

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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Filed: 6/6/97
49th Day: 7/25/97
180th Day: 12/3/97
Staff: MV-LBWW
Staff Report: 7/24/97
Hearing Date: 8/12-15/97
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 5-97-121

RECORD PACKET COPY

APPLICANT: Stephen & Susan Samuelian

PROJECT LOCATION: 65 So. La Senda, Laguna Beach, Orange County

PROJECT DESCRIPTION:

Construction of 5,300 square foot, 3 story, 14 foot high (as measured from centerline of frontage road), single family residence with an attached three car garage. Also proposed are a spa, retaining walls to support terraced lawn areas, stair/walkways, a balcony seaward of the lawn area, and landscaping to the edge of the bluff on a vacant bluff top lot as well as 370 cubic yards of cut.

Lot area:	13,000 square feet
Building coverage:	6,153 square feet
Pavement coverage:	1,500 square feet
Landscape coverage:	3,347 square feet
Parking spaces:	3
Zoning:	R-1
Plan designation:	Village Low Density
Ht abv fin grade:	14 feet

LOCAL APPROVALS RECEIVED: City of Laguna Beach Approval in Concept; Variance No 6367 and Design Review 96-219.

SUBSTANTIVE FILE DOCUMENTS: City of Laguna Beach Local Coastal Program

SUMMARY OF UNRESOLVED ISSUES AND STAFF RECOMMENDATION:

Unresolved Issues: The subject site is a bluff top lot. The geotechnical consultant has recommended a bluff top setback and finds that development proposed seaward of that setback must be considered temporary or be constructed on caissons or deepened footings. The proposed residence is located landward of the recommended setback. However, a spa, retaining walls, stair/walkways, and a balcony are proposed seaward of the recommended setback. In order to minimize the risk of bluff top development and to prevent the need for a seawall in the future, consistent with Section 30253 of the Coastal Act, staff is recommending five special conditions which are described below. The special conditions in contention are special condition no. 1 which requires that caissons or deepened footings be prohibited seaward of the residence because of their negative impacts on bluffs, and special condition no. 4 which would require that the proposed lawn areas be eliminated due to the fact that lawns require considerable irrigation, which can decrease the bluff stability.

Staff Recommendation: Staff recommends approval of the proposed project with special conditions. The special conditions recommended would: 1) require adherence to the geotechnical consultant's recommendations and revised foundation plans demonstrating that no caissons or deepened footings will be constructed seaward of the geologic setback line; 2) require removal of development seaward of the residence if threatened by bluff retreat; 3) require that 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 (which will result in the elimination of the proposed lawn areas) in the bluff top setback area; 5) require that the applicant record a deed restriction to assume the risks inherent to the subject site and the Commission of liability.

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. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.

6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions.

1. Geotechnical Recommendations

Prior to issuance of the coastal development permit, the applicant shall submit, for the review and written approval of the Executive Director, final grading and foundation plans that indicate that no caissons or deepened footings will be constructed seaward of the surficial trace of the geotechnical consultant's setback plane as depicted on the Geotechnical Plot Plan, Plate 1, dated May 1997. These plans shall include the signed statement of the geotechnical consultant certifying that these plans incorporate the recommendations contained in the Update of Preliminary Geotechnical Investigation prepared by Geofirm, (Project No. 70752-00, Report No. 7-2504) for Mr. Steve Samuelian, dated May 29, 1997. 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.

2. Protection of Accessory Structures

In the event that erosion/bluff failure threatens the development seaward of the surficial trace of the geotechnical consultant's setback plane as depicted on the Geotechnical Plot Plan, Plate 1, dated May 1997, prepared by Geofirm, the threatened structure shall be removed. These structures shall not be entitled to shoreline protection.

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.

Site drainage shall occur consistent with the approved drainage plan.

