

CALIFORNIA COASTAL COMMISSION

301 E. OCEAN BLVD., SUITE 300
LONG BEACH, CA 90802
(562)590-5071



W12b

APPEAL A-5-NPB-22-0052 (GANNON)

NOVEMBER 16, 2022

EXHIBITS

Table of Contents

EXHIBIT 1 – LOCATION MAP

EXHIBIT 2 – PROPOSED PROJECT PLANS

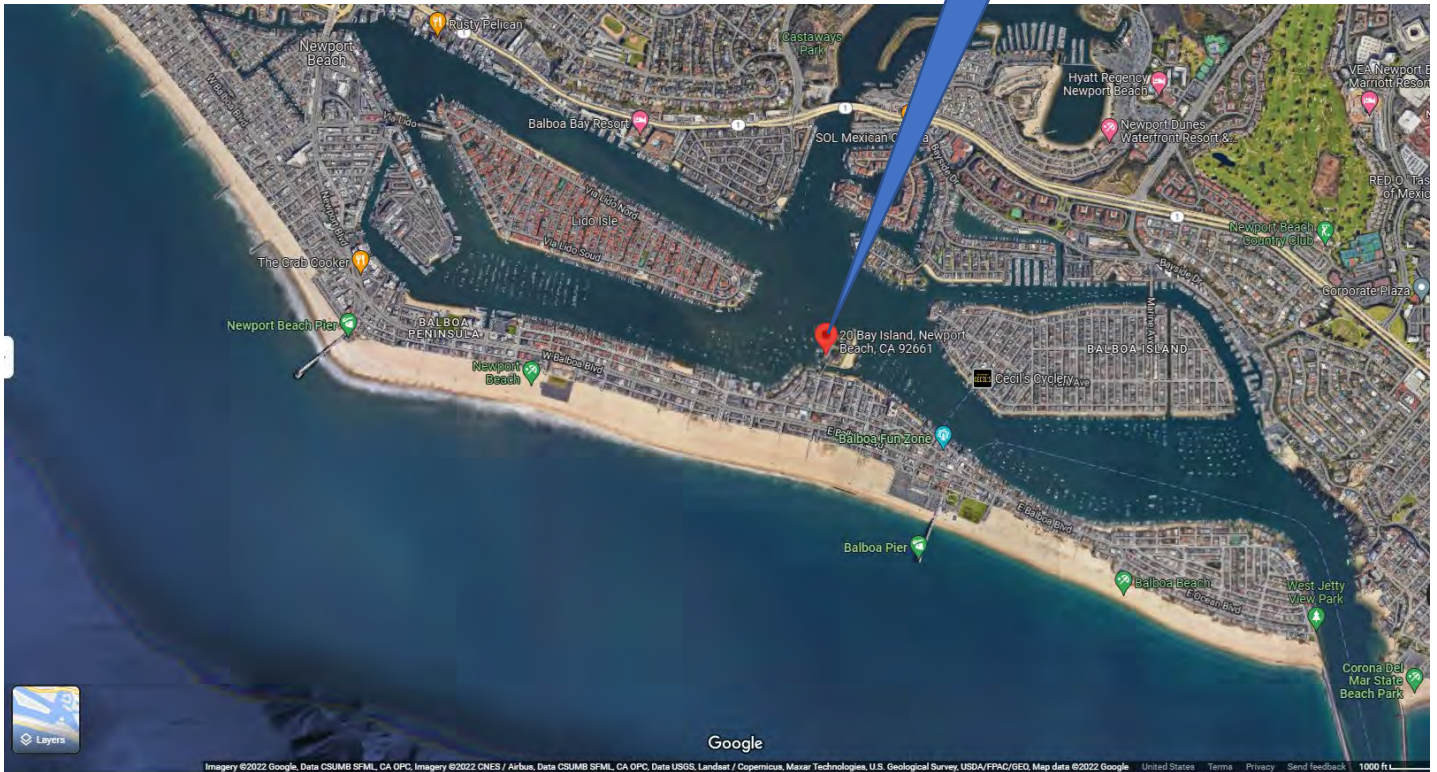
EXHIBIT 3 – LOCAL CDP APPROVAL

EXHIBIT 4 – APPEAL

VICINITY MAP

20 Bay Island, Newport Beach, Orange County

Subject
Property





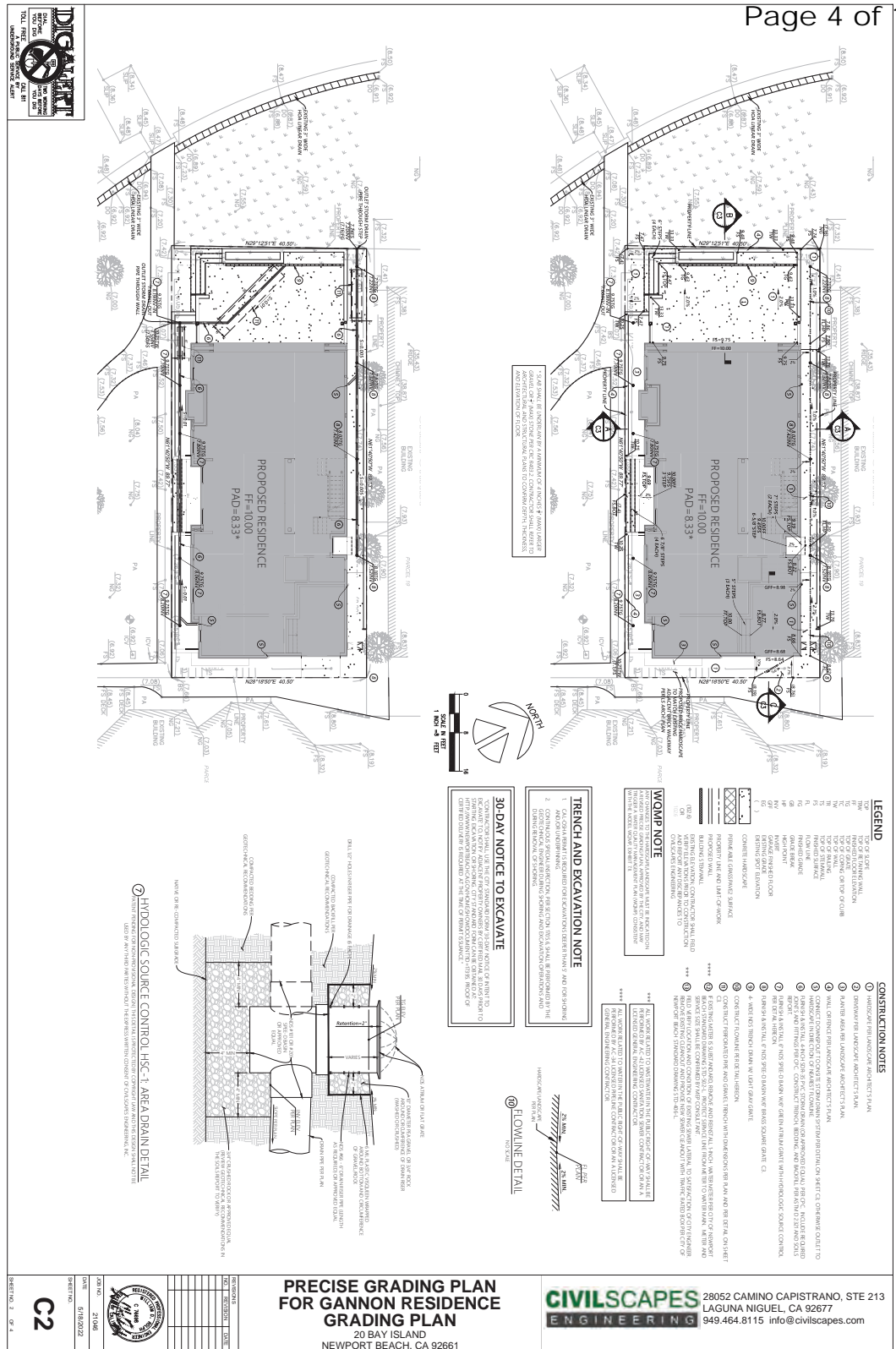
BRANDON ARCHITECTS, INC.

