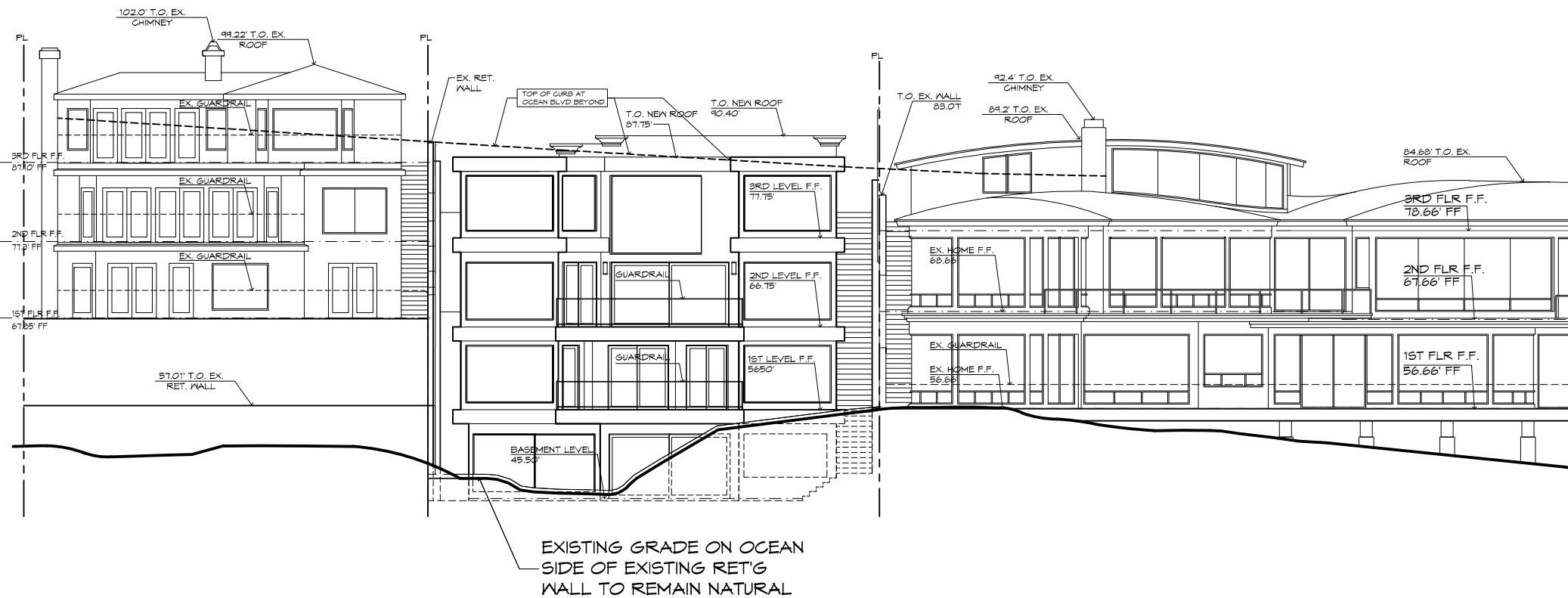
EXHIBIT # 6

PAGE 1 OF 1

## Exhibit 25A

January / 2013

- Coastal Staff Exhibit #6



## Exhibit 25B

January / 2013

- Clarified Coastal Staff Exhibit #6  
With Proposed Project





**Project: Existing Site**

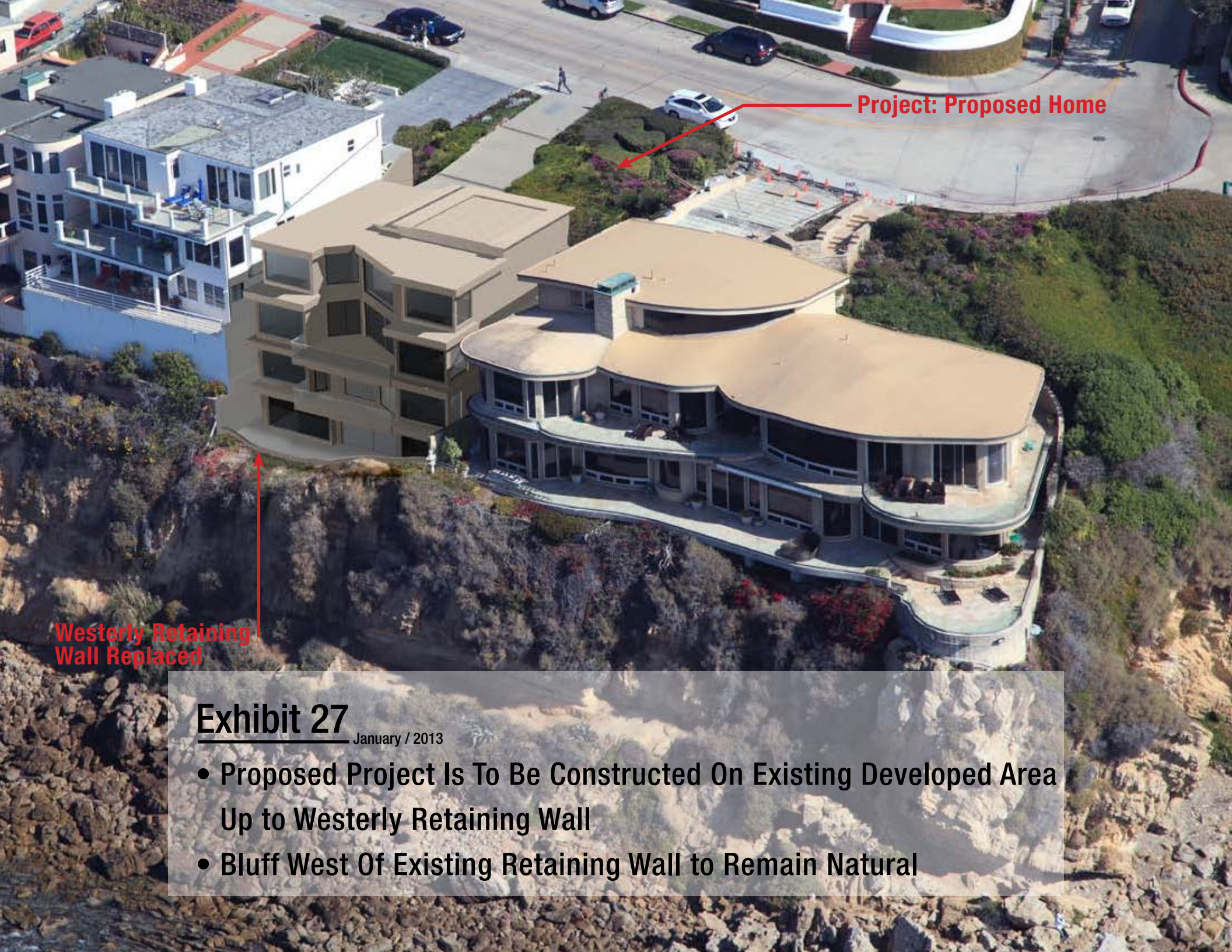
**Westerly Retaining Wall**

## **Exhibit 26**

January / 2013

- Existing Property Is Already Developed To Existing Westerly Retaining Wall
- Westerly Retaining Wall Is Structurally Unsound And Will Be Replaced





**Project: Proposed Home**

**Westerly Retaining  
Wall Replaced**

## **Exhibit 27**

January / 2013

- Proposed Project Is To Be Constructed On Existing Developed Area Up to Westerly Retaining Wall
- Bluff West Of Existing Retaining Wall to Remain Natural



**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
200 Oceangate, Suite 1000  
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(562) 590-5071

**W 19d**

Filed: June 15, 2012  
180th Day: December 12, 2012  
270th Day: March 12, 2013  
Staff: F. Sy-LB  
Staff Report: January 17, 2013  
Hearing Date: February 6-8, 2013

**STAFF REPORT: REGULAR CALENDAR**

**Application No.:** 5-12-168

**Applicant:** Desmond Fischer

**Agent:** John McInnes & Associates, Inc., ATTN: John McInnes

**Location:** 3725 Ocean Boulevard, Newport Beach (Corona Del Mar)  
(Orange County)

**Project Description:** Demolition of an existing two-story, 833 square foot, single-family-residence with a 456 square foot, two (2)-car garage and construction of a new 6,814 square foot, three-story single-family residence with a basement (4-floors) with a 390 square foot two-car garage on a coastal bluff face. The rooftop of the upper level (consisting of the garage, entry and elevator) of the proposed residence will be above the curb height on Ocean Boulevard. The foundation system will consist of a concrete mat slab with permanent shoring walls with soldier piles. The project also includes paving, retaining walls, landscaping and irrigation. Grading will consist of 2,213 cubic yards of cut and export to an area outside of the Coastal Zone.

**Staff Recommendation:** Denial.

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**SUMMARY OF STAFF RECOMMENDATION:**

The proposed project is located on a rectangular shaped bluff face property seaward of Ocean Boulevard. There is a narrow rocky shoreline at the toe of the bluff, and the toe of the bluff is subject to direct wave attack. The proposed project would consist of demolition of the existing two-story single-family residence, further excavation of the bluff face, and construction of a new 6,814

square foot three-story single-family residence with a basement (4-floors) with a 390 square foot two-car garage on the bluff face.

The proposed residence would result in significant development that extends 28-feet lower than the finished floor elevation of the existing residence on the bluff face. Additionally, 2,213 cubic yards of grading is proposed to accommodate construction of the residence into and on the bluff face. The proposed residence would result in significant landform alteration by encroaching upon the bluff face well below the existing residence, as well as below the level of the two adjacent residences. The bottom floor of the proposed residence will daylight 24-feet lower than the finished floor elevation of the adjacent residence to the north and would daylight 11-feet lower down the bluff face than the finished floor elevation of the adjacent residence to the south. Staff has established the Predominant Line of Existing Development (PLOED) to be at approximately elevation 56.9-feet taking into consideration the seaward extent of development on either side and roughly corresponding to the edge of the graded pad on the subject site. The bottom of a retaining wall (not the finished floor) located on the site to the north is located at about elevation 57.0-feet and the finished floor elevation of the home to the south is located at about 56.7-feet. The proposed development drops about 11-feet below this elevation (Exhibits #5-6). The City's certified Land Use Plan (LUP) contains policies prohibiting structures from going below the PLOED. Also, the upper level of the proposed residence would extend above the elevation of the top of the curb at Ocean Boulevard, which is contrary to specific prohibitions against such extensions in the City's certified LUP. This significant landform alteration and view obstruction would impact public views to and along the shoreline, contrary to Section 30251 of the Coastal Act and the City's certified LUP.

At the February 2012 CCC Hearing, a similar project (CDP NO. 5-11-168) at the same location by the same owner was scheduled to be heard. However, the project was withdrawn after the Staff Report had been prepared and distributed. The Staff recommendation for this previous project was for denial and the issues that were raised are similar to the issues raised by the current proposal. One of those concerns related to reported site instability. Since then, the applicant undertook additional soils testing which revealed that their prior stability analysis was wrong and that the project site is in fact stable (i.e. factor of safety exceeds 1.5). Otherwise, the project remains essentially the same except for two project components that have been revised with the current proposal, as follows: 1) caissons that were once proposed under a new retaining wall along the western property line (rear yard) near the bluff face have now been eliminated; and 2) the grading has been reduced from 2,750 cubic yards to 2,213 cubic yards.

