

CALIFORNIA COASTAL COMMISSION

South Coast District Office  
301 E Ocean Blvd., Suite 300  
Long Beach, CA 90802-4302  
(562) 590-5071



W15a

A-5-DPT-21-0056 (VICKI AND MIKE MEURSING)

SEPTEMBER 29, 2021

EXHIBITS

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## Exhibit 1—Project Location



BRANDON ARCHITECTS, INC.

[illegible]

	ALUMINUM
	CONCRETE
	EARTH
	GYPSUM - PLASTER
	INSULATION - RIGID
	MASONRY - BRICK/STONE
	MASONRY - CONCRETE BLOCK
	PLYWOOD / GLU-LAM TIMBER
	SAND
	STEEL
	WOOD

DEFERRED SUBMITTALS
---------------------

AGENCIES & PUBLIC SERVICES

PROJECT DIRECTORY	
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**G RESIDENCE**

OWNER INFORMATION:

VICKI LANE WILSON  
220 COSTA DEL SOL  
WESTLAKE, TX 76092



**BRANDON ARCHITECT'S**

211 Laurel Street, Suite C-1, Dallas, Texas 75201  
(214) 381-1414 | www.brandonarchitects.com

PROJECT NAME	RESIDENCE
DESIGNING FIRM	BRANDON ARCHITECTS
STATUS	CDD - 3RD CHECK

BEACH ROAD  
POINT, CA 92624

MEURSING

PROJECT ARCHITECT  
ELIZABETH HANNA  
DOCUMENT VALID UPON

	<b>ORIGINAL SIGNATURE</b>
	CH TBC TS, Christopher Bardon, and/or its land in anyway by any other the AEC-H TBC TS. Any credit/reduced ability in violation of BRANDON of their paper presented in the one published TO be subject to any and permission by BRANDON indicated of any liability regarding any indicated or implied person.

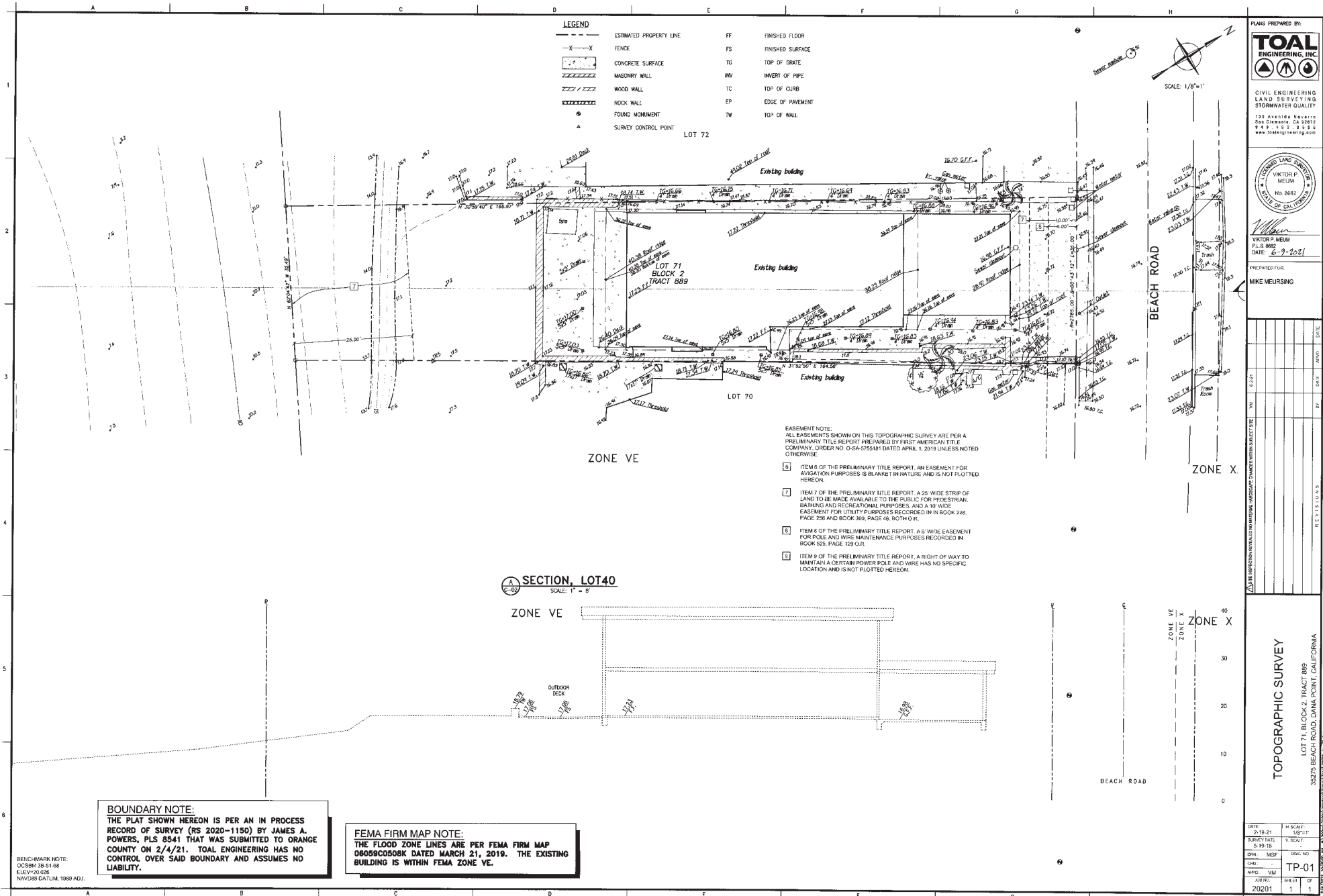
## TITLE SHEET

[illegible]

JOB NO.	202017
DATE	06/07/2021
SHEET NO.	

T-1.0









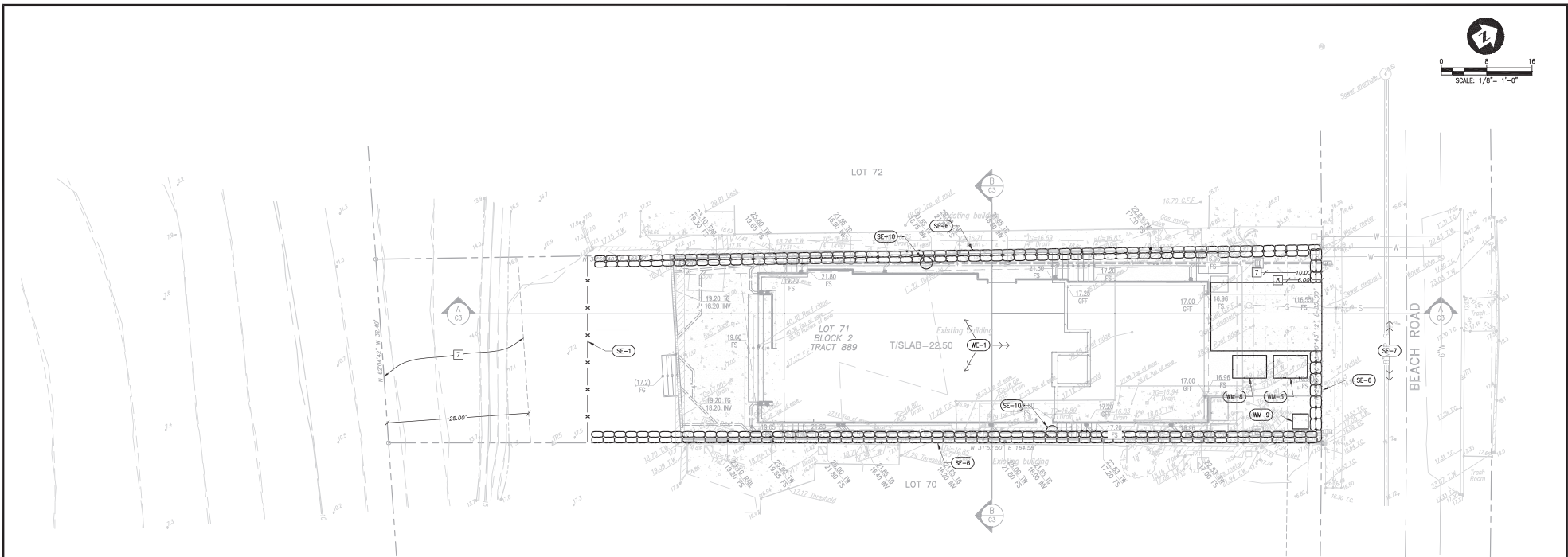


- ①—CONSTRUCT CONCRETE DRIVEWAY. SEE DETAIL ON SHEET C3.
- ②—CONSTRUCT CONCRETE HARDCAPE. SEE DETAIL ON SHEET C3.
- ③—CONSTRUCT BOTTOMLESS DRAINBOX & CURB OUTLET. SEE DETAIL ON SHEET C3.
- ④—INSTALL 4" DIA. PVC SCHEDULE 40 OR SDR 35 PIPE DRAIN SYSTEM.
- ⑤—INSTALL 6" DECK DRAIN NDS 40 W/ RISER & ADAPTOR, OR EQUAL.
- ⑥—INSTALL 6" ATRIUM DRAIN NDS 90 W/ RISER & ADAPTOR, OR EQUAL.
- ⑦—INSTALL 12" ATRIUM DRAIN NDS 1280 W/ RISER & ADAPTOR, OR EQUAL.
- ⑧—INSTALL MIN CHANNEL DRAIN NDS TYPE 500 W/ GRATE NDS 529 OR EQUAL.
- ⑨—CONNECT DOWNSPOUT TO STORM DRAIN SYSTEM PER DETAIL ON SHEET C3.



\* REQUIRED WHERE ADJACENT TO LANDSCAPE AREAS.

PLAN CHECK NO.	BLD20-1875
3 OF 5 SHEETS	



#### EROSION CONTROL BMPs

EC-1 SCHEDULING SCHEDULE PREPARED BY CONTRACTOR SHALL BE ON-SITE DURING CONSTRUCTION.

#### TEMPORARY SEDIMENT CONTROL

SE-1 SILT FENCE INSTALL WHERE SHOWN ON PLAN.  
SE-5 FIBER ROLL INSTALL WHERE SHOWN ON PLAN.  
SE-6 GRAVEL BAG BERM PLACE AS SHOWN ON PLAN.  
SE-7 STREET SWEEPING AND VACUUMING STREET SHALL BE SWEEPED AND SEDIMENT COLLECTED AND PROPERLY DISPOSED OF, ON OR OFF-SITE, ON A DAILY BASIS.

#### WIND EROSION CONTROL

WE-1 WIND EROSION CONTROL WATER OR COVER MATERIAL SHALL BE USED TO ALLEVATE DUST NUISANCE FROM ANY DISTURBED AREAS DURING CONSTRUCTION.

#### TRACKING CONTROL

TC-1 STABILIZED CONSTRUCTION EXIT CONSTRUCT WHERE SHOWN ON PLAN.

#### WASTE MANAGEMENT AND MATERIALS POLLUTION CONTROL

WM-1 MATERIAL USE MATERIALS FOR CONSTRUCTION SHALL BE USED IN ACCORDANCE WITH PRODUCT DIRECTIONS.  
WM-2 MATERIAL DELIVERY AND STORAGE IF MATERIALS ARE STORED ON SITE, THEY SHALL BE STORED IN ORIGINAL MARKED CONTAINERS AND COVERED FROM RAIN AND WIND.

WM-4	SPILL PREVENTION AND CONTROL	AMPLE CLEAN-UP SUPPLIES FOR STORED MATERIALS SHALL BE KEPT ON-SITE. EMPLOYEES SHALL BE EDUCATED ON THE CLASSIFICATIONS OF SPILLS AND APPROPRIATE RESPONSES.
WM-5	SOLID WASTE MANAGEMENT	SOLID WASTE FROM CONSTRUCTION ACTIVITIES SHALL BE STORED IN APPROPRIATE CONTAINERS. FULL CONTAINERS SHALL BE DISPOSED OF PROPERLY.
WM-8	CONCRETE WASTE MANAGEMENT	AN ON-SITE CONCRETE WASHOUT AREA SHALL BE CONSTRUCTED, USED, AND DISPOSED OF IN A MANNER WHICH MEETS THE REQUIREMENTS OF THE CITY.
WM-9	SANITARY/SEPTIC WASTE MANAGEMENT	ON-SITE FACILITIES SHALL BE PROVIDED AND MAINTAINED BY THE CONTRACTOR FOR THE DURATION OF THE PROJECT.
<b>NON-STORMWATER MANAGEMENT</b>		
NS-1	WATER CONSERVATION PRACTICES	MAINTAIN EQUIPMENT TO PREVENT UNINTENDED NON-STORMWATER DISCHARGES.
NS-3	PAVING AND GRINDING OPERATIONS	APPLY PERMETER CONTROLS AND VACUUMING TO PREVENT NON-STORMWATER DISCHARGES.
NS-7	POTABLE WATER / IRRIGATION	EXERCISE CARE DURING CONSTRUCTION TO PREVENT UNINTENDED NON-STORMWATER DISCHARGES.
NS-12	CONCRETE CURING	APPLIES TO ALL CONCRETE CONSTRUCTION.
NS-13	CONCRETE FINISHING	APPLIES TO ALL CONCRETE CONSTRUCTION.

#### YEAR-ROUND BMP REQUIREMENTS

- WHERE APPROPRIATE, SEDIMENT CONTROL BMPs SHALL BE IMPLEMENTED AT THE SITE PERIMETER, AT ALL OPERATIONAL STORM DRAIN INLETS, AND AT ALL NON-ACTIVE SLOPES, TO PROVIDE SUFFICIENT PROTECTION FROM STORMS.
- WIND EROSION BMPs (DUST CONTROL) SHALL BE IMPLEMENTED AND MAINTAINED.
- BMPs TO CONTROL OFF-SITE SEDIMENT TRACKING SHALL BE IMPLEMENTED AND MAINTAINED.
- APPROPRIATE WASTE MANAGEMENT AND MATERIALS POLLUTION CONTROL BMPs SHALL BE IMPLEMENTED TO PREVENT THE CONTAMINATION OF STORM WATER BY WASTES AND CONSTRUCTION MATERIALS.
- APPROPRIATE NON-STORM WATER BMPs SHALL BE IMPLEMENTED TO PREVENT THE CONTAMINATION OF STORM WATER FROM CONSTRUCTION ACTIVITIES.
- ADEQUATE PHYSICAL OR VEGETATION EROSION CONTROL BMPs (TEMPORARY OR PERMANENT) SHALL BE INSTALLED AND ESTABLISHED AS SOON AS PRACTICAL FOR ALL COMPLETED SLOPES OR SLOPES IN NON-ACTIVE AREAS. THESE BMPs MUST BE MAINTAINED THROUGHOUT THE YEAR. IF A SELECTED BMP FAILS, IT MUST BE REPAIRED AND IMPROVED, OR REPLACED WITH AN ACCEPTABLE ALTERNATE AS SOON AS IT IS SAFE TO DO SO. THE FAILURE OF A BMP MAY INDICATE THAT THE BMP, AS INSTALLED, WAS NOT ADEQUATE FOR THE CIRCUMSTANCES IN WHICH IT WAS USED. REPAIRS OR REPLACEMENTS MUST RESULT IN A MORE ROBUST BMP, OR ADDITIONAL BMPs SHOULD BE INSTALLED TO PROVIDE ADEQUATE PROTECTION.
- A DISTURBED AREA THAT IS NOT COMPLETED, BY THAT IS NOT BEING ACTIVELY GRADED (NON-ACTIVE AREA), SHALL BE FULLY PROTECTED FROM EROSION WITH TEMPORARY OR PERMANENT BMPs (EROSION AND SEDIMENT CONTROL). THE ABILITY TO DEPLOY STANDBY BMP MATERIALS IS NOT SUFFICIENT FOR THESE AREAS. EROSION AND SEDIMENT CONTROL BMPs MUST ACTUALLY BE DEPLOYED. THIS INCLUDES ALL BUILDING PADS, UNFINISHED ROADS, AND SLOPES.
- SUFFICIENT MATERIALS NEEDED TO INSTALL STANDBY EROSION AND SEDIMENT CONTROL BMPs NECESSARY TO COMPLETELY PROTECT THE EXPOSED PORTIONS OF THE SITE FROM EROSION AND TO PREVENT SEDIMENT DISCHARGES SHALL BE STORED ON-SITE. AREAS THAT HAVE ALREADY BEEN PROTECTED FROM EROSION USING PERMANENT PHYSICAL STABILIZATION OR ESTABLISHED VEGETATION STABILIZATION BMPs ARE NOT CONSIDERED TO BE "EXPOSED" FOR PURPOSES OF THIS REQUIREMENT.
- THERE SHALL BE A "WEATHER TRIGGERED" ACTION PLAN AND THE ABILITY TO DEPLOY STANDBY SEDIMENT CONTROL BMPs AS NEEDED TO COMPLETELY PROTECT THE EXPOSED PORTIONS OF THE SITE WITHIN 48 HOURS OF A PREDICTED STORM EVENT (A PREDICTED STORM IS DEFINED AS A FORECASTED, 50% CHANCE OF RAIN).
- THE AMOUNT OF EXPOSED SOIL ALLOWED AT ONE TIME SHALL NOT EXCEED THAT WHICH CAN BE ADEQUATELY PROTECTED BY DEPLOYING STANDBY EROSION CONTROL AND SEDIMENT CONTROL BMPs PRIOR TO A PREDICTED RAINSTORM.

