

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
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Filed: 1/23/96
49th Day: 3/12/96
180th Day: 7/21/96
Staff: MV-LB
Staff Report: 1/24/96
Hearing Date:
Commission Action:

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 5-88-666 A3

APPLICANT: Jack and Mary Jane Lillard

PROJECT LOCATION: 84 So. La Senda Drive, Laguna Beach, Orange County

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED:

Construction of a swimming pool, spa, retaining walls, sidewalks, and pool deck in the back yard of an existing single family residence on a bluff top lot.

Amendment No. 1: Remodel of existing single family residence without changing the exterior walls.

Amendment No. 2: Remodel rear section of roof to maximum height of 21 feet.

DESCRIPTION OF AMENDMENT:

Construction of a 47 foot portion of an approximately 50 foot long, six foot high bluff retaining wall atop four, 30-inch diameter caissons, sunk a minimum of 7 feet below grade. This amendment encompasses only development located on the applicant's property.

LOCAL APPROVALS RECEIVED:

Approval in Concept, City of Laguna Beach.

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.

The Executive Director has determined that the proposed amendment is a material change to the previously approved project.

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:

The staff recommends that the Commission determine that the proposed development with the proposed amendment, as conditioned, is consistent with the requirements of the Coastal Act.

STAFF RECOMMENDATION

I. APPROVAL

The Commission hereby grants an amendment to the permit, subject to the conditions below, for the proposed development on the grounds that the development, as conditioned, will be in conformity with the provisions of Chapter 3 of the Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies 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.

II. SPECIAL CONDITIONS:

Note: All previous conditions remain effective.

1. Revised Plans

Prior to issuance of the coastal development permit, and within 90 days of the date of Commission action on this amendment, the applicant shall submit, for the review and approval of the Executive Director, revised plans showing a redesigned wall and return walls. In the revised plans the entire wall and the return wall shall be located solely upon the applicant's property. The revised plans shall be reviewed, approved, and signed by the geologic consultant, indicating that recommendations made by the geologic consultant have been incorporated into the design of the project.

The applicant shall agree to complete construction within 90 days of the date of approval of the revised plans by the Executive Director. Development shall occur consistent with the approved plans.

III. FINDINGS AND DECLARATIONS

The Commission finds and declares:

A. Amendment Description

The applicant proposes to construct a 47 foot portion of an approximately 50 foot long, six foot high bluff retaining wall atop four, 30-inch diameter

caissons, sunk a minimum of 7 feet below grade (6 feet into competent bedrock). The subject site is an ocean front bluff top lot. The bluff is a natural slope that rises approximately 100 feet from the beach below. The overall bluff gradient is 1 1/2 to 1 (horizontal to vertical). The retaining wall is proposed to be constructed between 75 to 85 feet above the beach below. This amendment encompasses only the portion of the project located on the applicant's property.

The wall is proposed to repair damage to the bluff that occurred as a result of heavy rains. The bluff failure occurred in the form of a typical surficial slump. The disturbed soil will be removed and replaced as compacted fill behind the proposed wall. The area involved is roughly 50 feet wide, 16 feet in height, and varies from 4 to 10 feet deep.

A single family residence, swimming pool and patio area exist on the site. The subject site is located in Three Arch Bay, a private, locked gate community in Laguna Beach. Three Arch Bay is one of the areas of deferred certification in the otherwise certified City of Laguna Beach.

B. Geologic Stability

Section 30253 of the Coastal Act states, in part:

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.

Due to the heavy rains of 1993, the bluff at the subject site failed. The failure occurred in the form of a slump on the upper third portion of the bluff. The retaining wall project is proposed to restore the stability of the bluff.

