

CALIFORNIA COASTAL COMMISSION

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Hearing Date: August 8-11, 2000
Commission Action:

STAFF REPORT: PERMIT AMENDMENT**AMENDMENT**

APPLICATION NUMBER: 5-98-251-A1

APPLICANT: 21 Bay Drive, LLC, Attn: Bill Boehringer

AGENT: Morris Skenderian & Associates

PROJECT LOCATION: 21 Bay Drive, Laguna Beach (Three Arch Bay), Orange County

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Addition of 1,790 square feet of habitable area and 309 square feet of deck area to an existing two-story 2,199 square foot, single-family residence with decks and a 504 square foot garage. The proposed work required demolition of approximately 41% of the existing structure. In addition site stabilization measures are proposed including shoring the upcoast side of the property with 19 caissons, and shoring the downcoast side of the property with a 50 foot long retaining wall having conventional spread footings.

DESCRIPTION OF AMENDMENT: Demolition of an additional 46.2% of the existing 2,199 square foot single family residence leaving 12.8% of the existing residence at the seaward side of the residence. Construction of the same structure as previously approved with the following changes: 1) construction of a 50 foot long retaining wall with a drilled pier foundation in place of the previously approved 50 foot long wall with conventional spread footings; 2) demolish and reconstruct the 504 square foot garage with a lower floor elevation and lower roofline than the existing garage.

SUMMARY OF STAFF RECOMMENDATION:

The subject application for amendment is to authorize the demolition of an additional 46.2% of an existing single family residence and construction of a new residence with an improved foundation. In total, 87.2% of the structure will be demolished. The remaining 12.8% of the structure to remain in place is on the seaward side of the residence and does not conform with a stringline. Staff recommends that the Commission **DENY** the proposed development seaward of the stringline and **APPROVE** the proposed development landward of the stringline subject to several conditions. The major issues of the staff report relate to the proposed retention of existing non-conforming bluff setback in conjunction with the substantial demolition of the existing single family residence. Staff recommends the following special conditions: 1) submit revised plans showing the elimination of development beyond the stringline; 2) recordation of a no future shoreline protective device special condition; 3) an assumption-of-risk deed restriction; 4) conformance with

geotechnical recommendations of the applicant's geotechnical consultants, 5) submission and conformance with revised landscaping plans; 6) submission and conformance with drainage plans; 7) notification that all prior conditions of 5-98-251 not modified by this amendment remain in effect; 8) requirement for the applicant to comply with the prior to permit issuance conditions within 90 days of Commission action; 9) requirement that the applicant remove all development seaward of the stringline prior to or concurrent with construction of the residence; and 10) requirement for allowance of inspections during construction.

LOCAL APPROVALS RECEIVED: City of Laguna Beach approval-in-concept dated December 7, 1999.

SUBSTANTIVE FILE DOCUMENTS: See Appendix A

STAFF NOTE:

The subject application was placed on the July 2000 agenda. Prior to taking the matter up on July 12, 2000, the applicant requested a postponement pursuant to Section 13073 of the California Code of Regulations in order to prepare a response to the staff recommendation.

PROCEDURAL NOTE

A. Coastal Development Permit Amendments

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

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

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

The subject application is being forwarded to the Commission because the Executive Director has determined that the proposed amendment is a material change and affects conditions required for the purposes of protecting coastal resources or coastal access.

B. Standard of Review

The City of Laguna Beach has a certified local coastal program ("LCP"). However, the proposed project is located within Three Arch Bay, one of several locked gate communities in Laguna Beach where certification has been deferred. Therefore, the standard of review is the Chapter 3 policies of the Coastal Act. The Laguna Beach certified LCP will also be used as guidance.

STAFF RECOMMENDATION:

Staff recommends that the Commission in-part APPROVE the amendment application with special conditions and in-part DENY the amendment application by adopting the following two-part resolution.

MOTION

"I Move that the Commission adopt the staff recommendation, by adopting the two-part resolution set forth in the staff report."

Staff recommends a YES vote. Passage of this motion will result in adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION

I. APPROVAL IN-PART WITH CONDITIONS AND DENIAL IN-PART

Part 1: Approval with Conditions of a Portion of the Development

The Commission hereby **APPROVES** the amendment to Coastal Development Permit 5-98-251, subject to the conditions below, for the portion of the proposed project consisting of: demolition of a single family residence and construction of a new single family residence landward of the stringline on the grounds that as conditioned, the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act, is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and public recreational policies of Chapter 3 of the Coastal Act, 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.

Part 2: Denial of the Remainder of the Development

The Commission hereby **DENIES** a coastal development permit for the portion of the proposed development consisting of proposed construction of enclosed living space and decks seaward of a stringline and after-the-fact construction of drilled piers and grade beams seaward of the stringline on the grounds that the development will not be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, is located between the sea and the first public road nearest the shoreline and is not in conformance with the Chapter 3 policies of the Coastal Act and would prejudice the ability of the local government having jurisdiction of the area to

prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and would result in 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 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. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. 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.
5. 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. REVISED PLANS

A. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit final plans for the proposed development to the Executive Director for review and written approval. Plans shall include a demolition plan, floor plan, site plan, foundation plan and elevation plan that have been approved by the City of Laguna Beach. Said plans shall be in substantial conformance with the plans submitted with this application prepared by Morris Skenderian & Associates Architects dated 9/30/99, except that they shall be revised to reflect the following:

1. All portions of the residential structure sited seaward of a stringline drawn between the adjacent structures shall be removed or relocated such that no portion of the principal residential structure shall be sited seaward of a stringline drawn between the nearest corners of the adjacent residential structures as generally shown as "Option #2" on Exhibit 3, Page 1. In addition, all ancillary structures, such as decks, sited seaward of a deck stringline drawn between nearest corners of the

decks of the adjacent structures shall be removed or relocated such that no ancillary structures shall be sited seaward of a deck stringline drawn between the nearest corners of the decks of the adjacent residential structures as generally shown as "Option #2" on Exhibit 3, Page 1.

- B. The revised plans shall, prior to submittal to the Executive Director, be reviewed and certified by a qualified professional to ensure that they are consistent with the Commission's approval and with the recommendations of *Response to Request for Additional Information, 21 Bay Drive, Laguna Beach, California* dated May 16, 2000 by Coastal Geotechnical, Inc. of Laguna Beach, California; *Geotechnical Response to California Coastal Commission Letter Dated February 15, 2000*, by Coastal Geotechnical dated April 5, 2000, *Geotechnical Response to Notice of Incomplete Application* by Coastal Geotechnical dated January 14, 2000; *Geologic Conditions, 21 Bay Drive, Three Arch Bay, Laguna Beach* by Coastal Geotechnical dated November 10, 1999, *Geologic Conditions, 21 Bay Drive, Three Arch Bay, Laguna Beach* by Coastal Geotechnical dated November 11, 1999; *Geologic Conditions Beneath Retaining Wall Along Southeast Portion of Site*, by Coastal Geotechnical dated September 2, 1999, *Engineering Geologic Review, Coastal Commission Letter dated July 14, 1998* by Coastal Geotechnical dated July 19, 1998; *Letter Report for Tieback Testing* to Bill Boehringer from Soil Engineering Construction, Inc. dated August 27, 1997; Letter from Specialty Construction Design to Morris Skenderian dated September 24, 1997; Letter from Coastal Geotechnical to Morris Skenderian Architects dated July 19, 1998; *Engineering Geologic Investigation - 21 Bay Drive, Laguna Beach*, prepared for Gerald Raymond by Coastal Geotechnical dated August 8, 1992.
- C. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. **NO FUTURE SHORELINE PROTECTIVE DEVICE**

- A(1). By acceptance of this permit amendment, the applicant agrees, on behalf of itself and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-98-251-A1 including, but not limited to, the residence, foundations, decks, driveways and any other future improvements in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, or other natural hazards in the future. By acceptance of this permit amendment, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30253.

- A(2). By acceptance of this permit amendment, the applicant further agrees, on behalf of itself and all successors and assigns, that the permittee and/or landowner shall remove the development authorized by this permit amendment, including the residence, foundations, decks, driveways, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.
- A(3). In the event the bluff recedes to within 10 feet of the principal residence but no government agency has ordered that the structures not be occupied, a geotechnical investigation shall be prepared by a licensed coastal engineer and geologist retained by the permittee, that addresses whether any portions of the residence are threatened by wave, erosion, storm conditions, or other natural hazards. The report shall identify all those immediate or potential future measures that could stabilize the principal residence without shore or bluff protection, including but not limited to removal or relocation of portions of the residence. If the geotechnical report concludes that the residence or any portion of the residence is unsafe for occupancy, the permittee shall, in accordance with a coastal development permit remove the threatened portion of the structure.

- B. **PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT AMENDMENT NO. 5-98-251-A1**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the above restrictions on development. The deed restriction shall include a legal description of the applicant's entire parcel(s). The deed restriction 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 Commission amendment to this coastal development permit.

3. ASSUMPTION OF RISK, WAIVER OF LIABILITY AND INDEMNITY AGREEMENT

- A. By acceptance of this permit amendment, the applicant acknowledges and agrees (i) that the site may be subject to hazards from landslides, slope failures, erosion, and waves; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and

fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of subsection (a) of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction 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 Commission amendment to this coastal development permit.

4. **CONFORMANCE OF DESIGN AND CONSTRUCTION PLANS TO GEOTECHNICAL REPORT GEOLOGIC HAZARD**

- A. All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with all recommendations contained in the following Engineering Geologic Reports: *Response to Request for Additional Information, 21 Bay Drive, Laguna Beach, California* dated May 16, 2000 by Coastal Geotechnical, Inc. of Laguna Beach, California; *Geotechnical Response to California Coastal Commission Letter Dated February 15, 2000*, by Coastal Geotechnical dated April 5, 2000, *Geotechnical Response to Notice of Incomplete Application* by Coastal Geotechnical dated January 14, 2000; *Geologic Conditions, 21 Bay Drive, Three Arch Bay, Laguna Beach* by Coastal Geotechnical dated November 10, 1999, *Geologic Conditions, 21 Bay Drive, Three Arch Bay, Laguna Beach* by Coastal Geotechnical dated November 11, 1999; *Geologic Conditions Beneath Retaining Wall Along Southeast Portion of Site*, by Coastal Geotechnical dated September 2, 1999, *Engineering Geologic Review, Coastal Commission Letter dated July 14, 1998* by Coastal Geotechnical dated July 19, 1998; *Letter Report for Tieback Testing* to Bill Boehringer from Soil Engineering Construction, Inc. dated August 27, 1997; Letter from Specialty Construction Design to Morris Skenderian dated September 24, 1997; Letter from Coastal Geotechnical to Morris Skenderian Architects dated July 19, 1998; *Engineering Geologic Investigation - 21 Bay Drive, Laguna Beach*, prepared for Gerald Raymond by Coastal Geotechnical dated August 8, 1992.
- B. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall submit, for the Executive Director's review and approval, evidence that an appropriate licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the recommendations specified in the above-referenced geologic evaluations approved by the California Coastal Commission for the project site.

- C. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

5. REVISED PLANS

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall submit revised plans to the Executive Director for review and approval. The revised plans shall show the following changes to the project:

1. LANDSCAPING

- (a) Plantings shall be of southern California native, drought tolerant plants;
 - (b) No permanent irrigation system shall be allowed on the property, including both the front and backyard areas. Only temporary irrigation to help establish the landscaping shall be allowed. The period of temporary irrigation shall be specified (e.g. number of months); and
 - (c) The plantings established shall provide 90% cover in 90 days;
 - (d) All required plantings will be maintained in good growing conditions through-out the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan;
 - (e) The landscaping plan shall show all the existing vegetation which is proposed to remain in place and any existing irrigation system. Any existing irrigation system will be disconnected and capped off;
 - (f) The plans shall be prepared by a licensed landscape architect.
- B. The revised plans shall, prior to submittal to the Executive Director, be reviewed and certified by a qualified professional to ensure that they are consistent with the Commission's approval and with the recommendations outlined in Special Condition 4 above.
- C. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

6. DRAINAGE PLAN

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT,** the applicant shall submit, for the review and approval of the Executive Director, a plan for site drainage. The plan shall be prepared by a licensed engineer.

1. The plan shall demonstrate that:

- (a) Run-off from all roofs, patios, driveways and other impervious surfaces and slopes on the site shall be collected and discharged to avoid ponding or erosion either on or off site;
- (b) Where feasible, run-off from all roofs, patios, driveways and other impervious surfaces and slopes on the site shall be collected and discharged to the street via pipe or other non-erosive conveyance.

- B.** The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

7. PRIOR CONDITIONS

Unless specifically altered by this amendment, all regular and special conditions attached to coastal development permit 5-98-251 remain in effect.

8. CONDITION COMPLIANCE

WITHIN 90 DAYS OF COMMISSION ACTION ON THIS COASTAL DEVELOPMENT PERMIT APPLICATION, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

9. TIMING OF DEMOLITION AND REMOVAL OF STRUCTURES

Prior to or concurrent with construction of the development, in accordance with the plans approved by the Executive Director as required in Special Condition 1 of this permit, the applicant shall demolish and remove all structures seaward of the stringline.

10. INSPECTIONS

The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.

IV. APPROVAL FINDINGS AND DECLARATIONS

A. DETAILED PROJECT DESCRIPTION AND LOCATION

1. Site Description

The applicant is proposing to substantially demolish and reconstruct a single family residence at 21 Bay Drive, Laguna Beach, California (a.k.a. Lot 25, Tract 970). The subject site is located on the face of a coastal bluff¹ within the private locked-gate community of Three Arch Bay in the City of Laguna Beach (Exhibit 1).