4. Landscape Plan

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 residence and which indicates that the proposed lawn has been eliminated and that only drought tolerant, low water use plants will be planted seaward of the residence. Temporary irrigation to allow establishment of the plantings is allowed. No permanent irrigation system shall be allowed within the area seaward of the residence. 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 applicants propose to construct a 5,300 square foot, 3 story, 14 foot high (as measured from centerline of frontage road), single family residence with an attached three car garage on a vacant bluff top lot. Also proposed are a spa, retaining walls to support terraced lawn areas, stair/walkways, a balcony seaward of the lawn area, and landscaping to the edge of the bluff on a vacant bluff top lot as well as 370 cubic yards of cut. The location of the disposal site for the export is San Juan Capistrano landfill.

The subject site is located in the Three Arch Bay community in the City of Laguna Beach. Three Arch Bay 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 the project to exceed the allowable floor area and for the structure to encroach into the frontyard and bluff top 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 and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The subject site is a roughly rectangularly shaped sea bluff top property that fronts 61+/- feet on North La Senda Drive and extends an average of 215+/- feet to the rear property boundary located along the shoreline at the mean high tide level. Topographically the site consists of a graded surface which forms a series of 10+/- and 15+/- feet high terraces extending from North La Senda Drive westerly 200+/- feet to the top of the sea cliff. The sea cliff descends steeply and irregularly 60+/- feet to the shoreline below, with an overall inclination of approximately 3/4:1 (horizontal:vertical). Small sea caves occur at the base of the sea cliff. The site is presently vacant.

An Update of Preliminary Geotechnical Investigation was prepared for the site by Geofirm. The bluff is considered grossly stable. The geotechnical consultant states:

Proposed development of the subject site is considered feasible and safe from a geotechnical viewpoint providing the recommendations herein are integrated into design and construction. Proposed construction will not adversely affect adjacent properties.

The subject site is a bluff top lot and is expected to experience bluff retreat during the life of the proposed project. The geotechnical consultant recognizes that bluff retreat will occur, but finds that the proposed residence is adequately set back from the bluff edge. The residence as proposed will be set back approximately 100 feet from the bluff edge and a minimum of 25 feet from the geotechnical consultant's recommended setback line. The Update to the Preliminary Geotechnical Investigation states:

The prognosis for the site is that it is grossly stable but that sea cliff erosion will continue at a slow rate promoted by piecemeal failure of faulted and jointed blocks caused by basal cliff erosion, particularly around the existing sea caves, and possibly influenced by seismic shaking. In consideration of this assessment, it is considered possible that very locally portions of the lower sea cliff could retreat approximately 25+/- feet to the rear of the residence. Eventual shoreline protection for the site is not anticipated during the life of the project, as significant site improvements will be constructed landward of the structural setback plane, defined as 3/4:1 (horizontal:vertical) slope ascending through bedrock from back of the sea caves and further extending 2:1 (horizontal:vertical) within the terrace deposits as graphically depicted on Plate 3.

The geotechnical consultant has found that the location of the residence is adequately set back from the bluff edge so that it is not expected to be adversely effected by bluff retreat. In addition, the proposed residence meets the Commission's setback guidelines recommended in the adopted Orange County Regional Guidelines in that it conforms to a stringline and is set back further than 25 feet from the edge of the bluff. Other development, however, is proposed seaward of the recommended geologic setback. The development proposed to be located seaward of the setback is: a spa, retaining walls to support terraced lawn areas, stair/walkways, a balcony seaward of the lawn, and landscaping to the edge of the bluff. Regarding this development, the Update of Preliminary Geotechnical Investigation states:

Inherent in the following design recommendations is the consideration that the sea cliff can be expected to experience retreat during the life of the project and structural improvements constructed seaward of the structural setback plane should be considered temporary and prone to damage or destruction caused by sea cliff retreat or should be founded on caissons or deepened footings which attain support below the structural setback plane.

The above cited section makes clear that there is a strong likelihood that the rear yard will be damaged by bluff retreat. The geotechnical consultant has found that the development proposed seaward of the surficial trace of the geotechnical consultant's setback plane is subject to damage or destruction unless it is constructed on caissons or deepened footings.

