

**CALIFORNIA COASTAL COMMISSION**

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

**W8f**

Filed:	12/12/2013
180th Day:	06/09/2014
Staff:	S Vaughn-LB
Staff Report:	2/20/2014
Hearing Date:	03/12/2014

**STAFF REPORT: CONSENT CALENDAR**

**Application No.:** 5-13-1340

**Applicant:** Legacy Property Holdings, LLC

**Agent:** C. J. Light Associates (Scott Schafer)

**Location:** 4911 Seashore Dr., Newport Beach, Orange County (APN 424-452-01)

**Project Description:** Demolition of an existing single family, beach front home with attached two-car garage and construction of a 29-foot high, two-story, single family residence with attached 365 square foot, two-car garage, covered rooftop deck, 2,182 square feet of living space and 561 square feet of decks. Minimal grading proposed (no net transport) to direct runoff toward bottomless trench drains at front (alley side) of property. Existing concrete patio at the back (beach side) of the house will remain. No landscaping improvements proposed.

**Staff Recommendation:** Approval with conditions

## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

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

### Resolution:

*The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

## II. STANDARD CONDITIONS:

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent of 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. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from waves, erosion, storm conditions, liquefaction, flooding, and sea level rise; (ii) to assume the risks to the applicant 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.
  
2. **No Future Shoreline Protective Device**
  - a) By acceptance of this permit, the applicant and landowner agrees, on behalf of himself and all other successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-13-1340 including, but not limited to, the residence, garage and foundations and any future improvements, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, or any other coastal hazards in the future. By acceptance of this permit, the applicant and landowner hereby waives, on behalf of himself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
  
  - b) By acceptance of this permit, the applicant and landowner further agree, on behalf of himself and all successors and assigns, that the landowner(s) shall remove the development authorized by this permit, including the residence, garage and foundations 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.
  
3. **Future Development.** This permit is only for the development described in Coastal Development Permit No. 5-13-1340. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by Coastal Development Permit No. 5-13-1340. Accordingly, any future improvements to the single-family house 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. 5-13-1340 from the

Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

4. **Recommendations of the Geotechnical Report.** All final design and construction plans shall be consistent with all recommendations contained in the Geotechnical Engineering Investigation of Proposed New Residence at 4911 Seashore Drive, Newport Beach, California dated August 22, 2013, prepared by Coast Geotechnical, Inc. of Fullerton, California. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
5. **Conformance with the submitted drainage and run-off control plan.** The applicant shall conform to the Drainage Plan showing runoff from all impervious areas directed toward the trench drains at the front (alley side) of the house. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
6. **Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris**

The permittee shall comply with the following construction-related requirements:

- a) No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
- b) No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers.
- c) Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.
- d) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
- e) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
- f) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
- g) Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.
- h) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
- i) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.

- j) The discharge of any hazardous materials into any receiving waters shall be prohibited.
- k) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures 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. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
- l) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity.
- m) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

7. **Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner(s) have 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 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

### A. PROJECT LOCATION & DESCRIPTION

The subject site is a residential lot located at 4911 Seashore Drive (APN: 424-452-01) in the City of Newport Beach, Orange County. The site consists of a single lot located between the first public road and the sea. There is a sandy beach, approximately 250 feet wide, between the subject property and the Pacific Ocean (**Exhibit #2**). The rectangular parcel is 24 feet wide by 63 feet deep. The lot size is approximately 1,891 square feet. The city's certified Land Use Plan (LUP) designates the lot as Single-Unit Residential and the proposed single-family residence adheres to this designation. The project is located in an existing urban residential area in West Newport up the coast from the Newport Pier.

The proposed development consists of demolishing an existing two-story, single family, beach front home with an attached two-car garage and construction of a two-story, 29-foot high single family home with attached 365 square foot, two-car garage and a covered rooftop deck. The living space of the proposed development is 2,182 square feet with an additional 561 square feet of decks (**Exhibit #3**). Minimal grading, with no net export, is proposed to direct runoff toward the proposed bottomless trench drains at the front (alley side) of the property. A concrete patio at the rear (beach side) of the house will remain intact. No landscaping is proposed.

The property is adjacent to a public beach access road on 50<sup>th</sup> Street, which has two metered parking spots and the heavily-used bike lane on Seashore Drive. The sidewalk and parking spots on 50<sup>th</sup> Street and the bike path on Seashore Drive will not be affected by the proposed demolition or construction of this project.

