

**CALIFORNIA COASTAL COMMISSION**

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

**W9b**

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**STAFF REPORT: CONSENT CALENDAR**

**Application No.:** 5-15-2110

**Applicant:** Investium, LLC, A Nevada Limited Liability Company, Attn: Jeffrey A. Miller

**Agent:** Walt Bushman

**Location:** 1608 W. Oceanfront, City of Newport Beach (County of Orange)

**Project Description:** Demolition of an existing single-family residence and construction of a new 3,841 square foot, three-story with a basement, single-family residence with an attached 647 square foot two-car garage on a beach fronting lot.

**Staff Recommendation:** Approval with conditions.

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**SUMMARY OF STAFF RECOMMENDATION**

The applicant is proposing the demolition of an existing single-family residence and construction of a new single-family residence on a beach fronting lot. The major issues raised by this proposed development concern beachfront development that could be affected by waves, erosion, storm conditions, sea level rise or other natural hazards in the future and potential adverse impacts from beach encroachments.

Due to its oceanfront location, the project site may be potentially exposed to the hazard of waves, erosion, storm conditions, sea level rise or other natural hazards. However, the project is consistent with previous Commission approvals in the area and conditions have been imposed in order to minimize potential adverse impacts from the development consistent with the Coastal Act.

Staff is recommending **approval** of the proposed project with Seven (7) Special Conditions regarding: 1) post development runoff plan; 2) no future shoreline protective device; 3) assumption of risk, waiver of liability and indemnity; 4) future development; 5) storage of construction materials, mechanized equipment, and removal of construction debris; 6) landscape controls; and 7) a deed restriction against the property, referencing all of the Special Conditions contained in this staff report.

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 Coastal Land Use Plan and has not exercised the options provided in 30600(b) or 30600.5 to issue its own permits. On September 8, 2016, the Commission approved an Implementation Plan (IP) for the City of Newport Beach; however, the certification of the IP is still pending. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act. The certified Coastal Land Use Plan may be used for guidance.

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### APPENDICES

Appendix A – Substantive File Documents

### EXHIBITS

Exhibit No. 1 – Location Map

Exhibit No. 2 – Site Plan

Exhibit No. 3 – Floor Plans& Roof Plan

Exhibit No. 4 – Elevation Plans

## 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 the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

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

## II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and

possessors of the subject property to the terms and conditions.

### III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

**1. Post Development Runoff Plan.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the Executive Director's review and approval, two (2) full size sets of the final Post Development Runoff Plan that substantially conforms with the architectural plans dated October 30, 2015 and preliminary grading plans dated November 9, 2015. The final Post Development Runoff Plan shall demonstrate that the project complies with the following requirements:

**A. Low Impact Development Strategies.** The project shall comply with the following Low Impact Development standard:

1. Minimize disturbance of coastal waters and natural drainage features such as stream corridors, rivers, wetlands, natural drainage patterns, drainage swales, groundwater recharge areas, floodplains, and topographical depressions.
2. Minimize removal of native vegetation, and plant additional non-invasive vegetation, particularly native plants, that provide water quality benefits such as transpiration, interception of rainfall, pollutant uptake, shading of waterways to maintain water temperature, and erosion control.
3. Maintain or enhance appropriate on-site infiltration of runoff to the greatest extent feasible. Use strategies such as avoiding building impervious surfaces on highly permeable soils; amending soil if needed to enhance infiltration; and installing an infiltration Best Management Practice (BMP) (e.g., a vegetated swale, rain garden, or bio retention system).
4. Minimize the addition of impervious surfaces, and where feasible increase the area of pervious surfaces in re-development. Use strategies such as minimizing the footprint of buildings; minimizing the footprint of impervious pavement; and installing a permeable pavement system where pavement is required.
5. Disconnect impervious surface areas from the storm drain system, by interposing permeable areas between impervious surfaces and the storm drain system. Design curbs, berms, and similar structures to avoid isolation of vegetative landscaping and other permeable areas, and allow runoff to flow from impervious pavement to permeable areas for infiltration. Use strategies such as directing roof-top runoff into permeable landscaped areas; directing runoff from impervious pavement into distributed permeable areas (e.g., turf, medians, or parking islands); installing a vegetated swale or filter strip to intercept runoff sheet flow from impervious surfaces; and installing a rain barrel or cistern to capture and store roof-top runoff for later use in on-site irrigation.
6. Where on-site infiltration is not appropriate or feasible, use alternative BMPs to minimize post-development changes in runoff flows, such as installing an evapotranspiration BMP that does not infiltrate into the ground but uses evapotranspiration to reduce runoff (e.g., a vegetated "green roof," flow-through

planter, or retention pond); directing runoff to an off-site infiltration facility; or implementing BMPs to reduce runoff volume, velocity, and flow rate before directing runoff to the storm drain system.

**B. Implement Source Control BMPs.** Appropriate and feasible long-term Source Control BMPs, which may be structural features or operational practices, shall be implemented to minimize the transport of pollutants in runoff from the development by controlling pollutant sources and keeping pollutants segregated from runoff. Use strategies such as covering outdoor storage areas; using efficient irrigation; proper application and clean-up of potentially harmful chemicals and fertilizers; and proper disposal of waste.

**C. Avoid Adverse Impacts from Stormwater and Dry Weather Discharges.** The adverse impacts of discharging stormwater or dry weather runoff flows to coastal waters, intertidal areas, beaches, bluffs, or stream banks shall be avoided, to the extent feasible. The project shall comply with the following requirements:

1. New coastal bluff outfalls discharging stormwater or dry weather runoff shall be prohibited, and runoff shall be directed inland to the storm drain system or to an existing outfall. If no storm drain system or existing outfall is present, bluff-top runoff shall be directed to an existing drainage channel. Runoff shall not sheet flow over the coastal bluff-top, and may not be directed to the beach or the ocean.
2. Runoff shall be conveyed off-site or to drainage systems in a non-erosive manner. If runoff flows to a natural stream channel or drainage course, determine whether the added volume of runoff is large enough to trigger erosion.
3. Protective measures shall be used to prevent erosion from concentrated runoff flows at stormwater outlets (including outlets of pipes, drains, culverts, ditches, swales, or channels), if the discharge velocity will be sufficient to potentially cause erosion. The type of measures selected for outlet erosion prevention shall be prioritized in the following order, depending on the characteristics of the site and the discharge velocity: (1) vegetative bioengineered measures (such as plant wattles); (2) a hardened structure consisting of loose materials (such as a rip-rap apron or rock slope protection); or (3) a fixed energy dissipation structure (such as a concrete apron, grouted rip-rap, or baffles).
4. The discharge of dry weather runoff to coastal waters shall be minimized, to the greatest extent feasible. Use strategies such as efficient irrigation techniques that minimize off-site runoff.