The project was previously scheduled to be heard at the October 2012 CCC Hearing and the Staff Report was published. However, the applicant postponed the project prior to the hearing and submitted a 90-Day waiver to have more time to review the Staff Report and prepare for a CCC Hearing.

As proposed, the project would result in adverse visual impacts, be inconsistent with the character of the surrounding area, would have cumulative adverse impacts because of the proposed significant landform alteration and inconsistency with the PLOED and approval would also prejudice preparation of a certifiable Local Coastal Program (LCP) for the City of Newport Beach.



Alternatives to the proposed project exist. For example, the existing residence could be remodeled or reconstructed so that it is consistent with the character of the surrounding area and the PLOED established along this segment of shoreline. Therefore, staff recommends that the proposed project be **DENIED**. Achieving the necessary redesign would not be possible through conditions of approval.

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

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## **APPENDICES**

Appendix 1 – Substantive File Documents

## **EXHIBITS**

Exhibit #1 – Vicinity Map

Exhibit #2 – Site Plan

Exhibit #3 – Floor Plans

Exhibit #4 – Elevation Plans

Exhibit #5 – Elevation Plan Showing the Existing SFD Overlaid on the Proposed SFD in Relation to the Adjacent Neighbors

Exhibit #6 – Elevation Plan Showing Proposed SFD in Relation to the Adjacent Neighbors

Exhibit #7 – Section Plan from Geotechnical Investigation

Exhibit # 8 – Predominant Line of Existing Development (PLOED) Exhibit to the Staff Report for the May 16, 2011 City of Newport Beach Planning Commission Meeting

Exhibit # 9 – Zoning Code Bluff Overlay District Map Exhibit B-6



## **I. STAFF RECOMMENDATION OF DENIAL**

Staff recommends that the Commission **DENY** the Coastal Development Permit application by voting **NO** on the following motion and adopting the following resolution.

### **A. MOTION**

*I move that the Commission approve Coastal Development Permit No. 5-12-168 for the development proposed by the applicant.*

### **B. STAFF RECOMMENDATION OF DENIAL**

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

### **C. RESOLUTION TO DENY THE PERMIT**

The Commission hereby **DENIES** a Coastal Development Permit for the proposed development on the ground that the development will not conform with the policies of Chapter 3 of the Coastal Act and will prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

## **II. FINDINGS AND DECLARATIONS:**

The Commission hereby finds and declares:

### **A. PROJECT LOCATION AND DESCRIPTION, LOCAL APPROVAL: VARIANCE AND MODIFICATION PERMIT, PRIOR COMMISSION ACTIONS ON ADJACENT SITES AND STANDARD OF REVIEW**

#### **1. PROJECT LOCATION AND DESCRIPTION**

The proposed project is located on a rectangular shaped coastal bluff face property at 3725 Ocean Boulevard in the community of Corona Del Mar that is part of the City of Newport Beach, County of Orange (Exhibits #1-2). There is a narrow rocky shoreline at the toe of the bluff, and the toe of the bluff is subject to direct wave attack. The project site is near the easterly end of Ocean Boulevard, a scenic overlook and a pedestrian walkway to Little Corona Beach.

The subject site slopes generally in two directions, to the south (downcoast), and to the west (toward the bluff face and ocean). The area located at the front property line along Ocean

Boulevard (bluff top) of each of the lots in this area generally slope slightly downward from the easterly side toward the westerly side of the lot (bluff face). The northerly area of this specific lot is steeply sloped at the front area along Ocean Boulevard and then steps down the slope on the northerly side to its lowest elevation in the northwesterly corner near the existing coastal seaward edge of graded pad. The southerly side of the lot slopes more evenly and is higher than the northerly side of the lot.

East (landward) of the project site is an approximate 43-foot wide public right-of-way and then Ocean Boulevard. West (seaward) of the project site is a bluff face with a 50-foot drop to a rocky shoreline below and then the Pacific Ocean. Surface elevations range from approximately 90-feet above sea level at Ocean Boulevard to approximately 50-feet above sea level at the lowest terrace along the edge of the graded pad (Exhibit #7). North and south of the project site are residential developments comprising of multi-level, single-unit dwellings constructed on the upper elevation of the bluff face.

The subject lot size is 6,986 square feet, and the City of Newport Beach Land Use Plan designates the site as Single-Unit Residential Detached (RSD-A) and the proposed project adheres to this designation.

Vehicular access to the project site is available from Ocean Boulevard.

The site is currently developed with an existing pre-coastal (built in the 1950's) two-story, flat roof, 833 square foot, single-family-residence with a 456 square foot, two (2)-car garage on the bluff face. When viewing the site from the seaward side, there is an existing area below the existing home that appears to be a third lower level (without windows), but that area is all soil retained by a wall, and not living space. An exterior staircase leads from the garage at the street level to the residence level located below. The northerly corner of the roof of the existing garage is 4'-6" high above the top of curb at Ocean Boulevard. An existing wall attached to the garage that extends from the front corners of the garage to each side property line extends 7'-8-3/4" high above the top of curb at Ocean Boulevard at the southerly property line. These existing projections above the top of curb are non-conformities to current standards that prohibit such projections. Within the public right-of-way separating the subject property and the street are overgrown hedges and landscape plantings.

The rear area (bluff face) of the lot has been altered between the existing residence and the seaward edge of the existing graded pad that was notched into the bluff face to accommodate the existing residence. This area is developed with terraced retaining walls to provide a usable rear yard space. A chain link fence currently sits atop a retaining wall that extends along at the seaward edge of the graded pad. The retaining wall is being used to establish the predominant line of existing development on the subject property.

The proposed project (Exhibits #2-4) would consist of: demolition of the existing two-story single-family residence, excavation of 2,213 cubic yards of soil to notch out additional soil below the existing finished floor of the home and to notch out bluff face below the level of the existing graded pad, and construction of a new 6,814 square foot, three-story single-family residence with a basement (4-floors) with a 390 square foot two-car garage. The



basement level daylights on the seaward side. Rooftop portions of the upper level consisting of the garage, entry and elevator will exceed the top of curb height at Ocean Boulevard by 2-to 4-feet (Exhibits #4, pages 1-2 and #5). Current standards prohibit such projections above the top of curb. The foundation system will consist of a concrete mat slab with permanent shoring walls with soldier piles. The project also includes paving, retaining walls, landscaping and irrigation. Graded soils would be exported to an area outside of the Coastal Zone.

The roof areas of all levels of the proposed residence are flat and portions of the upper level exceed the 24-foot height limit in the City's code for flat roofs in the R-1 Zoning District. Additionally, all four (4) levels encroach into the 10-foot front yard (street front) setback. Also, the proposed soldier piles and retaining walls would encroach into both 4-foot side yard setbacks.

The existing driveway would be relocated to the southerly side of the property and graded to provide a maximum slope of 19% from the street to the garage face. The remainder of the public right-of-way would be terraced and landscaped as proposed by the applicant and shown on the submitted project plans. However, work in this area requires a separate encroachment permit from the City and no such approval from the City for work in this area has been submitted.

The existing retaining wall located in the rear yard on the seaward side of the home along the seaward edge of the graded pad on the bluff face would be demolished and reconstructed. New site retaining walls and related safety railings would be constructed adjacent to the side yard property lines beginning at the front (east) of the lot and ending at the face (rear) of the reconstructed retaining wall to the west. The landward side (closest to the street) of the existing retaining wall would be lowered by grading to allow construction of the residence and a basement level patio area.

The proposed residence would result in development that extends 28-feet below the finished floor elevation of the existing residence and requires 2,213 cubic yards of grading to excavate soils underneath the existing finished floor of the home and the bluff face below the existing graded pad to accommodate three (3) of the proposed residential floors of the new residence. Additionally, the proposed residence would be 459% larger than the existing residence. The existing residence and garage consists of a total of 1,289 square feet and the proposed residence and garage consists of 7,204 square feet.

## 2. LOCAL APPROVAL: VARIANCE AND MODIFICATION PERMIT

The applicant obtained approval of a Variance (VA2010-001) from the City to allow the proposed residence to exceed the 24-foot height limit for flat roofs within the R-1 (Single-Use Residential) Zoning District. Additionally, the proposed residence was allowed to exceed the "top of curb" height limit for properties on the bluff side of Ocean Boulevard. The applicant also obtained a Modification Permit (MD2010-006) to allow the proposed residence to encroach into the required 10-foot front-yard and 4-foot side yard setbacks to place the soldier pile shoring walls; and site-retaining walls with related railings adjacent to

the side-yard property lines which exceed the 6-foot height limit allowed within side-yard setbacks.

3. PRIOR COMMISSION ACTIONS ON ADJACENT SITES

a. 3729 Ocean Boulevard (Adjacent north of the project site)

On July 7, 1998, the Commission approved Coastal Development Permit No. 5-98-135 for: the demolition of an existing single-family residence and garage and construction of a three (3)-story, 7,501 square foot single-family residence with a 590 square foot two (2) car garage on a coastal bluff face lot (17,787 square foot lot). Grading consisted of 736 cubic yards of cut and 34 cubic yards of fill. Staff recommended approval of the project subject to three (3) Special Conditions: **SPECIAL CONDITION NO. 1** required an assumption of risk. **SPECIAL CONDITION NO. 2** required a future development deed restriction. **SPECIAL CONDITION NO. 3** required conformance with geotechnical recommendations. **SPECIAL CONDITION NO. 4** required submittal of a landscape plan.

This residence is roughly in alignment with the residences adjacent to it (i.e. it doesn't extend further down the bluff face than its neighbor). This lot is almost double the size of the lot of the proposed project.

b. 3719 Ocean Boulevard (Adjacent south of the project site)

On July 13, 1989, the Commission approved Administrative Permit No. 5-89-346 for: the addition of 518 square feet to the master bedroom and living room of a 29-foot high, 3,396 square foot single-family residence on a coastal bluff face lot. (6,150 square foot lot). The addition added 192 square feet to the building footprint and a loss of 23 square feet of landscaping and 170 square feet of paved area. Staff recommended approval of the project subject to one (1) Special Condition: **SPECIAL CONDITION NO. 1** required conformance with geotechnical recommendations.

On February 22, 1990, the Commission approved an Immaterial Amendment to Administrative Permit No. 5-89-346 for: the extension of the upper floor 3-1/2-feet seaward to make flush with lower floor and widen existing deck 11-feet to the south wall of the master bedroom. No new Special Conditions were imposed. The original Special Conditions remained in effect.

Like 3729 Ocean Boulevard., this residence is roughly in alignment with the residences nearby (i.e. it doesn't extend further down the bluff face than its neighbor).



#### 4. STANDARD OF REVIEW

The City of Newport Beach has a certified Land Use Plan (LUP) but the Commission has not certified a Local Coastal Program (LCP) for the City. As such, the Coastal Act policies are the standard of review with the certified LUP providing guidance.

