CALIFORNIA COASTAL COMMISSION

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Filed: Oct. 21, 2013
180th Day: Apr. 19, 2014
Staff: F. Sy-LB
Staff Report: Feb. 20, 2014
Hearing Date: Mar. 12-13, 2014

STAFF REPORT: CONSENT CALENDAR

Application No.: 5-13-043

Applicants: Jerrod Blandino & Jeremy Johnson

Agent: EBTA Architects, Terry Chang

Project Location: 103 Shorecliff Road, Newport Beach, Orange County

Project Description: Demolition of an existing single-family residence and

construction of a 12,364 square foot, two-level with a semisubterranean basement, single-family residence and a 2,621 square foot subterranean garage on a coastal bluff top lot. A 501 square foot detached guest house is also proposed. Grading will consist of 3,260 cubic yards of cut, 190 cubic

yards of fill and 3,070 cubic yards of export.

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 permittees 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 permittees to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Conformance with Geotechnical Recommendations. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, for the Executive Director's review and approval, along with two (2) full size sets of plans, evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans including foundation and grading/drainage plans and certified that each of those final plans is consistent with all the recommendations contained in the geologic engineering investigations.

All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with all recommendations contained in the geologic engineering investigation: *Geotechnical and Geologic Investigation of Proposed New Residence at 103 Shorecliff Road, Newport Beach, CA (W.O. 453713-01)* prepared by Coast Geotechnical, Inc. dated May 1, 2013. The proposed foundation system is slab on grade. If at any time, it is determined that a foundation system consisting of deepened foundation elements (e.g. caissons) is needed to support any of the proposed development (e.g. the residence), an amendment to this permit or a new permit shall be required in order to implement such recommendations. All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with all recommendations contained in the submitted investigations approved by the Executive Director.

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 unless the Executive Director determines that no amendment is legally required.

2. **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 a final project plans, including floor, elevation, grading, drainage, shoring, foundation, etc. The final project plans shall be in substantial conformance with the plans received by South Coast District staff on May 24, 2013, except they shall be modified according to the following:

The revised project plans shall identify the unpermitted rip rap located on the subject site at the toe of the coastal bluff and will label this item with the following: "This element is not permitted by any Coastal Development Permit."

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/Irrigation Plans

- A. 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/irrigation plans prepared by an appropriately licensed professional which demonstrates the following:
 - (1) The plans shall demonstrate that:

and

- (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 shall consist of native drought tolerant on-invasive 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) No permanent irrigation system shall be allowed on the coastal bluff. Any existing in-ground irrigation systems on the coastal bluff 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.
- **B.** 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. **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 bluff and slope instability, sea level rise, erosion, landslides and wave uprush or other tidal induced 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.
- 5. **No Future Bluff or Shoreline Protective Devices.** By acceptance of this permit, the applicants agree, on behalf of themselves and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-13-043 including, but not limited to, the residence, foundations, decks, balconies, patios, hardscape and any other future improvements in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, sea level rise or other natural coastal hazards in the future. By acceptance of this Permit, the applicants/landowners hereby waives, 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/landowners 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, foundations, decks, balconies, patios, hardscape and any other future improvements if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are

removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a Coastal Development Permit.

In the event the edge of the bluff recedes to within five (5)-feet of the principal residence but no government agency has ordered that the structures are not to be occupied, a geotechnical investigation shall be prepared by a licensed coastal engineer and geologist retained by the applicants, that addresses whether any portions of the residence are threatened by bluff and slope instability, erosion, landslides, sea level rise or other natural hazards. The report shall identify all those immediate or potential future measures that could stabilize the principal residence without bluff or shore protection, including but not limited to removal or relocation of portions of the residence. The report shall be submitted to the Executive Director and the appropriate local government official. If the geotechnical report concludes that the residence or any portion of the residence is unsafe for occupancy, the permittees shall, within 90 days of submitting the report, apply for a Coastal Development Permit amendment to remedy the hazard which shall include removal of the threatened portion of the structure.

- 6. **Future Improvements.** This permit is only for the development described in Coastal Development Permit No. 5-13-043. 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. 5-13-043. 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 Coastal Development Permit No. 5-13-043 from the Commission or shall require an additional Coastal Development Permit from the Commission or from the applicable certified local government.
- 7. **Construction Best Management Practices.** The permittees shall comply with the following construction-related requirements and shall do so in a manner that complies with all relevant local, state and federal laws applicable to each requirement:
 - (1) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, rain, or tidal erosion and dispersion;
 - (2) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
 - (3) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;
 - (4) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMP's shall include, but are not limited to: placement of

- sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and
- (5) All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

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 applicants 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 applicants shall develop and implement spill prevention and control measures;
- (3) The applicants 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 applicants shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.
- 8. **Deed Restriction**. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the landowner(s) have executed and recorded against the parcel(s) 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 the 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:

The Commission hereby finds and declares:

A. PROJECT LOCATION AND DESCRIPTION AND PREVIOUS COMMISSION ACTION ON SUBJECT SITE

1. Project Location and Description

The proposed project site is located at 103 Shorecliff Road, in the Shorecliff area of Newport Beach. The subject site is between the first public roadway and the sea on a coastal bluff top lot subject to wave erosion (Exhibit #1). The site is a 25,852 square foot lot designated Low Density Residential by the City of Newport Beach Land Use Plan (LUP); the proposed project adheres to this designation. The project is located within an existing developed urban residential area. The site is surrounded by single-family residential development to the north, south and east. To the west of the project site is an approximately 40-45-foot high coastal bluff, then at the toe and bottom of the bluff is rip rap, sandy and rocky beach and then the Pacific Ocean. At the toe of the bluff and on the applicants property is rip rap that was approved by the Coastal Commission, but a Coastal Development Permit was never issued that required a recorded access easement. Thus, the revetment is unpermitted and will be handled separately from this project through the Commission's Enforcement Division (to be discussed further later in the staff report).

The subject site is located between the first public roadway and the sea. Adequate access and public recreation opportunities exist nearby at Little Corona Beach located to the west of the site at the toe of the bluff. In addition, at the toe of the bluff is also an easily accessible beach area that consists of tidepools that have been frequently visited by the public, such as school children.

The proposed project consists of demolition of an existing 3,530 square foot single-family residence and the construction of a new 12,364 square foot (3,153 square foot semi-subterranean basement, 4,710 square foot 1st floor and 4,500 square foot 2nd floor) single-family residence, approximately 26'-6" above finished grade, with a 2,621 square foot subterranean five (5) car garage on a coastal bluff top lot (Exhibits #2-4). A 501 square foot detached guest house located on the inland portion of the property near the street is also proposed. The project also includes hardscape; landscaping; an internal driveway to the subterranean garage; an internal courtyard; and property line walls. Hardscape and landscape work will take place in the rear yard along the bluff top, but will be setback 10-feet from the bluff edge. Grading will consist of approximately 3,260 cubic yards of cut, 190 cubic yards of fill and 3,070 cubic yards of export to a location outside of the Coastal Zone. The grading limit line is 10-feet from the bluff edge. The applicants have stated that the preliminary foundation system for the residence and rear yard hardscape improvements will consist of a conventional slab-on-grade system. The proposed development conforms to both the 25-foot bluff edge setback for primary structures and the 10foot setback for secondary structures. The proposed semi-subterranean basement daylights to a west facing basement level courtyard facing the western (seaward-facing) property line. The

subterranean garage accommodate a total of five (5) cars for the development; exceeding the Commission's typical parking standard of two (2) parking spaces per dwelling unit.

The applicants have stated that shoring walls along the sideyards that includes piles are also proposed. The shoring system will not be located within 25-feet of the bluff edge setback.

Regarding onsite drainage, the applicants have stated that all onsite runoff will be collected through a series of drain inlets and drainage pipes. No runoff will be allowed to drain over the bluff. A swale will be constructed on the inland side of the 10-foot bluff edge setback that will collect all runoff just above the bluff and direct it into the drainage system. Once collected, all runoff will be directed to a catch basin at the northeast corner of the project site, fitted with a treatment filter. After being treated, all runoff will be directed to the street via a sump pump.

Since submittal of the application, elements of the projects have been revised such as removal of development (i.e. overflow pipe) that was once located within 10-feet of the bluff edge and the inclusion of a sump pump. Additionally, while the applicants stated that shoring is proposed and that it will not be located within the 25-foot setback, the applicant have only submitted reduced size plans. In addition, the applicants have only submitted a preliminary foundation plan for the proposed slab on grade foundation system. A final plan is necessary. Therefore, the Commission imposes **Special Condition No. 2**, which requires the applicants to submit final project plans.

During construction, there is potential for adverse impacts to water quality and marine resources. During construction, the applicants will be required to implement best management practices (BMPs) designed to minimize erosion and prevent debris from entering the storm drain system and the ocean. In order to minimize adverse construction-related impacts upon marine resources, **Special Condition No. 7** provides construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris. These best management practices (BMP) are designed to minimize erosion and prevent debris from being dispersed down the coastal bluff or the storm drain system leading to the ocean.

Resources

No portion of the applicants' development area contains resources that rise to the level of ESHA. Nevertheless, preservation and enhancement of the City's coastal bluffs is a goal supported by both the environmental protection policies of the Coastal Act, and the certified Land Use Plan (LUP). Encroachment onto the bluff by development increases the potential for the introduction of non-native plant species, and predation of native species by domestic animals, and destabilization of the coastal bluff from excess irrigation.

