CALIFORNIA COASTAL COMMISSION

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



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 Filed:
 8/12/14

 180th Day:
 2/07/15

 Staff:
 L. Roman-LB

 Staff Report:
 10/23/14

 Hearing Date:
 11/14/14

STAFF REPORT: CONSENT CALENDAR

Application No.: 5-14-0339

Applicant: Joseph and Corinne Rollino

Location: 2821 La Ventana, San Clemente, Orange County

Project Description: Major remodel and addition to an existing one-story, 1,352

sq. ft. single family residence with attached 446 sq. ft. two-car garage resulting in a new one-story 2,223 sq. ft. single family residence with attached 507 sq. ft. two-car garage, new roof, doors, windows, exterior façade improvements, new 5 ft. x 40 ft. rear concrete patio and landscaping plan

on a 6,000 sq. ft. coastal bluff lot.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The subject site is a coastal bluff top lot not subject to marine erosion in the City of San Clemente. All coastal bluffs in San Clemente are identified as environmentally sensitive habitat areas in the City's certified Land Use Plan. Primary issues associated with this development include assurance that the proposed development is consistent with the geologic hazard policies of the Coastal Act.

Staff is recommending <u>APPROVAL</u> of the proposed project with <u>Seven (7) Special Conditions</u> regarding: 1) Conformance with Geotechnical Recommendations; 2) Landscaping; 3) Assumption of Risk, Waiver of Liability and Indemnity; 4) No New or Additional Bluff or Shoreline Protective Device; 5) Future Improvements; 6) Construction Responsibilities and Debris Removal; and 7) Deed Restriction against the property, referencing all of the Special Conditions contained in this Staff Report.

APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

Exhibit 1 – Location Map/Project Site Exhibit 2 – Project Plans

I. MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** the Coastal Development Permit Applications included in the consent calendar in accordance with the staff recommendations.

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

Resolution:

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

This permit is granted subject to the following 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

This permit is granted subject to the following special conditions:

1. Conformance with Geotechnical Recommendations. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, for the Executive Director's review and approval, along with set of final plans, evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans including foundation and grading/drainage plans and certified that each of those final plans is consistent with all the recommendations contained in the geologic engineering investigations.

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

2. Landscaping – Drought Tolerant, Non-Invasive Plans. Vegetated landscaped areas adjacent to the bluff shall only consist of drought tolerant plants native to coastal Orange County and appropriate to the habitat type. Native plants shall be from local stock wherever possible. No permanent in-ground irrigation systems shall be installed on the bluff-facing portion of the site. Temporary above ground irrigation is allowed to establish plantings.

Vegetated landscaped areas on the street-side of the residence are encouraged to use native plant species, however, non-native drought tolerant non-invasive plant species may also be used in that area. 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 (http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf).

- 3. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from geologic instability, sea level rise, wave uprush, and erosion; (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. **No New or Additional Bluff or Shoreline Protective Device.** By acceptance of this permit, the applicants agree, on behalf of themselves and all other successors and assigns, that no new or additional shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-14-0339 including, but not limited to, the residence, garage, accessory buildings, foundations, and bluff top concrete patio, and any future improvements, in the event that the development is threatened with damage or destruction from landslide, erosion, storm conditions, sea level rise, or other natural hazards in the future. By acceptance of this permit, the applicants hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.

By acceptance of this permit, the applicants further agree, on behalf of themselves and all successors and assigns, that the landowner(s) shall remove the development authorized by this permit, including the residence, garage, accessory buildings, foundations, and bluff top concrete patio, if any government agency has ordered that the structure is not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner(s) shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

5. **Future Improvements.** This permit is only for the development described in Coastal Development Permit No. 5-14-0339. 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 this development governed by the Coastal Development Permit No. 5-14-0339. Accordingly, any future improvements to the structures authorized by this permit, including but not limited to, repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-14-0339 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

- 6. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris. 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 wind or rain 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.

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 stormdrain, open ditch or surface water; and
- (4) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.
- 7. **Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing all Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS:

A. PROJECT LOCATION AND DESCRIPTION

The proposed development is located at 2821 La Ventana in the City of San Clemente, Orange County (**Exhibit 1**). The applicant proposes a major remodel of an existing one-story 1,352 sq. ft. single family residence. The proposed development is located within 50 feet of a coastal bluff between the sea and the first public road. The site is surrounded to the north and south by single-family residences, to the east by the frontage street (La Ventana) and to the west by an approximately 70 foot high coastal bluff. The bluff slope descends to El Camino Real (aka Pacific Coast Hwy) and a public sandy beach beyond the road. Adequate public access to the beach exists nearby with the nearest vertical access available approximately half a mile driving distance from the subject site to the Poche Beach public beach access way. The subject site is designated RL (Residential Low Density) in the San Clemente certified Land Use Plan (LUP).

