



Council Agenda Report

To: Mayor Grisanti and Honorable Members of the City Council

Prepared by: Adam Pisarkiewicz, Contract Planner

Reviewed by: Richard Mollica, Planning Director

Approved by: Steve McClary, City Manager

Date prepared: August 24, 2022 Meeting Date: September 12, 2022

Subject: Appeal No. 21-016 - Appeal of Planning Commission Resolution No. 21-11 (18868 Pacific Coast Highway; Owner/Appellant, Farshid Etaat)

RECOMMENDED ACTION: Adopt Resolution No. 22-39 (Exhibit A), determining the project is categorically exempt from the California Environmental Quality Act (CEQA), upholding Appeal No. 21-016 (Exhibit H) and approving Coastal Development Permit (CDP) No. 17-075 for the construction of a 3,778 square foot, two-story, single-family beachfront residence with attached garage, decks, retractable beach stairs, onsite wastewater treatment system (OWTS), grading, retaining walls, hardscape, and seawall; including Variance (VAR) No. 17-024 for the single-family residence to extend seaward of the building stringline, VAR No. 18-022 for the first and second floor decks to extend seaward of the deck stringline, and VAR No. 20-042 for a greater than 50 percent reduction of the front yard setback, and Offer-To-Dedicate (OTD) No. 21-002 for a lateral access easement across the property located in the Single-Family Medium Density (SFM) zoning district at 18868 Pacific Coast Highway (PCH) (Etaat).

FISCAL IMPACT: There is no fiscal impact associated with the recommended action.

WORK PLAN: This item is not included in the Adopted Work Plan for Fiscal Year 2022-2023. Processing this application is part of normal staff operations.

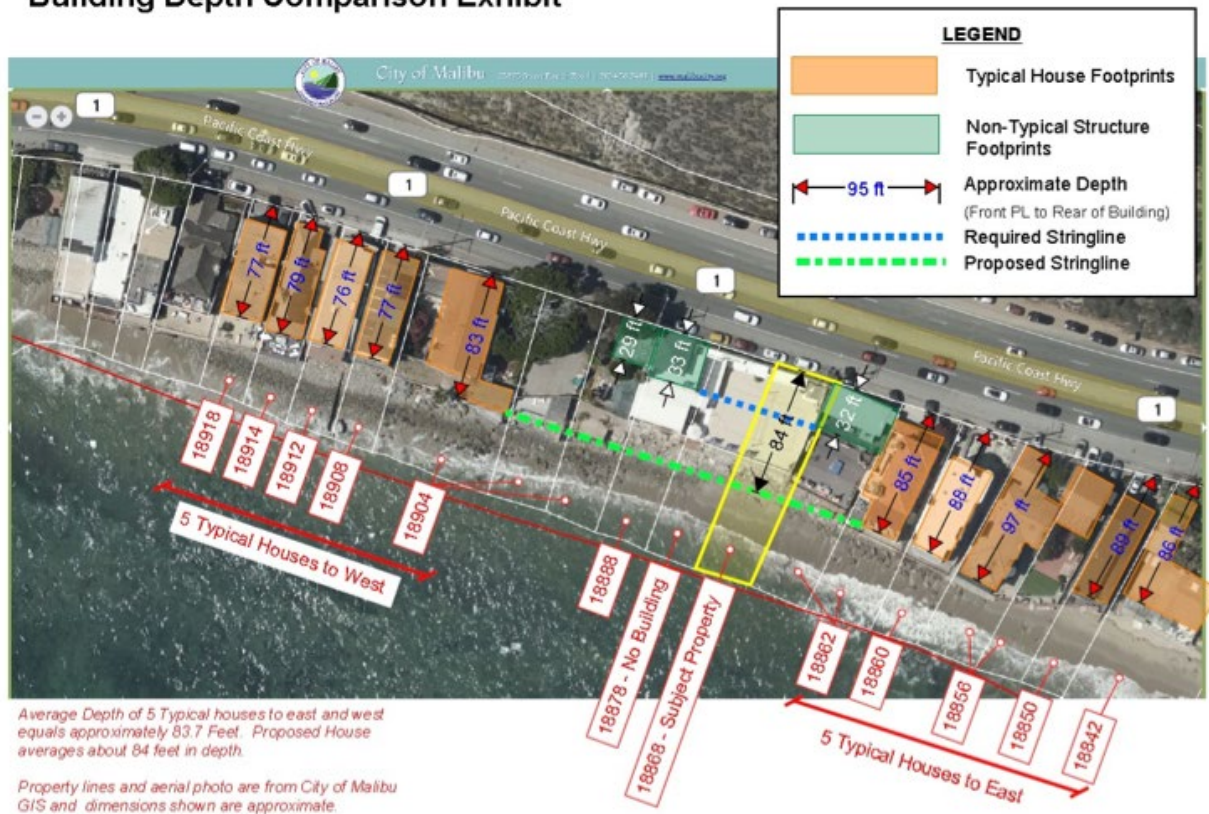
DISCUSSION: The matter is an appeal of the Planning Commission's denial of CDP No. 17-075, VAR Nos. 17-024, 18-022 and 20-042, and OTD No. 21-002, an application to construct a new two-story, single-family beachfront residence and other associated development (Exhibit B – Project Plans).

On February 16, 2021, the subject item was first before the Planning Commission. The Planning Commission continued the item to March 1, 2021, at the applicant's request to allow the applicant time to review and respond to public correspondence. On March 1, 2021, the Planning Commission continued the item to March 15, 2021, to further allow the applicant time to review and respond to public correspondence. On March 15, 2021, the Planning Commission continued the item to April 19, 2021, and directed the applicant to reinstall the story poles. On April 19, 2021, the Planning Commission stated they may be able to make the findings for approval if the length of the proposed residence was reduced by 10 feet landward for a total length of approximately 70 feet with the six foot deck being moved a corresponding amount, approximately 10 feet, and the first floor of the garage moved two feet seaward so it would be set back 12 feet from the front property line.

Updated plans were then presented at the July 19, 2021 Planning Commission meeting which depicted a revised building stringline (VAR Nos. 17-024 and 18-022) to remove 10 feet from the oceanside and a revised deck similarly moved approximately 10 feet landward. Figure 2 shows the originally proposed building stringline (identified in red), the revised building stringline presented to the Planning Commission (identified in blue), and the revised proposed deck stringline (identified in purple) were all based on non-adjacent upcoast and downcoast properties, as shown in Figure 1. Based on the immediate neighboring properties, without the variances the project could only include a development area that extended only 32 feet from PCH (a size that is only slightly larger than the proposed garage footprint). Such strict adherence to the code would deprive the applicant of building stringline privileges enjoyed by other surrounding property owners, such as the residences at 18904 PCH and 18862 PCH, which have been developed with a similar building stringline as the proposed project. Therefore, the proposed stringline is more consistent with the surrounding neighborhood. Similarly, without a variance, the deck stringline would also deprive the applicant of deck stringline privileges enjoyed by other surrounding property owners. Figure 1 provides a building depth comparison, showing the depth of residences in the area and how the depth determination was made based on existing residences in the immediate area.

Figure 1 – Building Depth Comparison Exhibit (Originally Proposed Stringline – First Submission)

Building Depth Comparison Exhibit



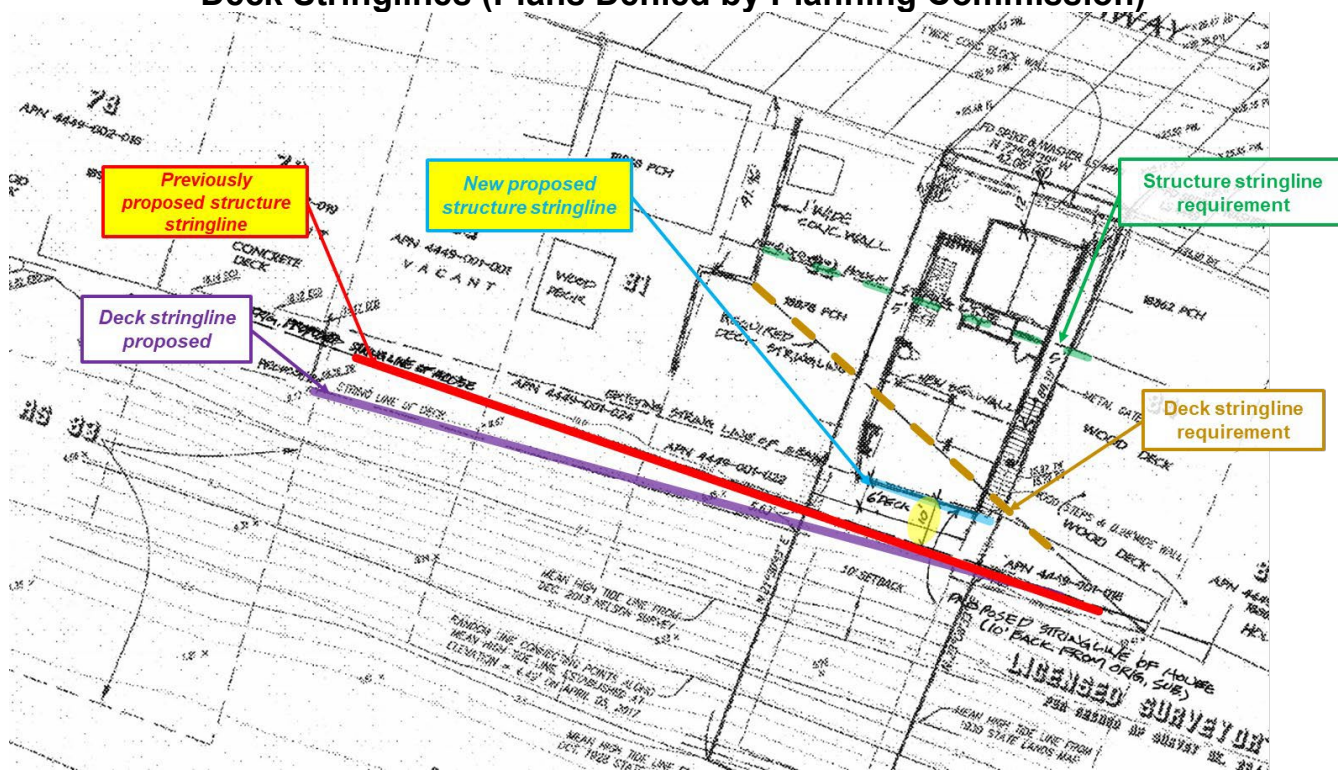
Besides moving the proposed deck and structure stringlines approximately 10 feet landward, the applicant also increased the proposed front yard setback for the first story from 10 feet to 12 feet (but kept the proposed second story setback unchanged at four feet) to help facilitate uncovered parking in the driveway. The changes resulted in the overall square footage of the proposed structure being reduced from 3,837 square feet to 3,778 square feet, including the 375 square foot attached two-car garage.

While the project plans shown to the Planning Commission at its final hearing depicted the building and deck stringlines moved landward by approximately 10 feet, the Commissioners determined that they were still unable to make the required variance findings for the proposed building stringline and deck stringline, but suggested they may be able to make the findings if the building stringline was in line with an existing glass railing which sat approximately 9 feet further landward from the revised plans. There was also debate about whether the story poles were placed properly to reflect the revised plans, which the Planning Commission found to be in a location where the required findings could not be made. The applicant was granted an opportunity to revise the proposed plans to move the building stringline to the location of the existing glass railing or make other revisions, but the applicant declined the opportunity.

The Planning Commissioners explained that they could not make the findings for the stringline variances as proposed, and made a motion to deny on that basis, and directed staff to return with an updated resolution denying the project for these reasons and reflecting its determination that, as designed, the proposed project would adversely affect neighborhood character, and was not the least environmentally damaging alternative. The Planning Commission voted to deny the project at the August 2, 2021 meeting.

After the application was denied, the applicant revised the proposed building stringline further to set it back approximately nine feet further landward than the proposed building stringline that was denied by the Planning Commission. The updated building stringline is in line with the existing glass railing that the Planning Commission had suggested it may be able to make the variance findings for, had the applicant chosen to revise the project. The deck stringline line was also moved landward by approximately seven feet. The details of these proposed post-Planning Commission revisions to the plans are described later in this report under *Staff Summary to Appeal Items 1-3*.

Figure 2 – Required and Previously Proposed Building and Deck Stringlines (Plans Denied by Planning Commission)



Proposed Building Stringline:

- The dashed green line identifies the required building stringline, which is established by drawing a line from the nearest adjacent corner of the two existing buildings located on either side of the subject site: the upcoast

property at 18888 PCH, and the downcoast property at 18862 PCH (APN 4449-011-018).¹

- The solid red line identifies the building stringline that was denied by the Planning Commission, which is approximately 50 feet, 6 inches seaward of the required stringline and proposes to utilize the existing buildings on non-adjacent properties located on either side of the subject site: the upcoast property at 18904 PCH² and the downcoast property at 18862 PCH (APN 4449-001-019)³.
- The solid blue line identifies the currently proposed building stringline, which has been shifted 10 feet landward from the building stringline on the plans that were denied by the Planning Commission.

Proposed Deck Stringline:

- The dashed tan line identifies the required deck stringline, which is established by drawing a line from the nearest adjacent corner of the two existing decks located on either side of the subject site: the upcoast property at 18888 PCH, and the downcoast property at 18862 PCH (APN 4449-011-018).
- The solid purple line identifies the proposed deck stringline, which is located approximately 33 feet, 8 inches seaward of the required stringline and utilizes a partial deck on the adjacent upcoast property at 18878 PCH and the same downcoast property as the proposed building stringline at 18862 PCH (APN 4449-001-019).
- The deck stringline was moved landward approximately 10 feet, corresponding to the shifting building stringline, on the plans that were denied by the Planning Commission.

Revised Front Yard Setback:

The proposed project also involves VAR No. 20-042 for a greater than 50 percent reduction of the front yard setback. In accordance with LIP Section 3.6(G)(1), the front yard setback for beachfront homes is required to be 20 feet maximum or the average of the two immediate neighbors, whichever is less.

¹ The immediately adjacent upcoast property located at 18878 PCH does not contain a building for the purposes of determining the building stringline, so the next developed adjacent property is utilized for the stringline.

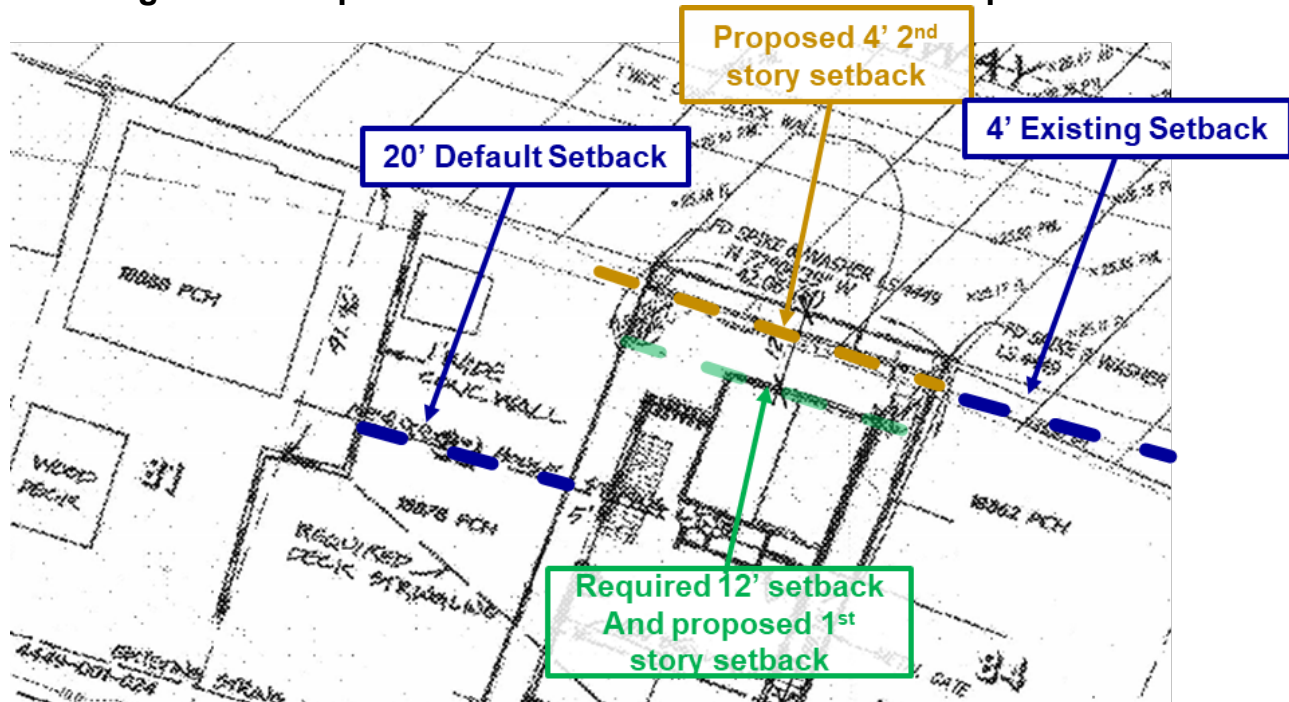
² The upcoast stringline reference point utilizes a corner of an enclosed sun deck, according to floor plans on file. The enclosed sunroom appears to have been constructed in the 1970's based on historic photo evidence and the permitting history for the building.

³ The two properties to the east (downcoast) of the subject property are both assigned the same street address of 18862 PCH. So, the APNs have been included to distinguish between the two properties.

As shown in Figure 3, the existing front yard setback for the easterly neighboring property at 18862 PCH is 4 feet. The westerly neighboring property at 18878 PCH is not developed, so the default front yard setback of 20 feet applies per Malibu Municipal Code (MMC) Section 17.40.040 (Residential development standards) which requires a 20-foot front yard setback unless an average of the two immediate neighbors is less. Since the property at 18878 PCH is not developed, the 20-foot setback applies and the average of the neighboring setbacks is 12 feet. Therefore, a front yard setback of 12 feet is required for the subject property, which is the average of the front yard setbacks at the immediate neighboring properties.

- The dashed green line identifies the required 12-foot front yard setback. The first-floor footprint has been revised to increase the front yard setback from the previously proposed 10 feet to the required 12 feet, and a variance is no longer required for the first floor setback.
- The proposed front yard setback for the second floor remains the same as proposed to the Planning Commission and is four feet from the front property line. The proposed setback as shown below is consistent with the property located directly to the east of the proposed structure. See page 11 for further discussion.

Figure 3 – Proposed Front Yard Setback Variance Request



The California Coastal Commission (CCC) sent a letter to Planning staff on July 30, 2021. The CCC disagreed with the staff report, dated July 8, 2021 (Exhibit C) which concluded the project will not have significant adverse impacts on public access, shoreline supply or other resources, and that the project is the least environmentally damaging feasible alternative. The CCC supported their argument with the following:

1. The applicant's Wave Uprush Study and Coastal Engineering Report, dated June 15, 2017, did not utilize the CCC's Sea Level Rise Guidance (2018) which they asserted reflects the best available science regarding sea level rise projections stemming from two reports from the California Ocean Protection Council (OPC), the State Sea Level Rise (OPC 2018) and Rising Seas in California (Griggs et al. 2017). These reports indicate that sea levels may rise between 4 and 14 feet by the year 2120 in the project area. Using the appropriate medium-high risk aversion and high emissions scenario, for the 100-year life of the proposed project, sea level rise is projected to be 8.5 feet by the year 2120. The difference in sea level rise between the projection used in the Coastal Engineering Report, dated June 15, 2017 (1.5 feet) over the 100-year life of the project and the updated science (8.5 feet) is more than 7 feet, which would change the conclusions of the analysis about the required finished floor elevation and the safety of the proposed structure from extreme events and sea level rise.
2. The proposed pile-supported deck, residence, onsite wastewater treatment system, and seawall are located within the maximum expected wave uprush limit line (9-foot landward of Pacific Coast Highway right-of-way). As a result, the development will be increasingly acted upon by wave uprush and increased wave action in the future due to anticipated sea level rise, and therefore is likely to exacerbate beach erosion and affect the sand supply beach profile, thereby impacting the public's ability to gain access along the beach.

The CCC recommended that the issues above be addressed by analyzing a range of siting and design alternatives that site development as far landward as feasible, minimize risk from wave run-up, flooding and beach erosion hazards as beach conditions change with anticipated sea level rise without reliance on shoreline protection. The CCC supported the Planning Commission's denial of the subject application and variances.

At the August 2, 2021 Planning Commission meeting, the Commission adopted Resolution No. 21-11, denying the project.

The applicant's coastal engineering consultant provided a letter, dated April 1, 2022 (Exhibit E – Wave Uprush Conformance Letter), stating that the plans denied by the Planning Commission still conform to the standards of the 2018 Sea Level Rise Guidance despite their initial review occurring prior to the adoption of the 2018 Sea Level Rise Guidance.

Revised Project Alternative

On November 19, 2021, the applicant submitted revised plans that displayed a smaller structure approximately 60 feet in length along with an eight-foot deck. Due to the reduction in size, the structure is sited approximately nine feet further landward compared to the plans that were denied by the Planning Commission. The applicant submitted an updated Wave Uprush Report that adhered to the CCC's 2018 Sea Level Rise guidance. The City's coastal engineering technical reviewers issued their approval on the revised plans and updated Wave Uprush Report on February 4, 2022. Determinations made by all other reviewing agencies are unaffected due to the reduction in project scope.

These changes, which address the concerns raised by the CCC and the Planning Commission, curtail development of the project and are described further below. The Council can accept these proposed changes as the Council's review of the project is *de novo*. Based on the application materials and plans at the time of the last Planning Commission hearing, the findings can be made to support the appeal and the project as last presented to the Planning Commission. However, should the Council choose to also accept the proposed further reduction of the project as recently proposed by the applicant, the findings can also be made as it is a reduction in scope.

APPEAL TO THE CITY COUNCIL

The appellant contends that the findings are not supported by the evidence, there was a lack of fair or impartial hearing, and the decision was contrary to law. The appellant's specific arguments are summarized below in *italics* using phrases taken from the appeal. The full text of the appeal document can be found in Exhibit H. Following the appellant's stated appeal argument is a staff summary. The Planning Commission agenda report, in which staff recommended approval of the project, is included as Exhibit C. The Planning Commission agenda report includes a complete overview of the surrounding area, project conformance with the Local Coastal Program (LCP) and MMC, and a discussion of all findings required to approve the application. The adopted Planning Commission Resolution No. 21-11, denying the project, is included as Exhibit D.

Appeal Item 1.A. General Coastal Development Permit, Finding 1 (“That the project as described in the application and accompanying materials, as modified by any conditions of approval, conforms with certified City of Malibu Local Coastal Program.”) The project has been reviewed for conformance with the LCP by the Planning Department, City Biologist, City Coastal Engineer, City Environmental Health Administrator, City geotechnical consultant reviewers, City Public Works Department, LACFD, and CSLC. The proposed project, as conditioned, conforms to the LCP and MMC in that it means all of the required beachfront residential development standards of the SFM residential zoning district, inclusive of the requested structure and deck stringline variances and front yard setback variance request.

Appeal Item 1.B. Variance No. 17-024, Finding A (“There are special circumstances or exceptional characteristics applicable to the subject property, including size, shape, topography, location or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.”) Strict application of the zoning ordinance would result in an allowable development area within approximately 32 feet of PCH (in an area slightly larger than the proposed garage footprint) and deny the applicant of stringline privileges enjoyed by other surrounding property owners beyond the immediately adjacent dwelling, which have been developed to a similar building stringline as the proposed project.

Appeal Item 1.C. Variance No. 17-024, Finding B (“The granting of such variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located.”) The granting of the variance would allow the proposed house to have the same stringline privileges as the decks beyond the adjacent homes upcoast and downcoast of the project site. The project has been reviewed and approved by City geotechnical consultant reviewers, the City Coastal Engineer, and City Public Works Department for consistency with all applicable regulations and policies.

Appeal Item 1.D. Variance No. 17-024, Finding C (“The granting of the variance will not constitute a special privilege to the applicant or property owner.”) The granting of the variance will not constitute a special privilege to the applicant or the property owner because other nearby homes with decks have been constructed either at a similar distance seaward than the subject application and the subject residence meets all other applicable development standards, inclusive of the variance requests.

Appeal Item 1.E. Variance No. 17-024 Finding D (“The granting of such variance will not be contrary to or in conflict with general purposes and intent of this Chapter, nor the goals, objectives and policies of the LCP.”) The analysis presented in the agenda report and the record as a whole demonstrate that, with the inclusion of the variance, the project is consistent with the LCP, the Coastal Act, and other applicable regulations. The proposed decks meets the required 10 foot setback from the Mean High Tide Line (MHTL) by an

additional 10 feet (20-foot setback from MHTL) and does not adversely impact shoreline access.

Appeal Item 1.F. Variance No. 17-024 Finding F (“The subject site is physically suitable for the proposed variance.”) The subject site is physically suitable for the proposed variance in that there is no feasible alternate location or configuration which would provide an environmental advantage. The proposed deck location will be in line with other non-adjacent decks in the area.

Appeal Item 1.G. Variance No. 17-024 Finding G (“The variance complies with all requirements of state and local law.”) Construction of the proposed deck improvements will comply with all building code requirements and will incorporate all recommendations from applicable City and County agencies.

Appeal Item 2. There was a lack of fair or impartial hearing. At the July Planning Commission hearing, after much discussion, several Planning Commissioners stated that the proposed changes were not acceptable even though the applicant followed the Commission’s previous direction. At this hearing several Commissioners wanted further revisions to the design that would require the structure to be moved back further landward than previously requested. The Commission once again gave the applicant the choice to continue the item and redesign or to accept a decision based on the plan before them that night. Given that the applicant had followed the Commission’s direction from the previous hearing, the applicant representative requested a third option; the Planning Commission approve the project with condition of approval that would require the requested redesign, opposed to being required to continue the item once again. The Planning Commission did not accept this third option and instead denied the project. The applicant agreed to continue the project multiple times in good faith and redesigned the project based on Planning Commission direction. It was not fair to the applicant for the Planning Commission to request further continuances or deny the project when the project met all legal requirements and the applicant had agreed to all requested modifications.

Appeal Item 3. The Decision was contrary to Law. As detailed in the Staff Report, the project met all legal requirements and the facts in the record supported making all the required findings. The Planning Commission denial was not supported by substantial evidence in the record and was contrary to law and City case precedent. The Planning Commission abused its discretion by requesting multiple continuances, changing its specific design requests, and ultimately basing its denial on the applicant’s refusal to acquiesce to such baseless, multiple requests. The result violates applicant’s civil and property rights to be treated equally with neighboring property owners.

Staff Summary

The Planning Commission's denial in Resolution No. 21-11 was based on its inability to make the findings for the requested stringline variances (VAR Nos. 17-024 and 18-022). The determination was based in part on the Planning Commission's belief that the building stringline needed to be moved farther landward. Given their belief that the building stringline needed to be moved farther landward, the deck stringline would need to move a corresponding amount in tandem with the building stringline. Since Commission was not able to make the findings for the requested building stringline, the Commission was not able to make the findings for the deck stringline and made the same determinations for both requested stringline variances.

The staff report for the July 19, 2021, public hearing recommended approval of the project and provided the requisite information needed to make the findings for LIP Chapter 13 and LIP section 13.26.5 for both stringline variances and the variance for a reduced front yard setback.

The variance findings for the building and deck stringlines can be made because strict adherence to the MMC would only allow for a structure that is approximately 32 feet in depth, due to the presence of small garage-like structures on the neighboring properties and would ultimately deny the applicant of development to a stringline level enjoyed by other surrounding property owners. The applicant provided an analysis of five of the closest residential dwellings east and west of the subject property which showed an average structure length of approximately 83.7 feet. The proposed house in the June 1, 2021, plan set was measured at 74 feet in depth.

The variance findings for the reduced front yard setback for the second story of the proposed structure can also be made because it would allow for a comparable front yard setback to the residence at 18888 PCH beyond the adjacent upcoast vacant property and the adjacent downcoast residence at 18862 PCH. In addition, the granting of the variance would not conflict with the general purposes and intent of LIP Chapter 13, nor the goals, objectives, and policies of the LCP.

Given the subject parcel's unique siting, with two small non-habitable structures on either side, strict adherence to the MMC's stringline standards and front yard setback standards would deprive the property owner of privileges enjoyed by other surrounding property owners. All required findings can be made to grant the variances and approve the application. While the applicant is requesting a significant departure from the required stringlines, the granting of the variances would conform to the general pattern of development seaward in this area and would not constitute a special privilege.

Finally, the applicant was granted a fair hearing before the Planning Commission, on multiple occasions. While the Planning Commission continued the item to July 19, 2021 to

provide the applicant the opportunity it requested to revise the proposed plans, it could not agree at that meeting to approve plans in the future that it had not seen. The offer to continue the item to provide further opportunity to revise a project that the Planning Commission indicated it was unlikely to be able to make the findings for as proposed did not deny the applicant a fair hearing. It in fact represents the provision of a further opportunity to be heard and to convince the Planning Commission that the evidence supported the required findings. Based on the submitted application materials, the evidence supports that the appeal can be granted to allow for the proposed structure; however, there is no evidence that the applicant was not provided with a fair hearing.

Revised Project Alternative

As mentioned previously, after the August 2, 2021 denial, the applicant has submitted plans for a revised project alternative and requests that the Council approve these revised plans which propose to place the structure stringline approximately 9 feet farther landward from the location in the plans that were subject to the Planning Commission's denial resolution. The structure stringline is now in the location where the previously mentioned glass railing is currently located. The plans for the revised project alternative display a smaller structure with a depth of approximately 64 feet including the proposed deck. When comparing the proposed stringlines to the plans that were denied by the Planning Commission, the deck stringline was moved approximately seven feet landward. The revised structure has a total area of 3,527 square feet, including the 390 square foot attached garage. The revised structure is 251 square feet smaller than the plans denied by the Planning Commission. The revised residential structure is smaller in size due to the structure stringline being moved further landward. The revised residential structure still meets all other development standards off the MMC and LIP for a beachfront, single-family residence.

The plans for the revised project alternative address the concerns of the Planning Commission, makes an attempt to further address the comments raised by the Coastal Commission, and represents the second time the applicant has proposed to move the building further landward. If accepted by the Council, the changes would reduce the variance required and provide further evidence to support the required findings.

The image is a technical site plan for a property located at 18878 PCH. The plan shows the layout of the property, including setbacks, easements, and proposed structures. Key features include:

- Property Lines and Setbacks:** The plan shows setbacks of 10' and 15' from the property lines. A 10' SETBACK is indicated near the bottom right.
- Easements:** A 15' WIDE CONC BLOCK WALL is shown along the top boundary. A 15' WIDE CONC BLOCK WALL is also shown along the right boundary.
- Proposed Structures:** The plan shows a proposed structure with a deck. The deck is labeled "DECK" and "WOOD DECK". The structure is labeled "STRUCTURE" and "WOOD STEPS & 0.28' WIDE WALL".
- Annotations:**
 - Originally proposed deck stringline (First submission):** Indicated by a red dashed line.
 - New proposed deck stringline (Revised plans):** Indicated by a purple dashed line.
 - New proposed structure stringline (Revised plans):** Indicated by a blue dashed line.
 - Structure stringline requirement:** Indicated by a green dashed line.
 - Deck stringline requirement:** Indicated by a yellow dashed line.
- APNs:** The plan shows APN 4449-001-024, APN 4449-001-022, and APN 4449-001-018.
- Survey Information:** The plan includes a "LICENSED SURVEY" stamp and a note about the "MEAN HIGH TIDE LINE FROM DEC. 2013 NELSON SURVEY".

As described above and based on the application materials the plans presented to the Planning Commission at the July 19, 2021, meeting meet the requirements of the LIP and the variance findings can be made.

While this Council Report and Resolution sets forth grounds for granting the appeal and approving the project denied by the Planning Commission, the Council has the following options:

- Agenda Item # 4.A.

2. Elect to grant the appeal, but approve the revised project alternative (submitted on November 19, 2021). If the Council elects this option it should direct staff to revise the resolution to reflect approval of the revised project alternative which would return on the Council's consent calendar.
3. Deny the appeal of the Planning Commission's decision.
4. Remand the revised project alternative to the Planning Commission for its consideration.

ENVIRONMENTAL REVIEW: Pursuant to the authority and criteria contained in CEQA, the Planning Department has analyzed the project. The Planning Department found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the project is categorically exempt from the provisions of CEQA pursuant to Sections 15303(a) and (e) – New Construction. The Planning Department has further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

PUBLIC CORRESPONDENCE: To date, staff has not received any public correspondence on the appeal.

PUBLIC NOTICE: On July 28, 2022, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City and a public notice was mailed to the owners and occupants of all properties within a radius of 500 feet of the subject property (Exhibit G).

SUMMARY: Based on the record as a whole, including but not limited to all written and oral testimony offered in connection with this matter, staff recommends that the City Council adopt Resolution No. 22-39, granting the appeal and approving CDP No. 17-075, VAR Nos. 17-024, 18-022 and 20-042, and OTD No. 21-002.

EXHIBIT:

- A. Resolution No. 22-39
- B. Project Plans – Denied at August 2, 2021 Planning Commission Meeting
- C. Planning Commission Agenda Report (July 8, 2021)
- D. Planning Commission Resolution No. 21-11
- E. Wave Uprush Conformance Letter (April 1, 2022)
- F. Coastal Engineering Review Sheet
- G. Public Hearing Notice

H. Appeal No. 21-016

RESOLUTION NO. 22-39

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU, DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, UPHOLDING APPEAL NO. 21-016 AND APPROVING COASTAL DEVELOPMENT PERMIT NO. 17-075 FOR CONSTRUCTION OF A 3,778 SQUARE FOOT, TWO-STORY, SINGLE-FAMILY BEACHFRONT RESIDENCE WITH AN APPROXIMATELY 375 ATTACHED GARAGE, DECKS, RETRACTABLE BEACH STAIRS, ONSITE WASTEWATER TREATMENT SYSTEM, GRADING, RETAINING WALLS, HARDSCAPE, AND SEAWALL; INCLUDING VARIANCE NO. 17-024 FOR THE SINGLE-FAMILY RESIDENCE TO EXTEND SEAWARD OF THE BUILDING STRINGLINE, VARIANCE NO. 18-022 FOR THE FIRST AND SECOND FLOOR DECKS TO EXTEND SEAWARD OF THE DECK STRINGLINE, AND VARIANCE NO. 20-042 FOR A GREATER THAN 50 PERCENT REDUCTION OF THE FRONT YARD SETBACK, AND OFFER-TO-DEDICATE NO. 21-002 FOR A LATERAL ACCESS EASEMENT ACROSS THE PROPERTY LOCATED IN THE SINGLE-FAMILY MEDIUM DENSITY ZONING DISTRICT AT 18868 PACIFIC COAST HIGHWAY (ETAAT).

The City Council of the City of Malibu does hereby find, order and resolve as follows:

SECTION 1. Recitals.

A. On July 20, 2017, an application for Coastal Development Permit (CDP) No. 17-075 was submitted to the Planning Department by applicant, Guy Gniadek, on behalf of the property owner, Farshid Etaat. The application was routed to the City geotechnical consultant reviewers, City Environmental Health Administrator, City Biologist, City coastal engineering consultant reviewers, City Public Works Department, Los Angeles County Waterworks District No. 29 (WD29), Los Angeles County Fire Department (LACFD), and the California State Lands Commission (CSLC) for review.

B. On May 23, 2019, Planning Department staff conducted a site visit to document site conditions, the property, and surrounding area.

C. In January 2021, story poles were installed to demonstrate the location, height, and bulk of the proposed project.

D. On January 8, 2021, staff conducted a site visit to determine visual impacts and document the story poles.

E. On January 12, 2021, a Notice of Coastal Development Permit Applications was posted on the subject property.

F. On January 20, 2021, the application was deemed complete by the Planning Department.

EXHIBIT A

G. On January 21, 2021, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and on January 26, 2021, was mailed to all property owners and occupants within a 500-foot radius of the subject property.

H. On February 16, 2021, the Planning Commission continued the item to March 1, 2021, at the applicant's request to allow the applicant time to review and respond to public correspondence.

I. On March 1, 2021, the Planning Commission continued the item to March 15, 2021, at the applicant's request to allow the applicant time to review and respond to public correspondence.

J. On March 15, 2021, the Planning Commission continued the item to April 19, 2021, and directed the applicant to reinstall the story poles on March 26, 2021, from 12 pm to 7 pm for staff, Planning Commission, and the public to view.

K. On March 26, story poles were reinstalled on the property per the Planning Commission's request.

L. On April 19, 2021, the item was continued the item to June 21, 2021, at the applicant's request to allow for time to redesign aspects of the project.

M. On June 21, 2021, the Planning Commission continued the item to July 19, 2021.

N. On July 2, 2021, story poles were reinstalled on the property per the revised plans, and staff conducted a site visit to determine visual impacts and document the story poles.

O. On July 19, 2021, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the staff report, written materials, public testimony, and other information in the record. The Commission directed staff to return with an updated resolution denying the project and describing the Commission's inability to make the findings for the CDP and stringline variances, the lack of special circumstances or exceptional characteristics applicable to the subject property such that strict application of the zoning ordinance deprives the property of privileges enjoyed by other properties in the vicinity, and the granting of such variances or modifications will be detrimental to the public interest, safety, health or welfare and will be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is location.

P. On August 2, 2021, the Planning Commission reviewed and adopted Resolution No. 21-11 denying the project.

Q. On September 16, 2021, the applicant filed an appeal of the denial.

R. On July 9, 2022, story poles were reinstalled on the property. City staff conducted a site visit to determine visual impacts and document the story poles.

S. On July 28, 2022, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

T. On August 22, 2022, the City Council continued the item to the September 12, 2022 Regular City Council meeting.

U. On September 12, 2022, the City Council held a duly noticed public hearing on the subject appeal, reviewed and considered the agenda report, reviewed and considered written materials, public testimony, and other information in the record, including the City Council Agenda report dated August 24, 2022, and based thereon makes the following determination.

SECTION 2. Appeal of Action.

The appellant contends that the facts in the record show the proposed project is consistent with the required CDP and Variance Findings. The appellant also contends that there was a lack of a fair or impartial hearing. The applicant asserts it was not fair for the Planning Commission to deny the project which they believed met all legal requirements and when the applicant agreed orally to make additional modifications, even if those modifications were not including in the proposed plans.

SECTION 3. Findings for Approving the Appeal.

Based on the evidence in the record (including the analysis, findings of fact, and conclusions set forth by staff in the Council Agenda Report and Planning Commission Agenda Report, as well as the testimony and materials considered by the Planning Commission and City Council) the City Council hereby makes the following findings of fact, approving the appeal and approving the project and finds that substantial evidence in the record supports the required findings for approval of the project.

In summary, the Council finds that the proposed project is consistent with the required CDP findings as well as the required Variance findings.

In addition, the Council finds that relocating the structure and deck stringlines approximately 10 landward from their previously proposed location has positively impacted the Council's ability to make the required findings. Strict adherence to the code would result in a development area that extends only 32 feet from Pacific Coast Highway and would deny the appellant of structure stringline privileges enjoyed by other surrounding property owners which have been developed with more seaward building and deck stringlines compared to the proposed project. The proposed project is a smaller structure with building and deck stringlines located more landward than surrounding properties.

Finally, the Council finds that the record shows that the appellant was provided proper notice and an opportunity to be heard as demonstrated by the appeals, documents and testimony submitted to the City by the appellant, and the appellant's appearance before the Planning Commission. Appellant complains that the Planning Commission should not have granted than opportunity for a continuance to revise their proposed project further and should have approved the project with an additional condition requiring the project to be shifted more landward. Contrary to the

appellant's contention, providing this opportunity demonstrates that the hearing was fair and that they were even provided an additional opportunity to be heard and to avoid a denial of their project—which they declined. Until new plans were produced, the Planning Commission was unable to consider the particular impacts of the new revisions Applicant orally offered to make at the hearing. The applicant was provided ample opportunity to be heard, and as the City Council's review of the project is de novo, any violation would be cured by the City Council's hearing on the project.

