



**CITY OF NEWPORT BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION
FROM: Seimone Jurjis, Community Development Director
SUBJECT: Report of actions taken by the Zoning Administrator, and/or Planning Division staff for the week ending October 21, 2022.

**COMMUNITY DEVELOPMENT DIRECTOR
OR PLANNING DIVISION STAFF ACTIONS**
(Non-Hearing Items)

Item 1: Drobot Residence Retaining Wall – Staff Approval (PA2022-0151)
Site Address: 4709 Cortland Drive

Action: Approved

Council District 6

APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.



COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
100 Civic Center Drive, P.O. Box 1768, Newport Beach, CA 92658-8915
949-644-3200
www.newportbeachca.gov

COMMUNITY DEVELOPMENT DIRECTOR
ACTION LETTER

Subject: Drobot Residence Retaining Wall (PA2022-0151)
▪ Staff Approval

Site Location: 4709 Cortland Drive

Applicant: Scott Holland

Legal Description: Lot 2 of Tract 3519

On **October 21, 2022**, the Community Development Director approved a staff approval (PA2022-0151) determining that the partial demolition and reconstruction of an existing damaged retaining wall is in substantial conformance with Modification Permit No. MD3928.

LAND USE AND ZONING

- **General Plan Land Use Plan Category:** RS-D (Single Unit Residential Detached)
- **Zoning District:** R-1-6000 (Single-Unit Residential)
- **Coastal Land Use Plan Category:** RSD-A (Single Unit Residential Detached – (0.0 – 5.9 DU/AC))
- **Coastal Zoning District:** R-1-6000 (Single-Unit Residential)

I. BACKGROUND

On November 7, 1991, the Planning Commission approved Modification Permit No. MD3928, which authorized the construction of an approximately 11-foot-6-inch-tall retaining wall with a tempered glass windscreen above for a total height of 15 feet, 4 inches. The retaining wall spans 12 contiguous lots along East Coast Highway, as depicted on Figure 1 below. It is located within the front setback areas, which range from 30 to 38 feet.

At the time of the approval, the Zoning Code limited construction within the front setback areas to 3 feet in height. Consistent with the plans reviewed and approved by the Planning Commission, the wall is constructed with interlocking split-faced block material with recessed breaks in the wall for landscaping opportunities.

The purpose of the retaining wall was identified as: (1) to bring stability to an existing steep slope with erosion problems; (2) to reduce the noise from East Coast Highway from 71.1 to 60.4 decibels, and comply with noise mitigation measures of an Environmental Impact Report (EIR) approved by the County of Orange as part of the widening of East Coast Highway; and (3) to create an aesthetically pleasing wall which would complement the Newport Coast community.

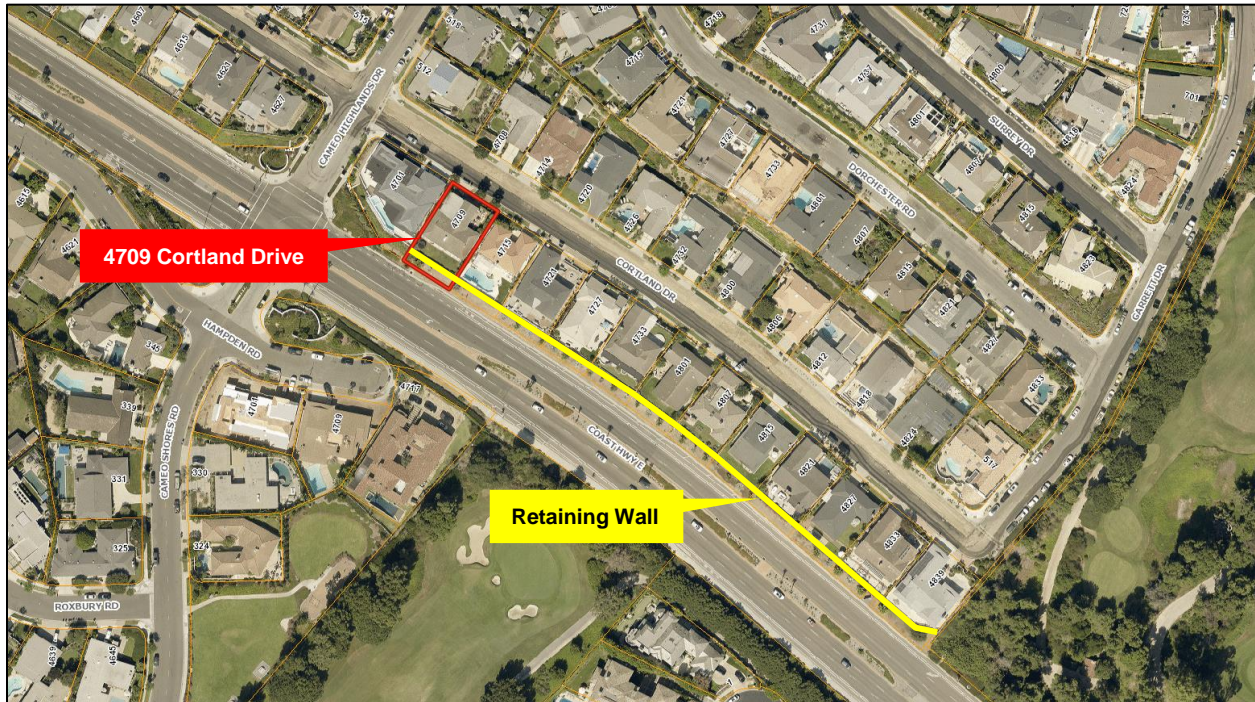


Figure 1, An aerial photograph of the 12 residential lots and retaining wall.

In compliance with the California Environmental Quality Act (CEQA), an initial study was prepared for the retaining wall. The Initial Study concluded that there was no substantial evidence that the project could have a significant effect on the environment. Therefore, a negative declaration was prepared and the Planning Commission approved the retaining wall.

As a part of the project approval, the Planning Commission made the following findings: (1) that the wall would not be detrimental to the surrounding area; (2) that the wall would not conflict with any public easements; (3) that the wall and the windscreen above would not obstruct views from adjoining residential properties; (4) that there would be adequate space for the 10-foot wide water easement along East Coast Highway; and (5) that the wall would satisfy the mitigation measure related to noise from the County of Orange EIR. The full list of findings is attached as Attachment No. CD 2.

MD3928 included several conditions of approval. The following are notable conditions that are specifically related to the construction of the wall:

- Condition No. 1: *That development shall be in substantial conformance with the approved plot plan, profile, elevation and section, except as noted below.*
- Condition No. 3: *That the proposed retaining wall be located a minimum distance of 4 feet behind the existing 10-foot wide water easement (14 feet behind East Coast Highway right-of-way line) and that the bottom of the retaining wall be constructed to a depth so that a line project from the edge of the easement at the flowline pipe*

elevation at a 45-degree angle to the wall will not undercut the bottom of the proposed wall.