Furthermore, due to the fragile nature of coastal bluffs and their susceptibility to erosion, the Commission requires a special condition regarding the types of vegetation to be planted. The use of non-native vegetation that is invasive can have an adverse impact on the existence of native vegetation. Invasive plants are generally those identified by the California Invasive Plant Council (http://www.cal-ipc.org/) and California Native Plant Society (www.CNPS.org). No plant species listed as problematic and/or invasive by the California Native Plant Society or the

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California Invasive Plant Council 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 shall be utilized within the property.

The applicants have submitted a landscape/irrigation plan. Commission staff has reviewed the plan and determined that it contains a mixture of plants that are invasive and not drought tolerant. The following plants were found to be invasive: Vinca Minor and Hedera Helix. The following plants are not drought tolerant: Buxus Sempervirens, Pittosporum Crassifolium 'Karo', Festuca Ruba 'Red Fescue', Iris Douglasiana, Convallaria Majalis, Scilla Peruviana, Tradescantia, Buxus Sempervirens, Wisteria, Acanthus Mollis, Magnolia Grandiflora, Clytostoma Callistegioides, Rosa, Hydrangea Quercifolia, Pathenocissus Tricuspidata, Trachelospernum Jasminiodes, Ficus Benjamin, Matteuccia Struthiopteris, Galium Odoratum, Carax Divusa, Dierama Pulcherrimum, Zephyrantes 'Rain Lily', Allium Cerenium, and Aqyulegia Caerulea. Therefore, the landscape/irrigation plan must be revised to remove the plants listed above that were determined not to be drought tolerant or non-invasive. Therefore, the Commission imposes Special Condition No. 3 which requires the applicants revise the proposed landscape /irrigation plans so it only includes native drought tolerant non-invasive plant species native to coastal Orange County and appropriate to the habitat type

Initially, permanent in-ground irrigation was proposed in the rear yard on the bluff. The applicants have since revised their plan to remove the permanent in-ground irrigation. However, revised landscape/irrigation plans identifying this have not yet been submitted. Therefore, the Commission imposes **Special Condition No. 3**, which requires the applicants to submit revised landscape/irrigation plans

Geology and Coastal Hazards

The geologic stability and coastal hazards study was conducted by Coast Geotechnical, Inc. in a report titled "Geotechnical and Geologic Investigation of Proposed New Residence at 103 Shorecliff Road, Newport Beach, CA (W.O. 453713-01) dated May 1, 2013. The dominant earth materials found onsite are terrace deposits and bedrock. There was a previous landslide onsite years ago and the applicant at that time applied for a Coastal Development Permit to rectify the situation. On April 13, 1981, the Coastal Commission approved Coastal Development Permit No. A-81-7730-(Hurtt) for repair of the coastal bluff. The repair included grading and recontouring the slope, planting of an appropriate ground cover, construction of a large, vertical "V" channel and placement of a rock rip rap at the toe of the bluff. A prior to issuance of a Coastal Development Permit special condition requiring recordation of an offer to dedicate for an easement along the toe of the bluff along the shoreline was imposed. However, the Coastal Development Permit was never issued since the recordation never took place. However, it appears that the bluff repair and riprap were installed nevertheless. Thus, the repair work including installation of the rip rap is unpermitted. The applicants are not seeking authorization for this existing unpermitted development through this application and approval of the proposed development does not authorize the repair and rip rap. This unpermitted development will be handled through an enforcement procedure (to be discussed later in the staff report). Therefore, in order to clarify that the approval of the proposed project does not authorize this unpermitted development, the Commission imposes **Special Condition No. 2**, which requires the applicants

to submit final project plans that show and state that the existing unpermitted rip rap located at the toe of the coastal bluff is not permitted by any Coastal Development Permit. The submitted geotechnical report indicates that the slope is stable, but that does not preclude the possibility that a surficial failure could occur at areas of steepened slope wash and or steepened weathered bedrock due to poor irrigation practices, heavy prolonged rain, poor site drainage or other factors. The slope stability analysis did not take into account the rip rap in its determination that the site was stable. Regarding wave erosion, review of air photos did not show evidence of wave action along the toe of bluff and that observation at high tide found wave runup to just reach the toe of the bluff and to lack significant energy to erode the toe, thus resulting in significant undercutting or slope stability. The geotechnical investigation concludes that the project is geotechnically feasible and that: "...the proposed residence will not be subject to erosion or stability hazard over the course of its design life [75 years] and that no additional seawall, revetment, jetty, groin, retaining wall, or other shoreline protective device will be needed to protect the development over the course of its design life, normally assigned to a residence, provided recommendations of this report are incorporated into the project design." Recommendations relate to site preparation and grading, general foundation design and drainage; and etc. The Commission imposes **Special Condition No. 1** requiring the applicants to submit final plans certified consistent with the recommendations specified in the geotechnical report.