The existing partially demolished residence is located upon a roughly rectangular lot measuring 40 feet wide. The length of the lot varies because the lot extends from Bay Drive to the mean high tide line. Therefore, the seaward limit of the lot varies with changes to the mean high tide line. Given these variable factors, the length of the lot is approximately 210 to 220 feet (i.e. the distance from Bay Drive to the mean high tide line). Based upon information submitted by the applicant, the toe of the bluff is approximately 50 feet horizontally inland from the mean high tide line. The lot descends from an elevation of approximately 100 feet (MSL) to the beach/toe of bluff at approximately 10 feet (MSL). The Three Arch Bay homeowners association has a private easement which extends from the toe of the bluff to the mean high tide line. No development will occur within this private easement.

The slope of the bluff face varies. Beginning at Bay Drive, the site descends from elevation 100 to elevation 75 where the site levels out to form the existing graded building pad. The building pad descends from elevation 75 feet to elevation 60 feet over a 100 foot length. At the edge of the building pad the site descends from elevation 60 feet to elevation 10 feet over a distance of about 70 feet (Exhibit 3, Page 1).

2. Development Previously Proposed and Approved

On October 13, 1998, the Commission granted Coastal Development Permit 5-98-251 to 21 Bay Drive LLC for development at the subject site. Under Coastal Development Permit 5-98-251-A1 the applicant proposed the addition of 1,790 square feet of habitable area and 309 square feet of deck area to the existing two-story 2,199 square foot, single-family residence with 380 square feet of deck area and a detached 504 square foot two-car garage. The resultant structure would be four levels, consisting of the two levels of the existing home, the street level garage, and a new spa deck level in between the top of the

¹ The Commissions findings dated September 24, 1998 for Coastal Development Permit 5-98-251 state that the subject site is a "blufftop" lot. The evaluation of whether the site was either a bluff top lot or a bluff face lot was not at issue in the previous approval because the project had a limited amount of demolition and was described as an addition to an existing structure with no seaward encroachment. However, since the project now involves substantial demolition of the existing structure and the Commission is requiring that the project be revised to conform with a setback, the issue of whether the site was a bluff top or a bluff face was more thoroughly evaluated in order to establish whether a stringline or bluff edge setback should be utilized. Commission staff's Senior Geologist has visited the subject site and determined that the proposed development is located primarily upon a bluff face rather than a bluff top.

home and under the garage. The applicant also proposed site stabilization measures including the installation of 19 caissons. Eight (8) of the 19 caisson were to be placed perpendicular to Bay Drive and under the existing stairs between the garage and home. The other 11 caissons were proposed to be installed on the upcoast side of the property. Tiebacks would provide lateral support for the proposed caissons. In addition, the area between the caissons and the existing structures was to be chemically grouted for added stabilization (Exhibit 9).

The project description for the previously proposed and approved project did not specify the quantity of demolition that was to occur. However, the plans that were submitted by the applicant with their original application depict the proposed demolition. Based upon sheets A1 and A2 of the plans submitted by the applicant which were prepared by Morris Skenderian Associates dated September 14, 1998, the quantity of exterior walls to be demolished (including the garage and separately measuring each level of the residence) was approximately 223 linear feet of 543 linear feet of existing exterior wall or approximately 41% of the existing structure (Exhibit 13, page 13 and 14). With the exception of approximately 10 linear feet of wall and the existing roof, no portion of the structure seaward of a stringline drawn between 23 Bay Drive and 19 Bay Drive, was proposed to be removed. In addition, the proposed development would not result in seaward encroachment of the structure.

The approved development was subject to five special conditions. Special Condition 1 required the applicant to execute and record an assumption-of-risk deed restriction acknowledging the site was subject to extraordinary hazards such as landslides, slope failures, and wave attack. Special Condition 2 required the applicant to conform with geotechnical recommendations and to submit final plans with an affidavit that those plans conform with the geotechnical recommendations approved by the Commission. Special Condition 3 required the applicant to submit revised landscaping plans showing use of drought tolerant native plants and temporary irrigation. Special Condition 4 prohibited the use of the beach for staging and storage of construction materials. Special Condition 5 required the applicant to direct all drainage toward the street except in those cases where it was infeasible to do so. The applicant submitted evidence of compliance with the special conditions, and the permit was issued on January 27, 1999.

The previously imposed special conditions will pertain to the development proposed in this amendment. Special Condition 7 clarifies that these previously imposed special condition remain in effect unless specifically altered by the conditions of this permit amendment.

3. Proposed Amendment

The applicant is now proposing to demolish an additional 251 linear feet of exterior wall or an additional 46.2% of the structure. Therefore, adding the previous 41% of the structure demolished, the proposed development would result in the demolition of a total of approximately 87.2% of the structure. The additional work includes demolition of a portion of the seaward-most extension of the residence and the complete removal of the existing garage (Exhibit 2).

In order to accommodate some concerns of neighbors, the applicant is proposing to lower

the height of the existing garage by lowering the floor of the garage and the overall roof line of the garage. The applicant is also proposing to replace a previously proposed 50 foot long retaining wall having conventional footings [located along the downcoast (i.e. eastern) property line] with a 50 foot long retaining wall with a drilled pier foundation.

Excepting the change to the height of the garage and design of the downcoast shoring wall, the applicant is not proposing to change the design of the residential structure as was previously proposed. However, new walls which were not previously proposed to be removed and replaced will need to be constructed for the residence. In addition, new drilled foundation piers and grade beams are required to accommodate the new development. The substantial demolition (87.2%) of the existing residence and construction of a new residence is essentially a demolition and rebuild. Some elements of this new development do not conform with a stringline drawn between the nearest corners of the adjacent structures at 23 Bay Drive and 19 Bay Drive (Exhibit 3).

4. Characterization of Proposed Project as New Development Versus an Addition to an Existing Structure

The existing (pre-demolition) residence is non-conforming with respect to a stringline setback. The Commission previously granted a permit for development at the site characterized as an addition to an existing single family residence rather than a demolition and construction of a new single family residence. Due to the limited nature of the demolition and the lack of substantial work on the seaward side of the residence, the structure was not required to conform with contemporary setback standards for bluff area development.

However, the additional demolition proposed in this amendment results in substantial removal of the existing residence. There are at least two ways to characterize the amount of demolition occurring: 1) linear feet of exterior walls being removed; or 2) square footage of the structure being removed.

Using linear feet of walls removed, the proposed amendment results in demolition of 251 linear feet of an existing approximately 543 linear feet of exterior walls. Adding the additional 251 feet to the previously approved 223 linear feet of wall to be removed results in a total approximate demolition of 474 linear feet of the exterior walls of the structure or approximately 87% of the structure.

Another method of analyzing the total amount of demolition is to express it in terms of the total square footage of existing structure to be removed. Based upon information provided by the applicant, the proposed amendment would result in the demolition of 1,494 square feet of the existing 2,199 square feet of living space, plus demolition of the existing 504 square foot garage, or approximately 74% of the existing structure.

The applicant has stated that the intent of the project has been to retain the present footprint of the pre-existing residence (Exhibit 6). As is noted more fully in the Section IV.C. of this report, the retention of this footprint would be non-conforming with respect to the seaward limit of adjacent development and would have adverse impacts upon visual resources. There are similar cases where projects have been characterized as additions to

an existing structure rather than a demolition and reconstruction in order to retain the non-conforming elements of the structure. For instance, the Commission recently required a project in San Diego County (A-6-LJS-99-160 Summit Resources, L.P.) involving substantial demolition and reconstruction of a single family residence to conform with present bluff setbacks.

Depending on the method used to analyze the demolition, the proposed amendment results in demolition of 74% to 87% of the existing structure. In either case, the quantity of demolition involved is so substantial that the proposed project can be characterized as demolition and construction of a new single family residence rather than an addition to an existing structure. This new development must be required to fully conform with Coastal Act policies and any development setbacks needed to assure consistency with those policies.

B. HISTORY OF DEVELOPMENT ON BAY DRIVE

Bay Drive has been the subject of numerous incidents of geologic instability from landslide activity. As a result several properties on Bay Drive have sought and obtained coastal development permits for landslide stabilization measures.

Landslide activity on the subject site and in the immediate vicinity have typically occurred during years when rainfall was unusually heavy. A clay seam/failure plane underlying Bay Drive properties is lubricated by excessive rainfall which causes the land above the seam to slide. Landslide activity has reportedly occurred on Bay Drive in 1952, 1973, 1978, 1979, 1991, and 1998.

Landsliding activity on Bay Drive has resulted in damage to several structures built there. For instance, a home built in the 1930's at 31 and 33 Bay Drive was severely damaged by landslide activity in the late 1970's and was subsequently removed. A replacement residence was constructed in 1982 upon the lot at 33 Bay Drive (CDP P-80-7431). Landsliding activity since 1991 resulted in damage to this structure as well and required stabilization measures which were approved in January 2000 (CDPA 5-99-332-A1).

Landslide activity in the early 1990's prompted the Three Arch Bay Association (a homeowners group for the private community) to install caissons, tiebacks, and a shotcrete wall along Bay Drive on the properties upcoast of the subject site (23 through 31 Bay Drive). The landslide which occurred at 23-31 Bay Drive destroyed a single family residence constructed in the early 1930's at 23 Bay Drive. Despite the stabilization measures installed by Three Arch Bay Association, the lots remained unstable. Therefore, a shoring system consisting of a shoring wall with a buttress fill, toe erosion protection wall, and drainage system was installed across the sites at 23 through 31 Bay Drive under Coastal Development Permit 5-97-371 (Conrad).

Landsliding activity has also caused damage to the property at 35 Bay Drive. An application for a coastal development permit for stabilization measures at this site has been submitted but is incomplete and has not been acted on by the Commission.

Details of the coastal development permits on Bay Drive are included in Appendix B and the location is shown on Exhibit 8. Each of these permits has been subject to requirements to avoid or minimize the risks from hazards presented by development on Bay Drive. Avoidance and minimization measures have included conformance with bluff top setbacks and stringlines, recordation of assumption-of-risk deed restrictions, restrictions on the use of bluff and shoreline protective devices, and conformance with geotechnical recommendations.

C. VISUAL QUALITY

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The proposed project includes the construction of residential structures and stabilization devices on a bluff face. If not sited appropriately, these structures would have adverse impacts upon views to and along the ocean and would be visually incompatible with the character of the surrounding area. Furthermore, appropriate siting can restore and enhance visual quality.

The proposed residential structure includes a garage that would extend 14 feet above the centerline of Bay Drive. Thus, when viewed from the level of Bay Drive (a private street), only the garage would be visible. This is similar to the character of the existing adjacent and proposed homes at 23 through 33 Bay Drive, where only the garages of the homes are visible since the remainder of the homes step down the bluff face. Therefore, the height of the proposed structure above the centerline of Bay Drive is compatible with the character of development in the area.

The proposed project is located in a private community (Three Arch Bay) that is between the first public road (Pacific Coast Highway in this area) and the sea. This existing, pre-Coastal Act private community is built upon a bluff top terrace which descends from PCH to the water. Several rows of homes and various other structures in the private community obstruct public views of the water from PCH. The proposed development occurs seaward of these existing structures and does not extend above the height of existing development. Therefore, public views to the shoreline from inland areas such as PCH will not be adversely affected by the proposed development.

However, development on the bluff face as proposed can affect public views along the coast from public trust land seaward of the mean high tide line. On Bay Drive, development on the bluff face would not be inconsistent with the character of development

in the area because the bluffs along Bay Drive and within Three Arch Bay are altered and developed with homes which step down the bluff face. On Bay Drive, development of a home at the subject site which is multi-storied and steps down the bluff face would be consistent with existing homes at 33 and 35 Bay Drive and consistent with the approved homes at 23-31 Bay Drive.

Also, the proposed development is occurring adjacent to a private beach that is flanked on either side by rocky headlands which extend several hundred feet into the ocean. If the public wished to view the coastline in this area they would need to come around the headlands and use the beach seaward of the mean high tide line (since the beach landward of the mean high tide line is private) or view the bluffs from the water (i.e. from a boat). Therefore, due to physical and public access constraints, public enjoyment of views to and along the coast in this area is limited compared with other areas along the coast.

Nevertheless, while public views are limited compared to other areas, these views to and along the shoreline are available. Degradation of those views would be inconsistent with Section 30251 of the Coastal Act. Degradation of views can occur when development is not consistent with the character of surrounding development. For instance, development seaward of the line of development established for an area can interfere with views to and along the shoreline leading to degradation of those views.

The proposed development will replace an existing single family residence within a built out area. As proposed, the seaward-most point of the residence is the same as the seaward-most point of the existing residence. The proposed deck is also at the same seaward location of the existing deck.

As described previously, the proposed amendment results in substantial demolition of the existing structure. Due to the degree of demolition (87%) it is technically feasible to bring development at the site into conformance with the character of surrounding area. As proposed, the development will include the placement of structures seaward of the line of adjacent development. Specifically, the applicant is proposing the construction of foundation elements, enclosed living space, and deck areas approximately 24 to 36 feet seaward of the line of development.

Several projects approved by the Commission have established a seaward limit of development in the area including projects at 19, 23-31, and 33 Bay Drive [CDP's 5-93-204 (Munsell); 5-97-371 (Conrad); 5-98-020 (Conrad); 5-98-064 (Barnes); 5-98-307 (Griswold); 5-98-178 (McMullen); and P-80-7431 (Kinard)]. Siting development at the subject site seaward of the structures between 19 and 33 Bay Drive, as proposed, would be inconsistent with the character of surrounding development. Therefore, the Commission finds that development, such as enclosed living space and decks, must be limited to the seaward limit of adjacent development.

The City's certified local coastal program ("LCP") is not effective in Three Arch Bay because the area is not certified, but it can be used for guidance. The LCP 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 has consistently required in Orange County that development be setback a minimum of 25 feet from the edge of a

coastal bluff. The Commission has also recognized 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 development should be built further seaward than a line drawn between the nearest adjacent corners of either decks or structures of the immediately adjacent homes.

