CALIFORNIA COASTAL COMMISSION
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Staff:	Meg Vaughn-Long Beach
Staff Report:	11/4/10

STAFF REPORT: REGULAR CALENDAR

APPLICATION NUMBER: 5-10-031

APPLICANT: Rick Paicius

AGENTS: David Frith, Powell Dudley Frith Architects

PROJECT LOCATION: 32 North La Senda Drive, Laguna Beach (Three Arch Bay) (Orange County)

DESCRIPTION: Substantial demolition and reconstruction of a single family residence on an 18,817 square foot bluff lot. The existing residence is 3 levels, 4,885 square feet with an additional 782 square foot storage/mechanical area understory, an attached 535 square foot, two car garage and 1,299 square feet of deck area. The proposed residence would be 4,396 square feet, two level with a 642 square foot storage/mechanical area understory with an attached 548 square foot, two car garage and 620 square feet of deck area. The existing foundations and the existing patio on the southwest seaward side of the residence are proposed to remain. Grading includes 238 cubic yards of cut and 72 cubic yards of fill and the driveway/paved area would be reduced from 9,212 square feet to 6,878 square feet. A new pool and spa is proposed landward of the residence. Proposed interior renovations include removal of all interior walls on the lower living level, removal of all interior walls on the upper living level with the exception of 16 feet along the existing stairwell. Interior demolition on the upper living level also includes removal of approximately 644 square feet of floor area which is not proposed to be replaced in order to open to the lower level. The existing third story guest bedroom level is proposed to be removed in its entirety and not replaced. An existing 100 square foot accessory/storage structure located approximately 30 feet from the street is proposed to remain as is.

Lot Area:	18,817 square feet
Building Coverage:	5,964 square feet
Pavement Coverage:	6,878 square feet
Landscape Coverage:	5,975 square feet
Unimproved Area:	0 square feet
Parking Spaces:	6 spaces
Zoning:	Three Arch Bay
Planning Designation:	Low Density Residential
Ht above final grade:	28 feet

SUMMARY OF STAFF RECOMMENDATION:

Commission staff is recommending **DENIAL** of the proposed project. The project represents substantial demolition of the existing non-conforming blufftop residence including removal of more than 50% of the linear extent of the existing exterior walls and the entire roof will be removed and

reconstructed with new materials. There are also substantial interior renovations (i.e. complete removal of interior walls and construction of a new floor plan). See Exhibit 5, pages 6 - 9 and page 19, for demolition plans. The Commission has generally found that proposals involving demolition of greater than 50% of a structure's existing exterior walls and/or replacement of more than 50% of the existing structure constitutes redevelopment (as opposed to merely a remodel) and that the replacement structure is new development for purposes of bringing the structure into conformance with current standards. The existing residence is non-conforming in that it is located within the area typically required as a geologic setback from the bluff edge. The proposed project would be within the footprint of the existing residence which is located at the bluff edge and does not conform to the standards applicable to new development in the City's Zoning Ordinance, nor with bluff edge setbacks typically required by the Commission. Three Arch Bay is an area of deferred certification. Thus, although the LCP is not the legal standard of review in that area, the certified LCP for the remainder of the City of Laguna Beach is used for guidance in an this area of deferred certification.

In this area, the Commission has typically required new development to conform to either a 25 foot setback from the bluff edge or to a setback determined by a stringline. The proposed development would not conform to either type of setback. These setbacks are imposed in order that the development conform to Section 30253 of the Coastal Act which requires that hazards be minimized and that new development avoid current or future reliance upon shoreline or bluff protection devices. Although the site has currently been found to be grossly stable from a geotechnical perspective, bluffs are subject to forces that cause instability and geologic predictions of site stability over the life of the proposed development cannot be made with certainty. Thus, the Commission requires a bluff top setback for new development. Furthermore, the site is not constrained such that a residence could not be constructed consistent with one of the typically required setbacks. A residence that could be found to be consistent with the Coastal Act could be constructed in the area landward of the existing structure. However, because that would require a complete redesign, staff is recommending denial of the currently proposed project rather than attempting to develop a revised project design via special conditions and condition compliance.

SUBSTANTIVE FILE DOCUMENTS: Report on Investigation, Geologic/Soils and Foundation Conditions, prepared by Ian S. Kennedy, Inc., dated 3/30/10; Letter on Response to California Coastal Commission Review (dated 3/2/10), prepared by Ian S. Kennedy, Inc., dated 5/3/10; Lawson-Burke Structural Engineers, LLC letter signed by Robert Lawson, S1343, undated; City of Laguna Beach certified Local Coastal Program (as guidance only); Coastal Development Permits 5-02-345 (Markland), 5-00-223 (Smith), 5-08-008 (Desai), 5-02-007 (Darras), 5-97-121 (Samuelian), 5-06-258 (Stanton), 5-06-165 (Hibbard), 5-95-047(Norberg); 5-04-414(Swartz); 5-07-163(Hammond); 5-99-332 A1(Frahm); P-80-7431(Kinard); 5-93-254-G(Arnold); 5-88-177(Arnold); and 5-09-105(Norberg); 5-84-46 & 5-98-39 (Denver/Canter); 5-95-23 & 5-99-56 (Bennet); and 6-88-515 & 6-99-114G (McAllister).

LOCAL APPROVALS RECEIVED: City of Laguna Beach Design Review No. 09-225; City of Laguna Beach Approval in Concept, dated 2/1/10; City of Laguna Beach Variance 7649.

LIST OF EXHIBITS

1. Location Map
2. Assessor's Parcel Map
3. Site Plan Depicting Bluff Edge Location and Setback Area
4. Geologic Plot Plan and Cross-Sections
5. Project Plans

6. Powell Dudley Frith Architects letter dated 6/14/10 (revised 9/27/10)
7. Powell Dudley Frith Architects Grading Exhibit
8. Lawson-Burke Structural Engineers, LLC Letter
9. Contractor's Letter Regarding Foundations
10. Chart of Past Permits with Bluff Setback Requirements on North La Senda Drive
11. Letter of Support for the Proposed Project from the Next Door Neighbor
12. Ex-Parte Communication
13. Site Photo

STAFF RECOMMENDATION:

MOTION: ***I move that the Commission deny Coastal Development Permit No. 5-10-031 pursuant to the staff recommendation.***

STAFF RECOMMENDATION OF DENIAL:

Staff recommends a **YES** vote. Passage of this motion will result in denial of the permit 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 **DENIES** a coastal development permit for the proposed development and adopts the findings set forth below, on the grounds that the development will not be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, would prejudice the ability of the local government having jurisdiction of the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and would result in significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

II. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description and Location

The applicant proposes substantial demolition and reconstruction of a single family residence on a bluff lot (comprised of area at the bluff toe, bluff face and bluff top). The existing residence is 3 levels, 4,885 square feet with an additional 782 square foot storage/mechanical area understory and an attached 535 square foot, two car garage. The proposed residence would be 4,396 square feet, on two levels, plus with a 642 square foot storage/mechanical area and an attached 548 square foot, two car garage. The existing residence includes 1,299 square feet of deck area. The proposed residence includes 620 square feet of deck area. The existing roof will be demolished and replaced with different materials. The existing foundation is proposed to remain. Grading in the amount of 238 cubic yards of cut and 72 cubic yards of fill is proposed. An existing patio in the southwest seaward/sideyard of the residence is proposed to remain. The quantity of driveway/paved area is proposed to be reduced from 9,212 square feet to 6,878 square feet, and this remainder portion is proposed to be demolished and replaced with new decorative colored concrete. A new pool and spa are proposed landward of the residence. Proposed interior renovations include removal of all interior walls on the lower living level, removal of all interior

walls on the upper living level with the exception of 16 feet along the existing stairwell. Interior demolition on the upper living level also includes removal of approximately 644 square feet of floor area which is not proposed to be replaced in order to open to the lower level. The existing third story guest bedroom level is proposed to be removed in its entirety and not replaced. An existing 100 square foot accessory/storage structure located approximately 30 feet from the street is proposed to remain as is.

Also located on the subject site and proposed to remain are an existing stairway down the bluff, a gazebo on the bluff, and a concrete saltwater pool at the seaward edge of the rock terrace at the base of the bluff. The saltwater pool fills with seawater at high tide. Review of historic aerial photos indicates that all of these accessory features (stairway down the bluff, gazebo on the bluff and concrete saltwater pool) were constructed prior to 1972, thus prior to the effective date of the Coastal Act. At this time, it is unknown to the Commission whether any of these structures have been subject to any repair and maintenance and/or replacement that would have required a coastal development permit. In addition, a 378 square foot, single story accessory structure located at the landward side of the site, approximately 30 feet from La Senda Drive, also currently exists and is proposed to remain. No work is proposed on any of these features.

The subject site is located within the private gated community of Three Arch Bay in the City of Laguna Beach (Exhibit 1). The nearest public access is located approximately ½ mile northwest (upcoast) of the subject site at 1,000 Steps County beach.

The subject site is an oceanfront lot with area at the bluff top, bluff face and bluff toe. The quadrilateral shaped, 18,817 square foot lot is situated on the westerly side of North La Senda Drive and extends to the sea/mean high tide line. The lot slopes from the street to the bluff edge at a 10 to 1 (horizontal to vertical) gradient. The lot elevation at the street level is approximately 110 feet above sea level and slopes to 65 to 75 feet above sea level at the bluff edge. From the top of the slope/bluff edge, the surface descends at an approximately 1 to 1 (horizontal to vertical) to elevation 55 feet above sea level. Below the 55 foot elevation, the sea cliff becomes relatively steep (1/2 to 1) to elevation 20, then a variable slope of 4 to 1 to the ocean below. There is a rock terrace that extends approximately 20 feet seaward from the base of the bluff. The existing and proposed house is located about 100 to 130 feet (measured horizontally) from the water, when the tide is low, and about 50 to 80 feet from the water when the tide is high.

The City of Laguna Beach Board of Adjustments/Design Review Board approved Variance 7649 for the proposed project. The variance was required by the City to allow the proposed project to encroach into the blufftop setback (additions/roof alterations) [LBMC 25.50.004(B), to exceed the maximum building height [LBMC 25.44.050(G)(1)], to not provide the minimum 3:12 roof pitch [LBMC25.44.060(A)(3)], and to maintain the existing nonconforming building height [LBMC 25.56]. The City Board of Adjustments/Design Review Board approved Variance 7649 because they concluded that the development as proposed will maintain the surrounding neighbors' private views and found that to strictly enforce the setback would create view and privacy concerns for the other private properties. The variance approval also took into account the fact that the proposed project design reduces a significant portion of the patios and a part of the house on the blufftop and represents an improvement over what exists there now. In addition, landscaping and other environmental-related improvements [reduction in hardscape and improvements to site drainage] were factors considered in the City's approval the variance.

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 (where the subject site is located). Certification of the Three Arch Bay area was deferred due to access issues arising from the gated 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. Chapter 3 policies of the Coastal Act are the standard of review.

B. Redevelopment vs. Remodel

The issue of whether a project constitutes demolition and new construction (i.e. redevelopment) rather than a remodel of an existing structure becomes significant when an existing non-conformity is proposed to be retained. The applicant has submitted detailed information about the amount of demolition that would occur with the proposed project. Typically, the Commission has quantified demolition by tabulating the extent of exterior linear walls to be removed compared to the total overall amount of exterior linear walls existing prior to the proposed development. The walls proposed to remain must remain in place (i.e. no temporary removal), retain their structural components such as studs and there must be no reconfiguration (i.e. no relocation and/or resizing of doors and windows). A wall is often not found to have been "demolished" if only cosmetic portions of the wall, such as exterior stucco and interior drywall, are replaced. The Commission also considers other factors in addition to exterior wall removal, such as whether the roof and/or foundation of the structure is modified, replaced, reinforced and/or expanded, and the extent of removal and replacement of interior walls.

In the case of the proposed project, the total existing linear footage of exterior walls is 707 linear feet (this includes 56 linear feet at the basement level; 219 linear feet at the lower level; 340 linear feet at the upper level; and 92 linear feet at the third floor guest bedroom level). Of that amount, 453 linear feet of walls are proposed to be removed (this includes 0 feet at the basement level; 114 linear feet at the lower level; 247 linear feet at the upper level; and 92 linear feet at the third floor guest bedroom level). Staff has verified these figures using the plans submitted by the applicant. The applicant, then, is proposing to demolish 64% of the exterior, linear footage of the existing walls (453/707 = .64 x 100 = 64%). In addition to exterior walls proposed for removal, the entire roof is proposed to be removed and replaced with different materials. See Exhibit 5, pages 6 - 9 and page 19, for demolition plans.

Significant structural features proposed to remain include: the existing foundation wall and concrete footings, the existing lower level floor framing, and the existing upper level floor framing (with the exception of floor area to be removed and not replaced to create an open interior area). However, even though the existing foundations and floor framing are proposed to remain, the majority of the existing structure is proposed to be removed. Proposed interior renovations include removal of all interior walls on the lower living level, removal of all interior walls on the upper living level with the exception of 16 feet along the existing stairwell. Interior demolition on the upper living level also includes removal of approximately 644 square feet of floor area which is not proposed to be replaced in order to open to the lower level. The existing third story guest bedroom level is proposed to be removed in its entirety and not replaced. Considering all of these factors, the existing residence is basically being demolished and replaced by a new structure in a non-conforming location. Clearly the proposal represents replacement of 50% or more of the existing residence.

It should be noted that the applicant believes the project should be viewed as a remodel of the existing residence rather than as demolition and new construction based on: the extent of structural elements to remain (foundations and floor framing), the fact that the proposed residence will be contained within the existing structure's footprint, and the fact that the proposed residence will result in a smaller residence (4,396 square feet versus 4,885 square feet) with reduced upper level deck area at the seaward side and would eliminate the existing third story. In addition, the replacement roof would be lighter than the existing roof, decreasing weight on the

blufftop. Finally, the applicant also points out that the existing structure was constructed in 1969 and is in need of replacement.

The applicant also points out that removal of the upper level guest bedroom (92 linear feet to be removed), that will not be replaced, and the removal of the existing garage (45 linear feet to be removed) and its replacement in a location slightly landward of its existing location, put the project over the critical 50% threshold. If these aspects of the project were not included in the total percent demolition, then the percent to be demolished would be 45% (316 feet to remain / 707 total existing linear feet = 0.446 = 45%). The applicant suggests that by removing the uppermost level and relocating the garage, the overall project is better, and thus these aspects of the project should not be included when determining the overall demolition figure. However, the Commission finds the most objective way to determine whether a project should be reviewed as new development and not a remodel is to take into consideration the full extent of the proposed modifications. The criteria are not limited only to whether demolition of greater than 50% of the exterior walls is proposed. Many redevelopment projects, such as that proposed, result in replacement of more than 50% of the existing structure through complete interior renovation resulting in essentially a new residence in a non-conforming location.

The Commission finds that application of the 50% demolition and/or replacement threshold provides an equitable and measurable method of determining when existing non-conformities need to be remedied. Therefore, the Commission finds that, because the proposed project exceeds the 50% threshold and includes substantial renovation to the existing structure, it does constitute demolition and new construction/redevelopment. Thus, this is the appropriate time for the new development to come into conformance with the applicable standards that exist today.

C. Blufftop Development

When demolition and new construction on a bluff top lot is reviewed by the Commission, the appropriate bluff top setback is considered to address Coastal Act policy issues including minimization of risk, protection of public views and assurance of geologic/structural stability which avoids the potential need for shoreline and/or bluff protection devices.

Section 30253 of the Coastal Act states, in relevant part:

> *New development shall do all of the following:*
>
> *(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
> *(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.*
> *(c)…*

The subject site is an oceanfront lot with area at the bluff top, bluff face and bluff toe. The quadrilateral shaped, 18,817 square foot lot is situated on the westerly side of North La Senda Drive and extends to the sea/mean high tide line. The lot slopes from the street to the bluff edge at a 10 to 1 (horizontal to vertical) gradient. The lot elevation at the street level is approximately 110 feet above sea level and slopes to 65 to 75 feet above sea level at the bluff edge. From the top of the slope/bluff edge, the surface descends at an approximately 1 to 1 (horizontal to vertical) to elevation 55 feet above sea level. Below the 55 foot elevation, the sea cliff becomes relatively steep (1/2 to 1) to elevation 20, then a variable slope of 4 to 1 to the ocean below. There is a

rock terrace that extends approximately 20 feet seaward from the base of the bluff. The existing and proposed house is located about 100 to 130 feet (measured horizontally) from the water, when the tide is low, and about 50 to 80 feet from the water when the tide is high.

A Report on Investigation, Geologic/Soils and Foundation Conditions was prepared for the subject site and proposed development by Ian S. Kennedy, Inc., dated 3/30/10. In addition, a Letter on Response to California Coastal Commission Review (dated 3/2/10), was prepared by Ian S. Kennedy, Inc., dated 5/3/10. The geotechnical review included geotechnical inspection and mapping of the subject site, exploratory test pits excavated by hand and logged, core and bulk sampling of representative earth materials from the test pits, laboratory testing of representative samples, engineering and geotechnical analysis, review of public literature, available documents, and aerial photographs and preparation of conclusions and recommendations. The geologic report concludes that the subject site is grossly stable (i.e. factor of safety in excess of 1.5) and is suitable for the proposed development.

Section 30253 of the Coastal Act requires that risks and geologic instability be minimized and requires new development to be designed to assure it is stable and has structural integrity throughout the life of the structure. Setting development back from the edge of the bluff can substantially decrease risk because the further landward from the bluff edge development is located, the less likely it is that the development may become threatened by bluff retreat. Likewise, setbacks decrease the likelihood of geologic instability. The added weight of development, watering or irrigating plants, and human activity closer to the bluff edge can all increase the rate of erosion and bluff retreat. In addition, Section 30251 of the Coastal Act requires that scenic and visual qualities of coastal areas be protected. Setting development further back from the edge of the coastal bluff decreases the project's visibility from public areas. For these reasons, the Commission typically imposes some type of setback from the bluff edge. Further, setting development back away from the bluff edge reduces the likelihood that a shoreline or bluff protection device may be needed in the future. Section 30253 prohibits development that would "in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs." 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 effects 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. For all these reasons, the Commission typically imposes some kind of bluff edge setback with new development.

Examples of projects in the vicinity where the Commission has required that development conform to a bluff edge setback include the following permits: 5-02-345 (Markland, 88 No. La Senda), 5-00-223 (Smith, 78-80 No. La Senda), 5-08-008 (Desai, 74 No. La Senda), 5-02-007 (Darras, 68, No. La Senda), 5-97-121 (Samuelian, 52 No. La Senda), 5-06-258 (Stanton, 50 No. La Senda), and 5-06-165 (Hibbard, 36 No. La Senda). These projects were either required by the Commission to conform to a bluff edge setback or were consistent as proposed.

Within Three Arch Bay, when supported by site-specific geotechnical analysis, the Commission typically imposes a minimum bluff top setback of 25 feet from the edge of the bluff for primary structures (e.g. the enclosed living area of residential structures). The minimum 25 foot setback from the bluff edge is deemed acceptable within the Three Arch Bay community based on the relatively stable, underlying San Onofre formation bedrock.

Another method of determining the location of a bluff top setback that has been used in Three Arch Bay is known as a stringline set back. A structural stringline is the line formed by connecting the nearest adjacent corners of the adjacent residences. A stringline setback accounts for the location of adjacent development and can be used where the resultant setback is otherwise consistent with recommendations in a geotechnical report and other applicable Coastal Act policies. This allows equity among neighbors and recognizes existing patterns of development. The stringline setback at the subject site falls approximately 6 feet seaward of the 25 foot bluff edge setback line identified by the applicant. Thus, application of a stringline would be only slightly less restrictive than a 25 foot setback. In addition, the subject site is the seaward most lot on a coastal promontory. Stringline setbacks tend to work best where the location of the bluff edge is more or less consistent from lot to lot.

Here, the existing structure at the subject site extends beyond both a stringline setback and a 25 foot setback from the bluff edge. The proposed project is within the same footprint as the existing residence, extending to the edge of the bluff. The proposed project does not propose any setback from the bluff edge. Therefore, the proposed project would not achieve the bluff top setback requirement typically imposed in Three Arch Bay by the City and the Commission, or elsewhere in the City. The Zoning Code requires that new development along bluffs in Three Arch Bay conform to a stringline and/or minimum 25 foot bluff edge setback[1]. Since Three Arch Bay is an area of deferred certification, these standards aren't certified. However, elsewhere in the City, where the standards are certified, the Zoning Code specifies that new buildings and additions to existing buildings comply with the stringline and minimum 25 foot bluff edge setback, *whichever is most restrictive*[2].

