

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

W12c

A-5-DPT-23-0004 (Seidensticker)

APRIL 12, 2023

EXHIBITS

Exhibit 1 – Vicinity Map.....	2
Exhibit 2 – City Approved Plans.....	4
Exhibit 3 – Local CDP 20-0006.....	20
Exhibit 4 – Appeal.....	41
Exhibit 5 – Coastal Hazards Figures.....	65
Exhibit 6 – Beach Rd MHTL Survey (dated June 17, 2021).....	67
Exhibit 7 – Current Site Views.....	69

Exhibit 1 – Vicinity Map





Exhibit 2 – City Approved Plans

SEIDENSTICKER RESIDENCE

35697 BEACH ROAD, DANA POINT, CA.

COASTAL DEVELOPMENT PERMIT: CDP 20-0006 SITE DEVELOPMENT PERMIT: SDP 20-0009

ABBREVIATIONS

ACoust	ACOUSTICAL	LAM	LAMINATE
ADJ	ADJACENT	MFR	MANUFACTURER
A.F.F.	ABOVE FINISH FLOOR	MTD	MOUNTED
ALUM	ALUMINUM	MUL	MULLION
APPD	APPROVED	N	NEW
BRD	BOARD	N.I.C.	NOT IN CONTRACT
BLDG	BUILDING	N.T.S.	NOT TO SCALE
CABT	CABINET	O.C.	ON CENTER
CLG	CEILING	P.J.	PANEL JOINT
CLR	CLEAR	PTD	PAINTED
COL	COLUM	REGD	REQUIRED
CONC	CONCRETE	REV	REVISED
CONTR	CONTRACTOR	R.O.	ROUGH OPENING
DET	DETAIL	SECT	SECTION
DIA	DIAMETER	S.S.	STAINLESS STEEL
DR	DOOR	SM	SIMILAR
DRWG	DRAWING	TELE	TELEPHONE
ELEC	ELECTRICAL	THK	THICKNESS
ELEV	ELEVATION	T.O.P.	TOP OF PARAPET
EQ	EQUAL	T.O.S.	TOP OF ROOF
E	EXISTING	T.O.S.	TOP OF SKYLIGHT
FIN	FINISH	TYP	TYPICAL
FLR	FLOOR	UNLESS OTHERWISE	
FMZ	FUEL MODIFICATION ZONE	NOTED	
GA	GAUGE	VERT	VERTICAL
GYP BRD	GYPSUM BOARD	V	VOLTS
HGT	HEIGHT	V.I.F.	VERIFY IN FIELD
HC	HOLLOW CORE	W	WITH
HM	HOLLOW METAL	W	WIDTH
HVAC	HEATING, VENTILATING AND AIR CONDITIONING	WD	WOOD

SYMBOLS

	KEY NOTE SYMBOL
	DOOR SYMBOL
	WINDOW SYMBOL
	ROOM NAME
	REVISION CLOUD
	DATUM POINT
	NORTH ARROW
	BUILDING SECTION IDENTIFICATION
	SHEET WHERE SECTION IS DRAWN
	EXTERIOR ELEVATION IDENTIFICATION
	SHEET WHERE ELEVATION IS DRAWN
	DETAIL IDENTIFICATION
	SHEET WHERE DETAIL IS DRAWN

PROJECT DESIGN TEAM

PROJECT ADDRESS:	35697 BEACH ROAD DANA POINT, CA 92624
OWNER:	JOHN & MARCELLA SEIDENSTICKER 35697 BEACH ROAD DANA POINT, CA (305) 345-9473
BUILDING DESIGNER:	DOG COTTAGE CCH DESIGN GROUP, INC. 209 AVENIDA 9th MAR SUITE 209 SAN CLEMENTE, CA (760) 444-4833
STRUCTURAL ENGINEER:	LOVELACE ENGINEERING, INC. 5930 CORNELLONE CT. SUITE 100 SAN DIEGO, CA 92121 (858) 535-9111
SOILS ENGINEER & WAVE RUN UP REPORT	GEORGE, INC. (GS) 5741 PALMER WAY CARLSBAD, CA 92010 (760) 458-3155
SURVEYOR & CIVIL ENGINEER:	TOAL ENGINEERING, INC. 139 AVENIDA HAVARDO SAN CLEMENTE, CA 92672 (949) 492-8586
LANDSCAPE ARCHITECT:	JIM PEKARSKIE 1219 GARNADO SAN CLEMENTE, CA 92673 (949) 364-4845
TITLE/24 ENERGY CALCULATIONS:	CASTRANS ENERGY 2238 BAYVIEW HEIGHTS, STE. E LOS OCOS, CA 93402 (850) 904-9048

SITE DATA

ASSESSORS NUMBER: 691-162-05
LEGAL DESCRIPTION: LOT 45, BLOCK 1 OF TRACT #889
LOT SIZE: 2,476 SF

FLOOR AREA

- 2nd LEVEL AREA ABOVE BFE 1,278 SF
- 3rd LEVEL AREA ABOVE BFE 1,432 SF
- TOTAL LIVING AREA 2,710 SF
- GARAGE AREA 1,298 SF
- MASTER SUITE BALCONY 284 SF
- FIRST LEVEL DECK 251 SF
- LANDSCAPE AREA 230 SF

ZONING ANALYSIS

ZONE:	REQUIRED	PROPOSED
GROUP/OCCUPANCY:	R3/U	
SETBACKS:		
FRONT YARD -	6.0' (DPZC 9.09.040) (a)(1) (10)	6'-0"
SIDE YARD -	3.5' (DPZC 9.09.040) (a)(2)(c)(1)	3'-5"
WEST P.Y. STRUCTURE STRING LINE -	4'-0"	4'-0"
EAST P.Y. STRUCTURE STRING LINE -	4'-0"	4'-0"
WEST P.Y. PATIO STRING LINE -	6'-0"	6'-0"
EAST P.Y. PATIO STRING LINE -	6'-0"	6'-0"
MAX. BUILDING HEIGHT -	20' (10)	20'
PARKING SPACES (10' 0" X 20' 0")	3	4
MIN. LANDSCAPE COVERAGE -	10% (2475sf) (11)	250sf

- (9) - ROOF PITCH 6:12 OR GREATER THE MAX. BUILDING HEIGHT SHALL NOT EXCEED 28'-0" ABOVE BFE.
(10) - FRONT SETBACK FOR THE FIRST FLOOR AS MEASURED FROM THE RIGHT-OF-WAY LINE OF BEACH ROAD.
THE SECOND FLOOR MAY PROJECT A MAXIMUM OF FIVE (5) FEET INTO THE REQUIRED FRONT YARD SETBACK. (SECTION 9.09.030)
(11) - A MINIMUM OF TEN (10) PERCENT OF THAT PORTION OF THE LOT AREA BOUNDED BY THE SIDE PROPERTY LINES, THE BEACH ROAD PROPERTY LINE AND THE STRUCTURE STRING LINE. (SECTION 9.09.030)

PERMIT INFORMATION

COASTAL DEVELOPMENT PERMIT: CDP 20-0006
SITE DEVELOPMENT PERMIT: SDP 20-0009

CODES

2019 CALIFORNIA BUILDING CODE	
2019 CALIFORNIA GREEN BUILDING STANDARDS CODE	
2019 CALIFORNIA BUILDING CODE - ELECTRICAL	
2019 CALIFORNIA BUILDING CODE - PLUMBING	
2019 CALIFORNIA BUILDING CODE - MECHANICAL	
2019 CALIFORNIA BUILDING CODE - FIRE	
2019 CALIFORNIA BUILDING CODE - ENERGY STANDARDS	
2019 CALIFORNIA GREEN BUILDING STANDARDS	
CITY OF DANA POINT BUILDING CODE	
WATER CLOSETS	1.28 GALLONS PER FLUSH
SINGLE SHOWER HEAD *	1.8 GALLONS PER MINUTE @80psi
KITCHEN FAUCET **	1.8 GALLONS PER MINUTE @80psi
LAUNDRY SINK FAUCET	1.2 GALLONS PER MINUTE @80psi
FOR MULTIPLE SHOWER HEADS SERVING ONE SHOWER,	
THE COMBINED FLOW RATE OF ALL SHOWER HEADS	
CONTROLLED BY A SINGLE VALVE SHALL NOT EXCEED 1.8	
GALLONS PER MINUTE @80 psi OR THE SHOWER SHALL BE	
DESIGNED TO ALLOW ONLY ONE SHOWER OUTLET TO BE IN	
OPERATION AT A TIME.	
** KITCHEN FAUCETS MAY TEMPORARILY INCREASE THE FLOW	
ABOVE THE MAXIMUM RATE BUT NOT EXCEED 2.2 GALLONS PER	
MINUTE @80psi AND MUST DEFAULT TO A MAXIMUM FLOW	
RATE OF 1.8 GALLONS PER MINUTE @80psi	

DEFERRED ITEMS

- FIRE SPRINKLER/ALARMS PLANS.

SUBMITTAL DOCUMENTS FOR DEFERRED SUBMITTAL ITEMS SHALL BE SUBMITTED TO THE REGISTERED DESIGN PROFESSIONAL IN RESPONSIBLE CHARGE, WHO SHALL REVIEW THEM AND FORWARD THEM TO THE BUILDING OFFICIAL WITH A NOTATION INDICATING THAT THE DEFERRED SUBMITTAL DOCUMENTS HAVE BEEN REVIEWED AND THAT THEY HAVE BEEN FOUND TO BE IN GENERAL CONFORMANCE WITH THE DESIGN OF THE BUILDING. THE DEFERRED SUBMITTAL ITEMS SHALL NOT BE INSTALLED UNTIL THEIR DESIGN AND SUBMITTAL DOCUMENTS HAVE BEEN APPROVED BY THE BUILDING OFFICIAL.

GRADES and DRAINAGE

THE DISCHARGE OF POLLUTANTS TO ANY STORM DRAINAGE SYSTEM IS PROHIBITED. NO SOLID WASTE, PETROLEUM BYPRODUCTS, SOIL PARTICULATE, CONSTRUCTION WASTE MATERIALS, OR WASTEWATER GENERATED ON CONSTRUCTION SITES OR BY CONSTRUCTION ACTIVITIES SHALL BE PLACED, CONVEYED OR DISCHARGED INTO THE STREET, GUTTER OR STORM DRAIN SYSTEM.

ADDRESS NUMBERS

Approved address numbers shall be placed on new and existing buildings and at appropriate additional locations as to be plainly visible and legible from the street or roadway fronting the property from either direction of approach. County Fire Code § 503.3. Address numbers shall be a minimum of 4" in height, and have a minimum of stroke width of 1/16". The address shall be in Arabic numerals or alphabetic letters, and shall contrast with the background. When the building is accessed down a private easement or located on the site where the address numbers are not plainly visible from the public road, a monument, pole, or posted signs shall be located in a location plainly visible from the public street. R319.1

TITLE - 24

COMPLIANCE WITH THE DOCUMENTATION REQUIREMENTS OF THE 2019 ENERGY EFFICIENCY STANDARDS IS NECESSARY FOR THIS PROJECT. REGISTERED, SIGNED AND DATED COPIES OF THE APPROPRIATE CPFR, CPFR AND CPFR FORMS SHALL BE MADE AVAILABLE AT NECESSARY INTERVALS FOR THE BUILDING INSPECTOR REVIEW. FINAL COMPLETED FORM WILL BE AVAILABLE FOR THE HOME OWNER.

REQUIRED SPECIAL FEATURES

- NONE—

HERS FEATURE SUMMARY

- BUILDING-LEVEL VERIFICATIONS:
 - NONE—
- COOLING SYSTEM VERIFICATION:
 - NONE—
- HEATING SYSTEM:
 - NONE—
- HVAC DISTRIBUTION SYSTEM VERIFICATION:
 - NONE—
- DOMESTIC HOT WATER SYSTEM VERIFICATION:
 - NONE—

SHEET INDEX

ARCHITECTURAL SHEETS:

A0.0	TITLE SHEET
A0.1	EXISTING CONDITION SITE PLAN
A0.2	PROPOSED SITE PLAN
TP.1	TOPOGRAPHY MAP
SS.1	SITE SURVEY
C1	PRELIMINARY GRADING PLAN
A1.0	GARAGE LEVEL FLOOR PLAN
A1.1	1st & 2nd LEVEL NOTED FLOOR PLAN
A1.2	1st & 2nd LEVEL DIMENSION PLAN
A1.3	EXTERIOR ELEVATIONS
A1.4	EXTERIOR ELEVATIONS
A1.5	GARAGE LEVEL FOUNDATION AND ROOF PLAN
A1.6	SECTIONS A and B
A1.7	SECTIONS B 1 and C
A1.8	SECTION D and E
L.1	LANDSCAPE PLAN

FIRE SPRINKLER REQUIREMENT

An automatic residential fire sprinkler system shall be installed (PER NFPA 13.2) in new one and two story dwellings and townhouses and new attached garages. County Building Code 72.2.83.1. Plans shall be submitted to and approved by Orange County Fire prior to framing inspection. County Fire Code 903.4.2.2.1.

PERMANENT POWER and GAS

The proposed residence shall be permanently connected to SDG&E electrical grid and SDG&E Natural Gas.

FUEL MODIFICATION ZONE

AS DETAILED ON THE SITE PLAN



CCH DESIGN GROUP, INC.
BUILDING DESIGN
CONSULTING

CHARLES HENRY, DESIGNER
303 12 SHALLOTT CT.
WINCHESTER, CA 93096
760 644 4833

CHARLES@CCHDESIGNGROUP.COM

CHARLES HENRY, PBD
11/01/2022

DATE

Copyright 2020-2023
This document is the property of
CCH DESIGN GROUP, INC.