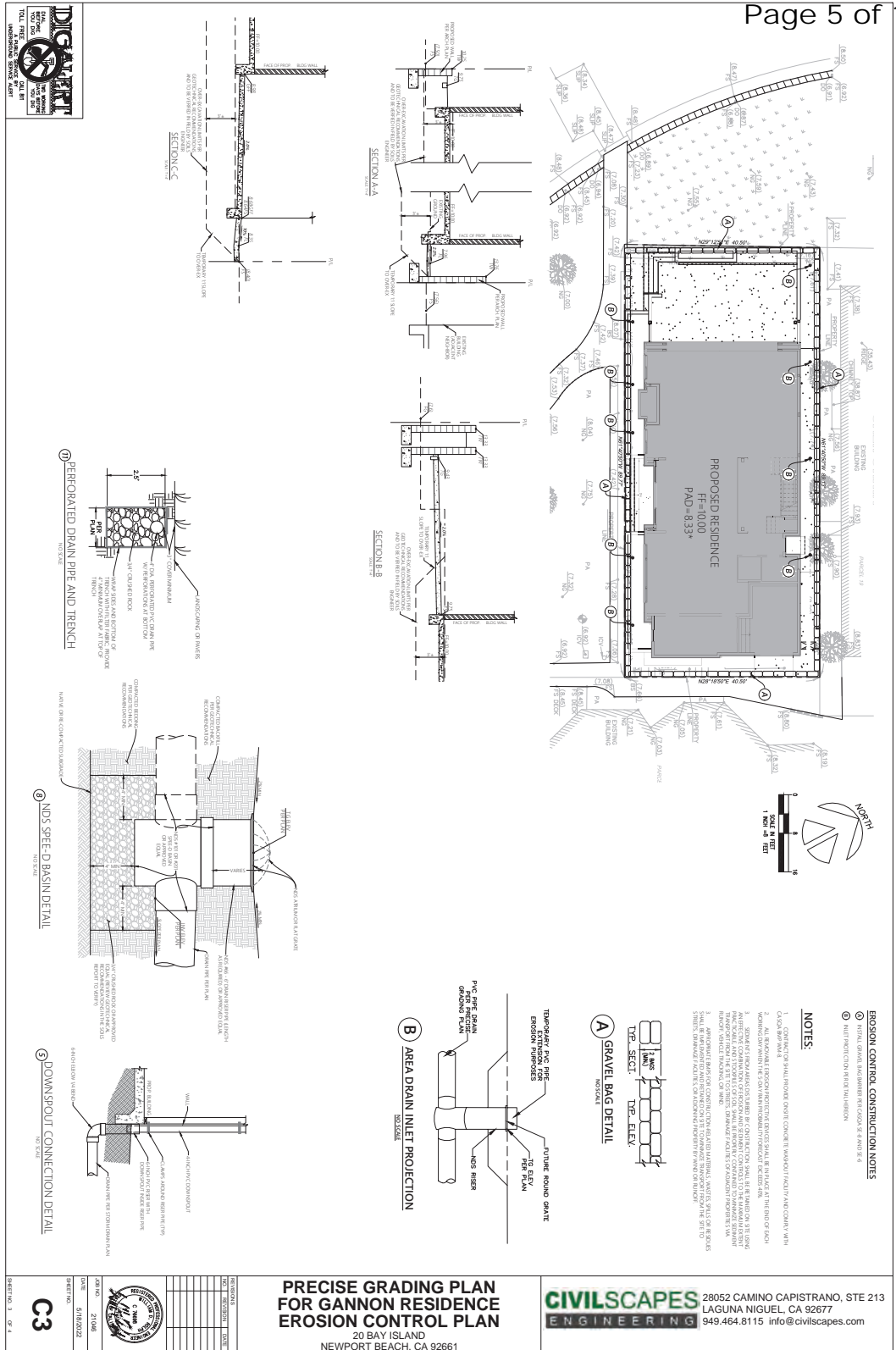


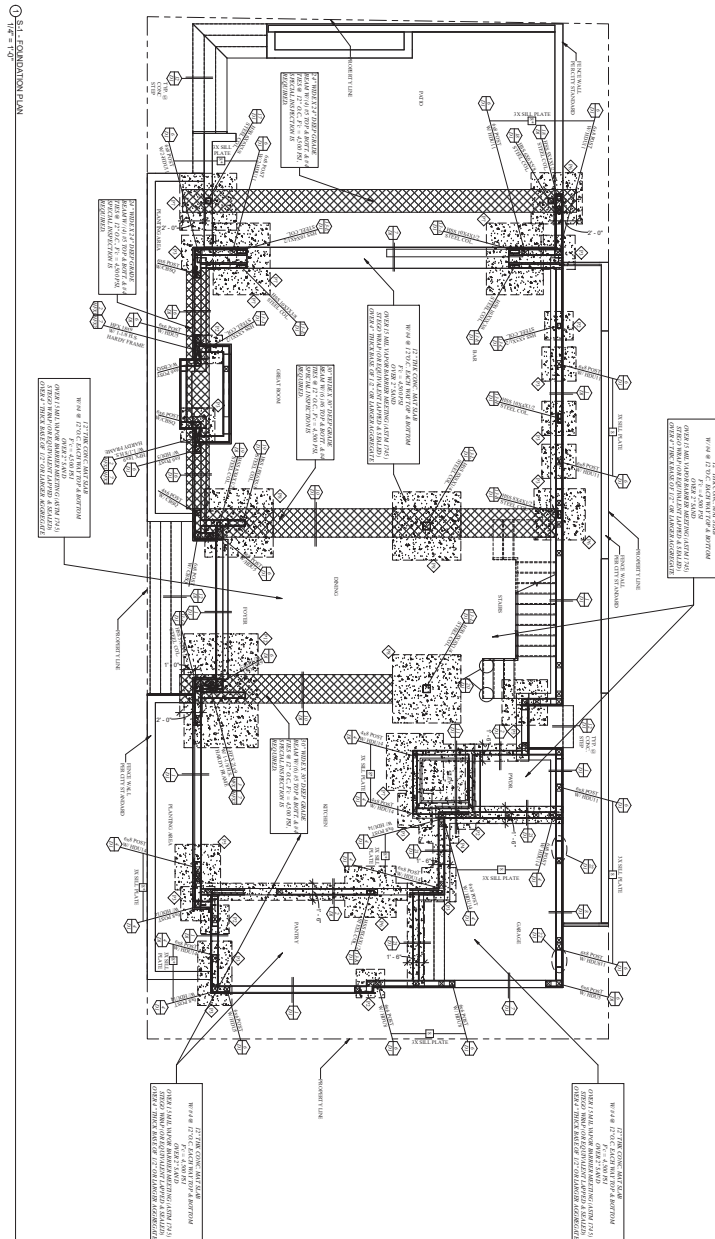
GANNON RESIDENCE
20 BAY ISLAND, NEWPORT BEACH, CA 92661

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List of work requiring special inspection:

- [illegible]

PAD SCHEDULE

24-07 SQ. N.24* DEEP (PAD) W/ 9-5 E. W. @ BO

[illegible]

Form 990-BE U.S. BENEFIT OWNERS OF FOREIGN ENTITIES For the year ended 12/31/2011		OMB No. 1545-0047 Department of the Treasury Internal Revenue Service	
Part I	General Information	1. Name of the foreign entity	ABC DEF GHI JKL MNO PQR
2. Tax classification	<input type="checkbox"/> Partnership <input type="checkbox"/> Trust <input type="checkbox"/> Estate <input type="checkbox"/> Corporation	3. Country or jurisdiction	USA
4. EIN	12-3456789	5. Principal office address	1234 Main St, Suite 567, New York, NY 10001
6. Mailing address	5678 Elm St, Suite 123, New York, NY 10002	7. Telephone number	(212) 555-1234
8. Principal business activity	Investment management	9. Nature of business	Investment management
10. Date of incorporation	01/01/2010	11. Date of termination	
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FOUNDATION PLAN

FMI ENGINEERING
410 Goddard, Suite # 200 Tel: 949-245-8000
Irvine, CA. 92618 Cell: 310-422-1536
EMAIL: INFO@FMIENGINEERING.COM

OWNER
GANNON RESIDENCE
20 BAY ISLAND,
NEWPORT BEACH, CA.

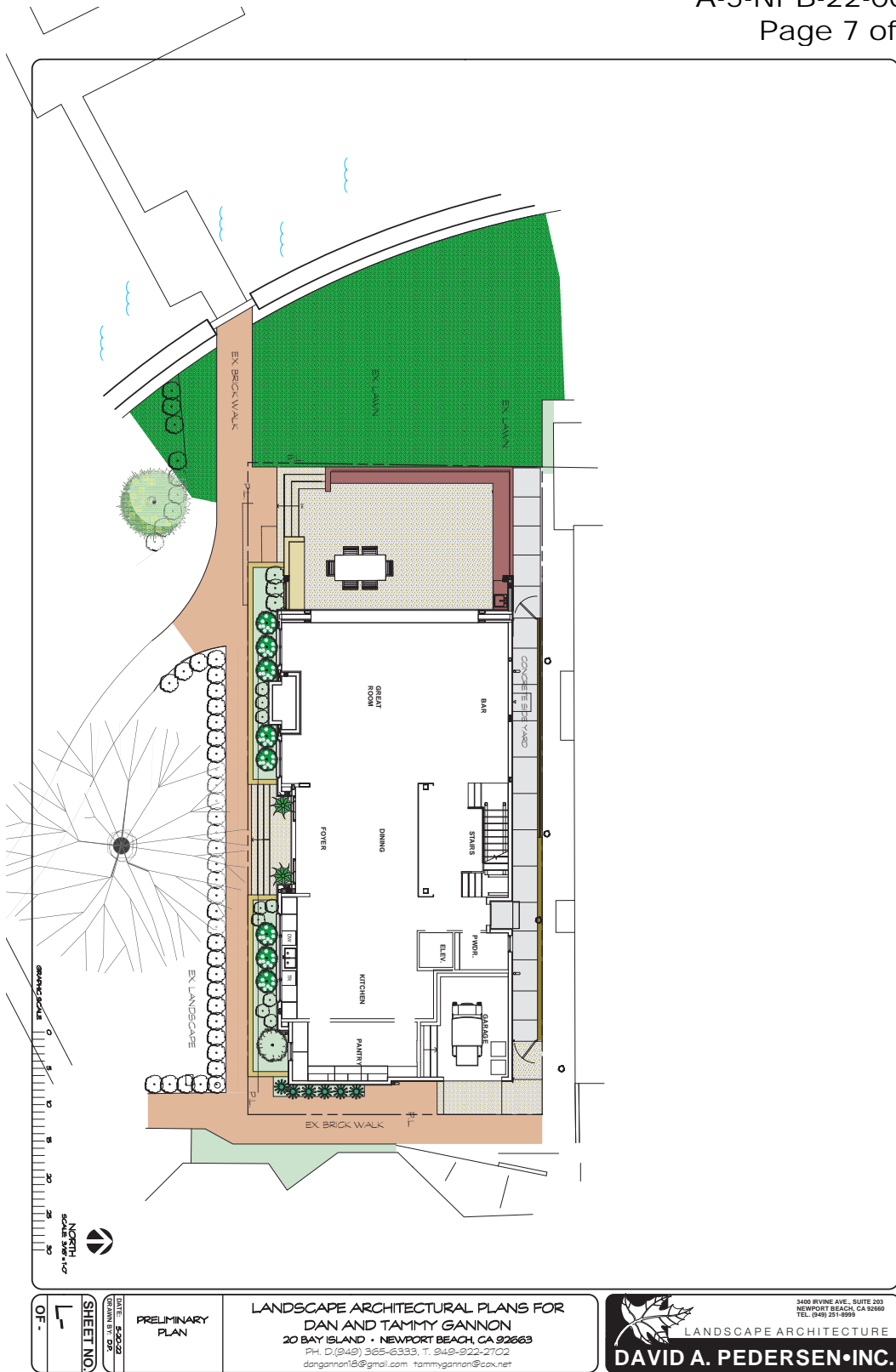
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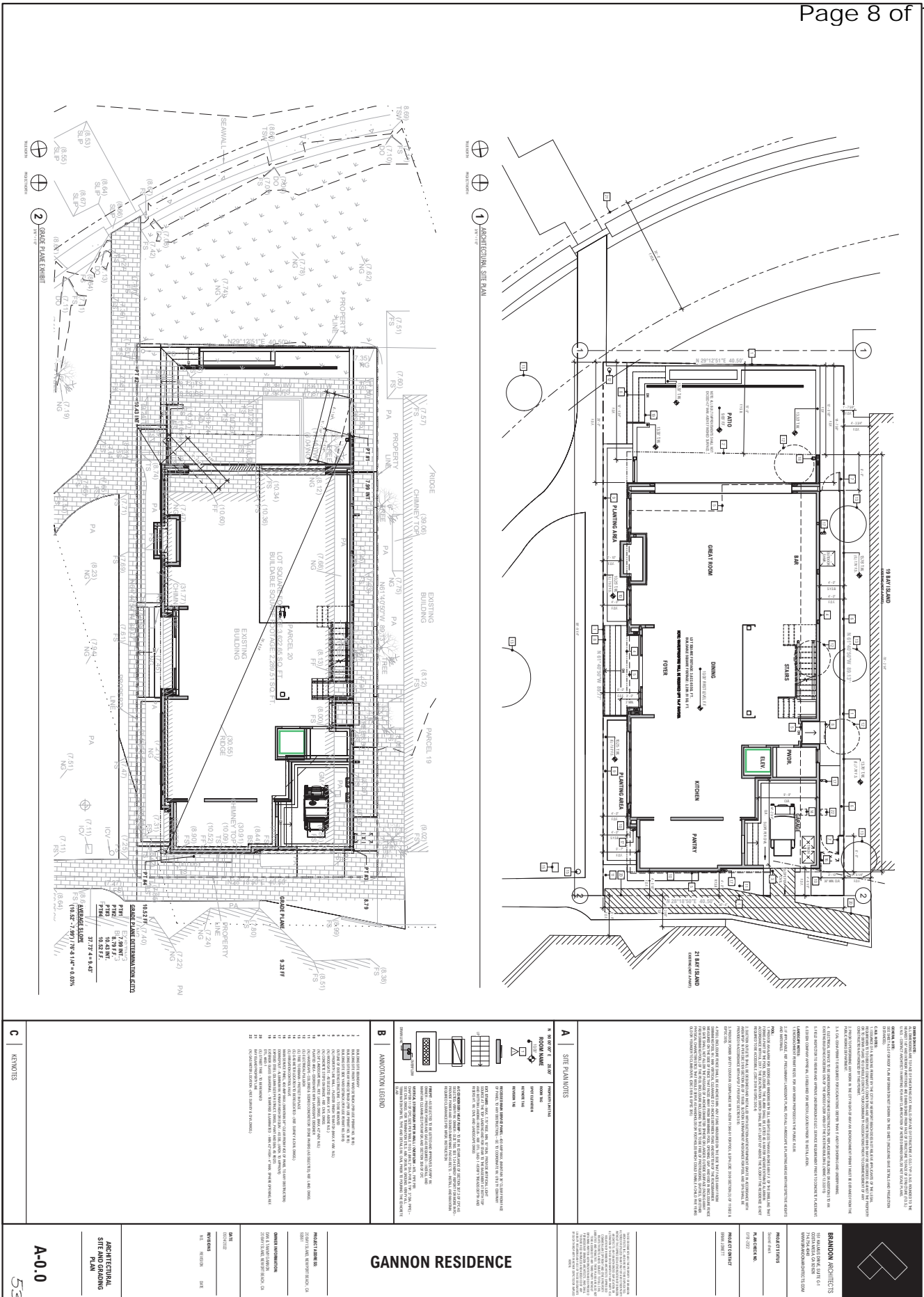
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REVISIONS
1.

