

CALIFORNIA COASTAL COMMISSION

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



F22a

A-5-NPB-18-0006 (NICHOLSON CONSTRUCTION)

AUGUST 10, 2018

EXHIBITS

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RECEIVED
South Coast Region

STATE OF CALIFORNIA - THE RESOURCES AGENCY

EDMUND G. BROWN JR., Governor

CALIFORNIA COASTAL COMMISSION

JAN 22 2018

SOUTH COAST DISTRICT OFFICE

200 OCEANGATE, 10TH FLOOR

LONG BEACH, CA 90802-4418

VOICE (562) 590-5071 FAX (562) 590-5084

CALIFORNIA
COASTAL COMMISSION

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: James M. Mosher

Mailing Address: 2210 Private Rd.

City: Newport Beach

Zip Code: 92660

Phone: (949) 548-6229

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Newport Beach
2. Brief description of development being appealed: Demolition of existing 2,260 square foot single family home & replacement with 4,500 sf home, plus rooftop deck, on a bluff-face lot where the LCP allows at most 2,865 sf.
3. Development's location (street address, assessor's parcel no., cross street, etc.):
2607 Ocean Blvd., Corona del Mar, CA. 92625
APN: 052-041-05 (Orange County)
4. Description of decision being appealed (check one.):
☐ Approval; no special conditions
☒ Approval with special conditions:
☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO:

A-5-NPB-18-0006

DATE FILED:

1-22-2018

DISTRICT:

South Coast.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
☐ City Council/Board of Supervisors
☒ Planning Commission
☐ Other

6. Date of local government's decision: December 7, 2017 (final 1/6/2018)

7. Local government's file number (if any): CD2017-80

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Nicholson Construction (attn: John Ramirez)
 1 Corporate Plaza, #110
 Newport Beach, CA. 92660

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/~~county~~/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

- (1) Darrin Ginsberg (property owner)
 301 Carnation
 Corona del Mar CA 92625

- (2) (names of ~105 other people who wrote to city or spoke at hearings regarding this application will be supplied electronically)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)**SECTION IV. Reasons Supporting This Appeal****PLEASE NOTE:**

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

I believe the local approval was inconsistent with the City's recently-certified LCP.

The project is not designed and sited to minimize impacts to public coastal views (CLUP Policy 4.4.1-2) or impacts to natural landforms (CLUP Policy 4.4.1-3). In addition, the project proposes to privatize (by gating) a significant amount of public view land above and to the west of the property (at the top of the bluff) in contradiction of basic Coastal Act premises.

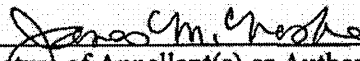
The oversized development was made possible by granting "variances" to the setback standards in the LCP, even though no such authority exists in the LCP and ~~the~~ request to include such authority & develop the findings necessary to exercise it is pending before the CCC as a request for a major amendment to the LCP.

Even without the variances, this development would be problematic, but with them, the City has made possible building on the presently undeveloped western half of lot/bluff face, as well as construction higher than would otherwise be allowed.

As to exhaustion of local remedies, an appeal to the City Council, Piled ^{by me} on 12/21/2017, was returned ^{by the city} with a letter dated 1/9/2018 stating no action would be taken due to failure to pay required appeal fees.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)**SECTION V. Certification**

The information and facts stated above are correct to the best of my/our knowledge.


Signature of Appellant(s) or Authorized Agent

Date: Jan. 21, 2018

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize n/a
to act as my/our representative and to bind me/us in all matters concerning this appeal.

n/a
Signature of Appellant(s)

Date: n/a

CCC 5-NPB-18-0018 appeal (2607 Ocean Blvd, Corona del Mar) : Interested Parties list
compiled by: Jim Mosher jimmosher@yahoo.com

This is a list of all persons who submitted letters to, or spoke at, the two Newport Beach Planning Commission meetings, with all the contact information that can be gleaned from the archived meeting materials

November 9, 2017, meeting archive: <http://ecms.newportbeachca.gov/Web/0/foi/1236677/Row1.aspx>
December 7, 2017, meeting archive: <http://ecms.newportbeachca.gov/Web/0/foi/1241129/Row1.aspx>
(those not noted as "Support" expressed opposition to the approval)

Name	Address	City	Zip	email	phone	Nov 9, 2017		Dec 7, 2017		Support	Notes
						spoke	wrote	spoke	wrote		
Tom Nicholson	1 Corporate Plaza, Suite 110	NB	92660			x		x	x	x	Nicholson (appearing for property of)
John P. Ramirez	1 Corporate Plaza, Suite 110	NB	92660	john@nicholsoncompanies.com	562-818-6719	x		x	x	x	
Darrin Ginsberg	301 Carnation					x		x		x	
Paul Tobin				paultobin@gmail.com			x				
Launi Preedger				lpreedger@gmail.com			x				
Susan Skinner	Warwick Lane			seskinner@me.com		x		x	x		I hope that
Brian Benoit	2616 Cove St.	Cdm		brianbenoit@gmail.com				x	x		
Karen Carlson				kkc2616@aol.com				x	x		
Andy Lingie				andylingie@gmail.com							
Elaine Linhoff				elinhoff@shoglobal.net	949-548-7646	x					
Don Harvey	Weybridge Place	Balboa		harveydonw@luno.com		x					
Lynn Lorenz				lynnetr@aol.com		x			x		
Lynn Swain	Big Canyon			lynn@lynswain.com		x					
Kent S. Moore	201 Carnation Ave.	Cdm	92675	kentmoore@roadrunner.com	949-244-1832	x		x	x		
Martha S. Peyton	212 1/2 Fernleaf Ave	Cdm	92675	mpeyton112@gmail.com		x		x	x		
George V. Kent, M.D.	4627 Gorham Dr.	NB	92663	gvkent@mac.com		x					
Vicki Ronaldson	506 San Bernardino Ave	Cdm		vronaldson@gmail.com		x					
Cynthia Bartlett	417 Cabrillo Terrace	Cdm		hunnabee1951@gmail.com		x					
Maureen Buffington	110 Yorktown	NB		buffington_santo@yahoo.com		x					
Sally Corngold	2241 Donnie Rd.			sallycorngold@gmail.com	949-644-5578	x					
Scott Paulsen				hsapaul@aol.com		x					
Harold Schneider	3607 Seabreezlane	Cdm		hofftheback@gmail.com		x					
Rollin Daniel				rkdenielm2@gmail.com		x					
Jim Warren				jimsandrawarren@mac.com		x					
John Cummings	2600 Ocean Boulevard	NB	92660	jimmosher@yahoo.com	949-548-6229	x		x	x		appellant
Jim Mosher	2210 Private Rd			mammacub2@icloud.com		x					
Vicki Cibeiro				pmd81@aol.com		x					
Marsha Kendall				karen.h.clark@gmail.com		x					
Karen H. Clark	2618 Cove Street	Cdm		joelgraves123@gmail.com	714-307-4214	x			x		
Joel Graves	615 S Marguerite Avenue	Cdm	92625	joelgraves@me.com		x			x		
Joy Brenner				paula@drcastron.com		x					
Paula Castanon				tomlibaker@hotmail.com		x			x		
Tom Baker				stavlous@cox.net		x					
Phoebe Loos				slavos@cox.net		x					
Dan Cohen	2007 Highland Drive	NB	92660	dcclen@maui.net		x					
Jean MacGregor and Charles Whisonant				jlmacgregor@rmx.com		x					
E. J. Bastien				elbstien@gmail.com		x			x		

Marianne Farrell	Irvine Terrace		whtsteead@me.com	X		
Jerry and Kathy Thompson	2701 Shell	China Cove	secretfallsranch@yahoo.com	X		
Mary Ann Hemphill	230 Agate Avenue		mahemphill@aol.com	X		
Bruce Bartram	2 Seaside Circle	NB	92663 gpa1xavo@verizon.net	X		
Beatriz Tirkanits	3607 Seabreeze Ln	CDM	92625 btrittkanits@gmail.com	X		
Portia Weiss	421 San Bernardino Avenue	NB	92663 portlaweiss@gmail.com	X		
Julia Gold	2601 Way Lane	CDM	92625	X		
Linda Beek	2616 Way Lae	CDM		X		
Ronald J. Thommarson	4 Hutton Centre Dr #900	Santa Ana	92707 rthommarson@hartkinglaw.com	X		
Allan Beek				X		
Beth Kiley	Jasmine Creek		enkappp@aol.com	X		
Dorothy Kraus	Heilortope		feguinhart@aol.com	X		
Margaret Quinlan	Westcliff			X		
Nancy Skinner	2608 Ocean Blvd		snavarro@furnanco.com	X		
Steve Navarro	2552 Vista Dr		murphy.charlene@gmail.com	X		
Charlene and Rick Murphy			cal.lincolin@gmail.com	X		
Carol H. Lincoln and Catherine Lincoln			lindsastadler@gmail.com	X		
Tom Fredericks and Linda Stadler			patlynnesbt@yahoo.com	X		
Patty Nesbit			lorianpetry@hotmail.com	X		
Lorian Petry			szaby2@yahoo.com	X		
Richard Szabo			92660 chlinnic@trilliumgrp.com	X		
Patricia Chinnici	1729 Port Charles Place	NB	92614 marc.didomenico@a-x-a-advisors.com	X		
Marc R. DiDomenico	2050 Main St. #520	Irvine	92660 ealeffriedman@gmail.com	X		
Gale Friedman	2001 Port Provence Pl.	NB	Cinder.kinecitt@cvsd.org	X		
Carol Rinderknecht		CDM	92625 mitch3462@aol.com	X		
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Nicole Nelson	1836 Newport Hills Dr. E	NB	jlimplace@shrcglobal.net	X		
James Place	39 Anjou	Newport Coast	dsahhar@law.ucledu	X		
Dianna Sahhar			annedroboke@cox.net	X		
Anne Drobka			jean.platt@gmail.com	X		
Jean Platt			barbarabelione@icloud.com	X		
Barbara Belione			dontkazarian@gmail.com	X		
Don and Leslie Kazarian	3412 Ocean Blvd.	CDM	bhdahlfors@mac.com	X		
Brant Dahlfors	211 Laktspur Ave.	CDM	stewart@rad.agency	X		
Stewart and Jaclyn Ramsey	2627 Seaview	CDM	flowerladycdm@gmail.com	X		
Sheryl Brewer		CDM	pamhoward123@gmail.com	X		
Pam Howard	1205 Sandkey		mwrnoosev@uci.edu	X		
Mary Roosevelt				X		
Marko Crawford Barker	1827 Port Seabourne Way	NB	92660	X		
Alice Coons			acoons486@gmail.com	X		
Jon Engleking	1533 Priscilla Lane	NB	92660 jon.superregcapital.com	X		
Tony Guanci	2525 Channel Reef, Unit A6	CDM	92660 tony.guanci@balboaacorp.com	X		
Stephen Perkins	237 Carnation Ave	CDM	92625 sperkins@royalgs.com	X		
Spencer Brown	700 ½ Carnation Ave	CDM	92625 spencer.brown@colorado.edu	X		
Brian Flood	412 De Sola Terrace	CDM	92625 brian@brianflood.net	X		
Jason Krots			jkrotts@redail.com	X		
Maic and Alanna Cole	17 Chataleine	Newport Coast	maic.cole@gmail.com	X		

Patrick Charron	2671 Point del Mar	CDM	patrick@sageinvestco.com	949-633-1331	X	X	
Jeff Brown	2707 Windover Drive	CDM	92625 jeff@brownemulthpartners.com		X	X	
Terence and Karen Lyons	219 Larkspur Avenue	CDM	92625 terrylyons1@roadrunner.com		X	X	I live nearb-
Nancy K. Thompson	302 Fernleaf Avenue		thompsonnk@gmail.com		X	X	
Bill Bird			bill@executivenovopsystems.com	714-688-4800	X	X	
Gart Sutton			gart@sutton.com	949-375-2104	X	X	
Karen and Warren James	2627 Cove St.		kdjamar@yahoo.com	949-675-4412	X	X	The story p
Alan Gin			aginh01@aol.com		X	X	
Gregg Miller	1130 West Trenton Avenue	Orange	92867 Gregg@mlereenvironmental.com	714-385-0099	X	X	
Paul Julian			pljulian@advancedonline.com		X	X	
Donald Santacroce	323 Larkspur Ave.	CDM	dsanta323@tvc.com		X	X	
Kendra edmonds		CDM	kendra.s.edmonds@gmail.com		X	X	
Marko Popovich	PO Box 102	Balboa Islai	92662 info@SPON-NewportBeach.org		X	X	The propos For SPON (i
Terrt Rhodes			terrtorhodes@gmail.com		X	X	
William and Jinx Hansen	221 Goldenrod Avenue	CDM			X	X	
Vicki and Harold Parker			Haroldparker@aol.com		X	X	
Nancy Skinner	1724 Highland Drive	NB	92660 jskinnermd@aol.com		X	X	
Ashley Knox	306 Jasmine Ave		ask77@mindspring.com		X	X	
Derek Ostensen			derekostensen@me.com		X	X	
Nancy Otis	721 Larkspur		ncotis@earthlink.net		X	X	
Michael Lee Toerge	3810 E Coast Hwy, Ste 2	CDM	92625 mike@stratalandco.com	(949) 723-1075	X	X	I would hav
Boyd and Charlene Bailey	304 Orchid Avenue				X	X	

RESOLUTION NO. 2075

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING VARIANCE NO. VA2016-005 AND COASTAL DEVELOPMENT PERMIT NO. CD2017-080 TO ALLOW THE CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE, FOR PROPERTY LOCATED AT 2607 OCEAN BOULEVARD (PA2016-170)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Nicholson Construction on behalf of the Ginsberg Family Trust ("Applicant"), with respect to property located at 2607 Ocean Boulevard, in the City of Newport Beach, and legally described as a portion of Block 0-32 of Corona Del Mar, in the City of Newport Beach, County of Orange, State of California, as per map recorded in Book 3, Pages 41 and 42 of Miscellaneous Maps, in the Office of the County Recorder of said county ("Property"), requesting approval of a coastal development permit and a variance.
2. The Applicant requests a coastal development permit to allow the construction of a new 4,178 square-foot, single-family residence and a 629 square-foot, three-car garage, for a total 4,807 square feet ("Development") and a variance to allow the Development to:
 - a. Exceed the maximum floor area;
 - b. Encroach 10 feet into the 10-foot rear yard setback along Way Lane; and
 - c. Encroach 7 feet into the 10-foot front yard setback along Ocean Boulevard.
3. The Property is designated Single-Unit Residential Detached (RS-D) by the General Plan Land Use Element and is located within the Single-Unit Residential (R-1) Zoning District.
4. The Property is located within the coastal zone. The Coastal Land Use Plan category is Single-Unit Residential Detached – 6.0–9.9 DU/AC (RSD-B) and the Coastal Zoning District is Single-Unit Residential (R-1).
5. Public hearings were held on November 9, 2017 and December 7, 2017, in the Council Chambers at 100 Civic Center Drive, Newport Beach in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the public hearings was given in accordance with the Newport Beach Municipal Code ("NBMC"). Evidence, both written and oral, was presented to, and considered by, the Planning Commission at these public hearings.
6. At the December 7, 2017, public hearing meeting, the Planning Commission approved a reduced Development of 4,500 square feet in size inclusive of the required parking area and requested setback encroachments.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. The project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15303 under Class 3 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.
2. Class 3 exempts the construction of limited numbers of new, small structures, including one single-family residence. The proposed project is a new single-family residence located within the R-1 (Single-Unit Residential) Zoning District.

SECTION 3. REQUIRED FINDINGS.Variance

In accordance with NBMC Section 20.52.090(F) (Variances – Findings and Decision), the following findings and facts in support of such findings are set forth:

Finding:

- A. *There are special or unique circumstances or conditions applicable to the subject property (e.g., location, shape, size, surroundings, topography, or other physical features) that do not apply generally to other properties in the vicinity under an identical zoning classification.*

Facts in Support of Finding:

1. The Property is approximately 4,257 square feet in area and slopes from Ocean Boulevard down to Way Lane with approximately a 35-foot grade difference.
2. The Property is shallow with a lot depth ranging from 35 to 53 feet. The lot is also 110 feet wide.
3. The limited lot depth after applying the 10-foot front and rear setbacks results in a sloping building pad that would be 15 to 33 feet deep. The standard front and rear setbacks comprise approximately 51 percent of the total lot area.
4. The lot is disproportionately shallow relative to its width resulting in a long and narrow building envelope. The long narrow portion of the lot would allow a maximum building area only 15 feet in width and represents over 65 percent of the total area of the lot.
5. The unusual lot shape and topography of this lot do not generally apply to other properties in the vicinity under the same R-1 zoning classification.

Finding:

B. Strict compliance with Zoning Code requirements would deprive the subject property of privileges enjoyed by other properties in the vicinity and under an identical zoning classification.

Facts in Support of Finding:

1. The strict application of development standards including setbacks and floor area limit, to this constrained lot result in a buildable area of 1,910 square feet and new residence of approximately 2,865 square feet in size. This is significantly diminished compared to other properties in the vicinity and same zone that have an average of 4,200 to 4,500 square feet in size.
2. The condition of the Property directly impacts the allowable floor area for the lot, and the ability to comply with setback requirements. The site constraints create challenges to design a residence of comparable size and position to other properties along Way Lane without providing relief from these code standards.

Finding:

C. Granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the applicant.

Facts in Support of Finding:

1. Without granting the variance request, the Property owner could only build 2,865 square-foot residence that is substantially smaller than what could be constructed on a typical rectangular R-1 lot in Corona del Mar.
2. When comparing the subject lot with other Way Lane bluff lots that are in the same zone, the other lots can accommodate larger homes with floor areas well above 5,000 square feet on average.

Finding:

D. Granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and in the same zoning district.

Fact in Support of Finding:

1. Approval of the variance request allows the Property owner to develop a 4,500 square-foot residence that is comparable in size and setback yard encroachments with other lots along Way Lane that are identically zoned.

