CALIFORNIA COASTAL COMMISSION

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Th8b

 Filed:
 9/24/13

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 3/23/14

 Staff:
 L. Roman-LB

 Staff Report:
 1/23/14

 Hearing Date:
 2/13/14

STAFF REPORT: CONSENT CALENDAR

Application No.:

5-13-0640

Applicant:

Bruce and Cheryl Kiddoo

Location:

3830 Calle Ariana, San Clemente, Orange County

(APN 060-281-51)

Project Description:

Improvements to an existing 3,036 sq. ft. single family residence consisting of a complete interior remodel, 530 sq.

ft. addition, new doors, windows and exterior façade improvements, new hardscape and landscaping

improvements on an 8,302 sq. ft. coastal bluff top lot.

Staff Recommendation:

Approval with conditions.

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. 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.
- 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. 5-13-0640 including,

but not limited to, the residence, garage, foundations, and bluff top concrete patio, and any future improvements, in the event that the development is threatened with damage or destruction from waves, 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, 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. 5-13-0640. 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. 5-13-0640. 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. 5-13-0640 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.
- 6. **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 3830 Calle Ariana in the private gated community of Cypress Shores in the City of San Clemente, Orange County (**Exhibit 1**). The applicant proposes improvements to an existing single family; the proposed development is located within 50 feet of a coastal bluff between the sea and the first public road. The subject site is designated RL (Residential Low Density) in the San Clemente certified Land Use Plan (LUP).

Public access to the nearest public beach is available approximately half a mile upcoast of the subject lot at San Clemente State Beach, Exhibit 3 provides a map of coastal access points throughout San Clemente. Lateral public access to the Pacific Ocean and sandy beach areas is available immediately adjacent to the subject site, seaward of the railroad right-of-way located at the toe of coastal bluff. The proposed development involves improvements to an existing single family residence located within 50 feet of a coastal bluff between the sea and the first public road, however, it does not impact access either directly or indirectly to the beach. The existing residence is located in a private gated community. It is the gated nature of the community that creates an impediment to public access along this stretch of coast. The proposed improvements will not create any new individual or cumulative direct adverse impacts on existing public access or recreation and will not result in an intensification of use of the site. Additionally, adequate public access to the beach exists nearby.

The 8,302 square foot bluff top lot is currently developed with a single story, single-family residence with rear yard (ocean bluff-facing) hardscape improvements, landscaping and hardscape improvements. The residence is setback 25' from the bluff edge and consistent with a structural stringline (typical to all blufftop residences along this subdivision). Hardscape currently extends to within 5' of the bluff edge. There is a raised concrete seat wall along the bluff edge (within 5' of bluff edge) at the seaward edge of the hardscape. The site is surrounded to the north by a single-family residence, to the south by a single-family residence, to the east by the frontage street (Calle Ariana) and to the west by an approximately 70 foot high coastal bluff. The bluff slope descends to the Orange County Transportation Authority (OCTA) railroad tracks and right-of-way and a public sandy beach.

The coastal bluffs in San Clemente are not subject to direct wave attack because they are separated from the beach by Orange County Transit Authority (OCTA) railroad tracks and railroad right-of-way. The railroad tracks have a rip-rap revetment which protects the tracks from erosion and wave overtopping. 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 seaward property line at the subject site is approximately 20' beyond the coastal bluff edge. The rest of the bluff face and bluff toe at this location is not part of this property, but is within the railroad right-of-way.

The applicant proposes improvements to an existing single family residence consisting of a complete interior remodel of an existing 3,036 sq. ft. single family residence including an addition of 530 sq.ft. acquired by enclosing a portion of an interior courtyard and enclosing an entryway courtyard. The bluff facing concrete patio slab is proposed to be demolished and reconstructed in the same size and layout, with new stone paving veneer over reinforced concrete base. The concrete patio is located between the existing residence and raised concrete seat wall which is within 5' of the coastal bluff (to remain undisturbed). Thus, the concrete patio slab to be reconstructed is entirely within existing development that is proposed to be retained. New doors, new windows and exterior façade improvements, new hardscape and landscaping improvements are proposed. No grading, vegetation removal or landscaping or any other type of work is proposed on the bluff face. Proposed project plans are included as **Exhibit 2**.