The City has reviewed the proposed project and found it consistent with the local zoning requirements, as evidence by their Approval-in-Concept, dated December 10, 2013. The neighborhood consists primarily of two and three-story homes. The proposed project is consistent with the character of the surrounding development.

A Coastal Hazard and Wave Runup study wave was conducted for this property by Global Geo-Engineering, Inc. on November 12, 2013. The study concludes that "*no protection devices are recommended*" for the proposed development. In reaching this conclusion, the study found, inter alia, that the beach is likely to remain stable throughout the lifetime of the proposed development, due to the groin fields placed by the Army Corps of Engineers and periodic sand replenishment by the *Orange County Erosion Control Project*. The study also found that waves will tend to break further off shore, because the off-shore sea bottom is relatively shallow. According to the study, given the depth and slope of the beach, run-up from waves may reach the top of the beach, but will ultimately dissipate. And, if overtopping should occur, the study found that any wave action will encounter the 36-inch wall enclosing the beach facing yard before reaching the structure, therefore, the structure will not be severely impacted.

Due to its oceanfront location and the width of the beach, the project site may be exposed to coastal hazards including sea-level rise and wave run-up during severe storms. **Special Condition 1** requires that the by accepting this permit, the applicant, landowner and future landowners acknowledge and assume the risks associated with this development.

The applicant proposes a series of drainage improvements to capture and infiltrate storm water runoff from roofs decks and other surfaces. The improvements include 18" wide bottomless trench drains, which extend from the sides of the garage to the property line (5' 3 1/2" on the north side and 3' on the south side) at the front of the development next to the alley. The proposed drains are 18" deep and 24" wide and will be filled with crushed rock and filter cloth (**Exhibit #4**).

The glass screens in the guard rails on the second floor deck and rooftop patio will be made of Ornilux Bird Protective Glass, which will help reduce against bird strikes into the glass.

There are two small decorative overhang encroachments from the second floor finish and the roof deck floor finish, which infringe into the City's Public Right of Way on the alley side of the house. As stated above, the City has Approved-in-Concept the plans, which include the encroachments. The encroachments are under the building permit, which will be reviewed by the City's Public Works Department and are subject to review and approval by that department. The City retains the right to revoke the encroachments at any time.

## **B. HAZARDS**

Development adjacent to the ocean is inherently hazardous. Development which may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon, among other things, public access, visual resources and shoreline processes. To minimize the project's impact on shoreline processes, and to minimize risks to life and property, the development has been conditioned to: require an appropriate set-back from the water; require a drainage and runoff control plan to direct, treat, and minimize the flow of water offsite; prohibit construction of protective devices (such as a seawall) in the future; and to require that the landowner and 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. DEVELOPMENT**

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

## **D. PUBLIC ACCESS**

As conditioned, the proposed development will not have any new adverse impact on public access to the coast and nearby recreational facilities. Thus, as conditioned, the proposed development conforms to Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

## **E. WATER QUALITY**

The proposed development has a potential for 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, one or more of the following: the appropriate management of equipment and construction materials, construction-phase erosion control measures, reduction in runoff through the use of trench drains, percolation pits, and permeable surfaces, the use of non-invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site, and for 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.

#### **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 an additional **Special Condition 8** 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, 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**

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 updated on 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.