Finding:

E. Granting of the variance will not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood.

Facts in Support of Finding:

1. The proposed residence will not adversely impact public views from Ocean Boulevard because it complies with the top of curb height restriction and would not interfere with neighborhood compatibility, private views, and privacy with the neighboring and abutting properties.
2. The proposed setbacks will not affect the flow of light or air to adjoining residential properties as adequate separation is provided since there are no adjacent properties along the property lines for which the encroachments are requested.
3. The existing garage setback encroachments have not proven detrimental and the new residence would improve the existing encroachments by removing any encroachments into Way Lane. The City's Traffic Engineer has reviewed and approved the proposed design including the proposed encroachments within the Way Lane setback and garage locations and access to Way Lane. Vehicular access to the project can be accommodated as proposed and it would not pose an undue hazard to access along Way Lane.
4. The new residence has been designed with articulation and modulation so it will not impact privacy for the abutting properties beyond that of the existing residence because the design complies with the setback along the east Property line where there is an abutting residence and the primary common living spaces are oriented toward the west of the Property where no residence is located.
5. The granting of the variance will not adversely impact public views from Ocean Boulevard because the proposed structure complies with the top of curb height restriction and the base height limit for structures within the R-1 Zoning District of 24 feet for a flat roof and 29 feet for a sloped roof.
6. To minimize disruption caused by demolition and construction to the nearby residents, the applicant has submitted a construction management plan that has been reviewed and approved by the City's Public Works Department thereby ensuring no impact to public access in the vicinity and to maintain street/emergency access during construction.

Finding:

F. Granting of the variance will not be in conflict with the intent and purpose of this section, this Zoning Code, the General Plan, or any applicable specific plan.

Facts in Support of Finding:

1. Granting the variance request would not increase the density beyond what is planned for the area, and will not result in additional traffic, parking, or demand for other services; and will not adversely impact the designated public views from Ocean Boulevard as it adheres to the top-of-curb height restrictions and complies with the base height limit for structures within the R-1 Zoning District of 24 feet for a flat roof and 29 feet for a sloped roof.
2. The proposed variance request provides similar setbacks for the property consistent with the existing development pattern along Way Lane that presently encroaches within setbacks.
3. Due to the site topography, narrow shape of the Property and top of curb height limit, the requested setback encroachments and buildable area for development based on the proposed setbacks to yield a comparable floor area are appropriate for the Property.
4. The Property is not located within a specific plan area.

Coastal Development Permit

In accordance with NBMC Section 21.52.015 (F) (Coastal Development Permits - Findings and Decision), the following findings and facts in support of such findings as set forth:

Finding:

A. Conforms to all applicable sections of the certified Local Coastal Program.

Facts in Support of Finding:

1. The proposed design, bulk, and scale of the Development is consistent with the existing single-family neighborhood pattern of development and expected future development.
2. The Property is located in an area known for the potential of seismic activity and liquefaction and is required to comply with the California Building Code ("CBC") and City's Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
3. Pursuant to NBMC Section 21.35.050, due to the Development containing more than 75 percent of impervious surface area and hillside development on a slope greater than 15 percent, a Water Quality and Hydrology Plan ("WQHP") is required. The WQHP has been reviewed and approved by the City's Building Division.

4. With the granting of the requested variance, the proposed Development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation granted by the variance is 4,500 square feet and the proposed floor area is 4,500 square feet.
 - b. The proposed Development complies with the required setbacks, as approved by this variance, which are 3 feet along front setback on Ocean Boulevard; 0 feet along rear property line on Way Lane; and 4 feet along the west and east Property lines.
 - c. The entire proposed Development is below the curb line of Ocean Boulevard, as required for development on the Bluff side of Ocean Boulevard and in compliance with the base height limit for structures within the R-1 Zoning District of 24 feet for a flat roof and 29 feet for a sloped roof.
 - d. The proposed Development is required to comply with the required on-site parking based on the proposed livable floor area of the new residence.
 - e. A minimum of 287 square feet of open volume area is required, based on the code required buildable area of 1,910 square feet and the proposed residence includes 343 square feet of open volume area.
5. Proposed landscaping complies with NBMC Section 21.30.075 (Landscaping). A condition of approval is included that requires drought tolerant and prohibits invasive species. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.

Finding:

B. Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.

Fact in Support of Finding:

1. The existing residential lot does not currently provide nor inhibit public coastal access. The Property is more than 200 feet from the nearest public beach and the proposed Development will remain a residential lot. The Development will not impact public access to local coastal resources and is not located between the sea or shoreline and the nearest public road.
2. The new residence would be constructed at a height below the adjacent curb line of Ocean Boulevard, as required by Code, thereby protecting any views from this public road and maintaining visual access to this coastal resource. Since there are no pedestrian access ways on the Bluff side of Ocean Boulevard, visual access would be

preserved for vehicular access. Pedestrian visual access on the land side of Ocean Boulevard would not be affected.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby approves Variance No. VA2016-005 and Coastal Development Permit No. CD2017-080, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. The Variance action shall become final and effective 14 days following the date this Resolution was adopted, unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.
3. The Coastal Development Permit action shall become final and effective 14 days following the date this resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local Coastal Implementation Plan of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with NBMC Section 21.64.035 and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.


PASSED, APPROVED, AND ADOPTED THIS 7th DAY OF DECEMBER 2017.

AYES: Dunlap, Kleiman, Koetting, Kramer

NOES: Lowrey, Weigand

ABSTAIN: None

ABSENT: Zak

BY: 
Peter Koetting, Chairman

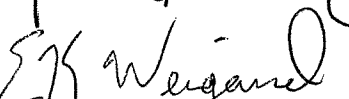
BY: 
Erik Weigand, Secretary

EXHIBIT "A"**CONDITIONS OF APPROVAL**

(Project-specific conditions are in italics)

PLANNING

1. The Development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
4. *The project shall not exceed the top of curb height pursuant to Zoning Code Section 20.30.060(B)(4) and shall comply with the base height limit for structures within the R-1 Zoning District of 24 feet for a flat roof and 29 feet for a sloped roof.*
5. *The project shall be limited to a total of 4,500 square-foot, single-family residence inclusive of the required parking area.*
6. *The vertical screen wall at the deck level shall be 42 inches maximum in height and made of a clear material. The final design and height of screen wall shall be reviewed and approved by the Planning Division.*
7. A copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the City's Building Division and field sets of plans prior to issuance of the building permits.
8. Prior to the issuance of a building permit, the Applicant shall submit a final landscape and irrigation plan prepared by a licensed landscape architect. These plans shall incorporate drought tolerant plantings and water efficient irrigation practices, and the plans shall be approved by the City's Planning Division.
9. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.

10. Prior to the issuance of a building permit, the Applicant shall pay any unpaid administrative costs associated with the processing of this application to the City's Planning Division.
11. Prior to the issuance of a building permit, the Applicant shall submit to the City's Planning Division an additional copy of the approved architectural plans for inclusion in the application file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Variance and Coastal Development Permit application.
12. Prior to the issuance of a building permit, the approved Construction Pollution Prevention Plan ("CPPP") and Water Quality and Hydrology Plan ("WQMP") shall be submitted with the Building Permit plans. Implementation shall be in compliance with the approved CPPP and WQMP and any changes could require separate review and approval by the City's Building Division.
13. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
14. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stock piles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
15. Best Management Practices ("BMPs") and Good Housekeeping Practices ("GHPs") shall be implemented prior to and throughout the duration of construction activity as designated in the CPPP.
16. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
17. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, wetland or their buffers.
18. Should the Property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
19. Construction activities shall comply with NBMC Section 10.28.040, which restricts hours of noise-generating construction activities that produce noise to between the hours of

7:00 a.m. and 6:30 p.m., Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.

20. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of NBMC Title 20 Planning and Zoning.
21. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Ginsberg Residence including, but not limited to, Variance No. VA2016-005 and Coastal Development Permit No. CD2017-080. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Applicant, City, and/or the parties initiating or bringing such proceeding. The Applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Public Works Conditions

22. *The proposed project shall extend the City sidewalk along Ocean Boulevard from the existing terminus to the area adjacent to the existing guardrail per City Standard STD-180-L.*
23. *The proposed walkway, stairs, guardrails, retaining walls (to support walkway and landings only), landing, drain lines and landscaping within the Ocean Boulevard public right-of-way shall require approval by the City Council. If approved by City Council, an encroachment agreement between the City and property owner shall be required.*
24. *All proposed landscaping within the Ocean Boulevard right of way shall be reviewed and approved by City's Municipal Operations Department, General Services Division and City's Public Works Department. Proposed landscaping shall be installed and maintained by the Property owner. Landscaping within the public right-of-way shall be low-growing ground cover or shrubs limited to 36-inch high maximum.*
25. *Reconstruct all damaged concrete sidewalk panels, curb and gutter along the Ocean Boulevard and Way Lane frontages shall be determined by the City's Public Works Department.*
26. *No structural encroachments, including but not limited to, retaining walls (for residence), caissons, tiebacks shall be permitted within the public right of way.*

27. *No staging/storage of materials shall be permitted within the public right-of-way.*
28. *In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way may be required at the discretion of the City's Public Works Inspector.*
29. *Prior to the commencement of demolition and grading of the project, the Applicant shall submit a construction management plan to be reviewed and approved by the Public Works Department and Community Development Department. The plan shall include discussion of project phasing; parking arrangements for the site during construction; anticipated haul routes; and construction nuisance mitigation. Construction parking shall be implemented so that there will be no impact to vehicular or emergency access and public parking spaces. Traffic control and truck route plans shall be reviewed and approved by the Public Works Department before their implementation. Large construction vehicles shall not be permitted to travel narrow streets as determined by the Public Works Department. Disruption caused by construction work along roadways and by movement of construction vehicles shall be minimized by proper use of traffic control equipment and flagman. Upon approval of the plan, the Applicant shall be responsible for implementing and complying with the provisions set forth in the approved plan.*

ALL WORK AND MATERIALS SHALL CONFORM STRICTLY TO THE 2016 C.M.C.: 2016 C.B.G.: 2016 G.P.C.: 2016 C.E.C.: 2016 C.M.C.: 2016 CECS (CA ENERGY); 2016 C.G. (CAL GREEN); AND ALL OTHER FEDERAL STATE AND LOCAL CODE. NEWPORT BEACH MUNICIPAL CODE (NBMC); AND ALL OTHER FEDERAL STATE AND LOCAL CODE.

Exhibit No. 3
Page 2 of 16

[illegible]

Exhibit No. 3
Page 3 of 16

CONCRETE BLOCK WALL



CONCERN BLOOD RAIL

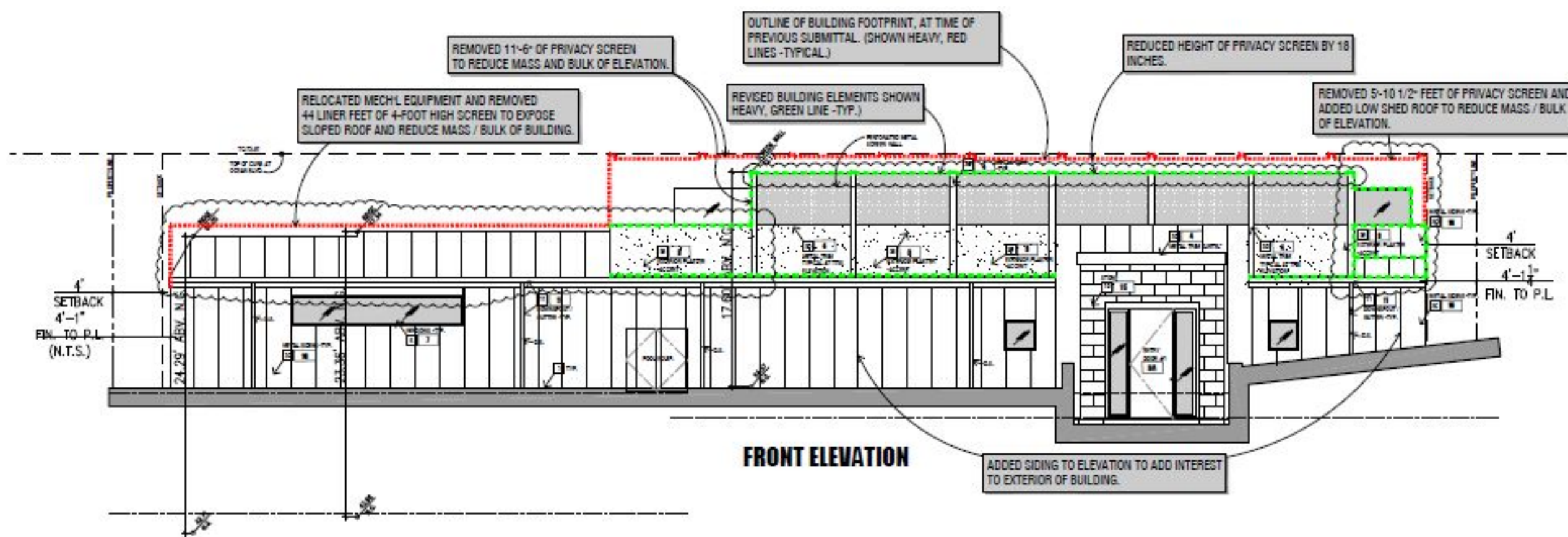


CONCERN CONCERT HALL

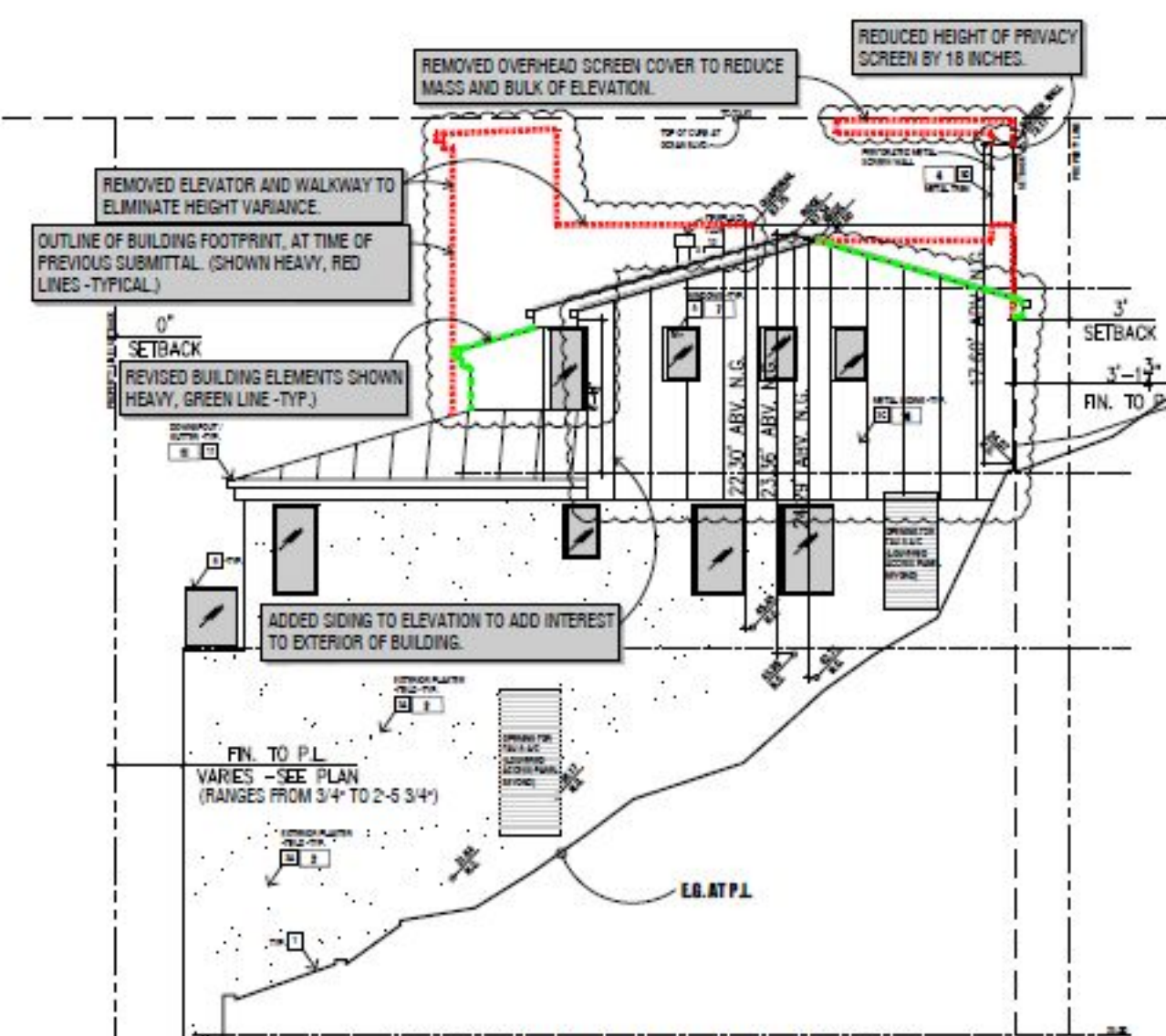




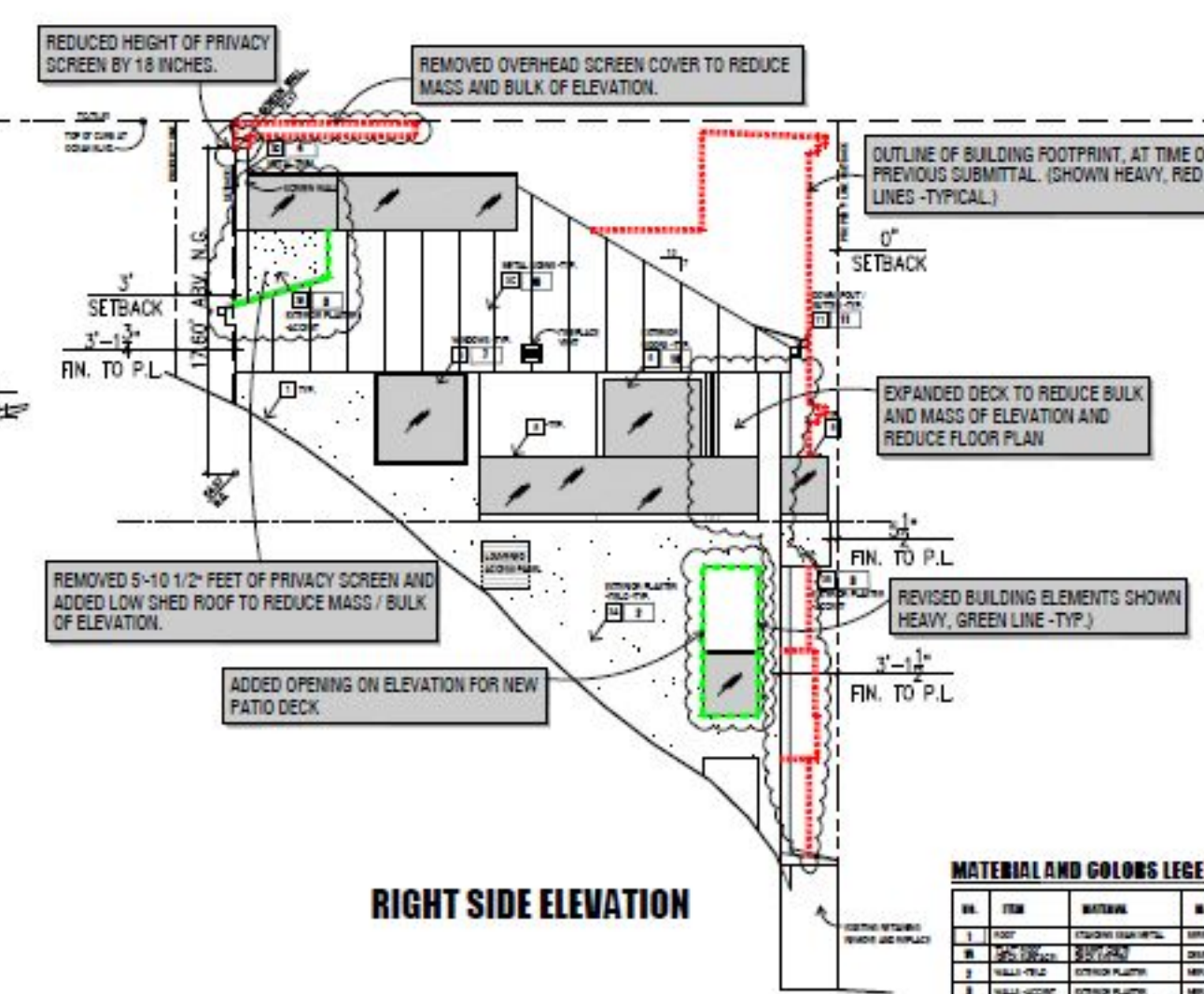
Exhibit No. 3
Page 7 of 16



FRONT ELEVATION



LEFT SIDE ELEVATION



RIGHT SIDE ELEVATION

RED = REMOVED ELEMENTS
GREEN = ADDED ELEMENTS

- KEY NOTES - ELEVATIONS**
1. MATERIALS THAT ARE TO BE USED ON THE EXTERIOR OF THE BUILDING SHALL BE SUBMITTED FOR APPROVAL BY THE CITY OF SAN DIEGO. (SEE CITY OF SAN DIEGO WEBSITE FOR MORE INFORMATION.)
 2. ALL MATERIALS AND COLORS SHOWN ARE TO BE USED ON THE EXTERIOR OF THE BUILDING.
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 20. EXTERIOR MATERIALS AND COLORS SHOWN ARE TO BE USED ON THE EXTERIOR OF THE BUILDING.
- GENERAL NOTES - ELEVATIONS**
1. PROVIDE ADDRESS ON BUILDING PER LOCAL CODES.
 2. SEE ROOF PLAN FOR ROOF SLOPE CALCULATIONS.
- MATERIAL SPECIFICATIONS**