The coastal bluffs in this area of San Clemente are not subject to direct wave attack because they are separated from the beach by a rip-rap revetment protected Orange County Transit Authority (OCTA) railroad tracks/railroad right-of-way and the El Camino Real roadway. Though not subject to direct wave attack, the bluffs are subject to erosion caused by natural factors such as wind and rain, adverse bedding orientations, soils conducive to erosion and rodent burrowing. Bluffs are also subject to erosion from human activities, such as irrigation, improper site drainage and grading.

The applicants propose improvements to a one-story, single family residence consisting of a complete interior remodel of the existing 1,352 sq. ft. residence including an 871 sq. ft. addition, new doors, windows, roof covering and exterior façade improvements. The proposed "casita" addition and minor garage expansion on the street-facing side of the structure is proposed to be supported on shallow spread footings founded in newly compacted fill with steel piers/caissons to support the proposed addition on the bluff-facing portion of the structure. Additionally, the applicant proposes a new 5 ft. x 40 ft. concrete patio on the bluff facing side of the lot adjacent to the proposed new bluff facing residential addition. An existing larger 36 ft. x 14 ft. concrete patio slab is located further toward the bluff top than the new proposed smaller 5 ft. x 40 ft. concrete patio. No work is proposed this existing bluff facing concrete patio slab, which will remain as is. No grading, vegetation removal or landscaping or any other type of work is proposed on the bluff face. Landscaping improvements on both the bluff top and the street-facing side of the lot are proposed. Demolition, project plans and landscaping plans are included as **Exhibit 2**.

The proposed work involves demolition of the entire roof structure, demolition of 65% of exterior walls and an addition that is greater than 50% square feet of the existing residence; therefore the proposed project is considered a 'major remodel' resulting in complete redevelopment of the site. The proposed development will not result in an increase in the density or intensification of use of the property.

Bluff Setbacks and Geotechnical Recommendations

The 13,493 square foot bluff top lot is currently developed with a one-story, single-family residence with rear yard (ocean bluff-facing) concrete slab patio. The existing residence is setback 35 ft. from the coastal bluff edge (approximately at the 120 ft. contour line). The seaward facing property line at the subject site does not include the bluff edge as the bluff edge is located approximately 5 ft. from the seaward property line on a separate seaward parcel owned by the La Ventana Homeowners Association extends beyond the coastal bluff edge down to the toe of the bluff. On bluff top lots in San Clemente, the Commission has typically required new development to conform to a minimum 25 ft. setback from the bluff edge for primary structures (e.g. the enclosed living area of residential structures) and minimum 10 ft. setback for secondary structures (e.g., patios, decks, garden walls) or requires conformance with the stringline setbacks. Hardscape currently extends to approximately 5 ft. from the bluff edge. There is a concrete slab patio approximately 5 ft. from the bluff edge. As proposed, new additions are proposed on both the street facing portion of the structure and the bluff facing side of the existing structure. The additions on the bluff-facing side of the structure will be setback 25 ft. from the bluff edge (Exhibit 2).

The applicant provided a Geotechnical Investigation Report prepared by Global Geo-Engineering, Inc. dated August 1, 2014. Topographically, the report characterizes the lot as relatively level without significant elevation relief. Beyond the rear (south) edge of the building pad, there is a 15 ft. high descending 2:1 fill slope then a 50 ft. high 0.4:1 shotcrete wall, beyond the toe of the shotcrete wall, surface gradient descends at about a 2.5:1 slope to the toe of the bluff below. The shotcrete wall was constructed as part of a bluff repair/re-stabilization project across numerous La Venta bluff properties in response to a major landslide in 1993. The bluff edge and shotcrete wall are not on the subject property, but on a separate seaward parcel owned by the La Ventana Homeowners Association.