In summary, the Council finds that the evidence supports the findings required to approve the project, but that the appellant has not provided substantial evidence demonstrating that the Appellant was denied a fair hearing and notice and an opportunity to be heard. For these reasons, as described further above and below, the council grants the appeal and approves the project as detailed below.

SECTION 4. Environmental Review.

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the City Council has analyzed the proposed project. The City Council finds that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the project is categorically exempt from the provisions of CEQA pursuant to CEQA Guidelines sections 15301(e) – Existing Facilities and 15303(e) - New Construction or Conversion of Small Structures. The City Council has further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

SECTION 5. LIP Findings

A. Coastal Development Permit (LIP Chapter 13)

Local Coastal Program (LCP) Local Implementation Plan (LIP) Section 13.9 requires that the following four findings be made for all coastal development permits.

Finding 1. That the project as described in the application and accompanying materials, as modified by any conditions of approval, conforms with the certified City of Malibu Local Coastal Program.

The proposed project has been reviewed for conformance with the LCP by the Planning Department, City Biologist, City coastal engineering consultant reviewers, City Environmental Health Administrator, City Public Works Department, City geotechnical consultant reviewers, and LACFD. As discussed herein, based on submitted reports, project plans, visual analysis and site investigation, the proposed project, as conditioned, conforms to the LCP in that it meets all applicable residential development standards of the Single Family Medium residential zoning district, inclusive of the building and deck stringline variances and front yard setback variance requests.

Finding 2. If the project is located between the first public road and the sea, that the project is in conformity to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

The project is located between the first public road and the sea. However, the proposed project and related construction activities are not anticipated to interfere with the public's right to access the coast as the site offers no direct or indirect public beach access. Vertical beach access is available approximately 400 feet east of the site at Topanga Public Beach. Therefore, adequate public vertical access exists nearby.

Lateral public access exists along the State of California's "wet sand right-of-way" which allows public use of lands seaward of the mean high tide and provides public access along and parallel to the sea or shoreline. In addition, the property owner has agreed to voluntarily offer to dedicate a lateral public beach access easement across the property along the shoreline. Therefore, the project conforms to the public access and recreation policies.

Finding 3. The project is the least environmentally damaging alternative.

The following alternatives to the project were considered to determine the least environmentally damaging feasible alternative:

Elimination of front yard setback Variance (VAR) – Reducing the size of the project may increase the front yard setback an additional eight feet to comply with the required 12-foot front yard setback. Reducing the size of the residence could eliminate the proposed front yard setback variance. However, this alternative is not anticipated to result in environmental advantages as the proposed 4-foot front yard setback is in conformance with existing front yard setbacks for other non-adjacent and adjacent homes in the area that are typically 3 - 4 feet from the front property line. It is not anticipated that an alternative smaller project would offer any environmental advantages.

Elimination of VAR for building and decks – Reducing the size of the project may increase rear yard setbacks for the building and decks and/or distance of the proposed project to the building and deck stringlines. The proposed residence and first and second floor decks are consistent with all applicable development standards, with the inclusion of the proposed stringline variances for the building and decks. Reducing the size of the residence and decks could eliminate the proposed stringline variances. However, this alternative is not anticipated to result in environmental advantages as the rear of the residence and rear decks are located above ground. It is not anticipated that an alternative smaller project would offer any environmental advantages.

Proposed project – The subject parcel is surrounded by other similar beachfront development. The proposed project will not result in potentially significant impacts because the proposed project, with the inclusion of the requested stringline variances, is designed to comply with all applicable development standards such as front and side setbacks, height, hazards, and visual resources. The stringline variances would permit the home and decks to be in line with the homes and decks on properties within approximately 50 feet to the east (downcoast) and 200 feet to the west (upcoast) and do not contribute to a significant degradation of the environment. The property owner has voluntarily offered to dedicate a lateral access easement across the property's shoreline, enhancing public access on the beach. For these reasons, the proposed project is the least environmentally damaging alternative.

Finding 4. If the project is located in or adjacent to an environmentally sensitive habitat area pursuant to Chapter 4 of the Malibu LIP (ESHA Overlay), that the project conforms with the recommendations of the Environmental Review Board, or if it does not conform with the recommendations, findings explaining why it is not feasible to take the recommended action.

The subject property is not in a designated Environmentally Sensitive Habitat Area (ESHA) or ESHA buffer as shown on the LCP ESHA and Marine Resources Map. Therefore, Environmental Review Board review was not required, and this finding does not apply.

B. VAR No. 17-024 for single-family residence to extend seaward of the required building stringline (LIP Section 13.26.5)

VAR No. 17-024 is requested for relief of LIP Section 10.4(G) development standards to allow a new residence approximately 41 feet seaward of the standard shoreline building stringline drawn between the nearest adjacent corners of the nearest existing upcoast home at 18888 Pacific Coast Highway (PCH) and downcoast home at 18863 PCH. The proposed stringline is measured from the second downcoast property (18862 PCH) and fifth most upcoast property (18904 PCH) because the nearest adjacent property and two of the intervening upcoast properties are vacant. The requested stringline is approximately 41 feet seaward of the required stringline setback. Based on the foregoing evidence contained within the record and pursuant to Malibu Municipal Code (MMC) Section 17.72.060, the City Council hereby makes the following findings of fact.

Finding 1. There are special circumstances or exceptional characteristics applicable to the subject property, including size, topography, location or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

The proposed adjusted building stringline will allow the most appropriate placement of the proposed residence given that the location of the nearest corners of the adjacent buildings are substantially landward of existing residences further upcoast and downcoast from the project site. Strict application of the zoning ordinance would result in an allowable development area within approximately 32 feet of PCH (in an area slightly larger than the proposed garage footprint) and would deny the applicant of stringline privileges enjoyed by other surrounding property owners, such as the residences at 18904 PCH and 18862 PCH, which have been developed with a similar building stringline as the proposed project.

Finding 2. The granting of such variance or modification will not be detrimental to the public interest, safety, health or welfare and will not be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located.

The variance would allow the proposed residence to have similar stringline privileges as residences beyond the nearest adjacent upcoast and downcoast dwellings. The project has been reviewed and approved by City geotechnical consultant reviewers, the City coastal engineering consultant reviewers, and City Public Works Department for consistency with all applicable regulations and policies. Therefore, the granting of the variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity in which the property is located.

Finding 3. The granting of the variance will not constitute a special privilege to the applicant or property owner.

The proposed building stringline is measured from the second nearest adjacent dwellings on both sides of the subject property and approximately 24 feet landward from the 10-foot Mean High Tide Line (MHTL) setback. Therefore, the granting of the variance will not constitute a special privilege to the applicant or the property owner because other nearby homes have been constructed at a similar distance seaward as the subject application. The proposed residence meets all other applicable development standards, inclusive of the deck stringline variance.

Finding 4. The granting of such variance will not be contrary to or in conflict with the general purposes and intent of this chapter, nor to the goals, objectives and policies of the LCP.

As previously discussed, with the inclusion of the variance, the project is consistent with the LCP, the Coastal Act, and other applicable regulations. The granting of the variance will not be contrary to or in conflict with the general purposes and intent of LIP Chapter 13, nor the goals, objectives, and policies of the LCP. Additionally, the proposed development meets the required 10-foot setback from the MHTL by an additional 24 feet (34-foot setback from MHTL) and does not adversely impact shoreline access.

Finding 5. For variances to environmentally sensitive habitat area buffer standards or other environmentally sensitive habitat area protection standards, that there is no other feasible alternative for siting the structure and the development does not exceed the limits on allowable development area set forth in Section 4.7 of the Malibu LIP.

The requested variance is not for ESHA or ESHA buffer standard. Therefore, this finding does not apply.

Finding 6. For variances to stringline standards, that the project provides maximum feasible protection to public access as required by Chapter 2 of the LIP.

The proposed variance is for a deviation of building stringline standards. The project does not impede public access, and it provides an approximately 34-foot setback from the MHTL and includes an offer to dedicate a lateral public beach access easement along the shoreline, which promotes and protects public access to the maximum extent feasible.

Finding 7. The variance request is consistent with the purpose and intent of the zone(s) in which the site is located. A variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

The proposed variance is for a deviation of building stringline standards. The project does not impede public access, and it provides an approximately 34-foot setback from the MHTL and includes an offer to dedicate a lateral public beach access easement along the shoreline, which promotes and protects public access to the maximum extent feasible.

Finding 8. The subject site is physically suitable for the proposed variance.

The subject site is physically suitable for the proposed variance in that there is no feasible alternate location or configuration which would provide an environmental advantage. The proposed residence location will be in line with other non-adjacent residences in the area. In addition, the proposed project has been reviewed and approved by the City Coastal Engineer, City geotechnical staff, and City Public Works Department as being physically suitable for the proposed variance.

Finding 9. The variance complies with all requirements of State and local law.

The variance complies with all requirements of state and local law. Construction of the proposed home will comply with all building code requirements and will incorporate all recommendations from applicable City and County agencies.

Finding 10. A variance shall not be granted that would allow reduction or elimination of public parking for access to the beach, public trails or parklands.

The proposed project does not include any reduction or elimination of public parking for access to the beach, public trails or parkland.

C. VAR No. 18-022 for the first and second floor decks to extend seaward of the deck stringline (LIP Section 13.26.5)

VAR No. 18-022 is requested for relief of LIP Section 10.4(G) development standards to allow the proposed first and second story decks associated with the proposed residence to be approximately 15 feet seaward of the standard shoreline deck stringline as drawn between the nearest adjacent corners of the existing upcoast deck at 18878 PCH and downcoast deck at 18862 PCH. The proposed stringline is measured from the second downcoast property and fifth upcoast property since two of the intervening properties are vacant. The requested deck stringline is approximately 15 feet seaward of the required deck stringline setback, at its furthest point. Based on the foregoing evidence contained within the record and pursuant to MMC Section 17.72.060, the City Council hereby makes the following findings of fact.

Finding 1. There are special circumstances or exceptional characteristics applicable to the subject property, including size, topography, location or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

The proposed adjusted deck stringline will allow the most appropriate placement of the proposed decks given that the locations of the nearest adjacent decks are substantially closer to PCH when compared to existing residences further upcoast and downcoast from the project site. Strict application of the zoning ordinance would result in a deck stringline that is landward of the proposed building stringline and would deny the applicant of stringline privileges enjoyed by other surrounding property owners beyond the immediately adjacent decks, such as those at 18904 PCH upcoast of the proposed project site and 18862 PCH (APN 4449-001-019) in the downcoast direction, which have been developed to a similar stringline as the proposed project.

Finding 2. The granting of such variance or modification will not be detrimental to the public interest, safety, health or welfare and will not be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located.

The granting of the variance will not be detrimental to the public's interest, safety, health or welfare because it would allow the proposed residence to have the same deck stringline privileges as decks beyond the adjacent homes upcoast and downcoast of the project site which are not reflective of surrounding development. The project has been reviewed and approved by City geotechnical consultant reviewers, the City coastal engineering consultant reviewers, City Environmental Health Department, and City Public Works Department for consistency with all applicable regulations and policies. Therefore, the granting of the variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity in which the property is located.

Finding 3. The granting of the variance will not constitute a special privilege to the applicant or property owner.

The proposed first and second story deck stringlines would be measured from the third nearest upcoast deck and second nearest downcoast deck and approximately 18 feet landward from the 10-foot MHTL setback (28-foot setback from MHTL). Therefore, the granting of the variance will not constitute a special privilege to the applicant or the property owner because other nearby homes with decks have been constructed either at a similar distance seaward than the subject application and the subject residence meets all other applicable development standards, inclusive of the variance requests.

Finding 4. The granting of such variance will not be contrary to or in conflict with the general purposes and intent of this chapter, nor to the goals, objectives and policies of the LCP.

As previously discussed, with the inclusion of the variance, the project is consistent with the LCP, the Coastal Act, and other applicable regulations. The granting of the variance will not be contrary to or in conflict with the general purposes and intent of LIP Chapter 13, nor the goals, objectives, and policies of the LCP. Additionally, the proposed decks meet the required 10-foot setback from the MHTL by an additional 18 feet (28-foot setback from MHTL) and does not adversely impact shoreline access.

Finding 5. For variances to environmentally sensitive habitat area buffer standards or other environmentally sensitive habitat area protection standards, that there is no other feasible alternative for siting the structure and the development does not exceed the limits on allowable development area set forth in Section 4.7 of the Malibu LIP.

The requested variance is not for an ESHA or ESHA buffer standard. Therefore, this finding does not apply.

Finding 6. For variances to stringline standards, that the project provides maximum feasible protection to public access as required by Chapter 2 of the LIP.

The proposed variance is for a deviation of deck stringline standards; however, given the new decks are above ground and will maintain a 28-foot MHTL setback, and the applicant proposes to offer a lateral public beach access easement the project will not impede the public's access across the property. Therefore, the project provides the maximum feasible protection to public access.

Finding 7. The variance request is consistent with the purpose and intent of the zone(s) in which the site is located. A variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

The variance request is for the placement of a proposed decks at a similar stringline distance as non-adjacent upcoast and downcoast decks. The variance request does not authorize a use or activity that is not expressly authorized by the zoning regulations for the subject property.

Finding 8. The subject site is physically suitable for the proposed variance.

The subject site is physically suitable for the proposed variance in that there is no feasible alternate location or configuration which would provide an environmental advantage. The proposed deck location will align with other non-adjacent decks in the area. In addition, the proposed project has been reviewed and approved by the City Biologist, City Coastal Engineer, City geotechnical staff, and City Public Works Department as being physically suitable for the proposed variance.

Finding 9. The variance complies with all requirements of State and local law.

The variance complies with all requirements of state and local law. Construction of the proposed residence and deck improvements will comply with all building code requirements and will incorporate all recommendations from applicable City and County agencies.

Finding 10. A variance shall not be granted that would allow reduction or elimination of public parking for access to the beach, public trails or parklands.

The proposed project does not include any reduction or elimination of public parking for access to the beach, public trails or parkland.

D. VAR No. 20-042 for a greater than 50 percent reduction of the front yard setback (LIP Section 13.26.5)

VAR No. 20-042 is requested for relief of LIP Section 3.6.G.1, which requires a beachfront home to maintain a front property line setback of 20 feet maximum or the average of the immediate two neighbors, whichever is less. The front yard setback at 18862 PCH, located to the east (downcoast) of the project site, is 4 feet, and the default setback for the adjacent vacant property at 18878 PCH to the west, or upcoast, of the project site is 20 feet. Therefore, a front yard setback of 12 feet is required for the subject property at 18868 PCH, which is the average of the front yard setbacks of the existing adjacent properties. The second floor of the new single-family residence is proposed to be setback 4 feet from the front property line, resulting in the need for approval of an 8-foot front yard setback variance. Based on the foregoing evidence contained within the record and pursuant to MMC Section 17.72.060, the City Council hereby makes the following findings of fact.

Finding 1. There are special circumstances or exceptional characteristics applicable to the subject property, including size, topography, location or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

The proposed adjusted building front yard setback will allow for the most appropriate placement of the proposed residence given that the location of front yard setbacks of the nearest adjacent homes. The nearest upcoast home at 18888 PCH is setback 3 feet, 5 inches from the front property line, and the adjacent downcoast garages for the home at 18862 PCH is setback 4 feet from the front property line. The proposed 4-foot setback is comparable to the existing front yard setback at these properties, although it is 8 feet less than the required 12-foot setback. Dictating the front yard setback based on an undeveloped lot in an area that is mostly built-out is overly punitive, and strict application of the zoning ordinance would deny the applicant of front yard setback privileges enjoyed by other surrounding property owners beyond the immediately adjacent upcoast property.

Finding 2. The granting of such variance or modification will not be detrimental to the public interest, safety, health or welfare and will not be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located.

The granting of the variance will not be detrimental to the public's interest, safety, health or welfare because it would allow the proposed residence to have comparable front yard setback privileges as the residence at 18888 PCH beyond the adjacent upcoast vacant property and the adjacent downcoast residence at 18862 PCH. The project has been reviewed and approved by City geotechnical staff, the City Coastal Engineer, and City Public Works Department for consistency with all applicable regulations and policies. Therefore, the granting of the variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity in which the property is located.

Finding 3. The granting of the variance will not constitute a special privilege to the applicant or property owner.

The existing front yard setback of the adjacent downcoast property (18862 PCH) is approximately 4 feet, and the front yard setback for the nearest developed upcoast property (18888 PCH) is 3 feet, 5 inches. The proposed project is requesting a 4-foot front yard setback. The granting of the variance will not constitute a special privilege to the applicant or the property owner because other nearby residences have been constructed at a similar or reduced distance from the front property line as the subject application.

Finding 4. The granting of such variance will not be contrary to or in conflict with the general purposes and intent of this chapter, nor to the goals, objectives and policies of the LCP.

The subject property is adjacent to a vacant lot to the west, which results in a more restrictive front yard setback requirement compared to the surrounding area. With the inclusion of the variance, the project is consistent with the LCP, the Coastal Act, and other applicable regulations. The granting of the variance will not be contrary to or in conflict with the general purposes and intent of LIP Chapter 13, nor the goals, objectives, and policies of the LCP.

Finding 5. For variances to environmentally sensitive habitat area buffer standards or other environmentally sensitive habitat area protection standards, that there is no other feasible alternative for siting the structure and the development does not exceed the limits on allowable development area set forth in Section 4.7 of the Malibu LIP.

The requested variance is not for an ESHA or ESHA buffer standard. Therefore, this finding does not apply.

Finding 6. For variances to stringline standards, that the project provides maximum feasible protection to public access as required by Chapter 2 of the LIP.

The requested variance is not related to stringline standards. Therefore, this finding does not apply.

Finding 7. The variance request is consistent with the purpose and intent of the zone(s) in which the site is located. A variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

The variance request is for the placement of a proposed residence with a similar front yard setback as the nearest developed upcoast property and the adjacent downcoast structure. The variance request does not authorize a use or activity that is not expressly authorized by the zoning regulations for the subject property, which is in the SFM zone district.

Finding 8. The subject site is physically suitable for the proposed variance.

The subject site is physically suitable for the proposed variance in that there is no feasible alternate location or configuration which would provide an environmental advantage. The proposed residence location will be in line with other non-adjacent and adjacent residences in the area. In addition, the proposed project has been reviewed and approved by the City Coastal Engineer, City geotechnical staff, and City Public Works Department as being physically suitable for the proposed variance.

Finding 9. The variance complies with all requirements of State and local law.

The variance complies with all requirements of state and local law. Construction of the proposed home will comply with all building code requirements and will incorporate all recommendations from applicable City and County agencies.

Finding 10. A variance shall not be granted that would allow reduction or elimination of public parking for access to the beach, public trails or parklands.

The proposed project does not include any reduction or elimination of public parking for access to the beach, public trails or parkland.

E. Scenic, Visual and Hillside Resource Protection (LIP Chapter 6)

The Scenic, Visual, and Hillside Resource Protection Chapter governs those coastal development permit applications concerning any parcel of land that is located along, within, provides views to or is visible from any scenic area, scenic road or public viewing area. As the subject property is located along the beach, a public viewing area, the following five findings need to be made:

Finding 1. The project, as proposed, will have no significant adverse scenic or visual impacts due to project design, location on the site or other reasons.

The proposed project is a new two-story single-family residence on a vacant parcel. The neighborhood is predominantly built out with single-family residential buildings along the ocean. Story poles were placed on the project site to demonstrate the size, mass, height, and bulk of the proposed project. An analysis of the project's visual impact from the beach was conducted through site inspections, architectural plans and review of neighborhood character.

Due to the site's proximity to PCH, there is no feasible alternative building site location where the development would not be visible from a scenic area. Furthermore, the project has been designed and conditioned to minimize any adverse or scenic impacts. The project provides the required view corridor pursuant to LIP Section 6.5, providing public ocean views on both sides of the residence. The project incorporates a total of 10 feet of view corridor, equally split between, and running parallel to the east and west property lines pursuant to LIP Section 6.5(E)(2)(a). Additionally, the project is subject to conditions of approval pertaining to permissible exterior colors, materials, and lighting restrictions. As proposed, the project would not have a significant visual impact to public views from the beach and PCH.

Finding 2. The project, as conditioned, will not have significant adverse scenic or visual impacts due to required project modifications, landscaping or other conditions.

The project is subject to conditions of approval pertaining to permissible exterior colors, materials, and lighting restrictions. The proposed project is conditioned so that the project will not result in significant adverse scenic or visual impacts and will be compatible with the character of the surrounding neighborhood.

Finding 3. The project, as proposed or as conditioned, is the least environmentally damaging alternative.

The project has been conditioned to include limitations on lighting and colors of the materials used to prevent any visual impacts to scenic areas. The project, as designed and conditioned, is the least environmentally damaging alternative.

Finding 4. There are no feasible alternatives to development that would avoid or substantially lessen any significant adverse impacts on scenic and visual resources.

The project, as designed and conditioned, is not expected to adversely affect scenic and visual resources and no feasible alternatives would avoid or substantially lessen any significant adverse impacts on scenic and visual resources.

Finding 5. Development in a specific location on the site may have adverse scenic and visual impacts but will eliminate, minimize or otherwise contribute to conformance to sensitive resource protection policies contained in the certified LCP.

The project as proposed and conditioned will result in less than significant impacts on scenic and visual resources. The location proposed for development would result in a less than significant visual impact to public views from the beach and will not impact sensitive resources. All proposed development conforms to the view corridor requirements and will be constructed landward of the requested building and deck stringlines, and the 10-foot MHTL setback.

F. Hazards (LIP Chapter 9)

Pursuant to LIP Section 9.3, written findings of fact, analysis and conclusions addressing geologic, flood, and fire hazards, structural integrity or other potential hazards listed in LIP Sections 9.2(A)(1-7) must be included in support of all approvals, denials or conditional approvals of development located on a site or in an area where it is determined that the proposed project causes the potential to create adverse impacts upon site stability or structural integrity.

The proposed development has been analyzed for the hazards listed in LIP Chapter 9 by the City Coastal Engineer, City Environmental Health Administrator, City Public Works Department, City geotechnical staff, and LACFD. The required findings are made as follows:

Finding 1. The project, as proposed will neither be subject to nor increase instability of the site or structural integrity from geologic, flood, or fire hazards due to project design, location on the site or other reasons.

The applicant submitted geotechnical and coastal engineering reports. These reports are on file at City Hall. In these reports, site-specific conditions are evaluated and recommendations are provided to address any pertinent issues. Potential hazards analyzed include geologic, seismic and fault rupture, liquefaction, landslide, groundwater, wave uprush and tsunami, and flood and fire hazards. Based on review of the project plans and associated geotechnical reports by City geotechnical staff, City Coastal Engineer, LACFD, City Public Works Department, and the City Environmental Health Administrator, these specialists determined that adverse impacts to the project site related to the proposed development are not expected. The project, including the new Onsite Wastewater Treatment System (OWTS), will neither be subject to nor increase the instability of the site from geologic, flood, or fire hazards. In summary, the proposed development is suitable for the intended use provided that the certified engineering geologist and/or geotechnical engineer's recommendations and governing agency's building codes are followed.

Based on staff's review of the above referenced report and associated information, it has been determined that:

1. The project is subject to wave uprush and tsunami inundation.
2. The project site is in a Federal Emergency Management Agency (FEMA) identified flood hazard area.

The project, as conditioned, will incorporate all recommendations contained in the above cited geotechnical report and conditions required by the City geotechnical staff, City Public Works Department, and the LACFD, including foundations, OWTS, and drainage. As such, the proposed project will not increase instability of the site or structural integrity from geologic, flood, or any other hazards.

Liquefaction/Landslide

The geotechnical reports evaluate site-specific conditions and recommendations are provided to address any pertinent issues. Potential hazards analyzed include geologic, seismic and fault rupture, liquefaction, landslide, groundwater, tsunami, and flood and fire hazards. The project site is located within an extreme fire hazard area. In addition, the beachside of the project site is subject

to wave runup and tsunamis hazards. In case of a tsunami, the residence could be damaged or destroyed. However, this is a known and accepted risk of beachfront or coastal living as there is no practical method of protecting a beachfront / coastal residential structure from a large tsunami other than government tsunami warning system.

Flood Hazard/Tsunami

As confirmed by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map, the site is located in the existing FEMA Zone VE. As such, the property owner is required to sign a waiver indemnifying the City of Malibu against any liability or claims for wave damage. The proposed finished floor elevation of the building pad has been reviewed by the City's Public Works Department and City Coastal Engineer and has been given a conditional approval. The proposed residence is designed to meet the lowest recommended finish floor elevation (+26 feet NAVD88.) as verified by the City Coastal Engineer.

The project, as conditioned, will incorporate all recommendations contained in the above cited geotechnical reports and conditions required by the City Coastal Engineer, Public Works Department, City geotechnical staff, and the LACFD. As such, the proposed project will not increase instability of the site or structural integrity from geologic, flood, or any other hazards.

Fire Hazard

The entire City of Malibu is designated as a Very High Fire Hazard Severity Zone, a zone defined by a more destructive behavior of fire and a greater probability of flames and embers threatening buildings. The subject property is currently subject to wildfire hazards and development of a residence on the subject property will not increase the site's susceptibility to wildfire. The scope of work proposed as part of this application is not expected to have an impact on wildfire hazards. Appropriate building materials will be utilized during construction.

The City is served by the LACFD, as well as the California Department of Forestry, if needed. In the event of major fires, the County has "mutual aid agreements" with cities and counties throughout the State so that additional personnel and firefighting equipment can augment the LACFD. Conditions of approval have been included in the resolution to require compliance with all LACFD development standards. As such, the project, as designed, constructed, and conditioned, will not be subject to nor increase the instability of the site or structural integrity involving wildfire hazards.

Finding 2. The project, as conditioned, will not have significant adverse impacts on site stability or structural integrity from geologic, flood or fire hazards due to required project modifications, landscaping or other conditions.

As stated in Finding 1, the proposed project, as designed, conditioned, and approved by the applicable departments and agencies, will not have any significant adverse impacts on the site stability or structural integrity from geologic or flood hazards due to project modifications, landscaping or other conditions.

Finding 3. The project, as proposed or as conditioned, is the least environmentally damaging alternative.

The proposed project, as designed and conditioned, is the least environmentally damaging alternative.

Finding 4. There are no alternatives to development that would avoid or substantially lessen impacts on site stability or structural integrity.

The proposed development has been analyzed for the hazards listed in LIP Chapter 9 by the City Coastal Engineer, City Environmental Health Administrator, City Public Works Department, City geotechnical staff, and LACFD. These specialists and agency determined that the proposed project does not impact site stability or structural integrity. Since there are no significant impacts expected, there are no feasible alternatives to reduce significant impacts.

Finding 5. Development in a specific location on the site may have adverse impacts but will eliminate, minimize or otherwise contribute to conformance to sensitive resource protection policies contained in the certified Malibu LCP.

There is no evidence in the record that the proposed project, as designed and conditioned, will have adverse impacts on sensitive resources.

G. Shoreline and Bluff Development (LIP Chapter 10)

The Shoreline and Bluff Development Chapter governs those coastal development permit applications that include development on a parcel located along the shoreline as defined by the LCP. The required findings are made as follows.

Finding 1. The project, as proposed, will have no significant adverse impacts on public access, shoreline sand supply or other resources due to project design, location on the site or other reasons.

The proposed project includes the construction of a new residence and OWTS. The proposed seawall is only for the protection of the OWTS. The residence and all accessory development are designed with a pile foundation that does not require a shoreline protection device for the life of the project pursuant to LIP Section 10.4(H). The proposed seawall is sited 55 feet from the MHTL, the proposed deck is 28 feet from the MHTL and, as such, will not result in negative impacts on public access or other resources. As indicated in the Engineering Report for the proposed OWTS submitted by Ensitu Consultants, dated July 6, 2017, the seawall has been sited as landward as possible. The proposed location of the OWTS and seawall have also been reviewed and conditionally approved by the City coastal engineering consultant reviewers and City Environmental Health Administrator. The property owner has also volunteered to grant a lateral access easement across the property. Therefore, the project is not anticipated to result in significant adverse impacts to public access, shoreline sand supply or other resources.

Finding 2. The project, as conditioned, will not have significant adverse impacts on public access, shoreline sand supply or other resources due to required project modifications or other conditions.

As discussed in Section F, the proposed project, as designed and conditioned, and approved by the City coastal engineering consultant reviewers, City Environmental Health Administrator and City geotechnical consultant reviewers, will not have any significant adverse impacts on public access or shoreline sand supply or other resources.

Finding 3. The project, as proposed or as conditioned, is the least environmentally damaging alternative.

As discussed in Section A, the proposed project, as designed and conditioned, is the least environmentally damaging alternative.

Finding 4. There are no alternatives to the proposed development that would avoid or substantially lessen impacts on public access, shoreline sand supply or other resources.

As previously discussed in Section A, the proposed project, as designed and conditioned, will not have any significant adverse impacts on public access or shoreline sand supply or other resources.

Finding 5. The shoreline protective device is designed or conditioned to be sited as far landward as feasible to eliminate or mitigate to the maximum feasible extent adverse impacts on local shoreline sand supply and public access, and there are no alternatives that would avoid or lessen impacts on shoreline sand supply, public access or coastal resources and it is the least environmentally damaging alternative.

The proposed OWTS and the proposed seawall will be landward of nearby seawalls in the area, and will be under the new residence where it will not obstruct public access or affect shoreline sand supply. Nonetheless, pursuant to LIP Section 10.6, as a condition of approval, the property owner is required to acknowledge, by the recordation of deed restriction, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protection structure which extends the seaward footprint of the subject structure shall be undertaken and that he / she expressly waives any right to such activities that may exist under Coastal Act Section 30235. Said deed restriction shall be submitted to the Planning Department for approval prior to recordation.

SECTION 6. City Council Approval.

Based on the foregoing findings and evidence contained within the record, the City Council hereby approves CDP No. 17-075, VAR Nos. 17-024, 18-022, 20-042, subject to the following conditions.

SECTION 7. Conditions of Approval.

1. The property owners, and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this project. The City shall have the sole

right to choose its counsel and property owners shall reimburse the City's expenses incurred in its defense of any lawsuit challenging the City's actions concerning this project.

2. Approval of this application is to allow for the project described herein. The scope of work approved includes:
 - a. 3,778 square foot, two-story single-family residence, including a 375 square-foot attached, two-car garage;
 - b. Upper floor and lower floor decks and hardscape;
 - c. Retractable beach stairs;
 - d. New sea wall;
 - e. Grading and retaining walls;
 - f. Installation of a new OWTS;
 - g. 10-foot wide view corridor split to five feet on each side of the parcel;
 - h. Discretionary Requests:
 - i. Offer-to-Dedicate (OTD) No. 21-002 for a lateral public beach access easement;
 - ii. VAR No. 17-024 for a building to be sited seaward of the building stringline;
 - iii. VAR No. 18-022 for the first and second floor decks to extend seaward of the deck stringline; and
 - iv. VAR No. 20-042 for a reduced front yard setback for the second floor.
3. Pursuant to LIP Section 13.18.2, the permit and rights conferred in this approval shall not be effective until the property owner signs, notarizes and returns the Acceptance of Conditions Affidavit accepting the conditions set forth below. The applicant shall file this form with the Planning Department within 30 days of this decision or prior to issuance of building permits.
4. The applicant shall digitally submit a complete set of plans, including the items required in Condition No. 4 to the Planning Department for consistency review and approval prior to plan check and again prior to the issuance of any building or development permits.
5. The approved Coastal Development Permit shall expire three years from the date of approval, **September 12, 2025**, unless a time extension has been granted, or work has commenced, and substantial progress made (as determined by the Building Official) and the work is continuing under a valid building permit. If no building permit is required, the coastal development permit approval shall expire after three years from the date of final Planning Department approval if construction is not completed. The expiration date shall be suspended until an appeal and/or litigation regarding the subject permit is resolved.
6. Except as specifically changed by conditions of approval, the proposed development shall be constructed in substantial conformance with the plans stamped **June 14, 2021**, and on file with the Planning Department. In the event the project plans conflict with any condition of approval, the condition shall control.
7. This resolution, signed Acceptance of Conditions Affidavit and all Department Review Sheets attached to the September 12th City Council report for this project shall be copied in their entirety and placed directly onto a separate plan sheet behind the cover sheet of the development plans submitted to the City of Malibu Environmental Sustainability Department for plan check.

8. The Planning Director is authorized to make minor changes to the approved plans or any of the conditions if such modifications shall achieve substantially the same results, as would strict compliance with said plans and conditions.
9. Prior to construction, the applicant shall receive Planning Department approval for compliance with conditions of approval.
10. Pursuant to LIP Section 13.20, development pursuant to an approved CDP shall not commence until the CDP is effective. The CDP is not effective until all appeals, including those to the California Coastal Commission (CCC), have been exhausted. In the event that the CCC denies the permit or issues the permit on appeal, the CDP approved by the City is void.
11. The applicant must submit payment for any outstanding fees payable to the City prior to issuance of any building or grading permit.

Cultural Resources

12. In the event that potentially important cultural resources are found in the course of geologic testing or during construction, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information. Thereafter, the procedures contained in LIP Chapter 11 and those in MMC Section 17.54.040(D)(4)(b) shall be followed.
13. If human bone is discovered, the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. These require notification of the coroner. If the coroner determines that the remains are those of a Native American, the applicant shall notify the Native American Heritage Commission by phone within 24 hours. Following notification of the Native American Heritage Commission, the procedures described in Section 5097.94 and Section 5097.98 of the California Public Resources Code shall be followed.

Lighting

14. Exterior lighting must comply with the Dark Sky Ordinance and shall be minimized, shielded, or concealed and restricted to low intensity features, so that no light source is directly visible from public view. Permitted lighting shall conform to the following standards:
 - a. Lighting for walkways shall be limited to fixtures that do not exceed two feet in height and are directed downward, and limited to 850 lumens (equivalent to a 60 watt incandescent bulb);
 - b. Security lighting controlled by motion detectors may be attached to the residence provided it is directed downward and is limited to 850 lumens;
 - c. Driveway lighting shall be limited to the minimum lighting necessary for safe vehicular use. The lighting shall be limited to 850 lumens;
 - d. Lights at entrances as required by the Building Code shall be permitted provided that such lighting does not exceed 850 lumens;

- e. Site perimeter lighting shall be prohibited; and
 - f. Outdoor decorative lighting for aesthetic purposes is prohibited.
- 15. Night lighting for sports courts or other private recreational facilities shall be prohibited.
 - 16. No permanently installed lighting shall blink, flash, or be of unusually high intensity or brightness. Lighting levels on any nearby property from artificial light sources on the subject property(ies) shall not produce an illumination level greater than one foot candle.
 - 17. Night lighting from exterior and interior sources shall be minimized. All exterior lighting shall be low intensity and shielded directed downward and inward so there is no offsite glare or lighting of natural habitat areas. High intensity lighting of the shore is prohibited.
 - 18. String lights are allowed in occupied dining and entertainment areas only and must not exceed 3,000 Kelvin.
 - 19. Motion sensor lights shall be programmed to extinguish ten minutes after activation.
 - 20. Three violations of the conditions by the same property owner will result in a requirement to permanently remove the outdoor light fixture(s) from the site.

View Corridor

- 21. Pursuant to LIP Section 6.5(E)(1)(e) and in order to ensure the protection of scenic and visual resources, the project is conditioned as follows:
 - a. Structures shall extend no higher than the road grade of PCH adjacent to the project site.
 - b. Fences shall be located away from the road edge and fences or walls shall be no higher than adjacent road grade of PCH, with the exception of fences that are composed of visually permeable design and material.
 - c. The project site shall be landscaped with native vegetation types that have a maximum growth height at maturity and are located such that landscaping will not extend above PCH road grade.
 - d. Existing vegetation shall be removed, or trimmed and maintained in perpetuity so as not to extend above the adjacent road elevation of PCH.

Construction/Demo Conditions

Demolition/Solid Waste

- 22. Prior to demolition activities, the applicant shall receive Planning Department approval for compliance with conditions of approval.
- 23. The applicant/property owner shall contract with a City approved hauler to facilitate the recycling of all recoverable/recyclable material. Recoverable material shall include but shall not be limited to: asphalt, dirt and earthen material, lumber, concrete, glass, metals, and drywall.

24. Prior to the issuance of a building/demolition permit, an Affidavit and Certification to implement waste reduction and recycling shall be signed by the Owner or Contractor and submitted to the Environmental Sustainability Department. The Affidavit shall indicate the agreement of the applicant to divert at least 65 percent (in accordance with CalGreen) of all construction waste from the landfill.
25. Upon plan check approval of demolition plans, the applicant shall secure a demolition permit from the City. The applicant shall comply with all conditions related to demolition imposed by the Building Official.
26. The project developer shall utilize licensed subcontractors and ensure that all asbestos-containing materials and lead-based paints encountered during demolition activities are removed, transported, and disposed of in full compliance with all applicable federal, state and local regulations.
27. Any building or demolition permits issued for work commenced or completed without the benefit of required permits are subject to appropriate "Investigation Fees" as required in the Building Code.
28. Upon completion of demolition activities, the applicant shall request a final inspection by the Building Safety Division.

Construction/Framing

29. A construction staging plan shall be reviewed and approved by the Building Official prior to final plan check approval.
30. Construction hours shall be limited to Monday through Friday from 7:00 a.m. to 7:00 p.m. and Saturdays from 8:00 a.m. to 5:00 p.m. No construction activities shall be permitted on Sundays or City-designated holidays.
31. Construction management techniques, including minimizing the amount of equipment used simultaneously and increasing the distance between emission sources, shall be employed as feasible and appropriate. All trucks leaving the construction site shall adhere to the California Vehicle Code. In addition, construction vehicles shall be covered when necessary; and their tires rinsed prior to leaving the property.

32. All new development, including construction, grading, and landscaping shall be designed to incorporate drainage and erosion control measures prepared by a licensed engineer that incorporate structural and non-structural Best Management Practices (BMPs) to control the volume, velocity and pollutant load of storm water runoff in compliance with all requirements contained in LIP Chapter 17, including:
 - a. Construction shall be phased to the extent feasible and practical to limit the amount of disturbed areas present at a given time.
 - b. Grading activities shall be planned during the southern California dry season (April through October).
 - c. During construction, contractors shall be required to utilize sandbags and berms to control runoff during on-site watering and periods of rain in order to minimize surface water contamination.
 - d. Filter fences designed to intercept and detain sediment while decreasing the velocity of runoff shall be employed within the project site.
33. When framing is complete, a site survey shall be prepared by a licensed civil engineer or architect that states the recommended finished floor and the street elevation and the highest roof member elevations for the landward and seaward halves of the residence. Prior to the commencement of further construction activities, said document shall be submitted to the assigned Building Inspector and Planning Department for review and sign off on framing.
34. The applicant/property owner shall obtain all required permits, including approval for mechanized equipment to access to the beach, from Beaches and Harbor prior to commencement of construction.
35. The applicant/property owner shall obtain all required permits, if any, including any necessary permits from the U.S. Army Corps of Engineers, prior to commencement of construction.
36. For the transportation of heavy construction equipment and/or material, which requires the use of oversized-transport vehicles on State highways, the applicant / property owner is required to obtain a transportation permit from the California Department of Transportation.

Biology/Landscaping

37. The use of pesticides, including insecticides, herbicides, rodenticides or any toxic chemical substance which has the potential to significantly degrade biological resources shall be prohibited throughout the City of Malibu. The eradication of invasive plant species or habitat restoration shall consider first the use of non-chemical methods for prevention and management such as physical, mechanical, cultural, and biological controls. Herbicides may be selected only after all other non-chemical methods have been exhausted. Herbicides shall be restricted to the least toxic product and method, and to the maximum extent feasible, shall be biodegradable, derived from natural sources, and use for a limited time.
38. Invasive plant species, as determined by the City of Malibu, are prohibited.