#### NOTE

THE LOCATION AND TYPE OF EROSION AND SEDIMENT CONTROL MEASURES TO BE USED WILL CHANGE DURING THE COURSE OF CONSTRUCTION. THE CONTRACTOR SHALL IMPLEMENT THE CONTROLS NECESSARY TO PREVENT NON-STORMWATER, SEDIMENT, AND CONTAMINATED RUNOFF DISCHARGES FROM THE SITE AT ALL TIMES.

#### LEGEND

EX-1 BMP DESIGNATION IN CALIFORNIA STORMWATER BMP HANDBOOK - CONSTRUCTION, LATEST EDITION, BY THE CALIFORNIA STORMWATER QUALITY ASSOCIATION.

SE-6 GRAVEL BAG BERM  
SE-5 FIBER ROLL  
SE-1 SILT FENCE



REVISION	DESCRIPTION	APPROVED	DATE

SCALE: 1/8"=1'	DESIGNED: C.R.	DRAWN: A.M.S.	CHECKED: C.R.
DATE: 6/15/21			
PROJECT NO: 20201	ENGINEER OF WORK		

PLANS PREPARED BY: TOAL ENGINEERING, INC.	CIVIL ENGINEERING LAND SURVEYING STORMWATER QUALITY
BENCHMARK NOTE: OCSBM 3B-51-68 ELEV=20.025 NAVD83 DATUM, 1989 ADJ.	DATE: 6-17-21 BY: 57867 R.C.E. NO.

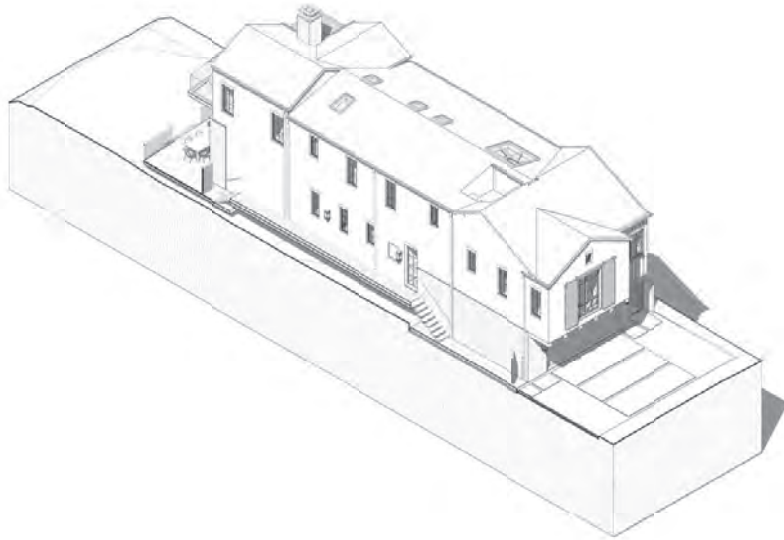
APPROVED BY: THE CITY OF DANA POINT CITY ENGINEER	THIS PLAN HAS BEEN REVIEWED FOR CONFORMANCE WITH THE REQUIREMENT OF THE DANA POINT MUNICIPAL CODE.
MATTHEW V. SINACOR, CITY ENGINEER NOT #602039 EXP: 06/20/21	DATE:

CITY PLANNING DEPARTMENT	DATE:
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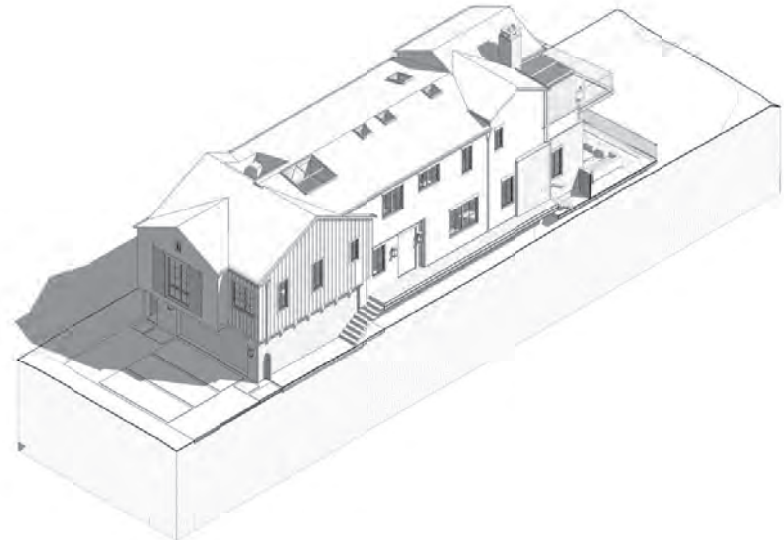
PLANS REVIEWED BY: CITY OF DANA POINT, PUBLIC WORKS & ENGINEERING SERVICES 33202 SOLID LANTERN DANA POINT, CA 92629	
THIS PLAN IS SIGNED BY THE CITY ENGINEER FOR SCOPE AND ADHERENCE TO CITY STANDARDS AND REGULATORY AGENCIES. THE CITY ENGINEER IS NOT RESPONSIBLE FOR DESIGN ASSUMPTIONS, OR ACCURACY.	

CITY OF DANA POINT MEURSING RESIDENCE 35275 BEACH ROAD, DANA POINT, CALIFORNIA LOT 71, BLOCK 2, TRACT NO. 889 (APN: 091-151-07)	C4 PLAN CHECK NO: BLD020-1875 4 OF 5 SHEETS
EROSION CONTROL PLAN	

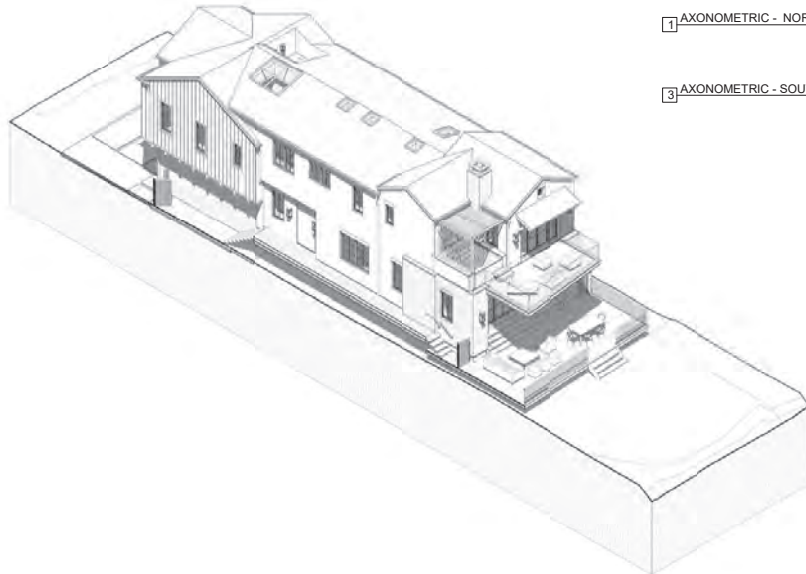




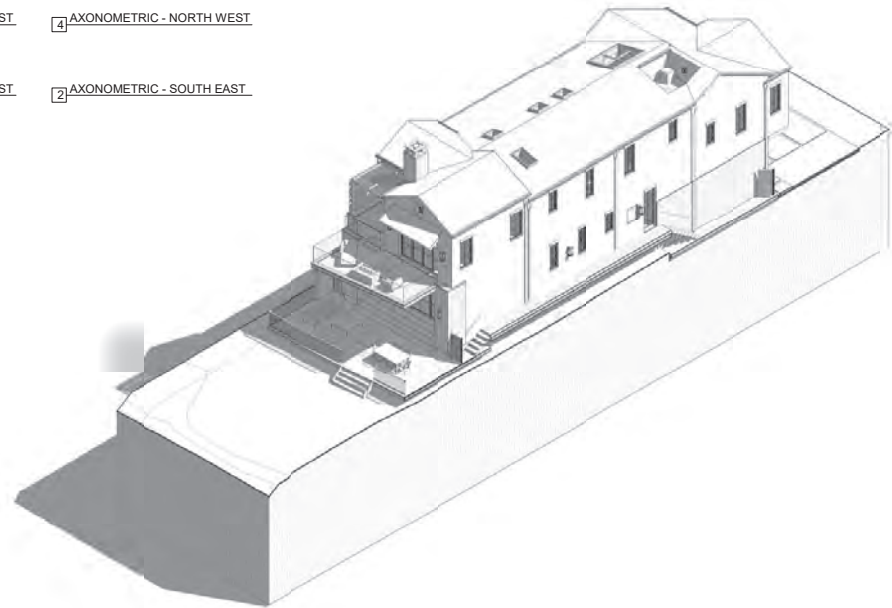
1 AXONOMETRIC - NORTH EAST



4 AXONOMETRIC - NORTH WEST



3 AXONOMETRIC - SOUTH WEST



2 AXONOMETRIC - SOUTH EAST

PROJECT NAME  
MEURSING RESIDENCE  
STATUS  
CDP - 3RD CHECK

BRANDON ARCHITECTS



OWNER INFORMATION  
COCO LAURENCE MEURSING  
222 CALLE DEL MAR  
WEST LAKE, TX 76082

PROJECT ARCHITECT  
ELIZABETH HANNA  
DOCUMENT VALID UPON  
**MEURSING RESIDENCE**  
35275 BEACH ROAD  
DANA POINT, CA 92624

ORIGINAL SIGNATURE

3-DIMENSIONAL VIEWS

REVISIONS  
NO. | REVISION | DATE

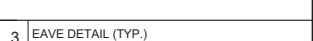
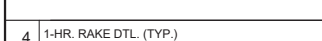
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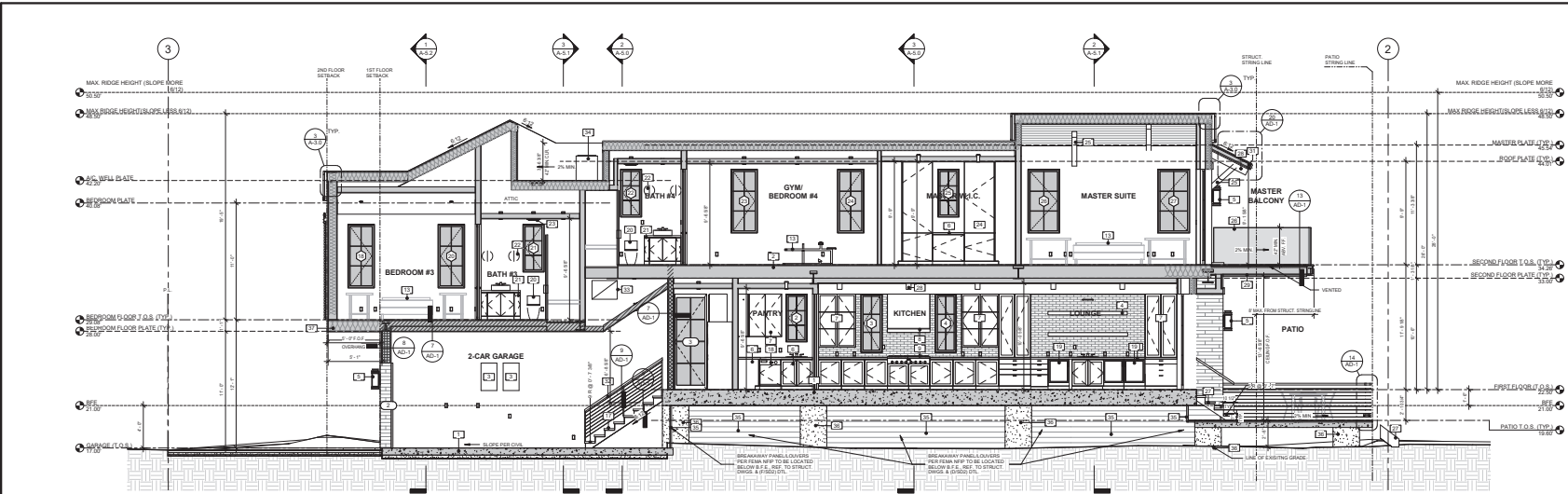


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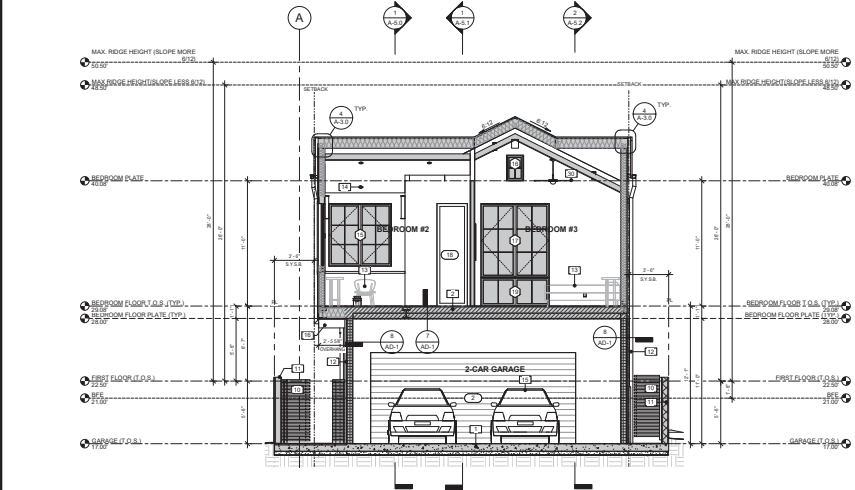








2 LONGITUDINAL SECTION - KITCHEN  
1/4" = 1'-0"



1 TRANSVERSE - BEDROOMS  
1/8" = 1'-0"

**FIREBLOCKING AND DRAFTSTOPPING** SHALL BE INSTALLED TO CUT OFF ALL CONCEALED DRAFT SPACES, BOTH VERTICAL AND HORIZONTAL, ALONG WITH FLOOR/CEILING ASSEMBLIES, WALLS, SUBFLOOR ATTACHMENT SPACES, CONCEALED ROOF SPACES AND FLOOR/CEILING ASSEMBLIES. THE INTEGRITY OF ALL FIRE BLOCKING AND DRAFT STOPS SHALL BE MAINTAINED.

**FIRE BLOCKING:**

FIREBLOCKING SHALL BE PROVIDED IN CONCEALED SPACES OF STUD WALLS AND PARTITIONS, INCLUDING LABELED SPACES, AT THE CEILING AND FLOOR LEVELS AND AT 16-FOOT INTERVALS BOTH VERTICAL AND HORIZONTAL.