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

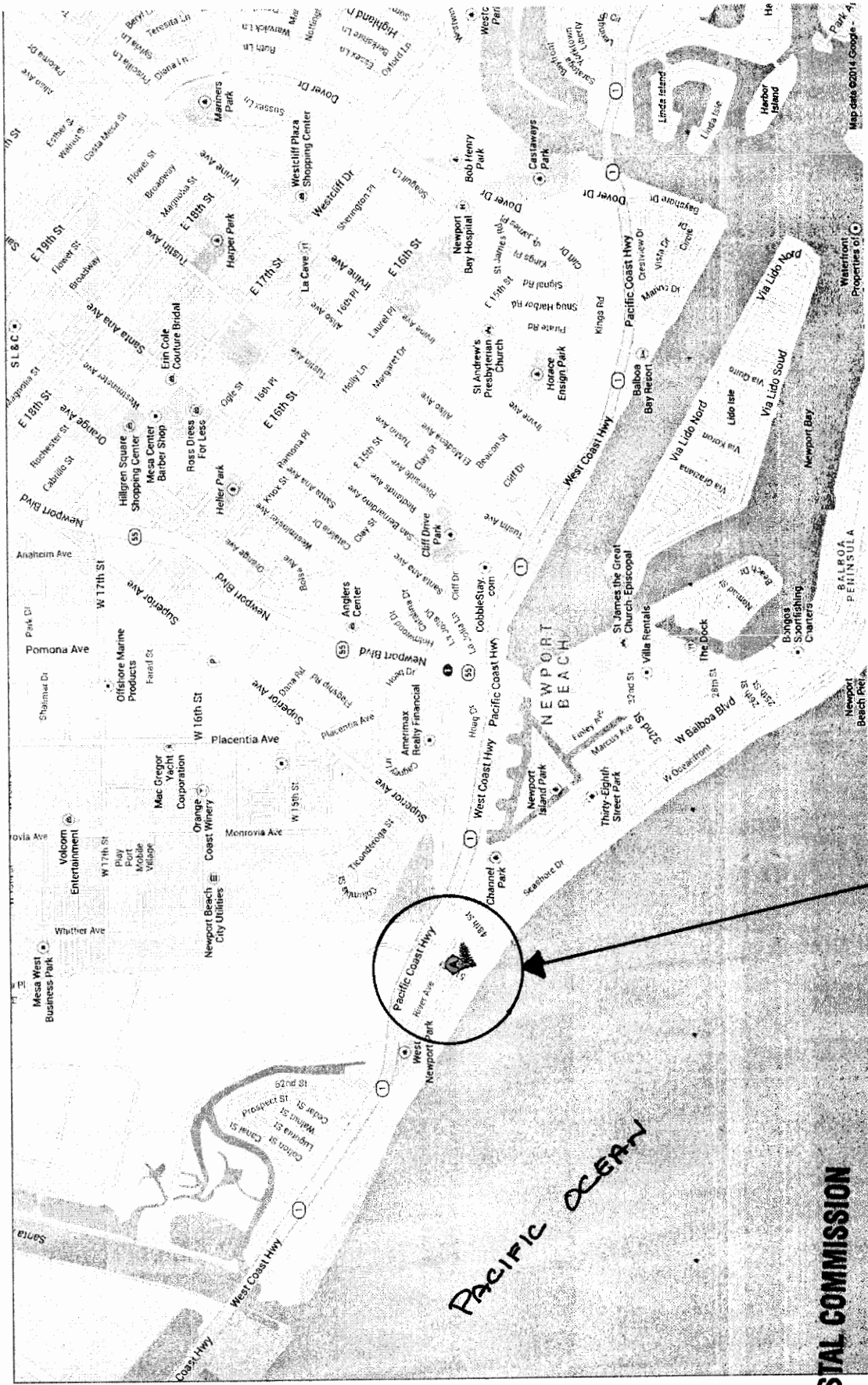
#### **H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

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.



To see all the details that are visible on the screen, use the "Print" link next to the map.