A Report on Slope Failure and Engineering Geologic/Soils Conditions was prepared by Ian S. Kennedy, a registered Engineering Geologist, dated February 1993 which states:

To prevent future sloughing and possible slumping of the sandy fill materials and the natural top of bluff in-place terrace soils a retaining wall with the appropriate drainage devices and the necessary grading is proposed. The retaining wall would be constructed to provide containment of the fill and natural soil materials between the toe [of slump] area and the top of the slope, and to form a level area or level areas for planting purposes. The wall would be constructed adjacent to the bluff alignment with its lower portion extending beneath the existing grade in order to secure a firm foundation support at depth.

Sub-drains would be provided behind the wall at the base of the slope, and surface runoff water would be collected and conducted to the beach below by a non-erosive drainage device. Also, all loose soil areas would be removed and replaced with a compacted fill.

The geology report further states that the retaining wall is necessary to prevent further destructive erosion on the bluff. Continued ground movement could sever the below-grade sewer line on the site, in addition to damaging the existing rear yard retaining wall, pool, and other improvements. The geology report states that if the sewer line is severed, spillage onto the beach and possibly the ocean could occur.

As originally proposed, the project included development that would extend onto the adjacent property. However, the neighbor has not given consent for such development on his property. The portion of the wall proposed on the adjacent property included a return wall which is necessary for the wall's stability and structural integrity. In addition, the wall will be back filled and the return wall is necessary to support the fill. However, the applicant has subsequently revised the project description to include development only on the applicant's property including on-site construction of the return wall. The geologic consultant has indicated that construction of the return wall on the subject site is feasible.

The geologic consultant has indicated that the design of the originally proposed retaining wall and caissons have incorporated the recommendations contained in the geology report. In addition, in a letter dated November 6, 1995, the structural engineering firm Edmund C. Foerstel & Associates, have approved the originally proposed retaining wall and caissons project (see exhibit E). Finally, the geologic consultant has stated that the proposed project will have no effect on natural shoreline processes (see exhibit F).

An assumption of risk deed restriction was recorded on the subject property as a condition of the original coastal development permit (5-88-666, Lillard). Therefore any future owners of the property will be made aware of the site's geologic condition.

The plans submitted with the application, however, do not reflect the revision made to the project description. Revised plans are necessary to reflect the project as currently proposed. The revised plans must be reviewed by the geologic consultant to insure that all recommendations made for the previously proposed project have been incorporated into the project as revised. As a condition of approval the applicant shall submit, for the review and approval of the Executive Director, revised plans indicating that all portions of the proposed project will be located solely on the applicant's property, including the necessary return wall. The revised plan must be reviewed, approved, and signed by the geologic consultant prior to submittal to the Executive Director. Therefore, as conditioned, the Commission finds that the proposed amendment is consistent with Section 30253 of the Coastal Act which requires that risks be minimized and geologic stability be assured.

C. Visual Impacts

Section 30251 of the Coastal Act requires that scenic and visual qualities of coastal areas be considered and protected as a resource of public importance.

A proposed retaining wall on a bluff above the beach raises the issue of adverse impacts to public views. In this case, the area around the wall will be planted with drought tolerant vegetation to screen it from view.

Further, the beach below the site is not accessible to the public. The subject site is located within a private locked gate residential community (Three Arch Bay). No vertical or lateral public access currently exists. Therefore, no existing public views will be impacted. However, should public access be acquired in the future, the drought tolerant vegetation will minimize adverse impacts to views from the beach.

Therefore, the Commission finds that the proposed project is consistent with Section 30251 of the Coastal Act which requires protection of public views.

D. Public Access & Recreation

Section 30210 of the Coastal Act states:

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

Section 30211 of the Coastal Act states:

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

Section 30212 of the Coastal Act states:

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

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

(2) adequate access exists nearby, or,

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

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

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

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

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

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

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

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

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

The subject site is located on an ocean front bluff top, between the first public road and the shoreline. Section 30212(a) states that public access from the nearest public roadway to the shoreline shall be provided in new development projects. The proposed development, construction of a bluff retaining wall and caissons, constitutes development under the Coastal Act and does not meet the requirements of any of the exceptions identified in Section 30212(b). However, the proposed project will not result in an intensification of use.