#### **B. SCENIC RESOURCES**

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

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

The proposed project is located on a bluff face. West (seaward) of the existing residence is the edge of the pad that was graded to accommodate it, then a 50-foot drop to a rocky shoreline below and then the Pacific Ocean. The project site is visible from Ocean Boulevard and the public sidewalks along the street and in more distant views from Big Corona beach. Existing views across the site toward the ocean are partly obstructed by the existing residence. The pattern of development along this segment of Ocean Boulevard is such that development is concentrated on the upper bluff face while the remaining portion of the bluff face is kept intact (i.e., the middle and lower parts of the bluff face) are largely undisturbed and partly vegetated. That linear alignment forms the Predominant Line of Existing Development (PLOED) (Exhibits #5-6). Pursuant to the Coastal Act, development at this site, if approved, must be sited and designed to be visually compatible with the character of the surrounding area and, pursuant to the certified LCP Land Use Plan, development must be consistent with the PLOED. It is also necessary to ensure that new development be sited and designed to protect views to and along the ocean and minimize the alteration of existing natural landforms consistent with Section 30251 of the Coastal Act and the following policies of the certified City of Newport Beach LUP:

Scenic and Visual Resources, Policy 4.4.1-1 states,

*Protect and, where feasible, enhance the scenic and visual qualities of the coastal zone, including public views to and along the ocean, bay, and harbor and to coastal bluffs and other scenic coastal areas.*

Scenic and Visual Resources, Policy 4.4.1-3 states,

*Design and site new development to minimize alterations to significant natural landforms, including bluffs, cliffs and canyons.*

Scenic and Visual Resources, Policy 4.4.2-4 states,

*Prohibit projections associated with new development to exceed the top of curb on the bluff side of Ocean Boulevard. Exceptions for minor projections may be granted for chimneys and vents provided the height of such projections is limited to the minimum height necessary to comply with the Uniform Building Code*

This proposed bluff face development also raises the concern over the cumulative impacts that would occur if others propose to develop the bluff face.

The following LUP policies are also applicable to the proposed project and state:

Natural Landform Protection, Policy 4.4.3-8 states,

*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.*

Natural Landform Protection, Policy 4.4.3-9 states,

*Where principal structures exist on coastal bluff faces along Ocean Boulevard, Carnation Avenue and Pacific Coast Drive 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 structures and accessory improvements. The setback shall be increased where necessary to ensure safety and stability of the development.*

Natural Landform Protection, Policy 4.4.3-15 states,

*Design and site new development to minimize the removal of native vegetation, preserve rock outcroppings, and protect coastal resources.*

“Predominant Line of Development” Definition from Section 5.0 Glossary states,

*Predominant Line of Development:* *The most common or representative distance from a specified group of structures to a specified point or line (e.g. topographic line or geographic feature). For example, the predominant line of development for a block of homes on a coastal bluff (a specified group of structures) could be determined by calculating the median distance (a representative distance) these structures are from the bluff edge (a specified line).*



1. PREDOMINANT LINE OF EXISTING DEVELOPEMNT (PLOED), LANDFORM ALTERATION, AND STRINGLINE

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. In the Corona del Mar community, the City's LUP has specific policies permitting new bluff face development on lots with pre-existing bluff face development if determined to be consistent with the 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. 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).

The City did prepare an analysis identifying a PLOED shown in an exhibit that was included with the project's Staff Report for the City of Newport Beach Planning Commission Hearing on May 19, 2011 (Exhibit # 8). With this as a reference, Commission staff prepared their own exhibits (Exhibits #5-6) to show the PLOED on the project site. The PLOED on the subject site was drawn by extending a horizontal line between the bottom of a retaining wall located on the site to the north (located at about elevation 57.0-feet) to approximately the finished floor elevation of the home to the south (located at about 56.7-feet) (Exhibits #5-6). So, the PLOED is at about elevation 56.9-feet. The proposed development is located about 11-feet below this elevation (Exhibits #5-6). The establishment of this PLOED will be discussed further below.

The applicant contests the location of the PLOED identified by Commission staff and has asserted that a PLOED is not applicable at this site. The basis for the applicants' assertion is provisions in the City's newly updated Zoning Code for the Bluff Overlay District which applies to this site (for local permit decisions). This updated code is not the standard of review for Coastal Development Permits, and the code has not been reviewed or approved by the Commission. In the updated code, the project site along with the adjacent residences located between 3601-3729 Ocean Boulevard do not have a PLOED with a contour line. The new code includes a map, Map B-6 (Exhibit #9), which indicates that a PLOED contour line for this limited area of ten (10) residences does not exist because the vertical undulations of the natural bluff line hinder establishing the contour line. Instead, it states that new development shall not extend farther down the bluff face beyond existing development. The applicant argues that the code allows them to construct their lowermost floor because existing development on the site, in the form of small retaining walls (i.e. ancillary structures), extend down to this level.

Staff established the Predominant Line of Existing Development (PLOED) to be at approximately elevation 56.9-feet taking into consideration the seaward extent of

development on either side and roughly corresponding to the edge of the graded pad on the subject site. The bottom of a retaining wall (not the finished floor) located on the site to the north is located at about elevation 57.0-feet and the finished floor elevation of the home to the south is located at about 56.7-feet, and no development extends further down the bluff face on either of these adjacent properties. The proposed development, with its finished floor at 45.5-feet, is located about 11-feet below this PLOED elevation of 56.9-feet (see Exhibits #5-6 and image below).



For the northern property, the bottom of the retaining wall is used to establish the PLOED instead of the finished floor elevation of the same principal structure (which is located further up the bluff face and landward of the retaining wall) because the bottom of the retaining wall is the furthest point of development on that property and corresponds to the established line of development both upcoast and downcoast of the site. The southern property does not have the same type of situation. In contrast, the southern property (which is used to also establish the PLOED) only has a principal structure finished floor elevation and no other retaining wall, etc., further down the bluff face, which thus clearly identifies the PLOED on that site. Based on the location of the PLOED established by these adjacent properties, the PLOED for the proposed property is at elevation 56.9-feet and consequently the proposed development is located about 11-feet below this established line identified by Commission staff (and the City in its May 19, 2011 staff report).



As proposed the bottom floor of the proposed residence will daylight 24-feet more down the bluff face than the finished floor of the adjacent residence to the north and would daylight 11-feet more down the bluff face than the finished floor elevation of the adjacent residence to the south (Exhibits #5-6). The new development would also be about 11-feet lower than the PLOED identified by Commission staff (and the City in its May 19, 2011 staff report).

As stated above, the City's Zoning Code has not been certified by the Commission. Only the Land Use Plan and its policies regarding the PLOED have been certified and apply to the project site. The LUP policies clearly require strict compliance with the PLOED. There is no provision in the Land Use Plan policies regarding bluff development that would allow the City to establish the exception from the PLOED that they did for this segment of Ocean Blvd. in the latest update to the zoning code. The City did not seek Commission input when developing these zoning code provisions. Had it done so, Commission staff would have pointed out the inconsistency between the LUP requirements and the code provisions they had written. Furthermore, the LUP policies clearly require establishing a PLOED for both principal and ancillary structures. The approach taken by the applicant, following the City's new code, ignores this distinction. They are using the seawardmost position of an existing ancillary structure to establish the limits of development for their principal structure. Again, the proposed residence is in clear violation of the intent of the LUP policies, which is to prohibit further landform alteration for new principal structures encroaching further down the bluff face and impacting the visual character of the bluff face. The City's new code –or at least its application in this case- clearly fails to adequately implement the bluff protections contained in the Land Use Plan policies. Following those inadequate provisions would prejudice the ability of the City to prepare a Local Coastal Program that conforms with Chapter 3 policies of the Coastal Act.

Development that encroaches seaward of the predominant line of existing development and encroaches lower onto the bluff face than adjacent development which would be inconsistent with the PLOED, results in development that is inconsistent with the character of surrounding areas and has adverse impacts on a variety of coastal resources. For example, this can have adverse visual impacts because the development extends further below existing adjacent development which visually alters the undeveloped natural landform aesthetic of the bluff face. In addition, the seaward encroachment and the inconsistency of structures with the PLOED can increase the hazards to which the new development would be subjected. In order to prevent any adverse impacts associated with seaward encroachment of development, development should be consistent with the stringline and PLOED.

The Coastal Act requires new development to be sited to “*minimize the alteration of natural land forms.*” Similar policies are contained in the certified LUP. The existing bluff face is a natural landform visible from public vantage points. The proposed project includes significant notching and grading into the bluff face, which also results in development below the PLOED to accommodate the proposed project (Exhibits #5-6). Eliminating the additional notching and grading into the bluff face and the development below the PLOED would minimize landform alteration. As stated previously, the predominant pattern of development along this segment of Ocean Boulevard is such that development is

concentrated on the upper bluff face while the remaining portion of the bluff face is kept intact (i.e., the middle and lower parts of the bluff face) are largely undisturbed and vegetated. That linear alignment forms the PLOED. The proposed project would result in significant disturbance to the bluff and also go below the PLOED. This would result in a significant adverse visual impact.

## 2. DEVELOPMENT ABOVE TOP OF CURB HEIGHT AT OCEAN BOULEVARD

Portions of the proposed upper level consisting of the garage, entry, and elevator (which comprise approximately 60% of the building's frontage along Ocean Boulevard) would exceed the top of curb height at Ocean Boulevard by approximately 2-feet to 3-feet, which is contrary to specific prohibitions against such extensions in the City's certified Land Use Plan. Policy 4.4.2-4 of the LUP prohibits projections to exceed the top of curb on the bluff side of Ocean Boulevard. Exceptions are made for chimney's and vents as long as these projections are limited to the minimum height necessary to comply with the Uniform Building Code (UBC). The proposed projections do not fall under these projections. This policy was put in place to protect and enhance the public views available from Ocean Boulevard and the public sidewalks along the street; however, allowing the proposed projections would result in impacted public views, as well as, inconsistency with the certified LUP.

## 3. CUMULATIVE IMPACTS

The proposed residence would be unlike any other development in the vicinity since it would significantly encroach upon the bluff face, where others do not. If allowed, such development would disrupt the existing development pattern, and begin to change the character of the community. Using the development at the subject site as the 'new' limit of development, future proposals on surrounding lots may likely seek to expand their development footprint to cover more of the bluff face. Over time, these incremental impacts can have a significant cumulative adverse landform and visual impact. The bluffs along the ocean in Corona del Mar contribute significantly to the scenic quality of the area. The City's LUP says (at page 4-76) "...[t]he bluffs, cliffs, hillsides, canyons, and other significant natural landforms are an important part of the scenic and visual qualities of the coastal zone and are to be protected as a resource of public importance." If the proposed development were approved, and others like it were approved as well, the bluff along this area of Ocean Boulevard could eventually become a wall of buildings with little bluff face remaining visible, thus causing significant, cumulative adverse visual impacts since the site is visible from adjacent public vantages. Additionally, allowing development to exceed the top of curb at Ocean Boulevard could lead to incremental impacts and result in adverse visual impacts. If this project were approved and others similar like it, the public view from Ocean Boulevard and adjacent sidewalks would be reduced and limited and the Coastal LUP goal of protecting and enhancing views from the scenic roadway would not be achieved.

## CONCLUSION

The Commission finds that the proposed project is not sited and designed to protect scenic and visual qualities of coastal areas. Denial of the proposed project would : (1) protect existing scenic



resources (2) preserve the existing Predominant Line of Existing Development/stringline where development is concentrated on the upper bluff face while the remaining portion of the bluff face is kept intact (i.e., the middle and lower parts of the bluff face) and largely undisturbed and vegetated, thereby ensuring the project is visually compatible with the character of the surrounding area and (3) minimize the alteration of the natural landform, the bluff face, on the subject property.