Seawalls, upper bluff protection, and other forms of shoreline protection that are placed on and along coastal bluffs alter the natural landforms of bluffs. The home is proposed to be located a minimum of 25 feet landward of the bluff setback plane. As a result, the home is not likely to be in danger from erosion during its useful life and will not need shoreline protection. Therefore, the proposed home is consistent with Coastal Act Section 30253(2). However, development, i.e. the spa, retaining walls, stair/walkways, and balcony are proposed to be located seaward of the bluff setback plane. Therefore, they are likely to become threatened by erosion. The geologist concludes that these structures could be stabilized by installation of caissons or deepened footings that extend below the setback plane. However, caissons or deepened footings do not eliminate the threat of danger from erosion. While they may enable the structures to remain in place even when the bluff has eroded to a point landward of these structures, the structures would at that point be hanging over the edge of the bluff. In that condition the structures are likely to be considered unsafe for use and in need of shoreline protection. They are also visually intrusive.

Furthermore, the caissons and deepened footings themselves are an alteration of the natural landforms of the bluff. When the bluff erodes to a point that the caissons or deepened footings are exposed, with the structures they support hanging over the edge of the bluff, they effectively alter the natural landform. Thus, the Commission finds that the accessory structures are inconsistent with Coastal Act Section 30253(2). The Commission finds that the applicant can construct these structures only on condition that these structures are built without caissons or deepened footings and are removed when threatened by bluff erosion or retreat. This will enable the applicant to have the structures at least temporarily. The use of caissons or deepened

footings on a temporary basis (i.e. subject to a condition that they be removed) is not consistent with the Coastal Act because removal of the caissons would cause damage to the bluff and increase instability.

In addition, other factors can minimize the hazards inherent to bluff development including proper drainage and limiting the amount of water introduced to the bluff top area. In order to maximize bluff stability the amount of water introduced to the site should be minimized. The proposed project includes lawn areas seaward of the recommended geologic setback plane. Over-irrigation of the the bluff top area can decrease bluff stability. Even relatively low water use lawns require significantly more water than low water use and drought tolerant vegetation. Alternatives such as gravel or other non-vegetative cover would still allow use of the area without jeopardizing stability. In order to minimize risks of bluff erosion threatening the home, the proposed lawn must be replaced with an alternative form of land cover.

As discussed above, 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. Drought resistant plantings and minimal irrigation encourage root penetration which increases bluff stability. Low water use plants reduce the need for irrigation. Once established the plants should be able to survive without irrigation. An irrigation system may be necessary to establish plantings. 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. These conditions 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 decrease bluff stability. Improper drainage, ponded water, flows over slope faces, leaky irrigation systems, overwatering or other conditions leading to ground saturation must be avoided to reduce the risk of damage to the home and to prevent the need for shoreline altering devices. To the maximum extent feasible, drainage must 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. The site plan for the proposed project identifies a sump pump catch basin with pipe to street. The presence of this drainage feature on the proposed plan recognizes the importance of directing drainage away from the bluff. However, the entire drainage plan for the site should be submitted for review. As a condition of approval, the applicant shall submit a drainage plan, prepared by a licensed engineer, that identifies all drainage equipment and methods on the entire site. The plan must demonstrate 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 setback, site preparation, 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 Geofirm, dated May 29, 1997, have been incorporated into the design of the proposed project and that caissons or deepened footings located seaward of the recommended setback line have been eliminated.

Although adherence to the geotechnical 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 that is 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 Three Arch Bay area of deferred certification. Certification in this area was deferred due to issues of public access arising from the locked gate nature of the community. However, as discussed above, the proposed development will not further decrease public access which is already 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 (CEQA)