- Condition No. 4: *That the wall be constructed in such a manner as to allow landscape materials to be planted in the wall at intermediate heights and that the area in front of the wall be fully landscaped with the installation of an appropriate irrigation system. That there shall be no trees planted within the water easement area. That the landscape plans shall be approved by the Planning, Public Works and Parks, Beaches, and Recreation Departments.*
- Condition No. 8: *That a minimum of two additional 8-inch steps be added at the two locations where the wall is set back (for a total of at least 32 inches at both setback areas) to facilitate additional planting and to reduce the mass of the wall.*

II. PROPOSED CHANGES

The Applicant is requesting a Staff Approval to find substantial conformance to MD3928 to demolish and reconstruct the portion of the retaining wall that is located on 4709 Cortland Drive, which is damaged and failing (see Attachment No. CD 3 for photos). The proposed wall is to be constructed with split-faced block material that is similar to the rest of the wall (Figure 2). Additionally, the design provides a minimum 32-inch setback area for landscaping and complies with the required setbacks from the 10-foot water easement and East Coast Highway right-of-way line.

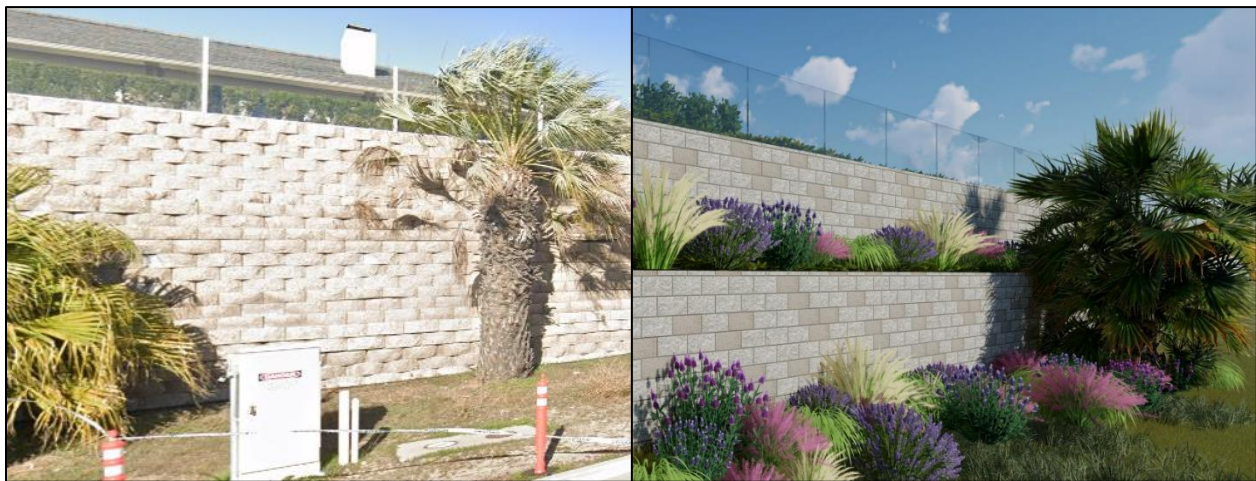


Figure 2, existing damaged wall (left), and a rendering of the proposed replacement (right).

III. FINDINGS

Per Section 20.54.070 (Changes to an Approved Project) of the Newport Beach Municipal Code (NBMC), the Director may authorize minor changes to an approved site plan, architecture, or the nature of the approved use, without a public hearing, where the Director first finds that the changes:

Finding:

- A. *Are consistent with all applicable provisions of this Zoning Code.*

Facts in Support of Finding:

1. The project site is zoned R-1-6000 (Single-Unit Residential), which is intended to provide areas appropriate for a range of detached single-family residential dwelling units, each located on a single legal lot, and does not include condominiums or cooperative housing. The property is improved with a single-unit residence. The proposed replacement retaining wall would remove a damaged portion and would help ensure site stability to maintain the residential structures.
2. Retaining walls with a maximum height of 42 inches from existing grade are permitted to be located within front setback areas. The Planning Commission approved MD3928, which authorized the existing 15-foot-4-inch-tall retaining wall and windscreen. The proposed reconstruction of the portion of the retaining wall is substantially conforming with MD3928 in aesthetics, function, and location.

Finding:

- B. *Do not involve a feature of the project that was a basis for or subject of findings or exemptions in a negative declaration or Environmental Impact Report for the project.*

Facts in Support of Finding:

1. Prior to the approval of the existing retaining wall, an EIR was certified by the County of Orange as part of the project to widen East Coast Highway. A mitigation measure was included which required a wall for the purpose of noise attenuation for the residences located above East Coast Highway.
2. An initial study was prepared for the retaining wall. The Initial Study concluded that there was no substantial evidence that the project could have a significant effect on the environment. Therefore, a Negative Declaration was prepared and considered before the Planning Commission approved the retaining wall.
3. The Negative Declaration included three mitigation measures that: (1) required demonstration to the Building Department that the wall design able to be secure and stable in the case of underground or excavation work in the vicinity of the wall; (2) that a landscaping and irrigation plan be prepared by a licensed landscape architect for review by the Planning Department; and (3) that a licensed landscape architect or contractor shall provide written certification to the Building Division that the landscaping and irrigation system has been installed per plans.
4. The proposed wall does not contradict or affect any of the findings made in the Negative Declaration. The reconstruction of a portion of the retaining wall will not

have a significant effect on the environment. Furthermore, the retaining wall will be conditioned to comply with the mitigation measures from the Negative Declaration, as it will be required for the Applicant to submit detailed plans to the Building Division, as well as landscape plans and certification to the Planning Division.

Finding:

- C. *Do not involve a feature of the project that was specifically addressed or was the subject of a condition(s) of approval for the project or that was a specific consideration by the applicable review authority in the project approval.*

Facts in Support of Finding:

1. The proposed replacement retaining wall will match the existing retaining wall, as it is proposed to be constructed with split-face block material. The proposed wall includes a recessed break in the design to reduce the mass directly adjacent to East Coast Highway. The design is in substantial conformance with the plans approved by the Planning Commission, which complies with Condition No. 1 of MD3928.
2. The proposed replacement retaining wall is proposed to be set back four feet from the existing 10-foot water easement, which contains a water pipe that serves the City of Laguna Beach. In total, the wall is set back 14 feet from the East Coast Highway right-of-way line, which complies with Condition No. 3 of MD3928.
3. The proposed retaining wall includes a minimum 32-inch recessed break in the wall for landscaping. There is also additional landscaping proposed at the bottom of the wall to reduce the visual mass of the wall for motorists travelling on East Coast Highway. This complies with Conditions No. 4 and 8 of MD3928.

Finding:

- D. *Do not result in an expansion or change in operational characteristics of the use.*

Facts in Support of Finding:

1. The existing retaining wall is necessary to retain and support the 12 residential properties abutting East Coast Highway. Prior to the construction of the existing wall, the properties contained a slope down towards East Coast Highway. Currently, the portion of the retaining wall located on the subject property is damaged and failing. The reconstruction of the retaining wall provides safety to the residence at 4709 Cortland and reinforces the integrity of the existing wall, which is approximately 850 feet long.
2. The existing retaining wall was constructed partly due to noise issues from the previous widening of East Coast Highway. The retaining wall, with the tempered glass windscreen attached above, serves as a noise barrier to vehicular traffic on East Coast Highway. An EIR prepared for the County of Orange during the widening

of East Coast Highway required a sound attenuating wall as mitigation for the noise. The proposed wall is constructed with thick split-faced block material and includes a glass windscreen above to provide similar noise-mitigating benefits.