- 39. Construction fencing shall be placed within five feet of the southern limits of grading. Construction fencing shall be installed prior to the beginning of any construction and shall be maintained throughout the construction period to protect the site's sensitive habitat areas.
- 40. Earthmoving shall be scheduled only during the dry season from April 1 through October 31. If it becomes necessary to conduct earthmoving activities from November 1 through March 31, a comprehensive erosion control plan shall be submitted to the City Biologist for approval prior to the issuance of a grading permit and implemented prior to initiation of vegetation removal and/or earthmoving activities.
- 41. At no time shall any equipment or materials be stored or staged on the beach.
- 42. Up-lighting of landscaping is prohibited.
- 43. The use of wood chips and shredded rubber is prohibited anywhere on the site. Flammable mulch material, including shredded bark, pine needles, and artificial turf, are prohibited between zero and five feet of a structure. Non-continuous use of flammable mulch (excluding wood chips and shredded rubber) is allowed between 5 and 30 feet from the eave/overhang of a structure with limited application areas. Any mulch materials (excluding wood chips and shredded rubber) are allowed 30 feet or more from a structure with no limitation on application area.

Public Works

- 44. A digital drawing (AutoCAD) of the project's private storm drain system, public storm drain system within 250 feet of the property limits, and post-construction BMPs shall be submitted to the Public Works Department prior to the issuance of grading or building permits. The digital drawing shall adequately show all storm drain lines, inlets, outlets, post-construction BMPs and other applicable facilities. The digital drawing shall also show the subject property, public or private street, and any drainage easements.
- 45. The applicant shall label all City/County storm drain inlets within 250 feet from each property line per the City of Malibu's standard label template. A note shall be placed on the project plans that address this condition.
- 46. The developer's consulting engineer shall sign the final plans prior to issuance of permits.

Grading/Drainage/Hydrology

- 47. The non-exempt grading for the project shall not exceed a total of 1,000 cubic yards, cut and fill.
- 48. The total grading yardage verification certificate shall be copied onto the coversheet of the Grading Plan. No alternative formats or substitutes will be accepted.

49. A Local Storm Water Pollution Prevention Plan (LSWPPP) shall be provided prior to issuance of grading/building permits. This plan shall include and Erosion and Sediment Control Plan (ESCP) that includes, but not limited to:

Erosion Control Scheduling	Erosion Controls Scheduling
	Preservation of Existing Vegetation
Sediment Controls	Silt Fence
	Sand Bag Barrier
	Stabilized Construction Fencing
Non-Storm Water Management	Water Conservation Practices
	Dewatering Operations
Waste Management	Material Delivery and Storage
	Stockpile Management
	Spill Prevention and Control
	Solid Waste Management
	Concrete Waste Management
	Sanitary/Septic Waste Management

All Best Management Practices (BMP) shall be in accordance to the latest version of the California Stormwater Quality Association (CASQA) BMP Handbook. Designated areas for the storage of construction materials, solid waste management, and portable toilets must not disrupt drainage patterns or subject the material to erosion by site runoff.

50. A Water Quality Mitigation Plan (WQMP) shall be submitted for review and approval of the Public Works Director. The WQMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage on the site. The WQMP shall meet all the requirements of the City's current Municipal Separate Stormwater Sewer System (MS4) permit. The following elements shall be included within the WQMP:
- Site Design Best Management Practices (BMPs);
 - Source Control BMPs;
 - Treatment Control BMPs that retain on-site Stormwater Quality Design Volume (SWQDv). Or where it is technically infeasible to retain on-site, the project must biofitrate 1.5 times the SWQDv that is not retained on-site;
 - Drainage improvements;
 - A plan for the maintenance and monitoring of the proposed treatment BMPs for the expected life of the structure;
 - Methods of onsite percolation, site re-vegetation and an analysis for off-site project impacts;
 - Measures to treat and infiltrate runoff from impervious areas;
 - A copy of the WQMP shall be filed against the property to provide constructive notice to future property owners of their obligation to maintain the water quality measure installed during construction prior to the issuance of grading or building permits; and
 - The WQMP shall be submitted to the Public Works Department and the fee applicable at the time of submittal for review of the WQMP shall be paid prior to the start of the technical review. The WQMP shall be approved prior the Public

Works Department's approval of the grading and drainage plan and/or building plans. The Public Works Department will tentatively approve the plan and will keep a copy until the completion of the project. Once the project is completed, the applicant shall verify the installation of the BMP's, make any revisions to the WQMP, and resubmit to the Public Works Department for approval. The original signed and notarized document shall be recorded with the Los Angeles County Recorder. A certified copy of the WQMP shall be submitted to the Public Works Department prior to the issuance of the certificate of occupancy.

51. A grading and drainage plan containing the following information shall be approved, and submitted to the Public Works Department, prior to the issuance of grading permits for the project:
- a. Public Works Department;
 - b. The existing and proposed square footage of impervious coverage on the property shall be shown on the grading plan (including separate areas for buildings, driveways, walkways, parking, tennis courts and pool decks);
 - c. The limits of land to be disturbed during project development shall be delineated and a total area shall be shown on this plan. Areas disturbed by grading equipment beyond the limits of grading, areas disturbed for the installation of the septic system, and areas disturbed for the installation of the detention system shall be included within the area delineated;
 - d. The limits to land to be disturbed during project development shall be delineated and a total area of disturbance should be shown on this plan. Areas disturbed by grading equipment beyond the limits of grading shall be included within the area delineated;
 - e. If the property contains rare, endangered or special status species as identified in the Biological Assessment, this plan shall contain a prominent note identifying the areas to be protected (to be left undisturbed). Fencing of these areas shall be delineated on this plan is required by the City Biologist;
 - f. The grading limits shall include the temporary cuts made for retaining walls, buttresses and over excavations for fill slopes; and
 - g. Private storm drain systems shall be shown on this plan. Systems greater than 12 inch in diameter shall also have a plan and profile for the system included with this plan.
52. Prior to the approval of any permits and prior to the submittal of the required construction general permit document to the State Water Quality Control Board, the property owner / applicant shall submit the Public Works Department an Erosion and Sediment Control Plan (ESCP) for review. The ESCP shall contain appropriate site-specific construction site BMPs prepared and certified by a qualified SWPPP developer (QWD). All structural BMPs must be designed by a licensed California civil engineer. The ESCP must address the following elements.
- a. Methods to minimize the footprint of the disturbed area and to prevent soil compaction outside the disturbed area
 - b. Methods used to protect native vegetation and trees
 - c. Sediment/erosion control
 - d. Controls to prevent tracking on- and off-site
 - e. Non-stormwater control

- f. Material management (delivery and storage)
- g. Spill prevention and control
- h. Waste management
- i. Identification of site risk level as identified per the requirements in Appendix 1 of the Construction General Permit
- j. Landowner must sign the following statement on the ESCP:

“I certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that quality personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, to the best of my knowledge and belief, the information submitted is true, accurate and complete. I am aware that submitting false and/or inaccurate information, failing to properly and/or adequately implement the ESCP may result in revocation of grand and/or other permits or other sanctions provided by law.”

- 53. Storm drainage improvements are required to mitigate increased runoff generated by property development. The applicant shall have the choice of one method specified within LIP Section 17.3.2.B.2.
- 54. A Storm Water Management Plan (SWMP) shall be submitted for review and approval of the Public Works Director. The SWMP shall be prepared in accordance with the LIP Section 17.3.2 and all other applicable ordinances and regulations. The SWMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the pre-development and post-development drainage of the site. The SWMP shall identify the site design and source control BMPs that have been implemented in the design of the project. The SWMP shall be reviewed and approved by the Public Works Department prior to the issuance of the grading or building permit for this project.
- 55. Clearing and grading during the rainy season (extending from November 1 to March 31) shall be prohibited for development that:
 - a. Is located within or adjacent to ESHA, or
 - b. Includes grading on slopes greater than 4 to 1.

Approved grading for development that is located within or adjacent to ESHA or on slopes greater than 4 to 1 shall not be undertaken unless there is sufficient time to complete grading operations before the rainy season. If grading operations are not completed before the rainy season begins, grading shall be halted and temporary erosion control measures shall be put into place to minimize erosion until grading resumes after March 31, unless the City determines that completion of grading would be more protective of resources.

- 56. The Building Official may approve grading during the rainy season to remediate hazardous geologic conditions that endanger public health and safety.
- 57. Exported soil from a site shall be taken to the Los Angeles County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with LIP Section 8.3.

58. All cut and fill slopes shall be stabilized with landscaping at the completion of final grading.

Floodplain Management

59. Prior to the issuance of any permits, the applicant shall notify the Public Works Department to take this action to City Council to obtain a variance.
60. Proposed improvements are located within the Special Flood Hazard Area (SFHA). An Elevation Certificate based on construction drawings is required for any building located within the SFHA. A survey map shall be attached to this certificate showing the location of the proposed building(s) in relation to the property lines and to the street center line. The survey map shall delineate the boundary of the SFHA zone(s) based on the FIRM flood maps in effect and provide the information for the benchmark utilized, the vertical datum, and any datum conversion. A post construction Elevation Certificate will be required to certify building elevations, when the construction is complete, and shall be provided to the Public Works Department prior to final approval of the construction.
61. The proposed septic system is located within a SFHA, Zone VE 24. The proposed septic system shall be designed to eliminate infiltration of flood waters into the system and discharges from the system into flood waters. The septic system shall be located to avoid impairment or contamination during flooding. The septic system shall be buried below the expected depth of erosion and scour. The tank shall be anchored to prevent a buoyancy failure. Septic system tanks must not be structurally attached to building foundations. All septic lines shall be protected from water and debris damage. Riser lines shall be located on the landward side of a pile or other vertical structural member or inside an enclosure designed to withstand the forces from the event.

Geology

62. All recommendations of the consulting certified engineering geologist or geotechnical engineer and/or the City geotechnical consultant reviewers shall be incorporated into all final design and construction including foundations, grading, sewage disposal, and drainage. Final plans shall be reviewed and approved by the City geotechnical consultant reviewers prior to the issuance of a grading permit.
63. Final plans approved by the City geotechnical consultant reviewers shall be in substantial conformance with the approved CDP relative to construction, grading, sewage disposal and drainage. Any substantial changes may require a CDP amendment or a new CDP.

Onsite Wastewater Treatment System (OWTS)

64. Prior to the issuance of a building permit the applicant shall demonstrate, to the satisfaction of the Building Official, compliance with the City of Malibu's onsite wastewater treatment regulations including provisions of MMC Chapters 15.40, 15.42, 15.44, and LIP Chapter 18 related to continued operation, maintenance and monitoring of the OWTS.

65. Prior to final Environmental Health approval, a final OWTS plot plan prepared by a City Registered OWTS Designer shall be submitted showing an OWTS design meeting the minimum requirements of the MMC and the LCP, including necessary construction details, the proposed drainage plan for the developed property and the proposed landscape plan for the developed property. The OWTS plot plan shall show essential features of the OWTS and must fit onto an 11-inch by 17-inch sheet leaving a five-inch margin clear to provide space for a City applied legend. If the scale of the plans is such that more space is needed to clearly show construction details and/or all necessary setbacks, larger sheets may also be provided (up to a maximum size of 18 inches by 22 inches).
66. A final OWTS design report and large set of construction drawings with system specifications (four sets) shall be submitted to describe the OWTS design basis and all components (i.e., alarm system, pumps, timers, flow equalization devices, backflow devices, etc.) proposed for use in the construction of the proposed OWTS. For all OWTS, final reports must be signed by a City registered OWTS Designer, and the plans stamped by a California Geologist. The final OWTS design report and construction drawings shall be submitted to the City Environmental Health Administrator with the designer's wet signature, professional registration number and stamp (if applicable).
67. Any above-ground equipment associated with the installation of the OWTS shall be screened from view by a solid wall or fence on all four sides. The fence or walls shall not be higher than 42-inches tall.
68. The final design report shall contain the following information (in addition to the items listed above).
 - a. Required treatment capacity for wastewater treatment and disinfection systems. The treatment capacity shall be specified in terms of flow rate, gallons per day, and shall be supported by calculations relating the treatment capacity to the number of bedroom equivalents, plumbing drainage fixture equivalents, and the subsurface effluent dispersal system acceptance rate. The drainage fixture unit count must be clearly identified in association with the design treatment capacity, even if the design is based on the number of bedrooms. Average and peak rates of hydraulic loading to the treatment system shall be specified in the final design;
 - b. Sewage and effluent pump design calculations (as applicable).
 - c. Description of proposed wastewater treatment and/or disinfection system equipment. State the proposed type of treatment system(s) (e.g., aerobic treatment, textile filter ultraviolet disinfection, etc.); major components, manufacturers, and model numbers for "package" systems; and conceptual design for custom engineered systems;
 - d. Specifications, supporting geology information, and percolation test results for the subsurface effluent dispersal portion of the onsite wastewater disposal system. This must include the proposed type of effluent dispersal system (drainfield, trench, seepage pit subsurface drip, etc.) as well as the system's geometric dimensions and basic construction features. Supporting calculations shall be presented that relate the results of soils analysis or percolation/infiltration tests to the projected subsurface effluent acceptance rate, including any unit conversions or safety factors. Average and peak rates of hydraulic loading to the effluent dispersal system shall be specified in the final design. The projected subsurface effluent acceptance rate shall be

reported in units of total gallons per day and gallons per square foot per day. Specifications for the subsurface effluent dispersal system shall be shown to accommodate the design hydraulic loading rate (i.e., average and peak OWTS effluent flow, reported in units of gallons per day). The subsurface effluent dispersal system design must take into account the number of bedrooms, fixture units and building occupancy characteristics; and

- e. All final design drawings shall be submitted with the wet signature and typed name of the OWTS designer. If the scale of the plan is such that more space is needed to clearly show construction details, larger sheets may also be provided (up to a maximum size of 18 inch by 22 inch, for review by Environmental Health). Note: For OWTS final designs, full-size plans are required for review by the Building Safety Division and/or the Planning Department.
69. Prior to final Environmental Health approval, the applicant shall provide engineer's certification for reduction in setbacks to buildings or structures: All proposed reductions in setback from the OWTS to structures (i.e., setbacks less than those shown in MMC Table 15.42.030(E)) must be supported by a letter from the project structural engineer and a letter from the project soils engineer (i.e., a geotechnical engineer or civil engineer practicing in the area of soils engineering). Both engineers must certify unequivocally that the proposed reduction in setbacks from the treatment tank and effluent dispersal area will not adversely affect the structural integrity of the OWTS, and will not adversely affect the structural integrity of the structures for which the Table 15.42.030(E) setback is reduced. Construction drawings submitted for plan check must show OWTS components in relation to those structures from which the setback is reduced. All proposed reductions in setback from the OWTS to buildings (i.e., setbacks less than those shown in Table 15.42.030(E)) also must be supported by a letter from the project architect, who must certify unequivocally that the proposed reduction in setbacks will not produce a moisture intrusion problem for the proposed building(s). If the building designer is not a California-licensed architect, then the required architect's certification may be supplied by an engineer who is responsible for the building design with respect to mitigation of potential moisture intrusion from reduced setbacks to the wastewater system. In this case, the engineer must include in his/her letter an explicit statement of responsibility for mitigation of potential moisture intrusion. If any specific construction features are proposed as part of a moisture intrusion mitigation system in connection with the reduced setback, then the architect or engineer must provide associated construction documents for review and approval during Building Safety Division plan check. The wastewater plans and the construction plans must be specifically referenced in all certification letters.
70. The following note shall be added to the plan drawings included with the OWTS final design: "Prior to commencing work to abandon, remove, or replace the existing Onsite Wastewater Treatment System (OWTS) components, an 'OWTS Abandonment Permit' shall be obtained from the City of Malibu. All work performed in the OWTS abandonment, removal or replacement area shall be performed in strict accordance with all applicable federal, state, and local environmental and occupational safety and health regulatory requirements. The obtainment of any such required permits or approvals for this scope of work shall be the responsibility of the applicant and their agents."

-
71. Final plans shall clearly show the locations of all existing OWTS components (serving preexisting development) to be abandoned and provide procedures for the OWTS' proper abandonment in conformance with the MMC.
 72. All project architectural plans and grading/drainage plans shall be submitted for Environmental Health review and approval. The floor plans must show all drainage fixtures, including in the kitchen and laundry areas. These plans must be approved by the Building Safety Division prior to receiving Environmental Health final approval.
 73. A covenant running with the land shall be executed by the property owner and recorded with the Los Angeles County Recorder's Office. Said covenant shall serve as constructive notice to any successors in interest that: 1) the private sewage disposal system serving the development on the property does not have a 100 percent expansion effluent dispersal area (i.e., replacement disposal field(s) or seepage pit(s)), and 2) if the primary effluent dispersal area fails to drain adequately, the City of Malibu may require remedial measures including, but not limited to, limitations on water use enforced through operating permit and/or repairs, upgrades or modifications to the private sewage disposal system. The recorded covenant shall state and acknowledge that future maintenance and/or repair of the private sewage disposal system may necessitate interruption in the use of the private sewage disposal system and, therefore, any building(s) served by the private sewage disposal system may become non-habitable during any required future maintenance and/or repair. Said covenant shall be in a form acceptable to the City Attorney and approved by the City Environmental Sustainability Department.
 74. Proof of ownership of subject property shall be submitted to the City Environmental Health Administrator.
 75. An operations and maintenance manual specified by the OWTS designer shall be submitted to the property owner and maintenance provider of the proposed OWTS.
 76. Prior to final Environmental Health approval, a maintenance contract executed between the owner of the subject property and an entity qualified in the opinion of the City of Malibu to maintain the proposed OWTS after construction shall be submitted. Only original wet signature documents are acceptable and shall be submitted to the City Environmental Health Administrator.
 77. Prior to final Environmental Health approval, a covenant running with the land shall be executed between the City of Malibu and the holder of the fee simple absolute as to subject real property and recorded with the City of Malibu Recorder's Office. Said covenant shall serve as constructive notice to any future purchaser for value that the onsite wastewater treatment system serving subject property is an advanced method of sewage disposal pursuant to the City of MMC. Said covenant shall be provided by the City of Malibu Environmental Health Administrator.
 78. The City geotechnical consultant reviewers final approval shall be submitted to the City Environmental Health Administrator.

79. The City Coastal engineering consultant reviewers final approval shall be submitted to the City Environmental Health Administrator.
80. In accordance with MMC Chapter 15.44, prior to Environmental Health approval, an application shall be made to the Environmental Sustainability Department for an OWTS operating permit.

Water Quality/Water Service

81. Prior to the issuance of a building permit, the applicant shall submit an updated Will Serve Letter from Los Angeles County Waterworks District No. 29 to the Planning Department indicating the ability of the property to receive adequate water service.
82. Prior to final inspection (or project sign off, as applicable) by the Planning Department, the applicant shall demonstrate that all requirements of Los Angeles County Waterworks District No. 29 have been met, including installation of a meter, if applicable.

Prior to Occupancy

83. Prior to, or at the time of a Planning final inspection, the property owner / applicant shall submit to the Planning Department the plumbing permit for the irrigation system installation signed off by the Building Safety Division.
84. Prior to the issuance of a Certificate of Occupancy, the City Biologist shall inspect the project site and determine that all Planning Department conditions to protect natural resources are in compliance with the approved plans.
85. Prior to a final Building inspection, the applicant shall provide a Recycling Summary Report (Summary Report) and obtain the approval from the Environmental Sustainability Department. Applicant must provide haul tickets and diversion information. The final Summary Report shall designate the specific materials that were land filled or recycled, and state the facilities where all materials were taken.
86. The applicant shall request a final Planning Department inspection prior to final inspection by the City of Malibu Building Safety Division. A Certificate of Occupancy shall not be issued until the Planning Department has determined that the project complies with this coastal development permit. A temporary Certificate of Occupancy may be granted at the discretion of the Planning Director, provided adequate security has been deposited with the City to ensure compliance should the final work not be completed in accordance with this permit.
87. Any construction trailer, storage equipment or similar temporary equipment not permitted as part of the approved scope of work shall be removed prior to final inspection and approval, and if applicable, the issuance of the certificate of occupancy.

Fixed Conditions

88. This coastal development permit shall run with the land and bind all future owners of the property.
89. Violation of any of the conditions of this approval may be cause for revocation of this permit and termination of all rights granted there under.

Deed Restrictions

90. The property owner is required to acknowledge, by recordation of a deed restriction, that the property is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff, and that the property owner assumes said risks and waives any future claims of damage or liability against the City of Malibu and agrees to indemnify the City of Malibu against any liability, claims, damages or expenses arising from any injury or damage due to such hazards. The property owner shall provide a copy of the recorded document to the Planning Department prior to final Planning Department approval.
91. The property owner is required to execute and record a deed restriction which shall indemnify and hold harmless the City, its officers, agents, and employees against any and all claims, demands, damages, costs and expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wildfire exists as an inherent risk to life and property. The property owner shall provide a copy of the recorded document to the Planning Department prior to final planning approval.
92. Prior to final Planning Department approval, the applicant shall be required to execute and record a deed restriction reflecting lighting requirements set forth in Condition Nos. 15-21. The property owner shall provide a copy of the recorded document to the Planning Department prior to final Planning Department approval.

Fixed Conditions

93. This Coastal Development Permit runs with the land and binds all future owners of the property.
94. Violation of any of the conditions of this approval shall be cause for revocation and termination of all rights there under.

SECTION 7. The City Clerk shall certify the adoption of this resolution.

PASSED, APPROVED AND ADOPTED this 12nd day of September 2022.

PAUL GRISANTI, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

TREVOR RUSIN, Interim City Attorney

COASTAL COMMISSION APPEAL – An aggrieved person may appeal the Planning Commission's approval to the Coastal Commission within 10 working days of the issuance of the City's Notice of Final Action. Appeal forms may be found online at www.coastal.ca.gov or in person at the Coastal Commission South Central Coast District office located at 89 South California Street in Ventura, or by calling (805) 585-1800. Such an appeal must be filed with the Coastal Commission, not the City.

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in Section 1.12.010 of the MMC and Code of Civil Procedure. Any person wishing to challenge the above action in Superior Court may be limited to raising only those issues they or someone else raised at the public hearing, or in written correspondence delivered to the City of Malibu at or prior to the public hearing.

18868 PACIFIC COAST HIGHWAY RESIDENCE

Received
6/14/21
Planning Dept.


NO EXCEPTION OBSERVED

MAKE CORRECTIONS OBSERVED

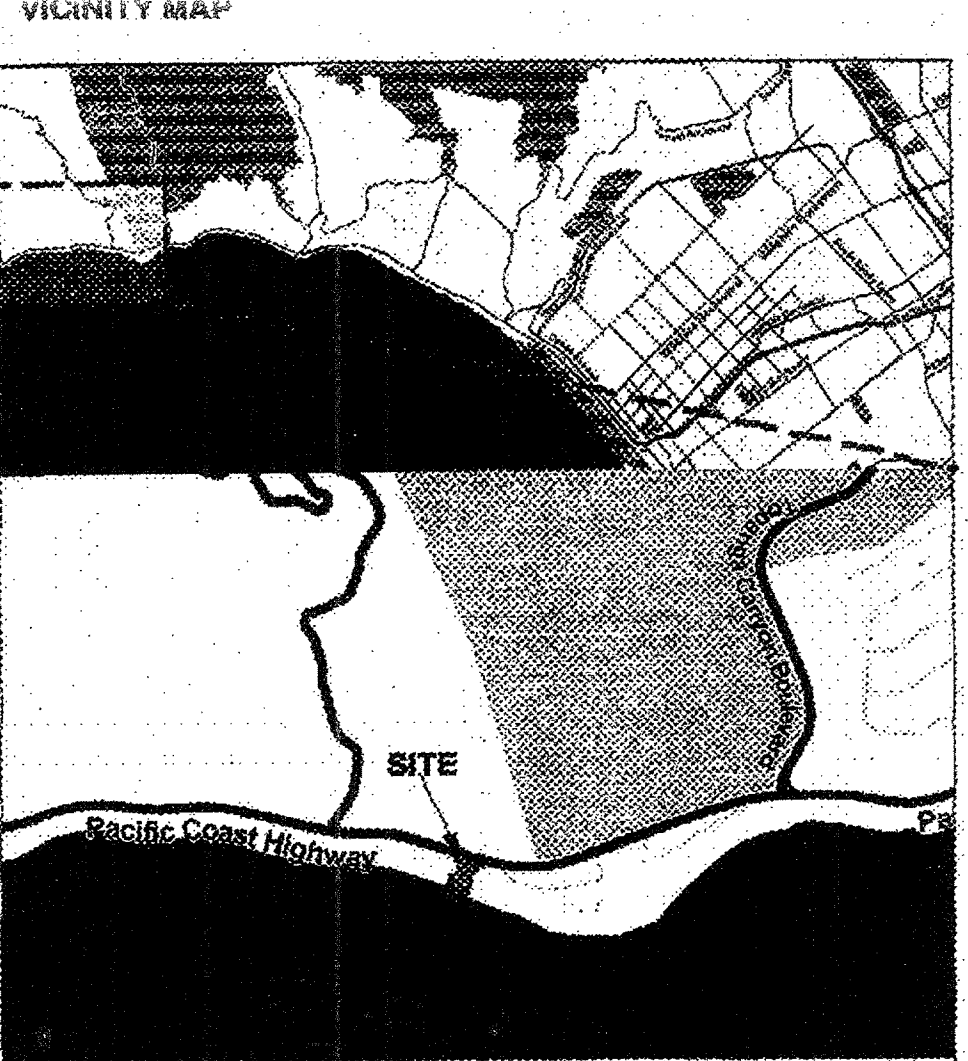
REVISE AND RE-SUBMIT

THIS REVIEW IS FOR THE CONFORMANCE WITH THE RECOMMENDATIONS CONTAINED IN THE COASTAL ENGINEERING REPORT BY PACIFIC ENGINEERING GROUP DATED 06/10/2021

ONLY. PROJECT ARCHITECT AND PROJECT STRUCTURAL ENGINEER ARE RESPONSIBLE FOR ALL DIMENSIONS AND PROJECT DESIGN. DISTRIBUTION OF THE CONSTRUCTION DOCUMENTS BY THE CONTRACTOR AND/OR ARCHITECT SHALL CONSTITUTE THEIR APPROVAL.


REG K. BROWNE PE
COASTAL ENGINEER
CE 40552

DATE 2/21/2022



PROJECT DESCRIPTION

This project consists of construction of a new two story 4037 s.f. residence with no grading and no new landscaping.

PROJECT INFORMATION

Address	Malibu, CA
APN #	4448 - 001 - 023
Owner	FARSHID EBAAT
Zone / Use	R-1, SINGLE FAMILY RESIDENCE
Lot Size	5.7216
Grading	NONE
Construction Type	✓
High Fire Zone	✓ NO
Flood Zone	YES
Allowable building height	24'0"
Proposed building height	23'8"
Proposed use	RESIDENTIAL
Building occupancy / type	R-1
Allowable Building Area	1,994 s.f. (habitable) & 375 s.f. (garage)
Building Area - Level 1	1,029 s.f.
Building Area - Level 2	2,778 s.f.
Building Area - Total	3 garage spaces, plus 2 uncovered spaces
Parking	

PROJECT TEAM

OWNER	Farshid Ebaat 21329 Castillo St. Woodland Hills, CA 91364
DESIGNER	Guy Gniadek 727 Kentia Ave. 818.681.9806 email: guy.gniadek@gmail.com
PLANNER	DUSTIN WICKMER DIAMOND WEST INC. 24009 VENTURA BLVD #100 CALABAS, CA 91302 818 444 1800
SURVEYOR	Chris Nelson Chris Nelson and Associates 31328 Via Colinas, Suite H Westlake Village, CA 91362 818.991.1040 email: chris@e-surveyors.com
GEOLOGIST	Donald Kowalewski Environmental and Engineering Geology 27101 Old Chimney Road Malibu, CA 90265 310.457.2456 email: maliburock@gmail.com
WAVE UPFRUSH / COASTAL ENGINEERING	Reg K. Browne PE Pacific Engineering Group PO Box 4185 Westlake Village, CA 91359 805.278.9283 email: SurfGodReg@AOL.com
OWTS DESIGN	John Yaroslaski PE#60149 780 Monterey, Suite B Morro Bay, CA 93442 805.772.0150

SHEET INDEX	
ARCHITECTURAL	
SHEET NUMBER	SHEET NAME
A-0.0	Cover Sheet
A-0.1	Survey
A-0.2	Survey w/ bldg ← A1#42 CIVIL
A-0.3	Site Plan
A-0.4	Aerial View
A-1.00	Foundation Plan
A-1.10	Floor Plans 1
A-1.20	Floor Plans 2
A-1.30	Roof Plans
A-2.00	Elevations
A-2.01	Elevations
A-2.02	Elevations
A-3.0	Sections

APPLICABLE CODES

2016 California Building Code Volumes 1 & 2.
2016 California Mechanical Code.
2016 California Plumbing Code.
2016 California Electrical Code.
2016 California Fire Code.

Front Yard Building Setback Calculation

Adjacent Property to West (Vacant) (18878 PCH)	20'-0"
Adjacent Property to East (18898 PCH)	4'-0"
Average Adjacent Setback	12'-0"
Proposed Building Setback	4'-0"

DISCRETIONARY REQUESTS

1. Stringline Variance for House and Deck
2. Front Yard Setback Variance
3. Coastal Development Permit (CDP)

BUILDING SETBACKS

Location	Front	Rear	Sideyard	View Corridor
North (PCH)	12'-0"	4'-0"		
South (Ocean)				
East			5'	
West			4'-2"	
View Corridor			8.4'	10', 5' each side

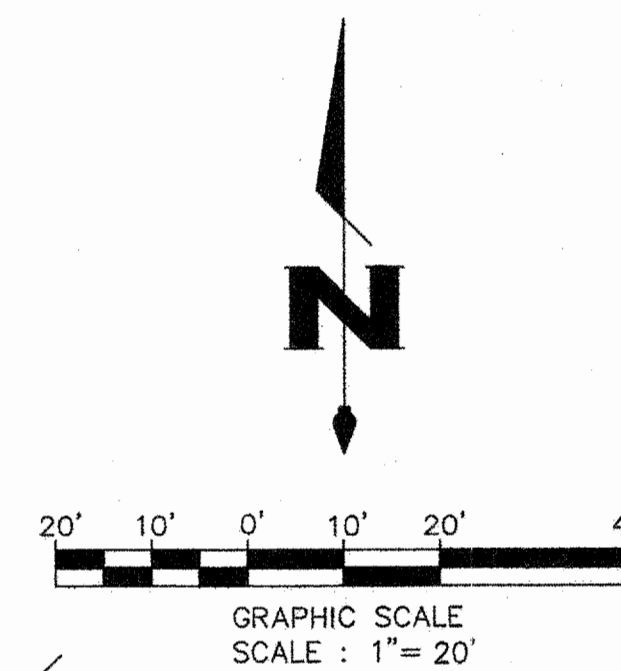
EXHIBIT B



















Gniadek
DESIGN
GROUP

18868 PCH
Malibu CA

6.10.21
Cover Sheet
A-0.0

EXHIBIT B



- | | |
|---|---------------------|
|  | CLEAN OUT |
|  | DRAIN GRATE |
|  | FIRE HYDRANT |
|  | GUARD POST |
|  | POWER POLE |
|  | SIGN |
|  | ELECTRICAL PULL BOX |
|  | WATER METER |
|  | CHAIN LINK FENCE |
|  | CHAIN LINK FENCE |
|  | METAL FENCE |
|  | WOOD FENCE |
|  | WALL |
|  | CENTERLINE |
|  | PROPERTY LINE |
|  | OVERHEAD WIRES |
|  | LOT LINE |
|  | ROW |

- | | |
|-------|-------------------------|
| AC | ASPHALT CONCRETE |
| BUILD | BUILDING |
| BS | BOTTOM OF STEPS |
| CL | CENTER LINE |
| CONC | CONCRETE |
| EC | EDGE OF CONCRETE |
| EDGE | EDGE OF CONCRETE DECK |
| EWD | EDGE OF WOOD DECK |
| EWL | EDGE OF WOOD LANDING |
| ES | EDGE OF STEPS |
| FF | FINISH FLOOR |
| FL | FLOW LINE |
| FS | FINISH SURFACE |
| INT | INTERSECTION |
| NG | NATURAL GROUND |
| PWL | PAINTED WHITE LINE |
| PYL | PAINTED YELLOW LINE |
| TC | TOP OF CURB |
| TEL | TELEPHONE |
| TG | TOP OF GRATE |
| TL | TOP OF LANDING |
| TOE | TOE OF SLOPE |
| TS | TOP OF SLOPE |
| TS | TOP OF STEPS |
| TSC | TRAFFIC SIGNAL CONDUITS |
| TW | TOP OF WALL |
| (TYP) | TYPICAL |



1. THE MAP SHOWN HEREON WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT, ADDITIONAL EASEMENTS IF ANY ARE NOT SHOWN.
2. BOUNDARIES SHOWN HEREON ARE FROM THE LICENSED SURVEYOR'S MAP FILED IN RECORD OF SURVEY BOOK 26, PAGES 43 AND 44.
3. LANDSCAPING AND LANDSCAPE IRRIGATION DEVICES MAY EXIST WITHIN THE PROPERTY AND ARE NOT SHOWN.
4. TREELINE CANOPIES ARE PICTORIAL, AND MAY NOT REFLECT TRUE DRIPLINES.
5. IF RETAINING WALLS OR SIMILAR STRUCTURES ARE TO BE DESIGNED FROM TOPOGRAPHY SHOWN HEREON, THE ELEVATIONS OF CRITICAL POINTS CONTROLLING THE DESIGN MUST BE VERIFIED PRIOR TO ADOPTION OF FINAL DESIGN.

B.M. NO Y 12375 NAVD 1988 CITY OF LOS ANGELES DATUM

FOUND CENTER OF 3.5" DIA METAL POST UP 0.8' NEAR W'LY PROP. LINE HOUSE NO 18842
SO. SIDE PCH 4.5' SE/O FH

ELEVATION = 30.779 FEET

(ADJUSTMENT OF 2000)

THE BASIS OF BEARINGS FOR THIS SURVEY IS N. 00°34'40" E. ON THE WESTERLY LINE OF GOVERNMENT LOT 1 OF FRACTIONAL SECTION 29, TOWNSHIP 1 SOUTH, RANGE 16 WEST.

THIS PROPERTY LIES IN **FLOOD ZONE X** - AREAS OF 0.2% ANNUAL CHANCE FLOOD, AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS LESS THAN 1 SQUARE MILE, AND AREAS PROTECTED BY LEVEES FROM 1% ANNUAL CHANCE FLOOD; **FLOOD ZONE AE** (EL 14) - BASE FLOOD ELEVATIONS DETERMINED; AND **FLOOD ZONE VE** (EL 14) - COASTAL FLOOD ZONES WITH VELOCITY HAZARD (WAVE ACTION), BASE FLOOD ELEVATIONS DETERMINED, PER FIRM COMMUNITY PANEL NO. 06037C1562F, DATED SEPT. 26, 2008.

REVISION NOTES	
DATE	DESCRIPTION
03/17	ADDED STRING LINES
04/17	REVISED SURVEY PER FIELD SURVEY DATED 04-05-17
04/20	REVISED SURVEY PER CLIENTS MARKUP
05/02/17	REVISED SURVEY TO ADD FLOOD ZONES

PREPARED BY: **chris nelson**
& Associates, Inc.
PROFESSIONAL LAND SURVEYORS
 31238 Via Collins Suite C, Westlake Village, CA. 91362
 Voice: 818.991.1040 Fax: 818.991.0614

PREPARED FOR:

FARHID ETAAT

21329 CASTILLO ST
WOODLAND HILLS, CA 91364

ARCHITECTURAL SITE SURVEY
LOT 83 OF LICENSED SURVEYOR'S MAP
PER-RECORD OF SURVEY BK. 26/43-44
18866 PACIFIC COAST HIGHWAY,

JOB NO. 13-2971

SCALE: 1" = 20'

DATE: JAN.14, 2014

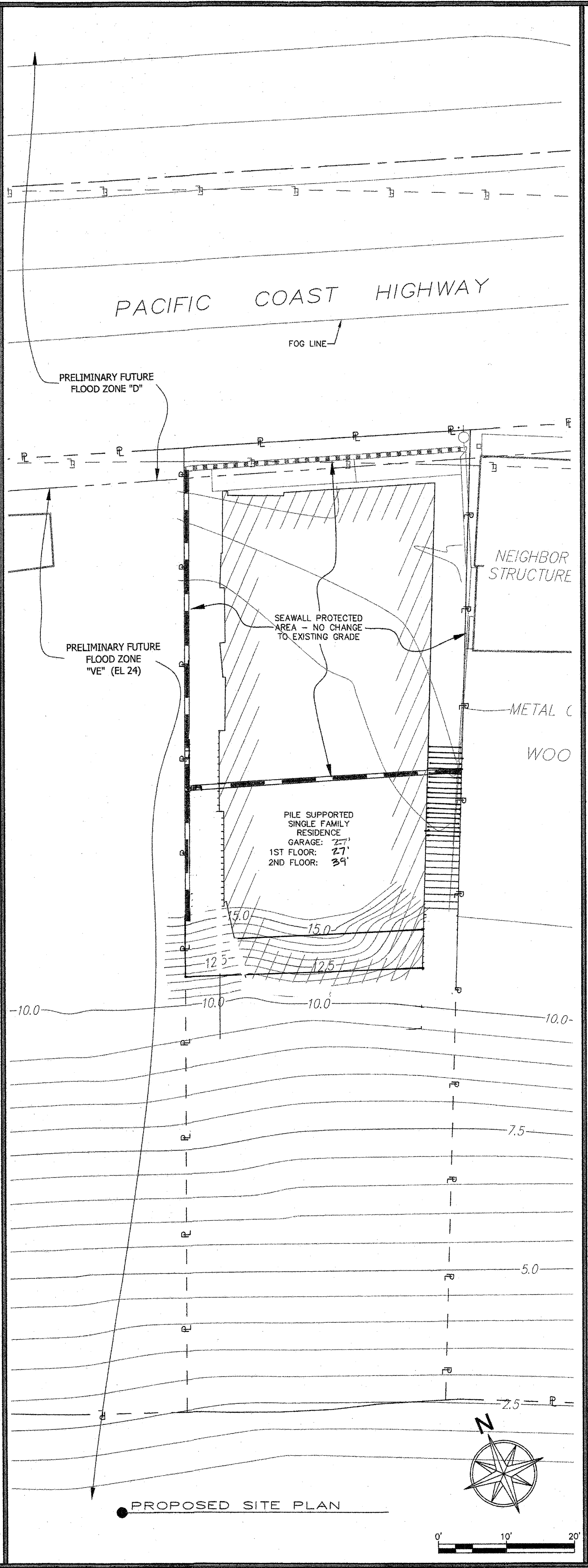
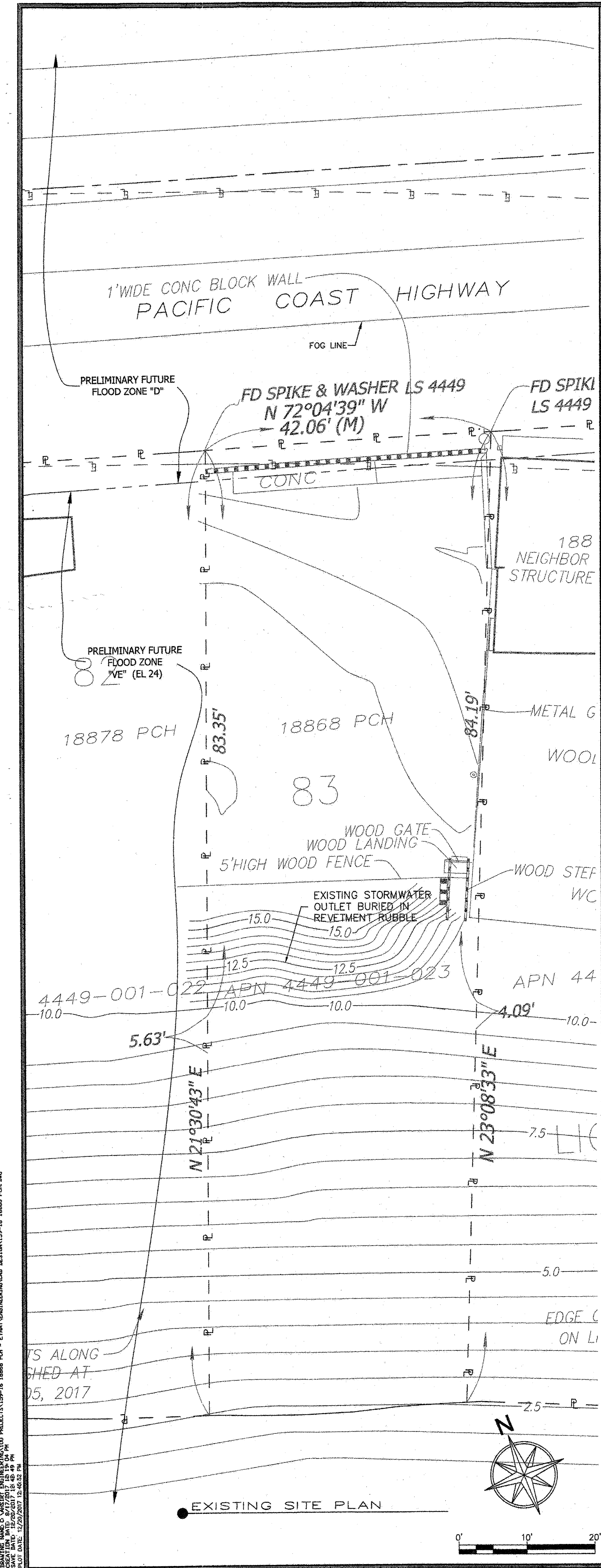
DRAFTED: SDN

6.10.21

SHEET NO.