**FIRE BLOCK CONSTRUCTION:** FIREBLOCKING SHALL CONSIST OF 2x4 STUDS, MINIMUM 1x6x8, REINFORCED WITH 1/2" STEEL PLATE OR 1/2" WOOD PLATE. QUANTITY FLOOR BOARDING, BATTLES OR BLANKETS OF MINERAL WOOL OR FIBERGLASS INSULATION SHALL BE INSTALLED TOY, MANAGED AS TO BE SECURELY RETAINED IN PLACE. GROUND FILL INSULATION MATERIAL SHALL NOT BE USED.

**DRAFT STOPS:**

DRAFTSTOPPING SHALL BE PROVIDED IN THE LOCATIONS SET FORTH IN THIS SECTION.

**FLOOR-CEILING ASSEMBLIES:**

DRAFT STOP SHALL BE INSTALLED IN FLOOR-CEILING ASSEMBLIES OF THE BUILDING. SUCH DRAFT STOP SHALL BE IN LINE WITH WALLS SEPARATING INDIVIDUAL DWELLING UNITS FROM EACH OTHER AND FROM OTHER AREAS.

**ATTIC:**

DRAFT STOP SHALL BE INSTALLED IN THE ATTIC MANHOLE, OVERHEADS, FALSE FRONTS SET OUT FROM THE FLOOR LINE IN CONCEALED SPACES OF THE BUILDING. SUCH DRAFT STOP SHALL BE ABOVE AND IN LINE WITH THE WALLS SEPARATING INDIVIDUAL DWELLING UNITS FROM EACH OTHER AND FROM OTHER AREAS.

**DRAFT STOP CONSTRUCTION:**

DRAFTSTOPPING MATERIALS SHALL NOT BE LESS THAN 1/2" INCH CORPUS BOARD, UNADORNED STRUCTURAL PANELS, OR 2x4 TYPE 2x4 PARTITION BOARD OR OTHER APPROVED MATERIALS, UNADORNEDLY SUPPORTED.

CONCRETE IN THE PARTITIONS SHALL BE PROTECTED BY SELF-CLADDING DOORS WITH AUTOMATIC CLOSING AS REQUIRED FOR THE PARTITIONS.

**R.F.E. HEIGHT REQUIREMENTS:** 10'-0" FINISH FLOOR TO THE BOTTOM OF THE STRUCTURAL MEMBERS OF THE LOWEST FLOOR INCLUDING THE FINISHED FLOOR SHALL BE 10'-0" TO 10'-6" ABOVE THE FINISHED FLOOR ELEVATION FOR URBAN PORT MARIPOSA CODE 2-1 (GROUP 1).

**EXTERIOR WALL:**

2x4 CORNER  
2x4 CORNER OR LARGER

**RATED FLOOR:**

ROOF  
2x4 ATTIC  
2x4 FLOOR

**NOTES:**

1. REF. 104 REPORT FOR CODE AND CONSTRUCTION  
2. PROVIDE REF FOR INSULATION OF ENTIRE HOME

	1 HR. FLOOR SYSTEM REF. DTL. 7/AD-1
	1 HR. FIRE RATED PARTITION REF. DTL. 5/AD-1
	INSULATED SYS. REF. INSULATION SCHEDULE THIS SHT.
	NEW WALL - 2x6 STUDS @ 16" O.C. U.N.O.
	NEW WALL - 2x4 STUDS @ 16" O.C. U.N.O.
	WALL W/ STONE VENEER - 2x STUDS @ 16" O.C. U.N.O.
	CONCRETE CAISONS - REF. STRUCTURAL
	CMU WALL - REF. STRUCTURAL
	ELEVATED PLATFORM (RESIDENCE) - REF. STRUCTURAL
	ELEVATED PLATFORM (PATIO) - REF. STRUCTURAL

NORTH ARROW

PROPERTY LINE TAG

SECTION INDICATOR

ROOM TAG (NAME / AREA)

CALL-OUT TAG

ELEVATION INDICATOR

REVISION FLAG

STAIR TAG (NO. OF RISER & HEIGHT)

WALL TAG

DOOR TAG

WINDOW TAG

KEYNOTE TAG

KEYNOTE LEGEND	
1	STRUCTURAL WALL & VERTICAL MEMBER (DOOR STOP) MEMBERS TO BE 10" MIN. 2x6 STUDS @ 16" O.C.
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D	FIRE-BLOCKING & DRAFT-STOP NOTES	D	INSULATION SCHEDULE	C	SEPARATION LEGEND	B	ANNOTATION LEGEND	A	KEYNOTES
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PROJECT NAME  
MEURSING RESIDENCE

STATUS  
COP - 3RD CHECK

BRANDON ARCHITECTS  
1111 1ST STREET, SUITE 100, ANAHEIM, CA 92801  
(714) 444-4444 | www.brandonarchitects.com

OWNER INFORMATION  
2200 CALIFORNIA AVE. S.W.  
WEST LAKE, TX 76082

PROJECT ARCHITECT  
ELIZABETH HANNA

DOCUMENT VALID UPON

MEURSING RESIDENCE  
35275 BEACH ROAD  
DANA POINT, CA 92624

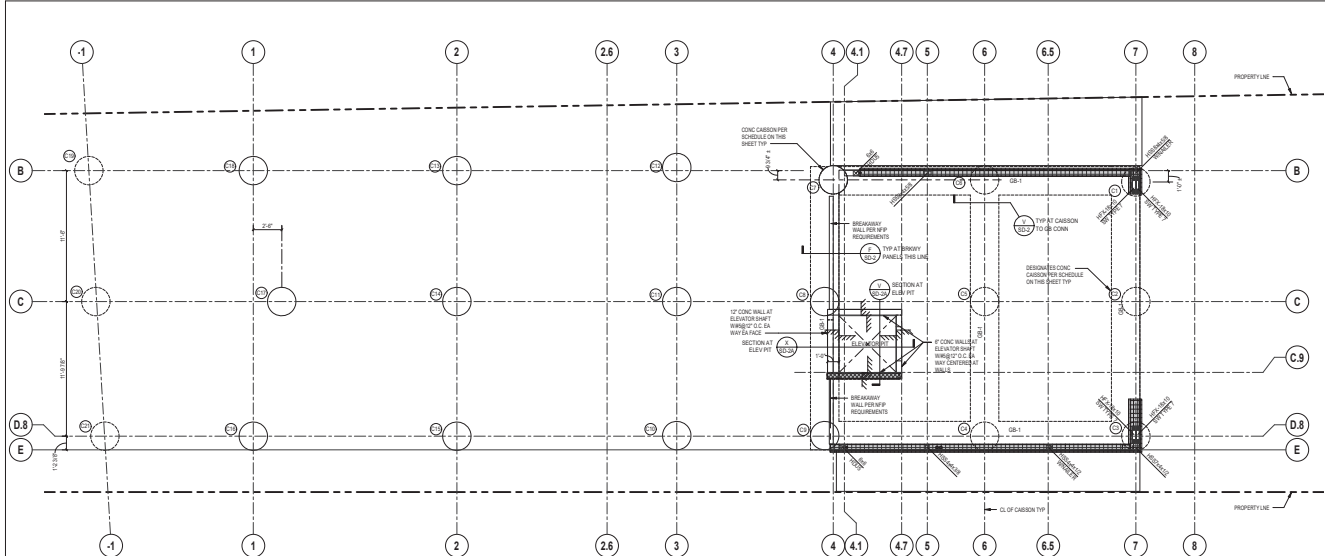
BUILDING SECTIONS

REVISIONS

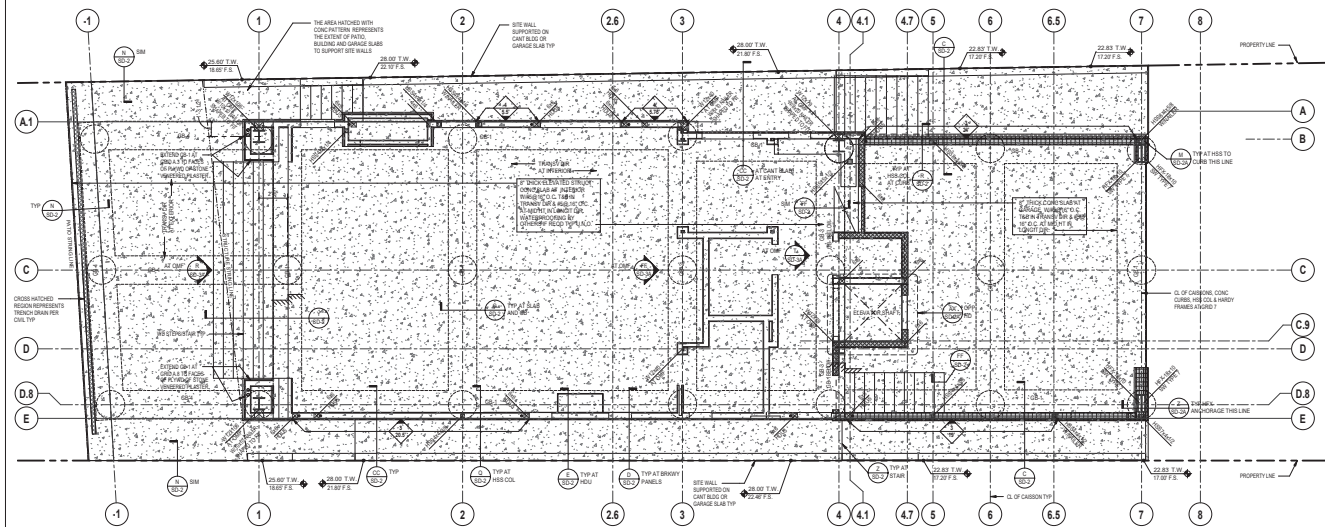
NO.	REVISION	DATE

FOR NO. 202017  
DATE 06/07/2021  
SHEET NO.  
A-5.2





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



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



CONCRETE CAISSONS							
MARK	CAISSON DIA. (IN)	VERTICAL REINF.	LATERAL TIES	EMBEDMENT DEPTH IN (FT)	DEPT. IN (FT)	DISTANCE FROM CHISEL TO TOP OF CAISSON (FT)	TOTAL LENGTH OF CAISSON (FT)
1	30	15-#14	#4 @ 8" O.C. UNCL.	422	24	-1.5	45
2	30	15-#14	#4 @ 8" O.C. UNCL.	422	22	-1.5	43
3	30	15-#14	#4 @ 8" O.C. UNCL.	422	22	-1.5	43
4	30	15-#14	#4 @ 8" O.C. UNCL.	422	22	-1.5	43
5	30	15-#14	#4 @ 8" O.C. UNCL.	422	22	-1.5	43
6	30	15-#14	#4 @ 8" O.C. UNCL.	422	22	-1.5	43
7	30	15-#14	#4 @ 8" O.C. UNCL.	422	22	-1.5	43
8	30	15-#14	#4 @ 8" O.C. UNCL.	422	22	-1.5	43
2.6	30	15-#14	#4 @ 8" O.C. UNCL.	422	22	-1.5	43
3	30	15-#14	#4 @ 8" O.C. UNCL.	422	22	-1.5	43
4	30	15-#14	#4 @ 8" O.C. UNCL.	422	22	-1.5	43
4.1	30	15-#14	#4 @ 8" O.C. UNCL.	422	22	-1.5	43
4.7	30	15-#14	#4 @ 8" O.C. UNCL.	422	22	-1.5	43
5	30	15-#14	#4 @ 8" O.C. UNCL.	422	22	-1.5	43
6	30	15-#14	#4 @ 8" O.C. UNCL.	422	22	-1.5	43
6.5	30	15-#14	#4 @ 8" O.C. UNCL.	422	22	-1.5	43
7	30	15-#14	#4 @ 8" O.C. UNCL.	422	22	-1.5	43
8	30	15-#14	#4 @ 8" O.C. UNCL.	422	22	-1.5	43

**PMA Consulting, Inc.**  
 Consulting Engineers & Architects  
 3100 S. Bascom Avenue, Suite 200  
 San Jose, CA 95128  
 Phone: 408.293.7744  
 Email: PMA@PMA-CA.com

**WICKI & MIKE MEURSING**  
 3275 BEACH ROAD  
 DANA POINT, CA 92624

**CAISSONS & FOUNDATION PLANS**

**S-1**

CAISSONS & FOUNDATION PLAN NOTES

1. FOR DIMENSIONS NOT SHOWN, SEE ARCHITECTURAL DRAWINGS.
2. FOR NOTES & INFORMATION NOT SHOWN ON THIS SHEET, SEE SHEET S-2.
3. FOR GENERAL NOTES, SCHEDULES & LEGENDS SEE S-1 & S-2.
4. FOR SECOND & THIRD FLOOR PLAN PARTS, SEE S-3.
5. FOR REINFORCEMENT & ANCHOR BOLTS, SEE SCHEDULE B-10.
6. FOR REINFORCEMENT & ANCHOR BOLTS, SEE SCHEDULE B-10.
7. FOR REINFORCEMENT & ANCHOR BOLTS, SEE SCHEDULE B-10.
8. INSTALL STRAPS AT ALL WINDOWS AND DOORS CORNERS AT SHEARWALLS IN ACCORDANCE WITH DETAIL A-10. UNLESS LONGER STRAPS HAVE BEEN SPECIFIED OTHERWISE.
9. GRADING AND FOUNDATION SHALL BE INSPECTED AND CERTIFIED BY THE SOIL ENGINEER PRIOR TO PLACEMENT OF CONCRETE.

BASE FLOOD ELEVATION NOTE

THE LOWEST FINISHED FLOOR OF THE STRUCTURAL MEMBERS OF THE LOWEST FLOOR EXCLUDING THE CAISSONS ON COLUMNS SHALL BE ELEVATED TO OR ABOVE THE BASE FLOOD ELEVATION FOR THE AREA FROM THE TECHNICAL CODES. THE BASE FLOOD ELEVATION PRESENTED IN THE "HAZARD RISK ANALYSIS AND BASE FLOOD ELEVATION DETERMINATION" BY GSI DATED JANUARY 1, 2021 PROVIDES SUPPORT FOR A LIFE OF 250 YEARS.

LEGEND

INDICATES TYPE OF SHEARWALL WITH OPENINGS WITH MIN. SPACING & 10% FLOORING AT EACH END & REQUIRED MINIMUM TOTAL LENGTH (L) & EFFECTIVE LENGTH (L<sub>E</sub>) PER SCHEDULE B-10.

INDICATES TYPE OF SHEARWALL WITH MIN. SPACING & 10% FLOORING AT EACH END & REQUIRED MINIMUM TOTAL LENGTH (L) & EFFECTIVE LENGTH (L<sub>E</sub>) PER SCHEDULE B-10.

INDICATES REBAR STRAP TYPE AND LENGTH PER SCHEDULE B-10.

INDICATES STEP DOWNWARD DEPRESSION.

Exhibit 3 – Local CDP 20-0024

CITY OF DANA POINT  
PLANNING COMMISSION  
AGENDA REPORT

---

**DATE:** JULY 12, 2021

**TO:** DANA POINT PLANNING COMMISSION

**FROM:** COMMUNITY DEVELOPMENT DEPARTMENT  
BRENDA WISNESKI, DIRECTOR OF COMMUNITY DEVELOPMENT  
JOHN CIAMPA, SENIOR PLANNER

**SUBJECT:** COASTAL DEVELOPMENT PERMIT CDP20-0024, SITE DEVELOPMENT PERMIT SDP21-0014, AND ADMINISTRATIVE MODIFICATIONS OF STANDARDS AMS21-0005 TO DEMOLISH A SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW 3,488 SQUARE-FOOT SINGLE-FAMILY RESIDENCE AND ATTACHED TWO-CAR GARAGE AT 35275 BEACH ROAD

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**RECOMMENDATION:** That the Planning Commission adopt the attached resolution approving Coastal Development Permit CDP20-0024, Site Development Permit SDP21-0014, and Administrative Modifications of Standards AMS21-0005.

**APPLICANT:** Vicki and Mike Meursing

**REPRESENTATIVE:** Elizabeth Hanna, Project Manager

**REQUEST:** Approval of a Coastal Development Permit, Site Development Permit, and Administrative Modification of Standards to construct a new single-family dwelling and attached two-car garage with stairs that project beyond the structure stringline located within the City’s Floodplain Overlay District, Coastal Overlay District, and the Appeals Jurisdiction of the California Coastal Commission.