In this case, the applicability of the 25 foot setback from the edge of a coastal bluff is moot since the proposed development is occurring on a bluff face. The use of a stringline therefore is the appropriate solution for determining the seaward extent of development considering that the proposed residential development is infill development. Taking this approach is reasonable and equitable since it would limit new development to the seaward extent of existing and approved development.

As submitted, the applicant is proposing development seaward of the stringlines drawn between the nearest existing decks and structures on either side of the subject site (Exhibit 3). The structure stringline limits the seaward extent of enclosed living areas. The deck stringline limits the seaward extent of all other accessory structures including any swimming pools, spas, hardscape, decks, and at-grade patios.

The existing development is the seaward-most residential structure on Bay Drive. All other existing and approved residential development on Bay Drive is landward of this existing residence. Retaining the non-conforming seaward projection of the residence would be inconsistent with the character of surrounding development and thus be inconsistent with Section 30251 of the Coastal Act. Due to the substantial demolition of the single family residence the development at the site can be brought into conformance with the character of surrounding development by requiring it to conform with the stringline and thus be consistent with Section 30251 of the Coastal Act.

Requiring the proposed structure to conform with a stringline is equitable from the standpoint that existing and approved development on surrounding lots have been required to or already do conform with a stringline or other appropriate setback. Furthermore, requiring the applicant to conform with a stringline would not result in an unusually small development area resulting in an unusually small house. Presently, the proposed approximately 4,000 square foot residence will be constructed within a development area that is 40 feet wide and 135 feet long. By using a stringline on the proposed project site the lot area landward of the stringline would be reduced to an area approximately 40 feet wide by approximately 100 feet deep. By comparing this development area to adjacent sites, it is apparent that a similarly sized residence could be constructed within the reduced development area.

For instance, a stringline was used on the adjacent property at 23 Bay Drive resulting in a development area approximately 40 feet wide by 120 feet deep. The applicant for 23 Bay Drive proposed a 3,700 square foot residence within the development area. Similarly, a stringline was used on the property at 25 Bay Drive resulting in a development area landward of the stringline measuring approximately 40 feet wide by 100 feet deep which allowed for a 3,700 square foot residence. These development areas are similar in size to the development area that would be available on the subject site using the stringline.

In the case of the proposed development, there are at least two ways to draw the development stringline. The first option would be to draw a stringline between the existing single family residence at 33 Bay Drive (five lots upcoast of the subject site) and the existing residence at 19 Bay Drive (Option 1, Exhibit 3). The rationale for using this stringline would be to acknowledge the development that is on the ground at the time the proposed development is being reviewed by the Commission. Presently, while homes have been approved and the foundations for several of the homes have been laid, the enclosed living spaces for the single family residences at 23 through 31 Bay Drive have not yet been constructed.

The second option would entail drawing the stringline between the existing residence at 19 Bay Drive and the residence approved by the Commission at 23 Bay Drive which is presently under construction (Option 2, Exhibit 3). These two properties immediately flank the subject site. The rationale for using the second option would be to acknowledge that construction of the residence at 23 Bay Drive has commenced and upon completion would be the structure typically used by the Commission to establish the stringline. A more restrictive development stringline would result under the second option. Specifically, the second option would result in the movement of development between 1.6 to 4 feet landward of the limit of development prescribed using Option 1. The Commission imposes this more restrictive stringline because the residence at 23 Bay Drive which was recently approved by the Commission will be completed in the not too distant future. Furthermore, a more restrictive stringline maximizes the limitation of seaward encroachment and results in a development area similar to adjacent sites.

Development beyond the stringline would have an adverse visual impact because it would be inconsistent with existing development patterns resulting in degradation of views along the shoreline. Therefore, the Commission finds it necessary to impose Special Condition 1 requiring the applicant to submit revised demolition plans, site plans, floor plans, foundation plans, and elevation plans, which show the removal and/or relocation of existing structures located seaward of the stringline and elimination of new proposed structures seaward of the stringline. Prior to submittal of the plans to the Executive Director for review and approval, the revised plans are to be reviewed and certified by a qualified professional to ensure they are consistent with the geotechnical recommendations in the reports submitted by the applicant. In addition, the final plans submitted to the Executive Director must be accompanied by evidence of their review and approval by the City of Laguna Beach. The applicant shall undertake development in accordance with the final plans approved by the Executive Director and no changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required. As conditioned, the Commission finds that the proposed project is consistent with Section 30251 of the Coastal Act.

D. GEOLOGIC HAZARDS

Section 30253 of the Coastal Act states, in relevant 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.

Stabilization of Site

The geologic reports submitted by the applicant indicate that there is an ancient landslide on the subject site (see Appendix A and Exhibit 7). The applicant's geologist has indicated that this landslide is secondary to the "parent" landslide which is present on the adjacent properties at 23-31 Bay Drive. This secondary ancient landslide was reactivated when the parent slide reactivated in the early 1990's. According to a geologic report prepared for the site in 1992, the slide was reactivated by an increase in groundwater flows which occurred as a result of a rise in the water table combined with heavy winter rains. The applicant's geologist's letter dated January 14, 2000, describes geology at the site as follows:

The geologic conditions underlying the subject lot can be summarized generally as a variable thickness and local deposit of landslide debris, Pleistocene regressive marine and continental terrace deposits, and ultimately middle Miocene marine sedimentary bedrock assigned to the San Onofre Breccia. The San Onofre Breccia appears to have been intensely faulted locally, with an observed prominent high-angle and west dipping fault trending essentially sub-parallel to the easterly property boundary.

In order to address concerns with the stability of the landslide debris and the loss of lateral support on the upcoast (west) property line due to a landslide at 23-31 Bay Drive, the applicant previously proposed under CDP 5-98-251 to install 19 caissons. These caissons were to be installed along the upcoast property line (adjacent to 23-31 Bay Drive) and perpendicular to Bay Drive under the existing stairs between the garage and the residence. The applicant's geologist indicated that with the proposed measures, the site would have at least a 1.5 factor of safety.

Meanwhile, at its August 1998 hearing, the Commission approved Coastal Development Permit 5-97-371 (Conrad) for a comprehensive landslide remediation and shoring project at 23-31 Bay Drive. Coastal Development Permit 5-97-371 has been issued and the landslide stabilization system is presently under construction and is near completion. The stabilization system constructed on the adjacent site provides lateral stability to the subject site. This system provides at least a 1.5 factor of safety. The applicant's geologist has indicated that since the stabilization system was installed at 23-31 Bay Drive, 11 of the previously proposed 19 caissons to be installed on the subject site are no longer necessary.

However, while the 11 caissons have not yet been installed, the applicant has not proposed to remove these 11 caissons from the project description.

Under Coastal Development Permit 5-98-251, the Commission approved the replacement of an existing retaining wall on the downcoast (eastern) property line with a 50 foot long retaining wall with conventional spread footings. Replacement of the retaining wall was necessary to accommodate the additions to the residence that were proposed at that time.

During demolition of the existing residence the applicant discovered that geologic conditions in the vicinity of the proposed wall that were not as anticipated. Pre-historic faulting combined with groundwater conditions in the location of the proposed retaining wall would render a retaining wall with conventional spread footings unstable. Therefore, the applicant is proposing the installation of a retaining wall with a foundation of drilled piers. Seven (7) 24-inch diameter drilled piers, 8 feet apart, having a total depth of 23 feet each is proposed for the foundation of the retaining wall. In addition, the applicant is proposing the installation of subdrains as part of the retaining wall to direct water to a safe discharge point.

The applicant's geologist has stated that the 50 foot long retaining wall was needed to accomplish two objectives. The first objective was to construct a retaining wall with embedment of the wall foundation into competent bearing materials. The second objective was to provide temporary shoring of the slope during construction as well as to provide permanent stabilization of the slope as part of a finished wall. In order to accomplish these objectives, several alternatives were considered. The first option was to install the previously proposed wall using the construction techniques previously contemplated. Under the previously contemplated scenario an un-retained vertical cut of the slope was required. Due to the intensely faulted nature of the soils and the presence of groundwater, an un-retained slope was expected to fail causing damage to the subject site as well as damage to the property at 19 Bay Drive. The second option was to use temporary shoring and deepened conventional spread footings for the finished retaining wall. However, the second option would not provide adequate stability. The third option was the proposed retaining wall with drilled pier foundation. This third option provides the necessary embedment into competent bearing materials and provides temporary and permanent shoring of the slope.

The proposed project is an acceptable method to achieve long-term stability of the site. Water entering the slope will be collected through an on-site drainage system to minimize off-site adverse impacts from erosion and would discharge in a manner that minimizes erosion. Also, according to the applicant's geologist, the subject development must be carried out in a manner which meets a minimum factor of safety of 1.5. The geotechnical consultant has determined that the proposed project is feasible from a geotechnical standpoint, would not result in adverse impacts to adjacent off-site properties and achieves a minimum factor of safety of 1.5.

The geotechnical reports indicate that the proposed development is feasible from a geotechnical standpoint. The geotechnical reports contain recommendations that, if incorporated into the proposed project design, would assure stability and structural integrity including foundation designs, minimum depth of drilled piers, and construction methods.

Section 30253 of the Coastal Act requires that new development minimize risks to life and property in areas of high geologic hazard. The applicant's geotechnical reports indicate that the subject site has been subject to stability problems in the past. To minimize risks to life and property, the applicant's geologist has stated that the project must achieve a minimum factor of safety of 1.5. The proposed retaining wall, according to information submitted by the applicant, will achieve a 1.5 factor of safety. Therefore, subject to the conditions below, the Commission finds that the project is consistent with Section 30253 because the project minimizes risks to life and property.

(a) Conformance with Geotechnical Recommendations

Recommendations regarding the design and installation of the retaining wall have been provided in several reports and letters submitted by the applicant, including: *Response to Request for Additional Information, 21 Bay Drive, Laguna Beach, California* dated May 16, 2000 by Coastal Geotechnical, Inc. of Laguna Beach, California; *Geotechnical Response to California Coastal Commission Letter Dated February 15, 2000*, by Coastal Geotechnical dated April 5, 2000; *Geotechnical Response to Notice of Incomplete Application* by Coastal Geotechnical dated January 14, 2000; *Geologic Conditions, 21 Bay Drive, Three Arch Bay, Laguna Beach* by Coastal Geotechnical dated November 10, 1999; *Geologic Conditions, 21 Bay Drive, Three Arch Bay, Laguna Beach* by Coastal Geotechnical dated November 11, 1999; *Geologic Conditions Beneath Retaining Wall Along Southeast Portion of Site*, by Coastal Geotechnical dated September 2, 1999; *Engineering Geologic Review, Coastal Commission Letter dated July 14, 1998* by Coastal Geotechnical dated July 19, 1998; *Letter Report for Tieback Testing* to Bill Boehringer from Soil Engineering Construction, Inc. dated August 27, 1997; Letter from Specialty Construction Design to Morris Skenderian dated September 24, 1997; Letter from Coastal Geotechnical to Morris Skenderian Architects dated July 19, 1998; *Engineering Geologic Investigation - 21 Bay Drive, Laguna Beach*, prepared for Gerald Raymond by Coastal Geotechnical dated August 8, 1992. Adherence to the recommendations contained in these reports is necessary to ensure that the proposed foundation distress and landslide remediation 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 applicant has not submitted evidence that the final development plans conform to the recommendations spelled out in the above referenced documents. In addition, as is outlined elsewhere in these findings, the Commission is requiring that the proposed project be modified to conform with a stringline. Accordingly, revised plans incorporating the Commission's requirements must be submitted. In order to assure the safety of the development, these plans must be reviewed by a qualified professional and a determination must be made that the plans conform with the geologic recommendations. Therefore, as a condition of approval, the Commission finds that it is necessary to impose Special Condition 4, which requires the applicant to submit final revised plans, subject to the review and approval of the Executive Director, which include signed statements of the appropriately licensed professional certifying that the final revised plans incorporate the geotechnical recommendations.

(b) Assumption-of-Risk Deed Restriction

Since the site has been subject to stability problems from landsliding and is a shorefront development which may be subject hazards from coastal erosion, wave attack and similar natural hazards, the Commission finds that, as a condition of approval, the applicant and all landowners of the subject site must record an assumption-of-risk deed restriction to inform the applicant and all current and future owners of the subject site that the site is subject to hazards from landslides and coastal erosion/wave attack.

The proposed project involves stabilizing a slope subject to protect existing structures such as the existing residence and Bay Drive. The applicant's geotechnical consultants assert that the proposed stabilization project is designed in a geotechnically safe manner. However, geotechnical evaluations do not guarantee that future bluff retreat or further landslides will not affect the stability of the proposed stabilization project. There is always some risk of an unforeseen natural disaster, such as an unexpected landslide due to an unknown failure plane, erosion of the bluff due to unusually large waves, among other hazards, that would result in complete or partial destruction of the site or the development.

In case such an unexpected event occurs on the subject property, the Commission attaches Special Condition 3, which requires recordation of a deed restriction whereby the landowner assumes the risks of extraordinary erosion and geologic hazards of the property and accepts sole responsibility for the removal of any structural debris resulting from landslides, slope failures, erosion, and waves on the site.

The Commission further finds that Special Condition 3 must be attached because recordation of the deed restriction will provide notice of potential hazards of the property and help eliminate false expectations on the part of potential buyers of the property, lending institutions, and insurance agencies that the property is safe for an indefinite period of time and for further development indefinitely in the future.

In addition, even though there is a potential for future geologic hazard, no one can predict when or if there might be bluff failure that would affect the proposed development since such failure appears to be episodic in nature. Special Condition No. 3 also requires that the landowner assume the risks of extraordinary erosion and geologic hazards of the property and waives any claim of liability on the part of the Commission or its officers, agents, and employees for any damage due to these natural hazards; in addition, the landowner accepts sole responsibility for the removal of any structural debris resulting from landslides, slope failures, or erosion on the site.