**D. Manage BMPs for the Life of the Development.** Appropriate protocols shall be implemented to manage BMPs (including ongoing operation, maintenance, inspection, and training) to keep the water quality provisions effective for the life of the development.

**E. Site Plan and Narrative Description.** The Post-Development Runoff Plan shall include a site plan and a narrative description addressing, at a minimum, the following required components:

1. A site plan, drawn to scale, showing the property boundaries, building footprint, runoff flow directions, relevant drainage features, structural BMPs, impervious surfaces, permeable pavements, and landscaped areas.
2. Identification of pollutants potentially generated by the proposed development that could be transported off the site by runoff.

3. An estimate of the proposed changes in (1) impervious surface areas on the site, including pre-project and post-project impervious coverage area and the percentage of the property covered by impervious surfaces; (2) the amount of impervious areas that drain directly into the storm drain system without first flowing across permeable areas; and (3) site coverage with permeable or semi-permeable pavements.
4. A description of the BMPs that will be implemented, and the Low Impact Development approach to stormwater management that will be used. Include a schedule for installation or implementation of all post-development BMPs.
5. A description and schedule for the ongoing management of all post-development BMPs (including operation, maintenance, inspection, and training) that will be performed for the life of the development, if required for the BMPs to function properly.

The permittee shall undertake development in conformance with the approved final revised plans unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

**2. No Future Shoreline Protective Device.**

- A. By acceptance of the permit, the applicant/landowner agrees, on behalf of itself and all successors and assignees, that no new shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-15-2110 including, but not limited to, the residence, garage, driveway/patios, and any other future improvements in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, sea level rise, or any other coastal hazards in the future. By acceptance of this permit, the applicant/landowner hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under applicable law.
- B. By acceptance of this permit, the applicant/landowner further agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this permit including, but not limited to, the residence, garage, and driveway/patios, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above, or if any public agency requires the structure to be removed, or if the State Lands Commission requires the structures to be removed in the event that they encroach on to State tidelands. If any portion of the development at any time encroaches onto public property, the permittee shall either remove the encroaching portion of the development or apply to retain it. Any application to retain it must include proof of permission from the owner of the public property. The permittee shall obtain a coastal development permit for removal of approved development unless the Executive Director determines that no coastal development permit is legally required.

- 3. 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.

**4. Future Development.** This permit is only for the development described in Coastal Development Permit No. 5-15-2110. 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. 5-15-2110. Accordingly, any future improvements to the residence and garage, foundations and patio 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. 5-15-2110 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

**5. 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; and
- M. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

**6. Landscaping-Drought Tolerant, Non-Invasive Plants.** Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. 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>). Use of reclaimed water for irrigation is encouraged. If potable water is used for irrigation only drip or micro spray irrigation systems may be used. Other water conservation measures shall also be considered, such as use of weather based irrigation controllers.

**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 landowners 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 DESCRIPTION AND LOCATION**

The applicant proposes to demolish an existing 1,700 square foot two-story single-family residence with an attached 250 square foot one (1) car garage and construct a new 3,841 square foot, approximately 29 foot high, three-story single-family residence with a basement and attached subterranean, 647 square foot two (2) car garage on a beach fronting lot (**Exhibits No. 2-4**). The 3<sup>rd</sup> floor/roof will incorporate roof top decks and a bathroom. Grading will consist of 543 cubic yards of cut, 66 cubic yards of fill and 477 cubic yards of export to a location outside of the Coastal Zone.

Shoring is proposed with the project. The bottom of the basement will be constructed with a mat slab supported by a shoring system with soldier piles. The mat slab will include a waterproof membrane.

The project site is a beach fronting lot located at 1608 W. Oceanfront within the City of Newport Beach, Orange County (**Exhibit No. 1**). Currently, an existing 1,700 square foot two-story single-family residence with an attached 250 square foot one (1) car garage occupies the project site. The lot size is 3,750 square feet and the City of Newport Beach Coastal Land Use Plan (CLUP) designates the site as Two-Family Residential (RTD) and the proposed project adheres to this designation. The project is located within an existing urban residential area, located generally east of the Newport Pier.

Glass railings are proposed on the 2<sup>nd</sup> floor oceanfronting deck and they will be etched in order to avoid bird strikes.

There is an approximately 510 foot wide sandy beach between the project site and the Pacific Ocean. Due to its oceanfront location, the project site may be potentially exposed to the hazard of waves, erosion, storm conditions, sea level rise or other natural hazards.

Due to its beach fronting location, the project site may be exposed to coastal hazards from sea level rise, erosion, wave attack, flooding and other coastal hazards. To analyze the suitability of the proposed development relative to potential hazards; the applicant has submitted the following coastal hazard analysis of the wave and water level conditions expected at the site as a result of extreme storm, wave action and sea level rise over the next 75-100 years for the planned 75-year life of the proposed residence: *Coastal Hazard and Wave Runup Study, 1608 West Oceanfront, Newport Beach, California* prepared by *Geosoils, Inc.* dated February 5, 2016. The studies states that there is a relatively wide beach, approximately 510 feet wide, in front of the property 99.99% of the time; however, it also states that the site experiences short-term erosion that is temporary and largely the result of an energetic winter. However, the analyses states that there is no evidence of any long-term erosional trend at the site as wave run-up has not reached the site and the site has not been subject to wave attack for at least 50 years.