Additionally, approving the project would result in adverse cumulative impacts and would prejudice preparation of a certifiable LCP by the City of Newport Beach. As described further below, there are feasible alternatives that would avoid the impacts associated with the proposed development. Therefore, the Commission finds that the proposed project is inconsistent with Section 30251 of the Coastal Act and must be denied.

## C. HAZARDS

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

*New development shall do all of the following:*

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

Development on a bluff is inherently risky due to among other things, the potential for bluff erosion and collapse. Bluff top development poses potential adverse impacts to the geologic stability of bluffs and the stability of structures. Bluff instability is caused by a variety of factors. Steep terrain is inherently unstable, but bluffs are especially unstable due to wave attack, which is exacerbated by accelerating sea level rise. Contributing factors include poor site conditions (adverse geologic structure, especially erodible bedrock or soils, high ground water, etc). Human activity can exacerbate bluff instability including building too close to the bluff edge, improper site drainage, over irrigation, use of impermeable surfaces that increase runoff, use of water-dependent vegetation, and breaks in water or sewage lines. Thus, it is necessary that new development minimize risks to life and property in areas of high geologic hazard and that stability and structural integrity are assured and neither create or contribute significantly to erosion and geologic instability to be consistent with Section 30253 of the Coastal Act and the following policy of the certified City of Newport Beach Land Use Plan:

Natural Landform Protection, Policy 4.4.3-7 states,

*Require all new development located on a bluff top to be setback from the bluff edge a sufficient distance to ensure stability, ensure that it will not be endangered by erosion, and to avoid the need for protective devices during the economic life of the structure (75 years). Such setbacks must take into consideration expected long-term bluff retreat over the next 75 years, as well as slope stability. To assure stability, the development must maintain a minimum factor of safety of 1.5 against landsliding for the economic life of the structure.*

1. SITE SPECIFIC BLUFF INFORMATION

a. Geotechnical Data

To address site-specific issues, the applicants have submitted the following geotechnical investigations: *Report of Geotechnical Investigation for Proposed Residence at 3725 Ocean Boulevard, Corona Del Mar Area, City of Newport Beach, California (Project No. 11-5195-1)* prepared by Associated Soils Engineering, Inc. dated June 30, 2011; *Report* prepared by Associated Soils Engineering, Inc. dated August 31, 2011; *Updated Coastal Bluff Stability Analysis, 3725 Ocean Boulevard, Corona Del Mar, City of Newport Beach, California* prepared by Associated Soils Engineering, Inc. dated March 7, 2012; and *Review of Cantilevered Patio and Retaining Wall, 3725 Ocean Boulevard, Corona Del Mar, City of Newport Beach, California* prepared by Associated Soils Engineering, Inc. dated June 14, 2012. These geotechnical investigations state that the sea cliff portion of the bluff exposes Monterey Formation bedrock comprised of resistant sandstone and siltstone beds that dip into the bluff face. The toe of the bluff is protected by rocky debris that has accumulated at the base of the cliff. These investigations analyzed the onsite bluff retreat/erosion and state that the primary mode of bluff retreat is from the occasional rockfall and isolated wedge failures from oversteepened sections of the bluff and concludes that the process is very slow. Additionally, the information provided states that the bedrock materials backing the bluff are anticipated to remain seismically and grossly stable. These reports conclude the coastal bluff on the site is grossly stable and that the project is feasible from an engineering perspective provided the applicant complies with the recommendations contained in the investigations. Some of the recommendations for construction of the project include a foundation system with a concrete mat slab with permanent shoring walls with soldier piles. While the applicant's geologist has concluded that the project can be constructed as long as it adheres to the recommendation found in the geotechnical investigations, it still results in development taking place in a potentially hazard prone location. Any approved development should be sited and designed to avoid future exposure of the foundation system and to avoid the need for protective devices that would alter the natural landform of the bluff in the future.

b. Coastal Hazards

To analyze the suitability of the site for the proposed development relative to potential wave hazards and sea level rise, Commission staff requested the preparation of a sea level rise, wave run-up, flooding, and erosion hazard analysis, prepared by an appropriately licensed professional (e.g. civil engineer with coastal experience). The purpose of this analysis is to determine the potential for future storm damage and any possible mitigation measures, which could be incorporated into the project design.

The applicant has since submitted the following coastal hazard investigation: *Report* prepared by Associated Soils Engineering, Inc. dated August 31, 2011. For this



analysis, the potential maximum sea level and wave crest heights that could impact the bluff during an assumed 100-year life of the structure was taken into consideration. A predicted highest high tide water level of 11.4-feet above mean sea level and adding 12.7-inches, which was the highest recorded seal level rise above predicted high tides in the Los Angeles region during the 1983 El Nino Storm event, results in a sea level high of 13-feet mean sea level. However, adding a 100-year projected sea level rise of 55 inches increases the height to 18-feet mean sea level.

The investigation states that the bluff exposes Monterey Formation bedrock comprised of resistant sandstone and siltstone beds that dip into the cliff face and that only a thin layer of the less resistant marine deposits overlies the bedrock. Additionally, the toe of the bluff is protected from wave action by rocky debris that has accumulated at the base of the bluff and extends halfway up the bluff that offers protection from waves.

Taking these things into account, the investigation concludes that a shoreline protective device is not anticipated over the life of the proposed development.

Although the applicants' report indicates that the site is safe for development at this time, shorelines are dynamic environments, which may be subject to unforeseen changes. Such changes may affect shoreline processes.

## CONCLUSION

While the applicants' geotechnical reports indicate that the project site will be safe from hazards, the project remains inconsistent with policies of the Coastal Act and the City's Certified LUP, such as those dealing with scenic resources. Therefore, the project remains inconsistent with the Coastal Act and must be denied.

There are alternatives to the proposed project that would lessen or avoid the identified impacts. An alternatives analysis conducted by staff has been provided in the following section of this Staff Report.

## **D. ALTERNATIVES**

There are several alternatives to the proposed development that currently exist. Among those possible alternative developments are the following (though this list is not intended to be, nor is it, comprehensive of the possible alternatives):

### **1. NO PROJECT**

No changes to the existing site conditions would result from the "no project" alternative. As such, there would be no additional disturbance of the bluff face. The undeveloped portion of the bluff face would remain undeveloped and vegetated and would be consistent with the PLOED and community character. The applicants would still have full use of the residence. This alternative would result in the least amount of effects to the environment.

2. REMODELING OF THE EXSITING RESIDENCE CONSISTENT WITH THE CHARACTER OF THE SURROUNDING AREA

The proposed project would result in adverse visual impacts, inconsistency with the character of the surrounding area due to proposed significant landform alteration and inconsistency with the PLOED. An alternative to the proposed project would be remodeling of the existing residence consistent with the PLOED/stringline and without notching/grading into the bluff face below the existing residence. This alternative would accommodate the applicant's interest in adding habitable and recreational elements, but there would be no additional disturbance to the bluff face and it would maintain the character of the area. The undeveloped portion of the bluff face would remain as an undeveloped vegetated slope and would be consistent with community character as development occurs within the PLOED.

3. RECONSTRUCTION OF THE EXISTING RESIDENCE CONSISTENT WITH THE CHARACTER OF THE SURROUNDING AREA

Another potential alternative would be reconstruction of a new residence and garage. Just as described above in the remodeling alternative, the residence would have to be designed so that it avoids visual resource impacts and the visual character of the surrounding area is maintained by developing it consistent with the PLOED/stringline. Adhering to these design parameters would also lessen the visual impact by reducing significant landform alteration needed for the smaller project.

**E. LOCAL COASTAL PROGRAM (LCP)**

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

The City of Newport Beach Land Use Plan was certified on May 19, 1982. At the October 2005 Coastal Commission Hearing, the certified LUP was updated. In addition, the certified LUP was updated at the October 2009 Coastal Commission Hearing. Since the City only has an LUP, the policies of the LUP are used only as guidance. The following Newport Beach LUP policies relate to development at the subject site (not a comprehensive list): 4.4.1-1, 4.4.1-3, 4.4.3-7, 4.3-8, 4.4.3-9, and 4.4.3-15.

The construction of the proposed project is inconsistent with the policies in the City's certified LUP. The proposed project is not sited and designed to protect and, where feasible, enhance the scenic and visual qualities of the Coastal Zone. Denial of the proposed project would preserve existing scenic resources, preserve the existing Predominant Line of Existing Development and the existing community character where development is concentrated on the upper bluff face while the remaining portion of the bluff face is kept intact (i.e., the middle and lower parts of the bluff face) and largely undisturbed and vegetated. The proposed development is inconsistent with the policies in the City's certified LUP, as well as the policies in Chapter 3 of the Coastal Act, as indicated above, and would therefore prejudice the City's ability to prepare a Local Coastal Program for Newport Beach



that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a). Therefore, the project must be denied.

#### **F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). The City of Newport Beach is the lead agency and has determined that in accordance with CEQA, the project is Categorically Exempt from Provisions of CEQA for the construction. However, 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.

While the City of Newport Beach found that the development was Categorically Exempt, the Commission, pursuant to its certified regulatory program under CEQA, the Coastal Act, the proposed development would have adverse environmental impacts. There are feasible alternatives or mitigation measures available, such as remodeling or reconstructing the existing residence so that it is consistent with the character of the surrounding area. Therefore, the proposed project is not consistent with CEQA or the policies of the Coastal Act because there are feasible alternatives, which would lessen significant adverse impacts, which the activity would have on the environment. Therefore, the project must be denied.

