

## CALIFORNIA COASTAL COMMISSION

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

Filed: November 15, 1995  
49th Day: January 3, 1996  
180th Day: May 13, 1996  
Staff: John T. Auyong *John*  
Staff Report: January 25, 1996  
Hearing Date: February 7-9, 1996  
Commission Action:

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 5-81-486A

APPLICANT: Morris Skenderian

PROJECT LOCATION: 731 Bayview and 774 Canyon View Drive, City of Laguna Beach, County of Orange

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Land division of a parcel with an existing owner-occupied single-family residence into two lots; construction of a single-family dwelling on one of the new lots to be created.

DESCRIPTION OF AMENDMENT: Request to delete Special Condition No. 1 of coastal development permit 5-81-486 requiring the recordation of an assumption-of-risk deed restriction. All other special and standard conditions would remain in effect.

SUBSTANTIVE FILE DOCUMENTS:

1. Coastal Development Permit 5-81-486
2. Engineering Geologic Investigation, Parcels 2 & 3 of Lot 6, Tract 1066, Laguna Beach, California; report by Fred Pratley, Geologist, dated November 14, 1979
3. Geotechnical Update, for Parcels 2 & 3 of Lot 6, Tract 1066, Laguna Beach, California; letter by Coastal Geotechnical (signed by Fred Pratley), dated November 28, 1994.
4. Geotechnical Investigation prepared by Petra Geotechnical (Job No. 516-94) for Mr. Doug Anderson dated February 28, 1995
5. Administrative Permit 5-88-898 (Rest)
6. City of Laguna Beach certified Local Coastal Program

PROCEDURAL NOTE: The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) the proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending deletion of the assumption-of-risk deed restriction. The staff recommends that the Commission determine that the proposed development with the proposed amendment, subject to the conditions below, is consistent with the requirements of the certified local coastal program.

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I. STAFF RECOMMENDATION

Staff recommends that the Commission adopt the following resolution:

Approval with Conditions

The Commission hereby grants, subject to the conditions below, an amendment to the permit on the grounds that the proposed development with the proposed amendment, as conditioned, will be in conformity with the certified local coastal program, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. CONDITIONS

A. Special Conditions

1. Special Condition No. 1 regarding a deed restriction shall be deleted.
2. Special Condition No. 2 regarding the submission of plans to the Executive Director incorporating the geologist's recommendations shall remain in effect.

B. Standard Conditions

All previously approved and imposed standard conditions remain in effect for coastal development permit 5-81-486.

III. FINDINGS AND DECLARATIONS

A. Proposed Amendment / Materiality

The applicant is proposing to amend permit 5-81-486 to delete the special condition of approval for the requirement of an assumption-of-risk deed restriction. The Commission approved permit 5-81-486 on December 18, 1981 with two special conditions; one for an assumption of risk, and one for the submittal of plans incorporating the recommendations of the geotechnical consultant. The second special condition regarding the submission of plans to the Executive Director incorporating the geologist's recommendations would not be affected by the proposed amendment and would remain in effect.

The approved project involved the division of a hillside parcel of land located inland about one mile from the coast within the City of Laguna Beach, with an existing owner-occupied single-family residence on a portion of the parcel, into two lots. The existing house would be on one of the newly created lots. A new house was proposed for the other created lot. The parcel map for the approved subdivision was recorded on January 12, 1982. The assumption-of-risk deed restriction was recorded on May 11, 1982. However, the approved house has not yet been built.

The Executive Director determines that the proposed amendment request is a material amendment because the proposed amendment would affect conditions necessary for the protection of a coastal resource. Specifically, the assumption-of-risk deed restriction was required to conform the approved project to the hazards policies of Chapter 3 of the Coastal Act. The Executive Director accepted the proposed amendment request because the applicant has provided updated site-specific geology reports.

#### B. Standard of Review

The Commission is acting on this permit amendment since the Commission retains jurisdiction over amendments to Commission-issued permits after certification of a local coastal program ("LCP"). Pursuant to Sections 30604(b) and 30604(c) of the Coastal Act, the standard of review for such post-certification Commission actions is conformity with the certified LCP. Additionally, if a development is located between the nearest public road and the shoreline, then the public access and recreation policies of Chapter 3 of the Coastal Act apply in addition to the LCP. The subject site of the proposed amendment is not located between the nearest public road and the sea. Consequently, the certified LCP is the sole standard of review.

