

**CALIFORNIA COASTAL COMMISSION**

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# W13b

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## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 5-13-0678

**Applicant:** Nada and Nazir Tannir

**Agent:** Brion Jeannette & Associates

**Location:** 3235 Ocean Boulevard, Newport Beach (Corona Del Mar)  
(Orange County)

**Project Description:** Demolition of existing three-level, 3,100 sq. ft. single family residence and attached 2-car garage on a coastal bluff face and construction of a new 7,197 sq. ft. three-level single-family residence with three levels of cantilevered decks, attached two-car garage and a second 781 sq. ft. two-car garage and rec. room with roof deck at the toe of the bluff; demolition and re-construction of a portion of an existing wood stairway on the bluff face; landscaping and hardscape improvements including new driveway and driveway approach; retaining walls; 1,283 cubic yards of cut; and drilled caisson and grade beam foundations for the residence and second garage.

**Staff Recommendation:** Approval with conditions

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## SUMMARY OF STAFF RECOMMENDATION

The subject site is located on a coastal bluff located seaward of Ocean Boulevard, and inland of Breakers Drive (a private street) in Newport Beach. Corona Del Mar State Beach is located seaward of Breakers Drive. The applicant proposes to demolish an existing 3-level, 3,100 sq. ft. single-family residence and attached 2-car garage located at the top of the coastal bluff face and construct a new 7,197 sq. ft. 3-level single-family residence at the top of the coastal bluff face and construct a second detached 781 sq. ft. 2-car garage and recreation room/bathroom with roof deck and exterior spiral stairs at the toe of the bluff. Drilled caisson and grade beam foundations for the residence and second garage are proposed, as well as two rows of stability caissons, one at the top of the bluff and part of the house foundation and one row along the bluff slope closer to the toe of the bluff to provide the necessary factors-of-safety for development. Additionally, demolition and re-construction of a portion of an existing wood stairway on the bluff face; landscaping and hardscape improvements including two new driveways; retaining walls; and 1,283 cubic yards of cut on the bluff face is proposed.

The applicant is proposing a second 2-car garage at the toe of the bluff in order to meet City of Newport Beach Off-Street Parking Zoning Code requirement for three (3) off-street parking spaces in a garage for single-unit dwellings of 4,000 sq. ft. or greater in gross floor area. Single-unit dwellings less than 4,000 sq. ft. require two (2) off-street parking spaces *in a garage*. The Zoning Code is not a certified document and not part of the certified LUP. The proposed residence is 7,197 sq. ft. with attached two-car garage (not including the proposed second 781 sq. ft. two-car garage and recreation room at the toe of the bluff).

The proposed 781 sq. ft. 2-car garage and recreation room/bathroom and roof deck with 6' tall wood trellis shade structure and exterior spiral stairs at the toe of the bluff impacts public views and would be inconsistent with the Predominant Line of Development (PLOED) at the site and would not be visually compatible with character of the surrounding area (only two out of six residences have structures at the toe of the bluff).

Most importantly, the site does not meet the required factors-of-safety for geologic stability for development and requires two rows of stability caissons, one at the top of the bluff and one at the lower portion of the slope in order to provide the required geologic factors-of-safety for development. The applicant proposes to tie the row of stability caissons at the top of the bluff, beneath the house, together with a grade beam in order to provide the *residence* with the required 1.5 factor-of-safety. However, the second row of stability caissons closer to the toe of the bluff would be considered a bluff protective device (built on its own, unattached to a residential structure) and would not be in conformance with Coastal Act Section 30253 requiring new development minimize risks to life and property and assure stability and structural integrity without requiring the construction of protective devices. Without the proposed second row of stability caissons closer to the toe of the bluff, according to the applicant, the proposed garage/recreation room structure would still require a drilled caisson foundation and some type of bluff protective structure such as a retaining wall/debris wall for protection from bluff failure.

The applicant has proposed to move the garage/recreation room structure at the toe of the bluff approximately 9 feet toward the bluff and notch the structure into the toe of the bluff in order to

incorporate the second row of bluff stability caissons into the garage/rec. room foundation. However, this would still result in the construction of a bluff protective device that would substantially alter the natural bluff landform in an area of the bluff where grading has not previously occurred. The project can be built as proposed, but only with significant engineering effort that would result in a structure that would qualify as a bluff protection device under the Coastal Act. The second row of stability caissons are only needed if there is a structure at the toe of the bluff, and that structure is only needed to accommodate the extra garage parking because the proposed 7,000+ sq. ft. residence exceeds the City's square foot threshold for a two car garage.

Therefore, the Commission cannot find the proposed second garage at the toe of the bluff in conformance with Coastal Act policies regarding hazards, landform alteration and scenic resources. None of these adverse impacts to the coastal bluff would be necessary if the project were revised to limit development to the top of the bluff only. Therefore, staff recommends **Special Condition 1** requiring revised project plans that either:

- a) Provide for a third *un-covered* off-street parking space accommodated in the proposed new driveway off Ocean Blvd. or a simple open or covered carport could be accommodated at the toe of the bluff with access from Breakers Drive. This would require a Variance from City's Zoning Code requirement for three off-street parking spaces *in a garage* for a residence 4,000 sq. ft. or larger. A carport at the toe of the bluff could replace the proposed 781 sq. ft. 2-car garage/recreation room/bathroom/roof deck structure that requires a drilled caisson foundation and a bluff protective structure.
- b) Revise the project square footage to bring the residence under 4,000 sq. ft. as existing site constraints only allow for construction of a two-car garage with access from Ocean Blvd., thereby meeting the City's Zoning Code requirement for two off-street parking spaces *in a garage* without the need for a City Variance.

Furthermore, a single family residence under 4,000 square feet would be more in character with the surrounding area. The existing 3-story residence is 3,100 sq. ft. and a 7,197 sq. ft. is proposed. The pre-Coastal Act residence upcoast of the site at 3225 Ocean Blvd is 2,023 sq. ft., and a new 3,880 sq. ft. 3-story residence was recently approved by the Commission in 2013. The existing pre-Coastal Act residence downcoast of the site at 3301 Ocean Blvd. is 3,615 sq. ft.

The primary issues before the Commission are the appropriateness of approving the project given the importance of minimizing landform alteration and coastal hazards, preserving scenic resources and consistency with the pattern of development in the area. The general pattern of development in this area consists of development located at the top of the coastal bluff face with the remaining portion of the bluff kept intact. Only two other lots in this area have development located both at the top of the coastal bluff face and the toe of the bluff. These are exceptions that don't follow the general pattern of development found in this area. Staff is recommending **approval** of coastal development permit application 5-13-0678, as conditioned.

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## TABLE OF CONTENTS

<b>I.</b>	<b>MOTION AND RESOLUTION</b>	Page 5
<b>II.</b>	<b>STANDARD CONDITIONS</b>	Page 5
<b>III.</b>	<b>SPECIAL CONDITIONS</b>	Page 6
<b>IV.</b>	<b>FINDINGS AND DECLARATIONS</b>	
A.	PROJECT LOCATION AND DESCRIPTION	Page 10
B.	HAZARDS	Page 12
C.	SCENIC AND VISUAL RESOURCES	Page 20
D.	PUBLIC ACCESS	Page 23
G.	LOCAL COASTAL PROGRAM (LCP)	Page 24
H.	CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)	Page 24

### APPENDICES

Appendix A – Substantive File Documents

### EXHIBITS

Exhibit #1 – Vicinity Map

Exhibit #2 – Project Plans

Exhibit #3 – Existing and Proposed Driveway Comparison

Exhibit #4 – Existing Bluff Stairway and Proposed Stairway Comparison

Exhibit #5 – Bluff Development Areas and Predominant Line of Development (PLOED)

Exhibit #6 – Geotechnical Plot Plan and Cross-Section

Exhibit #7 – Preliminary Shoring and Foundation Plans

Exhibit #8 – Preliminary Drainage Plan

Exhibit #9 – Landscaping Plan

## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** Coastal Development Permit No. 5-13-0678 subject to the conditions set forth in the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in conditional approval 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.

### 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, located between the first public road and the sea, 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 will 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. **Revised Final Project Plans.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, for the Executive Director's review and approval, two (2) full size sets of Revised Final Project Plans (i.e., site plan, floor plans and elevations, cross-sections, grading, drainage and run-off control, foundation, landscaping, etc.) in substantial conformance with the plans received on August 29, 2013 revised to show removal of the proposed row of stability caissons near the toe of the bluff, removal of the 781 sq. ft. structure at the toe of the bluff and retaining walls at the toe of the bluff.

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

2. **Conformance with Geotechnical Recommendations.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the Executive Director's review and approval, along with 2 copies of each plan, evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all the recommendations 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.

3. **Revised Final Landscape Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, in a form and content acceptable to the Executive Director, two (2) full size sets of Revised Final Landscape Plans prepared by an appropriately licensed professional which demonstrates the following:

- (1) The plans shall demonstrate that:

- (a) All planting shall provide 90 percent coverage within 90 days and shall be repeated if necessary to provide such coverage;

- (b) All plantings shall be maintained in good growing condition throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan;
  - (c) Landscaped areas not occupied by hardscape shall be planted and maintained for slope stability and erosion control. To minimize the need for irrigation and minimize encroachment of non-native plant species into adjacent or nearby native plant areas, all landscaping on the bluff side of the lot, both on the bluff and at the toe of the bluff shall consist of native and drought tolerant plant species native to coastal Orange County and appropriate to the habitat type. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>);
  - (d) Removal of a portion of the existing stairway located on the bluff face will be accompanied by revegetation and restoration of the area on the bluff face once impacted by the existing stairway and its footings according to the specifics identified above in this condition; and
  - (e) No permanent irrigation system shall be allowed on the coastal bluff face. Any existing in-ground irrigation systems on the coastal bluff face shall be disconnected and capped. Temporary above ground irrigation to allow the establishment of the plantings is allowed. The landscaping plan shall show all the existing vegetation and any existing irrigation system.
- (2) The plan shall include, at a minimum, the following components:
- (a) A map showing the type, size, and location of all plant materials that will be on the developed site, the irrigation system, topography of the developed site, and all other landscape features, and
  - (b) a schedule for installation of plants.

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

4. **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 storm drain, open ditch or surface water; and
  - (4) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.
5. **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.
6. **No Future Bluff or Shoreline Protective Devices.** By acceptance of this permit, the applicants agree, on behalf of themselves and all other successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-13-0678 including, but not limited to, the residence, garage, accessory buildings, foundations, decks, bluff stairway, 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 30253.

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.

7. **Future Improvements.** This permit is only for the development described in Coastal Development Permit No. 5-13-0678. 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. 5-13-0678. 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. 5-13-0678 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

9. **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

#### **Project Location**

The proposed development is located at 3235 Ocean Boulevard in the community of Corona Del Mar that is part of the City of Newport Beach, County of Orange (**Exhibit #1**). The City of Newport Beach Land Use Plan (LUP) designates the site as Single-Unit Residential Detached and the proposed project adheres to this designation. The 10,356 sq. ft. rectangular shaped lot is located between Breakers Drive to the south (seaward side), and Ocean Boulevard to the north (landward side), with an approximately 50-foot wide City right-of-way between the northern property line and Ocean Boulevard. The right-of-way area is comprised of a lawn and public sidewalk adjacent Ocean Boulevard, and encroachments into the City right-of-way at the site consisting of an existing driveway and driveway approach, a sloped landscaped area, retaining walls, and a staircase for pedestrian access to the existing residence. Vehicular and pedestrian access to the project site is available from Ocean Boulevard. To the west and east are existing residential developments. South of Breakers Drive on the seaward side of the lot is a vegetated sand berm, and Corona Del Mar State Beach.

The site slopes from Ocean Boulevard down to the south at an approximate slope ratio of 3:1 for approximately 90-feet to the 56' contour line; from there, it transitions to an approximate 1:1

slope that extends approximately 50-feet downward to the 14' contour line and flattens out to Breakers Drive. The total slope height from Ocean Blvd. to Breakers Dr. is approximately 78 feet.

The site is currently developed with a pre-Coastal Act 3,100 sq. ft. 3-level, single-family residence and attached 2-car garage constructed at the top of the coastal bluff face (roof elevation is at approximately 2'4" over the City's Ocean Blvd. top-of-curb height limit). An existing notch was carved into the bluff face to allow for the existing residence; the notch occurs between approximately the 80-foot elevation contour down to the approximately 56-foot elevation contour. An existing Pre-Coastal Act wooden staircase is located on the bluff face providing private access from the residence at the top of the coastal bluff face to the public beach below. Besides the existing wooden staircase, the area on the bluff face located between the residence located at the top of the coastal bluff face and the toe of the bluff remains largely undisturbed and densely vegetated.

### **Project Description**

The proposed project is the demolition of the existing single-family residence and attached 2-car garage and construction of a new 7,197 sq. ft. 3-level single-family residence and attached 2-car garage at the top of the coastal bluff face and construction of a second detached 781 sq. ft. 2-car garage/recreation room/bathroom with a 350 sq. ft. roof deck with wood arbor shade accessible by an exterior spiral stairway at the toe of the bluff and foundation systems consisting of drilled caissons for the residence and the garage. The new residence is proposed to be lowered down the bluff a few feet in order to meet the City's top-of-curb height restriction along Ocean Boulevard. Grading would consist of 1,283 cubic yards of cut to lower the proposed new residence on the bluff face. Landscaping and hardscape improvements within the City's right-of-way adjacent to Ocean Blvd. including a new driveway and driveway approach and retaining walls are proposed. The existing wooden stairway on the coastal bluff face connecting the residence to the toe of the bluff and public beach beyond is proposed to be partially demolished and replaced with a new stairway segment connection to the new residence. All invasive and non-native plants on the site are proposed to be removed from the site and new landscaping on the bluff side of the lot is proposed to be native, drought tolerant plant species typical of coastal bluff habitat. Project plans are included as **Exhibit #2**.

The pattern of existing development in the area involves development on the bluff face. In recognition of this pattern, the City's Coastal Land Use Plan (CLUP) contains policies that allow for bluff face development, provided that development complies with the 'predominant line of existing development' (PLOED). The predominant line of existing visible surface bluff face development (PLOED) for the site is at elevation 59.7 feet per the topographic survey of the site included as **Exhibit #5 page 3**. New visible surface development on the bluff face is proposed to be 3.7 feet lower than the PLOED at elevation 56 feet (except for an existing wooden bluff face stairway). The natural bluff façade will be maintained below the 56 foot elevation, however, a new detached 781 sq. ft. 2-car garage/recreation room/bathroom structure with a 350 sq. ft. roof deck accessible by an exterior spiral stairway at the toe of the bluff is also proposed at the toe of the bluff at elevation 15 feet (**Exhibit #5, page 2**).

The applicant proposes to lower the proposed 3-story residence by grading further down the bluff face to the 56' elevation to enhance existing scenic views to the harbor from public vantage points on the Ocean Blvd., thereby bringing the project into compliance with City of Newport Beach height limit policy that the roof line not to exceed top of curb height at Ocean Blvd. (the current residence is 3' above the curb height limit).

Additionally, the applicant is proposing a second 2-car garage at the toe of the bluff in order to meet City of Newport Beach Off-Street Parking Zoning Code requirement for three (3) off-street parking spaces in a garage for single-unit dwellings of 4,000 sq. ft. or greater in gross floor area. Single-unit dwellings less than 4,000 sq. ft. require two (2) off-street parking spaces *in a garage*. The proposed residence is 7,197 sq. ft. three-level single-family with attached two-car garage (not including the proposed second 781 sq. ft. two-car garage and rec. room at the toe of the bluff).

### **Local Approvals**

The project obtained Variance No. VA2013-004 (PA2013-110) from the City of Newport Beach Planning Commission to allow a) lower level of the residence to encroach 10 feet into the required 10 foot front yard setback; and b) a portion of the new staircase (~12 feet long) and its railings located along the east property line to exceed the 6' height limit by 3 feet, for a total height of 9 feet.