IV. CONDITIONS

1. The development shall be in substantial conformance with the approved site plan and elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. A copy of this Staff Approval shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
4. All conditions of approval from Modification Permit No. MD3928 shall remain effective and apply to the reconstruction of the retaining wall.
5. The Applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required prior to the issuance of a building permit.
6. *Prior to the issuance of a building permit, the Applicant shall submit a Construction Management Plan to be approved by the Community Development Director, which demonstrates the loading weight of construction equipment used.*
7. *Prior to the issuance of a building permit, the Applicant shall submit a landscape and irrigation plan prepared by a licensed landscape architect. These plans shall incorporate drought tolerant plantings and water efficient irrigation practices, and the plans shall be approved by the Planning Division.*
8. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
9. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees,

disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the **Drobot Residence Retaining Wall (PA2022-0151)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Applicant, City, and/or the parties initiating or bringing such proceeding. The Applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

Prepared by:


David S. Lee, Associate Planner

Approved by:


Seimone Jurjis, PE, CBO
Community Development Director

BMZ/dl

Attachments: CD 1 Vicinity Map
CD 2 Modification Permit No. MD3928 Findings and Conditions
CD 3 Photos
CD 4 Project Plans

Attachment No. CD 1

Vicinity Map

VICINITY MAP



Staff Approval (PA2022-0151)

4709 Cortland Drive

Attachment No. CD 2

Modification Permit No. 3928 Findings and Conditions

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EMERSON
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CITY OF NEWPORT BEACH

ROLL CALL

INDEX

Modification No. 3928 (Public Hearing)

Item No. 7

Mod 3928

Approved

Request to approve a modification to the Zoning Ordinance so as to permit the construction of a retaining wall, 11 feet 6 inches ± in height, topped by a tempered glass windscreen, 3 feet 10 ± inches in height, for an overall height of 15 feet 4 ± inches on property located in the R-1-B District. Said wall is to be located on 12 contiguous lots to within 15 feet of the front property line adjacent to East Coast Highway, where Districting Map No. 33 establishes required front yard setbacks ranging from 30 feet to 38 feet, and the Zoning Code limits such construction to 3 feet in height.

LOCATION: Lots 2 through 13, Tract No. 3519, located at 4709-4839 Cortland Drive, on the southerly side of Cortland Drive, easterly of Cameo Highlands Drive, in Cameo Highlands.

ZONE: R-1-B

APPLICANT: Cortland Noisewall Trust, Corona del Mar

OWNERS: Various property owners in Cameo Highlands

James Hewicker, Planning Director, stated that the subject retaining wall would be located at the entry to the City of Newport Beach and would be one of the first items to be seen coming from Laguna Beach; the retaining wall is proposed to be a very tall structure, with tempered glass on top; and the retaining wall does not have to be built where the homeowners have requested inasmuch as the sound studies indicate that a wall could be built at the top of the existing slope and not necessarily out towards the right-of-way on East Coast Highway. He questioned how the proposed wall will tie in at either end with the existing walls so as not to leave an opening where sound could find a way into the yards that are to be protected by the proposed wall. The proposed wall is also not adequate in terms of height for pool safety purposes and if any of the property owners desired to install a swimming pool or a spa in the additional yard area that would be created by building the proposed wall, the minimum heights and climbability.

POMEROY
MERRILL
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DI SANO
DEBY

CITY OF NEWPORT BEACH

ROLL CALL

INDEX

criteria would have to be applied to walls placed around bodies of water. The height of the side walls of each individual property could only be constructed to a height of 3 feet whereas the proposed wall is nearly 6 feet high, and any new walls along the side property lines to meet the retaining wall or to provide pool safety would be required to receive individual modifications to the Zoning Code.

In response to questions posed by Chairman Di Sano, Don Webb, City Engineer, explained that inasmuch as the 11-1/2 foot high retaining wall would totally cover up the slope facing East Coast Highway, it would significantly protect the slope. Mr. Hewicker replied that the property owners would not attain any additional land but the property owners would attain substantial flat usable yards adjacent to East Coast Highway if the retaining wall is approved.

In response to questions posed by Commissioner Pomeroy, Mr. Hewicker stated that the proposed retaining wall would not be adequate for pool safety because the wall is climbable. William Laycock, Current Planning Manager, explained that the property owner would be prevented to construct a retaining wall into his own bank and to increase the property he has because the Zoning Code does not allow any fences or walls to exceed a height of 3 feet above existing grade in the front yard setback without a Modification, and the Zoning Code allows a 6 foot high wall in a rear yard setback. In response to a question posed by Commissioner Pomeroy with respect to what staff's primary objection is regarding the proposed wall, Mr. Hewicker explained that the subject wall is designed to be a sound wall and a 6 foot wall at the top of slope would have accomplished the same purpose as the requested wall that is being moved out toward East Coast Highway.

In response to questions posed by Commissioner Gross, Mr. Hewicker stated that The Irvine Company has made a contribution towards the cost of the wall. Mr. Webb stated that based on the type of wall that is proposed, the sound would not rebound across East Coast Highway inasmuch as the retaining wall is not a solid

6

DEBAY
DI SANO
EDWARDS
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POMEROY

CITY OF NEWPORT BEACH

ROLL CALL

INDEX

flat face and is not the type of flat surface that would give a reflection of sound.

Commissioner Debay addressed Exhibit "B" and she pointed out that the conditions suggest that staff is only recommending a change of location. Mr. Laycock explained that a Modification to the Zoning Code would also be required if a sound wall exceeding 3 feet would be located at the top of the slope.

In response to a question posed by Commissioner Pomeroy regarding Exhibit "B", Mr. Laycock replied that the sound wall would be moved back 13 feet from the proposed wall, and the sound wall would be located where the existing 2-1/2 foot high wall is located at the top of the slope. Mr. Laycock concurred with Commissioner Pomeroy that the sound wall would not address slope failures.

The public hearing was opened in connection with this item, and Mr. C. R. Waxlax, 4801 Cortland Drive, appeared before the Planning Commission on behalf of the applicant. In response to questions posed by Chairman Di Sano, Mr. Waxlax concurred with the findings and conditions in Exhibit "A", and the applicant would look into the appeal process if the Planning Commission approved Exhibit "B".

Mr. Waxlax stated that he was involved in putting together the compromises that numerous groups have made to get to the point where the application is before the Planning Commission. He explained that 13 property owners, Cal-Trans, The Irvine Company, Laguna Beach Water District, and Cameo Homeowner's Association are the groups that have been involved with the project. The retaining wall began as a search for a solution for three main problems including the stability of the steep slope that has erosion problems. The existing slope is ugly, and when Newport Coast is completed, the slope will look worse by comparison. The property owners enlisted a sound engineering company, and the results of the noise study determined that the sound level is 71.1 CNEL, the State of California and the County of Orange have a limit of 65 CNEL, and the proposed retaining wall would reduce

FORNEY
MERRILL
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EDWARDS
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CITY OF NEWPORT BEACH

ROLL CALL

INDEX

the sound level to 60.4 CNEL. Cal-Trans stated that the property owners had a right to have the sound mitigated inasmuch as East Coast Highway will be widened by several lanes. Mr. Waxlax stated that The Irvine Company would contribute \$300,000.00 to the construction of the sound mitigating wall, and the remaining cost of the wall will be borne by the 13 property owners. He said that The Irvine Company offered to construct a wall at the top of slope; however, the property owners chose to propose a wall at the Laguna Beach water easement which is adjacent to East Coast Highway at the bottom of the slope. Representatives from the Laguna Beach Water District pointed out the problems of building the wall on the easement, and the danger to the wall when the pipe is replaced. The property owners do not have any problems with the Water District's solution to move the base of the wall back an additional 4 feet from the easement. Mr. Waxlax stated that the Keystone Company designed a special method to construct the wall with two setbacks so as to provide attractive landscaping.