A public access dedication can be required pursuant to Section 30212 only if it can be demonstrated that the development, either individually or cumulatively, directly impacts physical public access, i.e. by increasing erosion or sand scouring; impacts historic public use; or impacts or precludes the use of Public Trust Lands. In this case, the project will not have any adverse impacts on natural shoreline processes. The proposed development will not occupy public trust lands. The proposed project will not create adverse impacts on public access or recreation.

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

E. Unpermitted Development

Although some development on the site may have taken place without a valid Coastal Development Permit, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to any violation of the Coastal Act that may have occurred. The Commission will act on this application without prejudice and will act on it as if no unpermitted development has previously occurred.

F. Local Coastal Program

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

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

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

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

G. 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 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, as conditioned, has been found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures including revision of the project to locate it solely on the applicant's property, incorporation of the geologist's recommendations into the design of the project, and the provision of vegetative screening will minimize all adverse impacts. 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, as conditioned, can be found consistent with the requirements of the Coastal Act to conform to CEQA.

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SEE MAP

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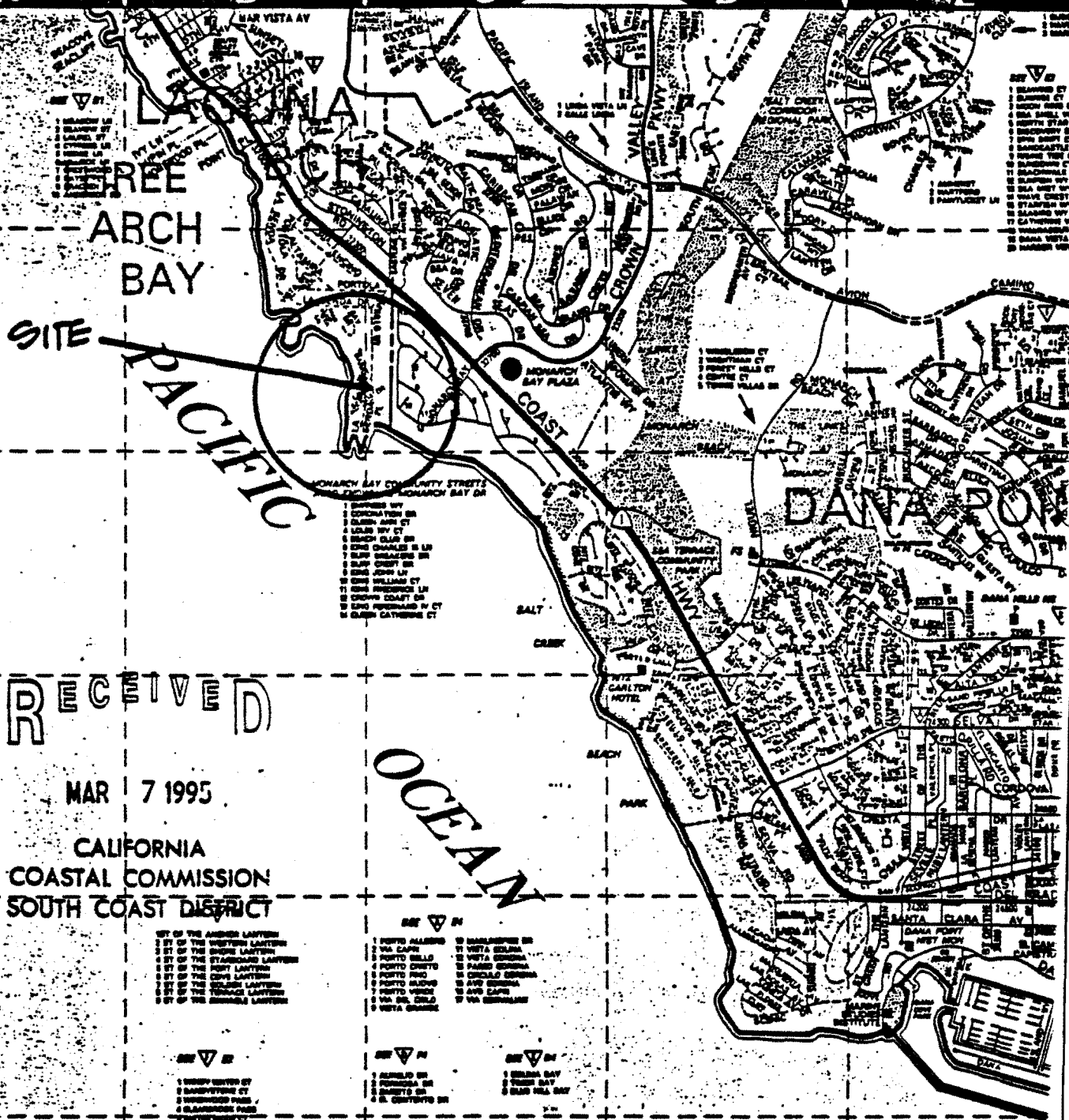
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SOUTH COAST DISTRICT