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 (LCP). The City of Newport Beach only has a Certified Land Use Plan (LUP) 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.

### **B. HAZARDS, LANDFORM ALTERATION, AND SHORELINE PROTECTION**

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.*

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

## LUP Natural Landform Protection Policy 4.4.3-8:

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

## LUP Natural Landform Protection Policy 4.4.3-9:

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

## LUP Natural Landform Protection, Policy 4.4.3-15:

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

## LUP Natural Landform Protection, Policy 4.4.3-15:

*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:

*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).*

The proposed project includes 1,283 cu. yds. of cut to lower the proposed 3-story residence by grading further down the bluff face to the 56' elevation to enhance existing scenic views to the harbor from public vantage points on the Ocean Blvd., thereby bringing the project into compliance with City of Newport Beach height limit policy that the roof line not exceed the top of curb height at Ocean Blvd. (the current residence is 3' above the curb height limit). Please refer to **Exhibit #3, page 2**. Additionally, the applicant is proposing a second 2-car garage at the toe of the bluff in order to meet City of Newport Beach Off-Street Parking Zoning Code requirement for three (3) off-street parking spaces in a garage for single-unit dwellings of 4,000

sq. ft. or greater in gross floor area. Single-unit dwellings less than 4,000 sq. ft. require two (2) off-street parking spaces *in a garage*. The proposed residence is 7,197 sq. ft. three-level single-family with attached two-car garage (not including the proposed second 781 sq. ft. two-car garage and rec. room at the toe of the bluff). Please refer to plans included in **Exhibit #2**.

Development on a bluff is inherently risky due to the potential for bluff erosion and collapse. Bluff development poses potential adverse impacts to the geologic stability of bluffs and the stability of residential structures. In general, bluff instability is caused by environmental factors and impacts caused by humans. Environmental factors include seismicity, wave attack, drying and wetting of soils, wind erosion, salt spray erosion, rodent burrowing, percolation of rain water, poorly structured bedding, and soils conducive to erosion. Factors attributed to humans that may be relevant to this site include irrigation, over-watering, building on the coastal bluff face, improper site drainage, use of impermeable surfaces that increase runoff, use of water-dependent vegetation, and breaks in water or sewage lines.

To address site-specific issues, the applicants have submitted a geotechnical investigation, *Update Preliminary Geotechnical Investigation, Proposed New Single-Family Residence, 3235 Ocean Boulevard, California (Project No. 71879-01/Report No. 13-734r)* prepared by Geofirm dated September 12, 2013. The site consists of a steep coastal bluff lot not subject to tidal action. The project site is underlain locally at the surface and at depth by bedrock strata of the late Miocene age Monterey Formation which is overlain along the upper bluff by marine terrace deposits and at the base of the bluff by beach deposits. Slopewash deposits overlie the lower portion of the bluff and interfinger with the beach deposits along the base of the slope. Slope stability analyses calculated factors-of-safety for proposed conditions without stabilization below the minimum level of 1.5 for development. The factors-of-safety for proposed conditions with the inclusion of one upper and one lower row of slope stability caissons calculated above the minimum level of 1.5 for development, and the factors-of-safety under seismic loading are also above the accepted level of 1.1. The report concluded that two rows of slope stability caissons are required to increase the static and pseudo-static factors-of-safety (**Exhibit #6**). The upper row (below proposed new residence at upper bluff) is recommended to consist of caissons 30' deep or deeper below the proposed lower floor design pad elevation of 57' contour line. The Preliminary Foundation Plan/Shoring Plan (**Exhibit #7**) show that upper row of caisson and grade beams as also providing support for the proposed lower level cantilevered deck (but not providing support for the actual residence). The lower row of caissons and grade beams is recommended to be located at the toe of the slope and should consist of caissons 25' or deeper below the existing slope grade. The steep bedrock and slopewash along the toe of the bluff upslope of the proposed garage, however, may be subject to shallow instability. The report also recommends a retaining wall/debris wall for the proposed garage/recreation room located at the base of the slope.

### **Wave-Run Up**

To analyze the suitability of the site for the proposed development relative to potential wave hazards, Commission staff requested the preparation of a wave run-up, flooding, and erosion hazard analysis, prepared by an appropriately licensed professional (e.g. coastal engineer). 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 applicants submitted a coastal hazard investigation, *Coastal Hazard & Wave-Runup Study, 3235 Ocean Blvd, Corona Del Mar, CA* prepared by Geosoils Inc. dated April 12, 2010. Ultimately, this study concludes: “... *coastal hazards will not significantly impact these properties over the life of the proposed improvements. The proposed developments will neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or adjacent area. There are no recommendations necessary for wave or wave runup protection. No shore protection is proposed or should be necessary in the next 75 years. The improvements minimize risk from flooding.*”

Although the applicants report indicates that the site is safe for development at this time, beach areas are dynamic environments, which may be subject to unforeseen changes. Such changes may affect beach processes. For example, the study states that: “*The stable beach, Newport Bay jetties, and adjacent headlands have prevented wave attack in the past and will continue to provide protection in the future.*” As long as the beach, jetties and headlands are present the study concludes that the beach should be fairly stable. However, if something were to happen that would cause damage to the beach, jetties and headlands, then shoreline retreat may occur. Therefore, the proposed development is located in an area where coastal hazards exist and can adversely impact the development.

### **Bluff Setback - Use of Predominant Line of Existing Development**

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

### **Future Bluff and Shoreline Protection**

Section 30253 of the Coastal Act requires, in part, that new development be constructed in a manner that ensures that it will not require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The bluff along Ocean Blvd. at this site is not subject to tidal action. In general, bluff lots are inherently hazardous. It is the nature of bluffs to erode. Bluff failure can be episodic, and bluffs that seem stable now may not be so in the future. The proposed development could not be recommended for approval and deemed

consistent with Section 30253 of the Coastal Act *if* projected bluff retreat would affect the proposed development and necessitate construction of a bluff or shoreline protection device. A protective device may be a seawall at the base of the bluff, a rock anchor system, soldier pile wall on the bluff face or shotcrete wall on the bluff face. If new development necessitates future protection, the landform and shoreline processes could be dramatically altered by the presence of the protective system.

The Coastal Act limits construction of these protective devices because they have a variety of negative impacts on coastal resources including adverse affects on coastal views and alteration of natural landforms.

As the project proposes complete redevelopment of the site, it can only be found consistent with Section 30253 of the Coastal Act if a shoreline/bluff protective device is not expected to be needed in the future. As proposed, the project will not require the construction of shoreline protection devices that would substantially alter natural landform along the bluff.

The applicant's geotechnical consultant has indicated that the site does not meet the standard factors-of-safety for development and would require the construction of two rows of stability caissons, one at the top of the bluff face underneath the proposed residence and one row of stability caissons lower on the bluff face to meet the minimum factors-of-safety for development. The second row of stability caissons on the lower portion of the bluff face would be considered a bluff protection device. Therefore, the proposed project would "require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs" and is not consistent with Section 30253 of the Coastal Act.

As originally proposed, with a second row of stability caissons on the bluff face, closer to the toe of the bluff slope (independent of any structure) the project does not comply with Section 30253 of the Coastal Act which requires new development minimize the risk to life and property in areas of high geologic, flood and fire hazard and shall assure stability and structural integrity and not in *any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs*.

In response, the applicant proposes two possible project modifications:

- a) Tie the caissons beneath the house together with a grade beam so they can resist lateral, as well as vertical forces. This will provide the required 1.5 factor-of-safety for the proposed residence. The bluff slope below the house will remain unchanged and not meet the required factor-of-safety (about a 1.4 factor-of-safety). Therefore a debris/retaining wall would still be necessary at the toe of the bluff (altering the natural formation) to protect the proposed 781 sq. ft. garage/bathroom/recreation room/roof deck structure from possible slope failure.
- b) Move the proposed 781 sq. ft. garage/rec. room at the toe of the bluff further inland notching approximately 9' into the bluff slope in order to make the second row of stability caissons part of the garage foundation system. This would require



grading/cut in an area of the bluff where there has previously been no grading/no development.

However, both proposals still would require the construction of a structure that would be considered a “protective device” that substantially alters the natural bluff landform.

### **Project Alternatives**

The proposed second garage at the toe of the bluff does not comply with the coastal bluff protection policies in Section 30253 of the Coastal Act. Viable project alternatives exist that would result in no bluff alteration. For example:

- a) The applicant can apply for a variance from the City of Newport Beach Off-Street Parking Zoning Code requirement for three off-street parking spaces in a garage for residences 4,000 sq. ft. or greater. A third *un-covered* off-street parking space could be accommodated in the proposed new driveway off Ocean Blvd. or a simple open or covered carport structure could be accommodated at the toe of the bluff with access from Breakers Drive instead of the proposed 781 sq. ft. 2-car garage/recreation room/bathroom with a drilled caisson foundation and with a 350 sq. ft. roof deck with 6’ tall wood trellis shade and exterior spiral stairway at the toe of the bluff.
- b) The applicant could revise the project square footage to bring the residence under 4,000 sq. ft. as existing site constraints would only allow for construction of a two-car garage with access from Ocean Blvd. thereby meeting the City’s Zoning Code requirement for two off-street parking spaces *in a garage* without the need for a City Variance. The existing 3-story residence is 3,100 sq. ft. The existing upcoast residence at 3225 Ocean Blvd is currently 2,023 sq. ft. but a new 3,880 sq. ft. 3-story residence was recently approved by the Commission in 2013. The existing downcoast 3-story, pre-Coastal Act residence at 3301 Ocean Blvd. is 3,615 sq. ft.

Therefore, staff imposes **Special Condition 1** requiring modifying project plans to remove the second garage structure as well as the required bluff stability caissons and retaining walls by either revising the project square footage to bring the residence under 4,000 sq. ft. and provide a two-car garage with access from Ocean Blvd. or providing for a third *un-covered* off-street parking space accommodated in the proposed new driveway off Ocean Blvd. or a simple open or covered carport at the toe of the bluff with access from Breakers Drive (City variance required for this possible option).

In addition to slope stability analyses, the geotechnical investigation for the subject site includes recommendations related to foundations and runoff on site. In order to assure that risks of development are minimized, as per Section 30253, the Commission imposes **Special Condition 2** requiring the applicants submit evidence that the geotechnical consultants’ recommendations are incorporated into the final project design plans.

Furthermore, the project would perpetuate exposure to threats from erosion by increasing the amount of development close to the bluff. The record of coastal development permit applications and Commission actions has also shown that geologic conditions change over time

and that predictions based upon the geologic sciences are inexact. To minimize the project's potential future impact on shoreline processes, **Special Condition 6** prohibits construction of any future bluff or shoreline protective device(s) such as revetments, seawalls, bluff retaining walls, shotcrete walls, and other such construction that armors or otherwise substantially alters the bluff face to protect the proposed new development if approved pursuant to this CDP in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, sea level rise or other natural coastal hazards in the future. Thus, as conditioned, the project conforms to Section 30253 of the Coastal Act.

### **Assumption of Risk**

Coastal bluffs in southern California are recently emergent landforms in a tectonically active environment. Any development on an eroding coastal bluff involves some risk to development. Although adherence to the geotechnical consultant's recommendations will minimize the risk of damage from known erosion processes, there is inherent uncertainty as to the full extent of the risk of geologic hazards along bluffs and cliffs given the fact that there are many unpredictable variables that could affect the stability of the site in the future. The findings above, including site-specific geologic information, support the contention that development on coastal bluffs involves risks and that structural engineering can minimize the known risks but cannot eliminate all potential risks that may occur in the future. Therefore, although, as conditioned, the project will sufficiently reduce the risks to make it approvable, the applicant must be aware of the remaining risks and must assume responsibility for the project should he decide to proceed. Accordingly, the standard waiver of liability condition is included as **Special Condition 5**. By this means, and by the recordation of this condition against the title to the property pursuant to **Special Condition 9**, the applicant and future owners are notified that the proposed development is located in an area that is potentially subject to bluff erosion and other coastal hazards.

The proposed development is located within an existing developed area and, as conditioned, is compatible with the character and scale of the surrounding area. However, the proposed project raises concerns that future development at the project site potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act. In order to ensure that development on the site does not occur which could potentially adversely impact the geologic stability concerns expressed in this staff report, the Commission imposes **Special Condition 7**. This condition informs the applicant that future development at the site requires an amendment to this permit (5-09-162) or a new coastal development permit. Future development includes, but is not limited to, structural additions, accessory structures, landscaping, and fencing.

### **Drainage**

Section 30253 of the Coastal Act requires, in part, new development to neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area. The proposed development (i.e., demolition of existing development, grading, construction of new structures and two large, new impervious driveways) will result in a significant increase of impervious surface area causing an increase of stormwater runoff. Regarding drainage on the site, the geotechnical report notes that drainage from the property is directed toward the rear of the lot and concludes that the proposed development should improve site drainage by incorporating engineering and landscape drainage design to reduce the potential of erosive

discharge or ponding of water adjacent to foundation elements. The geotechnical report, though, defers this task to the project civil engineer. The applicant provided a Conceptual Drainage Plan proposing improvements to capture runoff and reduce sheet flows down the bluff face. The proposed drainage plan includes area drains, trench drains and v-ditch swales to collect surface runoff from proposed new impervious surfaces and direct runoff in a controlled manner down the bluff face, thereby reducing potential bluff erosion caused by surface runoff. The applicant proposes two percolation pits at the toe of the bluff for on-site infiltration before final discharge to Breakers Drive.

Additionally, to ensure protection of water quality during the project construction phase, the Commission finds it necessary to identify the applicants' responsibilities regarding construction and the utilization of best management practices and has conditioned the project accordingly. Therefore, **Special Condition 4** requires best management practices to ensure that water quality of Newport Bay is not impacted during construction. Only as conditioned does the Commission find that the proposed project conforms to Section 30231 of the Coastal Act.

### **Landscaping**

Because of the fragile nature of coastal bluffs and their susceptibility to erosion, the Commission typically requires a Special Condition regarding the types of vegetation to be planted. Any proposed vegetated landscaped areas located on the bluff should only consist of native and drought tolerant plant species native to coastal Orange County and appropriate to the habitat type. 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.

The applicants have submitted a Preliminary Landscape Plans with a notation on the coastal bluff reading, "*All non-native, non-drought tolerant plant material to be removed and replaced with native, drought tolerant plant materials.*" However, no plant list is provided outlining the proposed plant materials.

Due to the potential impacts to the bluff from infiltration of water into the bluff, the Commission imposes **Special Condition 3** which requires the applicant submit a Revised Final Landscape Plan. To minimize the potential for the introduction of non-native invasive species and to minimize the potential for future bluff failure, Revised Final Landscape Plans shall be prepared by a licensed landscape architect and shall incorporate the following criteria: 1) to minimize the introduction of water into the ground, no permanent in-ground irrigation shall be permitted on the coastal bluff face, any existing in-ground irrigation system on the coastal bluff face shall be disconnected and capped, temporary above ground irrigation to establish the plantings is permitted; 2) landscaping shall consist of native and drought tolerant plant species native to coastal Orange County and appropriate to the habitat type and invasive, non-indigenous plant species, which tend to supplant native species shall not be used; and 3) removal of the existing

stairway located on the bluff face will be accompanied by re-vegetation and restoration of the bluff face area once impacted by the existing stairway.

Therefore, only as as conditioned, does the Commission find that the development conforms to the requirements of Section 30253 of the Coastal Act regarding the siting of development in hazardous areas.