The analyses state that the historical highest ocean water elevation in this project area is +7.49 feet NAVD88. At +13.50 feet NAVD88, the finished floor elevation of the first floor of the proposed residence will be +6.01 feet above historical highest ocean water elevation. However, the proposed development also includes a basement, which has a finished floor elevation of +5.0 feet NAVD88. The basement finished floor elevation is below the historical highest ocean water elevation and would result in flooding under any sea level rise scenario.

Based on sea level rise projections from the National Research Council (NRC) 2012 report, sea levels may rise between 1.4-feet to 5.5-feet by the year 2100. If there were to be a 5.5 foot rise (the upper range of the NRC projections for southern California), an extreme high tide still water level of +12.99 feet NAVD88 (+7.49 feet MLLW + 5.5 feet = +12.99 feet NAVD88) could result. Such a rise would not exceed the finished first floor elevation, but only minimally by 0.51 feet during peak tide or tide and wave events. Therefore, the proposed development may be impacted by future flooding hazards if sea level rise approaches the upper range of the NRC projections. In addition, the proposed basement with a finished floor elevation of +5.0 feet NAVD88 would flood under any sea level rise scenario.

While the analyses provide these scenarios that would result in flooding of the site from sea level rise, the analysis also investigated wave overtopping in conjunction with these sea level rise scenarios. The analysis determined that over the project design life (75 years) that the estimated sea level rise for the year 2090 would be 1.25 feet (minimum) and 4.75 feet (maximum). Taking into consideration the maximum sea level rise of 4.75 feet into the calculated overtopping rate, the wave bore may travel approximately 130 feet from the shoreline, which is short of the project site as a beach width of 380 feet (510 feet – 130 feet = 380 feet) would still be present in this scenario. The analysis' extreme sea level rise determination of 4.75 feet and the upper range of 5.5 feet of the NRC projections are approximately similar and under both scenarios, the wave bore will not travel to the project site. The analysis concludes by saying that overtopping waters over the next 75 years most likely will not reach the project site even under the extreme design conditions. Furthermore, the analysis states that any water that reaches the site will not have sufficient velocity to cause erosion or damage.

The analysis also evaluated the impact of sea level rise on groundwater that may impact the basement and foundation. To mitigate groundwater issues, the analysis recommends that all below grade foundations, including flatwork and retaining walls be properly waterproofed to an elevation of approximately +12 feet NAVD88.

The proposed project was analyzed to determine if it will be impacted by sea level rise and based upon the analysis above it has been determined that no future shoreline protective device for the proposed residence is necessary. Additionally, the impact of sea level rise on groundwater levels in Newport Beach has recently been the subject of some concern due to the high groundwater levels in the coastal areas of the City. The applicant's study concludes that the raised groundwater level will not adversely impact the structure, because the development will be waterproofed in compliance with the current construction standards. Furthermore, the basement and foundation design have taken the groundwater level into consideration. In addition, the basement is not designed as a

shoreline protective device nor will it act like one. Therefore, the subterranean basement is not considered to be a shoreline protective device.

Although the applicant's reports indicate that the site is safe for development at this time, beach areas are dynamic environments and may be subject to unforeseen changes. Such changes may affect beach processes. To minimize the project's potential future impact on shoreline processes, the Commission imposes **Special Condition No. 2**, which prohibits construction of any future shoreline protective device(s) to protect the development approved pursuant to Coastal Development Permit No. 5-15-2110 including, but not limited to residence and garage, foundations, patio and any other future improvements in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, flooding, sea level rise or other natural coastal hazards in the future. Although no shoreline protection is necessary, the proposed development is located in an area where coastal hazards exist and can adversely impact the development. Therefore, the Commission imposes **Special Condition No. 3**, which requires the applicant to assume the risk of development.

Since coastal processes are dynamic and structural development may alter the natural environment, future development adjacent to the beach could adversely affect future shoreline conditions if not properly evaluated and 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 result in adverse impacts to coastal processes, the Commission imposes **Special Condition No. 4**, which informs the applicant that future development at the site requires an amendment to Coastal Development Permit No. 5-15-2110 or a new coastal development permit.

The proposed project is considered development and there is an opportunity to improve water quality. To minimize erosion and prevent debris from being dispersed down the storm drain system leading to the ocean during construction, the Commission imposes **Special Condition No. 5**, which provides construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris.

The project did not include a drainage plan for the project site showing how the project minimizes any adverse water quality impacts the proposed project may have during and after construction. Therefore, the Commission imposes **Special Condition No. 1**, which requires the applicants to submit a post development runoff plan that shows roof drainage and runoff from all impervious areas directed to dry wells or vegetated/landscaped areas. Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive.

The applicant has stated that they shall also comply with the applicable water efficiency and conservation measures of the City's adopted CALGreen standards concerning irrigation systems, and efficient fixtures and appliances.

Due to the high groundwater level, construction of the subterranean basement will require temporary dewatering. The applicant has submitted a dewatering plan that will use include the use of six (6) dewatering wells, 24 inch in diameter, approximately 40 feet deep and assumes the water table is at elevation +5+/. The wells are assumed to be at elevation +11 feet to +14 feet. The water will be

discharged to beach at the surf zone via a discharge pipe that go below the adjacent Oceanfront Boardwalk and then buried underneath the sand along the public beach. The applicant has obtained approval for temporary dewatering of the project site from the Regional Water Quality Control Board (RWQCB).

There are a variety of Coastal Act issues raised by the temporary dewatering plan including impacts to public access caused by the pipe crossing a public boardwalk and beach, water quality issues raised by the discharge of groundwater to the ocean, and the potential for beach erosion caused by high velocity flows at the outfall of the temporary pipe. Alternatives to the proposed beach discharge were considered but found to be infeasible. Thus, each of these issues raised by the proposed plan has been addressed by the applicant's revisions to their dewatering plan. The applicant's revisions include: burying the entire length of the temporary discharge pipe on the public beach; limiting dewatering activities to the non-summer period, which is between the first week of September (Labor Day) and the last week of May (Memorial Day); immediate remove of all infrastructure associated with dewatering activities once dewatering is complete; and returning all areas disturbed by dewatering activities to pre-construction condition. Thus, the applicant's revised dewatering plan has been revised to assure that there are no adverse impact to public access and water quality.