1

OF 1 SHEET



PROJECT NOTES:

OWNER INFORMATION:

FARSHID EATAI
18868 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

PROJECT INFORMATION:

CONSTRUCTION START DATE: TBD
CONSTRUCTION END DATE: TBD

ALL SURVEY DATA OBTAINED FROM:

CHRIS NELSON & ASSOCIATES
(818) 991-1040
SURVEY DATE(S): JAN. 14, 2014,
MARCH 2017,
APRIL 5, 2017
MAY 2, 2017

BENCHMARK PER SURVEY BY CHRIS NELSON & ASSOCIATES

B.M. NO Y 12375 DATUM: NAVD 1988 CITY OF LOS ANGELES DATUM
ELEVATION: 30.779 FT (ADJUSTMENT OF 2000)
FOUND CENTER OF 3.5" METAL POST UP 0.8' NEAR WLY PROP. LINE HOUSE NO 18842 SO. SIDE PCH
4.5' SE/O FH

PROJECT GEOLOGY/GEOTECHNICAL REPORTS:

DONALD B. KOWALEWSKY
(310) 457-2456
REPORT DATE(S): MARCH 30, 2017

SHEET INDEX

G1 - PROJECT INFORMATION, EXISTING AND PROPOSED SITE PLAN
G2 - COASTAL DEVELOPMENT PERMIT GRADING AND DRAINAGE PLAN

FEMA FLOOD ZONE INSURANCE MAP

MAP NUMBER: 06037C1562G
PRELIMINARY DATE: 10/28/2016

LEGAL DESCRIPTION FROM TITLE REPORT PREPARED BY NORTH AMERICAN TITLE COMPANY 8/15/15

REAL PROPERTY IN THE CITY OF MALIBU, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA,
DESCRIBED AS FOLLOWS:

THAT PORTION OF SECTION 32, TOWNSHIP 1 SOUTH, RANGE 16 WEST, SAN BERNARDINO
MERIDIAN, IN THE CITY OF MALIBU, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, BOUNDED
NORTHERLY BY THE CENTER LINE OF PRESENT HIGHWAY IMPROVEMENT AS THE SAME APPEARS
ON MAP ATTACHED TO FIRST AMENDED AND SUPPLEMENTAL COMPLAINT FILED IN CASE NO.
352603, SUPERIOR COURT OF SAID COUNTY.

BOUNDED SOUTHERLY BY THE LINE OF ORDINARY HIGH TIDE OF THE PACIFIC OCEAN; BOUNDED
WESTERLY BY THE WESTERLY LINE AND ITS NORTHERLY PROLONGATION OF PARCEL 83 AS
SHOWN ON LICENSED SURVEYOR'S MAP FILED IN BOOK 26 PAGE 44 OF RECORD OF SURVEY, IN
THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, AND BOUNDED EASTERLY BY THE
EASTERLY LINE AND ITS NORTHERLY PROLONGATION OF PARCEL 83 AS SHOWN ON SAID
LICENSED SURVEYOR'S MAP;

EXCEPTING ANY PORTION OF SAID LAND FORMED BY ACCRETION BY THE PACIFIC OCEAN WHICH
WAS NOT FORMED BY THE DEPOSIT OF ALLUVION FROM NATURAL CAUSES AND BY
IMPERCEPTIBLE DEGREES.

SAID LAND IS SHOWN AS PARCEL 83 AND PART OF HIGHWAY ADJOINING ON SAID LICENSED
SURVEYOR'S MAP.

SAID LEGAL DESCRIPTION IS PURSUANT TO THE CITY OF MALIBU CERTIFICATE OF COMPLIANCE
NO. 10-06, RECORDED JUNE 18, 2010 AS INSTRUMENT NO. 20100839323 OF OFFICIAL RECORDS.
APN: 4449-001-023

GENERAL NOTES:

1. PROTECTION OF SENSITIVE OR ENDANGERED SPECIES PER BIOLOGY STUDY (IF APPLICABLE)
SHALL BE MAINTAINED AT ALL TIMES
2. A REGISTERED GEOTECHNICAL ENGINEER, UNDER THE DIRECTION OF THE OWNER, SHALL
DETERMINE IF THE STORMWATER APPURTENANCES AND SHEET FLOW WILL CAUSE THE EXISTING
SLOPE TO BECOME UNSTABLE. AHSIRT ENGINEERING INC. IS NOT A GEOTECHNICAL
ENGINEERING FIRM, THEREFORE, WE CAN NOT PREDICT AND/OR DETERMINE THE STABILITY OF
THE EXISTING SLOPE.
3. ALL DIMENSIONS, GRADES, EXISTING AND PROPOSED UTILITIES, EXISTING AND PROPOSED
STRUCTURES, AND EXISTING AND PROPOSED APPURTENANCES SHALL BE VERIFIED AND
LOCATED BY CONTRACTOR PRIOR TO CONSTRUCTION. CONTRACTOR SHALL PROVIDE SHOP
DRAWINGS IN ACCORDANCE WITH SPECIFICATIONS SHOWING ANY CONFLICTS LOCATED DURING
CONSTRUCTION AND/OR PRE-BID INSPECTIONS.

- NO EXCEPTION OBSERVED
- MAKE CORRECTIONS OBSERVED
- REVISE AND RE-SUBMIT

THIS REVIEW IS FOR THE CONFORMANCE WITH THE RECOMMENDATIONS CONTAINED IN THE
COASTAL ENGINEERING REPORT BY PACIFIC ENGINEERING GROUP DATED OCT. 20, 2012

ONLY: PROJECT ARCHITECT AND PROJECT STRUCTURAL ENGINEER ARE RESPONSIBLE FOR ALL
DIMENSIONS AND PROJECT DESIGN. DISTRIBUTION OF THE CONSTRUCTION DOCUMENTS BY THE
CONTRACTOR AND/OR ARCHITECT SHALL CONSTITUTE THEIR APPROVAL.

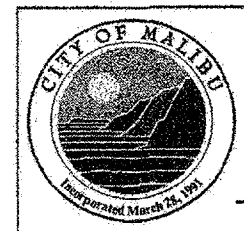
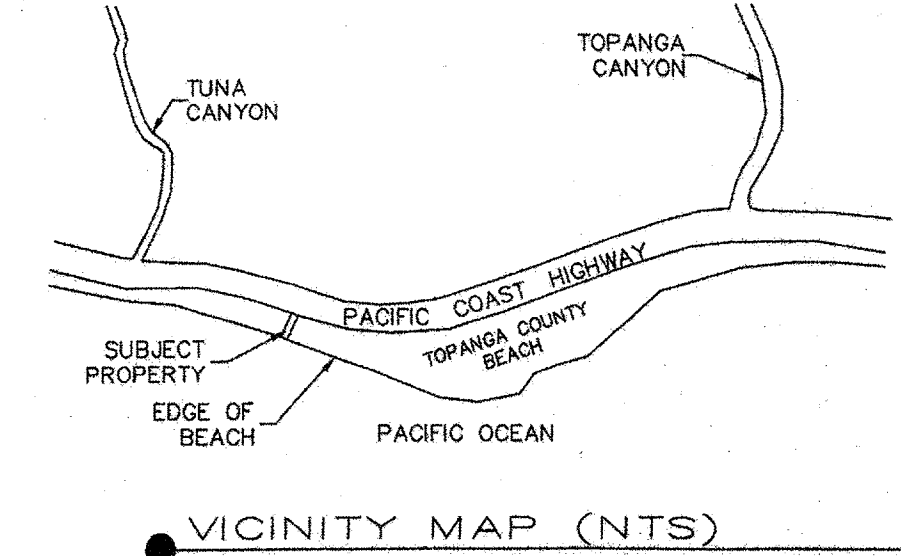
REK K. BROWN RE
COASTAL ENGINEER
CE 46552
DATE: 09/21/2012



STORMDRAIN STENCIL

PUBLIC WORKS DEPARTMENT GENERAL NOTES

1. ALL WORK SHOWN ON THESE PLANS SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE CURRENT
EDITION OF THE STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION (SSPWC) "GREEN BOOK".
2. CONTRACTORS SHALL COMPLY WITH ALL APPLICABLE DIVISION OF INDUSTRIAL REGULATIONS (CAL-OSHA)
SAFETY STANDARDS. IF REQUESTED BY THE INSPECTOR, THE CONTRACTOR SHALL PROVIDE PROOF OF A
PERMIT FROM SAID DIVISION.
3. CONTRACTOR SHALL CALL THE PUBLIC WORKS INSPECTOR AT (310) 456-2489, EXT. 235 FOR
PRE-CONSTRUCTION MEETING PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION OR GRADING
OPERATIONS. CONTRACTOR SHALL NOTIFY THE CITY PUBLIC WORKS INSPECTOR 48 HOURS PRIOR TO
COMMENCING ANY CONSTRUCTION AND 24 HOURS IN ADVANCE OF SPECIFIC INSPECTION NEEDS DURING
THE COURSE OF WORK.
4. NO IMPROVEMENTS ARE PROPOSED WITHIN THE PUBLIC RIGHT-OF-WAY.
5. STORAGE OF ANY CONSTRUCTION MATERIALS, CONSTRUCTION TRAILER, AND/OR PARKING AND ANY WORK
WITHIN THE CITY PUBLIC RIGHT OF WAY SHALL REQUIRE A CITY ENCROACHMENT PERMIT. CALL THE
PUBLIC WORKS INSPECTOR AT (310) 456-2489, EXT. 235 TO APPLY FOR A PERMIT.
6. STORAGE OF ANY CONSTRUCTION MATERIALS, CONSTRUCTION TRAILER, AND/OR PARKING AND ANY WORK
WITHIN THE CALTRANS PUBLIC RIGHT OF WAY SHALL REQUIRE A CALTRANS ENCROACHMENT PERMIT.
SUBMIT A COPY OF THE CALTRANS ENCROACHMENT PERMIT TO THE PUBLIC WORKS DEPARTMENT.
7. ALL WORK SHALL BE PERFORMED DURING CITY WORKING HOURS AND IN COMPLIANCE WITH THESE PLANS.
CONTRACTOR SHALL VERIFY ALL CONDITIONS AND DIMENSIONS AND SHALL REPORT ANY DISCREPANCIES
TO THE ENGINEER PRIOR TO THE COMMENCEMENT OF ANY WORK.
8. CONTRACTOR SHALL LOCATE, PROTECT, AND SAVE ANY AND ALL SURVEY MONUMENTS THAT WILL BE OR
MAY BE DAMAGED OR DESTROYED BY THEIR OPERATIONS. ONCE FOUND, THE CONTRACTOR SHALL THEN
NOTIFY BOTH THE DEVELOPER'S SUPERVISING CIVIL ENGINEER AND THE PUBLIC WORKS INSPECTOR. THE
SUPERVISING CIVIL ENGINEER SHALL RESET ALL SAID MONUMENTS PER THE REQUIREMENTS OF THE
PROFESSIONAL LAND SURVEYOR'S ACT.
9. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL PUBLIC AND PRIVATE PROPERTY
INSOFAR AS IT MAY BE AFFECTED BY THESE OPERATIONS.
10. EXISTING TRAFFIC SIGNS ARE NOT TO BE REMOVED WITHOUT PRIOR NOTIFICATION AND APPROVAL OF THE
CITY ENGINEER. AS A MINIMUM, CONSTRUCTION WORK ZONE TRAFFIC SIGNS AND STRIPING SHALL BE
FURNISHED, INSTALLED, AND MAINTAINED IN ACCORDANCE WITH THE "WORK AREA TRAFFIC CONTROL
HANDBOOK" (THE "WATCH MANUAL"), PUBLISHED BY THE BNI BUILDING NEWS, INC. A TRAFFIC CONTROL
PLAN, PREPARED BY THE DEVELOPER, MAY BE REQUIRED BY THE CITY.
11. DUST CONTROL SHALL BE MAINTAINED AT ALL TIMES.
12. EROSION CONTROL PLANS SHALL BE PROVIDED FOR ALL PROJECTS. GRADING AND CLEARING IS
PROHIBITED FROM NOVEMBER 1 TO MARCH 31 FOR ALL DEVELOPMENTS WITHIN OR ADJACENT TO ESHA
AND/OR INCLUDING GRADING ON SLOPES GREATER THAN 4:1.
13. ALL UNDERGROUND UTILITIES AND SERVICE LATERALS SHALL BE INSTALLED PRIOR TO CONSTRUCTION OF
CURBS, GUTTERS, SIDEWALKS, AND PAVING UNLESS OTHERWISE PERMITTED BY THE CITY ENGINEER.
14. THE DEVELOPER SHALL COMPLY WITH NPDES REQUIREMENTS. THE STORM WATER POLLUTION PREVENTION
PLAN (SWPPP) SHALL BE AVAILABLE AT THE CONSTRUCTION SITE AT ALL TIMES AND SHALL BE KEPT
UPDATED.
15. ALL RECOMMENDATIONS MADE BY THE GEOTECHNICAL/SOILS ENGINEER (AND ENGINEERING GEOLOGIST,
WHERE EMPLOYED), AND CONTAINED IN THE REPORTS REFERENCED HEREON, AS APPROVED OR
CONDITIONED BY THE CITY, SHALL BE CONSIDERED A PART OF THE GRADING PLAN.
16. ALL STORM DRAIN PIPE WITHIN THE PUBLIC RIGHT-OF-WAY AND EASEMENTS SHALL BE REINFORCED
CONCRETE PIPE (RCP).
17. TERRACE DRAINS, INTERCEPTOR DRAINS, AND DOWN DRAINS SHALL BE CONSTRUCTED OF 3" P.C.C.
REINFORCED WITH 6" X 6" X #10 W.W.M. AND SHALL BE EITHER SEMICIRCULAR OR TRIANGULAR CROSS
SECTION. CONCRETE COLOR SHALL BE "OMAHA TAN" OR APPROVED EQUIVALENT.
18. GRADING QUANTITIES: SEE GRADING YARDAGE VERIFICATION FORM HEREON
19. TOTAL DISTURBED AREA: 4.1 ACRES (INCLUDING GRADING, CLEARING, AND LANDSCAPING AREA)
20. TOTAL EXISTING IMPERVIOUS SURFACE AREA: 229, SO. FT.
21. TOTAL PROPOSED IMPERVIOUS SURFACE AREA: 3243, SO. FT.
22. FLOOD ZONE ON FIRM: VE
23. BASE FLOOD ELEVATION: 24. FT. (PER PRELIMINARY FEMA MAP 06037C1562G DATED 10-28-2016)
24. ALL SLOPES ON PRIVATE PROPERTY ADJOINING STREETS, DRAINAGE CHANNELS, OR OTHER PUBLIC
FACILITIES SHALL BE GRADED NOT STEEPER THAN 2:1 FOR CUT AND FILL UNLESS SPECIFICALLY
APPROVED BY THE CITY ENGINEER ON RECOMMENDATION OF THE PROJECT'S GEOTECHNICAL/SOILS
CONSULTANT.
25. ALL CATCH BASINS AND DRAINAGE INLETS SHALL BE STENCILED WITH THE CITY OF MALIBU STORM DRAIN
LOGO.



City of Malibu

23825 Stuart Ranch Road - Malibu, California - 90265-4861
Phone (310) 456-2489 - Fax (310) 456-7650 - www.malibucity.org

TOTAL GRADING YARDAGE VERIFICATION CERTIFICATE
PLANNING DEPARTMENT REVIEW LEVEL

PROJECT NUMBER:

PROJECT ADDRESS: 18868 PACIFIC COAST HIGHWAY

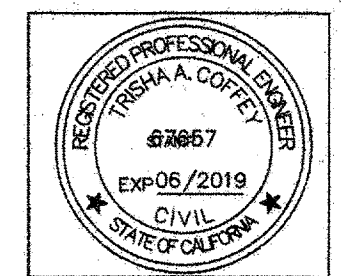
All projects proposing land form alteration which involves more than 100 cubic yards of grading
shall complete this form. The completed form must be provided at the time of Planning
Department application for grading approval. All applicable cubic yardages shall be completed
in the table. All calculations utilized to estimate the cubic yardages indicated shall be
attached to this form. This form and the required calculations must be prepared by a State of
California Licensed Civil Engineer. The form and the calculations shall be stamped and wet
signed by the preparing party.

	R&R	EXEMPT			NON			TOTAL
		UNDERSTRUCTURE	SAFETY	FILL	REMEDIAL	EXEMPT	GRADING	
CUT	0	0	120	0	0	0	0	120
FILL	0	0	0	0	0	0	0	0
TOTAL	0	0	120	0	0	0	0	120
IMPORT	0	0	0	0	0	0	0	0
EXPORT	0	0	120	0	0	0	0	120

All quantities indicated shall be in cubic yards only.
R&R = Removal and Recompaction - R&R must be balanced.
Safety Grading is required grading for L.A. County Fire Department access approval beyond the 15 foot minimum
access and may include turnouts, hammerheads, turnarounds, and access roadway widening.
Remedial grading is grading recommended by a full site geotechnical or soils report prepared by a licensed
geologist or soils engineer which is necessary to correct physical deficiencies on the site for the construction of a
primary residential structure or access to the lot.
Imported means soil that is brought on to the site. Exported means soil that is leaving the site. This information will
be used to calculate the number of truck trips required for site preparation.

PREPARED BY: TRISHA A. COFFEY

DATE:

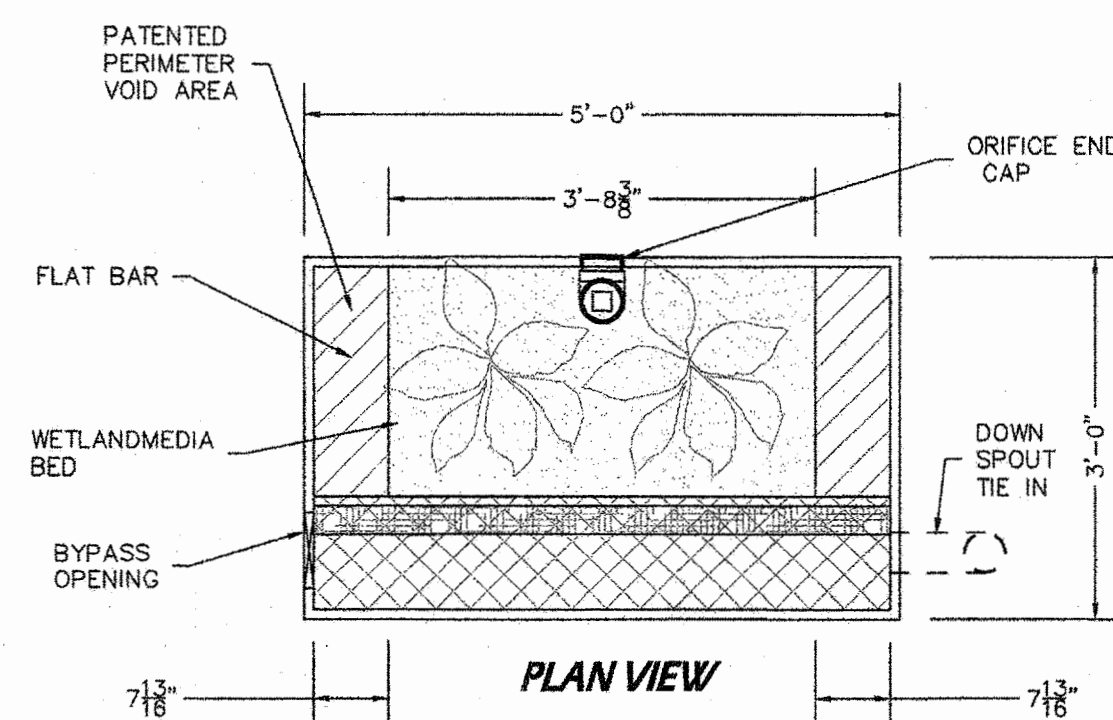
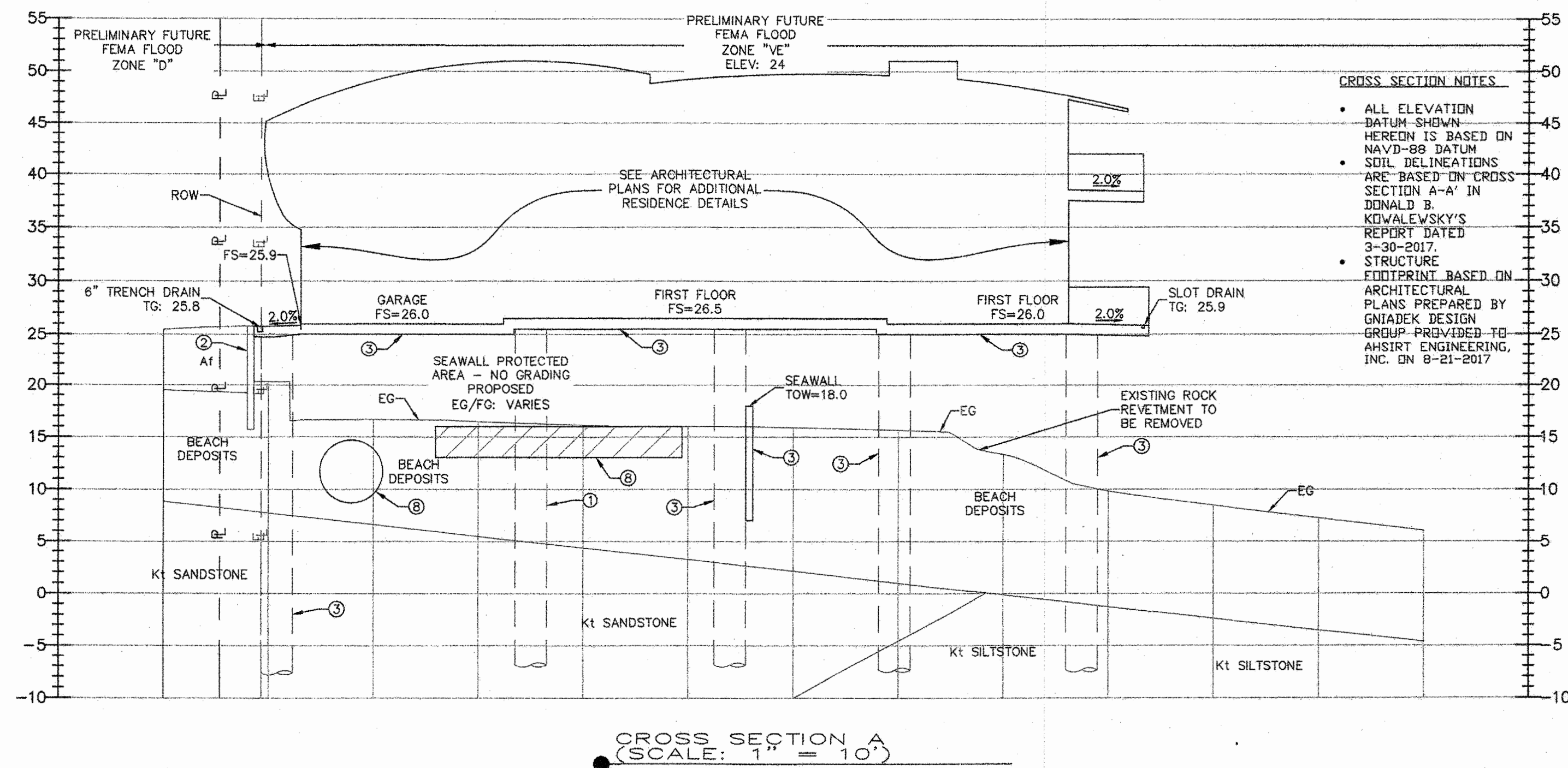
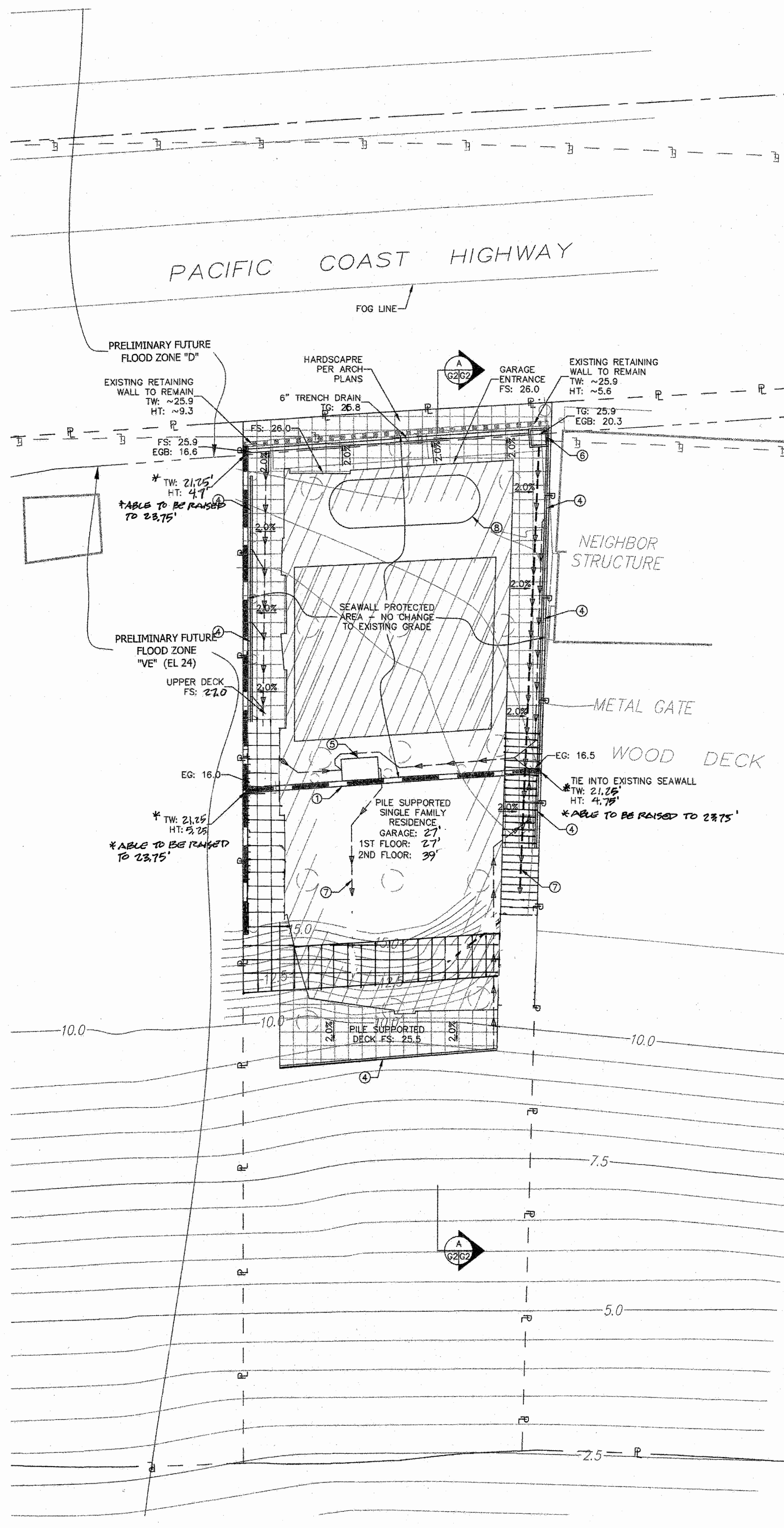


REVISIONS:
REV | BY | DATE
1. UPDATE SITE PLAN, GROUND
LOCATIONS, AND RETAINING WALL
2. UPDATE STORMWATER
10 TO 15: UPDATE FLOOD ZONE TO
THE FUTURE PRELIMINARY PLAN
ZONE.

PROJECT INFORMATION, EXISTING AND PROPOSED SITE PLAN
FOR APPROVAL ONLY - NOT FOR CONSTRUCTION
18868 PACIFIC COAST HIGHWAY
MALIBU, CA

REGISTERED PROFESSIONAL ENGINEER
TRISHA A. COFFEY
67657
EXP 06/2019
CIVIL
STATE OF CALIFORNIA

JOB #:
159-16
DATE:
AUGUST 2017
DRAWN BY:
TJM
CHECKED BY:
TAC
SHEET NUMBER:
G1 OF 2
6-10-21



MWS MODEL #	FG-MWS-L-3-5-3
TREATMENT FLOW (CFS)	0.044
VAULT HEIGHT (FT)	3.0
MAX OPERATING HEAD (FT)	2.5
WETLAND MEDIA VOLUME (CY)	0.99
WETLAND MEDIA LOADING RATE (GPM/SF)	1.0

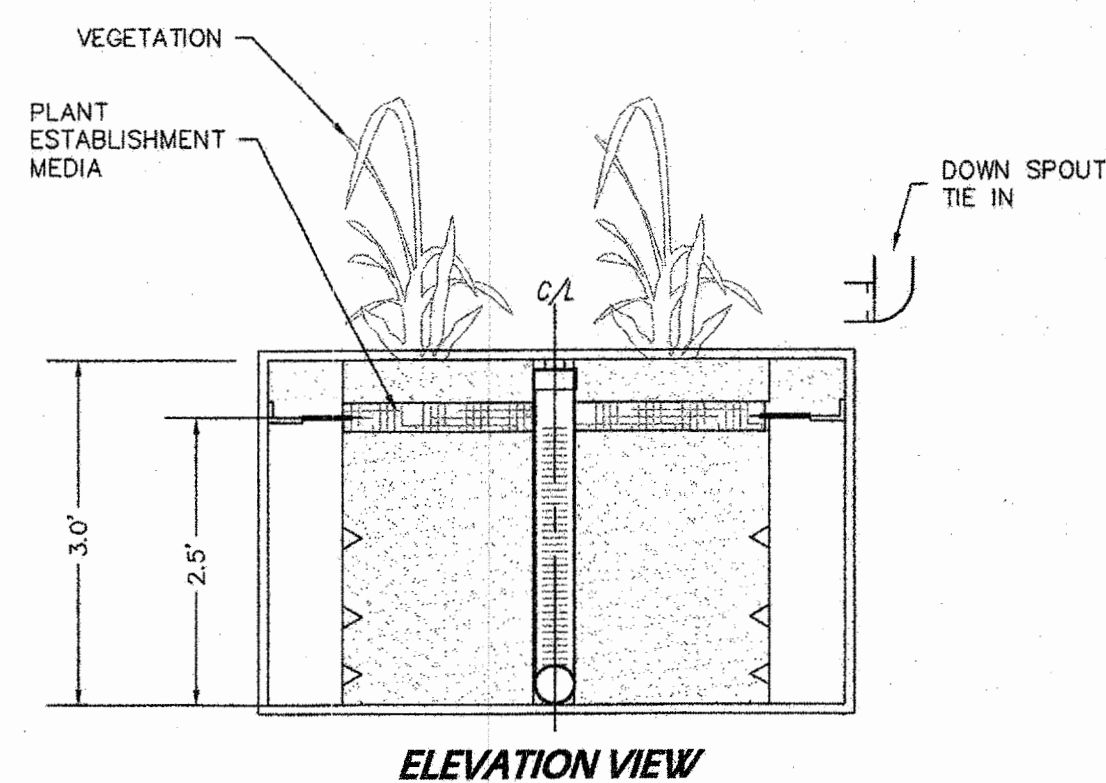
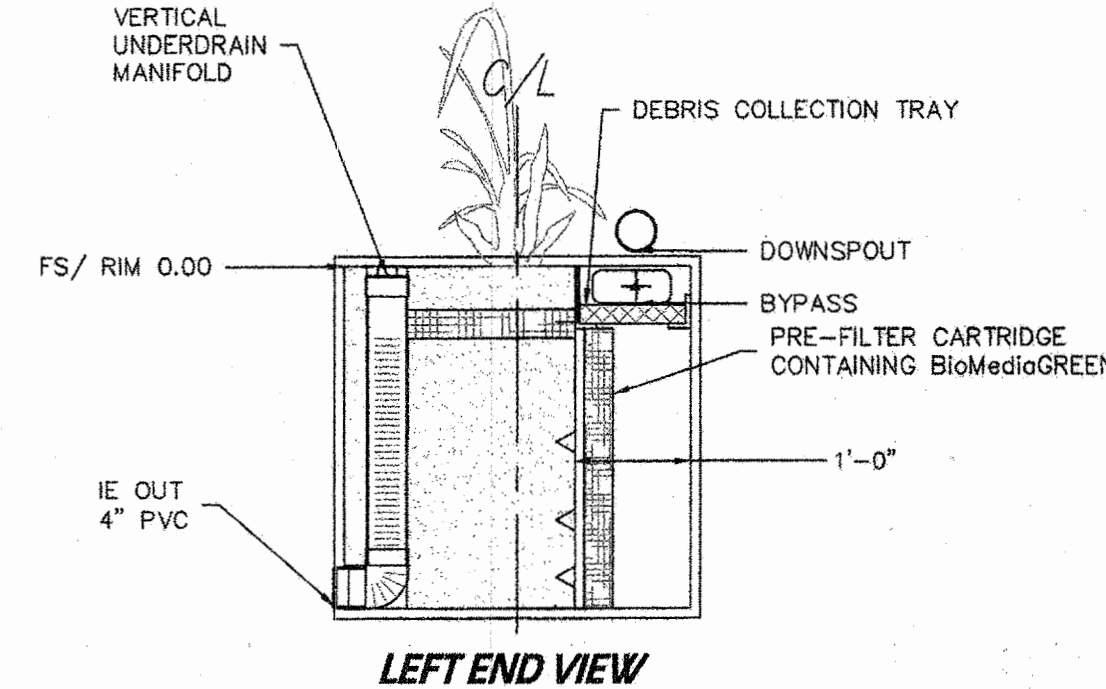
INSTALLATION NOTES

- CONTRACTOR TO PROVIDE ALL LABOR, EQUIPMENT, MATERIALS AND INCIDENTALS REQUIRED TO OFFLOAD AND INSTALL THE SYSTEM AND APPURTENANCES IN ACCORDANCE WITH THIS DRAWING AND THE MANUFACTURER'S SPECIFICATIONS, UNLESS OTHERWISE STATED IN MANUFACTURER'S CONTRACT.
- UNIT MUST BE INSTALLED ON LEVEL BASE.
- ALL PIPES MUST BE FLUSH WITH INSIDE SURFACE OF CONCRETE. (PIPES CANNOT INTRUDE BEYOND FLUSH). INVERT OF OUTFLOW PIPE MUST BE FLUSH WITH DISCHARGE CHAMBER FLOOR. ALL GAPS AROUND PIPES SHALL BE SEALED WATER TIGHT WITH A NON-SHRINK GROUT PER MANUFACTURER'S STANDARD CONNECTION DETAIL AND SHALL MEET OR EXCEED REGIONAL PIPE CONNECTION STANDARDS.
- CONTRACTOR TO SUPPLY AND INSTALL ALL EXTERNAL CONNECTING PIPES.
- DRIIP OR SPRAY IRRIGATION REQUIRED ON ALL UNITS WITH VEGETATION.

GENERAL NOTES

- MANUFACTURER TO PROVIDE ALL MATERIALS UNLESS OTHERWISE NOTED.
- ALL DIMENSIONS, ELEVATIONS, SPECIFICATIONS AND CAPACITIES ARE SUBJECT TO CHANGE. FOR PROJECT SPECIFIC DRAWINGS DETAILING EXACT DIMENSIONS, WEIGHTS AND ACCESSORIES PLEASE CONTACT MANUFACTURER.

MODULAR WETLAND SYSTEM DOWNSPOUT FILTER (NTS)



ABBREVIATION	DESCRIPTION
BOF	BOTTOM OF FOUNDATION ELEVATION
EG	EXISTING GRADE ELEVATION
FG	EXISTING GRADE BELOW STRUCTURE ELEVATION
FF	FINISHED FLOOR ELEVATION
FS	FINISHED SURFACE ELEVATION
HP	HIGH POINT ELEVATION
HT	HEIGHT OF WALL FROM FS (DOES NOT INCLUDE HEIGHT OF FOOTING)
INV	INVERT ELEVATION
OC	ON CENTER
R&R	REMOVAL AND RECOMPACTION
TW/TOW	TOP OF WALL ELEVATION
TG	TO BE DETERMINED BY CONTRACTOR IN FIELD
TSD	TO BE DETERMINED BY CONTRACTOR IN FIELD
WW	WASTEWATER
	ESTIMATED ELEVATION - TO BE VERIFIED IN FIELD
LINE/TYPE	DESCRIPTION
---	PROPERTY LINE
---	EXISTING MAJOR CONTOURS
---	EXISTING MINOR CONTOURS
---	PROPOSED MAJOR CONTOURS
---	PROPOSED MINOR CONTOURS
---	LIMITS OF DISTURBED SITE AREA
---	FLOW LINES
---	SITE STORMWATER PIPE
---	OVERFLOW STORMWATER PIPE
---	ROAD CENTERLINE
---	EASEMENT LINE
---	PROPOSED SEAWALL (BY OTHERS PER SEPARATE PERMIT)

- # DESCRIPTION**
- SEAWALL PER PLANS PREPARED BY OTHERS PER SEPARATE PERMIT
 - EXISTING RETAINING WALL TO REMAIN
 - FOUNDATION BY OTHERS PER SEPARATE PERMIT
 - SLOT DRAIN
 - BIOFILTRATION DEVICE DESIGNED TO TREAT 1.5 TIMES THE SWOOW SUSPENDED FROM STRUCTURE PER DETAIL HEREON OR ENGINEER APPROVED EQUIVALENT
 - 2 X 2 CATCH BASIN TO ACT AS OVERFLOW CATCH BASIN
 - CONNECT STORMWATER PIPE TO EXISTING STORMWATER OUTLET PIPE.
 - WASTEWATER APPURTENANCE (BY OTHERS PER SEPARATE PERMIT)



STORMWATER NOTES:

ALL ROOF DOWNSPOUTS SHALL BE DIRECTLY ROUTED TO A NON-ERODIBLE SURFACE, DOWNSPOUT DISSIPATION STRUCTURE, THE CLOSEST CATCH BASIN OR DRAINAGE SWALE.

ALL STORMWATER APPURTENANCES SHALL BE MONITORED BEFORE, DURING AND AFTER EVERY STORM TO ENSURE THERE ARE NO BLOCKAGES OF THE STORMWATER CONVEYANCE SYSTEM.

SYSTEM COMPONENTS AND APPURTENANCES (INCLUDING CLEAN-OUTS) SHALL BE INSTALLED IN ACCORDANCE WITH THE MOST RECENT APPLICABLE PLUMBING CODE.

RETAINING WALL NOTES:

SITE RETAINING WALLS AND/OR FOUNDATION WALLS ARE BY OTHERS PER SEPARATE PERMIT.