This document includes a copyright release and a license to use these plans to construct a single unit, where the purchaser construction documents, CCHD as licensor, is granting to you, as the licensee the right to use these documents to construct a single unit. These are electronic forms, which may not be revised, duplicated, published or distributed without written permission of CCH Design Group, Inc.

PROJECT:
JOHN & MARCELLA
SEIDENSTICKER
35697 BEACH ROAD
DANA POINT, CA

DEVELOPER:

LOCATION:
35697 BEACH ROAD
DANA POINT, CA 92629

SHEET NAME:

COVER SHEET

REVISIONS

No.	DATE	DESCRIPTION
1	09/10/2020	SUBMITTAL CDP/SDP
2	09/09/2020	CDP /SDP CITY CORR. #1
3	10/19/2021	CDP /SDP CITY CORR. #2
4	10/11/21	PLANS RE-SUBMITTED #4
5	02/07/22	PLANS RE-SUBMITTED #5
6	06/09/2022	CDP/SDP CITY CORR. #6
7	10/09/2022	CDP/SDP CITY CORR. #7

PROJECT INFORMATION:

OFFICE PROJECT NO. CCHD20-21-17

DRAWN BY: CCH

SCALE: NOTED

DATE: 11/01/2022

SHEET NO:

A0.0

CDP20-0006
SDP20-0009


California Coastal Commission

A-5-DPT-23-0004

Exhibit 2

Page 1 of 16




CHARLES HEINCY, PhD
11/01/2022
DATE:

Copyright 2006-2019
This document is the property of
CCH DESIGN GROUP, INC.

This document includes a copyright release and a license to use these plans to construct a single unit, when you purchase construction documents. CCHDG as licensor, is granting to you, as the licensee the right to use these documents to construct a single unit. This is an exclusive license which may not be resold, duplicated, published or distributed without written permission of CCH Design Group, Inc.

PROJECT:
**JOHN & MARCELLA
SEIDENSTICKER**
35697 BEACH ROAD
DANA POINT, CA

DEVELOPER:

LOCATION:
35597 BEACH ROAD
DANA POINT, CA

SHEET NAME:

SITE PLAN
EXISTING

REVISIONS:		
No.	DATE	DESCRIPTION
1	03/10/2020	SUBMITTAL CDP/SDP
2	09/12/2020	CDP SDP CITY CORR.
3	05/19/2021	CDP SDP CITY CORR.
4	10/11/21	PLANS RE-SUBMITTED
5	02/07/22	PLANS RE-SUBMITTED
6	06/09/2022	CDP/SDP CITY CORR.
7	10/09/2022	CDP/SDP CITY CORR.

PROJECT INFORMATION:
OFFICE PROJECT NO. CCHOG 15-19

DRAWN BY:	CCH
SCALE:	3/16" = 1'-0"
DATE:	11/01/2022

SHEET NO.

A0.1



CCH DESIGN GROUP, INC.
BUILDING DESIGN
CONSULTING

CHARLES HEINICZ, DESIGNER
33312 SHALLOT CT.
WINCHESTER, CA 95396
760.844.4833

CHARLES@CCHDESIGNGROUP.COM

CHARLES HEINICZ, PBD
11/01/2022
DATE

Copyright 2020-2023

This document is the property of

CCH DESIGN GROUP, INC.

This document includes a copyright notice and a
license to use these plans to construct a single
unit, when you purchase construction documents.
CCHDG as licensor, is granting to you, as the
licensee the right to use these documents to
construct a single unit. This is an exclusive license,
which may not be re-sold, distributed, published or
otherwise used without written permission of CCH
Design Group, Inc.

PROJECT:
JOHN & MARCELLA
SEIDENSTICKER
35697 BEACH ROAD
DANA POINT, CA

DEVELOPER:

LOCATION:
35697 BEACH ROAD
DANA POINT, CA

SHEET NAME:

SITE PLAN
PROPOSED

REVISIONS:

No.	DATE	DESCRIPTION
1	03/10/2020	SUBMITTAL COPY
2	04/10/2020	COPY 1 SDP CITY CORR. #1
3	06/10/2020	COPY 1 SDP CITY CORR. #2
4	10/11/21	PLANS RE-SUBMITTED #4
5	02/07/22	PLANS RE-SUBMITTED #5
6	06/09/2022	COPY SDP CITY CORR. #5
7	10/06/2022	COPY SDP CITY CORR. #7

PROJECT INFORMATION:

OFFICE PROJECT NO. CCHDG 16-19

DRAWN BY: CCH

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

DATE: 11/01/2022

SHEET NO.

A0.2

Existing building

(WEST PATIO STRING LINE) 60'-0"

(WEST STRUCTURE STRING LINE) 47'-0"

(EAST PATIO STRING LINE) 60'-0"

(EAST STRUCTURE STRING LINE) 48'-0"

Existing building

SITE PLAN

PROPOSED

ALL DRAINAGE SHALL BE
MAINTAINED AND IN ACCORDANCE
WITH THE 2019 CALIFORNIA
BUILDING CODE AND THE CITY OF
DANA POINT MUNICIPAL CODE

THE LOWEST HORIZONTAL PORTION
OF THE STRUCTURAL MEMBERS OF
THE LOWEST FLOOR, EXCLUDING
THE PILINGS OR COLLUMS SHALL
BE ELEVATED TO OR ABOVE THE
FUTURE BASE FLOOD ELEVATION
(BFE PER DPCC 3.3.1.0.6 (F1.1))

REFER TO THE CIVIL PLAN FOR ALL
INFORMATION REGARDING FINISH
ELEVATIONS, DIRECTION OF
SURFACE WATER TO BEACH ROAD

WALL SCHEDULE
BREAKAWAY PANEL
EXTERIOR WALL
PARKING AREA
CAISSON w/ STEEL
SUPPORT COLUMN
CHU WALL @ ELEVATOR
@ GARAGE LEVEL ONLY
FINISH ELEVATIONS
(F5)

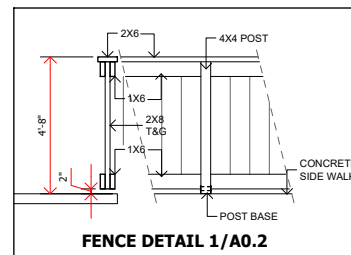
INDICATES BREAKAWAY
PANEL PER FEMA
TECHNICAL BULLETIN #9
DATED 8/2009
INDICATES CAISSON WITH
STRUCTURAL SUPPORT
COLUMN DESIGNED AND
INSTALLED PER FEMA AND
ASCE 34-14
CAISSON PER PLAN
- SEE F16.30

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

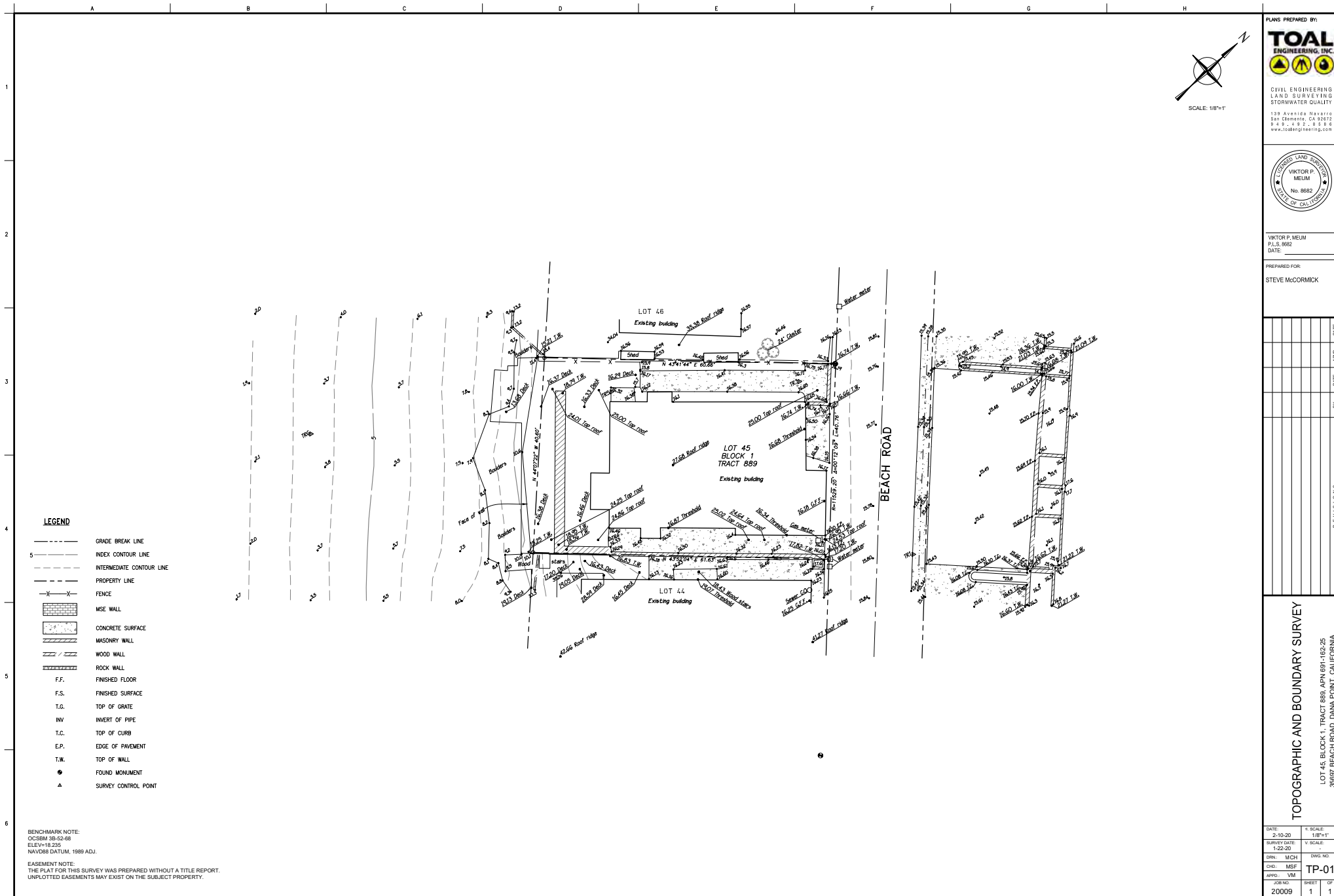


KEY NOTE-SITE PLAN

1. INDICATES PROPERTY LINE
2. 3'-4" SIDE YARD SETBACK (SEC. 9.09.030)(1)
3. 4'-0" FRONT YARD SETBACK (SEC. 9.09.040)(1)
4. INDICATES ROOF OVERHANG - MAX. 2'-4" OVER STRUCTURE STRING LINE
5. INDICATES LIMITS OF NEIGHBORING STRUCTURES
6. LIMITS OF 1/2 LEVEL ABOVE FUTURE BFE (23.00)
7. LIMITS OF BAY WINDOW PROJECTION (9.09.040)(2)(1)
8. (N) WASTE WATER LOCATION
9. (N) GAS METER
10. (N) WOOD GATE 4'-7" HIGH (1-21.71)
11. (N) BALCONY LIMITS AT THE 2ND LEVEL ABOVE THE BFE (SEC. 9.09.040)(2)
12. (N) WOOD STAIRS WITH OPEN RISERS LEADING FROM THE SAND LEVEL TO THE 2ND LEVEL AREA (SEC. 9.09.040)(1)(10)
13. INDICATES BREAKAWAY PANEL PER FEMA TECHNICAL BULLETIN 9
14. (N) WOOD FENCE 4X4 POST SPACED EVENLY, REFER TO DETAIL 1/A0.2 FOR MORE INFORMATION (DPCC 9.09.040)(3)(8)
15. (N) CONCRETE DRIVE
16. (N) 5'-0" UTILITY EASEMENT
17. (N) SAND FINISH CONCRETE SIDEWALK
18. (N) ENTRY PAVING (REFER TO SHEET L-1 FOR ADDITIONAL INFORMATION)
19. (N) CONCRETE SLAB - OUTDOOR SHOWER
20. STRUCTURE STRING LINE
21. PATIO STRING LINE
22. (N) UNDERGROUND ELECTRICAL SERVICE - SMART METER LOCATED ABOVE FUTURE BFE
23. 2ND LEVEL ABOVE GARAGE 3'-0" SETBACK (SEC. 9.05.080)(1)
24. (E) SHEED ON ADJACENT PROPERTY - TO BE RE-LOCATED BY ADJACENT PROPERTY OWNER
25. DASHED LINE INDICATES REQUIRED PARKING AREA 20'-0" BY 20'-0" PLUS AN ADDITIONAL 20'-0" BY 20'-0" PARKING AREA
26. (N) BOLLARDS TO REMAIN
27. (N) EDGE OF WOOD DECK TO BE REMOVED (14.37)
28. (N) CONCRETE SEAWALL TO REMAIN (1W13.21)
29. PLANTER AREA - SEE SHEET L-1
30. (1/23) HAND DRAWN