Bluff Setbacks

On bluff top lots in Newport Beach subject to Commission review, the Commission has typically required new development to conform to a minimum 25-foot setback from the bluff edge for primary structures (e.g. the enclosed living area of residential structures) and minimum 10 foot setback for secondary structures (e.g., patios, decks, garden walls) or requires conformance with the stringline setbacks. These setback policies are included in the City's certified Land Use Plan (last updated in 2009). The bluff edge setback is imposed in order to ensure that the development conforms to Section 30253 of the Coastal Act which requires that hazards be minimized and that new development will not have to rely on future shoreline or bluff protection devices. Although the site has currently been found to be grossly stable from a geotechnical perspective, bluffs are subject to forces that cause instability and geologic predictions of site stability over the life of the proposed development cannot be made with certainty. Thus, the Commission requires a bluff edge setback that would provide the most protection from coastal hazards for new development without having to rely on future bluff protection devices given the inherent uncertainty in predicting geologic processes in the future, and to allow for potential changes in bluff erosion rates as a result of rising sea level. The proposed development conforms to both the 25-foot bluff edge setback for primary structures and the 10-foot setback for secondary structures. The existing and proposed developments do not adhere to the stringline setbacks with adjacent structures. Due to the irregular orientation of the lot, consistency with the stringline is difficult. Additionally, while the proposed hardscape (secondary structures) does encroach seaward, the bulk of the proposed residence is actually setback more inland than the existing residence.

Additionally, all new bluff-side hardscape improvements including hardscape and a concrete patio also conform to the certified LUP 10-foot bluff edge setback requirement for non-structural,

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at-grade accessory structures on bluff top lots. The proposed project is consistent with the pattern of development in the surrounding area.

In addition, no grading or landscaping is proposed within the 10-foot bluff edge setback.

To minimize the project's potential future impact on shoreline processes, **Special Condition No. 5** prohibits construction of any future bluff or shoreline protective device(s) to protect the development approved pursuant to Coastal Development Permit No. 5-13-043 including, but not limited to residence, foundations, decks, balconies, patios, hardscape and any other future improvements in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, sea level rise or other natural coastal hazards in the future. Thus, pursuant to **Special Condition No. 5**, the applicants agree to waive any right to construct any future bluff or shoreline protective devices such as revetments, seawalls, caissons, cliff retaining walls, shotcrete walls, and other such construction that armors or otherwise substantially alters the bluff. **Special Condition No. 5** does not preclude the applicants from applying for future Coastal Development Permits for maintenance of existing development or future improvements to the site (other than bluff top or shoreline protective devices) including landscaping and drainage improvements aimed to prevent slope and bluff instability. The Commission would determine the consistency of such proposals with the Coastal Act in its review of such applications.

Development on coastal bluff sites is inherently dangerous; therefore, the Commission imposes **Special Condition No. 4** requiring the applicants to assume the risk of development. By this means, the applicants are notified that the proposed development is built in an area that is potentially subject to bluff and slope instability, sea level rise, erosion, landslides and wave uprush or other tidal induced erosion that can damage the applicants' property. The applicants are also notified that the Commission is not liable for such damage as a result of approving the permit for development. Finally, the condition requires the applicants to waive claims against the Commission and indemnify the Commission for third-party claims.

Future Development

The proposed development is located within an existing developed area and is compatible with the character and scale of the surrounding area. However, the proposed project raises concerns that future development at the project site potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act. In order to ensure that development on the site does not occur which could potentially adversely impact the geologic stability concerns expressed in this staff report, the Commission imposes **Special Condition No. 6**. This condition informs the applicants that future development at the site requires an amendment to this Coastal Development Permit (5-13-043) or a new Coastal Development Permit. Future development includes, but is not limited to, structural additions, landscaping, hardscape and fencing.

2. Previous Commission Action on Subject Site
On April 13, 1981, the Commission approved Coastal Development Permit No. A-81-7730(Hurtt) for the repair of a coastal bluff that was damaged by erosion. The repair included grading and re-contouring the slope, planting of an appropriate ground cover, construction of a large,

vertical "V" channel and placement of a rock rip rap at the toe of the bluff. One (1) Special Conditions was imposed, which required the applicant at that time to execute and record a document irrevocably offering to dedicate to a public agency or private association approved by the Executive Director, an easement for public access and passive recreational use along the shoreline. Such easement would have included all lands seaward of the toe of the bluff (as determined by the Executive Director) to the Mean High Tide line. While the project was approved by the Commission, the Coastal Development Permit was never issued since the easement was never recorded. However, the project was constructed without issuance of a Coastal Development Permit for the development.

B. DEVELOPMENT

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. 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 the development, as conditioned, conforms to Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

D. 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 design features to minimize the effect of construction and post construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials and the use of post 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.

E. UNPERMITTTED DEVELOPMENT

Development has occurred onsite without benefit of the required Coastal Development Permit including installation of riprap at the base of the coastal bluff. Commission Enforcement staff is currently considering options to resolve the unpermitted development.