(c) No future protective devices allowed (Section 30253)

Section 30253 of the Coastal Act requires that new development shall not require construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The proposed development could not be approved as being consistent with Section 30253 of the Coastal Act if projected bluff retreat would affect the proposed development and necessitate construction of a protective device. In addition, the Commission interprets Section 30235 of the Coastal Act to require the Commission to approve shoreline protection for residential development only for existing principal

structures. The construction of a shoreline protective device to protect new development would not be required by Section 30235 of the Coastal Act. In addition, the construction of a protective device to protect new development would conflict with Section 30251 of the Coastal Act which states that permitted development shall minimize the alteration of natural land forms, including coastal bluffs which would be subject to increased erosion from such a device.

The applicant is proposing site stabilization measures which they assert achieves a minimum factor of safety of 1.5. Based upon a geologic investigation and coastal engineering assessment, the applicant maintains that the subject site is safe for development and will not require a seawall. If not for the information provided by the applicant that the site is safe for development and will not require a seawall, the Commission could not conclude that the proposed development will not in any way "require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs."

However, the record of coastal development permit applications and Commission actions has shown that geologic conditions change over time and that predictions regarding site stability based upon the geologic sciences are inexact. As described in Section IV.B. of this staff report, development approved by the Commission on Bay Drive has been subject to landslide damage and the need for protective devices. For example, development at 33 Bay Drive (5 lots upcoast or east of the site) provides an example that geologic studies do not always reveal all geologic hazards. The residence at 33 Bay Drive was constructed under Coastal Development Permit P-80-7431. The geologic report submitted with the application concluded that while there were hazards on site, the soils and bedrock into which the residence was to be founded was stable. Therefore, the site could be safely developed. However, subsequent landslide activity demonstrated that the area where the residence was constructed was not stable. As a result there was damage to the foundation of the residence. In response to this landslide activity, the Executive Director issued Emergency Coastal Development Permit 5-99-332-G for measures to stabilize the foundation of the residence. This emergency permit was followed up by Coastal Development Permit Amendment 5-99-332-A1 which authorized a comprehensive landslide remediation system consisting of caissons, buttress fill, buttress fill toe protection wall, soil nails, and a shotcrete wall.

The geologic information submitted with this application for amendment also acknowledges that certain hazardous conditions may exist which have not been disclosed by the geologic investigation. The Closure section of the applicants geologic report dated September 24, 1997 states:

This investigation was conducted in accordance with generally accepted practice in the soils engineering field. No other warranty is offered or implied. The conclusions and recommendations presented in this report are based on surface and subsurface conditions encountered and the present state of geologic knowledge. They are not intended to imply a control of nature. As site geotechnical conditions may alter with time, the recommendations presented in this report are considered valid for a period of one year from the report date...

The applicant has stated that the project has been designed with a minimum factor of safety of 1.5 and is designed to rely upon the strength characteristics of the geologic structures underlying the site.

The Commission must rely upon, and hold the applicant to their information which states that the site is safe for development without the need for construction of the kinds of protective devices inconsistent with Sections 30251 and 30253 of the Coastal Act. Therefore, the Commission imposes Special Condition 2 which requires the applicant to record a deed restriction against the property placing the applicant and their successors in interest on notice that no protective devices shall be permitted to protect the proposed development and that the applicant waives, on behalf of itself and all successors and assigns, any rights to construct protective devices that may exist under Public Resources Code Section 30235. This condition is similar to that imposed by the Commission in Coastal Development Permit actions 5-99-231 (Smith), 5-97-371 (Conrad), and 5-99-332-A1 (Frahm).

(d) Bluff Face Development

i. Conformance with Setback

New development on bluff faces and bluff tops pose potential adverse impacts to the geologic stability of coastal bluffs, to the preservation of coastal visual resources, and to the stability of existing residential structures, both the applicant's and adjoining structures. Setbacks are a means of limiting the encroachment of development on bluff faces and near bluff edges on unstable bluffs and preventing the need for construction of revetments and other engineered structures to protect development on coastal bluffs, as per Section 30253 of the Coastal Act.

As noted above, even when geologic reports show bluffs to be stable, new houses built on those bluffs have failed. The larger the encroachment onto a bluff face and toward the shoreline, the more exposed the structure is to hazards. The failure of houses on adjacent sites demonstrates that the bluffs along Bay Drive are subject to changing conditions which cause them to be unstable even when they were previously thought to be stable. Therefore, development must be sited on these properties in a manner which minimizes exposure to hazards.

The City of Laguna Beach certified Local Coastal Program (LCP) contains policies limiting new development in hazardous areas such as coastal bluffs and establishes setbacks for purposes of limiting the seaward encroachment of development onto eroding coastal bluffs. Although the standard of review for projects in Three Arch Bay is the Coastal Act, the policies of the Certified LCP can be used as guidance. These policies include the following:

Require projects located in geological hazard areas to be designed to avoid the hazards, where feasible. Stabilization of hazard areas for purposes of development shall only be permitted where there is no other alternative location or where such stabilization is necessary for public safety. The more unstable areas should be left ungraded and undeveloped, utilizing land use designations such as Open Space.

In addition to the Certified LCP policies, the uncertified Three Arch Bay Zone (Chapter 25.44) element of the City's implementation measures contains standards related to bluff development:

(F) Building Stringline.

(1) 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.

(i) In the event that there is no applicable stringline on adjacent oceanfront lots, the setback shall be at least twenty-five feet from the top of an oceanfront bluff.

(ii) Only in such cases where the design review board determines that the stringline is significantly more restrictive than the twenty-five foot setback may the board modify the required building setback, provided it determines that unique conditions relating to landform, lot orientation or excessive building setbacks on an adjacent property prevent or severely restrict residential development that otherwise meets the intent of the zoning code.

(2) In the event that there is no applicable stringline on adjacent oceanfront lots, the setback shall be at least twenty-five feet from the top of an oceanfront bluff.

(3) In no case shall the bluff-top setback be less than twenty-five feet.

(4) Building Projections and Accessory Structures.

(a) Balconies, patios or decks in excess of thirty inches above the finished grade, including patio deck covers and other similar architectural features may project a maximum of five feet beyond the applicable building setback, but in no case shall such projections be closer than ten feet to the top of an oceanfront bluff.

(b) Decks, patios and other similar improvements that are thirty inches or less above finished grade shall not encroach closer than ten feet to the top of an oceanfront bluff.

(c) Pools and spas shall not encroach closer than twenty-five feet to the top of an oceanfront bluff nor shall its accessory equipment be any closer than ten feet to the top of the bluff.

The applicant has asserted that the proposed development is safe from a geologic standpoint and that the development as designed exceeds a minimum factor of safety of 1.5. In a letter dated January 13, 2000, the applicant's geologist has also stated that there is no geologic safety benefit from relocating the proposed residence landward of its

existing location as would be required to conform the proposed development with a setback.

However, as noted in Section IV.B. and Appendix B, geologic investigations at adjacent sites have not always accurately revealed or predicted the geologic hazards present on Bay Drive. For instance, geologic reports prepared for development at 33 Bay Drive indicated that development on that site was safe from geologic hazards. Based on this assertion, the Commission approved Coastal Development Permit P-80-7431 for the construction of a single family residence. In 1998 and 1999 the development at 33 Bay Drive was damaged by landslide activity which subsequently required the construction of bluff stabilization measures.

The geologic investigation of the subject site also provides an example that geologic investigations do not always reveal hazards present at the site. As noted previously, the retaining wall along the downcoast property line was previously proposed to be built with a conventional spread footing. However, a geologic investigation of the area conducted after the applicant received their coastal development permit approval revealed that geologic conditions at the site were not as anticipated. Therefore, the design for the footing of the wall had to be changed to a drilled pier foundation in order to assure that the retaining wall would not fail.

The applicant's geologic information also indicates that there is some uncertainty related to long term stability of the site. The applicant's 1992 geologic report indicates that the slopes seaward of the seaward edge of the slide on the subject site is stable and will remain stable as long as groundwater does not seep into the area causing conditions which may lead to destabilization of the site. The Conclusions and Recommendations section of the report states:

No evidence of movement in the natural slopes seaward of the plotted edge of the small slide. Southerly property line more or less is aligned with the southerly edge of a fault block that supports the seaward portion of the home; this block should remain in place provided excessive groundwater is not allowed to percolate into the subgrade.

The closure notes of the same report indicate that changing groundwater conditions could have adverse effects on the stability of the site. The report states:

The areas of instability depicted in this report may widen and deepen if the subsurface is detrimentally exposed to excessive groundwater generated upslope from inordinate irrigation, leaking utility lines (sewer and water) or from water infiltration resulting from heavy rains producing an increase in the groundwater level.

The implementation of a stringline for visual resource protection purposes will in effect provide a setback that can provide a margin of safety for geologic purposes. Using the stringline will cause the proposed development to be setback approximately 100 feet from the toe of the bluff and 24 to 36 feet from the edge of the existing graded building pad. This setback increases the distance between the proposed development and unforeseen hazards such as wave attack of the bluff with associated erosion and landsliding.

Similarly, adjacent new development on Bay Drive has been required to conform with a development setback. Specifically, the Commission required the new single family residences proposed at 23, 25, 29, and 31 Bay Drive, immediately upcoast of the subject site, to conform with a stringline drawn between the existing residence at the subject site and the existing residence at 33 Bay Drive (5-97-371 (Conrad); 5-98-020 (Conrad); 5-98-064 (Barnes); 5-98-307 (Griswold); 5-98-178 (McMullen)). In addition, the Commission required that the single family residence at 33 Bay Drive (which was developed in the early 1980's) to conform with a stringline drawn between the subject site and the existing residence at 35 Bay Drive (P-80-7431 (Kinard)). The development setback, established in these cases by the stringline, provide a margin of safety for unforeseen geologic hazards from wave attack, erosion, and landsliding.

ii. Bluff Edge Setback

Another method of establishing a setback is the use of a bluff edge setback when development is occurring upon a bluff top. Typically, when the bluff edge setback method is used, the Commission requires at least a 25 foot setback.

In order to determine the location of the setback line, the location of the edge of the bluff must be identified. Section 13577 of the Coastal Commission's regulations define the edge of the bluff to be the upper termination of the bluff. When the top edge of the bluff is rounded away from the face of the bluff, the edge is considered to be defined as that point nearest the bluff beyond which the downward gradient of the land surface increases more or less continuously until it reaches the general gradient of the bluff. Section 13577 of the California Code of Regulations is, in relevant part, as follows:

Bluff line or edge shall be defined as the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff face, the bluff line or edge shall be defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a steplike feature at the top of the cliff face, the landward edge of the topmost riser shall be taken to be the cliff edge. The termini of the bluff line, or edge along the seaward face of the bluff, shall be defined as a point reached by bisecting the angle formed by a line coinciding with the general trend of the bluff line along the seaward face of the bluff, and a line coinciding with the general trend of the bluff line along the inland facing portion of the bluff. Five hundred feet shall be the minimum length of bluff line or edge to be used in making these determinations.

As described previously, the subject site descends from Bay Drive at approximately elevation 100 to elevation 75 over a distance of approximately 40 feet where the site levels out to form the existing graded building pad. The building pad descends from elevation 75 feet to elevation 60 feet over approximately a 100 foot length. At the edge of the building pad the site descends from elevation 60 feet to elevation 10 feet over a distance of about 70 feet. From elevation 10 the site descends gradually toward the

water. Therefore, the profile of the site is roughly step-like with the top of the step at Bay Drive.

The Commission staff's geologist visited the subject site to identify the location of the bluff edge. Using the Commission's regulatory definition of the bluff edge, Commission staff's geologist located the bluff edge along the alignment of Bay Drive, located landward of and adjacent to the subject site. Accordingly, based upon the Commission's regulatory definition of the bluff edge, the site is located on a bluff face. Therefore, if a 25 foot setback were applied, no development could occur on this site.

Another way of identifying the location of the bluff edge would be to use the definition of the bluff edge found in the City of Laguna Beach's certified LCP. However, as noted above, Three Arch Bay is an uncertified area within the City. Therefore, the Commission is not bound by the definition of bluff edge in the City's certified LCP in determining the location of the bluff edge for development located in Three Arch Bay.

The City's LCP defines an oceanfront bluff as an oceanfront landform having a slope of forty-five degrees or greater from horizontal whose top is ten or more feet above mean sea level. According to the City's definition, the bluff is only the vertical portion that is at a greater than 45 degree angle. Applying the City's definition, the applicant indicates that the bluff edge is seaward of the existing building pad beginning between elevation 30 and elevation 45, as shown on Exhibit 3. A 25 foot setback from the bluff edge drawn by the applicant indicates that, with the exception of a small portion of the residence, the proposed project would largely conform with the setback.

However, as noted above, the Commission is not bound by the City's definition of the location of the bluff edge. The site has been subject to grading and both ancient and recent landslide activity. These activities have substantially altered the character of the bluff and it is difficult to determine the precise location of the naturally occurring bluff edge. However, it is clear that based upon the Commission's regulatory definition of a bluff edge, the subject site is on the bluff face. Unlike the City's definition of the bluff edge, the Commission's regulatory definition of the bluff edge does not identify the seaward edge of the graded pad as the bluff edge.

