CALIFORNIA COASTAL COMMISSION

South Coast Area Office 200 Oceangate, Suite 1000 Long Beach, CA 90802-4302 (562) 590-5071

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Filed: March 23, 2007
49th Day: May 11, 2007
180th Day: September 19, 2007
Staff: Ryan Todaro-LB
Staff Report: August 20, 2007
Hearing Date: September 5-7, 2007



Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NUMBER: 5-06-362

APPLICANTS: Laurie Jules Partnership

AGENT: Timothy Wilkes

PROJECT LOCATION: 23 North Vista De Catalina, Laguna Beach, Orange County

PROJECT DESCRIPTION: Construction of a new two-story, 38-foot high (as measured from

frontage road), 2,861 square-foot single-family residence over a 915 square-foot 3-car garage, 2,153 cubic yards of grading, landscaping

and fuel modification plan.

SUMMARY OF STAFF RECOMMENDATION:

Conditions regarding: 1) conformance with geotechnical recommendations; 2) additional approvals for any future development; 3) conformance with submitted drainage and run-off control plan; 4) construction best management practices; 5) location of debris disposal site; 6) fire hazard/fuel modification & landscaping requirements; 7) proof of legal ability to comply with conditions; and 8) a deed restriction against the property, referencing all of the Special Conditions contained in this staff report.

SUBSTANTIVE FILE DOCUMENTS: Report of Investigation on Geologic/Soils and Foundation Conditions for Proposed New Residence and Improvements, 23 North Vista De Catalina, Community of Three Arch Bay, South Laguna, California, prepared by Ian S. Kennedy, Inc., dated March 6, 2001; Biological Survey Report for 23 North Vista De Catalina, Laguna Beach, CA, prepared by Scott Holbrook, dated December 20, 2003; Alternate Materials & Methods Proposal for 23 North Vista De Catalina, APN 056-151-16, prepared by Interface Management Services, dated December 1, 2005; Addendum Letter on Revised Recommendations for Retaining Wall Design for Proposed New Residence, 23 North Vista De Catalina, Community of Three Arch Bay, South Laguna, California, prepared by Ian S. Kennedy, Inc., dated November 3, 2006; Letter on Review of Foundation and Grading Plans for Proposed New Residence, 23 North Vista De Catalina, Community of Three Arch Bay, South Laguna, California, prepared by Ian S. Kennedy, Inc., dated November 3, 2006; Review of Biological Resources Reported for 23 North Vista De Catalina, Laguna Beach, CA, prepared by Scott Holbrook, dated November 28, 2006; City of Laguna Beach certified Local Coastal Program (as guidance only).

LOCAL APPROVALS RECEIVED: City of Laguna Beach Approval in Concept, dated 9/11/06.

LIST OF EXHIBITS:

- 1. Location Map
- 2. Assessor's Parcel Map
- 3. Site Photos
- 4. Project Plans

STAFF RECOMMENDATION:

Staff recommends that the Commission **APPROVE** the permit application with special conditions.

MOTION:

I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.

Staff recommends a <u>YES</u> vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION:

I. APPROVAL WITH CONDITIONS

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

- 1. <u>Notice of Receipt and Acknowledgment.</u> The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. <u>Expiration.</u> If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

- 3. <u>Interpretation.</u> Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. <u>Assignment.</u> The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. <u>Terms and Conditions Run with the Land.</u> These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Conformance with Geotechnical Recommendations

- A. All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with all recommendations contained in the following geologic engineering investigations: Report of Investigation on Geologic/Soils and Foundation Conditions for Proposed New Residence and Improvements, 23 North Vista De Catalina, Community of Three Arch Bay, South Laguna, California, prepared by Ian S. Kennedy, Inc., dated March 6, 2001; Addendum Letter on Revised Recommendations for Retaining Wall Design for Proposed New Residence, 23 North Vista De Catalina, Community of Three Arch Bay, South Laguna, California, prepared by Ian S. Kennedy, Inc., dated November 3, 2006; Letter on Review of Foundation and Grading Plans for Proposed New Residence, 23 North Vista De Catalina, Community of Three Arch Bay, South Laguna, California, prepared by Ian S. Kennedy, Inc., dated November 3, 2006.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, all final design and construction plans, including foundations, grading and drainage plans along with evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all the recommendations specified in the above-referenced geologic engineering report.
- C. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment unless the Executive Director determines that no amendment is legally required.