**LOCATION:** 35275 Beach Road (APN 691-151-07)

**NOTICE:** Notices of the Public Hearing were mailed to property owners within a 500-foot radius and occupants within a 100-foot radius on July 2, 2021, published within a newspaper of general circulation on July 2, 2021, and posted on July 2, 2021, at Dana Point City Hall, the Dana Point and Capistrano Beach Branch Post Offices, as well as the Dana Point Library.

**ENVIRONMENTAL:** Pursuant to the California Environmental Quality Act (CEQA), the project is found to be Categorically Exempt per Section

15303(a) (Class 3 – New Construction) in that the project involves the construction of one single-family dwelling in a residential zone.

**ISSUES:**

- Project consistency with the Dana Point General Plan, Dana Point Zoning Code (DPZC) and Local Coastal Program (LCP);
- Project compliance with the City's Floodplain Regulations;
- Project compatibility with and enhancement of the site and surrounding neighborhood; and
- Project satisfaction of all findings required pursuant to the DPZC and LCP for approval of a Coastal Development Permit (CDP), Site Development Permit (SDP) and Administrative Modifications of Standards (AMS).

**BACKGROUND:** The subject site is a 5,588 square-foot oceanfront lot located within the Capistrano Beach Community Services District, consisting of an established and built-out neighborhood of single-family residences and duplex structures. The lot is relatively small, approximately 35 feet in width and 165 feet in depth. The site is improved with an existing 3,100 square-foot, two-story single-family residence with an attached two-car garage. Beach Road is developed with existing residential development located to the southeast and northwest, with the Pacific Ocean located to the south, railroad tracks and Pacific Coast Highway to the north (Supporting Document 2).

The property is located within the "Residential Beach Road 12" (RBR 12) zone, the City's Floodplain Overlay District (FP-3), Coastal Overlay District (the California Coastal Zone), and the Appeals Jurisdiction of the California Coastal Commission. The Floodplain Overlay designation identifies the property as being subject to potential inundation by wave action and requires specific structural design and location requirements.

**DISCUSSION:** The project includes the demolition of all existing structures, landscaping, and the construction of a new 3,488 square-foot, two-story single-family residence and a 587 square-foot attached two-car garage. Two levels of living area are proposed that includes four bedrooms, five bathrooms, and an open concept living, dining, and kitchen area. Exterior improvements include a low-level deck and a second-floor balcony with a spa on the seaward side of the house.

The maximum allowable development standards for this property are set forth in the City's Zoning Code Chapter 9.09 (Residential Development Standards) for the RBR 12 zone. Table 1 summarizes applicable RBR 12 zoning designation development



standards and the project's conformance with those requirements:

**Table 1: Compliance with RBR 12 Development Standards**

Development Standard	Requirement	Proposed	Compliant with Standard
Front Setback	20 feet minimum (15 feet minimum upper level)	20 feet 15 feet	Yes
Side Setbacks	3'-6" minimum	3'-6"	Yes
Structure Stringline	103' west 99' east	99'-2" west 99'-6.75" east*	Yes No
Patio Stringline	115' west 113' east	111' 112'	Yes Yes
Rear Deck height (above grade)	30 inches	30 inches	Yes
Height	28 feet maximum from 18" above the BFE/FP-3** (21' NAVD88)	28 feet	Yes
Landscape Coverage	10% minimum	10%	Yes
Parking Required	2 covered parking spaces minimum for five bedrooms	2 covered parking spaces	Yes

\*The building complies with the structure stringline; however, an AMS is requested to allow the stairs to project 6.75 inches beyond the structure stringline.

\*\* The building height is measured from 18 inches above the designated "base flood elevation" (BFE) of 21 feet NAVD88 (vertical datum measurement) to the highest point on the structure's roof per Section 9.05.110(a) of the Dana Point Zoning Code.

The property is subject to special development standards identified in DPZC Section 9.09.040 for development in the RBR 12 zoning district. The project complies with the development standards for maximum projections into the required setbacks, such as walls, balconies, and decks. The walls along the side property lines are permitted for increased height above finished grade in cases like the subject property where the structure is elevated to the BFE level and the adjacent structures are not elevated (per Section 9.09.040(a)(2)). To ensure the project's compatibility with the adjacent structures (legal nonconforming) that are not elevated above the BFE, the project is conditioned to provide an open design for the portion of the side yard platform walls over 42 inches and up to six feet. The rear concrete deck is 30 inches above grade and designed on caissons to comply with the provisions of the Floodplain Overlay District (Section 9.31.060(f)(8)). The project is requesting an AMS to allow the stairs to the rear deck to encroach 6.75 inches into the structure stringline to provide access which is discussed in the AMS section of the report.

The proposed structure's architectural style is contemporary craftsman design with a standing seam copper metal roofing, stone veneer and stucco siding, and glass railings (Supporting Document 3).

Coastal Development Permit CDP20-0024

Pursuant to Section 9.69.040 of the Dana Point Zoning Code, construction of a new single-family residence on land located in the City's Coastal Overlay District and the Appeals Jurisdiction of the California Coastal Commission requires approval of a Coastal Development Permit (CDP). The project is in compliance with the regulations for development in the Coastal Overlay in that the project is not impacting coastal access, recreation, or environmentally sensitive habitat areas (ESHA), and it complies with the regulations in the City's LCP.

Section 9.69.070 of the DPZC stipulates a minimum of seven (7) findings to approve a Coastal Development Permit, requiring that the project:

1. *Be in conformity with the certified Local Coastal Program as defined in Chapter 9.75 of this Zoning Code. (Coastal Act/30333, 30604(b); 14 CA Code of Regulations/13096).*
2. *If located between the nearest public roadway and the sea or shoreline of any body of water, be in conformity with the public access and public recreation policies of Chapter Three of the Coastal Act. (Coastal Act/30333, 30604(c); 14 CA Code of Regulations/13096).*
3. *Conform with Public Resources Code Section 21000 and following, and there are no feasible mitigation measures or feasible alternatives available which would substantially lessen any significant adverse impact that the activity may have on the environment. (Coastal Act/30333; 14 CA Code of Regulations/13096).*
4. *Be sited and designed to prevent adverse impacts to environmentally sensitive habitats and scenic resources located in adjacent parks and recreation areas, and will provide adequate buffer areas to protect such resources.*
5. *Minimize the alterations of natural landforms and not result in undue risks from geologic and erosional forces and/or flood and fire hazards.*
6. *Be visually compatible with the character of surrounding areas, and, where feasible, will restore and enhance visual quality in visually degraded areas.*
7. *Conform to the General Plan, Zoning Code, applicable Specific Plan, Local Coastal Program, or any other applicable adopted plans and programs.*

The recommended findings for approval of the CDP are outlined in the draft Resolution No. 21-07-12-XX, attached to this report as Action Document 1.

Section 9.69.070 of the DPZC stipulates that findings to require or exempt a project from dedicating one of five types of coastal public access (lateral, bluff top, vertical, trail, or recreational). As applied to the subject property, only a lateral access dedication would be applicable. However, pursuant to Section 9.27.030, the project qualifies for an exception from the requirement to dedicate, as public access to the coast exists in close proximity to the north at Capistrano Beach Park and to the south at Poche Beach.

#### Site Development Permit SDP21-0014

Pursuant to Chapter 9.31 of the DPZC, development proposed in the City's Floodplain Overlay District requires approval of a Site Development Permit (SDP). The subject property is located within the FP-3 district, which is applied to coastal areas subject to wave action and determined to be a coastal high hazard area.

For construction within coastal high hazard areas, a site-specific wave run-up study is required to establish a Base Flood Elevation (BFE), which factors in the projected sea level rise for the life of the structure (75 years). The report establishes a minimum elevation (BFE) at which the lowest horizontal structural members must be elevated to prevent damage from wave action. The study was prepared by a California licensed Coastal Engineer that determined a BFE of 21 feet NAVD88, which was confirmed by the City's third-party Coastal Engineering consultant, Moffatt and Nichol.

The project complies with the Floodplain Overlay District standards for all new construction within coastal high hazard areas, pursuant to DPZC Section 9.31.060(f). The dwelling is designed on caissons with the lowest horizontal structural member (structure slab) is elevated above the BFE, such that habitable portions of the building should not absorb force or wave action during storm events. Construction of the horizontal structural elements above the BFE allows ocean water to flow under the dwelling without contributing to additional erosion of the beach. The non-habitable garage is located below the BFE to facilitate access from adjacent Beach Road and includes breakaway paneling to allow water to flow through the garage to the street in the event of wave inundation.

Section 9.71.050 of the DPZC stipulates a minimum of four findings for approval of an SDP, requiring:

1. *Compliance of the site design with development standards of this Code.*
2. *Suitability of the site for the proposed use and development.*
3. *Compliance with all elements of the General Plan and all applicable provisions of the Urban Design Guidelines.*

4. *Site and structural design which are appropriate for the site and function of the proposed use, without requiring a particular style or type of architecture.*

The recommended findings for approval of the SDP are outlined in the draft Resolution No. 21-07-12-XX, attached to this report as Action Document 1.

#### Administrative Modification of Standard AMS21-0005

Per Section 9.61.090 of the DPZC, Administrative Modifications of Standards can be applied to the setback to permit development on the property, which is constrained due to lot size, shape, location, access restrictions, physical or other constraints. The deviations must be truly minor and have no potential impact to the health, safety or general welfare of adjacent persons or properties will occur.

The competing standards for the deck height and the elevation of the habitable area create practical difficulties and unnecessary hardships by the strict application of the DPZC due to the site's physical characteristics and the requirement to account for sea level rise. Per Section 9.09.040(a)(2), stairs are not permitted to extend beyond the structure stringline. This requirement forces the reduction of the habitable area of the lot to provide stairs from the habitable area to the deck. The site specific wave runup report established a BFE 21 foot NAVD88 (accounting for sea level rise) for the site, which sets the lowest elevation for the horizontal structural members of the habitable area for the house. Additionally, the maximum height of the rear deck is 30 inches above grade which creates a 2.9 foot grade change from the living area to the seaward deck. Several steps are required to access the deck, which creates a practical difficulty. To address the grade change between the two structures, the applicant reduced the living area within the buildable envelope of the structure to provide more room for the stairs and limit their encroachment into the structure stringline. The requested projection beyond the structure stringline is 6.75 feet for a width of four feet.

Section 9.61.090 of the DPZC stipulates a minimum of four (4) findings to approve an Administrative Modification of Standards:

1. *That there are practical difficulties or unnecessary hardships created by strict application of the Zoning Code due to physical characteristics of the property.*
2. *The administrative modification does not constitute a grant of special privileges which are not otherwise available to surrounding properties in similar conditions and will not be materially detrimental to the public welfare or to the property of other persons located in the vicinity.*
3. *The administrative modification places suitable conditions on the property to protect the public health, safety, and welfare and surrounding properties.*




4. *For development within the coastal zone, that the administrative modification would not result in significant adverse impacts either individually or cumulatively to coastal access/recreation opportunities or coastal resources, and the development would be consistent with the policies of the Local Coastal Program certified land use plan.*

The recommended findings for approval of the AMS are outlined in the draft Resolution No. 21-07-12-XX, attached to this report as Action Document 1.

**CORRESPONDENCE:** To date, no correspondence has been received regarding this project.

**CONCLUSION:** Staff finds that the proposed project is consistent with the policies and provisions of the City of Dana Point General Plan, Dana Point Zoning Code, and Local Coastal Program. As the project has been found to comply with all standards of development, staff recommends the Planning Commission adopt the attached draft Resolution, approving Coastal Development Permit 20-0024, Site Development Permit 21-0014, and Administrative Modifications of Standards 21-0005 subject to the findings and conditions of approval contained therein.

  
John Ciampa, Senior Planner

  
Brenda Wisneski, Director  
Community Development Department

**ATTACHMENTS:**

**Action Documents**

1. Draft Planning Commission Resolution No. 21-07-12-XX

**Supporting Documents**

2. Vicinity Map
3. Color and Material Sample
4. Site Photos
5. Architectural Plans

**RESOLUTION NO. 21-07-12-17**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING COASTAL DEVELOPMENT PERMIT CDP20-0024, SITE DEVELOPMENT PERMIT SDP21-0014, AND ADMINISTRATIVE MODIFICATIONS OF STANDARDS 21-0005 TO DEMOLISH A SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW 3,488 SQUARE-FOOT SINGLE-FAMILY DWELLING AND 587 SQUARE-FOOT ATTACHED TWO-CAR GARAGE AT 35275 BEACH ROAD**

The Planning Commission for the City of Dana Point does hereby resolve as follows:

WHEREAS, Elizabeth Hanna, project manager, (the "Representative") has filed an application on behalf of 35275 Beach Road, Vicki and Mike Meursing, ("Applicant"), the owners of real property commonly referred to as 35275 Beach Road (APN 691-151-07) (the "Property"); and

WHEREAS, the Representative filed a verified application for a Coastal Development Permit and Site Development Permit to demolish a single-family residence and construct a new single-family dwelling at the Property; and

WHEREAS, said verified application constitutes a request as provided by Title 9 of the Dana Point Municipal Code; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the project is Categorically Exempt per Section 15303 (Class 3 - New Construction or Conversion of Small Structures) in that the application proposes the construction of one, new single-family dwelling; and

WHEREAS, the Planning Commission did, on the 12<sup>th</sup> day of July, 2021, hold a duly noticed public hearing as prescribed by law to consider said request; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, said Commission considered all factors relating to Coastal Development Permit CDP20-0024, Site Development Permit SDP21-0014 and administrative Modifications of Standards AMS21-0005.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission of the City of Dana Point as follows:

- A. That the above recitations are true and correct and incorporated herein by this reference.
- B. Based on the evidence presented at the public hearing, the Planning Commission adopts the following findings and approves CDP20-0024, SDP21-0014, and AMS21-0005 subject to the following conditions of approval:

Findings:

Coastal Development Permit CDP20-0024

1. That the project is in conformity with the certified Local Coastal Program as defined in Chapter 9.75 of this Zoning Code. (Coastal Act/30333, 30604(b); 14 Cal. Code of Regulations/13096) **in that, the project is consistent with the Dana Point General Plan because the proposal will comply with the Land Use Element's Residential 12 DU/AC Land Use Designation for the construction of one residential unit. The project is consistent with Goal 1 of the Public Safety Element, to reduce the risk from coastal erosion and Policy 1.19, which requires an assurance that public safety is provided for all new seaward construction within the Capistrano Bay Community Services District private community, which is achieved by elevating the structure above the BFE (accounting for sea level rise) and on caissons to avoid damage related to the high coastal hazard area and limit coastal erosion. The architectural design of the project complies with all development standards of the Dana Point General Plan and Zoning Code (the latter acting as the Local Coastal Program Implementation Plan for the property) and will further General Plan Urban Design Element Goal No. 2, which states that development should "*preserve the individual positive character and identity of the City's communities*" which is achieved by the contemporary craftsman design of the house that is compatible and complementary to the mix of architectural styles in the neighborhood.**
2. If located between the nearest public roadway and the sea or shoreline of any body of water, that the project is in conformity with the public access and public recreation policies of Chapter Three of the Coastal Act. (Coastal Act/30333, 30604(c); 14 Cal. Code of Regulations/13096) **in that, while the project is located between the nearest public roadway and the sea or shoreline, the property is an already developed lot zoned for residential use, located within a private community that does not contain public access ways or areas of recreation. The proposed development will not adversely affect, either individually or cumulatively, the ability of the public to reach and use the public tidelands and coastal resources. There are no current access burdens in the vicinity that could be alleviated by an access dedication requirement on this proposed development. Moreover, adequate public access to public tidelands or areas of recreation exists nearby at City, County, and State beaches and the project conforms to the public access and recreation policies of Chapter Three of the California Coastal Act.**
3. That the project conforms to Public Resources Code Section 21000 (the California Environmental Quality Act - CEQA) and following, that there are

no feasible mitigation measures or feasible alternatives available which would substantially lessen any potentially significant adverse impact that the activity may have on the environment. (Coastal Act/30333; 14 Cal. Code of Regulations/13096) **in that, the project qualifies as Categorically Exempt from review under CEQA pursuant to Section 15303 (Class 3 – New Construction or Conversion of Small Structures) in that the application proposes the construction of one new single-family dwelling.**

4. That the proposed development will not encroach upon any existing physical access-way legally utilized by the public or any proposed public accessway identified in an adopted Local Coastal Program Land Use Plan, nor will it obstruct any existing public views to and along the coast from any public road or from a recreational area **in that, no public access-ways or views exist on the subject property and so none would be adversely affected with the implementation of the proposed project.** Public access to Trust lands (the beach and ocean) exists within close proximity at Poche Beach and would be unaffected by the implementation of the proposed project. The subject property fronts (private) Beach Road, which borders a sound/privacy wall, with railroad tracks and Pacific Coast Highway beyond. Neither the proposed demolition of the property's existing dwelling nor the construction of a replacement structure would adversely impact any existing public views of or along the coast and as viewed from a public road or recreation area.
5. That the project has been sited and designed to prevent adverse impacts to environmentally sensitive habitats and scenic resources located in adjacent parks and recreation areas, and will provide adequate buffer areas to protect such resources **in that, the subject property lies adjacent to the Pacific Ocean, a noted sensitive habitat area, park and recreation area.** However, the project is permitted by the Dana Point Zoning Code and Local Coastal Program, and has been reviewed and found by City staff to conform to all applicable development standards therein (including design criteria intended to minimize to the greatest extent feasible, potentially adverse impacts to shoreline processes), no buffer areas are required.
6. That the project minimizes the alteration of natural landforms and will not result in undue risks from geologic and erosional forces and/or flood and fire hazards **in that, the proposed dwelling (and all proposed improvements) are or will be elevated to a height not less than that recommended by a California registered engineer (and pursuant to Wave Analysis documentation dated June 23, 2020, on file with the City).** This elevation of foundation and structure negates the need for revetments, seawalls and/or general landform alteration via site grading, and serves to minimize risks from any potential geologic and/or erosional or flood forces.