Although a complete interior remodel, the proposed work does not involve demolition of more than 50% of the existing structure. For instance the proposal involves less than 50% demolition (approximately 33%) of existing exterior walls, less than a 50% addition, no change to the roof's structural components and no work to the foundation/floor; therefore the proposed project would not be considered a 'major remodel' or re-development of the site. The proposed development will not result in an increase in the density or intensification of use of the property or seaward encroachment of the existing structure.

The existing drainage patterns on the subject residential site will remain the same. Existing drain inlets along the bluff facing side of the lot and the northern side yard will remain unchanged. The applicant proposes to direct roof and surface water runoff away from the bluff face toward the frontage road, via new drainage inlets to collect water runoff along the southern side yard that will direct runoff directly to existing City storm drains, per City requirements. In order to minimize adverse construction-related impacts upon marine resources, **Special Condition 2** 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.

No vegetation removal or new landscaping is proposed on the bluff face. The existing residence is all paved hardscape on the back yard bluff side of the lot and landscape plantings along the side yards and frontage road. The applicant proposes, and **Special Condition 3** 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.

B. HAZARDS

Development adjacent to the ocean and the edges of coastal bluffs and hillsides is inherently hazardous. Development which may require a bluff, hillside, or shoreline protective device in the future cannot be allowed due to the adverse impacts such devices have upon public access, visual resources, and shoreline processes. To minimize risks to life and property and to minimize the adverse effects of development on coastal bluffs, hillsides, and shoreline processes

the development has been conditioned to require one or more of the following: adherence to the geotechnical recommendations, an appropriate set-back from the edge of a bluff or hillside, to prohibit the construction of protective devices (such as a retaining wall or shoreline protective device) in the future, for a drainage and runoff plan to minimize the percolation of water into the hillside or bluff, and to require that the landowner or any successor-in-interest assume the risk of undertaking the development. As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

C. 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 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. Section 13252 of the Commission's regulations provides that certain repair and maintenance activities require a coastal development permit because they involve a risk of substantial adverse impacts to coastal resources. Therefore, to assure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission imposes **Special Condition 4** 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. As conditioned the development conforms to the Chapter 3 policies of the Coastal Act.

E. 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.

F. 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.

G. 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.

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

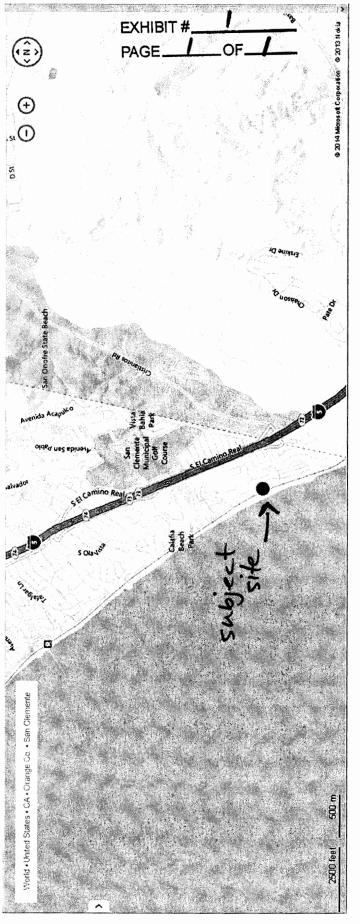
Section 13096 of the Commission's regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

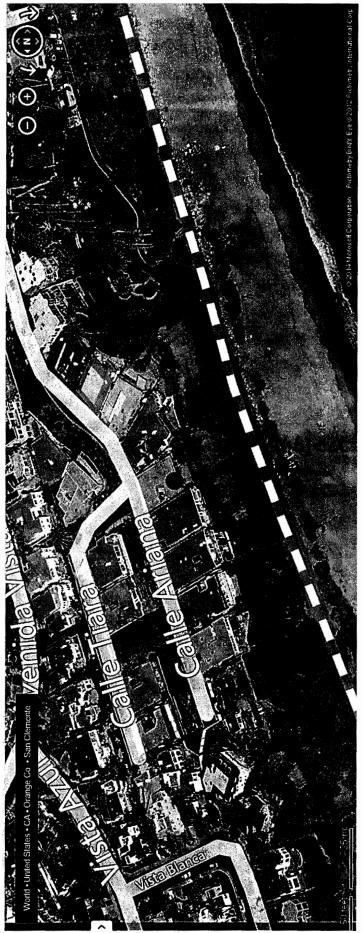
The City of San Clemente is the lead agency responsible for CEQA review. The City deemed the project Categorically Exempt, citing Section 15301. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available which will substantially lessen any significant adverse impact the activity would have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is consistent with CEQA and the policies of the Coastal Act.

