

**CALIFORNIA COASTAL COMMISSION**

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

Filed: 8/2/07  
49th Day: 9/20/07  
180th Day: 1/29/08  
Staff: Meg Vaughn - LB  
Staff Report: 12/20/07  
Hearing Date: 1/9-11/08  
Commission Action:



# Th 20b

**STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NUMBER:** 5-07-163

**APPLICANT:** Mark S. Hammond

**AGENT:** C.J. Light Associates

**PROJECT LOCATION:** 58 North La Senda Drive, Laguna Beach,  
Orange County

**PROJECT DESCRIPTION:** Remodel and addition to an existing single family residence on an ocean-fronting bluff top lot. Upon completion of the work proposed, the residence will be two levels, 25 feet high, 6,135 square feet with one attached 425 square foot, two car garage and a second 400 square foot, two car garage on an ocean-fronting bluff top lot. Existing walls, patio area and stairs seaward of the residence are proposed to be retained.

**SUMMARY OF STAFF RECOMMENDATION:**

Commission staff is recommending **APPROVAL** of the proposed project with ten (10) Special Conditions regarding: 1) confirmation of extent of demolition; 2) assumption of risk; 3) no future blufftop or shoreline protective devices; 4) additional approvals for any future development; 5) no improvements allowed to existing non-conforming Development; 6) conformance with drainage and run-off control plan; 7) conformance with landscaping plan; 8) conformance with geotechnical recommendations; 9) a pool protection plan; 10) a deed restriction against the property, referencing all of the Special Conditions contained in this staff report.

**SUBSTANTIVE FILE DOCUMENTS:** Geotechnical and Geologic Investigation of Proposed site Improvements at 58 North La Senda, Laguna Beach, CA, prepared by Coast Geotechnical, dated 12/27/05; Response to Coastal Commission Letter for 58 North La Senda, Laguna Beach, CA, prepared by Coast Geotechnical, dated 7/31/07; City of Laguna Beach certified Local Coastal Program (as guidance only).

**LOCAL APPROVALS RECEIVED:** City of Laguna Beach Approval in Concept, dated 4/24/07.

**STAFF RECOMMENDATION:**

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

**MOTION:**

***I move that the Commission approve Coastal Development Permit No. 5-07-163 pursuant to the staff recommendation.***

Staff recommends a **YES** 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. Notice of Receipt and Acknowledgment. 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. Expiration. 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. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. Assignment. 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. Terms and Conditions Run with the Land. 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. Confirmation of the Extent of Demolition

After demolition has been completed, and the framing of the walls to remain is exposed pursuant to the demolition plan approved in this permit, but **PRIOR TO ANY NEW CONSTRUCTION**, the applicant shall submit to the Executive Director, via bonded messenger from the City of Laguna Beach Building Department, for the review and approval of the Executive Director, a certified copy of the City building inspector's report which indicates whether any demolition beyond the amount shown on the demolition plan approved by this permit has occurred or would be necessary in order to meet building and safety codes.

If the building inspector's report, accepted by the Executive Director, indicates additional demolition has already occurred or must occur due to the deteriorated state of the walls which were proposed by the applicant to remain, the applicant shall submit a complete amendment request application or a complete application for a new coastal development permit. The application shall address the issue of revisions to the project due to the need for additional demolition. Whether an amendment or a new application is submitted shall be determined by the Executive Director.

#### **No further development may occur until either:**

- a) The Executive Director determines, pursuant to the City building inspector's report, that all walls identified as walls to remain are intact and structurally sound; or
- b) the applicant submits an amendment request application if so directed by the Executive Director and the amendment request is subsequently approved by the Coastal Commission and issued by the Executive Director; or
- c) the applicant submits a new coastal development permit application if so directed by the Executive Director and the coastal development permit is approved by the Coastal Commission and issued by the Executive Director.

**2. Assumption of Risk, Waiver of Liability and Indemnity**

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from bluff and slope instability, erosion, landslides and wave uprush; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

**3. No Future Blufftop or Shoreline Protective Devices**

- A.** By acceptance of this Permit, the applicant agrees, on behalf of himself and all other successors and assigns, that no bluff protective device(s) or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-07-163 including, but not limited to, the residence and hardscape and any future improvements, in the event that the development is threatened with damage or destruction from bluff and slope instability, erosion, landslides, wave uprush, storm conditions or other natural hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of himself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
- B.** By acceptance of this Permit, the applicant further agrees, on behalf of himself and all successors and assigns, that the landowner shall remove the development authorized by this permit, including the residence and hardscape, if any government agency has ordered that the structure(s) is/are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.
- C.** In the event the edge of the bluff recedes to within ten (10) feet of the principal residence but no government agency has ordered that the structures are not to be occupied, a geotechnical investigation shall be prepared by a licensed coastal engineer and geologist retained by the applicant, that addresses whether any portions of the residence are threatened by bluff and slope instability, erosion, landslides or other natural hazards. The report shall identify all those immediate or potential future measures that could stabilize the principal residence without bluff protection, including but not limited to removal or relocation of portions of the

residence. The report shall be submitted to the Executive Director and the appropriate local government official. If the geotechnical report concludes that the residence or any portion of the residence is unsafe for occupancy, the permittee shall, within 90 days of submitting the report, apply for a coastal development permit amendment to remedy the hazard which shall include removal of the threatened portion of the structure.

**4. Future Development**

This permit is only for the development described in Coastal Development Permit No. 5-07-163. 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. 5-07-163. Accordingly, any future improvements to the development authorized by this permit, including but not limited to improvements to the residence, hardscape, 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. 5-07-163 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

**5. Non-Conforming Development**

- A. No improvements to the existing non-conforming development seaward of the 10-foot bluff edge setback area, identified on the Site Plan (page SP1) of the project plans dated March 5, 2007 and received in the South Coast District Office on May 8, 2007, shall be permitted.
- B. The permittee shall undertake the development in accordance with the site plan referenced in subsection A above. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**6. Drainage and Run-Off Control Plan**

- A. The applicant shall substantially conform to the drainage and run-off control plan received in the Commission's South Coast District Office on August 2, 2007, and any revision thereto approved by the Executive director pursuant to Special Condition 8 showing all roof drainage and runoff directed to the Three Arch Bay Community Services District storm drain system.
- B. The permittee shall undertake development in accordance with the approved 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 required.

**7. Landscaping Plan**

- A.** The applicant shall conform to the landscape plan received in the South Coast District Office on August 2, 2007 showing vegetated landscaped areas consisting of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. Existing vegetation that does not conform to the above requirements shall be removed.
- B.** The permittee shall undertake development in accordance with the approved 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 required.