MATERIAL AND COLORS LEGEND FOR BUILDING AND HANDSCAPE

NO.	ITEM	MATERIAL	MAINTENANCE	COLOR NAME	COLOR NUMBER	COMMENTS
1	ROOF	STANDARD ROOF METAL	STANDARD	STANDARD ROOF	---	---
2	WALLS - EXTERIOR	EXTERIOR PLASTER	STANDARD	STANDARD ROOF	---	---
3	WALLS - EXTERIOR	EXTERIOR PLASTER	STANDARD	STANDARD ROOF	---	---
4	WALLS - EXTERIOR	EXTERIOR PLASTER	STANDARD	STANDARD ROOF	---	---
5	WALLS - EXTERIOR	EXTERIOR PLASTER	STANDARD	STANDARD ROOF	---	---
6	WALLS - EXTERIOR	EXTERIOR PLASTER	STANDARD	STANDARD ROOF	---	---
7	WALLS - EXTERIOR	EXTERIOR PLASTER	STANDARD	STANDARD ROOF	---	---
8	WALLS - EXTERIOR	EXTERIOR PLASTER	STANDARD	STANDARD ROOF	---	---
9	WALLS - EXTERIOR	EXTERIOR PLASTER	STANDARD	STANDARD ROOF	---	---
10	WALLS - EXTERIOR	EXTERIOR PLASTER	STANDARD	STANDARD ROOF	---	---
11	WALLS - EXTERIOR	EXTERIOR PLASTER	STANDARD	STANDARD ROOF	---	---
12	WALLS - EXTERIOR	EXTERIOR PLASTER	STANDARD	STANDARD ROOF	---	---
13	WALLS - EXTERIOR	EXTERIOR PLASTER	STANDARD	STANDARD ROOF	---	---
14	WALLS - EXTERIOR	EXTERIOR PLASTER	STANDARD	STANDARD ROOF	---	---
15	WALLS - EXTERIOR	EXTERIOR PLASTER	STANDARD	STANDARD ROOF	---	---
16	WALLS - EXTERIOR	EXTERIOR PLASTER	STANDARD	STANDARD ROOF	---	---
17	WALLS - EXTERIOR	EXTERIOR PLASTER	STANDARD	STANDARD ROOF	---	---
18	WALLS - EXTERIOR	EXTERIOR PLASTER	STANDARD	STANDARD ROOF	---	---
19	WALLS - EXTERIOR	EXTERIOR PLASTER	STANDARD	STANDARD ROOF	---	---
20	WALLS - EXTERIOR	EXTERIOR PLASTER	STANDARD	STANDARD ROOF	---	---

TEALE ARCHITECTURE

2607 OCEAN BLVD.
CORONA DEL MAR, CA 92625

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FAX: 949.441.1112
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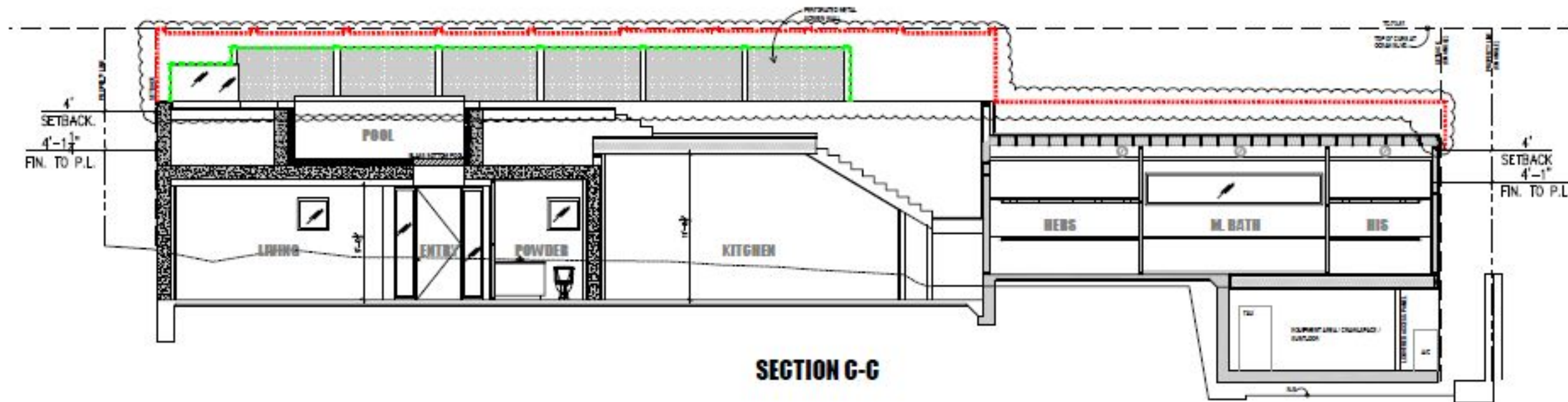
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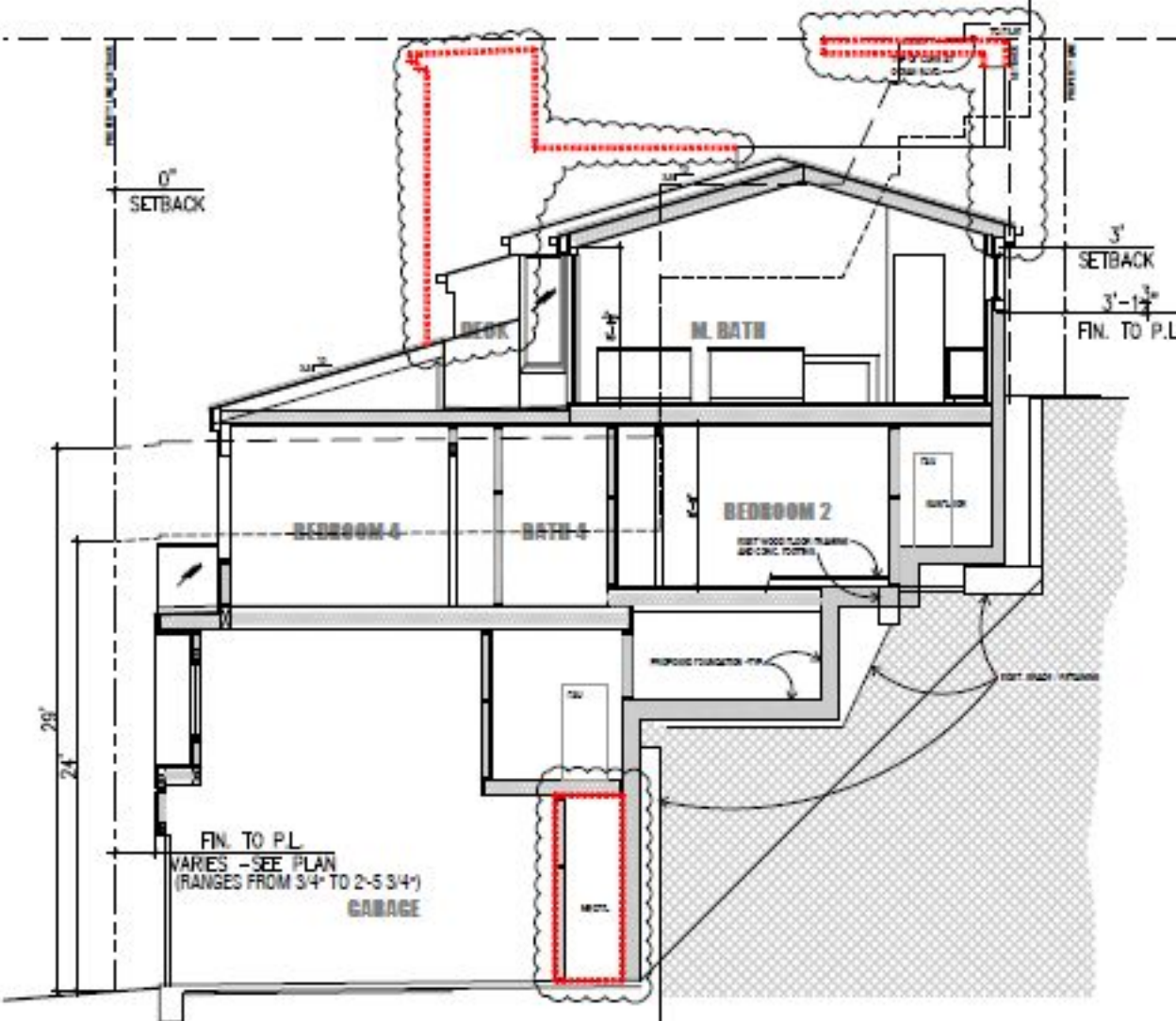
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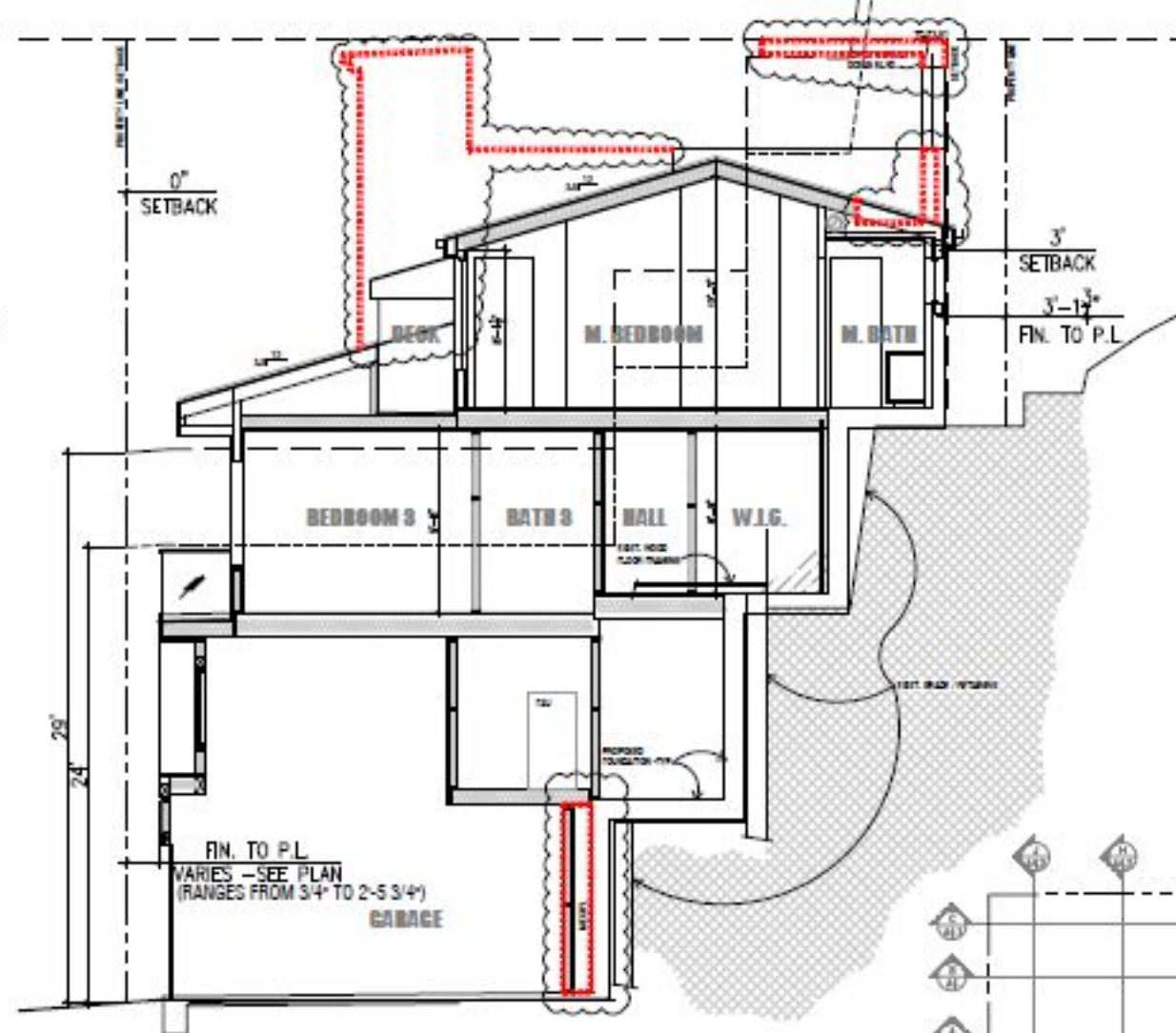
SECTION C-C

UPDATED CROSS-SECTIONS TO REFLECT CHANGES TO THE HEIGHT AND EXTERIOR ELEVATIONS OF PROPOSED HOME.

NOTE:
24' AND 28' HEIGHT LIMIT LINES SHOWN ON SECTIONS ARE FOR REFERENCE ONLY. THE HEIGHTS ESTABLISHED BY THESE LINES EXIST AT THAT PARTICULAR SECTION ONLY. ITEMS SHOWN IN ELEVATION BEYOND ARE NOT AFFECTED BY THESE LINES.
-HEIGHT LIMITS ARE NOT DETERMINED BY THESE LINES. PLEASE REFER TO SHEETS A-2.4 & A-2.5 FOR HEIGHT LIMIT CALCULATIONS.



SECTION D-D



SECTION E-E

RED = REMOVED ELEMENTS
GREEN = ADDED ELEMENTS

KEY NOTES - SECTIONS

- 1. 24' FLOOR TO FIN. TO P.L. HEIGHT LIMIT LINE
- 2. 28' FLOOR TO FIN. TO P.L. HEIGHT LIMIT LINE
- 3. CONCRETE FOUNDATION AND FOOTING
- 4. EXTERIOR WALLS - SEE PLAN FOR DETAILS
- 5. 1/2" CLEARANCE @ 10' MAX
- 6. 1/2" CLEARANCE @ 10' MAX (TYPICAL @ 10' MAX)
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- 100. 1/2" CLEARANCE @ 10' MAX (TYPICAL @ 10' MAX)

GENERAL NOTES - SECTIONS

1. PROVIDE 1/2" PLYWOOD SHEATHING UNLESS NOTED OTHERWISE.
2. PROVIDE 1/2" PLYWOOD SHEATHING UNLESS NOTED OTHERWISE.
3. PROVIDE 1/2" PLYWOOD SHEATHING UNLESS NOTED OTHERWISE.

NOTE TO STRUCT. ENG'R

- PROVIDE 1/2" PLYWOOD SHEATHING UNLESS NOTED OTHERWISE.
FOR SHEAR WALLS GREATER THAN 8' LONG USE 8' LESS THAN THE MEASURED LENGTH FOR CALCULATION PURPOSES WHENEVER POSSIBLE.

