

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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Th8k

Filed: April 21, 1998
49th Day: June 9, 1998
180th Day: Oct. 18, 1998
Staff: SFR-LB
Staff Report: July 23, 1998
Hearing Date: August 11-14, 1998
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 5-98-165

APPLICANT: Brent Danning and Jay Tassin **AGENT:** Hippe Burgess

PROJECT LOCATION: 2 Mar Vista Lane, City of Laguna Beach, County of Orange

PROJECT DESCRIPTION: Construction of a 24 ft. high (above grade) three level 3784 sq. ft. single family residence with 797 sq. ft. of balconies and an attached 503 sq. ft. two car garage. A total of four parking spaces will be provided. The placement of 6" PVC drain line down the bluff face and the construction of an energy dissipator at the base of the bluff. Grading consists of 875 cu. yds. with the export of 805 cu. yds. to the County landfill.

LOCAL APPROVALS RECEIVED: Approval in Concept, Variance 6441, and Design Review 97-201 from the City of Laguna Beach.

SUBSTANTIVE FILE DOCUMENTS: City of Laguna Beach Local Coastal Program, Coastal Development Permits: 5-97-054 (Price Family Trust), 5-97-121 (Samuelian), and 5-98-135 (Slack). Preliminary Geotechnical Investigation For Foundation Design - Single Family Residence 2 Mar Vista, South Laguna by Scot Farquhar Consulting Engineering Geologists dated June 11, 1997 (Project 970122).

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed project with four special conditions requiring: an assumption of risk, conformance with the geotechnical recommendations, landscaping plan, and a coastal development permit or amendment when future development occurs on the site. The applicant is in agreement with the special

conditions. However, a letter was received regarding the "bluff line", and that the vegetation on the subject site has not been maintained which hides gullies and erosion.

STAFF RECOMMENDATION:

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 effects 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 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, or in the case of administrative permits, the date on which the permit is reported to the Commission. 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 of 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.

III. Special Conditions.

1. 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 hazards 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 and agrees to indemnify and hold harmless the Commission, its officers, agents, and employees relative to the Commission's approval of the project for any damage resulting from such hazards.

The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Future Development

This coastal development permit 5-98-165 approves only the development, as expressly described and conditioned herein, for the proposed single family residence located at 2 Mar Vista Lane in the City of Laguna Beach. Any future development shall require a coastal development permit or an amendment to this permit from the Coastal Commission.

3. Conformance with Geotechnical Recommendations

Prior to issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director:

- a) final revised plans. These plans shall include the signed statement of the geotechnical consultant certifying that the plans incorporate the geotechnical recommendations contained in the geotechnical investigation of June 11, 1997 by Scot P. Farquhar (Project No. 970122) into the final design of the proposed development.

The approved development shall be constructed in compliance with the final plans as approved by the Executive Director. Any deviations from the plans shall require a Coastal Commission approved amendment to this permit, or written concurrence from the Executive Director that the deviation is not substantial and therefore a permit amendment is not needed.

4. Landscaping Plan

Prior to issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, landscaping plans which have been reviewed and signed by a licensed landscape architect. The plans shall incorporate the following criteria:

- a) The area seaward of the twenty-five (25) foot bluff top setback shall be planted and maintained for erosion control and enhancement of native coastal bluff vegetation. To minimize the need for irrigation and reduce potential erosion and slope failure, landscaping shall consist of native plants similar to that found on existing coastal bluffs in the vicinity.
- b) The area landward of the bluff top setback shall be planted and maintained for erosion control utilizing native or other drought tolerant plants. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- c) All graded areas shall be stabilized with planting at the completion of the project. Planting shall follow accepted planting procedures adequate to provide 70% coverage within one year, and shall be repeated, if necessary, to provide such coverage.
- d) The area adjacent to the 6" PVC pipe, for purposes of erosion control and screening, shall be planted and maintained with native vegetation.

- e) No permanent irrigation system shall be allowed within the area seaward of the residence. Temporary irrigation to allow the establishment of the plantings is allowed.