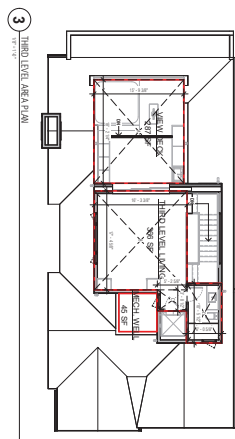
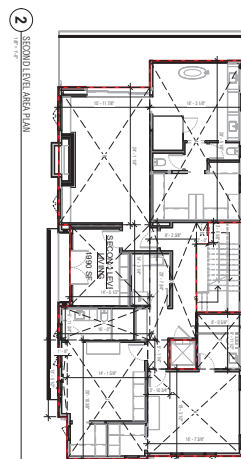
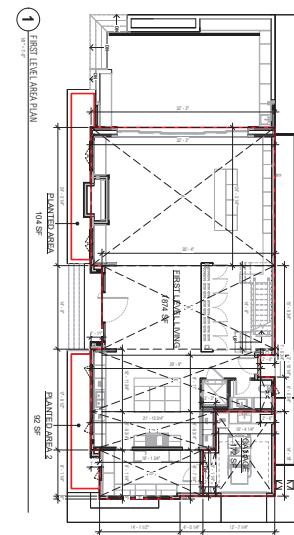
**CANNON
RESIDENCE**

02 10 2022

SHEET
S-11





[illegible]

BRANDON ARCHITECTS
101 PALMIST DRIVE, SUITE 6-1
OAKDALE, MISSISSAUGA, ON L6H 6Z6
TEL 754 754-4000
WWW.BRANDONARCHITECTS.COM

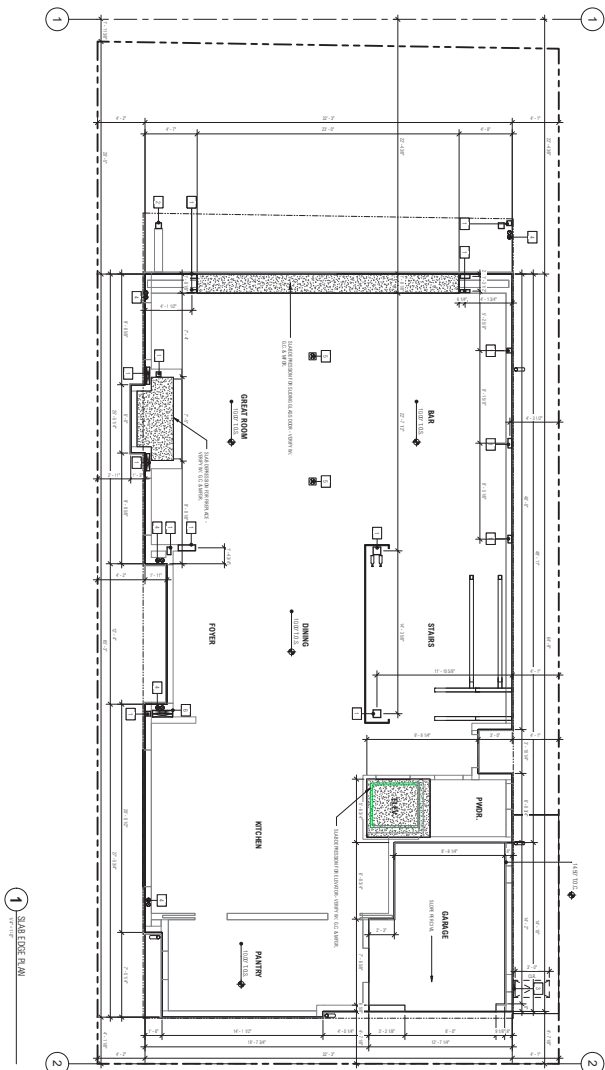
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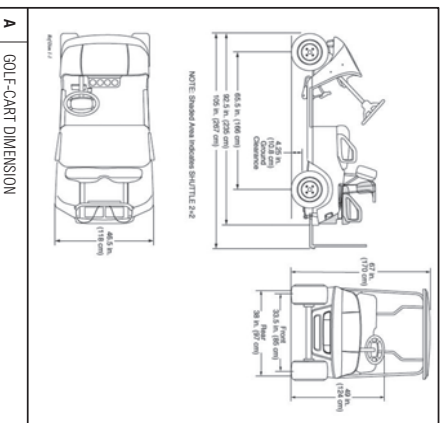
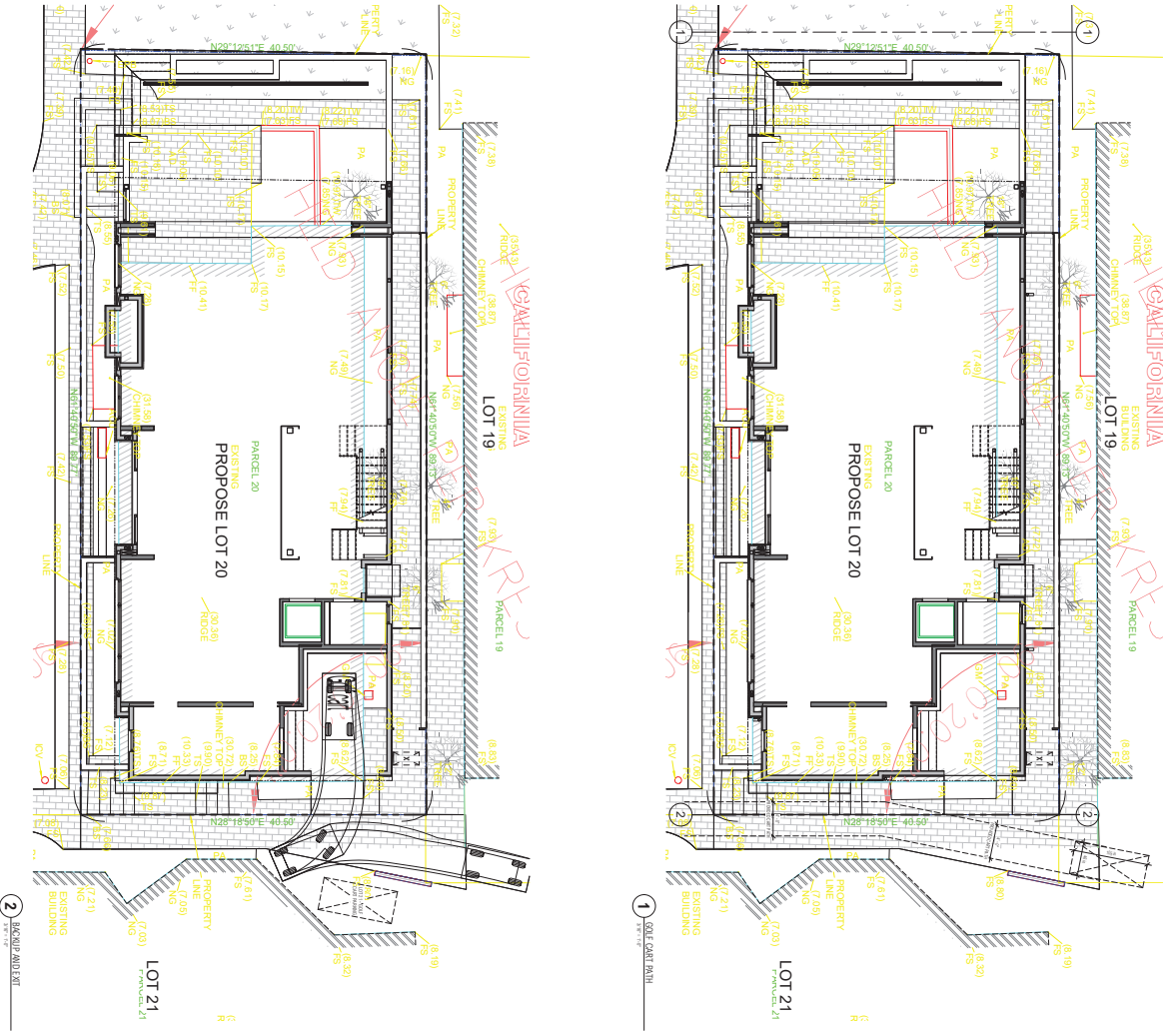
PLANNING CHECK NO.
078-2022

PROJECT CONTACT
BRAND JONES ET

PROJECT ADDRESS:
20 BAY ISLAND, WENTWORTH BEACH, CA
92661

REVISED	NO.	REVISION	DATE
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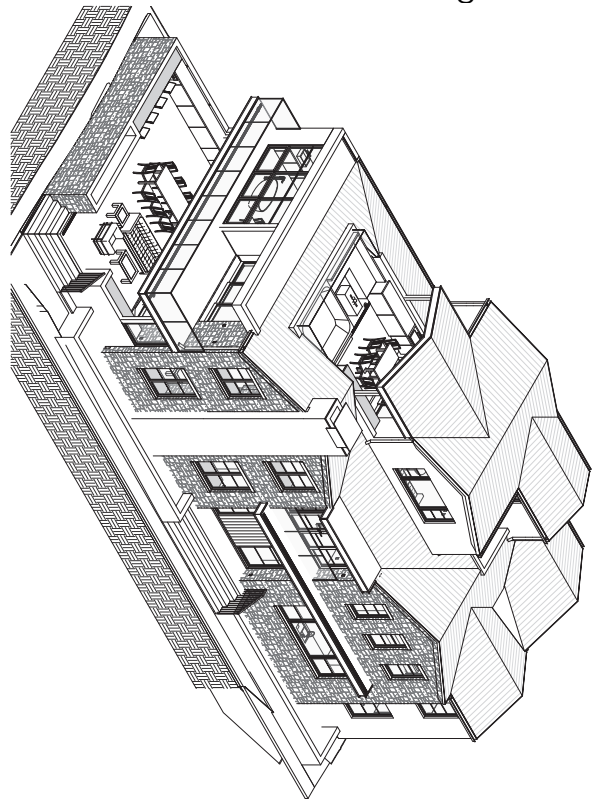
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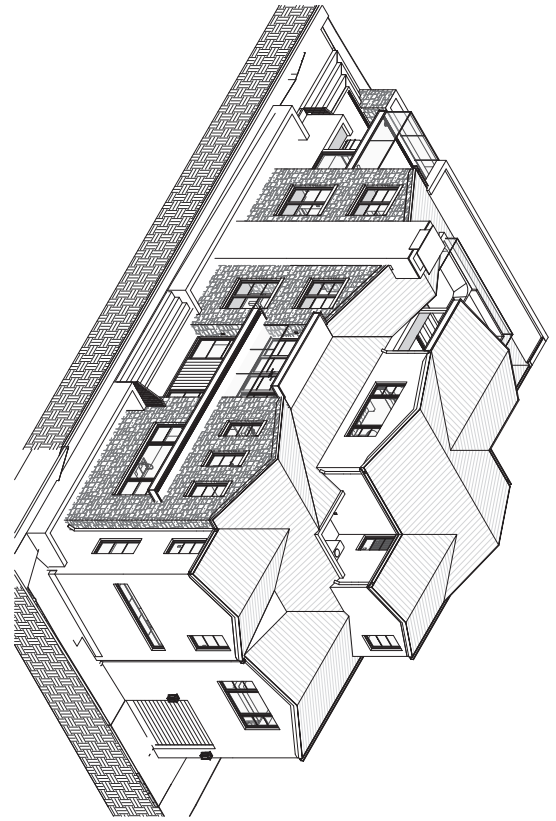
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GANNON RESIDENCE

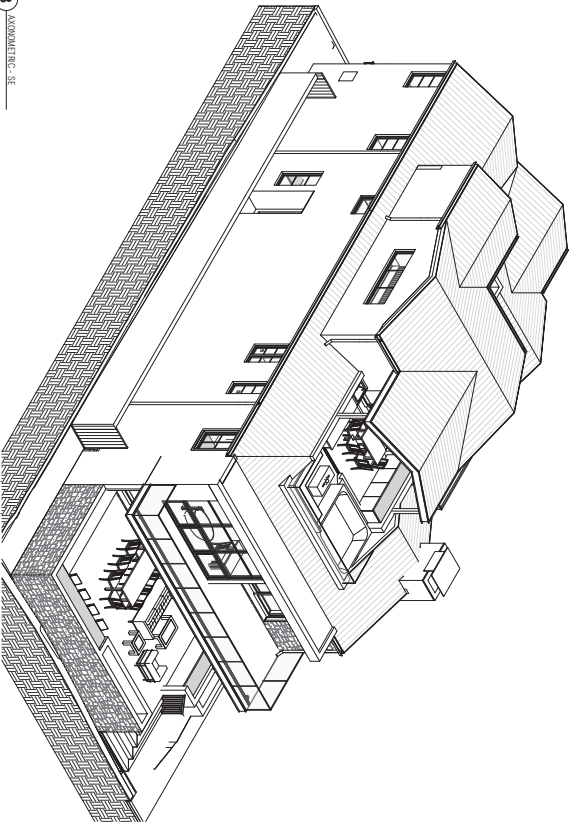
BRADON ARCHITECTS 3011 15th Street, Suite 100 San Diego, CA 92106 (619) 594-1111 www.bradonarchitects.com
PROJECT NAME GANNON RESIDENCE
DATE 07/20/22
DESIGNER BRADON ARCHITECTS



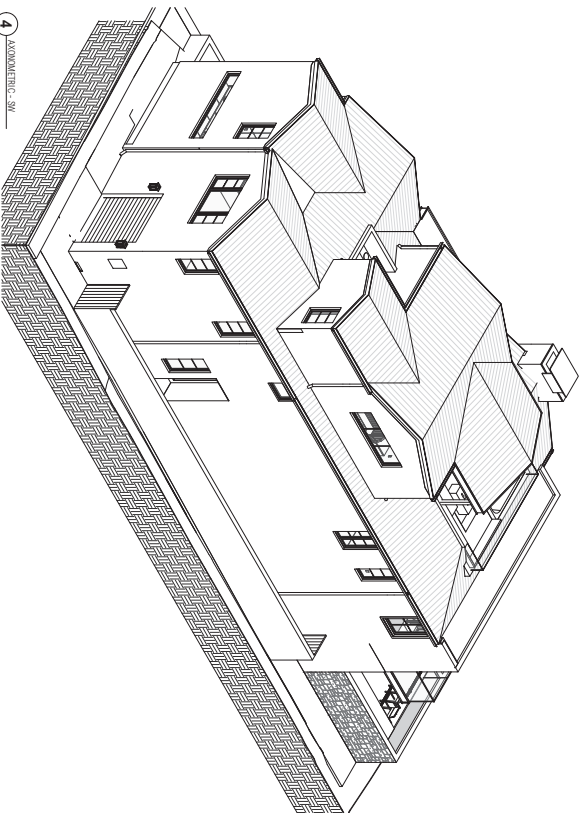
1 ARCHITECTURAL - NE



2 ARCHITECTURAL - NW



3 ARCHITECTURAL - SE



4 ARCHITECTURAL - SW



BRANDON ARCHITECTS
1000 W. 10TH AVE. SUITE 100
DENVER, CO 80202
TEL: 303.733.1234
WWW.BRANDONARCHITECTS.COM

PROJECT NAME
GANNON RESIDENCE
1000 W. 10TH AVE. SUITE 100
DENVER, CO 80202

DATE OF VISIT
10/10/2022

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GANNON RESIDENCE

PROJECT LOCATION
1000 W. 10TH AVE. SUITE 100
DENVER, CO 80202

OWNER INFORMATION
JOHN & JENNIFER GANNON
1000 W. 10TH AVE. SUITE 100
DENVER, CO 80202

DATE
10/10/2022

SCALE
1/8" = 1'-0"

3D VIEWS

A-1.0

The floor plan for the 'New York' restaurant is a detailed architectural drawing showing the layout of the dining area, kitchen, and service areas. The plan is oriented with the entrance at the top left and the kitchen at the bottom right. Key areas labeled include 'Dining', 'Bar', 'Kitchen', 'Storage', 'Restroom', 'Entrance', and 'Exit'. The layout includes various seating arrangements such as round tables, rectangular tables, and a bar area. Dimensions are provided for various sections and furniture. The plan also shows the location of the 'New York' restaurant relative to the 'New York' building and the 'New York' street.

[illegible][illegible]

A-2.0
58

GANNON RESIDENCE

FIRST LEVEL AND
SECOND LEVEL
FLOOR PLAN

This architectural floor plan illustrates the layout of a restaurant, divided into several functional zones. The plan includes a detailed kitchen area with a sink, stove, and storage units. Adjacent to the kitchen is a bar and a lounge area with seating. A central dining area is furnished with tables and chairs. A separate room is designated for a 'BPA' (Breakfast Preparation Area). The plan also shows a 'ROOF LOUNGE' with outdoor seating and a 'RESTAURANT' area with a large table and chairs. The layout is surrounded by a parking lot with several cars parked. The plan is oriented with North (N) at the top. Dimensions and room labels are provided throughout the drawing.

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22 DO YOU LIST AN INTERESTED PARTY AS A CREDIT PARTY LOCATION
23 IN ORDER TO HAVE IT ELIGIBLE FOR CREDITING? IF YES, CHECK ADD INTEREST PARTY NO. 5, 6, 7, 8, 9, 10

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THESE RESULTS WERE OBTAINED FROM A STUDY OF 1000 PATIENTS WITH A HISTORY OF EPILEPSY, WHO WERE TREATED WITH CARBAMAZEPINE, PHENYTOIN, OR VALPROIC ACID. THE STUDY WAS CONDUCTED IN A RANDOMIZED, DOUBLE-BLIND, PLACEBO-CONTROLLED MANNER. THE PATIENTS WERE RANDOMIZED TO ONE OF THE THREE TREATMENT GROUPS, AND THE RESULTS WERE ANALYZED USING A PERMANENT RECORD SYSTEM. THE STUDY WAS CONDUCTED IN A RANDOMIZED, DOUBLE-BLIND, PLACEBO-CONTROLLED MANNER. THE PATIENTS WERE RANDOMIZED TO ONE OF THE THREE TREATMENT GROUPS, AND THE RESULTS WERE ANALYZED USING A PERMANENT RECORD SYSTEM.

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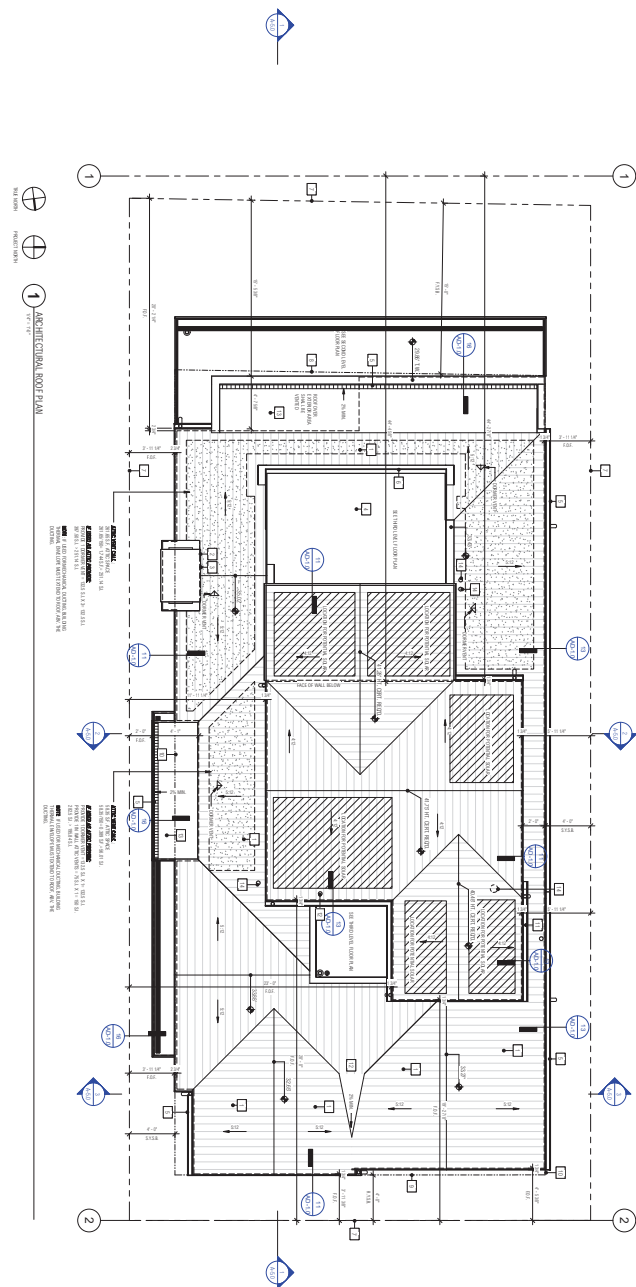
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92661

SHIN & THANNIYANON
O'DAY'S, AND NEWPORT BEACH, CA

REVISING

PLAN

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GENERAL NOTES

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2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30	2030-31	2031-32	2032-33	2033-34	2034-35	2035-36	2036-37	2037-38	2038-39	2039-40	2040-41	2041-42	2042-43	2043-44	2044-45	2045-46	2046-47	2047-48	2048-49	2049-50	2050-51	2051-52	2052-53	2053-54	2054-55	2055-56	2056-57	2057-58	2058-59	2059-60	2060-61	2061-62	2062-63	2063-64	2064-65	2065-66	2066-67	2067-68	2068-69	2069-70	2070-71	2071-72	2072-73	2073-74	2074-75	2075-76	2076-77	2077-78	2078-79	2079-80	2080-81	2081-82	2082-83	2083-84	2084-85	2085-86	2086-87	2087-88	2088-89	2089-90	2090-91	2091-92	2092-93	2093-94	2094-95	2095-96	2096-97	2097-98	2098-99	2099-00	2100-01	2101-02	2102-03	2103-04	2104-05	2105-06	2106-07	2107-08	2108-09	2109-10	2110-11	2111-12	2112-13	2113-14	2114-15	2115-16	2116-17	2117-18	2118-19	2119-20	2120-21	2121-22	2122-23	2123-24	2124-25	2125-26	2126-27	2127-28	2128-29	2129-30	2130-31	2131-32	2132-33	2133-34	2134-35	2135-36	2136-37	2137-38	2138-39	2139-40	2140-41	2141-42	2142-43	2143-44	2144-45	2145-46	2146-47	2147-48	2148-49	2149-50	2150-51	2151-52	2152-53	2153-54	2154-55	2155-56	2156-57	2157-58	2158-59	2159-60	2160-61	2161-62	2162-63	2163-64	2164-65	2165-66	2166-67	2167-68	2168-69	2169-70	2170-71	2171-72	2172-73	2173-74	2174-75	2175-76	2176-77	2177-78	2178-79	2179-80	2180-81	2181-82	2182-83	2183-84	2184-85	2185-86	2186-87	2187-88	2188-89	2189-90	2190-91	2191-92	2192-93	2193-94	2194-95	2195-96	2196-97	2197-98	2198-99	2199-00	2200-01	2201-02	2202-03	2203-04	2204-05	2205-06	2206-07	2207-08	2208-09	2209-10	2210-11	2211-12	2212-13	2213-14	2214-15	2215-16	2216-17	2217-18	2218-19	2219-20	2220-21	2221-22	2222-23	2223-24	2224-25	2225-26	2226-27	2227-28	2228-29	2229-30	2230-31	2231-32	2232-33	2233-34	2234-35	2235-36	2236-37	2237-38	2238-39	2239-40	2240-41	2241-42	2242-43	2243-44	2244-45	2245-46	2246-47	2247-48	2248-49	2249-50	2250-51	2251-52	2252-53	2253-54	2254-55	2255-56	2256-57	2257-58	2258-59	2259-60	2260-61	2261-62	2262-63	2263-64	2264-65	2265-66	2266-67	2267-68	2268-69	2269-70	2270-71	2271-72	2272-73	2273-74	2274-75	2275-76	2276-77	2277-78	2278-79	2279-80	2280-81	2281-82	2282-83	2283-84	2284-85	2285-86	2286-87	2287-88	2288-89	2289-90	2290-91	2291-92	2292-93	2293-94	2294-95	2295-96	2296-97	2297-98	2298-99	2299-00	2300-01	2301-02	2302-03	2303-04	2304-05	2305-06	2306-07	2307-08	2308-09	2309-10	2310-11	2311-12	2312-13	2313-14	2314-15	2315-16	2316-17	2317-18	2318-19	2319-20	2320-21	232
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3

GANNON RESIDENCE

20 BAY ISLAND, NEWPORT BEACH, CA
92661

20 BAY ISLAND, NEWPORT BEACH, CA
 92661-1000
 949/440-1000

OWNER INFORMATION: DAVID M. KAPLAN/DOUGLASS

10

DAVE & TAMMY GANNON
20 BAYVIEW, NEWPORT BEACH, CA

DAN & TAMMY OAKEN
SOLVAY AND NEWPORT BEACH, CAGATE
(672)477027

DATE _____

REVIEWS	NO.	PERSON	DATE
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NO.	REVISION	DATE

ROOF PLAN

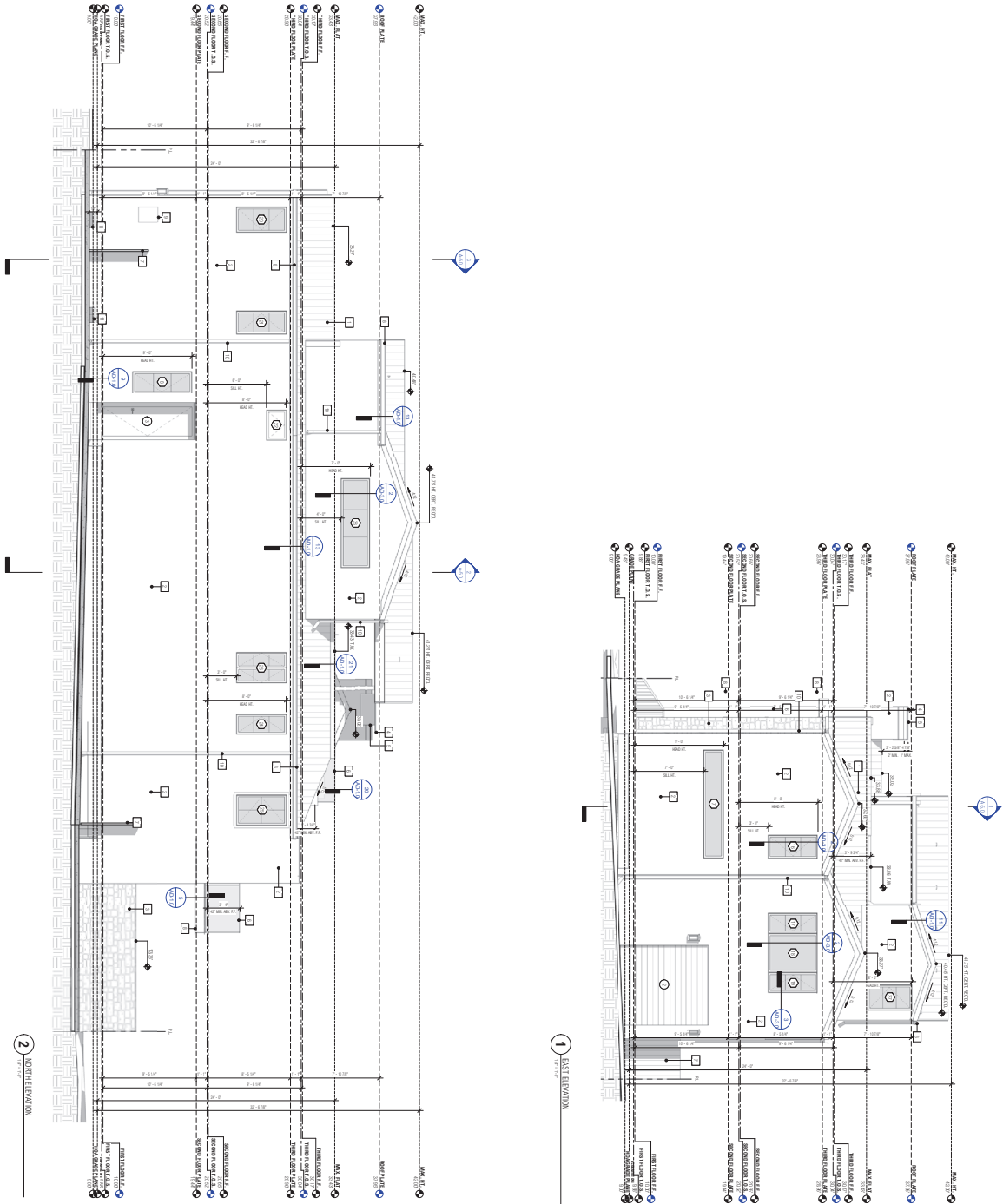
ROOF PLAN

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B KEYNOTES

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EXTERIOR
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C REMARKS

A MATERIAL SPECIFICATIONS

B GENERAL NOTES

1. EXTERIOR FINISHES SHALL BE AS SHOWN ON THE DRAWINGS.
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RESOLUTION NO. PC2022-017

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2021-081 TO ALLOW THE CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE AND AN ADJUSTMENT TO THE OFF-STREET PARKING REQUIREMENTS, AND HEIGHT REQUIREMENTS CONSISTENT WITH USE PERMIT NO. UP3618 FOR THE PROPERTY LOCATED AT 20 BAY ISLAND (PA2021-305)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Brian Jowett of Brandon Architects ("Applicant"), on behalf of Bay Island Club ("Owner"), with respect to property located at 20 Bay Island, and legally described as allotment 1 of Bay Island as shown on the official map of Bay Island ("Property"), requesting approval of a coastal development permit and a height allowance.
2. On November 24, 1997, the City Council approved Use Permit No. UP3618 to implement a Planned Residential Development Overlay District, which modified the Multi-Family Residential (MFR) zoning and development regulations for Bay Island including authorizing off-site parking. The purpose of Use Permit No. UP3618 is to ensure that future development maintains the single-family detached character of Bay Island.
3. The Applicant requests a coastal development permit to allow the construction of a new 4,402-square-foot, single-family residence, adjustment to the off-street parking requirements with a parking management plan and an increase to the allowed building height to 28 feet for flat portions of the roof and 33 feet for the sloped portions of the roof in accordance with Use Permit No. UP3618 ("Project").
4. The Property is located within the Multi Residential (RM) Zoning District and the General Plan Land Use Element category is Multiple Residential Detached (RM-D).
5. The Property is located within the coastal zone. The Coastal Land Use Plan category is Multiple-Unit Residential – 10.0 – 19.9 DU/AC (RM-C) and the Coastal Zoning District is Multi Residential (RM).

A public hearing was held on July 7, 2022, in the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") and Chapter 21.62 (Public Hearings) of the Newport Beach Municipal Code ("NBMC"). Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. The Project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15303 under Class Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. Class 3 exempts the construction of limited number of new, small structures, including one single-family residence. The Project is a single-family residence located within the Multi Residential (RM) Coastal Zoning District.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

Coastal Development Permit

In accordance with NBMC Subsection 21.52.015(F) (Coastal Development Permits – Findings and Decision), the following findings and facts in support of the coastal development permit are set forth as follows:

Finding

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

Facts in Support of Finding

1. The proposed design, bulk, and scale of the Project is consistent with the existing single-family neighborhood pattern of development and expected future development of Bay Island in that it is consistent with development standards authorized by Use Permit No. UP3618.
2. The Project complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and open space.
 - a. The maximum cumulative floor area limitation for all residential development on Bay Island is ~143,916 square feet and the proposed cumulative floor area is ~130,095 square feet.
 - b. The Project complies with the required setbacks as set forth in Section 21.18.030 of the NBMC which are 20 feet along all exterior property lines.

- c. The Project complies with the required height limitations as set forth in Section 21.18.030 of the NBMC. The maximum height in the Multiple Residential (RM) Coastal Zoning District is 28 feet for flat roofs and 33 feet for sloped roofs. The Project's highest flat elements of the roof are no more than 28 feet from established grade and the highest ridge is no more than 33 feet from established grade, which meet the Section 21.18.030's maximum height requirements.
 - d. The minimum required common open space on Bay Island is 1,725 square feet and the proposed common open space is approximately 452,460 square feet.
 - e. The minimum required private open space for the Project is 220 square-feet and the proposed private open space is 287 square feet.
- 3. The Project includes over 4,000 square feet of livable area and requires three (3) garage parking spaces pursuant to Section 21.40.040 (Off-Street Parking Spaces Required) of the NBMC. However, the Project complies with Section 21.40.110 (Adjustments to Off-Street Parking Requirements) of the NBMC in that a parking management plan is being provided as follows:
 - a. Bay Island is accessible by a gated pedestrian bridge and the only vehicles permitted on the island are golf carts. The Project includes a dedicated 172 square-foot garage for on-site golf cart parking.
 - b. Off-site parking is provided in a parking structure located at 501 West Bay Avenue pursuant to Use Permit No. UP3618, previously approved by the Planning Commission in 1997. The parking structure includes 49 parking spaces designated for the 23 existing single-family residences on Bay Island, equating to two (2) or more off-site spaces per residence.
- 4. Bay Island is predominantly developed with two (2) and three (3) story, single-family residences. The proposed design, bulk, and scale of the Project will be consistent with the existing neighborhood pattern of development and expected future development.
- 5. Pursuant to Section 21.30.030(C)(3)(i)(iv) – (Natural Landform and Shoreline Protection) of the NBMC, the property owner will be required to enter into an agreement with the City waiving any potential right to protection to address situations in the future in which the development is threatened with damage or destruction by coastal hazards (e.g., waves, erosion, and sea level rise). The property owner will also be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority, consistent with Section 21.30.015(D)(3)(c) – (Waterfront - Development Standards) of the NBMC. Both requirements are included as conditions of approval that will need to be satisfied prior to final building inspection, and prior to the issuance of building permits, respectively.
- 6. The Project fronts the Newport Bay with a sandy beach separating the Project site and the water. A project-specific Coastal Hazards Analysis Report was prepared by GeoSoils, Inc., dated May 19, 2021. The maximum bay water elevation is 7.7 feet NAVD 88 (North American Vertical Datum of 1988 (NAVD 88)). The report analyzes future sea level rise scenarios assuming a 2.95-foot increase in the maximum water level over the next 75 years

(i.e. the life of the structure). Therefore, the sea level is estimated to reach approximately 10.7 feet (NAVD 88) - (the likely range for sea level rise over the 75-year design life of the structure based on low risk aversion estimates for sea level rise provided by the State of California, Sea Level Rise Guidance: 2018 Update). The existing bulkhead was reinforced and capped up to 9 feet in 2014 and can be increased in height in the future. The report concludes that flooding, wave run up and erosion will not significantly impact this Property over the life of the Project since the existing seawall/bulkhead was reinforced and repaired in 2014 and may be increased in height without further encroachment seaward. The need for a new shoreline protective device is not anticipated over the economic life of the Project to protect it from flooding, wave runup or erosion. A condition of approval is included requiring waterproofing of principal structures up to a height of 10.7 feet (NAVD 88).

7. The finished floor elevation of the proposed single-family residence is 10.00 feet (NAVD 88), which complies with the minimum 9.0-foot (NAVD 88) elevation standard.
8. The Property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code ("CBC") and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
9. The Project complies with the landscaping standards set forth in Section 21.30.075 (Landscaping) of the NBMC. A condition of approval is included that requires drought-tolerant landscaping, and prohibits invasive species. Final landscape plans will be reviewed to verify invasive species are not planted.
10. The Property is located adjacent to coastal waters. The project design addresses water quality with a construction erosion control plan and a post drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event run-off onsite. Any water not retained on-site is directed to the City's storm drain system.
11. The project site is not located adjacent to a coastal view road, public viewpoint, or public accessway, as identified in the Coastal Land Use Plan. The project is located within the viewshed of public beaches at the nearby street ends on the Balboa Peninsula. The project site is also located within the viewshed of distant public viewing areas. However, the project will replace an existing single-family residence with a new single-family residence that complies with all applicable Local Coastal Program development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. Further, the proposed project maintains a maximum height of 33 feet where the Local Coastal Program development standards allow a maximum height up to 33 feet. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

Finding

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

Facts in Support of Finding

1. The Project is located between the nearest public road and the sea or shoreline in the private community of Bay Island. Section 21.30A.040 (Determination of Public Access/Recreation Impacts) of the NBMC requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. The project involves the demolition of a single-family residence and the construction of a new single-family residence. Therefore, there is no change in land use and the proposed increases in floor area, height and bulk will not result in any significant adverse impacts to public recreation, access or views or otherwise diminish the public's use of the ocean, harbor, bay, channels, estuaries, salt marshes, sloughs, beaches, coastal parks, trails, or coastal bluffs.
2. Vertical and lateral access to the bay front is available adjacent to the Bay Island community at the street ends along the Balboa Peninsula (approximately 150 feet from the subject property). Lateral access to the bay front is also available along the sandy beachfront of the abandoned Edgewater Avenue adjacent to the Bay Island Bridge, and the passive sitting area adjacent to the Bay Island Bridge.

Parking Requirements

In accordance with Section 1.5.4 (Parking) of Use Permit No. UP3618, the following finding and facts in support of the parking requirements are set forth as follows:

Finding

Two (2) off-street parking spaces, including one (1) covered, shall be maintained for each dwelling unit, including any caretaker's residences.

Facts in Support of Finding

1. Although Section 21.40.100 (Off-Site Parking) of the NBMC requires certain findings for off-site parking, Use Permit No. UP3618, which was adopted prior to Section 21.40.100, authorizes off-site parking provided the project provides the adequate number of spaces off-site.
2. Use Permit No. UP3618 requires two (2) off-street parking spaces per dwelling unit.
3. Off-site parking is provided in a parking structure located at 501 West Bay Avenue pursuant to Use Permit No. UP3618. The parking structure includes 49 parking spaces

designated for the 23 existing single-family residences on Bay Island, equating to two (2) or more off-site spaces per residence.

Height Increase

In accordance with Section 1.5.5 (Building Height) of Use Permit No. UP3618, the following finding and facts in support of the finding for a height increase are set forth as follows:

Finding

The proposed building height is compatible and consistent with the height and scale of adjacent and surrounding dwellings.

Facts in Support of Finding

1. Use Permit No. UP3618 allows the height of residential dwellings to be increased from 24 feet up to 28 feet, using the measure of height defined in the Zoning Code, if found to be compatible with the height and scale of adjacent and surrounding dwellings. The NBMC measure of height for residential buildings allows an additional 5 feet in height for sloping roofs with a minimum 3:12 pitch. Therefore, a 24-foot height limit allows up to 29 feet for sloping roofs and a 28-foot height limit allows up to 33 feet for sloping roofs.
2. The proposed single-unit dwelling features a sloping roof with a minimum 3:12 pitch up to a maximum height of 33 feet, consistent with the provisions of Use Permit No. UP3618 and Section 21.18.030 (Residential Coastal Zoning Districts General Development Standards) of the NBMC.
3. The majority of dwelling units on Bay Island were constructed prior to 1972, when the Zoning District was R-3 and allowed for a height of 35 feet. The majority of existing residences on Bay Island are similar in height to the proposed dwelling. Therefore, the proposed building height is compatible and consistent with the height and scale of adjacent and surrounding dwellings.
4. The Bay Island Homeowners' Association has indicated, through a letter stating approval of conceptual plans, that the increase in height is consistent with the Bay Island scale of development.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.

2. The Planning Commission of the City of Newport Beach hereby approves CD2021-081, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this resolution was adopted unless within such time an appeal or call for review is filed with the City Clerk in accordance with the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the NBMC and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the California Public Resources Code.


PASSED, APPROVED, AND ADOPTED THIS 7TH DAY OF JULY, 2022.