Mr. Waxlax responded to staff's concerns as follows: The placement of the noise wall is not required in the proposed location - *the property owners asked Cal-Trans if a homeowner could be required to have the noise wall built inside his property line, and the property owners were informed absolutely not. The Irvine Company, when they offered to build the wall at top of slope, was informed the same thing. The Irvine Company was also informed that a property owner cannot be required to give up his property in order to have required noise mitigation completed, and The Irvine Company gave up the idea of offering to pay for a top of slope wall.* The approval of the wall in the proposed location could set a precedent for other similar lots in the City - *as far as the precedent that it would set for the slope that is east of Cameo Highlands Drive on East Coast Highway, the chances of anyone wanting to build a wall would be slim inasmuch as a similar wall project would be a major undertaking. Aesthetics of the proposed retaining wall - nothing is as ugly as the existing slope. The proposed wall is an outstanding design that would make a magnificent entrance to the City of Newport Beach. The original design for a vertical wall was nice, but staff's suggestion to step the wall back twice and plant landscaping will make a magnificent wall.*

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 DJ SAND
 EDWARDS
 GLOVER
 GROSS
 HERRILL
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CITY OF NEWPORT BEACH

INDEX

OLL CALL

In response to Mr. Hewicker's aforementioned concerns, Mr. Waxlax referred to *pool safety*. Mr. Waxlax stated that the proposed wall was designed for that purpose inasmuch as pools and spas currently exist, and the blocks on the wall will be constructed 16 inches above the current grade of the grass level, and on top of the 16 inches is a 46 inch high piece of glass, for a total height of 62 inches. The property owners are open to suggestions regarding the side yard walls meeting the retaining wall. In response to Mr. Hewicker's statement that the glass would be required to be 48 inches for safety requirements in accordance with the Uniform Building Code, Mr. Waxlax replied that the property owners would be flexible with their request. Staff concurred with Mr. Waxlax that 60 inches above grade is required, and Mr. Hewicker explained that there are sections within the 60 inches that has to be 48 inches non-climbable. Mr. Laycock explained that if the glass would be installed at the base of the concrete block wall, then the requirements would be met; however, the present location is not 48 inches. Mr. Waxlax stated that the property owners would comply with the foregoing requirement.

In response to a question posed by Commissioner Edwards, Mr. Waxlax replied that the CNEL was measured over a 24 hour period.

In response to questions posed by Commissioner Edwards, Mr. David Cooper, 4733 Cortland Drive, appeared before the Planning Commission, and Mr. Cooper described the foliage between Cameo Shores and the subject location. Mr. Cooper stated that bougainvillea has been the landscaping considered for the retaining wall. He indicated that if no glass would be installed at the top of the wall, the noise would not be mitigated, and the property owners would object to an extension of the block wall inasmuch as the home are located on view property.

In response to questions posed by Commissioner Glover, Mr. Waxlax discussed several ideas, including a glass wall, that the homeowners had regarding the construction of side walls that would connect with the sound wall, and the type of landscaping that would cover the wall. Commissioner Glover requested that a time

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CITY OF NEWPORT BEACH

ROLL CALL

INDEX

frame be implemented that would require the applicant to plant landscaping so as to cover the bare wall.

In response to a question posed by Commissioner Glover regarding the connecting walls, Mr. Hewicker referred to Lots 2 and 13 on the site plan, and he questioned what would keep the sound from coming into the property. Mr. Waxlax explained that the intent is to install glass across the top of slope across Lot 1, connecting the glass with the glass at the top of the proposed wall. On Lot 13, it is suggested that the glass stop where the wall stops, and the wall will dove-tail into the slope. Mr. Hewicker suggested that the property owners could apply for a blanket Modification so as to construct connecting walls along the side property lines.

In response to a question posed by Commissioner Debay, Mr. Waxlax explained that a sound wall for the area across Cameo Highlands Drive was not addressed in the Environmental Impact Report for the Newport Coast Development inasmuch as East Coast Highway will not be widened in that area.

Commissioner Gross questioned the amount of back filling that would be required behind the proposed wall and the feasibility of an Environmental Impact Report, and Mr. Hewicker explained that the hauling of dirt on City streets would be controlled through the issuance of a Grading Permit. Mr. Cooper and Commissioner Gross discussed the type of block that is proposed to construct the wall so as to enhance the landscaped wall. Mr. Webb explained the re-enforced earth that would be used to stabilize the slope. Mr. Waxlax and Commissioner Gross discussed the consideration of a cribwall or earthstone wall, and the advantage of a keystone wall. Commissioner Gross asked if the property owners would be willing to provide a bond for landscaping over a period of two to three years, and Mr. Waxlax replied that he did not have the authority to speak for 13 property owners or the Cameo Highlands Association; however, he would put up the requirement for the bond. Mr. Waxlax emphasized that all of the property owners in Cameo Highlands are concerned about the aesthetics of the project.

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GLOVER
GROSS
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CITY OF NEWPORT BEACH

XL CALL

INDEX

In response to a question posed by Commissioner Glover, Mr. Waxlax described the proposed retaining wall wherein he explained that each of the two setbacks are where the planting is proposed, and there would be two different levels in the wall where plants can take root and drape over the wall. He said that ivy could be planted at the base of the wall on East Coast Highway. Mr. Waxlax further replied that the Cameo Highlands Association would maintain the proposed wall.

Mr. Mike Stephenson, representative of the Keystone Company, San Diego, appeared before the Planning Commission and he described the vertical wall that was originally proposed by the applicant and opposed by staff. Mr. Stephenson described the proposed project from the plans that were on display, i.e., two 8 inch setbacks in two locations of the retaining wall, and cascading landscaping that would be planted into a cell that would be 16 inches long and 4-1/2 inches deep. He pointed out that a keystone wall is attractive and it may be a desire not to cover the entire wall with landscaping. In response to a question posed by Chairman Di Sano, Mr. Stephenson explained that the irrigation would be provided by a line sprinkling system that would be set into the wall. Commissioner Gross asked Mr. Stephenson if he would be willing to provide a \$100,000.00 bond at \$2,000.00 per year for 5 years until the landscaping was in place, and Mr. Stephenson replied that he is not in a position to provide a bond.

In response to a question posed by Commissioner Glover, Mr. Stephenson explained that the wall is proposed to be constructed as follows: beginning with one 4 foot 8 inch vertical wall, add two 8 inch planted setbacks, continue with one 4 foot 8 inch vertical wall, add two 8 inch planted setbacks, and finally one 5 foot 4 inch wall, topped by a tempered glass windscreen. In response to a question posed by Commissioner Edwards, Mr. Stephenson replied that the proposed wall as described with the glass would total approximately 16 feet.

Mr. Gary Malazian, 4827 Cortland Drive, appeared before the Planning Commission also as a landscape designer. He indicated there are several cascading vines that could be planted at the 4 foot

DEBAY
DI SANO
EDWARDS
GLOVER
GROSS
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POMEROY

CITY OF NEWPORT BEACH

ROLL CALL

INDEX

height levels that would cascade over the wall, and he stated that the keystone wall would be attractive if any of the wall would show. He said that he would provide the aforementioned bond if it would keep the City happy.