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

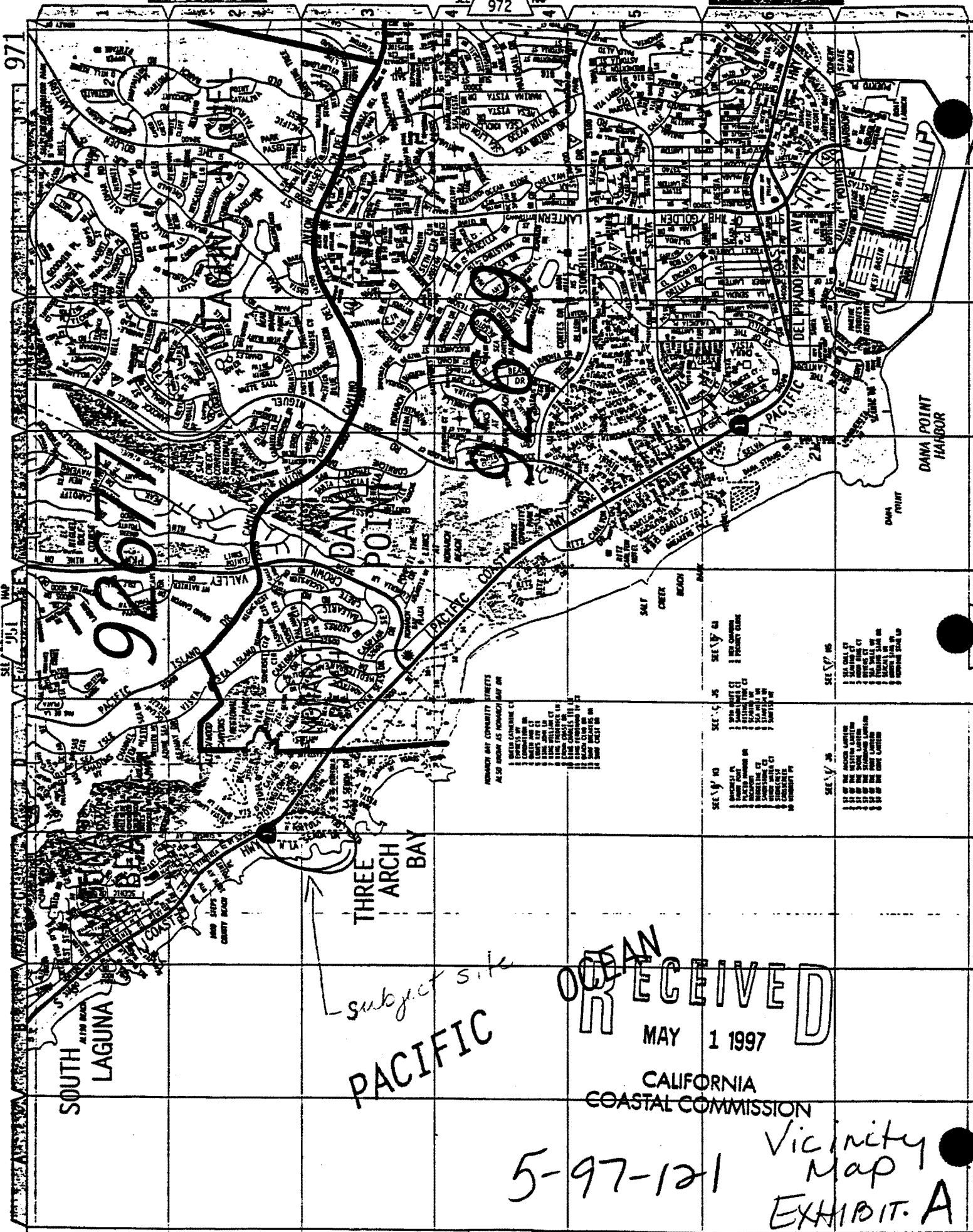
The proposed project has been conditioned in order to be found consistent with the hazard policies of the Coastal Act. Mitigation measures include conditioning the project so that geologic risks are minimized. As conditioned, there are no feasible alternatives or feasible mitigation measures available 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.

