JU 150 PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION

South Coast Area Office 200 Oceangate, 10th Floor Long Beach, CA 90802-4302 (562) 590-5071 Filed: 7/3/97 49th Day: 8/21/97 / 180th Day: 12/30/97 Staff: MV-LBN

Staff Report: 7/24/97 Hearing Date: 8/12-15/97

Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 5-97-054

RECORD PACKET COPY

APPLICANT:

The Price Family Trust

AGENT: Steve Merlin

Robert L. Earl, AIA

PROJECT LOCATION:

2675 Riviera Drive, Laguna Beach, Orange County

PROJECT DESCRIPTION:

Demolition of existing retaining wall and tennis court and construction of new 11,733 square foot, three story, 23 feet high (as measured from centerline of frontage road), single family residence with an attached four car garage.

Also proposed is 551 cubic yards of fill.

Lot area:

17,002 square feet

Building coverage:

5,228 square feet 4,527 square feet

Pavement coverage: Landscape coverage:

6,311 square feet

Parking spaces:

4

Zoning:

R-1

Plan designation:

Village Low Density

Ht abv fin grade:

26 feet

LOCAL APPROVALS RECEIVED: City of Laguna Beach Approval in Concept; Variance No 6376 and Design Review 96-223.

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit No. 5-89-180 (Hopkins); City of Laguna Beach Local Coastal Program

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed project with special conditions necessary to minimize the risk of bluff top development, consistent with Section 30253 of the Coastal Act. The special conditions recommended would: 1) eliminate the proposed pool from the bluff top setback area; 2) require adherence to the geotechnical consultant's recommendations; 3) require drainage be directed to the street to the maximum extent feasible and require all drainage to be conducted off site in a non-erosive manner; 4) require the use of only low water use, drought tolerant vegetation in the bluff top setback area; 5) require that the applicant record an assumption of risk deed restriction acknowledging the inherent risks of the subject site and relieving the Commission of liability.

The remaining unresolved issue is the proposed location of the pool seaward of the blufftop setback.

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development, located between the nearest public roadway and the shoreline, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 including the public access and recreation policies of Chapter 3, 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.

II. Standard Conditions.

- 1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. <u>Compliance</u>. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
- 4. <u>Interpretation</u>. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 5. <u>Inspections</u>. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
- 6. <u>Assignment</u>. 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. <u>Terms and Conditions Run with the Land</u>. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions.

1. Revised Final Plans

Prior to issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, final plans indicating that the pool has been deleted or has been relocated so that no portion extends seaward of the 25 foot bluff top setback line as depicted on the site plan prepared by Robert L. Earl, AIA, Architect, dated June 17, 1996 and revised through January 21, 1997.

Development shall occur consistent with the approved revised plans.

2. Geotechnical Recommendations

Prior to issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, final revised grading and foundation plans. These plans shall include the signed statement of the geotechnical consultant certifying that these plans incorporate the recommendations contained in the geotechnical investigation prepared by GeoSoils, Inc. (W.O. 2974-Al-OC) for Mr. & Mrs. Westcott W. Price dated June 27, 1997, April 18, 1997 and May 4, 1995. The approved development shall be constructed in accordance with the final revised plans as approved by the Executive Director. Any deviations from said plans shall be submitted to the Executive Director for a determination as to whether the changes require an amendment to this permit. Any deviations that require an amendment shall not occur without an amendment to this permit.

3. Drainage Plans

Prior to issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, a drainage plan, prepared by a licensed engineer, that identifies how drainage will be collected and directed and that demonstrates that all site drainage will be conducted off site in a non-erosive manner. To the maximum extent feasible, drainage shall be directed to the street. If a portion of the site is drained over the bluff, a written explanation of why the area drainage cannot be directed to the street shall be included with the drainage plans. The drainage plan shall be reviewed and approved by a licensed engineer

Site drainage shall occur consistent with the approved drainage plan.