In this case, use of a setback from the bluff edge (as defined by the Commission's regulations) would result in no allowable development on the subject site. The site has been historically used (since 1965) for a single family residence. In addition, since the applicant has stated that development can occur safely upon the subject site, the Commission finds that imposing a bluff edge setback (from the edge of bluff defined using the Commission's regulations) would be unduly burdensome. Given the character of existing and approved development on Bay Drive, the Commission finds that conformance with the stringline established for visual resource protection purposes, rather than a bluff edge, is more appropriate to establish the allowable seaward extent of development.

iii. Conclusion – Setback

From a policy standpoint, the Commission finds that approving the substantial demolition of an existing non-conforming structure with a larger non-conforming structure with an

inadequate setback would increase the degree of nonconformity. In addition, since the new development extends the economic life of the structure it also increases the time period that the nonconformity will exist. Unlike the development previously proposed at the site under Coastal Development Permit 5-98-251, the proposed amendment is not simply an addition on the inland side of the residence with no substantial effect to the existing structure. Rather, the project is a substantial demolition (87%) and reconstruction of the structure. It is environmentally and technically feasible to bring the entire structure into conformance with the bluff area development standards commonly used by the Commission to ensure that the proposed development is consistent with Section 30253 of the Coastal Act. Therefore, the Commission finds that the setback established in Special Condition 1 for visual resource protection purposes is adequate to establish a margin of safety to avoid geologic hazards and assure the stability of the site consistent with Section 30253 of the Coastal Act.

(e) Landscaping

Erosion and landslide activity at the site have been attributed to the presence of ground water. The installation of lawns, in-ground irrigation systems, inadequate drainage, and watering in general are common factors precipitating accelerated bluff erosion, landsliding and sloughing, necessitating protective devices. The geologic reports submitted with this application indicate that the presence of groundwater had contributed to stability problems at the site and could be the source of future stability problems.

Native, drought-tolerant plants common to coastal bluffs serve the following functions: drought-tolerant plants have deep root systems which tend to stabilize soils, are spreading plants and tend to minimize the erosive impact of rain, and provide habitat for native animals. Since landslide activity at the site has historically been caused by the presence of water in the slope, and since the use of native, drought tolerant plant species minimizes the amount of water required for irrigation, the Commission imposes Special Condition 5. Special Condition 5 requires the applicant to submit a landscaping plan consisting of southern California native, drought-tolerant plants; the elimination of in-ground or permanent irrigation systems on the entire site; the use of plantings which provide 90% cover in 90 days; requires the applicant to maintain plantings in good growing condition through out the life of the project; and the preparation of the revised plan by a licensed landscape architect. The final revised landscape plan shall be subject to the review and approval of the Executive Director. The Commission finds these measures will reduce impacts related to the presence of water on the site and the adverse effect of erosion on the bluff face.

(f) Conclusion (Geologic Hazards)

Therefore, as conditioned for: 1) recordation of deed restrictions for assumption-of-risk and the prohibition of future protective devices, 2) conformance with a setback; 3) the incorporation of geotechnical recommendations of the applicant's geologist, and 4) the submission of revised landscape plans, the Commission finds that the proposed development is consistent with Section 30253 of the Coastal Act.

E. SHORELINE PROTECTIVE DEVICES

Section 30235 of the Coastal Act states, in relevant part:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

Section 30253 of the Coastal Act states, in relevant part:

New development shall:

(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 includes bluff face and sandy beach. The proposed development will occur upon the bluff face adjacent to the sandy beach. The subject beach is a deep pocket beach approximately 1,400 feet long flanked by headlands that project seaward from either end of the crescent shaped beach by about 800 feet. The subject coastal development permit amendment includes bluff stabilization measures that involves construction of a retaining wall. The firm of Noble Consultants prepared a coastal engineering assessment contained within the following letters and reports: *Coastal Engineering Assessment, Coastal Development Permit Application 5-97-371, Shoring Wall and Bluff Repair at 23-31 Bay Drive, Laguna Beach, California*, prepared by Noble Consultants, Inc. of Irvine, California, dated April 2, 1998; *Necessity of Shoreline Protective Device, Coastal Development Permit Application 5-97-371, Shoring Wall and Bluff Repair at 23-31 Bay Drive, Laguna Beach, California*, prepared by Noble Consultants, Inc. of Irvine, California, dated May 12, 1998. The applicant references the above analyses in their evaluation of the effects of wave attack and bluff retreat on the proposed development. These letters and reports provide evaluations of the adjacent site and local and subregional shoreline processes of the Laguna Beach Mini Cells littoral system. The littoral system consists of the bluffs, rocky shoreline, and cove beaches that start at the north at the Corona del Mar bluffs (just south of the Newport Harbor entrance) to Dana Point Harbor at the south adjacent to the Dana Point Headlands promontory.

1. Construction Which Alters Natural Shoreline Processes (Section 30235)

The proposed project involves the construction of a drilled pier foundation shoring wall that would prevent the movement of landslide material and fractured soils from the subject site. By preventing the movement of landslide material and fractured soils, bluff retreat on the site is limited, thus reducing the amount of bluff material for natural beach replenishment. Bluff retreat is caused in part by wave attack at the toe of a coastal bluff, which leads to bluff erosion. Bluff retreat and erosion are natural shoreline processes. Therefore, the proposed project involves construction which alters natural shoreline processes. Thus, the

Commission must approve the proposed stabilization measures only if they are: 1) required to protect existing structures, and 2) designed to mitigate adverse impacts on shoreline sand supply.

2. Protection of Existing Structures (Section 30235)

As described above, the proposed drilled pier foundation retaining wall would alter natural shoreline processes. The proposed retaining wall would provide temporary support during construction of the wall, as well as providing permanent support for the existing structures on site as well as the structures on the adjacent site at 19 Bay Drive. Therefore, the Commission finds that the proposed retaining wall is needed to protect existing structures.

3. Adverse Impacts on Shoreline Sand Supply (Section 30235)

Even if the retaining device is necessary to protect existing structures, Section 30235 provides for the construction of a structure which alters natural shoreline processes only when the structure is designed to minimize adverse impacts to shoreline sand supply. The coastal engineering assessment indicates that seacliff erosion in the area is episodic and occurs sporadically rather than continuously, during times of heavy storm events coupled with high tides. The assessment notes that the presence of dense vegetation at the toe of the bluffs in Three Arch Bay implies that wave activity which would wash away the vegetation doesn't often reach the bluff toe, thus implying that bluff erosion from wave activity is low.

On an average annual basis, the assessment estimates the rate of seacliff retreat in the area to be approximately 0.1 to 0.2 feet per year. The assessment concludes that the estimated annual average volume contributed to the sediment supply of the cove beach from seacliff retreat in Three Arch Bay is less than two hundred (200) cubic yards per year. Based upon the total sediment contributed by the bluffs in Three Arch Bay and the 40 foot frontage of the subject site, the subject site contributes 6 of the 200 cubic yards of sediment delivered to the littoral system by the bluffs in Three Arch Bay. Thus, the bluffs in Three Arch Bay do not contribute a large amount of sand to the local cove beach.

In addition to the bluffs in Three Arch Bay not contributing the sand supply of the local beach itself, the bluffs only nominally contribute to the larger subregional sand supply. The assessment indicates that the major source of sand in the area is the approximately twelve thousand (12,000) cubic yards of sediment which comes down nearby Aliso Creek every year. In addition, the assessment concludes that alongshore transport of sand in the Laguna Beach Mini Cells littoral system for the most part bypasses the subject beach. The shoreline processes of the subject beach are more dominated by cross shore sand exchanges. In essence, the sand supply of the subject beach is relatively stable. The sand moves offshore and then back onshore in response to sea conditions which change with the seasons, rather than moving upcoast or downcoast to a new location, never to return. Thus, permanent loss of sand from the subject beach to the offshore littoral drift which would contribute to subregional sand supply is minimal.

Since the subject beach and sand supply are somewhat static and isolated from the larger subregional system, the limitation on bluff retreat would not have a significant impact on

the sand supply of either the local cove beach nor on the larger subregional system. Therefore, the specific nature of the subject beach and the local and subregional shoreline processes are such that the reduction in on-site bluff material for natural sand replenishment, which is minimal, that would result from the proposed project, does not constitute an adverse impact on local shoreline sand supply. Therefore, the Commission finds that the proposed project will not result in adverse impacts upon shoreline sand supply.

4. No future seawalls allowed

The applicant has indicated that bluff retreat due to wave attack and erosion would not occur at a rate which would engender the need for a protective device within the lifetime of the proposed development. The applicant has specifically stated that the proposed development will not require protective devices in the future. Thus, based upon the applicants statement, no protective devices should be necessary. Therefore, the Commission imposes Special Condition 2 which requires the applicant to record a deed restriction against the property placing the applicant and their successors in interest on notice that no protective devices shall be permitted to protect the proposed development and that the applicant waives, on behalf of itself and all successors and assigns, any rights to construct protective devices that may exist under Public Resources Code Section 30235.

5. Conclusion (Shoreline protective devices)

The Commission finds that the proposed project involves construction that would alter natural shoreline process. However, the Commission finds that: 1) the proposed project is necessary to protect existing structures on adjacent properties; 2) the proposed project will not result in adverse impacts to natural shoreline sand supply; and 3) according to the applicant no seawall would be necessary. Thus, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30235 and 30253 of the Coastal Act.

F. MARINE RESOURCES/WATER QUALITY

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that would sustain the biological productivity of coastal waters and that would maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water

discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The proposed project includes the construction of a drainage system within the proposed retaining wall which would direct surface and groundwater to safe discharge points. The Commission previously imposed a drainage condition requiring the applicant to direct all runoff to the street except where it is infeasible to do so. In cases where drainage to the street was not feasible, the Commission required the applicant to convey the water to the beach through non-erosive drainage devices. Devices were to be subsurface where feasible, and where not feasible were required to be designed to blend in with and maintain the natural character of the bluff face. The Commission imposes Special Condition 7 which states that this previously imposed special condition remains in effect. In addition, the Commission imposes Special Condition 6 requiring the applicant to submit revised drainage plans for the review and approval of the Executive Director which identify the proposed drainage plan. Special Condition 6 requires the applicant to comply with the plan approved by the Executive Director. The applicant has not indicated the need to install energy dissipators on the beach. However, as required by Special Condition 6 such devices must be installed if they are necessary. Such development requires a coastal development permit. Special Condition 6 clarifies that such development requires an amendment or a new coastal development permit.

A health risk to marine life and swimmers would be created if toxic substances were to get on the beach and leak into the ocean. In addition, staging or storing construction equipment and material on the beach would take up beach area needed for grunion spawning, thus resulting in adverse impacts on the grunion. In order to avoid these adverse impacts upon water quality, the Commission previously imposed a special condition prohibiting the storage of construction materials and equipment on the beach. The special condition also required the immediate clean up of any hazardous materials accidentally spilled. Special Condition 7 states that this previously imposed condition remains in effect.

As conditioned, the Commission finds that the proposed project is consistent with Sections 30230 and 30231 of the Coastal Act.

G. PUBLIC ACCESS

Section 30212 of the Coastal Act states, in relevant part:

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

(2) adequate access exists nearby . . .

1. Existing Easements

The subject site is a beachfront site located between the nearest public roadway and the shoreline in the private community of Three Arch Bay. There is one access easement

recorded on the subject property for the residents of Three Arch Bay. The easement recorded in favor of the residents of the private Three Arch Bay community is for access and recreation purposes solely for residents. This easement occurs over the width of the lot from the toe of the bluff to the mean high tide line. Since the proposed development is occurring landward of the toe of the bluff, no development is occurring within this private access easement.

2. Sovereign Lands

The beach is a cove beach separated from public beaches by rocky headlands. Thus, the beach is not readily accessible from nearby public beaches. In addition, the proposed development will not occur upon the sandy beach or upon any lands which could be considered state sovereign lands.

The subject site is in a private community. The proposed development would not result in direct adverse impacts, either individually or cumulatively, on physical vertical or lateral public access, or on sovereign lands seaward of the mean high tide line. Vertical public access and public recreation opportunities are provided at nearby Salt Creek County Beach Park a mile to the southeast. Therefore, the Commission finds that no additional public access is necessary as part of the proposed development. Thus, the Commission finds that the proposed development is consistent with the access policies of the Coastal Act.

H. UNPERMITTED DEVELOPMENT

Coastal Development Permit 5-98-251 approved a 1,790 square foot addition to an existing 2,199 square foot single family residence. The proposed work included demolition of approximately 41% of the existing structure. However, during implementation of the project, the applicant demolished an additional 30.9% of the structure (approximately 168 linear feet of exterior walls of the existing residence) which was not approved under Coastal Development Permit 5-98-251. This additional demolition increased the total amount of demolition from the approved 41% to 71.9% (the applicant now also proposes an additional demolition of 15.3% bringing the total demolition to 87.2% of the previously existing single family residence). Also, instead of installing the retaining wall with conventional footings as was approved under Coastal Development Permit 5-98-251, the applicant installed a drilled pier foundation for the retaining wall (pier/caisson no. 30 through 37 on the applicants revised foundation plan). In addition, the applicant installed drilled piers and grade beams for the foundation for the residence in those areas which were demolished without a coastal development permit (pier/caisson no. 7 through 9, 12 through 18, 19, and 20 through 23 and grade beams linking pier/caisson no. 12 to 13, 9 to 18, 10 to 11, 20 to 21, and 13 to 18). The state of the existing structure is shown in Exhibits 4 and 5).

The development described above exceeded the development approved under Coastal Development Permit 5-98-251. Therefore, in order to remedy the unpermitted development, the applicant has included development not originally part of CDP 5-98-251 in this proposed permit amendment. Approval of this amendment per the applicant would result in approval of the development described. Approval in-part and denial in-part of this amendment will result in approval of all described demolition and approval of any new

structures landward of the stringline and denial of all new structures seaward of the stringline. The approval will also require removal of all structures which presently exist beyond the stringline.

In order to assure that the applicant complies with the conditions of approval, the Commissions finds that Special Condition 8 must be imposed. Special Condition 8 requires the applicant to comply with the prior to permit issuance conditions of the approval within 90 days or within such additional time as the Executive Director may grant for good cause. The special condition notifies the applicant that failure to comply with the requirement may result in enforcement action as outlined in Chapter 9 of the Coastal Act.