The landscaping plan shall be carried out as approved by the Executive Director.

IV. Findings and Declarations.

The Commission hereby finds and declares as follows:

A. Project Description and Location

The proposed project is located at 2 Mar Vista Lane in the private community of Three Arch Bay which is an area of deferred certification within the City of Laguna Beach in the County of Orange (Exhibit 1). The applicant proposes to construct on a vacant lot a 24 ft. high (above grade) three level 3784 sq. ft. single family residence with 797 sq. ft. of balconies and an attached 503 sq. ft. two car garage. A total of four parking spaces will be provided. The placement of 6" PVC drain line down the bluff face and the construction of an energy dissipator at the base of the bluff. Two retaining walls are proposed along the property lines separating the subject lot from the adjoining neighbor. One will be along the east property line and the other along the west property line. Grading consists of 875 cu. yds. with the export of 805 cu. yds. to the Orange County landfill.

B. Geotechnical

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 project site is an undeveloped sloping blufftop lot. The buildable portion of the lot has a relief of about 20 feet and is adjacent to an approximate 90 foot high sea cliff. Development on a coastal bluff is inherently risky. To evaluate the feasibility of constructing a single family residence the applicants commissioned a geotechnical

investigation by Scot Farquhar Consulting Engineering Geologists. The *"Preliminary Geotechnical Investigation For Foundation Design - Single Family Residence 2 Mar Vista, South Laguna"* by Scot Farquhar Consulting Engineering Geologists dated June 11, 1997 (Project 970122) concluded that the project could be undertaken provided that certain recommendations were implemented to minimize adverse impacts resulting from the proposed development.

The engineering consultants found that the bedrock at the site dipped in a "neutral to anti-dip slope" which is generally considered favorable with respect to gross rock stability. No landslides or other slope failures were noted for the project site or adjoining property. The potential for slope creep was also determined by the engineering consultants to be low due to the predominantly granular nature of the near surface earth materials.

The engineering consultants also found that the existing fill on the project site would not be suitable in its current state for structural support and that a small gully was present on-site. To resolve the identified site deficiencies, the engineering consultants made recommendations concerning: 1. the removal of unsuitable material and recompaction of suitable materials 2. subgrade preparation 3. design of the foundation, retaining wall, and footings, 4. caisson design, 5. structural setback, and 6. drainage and subdrains. The applicant has submitted plans signed by the engineering consultants which incorporate the recommendations of the geotechnical investigation performed by Scot Farquhar Consulting Engineering Geologists which is dated June 11, 1997 (Project 970122).

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 for residences and 10 feet for accessory structures like patios from the edge of the bluff or a setback ascertained by a stringline, whichever is more restrictive (Exhibit 3). The Commission's adopted Regional Interpretive Guidelines for Orange County recommend a minimum 25 foot setback for residences from the edge of a coastal bluff. The Guidelines also recognize that in a developed area, where 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). In this case, based on the Commission's stringline the residence is in compliance with the stringline drawn between adjacent residences. The accessory hardscape, however, exceeds the patio stringline by up to four feet over a five foot segment. Though it exceeds the Commission's stringline it is in compliance with the City's requirements for a ten foot top of bluff setback for accessory structures.

The Laguna Beach Zoning Code, which the Commission uses as guidance, states in Section 25.44.050 for development occurring within Three Arch Bay that all coastal lots are subject to a stringline building setback. In the event that there is no stringline building setback, the building shall be setback a minimum of twenty-five feet from the

top of an oceanfront bluff. Section 25.44.050(F)(1) defines structure setback standards for residences and states *"All coastal lots are subject to a stringline setback. The building stringline averages the setback of oceanfront buildings on both adjacent sides of coastal lots and is defined as follows: The stringline setback shall be depicted as a line across a parcel that connects the oceanward ends of the nearest adjacent walls of the main buildings on adjacent lots. Posts or columns that extend to grade from upper story decks, balconies, stairways and other types of similar features shall not be used to define the building stringline criteria."* Section 25.44.050(F)(3) goes on to state *"In no case shall the bluff-top setback be less than twenty-five" [feet].*

The site plans submitted with the application depict both the residential building stringline and the top of bluff. In this situation the stringline should not be used to establish the setback of the residence as the stringline overall is seaward of the 25 foot building setback requirement of Section 25.44.050(F)(3). Consequently the residential structure must comply with the 25 foot building setback from the top of bluff line which is overall more restrictive than the stringline. The site plans submitted demonstrate that the residence complies with the 25 foot building setback from the top of bluff line.