4. <u>Landscape Plan</u>

Prior to issuance of the coastal development permit the applicant shall submit to the Executive Director for review and written approval, a landscaping plan that shows the location and types of all plantings for the area seaward of the 25 foot setback and which indicates that only drought tolerant, low water use plants will be planted seaward of the 25 foot setback. Temporary irrigation to allow establishment of the plantings is allowed. No permanent irrigation system shall be allowed within the 25 foot setback area. The landscaping plan shall be prepared by a licensed landscape architect.

Landscaping shall occur consistent with the approved landscaping plan.

5. Assumption of Risk Deed Restriction

Prior to issuance of the coastal development permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazard from bluff retreat and erosion and the applicant assumes the liability from such hazards, and (b) the applicant unconditionally waives any claim of liability on the part of the Commission or its successors in interest for damage from such hazards and agrees to indemnify and hold harmless the Commission, its offices, agents, and employees relative to the Commission's approval of the project for any damage resulting from such hazards. The document shall be recorded free of all prior liens and encumbrances which the Executive Director determines affect said interest and shall run with the land and bind all successors and assigns.

IV. Findings and Declarations

A. Project Description

The applicant proposes to demolish an existing retaining wall and tennis court and to construct a new 11,733 square foot, three story, 23 feet high (as measured from centerline of frontage road), single family residence with an attached four car garage. Also proposed are terraces, a spa, and pool seaward of the residence. Fill is proposed in the area between the proposed residence and the location of the retaining wall which is to be removed (up to 15 feet). Cut is proposed beneath the residence (up to 10 feet). The net amount of grading will be 551 cubic yards of fill.

The subject site is located in the Irvine Cove community in the City of Laguna Beach. Irvine Cove is a private, locked gate community between the sea and the first public road paralleling the sea and so was included as one of the areas of deferred certification at the time of certification of the City's Local Coastal Program.

The proposed project received a variance from the City allowing a portion of the garage to encroach into the frontyard (landward side of site) setback.

B. Hazard

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 an structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The subject site is a bluff top lot consisting of a split level, previously graded predominately cut pad with minor fills and a natural slope approximately 105 feet high, which descends to the ocean. The overall slope gradient ranges from approximately near vertical to 1:1 (horizontal:vertical) on the western side of the lot. A tidal sea cave measuring approximately 30 feet wide and 10 feet high at the mouth extending back approximately 40 feet is present at the base of the sea cliff below the north western property corner.

A Preliminary Geotechnical Investigation was prepared for the site by GeoSoils, Inc. In addition, a Site Plan Review and Grading Plan Review were prepared for the site, also by GeoSoils, Inc. The bluff is considered grossly stable. The geotechnical consultant states:

It is the opinion of GeoSoils, Inc. that the project is feasible and will not adversely affect adjacent properties, from a geotechnical engineering and engineering geologic viewpoint, provided that the recommendations contained herein are implemented in design and construction.

Specifically, regarding geologic structure and slope stability the Grading Plan Review prepared by GeoSoils, Inc. states:

The unconformable terrace bedrock contact generally dips gently to the southwest, as shown on the geologic cross section, Plate 2. High angle jointing patterns in the andesite are present in the seacliff exposure and were noted in the boring. The geologic structure for the site is considered grossly stable with respect to stability of the surrounding natural slope. A slope stability analysis of a typical portion of the natural slope was previously presented (GSI, 1995). The tidal sea cave at the base of the cliff is not considered to have an adverse effect on the bluff stability due to the inherent strength of the andesite bedrock. Review of airphotos since 1959 show no appreciable change in the shoreline and thus GSI anticipates that the bluff will continue to perform well and there would be no need for any shoreline protection devices.

Based upon our review of the site, bluff retreat is considered minimal for the life of the structure due to the hard, resistant nature of the andesite bedrock. The potential for slope creep of the terrace deposits exposed at the top of the bluff can be minimized by maintaining proper drainage away from the bluff top by judicious irrigation and landscaping. The proposed structure is to be founded in bedrock and setback a minimum of 25 feet from the top of the bluff. The structure should not be adversely affected due to slope creep or bluff retreat.