SUBDRAINS BEHIND ALL WALLS SHALL BE INSTALLED PER THE STRUCTURAL PLAN AND GEOTECHNICAL RECOMMENDATIONS.

ALL WALLS WITH A DROP OFF GREATER THAN 30" (OR THE HEIGHT DETERMINED BY THE LOCAL AUTHORITY HAVING JURISDICTION, WHICHEVER IS LESS) SHALL HAVE A RAILING INSTALLED PER THE STRUCTURAL OR ARCHITECT'S PLANS.

SOILS ENGINEER NOTES:

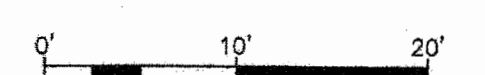
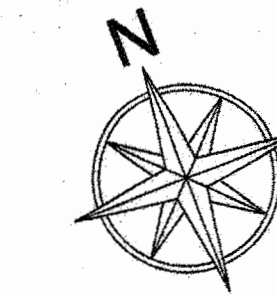
PRIOR TO FINAL APPROVAL OF THE PROJECT, AN AS-BUILT COMPACTION REPORT PREPARED BY THE PROJECT GEOTECHNICAL CONSULTANT MUST BE SUBMITTED TO THE CITY FOR REVIEW. THE REPORT MUST INCLUDE THE RESULTS OF ALL DENSITY TESTS AS WELL AS A MAP DEPICTING THE LIMITS OF FILL, LOCATIONS OF DENSITY TESTS, AND LOCATIONS AND ELEVATIONS OF ALL REMOVAL BOTTOMS, LOCATIONS AND ELEVATIONS OF ALL KEYWAYS AND BACK DRAINS, AND LOCATIONS AND ELEVATIONS OF ALL RETAINING WALL BACK DRAINS AND OUTLETS. GEOLOGIC CONDITIONS EXPOSED DURING GRADING MUST BE DEPICTED ON AN AS-BUILT GEOLOGIC MAP.

THIS IS NOT AN EXHAUSTIVE LIST OF RECOMMENDATIONS FROM THE SOILS ENGINEER. THE ENTIRE SOILS REPORT SHALL BE REVIEWED BY ALL PARTIES INVOLVED WITH THE GRADING ACTIVITIES, AND ALL RECOMMENDATIONS MADE IN THE SOILS REPORT SHALL BE CONSIDERED PART OF THE GRADING AND DRAINAGE PLAN.

GENERAL NOTES:

ALL RETAINING WALLS, BASEMENT WALLS, SHORING DESIGN, WATERPROOFING DESIGN AND ALL OTHER DESIGN NOT SPECIFICALLY CALLED OUT ON THIS PLAN ARE BY OTHERS PER SEPARATE PERMIT.

EXPORTED SOIL FROM THE SITE SHALL BE TAKEN TO THE COUNTY LANDFILL OR TO A SITE WITH AN ACTIVE GRADING PERMIT AND THE ABILITY TO ACCEPT THE MATERIAL IN COMPLIANCE WITH THE CITY'S LOCAL IMPLEMENTATION PLAN (LIP), SECTION 8.3.

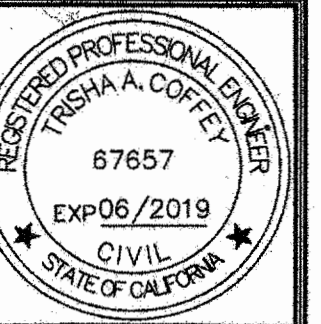


REVISIONS:

REV	BY	DATE	DESCRIPTION
1	TJM	2017-10-24	UPDATE SITE PLAN, CASSION LOCATIONS, AND RETAINING WALL RETURN WALL, ETC.
2	TJM	2017-12-20	UPDATE SEAWALL TOW FROM 17 TO 18, UPDATE FEMA ZONE TO THE FUTURE PRELIMINARY FEMA ZONE

AHSIRT ENGINEERING INC.
380 MILLER WAY
ARKATOWN GRANDE, CA 93420
PH: 562-474-7685

GRADING AND DRAINAGE PLAN
FOR APPROVAL ONLY - NOT FOR CONSTRUCTION
18868 PACIFIC COAST HIGHWAY
MALIBU, CA



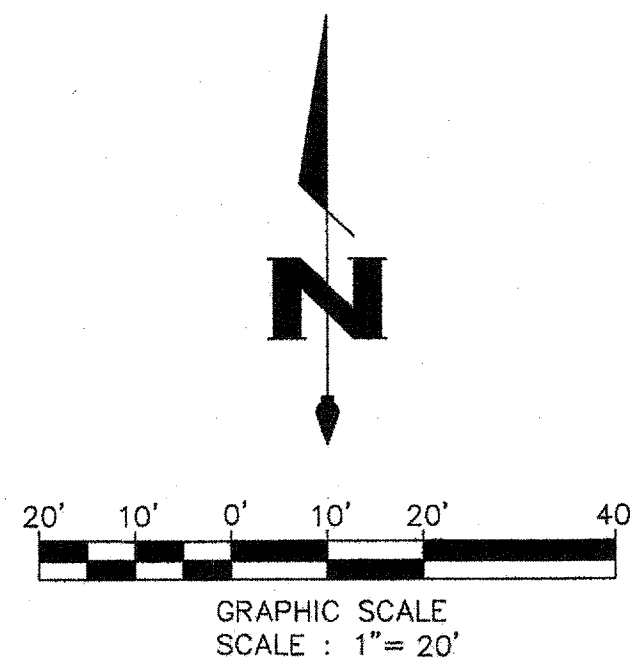
JOB #: 159-16



















DATE: AUGUST 2017

DRAWN BY: TJM

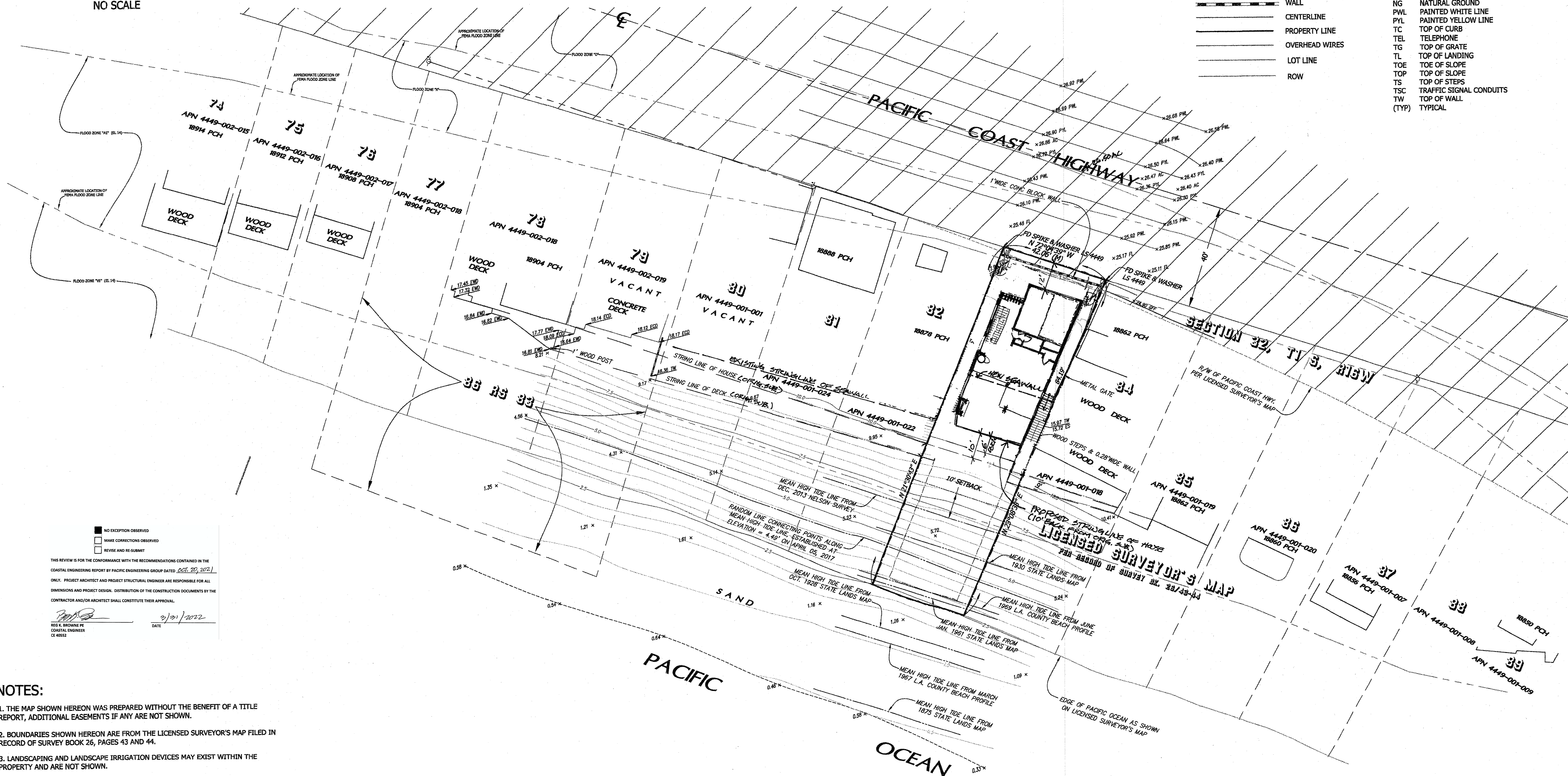
CHECKED BY: TAC

SHEET NUMBER: G2 OF 2
6-10-21



- | | |
|---|---------------------|
|  | CLEAN OUT |
|  | DRAIN GRATE |
|  | FIRE HYDRANT |
|  | GUARD POST |
|  | POWER POLE |
|  | SIGN |
|  | ELECTRICAL PULL BOX |
|  | WATER METER |
|  | CHAINLINK FENCE |
|  | CHAINLINK FENCE |
|  | METAL FENCE |
|  | WOOD FENCE |
|  | WALL |
|  | CENTERLINE |
|  | PROPERTY LINE |
|  | OVERHEAD WIRES |
|  | LOT LINE |
|  | ROW |

AC	ASPHALT CONCRETE
BLDG	BUILDING
BS	BOTTOM OF STEPS
CL	CENTER LINE
CONC	CONCRETE
CS	EDGE OF CONCRETE
EDC	EDGE OF CONCRETE DECK
EWD	EDGE OF WOOD DECK
EWL	EDGE OF WOOD LANDING
ES	EDGE OF STEPS
FF	FINISH FLOOR
FL	FLOW LINE
FS	FINISH SURFACE
INT	INTERSECTION
NG	NATURAL GROUND
PWL	PAINTED WHITE LINE
PYL	PAINTED YELLOW LINE
TC	TOP OF CURB
TEL	TELEPHONE
TG	TOP OF GRATE
TL	TOP OF LANDING
TOE	TOE OF SLOPE
TOP	TOP OF SLOPE
TS	TOP OF STEPS
TSC	TRAFFIC SIGNAL CONDUITS
TW	TOP OF WALL
(TYP)	TYPICAL



- ☒ NO EXCEPTION OBSERVED
 - ☐ MAKE CORRECTIONS OBSERVED
 - ☐ REVISE AND RE-SUBMIT

THIS REVIEW IS FOR THE CONFORMANCE WITH THE RECOMMENDATIONS CONTAINED IN THE COASTAL ENGINEERING REPORT BY PACIFIC ENGINEERING GROUP DATED OCT. 20, 2002 ONLY. PROJECT ARCHITECT AND PROJECT STRUCTURAL ENGINEER ARE RESPONSIBLE FOR ALL DIMENSIONS AND PROJECT DESIGN. DISTRIBUTION OF THE CONSTRUCTION DOCUMENTS BY THE CONTRACTOR AND/OR ARCHITECT SHALL CONSTITUTE THEIR APPROVAL.


 REG K. BROWNE PE
 COASTAL ENGINEER
 CE 40552

3/31/2022
 DATE

1. THE MAP SHOWN HEREON WAS PREPARED WITHOUT THE BENEFIT OF A TITLE RECORD, ADDITIONAL EASEMENTS IF ANY ARE NOT SHOWN.
2. BOUNDARIES SHOWN HEREON ARE FROM THE LICENSED SURVEYOR'S MAP FILED IN RECORD OF SURVEY BOOK 26, PAGES 43 AND 44.
3. LANDSCAPING AND LANDSCAPE IRRIGATION DEVICES MAY EXIST WITHIN THE PROPERTY AND ARE NOT SHOWN.
4. TREELINE CANOPIES ARE PICTORIAL, AND MAY NOT REFLECT TRUE DRIPLINES.
5. IF RETAINING WALLS OR SIMILAR STRUCTURES ARE TO BE DESIGNED FROM TOPOGRAPHY SHOWN HEREON, THE ELEVATIONS OF CRITICAL POINTS CONTROLLING THE DESIGN MUST BE VERIFIED PRIOR TO ADOPTION OF FINAL DESIGN.

B.M. NO Y 12375 NAVD 1988 CITY OF LOS ANGELES DATUM

FOUND CENTER OF 3.5" DIA METAL POST UP 0.8' NEAR W'LY PROP. LINE HOUSE NO 18842
SQ. SIDE PCH 4.5' SE/O FH

ELEVATION = 30.779 FEET (ADJUSTMENT OF 2000)

THE BASIS OF BEARINGS FOR THIS SURVEY IS N. 00°34'40" E. ON THE WESTERLY LINE OF GOVERNMENT LOT 1 OF FRACTIONAL SECTION 29, TOWNSHIP 1 SOUTH, RANGE 16 WEST.

THIS PROPERTY LIES IN **FLOOD ZONE X** - AREAS OF 0.2% ANNUAL CHANCE FLOOD, AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS LESS THAN 1 SQUARE MILE, AND AREAS PROTECTED BY LEVEES FROM 1% ANNUAL CHANCE FLOOD; **FLOOD ZONE AE** (EL 14) - BASE FLOOD ELEVATIONS DETERMINED; AND **FLOOD ZONE VE** (EL 14) - COASTAL FLOOD ZONES WITH VELOCITY HAZARD (WAVE ACTION), BASE FLOOD ELEVATIONS DETERMINED, PER FIRM COMMUNITY PANEL NO. 06037C1562F, DATED SEPT. 26, 2008.

REVISION NOTES		
DATE	DESCRIPTION	BY
03/17	ADDED STRING LINES	CDN
04/17	REVISED SURVEY PER FIELD SURVEY DATED 04-05-17	SDW
04/20	REVISED SURVEY PER CLIENT'S MARKUP	SDW
05/02/17	REVISED SURVEY TO ADD FLOOD ZONES	TMH
10/09/17	REVISED SURVEY TO ADD HISTORICAL MHILLS	TMH

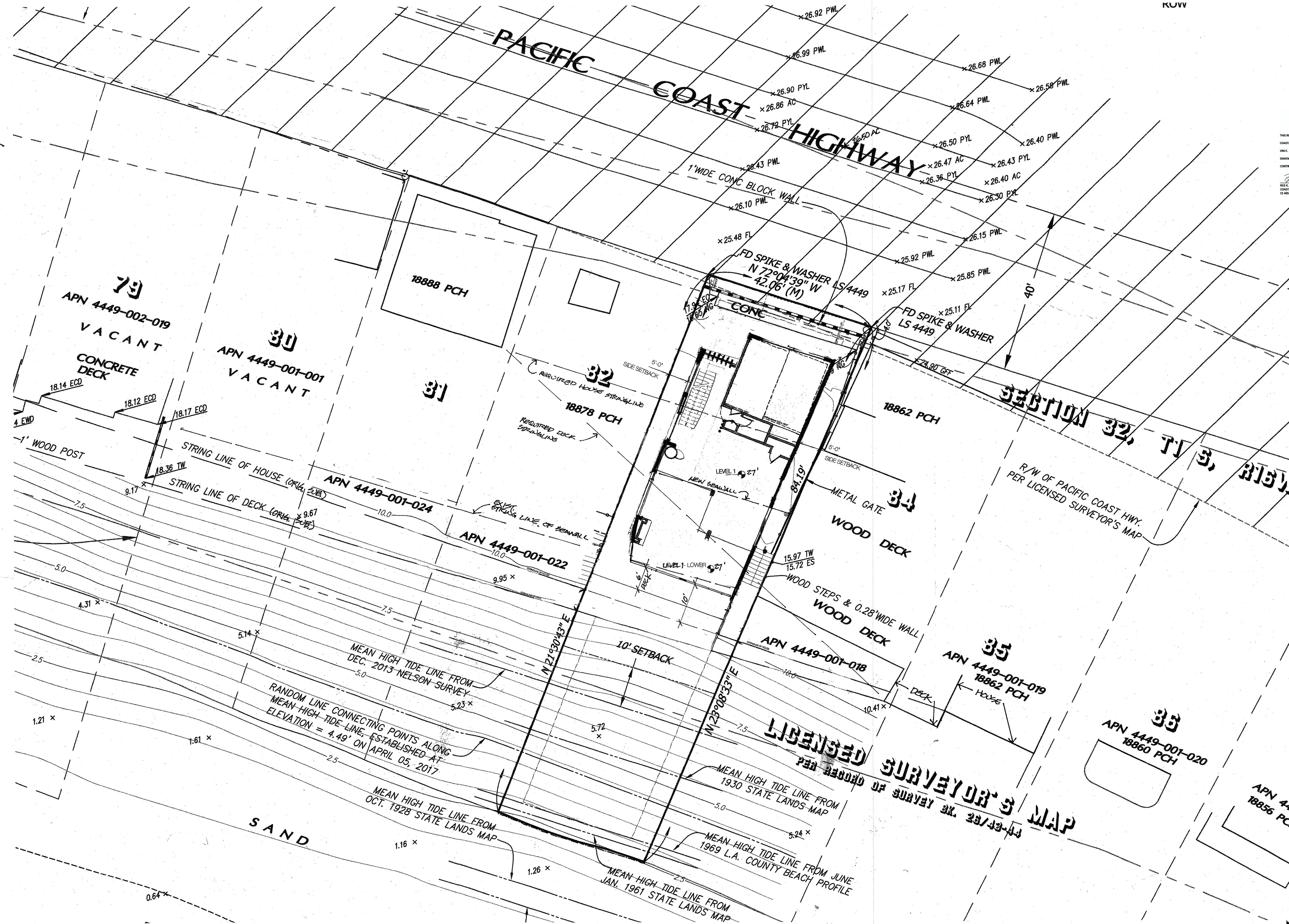
NO EXCEPTION OBSERVED
MAKE CORRECTIONS OBSERVED
REVISE AND RE-SUBMIT

THIS REVIEW IS FOR THE CONFORMANCE WITH THE RECOMMENDATIONS CONTAINED IN THE COASTAL ENGINEERING REPORT BY PACIFIC ENGINEERING GROUP DATED OCT. 20, 2021 ONLY. PROJECT ARCHITECT AND PROJECT STRUCTURAL ENGINEER ARE RESPONSIBLE FOR ALL DIMENSIONS AND PROJECT DESIGN. DISTRIBUTION OF THE CONSTRUCTION DOCUMENTS BY THE CONTRACTOR AND/OR ARCHITECT SHALL CONSTITUTE THEIR APPROVAL.

WILLIAM G. GNIADEK
REGISTERED PROFESSIONAL CIVIL ENGINEER
CE 48852

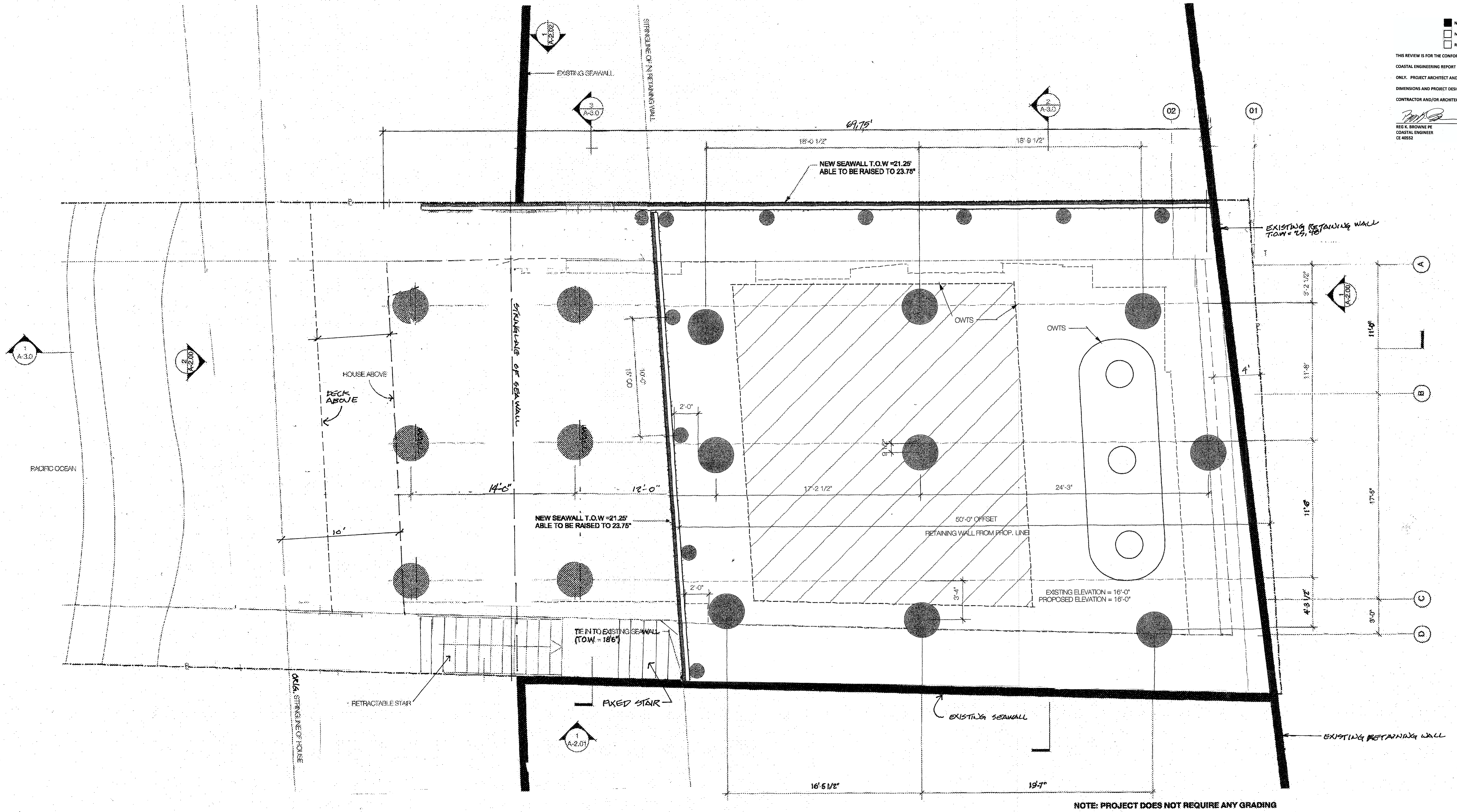
2/21/2022
DATE

18868 PCH
Malibu CA



☒ NO EXCEPTION OBSERVED
☐ MAKE CORRECTIONS OBSERVED
☐ REVISE AND RE-SUBMIT
 THIS REVIEW IS FOR THE CONFORMANCE WITH THE RECOMMENDATIONS CONTAINED IN THE
 COASTAL ENGINEERING REPORT BY PACIFIC ENGINEERING GROUP DATED 06/20/2021
 ONLY. PROJECT ARCHITECT AND PROJECT STRUCTURAL ENGINEER ARE RESPONSIBLE FOR ALL
 DIMENSIONS AND PROJECT DESIGN. DISTRIBUTION OF THE CONSTRUCTION DOCUMENTS BY THE
 CONTRACTOR AND/OR ARCHITECT SHALL CONSTITUTE THEIR APPROVAL.
 REG. K. BROWNE PE
 COASTAL ENGINEER
 CE 40552
 DATE 2/21/2022

18868 PCH
Malibu CA



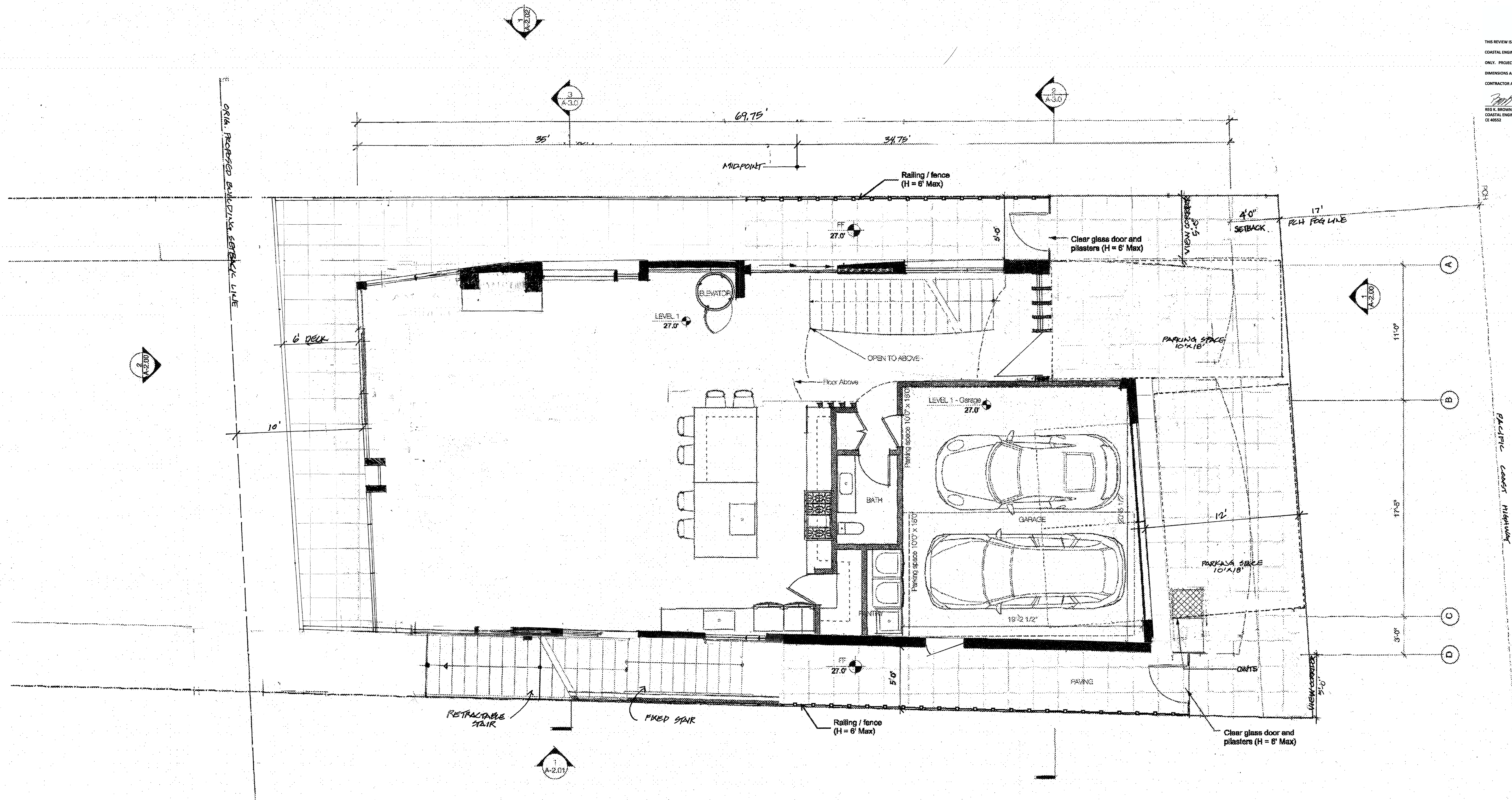
FOUNDATION PLAN
 Scale: 1/4" = 1'-0"
 1

- NO EXCEPTION OBSERVED
- MAKE CORRECTIONS OBSERVED
- REVISE AND RE-SUBMIT

THIS REVIEW IS FOR THE CONFORMANCE WITH THE RECOMMENDATIONS CONTAINED IN THE COASTAL ENGINEERING REPORT BY PACIFIC ENGINEERING GROUP DATED OCT. 20, 2021. ONLY. PROJECT ARCHITECT AND PROJECT STRUCTURAL ENGINEER ARE RESPONSIBLE FOR ALL DIMENSIONS AND PROJECT DESIGN. DISTRIBUTION OF THE CONSTRUCTION DOCUMENTS BY THE CONTRACTOR AND/OR ARCHITECT SHALL CONSTITUTE THEIR APPROVAL.

RES. K. BROWNE PE
COASTAL ENGINEER
CE 40552
DATE 2/21/2022

18868 PCH
Malibu CA



NOTE: THERE IS NO LANDSCAPING IN THE PROJECT

FIRST FLOOR PLAN
Scale: 1/4" = 1'-0"

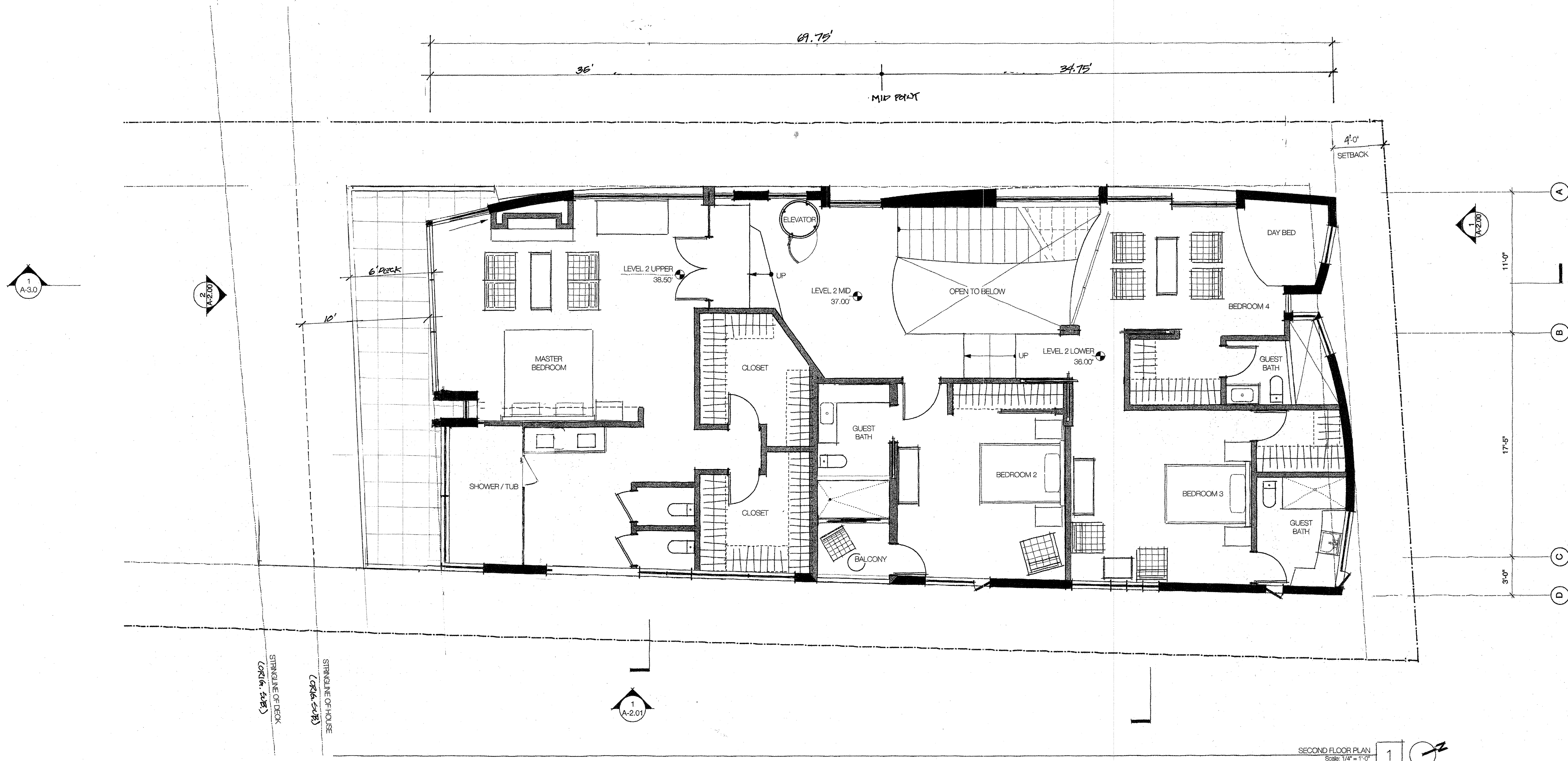
1

6-10-21

Floor Plans 1

A-1.10

18868 PCH
Malibu CA



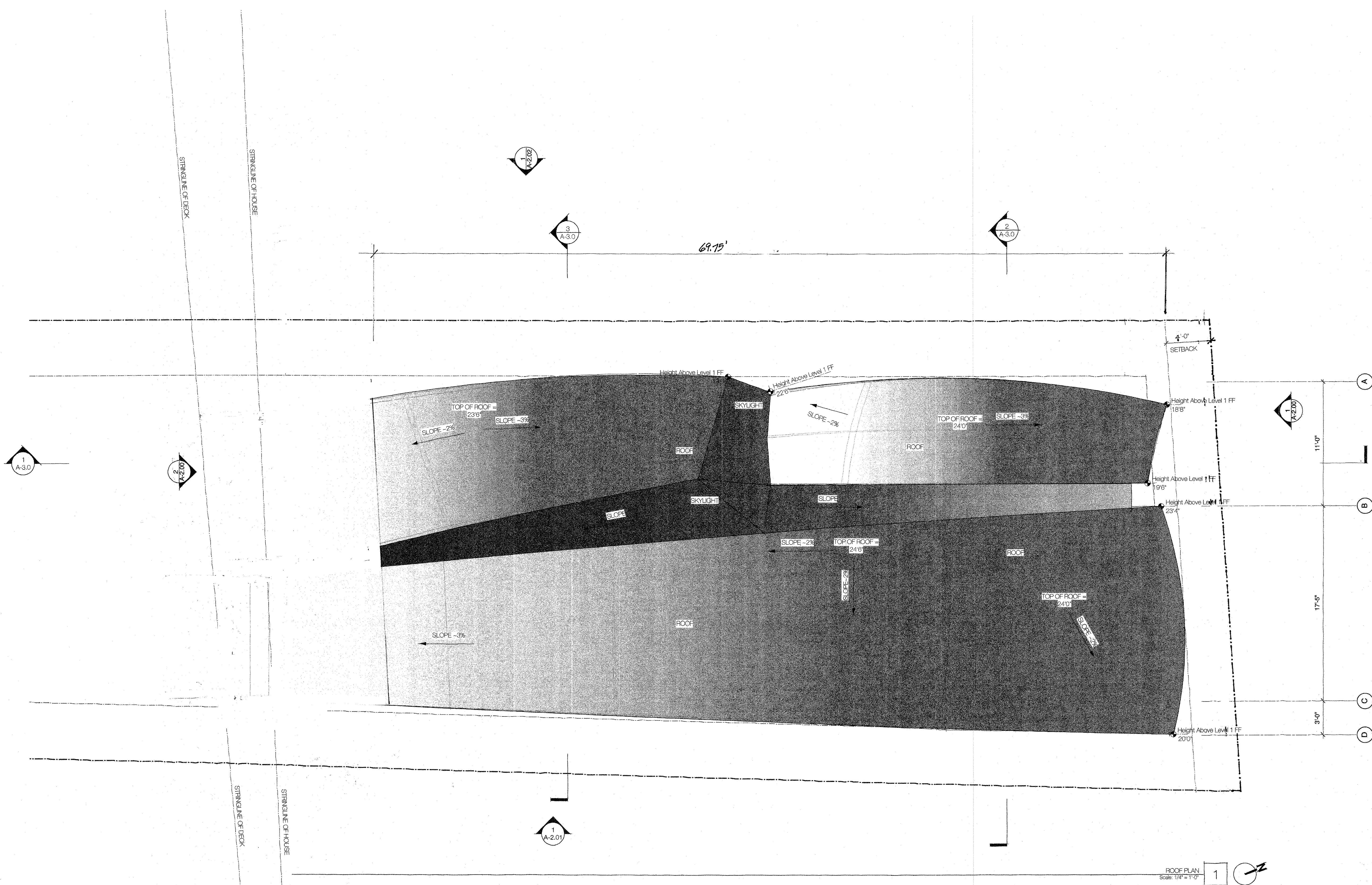
SECOND FLOOR PLAN
Scale: 1/4" = 1'-0"