Google



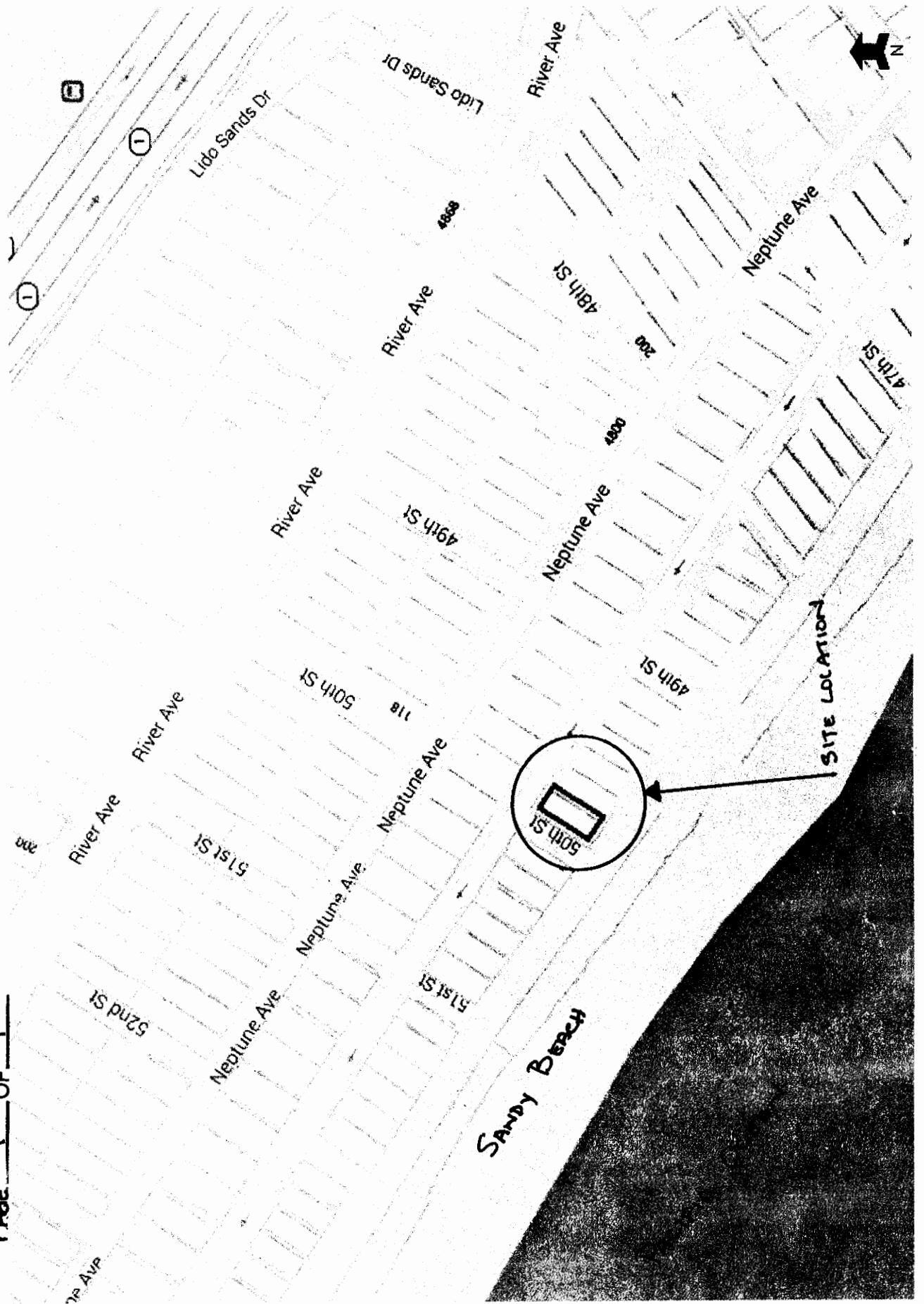
COASTAL COMMISSION

EXHIBIT # 1 OF 1  
PAGE 1 OF 1

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Vicinity Map Prepared for:  
4911 Seashore Drive  
Newport Beach CA 92663