ORANGE COUNTY

ZIP

SEE 972 MAP

MAP 972



subject site
PACIFIC

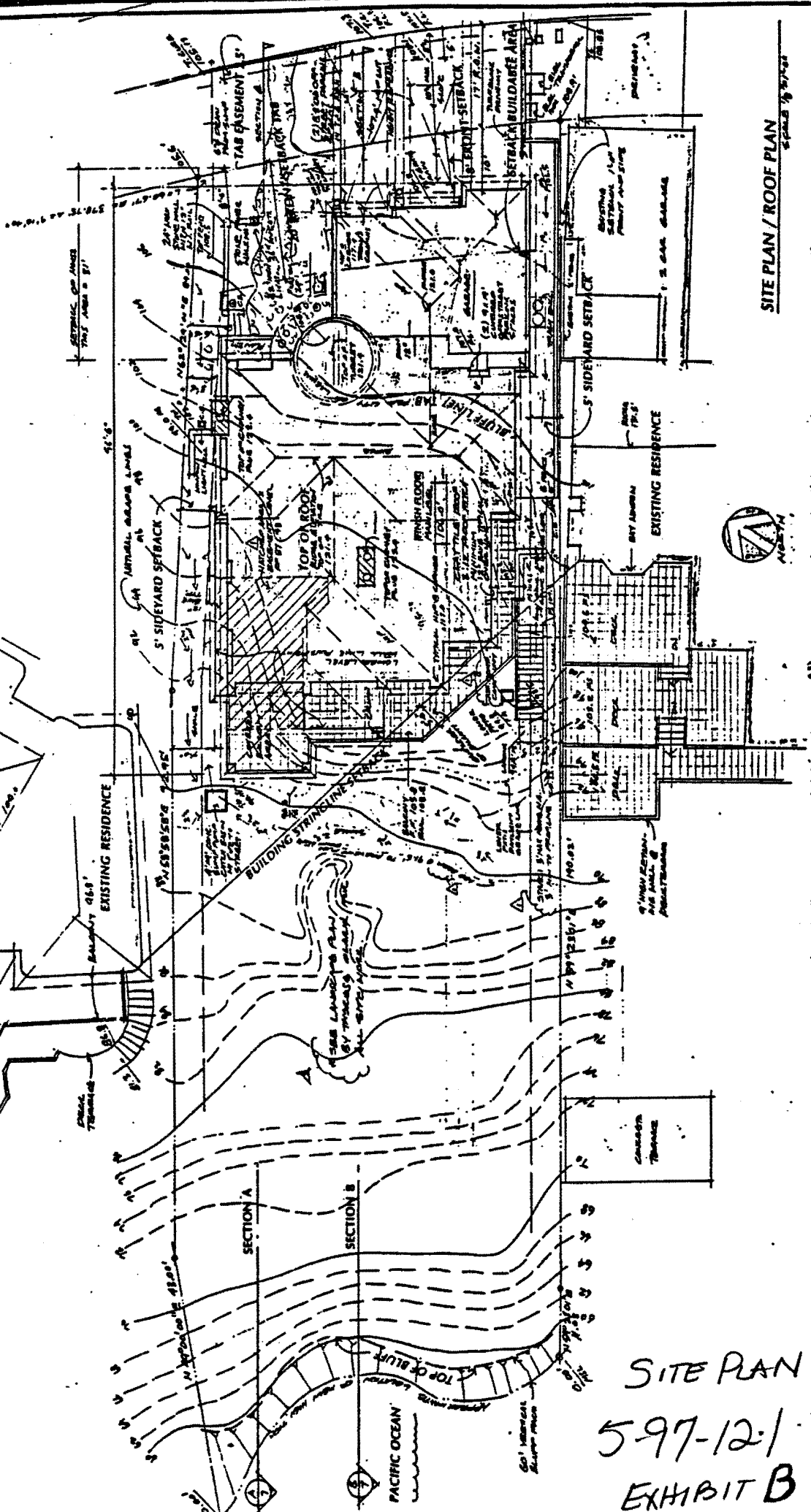
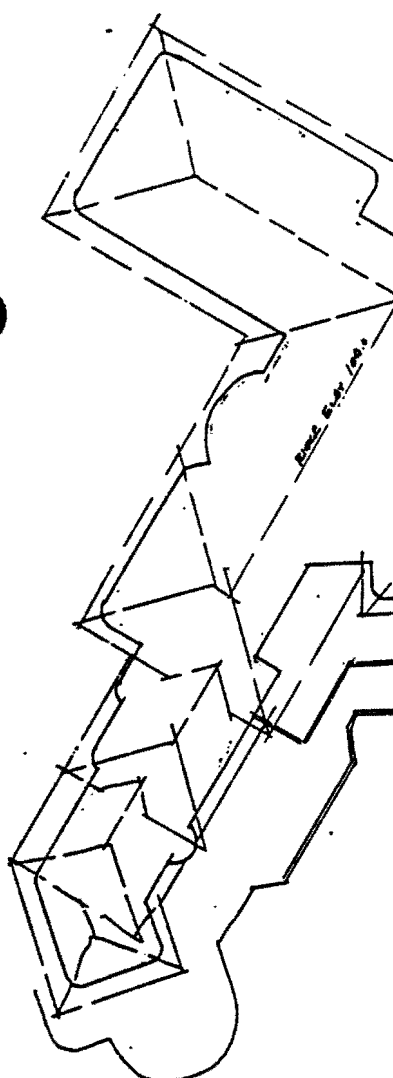
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CALIFORNIA
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5-97-121 Vicinity Map
EXHIBIT. A