7. That the project is visually compatible with the character of surrounding areas, and, where feasible, will restore and enhance visual quality in visually degraded areas in that, the project demolishes the existing legal nonconforming structure and constructs a new single-family dwelling within an established community of identical uses. The project is also constructed on caissons to elevate the habitable portion of the structure to address coastal wave action, sea level rise, and erosion which will enhance the visual quality of the site. The surrounding neighborhood is comprised of widely varying architectural styles and the proposed project's contemporary craftsman design is compatible with the neighborhood. The proposed structure conforms to all standards of development prescribed by its respective zoning district. This conforming project constitutes fulfillment of General Plan Land Use and Zoning Code intent for the site, and the enhancement of the property.
8. That the project conforms with the General Plan, Zoning Code, applicable Specific Plan, Local Coastal Program, or any other applicable adopted plans and programs in that, the project was reviewed by Planning and Building/Safety Division staff as well as the Public Works/Engineering Department and found to conform with applicable requirements of the Dana Point Zoning Code (which serves as the implementing document for the General Plan and Local Coastal Program Implementation Plan for the subject property). There are no adopted specific plans that apply to the subject property.

Site Development Permit 21-0014

1. That the site design is in compliance with the development standards of the Dana Point Zoning Code (DPZC) in that, the new structure complies with all development standards of the Dana Point Zoning Code for the RBR-12 zone with the exception of the request for the AMS to allow the stairs to project beyond the structure stringline. The project also complies with the Floodplain Overlay District (FP-3) requirements in Section 9.31.060(f) in that the structure is elevated above the BFE (accounting for sea level rise) on caissons to protect against coastal flooding for the anticipated life of the structure (75 years).
2. That the site is suitable for the proposed use and development in that, the project maintains the single-family residential use for the site and the new single-family residence complies with the development standards for the RBR-12 zoning district, with the exception of the 6.75 inch encroachment of the stairs beyond the structure stringline setback.

The project complies with the design requirements for buildings located in the FP-3 that are subject to wave action by designing the building with caissons to elevate the living area above the BFE (accounting for sea level rise).

3. That the project is in compliance with all elements of the General Plan and all applicable provision of the Urban Design Guidelines in that, the proposed improvements are consistent with all elements of the Dana Point General Plan and will further Urban Design Element Goal No. 2, which states that development should *"preserve the individual positive character and identity of the City's communities"* which will be achieved with the contemporary craftsman design of the house that will be complementary to the neighborhood. The project is also in compliance with Policy 2.2 of the Public Safety Element that states *"Regulate the construction of nonrecreational uses on coastal stretches with high predicted storm wave run-up to minimize risk of property damage"* which is achieved with the site specific wave runup report completed by a Coastal Engineer to determine the BFE (accounting for sea level rise) to minimize the risk to the development of the property. The project is also constructed on caissons to elevate the habitable portion of the structure to avoid coastal wave action, sea level rise, and erosion for the life of the structure.
4. That the site and structural design is appropriate for the site and function of the proposed use, without requiring a particular style or type of architecture, in that, the project is appropriate for the site as the structure would comply with the development standards of the RBRD-12 zoning district. The project design addresses the requirements of the Floodplain Overlay District to avoid hazards associated with the FP-3. The project includes a site specific wave runup report completed by a Coastal Engineer to determine the projected BFE (accounting for sea level rise) to minimize the risk to the development of the property. The project is also constructed on caissons to elevate the habitable portion of the structure to address coastal wave action, sea level rise, and erosion for the life of the structure. Additionally, the contemporary craftsman design of the house will be complementary to the neighborhood.

Administrative Modification of Standards AMS21-0005

1. That there are practical difficulties or unnecessary hardships created by strict application of the Zoning Code due to physical characteristics of the property in that, the competing standards for the deck height and the elevation of the habitable area create practical difficulties and unnecessary hardships by the strict application of the DPZC due to the site's physical characteristics and the requirement to account for sea level rise. Per Section 9.09.040(a)(2) stairs are not permitted to

extend beyond the structure stringline. This requirement forces the reduction of the habitable area of the lot to provide stairs from the habitable area to the deck. The site specific wave runup report established a BFE 21 foot NAVD88 (accounting for sea level rise) for the site, which sets the lowest elevation for the horizontal structural members of the habitable area for the house. Additionally, the maximum height of the rear deck is 30 inches above grade which creates a 2.9 foot grade change from the living area to the seaward deck. Several steps are required to access the deck, which creates a practical difficulty. To address the grade change between the two structures, the applicant reduced the living area within the buildable envelope of the structure to provide more room for the stairs and limit their encroachment into the structure stringline. The projection beyond the structure stringline is 6.75 feet for a width of four feet.

2. The administrative modification does not constitute a grant of special privileges which are not otherwise available to surrounding properties in similar conditions and will not be materially detrimental to the public welfare or to the property of other persons located in the vicinity in that, the request for stairs to project beyond the structure stringline setback is available to other properties in the RBR-12 zone as many of the new structures in this area will experience the same design and site challenges for the elevated BFE which must account for sea level rise. The competing standard is that the deck is limited to a height of 30 inches and the lowest horizontal structural element of the must be elevated at or above the BFE of 21 feet NAVD88. The 6.75 inch encroachment of the stairs beyond the structure stringline for a width of four feet which will not be materially detrimental to the public welfare or to the property of other persons located in the vicinity as the encroachment is for the lowest stair to the deck.
3. The administrative modification places suitable conditions on the property to protect the public health, safety, and welfare and surrounding properties in that, the project will be constructed in compliance with the Building and Safety code to ensure the public health, safety, and welfare of the subject property and adjacent properties and their owners.
4. For development within the coastal zone, that the administrative modification would not result in significant adverse impacts either individually or cumulatively to coastal access/recreation opportunities or coastal resources, and the development would be consistent with the policies of the Local Coastal Program certified land use plan in that, the encroachment of the stairs is a length of 6.75 feet for a width of four feet which will not result in significant adverse impacts either individually or cumulatively to coastal access/recreation opportunities or coastal resources as the stairs lead to the patio



deck which is still landward of the developable envelope for the property. The encroachment of the stairs is consistent with the policies of the Local Coastal Program in that it will not impact any coastal resources and will comply with the land use and development standards for the RBR-12 zoning district and the Floodplain Overlay District.

Conditions:

General:

1. Approval of this application permits demolition of all existing site improvements and the construction of a new 3,488 square-foot single-family dwelling and attached 587 square foot two car garage at 35275 Beach Road in accordance with the plans on file with the Community Development Department. Subsequent submittals for this project shall be in substantial compliance with the plans presented to the Planning Commission, and in compliance with the applicable provisions of the Dana Point General Plan, Local Coastal Program Implementation Plan and Zoning Code.
2. This resolution shall be copied in its entirety, placed directly onto a separate plan sheet behind the cover sheet of any plans submitted to the City of Dana Point Building/Safety Division for plan check.
3. Approval of this application is valid for a period of 24 months (two years) from the noted date of determination. If the development approved by this action is not established, or a building permit for the project is not issued within such period of time, the approval shall expire and shall thereafter be null and void.
4. The application is approved as a plan for the location and design of the uses, structures, features, and materials shown on the approved plans. Any demolition beyond that described in the approved plans or any relocation, alteration, or addition to any use, structure, feature, or material, not specifically approved by this application, will nullify this approving action. If any changes are proposed regarding the location of, or alteration to the appearance or use of any structure, an amendment to this permit shall be submitted for approval by the Director of Community Development. If the Director determines that the proposed change complies with the provisions, spirit and intent of this approval action, and that the action would have been the same for the amendment as for the approved site plan, he/she may approve the amendment without requiring a new public hearing.
5. Failure to abide by and faithfully comply with any and all conditions attached to the granting of this permit shall constitute grounds for revocation of said

permit.

6. The Applicant or any successor-in-interest shall defend, indemnify, and hold harmless the City of Dana Point ("CITY"), its agents, officers, or employees from any claim, action, or proceeding against the CITY, its agents, officers, or employees to attack, set aside, void, or annul an approval or any other action of the CITY, its advisory agencies, appeal boards, or legislative body concerning the project. Applicant's duty to defend, indemnify, and hold harmless the City shall include paying the CITY's attorney fees, costs and expenses incurred concerning the claim, action, or proceeding.

The Applicant or any successor-in-interest shall further protect, defend, indemnify and hold harmless the City, its officers, employees, and agents from any and all claims, actions, or proceedings against the City, its officers, employees, or agents arising out of or resulting from the negligence of the Applicant or the Applicant's agents, employees, or contractors. Applicant's duty to defend, indemnify, and hold harmless the City shall include paying the CITY's attorney fees, costs and expenses incurred concerning the claim, action, or proceeding. The Applicant shall also reimburse the City for City Attorney fees and costs associated with the review of the proposed project and any other related documentation.

The Applicant, and their successors-in-interest, shall be fully responsible for knowing and complying with all conditions of approval, including making known the conditions to City staff for future governmental permits or actions on the project site.

7. The project shall meet all water quality requirements.
8. The Applicant, or Applicant's agent(s), shall be responsible for coordination with water district, sewer district, SDG&E, AT&T California and Cox Communication Services for the provision of water, sewer, electric, cable television and telephone and services.
9. The applicant shall exercise special care during the construction phase of this project to prevent any off-site siltation. The applicant shall provide erosion and sediment control measures. The erosion control measures shall be shown and specified on a plan and shall be constructed prior to the start of any operations. The applicant shall maintain the erosion control devices until the final approval of all project permits.
10. No concentrated storm water may be outlet to the beach or Pacific Ocean, as it is an Environmentally Sensitive Area. All concentrated drainage shall be directed toward Beach Road. Open roof gutter downspouts discharging to a splash block are not acceptable on Beach Road; the downspouts must discharge to an approved outlet such as an infiltration system (an



infiltration system with an overflow to Beach Road is a typical drainage outlet system on Beach Road). Pervious surfaces are allowed to drain uncollected and infiltrate directly into the existing site.

11. The applicant, property owner or successor in interest shall fill out a Waste Management Plan form to be reviewed by the City's C&D official per the Dana Point Municipal Code. A deposit will be required upon approval of the Waste Management Plan to ensure compliance. The deposit will be return upon proof of recycling compliance. The Waste Management Plan shall indicate the estimated quantities of material to be recycled and the locations where the material is to be taken for recycling. Said plan shall be reviewed and approved by the City's C&D Compliance Official prior to issuance of any permits.
12. Prior to the issuance of any permit, the property owner shall execute and record a deed restriction to include the following restrictions, which cannot be removed or changed without prior City amendment to this Coastal Development Permit. The deed restriction shall be recorded, free of prior liens, to bind the property owner(s) and any successors-in-interest or otherwise recorded to the satisfaction of the City Attorney and Community Development Department.
  - a. *The property owner(s) agrees on behalf of themselves and all other successors and assigns, that no shoreline protective device which would substantially alter natural land form along bluffs and cliffs, cause beach erosion or adversely impact the local shoreline sand supply shall ever be constructed to protect the development approved pursuant to the permits issued hereunder including, but not limited to, the dwelling, foundation, decks and any other future improvements in the event the development is threatened with damage or destruction from waves, erosion, storm conditions or other oceanographic hazards in the future.*
  - b. *The property owner(s) shall be responsible for the removal of any and all pre-existing ocean protective devices directly fronting the subject property at the time they are determined to no longer be required to protect surrounding properties. The property owner shall assume all costs and responsibilities associated with the removal.*
  - c. *The property owner(s) agrees, on behalf of themselves and all other successors and assigns, that the landowner shall remove the development authorized by this permit, including the dwelling, foundation and decks, in any situation where a government agency with appropriate jurisdiction determines that the structures approved by this permit have been damaged to the point where future occupancy can no longer be permitted and repair cannot be*

*accomplished without contributing significantly to erosion, geologic instability or having a significant adverse impact on local shoreline sand supply.*

- d. *The property owner(s) understands that the project site is subject to coastal wave action and that the owner(s) assumes the liability from these hazards.*
  - e. *The property owner(s) unconditionally waive any claim of liability on the part of the City or any other public agency from any damage from such (coastal wave action) hazards.*
  - f. *The property owner(s) assume all liability for damages incurred as a result of any required off-site grading.*
13. The project shall meet all water quality requirements including Low Impact Development (LID) implementation.

**Prior to Issuance of a Building Permit:**

- 14. The project Coastal Engineer's recommendations, contained in coastal engineering reports and addendums submitted to the City shall be incorporated into and referenced on submitted project plans. The Project Coastal Engineer shall review, sign, and wet-stamp the final building plans and, provide a completed Floodplain Certification form to the City.
- 15. Building plan check submittal shall include two (2) sets of the following construction documents: building plans (4 sets), energy calculations, structural calculations, soils/geology report, and drainage plan.
- 16. All documents prepared by a professional shall be wet-stamped and signed.
- 17. The Project Coastal Engineer's recommendations, contained in the coastal engineering reports and addendums, shall be incorporated into and referenced on the project plans. The Project Coastal Engineer shall review, sign, and wet-stamp the final building plans and provide a completed "Floodplain Certification" form to the City.
- 18. The Applicant, or Applicant's agent(s), shall cause the preparation and submittal of three (3) separate sets of building plans directly to the Orange County Fire Authority for review and approval. A fire sprinkler system or waiver is required from the Fire Chief.
- 19. The Applicant, or Applicant's Agent(s), shall submit payment for all supplemental fees, including school, park, water, sewer and other impact-related fees.