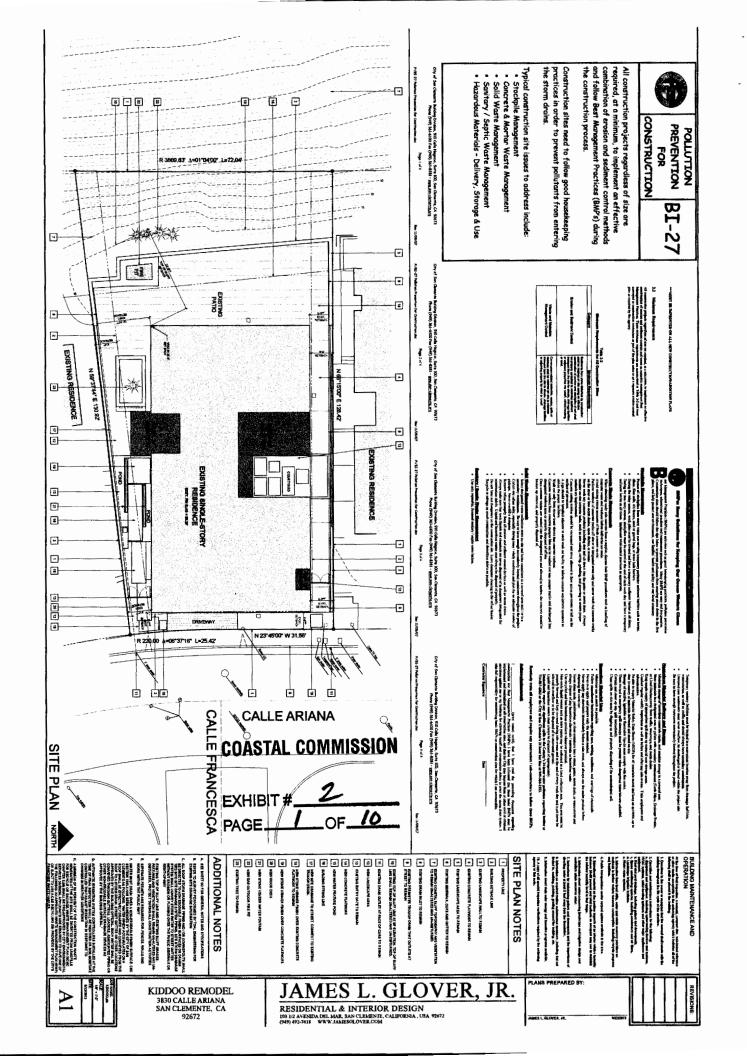
APPENDIX A - SUBSTANTIVE FILE DOCUMENTS

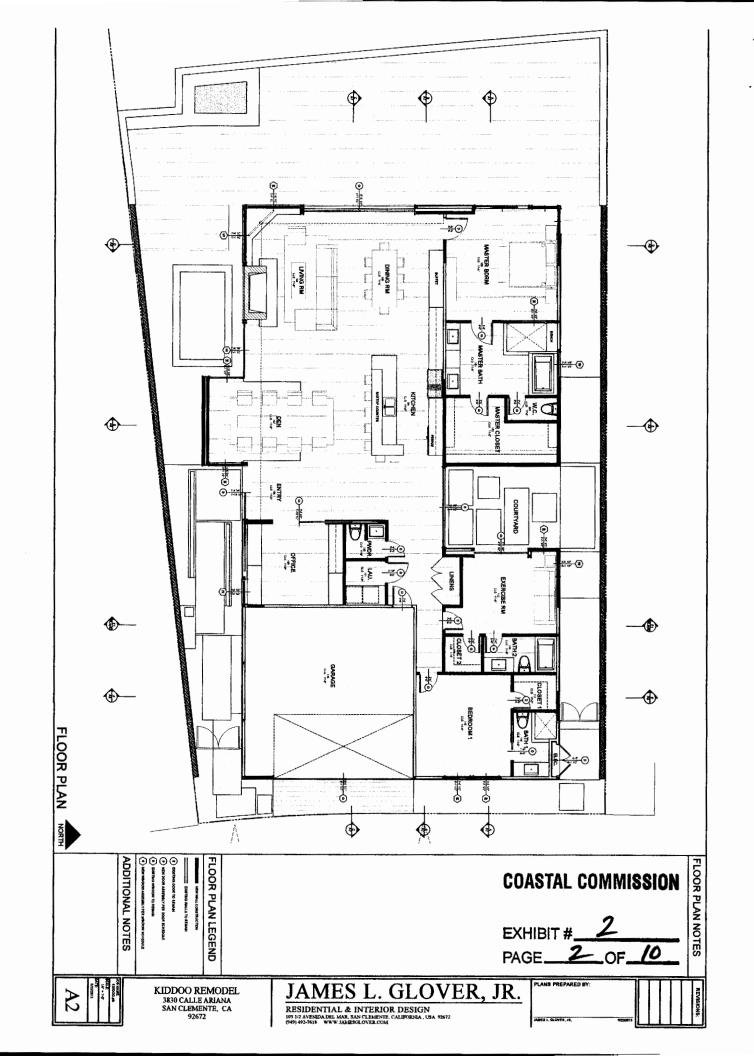
- 1) City of San Clemente LUP
- 2) City of San Clemente Approval in Concept dated July 17, 2013