Three Arch Bay Resideh
52 N. La Senda

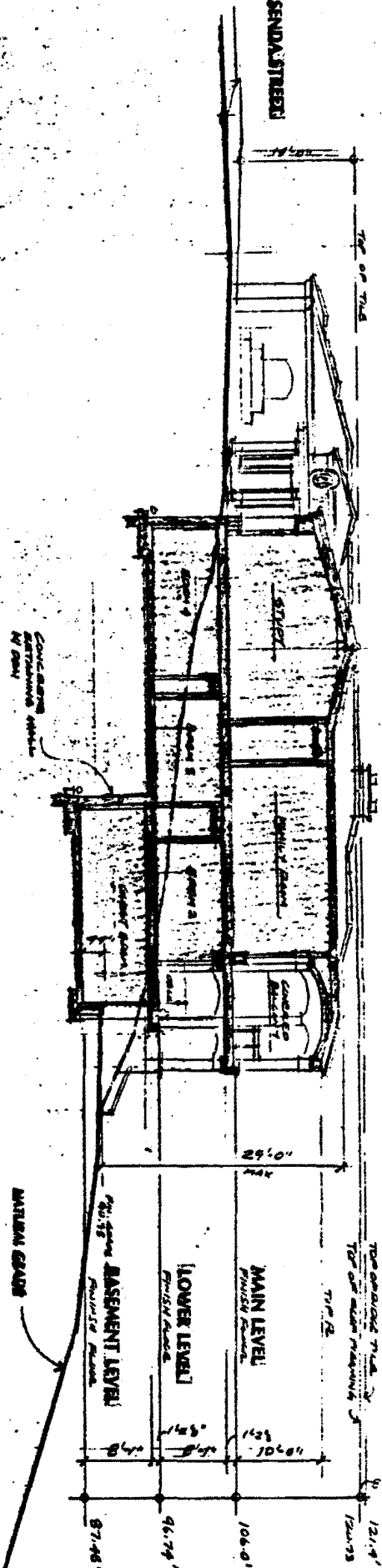
- 1 ALL UTILITY LINES ARE TO BE LARGER THAN TO EXISTING EXCEPT UTILITY POLES
- 2 ALL EXISTING TREES REMAINING IN EXISTING AND TO BE REMOVED THROUGH GRASSY AREA AND REMAIN TO LA SENDER STREET. ADJACENT TO LA SENDER STREET. ADJACENT TO LA SENDER STREET. ADJACENT TO LA SENDER STREET.
- 3 APPROXIMATE CUT OUTLINE OF STRUCTURAL FOOTPRINT: 100' 0" WIDE CIVIL ENGINEER WILL SUBMIT PRELIMINARY GRADING PLAN FOR REVIEW AT CONSTRUCTION CONSULT FIRM.



SITE PLAN / ROOF PLAN
SCALE 1/8" = 1'-0"

SITE PLAN
5-97-12-1
EXHIBIT B

CLASSENDA STREET



SECTION A

Scale: 1/8" = 1'-0"

5-97-121
ELEVATIONS
EXHIBIT C