**8. Conformance with Geotechnical Recommendations**

- A.** All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with all recommendations contained “Geotechnical and Geologic Investigation of Proposed Site Improvements at 58 North La Senda, Laguna Beach, California”, prepared by Coast Geotechnical, Inc., dated 12/27/05; and, “Response to Coastal Commission letter for 58 North La Senda Drive, Laguna Beach, California”, prepared by Coast Geotechnical, Inc., dated 7/31/07.
- B.** **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director’s review and approval, 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 required.

**9. Pool Protection Plan**

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for review and approval of the Executive Director, two (2) full size sets of a pool protection plan prepared by an appropriately licensed professional that incorporates mitigation of the potential for geologic instability caused by leakage from the proposed pool. The pool protection plan shall incorporate and identify on the plans the following measures, at a minimum: 1) installation of a pool leak detection system such as, but not limited to, leak detection system/moisture sensor with alarm and/or a separate water meter for the pool which is separate from the water meter for the house to allow for the monitoring of water usage for the pool, and 2) use of materials and pool design features, such as but not limited to double linings, plastic linings or specially treated cement, to be used to waterproof the undersides of the pool and spa to prevent leakage, along with information regarding the past and/or anticipated success of these materials in preventing leakage; and where feasible 3) installation of a sub drain or other equivalent drainage system under the pool that conveys any water leakage to an appropriate drainage outlet. The applicant shall comply with the final pool plan approved by the Executive Director.
- B.** The permittee shall undertake development in accordance with the approved 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 required.

**10. 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 landowner has 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 an oceanfront bluff top lot, located at 58 North La Senda, Laguna Beach (Three Arch Bay), Orange County. At this location the bluff is approximately 60 feet high, the toe of which is subject to marine erosion. There is a narrow, rocky beach located at the toe of the bluff. The applicant proposes to remodel and add to an existing, 3,884 square foot, two level single family residence present at the bluff top. The proposed residence will be two levels, 6,135 square feet with one attached 425 square foot, two car garage and a second, 400 square foot, two car garage. The additional square footage is proposed to be located in the existing outdoor courtyard area at the landward side of the residence. The existing and proposed-remodeled residence will be located at least 25 feet landward of the bluff edge, as it has been identified by the applicant. The maximum height of the residence will be 25 feet above finished and existing grade, and approximately 2 feet below the centerline of the frontage road (La Senda Drive). An existing garage at street level, which includes a lower level area, is proposed to be converted to an entry deck above with a 250 square foot pool cabana below (the 250 square feet is included in the 6,135 square foot figure). Also proposed is a new pool, spa and water feature, and new hardscape and landscaping. The pool and spa are located landward of the residence. The water feature is proposed to be located seaward of the residence, but more than 10 feet from the bluff edge, as it has been identified by the applicant. Regrading the driveway to reduce gradient from approximately 23 – 25% down to a maximum of 21% is also proposed. Grading of 50 cubic yards of cut and 50 cubic yards of fill is proposed.

Portions of habitable area on the seaward side of the residence are proposed to be removed. Existing impermeable hardscape, including impermeable patio area at the seaward side of the residence, is proposed to be replaced with pervious material. The subject site is 15,410 square feet. The existing permeable area totals 5,460 square. The proposed permeable area totals 8,660 square feet. The increase in permeable area includes replacing the existing impervious driveway with pervious paving material (concrete pavers over gravel base). Also proposed is replacing concrete walkways with permeable area and increasing the amount of area on site that is vegetated.

While the existing/proposed primary structure is setback at least 25 feet from the bluff edge as it has been identified by the applicant, there is existing accessory development located seaward of the typical 10-foot bluff edge setback normally required of accessory development, as well as accessory development that descends down the bluff face (stairway only). These existing walls, patio/landing area and stairs at the seaward side of the residence are proposed to be retained. No improvements to or maintenance of this existing development is proposed. This development appears on an oblique aerial photo from 1972. The applicant asserts that the stairway is believed to have been constructed at the time of original site development, approximately 1950. The stairway leads to a narrow

rocky beach that is isolated physically and visually from 1,000 Steps beach, which is the nearest beach accessible from Coast Highway. No changes are proposed to these existing features. If in the future any changes are proposed, including certain types of maintenance, a coastal development permit would be required. The existing accessory development that is located seaward of the 10-foot bluff edge setback is considered by the Commission to be non-conforming. If the site were to be substantially re-developed, the Commission would typically require the entire site, including accessory development, to be made to conform to current setback requirements. In this case, the proposed project is a remodel/addition and does not involve substantial redevelopment of the site.

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.

## **B. Blufftop Development**

Section 30251 of the Coastal Act states that:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation.*

Section 30253 of the Coastal Act states:

*New development shall:*

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

A Geotechnical and Geologic Investigation was prepared for the proposed development by Coast Geotechnical, Inc., dated December 27, 2005. In addition, a Response to Coastal

Commission letter was prepared by Coast Geotechnical, Inc., dated July 31, 2007. The geologic reports present results and recommendations regarding the proposed development at the subject site. Preparation of the reports included research of readily available geotechnical records for the site and environs, identification of the site's subsurface soil and bedrock conditions by observation and exploration, collection of soil and bedrock samples, geotechnical laboratory testing of selected soil and bedrock samples obtained from exploratory work for the project, engineering analyses of the data obtained from the exploration, establishing the location of the bluff edge, slope stability analysis, and an assessment of expected long term bluff retreat.

Describing the subject site, the Geotechnical and Geologic Investigation states:

*"Topographically the site descends westerly and is situated within a moderate ravine off the west side of North La Senda. Topography has been modified with retaining walls along the north and south side of the residence and a drainage course through the middle of the lot. The drainage course traverses beneath the residence, via a pipe, and outlets along the top of bluff. The coastal bluff is undercut towards the south and vertical to the north with a height of about sixty feet. Topographic relief from the coastal bluff to the street is on the order of thirty feet.*

*Manmade site improvements consist of a wood frame residence, garages, retaining walls, hardscape and landscape."*

### Setback

Section 30253 of the Coastal Act requires that risks and geologic instability be minimized. Setting development back from the edge of the bluff can substantially decrease risk because the further from the bluff edge development is located, the less likely it is that that development may become jeopardized. Likewise, setbacks decrease the likelihood of geologic instability. The added weight of development, watering or irrigating plants, and human activity closer to the bluff edge can all increase the rate of erosion and bluff retreat. Thus, by reducing these factors bluff stability can be increased. In addition, Section 30251 of the Coastal Act requires that scenic and visual qualities of coastal areas be protected. Setting development further back from the edge of the coastal bluff decreases the project's visibility from the beach below and as seen from the water. For these reasons, the Commission typically imposes some type of bluff edge setback. In addition, consistently applying an appropriate bluff edge setback provides equitability for developments within the same general area.

