

CALIFORNIA COASTAL COMMISSION

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



Th26c

ADDENDUM

January 13, 2010

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: ADDENDUM TO **ITEM Th26c**, COASTAL COMMISSION PERMIT APPLICATION **#5-09-105(Norberg)** FOR THE COMMISSION MEETING OF **January 2010**.

Correspondence

Letter from Sherman Stacey dated January 6, 2010 representing the applicant

Letter from L.C. Smull dated January 11, 2010 (neighbor) with attached Letter from Geofirm dated November 17, 2009

The attached letter with attachment from Mr. L.C. Smull, neighbor and property owner at 88 S. La Senda, Laguna Beach was received on January 11, 2010 raising concerns regarding saturated soils and drainage at the proposed project site, 86 S. La Senda for Coastal Commission Permit Application #5-09-105(Norberg), Item Th26c. Specifically, Mr. Smull provides a letter from Geofirm recommending Mr. Norberg consult with a landscape architect to plan and manage site irrigation on the bluff portion of the subject lot.

Additionally, on January 11, 2009, staff received correspondence from Mr. Sherman Stacey, agent to the applicant Mr. Norberg detailing five (5) objections to the staff recommendation.

Revisions to Staff Report

Commission staff recommends the following revisions to Special Condition 2 and to the staff report findings to address the objections made by the applicant in their correspondence. Deleted language is shown in ~~strike through~~ and new language is in **bold, underlined italic.**

1. On Page 4, Special Condition 2 : Clarify intent of special condition language as follows:

2. No Future Blufftop or Shoreline Protective Devices

- A. By acceptance of this Permit, the applicant agrees, on behalf of himself and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal

Development Permit No. 5-09-105 including, but not limited to, **the additions to** the residence, foundations, patios, balconies and any other future improvements in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, sea level rise or other natural coastal hazards in the future. By acceptance of this Permit, the applicant/landowner 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/landowner further agrees, on behalf of himself and all successors and assigns, that the landowner(s) shall remove the development authorized by this Permit, including **additions to** the residence, foundations, patios, balconies and any other future improvements if any government agency has ordered that the structures 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. no change to section c

2. On page 9, paragraph 3 of the staff report: Clarification of Coastal Act definition of bluff edge.

The applicant's site surveyor identified a bluff "crest" generally located along the 72 foot to 80 foot contour elevation (see Exhibit #4) providing the existing residence with a 25 foot setback from the bluff "crest". However, based on the bluff edge definition contained in Section 13577 of the California Code of Regulations which states, in part: "*the edge shall be defined as that point nearest the cliff beyond which the downward gradient of the land surface increases more or less continuously until it reaches the general gradient of the cliff*" staff determines the bluff edge to be along the contour of the existing uppermost rock garden wall at approximately the 103 foot contour line. **The bluff has an overall height of 70+/- feet and consists of a moderately sloping upper terrace slope which has been previously modified with the construction of backyard garden walls that terrace down the bluff with heights ranging from 3 to 5 feet and an existing trench drain on the bluff face adjacent to the lowest of the four garden wall terraces. At the lowest garden wall, this moderately sloping upper terrace becomes a steeper, locally vertical sea cliff backed by bedrock material descending down to beach level. The Commission staff geologist reviewed the topographic survey of the site and determined the upper most break in slope to be at the upper most of the garden walls.**

Although, the existing residence meets the structural stringline setback, the existing residence is located approximately 12 feet from the bluff edge **as identified by the Commission's staff geologist** and therefore the proposed room additions (entirely within the footprint of the existing residence) also would not comply with the minimum 25 feet from the edge of the bluff setback structural setback. However, as the proposed project is a remodel and addition and not a complete demolition and rebuild, at this time there isn't an opportunity to apply the typical minimum 25 feet from edge of bluff setback to the entire development.

Although the proposed ground level concrete patio improvements meet the patio stringline, conformance solely with stringline would result in a zero (0) foot setback from the bluff edge. While the rate of erosion is minimal at this site, a zero foot setback would not be adequate to accommodate even the minimal erosion rate. In Three Arch Bay, the Commission has found that in some cases a 5-foot bluff edge setback is the minimum necessary for accessory structures (e.g., CDP 5-04-414 [Swartz]); typically a 10-foot bluff edge setback is applied for accessory structures. The proposed new ground level patio improvements do not meet the minimum 5-foot bluff edge setback typically applied in this area for secondary structures. Therefore, the Commission imposes **Special Condition 4** requiring revised final plans bringing all proposed ground level patio improvements into conformance with the minimum 5-foot bluff setback for accessory structures.

3. On page 11, paragraph 4 of the staff report: Clarification that Special Condition 2 applies only to the new proposed development authorized by permit 5-09-105 and not to the existing portions of the residence.

The proposed development includes minimal demolition of exterior walls/windows as part of the first level remodel and new 860 sq. ft. lower level/semi-subterranean addition to the existing structure on the western (bluff side) portion of the lot. The proposed new expansion area constitutes new development for the purposes of Sections 30235 and 30253. Because the proposed project includes new development, it 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 grossly stable, that the project should be safe for the life of the project (75 years), 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." The proposed development appears to be safe from erosion on the basis of available information and is therefore consistent with Coastal Act section 30253(a). Nonetheless, the addition **is located on the seaward portion of the lot and the proposed new development** would increase the existing residence's exposure to threats from erosion by increasing the amount of development close to the blufftop edge. As stated above, the record of coastal development permit applications and Commission actions has also shown that geologic conditions change over time and that 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. To minimize the project's potential future impact on shoreline processes, **Special Condition 2** prohibits construction of any future bluff or shoreline protective device(s) to protect the new development if approved pursuant to Coastal Development Permit No. 5-09-105 including, but not limited to, **additions to** the residence, foundations, patios, balconies and any other future improvements in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, sea level rise or other natural coastal hazards in the future. Special Condition 2 prevents the construction of future blufftop or shoreline protective devices such as revetments, seawalls, caissons, cliff retaining walls, shotcrete walls, and other such construction that armors or otherwise substantially alters the bluff face **to protect the proposed new development.** Special Condition 2 does not preclude the applicant from applying for

future coastal development permits for maintenance of existing development or future improvements to the site (other than blufftop or shoreline protective devices) including landscaping and drainage improvements to address natural groundwater seepage and aimed to prevent slope and bluff instability. The Commission would determine the consistency of such proposals with the Coastal Act in its review of such applications.

4. On page 12, paragraph 2, revise as follows:

In this instance, the proposed semi-subterranean basement addition, although no further seaward than the existing residence, **is located on the seaward side of the lot and could be** if threatened at a future date from the previously mentioned hazards, ~~would be threatened at the same time as the existing residence. It is not possible to only provide protection (by way of bluff/shoreline armoring) for the existing portion of the residence and not the proposed addition.~~ Section 30250 of the Coastal Act requires that permitted development be sited and designed to minimize the alteration of natural land forms. ~~As the existing residence was constructed prior to the Coastal Act and has a non-conforming bluff top setback, any new permitted development on the site may be threatened with damage or destruction from coastal hazards in the future at the same time as the existing portion of the residence.~~ **New Development**, which may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon, among other things, visual resources and shoreline processes.

Therefore, only as conditioned **with Special Condition 2 (which applies to the proposed additions only) and Special Condition 4 (requiring revised final plans bringing all proposed ground level patio improvements into conformance with the minimum 5-foot bluff setback for accessory structures)** does the project conform to Sections 30250 and 30253(2) of the Coastal Act.

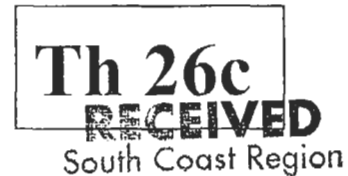
FRED GAINES
SHERMAN L. STACEY
LISA A. WEINBERG
REBECCA A. THOMPSON
NANCI S. STACEY
KIMBERLY RIBLE
ALICIA B. BARTLEY

LAW OFFICES OF
GAINES & STACEY LLP
1111 BAYSIDE DRIVE, SUITE 280
CORONA DEL MAR, CALIFORNIA 92625

TELEPHONE
(949)640-8999
FAX
(949)640-8330

January 6, 2010

Commissioners
California Coastal Commission
45 Fremont Street, #2000
San Francisco, California 94105



Re: Application No. 5-09-105 (Norberg)

JAN 11 2010

Dear Commissioners:

CALIFORNIA
COASTAL COMMISSION

On Thursday, January 14, 2009, I will appear before you on behalf of Donald A. Norberg, the Applicant on CDP Application No. 5-09-105. The Applicant seeks to remodel and add a small additional habitable area within the unexcavated space below a portion of his one-story single family home at 86 S. La Senda, South Laguna. The staff has recommended approval of the permit but includes numerous Special Conditions to which the Applicant objects. The Applicant asks that the Commission adopt an amending motion which would approve CDP No. 5-05-109 subject only to Special Conditions 4B, 5 and 6, and direct Staff to return with revised findings in support of that decision.

I have enclosed a detailed letter setting forth the basis of the Applicant's objections along with 4 exhibits. In summary, the Applicant's objections are as follows:

1. Special Condition No. 2 requires that the Applicant waive rights to protect his home in the event the home should be endangered by erosion. There is nothing that the Applicant proposes to do that would in any way require the construction of protective devices. The permit is for improvements to an existing single family residence and is not new development.
2. The proposed findings determining the location of the bluff edge are incorrect and Special Condition No. 4A should be removed. The bluff edge was determined by the City in 1995 and again in 2009, and by the Coastal Commission in 1995. Each determination was that the bluff edge was at the approximate 84 foot elevation, not the 103 foot elevation now claimed by the Staff.
3. Special Condition No. 1 for assumption of the risk is not justified by any statutory authority or finding.

Attachment 1 (28 pg.)

Commissioners
California Coastal Commission
January 6, 2010
Page 2

4. Special Condition No. 3 is unnecessary as it is no more than a restatement of the permit requirements of Commission Regulation §13250.
5. Special Condition No. 7 requiring a deed restriction as the condition is unnecessary if Special Conditions Nos. 1, 2, 3 and 4A are removed.

The Applicant seeks the Commission's approval of CDP No. 5-09-105 on an amending motion to remove Special Conditions Nos. 1, 2, 3 and 4A.

Sincerely,


SHERMAN L. STACEY

SLS

cc: All Commissioner and Alternates
Commission Office-Long Beach
Mr. Donald A. Norberg

8980 / 1-1-10

6

JAN 11 2010

CALIFORNIA
COASTAL COMMISSION

Th 26c

BEFORE THE CALIFORNIA COASTAL COMMISSION

**CDP Application No. 5-09-105 (Norberg)
Remodel and Addition to Existing Single Family Residence
86 South La Senda, South Laguna California**

STATEMENT ON BEHALF OF APPLICANT DONALD A. NORBERG

IN OPPOSITION TO STAFF REPORT AND RECOMMENDATION

This Statement is filed on behalf of Donald A. Norberg, the Applicant on CDP Application No. 5-09-105. The Applicant seeks to remodel and add a small additional habitable area within the unexcavated space below a portion of his one-story single family home at 86 S. La Senda, South Laguna. The staff has recommended approval of the permit but includes numerous Special Conditions to which the Applicant objects. In addition, the Applicant disagrees with the delineation by the Staff of the bluff edge. Although none of the additions to the home extend beyond the existing line of the home, the bluff edge determined by the Staff limits the outdoor improvements which the Applicant desires to make.

1. **The Applicant Objects to Special Condition No. 2 Which Requires That He Waive Rights to Protect His Home in the Event the Home Should Be Endangered by Erosion.**

Special Condition No. 2 has three parts which I summarize as follows:

1. Prohibition of any future bluff or shoreline protective device if the home should be threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, sea level rise or other natural causes.
2. Removal of the home if a government agency determines the home not to be safe to occupy as a result of the hazards from waves, erosion, storm conditions, bluff retreat, landslides, sea level rise or other natural causes.
3. Even if a government agency has not determined the home to be unsafe, if the bluff retreats to within 5 feet of the home, Mr. Norberg must obtain his own geotechnical report which would recommend what to do with the property including potentially removing some or all of the home, without any choice to protect the home by bluff or shoreline protective devices.

The Staff Report claims that this Special Condition No. 2 is justified by Public Resources Code §30253. Public Resources Code §30253 provides as follows:

30253. New development shall do all of the following:

....
(b) 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.

Special Condition No. 2 is not justified by §30253 because (a) there is nothing that the Applicant proposes to do that would in any way require the construction of protective devices, and (b) the Applicant is not proposing to perform "new" development, only a modification of existing development.

A. There is Nothing that the Applicant Proposes To Do that Would in Any Way Require the Construction of Protective Devices.

Public Resources Code §30235 requires that the Coastal Commission approve shoreline protective devices if necessary to protect the Applicant's existing home from erosion. Special Condition No. 2 requires that the Applicant give up that right in order to remodel his home and make an 800 square foot addition within the unexcavated space beneath his present ground floor. None of the structure would extend farther seaward than the present structure. The structure would be provided with deepened foundations which would improve the ability of the structure to withstand any future loss of support from erosion of the bluff.

Based upon substantial evidence provided in the reports prepared by geotechnical experts at Geofirm, the Staff Report finds that the proposed improvements will assure stability and structural integrity. The improvements will not contribute significantly to erosion, geologic instability or destruction of the site or surrounding area. The sole basis for Special Condition No. 2 is the claim that the proposed improvements might, at some unknown date in the future, require the construction of protective devices to protect the structure from erosion. These kinds of protective devices are precisely what §30235 of the Coastal Act states shall be permitted.

There is no rational connection between the proposed improvements and a prohibition on future construction of devices to protect the Applicant's home if necessary at a future date. The Applicant's right to protect his home exists today and the proposed improvements do not cause or increase any potential that protective devices may be needed in the future. The proposed improvements enlarge the habitable space in the structure only by excavating space which is beneath the ground floor on the sloping seaward side of the house. By excavating 307 cubic yards of earth, the Applicant proposes to have 800 square feet of habitable space located precisely below his existing home.

The Staff's rationale is that the proposed improvements "would increase the existing residence's exposure to threats from erosion by increasing the amount of development close to the blufftop edge." (Staff Report, p. 11.) The existing home will increase in square footage, but the construction of the additional space does not increase the risks which presently exist. In fact, the construction of the proposed improvements decreases the risks of damage from erosion.

Enclosed as Exhibit A with this letter is the report of Geofirm dated November 2, 2009 and signed and stamped by Erik R. Hilde, PG, Engineering Geologist, License No. 2303 and Erick J. Aldrich, RCE, GE, Geotechnical Engineer, License No. GE 2656. The engineer and geologist conclude:

"... we have recommended a deepened foundation system along the rear of your residence that will ultimately increase the overall structure's resistance to the very erosional threats with which the Commission is concerned. Therefore, as there is no increased exposure to threats from erosion based on the proposed plans and our report, Special Condition 2 is not scientifically justified ..."

The Staff Report agrees that the proposed improvements do not require the construction of any protective devices as a part of the present application. The Staff Report agrees that the engineers do not expect that any protective devices will be required in the foreseeable future. Therefore there is no evidence that the development will require the construction of protective devices. Without evidence that the improvements sought by the permit will in some way require the construction of protective devices, there is no basis to impose Special Condition No. 2.

There are events that no one can predict. As the Commission might note from the photograph attached with Exhibit C, the bluff face has considerable vegetation. This is because there is water which seeps through the bluff face. Although not expected to pose any danger, the routes and quantities of water can change over time. Further, there is a sewer line that exists under the bluff. If there were leakage or a failure from this sewer line, events could endanger the applicants home. If highly unexpected future circumstances result in the Applicant's home becoming in danger from erosion, he has a right under the Coastal Act to protect it. The Commission may not make him waive that right unless there is evidence that his proposed improvements would contribute in some way to the erosion against which he would need future protection. There is no such evidence.