20. The Applicant, or Applicant's Agent(s), shall submit a geotechnical report in compliance with all the City of Dana Point standards for review and approval.
21. The Applicant, or Applicant's Agent(s), shall submit a drainage plan in accordance with all City of Dana Point standards for review and approval. The drainage plan shall be reviewed on a time and materials basis. All grading and drainage shall be in compliance with the City of Dana Point Standards. All drainage shall be directed to Beach Road, in accordance with City of Dana Point Codes and Requirements.
22. The applicant shall submit a separate plan (if applicable) for any and all proposed site walls. All walls shall be designed in conformance with the wave run-up study and applicable flood plain standards.
23. The applicant shall submit a separate survey showing the listed easements in the title report for Pole Lines. Any conflict or additional permission for improvements within the easement area shall be addressed by the applicant.
24. The applicant shall illustrate and identify by description and instrument number the location of all existing easements on the site, grading, and landscaping plans. Any proposed construction within an easement shall be reviewed and approved by said easement holder to the satisfaction of the Public Works and Community Development Departments.
25. The City of Dana Point shall review the proposed flood prevention alternative prior to issuance of a building permit. Additional flood prevention measures, including additional flood analysis, break away panels and/or architectural revisions, may be required.
26. The Applicant, or Applicant's Agent(s), shall submit a final Landscape and Irrigation Plan for review and approval by both the Public Works/Engineering Department and the Planning Division. The plan shall include all proposed and existing plant materials (location, type, size, and quantity), an irrigation plan (if irrigation is proposed), site plan and a copy of the entitlement conditions of approval. The plan shall be in substantial compliance with applicable provisions of the Zoning Code, the preliminary plans approved by the Planning Commission and further, recognize the principles of drought tolerant landscaping. Any trees and shrubs proposed within the rear yard beyond the structural string-line shall be a maximum of 42-inches in height.
27. The side yard walls atop of the elevated platform may be solid for the first 42 inches and then the remaining portion up to six feet shall be an open design that provides a minimum of 60 percent open.
28. The property owner shall work with the neighbors in the final design of the

side yards to maximize the amount of light and air.

**Prior to Issuance of a Certificate of Use and Occupancy:**

29. The applicant shall comply with the following construction-related requirements:
  - a. Best management practices (BMPs) and good housekeeping practices (GHPs) designed to prevent spillage and/or runoff of construction-related materials, and to contain sediment or containments associated with construction activity, shall be implemented prior to the onset of such activity;
  - b. No construction materials, debris, or waste shall be placed or stored where it may enter a storm drain or be subject to title erosion and dispersion;
  - c. Construction debris and sediment shall be properly contained and secured on-site with BMPs, to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking. All stockpiles and construction materials shall be covered, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
  - d. Construction debris and sediment shall be removed from the construction areas as necessary to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. All debris and trash shall be disposed of in the proper trash and recycling receptacles at the end of each construction day;
  - e. The discharge of any hazardous materials into any receding waters shall be prohibited;
  - g. All BMPs shall be maintained in a functional condition throughout the duration of the project;
30. The final approved building plan, site plan, structural calculations and drainage plan shall conform to all applicable provisions of the Dana Point Municipal Code regarding flood damage prevention information and certifications previously submitted with the Coastal Development Permit.
31. Prior to commencement of framing, the Applicant, or Applicant's Agent(s), shall submit a foundation certification, by survey, that the structure will be constructed in compliance with the dimensions shown on plans approved by the Planning Commission, including finish floor elevations and setbacks to property lines included as part of CDP20-0024, SDP21-0014, and AMS21-0005. The City's standard "Setback Certification" form shall be obtained



from the Project Planner at time of building permit issuance, completed by a licensed civil engineer/surveyor and be delivered to the Building/Safety and Planning Divisions for review and approval. Certification shall verify that the location of the structure is in compliance with the structure and patio string-lines as indicated on the approved plans and the elevation of the grade beams are in compliance with the requirements of the approved Coastal Hazard & Wave Run-Up Study.

32. Prior to release of the roof sheathing inspection, the applicant shall certify by a survey or other appropriate method that the height of the structure is in compliance with plans approved by the Planning Commission and the structure heights included as part of CDP20-0024, SDP21-0014, and AMS21-0005. The City's standard "Height Certification" form shall be obtained from the Project Planner at time of building permit issuance, completed by a licensed surveyor and be delivered to the Building/Safety and Planning Divisions for review and approval before release of final roof sheathing is granted.
33. A Final Geotechnical Report shall be prepared by the project geotechnical consultant in accordance with the City of Dana Point Grading Manual.
34. A written approval by the Geotechnical Engineer of Record approving any precise grading associated with surface drainage and site improvements as being in conformance with the approved drainage plan from a geotechnical standpoint.
35. A written approval by the Civil Engineer of Record approving the precise grading and site drainage as being in conformance with the approved drainage plan and which specifically approves construction of line and grade for all engineered drainage devices and site walls as applicable.
36. All landscaping and/or structural best management practices (BMPs) shall be constructed and installed in conformance with approved plans and specifications.
37. A FEMA Elevation Certificate shall be filed for the development in the floodplain. The Elevation Certificate shall be prepared in accordance with all City of Dana Point requirements and all applicable FEMA guidelines.
38. Public Works final approval will be required for all permits.
39. All structural best management practices (BMPs) shall be constructed and installed in conformance with approved plans and specifications.
40. The Applicant, or Applicant's agent(s), shall cause the scheduling of a final onsite inspection with the Community Development Department that shall include a review of landscaping, finish architecture/materials and



compliance with any outstanding project conditions of approval. All landscaping within the front-yard of the subject property shall be installed (per plan) prior to final inspection by the Planning Division.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the Planning Commission of the City of Dana Point, California, held on this 12<sup>th</sup> day of July, 2021 by the following vote, to wit:

AYES: Nelson, Dohner, Opel, Gabbard

NOES:

ABSENT: Murphy

ABSTAIN:

  
Eric Nelson, Chairperson  
Planning Commission

ATTEST:

  
Brenda Wisneski, Director  
Community Development Department

# Exhibit 4 – Appeal

STATE OF CALIFORNIA – THE RESOURCES AGENCY

GAVIN NEWSOM, Governor

## CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE  
301 E. OCEAN BLVD., Suite 300  
LONG BEACH, CA 90802  
VOICE (562) 590-5071



### APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

**RECEIVED**  
South Coast Region

#### SECTION I. Appellant(s)

Name:

AUG 16 2021

Mailing Address: 301 E. Ocean Blvd., Suite 300

City: Long Beach

Zip Code: 90802

Phone: (562) 590-5071

CALIFORNIA  
COASTAL COMMISSION

#### SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Dana Point

2. Brief description of development being appealed:

Demolition of an existing 3,100 sq. ft., 2-story single family residence and construction of a new 3,488 sq. ft., 2-story single family residence and a 587 sq. ft. attached garage supported by a caisson foundation on a 5,588 sq. ft. beach front lot. The City also approved a variance to allow a 4 ft. wide section of stairs to encroach 6 in. seaward of the stringline setback.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

35725 Beach Road, Dana Point, 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-DPT-21-0056

DATE FILED: 8/16/2021

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
- X Planning Commission
- Other

6. Date of local government's decision: July 12, 2021

7. Local government's file number (if any): CDP 20-0024

**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:

Vicki and Mike Meursing  
35725 Beach Road  
Dana Point, CA 92624

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.

## **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.

See Attached



## **APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)**

The project is demolition of an existing 3,100 sq. ft., 2-story single family residence and construction of a new 3,488 sq. ft., 2-story single family residence and a 587 sq. ft. attached garage supported by a caisson foundation on a 5,588 sq. ft. beach front lot. The City's action authorizes a new structure on a narrow and eroding beach that is highly susceptible to existing and future hazards as a result of sea level rise. The City did impose a deed restriction that requires the applicant to remove the development if it is ever determined to be unsafe to occupy or damaged to a point that it could not be repaired without contributing significantly to erosion or geologic instability. Given the narrowness of the beach and the current wave impact that is already happening to structures along this beach, at a minimum the special condition should include additional triggers that specifically address what should happen with the development should the Public Trust boundary migrate landward of the development in a manner that impedes public access to the shore required pursuant to Sections 30210, 30211, 30212 30214, 30220, 30221, and 30222 of the Coastal Act and Section 9.69.070 of the City's certified Local Coastal Program (LCP).

In addition, the Section 9.27.030 of the City's certified LCP requires a public access easement seaward of the site with few exceptions. The City found that adequate public access exists near enough to the site (at Poche Beach and Capistrano Beach County Park) that an easement was not necessary; however, Poche Beach is approximately one mile downcoast of the site, which is not nearby and, while Capistrano Beach County Park is approximately half a mile upcoast of the site, it is frequently closed due to significant erosion and wave impacts and is not necessarily "adequate." The public has a right to access the public dry sandy beach and Public Trust Lands seaward of the site. As sea level rises and the sandy/cobble beach is squeezed between the ocean and the proposed new development, consideration must be given to the fate of Public Trust Lands. Thus, the City's condition and findings do not adequately address public access to Public Trust Lands given certain sea level rise scenarios.

The information below provides more details regarding issues related to public access and the locally-approved development:

1. Public Trust & Lateral Access: The proposed development could have impacts on the public trust over the life of the development. Since the project will be supported by piles, the already very narrow beach could continue to erode under the structure, putting the mean high tide line (MHTL) underneath the structure. The Commission must consider whether to require that portions of the structure sited on top of Public Trust Lands be removed as the public trust boundary migrates inland. In addition to the concern with future encroachment of Public Trust Lands, future erosion will have impacts on beach access and recreation if the sandy public beach is under the residence. Finally, any interference the development may have with existing public access easements and/or public prescriptive rights along the shoreline must also be considered in any development approval in this location.
2. Base Flood Elevation: The current FEMA BFE for the site is 19 ft, NAVD88. With +5.6 ft of SLR, the applicant's engineer (GeoSoils) estimates the future base flood elevation (BFE) will be 21 ft NAVD88, only 2 ft higher than the current FEMA BFE. This appears to be an underestimate and there's good reason to believe that a *minimum* estimate for the BFE with 5.6 ft of SLR would be 24.6 ft (19+5.6). The future flood elevation of 21' NAVD88, used by the City for project review, is more likely the flood level with about 2 feet of SLR, which may be inadequate to address hazards over the life of the development.

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3. **Beach Road:** The GeoSoils analysis notes that Beach Road, inland of this property, is about +15' NAVD88 and that during future storms, water will flow across the road, greatly limiting safe access to and from the site. Beach Road is a private road, and the limited access will be a problem for the entire community, which poses several problems that may rise to the community scale.
4. **Sea Level Rise Analysis:** The applicant's coastal hazards analysis uses the low emissions mid-high risk scenario rather than the high emissions scenario. Use of the low emissions scenario may not adequately assess the shoreline hazards the approved development may encounter over the life of the development.
5. **Deed Restriction:** Special Condition 12 of the local CDP requires removal of any armoring that might exist at the site now only if it does not threaten neighboring properties. If such armoring exists, it is very likely unpermitted and should be removed prior to the construction of any new development.

As described above, the development authorized by the City raises issues as to consistency with the LCP policies and the public access and recreation policies of Chapter 3 of the Coastal Act listed below.

### **Coastal Act Policies**

#### **Section 30210 Access; recreational opportunities; posting**

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

#### **Section 30211 Development not to interfere with access**

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

#### **Section 30212 New development projects**

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

(b) For purposes of this section, "new development" does not include:

(1) Replacement of any structure pursuant to the provisions of subdivision (g) of Section [30610](#).

(2) The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.

(3) Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10

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percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.

(4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not a seaward of the location of the former structure.

(5) Any repair or maintenance activity for which the commission has determined, pursuant to Section [30610](#), that a coastal development permit will be required unless the commission determines that the activity will have an adverse impact on lateral public access along the beach.

As used in this subdivision "bulk" means total interior cubic volume as measured from the exterior surface of the structure.

(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by [Sections 66478.1 to 66478.14](#), inclusive, of the Government Code and by [Section 4 of Article X of the California Constitution](#).

### **Section 30214 Implementation of public access policies; legislative intent**

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

(1) Topographic and geologic site characteristics.

(2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.

(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to [Section 4 of Article X of the California Constitution](#). Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under [Section 4 of Article X of the California Constitution](#).

(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

### **Section 30220 Protection of certain water-oriented activities**

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

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**Section 30221 Oceanfront land; protection for recreational use and development**

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

**Section 30222 Private lands; priority of development purposes**

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

**LCP Policies**

- **9.69.070** Basis For Action on Coastal Development Permit Applications. Approval, conditional approval, or denial of any Coastal Development Permit by the City of Dana Point or the Coastal Commission on appeal shall be based upon compliance with the provisions of the certified Dana Point Local Coastal Program and, for development between the sea and the first public road paralleling the sea, the public access and recreation policies of Chapter 3 of the Coastal Act.
  - (a) Approvals of Coastal Development Permits. In order for a Coastal Development Permit to be approved, all the following findings must be made, in writing, in addition to the findings required to approve other applications being considered concurrently:
    - (1) That the proposed development is in conformity with the certified Local Coastal Program as defined in Chapter 9.75 of this Zoning Code. (Coastal Act/30333, 30604(b); 14 Cal. Code of Regulations/13096).
    - (2) That the proposed development, if located between the nearest public roadway and the sea or shoreline of any body of water, is in conformity with the public access and public recreation policies of Chapter Three of the Coastal Act. (Coastal Act/30333, 30604(c); 14 Cal. Code of Regulations/13096).
    - (3) That the proposed development conforms with Public Resources Code Section 21000 and following and that there are no feasible mitigation measures or feasible alternatives available which would substantially lessen any significant adverse impact that the activity may have on the environment. (Coastal Act/30333; 14 Cal. Code of Regulations/13096).
  - (b) Denials of Coastal Development Permits. In order for a Coastal Development Permit to be denied, all the following findings must be made, in writing, in addition to the findings required to deny other applications being considered concurrently:
    - (1) That the proposed development is not in conformity with the certified Local Coastal Program as defined in Chapter 9.75 of this Zoning Code. (Coastal Act/30333, 30604(b); 14 Cal. Code of Regulations/13096).
    - (2) That the proposed development, if located between the nearest public roadway and the sea or shoreline of any body of water, is not in conformity with the public access and public recreation policies of Chapter Three of the Coastal Act. (Coastal Act/30333, 30604(c); 14 Cal. Code of Regulations/13096).
  - (c) Additional findings for public access are found in Section 9.27.030(a) of the Zoning Code.



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- (d) That the proposed development will be sited and designed to prevent adverse impacts to environmentally sensitive habitats and scenic resources located in adjacent parks and recreation areas, and will provide adequate buffer areas to protect such resources.
  - (e) That the proposed development will minimize the alterations of natural landforms and will not result in undue risks from geologic and erosional forces and/or flood and fire hazards.
  - (f) That the proposed development will be visually compatible with the character of surrounding areas, and, where feasible, will restore and enhance visual quality in visually degraded areas.
  - (g) That the proposed development will conform with the General Plan, Zoning Code, applicable Specific Plan, Local Coastal Program, or any other applicable adopted plans and programs. (Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)
- **9.27.030** Development Standards. In addition to the development standards for the base zoning districts described in Chapters 9.09-9.25, the following standards apply to all applicable projects within the CO District.
    - (a) Coastal Access.
      - (1) The purpose of this section is to achieve the basic state goals of maximizing public access to the coast and public recreational opportunities, as set forth in the California Coastal Act; to implement the public access and recreation policies of Chapter 3 of the Coastal Act; and to implement the certified land use plan of the Local Coastal Program which is required by Section 30500(a) of the Coastal Act to include a specific public access component. In achieving these purposes, the provisions of this subsection shall be given the most liberal construction possible so that public access to the navigable waters shall always be provided and protected consistent with the goals, objectives and policies of the California Coastal Act and Article X, Section 4, of the California Constitution.
      - (2) Definitions.
        - (A) New Development. For purposes of implementing the public access requirements of Public Resources Code Section 30212, the City of Dana Point certified land use plan, including Land Use Element Policy 3.12, and of this ordinance, "new development" includes "development" as defined in Section 9.75.040 of this zoning code except the following:
          - 1. Structures destroyed by natural disaster. The replacement of any structure, other than a public works facility, destroyed by a disaster; provided that the replacement structure conforms to applicable existing zoning requirements, is for the same use as the destroyed structure, does not exceed either the floor area, height, or bulk of the destroyed structure by more than 10%, and is sited in the same location on the affected property as the destroyed structure. As used in this section, "disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of the owners.
          - 2. Demolition and Reconstruction. The demolition and reconstruction of a single-family residence; provided that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent,

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and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.