2. <u>Future Development</u>

This permit is only for the development described in Coastal Development Permit No. 5-06-362. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by Coastal Development Permit No. 5-06-362. Accordingly, any future improvements to the single-family house authorized by this permit, including but not limited to improvements to the residence, hardscape, changes to landscaping/fuel

modification plan, change in use from a permanent residential unit and repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-06-362 from the Commission or shall require an additional coastal development permit from the Commission.

3. <u>Drainage and Run-Off Control Plan</u>

- A. The applicant shall conform to the drainage and run-off control plan received on March 23, 2007, showing roof drainage and runoff from all impervious areas directed to filtered area drains before being discharged to the storm drain system.
- B. The permittee shall undertake development in accordance with the final plans. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. Construction Best Management Practices

- A. The permittee shall comply with the following construction-related requirements:
 - (1) No construction materials, debris, or waste shall be placed or stored where it may be subject to wind or rain erosion and dispersion;
 - (2) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
 - (3) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters:
 - (4) Erosion control/sedimentation Best Management Practices (BMPs) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and
 - (5) All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.
- B. Best Management Practices (BMPs) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the on-set of such activity. Selected BMPs shall be maintained in a functional condition throughout the duration of the project. Such measures shall be used during construction:
 - (1) The applicant shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a

designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. It shall be located as far away from the receiving waters and storm drain inlets as possible;

- (2) The applicant shall develop and implement spill prevention and control measures;
- (3) The applicant shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50-feet away from a stormdrain, open ditch or surface water; and
- (4) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.

5. Location of Debris Disposal Site

The applicant shall dispose of all demolition and construction debris resulting from the proposed project at an appropriate location outside the coastal zone. If the disposal site is located within the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.

6. <u>Fire Hazard/Fuel Modification & Landscaping Requirements</u>

- A. All fuel modification and landscaping shall be consistent with the final fuel management plan described in the document titled Alternate Materials & Methods Proposal for 23 North Vista De Catalina, APN 056-151-16, prepared by Interface Management Services, dated December 1, 2005 and the Preliminary Landscape Plan prepared by Michael C. Bonner received on March 23, 2007. In general, the fuel management plan identifies the following fuel modification zones: 50 feet of irrigated landscaping (A & B Zones), 100 feet of off site thinning (C & D zones). The landscape plan identifies use of drought tolerant, native, non-invasive vegetation on the rear yard (slope facing) areas of the subject site and moderate to low water use, non-invasive vegetation on the front yard (street facing) portion of the site.
- B. The permittee shall undertake development in accordance with the final plans. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
- C. For purposes of this permit, this condition shall serve as notification to present and future property owners that certain structures and areas of land are subject to special fuel treatment requirements that are specified in the document titled Alternate Materials & Methods Proposal for 23 North Vista De Catalina, APN 056-151-16, prepared by Interface Management Services, dated December 1, 2005 and the Preliminary Landscape Plan prepared by Michael C. Bonner received on March 23, 2007. Structures are required to incorporate building construction features consistent with local fire authority guidelines for construction of structures within special fire hazard areas. Furthermore, there is a prohibition on the placement of

combustible materials in an area of land that abuts undeveloped land. Proposed and future development shall conform to the requirements of the final fuel management plan.

7. Proof of Legal Ability To Comply With Conditions

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall provide proof of the permittee's ability to comply with all the terms and conditions of this coastal development permit.

8. Deed Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowners have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION

The subject site is a vacant, inland lot, located at 23 North Vista De Catalina, Laguna Beach (Three Arch Bay), Orange County. The subject site consists of an irregular shaped 7,680 square-foot rectangular lot on the east side of North Vista De Catalina, which lies on a relatively steep, west-facing slope between two adjacent developed residential parcels on the north and south, privately owned undeveloped land to the east and residential development to the west (Exhibit #3). The land use designation for this lot is Village Low Density (City land use designation/not certified by the Commission).

The subject site is located within the locked gate community of Three Arch Bay in the City of Laguna Beach (see Exhibit #1). Laguna Beach has a certified Local Coastal Program (LCP) except for the four areas of deferred certification: Irvine Cove, Blue Lagoon, Hobo Canyon, and Three Arch Bay. Certification of the Three Arch Bay area was deferred due to access issues arising from the locked gate nature of the community. The proposed development needs a coastal development permit from the Coastal Commission because it is located in the Three Arch Bay area of deferred certification. Because the site is located within a locked gate community, no public

access exists in the immediate vicinity. The nearest public access exists at 1000 Steps County Beach approximately one half mile upcoast of the site.