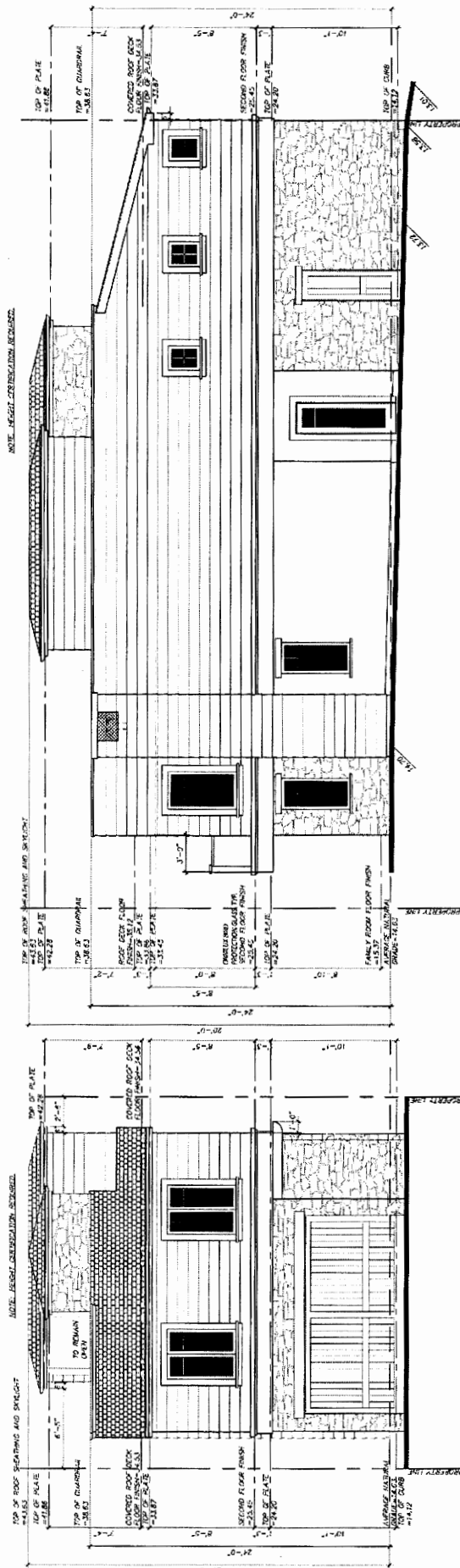
EXHIBIT # 2  
PAGE 1 OF 1





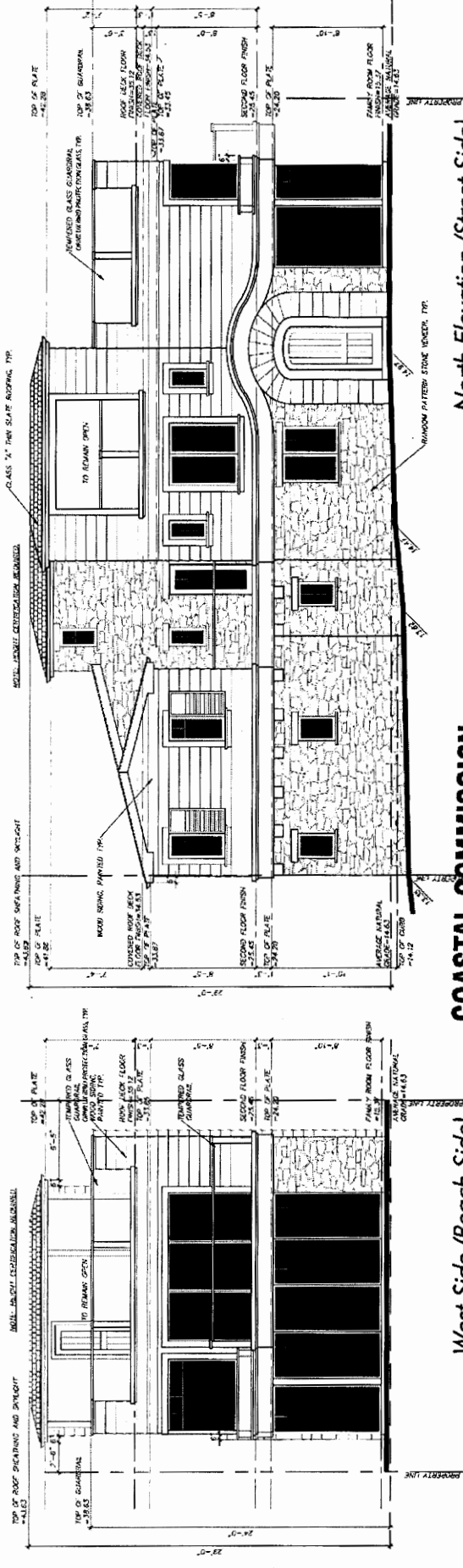
**C.J. LIGHT ASSOCIATES**  
 CHRISTIAN T. LIGHT - ARCHITECT  
 1401 Coast Street, Suite 100  
 Newport Beach, CA 92663  
 Phone: 949.851.4848  
 Fax: 949.851.1114

**4911 Custom Residence**  
 4911 Seashore Drive  
 Newport Beach • California • 92663



**South Elevation (Neighbor Side)**

**East Side (Alley Side)**



**North Elevation (Street Side)**

**West Side (Beach Side)**

Exterior Elevations

Job Number  
 Scale  
 Date

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Exterior Elevations  
 1/4"=1'-0"

EXHIBIT # 3  
 PAGE 1 OF 1

A-3



**C.J. LIGHT ASSOCIATES**  
 Clifton E. Light - Architect  
 1401 Canal Street, Suite 120  
 Newport Beach, CA 92660  
 (949) 851-8242  
 Fax: (949) 851-1116