A number of factors can minimize the hazards inherent to bluff development including adherence to an adequate setback, proper drainage, and limiting the amount of water introduced to the bluff top area. The geologic consultant's setback is based on the hard, resistant nature of the andesite bedrock found at the subject site. The inherent strength of the andesite bedrock is expected to result in relatively minimal bluff retreat at the site. The geologic consultant's review of airphotos since 1959 show no appreciable change in the shoreline, further indicating a relatively stable bluff. A shoreline protective device is not expected to be needed. Based on site specific review, and the information discussed above, the geologic consultant has recommended a setback of 25 feet from the edge of the bluff.

The City's certified LCP (not effective in this area of deferred certification, but useful in providing guidance) generally requires a structural setback of 25 feet from the edge of the bluff or a setback ascertained by a stringline, whichever is more restrictive. The Commission's adopted Regional Interpretive Guidelines for Orange County recommend a minimum 25 foot setback from the edge of a coastal bluff. The Guidelines also recognize that in a developed area, where new construction is generally infilling and is otherwise consistent with the Coastal Act policies, no part of the proposed new structure, including decks, should be built further seaward than a line drawn between the nearest adjacent corners of the adjacent structures (stringline setback).

The proposed residential structure is set back a minimum of 25 feet from the edge of the bluff and in some areas is 45 feet from the bluff edge. The residence also conforms to a stringline setback. Moreover, the proposed residence is consistent with the geologic consultant's recommended setback which is based on site specific review. The residence is proposed in an area of hard, resistant andesite bedrock, and so the 25 foot setback is sufficient to minimize risk and to prevent the need for shoreline protection. Therefore the geologic setback is consistent with Section 30253 which requires that risks be minimized.

The applicant is proposing development seaward of the residence, including a terrace, spa, and pool. The spa is set back more than 25 feet from the edge of the bluff, and so meets the recommended site specific geologic setback described above. The terrace is at-grade and consistent with a stringline for similar development on the adjacent properties. The proposed pool, however, extends seaward of the geologic setback.

The Commission previously approved coastal development permit 5-89-180 (Hopkins) at the site immediately upcoast of the subject site. The development approved under coastal development permit 5-89-180 included construction of a new pool and spa with concrete paving, steps, fencing, and hardscape. As proposed, the pool was set back 25 feet from the edge of the bluff. Portions of the development, however, were proposed seaward of the 25 foot bluff top setback. A special condition of that permit required that those portions of the project that encroached beyond the 25 foot bluff top setback be deleted.

In this case, more than half the area of the pool extends seaward of the 25 foot setback line. Pool development in the setback area poses a greater threat to bluff stability than non-water bearing, at-grade patio development. If the pool were to develop a leak, substantial amounts of water would be introduced to the bluff area, threatening stability. Further, a pool leak may be undetected until bluff damage occurs. The Grading Plan Review states that "over-irrigation of the slope and pad areas may have a detrimental effect upon surficial stability and may cause ground water accumulations which may affect slopes, structures and streets." Leakage from the pool would have the same adverse impact on bluff stability. For these reasons, a pool located within the blufftop setback area will not minimize risk as required by Section 30253 of the Coastal Act. Consequently a special condition is being imposed which requires that the pool be deleted from the project or that the pool be relocated so that no portion extends seaward of the 25 foot bluff top setback line. Only as conditioned can the proposed project be found consistent with Section 30253 of the Coastal Act regarding minimizing risk.

In order to maximize bluff stability the amount of water introduced to the site should be minimized. The proposed project includes landscaping. If the the bluff top area were over-irrigated adverse impacts on bluff stability could occur. As stated above, the Grading Plan Review warns against over-irrigation of the bluff.