As conditioned, the proposed project will not have an adverse effect on public access. The project site is located on the inland portion of Oceanfront, which consists of the City's paved beachfront public lateral access way (Oceanfront Boardwalk). The Commission has found through previous permit actions in this area that the City's setback in this area is acceptable for maintaining public access. The proposed project is consistent with the City's 9 foot required setback from the oceanward property line. Vertical public access to this beach is available approximately 95 feet east (downcoast) of the project site at the end of 16<sup>th</sup> Street and approximately 275 feet west (upcoast) at the end of 17<sup>th</sup> Street. Lateral public access is available along the boardwalk and wide sandy beach oceanward of the project site. The proposed development provide adequate parking based on the Commission's regularly used parking standard of two (2) parking spaces per individual dwelling unit.

Currently, no landscaping is being proposed. If it were proposed in the future, the placement of any vegetation that is considered to be invasive which could supplant native vegetation should not be allowed and water-efficient practices should be followed. Therefore in order to minimize the use of water and the spread of invasive vegetation, the Commission imposes **Special Condition No. 6**, which imposes landscape controls that require that all vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive.

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 **Special Condition No. 7**, which requires 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.

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

## **D. 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 with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

## **E. WATER QUALITY**

The proposed development has a potential for a discharge of polluted run-off 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, reducing run-off through the use of permeable surfaces, the use of non-invasive drought tolerant vegetation to reduce and treat the run-off 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 with 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 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, 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 (LCP)**

The LUP for the City of Newport Beach was effectively certified on May 19, 1982. The certified LUP was updated on October 8, 2009. On September 8, 2016, the Commission approved an Implementation Plan (IP) for the City of Newport Beach. The certification of the IP is still pending. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act, with the certified Coastal Land Use Plan for the area, and the approved Implementation Plan for the area that is pending certification. 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.

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

The City of Newport Beach is the lead agency responsible for certifying that the proposed project is in conformance with the California Environmentally Quality Act (CEQA). The City determined that in accordance with CEQA, the project is ministerial or categorically exempt. Section 13096(a) of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA).

Although the proposed development is categorically exempt from CEQA, the Commission has imposed conditions to ensure conformity with Coastal Act requirements. 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 consistent with the requirements of the Coastal Act and CEQA.

## **APPENDIX A**

**SUBSTANTIVE FILE DOCUMENTS:** Approval-In-Concept from the City of Newport Beach Planning Department dated November 4, 2015; *Preliminary Geotechnical Engineering Investigation, Proposed Residential Development, 1608 West Oceanfront Avenue, Newport Beach, California (Project Number 17652-14)* prepared by NorCal Engineering dated September 12, 2014; Letter from Commission staff to agent dated January 22, 2016; Information from applicant to Commission staff received February 16, 2016; *Coastal Hazard and Wave Runup Study, 1608 West Oceanfront, Newport Beach, California* prepared by *Geosoils, Inc.* dated February 5, 2016; Letter from Commission staff to agent dated March 7, 2016; Information from applicant to Commission staff received July 18, 2016; and Letter from Dale Hinkle, P.E. PLLC dated November 9, 2016.





**Project Site**

- GENERAL NOTES:**
1. ALL CONSTRUCTION SHALL COMPLY WITH THE BUREAU OF CALIFORNIA CIVIL ENGINEERING AND LOCAL ORDINANCES.
  2. THE CONTRACTOR SHALL VERIFY THE EXISTING CONDITIONS AND DIMENSIONS PRIOR TO THE START OF CONSTRUCTION.
  3. ANY DISCREPANCIES BETWEEN THE DRAWINGS AND ACTUAL SITE CONDITIONS SHALL BE BROUGHT TO THE ATTENTION OF THE OWNER.
  4. THE CONTRACTOR IS RESPONSIBLE FOR PROTECTING ANY EXISTING UTILITIES FROM DAMAGE DURING THE COURSE OF CONSTRUCTION.
  5. THE CONTRACTOR SHALL PROVIDE ALL NECESSARY PERMITS AND INSURANCES, OTHER THAN PLANS CHECK AND BUILDING PERMITS.
  6. PROVIDED BY THE OWNER.
  7. THE CONTRACTOR SHALL MAINTAIN LIABILITY INSURANCE TO PROTECT THE OWNER AND HOLD THE DESIGNER AND OWNER HARMLESS FROM NEGLIGENCE.
  8. THE CONTRACTOR SHALL MAINTAIN LIABILITY INSURANCE TO PROTECT THE OWNER AND HOLD THE DESIGNER AND OWNER HARMLESS FROM NEGLIGENCE.
  9. THE CONTRACTOR SHALL MAINTAIN LIABILITY INSURANCE TO PROTECT THE OWNER AND HOLD THE DESIGNER AND OWNER HARMLESS FROM NEGLIGENCE.
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  18. THE CONTRACTOR SHALL MAINTAIN LIABILITY INSURANCE TO PROTECT THE OWNER AND HOLD THE DESIGNER AND OWNER HARMLESS FROM NEGLIGENCE.
  19. THE CONTRACTOR SHALL MAINTAIN LIABILITY INSURANCE TO PROTECT THE OWNER AND HOLD THE DESIGNER AND OWNER HARMLESS FROM NEGLIGENCE.
  20. THE CONTRACTOR SHALL MAINTAIN LIABILITY INSURANCE TO PROTECT THE OWNER AND HOLD THE DESIGNER AND OWNER HARMLESS FROM NEGLIGENCE.