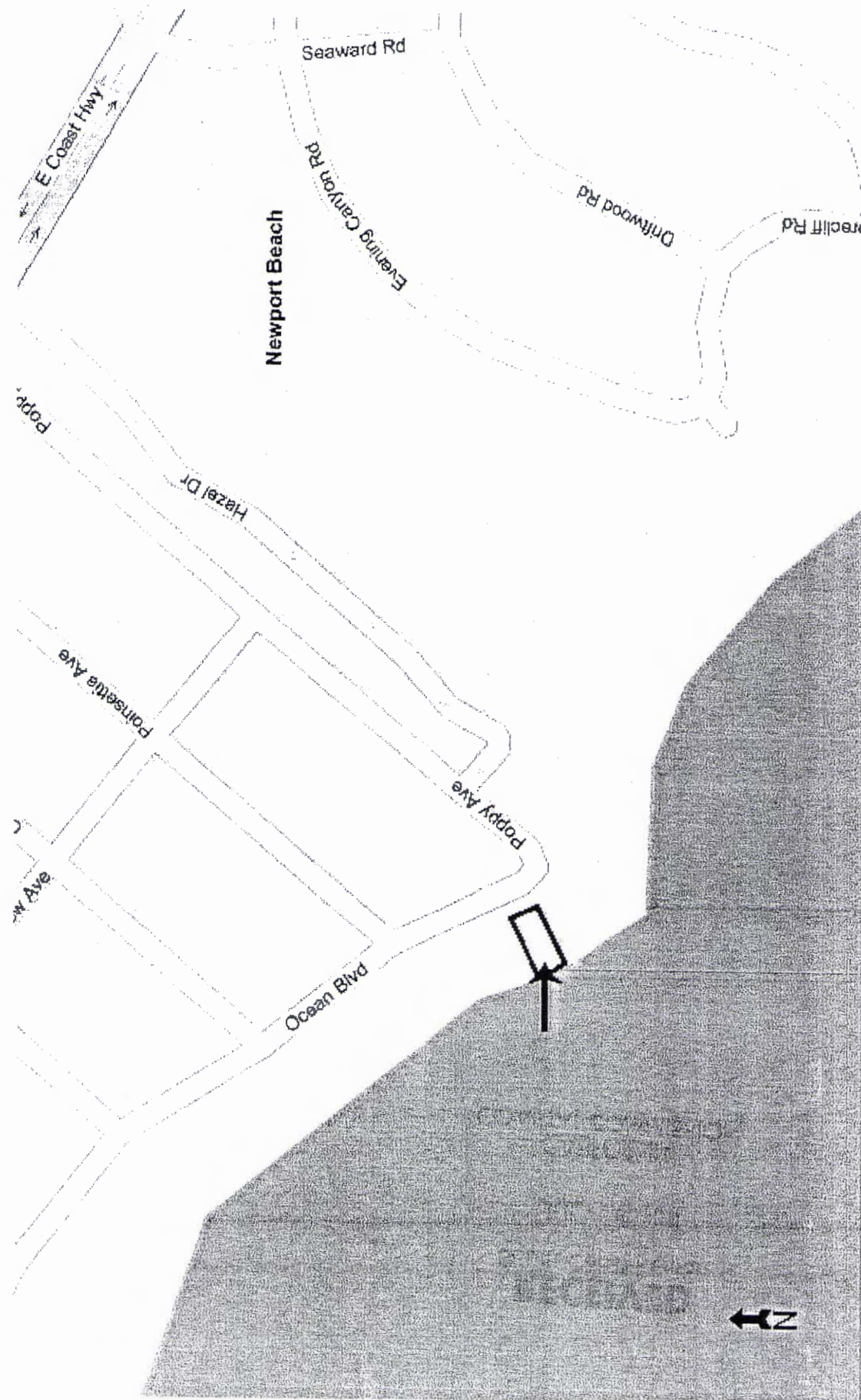
## APPENDIX 1

**SUBSTANTIVE FILE DOCUMENTS:** CDP NO. 5-11-168-(Fisher); Approval in Concept from the City of Newport Beach Planning Department dated June 15, 2012; Approval in Concept (#2011-034) from the City of Newport Beach Planning Department dated June 9, 2011; Variance (VA2010-001) and Modification Permit (MD2010-006); Planning Commission Resolution No. 1842 (PA2010-034); City of Newport Beach Certified Land Use Plan; *Report of Geotechnical Investigation for Proposed Residence at 3725 Ocean Boulevard, Corona Del Mar Area, City of Newport Beach, California (Project No. 11-5195-1)* prepared by Associated Soils Engineering, Inc. dated June 30, 2011; *Geotechnical Response to Coastal Commission Notice of Incomplete Application, 3725 Ocean Boulevard, Corona Del Mar, City of Newport Beach, California* prepared by Associated Soils Engineering, Inc. dated August 31, 2011; *Updated Coastal Bluff Stability Analysis, 3725 Ocean Boulevard, Corona Del Mar, City of Newport Beach, California* prepared by Associated Soils Engineering, Inc. dated March 7, 2012; and *Review of Cantilevered Patio and Retaining Wall, 3725 Ocean Boulevard, Corona Del Mar, City of Newport Beach, California* prepared by Associated Soils Engineering, Inc. dated June 14, 2012.



# Vicinity Map Prepared for:

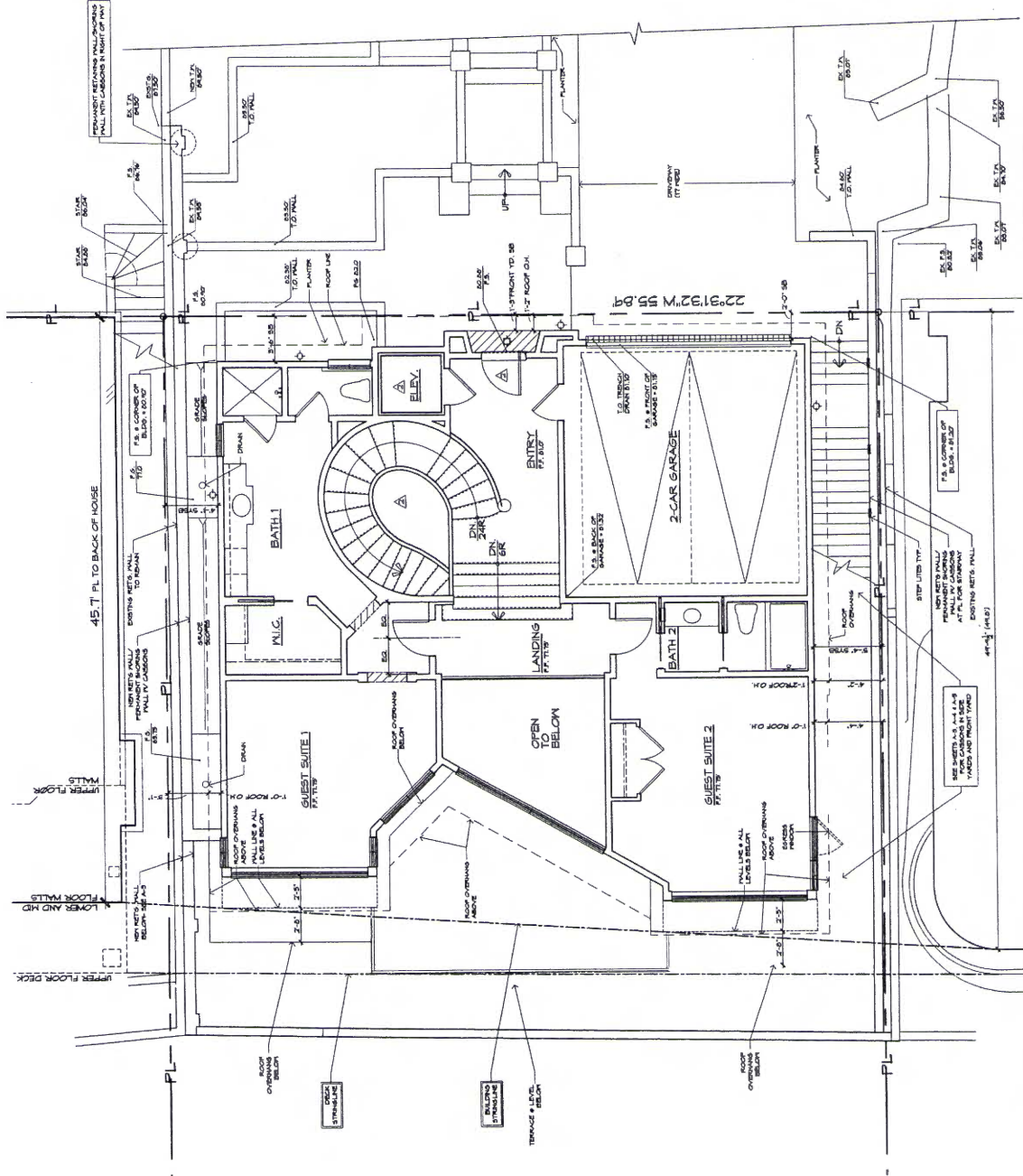
3725 Ocean Blvd., Corona Del Mar CA 92625







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100. C.C. REVISION	2.20.12



EXTERIOR LIGHTING SCHEDULE

- PALL SCOURCES USE OF SHEET BELOW
- 1/2" ADJUSTMENT FROM SURFACE - INQ.
- STEP LIGHTS - 1/2" ADJUSTMENT FROM SURFACE - INQ.
- RECESS LIGHT IN SCOFF.

access  
LIGHTING

Access Lighting Model 20344



20344 Recessed Wet Location Bulkhead  
21.1 x 6.9 x 1.9 (B-26 Medium Base)  
Bath Type E-26, Type A22  
Lamp Supplied No  
Finish BRZ SAT Glass RFR  
B 1675 L 6 B1 5.3  
CETL Yr Available in Fluorescent  
Cautions  
Master Grade

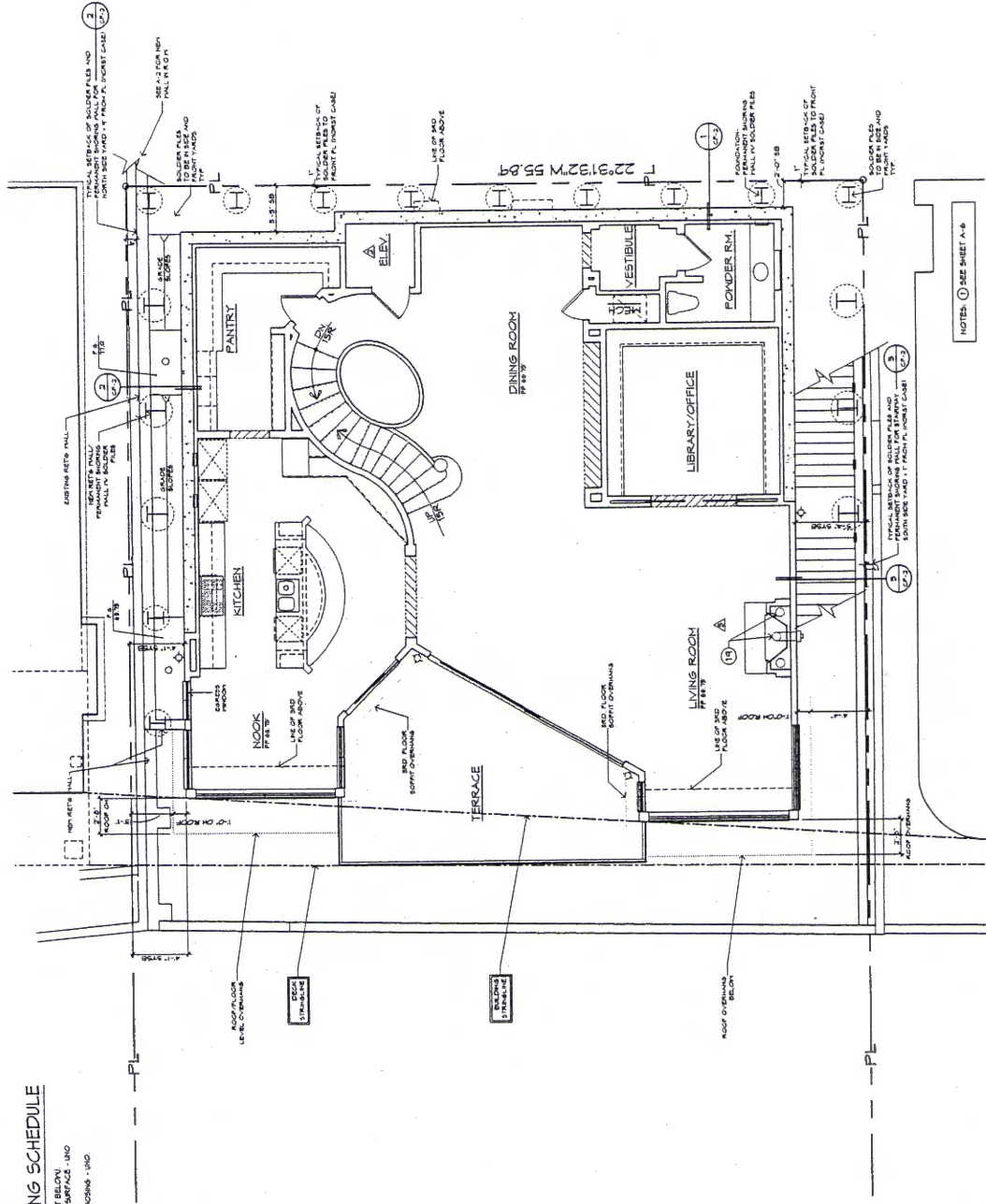
COASTAL COMMISSION

EXHIBIT # 3  
PAGE 1 OF 4



# EXTERIOR LIGHTING SCHEDULE

- ◆ PULL SOURCES (SEE CUT SHEET BELOW)
- 7'-0" ADV. ADJACENT FINISH SURFACE - UNO
- STEP LIGHTS - 18" ADV. STEP INDICATOR - UNO
- RECESSED LIGHT IN SLOTTED