The Applicant recognizes that the Commission has imposed similar conditions on other permits. The other permits are referenced on page 12 of the Staff Report. However, the development authorized in those other permits was distinct from the improvements proposed by the Applicant. In the other cases, the improvements generally consisted either of a new single family residence (CDP 5-04-414 (Swartz); CDP 5-99-332-A1 (Frahm)) or a far more substantial change to an existing single family residence (CDP 5-02-345 (Markland); CDP 5-06-258 (Stanton); 5-07-163 (Hammond)). It does not appear from the record that any of these prior

applicants contested the Special Conditions to which the Applicant objects.

It is not the improvements which the Applicant seeks to construct that might, in unforeseen circumstances, require protective devices. It is the fact that the Applicant's present home is in a particular location. Seeking to do improvements that will not contribute to danger, but actually provide additional protection from danger over the present condition, cannot be the basis on which to compel a waiver of rights.

B. Improvements to an Existing Single Family Residence is Not New Development.

Section 30253 applies to "new" development. Each word in a statute must be interpreted to have meaning. The Staff Report treats all development as "new" development. By adding the word "new", the Legislature must have intended to limit the development to which Section 30253 would apply. The Staff Report treats the improvements to the Applicant's home as new development because such improvements did not exist before.

Single family residences are treated differently under the Coastal Act than other types of development. Under Public Resources Code §30610(a) improvements to existing single family residences are exempt from the permit requirements of the Coastal Act. The Legislature did not even require a coastal permit for what the Applicant seeks to do. However, the Legislature did allow the Commission to define certain classes or locations of improvements to existing single family residences where a coastal permit would be required. The Coastal Commission did so in adopting California Code of Admin. Regs. §13250. (A copy of §13250 is attached as Exhibit B.) So it is the Coastal Commission, not the Coastal Act, which requires the Applicant to obtain a coastal development permit.

By making a distinction between new single family residences, which require a permit under the Coastal Act, and improvements to existing single family residences, which do not require a permit under the Coastal Act, the Legislature made a clear distinction between new development and existing development. The Coastal Commission can require a permit, but the Coastal Commission cannot ignore the distinction to apply §30253 to improvements to an existing single family residence since the Legislature did not consider this to be new development.

This does not mean that the policy behind §30253 is not applied to improvements to existing homes, only that it is the local government that will take that responsibility, not the Coastal Commission. Every subsection of §30253 which might apply to an existing home is mirrored somewhere in most local building and planning codes.

2. **The Applicant Objects to Special Condition No. 4 and the Findings
Determining the Location of the Bluff Edge.**

On page 9 of the Staff Report, the Staff determines the location of the "bluff edge" at approximately the 103 foot contour which is within a few feet of the wall of the existing house. The Applicant disagrees with this determination. The definition of "bluff edge" is contained in California Code of Admin. Regs., Title 14, §13577(h). The "bluff edge" is defined as "that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff." (The Staff Report includes the term "land" surface which is a word not found in the regulation.)

The general gradient of the cliff is 1.5 to 1 and extends up to elevation 80. I have attached as Exhibit C a letter from Felix Lim, the designer of the proposed improvements, and a cross section of the property. The cross-section identifies that the point nearest the cliff beyond which the downward gradient of the land surface increases more or less continuously until it reached the 1.5 to 1 gradient. Pursuant to §13577(h), the defined point is at the elevation of approximately 84 feet. Mr. Lim carefully explains why that elevation is the defined bluff edge.

The area between the 84 foot elevation and the 103 foot elevation is an area previously terraced from the natural surface which was a 2.5 to 1 slope with no change in gradient over a distance of more than 40 feet. The continuous change in gradient nearest the cliff takes place between the 84 and 80 foot elevations. The Staff determination of bluff edge at 103 feet is based on fill that was placed to have a level area adjoining the structure. Even if it were the natural slope, there are two reasons that it does not meet the definition of "bluff edge" in §13577. First, it is not the point where the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. It is a point where the surface gradient changes, but it changes to a uniform 2.5 to 1 slope for 40 feet, not more or less continuously. Second, it is not the point "nearest" the cliff. If choosing between the two points (84 feet or 103 feet) it is the point farthest from the cliff.

Mr. Lim has also attached a photograph showing the Applicant's home and the property to the north which enjoy a similar bluff edge with outdoor improvements extending over the area between the house and the bluff edge. The proper determination of the bluff edge does not mean that the Applicant might someday extend his house closer to the ocean. The seaward extent of some possible future home is limited by the stringline which the Applicant accepts. However, Special Condition No. 4 requires that the Applicant not have any outdoor improvements farther than 7 feet from the wall of the existing house. This does not permit the Applicant to have the patio and spa which he seeks to place next to the house. The area necessary for the patio and spa is more than the 7 feet allowed under Special Condition No. 4A.

Further, in 1995 the Commission approved Application No. 5-95-047 (Norberg) to remodel and add to the Applicant's home. The project was never undertaken. However, the City

of Laguna Beach and the Coastal Commission determined the bluff edge to be between 78 and 84 feet. A variance was required at that time because the house exceeded the stringline by 3.75 square feet. The City of Laguna Beach has a setback of stringline or 25 feet from the bluff edge. If the bluff edge were where the Staff has designated the bluff edge, then a far greater portion of the house would have exceeded the 25 foot setback. That is not what the Commission found. The Commission found that only the stringline was exceeded, not the 25 foot bluff setback. The drawing attached as Exhibit B to the Commission Findings identifies the "top of bluff" at the 84 foot elevation. A copy of the Commission Findings is attached hereto as Exhibit D. On the current application, the City determined that no bluff top setback variance was necessary because there was no encroachment on the 25 foot bluff top setback. The City's definition of bluff edge is identical to that used by the Commission.

The Applicant requests that you modify the findings to determine the bluff edge to be at 84 feet and, therefore, to remove Special Condition No. 4A. Special Condition 4B is acceptable.

3. **The Applicant Objects to Special Condition No. 1 for Assumption of the Risk.**

CDP No. 5-95-047 (Norberg) was a permit for a much larger remodeling and addition (1493 square feet) to the Applicant's home. The Commission Findings in support of CDP 5-95-047 were that this larger remodeling and addition were consistent with the Coastal Act. No Special Conditions for assumption of the risk, waiver of protective devices or deed restrictions were imposed upon the permit. The Applicant did not proceed with the project, but that does not change the fact that the Commission approved as consistent with the Coastal Act, a much larger, new development without any of the conditions which the Staff Report recommends the Commission impose today. Similarly, no such conditions were imposed upon CDP Nos. P-80-7431 (Kinard), 5-93-254-G (Arnold) or 5-88-177 (Arnold) which are referenced as substantive file documents on Page 2 of the Staff Report.

There is no statutory basis under Chapter 3 of the Coastal Act to require Special Condition No. 1. Even though an assumption of the risk condition has recently become more common for the Commission to impose on ocean front properties, the Staff Report contains no explanation of the basis for such a condition and no authority as to why Special Condition No. 1 is necessary for finding consistency with Chapter 3 policies.

4. **The Applicant Objects to Special Condition No. 3 as It Is No More than a Restatement of the Permit Requirements of Commission Regulation §13250.**

There are no improvements which the Applicant could seek to make to his home which would not require a coastal development permit under the provisions of California Code of Admin. Regs., Title 14, §13250. (See, Exhibit B.) Section 13250 defines those improvements to single family dwellings that require a permit. The regulation requires a permit for any

improvements to a structure if the structure is within 50 feet of the edge of a coastal bluff. As the Applicant's structure is within 50 feet of the edge of a coastal bluff (even with the proper determination of the edge as described above) a coastal permit will always be required unless changed by legislative act or by the Commission.

Special Condition No. 3 is based on §13250(b)(6) which applies to "any improvement to a single-family residence where the development permit issued for the original structure by the commission . . . indicated that any future improvements would require a development permit." This language applies only to permits for the "original structure". The Commission did not issue the permit for the original structure. Therefore, §13250(b)(6) cannot be applied to the Applicant and Special Condition No. 3 is improper.

5. The Applicant Objects to Special Condition No. 7 Requiring a Deed Restriction as the Condition is Unnecessary.

If the Commission acts as the Applicant has requested in this letter, then only Special Condition Nos. 4B, 5 and 6 would affect the project. Each of these conditions affect only the construction process, not the property. Therefore, there is no reason to record a deed restriction as required by Special Condition No. 7. It is unreasonable to burden the property with unnecessary covenants. The Applicant requests that Special Condition No. 7 be removed.

6. Conclusion.

The Applicant asks that the Commission adopt an amending motion which would approve CDP No. 5-05-109 subject only to Special Conditions 4B, 5 and 6, and direct Staff to return with revised findings in support of that decision.

Respectfully submitted,



SHERMAN L. STACEY
Attorney for Applicant
Donald A. Norberg

January 6, 2010

Copies of this Statement have been sent to
All Commissioner and Alternates and to the
Commission Office-Long Beach



801 Glenneyre St. • Suite F • Laguna Beach • CA 92651
(949) 494-2122 • FAX (949) 497-0270

Th 26c

November 2, 2009

Mr. Donald Norberg
1250 Lorain Road
San Marino, California

Project No: 71836-01
Report No: 09-6594

Subject: **Comments on California Coastal Commission Staff Report ~~W6c~~
Special Condition 2:
No Future Blufftop or Shoreline Protective Devices
Proposed Residence Additions
86 South La Senda
Laguna Beach, California**

References: 1) California Coastal Commission, 2009, "Item W6c, Staff Report: Consent Calendar", Application Number: 5-09-105, Applicant: Donald Norberg, Project Location: 86 South La Senda, City of Laguna Beach, dated August 10.

2) California Coastal Commission, 2009, "Addendum to Item W6c, Coastal Commission Permit Application #5-09-105(Norberg)," dated September 1.

3) Geofirm, 2009, "Updated Preliminary Geotechnical Investigation For Foundation Design of Residence Additions, 86 South La Senda, Laguna Beach, California", Project No. 71836-00, Report No. 09-6484, dated April 22.

Dear Mr. Norberg:

In accordance with your request, this letter is in response to the California Coastal Commission Staff Report W6c dated August 19, 2009, regarding the proposed residence additions at the subject site. Based on our review of the report, you have received approval for construction of your site improvements with several conditions. Discussions with you indicate a particular concern regarding Special Condition 2, which as stated in the report, prevents the construction of future blufftop or shoreline protective devices in response to possible adverse site erosion.

According to the Commission's Addendum to the report, the basis for implementing Special Condition 2 is the assertion that construction of proposed improvements "would increase the existing residence's exposure to threats from erosion by increasing the amount of development close to the blufftop edge." Based on our referenced geotechnical investigation and recommendations for the foundations supporting the


proposed additions, which primarily consist of the conversion of crawl space into living space at existing grades within the current footprint, we find the Commission's assertion contradictory. In fact, the Commission's own words immediately preceding the aforementioned assertion state, "the proposed development appears to be safe from erosion on the basis of available information and is therefore consistent with the Coastal Act section 30253(a)."

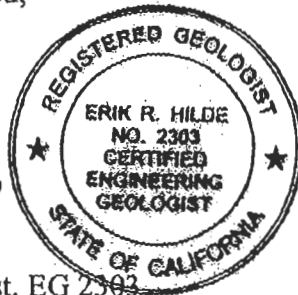
As your geotechnical consultant, it has been our charge to provide a foundation design for your proposed addition in accordance with local and state building codes. Based on the findings in our referenced investigation, we have recommended a deepened foundation system along the rear of your residence that will ultimately increase the overall structure's resistance to the very erosional threats with which the Commission is concerned. Therefore, as there is no increased exposure to threats from erosion based on the proposed plans and our report, Special Condition 2 is not scientifically justified, and additional data should be requested from the Commission that supports their assertion.

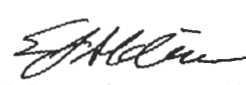
This opportunity to be of continued service is appreciated. If you have any questions, please contact this office.

Respectfully submitted,

GEOFIRM


Erik R. Hilde, PG
Engineering Geologist, EG 2303
Registration Expires 10-31-11




Erick J. Aldrich, RCE, GE
Geotechnical Engineer, G.E. 2565
Registration Expires 6-30-10
Date Signed: 11/2/09



ERH/EJA/:fp

Distribution: Addressee (3)

14 CCR § 13250

Cal. Admin. Code tit. 14, § 13250

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

TITLE 14. NATURAL RESOURCES

DIVISION 5.5 CALIFORNIA COASTAL COMMISSION [FNA1]

CHAPTER 6. EXCLUSIONS FROM PERMIT REQUIREMENTS

SUBCHAPTER 6. EXISTING SINGLE-FAMILY RESIDENCES

This database is current through 12/25/09 Register 2009, No. 52

§ 13250. Improvements to Existing Single-Family Residences.

(a) For purposes of Public Resources Code Section 30610(a) where there is an existing single-family residential building, the following shall be considered a part of that structure:

- (1) All fixtures and other structures directly attached to a residence;
- (2) Structures on the property normally associated with a single-family residence, such as garages, swimming pools, fences, and storage sheds; but not including guest houses or self-contained residential units; and
- (3) Landscaping on the lot.

(b) Pursuant to Public Resources Code Section 30610(a), the following classes of development require a coastal development permit because they involve a risk of adverse environmental effects:

- (1) Improvements to a single-family structure if the structure or improvement is located: on a beach, in a wetland, seaward of the mean high tide line, in an environmentally sensitive habitat area, in an area designated as highly scenic in a certified land use plan, or within 50 feet of the edge of a coastal bluff.
- (2) Any significant alteration of land forms including removal or placement of vegetation, on a beach, wetland, or sand dune, or within 50 feet of the edge of a coastal bluff, or in environmentally sensitive habitat areas;
- (3) The expansion or construction of water wells or septic systems;
- (4) On property not included in subsection (b)(1) above that is located between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in significant scenic resources areas as designated by the commission or regional commission, improvement that would result in an increase of 10 percent or more of internal floor area of an existing structure or an additional improvement of 10 percent or less where an improvement to the structure had previously been undertaken pursuant to Public Resources Code Section 30610(a), increase in height by more than 10 percent of an existing structure and/or any significant non-attached structure such as garages, fences, shoreline protective works or docks.
- (5) In areas which the commission or a regional commission has previously declared by resolution after public hearing to have a critically short water supply that must be maintained for the protection of coastal resources or public recreational use, the construction of any specified major water using development not essential to residential use including but not limited to swimming pools, or the construction or extension of any landscaping irrigation system.
- (6) Any improvement to a single-family residence where the development permit issued for the original structure by the commission, regional commission, or local government indicated that any future improvements would require a development permit.

(c) In any particular case, even though an improvement falls into one of the classes set forth in subsection (b) above, the executive director of the commission may, where he or she finds the impact of

Exhibit B

17

the development on coastal resources or coastal access to be insignificant, waive the requirement of a permit; provided, however, that any such waiver shall not be effective until it is reported to the commission at its next regularly scheduled meeting. If any three (3) commissioners object to the waiver, the proposed improvement shall not be undertaken without a permit.

California Coastal Commission
South Coast District Office
200 Oceangate, #1000
Long Beach, California 90802

Re: Application No. 5-09-105 (Norberg)
86 S. La Senda, South Laguna

Dear Commissioners:

I am an experienced designer of single family residences throughout southern California. My experience includes the design of many homes located on ocean facing sloping properties. I have examined the topography of the property at 86 S. La Senda, South Laguna in the area from the existing residence to the beach. The property is a coastal facing bluff. The Coastal Commission uses the bluff edge to determine various setbacks for construction of structures and non-structural improvements. Under California Code of Admin. Regs., Title 14, §13577(h), the bluff edge is defined as "that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff."