Although development has occurred prior to submission of this Coastal Development Permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Commission review and action on this permit application does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a Coastal Development Permit.

F. DEED RESTRICTION

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes one additional condition requiring that the property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, this permit ensures that any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development, including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

G. LOCAL COASTAL PROGRAM (LCP)

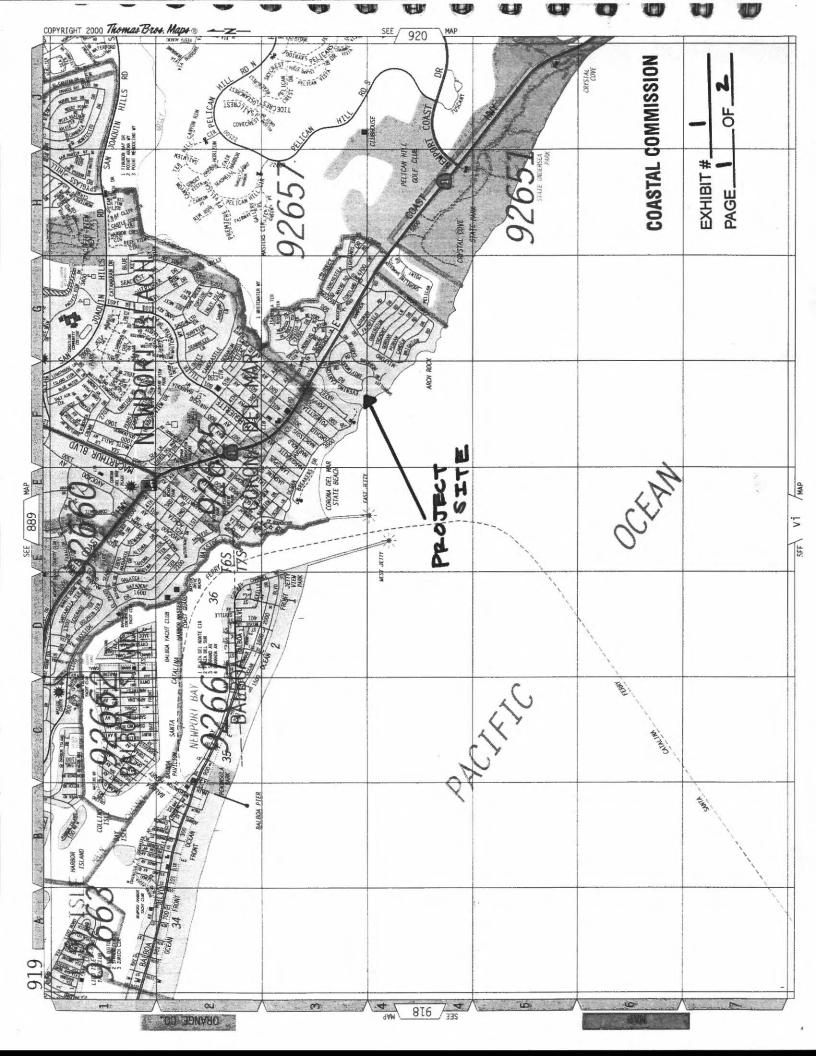
Coastal Act section 30604(a) states that, prior to certification of a Local Coastal Program ("LCP"), a Coastal Development Permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The Land Use Plan for the City of Newport Beach was effectively certified on May 19, 1982. The certified LUP was last updated in October 2009. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

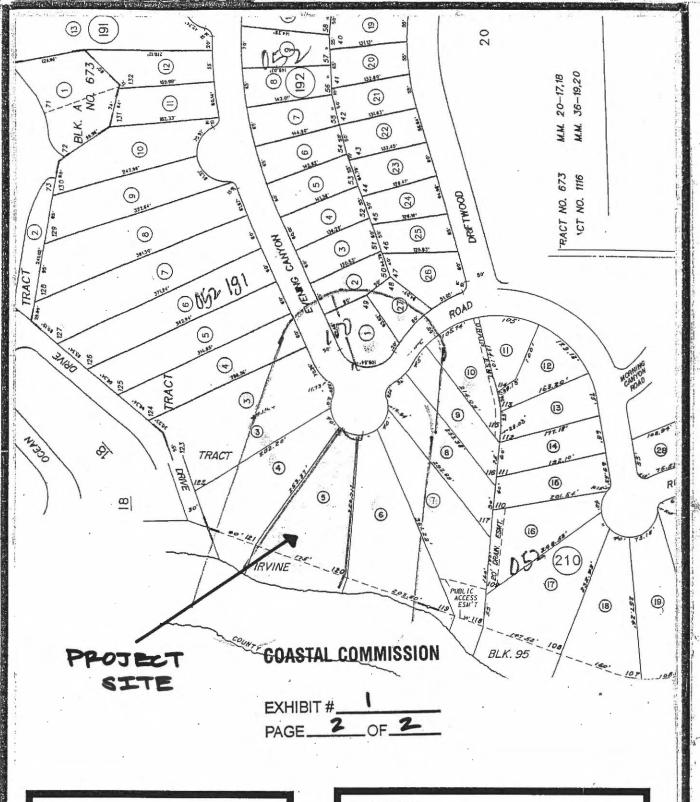
H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may 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.

APPENDIX A

SUBSTANTIVE FILE DOCUMENTS: Approval-In-Concept from the City of Newport Beach Community Development Department dated February 7, 2013; Letter from EBTA Architects to Commission staff received February 14, 2013; Letter from Commission staff to EBTA Architects dated March 15, 2013; Letter from EBTA Architects to Commission staff received May 24, 2013; Letter from TOAL Engineering Dated May 2, 2013; Geotechnical and Geologic Investigation of Proposed New Residence at 103 Shorecliff Road, Newport Beach, CA (W.O. 453713-01) prepared by Coast Geotechnical, Inc. dated May 1, 2013; Letter from Commission staff to EBTA Architects dated June 21, 2013; Letter from EBTA Architects to Commission staff received September 4, 2013; Letter from Coast Geotechnical, Inc. dated August 23, 2013; Letter from G.A. Nicoll and Associates, Inc. dated August 28, 2013; Letter from Corbin Reeves Construction dated August 23, 2013; Letter from Knibb Design dated July 23, 2013; and Letter from Commission staff to EBTA Architects dated October 4, 2013.





Map Preparer: SUSAN W. CASE, INC. 917 GLENNEYRE ST #7 LAGUNA BEACH CA 92651 949 494 6105 Susancaseinc@yahoo.com FILE #138511
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103 SHORECLIFF RD
CORONA DEL MAR CA
100' OWNERS AND OCCUPANTS
FEBRUARY 6 2013
052 210 05



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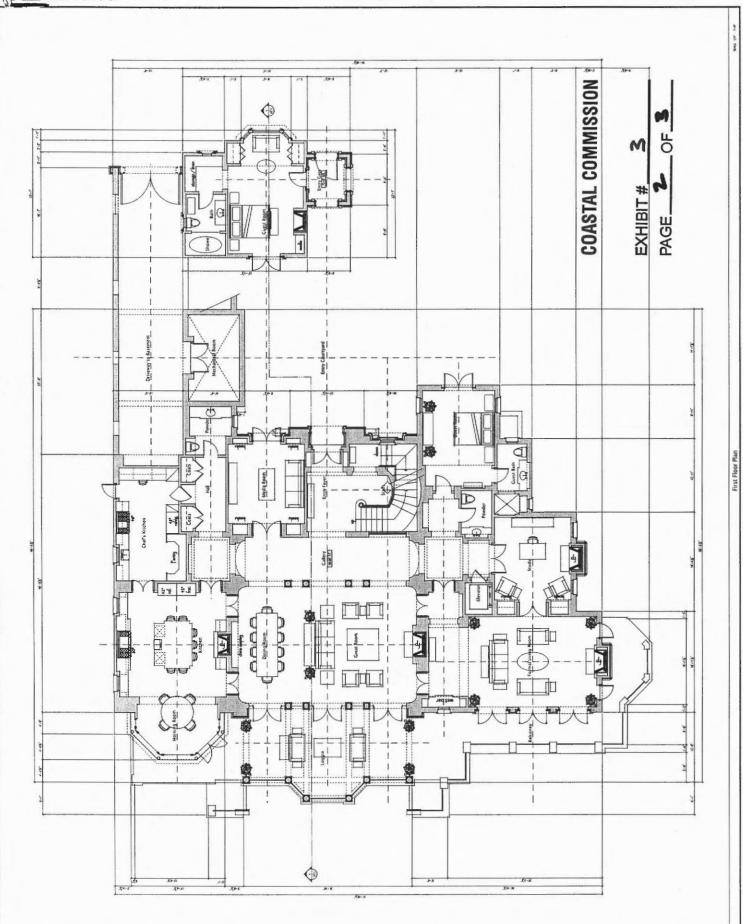


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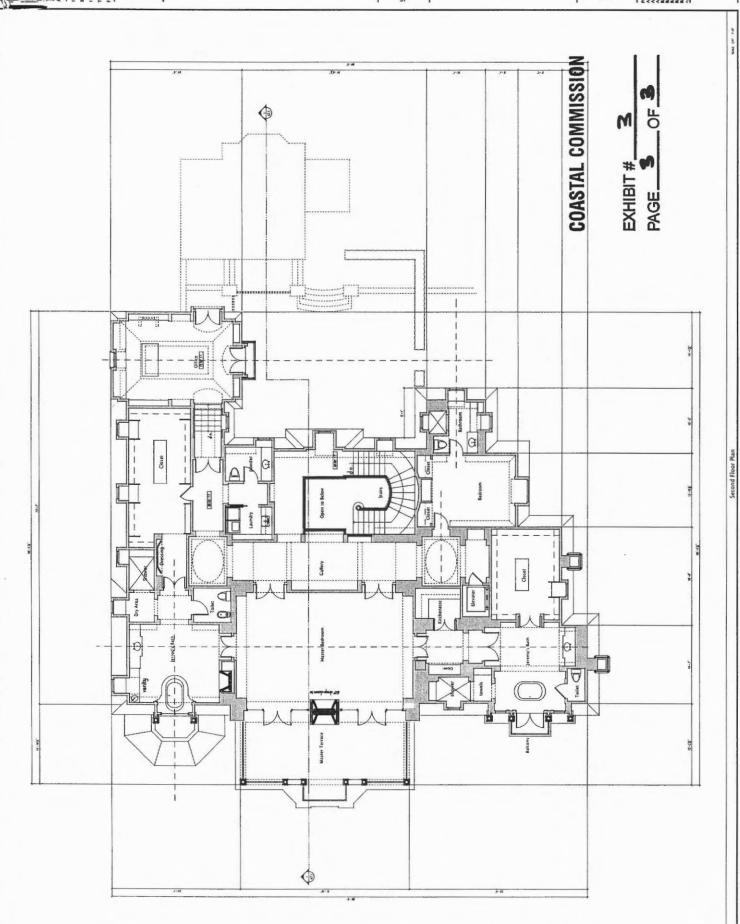




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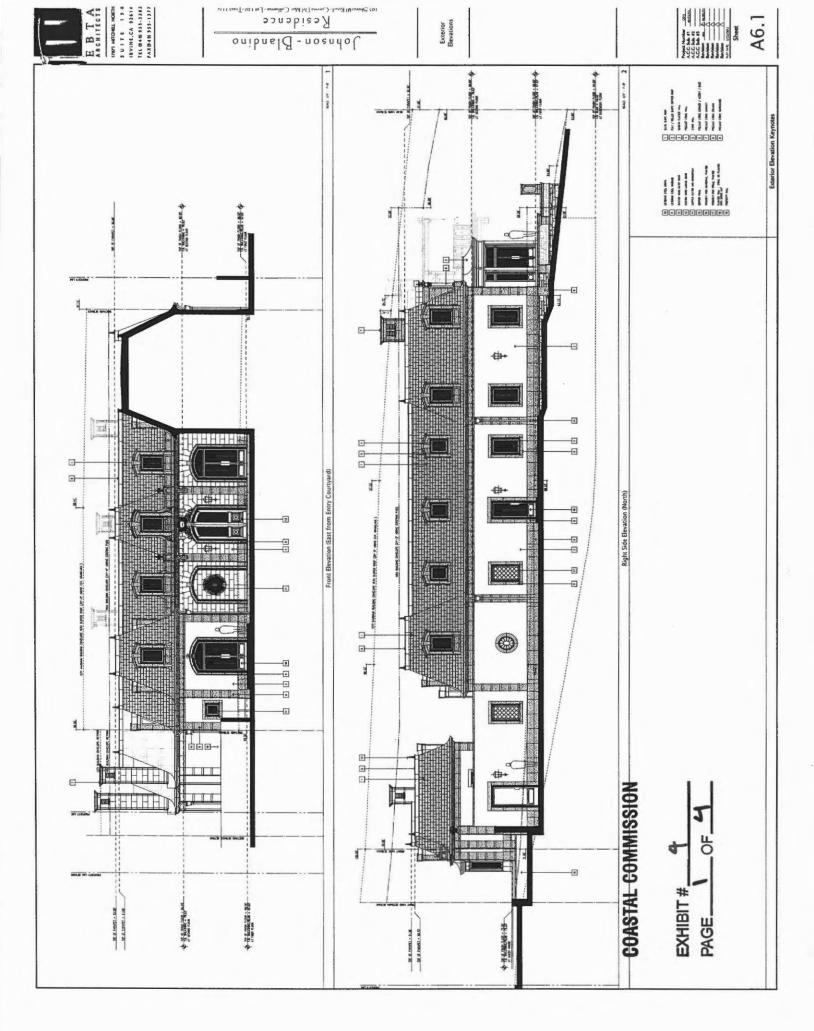