- 3. Improvements. Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height or bulk of the structure by more than 10 percent, which do not block or impede access, and which do not result in a seaward encroachment by the structure.
  - 4. Repair and Maintenance. Repair or maintenance activity which, pursuant to Public Resources Code Section 30610, requires no permit unless the activity will have an adverse impact on lateral public access along the beach.
  - 5. Reconstruction and Repair. The reconstruction or repair of any seawall; provided that the reconstructed or repaired seawall is not seaward of the location of the former structure. As used in this section, "reconstruction or repair" of a seawall shall not include replacement by a different type of structure or other modification in design or construction which results in different or greater impacts to shoreline resources than those of the existing structure.
- (B) The five (5) types of coastal public access (lateral, bluff top, vertical, trail, and recreational) are defined in Section 9.75.030 of this Zoning Code.
- (C) Character of Accessway Use.
  - 1. Pass and repass. Refers to the right of the public to walk and run along an accessway. Because this use limitation can substantially restrict the public's ability to enjoy adjacent publicly owned tidelands by restricting the potential use of lateral accessways, it will be applied only in connection with vertical access or other types of access where the findings required by Sections 9.27.030(a)(5) and 9.27.030(a)(5)(D) establish that the limitation is necessary to protect natural habitat values, topographic features (such as eroding bluffs), or privacy of the landowner.
  - 2. Passive recreational use. As used in this section, "passive recreational use" refers to the right of the public to conduct activities normally associated with beach use, such as walking, swimming, jogging, sunbathing, fishing, surfing, picnicking, but not including organized sports, campfires, or vehicular access other than for emergencies or maintenance.
  - 3. Active recreational use. As used in this section, "active recreational use" refers to the right of the public to conduct the full range of beach-oriented activities, not including horseback riding and use of motorized vehicles unless specifically authorized.
- (3) Applicability.
  - (A) Access Required. As a condition of approval and prior to issuance of a permit or other authorization for any class of new development as identified in Sections 9.27.030(a)(3)(A)1. through 9.27.030(a)(3)(A)4. below, except as provided in Section 9.27.030(a)(3)(B), an offer to dedicate an easement (or other legal mechanism pursuant to Section 9.27.030(a)(4)(J)2. for one or more of the types of access identified in

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Sections 9.27.030(a)(2)(D)1. through 9.27.030(a)(2)(D)5. shall be required and shall be supported by findings required by Sections 9.27.030 (a)(5)(A) through 9.27.030(a)(5)(C); provided that no such condition of approval for coastal access shall be imposed if the analysis required by Sections 9.27.030(a)(5)(A)1. through 9.27.030(a)(5)(A)4. establishes that the development will not adversely affect, either individually or cumulatively, the ability of the public to reach and use public tidelands and coastal resources or that the access dedication requirement will not alleviate the access burdens identified.

- 1. New development on any parcel or location specifically identified in the certified land use plan or in the LCP zoning districts.
  - 2. New development between the nearest public roadway and the sea.
  - 3. New development on any site where there is substantial evidence of a public right of access to the sea acquired through use or a public right of access through legislative authorization.
  - 4. New development on any site where trail, blufftop access or other recreational access is necessary to mitigate impacts of the development on public access.
- (B) Exceptions. Section 9.27.030(a)(3)(A) above shall apply to all new development except in the following instances:
  - 1. Projects excepted from the definition of "new development" in Section 9.27.020(a)(2).
  - 2. Where findings required by Sections
  - 9.27.030(a)(5)(A) and 9.27.030(a)(5)(B) establish any of the following:
    - a. Public access is inconsistent with the public safety, military security needs, or protection of fragile coastal resources; or
    - b. Adequate access exists nearby.
- (C) Exceptions identified in Section 9.27.030(a)(3)(B) shall be supported by written findings required by Section 9.27.030(a)(5)(C) of this Chapter.
- (4) Standards For Application Of Access Conditions. The public access required pursuant to Section 9.27.030(a)(3)(A) shall conform to the standards and requirements set forth in Section 9.27.030(a)(4) herein.
  - (A) Lateral Public Access (Minimum Requirements).
    - 1. A condition to require lateral access as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section 9.27.030(a)(3)(A) shall provide the public with the permanent right of lateral public access and passive recreational use along the shoreline (or public recreational area, bikeway, or blufftop area, as applicable); provided that in some cases controls on the time, place and manner of uses may be justified by site characteristics including sensitive habitat values or fragile topographic features, or by the need to protect the privacy of residential development located immediately adjacent to the accessway.

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- 2. Active recreational use may be appropriate in many cases where the development is determined to be especially burdensome on public access. Examples include cases where the burdens of the proposed project would severely impact public recreational use of the shoreline, where the proposed development is not one of the priority uses specified in Public Resources Code Section 30222 and the policies of the certified land use plan, where active recreational uses reflect the historic public use of the site, where active recreational uses would be consistent with the use of the proposed project, and where such uses would not significantly interfere with the privacy of the landowner. In determining the appropriate character of public use, findings shall be made on the specific factors enumerated in Section 9.27.030(a)(5)(B). Lateral access shall be legally described as required in Section 9.27.030(a)(4)(G).
  - (B) Vertical Public Access (Minimum Requirements).
    - 1. A condition to require vertical public access as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section 9.27.030(a)(3)(A) shall provide the public with the permanent right of access, either (1) located in specific locations identified in the certified Local Coastal Program for future vertical access, or (2) located in a site for which the City of Dana Point has reviewed an application for a development permit and has determined a vertical accessway is required pursuant to the access and recreation policies of the Coastal Act or the applicable provisions of the Local Coastal Program.
    - 2. A condition to require vertical access as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section 9.27.030(a)(3)(A) shall provide the public with the permanent right of vertical access and be limited to the public right of passive recreational use unless another character of use is specified as a condition of the development. In determining whether another character of use is appropriate, findings shall be made on the specific factors identified in Section 9.27.030(a)(5)(B).
    - 3. Each vertical accessway shall extend from the road to the shoreline (or bluff edge) and shall be legally described as required in Section 9.27.030(a)(4)(G). The access easement shall be a minimum of 10 feet wide. If a residential structure is proposed, the accessway should not be sited closer than 10 feet (or another distance if specified in the certified land use plan) to the structure.
- ...
- (E) Recreational Access (Minimum Requirements). A condition to require public recreational access as a condition of approval of a coastal development permit required pursuant to Section 9.27.030(a)(3)(A) shall provide the public with the permanent right of access and use within a designated recreational access area. Conditions

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required pursuant to this section shall specify the location and extent of the public access area. The form and content should take the form of requirements in Sections 9.27.030(a)(4)(A), 9.27.030(a)(4)(B), 9.27.030(a)(4)(C), and 9.27.030(a)(4)(D) as applicable. The accessway shall be legally described as required in Section 9.27.030(a)(4)(G).

- (F) Protection of Historic Public Use.
  - 1. Substantial Evidence Determination. Substantial evidence that the area used by the public has been impliedly dedicated shall be determined based on evidence of all of the following:
    - a. The public must have used the land for a period of five years or more as if it were public land,
    - b. Without asking for or receiving permission from the owner,
    - c. With the actual or presumed knowledge of the owner,
    - d. Without significant objection or bona fide attempts by the owner to prevent or halt the use, and
    - e. The use must be substantial, rather than minimal, and
    - f. The applicant must not have demonstrated that the law has prevented the property from being impliedly dedicated.
  - 2. Siting and Design Requirements. Development shall be sited and designed in a manner which does not interfere with or diminish any public right of access which may have been established based on historic public use. Only when site constraints are so severe that siting of the accessway or recreational use area in its historic location would significantly impair the proposed development and alternative development siting is not feasible, development may be sited in the area of public right of access based on historic use provided that the applicant provides an equivalent area of public access or recreation to and along the same destination and including the same type and intensity of public use as previously existed on the site. Mechanisms for guaranteeing the continued public use of the area or equivalent area shall be required in accordance with Sections 9.27.030(a)(4)(A) through 9.27.030(a)(4)(E) above.
  - 3. Minimum Requirements. An access condition shall not serve to extinguish or waive public prescriptive rights. In permits where evidence shows the possibility of such prescriptive rights, the following language shall be added to the access condition:
    - "Nothing in this condition shall be construed to constitute a waiver of any prescriptive rights which may exist on the parcel itself or on the designated easement."
- (G) Legal Description of an Accessway (Recordation).
  - 1. An access dedication required pursuant to Section 9.27.030(a)(3)(A) shall be described in the condition of approval of the permit in a manner that provides the public, the property owner, and the accepting agency with the maximum amount of certainty as to the location of the accessway. As part



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of the condition of approval, easements shall be described as follows:

- a. for lateral access: along the entire width of the property from the mean high tide line to (as applicable): the toe of the bluff, the toe of the seawall, or other appropriate boundary such as structural and patio stringlines as described in Section 9.09.040(a)(1) of this Zoning Code (the Residential Beach Road 12 (RBR 12) and Residential Beach Road Duplex 18 (RBRD) Zoning Districts).
- b. for blufftop access or trail access; extending inland from the bluff edge or along the alignment of a recreational trail.
- c. for vertical access: extending from the road to the shoreline (or bluff edge). A privacy buffer provided pursuant to Section 9.27.030(a)(4)(I) shall be described, as applicable.
- 2. Prior to the issuance of the coastal development permit, the landowner shall execute and record a document in a form and content acceptable to the Director of Community Development, consistent with provisions of Section 9.27.030(a)(6), irrevocably offering to dedicate to a public agency, non-profit organization, or private association approved by the Coastal Commission an easement for a specific type of access as described in Section 9.27.030(a)(2)(D) and a specific character of use as described in Section 9.27.030(a)(2)(E), as applicable to the particular condition.
- 3. The recorded document shall provide that the offer to dedicate shall not be used or construed to allow anyone, prior to acceptance of the dedication, to interfere with any rights of public access acquired through use which may exist on the property.
- 4. The recorded document shall include legal descriptions of both the applicant's entire parcel and the easement area and a map to scale. The offer shall be recorded free of prior liens and any other encumbrances which the Coastal Commission [or local agency authorized by the Commission] determines may affect the interest being conveyed. The offer to dedicate shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.
- (H) Management Plan (Minimum Requirements). A management plan may be required in conjunction with a dedication of public access in any case where there is substantial evidence of potential conflicts between public access use and other uses on or immediately adjacent to the site. Examples include access in areas of sensitive habitats, agricultural resources, or significant hazards, or adjoining residential neighborhoods or military security areas. The plan shall be prepared by the accepting agency and approved by the City of Dana Point prior to the opening of the access to public use. Where applicable, the plan

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should specify management controls on time and intensity of use, standards for privacy buffers, and requirements for maintenance of aesthetic values through such measures as litter control.

- (I) Privacy Buffers (Minimum Requirements). Separation between a public accessway and adjacent residential use may be provided when necessary to protect the landowner's privacy or security as well as the public's right to use of the accessway. Any such buffer shall be provided within the development area. Access should not be sited closer to any residential structure than the distance specified in the certified LUP amendment, or where there is no distance specified, no closer than 10 feet. The buffer can be reduced where separation is achieved through landscaping, fences or grade separation.
- (J) Implementation.
  - 1. A dedicated accessway shall not be required to be opened to public use until a public agency, non-profit organization, or private association approved in accordance with Section 9.27.030(a)(4)(G) agrees to accept responsibility for maintenance and liability of the access, except in cases where immediate public access is implemented through a deed restriction.
  - 2. In any case where the size and character of a development would impose very substantial burdens on public access, such as a large resort development on the shoreline, and where the applicant has the capacity to operate and maintain the accessway or recreation area, a deed restriction may be required instead of an offer to dedicate in order to assure immediate public use of the area and maintenance of the area by the applicant and successors in interest. In any such case, all other applicable provisions of this ordinance shall apply.
  - 3. Access facilities constructed on access easements (e.g., walkways, paved paths, boardwalks, etc.) should be no wider than necessary to accommodate the numbers and types of users that can reasonably be expected. Width of facilities can vary for ramps or paved walkways, depending on site factors such as the need for privacy buffers, public safety needs, and the need to protect natural resource areas from overuse.
- (K) Title Information. As a requirement for any public access condition, prior to the issuance of the permit or other authorization for development, the applicant shall be required to furnish a title report and all necessary subordination agreements. Title insurance may also be required where easements are being granted. The amount of insurance shall reflect the estimated cost to acquire an equivalent accessway or recreational use elsewhere in the vicinity. All offers shall be made free of all encumbrances which the approving authority pursuant to Section 9.27.030(a)(4)(G) determines may affect the interest being conveyed. If any such interest exists which could erase the access easement, it must be subordinated through a written and recorded agreement.
- (5) Required Findings And Supporting Analysis For Public Access Dedications.
  - (A) Required Overall Findings. Written findings of fact, analysis and conclusions addressing public access must be included in support of all

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approvals, denials or conditional approvals of projects between the first public road and the sea (whether development or new development) and of all approvals or conditional approvals of projects (whether development or new development) where an access dedication is included in the project proposal or required as a condition of approval. Such findings shall address the applicable factors identified by Section 9.27.030(a)(5)(B) and 9.27.030(a)(5)(C) and shall reflect the specific level of detail specified, as applicable. Findings supporting all such decisions shall include:

- 1. A statement of the individual and cumulative burdens imposed on public access and recreation opportunities based on applicable factors identified pursuant to Section 9.27.030(a)(5)(B). The type of affected public access and recreation opportunities shall be clearly described.
  - 2. An analysis based on applicable factors identified in Section 9.27.030(a)(5)(B) and 9.27.030(a)(5)(C) of the necessity for requiring public access conditions to find the project consistent with the public access provisions of the Coastal Act.
  - 3. A description of the legitimate governmental interest furthered by any access condition required.
  - 4. An explanation of how imposition of a public access dedication requirement alleviates the access burdens identified and is reasonably related to those burdens in both nature and extent.
- (B) Required Project-Specific Findings. In determining any requirement for public access, including the type of access and character of use, the City of Dana Point shall evaluate and document in written findings the factors identified in Sections 9.27.030(a)(5)(B)1. through 9.27.030(a)(5)(B)4. below, to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the City of Dana Point and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the dedication will alleviate or mitigate the adverse effects which have been identified and is reasonably related to those adverse effects in both nature and extent. As used in this section, "cumulative effect" means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning. The following factors shall be analyzed:
    - 1. Project Effects On Demand For Access And Recreation:
      - a. Identification of existing and open public access and coastal recreation areas and facilities in the regional and local vicinity of the development.
      - b. Analysis of the project's effects upon existing public access and recreation opportunities.
      - c. Analysis of the project's cumulative effects upon the use and capacity of the identified public access and recreation opportunities, including public tidelands and beach resources, and upon the capacity of major coastal

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- roads from subdivision, intensification or cumulative buildout.
- d. Projection of the anticipated demand and need for increased coastal access and recreation opportunities for the public.
- e. Analysis of the contribution of the project's cumulative effects to any such projected increase.
- f. Description of the physical characteristics of the site and its proximity to the sea, tideland viewing points, upland recreation areas, and trail linkages to tidelands or recreation areas.
- g. Analysis of the importance and potential of the site, because of its location or other characteristics, for creating, preserving or enhancing public access to tidelands or public recreation opportunities.
- 2. Shoreline Processes (for accessways on sites subject to wave action, such as beachfront and coastal blufftop accessways):
  - a. Description of the existing shoreline conditions, including beach profile, accessibility and usability of the beach, history of erosion or accretion, character and sources of sand, wave and sand movement, presence of shoreline protective structures, location of the line of mean high tide during the season when the beach is at its narrowest (generally during the late winter) and the proximity of that line to existing structures, and any other factors which substantially characterize or affect the shoreline processes at the site.
  - b. Identification of anticipated changes to shoreline processes and beach profile unrelated to the proposed development.
  - c. Description and analysis of any reasonably likely changes, attributable to the primary and cumulative effects of the project, to wave and sand movement affecting beaches in the vicinity of the project; the profile of the beach; the character, extent, accessibility and usability of the beach; and any other factors which characterize or affect beaches in the vicinity.
  - d. Analysis of the effect of any identified changes of the project - alone or in combination with other anticipated changes - will have upon the ability of the public to use public tidelands and shoreline recreation areas.
  - e. The rate of blufftop erosion due to wave action as the base of the bluff.
- 4. Physical Obstructions: Description of any physical aspects of the development which block or impede the ability of the public to get to or along the tidelands, public recreation areas, or other public coastal resources or to see the shoreline.
- 5. Other Adverse Impacts On Access And Recreation:
  - a. Description of the development's physical proximity and relationship to the shoreline and any public recreation area.