### **C. SCENIC RESOURCES, PATTERN OF DEVELOPMENT AND COMMUNITY CHARACTER**

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...*

LUP Scenic and Visual Resources, Policy 4.4.1-1:

*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.*

LUP Scenic and Visual Resources, Policy 4.4.1-3:

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

LUP Scenic and Visual Resources, Policy 4.4.2-4:

*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*

The proposed project is located on a coastal bluff face. South (seaward) of the site is Breakers Drive (a private street), a landscaped berm, and a sandy public beach (Corona Del Mar State Beach) approximately 200-feet wide. The project site is visible from adjacent public vantage points such as the sandy public beach (Corona Del Mar State Beach) and Inspiration Point. The predominant line of existing development along this segment of Ocean Boulevard is such that development is located at the top of the coastal bluff face while the remaining portion of the bluff is kept intact, largely undisturbed and vegetated (**Exhibit #5**). Development at this site, if approved, must be sited and designed to be visually compatible with the character of the surrounding area. It is also necessary to ensure that new development be sited and designed to protect views to and along the beach area and minimize the alteration of existing landforms

consistent with Section 30251 of the Coastal Act and the policies of the Certified City of Newport Beach Land Use Plan.

The City of Newport Beach recently updated their Zoning Code for the Bluff Overlay District which applies to this site (for local permit decisions). The applicants have stated that the proposed project is consistent with the Zoning Code Update. However, this updated Zoning Code is not the standard of review for Coastal Development Permits, and the code has not been reviewed or approved by the Commission. Therefore, the certified PLOED policy for bluff setback is applicable at the subject site.

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 (e.g. the enclosed living area of residential structures) subject to marine erosion. However, the Commission has used a different approach in areas like Corona del Mar where there already is Pre-Coastal Act development on the bluff face. Specifically, the Commission has used the City's bluff setback LUP provision to maintain an equitable approach to setback conditions that are consistent with the prevailing patterns of development in Corona del Mar and that are appropriate given the relatively stable geology of the area. In the Corona del Mar community, the City's CLUP has specific policies permitting new *bluff face* development (i.e., no bluff edge setback) on lots with pre-existing bluff face development if determined to be consistent with the predominant line of existing development, 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.

Coastal Act Section 30251 requires new development to be sited to “*minimize the alteration of natural land forms.*” Similar policies are contained in the Certified Land Use Plan. The existing bluff is a natural landform visible from public vantage points such as the sandy public beach (Corona Del Mar State Beach) and Inspiration Point. Limiting the development to the existing footprint and preventing additional notching into the bluff face would minimize landform alteration and any resulting adverse visual impacts. The predominant line of existing development along this segment of Ocean Boulevard is such that development is located at the top of the coastal bluff face while the remaining portion of the bluff is kept largely intact (undisturbed and densely vegetated).

Complete re-development projects like this one, the Commission requires that the new development conform entirely within the predominant line of existing development. There are only two other sites among the few lots along this stretch of Ocean and Breakers Drive that have development at the top and at the toe of the bluff. Since construction of a structure at the toe of the bluff is unusual, it would be highly preferable to eliminate that development and concentrate development at the top of the coastal bluff face where most of the development on this site and the adjacent sites is located.

Vehicular access to this lot is gained from Ocean Blvd. at the top of the bluff, where there is an existing asphalt driveway approach and a 19' wide on grade wooden “bridge” driveway to a 2-

car garage. Of the surrounding six (6) properties in this stretch of Ocean Boulevard (3207-3309 Ocean Boulevard) with possible vehicular access at the toe of the bluff from Breakers Drive, only two residences, 3225 and 3309 Ocean Boulevard have a garage and therefore, vehicular access from Breakers Drive. 3309 Ocean Boulevard is a pre-Coastal residence and has vehicular access from both Ocean Boulevard and Breakers Drive. Demolition and construction of a new garage at the toe of the bluff at 3225 Ocean Blvd. was recently approved by the Commission under CDP 5-12-260, as no new curb openings/cut-outs are permitted by the City on Ocean Blvd.<sup>1</sup> In the case of the subject application, the existing pre-Coastal Act residence *does* have a curb cut-out driveway for access from Ocean Blvd. However, the applicant is proposing a second 2-car garage at the toe of the bluff in order to meet City of Newport Beach Off-Street Parking Zoning Code requirement for three (3) off-street parking spaces in a garage for single-unit dwellings of 4,000 sq. ft. or greater in gross floor area. Single-unit dwellings less than 4,000 sq. ft. require two (2) off-street parking spaces in a garage. The proposed residence is 7,197 sq. ft. three-level single-family with attached two-car garage (not including the proposed second 781 sq. ft. two-car garage and rec. room at the toe of the bluff).

Thus, the proposed garage at the toe of the bluff is inconsistent with the pattern of development in the area and vehicular access is available from Ocean Blvd. Additionally, as discussed in the previous section, in order to minimize additional landform alteration, the Commission cannot approve a garage at the toe of the bluff as vehicular access is available from Ocean Boulevard at the top of the coastal bluff face.

The predominant line of development/stringline in this area of Corona Del Mar falls within three (3) categories: 1) Bluff Face Development Area 3002-3036 Breakers Drive where primary structures cover a substantial portion of the bluff face but where there is no bluff top development; 2) Bluff Toe Development Area 3100-3200 Breakers Drive where primary structures are constructed along the toe of the bluff and cascade up the bluff, but where a significant portion of the upper bluff face and bluff top remain undeveloped and vegetated; and 3) Bluff Top Development Area 3207-3309 Ocean Boulevard (area fronting Breakers Drive and the public sandy beach beyond) and 3317-3431 Ocean Boulevard (area fronting the sandy public beach) where structures are concentrated at the upper bluff face and bluff top and where there is little or no encroachment of primary structures onto the lower bluff face and the bluff face is largely vegetated (**Exhibit #5**).

The subject site is located in the Bluff Top Development Area (3207-3309 Ocean Boulevard) described above, along the portion that is fronted by Breakers Drive. The applicant has identified the predominant line of existing development for the site as the 56' elevation contour. Besides the existing wooden staircase, the area on the bluff located between the subject residence located at the top of the coastal bluff, the bluff face remains largely undisturbed and densely vegetated.

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<sup>1</sup> See City of Newport Beach, City Council Policy Manual L-2(F), Driveway Approaches, which says "No permit shall be issued for driveways on...the ocean side of Ocean Boulevard without City Council approval. No curb openings will be permitted on Ocean Boulevard when access is available from an existing alley, street or improved private roadway." This policy document is not part of the City's Certified Land Use Plan and it has not been certified by the Commission.

If development below the pattern of existing development was allowed on this project, such development would not be visually compatible with the character of the surrounding area, and it is reasonably foreseeable that future applications for development will cite to such a precedent to support a position that the proposed development should be allowed to encroach further down the coastal bluff face. Over time, these projects would incrementally and gradually move development down the bluff face, resulting in cumulative significant adverse impacts on visual resources in this area. In the end, if such 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 coastal bluff face remaining visible, thus causing significant, cumulative adverse visual impacts since the site is visible from adjacent public vantage points such as the sandy public beach (Corona Del Mar State Beach). It is for these reasons- and most notably, the precedent and reasonably foreseeable cumulative impact resulting from approvals of development below the predominant line of existing development-that it is imperative that the Commission only approve development that is consistent with the predominant line of existing development in this area.

Approval of the development as proposed would also prejudice the certification of LCP. Therefore, only as conditioned, does the Commission find that the development conforms to the requirements of Section 30251 of the Coastal Act regarding the protection of scenic and visual qualities of coastal areas and the minimization of landform alteration.

#### **D. PUBLIC ACCESS**

Section 30210 of the Coastal Act states:

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

Section 30211 of the Coastal Act states:

*Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

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

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

Section 30240 (b) of the Coastal Act states:

*Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

The project site is located between Breakers Drive to the south (seaward side), and Ocean Boulevard to the north (landward side) (**Exhibit #1**). Further south of Breakers Drive is vegetation, and a sandy public beach (Corona Del Mar State Beach) approximately 200-feet wide. The public can access the Corona Del Mar State Beach by way of an entrance on Ocean Boulevard located approximately 800-feet west of the project site. Public access to the bay is also available at several locations in the vicinity of the subject project, including Inspiration Point and China Cove. These access points are located approximately 730-feet to the east and approximately 2,000 feet to the west of the project site, respectively. The proposed project would not adversely impact any of these public access points. Therefore, the Commission finds that the proposed development, as conditioned, is consistent with Sections 30210, 30211 and 30240 (b) of the Coastal Act.

#### **E. LOCAL COASTAL PROGRAM**

The City of Newport Beach Land Use Plan (LUP) was effectively certified on May 19, 1982. The Certified LUP was updated on October 8, 2009. 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, 4.4.2-4, 4.4.3-8, 4.4.3-9, and 4.4.3-15.

The proposed development, as conditioned, 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.

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

Section 13096 Title 14 of the California Code of Regulations requires Commission approval of a coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The City of Newport Beach is the lead agency for purposes of CEQA compliance. The City determined that the project is categorically exempt from CEQA. Furthermore, the proposed development has been conditioned to assure the proposed project is consistent with the resource protection policies of the Coastal Act. The conditions also serve to mitigate significant adverse impacts under CEQA. The conditions are: 1) Submittal of Revised Plans; 2) Conformance with



Geotechnical Recommendations; 3) Revised Landscaping Plan; 4) Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris; 5) Assumption of Risk, Waiver of Liability and Indemnity; 6) No Future Bluff or Shoreline Protection Device; 7) Future Improvements; and 8) Generic Deed Restriction

There are no other feasible alternatives or mitigation measures available which will 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 the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

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## **APPENDIX A**

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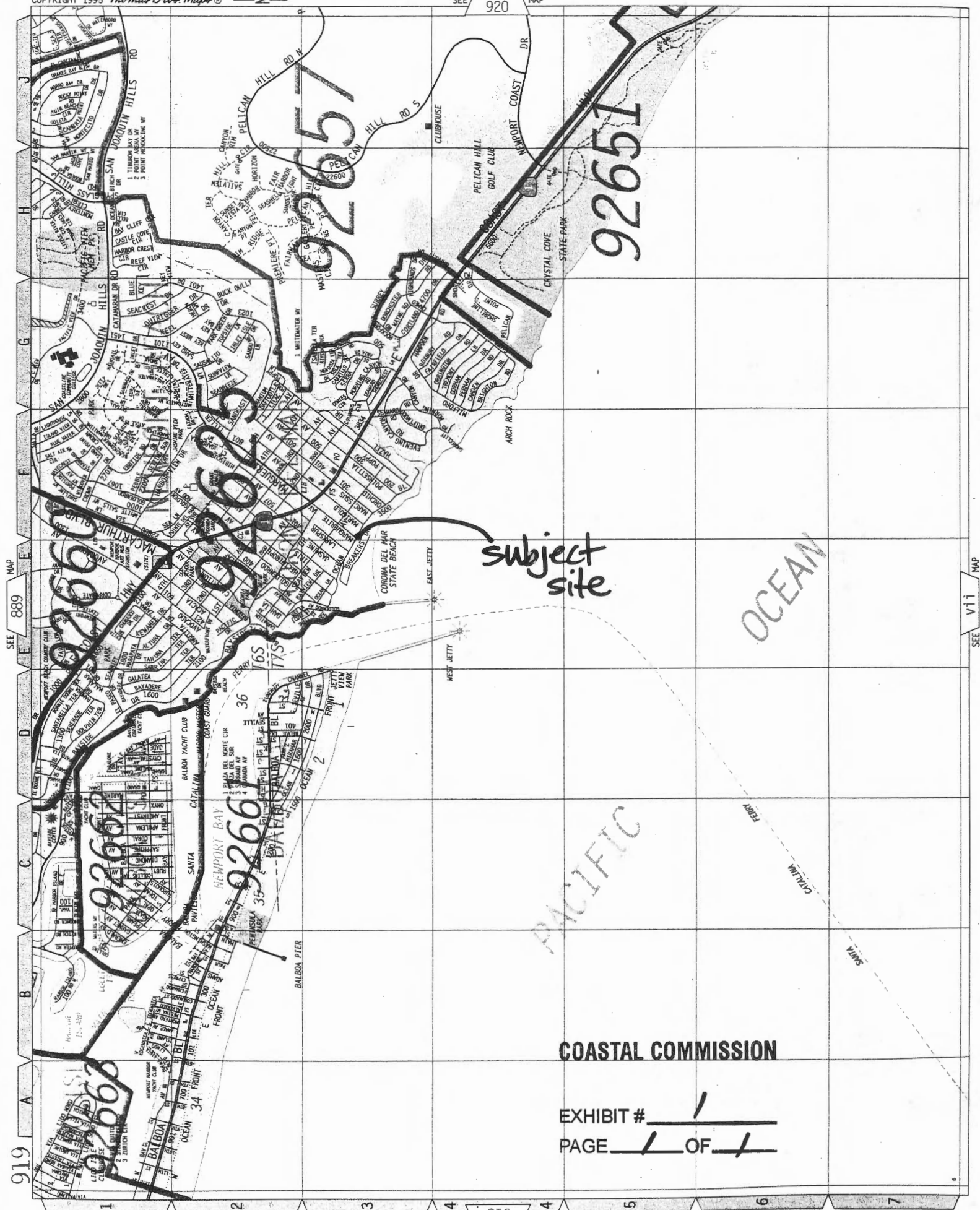
### **SUBSTANTIVE FILE DOCUMENTS**

Approval-in-Concept from the City of Newport Beach, (PA2013-110) dated 8/27/13

Update Preliminary Geotechnical Investigation, Proposed New Single-Family Residence, 3235 Ocean Blvd., Corona del Mar, California, prepared by Geofirm, dated September 12, 2013

Coastal Hazard and Wave Run-Up Study, 3225 and 3235 Ocean Blvd., Corona del Mar, Orange County, prepared by GeoSoils Inc., dated April 12, 2010

CDP 5-12-260(Evensen)



SEE 889 MAP

SEE 911 MAP

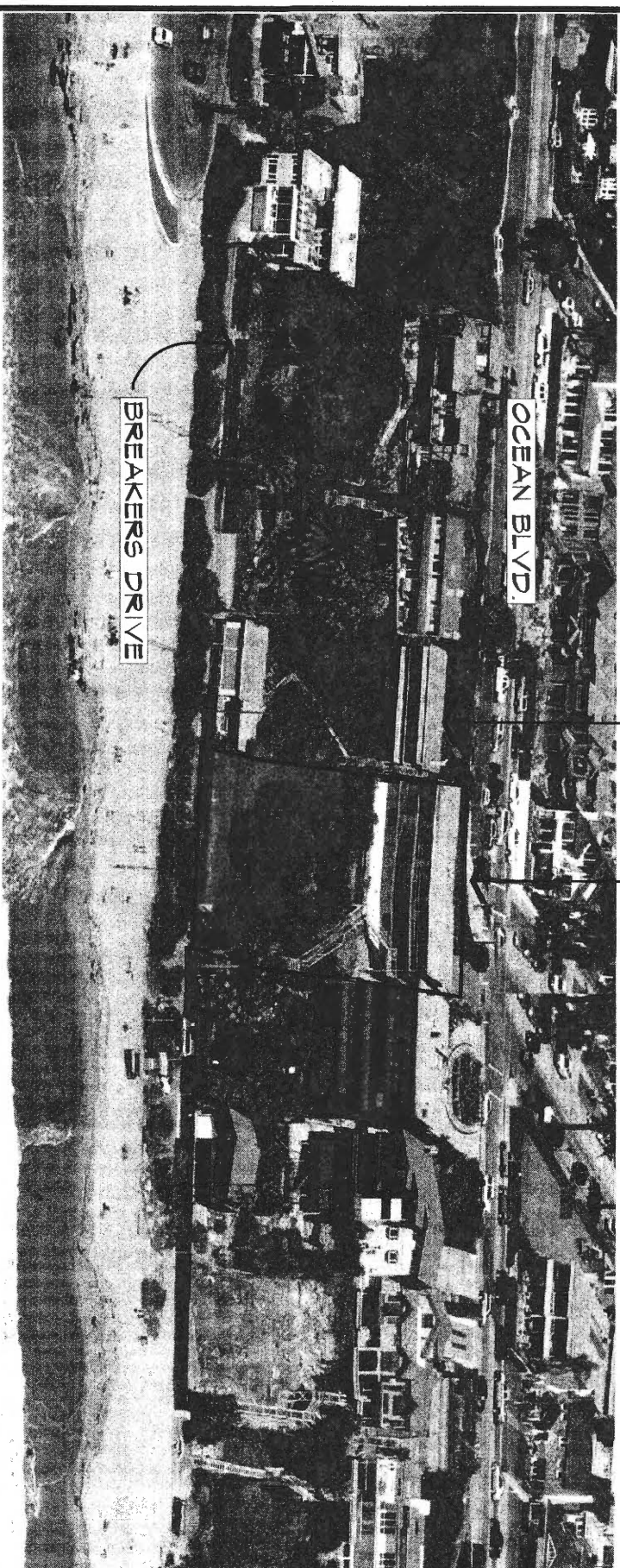
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COASTAL COMMISSION

EXHIBIT # 1  
PAGE 1 OF 1

VA 2012-003/  
PA 2012-089/  
CDP 5-12-260

P.I.Q.