The bluff edge is the line of intersection between the steeply sloping bluff face and the flat or more gently sloping bluff top. Defining this line can be complicated for several reasons; by the presence of irregularities in the bluff edge, a rounded stepped bluff edge, a sloping bluff top, or a previous grading or development near the bluff edge. The location of the bluff edge identified by the applicant's geotechnical consultant is shown on Exhibit 3.

In the project vicinity, the Commission typically requires a minimum bluff edge setback that is generally 25 feet from the edge of the bluff for primary structures (e.g. the enclosed living area of residential structures). This minimum setback from the bluff edge is generally deemed acceptable within the Three Arch Bay community based on the relatively stable, underlying San Onofre formation bedrock. The intent of the setback is to substantially reduce the likelihood of proposed development becoming threatened given the inherent uncertainty in predicting geologic processes in the future, and to allow for potential changes in bluff erosion rates as a result of rising sea level.

Along with a bluff edge setback for enclosed living area, the Commission typically imposes a minimum 10 foot bluff edge setback for hardscape/patio type development within Three Arch Bay. A lesser setback for these types of accessory developments is deemed acceptable because hardscape/patio type improvements can be removed from hazards more readily than primary structures. As proposed, all new patios and decks will be consistent with a 10 foot bluff edge setback.

However, there is existing accessory development located seaward of the typical 10-foot bluff edge setback normally required of accessory development, as well as accessory development that descends down the bluff face (stairway only). These existing walls, patio/landing area and stairs at the seaward side of the residence are proposed to be retained. No improvements to or maintenance of this existing development is proposed. The applicant asserts that the stairway is believed to have been constructed at the time of original site development, approximately 1950. The development appears on an oblique aerial photo from 1972. Therefore, a coastal development permit was not required for its original construction. No changes are proposed to these existing features.

One way the Commission determines whether substantial redevelopment of a site is occurring is to look at the extent of demolition occurring to the existing structure and the location where such demolition is taking place. Typically, the Commission has quantified demolition by tabulating the extent of exterior linear walls to be removed compared to the total overall amount of exterior linear walls existing prior to the proposed development. The walls proposed to remain must retain their structural components such as studs and foundation. Cosmetic portions of the wall, such as exterior stucco and interior drywall, may be removed. The applicant has submitted information regarding the extent of demolition proposed. According to the applicant's demolition information, approximately 46% of the existing exterior linear walls will be demolished with the proposed development. The Commission has generally found that if less than 50% of the linear feet of the existing exterior walls are removed, the project can be reviewed as a remodel rather than substantial re-development. The significance of this distinction is that existing non-conformities, such as existing development within the setback area, can be considered for retention if such retention would not raise significant inconsistencies with Coastal Act requirements. The 50% demolition threshold provides one consistent and equitable method of dealing with existing non-conformities associated with extensive remodel projects. In this case, the proposed demolition does not exceed the 50% threshold. The Commission also notes that the majority of proposed demolition in this case is proposed to

occur on the landward side of the residence and not on the seaward side where the non-conforming development is present. Thus, given these site specific factors, in this case the Commission finds the project does not constitute substantial re-development and so the existing non-conforming development seaward of the bluff edge setback may remain as proposed. However, contingencies must be in place once the demolition is under way to assure that the quantity and location of demolition occurs in the manner proposed and if the quantity or location of demolition changes, to establish an avenue which allows the project to be re-assessed based on the revised demolition plan.

Special Condition 1 requires that the applicant submit a copy of the City building inspector's report done after the proposed demolition is complete and the framing of the walls to remain is exposed, but before any new construction has commenced. The inspector's report would verify the extent of demolition and the condition of the walls remaining. If the inspector's report indicates that more demolition has occurred than was approved or that the walls originally proposed to remain are not structurally sound, the applicant is required to submit an amendment application or an application for a new coastal development permit. The Executive Director would determine whether an amendment or new permit application is appropriate. Once a complete application is received, the project would then be evaluated based on the newly discovered information.

The existing accessory development that is located seaward of the 10-foot bluff edge setback is considered by the Commission to be non-conforming. If the site were to be substantially re-developed, the Commission would typically require the entire site, including accessory development, to be made to conform to current setback requirements. In this case, the proposed project is a remodel/addition and does not involve substantial redevelopment of the site. The Commission has imposed Special Condition No. 5, which does not allow improvements to this existing non-conforming development and identifies permit requirements if the permittee decides to change their plans with respect to the non-conforming development. Special Condition No. 4 also notifies the applicant that future improvements and repair and maintenance activities require a coastal development permit.

The Commission's staff geologist has reviewed the geotechnical information prepared by the applicant's geotechnical consultant, including the location of the bluff edge identified by the applicant's geotechnical consultant. The Commission's staff geologist has reviewed this bluff edge determination, but has not endorsed it and further investigation, including a site visit by the Commission's geologist, could identify a different alignment. The staff geologist cannot confirm the location of the bluff edge identified by the applicant's consultant because he has not been able to visit the site. However, he does concur with the geotechnical consultant's assertion that the proposed siting and design of the proposed development is expected to assure project stability for the life of the project (assumed to be approximately 75 years). Given the stability of the site, the setback proposed was deemed to be adequate and a bluff edge delineation made with finer precision was found to be unnecessary. As proposed, all primary structures (enclosed living area) are setback 25 feet from the bluff edge identified by the applicant.

The applicant's geotechnical report concludes that the site is grossly stable and that the rate of erosion is sufficiently low that the proposed residence will be safe for at least an anticipated 75-year life of the development. The Commission's staff geologist has reviewed this information and concurs that the residential structure is sited appropriately to address geologic/coastal hazards. The Commission concurs as well. The Commission finds that the setback proposed by the applicant is acceptable at this site because of the low erosion rate and stability of the site.

#### Geotechnical Recommendations

Regarding the feasibility of the proposed project the geotechnical investigation prepared by Coast Geotechnical, Inc., dated December 27, 2005 states:

*“Development of the site as proposed is considered feasible from a soils engineering and geologic standpoint, provided that the recommendations stated herein are incorporated in the design and are implemented in the field. These recommendations are subject to change based on review of grading and foundation plans.*

*Provided recommendations of this report are incorporated into the project and proper design and construction occurs, the project is considered feasible, from a geotechnical and geologic viewpoint, without adverse effect on adjacent properties and vice versa.”*

The geologic consultant has found that the subject site is suitable for the proposed development provided the recommendations contained in the geotechnical investigation prepared by the consultant are implemented in design and construction of the project. Adherence to the recommendations contained in the above-mentioned geotechnical investigation is necessary to ensure that the proposed project assures stability and structural integrity, and neither creates nor contributes significantly to erosion, geologic instability, or destruction of the site or surrounding area. Therefore, Special Condition 8 requires that the applicant conform to the geotechnical recommendations in the above mentioned geotechnical investigation.

#### Future Protective Device

The proposed development is located on a bluff top ocean front lot. In general, lots comprised of bluffs are inherently hazardous. It is the nature of bluffs, and especially ocean bluffs, to erode. Bluff failure can be episodic, and bluffs that seem stable now may not be so in the future. Even when a thorough professional geotechnical analysis of a site has concluded that a proposed development is expected to be safe from bluff retreat hazards for the life of the project, it has been the experience of the Commission that in some instances, unexpected bluff retreat episodes that threaten development during the life of a structure sometimes do occur. In the Commission's experience, geologists cannot

predict with absolute certainty if or when bluff failure on a particular site may take place, and cannot predict if or when a residence or property may be come endangered.

Section 30253 of the Coastal Act requires that new development shall not require construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The proposed development could not be approved as being consistent with Section 30253 of the Coastal Act if projected bluff retreat would affect the proposed development and necessitate construction of a protection device.

The Coastal Act limits construction of these protective devices because they have a variety of negative impacts on coastal resources including adverse affects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beach. Under Coastal Act Section 30235, a shoreline protective structure must be approved if: (1) there is an existing principal structure in imminent danger from erosion; (2) shoreline altering construction is required to protect the existing threatened structure; and (3) the required protection is designed to eliminate or mitigate the adverse impacts on shoreline sand supply.

The Commission has generally interpreted Section 30235 to require the Commission to approve shoreline protection for residential development only for existing principal structures. The construction of a shoreline protective device to protect a new residential development would not be required by Section 30235 of the Coastal Act. In addition, the construction of a shoreline protective device to protect new residential development would conflict with Section 30251 of the Coastal Act which states that permitted development shall minimize the alteration of natural land forms, including coastal bluffs which would be subject to increased erosion from such a device.

The proposed project can only be found consistent with Section 30253 of the Coastal Act if a shoreline/bluff protective device is not expected to be needed in the future. The applicant's geotechnical consultant has indicated that the site is stable, that the project should be safe for the life of the project, and that no shoreline protection devices will be needed. If not for the information provided by the applicant that the site is safe for development, the Commission could not conclude that the proposed development will not in any way "require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs." However, as stated above, geologic conditions change over time and predictions based upon the geologic sciences are inexact. Even though there is evidence that geologic conditions change, the Commission must rely upon, and hold the applicant to their information which states that the site is safe for development without the need for protective devices. Therefore, the Commission imposes Special Condition 3, which prohibits the applicant and their successors in interest from constructing shoreline/bluff protective devices to protect the proposed development and requiring that the applicant waive, on behalf of itself and all successors and assigns, any right to construct protective devices for the proposed project that may exist under 30235.

### Assumption of Risk

Although adherence to the geotechnical consultant's recommendations will minimize the risk of damage from erosion, the risk is not eliminated entirely. The site is an oceanfront, bluff top lot, which is inherently hazardous. Given that the applicant has chosen to implement the project despite potential risks from bluff erosion and landslide, the applicant must assume the risks. Therefore, the Commission imposes Special Condition 2, requiring the applicant to assume the risk of the development. In this way, the applicant is notified that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires the applicant to indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand the hazards. In addition, the condition ensures that future owners of the property will be informed of the risks and the Commission's immunity from liability. As conditioned, the Commission finds the proposed project is consistent with Section 30253 of the Coastal Act.

### Drainage and Landscaping

Because of the fragile nature of coastal bluffs and their susceptibility to erosion, the Commission requires a special condition regarding the types of vegetation to be planted. The installation of in-ground irrigation systems, inadequate drainage, and landscaping that requires intensive watering are potential contributors to accelerated weakening of some geologic formations; increasing the lubrication along geologic contacts and increasing the possibility of failure, landslides, and sloughing, which could necessitate protective devices. Use of non-native vegetation that is invasive can have an adverse impact on the existence of native vegetation. Invasive plants are generally those identified by the California Invasive Plant Council ([www.cal-ipc.org](http://www.cal-ipc.org)) and California Native Plant Society ([www.CNPS.org](http://www.CNPS.org)) in their publications. Commission staff reviewed the submitted landscape plan and determined that the plan contains primarily native, drought tolerant species.

As discussed previously, any plants in the landscaping plan should be drought tolerant to minimize the use of water. The term "drought tolerant" is equivalent to the terms 'low water use' and 'ultra low water use' as defined and used by "A Guide to Estimating Irrigation Water Needs of Landscape Plantings in California" prepared by University of California Cooperative Extension and the California Department of Water Resources dated August 2000 available at <http://www.owue.water.ca.gov/landscape/pubs/pubs.cfm>. Commission staff reviewed the submitted landscaping plan for drought tolerant vegetation and determined that all of the plants proposed were drought tolerant.

Low water use, drought tolerant, native plants require less water than other types of vegetation, thereby minimizing the amount of water introduced into the bluff top. Drought resistant plantings and minimal irrigation encourage root penetration which increases bluff stability. Water on site can be reduced by limiting permanent irrigation systems.

Consequently, irrigation must be limited to temporary irrigation only as needed to establish plants.

The Commission imposes Special Condition 7, which requires that the applicant carry out the landscape plan as proposed. As conditioned, the development will be consistent with section 30253 of the Coastal Act.

#### Pool Protection Plan

The proposed project includes a new pool and spa on the bluff top terrace, landward of the residence. In addition, a smaller “water feature” is proposed on the seaward side of the residence. If water from the proposed pool and spa is not properly controlled there is a potential for bluff failure due to the infiltration of water into the bluff. The applicant’s geotechnical consultant’s review of the proposed project include placement of a pool, spa and water feature as part of the proposed development., but no recommendations for leak prevention are addressed. There is a clear need to minimize the potential for the infiltration of water into the bluff. With regard to pools, spas and other water features, this can be achieved by various methods, including having the pool, spa and water features double lined to prevent leakage, installing appropriate drainage under these various water bodies to capture any water that could leak despite preventative efforts, and installing a leak detection system so that leaks can be identified and addressed. Therefore, Special Condition 9 requires that prior to the issuance of this permit, the applicant must submit a pool protection plan for review and approval by the Executive Director. The plan must incorporate mitigation of the potential for geologic instability caused by leakage from the proposed pool.