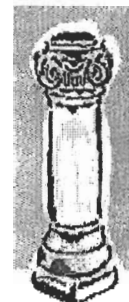
The general gradient of the cliff is a 1.5 to 1 slope which rises from the beach to an approximate elevation of 84 feet. The slope at 86 S. La Senda is fairly level to a gradual uniform descent on a 2.5 to 1 slope. The slope in this area has been modified with terraced areas connected by railroad tie steps embedded in the soil. At a location just seaward of an existing drain, the downward gradient of the land surface increases rapidly and continuously from the 2.5 to 1 slope to the 1.5 to 1 general gradient of the cliff. Under the definition contained in Regulation §13577(h), I have determined that the bluff edge is the point located just seaward of the existing drain. I have shown this location on the attached cross-section drawing which is based upon the survey of the property.

The Staff Report and Recommendation of the Coastal Commission states that the bluff edge is located approximately 12 feet from the existing residence. This is not the case. Although there is a terraced area beneath a deck at the existing first floor, the terraced area is partially non structural fill. It is an altered condition that appears to have existed as long as the house has been there and is not an accurate depiction of the actual natural soil surface. The location chosen in the Staff Report is not the point nearest the cliff where the gradient of the surface increases continuously until the general gradient of the cliff is reached.

The gradient between the bluff edge chosen in the Staff Report and the bluff edge which I have designated does not increase but is a fairly uniform 2.5 to 1 slope. An increase in the gradient is an increase in the angle of descent. The area of the 2.5 to 1 slope does not show an increase in the angle of descent over a distance of more than 40 feet. The bluff edge I have designated is consistent with the property immediately adjacent to the north which has a highly visible wall at that location and various improvements between that wall and the residence. I have attached a photograph to assist in understanding the facts.

Sincerely,


Felix Lim

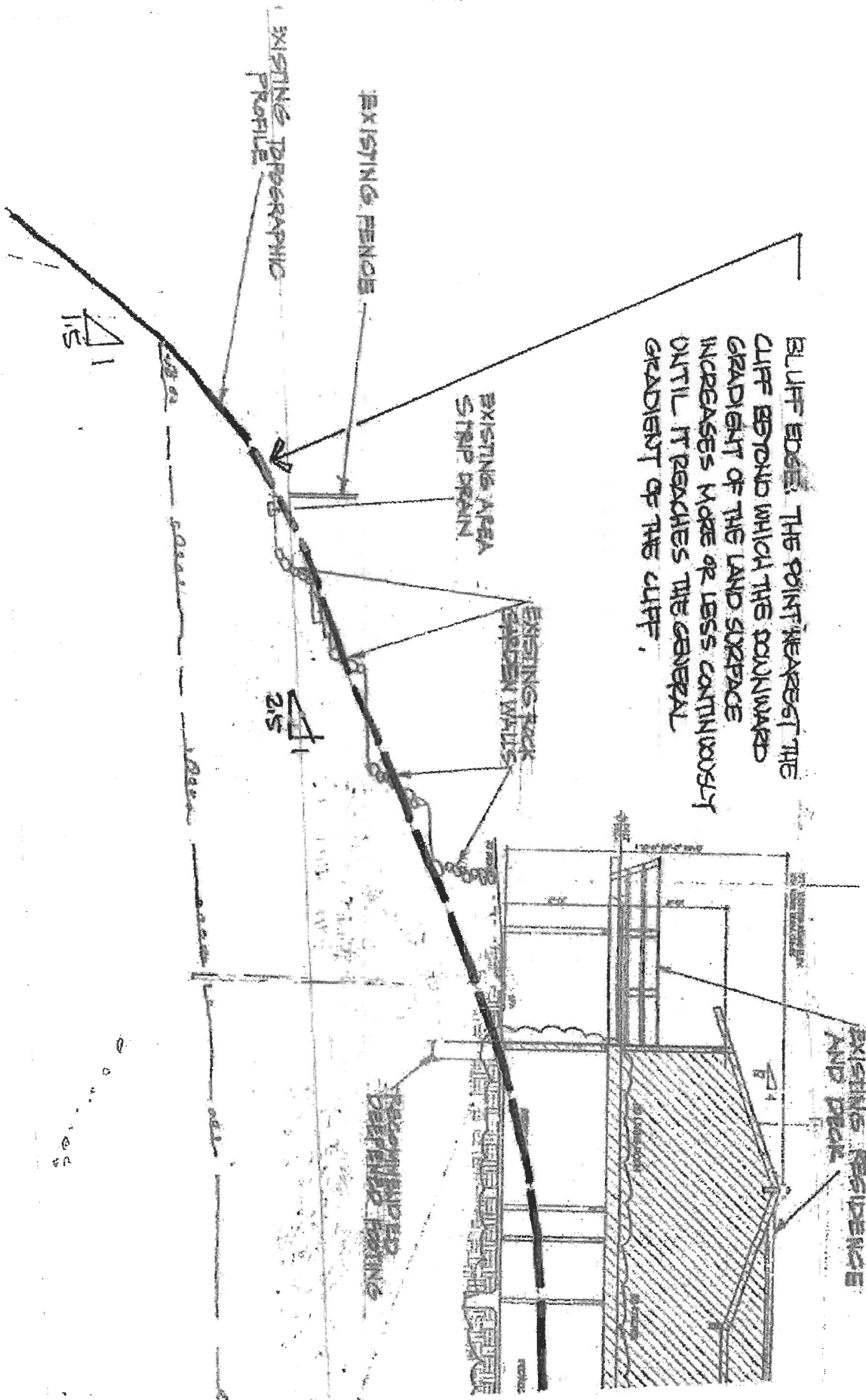


FELIX LIM

Design
Planning
Construction

Phone / Fax: 818-246-3304
818-487-4542
Email: felixlim@calregola.net
Contractor License #474271

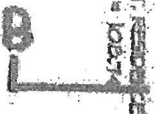
BLUFF EDGES. THE POINT NEAREST THE CLIFF BEYOND WHICH THE DOWNWARD GRADIENT OF THE LAND SURFACE INCREASES MORE OR LESS CONTINUOUSLY UNTIL IT REACHES THE GENERAL GRADIENT OF THE CLIFF.

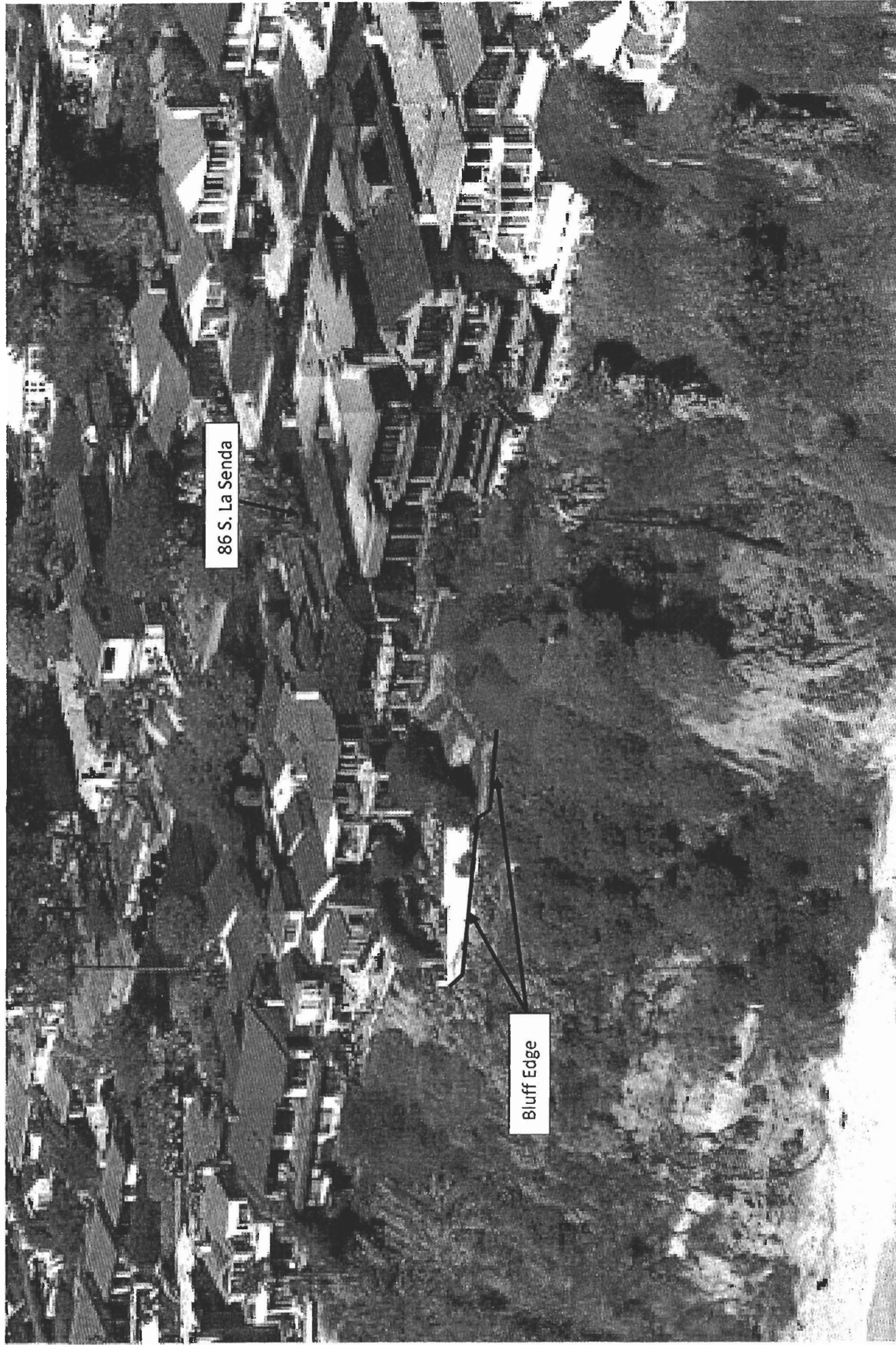


STRIPLINE DEC

STRIPLINE BLDG

EXIST. RESIDENCE
P.S. # 100.74





W

166

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
245 W. BROADWAY, STE. 380
P.O. BOX 1450
LONG BEACH, CA 90802-4416
(310) 590-5071

Filed: 3/23/95
49th Day: 5/11/95
180th Day: 9/19/95
Staff: MV-LB/VV
Staff Report: 4/20/95
Hearing Date: 5/9-12/95
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 5-95-047

APPLICANT: Mr. & Mrs. Don Norberg

AGENT: Susan Burgess

PROJECT LOCATION: 86 South La Senda, South Laguna, Orange County

PROJECT DESCRIPTION:

Remodel and addition of 1493 square feet to an existing single family residence. The proposed addition includes the addition of a new 1376 square foot lower floor and addition of 118 square feet to the existing upper floor. The proposed single family residence will be 2978 square feet, 19 feet above finished grade with an attached 472 square foot, 2-car garage. 269 cubic yards of cut is also proposed.

Lot area:	11,759 square feet
Building coverage:	2,118 square feet
Pavement coverage:	223 square feet
Landscape coverage:	1,945 square feet
Parking spaces:	4
Zoning:	R-1
Plan designation:	Village Low Density
Ht abv fin grade:	19 feet

LOCAL APPROVALS RECEIVED:

Approval in Concept, City of Laguna Beach; Variance No. 6175 & Design Review No. 95-016 City of Laguna Beach Board of Adjustment/Design Review Board.

SUBSTANTIVE FILE DOCUMENTS:

City of Laguna Beach certified Local Coastal Program

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed project with one special condition requiring incorporation of the geologic consultant's recommendations into the design of the project. The special condition requires the applicant to submit drainage and foundation plans that have been reviewed and approved by the geologic consultant. The applicant is in agreement with the staff recommendation.

23

Staff Recommendation:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, 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 of the Coastal Act, is located between the sea and the first public road nearest the sea and is in conformance with the public access and public recreation policies of the Coastal Act and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

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. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.

4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.

6. 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.

7. 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. Geologic Recommendations

Prior to issuance of the coastal development permit the applicant shall submit for the review and approval of the Executive Director, drainage and foundation plans, signed by the geological consultant, indicating that the recommendations contained in the Preliminary Geotechnical Investigation dated August 19, 1992 and updated in the letters dated October 24, 1994 and March 22, 1995, have been incorporated into the design of the project.

IV. Findings and Declarations

The Commission finds and declares as follows:

A. Project Description

The applicants propose to remodel and add 1493 square feet to an existing single family residence. The proposed addition includes the addition of a new 1376 square foot lower floor and addition of 118 square feet to the existing upper floor. The proposed single family residence will be 2978 square feet, 19 feet above finished grade with an attached 472 square foot, 2-car garage. Also proposed is a self contained spa on the existing upper floor balcony. 269 cubic yards of cut is also proposed. The proposed excavation will allow the addition to occur within the existing footprint beneath the existing structure.

The proposed lower floor addition will not extend any further seaward than the existing upper floor. No new development is proposed seaward of the existing structure.

The City of Laguna Beach Board of Adjustments/Design Review approved a variance for the proposed development to allow a reduced garage setback from the street and to allow the existing bluff top encroachment to remain. The variance for the bluff top encroachment was necessary because the existing structure exceeds the required bluff top setback of either 25 feet from the edge of the bluff or a setback determined by a stringline. 3.75 square feet of the existing structure exceeds the stringline. This existing encroachment is proposed to remain. The seawardmost wall of the existing structure will remain in its existing location.

The subject site is a bluff top lot within the locked gate community known as Three Arch Bay in the South Laguna area of the City of Laguna Beach. Three Arch Bay is one of the areas of deferred certification within the City of Laguna Beach. The land use designation at the subject site is Village Low Density. The proposed project is consistent with the certified land use designation.

25

B. Geologic Recommendations

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.

The proposed project includes 269 cubic yards of cut and is located on a bluff top lot. Development on bluff top parcels may involve risks including instability and erosion. The Coastal Act requires that these risks be minimized. The Preliminary Geotechnical Investigation states that the sea cliff is grossly stable although it is expected to be subject to minor rock block failure and ravelling at its base over the life of the project.

Regarding surface drainage, the Preliminary Geotechnical Investigation states:

Proposed development, which will modify and may slightly increase post-development surficial discharge, must be intercepted, controlled and conducted offsite by appropriate engineering design to preclude the potential for erosion or soil saturation.

Further, the update letter dated October 24, 1995 states:

A key element of ongoing stability of the cliff is the control of water from both runoff and landscape irrigation.

Uncontrolled drainage at the site could adversely effect stability. Drainage, if allowed to flow freely over the bluff could significantly undermine the bluff. Additionally, if increased amounts of surface water are allowed to percolate into the ground, that too could undermine bluff stability. Consequently, in order to assure that the stability of the bluff is not compromised by uncontrolled drainage, a drainage plan prepared by a licensed engineer which incorporates the recommendation identified above must be prepared for the site.

The Preliminary Geotechnical Investigation prepared for the project concludes:

Proposed addition as anticipated herein to the existing house at the subject site is considered geotechnically feasible providing the recommendations herein are integrated into design, construction, and maintenance of the project.