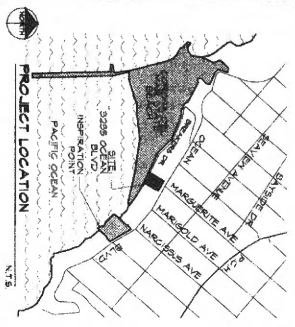


SITE CONTEXT PHOTO

LEGAL OWNER		CONSULTANTS		SQUARE FOOTAGE CALCS.		SHEET INDEX	
NIZAN AND NADA TANNIR 3235 OCEAN BLVD. CORONA DEL MAR, CA 92626 (949) 645-5934		BRION JEANNETTE ARCHITECTURE 10000 S. 100TH AVE. SUITE 100 TOLSON, IA 52325 (563) 536-2024		LOT SIZE: 10,396 SF P.A.E.: 13 SF MAX. V.L.V.A.: 12,941 SF UPPER LEVEL: 1,141 SF MIDDLE LEVEL: 2,244 SF LOWER LEVEL: 2,144 SF NEC. RV AT GARAGE LEVEL: 803 SF TOTAL LIVABLE: 6,571 SF 2-CAR GARAGE: 401 SF LOFTER LEVEL: 479 SF LOFTER NON-LIVABLE: 185 SF TOTAL STRUCTURE: 1,176 SF		T-1 SITE CONTEXT PHOTO & INFORMATION A-1 SITE PLAN & GARAGE FLOOR PLAN A-2 EXISTING & LOWER LEVEL FLOOR PLANS A-3 EXISTING & UPPER LEVEL FLOOR PLANS A-4 EXTERIOR ELEVATIONS A-5 BUILDING SECTIONS A-6 EXTERIOR ELEVATIONS A-7 BUILDING SECTIONS A-8 TOPOGRAPHIC SURVEY A-9 EXISTING & PROPOSED LANDSCAPE PLAN A-10 EXISTING & PROPOSED UTILITY PLAN A-11 EXISTING & PROPOSED FENCE & GATE PLAN A-12 EXISTING & PROPOSED UTILITY PLAN A-13 EXISTING & PROPOSED SIGNAGE PLAN A-14 EXISTING & PROPOSED FURNITURE PLAN A-15 EXISTING & PROPOSED ARTWORK PLAN A-16 EXISTING & PROPOSED AUDIOVISUAL PLAN A-17 EXISTING & PROPOSED SECURITY PLAN A-18 EXISTING & PROPOSED SUSTAINABILITY PLAN A-19 EXISTING & PROPOSED ACCESSIBILITY PLAN A-20 EXISTING & PROPOSED HISTORIC PRESERVATION PLAN A-21 EXISTING & PROPOSED CULTURAL RESOURCES PLAN A-22 EXISTING & PROPOSED ENVIRONMENTAL PLAN A-23 EXISTING & PROPOSED CLIMATE PLAN A-24 EXISTING & PROPOSED ENERGY PLAN A-25 EXISTING & PROPOSED WATER PLAN A-26 EXISTING & PROPOSED WASTE PLAN A-27 EXISTING & PROPOSED AIR QUALITY PLAN A-28 EXISTING & PROPOSED SOIL QUALITY PLAN A-29 EXISTING & PROPOSED GEOTECHNICAL PLAN A-30 EXISTING & PROPOSED SEISMIC PLAN A-31 EXISTING & PROPOSED FLOOD PLAN A-32 EXISTING & PROPOSED TIDE PLAN A-33 EXISTING & PROPOSED WIND PLAN A-34 EXISTING & PROPOSED HAIL PLAN A-35 EXISTING & PROPOSED ICE PLAN A-36 EXISTING & PROPOSED SNOW PLAN A-37 EXISTING & PROPOSED PERMITTING PLAN A-38 EXISTING & PROPOSED REGULATORY PLAN A-39 EXISTING & PROPOSED COMPLIANCE PLAN A-40 EXISTING & PROPOSED MONITORING PLAN A-41 EXISTING & PROPOSED MAINTENANCE PLAN A-42 EXISTING & PROPOSED REPAIR PLAN A-43 EXISTING & PROPOSED REPLACEMENT PLAN A-44 EXISTING & PROPOSED UPGRADE PLAN A-45 EXISTING & PROPOSED RENOVATION PLAN A-46 EXISTING & PROPOSED RESTORATION PLAN A-47 EXISTING & PROPOSED PRESERVATION PLAN A-48 EXISTING & PROPOSED PROTECTION PLAN A-49 EXISTING & PROPOSED MITIGATION PLAN A-50 EXISTING & PROPOSED AVOIDANCE PLAN A-51 EXISTING & PROPOSED MINIMIZATION PLAN A-52 EXISTING & PROPOSED OFFSET PLAN A-53 EXISTING & PROPOSED COMPENSATION PLAN A-54 EXISTING & PROPOSED RESTORATION PLAN A-55 EXISTING & PROPOSED REHABILITATION PLAN A-56 EXISTING & PROPOSED REPAIR PLAN A-57 EXISTING & PROPOSED REPLACEMENT PLAN A-58 EXISTING & PROPOSED UPGRADE PLAN A-59 EXISTING & PROPOSED RENOVATION PLAN A-60 EXISTING & PROPOSED RESTORATION PLAN	
DESIGN DESCRIPTION		DESIGN DATA					
PROJECT ID: TRACT 1028 1/2 OF LOT 1 & LOT 16 1/2 OF LOT 1 & LOT 1							

COASTAL COMMISSION

EXHIBIT # 2  
PAGE 1 OF 11



**T-1**

**SITE CONTEXT PHOTO & INFORMATION**

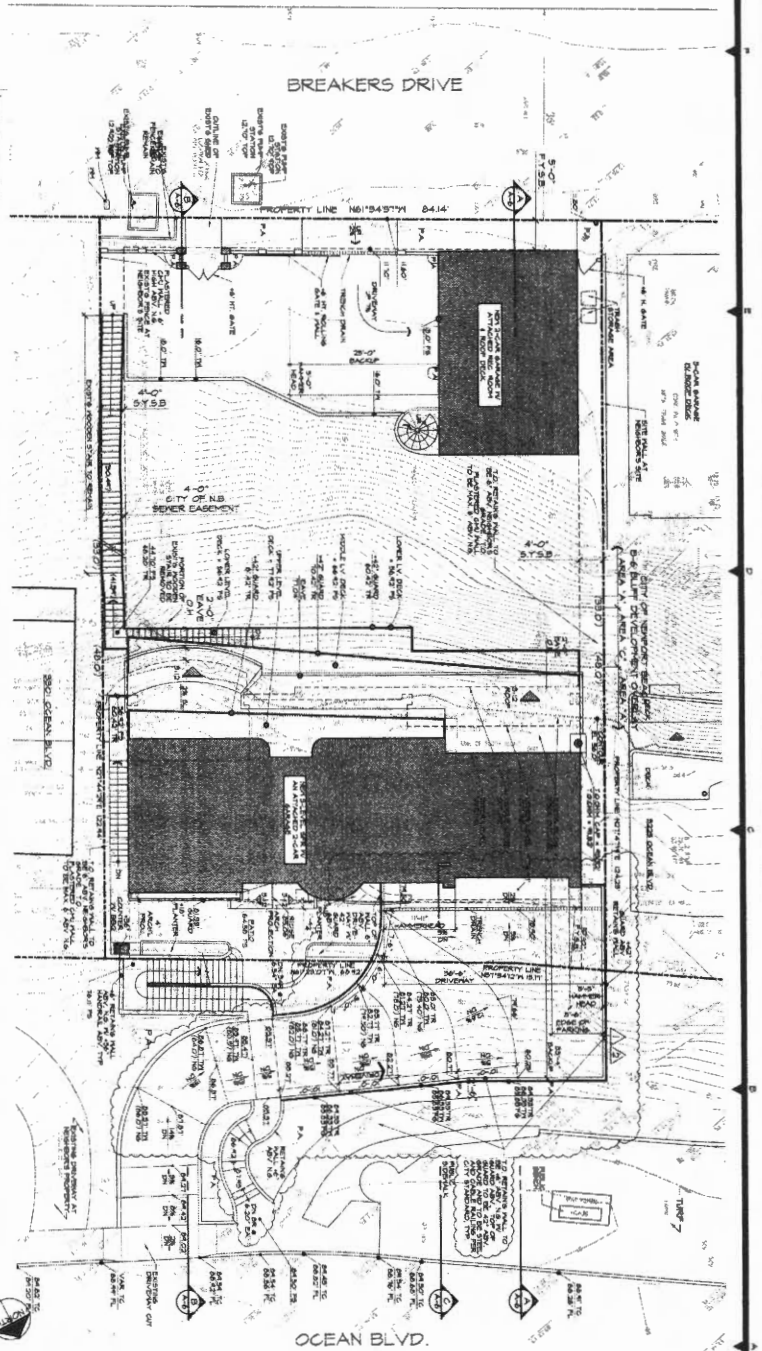
**Brion Jeannette Architecture**

10000 S. 100TH AVE., SUITE 100, TOLSON, IA 52325  
(563) 536-2024

**TANNIR RESIDENCE**  
3235 OCEAN BLVD.  
CORONA DEL MAR, CA

CORONA DEL  
MAR STATE  
BEACH

SITE PLAN

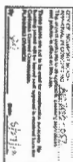


OCEAN BLVD.

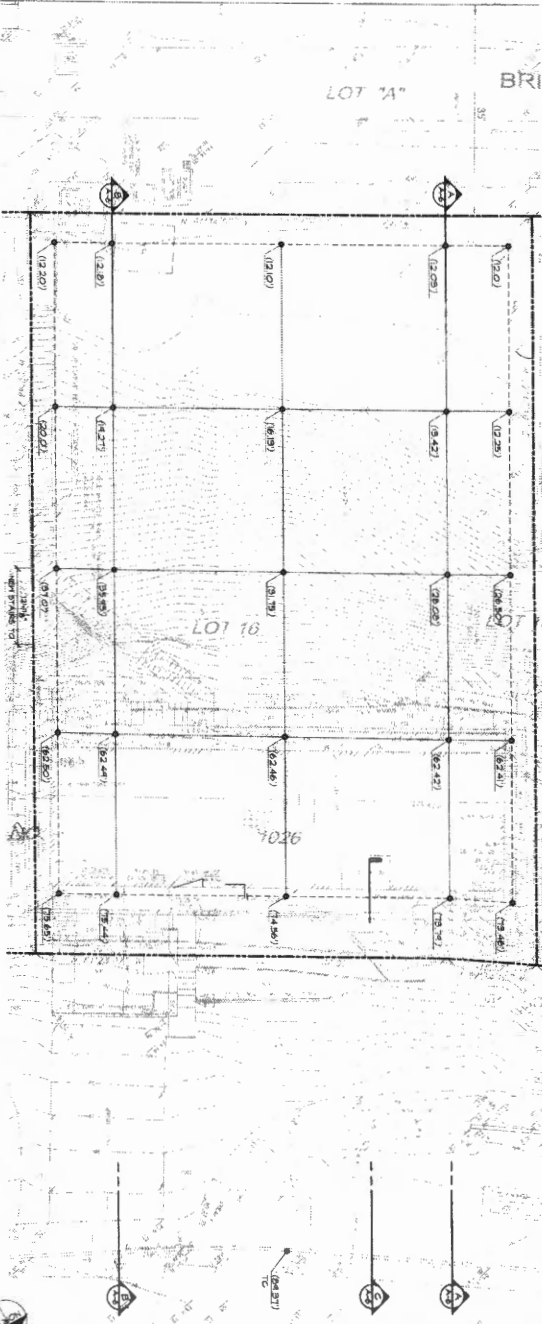
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COASTAL COMMISSION