#### Conclusion

The Commission finds that only as conditioned as described above, can the proposed development be found consistent with Sections 30251 and 30253 of the Coastal Act which require that landform alteration be minimized, scenic coastal views be protected, and geologic stability be assured.

### **C. DEVELOPMENT**

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 imposes Special Condition 4, which requires either an amendment or an additional coastal development permit from the Commission for any future improvements to the single-family residence not authorized by this permit.

**D. PUBLIC ACCESS**

Section 30604(c) of the Coastal Act requires that every coastal development permit issued for any development between the nearest public road and the sea include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3.

The proposed project is located within an existing locked gate community 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 this home 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**

Section 30230 of the Coastal Act states:

*Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Section 30231 of the Coastal Act states:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The project plans submitted by the applicant included a drainage and run-off control plan that increases permeable area on the lot. Runoff that does leave the site will be directed to the Three Arch Bay Community Services District's existing storm drain system. The Commission imposes Special Condition 6, which requires the applicant to conform to the submitted drainage and run-off control plan.

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, the appropriate management of equipment and construction materials, the use of non-invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site, and for the use of post-construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms to 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 10, which requires 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**

Section 30604 (a) of the Coastal Act states:

*Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).*

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.

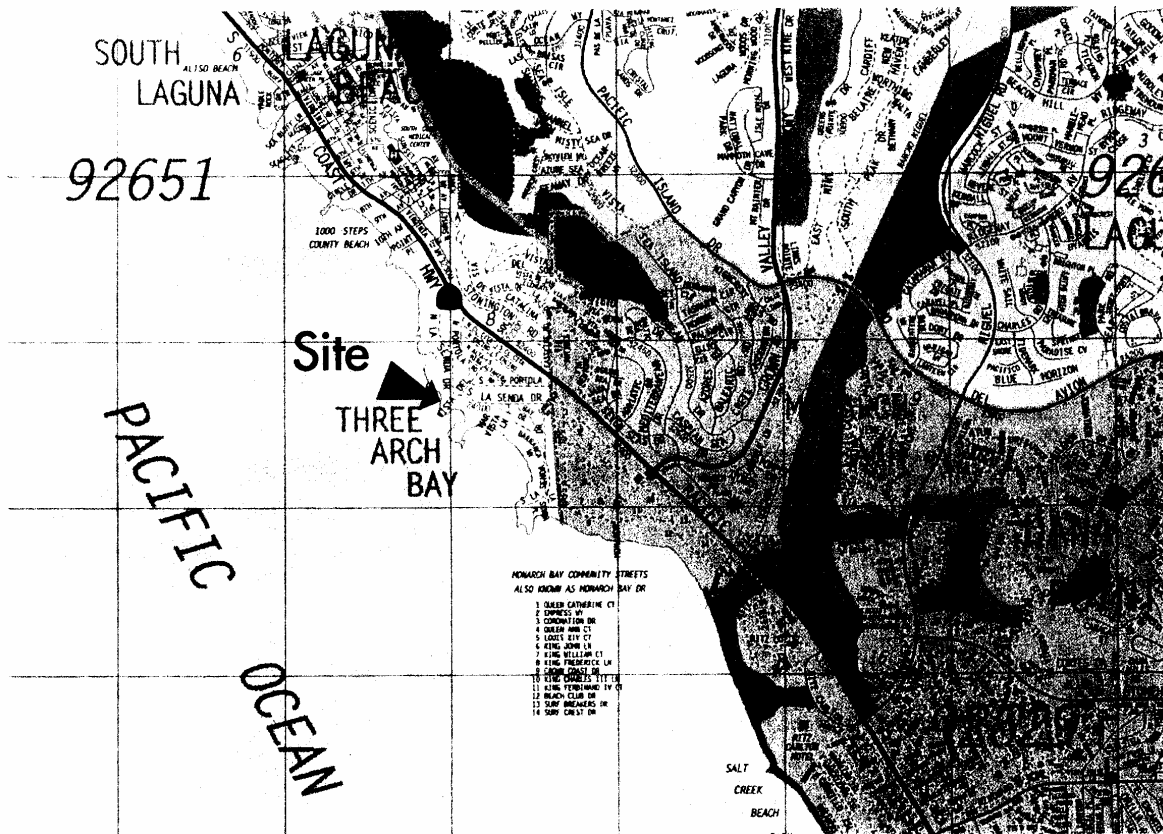
The subject site is located within the Three Arch Bay area of deferred certification. Certification in this area was deferred due to issues of public access arising from the locked gate nature of the community. However, as discussed above, the proposed development will not further decrease or impact 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**

Section 13096 of the Commission's regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect which the activity may have on the environment.

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.