The report concludes that the site is suitable for the proposed development from a geotechnical aspect and recommends that the proposed additions may be supported on shallow spread footings founded in newly compacted fill and also recommends steel piers/caissons in order to reduce the risk of differential settlement (i.e., potential for the existing fill below the new additions to settle differentially relative to the fill under the existing structure as new vertical loads are applied). **Special Condition 1** requires the applicant provide final design and construction plans including foundation and grading/drainage plans reviewed and approved by an appropriately licensed professional certifying that each of those final plans is consistent with all the recommendations contained in the submitted, and any future, geologic engineering investigations for the proposed project.

Drainage Improvements and Landscaping

The existing drainage patterns on the subject residential site will remain the same. The applicant proposes to direct roof and surface water runoff away from the bluff face toward the frontage road to a de-silting cobble basin/swale for natural onsite infiltration of water runoff before it is directed to existing City storm drains, per City requirements. New proposed hardscape improvements also include a new pervious paver driveway along the frontage road and landscaped and pervious surface side yards.

Landscape plantings throughout the site are proposed to be low-water use native vegetation suitable to Orange County coastal bluff vegetation communities. No temporary or permanent inground irrigation system is proposed. The applicant proposes, and **Special Condition 2** requires, plantings on the bluff side of the lot to consist of native, drought tolerant, non-invasive plants and either native or non-native drought tolerant, non-invasive plants throughout the rest of the lot.

The development is located within an existing developed area and is compatible with the character and scale of the surrounding area. However, the proposed project raises concerns that any future repair and maintenance of the project site potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act and the Commission's regulations. Therefore, to assure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission imposes **Special Condition 5** requiring the applicant to apply for an amendment to this CDP or a new CDP, if applicable, for any future development within the subject site.

In order to minimize adverse construction-related impacts upon marine resources, **Special Condition 6** requires the applicant comply with construction-related best management practices (BMPs) to ensure that construction materials, debris and waste does not enter receiving waters or be subject to dispersion and that prevent spillage and/or runoff of demolition or construction related materials and to contain sediment or contaminants associated with demolition or construction activities.

B. HAZARDS

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

C. HABITAT

As conditioned, the development will not result in significant degradation of adjacent habitat, recreation areas, or parks and is compatible with the continuance of those habitat, recreation, or park areas. Therefore, the Commission finds that the project, as conditioned, conforms to Section 30240(b) of the Coastal Act.

D. DEVELOPMENT

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

E. DEED RESTRICTION

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes one additional condition requiring that the property owner record a deed restriction against the property, referencing all of the above

Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, this permit ensures that any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development, including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

F. PUBLIC ACCESS

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

G. WATER QUALITY

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates construction best management practices to minimize the effect of construction activities on the marine environment. These conditions include, but are not limited to, one or more of the following: the appropriate management of equipment and construction materials and construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms to Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

H. LOCAL COASTAL PROGRAM

The Commission certified the Land Use Plan for the City of San Clemente on May 11, 1988, and certified an amendment approved in October 1995. On April 10, 1998, the Commission certified with suggested modifications the Implementation Plan portion of the Local Coastal Program. The suggested modifications expired on October 10, 1998. The City re-submitted on June 3, 1999, but withdrew the submittal on October 5, 2000. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 of the Coastal Act.