#### C. Hazards

City of Laguna Beach Open Space/Conservation Element Land Use Plan policy 10-E states:

Development in the areas designated "Hillside Management/Conservation" on the Land Use Plan Map or within potential geologic hazard areas identified on the Geological Conditions Maps of the Open Space/Conservation Element shall not be permitted unless a comprehensive geological and soils report is prepared pursuant to Title 22 of the City's Municipal Code, and adequate mitigation measures have been approved and implemented by the City's geologist. For projects located in areas subject to hazards as identified on the Geologic Conditions Map or subject to erosion, landslide or mudslide, earthquake, flooding or wave damage hazards confirmed by a geologic assessment, as a condition of approval or new development a waiver of liability shall be required through a deed restriction. [emphasis added]

The subject site is located on a hillside near the central portion of Laguna Beach. The subject site is not a coastal blufftop lot. The Commission reviewed the application for permit 5-81-486 for consistency with Section 30253 of the Coastal Act, given the proximity of the site to landslide areas.

In approving permit 5-81-486, the Commission conditioned the permit to require the applicant to assume all liability from damage resulting from geologic hazards, including landslides specifically, which existed in the area though not on the subject site. Further, the Commission conditioned the development for the submission of plans incorporating the recommendations of the geotechnical consultant into the final building plans.

The Commission found the deed restriction to be necessary because the nearby hillsides and slopes in the immediate vicinity were characterized by overburdened slides. The Commission required the special condition for the submission of plans incorporating the geologist's recommendations ". . . to minimize the possibility of such an occurrence due to the development proposed in this project . . ." and provide a degree of assurance that the approved development would not contribute to nearby slope instability. Thus, in its approval of permit 5-81-486, the Commission found the project as conditioned to be consistent with Section 30253 of the Coastal Act regarding hazards.

The City's Certified Land Use Plan ("LUP") contains a Geologic Conditions map in the Open Space/Conservation Element which generally indicates areas of geologic instability and hazards throughout the City. The subject site is not located in one of these areas. The LUP Geological Conditions map, however, indicates in a note that the map is for general planning purposes only, and the "suitability of specific uses for a specific site must be confirmed." Several site-specific geotechnical investigations were performed for the subject site.

An engineering geologic investigation for Parcels 2 & 3 of Lot 6, Tract 1066, Laguna Beach was prepared by Fred Pratley, Geologist, dated November 14, 1979 was submitted for application 5-81-486. The investigation of the subject site uncovered shallow angle faults, but did not uncover high levels of groundwater or moisture content. The report concluded that the subject site is presumed stable, and no obvious instability of earth materials was observed in the parcel areas. The report was silent on whether the faults uncovered on-site are active or inactive.

In a geotechnical update for Parcels 2 & 3 of Lot 6, Tract 1066, Laguna Beach prepared by Coastal Geotechnical (signed by Fred Pratley), dated November 28, 1994 indicated that the November 14, 1979 report remained valid. The November 28, 1994 investigations did not discover slope instability, such as the existence of an ancient, deep, bedrock slide that would impact the properties in question.

The geotechnical investigation report prepared by Petra Geotechnical (Job No. 516-94) for Mr. Doug Anderson dated February 28, 1995 provides the most recent information for the amendment application regarding the stability of the subject site. The report did not detect evidence of landsliding on-site, nor had any landslides been mapped on or adjacent to the site. The report described the on-site fault discovered in the 1979 investigation as being inactive. Both the report and the 1979 investigation considered the Temple Hills fault zone 600 feet to the north of the subject site to be inactive also.

In addition, the report indicated that the subject site is not located within an Earthquake Fault Zone as mapped and defined by the California Alquist-Priolo Earthquake Fault Zone Act.

The applicant is proposing to delete an assumption-of-risk deed restriction which was required to be recorded as a special condition of approval of coastal development permit 5-81-486 (see Exhibit B). Policy 10-E of the Laguna Beach LUP requires an assumption-of-risk deed restriction for new development which is located in a hazardous area as mapped on the LUP Geologic Conditions map or in a hazardous area as confirmed by a geologic assessment.

The subject site is not located in an area mapped on the LUP Geologic Conditions map as one of the following categories of identified hazards; a slide prone formation, a landslide area, an area of moderate liquefaction potential, an area of low liquefaction potential, a soft coastal headland, a potentially active fault, nor an inactive fault. Several site-specific geotechnical investigations have also determined that there are no landslides on or adjacent to the site, and the subject site is not hazardous for development.