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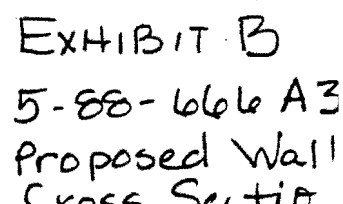
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DANA POINT
COASTAL COMMISSION

EXHIBIT A

5-88-666 A3

Vicinity Map



RECEIVED
DEC 20 1995
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COASTAL COMMISSION
Mr. [unclear]



EXHIBIT C
5-88-666 A3
Proposed Wall
Plan View

EF EDMUND C. FOERSTEL & ASSOCIATES STRUCTURAL ENGINEERING & DESIGN

13

TO: City of Laguna Beach
Building inspector / Official

11/6/95

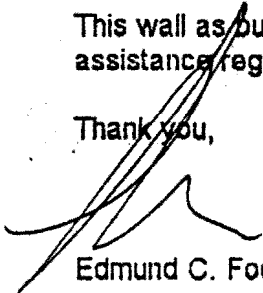
RE: Retaining wall at Lillard Residence
84 So. La Senda, L.B.

To whom it may concern,

This office has reviewed the plansheets, structural engineering and made an on site visit of the referenced retaining wall and all appears to be built according to plan.

This wall as built, meets with the approval of this office. If we may be of further assistance regarding this matter please let us know.

Thank you,



Edmund C. Foerstel

EXHIBIT E
5-88-666 A3

P.O.B. 253 SAN CLEMENTE, CA. 92672



January 19, 1996

California Coastal Commission (South Coast Area)
245 West Broadway, Suite 280
Long Beach, CA 90802-4416

Attention: Meg Vaughn

SUBJECT: Rear Yard Lower Slope Retaining Wall Problem, 84 South La Senda, Laguna Beach, California

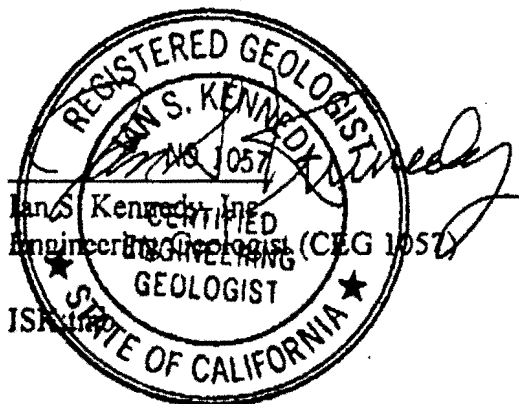
REFERENCE: Report on Slope Failure and Engineering Geologic/Soil Conditions, Rear Yard Area, 84 South La Senda, Laguna Beach, California, by Ian S. Kennedy, dated February 18, 1993

The rear yard retaining wall was constructed on the top of the bluff area to impede any renewed erosion, slumping, and landsliding. The retaining wall was anchored into the San Onofre Formation bedrock to the proper depths.