The applicant proposes to construct a new two-story, 38-foot high (as measured from frontage road), 2,861 square-foot single-family residence over a 915 square-foot 3-car garage (Exhibit #4). The applicant proposes a foundation system which includes continuous spread footings, pad-type footings and slab-on-grade and raised floors. Grading will consist of approximately 2,153 cubic feet of cut, which will make room for the residential structure by creating a notch in the hillside, similar to adjacent development. The project also includes native, drought tolerant landscaping in the rear and side yards and non-invasive landscaping in the front of the lot, which faces the street.

As noted above and in the biological report discussed below, the subject site is adjacent to privately owned undeveloped land located upslope of the subject site, which contains some native and non-native vegetation (even further upslope there are several single family homes). Due to this interface with undeveloped land (and to comply with local government requirements), the applicant's consultant prepared an alternative materials & methods proposal for fire hazard/fuel management to protect the proposed development on the subject site. The report concluded that the lot size precludes compliance with the City's requirements for 195-foot wide fuel modification zone on site and enforcement of the fuel modification width would require off-site fuel modification of approximately 145 feet. In addition, according to the report, offsite fuel modification is already being conducted annually per City requirements approximately 200 feet uphill from the rear lot line of the subject site. The report proposes a combination of 50 feet of irrigated landscaping (A & B zones)(proposed to be native plant species), 100 feet of off site thinning on the adjacent privately owned undeveloped land (C & D zones), a below grade rear wall and no exposed walls or windows facing the urban wildland interface. Since the report recommends that the applicant enter into an agreement with the adjacent landowner regarding responsibility for ongoing maintenance 100 feet from the applicant's rear property line (thinning), the Commission imposes Special Condition No. 7, which requires the applicant to provide evidence of the adjacent landowner's authorization to do SO.

The applicant's consultant prepared a biological survey report, which describes the biological resources associated with the subject site and evaluated impacts related to the proposed development on the vacant site. The report concluded that the type of vegetation on site is not considered sensitive and does not contain habitat that is potentially suitable to sensitive species that may occur in the vicinity. The loss of a small patch of native vegetation on site will contribute incrementally to the cumulative loss of natural vegetation and habitat for non-sensitive wildlife in general. However, the applicant is proposing to plant native plant species on the portion of the lot that will remain undeveloped and is adjacent to upslope area that is also undeveloped. Fuel modification requirements would not be anticipated to further reduce existing habitat values on the lot. Areas adjacent to the proposed residence are either occupied residential lots and landscaping or already exhibit evidence of regular removal of vegetation for fuel modification purposes to protect existing residential development.

The proposed project's plans indicate that drainage will be collected in an on-site storm drainage filtered system and piped directly to and existing storm drain catch basin immediately adjacent to the project site.

The subject site is located between 2 adjacent developed sites on the inland side of the street. The height of the proposed single-family residence is consistent with the existing single-family

residences that surround the proposed project. The proposed single-family residence would not be visible from Pacific Coast Highway (PCH) because of existing development between the project site and PCH. Given that the subject site will be infill between 2 other homes and it will be comparable in height with those adjacent homes, it won't create an adverse visual impact. In addition, the proposed single-family residence won't encroach any further upslope toward the adjacent privately owned undeveloped land than the adjacent existing residences do.

B. HAZARDS

The applicant has submitted geotechnical engineering investigations for the proposed development. To assure that the proposed project is consistent with Section 30253 of the Coastal Act, the Commission imposes a condition requiring that all final design and construction plans, including foundations, grading and drainage plans be consistent with all recommendations contained in the submitted geologic engineering investigations. Therefore, as conditioned, the Commission finds that the development conforms to the requirements of Section 30253 of the Coastal Act.

C. <u>DEVELOPMENT</u>

The development is located within an existing developed area and is compatible with the character and scale of the surrounding area. However, the proposed project raises concerns that future development of the project site potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act. To assure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission finds that a future improvements special condition be imposed. As conditioned the development conforms with the Chapter 3 policies of the Coastal Act.