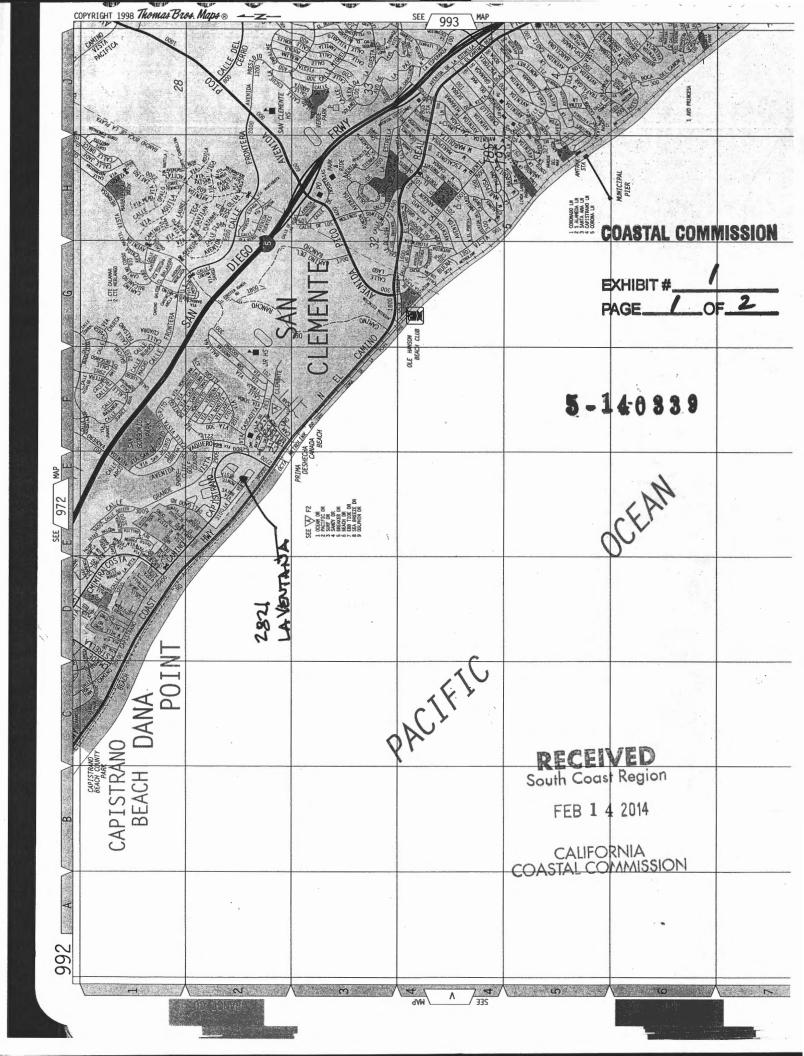
I. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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 San Clemente was effectively certified on March 14, 1996. 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.

APPENDIX A - SUBSTANTIVE FILE DOCUMENTS

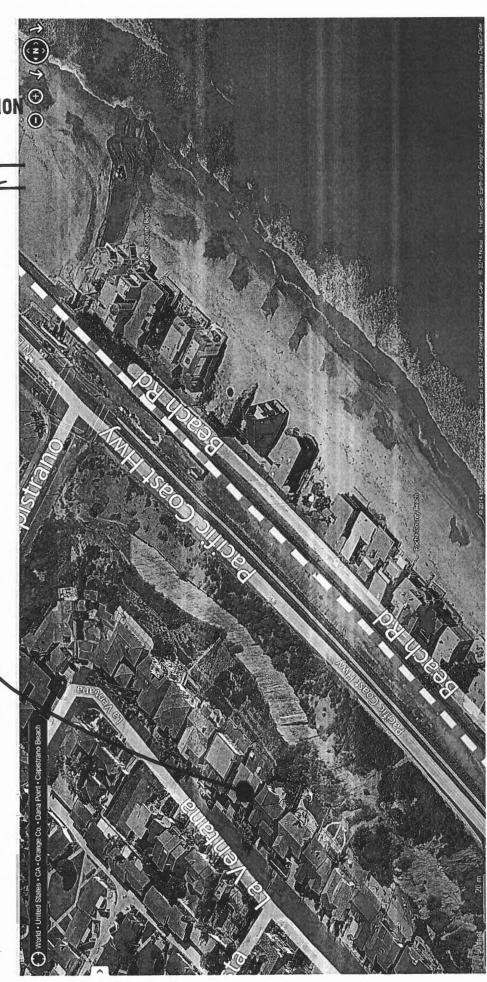
- 1) City of San Clemente LUP
- 2) City of San Clemente Approval in Concept dated February 12, 2014
- 3) Geotechnical Investigation Report, New Residential Additions, 2821 La Ventana, San Clemente, CA; prepared by Global Geo-Engineering, Inc., dated August 1, 2014