Commissioner Pomeroy addressed the design of the proposed landscaped vertical wall, and he determined that there would not be the softness of an angled wall. He asked if a compromise could be reached where there may be two or three additional steps that would pull the wall back two or three feet, and still provide the homeowners 10 extra feet instead of 14 extra feet, so as to mitigate the mass of the wall on East Coast Highway. Mr. Waxlax stated that the proposed wall is a significant compromise, and stepping the wall more than twice would detract from the aesthetics of the wall. Commissioner Pomeroy and Commissioner Edwards discussed the aforementioned suggestion. Commissioner Gross stated that he would oppose a large massive wall as proposed, and he supported Commissioner Pomeroy's suggestion. In response to Chairman Di Sano's request, Mr. Stephenson compared the configurations of a landscaped keystone wall that was on display with the proposed retaining wall. In response to a concern expressed by Commissioner Gross, Mr. Malazian explained that the Laguna Beach Water District has requested that the wall be moved back 4 feet from the easement as a safety margin and the 4 foot addition to the easement is where the base of the wall would be constructed.

Mr. Peter Juteau, 4821 Cortland Drive, appeared before the Planning Commission, and he explained compromises that could be made between the applicant and the Planning Commission with respect to the retaining wall and landscaping.

Mr. Carl Robbert, 4633 Dorchester Drive, appeared before the Planning Commission as Chairman of the Beautification Committee. He suggested that different colored bougainvillea could be planted and attached along the wall, and he addressed the proposed irrigation system that would stimulate fast growth.

Mr. Lewis Metzinger, 4715 Cortland Drive, appeared before the Planning Commission. He said that his family does not entirely

DEBY
DI SAND
EDWARDS
GLOVER
GROSS
HERRILL
POMEROY

CITY OF NEWPORT BEACH

ROLL CALL

INDEX

enjoy the swimming pool in their yard because of the amount of dirt and noise that comes from East Coast Highway, and the proposed wall would beautify the City of Newport Beach.

In response to a question posed by Commissioner Glover with respect to moving a portion of the wall back 3 feet as opposed to 16 inches on the two tiered levels and still retain the wall, Mr. Hewicker stated that if the size of the steps would be increased, it would cause a change in the way the wall is designed and retained, each step would require its own footing, and the locking ability would be lost in the way the retaining wall is currently designed. Commissioner Pomeroy explained that 8 inch increments could be moved back with a special block, the performance of the wall would improve, no footings would be required, and it would not harm the performance of the wall and would leave more area for planting. He explained that a benefit of the 8 inch step would be to cut down the vertical height of the wall.

Commissioner Gross supported the concept of a retaining wall at the subject location; however, he opposed the mass of the proposed wall. He suggested the applicant meet with staff to work out a compromise and request a bond that the landscaping would be planted and take hold.

Commissioner Pomeroy stated that he would not support the retaining wall as submitted based on the mass of the wall; however, he said that he would make a compromise of adding two or three steps that would lower the height of the wall in the intervening portion and move the wall back 32 inches if two 16 inch steps would be added, and lower each level by 16 inches.

Commissioner Edwards concurred with Commissioner Pomeroy's compromise inasmuch as it would diminish the massive structure. He suggested a rendering of the proposed landscaped wall, and he recognized the increase in traffic noise on East Coast Highway.

Mr. Malazian reappeared before the Planning Commission in response to Commissioner Pomeroy's suggestion wherein he

DESBY
EDWARDS
GROSS
SERAFILLO
POMEROY

CITY OF NEWPORT BEACH

ROLL CALL

INDEX

motion

addressed the climbability of the retaining wall, and he questioned the sound attenuation.

Mr. Waxlax reappeared before the Planning Commission so as to respond to the Planning Commission's suggestions. He said that the applicant would appreciate the opportunity to make compromises with staff. He suggested two 8 inch setbacks in the top two segments of the wall as an aesthetically pleasing idea, and the feasibility of moving the wall 2 or 3 feet towards East Coast Highway. Mr. Webb explained that the 4 feet from the easement on East Coast Highway is based on providing a wall that is deep enough so that it does not impact the water line. If the wall would move in closer to the easement line, then it would be necessary to deepen the footing of the wall inasmuch as for every foot that goes in it is necessary to go down a foot in the wall. The requirement states that the footing go up at a 45 degree angle from the easement line and not from the flow line of the pipe.

Motion was made to continue Modification No. 3928 based on the recommendations proposed during the public hearing, and he requested the applicant come back with landscape sketches of the proposal.

Commissioner Gross suggested three sections of the wall with 3 foot setbacks, move the wall closer to the water easement, and required bonding for the landscaping.

Commissioner Pomeroy referred to a sketch that he drew of a retaining wall consisting of a reduction of vertical heights, the depth is mitigated but would be able to retain virtually all of the extra area, and the sound wall would be pushed back away from the houses. He opposed the idea of bonding inasmuch as the City has never requested a homeowner's association who has maintained their own slopes to guarantee how the slopes would be maintained.

Commissioner Edwards supported Commissioner Pomeroy's suggestion of additional 8 inch steps, the cost would be cut down, the bulk of the wall would be reduced, and concerns about the sound reduction would be addressed.

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GLOVER
GROSS
KERRILL
POMEROY

CITY OF NEWPORT BEACH

ALL CALL

INDEX

Chairman Di Sano supported Commissioner Pomeroy's recommendation, and he suggested that a rendering of the landscape plan come back to the Planning Commission.

Commissioner Glover supported Commissioner Pomeroy's recommendation. She addressed her concerns with respect to walls throughout the City of Newport Beach but the wall could be softened with proper landscaping. Commissioner Glover recognized the property owners attempt to resolve a problem by putting up their own funds to construct the retaining wall.

Mr. Hewicker suggested that the applicant come back to the Planning Commission with a landscape plan prior to the issuance of the Building Permit.

The public hearing was closed at this time.

Substitute
Motion

Substitute motion was made to approve Modification No. 3928 subject to the findings and conditions in Exhibit "A", modify the conditions to state that a minimum of two additional 8 inch steps be added at the two locations where the wall is set back (for a width of at least 32 inches at both setback areas) to facilitate additional planting and to reduce the mass; and add a condition that the final landscaping plan be reviewed by the Planning Commission prior to the issuance of a Building Permit.

Motion
Withdrawn

Commissioner Edwards withdrew his motion to continue Modification No. 3928.

Yes
No
Absent

Motion was voted on to approve Modification No. 3928 subject to the findings and conditions in Exhibit "A". MOTION CARRIED.

A. Environmental Document

Findings:

1. That an Initial Study has been prepared for the project in compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines and City policy.

DEBAY
 D. J. SAND
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 GROSS
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 PORTEROY

CITY OF NEWPORT BEACH

ROLL CALL

INDEX

2. That based upon the information contained in the Initial Study, comments received, and all related documents, there is no substantial evidence that the project, as conditioned or as modified by mitigation measures identified in the Initial Study, could have a significant effect on the environment, therefore a Negative Declaration has been prepared. The Negative Declaration adequately addresses the potential environmental impacts of the project, and satisfies all the requirements of CEQA, and is therefore approved. The Negative Declaration was considered prior to approval of the project.

3. That an Initial Study has been conducted, and considering the record as a whole there is no evidence before this agency that the proposed project will have the potential for an adverse effect on wildlife resources or the habitat upon which wildlife depends. On the basis of the evidence in the record, this agency finds that the presumption of adverse effect contained in Section 753.5(d) of Title 14 of the California Code of Regulations (CCR) has been rebutted. Therefore, the proposed project qualifies for a De Minimis Impact Fee Exemption pursuant to Section 753.5(c) of Title 14 CCR.