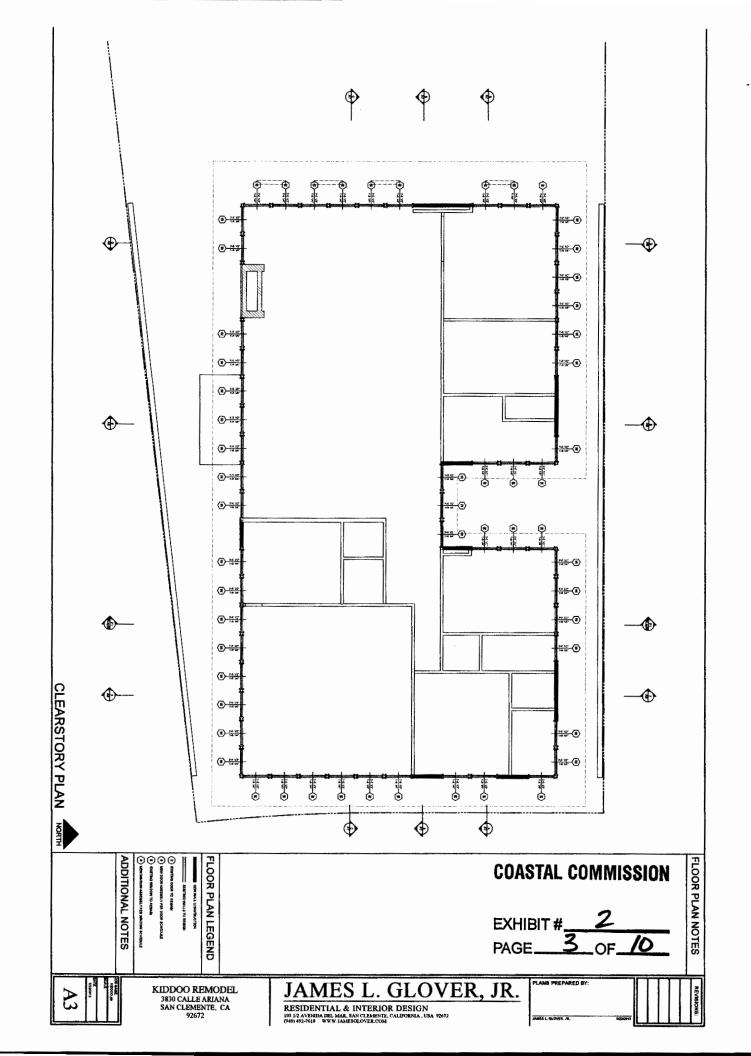
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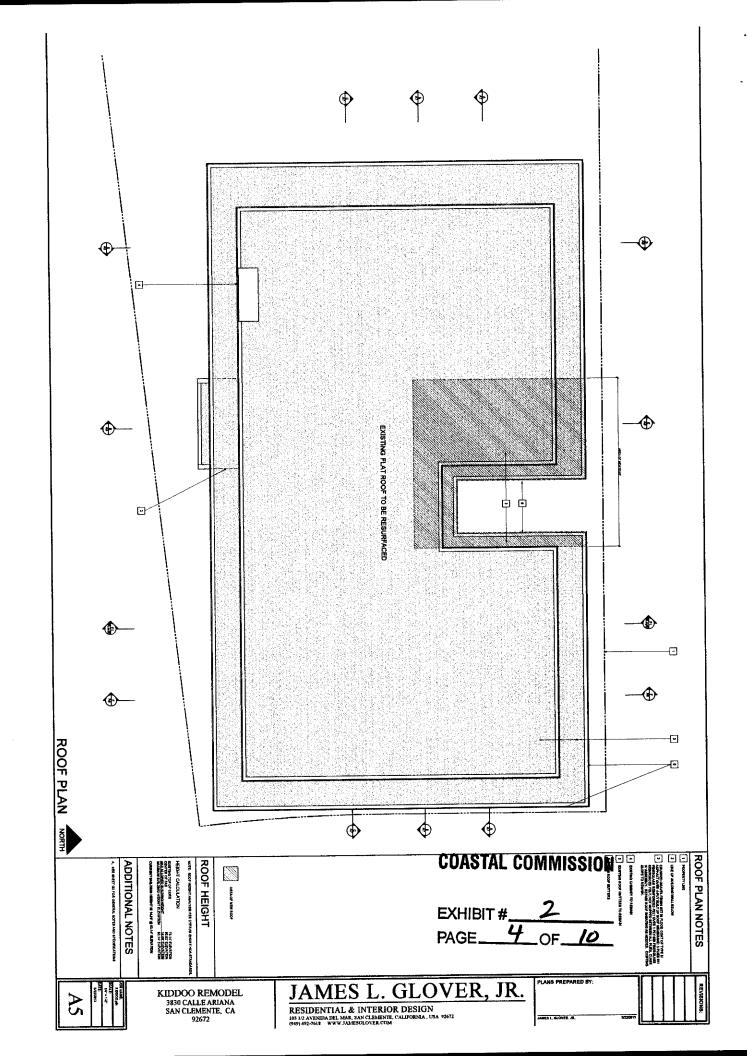