D. PUBLIC ACCESS

The proposed project is located within an existing locked gate community, approximately ¼ mile from the coast, but is not located between the sea and the first public road paralleling the sea. Public access through this community does not currently exist. The proposed development on an existing residential lot will not affect the existing public access conditions. It is the locked gate community, not the proposed single-family residence that impedes public access. As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

E. WATER QUALITY

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, reducing runoff through the use of permeable surfaces, directing runoff to on-site filtered drains, and the use of appropriate best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

F. DEED RESTRICTION

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes Special Condition No. 8, requiring that the property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, this permit ensures that any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development, including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

G. LOCAL COASTAL PROGRAM

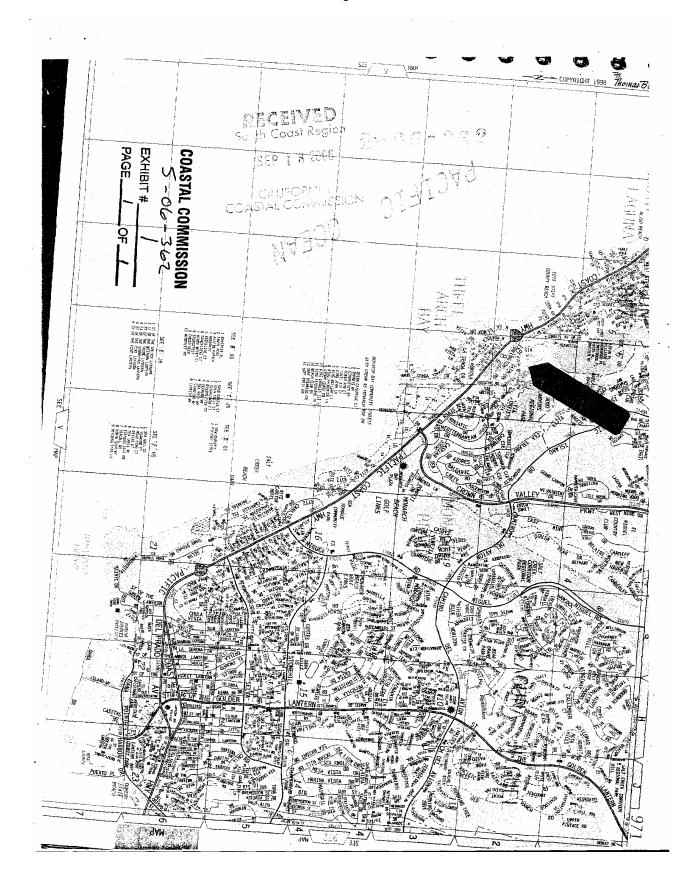
Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3.

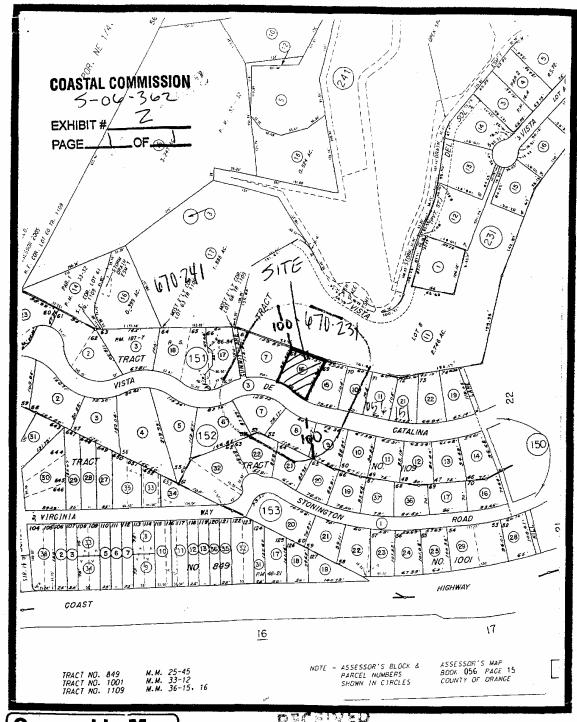
The City of Laguna Beach Local Coastal Program was certified with suggested modifications, except for the areas of deferred certification, in July 1992. In February 1993 the Commission concurred with the Executive Director's determination that the suggested modification had been properly accepted and the City assumed permit issuing authority at that time.

The subject site is located within the Three Arch Bay area of deferred certification. Certification in this area was deferred due to issues of public access arising from the locked gate nature of the community. However, as discussed above, the proposed development will not further decrease or impact public access within the existing locked gate community. Therefore the Commission finds that approval of this project, as conditioned, will not prevent the City of Laguna Beach from preparing a total Local Coastal Program for the areas of deferred certification that conforms with and is adequate to carry out the Chapter 3 policies of the Coastal Act.