The geology report contains recommendations to enhance the site stability. These include recommendations regarding foundation design and location, structural design of retaining walls, and finished grade and surface drainage. All geologic recommendations must be incorporated into the design of the proposed project in order to minimize risk and assure structural stability as required by Section 30253 of the Coastal Act. As a condition of approval, the applicant shall submit, for the review and approval of the Executive Director, drainage and foundation plans signed by the geologic consultant indicating that the recommendations contained in the Preliminary Geotechnical Investigation prepared for the site have been incorporated into the design of the project. Therefore, as conditioned, the proposed project is consistent with Section 30253 of the Coastal Act.

C. Access and Recreation

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 of the Coastal Act states:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or,

(3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

(b) For purposes of this section, "new development" does not include:

(1) Replacement of any structure pursuant to the provisions of subdivision (g) of Section 30610.

(2) The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.

(3) Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.

(4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not a seaward of the location of the former structure.

(5) Any repair or maintenance activity for which the commission has determined, pursuant to Section 30610, that a coastal development permit will be required unless the commission determines that the activity will have an adverse impact on lateral public access along the beach.

As used in this subdivision "bulk" means total interior cubic volume as measured from the exterior surface of the structure.

(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.

Section 30212(a) states that public access from the nearest public roadway to the shoreline shall be provided in new development projects. Section 30212(b)(2) states that new development does include the demolition and rebuild of a residence where the floor area, height or bulk of the former structure is increased by more than 10 percent over the prior structure. The applicant is proposing that the gross square footage of the residence will be increased from 1,484 to 2,978. Therefore, the rebuild qualifies as new development under Section 30212(b)(2) of the Coastal Act. The proposed project will not result in an intensification of use. The applicant's home is located on the bluff, however there are many homes located between the applicant and the nearest public roadway, which is Pacific Coast Highway.

A public access dedication can be required pursuant to Section 30212 only if it can be shown that the development, either individually or cumulatively, directly impacts physical public access, i.e., by increasing erosion or sand scouring; impacts historic public use; or impacts or precludes the use of Public Trust Lands. In this situation there is no seaward encroachment and the project site is a bluff top. Additionally, there is no historic public use of the site nor impacts which preclude the use of Public Trust Lands. The proposed project will not create adverse impacts on public access or recreation.

Therefore, the Commission finds that the proposed project conforms with Sections 30210, 30211 and 30212 of the Coastal Act regarding public access and recreation.

D. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with the Chapter 3 policies of the Coastal Act.

The Laguna Beach Local Coastal Program was certified with suggested modifications, excluding several areas of deferred certification (including Three Arch Bay), at the July, 1992 Commission hearings. The City accepted the Commission's suggested modifications and the Commission subsequently concurred with the Executive Director's determination of adequacy on January 13, 1993.

The Laguna Beach LCP was effectively certified on January 25, 1993 after Notice of the Certification of the Local Coastal Program was filed with the Secretary of Resources. The Commission is reviewing this project because it is in an area of deferred certification.

The proposed development, as conditioned by the Commission, will not create adverse impacts on coastal access or coastal resources under Chapter 3 of the Coastal Act. Therefore, the Commission finds that approval of the project will not prejudice the City's ability to prepare a Local Coastal Program for this area of deferred certification.

E. Consistency with the California Environmental Quality Act (CEQA).

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) 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 impact which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the hazard policies of the Coastal Act. Mitigation measures; including incorporation of the geologist's recommendations into the design of the project; will minimize all adverse impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.

37

A

B

C

SEE MAP

35

D

E



5-95-047

DANA POINT
COASTAL COMMISSION

5-95-047

EXHIBIT # A

PAGE 1 OF 1

A

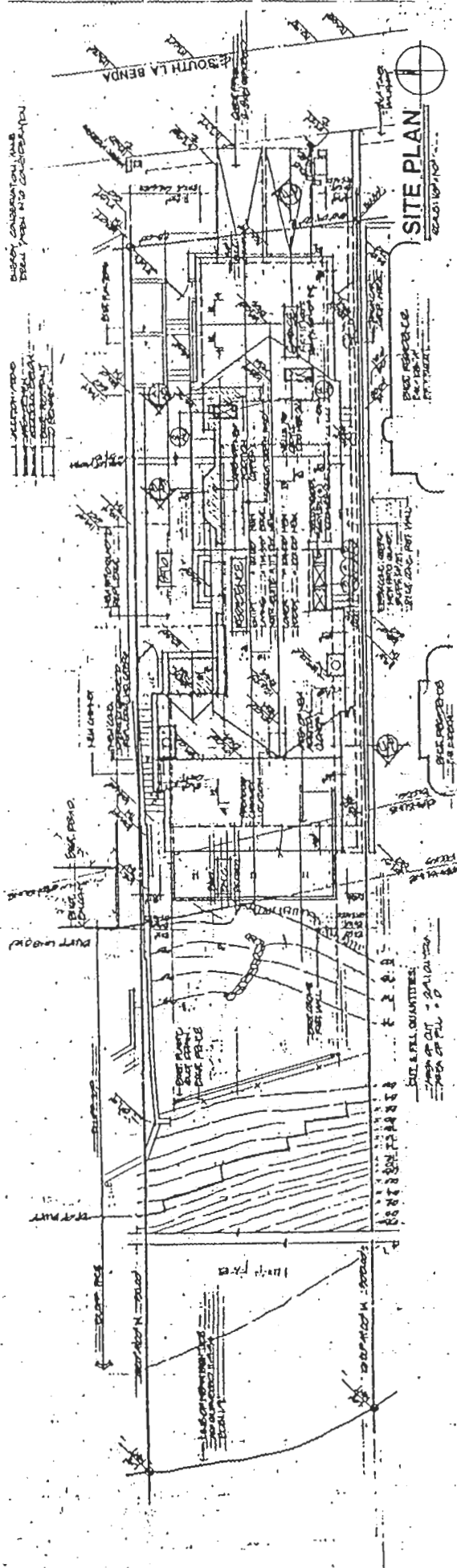
B

C

D

E

5-95-047



80 SOUTH LA BENDA
SOUTH LAGUNA, CA. 92671

RECEIVED

MAR 7 1995

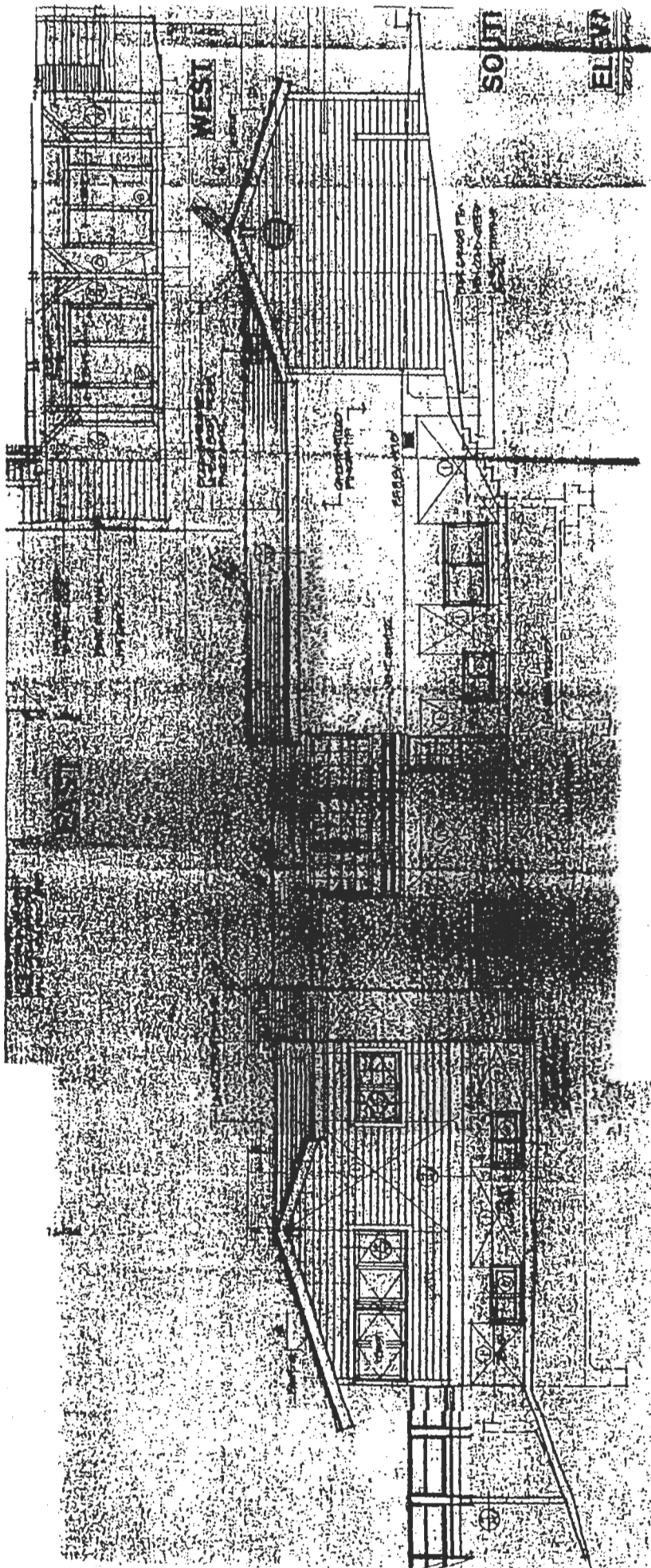
CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

COASTAL COMMISSION

5-95-047

EXHIBIT # B

PAGE 1 OF 31



COASTAL COMMISSION
5-95-047
EXHIBIT # C
PAGE 1 OF 1

Th 26c

January 11, 2010

RECEIVED
South Coast Region

JAN 11 2010

CALIFORNIA
COASTAL COMMISSIONMr. Don Norberg
1250 Lorain Road
San Marino, CA 91108-2406

Re: 86 South La Senda, Laguna Beach, CA

Dear Don:

In 1992, there was a major slope failure on the oceanfront of homes located at 88, 90, 92, 94 and 96 South La Senda. The failure caused a massive slide of earth and rock onto the beach below. This severely damaged the foundations of several houses and the condemnation of the existing house at 94 South La Senda which had to be demolished.


There also was a related collapse of a portion of the sewer tunnel along the cliff frontage which caused major repairs. The cost involved to correct the problems caused by the slide was well in excess of \$1,000,000. One reason the cost was so expensive was because the foundations of the houses were totally inadequate and not constructed to withstand what happened. Most of the homes at the top of the bluff in this area are built on normal spread footings and are extremely susceptible to future land erosion and earth slides. The construction of concrete caissons sitting on bedrock beneath the house with steel girders supporting the house structure was absent in all but one of the houses involved in this incident.

From all of the geological reports that were obtained after the slide occurred to find out what caused the failure, there was one major theme that was mentioned—moisture. The dirt that was on top of the rock base below was wet.

On or about October 22, 2009, there was a slope failure on my slope at 88 South La Senda adjacent to the south of your property about ten feet above the beach. The debris from the slide is now resting on the sand. I asked Geofirm to take a look at the problem to determine the cause if possible. The Geofirm response is outlined in their letter to you dated November 17, 2009, a copy of which is enclosed. This letter confirms that the slope on your property has "significant free-running surface water". In 1992, I eliminated the landscape water system on my slope as a logical attempt to stabilize the area and reduce water caused by upslope irrigation. Since you are now going to substantially remodel your home at 86 South La Senda, this would be the ideal time to do everything possible to remove surface and landscape water from the slope area of your property, reduce your liability, and hopefully extend the life of the existing slope.

Thank you for your consideration.

Very truly yours,

L. C. Smull
(949) 474-8900

cc: Geofirm, California Coastal Commission

33

Attachment 2 (2pg.)



801 Glenneyre St. • Suite F • Laguna Beach • CA 92651
(949) 494-2122 • FAX (949) 497-0270

RECEIVED
South Coast Region

JAN 11 2010

Th26c

November 17, 2009

CALIFORNIA
COASTAL COMMISSION

Mr. Donald Norberg
1250 Lorain Road
San Marino, California

Project No: 71836-70
Report No: 09-6609

Subject: **Recommendations to Reduce Potential Bluff Instability**
86 South La Senda
Laguna Beach, California

Reference: Geofirm, 2009, "Updated Preliminary Geotechnical Investigation For Foundation Design of Residence Additions, 86 South La Senda, Laguna Beach, California", Project No. 71836-00, Report No. 09-6484, dated April 22.

Dear Mr. Norberg:

It has come to our attention that within the last two weeks a small, relatively shallow slope failure has occurred near the toe of the steeply descending bluff on the adjoining property to the south.

During our site review we observed significant free running surface water on your portion of the slope adjacent to the failure. Based on our experience, the amount of water observed on your bluff face significantly reduces the local stability of onsite soils. Although such surficial instability may not pose an immediate risk to your existing improvements or residence above, progressive failures may eventually impact your site, and ongoing failures also pose a potential risk to persons on the beach below.

The presence of running surface water on a bluff face is commonly related to upslope irrigation. Therefore, our office recommends that the irrigation of onsite landscaping be reduced to minimize surface runoff and perching of groundwater on the underlying bedrock, which daylight on the bluff face. In an effort to effectively plan and manage site irrigation, our office recommends consulting with a landscape architect.

This opportunity to be of service is appreciated. If you have any questions, please contact this office.

Sincerely,

GEOFIRM

Erik R. Hilde, P.G.
Engineering Geologist, C.E.G. 2303
Registration Expires 10-31-11



ERH/fp

Distribution: Addressee (5)

34

CALIFORNIA COASTAL COMMISSION

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



Filed: June 22, 2009
49th Day: August 10, 2009
180th Day: December 19, 2009
270th Day: March 19, 2010
Staff: Liliana Roman-LB
Staff Report: December 22, 2009
Hearing Date: January 14-15, 2010
Commission Action:

Item Th26c**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NUMBER: 5-09-105

APPLICANT: Donald Norberg

AGENTS: Felix Lim
Sherman Stacey

PROJECT LOCATION: 86 South La Senda, City of Laguna Beach (Three Arch Bay)
(Orange County)

DESCRIPTION: Major addition to an existing single-story single-family residence consisting of 307 cu. yds. cut/fill grading to construct a semi-subterranean, 860 sq. ft. new lower level within the footprint of the existing residence to include 2 bedrooms, 2 baths, family room plus a 326 sq. ft. utility/storage room; addition of a lower level paved patio with outdoor spa and shower, outdoor half spiral stair to access new lower level; repairs to existing 355 sq. ft. wood balcony deck; plus interior remodel of existing portion of residence.

Lot Area	11,620 square feet
Building Coverage	1,996 square feet
Pavement Coverage	1,863 square feet
Landscape Coverage	1,498 square feet
Unimproved Area	6,263 square feet
Parking Spaces	2
Zoning	Three Arch Bay
Planning Designation	Low Density Residential
Ht above final grade	21.6 feet

SUMMARY OF STAFF RECOMMENDATION:

Commission staff is recommending **APPROVAL** of the proposed project with **Seven (7) Special Conditions** regarding: **1)** assumption of risk; **2)** no future blufftop or shoreline protective devices; **3)** future development; **4)** submittal of revised final plans; **5)** conformance with geotechnical recommendations; **6)** construction best management practices, **7)** a deed restriction against the property; referencing all of the Special Conditions contained in this staff report.

The applicant is proposing a major addition to an existing single level single-family residence by constructing a new semi-subterranean level. The proposed development is located on a bluff top

site, the toe of which is subject to wave attack. The geotechnical study of the site deems the site is grossly stable under current and proposed conditions. The primary issue with the proposed development is conformance with bluff top setbacks. The existing residence conforms to a structural stringline setback but does not meet the minimum 25-foot blufftop setback and existing secondary structures are also non-conforming with a 0-foot blufftop setback. No landscaping or drainage improvements are proposed as part of this remodel project. Therefore a landscaping condition is not applied.

The applicant is not in agreement with the staff recommendation regarding Special Condition 2: No Future Blufftop or Shoreline Protective Devices. The applicant expressed concern regarding “giving up” rights under Coastal Act Section 30235 in order to receive a CDP for a residential remodel project and not a complete demolition and redevelopment of the site. 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.

The proposed development includes minimal demolition of exterior walls/windows as part of the first level remodel, a new 860 sq. ft. lower level/semi-subterranean liveable space addition and 326 sq. ft. utility/storage area to the existing structure on the western (bluff side) portion of the lot and hardscape improvements. The proposed new expansion area constitutes new development for the purposes of Sections 30235 and 30253. Because the proposed project includes new development, it 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 proposed development appears to be safe from erosion on the basis of available information provided by the applicant and is therefore consistent with Coastal Act section 30253(a). Nonetheless, the addition would increase the existing residence’s exposure to threats from erosion by increasing the amount of development close to the blufftop edge.

The record of coastal development permit applications and Commission actions has also shown that geologic conditions change over time and that 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. The Commission typically applies the “No Future Blufftop/Shoreline Protective Device” Special Condition to both blufftop residential remodel projects and residential demo/rebuild projects in Three Arch Bay in the City of Laguna Beach.

SUBSTANTIVE FILE DOCUMENTS: *Updated Preliminary Geotechnical Investigation For Foundation Design of Residence Additions, 86 South La Senda*, prepared by Geofirm, dated April 22, 2009; City of Laguna Beach certified Local Coastal Program (as guidance only), Coastal Development Permit 5-95-047(Norberg); 5-02-345(Markland); 5-04-414(Swartz); 5-06-165(Hibbard); 5-06-258(Stranton); 5-07-163(Hammond); 5-99-332 A1(Frahm); P-80-7431(Kinard); 5-93-254-G(Arnold); and 5-88-177(Arnold)

LOCAL APPROVALS RECEIVED: City of Laguna Beach Approval in Concept, dated 6/03/09.

LIST OF EXHIBITS

1. Location Map
2. Assessor’s Parcel Map

3. Project Plans
 4. Public Access Map
 5. Correspondence: Applicant's Response to Special Condition 2
-

STAFF RECOMMENDATION:

MOTION: *I move that the Commission approve Coastal Development Permit No. 5-09-105 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

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. 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, waves, and sea level rise; (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.

2. No Future Blufftop or Shoreline Protective Devices

- A. By acceptance of this Permit, the applicant agrees, on behalf of himself and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-09-105 including, but not limited to, the residence, foundations, patios, balconies and any other future improvements in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, sea level rise or other natural coastal hazards in the future. By acceptance of this Permit, the applicant/landowner 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/landowner further agrees, on behalf of himself and all successors and assigns, that the landowner(s) shall remove the development authorized by this Permit, including the residence, foundations, patios, balconies and any other future improvements if any government agency has ordered that the structures 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 five (5) 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 applicants, 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.

3. Future Development

This permit is only for the development described in coastal development permit 5-09-105. 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 the coastal development permit 5-09-105. Accordingly, any future improvements to the structures authorized by this permit shall require an amendment to permit 5-09-105 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

4. Submittal of Revised Final Plans

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, two (2) sets of final building and foundation plans that substantially conform with the plans dated July 9, 2009, but shall be revised to provide a 5 foot setback from the bluff edge identified approximately at the 103 foot contour line for the proposed new ground level concrete patio as shown on Exhibit #4.
- B. The permittee shall undertake the development authorized by the approved plans. 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.

5. Conformance of Design and Construction Plans to Geotechnical Report

- A. All final design and construction plans, including grading, foundations, site plans, and elevation plans shall meet or exceed all recommendations and requirements contained in *Updated Preliminary Geotechnical Investigation For Foundation Design of Residence Additions, 86 South La Senda*, prepared by Geofirm, dated April 22, 2009.
- B. **PRIOR TO THE 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 of the recommendations specified in the above-referenced geologic evaluation approved by the California Coastal Commission for the project site.
- C. The permittees 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 of this coastal development permit unless the Executive Director determines that no amendment is legally required.

6. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris

The permittee shall comply with the following construction-related requirements:

- (a) No construction materials, debris, or waste shall be placed or stored where it may enter the storm drain system leading to the Pacific Ocean;
- (b) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- (c) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control 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 the storm drain system and a pre-construction meeting to review procedural and BMP guidelines;
- (d) 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. Debris shall be disposed of outside the coastal zone, as proposed by the applicant.

7. 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 AND LOCATION

The proposed project is a major addition to an existing single family residence comprised of a new 860 sq. ft. lower level (semi-subterranean) consisting of two (2) bedrooms, two (2) baths, family room and a 326 sq. ft. utility/storage room; repairs to an existing rear-yard wood balcony deck including replacement of wood rails with a new glass screen, a new lower level concrete patio with outdoor spa and shower and outdoor half spiral stair to access new lower level concrete patio from the existing wood balcony deck (see Exhibit #3). Some remodeling of the interior of the existing portion of the house to be retained is also proposed. The addition will not result in an increase in height of the existing residence (12' 3" as measured from centerline of the frontage road). The applicant proposes deepened footing foundation system and two caissons along the bluff facing basement wall. The proposed development includes approximately 295 cubic yards of cut and 12 cubic yards of fill for the proposed basement level of the residence. No new landscaping or additional drainage improvements are proposed as part of the proposed remodel project.

The subject site is located within the locked gate community of Three Arch Bay in the City of Laguna Beach (see Exhibit #1). The residence is on an oceanfront, bluff top lot. 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

B. GEOLOGIC STABILITY

Coastal bluff development is inherently hazardous and poses potential adverse impacts to the geologic stability of coastal bluffs, shoreline processes, and to the stability of residential structures. Bluff stability has been an issue of historic concern throughout the City of Laguna Beach. The Commission has traditionally followed a set of setback and string-line policies as a means of limiting the encroachment of development seaward to the bluff edges on coastal bluffs and preventing the need for construction of revetments and other engineered structures to protect new development on coastal bluffs. However, the existing single-family residence and balcony deck appear to have been constructed prior to passage of the Coastal Act. The residence is located approximately 10 feet from the bluff edge and the approximately 13-foot wide balcony deck extends from the residence to the bluff edge. The applicant proposes an addition of a new 860 sq. ft. lower level (semi-subterranean) entirely within the footprint of the existing residence, as well as remodeling the portion of the existing structure to be retained. The project also includes hardscape improvements (new rear yard ground level paved patio, outdoor spa and outdoor shower and repairs to an existing wood raised balcony deck).

Coastal Act Policies

Section 30251 of the Coastal Act states, in pertinent part:

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...

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.*

The subject site is a rectangular shaped oceanfront bluff top lot. The lot slopes gently seaward between the road and the bluff edge, and then slopes to the rocky beach below. The bluff has an overall height of 70+/- feet and consists of a moderately sloping upper terrace slope which has been previously modified with the construction of backyard garden walls with heights ranging from 3 to 5 feet; and an existing trench drain on the bluff face adjacent to the lowest of the four garden walls leading to a steep, locally vertical, lower sea cliff backed by bedrock material that descends to beach level. The toe of the bluff is subject to marine erosion.

Project Site Geotechnical Report

The applicant submitted a geotechnical study conducted by Geofirm dated April 22, 2009, The geotechnical investigation consisted of the review of available geologic literature, maps, aerial photographs, geotechnical reports and other geotechnical data for the site and surrounding area; geotechnical analysis of subsurface conditions as related to slope stability, foundation design, and construction recommendations.

Based on the results of stability analyses provided by the geotechnical investigation prepared by Geofirm dated April 22, 2009, the site is considered to be grossly stable, with a 1.88 factor of safety under static conditions and a 1.5 factor of safety under pseudo-static conditions. Wave erosion along the base of the slope and lateral retreat of the bedrock seacliff was considered unlikely over the next 75 years and no faults were located on the property. The report states that due to the resistant character of the bedrock materials of the bluff face the rate of surface erosion is very slow and not a factor in bluff retreat. The bluff closest to the existing residence has been previously modified with the construction of four backyard garden walls mantled with terrace deposits and limited fill materials which are subject to episodic erosion from rainfall, sheet flow and weathering of the loose materials along the bluff top.

Regarding drainage on the site, the geotechnical report states, "No evidence of uncontrolled, concentrated, and erosive runoff onto or from the developed areas of the property has been observed. The proposed development will locally modify the site and should improve site drainage, with proper design consideration by the Civil Engineer. The western, unimproved areas of the property consist of sloping terrain and drainage areas that flow toward the slope and

ultimately to the beach. Improvement of the drainage on the undeveloped sloping portions of the site is not proposed.” There is an existing trench drain immediately west of an existing 5’ wide sewer easement on the bluff face which collects surface runoff from the site and conveys it via pipe down to the beach.

Furthermore, the geotechnical report states, “Although evidence of active groundwater was not observed in the terrace deposits onsite, groundwater commonly occurs locally along the terrace-bedrock contact in this area. Groundwater is not anticipated to adversely affect proposed development because such development will be at an elevation substantially above any anticipated rise; however, it could promote localized sloughing of terrace deposits along the bedrock contact. Heavy groundwater seepage was observed at the lower portions of the sea cliff during our previous onsite exploration.”

Bluff Setbacks

In the project vicinity, the Commission typically imposes either a minimum bluff edge setback of 25 feet from the edge of the bluff for primary structures (e.g. the enclosed living area of residential structures) and minimum 5 to 10 foot setback for secondary structures (e.g., patios, decks, garden walls) or requires conformance with the stringline setbacks. Consistently applying an appropriate bluff edge setback provides equitability for developments within the same general area. A stringline is the line formed by connecting the nearest adjacent corners of the adjacent residences. A stringline setback allows an applicant to have a setback that averages the setback of the adjacent neighbors provided it is otherwise consistent with Coastal Act policies. This allows equity among neighbors and recognizes existing patterns of development. The structural stringline setback applies to enclosed structural area and the deck stringline applies to minor development such as patios and decks. These setbacks are deemed acceptable within the Three Arch Bay community based on the relatively stable, underlying 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.

The applicant’s site surveyor identified a bluff “crest” generally located along the 72 foot to 80 foot contour elevation (see Exhibit #4) providing the existing residence with a 25 foot setback from the bluff “crest”. However, based on the bluff edge definition contained in Section 13577 of the California Code of Regulations which states, in part: *“the edge shall be defined as that point nearest the cliff beyond which the downward gradient of the land surface increases more or less continuously until it reaches the general gradient of the cliff”* staff determines the bluff edge to be along the contour of the existing uppermost rock garden wall at approximately the 103 foot contour line. Although, the existing residence meets the structural stringline setback, the existing residence is located approximately 12 feet from the bluff edge and therefore the proposed room additions (entirely within the footprint of the existing residence) also would not comply with the minimum 25 feet from the edge of the bluff setback structural setback. However, as the proposed project is a remodel and addition and not a complete demolition and rebuild, at this time there isn’t an opportunity to apply the typical minimum 25 feet from edge of bluff setback to the entire development.

Due to the geologic stability present on-site, the Commission finds that a minimal geologic setback is appropriate in this case. Applying a stringline setback would be appropriate for the proposed partial subterranean enclosed living space addition considering that the addition is

entirely within the footprint of the existing residence; with no new interior living space proposed seaward of the existing residence footprint resulting in a 12 foot setback from the bluff edge for the primary structure

Additionally, the Commission typically imposes a setback for hardscape/patio type development. Hardscape/patio type improvements can be moved away from hazards more readily than primary structures. The proposed hardscape development includes a new approximately 36' long by 10' wide on-grade concrete patio with spa and outdoor shower to be constructed directly beneath an existing 27' long by 13' wide (355 sq. ft.) wood balcony deck and a half-spiral stair from the balcony down to the proposed new concrete patio. The existing wood balcony deck is propped up by three wood beams and overhangs at the 103 contour line giving the existing wood balcony deck a zero (0) setback from where the Commission has identified the bluff edge. At this time, the applicant proposes to only replace the wood railing on the existing balcony with a steel frame and tempered glass railing (to meet City safety codes), however, no work is proposed to replace other components of the existing non-conforming balcony deck such as the decking, support poles or foundation requiring substantial demolition of the existing balcony and therefore the deck is not required to be brought into conformance with current bluff setbacks. As proposed, the applicant has included a bird-strike avoidance treatment to the proposed new glass balcony railing. In the future should the non-conforming deck require substantial repairs (such as replacing support beams), the Commission would require that the deck be brought into conformance with current setback requirements.

Although the proposed ground level concrete patio improvements meet the patio stringline, conformance solely with stringline would result in a zero (0) foot setback from the bluff edge. While the rate of erosion is minimal at this site, a zero foot setback would not be adequate to accommodate even the minimal erosion rate. In Three Arch Bay, the Commission has found that in some cases a 5-foot bluff edge setback is the minimum necessary for accessory structures (e.g., CDP 5-04-414 [Swartz]); typically a 10-foot bluff edge setback is applied for accessory structures. The proposed new ground level patio improvements do not meet the minimum 5-foot bluff edge setback typically applied in this area for secondary structures. Therefore, the Commission imposes **Special Condition 4** requiring revised final plans bringing all proposed ground level patio improvements into conformance with the minimum 5-foot bluff setback for accessory structures.

Future Bluff and Shoreline Protection

The subject site is a bluff top oceanfront lot. In general, bluff top lots are inherently hazardous. It is the nature of 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 concludes 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 (e.g. coastal development permits 5-99-332 A1(Frahm); P-80-7431(Kinard); 5-93-254-G(Arnold); 5-88-177(Arnold)). 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 threatened by natural coastal processes.

Section 30253 of the Coastal Act requires that new permitted development shall not require construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The proposed development could not be recommended for approval and deemed consistent with Section 30253 of the Coastal Act *if* projected bluff retreat would affect the proposed development and necessitate construction of a protection device. A protective device may be a seawall at the base of the bluff, or a rock anchor system, or shotcrete wall on the bluff face. If new development necessitates future protection, the landform and shoreline processes could be dramatically altered by the presence of the protective system.

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 development includes minimal demolition of exterior walls/windows as part of the first level remodel and new 860 sq. ft. lower level/semi-subterranean addition to the existing structure on the western (bluff side) portion of the lot. The proposed new expansion area constitutes new development for the purposes of Sections 30235 and 30253. Because the proposed project includes new development, it 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 grossly stable, that the project should be safe for the life of the project (75 years), 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." The proposed development appears to be safe from erosion on the basis of available information and is therefore consistent with Coastal Act section 30253(a).

Nonetheless, the addition would increase the existing residence's exposure to threats from erosion by increasing the amount of development close to the blufftop edge. As stated above, the record of coastal development permit applications and Commission actions has also shown that geologic conditions change over time and that 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. To minimize the project's potential future impact on shoreline processes, **Special Condition 2** prohibits construction of any future bluff or shoreline protective device(s) to protect the development if approved pursuant to Coastal Development Permit No. 5-09-105 including, but not limited to, the residence, foundations, patios,

balconies and any other future improvements in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, sea level rise or other natural coastal hazards in the future. Special Condition 2 prevents the construction of future blufftop or shoreline protective devices such as revetments, seawalls, caissons, cliff retaining walls, shotcrete walls, and other such construction that armors or otherwise substantially alters the bluff face. Special Condition 2 does not preclude the applicant from applying for future coastal development permits for maintenance of existing development or future improvements to the site (other than blufftop or shoreline protective devices) including landscaping and drainage improvements to address natural groundwater seepage and aimed to prevent slope and bluff instability. The Commission would determine the consistency of such proposals with the Coastal Act in its review of such applications.

The imposition of a “no future shoreline protective device” condition to new substantial development on bluff tops, for new residential construction projects and for projects consisting of additions to existing residences in Three Arch Bay is fairly typical. For example, in Three Arch Bay, the following actions in the last decade have included such conditions: CDP 5-02-345 at 88 N. La Senda, remodel and addition of 1,132 sq ft to an existing two-level (including basement) single family residence; CDP 5-04-414(Swartz) at 1 Barranca Way, substantial demolition and reconstruction resulting in a 2,925 sq ft, two-story, 22 ft high, single family residence; CDP 5-06-165(Hibbard) at 36 N. La Senda Dr, remodel and 586 sq ft addition to an existing 2,015 sq ft, single-family residence and ancillary improvements; CDP 5-06-258(Stranton) at 50 N. La Senda Dr., remodel and 1,021 sq ft addition to an existing two-story, 2,701 sq ft single-family residence, new pool, spa, hardscape improvements and landscaping; and CDP 5-07-163(Hammond) at 58 N. La Senda Dr., remodel and addition to an existing single family residence resulting in a two level, 25 feet high, 6,135 sq ft residence with one attached 425 sq ft, 2-car garage and a second 400 sq ft 2-car garage.

In this instance, the proposed semi-subterranean basement addition, although no further seaward than the existing residence, if threatened at a future date from the previously mentioned hazards, would be threatened at the same time as the existing residence. It is not possible to only provide protection (by way of bluff/shoreline armoring) for the existing portion of the residence and not the proposed addition. Section 30250 of the Coastal Act requires that permitted development be sited and designed to minimize the alteration of natural land forms. As the existing residence was constructed prior to the Coastal Act and has a non-conforming bluff top setback, any new permitted development on the site may be threatened with damage or destruction from coastal hazards in the future at the same time as the existing portion of the residence. Development, which may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon, among other things, visual resources and shoreline processes. Therefore, only as conditioned does the project conform to Sections 30250 and 30253(2) of the Coastal Act.

Future Development

The proposed development is located within an existing developed area and is compatible with the character and scale of the surrounding area. The proposed addition is entirely within the footprint of the existing residence. However, the proposed project raises concerns that future development at the project site potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act. In order to ensure that development on the site does not occur which could potentially adversely impact the geologic stability concerns expressed

in this staff report, the Commission imposes **Special Condition 3**. This condition informs the applicant that future development at the site requires an amendment to this permit (5-09-105) or a new coastal development permit. Future development includes, but is not limited to, structural additions, landscaping, fencing and shoreline protective devices.

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 7** 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.

As conditioned, the project is required to provide an appropriate set-back from the blufftop; prohibit construction of protective devices (such as blufftop or shoreline protective devices) in the future; and to require that the landowner and any successor-in-interest assume the risk of undertaking the development. Only as conditioned, does the Commission find that the development conforms to the requirements of Section 30253 of the Coastal Act regarding the siting of development in a hazardous location.

C. PUBLIC ACCESS

Section 30212(a)(2) of the Coastal Act states, in pertinent part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(2) adequate access exists nearby

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 locked gate community does not currently exist in the immediate vicinity of the project site. The nearest public access exists at 1000 Steps County Beach approximately one half mile upcoast of the site (Exhibit 4). The proposed development, basement level addition and remodel to a single-family residence 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.

D. 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.

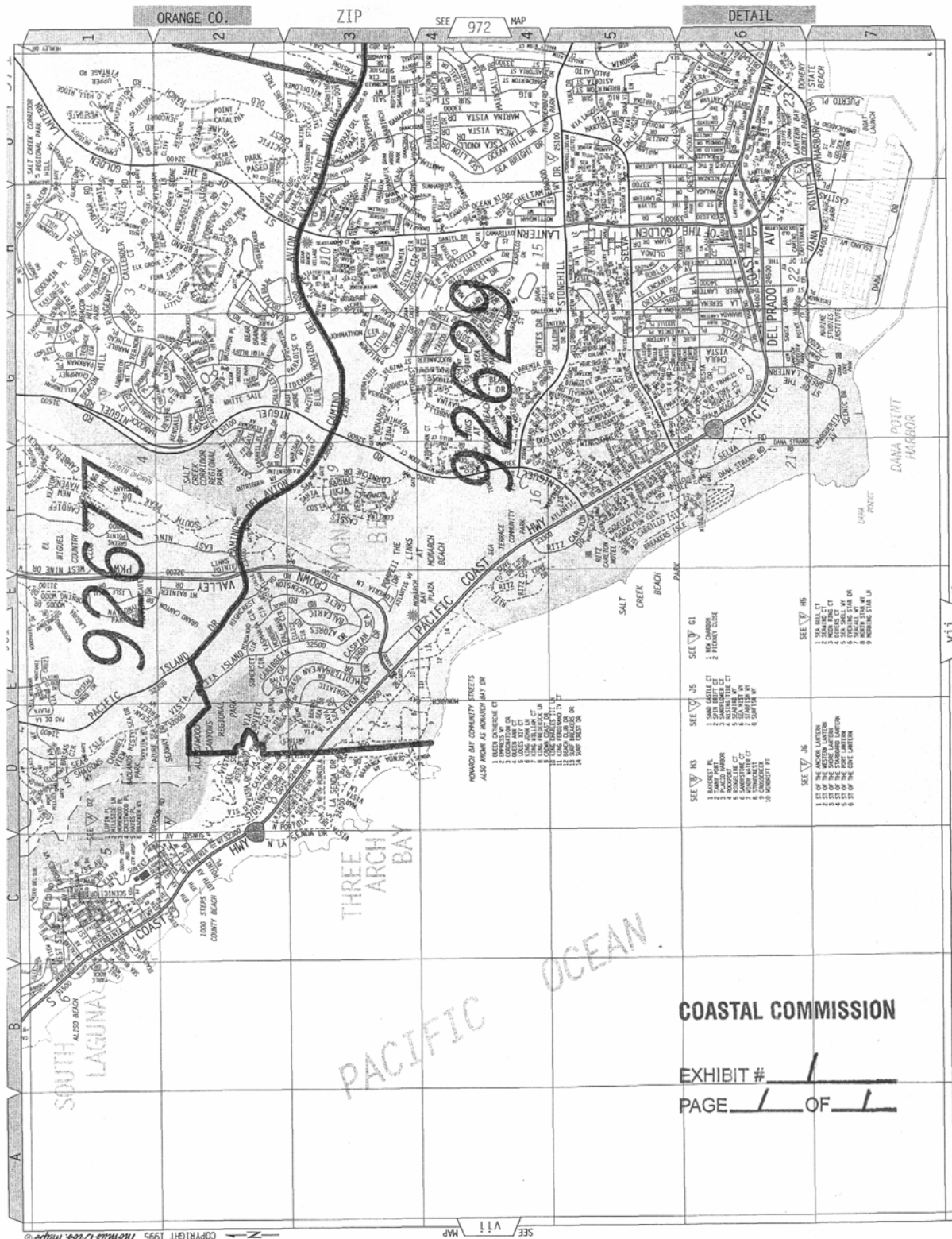
The City of Laguna Beach Local Coastal Program was certified with suggested modifications, except for the areas of deferred certification, in July 1992. In February 1993 the Commission concurred with the Executive Director's determination that the suggested modification had been properly accepted and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

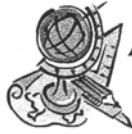
The subject site is located within the Three Arch Bay area of deferred certification. Certification in this area was deferred due to issues of public access arising from the locked gate nature of the community. However, as discussed above, the proposed development will not further decrease or impact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

E. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA).

The City of Laguna Beach is the lead agency for purposes of CEQA compliance. As determined by the City, this project is categorically exempt from CEQA as a Class 3-A and Class 5-A exemption. As such, the project is exempt for CEQA's requirements regarding consideration of mitigation measures and alternatives. The Commission, however, has conditioned the proposed project in order to ensure its consistency with Coastal Act requirements regarding geologic hazards. These special conditions require 1) assumption of risk; 2) no future blufftop or shoreline protective devices; 3) future development; 4) submittal of revised final plans; 5) conformance with geotechnical recommendations; 6) construction best management practices, 7) a deed restriction against the property; referencing all of the Special Conditions contained in this staff report. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project is consistent with the requirements of the Coastal Act and CEQA.



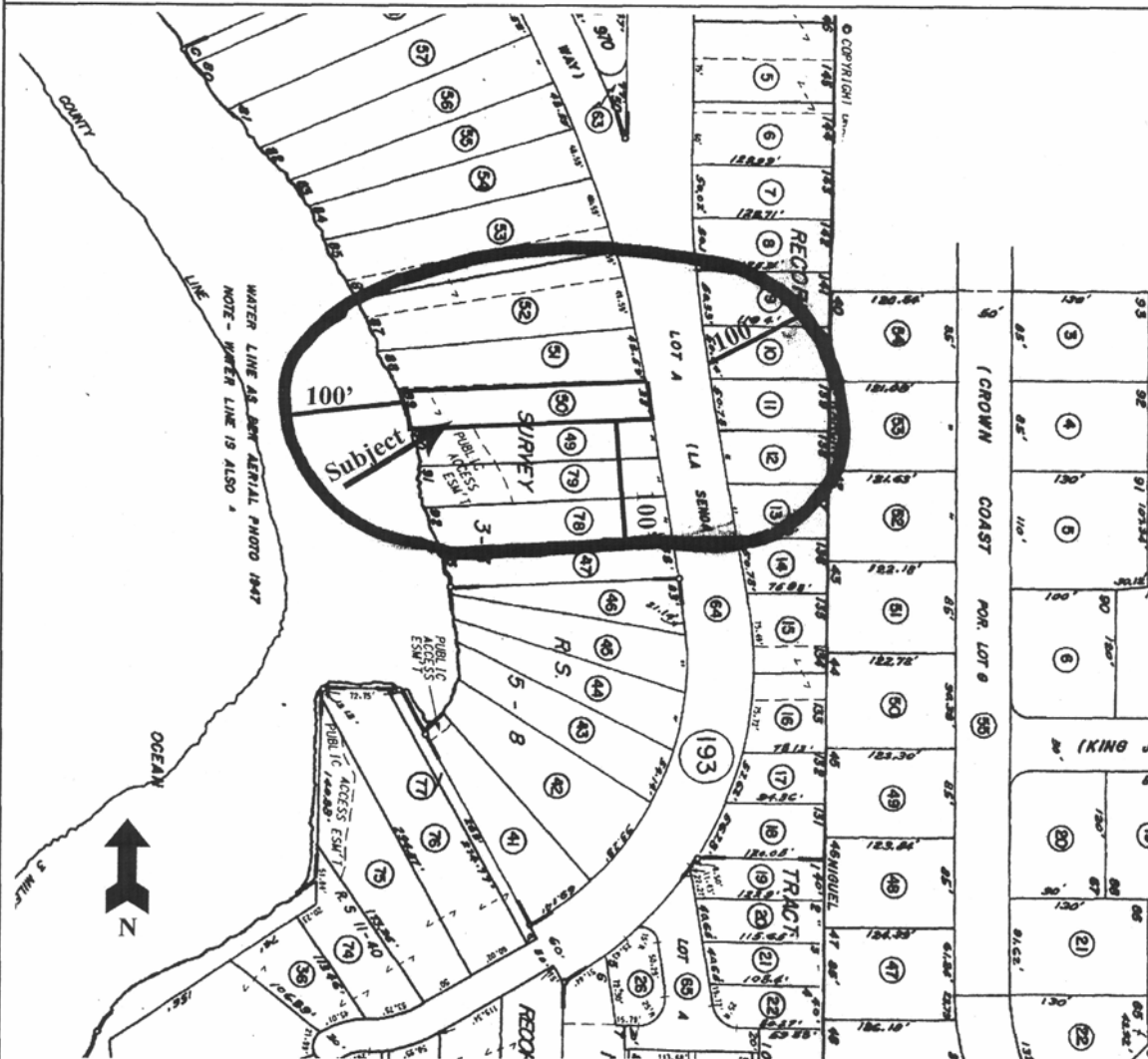


Advanced Listing Services

Ownership Listings & Radius Maps
P.O. Box 2593 • Dana Point, CA • 92624
Office: (949) 361-3921 • Fax: (949) 361-3923
www.Advancedlisting.com

Subject APN: 056-193-50
100' Radius (excluding streets)

Address: 86 S La Senda.
Laguna Beach CA 92651



COASTAL COMMISSION

EXHIBIT # 2
PAGE 1 OF 1

RECEIVED
South Coast Region
JUL 14 2005

CALIFORNIA
COASTAL COMMISSION

SITE PLAN

COASTAL COMMISSION

EXHIBIT # 3
PAGE 1 OF 14

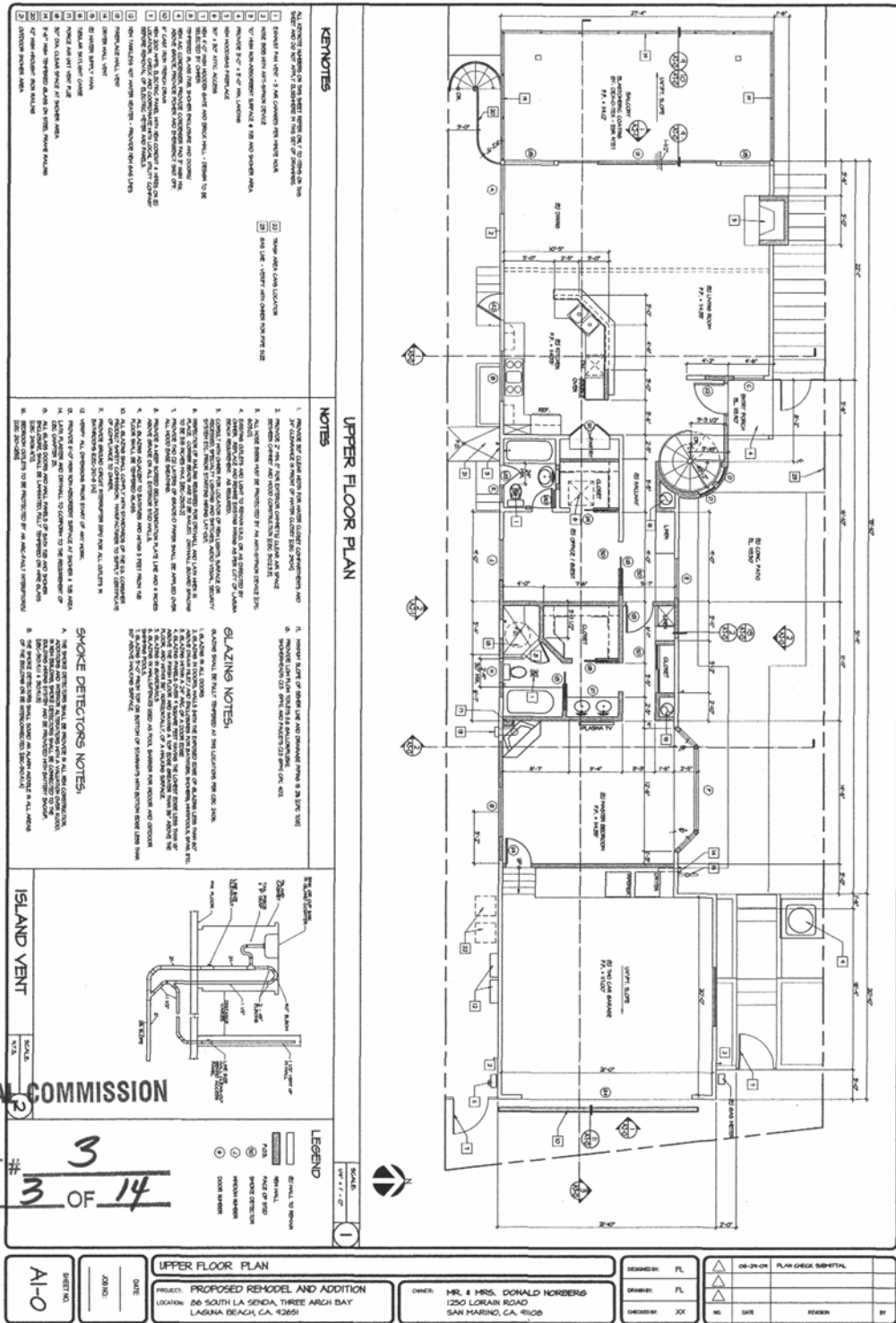
7-9-0
DATE
7-9-0
L.S.D.