## **APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)**

- b. Analysis of the extent to which buildings, walls, signs, streets or other aspects of the development, individually or cumulatively, are likely to diminish the public's use of tidelands or lands committed to public recreation.
  - c. Description of any alteration of the aesthetic, visual or recreational value of public use areas, and of any diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development.
- (C) Findings for Projects Involving Historic Public Use/Prescriptive Rights:
  - 1. Where an issue as to the existence of public prescriptive rights has been raised during the course of reviewing a coastal development permit application, one of the following findings shall be made:
    - a. Substantial evidence does not warrant the conclusion that public prescriptive rights exist;
    - b. Substantial evidence of public prescriptive rights exist, but development will not interfere with those rights;
    - c. There is an unresolved controversy as to the existence of public prescriptive rights which requires denial of a coastal development permit because of interference with those rights.
    - d. There is an unresolved controversy as to the existence of public prescriptive rights, but the applicant's dedication of a public access protects the rights of the public and allows an agreement to accept the actual dedication in exchange for giving up the contested claim of implied dedication
  - 2. In determining any requirement for public access based on historic public use/prescriptive rights, including the type of access and character of use, the City of Dana Point shall evaluate and document in written findings the factors identified in Sections 9.27.030(a)(5)(C)2.a. through 9.27.030(a)(5)(C)2.e. below, to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the City of Dana Point and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the dedication will alleviate or mitigate the adverse effects which have been identified and is reasonably related to those adverse effects in both nature and extent. As used in this section, "cumulative effect" means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning. The following factors shall be analyzed



## **APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)**

- a. Evidence of use of the site by members of the general public for a continuous five-year period (such use may be seasonal).
  - b. Evidence of the type and character of use made by the public (vertical, lateral, blufftop, etc. and for passive and/or active recreational use, etc.).
  - c. Identification of any agency (or person) who has maintained and/or improved the area subject to historic public use and the nature of the maintenance performed and improvements made.
  - d. Identification of the record owner of the area historically used by the public and any attempts by the owner to prohibit public use of the area, including the success or failure of those attempts.
  - e. Description of the potential for adverse impact on public use of the area from the proposed development (including but not limited to, creation of physical or psychological impediments to public use).
- (D) Required Findings For Public Access Exceptions. Any determination that one of the exceptions of Section 9.27.030(a)(3)(B) applies to a development shall be supported by written findings of fact, analysis and conclusions which address all of the following:
  - 1. The type of public access potentially applicable to the site involved (vertical, lateral, bluff top, etc.) and its location in relation to the fragile coastal resource to be protected or the public safety concern which is the basis for the exception, as applicable.
  - 2. Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that fragile coastal resources or public safety, as applicable, are protected.
  - 3. Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an accessway on the subject land.
- (E) Findings For Management Plan Conditions. Written findings in support of a condition requiring a management plan for regulating the time and manner or character of public access use must address the following factors, as applicable:
  - 1. Identification and protection of specific habitat values including the reasons supporting the conclusion that such values must be protected by limiting the hours, seasons, or character of public use.
  - 2. Topographic constraints of the development site.
  - 3. Recreational needs of the public.
  - 4. Rights of privacy of the landowner which could not be mitigated by setting the project back from the accessway or otherwise conditioning the development.
  - 5. The requirements of the possible accepting agency, if an offer of dedication is the mechanism for securing public access.

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- 6. Feasibility of adequate setbacks, fencing, landscaping, and other methods as part of a management plan to regulate public use.

...

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South Coast Region

AUG 16 2021

CALIFORNIA  
COASTAL COMMISSION

**5. Appellant certifications**

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Donne Brownsey

Donne Brownsey  
Signature

Date of Signature 8.14.2021

**5. Representative authorizations**

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

☐ I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

5 If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

6 If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

AUG 16 2021

CALIFORNIA  
COASTAL COMMISSION

**Appeal of local CDP decision**  
**Page 5**

**5. Appellant certifications**

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Caryl Hart



Signature

Date of Signature \_\_\_\_\_

**5. Representative authorizations**

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

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<sup>5</sup> If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

<sup>6</sup> If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.



## Exhibit 5 – Coastal Hazards Figures

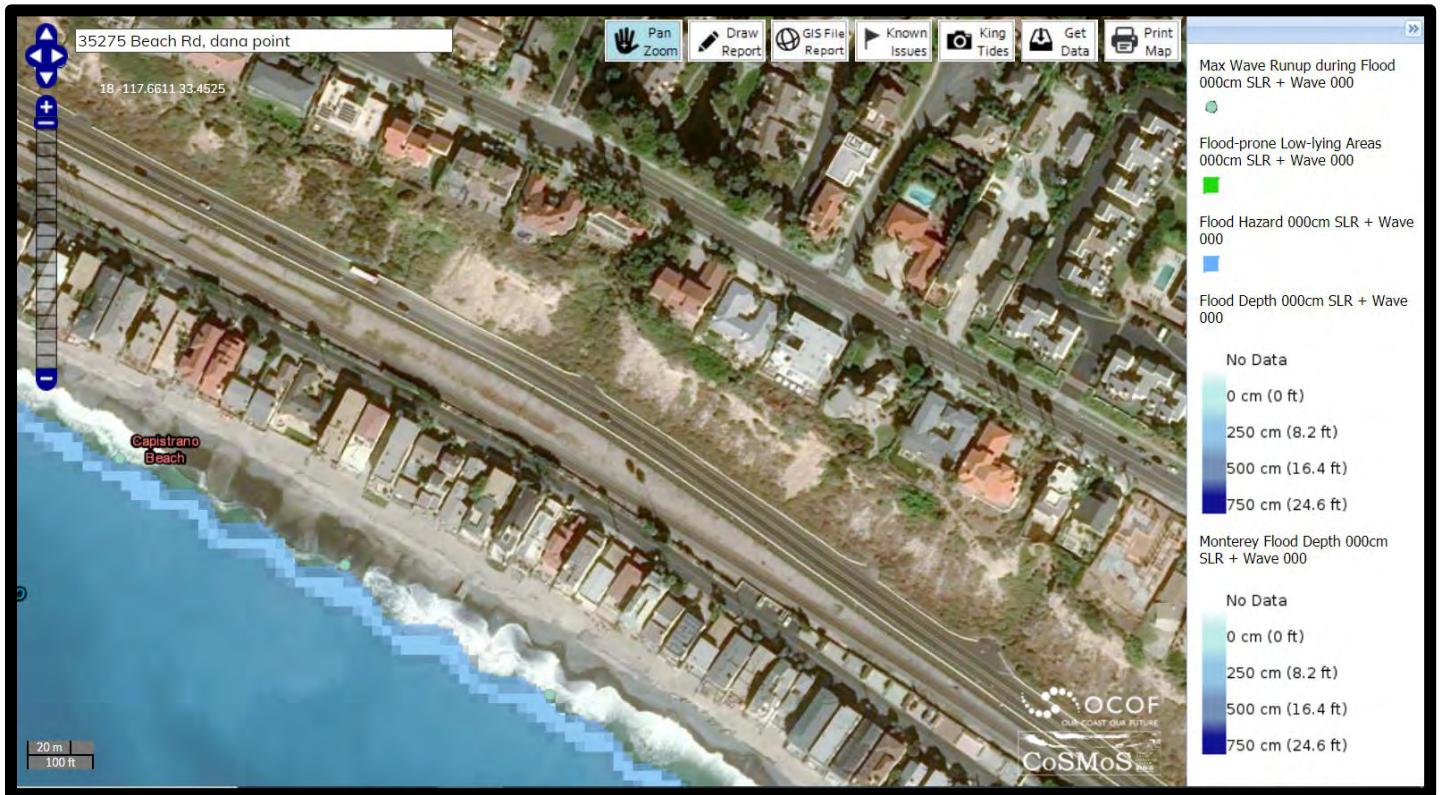


Figure 1—Project Site with no sea level rise and no coastal storm event.

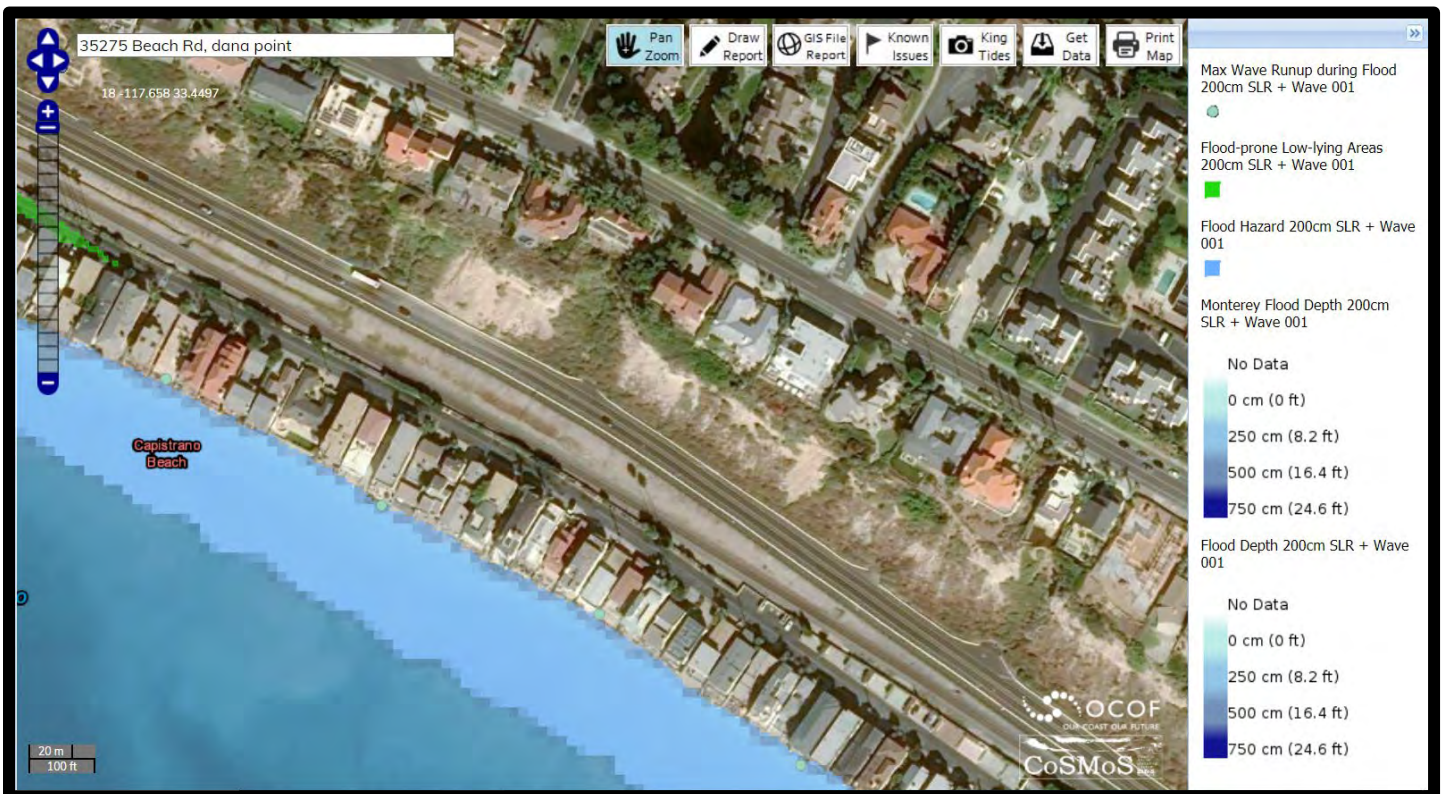
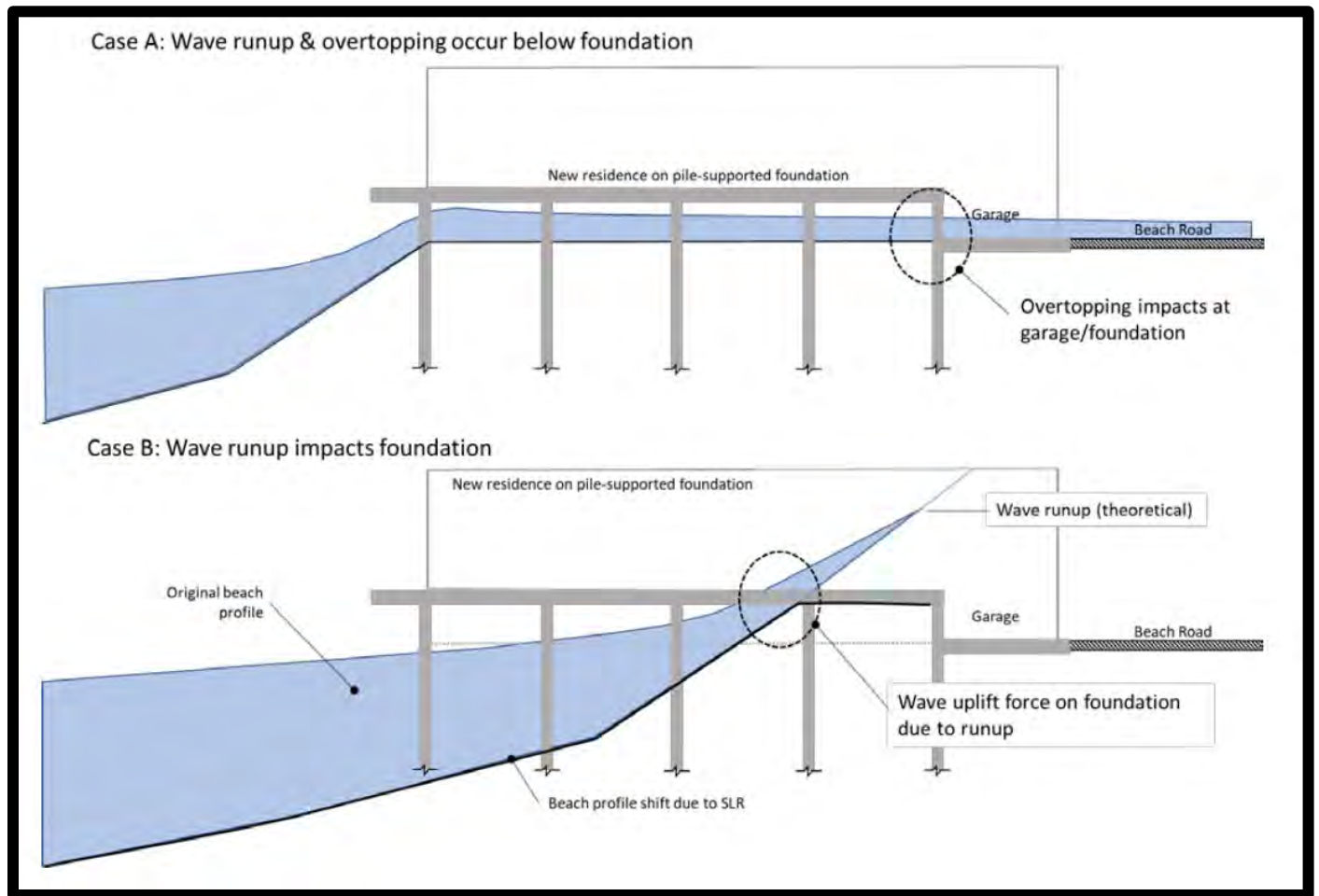


Figure 2—Project Site with 6.6 ft. of sea level rise and an annual coastal storm event.





**Figure 3— Moffat & Nichol, Potential hazard scenarios due to long-term shoreline retreat and storm related erosion.**