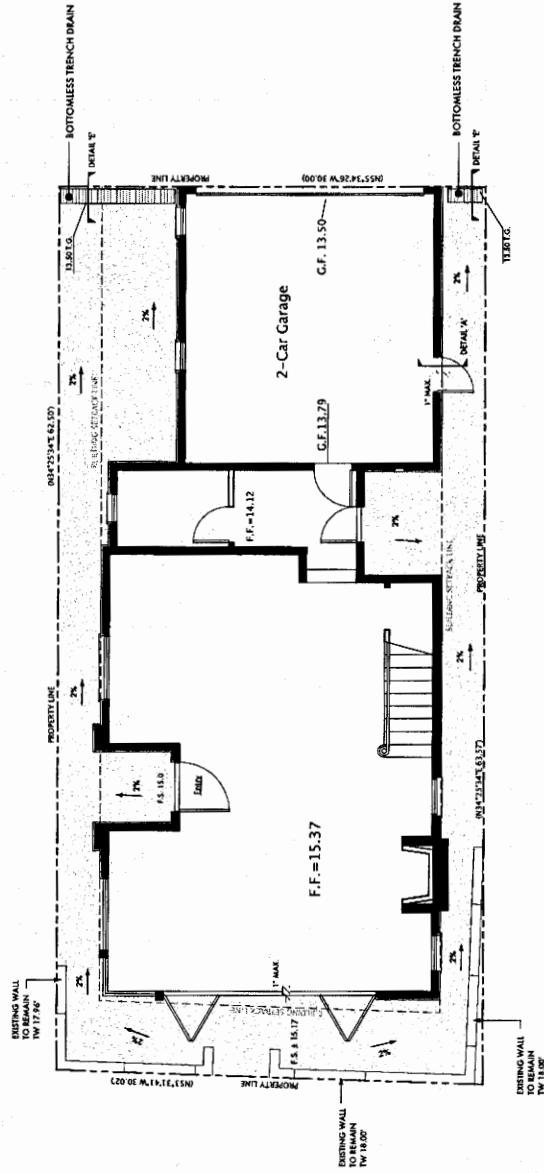
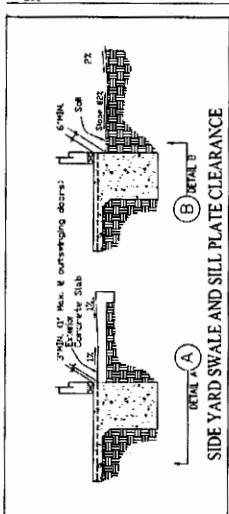
The drawings, specifications and other documents prepared by the Architect for the project are to be used only for the project and site described herein. They are not to be used for any other project, site or purpose without the written consent of the Architect. The Architect is not responsible for any errors or omissions in the drawings, specifications or other documents, or for any consequences arising therefrom, whether or not such errors or omissions are caused in whole or in part by negligence. The Architect's liability is limited to the professional services rendered by the Architect. The Architect is not an insurer of the project and does not assume any responsibility for the success or failure of the project. The Architect's services are limited to the design and construction of the project and do not include any other services. The Architect is not responsible for any delays or cost overruns in the project, whether or not such delays or cost overruns are caused in whole or in part by negligence. The Architect is not responsible for any claims, damages, losses, expenses, costs, fees, or penalties, whether or not such claims, damages, losses, expenses, costs, fees, or penalties are caused in whole or in part by negligence. The Architect is not responsible for any claims, damages, losses, expenses, costs, fees, or penalties, whether or not such claims, damages, losses, expenses, costs, fees, or penalties are caused in whole or in part by negligence.

**Custom Residence**  
 4911 Seashore Drive  
 Newport Beach • California • 92663

Drainage Plan

Job Number: 1320  
 Date: City/ACC Submitted  
 September 27, 2013

DR1



**NOTES:**  
 1. ALL PROPOSED TRENCHES SHALL BE CONNECTED TO THE PHOTO-VOLUNTARY TRENCH DRAIN SYSTEM.

**NOTES:**  
 AN ENCLOSURE AGREEMENT IS REQUIRED FOR ALL MOUNTAINVIEW PRIVATE IMPROVEMENTS WITHIN THE PUBLIC RIGHT-OF-WAY.

**NOTES:**  
 AN ENCLOSURE AGREEMENT IS REQUIRED FOR ALL WORKS WITHIN THE PUBLIC RIGHT-OF-WAY.

**LEGEND:**

1. ALL CONCRETE	14. TOP OF WALL
2. EXISTING WALL	15. W. TO TOP OF WALL
3. EXISTING WALL	16. W. TO TOP OF WALL
4. EXISTING WALL	17. W. TO TOP OF WALL
5. EXISTING WALL	18. W. TO TOP OF WALL
6. EXISTING WALL	19. W. TO TOP OF WALL
7. EXISTING WALL	20. W. TO TOP OF WALL
8. EXISTING WALL	21. W. TO TOP OF WALL
9. EXISTING WALL	22. W. TO TOP OF WALL
10. EXISTING WALL	23. W. TO TOP OF WALL
11. EXISTING WALL	24. W. TO TOP OF WALL
12. EXISTING WALL	25. W. TO TOP OF WALL
13. EXISTING WALL	26. W. TO TOP OF WALL

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EXHIBIT # 4  
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