Though the residential structure itself complies with the 25 foot building setback, the applicant is also proposing the construction of hardscape seaward of the residence in the form of a landscaped patio area with a 30" high retaining wall on the seaward edge. Setback standards for accessory structures in Three Arch Bay are contained in Section 25.44.050(F)(4). Subsection "a" allows accessory structures in excess of 30" above grade to extend five feet beyond the applicable building setback, but in no case closer than ten feet to the top of the oceanfront bluff. Subsection "b" allows accessory structures of 30" or less in height to extend to within ten feet of the top of an oceanfront bluff. This retaining wall is setback ten feet from the top of bluff and at 30" in height complies with subsection "b". As previously stated, a portion of the retaining wall will exceed the Commission's stringline; though it does, the 10 foot setback from the bluff edge is actually the more restrictive policy since using the stringline would allow substantial additional development close to or seaward of the bluff top. The plans submitted with the application depict the top of bluff as the 86' contour line and show the accessory hardscape as being ten feet inland from the top of bluff. The project has also been approved by the Laguna Beach Design Review Board (97-201). The Commission finds in this particular case, because of the pattern of development on adjoining property and the topography of the site, that the City's setback requirements of 25 feet for the residence and 10 feet for the accessory structures shall be used.

To assure that the project is carried out as proposed and that the plans incorporate the recommendations of the geotechnical consultants the Commission finds it necessary to impose a special condition requiring that the plans be approved by geotechnical consultants and that the development be undertaken in conformance with the plans as approved by the Executive Director.

Though a landscaping plan has been submitted, it has not been reviewed and stamped by a licensed landscape architect confirming that it would be consistent with the requirement to provide native or drought tolerant vegetation. Should the landscaping plan include invasive plants or plants requiring extensive watering native vegetation could be adversely impacted and the potential for bluff failure would be increased through water percolation and increased erosion. To assure that the project minimizes adverse impacts, the Commission finds it necessary through a special condition to require that prior to issuance of this permit, that the applicant have the landscaping plan reviewed and endorsed by a licensed landscape architect and then submitted to the Executive Director for approval.

The landscaping plan special condition requires that landscaping seaward of the bluff top setback shall consist of native plants similar to that found on existing coastal bluffs and that landscaping landward of the bluff setback shall consist of drought tolerant plants that are non-invasive. Consistent with this requirement, the permittee shall not install a permanent irrigation system seaward of the residence. A temporary irrigation system may be used to establish the plantings. That the landscaping plan provide native vegetation for purposes of erosion control and visual screening for the area adjacent to the 6" PVC drainage line. These requirements are consistent with Policy 1-B of the Laguna Beach Open Space and Conservation Plan which is part of the City's LCP which the Commission is using as guidance. Policy 1-B states: *"Require the use of drought-resistant plantings and natural vegetation to reduce irrigation practices."*

During the preparation of the staff report a letter (Exhibit 4) was received stating that the building pad is limited by a "bluff line" and that the existing vegetation has not been cared for. The bluff line is defined in the Laguna Beach Zoning Code under Section 25.44.050(D)(2) titled *"Building Site Coverage"* as a line which separates the buildable pad from the bluff top for purposes of defining building coverage. The applicants obtained a variance (Resolution 98-001) from the Board of Adjustment to exceed the minimum building coverage allowed. The bluff line however, does not limit the seaward extent of residential development which is controlled by the top of bluff line. Section 25.44.050(F)(3) which was previously cited establishes the building setback at 25 feet inland from the top of bluff. The residence has been setback 25 feet from the top of bluff. The top of bluff is approximately 70 feet seaward of the bluff line. To address the vegetation concern, this permit has been conditioned for a landscaping plan consisting of native and/or drought tolerant plants which must be implemented in conjunction with the construction of the single family residence.