Also, the Commission is requiring the applicant to construct the proposed residence in conformance with a stringline so that the project is consistent with Section 30251 of the Coastal Act. The unpermitted development resulted in the proposed placement of structures beyond the stringline, in a manner that would be inconsistent with Section 30251 of the Act. In order to remedy this inconsistency, the Commission imposes Special Condition 9 which requires the applicant to remove the structures already placed beyond the stringline prior to or concurrent with construction of the residence.

In the past, the applicant has not fully complied with the terms of their approval. In order to assure that the applicant is complying with the terms of this approval, the Commission finds that the Executive Director must be allowed to inspect the site during construction. Therefore, the Commission imposes Special Condition 10 which states that the Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.

Although development may have taken place without benefit of a coastal development permit, consideration of the permit amendment application by the Commission has been based solely on the consistency of the proposed development with the policies of Chapter 3 of the Coastal Act. Action on this permit amendment does not constitute a waiver of any legal action with regard to the alleged unpermitted development, nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit. The Commission may take action at a future date with respect to the unpermitted development and/or restoration of the site.

I. LOCAL COASTAL PROGRAM

The City of Laguna Beach local coastal program ("LCP") is effectively certified. However, several locked-gate beachfront communities are deferred, including Three Arch Bay. The subject site is located in Three Arch Bay. Therefore, the standard of review for the proposed project is conformity with the Chapter 3 policies of the Coastal Act and not the certified LCP. Section 30604(a) provides that a coastal development permit should not be approved for development which would prejudice the ability of the local government to prepare an LCP consistent with the Chapter 3 policies.

The proposed project, as conditioned, is consistent with the certified LCP, which may be used for guidance in non-certified areas. Land Use Plan Policy 10-C provides, in part, that

projects located in geological hazards areas are required to be designed to avoid the hazards where feasible.

Further, the proposed project, as conditioned, has been found to be consistent with the geologic hazards policies of Chapter 3 of the Coastal Act. Therefore, the Commission finds that the proposed project would not prejudice the ability of the City of Laguna Beach to prepare an LCP for the Three Arch Bay community, the location of the subject site, that is consistent with the Chapter 3 policies of the Coastal Act.

J. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(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 proposed project is an acceptable method to achieve long-term stability of the site and the adjacent sites. As conditioned, the proposed project would have no adverse impacts on the stability of adjacent properties. Further, the proposed development is located in an urban area. Development exists on the subject site. All infrastructure necessary to serve the site exist in the area.

The proposed project has been conditioned in order to be found consistent with the development policies regarding hazards, shoreline protection devices, visual resources, and marine resources of Chapter Three of the Coastal Act. To assure structural stability and to minimize risks to life and property from geologic hazards, feasible mitigation measures requiring: 1) submission of revised plans showing the elimination of development beyond the stringline; 2) recordation of a no future shoreline protective device special condition; 3) an assumption-of-risk deed restriction; 4) conformance with geotechnical recommendations of the applicant's geotechnical consultants, 5) submission and conformance with revised landscaping plans; 6) submission and conformance with drainage plans; 7) notification that all prior conditions of 5-98-251 not modified by this amendment remain in effect; 8) the applicant to comply with the prior to permit issuance conditions within 90 days of Commission action; 9) the applicant to remove all development seaward of the stringline prior to or concurrent with construction of the residence; and 10) allowance of inspections during construction, would minimize all significant adverse environmental effects.

As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect 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.

V. DENIAL FINDINGS AND DECLARATIONS

The Commission Hereby Finds and Declares:

A. VISUAL RESOURCES

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

One purpose of the stringline is to minimize the impacts of new development on visual resources. The structure stringline limits the seaward extent of enclosed living areas. The deck stringline limits the seaward extent of all other accessory structures including any swimming pools, spas, hardscape, decks, and at-grade patios.

The proposed development will result in the placement of structures beyond a stringline drawn between adjacent structures. As a condition of approval for projects at 23 through 33 Bay Drive (CDP's 5-97-371 (Conrad), 5-99-332-A1 (Frahm); P-80-7431 (Kinard); 5-98-020 (Conrad); 5-98-064 (Barnes); 5-98-307 (Griswold); 5-98-178 (McMullen)) homes were required to be built in conformance to deck and structural stringlines, as described previously. The Commission finds that to allow development, such as enclosed living space and decks, seaward of the stringlines would not be visually compatible with existing and approved development and would result in adverse visual impacts.

The Commission's regularly used stringline policy applies to all structures whether they are at grade or above grade since all impermeable surfaces act to accelerate and increase the amount of runoff and erosion of slope areas and may adversely impact bluff stability and visual resources. The Commission has routinely required that all non-habitable accessory structures and hardscape conform to the deck stringline.

The adjacent existing and proposed residences establish a seaward limit of development that is 24 to 36 feet landward of the proposed development. New development beyond the line of adjacent development would not visually compatible with the character of the surrounding area and would result in adverse visual impacts along the shoreline. Therefore, the Commission finds that the proposed development seaward of the stringline is inconsistent with Section 30251 of the Coastal Act. Therefore, the proposed development seaward of the stringline must be denied.

B. LOCAL COASTAL PROGRAM

The City of Laguna Beach local coastal program ("LCP") is effectively certified. However, several locked-gate beachfront communities are deferred, including Three Arch Bay. The subject site is located in Three Arch Bay. Therefore, the standard of review for the proposed project is conformity with the Chapter 3 policies of the Coastal Act and not the certified LCP. Section 30604(a) provides that a coastal development permit should not be approved for development which would prejudice the ability of the local government to prepare an LCP consistent with the Chapter 3 policies.

Further, the proposed development beyond the stringline has been found to be inconsistent the visual resource protection policies of Chapter 3 of the Coastal Act. Therefore, the Commission finds that the proposed development seaward of the stringline would prejudice the ability of the City of Laguna Beach to prepare an LCP for the Three Arch Bay community, the location of the subject site, that is consistent with the Chapter 3 policies of the Coastal Act.

C. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(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 proposed development beyond the stringline will have adverse impacts upon visual resources. Development beyond the stringline would be inconsistent with the pattern of development in the area. In addition, development beyond the stringline would have an adverse effect upon public views along the shoreline. There are alternatives, such as development landward of the stringline which would minimize all significant adverse environmental effects. However, the applicant is not proposing to relocate development to a point landward of the stringline. Therefore, as proposed, the development is not consistent with the applicable requirements of CEQA. Therefore, the proposed development seaward of the stringline must be denied.

APPENDIX A

SUBSTANTIVE FILE DOCUMENTS

1. City of Laguna Beach Certified Land Use Plan;
2. Coastal development permit files 5-98-251 (Boehringer); 5-99-332-A1 (Frahm); P-80-7431 (Kinard); 5-99-231 (Smith); 5-97-371 (Conrad) and amendments; 5-98-020 (Conrad); 5-98-064 (Barnes); 5-98-307 (Griswold); 5-98-178 (McMullen); 5-94-095 (Hodges); 5-93-254-G (Arnold); 5-93-204 (Munsell); 5-88-177 (Arnold); 5-84-500 (Mercurio & Pitts); 5-84-466 (Hanauer); 5-82-257 (Shoepe);
3. Emergency Coastal Development Permit 5-99-332-G (Frahm);
4. Coastal Development Permit Application 5-99-432 (Nichols); 5-83-615 (Mercurio & Pitts)
5. *Response to Request for Additional Information, 21 Bay Drive, Laguna Beach, California* dated May 16, 2000 by Coastal Geotechnical, Inc. of Laguna Beach, California;
6. *Geotechnical Response to California Coastal Commission Letter Dated February 15, 2000*, by Coastal Geotechnical dated April 5, 2000, *Geotechnical Response to Notice of Incomplete Application* by Coastal Geotechnical dated January 14, 2000;
7. *Geologic Conditions, 21 Bay Drive, Three Arch Bay, Laguna Beach* by Coastal Geotechnical dated November 10, 1999, *Geologic Conditions, 21 Bay Drive, Three Arch Bay, Laguna Beach* by Coastal Geotechnical dated November 11, 1999;
8. *Geologic Conditions Beneath Retaining Wall Along Southeast Portion of Site*, by Coastal Geotechnical dated September 2, 1999, *Engineering Geologic Review, Coastal Commission Letter dated July 14, 1998* by Coastal Geotechnical dated July 19, 1998;
9. *Letter Report for Tieback Testing* to Bill Boehringer from Soil Engineering Construction, Inc. dated August 27, 1997;
10. Letter from Specialty Construction Design to Morris Skenderian dated September 24, 1997; Letter from Coastal Geotechnical to Morris Skenderian Architects dated July 19, 1998;
11. *Engineering Geologic Investigation - 21 Bay Drive, Laguna Beach*, prepared for Gerald Raymond by Coastal Geotechnical dated August 8, 1992.

APPENDIX B

COASTAL DEVELOPMENT PERMITS ON BAY DRIVE

19 BAY DRIVE

Coastal Development Permit 5-93-204

On August 13, 1993, the Commission approved Coastal Development Permit 5-93-204 for the demolition of an existing single family residence and construction of a new residence at 19 Bay Drive. This site is adjacent to and downcoast of the subject site.

The primary issue reviewed by the Commission with respect to this proposed development was the presence of geologic hazards. Potential hazards affecting development of the site were seacliff erosion, landslide hazard, and the effects of seismic shaking on the site. In order to avoid these hazards, the Commission required the applicant to conform with a 25 foot setback from the edge of the bluff top. In addition, the Commission required the applicant to execute and record an assumption-of-risk deed restriction. Finally, the Commission required the applicant to submit evidence of conformance of the recommendations of geotechnical investigation for the subject site.

According to the Commission's records, the coastal development permit was not issued and has since expired.

23 BAY DRIVE

Coastal Development Permit Application 5-83-615

On August 16, 1983, an application for a coastal development permit for development at 23 Bay Drive was filed by Michael Mercurio and E.C. Pitts. The application was for the exploratory drilling of 3 holes on the seaward side of an existing single family residence to gain information about the geologic stability of the site. After the geologic investigation, the holes were to be backfilled and used as caissons to stabilize the existing single family residence. The major issues of the project were geologic hazards and public access. Commission staff recommended approval of the development with two special conditions. Special Condition 1 required the applicant to irrevocably offer to dedicate an access easement for public access and passive recreational use along the shoreline on all of the applicants property seaward of the toe of the bluff. Special Condition 2.a. required the applicant to execute and record an assumption of risk deed restriction acknowledging hazards from landslide and erosion. Special Condition 2.b. required the applicant to execute and record a deed restriction prohibiting the construction of structures seaward of the existing structure. The application was scheduled for the September 30, 1983 hearing. However, the applicant requested postponement due to disagreement with the staff recommendation and an intent to submit additional geologic information. On October 25, 1983, the applicant withdrew the application.

Coastal Development Permit 5-84-500

On September 14, 1984, the Commission granted to Michael Mercurio and E.C. Pitts Coastal Development Permit 5-84-500 for exterior and interior improvements to an existing single family residence on a bluff face at 23 Bay Drive. The development included construction of a new entrance to the residence, reconstruction of foundations on the seaward side of the residence including a shoring system, and addition of 442 square feet of balconies. The major issues considered by the Commission were the provision of public access and the presence of geologic hazards at the subject site. The applicants geotechnical reports indicated that with the site was safe for the proposed development. The Commission imposed five special conditions requiring 1) submission of final plans showing details of the proposed foundation shoring system; 2) prohibition of clearing vegetation seaward of the proposed development without a Commission approval; 3) submission of revised plans with certification that the plans conform with geotechnical recommendations; 4) execution and recordation of a deed restriction acknowledging hazards from landslide, mudslide, slope failure, and earthquake and assumption of those risks. A *Notice of Intent to Issue Permit* was issued on September 18, 1984. However, there is no evidence in the Commissions file which indicate that the permit was issued. It is also unclear from the Commission's record whether any portion of the proposed development was undertaken. However, in the early 1990's the house that was the subject of this permit was catastrophically damaged by landslide activity on the site.

23 THROUGH 31 BAY DRIVE**Coastal Development Permit 5-97-371**

On August 13, 1998, the Commission approved Coastal Development Permit 5-97-371 for a landslide stabilization system at 23, 25, 27, 29 and 31 Bay Drive. These sites are upcoast of and adjacent to the subject site. The development included a shoring wall comprised of shoring piles and shotcrete adjacent to Bay Drive and the adjacent homes at 21 and 33 Bay Drive, overexcavation and recompaction of slide debris (44,000 cubic yards of grading--22,000 cubic yards of cut and 22,000 cubic yards of fill) to create a buttress fill, 3) a buried toe protection wall near the toe of the slope, and 4) installation of drainage devices. No homes were proposed to be constructed as part of this project. Also approved was the merger of three of the five existing lots into two lots (resulting in a new total of 4 lots, with the 27 Bay Drive address eliminated as a result). The approved permit was subject to nine special conditions regarding 1) assumption of risk and no future shoreline protective devices, 2) compliance with geotechnical recommendations, 3) revised plans showing revised sidewall design, 4) requirements for homes to be built on lots including minimum factor of safety, pool design, conformance with stringline, landscaping, and prohibition of pathways built to the beach, 5) landscaping requirements, 6) construction staging requirements, 7) identification of a debris disposal site, 8) requirements for installation of inclinometers, and 9) requirement to demonstrate legal ability to undertake proposed development. The approved Coastal Development Permit was issued on April 26, 1999.

Coastal Development Permit 5-97-371 has been subject to two amendments (5-97-371-A1 and 5-97-371-A2) which changed the design of the shoring system and the location of the buried toe protection wall.