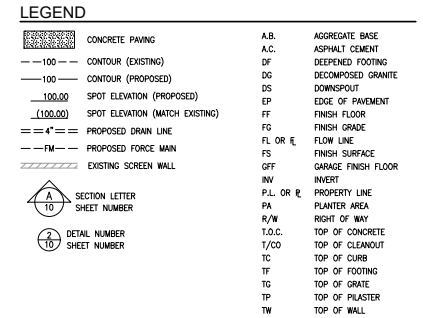
FENCE DETAIL 1/A0.2



16

BY Joseph J. Carr
DEPUTY

DUPLICATE



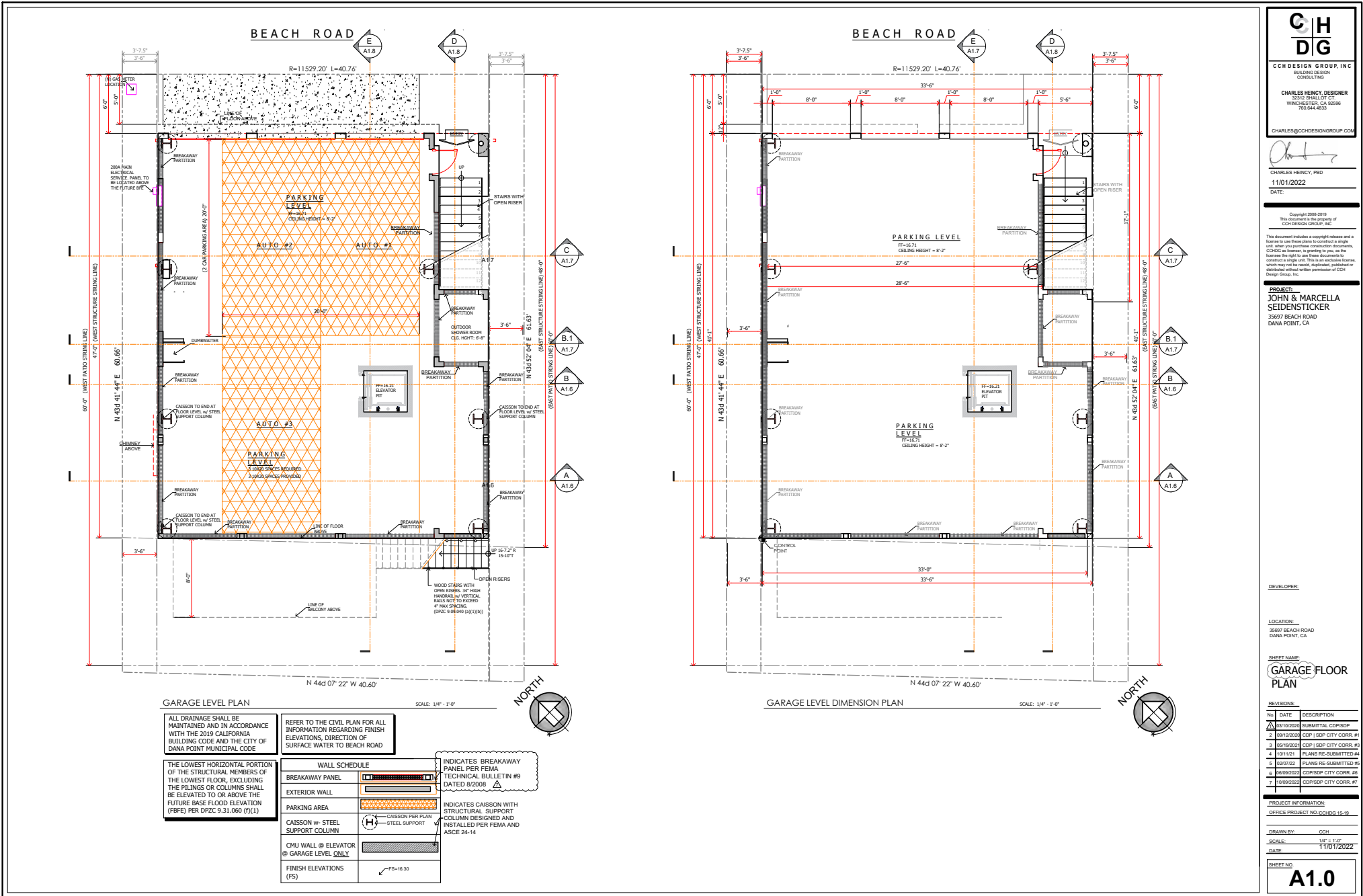
1. ALL ROOFS SHALL BE GUTTERED AND DOWNSPOUTS CONNECTED TO THE STORM DRAIN SYSTEM.
2. WHERE EXTERIOR/INTERIOR UTILITY TRENCHES ARE PROPOSED IN A DIRECTION THAT PARALLELS ANY BUILDING FOOTING, THE BOTTOM OF THESE TRENCHES SHALL NOT EXTEND BELOW A 11" PARALLEL LINE PROJECTED DOWNWARD FROM THE BOTTOM EDGE OF FOOTING. WHERE THIS OCCURS, ADJACENT FOOTING SHALL BE DEEPENED 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 1% TOWARD OUTLET.
5. ALL WORK IN PUBLIC RIGHT OF WAY SHALL BE UNDER A SEPARATE ENCROACHMENT PERMIT.

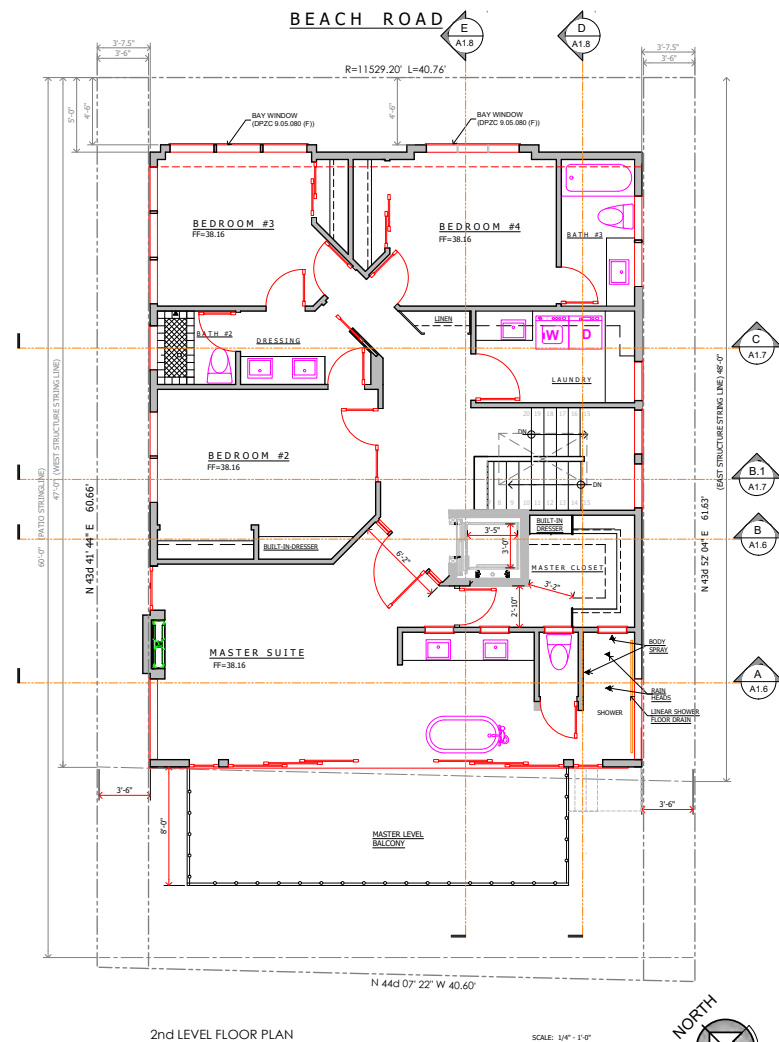
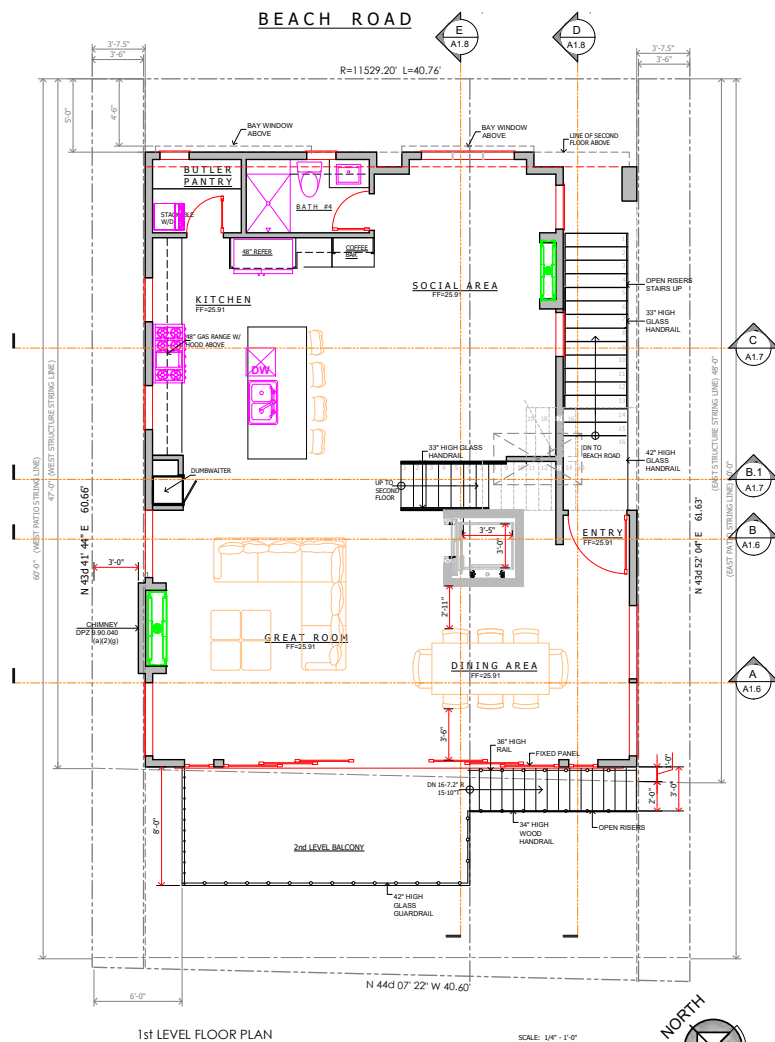
UNLESS NOTED OTHERWISE, ALL EXISTING ON-SITE IMPROVEMENTS SHALL BE REMOVED AND PROPERLY DISPOSED OF.

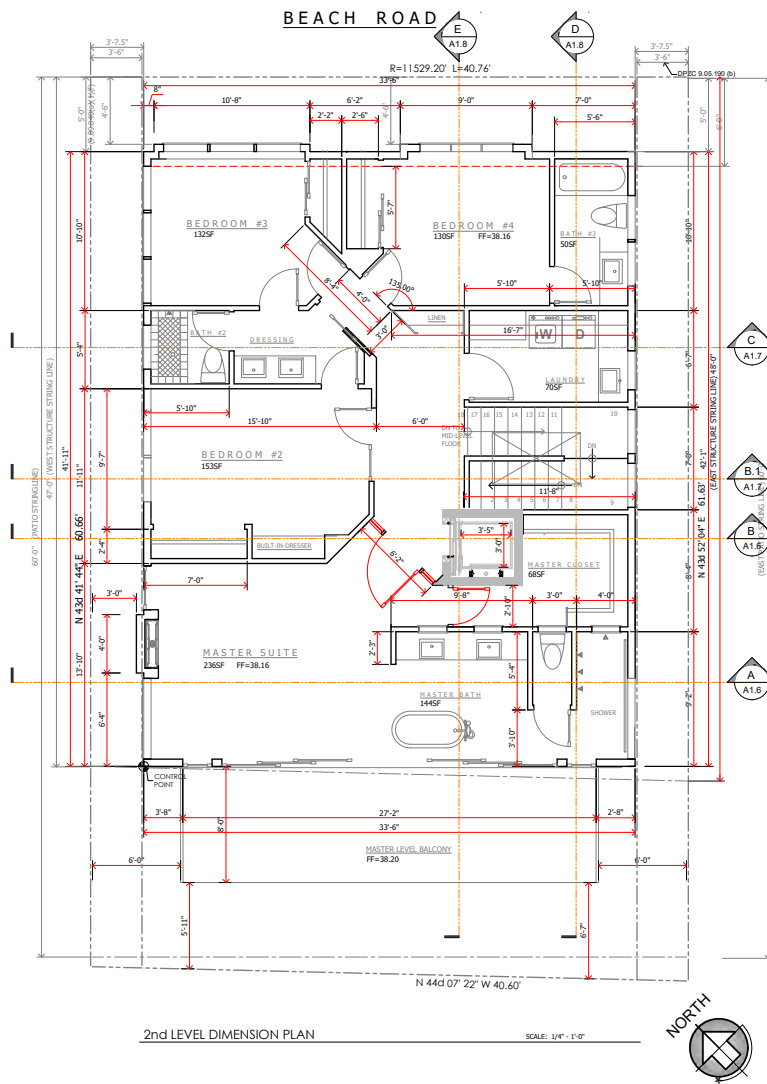
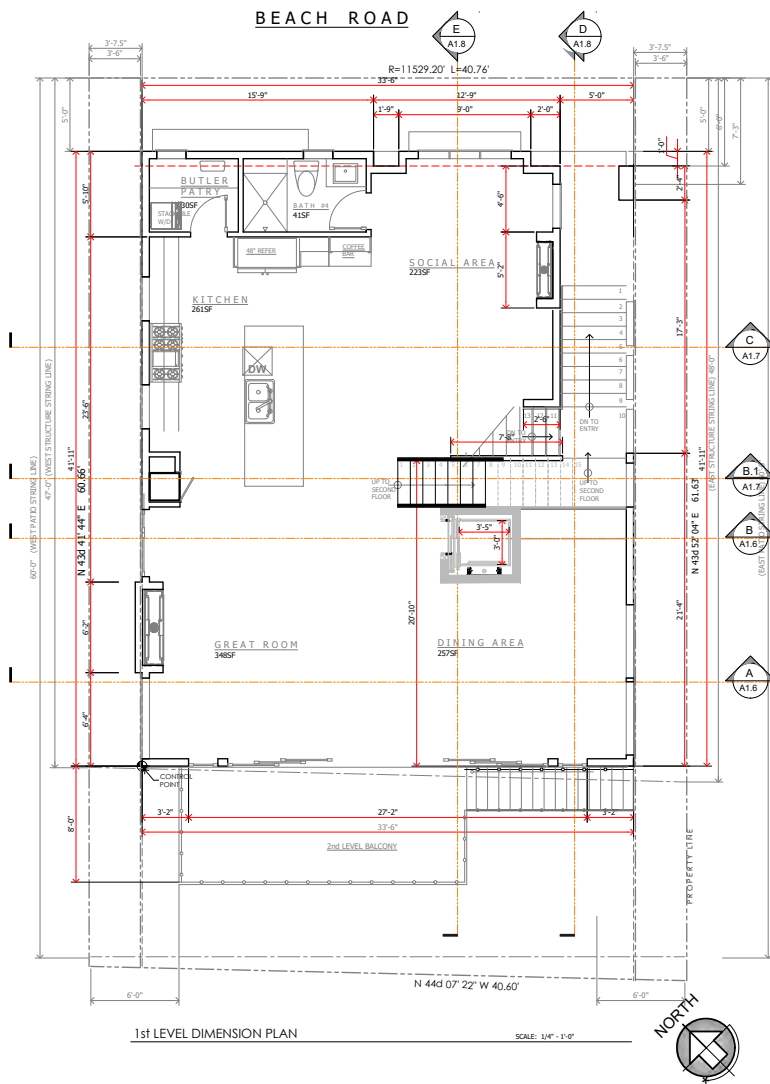
LOT SIZE	0.057 AC	2,486 S.F.
DISTURBED AREA	0.057 AC	2,486 S.F.
IMPERVIOUS AREA		
PRE-PROJECT	0.040 AC	1,748 S.F.
NEW OR REPLACEMENT	0.041 AC	1,755 S.F.
POST-PROJECT	0.041 AC	1,755 S.F.

EARTHWORK	CUT	FILL
EXCAVATION	100 CY	—
EMBANKMENT	—	0 CY
OVEREXCAVATION/RECOMPACTION	TBD	TBD
IMPORT	—	100 CY
TOTAL	100 CY	100 CY









**CCH
D/G**

CCH DESIGN GROUP, INC.
ARCHITECTURAL DESIGN
CONSULTING

CHARLES HENRY, DESIGNER
3512 SHALLOT CT.
WINCHESTER, CA 93596
760.844.4833

CHARLES@CCHDESIGNGROUP.COM

CHARLES HENRY, P.E.D.
11/01/2022
DATE

Copyright 2008-2019
This document is the property of
CCH DESIGN GROUP, INC.

This document includes a copyright release and a
license to use these plans to construct a single
unit. When you purchase construction documents,
CCHD is not releasing any liability for the use of
these documents. It is the responsibility of the
licensee to verify the accuracy of the information
provided in these documents. This is a confidential document
which may not be re-sold, duplicated, published or
distributed without written permission of CCH
Design Group, Inc.

PROJECT:
JOHN & MARCELLA
SEIDENSTICKER
35697 BEACH ROAD
DANA POINT, CA

DEVELOPER:

LOCATION:
35697 BEACH ROAD
DANA POINT, CA

SHEET NAME:
**1st & 2nd LEVEL
DIMENSION PLAN**

REV.	DATE	DESCRIPTION
1	03/10/2020	SUBMITTAL CDRSOP
2	09/12/2020	CDP / SDP CITY CORR. #1
3	05/19/2021	CDP / SDP CITY CORR. #2
4	10/11/21	PLANS RE-SUBMITTED #4
5	03/07/22	PLANS RE-SUBMITTED #5
6	04/06/2022	CDP/SDP CITY CORR. #6
7	10/06/2022	CDP/SDP CITY CORR. #7

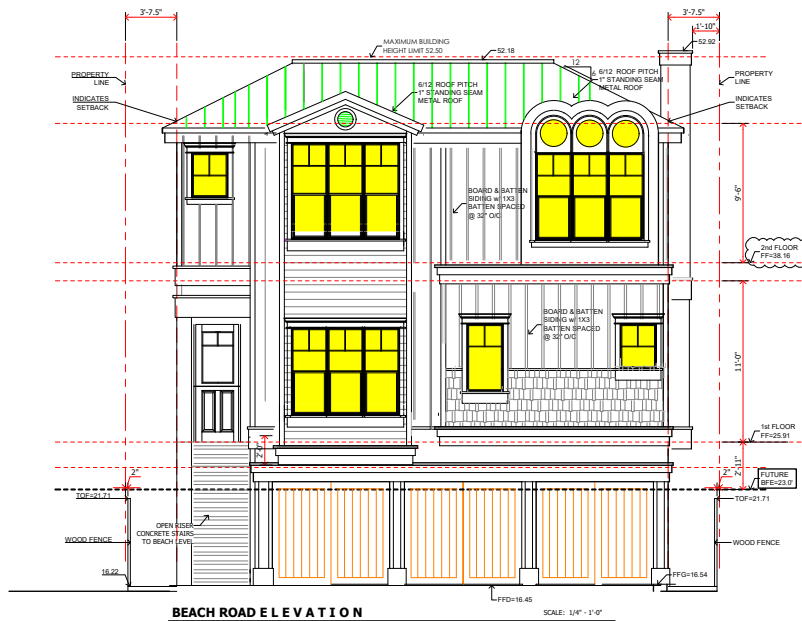
PROJECT INFORMATION
OFFICE PROJECT NO. CCHDGS 15-19

DRAWN BY: CCH
SCALE: NOTED
DATE: 11/01/2022
SHEET NO.:

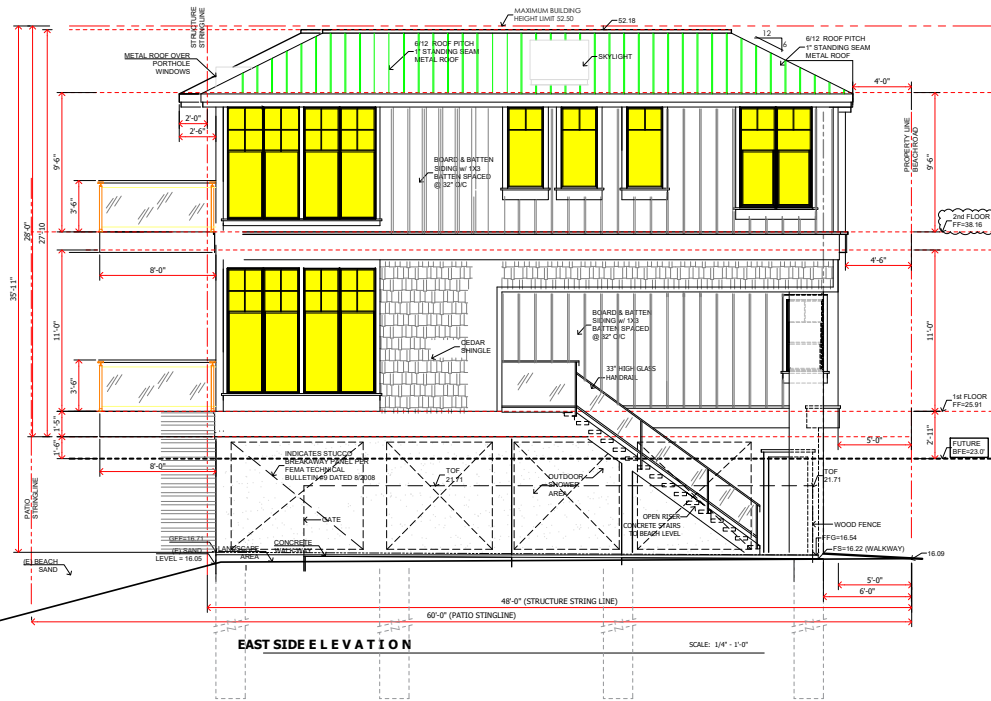
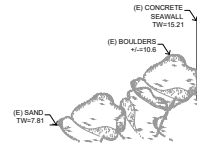
A1.2

D:\2021_Projects\19-09-20_Seidensticker_35697\22-09-13_CityComments\22-11-01_35697_Seidensticker.dwg, 11/7/2022 11:18:59 AM, ARCH D (24.00 x 36.00 inches), 1:1

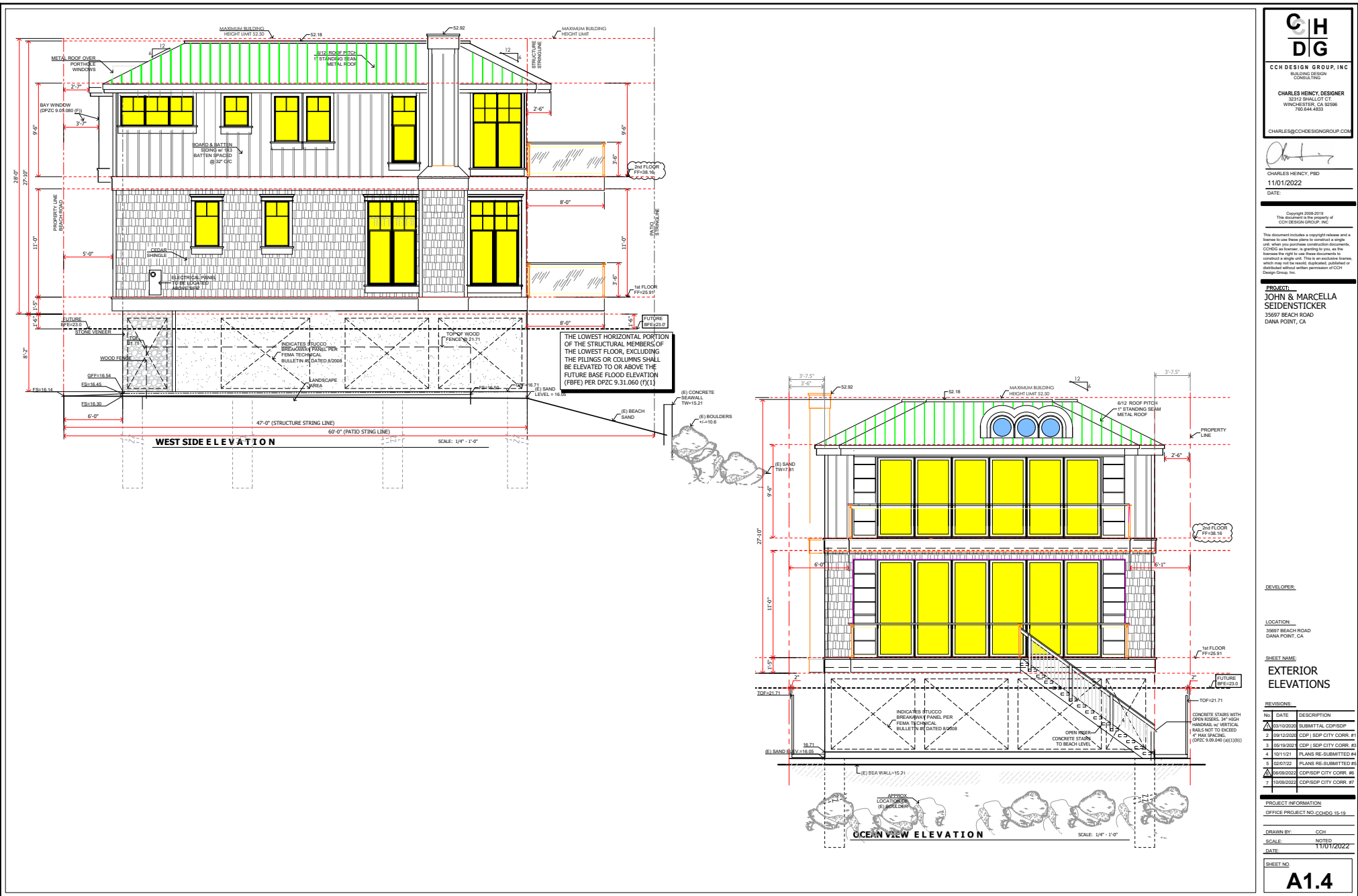
California Coastal Commission
A-5-DPT-23-0004
Exhibit 2
Page 9 of 16



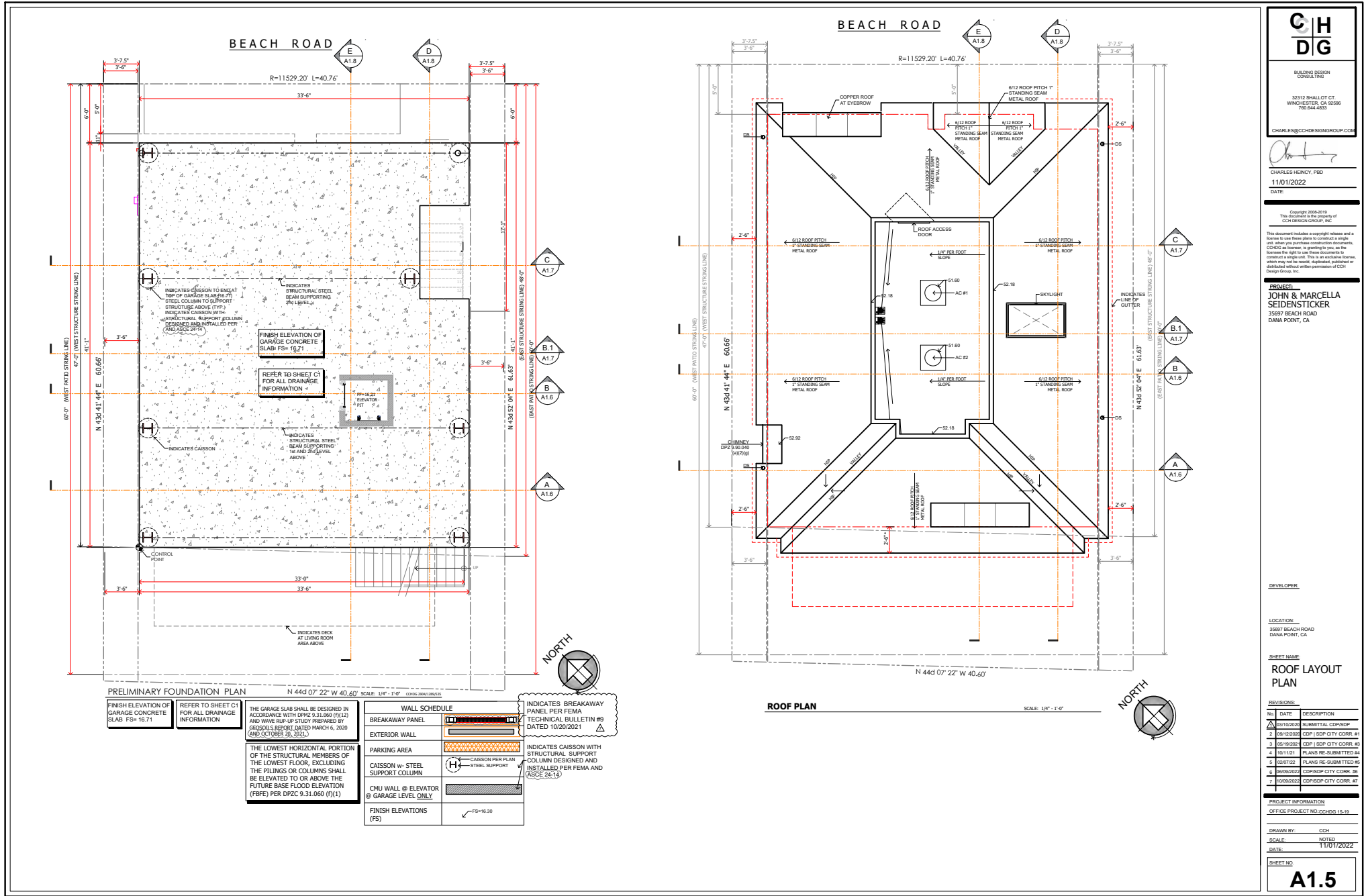
THE LOWEST HORIZONTAL PORTION OF THE STRUCTURAL MEMBERS OF THE LOWEST FLOOR, EXCLUDING THE PILING OR COLUMNS SHALL BE ELEVATED TO OR ABOVE THE FUTURE BASE FLOOD ELEVATION (FBFE) PER DPZC 9.3.1.060 (F)(1)

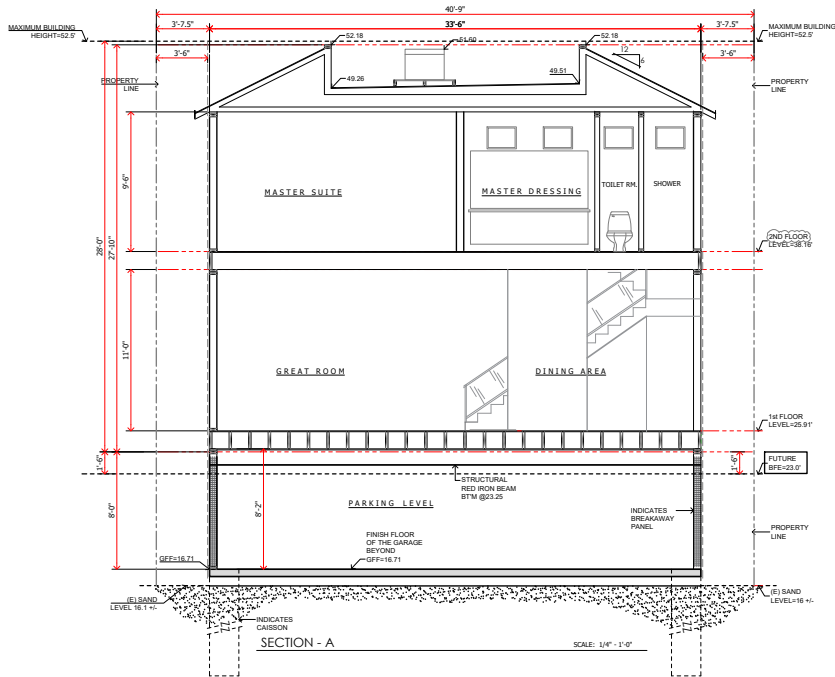


NO.	DATE	DESCRIPTION
1	03/10/2021	SUBMITTAL CORP/SCP
2	09/12/2021	CDP / SDP CITY CORR. #1
3	05/19/2022	CDP / SDP CITY CORR. #3
4	10/1/2021	PLANS RE-SUBMITTED #4
5	03/07/22	PLANS RE-SUBMITTED #5
6	06/09/2022	CDP/SDP CITY CORR. #6
7	10/09/2022	CDP/SDP CITY CORR. #7

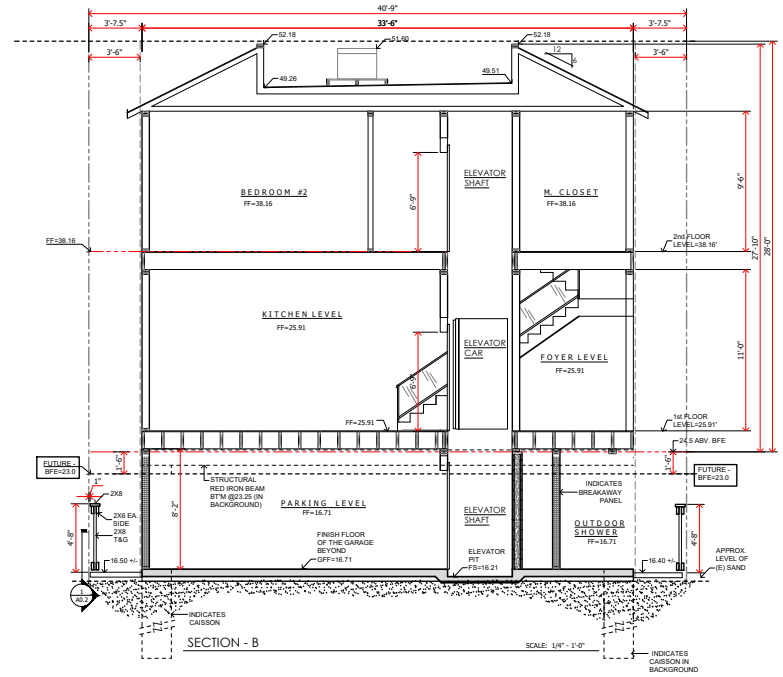


D:\2021_Projects\19-09-20_Seidensticker_35697\22-09-13_CityComments\22-11-01_35697_Seidensticker.dwg, 11/7/2022 11:19:20 AM, ARCH D (24.00 x 36.00 inches), 1:1





THE LOWEST HORIZONTAL PORTION OF THE STRUCTURAL MEMBERS OF THE LOWEST FLOOR, EXCLUDING THE PILINGS OR COLUMNS SHALL BE ELEVATED TO OR ABOVE THE FUTURE BASE FLOOD ELEVATION (FBFE) PER DPZC 9.31.060 (1)(1)





**CCH
D.G.**

CCH DESIGN GROUP, INC.
ARCHITECTURAL DESIGN
CONSULTING

CHARLES HENICY, DESIGNER
3512 SHALLOT C.T.
WINCHESTER, CA 92596
760.644.4833

CHARLES@CCHDESIGNGROUP.COM

Charles Henicy
CHARLES HENICY, PBD
11/01/2022
DATE

Copyright 2008-2019
This document is the property of
CCH DESIGN GROUP, INC.

This document includes a copyright release and a
license to use these plans to construct a single
unit. When you purchase construction documents,
CCHD is granting you the right to use the
license the right to use these documents to
construct a single unit. This is an exclusive license,
which may not be resold, duplicated, published or
distributed without written permission of CCH
Design Group, Inc.

PROJECT:
**JOHN & MARCELLA
SEIDENSTICKER**
35697 BEACH ROAD
DANA POINT, CA

DEVELOPER:

LOCATION:
35697 BEACH ROAD
DANA POINT, CA

SHEET NAME:
SECTIONS

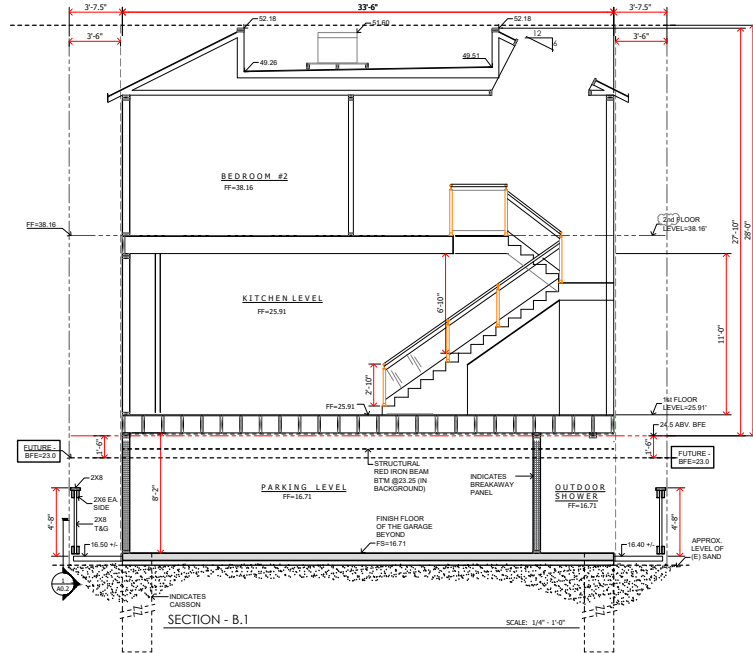
REVISIONS:

No.	DATE	DESCRIPTION
1	03/10/2020	SUBMITTAL CORRESP.
2	09/12/2020	CDP / SDP CITY CORR. #1
3	05/19/2021	CDP / SDP CITY CORR. #2
4	10/11/21	PLANS RE-SUBMITTED #4
5	03/07/22	PLANS RE-SUBMITTED #5
6	04/06/2022	CDP/SDP CITY CORR. #6
7	10/06/2022	CDP/SDP CITY CORR. #7

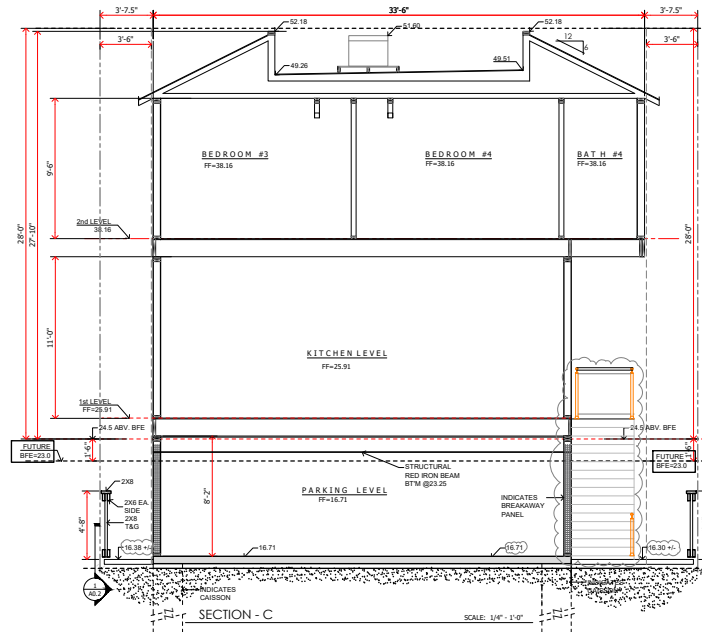
PROJECT INFORMATION:
OFFICE PROJECT NO. CCHDGS 15-19

DRAWN BY: CCH
SCALE: 1/4" = 1'-0"
DATE: 11/01/2022
SHEET NO.

A1.6



THE LOWEST HORIZONTAL PORTION OF THE STRUCTURAL MEMBERS OF THE LOWEST FLOOR, EXCLUDING THE PILING OR COLUMNS SHALL BE ELEVATED TO OR ABOVE THE FUTURE BASE FLOOD ELEVATION (FBFE) PER DPZC 9.31.060 (F)(1)



NO.	DATE	DESCRIPTION
1	03/10/2020	SUBMITTAL CORRESP.
2	09/12/2020	COP / SDP CITY CORR. #1
3	05/19/2021	COP / SDP CITY CORR. #2
4	10/1/2021	PLANS RE-SUBMITTED #4
5	03/07/22	PLANS RE-SUBMITTED #5
6	04/06/2022	COP/SDP CITY CORR. #6
7	10/06/2022	COP/SDP CITY CORR. #7



CCH DESIGN GROUP, INC.
BUILDING DESIGN
CONSULTING

CHARLES HENRY, DESIGNER
35312 SHALLOT CT.
WINCHESTER, CA 93506
760.844.4833

CHARLES@CCHDESIGNGROUP.COM

Charles Henry

CHARLES HENRY, P.D.

11/01/2022

DATE

Copyright 2008-2019
This document is the property of
CCH DESIGN GROUP, INC.

This document includes a copyright release and a
license to use these plans to construct a single
unit. When you purchase construction documents,
CCH Design Group is granting you the right to
license the right to use these documents to
construct a single unit. This is an exclusive license,
which may not be resold, duplicated, published or
distributed without written permission of CCH
Design Group, Inc.

PROJECT:
JOHN & MARCELLA
SEIDENSTICKER
35697 BEACH ROAD
DANA POINT, CA

DEVELOPER

LOCATION:
35697 BEACH ROAD
DANA POINT, CA

SHEET NAME:
SECTIONS

REVISIONS

No.	DATE	DESCRIPTION
1	03/10/2020	SUBMITTAL CORRESP.
2	09/12/2020	CDP / SDP CITY CORR. #1
3	05/10/2021	CDP / SDP CITY CORR. #2
4	10/1/2021	PLANS RE-SUBMITTED #4
5	03/07/22	PLANS RE-SUBMITTED #5
6	04/08/2022	CDP/SDP CITY CORR. #7
7	10/09/2022	CDP/SDP CITY CORR. #7

PROJECT INFORMATION

OFFICE PROJECT NO. CCHDG 15-19

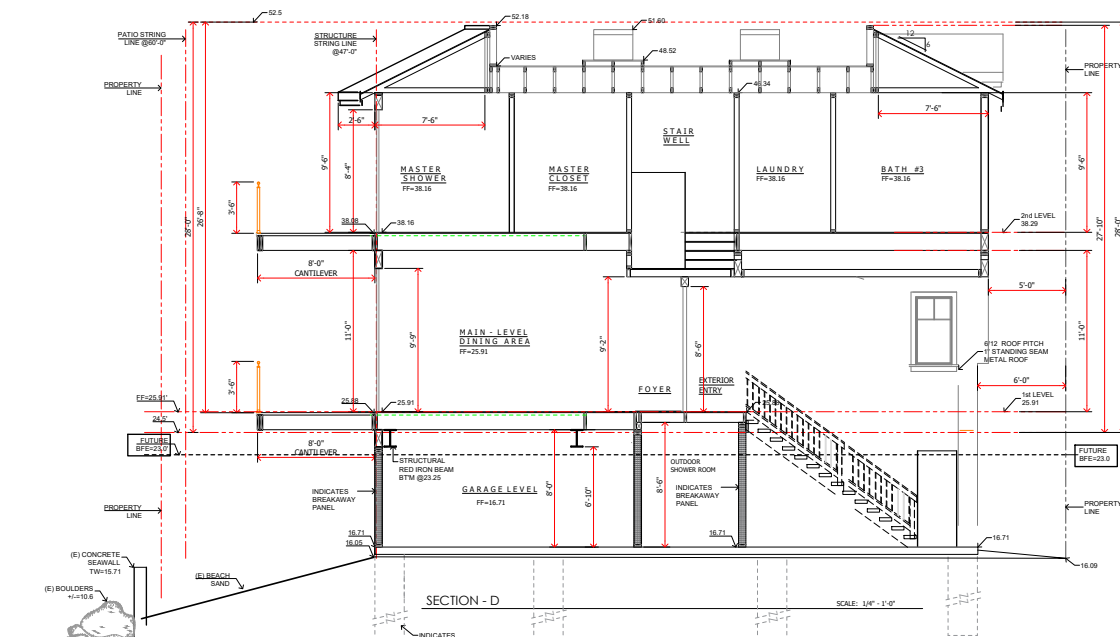
DRAWN BY: CCH

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

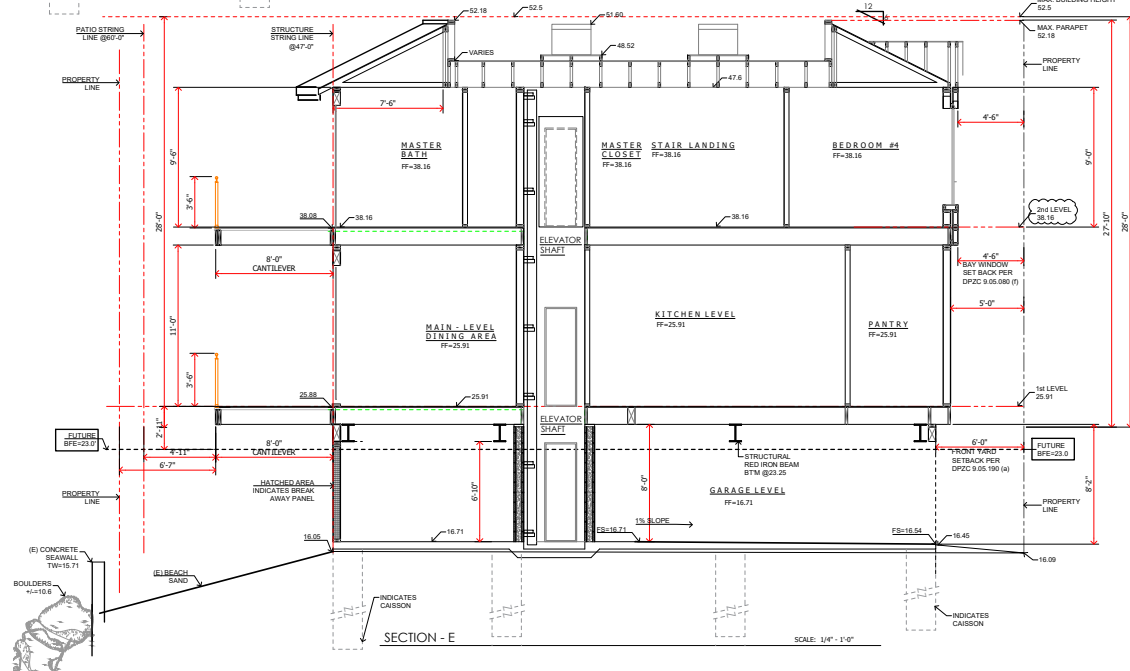
DATE: 11/01/2022

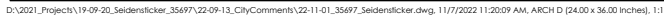
SHEET NO.

A1.8



THE LOWEST HORIZONTAL PORTION
OF THE STRUCTURAL MEMBERS OF
THE LOWEST FLOOR, EXCLUDING
THE PILINGS OR COLLING SHALL
BE ELEVATED TO OR ABOVE THE
FUTURE BASE FLOOD ELEVATION
(FBFE) PER DP2C 9.3.1.560 (F)(1)





RESOLUTION NO. 23-01-09-01

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING COASTAL DEVELOPMENT PERMIT CDP20-0006, SITE DEVELOPMENT PERMIT SDP20-0009, AND ADMINISTRATIVE MODIFICATION OF STANDARDS AMS22-0002 TO DEMOLISH THE EXISTING RESIDENCE AND CONSTRUCT A 2,710 SQUARE-FOOT SINGLE-FAMILY DWELLING, AND A 1,258 SQUARE-FOOT LOWER-LEVEL GARAGE AT 35697 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 John and Marcella Seidensticker ("Applicant"), the owners of real property commonly referred to as 35697 Beach Road (APN 691-162-25) (the "Property"); and

WHEREAS, the Representative filed a verified application for a Coastal Development Permit, Site Development Permit and Administrative Modification of Standards to construct a single-family dwelling at the Property; and

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

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

WHEREAS, the Planning Commission did, on the 9th day of January, 2023, 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 CDP20-0006, Site Development Permit SDP20-0009 and Administrative Modification of Standards AMS22-0002.

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 CDP20-0006, SDP20-0009, and AMS22-0002 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 future 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 and qualifies for public access exception. 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. 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. The information stated confirms that the project qualifies for the public access exception.

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 a single-family dwelling within a developed area.**
4. 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 conforms 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.**
5. 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 March 6, 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. The shoreline projection is authorized to remain, if the project is approved, because the adjacent structures (35695 Beach Road built 1950 and 35701 Beach Road built 1971) were built prior to the Coastal Act and are dependent on the seawall to protect the adjacent structures. This determination is consistent with California Coastal Commission (CCC) Sea Level Rise Policy Guidance policy A.20a. If the segment of the wall were removed for the subject property, the existing structures would be eroded by flooding and wave forces without continuous protection. The project is conditioned to require the removal of the existing shoreline protection when the adjacent pre-**

Coastal Act structures are developed, and there is no longer a need for the projection.

6. 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.**
7. 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 SDP20-0009

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 Future BFE (accounting for sea level rise) on caissons to protect against coastal flooding for the anticipated life of the structure (75 years).**
2. That the site is suitable for the proposed use and development in that, **the project maintains the single-family residential use for the site and the new single-family residence complies with the development standards for the RBR-12 zoning district, with the exception of the 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 future 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 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. 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 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 coastal craftsman design of the house will be complementary to the neighborhood.

Administrative Modification of Standards AMS22-0002

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 balcony and first floor elevation and the finished grade of the site 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 Base Flood Elevation of 23 feet (accounting for sea level rise), resulting in an elevation of 25.91 for the first-floor, which is nine feet above the finished grade. The required elevation for the lowest habitable floor and the finished grade elevation of the site create practical difficulties and unnecessary hardships by the strict application of the DPZC. The lot's limited size of 2,476 square feet, the developable footprint, and the requirement to elevate the structure's habitable area above the future BFE make it difficult to design the project with a nine-foot grade difference between the first floor and finished grade. To address the grade change between the first-floor balcony, the project is proposing stairs down to the deck along the east and west property lines to limit their projection beyond the structure stringline. The projection beyond the structure stringline is three feet for a width of 11.5 feet. The proposed minor deviation from the development standards is justified for the constrained property and has no potential impact to adjacent properties.

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 future BFE which must account for sea level rise. The competing standard is that the balcony must be elevated at or above the future BFE of 23 feet NAVD88. The three foot encroachment of the stairs beyond the structure stringline for a width of 11.5 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 11.5 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 2,710 square-foot single-family dwelling and attached 1,258 square foot two car garage at 35161 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 including Low Impact Development (LID) implementation.
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 new 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. All structural elements located below the determined future base flood elevation shall be designed and constructed in accordance with current FEMA guidelines and ASCE 24 requirements.

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 Floodplain 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 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.
25. 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:

26. 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 CDP20-0006, Site Development Permit SDP20-0009, and Administrative Modificatons of Standards AMS22-0002.
27. 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 CDP20-0006, SDP22-0009, and AMS22-0002. 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.
28. 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 CDP20-0006, SDP20-0009, and AMS22-0002. 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.
29. A Final Geotechnical Report shall be prepared by the project geotechnical consultant in accordance with the City of Dana Point Grading Manual.
30. 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.
31. 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.
32. All landscaping and/or structural best management practices (BMPs) shall

be constructed and installed in conformance with approved plans and specifications.

33. 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.
34. Public Works final approval will be required for all permits.
35. All structural best management practices (BMPs) shall be constructed and installed in conformance with approved plans and specifications.
36. 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.

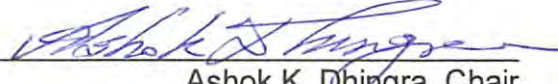
PASSED, APPROVED, AND ADOPTED at a regular meeting of the Planning Commission of the City of Dana Point, California, held on this 9th day of January, 2023 by the following vote, to wit:

AYES: Dhingra, Opel, Dohner

NOES:

ABSENT: Nelson

ABSTAIN:



Ashok K. Dhingra, Chair
Planning Commission

ATTEST:



Brenda Wisneski, Director
Community Development Department

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

DATE: JANUARY 9, 2023

TO: DANA POINT PLANNING COMMISSION

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

SUBJECT: COASTAL DEVELOPMENT PERMIT CDP20-0006, SITE DEVELOPMENT PERMIT SDP20-0009, AND ADMINISTRATIVE MODIFICATION OF STANDARDS AMS22-0002 TO DEMOLISH THE EXISTING RESIDENCE AND CONSTRUCT A 2,710 SQUARE FOOT SINGLE-FAMILY RESIDENCE AND LOWER LEVEL 1,258 SQUARE FOOT GARAGE, LOCATED AT 35697 BEACH ROAD

RECOMMENDATION: That the Planning Commission adopt the attached resolution approving Coastal Development Permit CDP20-0006, Site Development Permit SDP20-0009, and Administrative Modification of Standards AMS22-0002.

APPLICANT: John and Marcella Seidensticker

REPRESENTATIVE: David Gutierrez, Project Manager

REQUEST: Approval of Coastal Development Permit CDP20-0006, Site Development Permit SDP20-0009, and Administrative Modification of Standards AMS22-0002 to demolish the existing residence and construct a new 2,710 square foot single-family dwelling and a 1,258 square foot lower level 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: 35697 Beach Road (APN: 691-162-25)

NOTICE: Notices of the Public Hearing were mailed to property owners within a 500-foot radius and occupants within a 100-foot radius on December 23, 2022, published within a newspaper of general circulation on December 23, 2022, and posted on December 23, 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 demolition of an existing residence and the construction of a new 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 2,476 square-foot oceanfront lot that is improved with an 892 square-foot, single-story residence with an attached one-car garage. The property is located within the Capistrano Beach Community Services District (District), a built-out neighborhood of single-family and duplex structures. The lot is relatively small, approximately 40 feet in width and 66 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 (CCC). 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 2,710 square foot, two-story single-family residence and a 1,258 square-foot lower level garage. The two levels of living area include four bedrooms, four bathrooms, and an open concept living, dining, and kitchen area. The lower level garage is walled by breakaway material to accommodate up to three vehicles and an elevator that extends to the upper floors.

Exterior improvements include balconies on the first and second floors and stairs from the first-floor balcony that extends to grade. The applicant is not proposing improvements on the seaward side of the residence between the structure and patio stringlines, with the exception of the noted stairs and balconies, because the grade difference between the first habitable level and the finished grade of the site is almost 10 feet.

The site is improved with shoreline protection that was installed prior to the establishment of the Coastal Act (1976) and is proposed to remain. Supporting Document 7 is an aerial photograph from californiacoastline.org taken in 1972 and a current photograph that both show the existing shoreline protection for the property. The adjacent structures also have shoreline protection as shown in the aerial photographs (35695 Beach Road built 1950 and 35701 Beach Road built 1971).

The proposed structure is designed on caissons and the habitable area is elevated above the future Base Flood Elevation (FBFE) and is designed to not be dependent on the existing shoreline protection. However, the seawall is authorized to remain, if the project is approved, because the adjacent structures were built prior to the Coastal Act and are dependent on the seawall protection. This determination is consistent with California Coastal Commission (CCC) Sea Level Rise Policy Guidance policy A.20a (Supporting Document 5). If the segment of the wall were removed for the subject property, the existing structures would be eroded by flooding and wave forces without continuous protection. The project is conditioned (condition of approval 12.a) to require the removal of the existing shoreline protection when the adjacent pre-Coastal Act structures are developed, and there is no longer a need for the projection.

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	6 feet ground floor (with a 3 car garage)	20 feet	Yes
	5 feet upper floors	5 feet	Yes
Side Setbacks	3'-6" minimum	3'-6"	Yes
Structure Stringline	47' west	47' west	Yes
	48' east	47' east*	Yes
Patio Stringline	60' west	47'	Yes
	60' east	47'	Yes

Development Standard	Requirement	Proposed	Compliant with Standard
Balcony	Maximum projection of 8' seaward of the Structure Stringline	8' seaward of the structure stringline	Yes
Height	28 feet maximum from 18" above the BFE/FP-3** (23' NAVD88) 2 Stories	28 feet 2 Stories	Yes Yes
Landscape Coverage	10% minimum	10%	Yes
Parking Required	3 covered parking spaces minimum for five bedrooms	3 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 "future base flood elevation" (FBFE) of 23 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 and balconies, with the exception of the stairs on the seaward side of the structure that lead to the backyard. The applicant is requesting an AMS to allow the stairs from the habitable first floor to the rear yard to encroach three feet beyond the structure stringline, this request is discussed in the AMS section of the report.

The structure is not considered three stories per Section 9.75.120 of the Dana Point Zoning Code because the "Lowest Floor" does not apply to the garage since it is an unfinished and flood-resistant enclosure that is useable solely for parking of vehicles, building access, and storage. Since the garage level complies with this definition, the first floor is the first habitable level of the structure. There are several other examples of two stories above the garage level in the Capistrano Beach Community Services District.

The proposed structure's architectural style is a Modern East Coast Cape Cod design with a standing seam metal roofing, cedar shingles and Board and Batten siding (Supporting Document 4). The structure would be compatible with the mix of architectural styles within the District.

Coastal Development Permit CDP20-0006

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. 23-01-09-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 public access, 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 SDP20-0009

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

For construction within coastal high hazard areas, a site-specific wave run-up study 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 (FBFE) 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 FBFE of 23 feet NAVD88, which was confirmed by the City's third-party Coastal Engineering consultants, 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 elevated on caissons with the lowest horizontal structural member (structure slab) above the FBFE, 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 FBFE allows ocean water to flow under the dwelling without contributing to additional erosion of the beach. The non-habitable garage is located below the FBFE to facilitate access from adjacent Beach Road and includes breakaway paneling to allow water to flow through the garage to the street in the event of wave inundation.

Section 9.71.050 of the DPZC stipulates 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. 23-01-09-XX, attached to this report as Action Document 1.

Administrative Modification of Standard AMS22-0002

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 project is requesting the stairs on the seaward side of the structure to project a maximum of three feet beyond the structure stringline for a width of 11.5 feet to provide access from the first floor to the finished grade at the back of the house. The site-specific wave runup report established a FBFE of 23 feet (accounting for sea level rise), resulting in an elevation of 25.91 for the first-floor, which is ten feet above the finished grade. The required elevation for the lowest habitable floor and the finished grade elevation of the site create practical difficulties and unnecessary hardships by the strict application of the DPZC. The lot's limited size of 2,476 square feet, the developable footprint, and the requirement to elevate the structure's habitable area above the FBFE make it difficult to design the project with a 10-foot grade difference between the first floor and finished grade. Per Section 9.09.040(a)(2), stairs are not permitted to extend beyond the structure stringline. This limiting standard would force the reduction of habitable area to provide stairs from the first floor to the back yard unless an AMS is obtained. To address the grade change between the first floor and the finished grade, stairs are proposed to extend three feet beyond the structure stringline for a width of 11.5 feet. The proposed minor deviation from the development standards is justified for the 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. 23-01-09-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 CDP20-0006, Site Development Permit SDP20-0009, and Administrative Modification of Standards AMS22-0002 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. 23-01-09-XX

Supporting Documents:

2. Vicinity Map
3. City Council Public Access Resolution 01-07-10-03
4. Color and Material Sample
5. CCC Sea Level Rise Policy Guidance policy A.20a
6. Site Photos
7. 1972 Aerial Photo and Current Photo
8. 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-23-0004

Date Filed: February 7, 2023

Appellant Name(s): Chair Donne Brownsey and Vice Chair Caryl Hart

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: Chair Donne Brownsey and Vice Chair Caryl Hart

Mailing address: _____

Phone number: _____

Email address: _____

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

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

Describe: 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 Planning Commission

Local government CDP application number: CDP 20-0006

Local government CDP decision: ☒ CDP approval ☐ CDP denial³

Date of local government CDP decision: January 9, 2023

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

Describe: Demolition of an 892 sq. ft., one-story single-family residence
with an attached one-car garage and construction of a 2,710 sq.
ft., two-story single-family residence with an attached 1,258 sq.
ft., three-car garage, both supported by a caisson foundation, on
a 2,476 sq. ft. oceanfront lot. Exterior improvements include
balconies that project 8 ft. seaward of the structural stringline.
Lowest horizontal structural elements for habitable area will be
elevated above future BFE of 23 ft. NAVD99. Existing shoreline
armoring installed prior to the enactment of the Coastal Act is
proposed to remain onsite to protect neighboring properties.

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.

Page 4

Applicant name(s): John and Marcella Seidensticker

Applicant Address: 35697 Beach Road, Dana Point

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-23-0004
Exhibit 4
Page 4 of 24

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 Donne Brownsey



Signature

Date of Signature 2/7/23

7. Representative authorization⁵

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.

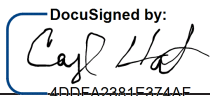
☐

Interested persons identified and provided on a separate attached sheet

6. Appellant certification⁵

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

Print name Caryl Hart

DocuSigned by:

4DDFA2381E374AF...

Signature

Date of Signature 02/07/2023

7. Representative authorization⁶

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

☐

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

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

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

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

The project site is at [35697 Beach Road, Dana Point \(Capistrano Beach\)](#). The project is the demolition of an existing 892 sq. ft., one-story single-family residence and construction of a 2,710 sq. ft., two-story single-family residence with a caisson foundation and an attached 1,258 sq. ft. three-car garage on a beachfront lot (resulting in a 3,698 sq. ft. structure). The proposal also includes retention of existing shoreline protection (seawall and boulders).

The following are contentions raised with regard to the City-approved development:

Public Trust & Lateral Access:

The public currently has a right to access the Public Trust Lands seaward of the site. The proposed development could have impacts on the Public Trust over the life of the development. The City's action authorizes a new structure on a narrow, eroding beach that is highly susceptible under current conditions from wave and storm surge. Since the project will be supported by piles, the already very narrow beach could continue to erode under the structure, putting the mean high tide line (MHTL) underneath the structure. Future hazards at the site are expected to increase as a result of sea level rise. 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.

The City did impose a deed restriction that requires the applicants to remove the development, if it is ever determined to be unsafe to live there or damaged to a point that it could not be repaired without contributing significantly to erosion or geologic instability. Nevertheless, the City's approval did not include requirements to remove all or portions of the structure if Public Trust Lands migrate landward of the development's seaward edge in a manner that impedes public access to the shore. As sea level rises and the sandy/cobble beach is squeezed between the ocean and the proposed new development, consideration must be given to the migration of Public Trust Lands. The City's condition and findings do not adequately address public access to Public Trust Lands given expected sea level rise based on best available science. Private development on Public Trust Lands is inconsistent with Sections 30210, 30211, 30212, and 30214 of the Coastal Act and Implementation Plan (IP) Section 9.69.070 of the City's certified Local Coastal Program (LCP).

In addition, the City's certified LCP contains requirements relative to public access to the dry sand portions of the beach seaward of the site. The City found that adequate public access exists near enough to the site (at Poche Beach and Capistrano Beach County Park), and that requiring a lateral easement was not necessary. However, Poche Beach is approximately 1/3 of a mile downcoast of the site and Capistrano Beach County Park is approximately one mile upcoast of the site. Neither of these beaches are necessarily nearby, and Capistrano Beach County Park is frequently closed due to significant erosion and wave impacts. Thus, the City's decision to forgo the required lateral access easement is not consistent with the LCP or Coastal Act public access and recreation policies, as existing access to the beach seaward of the subject site cannot be necessarily considered "adequate." Thus, the City's action is inconsistent with IP Sections 9.27.030 and 9.09.040(a)(4) that require a lateral public access easement for new development along Beach Road.

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

Beach Road and Regional Issues:

The GeoSoils analysis notes that Beach Road, inland of this property, is at an elevation of about +15'-16' NAVD88 and that during future storms, water will flow across the road, greatly limiting safe access to and from the site. Beach Road is a private road, and limited access in the near future (ca. the year 2060-70, using the medium-high risk aversion SLR projection) will be a problem for the entire community of approximately 200 homes.

Appropriate Setbacks:

The location and design of the second-story balcony on the seaward side of the home is inconsistent with the LCP. The LCP allows balconies to project 8 feet beyond the seaward structure stringline. Nevertheless, this seaward balcony projection results in an insufficient setback from publicly available areas of the beach, in nonconformance with the LCP. The balcony projection, along with the retained shoreline armoring mentioned above, could create a psychological barrier for the public in accessing the beach near the subject site, thus blurring the “appropriate boundary” for lateral access that is outlined in IP Section 9.27.030(a)(4)(G)(1) of the LCP.

In addition, the City has taken local action on a project located adjacent to Public Trust Lands without first consulting with the State Lands Commission. Because the City is not currently able to establish the boundaries between private ownership and the State’s jurisdiction, it is unclear whether the rear (seaward) property line is ambulatory along with the MHTL, or alternatively, pre-fixed per previous surveys. This ambiguity raises questions as to whether a) a lateral public access easement is necessary, as required per IP Section 9.09.040(a)(4), b) the seawall and boulders, which are proposed to be retained, are already located on Public Trust Lands, and c) if additional rear setbacks or buffers are required, as detailed in IP Sections 9.05.190 or 9.27.030.

Visual Impacts:

The existing home is one-story. The construction of a new two-story home may result in significant adverse impacts on public views to the coast (“bluewater views”) from the California Coastal Trail and Coast Highway. The applicants have not provided, nor has the City required, a comprehensive visual impact study consistent with IP Section 9.69.050(b)(7)(F) that would satisfy the requirements in IP Sections 9.05.170 and 9.69.070(f). Thus, the absence of such analysis does not support the finding that the proposed project design would have the least visual impacts feasible.

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

Coastal Act Policies

Section 30210 Access; recreational opportunities; posting

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

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

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.

LCP Policies

- **9.05.170** Coastal Views from Public Areas. To protect the coastal scenic overlooks from public lands identified in the General Plan Urban Design and Conservation/Open Space Elements, a detailed view impact study which includes recommendations to avoid impacts to

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

coastal views from public lands shall be prepared and incorporated into projects where the proposed development impacts such views.

- **9.05.190** Building Setbacks on Shallow/Narrow Building Sites. The following provisions for shallow and narrow lots will maintain consistency in older areas of the community, by allowing new construction of single family or multiple family projects to develop with reduced setbacks as follows:
 - (a) When a building site has an average depth of one hundred (100) feet or less but more than seventy-five (75) feet, any required front and rear building setbacks need not be more than twenty (20) percent of such average depth; and when a building site has an average depth of seventy-five (75) feet or less, any required front and rear building line setbacks need not be more than fifteen (15) percent of such average depth, but in no event shall any required front or rear building line setback be less than five (5) feet.
 - (b) When a building site has an average width of less than fifty (50) feet, any required building setback from the interior side property lines need not be more than ten (10) percent of such average width but in no event less than three (3) feet.
- **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)
35697	45	47/48	60/60	18 (6)

...

- 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

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

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.

...

- (2) Maximum Projections into Required Yards. The following Table provides the requirements for allowable projections into required yards for properties in the Residential Beach Road 12 (RBR 12) and Residential Beach Road Duplex 18 (RBRD 18) Districts.

SECTION 9.09.040 (a)(2)

MAXIMUM PROJECTION INTO REQUIRED YARDS

Item	Maximum Projection			Minimum Distance From Property Lines (B)	Maximum Projection Above District Height Limit	Other Limitations
Item	Front Yard Area	Seaward of Structure Stringline	Side Yard Area (A)			
(c) Balconies	5'0"	8'0"	NP	6'0"	NP	(E)(F)

...

- (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).

- **9.69.050** Application for Coastal Development Permit.

...

- (b) Application for a Coastal Development Permit shall be made on forms provided by the Community Development Department, and shall include, at a minimum, the following information:

...

- (7) The following additional, current information (which may be in both written and graphic form), specific to the subject site, shall be required if applicable. In addition, plans to mitigate adverse impacts, plans to monitor the mitigation, and an alternatives analysis shall be required where applicable.

...