Although adherence to the geological consultant's recommendations will minimize the risk of damage, the risk is not eliminated entirely. Therefore the standard waiver of liability condition has also been attached as a special condition. By this means, the applicant is notified that the home is being built in an area that is potentially subject to bluff failure that could 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 future owners of the property will be informed of the risks and the Commission's immunity of liability.

Because the proposed development is on a bluff top lot future development on the site could have an adverse impact on bluff stability. To assure that future development is appropriately reviewed, the Commission finds it necessary to impose an informational future improvements special condition to inform the applicant and any future owner that future development 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 such as bluff top development.

The Commission finds that only as conditioned for conformance with the geotechnical recommendations, assumption of risk, a revised landscaping plan, and future development 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. Land Form Alteration

Section 30251 of the Coastal Act requires that the scenic and visual qualities of coastal areas shall be considered and protected and that development minimize the alteration of natural landforms. In this case the applicant proposes to grade 875 cu. yds. to terrace the lot for a single family residence and to construct three retaining walls. The project site is a sloping lot which has an elevation change of approximately 20 feet. Development taking place on the seaward side of the lot begins at the 95 foot contour line. The lot is also bisected by a drainage feature which further complicates the establishment of a building pad.

The purpose of the grading is to recess the house into the hillside which will minimize its visual impact when viewed from the ocean. Grading will not be occurring on the bluff face itself. The house will be constructed in two "steps" so that the seaward facing portion of the house (the first step) will be 18 feet high. The second step of the house occurs 50 feet inland with an additional rise of 8 feet, thus the bulk and mass of the house are minimized when viewing it from the ocean by recessing it into the hillside.

Since, the hillside is being excavated to allow the house, three retaining walls are necessary, one along each property line and one approximately paralleling the 95 foot contour line. The two retaining walls along the property lines are variable in height and are in approximately eight to ten feet above grade. The retaining walls are perpendicular to the coastline and considering their height above the ocean (96 feet to 116 feet) would not be very visible from the ocean. These two retaining walls are not parallel the coast line, hence they would not appear as a massive structure. The third

retaining wall which approximately parallels the 95 contour line will be 30" above grade. At 30" above grade, this retaining wall, even though it parallels the coastline, would not be very visible considering it has been setback ten feet from the top of bluff and is about 95 feet above the ocean. Further, the Commission has conditioned the project for a landscaping plan on the seaward side of the structure which will soften the visual impact of the new residence. Therefore the Commission finds that the proposed development is consistent with Section 30251 of the Coastal Act concerning the preservation of scenic visual qualities and minimizing the alteration of natural landforms.

D. Public Access and 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 development 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 affect the existing public access condition. 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 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.