Therefore, the Commission finds that Special Condition No. 1 for an assumption-of-risk deed restriction is not necessary to conform the project to the hazards policies of the certified LUP. The assumption-of-risk which was recorded pursuant to Special Condition No. 1 may be rescinded. Thus, as conditioned, the Commission finds that the proposed development with the proposed amendment would be consistent with the hazards policies of the certified LUP.

#### D. Local Coastal Program

Section 30604(b) of the Coastal Act provides that after certification of a local coastal program ("LCP"), a coastal development permit shall be issued if the issuing agency finds that the proposed development is in conformity with the certified LCP. The Commission is acting on this permit amendment since the Commission retains jurisdiction, after LCP certification, over an amendment to a Commission-issued permit.

The City of Laguna Beach LCP was effectively certified on January 25, 1993. The Commission finds that the proposed amendment to the permit is consistent with the hazards policies and provisions of the certified LCP.

#### E. California Environmental Quality Act

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 with the proposed amendment has been conditioned in order to be found consistent with the hazards policies of the certified City of Laguna Beach local coastal program. Previously imposed mitigation measures which remain in effect with the amendment as proposed--including the submission of final building plans incorporating the recommendation of the geotechnical consultant--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 CEQA.

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5-81-486A  
COASTAL COMMISSION

VICINITY MAP  
EXHIBIT # A  
PAGE 1 OF 1

California Coastal Commission  
SOUTH COAST DISTRICT  
666 E. Ocean Blvd., Suite 3107  
Long Beach, CA 90801  
(213) 590-5071

COASTAL DEVELOPMENT PERMIT

NO. 5-81-486

Page 1 of 2



On December 18, 1981, The California Coastal Commission granted to  
Melissa BLake 731 Bayview Place, Laguna Beach, CA 92651

this permit for the development described below, subject to the attached  
Standard and Special conditions.

Land division of a parcel with an existing owner-occupied single-  
family residence into two lots; construction of a single-family  
dwelling on the lot to be created.

SITE: 774 Canyon View Drive, Laguna Beach, CA

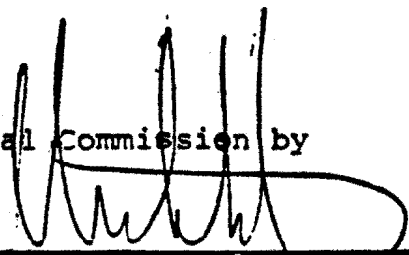
5-81-486A  
file copy

5-81-486A  
COASTAL COMMISSION  
original permit

EXHIBIT # B  
PAGE 1 OF 2

Issued on behalf of the California Coastal Commission by

**IMPORTANT: THIS PERMIT IS NOT VALID  
UNLESS AND UNTIL A COPY OF THE PERMIT  
WITH THE SIGNED ACKNOWLEDGEMENT HAS  
BEEN RETURNED TO THE COMMISSION OFFICE.**

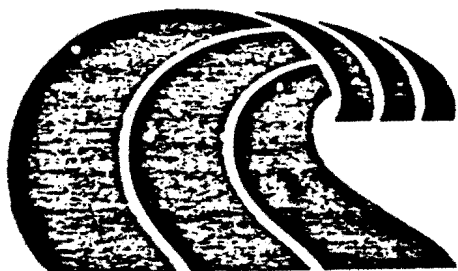
  
MICHAEL L. FISCHER  
Executive Director  
and

Peter F. Xander PX/rm

#### ACKNOWLEDGEMENT

The undersigned permittee acknowledges  
receipt of this permit and agrees to abide  
by all terms and conditions thereof.

June 14, 1982 Melissa J. Blake  
Date Signature of Permittee





Coastal Development Permit No. 5-81-486  
Page 2

5-81-486A  
COASTAL COMMISSION  
original permit

EXHIBIT # B  
PAGE 2 OF 2

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgement. The permit is not valid and construction 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 construction has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Construction 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 construction 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 development during construction, 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.

SPECIAL CONDITIONS:

1. Prior to the issuance of permit, applicants shall submit to the Executive Director a deed restriction for recording free of prior liens except for tax liens, that bind the applicant and any successors in interest. The form and content of the deed restriction shall be subject to the review and approval of the Executive Director. The deed restriction shall provide (a) that the applicants understand that the site was and may be subject to extraordinary hazard from erosion, landslide or mudslide, and the applicants assume the liability from those hazards; (b) the applicants unconditionally waive any claim of liability on the part of the Commission or any other public agency for any damage from such hazard; and (c) the applicants understand construction in the face of these possible known hazards may make them ineligible for public disaster funds or loans for repair, replacement, or rehabilitation of the property in the event of erosion, landslide or mudslide; and
2. Prior to the issuance of the permit, the applicant shall submit to the Executive Director the following: (1) Final building plans incorporating the recommendations made in the geology report; (2) A statement from a registered geologist/engineer verifying that the plans conform to the recommendations made in the geology report.