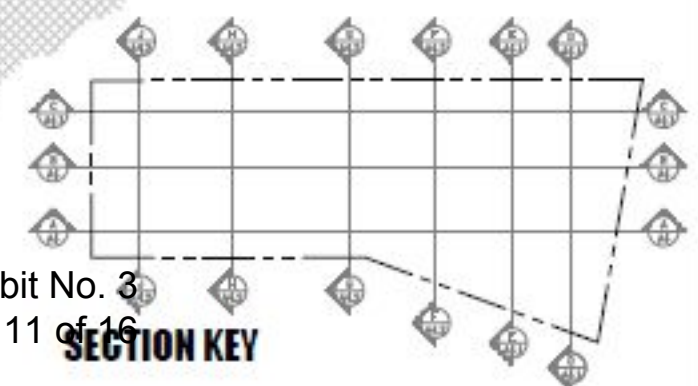


Exhibit No. 3
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2607 OCEAN
2607 OCEAN BLVD.
CORONA DEL MAR, CA 92625

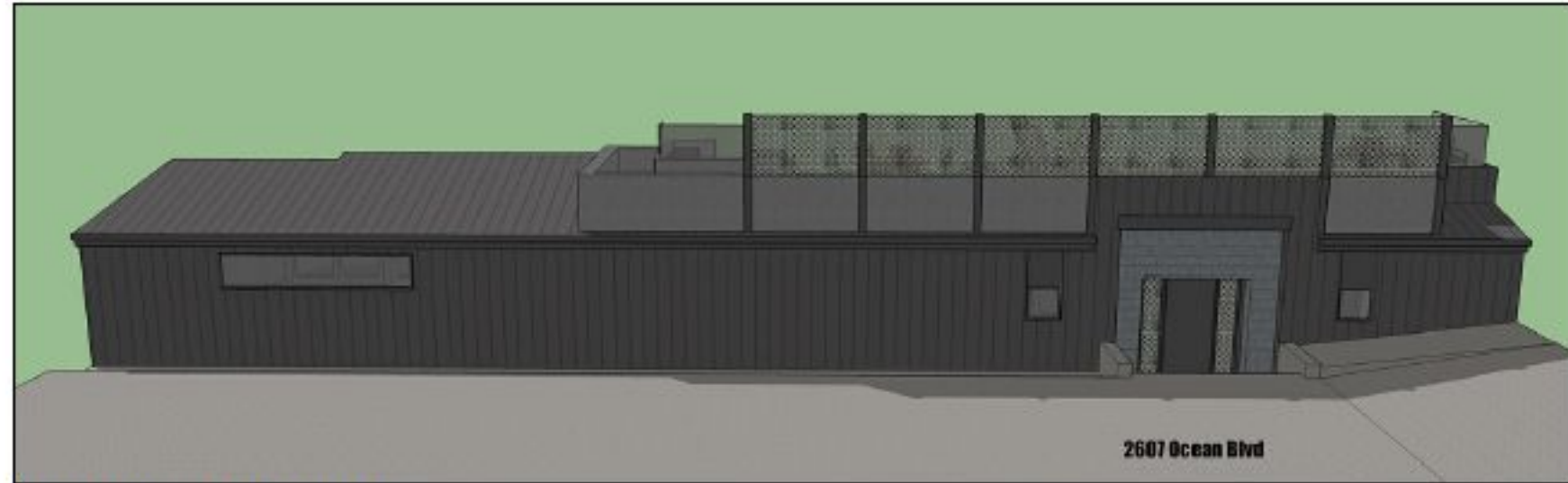


2607 OCEAN
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CORONA DEL MAR, CA 92625

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CLOSE-UP OF LIVING & GAME ROOM DECKS



LOOKING DOWN FROM OCEAN BLVD

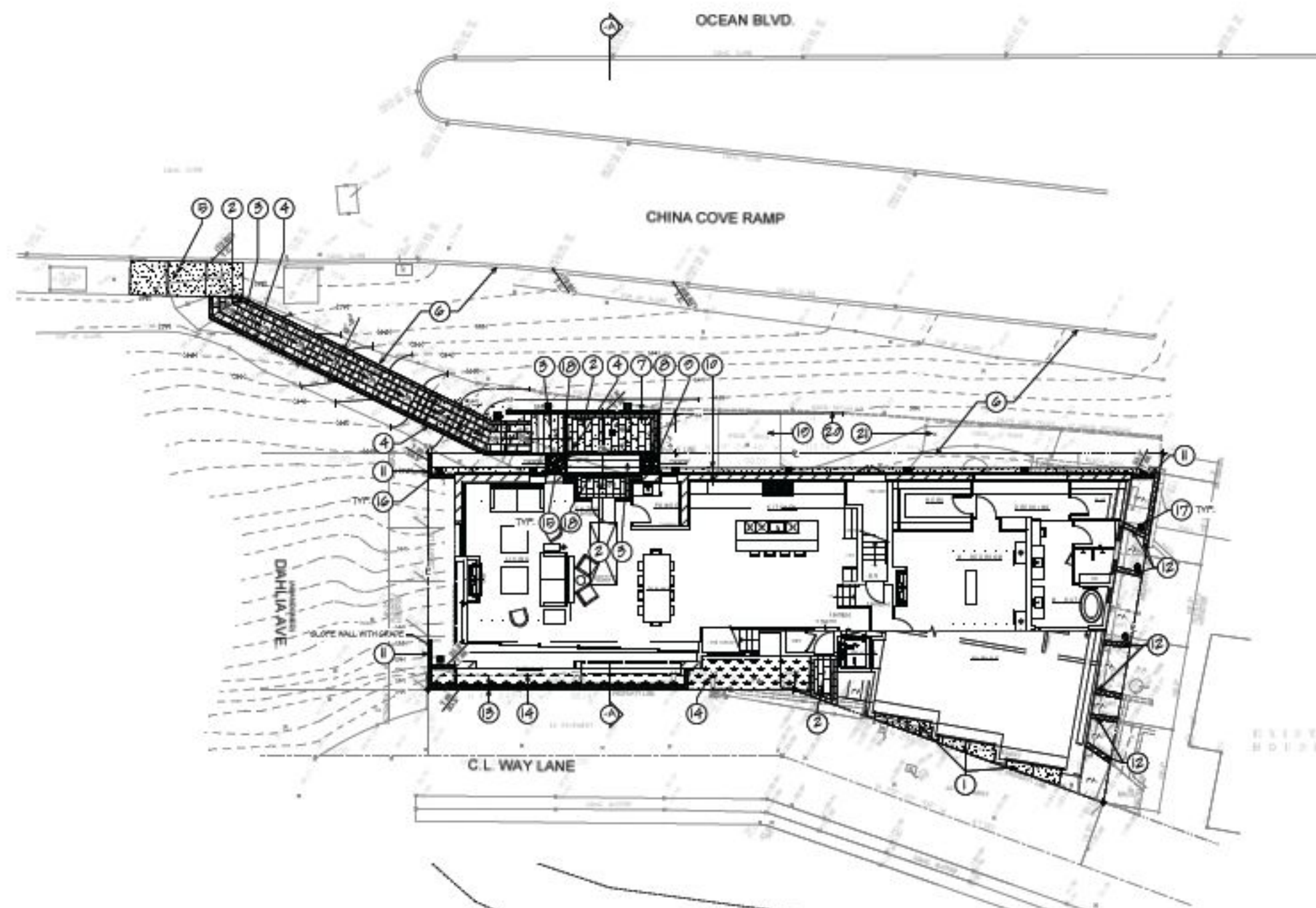


FROM ABOVE WAY LANE

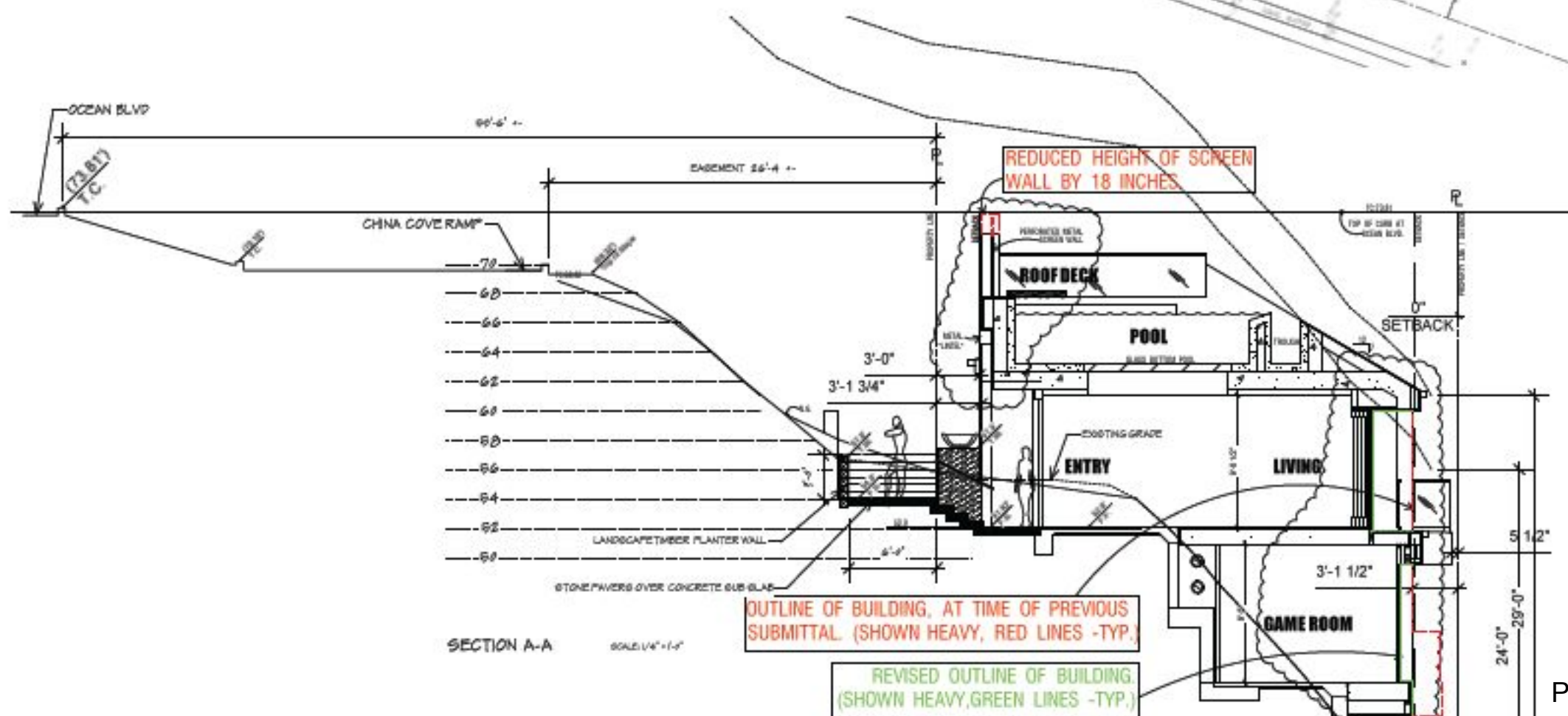


FROM WAY LANE





- ### HARDSCAPE LEGEND
1. 4" THICK COLORED CONCRETE DRIVE WITH A LIGHT WASH/FINISH
 2. LIMESTONE PAVERS OVER CONCRETE TO MATCH INTERIOR
 3. LIMESTONE PAVES TREADS AND RISERS TO MATCH INTERIOR
 4. 3/4" HIGH HANDRAIL
 5. NEW CONCRETE SIDEWALK PER CITY STANDARDS, FUTURE ACCESS RAMP AND VIEWPOINT BY CITY
 6. SLOPE TO BE RELANDSCAPED AND OWNER TO MAINTAIN MUNICIPAL OPERATIONS DEPT. APPROVAL OF LANDSCAPING REQUIRED
 7. 36" HIGH LANDSCAPE TIMBER PLANTER WALL
 8. CAST IN PLACE CONCRETE COLUMN
 9. CAST STONE PLANTER BOWLS WITH IRRIGATION AND DRAINAGE
 10. CONCRETE DRAINAGE V DITCH REFER TO CIVIL ENGINEER'S PLAN
 11. CONCRETE RETAINING WALL REFER TO STRUCTURAL ENGINEER'S PLAN
 12. EXISTING CONCRETE RETAINING WALLS TO REMAIN
 13. 6'-0" HIGH CMU BLOCK RETAINING WALL WITH STUCCO FINISH AND STUCCO CAP TO MATCH HOUSE FINISH, REFER TO STRUCTURAL ENGINEER'S PLAN
 14. 360 PLANTER REFER TO CIVIL ENGINEER'S PLAN
 15. 8" SGL. BROWSE DRAIN
 16. 12" SGL. ATRIUM DRAIN
 17. ATRIUM AREA DRAIN
 18. SLOD DRAIN
 19. REMOVE WOOD DECK
 20. REMOVE WOOD RETAINING WALL AND CHAIN LINK FENCE
 21. REMOVE STONE PAVING



NOTE:
UPDATED CROSS-SECTION TO REFLECT CHANGES TO THE HEIGHT AND EXTERIOR ELEVATIONS OF PROPOSED HOME

Exhibit No. 3
Page 14 of 16



2607 OCEAN RESIDENCE
2607 OCEAN BLVD.
CORONA DEL MAR, CA



PRELIMINARY
HARDSCAPE
PLAN

DATE: 05/15/2017
BY: J. L. L-1
2607 Ocean_Preliminary_3-27-17.dwg





**ENVIRONMENTAL
DESIGN**
1270 Glenway St.
#100
Laguna Beach
California 92653
Tel. (805) 811-5011
Fax (805) 811-5011

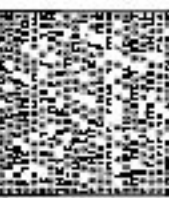
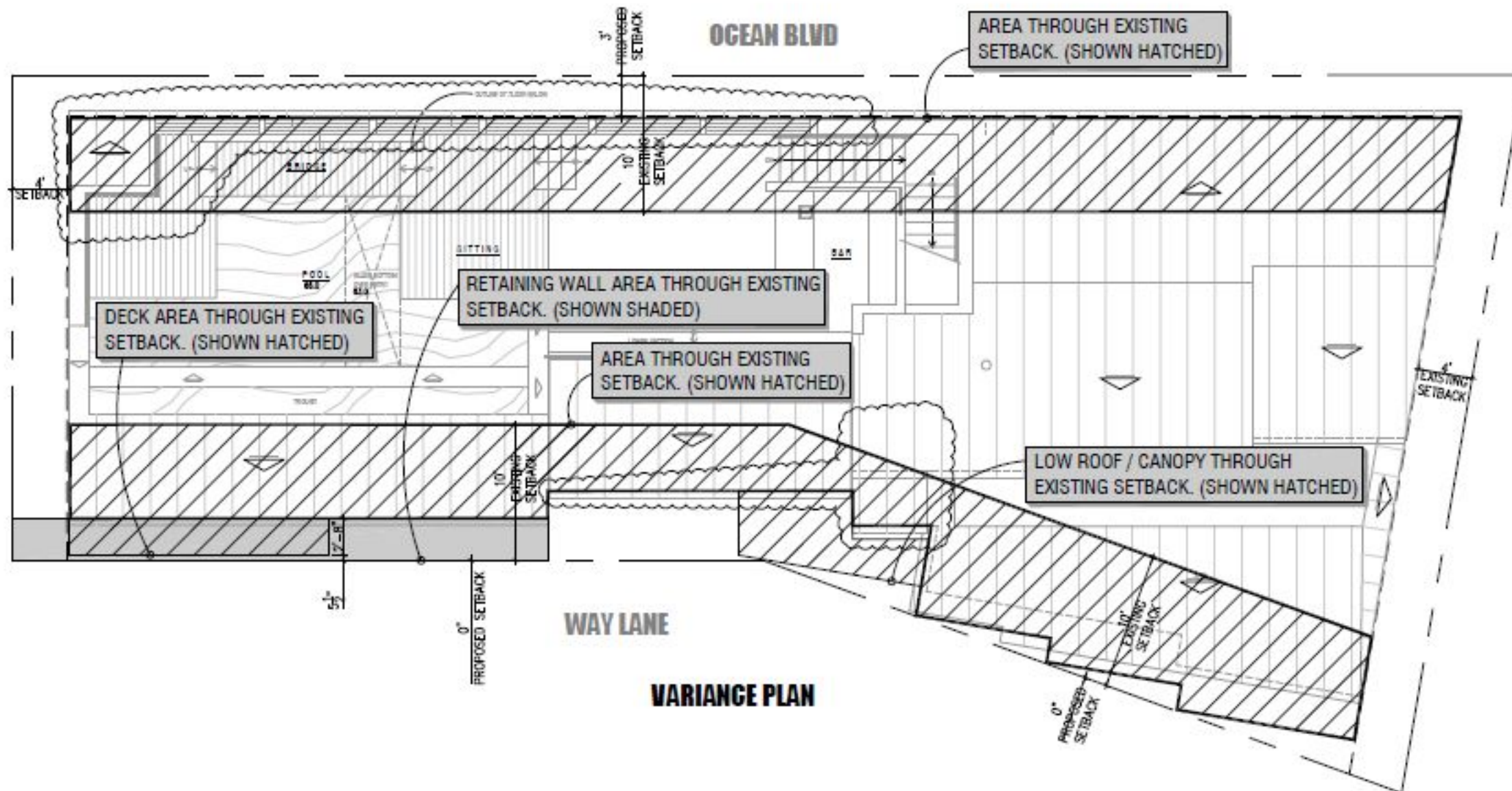


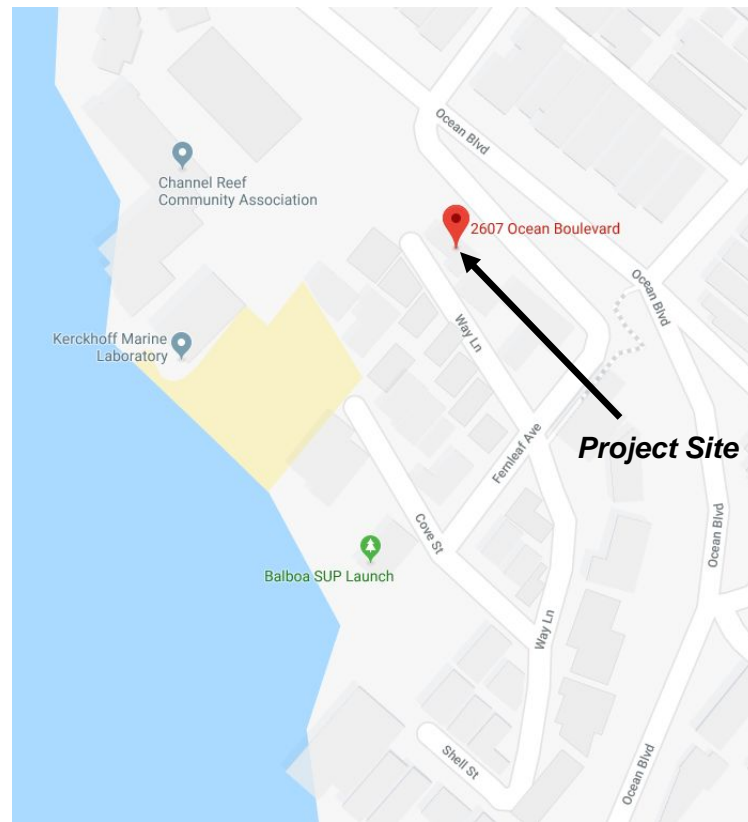
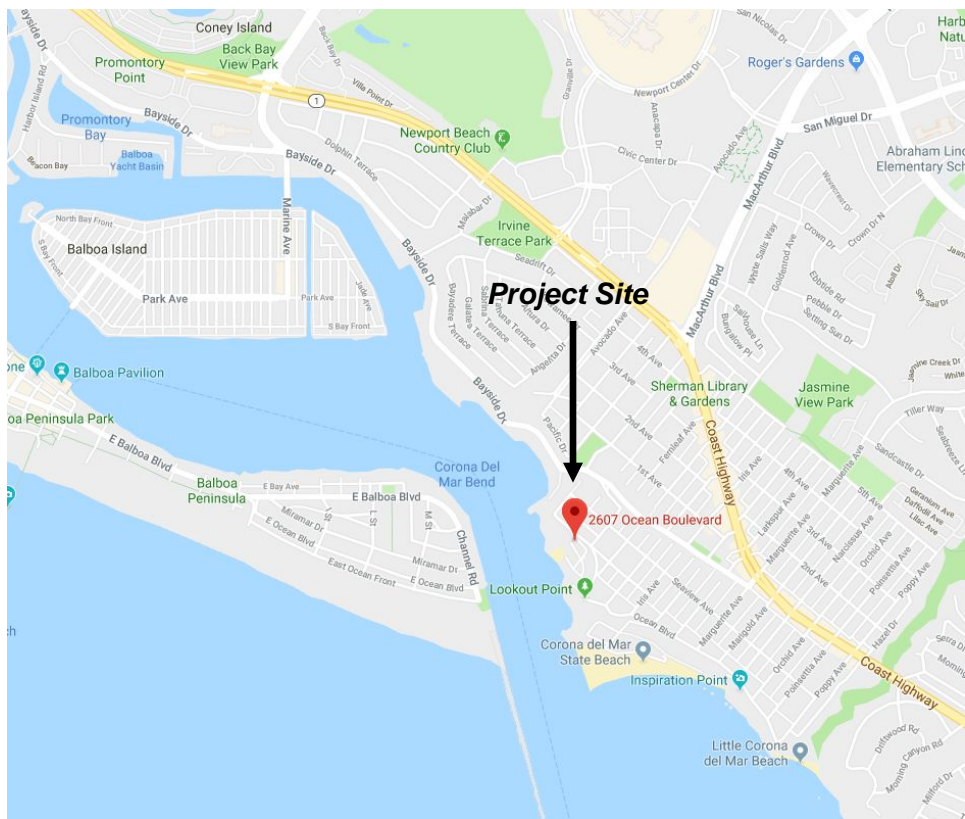
PRELIMINAR
PLANTING
PLAN

CENSUS/PYTHON

NOV 1, 2007

L-2





February 5, 2018

Fernie Sy
California Coastal Commission
South Coast District Office
200 Oceangate, 10th Floor
Long Beach CA 90802-4416

Re: Commission Appeal No. A-5-NPB-18-0006 - Appeal of local CDP for construction of a 4-level, 4,500 sq. ft., single-family residence, with rooftop pool deck and ground floor, 3-car garage.