EXHIBIT # 2  
PAGE 2 OF 11



GRADE PLANE EXHIBIT



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

A-1



SITE PLAN/  
GRADE PLANE EXHIBIT

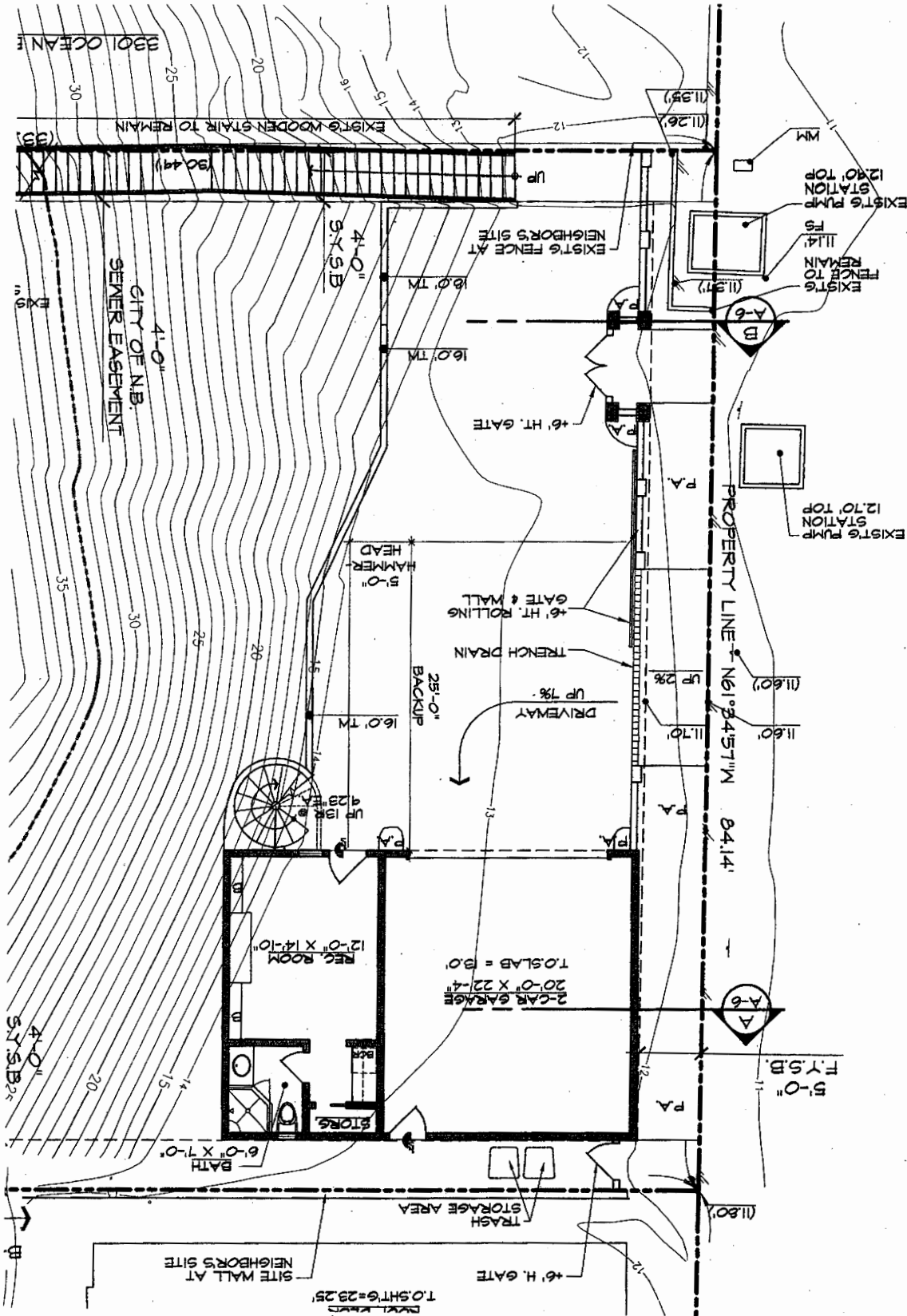
Brion Jeannette Architecture

4111 Old Highway Road • Newport Beach, CA • 92660 • Tel: 949.444.8888 • Fax: 949.444.8888  
www.brionjeannette.com

TANNIR RESIDENCE  
3235 OCEAN BLVD.  
CORONA DEL MAR, CA

GARAGE FLOOR PLAN

BREAKERS DRIVE





# COASTAL COMMISSION

EXHIBIT # 2  
PAGE 4 OF 11

## Lower Level Residence Floor Plan

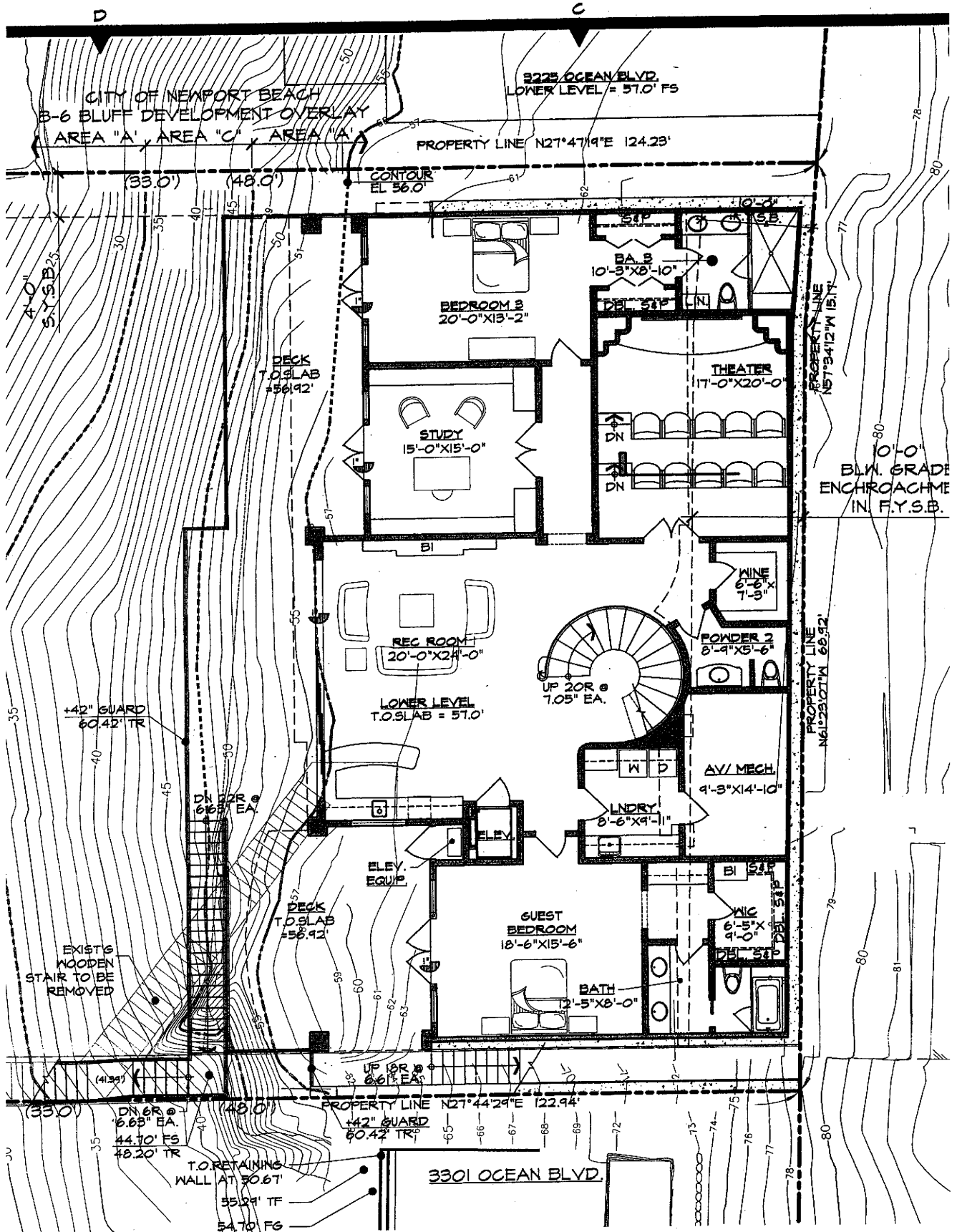
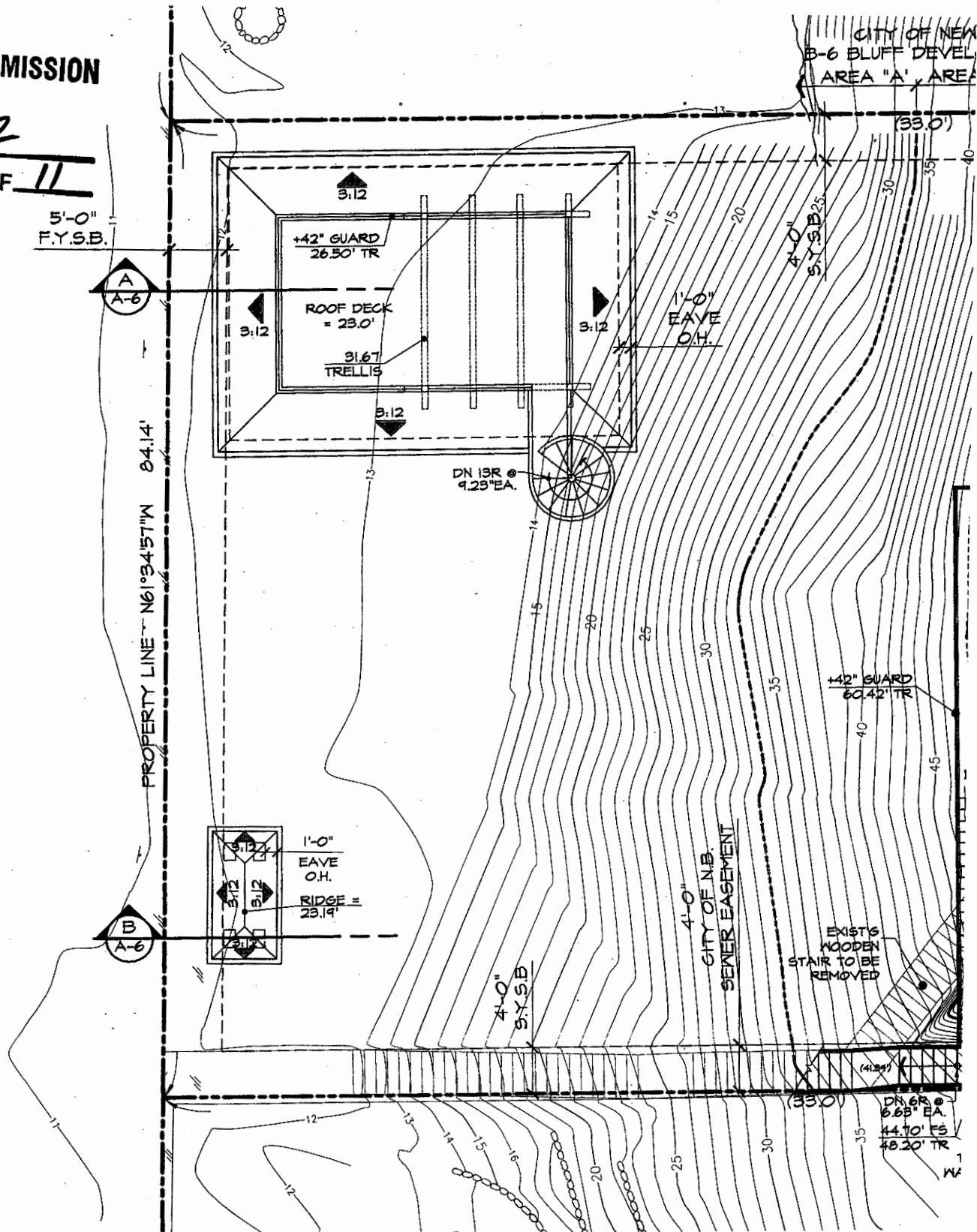


EXHIBIT # 2  
PAGE 5 OF 11

5'-O"  
F.Y.S.B.