Mitigation Measures:

1. That prior to the issuance of a building permit, the applicant shall demonstrate to the City of Newport Beach Building Department that the wall design contains elements to secure stability of the foundation in the event that any underground or excavation work is required in the vicinity of the retaining wall. The plans shall be prepared and signed by a licensed structural engineer with a written verification that in his opinion, this requirement has been satisfied.

2. That prior to the issuance of a building permit, a landscape and irrigation plan shall be prepared by a licensed landscape architect for review and approval of the Planning, Public Works and Parks Beaches and Recreation Departments.

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DI SAJO
DEBY

CITY OF NEWPORT BEACH

OLL. CALL

INDEX

3. That prior to final inspection of the wall, a licensed landscape architect or landscape contractor shall provide written certification to the Building Department that the landscaping and irrigation system has been installed according to the approved plans.

B. Modification No. 3928

Findings:

1. That the proposed construction will not be detrimental to the surrounding area or increase any detrimental effect of the existing use.
2. That the design of the proposed improvements will not conflict with any easements acquired by the public at large for access through or use of property within the proposed development.
3. That public improvements may be required of a developer per Section 20.81.060 of the Municipal Code.
4. That the proposed retaining wall with tempered glass windscreen will not obstruct views from adjoining residential properties.
5. That there is adequate space to provide landscaping between the proposed retaining wall and the 10 foot wide water easement along East Coast Highway.
6. That a noise wall has been required through mitigation measures of the EIR approved by the County of Orange for the widening of East Coast Highway, as it relates to sound attenuation for the subject property.

DEBAY
D.J. BANO
RODRIGUES
GLOVER
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CITY OF NEWPORT BEACH

LL CALL

INDEX

Conditions:

1. That development shall be in substantial conformance with the approved plot plan, profile, elevation and section, except as noted below.
2. That all improvements be constructed as required by Ordinance and the Public Works Department.
3. That the proposed retaining wall be located a minimum distance of 4 feet behind the existing 10 foot wide water easement (14 feet behind East Coast Highway right of way line) and that the bottom of the retaining wall be constructed to a depth so that a line projected from the edge of the easement at the flowline pipe elevation at a 45 degree angle to the wall will not undercut the bottom of the proposed wall.
4. That the wall be constructed in such a manner as to allow landscape materials to be planted in the wall at intermediate heights and that the area in front of the wall be fully landscaped with the installation of an appropriate irrigation system. That there shall be no trees planted within the water easement area. That the landscape plans shall be approved by the Planning, Public Works and Parks, Beaches and Recreation Departments.
5. That the Cameo Community Association shall be responsible for maintenance of the landscaping along the East Coast Highway frontage and shall execute an appropriate agreement providing for the maintenance of the landscape improvements prior to issuance of any grading or building permits for the proposed wall.
6. That disruption caused by construction work along roadways and by movement of construction vehicles shall be minimized by proper use of traffic control equipment and flagmen. Traffic control and transportation of equipment and materials shall be conducted in accordance with state

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GLOTT
EDWARDS
DI SAJO
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CITY OF NEWPORT BEACH

CL CALL

INDEX

and local requirements. A traffic control plan shall be reviewed and approved by the Public Works Department. There shall be no construction storage of materials within the state right-of-way. Prior to issuance of any grading permits, a parking plan for workers must be submitted and approved by the Public Works Department.

- 7. That the new grade established by the construction of the retaining wall shall be utilized for the purposes of measuring height in the required front yard setbacks.
- 8. That a minimum of two additional 8 inch steps be added at the two locations where the wall is set back (for a total of at least 32 inches at both setback areas) to facilitate additional planting and to reduce the mass of the wall.
- 9. That the final landscaping plan be reviewed by the Planning Commission prior to the issuance of a Building Permit.

...

Amendment No. 738 (Continued Public Hearing)

Request to amend Title 20 of the Newport Beach Municipal Code so as to permit the sale of convenience items such as, but not limited to, soft drinks, candy, cigarettes, ice, magazines and snack food, in conjunction with the operation of automobile service stations. The proposed amendment also includes: the requirement for on-site parking spaces for automobile service stations which do not have service bays, but do include the sale of convenience items; the addition of covered mechanical car wash facilities as a permitted activity; the requirement to provide rest rooms which are available to the general public for new automobile service stations; and the requirement for fuel price signs to be in compliance with, but not exceed the minimum price sign requirements set forth in the Business and Professions Code of the State of California.

INITIATED BY: The City of Newport Beach

Item No. 8

A738

Cont'd to
11/21/91

Attachment No. CD 3

Photos





Attachment No. CD 4

Project Plans



DrobotResidenc
eRetainingWallPl
anningStaffAppr
ovalSubNo1_22
0713

VIEW LOOKING SOUTH ALONG PACIFIC COAST HIGHWAY

Project Description:

NEW RETAINING WALLS TO REPLACE EXISTING DAMAGED RETAINING WALLS AT THE REAR PROPERTY OF AN EXISTING SINGLE FAMILY RESIDENCE

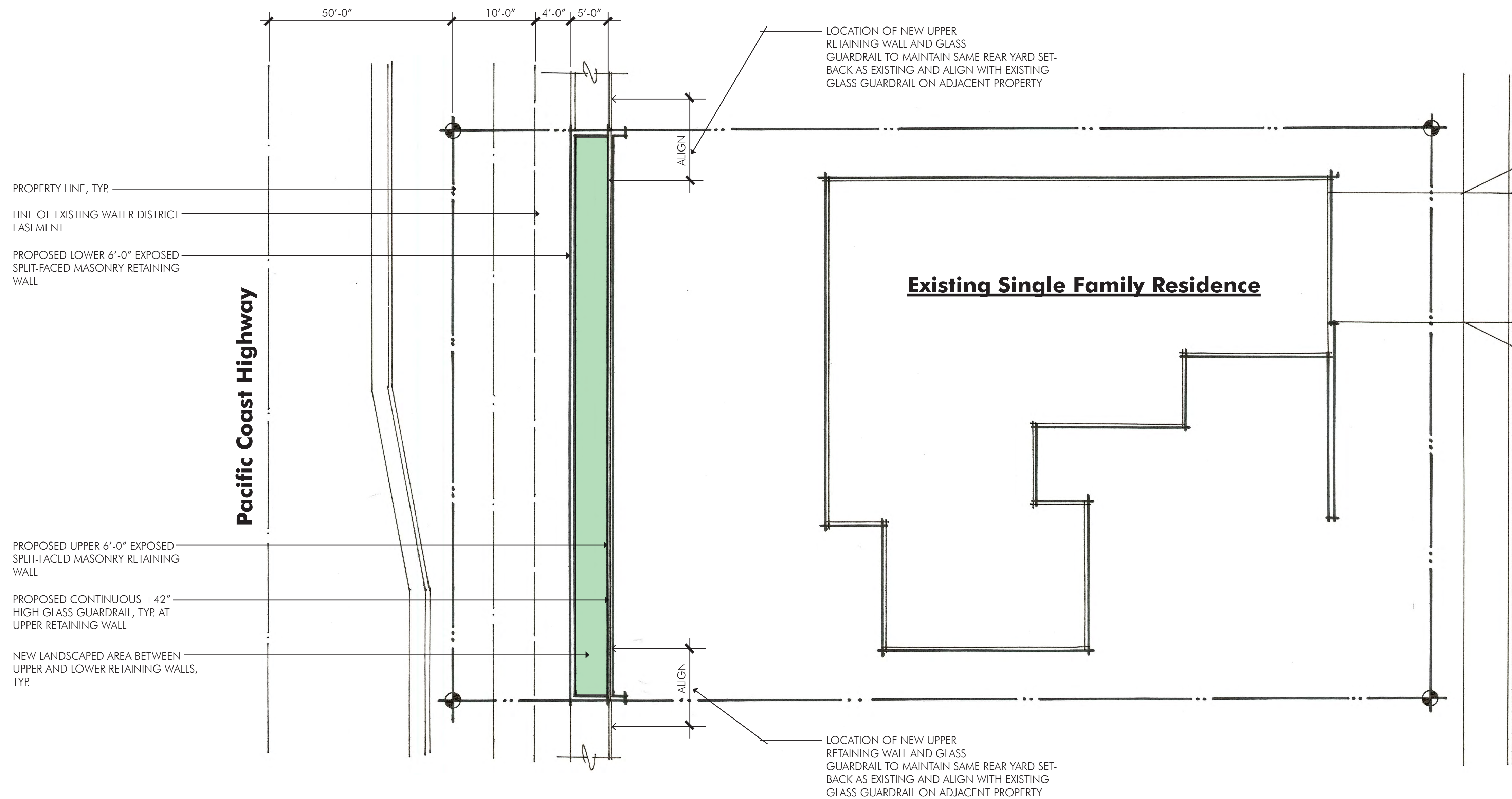
Project Directory:

OWNER:
MICHAEL DROBOT
4079 CORTLAND DRIVE
CORONA DEL MAR, CA 92625
TEL.: (949) 354 - 8866
EMAIL: MICHAEL@SKYFACTS.COM

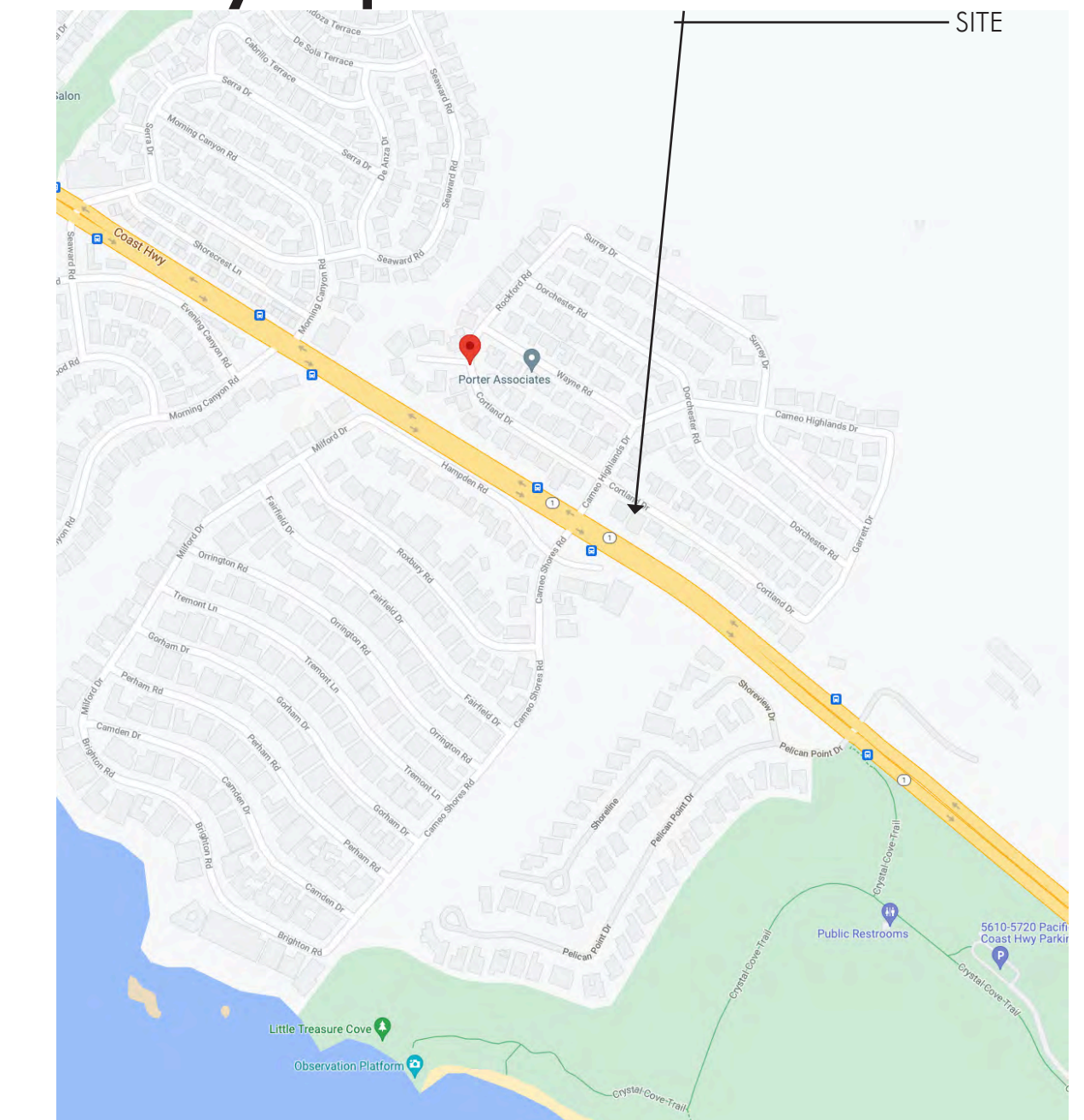
ARCHITECT:
SCOTT HOLLAND AIA ARCHITECT, PRINCIPAL
ELEMENTS ARCHITECTURE, INC.
6B LIBERTY, SUITE 100
ALISO VIEJO, CA 92656
TEL.: (714) 749 - 5546
EMAIL: SHOLLAND@ELEMENTSARCH.COM

Sheet Index:

- A0 TITLE PAGE / RENDERING
- A1 OVERALL SITE PLAN
- A2 PROPOSED SECTION AT NEW RETAINING WALLS; OPTION B
- A3 PROPOSED COLORS, MATERIALS, AND LANDSCAPING