COASTAL COMMISSION

EXHIBIT # 1

PAGE 1 OF 2



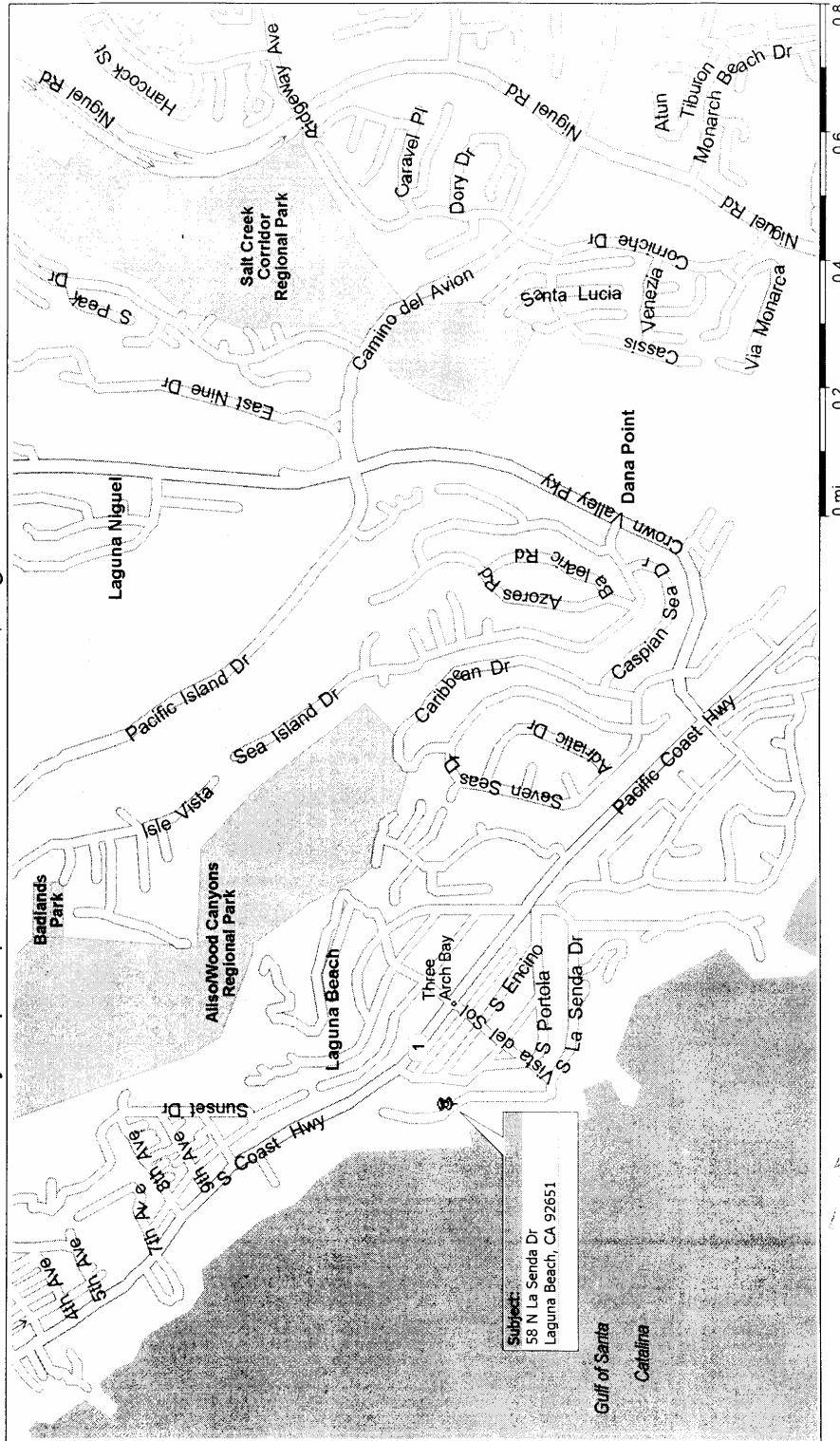
Hammond Residence

58 North La Senda • Laguna Beach • California • 92651

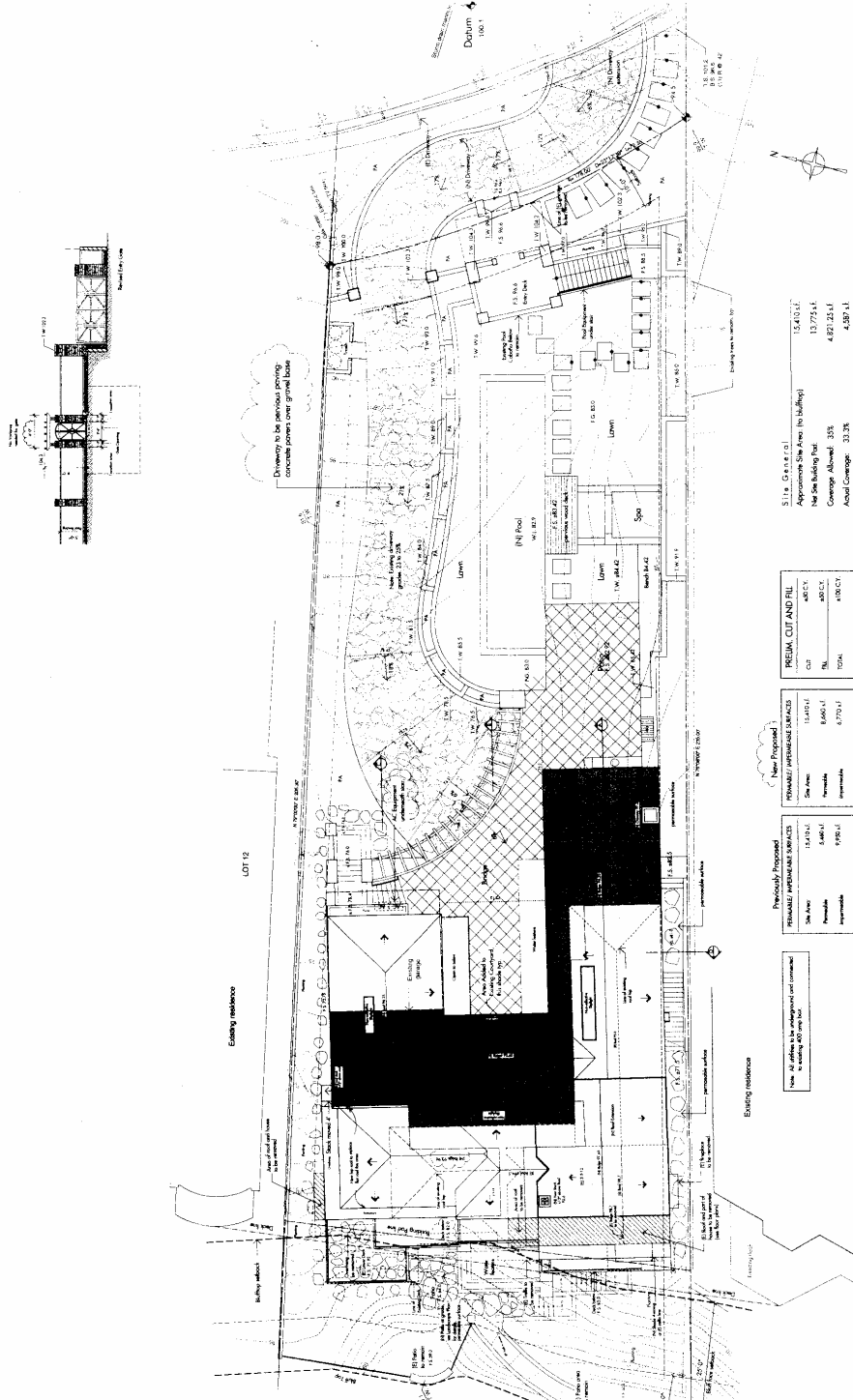
Vicinity Map

5-07-163 (Hammond)  
 58 N. La Senda, Three Arch Bay  
 Page 21

Vicinity Map Prepared for: 58 N La Senda, Laguna Beach CA 92651



5-07-163 (Hammond)  
58 N. La Senda, Three Arch Bay  
Page 22



Site Grading

|                             |           |
|-----------------------------|-----------|
| Area to be Graded (sq. ft.) | 13,425.1  |
| Area to be Graded (sq. ft.) | 13,775.4  |
| Grading Allowed (sq. ft.)   | 4,821.354 |
| Actual Grading (sq. ft.)    | 4,821.354 |
| Area Not Allowed (sq. ft.)  | 7,232.11  |

PRELIM. CUT AND FILL

|       |          |
|-------|----------|
| Cut   | 4,821.35 |
| Fill  | 4,821.35 |
| TOTAL | 9,642.70 |

PROPOSED IMPROVEMENTS

|              |          |
|--------------|----------|
| Site Area    | 13,425.1 |
| Permissible  | 8,660.1  |
| Improvements | 6,770.1  |

PREVIOUSLY PROPOSED

|              |          |
|--------------|----------|
| Site Area    | 13,425.1 |
| Permissible  | 8,660.1  |
| Improvements | 9,190.1  |

Notes: All utilities to be underground and contained in existing cut and fill.