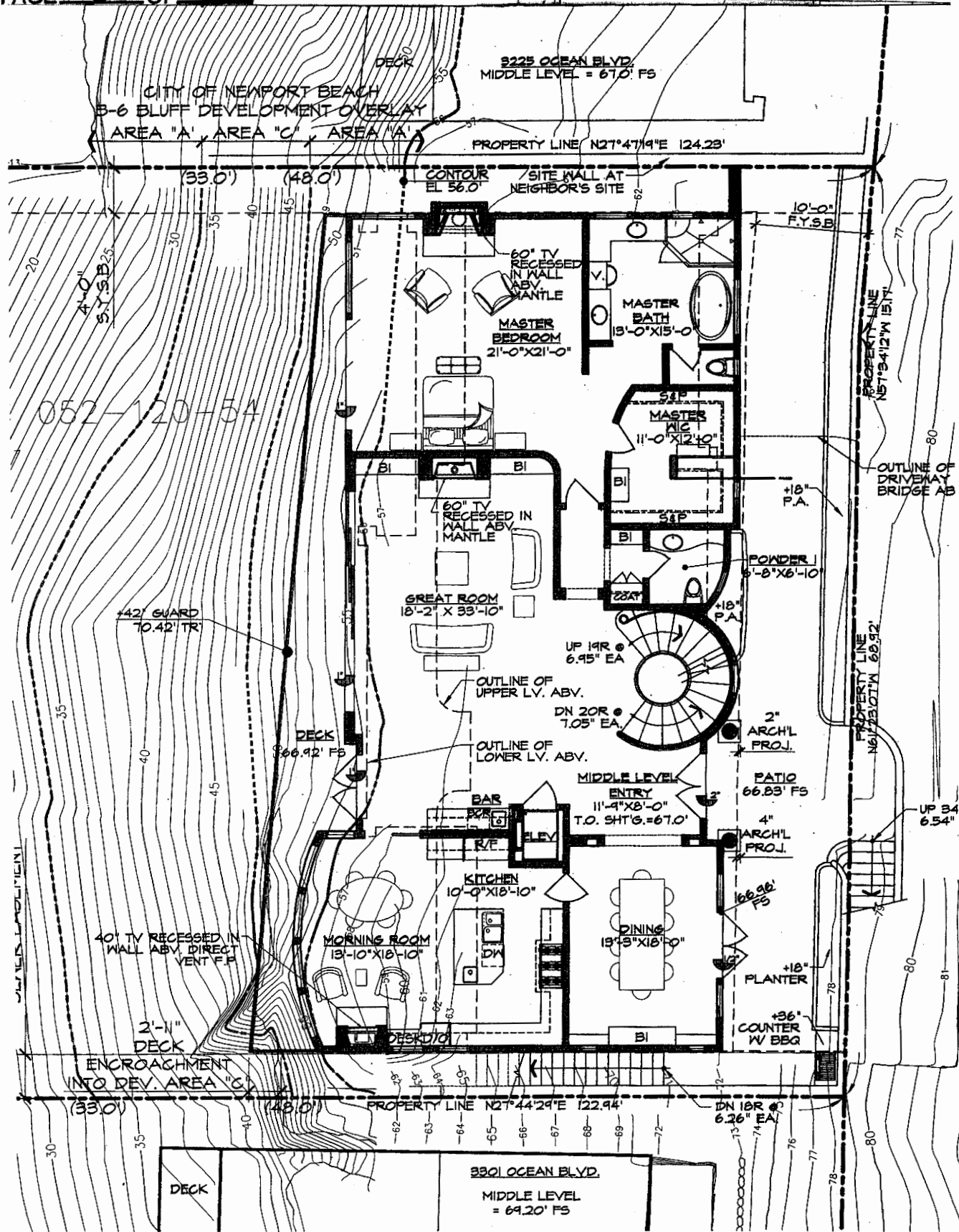


## LOWER LEVEL FLOOR PLAN GARAGE

# COASTAL COMMISSION

EXHIBIT # 2  
PAGE 6 OF 11

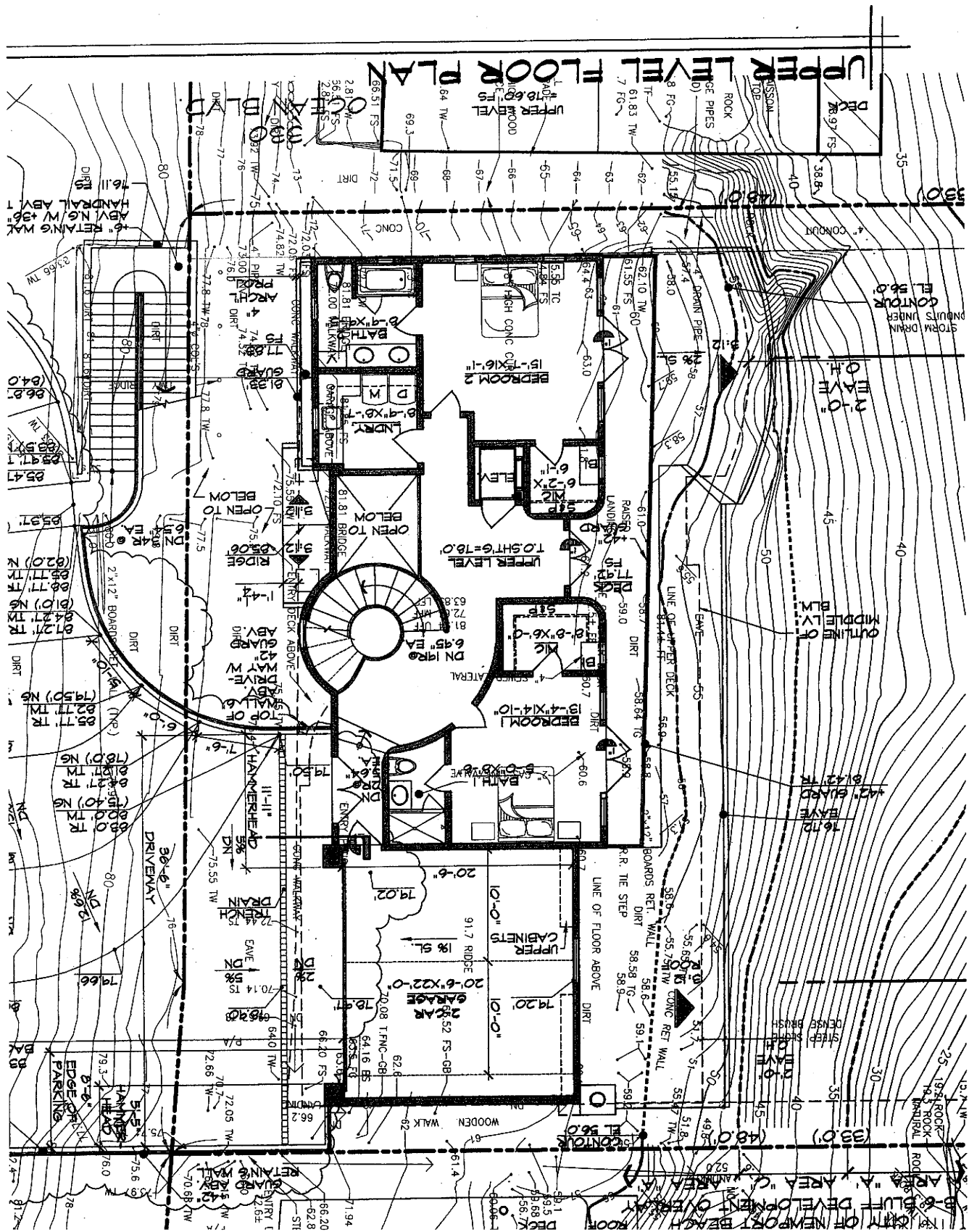
## Middle Level Floor Plan





# COASTAL COMMISSION

EXHIBIT # 2  
PAGE 7 OF 11





## 414

8-26-2013

# COASTAL COMMISSION

EXHIBIT # **2**  
PAGE **11** OF **11**

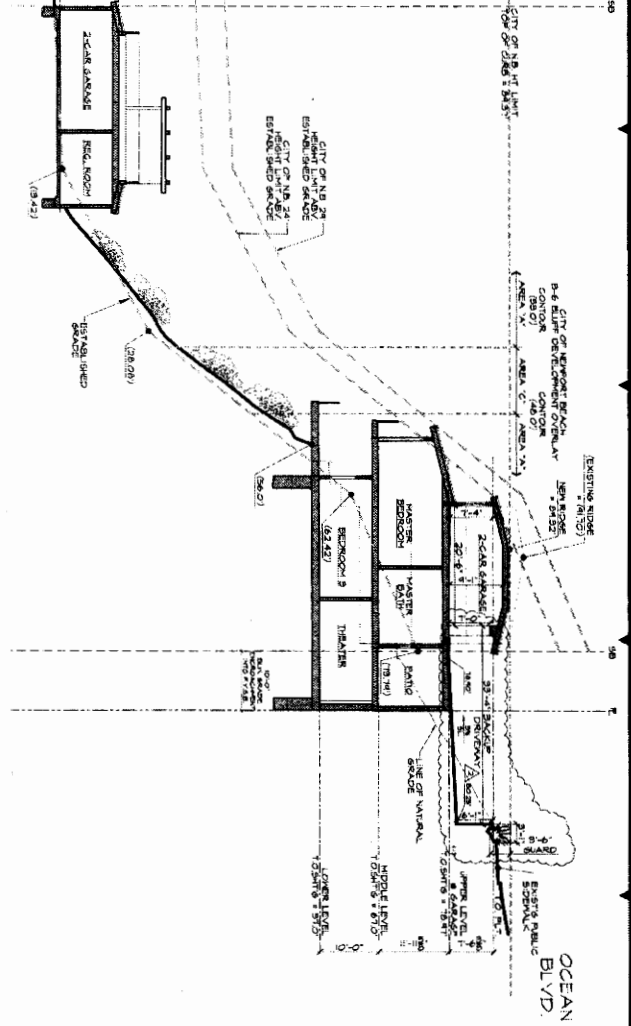
STATE  
BEACH

SECTION A

DRIVE  
BREAKERS

STATE  
BEACH

SCALE 1/8" = 1'-0"

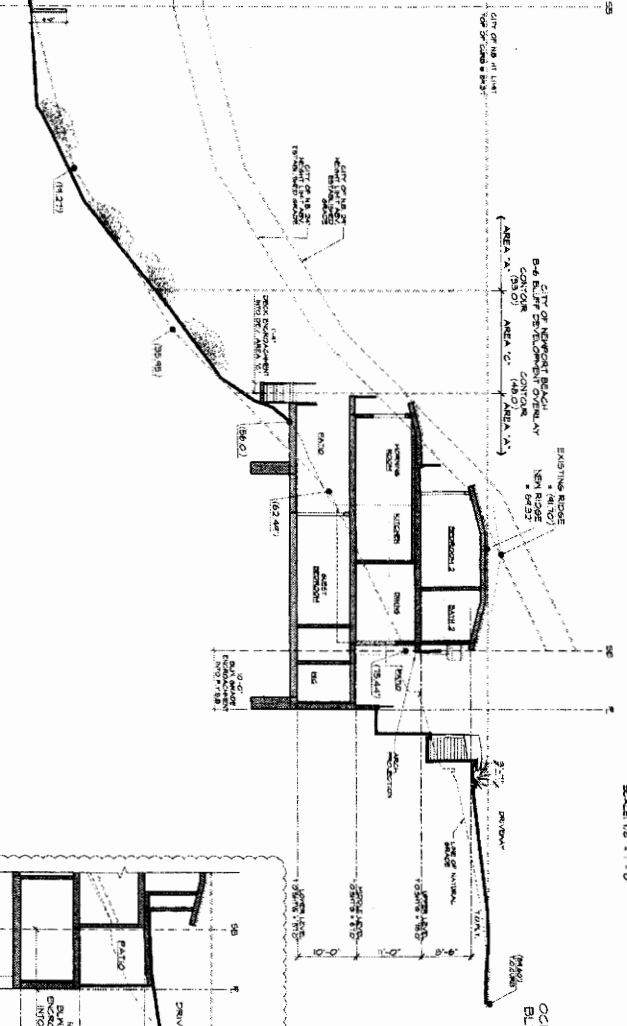


SECTION B

BREAKERS

STATE  
BEACH

SCALE 1/8" = 1'-0"

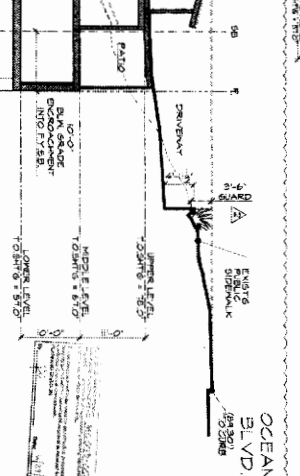


SECTION C/A

OCEAN  
BLVD.

STATE  
BEACH

SCALE 1/8" = 1'-0"



BUILDING  
SECTIONS

Brian Jeannelle Architecture

TANNIR RESIDENCE  
3295 OCEAN BLVD.  
CORONA DEL MAR, CA

TANNIR RESIDENCE  
3235 OCEAN BLVD.  
CORONA DEL MAR, CA  
CDP 05-13-0676

# SITE PLAN - EXISTING VS. PROPOSED DRIVEWAY COMPARISON

NEIGHBOR'S HOUSE  
3801 OCEAN BLVD.

PROPOSED  
2-CAR GARAGE  
(DRIVEWAY SLOPE  
RESTRICT 3-CAR  
GARAGE)

TANNIR RESIDENCE  
3235 OCEAN BLVD.

DRIVEWAY SLOPE  
AT MAX 15%  
(DOWN)

CITY REQUIRED  
VEHICULAR  
TURNING RADIUS  
FOR 2 PARKING  
SPACES

COASTAL COMMISSION

EXHIBIT # **3**  
PAGE **1** OF **3**

NEIGHBORS  
DRIVEWAY CUT

EXISTING  
DRIVEWAY CURB CUT  
14'-9"

PROPOSED  
DRIVEWAY CURB CUT  
13'-0"

REDUCE DRIVEWAY CURB CUT  
TO IMPROVE SAFETY OF  
PEDESTRIAN USE OF THE PUBLIC  
SIDEWALK & DOES NOT TAKE  
AWAY STREET PARKING

BOLLARD, STREET SIGN,  
& STREET BARRICADE

CITY NO PARKING RED ZONE

PUBLIC SIDEWALK

TURF, PUBLIC RIGHT-OF-WAY

PEDESTRIAN CROSSWALK

PUBLIC BENCH

- PUBLIC BENEFITS:**
1. CREATING PUBLIC VIEWS OF OCEAN THAT PRESENTLY DO NOT EXIST.
  2. MAINTAINING STREET PARKING AND ACCESS TO PUBLIC VIEWPOINTS.
  3. REDUCING DRIVEWAY WIDTH CURB CUT TO ENHANCE SAFETY OF PEDESTRIAN USE OF SIDEWALK.
  4. PROVIDING MORE PRIVATE PARKING SPACE TO PROTECT EXISTING STREET PARKING.

OCEAN BLVD.

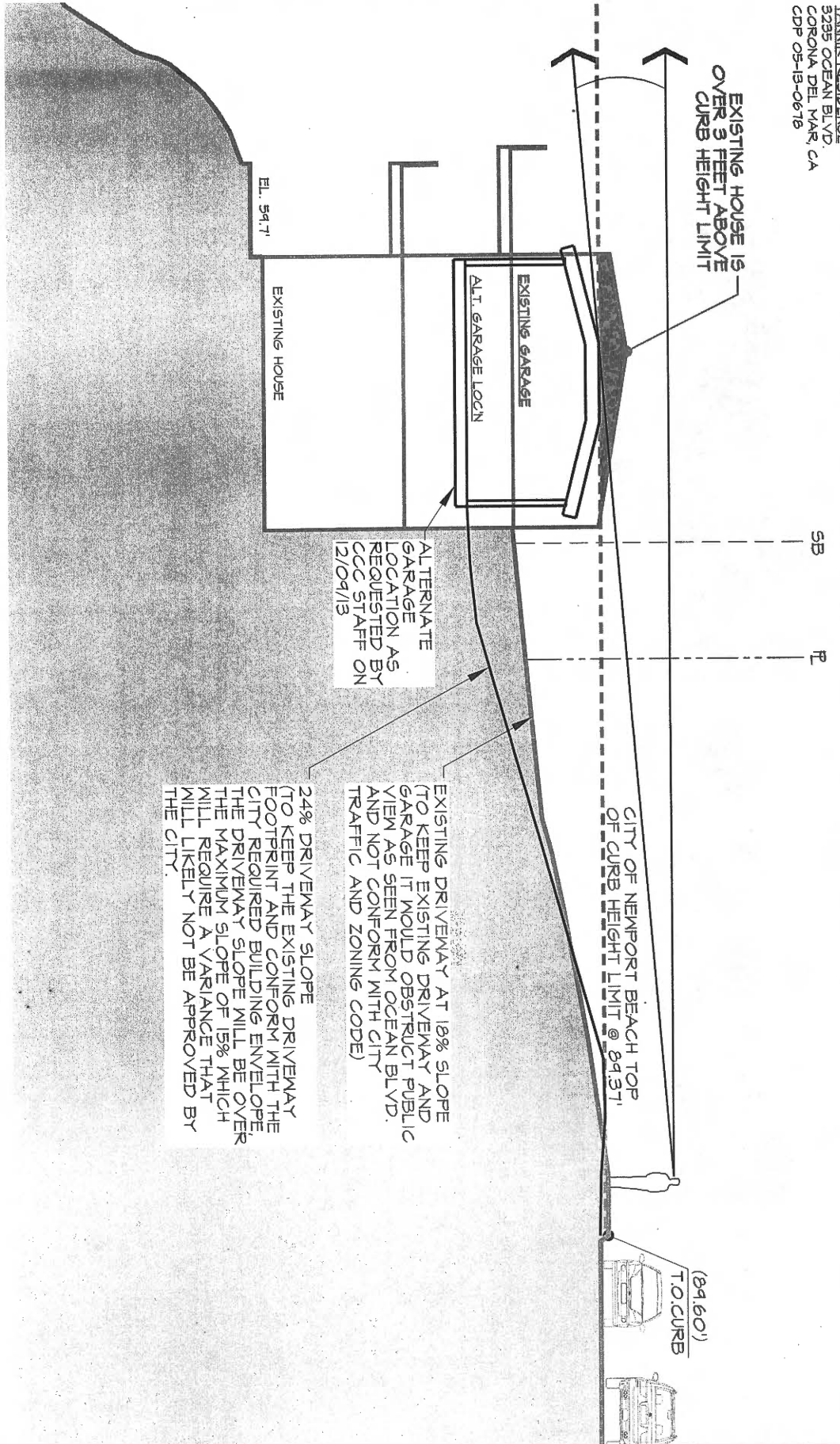
BRION JEANNETTE ARCHITECTURE  
470 OLD NEWPORT BLVD. N.B. CA 92663 949.645.5834

PROJECT: TANNIR RESIDENCE  
DRAWING: SITE PLAN

SCALE: 1/8" = 1'-0"  
DATE: 2013.12.04



SECTION B - EXISTING DRIVEWAY AND ALTERNATE GARAGE LOCATION



COASTAL COMMISSION

EXHIBIT # 3  
PAGE 2 OF 3

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

BRION JEANNETTE ARCHITECTURE  
410 OLD NEWPORT BLVD. N.B, CA 92663 949.645.5854

PROJECT: TANNIR RESIDENCE  
DRAWING: SECTION B

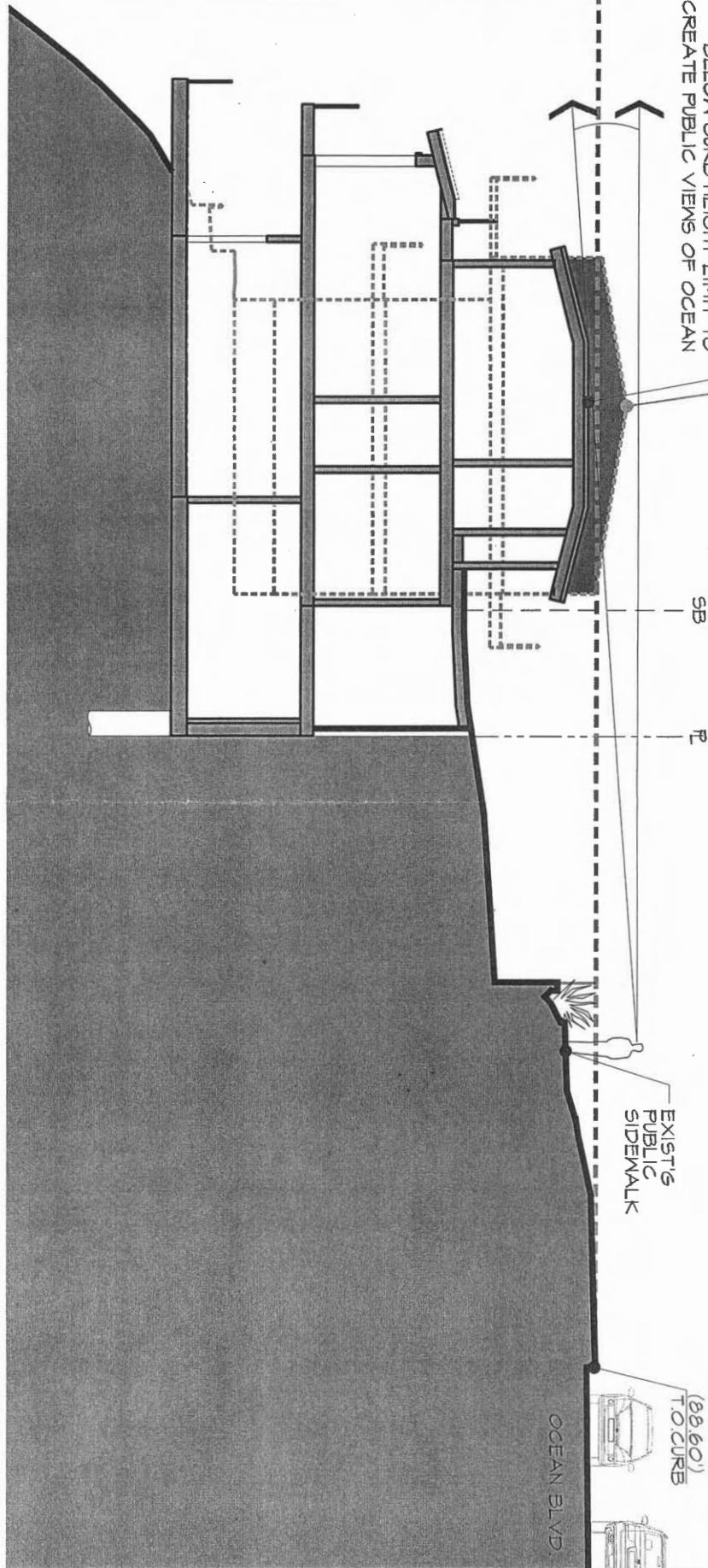
SCALE: 1/8" = 1' - 0"  
DATE: 2013.12.10

TANNIR RESIDENCE  
3235 OCEAN BLVD.  
CORONA DEL MAR, CA  
CDP 05-13-0678

EXISTING HOUSE IS OVER 3' FEET  
ABOVE CURB HEIGHT LIMIT

PROPOSED HOUSE RIDGE IS  
BELOW CURB HEIGHT LIMIT TO  
CREATE PUBLIC VIEWS OF OCEAN

SECTION C - EXISTING VS. PROPOSED DESIGN



- PUBLIC BENEFITS:
1. CREATING PUBLIC VIEWS OF OCEAN THAT PRESENTLY DO NOT EXIST.
  2. MAINTAINING STREET PARKING AND ACCESS TO PUBLIC VIEWPOINTS.
  3. REDUCING DRIVEWAY WIDTH CURB CUT TO ENHANCE SAFETY OF PEDESTRIAN USE OF SIDEWALK.
  4. PROVIDING MORE PRIVATE PARKING SPACE TO PROTECT EXISTING STREET PARKING.