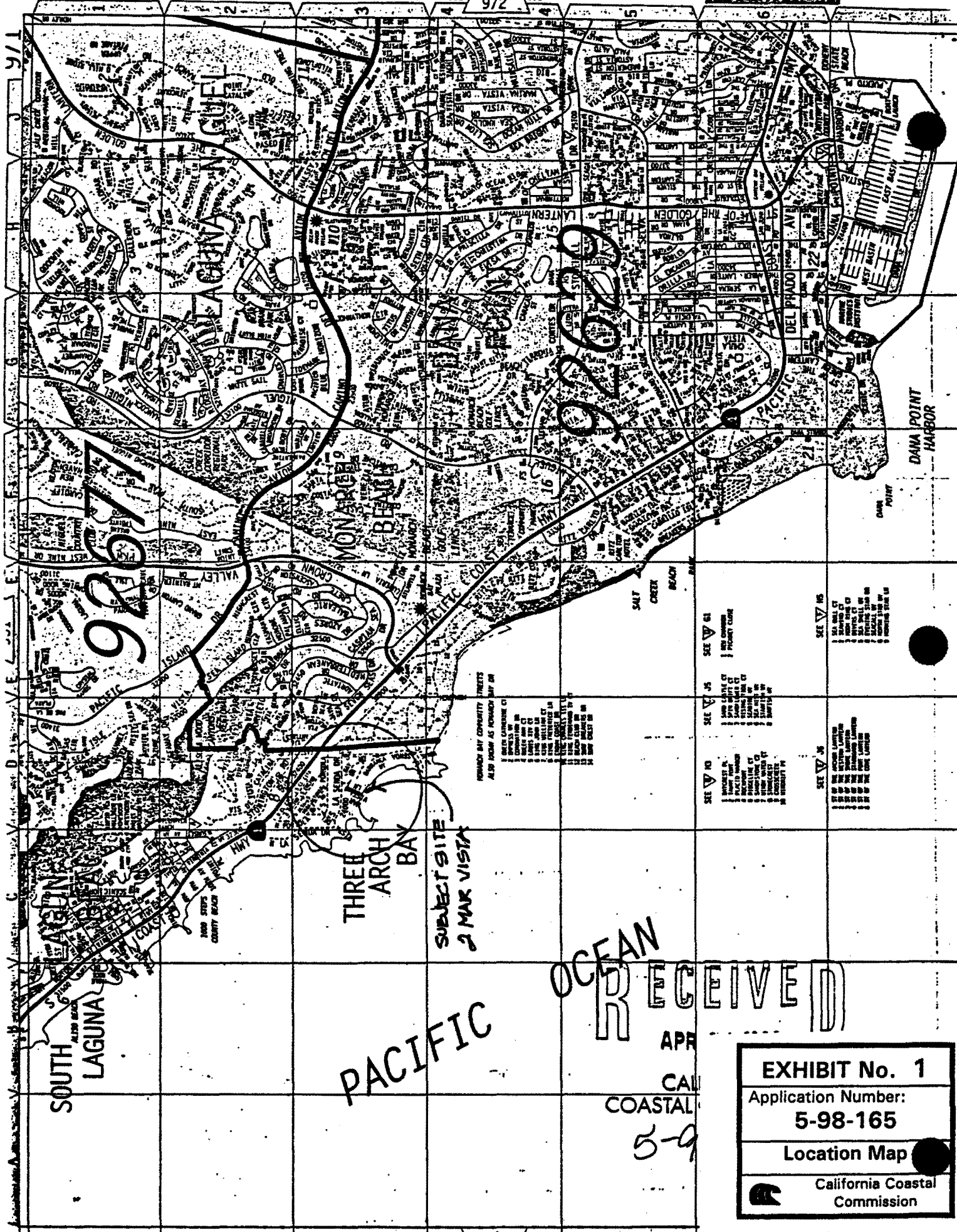
The City of Laguna Beach Local Coastal Program was certified with suggested modifications, except for four areas of deferred certification, in July 1992. In February 1993 the Commission concurred with the Executive Director's determination that the suggested modifications had been properly accepted and 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 previously discussed above, the proposed development itself will not further decrease public access which is already adversely affected 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. California Environmental Quality Act