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

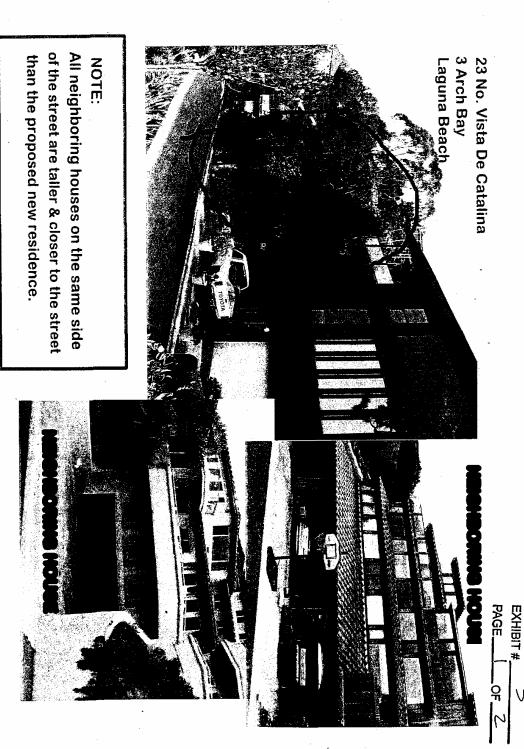




Ownership Map

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SUSAN W. CASE, INC. 917 GLENNEYRE ST #7 LAGUNA BEACH CA 92651 (949) 494-6105



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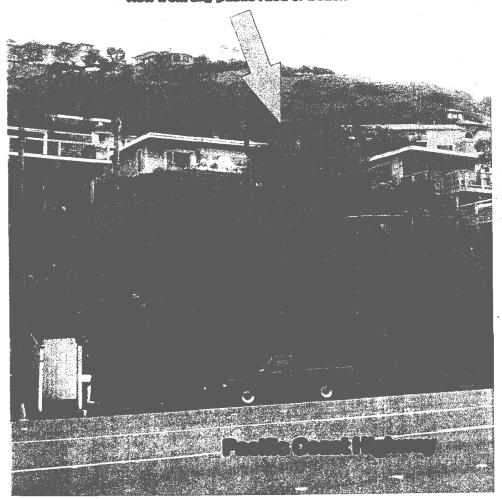
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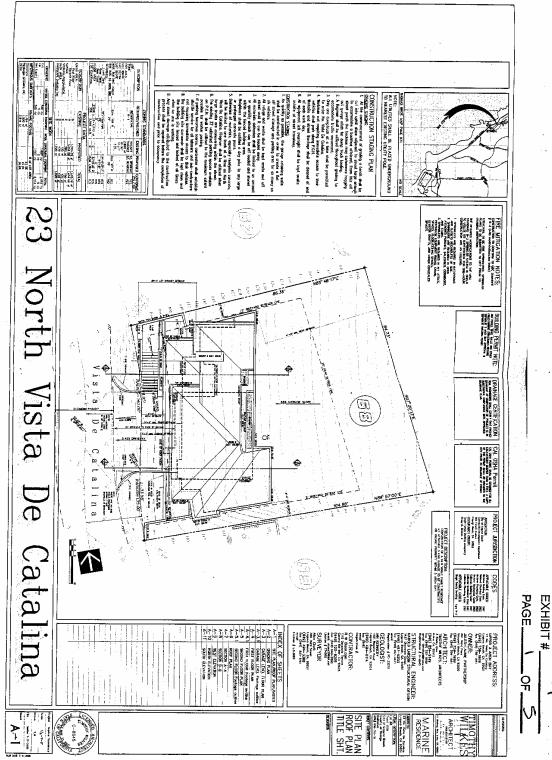
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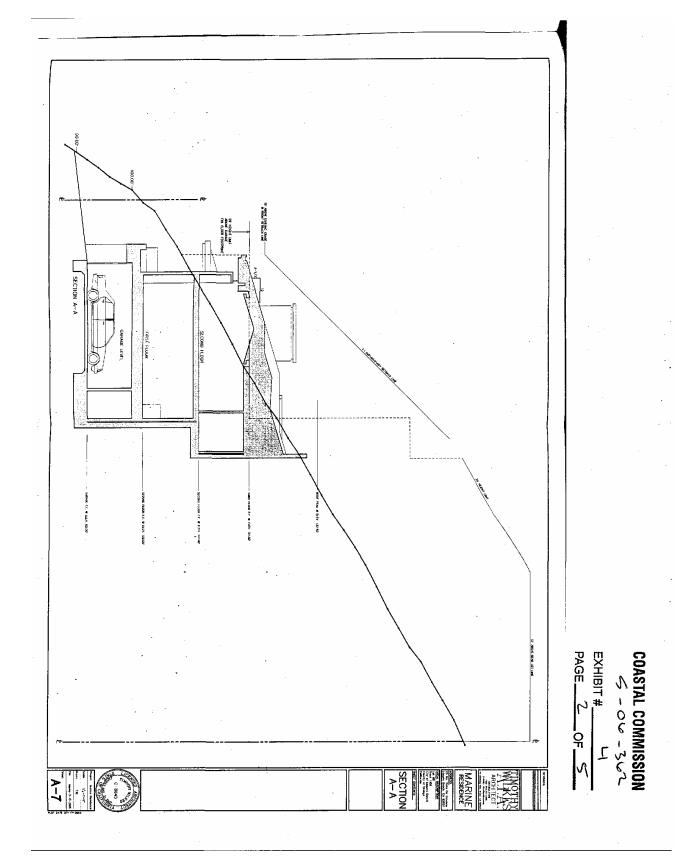