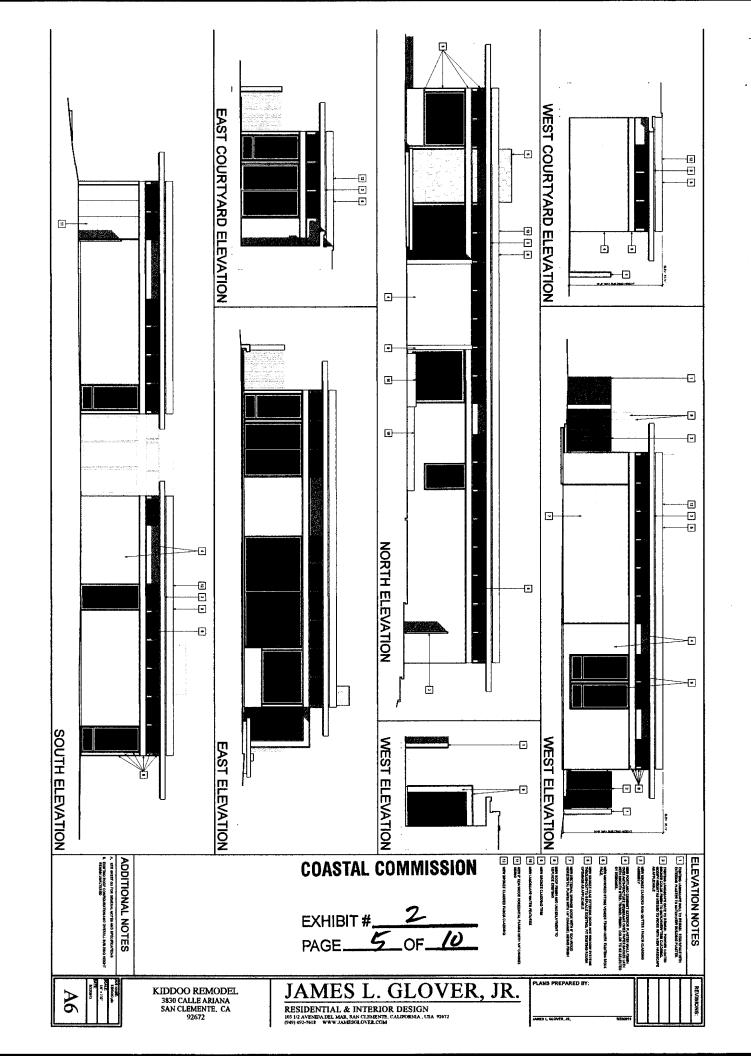


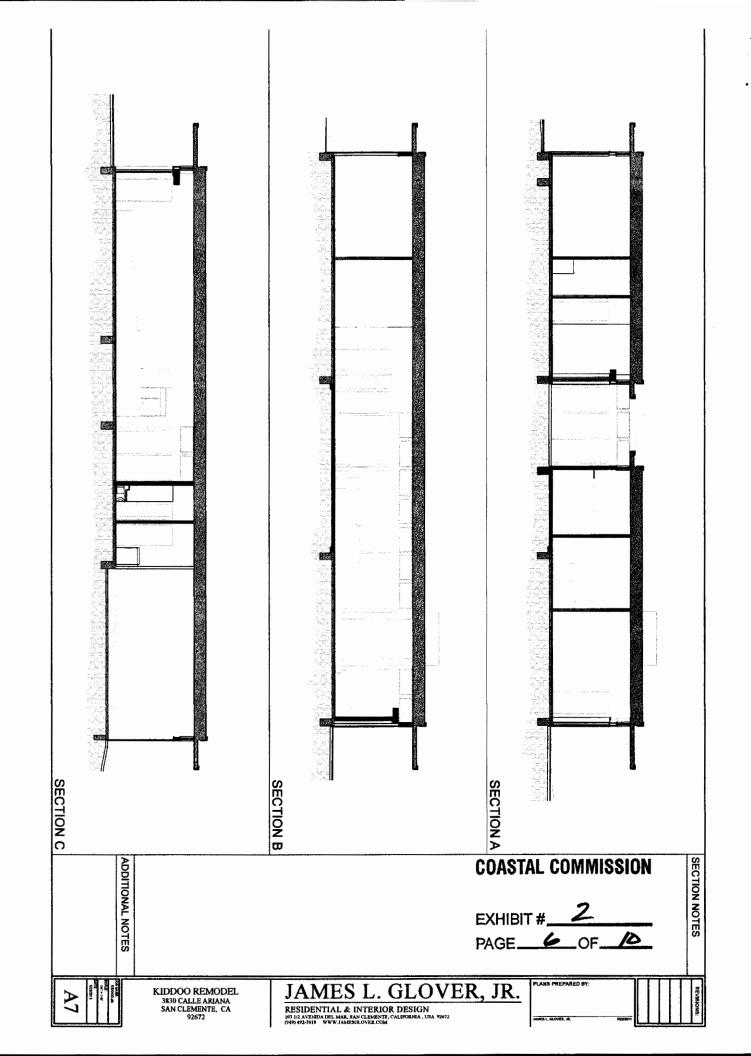


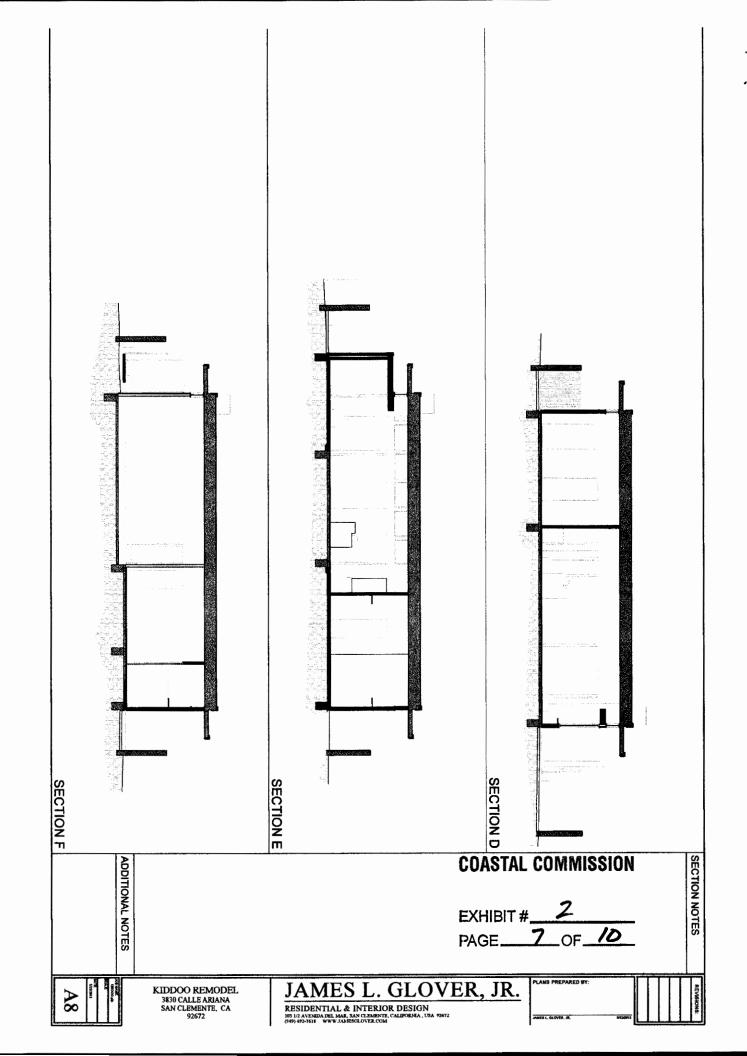


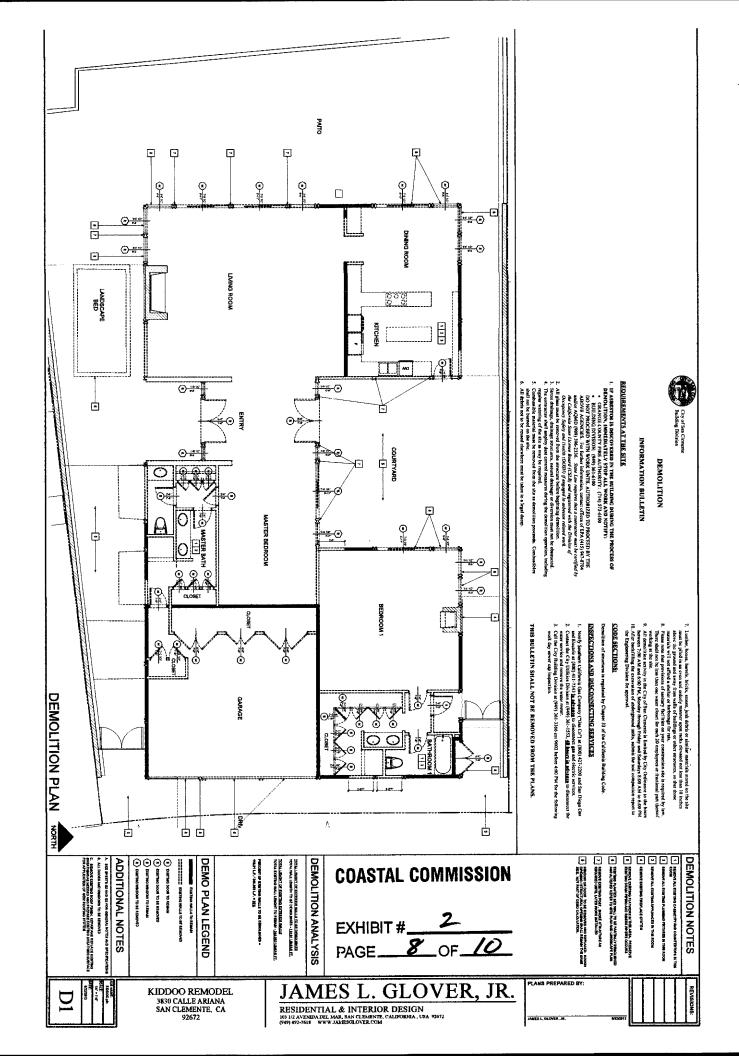






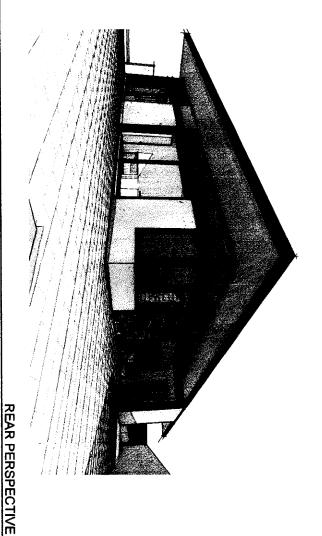






COASTAL COMMISSION

EXHIBIT # 2
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FRONT PERSPECTIVE

KIDDOO REMODEL
3830 CALLE ARIANA
SAN CLEMENTE, CA
92672

JAMES L. GLOVER, JR.

RESIDENTIAL & INTERIOR DESIGN
103 1/2 AVENDA DEL MAR, SAN CLEMENTE, CALIFORNIA, USA 92672
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PLANS PREPARED BY:



