CITY OF NEWPORT BEACH
PLANNING COMMISSION AGENDA

CITY COUNCIL CHAMBERS – 100 CIVIC CENTER DRIVE

THURSDAY, AUGUST 8, 2013
REGULAR MEETING – 6:30 p.m.

BRADLEY HILLGREN
Vice Chair

FRED AMERI
Secretary

TIM BROWN

KORY KRAMER

RAYMOND LAWLER

JAY MYERS

LARRY TUCKER

Planning Commissioners are citizens of Newport Beach who volunteer to serve on the Planning Commission. They were appointed by the City Council by majority vote for 4-year terms. At the table in front are City staff members who are here to advise the Commission during the meeting. They are:

KIMBERLY BRANDT, Community Development Director

BRENDA WISNESKI, Deputy Community Development Director

LEONIE MULVIHILL, Assistant City Attorney

TONY BRINE, City Traffic Engineer

MARLENE BURNS, Administrative Assistant

NOTICE TO THE PUBLIC

Regular meetings of the Planning Commission are held on the Thursdays preceding second and fourth Tuesdays of each month at 6:30 p.m. The agendas, minutes, and staff reports are available on the City's web site at: http://www.newportbeachca.gov and for public inspection in the Community Development Department, Planning Division located at 100 Civic Center Drive, during normal business hours. If you have any questions or require copies of any of the staff reports or other documentation, please contact the Community Development Department, Planning Division staff at (949) 644-3200.

This Commission is subject to the Ralph M. Brown Act. Among other things, the Brown Act requires that the Commission's agenda be posted at least 72 hours in advance of each meeting and that the public be allowed to comment on agenda items before the Commission and items not on the agenda but are within the subject matter jurisdiction of the Commission. The Commission may limit public comments to a reasonable amount of time, generally three (3) minutes per person. All testimony given before the Planning Commission is recorded.

It is the intention of the City of Newport Beach to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee or a participant of this meeting, you will need special assistance beyond what is normally provided, the City of Newport Beach will attempt to accommodate you in every reasonable manner. Please contact Leilani Brown, City Clerk, at least 72 hours prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible (949-644-3005 or lbrown@newportbeachca.gov).

APPEAL PERIOD: Use Permit, Variance, Site Plan Review, and Modification Permit applications do not become effective until 14 days following the date of approval, during which time an appeal may be filed with the City Clerk in accordance with the provisions of the Newport Beach Municipal Code. Tentative Tract Map, Tentative Parcel Map, Lot Merger, and Lot Line Adjustment applications do not become effective until 10 days following the date of approval, during which time an appeal may be filed with the City Clerk in accordance with the provisions of the Newport Beach Municipal Code. General Plan and Zoning Amendments are automatically forwarded to the City Council for final action.

NEWPORT BEACH PLANNING COMMISSION AGENDA
CITY COUNCIL CHAMBERS – 100 CIVIC CENTER DRIVE
THURSDAY, AUGUST 8, 2013
REGULAR MEETING – 6:30 p.m.

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

IV. ELECTION OF OFFICERS

ITEM NO. 1

a. The Commission will elect officers to serve for the year.
   - Chair
   - Vice Chair
   - Secretary

b. Appointment to the General Plan/LCP Committee
   - Chair to appoint one additional member, and confirm existing appointments

V. PUBLIC COMMENTS

Public comments are invited on non-agenda items generally considered to be within the subject matter jurisdiction of the Planning Commission. Speakers must limit comments to three (3) minutes. Before speaking, please state your name for the record and print your name on the blue forms provided at the podium.

VI. REQUEST FOR CONTINUANCES

VII. CONSENT ITEMS

ITEM NO. 2 MINUTES OF JUNE 20, 2013

Recommended Action: Approve and file

VIII. PUBLIC HEARING ITEMS

Speakers must limit comments to three (3) minutes on all items. Before speaking, please state your name for the record and print your name on the blue forms provided at the podium.

If in the future, you wish to challenge in court any of the matters on this agenda for which a public hearing is to be conducted, you may be limited to raising only those issues, which you (or someone else) raised orally at the public hearing or in written correspondence received by the City at or before the hearing.

ITEM NO. 3 TANNIR RESIDENCE (PA2013-110)
Site Location: 3235 Ocean Boulevard

Summary:
The applicant proposes to construct a 3-level, single-family residence with a Variance to allow:

a. the lower level of the residence to encroach 10 feet into the required 10-foot front yard setback; and

b. a portion of the new staircase and its railings located along the east property line to exceed the 6-foot height limit by 3 feet, for a total height of 9 feet.

CEQA Compliance:
The proposed project has been reviewed and it has been determined that it is categorically exempt under Section 15303, of the California Environmental Quality Act (CEQA) Guidelines – Class 3 (New

Construction or Conversion of Small Structures). This exemption includes construction of a single-family residence in a residential area. The proposed project is a single-family residence to be constructed in the R-1 (Single-Unit Residential) Zoning District.

Recommended Action:

1. Conduct public hearing; and

2. Adopt Resolution No. ___ approving Variance No. VA2013-004 and finding the project is categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15303 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3.

ITEM NO. 4 SCHULEIN PARKING USE PERMIT AND VARIANCE (PA2013-090)
Site Location: 2828 East Coast Highway

Summary:
The applicant proposes to demolish the existing building and construct a two-unit commercial building with a surface parking lot with nine spaces. The applicant requests a Conditional Use Permit to establish a Parking Management Plan to reduce the required off-street parking by two parking spaces (11 required, 9 proposed), and a Variance to allow the parking spaces to encroach 1-foot into the required 5-foot alley setback and for more than 10-feet of the alley right-of-way to be used to accommodate the required drive aisle width.

CEQA Compliance:
Staff recommends that the Planning Commission find the project is categorically exempt under Section 15332, of the California Environmental Quality Act (CEQA) Guidelines - Class 32 (In-Fill Development). Class 32 exempts in-fill development meeting the following conditions: the project is consistent with the General Plan and Zoning Code; the proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses; the project site has no value as habitat for endangered, rare, or threatened species; approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the site must be able to be adequately served by all required utilities and public services.

The property is developed, within the City Boundary, less than 5 acres in area, is surrounded by urban uses, and has no value as habitat. The proposed project is consistent with the General Plan and Zoning Code, and would be adequately served by all required utilities and public services. The project would not result in significant effects relating to traffic, noise, air quality or water quality because the proposed project would be developed at a lower intensity than allowed by the General Plan and Zoning Code, and the construction and operation of the project would meet all local, state, and federal requirements. As demonstrated within this report and the attached resolution, the proposed project meets all of the required conditions to qualify for the Class 32 exemption.

Recommended Action:

1. Conduct public hearing; and

2. Adopt Resolution No. ____ approving Conditional Use Permit No. UP2013-007 and Variance No. VA2013-007.

IX. STAFF AND COMMISSIONER ITEMS

ITEM NO. 5 MOTION FOR RECONSIDERATION

ITEM NO. 6 COMMUNITY DEVELOPMENT DIRECTOR'S REPORT

ITEM No. 7 COMMITTEE UPDATES

1. Land Use Element Amendment Advisory Committee
2. General Plan/Local Coastal Program Implementation Committee

ITEM NO. 8 ANNOUNCEMENTS ON MATTERS THAT THE PLANNING COMMISSION MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION, OR REPORT

ITEM NO. 9 REQUESTS FOR EXCUSED ABSENCES

X. ADJOURNMENT

August 8, 2013 Planning Commission Agenda Comments

Correction of typos in Resolution of Approval suggested by: Jim Mosher (jimmosher@yahoo.com), 2210 Private Road, Newport Beach 92660 (949-548-6229).

Item No. 3 Tannir Residence (PA2013-110)

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Brion Jeannette Architecture, with respect to property located at 3235 Ocean Boulevard, and legally described as **the** southeasterly one-half of Lot 15 and Lot 16 of Tract 1026.

…

Facts in Support of Finding:

A-1. … From there on, the site ~~transition~~ **transitions** to an approximate 1:1 slope that extends approximately 50 feet downward to the 14.0 foot contour and flattens out to Breakers Drive. … the new residence will be facing a similar restriction ~~of~~ **to** redevelop within the existing building footprint on the subject site …

A-2. The California Coastal Commission desires minimal "new" improvements on the bluff face. As a result, the existing improvements within this area need to be preserved and ~~repair~~ **repaired** as necessary.

…

C-2. The retaining of existing staircase on the bluff and the addition of a 12 feet, 7 inches new staircase to provide adequate access between the main dwelling and the accessory structure below will cause **the** least amount of disruption to the coastal bluff.
…

D-2. The proposed staircase will be built with wood framing on piles ~~consisting~~ **consistent** with the existing staircase, …

…

E-2. The new staircase location will result **in** the least alteration to the coast bluff …

…

F.2 The staircase will not be incompatible with the neighborhood in that all other properties along this section of Ocean Boulevard have staircases on the bluff to provide access to either Breakers Drive or Corona del Mar State Beach and the Bluff Overlay regulations ~~allowed~~ **allow** for staircases.

…

CONDITIONS OF APPROVAL

5. Accessory structures shall be relocated or removed if threatened by coastal erosion. Accessory structures shall not be expanded ~~and~~ **but** routine maintenance of accessory structures is permitted.

19. **A** CAL-OSH permit shall be required.

24. The new residence shall in compliance with CBC or CRC for exiting, number of stories, travel distance, and all required Fire safety and structural provisions. **[the acronym "CRC" is not defined, and I don't know what it stands for]**

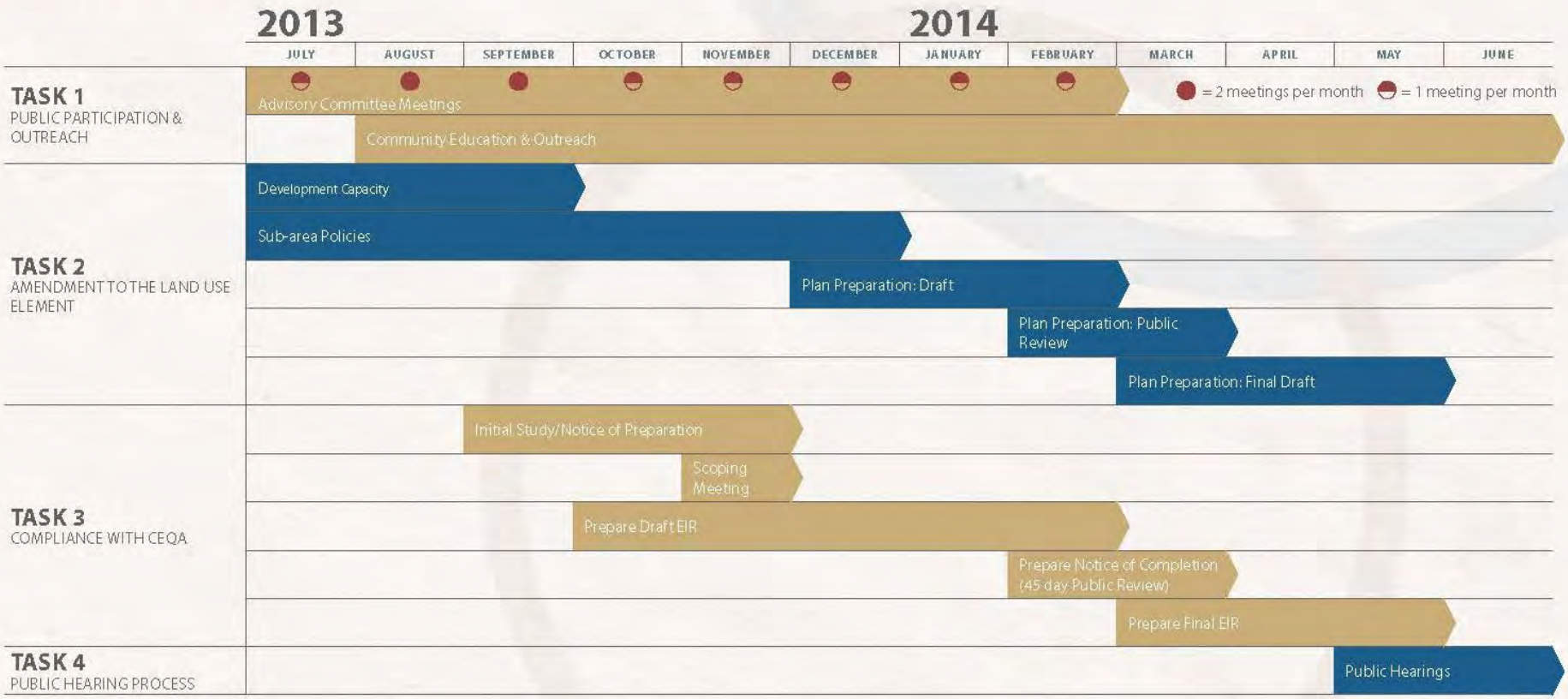
28. The applicant shall comply with SCAQMD Rule 403 requirements as follows: . **[I know what it is, but the acronym "SCAQMD" is not defined]**

41. Smoke alarms shall be required on the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms, in each room used for sleeping purposed, and on each dwelling level as C.F.C Section 907.2.11.2. **[the acronym "**C.F.C**" – I assume standing for "**California Fire Code**" -- is not defined, and the word "**as**" just before it is probably intended to read either "**per**" or "**as defined in**" – but I'm not sure which]**

Work Program & Project Schedule

CITY OF NEWPORT BEACH

PROJECT TIMELINE



CITY OF NEWPORT BEACH PLANNING COMMISSION MINUTES
Council Chambers – 100 Civic Center Drive
Thursday, June 20, 2013
REGULAR MEETING
6:30 p.m.

I. **CALL TO ORDER** - The meeting was called to order at 6:30 p.m.

II. **PLEDGE OF ALLEGIANCE** – Chair Toerge

III. **ROLL CALL**

PRESENT: Ameri, Brown, Hillgren, Myers, Toerge, and Tucker

ABSENT (Excused): Kramer

Staff Present: Brenda Wisneski, Deputy Community Development Director; Leonie Mulvihill, Assistant City Attorney; Marlene Burns, Administrative Assistant; Tony Brine, City Traffic Engineer; and Patrick Alford, Planning Manager

IV. **RECOGNITION OF CHAIR MICHAEL TOERGE FOR HIS DEDICATION AND YEARS OF SERVICE ON THE PLANNING COMMISSION.**

Chair Toerge requested moving the aforementioned item to the latter portion of the meeting.

V. **PUBLIC COMMENTS**

Chair Toerge invited those interested in addressing the Planning Commission to do so at this time.

Mr. Jim Mosher commented on memorializing the names of past Planning Commissioners and suggested including information on the website of past and present Planning Commissioners as well as their terms of service. Additionally, he noted that the next regular meeting of the Planning Commission would fall on July 4, 2013 and hoped that procedures will be followed regarding rescheduling the meeting as well as the election of officers.

Chair Toerge closed the public comments portion of the meeting.

VI. **REQUEST FOR CONTINUANCES** - None

VII. **CONSENT ITEMS**

ITEM NO. 1 MINUTES OF JUNE 6, 2013

Recommended Action: Approve and file

Chair Toerge noted comments that were received from Mr. Mosher with changes to the minutes and that these will be incorporated into the revised minutes.

Interested parties were invited to address the Planning Commission on this item.

Mr. Mosher suggested other changes to the minutes in addition to the written comments he submitted previously.

There being no others wishing to address the Planning Commission, Chair Toerge closed the public comments for this item.

Motion made by Commissioner Brown and seconded by Commissioner Ameri and carried (5 – 1 – 1), to approve the minutes of June 6, 2013, as corrected.

AYES: Ameri, Brown, Myers, Toerge, and Tucker
NOES: None
ABSTENTIONS: Hillgren
ABSENT: Kramer

VIII. CURRENT BUSINESS

ITEM NO. 2 RECOMMENDATION PERTAINING TO RESIDENTIAL LOT MERGERS (PA2012-102)
Site Location: Citywide

Planning Manager Patrick Alford introduced and presented the background of the item, including Council consideration and direction as well as prior considerations by the Planning Commission. He presented details of a memorandum with findings and recommendations to the City Council. He noted a substitute recommendation from Commissioner Tucker, also for the Planning Commission's consideration.

Chair Toerge thought that recommendations were broken down into four (4) components including recommending to the City Council to not allow floor-area ratio increases on merged lots and to not expand setbacks.

Mr. Alford reported that the issues were addressed in the findings.

Chair Toerge felt that Commissioner Tucker's recommendations are appropriate and that discussions regarding setbacks included whether or not to apply them City-wide.

Commissioner Myers commented on the setbacks not being more than twenty (20%) percent of the lot width. He questioned why that was not made part of the recommendation.

Chair Toerge recalled that a recommendation was made not to modify the setbacks.

Mr. Alford stated that his impression was that these recommendations were only made if the City Council chose to go in that direction and that it would return to the Planning Commission with further direction.

Chair Toerge suggested including recommendations regarding floor-area-ratios and modifying the setbacks.

Commissioner Tucker recalled the same as Chair Toerge relative to the setbacks, as well as allowing five (5)-foot setbacks fifty (50)-foot lots and related Code requirements. He agreed with leaving the setbacks alone, unless the City Council decided to modify them. He stated that the Planning Commission opted to engage the City Council.

Vice Chair Hillgren commented on instances where a lot would be significantly greater than the typical lot and asked if there was discussion related to large lots.

Chair Toerge stated that efforts were focused on changing and clarifying the finding that deals with lots and nearby lots as opposed to development, establishing no changes to setbacks and limiting floor-area as previously recommended.

Secretary Ameri commented on general statements covering the Chair's concerns and noted that the issues are included in the recommendations, but is not specifically stating amounts.

Vice Chair Hillgren commented on challenges with having larger lots having a more-favorable set of rules than other merged lots, not including it in the Subdivision Code but create a code that would provide an opportunity to review mass and bulk for merged lots in certain areas.

Interested parties were invited to address the Planning Commission on this matter.

Mr. James Mosher suggested clarifying terms, with which the City Council may not be familiar including maximum floor area. He addressed lot coverage and side setbacks.

There being no others wishing to address the Planning Commission, Chair Toerge closed the public comments for this item.

Chair Toerge stated wanting to incorporate corrections suggested by Mr. Mosher as well as specifically changing the recommendations to include the issue of floor-area ratio, that the changing setbacks would create inconsistencies, lot coverage and appropriate zoning.

Commissioner Tucker commented on specific recommendations including lot coverage limits and addressing it through initiation of zone changes.

DRAFT

Mr. Alford reported that the City Council is looking for direction on the original amendment.

Commissioner Tucker stated that he approves the recommendations as originally proposed by staff.

Chair Toerge noted that recommendations were finalized by straw vote during the last meeting and felt that these would simply be memorialized at this time. He felt that general language should be used but felt that language should be added to include the Planning Commission's specific recommendations and if further direction is provided, the item would return to the Planning Commission.

Commissioner Tucker felt that lot coverage was not discussed at the last meeting since it was assumed that it was already decided.

Secretary Ameri stated that the Planning Commission should make recommendations and if the City Council does not approve, they can return the matter to the Planning Commission for additional changes.

Motion made by Chair Toerge and seconded by Commissioner Brown and carried (5 – 1 – 1), to direct staff to submit the Planning Commission's findings and recommendations to the City Council, incorporating changes proposed by Mr. Mosher and specific recommendations related to floor-area ratios not exceeding the ratio before merging two or more lots, no changes to setbacks, and that changes apply only to specific zones within the City.

AYES:	Ameri, Brown, Hillgren, Myers, and Toerge
NOES:	Tucker
ABSTENTIONS:	None
ABSENT:	Kramer

IX. STAFF AND COMMISSIONER ITEMS

ITEM NO. 3 MOTION FOR RECONSIDERATION - None

ITEM NO. 4 COMMUNITY DEVELOPMENT DIRECTOR'S REPORT

Deputy Community Development Director Brenda Wisneski reported that the next Planning Commission meeting will be July 18, 2013.

ITEM NO. 5 ANNOUNCEMENTS ON MATTERS THAT THE PLANNING COMMISSION MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION, OR REPORT - None

ITEM NO. 6 REQUESTS FOR EXCUSED ABSENCES - None

IV. RECOGNITION OF CHAIR MICHAEL TOERGE FOR HIS DEDICATION AND YEARS OF SERVICE ON THE PLANNING COMMISSION.

This aforementioned it was heard at this juncture.

Vice Chair Hillgren expressed the following comments regarding Chair Toerge:

"Mr. Chair, thank you. I missed your penultimate meeting because I was in the Soviet Union, or former Soviet Union. And so there's nothing like being in Moscow to give you a great appreciation for how we do business here in the United States, it is pretty remarkable. Of course I came home to find all of our higher elected officials embroiled in all kinds of stink, which is pretty fascinating and we really do have an amazing form of representative government that our founding fathers set-up for us. President Lincoln at one time called it, described it as, government of the people, by the people, and for the people. And you, I think really exemplify that as somebody who is involved for the people. You have been a remarkable mentor to me in a lot of ways when I joined this Commission four plus years ago. The voting was not as complex as this, but you happened to sit the chair next to me and you were a great tutor to me at the outset. I have always enjoyed all the things that I have learned from you overtime and I really appreciate all that you have done to make my experience what it's been on this Commission. As a Commissioner I have always found you to be incredibly well prepared whether you faked it or not you always came, what seemed to me, to be really really ready for the business of the evening. You brought to this process very valuable experience, your knowledge in real estate, your personal values and experiences that you have brought to the table have really been terrific and appreciated. You have brightened your own personal passion and your local knowledge and experience to really understand what it is to be representative of Newport

Beach and so that is something that I think everyone should recognize and appreciate. As the Chair, you have led us through some major projects not all of them easy, not many of them as easy as tonight. You have been through some challenging projects and you have run them all incredibly efficiently. You are firm but fair. You have always been very fair to all of the folks involved and I think as a result you have been incredibly effective and identified all of the critical issues that we've faced anytime that an application has been before us. I think that when you look at the lack of lawsuits that have come up on major projects that's truly due to the fact that you have done an amazing job covering all of the basis and anybody who has to work through something through the Planning Commission should come away with a sense of great confidence that the process has been done incredibly well. And personally you always have been gracious and courteous to everyone involved; all of us on the Commission, anyone who has had the courage to face this table, to the staff your style has been just terrific and so I think you have been an exemplary public servant you ought to be greatly thanked for it. I thank you personally for my ability to have observed you and the friendship that has evolved out of this. I think we often forget that this really is a gift of time. You have been very gracious to the City; you have given an amazing amount of time and effort on behalf of the citizens. You have been a most thoughtful representative of the applicants. You have let them make their case; you have allowed opposing voices to be heard, understood. They may not always carry the day, but you have always given everyone a chance to make their case and you have represented this City and this Commission incredibly well, so I have been honored to serve, I wish you all the best in whatever you elect to do and our City has been blessed to have you serve."

Secretary Ameri expressed the following comments regarding Chair Toerge:

"I am going to make it short, that's my style. Really I have known you for a little over three years when I came on this Commission; I have served on a lot of different boards and stuff, but I have found it to be a little uncomfortable at times in the ways that things have been discussed, but we have had a really good Chair and we do appreciate everything that Brad said and rather than repeat it, ditto and good luck to you Chair."

Commissioner Tucker expressed the following comments regarding Chair Toerge:

"Mr. Chair, unlike the rest of the Planning Commission, I had served about three and a half years by the time you got here, so I remember your early days on the Planning Commission, and your later days, and your in-between days. I think Brad has spoken very eloquently and the sense of the Planning Commission and how we all feel about you. So I won't try to repeat any of that, but I will observe, to me, what is really the attribute that you have that is really most valuable for this type of deliberative body and that is the ability to listen, you invite everybody's comments, you take everybody's comments seriously and I've seen it really over the years from the very start to virtually the end. If you hear something that's a better idea than what you've had or a better reason whether it from the Public or your fellow Commissioners even though you have staked out a position to change your mind and not just, 'Well, I have already said that I guess I better stick with it,' and I think that is just an incredible attribute and is very important to bring forth to what we do so that to me is one thing that I will always remember about Mike Toerge is I always felt well I will go ahead and make the argument and might have the chance to change his mind. And I am sure members of the Public feel the same way, because you had the ability to absorb what was going on and reach your own conclusion, but if you heard something better you went with it. It is quite an attribute. I know that you will make a fabulous City Councilman, now all you have to do is go out and get elected."

Commissioner Brown expressed the following comments regarding Chair Toerge:

"I agree with everything that has been said, particularly by Brad, we should have elected you to speak for us. It has been a terrific testament to Mike and I certainly endorse all those things, it was well thought out. It was great to listen to that so, thank you. Larry what you added, I agree with also and Fred with you as well. So not being able to add to that, I would like to tell you from a personal standpoint, when I was appointed to the Commission we were going through a very challenging time with Banning Ranch. I remember my very first meeting, I drove up and of course all of the folks from Banning Ranch were out there with signs, and I thought 'I know all of these people are not here to welcome me to the Planning Commission.' So there must be something big here and so was very, it was intimidating, I came from the Parks, Beaches, and Recreations Commission and we didn't have protestors very often. But, what I remember is that prior to the meeting you called me, when I was at school, he took the time to call me on my cell phone and I had received these notebooks. I was so overwhelmed by all these notebooks. We talked for about forty-five or fifty minutes and you made me feel a lot better about coming to this first meeting and about my ability to participate and to have a play in the meeting overall. To somebody who was very unsure at that time that was a very important thing you said to me, I want to point that out, that I will never forget that. I think I have seen you and I have sat next to you for over a year and a half and we have had some challenging meetings. And that meeting was a difficult meeting. One of the things that always occurred to me is that you did a great job of handling that meeting. And for the most in anything that I can think of you did just that, you did a

terrific job of managing some very difficult meetings. And I learned a lot from you and hope to continue to learn a lot from you. And I am glad that I have been a part of your Commission, thank you Mike."

Commissioner Myers expressed the following comments regarding Chair Toerge:

"Being the last in line to speak, I really can't add too much at this point. I certainly agree with Commissioner Hillgren's comments, very eloquent, and representative of all my thoughts. I am particularly struck by your thoughtfulness, your clear mindedness, your thoroughness for all the meetings. The fact that you do arrive with an opinion, but you are open minded to the discussions, and I think you are a role model for any board or commission member. I certainly appreciate your time and energy, thoughtfulness, and you tend to business quickly,

I personally appreciate the manner in which you have brought to me the insight as to how to approach the material before us. I really can't add too much at this point. Good luck and I certainly support your efforts to run for City Council, good luck. Thank you."

Ms. Wisneski thanked Chair Toerge, on behalf of the City and addressed his tenure on the Planning Commission. She expressed her appreciation to him for facilitating processes and presented him with a plaque in honor of his service to the City.

Interested parties were invited to address the Planning Commission on this matter.

Mr. Mosher expressed his appreciation to Chair Toerge for his willingness to explain actions prior to taking motions.

There being no others wishing to address the Planning Commission, Chair Toerge closed public comments for this item.

Chair Toerge's final comments as Chair:

"My final comments, well, when I started on the Commission, I'll just read off these Commissioners, Shant Agajanian, remember him? Steve Kaiser, Ann Gifford, Ed Selich, Mike Henn, Leslie Daigle, Jeff Cole, Earl McDaniel, Larry Tucker, Robert Hawkins, Barry Easton, Scott Peotter and Charles Unsworth. Those are all Commissioners I served with before this Commission; and of course, Brad Hillgren, Fred Ameri, Tim Brown, Jay Myers, and Kory Kramer. Ten years, nine months, two-hundred and sixty Planning Commission meetings, twelve hundred Public Hearings, and Mr. Mosher, I didn't count them, if you want to count them, go ahead, and more than one-hundred and twenty sub-committee meetings in addition to Planning Commission meetings. We've had three Planning Directors, a Community Development Director and a Deputy Community Development Director directing the City's meetings: Patty Temple, David Lepo, Jim Campbell, Kim Brandt, and of course, Brenda Wisneski. Four Assistant City Attorneys, two of them became Attorneys, City Attorneys, two City Managers, and I don't know what they do, and several Assistant City Managers. I do know what the City Manager does, no disrespect Dave. Too many Planners to name, but there were a number that were here when I joined and that would have been, of course, Jim Campbell, Patrick, Greg, Jaime Murillo and Rosalind, Melinda Whelan and Fern Nueno. They were all here when I got here, and, I appreciate all their help; Five Planning Secretaries, thanks Marlene, and two Traffic Engineers.

Fortunately, I'm feeling really lucky in that as a Planning Commissioner I was asked to serve on the sub-committee that rewrote the Local Coastal Plan. We rewrote the General Plan and we rewrote the Zoning Bill. And then, of course, all three of those documents, three most significant land-use governing documents in our City and were then run through the Planning Commission for recommendations by the City Council. And, I liked to say that the process, well those were several hundred pages, maybe thousand-page documents, really helped me understand what my role is and, particularly the General Plan. And, maybe I'm wrong here, but I don't know that any other Planning Commission in the City's history that has had the opportunity to rewrite all of those documents. And, I hope to take that with me in the future. Despite the volume of work throughout these almost eleven years, Suzanne will tell you, I never complained. I never complained once about the workload. I embraced it. I enjoyed it. It's been thrilling. And it's a really, really rewarding undertaking. I wish there were more people here that would learn my enthusiasm for having done it and what it has given to me far exceeds the demands of the role. And, I appreciate all the words that have been spoken here earlier, but there are a handful of words that mean more to me today than they did eleven years ago. And, I am very pleased and humbled that Larry brought up one of them, and that's listening. We learn when we listen. Patience and you know what I'm talking about here, that's probably the hardest one for me, patience. And tolerance, you know were not all alike and we shouldn't fight it we should get used to it and just embrace it, and I'm thankful that were not all alike. Consideration, you know we need to be

considerate of one another, all opinions, always. And then, follow that with leadership. Which is not about pleasing everybody, as we know, it's really about listening with patience, with tolerance and with consideration; and then, making decisions for the greater good of the community. And so, for my thanks, I want to thank my best friend and my partner, Suzanne Harris out there for her endless support and the many conversations we've had about topics that probably weren't top on her list, but meant a lot to me. Obviously, my fellow Commissioners, thank you for those great words and thank you for this incredible opportunity to serve with you, City staff members for all that you do and all you've done to make me and this Commission look good for almost eleven years, and I appreciate it and want to thank the members of the City Council for appointing me three times, but consistent with the comments I heard here today, and it's from my heart and truly, where I want to offer the greatest thanks is to the public, because the public does put their trust in a handful of people to make decisions for them. And, it's a responsibility that I've always taken very seriously and no matter how smart we are, no matter how smart any one of us thinks we are, no matter how well-traveled, well-read, nobody is as smart as the collective fabric of the public. Their collective wisdom, taken as a whole, from the best that each participant has to offer is what makes this process effective and great and of huge importance. And, when the public is heard, with patience, tolerance and consideration, great things happen. And so, here's to great things happening. Thank you very much."

X. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:24 p.m.

The agenda for the Regular Meeting was posted on June 14, 2013, at 2:10 p.m., on the City Hall Bulletin Board located in the entrance of the Council Chambers at 100 Civic Center Drive.

_____
Michael Toerge, Chairman

_____
Fred Ameri, Secretary

DRAFT

Mr. Alford reported that the City Council is looking for direction on the original amendment.

Commissioner Tucker stated that he approves the recommendations as originally proposed by staff.

Chair Toerge noted that recommendations were finalized by straw vote during the last meeting and felt that these would simply be memorialized at this time. He felt that general language should be used but felt that language should be added to include the Planning Commission's specific recommendations and if further direction is provided, the item would return to the Planning Commission.

Commissioner Tucker felt that lot coverage was not discussed at the last meeting since it was assumed that it was already decided.

Secretary Ameri stated that the Planning Commission should make recommendations and if the City Council does not approve, they can return the matter to the Planning Commission for additional changes.

Motion made by Chair Toerge and seconded by Commissioner Brown and carried (5 – 1 – 1), to direct staff to submit the Planning Commission's findings and recommendations to the City Council, incorporating changes proposed by Mr. Mosher and specific recommendations related to floor-area ratios not exceeding the ratio before merging two or more lots, no changes to setbacks, and that changes apply only to specific zones within the City.

AYES:	Ameri, Brown, Hillgren, Myers, and Toerge
NOES:	Tucker
ABSTENTIONS:	None
ABSENT:	Kramer

IX. STAFF AND COMMISSIONER ITEMS

ITEM NO. 3 MOTION FOR RECONSIDERATION - None

ITEM NO. 4 COMMUNITY DEVELOPMENT DIRECTOR'S REPORT

Deputy Community Development Director Brenda Wisneski reported that the next Planning Commission meeting will be July 18, 2013.

ITEM NO. 5 ANNOUNCEMENTS ON MATTERS THAT THE PLANNING COMMISSION MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION, OR REPORT - None

ITEM NO. 6 REQUESTS FOR EXCUSED ABSENCES - None

IV. RECOGNITION OF CHAIR MICHAEL TOERGE FOR HIS DEDICATION AND YEARS OF SERVICE ON THE PLANNING COMMISSION.

This aforementioned it was heard at this juncture.

Vice Chair Hillgren expressed the following comments regarding Chair Toerge:

"Mr. Chair, thank you. I missed your penultimate meeting because I was in the Soviet Union, or former Soviet Union. And so there's nothing like being in Moscow to give you a great appreciation for how we do business here in the United States, it is pretty remarkable. Of course I came home to find all of our higher elected officials embroiled in all kinds of ~~stink~~things, which is pretty fascinating ~~and~~ -because we really do have an amazing form of representative government that our founding fathers set-up for us. President Lincoln at one time ~~called it~~, described it as, government of the people, by the people, and for the people. And you, I ~~think~~ believe really exemplify that as somebody who is involved for the people. You have been a remarkable mentor to me in a lot of ways when I joined this Commission four plus years ago. The voting was not as complex as this new system, but you happened to sit in the chair next to me and you were a great tutor to me at the outset. I have always enjoyed all the things that I have learned from you overtime and I really appreciate all that you have done to make my experience what it has~~'s~~ been on this Commission. As a Commissioner I have always found you to be incredibly well prepared whether you faked it or not you always came, what seemed to me, to be really really ready for the business of the evening. You brought to this process very valuable experience, your knowledge in real estate, your personal values and experiences that you have brought to the table have really been terrific and appreciated. You have ~~brightened~~ utilized your own personal passion and your local knowledge and experience to really

understand what it is to be a representative of Newport Beach and so that is something that I think everyone should recognize and appreciate. As the Chair, you have led us through some major projects not all of them easy, not many of them as easy as tonight. You have been through some challenging projects and you have run them all incredibly efficiently. You are firm but fair. You have always been very fair to all of the folks involved and I think as a result you have been incredibly effective and identified all of the critical issues that we've faced anytime that an application has been before us. I think that when you look at the lack of lawsuits that have come up on major projects that's truly due to the fact that you have done an amazing job covering all of the ~~basis~~ bases and anybody who has to work through something through the Planning Commission should come away with a sense of great confidence that the process has been done incredibly well. And personally you always have been gracious and courteous to everyone involved; all of us on the Commission, anyone who has had the courage to face this table, to the staff your style has been just terrific and so I think you have been an exemplary public servant and you ought to be ~~greatly~~ appropriately thanked for it. I thank you personally for my ability to have observed you and the friendship that has evolved out of this. I think we often forget that this really is a gift of time. You have been very gracious to the City; you have given an amazing amount of time and effort on behalf of the citizens. You have been a most thoughtful representative of the applicants. You have let them make their case; you have allowed opposing voices to be heard and~~,~~ understood. They may not always carry the day, but you have always given everyone a chance to make their case and you have represented this City and this Commission incredibly well, so I have been honored to serve with you and~~,~~ I wish you all the best in whatever you elect to do. ~~and~~ our City has been blessed to have you serve it."

Secretary Ameri expressed the following comments regarding Chair Toerge:

"I am going to make it short, that's my style. Really I have known you for a little over three years when I came on this Commission; I have served on a lot of different boards and stuff, but I have found it to be a little uncomfortable at times in the ways that things have been discussed, but we have had a really good Chair and we do appreciate everything that Brad said and rather than repeat it, ditto and good luck to you Chair."

Commissioner Tucker expressed the following comments regarding Chair Toerge:

"Mr. Chair, unlike the rest of the Planning Commission, I had served about three and a half years by the time you got here, so I remember your early days on the Planning Commission, and your later days, and your in-between days. I think Brad has spoken very eloquently and the sense of the Planning Commission and how we all feel about you. So I won't try to repeat any of that, but I will observe, to me, what is really the attribute that you have that is really most valuable for this type of deliberative body and that is the ability to listen, you invite everybody's comments, you take everybody's comments seriously and I've seen it really over the years from the very start to virtually the end. If you hear something that's a better idea than what you've had or a better reason whether it from the Public or your fellow Commissioners even though you have staked out a position to change your mind and not just, 'Well, I have already said that I guess I better stick with it,' and I think that is just an incredible attribute and is very important to bring forth to what we do so that to me is one thing that I will always remember about Mike Toerge is I always felt well I will go ahead and make the argument and might have the chance to change his mind. And I am sure members of the Public feel the same way, because you had the ability to absorb what was going on and reach your own conclusion, but if you heard something better you went with it. It is quite an attribute. I know that you will make a fabulous City Councilman, now all you have to do is go out and get elected."

Commissioner Brown expressed the following comments regarding Chair Toerge:

"I agree with everything that has been said, particularly by Brad, we should have elected you to speak for us. It has been a terrific testament to Mike and I certainly endorse all those things, it was well thought out. It was great to listen to that so, thank you. Larry what you added, I agree with also and Fred with you as well. So not being able to add to that, I would like to tell you from a personal standpoint, when I was appointed to the Commission we were going through a very challenging time with Banning Ranch. I remember my very first meeting, I drove up and of course all of the folks from Banning Ranch were out there with signs, and I thought 'I know all of these people are not here to welcome me to the Planning Commission.' So there must be something big here and so was very, it was intimidating, I came from the Parks, Beaches, and Recreations Commission and we didn't have protestors very often. But, what I remember is that prior to the meeting you called me, when I was at school, he took the time to call me on my cell phone and I had received these notebooks. I was so overwhelmed by all these notebooks. We talked for about forty-five or fifty minutes and you made me feel a lot better about coming to this first meeting and about my ability to participate and to have a play in the meeting overall. To somebody who was very unsure at that time that was a very important thing you said to me, I want to point that out, that I will never forget that. I think I have seen you and I have sat next to you for over a year and a half and we have had some challenging meetings. And that meeting was a difficult meeting. One of the things that always occurred to me is that you did

CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT
August 8, 2013 Meeting
Agenda Item 3

SUBJECT:	Tannir Residence - (PA2013-110)
SITE LOCATION:	3235 Ocean Boulevard ▪ Variance No. VA2013-004
APPLICANT:	Wun Sze Li c/o Brion Jeannette Architecture
PLANNER:	Rosalinh Ung, Associate Planner (949) 644-3208, rung@newportbeachca.gov

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PROJECT SUMMARY

The applicant proposes to construct a 3-level, single-family residence with a Variance to allow:

a. the lower level of the residence to encroach 10 feet into the required 10-foot front yard setback; and

b. a portion of the new staircase and its railings located along the east property line to exceed the 6-foot height limit by 3 feet, for a total height of 9 feet.

RECOMMENDED ACTION

1) Conduct a public hearing; and

2) Adopt Resolution No. ___ approving Variance No. VA2013-004 and finding the project is categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15303 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3 (Attachment No. PC 1).

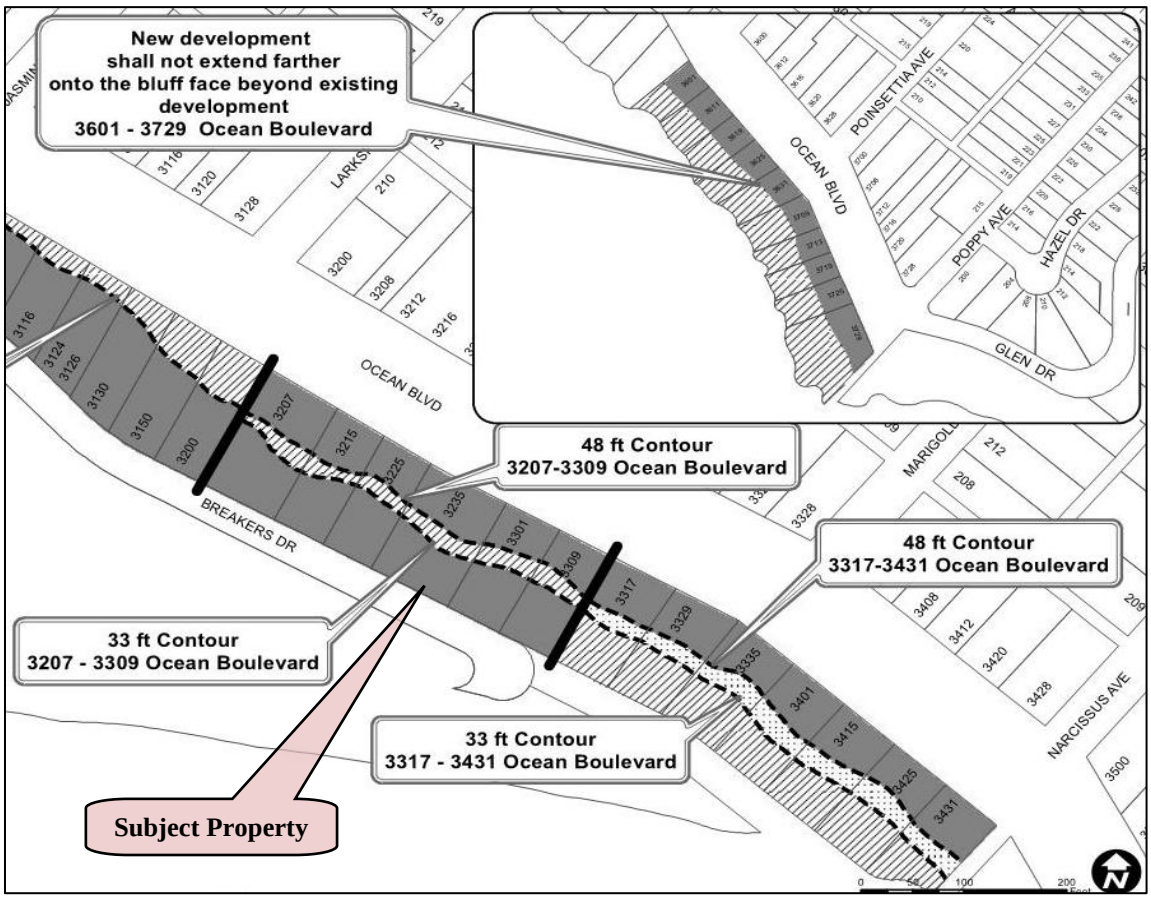
VICINITY MAP

GENERAL PLAN

ZONING

LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	Single-Unit Residential Detached (RS-D)	Single-Unit Residential-Bluff Overlay (R-1-B)	Single-unit residential dwelling
NORTH	Single-Unit Residential Detached (RS-D)	Single-Unit Residential	Single-unit residential dwelling
SOUTH	Breakers Dr. & Parks & Recreation (PR)	Breakers Dr. & Parks & Recreation (PR)	Breakers Dr. & CDM State Beach
EAST	Single-Unit Residential Detached (RS-D)	Single-Unit Residential-Bluff Overlay (R-1-B)	Single-unit residential dwelling
WEST	Single-Unit Residential Detached (RS-D)	Single-Unit Residential-Bluff Overlay (R-1-B)	Single-unit residential dwelling

Map B-6 Ocean Boulevard/Breakers



INTRODUCTION

Project Setting

The subject property is approximately 10,356 square feet in size. The rectangular-shaped property is located between Ocean Boulevard to the north and Breakers Drive to the south, with an approximately 50-foot wide City right-of-way between the northern property line and Ocean Boulevard curb line. The right-of-way area consists of a lawn adjacent Ocean Boulevard, an existing driveway and drive approach, retaining walls, a short staircase, and a sloped landscaped area adjacent to the property. To the north, east and west are existing single-family residential developments. South of Breakers Drive is the Corona del Mar State Beach.

The subject property slopes from Ocean Boulevard down to the south at a slope ratio of approximately 3:1 for approximately 90 feet. This is measured from the existing curb at Ocean Boulevard to the 56.0 foot contour line. From there, the site transition to an approximate 1:1 slope that extends approximately 50 feet downward to the 14.0 foot contour line and flattens out to Breakers Drive.

The subject property is currently developed with an existing 3-level single-family residential unit with attached 2-car garage constructed at the top of the bluff. The existing dwelling unit is situated approximately between the 80-foot elevation contour line down to the 56-foot elevation contour and it is approximately 2 feet 4 inches over the Ocean Boulevard top-of-curb height limit. A 180 square-foot workshop structure is located below the bluff adjacent to Breakers Drive. An existing wood staircase is located on the bluff face that connects the main residence and the workshop structure below, and this area remains largely undisturbed and vegetated. Vehicle access is provided to the garage from Ocean Boulevard via a 19-foot wide on-grade driveway/wooden bridge that is constructed in the public right-of-way. Additional on-site parking is accessed from Breakers Drive below. Pedestrian access to the residence is available from Ocean Boulevard via an existing 3-foot wide brick staircase that is also located in the public right-of-way along with a series of brick retaining wall/planters.

Project Description

The applicant proposes to demolish the existing structure and construct a new 7,197-square-foot, 3-level, single-family residence with an attached two-car garage at the top of the coastal bluff. A second structure would be developed at the bottom of the bluff consisting of a 478-square-foot, 2-car garage and a 303-square foot recreation room with a 350-square-foot roof deck.

The lower level of the main structure would encroach 10 feet into the 10-foot front yard setback. Additionally, the lower portion of existing staircase located on the bluff that currently provides pedestrian access to Breakers Drive will be retained. In order to connect the existing staircase to the new residence, a new staircase will be constructed

and a portion of this staircase and its railings will exceed the 6-foot high limit by 3 feet, for a total height of 9 feet. The front yard setback encroachment and the height of this new staircase portion require approval of a Variance.

Proposed improvements in the front yard setback consist of an open patio, raised planters, and barbeque. Within the 50-foot right-of-way, new improvements include a new staircase, a new driveway that connects to the existing drive approach along Ocean Boulevard, a new walkway leading to the residence, and retaining walls and protective railings along the new driveway.

DISCUSSION

Analysis

General Plan & Coastal Land Use Plan

The proposed project will not change the density or use of the subject property and is consistent with the designation "Single Unit Residential Detached" (RS-D) of the Land Use Element of the General Plan and "Single Unit Residential Detached" (RSD-A) of Coastal Land Use Plan (CLUP) of the Newport Beach Local Coastal Program.

The General Plan (GP) and the Local Coastal Plan (CLUP) state that coastal bluffs are "*significant natural landforms considered to be important scenic and visual resources within the coastal zone area of the City"*. Development along the coastal bluff side of Ocean Boulevard is one of the few areas in the coastal zone where there is development of the bluff face. According to Policies 4.4.3.8 and 4.4.3.9 of the CLUP, private development on bluff faces along Ocean Boulevard are permitted; however, it must be consistent with the predominant line of existing development or public improvements by providing public access and safety, protecting coastal resources, and protect public coastal views. Improvements on the bluff face shall only be permitted when no feasible alternative exists and when designed and constructed to minimize alteration of the bluff face, to not contribute to further erosion of the bluff face, and to be visually compatible with the surrounding area to the maximum extent feasible.

The initial subdivision and development in this area occurred prior to adoption of policies and regulations intended to protect coastal bluffs and other landforms. Development in this area is allowed to continue on the bluff face provided it complies with various policies stated in the GP and CLUP. The proposed residence would be constructed within the existing building footprint, at the 56-foot contour line to minimize the alteration of the bluff face and visually compatible with the adjacent residences by adhering to the top-of-curb height restriction.

Zoning Code

The subject property is zoned R-1-B (Single-Unit Residential Bluff Overlay District). Pursuant to Section 20.28.040 (Bluff Overlay District) and Map B6-Ocean Boulevard/Breakers, the subject property is located within the 3207-3309 Ocean Boulevard segment that has two (2) development areas: Area A and Area C. Development Area A is located between the front property line adjacent to Ocean Boulevard and the 48-foot contour line. Additionally, the lower portion of the site between the 33-foot contour line and the property line adjacent to Breakers Drive is within Area A. Within Area A, principal and accessory structures are allowed consistent with the R-1 zone. Development Area C is located between the 33-foot and 48-foot elevation contour lines. Limited accessory structures (i.e., benches, guardrails, on-grade trails and stairways, covered walkways connecting a conforming garage and principal structure) are allowed in Area C.

The proposed new residence complies with the R-1 and the Bluff Overlay development standards for floor area limit, building height, parking, residential design criteria, and development area, except for the requested front yard setback encroachment at the lower level and the new staircase portion that exceeds the 6-foot side yard setback height limit. A complete analysis of the development standards is provided as Attachment PC No. 3. The maximum height of the new residence will be constructed below the height of the top of Ocean Boulevard curb. The new residence and the 2-car garage structure will be constructed within Area A and generally have the same footprints of the existing residence. The design includes decks on the ocean side of the proposed residence that encroach 3 feet into Area C. The encroachments are allowed as they could cantilever up to 5 feet into Area C, and do not require ground support.

Variance Request

The applicant requests an approval of a Variance to allow the lower subterranean level to encroach into the required 10-foot front yard setback. The proposed front yard setbacks for the three building levels are:

Front Yard Setback (Ocean Boulevard)

	Proposed	Required
Upper Level	10 ft.	10 ft.
Middle Level	10 ft.	10 ft.
Lower Level	**0 ft.**	**10 ft.**

A Variance is also requested for a portion of the new staircase (approximately 12 feet long) located along the east property line that will exceed the 6-foot height limit by 3 feet, for a total height of 9 feet.

Section 20.52.090.F (Variances, Findings and Decision) of the Zoning Code requires the Planning Commission to make the following findings before approving a variance:

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

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

C. *Granting of the Variance is necessary for the preservation and enjoyment of substantial property rights of the applicant;*

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

E. *Granting of the Variance will not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood; and*

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

The basic intent of front yard setback is to provide adequate separation between structures on private property and the public right-of-way and to provide a consistent look from the public street. In this particular case, the proposed encroachment is below the existing and proposed finished grade, and will not be visible from Ocean Boulevard. The front property line is located approximately 24 feet from the Ocean Boulevard public walkway, and 50 feet from Ocean Boulevard.

Staff believes the findings for approval of the Variance request can be made because the design of the structure is reasonable given topographic and regulation constraints. Furthermore recent restrictions imposed by the California Coastal Commission for the adjacent property located at 3225 Ocean Boulevard results in a smaller development envelope and additional preservation of the existing bluff face along this segment. The project is designed similar to the 3225 Ocean Boulevard property. Approval of the Variance will allow the property owner to construct a dwelling that meets their needs while limiting encroachment down and alteration of the coastal bluff.

The Variance would not constitute a special privilege as it allows the property owner to build a house compatible with the development of other lots in the vicinity. The proposed development is approximately 65 percent of the maximum allowed on the subject property. The maximum allowable gross floor area is 12,341 square feet, while

the subject project is 7,978 square feet. Granting the requested subterranean front yard setback encroachment allows the size of the subject dwelling to be comparable to other newly-improved homes on similar parcels in the vicinity. Additionally, the Variance request will not adversely impact public views from Ocean Boulevard as it is subterranean and the overall residence adheres to the top-of-curb height restriction.

The requested wall height variance for the 12-foot 7-inch long staircase is located on the backside of the property away from Ocean Blvd and will not adversely impact public coastal views from Ocean Boulevard since the staircase is not visible from the street elevation. Additionally, the proposed staircase is 11 to 15 feet below the 56-foot contour as well as 11 to 18 feet below the adjacent neighbor's lowest deck level. Therefore, it will not affect the adjacent neighbor's views or the flow of air or light to their property.

Furthermore, the proposed staircase replaces the existing staircase that runs diagonally across the center of the bluff face. By the removal of this section, it allows for more coastal bluff to be visible and preserves the aesthetic character of the bluff as seen from the ocean. The proposed staircase will be built with wood framing on piles, open wood railing, and will be elevated from the bluff face to minimize disruption, preserve the natural drainage pattern of the site, and allow for native vegetation to grow.

Finally, the proposed staircase is compatible with the neighborhood in that all other properties along this section of Ocean Boulevard have staircases on the bluff to provide access to either Breakers Drive or Corona del Mar State Beach.

The granting of the applicant's request is consistent with the intent of the General Plan, Coastal Land Use Plan and Zoning Code. The granting of the Variance would not increase the density beyond what is planned for the area; will not adversely impact the designated public views from Ocean Boulevard as it adheres to the top-of-curb height restrictions; and does not maximize bluff development as allowed by the Bluff Overlay. Staff, therefore, recommends Planning Commission approval based on the discussion and facts above and findings included in the draft resolution for approval. Conditions of approval have been incorporated into the attached draft resolution (Attachment No. PC 1) to assure that the project complies with GP and LUP policies related to bluff stabilization, minimization of bluff recession, and prevention of bluff erosion.

Alternatives

The following alternatives are available to the Planning Commission:

1. The Planning Commission may suggest specific changes that are necessary to alleviate concerns. If any additional requested changes are substantial, the item should be continued to a future meeting to allow a redesign or additional analysis. Should the Planning Commission choose to do so, staff will return with a revised resolution incorporating new findings and/or conditions.

2. If the Planning Commission believes that there are insufficient facts to support the findings for approval, the Planning Commission must deny the application and provide facts in support of denial to be included in the attached draft resolution for denial (Attachment No. PC 2).

Environmental Review

The proposed project has been reviewed and it has been determined that it is categorically exempt under Section 15303, of the California Environmental Quality Act (CEQA) Guidelines – Class 3 (New Construction or Conversion of Small Structures). This exemption includes construction of a single-family residence in a residential area. The proposed project is a single-family residence to be constructed in the R-1 (Single-Unit Residential) Zoning District.

Public Notice

Notice of this hearing was published in the Daily Pilot, mailed to property owners within 300 feet of the property and posted at the site a minimum of 10 days in advance of this hearing consistent with the Municipal Code. Additionally, the item appeared upon the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:

Rosalinh Ung
Associate Planner

Submitted by:

Brenda Wisneski, AICP, Deputy Director

ATTACHMENTS

PC 1 Draft Resolution for Approval with Findings and Conditions
PC 2 Draft Resolution for Denial
PC 3 Project Development Elements
PC 4 Project Plans

Attachment No. PC 1

Draft Resolution for Approval

RESOLUTION NO. ####

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH APPROVING VARIANCE PERMIT NO. VA2013-004 FOR THE TANNIR RESIDENCE LOCATED AT 3235 OCEAN BOULEVARD (PA2013-110)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Brion Jeannette Architecture, with respect to property located at 3235 Ocean Boulevard, and legally described as southeasterly one-half of Lot 15 and Lot 16 of Tract 1026.

2. The applicant proposes to construct a 3-level, single-family residence with a Variance to allow:

    a. the lower level of the residence to encroach 10 feet into the required 10-foot front yard setback; and

    b. a portion of new staircase and its railings located in the side yard setback to exceed the 6-foot height limit by 3 feet, for a total height of 9 feet.

3. The subject property is located within the Single-Unit Residential (R-1) Bluff Overlay Zoning District and the General Plan Land Use Element category is Single-Unit Residential Detached (RS-D).

4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single-Unit Residential Detached (RSD-A).

5. A public hearing was held on August 8, 2013, in the City Hall Council Chambers, 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Section 15303 Class 3 (New Construction or Conversion of Small Structures) which includes construction of a single-family residence and related accessory structures in a residential zone. The proposed project is a single-family residence to be constructed in the R-1 (Single-Unit Residential) Zoning District.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.090 (Variances) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

A-1. The subject property slopes from Ocean Boulevard down to the south at a slope ratio of approximately 3:1 for approximately 90 feet. This is measured from the curb (EL 89.0') to the 56.0 foot contour. From there on, the site transition to an approximate 1:1 slope that extends approximately 50 feet downward to the 14.0 foot contour and flattens out to Breakers Drive. The subject property is within the Bluff Overlay District which has two development areas where principal and accessory structures are allowed to be constructed. Given the topography of the subject property, regulation constraints by the Bluff Overlay District, and further restrictions recently imposed by the California Coastal Commission on the neighboring parcel at 3225 Ocean Boulevard that are likely to be imposed on the subject property, the new residence will be facing a similar restriction of redevelop within the existing building footprint on the subject site thereby resulting in a more restrictive development envelope than to other R-1 zoned properties nearby.

A-2. The California Coastal Commission desires minimal "new" improvements on the bluff face. As a result, the existing improvements within this area need to be preserved and repair as necessary. The proposed new staircase is necessary to connect the new residence to the existing staircase that leads down to Breakers Drive.

Finding:

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

Facts in Support of Finding:

B-1. The Variance does not constitute the granting of a special privilege as it allows the property owner to develop a residence that is compatible with other lots in the vicinity that are identically zoned. The proposed residence is considerably smaller in floor area when compared to the sizes of other residences on similar sized lots in the vicinity. The project, as designed, will allow the property owner to construct a dwelling that meets their needs while limiting setback encroachment to the lower level, staircase height, and alteration of the coastal bluff.

Finding:

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

Facts in Support of Finding:

C-1. The proposed development is approximately 65 percent of the maximum allowed on the subject property. The maximum allowable gross floor area is 12,341 square feet while the subject property proposes 7,978 square feet. Granting the requested subterranean front yard setback encroachment allows the subject property to have a comparable dwelling size when compared to the sizes of newly-improved homes on similar parcels in the vicinity. The 10-foot front yard setback will be maintained above grade with landscaping and be used as open patio area.

C-2. The retaining of existing staircase on the bluff and the addition of a 12 feet, 7 inches new staircase to provide adequate access between the main dwelling and the accessory structure below will cause least amount of disruption to the coastal bluff.

Finding:

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

Facts in Support of Finding:

D-1. The Zoning Code provides the flexibility in application of land use and development regulations by way of permitting Variance applications. The Variance procedure is intended to resolve practical physical hardships resulting from the unique topography and lot configurations that exist in the City and on this property. The granting of this request is consistent with the intent of the established front yard setback as the encroachment would be subterranean and not visible from Ocean Boulevard. The upper levels maintain the required setback to ensure that there would be adequate flow of air and light to adjoining properties, to provide adequate separation between structures on private property and the public right-of-way, and to provide a consistent look from the public right-of-way.

D-2. The proposed staircase will be built with wood framing on piles consisting with the existing staircase, open wood railing, and will be elevated off of the bluff face to minimize disruption to the bluff, preserve the natural drainage pattern of the site, and allow for native vegetation to grow beneath.

D-3. The proposed staircase is compatible with the neighborhood in that all other properties along this section of Ocean Boulevard have staircases on the bluff to provide access to either Breakers Drive or Corona del Mar State Beach

Finding:

E. Granting of the Variance will not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood.

Facts in Support of Finding:

E-1. The subject property is designated for single-family residential use and the granting of the Variance would not increase the density beyond what is planned for the area, and will not result in additional traffic, parking or demand for other services. The granting of the Variance request will not adversely impact public views from Ocean Boulevard since the subterranean front yard setback encroachment will not be visible from the street level, and will be approximately 24-feet from the existing sidewalk and 50-feet from Ocean Boulevard. The proposed encroachment will not affect the flow of air or light to adjoining residential properties in that the required 10-foot front yard setback is maintained at above grade level (at the middle and upper levels).

E-2. The new staircase location will result the least alteration to the coast bluff as it would be built at grade with no visual impact from Ocean Boulevard. Additionally, the proposed staircase is 11- to 15-feet below the 56-foot contour as well as 11- to 18-feet below the adjacent neighbor's lowest deck level. It therefore, would not affect adjacent neighbor's views or would it affect the flow of air or light to their property.

Finding:

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

Facts in Support of Finding:

F.1. The granting of the applicant's request is consistent with the intent of the General Plan, Coastal Land Use Plan and Zoning Code as it would not increase the density beyond what is planned for the area; will not adversely impact the designated public views from Ocean Boulevard as it adheres to the top-of-curb height restrictions; and will allow for more open coastal bluff face than is required in the Development Area C by maintaining the existing building footprint, and the existing staircase with a small portion of the new one to connect to the new residence. Furthermore, the approval of the Variance does not reduce the visible front yard and consistent with the intent of front yard setback requirement.

F.2 The staircase will not be incompatible with the neighborhood in that all other properties along this section of Ocean Boulevard have staircases on the bluff to provide access to either Breakers Drive or Corona del Mar State Beach and the Bluff Overlay regulations allowed for staircases.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby approves Variance Permit No. VA2013-004, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.

2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 8TH DAY OF AUGUST, 2013.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY:_____
, Chairman

BY:_____
, Secretary

EXHIBIT "A"

CONDITIONS OF APPROVAL
(Project-specific conditions are in italics)

Planning Division

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval. It shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)

2. *The natural bluff face shall be restored to its natural state if inadvertent alteration should occur during construction of the project.*

3. Variance No. 2013-004 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.

4. *Prior to the issuance of a building or grading permit, a waiver of future shoreline protection during the economic life of the structure (75 years) shall be executed and recorded against the property. The waiver shall be binding upon all future owners and assignees. The waiver shall be reviewed and approved by the City Attorney prior to recordation.*

5. *Accessory structures shall be relocated or removed if threatened by coastal erosion. Accessory structures shall not be expanded and routine maintenance of accessory structures is permitted.*

6. *Prior to issuance of building permits, approval from the California Coastal Commission shall be required.*

7. Prior to the issuance of building permits, the applicant shall submit a landscape and irrigation plan prepared by a licensed landscape architect. The plans shall comply with the City's Water Efficient Landscape Ordinance (Chapter 14.17) and Water Conservation Ordinance (Chapter 14.16) of the Municipal Code. These plans shall incorporate native, drought tolerant plantings and water efficient irrigation practices, and the plans shall be approved by the Planning Division, Public Works, and General Services Departments. All planting areas shall be provided with a permanent underground automatic sprinkler irrigation system of a design suitable for the type and arrangement of the plant materials selected. The irrigation system shall be adjustable based upon either a signal from a satellite or an on-site moisture-sensor.

8. All new landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing

and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.

9. Prior to the final of building permits, the applicant shall schedule an inspection by the Planning Division to confirm that all landscaping on the property and within the public right-of-way was installed in accordance with the approved plan.

10. Reclaimed water shall be used whenever available, assuming it is economically feasible.

11. Water leaving the project site due to over-irrigation of landscape shall be minimized. If an incident such as this is reported, a representative from the Code and Water Quality Enforcement Division, shall visit the location, investigate, inform and notice the responsible party, and, as appropriate, cite the responsible party and/or shut off the irrigation water.

12. Watering shall be done during the early morning or evening hours (between 4:00 p.m. and 9:00 a.m.) to minimize evaporation the following morning.

13. All leaks shall be investigated by a representative from the Code and Water Quality Enforcement Division and the Applicant shall complete all required repairs.

14. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.

15. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Tannir Residence Project including, but not limited to, Variance Permit No. VA2013-004. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

<u>Building Division</u>

16. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code (CBC). The construction plans must

meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required prior to the issuance of a building permit.

17. Prior to issuance of the grading permit, the project applicant shall document to the City of Newport Beach Building Division that the project is designed and will be constructed to comply with current seismic safety standards and the current City-adopted version of the CBC.

18. A Water Quality Management Plan shall be required.

19. CAL-OSH permit shall be required.

20. *Prior to issuance of the grading permit, a geotechnical report provided by a licensed Certified Engineering Geologist or Geotechnical Engineer shall be submitted with construction drawings for plan check. The report shall include slope stability analyses and erosion rate estimates. The Building Division shall ensure that the project complies with the geotechnical recommendations included in the geologic investigation as well as additional requirements, if any, imposed by the Newport Beach Building Division. To assure stability, the development must maintain a minimum factor of safety of 1.5 against land-sliding for the economic life of the structure (75 years).*

21. *Prior to issuance of the grading permit, grading/drainage and shoring plan shall be submitted to the Building Division for review and approval.*

22. *Encroachment permit(s) shall be required for the installation of shorings.*

23. *Existing stairway shall be improved/upgraded per Chapter 10 of the CBC.*

24. *The new residence shall in compliance with CBC or CRC for exiting, number of stories, travel distance, and all required Fire safety and structural provisions.*

25. Where vehicles leave the construction site and enter adjacent public streets, any visible track-out extending for more than fifty (50) feet from the access point shall be swept within thirty (30) minutes of deposition.

26. The construction and equipment staging area shall be located in the least visually prominent area on the site and shall be properly maintained and/or screened to minimize potential unsightly conditions. Construction equipment and materials shall be properly stored on the site when not in use.

27. A six-foot-high screen and security fence shall be placed around the construction site during construction.

28. The applicant shall comply with SCAQMD Rule 403 requirements as follows:

    Land Clearing/Earth-Moving

a. Exposed pits (i.e., gravel, soil, and dirt) with 5 percent or greater silt content shall be watered twice daily, enclosed, covered, or treated with non-toxic soil stabilizers according to manufacturers' specifications.

b. All other active sites shall be watered twice daily.

c. All grading activities shall cease during second stage smog alerts and periods of high winds (i.e., greater than 25 mph) if soil is being transported to off-site locations and cannot be controlled by watering.

d. All trucks hauling dirt, sand, soil, or other loose materials off-site shall be covered or wetted or shall maintain at least two feet of freeboard (i.e., minimum vertical distance between the top of the load and the top of the trailer).

e. Portions of the construction site to remain inactive longer than a period of three months shall be seeded and watered until grass cover is grown or otherwise stabilized in a manner acceptable to the City.

f. All vehicles on the construction site shall travel at speeds less than 15 mph.

g. All diesel-powered vehicles and equipment shall be properly operated and maintained.

h. All diesel-powered vehicles and gasoline-powered equipment shall be turned off when not in use for more than 5 minutes.

i. The construction contractor shall utilize electric or natural gas-powered equipment instead of gasoline or diesel-powered engines, where feasible.

Paved Roads

k. Streets shall be swept hourly if visible soil material has been carried onto adjacent public paved roads. (See condition No. 34 above).

m. Construction equipment shall be visually inspected prior to leaving the site and loose dirt shall be washed off with wheel washers as necessary.

29. The applicant shall employ the following best available control measures ("BACMs") to reduce construction-related air quality impacts:

Dust Control

a. Water all active construction areas at least twice daily.

b. Cover all haul trucks or maintain at least two feet of freeboard.

c. Pave or apply water four times daily to all unpaved parking or staging areas.

d. Sweep or wash any site access points within two hours of any visible dirt deposits on any public roadway.

e. Cover or water twice daily any on-site stockpiles of debris, dirt or other dusty material.

f. Suspend all operations on any unpaved surface if winds exceed 25 mph.

Emissions

a. Require 90-day low-NOx tune-ups for off road equipment.

b. Limit allowable idling to 30 minutes for trucks and heavy equipment.

Off-Site Impacts

a. Encourage car pooling for construction workers.

b. Limit lane closures to off-peak travel periods.

c. Park construction vehicles off traveled roadways.

d. Wet down or cover dirt hauled off-site.

e. Sweep access points daily.

f. Encourage receipt of materials during non-peak traffic hours.

g. Sandbag construction sites for erosion control.

Fill Placement

a. The number and type of equipment for dirt pushing will be limited on any day to ensure that SCAQMD significance thresholds are not exceeded.

b. Maintain and utilize a continuous water application system during earth placement and compaction to achieve a 10 percent soil moisture content in the top six-inch surface layer, subject to review/discretion of the geotechnical engineer.

Public Works

30. All improvements shall be constructed as required by the Municipal Code and the Public Works Department.

31. *The applicant shall construct new concrete curb and gutter per City standards along Breakers Drive frontage.*

32. *New driveway along Breakers Drive shall be reconstructed per STD-162-L.*

33. All existing private, non-standard improvements within the public right-of-way and/or or extensions of private, non-standard improvements into the public right-of-way fronting the development site shall be removed.

34. Encroachment permit shall be required for all work activities within the public right-of-way.

35. Additional reconstruction within the public right-of-way may be required at the discretion of the Public Works Inspector in case of damage done to public improvements surrounding the development site by the applicant.

36. All on-site drainage shall comply with the latest City water quality requirements.

37. *A new sewer cleanout shall be installed on the existing sewer lateral per STD-406-L adjacent to the property line in the Breakers Drive public right-of-way.*

38. *No structural components, such as tie backs, foundations and caissons, shall be permitted to encroach into the Ocean Boulevard right-of-way for the new lower level that encroaches into the front yard setback area.*

39. *Prior to the building permit issuance, the existing 4-foot wide sewer easement along the property's southeasterly property line shall be vacated to accommodate the proposed improvements (stairway & barbeque).*

40. *City Council review and approval shall be required for the non-standard improvements (i.e., retaining walls, railings, stairs, etc.) within the Ocean Boulevard public right-of-way, since the proposed improvements are not consistent with City Council Policy L-6. If approved by City Council, the property owner shall be required to obtain an encroachment permit for the construction of the non-standard improvements and obtain an Encroachment Agreement for the non-standard improvements.*

Fire Department

41. Smoke alarms shall be required on the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms, in each room used for sleeping purposed, and on each dwelling level as C.F.C Section 907.2.11.2.

Attachment No. PC 2

Draft Resolution for Denial

RESOLUTION NO. ####

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH DENYING VARIANCE PERMIT NO. VA2013-004 FOR THE TANNIR RESIDENCE LOCATED AT 3235 OCEAN BOULEVARD (PA2013-110)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Brion Jeannette Architecture, with respect to property located at 3235 Ocean Boulevard, and legally described as southeasterly one-half of Lot 15 and Lot 16 of Tract 1026.

2. The applicant proposes to construct a new 3-level, single-family residence with a Variance to allow:

    a. the lower level of the residence to encroach 10 feet into the required 10-foot front yard setback; and
    b. a portion of new staircase and its railings located along the east property line to exceed the 6-foot height limit by 3 feet, for a total of 9 feet.

3. The subject property is located within the Single-Unit Residential (R-1) Bluff Overlay Zoning District and the General Plan Land Use Element category is Single-Unit Residential Detached (RS-D).

4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RSD-A (Single-Unit Residential Detached).

5. A public hearing was held on August 8, 2013, in the City Hall Council Chambers, 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. Pursuant to Section 15270 of the California Environmental Quality Act (CEQA) Guidelines, projects which a public agency rejects or disapproves are not subject to CEQA review.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.18.030 (Residential Zoning Districts General Development Standards), a 10-foot front yard setback is required for development of the subject property per Setback Map #S-10B. The topographic and regulatory constraints do not preclude the

construction of a residence that would be compatible with surrounding lots. Furthermore, Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls), the maximum wall height of 6 feet is required within the rear and interior side setbacks areas. The proposed residence can be redesigned to comply with the required development standards and approval of the Variance is not necessary to preserve a substantial property right.

The Planning Commission may approve a variance only after making each of the required findings set forth in Section 20.52.090 (Variances). In this case, the Planning Commission was unable to make the required findings based upon the following:

1. The Planning Commission determined, in this case, that the proposed Variance for the proposed single-family residential unit is not consistent with the legislative intent of Title 20 of the NBMC and that findings required by Section 20.52.090 are not supported in this case. The proposed project may prove detrimental to the community.

2. The design, location, size, and characteristics of the proposed project are not compatible with the single-family residences in the vicinity. The development may result in negative impacts to residents in the vicinity and would not be compatible with the enjoyment of the nearby residential properties.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby denies Variance No. VA2013-004.

2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 8th DAY OF AUGUST, 2013.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY:_____
__, Chairman

BY:_____
____, Secretary

Attachment No. PC 3

Project Development Elements

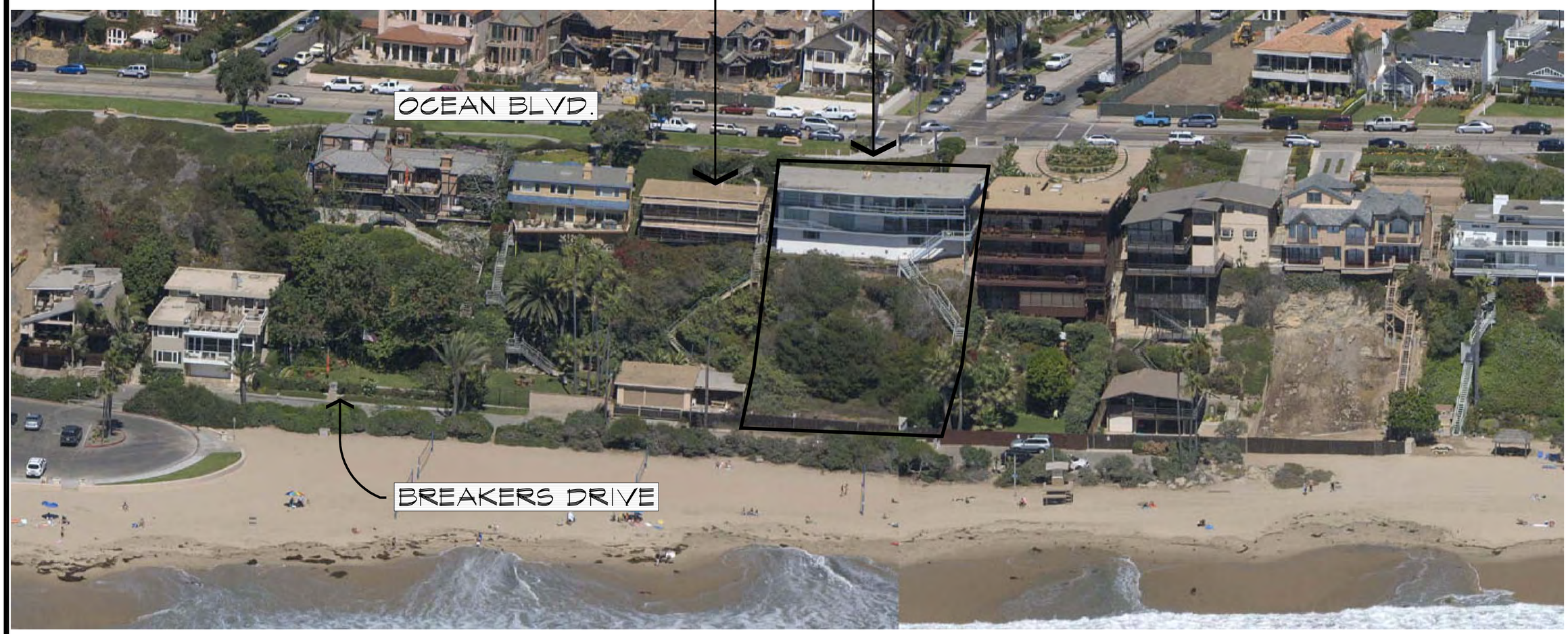
Attachment PC 3
Project Development Elements

PROJECT ELEMENTS	REQUIRED OR PERMITTED	PROPOSED
Lot Size	10,356sf.	No Change
Buildable area (lot minus setback areas)	8,227 sf.	No Change
Maximum gross floor area (1.5 x buildable area)	12,341 sf. (8,227 x 1.5)	Complies. Total :7,978 sf. Main Dwelling: Upper Level (including 2-car garage): 1,628 sf. Middle Level: 2,689 sf. Lower Level: 2,880 sf. 2-car garage & recreation room: 781 sf.
Development Area A per Bluff Overlay District (between 48-ft. contour line and property line adjacent to Ocean Blvd. & between the 33-ft. contour line and property line adjacent to Breakers Dr.)	Principal & accessory structures (BBQs, decks, patio covers, fences & walls, gazebos, fireplaces & fire pits, porches, spas & hot tubs, swimming pools, terrace, & similar structures)	Complies. Main Dwelling: between 56-ft. contour line and property line adjacent to Ocean Blvd Garage Structure: between 13-ft. contour line and property line adjacent to Breakers Dr.
Development Area C per Bluff Overlay District (between 33-foot and 48-ft. contour lines)	Limited accessory structures (covered walkways, benches, guardrails & handrails, on-grade stairways, drainage devices, landscaping/irrigation systems, on-grade trails, property line fences & walls, & similar structures)	**Variance Required**. On-grade stairways (existing & new); **a portion of new staircase is 8'-10"high (2ft-10" above the 6-foot requirement)**[1]
Building Height Limits:	29 ft. pitched roof above natural grade (NG) Top of curb (TOC) @ 89.37' (Md. Pt.)	Complies – 29 ft. Complies - Top of elevation: 89.32'
Front Setback (Ocean Blvd.):	10 ft.	**Variance Required**. Upper Level: 10 ft. Middle Level: 10 ft. Lower Level: **0 ft.**[1]
Side Setback:	4 ft.	Complies. 4 ft.
Rear Setback (Breakers Dr):	5 ft.	Complies. 5 ft.
Parking	3 spaces	Complies. 4 spaces (two 2-car garages)

[1]Variance requested

Attachment No. PC 4

Project Plans



SITE CONTEXT PHOTO

LEGAL OWNER

NIZAR AND NADA TANNIR
537 CEDAR CREEK DRIVE
HOUSTON, TX 77056
CONTACT: BRION JEANNETTE ARCHITECTURE
(949) 645-5854

LEGAL DESCRIPTION

PROJECT ID:	TRACT 1026, 1/2 OF LOT 15 & LOT 16
A.P. NUMBER	052-120-54
AREA:	CORONA DEL MAR
CITY:	NEWPORT BEACH
COUNTY:	ORANGE

SCOPE OF WORK

DEMOLISH EXISTING HOUSE AND SHED AND CONSTRUCT A NEW THREE LEVEL SINGLE FAMILY RESIDENCE WITH AN ATTACHED TWO CAR GARAGE & A DETACHED TWO CAR GARAGE WITH RECREATIONAL ROOM.

DO NOT SCALE DRAWINGS

CONSULTANTS

GEOTECHNICAL:
GEOFIRM
801 GLENNEYRE ST., SUITE F
LAGUNA BEACH, CA 92651
(949) 494-2122

SURVEYOR:
RGA CONSULTANTS, INC.
34 GEORGETOWN
IRVINE, CA 92612
(949) 509-0909

DESIGN DATA

CITY:	NEWPORT BEACH
ZONE:	R-1
CODE:	2010 CRC, 2010 CBC, 2010 CPC 2010 CEC, 2010 CMC, 2008 BUILDING ENERGY EFFICIENCY STANDARDS (BEES), 2010 CAL GREEN BUILDING STANDARDS
USE:	SFD
CONSTRUCTION TYPE:	VB (SPRINKLERED)
OCCUPANCY:	R-3/U
SETBACKS:	
FRONT (OCEAN BLVD.):	10'-0"
REAR (BREAKERS DR.):	5'-0"
SIDE:	4'-0"
MAXIMUM HEIGHT:	TOP OF CURB & 24'/29' ABV. N.G.

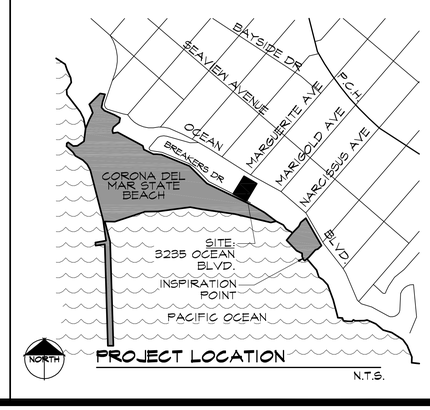
SQUARE FOOTAGE CALCS.

LOT SIZE:	10,356	S.F.
F.A.R.:	1.5	S.F.
MAX. LIVABLE:	12,341	S.F.
UPPER LEVEL:	1,141	S.F.
MIDDLE LEVEL:	2,689	S.F.
LOWER LEVEL:	2,744	S.F.
REC. RM AT GARAGE LEVEL:	303	S.F.
TOTAL LIVABLE:	6,877	S.F.
UL 2-CAR GARAGE	487	S.F.
2-CAR GARAGE:	478	S.F.
LOWER LEVEL MECH.:	136	S.F.
TOTAL NON-LIVABLE:	1,101	S.F.
TOTAL STRUCTURE:	7,978	S.F.

SHEET INDEX

T-1	SITE CONTEXT PHOTO & INFORMATION
A-1	SITE PLAN & GRADE PLANE EXHIBIT
A-2	GARAGE & LOWER LEVEL FLOOR PLANS
A-3	MIDDLE, UPPER, AND ROOF PLANS
A-4	EXTERIOR ELEVATIONS
A-5	EXTERIOR ELEVATIONS
A-6	BUILDING SECTIONS
A-7	PRELIMINARY LANDSCAPE PLAN
T-S	TOPOGRAPHIC SURVEY

VICINITY MAP



PROJECT LOCATION

N.T.S.

TANNIR RESIDENCE
3235 OCEAN BLVD.
CORONA DEL MAR, CA

Brion Jeannette Architecture
470 Old Newport Boulevard • Newport Beach, CA • 92663 • Tel 949.645.5854 • Fax 949.645.5983
www.customprojectarchitecture.com
MEMBERS: AIA & NCARB CADD/CONSTRUCTION DESIGN

SITE CONTEXT PHOTO
& INFORMATION

Date:	
CITY REVIEW Revision: 6.27.13	1
CITY REVIEW Revision: 7.23.13	2
Revision:	
Revision:	
Revision:	
Job No: 10-027	

LICENSED ARCHITECT
BRION S. JEANNETTE
C8012
REN. 4/15
STATE OF CALIFORNIA

T-1

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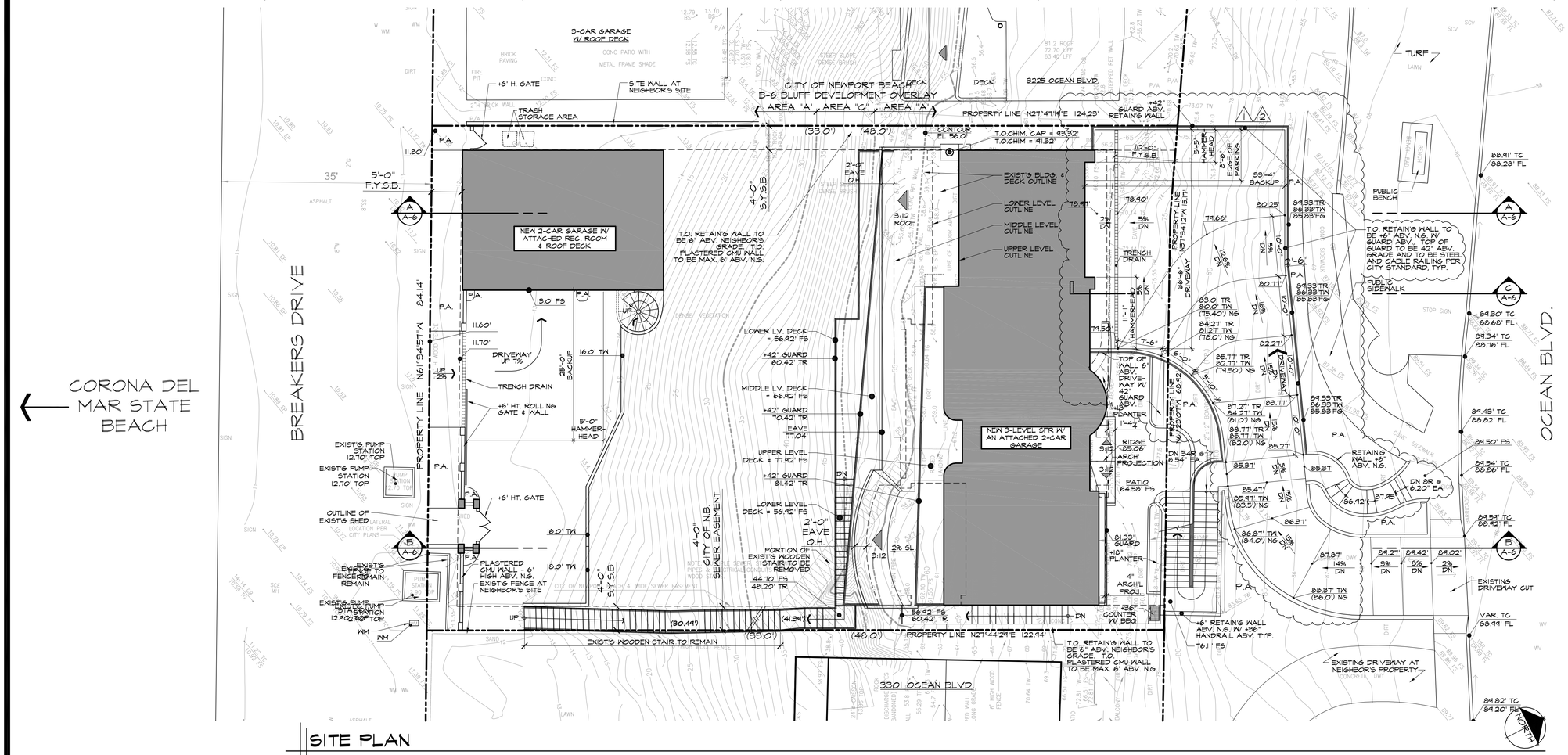
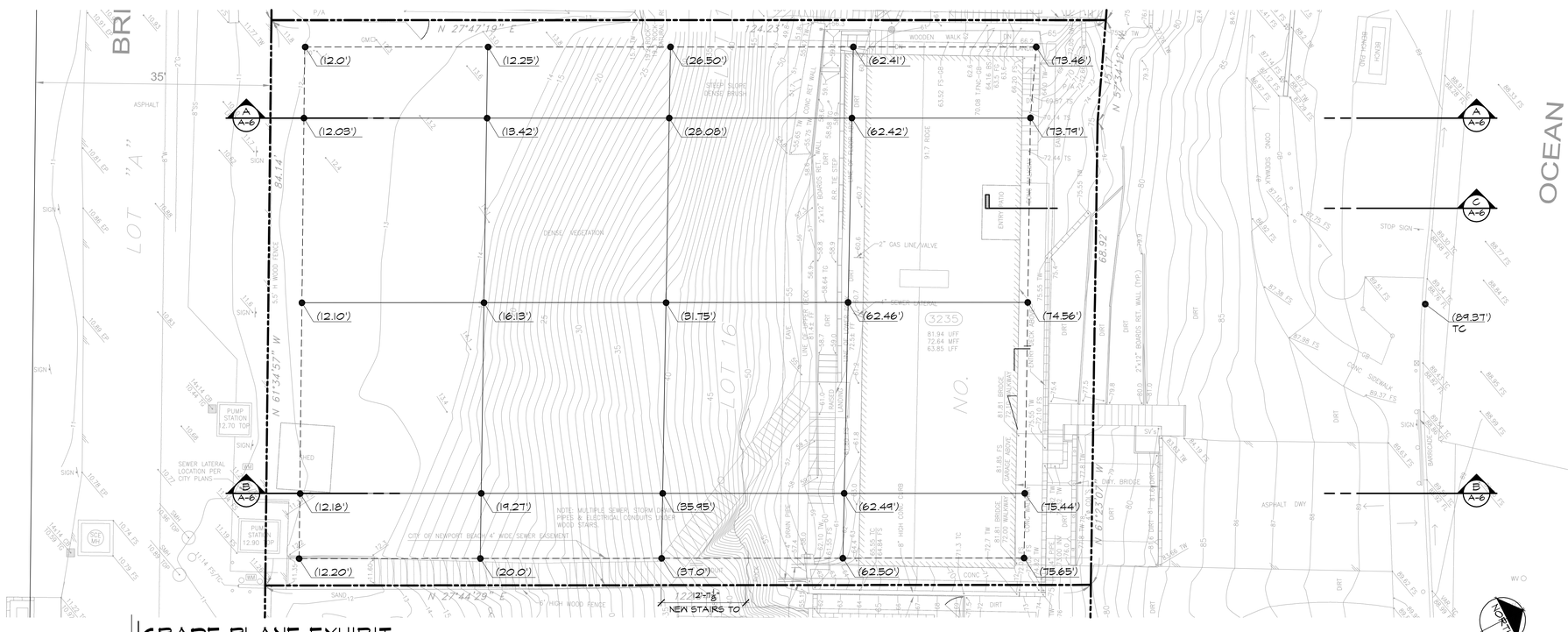


SITE PLAN

SCALE: 1/8" = 1' - 0"



GRADE PLANE EXHIBIT

SCALE: 1/8" = 1' - 0"

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CORONA DEL MAR, CA

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www.brionjeannettearchitecture.com • info@brionjeannettearchitecture.com
MEMBERS AIA & NCARB • ENERGY CONSCIOUS DESIGN

SITE PLAN/ GRADE PLANE EXHIBIT

Date:	
CITY REVIEW Revision:	6.27.18 1
CITY REVIEW Revision:	11.28.18 2
Revision:	
Revision:	
Revision:	
Job No: 10-027	

LICENSED ARCHITECT BRION S. JEANNETTE C8012 REN. 4/15 STATE OF CALIFORNIA

A-1

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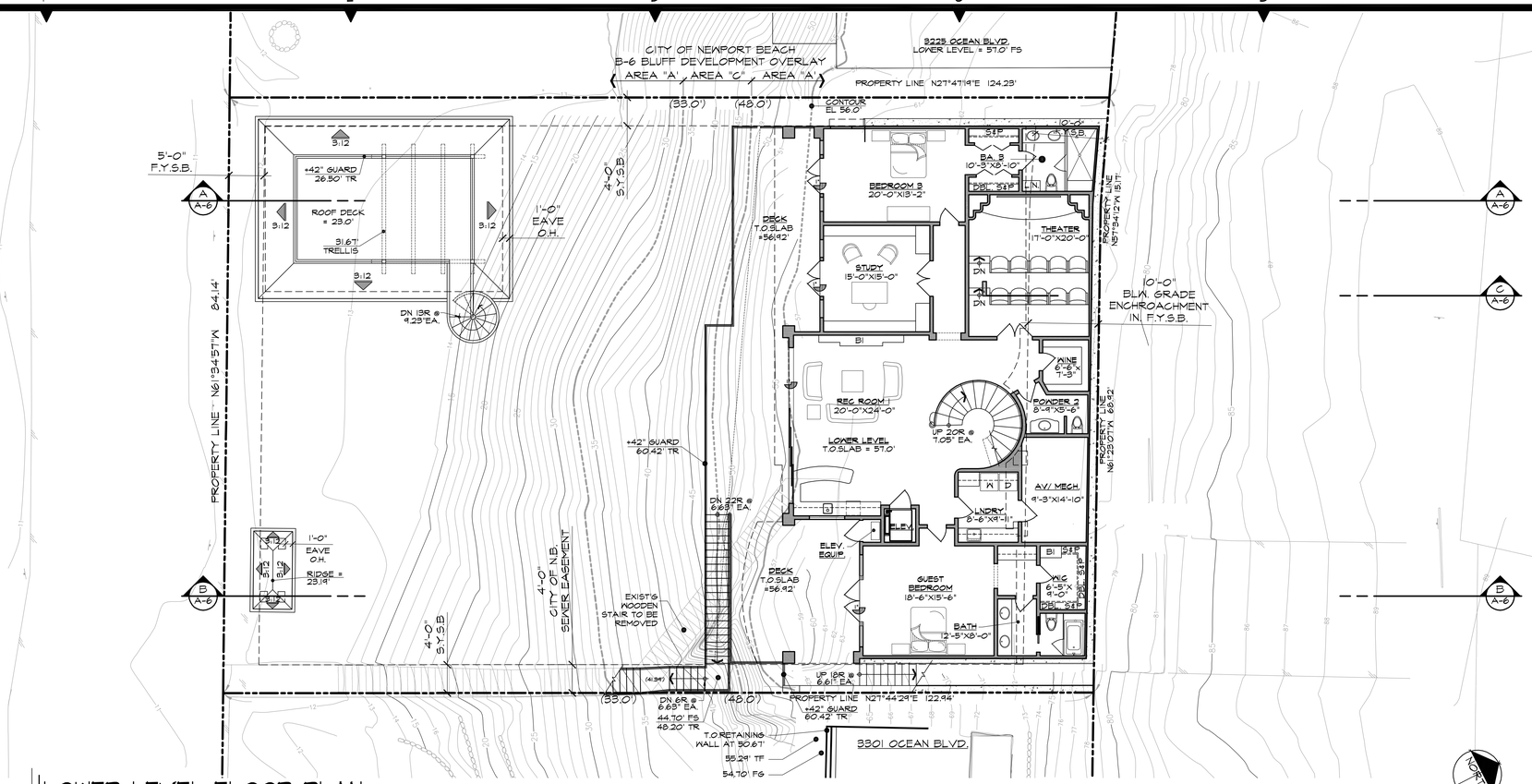
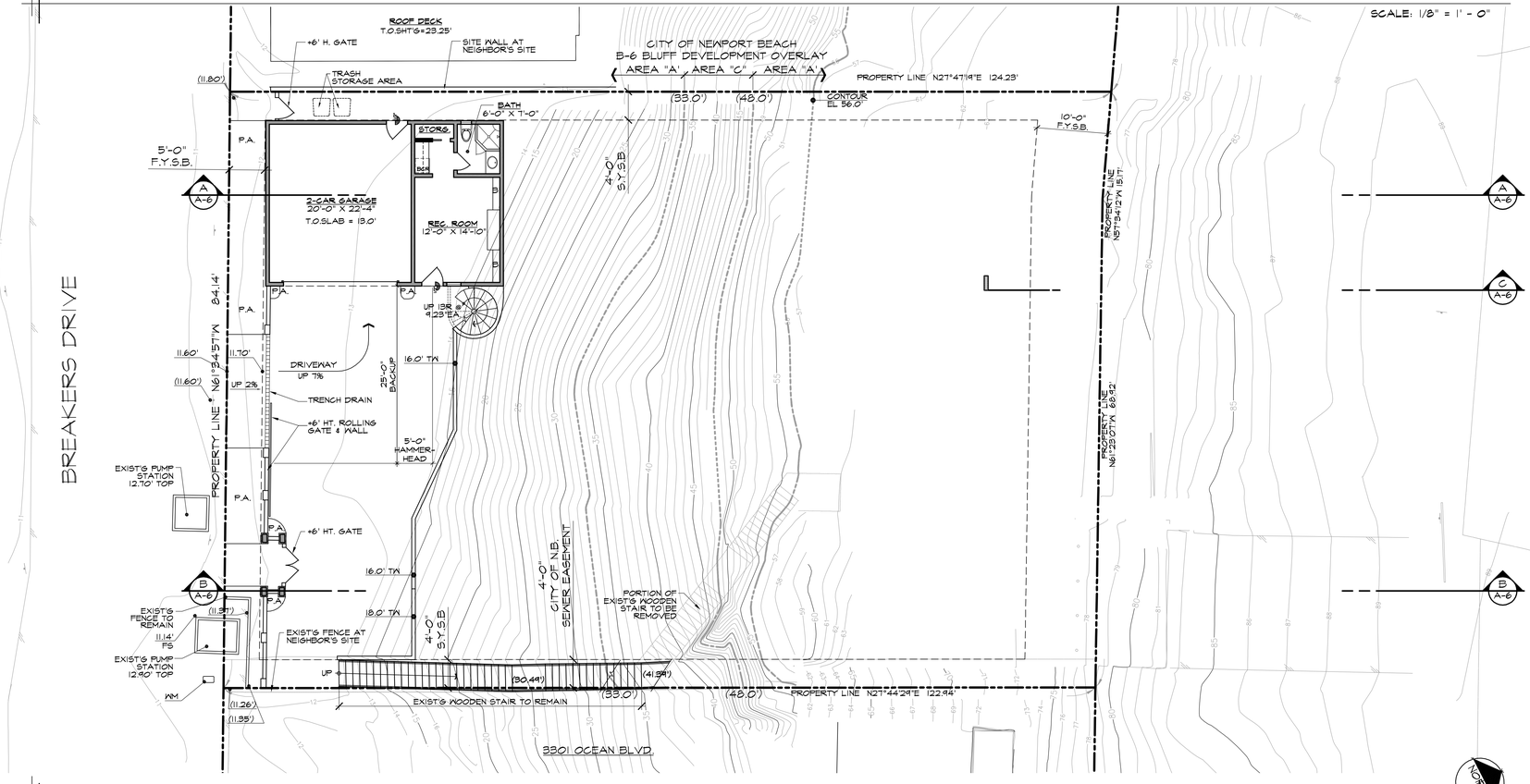


LOWER LEVEL FLOOR PLAN

SCALE: 1/8" = 1' - 0"



GARAGE FLOOR PLAN

SCALE: 1/8" = 1' - 0"

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LOWER LEVEL & GARAGE FLOOR PLANS

Date:	
Revision:	
Revision:	
Revision:	
Revision:	
Revision:	
Job No: 10-027	

LICENSED ARCHITECT
BRION S. JEANNETTE
C8012
REN. 4/15
STATE OF CALIFORNIA

A-2

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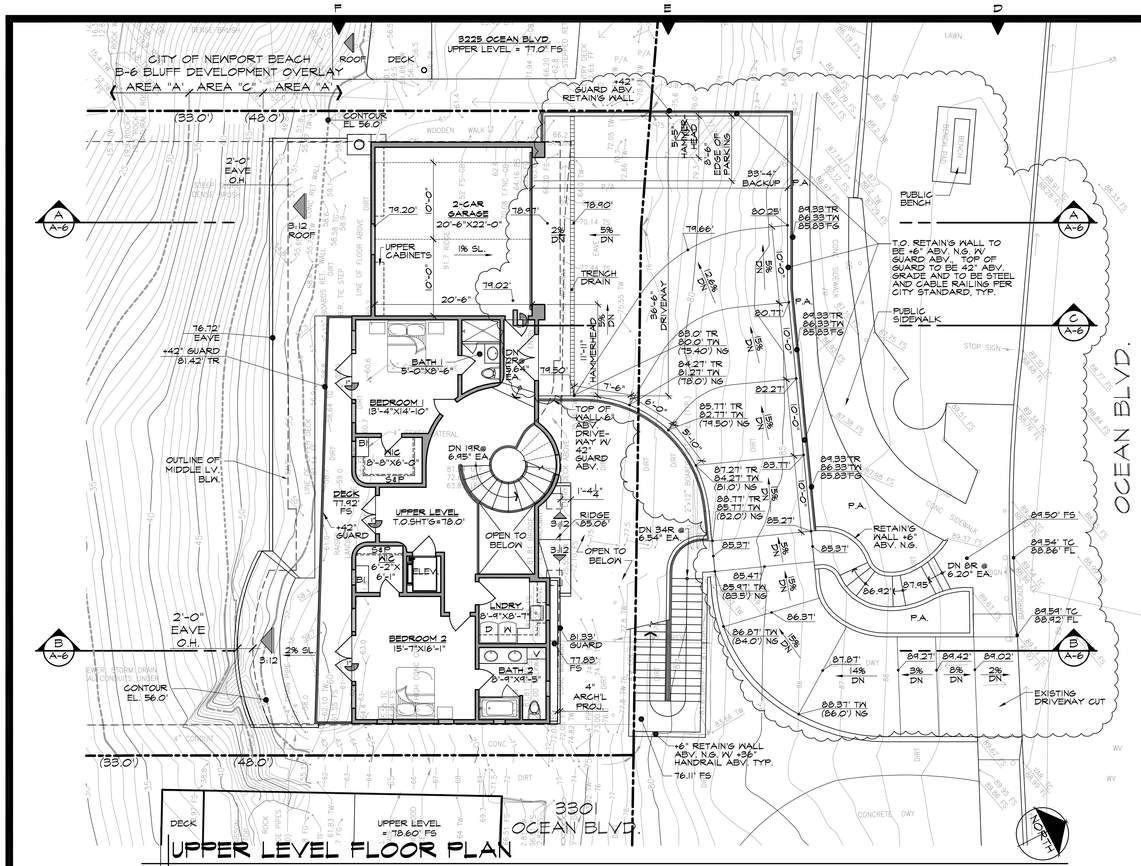
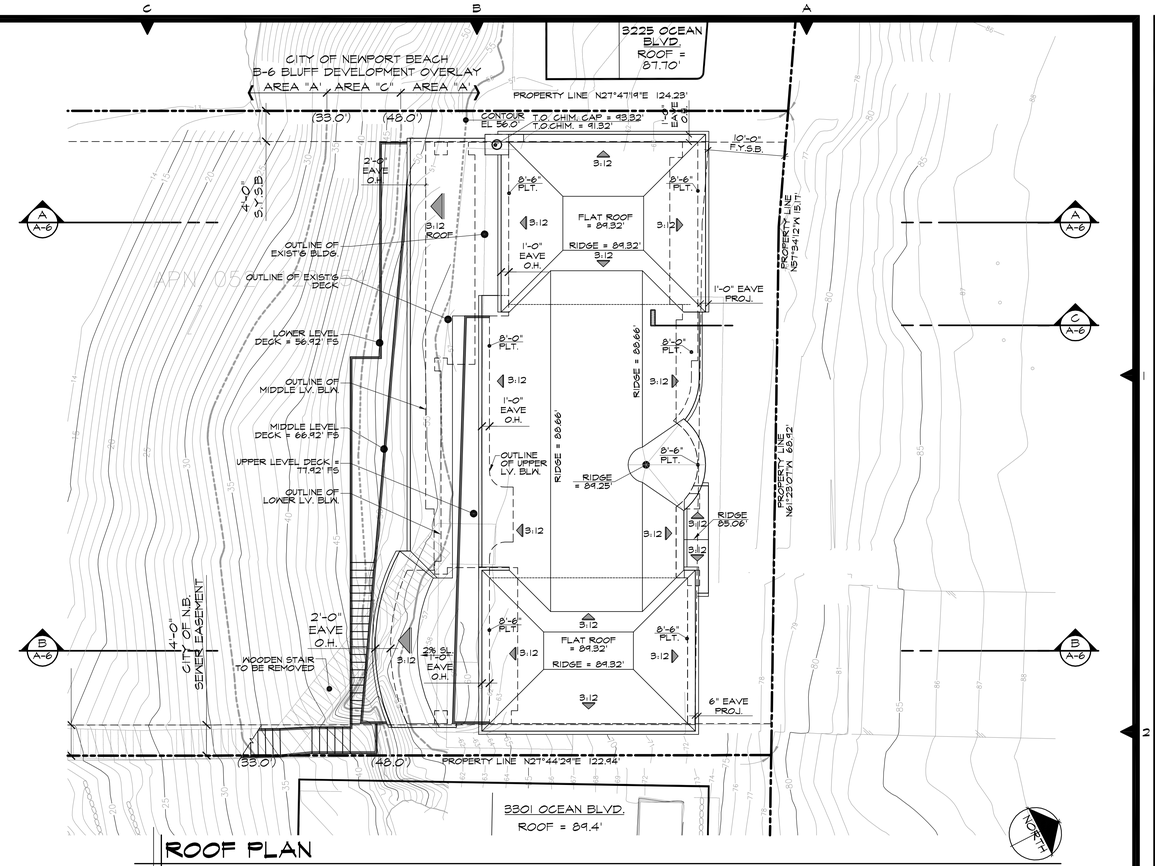


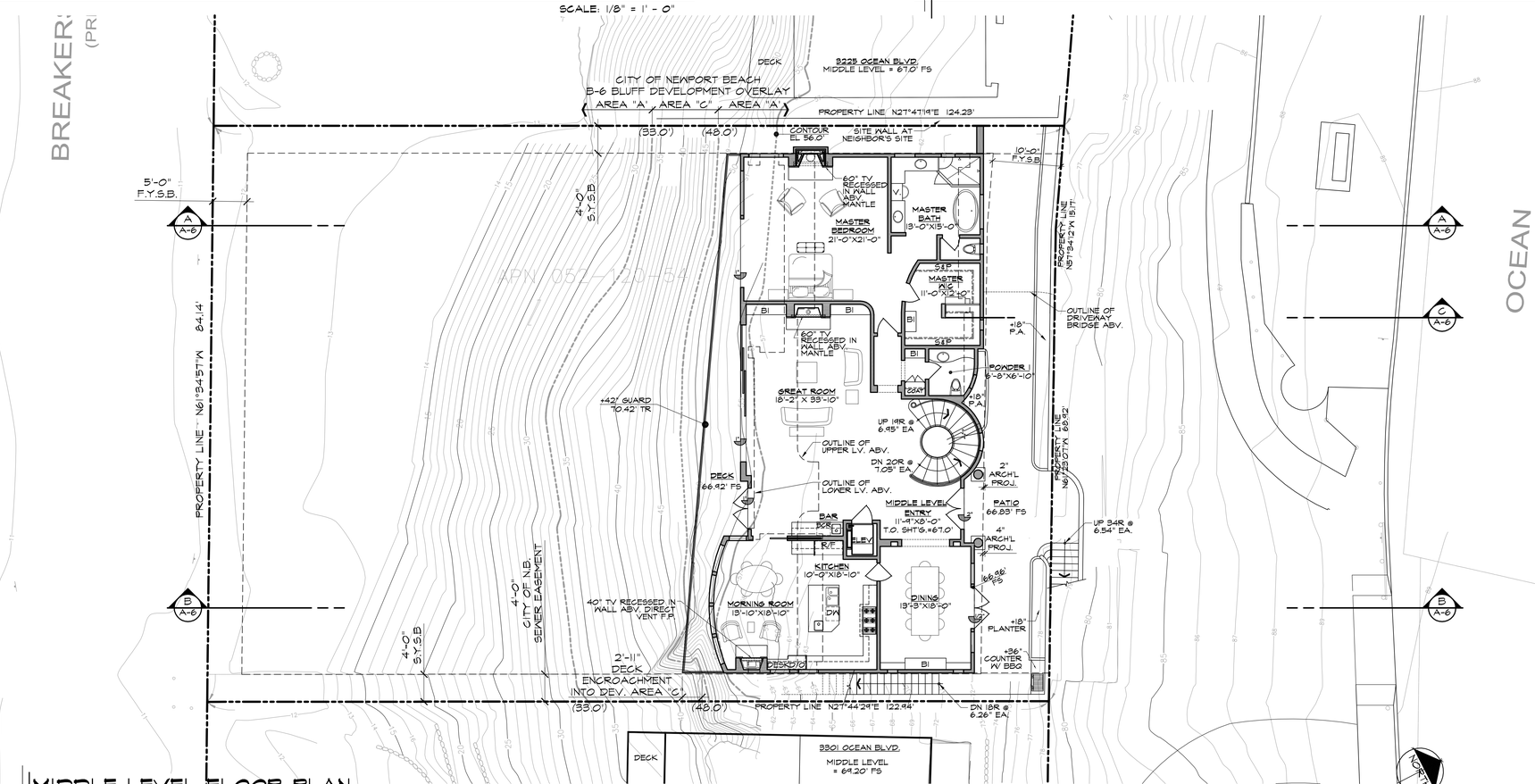
UPPER LEVEL FLOOR PLAN

SCALE: 1/8" = 1' - 0"



ROOF PLAN

SCALE: 1/8" = 1' - 0"



MIDDLE LEVEL FLOOR PLAN

SCALE: 1/8" = 1' - 0"

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UPPER & MIDDLE LEVEL FLOOR PLANS

Date:	
CITY REVIEW Revision: 6.27.13	1
CITY REVIEW Revision: 7.29.13	2
Revision:	
Revision:	
Revision:	
Job No: 10-027	

LICENSED ARCHITECT BRION S. JEANNETTE C8012 REN. 4/15 STATE OF CALIFORNIA

A-3

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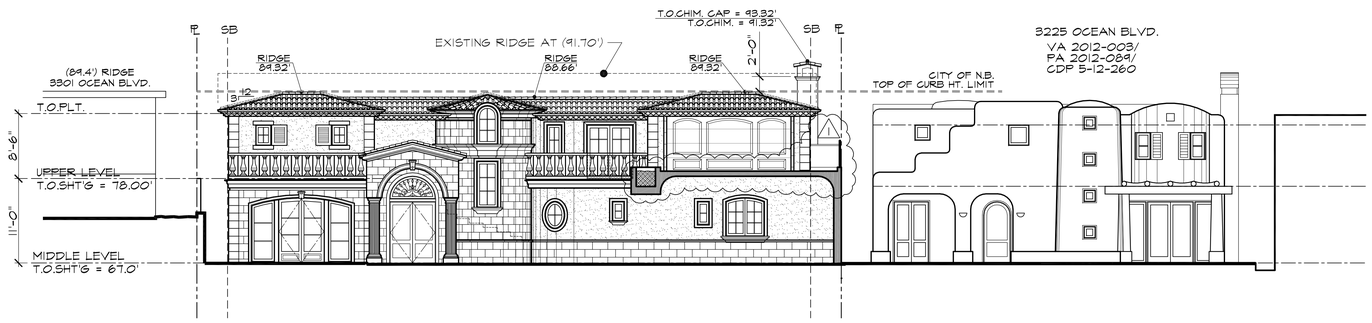
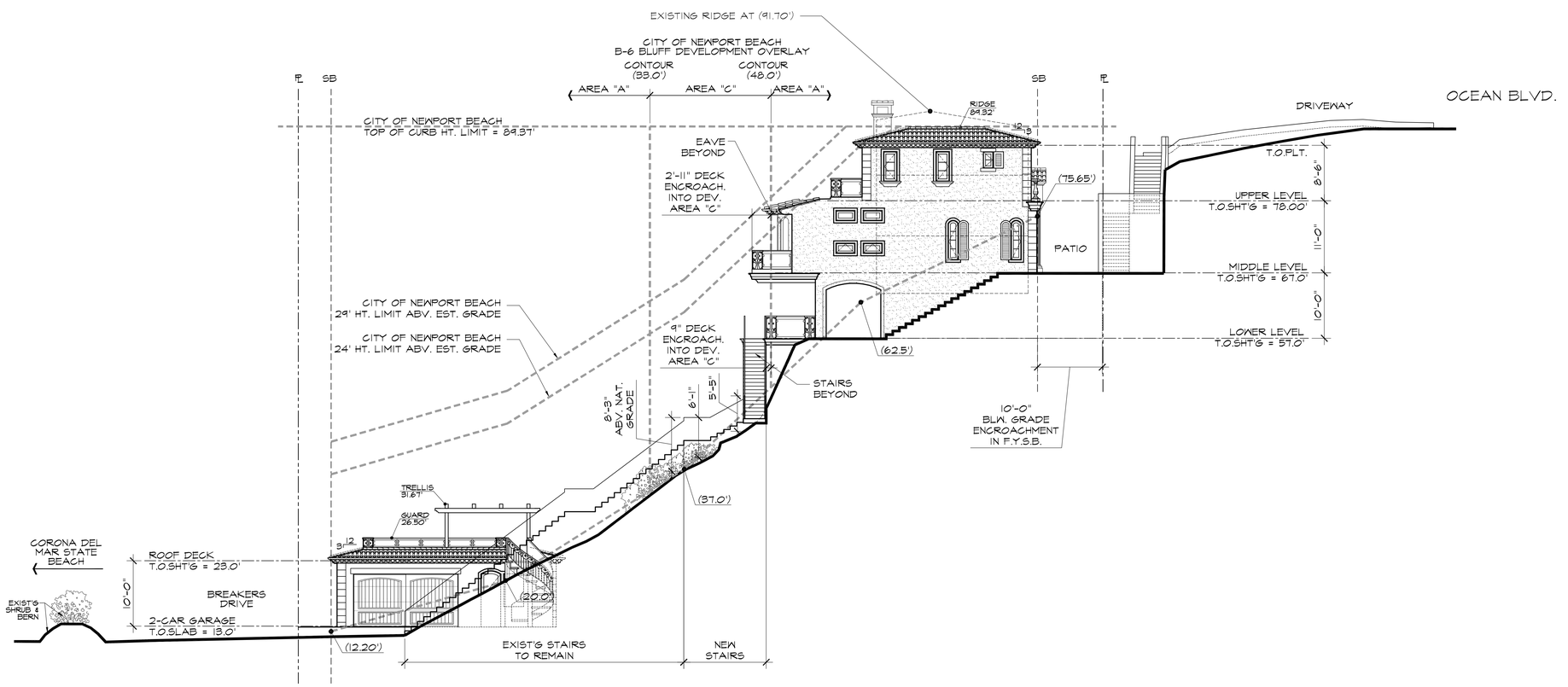


NORTH ELEVATION

SCALE: 1/8" = 1' - 0"



EAST ELEVATION

SCALE: 1/8" = 1' - 0"

EXTERIOR FINISH SPECIFICATIONS:

1. EXTERIOR PLASTER:

   EXTERIOR PLASTER O/ (2) LAYER GRADE D PAPER AT BUILDING FIELD TO RECEIVE A SMOOTH TEXTURE. FINAL COLOR COAT TO BE OMEGA AKROFLEX OR OMEGAFLEX, COLOR TO BE DETERMINED. COLOR TO BE APPROVED BY ARCHITECT PRIOR TO APPLICATION.

2. ROOFING:

   ROOF TILE TO BE 2 PIECE CLAY MISSION TILES BY REDLAND CLAY TILE WITH 100% MUD AND 30% TILE BOOSTERS. COLOR TO BE DETERMINED. ROOF MATERIAL AT FLAT ROOF TO BE CLASS 'A' BUILT-UP ROOFING IN ACCORDANCE WITH SPEC. EQUIVALENT TO GAF SPEC# N-1-2-20/ MOPFR. GAF RUBEROID 20 INTERPLY, HOT MOPPED BETWEEN LAYERS O/ GAP #75 BASE SHEET. APPLY GAF MOP GRANULE PLUS CAP SHEET AT FLAT ROOFS.

3. WOOD:

   WOOD AT SHUTTER TO BE SEALED, STAIN GRADE DOUGLAS-FIR. COLOR TO BE DETERMINED. SHUTTER TO BE OPERABLE IN PLANK STYLE WITH WROUGHT IRON SHUTTER DOGS. SOLID LUMBER WOOD AT GARAGE DOOR AND GATES TO BE STAIN GRADE MAHOGANY, U.N.O.

4. STONE:

   ALL EXTERIOR STONE TO BE 12"x24".

5. GLASS FIBER REINFORCED CONCRETE (GFRC):

   FASCIA, CORBEL, WINDOW & DOOR TRIMS, AND BELT COURSE TO BE GFRC. FINISH AND COLOR TO MATCH STONE AND SHALL BE APPROVED BY ARCHITECT PRIO TO FULL APPLICATION.

6. WROUGHT IRON:

   WROUGHT IRON AT RAILING TO HAVE A NATURAL FINISH. GLASS PANELS TO BE CLEAR LAMINATED GLASS.

7. SHEET METAL

   GUTTERS, DOWNSPOUTS, AND COLLECTIONS BOXES ARE TO BE 16 OZ COPPER W/ NATURAL FINISH. FLASHING TO BE ALUMINUM.

8. WINDOWS AND DOORS:

   EXTERIOR WINDOWS AND DOORS TO BE ALUMINUM-CLAD WOOD WITH KYNAR 500 FINISH, MANUFACTURER TO BE DETERMINED.

TANNIR RESIDENCE
3235 OCEAN BLVD.
CORONA DEL MAR, CA

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EXTERIOR ELEVATIONS

Date:	
CITY REVIEW Revision 6.27.13	1
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Job No: 10-027	

LICENSED ARCHITECT
BRION S. JEANNETTE
C8012
REN. 4/15
STATE OF CALIFORNIA

A-4

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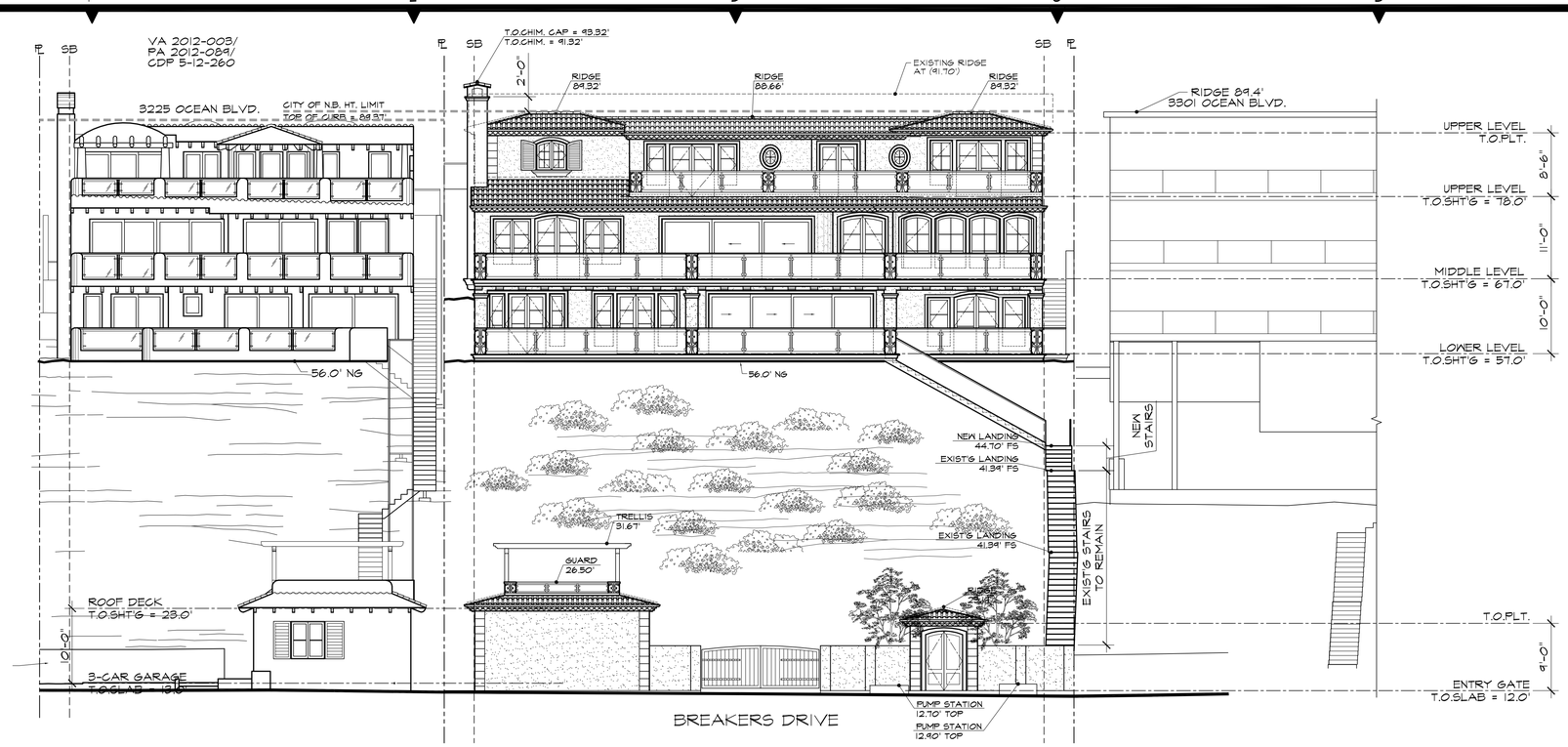
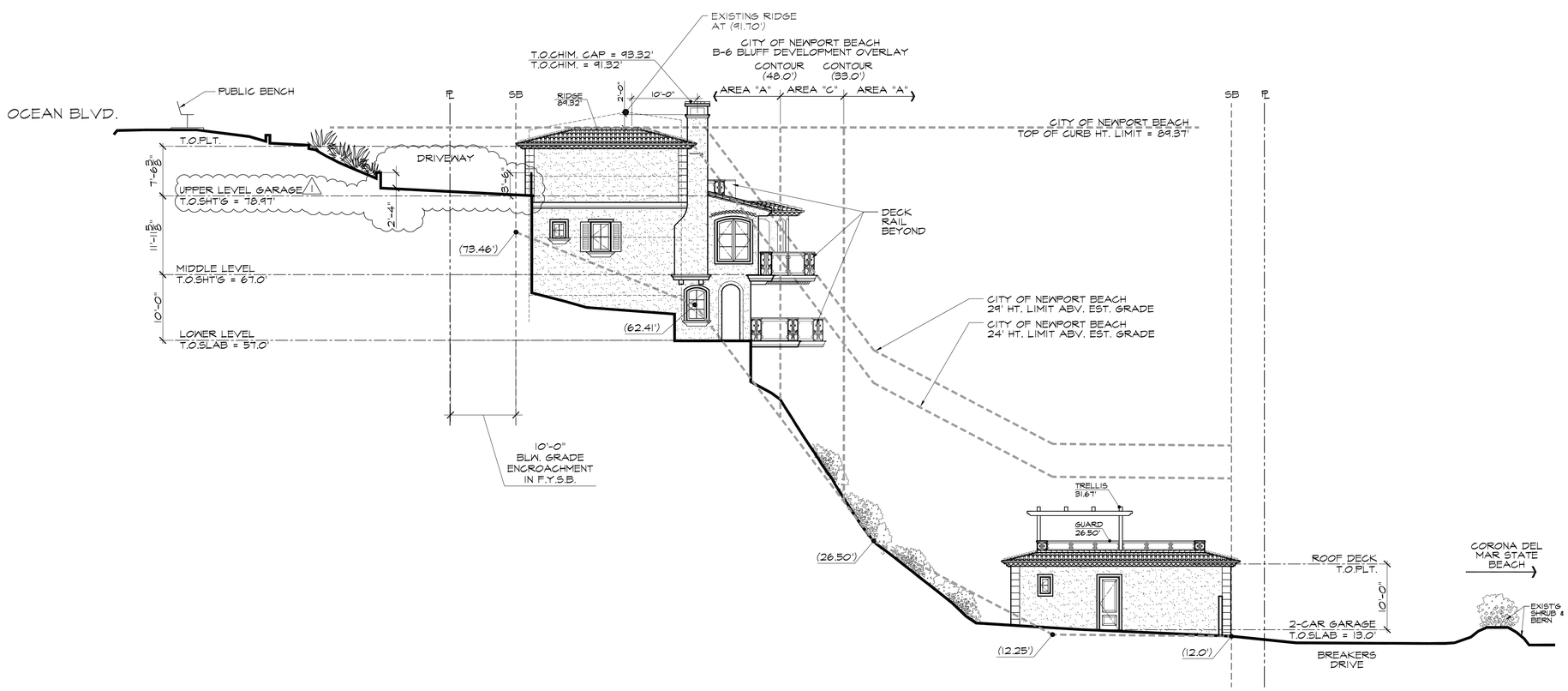


SOUTH ELEVATION

SCALE: 1/8" = 1' - 0"



WEST ELEVATION

SCALE: 1/8" = 1' - 0"

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EXTERIOR ELEVATIONS

Date:	
CITY REVIEW Revision:	6.27.18
Revision:	
Revision:	
Revision:	
Revision:	
Job No:	10-027

LICENSED ARCHITECT
BRION S. JEANNETTE
C8012
REN. 4/15
STATE OF CALIFORNIA

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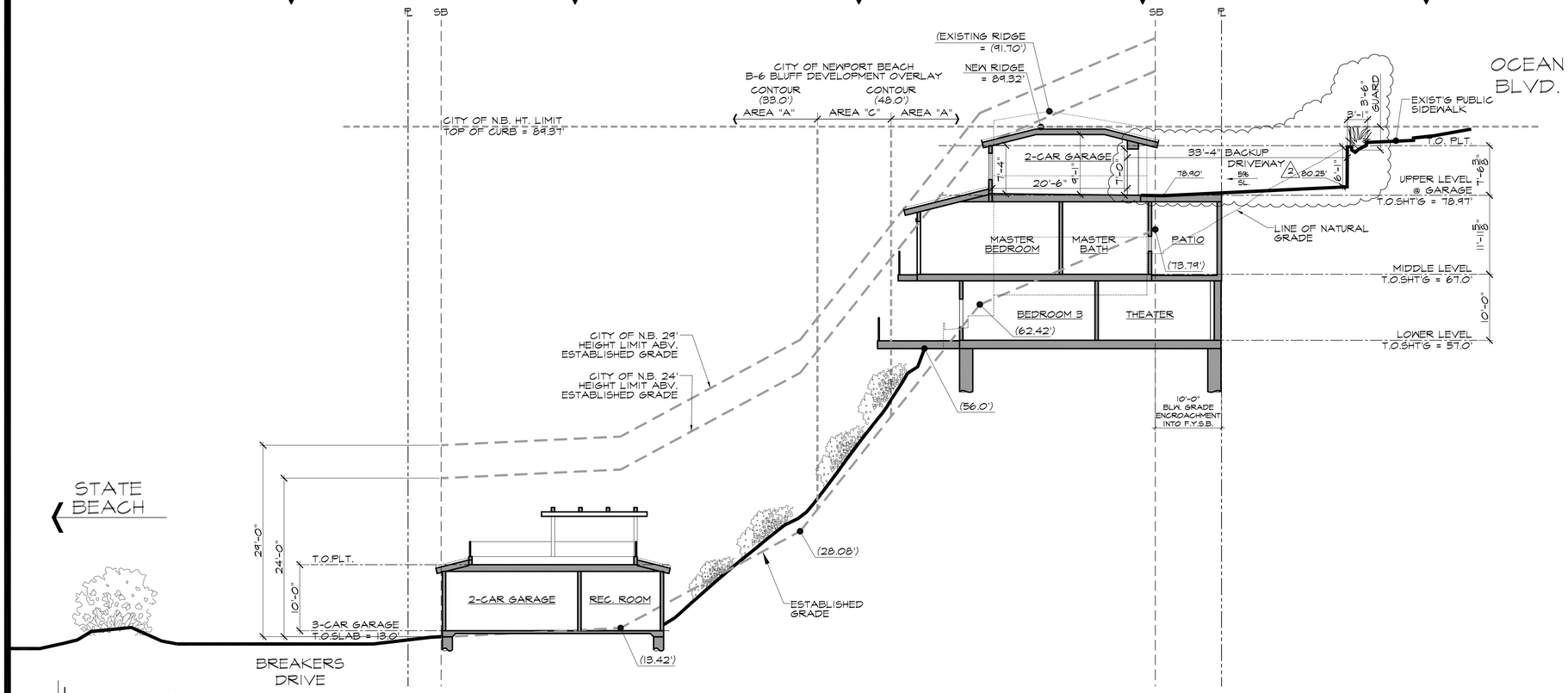
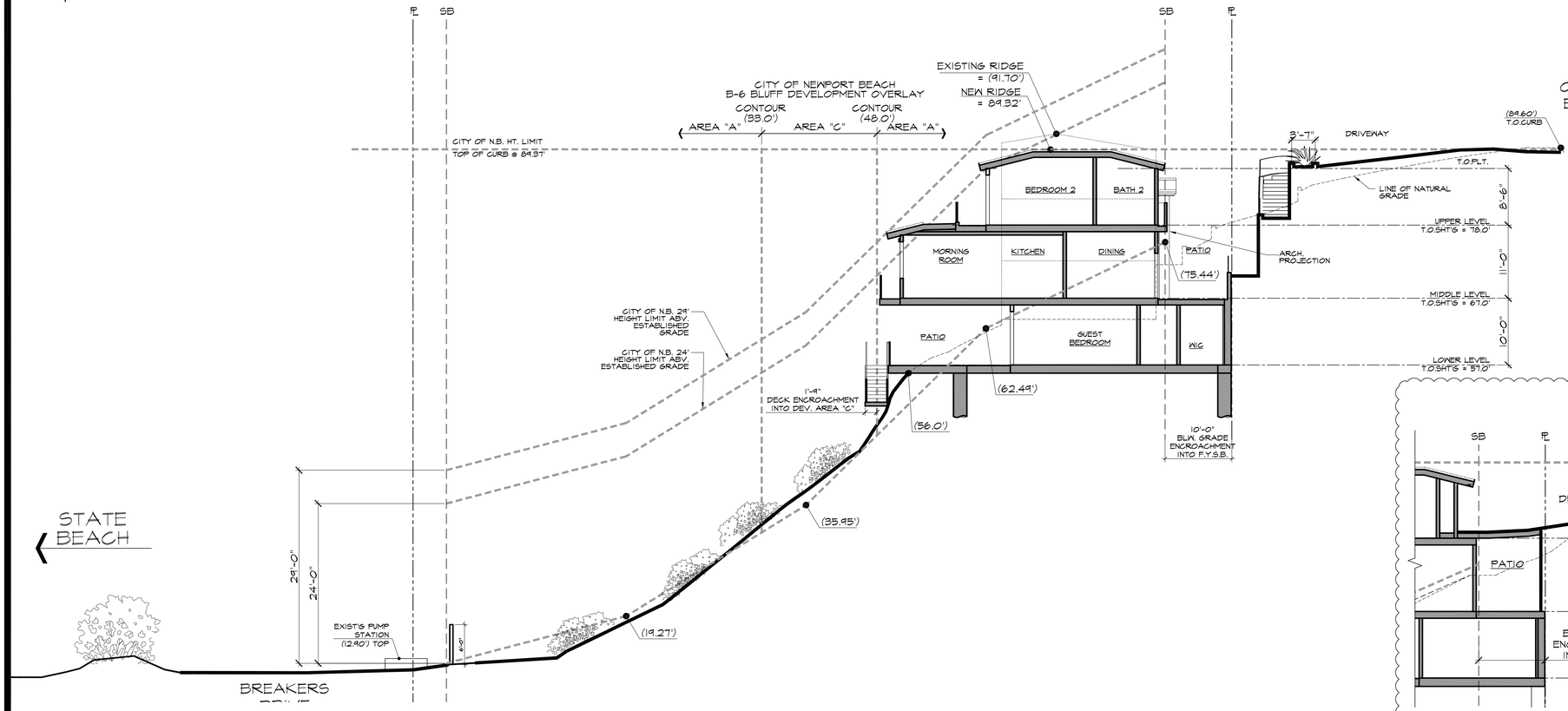


SECTION A

SCALE: 1/8" = 1' - 0"



SECTION B

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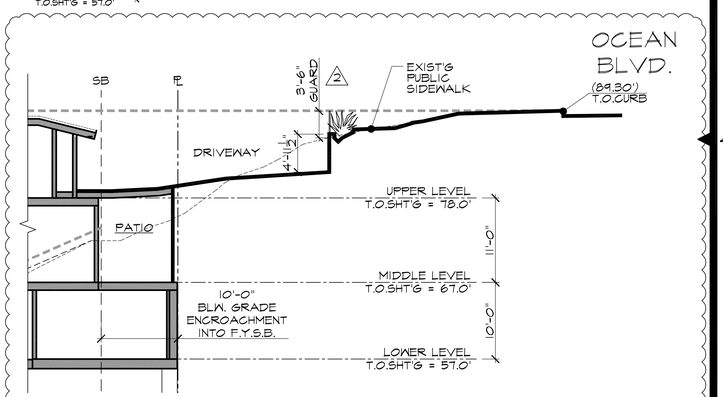

SECTION C 1

SCALE: 1/8" = 1' - 0"

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BUILDING SECTIONS

Date:	
CITY REVIEW Revision: 6.27.18	1
CITY REVIEW Revision: 7.23.18	2
Revision:	
Revision:	
Revision:	
Job No: 10-027	

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A-6

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SHRUBS & GROUNDCOVERS

SYMB.	BOTANICAL NAME/ COMMON NAME	SIZE	MATURE HT/WIDTH
	SOLANUM XANTI PURPLE NIGHTSHADE	5 GAL	3'X3'
	ROSA CALIFORNICA CALIFORNIA WILD ROSE	5 GAL.	3'X3'
	ANTIGONAN LEPTOPES CORAL VINE	5 GAL.	
	JUNIPERUS SPP. JUNIPER	5 GAL.	2' HT.
	ROSEMARINUS OFFICINALIS ROSEMARY	5 GAL.	3'X3'
	GERANIUM MADERENSE MADEIRA CRANESBILL	5 GAL.	4'X4;
	THYMUS SPP. CREEPING THYME	5 GAL.	GROUND COVER

PLANTING LEGEND:

TREES

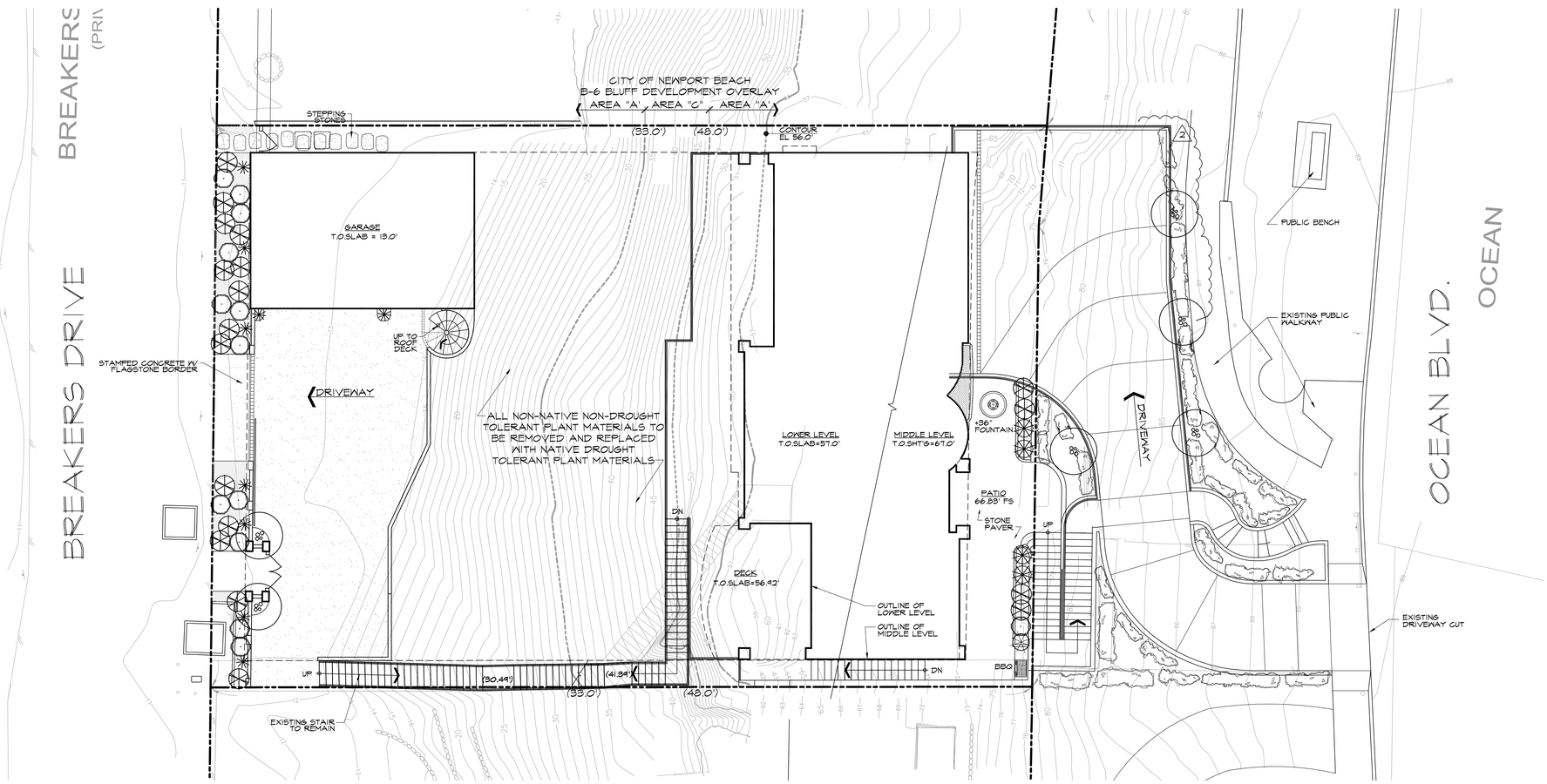
SYMB.	BOTANICAL NAME/ COMMON NAME	SIZE	MATURE HT/WIDTH
	LAGERSTROMEMIA INDICA CRAPE MYRTLE	24" BOX	10' X 8'
	CUPRESSUS SEMPERVIRENS 'MONSHEL' TINY TOWER ITALIAN CYPRESS	24" BOX	8' X 2'

IRRIGATION NOTES:

1. DRAIN INLETS IN LANDSCAPE AREAS >20' FROM THE TOP OF BLUFF WILL BE PLACED 1/2" ABOVE FINISHED GRADE TO PROVIDE FOR LOW-FLOW INFILTRATION AND REDUCE THE POTENTIAL FOR SEDIMENT ENTERING THE SITE DRAINAGE SYSTEM.
2. NO PERMANENT IRRIGATION SYSTEM SHALL BE UTILIZED ON THE COASTAL BLUFF. EXISTING IN-GROUND IRRIGATION SYSTEMS WITHIN THE BLUFF AREA SHALL BE DISCONNECTED AND CAPPED.
3. TEMPORARY ABOVE GROUND IRRIGATION ON THE COASTAL BLUFF TO ALLOW THE ESTABLISHMENT OF THE PLANTINGS IS ALLOWED.
4. THE TEMPORARY IRRIGATION SYSTEM SHALL HAVE AN AUTOMATIC IRRIGATION CONTROLLER TO ENSURE EFFICIENT WATER DISTRIBUTION. AUTOMATIC IRRIGATION CONTROLLERS SHALL BE EASILY ADJUSTABLE SO THAT SITE WATERING WILL BE APPROPRIATE FOR DAILY SITE WEATHER CONDITIONS. AUTOMATIC CONTROLLERS SHALL HAVE RAIN SHUTOFF SENSOR DEVICES SO THE IRRIGATION SYSTEMS WILL NOT UNNECESSARILY OPERATE ON RAINY DAYS.
5. ALL PLANTINGS SHALL BE MAINTAINED IN GOOD CONDITION THROUGHOUT THE LIFE OF THE PROJECT, AND WHEN NECESSARY SHALL BE REPLACED WITH NEW PLANT MATERIALS.
6. IRRIGATION SYSTEM SHALL HAVE AN AUTOMATIC IRRIGATION CONTROLLER TO ENSURE EFFICIENT WATER DISTRIBUTION. AUTOMATIC IRRIGATION CONTROLLERS SHALL BE EASILY ADJUSTABLE SO THAT SITE WATERING WILL BE APPROPRIATE FOR DAILY SITE WEATHER CONDITIONS. AUTOMATIC CONTROLLERS SHALL HAVE RAIN SHUTOFF SENSOR DEVICES SO THE IRRIGATION SYSTEMS WILL NOT UNNECESSARILY OPERATE ON RAINY DAYS.

LANDSCAPE NOTES:

1. ALL PLANTING SHALL PROVIDE 90% COVERAGE WITHIN 90 DAYS AND SHALL BE REPEATED IF NECESSARY TO PROVIDE SUCH COVERAGE.
2. ALL PLANTINGS SHALL BE MAINTAINED IN GOOD CONDITION THROUGHOUT THE LIFE OF THE PROJECT, AND WHEN NECESSARY SHALL BE REPLACED WITH NEW PLANT MATERIALS.
3. LANDSCAPED AREAS NOT OCCUPIED BY HARDSCAPE SHALL BE PLANTED AND MAINTAINED FOR SLOPE STABILITY AND EROSION CONTROL.
4. TO MINIMIZE THE NEED FOR IRRIGATION AND MINIMIZE ENCROACHMENT OF NON-NATIVE PLANT SPECIES INTO ADJACENT OR NEARBY NATIVE PLANT AREAS, ALL LANDSCAPE SHALL CONSIST OF NATIVE AND DROUGHT TOLERANT PLANT SPECIES.
5. NO PLANT SPECIES LISTED AS PROBLEMATIC AND/OR INVASIVE BY THE CALIFORNIA NATIVE PLANT SOCIETY, THE CALIFORNIA EXOTIC PEST PLANT COUNCIL, OR AS MAY BE IDENTIFIED FROM TIME TO TIME BY THE STATE OF CALIFORNIA SHALL BE EMPLOYED OR ALLOWED TO NATURALIZE OR PERSIST ON THE SITE.
6. NO PLANT SPECIES LISTED AS A 'NOXIOUS WEED' BY THE STATE OF CALIFORNIA OR THE U.S. FEDERAL GOVERNMENT SHALL BE UTILIZED WITHIN THE PROPERTY.
7. ANY EXISTING LANDSCAPING THAT DOESN'T MEET THE ABOVE REQUIREMENTS SHALL BE REMOVED.
8. DO NOT SCALE DRAWINGS.



LANDSCAPE PLAN

SCALE: 1/8" = 1' - 0"

NORTH

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PRELIMINARY LANDSCAPE PLAN

Date:	
CITY REVIEW Revision: 11.17.13	2
Revision:	
Revision:	
Revision:	
Revision:	
Job No: 10-027	

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BRION S. JEANNETTE
C8012
REN. 4/15
STATE OF CALIFORNIA

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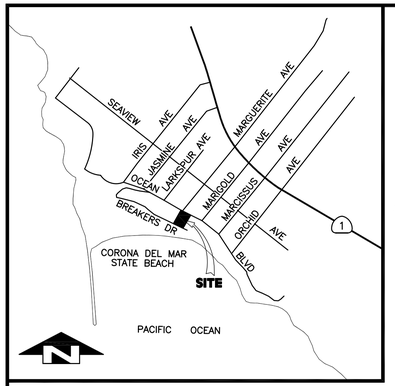

LOCATION MAP

THOMAS GUIDE PAGE 889/H5

LEGEND

A.C. – ASPHALT CONCRETE
A.P.W.A. – AMERICAN PUBLIC WORKS ASSOCIATION
A.U. – AIRCONDITIONING UNIT
B.C. – BEGIN CURVE
B.F.F. – BASEMENT FINISH FLOOR ELEVATION
B.F.S. – BASEMENT FINISH SURFACE ELEVATION
B.M. – BENCH MARK
B.O.F. – BOTTOM OF FOOTING ELEVATION
B.O.S. – BOTTOM OF SLOPE ELEVATION
B.V.C. – BEGIN VERTICAL CURVE
B.W. – BACK OF WALK ELEVATION
C.B. – CATCH BASIN
C.F. – CURB FACE
C.I.P. – CAST IRON PIPE
C/L – CENTERLINE
C.L.F. – CHAIN LINK FENCE
C. & G. – CURB & GUTTER
C.O. – CLEANOUT
CONC. – CONCRETE
D/A – DRIVEWAY APPROACH
D.L. – DAYLIGHT LINE
D.S. – DOWN SPOUT
D.S.C.O. – DOWN SPOUT CLEAN–OUT
DWY. – DRIVEWAY
E.C. – END CURVE
E.V.C. – END VERTICAL CURVE
EX. – EXISTING
F.F. – FINISH FLOOR ELEVATION
F.H. – FIRE HYDRANT
F.L. – FLOWLINE ELEVATION
F.S. – FINISHED SURFACE ELEVATION
FTN. – FOUNTAIN
G.B. – GRADE BREAK
G.F.S. – GARAGE FINISH SURFACE ELEVATION
G.M. – GAS METER
H.L. – HOUSE LATERAL
H.P. – HIGH POINT ELEVATION
INV. – INVERT ELEVATION
L.P. – LOW POINT ELEVATION
M.B. – MAIL BOX
MH. – MANHOLE
M.O.C. – MIDDLE OF CURVE
O.H.W. – OVERHEAD WIRE(S)
P/A – PLANTER AREA
P.B. – PULL BOX
PKWY. – PARKWAY
P/L – PROPERTY LINE
P.P. – POWER POLE
P.R.C. – POINT OF REVERSE CURVE
PVMT. – PAVEMENT
R.D. – ROOF DRAIN
R.L. – RIDGE LINE
R/W – RIGHT–OF–WAY
R.W.M. – RECLAIMED WATER METER
S.D. – STORM DRAIN
S.D.MH. – STORM DRAIN MANHOLE
S.G. – SUB–GRADE ELEVATION
S.MH. – SEWER MANHOLE
S.S. – SANITARY SEWER
STA. – STATION
SLPB – STREET LIGHT PULL BOX
STLT – STREET LIGHT
S/W – SIDEWALK
T/A – TRASH AREA
T.B. – TOP OF BERM ELEVATION
T.B.M. – TEMPORARY BENCH MARK
T.C. – TOP OF CURB ELEVATION
T.F. – TOP OF FOOTING ELEVATION
T.G. – TOP OF GRATE ELEVATION
T.O.C. – TOP OF CHIMNEY ELEVATION
T.O.G. – TOP OF GLASS ELEVATION
T.P. – TOP OF PILASTER ELEVATION
T.R.P. – TOP OF ROOF PARAPET ELEVATION
T.S. – TRAFFIC SIGNAL
T.W. – TOP OF WALL ELEVATION
V.C. – VETICAL CURVE
V.P. – VINE POCKET
W/H – WATER HEATER
W.I. – WROUGHT IRON
W.M. – WATER METER
W.V. – WATER VALVE
H.O.A. – HOMEOWNERS' ASSOCIATION

–EXISTING CONCRETE PAVING

–EXISTING BRICK PAVING

UTILITY LINES SHOWN ON THESE PLANS WERE LOCATED FROM THE PUBLIC RECORDS WHEN POSSIBLE FROM THE RESPECTIVE UTILITI'S OFFICE AND HAVE BEEN ASSUMED RELIABLE. HOWEVER, R G A CONSULTANTS, INC. ASSUMES NO LIABILITY FOR THE DAMAGE OF UNDERGROUND UTILITIES DURING OR AFTER CONSTRUCTION. THE CONTRACTOR SHALL NOTIFY UNDERGROUND SERVICE ALERT AT LEAST 48 HOURS PRIOR TO COMMENCEMENT OF EXCAVATION TO ARRANGE FOR FIELD LOCATION OF UTILITY LINES. CALL (800) 227–2600 FOR THIS SERVICE WHICH IS PROVIDED FREE OF CHARGE. ANY UTILITY NOT SUBSCRIBING TO THIS SERVICE SHALL BE CONTACTED DIRECTLY. IT SHALL BE THE CONTRACTOR'S DUTY TO DETERMINE WHETHER ALL UTILITIES HAVE BEEN NOTIFIED. THE CONTRACTOR SHALL TAKE PRECAUTIONARY MEASURES TO PROTECT ALL UTILITY LINES HEREON AND ANY OTHER UTILITY LINES OTHERWISE LOCATED.

BENCH MARK:

COUNTY OF ORANGE BENCH MARK NO. NB4–36–74:
DESCRIBED BY OCS 2002– FD. 3 3/4" OCS ALUMINUM BENCH MARK DISK STAMPED "NB4–36–74" SET IN THE NW. CORNER OF A 4'x22' CONCRETE CATCH BASIN. MONUMENT IS LOCATED IN THE T–INTERSECTION OF HELIOTROPE AVE AND OCEAN BLVD, 21' SW. OF THE C/L OF OCEAN BLVD & 122' NW'LY OF THE C/L OF HELIOTROPE AVE. MONUMENT IS SET LEVEL WITH SIDEWALK.
ELEVATION = 67.054 (NAVD88, LEVELED 1994)

LEGAL DESCRIPTION:

THE SOUTHEASTERLY HALF OF LOT 15 AND ALL OF LOT 16 OF TRACT NO. 1026, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 33, PAGES 37 AND 38 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE RECORDER OF SAID COUNTY, AND AS SHOWN ON A MAP FILED IN BOOK 12 PAGE 35 OF RECORD OF SURVEYS, IN THE OFFICE OF THE COUNTY RECORDER.

PREPARED FOR:
TANNIR RESIDENCE
c/o BRION JEANNETTE ARCHITECTURE
470 OLD NEWPORT BLVD.
NEWPORT BEACH, CA 92663
Phone (949) 645–5854
Fax (949) 645–5983

LICENSED LAND SURVEYOR
REFIK TSALTUK
EXP. 12/31/2011
No. 7421
STATE OF CALIFORNIA

PREPARED BY:
RGA Consultants, Inc.
CIVIL ENGINEERING ▲ SURVEYING
34 GEORGETOWN
IRVINE ▲ CALIFORNIA ▲ 92612
rgaconsultants@yahoo.com
PHONE (949) 509 0909
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DESIGNED BY: N/A
DRAWN BY: R.G.
CHECKED BY: Y.T.
LAST UPDATED: 3/18/10
PLOT DATE: 3/18/10

TOPOGRAPHIC SURVEY
3235 OCEAN BOULEVARD
A.P.N. 052-120-54
CITY OF NEWPORT BEACH

SHEET T1
JOB NO. 10187

C:\RGA/OBS\2010\JN10187\10187–Topo.DWG

Tannir Residence

Variance No. VA2013-004 (PA2013-110)

3235 Ocean Blvd.

Planning Commission
August 8, 2013 meeting

Introduction

- A Variance request to allow:
  - A new single-family residence to encroach 10 feet into the 10-foot front yard setback at the lower level which will not be visible from Ocean Blvd; and
  - A portion of new staircase to exceed 6-foot height limit by 3 feet, for a total of 9 feet.

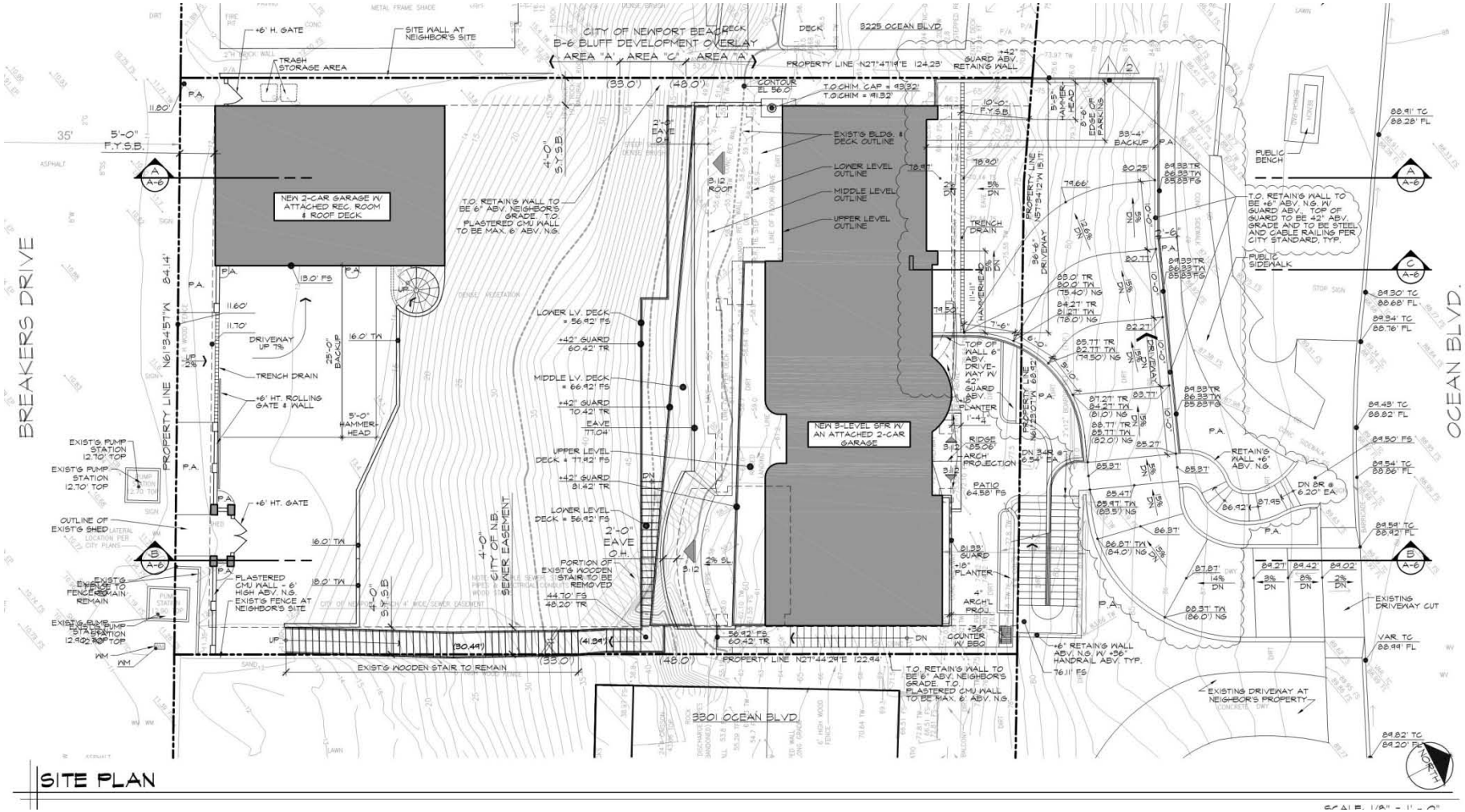
Vicinity Map

Subject Property

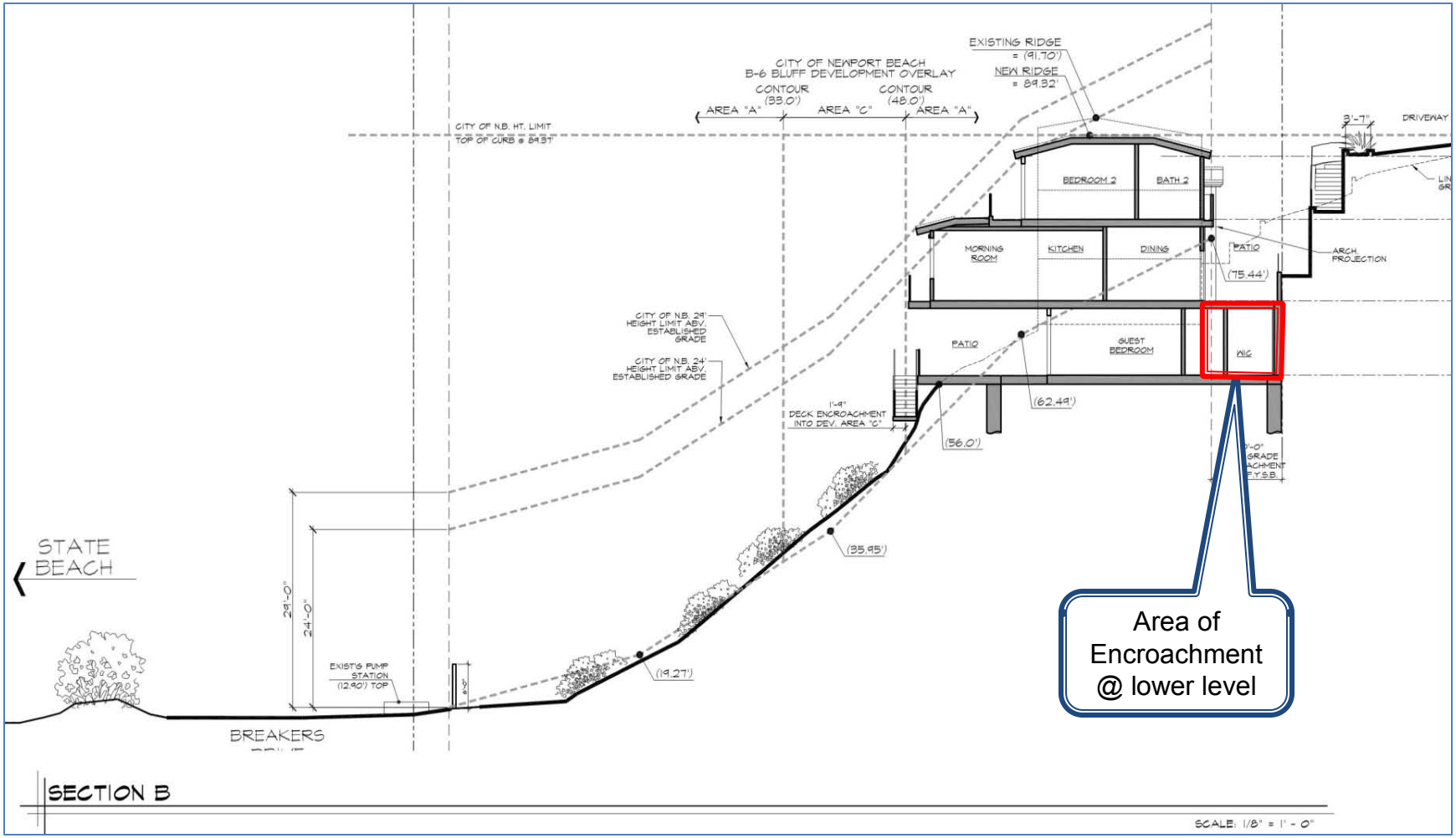
Front Elevation – Ocean Blvd.

Rear Elevation – Breakers Dr.

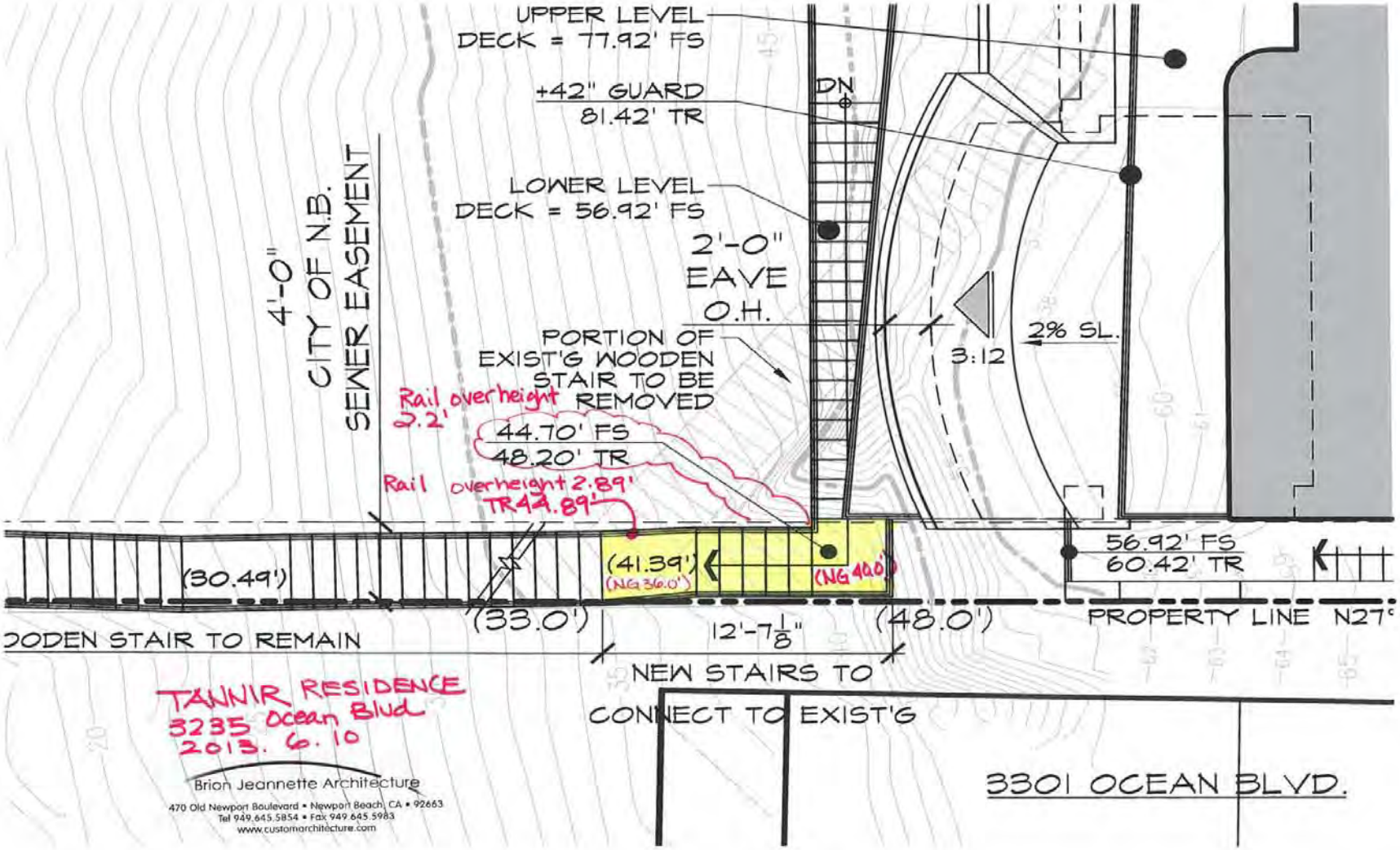
Site Plan


BREAKERS DRIVE
OCEAN BLVD.
CITY OF NEWPORT BEACH
B-6 BLUFF DEVELOPMENT OVERLAY
AREA "A" AREA "C" AREA "A"
3225 OCEAN BLVD.
3301 OCEAN BLVD.
NEW 2-CAR GARAGE W/ ATTACHED REC. ROOM & ROOF DECK
NEW 3-LEVEL SFR W/ AN ATTACHED 2-CAR GARAGE
PROPERTY LINE N27°47'19"E 124.23'
PROPERTY LINE N27°44'29"E 122.94'
PROPERTY LINE N61°34'57"W 84.14'
EXIST'G WOODEN STAIR TO REMAIN
CITY OF N.B. SEWER EASEMENT
SITE PLAN

Front Setback Encroachment



Staircase Over Height



CEQA Review

- The project is categorically exempt per CEQA Guidelines – Class 3 (New Construction or Conversion of Small Structures) which includes construction of a single-family residence in a residential area.

Recommendation

- Conduct public hearing; and
- Approve Variance No. VA2013-004, subject to conditions of approval with changes to:
  - Condition #16 – Remove OC Health Dept approval

For more information contact:

Rosalinh Ung
949-644-3208
rung@newportbeachca.gov
www.newportbeachca.gov

CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT
August 8, 2013 Meeting
Agenda Item 4

SUBJECT: Schulein Parking Use Permit and Variance - (PA2013-090)
2828 East Coast Highway
- Conditional Use Permit No. UP2013-007
- Variance No. VA2013-007

APPLICANT: Laidlaw Schultz Architects – Scott Laidlaw

PLANNER: Fern Nueno, Associate Planner
(949) 644-3227, fnueno@newportbeachca.gov

PROJECT SUMMARY

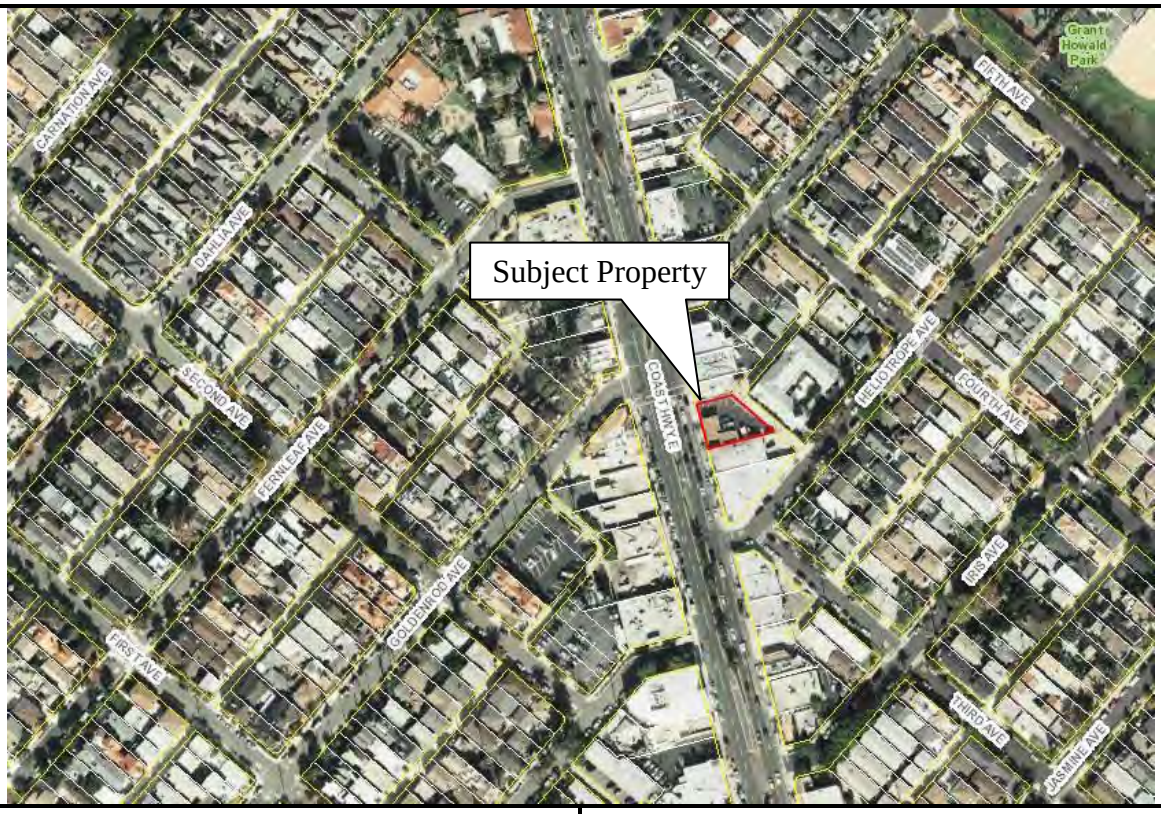
The applicant proposes to demolish the existing building and construct a two-unit commercial building with a surface parking lot with nine spaces. The applicant requests a Conditional Use Permit to establish a Parking Management Plan to reduce the required off-street parking by two parking spaces (11 required, 9 proposed), and a Variance to allow the parking spaces to encroach 1-foot into the required 5-foot alley setback and for more than 10-feet of the alley right-of-way to be used to accommodate the required drive aisle width.

RECOMMENDATION

1) Conduct a public hearing; and

2) Adopt Resolution No. ___ approving Conditional Use Permit No. UP2013-007 and Variance No. VA2013-007 (Attachment No. PC 1).

VICINITY MAP



GENERAL PLAN

ZONING

LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	Corridor Commercial (CC)	Commercial Corridor (CC)	Photo Shop
NORTH	Corridor Commercial (CC)	Commercial Corridor (CC)	Retail Sales
SOUTH	Corridor Commercial (CC)	Commercial Corridor (CC)	Retail Sales
EAST	Private Institutions (PI)	Private Institutions (PI)	Religious Facility
WEST	Corridor Commercial (CC)	Commercial Corridor (CC)	Retail Sales and Eating and Drinking Establishments

INTRODUCTION

Project Setting

The subject property is located in Corona del Mar on East Coast Highway between Goldenrod Avenue and Heliotrope Avenue. Corona del Mar is primarily developed with single- and two-unit residential uses with commercial uses along East Coast Highway. The subject lot has 70 linear feet of street frontage, an alley to the rear, and is approximately 5,568 square feet in area. There is an approximately 6-foot elevation difference from the southeastern corner of the property at the alley to the lower grade along the front property line at East Coast Highway. The site is currently developed with a 1,400-square-foot photo shop (retail sales and service use) with a surface parking lot containing eight parking spaces.

Project Description

The applicant proposes to construct a single-story, 2,637-square-foot commercial building with a surface parking lot containing nine spaces. The anticipated use is retail sales. The project is designed at a pedestrian scale with the building line along East Coast Highway and the parking accessed from the rear alley. The building would consist of two suites separated with a corridor providing access from parking lot to the front entrances of the suites and to the street. The front of the building would be constructed of glass, and would be setback from the property line to incorporate planters and landscaping along East Coast Highway. The site currently has a drive aisle on East Coast Highway. The proposal includes closing the curb cut and providing one additional on-street space.

DISCUSSION

Analysis

General Plan and Zoning Code

The subject property is designated as Corridor Commercial (CC) within the Land Use Element of the General Plan and is located within the Commercial Corridor (CC) Zoning District. These designations are intended to provide a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity. Retail sales is the anticipated use and is consistent with these designations. Other uses may be permitted in accordance with the CC Zoning District. Furthermore, the project is designed to foster pedestrian activity by closing off the curb cut on East Coast Highway and using an open design with a wide corridor between the two suites. General Plan Policy LU 6.16.3 encourages closing curb cuts that interrupt the continuity of street-facing building elevations in pedestrian-oriented districts and

locations of high traffic volumes. The proposed alley access to parking is consistent with this policy.

Conditional Use Permit for a Reduction of Off-Street Parking

Pursuant to Zoning Code Chapter 20.40 (Off-Street Parking), retail sales uses require one parking space for every 250 square feet of gross floor area. Other uses of the site would be allowed if the parking requirement does not exceed this rate. The applicant proposes to construct a 2,637-square-foot building, which would require eleven parking spaces. A detailed project description submitted by the applicant is provided as Attachment No. PC 3. The applicant requests a Conditional Use Permit to allow a reduction in the required number of off-street parking spaces pursuant to Section 20.40.110 (Adjustments to Off-Street Parking Requirements). Pursuant to this section, the required off-street parking may be reduced with approval of a Conditional Use Permit if the applicant has provided sufficient data to indicate that other parking is available.

The proposed project would create at least one additional on-street parking space by closing the existing curb cut. Moreover, according to the 2008 Walker Parking Study, the on-street parking near the subject property is underutilized. The study found that during the peak times, parking occupancy on East Coast Highway between Goldenrod Avenue and Heliotrope Avenue was less than 50 percent. The subject property is located within Block 5 of the Walker Parking Study and an excerpt showing the parking occupancy maps are provided as Attachment No. PC 4. The complete Walker Parking Study, which was prepared under contract with the City, is available online at: http://www.newportbeachca.gov/Modules/ShowDocument.aspx?documentid=970

Additionally, the applicant seeks to promote pedestrian activity by closing the East Coast Highway curb cut. The single-story building is designed to be at a pedestrian scale and has glass walls, a breezeway, and landscaping. Furthermore, it is anticipated that some patrons would walk or bicycle to the businesses.

Pursuant to Section 20.38.040, existing nonresidential structures within Corona del Mar that are nonconforming because they exceed the allowed floor area may be demolished and reconstructed to their preexisting height and floor area; provided that not less than the preexisting number of parking spaces is provided. The subject property is not nonconforming due to floor area; therefore, this provision is not applicable. If it was applicable, then a new building could potentially be developed without any discretionary review so long as the same number of parking spaces was provided. For example, a building constructed with a 1.0 Floor Area Ratio and no parking could be rebuilt to the same size with no parking without approval of a Conditional Use Permit. This policy was intended to facilitate redevelopment of older structures to help achieve the goal of a pedestrian oriented village.

Parking Management Plan

Pursuant to Section 20.40.110, a parking management plan is required in order to mitigate impacts associated with a reduction in the number of required parking spaces. The draft parking management plan (Attachment No. PC 5) addresses closing the curb cut, additional on-street parking, tandem parking, employee parking, and maximizing parking on the site. In order to be usable and efficient, the tandem parking stalls would be used for employees working within the same suite. The proposed design includes two single-story suites along East Coast Highway with parking along the rear property line. With this pedestrian oriented design, a maximum of seven spaces can be provided across the width of the lot (plus two additional tandem spaces). The intent of the parking management plan is to ensure that the on-site parking is sufficient for the uses on-site, that parking is maximized on-site, and parking is used efficiently.

Use Permit Findings

Pursuant to Section 20.52.020 (Conditional Use Permits and Minor Use Permits) of the Zoning Code, the Planning Commission must make the following findings in order to approve a Conditional Use Permit:

1. *The use is consistent with the General Plan and any applicable specific plan;*

2. *The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code;*

3. *The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity;*

4. *The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities; and*

5. *Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Staff believes sufficient facts exist to support the Conditional Use Permit request for the reduction in required off-street parking, as demonstrated in the draft Resolution (Attachment No. PC 1). The anticipated retail sales use is consistent the Zoning Code, General Plan, and other relevant policies, and other uses would be permitted in accordance with these policies. The project is designed to foster pedestrian activity by closing the curb cut on East Coast Highway and using an open design with a wide corridor between the two suites. Furthermore, the proposed design and use are

compatible with existing development and allowed uses in the vicinity, including retail sales, service, institutional, and restaurant uses. The proposed retail building is single-story with a Floor Area Ratio of 0.47 where 0.75 is allowed.

Variance for an Alley Parking Setback Encroachment

Pursuant to Section 20.40.070 (Development Standards for Parking Areas), adequate and safe maneuvering aisles are required to be provided within each parking area so that vehicles enter an abutting street or alley in a forward direction. Exceptions are allowed for parking spaces immediately adjoining a public alley, provided no more than 10 feet of the alley is used to accommodate the required drive aisle width and provided the spaces are set back from the alley a minimum of 5 feet. The required drive aisle width for the proposed parking configuration is 18 feet, based on the angle of the parking.

A five foot setback from the alley is required for the parking spaces. Additionally, the code specifies that only 10 feet of the alley can be used for the required drive aisle width (entering and exiting the parking area). The applicant requests a variance to provide a 4-foot setback and to use the entire 14-foot wide alley to meet the required drive aisle width. The required and proposed standards are summarized in Table 1. Several nonresidential properties in the vicinity do not provide the required alley setbacks or drive aisle widths.

Table 1 – Summary of Standards

	Required	**Proposed**
Minimum Setback	5’	4’
Width of Alley Used for Drive Aisle	10’ maximum	14’
Drive Aisle Width	18’	18’

Variance Findings

Pursuant to Section 20.52.090 (Variances) of the Zoning Code, the Planning Commission must make the following findings in order to approve a variance:

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

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

3. *Granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the applicant;*

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

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

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

Staff believes sufficient facts exist to support the variance request for the alley setback encroachment for parking and the drive aisle width, as demonstrated in the draft Resolution (Attachment No. PC 1). The shape and topography of the site make it difficult to develop the parking along the rear of the property. The rear property line is skewed and the irregular shape of the lot hinders the development of a typical surface parking lot. The application of the 5-foot alley setback and the drive aisle width limit the area that can be dedicated to parking and would reduce the amount of floor area that could be developed. The proposed 4-foot setback affords the property owner a more usable lot area to maximize the number of parking spaces, yet still provides a functional parking area. The on-site circulation has been reviewed and approved by the City Traffic Engineer.

Alternatives

The Planning Commission has the option to approve a revised project based on the required findings for approval. The Planning Commission also has the option to deny the request for a Conditional Use Permit or Variance if any of the required findings cannot be made (a draft Resolution for denial is provided as Attachment No. PC 2). Denial of the Use Permit and Variance would allow construction of a smaller commercial building that would only require nine (9) parking spaces and would meet all other development standards. With nine (9) parking spaces a 2,250-square-foot building could be constructed (9 spaces times 250 square feet), which is 387 square feet less than the proposed 2,637-square-foot building.

Environmental Review

Staff recommends that the Planning Commission find the project is categorically exempt under Section 15332, of the California Environmental Quality Act (CEQA) Guidelines - Class 32 (In-Fill Development). Class 32 exempts in-fill development meeting the following conditions: the project is consistent with the General Plan and Zoning Code; the

proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses; the project site has no value as habitat for endangered, rare, or threatened species; approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the site must be able to be adequately served by all required utilities and public services.

The property is developed, within the City Boundary, less than 5 acres in area, is surrounded by urban uses, and has no value as habitat. The proposed project is consistent with the General Plan and Zoning Code, and would be adequately served by all required utilities and public services. The project would not result in significant effects relating to traffic, noise, air quality or water quality because the proposed project would be developed at a lower intensity than allowed by the General Plan and Zoning Code, and the construction and operation of the project would meet all local, state, and federal requirements. As demonstrated within this report and the attached resolution, the proposed project meets all of the required conditions to qualify for the Class 32 exemption.

Public Notice

Notice of this review was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days prior to the decision date, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:

Fern Nueno, Associate Planner

Submitted by:

Brenda Wisneski, AICP, Deputy Director

ATTACHMENTS

PC 1 Draft Resolution – Approve
PC 2 Draft Resolution – Deny
PC 3 Applicant's Project Description
PC 4 Walker Parking Study Excerpt
PC 5 Parking Management Plan
PC 6 Project Plans

Attachment No. PC 1

Draft Resolution – Approve

RESOLUTION NO. _____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH APPROVING CONDITIONAL USE PERMIT NO. UP 2013-007 FOR A REDUCTION IN REQUIRED OFF-STREET PARKING AND VARIANCE NO. VA2013-007 FOR AN ENCROACHMENT INTO THE ALLEY SETBACK AND DRIVE AISLE WIDTH LOCATED AT 2828 EAST COAST HIGHWAY (PA2013-090)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Laidlaw Schultz Architects, with respect to property located at 2828 East Coast Highway, and legally described as Lot 4 and the southeasterly 30 feet of Lot 3, Block N, Tract 323, requesting approval of a Conditional Use Permit and Variance.

2. The applicant proposes to demolish the existing building and construct a two-unit commercial building with a surface parking lot with nine parking spaces. The applicant requests a Conditional Use Permit to establish a Parking Management Plan to reduce the required off-street parking by two parking spaces. The applicant requests a Variance to allow the parking spaces to encroach 1-foot into the required 5-foot alley setback and for more than 10-feet of the alley right-of-way to be used to accommodate the required drive aisle width. The site currently has a drive aisle on East Coast Highway. The proposal includes closing up the curb cut, providing one additional on-street space, and providing access to the parking lot from the alley at the rear of the property.

3. The subject property is located within the Commercial Corridor (CC) Zoning District and the General Plan Land Use Element category is Corridor Commercial (CC).

4. The subject property is not located within the coastal zone.

5. A public hearing was held on August 8, 2013, in the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 32 (In-Fill Development).

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2. Class 32 exempts in-fill development meeting the following conditions: the project is consistent with the General Plan and Zoning Code; the proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses; the project site has no value as habitat for endangered, rare, or threatened species; approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the site must be able to be adequately served by all required utilities and public services. The property is developed, within the City Boundary, less than 5 acres in area, is surrounded by urban uses, and has no value as habitat.

3. The proposed project is consistent with the General Plan and Zoning Code, and would be adequately served by all required utilities and public services. The project would not result in significant effects relating to traffic, noise, air quality or water quality because the proposed project would be developed at a lower intensity than allowed by the General Plan and Zoning Code, and the construction and operation of the project would meet all local, state, and federal requirements. The proposed project meets all of the required conditions to qualify for the Class 32 exemption.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020 and Section 20.52.090 of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Use Permit Findings

Finding:

A. The use is consistent with the General Plan and any applicable specific plan.

Facts in Support of Finding:

1. The anticipated retail sales use is consistent with the CC (Corridor Commercial) land use designation of the General Plan, which is intended to provide a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity. Other uses may be permitted in accordance with the CC land use designation. The proposed commercial suites are designed and oriented to serve residents and visitors in the area. The front of the buildings would be designed with planters and glass along East Coast Highway, with a corridor between the buildings from the street to the parking lot. The curb cut would be closed on East Coast Highway, which is intended to foster pedestrian activity along the street. The intent is to also serve customers who walk or bicycle to the establishment.

2. General Plan Policy LU 6.16.3 encourages closing curb cuts that interrupt the continuity of street-facing building elevations in pedestrian-oriented districts and locations of high traffic volumes. The proposed curb cut closure and alley access to parking are consistent with this policy.

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Finding:

B. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.

Facts in Support of Finding:

1. The anticipated retail sales use is located in the Corridor Commercial (CC) Zoning District, which is intended to provide for areas appropriate for a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity. The anticipated retail sales use is permitted by right within this Zoning District. Other uses would be required to conform to the requirements of the CC Zoning District.

2. The Conditional Use Permit approval is consistent with Chapter 20.40 (Off-Street Parking) of the Zoning Code regarding the waiver of two (2) of the eleven (11) required parking spaces in conjunction with the Parking Management Plan because the proposed project includes creating additional on-street parking and other parking is available in the area. According to the 2008 Walker Parking Study, the on-street parking near the subject property is underutilized. The study found that during the peak times, parking occupancy on East Coast Highway between Goldenrod Avenue and Heliotrope Avenue was less than 50 percent.

Finding:

C. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.

Facts in Support of Finding:

1. The proposed project is located within a nonresidential zoning district, but residential uses are located nearby on Goldenrod Avenue and Heliotrope Avenue. The project is similar to and compatible with other neighborhood-serving retail and service uses located on East Coast Highway, including retail sales, service, institutional, and restaurant uses. The size of the building and subject suites are comparable to other buildings in the Corona del Mar area. The proposed retail building is single-story with a Floor Area Ratio of 0.48 where 0.75 is allowed.

2. The operational characteristics are proposed to be that of a typical retail sales use that would serve residents, visitors, and employees in the area. The operating characteristics would be compatible with the allowed commercial, institutional, and residential uses in the vicinity.

3. The subject site would be developed with nine (9) parking spaces. The proposed project would create an additional on-street parking space by closing up the curb cut on East

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Coast Hig hway, which would also i ncrease ped estrian s afety i n f ront o f t he s ubject property. Businesses in Corona del Mar often serve pedestrians and bicyclists.

Finding:

D. The s ite i s phy sically s uitable i n t erms of des ign, l ocation, shape, s ize, oper ating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.

Facts in Support of Finding:

1. The lot is approximately 5,568 square feet in area, and is proposed to be developed with a two-tenant building and surface parking lot containing nine (9) parking spaces.

2. The proposed project includes a Conditional Use Permit to reduce the requirement by two (2) off-street parking spaces and would not negatively affect emergency access. The lot has street and alley access, the buildings are designed with a corridor between them, and each suite is designed with multiple doors and windows for ingress and egress.

3. The Public Works Department, Building Division, and Fire Department have reviewed the application. The project is required to obtain all applicable permits from the City Building and Fire Departments and must comply with the most recent, City-adopted version of the California Building Code.

Finding:

E. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.

Facts in Support of Finding:

1. The anticipated retail sales us e i s s imilar t o and c ompatible w ith ot her nei ghborhood-serving retail and service uses in the vicinity. The current use is a retail and service use that has not proven detrimental thus far. Uses other than retail sales will comply with the Commercial Corridor Zoning District.

2. The pr oposed r eduction o f the r equired off-street p arking would not be d etrimental because t he s ite w ould be dev eloped w ith ni ne (9) p arking s paces, w ould c reate an additional on-street parking space, other parking is available in the vicinity, and is in an area with pedestrian and bicycle activity.

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Variance Findings

Finding:

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

Facts in Support of Finding:

1. Closing the curb cut is consistent with General Plan Policy LU 6.16.3; however, it makes it more difficult to maximize the amount of parking available on-site. The lot depth and lot size of the subject property are smaller than several of the lots in Corona del Mar along East Coast Highway. The shape and topography of the site make it difficult to develop the parking along the rear of the property. The rear property line is skewed and the irregular shape of the lot hinders the development of a typical surface parking lot.

2. Pursuant to Section 20.38.040, existing nonresidential structures within Corona del Mar that are nonconforming because they exceed the allowed floor area may be demolished and reconstructed to their preexisting height and floor area; provided that not less than the preexisting number of parking spaces is provided. The subject property is not nonconforming due to floor area; therefore, this provision is not applicable.

Finding:

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

Facts in Support of Finding:

1. Strict application of the alley parking setback and drive aisle width would require that the building size be reduced to accommodate the additional parking setback. Several properties in the vicinity do not provide the code-required off-street parking or drive aisle width. The proposed retail building is single-story with a Floor Area Ratio of 0.48 where 0.75 is allowed.

Finding:

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

Facts in Support of Finding:

1. The application of the 5-foot alley setback and the drive aisle width limit the area that can be dedicated to parking and would reduce the amount of floor area that could be

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developed. The proposed encroachment into the rear setback is reasonable in this case due to the short depth of the lot at the northern side of the property and the angle of the parking from the alley. The proposed 4-foot setback affords the property owner a more usable lot area to construct a building at a pedestrian scale and maximize the number of parking spaces.

Finding:

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

Facts in Support of Finding:

1. The proposed 4-foot alley setback and drive aisle width would not result in a special privilege because it is consistent with the neighborhood pattern of development. The proposed encroachment is compatible with similar development in the area. The adjacent property to the east on the opposite side of the alley provides a 5-foot setback to the building, but is developed with landscaping, bollards, and other obstructions adjacent to the alley.

2. The proposed retail building is single-story with a Floor Area Ratio of 0.48 where 0.75 is allowed.

3. Pursuant to Section 20.38.040, existing nonresidential structures within Corona del Mar that are nonconforming because they exceed the allowed floor area may be demolished and reconstructed to their preexisting height and floor area; provided that not less than the preexisting number of parking spaces is provided. The subject property is not nonconforming due to floor area; therefore, this provision is not applicable.

Finding:

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

Facts in Support of Finding:

1. The proposed parking area would provide adequate setbacks for safe maneuvering for vehicles, as reviewed by the City Traffic Engineer.

2. The proposed project would not be built to the maximum intensity allowed within the Zoning Code, and would maximize the amount of parking that could be developed across the rear of the site.

3. The proposed project would provide the required drive aisle width, including the 4-foot setback and 14-foot wide alley right-of-way.

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Finding:

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

Facts in Support of Finding:

1. The granting of the 1-foot encroachment into the alley setback and using the entire alley right-of-way to accommodate the required width would not conflict with intent and purpose of the Zoning Code or General Plan. The alley setback is required to provide adequate and safe maneuvering drive aisles. In this case, the vehicles would not enter the abutting alley in a forward direction; however, the required drive aisle width would be provided.

2. The intent of the alley parking setback is to provide adequate maneuvering for vehicles entering and leaving the site. The proposed design maintains a 4-foot setback and the required drive aisle width. The request to deviate from the alley setback and drive aisle width is reasonable and justified due to the depth, topography, and angle of the lot.

3. The subject property is not located within a specific plan district.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby approves Conditional Use Permit No. UP2013-007 and Variance No. VA2013-007, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.

2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

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PASSED, APPROVED, AND ADOPTED THIS 8TH DAY OF AUGUST, 2013.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY:_____
Michael Toerge, Chairman

BY:_____
Fred Ameri, Secretary

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EXHIBIT "A"

CONDITIONS OF APPROVAL

PLANNING

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval, except as modified by applicable conditions of approval.

2. Conditional Use Permit No. UP2013-007 and Variance No. VA2013-007 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.

3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.

4. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Conditional Use Permit and Variance.

5. This Conditional Use Permit and Variance may be modified or revoked by the Planning Commission should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.

6. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner, or leasing agent.

7. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements.

8. A copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.

9. Prior to the issuance of a building permit for the proposed project, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.

10. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that

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

11. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.

12. An encroachment permit is required for all work activities within the public right-of-way.

13. Prior to final of the building permit for the proposed project, the driveway approach on East Coast Highway shall be closed per City Standard STD-165-L.

14. Prior to final of the building permit for the proposed project, a minimum of one new on-street parking space shall be installed in the area where the existing driveway on East Coast Highway is being closed.

15. Prior to the issuance of a building permit for the proposed project, approval shall be provided from Southern California Edison for the proposed guy wire relocation locate adjacent to the alley behind the property.

16. Due to the proposed design of the trash enclosure door swinging into the adjacent parking stalls, trash pickup shall be scheduled outside of normal business hours.

17. The proposed tandem parking stalls shall be employee only parking and the tandem stalls shall be assigned to the same tenant suite.

18. Prior to final of the building permit for the proposed project, all damaged or broken curb, gutter and sidewalk along the East Coast Highway project frontage shall be reconstructed per City standards. The extent of the reconstruction shall be at the discretion of the Public Works Inspector.

19. Prior to final of the building permit for the proposed project, all damaged or broken concrete alley panels shall be reconstructed per City Standard. The extent of the reconstruction shall be at the discretion of the Public Works Inspector.

20. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Schulein Parking Use Permit and Variance including, but not limited to, the Conditional Use Permit No. UP2013-007 and Variance No. VA2013-007. This indemnification shall include, but not be limited to, damages

DRAFT

awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

DRAFT

Attachment No. PC 2

Draft Resolution – Deny

RESOLUTION NO. _____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH DENYING CONDITIONAL USE PERMIT NO. UP 2013-007 FOR A REDUCTION IN REQUIRED OFF-STREET PARKING AND VARIANCE NO. VA2013-007 FOR AN ENCROACHMENT INTO THE ALLEY SETBACK AND DRIVE AISLE WIDTH LOCATED AT 2828 EAST COAST HIGHWAY (PA2013-090)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Laidlaw Schultz Architects, with respect to property located at 2828 East Coast Highway, and legally described as Lot 4 and the southeasterly 30 feet of Lot 3, Block N, Tract 323, requesting approval of a Conditional Use Permit and Variance.

2. The applicant proposes to demolish the existing building and construct a two-unit commercial building with a surface parking lot with nine parking spaces. The applicant requests a Conditional Use Permit to establish a Parking Management Plan to reduce the required off-street parking by two parking spaces. The applicant requests a Variance to allow the parking spaces to encroach 1-foot into the required 5-foot alley setback and for more than 10-feet of the alley right-of-way to be used to accommodate the required drive aisle width. The site currently has a drive aisle on East Coast Highway. The proposal includes closing up the curb cut, providing one additional on-street space, and providing access to the parking lot from the alley at the rear of the property.

3. The subject property is located within the Commercial Corridor (CC) Zoning District and the General Plan Land Use Element category is Corridor Commercial (CC).

4. The subject property is not located within the coastal zone.

5. A public hearing was held on August 8, 2013, in the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

Pursuant to Section 15270 of the California Environmental Quality Act ("CEQA") Guidelines, projects which a public agency rejects or disapproves are not subject to CEQA review.

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SECTION 3. REQUIRED FINDINGS.

The Planning Commission may approve a conditional use permit only after making each of the required findings set forth in Section 20.52.020 (Conditional Use Permits and Minor Use Permits). In this case, the Planning Commission was unable to make the required findings based upon the following:

1. The Conditional Use Permit application for the reduction in the required off-street parking is not consistent with the legislative intent of Title 20 of the Municipal Code and the findings required by Section 20.52.020 are not supported in this case. The proposed project may prove detrimental to the community.

2. The design, location, size, and operating characteristics of the use are not compatible with the allowed uses in the vicinity. The proposed project with only nine (9) parking spaces is not compatible with the existing residential, institutional, and commercial uses in the area.

The Planning Commission may approve a variance only after making each of the required findings set forth in Section 20.52.090 (Variances). In this case, the Planning Commission was unable to make the required findings based upon the following:

1. The Variance application for the proposed encroachment in the alley setback for parking is not consistent with the legislative intent of Title 20 of the Municipal Code and the findings required by Section 20.52.090 are not supported in this case. The proposed project may prove detrimental to the community.

2. The irregular shape, size, and topography of this property do not preclude the construction of a reasonable size building. The proposed project can be redesigned to comply with the required development standards and approval of the Variance is not necessary to preserve this substantial property right.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby denies Conditional Use Permit No. UP2013-007 and Variance No. VA2013-007.

2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

DRAFT

PASSED, APPROVED, AND ADOPTED THIS 8TH DAY OF AUGUST, 2013.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY:_____
Michael Toerge, Chairman

BY:_____
Fred Ameri, Secretary

DRAFT

Attachment No. PC 3

Applicant’s Project Description

LS architects
LAIDLAW SCHULTZ

3111 Second Avenue Corona del Mar, CA 92625-2322 T: (949) 645-9982 F: (949) 645-9554 W: LSarchitects.com

July 31, 2013

Community Development Department
Planning Division
3300 Newport Blvd.
Newport Beach, CA 92663
www.newportbeachca.gov

RE: Revised project description and justification of a Planning Permit for the Modification and Variance to the required parking standards at 2828 E. Coast Highway.

As agent representing the ownership of 2828 E. Coast Highway, I submit for your review this letter of justification with the attached Planning Permit Application. The property owner proposes to construct 2,637 sf of new commercial space to replace the existing 1,400 sf. of existing space currently occupying the property in one of the last two remaining "temporary" buildings on Coast Hwy. The proposed retail use is both allowed in the CC zone, consistent with the General Plan's call for pedestrian oriented uses and significantly less area than the allowable 4,155 sf for the site (0.75FAR x 5,540 sf lot area). The parking requirement for the retail use is 1sp/250sf requiring a total of 11 spaces. The owner is requesting a Modification to the parking standard for the reduction in the required off-street parking from 11 spaces to 9 spaces. Also, our parking lot plan requires a Variance to the required parking setback from 5'-0" to 4'-0".

We have created a three pronged parking management plan to help justify the Planning Permit. First, one new on-street parking space directly in front of the property is created by removing the existing curb cut and driveway. The increased on-street parking will both serve the proposed building as well as enhance parking in the general vicinity.

Second, the design divides the building into two separate suites. The two spaces are split by a shared walk/breezeway that connects the rear alley and adjacent new parking lot to the public sidewalk at the building's front on Coast Hwy. Combined with the glass line being pulled back from the street to accommodate landscaping, the breezeway encourages (handicap accessible) pedestrian travel and use.

Third, the parking lot design maximizes the number of spaces that can be accessed from the alley including four employee only tandem spaces. Due to the irregular shape and slope of the lot, utilizing the alley as part of our drive aisle is the only feasible way to develop the lot. Placing a drive aisle thru the lot from the alley to Coast Hwy would require a sloped condition greater than 5% (illegal for parking) and eats up almost all of the site's buildable area. The slope requires us to back fill and re-grade the rear portion of the property. In order to limit the amount of costly grading we're requesting a reduced alley

parking setback from 5'-0" to 4'-0. The site's shape creates a 55 degree angled stall orientation to the alley. With the 4' parking setback, the angled orientation provides enough space to meet the minimum parking lot drive aisle requirements of Public Works Standard STD-805-L-A. We can further justify the reduced setback and adequacy of the drive aisle width due to the unlikelihood of parking ever occurring on the opposite side of the alley. While the typical alley would have parking on both sides, the church side yard ensures that parking will not occur on the opposite side. The reduced setback was reviewed and accepted by the city's traffic engineer.

Given the proposed retail use is legal and our parking management plan maximizes both the parking available on and off site, I submit that: 1.) The proposed parking arrangement is the maximum amount of legal parking the shape, size, and slope of the lot will allow; 2.) The location and design of the site will allow for a greater than normal walk in trade; 3.) The design, location, size and operating characteristics of the use are compatible with the allowed uses in the vicinity; 4.) The proposed use and parking plan in terms of design, location, shape, size, pedestrian and vehicle access, and operating characteristics, along with the existence of public services and utilities is physically suitable for the site; and 5.) Operation of the use and parking management plan at the location would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood.

Therefore, I ask that you review and approve the subject Planning Permit Application. Thank you in advance for your review of the application and do not hesitate to contact me with any questions.

Sincerely,

Scott Laidlaw
Laidlaw Schultz Architects

cc: Jeff Schulein

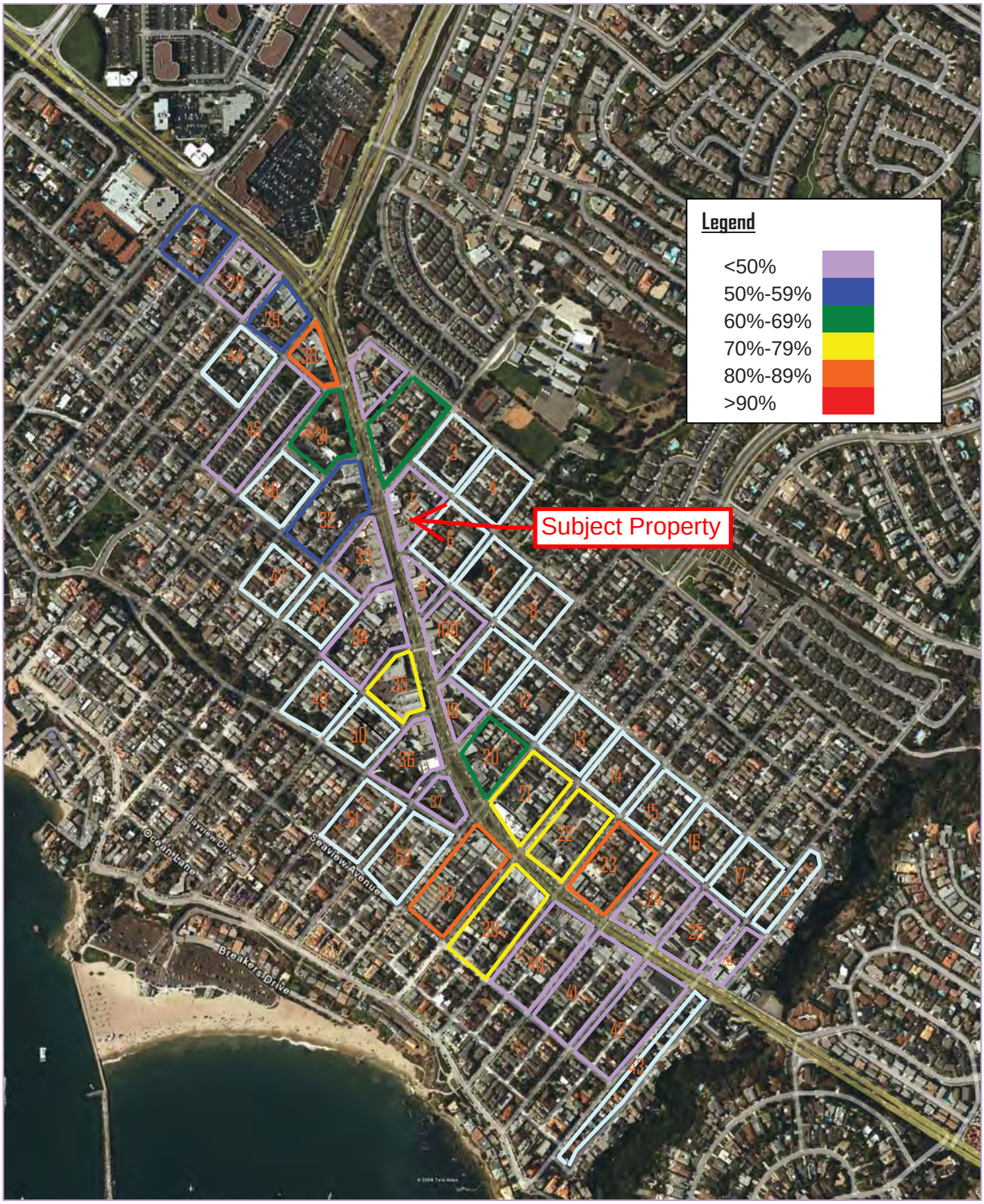
attachments:
Planning Permit Application
(7) sets of full-size plans
(5) sets of reduced plans
Title Report
Mailing labels
Electronic Copy of all the attachments

Attachment No. PC 4

Walker Parking Study Excerpt

APPENDIX B: ON-STREET WEEKDAY PEAK OCCUPANCY

APPENDIX B: OFF-STREET WEEKDAY PEAK OCCUPANCY



APPENDIX B: ON-STREET WEEKEND PEAK OCCUPANCY

APPENDIX B: OFF-STREET WEEKEND PEAK OCCUPANCY

Attachment No. PC 5

Parking Management Plan

Parking Management Plan (PA2013-090)
2828 East Coast Highway
August 8, 2013

The following Parking Management Plan is provided pursuant to Section 20.40.110 (Adjustments to Off-Street Parking Requirements) of the Zoning Code. The Parking Management Plan will employ the following management mechanisms to mitigate impacts associated with reducing the required off-street parking by two (2) parking spaces as required by Chapter 20.40 of the Zoning Code:

- Nine (9) parking spaces shall be provided on-site.
- The curb cut along East Coast Highway shall be closed and at least one (1) on-street parking space shall be created.
- The parking layout may include up to four (4) tandem parking spaces.
- The tandem spaces shall be used for employees only. Each tenant suite shall be assigned one set of tandem parking spaces.
- Employees who drive to work shall park in the applicable employee tandem parking spaces when available.

Attachment No. PC 6

Project Plans

Project Data

Project Address:	2828 E. Coast Hwy., Newport Beach CA, 92625
Legal Description:	APN: 459-051-09
Owner:	Schulein Family Trust 15 Linda Isle, Newport Beach, CA 92660
Design Professional in Responsible Charge:	Scott Laidlaw - Laidlaw Schultz Architects 3111 Second Ave Corona Del Mar, CA 92625 Phone: 949.645.9982 Fax: 949.645.9554 E-mail: SLaidlaw@LSarchitects.com

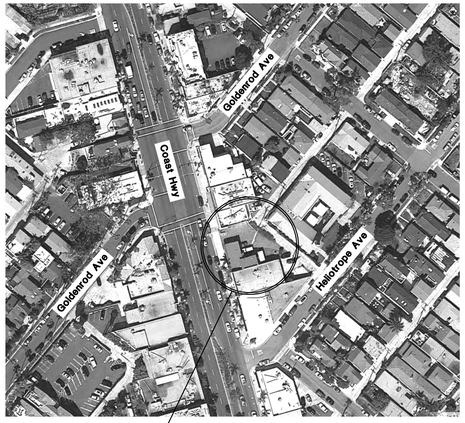
Scope of work: This submittal is the Planning Application for the proposed commercial retail shell and parking management plan only.

Project Description:	1-Story Retail Shell
Construction:	Type V-B No Sprinklers
Occupancy:	Group M
Zoning District:	CC
Project Area :	2,637 sf
Site Area :	5,540 sf
FAR:	0.75
Max. Allowable Area:	4,155 sf

List of Drawings

Architectural

Project Data / Site & Floor Plan	A.100
Exterior Elevations	A.300 - A.302



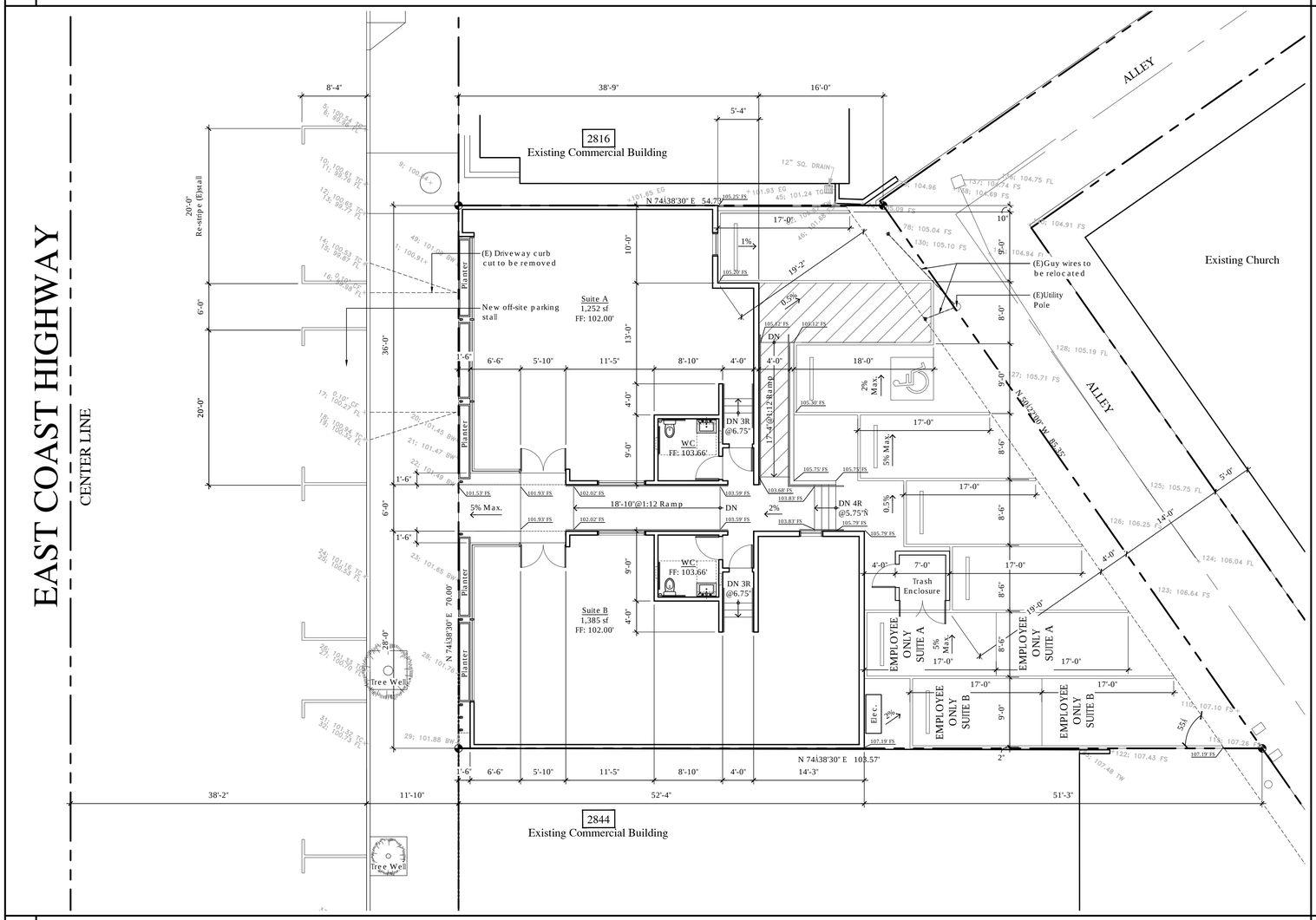
North

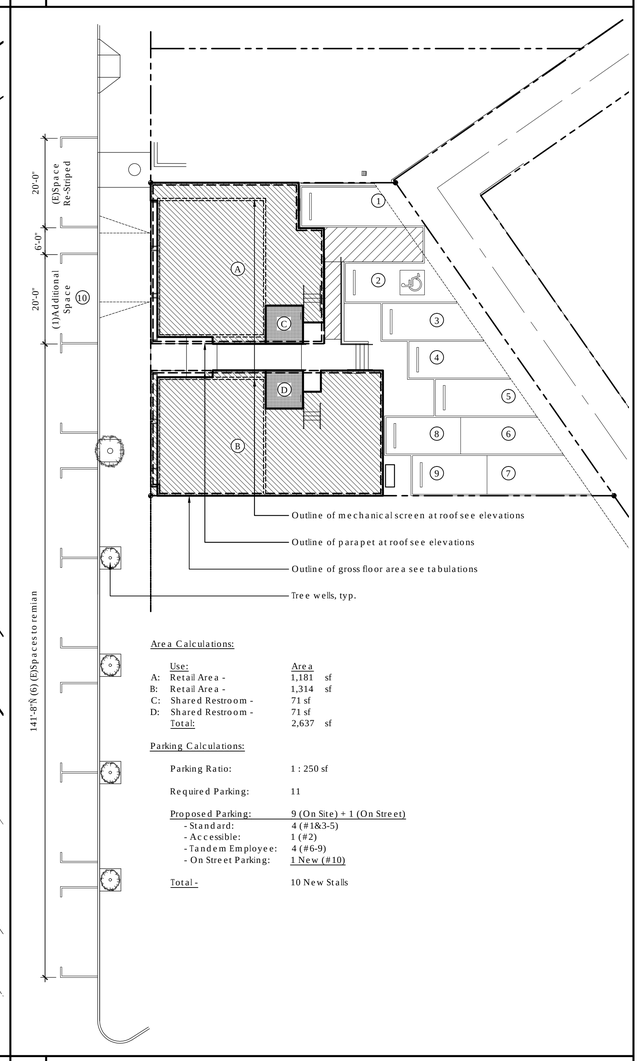
Project Location

LS architects
LAIDLAW SCHULTZ

4 Project Information

2 Location Map





Area Calculations:

	Use:	Area	
A:	Retail Area -	1,181	sf
B:	Retail Area -	1,314	sf
C:	Shared Restroom -	71	sf
D:	Shared Restroom -	71	sf
	Total:	2,637	sf

Parking Calculations:

Parking Ratio:	1 : 250 sf
Required Parking:	11
Proposed Parking:	9 (On Site) + 1 (On Street)
- Standard:	4 (#1&3-5)
- Accessible:	1 (#2)
- Tandem Employee:	4 (#6-9)
- On Street Parking:	1 New (#10)
Total -	10 New Stalls

PROJECT

Schulein Family Trust
2828 E. Coast Highway
Newport Beach CA, 92625

DRAWING DESCRIPTION

Site Plan

DATE	ISSUE/REVISION	REVIEW
04.29.2013	Planning Application	SDL
06.04.2013	Revised Planning App.	SDL
07.30.2013	Revised Planning App.	SDL

LICENSED ARCHITECT
SCOTT D. LAIDLAW
C-21061
July-2013
RENEWAL
STATE OF CALIFORNIA

A.100
SHEET NO.

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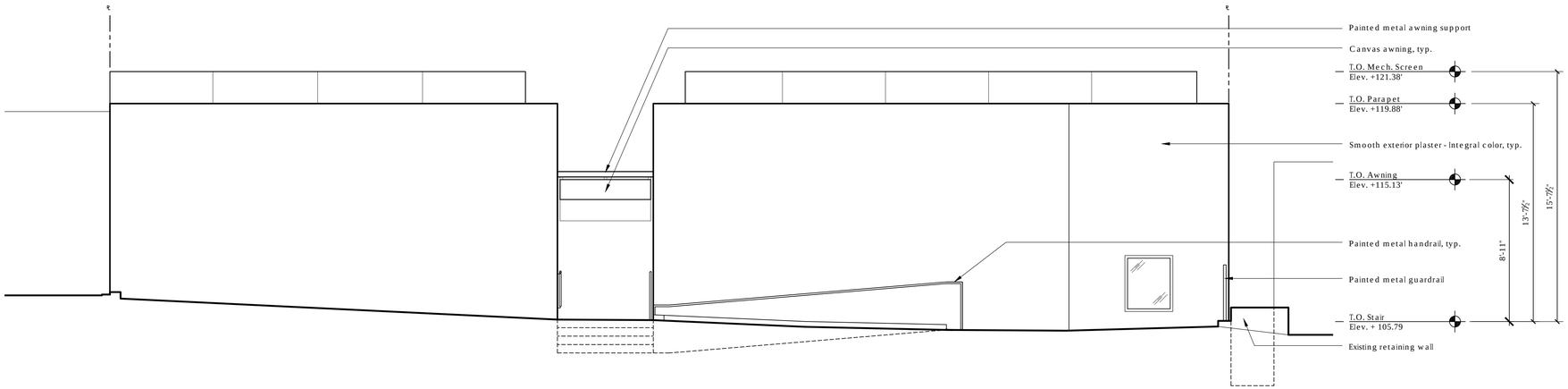
3111 Second Avenue
Corona del Mar, CA 92625-2322
(949) 645-9982 Fax: (949) 645-9554
www.LSarchitects.com

3 Site / Floor Plan

Scale: 1/8" = 1'-0"

1 Parking Management Plan and Area Map

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



2 Eastern Elevation

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

1 Western Elevation

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

LS architects
LAIDLAW SCHULTZ

PROJECT

Schulein Family Trust
2828 E. Coast Highway
Newport Beach CA, 92625

DRAWING DESCRIPTION

Exterior Elevations

DATE	ISSUE/REVISION	REVIEW
04.29.2013	Planning Application	SDL
06.04.2013	Revised Planning App.	SDL
07.30.2013	Revised Planning App.	SDL

LICENSED ARCHITECT
SCOTT D. LAIDLAW
C-21061
July-2013
RENEWAL
STATE OF CALIFORNIA

A.300

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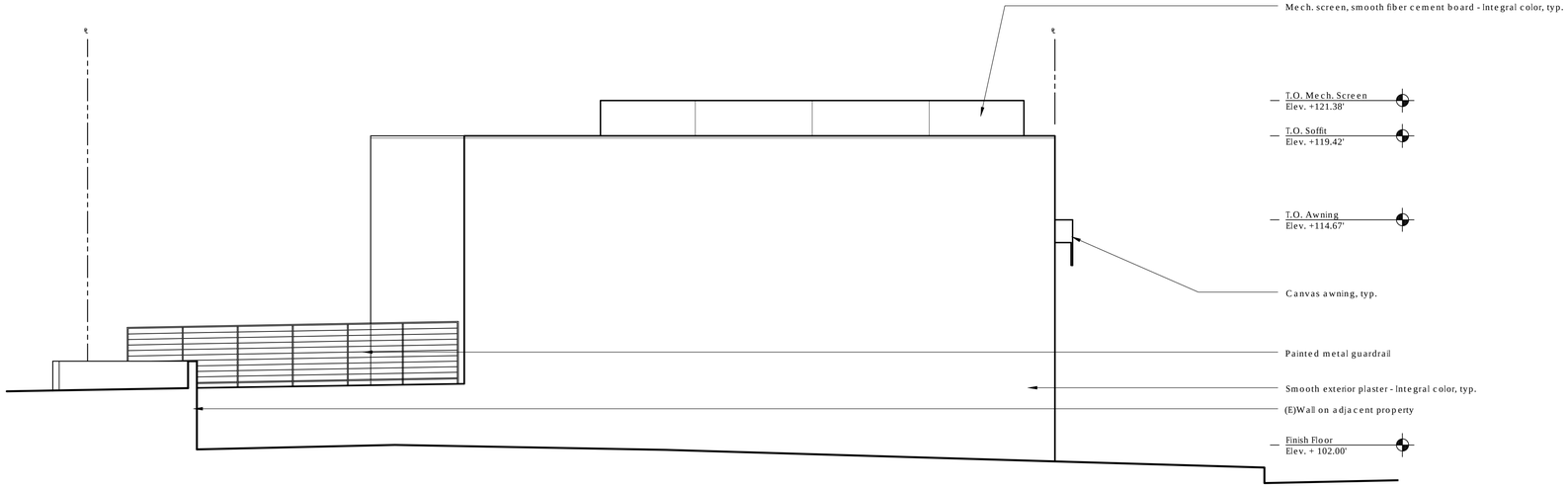
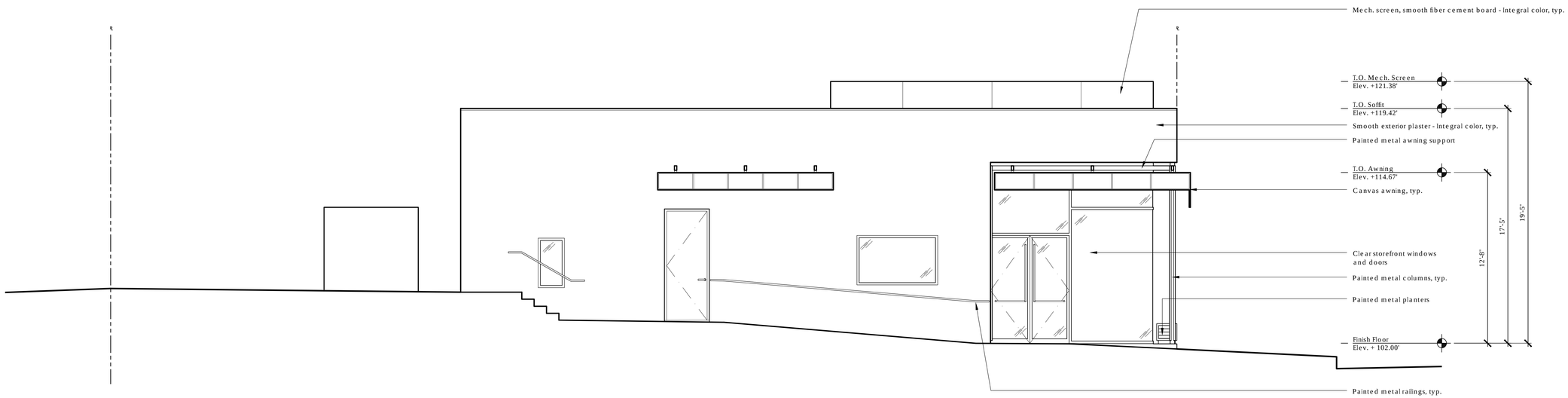


2 Northern Elevation

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



1 Northern Elevation

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

LS architects
LAIDLAW SCHULTZ

PROJECT

Schulein Family Trust
2828 E. Coast Highway
Newport Beach CA, 92625

DRAWING DESCRIPTION

Exterior Elevations

DATE	ISSUE/REVISION	REVIEW
04.29.2013	Planning Application	SDL
06.04.2013	Revised Planning App.	SDL
07.30.2013	Revised Planning App.	SDL

LICENSED ARCHITECT
SCOTT D. LAIDLAW
C-21061
July-2013
RENEWAL
STATE OF CALIFORNIA

A.301

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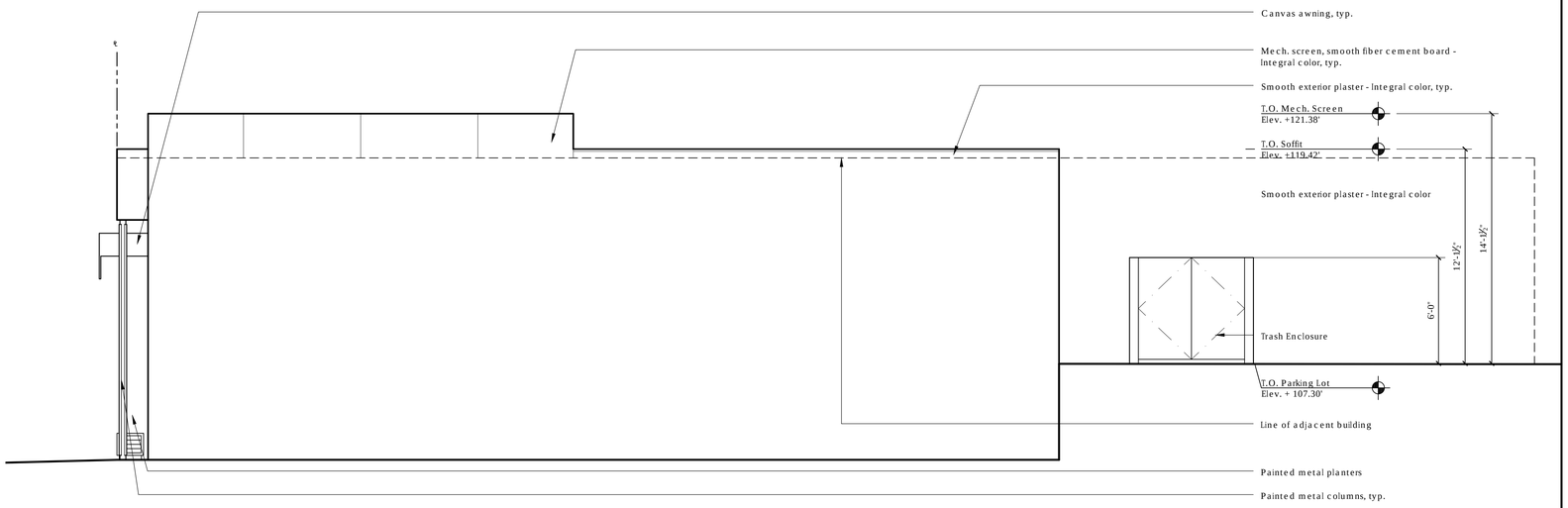
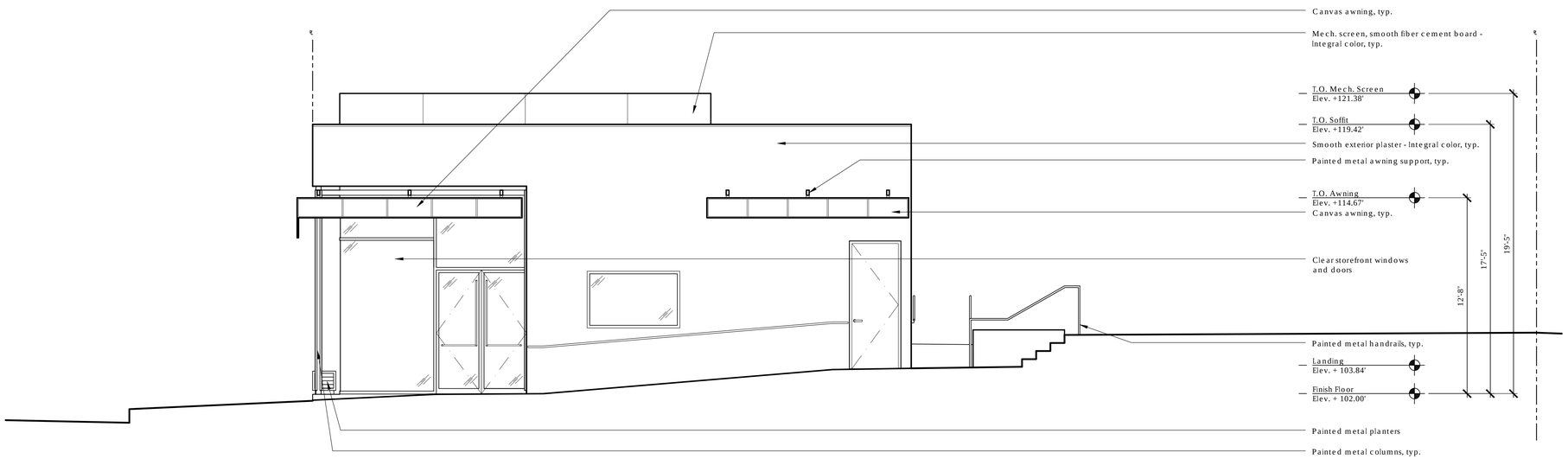


2 Southern Elevation

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



1 Southern Elevation

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

LS architects
LAIDLAW SCHULTZ

PROJECT

Schulein Family Trust
2828 E. Coast Highway
Newport Beach CA, 92625

DRAWING DESCRIPTION

Exterior Elevations

DATE	ISSUE/REVISION	REVIEW
04.29.2013	Planning Application	SDL
06.04.2013	Revised Planning App.	SDL
07.30.2013	Revised Planning App.	SDL

LICENSED ARCHITECT
SCOTT D. LAIDLAW
C-21061
July-2013
RENEWAL
STATE OF CALIFORNIA

A.302
SHEET NO.

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(949) 645-9982 Fax: (949) 645-9554
www.LSarchitects.com

Correspondence
Item No. 4a
Schulein Parking Use Permit and Variance
PA2013-090

Burns, Marlene

From: Ron Yeo [ronyeo@me.com]
Sent: Sunday, August 04, 2013 8:30 AM
To: Burns, Marlene
Subject: Item #4 8/8/13 meeting

Schulein project

Honorable Planning Commissioners.....

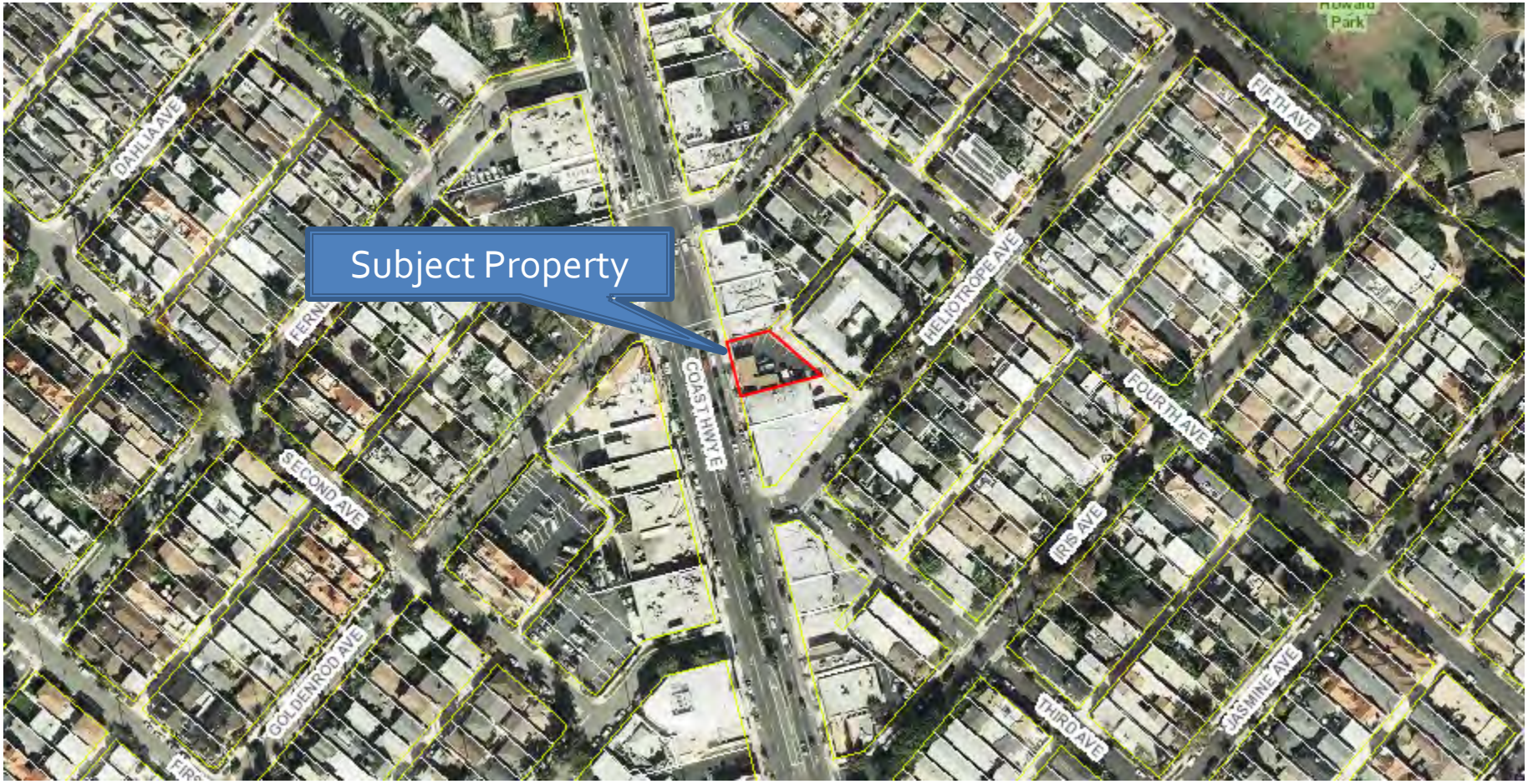
This project will be a benefit for CdM and should be approved. The variances requested are minor and should not be a problem.

It is time to replace the old relocatable sales office

Schulein Parking
Conditional Use Permit and Variance
2828 East Coast Highway
PA2013-090

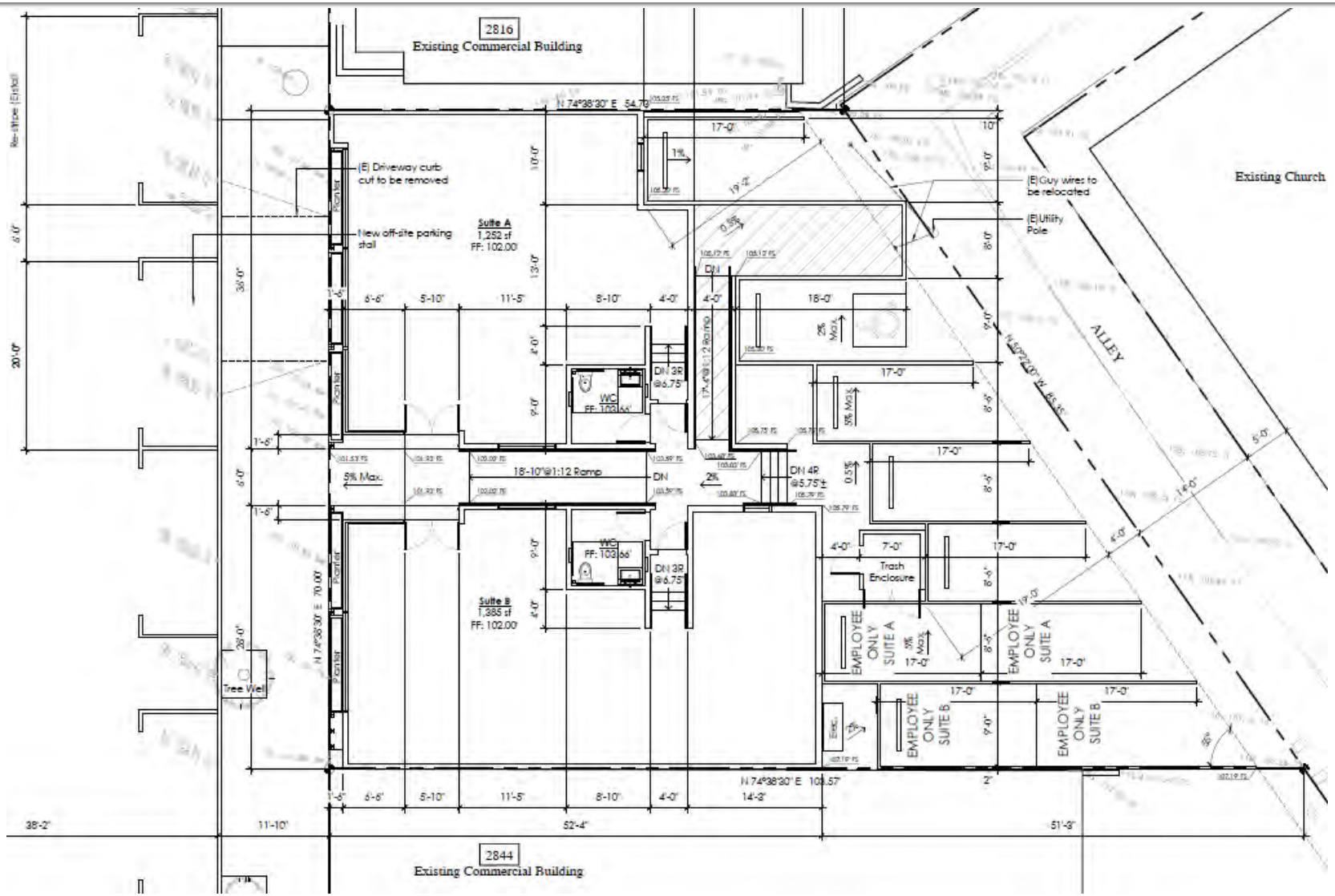
Planning Commission
Public Hearing
August 8, 2013

Vicinity Map

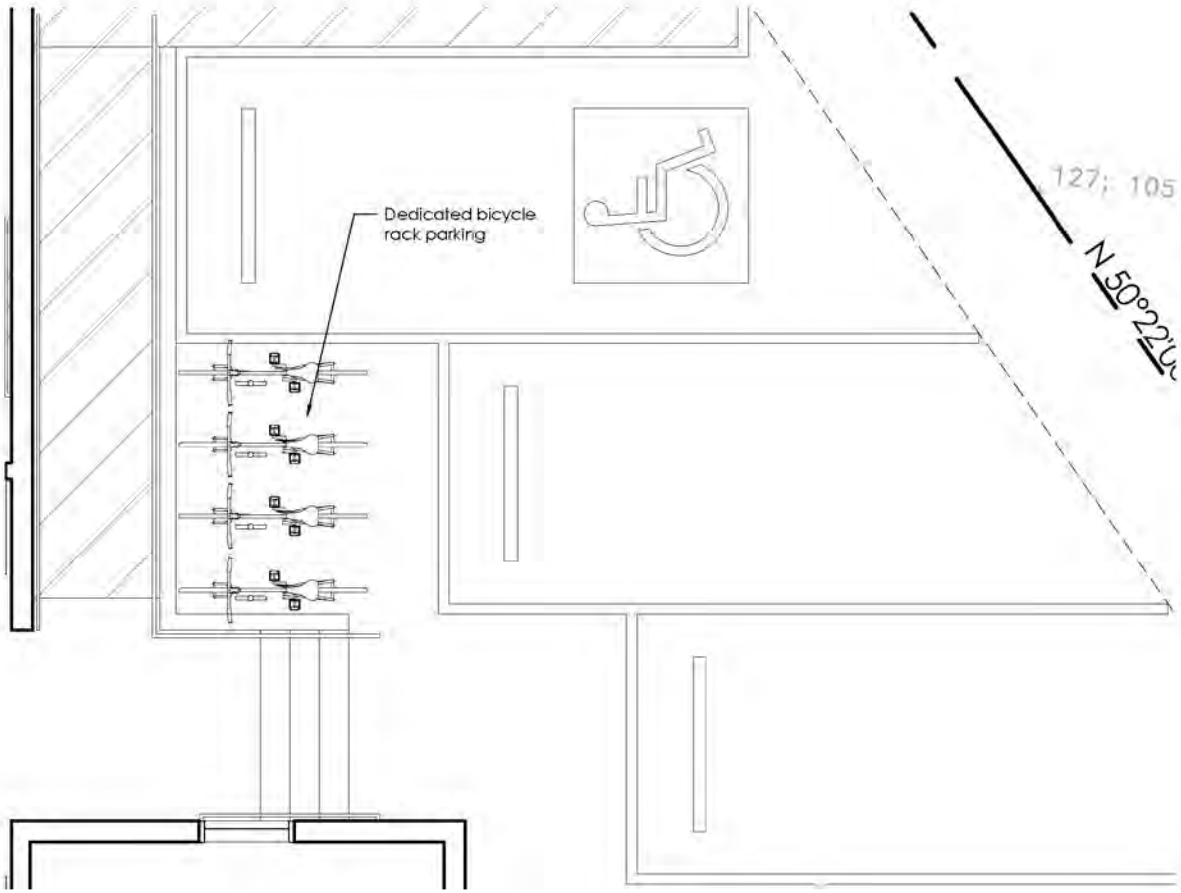


Project Rendering

Site Plan


2816
Existing Commercial Building
N 74°38'30" E 54.70'
(E) Driveway curb cut to be removed
New off-site parking stall
Suite A
1,252 sf
FF: 102.00'
(E) Guy wires to be relocated
(E) Utility Pole
Existing Church
ALLEY
WC
FF: 103.66'
DN 3R @6.75'
18'-10"@1:12 Ramp
DN
DN 4R @5.75'±
5% Max.
2%
Suite B
1,385 sf
FF: 102.00'
Trash Enclosure
EMPLOYEE ONLY SUITE A
EMPLOYEE ONLY SUITE B
Tree Well
N 74°38'30" E 70.00'
N 74°38'30" E 103.57'
2844
Existing Commercial Building

Bicycle Racks



Photographs

Photographs

Required Findings

2828 East Coast Hwy - Laidlaw Schultz Architects

Recommendation

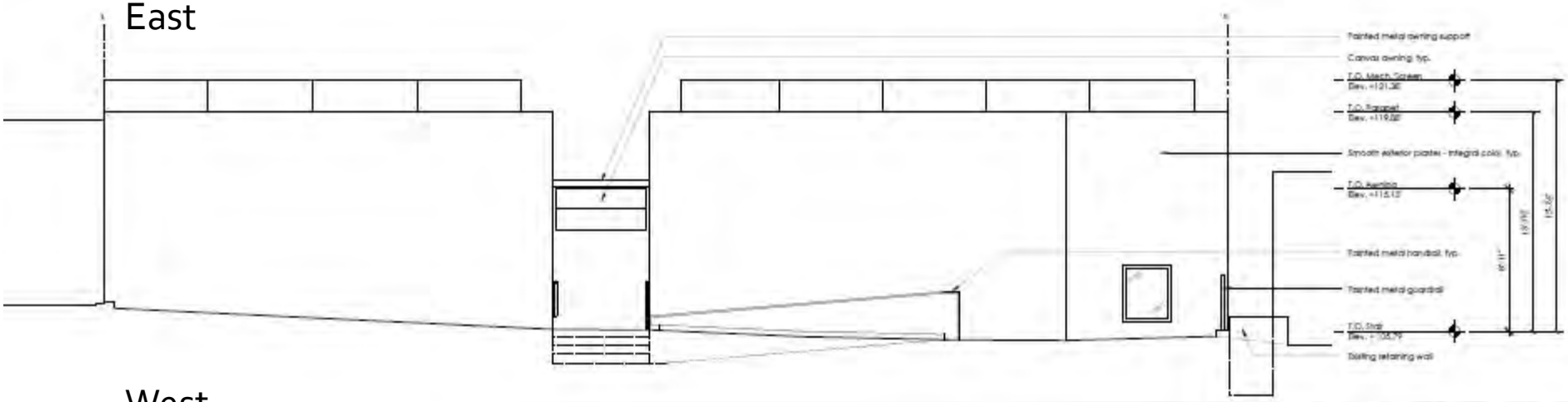
- Conduct a public hearing; and
- Adopt the draft Resolution approving Conditional Use Permit No. UP2013-007 and Variance No. VA2013-007.

For more information contact:

Fern Nueno
949-644-3227
fnueno@newportbeachca.gov
www.newportbeachca.gov

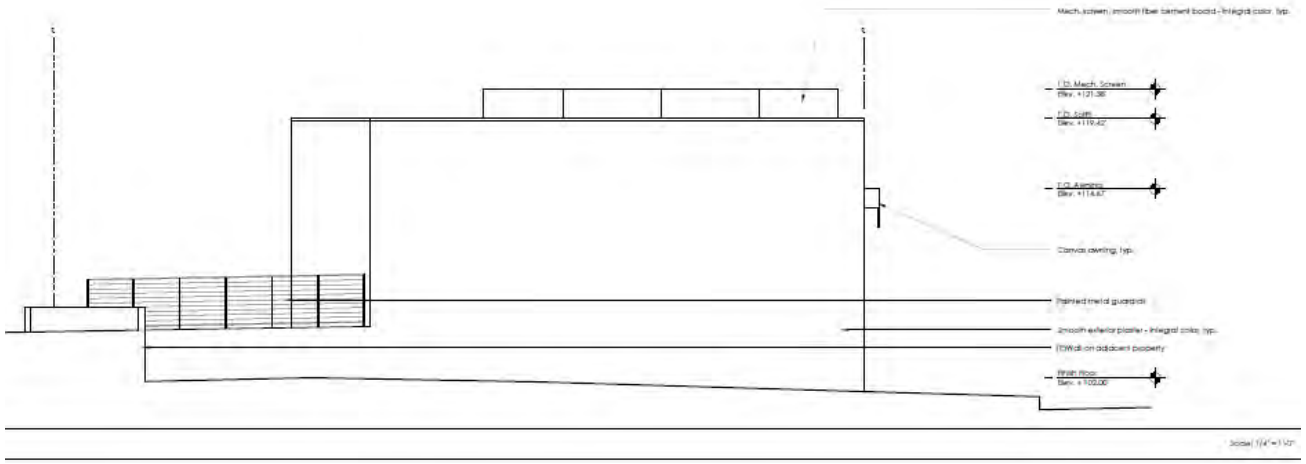
East and West Elevations

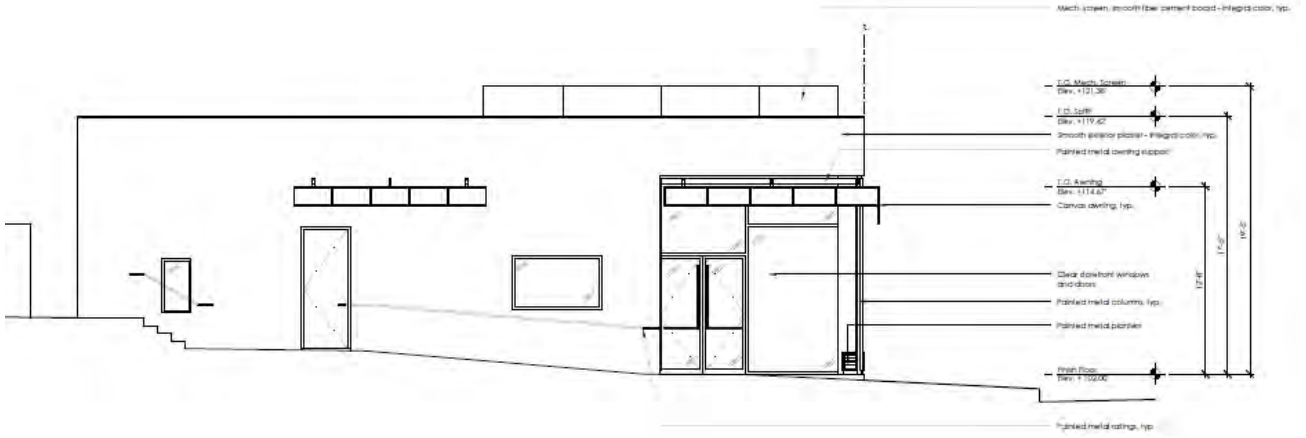
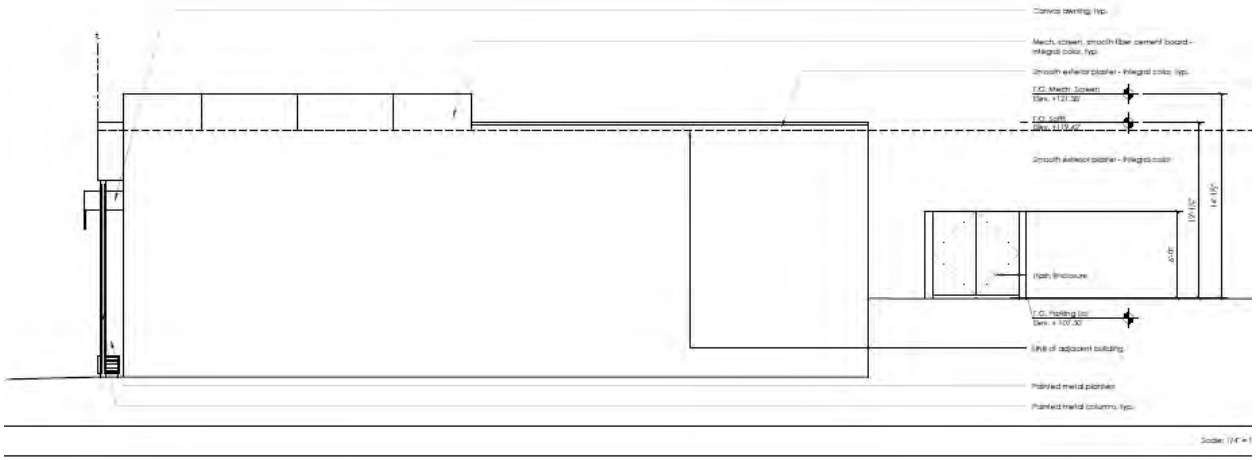
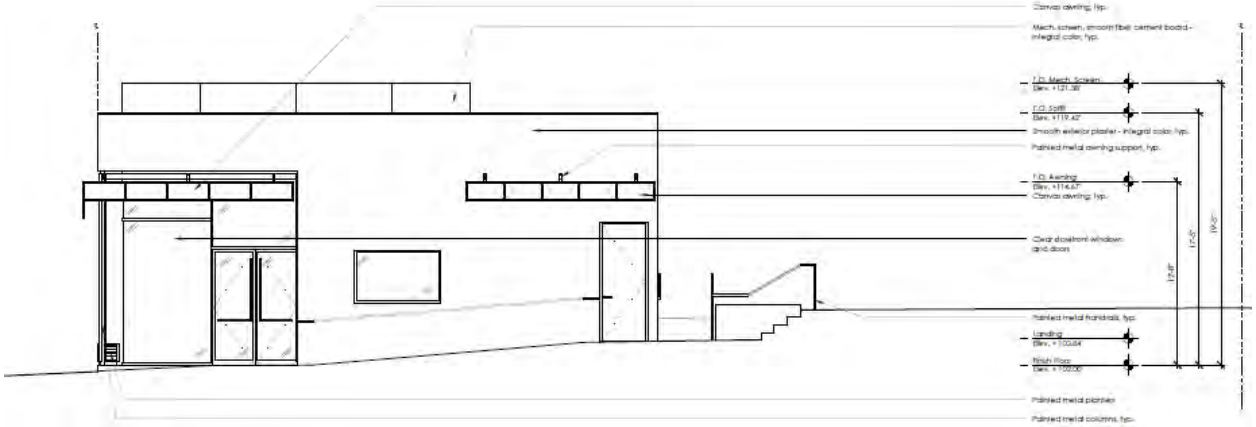
East



West

North Elevation





South Elevation