Mr. Sy,

My name is John Ramirez and I am representing Nicholson Construction and the property owner on the above-referenced application. I would like to use this letter as an opportunity to respond the statements made by Mr. Jim Mosher in his appeal of our project made to the Coastal Commission on January 22, 2018 and attached herein for reference (Attachment 1).

Background

Site Description

The existing 2,260 square foot 3-story single family home is located on a 4,257 square foot lot that is irregularly shaped and contains an extreme slope that varies from 15%-45% on most of the lot. The existing home has a (legal nonconforming) setback from 0-4 feet along Way Lane and a (legal nonconforming) setback of 7 feet along the Ocean Boulevard right of way. The property takes vehicular access from Way Lane. There are pedestrian access points to the property from Way Lane as well as from an existing gated access way from Ocean Boulevard.

Coastal Development Permit

The property is currently zoned R-1 (Single-Unit Residential) and has a General Plan land use designation of RS-D (Single-Unit Residential Detached). The property is located within the City's Coastal Zone and within the Coastal Zone Categorical Exclusion Area. The City's Local Coastal Program (LCP) classifies the property as RSD-B (Single Unit Residential Detached – 6.0-9.9 DU/AC). Additionally the property is located with R-1 Single-Unit Residential District of the LCP.

This project is located within the Coastal Zone Categorical Exclusion Area, and the demolition and reconstruction of a single family home would not typically require a CDP since the project is consistent with the land use plan and classification of the property and is within an area that is already developed within similar land uses and there is existing infrastructure to serve the property. However, since this request to demolish an existing 2,260 square foot non-conforming (related to setbacks) 3-story single-family home and construct a new 4,500 square foot 3-story single-family home at 2607 Ocean

DAHLIA AVE.
(ABANDONED)

OCEAN BLVD.

CHINA COVE RAMP

LINE OF FOOTPRINT ABOVE
(AT LIVING ROOM LEVEL)
(SHOWN HEAVY DASHED LINE)
HATCH INDICATES TOP LEVEL
AND BOTTOM LEVEL COMBINED

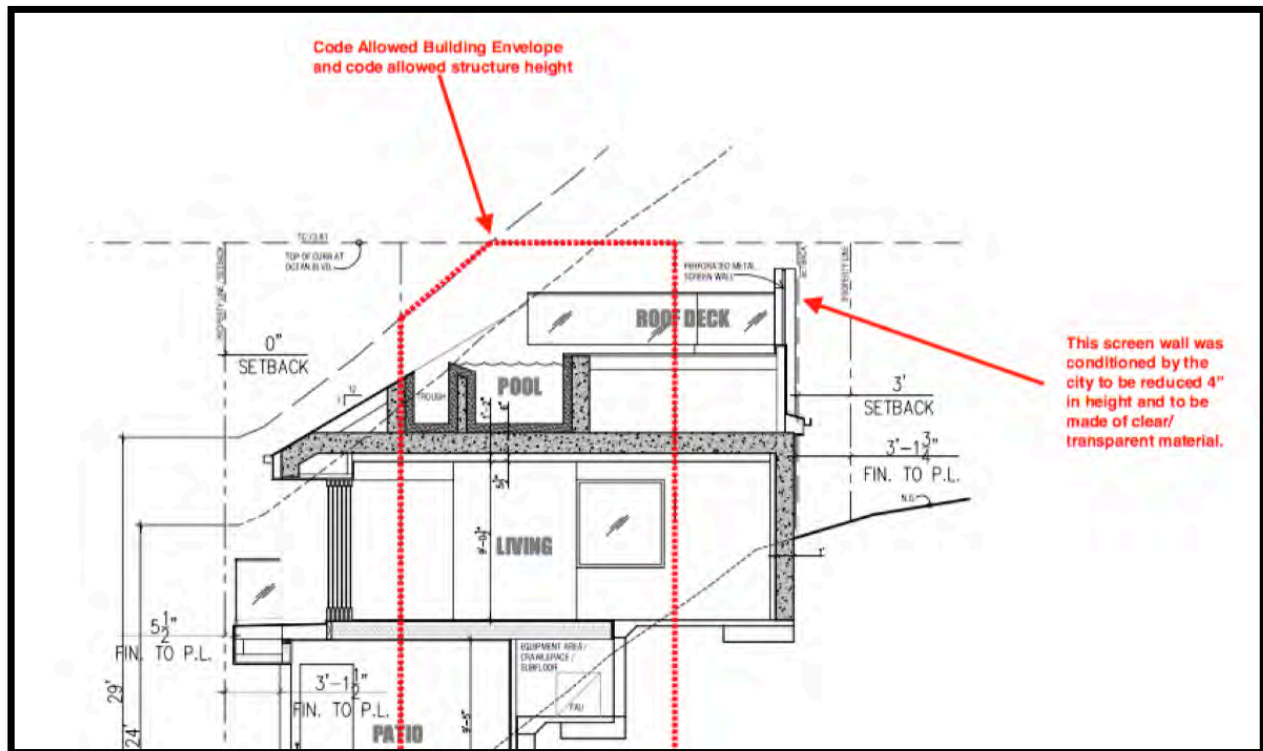
C.L. WAY LANE

EXIST. HOUSE

Coastal Views

Exhibit No. 5
Page 2 of 19

The proposed development complies with the above-referenced height limitations identified in the LCP Implementation Plan. **IN FACT**, the project structure height is almost two feet below (22 inches) the curb height of Ocean Boulevard. The project is lower in height than what would otherwise be allowed by the LCP (see comparison below).

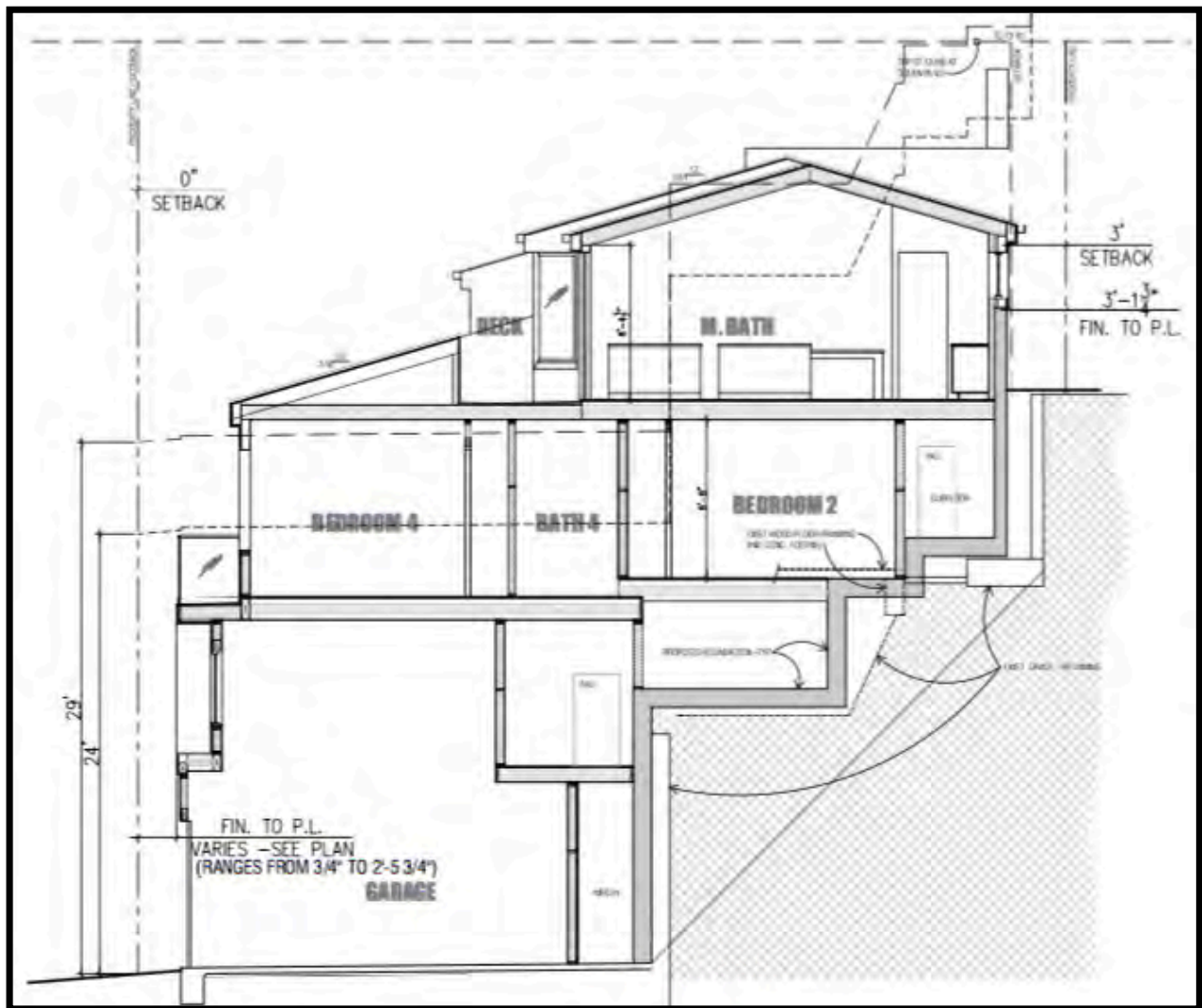


Project Height comparison to Code Allowed Height

In addition to being designed at a height less than required by the LCP Implementation Plan, the project also complies with the side yard setbacks identified in the Implementation Plan. The two design components of any structure that would have a potential impact on public views would be structure height and structure width – both of which relate to the horizontal and vertical view paths. Both of these design components of the project comply with the LCP Implementation Plan. The LCP Implementation Plan has been reviewed by Coastal Commission to ensure the regulations within the Implementation Plan provide for development that uphold the intent of the LCP and uphold the policies, goals and objectives of the LCP. Moreover, the Coastal Commission has certified the City's LCP as consistent with the Coastal Act. **Since the design of the project complies with the regulations within the LCP Implementation Plan related to height and side yard setbacks, the project is consistent with CLUP Policy 4.4.1-2.**

Natural Landforms

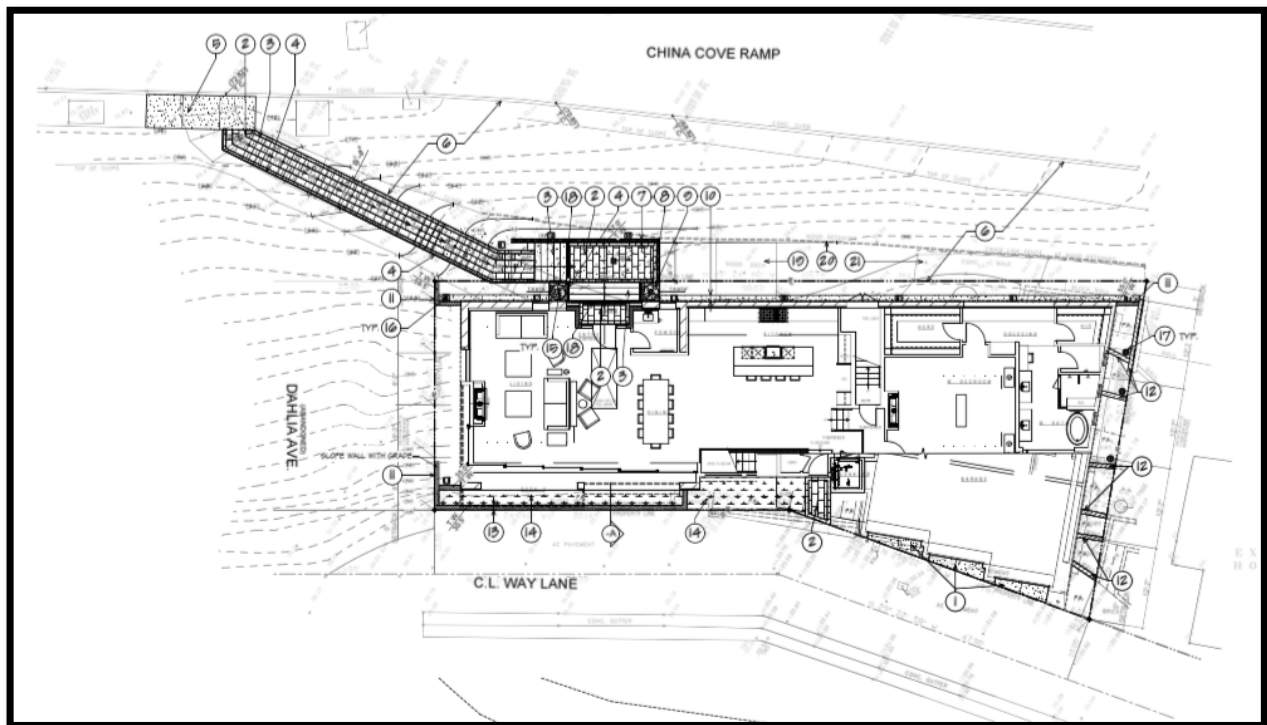
Mr. Mosher mistakenly asserts that the site is not designed to minimize impacts to natural landforms (CLUP Policy 4.4.1-3). The property owner and homebuilder specifically designed the new home with consideration for the natural slope on this property. The new home is designed to use the existing retaining wall structures that hold the existing home in place so as not to unnecessarily disturb the existing slope. Additionally, the home does not include the construction of a basement, as that would necessitate a complete reconstruction of the slope. Instead, the project “treads lightly” on the property and within the neighborhood by being designed into the slope and nesting with the existing landform of the hillside. **Please note that in the building cross-section below, the building uses existing structures and conforms to the existing slope and minimizes impact to existing natural landforms in a consistent with CLUP Policy 4.4.1-3.**



Home Cross Section

Privatization of Land

Mr. Mosher further asserts that the development would “privatize” a significant amount of public view land above and to the west of the property. This assertion is completely untrue. The property currently takes pedestrian access from Ocean Boulevard, which it has done for more than 40+ years. Mr. Mosher implies that this walkway is a new element introduced into the area, when, in fact, the access predates the Coastal Act of 1976. The design of the walkway is being coordinated between the property owner and the City to ensure that any future sidewalk or other use of the area would not be affected by pedestrian access to the property. The original design of the pedestrian access (as indicated below) was configured this way due to the hazard of having a pedestrian entry immediately entering the China Cove Ramp, where there is no connection to any safe pedestrian path.



Design of Updated Pedestrian Access

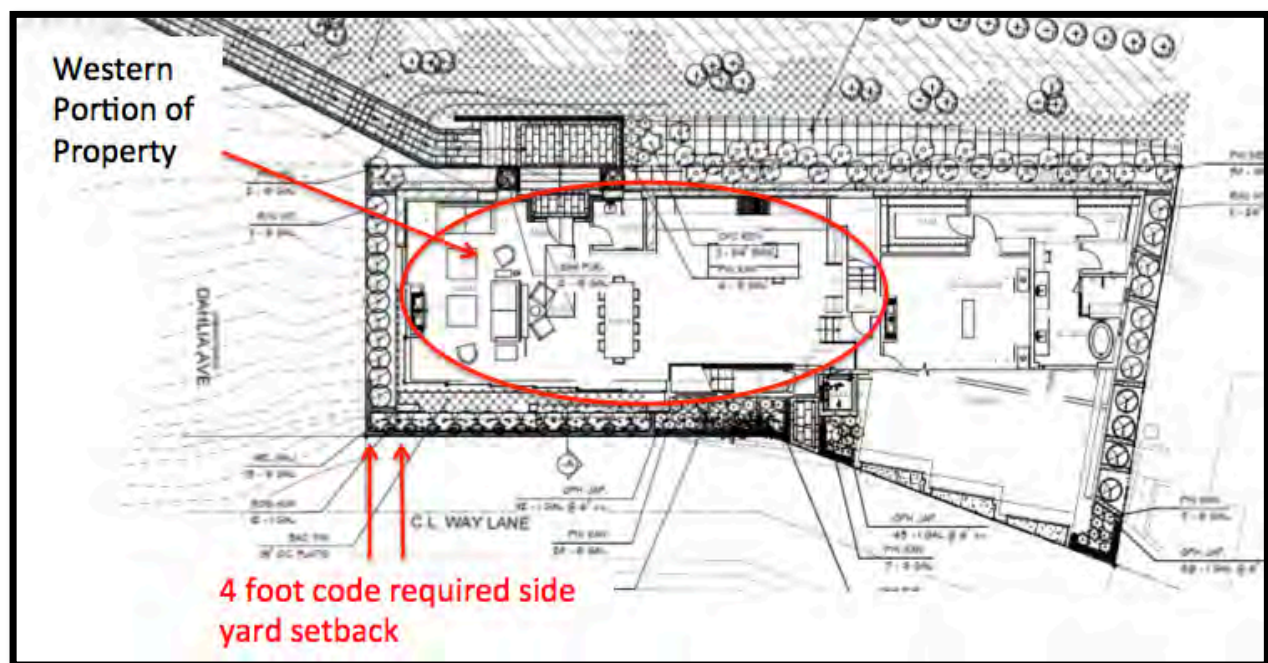
City Authority

Mr. Mosher further asserts that the LCP does not include authority to grant variances to the setback standards in the LCP. However, the LCP Implementation Plan provides for Rules of Interpretation for the Implementation Plan. Within the LCP, the Director has the authority to interpret the meaning of provisions of the Implementation Plan, including authority to apply and/or enforce the Implementation Plan (LCP IP 21.12.020). This authority to interpret, enforce and apply the provisions of the LCP rest completely and wholly with the Director. These rules for interpretation are included in the LCP Implementation Plan for the specific reason that it is not practical to anticipate every possible situation and allow for due process in an instance of a lack of substantive or

procedural clarity. Although incorrect, this particular assertion of Mr. Mosher is moot, given that our project has been appealed to the Coastal Commission and being reviewed in this process.