COASTAL COMMISSION

EXHIBIT # 3  
PAGE 3 OF 3

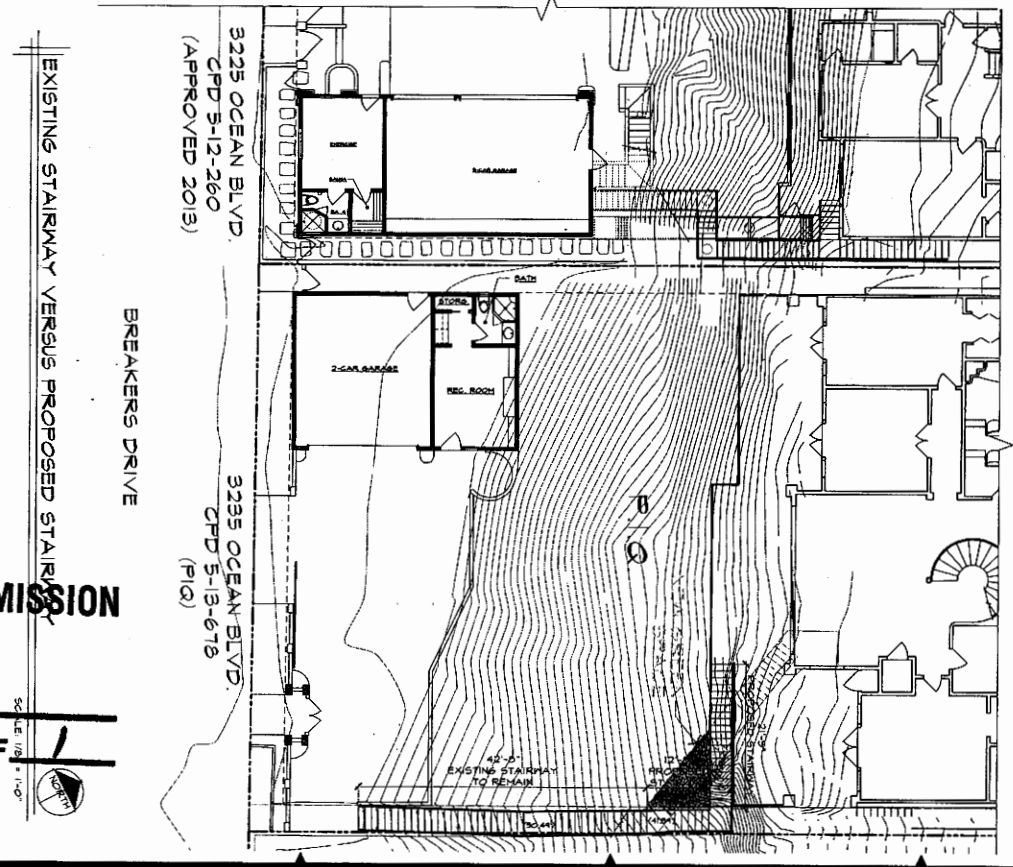
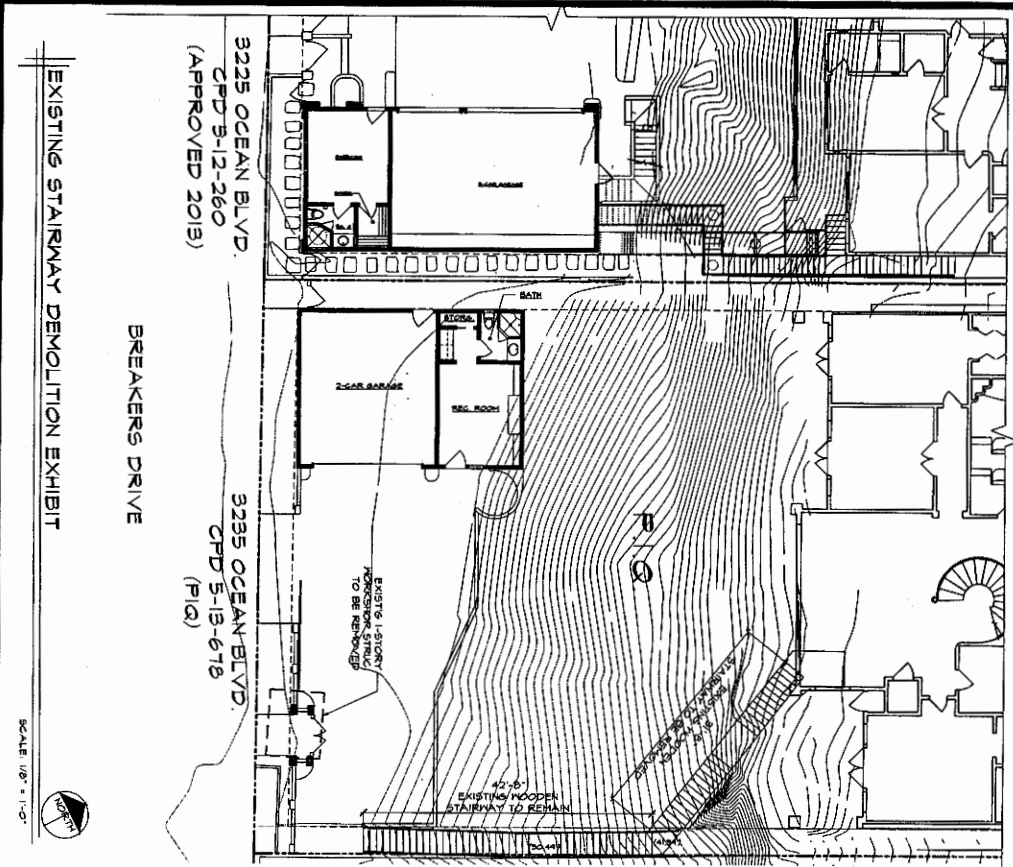
SCALE: 1/8" = 1'-0"

BRION JEANNETTE ARCHITECTURE

PROJECT: TANNIR RESIDENCE  
DRAWING: SECTION C

SCALE: 1/8" = 1'-0"  
DATE: 2019.12.10





EXISTING STAIRWAY	14'-4" L"
EXISTING STAIRWAY TO BE REMOVED	31'-9" L"
EXISTING STAIRWAY TO REMAIN	42'-0" L"
PERCENTAGE REMOVED	49% / 50%

COASTAL COMMISSION

EXHIBIT # **4**

PAGE **1** OF **1**

**EXHIBIT-2**

**STAIRWAY EXHIBIT**

Brion Jeannette Architecture

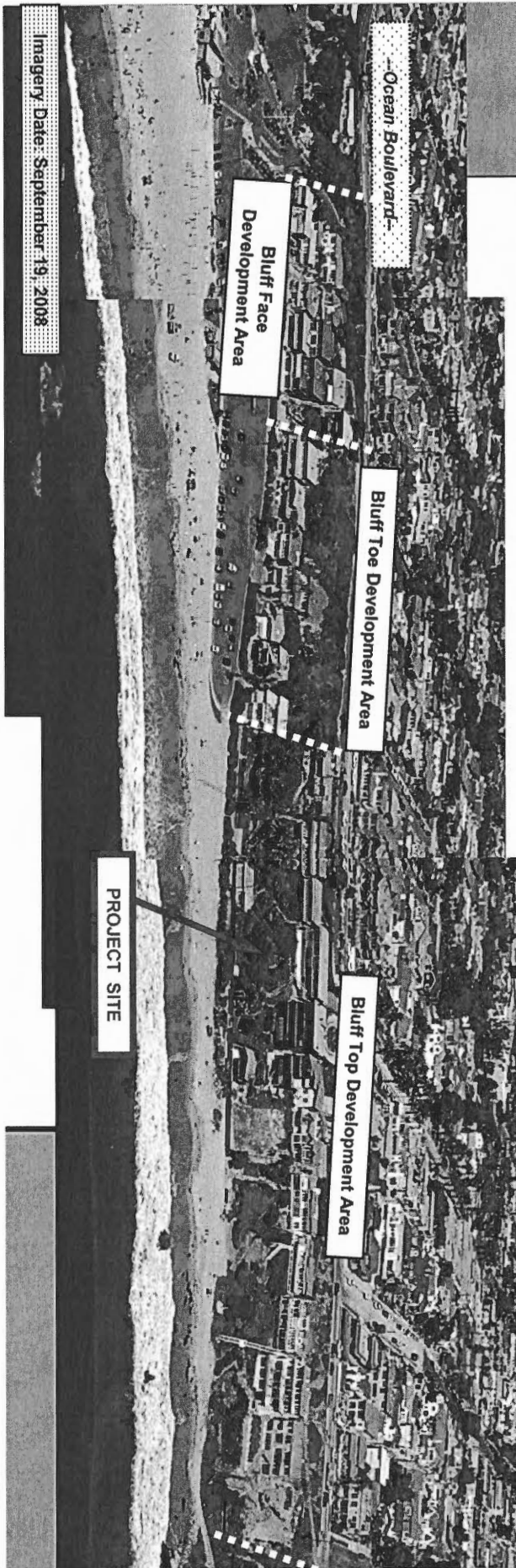
1100 Ocean Boulevard • Newport Beach, CA • 92660 • Tel: 949.445.8500 • Fax: 949.445.8503

MEMBER AIA & AIA/CA • GREEN CONSCIOUS DESIGN

**TANNIR**

**3225 OCEAN BLVD.**

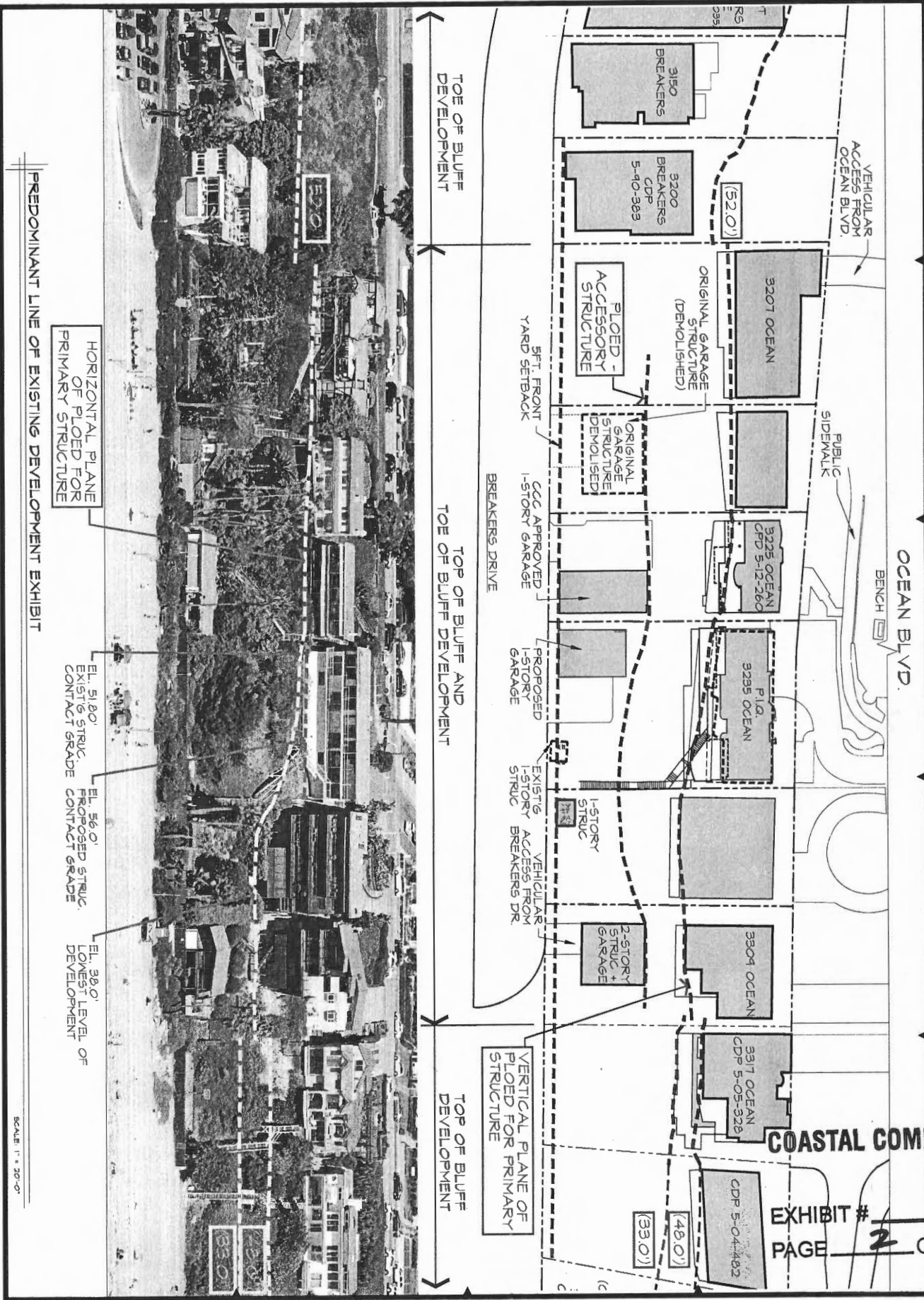
**CORONA DEL MAR, CA**



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Coastal Records Project, [www.Californiacoastline.org](http://www.Californiacoastline.org)