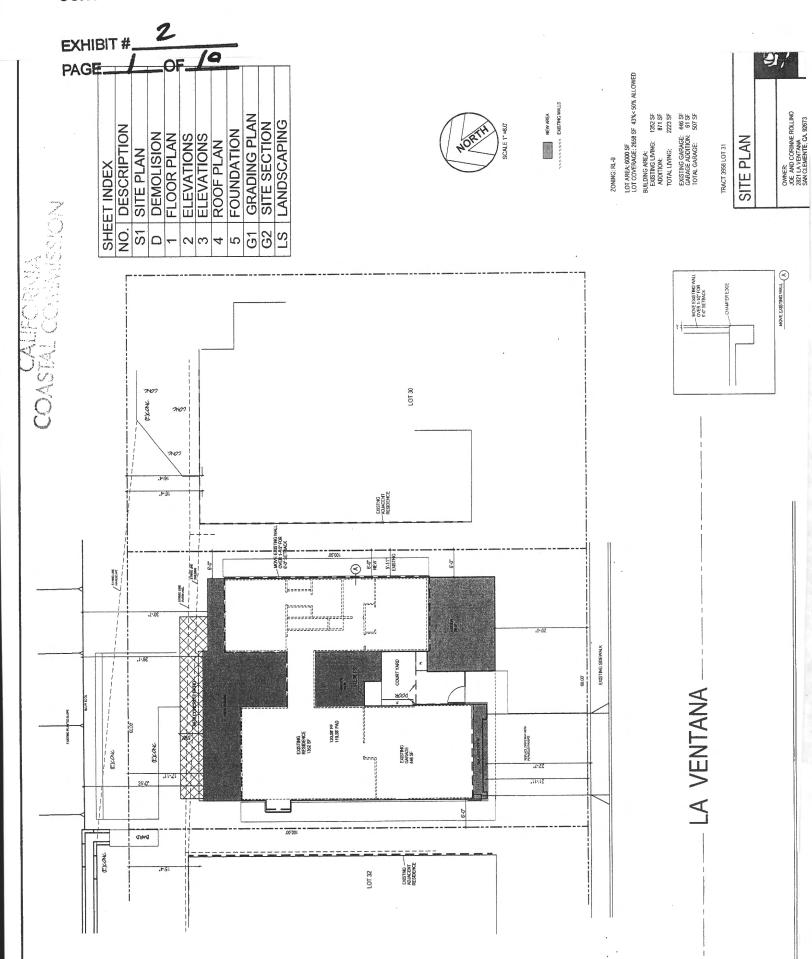


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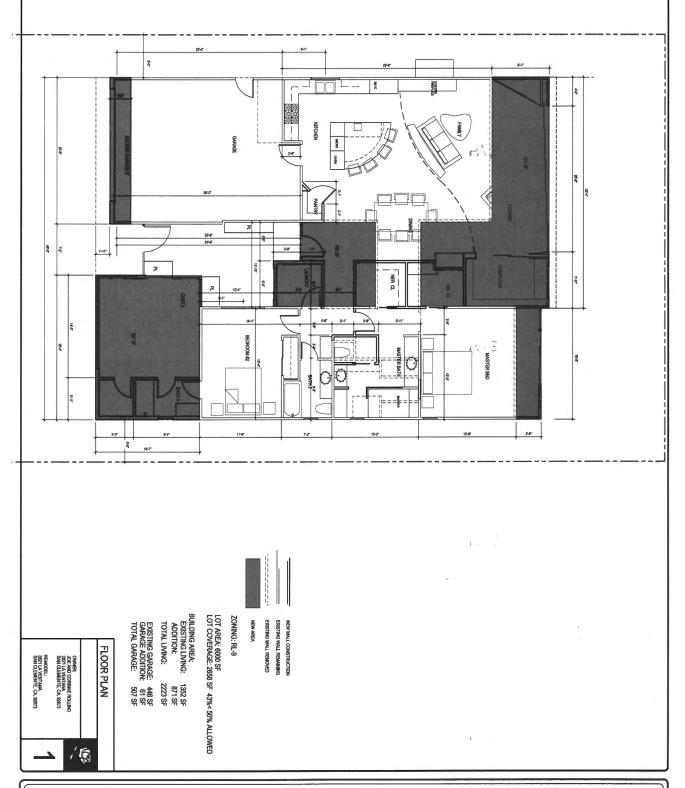
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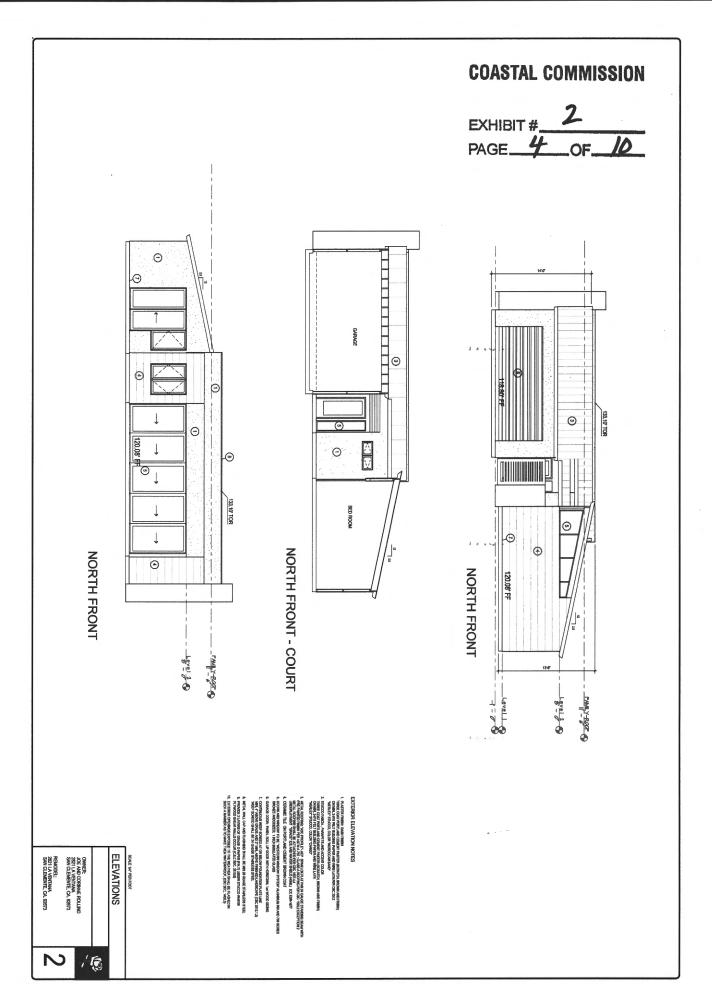