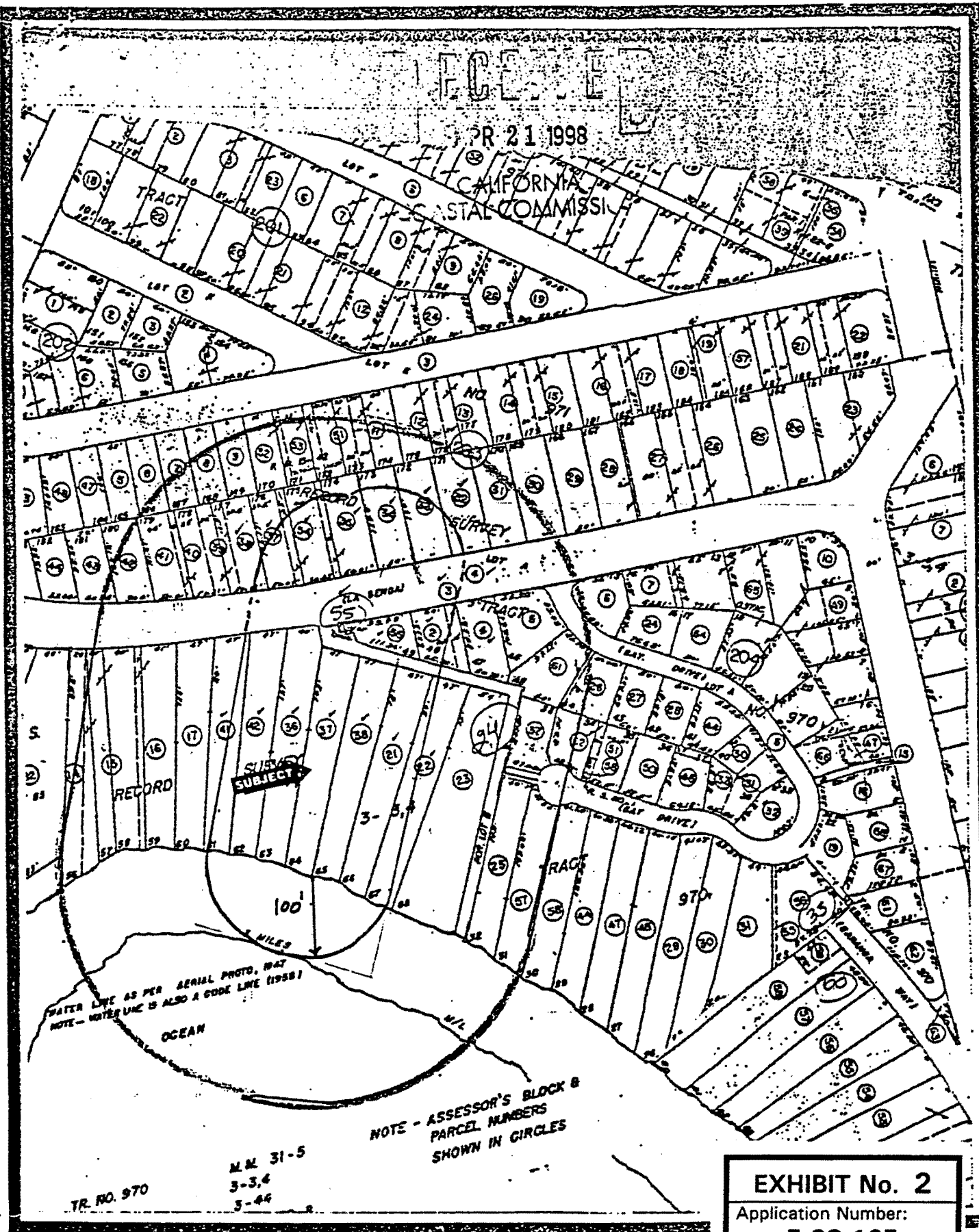
Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The project is located in an existing urbanized area. Development already exists in the project vicinity and all necessary utilities needed to serve the proposed development are available. The proposed development has been conditioned to be consistent with the hazard policies in Chapter 3 of the Coastal Act. The project as proposed is the least environmentally damaging alternative. Therefore, the Commission finds that the proposed project is consistent with CEQA and the policies of the Coastal Act.



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EXHIBIT No. 1
Application Number: 5-98-165
Location Map
California Coastal Commission



Ownership Map

EXHIBIT No. 2

Application Number:

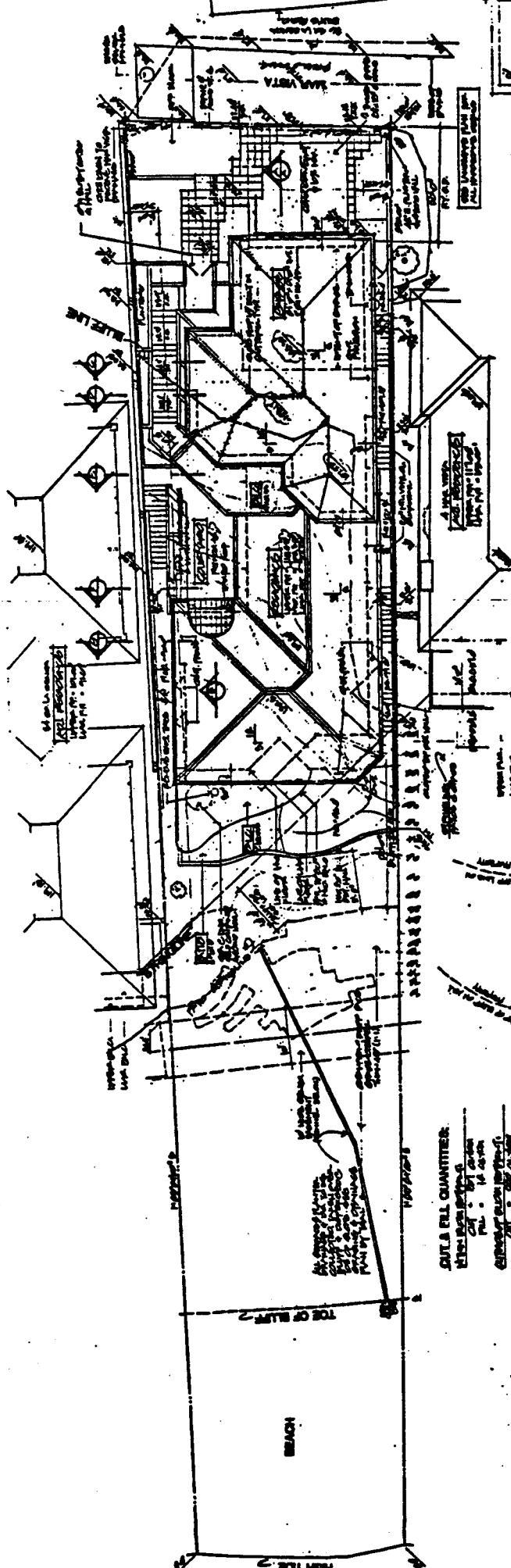
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Vicinity Map



California Coastal
Commission

5-98-165



BURNIE MCDONALD CRAIG
RUTH ALDRIDGE CRAIG
34 S. La Senda Drive
South Laguna, CA 92651
(949) 499-3070 FAX (949) 499-3046
July 10, 1998

Mr. Stephen Rynas AICP
Orange County Area Supervisor
California Coastal Commission


Dear Mr. Rynas :

Regarding: Case # 5-98-165

1. There is no known access from South La Senda Drive unless an easement is purchased from either Mr. Larson, living at 36 South La Senda Drive, or from Mr. Freedman, living at 4 Mar Vista.
2. The building pad is only about 50 ft. X 50 ft. as set forth by the enclosed edited map prepared by Laguna City Zoning Authority (Mr. John Tilton) at the specific request of the architect. This map, (and the many other handouts), were presented to each member of the Board during a public meeting of the Board. It sets forth the "BLUFF FACE", BLUFF LINE and the small gently sloping "PAD". See map "EXHIBIT II" enclosed.
3. The vegetation (ice plant etc.) on the lot, has not been cared for (for some 24 years or more) and hides the gullies and channeling.
4. Major amounts of earth, leaf mold, plants, trees, etc. were swept down the bluff, by El Nino, and deposited in a great heap at the beach. This accumulation has been partially removed for beach barbecues fuel. The Fire Department is very concerned about the lot's fire hazard after 25 years of neglect and the chance of ignition from barbecues on the beach.


Burnie McDonald Craig

Enclosure:
Exhibit II

EXHIBIT No. 4
Application Number: 5-98-165
Graig Letter
 California Coastal Commission

Determination of "Bluff Line" location and cross section sketch by John Tilton, City of Laguna Beach Zoning Administrator, upon request of project Architect, Susan Burgess, July 1997.

TOAL ENGINEERING, INC.
ONE EMPLOYER, TWO PARTNERS, ONE COMPANY

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