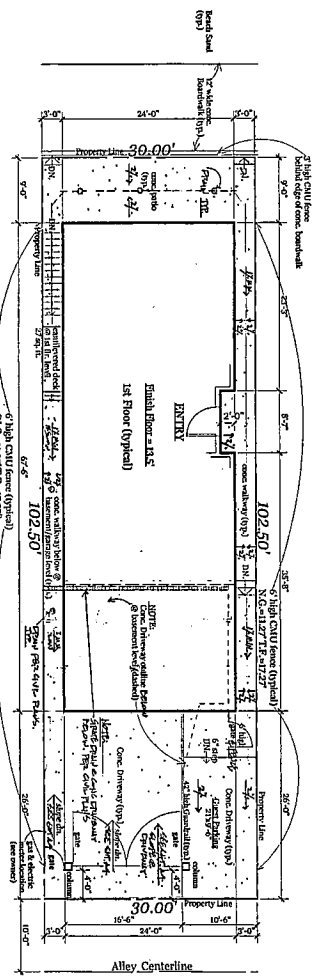
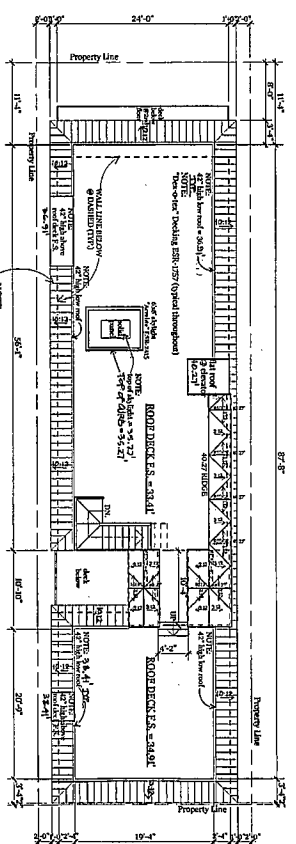
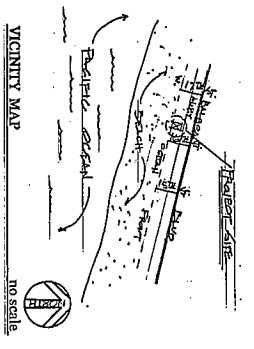
**SHEET INDEX:**

- A1 - PROJECT INFORMATION, SITE PLAN, ROOF PLAN
- A2 - BASEMENT P.L.R. PLAN, 1ST FLOOR PLAN
- A3 - 2ND FLOOR PLAN, 3RD FLOOR PLAN
- A4 - EXTERIOR ELEVATIONS, A-5 - Landscape (Sheet 5407-1)
- TS - TOPOGRAPHIC SURVEY

**RECEIVED**  
 South Coast Region

FEB 16 2016

CALIFORNIA  
 COASTAL COMMISSION



**SITE PLAN**  
 Scale: 1/8" = 1'-0"

**PROJECT DATA:**

LOT: 4  
 APR: 04/20/16  
 ZONE: R-2  
 LOT SIZE: 3075 S.F.  
 OCCUPANCY GROUP: R-20  
 DESCRIPTION OF USE: SINGLE FAMILY RESIDENCE  
 CODE: 203 BDITION CALIF. CIVIL ENGINEERING AND LOCAL ORDINANCES  
 & 203 CALIF. RESIDENTIAL CODE  
 FIRE SPRINKLER: This building shall be equipped with a fire sprinkler system in accordance with NFA 130, Open fire sprinkler permit prior to calling for roof sheathing inspection.

**SCOPE OF WORK:**

SINGLE FAMILY RESIDENCE (THREE STORIES)  
 BASEMENT: 4471 S.F.  
 GARAGE: 6492 S.F.  
 FIRST FLOOR LIVING: 1634 2/3 S.F.  
 SECOND FLOOR LIVING: 1452 1/2 S.F.  
 THIRD FLOOR LIVING: 1452 1/2 S.F.  
 SECOND FLOOR DECK @ OCEAN FRONT: 168 S.F.  
 SECOND FLOOR DECK @ SIDEYARD: 144 S.F.  
 ROOF DECK: 1948 S.F.  
 TOTAL LIVING AREA: 38444.6 S.F. (including basement, excluding garage)

**MAX. ALLOWABLE BLDG. AREA:**

93.5 x 24 = 2244 x 2 = 4488  
 OPEN SPACE REQUIRED:  
 93.5 x 24 = 2244 x 5% = 112.2  
 OPEN SPACE PROVIDED:  
 792 S.F.

**PROJECT CONSULTANTS:**

WALT BUSHMAN - CUSTOM HOME DESIGN  
 VAB & LEO  
 2405 SANTA ANA AVE  
 COSTA MESA, CA 92626  
 (949) 274-0824  
 (949) 274-0824

STRUCUTURAL ENGINEER: QIANQIAN - AOR ENGINEERING, INC.  
 8333A AVALA, CA 92705  
 (714) 962-0510

GEOTECHNICAL: MINO-TAKASHI CHEN - COAST GEOTECHNICAL, INC.  
 11111 BURNING WOOD DRIVE  
 FULFERTON, CA 92633  
 (714) 970-1011

ARCHITECT: KON WHEDELA - AIAA ENGINEERING, INC.  
 22016 LAKE FOREST DR., SUITE 409  
 LAGUNA HILLS, CA 92653  
 (949) 858-5294

**PREPARED SUBMITTALS:**

1. The contractor shall submit to the project architect or engineer of record and certified prior to submittal for plan check or approval by the city:  
 1. Proposed construction details for review and approval by the city.  
 2. Proposed construction details for review and approval by the city.  
 3. Proposed construction details for review and approval by the city.  
 4. Proposed construction details for review and approval by the city.  
 5. Proposed construction details for review and approval by the city.

**SPECIALTY PERMITS:**

1. A valid Water Department permit is required for all work activities within the project boundaries.  
 2. A valid Fire Department permit is required for all work activities within the project boundaries.  
 3. A valid Public Works Department permit is required for all work activities within the project boundaries.  
 4. A valid Planning Department permit is required for all work activities within the project boundaries.  
 5. A valid Building Department permit is required for all work activities within the project boundaries.