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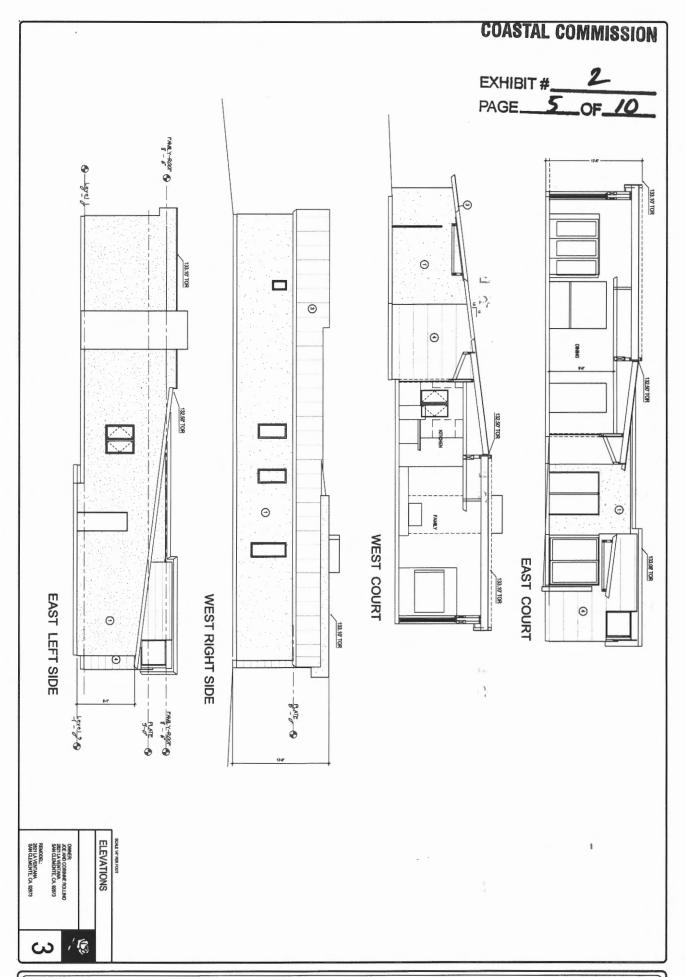
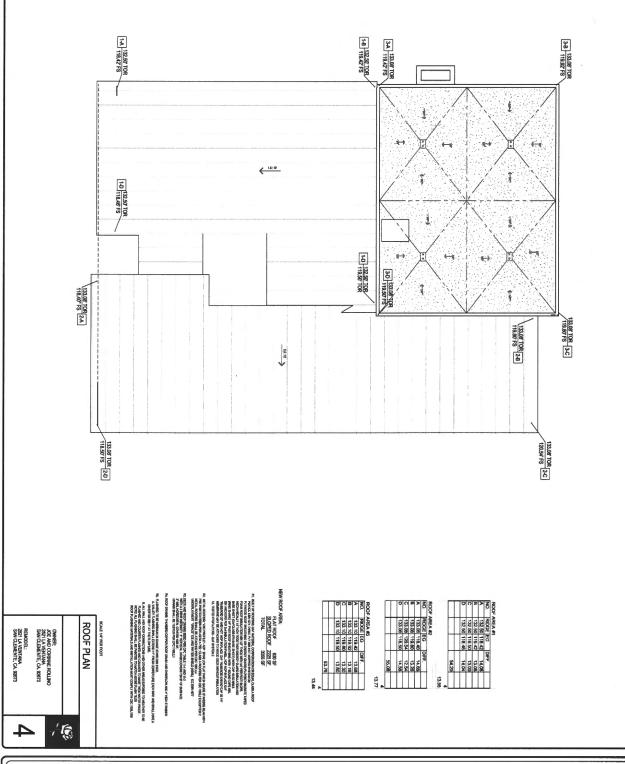