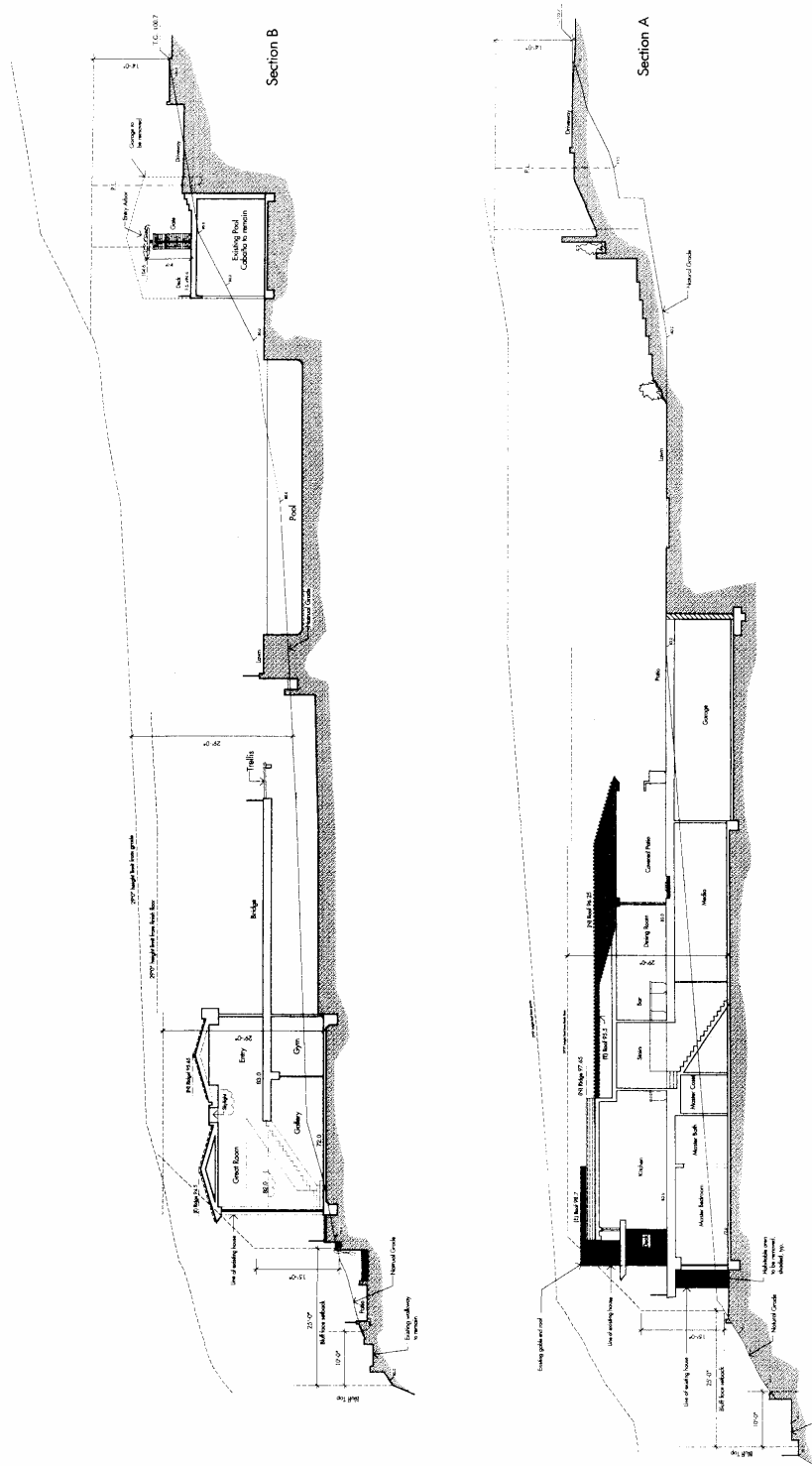
Site Plan  
Scale 1/8" = 1'-0"

Hammond Residence  
58 North La Senda Drive • Three Arch Bay • Laguna Beach • California



