

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
301 E. OCEAN BLVD, SUITE 300
LONG BEACH, CA 90802-4325
VOICE (562) 590-5071
FAX (562) 590-5084



Click here to go
to staff report

W12a

A-5-DPT-22-0037 (Fallahzadeh)

SEPTEMBER 7, 2022

EXHIBITS

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Exhibit 1 – Vicinity Map





DUPLICATE

279 23

SHEET 1 OF 1
DATE OF SURVEY: JUNE 1, 2015

RECORD OF SURVEY NO. 2015-1109

IN THE CITY OF DANA POINT, COUNTY OF ORANGE, STATE OF CALIFORNIA.
BEING A SURVEY OF LOT 21, BLOCK 2, TRACT NO. 889, AS SHOWN ON A MAP FILED IN
MISCELLANEOUS MAP BOOK 27, PAGES 17 THROUGH 21, INCLUSIVE, RECORDS OF ORANGE COUNTY, CALIFORNIA.

MICHAEL D. TORTOMASI R.C.E. 28328
DATE OF SURVEY: JUNE 1, 2015

ACCEPTED AND FILED AT THE
REQUEST OF
THE ORANGE COUNTY SURVEYOR'S OFFICE
DATE SEPTEMBER 17, 2015
TIME 8:22 AM FEE \$ 6.00
INSTRUMENT NO. 2015000478228
BOOK 219 PAGE 23 R/S
HUGH NGUYEN
COUNTY CLERK-RECORDER
BY [Signature]
CLERK

CURVE TABLE:

C1 - R=2662.00'M, R1 D=0.44, L=34.26'(34.30')	C6 - R=2662.00'M, R1 D=0.44, L=34.26'(34.30')
C2 - R=2662.00'M, R1 D=0.44, L=34.26'(34.30')	C7 - R=2662.00'M, R1 D=0.44, L=34.26'(34.30')
C3 - R=2662.00'M, R1 D=0.44, L=34.26'(34.30')	C8 - R=2662.00'M, R1 D=0.44, L=34.26'(34.30')
C4 - R=2662.00'M, R1 D=0.44, L=34.26'(34.30')	C9 - R=2662.00'M, R1 D=0.44, L=34.26'(34.30')
C5 - R=2662.00'M, R1 D=0.44, L=34.26'(34.30')	C10 - R=2662.00'M, R1 D=0.44, L=34.26'(34.30')

REFERENCE NOTES:

- R1 OR () RECORD (OR COMPUTED FROM RECORD) INFORMATION PER TRACT NO. 889, MISCELLANEOUS MAP BOOK 27, PAGES 17-21, RECORDS OF ORANGE COUNTY, CALIFORNIA.
R2 OR [] RECORD INFORMATION PER RECORD OF SURVEY 2014-1184, RECORD OF SURVEY BOOK 274, PAGE 44, RECORDS OF ORANGE COUNTY, CALIFORNIA.
R3 OR { } RECORD INFORMATION PER CORNER RECORD 2003-388, RECORDS OF ORANGE COUNTY, CALIFORNIA.
R4 RECORD INFORMATION PER CORNER RECORD 2003-387, RECORDS OF ORANGE COUNTY, CALIFORNIA.

BASIS OF BEARINGS:

THE BASIS OF BEARINGS FOR THIS SURVEY IS THE BEARING BETWEEN PT "A" AND PT "B" BEING N 54° 52' 26" W CALCULATED TO ORIENT RIGHT OF WAY LINE AS SHOWN ON R1.

MONUMENT NOTES:

- FOUND MONUMENT AS NOTED.
- SET 1" IP TAGGED RCE 28328 ON 1".
- M MEASURED DATA.
- SFN SEARCHED, FOUND NOTHING.

STATEMENT OF PURPOSE:

THE PURPOSE OF THIS SURVEY IS TO REESTABLISH AND REMONUMENT THE PROPERTY CORNERS FOR LOT 21, TRACT NO. 889, MISCELLANEOUS MAP BOOK 27, PAGES 17-21, RECORDS OF ORANGE COUNTY, CALIFORNIA.

ENGINEER'S STATEMENT:

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE PROFESSIONAL LAND SURVEYORS' ACT AT THE REQUEST OF DANA CEDARBERG IN MAY, 2015.

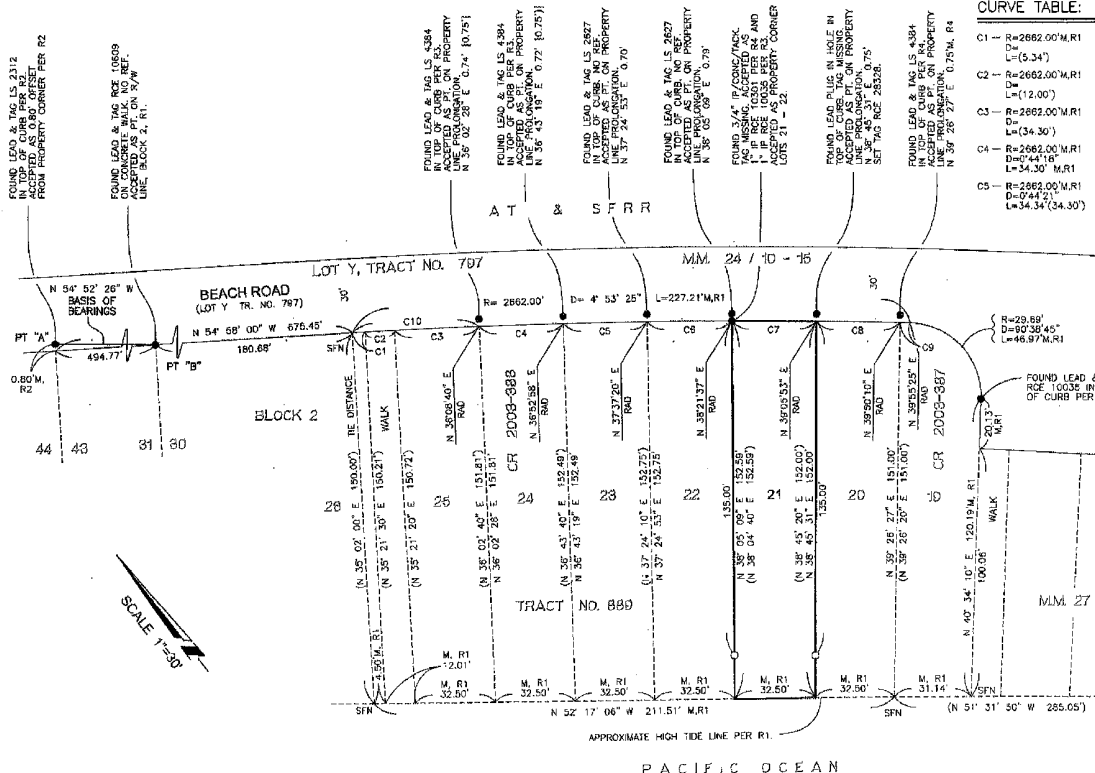
[Signature] 9-11-2015
MICHAEL D. TORTOMASI R.C.E. 28328 DATE
EXPIRES 3-31-2018



COUNTY SURVEYOR'S STATEMENT:

THIS MAP HAS BEEN EXAMINED IN ACCORDANCE WITH SECTION 8766 OF THE PROFESSIONAL LAND SURVEYORS' ACT THIS 11th DAY OF SEPTEMBER, 2015.

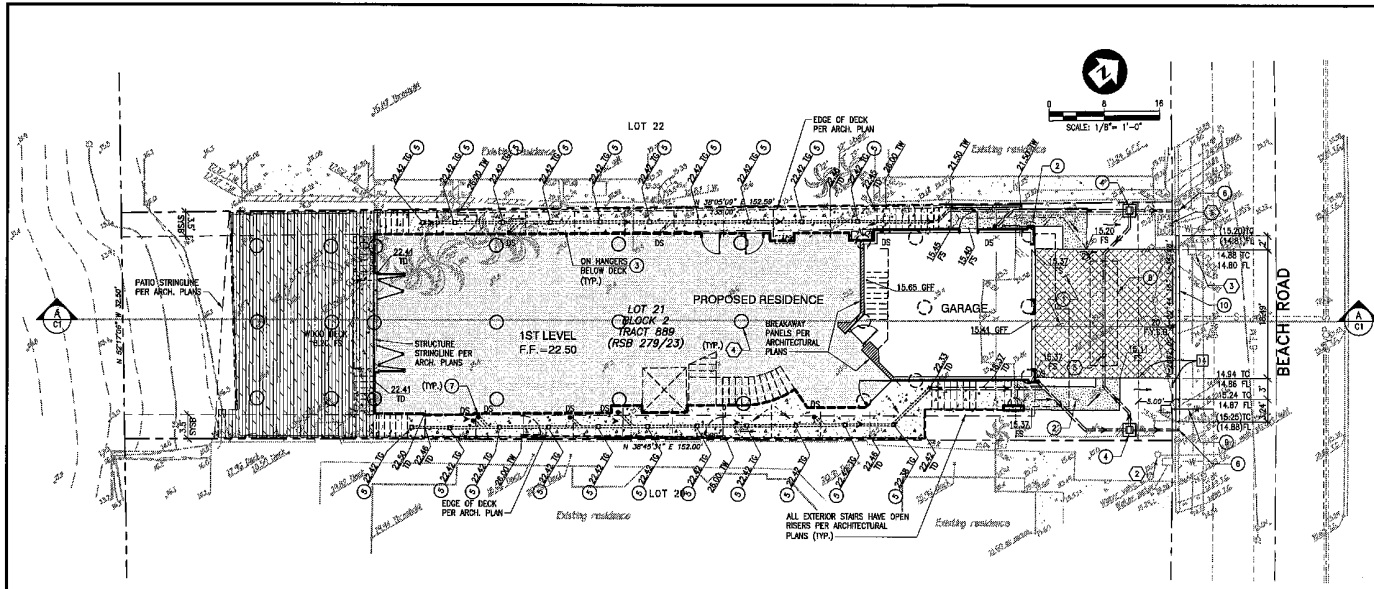
KEVIN R. HILLS, COUNTY SURVEYOR
L.S. 6617, EXPIRATION DATE 12-31-15
[Signature]
BY: CHUCK S. WEHRMAN, CHIEF DEPUTY SURVEYOR



DUPLICATE

SS1 SITE SURVEY





CONSTRUCTION NOTES

1. CONSTRUCT PERMEABLE GRASSCOTE DRIVEWAY, DETAIL PER LANDSCAPE PLAN.
2. CONSTRUCT CONCRETE HARDSCAPE.
3. INSTALL 4" PVC SCH 40 PIPE DRAIN SYSTEM.
4. INSTALL CATCH BASIN DIVERSION BOX TO INFILTRATION TRENCH.
5. INSTALL 4" DECK DRAIN PER ARCHITECTURAL PLANS.
6. CORE DRILL PIPE OUTLET THROUGH CURB.
7. CONNECT DOWNSPOUT TO STORM DRAIN SYSTEM PER ARCHITECTURAL DETAILS.
8. CONSTRUCT INFILTRATION TRENCH (15" x 4" x 2.32').
9. INSTALL WATER SERVICE AND WATER METER PER CITY OF DANA POINT STANDARD PLAN.
10. RECONSTRUCT EXIST. CURB.

KEY NOTES

1. EXIST. FIRE HYDRANT TO REMAIN, PROTECT IN PLACE.
2. EXIST. STREET LIGHT TO REMAIN, PROTECT IN PLACE.
3. EXIST. INLET TO REMAIN, PROTECT IN PLACE.
4. EXIST. INLET TO REMAIN, PROTECT IN PLACE.
5. OBSERVATION PORT FOR INFILTRATION TRENCH.

SOUTH COAST WATER DISTRICT NOTES

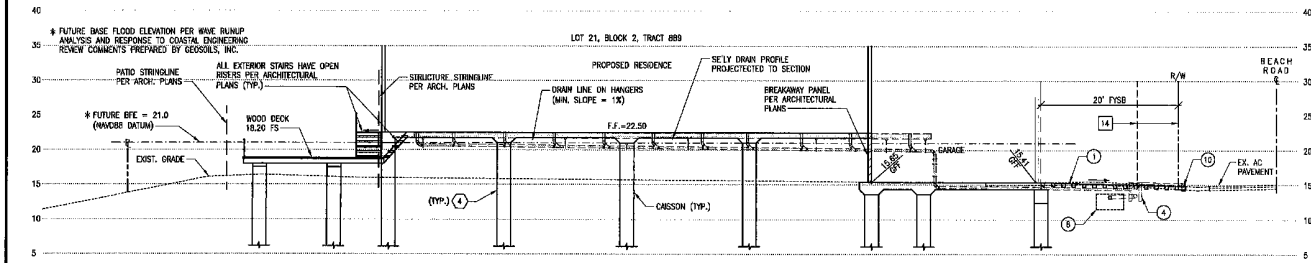
1. ALL NEW WATER MAINS, SERVICES, METER, BACKFLOW DEVICES, LATERALS, FIRE HYDRANTS, AND APPURTENANCES SHALL BE DESIGNED AND INSTALLED IN ACCORDANCE WITH THE SOUTH COAST WATER DISTRICT DESIGN GUIDELINES AND STANDARD SPECIFICATIONS, BOTH OF WHICH ARE AVAILABLE ON THE DISTRICT'S WEBSITE [HTTP://SCWD.ORG/DEPT/ENGINEERING/DEFAULT.HTM](http://SCWD.ORG/DEPT/ENGINEERING/DEFAULT.HTM)
2. WATER THROUGHOUT SOUTHERN CALIFORNIA, INCLUDING SOUTH COAST WATER DISTRICT, IS NATURALLY VERY HIGH IN TOTAL HARDNESS AND IN OVERALL MINERAL CONTENT. THESE CONSTITUENT LEVELS DO NOT CAUSE ANY ADVERSE HEALTH EFFECTS. HOWEVER YOU MAY NEED TO CONSIDER THIS IN YOUR SELECTION OF A PRE-TREATMENT SYSTEM (I.E., WATER SOFTENER TO REDUCE HARDNESS), PLUMBING FIXTURES, LANDSCAPE PLANTINGS, ETC. PLEASE FEEL FREE TO REFER TO SOUTH COAST WATER DISTRICT'S LATEST WATER QUALITY REPORT FOR A DETAILED REPORT OF CONSTITUENT LEVELS. AT: [HTTP://SCWD.ORG/SERVICES/TURNING/WATERREPORT/DEFAULT.HTM](http://SCWD.ORG/SERVICES/TURNING/WATERREPORT/DEFAULT.HTM)

ADDITIONAL NOTES

1. ALL ROOFS SHALL BE GUTTERED AND DOWNSPOUTS CONNECTED TO THE STORM DRAIN SYSTEM.
2. WHERE EXTERIOR/INTERIOR UTILITY TRENCHES ARE PROPOSED IN A DIRECTION THAT PARALLELS ANY BUILDING FOOTING, THE BOTTOM OF THESE TRENCHES SHALL NOT EXTEND BELOW A 1:1 PLANE PROJECTED DOWNWARD FROM THE BOTTOM EDGE OF FOOTING, WHERE THIS OCCURS, ADJACENT FOOTING SHALL BE DEEPEMED OR UTILITY CONSTRUCTED & BACKFILLED PRIOR TO CONSTRUCTION.
3. FOR FOOTING AND FOUNDATION DESIGN SEE STRUCTURAL PLANS.
4. ALL DRAIN LINES SHALL HAVE A MIN. POSITIVE SLOPE OF 2% TOWARD OUTLET.
5. ALL WORK IN PUBLIC RIGHT OF WAY SHALL BE UNDER A SEPARATE ENCROACHMENT PERMIT.

DEMOLITION NOTE

UNLESS NOTED OTHERWISE, ALL EXISTING ON-SITE IMPROVEMENTS SHALL BE REMOVED AND PROPERLY DEPOSED OF.



SECTION NOTES:

1. ACTUAL LIMITS OF EXCAVATION TO BE DETERMINED IN THE FIELD BY THE SOILS ENGINEER.
2. FOR FOOTING AND FOUNDATION PLANS, SEE STRUCTURAL DRAWINGS.

LEGEND	
---	EXISTING CONTOUR
---	PROPOSED CONTOUR
---	SPOT ELEVATION
---	PROPOSED BLDG. ABOVE GRADE
---	PROPOSED CONCRETE DECK
---	PROPOSED WOOD DECK
---	PROPOSED CONCRETE HARDSCAPE
---	PROP. FORCE MAIN
---	PROPOSED STORM DRAIN
---	PROP. SUPERMAN
---	PROPOSED BURNING
---	EXISTING SCREEN WALL
---	PROPOSED PAD ELEVATION
---	PROPOSED TOP OF SLAB
---	PROPOSED FINISHED SURFACE
---	PROPOSED FINISHED GRADE
---	TOP OF DECK
---	PROPERTY LINE
---	FENCE-SAFETY RAIL
---	GRADING LIMITS
---	EDGE LINE
---	FINISHED FLOOR
---	INVERT OF PIPE
---	TOP OF GATE
---	PROPERTY LINE
---	TOP OF WALL
---	TOP OF FOOTING
---	BOTTOM OF WALL
---	PLANTER AREA
---	FIRE PIT
---	DOWNSPOUT
---	PROPOSED CAP

BENCHMARK NOTE:
O.C.S.B.M.: 38-52-68
ELEV.: 18.235
NAD83 DATUM, 1989 ADJ.

EASEMENT NOTE:
ALL EASEMENTS SHOWN ON THIS TOPOGRAPHIC AND BOUNDARY SURVEY ARE PER A PRELIMINARY TITLE REPORT PREPARED BY PROPERTY TITLE, ORDER NO. E10155 (GARC), DATED DEC 3, 2009, UNLESS NOTED OTHERWISE.

RESERVATIONS FOR A 25' WIDE EASEMENT FOR PEDESTRIAN TRAVEL, BATHING, RECREATIONAL, & INCIDENTAL PURPOSES ALONG WITH A 10' WIDE EASEMENT FOR UTILITIES RECORDED AS BOOK 227, PAGE 228 O.R. EASEMENTS NEVER DEDICATED, NOT PLOTTED HEREON.

DOES NOT AFFECT SUBJECT PROPERTY, EASEMENT NOT PLOTTED HEREON.

AN EASEMENT FOR POLE LINES, CONDUITS, & INCIDENTAL PURPOSES RECORDED AS BOOK 1930, PAGE 348 O.R. & 5 STRIP A LONG THE REAR OR NORTHERLY SIDE.

A 10' WIDE OFFER OF DEDICATION IDENTIFIED AS A PRIVACY BUFFER PER INSTRUMENT NO. 47-000895 O.R., RECORDED ON JAN 13, 1987, SAID OFFER ACCEPTED PER INSTRUMENT NO. 2002044772 O.R., RECORDED ON AUG. 5, 2002. EASEMENT NOT PLOTTABLE WITH CURRENT DATA.

EARTHWORK

EXCAVATION	FILL
70 CY	-
180	180
IMPORT	70 CY
TOTAL	70 CY

NOTICE TO CONTRACTOR

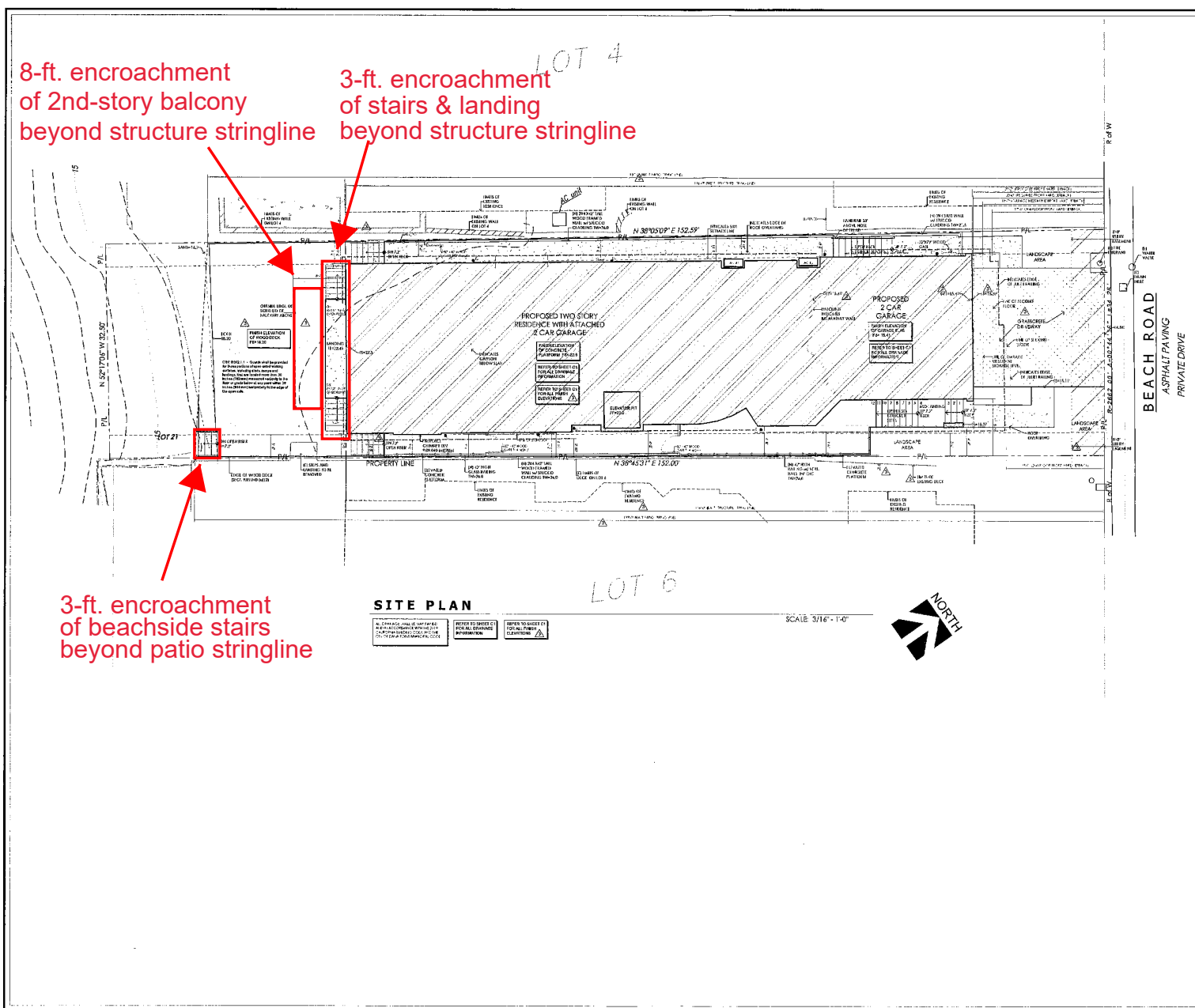
REQUIRED CERTIFICATIONS / APPROVALS
In addition to any certifications required by the agencies having jurisdiction over this project, the following approvals from the Civil Engineer of record are required:
1. Foundation forms for improvements on or abutting property lines is required prior to concrete pour.
2. Location, size, and depth of all drain lines prior to backfill.

REVISION	DESCRIPTION	APPROVED	DATE	SCALE: 1"=8'	DESIGNED: A.A.	DRAWN: A.A.	CHECKED: A.T.	PLANS PREPARED BY: TOAL ENGINEERING, INC.	BENCHMARK: O.C.S.B.M.: 38-52-68 NAD83 ELEVATION: 18.235 FT. ADJUSTED: 1989	APPROVED BY: CITY OF DANA POINT, PUBLIC WORKS & ENGINEERING SERVICES 11200 LAUREL AVENUE DANA POINT, CA 92629 MATHIEW V. SINICOR, CITY ENGINEER NOT: 845026 EXP: 06/30/19 THIS PLAN IS SIGNED BY THE CITY ENGINEER FOR SCOPE AND ACCORDANCE TO CITY STANDARDS AND SPECIFICATIONS, IT DOES NOT CONSTITUTE AN ENDORSEMENT OF THE DESIGN OR CONSTRUCTION OF THE PROJECT, NOR IS THE CITY ENGINEER RESPONSIBLE FOR THE DESIGN OR CONSTRUCTION OF THE PROJECT.	CITY OF DANA POINT PRELIMINARY GRADING PLAN 35525 BEACH ROAD LOT 21, BLOCK 2, TRACT 889 APN: 691-161-05	C1 PLAN CHECK NO. ENG 20- 1 OF 1 SHEETS
----------	-------------	----------	------	--------------	----------------	-------------	---------------	---	---	--	---	--

8-ft. encroachment
of 2nd-story balcony
beyond structure stringline

3-ft. encroachment
of stairs & landing
beyond structure stringline

3-ft. encroachment
of beachside stairs
beyond patio stringline



SITE PLAN

1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF CARSON ZONING ORDINANCE, CHAPTER 22.04, AND THE CITY OF CARSON SUBDIVISION MAP ACT, CHAPTER 22.05, AND THE CITY OF CARSON SUBDIVISION MAP ACT, CHAPTER 22.06.

2. REFER TO SHEET 1 FOR FURTHER INFORMATION.

3. REFER TO SHEET 2 FOR FURTHER INFORMATION.

SCALE: 3/16" = 1'-0"



CH DG
CCH DESIGN GROUP, INC.
LANDSCAPE ARCHITECTS
REGISTERED
CHARLES HENCKY, DESIGNER
23525 BEACH ROAD
DANA POINT, CA 92629
714.444.4533
CHARLES@CCHDESIGNGROUP.COM

CHARLES HENCKY, P.E.
DATE: _____

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PROJECT: 23
FALLAHZADEH
23525 BEACH ROAD
DANA POINT, CA 92629
35525 BEACH ROAD

DEVELOPER: _____

LOCATION: 35525 BEACH ROAD
DANA POINT, CA 92629

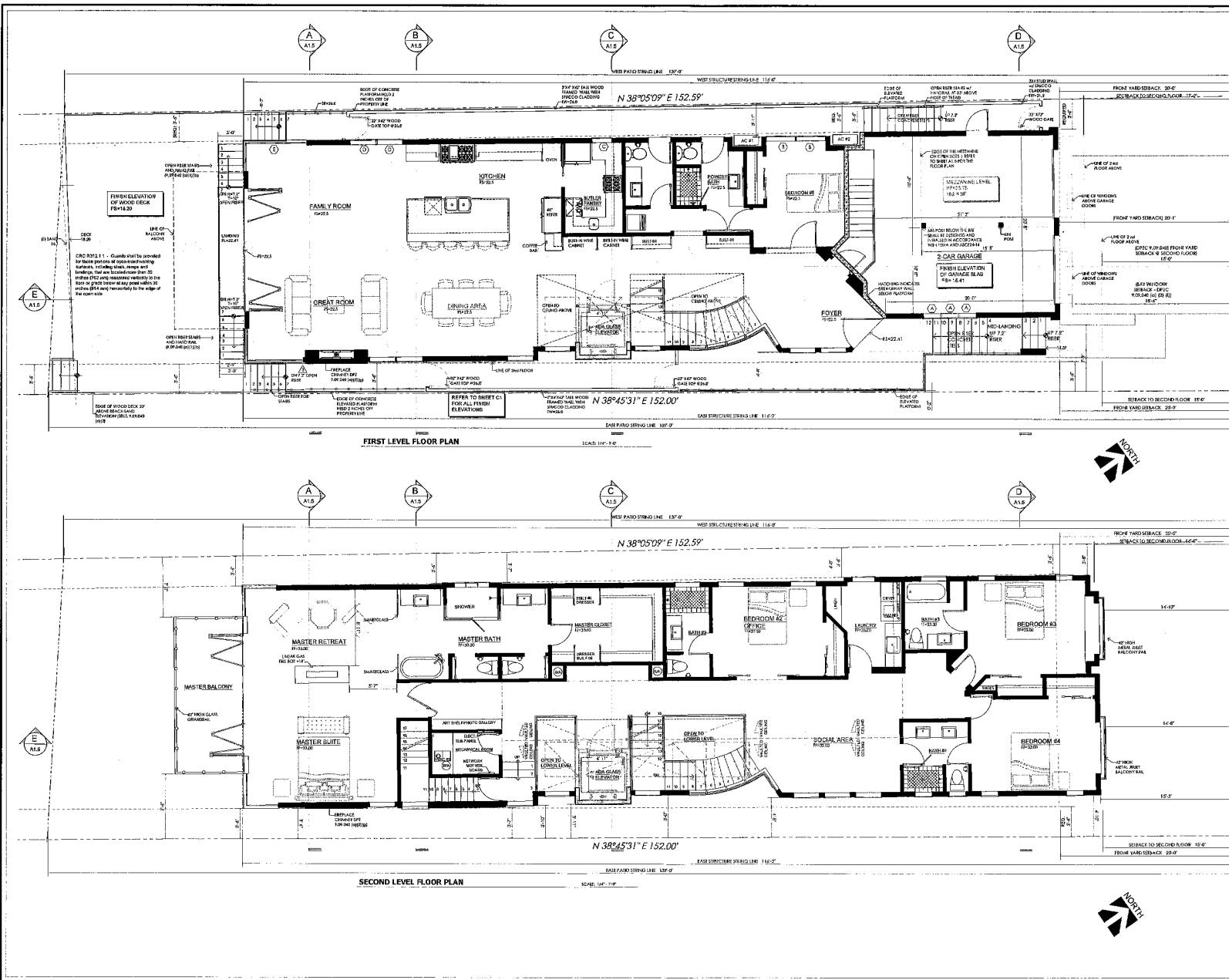
SHEET NAME: _____

SITE PLAN

NO.	DATE	DESCRIPTION
1	01/10/2020	CONCEPT SUBMITTAL
2	01/10/2020	CONCEPT CITY CORP.
3	01/10/2020	CONCEPT CITY CORP.
4	01/10/2020	CONCEPT CITY CORP.
5	01/10/2020	ELEVATION/SECTION
6	01/10/2020	CONCEPT CITY CORP.
7	01/10/2020	CONCEPT CITY CORP.
8	01/10/2020	CONCEPT CITY CORP.

PROJECT INFORMATION
OFFICE PROJECT NO.: CCH020-10-18
REVIEWED BY: _____
DESIGNED BY: CCH
SCALE: 3/16" = 1'-0"
DATE: 10/20/2021

SHEET NO.: **A0.1**
SHEET TITLE: _____



CHDG

CCP DESIGN GROUP, INC.
REGISTERED DESIGN
CONSULTING

CHARLES HENCKY, DESIGNER
30312 BALLOT CT
WINDYBROOK, CA 95061
760.644.4033

CHARLES@CCPDGROUP.COM

DATE: _____

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PROJECT: 2A
FALLHEAD
35525 BEACH ROAD
DANA POINT, CA

35525 BEACH ROAD

DEVELOPER:

LOCATION:
35525 BEACH ROAD
DANA POINT, CA 92629

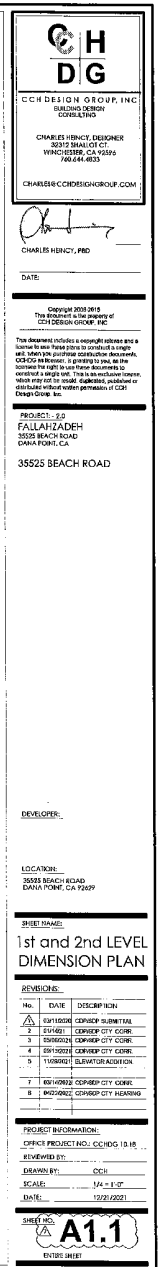
PROJECT NAME:
1st LEVEL
2nd LEVEL

REVISIONS:

NO.	DATE	DESCRIPTION
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2	03/10/06	CONCEPT CITY CONC.
3	04/06/06	CONCEPT CITY CONC.
4	05/06/06	CONCEPT CITY CONC.
5	10/06/06	ELEVATION AND/OR
6	03/06/07	CONCEPT CITY CONC.
7	04/06/07	CONCEPT CITY CONC.
8	04/06/07	CONCEPT CITY CONC.

PROJECT INFORMATION:
OFFICE PROJECT NO.: CHD06 10.18
REVIEWED BY: _____
DRAWN BY: CHD
SCALE: 1/8" = 1'-0"
DATE: 10/29/2021

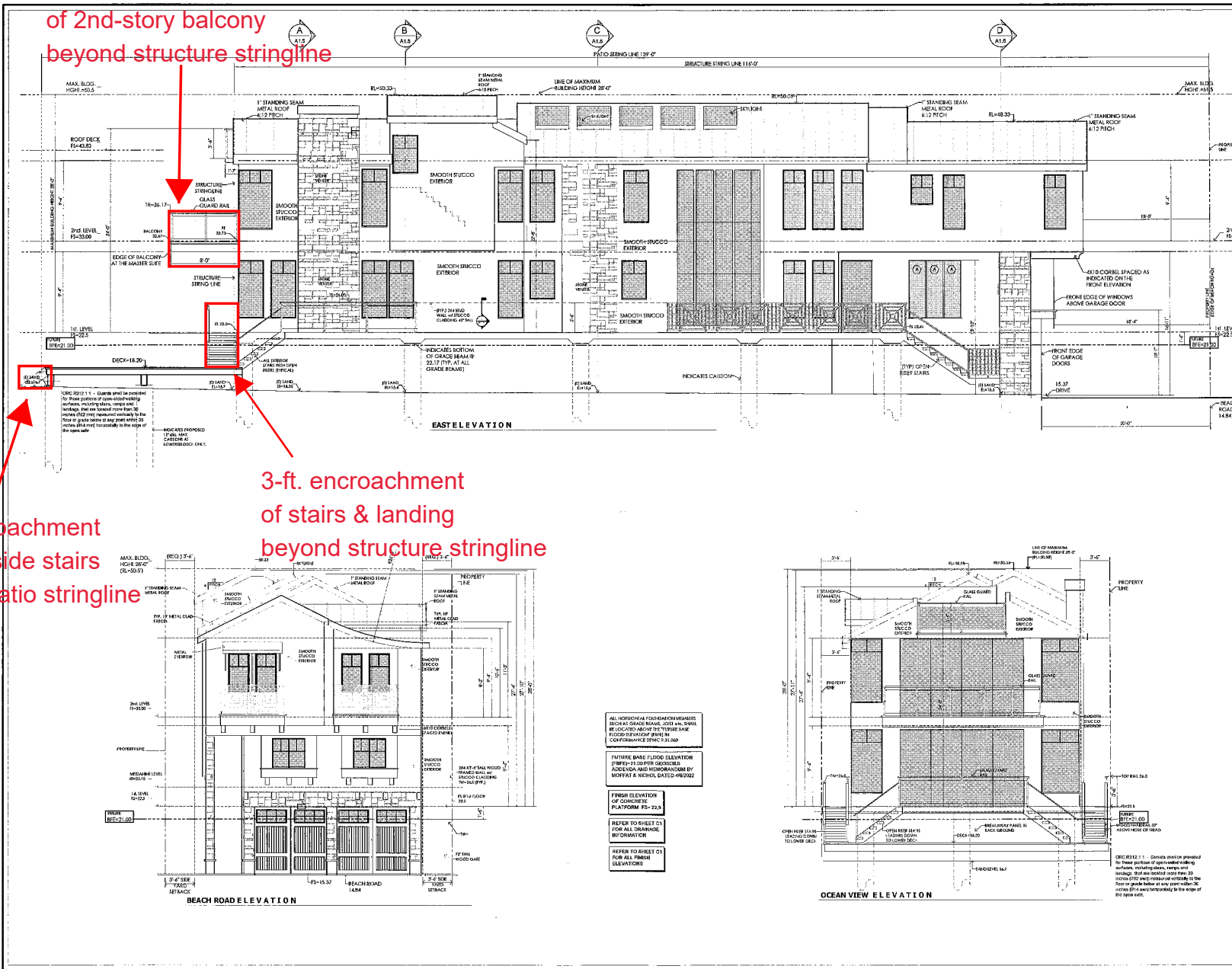
SHEET NO.
A1.0
OF 10 SHEETS




8-ft. encroachment
of 2nd-story balcony
beyond structure stringline

3-ft. encroachment
of beachside stairs
beyond patio stringline

3-ft. encroachment
of stairs & landing
beyond structure stringline





CHDG
CCP DESIGN GROUP, INC.
BUREAU GROUP
CORPORATE

CHARLES HENRY, DESIGNER
7027 E. 10th ST.
WICHITA, KS 67214
781.444.4033

CHARLES@CCPDGROUP.COM

DATE: _____

PROJECT: 20
FALLAHADH
3555 BEACH ROAD
DANA POINT, CA

35525 BEACH ROAD

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REVISIONS:

NO.	DATE	DESCRIPTION
1	01/11/20	CONCEPT SKETCH
2	01/11/20	CONCEPT SKETCH
3	01/11/20	CONCEPT SKETCH
4	01/11/20	CONCEPT SKETCH
5	01/11/20	CONCEPT SKETCH
6	01/11/20	CONCEPT SKETCH
7	01/11/20	CONCEPT SKETCH
8	01/11/20	CONCEPT SKETCH

PROJECT INFORMATION:

OFFICE PROJECT NO.: CHDG-10-11

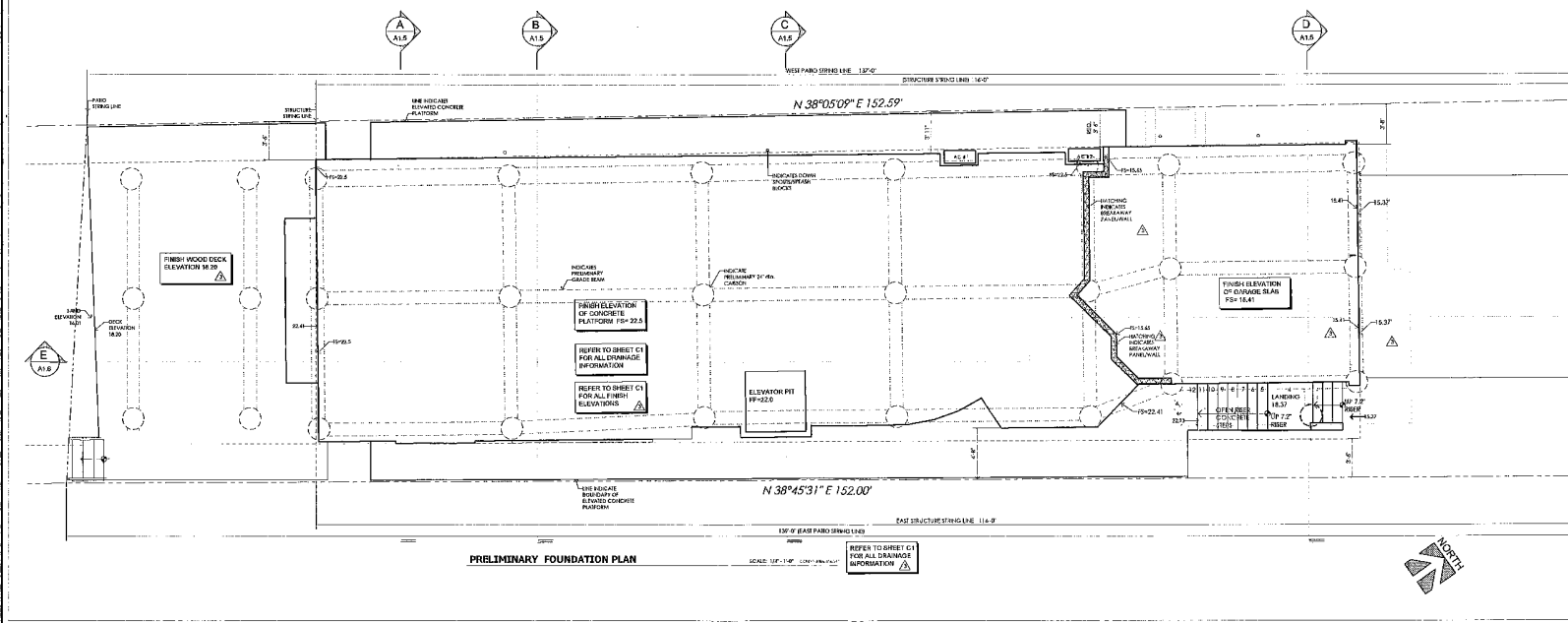
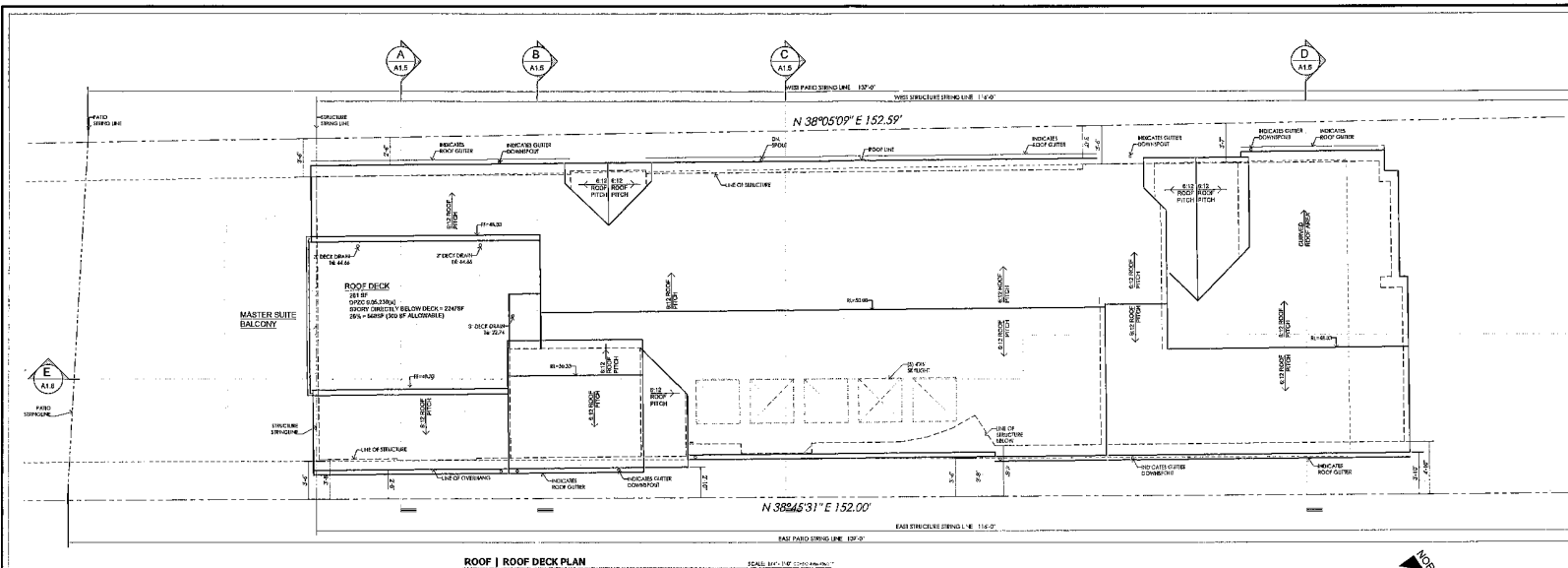
DESIGNED BY: CHDG

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

DATE: 10/21/2021

A1.2





CH DG

CCH DESIGN GROUP, INC.
SULLY ROAD SUITE 100
COLUMBIA, MO 65203

CHARLES HENRY, DESIGNER
2211 S BRADLEY CT
VAN COTT, CA 95744
708.444.8333

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CHARLES HENRY, PEO

DATE:

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PROJECT: 28
FALLHAZEN
35525 BEACH ROAD
DANA POINT, CA 92629

35525 BEACH ROAD

DEVELOPER:

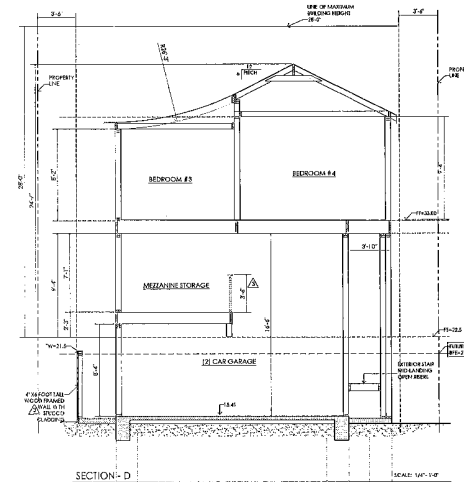
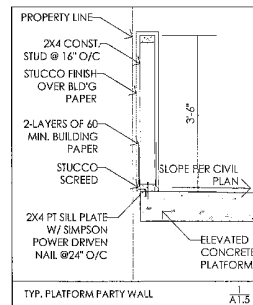
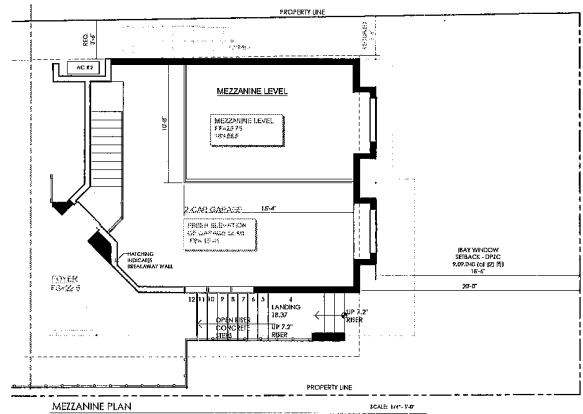
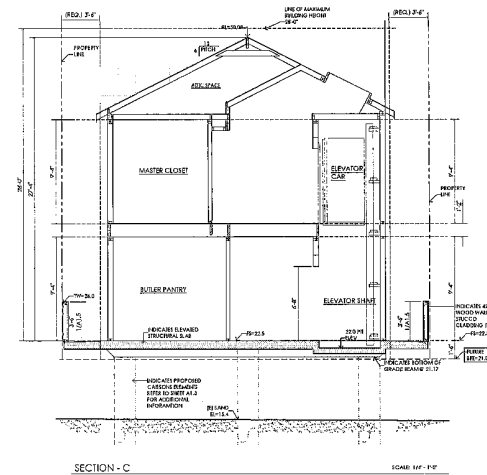
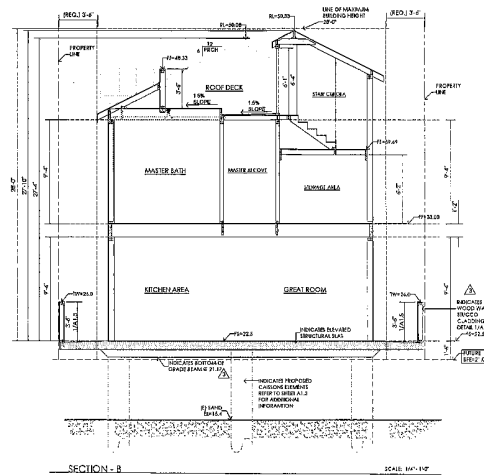
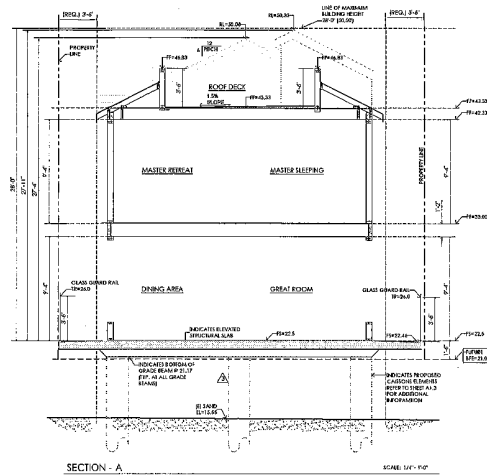
LOCATION:
35525 BEACH ROAD
DANA POINT, CA 92629

SHEET NAME:
**ROOF PLAN
FOUNDATION PLAN**

REV.	DATE	DESCRIPTION
1	08/14/20	ISSUED FOR PERMIT
2	08/14/20	ISSUED FOR PERMIT
3	08/14/20	ISSUED FOR PERMIT
4	08/14/20	ISSUED FOR PERMIT
5	08/14/20	ISSUED FOR PERMIT
6	08/14/20	ISSUED FOR PERMIT
7	08/14/20	ISSUED FOR PERMIT
8	08/14/20	ISSUED FOR PERMIT

PROJECT INFORMATION:
OFFICE PROJECT NO.: CCH-20-10-19
REVIEWED BY:
DESIGNED BY: CCH
SCALE: 1/8" = 1'-0"
DATE: 08/14/2021

SHEET NO.: **A1.4**
SHEET TITLE: **ROOF PLAN**





CHDG

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BUILDING DESIGN CONSULTING

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CHARLES@CCHDESIGNGROUP.COM

CHARLES HENCH, P.E.
DATE: _____

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PROJECT: 20
FALL ARCADE
20335 BEACH ROAD
DANA POINT, CA
35325 BEACH ROAD

DEVELOPER: _____

LOCATION: 20335 BEACH ROAD
DANA POINT, CA 94028

SITE NAME: _____

SECTIONS

REV.	DATE	DESCRIPTION
1	01/15/15	CONCEPT SKETCH
2	02/04/15	CONCEPT CITY CODE
3	03/02/15	CONCEPT CITY CODE
4	03/02/15	CONCEPT CITY CODE
5	03/02/15	ELEVATION ALLOCATION
6	03/02/15	CONCEPT CITY CODE
7	03/02/15	CONCEPT CITY CODE
8	03/02/15	CONCEPT CITY CODE

PROJECT INFORMATION
OFFICE PROJECT NO.: CCH00110.18

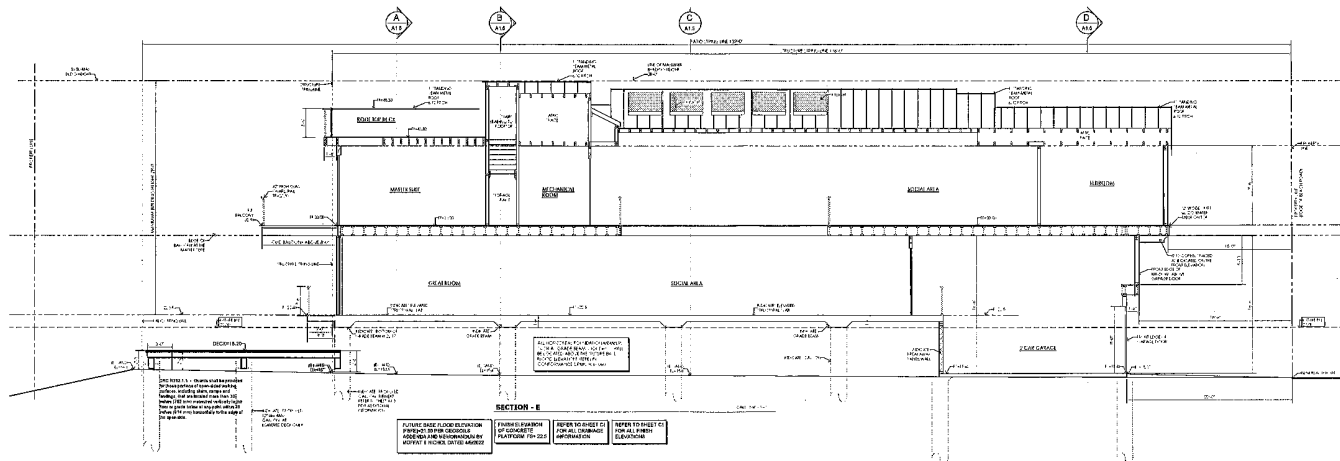
REVIEWED BY: _____

DESIGNED BY: CCH

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

DATE: 10/21/2015

SHEET NO. **A1.5**
OF 15 SHEETS



CHARLES HENRY, DESIGNER
35525 BEACH RD.
DANA POINT, CA 92629
714.444.4033
CHARENDHEDSIGNGROUP.COM

DATE

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PROJECT - 20
FALLAS TOWER
35525 BEACH ROAD
DANA POINT, CA
35525 BEACH ROAD

DEVELOPER:

LOCATION:
35525 BEACH ROAD
DANA POINT, CA 92629

SHEET NAME:

SECTIONS

REV.	DATE	DESCRIPTION
1	07/11/2018	CONCEPT SUBMITTAL
2	07/11/2018	CONCEPT CITY CODE
3	07/11/2018	CONCEPT CITY CODE
4	07/11/2018	CONCEPT CITY CODE
5	07/11/2018	ELEVATION REVISION
6	07/11/2018	CONCEPT CITY CODE
7	07/11/2018	CONCEPT CITY CODE
8	07/11/2018	CONCEPT CITY CODE

PROJECT INFORMATION
OFFICE PROJECT NO.: CCHDG 10.18
REVIEWED BY:
DESIGNED BY: CCH
SCALE: 3/16" = 1'-0"
DATE: 10/23/2018

SHEET NO.
A1.6
OF 18 SHEETS



RESOLUTION NO. 22-06-27-12

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING COASTAL DEVELOPMENT PERMIT CDP20-0007, SITE DEVELOPMENT PERMIT SDP20-0010, AND ADMINISTRATIVE MODIFICATIONS OF STANDARDS AMS22-0001 TO CONSTRUCT A 4,132 SQUARE-FOOT SINGLE-FAMILY DWELLING, ROOF DECK, AND 528 SQUARE-FOOT ATTACHED TWO-CAR GARAGE AT 35525 BEACH ROAD

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

WHEREAS, David Gutierrez, project manager, (the “Representative”) has filed an application on behalf of Ladan and Babak Fallahzadeh, (“Applicant”), the owners of real property commonly referred to as 35525 Beach Road (APN 691-161-05) (the “Property”); and

WHEREAS, the Representative filed a verified application for a Coastal Development Permit and Site Development Permit to construct a new single-family dwelling and roof deck 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 a single-family dwelling; and

WHEREAS, the Planning Commission did, on the 27th day of June, 2022, 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 CDP20-0007, Site Development Permit SDP20-0010 and administrative Modifications of Standards AMS22-0001.

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 CDP20-0007, SDP20-0010, and AMS22-0001 subject to the following conditions of approval:

Findings:

Coastal Development Permit CDP20-0007

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 modern shoreline 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 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 within a developed area.

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 Capistrano Beach Park and the existing access 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. The structure would not 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 will be elevated to a height not less than that recommended by a California registered engineer (and pursuant to Wave Analysis documentation dated February 28, 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 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 modern shoreline 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 20-0010

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). The roof deck complies with the size and design regulations in Section 9.05.230 of the DPZC in that the roof deck is less than 300 square feet, is architecturally integrated into the design of the structure, and complies with the maximum height permitted for the structure.
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 and roof deck complies with the development standards for the RBR-12 zoning district, with the exception of the three foot 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 single-family residence with the roof deck is 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 modern shoreline design of the house that will be complementary to the neighborhood and the roof deck will be architecturally integrated into the design of the structure. 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 Future 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 single-family residence with the roof deck 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 AMS22-0001

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 Future 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 4.3 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 project is proposing a landing and stairs down to the deck along the east and west property lines to limit their projection beyond structure stringline. The projection beyond the structure stringline is three feet for a width of 26 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 three foot 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 the stairs encroach three feet for a width of twenty-six 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 4,132 square-foot single-family dwelling and attached 528 square foot two car garage at 35525 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. Please note that 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, FEMA and ASCE guidelines, and all 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.

Prior to Issuance of a Certificate of Use and Occupancy:

27. 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.
28. 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 CDP20-0007, SDP22-0010, and AMS22-0001. 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.

29. 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 CDP20-0007, SDP20-0010, and AMS22-0001. 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.
30. A Final Geotechnical Report shall be prepared by the project geotechnical consultant in accordance with the City of Dana Point Grading Manual.
31. 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.
32. 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.
33. All landscaping and/or structural best management practices (BMPs) shall be constructed and installed in conformance with approved plans and specifications.
34. 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.
35. Public Works final approval will be required for all permits.
36. All structural best management practices (BMPs) shall be constructed and installed in conformance with approved plans and specifications.

37. 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 27th day of June, 2022 by the following vote, to wit:

AYES: Gabbard, Dhingra, Dohner, Opel, Nelson

NOES:

ABSENT:

ABSTAIN:



John Gabbard, Chair
Planning Commission

ATTEST:



Brenda Wisneski, Director
Community Development Department

**CITY OF DANA POINT
PLANNING COMMISSION
AGENDA REPORT**

DATE: JUNE 27, 2022

TO: DANA POINT PLANNING COMMISSION

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

SUBJECT: COASTAL DEVELOPMENT PERMIT CDP20-0007, SITE DEVELOPMENT PERMIT SDP20-0010, AND ADMINISTRATIVE MODIFICATIONS OF STANDARDS AMS22-0001 TO CONSTRUCT A 4,132 SQUARE-FOOT SINGLE-FAMILY RESIDENCE, ROOF DECK, AND ATTACHED TWO-CAR GARAGE AT 35525 BEACH ROAD

RECOMMENDATION: That the Planning Commission adopt the attached resolution approving Coastal Development Permit CDP20-0007, Site Development Permit SDP20-0007, and Administrative Modifications of Standards AMS22-0001.

APPLICANT: Ladan and Babak Fallahzadeh

REPRESENTATIVE: David Gutierrez, Project Manager

REQUEST: Approval of a Coastal Development Permit, Site Development Permit, and Administrative Modification of Standards to construct a new single-family dwelling, roof deck, 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: 35525 Beach Road (APN: 691-161-05)

NOTICE: Notices of the Public Hearing were mailed to property owners within a 500-foot radius and occupants within a 100-foot radius on June 13, 2022, published within a newspaper of general circulation on June 13, 2022, and posted on June 13, 2022, 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 4,809 square-foot oceanfront vacant lot located within the Capistrano Beach Community Services District, a built-out neighborhood of single-family and duplex structures. The lot is relatively small, approximately 34 feet in width and 152 feet in depth. The District 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 construction of a 4,132 square-foot, two-story single-family residence and a 528 square-foot attached two-car garage. Two levels of living area include five bedrooms, six bathrooms, and an open concept living, dining, and kitchen area. Exterior improvements include a low-level deck, second-floor balcony, and a roof deck 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	116' west 116' east	116' west 116' east*	Yes Yes
Patio Stringline	137' west 139' east	137' 137'	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 three feet 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, with the exception of the stairs on the seaward side of the structure that lead to the ocean front deck. The applicant is requesting an AMS to allow the stairs from the habitable first floor to the rear deck to encroach three feet beyond the structure stringline which is discussed in the AMS section of the report. 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 proposed structure's architectural style is a modern farmhouse design with a standing seam metal roofing, stone veneer, and stucco siding (Supporting Document 3). The structure would be compatible with the mix of architectural styles within the District.

Coastal Development Permit CDP20-0007

Pursuant to Section 9.69.040 of the Dana Point Zoning Code, the 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 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. 22-06-27-XX, attached 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 as determined by the City Council in Resolution 01-07-10-03 (Supporting Document 3).

Site Development Permit SDP20-0010

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. The project is also proposing a roof deck which requires a Minor Site Development Permit, per Section 9.05.230 of the DPZC.

For construction within coastal high hazard areas, a site-specific wave run-up study was developed to establish a future 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 (future 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 future 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 future 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.

The proposed roof deck is located on the seaward side of the house and requires compliance with Section 9.05.230 of the DPZC to ensure it is compatible with the neighborhood and complies with the maximum size requirements. The proposed roof deck complies with the size limit in that it is 281 square feet and only 12 percent of the roof area (2,247 square feet). The location of the roof deck on the seaward side of the structure is not visible from the public right-of-way. The roof deck is architecturally integrated into the design of the structure with 6/12 roof pitches on either side to conceal the structure while still complying with the 28 foot maximum height. The access stairs to the roof deck are incorporated into the roof design with a covered copula. The placement and design of the roof deck and access comply with all of the necessary provisions of Section 9.05.230 of the DPZC.

Section 9.71.050 of the DPZC stipulates 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. 22-06-27-XX, attached to this report as Action Document 1.

Administrative Modification of Standard AMS22-0001

Per Section 9.61.090 of the DPZC, Administrative Modifications of Standards (AMS) 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 development standards for the deck height and the elevation of the habitable area are competing standards that create practical difficulties and unnecessary hardships by the strict application of the DPZC. The site's physical characteristics and the requirement to elevate the structure's habitable area above the future BFE make it difficult to design the project with a seaward deck that is limited to 30 inches above grade. Per Section 9.09.040(a)(2), stairs are not permitted to extend beyond the structure stringline. This limiting standing would force the reduction of habitable area to provide stairs from the habitable area to the deck unless an AMS is obtained. 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 house (habitable area). Additionally, the maximum height of the rear deck is 30 inches above grade, resulting in a 4.3 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 is requesting a landing and stairs to project three feet for a width of 26 feet. The proposed minor deviation from the development standards is for a constrained property and has no potential impact to adjacent properties.

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. 22-06-27-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 20-0007, Site Development Permit 20-0010, and Administrative Modifications of Standards 22-0001 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. 22-06-27-XX

Supporting Documents:

2. Vicinity Map
3. City Council Public Access Resolution 01-07-10-03
4. Color and Material Sample
5. Site Photos
6. Architectural Plans

CALIFORNIA COASTAL COMMISSION

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



APPEAL FORM

Appeal of Local Government Coastal Development Permit

Filing Information (STAFF ONLY)

District Office: South Coast

Appeal Number: A-5-DPT-22-0037

Date Filed: 7/22/2022

Appellant Name(s): Vice Chair Caryl Hart and Commissioner Linda Escalante

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

1. Appellant information¹

Name: Vice Chair Caryl Hart and Commissioner Linda Escalante

Mailing address: 301 E. Ocean Blvd., Suite 300, Long Beach, CA 90802

Phone number: (562) 590-5071

Email address: SouthCoast@coastal.ca.gov

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

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

Describe: N/A

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: N/A

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: N/A

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 3

2. Local CDP decision being appealed²

Local government name: City of Dana Point

Local government approval body: City of Dana Point

Local government CDP application number: CDP 20-0007

Local government CDP decision: ☒ CDP approval ☐ CDP denial³

Date of local government CDP decision: July 12, 2022

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

Describe: Construction of a new 4,132 sq. ft., 2-story single-family residence and a
528 sq. ft. attached two-car garage supported by a caisson foundation on a
vacant 4,809 sq. ft. beach front lot. The City also approved encroachments
for a 18 ft. wide second-story balcony extending 8 ft. beyond the structure
stringline over the lower deck and a 3.5 ft. wide set of stairs extending 3 ft.
beyond the patio stringline from the lower deck, as well as an administrative
modification of standards to allow a 26 ft. wide section of stairs and landing
to encroach 3 ft. seaward of the structure stringline over the lower deck.

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.

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Applicant name(s): Ladan and Babak Fallahzadeh

Applicant Address: 35525 Beach Rd, Dana Point, CA 92624

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: See attached.

California Coastal Commission
A-5-DPT-22-0037
Exhibit 4
Page 4 of 23

Appeal of local CDP decision

Page 5

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 Caryl Hart


Signature

Date of Signature 7/22/22

7. Representative authorization⁶ NOT APPLICABLE

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.

Appeal of local CDP decision

Page 5

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.

Linda Escalante

Print name _____

DocuSigned by:



CF7DAD569086480...

Signature

07/22/2022

Date of Signature _____

7. Representative authorization⁶ NOT APPLICABLE

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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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 1)

The project is the construction of a new 4,132 sq. ft., 2-story single family residence and a 528 sq. ft. attached two-car garage supported by a caisson foundation on a vacant 4,809 sq. ft. beach front lot located at 35525 Beach Road, Dana Point. The City also approved a variance to allow a 26-ft. wide section of stairs and landing to encroach 3 ft. seaward of the structure stringline setback, as well as seaward encroachments of the second-floor balcony and lower-level stairway. The City's action authorizes a new structure on a narrow and eroding beach that is highly susceptible to existing and future hazards exacerbated by 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, and 30214 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. Section 9.09.040(a)(4) specifically requires a lateral public access easement for new development along Beach Road, consistent with requirements of Section 9.27.030. 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 and Capistrano Beach County Park are approximately three-quarters of a mile downcoast and upcoast of the site, respectively, which are not nearby, and both sites are frequently closed due to significant erosion and wave impacts and are not necessarily "adequate." The public has a right to access the public dry sandy beach and Public Trust Lands seaward of the project site. As sea level rises and the sandy/cobble beach is squeezed between the ocean and the proposed new development, Public Trust Lands must be considered. 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 (in order to avoid the need for shoreline armoring), the already very narrow and increasingly eroding 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 migrates under the residence. Any interference the development may have with existing public access easements and/or potential public prescriptive rights along the shoreline must also be considered in any development approval in this location, especially since the subject lot is currently vacant and provides potential vertical access landward of the beach. The City did not include many of the findings required by Section 9.27.030(a)(5), and relied on an uncertified City Council Resolution to claim exception to the requirement to impose lateral

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

public access at the site. The City's certified LCP remains the standard of review unless and until the City certifies an amendment to the LCP to make the changes outlined in any City Council Resolution.

Additionally, a deed restriction was recorded in connection with a previous coastal development permit issued for the site, which required an offer to dedicate a lateral public access easement for a period of 21 years. The current grant deed still excepts portions of the site that lie seaward of the mean high tide line. Since the mean high tide line is ambulatory, and Public Trust Lands may be further squeezed landward and encroach upon the proposed development, it is more important than ever that a lateral public access easement be required to guarantee the continued public use and recreation of the beach near the site.

2. Sea Level Rise Analysis: The proposed development would be located along a rapidly eroding stretch of sandy/cobble beach with high sediment transport rates. The analysis concludes that, with sea level rise, the beach would transition to a cobble beach which in turn would substantially reduce the rate of erosion. While a potentially reasonable conclusion, the analysis lacked meaningful consideration of the potential for more extensive and rapid shoreline retreat and the impacts of such retreat on hazards to the proposed development (e.g., increased wave forces on primary structure and threats of undermining of Beach Rd.). Furthermore, the analysis used an average of the low and high emissions scenarios for 2095 as opposed to the recommended higher emissions projection.
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, as required by the LCP. 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. 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.
5. Encroachments: The LCP allows for encroachments beyond the structure and patio stringline setback requirements for the Residential Beach Road Zoning District. In particular, stairways are allowed to encroach 3 feet beyond the patio stringline, and balconies are allowed to project 8 feet beyond the seaward structure stringline. Both encroachments are currently proposed as part of the project. Nevertheless, it appears that these encroachments may further squeeze the lateral public access available along the beach near the site, and the encroachments subject portions of the home to greater risk of flooding and wave scour, in nonconformance with the LCP. The encroachments would cross over the "appropriate boundary" for lateral access that is outlined in Section 9.27.030(a)(4)(G)(1).

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.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

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 (in relevant part)

(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.

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.

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

LCP Policies

- **9.09.040** Special Development Standards.
 - (a) Development in the Residential Beach Road 12 (RBR 12) and Residential Beach Road Duplex 18 (RBRD 18) Zoning Districts shall comply with the following standards:
 - (1) The following Table provides the requirements for structural stringlines, patio stringlines, and front yard setbacks for properties in the Residential Beach Road 12 (RBR 12) and Residential Beach Road Duplex 18 (RBRD 18) Districts.

...

Beach Road Address	Tract 889 Lot Number	Measurement from roadside property line to structure stringline along: west property line/east property line (a)	Measurement from roadside property line to patio stringline along: west property line/east property line (b)	Front Setback (Ground Floor) (e)(f)
35525	21	116/116	137/139	20

- ...
- Footnotes for Section 9.09.040(a)(1):
 - (a) No enclosed portion of any structure shall extend seaward of a straight line drawn between the structure stringline measurements set forth in this section for the east and west property lines of the subject property.
 - (b) No patio or unenclosed portion of any structure shall extend seaward of a straight line drawn between the patio stringline measurements set forth in this section for the east and west property lines of the subject property. Where vertical displacement exists between the lowest level patio and sandy beach, a stairway may encroach seaward of the patio stringline no more than three (3) feet. Where the patio stringline lies inland of an ocean protective device (OPD), an accessway from the lowest level patio to the OPD may be constructed as necessary to link the patio with a stairway to the beach.
- ...
- (4) Offers to dedicate easements for public pedestrian access laterally along the beach at Capistrano Beach will be required as a condition of any new development project, as defined in public access ordinance (Section 9.27.030(a)(2)(A) of this Zoning Code), requiring a coastal development permit along Beach Road, consistent with the requirements of the public access ordinance (Section 9.27.030(a) of this Zoning Code).
- ...
- **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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 5)

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.
- (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)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 6)

- **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, 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.

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- 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 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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 8)

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.
 - 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

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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 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

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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 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 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:

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- 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 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.
 - 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

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

...

Exhibit 5 – Coastal Hazards Figures

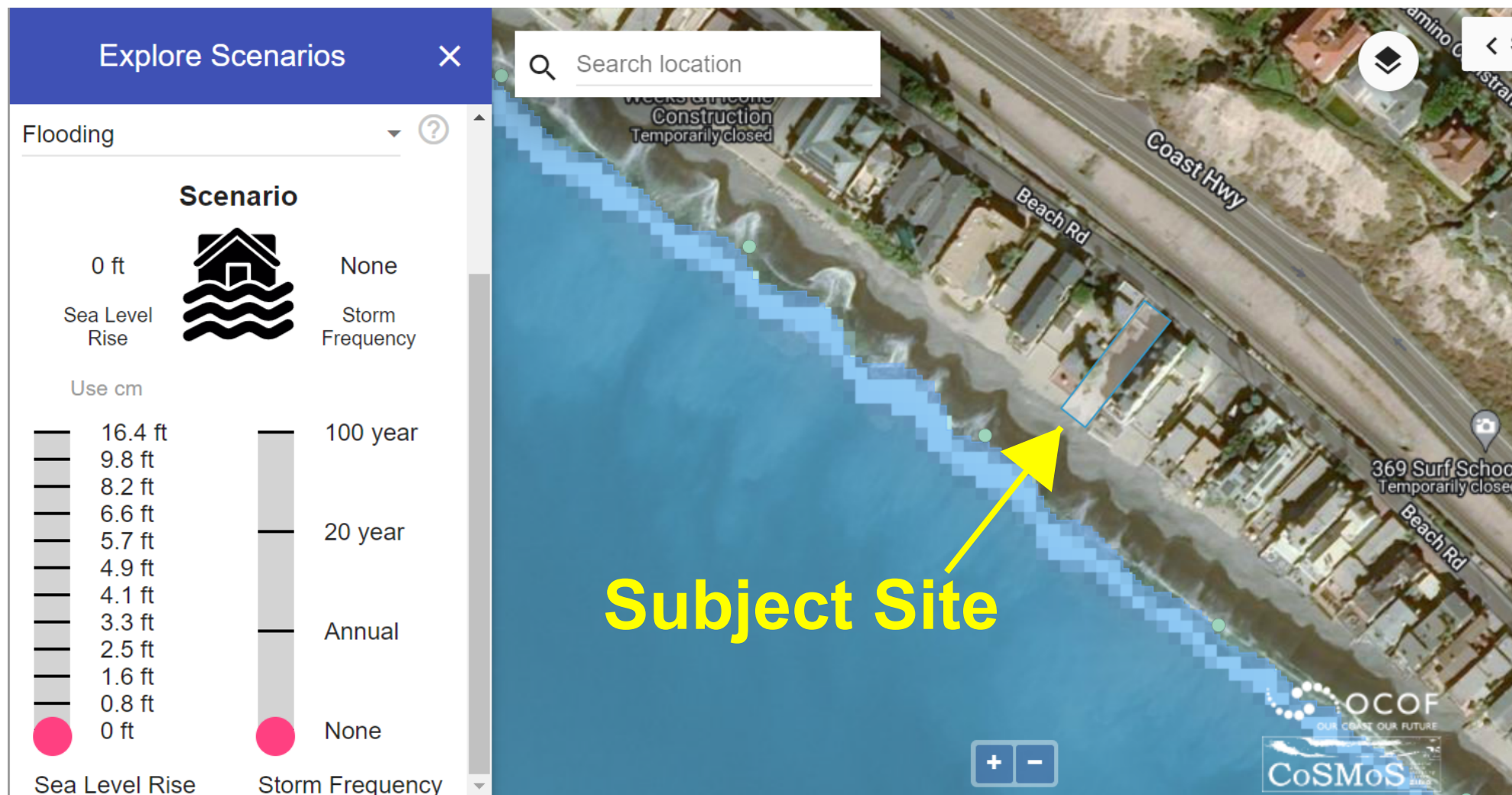


Figure 1 — Project Site with no sea level rise and no coastal storm event.

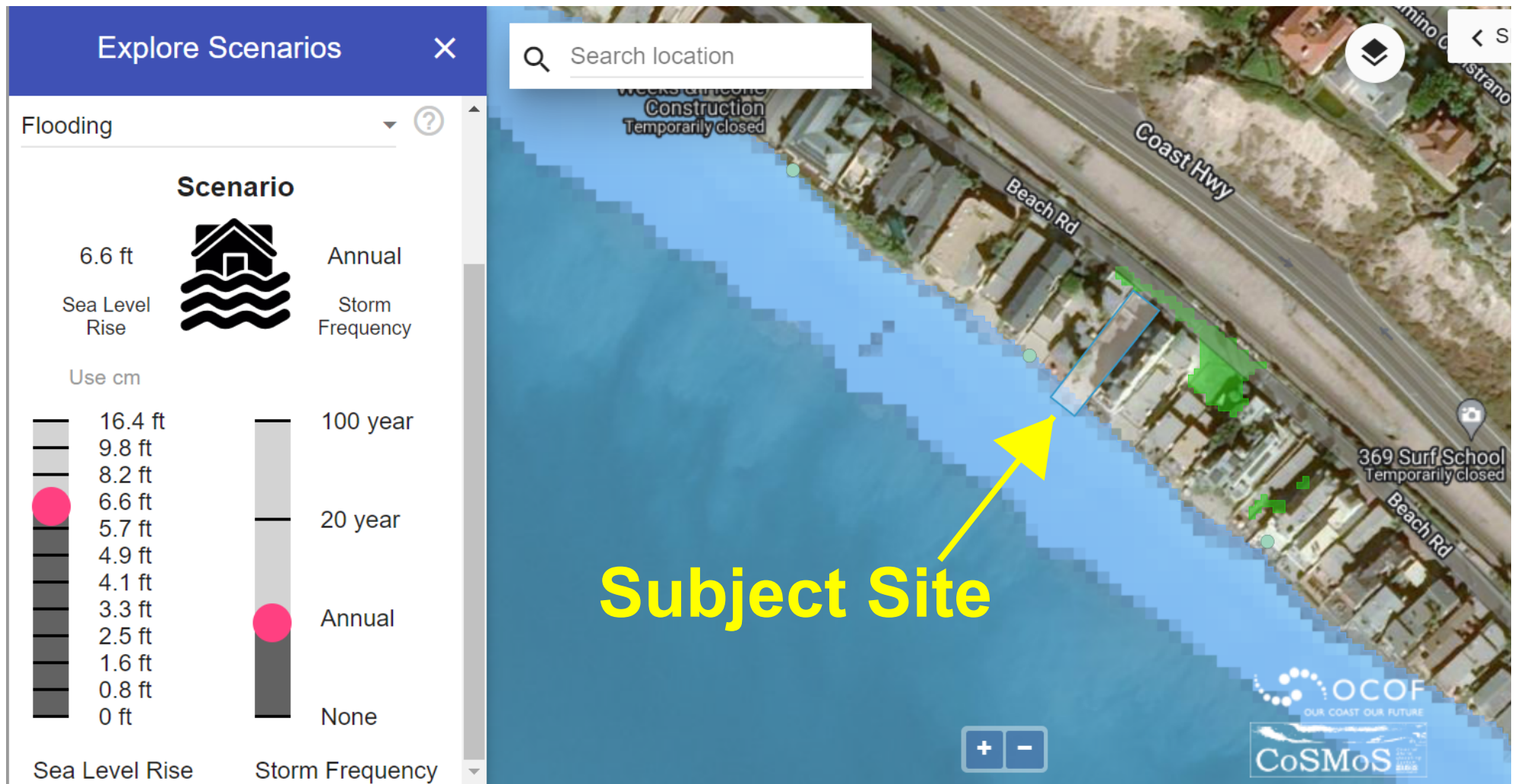


Figure 2 — Project Site with 6.6 ft. of sea level rise and an annual coastal storm event.

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
245 WEST BROADWAY, SUITE 380
LONG BEACH, CA 90802
(213) 590-5071



FILED: 1/23/86
49th DAY: Waived
180th DAY: 7/22/86
STAFF: C. Kroll
STAFF REPORT: 6/25/86
HEARING DATE: 7/08-11/86

REGULAR CALENDAR
STAFF REPORT AND RECOMMENDATION

Application: 5-85-864

Applicant: Walter Hoffman
35821 Beach Road
Capistrano Beach, CA

Description: Construction of a two-story, 3,203 square-foot single family residence on a vacant beach-fronting lot.

Site: 35525 Beach Road, Capistrano Beach, Orange County.

Substantive File Documents:

1. Conditionally Certified Capistrano Beach Local Coastal Program.

SUMMARY:

Staff recommends approval with conditions related to public access and assumption of risk.

STAFF RECOMMENDATION

Staff recommends the Commission adopt the following resolution:

I. Approval with Conditions

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located between the sea and the first public road nearest the

shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. STANDARD CONDITIONS: See Attachment X.

III. SPECIAL CONDITIONS:

1. Lateral Access.

Prior to transmittal of the permit, the landowner shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director, an easement for lateral public access and passive recreational use along the shoreline. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property. Such easement shall be located along the entire width of the property from the mean high tide line landward to the dripline of the approved deck.

(a) Privacy Buffer.

The area 10 feet seaward of the dripline of the approved deck shall be identified as a privacy buffer. The privacy buffer shall be restricted to pass and repass only, and shall be available only when no other dry beach areas are available for lateral public access.

(b) The remaining area shall be available for passive recreation.

The document shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed. The offer 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.

2. Assumption of Risk.

Prior to transmittal of the permit, the applicant as landowner shall execute and record a deed restriction, in a

form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazard from flooding or wave damage and the applicant assumes the liability from such hazards; and (b) that the applicant unconditionally waives any claim of liability on the part of the Commission and agrees to indemnify and hold harmless the Commission and its advisors relative to the Commission's approval of the project for any damage due to natural hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed.

IV. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. Project Description.

The applicant proposes to construct a two-story, 3,203 square-foot single family residence on a vacant beach-fronting lot. The project site is located in the Capistrano Bay community. The Capistrano Bay community is a private, gated residential community which extends for 1.7 miles between Capistrano Beach County Park to the north and Poche Beach to the south.

B. Public Access.

The Coastal Act contains strong policy provisions in Sections 30210, 30211, 30212, and 30214 requiring public access to and along the shore in new development projects. Prior Commission decisions have noted that development on this particular beach burdens public access due to the controlled entry nature of the development and the lack of vertical access due to the presence of heavy landscaping, railroad tracks and a fence which separates Pacific Coast Highway from Beach Road and the community.

While vertical access to the beach through the community is virtually impossible, lateral access is possible from either Capistrano County Beach, an improved park with parking and recreational facilities on the north, and Poche Beach, a small County-owned beach on the south.

The Commission's adopted Suggested Modifications to the Capistrano Beach Segment of the Orange County Local Coastal Program state that:

Lateral Access.

Since the beach at Capistrano Bay is owned to the mean high tide line by each individual property owner, the means for

gaining lateral access under the Coastal Act is to condition new development, as defined in the Act, for appropriate lateral access as private property owners apply for Coastal Development permits.

The beach at Capistrano Bay presents a unique situation in that in the 1.7 miles of beach that front the community, the width of the beach varies greatly. The width of the beach at the northern end of the community is, during low tide, summer conditions, approximately 200 feet. At the southern end, however, very often there is no beach at all. In between these two extremes, the conditions vary, however, the width of the beach tends to narrow at a regular rate from north to south.

The subject property is located approximately half way down the beach at a point where the beach is still relatively wide. In order to allow for maximum public access as required by the Coastal Act, it is necessary to fix the inland extent of the accessway at the seaward extent of development. As no seawall is proposed as part of this project, the seaward extent of development is the proposed deck. In the past the Commission has sometimes allowed for a privacy buffer between the seaward extent of development and the inland extent of the accessway. As the beach at the subject property is relatively wide, a privacy buffer would not preclude public access and is therefore appropriate. The Executive Director determines that only as conditioned to provide maximum public access will the proposed development be consistent with the policies of the Coastal Act.

C. Seaward Encroachment of Development.

Section 30251 of the Coastal Act provides that "development shall be sited and designed to protect the views to and along the ocean and scenic coastal areas." In order to protect the scenic and visual qualities of beach areas under Section 30251 and preserve public access as required under Sections 30210, 30211, and 30212, the Commission regularly requires that development on beaches be set back in accordance with a stringline for the seaward encroachment of houses, decks and seawalls.

In order to protect the scenic and visual qualities of coastal areas, the Commission has regularly required such setbacks of new development projects on Beach Road. In its March 1983 action on the Capistrano Beach Local Coastal Program, the Commission modified the Land Use Plan to require the incorporation of setbacks for beach-front development consistent with presently existing development on the beach. The County has incorporated such setbacks in the resubmitted Local Coastal Program.

The Commission will review and take action on the resubmittal at the July 8-11 hearing. The staff has recommended that the Commission find the house and patio stringlines proposed by the County in the resubmittal consistent with Section 30251 of the Coastal Act.

The proposed development conforms with the house and patio stringlines established in the resubmittal Local Coastal Program. The Commission finds, therefore, that the proposed project is consistent with Sections 30251, 30210 and 30212 of the Coastal Act.

D. Wave Hazards.

Section 30253(1) of the Coastal Act states that new development shall minimize risks to life and property in areas of high flood hazard. Ocean-fronting parcels, such as the subject property, are susceptible to flooding and wave damage from storm waves and storm surge conditions.

The Commission has regularly required that permit applicants agree to waive any claims of liability on the part of the Commission or any other public agency for allowing the development to proceed. The Commission finds that the proposed project, as conditioned, is consistent with past Commission action on ocean-front development and Section 30253(1) of the Coastal Act.

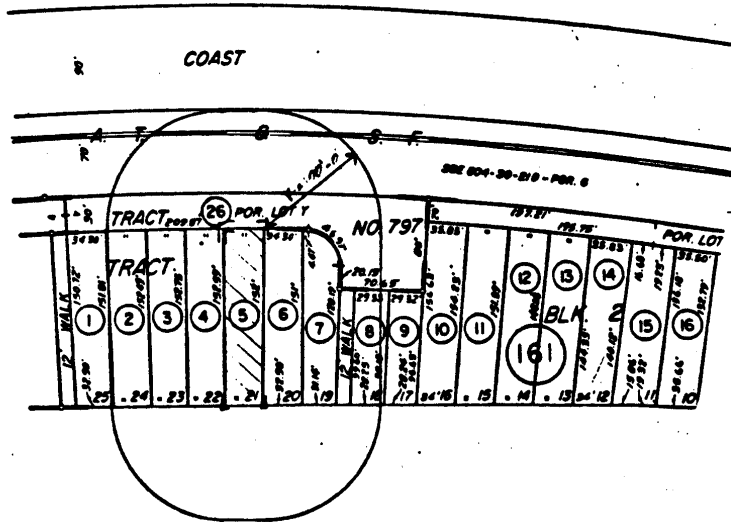
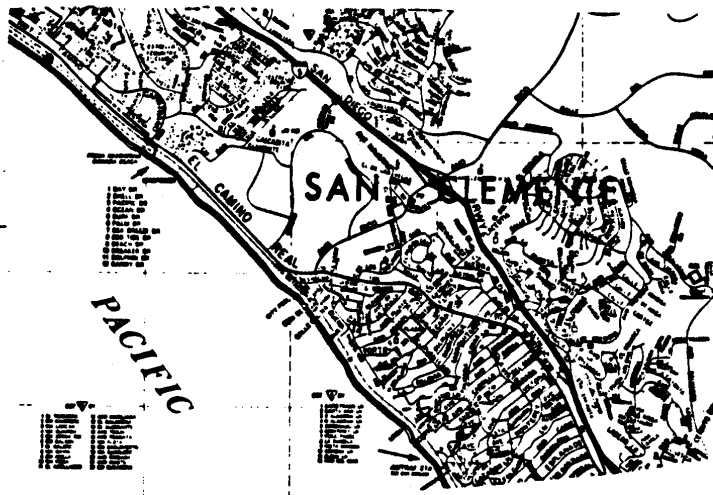
E. Local Coastal Program Consistency.

Section 30604(a) of the Coastal Act requires that approval of a Coastal Development permit not prejudice the ability of a local government to prepare a Local Coastal Program.

On August 25, 1983, the Commission denied the Capistrano Beach total LCP as submitted but approved portions of the LUP and Implementation Plan with Suggested Modifications. The Commission found that public access was not adequately provided for in the LUP and suggested that the access policies be modified to provide maximum public access to the shoreline at the Capistrano Bay Community. The Commission also found that the LUP did not address the issue of shoreline setbacks and suggested that the LUP be modified to incorporate beach-front setbacks for development "which are generally consistent with the extent of seaward encroachment of structures as are presently existing on Beach Road."

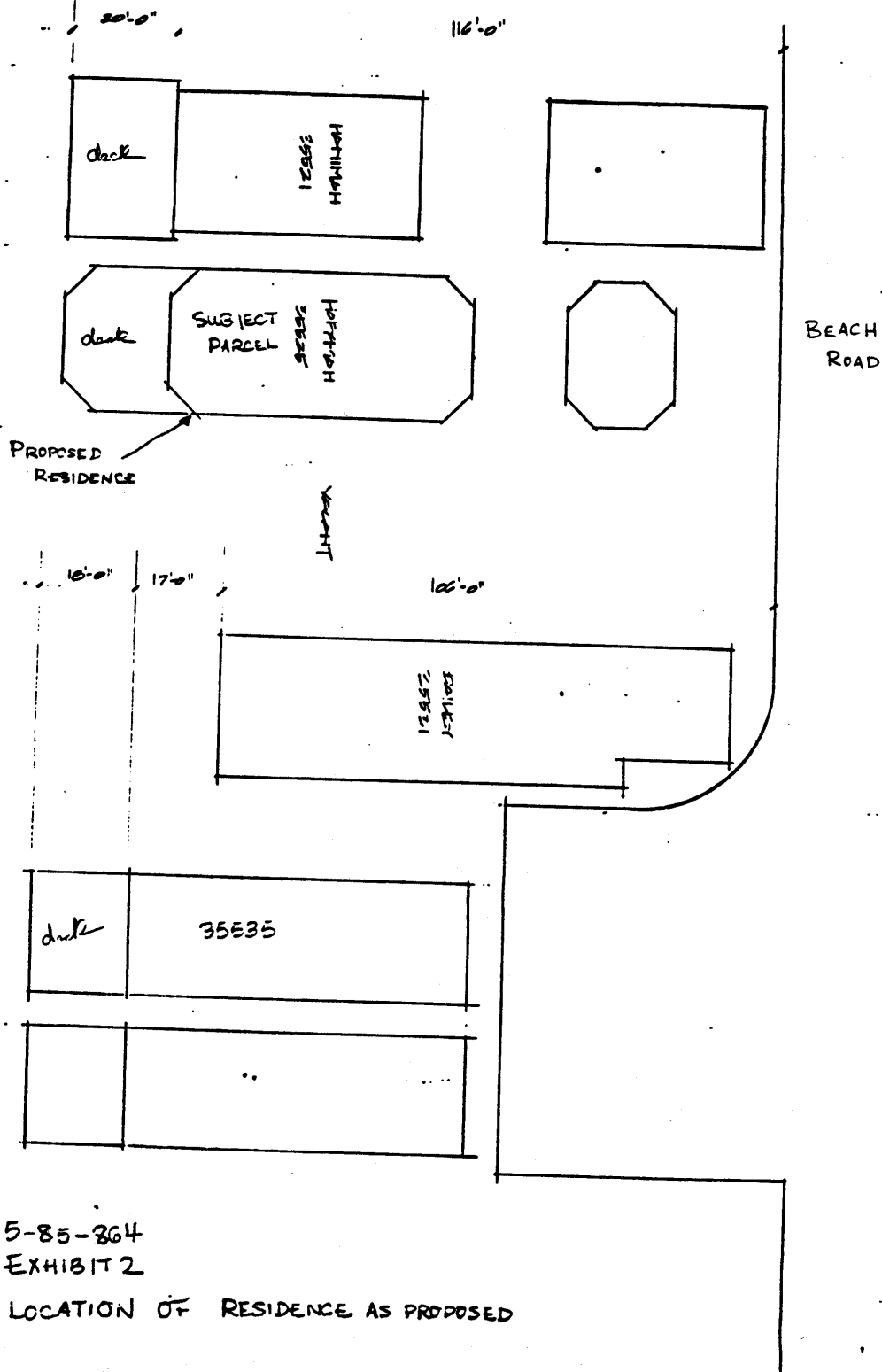
The Commission finds that approval of the proposed development as conditioned will not prejudice the ability of Orange County to prepare a Local Coastal Program that is consistent with the policies of the Coastal Act.

0364A



5-85-864
EXHIBIT 1
SITE LOCATION

LOCATION OF THIS PROPOSED



5-85-364
EXHIBIT 2

LOCATION OF RESIDENCE AS PROPOSED

Attachment X

To: Permit Applicants
From: California Coastal Commission, South Coast District
Subject: Standard Conditions

The following standard conditions are imposed on all permits issued by the California Coastal Commission.

I. STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgement. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

Exhibit 7 - Recorded Easement Documents

Recording Requested by and
When Recorded, Mail To:
California Coastal Commission
631 Howard Street, 4th Floor
San Francisco, California 94105
Attention: Legal Department

87-020385

RECORDED IN OFFICIAL RECORDS
OF ORANGE COUNTY, CALIFORNIA



-2 00 PM JAN 13 '87

Lee A. Branch COUNTY
RECORDER

IRREVOCABLE OFFER TO DEDICATE PUBLIC ACCESS EASEMENT

AND

DECLARATION OF RESTRICTIONS

THIS IRREVOCABLE OFFER TO DEDICATE PUBLIC ACCESS EASEMENT AND

DECLARATION OF RESTRICTIONS (hereinafter "offer") is made this 6th day
of August, 19 86, by Walter S Hoffman & Patricia Hoffman, co-Trustees
Hoffman Trust
and Phillip R Hoffman, Trustee for Hoffman Trust
(hereinafter referred to as "Grantor").

I. WHEREAS, Grantor is the legal owner of a fee interest of certain real
property located in the County of Orange, State of
California, and described in the attached Exhibit A (hereinafter referred to as
the "Property"); and

II. WHEREAS, all of the Property is located within the coastal zone as
defined in Section 30103 of the California Public Resources Code (which code is
hereinafter referred to as the "Public Resources Code"); and

III. WHEREAS, the California Coastal Act of 1976, (hereinafter referred to
as the "Act") creates the California Coastal Commission, (hereinafter referred
to as the "Commission") and requires that any coastal development permit
approved by the Commission must be consistent with the policies of the Act set
forth in Chapter 3 of Division 20 of the Public Resources Code; and

IV. WHEREAS, pursuant to the Act, Grantor applied to the California Coastal
Commission for a permit to undertake development as defined in the Act within
the Coastal zone of Orange County (hereinafter the
"Permit"); and

V. WHEREAS, a coastal development permit (Permit No. 5-85-964
CP-85-142)

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STATE OF CALIFORNIA
STD 113 (REV 8-72)

027

1 was granted on July 9, 1986, by the Commission in
 2 accordance with the provision of the Staff Recommendation and Findings,
 3 attached hereto as Exhibit B and hereby incorporated by reference, subject to
 4 the following condition: *Prior to transmittal of the permit, the landowner*
 5 *shall execute and record a document, in a form and content acceptable to the*
 6 *Executive Director, irrevocably offering to dedicate to a public agency or*
 7 *private association approved by the Executive Director, an easement for lateral*
 8 *public access and passive recreational use along the shoreline. The document*
 9 *shall provide that the offer of dedication shall not be used or construed to*
 10 *allow anyone, prior to acceptance of the offer, to interfere with any rights*
 11 *of public access acquired through use which may exist on the property. Such*
 12 *easement shall be located along the entire width of the property from the*
 13 *mean high tide line landward to the dripline of the approved deck... (See p. 2A)*

14
 15
 16
 17 VI. WHEREAS, the subject property is a parcel located between the first
 18 public road and the shoreline; and

19 VII. WHEREAS, under the policies of Sections 30210 through 30212 of the
 20 California Coastal Act of 1976, public access to the shoreline and along
 21 the coast is to be maximized, and in all new development projects located
 22 between the first public road and the shoreline shall be provided; and

23 VIII. WHEREAS, the Commission found that but for the imposition of the above
 24 condition, the proposed development could not be found consistent with the
 25 public access policies of Section 30210 through 30212 of the California Coastal
 26 Act of 1976 and the Local Coastal Program as defined in Public Resources Code
 27 Section 30108.6 and that therefore in the absence of such a condition, a permit
 could not have been granted;

COURT PAPER
 STATE OF CALIFORNIA
 STD. 115 (REV. 9-75)
 03P

(a) Privacy Buffer

There are 16 feet seaward of the dripline of the approved deck shall be identified as a privacy buffer. The privacy buffer shall be restricted to pass and repass only, and shall be available only when no other dry beach areas are available for lateral public access.

(b) The Remaining area shall be available for passive recreation.

The document shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed. The offer 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.

1 IX. WHEREAS, it is intended that this Offer is irrevocable and shall
 2 constitute enforceable restrictions within the meaning of Article XIII, Section
 3 8 of the California Constitution and that said Offer, when accepted, shall
 4 thereby qualify as an enforceable restriction under the provision of the
 5 California Revenue and Taxation Code, Section 402.1;

6 NOW THEREFORE, in consideration of the granting of Permit
 7 No. 5-85-864 to Grantor by the Commission, the owner(s) hereby offer(s) to
 8 dedicate to the People of California an easement in perpetuity for the purposes
 9 of public access and passive recreational use along the shoreline.

10
 11 located on the subject property ~~XXXXXX XXXX XXXX~~ between the
 12 dripline of the approved deck and the mean high tide line. The
 13 area 10 feet seaward of the dripline of the deck shall be a privacy
 14 buffer, restricted to pass and repass only, and available only for
 15 no other dry beach areas are available for public access. The
 16 remaining area shall be available for public passive recreation.
 17 and as specifically set forth by attached Exhibit C hereby incorporated by
 18 reference.

19 1. BENEFIT AND BURDEN. This Offer shall run with and burden the
 20 Property and all obligations, terms, conditions, and restrictions hereby
 21 imposed shall be deemed to be covenants and restrictions running with the land
 22 and shall be effective limitations on the use of the Property from the date of
 23 recordation of this document and shall bind the Grantor and all successors and
 24 assigns. This Offer shall benefit the State of California.

25 2. DECLARATION OF RESTRICTIONS. This offer of dedication shall not
 26 be used or construed to allow anyone, prior to acceptance of the offer, to
 27 interfere with any rights of public access acquired through use which may exist
 28 on the Property.

29 //
 30 //

1 3. ADDITIONAL TERMS, CONDITIONS, AND LIMITATIONS. Prior to the
2 opening of the accessway, the Grantee, in consultation with the Grantor, may
3 record additional reasonable terms, conditions, and limitations on the use of
4 the subject property in order to assure that this Offer for public access is
5 effectuated.

6 4. CONSTRUCTION OF VALIDITY. If any provision of these restrictions
7 is held to be invalid or for any reason becomes unenforceable, no other
8 provision shall be thereby affected or impaired.

9 5. SUCCESSORS AND ASSIGNS. The terms, covenants, conditions,
10 exceptions, obligations, and reservations contained in this Offer shall be
11 binding upon and inure to the benefit of the successors and assigns of both the
12 Grantor and the Grantee, whether voluntary or involuntary.

13 6. TERM. This irrevocable offer of dedication shall be binding for a
14 period of 21 years starting from the date of recordation. Upon recordation of
15 an acceptance of this Offer by the Grantee, this Offer and terms, conditions,
16 and restrictions shall have the effect of a grant of access easement in gross
17 and perpetuity that shall run with the land and be binding on the parties,
18 heirs, assigns, and successors. The People of the State of California shall
19 accept this offer through the local government in whose jurisdiction the
20 subject property lies, or through a public agency or a private association
21 acceptable to the Executive Director of the Commission or its successor in
22 interest.

23 //

24 //

25 //

26 //

27 //

87-020385

1 Acceptance of the Offer is subject to a covenant which runs with the
2 land, providing that any offeree to accept the easement may not abandon it but
3 must instead offer the easement to other public agencies or private
4 associations acceptable to the Executive Director of the Commission for the
5 duration of the term of the original Offer to Dedicate.

6 Executed on this 6th day of August 1986, at Mission Viejo
7 _____, California.

8 Signed

Hoffman Trust

Walter S. Hoffman
Owner

Patricia Hoffman, Co-Trustee
Type or Print

12 Signed

Philip Hoffman, Trustee

14 Type or Print

15 NOTE TO NOTARY PUBLIC: If you are notarizing the signatures of persons signing
16 on behalf of a corporation, partnership, trust, etc., please use the correct
17 notary acknowledgment form as explained in your Notary Public Law Book.

18 State of California.)

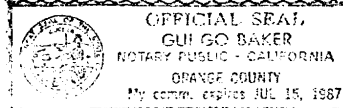
19 County of Orange)

20 On this 6th day of August, in the year 1986.

21 before me Gui Go Baker, a Notary Public, personally
22 appeared Walter Hoffman & Patricia Hoffman, Co Trustee and Philip R Hoffman, Trustee
23 personally known to me (or proved to me on the basis of satisfactory evidence)
24 to be the person(s) whose name is subscribed to this instrument, and
25 acknowledged that he/she/they executed it.

26 NOTARY PUBLIC IN AND FOR
27 SAID STATE AND COUNTY

-5-



COURT PAPER
STATE OF CALIFORNIA
STD 113, REV. 8-73

OSP

This is to certify that the Offer to Dedicate set forth above is hereby acknowledged by the undersigned officer on behalf of the California Coastal Commission pursuant to the action of the Commission when it granted Coastal Development Permit No. 5-85-864 on July 9, 1986 and the California Coastal Commission consents to recordation thereof by its duly authorized officer.

Dated: August 29, 1986

Jane K. McCoy
Jane K. McCoy, staff counsel
 California Coastal Commission

STATE OF California

COUNTY OF San Francisco

On August 29, 1986, before me the undersigned, a Notary Public, personally appeared Jane K. McCoy, personally known to me to be (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument as the Staff Counsel TITLE and authorized representative of the California Coastal Commission and acknowledged to me that the California Coastal Commission executed it.



Deborah A. Minardi
 NOTARY PUBLIC IN AND FOR
 SAID STATE AND COUNTY

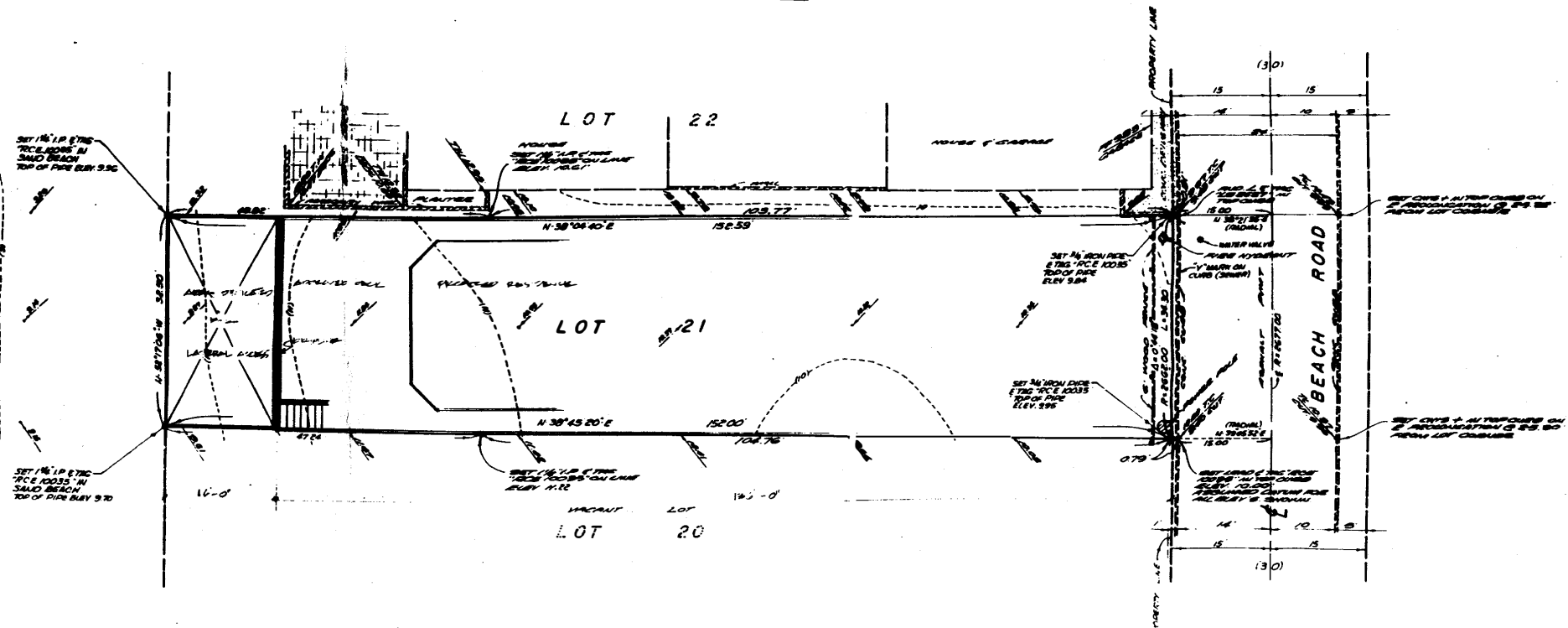
EXHIBIT "A"

Lot 21 in Block 2 of Tract No. 889, as shown on a map thereof recorded in Book 27, Pages 17 to 21, inclusive, Miscellaneous Maps, Records of said Orange County.

EXCEPT any and all coal, oil, and other minerals within or underlying said land and the rights relating to said substances, as excepted in the deed from Consolidated Pacific Investment Co., recorded December 6, 1945, in Book 1376, Page 175, Official Records, in the office of the County Recorder of said Orange County, such exception, however, being so modified by an instrument recorded March 17, 1947, in Book 1482, Page 423, Official Records, in the office of the County Recorder of said Orange County, that Consolidated Pacific Investment Co. shall not have the right to use any of the surface of the land from which such exception was made by it in the tract in which the property above described is situated.

PERMIT # 5-25-214 (HOPMAN)

EXHIBIT 'C' LATERAL PUBLIC ACCESS



**SURVEY AND TOPOGRAPHY MAP
OF LOT 21, IN BLOCK 2, OF TRACT NO. 889.**

CAPISTRANO BEACH, CALIF.

SCALE: 1" = 8'

JUNE, 1995.

REQUESTED BY: DEBRA FLETCHER

**PREPARED BY: SOUTH COAST ENGINEERING SERVICE
420 NORTH EL CAMINO REAL
SAN CLEMENTE, CALIF 92672
(714) 452-3241**

**BY: [Signature] C.E. 2
PUBLIC MAPS - 1995**

PLEASE COMPLETE THIS INFORMATION

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

Clerk of the Board of Supervisors
County of Orange
10 Civic Center Plaza
P.O. Box 687
Santa Ana, CA 92702-0687

Recorded in Official Records, County of Orange
Darlene Bloom, Interim Clerk-Recorder

NO FEE
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130 11 R28 7
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Recording Fee Exempt
Per Govt. Code 27383

THIS SPACE FOR RECORDER'S USE ONLY

TITLE OF DOCUMENT: Resolution

Resolution No. 02-215

Resolution of the Board of Supervisors of
Orange County, California

Acceptance of 24 Lateral Beach Easements

Agenda Date: July 23, 2002

Item No.: 28

File No.: 2002-017

Parcel Number and addresses in the City of Laguna Beach:

1. Parcel BE74M-166: 31801 S. Coast Highway
2. Parcel BE74M-167: 32177 S. Coast Highway
3. Parcel BE74M-168: 32001 S. Coast Highway
4. Parcel BE74M-169: 24 S. La Senda Drive
5. Parcel BE74M-170: 31625 S. Coast Highway
6. Parcel BE74M-171: 32321 La Senda Drive
7. Parcel BE74M-172: 88 and 90 S. La Senda Drive
8. Parcel BE74M-173: 31021 S. Coast Highway
9. Parcel BE74M-174: 32175 S. Coast Highway
10. Parcel BE74M-175: 31845 S. Coast Highway
11. Parcel BE74L-103: 112 S. La Senda Drive
12. Parcel BE74L-104: 108 S. La Senda Drive
13. Parcel BE74L-105: 11 La Senda Place
14. Parcel BE74L-106: 105 S. La Senda Drive

Continued on next page

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION
(Additional recording fee applies)

D:\CBeal_Jobs\2002-017 Beach IOD\2002-017 ME Res Title Page.doc

Description: Orange, CA Document-Year.DocID 2002.647272 Page: 1 of 7
Order: 9 Comment:

California Coastal Commission

2002-0037
Exhibit 7
Page 10 of 10

RECEIVED 07/14/04 11:07AM: ->0; #380; PAGE 2

Resolution No. 02-215 Continued

Parcel Number and addresses in the City of Dana Point:

1. Parcel BE74Q-113: 53 Monarch Bay Drive
2. Parcel BE74Q-114: 32875 Monarch Bay
3. Parcel BE78F-305: 35135 Beach Road
4. Parcel BE78F-402: 35251 Beach Road
5. Parcel BE78F-601: 35525 Beach Road
6. Parcel BE78F-604: 35465 Beach Road
7. Parcel BE78F-803: 35671 Beach Road
8. Parcel BE78F-804: 35685 Beach Road
9. Parcel BE78F-805: 35655 Beach Road
10. Parcel BE78F-806: 35687 Beach Road

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION
(Additional recording fee applies)

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Description: Orange, CA Document-Year.DocID 2002, 647272 Page: 2 of 7
Order: 9 Comment:

California Coastal Commission

A-5-DPT-22-0037

Exhibit 7

05/14/2004 10:57PM

10/14/04 11:07AM: -> #380: PAGE 3

NO. 8084-P. 3

1
2
3 **RESOLUTION OF THE BOARD OF SUPERVISORS OF**
4 **ORANGE COUNTY, CALIFORNIA**

5 **July 23, 2002**

6 **WHEREAS, the State of California, acting through the California Coastal Commission,**
7 **required the owners of certain coastal properties to provide for lateral public access easements as**
8 **a condition of their coastal development permits; and**

9 **WHEREAS, to fulfill the development conditions twenty-four property owners executed**
10 **Irrevocable Offers of Dedication (IOD) offering the California Coastal Commission public**
11 **access and passive recreational use easements, which are described in the documents recorded in**
12 **the office of the Orange County Recorder listed on Exhibit "A" attached hereto; and**

13 **WHEREAS, the California Coastal Commission, the State of California and PFRD/HBP**
14 **staff have determined that is now appropriate for the County of Orange to accept, on behalf of**
15 **the State of California, the twenty-four easements for public access and passive recreational use**
16 **as offered in said recorded documents listed on Exhibit "A".**

17 **NOW, THEREFORE, BE IT RESOLVED that this Board does hereby:**

18 1. Find that the proposed project is Categorically Exempt (General Rule Class) from the
19 provisions of CEQA.

20 2. Find that the proposed project will not have a significant unmitigated impact upon
21 Coastal Sage Scrub habitat and, therefore, will not preclude the ability to prepare an effective
22 Subregional Natural Communities Conservation Planning (NCCP) Program.

23 3. Find that pursuant to Section 711.4 (c)(2)(A) of the California Fish and Game Code, this
24 project is exempt from the required fees, as it is categorically exempt from CEQA.

25 ///

26 ///

27 Resolution No. 02-215
28 Acceptance of Twenty-four
Irrevocable Offers of Dedication.
CMD:azs

1 4. Based on the foregoing findings, accept the twenty-four easements for Public Access and
2 Passive Recreational use as offered in those certain documents listed on Exhibit "A" and recorded in the
3 office of the County Recorder of Orange County, California.

4 5. Direct that a certified copy of this Resolution, attested by the Clerk under seal be
5 forwarded to PFRD, Right-of-Way Engineering for recordation.

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The foregoing was passed and adopted by the following vote of the Orange County Board of Supervisors, on July 23, 2002, to wit:

AYES:	Supervisors:	THOMAS W. WILSON, CHARLES V. SMITH, JAMES W. SILVA CYNTHIA P. COAD
NOES:	Supervisor(s):	
EXCUSED:	Supervisor(s):	TODD SPITZER
ABSTAINED:	Supervisor(s):	

Cynthia P. Coad
CHAIR

STATE OF CALIFORNIA)
COUNTY OF ORANGE)

I, DARLENE J. BLOOM, Clerk of the Board of Orange County, California, hereby certify that a copy of this document has been delivered to the Chair of the Board and that the above and foregoing Resolution was duly and regularly adopted by the Orange County Board of Supervisors.

IN WITNESS WHEREOF, I have hereto set my hand and seal.

Darlene J. Bloom
DARLENE J. BLOOM
Clerk of the Board
County of Orange, State of California



Resolution No: 02-215
Agenda Date: 07/23/2002
Item No: 28



I certify that the foregoing is a true and correct copy of the Resolution adopted by the Board of Supervisors, Orange County, State of California

DARLENE J. BLOOM, Clerk of the Board of Supervisors

By: Jason Maule
Deputy

Exhibit A

<u>Parcel Number</u>	<u>Address</u>	<u>IOD Recorded in Official Records</u>	<u>Recording Date</u>
1. BE74M-166	31801 S. Coast Highway Laguna Beach, California	14270/982	October 27, 1981
2. BE74M-167	32177 S. Coast Highway Laguna Beach, California	82-102099	March 24, 1982
3. BE74M-168	32001 S. Coast Highway Laguna Beach, California	12480/1516	December 5, 1977
4. BE74M-169	24 S. La Senda Drive Laguna Beach, California	83-482230	November 1, 1983
5. BE74M-170	31625 S. Coast Highway Laguna Beach, California	84-095669	March 7, 1984
6. BE74M-171	32321 La Senda Drive Laguna Beach, California	84-436139	October 23, 1984
7. BE74M-172	88 & 90 S. La Senda Drive Laguna Beach, California	86-643973	December 26, 1986
8. BE74M-173	31021 S. Coast Highway Laguna Beach, California	87-704469	December 22, 1987
9. BE74M-174	32175 S. Coast Highway Laguna Beach, California	14001/1085	March 30, 1981
10. BE74M-175	31845 S. Coast Highway Laguna Beach, California	82-294931	August 23, 1982
11. BE74L-103	112 S. La Senda Drive Laguna Beach, California	82-339678	September 27, 1982
12. BE74L-104	108 S. La Senda Drive Laguna Beach, California	83-278427	June 29, 1983
13. BE74L-105	11 La Senda Place Laguna Beach, California	84-137109	April 3, 1984
14. BE74L-106	105 S. La Senda Drive Laguna Beach, California	84-384804	September 17, 1984