1

6-10-21

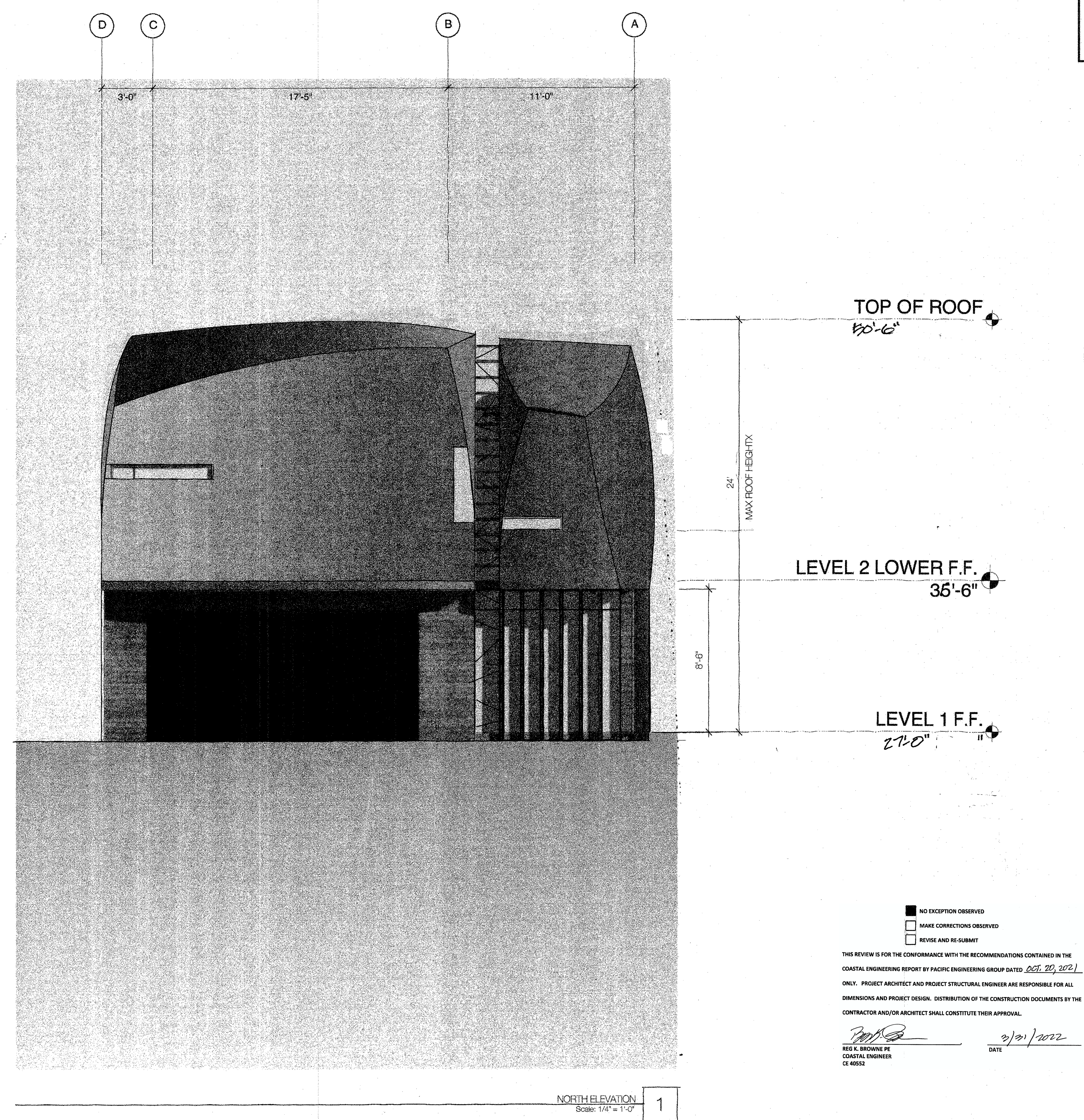
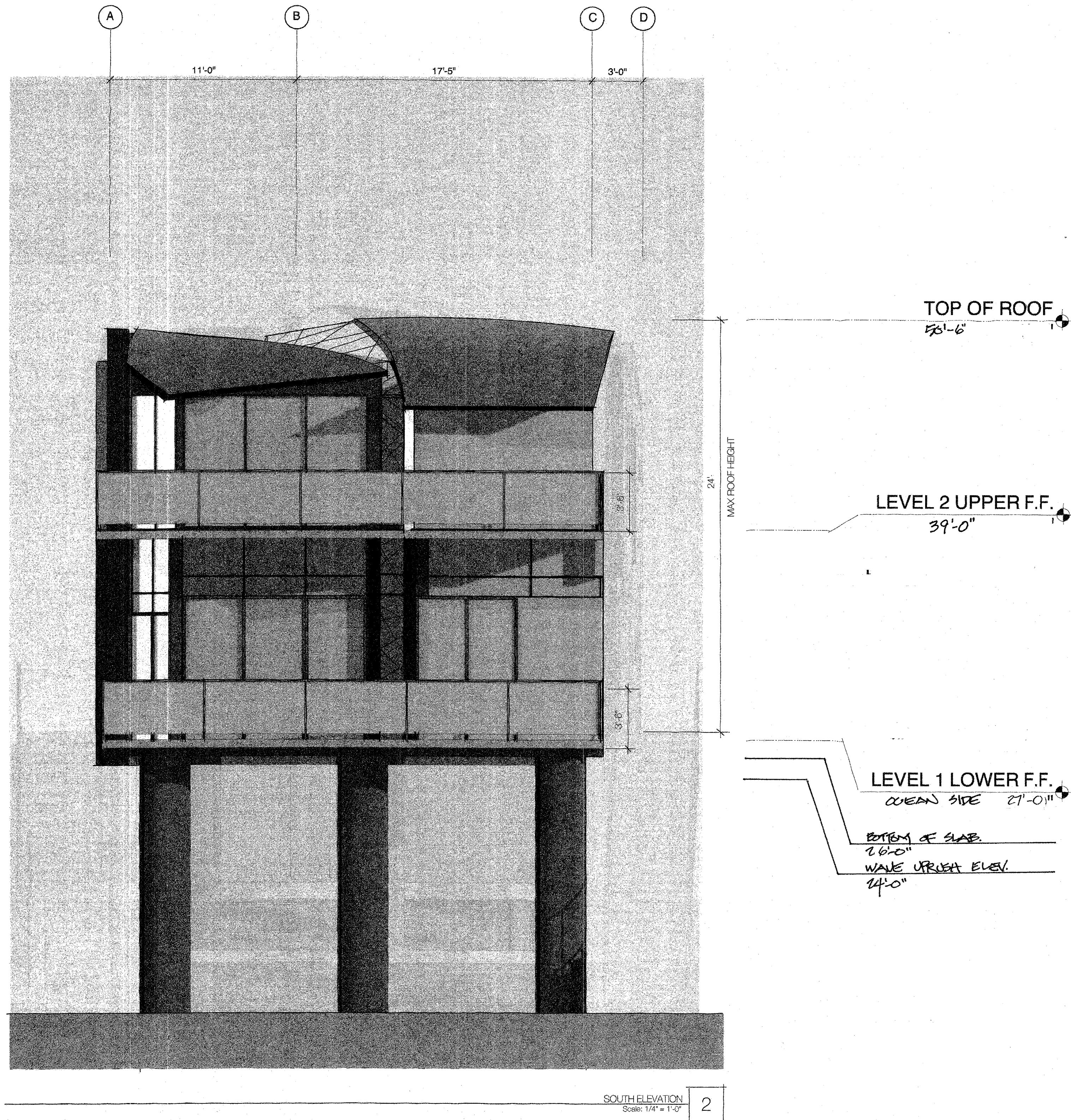
Floor Plans 2

A-1.20

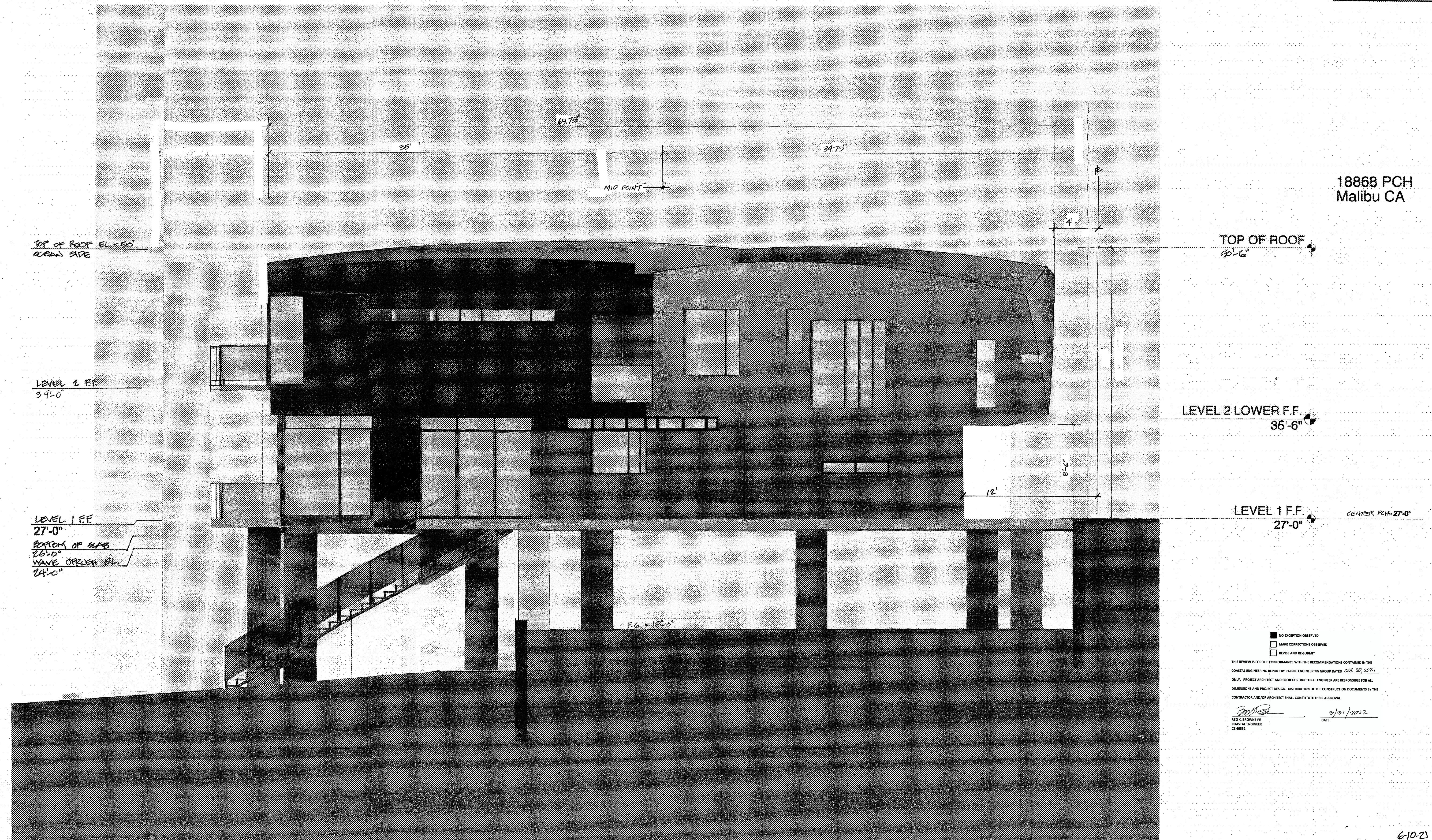


ROOF PLAN
Scale: 1/4" = 1'-0"

1



18868 PCH
Malibu CA



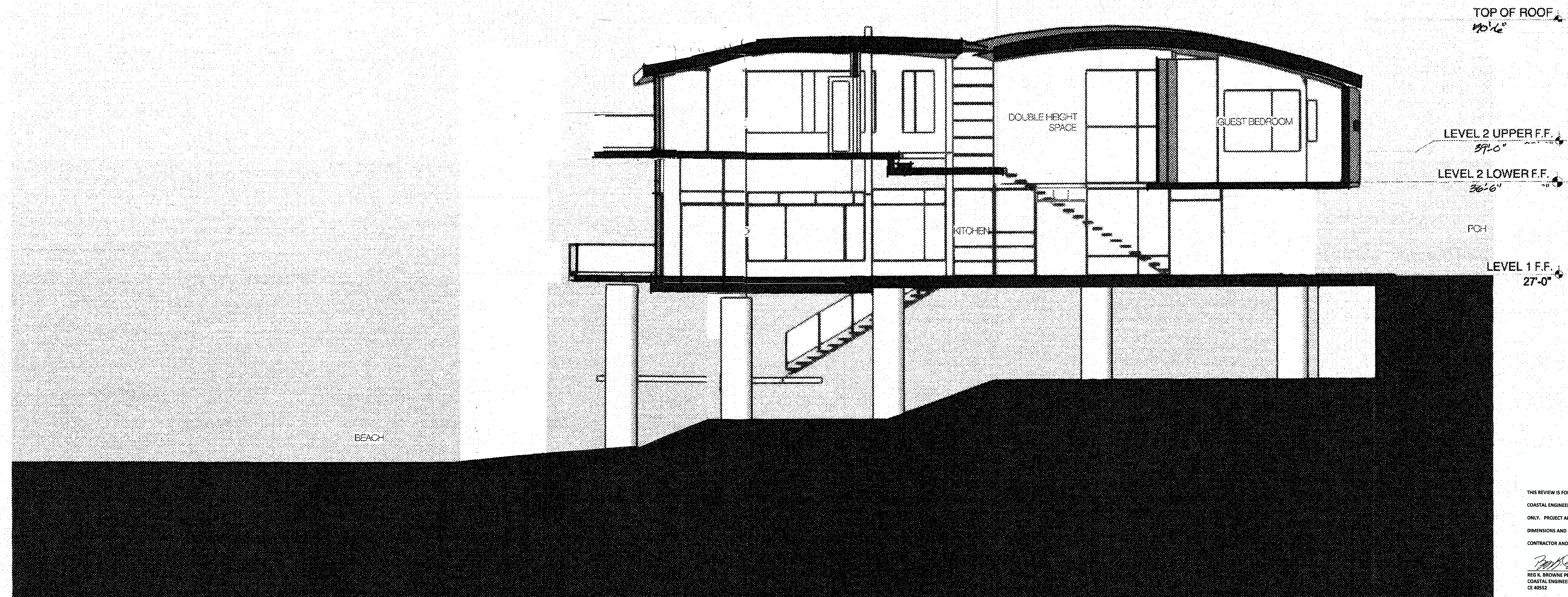
EAST - 1/4" = 1'-0"

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

1

Elevations

A-2.01



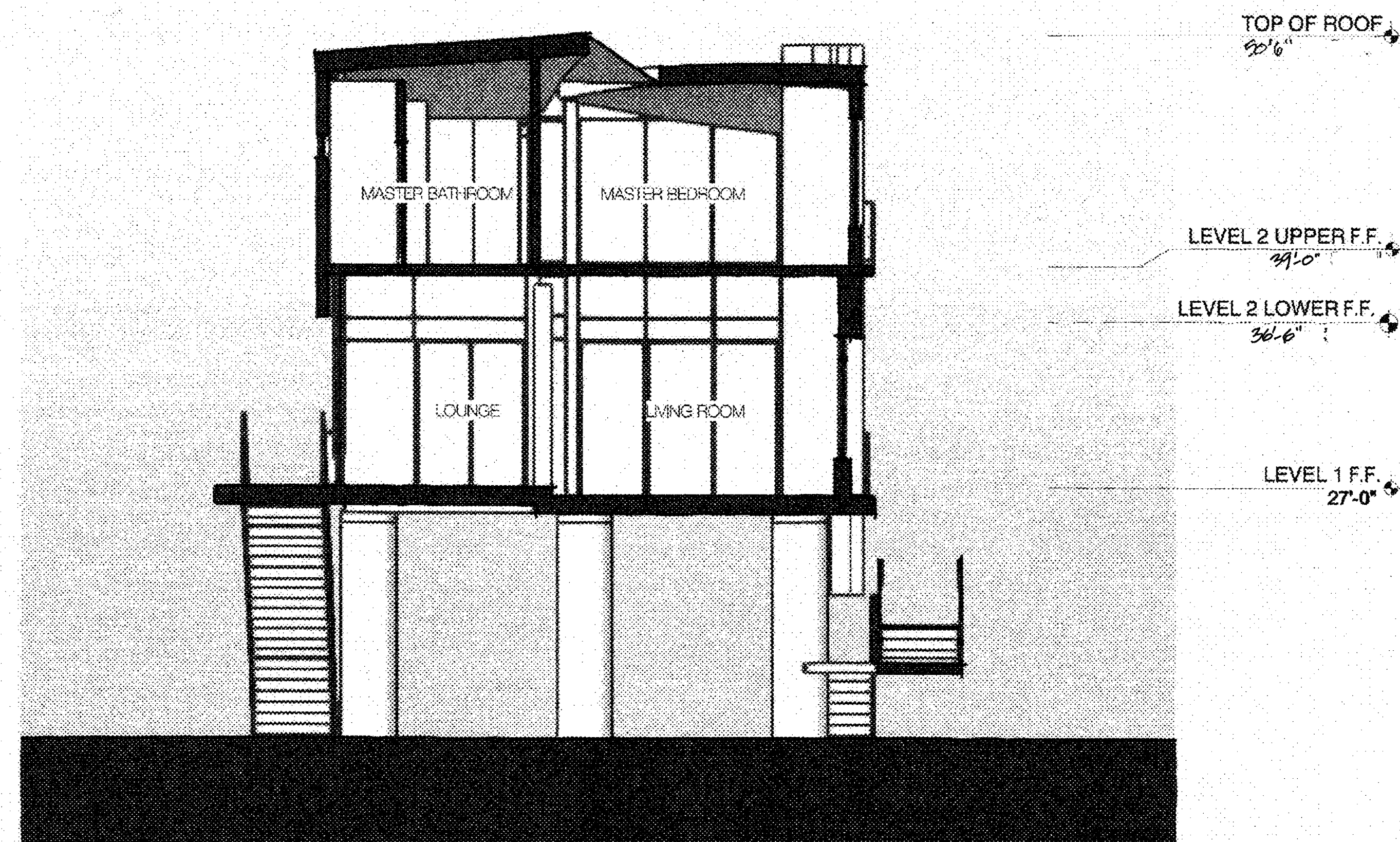
SECTION LONGITUDINAL
Scale: 3/16" = 1'-0"

1

- ☒ NO EXCEPTION OBSERVED
- ☐ MAKE CORRECTIONS OBSERVED
- ☐ REVISE AND RE-SUBMIT

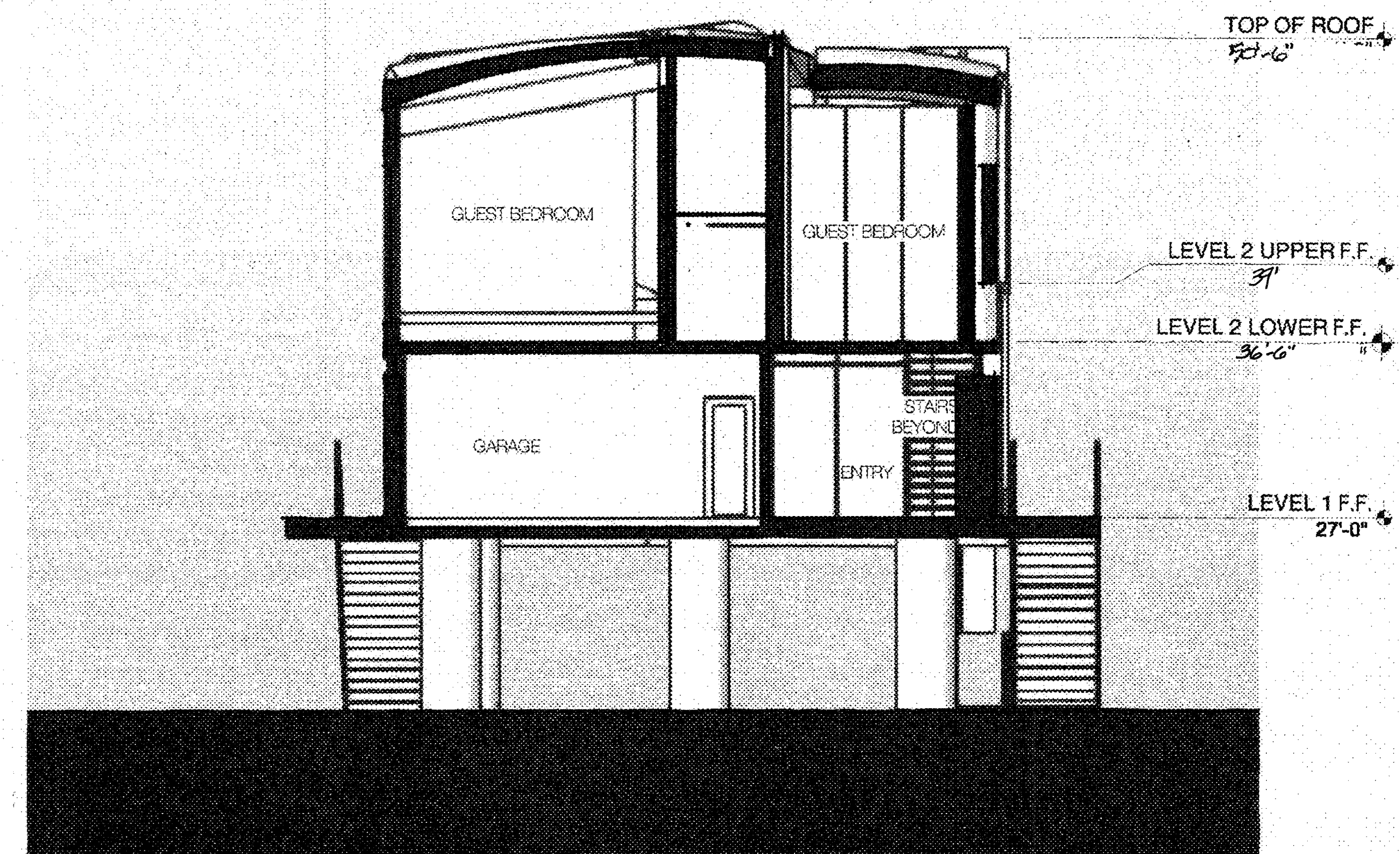
THIS REVIEW IS FOR THE CONFORMANCE WITH THE RECOMMENDATIONS CONTAINED IN THE COASTAL ENGINEERING REPORT BY PACIFIC ENGINEERING GROUP DATED OCT. 20, 2021. ONLY. PROJECT ARCHITECT AND PROJECT STRUCTURAL ENGINEER ARE RESPONSIBLE FOR ALL DIMENSIONS AND PROJECT DESIGN. DISTRIBUTION OF THE CONSTRUCTION DOCUMENTS BY THE CONTRACTOR AND/OR ARCHITECT SHALL CONSTITUTE THEIR APPROVAL.

REG. K. BROWNE PE
COASTAL ENGINEER
CE 40552
DATE: 2/21/2022



SECTION
Scale: 3/16" = 1'-0"

3



SECTION
Scale: 3/16" = 1'-0"

2

6-10-21

Sections

A-3.0



Commission Agenda Report

Planning Commission
Meeting
07-19-21

Item 4.A.

To: Chair Jennings and Members of the Planning Commission

Prepared by: Lilly Rudolph, Contract Planner

Approved by: Richard Mollica, Planning Director

Date prepared: July 8, 2021 Meeting date: July 19, 2021

Subject: Coastal Development Permit No. 17-075, Variance Nos. 17-024, 18-022 and 20-042, and Offer-to-Dedicate No. 20-002 – An application for a new two-story single-family residence with attached two-car garage and associated development (Continued from June 21, 2021)

Location: 18868 Pacific Coast Highway, within the appealable coastal zone

APN: 4449-001-023

Owner: Farshid Etaat

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 21-11 (Attachment 1) determining the project is categorically exempt from the California Environmental Quality Act (CEQA), and approving Coastal Development Permit (CDP) No. 17-075 for the construction of a new 3,778 square foot, two-story, single-family beachfront residence with attached garage, decks, retractable beach stairs, onsite wastewater treatment system (OWTS), grading, retaining walls, hardscape, and seawall; including Variance (VAR) No. 17-024 for the single-family residence to extend seaward of the building stringline, VAR No. 18-022 for the first and second floor decks to extend seaward of the deck stringline, and VAR No. 20-042 for a greater than 50 percent reduction of the front yard setback, and Offer-to-Dedicate (OTD) No. 21-002 for a lateral access easement across the property located in the Single-Family Medium Density (SFM) zoning district at 18868 Pacific Coast Highway (PCH) (Etaat).

DISCUSSION: This item was originally scheduled to be considered at the February 16, 2021 Planning Commission meeting. At the applicant's request, the item was continued to March 1, 2021 and a second time to March 15, 2021 to allow the applicant time to review public correspondence.

On March 15, 2021, the Planning Commission held a public hearing and after discussing the item, directed the applicant to reinstall the story poles for inspection by the Planning Commission, staff, and members of the public, and continued the hearing on the item to

April 19, 2021.¹ In addition, on March 15, 2021, the applicant confirmed that the proposed project would include an OTD for lateral access along the shoreline. Story poles were reinstalled in March 2021 (Attachment 3 – Story Pole Photographs), and the story pole inspection by staff took place on March 26, 2021.

On April 19, 2021, the Planning Commission recommended that the applicant redesign the project and reduce the seaward extent of the proposed building stringline by 10 feet and increase the front yard setback for the first-floor from the proposed 10 feet to the required 12 feet. The applicant agreed to redesign the project, and the Planning Commission continued the public hearing to June 21, 2021.

The applicant submitted revised plans on June 1, 2021. To allow adequate time for staff to review the revised plans for presentation to the Planning Commission, the item was continued to the July 19, 2021 Planning Commission meeting.

In July 2021, new story poles representing the revised location and height of the proposed residence were installed (Attachment 3 – Story Pole Photographs). Staff conducted an inspection of the story poles on July 2, 2021. Staff visually assessed whether the proposed residence would affect public views from scenic viewing areas. Based on the project plans, which depict view corridors along both side property lines, and staff's site visit, it was determined that the proposed improvements would result in a residence that would be similar to other existing two-story residences on PCH.

This agenda report provides a project overview, summary of surrounding land uses and project setting, the specific project scope of work, analysis of the project's consistency with applicable Malibu Local Coastal Program (LCP) and Malibu Municipal Code (MMC) provisions, and environmental review pursuant to CEQA. The analysis and findings contained herein demonstrate the project is consistent with the LCP and MMC.

Project Overview

Revised Project Stringline: The proposed project involves VAR Nos. 17-024 and 18-022 for construction of the residence and decks to extend seaward of their corresponding stringlines.

As shown in Figure 1 below, the previously proposed building stringline (identified in red) and the proposed deck stringline (identified in purple) are based on non-adjacent upcoast and downcoast properties; and the revised proposed building stringline (identified in blue) is set back 10 feet further landward than the previously proposed building stringline.

¹ Story poles representing the location and height of the proposed residence were initially installed in January 2021, and inspected by staff on January 8, 2021.

Proposed Building Stringline:

- The dashed green line identifies the required building stringline, which is established by drawing a line from the nearest adjacent corner of the two existing buildings located on either side of the subject site: the upcoast property at 18888 PCH, and the downcoast property at 18862 PCH (APN 4449-011-018).²
- The solid red line identifies the previously proposed building stringline, which is approximately 50 feet, 6 inches seaward of the required stringline and proposes to utilize the existing buildings on non-adjacent properties located on either side of the subject site: the upcoast property at 18904 PCH³ and the downcoast property at 18862 PCH (APN 4449-001-019)⁴.
- The solid blue line identifies the revised proposed building stringline, which has been shifted 10 feet landward from the originally proposed building stringline.

² The immediately adjacent upcoast property located at 18878 PCH does not contain a building for the purposes of determining the building stringline, so the next developed adjacent property is utilized for the stringline.

³ The upcoast stringline reference point utilizes a corner of an enclosed sun deck, according to floor plans on file. The enclosed sunroom appears to have been constructed in the 1970's based on historic photo evidence and the permitting history for the building.

⁴ The two properties to the east (downcoast) of the subject property are both assigned the same street address of 18862 PCH. So, the APNs have been included to distinguish between the two properties.

Proposed Deck Stringline:

- The dashed tan line identifies the required deck stringline based, which is established by drawing a line from the nearest adjacent corner of the two existing decks located on either side of the subject site: the upcoast property at 18888 PCH, and the downcoast property at 18862 PCH (APN 4449-011-018).
- The solid purple line identifies the proposed deck stringline, which is located approximately 33 feet, 8 inches seaward of the required stringline and utilizes a partial deck on the adjacent upcoast property at 18878 PCH and the same downcoast property as the proposed building stringline at 18862 PCH (APN 4449-001-019).

Revised Front Yard Setback: The proposed project also involves VAR No. 20-042 for a greater than 50 percent reduction of the front yard setback. In accordance with LIP Section 3.6(G)(1), the front yard setback for beachfront homes is required to be 20 feet maximum or the average of the two immediate neighbors, whichever is less.

As shown on Figure 2, the existing front yard setback for the easterly neighboring property at 18862 PCH is 4 feet. The westerly neighboring property at 18878 PCH is not developed, so the default front yard setback of 20 feet applies. Therefore, a front yard setback of 12 feet is required for the subject property, which is the average of the front yard setbacks at the immediate neighboring properties.

- The dashed green line identifies the required 12-foot front yard setback. The first floor footprint has been revised to increase the front yard setback from the previously proposed 10 feet to the required 12 feet.
- The proposed front yard setback for the second floor remains unchanged and is four feet from the front property line.

The aerial map displays several setback requirements for a proposed building. Key features include:

- Proposed 4' 2nd story setback**: Indicated by an orange dashed line and label.
- 20' Default Setback**: Indicated by a blue dashed line and label.
- 4' Existing Setback**: Indicated by a blue dashed line and label.
- Required 12' setback And proposed 1st story setback**: Indicated by a green dashed line and label.

Other visible details on the map include "WOOD POCKLE", "REQUIRED DECK STRUTTING", "GATE", and various street names like "WIDE CIRC WALL".

The approximate 5,721 square foot vacant beachfront parcel is zoned SFM for residential use and is located on the south side of PCH (See Figure 3).

An aerial photograph of a coastal area. A red dot is placed on a property, which is outlined in green. The property is situated between a road with parked cars and a body of water. Other properties are visible to the left and right, some with swimming pools. A red line runs along the shoreline in the foreground.

Page 5 of 30

67

The subject property and the adjacent property at 18878 PCH, are surrounded by a fence. Overhangs and a storage structure have been constructed along both front property lines. A retaining wall located approximately 20 feet seaward of PCH and a concrete and rock revetment located approximately 70 to 85 feet seaward of PCH are also on the subject property. The revetment is a portion of a contiguous revetment fronting the subject property and the two adjacent properties to the west.

Project Description

The proposed project includes the construction of a new single-family residence. As a result of the reduction of the building footprint by shifting the building stringline landward 10 feet, and increasing the front yard setback of the first-floor by 2 feet, the proposed square footage has been reduced from 3,837 square feet to 3,778 square feet, and the length of the structure has been reduced from 76.75 to 66.75 feet. The revised project also complies with building height requirements as the proposed flat roof would not exceed 24 feet in height as measured from the centerline elevation of PCH for the street-side half and the lowest recommended finished floor elevation on the ocean-side.

The revised project is comprised of two stories with a 1,969 square foot first floor, of which approximately 375 square feet is a garage, and an 1,809 square foot second floor.⁵ Beneath the residence, the foundation would consist of piles with retaining walls, a new OWTS and seawall. A retractable stairway from the deck is proposed landward of the deck stringline to provide access to the beach. The seawall would be sited as far landward as feasible and would not extend seaward of the shoreline protection device stringline.

The proposed scope of work is as follows:

- a. 3,778 square foot, two-story single-family residence, including a 375 square foot attached two-car garage;
- b. Upper floor and lower floor decks and hardscape;
- c. Retractable beach stairs;
- d. New seawall;
- e. Grading and retaining walls;
- f. Installation of a new OWTS;
- g. 10-foot wide view corridor split to five feet on each side of the parcel;
- h. Discretionary Requests:
 - i. VAR No. 17-024 for the building to be sited seaward of the building stringline.
 - ii. VAR No. 18-022 for the first and second floor decks to extend seaward of the deck stringline.
 - iii. VAR No. 20-042 for a greater than 50 percent reduction of the front yard setback for the second floor.
 - iv. OTD No. 21-002 for a lateral access easement across the property.

⁵ 2,186 square feet of first floor area and 2,026 square feet of second floor area were previously proposed. No change to garage square footage or interior dimensions.

As part of the project, the existing revetment is being removed and a new seawall is proposed. The City Environmental Health Administrator and City Coastal Engineer have reviewed the subject application and determined that the proposed shoreline protection device is sited as far landward as possible and complies with all current beachfront development standards. The Project Coastal Engineer has calculated that site-specific wave runup will reach elevation +24.6 feet NAVD88. The City Coastal Engineer determined that the project complies with the California Coastal Commission (CCC) Sea Level Rise Policy Guidance adopted on August 12, 2015. The CCC issued a subsequent Science Update on November 7, 2018. While the lowest recommended finished floor elevation is +26 feet NAVD88, the proposed finished floor is +27 feet NAVD88. The proposed building height of 24 feet is measured from lowest recommended finished floor. The project plans are included as Attachment 2.

Questions were raised regarding potential conflicts with the proposed structure and the existing power lines. The applicant submitted exhibits (Attachment 5 Public Correspondence) that were routed to the Planning Commission demonstrating that the power lines would not conflict with the proposed structure. In agreement with the applicant, a condition of approval has also been added requiring the applicant to obtain written confirmation from Southern California Edison verifying that no impacts to existing utility lines would occur.

Surrounding Land Uses and Project Setting

The surrounding area is primarily developed with one- and two-story single-family beachfront residences and is zoned SFM. The property is an infill lot bordered to the west and east by single-family residences. Table 1 provides a summary of the neighboring surrounding land uses.

Table 1 – Surrounding Land Uses				
Direction	Address/ Parcel No.	Size	Zoning	Land Use
North	18805 PCH	15 acres	RR40	Vacant
South	Pacific Ocean			
East	18862 PCH	5,970 sq. ft.	SFM	Garage serving adjacent residence
West	18878 PCH	5227 sq. ft.	SFM	Vacant

The project site is within the Appeal Jurisdiction of the CCC as depicted on the Post-LCP Certification Permit and Appeal Jurisdiction Map. The project site is adjacent to the California Coastal Trail, a proposed trail to be located along the shoreline, according to the LCP Park Lands Map, and the applicant has voluntarily offered to dedicate a lateral access easement on the property along the shoreline. The project site is not in a designated Environmentally Sensitive Habitat Area (ESHA) or ESHA buffer as shown on the LCP ESHA and Marine Resources Map.

Table 2 provides a summary of the lot dimensions and lot area of the subject parcel.

Table 2 – Property Data	
Lot Depth	136 feet
Lot Width	42 feet
Gross Lot Area	5,721 square feet
Area Comprised of 1:1 Slopes	0 square feet
Area Comprised of Easements	0 square feet
Net Lot Area*	5,721 square feet (0.13 acre)

*Net Lot Area=Gross Lot Area minus the area of public or private future street easements and 1:1 slopes.

LCP Analysis

The LCP consists of the Land Use Plan (LUP) and the Local Implementation Plan (LIP). The LUP contains programs and policies implementing the Coastal Act in Malibu. The LIP carries out the LUPs policies and contains specific requirements to which every project requiring a coastal development permit must adhere.

There are 14 LIP chapters that potentially apply depending on the nature and location of the proposed project. Of these, five are for conformance review only and contain no findings: 1) Zoning, 2) Grading, 3) Archaeological/Cultural Resources, 4) Water Quality, and 5) Wastewater Treatment System Standards. These chapters are discussed in the *LIP Conformance Analysis* section.

The nine remaining LIP chapters do contain required findings: 1) Coastal Development Permit; 2) ESHA; 3) Native Tree Protection; 4) Scenic, Visual and Hillside Resource Protection; 5) Transfer of Development Credits; 6) Hazards; 7) Shoreline and Bluff Development; 8) Public Access; and 9) Land Division.

For the reasons described in this report, including the project site, the scope of work and substantial evidence in the record, only the following chapters and associated findings are applicable to the project: Coastal Development Permit (including the required findings for the three VARs), Scenic, Visual and Hillside Resource Protection, Hazards, and Shoreline and Bluff Development.⁶ These chapters are discussed in the *LIP Findings* section of this report.

LIP Conformance Analysis

The proposed project has been reviewed by the Planning Department, City Biologist, City Environmental Health Administrator, City Public Works Department, City geotechnical staff, Los Angeles County Waterworks District No. 29 (WD29), and the Los Angeles County Fire Department (LACFD) (Attachment 4 – Department Review Sheets). WD29 provided a Will Serve Letter to the applicant stating that WD29 can serve water to the property. The project, as proposed and conditioned, has been found to be consistent with

⁶ The ESHA, Scenic, Visual and Hillside Resource Protection, Native Tree Protection, Transfer of Development Credits, Shoreline and Bluff Development, Public Access, and Land Division findings are neither applicable nor required for the proposed project.

all applicable LCP codes, standards, and goals and policies, inclusive of the requested front and rear yard setback variances.

Zoning (LIP Chapter 3)

The project is subject to development and design standards set forth under LIP Sections 3.5 and 3.6. Table 3 provides a summary and indicates the proposed project meets those standards, inclusive of the requested stringline variances for the residence and decks and variance for front yard setback reduction.

Table 3 – Zoning Conformance			
Development Requirement	Allowed/ Required	Proposed	Comments
SETBACKS (ft.)			
<i>Front Yard (20 ft. or avg of 2 immediate neighbors⁷, whichever is less</i>	12 ft.	4 ft.	VAR No. 20-042 (2 nd floor)
Side Yard			
East	4.2 ft.	5 ft.	Complies
West	4.2 ft.	5 ft.	Complies
Rear Yard (Stringline)			
<i>Building Stringline</i>	<i>* 10 feet landward of Nearest Building Corners on Nearest Adjacent Properties</i>	<i>41 ft., 4 in. seaward of stringline</i>	VAR No. 17-024
<i>Deck Stringline</i>	<i>** Nearest Deck Corners on Nearest Adjacent Properties</i>	<i>33 ft., 8 in. seaward of stringline</i>	VAR No. 18-002
Mean High Tide Line	10 ft.	20 ft.	Complies
PARKING SPACES			
Enclosed (10 ft. x 18 ft.)	2	2	Complies
Unenclosed (10 ft. x 18 ft.)	2	2	Complies
Total Development Square Footage (TDSF) (sq. ft.)	No limit	3,778 sq. ft.	Complies
VIEW CORRIDOR	8.4 feet total	10 feet (5 feet on each side)	Complies
HEIGHT			
Ocean Side Half of Structure - measured from lowest recommended finished floor elevation (+26 ft.)	24 ft. flat roof	24 ft. flat roof	Complies

⁷ The front yard setback for the neighbor to the east is four feet and the default setback for the property to the west is 20 feet, for an average required setback of 12 feet. Therefore, the required front yard setback is 12 feet.

Table 3 – Zoning Conformance			
Development Requirement	Allowed/ Required	Proposed	Comments
Street Side Half of Structure - measured from centerline of Broad Beach Road (+27 ft.)	24 ft. flat roof	24 ft. flat roof	Complies
CONSTRUCTION ON SLOPES	3 to 1 and flatter	3 to 1 and flatter	Complies
FENCES/WALLS/HEDGES			
Retaining Walls	6 ft.	5 ft., 3 in.	Complies
Front Yard			
Impermeable	42 in.	N/A	Complies
Permeable	6 ft.	N/A	Complies
Rear & Side Yard	6 ft.	6 ft.	Complies

* For a dwelling, new construction shall not extend seaward of a stringline drawn from a point on the closest upcoast and downcoast dwelling. The stringline point shall be located on the nearest adjacent corner of the upcoast and downcoast dwelling.

** For a deck or patio, new construction shall not extend seaward of a stringline drawn from a point on the closest upcoast and downcoast deck or patio. The stringline point shall be located on the nearest adjacent corner of the upcoast and downcoast deck or patio.

As shown in Table 3, the proposed project conforms to the development standards as set forth under LIP and MMC, inclusive of the discretionary requests. The project incorporates a 10-foot wide view corridor split between both sides of the property. No fencing, walls or landscaping are proposed above road grade elevation within the view corridor; however, a condition of approval has been included that restricts development within the view corridor to be visually permeable with a maximum height of six feet pursuant to LIP Section 3.5.

The proposed development complies with all required beachfront setbacks, inclusive of the requested building, deck, and front yard setback variances. The proposed variance for the building stringline will allow the most appropriate placement of the proposed residence given the location of the nearest adjacent homes that are situated substantially landward compared to existing residences situated substantially seaward further upcoast and downcoast from the project site. The adjusted deck stringline will allow the proposed decks to be constructed consistent with the general trend of nearby development. The existing decks on the further upcoast and downcoast properties are substantially further seaward than that of the immediately adjacent properties. The proposed variance for the front yard setback would allow the second floor of the proposed residence to be compatible with the front yards of nearest residences and the general neighborhood.

Grading (LIP Chapter 8)

LIP Section 8.3, ensures that new development minimizes the visual resource impacts of grading and landform alteration by restricting the amount of non-exempt grading to a maximum of 1,000 cubic yards for a residential parcel. The total amount of grading is 120

cubic yards as provided for on the Total Grading Yardage Verification Certificate on the proposed site plan. The total amount of proposed grading is exempt understructure grading, which complies with grading requirements set forth under LIP Section 8.3.

Archaeological / Cultural Resources (LIP Chapter 11)

LIP Chapter 11 requires certain procedures be followed to determine potential impacts on archaeological resources. The City's Cultural Resources Map identifies the subject site as having a low potential to contain prehistoric or historic archaeological resources. Additionally, the proposed development is located within a previously disturbed graded pad. As a result, staff determined that any proposed improvement within the project area will have no adverse impact on known cultural resources.

Nevertheless, a condition of approval is included in the resolution which states that in the event that potentially important cultural resources are found in the course of geologic testing or during construction, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources, and until the Planning Director can review this information.

Water Quality (LIP Chapter 17)

The City Public Works Department reviewed and approved the proposed project for conformance to LIP Chapter 17 requirements for water quality protection. A standard condition of approval for this project requires that prior to the issuance of any development permit, a Local Storm Water Pollution Prevention Plan incorporating construction-phase Erosion and Sediment Control Plan and Best Management Practices, must be approved by the City Public Works Department. With the implementation of this conditions, the proposed project conforms to the water quality protection standards of LIP Chapter 17.

Wastewater Treatment System Standards (LIP Chapter 18)

LIP Chapter 18 addresses OWTS. LIP Section 18.7 includes specific siting, design, and performance requirements. The project includes an OWTS to serve the proposed development, which has been reviewed by the City Environmental Health Administrator. The system details are included in the Environmental Health approved plot plan in Attachment 4 and were found to meet the minimum requirements of the MMC and the LCP. The proposed OWTS will meet all applicable requirements and operating permits will be required. An operation and maintenance contract and recorded covenant covering such must comply with City of Malibu Environmental Health requirements. Conditions of approval have been included in this resolution, which require continued operation, maintenance, and monitoring of onsite facilities.