Western Portion of Property

Again, Mr. Mosher incorrectly asserts that the city “has made it possible” for building on the western half of the property as a result of their action. However, the property’s allowed building area is only limited at the most westerly 4 feet of the property (the side yard setback). The project complies with the side yard setback requirement along the westerly property line, so to assert/imply or otherwise state that the western portion of the site is not allowed to be developed is incorrect. See the plan below demonstrating that the home complies with side setback requirements.



West Property Line Setback

Exhaustion of Local Remedies

In his appeal document, Mr. Mosher indicates that an appeal was filed to the City Council. However, Mr. Mosher did not submit a valid appeal request since he refused to pay the appropriate processing fee for the appeal. As to the exhaustion of local remedies, Mr. Mosher failed to exhaust these remedies since he failed to file a complete and valid appeal of the project. It was not worth it to the appellant to file a complete and valid appeal to the City Council, thereby, in effect, circumventing the process and the City’s Local Coastal Plan by placing the item before the Coastal Commission without any consideration before the Newport Beach City Council.

Photos Submitted by Mr. Mosher

Although not part of his formal appeal documents, Mr. Mosher provided Coastal Commission staff several photos of the site that were taken while the story poles were erected for the benefit of the community. The concern is that the photos Mr. Mosher provided were taken from the China Cove Ramp, which descends rather quickly below the curb line height of Ocean Boulevard. Several of the photos provided are taken from **BELOW** the curb line height of Ocean Boulevard. These photos were taken from a location that is a vehicle travel lane, where there is no legal pedestrian access and is an extremely dangerous location to walk (although many locals do it anyway). Moreover, China Cove Ramp is not a location where visual resources are a consideration. One fact in this regard would be the development of homes immediately adjacent to the subject property at a height that is substantially higher than the grade of the ramp. I have attached four photos that provide views from the ramp and views from Ocean Boulevard (Attachment 2). You will notice from the photos that the ramp is a narrow two-way vehicle travel lane that has no pedestrian path and descends below the curb line. The last photo is of an existing house at the end of the ramp that is code-compliant and extends well above the grade of the ramp. Several of the photos provided by Mr. Mosher were taken from a different location than Ocean Boulevard and from a different elevation of Ocean Boulevard. The photos attached will provide appropriate context for the story poles that were installed and the adjacent homes to the project site.

Conclusion

As part of the design and development of the project, the property owner and homebuilder held two community meetings on site with the general public who were invited to meet at the site through a mailing. These meetings occurred before and during the Planning Commission meetings. Additionally, we met with several community members on various occasions at the site along with City staff to discuss the project impacts, story poles and overall project design. The City of Newport Beach Planning Commission held two meetings for the Public Hearing. Story poles were erected for two weeks to allow the community to review building envelope of the project (even though the project complies with the height requirements of the LCP Implementation Plan). The design of the project was modified according to direction from the Planning Commission where the building was reduced in size, several architectural changes were made, the elevator tower was removed and the overall height of the building was reduced by 18 inches.

The Planning Commission approved the project with conditions requiring the home and garage to be a maximum of 4,500 s.f., and requiring the rooftop screen to be reduced in height by 4 inches and to be installed as a transparent material. The result is a maximum structure height that is **22 inches below what is allowed by the LCP and the use of transparent material, which reduces the visual height of the structure by another 4 feet.** The plans and renderings we have included do not reflect these changes, as we have not updated our drawings at this time. We intend to have these updated plans by the March meeting.

Please feel free to contact me if you have any questions.

Thank you,

John P. Ramirez
john@mljresources.com
562-818-6719

Attachments:

1. Mosher Appeal
2. Photos

RECEIVED
South Coast Region

STATE OF CALIFORNIA - THE RESOURCES AGENCY

EDMUND G. BROWN JR., Governor

CALIFORNIA COASTAL COMMISSION

JAN 22 2018

SOUTH COAST DISTRICT OFFICE

200 OCEANGATE, 10TH FLOOR

LONG BEACH, CA 90802-4418

VOICE (562) 590-5071 FAX (562) 590-5084

CALIFORNIA
COASTAL COMMISSION

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: James M. Mosher

Mailing Address: 2210 Private Rd.

City: Newport Beach

Zip Code: 92660

Phone: (949) 548-6229

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Newport Beach
2. Brief description of development being appealed: Demolition of existing 2,260 square foot single family home & replacement with 4,500 sf home, plus rooftop deck, on a bluff-face lot where the LCP allows at most 2,865 sf.
3. Development's location (street address, assessor's parcel no., cross street, etc.):
2607 Ocean Blvd., Corona del Mar, CA. 92625
APN: 052-041-05 (Orange County)
4. Description of decision being appealed (check one.):
☐ Approval; no special conditions
☒ Approval with special conditions:
☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO:

A-5-NPB-18-0006

DATE FILED:

1-22-2018

DISTRICT:

South Coast.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
☐ City Council/Board of Supervisors
☒ Planning Commission
☐ Other

6. Date of local government's decision: December 7, 2017 ("final" 1/6/2018)

7. Local government's file number (if any): CD2017-80

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Nicholson Construction (attn: John Ramirez)
 1 Corporate Plaza, #110
 Newport Beach, CA. 92660

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/~~county~~/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Darrin Ginsberg (property owner)
 301 Carnation
 Corona del Mar CA 92625

(2) (names of ~105 other people who wrote to city or spoke at hearings regarding this application will be supplied electronically)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)**SECTION IV. Reasons Supporting This Appeal****PLEASE NOTE:**

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

I believe the local approval was inconsistent with the City's recently-certified LCP.

The project is not designed and sited to minimize impacts to public coastal views (CLUP Policy 4.4.1-2) or impacts to natural landforms (CLUP Policy 4.4.1-3). In addition, the project proposes to privatize (by gating) a significant amount of public view land above and to the west of the property (at the top of the bluff) in contradiction of basic Coastal Act premises.

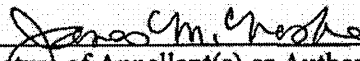
The oversized development was made possible by granting "variances" to the setback standards in the LCP, even though no such authority exists in the LCP and ~~the~~ request to include such authority & develop the findings necessary to exercise it is pending before the CCC as a request for a major amendment to the LCP.

Even without the variances, this development would be problematic, but with them, the City has made possible building on the presently undeveloped western half of lot/bluff face, as well as construction higher than would otherwise be allowed.

As to exhaustion of local remedies, an appeal to the City Council, Piled ^{by me} on 12/21/2017, was returned ^{by the city} with a letter dated 1/9/2018 stating no action would be taken due to failure to pay required appeal fees.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)**SECTION V. Certification**

The information and facts stated above are correct to the best of my/our knowledge.


Signature of Appellant(s) or Authorized Agent

Date: Jan. 21, 2018

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize n/a
to act as my/our representative and to bind me/us in all matters concerning this appeal.

n/a
Signature of Appellant(s)

Date: n/a

CCC 5-NPB-18-0018 appeal (2607 Ocean Blvd, Corona del Mar) : Interested Parties list
 compiled by: Jim Mosher jimmosher@yahoo.com

This is a list of all persons who submitted letters to, or spoke at, the two Newport Beach Planning Commission meetings, with all the contact information that can be gleaned from the archived meeting materials

November 9, 2017, meeting archive: <http://ecms.newportbeachca.gov/Web/0/foi/1236677/Row1.aspx>
 December 7, 2017, meeting archive: <http://ecms.newportbeachca.gov/Web/0/foi/1241129/Row1.aspx>
 (those not noted as "Support" expressed opposition to the approval)

Name	Address	City	Zip	email	phone	Nov 9, 2017	Dec 7, 2017	Support	Notes
Tom Nicholson	1 Corporate Plaza, Suite 110	NB	92660			x	x	x	Nicholson (
John P. Ramirez	1 Corporate Plaza, Suite 110	NB	92660	john@nicholsoncompanies.com	562-818-6719	x	x	x	appearing t
Darrin Ginsberg	301 Carnation					x	x	x	property or
Paul Tobin				paultobin@gmail.com		x			
Lauri Preedger				lpreedger@gmail.com		x			
Susan Skinner	Warwick Lane			seskinner@me.com		x	x		
Brian Benoit	2616 Cove St.	Cdm		brianbenoit@gmail.com		x	x		I hope that
Karen Carlson				kkc2616@aol.com		x	x		
Andy Lingie				andylingie@gmail.com	949-548-7646	x			
Elaine Linhoff				elinhoff@shcglobal.net		x			
Don Harvey	Weybridge Place	Balboa		harveydonw@luno.com		x			
Lynn Lorenz				lynnlorenz@aol.com		x			
Lynn Swain	Big Canyon			lynn@lynswain.com		x			
Kent S. Moore	201 Carnation Ave.	Cdm	92675	kentmoore@roadrunner.com	949-244-1832	x	x	x	
Martha S. Peyton	212 1/2 Fernleaf Ave	Cdm	92675	mpeyton112@gmail.com		x	x		
George V. Kent, M.D.	4627 Gorham Dr.	NB	92663	gvkent@mac.com		x			
Vicki Ronaldson	506 San Bernardino Ave	Cdm		vronaldson@gmail.com		x			
Cynthia Bartlett	417 Cabrillo Terrace	Cdm		hunnabee1951@gmail.com		x			
Maureen Buffington	110 Yorktown	NB		buffington_santo@yahoo.com		x			
Sally Corngold	2241 Donnie Rd.			sallycorngold@gmail.com	949-644-5578	x			
Scott Paulsen				hsapaul@aol.com		x			
Harold Schneider	3607 Seabreezlane	Cdm		hofftheback@gmail.com		x			
Rollin Daniel				rkdanleim2@gmail.com		x			
Jim Warren				jimsandrawarren@mac.com		x			
John Cummings	2600 Ocean Boulevard	NB	92660	jimmosher@yahoo.com	949-548-6229	x	x	x	appellant
Jim Mosher	2210 Private Rd			mammacub2@icloud.com		x			
Vicki Cibeiro				pmd81@aol.com		x			
Marsha Kendall				karen.h.clark@gmail.com		x			
Karen H. Clark	2618 Cove Street	Cdm		joelgraves123@gmail.com	714-307-4214	x			
Joel Graves	615 S Marguerite Avenue	Cdm	92625	joelgraves@me.com		x			
Joy Brenner				paula@drcastron.com		x			
Paula Castanon				tomlibaker@hotmail.com		x			
Tom Baker				stavlous@cox.net		x			
Phoebe Loos				dechen@maui.net		x			
Dan Cohen	2007 Highland Drive	NB	92660	jlacgregor@rmx.com		x			
Jean MacGregor and Charles Whisonant				elblensen@gmail.com		x			
E. J. Bastien									

[illegible]

Patrick Charron	2671 Point del Mar	CDM	patrick@sageinvestco.com	949-633-1331	X	X	
Jeff Brown	2707 Windover Drive	CDM	92625 jeff@brownquitypartners.com		X	X	
Terence and Karen Lyons	219 Larkspur Avenue	CDM	92625 terrilyons1@roadrunner.com		X	X	I live nearb-
Nancy K. Thompson	302 Fernleaf Avenue		thompsonnk@gmail.com		X	X	
Bill Bird			bill@executivenovopsystems.com	714-688-4800	X	X	
Gart Sutton			gart@sutton.com	949-375-2104	X	X	
Karen and Warren James	2627 Cove St.		kdjamar@yahoo.com	949-675-4412	X	X	The story p
Alan Gin			aginh01@aol.com		X	X	
Gregg Miller	1130 West Trenton Avenue	Orange	92867 Gregg@mlereenvironmental.com	714-385-0099	X	X	
Paul Julian			pljulian@advancedonline.com		X	X	
Donald Santacroce	323 Larkspur Ave.	CDM	dsanta323@tvc.com		X	X	
Kendra edmonds		CDM	kendra.s.edmonds@gmail.com		X	X	
Marko Popovich	PO Box 102	Balboa Islai	92662 info@SPON-NewportBeach.org		X	X	The propos For SPON (i
Terrt Rhodes			terrtorhodes@gmail.com		X	X	
William and Jinx Hansen	221 Goldenrod Avenue	CDM			X	X	
Vicki and Harold Parker			Haroldparker@aol.com		X	X	
Nancy Skinner	1724 Highland Drive	NB	92660 jskinnermd@aol.com		X	X	
Ashley Knox	306 Jasmine Ave		ask77@mindspring.com		X	X	
Derek Ostensen			derekostensen@me.com		X	X	
Nancy Otis	721 Larkspur		ncotis@earthlink.net		X	X	
Michael Lee Toerge	3810 E Coast Hwy, Ste 2	CDM	92625 mike@stratalandco.com	(949) 723-1075	X	X	I would hav
Boyd and Charlene Bailey	304 Orchid Avenue				X	X	



**View of site with story poles from Ocean Boulevard
(Looking Southwest)**



**View of Site from Landside of Ocean Boulevard Public Sidewalk
(Looking Southwest)**



View of site from Ocean Boulevard at China Cove Ramp Entry (Looking South)



View From Lower Segment Of China Cove Ramp Entry (Looking Southwest)



VIA ELECTRONIC MAIL AND USPS DELIVER

February 22, 2018

Ms. Dayna Bochco, Chair
California Coastal Commission
South Coast District Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

**Subject: March 7, 2018 Agenda Item No. W11a – Appeal No. A-5-NPB-18-0006
(Nicholson Construction, Newport Beach)**

Dear Chair Bochco,

Since the City of Newport Beach (City) assumed permit authority on January 30, 2017, over 70 coastal development permits have been processed. The 2607 Ocean Boulevard project is the first to be appealed to the Coastal Commission. Therefore, it is appropriate to assure the Coastal Commission that the City's approval raises no substantial issue as to conformity with the certified Local Coastal Program (LCP). The project did elicit some local controversy; however, this was primarily due to the concerns by some in the community that homes in general are getting too big and changing the character of the community. This community discussion will continue locally and may someday result in policy and regulatory changes that will require an amendment to the City's certified LCP. Until such time, the City will continue to review all projects to ensure consistency with our certified LCP and the protection of public access and coastal resources.

Background

On November 9, 2017, the City Planning Commission conducted a public hearing on a coastal development permit (CDP) to allow the construction of a new 5,183-square-foot, single-family residence located at 2607 Ocean Boulevard and a variance request to allow the new residence to encroach into the rear, front and side setbacks, exceed the maximum floor area and height limits for an elevator shaft and guardrails, and provide open volume¹ within the required setback areas (Project).

¹ "Open Volume" is a Zoning Code residential design standard. It requires a three-dimensional open space area outside of setback areas. Open Volume is a community aesthetic standard intended to provide articulation and modulation of building masses and elevations to avoid the appearance of "box-like"

During the public hearing, the Planning Commission expressed concerns with the overall size, bulk/mass and height of the proposed residence. At the conclusion of the hearing, the Planning Commission continued the item to the December 7, 2017, meeting and directed the applicant to consider the following suggested modifications to the Project:

1. Reduce the size and bulk/mass of new residence to be compatible with the visual character of the area.
2. Eliminate the request to exceed the height limit by relocating the elevator to a different location or not have it reach the roof level.
3. Install story poles for the neighborhood to see the extent of proposed development.
4. Incorporate more stringent language to the construction management plan to protect public parking areas during peak summer months.

The applicant installed the story poles and modified project plans based on the direction received from the Planning Commission. The size of proposed residence was reduced from 5,183 square feet to 4,807, for a total reduction of 376 square feet. The changes also eliminated the need for two of the four variance requests. The Project now complied with the open volume standard and no longer required a building height variance by eliminating the proposed elevator shaft and guardrails.

On December 7, 2017, the Planning Commission approved the CDP and the two remaining variances for setbacks and floor area only after further reducing the size of entire residence by another 307 feet for a maximum floor area of 4,500 square feet (including the required parking garage). After thoroughly and thoughtfully examining public views from Ocean Boulevard, the Planning Commission required that the proposed screen wall be replaced with a guardrail with the minimum height required by the Building Code (42 inches) and required the use of a clear material.

City's Responses to the Appeal

The Project is consistent with CLUP Policy 4.4.1-2 (Coastal Views) & Policy 4.4.1-3 (Natural Land Form)

The Project, as modified by the Planning Commission, complies with all of the height limits of the certified LCP. The Project conforms to the base height limit of 24 feet for flat roofs. The Project also conforms to an additional height limit for properties seaward of Ocean Boulevard that requires that development not exceed the curb height (73.81 feet) of Ocean Boulevard in order to project public views of the ocean and harbor. The top of

buildings. This standard does not implement any CLUP policies, and, therefore, it is not the certified LCP Implementation Plan.

the proposed residence, including the guardrail (formally, a screen wall) at the deck level, is approximately 22 inches below the curb height.

In addition, the Planning Commission reviewed the Project for consistency with certified LCP Implementation Plan Section 21.30.100 (Scenic and Visual Quality Protection). Pursuant to this section, a visual impact analysis was prepared to determine the Project's potential to impact public views, particularly those views of the ocean and harbor from the Ocean Boulevard. The analysis revealed no significant impact to public views. However, to provide additional protection of public views, the Planning Commission replaced a proposed screen wall at the deck level with a guardrail and with a maximum height of 42 inches and required the use of a clear material. The final design of the guardrail requires the approval by the City's Planning Division.