5-07-163  
project plans  
Exhibit 2 p. 1 of 3

5-07-163 (Hammond)  
58 N. La Senda, Three Arch Bay  
Page 23

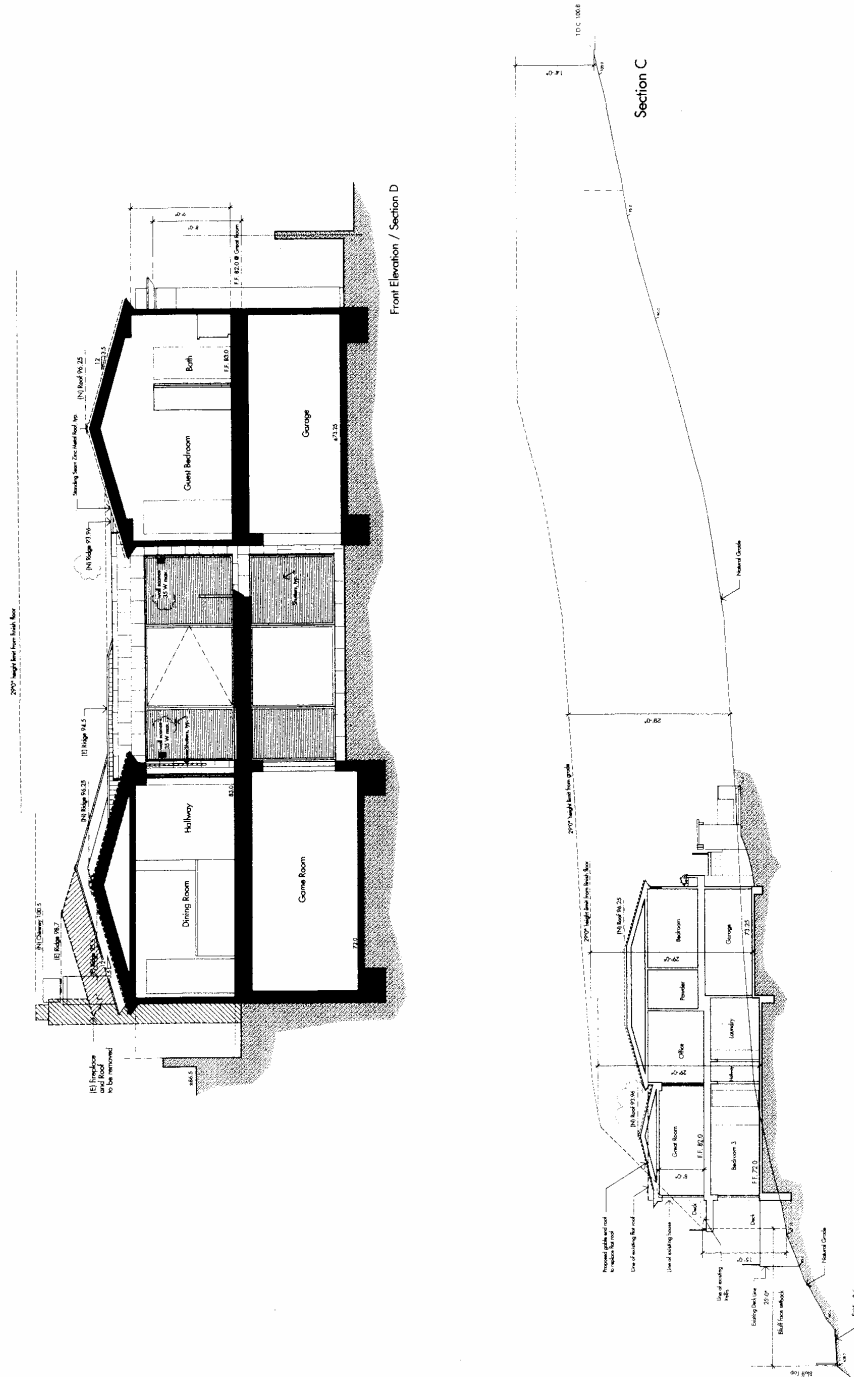


Hammond Residence  
58 North La Senda Drive • Three Arch Bay • Laguna Beach • California

Site Sections  
D.B. Marshall, March 2, 2007  
Scale: 1/8" = 1'-0"

6

5-07-163 (Hammond)  
58 N. La Senda, Three Arch Bay  
Page 24



Site Sections  
D.R. Revised March 5, 2007  
Scale: 1/8" = 1'-0"

Hammond Residence  
58 North La Senda Drive • Three Arch Bay • Laguna Beach • California



5-07-163

Exhibit 2  
pages

Note: All utilities to be underground and connect to existing 400 amp box.



EXHIBIT # \_\_\_\_\_  
PAGE \_\_\_\_\_ OF \_\_\_\_\_

[illegible]

3 07-162  
topographic  
Survey

Exhibit 4  
page 1 of 1

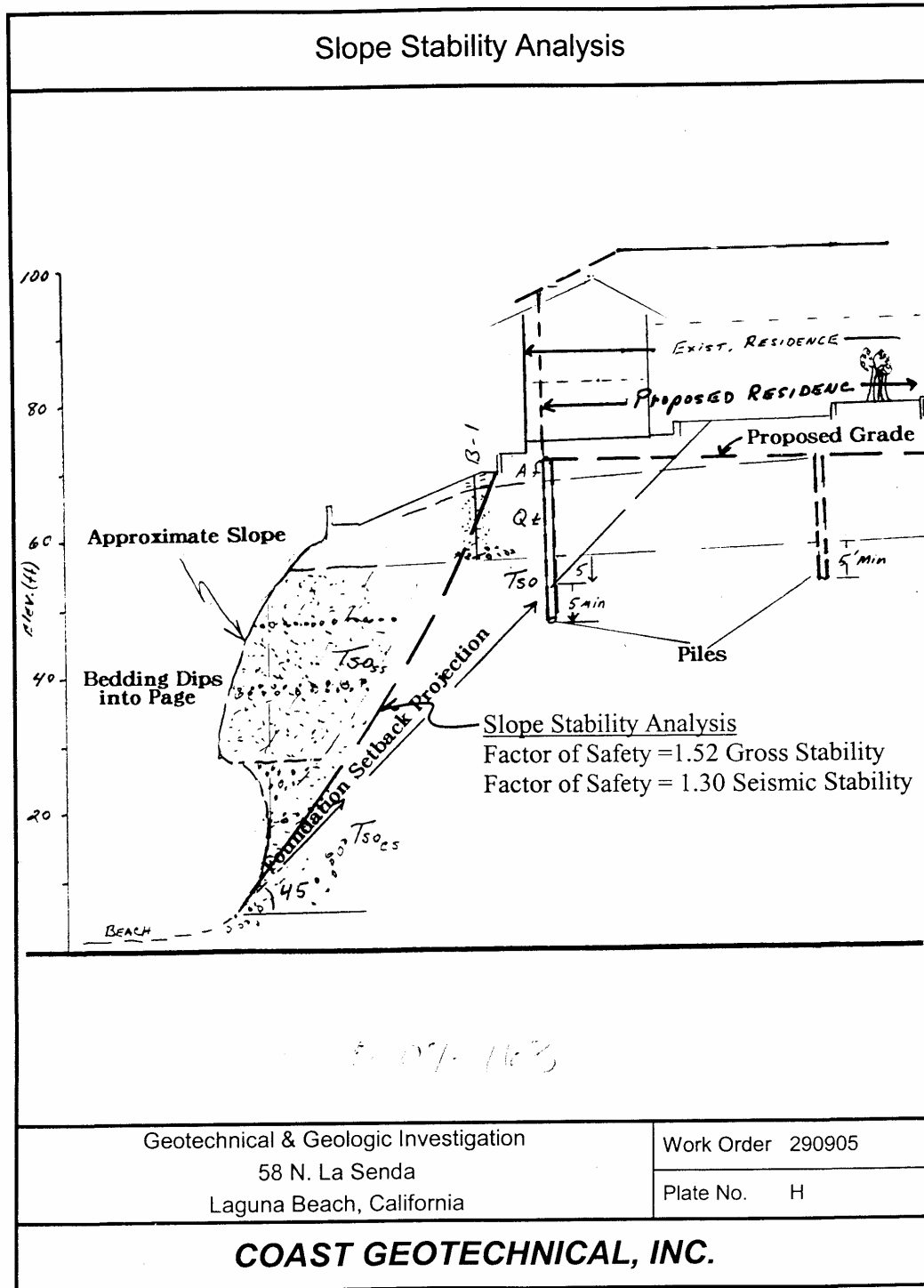


Exhibit 1