Consequently the type of vegetation that is established in the bluff top area can effect bluff stability. Low water use, drought tolerant plants require less water than other types of vegetation, thereby minimizing the amount of water introduced into the bluff top. The geotechnical consultant recommends "judicious irrigation and landscaping." The geotechnical consultant's recommendation includes drought resistant plantings and minimizing irrigation to encourage root penetration. Low water use plants reduce the need for irrigation. An irrigation system may be used to establish plantings. Once established the plants should be able to survive without irrigation. As a condition of approval, the applicant shall plant only low water use, drought tolerant vegetation in the bluff top setback area. Only temporary irrigation to establish plants, if necessary, shall be allowed. This shall be reflected in a landscaping plan prepared by a licensed landscape architect.

Uncontrolled drainage flowing over the bluff also has the potential to cause destructive erosion and adversely effect bluff stability. The geotechnical consultant states: "The potential for slope creep of the terrace deposits exposed at the top of the bluff can be minimized by maintaining proper drainage away from the bluff top by judicious irrigation and landscaping." The geotechnical consultant further states: "Improper drainage, ponded water, flows over slope faces, leaky irrigation systems, overwatering or other conditions leading to ground saturation must be avoided." To the maximum extent feasible, drainage should be directed to the street, away from the bluff edge. Minimizing the amount of water along the bluff face reduces the potential for the bluff to be eroded by run-off. However, due to the topography of the site it may be necessary to allow a portion of the site to be drained down the bluff in a non-erosive manner. Non-erosive drainage mechanisms may include piping drainage down the bluff with energy dissapation devices at the base or may include subdrains. As a condition of approval, the applicant shall submit a drainage plan, prepared by a licensed engineer, which indicates that to the maximum extent feasible site drainage is directed to the street and any remainder is conducted off site in a non-erosive manner.

The geotechnical consultant has found that the proposed development is feasible provided the recommendations contained in the geotechnical reports prepared by the consultant are implemented in design and construction of the project. The geotechnical recommendations address site preparation and excavations, compacted fill, and foundation design and construction. In order to assure that risks are minimized, the geotechnical consultant's recommendations should be incorporated into the design of the project. As a condition of approval the applicant shall submit grading and foundation plans indicating that the recommendations contained in the geotechnical investigation prepared by GeoSoils, Inc., dated June 27, 1997, April 18, 1997, and May 4, 1995, have been incorporated into the design of the proposed project.

Although adherence to the geological consultant's recommended setback will minimize the risk of damage from erosion, the risk is not eliminated entirely. Therefore, the standard waiver of liability condition has been

attached through Special Condition No. 5. By this means, the applicant is notified that the home is being built in an area that is potentially subject to bluff erosion that can damage the applicant's property. The applicant is also notified that the Commission is not liable for such damage as a result of approving the permit for development. In addition, the condition insures that the Commission not incur damages as a result of its approval of the coastal development permit. Finally, recordation of the condition insures that future owners of the property will be informed of the risks and the Commission's immunity for liability. Pursuant to Section 13166(a)(1) of the Commission's administrative regulations, an application may be filed to remove Special Condition No. 5 from this permit if new information is discovered which refutes one or more findings of the Commission regarding the existence of any hazardous condition affecting the property and which was the basis for the condition.

The Commission finds that only as conditioned as described above, can the proposed development be found to be consistent with Section 30253 of the Coastal Act. Therefore, as conditioned, the Commission finds the proposed development is consistent with Section 30253 of the Coastal Act which requires that risks be minimized and geologic stability be assured.

C. Future Development

The applicant is hereby notified that any future development within 50 feet of the edge of the coastal bluff will require a coastal development permit or an amendment to this permit. Coastal Act Section 30610(a) provides that no coastal development permit is required for improvements to existing single family residences except for those classes of development which the Commission has specified by regulation involve a risk of adverse environmental effect. Section 13250(b)(1) of the California Code of Regulations states that improvements to a single family structure where the residence or proposed improvement would encroach within 50 feet of the edge of a coastal bluff require a coastal development permit.