Coastal Development Permits 5-98-020, 5-98-064, 5-98-178, and 5-98-307

On August 13, 1998, the Commission approved Coastal Development Permits 5-98-020, 5-98-064 and 5-98-178. In addition, on October 13, 1998, the Commission approved Coastal Development Permit 5-98-307. These coastal development permits authorized the construction of single family residences ranging in size from 3,719 square feet to 5,099 square feet at 23, 25, 29, and 31 Bay Drive.

Each approval was subject to six special conditions requiring 1) recordation of an assumption-of-risk deed restriction including prohibition of future shoreline protective devices, 2) conformance with geotechnical recommendations, 3) revised landscape plans, 4) prohibition of staging and storage of construction materials and equipment on the beach, 5) identification of a disposal site, and 6) a plan to prevent leaks from swimming pools including monitoring devices. In addition, as specified in Special Condition 4 of Coastal Development Permit 5-97-371, the homes were required to conform with a stringline drawn between the structures present at the time of approval located at 21 Bay Drive (the subject site) and 33 Bay Drive.

With the exception of Coastal Development Permit 5-98-307, the applicants have submitted evidence of compliance with the special conditions and the permits have been issued. Commission staff understand that the foundations for the residences at 23, 25 and 31 Bay Drive are presently under construction.

33 BAY DRIVE

Coastal Development Permit P-80-7431

On January 12, 1981, the South Coast Regional Commission granted to John Kinard Coastal Development Permit P-80-7431 for the construction of a 4,671 square foot, 4-level single family dwelling with an attached 2-car garage, cantilevered out over a steep coastal bluff at 33 Bay Drive. The major issues raised in the staff report were geologic stability, visual and scenic impacts, and public access. Based on geologic information submitted with the application, the proposed residence was to be constructed near but not upon a fault and landslide scarp. The applicant's geologist concluded the site was safe for construction so long as no construction occurred upon the landslide scarp and fault. However, due to the close proximity of the development to geologic hazards the Commission imposed Special Condition 1 which required the applicant to execute and record an assumption-of-risk deed restriction which stated the site is subject to extraordinary hazards from erosion damage and landslide, which waived any claim of liability on the part of the Commission or any other public agency for any damage from such hazards, and which notified the applicant that they may be ineligible for public disaster funds or loans for repair, replacement or rehabilitation of the property in the event of erosion damage and landslide. As proposed, the residence was found not to be in conformance with the visual protection policies of the Coastal Act

because the residence was not visually compatible with the character of the existing residences and the beach. Therefore, the Commission imposed Special Condition 2 which required the applicant to submit revised plans which conformed the proposed house to a stringline drawn between residences located at 35 Bay Drive and 21 Bay Drive. Finally, the Commission imposed Special condition 3 which required the applicant to execute and record an irrevocable offer to dedicate an easement for public access and passive recreational use along the shoreline on all lands seaward of the toe of the bluff to the mean high tide line. The offer is irrevocable for a period of 21 years from the date of recordation and will expire in the year 2002.

Emergency Coastal Development Permit 5-99-332-G

On September 3, 1999, the Executive Director issued Emergency Coastal Development Permit 5-99-332-G for the installation of tie back anchors on the two caissons located on the seaward side of the existing residence and the installation of 5 caissons approximately 26 feet seaward of and parallel to the seaward face of the existing residence at 33 Bay Drive. This work was permanently authorized under Coastal Development Permit Amendment 5-99-332-A1 issued to Shirley Frahm.

Coastal Development Permit Amendment 5-99-332-A1

On January 11, 2000, the Commission granted to Shirley Frahm Coastal Development Permit Amendment 5-99-332-A1 for development at 33 Bay Drive. This action amended Coastal Development Permit P-80-7431 to authorize the construction of a landslide remediation and foundation stabilization system. The development included installation of tie back anchors for the caisson and grade beam foundation, soil nails and a shotcrete wall, 16 caissons, a buttress fill and toe erosion protection wall. The approval was subject to seven special conditions requiring recordation of an assumption-of-risk deed restriction including prohibition of future bluff or shoreline protective devices, conformance with geotechnical recommendations, compliance with certain construction responsibilities, submission and conformance with revised landscape plans, identification of a debris disposal site, and notifications that the approval was not a waiver of public rights to public lands at the site and that the previous special conditions remain in effect.

OCEAN

THREE
ARCH
BAY

Subject	Site
---------	------

MONARCH BAY COMMUNITY STREETS
ALSO KNOWN AS MONARCH BAY OR

- 1 QUEEN CATHERINE CT
2 EMPRESS HT
3 COGNATION ON
4 QUEEN ANN CT
5 LOUIS RIV CT
6 KING JOHN LN
7 KING WILLIAM CT
8 KING FREDERICK LN
9 CHAM CHASE DR
10 KING CHARLES III LN
11 KING FERDINAND IV C
12 BEACH CLAD DR
13 SUNF BREAKERS DR
14 SUNF CREST DR

SEE H3

- 1 BAYCREST PL
2 TAMM PORT
3 PLACID HARBOR
4 ROCKPORT
5 ALDRELLINE CT
6 SANDYSTONE CT
7 WINDY WATER CT
8 STONECREST
9 CROSSCREEK
10 WINDHIFT PT

SEE V7 35

- 1 SAND CASTLE
2 SPIN DRIFT C
3 SANDFLOWER C
4 RISING WIDE
5 SEABIRD HT
6 SEA WISE HT
7 STAFF 12 HT
8 STAFF 12 HT

SEE D7 61

1. HEN CHARGED
2. PICKET CLASH

SEE E J6

- 1 ST OF THE ANCHOR LANTERN
2 ST OF THE WESTERN LANTERN
3 ST OF THE SHORE LANTERN
4 ST OF THE STANBARD LANTERN
5 ST OF THE PORT LANTERN
6 ST OF THE COVE LANTERN

SEE ∇F MS

- 1 SEA BALL CT
2 SEAWIND CT
3 MOON RING CT
4 DIVERS CT
5 SEA SHELL WY
6 EVENING STAR DR
7 SEACALL WY
8 NORTH STAR DR
9 MORNING STAR LN

COASTAL COMMISSION
5-98-251-A
EXHIBIT # 1
PAGE 1 OF 2

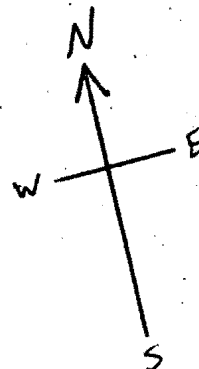
SEE V MAP

VICINITY MAP

Map showing a grid of numbered lots (e.g., 31, 33, 35, 37, 39, 41, 43, 45) and streets (e.g., Bay Drive, Bay Road). The map includes lot numbers, acreage, and street names. A large arrow points towards the center of the map.

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5-98-251-A1

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ROOF PLAN

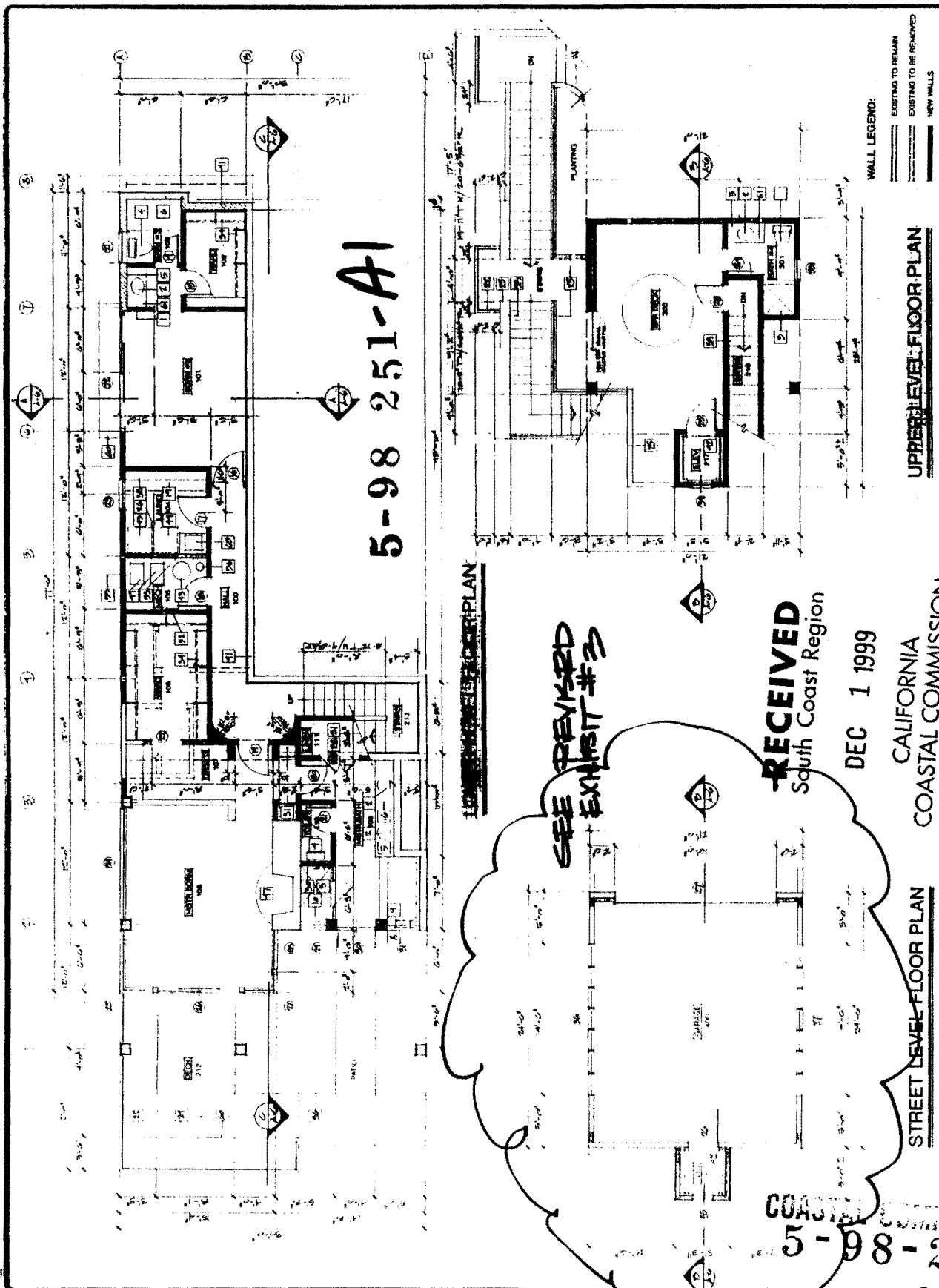
SITE PLAN

COASTAL COMMISSION
5-98-251-A

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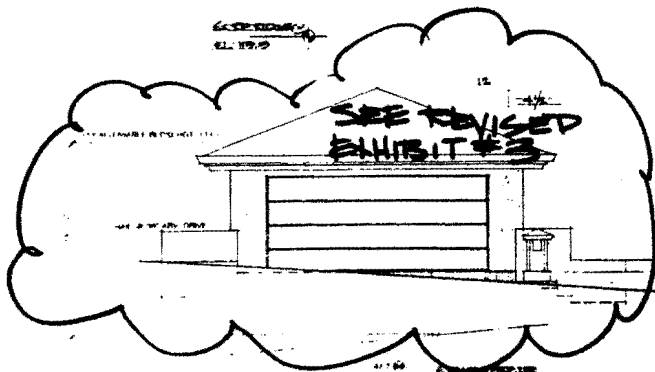
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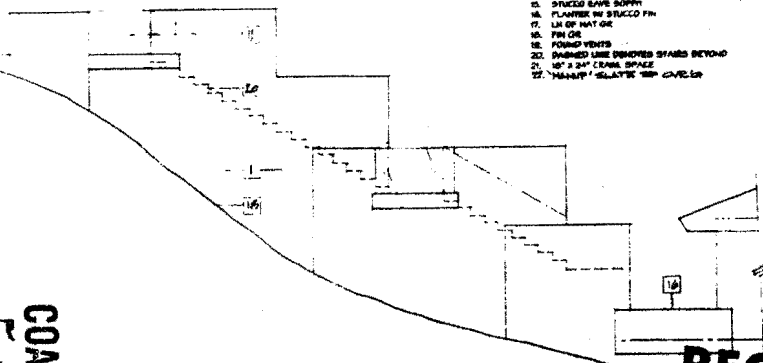
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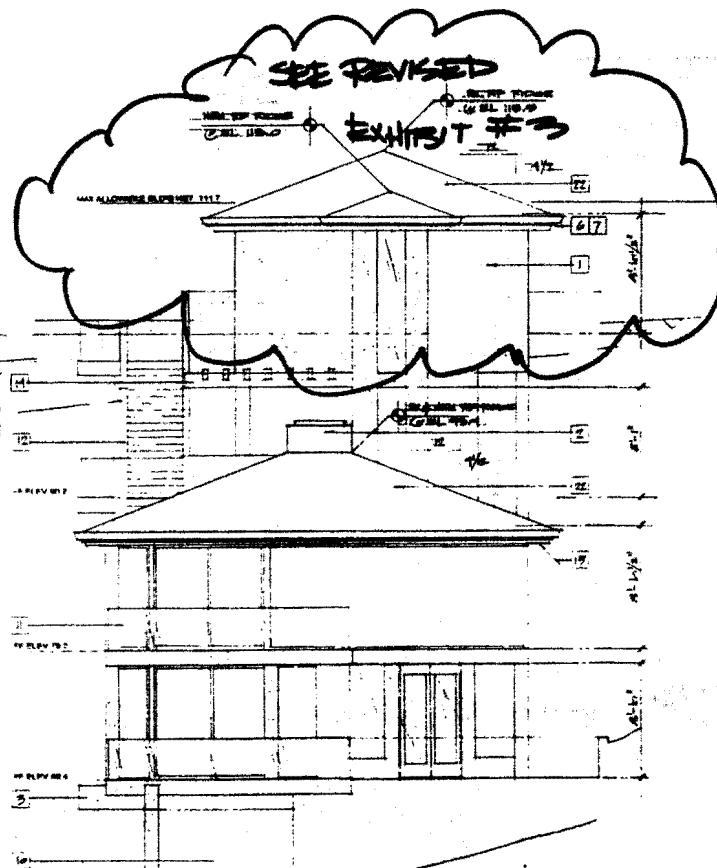


FRONT ELEVATION-NORTH

- ELEVATION KEYNOTES
DETL # DESCRIPTION
1. SMOOTH TYPED LIT STUCCO FINISH
 2. PAINT FOR DECK HTS
 3. MET. CHIMNEY CAP - PAINT FOR DECK HTS
 4. STUCCO OVER CONCRETE
 5. STUCCO OVER BRICK
 6. STUCCO OVER BRICK
 7. PAINTED MET. OUTLET & DOWN SPOUTS
 8. METAL CLAD PUMP-PAINT FOR DECK HTS
 9. MET. TO RET. IN PLUMB
 10. CONT. RIDGE DETAIL
 11. (E) CEMENT PL. W/ STUCCO FINISH
 12. SFP HIGH TEMP. GL. GUARDRAIL
 13. SFP HIGH TEMP. GUARDRAIL
 14. LIN. OF STRUCTURE BLK. GR.
 15. ROOF TRELLIS
 16. STUCCO OVER BRICK
 17. PLASTER W/ STUCCO FIN.
 18. LIN. OF NAT. GR.
 19. FIN. GR.
 20. FOUND. VENTS
 21. FINISHED LINE REMOVED STAIRS BEYOND
 22. 18" x 24" CRANK SPACE
 23. HANDRAIL - SLATY TRIP CAVELER



STAIR ELEVATION



REAR ELEVATION-SOUTH

5-98 251-A1

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REVISIONS	NO.