LIP Findings

A. Coastal Development Permit (LIP Chapter 13)

LIP Section 13.9 requires that the following four findings be made for all coastal development permits.

Finding 1. That the project as described in the application and accompanying materials, as modified by any conditions of approval, conforms with the certified City of Malibu Local Coastal Program.

The proposed project has been reviewed for conformance with the LCP by the Planning Department, City Biologist, City Coastal Engineer, City Environmental Health Administrator, City Public Works Department, City geotechnical staff, and LACFD. As discussed herein, based on submitted reports, project plans, visual analysis and site investigation, the proposed project, as conditioned, conforms to the LCP in that it meets all applicable residential development standards of the SFM residential zoning district, inclusive of the building and deck stringline variances and front yard setback variance requests.

Finding 2. If the project is located between the first public road and the sea, that the project is in conformity to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

The project is located between the first public road and the sea. However, the proposed project and related construction activities are not anticipated to interfere with the public's right to access the coast as the site offers no direct or indirect public beach access. Vertical beach access is available approximately 400 feet east of the site at Topanga Public Beach. Therefore, adequate public vertical access exists nearby.

Lateral public access exists along the State of California's "wet sand right-of-way" which allows public use of lands seaward of the mean high tide and provides public access along and parallel to the sea or shoreline. In addition, the property owner has agreed to voluntarily offer to dedicate a lateral public beach access easement across the property along the shoreline. Therefore, the project conforms to the public access and recreation policies.

Finding 3. The project is the least environmentally damaging alternative.

The following alternatives to the project were considered to determine the least environmentally damaging feasible alternative:

Elimination of front yard setback VAR – Reducing the size of the project may increase the front yard setback an additional eight feet to comply with the required 12-foot front yard setback. Reducing the size of the residence could eliminate the proposed front yard setback variance. However, this alternative is not anticipated to result in environmental

advantages as the proposed 4-foot front yard setback is in conformance with existing front yard setbacks for other non-adjacent and adjacent homes in the area that are typically 3 - 4 feet from the front property line. It is not anticipated that an alternative smaller project would offer any environmental advantages.

Elimination of VAR for building and decks – Reducing the size of the project may increase rear yard setbacks for the building and decks and/or distance of the proposed project to the building and deck stringlines. The proposed residence and first and second floor decks are consistent with all applicable development standards, with the inclusion of the proposed stringline variances for the building and decks. Reducing the size of the residence and decks could eliminate the proposed stringline variances. However, this alternative is not anticipated to result in environmental advantages as the rear of the residence and rear decks are located above ground. It is not anticipated that an alternative smaller project would offer any environmental advantages.

Proposed project – The subject parcel is surrounded by other similar beachfront development. The proposed project will not result in potentially significant impacts because the proposed project, with the inclusion of the requested stringline variances, is designed to comply with all applicable development standards such as front and side setbacks, height, hazards, and visual resources. The stringline variances would permit the home and decks to be in line with the homes and decks on properties within approximately 50 feet to the east (downcoast) and 200 feet to the west (upcoast) and do not contribute to a significant degradation of the environment. The property owner has voluntarily offered to dedicate a lateral access easement across the property's shoreline, enhancing public access on the beach. For these reasons, the proposed project is the least environmentally damaging alternative.

Finding 4. If the project is located in or adjacent to an environmentally sensitive habitat area pursuant to Chapter 4 of the Malibu LIP (ESHA Overlay), that the project conforms with the recommendations of the Environmental Review Board, or if it does not conform with the recommendations, findings explaining why it is not feasible to take the recommended action.

The subject property is not in a designated ESHA or ESHA buffer as shown on the LCP ESHA and Marine Resources Map. Therefore, Environmental Review Board review was not required, and this finding does not apply.

B. VAR No. 17-024 for the single-family residence to extend seaward of the required building stringline (LIP Section 13.26.5)

Pursuant to LIP Section 13.26.5, the Planning Commission may approve and/or modify an application for a variance in whole or in part, with or without conditions, provided that it makes ten findings of fact. The applicant is requesting VAR No. 17-024 for relief of LIP Section 10.4(G) development standards to allow a new residence approximately 41 feet seaward of the standard shoreline building stringline drawn between the nearest adjacent corners of the nearest existing upcoast home at 18888 PCH and downcoast home at

18862 PCH (see Figure 2). The proposed stringline is measured from the second downcoast property (18862 PCH) and fifth most upcoast property (18904 PCH) because the nearest adjacent property and two of the intervening upcoast properties are vacant. The requested stringline is approximately 41 feet seaward of the required stringline setback. Based on the evidence in the record, the findings in support of VAR No. 17-024 are as follows:

Finding 1. There are special circumstances or exceptional characteristics applicable to the subject property, including size, topography, location or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

The proposed adjusted building stringline will allow the most appropriate placement of the proposed residence given that the location of the nearest corners of the adjacent buildings are substantially landward of existing residences further upcoast and downcoast from the project site. Strict application of the zoning ordinance would result in an allowable development area within approximately 32 feet of PCH (in an area slightly larger than the proposed garage footprint) and would deny the applicant of stringline privileges enjoyed by other surrounding property owners, such as the residences at 18904 PCH and 18862 PCH, which have been developed with a similar building stringline as the proposed project.

Finding 2. The granting of such variance or modification will not be detrimental to the public interest, safety, health or welfare and will not be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located.

The variance would allow the proposed residence to have similar stringline privileges as residences beyond the nearest adjacent upcoast and downcoast dwellings. The project has been reviewed and approved by City geotechnical staff, the City Coastal Engineer, and City Public Works Department for consistency with all applicable regulations and policies. Therefore, the granting of the variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity in which the property is located.

Finding 3. The granting of the variance will not constitute a special privilege to the applicant or property owner.

The proposed building stringline is measured from the second nearest adjacent dwellings on both sides of the subject property and approximately 24 feet landward from the 10-foot MHTL setback. Therefore, the granting of the variance will not constitute a special privilege to the applicant or the property owner because other nearby homes have been constructed at a similar distance seaward as the subject application. The proposed residence meets all other applicable development standards, inclusive of the deck stringline variance.

Finding 4. The granting of such variance will not be contrary to or in conflict with the general purposes and intent of this chapter, nor to the goals, objectives and policies of the LCP.

As previously discussed, with the inclusion of the variance, the project is consistent with the LCP, the Coastal Act, and other applicable regulations. The granting of the variance will not be contrary to or in conflict with the general purposes and intent of LIP Chapter 13, nor the goals, objectives, and policies of the LCP. Additionally, the proposed development meets the required 10-foot setback from the MHTL by an additional 10 feet (20-foot setback from MHTL) and does not adversely impact shoreline access.

Finding 5. For variances to environmentally sensitive habitat area buffer standards or other environmentally sensitive habitat area protection standards, that there is no other feasible alternative for siting the structure and that the development does not exceed the limits on allowable development area set forth in Section 4.7 of the Malibu LIP.

The requested variance is not for an ESHA or ESHA buffer standard. Therefore, this finding does not apply.

Finding 6. For variances to stringline standards, that the project provides maximum feasible protection to public access as required by Chapter 2 of the Malibu LIP.

The proposed variance is for a deviation of building stringline standards. The project does not impede public access, and it provides a 20-foot setback from the MHTL and includes an offer to dedicate a lateral public beach access easement along the shoreline, which promotes and protects public access to the maximum extent feasible.

Finding 7. The variance request is consistent with the purpose and intent of the zone(s) in which the site is located. A variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

The variance request is for the placement of a proposed residence at a similar stringline distance as other residences in the vicinity. The variance request does not authorize a use or activity that is not expressly authorized by the zoning regulations for the subject property, which is in the SFM zone district.

Finding 8. The subject site is physically suitable for the proposed variance.

The subject site is physically suitable for the proposed variance in that there is no feasible alternate location or configuration which would provide an environmental advantage. The proposed residence location will be in line with other non-adjacent residences in the area. In addition, the proposed project has been reviewed and approved by the City Coastal Engineer, City geotechnical staff, and City Public Works Department as being physically suitable for the proposed variance.

Finding 9. The variance complies with all requirements of State and local law.

The variance complies with all requirements of state and local law. Construction of the proposed home will comply with all building code requirements and will incorporate all recommendations from applicable City and County agencies.

Finding 10. A variance shall not be granted that would allow reduction or elimination of public parking for access to the beach, public trails or parklands.

The proposed project does not include any reduction or elimination of public parking for access to the beach, public trails or parkland.

C. Variance for rear decks seaward of the required deck stringline (LIP Section 13.26.5)

Pursuant to LIP Section 13.26.5, the Planning Commission may approve and/or modify an application for a variance in whole or in part, with or without conditions, provided that it makes ten findings of fact. The applicant is requesting a variance for relief of LIP Section 10.4(G) development standards to allow the proposed first and second story decks associated with the proposed residence to be approximately 34 feet seaward of the standard shoreline deck stringline as drawn between the nearest adjacent corners of the existing upcoast deck at 18878 PCH and downcoast deck at 18862 PCH (APN 4449-001-018) (see Figure 2 above). The proposed stringline is measured from the second downcoast property and fifth upcoast property since two of the intervening properties are vacant. The requested deck stringline is approximately 34 feet seaward of the required deck stringline setback. Based on the evidence in the record, the findings in support of VAR No. 17-024 are made as follows:

Finding 1. There are special circumstances or exceptional characteristics applicable to the subject property, including size, topography, location or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

The proposed adjusted deck stringline will allow the most appropriate placement of the proposed decks given that the locations of the nearest adjacent decks are substantially closer to PCH when compared to existing residences further upcoast and downcoast from the project site. Strict application of the zoning ordinance would result in a deck stringline that is landward of the proposed building stringline and would deny the applicant of stringline privileges enjoyed by other surrounding property owners beyond the immediately adjacent decks, such as those at 18904 PCH upcoast of the proposed project site and 18862 PCH (APN 4449-001-019) in the downcoast direction, which have been developed to a similar stringline as the proposed project.

Finding 2. The granting of such variance or modification will not be detrimental to the public interest, safety, health or welfare and will not be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located.

The granting of the variance will not be detrimental to the public's interest, safety, health or welfare because it would allow the proposed residence to have the same deck stringline privileges as decks beyond the adjacent homes upcoast and downcoast of the project site which are not reflective of surrounding development. The project has been reviewed and approved by City geotechnical staff, the City Coastal Engineer, and City Public Works

Department for consistency with all applicable regulations and policies. Therefore, the granting of the variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity in which the property is located.

Finding 3. The granting of the variance will not constitute a special privilege to the applicant or property owner.

The proposed first and second story deck stringlines would be measured from the third nearest upcoast deck and second nearest downcoast deck and approximately 10 feet landward from the 10-foot MHTL setback (20-foot setback from MHTL). Therefore, the granting of the variance will not constitute a special privilege to the applicant or the property owner because other nearby homes with decks have been constructed either at a similar distance seaward than the subject application and the subject residence meets all other applicable development standards, inclusive of the variance requests.

Finding 4. The granting of such variance will not be contrary to or in conflict with the general purposes and intent of this chapter, nor to the goals, objectives and policies of the LCP.

As previously discussed, with the inclusion of the variance, the project is consistent with the LCP, the Coastal Act, and other applicable regulations. The granting of the variance will not be contrary to or in conflict with the general purposes and intent of LIP Chapter 13, nor the goals, objectives, and policies of the LCP. Additionally, the proposed decks meet the required 10-foot setback from the MHTL by an additional 10 feet (20-foot setback from MHTL) and does not adversely impact shoreline access.

Finding 5. For variances to environmentally sensitive habitat area buffer standards or other environmentally sensitive habitat area protection standards, that there is no other feasible alternative for siting the structure and that the development does not exceed the limits on allowable development area set forth in Section 4.7 of the Malibu LIP.

The requested variance is not for an ESHA or ESHA buffer standard. Therefore, this finding does not apply.

Finding 6. For variances to stringline standards, that the project provides maximum feasible protection to public access as required by Chapter 2 of the Malibu LIP.

The proposed variance is for a deviation of deck stringline standards; however, given the new decks are above ground and will maintain a 20-foot MHTL setback, and the applicant proposes to offer a lateral public beach access easement the project will not impede the public's access across the property. Therefore, the project provides the maximum feasible protection to public access.

Finding 7. The variance request is consistent with the purpose and intent of the zone(s) in which the site is located. A variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

The variance request is for the placement of a proposed decks at a similar stringline distance as non-adjacent upcoast and downcoast decks. The variance request does not authorize a use or activity that is not expressly authorized by the zoning regulations for the subject property.

Finding 8. The subject site is physically suitable for the proposed variance.

The subject site is physically suitable for the proposed variance in that there is no feasible alternate location or configuration which would provide an environmental advantage. The proposed deck location will align with other non-adjacent decks in the area. In addition, the proposed project has been reviewed and approved by the City Coastal Engineer, City geotechnical staff, and City Public Works Department as being physically suitable for the proposed variance.

Finding 9. The variance complies with all requirements of State and local law.

The variance complies with all requirements of state and local law. Construction of the proposed residence and deck improvements will comply with all building code requirements and will incorporate all recommendations from applicable City and County agencies.

Finding 10. A variance shall not be granted that would allow reduction or elimination of public parking for access to the beach, public trails or parklands.

The proposed project does not include any reduction or elimination of public parking for access to the beach, public trails or parkland.

D. Variance for a reduced front yard setback (LIP Section 13.26.5)

Pursuant to LIP Section 13.26.5, the Planning Commission may approve and/or modify an application for a variance in whole or in part, with or without conditions, provided that it makes ten findings of fact. The applicant is requesting a variance for relief of LIP Section 3.6.G.1, which requires a beachfront home to maintain a front property line setback of 20 feet maximum or the average of the two immediate neighbors, whichever is less. The front yard setback at 18862 PCH, located to the east (downcoast) of the project site, is 4 feet, and the default setback for the adjacent vacant property at 18878 PCH to the west, or upcoast, of the project site is 20 feet. Therefore, a front yard setback of 12 feet is required for the subject property at 18868 PCH, which is the average of the front yard setbacks of the existing adjacent properties. The second floor of the new single-family residence is proposed to be setback 4 feet from the front property line, resulting in the need for approval of an 8-foot front yard setback variance. Based on the evidence in the record, the findings in support of VAR No. 20-042 are as follows:

Finding 1. There are special circumstances or exceptional characteristics applicable to the subject property, including size, topography, location or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

The proposed adjusted building front yard setback will allow for the most appropriate placement of the proposed residence given that the location of front yard setbacks of the nearest adjacent homes. The nearest upcoast home at 18888 PCH is setback 3 feet, 5 inches from the front property line, and the adjacent downcoast garages for the home at 18862 PCH is setback 4 feet from the front property line. The proposed 4-foot setback is comparable to the existing front yard setback at these properties, although it is 8 feet less than the required 12-foot setback. Dictating the front yard setback based on an undeveloped lot in an area that is mostly built-out is overly punitive, and strict application of the zoning ordinance would deny the applicant of front yard setback privileges enjoyed by other surrounding property owners beyond the immediately adjacent upcoast property.

Finding 2. The granting of such variance or modification will not be detrimental to the public interest, safety, health or welfare and will not be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located.

The granting of the variance will not be detrimental to the public's interest, safety, health or welfare because it would allow the proposed residence to have comparable front yard setback privileges as the residence at 18888 PCH beyond the adjacent upcoast vacant property and the adjacent downcoast residence at 18862 PCH. The project has been reviewed and approved by City geotechnical staff, the City Coastal Engineer, and City Public Works Department for consistency with all applicable regulations and policies. Therefore, the granting of the variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity in which the property is located.

Finding 3. The granting of the variance will not constitute a special privilege to the applicant or property owner.

The existing front yard setback of the adjacent downcoast property (18862 PCH) is approximately 4 feet, and the front yard setback for the nearest developed upcoast property (18888 PCH) is 3 feet, 5 inches. The proposed project is requesting a 4-foot front yard setback. The granting of the variance will not constitute a special privilege to the applicant or the property owner because other nearby residences have been constructed at a similar or reduced distance from the front property line as the subject application.

Finding 4. The granting of such variance will not be contrary to or in conflict with the general purposes and intent of this chapter, nor to the goals, objectives and policies of the LCP.

The subject property is adjacent to a vacant lot to the west, which results in a more restrictive front yard setback requirement compared to the surrounding area. With the

inclusion of the variance, the project is consistent with the LCP, the Coastal Act, and other applicable regulations. The granting of the variance will not be contrary to or in conflict with the general purposes and intent of LIP Chapter 13, nor the goals, objectives, and policies of the LCP.

Finding 5. For variances to environmentally sensitive habitat area buffer standards or other environmentally sensitive habitat area protection standards, that there is no other feasible alternative for siting the structure and that the development does not exceed the limits on allowable development area set forth in Section 4.7 of the Malibu LIP.

The requested variance is not for an ESHA or ESHA buffer standard. Therefore, this finding does not apply.

Finding 6. For variances to stringline standards, that the project provides maximum feasible protection to public access as required by Chapter 12 of the Malibu LIP.

The requested variance is not related to stringline standards. Therefore, this finding does not apply.

Finding 7. The variance request is consistent with the purpose and intent of the zone(s) in which the site is located. A variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

The variance request is for the placement of a proposed residence with a similar front yard setback as the nearest developed upcoast property and the adjacent downcoast structure. The variance request does not authorize a use or activity that is not expressly authorized by the zoning regulations for the subject property, which is in the SFM zone district.

Finding 8. The subject site is physically suitable for the proposed variance.

The subject site is physically suitable for the proposed variance in that there is no feasible alternate location or configuration which would provide an environmental advantage. The proposed residence location will be in line with other non-adjacent and adjacent residences in the area. In addition, the proposed project has been reviewed and approved by the City Coastal Engineer, City geotechnical staff, and City Public Works Department as being physically suitable for the proposed variance.

Finding 9. The variance complies with all requirements of State and local law.

The variance complies with all requirements of state and local law. Construction of the proposed home will comply with all building code requirements and will incorporate all recommendations from applicable City and County agencies.

Finding 10 A variance shall not be granted that would allow reduction or elimination of public parking for access to the beach, public trails or parklands.

The proposed project does not include any reduction or elimination of public parking for access to the beach, public trails or parkland.

E. Environmentally Sensitive Habitat Area Overlay (LIP Chapter 4)

The subject property is not in a designated ESHA, or ESHA buffer, as shown on the LCP ESHA and Marine Resources Map. Therefore, the findings of LIP Section 4.7.6 are not applicable.

F. Native Tree Protection (LIP Chapter 5)

There are no native trees on or adjacent to the subject parcel. Therefore, the findings of LIP Chapter 5 are not applicable.

G. Scenic, Visual and Hillside Resource Protection (LIP Chapter 6)

The Scenic, Visual, and Hillside Resource Protection Chapter governs those coastal development permit applications concerning any parcel of land that is located along, within, provides views to or is visible from any scenic area, scenic road or public viewing area. As the subject property is located along the beach, a public viewing area, the following five findings need to be made:

Finding 1. The project, as proposed, will have no significant adverse scenic or visual impacts due to project design, location on the site or other reasons.

The proposed project is a new two-story single-family residence on a vacant parcel. The neighborhood is predominantly built out with single-family residential buildings along the ocean. Story poles were placed on the project site to demonstrate the size, mass, height, and bulk of the proposed project, and photos of the site with the story poles in place are included in Attachment 3. An analysis of the project's visual impact from the beach was conducted through site inspections, architectural plans and review of neighborhood character.

Due to the site's proximity to PCH, there is no feasible alternative building site location where the development would not be visible from a scenic area. Furthermore, the project has been designed and conditioned to minimize any adverse or scenic impacts. The project provides the required view corridor pursuant to LIP Section 6.5, providing public ocean views on both sides of the residence. The project incorporates a total of 10 feet of view corridor, equally split between, and running parallel to the east and west property lines pursuant to LIP Section 6.5(E)(2)(a). Additionally, the project is subject to conditions of approval pertaining to permissible exterior colors, materials, and lighting restrictions. As proposed, the project would not have a significant visual impact to public views from the beach and PCH.

Finding 2. The project, as conditioned, will not have significant adverse scenic or visual impacts due to required project modifications, landscaping or other conditions.

The project is subject to conditions of approval pertaining to permissible exterior colors, materials, and lighting restrictions. The proposed project is conditioned so that the project will not result in significant adverse scenic or visual impacts and will be compatible with the character of the surrounding neighborhood.

Finding 3. The project, as proposed or as conditioned, is the least environmentally damaging alternative.

The project has been conditioned to include limitations on lighting and colors of the materials used to prevent any visual impacts to scenic areas. The project, as designed and conditioned, is the least environmentally damaging alternative.

Finding 4. There are no feasible alternatives to development that would avoid or substantially lessen any significant adverse impacts on scenic and visual resources.

The project, as designed and conditioned, is not expected to adversely affect scenic and visual resources and no feasible alternatives would avoid or substantially lessen any significant adverse impacts on scenic and visual resources.

Finding 5. Development in a specific location on the site may have adverse scenic and visual impacts but will eliminate, minimize or otherwise contribute to conformance to sensitive resource protection policies contained in the certified LCP.

The project as proposed and conditioned will result in less than significant impacts on scenic and visual resources. The location proposed for development would result in a less than significant visual impact to public views from the beach and will not impact sensitive resources. All proposed development conforms to the view corridor requirements and will be constructed landward of the requested building and deck stringlines, and the 10-foot MHTL setback.

H. Transfer of Development Credit (LIP Chapter 7)

The proposed project does not include a land division or multi-family development. Therefore, the findings of LIP Chapter 7 are not applicable.

I. Hazards (LIP Chapter 9)

Pursuant to LIP Section 9.3, written findings of fact, analysis and conclusions addressing geologic, flood, and fire hazards, structural integrity or other potential hazards listed in LIP Sections 9.2(A)(1-7) must be included in support of all approvals, denials or conditional approvals of development located on a site or in an area where it is determined that the proposed project causes the potential to create adverse impacts upon site stability or structural integrity.

The proposed development has been analyzed for the hazards listed in LIP Chapter 9 by the City Coastal Engineer, City Environmental Health Administrator, City Public Works

Department, City geotechnical staff, and LACFD. The required findings are made as follows:

Finding 1. The project, as proposed will neither be subject to nor increase instability of the site or structural integrity from geologic, flood, or fire hazards due to project design, location on the site or other reasons.

The applicant submitted geotechnical and coastal engineering reports. These reports are on file at City Hall. In these reports, site-specific conditions are evaluated and recommendations are provided to address any pertinent issues. Potential hazards analyzed include geologic, seismic and fault rupture, liquefaction, landslide, groundwater, wave uprush and tsunami, and flood and fire hazards. Based on review of the project plans and associated geotechnical reports by City geotechnical staff, City Coastal Engineer, LACFD, City Public Works Department, and the City Environmental Health Administrator, these specialists determined that adverse impacts to the project site related to the proposed development are not expected. The project, including the new OWTS, will neither be subject to nor increase the instability of the site from geologic, flood, or fire hazards. In summary, the proposed development is suitable for the intended use provided that the certified engineering geologist and/or geotechnical engineer's recommendations and governing agency's building codes are followed.

Based on staff's review of the above referenced report and associated information, it has been determined that:

1. The project is subject to wave uprush and tsunami inundation.
2. The project site is in a Federal Emergency Management Agency (FEMA) identified flood hazard area.

The project, as conditioned, will incorporate all recommendations contained in the above cited geotechnical report and conditions required by the City geotechnical staff, City Public Works Department, and the LACFD, including foundations, OWTS, and drainage. As such, the proposed project will not increase instability of the site or structural integrity from geologic, flood, or any other hazards.

Liquefaction/Landslide

The geotechnical reports evaluate site-specific conditions and recommendations are provided to address any pertinent issues. Potential hazards analyzed include geologic, seismic and fault rupture, liquefaction, landslide, groundwater, tsunami, and flood and fire hazards. The project site is located within an extreme fire hazard area. In addition, the beachside of the project site is subject to wave runup and tsunamis hazards. In case of a tsunami, the residence could be damaged or destroyed. However, this is a known and accepted risk of beachfront or coastal living as there is no practical method of protecting a beachfront / coastal residential structure from a large tsunami other than government tsunami warning system.

Flood Hazard/Tsunami

As confirmed by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map, the site is located in the existing FEMA Zone VE. As such, the property owner is required to sign a waiver indemnifying the City of Malibu against any liability or claims for wave damage. The proposed finished floor elevation of the building pad has been reviewed by the City's Public Works Department and City Coastal Engineer and has been given a conditional approval. The proposed residence is designed to meet the lowest recommended finish floor elevation (+26 feet NAVD88.) as verified by the City Coastal Engineer.

The project, as conditioned, will incorporate all recommendations contained in the above cited geotechnical reports and conditions required by the City Coastal Engineer, Public Works Department, City geotechnical staff, and the LACFD. As such, the proposed project will not increase instability of the site or structural integrity from geologic, flood, or any other hazards.

Fire Hazard

The entire City of Malibu is designated as a Very High Fire Hazard Severity Zone, a zone defined by a more destructive behavior of fire and a greater probability of flames and embers threatening buildings. The subject property is currently subject to wildfire hazards and development of a residence on the subject property will not increase the site's susceptibility to wildfire. The scope of work proposed as part of this application is not expected to have an impact on wildfire hazards. Appropriate building materials will be utilized during construction.

The City is served by the LACFD, as well as the California Department of Forestry, if needed. In the event of major fires, the County has "mutual aid agreements" with cities and counties throughout the State so that additional personnel and firefighting equipment can augment the LACFD. Conditions of approval have been included in the resolution to require compliance with all LACFD development standards. As such, the project, as designed, constructed, and conditioned, will not be subject to nor increase the instability of the site or structural integrity involving wildfire hazards.

Finding 2. The project, as conditioned, will not have significant adverse impacts on site stability or structural integrity from geologic, flood or fire hazards due to required project modifications, landscaping or other conditions.

As stated in Finding 1, the proposed project, as designed, conditioned, and approved by the applicable departments and agencies, will not have any significant adverse impacts on the site stability or structural integrity from geologic or flood hazards due to project modifications, landscaping or other conditions.

Finding 3. The project, as proposed or as conditioned, is the least environmentally damaging alternative.

The proposed project, as designed and conditioned, is the least environmentally damaging alternative.

Finding 4. There are no alternatives to development that would avoid or substantially lessen impacts on site stability or structural integrity.

The proposed development has been analyzed for the hazards listed in LIP Chapter 9 by the City Coastal Engineer, City Environmental Health Administrator, City Public Works Department, City geotechnical staff, and LACFD. These specialists and agency determined that the proposed project does not impact site stability or structural integrity. Since there are no significant impacts expected, there are no feasible alternatives to reduce significant impacts.

Finding 5. Development in a specific location on the site may have adverse impacts but will eliminate, minimize or otherwise contribute to conformance to sensitive resource protection policies contained in the certified Malibu LCP.

There is no evidence in the record that the proposed project, as designed and conditioned, will have adverse impacts on sensitive resources.

J. Shoreline and Bluff Development (LIP Chapter 10)

The Shoreline and Bluff Development Chapter governs those coastal development permit applications that include development on a parcel located along the shoreline as defined by the LCP. The required findings are made as follows.

Finding 1. The project, as proposed, will have no significant adverse impacts on public access, shoreline sand supply or other resources due to project design, location on the site or other reasons.

The proposed project includes the construction of a new residence and OWTS. The proposed seawall is only for the protection of the OWTS. The residence and all accessory development are designed with a pile foundation that does not require a shoreline protection device for the life of the project pursuant to LIP Section 10.4(H). The proposed seawall is sited 55 feet from the MHTL, the proposed deck is 20 feet from the MHTL and, as such, will not result in negative impacts on public access or other resources. As indicated in the Engineering Report for the proposed OWTS submitted by Ensite Consultants, dated July 6, 2017, the seawall has been sited as landward as possible. The proposed location of the OWTS and seawall have also been reviewed and conditionally approved by the City Coastal Engineer and City Environmental Health Administrator. The property owner has also volunteered to grant a lateral access easement across the property. Therefore, the project is not anticipated to result in significant adverse impacts to public access, shoreline sand supply or other resources.

Finding 2. The project, as conditioned, will not have significant adverse impacts on public access, shoreline sand supply or other resources due to required project modifications or other conditions.

As discussed in Section H, the proposed project, as designed and conditioned, and approved by the City Coastal Engineer, City Environmental Health Administrator and City geotechnical staff, will not have any significant adverse impacts on public access or shoreline sand supply or other resources.

Finding 3. The project, as proposed or as conditioned, is the least environmentally damaging alternative.

As discussed in Section A, the proposed project, as designed and conditioned, is the least environmentally damaging alternative.

Finding 4. There are no alternatives to the proposed development that would avoid or substantially lessen impacts on public access, shoreline sand supply or other resources.

As previously discussed in Section A, the proposed project, as designed and conditioned, will not have any significant adverse impacts on public access or shoreline sand supply or other resources.

Finding 5. The shoreline protective device is designed or conditioned to be sited as far landward as feasible to eliminate or mitigate to the maximum feasible extent adverse impacts on local shoreline sand supply and public access, and there are no alternatives that would avoid or lessen impacts on shoreline sand supply, public access or coastal resources and it is the least environmentally damaging alternative.

The proposed OWTS and the proposed seawall will be landward of nearby seawalls in the area, and will be under the new residence where it will not obstruct public access or affect shoreline sand supply. Nonetheless, pursuant to LIP Section 10.6, as a condition of approval, the property owner is required to acknowledge, by the recordation of deed restriction, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protection structure which extends the seaward footprint of the subject structure shall be undertaken and that he / she expressly waives any right to such activities that may exist under Coastal Act Section 30235. Said deed restriction shall be submitted to the Planning Department for approval prior to recordation.

K. Public Access (LIP Chapter 12)

LIP Section 12.4 requires public access for lateral, bluff-top, and vertical access near the ocean, trails, and recreational access for the following cases:

- A. New development on any parcel or location specifically identified in the Land Use Plan or in the LCP zoning districts as appropriate for or containing a historically used or suitable public access trail or pathway.

- B. New development between the nearest public roadway and the sea.
- C. New development on any site where there is substantial evidence of a public right of access to or along the sea or public tidelands, a blufftop trail or an inland trail acquired through use or a public right of access through legislative authorization.
- D. New development on any site where a trail, bluff top access or other recreational access is necessary to mitigate impacts of the development on public access where there is no feasible, less environmentally damaging, project alternative that would avoid impacts to public access.

No official LCP trail is mapped on the subject property. Lateral public beach access exists along the State of California's "wet sand right of way" which allows public use of lands seaward of the MHTL and provides public access along and parallel to the sea and shoreline. A lateral public access easement has been offered by the property owner which would provide public access and use along or parallel to the sea or shoreline. The LCP Public Access Map indicates that a lateral accessway has not been previously recorded on the subject property. A condition requiring an offer to dedicate an easement for lateral public access has been included in Resolution 21-11. The proposed project would enhance the ability of the public to reach and use public tidelands and coastal resources in the vicinity of the project site. Additionally, bluff-top, trail, and recreational access are not applicable given the subject property's location.

The project is located along the shoreline; however, adequate public vertical access is available approximately 400 feet east of the site at Topanga Public Beach. Consistent with LIP Section 12.5, due to the ability of the public, through other reasonable means to reach nearby coastal resources, an exception for public vertical access has been determined to be appropriate for the project and no condition for vertical access has been required. Therefore, the requirement for public access of LIP Section 12.4 does not apply and further findings are not required.

L. Land Division (LIP Chapter 15)

This project does not include a land division. Therefore, the findings of LIP Chapter 15 are not applicable.

ENVIRONMENTAL REVIEW: Pursuant to the authority and criteria contained in CEQA, the Planning Department has analyzed the proposed project. The Planning Department found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the project is categorically exempt from the provisions of CEQA pursuant to Sections 15303(a) and (e) - New Construction. The Planning Department has further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

CORRESPONDENCE: The following written correspondence has been submitted to date (Attachment 5 – Public Correspondence):

1. Emails from Arnold Bernstein dated February 13, 2021, March 10, 2021 and April 19, 2021 expressing opposition to the stringline variances.
2. Email from Brian Harvey dated March 15, 2021 expressing opposition to the project due to inaccurate placement of story poles.
3. Email from Allyn Johnston dated February 16, 2021 expressing opposition to the project due to inaccurate placement of story poles.
4. Email from Ann Kronen dated February 15, 2021, and April 18, 2021 expressing opposition to the stringline variances and requesting that the story poles are installed to accurately reflect the proposed project envelope.
5. Emails from Anne Madden dated February 15, 2021, March 13, 2021 and April 18, 2021 expressing opposition to the stringline variances and requesting that the story poles are installed to accurately reflect the proposed project envelope.
6. Emails from Anne Ready dated February 13, 2021, March 13, 2021 and April 18, 2021 expressing opposition to the stringline variances.
7. Email from Chris Griffiths dated February 16, 2021 expressing opposition to the project due to inaccurate placement of story poles
8. Two emails from Duke Dehaas dated February 16, 2021 expressing opposition to the requested variances due to the proposed seawall and noting that the story poles do not accurately represent the proposed project.
9. Letter from Dustin Woomer dated March 8, 2021 providing additional information regarding the proposed stringline variance, story pole placement, and utility lines
10. Email from Judith Schott Steiner dated February 16, 2021 and resent March 12, 2021 expressing opposition to the project due to inaccurate placement of story poles.
11. Email from Kim Dunham dated February 15, 2021 expressing opposition to the stringline variances and requesting that the story poles are installed to accurately reflect the proposed project envelope.
12. Email from Lesley DeHaas dated February 16, 2021 expressing opposition to the project due to inaccurate placement of story poles and concerns that the lot was not legally created.
13. Emails from Louis Dehaas dated March 12, 2021, and April 19, 2021 expressing opposition to the requested stringline variances, and to the project due to inaccurate placement of story poles and/or lack of surveyor certification.
14. Emails from Michael Bednar dated February 16, 2021, and April 19, 2021 expressing opposition to the requested stringline variances, and to the project due to inaccurate placement of story poles and/or lack of surveyor certification.
15. Emails from Nader Afzali dated February 16, 2021, March 15, 2021 and April 18, 2021 expressing opposition to the project and requested variances due to safety concerns, inaccurate placement of story poles and lack of surveyor certification of story pole installation.
16. Email from Paul Dougherty dated February 16, 2021 expressing opposition to the stringline variances and requesting that the story poles are installed to accurately reflect the proposed project envelope.

17. Emails from the Colberts (Robert Colbert) dated February 16, 2021, March 11, 2021 and April 19, 2021 expressing opposition to the project due to inaccurate placement of story poles.
18. Email from Ron Kurstin dated February 16, 2021, March 14, 2021 and April 18, 2021 expressing opposition to the project and requested variances, including inaccurate placement of story poles and/or lack of surveyor certification.
19. Email from Tyler Grasmick dated March 15, 2021 expressing opposition to the requested stringline variances.
20. Email from Doris Ollestad, dated April 19, 2021 expressing opposition to the requested stringline variances, and to the project due to inaccurate placement of story poles and/or lack of surveyor certification.
21. Email from Judy Schott, dated April 19, 2021 expressing opposition to the requested stringline variances, and to the project due to inaccurate placement of story poles and/or lack of surveyor certification.
22. Email from Sara Harvey dated April 19, 2021 expressing opposition to the requested stringline variances, and to the project due to inaccurate placement of story poles and/or lack of surveyor certification.
23. Email from Guy Gniadek dated April 16, 2021 expressing opposition to the requested stringline variances, and to the project due to inaccurate placement of story poles and/or lack of surveyor certification.
24. Email from Armand Riza, dated April 19, 2021 expressing support of the project.
25. Email from Arnold Bernstein dated July 2, 2021 stating that the lack of sufficient notification and brief duration of the story pole installation is unfair.
26. Email from Anne Madden dated July 2, 2021 stating that the lack of sufficient notification and brief duration of the story pole installation is unreasonable.
27. Email from Tyler Grasmick dated July 2, 2021 stating that the lack of sufficient notification and brief duration of the story pole installation is unreasonable.
28. Email from Anne Ready dated July 3, 2021 expressing concerns regarding the property owners.
29. Email from Ann Kronen dated July 3, 2021 stating that the tides during the story pole installation precludes adequate viewing.
30. Emails from Paul Dougherty dated July 2, 2021 expressing concurrence with neighbors' concerns regarding the story pole installation and July 3, 2021 expressing that the process is unfair.
31. Email from David Steiner dated July 2, 2021 expressing concurrence with neighbors' concerns regarding the story pole installation.

In response to public comments, and at the direction of the Planning Commission, the applicant reinstalled story poles to accurately reflect the project footprint and height. The applicant also reduced the size of the proposed residence reduce the seaward extent of the proposed building stringline by 10 feet and increase the front yard setback for the first-floor from the proposed 10 feet to the required 12 feet.

PUBLIC NOTICE: On January 21, 2021, staff published a Notice of Public Hearing in a newspaper of general circulation within the City of Malibu and mailed the notice to all property owners and occupants within a 500-foot radius of the subject property (Attachment 7).

SUMMARY: The required findings can be made that the project complies with the LCP and MMC. Further, the Planning Department's findings of fact are supported by substantial evidence in the record. Based on the analysis contained in this report and the accompanying resolution, staff recommends approval of this project, subject to the conditions of approval contained in Section 5 (Conditions of Approval) of Planning Commission Resolution No. 21-11. The project has been reviewed and conditionally approved for conformance with the LCP by Planning Department staff and appropriate City and County departments.

ATTACHMENTS:

1. Planning Commission Resolution No. 21-11
2. Project Plans
3. Story Pole Photos
4. Department Review Sheets
5. Public Correspondence
6. Radius Map
7. Public Hearing Notice

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 21-11

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU, DETERMINING THE CALIFORNIA ENVIRONMENTAL QUALITY ACT DOES NOT APPLY TO THE PROJECT AND DENYING COASTAL DEVELOPMENT PERMIT NO. 17-075 FOR CONSTRUCTION OF A 3,778 SQUARE FOOT, TWO-STORY, SINGLE-FAMILY RESIDENCE, WITH AN APPROXIMATELY 375 SQUARE FOOT ATTACHED GARAGE, HARDSCAPE, DECKS, RETRACTABLE BEACH STAIRS, GRADING, SEAWALL, RETAINING WALLS, AND ONSITE WASTEWATER TREATMENT SYSTEM; INCLUDING STRINGLINE VARIANCE NO. 17-024 FOR THE SINGLE-FAMILY RESIDENCE TO EXTEND BEYOND THE BUILDING STRINGLINE, STRINGLINE VARIANCE NO. 18-022 FOR THE FIRST AND SECOND FLOOR REAR DECKS TO EXTEND BEYOND THE DECK STRINGLINE, AND FRONT YARD SETBACK VARIANCE NO. 20-042 FOR A REDUCTION OF THE REQUIRED FRONT YARD SETBACK, AND OFFER TO DEDICATE NO. 21-002 FOR A LATERAL BEACH ACCESS EASEMENT ACROSS THE PROPERTY LOCATED IN THE SINGLE-FAMILY MEDIUM ZONING DISTRICT AT 18868 PACIFIC COAST HIGHWAY (ETAAT).

The Planning Commission of the City of Malibu does hereby find, order and resolve as follows:

SECTION 1. Recitals.

A. On July 20, 2017, an application for Coastal Development Permit (CDP) No. 17-075 was submitted to the Planning Department by applicant, Guy Gniadek, on behalf of the property owner, Farshid Etaat. The application was routed to the City geotechnical staff, City Environmental Health Administrator, City Biologist, City Coastal Engineer, City Public Works Department, Los Angeles County Waterworks District No. 29 (WD29), Los Angeles County Fire Department (LACFD), and the California State Lands Commission (CSLC) for review.

B. On May 23, 2019, Planning Department staff conducted a site visits to document site conditions, the property, and surrounding area.

C. In January 2021, story poles were installed to demonstrate the location, height, and bulk of the proposed project.

D. On January 8, 2021, staff conducted a site visit to determine visual impacts and document the story poles.

E. On January 12, 2021, a Notice of Coastal Development Permit Application was posted on the subject property.

F. On January 20, 2021, the application was deemed complete by the Planning Department.

G. On January 21, 2021, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and on January 26, 2021 was mailed to all property owners and occupants within a 500-foot radius of the subject property.