D. Public Access & Recreation

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

The proposed project is located within an existing locked gate community located between the sea and the first public road paralleling the sea. Public access through this community does not currently exist. However, the proposed development, construction of a single family residence on an existing subdivided parcel in an area inaccessible to the public, will not effect the existing public access conditions. It is the locked gate community not this home that impedes public access. The proposed development, as conditioned, will not result in any adverse impacts to existing public access or recreation in the area. Therefore the Commission finds that the project is consistent with the public access and recreation policies of the Coastal Act.

E. Local Coastal Program

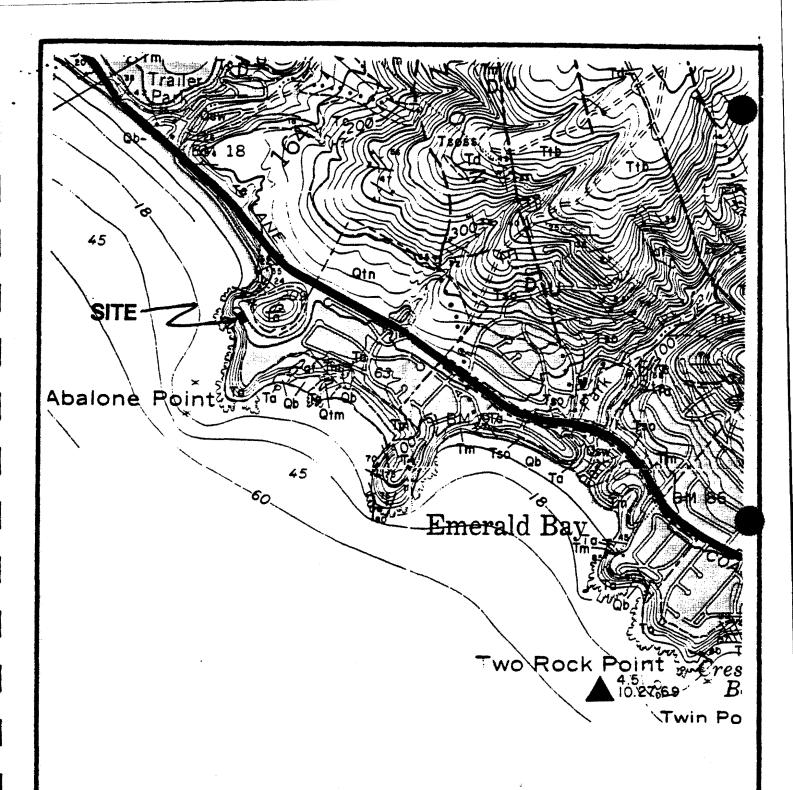
Section 30604(a) of the Coastal Act provides that a coastal development permit shall be issued only if the proposed development would not prejudice the ability of the local government having jurisdiction to prepare a local coastal program (LCP) which conforms with, and is adequate to carry out, the Chapter 3 policies of the Coastal Act.

The City of Laguna Beach Local Coastal Program was certified with suggested modifications, except for the four areas of deferred certification, in July 1992. In February 1993 the Commission concurred with the Executive Director's determination that the suggested modifications had been properly accepted and the City assumed permit issuing authority at that time. The subject site is located within the Irvine Cove area of deferred certification. Certification in this area was deferred due to issues of public access arising from the locked gate nature of the community. However, as discussed above, the proposed development will have not further decrease public access which is already adversely effected by the existing locked gate community. Further, the project has been conditioned to conform to the hazard policies of the Coastal Act. Therefore the Commission finds that approval of this project, as conditioned, will not prevent the City of Laguna Beach from preparing a total Local Coastal Program for the areas of deferred certification.