State of California Edmund G. Brown Jr., Governor

California Coastal Commission  
SOUTH COAST DISTRICT OFFICE  
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Filing Date 11/20/81  
49th Day 1/8/82  
Staff Report 12/2/81 rm  
Hearing Date 12/18/81  
Staff Analyst Pete Xander

PFX

5-81-486A

STAFF REPORT: CONSENT CALENDAR

PROJECT DESCRIPTION

APPLICANT: Melissa Blake

APPLICATION NO.: 5-81-486

PROJECT LOCATION: 774 Canyon View Drive, CA Laguna Beach

PROJECT DESCRIPTION: Land division of a parcel with an existing owner-occupied single-family residence into two lots; construction of a single-family dwelling on the lot to be created.

LOT AREA 15,038 sq. ft. ZONING R-1

BLDG. COVERAGE 2016 sq. ft. PLAN DESIGNATION low dens.res.

PAVEMENT COVERAGE 1190 sq. ft. G.P., LUP draft, LUP adopt, LUP cert., LCP  
PROJECT DENSITY 3.5 du/ac

LANDSCAPE COVERAGE 6200 sq. ft. HEIGHT ABV. FIN. GRADE 30'

LOCAL APPROVALS RECEIVED: Approval in Concept, City of Laguna Beach

COASTAL ISSUES: Geologic Instability

SUBSTANTIVE FILE DOCUMENTS:

SUMMARY

The staff is recommending approval of the project with conditions addressing the geologic instability of the site.

5-81-486A  
COASTAL COMMISSION  
original report

STAFF RECOMMENDATION:

I. Approval With Conditions

EXHIBIT # C  
PAGE 1 OF 5

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that, as conditioned, 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, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

STANDARDS CONDITIONS

1. Notice of Receipt and Acknowledgement. The permit is not valid and construction 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 construction has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Construction 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 construction 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 development during construction, 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.

II. SPECIAL CONDITIONS

1. Prior to the issuance of permit, applicants shall submit to the Executive Director a deed restriction for recording free of prior liens except for tax liens, that bind the applicant and any successors in interest. The form and content of the deed restriction shall be subject to the review and approval of the Executive Director. The deed restriction shall provide (a) that the applicants understand that the site was and may be subject to extraordinary hazard from erosion, landslide or mudslide, and the applicants assume the liability from those hazards; (b) the applicants unconditionally waive any claim of liability on the part of the Commission or any other public agency for any damage from such hazards; and (c) the applicants understand construction in the face of the these possible known hazards may make them ineligible for public disaster funds or loans for repair, replacement, or rehabilitation of the property in the event of erosion, landslide or mudslide;

5-81-486A Exhibit C, p 2 of 5

2. Prior to the issuance of permit, the applicant shall submit to the Executive Director the following: (1) Final building plans incorporating the recommendations made in the geology report; (2) A statement from a registered geologist/engineer verifying that the plans conform to the recommendations made in the geology report.

### III. FINDINGS

#### A. Project Description & History

The application is for a land division of a parcel with an existing owner-occupied single-family dwelling into two lots and the construction of a single-family dwelling on the lot to be created.

#### B. Geologic Instability

Section 30253 of the Coastal Act requires, in part, that:

New development shall:

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

A significant characteristic of Laguna Beach is the geologic instability of the area. Numerous ancient landslides are present, and occasional noteworthy events, such as the destructive Bluebird Canyon landslide, serve as a warning to other planned developments and necessitate close investigations of site characteristics in order to assure geologic stability.

The conclusions reached by the consulting engineering geologist state, in part:

"The underlying bedrock materials appear to have adequate strengths to support the proposed two-story residential construction. Exposure of relatively unweathered bedrock is needed in order to assure good support and stability on the moderately sloped lots. This surface is generally not found directly at the soil/bedrock interface as the upper 12 to 18 inches of rock is usually weathered to soil-like materials and not suitable for hillside support."