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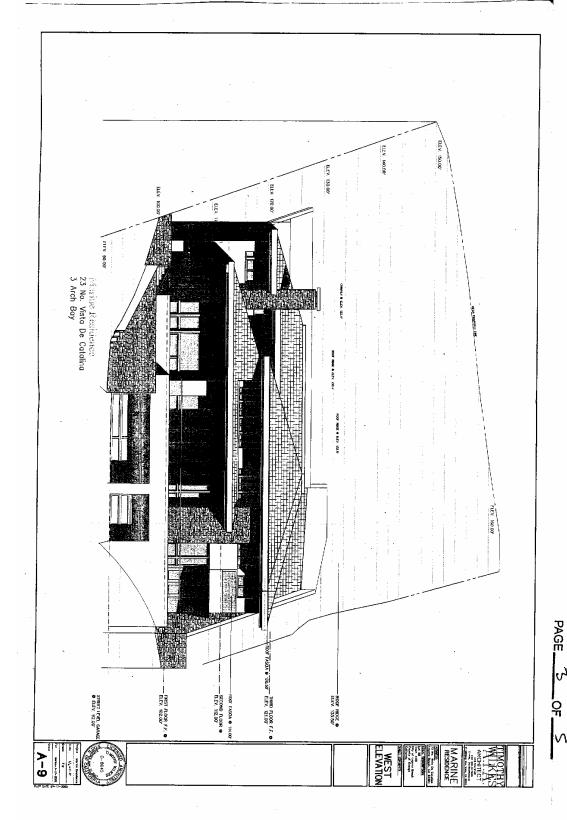
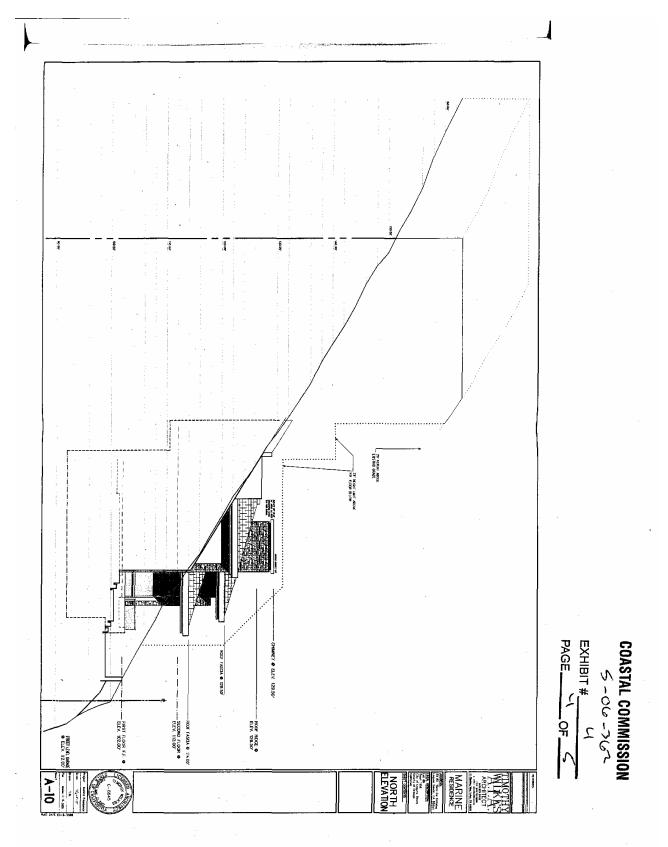


EXHIBIT # 4



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