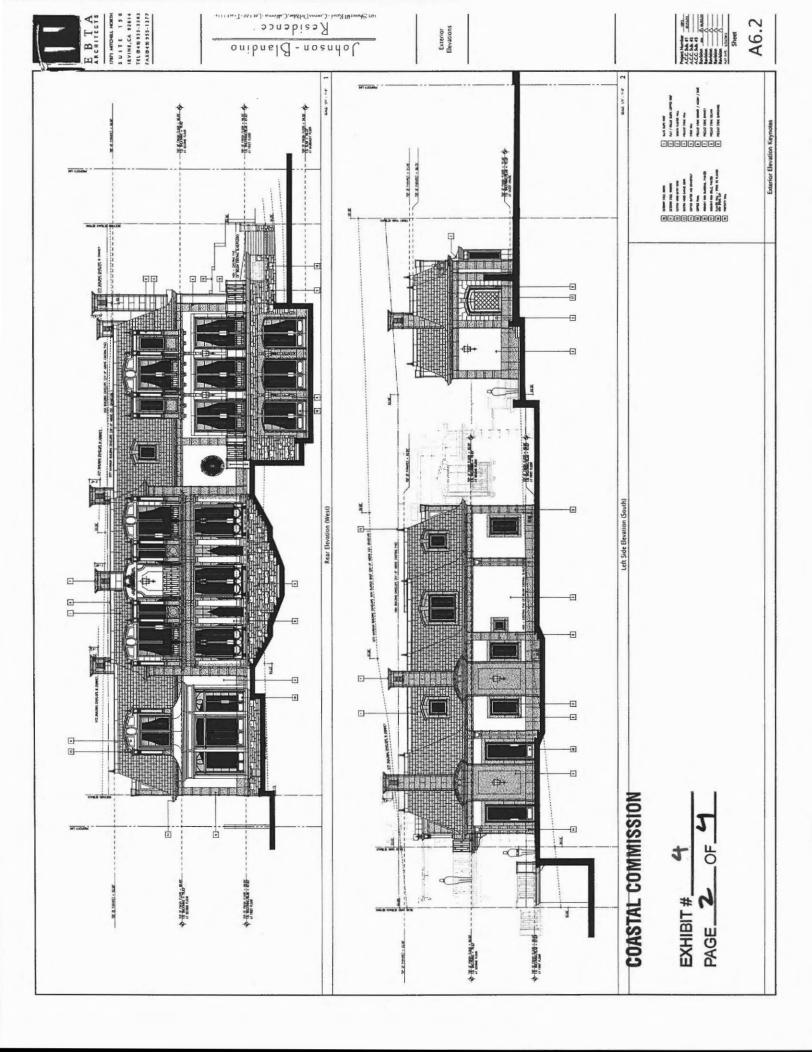
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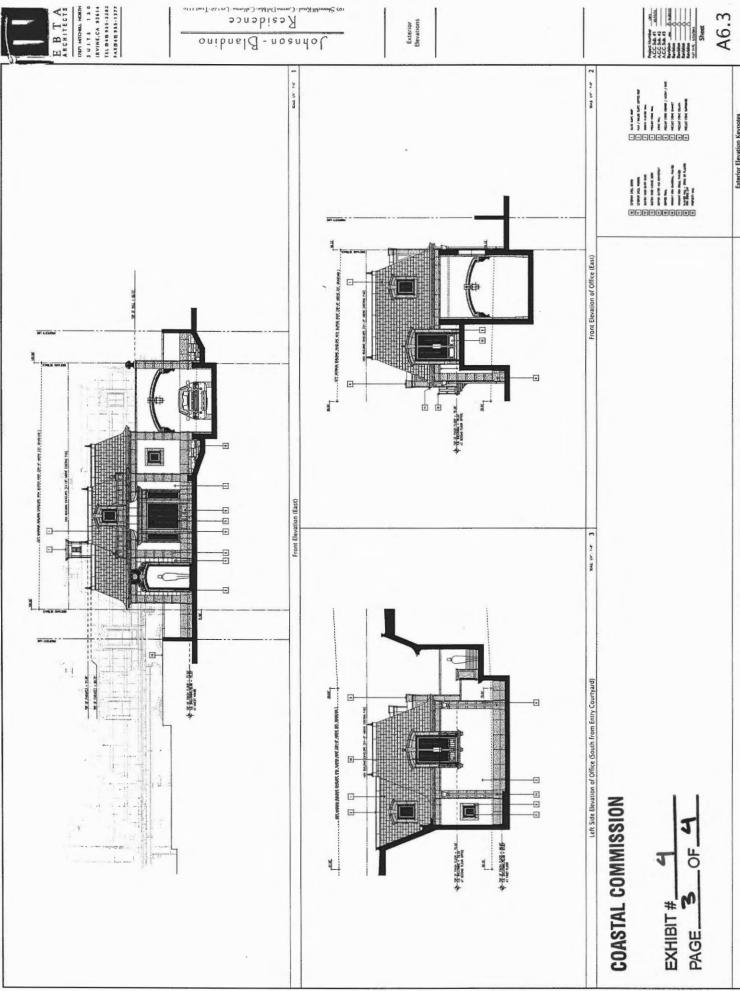
cond Floor Plan











Residence