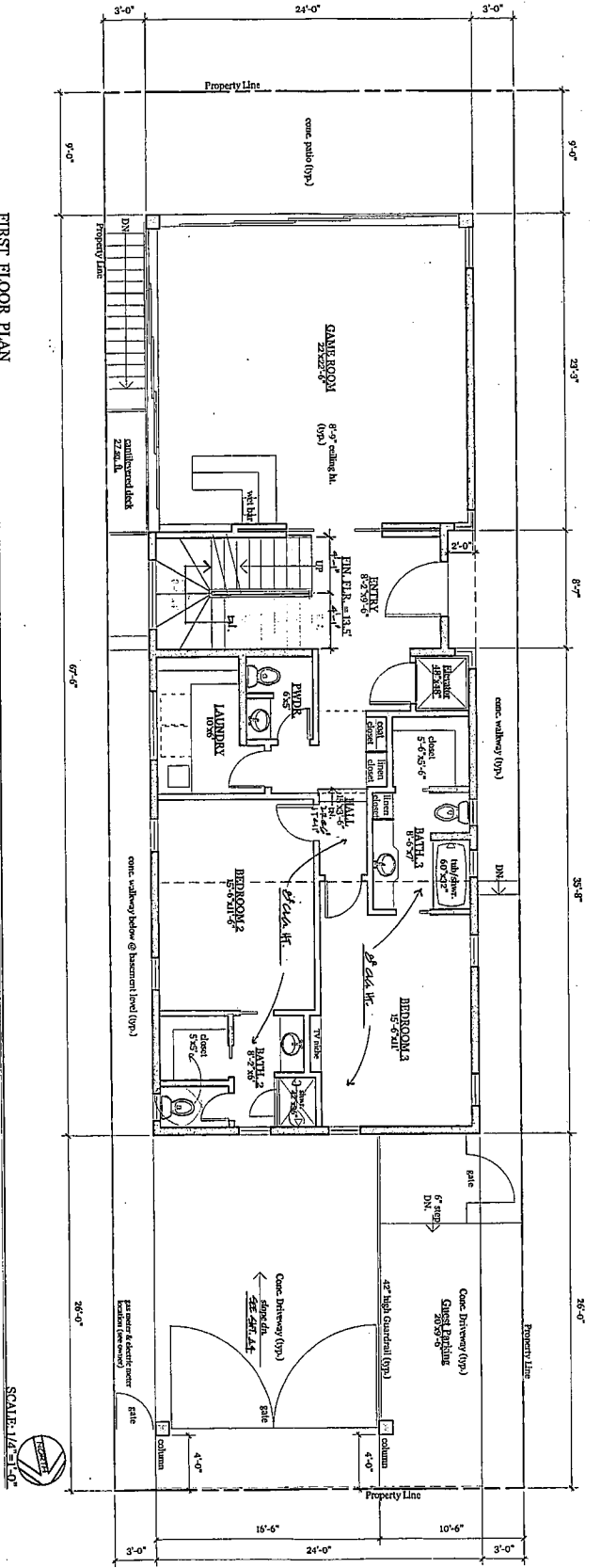
Plans prepared by Walt Bushman @  
 Custom Home Design

**WB & LEO**  
 Certified Civil, Structural & Mechanical  
 949.274.0824  
 2480 Santa Ana Ave., Costa Mesa, CA, 92627

**MILLER RESIDENCE**  
 1608 W. Ocean Front  
 Newport Beach, CA. 92661

Exhibit No. 2  
 Page 1 of 1

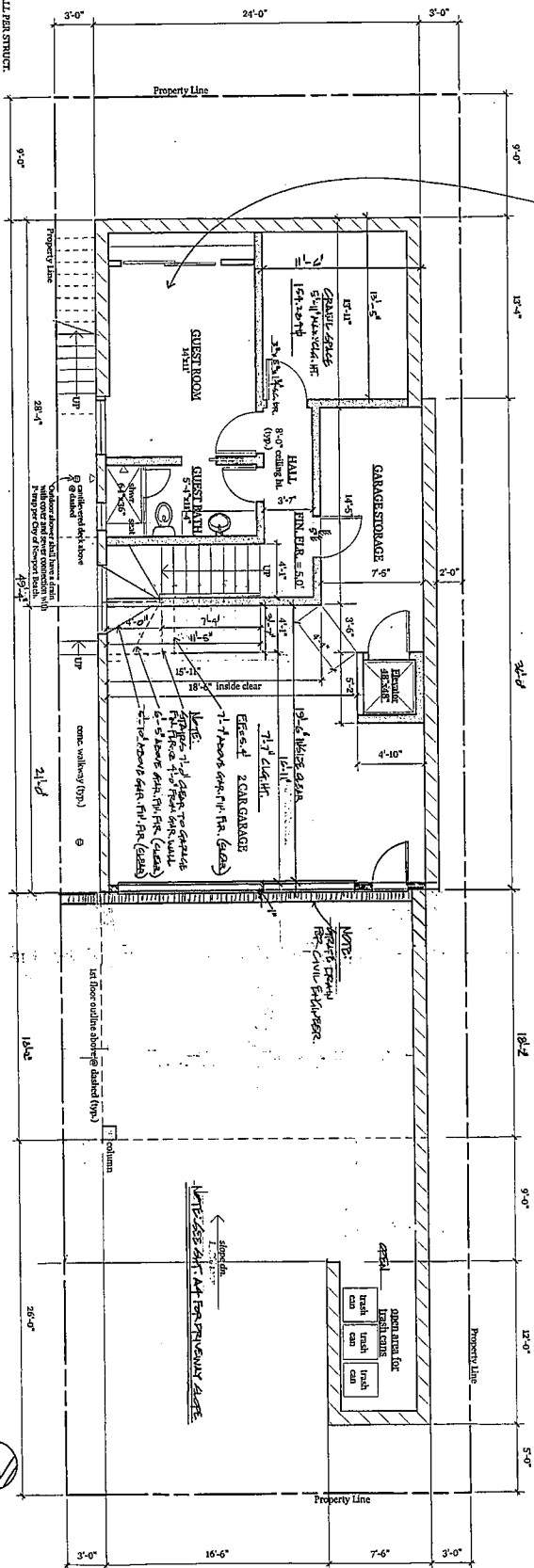
Project Information	Site Plan	Roof Plan
Date: 10/30/2015	Scale: AS NOTED	Scale: AS NOTED
Drawn: A.S. NOTED	Checked: A.S. NOTED	Checked: A.S. NOTED
Sheet: A1	Sheet: A1	Sheet: A1
Scale: AS NOTED	Scale: AS NOTED	Scale: AS NOTED