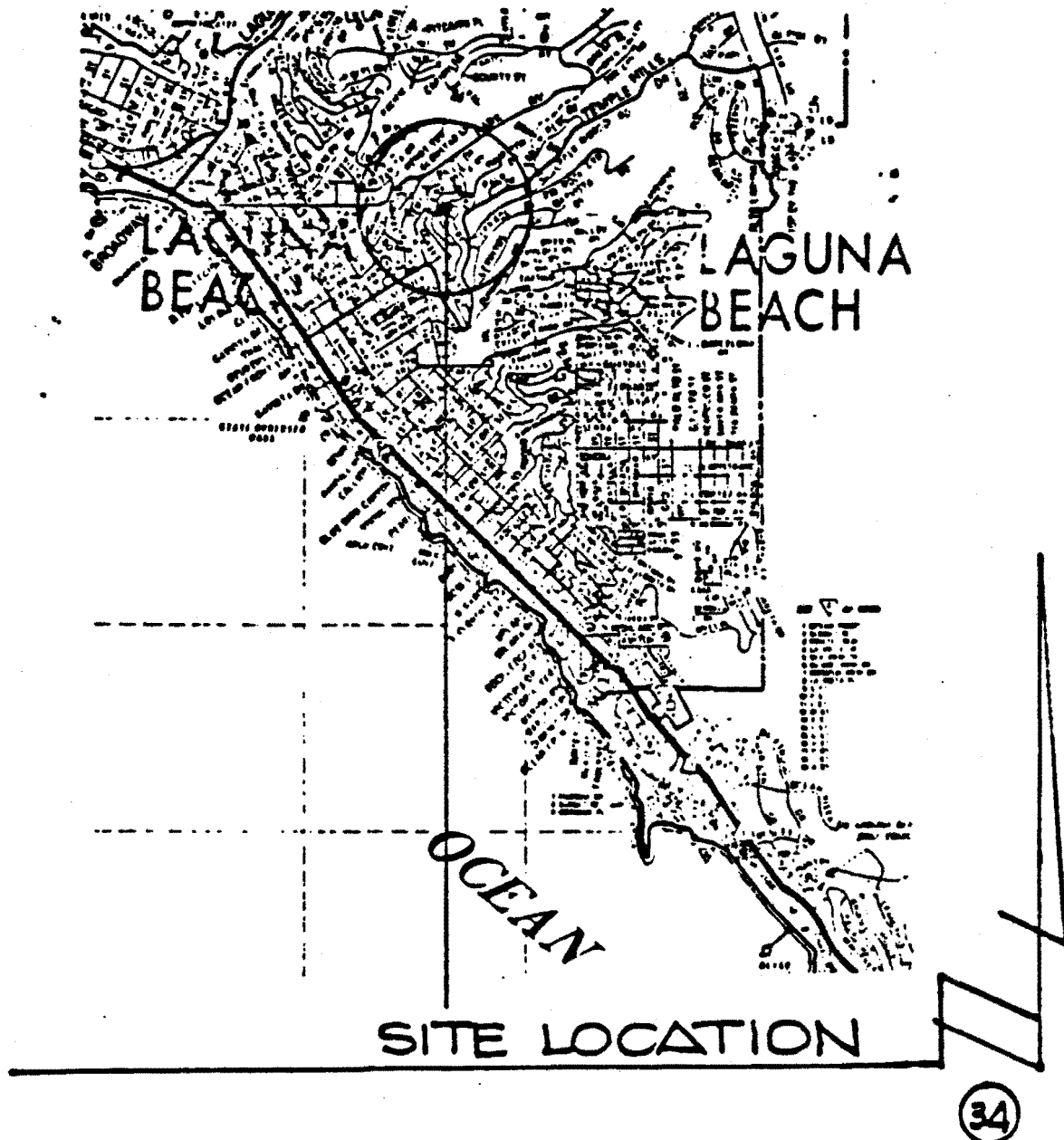
Although no evidence of ancient or recent landslides exists on the project site, the hillside and canyon slopes in the immediate vicinity are characterized by overburden slides. In order to minimize the possibility of such an occurrence due to the development proposed in this project, the foundation design

5-81-486A, Exhibit C, p 3 of 5

recommendations and drainage controls contained in the engineering geologic investigation are necessary to reduce on-site geologic instability, consistent with the policy language in Section 30253 (1) (2) to assure that the development neither create nor contribute significantly to erosion or geologic instability. Additionally, a condition requires that the applicant assume all liability for any damage from any such hazards, consistent with the aforementioned Coastal Act policy group.

5-81-486A  
COASTAL COMMISSION  
original report

EXHIBIT # C  
PAGE 4 OF 5



5-81-486A  
COASTAL COMMISSION  
original report

EXHIBIT # C  
PAGE 5 OF 5

EXHIBIT NO. 1  
APPLICATION NO.  
5-81-486  
LOCATION MAP