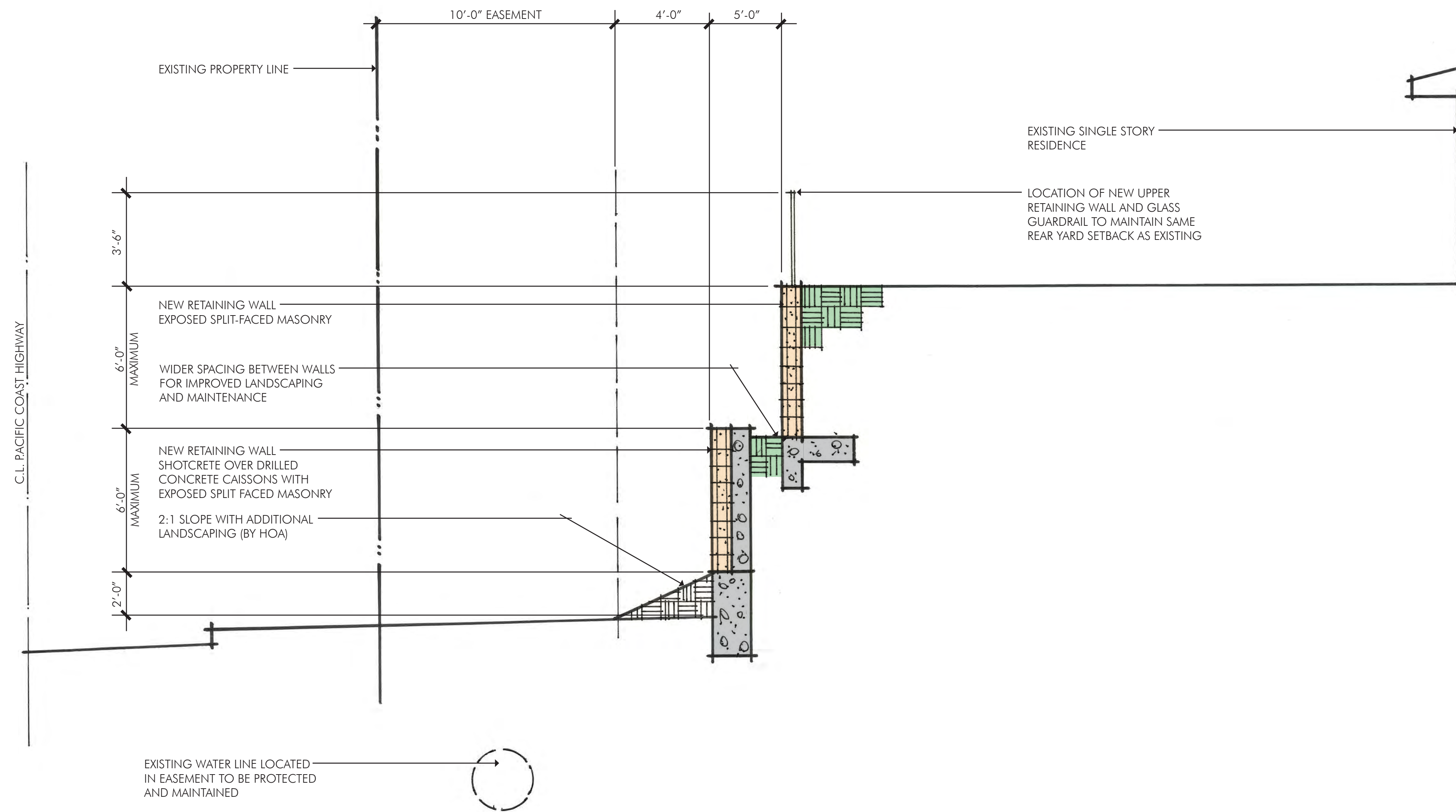
Vicinity Map:



Proposed Overall Site Plan - Option B

SCALE: 3/8" = 1'-0"

A1



Proposed Wall Section - Option B

SCALE: 3/8" = 1'-0"

A2



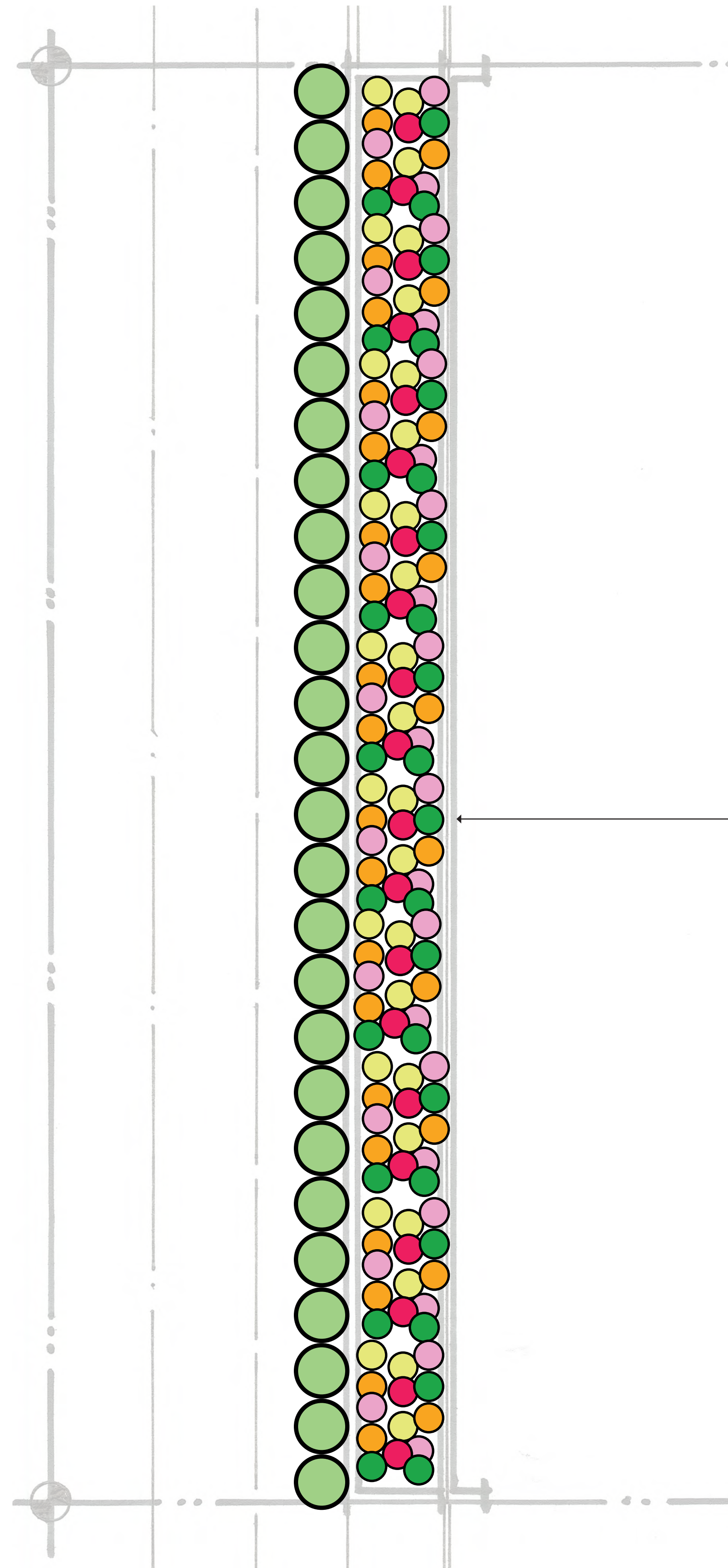
FIELD - 75% ORCO WHITE SPLIT FACED MASONRY









ACCENT - 20% ORCO TAN BURNISHED MASONRY

Proposed Colors and Materials

Pacific Coast Highway



PROPOSED PLANTING PALETTE:

-  ROSEMARINUS O. 'PROSTRATUS', CREEPING ROSEMARY - 1 GALLON SIZE
-  ALOE 'BLUE ELF', BLUE ELF ALOE - 1 GALLON SIZE
-  HESPERALOE PARVIFLORA, PINK YUCCA - 5 GALLON SIZE
-  ROSEMARINUS O. PROSTRATUS, PROSTRATE ROSEMARY, 1 GALLON SIZE
-  CAREX PANSA, SAND DUNE SEDGE, - 1 GALLON SIZE
-  MUHLENBERGIA RIGENS, DEER GRASS - 1 GALLON SIZE

RANDOM MIXTURE OF THE (1) GALLON PLANTS TO PROVIDE A MORE NATURAL ORGANIC LOOK AND FEEL

PROPOSED PLANTING PLAN

A3