The impact of the subject retaining wall on the natural shoreline above and below is non-existent from the engineering point of view, as well as from the aesthetics situation of the bluff top area.

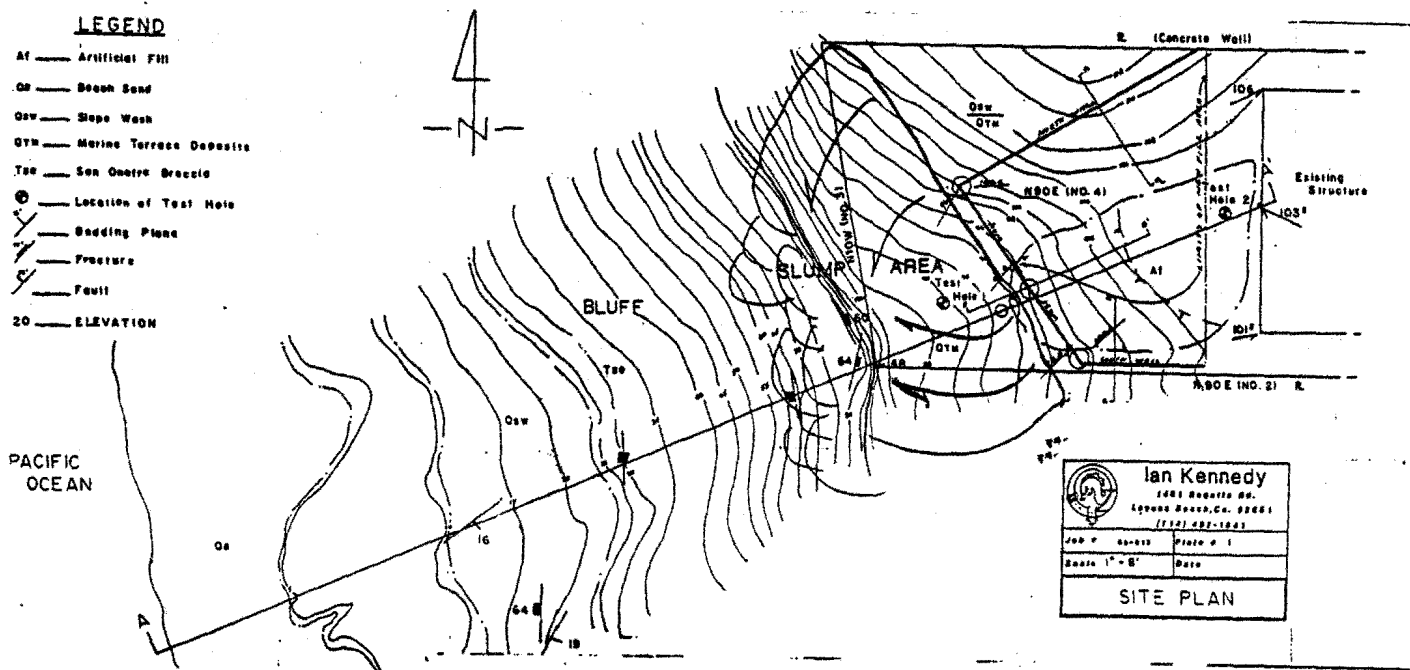
The retaining wall is now totally engulfed with the bougainvillea that was planted to cover the scarred face area of the bluff top.

If you have any questions regarding this letter, please feel free to call or correspond.