- (F) For proposed development which would result in significant adverse impacts to public views, a visual impact study prepared

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

pursuant to the requirements of the Urban Design Element of the General Plan.

- **9.31.040** Prohibited Uses and Structures. The following uses and structures are specifically prohibited in the Floodplain Overlay Districts:

...

- (d) FP-3 District only:

...

- (3) Seawalls, revetments, and shoreline ocean protective devices or construction that alters natural shoreline processes, unless required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and only when positioned, designed and constructed to eliminate adverse impacts on local shoreline sand supply as provided for in Section 9.27.030(f) of this Zoning Code. Seawalls, revetments, and other shoreline protective devices or construction that alters natural shoreline processes shall only be permitted as a last resort protective device for coastal areas. Shoreline protective devices need not be subject to the elevation requirements of the FP-3 district.

- **9.69.070** Basis For Action on Coastal Development Permit Applications. Approval, conditional approval, or denial of any Coastal Development Permit by the City of Dana Point or the Coastal Commission on appeal shall be based upon compliance with the provisions of the certified Dana Point Local Coastal Program and, for development between the sea and the first public road paralleling the sea, the public access and recreation policies of Chapter 3 of the Coastal Act.

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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 7)

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.
- **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

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

- 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.
 - 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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 9)

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 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 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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 11)

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 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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 12)

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 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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 13)

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.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 15)

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

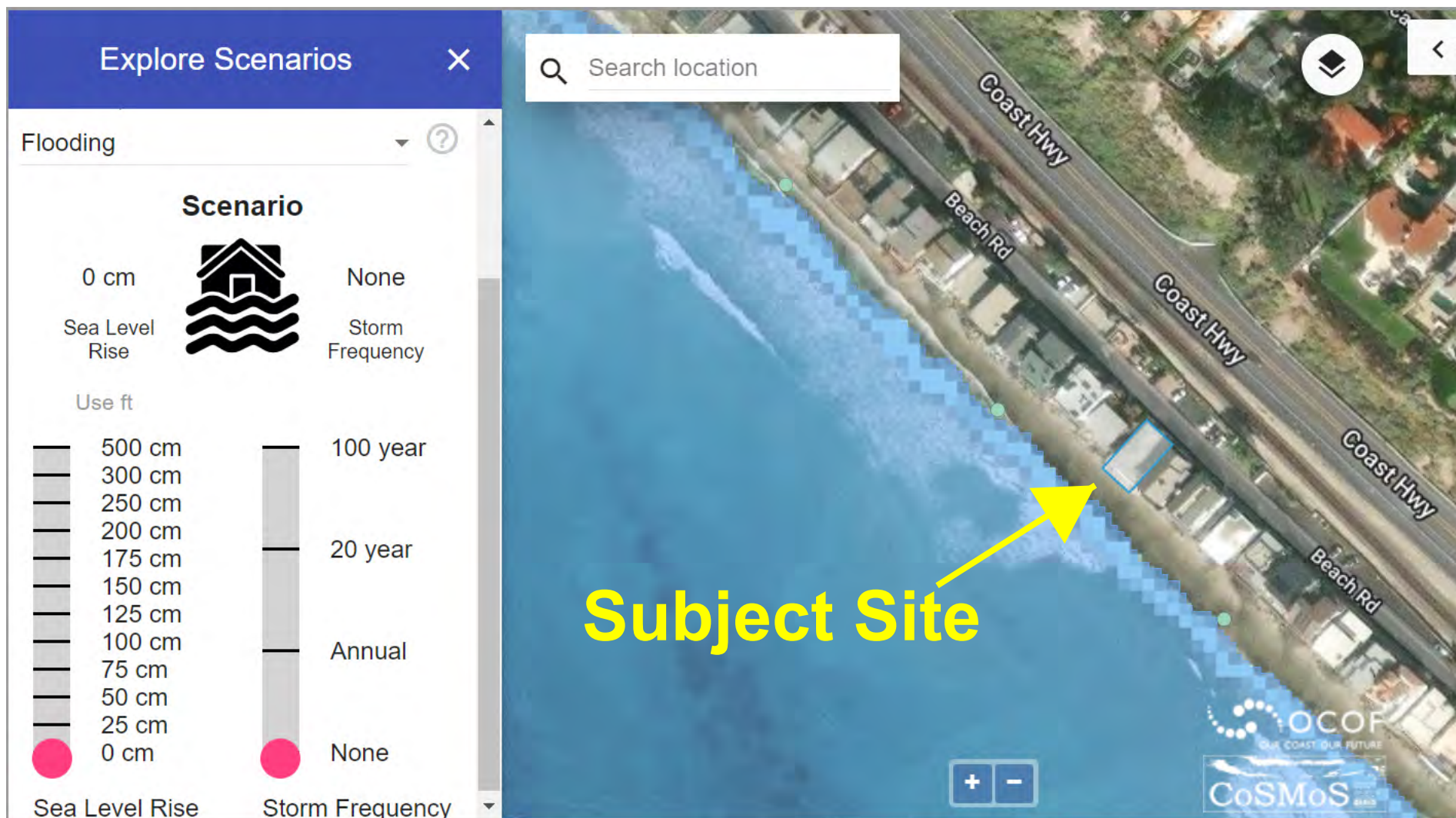


Figure 1 — Project Site with no sea level rise and no coastal storm event.

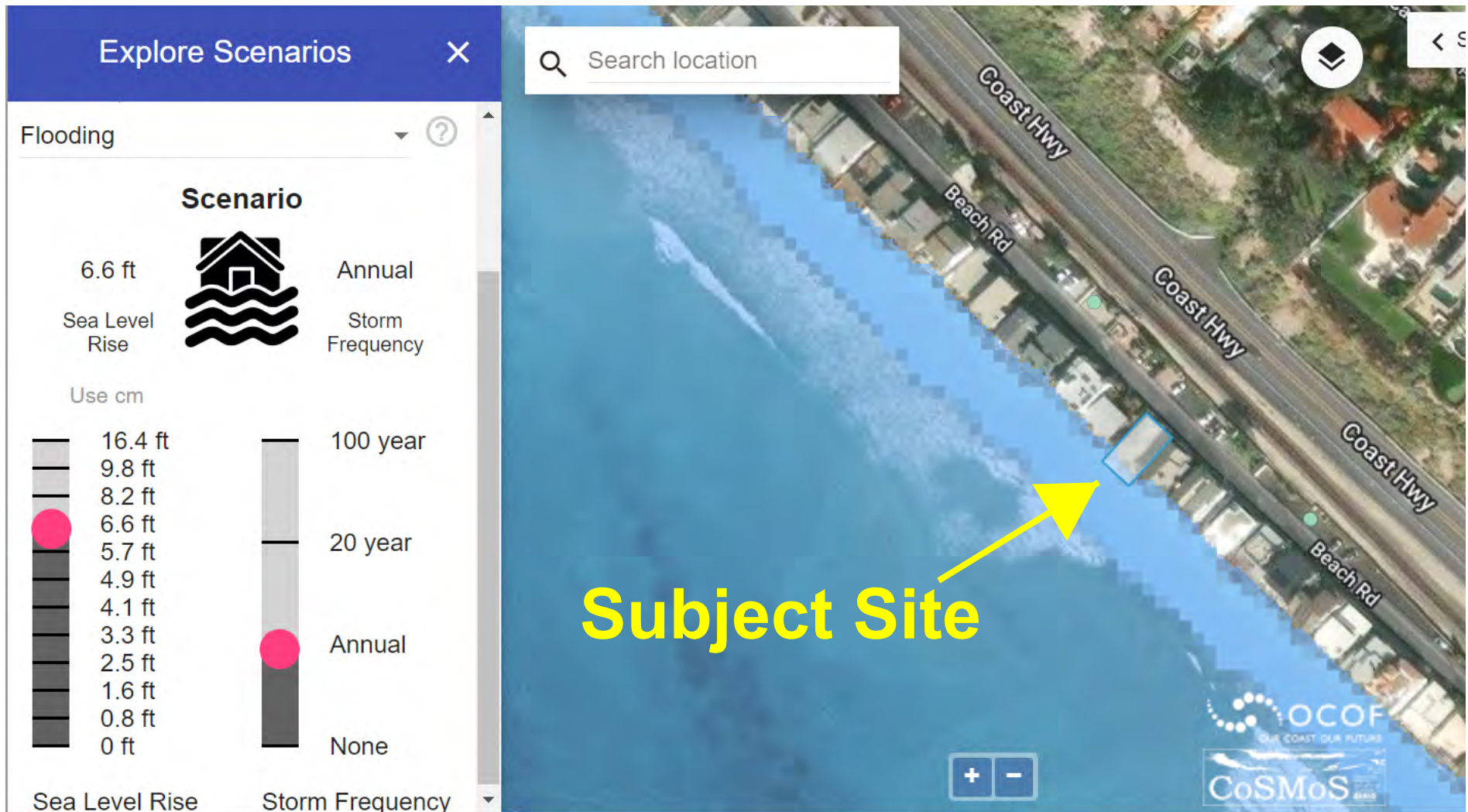
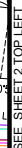


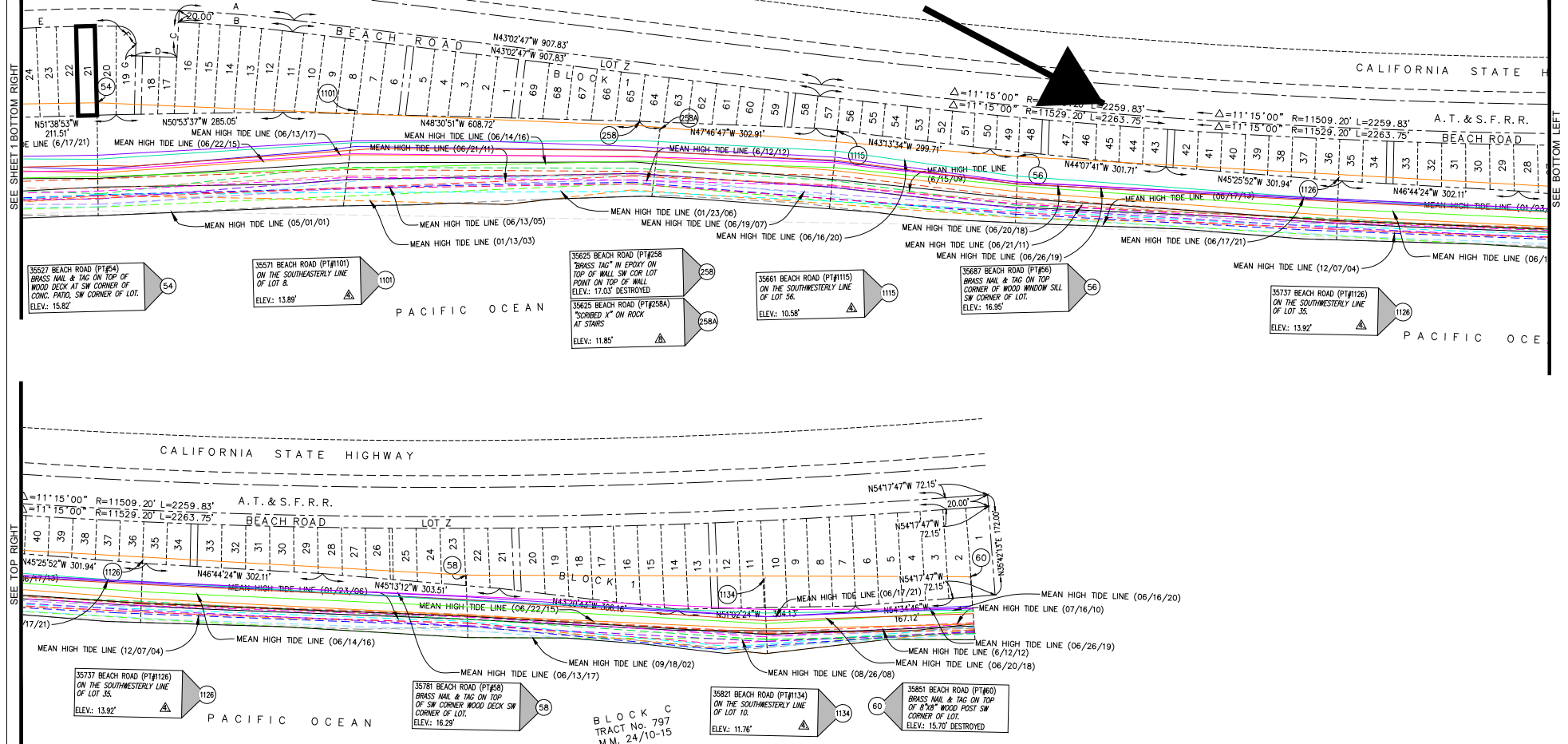
Figure 2 — Project Site with 6.6 ft. of sea level rise and an annual coastal storm event.

CALIFORNIA STATE HIGHWAY



SHEET NO.
1
OF 6 SHEETS

Subject Site

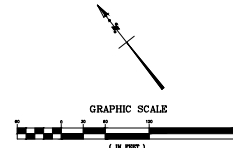


LINE TABLE	
C	N42°45'22"E 80.00'
G	N41°12'25"E 20.13'

CURVE TABLE	
A	Δ=041°15' R=2692.00' L=197.22'
B	Δ=041°15' R=2692.00' L=197.22'
C	Δ=01°32'59" R=2612.00' L=70.85'
D	Δ=045°52' R=2692.00' L=227.21'
E	Δ=90°38'40" R=2692.00' L=46.97'

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

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



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

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

Exhibit 7 – Current Site Views

SUPPORTING DOCUMENT 6: Site Photos







SUPPORTING DOCUMENT 7: 1972 Aerial Photo and Current Photo