FIRST FLOOR PLAN

SCALE: 1/4" = 1'-0"

WALL LEGEND:  
 CONC. WALL PER STRUCT.  
 2x6 STUDS @ 16" O.C. WITH R-5 INSUL.  
 2x4 STUDS @ 16" O.C. WITH R-5 INSUL.



BASEMENT FLOOR PLAN

SCALE: 1/4" = 1'-0"

MILLER RESIDENCE  
 1608 W. Ocean Front  
 Newport Beach, CA. 92661

Exhibit No. 3  
 Page 1 of 2

Plans prepared by Walt Bushman @  
 Custom Home Design

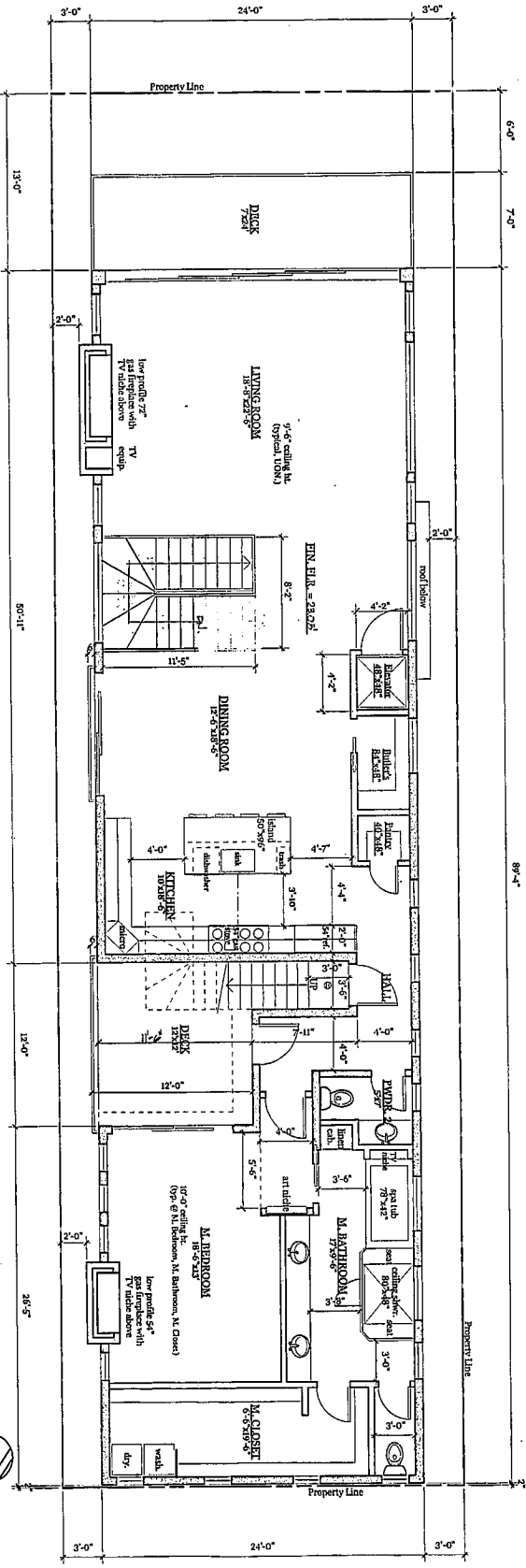
**WB & LEO**  
 Certified Green Building Professional  
 949.274.0824  
 2480 Santa Ana Ave., Costa Mesa, CA. 92627

ONE OVER ONE	Basement Floor Plan
ONE OVER ONE	First Floor Plan
ONE OVER ONE	Scale AS NOTED
ONE OVER ONE	Drawn BY [Name]
ONE OVER ONE	Check BY [Name]
ONE OVER ONE	Date 2008
ONE OVER ONE	Sheet

SCALE: 1/4" = 1'-0"

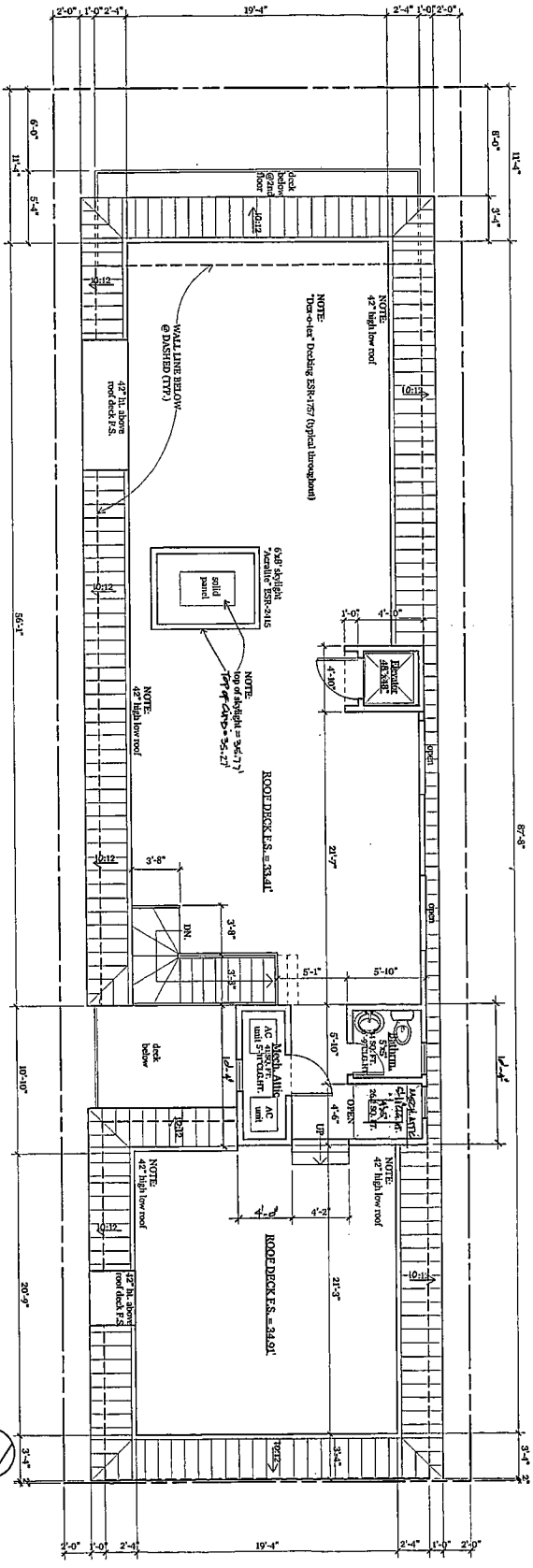
**WALL LEGEND:**  
 2x6 STUDS @ 16" OC WITH R-19 INSUL.  
 2x4 STUDS @ 16" OC WITH R-15 INSUL.