Page 1 of 2

Exhibit A

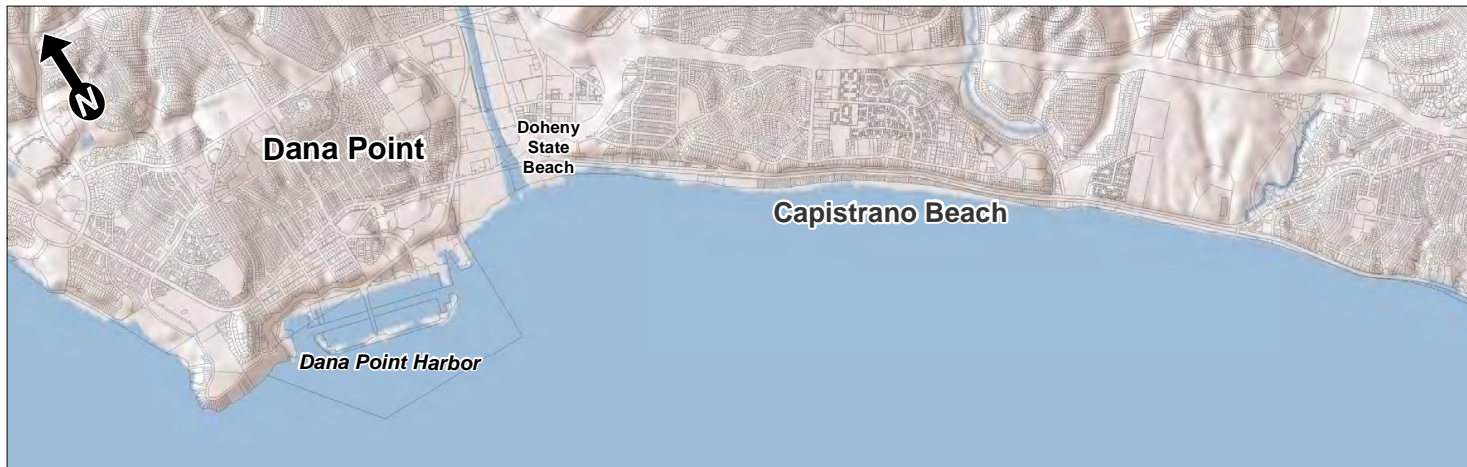
<u>Parcel Number</u>	<u>Address</u>	<u>IOD Recorded in Official Records</u>	<u>Recording Date</u>
15. BE74Q-113	53 Monarch Bay Drive Dana Point, California	85-377839 86-196496*	October 2, 1985 May 14, 1986
16. BE74Q-114	32875 Monarch Bay Dana Point, California	85-163148	May 6, 1985
17. BE78F-305	35135 Beach Road Dana Point, California	83-516593	November 8, 1983
18. BE78F-402	35251 Beach Road Dana Point, California	83-217167	May 23, 1983
19. BE78F-601	35525 Beach Road Dana Point, California	87-020385	January 13, 1987
20. BE78F-604	35465 Beach Road Dana Point, California	89-610072 89-680479*	November 13, 1989 December 15, 1989
21. BE78F-803	35671 Beach Road Dana Point, California	85-236867	June 27, 1985
22. BE78F-804	35685 Beach Road Dana Point, California	86-513725	October 29, 1986
23. BE78F-805	35655 Beach Road Dana Point, California	85-165119	May 7, 1985
24. BE78F-806	35687 Beach Road Dana Point, California	87-060587	February 3, 1987

*=Re-recorded Document

Exhibit 8 – Capistrano Beach Easements Map



Capistrano Beach - Public Shoreline Access - Dana Point, Orange County



Click on a number below to go to the corresponding exhibit, or Page Down.



Capistrano Beach - Public Shoreline Access - Dana Point, Orange Co. - #1 of 6



- Public Access Easement extending from DHWL inland 25 ft, and no closer than 10 ft from structure
- Public Access Easement extending from MHTL inland 25 ft, and no closer than 5 ft from structure
- Public Access Easement extending from MHTL inland 25 ft, and no closer than 10 ft from structure

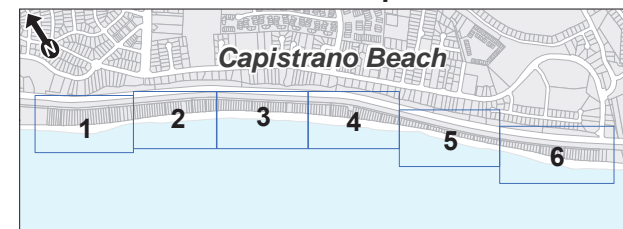
- Public Access Easement extending from MHTL inland to structure
- Public Access Easement extending from DHWL inland 25 ft, and no closer than 5 ft from structure
- Public Access Easement extending from MHTL inland to structure, with a 10 ft privacy buffer from structure

Imagery Source: Copyright 2010 Kenneth & Gabrielle Adelman
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Images processed with DoubleTake, Copyright 2010 Henrik Dalgaard

Note: All easement boundary locations are approximate. For illustrative purposes only. Under California Law the "Mean High Tide Line" ("MHTL") is a feature of the natural landscape that may vary in location, or "ambulate," as a result of tidal influence. Accordingly, where this graphic indicates that the seaward boundary of a particular easement coincides with the MHTL, the location of that seaward boundary will vary with the location of the MHTL. In addition to the Public Access Easement areas, under California Law the public has the right to use all lands seaward of the ambulatory MHTL. This ambulatory quality also applies to the "Daily High Water Line" ("DHWL") and, subsequently, to easements in which the seaward boundary coincides with the DHWL.

Not To Scale

Index Map



DSM, Updated September 2012









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Capistrano Beach - Public Shoreline Access - Dana Point, Orange Co. - #2 of 6



Note: In addition to the Public Access Easement areas, under the California Constitution the public has the right to use all lands seaward of the ambulatory mean high tide line.

-  Public Access Easement extending from DHWL inland 25 ft, and no closer than 10 ft from structure
-  Public Access Easement extending from MHTL inland 25 ft, and no closer than 5 ft from structure
-  Public Access Easement extending from MHTL inland 25 ft, and no closer than 10 ft from structure

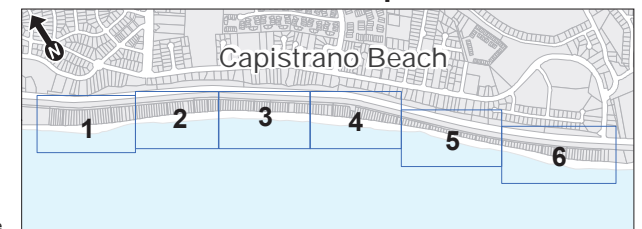
-  Public Access Easement extending from MHTL inland to structure
-  Public Access Easement extending from DHWL inland 25 ft, and no closer than 5 ft from structure
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-  Public Access Easement extending from DHWL inland 25 ft, and no closer than 10 ft from structure
-  Public Access Easement extending from MHTL inland 25 ft, and no closer than 5 ft from structure
-  Public Access Easement extending from MHTL inland 25 ft, and no closer than 10 ft from structure

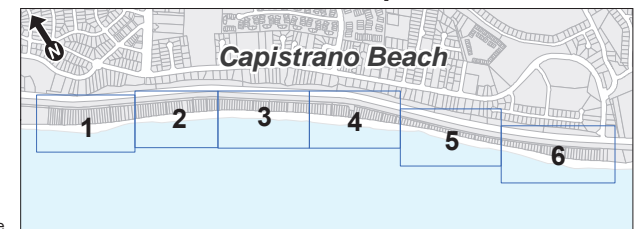
-  Public Access Easement extending from MHTL inland to structure
-  Public Access Easement extending from DHWL inland 25 ft, and no closer than 5 ft from structure
-  Public Access Easement extending from MHTL inland to structure, with a 10 ft privacy buffer from structure

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Not To Scale

Index Map






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-  Public Access Easement extending from DHWL inland 25 ft, and no closer than 10 ft from structure
-  Public Access Easement extending from MHTL inland 25 ft, and no closer than 5 ft from structure
-  Public Access Easement extending from MHTL inland 25 ft, and no closer than 10 ft from structure

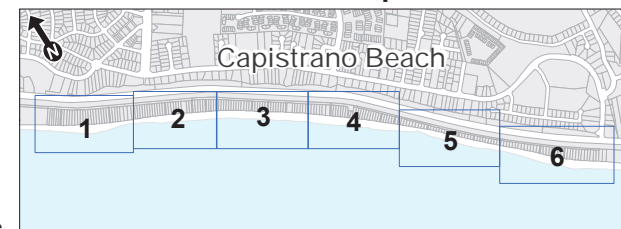
-  Public Access Easement extending from MHTL inland to structure
-  Public Access Easement extending from DHWL inland 25 ft, and no closer than 5 ft from structure
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Not To Scale

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- Public Access Easement extending from DHWL inland 25 ft, and no closer than 10 ft from structure
- Public Access Easement extending from MHTL inland 25 ft, and no closer than 5 ft from structure
- Public Access Easement extending from MHTL inland 25 ft, and no closer than 10 ft from structure

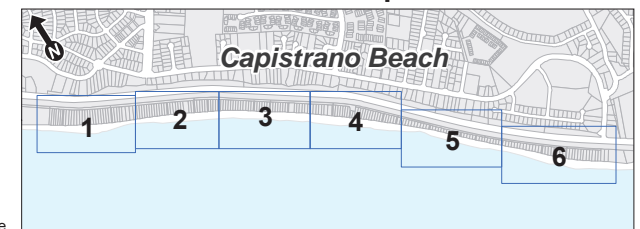
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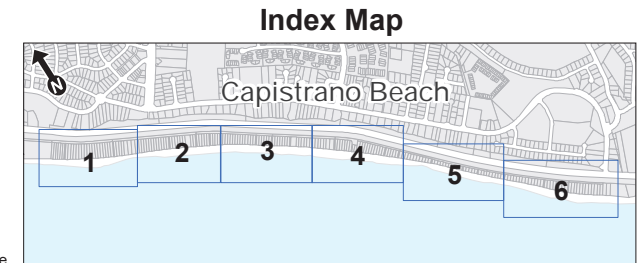
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- Public Access Easement extending from MHTL inland 25 ft, and no closer than 10 ft from structure

- Public Access Easement extending from MHTL inland to structure
- Public Access Easement extending from DHWL inland 25 ft, and no closer than 5 ft from structure
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Not To Scale

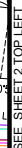


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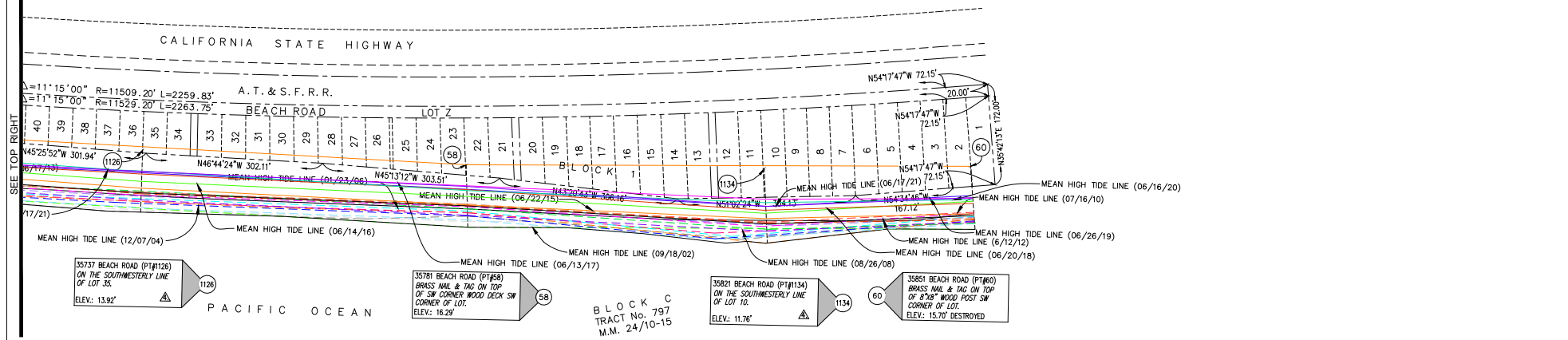
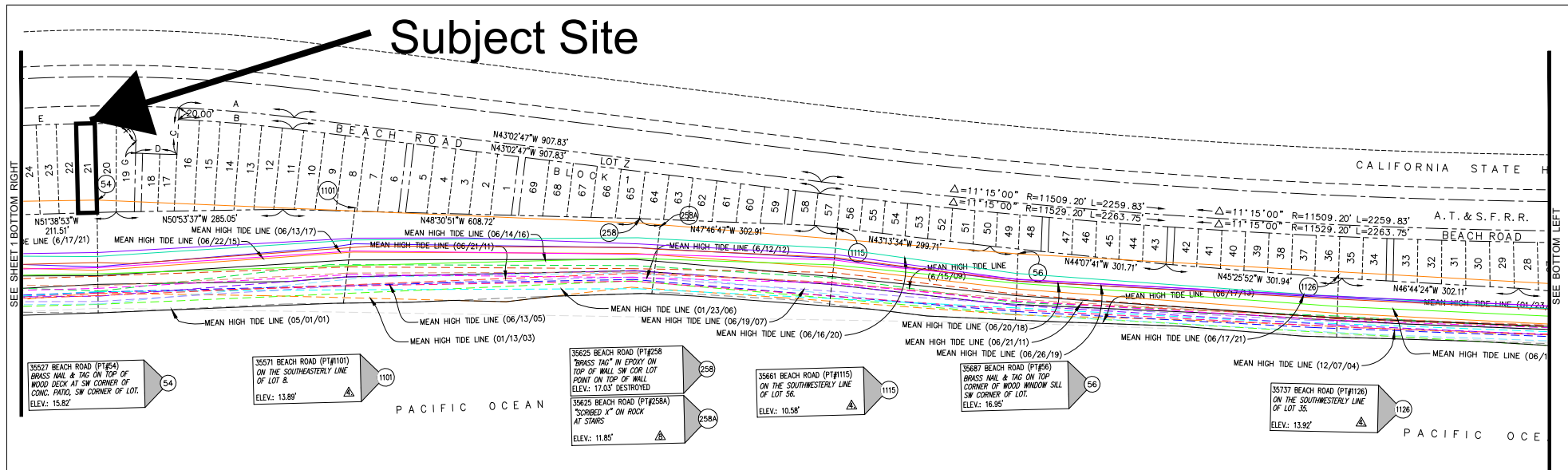


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CALIFORNIA STATE HIGHWAY



Subject Site



LINE TABLE	
C	N42°45'22"E 80.00'
G	N41°12'25"E 20.13'

CURVE TABLE	
A	Δ=04°11'51" R=2692.00' L=197.22'
B	Δ=04°11'51" R=2672.00' L=190.75'
D	Δ=01°32'59" R=2612.00' L=70.85'
E	Δ=04°53'28" R=2662.00' L=227.21'
F	Δ=90°38'40" R=29.87' L=46.97'

NOTE:
MEAN HIGH TIDE LINE IS
LOCATED AT ELEVATION 1.94' MSL

BASIS OF BEARINGS:
BEARINGS SHOWN HEREON ARE BASED UPON THE GRID
BEARINGS BETWEEN D.C.S. CONTROL STATIONS #4431
AND #2225, SAID BEARING BEING N52° 33' 14" W.
NOTE: THE BEARINGS SHOWN FOR THE BOUNDARY OF
TRACT 888 HAVE BEEN ROTATED FROM RECORD TO GRID.
THE DISTANCES SHOWN ARE RECORD PER SAID TRACT.

BENCH MARK:
ELEVATIONS SHOWN HEREON ARE BASED D.C.S. BENCH MARK
NO. 38-51-69,
ELEVATION 17.45 FEET MSL, N.O.D. 28, 1995 ADJUSTMENT.

NOTE
SEE SHEET 3 FOR DISTANCE FROM
CONTROL POINT TO MEAN HIGH TIDE
LINE

LEGEND	
—	WHTL 5-01-01
—	WHTL 8-18-02
—	WHTL 11-13-02
—	WHTL 12-7-04
—	WHTL 06-13-05
—	WHTL 05-23-06
—	WHTL 06-19-07
—	WHTL 06-26-09
—	WHTL 06-15-09
—	WHTL 07-16-10
—	WHTL 06-21-11
—	WHTL 06-12-12
—	WHTL 06-17-13
—	WHTL 06-17-14
—	WHTL 06-22-15
—	WHTL 06-14-16
—	WHTL 06-15-17
—	WHTL 06-20-18
—	WHTL 06-28-19
—	WHTL 06-16-20
—	WHTL 06-17-21