AYES: Ellmore, Harris, Kleiman, Lowrey, Rosene, and Weigand

NOES:

ABSTAIN:

ABSENT: Klaustermeier

BY: 
Lauren Kleiman, Chairman

BY: 
Mark Rosene, Secretary

EXHIBIT "A"

CONDITIONS OF APPROVAL

(Project-specific conditions are in italics)

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. *Prior to issuance of a building permit, the applicant shall prepare a construction management plan to minimize impacts to adjacent residences on Island Avenue and Edgewater Avenue to be reviewed and approved by the Community Development Director.*
3. *A minimum of two (2) parking spaces, including one (1) covered, shall be maintained for the dwelling unit at the parking structure located at 501 West Bay Avenue (Lots 2, 3, 4, 5, 6 Block 3, East Newport Tract).*
4. *A minimum of one (1) enclosed parking space shall be maintained onsite for golf cart parking.*
5. *All principal structures shall be waterproofed to a minimum height of 10.7 feet NAVD 88.*
6. Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of development. This letter shall be scanned into the plan set prior to building permit issuance.
7. Prior to final building permit inspection, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices including the repair and maintenance, enhancement, reinforcement, or any other activity affecting the bulkhead, that results in any encroachment seaward of the authorized footprint of the bulkhead or other shoreline protective device. The agreement shall be binding against the property owners and successors and assigns
8. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain

or result in impacts to environmentally sensitive habitat areas, streams, wetland or their buffers.

9. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Pollution Prevention Plan (CPPP).
10. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
11. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stockpiles and construction materials shall be covered, enclosed on all sides, nor stored in contact with the soil, and located as far away as possible from drain inlets and any waterways.
12. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
13. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
14. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
15. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this coastal development permit.
16. This coastal development permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
17. Prior to issuance of the building permits, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
18. Prior to the issuance of building permits, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.

19. Prior to the issuance of building permits, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
20. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
21. Coastal Development Permit No. CD2021-081 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
22. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Gunderson Residence including, but not limited to, Coastal Development Permit No. CD2021-081 (PA2021-305). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
301 E. OCEAN BLVD., SUITE 300
LONG BEACH, CA 90802
(562) 590-5071
SOUTHCOAST@COASTAL.CA.GOV

A-5-NPB-22-0052

Page 1 of 29

**APPEAL FORM****Appeal of Local Government Coastal Development Permit****Filing Information (STAFF ONLY)**

District Office: South Coast

Appeal Number: A-5-NPB-22-0052Date Filed: 9/15/22Appellant Name(s): Preserve Orange County and Clark Collins**APPELLANTS**

IMPORTANT. Before you complete and submit this appeal form to appeal a coastal development permit (CDP) decision of a local government with a certified local coastal program (LCP) to the California Coastal Commission, please review [the appeal information sheet](#). The appeal information sheet describes who is eligible to appeal what types of local government CDP decisions, the proper grounds for appeal, and the procedures for submitting such appeals to the Commission. Appellants are responsible for submitting appeals that conform to the Commission law, including regulations. Appeals that do not conform may not be accepted. If you have any questions about any aspect of the appeal process, please contact staff in the Commission district office with jurisdiction over the area in question (see the Commission's [contact page](#) at <https://coastal.ca.gov/contact/#/>).

Note regarding emailed appeals. Please note that emailed appeals are accepted ONLY at the general email address for the Coastal Commission district office with jurisdiction over the local government in question. For the South Coast district office, the email address is SouthCoast@coastal.ca.gov. An appeal emailed to some other email address, including a different district's general email address or a staff email address, will be rejected. It is the appellant's responsibility to use the correct email address, and appellants are encouraged to contact Commission staff with any questions. For more information, see the Commission's [contact page](#) at <https://coastal.ca.gov/contact/#/>.

Appeal of local CDP decision
Page 2

Exhibit 4
A-5-NPB-22-0052
Page 2 of 29

1. Appellant information¹

Name: _____

Mailing address: _____

Phone number: _____

Email address: _____

How did you participate in the local CDP application and decision-making process?

Did not participate Submitted comment Testified at hearing Other

Describe: _____

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: _____

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: _____

¹ If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

Appeal of local CDP decision
Page 2

Exhibit 4
A-5-NPB-22-0052
Page 3 of 29

1. Appellant information¹

Name: Clark Collins

Mailing address: 1999 So. Coast Highway, Suite 1, Laguna Beach, CA 92651

Phone number: (949) 554-5751

Email address: clark@collinsone.net

How did you participate in the local CDP application and decision-making process?

☐ Did not participate ☒ Submitted comment ☒ Testified at hearing ☐ Other

Describe: I emailed the entire Newport Beach City Council on 8/15/2022. Additionally
I emailed the entire Newport Beach Planning Commission on 8/19/2022.
I then spoke at the Newport Beach City Council Meeting on 8/24/2022.

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: _____

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: _____

¹ If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

5. Identification of interested persons


On a separate page, please provide the names and contact information (i.e., mailing and email addresses) of all persons whom you know to be interested in the local CDP decision and/or the approved or denied development (e.g., other persons who participated in the local CDP application and decision making process, etc.), and check this box to acknowledge that you have done so.

☐ Interested persons identified and provided on a separate attached sheet

6. Appellant certifications

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

Print name Clark Collins


Signature

Date of Signature 9/15/2022

7. 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.

2. Local CDP decision being appealed²

Local government name: _____

Local government approval body: _____

Local government CDP application number: _____

Local government CDP decision: CDP approval CDP denial³

Date of local government CDP decision: _____

Please identify the location and description of the development that was approved or denied by the local government.

Describe: _____

² Attach additional sheets as necessary to fully describe the local government CDP decision, including a description of the development that was the subject of the CDP application and decision.

³ Very few local CDP denials are appealable, and those that are also require submittal of an appeal fee. Please see the [appeal information sheet](#) for more information.

3. Applicant information

Applicant name(s): _____

Applicant Address: _____

4. Grounds for this appeal⁴

For appeals of a CDP approval, grounds for appeal are limited to allegations that the approved development does not conform to the LCP or to Coastal Act public access provisions. For appeals of a CDP denial, grounds for appeal are limited to allegations that the development conforms to the LCP and to Coastal Act public access provisions. Please clearly identify the ways in which the development meets or doesn't meet, as applicable, the LCP and Coastal Act provisions, with citations to specific provisions as much as possible. Appellants are encouraged to be concise, and to arrange their appeals by topic area and by individual policies.

Describe: _____

⁴ Attach additional sheets as necessary to fully describe the grounds for appeal.

5. Identification of interested persons

On a separate page, please provide the names and contact information (i.e., mailing and email addresses) of all persons whom you know to be interested in the local CDP decision and/or the approved or denied development (e.g., other persons who participated in the local CDP application and decision making process, etc.), and check this box to acknowledge that you have done so.

Interested persons identified and provided on a separate attached sheet

6. Appellant certifications

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

Print name _____

Mich Nienke

Signature

Date of Signature _____

7. Representative authorization⁶

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.

CALIFORNIA COASTAL COMMISSION

455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400

A-5-NPB-22-0052

Page 8 of 29

**DISCLOSURE OF REPRESENTATIVES**

If you intend to have anyone communicate on your behalf to the California Coastal Commission, individual Commissioners, and/or Commission staff regarding your coastal development permit (CDP) application (including if your project has been appealed to the Commission from a local government decision) or your appeal, then you are required to identify the name and contact information for all such persons prior to any such communication occurring (see Public Resources Code, Section 30319). The law provides that failure to comply with this disclosure requirement prior to the time that a communication occurs is a misdemeanor that is punishable by a fine or imprisonment and may lead to denial of an application or rejection of an appeal.

To meet this important disclosure requirement, please list below all representatives who will communicate on your behalf or on the behalf of your business and submit the list to the appropriate Commission office. This list could include a wide variety of people such as attorneys, architects, biologists, engineers, etc. If you identify more than one such representative, please identify a lead representative for ease of coordination and communication. You must submit an updated list anytime your list of representatives changes. You must submit the disclosure list before any communication by your representative to the Commission or staff occurs.

Your Name _____

CDP Application or Appeal Number _____

Lead Representative

Name _____

Title _____

Street Address. _____

City _____

State, Zip _____

Email Address _____

Daytime Phone _____

Your Signature _____

Date of Signature _____

Additional Representatives (as necessary)

Exhibit 4
A-5-NPB-22-0052
Page 9 of 29

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Your Signature _____

Date of Signature _____

Continuation Sheets for Preserve Orange County Appeal of City of Newport Beach
No. 5-NPB-22-0788

1. Appellant Information (continued)

How did you participate in the local CDP application and decision-making process?

We submitted comment, and we testified at the hearing.

The City of Newport Beach Planning Commission Resolution PC2022-017 (July 7, 2022) was appealed by a Bay Island resident to the City Council. The appeal was noticed (attached) and placed on the August 23, 2022 City Council meeting agenda. Preserve Orange County submitted comments in a letter addressed to the Mayor, City Council members, and the City Clerk and sent the letter by email (attached) at 9:25 am on August 22, 2022 before the City's deadline of 5:00 pm that day.

On August 23, 2022, the appeal item was removed from the agenda because the appellant withdrew their appeal. This was announced as the Council meeting was getting started. Preserve Orange County board member and resident of Newport Beach, Bill Kroener, was present and prepared to speak to the item as a representative of Preserve Orange County. When the item was cancelled Mr. Kroener was given the opportunity to make oral comments on the record and did so. By the time this current appeal to the Coastal Commission was being drafted, the City had not posted Minutes from the August 23, 2022 City Council meeting.

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal.

We believe Preserve Orange County is an "aggrieved party" per the Coastal Commission definition because in written comments and oral testimony addressed to the appellate body, City Council, we contested the Planning Commission's approval of the Coastal Development Permit for 20 Bay Island.

4. Grounds for the appeal.

Preserve Orange County proposes that the development does not conform to the Newport Beach *Local Coastal Program Implementation Plan Section 21.30.105 Cultural Resource Protection* or the *Local Coastal Program Coastal Land Use Plan Section 4.5.2 Historical Resources*.

Local Coastal Program Implementation Plan Section 21.30.105 Cultural Resource Protection

This section of the Local Coastal Program (LCP) states that it applies to all coastal development permits that involve demolition of a "site where evidence of potentially significant historical resources is found in an initial study conducted in compliance with the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.)" (Sec.21.30.105.B Historical and Architectural Resources <https://www.codepublishing.com/CA/NewportBeach/#!/NewportBeach21/NewportBeach2130.html#21.30.105>)

According to the July 7, 2022, Planning Commission minutes, Staff Report, and Staff Presentation, City staff did not inform the Planning Commission of the possible historical and architectural significance of the residence. Staff exempted the project from CEQA stating that the project “has no potential to have a significant effect on the environment” and stating as a reason that the “project site... is not identified as a historic resource” (Staff Report, August 23, 2022, page 4-5). Staff therefore did not conduct an initial study even though there was readily available evidence to suggest the residence may be historic, for example, the residence’s 1930 date of construction and its location on Bay Island. Established in 1923, Bay Island was identified on the City’s 1992 Historic Resources Inventory as a Class 3 “local historic site” that is “a building, structure, object, site, or natural feature of local significance only. The property is representative of historic/architectural themes of local importance.”

Moreover, the City’s own permit record indicates that the residence has not undergone any significant exterior modifications since its original construction over 90 years ago. And, finally, a simple google search of the property yields real estate listings that prominently state its architectural significance as the work of Gilbert Stanley Underwood, who designed many buildings listed on the California and National Registers.. (<https://www.redfin.com/CA/Newport-Beach/20-Bay-Is-92661/home/3236896>).

There is substantial evidence that the property is a historic resource as defined by CEQA, but the City uncovered none of it because it failed in its obligation to conduct an Initial Study. “Generally a resource shall be considered ‘historically significant’ if the resource meets the criteria for listing on the California Register of Historical Resources” (14 California Code of Regulations § 15064.5(a)(3)). According to board members and staff of Preserve Orange County who meet the Secretary of the Interior’s Professional Qualification Standards in architectural history, history and preservation, the property is eligible for the California Register of Historical Resources under Criterion 3 for embodying the “distinctive characteristics of a type, period, region or method of construction or represents the work of a master or possesses high artistic values.” (https://ohp.parks.ca.gov/?page_id=21238). The residence’s age, its intact Colonial Revival architectural style, and its association with master architect, Gilbert Stanley Underwood, qualify it for the California Register. For more detail about Underwood’s distinguished 40-year, nation-wide career, please see the attachments.

As an eligible historic resource in a City with discretionary review of demolition projects, the demolition of the residence is a project as defined by CEQA and will cause a substantial adverse change in its significance.