F. Consistency with the California Environmental Quality Act (CEOA)

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of coastal development permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

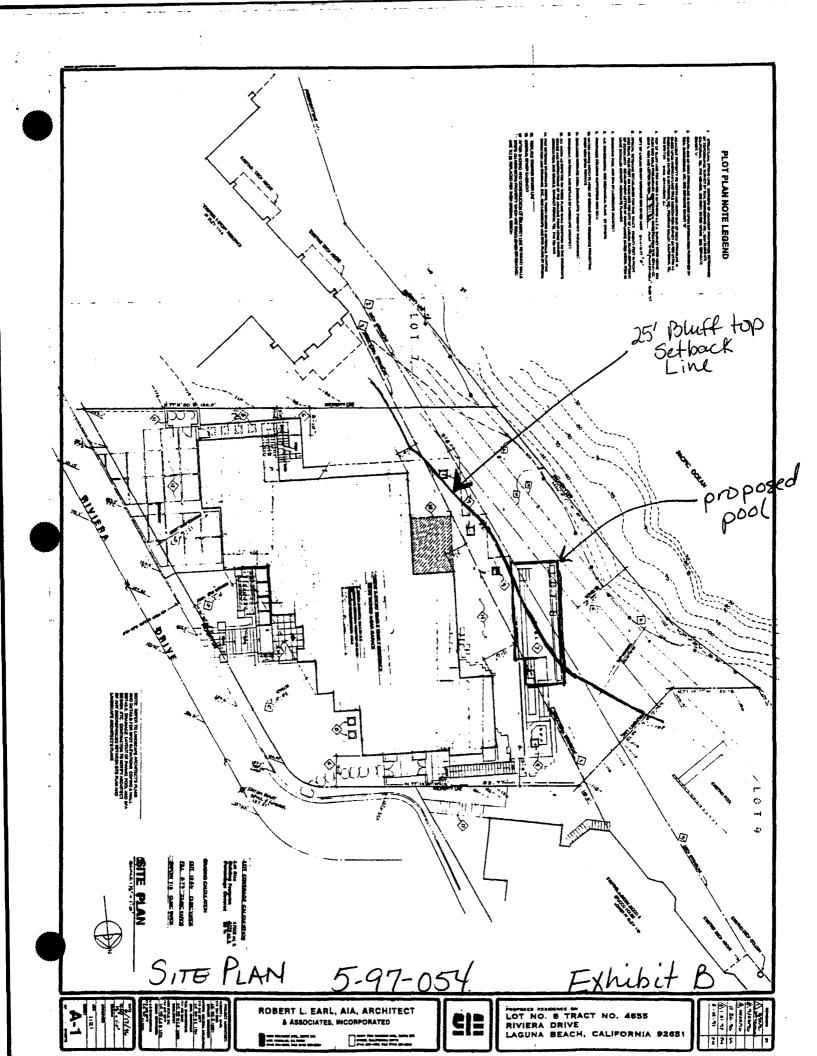
The proposed project has been conditioned in order to be found consistent with the hazard policies of the Coastal Act. Mitigation measures include conditioning the project so that geologic risks are minimized. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Further, the proposed development is in an existing urban zone. Since development has already occurred on the site and all necessary utilities needed to serve the proposed project are in place, the proposed development would not have a significant adverse impact 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.