Certified LCP Coastal Land Use Plan (CLUP) Policy 4.4.1-3 is a general policy statement, which calls for the "design and site new development to minimize alterations to significant natural landforms, including bluffs, cliffs and canyons." This area, known as "China Cove" was terraced and developed beginning in the 1930s, so very little of the natural land remains. More relevant is CLUP Policy 4.4.3-8 that contains an exception to the general prohibition of development on bluff faces in this area in order to protect public views from Ocean Boulevard.

The CLUP recognizes that Ocean Boulevard is one of the few areas in the City's coastal zone where there is extensive development of the bluff face. The CLUP provides that development in this area is allowed to continue on the bluff face to be consistent with the existing development pattern and to protect coastal views from the bluff top. Allowing the Project to develop into the bluff face in order to keep the building height lower than curb height protects public views from Ocean Boulevard, which is clearly consistent with the certified LCP.

The Project does not privatize public view land

The appellant incorrectly states that the Project will "privatize a significant amount of public view land" and alludes to a gate. The area in question is part of the Ocean Boulevard public right-of-way, which is on a steep slope below the street. This slope does not currently provide, and offers no real opportunity to provide, public views or access. The only private development proposed in this area are pavers and steps with a guardrail to provide a pedestrian access from Ocean Boulevard to the residence, which will replace an existing concrete walkway. The proposed walkway is designed and sited so as to not obstruct public views; the pavers and steps are at grade-level and the guardrail will be of an open design and limited to no more than 34-inches in height. The proposed gate will replace an existing gate located at street level. The Project will relocate this gate below street level, which will enhance public views; the gate will also be designed and sited to ensure that it does not impact public views.

In short, the proposed walkway is not unlike walkways that commonly provide a connection from a public street to private property. The Project is conditioned to ensure

that the proposed walkway will not impact public views from Ocean Boulevard. To characterize this minor project component as privatizing “a significant amount of public view land” is, at best, misleading.

Variance – LCP setbacks

The appellant argues that the Planning Commission has no authority to grant a variance to the setback standards of the certified LCP.

Variances allow for the modification or waiver development standards when; because of special circumstances applicable to the property, including location, shape, size, surroundings, topography, or other physical features; the strict application of the development standards otherwise applicable to the property denies the property owner privileges enjoyed by other property owners in the vicinity and in the same zoning district.

Coastal Act Section 30010 states that the Coastal Act is not intended to “take or damage private property for public use, without the payment of just compensation therefor.” Coastal Act Section 30010 further states that the Coastal Act is “not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.” This policy is reiterated in CLUP Policy 1.3(1).

The Coastal Act and the LCP are not intended to increase or diminish the rights of any property owner. These documents are also not intended to increase or diminish the ability of a local government to grant relief when the strict application of development regulations result in physical hardships and/or denies property owners of privileges enjoyed by other property owners.

The certified LCP is silent on how necessary variances are related to the property development regulations contained in the certified LCP. The granting of such variances are permitted, provided that they are consistent with other sections of Certified LCP.

The absence of a variance procedure in the certified LCP does not preclude the Community Development Director from making an interpretation that allows the City to rely upon the variance procedure in the City’s Zoning Code. The ability to render interpretations is authorized in the City’s Zoning Code. There is no conflict between the Zoning Code and the LCP, because the certified LCP contemplates a variance but does not provide any procedures for the granting of a variance. Without this interpretation, the City does not have the ability to issue a variance to the City’s design standards in the Coastal Zone. The major amendment reference by the appellant is only intended to clarify this process.

Development of western half of property is allowed by City’s certified LCP

The appellant argues that the development on the western half of the Project site can only be accomplished by the variance of certified LCP setback regulations. The certified LCP required setbacks for the subject property are 10 feet along the front property line

on Ocean Boulevard (adjacent to China Cove Ramp), 10 feet along the rear property line on Way Lane, and 4 feet along both the side property lines. Therefore, development of the western half of the property is permitted under the development standards of the City's and certified LCP.

City's Appeal Process

On December 21, 2017, the appellant filed an appeal of the Planning Commission's decision to the City Council, which requires payment of a fee under the Newport Beach Municipal Code Section 20.64.030(B)(2). The appeal application was rejected by the Newport Beach City Clerk's Office for failure to pay the filing fee. The City Clerk also determined the appellant can appeal the CDP portion of the project to the Coastal Commission, which does not require the payment of a fee under certified LCP Implementation Plan Section 21.64.030(B)(1)(b).

In summary, the City's Planning Commission reviewed, modified and approved the project to ensure consistency with the City's certified LCP and Zoning Code. The Project was found to comply with all certified LCP height limits and found not to impact public views or public access. This project approval does not rise to the level of a substantial issue as to conformity with the certified LCP.

Thank you for the opportunity to clarify the record.

Sincerely,


Seimone Jurjis, PE, CBO
Community Development Director

cc: Jack Ainsworth, Executive Director
Karl Schwing, Deputy Director
Dave Kiff, City Manager

March 22, 2018

Mr. Chuck Posner
Mr. Fernie Sy
California Coastal Commission
South Coast District Office
200 Oceangate, 10th Floor
Long Beach CA 90802-4416

Re: Commission Appeal No. A-5-NPB-18-0006 - Appeal of local CDP for construction of a 4-level, 4,500 sq. ft., single-family residence, with rooftop pool deck and ground floor, 3-car garage.

Dear Mr. Posner and Mr. Sy,

My name is John Ramirez and I am representing Nicholson Construction and the property owner on the above-referenced application. I would like to use this letter as an opportunity to respond the statements made by Mr. Jim Mosher in his appeal of our project made to the Coastal Commission on January 22, 2018 and attached herein for reference (Attachment 1).

Background

Site Description

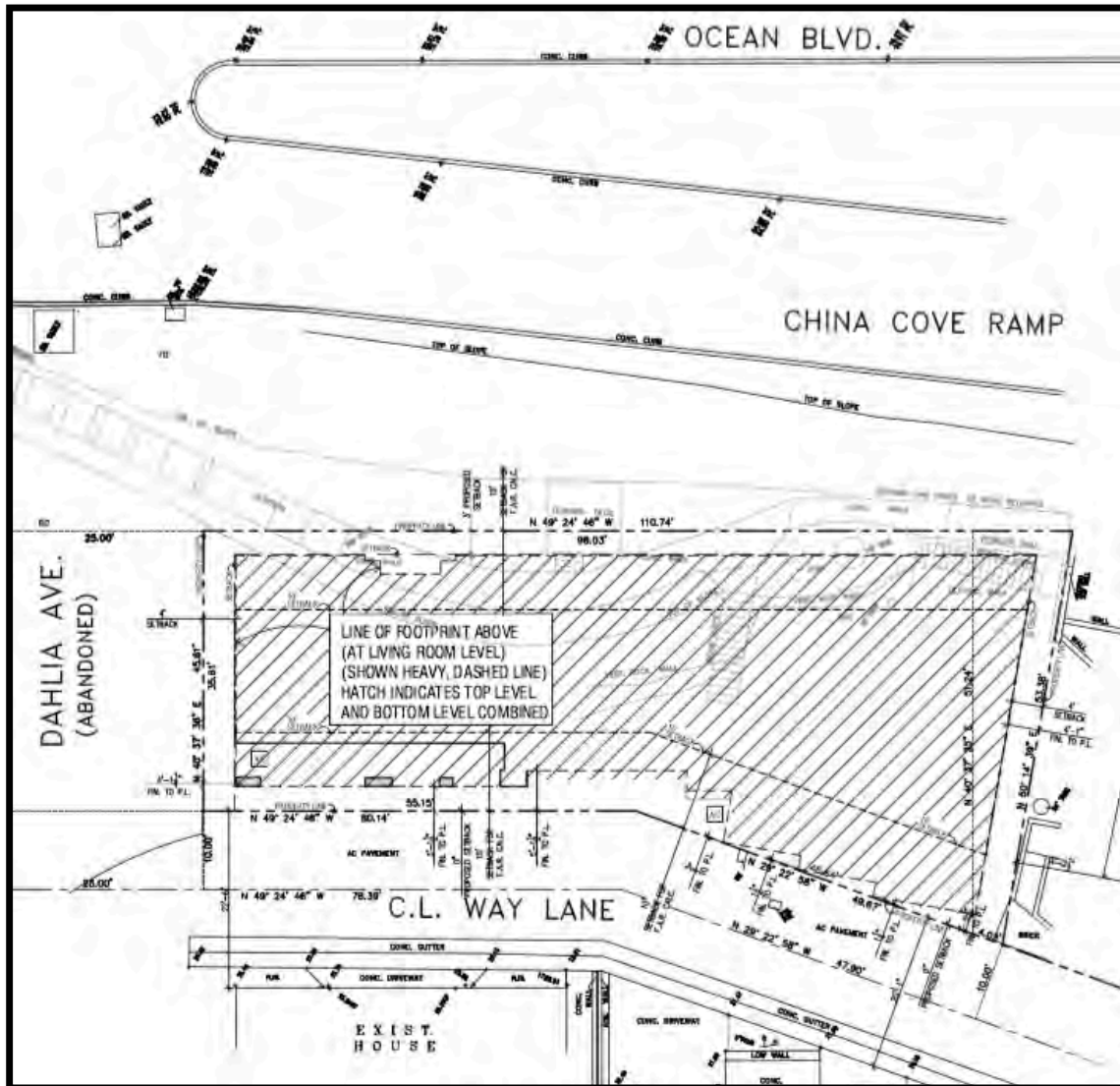
The existing 2,260 square foot 3-story single family home is located on a 4,257 square foot lot that is irregularly shaped and contains an extreme slope that varies from 15%-45% on most of the lot. The existing home has a (legal nonconforming) setback from 0-4 feet along Way Lane and a (legal nonconforming) setback of 7 feet along the Ocean Boulevard right of way. The property takes vehicular access from Way Lane. There are pedestrian access points to the property from Way Lane as well as from an existing gated access way from Ocean Boulevard.

Coastal Development Permit

The property is currently zoned R-1 (Single-Unit Residential) and has a General Plan land use designation of RS-D (Single-Unit Residential Detached). The property is located within the City's Coastal Zone and within the Coastal Zone Categorical Exclusion Area. The City's Local Coastal Program (LCP) classifies the property as RSD-B (Single Unit Residential Detached – 6.0-9.9 DU/AC). Additionally the property is located with R-1 Single-Unit Residential District of the LCP.

This project is located within the Coastal Zone Categorical Exclusion Area, and the demolition and reconstruction of a single family home would not typically require a CDP since the project is consistent with the land use plan and classification of the property and is within an area that is already developed within similar land uses and there is existing infrastructure to serve the property. However, since this request to demolish an existing 2,260 square foot non-conforming (related to setbacks) 3-story single-family

home and construct a new 4,500 square foot 3-story single-family home at 2607 Ocean Boulevard includes variance requests, the City required approval of a Coastal Development Permit as part of the development review of the project. See the Site Plan below.



Site Plan

Project History

Nicholson Construction submitted this project to the City of Newport Beach in September 2016. City staff conducted initial analysis of the project and deemed the application incomplete for purposes of processing in October 2016. Additional information was required and refinement of plans was needed to adequately review and analyze the project.

Nicholson began to refine the project and work with staff to analyze several key

elements of the project, including:

- Potential impacts to coastal views
- Potential impacts to coastal access, including parking during construction
- Preservation of integrity of bluff and minimizing of alteration of bluff
- Location of elevator tower and height/visual impacts
- Clarity of historical access to site from Ocean Blvd. and formalization of access
- Appropriateness of proposed size and configuration of proposed home
- Appropriateness of proposed variances
- Need to minimize impacts during construction of new home on local community

During the evaluation of the project, from initial submittal to approval, the project plans were modified four times in response to city feedback, feedback from the community and feedback from the Planning Commission.

- Original Submittal Sept 2016
- First Resubmittal Sept 2017
- Revision to First Resubmittal October 2017
- Revision to plans per direction of Planning Commission December 2017
- Updated plans per conditions of approval by Planning Commission

During the evaluation of the project, Nicholson engaged in community outreach to connect with the local community and obtain feedback regarding the proposed home. These efforts included:

- On site community meeting on September 9, 2017 (15-20 attendees)
 - US Mail Notification to property owners/residents w/in 300-foot radius
- In person contact with immediate neighbors throughout August and September 2017
- Installation of story poles at the site from November 28-December 8, 2017
 - US Mail to property owners/residents w/in 300-foot radius
 - Email to City and interested parties notified
- On site open house from 12p-6p on November 30, 2017, while story poles posted
 - US Mail to property owners/residents w/in 300-foot radius (12-15 attendees)
 - Email to City and interested parties notified and invited to open house
- Direct email and phone communication with several key interested parties

The project evolved quite substantially and was modified dramatically from the first submittal to the final version approved by the Planning Commission with conditions in December 2017. During these modifications, the home was reduced in size, the deck screening was reduced in height, the home was architecturally modified to reduce massing and bulk, the proposed height and open volume variances were eliminated and the three car garage was reduced to a two car garage with a carport. The most dramatic modifications were made between the first and second Planning Commission meetings. I have included a clean set of these revised plans (Attachment 7) and a set of plans that completely identify the changes made (Attachment 8). This set is marked up to easily identify the changes made. I have attached a table with a timeline showing how key elements of the home evolved throughout the project analysis by the City and

based on community feedback (**Attachment 1**). I have also attached a list of supplemental information provided at the City's request to ensure project impacts were eliminated/minimized and that every effort was made to address city concerns related to key elements identified above (**Attachment 2**).

Coastal Views

The appellant indicates the project is not "designed or sited" to minimize impacts to public coastal views (CLUP Policy 4.4.1-2). However, the project is actually designed specifically with consideration to coastal views. This property is located on the bluff side of Ocean Boulevard and therefore restricted to a maximum height of 24 ft. and 29 ft. for flat and sloped roofs respectively, and not allowed to exceed the curb height of Ocean Boulevard (Local Coastal Program Implementation Plan Section 21.18.030, Table 21.18-2 and 21.30.060 B4).



Structure Photo simulation from Land Side of Ocean

As indicated above, the height and massing of the structure was minimized during the planning review process with special consideration to impacts to coastal views. The elevator shaft was removed from the project; mechanical equipment was relocated to enable removal of more than half of the roof screening (thus reducing bulk/mass); roof deck shade structure was removed entirely; the pool safety barrier and screening were lowered in height and the material was changed to be transparent. We also cut the corner off at Ocean / Dahlia roofline. This change reduced the height and width of the safety barrier and the low-pitched roof matches the other side and "book ends" the house making it more cohesive design. From the original submittal to the final approved version, we eliminated the height variance, and reduced the roof top barrier from three

to five feet, and completely removed more than half the screening altogether. Moreover, the development complies with the above-referenced height limitations identified in the LCP Implementation Plan. In fact, the project structure height is 6.5 feet below the curb height of Ocean Boulevard and the roof deck transparent safety barrier ranges from three to five feet below the curb height of Ocean Boulevard. The project is lower in height than what would otherwise be allowed by the LCP. The simulations below show the proposed structure, as approved by the City, with the maximum height allowed by the coastal implementation plan. As demonstrated, the proposed structure is 3-5 feet lower than what is allowed by the implementation plan, and no coastal views are impacted by the project.



Structure Photo simulation from Land Side of Ocean



Structure Photo simulation from Sea Side of Ocean



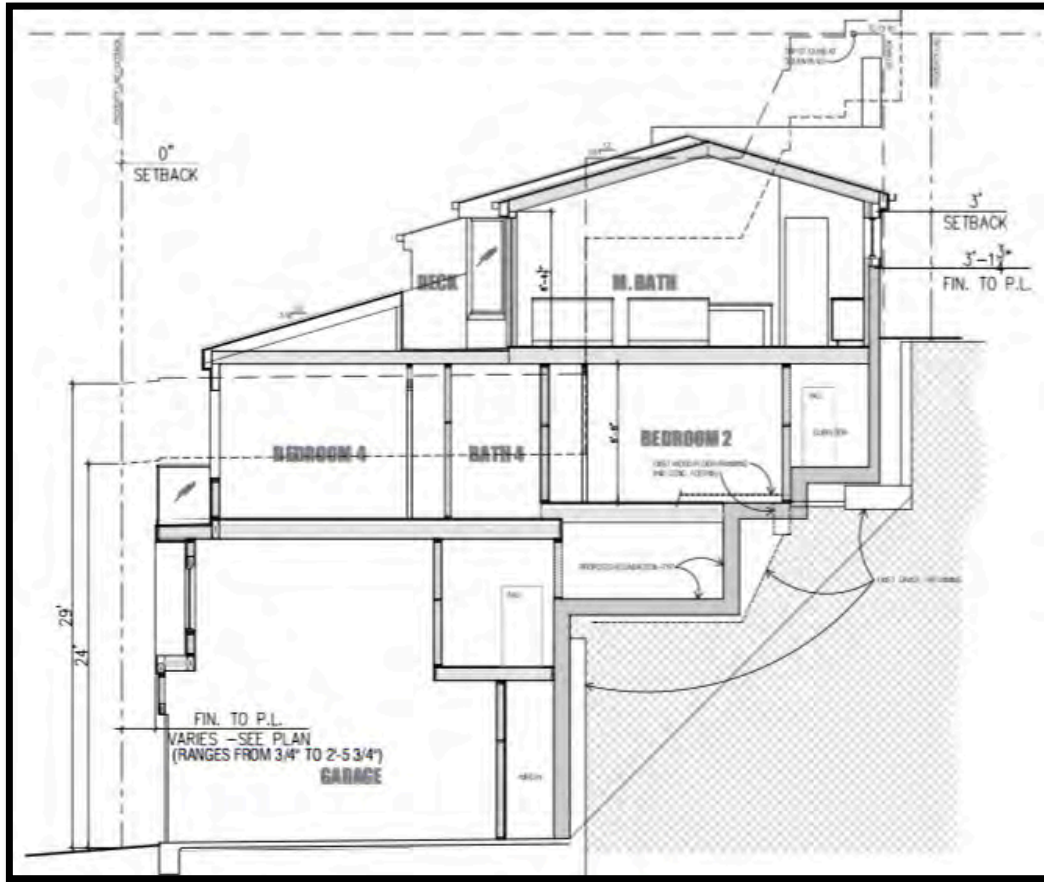
Structure Photo simulation from the public walk on sea side of Ocean Blvd.