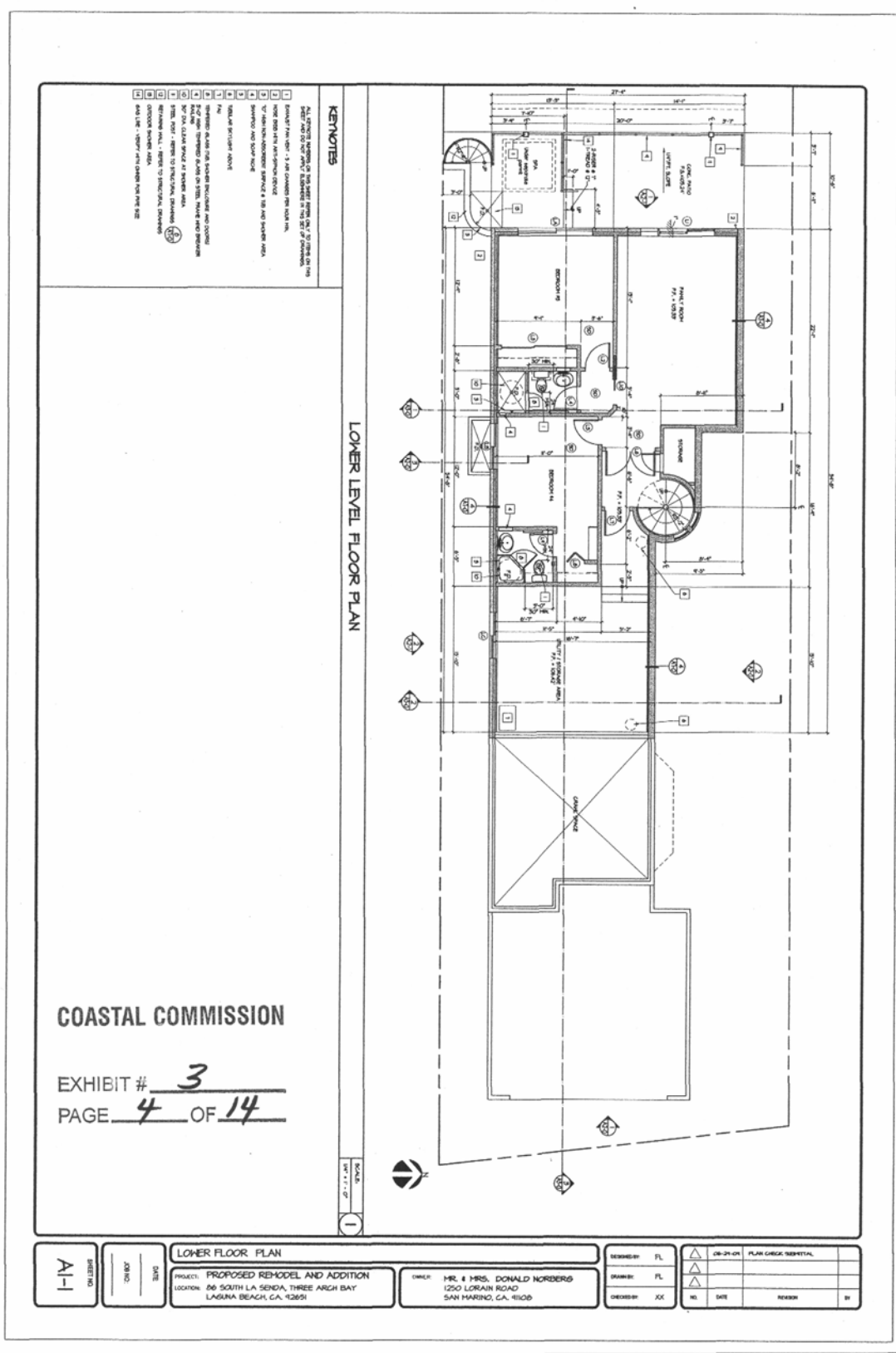
T-1

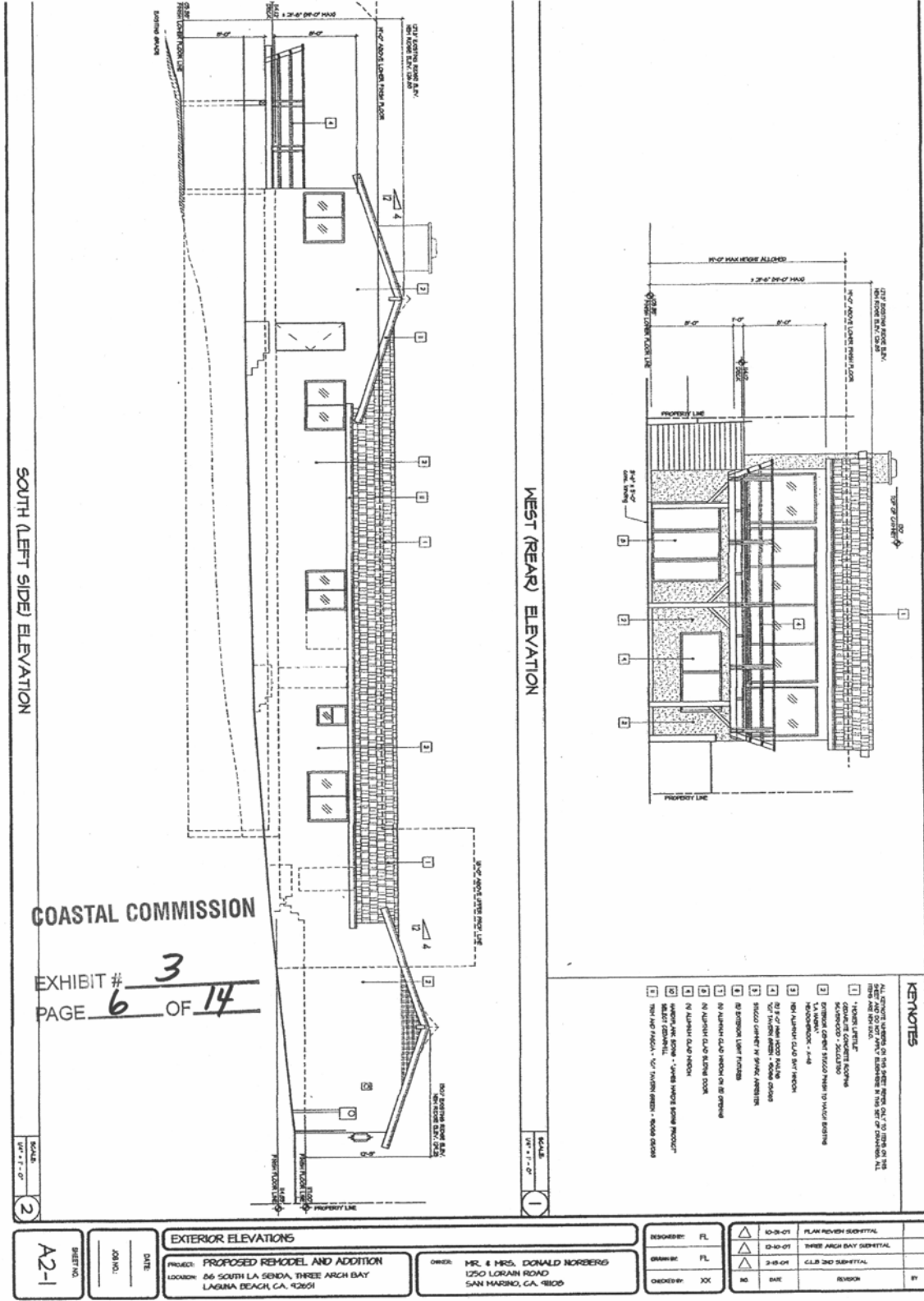
PROJECT: PROPOSED REMODEL AND ADDITION
LOCATION: 86 SOUTH LA SENDA, THREE ARCH BAY
LAGUNA BEACH, CA. 92651

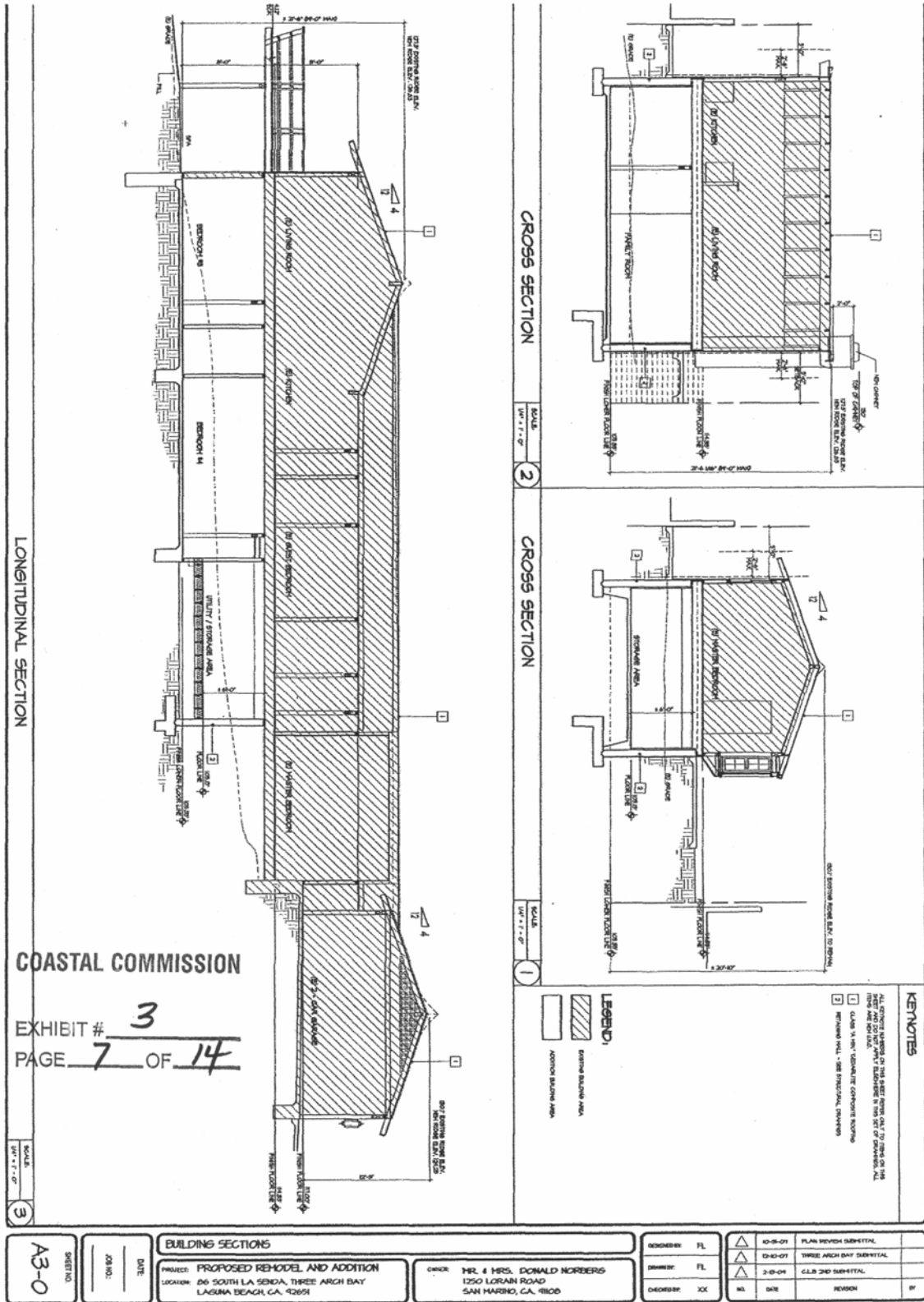
OWNER: MLC 4 N
1500 L
SAN J
SAN J

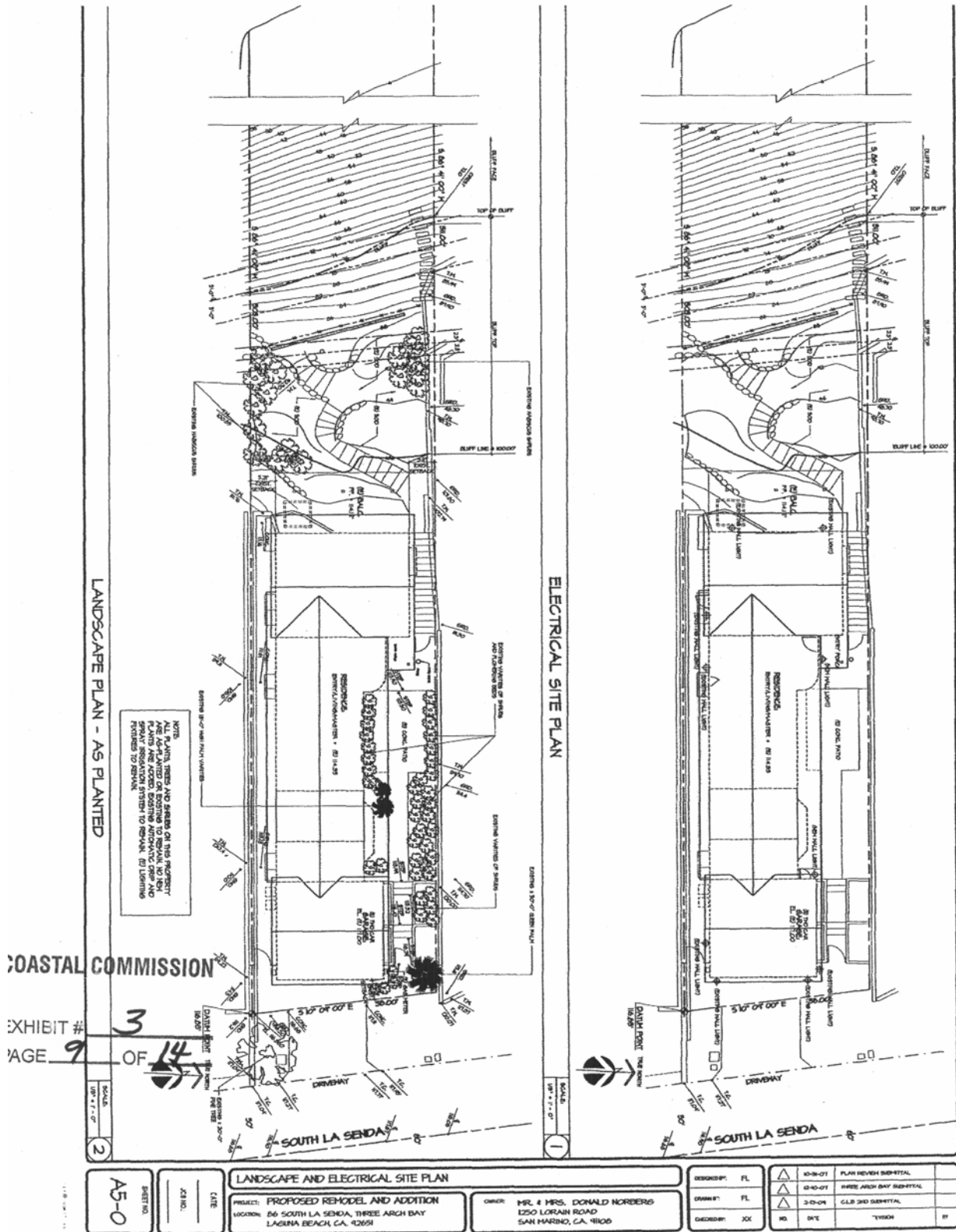
Architectural site plan for the proposed remodel and addition of a building at 86 South La Senda, Laguna Beach, CA. The plan shows the existing building footprint, the proposed addition, and various site features including parking, landscaping, and access points. The plan is oriented with North at the top. A scale bar indicates 1 inch equals 10 feet. The plan is labeled "SITE PLAN" and "T-1". The project is identified as "PROPOSED REMODEL AND ADDITION" at "86 SOUTH LA SENDA, THREE ARCH BAY, LAGUNA BEACH, CA. 92651". The owner is "MLC 4 N, 1500 L, SAN J, SAN J". The plan is dated "7-9-0" and "7-9-0".