Local Coastal Program Coastal Land Use Plan Section 4.5.2 Historical Resources

Preserve Orange County proposes that the City’s approval of a Coastal Development Permit in the case of 20 Bay Island would not have been possible if the City did not consistently defy its own Coastal Land Use Plan (LUP) for historic resources. LUP Policy 4.5.2-1 states that the City is to “maintain and periodically update the Newport Beach Register of Historical Property [sic] for buildings, objects, structures, and monuments having importance to the history or architecture of Newport Beach and require photo documentation of inventoried historic structures prior to demolition.” (page 4-89) The City’s policy “K-2” sets out the procedure for nominating a property to the local register, but the policy is inactive. Only ten properties are listed on the local register, mostly added 30 to 40 years ago. Since then, only one site, a footbridge, has been added to the register and that was in 2014.

We know there are hundreds of extant historic buildings within the coastal zone of Newport Beach. One neighborhood, Corona del Mar, provides an instructive example. In 2020, the Corona del Mar Historical

Society conducted a survey of original cottages and found 540 built before 1960.

(<https://www.cdmhistorical.org/cottages.html>) None of these cottages are on the local historic register. An active historic register is supported by an up-to-date survey of historic resources as well as preservation incentives such as the Mills Act. The City's last survey, the Historic Resources Inventory, was conducted in 1992 and is alarmingly incomplete. The residence at 20 Bay Island would have met the 50-year threshold at the time the survey was conducted, yet it is not listed there. With an architect as significant as Gilbert Stanley Underwood, a proper survey would have included him and have documented the integrity of the residence.

In contradiction to the Coastal Land Use Plan policy 4.5.2-2, the City of Newport Beach does not provide incentives "such as granting reductions or waivers of application fees, permit fees, and/or any liens placed by the City to properties listed in the National or State Register or the Newport Beach Register of Historical Property [sic] in exchange for preservation easements." (pages 4-89- 4-90) Financial incentives which encourage the rehabilitation and restoration of historic properties such as the State's property tax rebate program known as the "Mills Act" are not offered to owners of historic properties in Newport Beach, yet seven cities in Orange County including coastal cities Laguna Beach and San Clemente offer it.

5. Identification of interested person

Mr. James J. Moloney
Chair, Balboa Island Preservation Association
jmoloney@gibsondunn.com
949-278-2044



CITY OF NEWPORT BEACH
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **August 23, 2022**, at **4:00 p.m.**, or soon thereafter as the matter shall be heard, a public hearing will be conducted in the City Council Chambers at 100 Civic Center Drive, Newport Beach. The City Council of the City of Newport Beach will consider the following application:

Appeal of Gannon Residence – An appeal of the Planning Commission’s July 7, 2022, decision to approve a coastal development permit (CDP) to allow the demolition of an existing single-family residence and the construction of a new 4,402-square-foot, single-family residence. The project includes an adjustment to the off-street parking requirements with a parking management plan. In addition, the applicant requests to increase the allowed building height to 28 feet for flat roofs and 33 feet for sloped roofs pursuant to the provisions of Use Permit No. UP3618. The project includes hardscape, drainage facilities, accessory structures, and approximately 194 square feet of landscaping. With exception of the requested adjustment to off-street parking requirements and height increase, the project complies with all applicable development standards.

The project is categorically exempt under Section 15303 - Class 3 (New Construction or Conversion of Small Structures) of the State CEQA (California Environmental Quality Act) Guidelines.

NOTICE IS HEREBY FURTHER GIVEN that on July 7, 2022, by a vote of (6-0), the Planning Commission of the City of Newport Beach considered and approved the project.

All interested parties may appear and present testimony in regard to this application. If you challenge this project in court, you may be limited to raising only those issues you raised at the public hearing or in written correspondence delivered to the City, at, or prior to, the public hearing. Administrative procedures for appeals are provided in the Newport Beach Municipal Code Chapters 20.64 and 21.64. The application may be continued to a specific future meeting date, and if such an action occurs additional public notice of the continuance will not be provided. Prior to the public hearing the agenda, staff report, and documents may be reviewed at the City Clerk’s Office, 100 Civic Center Drive, Newport Beach, California, 92660 or at the City of Newport Beach website at www.newportbeachca.gov. Individuals not able to attend the meeting may contact the Planning Division or access the City’s website after the meeting to review the action on this [application](#).

For questions regarding details of the project please contact Chelsea Crager, Associate Planner, at 949-644-3227 or ccrager@newportbeachca.gov, 100 Civic Center Drive, Newport Beach, CA 92660.

Project File No.: PA2021-305

Activity No.: CD2021-081

Zone: RM (Multiple Residential)

General Plan RM-D (Multiple Residential Detached)

Location: 20 Bay Island

Applicant: Brandon Architects



/s/ Leilani I. Brown, MMC, City Clerk, City of Newport Beach

Gannon Residence Appeal- 20 Bay Island

2 messages

Krista Nichols <knicholds@preserveoc.org>

Mon, Aug 22, 2022 at 9:25 AM

To: citycouncil@newportbeachca.gov

Cc: "lbrown@newportbeachca.gov" <lbrown@newportbeachca.gov>, cityclerk@newportbeachca.gov, ccrager@newportbeachca.gov, jcampbell@newportbeachca.gov

Bcc: Clark Collins <clark@collinsone.net>, Catherine Jurca <cathjurca@gmail.com>, Tom Heffernan <tom@cdmhistorical.org>, Jodi Patrich <jodipatrich@gmail.com>, SANDRA L AYRES <ssayres@icloud.com>, Peggy Palmer <pvpalmer@icloud.com>, Alan Hess <alanhes@gmail.com>, Deborah Rosenthal <drosenthal@fyklaw.com>

Good morning Newport Beach City Council,

Please find attached our comments for the public record concerning the appeal of project PA2021-305 (Gannon Residence, 20 Bay Island, Newport Beach) to be heard on August 23, 2022.

Sincerely,

Krista Nichols
Executive Director

--

Preserve Orange County

615 N. Bush Street

Santa Ana, California 92702

www.preserveorangecounty.org

For events and advocacy updates, follow us on [Facebook](#).

For more in-depth information, read [Tracts](#).

 **20_Bay_Island_POC_08212022.pdf**
140K

Krista Nichols <knicholds@preserveoc.org>

Tue, Aug 23, 2022 at 9:31 AM

Draft To: Tim Rush <timrush@bhhscaprops.com>, Deborah Rosenthal <drosenthal@fyklaw.com>, Robert Imboden <robert@janusconsultants.com>, Duane Rohrbacher <me@duanerohrbacher.com>, Phil Bacerra <philbacerra@gmail.com>

Cc: william kroener <kroener.william@gmail.com>, Alan Hess <alanhes@gmail.com>

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 **20_Bay_Island_POC_08212022.pdf**
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City of Newport Beach
100 Civic Center Drive
Newport Beach, CA
By email: citycouncil@newportbeachca.gov

Monday, August 21, 2022

Re. Appeal of Gannon Residence, 20 Bay Island

Dear Mayor Muldoon and Council Members Avery, Blom, Brenner, Dixon, Duffield, and O'Neil:

On Tuesday, August 23, 2022, City Council is hearing an appeal of the Planning Commission approval (Resolution PC2022-017) of a Coastal Development Permit (CDP) for 20 Bay Island. We are writing to bring your attention to the City staff's analysis of the project which paved the way for the CDP approval by the Planning Commission and which now threatens an historic resource.

The July 7, 2022 Staff Report (Gannon Residence PA2021-305) states that City staff found the project exempt from the California Environmental Quality Act pursuant to Section 15303 under Class 3 (California Code of Regulations, Title 14, Division 6, Chapter 3) and found that none of the exceptions to the exemption apply because "the project location does not impact an environmental resource... and is not identified as a historical resource." Further, staff concluded that "facts to support the findings in the draft resolution are sufficient to demonstrate that the project would not impact any coastal resources..." Yet there is considerable evidence that the existing residence at 20 Bay Island is an historic resource *and* a coastal resource.

Why is it an historic resource?

The 20 Bay Island residence was built in 1930 for May Chandler Goodan and Roger Goodan and it was designed by master architect, Gilbert Stanley Underwood (1890-1961). Among Underwood's major buildings are Silverwoods, one of the original office towers on Los Angeles' Miracle Mile, the U.S. Courthouse in downtown Los Angeles, the Ahwahnee Lodge at Yosemite National Park and several other National Park lodges. By the time Underwood received the Newport Beach commission he had designed 17 Union Pacific train stations. Beginning in the mid-1930s, Underwood was contracted by the federal government to design 20 post offices including Terminal Annex in Los Angeles. His distinguished 40-year career culminated in his role as Chief Architect of the General Services Administration, the federal agency that manages federal-owned properties. Today, at least 20 buildings designed by Underwood are on the National Register of Historic Places.

Underwood's career shows a mastery of both traditional and modern design. He designed his own home on Lake Hollywood Drive in Los Angeles in a Period Revival style but the influences of Modernism are evident in the smooth plaster surfaces and lack of ornamentation. Underwood took a similar pared-down approach with the Bay Island residence. Its wood frame construction, red brick foundation and chimney, and wood shiplap siding were combined in a simplified adaptation of the Colonial Revival style of a "Cape Cod" vernacular popular in coastal communities on both coasts in the 1930s and 1940s.

A review of the City's permit record and evidence provided by previous owners indicate that the house has not undergone any significant exterior modifications since its original construction date over 90 years ago. Based on an assessment from the public-right-of-way, maintenance of the property has been deferred for several years but it retains its integrity of location, setting, materials, design, workmanship, feeling and association and therefore continues to convey its historic significance.

Bay Island itself was identified in the 1992 Historic Resources Inventory by the City's Ad Hoc Historic Preservation Advisory Committee as a Class 3 "local historic site" that is "a building, structure, object, site or natural feature of local significance only. The property is representative of historic/architectural themes of local importance." The inventory was never approved by City Council but the list is a guide to the historic resources in the city that would only have become more historic not less as time has passed. Did City Staff pause to ask if a residence that dates to the period when the Bay Island community was established could itself be historic?

CEQA and the Coastal Act

It is our considered view that the residence's age, intact Colonial Revival style and association with master architect Gilbert Stanley Underwood would qualify if for the California Register of Historical Resources under Criterion 3 for embodying the "distinctive characteristics of a type, period, region or method of construction or represents the work of a master or possesses high artistic values." (https://ohp.parks.ca.gov/?page_id=21238). If the residence is eligible for the state's register then as far as CEQA is concerned 20 Bay Island would be an historic resource. Contrary to the City staff's finding, a resource does not have to be "identified" on an inventory, survey, or register to be historic. A resource has to be "eligible" for the California Register and pursuant to California Code of Regulations 14 Sec. 15300.2 (f) Historical Resources, a categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of an historic resource.

Based on the evidence, City staff should have required a historical evaluation of the residence before determining the project exempt. Moreover, if the house is an historic resource, then it is also a coastal resource and therefore the impact of the project on what the California Coastal Act (Public Resources Code, § 30000 *et seq.*) refers to as "community character" and the integrity of architectural resources should have been considered.

Historic Preservation in Newport Beach

Newport Beach City staff have very limited tools with which to identify historic resources. The Newport Beach Register of Historic Property is inactive. The City's policy "K-2" sets out the procedure for nominating a property to the local register yet City planning staff are not well-informed about the process. Only ten properties are listed on the local register – mostly added in the 1980s and 1990s- and it was last updated in 2014, when the Goldenrod Avenue Footbridge was added. The City does not subscribe to the state's Mills Act program thus denying its residents the opportunity for property tax relief. Mills Act gives owners of historic buildings and houses an incentive to maintain them in exchange for a property tax rebate. This would encourage historic preservation throughout the City and high property values are not an excuse not to pursue the program. Santa Monica, Palo Alto and Pasadena administer successful Mills Act programs.

The City's inventory is alarmingly incomplete. The residence at 20 Bay Island would have met the 50-year threshold at the time the survey was conducted, yet it is not listed on the 1992 inventory. With an architect as significant as Underwood, a proper survey would have included him and have documented the integrity of the residence. What other buildings were missed at that time and what buildings that have achieved 50 years since 1992 are being overlooked because the City does not do a routine update? Residents should be concerned that any historic building constructed after 1945 is being ignored by their City yet this was an important era for the development of Newport Beach. For example, several important architects were engaged here in the postwar period such as William Pereira, William Cody, and J. Herbert Brownell. Districts such as Irvine Terrace, Cameo Shores and Newport Center were designed with the principles of Modernist planning and architecture.

The Stuff Shirt on East Coast Highway (now A'maree's) was designed in 1961 by the architecture firm of Ladd & Kelsey which was based in Newport Beach at the time and went on to design the award-winning Pasadena Art Museum (now Norton Simon Museum). Yet when the Newport Village Mixed-Use project was being considered in its early stages, the project plans did not include the Stuff Shirt and the City was unaware at that time that the Stuff Shirt was historic. Today, thanks to the efforts of residents of Newport Beach and others, the building's integrity as an historic resource cannot be ignored. It is now on the California Register of Historical Resources and was officially determined eligible for the National Register of Historic Places in 2021.