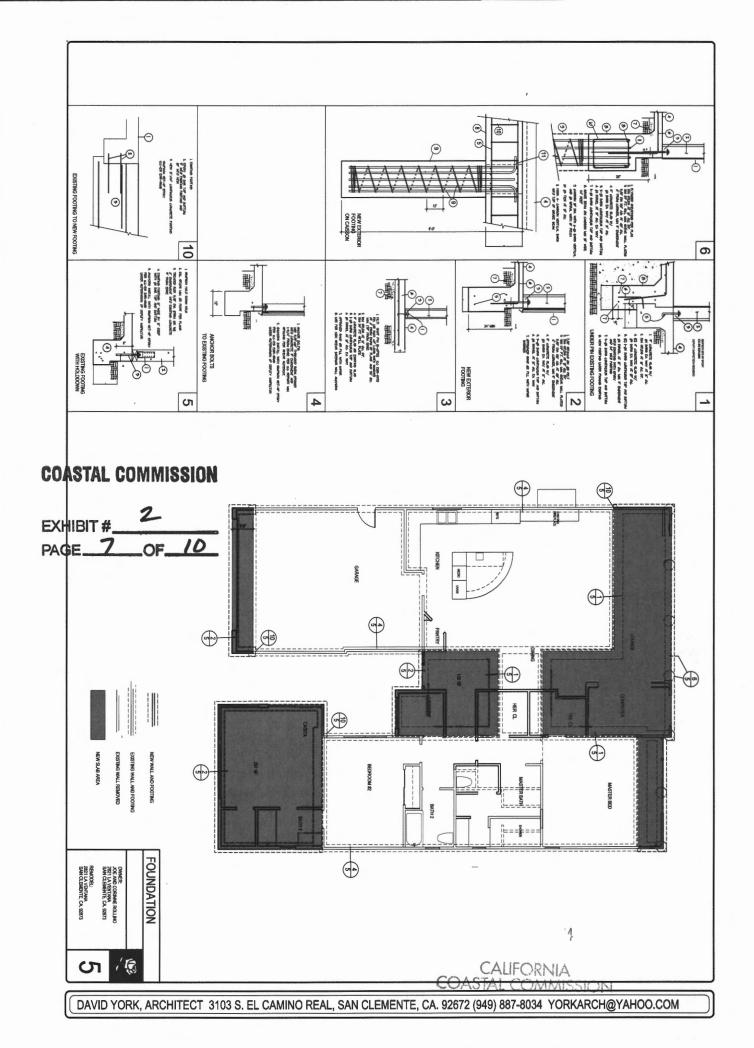
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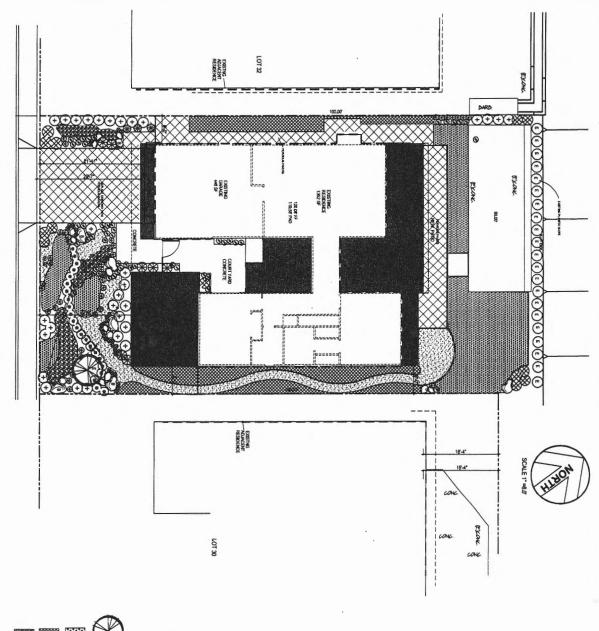
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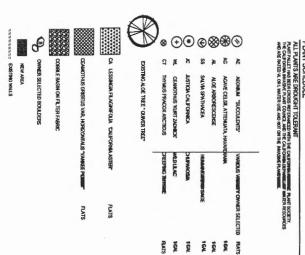
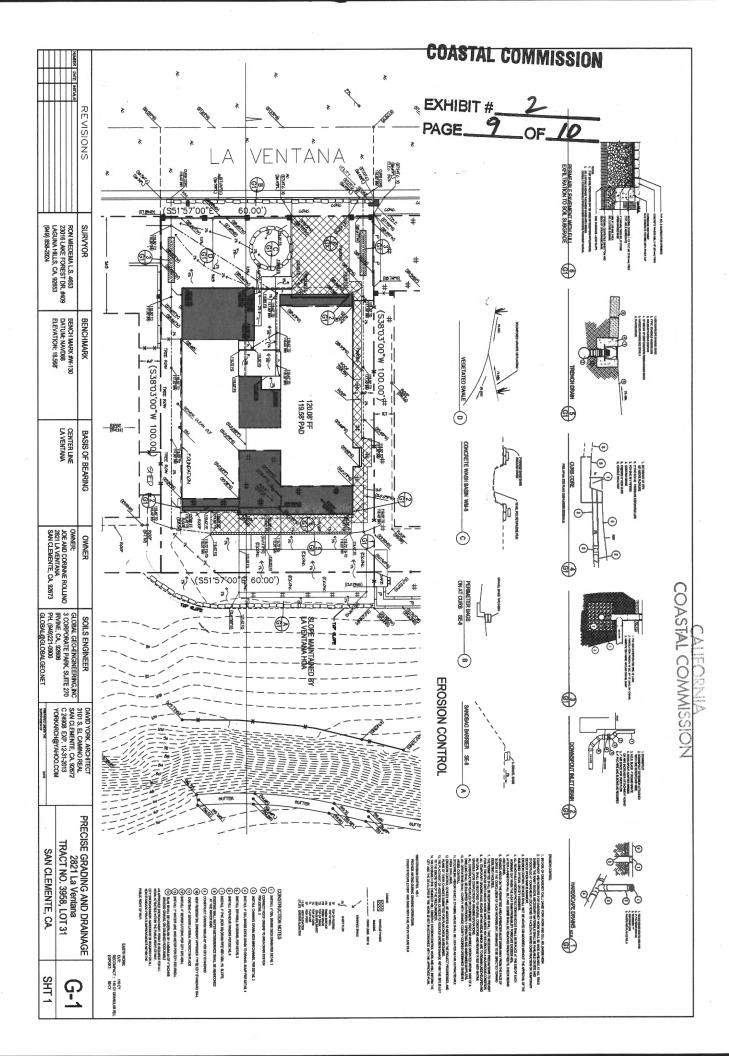


EXHIBIT # 2
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TRACT NO. 3958, LOT 31 SAN CLEMENTE, CA.	C 24908 EXP. 12-31-2013 YORKARCH@YAHOO.COM PRIMESURES HE DATE SUPERISTRICTORY	3 CORPORATE PARK, SUITE 270 IRVINE, CA., 92606 PH. (949)221-0900 GLOBAL@GLOBALGEO.NET	JOE AND CORINNE ROLLINO 2821 LA VENTANA SAN CLEMENTE, CA. 92673	LA VENTANA	DATUM: NAVD88 ELEVATION: 18.568'	23016 LAKE FOREST DR. #409 LAGUNA HILLS, CA 92653 (949) 858-2924	
PRECISE GRADING AND DRAINAGE 2821 La Ventana	DAVID YORK, ARCHITECT 3101 S. EL CAMINO REAL SAN CLEMENTE, CA. 92672	SOILS ENGINEER GLOBAL GEO-ENGINEERING,INC	OWNER:	BASIS OF BEARING	BENCHMARK BENCH MARK #W-130	SURVYOR RON MIEDEMA L.S. 4653	NS.
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