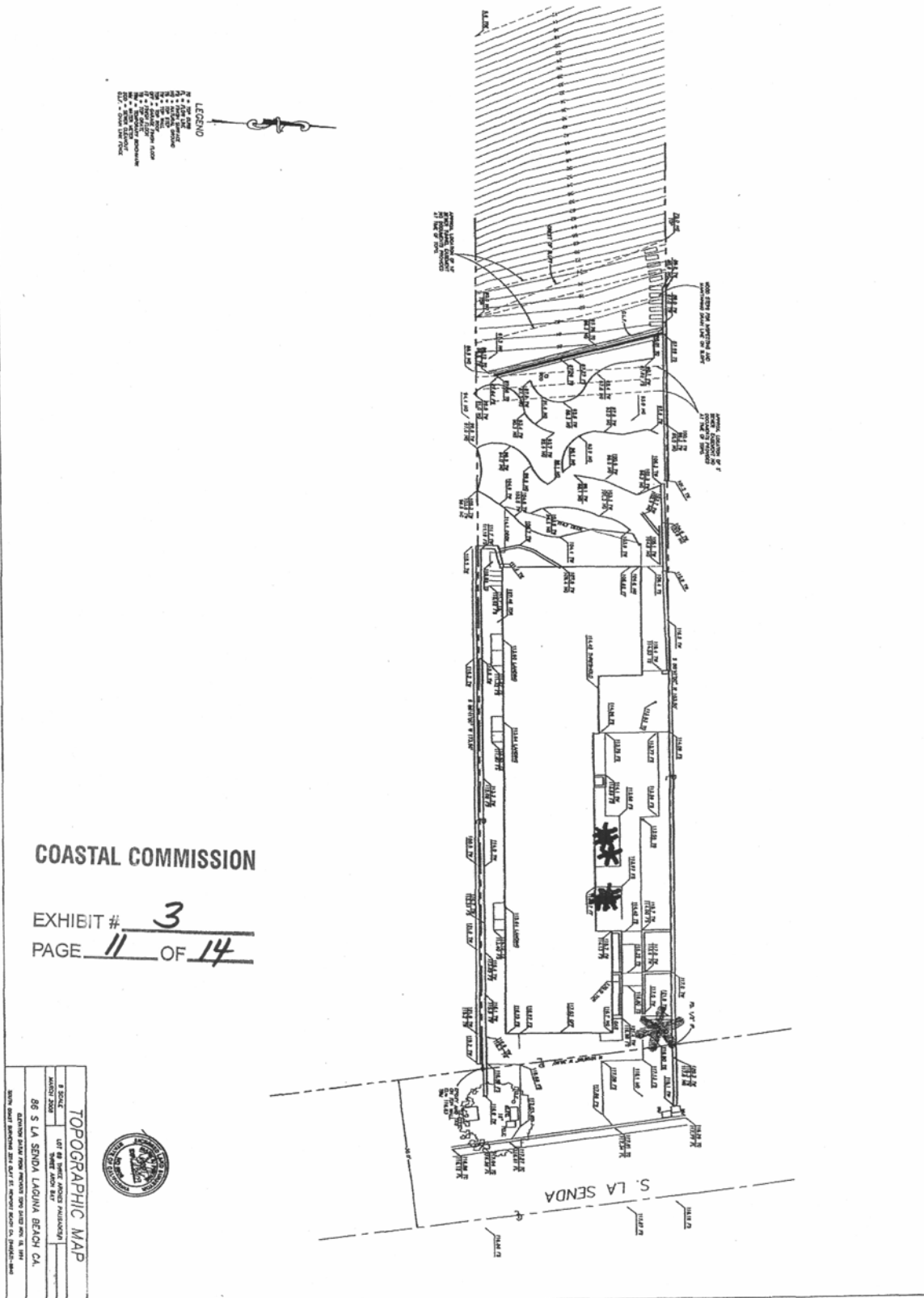










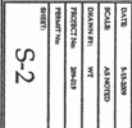


COASTAL COMMISSION

EXHIBIT # 3
 PAGE 11 OF 14



[illegible]





COASTAL COMMISSION

EXHIBIT # 4
PAGE 1 OF 1

Nearest public beach access point
to Three Arch Bay is 1,000 Steps
Beach in South Laguna Beach

5-09-105 (Norberg)
Staff Report – Regular Calendar
Page 32 of 37

FRED GAINES
SHERMAN L. STACEY
LISA A. WEINBERG
REBECCA A. THOMPSON
NANCI S. STACEY
KIMBERLY RIBLE
ALICIA B. BARTLEY

LAW OFFICES OF
GAINES & STACEY LLP
1111 BAYSIDE DRIVE, SUITE 280
CORONA DEL MAR, CALIFORNIA 92625

COASTAL COMMISSION

EXHIBIT # 5
PAGE 1 OF 6
TELEPHONE (949) 640-8999
FAX (949) 640-8330

December 2, 2009

California Coastal Commission
South Coast District Office
200 Oceangate, Tenth Floor
Long Beach, California 90902

RECEIVED
South Coast Region

DEC 3 - 2009

CALIFORNIA
COASTAL COMMISSION

Attention: Ms. Lilliana Roman

Re: Application No. 5-09-105 (Norberg)

Dear Ms Roman:

The undersigned represents Donald A. Norberg, the Application in your CDP Application No. 50-09-105. Mr. Norberg has reviewed the Staff Report and Recommendation dated August 19, 2009 and the Addendum dated September 1, 2009. Mr. Norberg's Application seeks to remodel and add to his existing single family home at 86 S. La Senda, South Laguna. Mr. Norberg objects to Special Condition No. 2 which requires that he waive and relinquish various rights he may have under the Coastal Act to protect his home as a condition to receiving the permit to do improvements on his residence.

Special Condition No. 2 has three parts which I summarize as follows:

1. Prohibition of any future bluff or shoreline protective device if the home should be threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, sea level rise or other natural causes.
2. Removal of the home if a government agency determines the home not to be safe to occupy as a result of the hazards from waves, erosion, storm conditions, bluff retreat, landslides, sea level rise or other natural causes.
3. Even if a government agency has not determined the home to be unsafe, if the bluff retreats to within 5 feet of the home, Mr. Norberg must obtain his own geotechnical report which would recommend what to do with the property including potentially removing some or all of the home, without any choice to protect the home by bluff or shoreline protective devices.

5-09-105 (Norberg)
Staff Report – Regular Calendar
Page 33 of 37

COASTAL COMMISSION

California Coastal Commission
December 2, 2009
Page 2

EXHIBIT # 5
PAGE 2 OF 6

In the Staff Report and Recommendation dated August 19, 2009, there was only the most limited analysis on page 8 of why Special Condition No. 2 was required by the Coastal Act with references to Public Resources Code §§30235 and 32053. Public Resources Code §30235 provides as follows:

30235. Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fishkills should be phased out or upgraded where feasible.

At the present time, the Coastal Act would require that the Coastal Commission approve various shoreline protective devices if necessary to protect Mr. Norberg's existing home from erosion. Special Condition No. 2 requires that Mr. Norberg give up that right in order to remodel his home and make an 800 square foot addition within the unexcavated space beneath his present ground floor. None of the structure would extend farther seaward than the present structure. The structure would be provided with deepened foundations which would improve the ability of the structure to withstand any future loss of support from erosion of the bluff.

The Staff Report and Recommendation did not explain why it was necessary for Mr. Norberg to waive rights which the Coastal Act provided to him in order to perform his remodeling. In the Addendum dated September 1, 2009, a more comprehensive explanation was provided. This explanation was that Special Condition No. 2 is necessary for the Commission to find consistency with Public Resources Code §30253(b). Public Resources Code §30253(b) provides as follows:

30253. New development shall do all of the following:

.....

(b) 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.

Based upon substantial evidence provided in the reports prepared by geotechnical experts at Geofirm, you have found that the proposed improvements will assure stability and structural integrity. The improvements will not contribute significantly to erosion, geologic instability or destruction of the site or surrounding area. The sole basis for Special Condition No. 2 is the claim that the proposed improvements might, at some unknown date in the future, require the

5-09-105 (Norberg)
Staff Report – Regular Calendar
Page 34 of 37

COASTAL COMMISSION

California Coastal Commission
December 2, 2009
Page 3

EXHIBIT # 5
PAGE 3 OF 6

construction of protective devices to protect the structure from erosion. These kinds of protective devices are precisely what §30235 of the Coastal Act states shall be permitted.

There is no rational connection between the proposed improvements by Mr. Norberg and any requirements for the construction of protective devices. Mr. Norberg's right to protect his home exists today and the proposed improvements do not cause or increase any potential that protective devices may be needed in the future. The proposed improvements enlarge the habitable space in the structure only by excavating space which is beneath the ground floor on the sloping seaward side of the house. By excavating 307 cubic yards of earth, Mr. Norberg proposes to have 800 square feet of habitable space located precisely below his existing home.

The rationale in the Addendum is that the proposed improvements "would increase the exiting residences exposure to threats from erosion by increasing the amount of development close to the blufftop edge." The size of the home may be larger, but the construction of the additional space does not increase the risks which presently exist. In fact, the construction of the proposed improvements decreases the risks of damage from erosion.

I have enclosed with this letter the report of Geofirm dated November 2, 2009 and signed and stamped by Erik R. Hilde, PG, Engineering Geologist, License No. 2303 and Erick J. Aldrich, RCE, GE, Geotechnical Engineer, License No. GE 2656. The engineer and geologist conclude:

"... we have recommended a deepened foundation system along the rear of your residence that will ultimately increase the overall structure's resistance to the very erosional threats with which the Commission is concerned. Therefore, as there is no increased exposure to threats from erosion based on the proposed plans and our report, Special Condition 2 is not scientifically justified ..."

Your Report concedes that the proposed improvements do not require the construction of any protective devices as a part of the present application. Further, you concede that the engineers do not expect that any protective devices will be required in the foreseeable future. Therefore there is no evidence that the development will require the construction of protective devices. Without evidence that the improvements sought by the permit will in some way require the construction of protective devices, there is no basis to impose Special Condition No. 2. If highly unexpected future circumstances result in Mr. Norberg's home becoming in danger from erosion, he has a right to expect to protect it. The Commission may not make him waive that right unless there is evidence that his proposed improvements would contribute in some way to the erosion against which he would need future protection. There is no such evidence.

It is not the improvements which Mr. Norberg seeks to construct that might, in

COASTAL COMMISSION

California Coastal Commission
December 2, 2009
Page 4

EXHIBIT # 5
PAGE 4 OF 6

unforeseen circumstances, require protective devices. It is the fact that Mr. Norberg presently has a home in a particular location which was constructed prior to the Coastal Act. Seeking to do improvements that will not contribute to danger, but actually provide additional protection from danger over the present condition cannot be the basis on which to compel a waiver of rights.

Mr. Norberg requests that you delete Special Condition No. 2 from your Recommendation.

Sincerely,


SHERMAN L. STACEY

SLS

cc: Mr. Donald A. Norberg



COASTAL COMMISSION

EXHIBIT # 5
PAGE 5 OF 6

RECEIVED
South Coast Region
DEC 3 - 2009
CALIFORNIA
COASTAL COMMISSION

November 2, 2009

Mr. Donald Norberg
1250 Lorain Road
San Marino, California

Project No: 71836-01
Report No: 09-6594

Subject: **Comments on California Coastal Commission Staff Report W6c
Special Condition 2:
No Future Blufftop or Shoreline Protective Devices**
Proposed Residence Additions
86 South La Senda
Laguna Beach, California

- References:
- 1) California Coastal Commission, 2009, "Item W6c, Staff Report: Consent Calendar", Application Number: 5-09-105, Applicant: Donald Norberg, Project Location: 86 South La Senda, City of Laguna Beach, dated August 10.
 - 2) California Coastal Commission, 2009, "Addendum to Item W6c, Coastal Commission Permit Application #5-09-105(Norberg)," dated September 1.
 - 3) Geofirm, 2009, "Updated Preliminary Geotechnical Investigation For Foundation Design of Residence Additions, 86 South La Senda, Laguna Beach, California", Project No. 71836-00, Report No. 09-6484, dated April 22.

Dear Mr. Norberg:

In accordance with your request, this letter is in response to the California Coastal Commission Staff Report W6c dated August 19, 2009, regarding the proposed residence additions at the subject site. Based on our review of the report, you have received approval for construction of your site improvements with several conditions. Discussions with you indicate a particular concern regarding Special Condition 2, which as stated in the report, prevents the construction of future blufftop or shoreline protective devices in response to possible adverse site erosion.

According to the Commission's Addendum to the report, the basis for implementing Special Condition 2 is the assertion that construction of proposed improvements "would increase the existing residence's exposure to threats from erosion by increasing the amount of development close to the blufftop edge." Based on our referenced geotechnical investigation and recommendations for the foundations supporting the

COASTAL COMMISSION

November 2, 2009

EXHIBIT # 5
PAGE 6 OF 6

Project No. 71836-01
Report No. 09-6594
Page No. 2


proposed additions, which primarily consist of the conversion of crawl space into living space at existing grades within the current footprint, we find the Commission's assertion contradictory. In fact, the Commission's own words immediately preceding the aforementioned assertion state, "the proposed development appears to be safe from erosion on the basis of available information and is therefore consistent with the Coastal Act section 30253(a)."

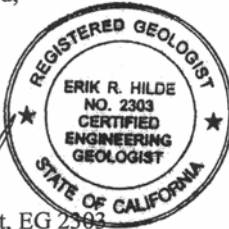
As your geotechnical consultant, it has been our charge to provide a foundation design for your proposed addition in accordance with local and state building codes. Based on the findings in our referenced investigation, we have recommended a deepened foundation system along the rear of your residence that will ultimately increase the overall structure's resistance to the very erosional threats with which the Commission is concerned. Therefore, as there is no increased exposure to threats from erosion based on the proposed plans and our report, Special Condition 2 is not scientifically justified, and additional data should be requested from the Commission that supports their assertion.


This opportunity to be of continued service is appreciated. If you have any questions, please contact this office.

Respectfully submitted,

GEOFIRM


Erik R. Hilde, PG
Engineering Geologist, EG 2303
Registration Expires 10-31-11




Erick J. Aldrich, RCE, GE
Geotechnical Engineer, G.E. 2565
Registration Expires 6-30-10
Date Signed: 11 / 2 / 09



ERH/EJA:fp

Distribution: Addressee (3)