Thank you very much for your consideration.

Sincerely,

Krista Nicholds, Executive Director

cc. Leilani I. Brown, City Clerk; Chelsea Cragger, Associate Planner; Jim Campbell, Deputy Director, Community Development.

Gilbert Stanley Underwood (1890-1961)

B.A. (architecture), Yale University 1920

M.A., Harvard University 1921-1923

Underwood left behind a diverse body of work from coast to coast including 25 buildings listed on the National Historic Register. The structures listed on the National Historic Register include: The Ahwahnee Hotel, Jackson Lake Lodge, Zion Nature Center & Inn, Bryce Inn, (11) post offices and Annex buildings; (4) train depots and passenger terminals, and (6) additional buildings including the U.S. Mint in San Francisco, Rincon Annex in San Francisco, U.S. Department of State and U.S. General Accounting buildings in Washington D.C.

Underwood made the shift from private practice in the 1920's to government work with the onset of the Depression. Very active career in Washington, D.C., where he worked for several agencies, producing an array of designs between 1932 and 1954.

Became acquainted with rail tycoon, William Averell Harriman, who joined the Union Pacific Railroad in 1915 and served as its chairman between 1932-1946. Both men attended Yale University. Underwood worked extensively with Harriman's Union Pacific Railroad in the 1920's, creating seventeen Union Pacific Depots between 1920 and 1930. The Union Pacific recommended Underwood to the Utah Parks Company, which sought an architect to design rustic hotels for tourists. Underwood collaborated with Daniel Hull, Senior Landscape Engineer with the US Park Service, on accommodations at the Ahwahnee Hotel, Grand Canyon Lodge, Zion Lodge, Old Faithful Lodge, and many others.

In the 1930's, Underwood was involved with the Union Pacific Railroad's ski development at Sun Valley, ID. Underwood designed the Lodge in 1935 before its site had been selected. Construction on the 220-room Sun Valley Lodge began in April 1936 and the \$1.5mm hotel was open to the public in December of that same year.

From 1936-1939, Underwood worked for the US Government, Department of the Treasury, to design several large US Post Offices in CA and along the West coast. These included large facilities in Los Angeles and San Francisco, as well as smaller ones in Burbank and Seattle. Underwood retired from government work in 1954 having served as the Chief Architect, United States Government, General Services Administration. During his career, in addition to the many National Park lodges, it is estimated that he designed 20 post offices, two major federal buildings, and the U.S. State Department Building.

GILBERT STANLEY UNDERWOOD PROJECTS

The Ahwahnee Hotel

Located in the majestic main valley inside Yosemite Park, the hotel was built in 1927 and is a National Historic Landmark and one of the most distinctive resort hotels in North America.



Sun Valley Lodge

The Sun Valley Resort was the brainchild of Union Pacific Railroad Chairman, Averell Harriman, who thought that creating a resort that rivaled those in Europe might help reinvigorate passenger service for the railroad. An Austrian count was hired to find the perfect mountain and architect Gilbert Stanley Underwood was commissioned to build a lodge to equal, or best, his previous projects in America's National Parks (the original Grand Canyon North Rim Lodge, Old Faithful Lodge in Yellowstone, and many others). Designed and built in less than 9 months at a cost of \$1.5mm, the Lodge opened on the December 21, 1936 with 220 guest rooms.



Union Pacific Omaha Station

Between 1920 and 1930, Underwood designed 17 railroad depots for Union Pacific. The 124,000 sf terminal in Omaha, Nebraska completed construction in 1931 at a cost of \$3.5mm and was his last. It is considered one of the finest examples of Art Deco architecture in the Midwest and was designated an Omaha Landmark in 1978. Of the building's design, Underwood was said to have remarked, "We have tried to express the distinctive character of the railroad: strength, power, masculinity."



United States Post Office, Terminal Annex, Los Angeles

Designed by Underwood and built by Sarver & Zoss from 1939 to 1940. The building was built for the purpose of processing all incoming and outgoing mail in Los Angeles. Underwood sought to keep the building's design compatible with the city's Union Station, which opened across the street in May 1939.



The Wilshire Tower (Desmond's Department Store)

The first Art Deco landmark tower built on the Miracle Mile in 1929. This striking and optimistic structure helped set the architectural standard for Wilshire Boulevard.



The San Francisco Mint

Built during the height of the Great Depression, The San Francisco Mint sits on a rocky promontory that towers over the nearby streets. It was a Works Progress Administration (New Deal) project under President Franklin D. Roosevelt. Designed by Underwood, the structure is a modern classical design with a frieze depicting numismatic history of the country. The building was completed at a cost of \$1.072mm and dedicated in May 1937.



Jackson Lake Lodge

In 1950, John D. Rockefeller Jr. called on architect Gilbert Stanley Underwood to design the Jackson Lake Lodge. Nestled among the sagebrush, pines and aspen on a terrace above its namesake lake, Jackson Lake Lodge was the final National Park creation of Underwood after having designed the Ahwahnee Lodge in Yosemite, Brice Canyon Lodge, the Grand Canyon Lodge and Zion Lodge. This project took root in the mid-1950's and it marked a turning point in national park architecture ("Parkitecture"). Built from slabs of concrete and sweeping panes of glass, this structure stood in stark contrast to Underwoods prior arts-and-crafts-influenced lodging. The Lodge opened for business in 1955.



Bay Island:

In 1903, Rufus Sanborn bought lands from Canton Andre that included this treasured hunting spot. The land was purchased for \$350 and included an inland parcel on the peninsula but was prized for its small island and waterfront overflow lands. Sanborn and his partner, Sam Tustin (noted real estate developer), were the first two to build homes on the sand island deeded to the Bay Island Club, a holding company. In 1909, the Bay Island Club received governmental approval for dredging and expansion. Once completed, a wooden access bridge was built setting a “no car” policy for the island that exists to this day.



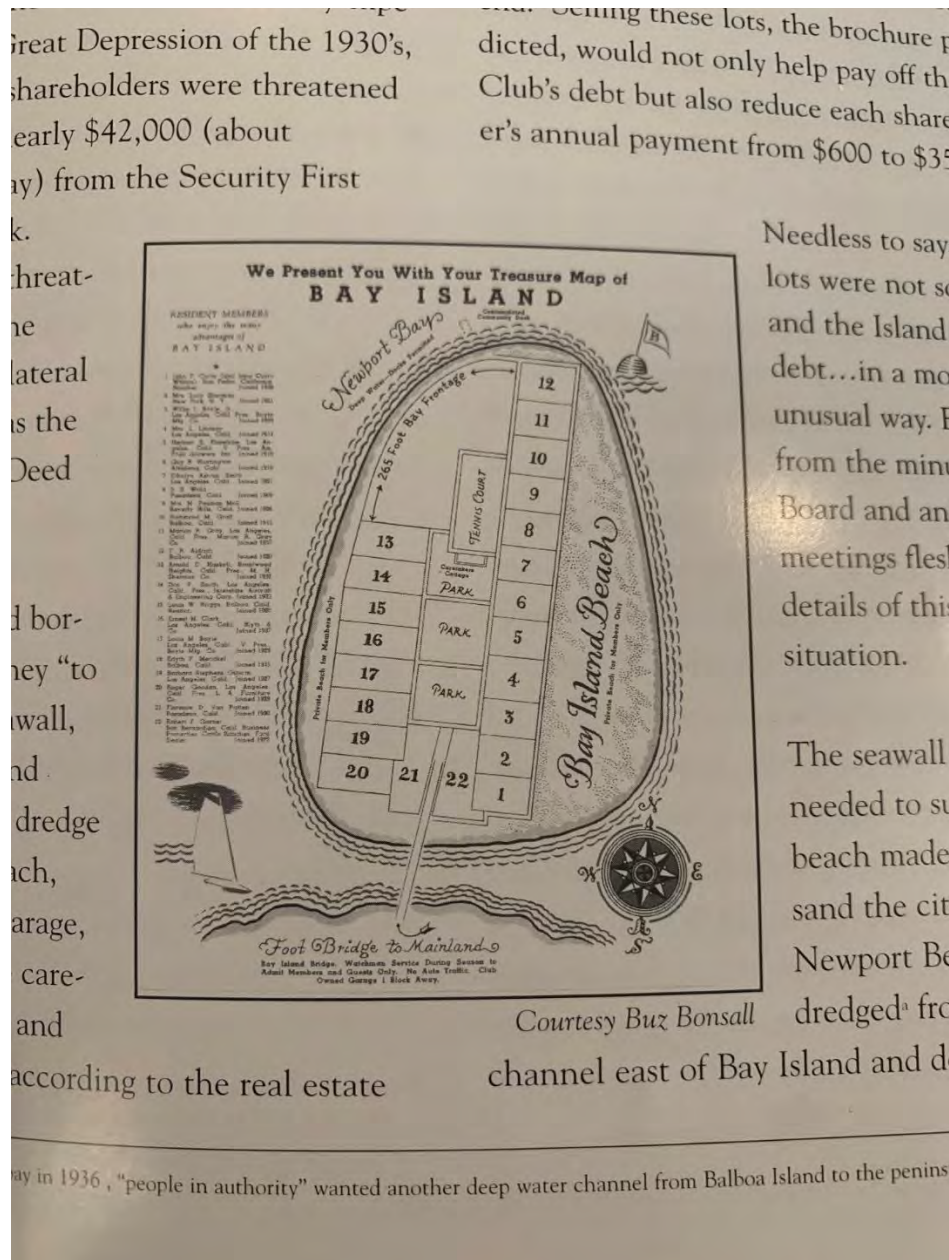
Aerial shot of Bay Island

Little else has changed on Bay Island except for the price, size and quality of its homes. Similarly successful businessmen or their families still own the 23 lots on this unique and sequestered islet. The ducks are long gone and hunting has turned into tennis or sailing, but the celebrity of owning a part of Bay Island is unlike anything else in the harbor. The five-acre island was originally divided into 24 bay front lots plus three and one-half acres of common land. Amenities include a large bay beach, docking facilities, a view park overlooking Newport’s largest turning basin, a tennis court, numerous gardens and a caretaker’s unit all submerged beneath a canopy of old growth trees. Off island is a parking structure for residents and their golf carts which is the only way to access the island except on foot.

Those who own homes do so by virtue of membership and ownership in a cooperative. This is accomplished by owning one share in the Bay Island Corporation. A stock certificate is issued in lieu of the usual deed of trust. Owners investing face unusual challenges in buying, selling and borrowing on Bay Island homes. This also allows for a more scrutinized policy for ownership dating back to an old “Bay Island Club” exclusive environment.

Early notables on the island were F.R. Aldrich, famed conchologist with a world-renown shell collection and Moses Sherman, namesake of Sherman Library & Gardens in Corona del Mar, and founder of Sherman Oaks in the San Fernando Valley. The first caretaker for the island was Paul Mariner from 1904 - 1931 setting this position as a treasured and long-standing tradition. Later, H.R. Halderman,

Without a doubt, Newport Beach's earliest and most colorful of famous residents was Madame Helena Modjeska and her husband Count Bozenta. Helena Modjeska was a world-renown Polish Shakespearean actress. The couple bought a small cottage at #3 Bay Island in 1907. Because of her widespread fame and adoration, the island was oftentimes referred to as Modjeska Island in those days, but the name Bay Island weathered time and remains. Another example of Madame Modjeska's importance in Orange County history can be seen at the site of her "country estate" in Modjeska Canyon, part of the Santa Ana Mountains.



#20 BAY ISLAND

#20 was constructed for May & Roger Chandler (May was one of Harry Chandler's daughter and a sister of Norman Chandler) in 1929-1930. The home has 4 bedrooms and 4.5 bathrooms in 3,504sf of living space.

From Joan T. Seaver Kurze's book *Insular Connections* on Bay Island:

From 1929 until 1987, nearly 60 years, the family of May Chandler Goodan and her husband, Roger Goodan owned #20. One of their four children, Douglas Goodan, described his parents' courtship around 1914. The pair would arrive from town on the Red Car, perch on piles of redwood planks near the George Rogers' unfinished house on Buena Vista, and gaze across the channel at Bay Island. They probably looked straight at the empty lot at #20 – which, in 15 years, would be theirs. In 1929 when Roger and May were planning their Island house, the Ahwahnee Hotel was under construction in Yosemite Valley. Roger was friendly with the Director's of Yosemite's Camp Curry Company, and he hired Gilbert Stanley Underwood, the Ahwahnee's architect, to design the house at #20.

Another Chandler/Goodan connection to Bay Island was the partnership of May's brother, Norman Chandler, former publisher of the Los Angeles Times, with Edward Llewellyn (Lyn) Emmett; they owned Emmett and Chandler, an insurance business. Their company thrived during the Great Depression, and it continued to be a fixture in Los Angeles for over four decades.