COASTAL COMMISSION

EXHIBIT # **3**

PAGE **2** OF **4**

## 2nd. LEVEL FLOOR PLAN

ELIMINATION OF CAISSONS AT RESIDENCE

FOR PERMANENT SHORINGS AND SOLDIER PILES AT PROPERTY LINES SEE CONCEPTUAL FOUNDATION PLAN SHEET CF-1

JOHN MCINNES ARCHITECT

93 SOUTH PACIFIC COAST HIGHWAY  
SANTA MONICA, CALIF. 90405  
949.348.8233  
WWW.JMCA-ARCHITECT.COM

FISCHER RESIDENCE  
3725 OCEAN BLVD.  
CORONA DEL MAR, CA

2nd. LEVEL FLOOR PLAN

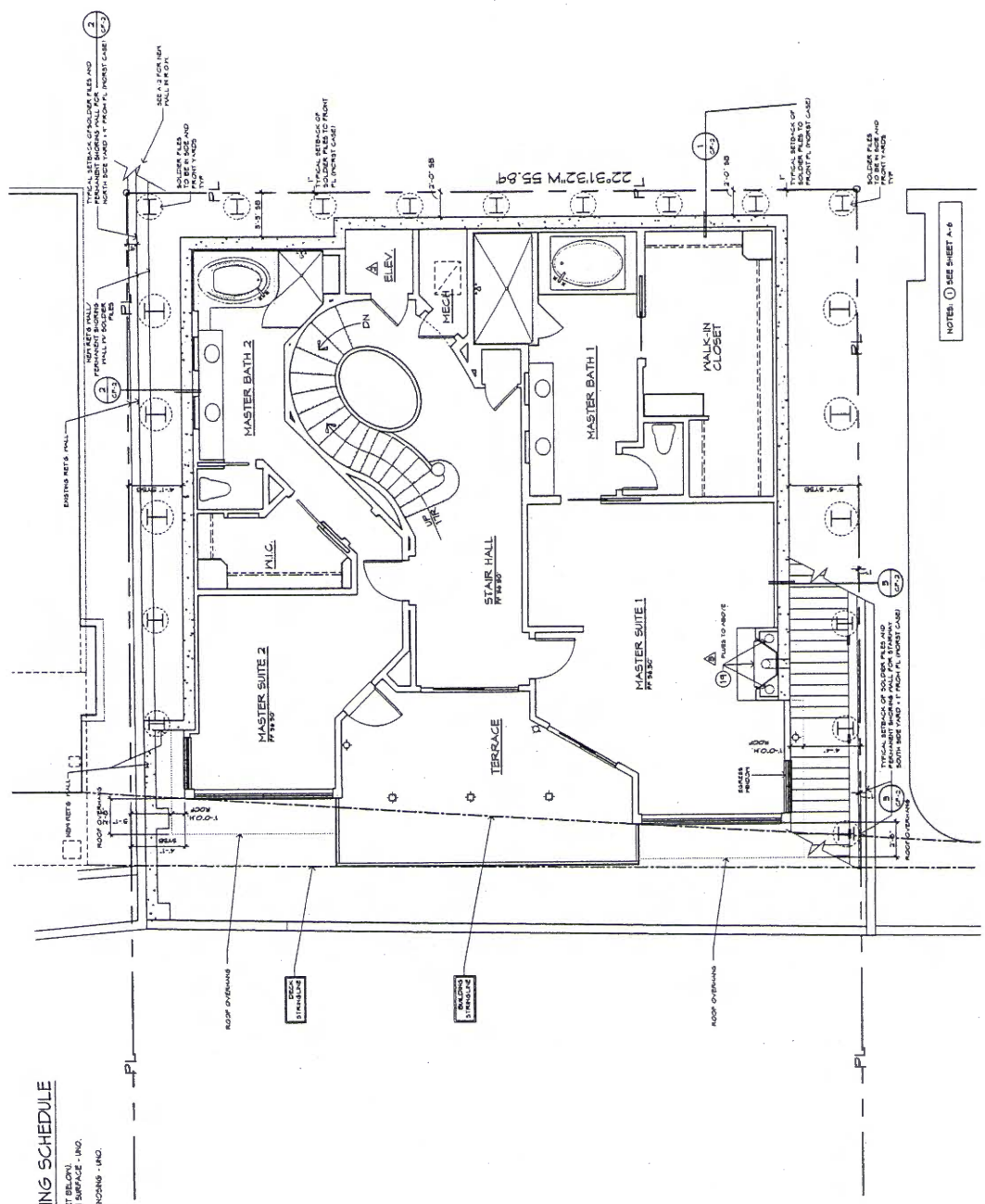
REVISIONS  
DATE  
BY  
DESCRIPTION  
1. 6/15/12  
J.M. MCINNES  
2. 6/15/12  
J.M. MCINNES  
3. 6/15/12  
J.M. MCINNES

SUBMITTAL DATE: 6/15/12  
SHEET NO.: 147 OF 147  
PROJECT NO.:  
SHEET NO.:  
CHECKED BY:

A-3

EXTERIOR LIGHTING SCHEDULE

- ◆ WALL SCHEDULES SEE CUT SHEET BELOW
- ▲ 1" TO 1/2" ADJACENT SURFACE - 1/2"
- STEP LIGHTS 8" TO 1/2" STEP NOMINAL - 1/2"
- RECESS LIGHT IN DOWN



COASTAL COMMISSION

EXHIBIT # **3**  
PAGE **3** OF **4**

**JOHN MCINNES ARCHITECT**  
315 SOUTH PARK COAST HIGHWAY  
LAGUNA BEACH, CALIFORNIA 92653  
949.438.1111  
WWW.JMCINNESARCHITECT.COM  
ALL RIGHTS RESERVED

**FISCHER RESIDENCE**  
3725 OCEAN BLVD.  
CORONA DEL MAR, CA

1st. LEVEL  
FLOOR PLAN

REVISIONS	DATE
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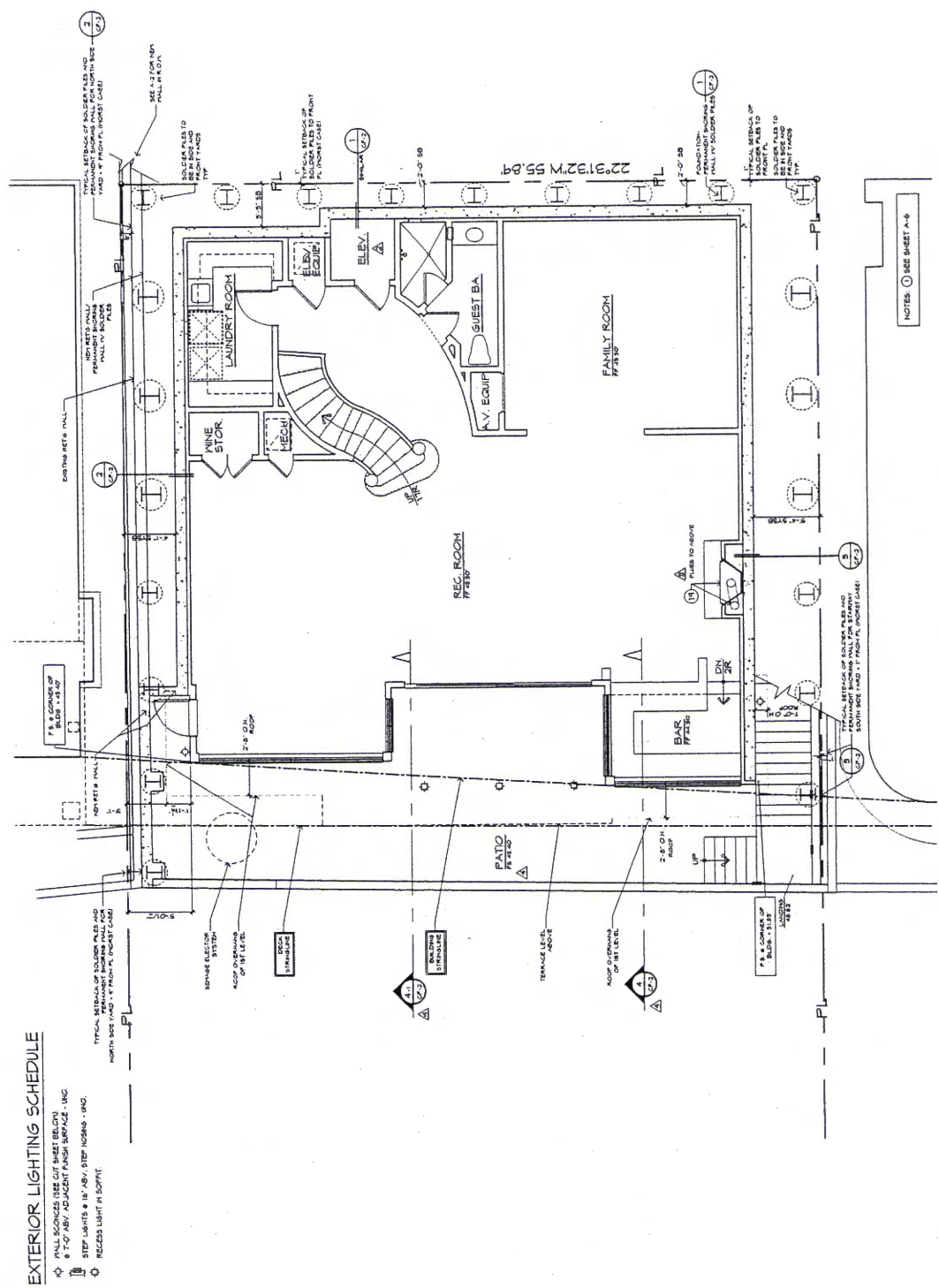
**A-4**

REVISIONS	DATE
1. C.C. REVISION	3/22/12
2. ARCH. CLARIFICATION	3/22/12
3. RESPONSE TO C.C.	6/15/12
4. ELIMINATE CAISSONS	6/15/12
SUBMITTAL DATE	6/15/12
SCALE	1/4" = 1'-0"
SHEET NO.	A-5