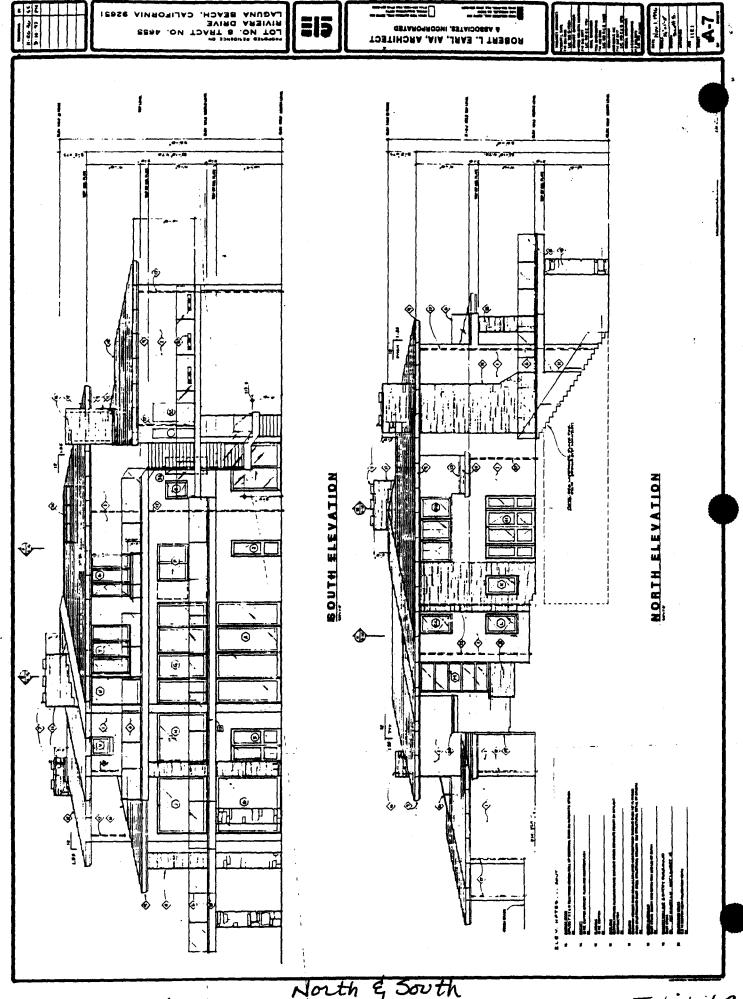


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VICINITY MAP 5-97-054 Exhibit A

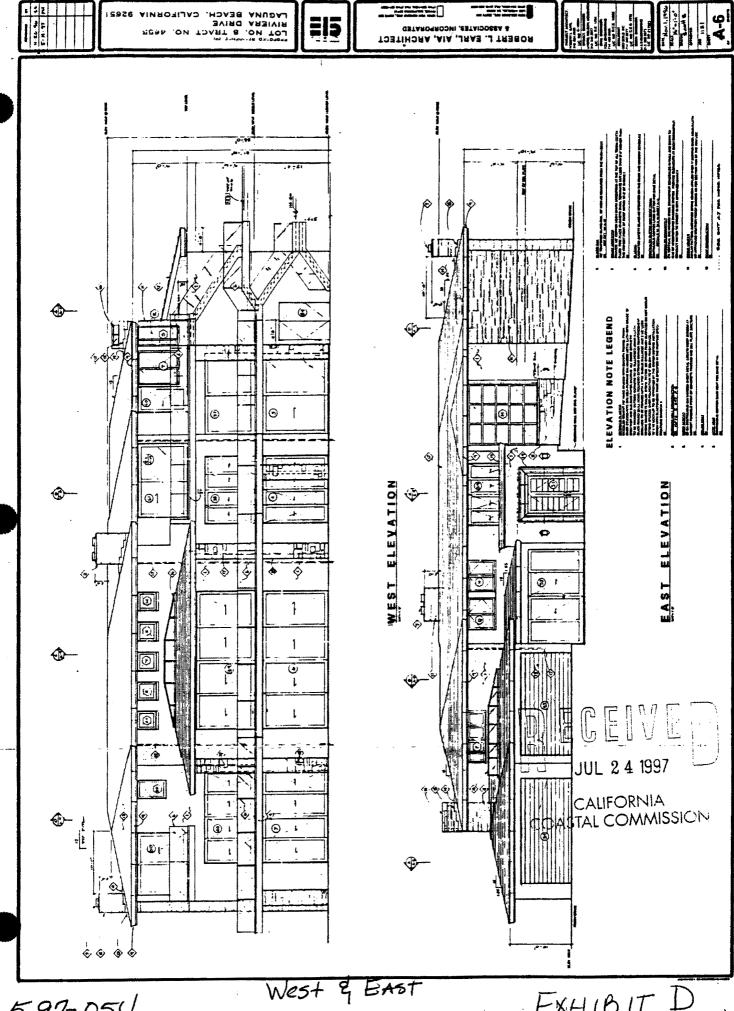




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North & South ELEVATIONS

ExhibitC



5-97-054

West & EAST ELEVATIONS

EXHIBIT D