H. On February 16, 2021, the Planning Commission continued the item to March 1, 2021 at the applicant's request to allow the applicant time to review and respond to public correspondence.

I. On March 1, 2021, the Planning Commission continued the item to March 15, 2021 at the applicant's request to allow the applicant time to review and respond to public correspondence.

J. On March 15, 2021, the Planning Commission continued the item to April 19, 2021 and directed the applicant to reinstall the story poles on March 26, 2021 from 12 to 7 pm for staff, Planning Commission, and the public to view.

K. On March 26, 2021, story poles were reinstalled on the property at the Planning Commission's direction. Planning Commissioners, staff, and interested parties conducted a site visit to determine visual impacts and document the story poles.

L. On April 19, 2021, the Planning Commission directed the applicant to redesign the project and continued the item to June 21, 2021.

M. On June 21, 2021, the Planning Commission continued the item to July 19, 2021.

N. On July 2, 2021, story poles were reinstalled on the property, and staff conducted a site visit to determine visual impacts and document story poles.

O. On July 19, 2021, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the staff report, written reports, public testimony, and other information in the record. The Commission directed staff to return with an updated resolution denying the project and reflecting its findings that, as designed, the proposed project will adversely affect neighborhood character, and fails to be the least environmentally damaging alternative.

P. On August 2, 2021, the Planning Commission reviewed and considered the subject resolution for denial.

SECTION 2. Environmental Review.

Pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15270, CEQA does not apply to projects which a public agency rejects or disapproves.

SECTION 3. Findings for Denial.

Based on substantial evidence contained within the record and pursuant to LIP Sections 13.7(B) and 13.9, the Planning Commission adopts findings of fact below and denies CDP No. 17-075 for construction of a new 3,778 square foot, two-story, single-family residence with a 375 square foot two-car attached garage, plus hardscape, grading, retaining walls, seawall, and installation of a new onsite wastewater treatment system (OWTS), including Variance (VAR) No. 17-024 for the proposed single-family residence to extend seaward of the building stringline, VAR No. 18-022 for first and second story decks to extend seaward of the deck stringline as measured from the nearest adjacent decks, and VAR No. 20-043 for a greater than 50 percent reduction of the front yard setback located in the Single-Family Medium (SFM) zoning district at 18868 Pacific Coast Highway.

The project, as proposed, has been determined not to be consistent with all applicable Local Coastal Program (LCP) and Malibu Municipal Code (MMC), codes, standards, goals, and policies, as all of the required findings for the CDP and variances cannot be made. The project does not conform with the certified City of Malibu Local Coastal Program (LIP Section 13.9). Furthermore, there are no special circumstances or exceptional characteristics applicable to the subject property, including size, topography, location or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification; the granting of such variances or modifications will be detrimental to the public interest, safety, health or welfare and will be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located; the granting of the variances will constitute a special privilege to the applicant or property owner; the granting of such variances will be contrary to or in conflict with the general purposes and intent of this chapter, and to the goals, objectives and policies of the LCP; the subject site is not physically suitable for the proposed variances; and the variances do not comply with all requirements of State and local law (VAR Nos. 17-024 and 18-022) (LIP Section 13.26.5). The findings for denial are made herein.

A. General Coastal Development Permit (LIP Chapter 13)

Finding 1. That the project as described in the application and accompanying materials, as modified by any conditions of approval, conforms with certified City of Malibu Local Coastal Program.

The proposed project does not conform with the LCP because the findings for VAR Nos. 17-024 and 18-022 cannot be made. Furthermore, the proposed vertical seawall extends seaward of the seawall stringline.

B. Variance for building the single-family residence to extend seaward of the required building stringline (LIP Section 13.26.5)

Finding A. There are special circumstances or exceptional characteristics applicable to the subject property, including size, shape, topography, location, or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

While strict application of the zoning ordinance would deny the applicant of stringline privileges enjoyed by other surrounding property owners beyond the immediately adjacent dwellings, the proposed adjusted building stringline extends beyond an appropriate placement of the proposed residence.

Finding B. The granting of such variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located.

The granting of the variance will be detrimental to the public's interest, safety, health, or welfare because it would allow the proposed residence to have stringline privileges that are seaward of neighboring residences.

Finding C. The granting of the variance will not constitute a special privilege to the applicant or property owner.

The granting of the variance will constitute a special privilege to the applicant or the property owner because other nearby homes have been constructed landward of the subject application.

Finding D. The granting of such variance will not be contrary to or in conflict with the general purposes and intent of this Chapter, nor to the goals, objectives and policies of the LCP.

The project is not consistent with the LCP, the Coastal Act, and other applicable regulations, which allow the Commission to approval a variance only if it makes all of the findings of fact supported by substantial evidence. The Commission is unable to makes all of the findings to support the variance, therefore, the granting of the variance would be contrary to or in conflict with the general purposes and intent of LIP Chapter 13, and the goals, objectives, and policies of the LCP.

Finding H. The subject site is physically suitable for the proposed variance.

The subject site is not physically suitable for the proposed variance as the site could accommodate a more appropriate stringline that is in character with the neighborhood.

Finding I. The variance complies with all requirements of state and local law.

The variance does not comply with all requirements of state and local law.

C. Variance for rear decks seaward of the required deck stringline (LIP Section 13.26.5)

Finding A. There are special circumstances or exceptional characteristics applicable to the subject property, including size, shape, topography, location, or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

While strict application of the zoning ordinance would deny the applicant of stringline privileges enjoyed by other surrounding property owners beyond the immediately adjacent dwellings, the proposed adjusted building stringline extends beyond an appropriate placement of the proposed residence.

Finding B. The granting of such variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located.

The granting of the variance will be detrimental to the public's interest, safety, health, or welfare because it would allow the proposed residence to have stringline privileges that are seaward of neighboring residences.

Finding C. The granting of the variance will not constitute a special privilege to the applicant or property owner.

The granting of the variance will constitute a special privilege to the applicant or the property owner because other nearby homes have been constructed landward of the subject application.

Finding D. The granting of such variance will not be contrary to or in conflict with the general purposes and intent of this Chapter, nor to the goals, objectives and policies of the LCP.

The project is not consistent with the LCP, the Coastal Act, and other applicable regulations, which allow the Commission to approval a variance only if it makes all of the findings of fact supported by substantial evidence. The Commission is unable to makes all of the findings to support the variance, therefore, the granting of the variance would be contrary to or in conflict with the general purposes and intent of LIP Chapter 13, and the goals, objectives, and policies of the LCP.

Finding H. The subject site is physically suitable for the proposed variance.

The subject site is not physically suitable for the proposed variance as the site could accommodate a more appropriate stringline that is in character with the neighborhood.

Finding I. The variance complies with all requirements of state and local law.

The variance does not comply with all requirements of state and local law.

SECTION 4. Planning Commission Action.

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby denies CDP No. 17-075, VAR Nos. 17-024, 18-022, and 20-042.

SECTION 5. The Planning Commission shall certify the adoption of this resolution.

PASSED AND ADOPTED this 2nd day of August 2021.

JEFFREY JENNINGS, Planning Commission Chair

ATTEST:

KATHLEEN STECKO, Recording Secretary

LOCAL APPEAL - Pursuant to Local Coastal Program Local Implementation Plan (LIP) Section 13.20.1 (Local Appeals), a decision made by the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeal forms may be found online at www.malibucity.org/planningforms, in person, or by calling (310) 456-2489, ext. 245.

COASTAL COMMISSION APPEAL – An aggrieved person may appeal the Planning Commission’s approval to the Coastal Commission within 10 working days of the issuance of the City’s Notice of Final Action. Appeal forms may be found online at www.coastal.ca.gov or by calling (805) 585-1800. Such an appeal must be filed with the Coastal Commission, not the City.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 21-11 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting held on the 2nd day of August 2021 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

KATHLEEN STECKO, Recording Secretary



PACIFIC ENGINEERING GROUP

Consulting Engineers

3625 E. Thousand Oaks Blvd.

Suite 254

Westlake Village, CA 91362

Phone: 805.278.9283

April 1, 2022

Farshid Etaat
21329 Castillo Street
Woodland Hills, CA 91364

Subject: Coastal Engineering Conformance Plan Review
Proposed Single-Family Residence
18868 Pacific Coast Highway
Malibu, CA 90265
APN: # 4449-001-023

Reference:

1. Architectural Plans for New Residence
18868 Pacific Coast Highway
Malibu, CA 90265
By: Gniadek Design Group
Date: **June 10, 2021**
2. Wave Uprush Study / Coastal Engineering Report
18868 Pacific Coast Highway
Malibu, CA 90265
Prepared by: Pacific Engineering Group
Dated: **October 20, 2021**

Our Project: # 19123.DAM.WUS

Dear Mr. Etaat:

Pacific Engineering Group has reviewed the Architectural Plans prepared by Gniadek Design Group dated **June 10, 2021**, for the proposed single-family residence at 18868 Pacific Coast Highway, Malibu, California (APN: 4449-001-023). The purpose of this review is to determine conformance of these plans to the Coastal Engineering Wave Uprush Report recommendations specified in the referenced Coastal Engineering Report (reference #2) above.

Upon our review of the referenced set of architectural plans, Pacific Engineering Group finds that these plans are in conformance with the recommendations of the referenced coastal engineering report prepared by this office dated **October 20, 2021**.

Sincerely,

Pacific Engineering Group

Reg K. Browne PE
Principal Engineer
RCE 40552





CDP 17-075

City of Malibu

23825 Stuart Ranch Rd., Malibu, California CA 90265-4804
(310) 456-2489 FAX (310) 456-3356

COASTAL ENGINEERING REVIEW REFERRAL SHEET

TO: City of Malibu Coastal Engineer Staff

FROM: City of Malibu Planning Department

REVISED DATE 11/19/2021

PROJECT NUMBER: CDP 17-075

JOB ADDRESS: 18868 PACIFIC COAST HWY

APPLICANT / CONTACT: Guy Gniadek, Gniadek Design Group

APPLICANT ADDRESS: 727 Kentia Ave
Santa Barbara, CA 93101

APPLICANT PHONE #: (818)681-9806

APPLICANT FAX #: _____

APPLICANT EMAIL: guy.gniadek@gmail.com

PROJECT DESCRIPTION: NSFR, OWTS, site work

TO: Malibu Planning Division and/or Applicant

FROM: Coastal Engineering Reviewer

☒ The project is feasible and CAN proceed through the Planning process.*

☐ The project **CANNOT** proceed through the planning process until coastal engineering feasibility is determined. Depending upon the nature of the project, this may require submittal of coastal engineering reports and/or wave run-up studies which evaluate the coastal environment setting, processes, and hazards.

SIGNATURE

2-4-2022

DATE

Determination of Coastal Engineering feasibility is not approval of building and/or grading plans. Plans and/or reports must be submitted for Building Department approval, and may require approval of both the City Geotechnical Engineer, and City Coastal Engineer. Additional requirements/conditions may be imposed at the time of building and/or grading plans are submitted for review. Geotechnical reports may also be required.

City Coastal Engineering Staff may be contacted on Tuesday and Thursday between 8:00 am and 11:00 am at the City Hall Public counter, or by calling (310) 456-2489, extension 269.

*see attached Coastal Engineering Review sheet for conditions of approval and preliminary building plan check comments.



City of Malibu

23825 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · Fax (310) 456-3356 · www.malibucity.org

COASTAL ENGINEERING REVIEW SHEET

Project Information

Date: February 4, 2022	Review Log #: C530
Site Address: 18868 Pacific Coast Highway	Lat:
Lot/Tract/PM #:	Lon:
Applicant: Guy Gniadek	Planning #: CDP 17-075
Phone #: 818-681-9806	BPC/GPC #: N/A
Email: guy.gniadek@gmail.com	Planner: A. Pisarkiewicz
Project Type: NSFR, NOWTS, New Shore Protection, site work	

Submittal Information

Consultant(s): Pacific Engineering Group, Inc. (Reg K. Brown, RCE 40552)
Report Date(s): 10-25-17, 8-31-17, 6-15-17, **10-20-2021 (Update Report)**
Project Plan(s): Revised Plan Submittal 11-12-2021 (Gniadek Design Group)
Previous Reviews: 9-28-17, 3-9-18
FEMA SFHA: VE (BFE = +24 ft NAVD88, FEMA 2021)

Review Findings

Planning Stage

- ☒ **APPROVED** in **PLANNING**-stage from a coastal engineering perspective, with conditions. The listed Building Plan-Check Coastal Review Comments shall be addressed prior to Building Plan-Check approval.
- ☐ **NOT APPROVED** in **PLANNING**-stage from a coastal engineering perspective. The listed Planning Stage Coastal Review Comments shall be addressed prior to Planning-stage approval.

Building Plan-Check Stage

- ☒ Awaiting Building plan check submittal. The listed 'Building Plan-Check Stage Review Comments' may be deferred for Planning Stage approval but shall be addressed prior to Building Plan-Check Stage approval.

Remarks:

The referenced report and project plans were reviewed from a Coastal Engineering perspective relative to the requirements of the following City codes and guidelines:

- City of Malibu Local Coastal Program – Land Use Plan and Local Implementation Plan (LCP-LUP and LCP-LIP),
- Malibu Municipal Code – Title 15, Buildings and Construction,
- City of Malibu Guidelines for the Preparation of Coastal Engineering Reports and Procedures for Report Submittal. (Referred to herein as *Coastal Engineering Report Guidelines*), and
- California Coastal Commission Sea Level Rise Policy Guidance, Final Adopted Science Update, November 7, 2018

The proposed project will consist of demolition of an existing wooden staircase and fences, and the construction of a new 3,527 square foot two-story single-family residence supported on a concrete structural deck and pile foundation. No grading or landscaping are proposed; however, portion of the existing concrete and rock revetment on the site will be removed as part of the project. The new single-family residence (NSFR) will have a new onsite wastewater treatment system (NOWTS) protected by a new shoreline protection device (SPD) consisting of a pile supported concrete seawall and return walls. The proposed SPD for the NOWTS will be offset 50 ft from the Pacific Coast Highway right-of-way line. The proposed NSFR structure will extend to approximately 70 ft seaward of the Pacific Coast Highway right-of-way. The planned Finished Floor Elevation (FFE) for the residence and deck is at elevation +27.0 ft NAVD88. A new retaining wall (seawall return wall) supported on pilings and extending approximately 70 ft from the existing seawall along Pacific Coast Highway is planned for the westerly edge of the site. A similar wall appears on the plans on the easterly edge of the site but is not labeled.

An existing rock revetment extends along the southerly edge of the property and is contiguous to the adjacent properties to the west and east. The Grading and Drainage Plan indicates this rock revetment is to be removed. An existing retaining wall is located on the PCH right-of-way line on the northerly edge of the site.

The site is located entirely within the wave uprush zone and is located within the FEMA VE zone with a base flood elevation (BFE) at +24 ft NAVD88 (FEMA, 2021). The Coastal Engineering Consultant has presented results of wave uprush analyses in the report based on two sea level rise scenarios: Scenario #1 based on a Still Water Level (SWL) at +10.25 ft MLLW and Scenario #2 based on a SWL at +14.75 ft MLLW. Scenario #1 is based on a sea level rise (SLR) of +4.0 ft as projected to year 2120. Scenario #2 is based on a SLR of +8.50 ft as projected to year 2120. The SWL for each scenario is comprised of a design astronomical tide of +6.0 ft MLLW and an El Nino type storm surge of 0.25 ft.

A sea level rise (SLR) of +4.0 ft for Scenario #1 is consistent with the Low Risk Aversion (~17% probability of exceedance) projection of the California Coastal Commission's (CCC) adopted Sea Level Rise Policy Guidance (November 2018). For a 100-year design window to year 2120, the Consultant has determined from wave uprush analyses that an $H'_o = 3.0$ ft, $T=18$ sec wave is the critical wave for the site and will produce a maximum storm wave uprush at the subject site occurring 9 ft landward of the Pacific Coast Highway right-of-way line at an elevation of +23.6 ft NAVD88, assuming no shoreline protection. The Consultant has determined that this wave breaks with a crest elevation +17.0 ft NAVD88 approximately 72 ft seaward of the PCH right-of-way.

A sea level rise (SLR) of +8.50 ft for Scenario #2 is consistent with the CCC's Medium-High Risk Aversion projection (0.5% probability of exceedance). The Consultant has determined from wave uprush analyses that an $H'_o = 3.0$ ft, $T=18$ sec wave is the critical wave for the site, and will produce a maximum storm wave uprush at the subject site occurring 65 ft landward of the Pacific Coast Highway right-of-way line at an elevation of +26.3 ft NAVD88, assuming no shoreline protection. The Consultant has determined that this wave breaks with a crest elevation +20.8 ft NAVD88 approximately 27 ft seaward of the PCH right-of-way.

Of note is the Consultant's indication that the regional current and near-term future sea level rise rate remains significantly lower for the Santa Monica Bay and Malibu coastlines (Santa Monica Tide Gauge) than the lower sea level rise rate projected in the 2017 NOAA SLR report and the 2018 California Coastal Commission sea level rise policy guidance report.

The Consultant has recommended for new construction a minimum FFE of +27.0 ft NAVD88 for the habitable and garage floor spaces. The bottom of the lowest horizontal structural member is recommended at elevation +25.0 ft NAVD88.

A new shoreline protection device will be required for the NOWTS within the wave uprush zone. The top of the proposed seawall is recommended not lower than elevation +21.25 ft NAVD88, and the bottom not higher than elevation +1.0 NAVD88 or on bedrock, whichever is higher.

The Consultant has analyzed the wave uprush on the proposed seawall located approximately 50 ft seaward of PCH projected for year 2120. For Scenario #1, a wave uprush to elevation +21.1 ft NAVD88 is computed. For Scenario #2, a wave uprush to elevation +23.7 ft is computed. A seawall constructed with a top elevation of 21.25 ft would have to be raised to a sufficient height to prevent overtopping under Scenario #2. Accordingly, the Consultant has recommended that the seawall be designed to be adaptable to be raised in the future to an elevation +23.75 ft NAVD88 should the Scenario #2 sea level rise occur. This adaptive strategy is noted on Sheet A-1.00 Foundation Plan where seawall and return walls are labeled "Able to Be Raised to 23.75".

Planning Stage Conditions of Approval:

1. The design and modification of existing SPDs as may be required on the adjacent properties on the west and the east of the subject site, including temporary excavation and shoring, shall be performed in accordance with the recommendations of the Project Geotechnical Engineering Consultant and the Coastal Engineering Consultant per Section 6.5 of the City's Coastal Engineering guidelines.
2. The property owner shall comply with the requirements for deed restrictions and recorded documents in accordance with City of Malibu LCP-LIP Sections 10.6A and 10.6B(1). These items shall be made a planning condition of approval. Templates for these documents are available from coastal engineering staff. A signed and notarized original shall be submitted to coastal engineering staff for review and approval prior scheduling a recordation appointment with the City Clerk's office. All recorded document requirements shall be completed prior to final building plan check approval.
3. The Project Coastal Engineer has submitted a Shoreline Protection Device Monitoring Program that is consistent with the City's requirements (Pacific Engineering Group, 10/20/21, page 31). The property owner will be required to record a "*Covenant and Agreement Regarding Maintenance of the Shoreline Protection Device and the Use and Transfer of Ownership of Property*", informing any successors-in-interest to the property of these SPD monitoring requirements for the onsite bulkhead seawall. The Shore Protection Monitoring Program shall be attached to the covenant as Exhibit B. This item shall be made a planning condition of approval.

Preliminary Building Plan Check Comments

1. Any supplemental recommendations provided by the Coastal Engineer shall be reviewed by the City Coastal Engineering Staff and by the project geotechnical consultants and NOWTS consultant.
2. FEMA Base Flood Elevations discussed in Section 9.0 of the reviewed report indicate the referenced FEMA FIRM panel is "preliminary"; however, this panel has been finalized by FEMA with an effective date of 4/21/2021. The Base Flood Elevation in the final map did not change from the preliminary map and thus does not impact the project as designed; however, final project documents should be corrected.
3. Top of Seawall elevations are noted as +21.25 ft (or +21.3 ft) on all architectural sections and elevations, except for the longitudinal section presented on Sheet A-3.00, which indicates Top of Seawall at elevation +24 ft. Please correct accordingly.
4. The Project Coastal Engineer's recommendations, contained in the coastal engineering report and addenda, shall be incorporated into the plans as notes and details, and referenced on the project structural plans. One set of plans shall be submitted to the coastal engineering review staff for Building Plan Check, along with a plan check fee of \$750. Additional review comments may be raised at that time that may require a response. The Project Coastal Engineer shall review, sign and wet-stamp the final building plans.
5. The final project plans shall show the land and beach contours, and that include: design beach/storm scour profile, design stillwater levels, wave uprush limits for the maximum breaking waves showing the landward extent of the uprush limit, the Mean High Tide line with month and year on plans based

on available historical surveys, and the location and elevations of existing shore protection. All plans shall be referenced to the NAVD88 vertical datum.

Please direct questions regarding this review sheet to City Review staff listed below.

Reviewed by:  February 4, 2022
Michael B. Phipps, PG 5748, CEG 1832
Coastal Engineering Review Consultant (x 269) Date

Reviewed by:  February 4, 2022
Franklin Fong, RCE 24179, GE 315
Coastal Engineering Review Consultant Date

This review sheet was prepared by representatives of Cotton, Shires and Associates, Inc. and GeoDynamics, Inc., contracted through Cotton, Shires and Associates, Inc., as an agent of the City of Malibu.



**NOTICE OF PUBLIC HEARING
CITY OF MALIBU
CITY COUNCIL**

The Malibu City Council will hold a public hearing on **MONDAY, August 22, 2022, at 6:30 p.m.** on the project identified below. This meeting will be held via teleconference only in order to reduce the risk of spreading COVID-19 and pursuant to AB 361 and the County of Los Angeles Public Health Officer's Safer at Home Order. All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.

How to View the Meeting: No physical location from which members of the public may observe the meeting and offer public comment will be provided. Please view the meeting, which will be live streamed at <https://malibucity.org/video> and <https://malibucity.org/VirtualMeeting>.

How to Participate Before the Meeting: Members of the public are encouraged to submit email correspondence to citycouncil@malibucity.org before the meeting begins.

How to Participate During the Meeting: Members of the public wishing to speak or defer time to another speaker during the meeting must participate through the Zoom application and must be present in the Zoom conference to be recognized. The City requests that you sign up to speak before the item you would like to speak on has been called by the Mayor. For those wishing to defer time, you are not required to sign up to speak. At the start of public comment for the item, the Mayor shall ask members of the public wishing to defer time to raise their hands in the Zoom meeting using the reactions button. Each person will be called to verify their presence in the Zoom meeting and their intent to donate time.

Please visit <https://malibucity.org/VirtualMeeting> and follow the directions for signing up to speak and downloading the Zoom application.

APPEAL NO. 21-016 – An appeal of the Planning Commission Resolution 21-02, denying Coastal Development Permit No. 17-075 Coastal Development Permit No. 17-075 for construction of a 3,778 square foot, two-story, single-family residence, with an approximately 375 square foot attached garage, hardscape, decks, retractable beach stairs, grading, seawall, retaining walls, and onsite wastewater treatment system; including Variance No. 17-024 for the single-family residence to extend beyond the building stringline, Variance No. 18-022 for the first and second floor rear decks to extend beyond the deck stringline, and front yard setback Variance No. 20-042 for a reduction of the required front yard setback, and Offer-to-Dedicate No. 21-002 for a lateral beach access easement across the property

Location:	18868 Pacific Coast Highway
APN:	4449-001-023
Zoning:	Single-family Medium (SFM)
Applicant:	Gniadek Design Group
Owner:	Farshid Etaat
Appealable to:	California Coastal Commission
Environmental Review:	Categorical Exemption CEQA Guidelines Sections 15303(a) and 15303(e)
Application Filed:	July 20, 2017
Case Planner:	Adam Pisarkiewicz, Contract Planner (949) 489-1442 pisarkiewicz@civicsolutions.com

EXHIBIT G

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Director has analyzed the proposed project and found that it is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the project is categorically exempt from the provisions of CEQA pursuant to CEQA Guidelines Sections 15303(a) and (e) – New Construction or Conversion of Small Structures. The Planning Director has further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

A written staff report will be available at or before the hearing for the projects. All persons wishing to address the Council regarding these matters will be afforded an opportunity in accordance with the Council's procedures.

Copies of all related documents can be reviewed by any interested person at City Hall during regular business hours. Oral and written comments may be presented to the Planning Council on, or before, the date of the meeting.

COASTAL COMMISSION APPEAL – An aggrieved person may appeal the City Council's approval to the Coastal Commission within 10 working days of the issuance of the City's Notice of Final Action. Appeal forms may be found online at www.coastal.ca.gov or in person at the Coastal Commission South Central Coast District office located at 89 South California Street in Ventura, or by calling 805-585-1800. Such an appeal must be filed with the Coastal Commission, not the City.

IF YOU CHALLENGE THE CITY'S ACTION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY, AT OR PRIOR TO THE PUBLIC HEARING.

Richard Mollica, Planning Director

Publish Date: July 28, 2022



City of Malibu

23825 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · Fax (310) 456-3356 · www.malibucity.org

Received

8/10/21

Planning Dept.

PLANNING DEPARTMENT COASTAL DEVELOPMENT PERMIT NOTICE OF APPEAL CHECKLIST

Actions Subject to Local Appeal: Pursuant to Local Coastal Program (LCP) Local Implementation Plan (LIP) Section 13.20.1 (Local Appeals), a decision or any portion of the decision of the Planning Director may be appealed to the Planning Commission by an aggrieved person, and any decision of the Planning Commission may be appealed to the City Council by an aggrieved person.

Deadline and Fees: Pursuant to LIP Section 13.20.1, an appeal shall be filed with the City Clerk within 10 days following the date of action for which the appeal is made, as indicated in the decision. If the tenth day falls on a weekend or a City-recognized holiday, the deadline shall extend to the close of business at City Hall on the first business day (whether whole or partial) following the weekend or a City-recognized holiday. Appeals shall be accompanied by the filing fee of \$750 as specified by the City Council.

To perfect an appeal, the form must be completed, together with all the necessary attachments, and must be timely received by the City Clerk either in person or by mail addressed to City of Malibu, Attn: City Clerk, 23525 Stuart Ranch Road, Malibu, CA 90265. For more information, contact Patricia Salazar, Senior Administrative Analyst, at (310) 456-2489, extension 245.

Part I. Project Information

1. What is the file number of the Coastal Development Permit you are appealing?
CDP No. 17-075, Variance Nos. 17-024, 18-022, and Offer-to-Dedicate No. 20-002
2. On what date was the decision made which you are appealing?
August 2, 2021
3. Who made the decision you are appealing?

☐ Planning Director ☒ Planning Commission
4. What is the address of the project site at issue?
18868 Pacific Coast Highway, APN 4449-001-023

Part II. Appeal Summary

1. Indicate your interest in the decision by checking the appropriate box.

☐ I am the Applicant for the project

☐ I am the neighbor

☒ Other (describe)

Applicant's Representative

2. If you are not the applicant, please indicate the applicant's name:

Guy Gniadek

3. Indicate the nature of your appeal.

a) Are you appealing the ☐ approval or ☒ the denial of the application or ☐ a condition of approval?

b) Each approval is accompanied by a list of specific conditions. If you are appealing one or more of the conditions of approval, list the condition number and state the grounds for your appeal. (Attach extra sheets if necessary.)

N/A

4. Check the appropriate box(es) to indicate which of the following reasons forms the basis of your appeal:

☒ The findings or conditions are not supported by the evidence, or the decision is not supported by the findings: or

☒ There was a lack of fair or impartial hearing: or

☒ The decision was contrary to law.

You must next provide a specific statement in support of each of the bases for appeal that you have checked above. Appeals that are stated in generalities, legal or otherwise, are not adequate. (Attach extra sheets if necessary.)

See Attached

Each coastal development permitting decision made by the Planning Director or the Planning Commission is accompanied by written findings. The written findings set forth the basis for the decision. If you have checked the first box in this section as a ground for your appeal, you must indicate the specific finding(s) you disagree with and give specific reasons why you believe the finding(s) is/are not supported by the evidence or why the decision is not supported by the findings. Appeals stated in generalities, legal or otherwise, are not adequate. (Attach extra sheets if necessary.)

See Attached

Part III. Appeal Checklist

ALL of the following must be timely filed to perfect an appeal.

1. ☒ Completed Appeal Checklist (This form with appellant's signature)
2. ☒ Appeal Fee \$750

The appeal fee must be submitted in the form of a check or money order made payable to the City of Malibu. Cash will not be accepted.

3. ☒ Mailing Labels and Radius Maps for Public Notice to Property Owners and Occupants

Public Notice of an appeal must conform to the manner in which the original notice was given. The notice radius for appealable CDPs and non-appealable CDPs that do not require a public hearing is 100 feet for property owners and residents. The notice radius for non-appealable CDPs that require a public hearing is 300 feet for property owners and 100 feet for residents.

The mailing labels and radius map **must be certified** by the preparer (a form is available at the public counter): certification may not be more than six months prior to the date of submittal; the radius map must be provided on an 8½" x 11" paper; the mailing labels must be printed on 8½" x 11" paper, 3 columns, 10 rows (e.g. Avery 5160).

Part IV. Signature and Appellant Information

I hereby certify that the appeal submittal contains all of the above items. I understand that if any of the items are missing or otherwise deficient, the appeal is ineffective and the filing fee may be returned. IN ORDER TO PERFECT AN APPEAL, ALL APPEAL SUBMITTALS MUST BE COMPLETE BY THE DEADLINE. NO EXTENSIONS WILL BE ALLOWED FOR APPELLANTS WHO ONLY PARTIALLY COMPLY WITH THESE REQUIREMENTS AS OF THE DEADLINE. IF AN APPEAL IS NOT PERFECTED BY THE DEADLINE, THE DECISION BECOMES FINAL.

Guy Gniadek
PRINT APPELLANT'S NAME

(818) 681-9806
TELEPHONE NUMBER


APPELLANT'S SIGNATURE

8/09/2021
DATE

Appellant's mailing address: 727 Kentia Avenue, Santa Barbara, CA 93101

Appellant's email address: guy.gniadek@gmail.com

OFFICE USE ONLY

Action Appealed: _____

Appeal Period: _____

Date Appeal Form and required documents submitted: _____ Received by: _____

Appeal Completion Date: _____ by: _____
(Name, Title)

Basis of Appeal #1 – The Findings Are Not Supported by the Evidence:

Against Staff recommendation, the Planning Commission denied the project based on their unsupported opinion that the project did not meet CDP Finding No. 1 (Per LIP Chapter 13), and Variance Findings A, B, C, D, H, and I for both the Residence and associated Deck Stringline Variance requests. Contrary to the Planning Commission resolution of denial, the facts in the record fully support that the proposed project is consistent with these required CDP and Variance Findings. Below are responses to each of these findings with contrary arguments, based on the evidence provided, that support project approval.

Findings for CDP No. 17-075 for the construction of a new two-story, single-family residence (LIP Chapter 13):

1. **That the project as described in the application and accompanying materials, as modified by any conditions of approval, conforms with certified City of Malibu Local Coastal Program**

The project has been reviewed for conformance with the LCP by the Planning Department, City Biologist, City Coastal Engineer, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, LACFD, and CSLC. The proposed project, as conditioned, conforms to the LCP and MMC in that it meets all of the required beachfront residential development standards of the SFM residential zoning district, inclusive of the requested structure and deck stringline variances and front yard setback variance request.

Findings for Variance 17-024 for proposed single-family residence to extend seaward of the building stringline (LIP Section 13.26.5):

- A. **There are special circumstances or exceptional characteristics applicable to the subject property, including size, shape, topography, location, or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.**

The proposed adjusted building stringline will allow the most appropriate placement of the proposed residence given that the location of the nearest adjacent dwellings are substantially more landward than existing dwellings further upcoast and downcoast from the project site. Strict application of the zoning ordinance would result in an allowable development area within approximately 32 feet of PCH (in an area slightly larger than the proposed garage footprint) and deny the applicant of stringline privileges enjoyed by other surrounding property owners beyond the immediately adjacent dwellings, which have been developed to a similar building stringline as the proposed project.

- B. **The granting of such variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located.**

The granting of the variance will not constitute a special privilege to the applicant or property

owner. The granting of the variance will not be detrimental to the public's interest, safety, health, or welfare because it would allow the proposed residence to have similar stringline privileges as dwellings beyond the adjacent dwellings upcoast and downcoast of the project site. The project has been reviewed and approved by City geotechnical staff, the City Coastal Engineer, and City Public Works Department for consistency with all applicable regulations and policies. Therefore, the granting of the variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity in which the property is located.

C. The granting of the variance will not constitute a special privilege to the applicant or property owner.

The proposed building stringline is measured from the second nearest adjacent built dwellings on both sides of the subject property and approximately 244 feet landward from the 10- foot MHTL setback. Therefore, the granting of the variance will not constitute a special privilege to the applicant or the property owner because other nearby homes have been constructed at a similar distance seaward as the subject application and the proposed residence meets all other applicable development standards, inclusive of the deck stringline variance.

D. The granting of such variance will not be contrary to or in conflict with the general purposes and intent of this Chapter, nor to the goals, objectives and policies of the LCP.

The analysis presented in the agenda report and the record as a whole demonstrate that, with the inclusion of the variance, the project is consistent with the LCP, the Coastal Act, and other applicable regulations. The granting of the variance will not be contrary to or in conflict with the general purposes and intent of LIP Chapter 13, nor the goals, objectives, and policies of the LCP. Additionally, the proposed home meets the required 10 foot setback from the MHTL by an additional 10 feet (20-foot setback from MHTL) and does not adversely impact shoreline access.

H. The subject site is physically suitable for the proposed variance.

The subject site is physically suitable for the proposed variance in that there is no feasible alternate location or configuration that would provide an environmental advantage. The proposed residence will be similar to other non-adjacent upcoast and downcoast dwellings in the area. In addition, the proposed project has been reviewed and approved by the City Coastal Engineer, City geotechnical staff, and City Public Works Department as being physically suitable for the proposed variance.

I. The variance complies with all requirements of state and local law.

The variance complies with all requirements of state and local law. Construction of the proposed residence will comply with all building code requirements and will incorporate all recommendations from applicable City and County agencies.

Findings for Variance 18.022 for first and second story decks to extend seaward of the deck stringline (LIP Section 13.26.5):

- A. There are special circumstances or exceptional characteristics applicable to the subject property, including size, shape, topography, location, or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

The proposed adjusted deck stringline will allow the most appropriate placement of the proposed decks given that the locations of the nearest adjacent decks are substantially closer to PCH when compared to existing residences further upcoast and downcoast from the project site.

Strict application of the zoning ordinance would result in a deck stringline that is landward of the proposed building stringline and would deny the applicant of stringline privileges enjoyed by other surrounding property owners beyond the immediately adjacent decks, which have been developed to a similar stringline as the proposed project.

- B. The granting of such variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located.

The granting of the variance will not be detrimental to the public's interest, safety, health or welfare because it would allow the proposed house to have the same stringline privileges as decks beyond the adjacent homes upcoast and downcoast of the project site, which are not reflective of surrounding development. The project has been reviewed and approved by City geotechnical staff, the City Coastal Engineer, and City Public Works Department for consistency with all applicable regulations and policies. Therefore, the granting of the variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity in which the property is located.

- C. The granting of the variance will not constitute a special privilege to the applicant or property owner.

The proposed first and second story deck stringlines would be measured from the third nearest upcoast deck and second nearest downcoast deck and approximately 10 feet landward from the 10-foot MHTL setback (20-foot setback from MHTL). Therefore, the granting of the variance will not constitute a special privilege to the applicant or the property owner because other nearby homes with decks have been constructed either at a similar distance seaward than the subject application and the subject residence meets all other applicable development standards, inclusive of the variance requests.

- D. The granting of such variance will not be contrary to or in conflict with the general purposes and intent of this Chapter, nor to the goals, objectives and policies of the LCP.

The analysis presented in the agenda report and the record as a whole demonstrate that, with the inclusion of the variance, the project is consistent with the LCP, the Coastal Act, and other

applicable regulations. The granting of the variance will not be contrary to or in conflict with the general purposes and intent of LIP Chapter 13, nor the goals, objectives, and policies of the LCP. Additionally, the proposed decks meets the required 10 foot setback from the MHTL by an additional 10 feet (20-foot setback from MHTL) and does not adversely impact shoreline access.

H. The subject site is physically suitable for the proposed variance.

The subject site is physically suitable for the proposed variance in that there is no feasible alternate location or configuration which would provide an environmental advantage. The proposed deck location will be in line with other non-adjacent decks in the area. In addition, the proposed project has been reviewed and approved by the City Coastal Engineer, City geotechnical staff, and City Public Works Department as being physically suitable for the proposed variance.

J. The variance complies with all requirements of state and local law.

The variance complies with all requirements of state and local law. Construction of the proposed deck improvements will comply with all building code requirements and will incorporate all recommendations from applicable City and County agencies.

Basis of Appeal #2

There was a lack of fair or impartial hearing:

The project application was originally scheduled to be presented to the Planning Commission on February 16, 2021. The day of the scheduled hearing, the City received several e-mails from community members expressing concerns about certain elements of project. In order to have time to address these items, the applicant requested the Planning Commission hearing be continued until March.

At the March 15th Hearing, the Planning Commission continued the item and directed the applicant to reinstall Story Poles and coordinate a time for the Commission, community members and staff to view. On March 26th, a schedule viewing was completed where the project design consultant was there to interact and answer questions. Several community members and commission attended.

The project was heard again by the Planning Commission at the Public Hearing held on April 19th. After much discussion and at the end of the hearing, the City Attorney summarized the Commission's direction and provided the applicant with the option to either request a decision that night or continue the item to a later date and redesign the project. Below is the specific direction provided around 1:52hr/min into the hearing:

It appears that the Commission will not be able to make the findings as proposed, but with modification to pull the structure back by about 10 ft in the back yard and 2 ft on the first floor in the front yard. We should also give direction on the deck stringline as well. With those modifications, perhaps you could resubmit with those and you would be able to find an approval from this commission that would be able to make the findings for a proposal that would fit that, if you're willing to submit that redesign.

At the hearing, and per the direction provided by the Commission, the applicant representative agreed to continue the item and modify the plans.

Based on Planning Commission direction, the house plans were redesigned to move the rear of the building 10 feet landward and to move the front, first floor of the building 2 feet in from PCH. Plans were resubmitted to the City on June 1, 2021 and upon review, Staff concurred that revised plan were consistent the Commission direction.

At the July Planning Commission hearing, after much discussion, several Planning Commissioners stated that the proposed changes where not acceptable even though the applicant followed the Commission's previous direction. At this hearing several Commissioners wanted further revisions to the design that would require the structure to be moved back further landward than previously requested. The Commission once again gave the applicant the choice to continue the item and redesign or to accept a decision based on the plan before them that night. Given that the applicant had followed the Commission's direction from the previous hearing, the applicant representative requested a third option; the Planning

Commission approve the project with condition of approval that would require the requested redesign, opposed to being required to continue the item once again. The Planning Commission did not accept this third option and instead denied the project.

The applicant agreed to continue the project multiple times in good faith and redesigned the project based on Planning Commission direction. It was not fair to the applicant for the Planning Commission to request further continuances or deny the project when the project met all legal requirements and the applicant had agreed to all requested modifications.

Basis of Appeal #3

The Decision was contrary to Law:

As detailed in the Staff Report, the project met all legal requirements and the facts in the record supported making all of the required findings. The Planning Commission denial was not supported by substantial evidence in the record and was contrary to law and City case precedent. The Planning Commission abused its discretion by requesting multiple continuances, changing its specific design requests, and ultimately basing its denial on the applicant's refusal to acquiesce to such baseless, multiple requests. The result violates applicant's civil and property rights to be treated equally with neighboring property owners.