The intent of the bluff top 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 primary basis for imposing a bluff top setback in this case is to avoid the need for a future shoreline protection device and to assure that new development is stable and has structural integrity throughout the life of the structure. Although the geotechnical consultant has indicated that the need for shoreline protection is not anticipated, if the bluff were to retreat at any rate higher than anticipated, with the proposed siting of the residence, there is no margin for error and the enclosed living area would be threatened.

The applicant's geologic consultant has identified the bluff edge as roughly falling along the seaward edge of the existing structure's footprint, coincident with the foundation system. The Commission's staff geologist has reviewed the information prepared by the applicant's geotechnical consultant including the bluff edge determination. The staff geologist recognizes that the natural bluff edge at this location has been altered by both cut and fill as well as construction of the existing residence. The historical disturbance, as well as the presence of the structure, make a definitive bluff edge determination difficult. However, the bluff edge is recognized as likely falling somewhere under the existing residence. In any case, the existing residence was built in 1969 and was constructed at the bluff edge. It fully occupies the bluff top setback area that would typically be required for new development, thus there is no setback from the bluff edge to assure stability and reduce risk over the long-term

[1] See Laguna Beach Zoning Code Section 25.44.050(F), property development standards for Three Arch Bay (applicable to Three Arch Bay, but not certified as part of the Local Coastal Program). The standard does not explain whether to apply one, both, or the most restrictive of these setbacks.
[2] See Laguna Beach Zoning Code Section 25.50.004(B), building setback lines along beaches and the Pacific Ocean (certified as part of the Local Coastal Program, but not applicable to Three Arch Bay).

The geotechnical consultant has found the subject site to be grossly stable with a factor of safety in excess of 1.5, for the static condition, and in excess of 1.1 for the pseudostatic condition. The consultant has reviewed historic aerial photos (dating to 1931) and found no indication of bluff retreat or gross instability. In response to a request for an assessment of the potential need for a future shoreline and/or bluff protection device at the site over the economic life of the proposed development (+/- 75 years), the geotechnical consultant responds: "The proposed development of the subject site will not require remedial measures necessary that would adversely impact the slope and headland areas at this time frame or within the next 75 years."

However, the subject site is an oceanfront, bluff lot. In general, bluff lots are inherently hazardous. It is the nature of bluffs to erode. Bluff erosion can be episodic, and bluffs that seem stable now may not be so in the future. Even when a thorough professional geotechnical analysis of a site has concluded that a proposed development is expected to be safe from bluff retreat hazards for the life of the project, it has been the experience of the Commission that in some instances, unexpected bluff retreat episodes that threaten development during the life of the structure sometimes do occur (See, for example, CDPs P-80-7431 & 5-99-332-A1: Kinard/Frahm; CDPs 5-88-177 & 5-93-254G: Arnold; CDPs 5-84-46 & 5-98-39: Denver/Canter; CDPs 5-95-23 & 5-99-56: Bennet; and CDPs 6-88-515 & 6-99-114G: McAllister). In the Commission's experience, geologists cannot predict with absolute certainty if or when bluff erosion on a particular site may take place, and cannot predict if or when a house or property may become endangered as a result of impacts from coastal or geologic hazards. Again, with a structure located at the bluff edge, there is no margin for error.

Section 30253 of the Coastal Act requires that new development shall not require construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The Coastal Act limits construction of 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. Construction of a shoreline protective device to protect new residential development would also 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.

In this particular case, the subject site is not constrained such that a bluff edge setback could not be accommodated. The subject lot is fairly deep, with in excess of 250 feet between the bluff edge and the street. Much of that area is only gently sloping. The Geotechnical Investigation finds that this area of the lot slopes at about 10 to 1 (horizontal to vertical). In addition, the subject lot is a slightly wider lot than many other bluff top lots in the Three Arch Bay community, with a width ranging from approximately 108 feet at the bluff edge to approximately 42 feet at the street. By contrast, the adjacent lots are: 32 feet wide at the bluff edge and at the street, and 46 feet wide at the bluff edge and 26 feet wide at the street. Other developed lots within Three Arch Bay are narrower.

The proposed project includes a number of elements that are beneficial compared to the current site development. For example, currently the site drains over the bluff. The proposed project will improve runoff collection from the site by collecting and pumping runoff from the site to the street and thence to the community's storm drain system. In addition, approximately 2,334 square feet of hardscape (primarily an expansive driveway and motorcourt area) is proposed to be removed and replaced with permeable area. The proposed development, with reduced overall square footage and a lighter weight roof, would reduce the existing load on the structural foundations.

The Commission concurs that all of these measures are beneficial. However, each of these measures could also be incorporated into a project design that includes an appropriate setback from the bluff edge. The reasons identified above for requiring a bluff top setback apply even with these measures. These measures should be included in addition to incorporating a bluff top setback in the project site design.

A letter from the applicant's structural engineering consultant, Lawson-Burke Structural Engineers, LLC, asserts that demolition of the existing residence and construction of a new residence landward of the existing location would result in failure of the bluff (see exhibit 8). This assertion is based on either of two scenarios resulting from the demolition. Either: 1) the existing foundations would be left in place after demolition, or 2) the existing foundations would be removed as part of the demolition process. Under the first scenario, leaving the foundation in place, the applicant's engineer asserts that rainfall and other moisture would be retained and pond within and behind the foundations leading to saturation and degradation of the bluff inevitably resulting in bluff failure. Under the second scenario, removing the foundations, the applicant's engineer asserts that the excavated area would need to be filled to create a suitable sloping surface. These soils would be subjected to rainfall and irrigation and become saturated, also causing degradation and imminent bluff failure. The Commission's staff geologist has reviewed this assertion and does not concur with the engineer's conclusions.

The staff geologist has indicated that demolition of the existing residence would not be expected to result in unavoidable bluff failure. If the foundations are left in place, weep holes or other drainage systems would prevent ponding and the infiltration of the bluff material as envisioned by the engineer. If the foundations are removed, any fill that would be needed could be properly compacted and planted with native, drought tolerant vegetation to avoid slumping. It is not unusual for demolition to occur in areas such as the subject site. The applicant's geotechnical consultant has indicated that the site and bluff are grossly stable. Standard professional measures would be included in any demolition. Demolition is not expected to de-stabilize the site.

Also, in designing the house, the applicant has represented to staff that he has made an effort to preserve the private views of the surrounding neighbors. While this is not a Coastal Act policy, this is reported to be an important factor in receiving the necessary approval of the Three Arch Bay Community Association. It is sometimes difficult for a project to meet all the requirements of separate agencies with differing goals. While the Commission acknowledges this difficulty, in this case, if preservation of neighboring views is a requirement of development approval of other reviewing bodies, then a smaller residence may be necessary. Local requirements allow 35% lot coverage and a floor area ratio that could result in habitable area in excess of 9,000 square feet. Placing a smaller structure within this approvable envelope area seems possible given the magnitude of the envelope. Many different location and size options might be accommodated within a 9,000 square foot building envelope, or even within a smaller building envelope. This suggests that there are viable placement and size options for a new, perhaps smaller, relocated residence that could meet both the Commission's setback requirement as well as local requirements.

Finally, the project architect has indicated that locating a new residence landward of the existing structure would require excessive landform alteration. In a letter dated 6/14/10 and revised 9/27/10 (see exhibit 6) the architect states: "In round numbers, the grading required to reconstruct a similar structure would create more than 2,500 cubic yards of export, or approximately 4,300 square feet of area with a cross section of 16 square feet." See exhibit 7 for a diagram reflecting this scenario. These quantities are not, on their face, excessive; but, the

impact of any grading upon the landform would need to be analyzed if such grading were proposed. However, if this magnitude of grading is unacceptable, the grading figure could be reduced by reducing the square footage of the proposed structure. For example, eliminating the basement level would reduce the amount of grading. Other possible steps to significantly reduce the amount of grading include reducing the overall footprint of the project and/or constructing a single story only with either no or a reduced subterranean or semi-subterranean level.

Moreover, applying the same standards to all development in terms of what constitutes demolition and replacement versus remodel and in applying appropriate setbacks from the bluff edge, creates a consistent and equitable pattern, making the process more fair for all. It also contributes to the creation of a uniform pattern that allows future applicants to recognize and understand expectations for new development. The Commission has been consistent in imposing a bluff top setback in the project vicinity.

Therefore, for the reasons described above, the Commission finds that the proposed project is not consistent with Section 30253 of the Coastal Act which requires that risk be minimized and that development not contribute to geologic instability or destruction of the site or surrounding area or in any way require construction of protective devices that would alter landforms along bluffs and cliffs. Therefore, the Commission finds that the proposed development must be denied.

It is important to note that the subject site could support an approvable project. However, an approvable development project would require a complete re-design of development. Project re-design of this magnitude cannot be accomplished through special conditions and condition compliance. So, although a project at the site could be approved, this proposed project cannot be approved by imposing conditions that would bring it into conformance with the Coastal Act. Therefore, the proposed development must be denied.

D. Future Project at the Subject Site

If a revised project is proposed at the subject site, it would be reviewed for consistency with the Chapter 3 policies of the Coastal Act, including, but not limited to, the hazard (30253), public access (30210), water quality (30230 and 30231), and visual and landform alteration (30251) policies. It appears, from the information currently available, that a project that is consistent with the Chapter 3 policies of the Coastal Act could be designed for the subject site. These policies could be addressed with future development by, among other possibilities, locating development away from the bluff consistent with the typically required bluff top setback standards for new development in the Three Arch Bay area. To achieve this goal it may be necessary to reduce the size of the structure. In addition, a future project should maintain the beneficial aspects of the proposed development including improved site drainage and reducing impermeable area.

E. 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.

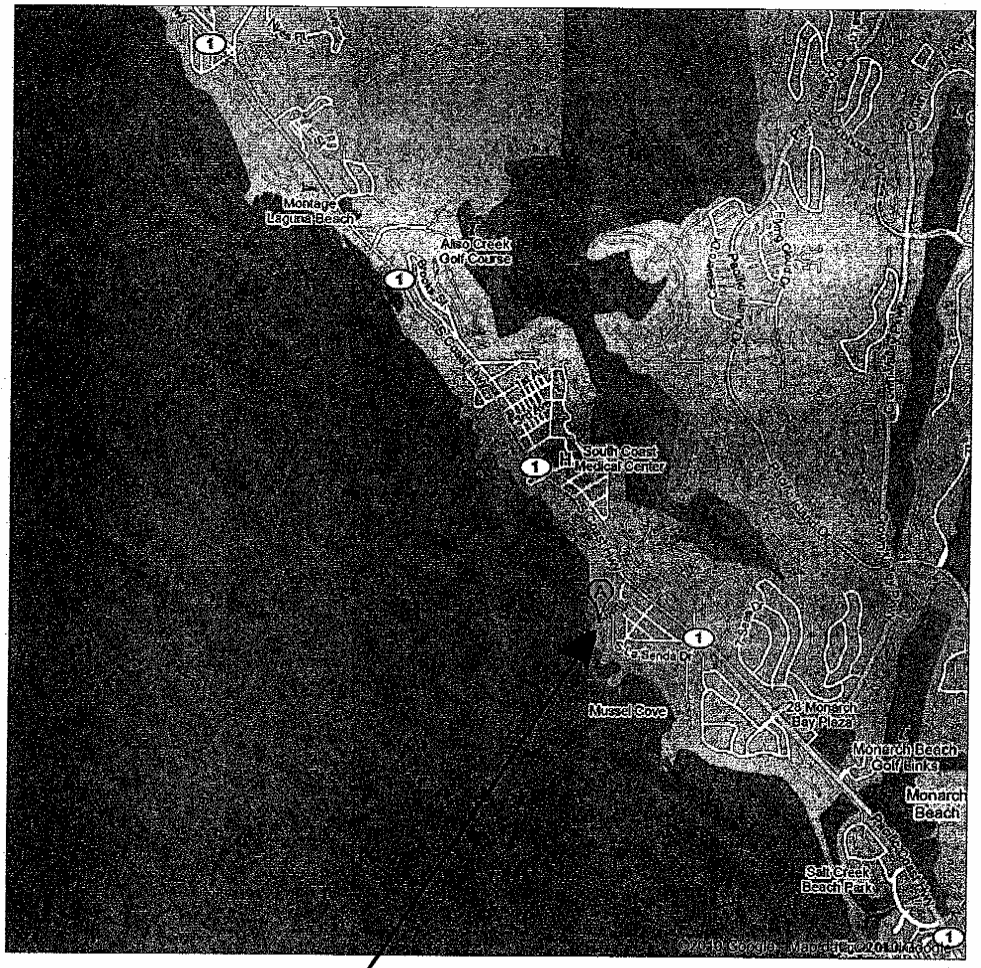
The subject site is located within the Three Arch Bay area of deferred certification. Certification in this area was deferred due to issues of public access arising from the locked gate nature of the community. However, as discussed above, the proposed project cannot be found to be consistent with Section 30253 of the Coastal Act which requires that risks be minimized and that development not contribute to geologic instability or destruction of the site or surrounding area or in any way require construction of protective devices that would alter landforms along bluffs and cliffs. Therefore the Commission finds that approval of this project, as conditioned, would 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.

F. 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). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

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 (construction of single-family residence). As such, the project is exempt for CEQA's requirements regarding consideration of mitigation measures and alternatives. The Commission, however, has found that the project is not consistent with the hazard policy of the Coastal Act. The Commission further finds that there are feasible mitigation measures, including citing the proposed development away from the bluff edge, that would lessen significant adverse effects the project may have on the environment. Therefore, the Commission finds that the proposed project is not consistent with the requirements of the Coastal Act and CEQA.

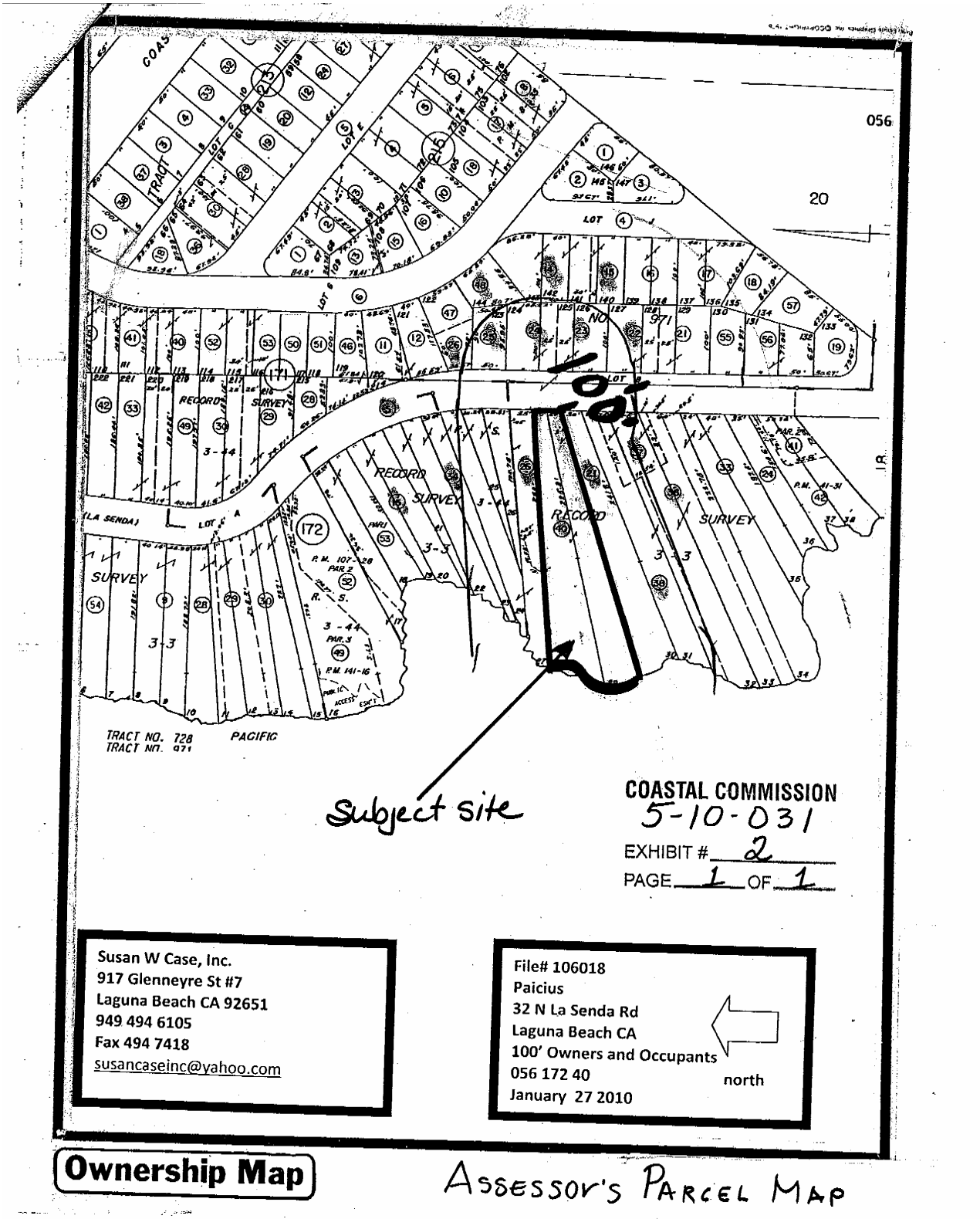
Google maps Address 32 N La Senda Dr
Laguna Beach, CA 92651

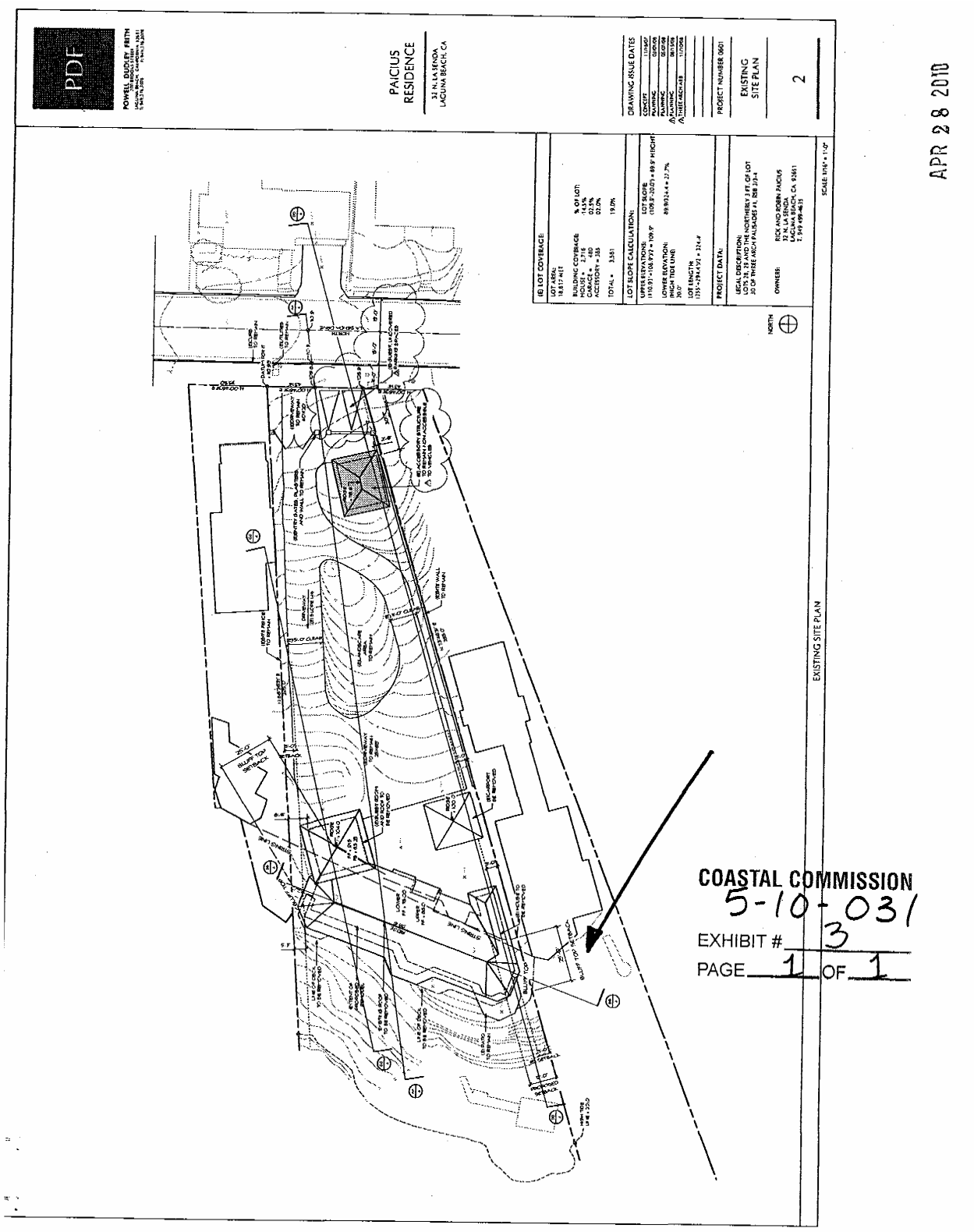


Subject Site

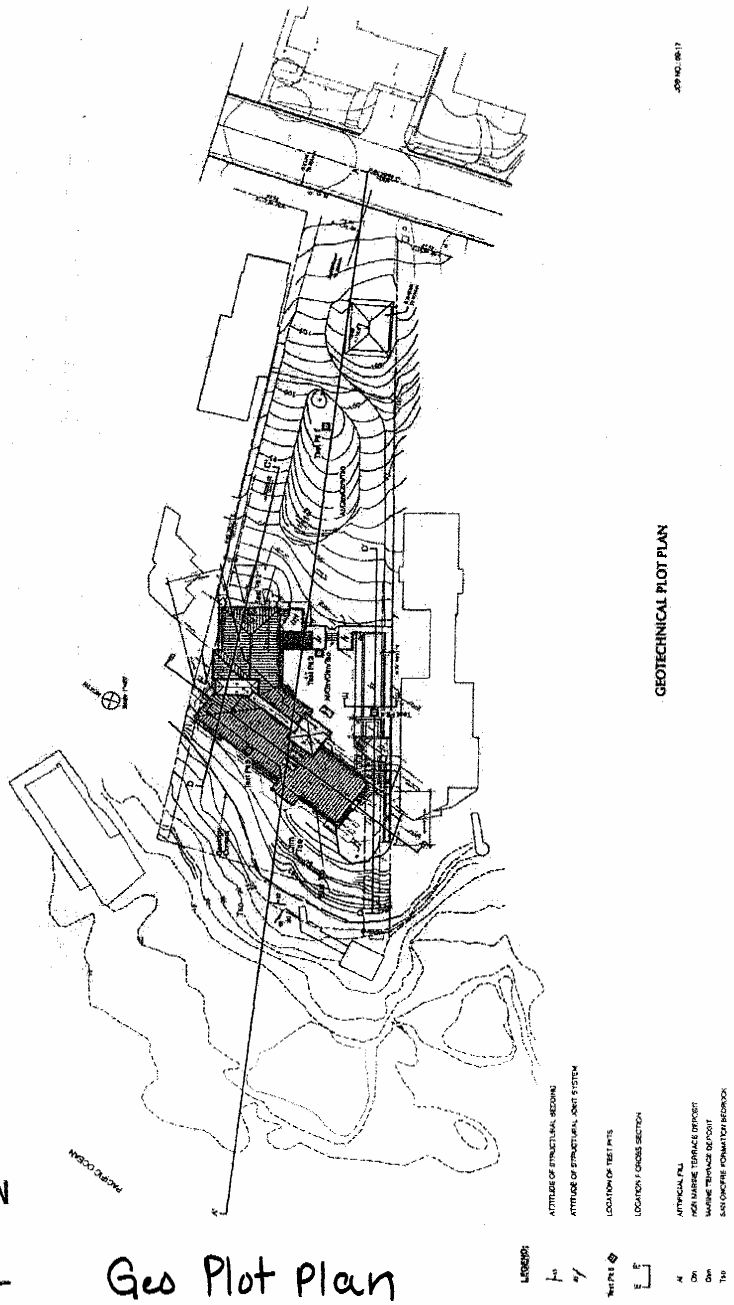
VICINITY MAP

COASTAL COMMISSION
5-10-031
EXHIBIT # 1
PAGE 1 OF 1


056
20
LOT 4
LOT 6
LOT 5
TRACT
RECORD SURVEY
(LA SENDA)
LOT A
172
171
971
TRACT NO. 728
TRACT NO. 971
PACIFIC
Subject site
COASTAL COMMISSION
5-10-031
EXHIBIT # 2
PAGE 1 OF 1
Susan W Case, Inc.
917 Glenneyre St #7
Laguna Beach CA 92651
949 494 6105
Fax 494 7418
susancaseinc@yahoo.com
File# 106018
Paicius
32 N La Senda Rd
Laguna Beach CA
100' Owners and Occupants
056 172 40
January 27 2010
north
Ownership Map
Assessor's Parcel Map

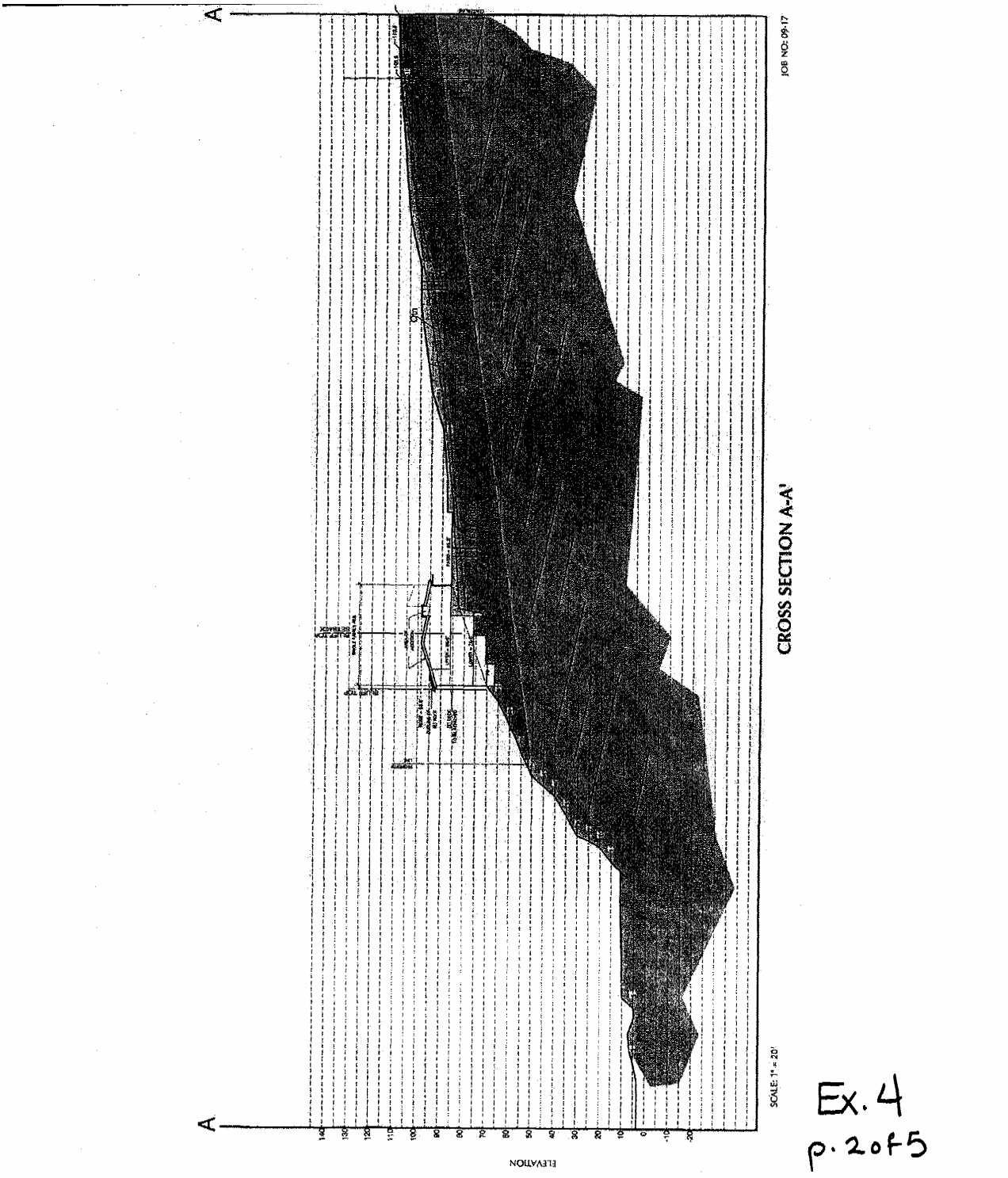


COASTAL COMMISSION
5-10-031
EXHIBIT # 3
PAGE 1 OF 1

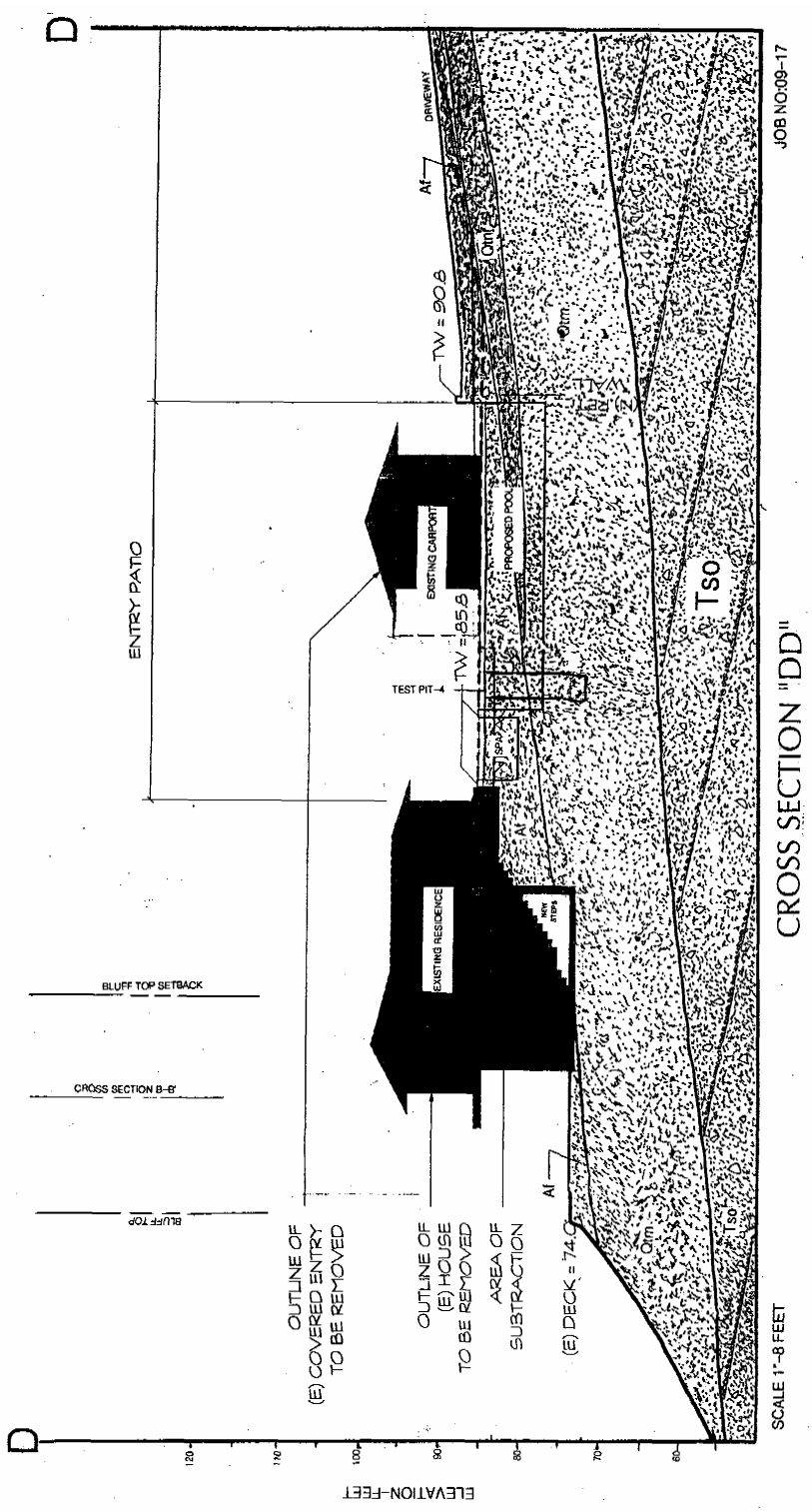


Geo Plot Plan

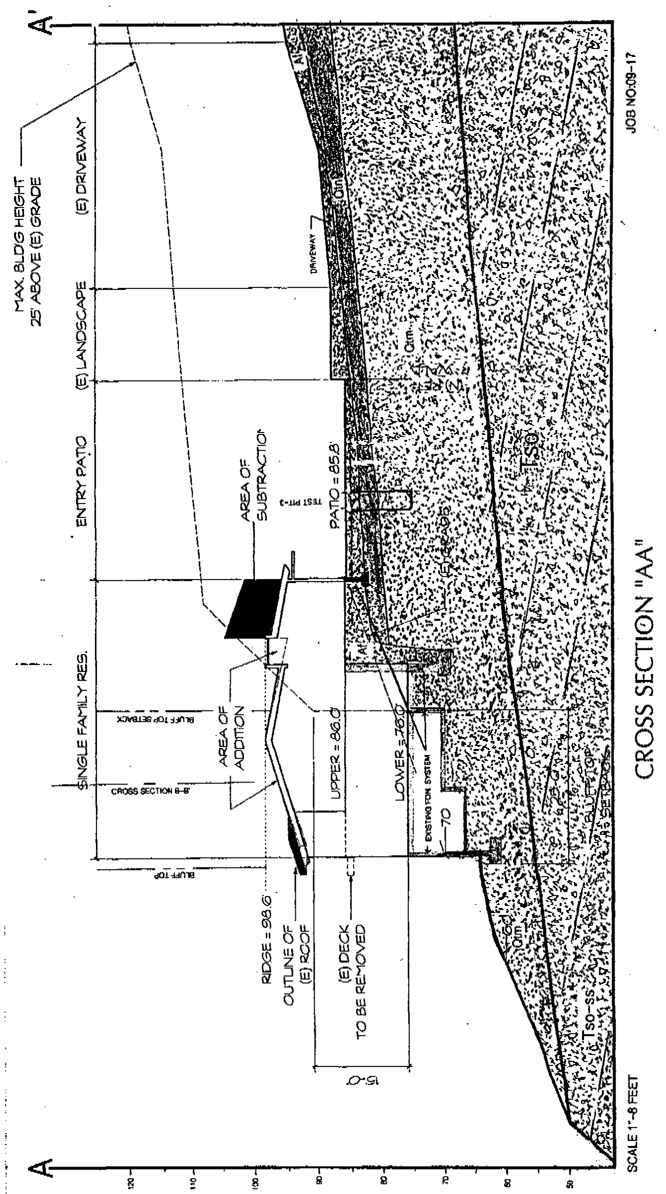
COASTAL COMMISSION
5-10-031
EXHIBIT # 4
PAGE 1 OF 5



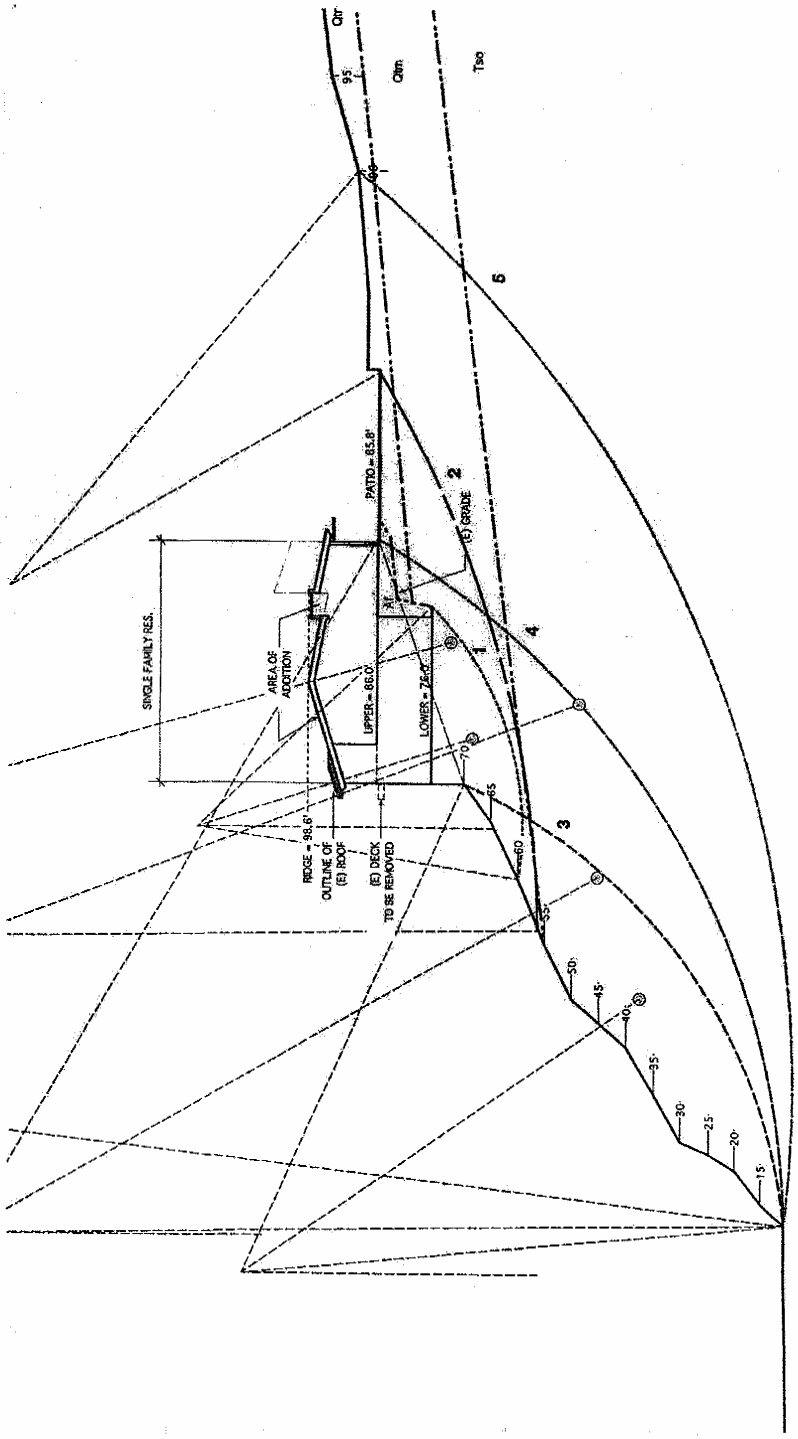
Ex. 4
p. 2 of 5


D
D
DRIVEWAY
Af
Qm
TW = 90.8
ENTRY PATIO
EXISTING CARPORT
PROPOSED POOL
TW = 85.8
TEST PIT-4
Tso
EXISTING RESIDENCE
BLUFF TOP SETBACK
CROSS SECTION B-B'
BLUFF TOP
OUTLINE OF (E) COVERED ENTRY TO BE REMOVED
OUTLINE OF (E) HOUSE TO BE REMOVED
AREA OF SUBTRACTION
(E) DECK = 74.0
ELEVATION-FEET
120
110
100
90
80
70
60
JOB NO.09-17
CROSS SECTION "DD"
SCALE 1"=8 FEET

Ex. 4
p. 3 of 5


MAX. BLDG HEIGHT
25' ABOVE (E) GRADE
(E) DRIVEWAY
(E) LANDSCAPE
ENTRY PATIO
SINGLE FAMILY RES.
AREA OF SUBTRACTION
AREA OF ADDITION
PATIO = 85.8'
UPPER = 86.0'
LOWER = 76.0'
RIDGE = 98.6'
OUTLINE OF (E) ROOF
(E) DECK TO BE REMOVED
15'-0"
SCALE 1"=8 FEET
JOB NO:09-17
CROSS SECTION "AA"

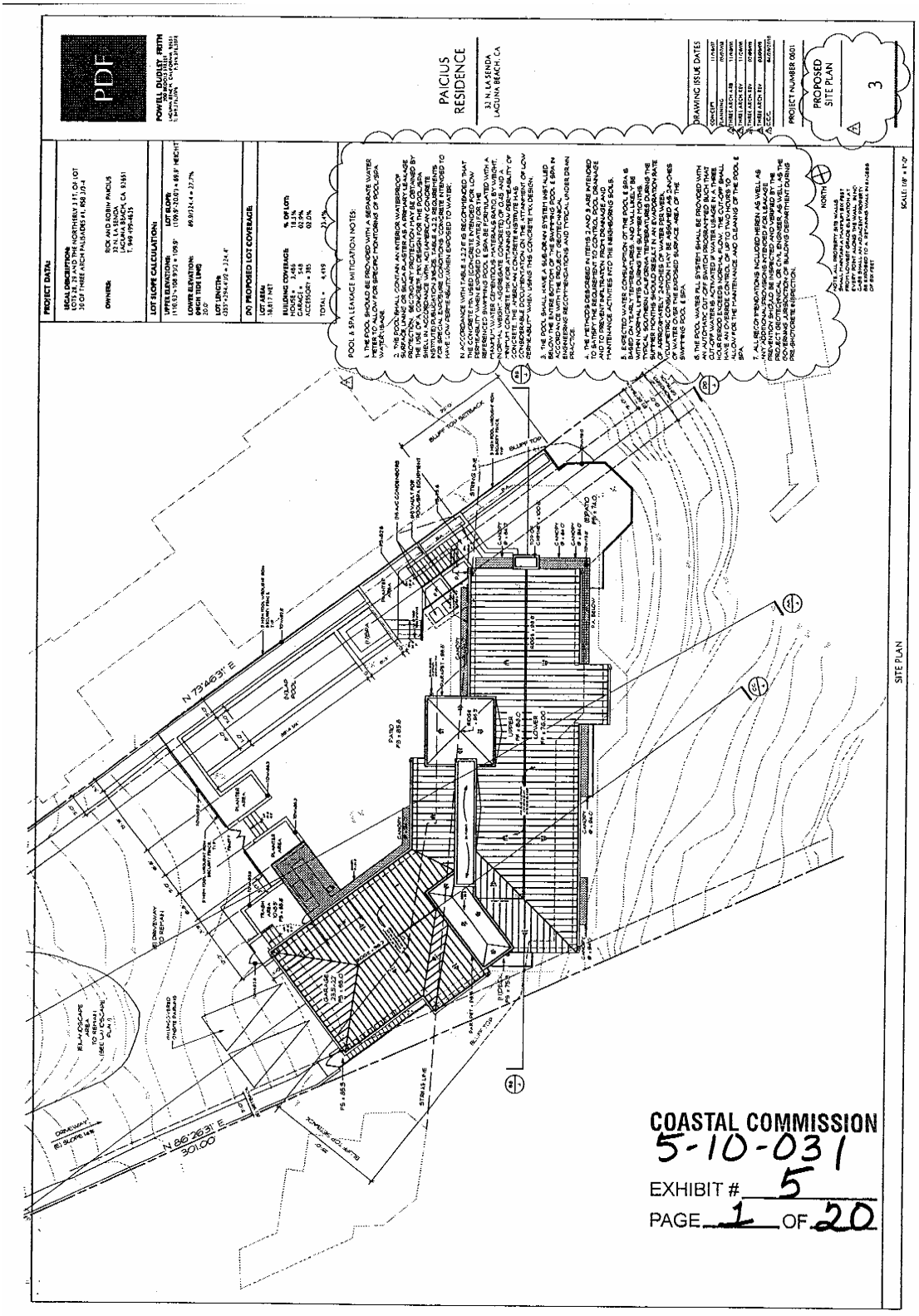
Ex. 4
p. 4 of 5



STABILITY SECTION A-A'

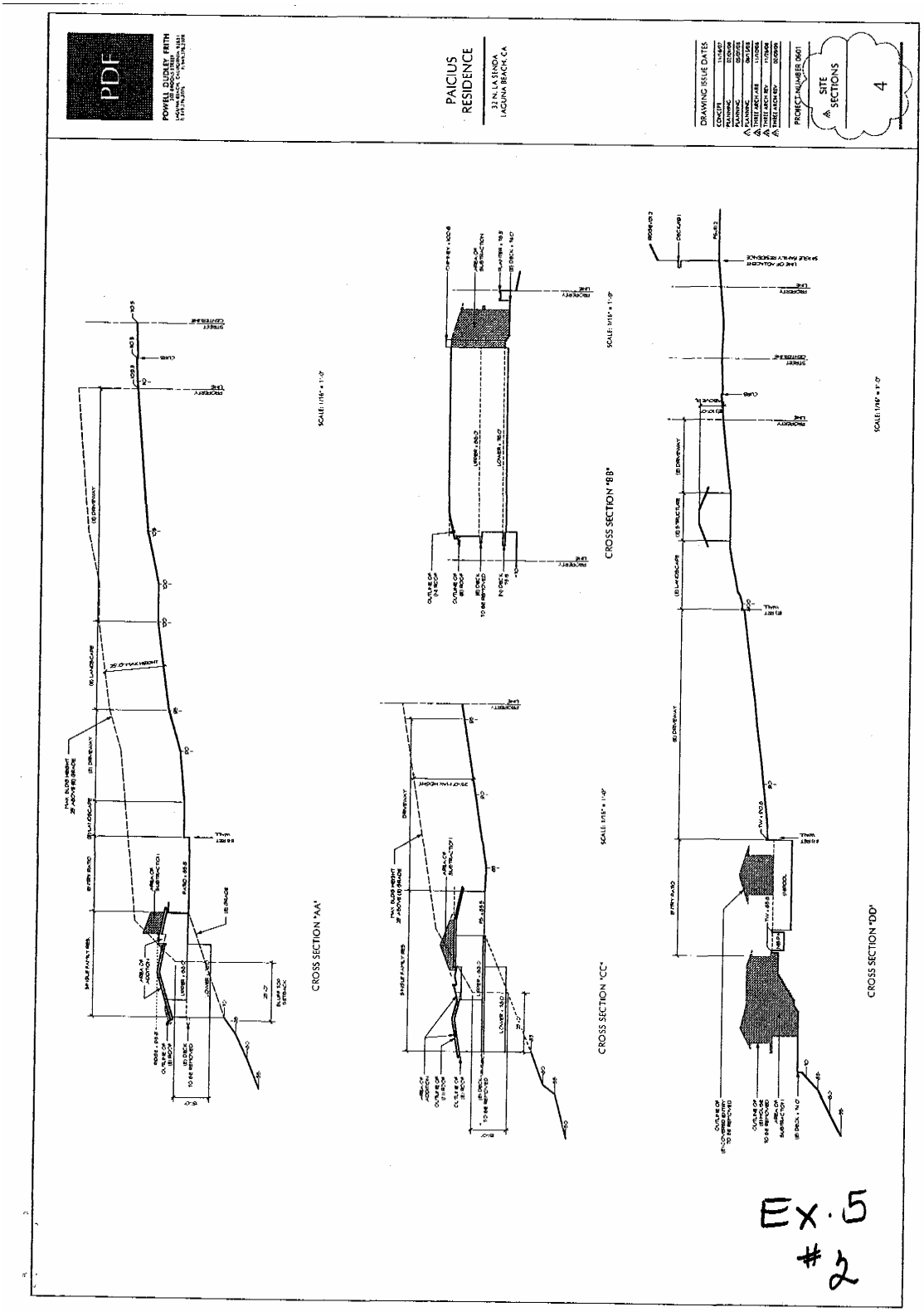
SCALE: 1/16" = 1'-0"

Ex. 4
p. 5 of 5

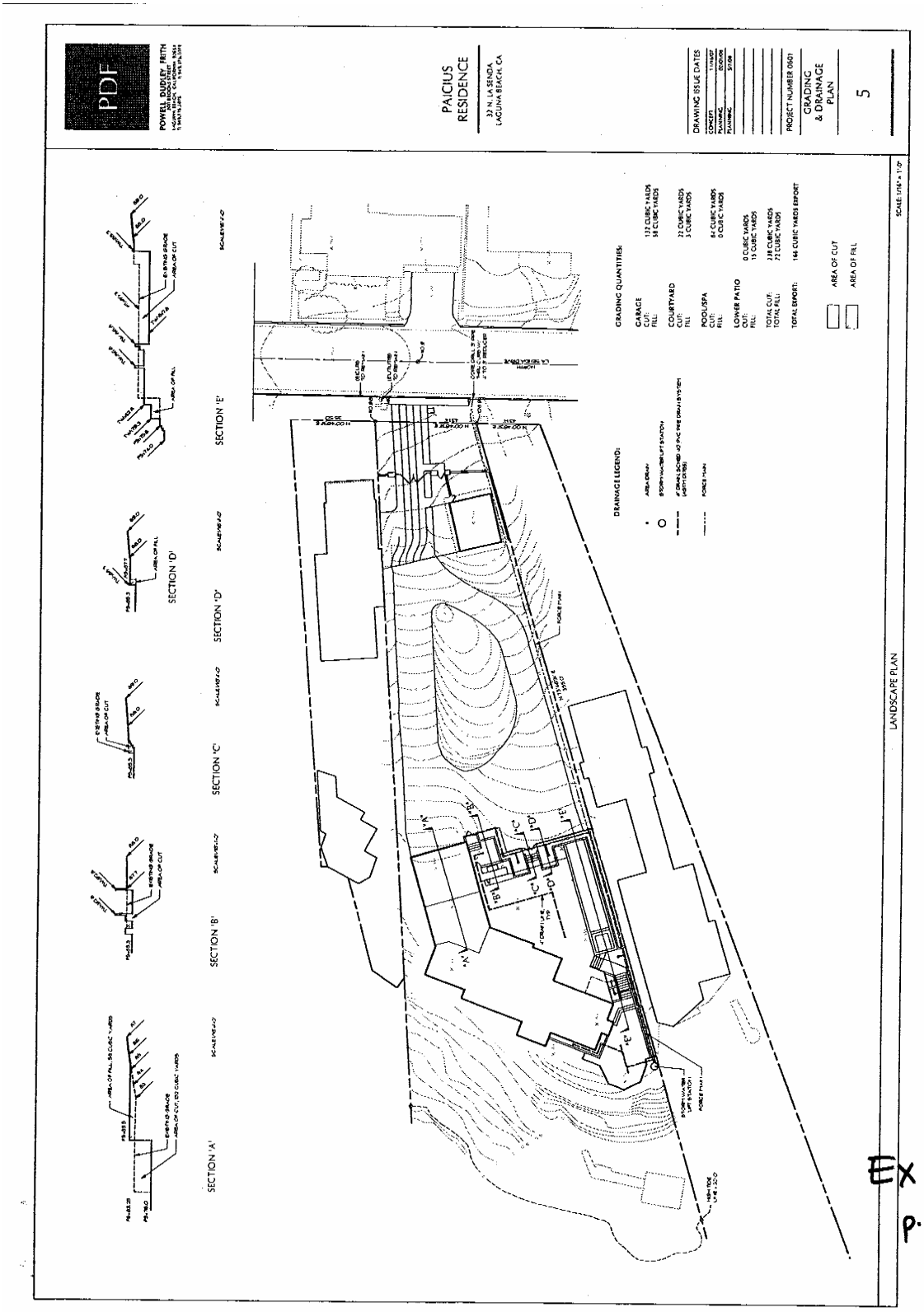


APR 28 2010

COASTAL COMMISSION
5-10-031
EXHIBIT # 5
PAGE 1 OF 20

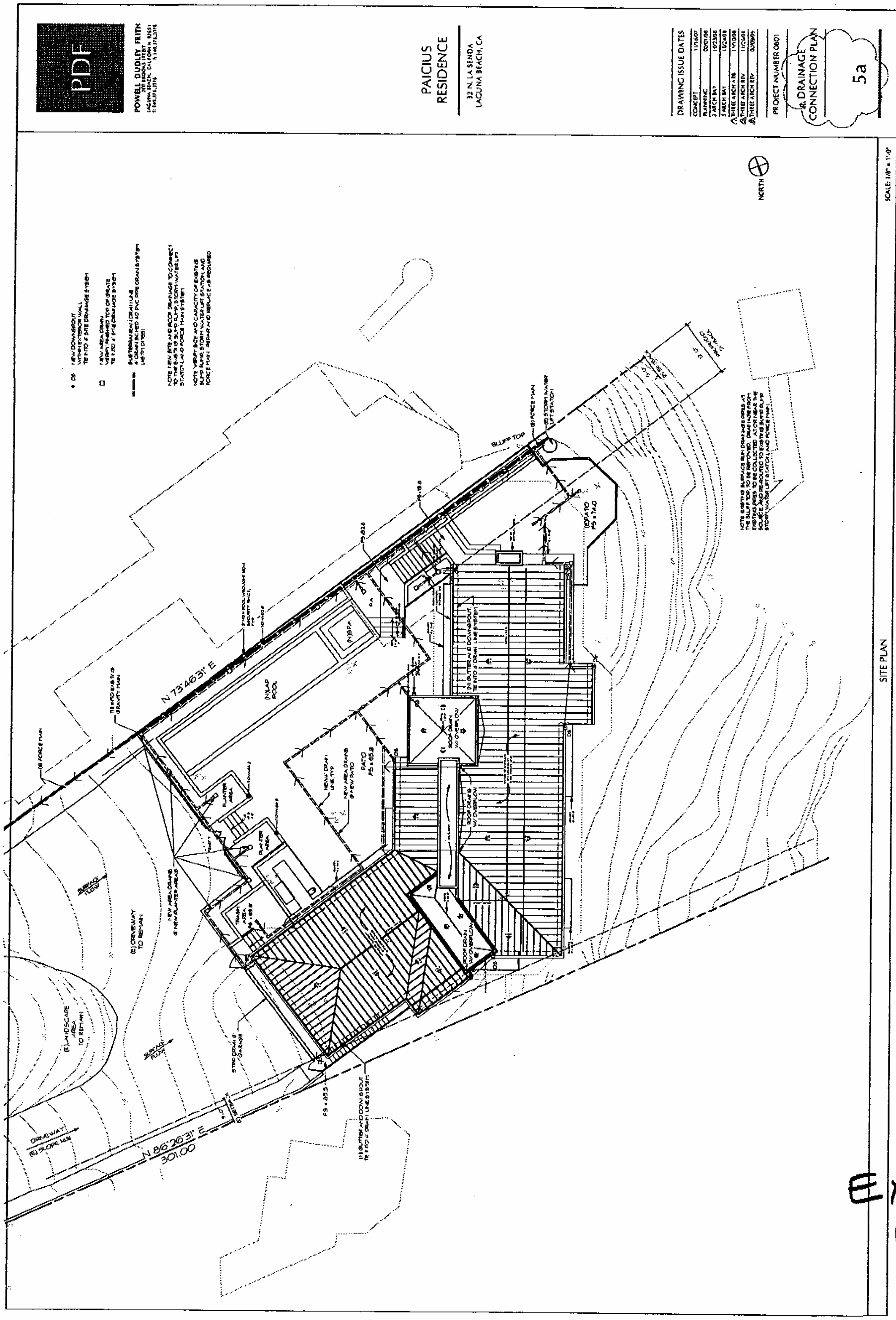

PDF
POWELL DUDLEY FRITH
PAICIUS RESIDENCE
31 N. LA SENDA
LAGUNA BEACH, CA
DRAWING ISSUE DATES
SITE & SECTIONS
4
CROSS SECTION "AA"
CROSS SECTION "BB"
CROSS SECTION "CC"
CROSS SECTION "DD"
Ex. 5
#2

APR 28 2010



APR 28 2010

Ex 5
p. 3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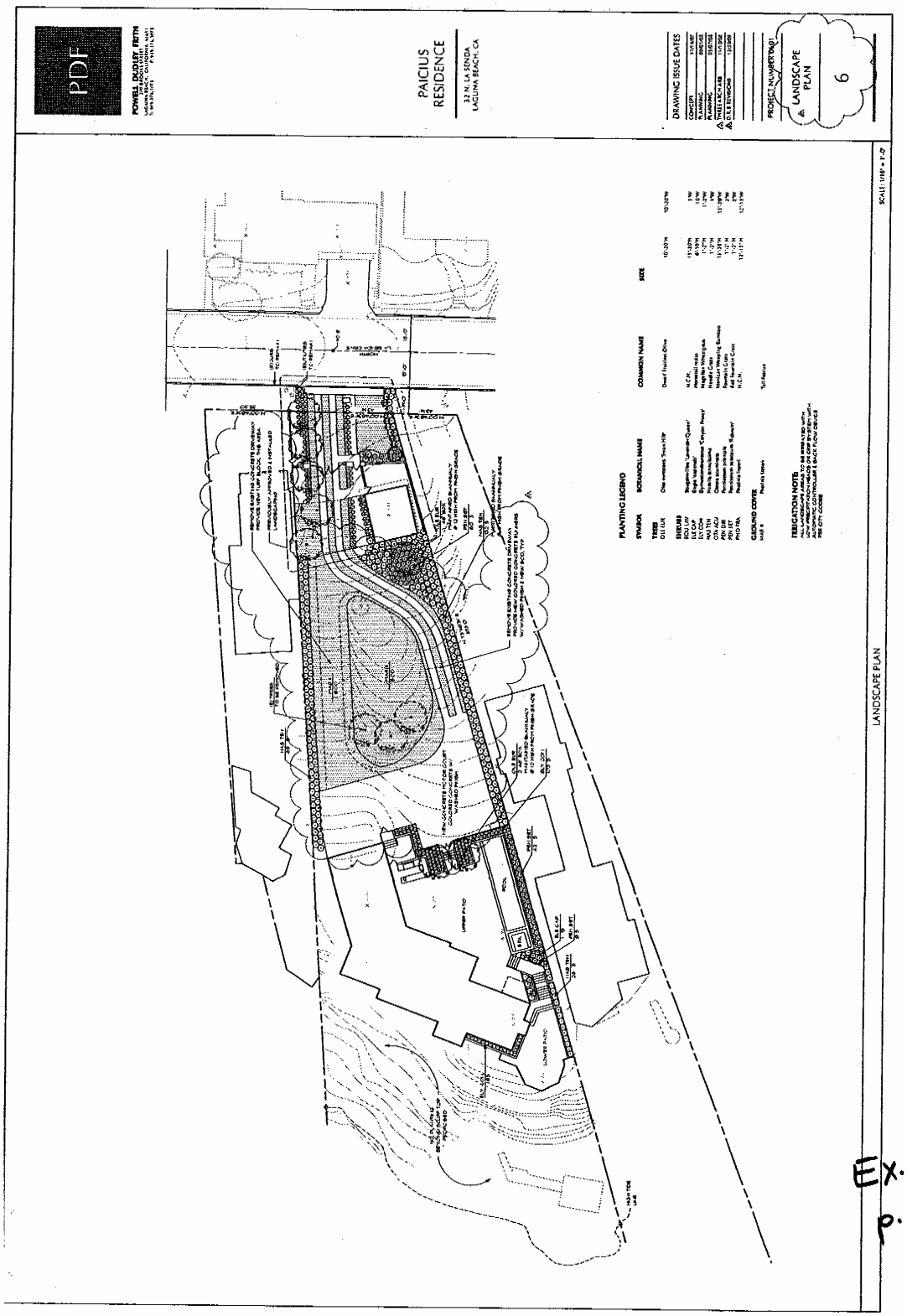
POWELL DUDLEY FEITH
PAICIUS RESIDENCE
32 N. LA SENDA
LAGUNA BEACH, CA
DRAWING ISSUE DATES
PROJECT NUMBER 0601
DRAINAGE CONNECTION PLAN
5a
NORTH
SITE PLAN
N 73°46'31" E
N 86°26'31" E
301.00
BLUFF TOP
LAP POOL
PATIO
(E) DRIVEWAY TO REMAIN
(E) LANDSCAPE AREA TO REMAIN
DRIVEWAY

Ex. 5
p. 4



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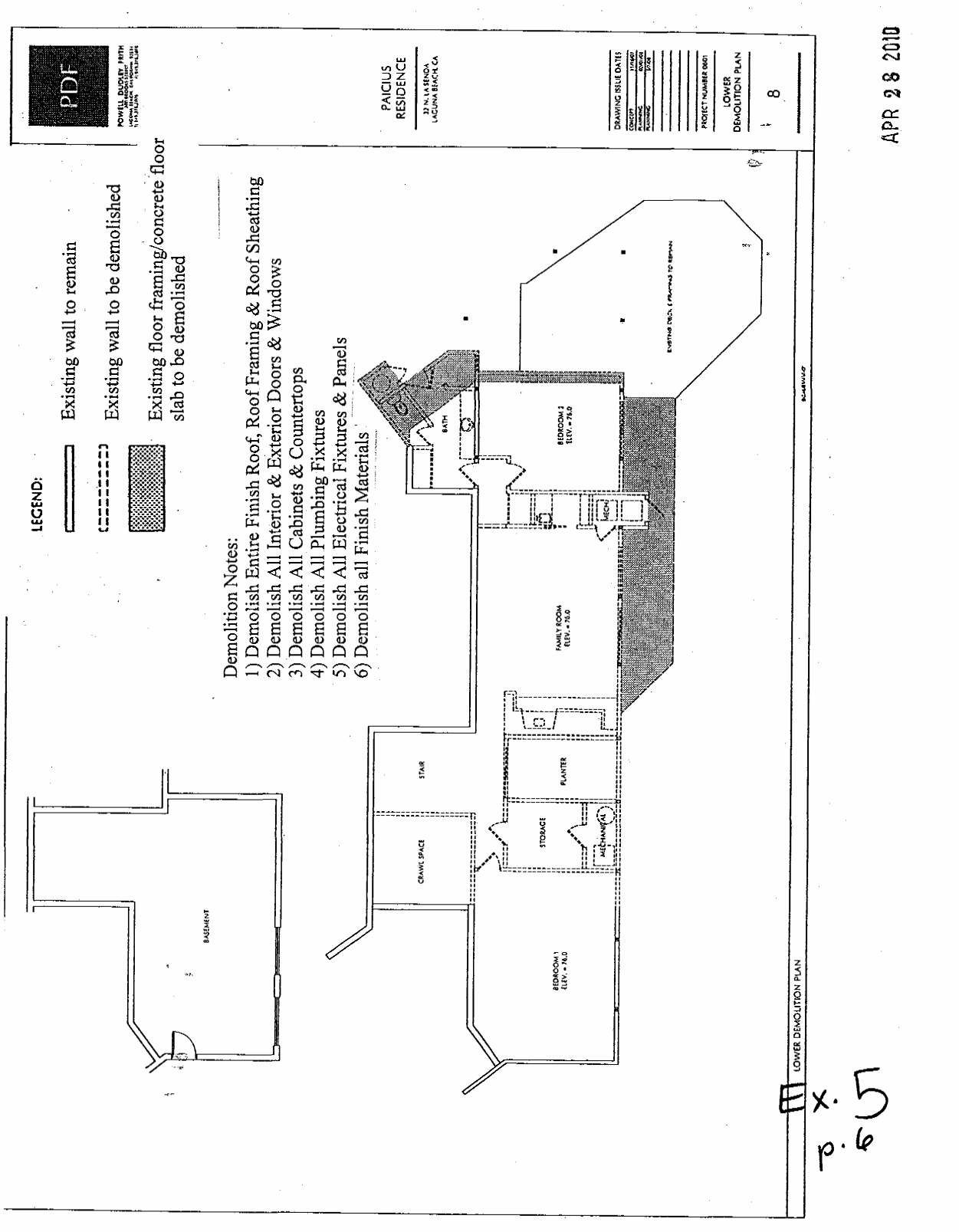
Ex. 15
p. 5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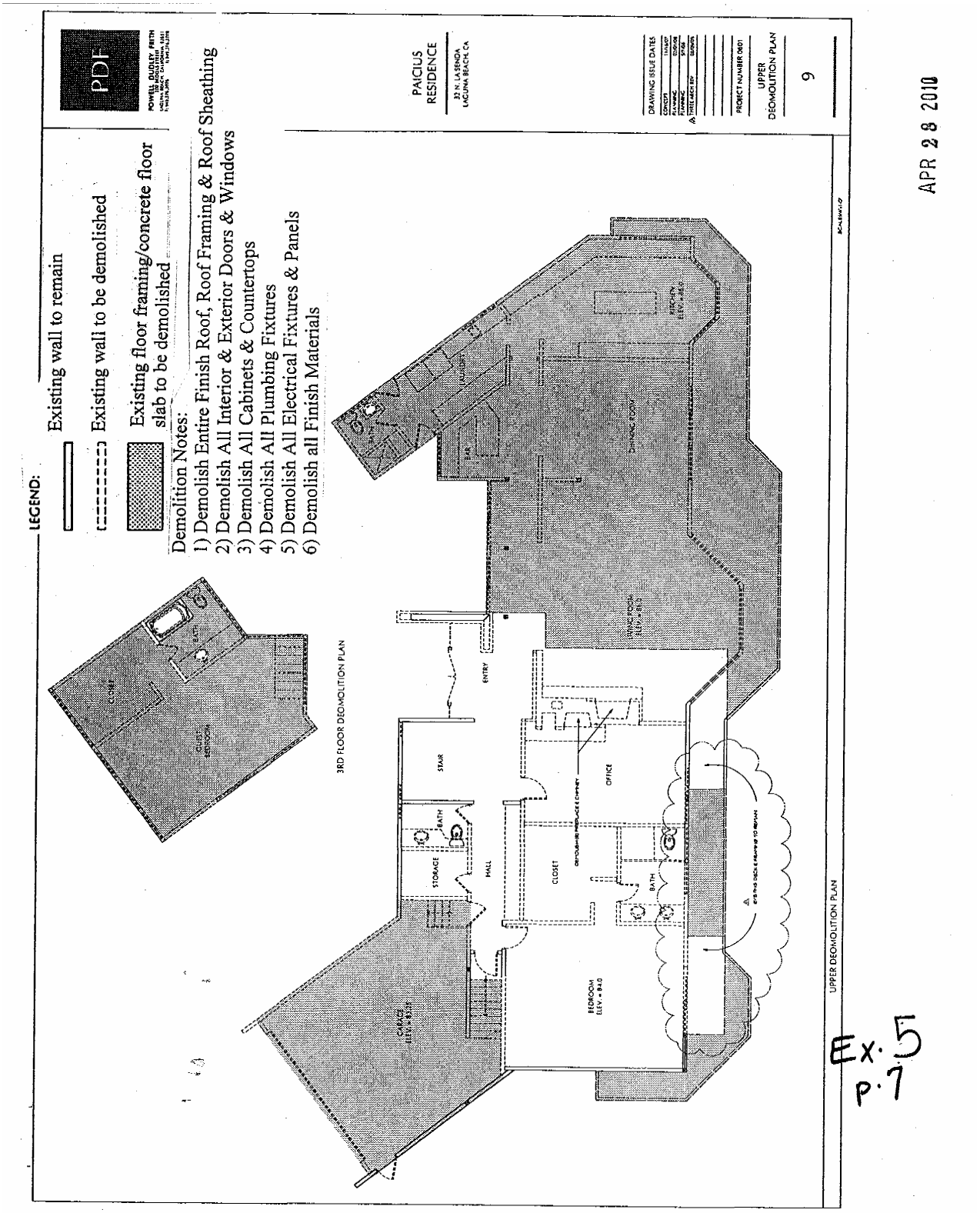
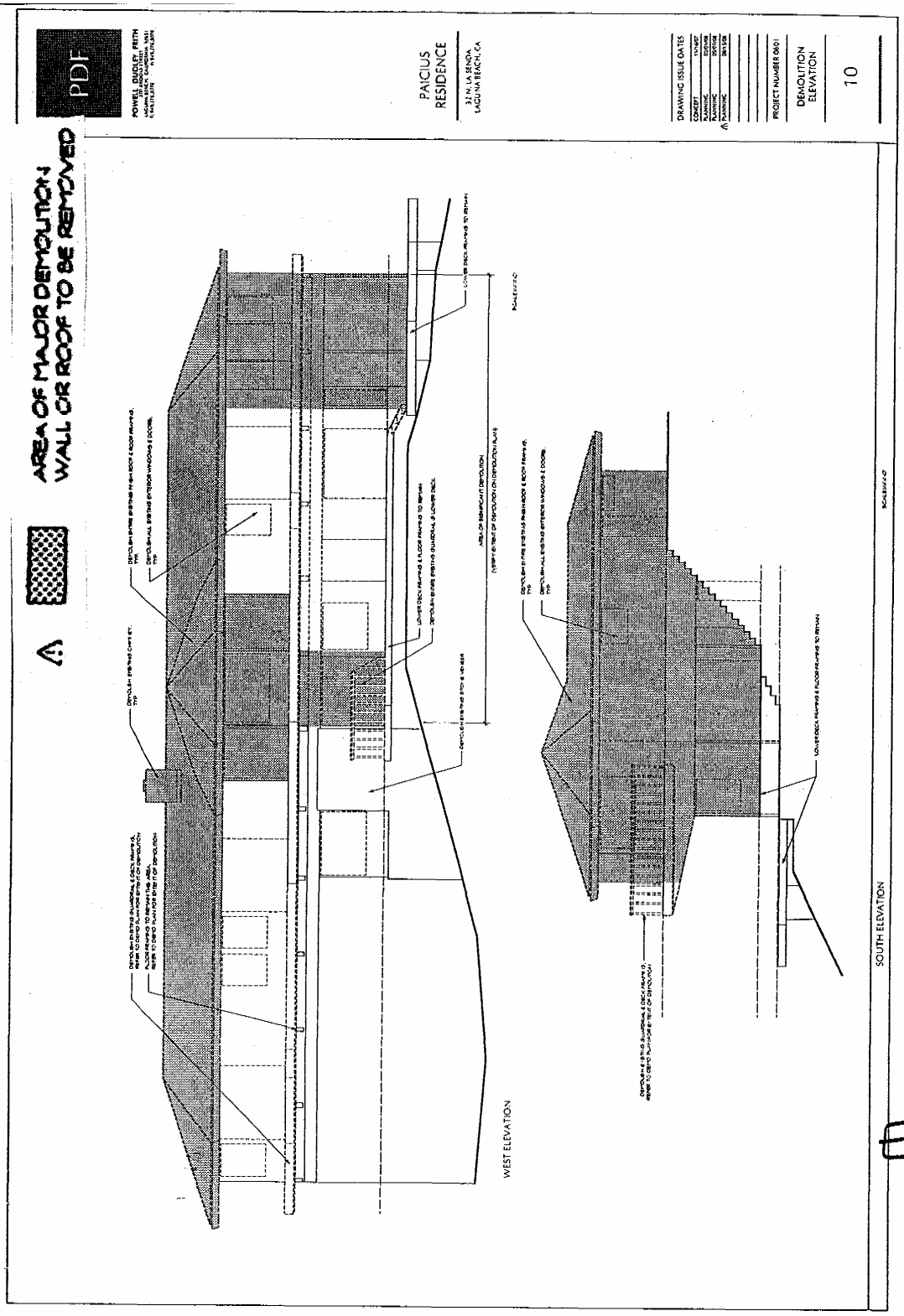
POWELL DUDLEY FRITH
PAICIUS RESIDENCE
33 N LA SENDA
LAGUNA BEACH, CA
DRAWING ISSUE DATES
CONCEPT
PLANNING
BUILDING
PROJECT NUMBER 0801
LOWER DEMOLITION PLAN
1 8
LEGEND:
Existing wall to remain
Existing wall to be demolished
Existing floor framing/concrete floor slab to be demolished
Demolition Notes:
1) Demolish Entire Finish Roof, Roof Framing & Roof Sheathing
2) Demolish All Interior & Exterior Doors & Windows
3) Demolish All Cabinets & Countertops
4) Demolish All Plumbing Fixtures
5) Demolish All Electrical Fixtures & Panels
6) Demolish all Finish Materials
BASEMENT
CRAWL SPACE
STAIR
BEDROOM 1
ELEV. = 76.0
STORAGE
MECHANICAL
PLANTER
FAMILY ROOM
ELEV. = 76.0
BEDROOM 2
ELEV. = 76.0
BATH
KITCHEN
EXISTING DECK (FRAMING TO REMAIN)
LOWER DEMOLITION PLAN
APR 28 2010
Ex. 5
p. 6


LEGEND:
Existing wall to remain
Existing wall to be demolished
Existing floor framing/concrete floor slab to be demolished
Demolition Notes:
1) Demolish Entire Finish Roof, Roof Framing & Roof Sheathing
2) Demolish All Interior & Exterior Doors & Windows
3) Demolish All Cabinets & Countertops
4) Demolish All Plumbing Fixtures
5) Demolish All Electrical Fixtures & Panels
6) Demolish all Finish Materials
PDF
PAICIUS RESIDENCE
31 N. LA SENDA LAGUNA BEACH, CA
DRAWING ISSUE DATES
PROJECT NUMBER 0901
UPPER DEMOLITION PLAN
9
3RD FLOOR DEMOLITION PLAN
UPPER DEMOLITION PLAN
APR 28 2010
Ex. 5
P. 7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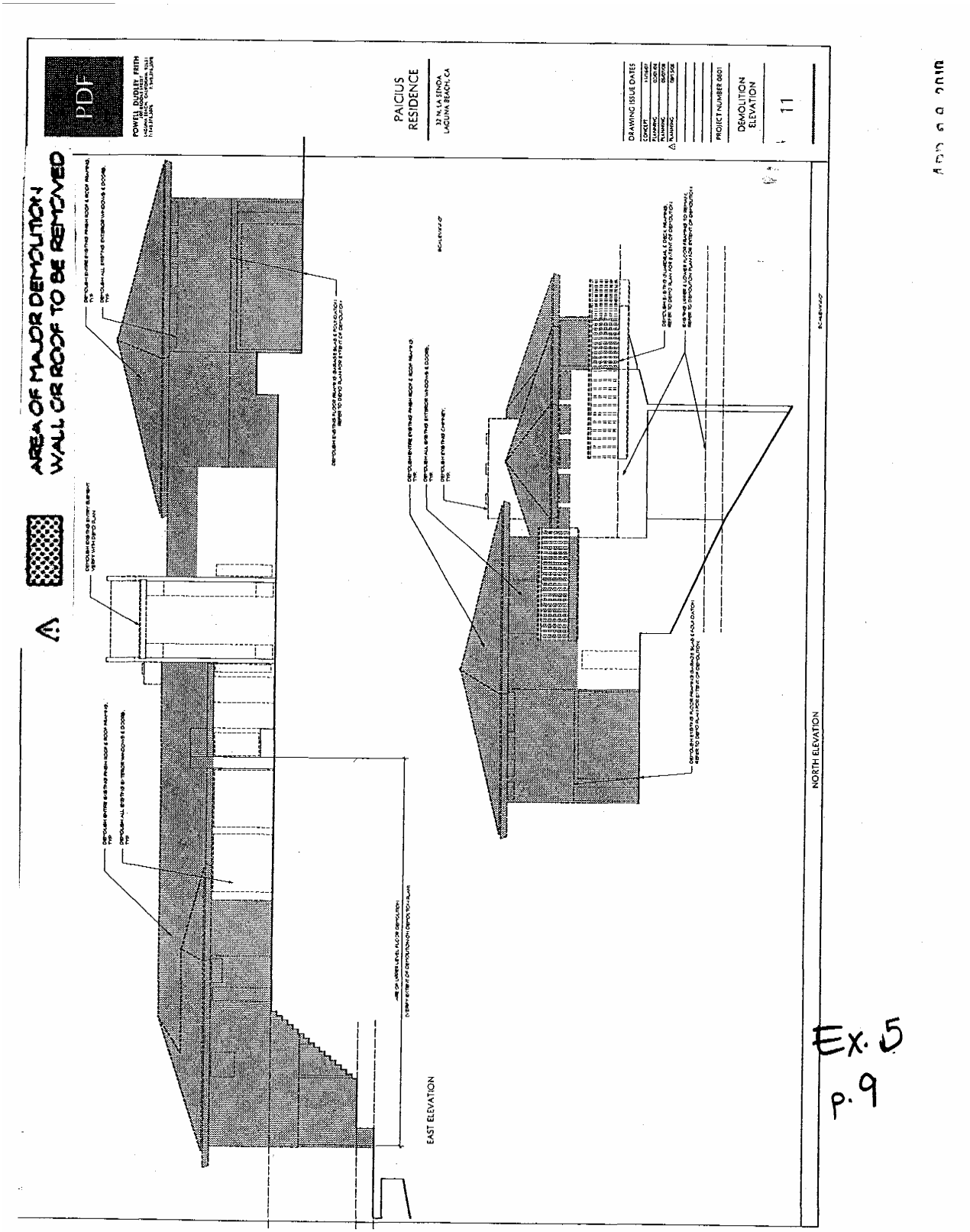
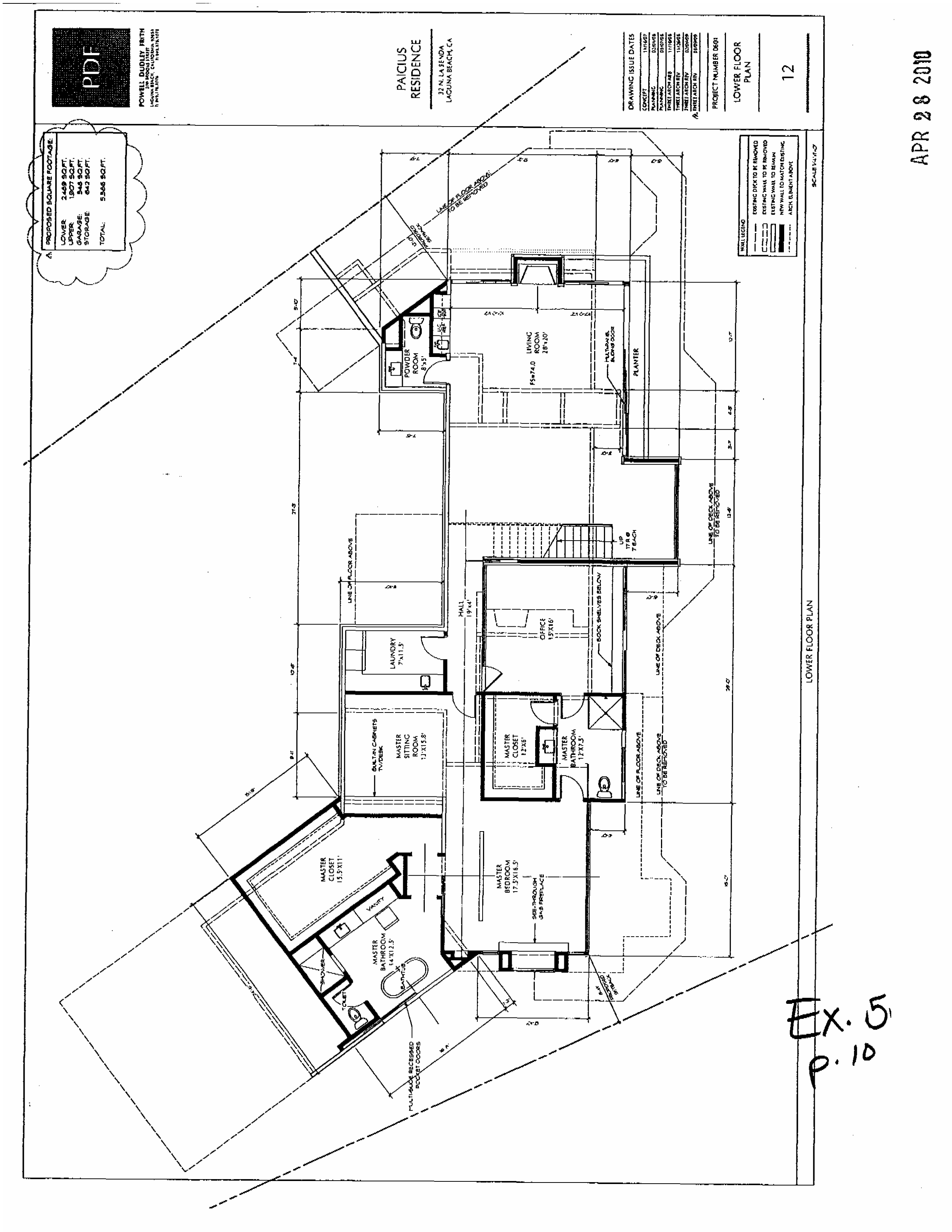
AREA OF MAJOR DEMOLITION
WALL OR ROOF TO BE REMOVED
PAICIUS RESIDENCE
31 N. LA SENDA
LAGUNA BEACH, CA
DRAWING ISSUE DATES
PROJECT NUMBER 0901
DEMOLITION ELEVATION
10
WEST ELEVATION
SOUTH ELEVATION
APR 28 2010
Ex. 5
p. 8

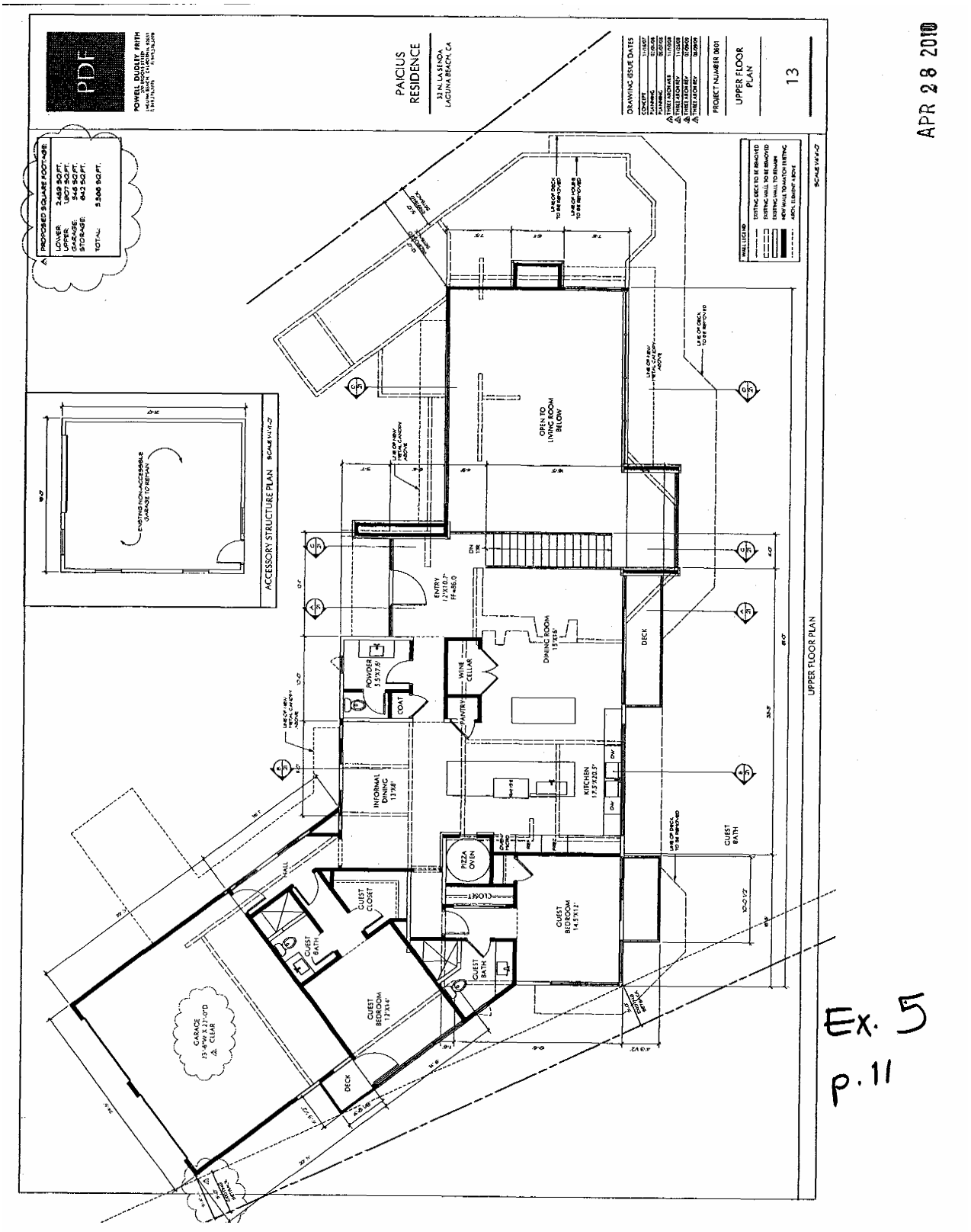

AREA OF MAJOR DEMOLITION / WALL OR ROOF TO BE REMOVED
PDF
POWELL DUDLEY FRITH
PAICIUS RESIDENCE
DRAWING ISSUE DATES
PROJECT NUMBER 0601
DEMOLITION ELEVATION
11
EAST ELEVATION
NORTH ELEVATION

Ex. 5
p. 9



APR 28 2010

Ex. 5
p. 10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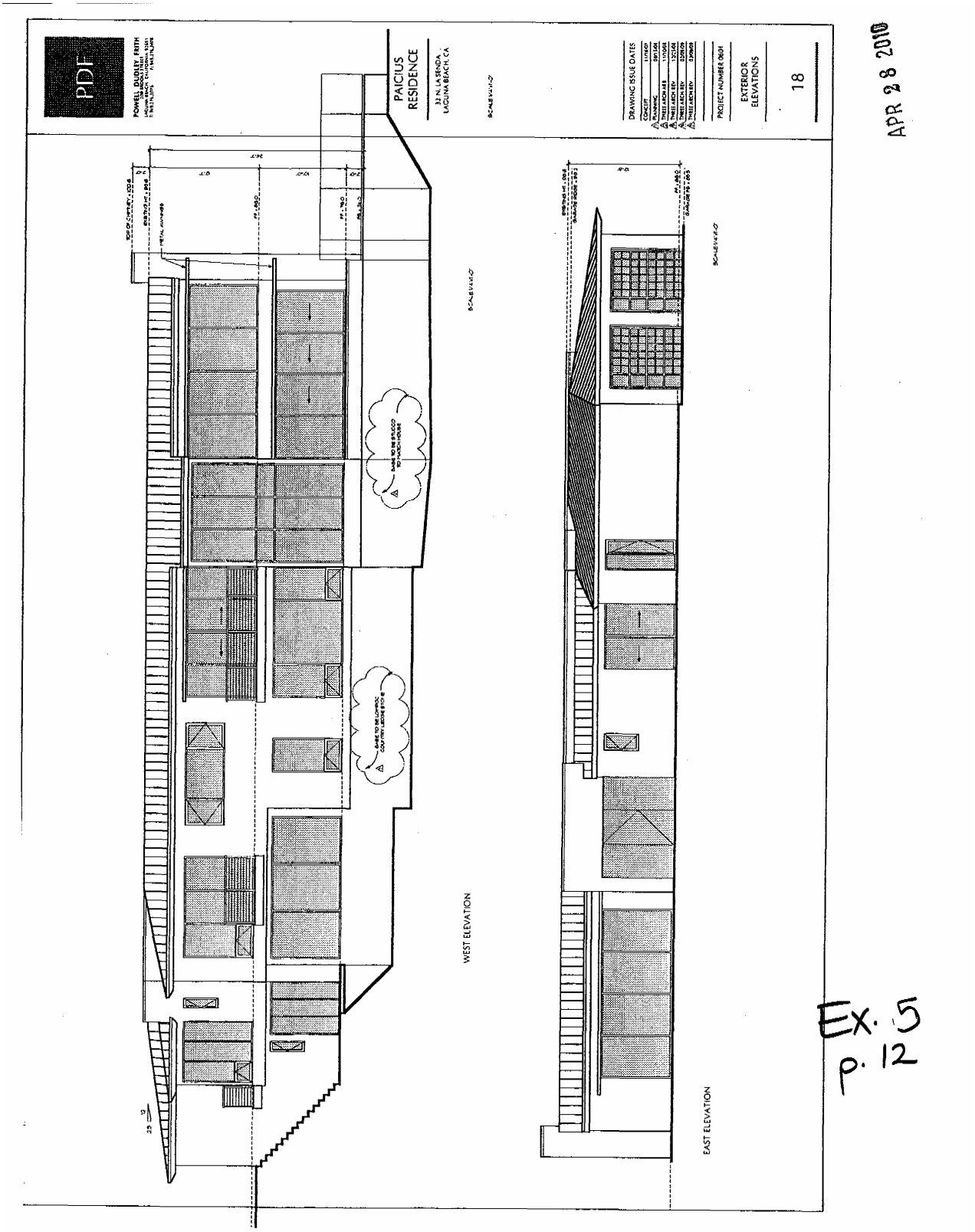
POWELL DUDLEY FRITH
PAICIUS RESIDENCE
31 N. LA SENDA
LAGUNA BEACH, CA
DRAWING ISSUE DATES
PROJECT NUMBER 0801
UPPER FLOOR PLAN
13
PROPOSED SQUARE FOOTAGE
LOWER: 2,459 SQ.FT.
UPPER: 1,907 SQ.FT.
GARAGE: 443 SQ.FT.
STORAGE: 404 SQ.FT.
TOTAL: 5,366 SQ.FT.
ACCESSORY STRUCTURE PLAN
EXISTING NON-ACCESSIBLE GARAGE TO REMAIN
OPEN TO LIVING ROOM BELOW
ENTRY
POWDER
COAT
WINE CELLAR
PANTRY
DINING ROOM
DECK
INFORMAL DINING
KITCHEN
PIZZA OVEN
CLOSET
GUEST BATH
GUEST CLOSET
GUEST BEDROOM
GARAGE
UPPER FLOOR PLAN
APR 28 2010
Ex. 5
p. 11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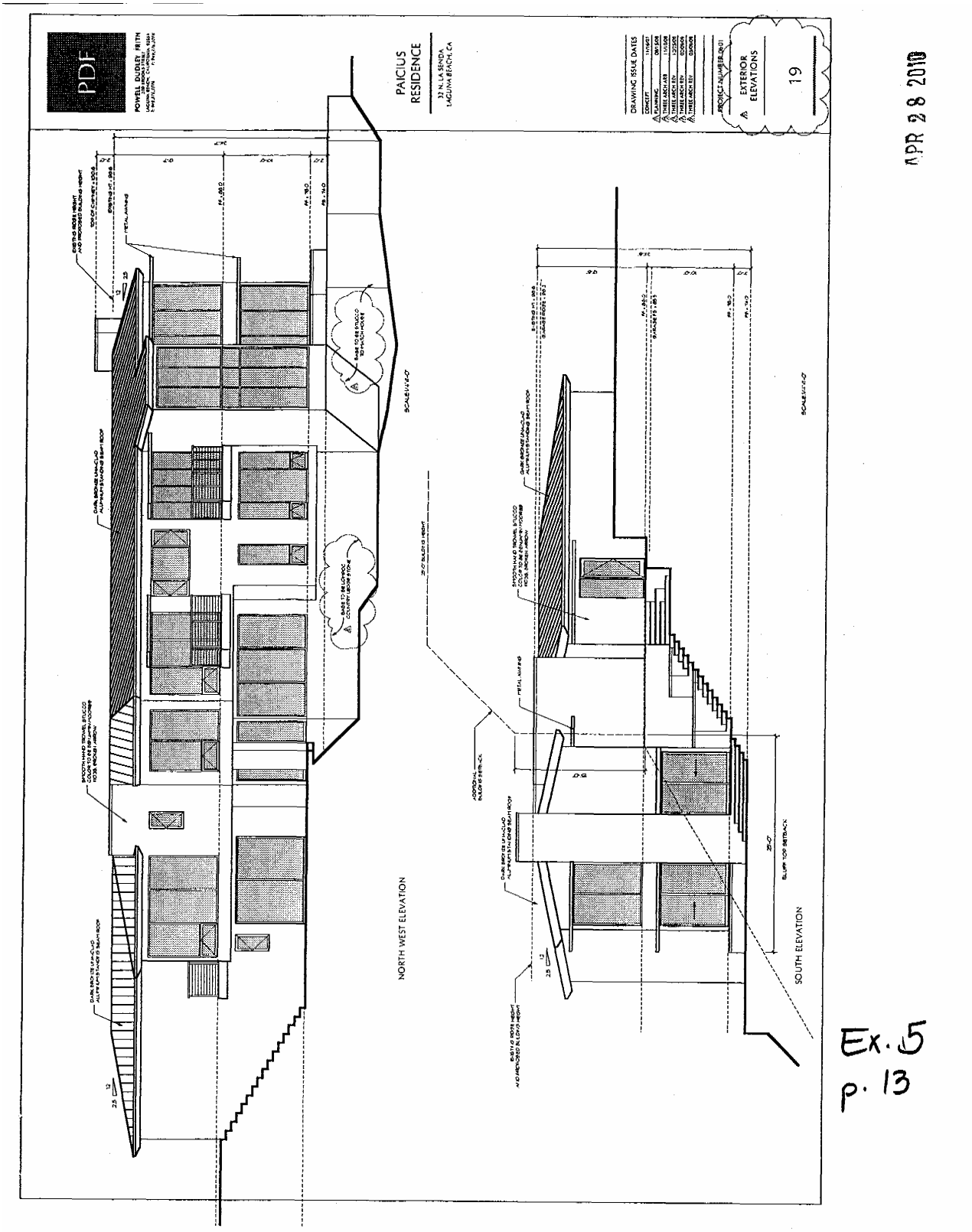
POWELL DUDLEY FRITH
PAICIUS RESIDENCE
32 N. LA SENDA
LAGUNA BEACH, CA
DRAWING ISSUE DATES
PROJECT NUMBER 0801
EXTERIOR ELEVATIONS
18
WEST ELEVATION
EAST ELEVATION
APR 28 2010
Ex. 5
p. 12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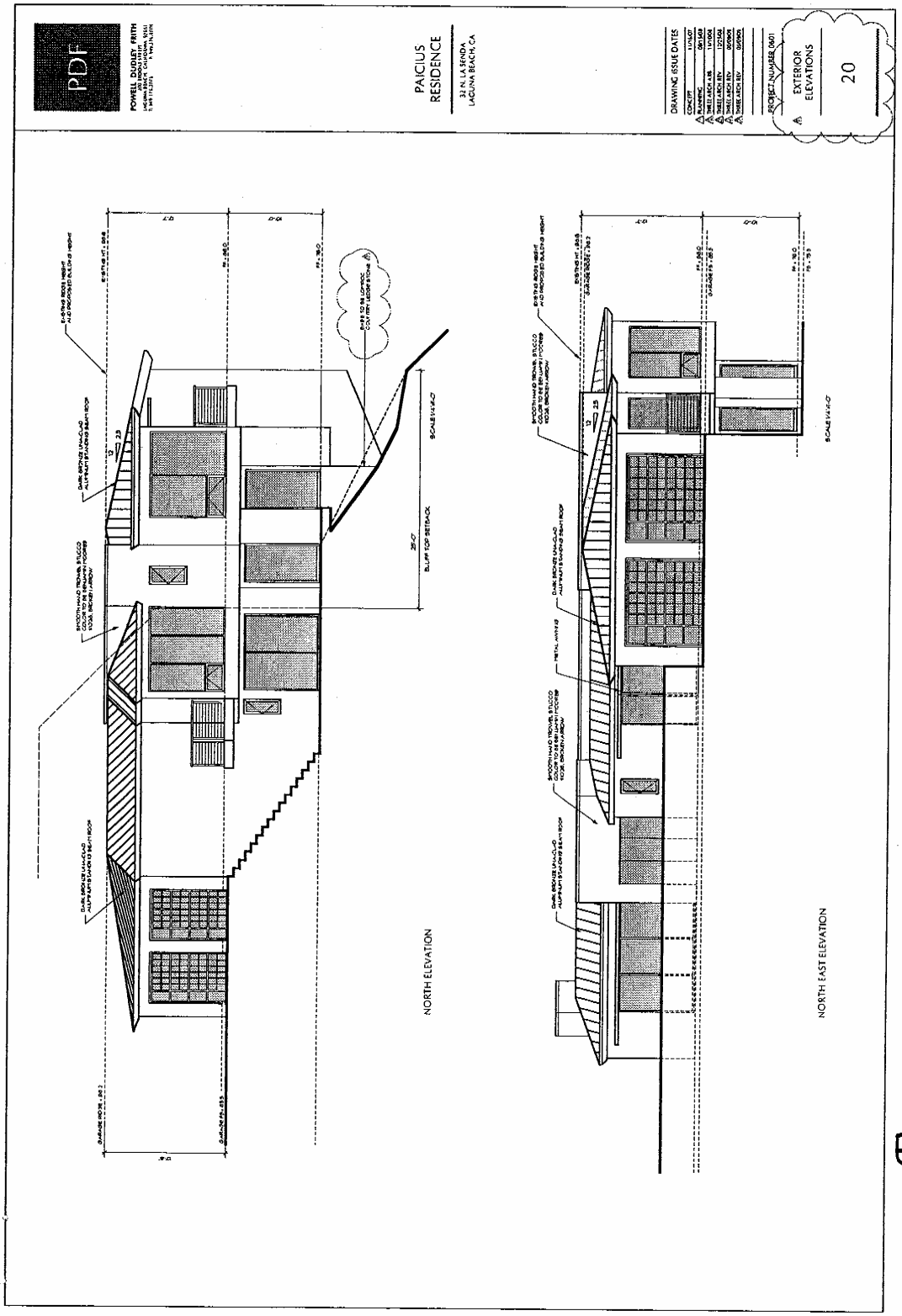
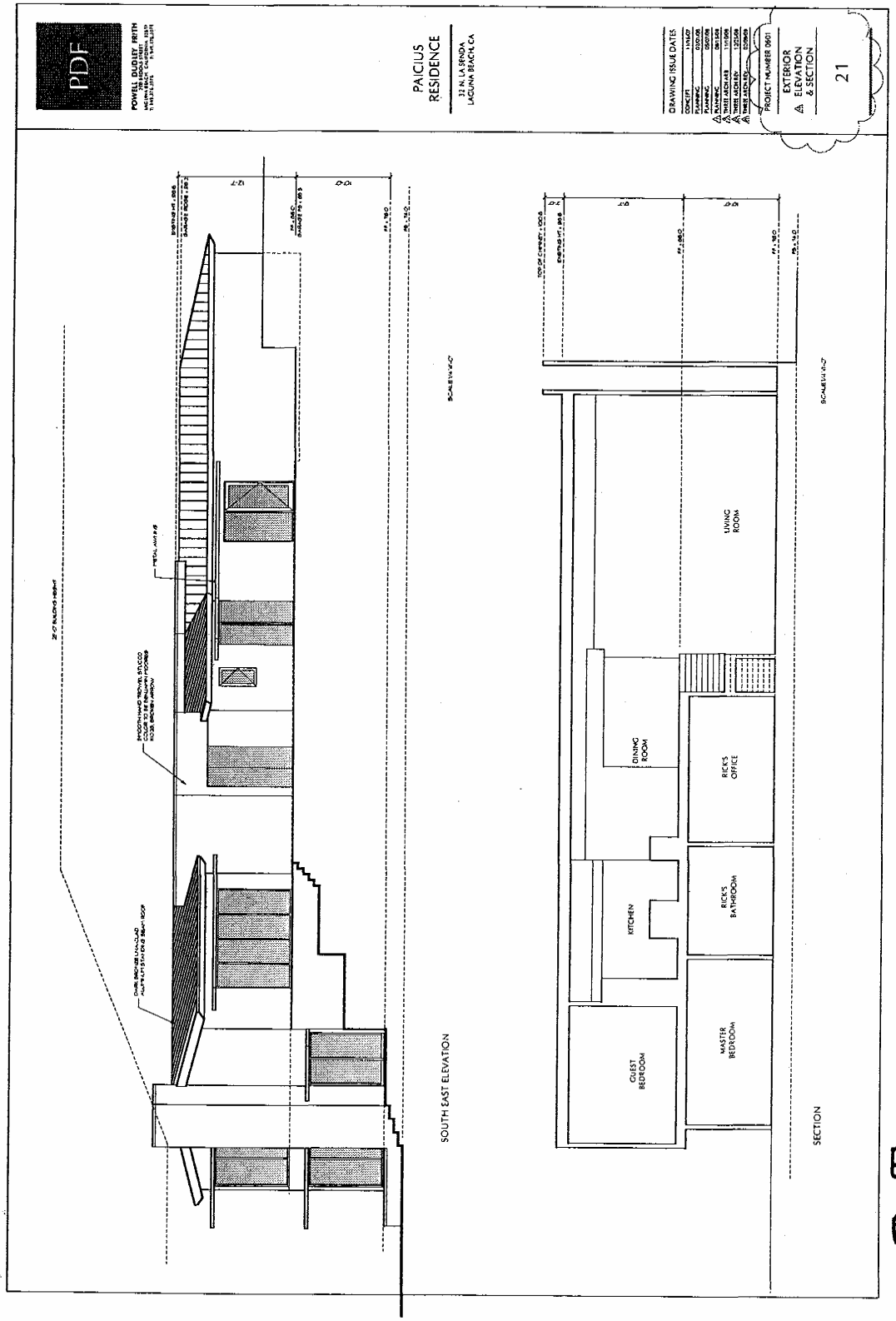
POWELL DUDLEY RITTN
PAICIUS RESIDENCE
32 N. LA SENDA
LAGUNA BEACH, CA
DRAWING ISSUE DATES
CONCEPT
PLANNING
EXTERIOR ELEVATIONS
19
PROJECT NUMBER 0801
NORTH WEST ELEVATION
SOUTH ELEVATION
SCALE: 1/4"=1'-0"
APR 28 2010
Ex. 5
p. 13



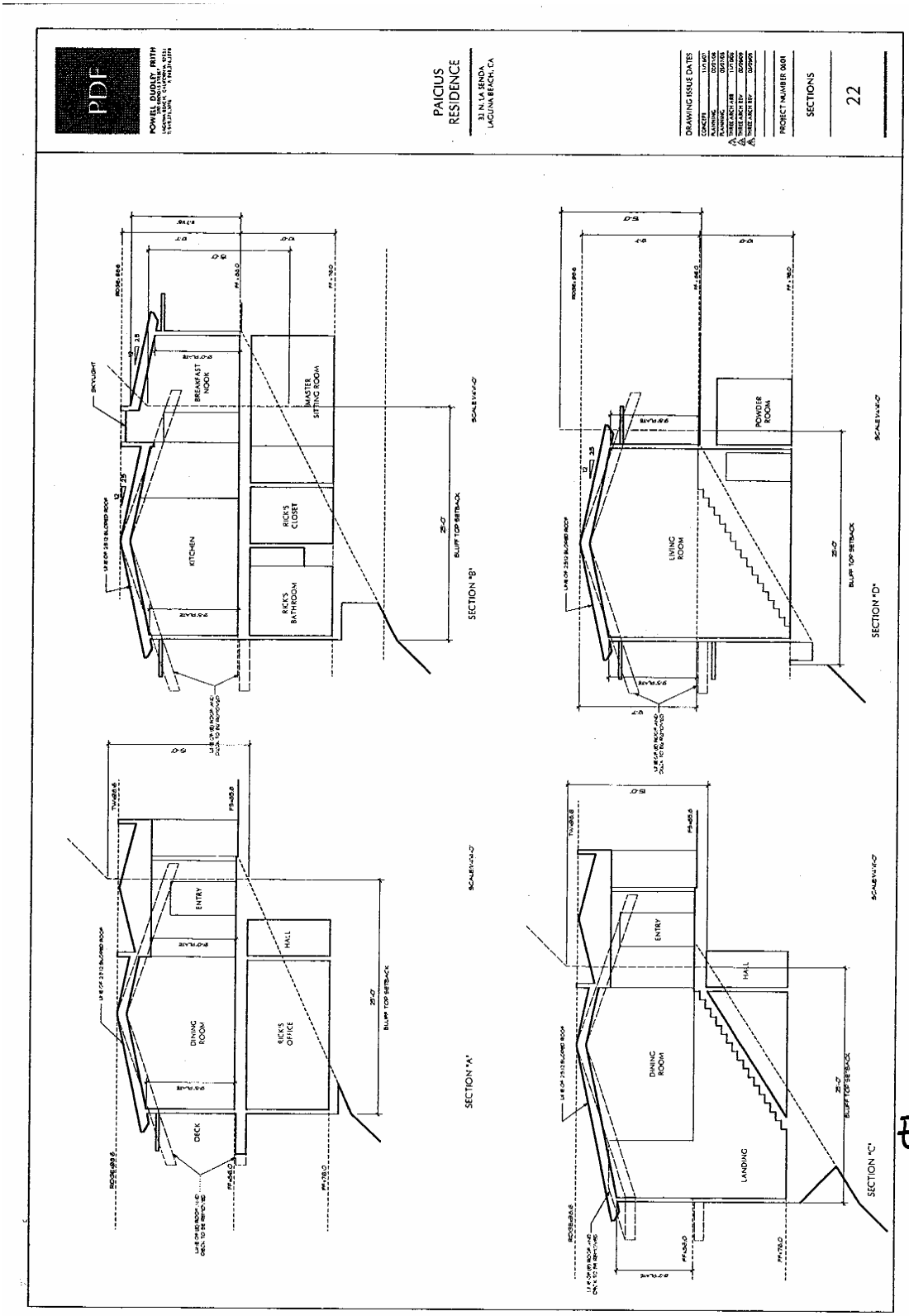
APR 28 2010

Ex. 5
p. 14



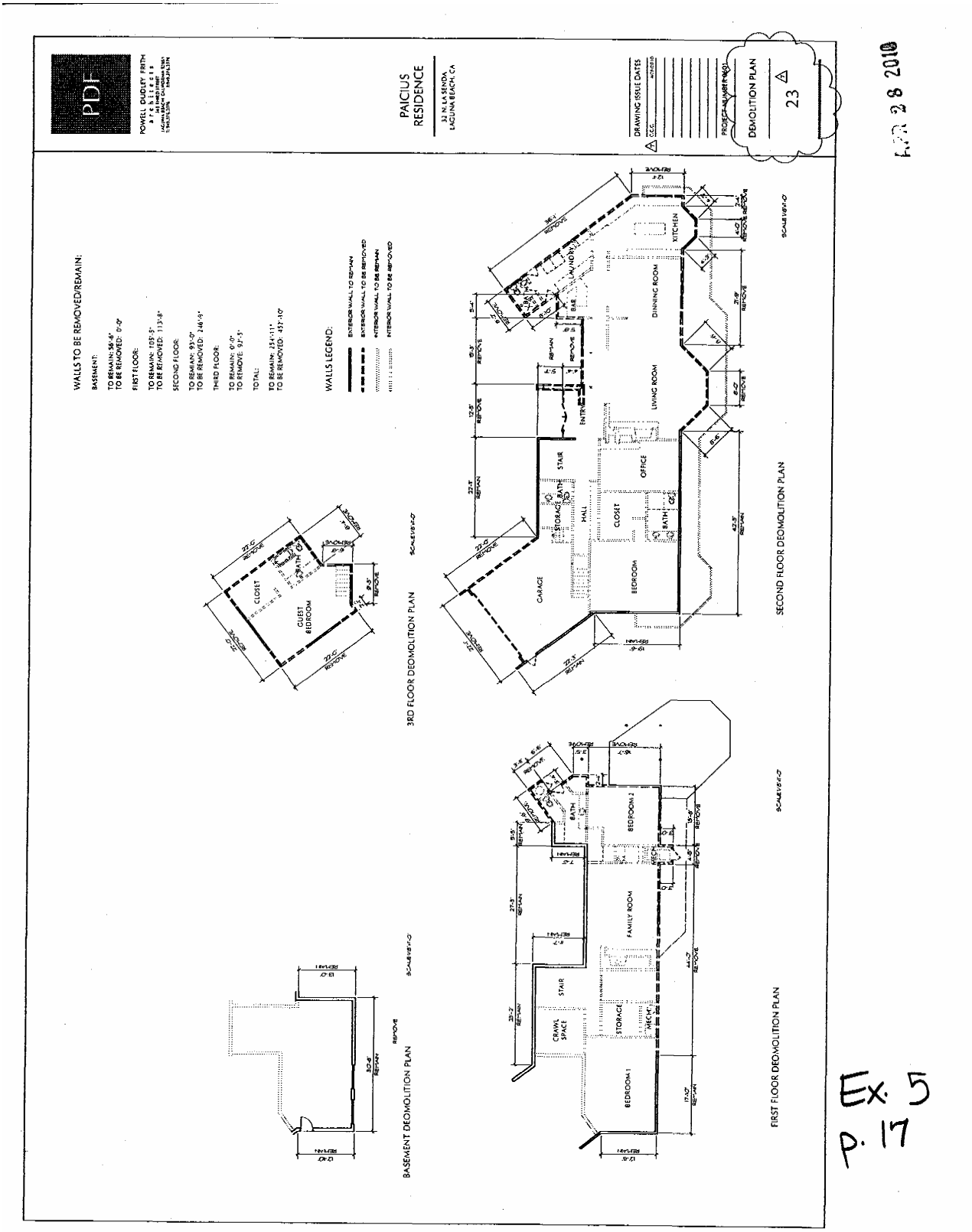
APR 28 2010

Ex. 5
p. 15

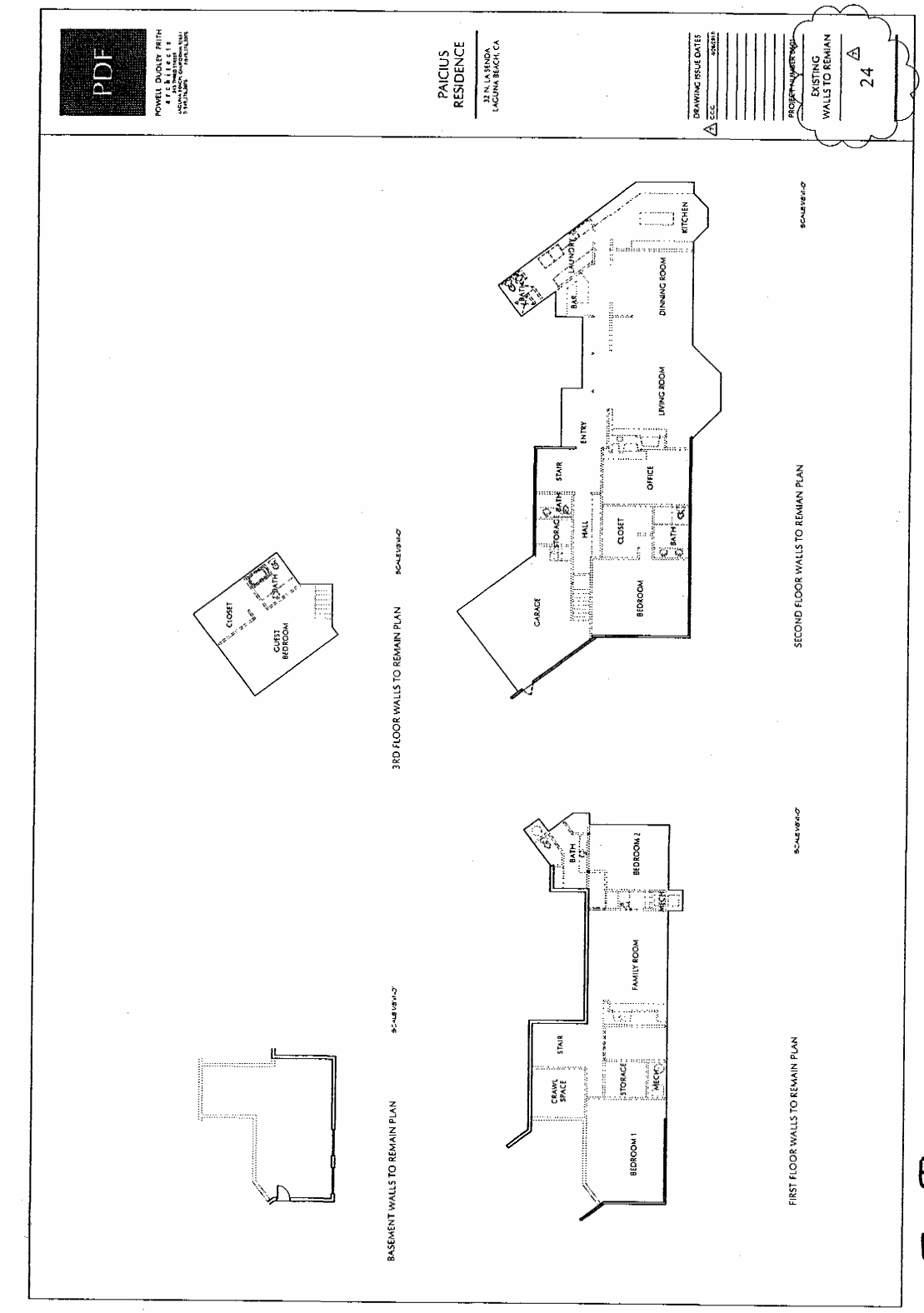


APR 28 2010

Ex. 5
p. 16

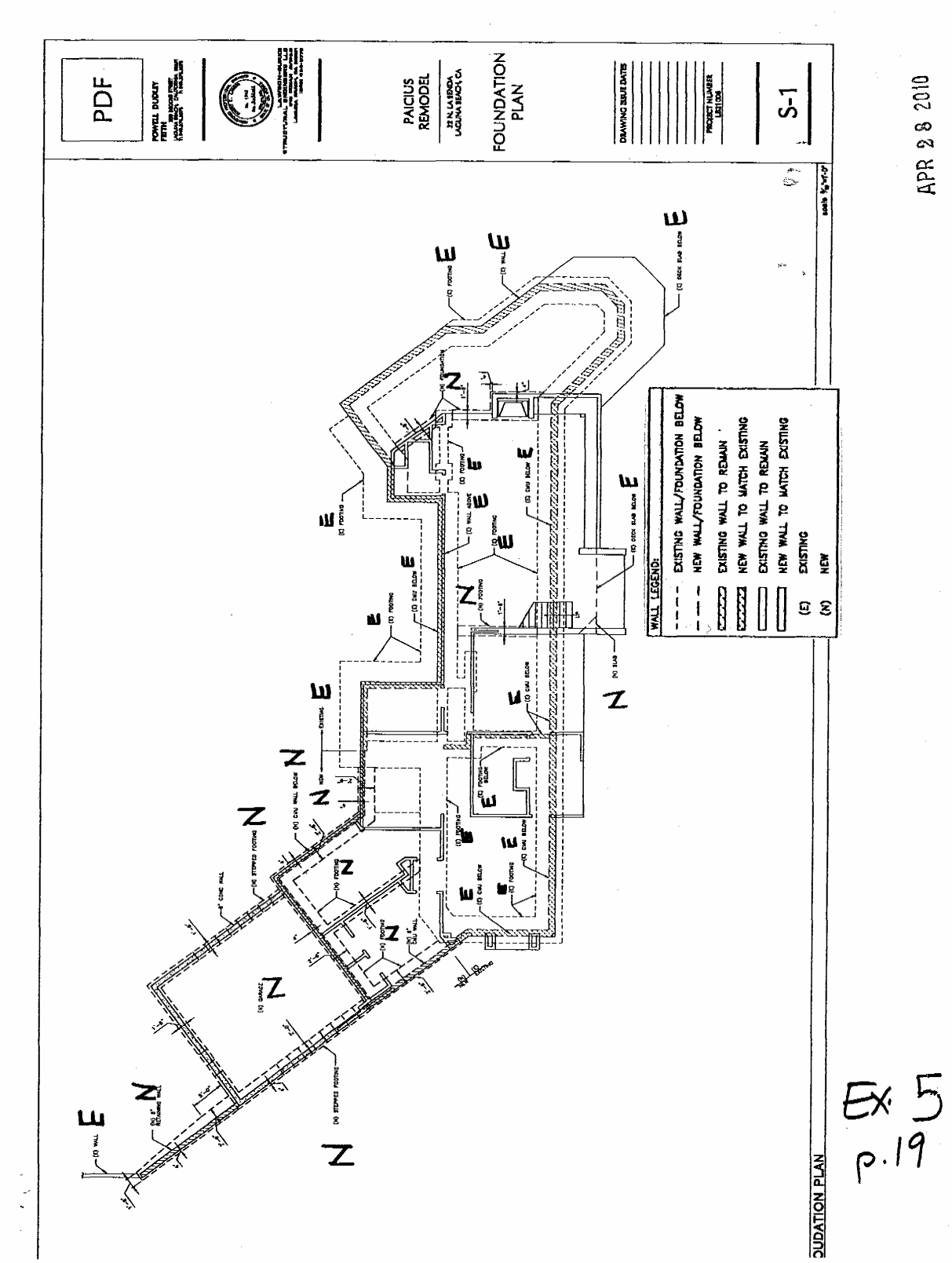


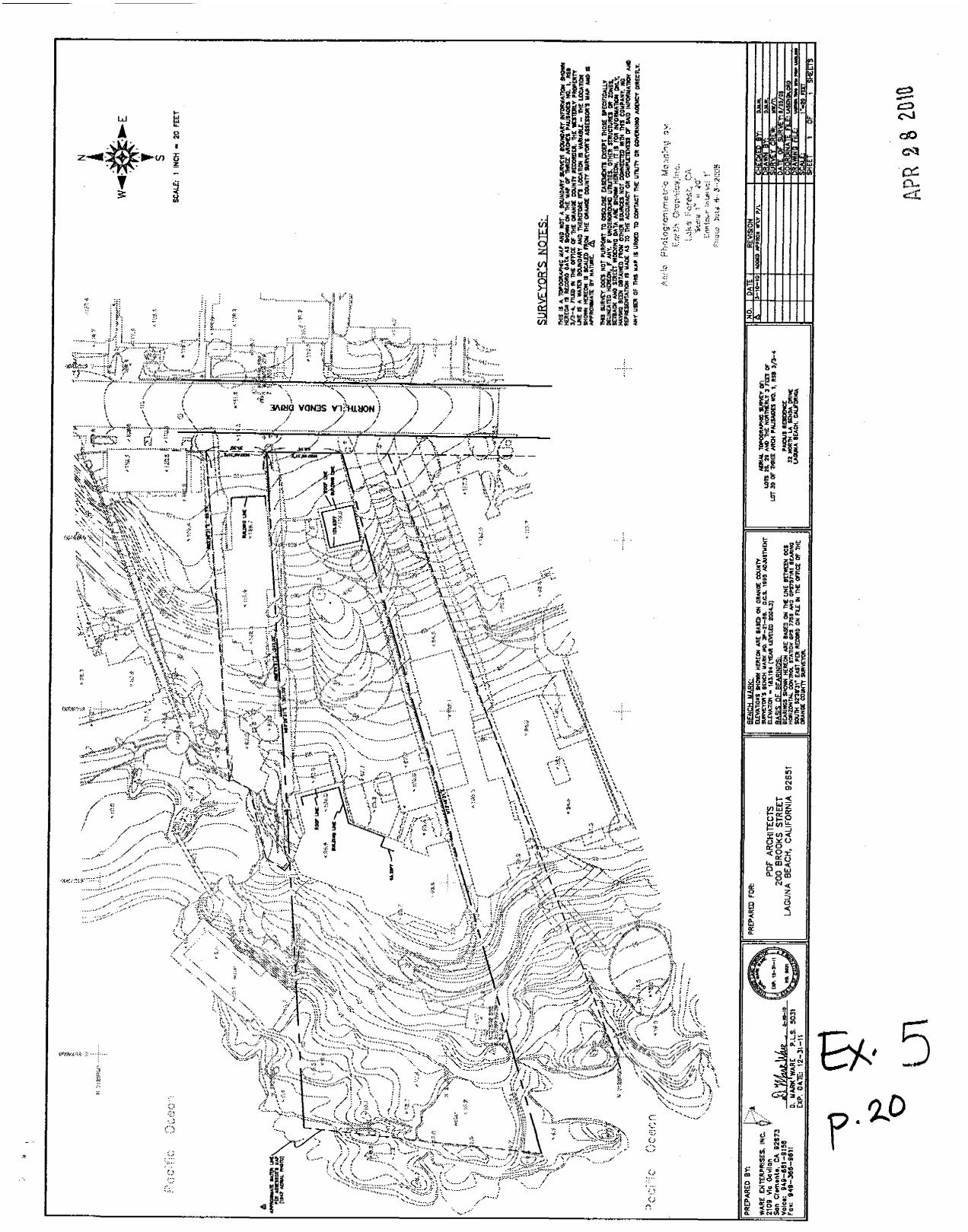
Ex. 5
P. 17



APR 28 2010

Ex. 5
p. 18


PDF
PAICIUS REMODEL
FOUNDATION PLAN
S-1
WALL LEGEND:
EXISTING WALL/FOUNDATION BELOW
NEW WALL/FOUNDATION BELOW
EXISTING WALL TO REMAIN
NEW WALL TO MATCH EXISTING
EXISTING WALL TO REMAIN
NEW WALL TO MATCH EXISTING
(E) EXISTING
(N) NEW
APR 28 2010
EX 5
p.19



APR 28 2010

Ex. 5
P.20

June 14, 2010, revised: September 27, 2010

Meg Vaughn
California Coastal Commission
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

RE Coastal Development Permit Application No. 5-10-031 (Paicius)
32 North La Senda Dr., Laguna Beach, Orange County
Rationale for remodeling the existing structure as opposed to demolition and reconstruction.

Dear Ms. Vaughn,

Thank you for taking the time to meet with me at the Paicius residence last week.

As discussed at the project site, the determination to remodel the original residence was analyzed in the initial feasibility phase of design.
The decision to remodel the existing residence was made in an effort to –

1. Maintain the unique pattern of development within the surrounding neighborhood.
2. Minimize the impact on the existing bluff top slope.

As part of the initial feasibility study, we considered a proposal for a new single family residence similar in scale and mass to the original structure. We considered a new structure because four variances would be necessary to remodel the existing residence. Three of the four variances were a direct result of the existing non-conforming location of the residence. The variances were required to maintain the encroachment into the side yard setback, maintain the encroachment into the bluff top setback and maintain the existing non-conforming height above grade. The fourth variance was a request to provide a lower roof pitch in an effort to keep the height of the existing structure below numerous ocean views from the adjacent neighbors properties.

Although the view protection restrictions are not absolute, they are seriously considered by both the Three Arch Bay architectural review board and the City of Laguna Beach Design Review board. It was clearly stated by several board members that variances for the existing non-conforming structure were justified based on the applicant's inability to relocate the existing structure within the conforming building envelope. Both boards unanimously approved the remodel proposal due to the impact a new structure would have on the existing pattern of development.

Additionally, both boards were appreciative of the fact that the remodel maintained a very modest program in comparison to what the zoning standards would allow for this particular site in the event a new structure had been considered. The 35% allowable lot coverage and floor area ratio would allow for 9,879 square feet of habitable area although the project program does not increase the floor area with the proposed remodel direction. In fact, the existing floor area is reduced by removing the upper level floor area above the existing garage. This provides for a net reduction in overall mass, scale and habitable floor area.

5-10-031

Exhibit 6
page 1 of 2

powell dudley frith
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I have included a letter from the Three Arch Bay architectural review board validating the concern over relocating the existing structure within the conforming building envelope.

The second determination to remodel was based on an effort to minimize the impact on the existing bluff top slope. The concern being that a new residence would create a major impact in both demolition of the existing structure and excavation for a new foundation system. In round numbers, the grading required to reconstruct a similar structure would create more than 2,500 cubic yards of export, or approximately 4,300 square feet of area with a cross section of 16 feet. I have provided an exhibit showing the existing residence and the proposal for a new residence which would conform with the City of Laguna Beach zoning requirements as well as the Three Arch Bay architectural guidelines. The exhibit shows the footprint and cross section of the existing structure (in RED) as well as the identical footprint rotated and moved to comply with the Coastal Commission's definition of "bluff top setback" (shown in BLUE). I have provided a letter from Bob Lawson, the project structural engineer, outlining the concerns of demolition and the necessity of removal of the existing foundation system if the project direction were to have suggested removal of the existing structure.

After finalizing the decision that the demolition and reconstruction would create a significant negative impact, the project improvements were designed to remodel the existing residence within the existing structural footprint and building envelope. The primary demolition will consist of exterior non-bearing wall replacement to provide for new, energy efficient glazing with a low e tint. The existing structural foundation, lower level and upper level floor framing systems will remain. The roof framing will be removed and replaced to provide for a lower roof pitch and removal of several elements which are currently higher than the allowable height limit.

In conclusion, the suggested project improvements which are necessary to bring the 1969 structure into compliance with modern day building codes and energy compliance were designed to minimize the impact on the existing bluff top. The existing foundation system has been reviewed extensively by the project structural engineer and is in great condition and therefore will require no additional reinforcement or revisions. The existing structural system including bearing walls and floor framing members are being maintained and the existing concrete roof tiles are being replaced with a light weight metal roof membrane which will reduce the existing building load on the existing foundation system.

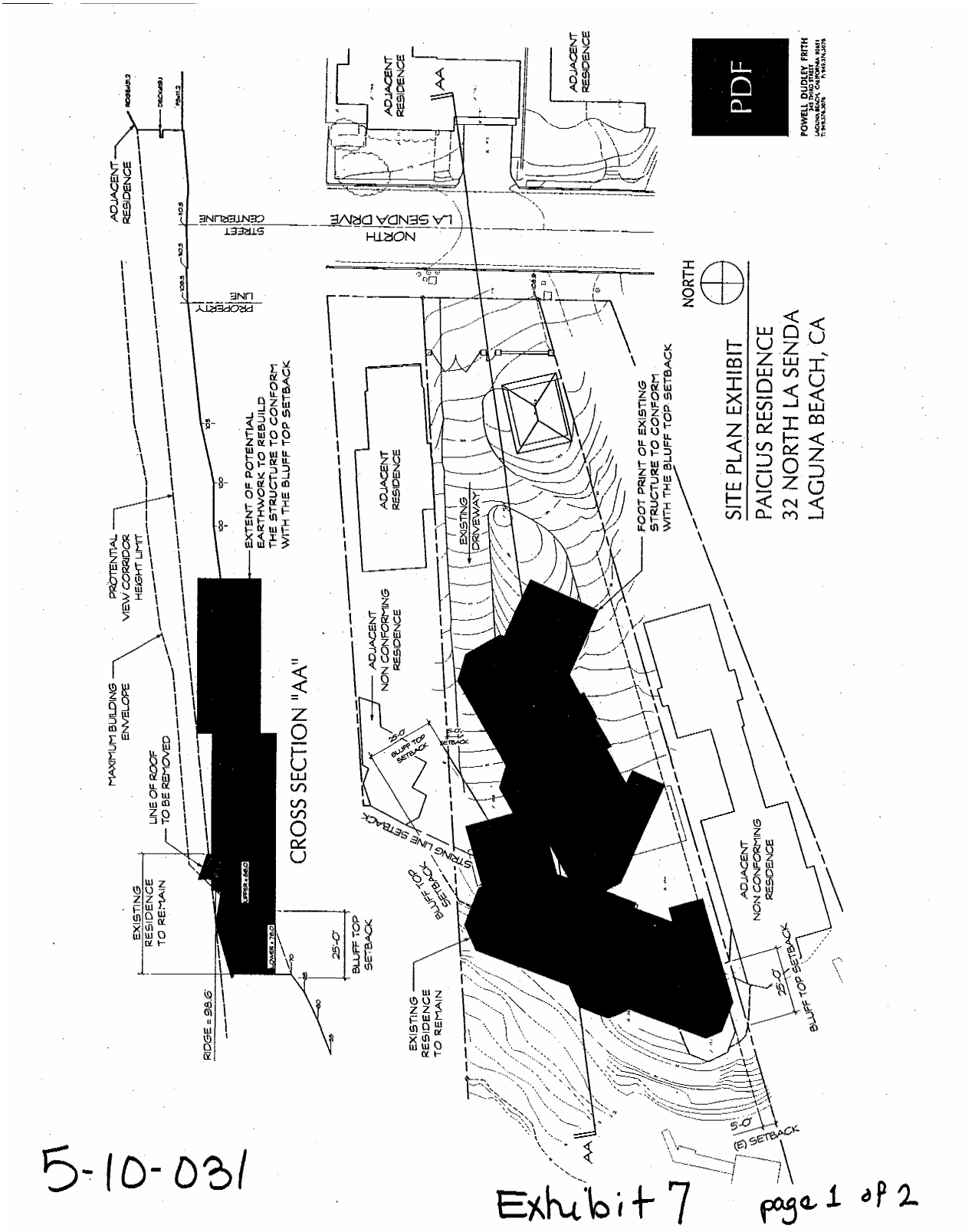
It is our understanding that the best proposal for this project would be to remodel the existing structure based on the fact that demolition and reconstruction would present a significant impact on the existing ocean front site and slope. Both governing boards agreed with the project direction and provided public testimony validating this project direction. We look forward to the Coastal Commission members finding the same result after careful review of the project details. Please feel free to contact me directly if you have questions regarding the attached exhibit, thank you for your consideration.

Sincerely,
Powell Dudley Frith Architects

David B. Frith
Architect

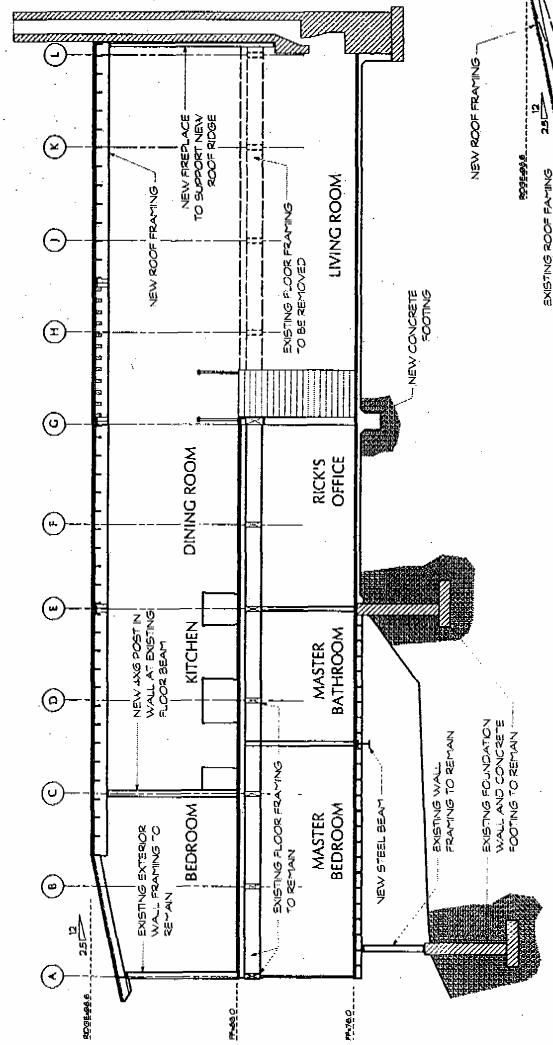
Attachments

Ex. 6
p. 2

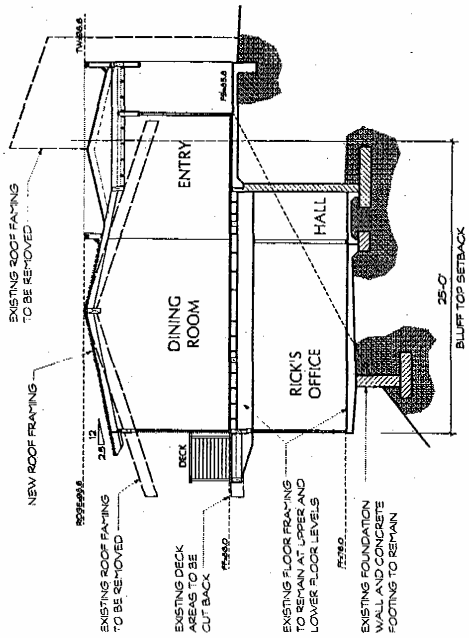


5-10-031

Exhibit 7 page 1 of 2



TRANSVERSE SECTION



PERPENDICULAR SECTION

STRUCTURAL FRAMING EXHIBIT

PAICIUS RESIDENCE
32 NORTH LA SENDA
LAGUNA BEACH, CA

PDF

POWELL DUDLEY RITH

Ex. 7 p. 2

LAWSON-BURKE STRUCTURAL ENGINEERS, LLC
312 OCEAN AVENUE, LAGUNA BEACH, CA 92651 (949) 494-0776

Meg Vaughn
California Coastal Commission
South Coast Area Office
200 Oceangate Suite 1000
Long Beach, CA 90802-4302

Re: Coastal Development Permit Application No. 5-10-031
32 North La Senda Dr., Laguna Beach, Orange County

Dear Ms. Vaughn,

It was a pleasure meeting you at the Paicius residence. Your comments regarding the development of the site for a single-family residence were very insightful. I spent a significant amount of time reviewing the direction that you felt would be appropriate for this particular property based upon the guidelines that Coastal Commission has presented in the past. Of particular interest was the fact that it would be more appropriate to have the residence constructed approximately 50 to 60 feet behind current bluff edge as we have determined it to exist.

Should a new residence be constructed in that area, it means that the residence as it currently exists would be demolished. The demolition will result in either of two scenarios:

1. The existing foundations are to be left intact in their present location. The result would be that rainfall and/or any other type of moisture would be retained in ponded areas within and behind the existing foundations. This ponded water will saturate the subsurface soils behind the current bluff. This saturation will create degradation of the existing bluff materials. The imminent failure of the bluff top is the only foreseeable result.
2. The existing foundations are removed as part of the demolition process. The resulting excavations would be filled with suitable soils to create a sloping surface towards the bluff. These soils would be subjected to rainfall and irrigation. They would become saturated because the bluff materials are currently impervious to moisture penetration. This saturation of the new soils will definitely create degradation of the existing bluff materials. The imminent failure of the bluff top is the only foreseeable result.

In both cases, the removal of the existing residence will result in a failure of the bluff. It is my understanding that the Coastal Commission was created to preserve the bluff face in its current condition if at all possible. Based upon my experience, just the opposite will have occurred. Please feel free to present my professional opinions as a part of your report. Should you have questions concerning the materials I have presented or wish amplification on either issue, please feel free to call.

Very truly yours,

Robert Lawson, S1343.
Lawson-Burke Structural Engineers

5-10-031

Exhibit 8
page 1 of 1

Gapp Construction, Inc.

General Contractor Lic. #727626

September 10, 2010

California Coastal Commission
Attention: Ms. Meg Vaughn
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

RE: Coastal Development Permit Application No. 5-10-031 (Paicius)
32 North La Senda Dr., Laguna Beach, Orange County

Dear Ms Vaughn:

I am a general contractor working primarily in the beach communities of Orange County specializing in complex hillside construction and remodeling. Recently, my firm has completed numerous residential projects in the Three Arch Bay community including an extensive remodel at 36 North La Senda; the adjacent property directly to the North of the Paicius project. I met with you the week of June 8th on site during your site evaluation with the Architect, Structural Engineer, and geologist.

It was requested of my firm to perform an extensive review of the existing building structure for the above referenced project. The purpose of the investigation was to not only check the accuracy of the existing "as built" structural drawings which were generated from previous construction, but to determine the condition of the building structure itself and aid the structural engineer in completing accurate structural drawings for the proposed remodel project.

My investigation techniques include detailed exploratory work including potholing, removal of existing plaster, drywall, flooring, subflooring, etc. necessary to perform a complete and accurate analysis. Due to the complexity of the project and requirements of the City of Laguna Beach, The Architect has generated an extremely detailed and accurate demolition plan allowing me to focus my observations on the existing structure to remain.

My analysis of the existing structure was completed and had the following findings and recommendations:

Findings:
The existing structure consists of a two story, single-family dwelling built with a bonus room above the garage. The exterior of the house consists of plaster siding, single pane windows and a concrete composite roof tile. The main infrastructure of the residence consists of a mixture of slab on grade and raised foundation on the first floor and wood frame construction on second floor and

P.O. Box 9411 • Laguna Beach • CA • 92652 • Ph: 949.228-4277 • Fax: 949.715.9963
E-mail: Malcolm@gappconstructioninc.com

5-10-031 Exhibit 9
page 1 of 2

roof structure. The second floor consists of large heavy timber structural members running East to West providing structural support for the cantilevered decks on the West side of the residence.

The existing structural concrete footings, retaining walls, slab on grade and wood framing are consistent with that shown on the "As Built" drawings and are found to be in excellent condition. There were no signs of mold, water, or termite damage to the existing structure therfore will not require replacement.

Please note that there has been no destructive testing performed during this investigation. This report may not be interpreted as a guarantee or warranty of the performance of the structure under any future adverse circumstances or events. There is no warranty, expressed and/or implied.

The opinions expressed in this report are based on professional experience with similar construction and the limitations of access and exposure at the time of inspection.

Please do not hesitate to contact me should you have any questions.

Best regards,

Malcolm Gapp

Gapp Construction, Inc.
General Contractor Lic. #717636

Ex. 9
p. 2

Past Permits with Bluff Setback Requirements on North La Senda Drive Three Arch Bay

Street #	cdp #	Applicant	Date of CCC Action
88	5-02-345	Markland	8/7/03
78-80	5-00-223	Smith	11/14/00
74	5-08-008	Desai	4/10/08
68	5-02-007	Darras	8/6/02
58	5-07-163	Hammond	1/10/08
52	5-97-121	Samuelian	8/12/97
50	5-06-258	Stanton	4/11/07
36	5-06-165	Hibbard	9/13/06
32	5-10-031	Paicius	subject site

5-10-031 (Paicius)

Exhibit 10

June 21, 2010

California Coastal Commission
Attention: Ms. Meg Vaughn
South Coast Area Office
200 Oceangate Suite 1000
Long Beach, CA 90802-4302

RE: Coastal Development Permit Application No. 5-10-031 (Paicius)
32 North La Senda Dr., Laguna Beach, Orange County

Dear Meg,

It was great meeting you last week you and your agency have a great deal of ground to cover!

As I mentioned, we are anxious to see the final step in the approval process completed as quickly as possible. My initial concern was the condition of the existing home and although the architect and engineer have reassured us that the structure is in good condition, the home is in serious need of cosmetic deferred maintenance items.

However after walking the property with the Engineer, you and the staff GeoEngineer, I would like to reinforce the point that Dave Frith, the project architect, made at the site meeting. It is critical that the coastal commission takes into account the catastrophic impact on the land if the recommendation is to request the Paicius project be moved from their existing location.

I am not an expert, but in accordance with the goal of the Coastal Commission:

"The Coastal Commission, in partnership with coastal cities to ..was established to .....Protect, conserve, restore, and enhance environmental and human-based resources of the California coast and ocean for environmentally sustainable and prudent use by current and future generations."

It seems that the logical way to protect and enhance would be to allow the structure to remain and to cosmetically remedy what time has taken away. I encourage the staff to seriously consider the devastation to the property if the structure was to be moved. The scaring left by the old structure and the foundations, the necessity of a new drainage system that would need to be dug underground into the bluff top would be unforgivable.

5-10-031

Exhibit 11
page 1 of 2

I realize the Coast Commission has a grave responsibility to work with pre-existing situations as this is and protect the California Coast in the most pristine way possible. I believe that to move this structure will be in direct opposition to the goals of what the Coast Commission is responsible for. I encourage you to recommend that this project be approved as presented. I believe this would be the least invasive approach and will actually support your mission.

Please feel free to call me if you would like to discuss these items in greater detail. I realize the staff and the board has a great responsibility to the community and the state of California. I have lived on the coast of California the majority of my life and I have seen misuse and mistreatment of the coastal shores, I believe approval of this project is the best solution and will enhance the natural beauty of this area.

Respectfully Submitted,

Marhnelle Hibbard
36 North La Senda Drive
Laguna Beach, CA 92651
949 689-8842
Marhnelle@dialexis.com

Ex. 11
p. 2

RECEIVED
South Coast Region

OCT 1 2 2010

CALIFORNIA
COASTAL COMMISSION

FORM FOR DISCLOSURE OF EX-PARTE COMMUNICATIONS

Name or description of the project: Agenda Item **W.17.a. Application No. 5-10-31 (Paicius, Laguna Beach)**

Time/Date of communication: October 7, 2010, 4:00 pm

Location of communication: Oceanside City Hall

Person(s) initiating communication: Dave Grubb, speaking for Penny Elia.

Person(s) receiving communication: Esther Sanchez

Type of communication: Meeting

• Support staff's recommendation for denial

• This project is an area of deferred certification so the standard of review is the Coastal Act. Section 30253 of the Coastal Act requires that hazards be minimized and that new development that would require shoreline or bluff protection be prohibited. Therefore, the project as proposed must be denied.

• The Commission has been consistent in imposing a bluff top setback in the project vicinity and this project should not be any different than the other seven noted in the staff report. Again, these past projects set precedent therefore recommendation for denial should be upheld.

• Section 30251 of the Coastal Act requires that scenic and visual qualities of coastal areas be protected. Setting development further back from the edge of the coastal bluff decreases the project's visibility from public areas.

• This area of the Laguna Beach coastline has been recently studied and surveyed for Black Oystercatcher breeding and nesting. The ongoing coastal bluff development in this area combined with pre-Coastal Act accessory development (such as stairway down the bluff, a gazebo on the bluff, and a concrete saltwater pool at the seaward edge of the rock terrace at the base of the bluff) are believed to be heavily impacting this special indicator species.

Date: October 7, 2010

Esther Sanchez

5-10-031

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page 1 of 1

EXHIBIT#13
Page 1 of 1
Application Number:
5 - 1 0 - 0 3 1
California Coastal Commission