# BASEMENT FLOOR PLAN

COASTAL COMMISSION

EXHIBIT # 3  
PAGE 4 OF 4



## EXTERIOR LIGHTING SCHEDULE

- 1. ALL LIGHTS ARE ON THE OUTSIDE
- 2. 1/2" ABV TO ADJACENT FINISH SURFACE - 1/4"
- 3. STEP LIGHTS - 1/4" ABV, STEP NOSE - 1/4"
- 4. RECESS LIGHT IN SOFFIT

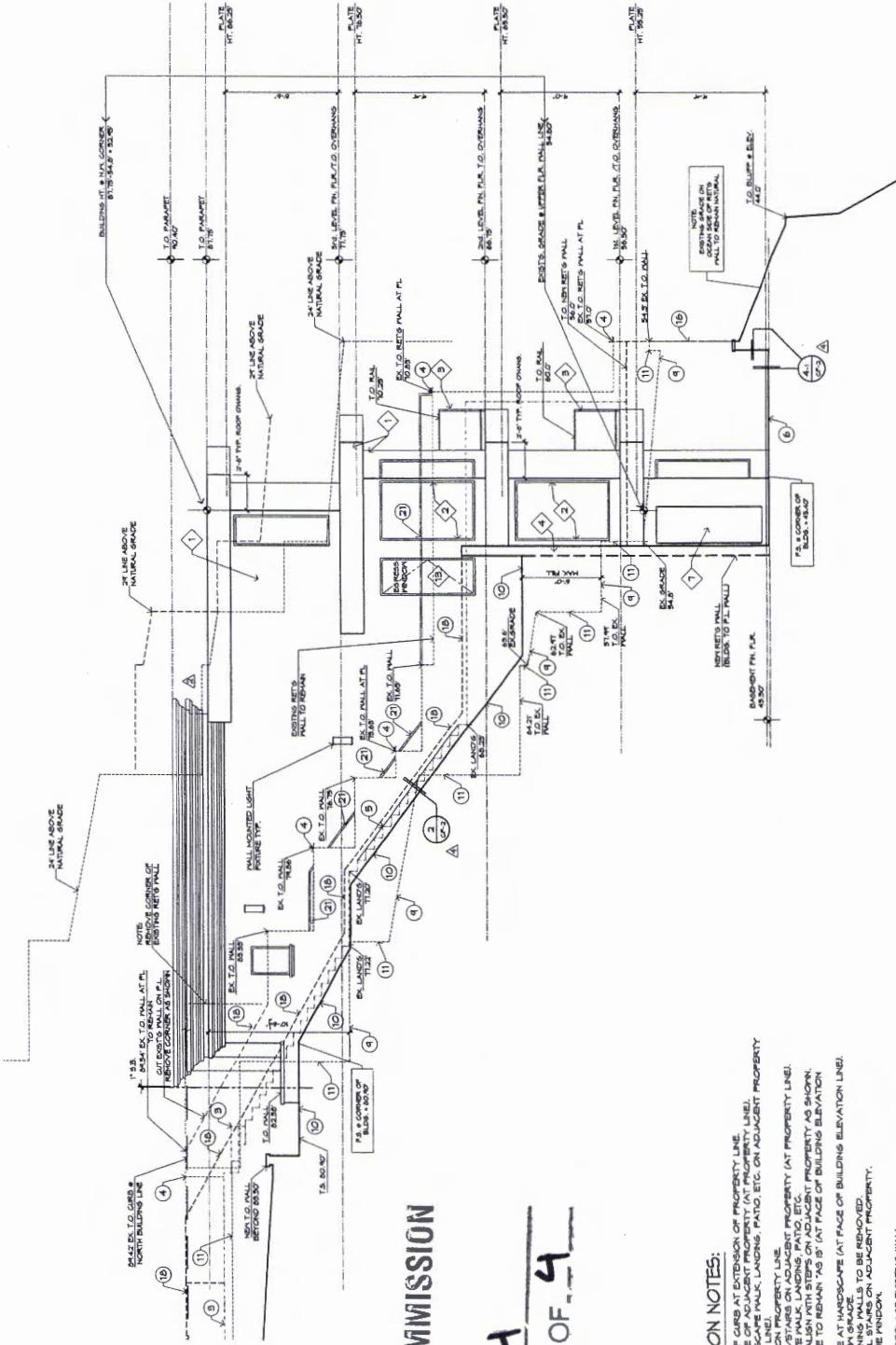
ELIMINATION OF CAISSONS AT RESIDENCE  
FOR PERMANENT SHORING AND SOLDIER PILES AT PROPERTY  
LINES SEE CONCEPTUAL FOUNDATION PLAN SHEET CF-1



1. CUT LIMESTONE VENEER.
2. GLASS DOORS AND PIRNOIDS IN PAINTED METAL FRAMES.
3. GLASS GUARDRAIL WITH PAINTED METAL CAP.ETCHED GLASS.
4. NEW SITE WALL WITH STUCCO FINISH.
5. NOT USED.
6. LIMESTONE ROOF IV. 1/4"FT. MIN. SLOPE.
7. PAINTED METAL PANEL DOOR.
8. LIMESTONE CORNICE.
9. STONE SILL.



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93.0	8/15/12
94.0	8/15/12
95.0	8/15/12
96.0	8/15/12
97.0	8/15/12
98.0	8/15/12
99.0	8/15/12
100.0	8/15/12



# COASTAL COMMISSION

EXHIBIT # 4  
PAGE 3 OF 4

## ELEVATION NOTES:

- EXISTING TOP OF GROUND AT PROPERTY LINE.
- EXISTING GRADE OF ADJACENT PROPERTY (AT PROPERTY LINE).
- EXISTING HANDSCAPE MALL, LANDINGS, PATIO, ETC. ON ADJACENT PROPERTY.
- AT PROPERTY LINE, PROPERTY LINE.
- EXISTING STAIRS/STEPS ON ADJACENT PROPERTY (AT PROPERTY LINE).
- NEW HANDSCAPE MALL, LANDINGS, PATIO, ETC. ON ADJACENT PROPERTY (AT PROPERTY LINE).
- EXISTING GRADE TO REMAIN "AS IS" (AT FACE OF BUILDING ELEVATION).
- MALL.
- EXISTING GRADE AT HANDSCAPE (AT FACE OF BUILDING ELEVATION LINE).
- EXISTING RETAINING WALLS TO BE REMOVED.
- NEW STAIRS.
- EXISTING SECTION OF RETAINING WALL TO BE REMOVED.
- LOCATION & HEIGHT OF EXISTING RETAINING WALL ON ADJACENT PROPERTY.
- NEW TOP OF MALL AT PROPERTY LINE.
- DIRECT VENT GAS FIREPLACE APPEARANCE AND FUEL TO EXTERIOR SEE SHT. 4-A-4.
- NEW HANDCRAFT AT 42" HIGHER FINISH SURFACE.

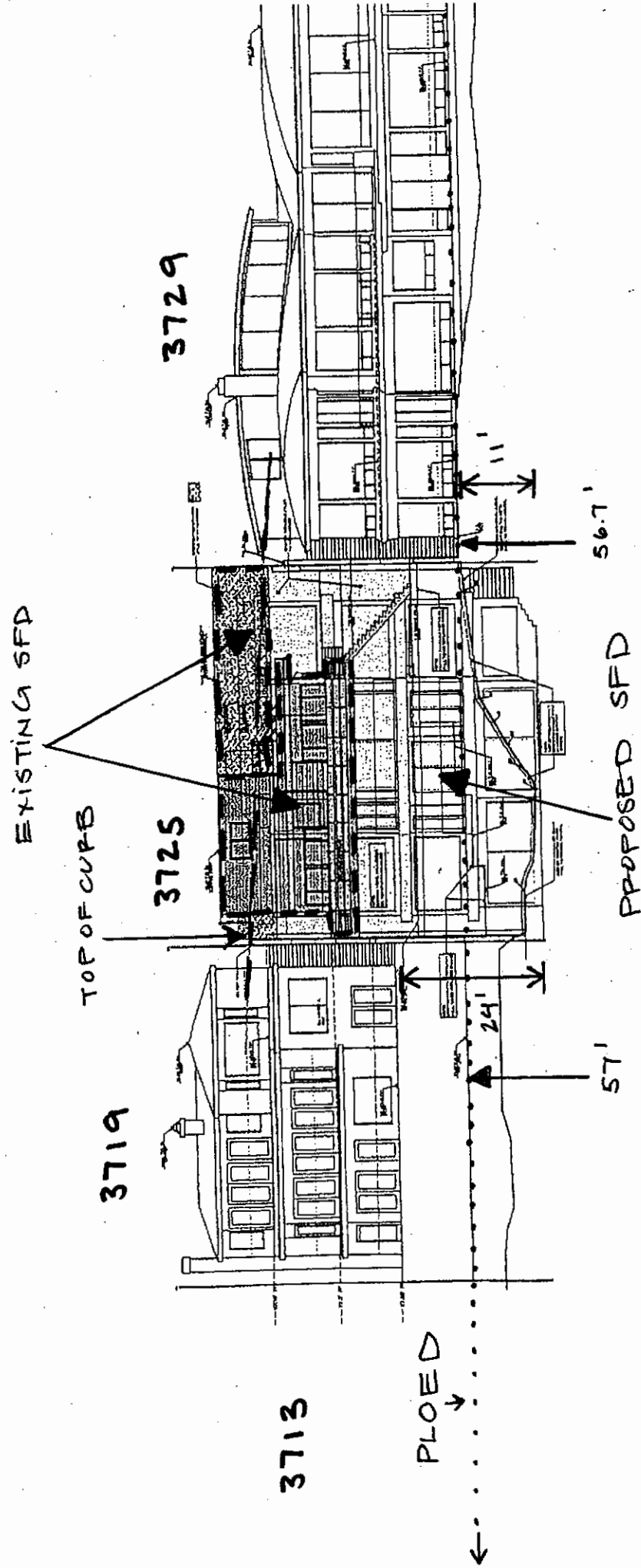
## MATERIAL LEGEND:

- CUT Limestone VENEER.
- GLASS DOORS AND WINDOWS IN PAINTED METAL FRAMES.
- GLASS HANDCRAFT WITH PAINTED METAL CAP, ETCHED GLASS.
- NOT USED.
- Limestone ROOF WITH 1/4" HIGHER FINISH SURFACE.
- Limestone CORNICE.
- STONE SILL.