## COASTAL COMMISSION

EXHIBIT # 5  
PAGE 1 OF 3



**EXHIBIT-1**

**COASTAL COMMISSION**

EXHIBIT # 5

PAGE 2 OF 3

**TANNIR RESIDENCE**  
**3295 OCEAN BLVD.**  
**CORONA DEL MAR, CA**

**Brion Jeannette Architecture**

470 Oak Newport Blvd. Suite 100 • Newport Beach, CA • 92660 • Tel: 949.435.3554 • Fax: 949.435.3583

www.brionjeannettearchitecture.com

REGISTERED ARCHITECTS • ARCHITECTS AT LARGE • ARCHITECTS IN RESIDENCE

**DATE**

Revision

Revision

Revision

Revision

Revision

Revision

Revision

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**3301**

**3302**

**3303**

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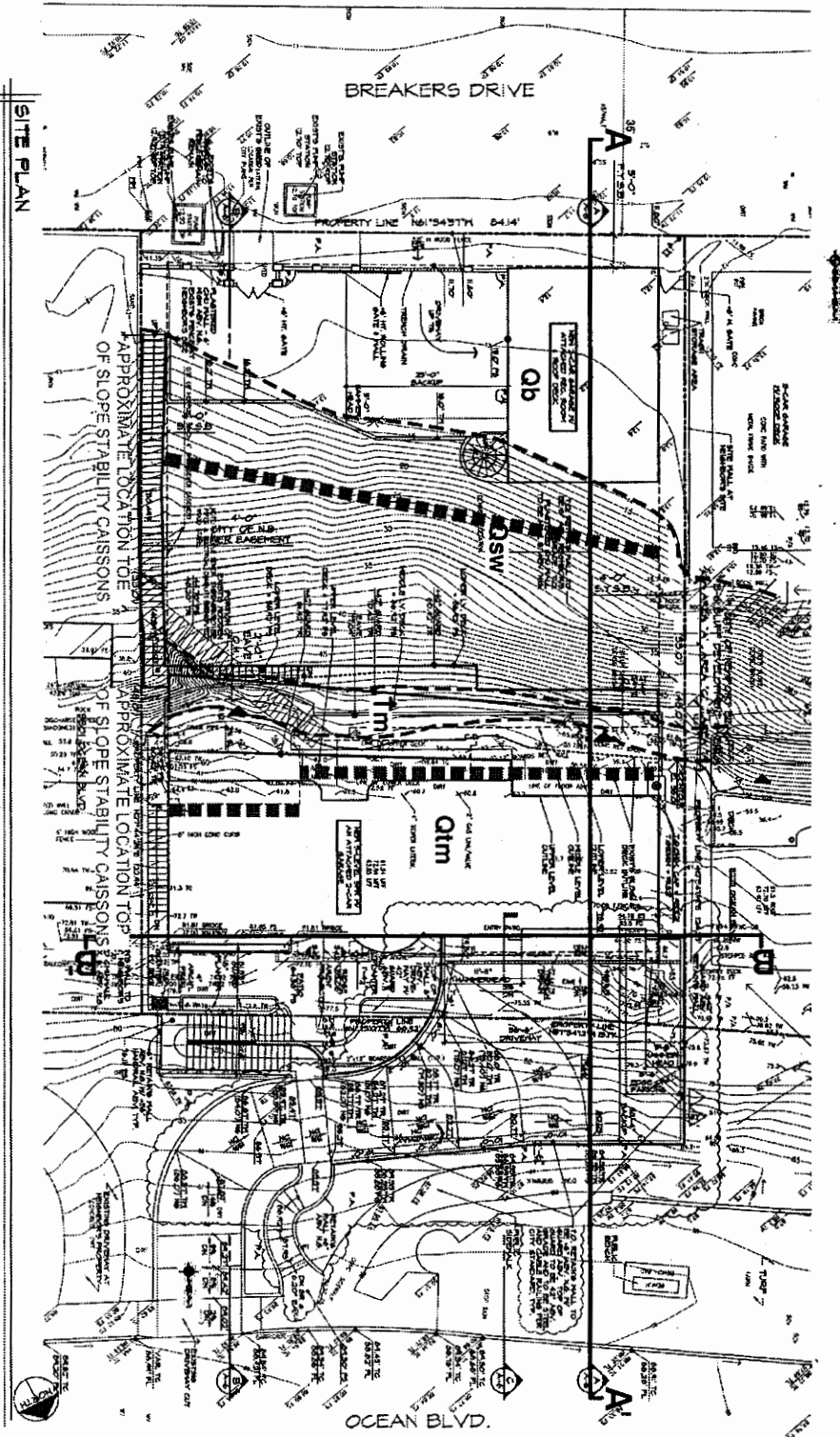
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CORONA DEL  
MAR STATE  
BEACH



SITE PLAN

SCALE: 1"=20'

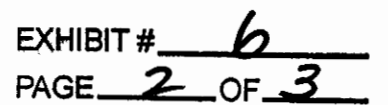
EXPLANATION

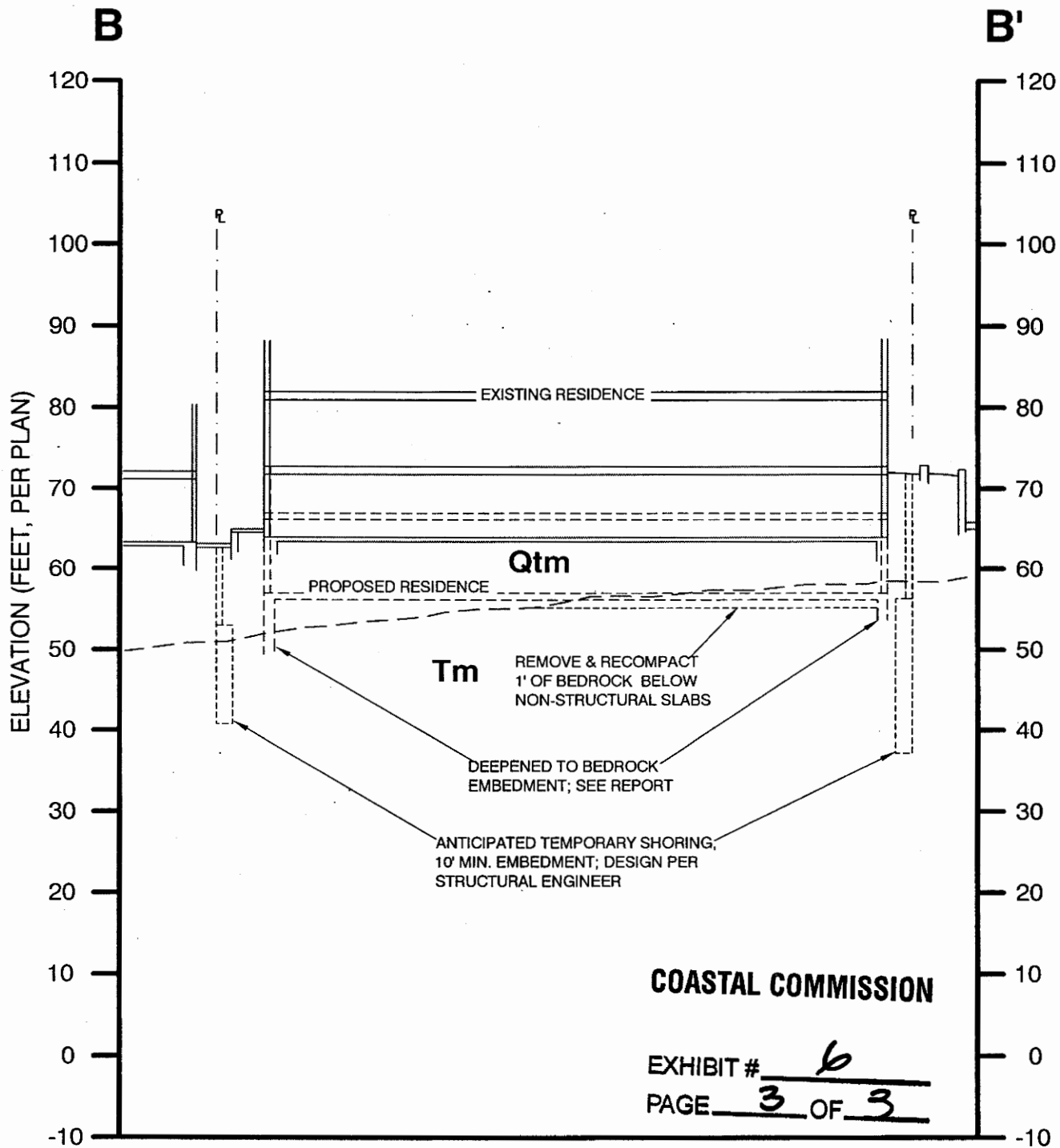
- qsw SLOPEWASH DEPOSITS
- qb BEACH DEPOSITS
- atm MARINE TERRACE DEPOSITS
- tm BEDROCK, MONTEREY FORMATION
- APPROXIMATE BORING LOCATION, THIS INVESTIGATION
- APPROXIMATE BORING LOCATION, ADJACENT INVESTIGATION
- GEOLOGIC CONTACT, QUERIED WHERE UNCERTAIN

COASTAL COMMISSION

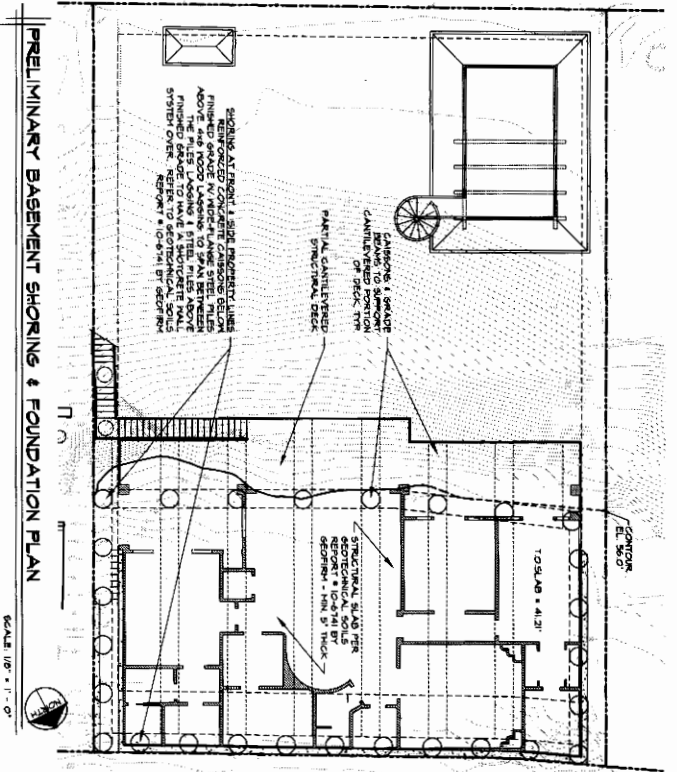
EXHIBIT # 6  
PAGE 1 OF 3





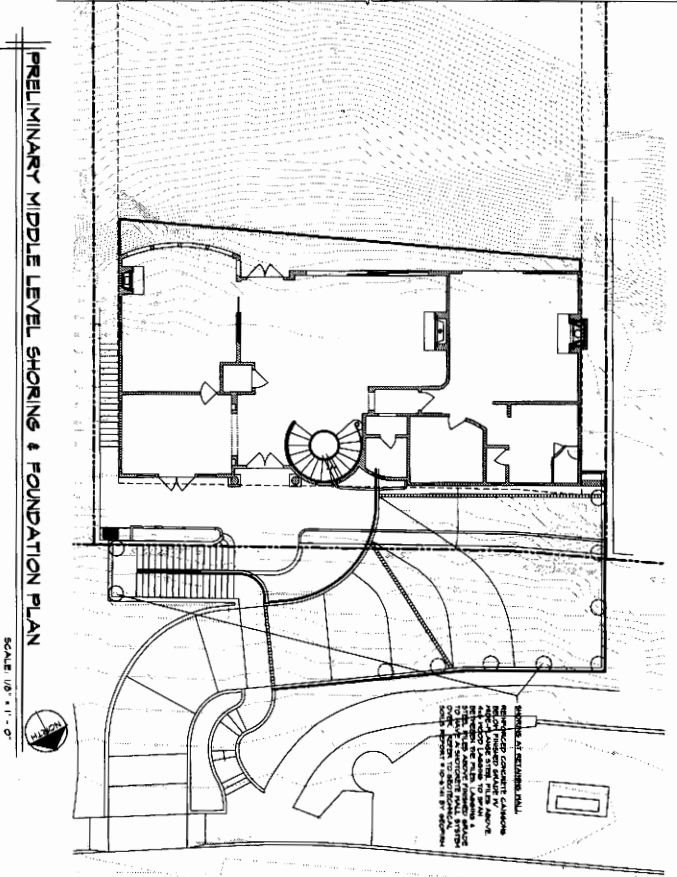


UPDATED GEOTECHNICAL CROSS SECTION B-B'  
3235 OCEAN BOULEVARD  
CORONA DEL MAR, CALIFORNIA



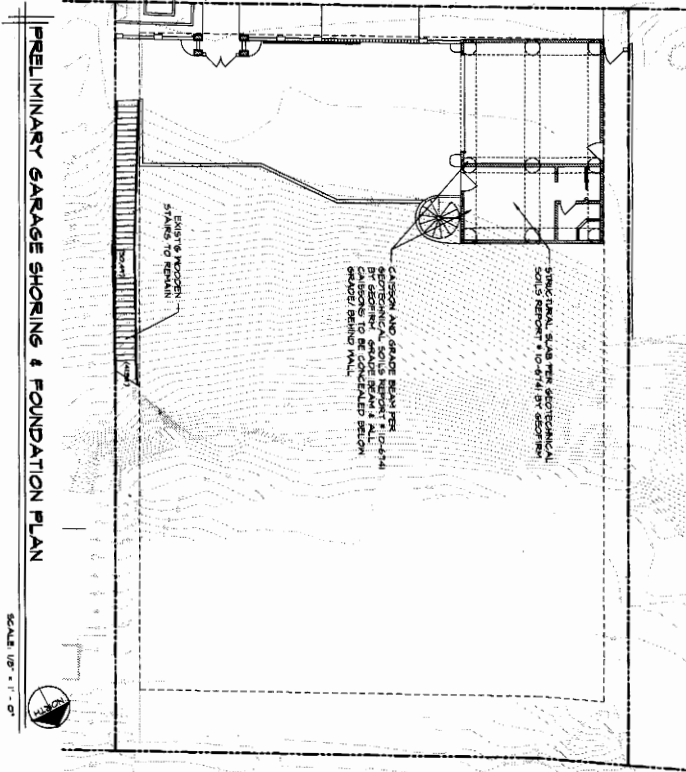
PRELIMINARY BASEMENT SHORING & FOUNDATION PLAN

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



PRELIMINARY MIDDLE LEVEL SHORING & FOUNDATION PLAN

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



PRELIMINARY GARAGE SHORING & FOUNDATION PLAN

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

# COASTAL COMMISSION

EXHIBIT # 7  
PAGE 1 OF 1

1. INITIAL CONSTRUCTION CONTRACT
2. INITIAL CONSTRUCTION CONTRACT
3. INITIAL CONSTRUCTION CONTRACT
4. INITIAL CONSTRUCTION CONTRACT
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11. INITIAL CONSTRUCTION CONTRACT
12. INITIAL CONSTRUCTION CONTRACT
13. INITIAL CONSTRUCTION CONTRACT

## GENERAL NOTES

GENERAL NOTES  
1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE COASTAL COMMISSION AND THE CITY OF SAN DIEGO.  
2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE COASTAL COMMISSION AND THE CITY OF SAN DIEGO.  
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13. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE COASTAL COMMISSION AND THE CITY OF SAN DIEGO.

Shoring Engineer is provided drawings of Shoring and Foundations  
Building Inspector On-A-Call (Shoring) Shoring Engineer and Shoring And  
Heavy Steel Foundation.

SH-1



DATE: \_\_\_\_\_  
REVISION: \_\_\_\_\_  
REVISION: \_\_\_\_\_  
REVISION: \_\_\_\_\_  
JOB NO. 10-0071

## PRELIMINARY FOUNDATION/ SHORING PLAN

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TANNIR RESIDENCE  
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CORONA DEL MAR, CA