In addition to being designed at a height less than required by the LCP Implementation Plan, the project also complies with the side yard setbacks identified in the Implementation Plan. The two design components of any structure that would have a potential impact on public views would be structure height and structure width – both of which relate to the horizontal and vertical view paths. Both of these design components of the project comply with the LCP Implementation Plan. The LCP Implementation Plan

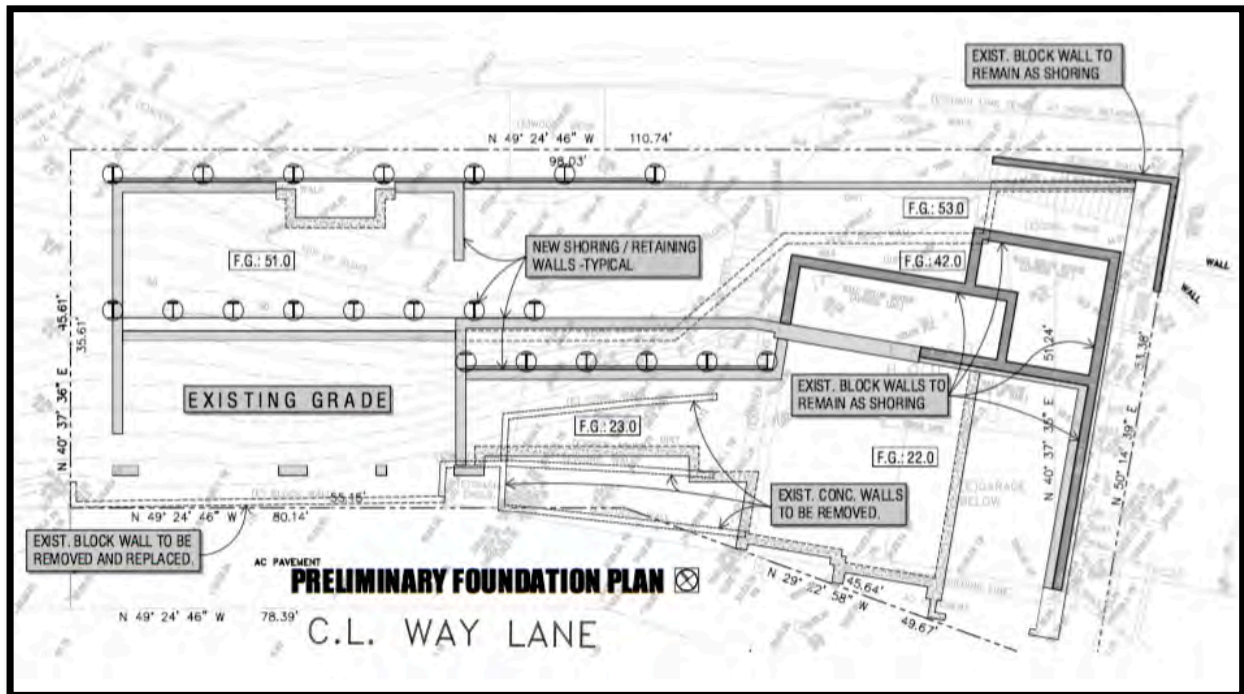
has been reviewed by Coastal Commission to ensure the regulations within the Implementation Plan provide for development that uphold the intent of the LCP and uphold the policies, goals and objectives of the LCP. Moreover, the Coastal Commission has certified the City's LCP as consistent with the Coastal Act. Since the design of the project complies with the regulations within the LCP Implementation Plan related to height and side yard setbacks, and as demonstrated in the above-referenced photo simulations there is no impacts to coastal views created by the project, therefore the project is consistent with CLUP Policy 4.4.1-2.

Natural Landforms

The appellant asserts that the site is not designed to minimize impacts to natural landforms (CLUP Policy 4.4.1-3). The property owner and homebuilder specifically designed the new home with consideration for the natural slope on this property. The new home is designed to use the existing retaining wall structures that hold the existing home in place so as not to unnecessarily disturb the existing slope. Additionally, the home does not include the construction of a basement, as that would necessitate a complete reconstruction of the slope. Instead, the project "treads lightly" on the property and within the neighborhood by being designed into the slope and nesting with the existing landform of the hillside. The building includes an elevator to provide access to all floors. Nicholson evaluated the potential to locate the elevator closer to Ocean Blvd. and identified during that analysis that the foundation work and hillside disturbance would be excessive, and therefore located the elevator such that minimal disturbance to the hillside would occur. Additionally, along the westerly portion of the proposed home, there is a section of hillside that is left exposed and undisturbed, with the new home constructed above it on posts. There is an existing retaining wall that fronts along Way Lane that is being removed and reinstalled in place, so that no change to the topography occurs. Please note that in the building cross-section and foundation plan below, the building uses existing structures and conforms to the existing slope and minimizes impact to existing natural landforms. Moreover, the design of the structures was developed to minimize the number of caissons needed to support the structure. All these efforts were done to ensure the project is consistent with CLUP Policy 4.4.1-3.



Home Cross Section

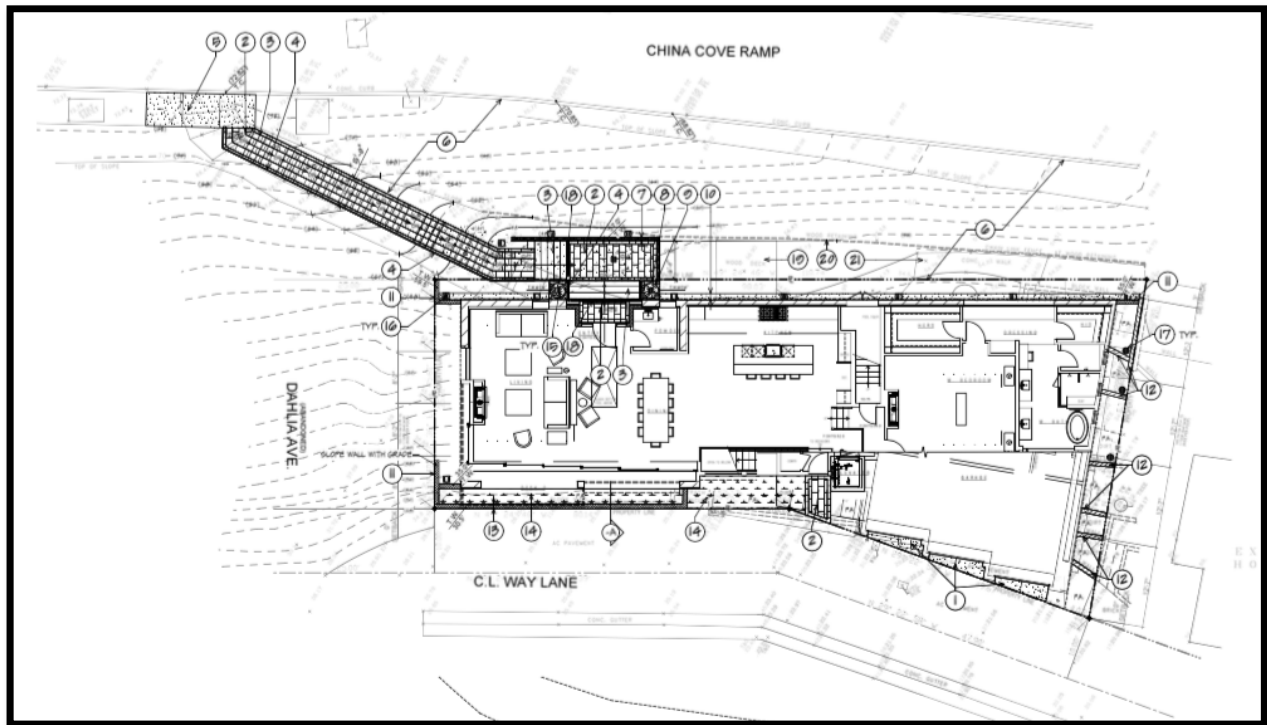


Preliminary Foundation Plan

Privatization of Land

The appellant asserts that the development would “privatize” a significant amount of public view land above and to the west of the property. This assertion is completely untrue. The property currently takes pedestrian access from Ocean Boulevard, which it has done for more than 40+ years. The appellant implies that this walkway is a new element introduced into the area, when, in fact, the access predates the Coastal Act of 1976. The design of the walkway is being coordinated between the property owner and the City to ensure that any future sidewalk or other use of the area would not be affected by pedestrian access to the property. The original design of the pedestrian access (as indicated below) was configured this way due to the hazard of having a pedestrian entry immediately entering the China Cove Ramp, where there is no connection to any safe pedestrian path due to the slope and narrowness of the China Cove Ramp. The aerial below of the existing site condition reflects the private pedestrian access to the site that has been in place for at least 40 years. The reconstruction of the new home includes the continued use of the same access path. The design of the access mirrors the existing path in order to further reduce any impacts to the hillside form, reduction in grading activity and maintenance of safe access to the site from Ocean Boulevard. This access is similar to the same types of access to Ocean Blvd. provided to the six houses that have frontage on Ocean Boulevard similar to this property.





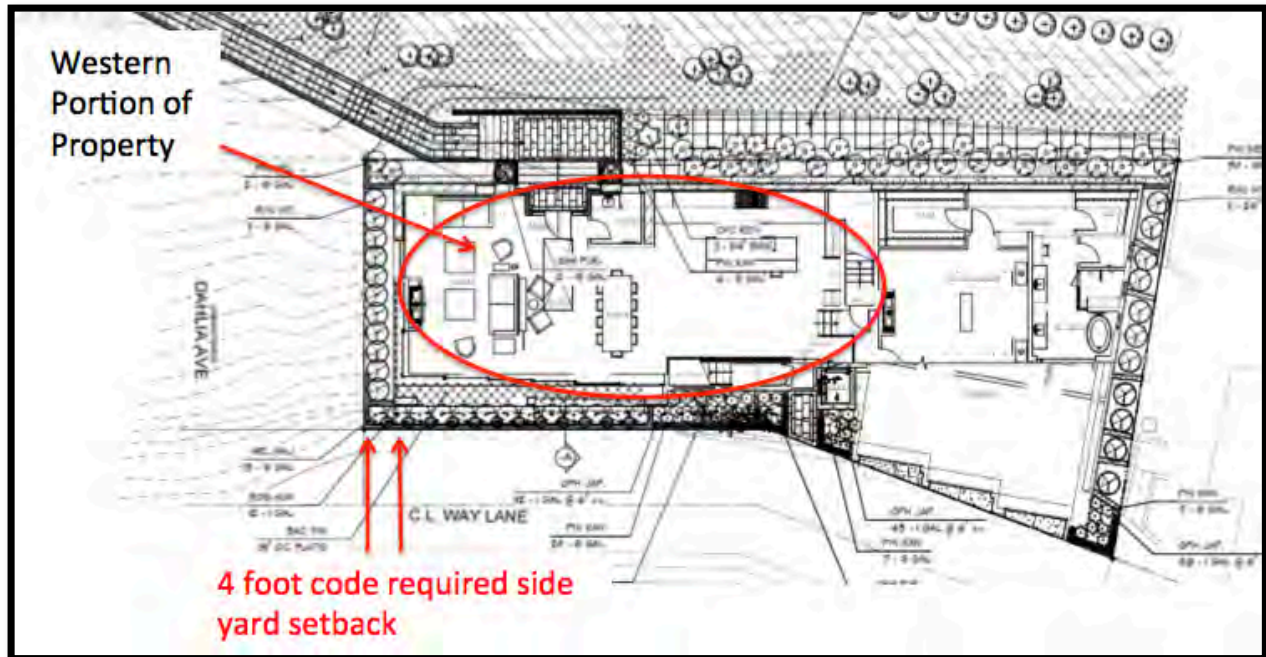
Design of Updated Pedestrian Access

City Authority

I will defer to the City's analysis and response to this item.

Western Portion of Property

Again, the appellant incorrectly asserts that the city "has made it possible" for building on the western half of the property as a result of their action. However, the property's allowed building area is only limited at the most westerly 4 feet of the property (the side yard setback). The project complies with the side yard setback requirement along the westerly property line, so to assert/imply or otherwise state that the western portion of the site is not allowed to be developed is incorrect. See the plan below demonstrating that the home complies with side setback requirements. As indicated previously, the architectural and structural design of the home takes into consideration the goal of preserving as much as possible the natural landform of this area of the property. To that end, the use of large structural elements for the foundation have been reduced, and the new home along Way Lane is built on posts, while maintaining the hillside area and keeping it open and undisturbed, consistent with the intent and goals of the City's certified LCP.



West Property Line Setback

Exhaustion of Local Remedies

Response to this item is moot, as the project has been appealed to the Coastal Commission.

Photos Submitted by the Appellant

Although not part of his formal appeal documents, Mr. Mosher provided Coastal Commission staff several photos of the site that were taken while the story poles were erected for the benefit of the community. The concern is that the photos Mr. Mosher provided were taken from the China Cove Ramp, which descends rather quickly below the curb line height of Ocean Boulevard. Several of the photos provided are taken from **BELOW** the curb line height of Ocean Boulevard. These photos were taken from a location that is a vehicle travel lane, where there is no legal pedestrian access and is an extremely dangerous location to walk (although many locals do it anyway). Moreover, China Cove Ramp is not a location where visual resources are a consideration. One fact in this regard would be the development of homes immediately adjacent to the subject property at a height that is substantially higher than the grade of the ramp. I have attached four photos that provide views from the ramp and views from Ocean Boulevard (**Attachment 12**). You will notice from the photos that the ramp is a narrow two-way vehicle travel lane that has no pedestrian path and descends below the curb line. The last photo is of an existing house at the end of the ramp that is code-compliant and extends well above the grade of the ramp. Several of the photos provided by Mr. Mosher were taken from a different location (not Ocean Boulevard) and from a different elevation of Ocean Boulevard. The photos attached will provide appropriate context for the story poles that were installed and the adjacent homes to the project site. Additionally, the photo-simulations of the project provided at the beginning of this letter demonstrate no visual or view impact of the project from Ocean Boulevard.

Conclusion

The Planning Commission approved the project with conditions requiring the home and garage to be a maximum of 4,500 s.f., and requiring the rooftop safety barrier to be reduced in height and to be installed as a transparent material. The result is a maximum structure height that is three to five feet below what is allowed by the LCP. The use of transparent material further reduces the visual height of the structure by another 42 inches. We respectfully request staff recommend No Substantial Issue (NSI) based on the information provided herein and attached herewith. Please consider in kind, the information provided to you by the City of Newport Beach Community Development Department related to City Authority, findings and justification for the variances, and the analysis of the project in the context of the City's Certified LCP.

Please feel free to contact me if you have any questions.

Thank you,



John P. Ramirez
john@mljresources.com
562-818-6719

Attachments:

1. Project Evolution
2. List of Supplemental Submittal Items to City
3. Preliminary Foundation Plan
4. Project Plan Set September 2016
5. Project Plan Set September 2017
6. Project Plan Set October 2017
7. Clean Project Plan Set December 2017
8. Marked Up Project Plan Set December 2017
9. Final Approved Project Plan Set
10. Photo Simulations of Project from Ocean Boulevard
11. Mosher Appeal
12. Photos



CITY OF NEWPORT BEACH

100 Civic Center Drive
Newport Beach, California 92660

949 644-3200
newportbeachca.gov/communitydevelopment

March 22, 2018

Charles Posner, Coastal Program Supervisor
California Coastal Commission
200 OceanGate, 10th floor
Long Beach, California 90802-4116

Re: Mosher Appeal, 2607 Ocean Boulevard
Newport Beach Coastal Development Permit No. CD2017-080

Dear Mr. Posner,

Pursuant to State law and local zoning regulations, a variance can be granted to waive or modify development standards when, because of special or unique circumstances applicable to the property, the strict application of the development standards otherwise applicable to the property denies the property owner privileges enjoyed by other property owners in the vicinity and in the same zoning district. Special circumstances can involve the property's location, shape, size, surroundings, topography, or other physical features. A variance can only be granted to maintain parity between the variance site and nearby properties in the same zoning district to avoid the granting of special privileges to one property.

The City's Planning Commission found that there were special circumstances applicable to the property at 2607 Ocean Boulevard. The Planning Commission found that the location, irregular configuration, limited lot depth and topography of the property created unique circumstances and conditions that restricted the potential development area of the property that do not apply generally to other similar R-1 zoned properties in the vicinity.

With the need for the variance established, the question is whether the granting of the variance would allow development that is not protective of coastal resources.

Based on visual simulations and site observations at the project site including story poles, the Planning Commission determined that the project as modified would not significantly impact public views. The modifications included the

reduction in the height of a proposed rooftop screen wall to the minimum necessary to provide a required guardrail for a rooftop deck. The Commission also required the guardrail to be constructed of transparent materials.

There is no alternative location on the property where development can be sited to minimize alteration of the bluff. The property is shallow, with a lot depth ranging from 35 feet to 53 feet. While the lot is 110 feet wide, it is a concave polygon shape that does not accommodate a sizable building pad. Development could be concentrated within the existing footprint; however, in order to maintain parity in floor area with nearby properties, development would either have to be higher or cut deeper into the bluff. Permitting the residence to exceed the Ocean Boulevard curb height would result in a significant impact to public views. Allowing the residence to excavate deeper into the bluff would result in a greater impact to the landform. These outcomes were considered by the City and avoided with the approved design.

There is also no feasible alternative site design that would minimize alternation of the bluff:

- The surrounding area was terraced and developed beginning in the 1930s, so very little of the natural land remains. Specifically, this site was altered with the construction of the China Cove ramp. Therefore, there is no real opportunity to designing structures to conform to the natural contours of the site.
- The project design currently contains all outdoor living areas (i.e., patios, decks, pools, spas, etc.) within the principal building. Therefore, there is no further opportunity to cluster such structures or design them to conform to the existing topography.
- The project design currently employs stepped foundation; however, the property is too constrained to utilize a split-level or cantilever design.
- The property is also too small and irregularly-shaped to allow a design with detaching development components, such as detaching the garage from a dwelling unit.

In summary, use of a variance process was deemed necessary to provide a development opportunity to provide parity with other properties in the same zone. The process involved two well attended public hearings and community input. The result of the process avoids significant impact of public views from Ocean Boulevard, a designated public view corridor as shown in the story poles and visual simulations. The design also minimizes alteration of the bluff through its stepped design and use of existing retaining walls under the existing development. Finally, the site presents no feasible alternative locations or site

designs to further reduce alteration of the site without severely limiting the footprint of the site that would lead to a taller building that would cut deeper into the bluff to maintain parity with the size of homes in the same zone.

If you have any questions, please do not hesitate to contact me at 949-644-3210 or by email at jcampbell@newportbeachca.gov. Thank you.

Sincerely,

A handwritten signature in blue ink that reads "JW Campbell". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

James Campbell, Deputy Community Development Director

cc. Nicholson Construction
Don Schmitz, Schmitz and Associates