# NORTH ELEVATION



PAGE 4 OF 4



EXISTING SFD ELEVATION  
OVERLAPPED ON  
PROPOSED SFD ELEVATION  
W/ NEIGHBOR ELEVATION

COASTAL COMMISSION

EXHIBIT # S  
PAGE 1 OF 1

3719

TOP OF CURB

3725

3729

3713

← PLOED ↓

24'

57'

56.7'

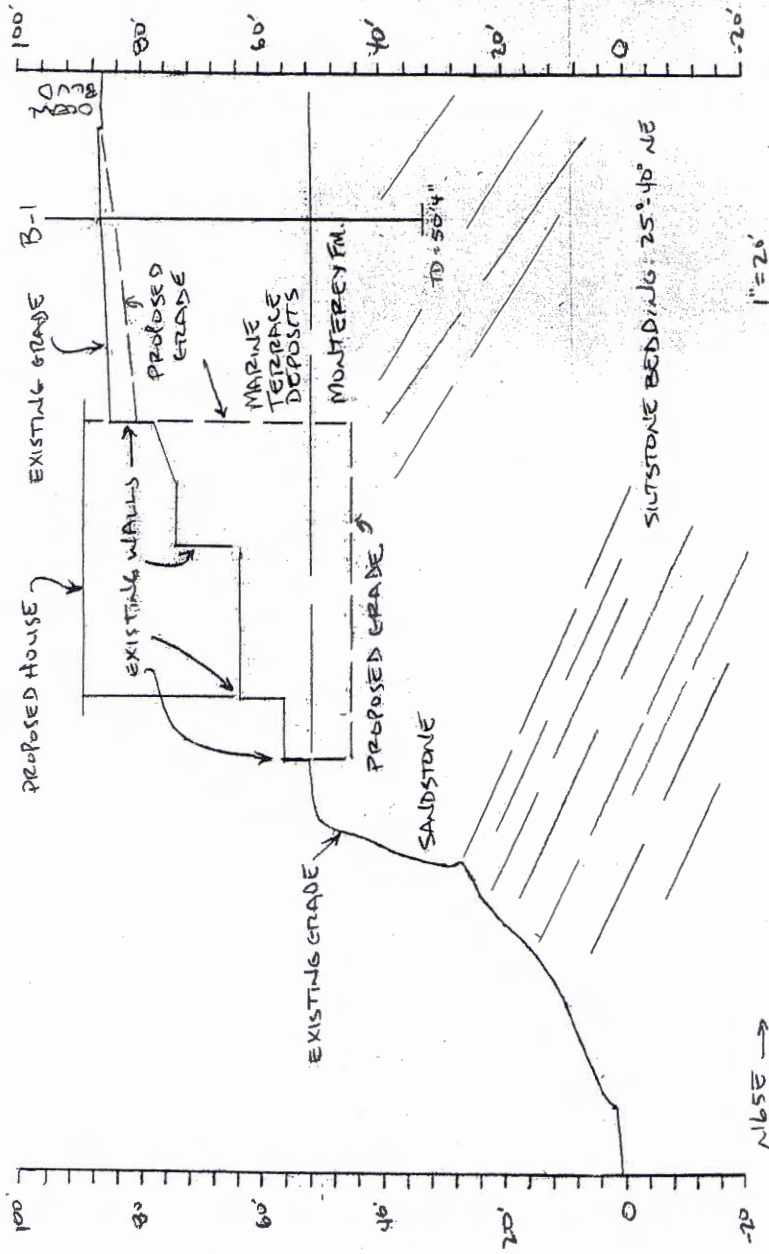
COASTAL COMMISSION

EXHIBIT # 6

PAGE 1 OF 1

PROPOSED SFD ELEVATION  
w/ NEIGHBOR ELEVATION



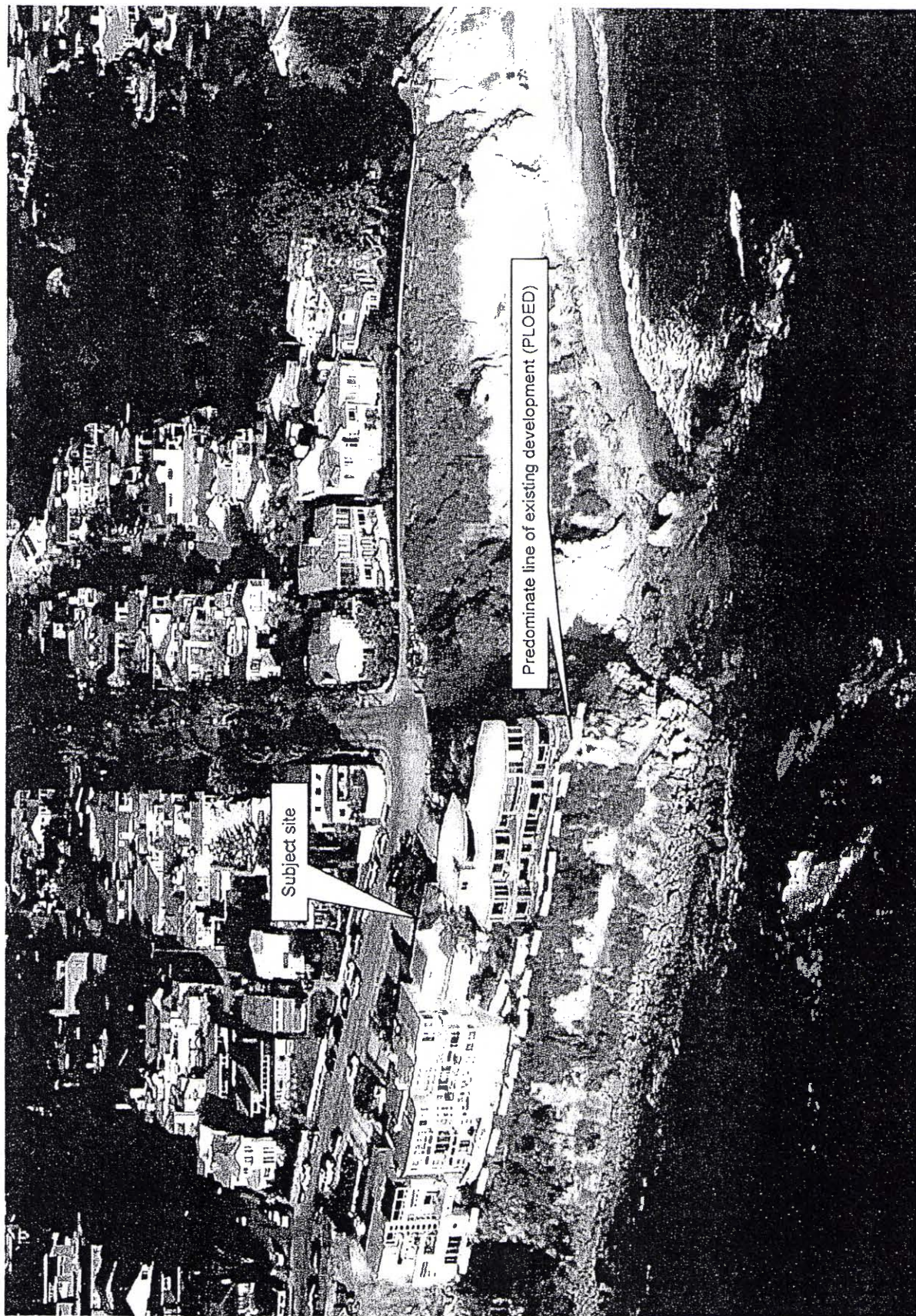


ASSOCIATED SOILS ENGINEERING, INC.		PLATE
Cross Section A-A'		A2
JOB NO.	DATE	
11-5915-1	June 2011	

COASTAL COMMISSION

EXHIBIT # 7  
PAGE 1 OF 1

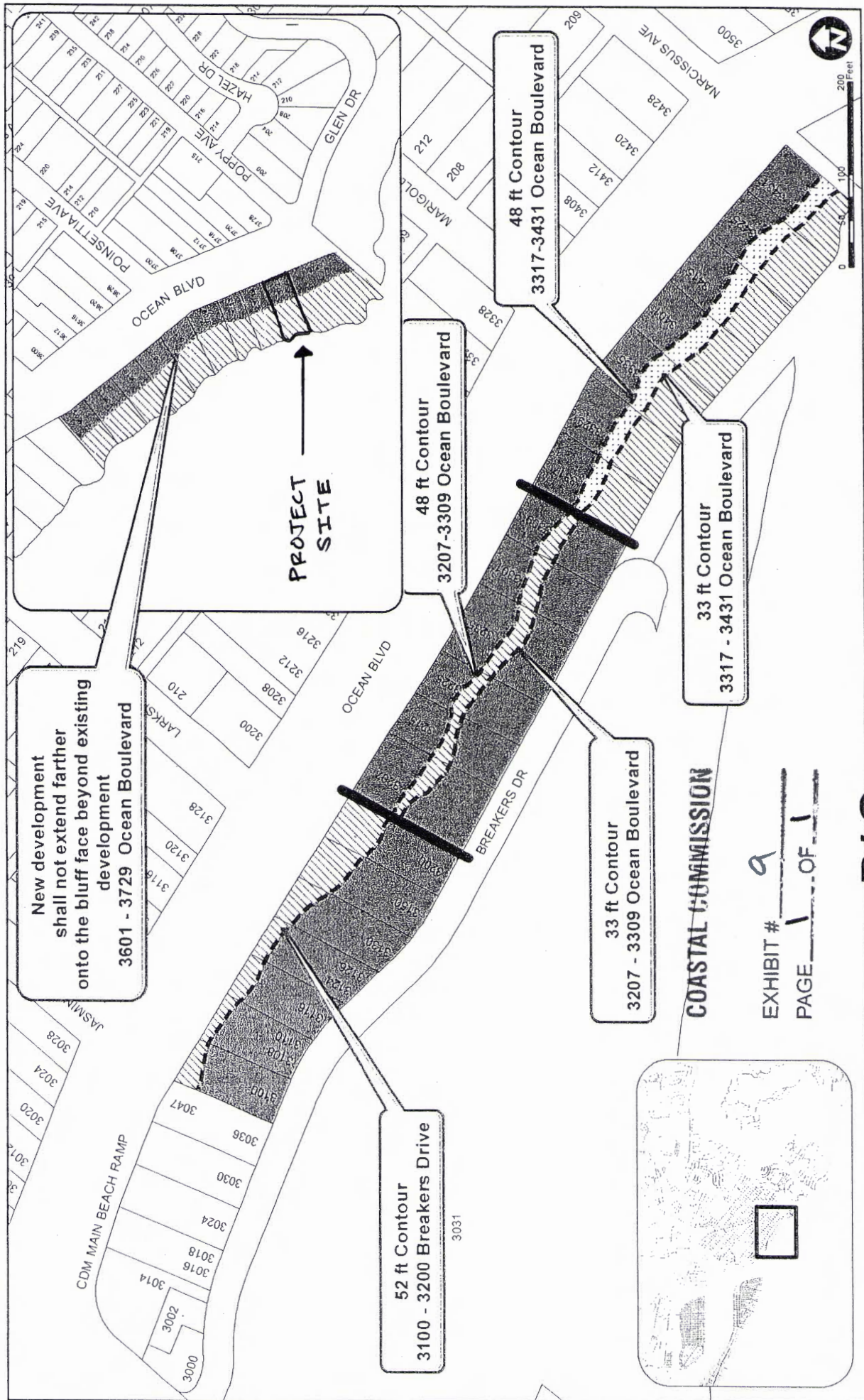




\*EXHIBIT TO THE STAFF REPORT FOR THE MAY 16, 2011  
CITY OF NEWPORT BEACH PLANNING COMMISSION MEETING.



**\*NOT CERTIFIED BY THE CCC**



Development Areas Delineated By:

- Development Area A
- Development Area B
- Development Area C
- Specified Distance from Front Property Line
- Specified Distance Below Top of Curb
- Specified Contour

## B-6 Ocean Boulevard / Breakers Drive

EXHIBIT # 9  
PAGE 1 OF 1