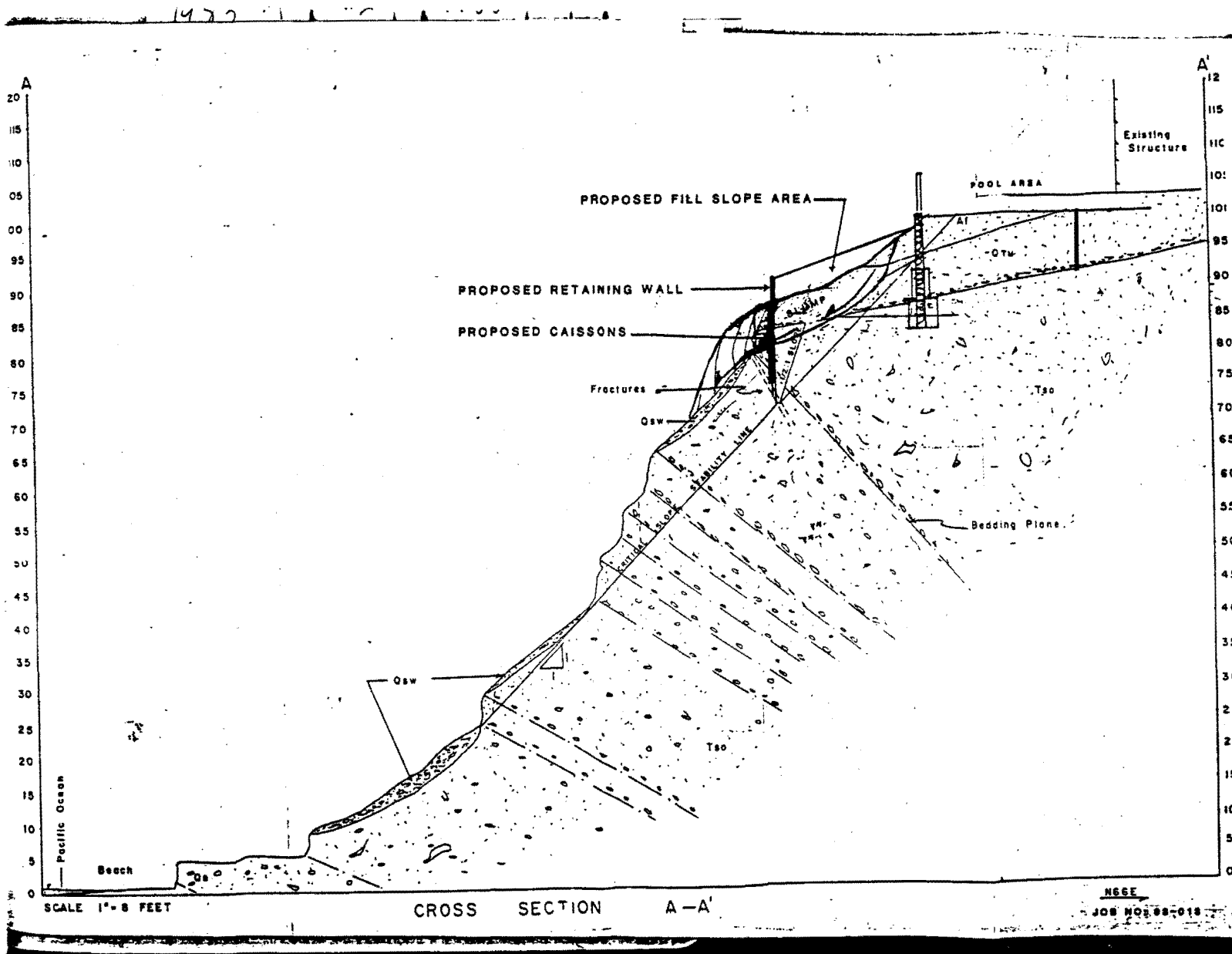


LEGEND

- At — Artificial Fill
- Qs — Beach Sand
- Qsw — Slope Wash
- QTM — Marine Terrace Deposits
- Tss — San Geronimo Breccia
- ⊙ — Location of Test Hole
- — Bedding Plane
- — Fracture
- — Fault
- 20 — ELEVATION



Geo. REPORT
SITE PLAN
EXHIBIT G
5-88-6661



Geo Report
CROSS SECTION
EXHIBIT H
5-88-666A?