**SECOND FLOOR PLAN**



SCALE: 1/4" = 1'-0"

**THIRD FLOOR/ROOF PLAN**



SCALE: 1/4" = 1'-0"

AS3

DATE: 10/29/2005	PROJECT: Miller Residence
DRAWN: AS NOTED	CHECKED: W. Bushman
SCALE: 1/4" = 1'-0"	DATE: 10/29/2005

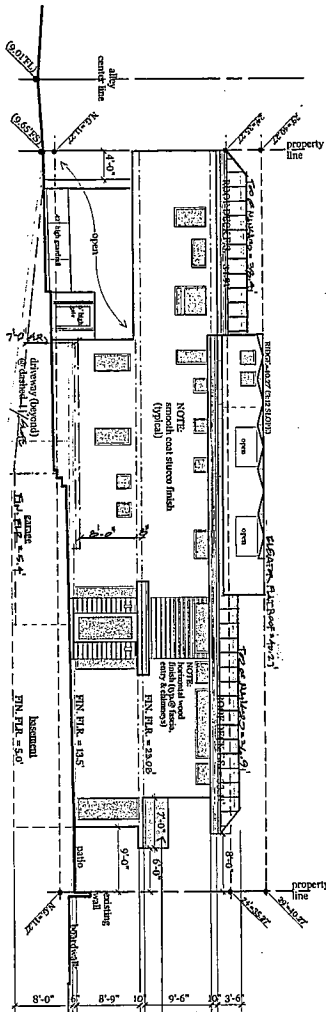
**MILLER RESIDENCE**  
 1608 W. Ocean Front  
 Newport Beach, CA. 92661

Exhibit No. 3  
 Page 2 of 2

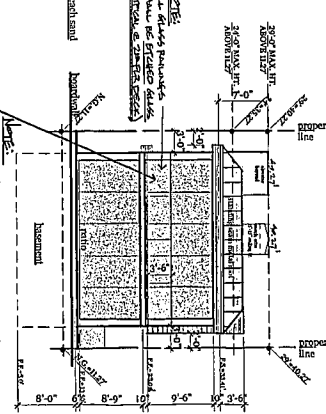
Plans prepared by Walt Bushman @  
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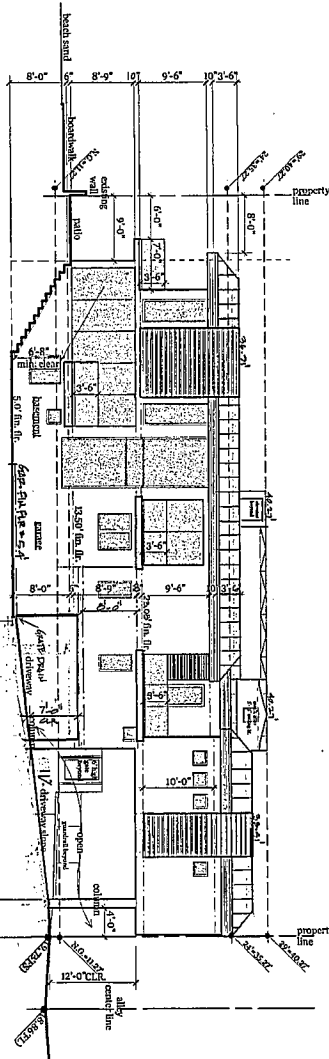
ENTRY ELEVATION (WEST)  
1/8" = 1'-0"



OCEAN FRONT ELEVATION (SOUTH)  
1/8" = 1'-0"

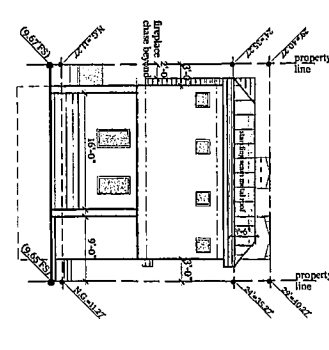


SIDE ELEVATION (EAST)  
1/8" = 1'-0"



$9.75 - 5.4 = 4.35 / 5.9 = 1/12$

ALLEY ELEVATION (NORTH)  
1/8" = 1'-0"



APPROXIMATE GRADE: CLACK  
12'-95" + 12'-6" + 9'-61" + 9'-6" = 45'-07/4  
= 11.27  
NOTE:  
ESTABLISHED AVERAGE N.G.  
PER PLANNING DEPT. = 11.27

MILLER RESIDENCE  
1608 W. Ocean Front  
Newport Beach, CA. 92661

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Custom Home Design

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Exterior Elevations

Exhibit No. 4

Page 1 of 1

A4