ANNA



21 BAY DRIVE
THREE ARCH BAY
LAGUNA BEACH, CA.

DATE	12/1/99
BY	

A-3

A hand-drawn diagram of a roof structure. The roof is shown as a trapezoid with a horizontal base and a sloped top. The base is labeled with a dimension of 12 . The sloped side is labeled with a dimension of $4\frac{1}{2}$. The roof is supported by a series of vertical lines, possibly representing rafters or a wall. To the right of the roof, there is a vertical line labeled 12 . Below the roof, there is a horizontal line labeled 12 . The entire diagram is enclosed in a cloud-like border. There are some handwritten notes and symbols, including a circled 'A' and a circled 'B'.

21 BAY DRIVE
THREE ARCH BAY
LAGUNA BEACH, CA.

INSIDE

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RIGHT SIDE ELEVATION - WEST

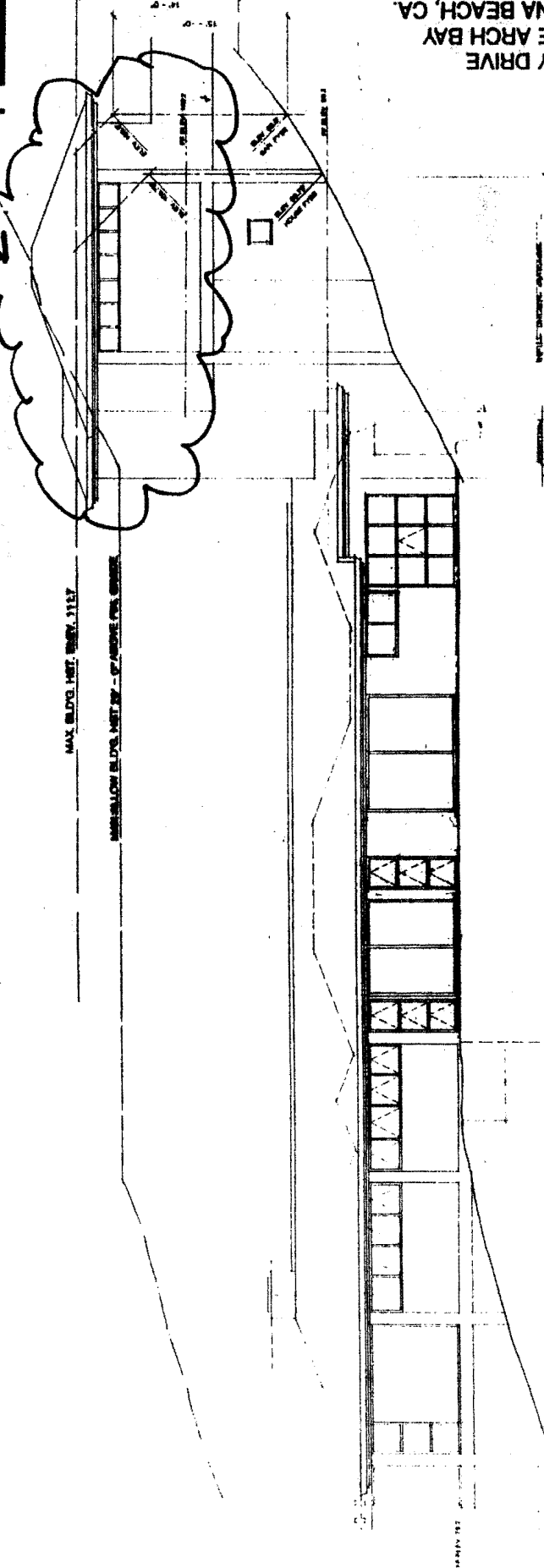
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5-98-251-A1

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SEE REVISED
EXHIBIT #3

WNA



21 BAY DRIVE
THREE ARCH BAY
LAGUNA BEACH, CA

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WEST SIDE ELEVATION - EAST

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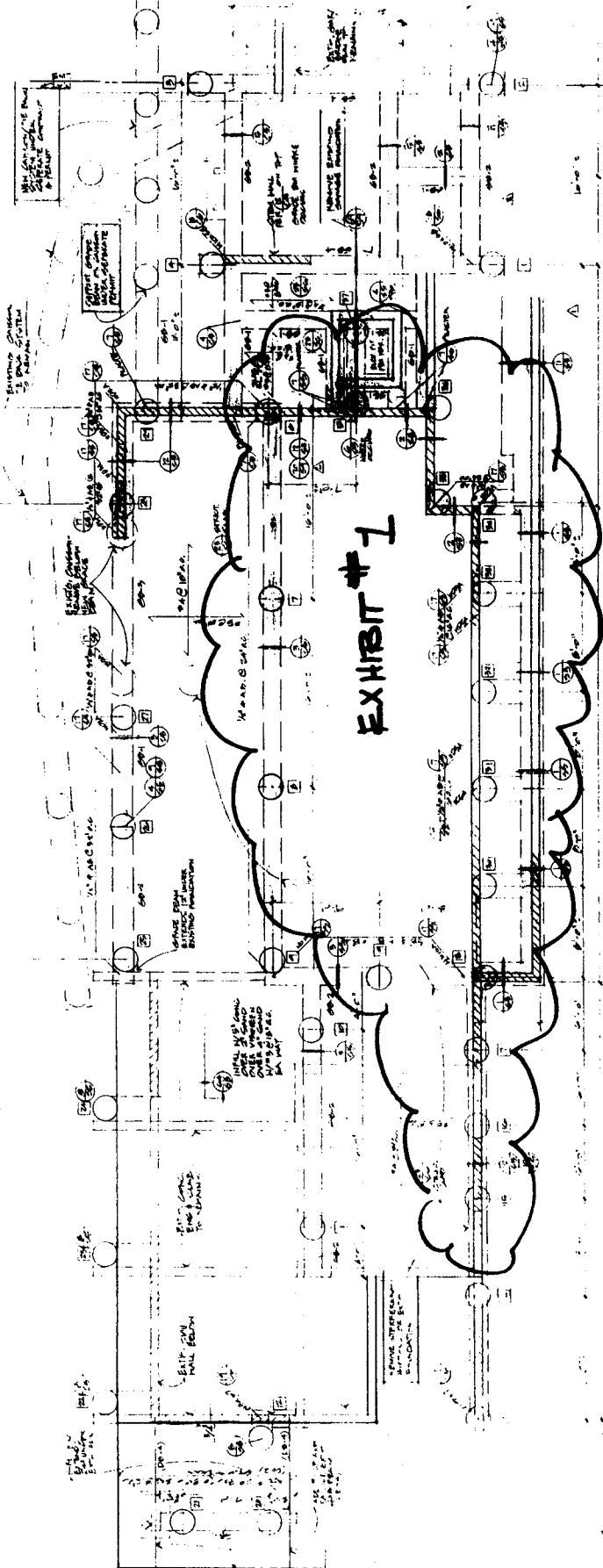
5-98 251-A1

harold larson structural design
1937 Alameda
949 487 5205
L.A. 90034-1047

BOEHRINGER RESIDENCE
21 BAY DRIVE
LAGUNA BEACH, CALIFORNIA

FOUNDATION PLAN

SHEET
S-2



FOUNDATION PLAN

1. DRILL LOGS, TESTS, ETC.
2. SOIL BORINGS AND TESTS
3. GEOTECHNICAL REPORT
4. MATERIALS, SPECIFICATIONS, ETC.
5. INTERPRETATION

CAISSON SCHEDULE									
NO.	IN. DIA.	IN. DIA.	IN. DIA.	IN. DIA.	IN. DIA.	IN. DIA.	IN. DIA.	IN. DIA.	IN. DIA.
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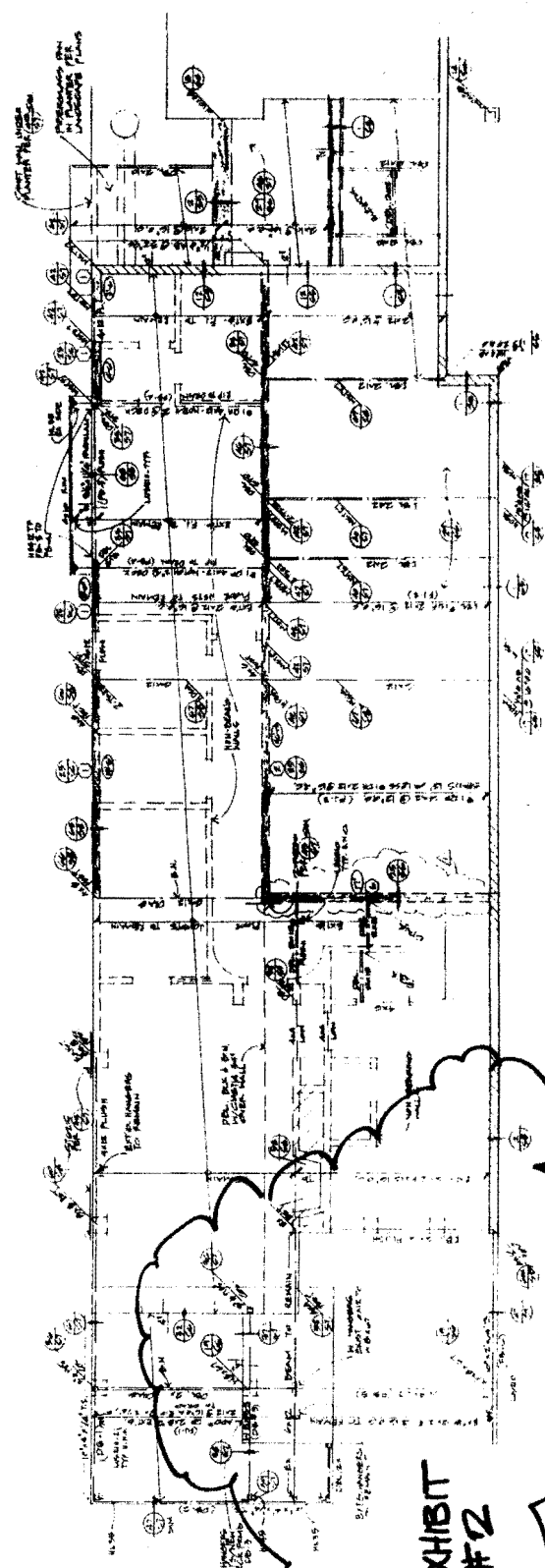
FOUNDATION NOTES

1. ALL FOUNDATION WORK SHALL BE DONE IN ACCORDANCE WITH THE SPECIFICATIONS AND STANDARDS OF THE CALIFORNIA BOARD OF CIVIL ENGINEERS AND ARCHITECTS, INC. (C.B.C.E.A.) AND THE CALIFORNIA BOARD OF CIVIL ENGINEERS AND ARCHITECTS, INC. (C.B.C.E.A.).
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5-98-251-A1

EXHIBIT # 2
PAGE 8 OF 12



MID LEVEL FLR. FRAMING PLAN 4-11-70
 NOTES: DOB. JOINT OR DOB. D.W. & WALLS ABOVE PER 201-177P

SHEAR WALL SCHEDULE					
NO.	MADE	SHEATHING SHEATHING SHEATHING	WALLING @ FLOOR ELEVATIONS	ASD SPACING @ R.U.T.S TO TOP FLATE	PLATE WALLING
1	1	ONE SIDE	ASD @ 12"	12"	12" @ 12" O.C.
2	2	ONE SIDE	ASD @ 12"	12"	12" @ 12" O.C.
3	3	ONE SIDE	ASD @ 12"	12"	12" @ 12" O.C.
4	4	ONE SIDE	ASD @ 12"	12"	12" @ 12" O.C.
5	5	ONE SIDE	ASD @ 12"	12"	12" @ 12" O.C.
6	6	ONE SIDE	ASD @ 12"	12"	12" @ 12" O.C.
7	7	ONE SIDE	ASD @ 12"	12"	12" @ 12" O.C.
8	8	ONE SIDE	ASD @ 12"	12"	12" @ 12" O.C.
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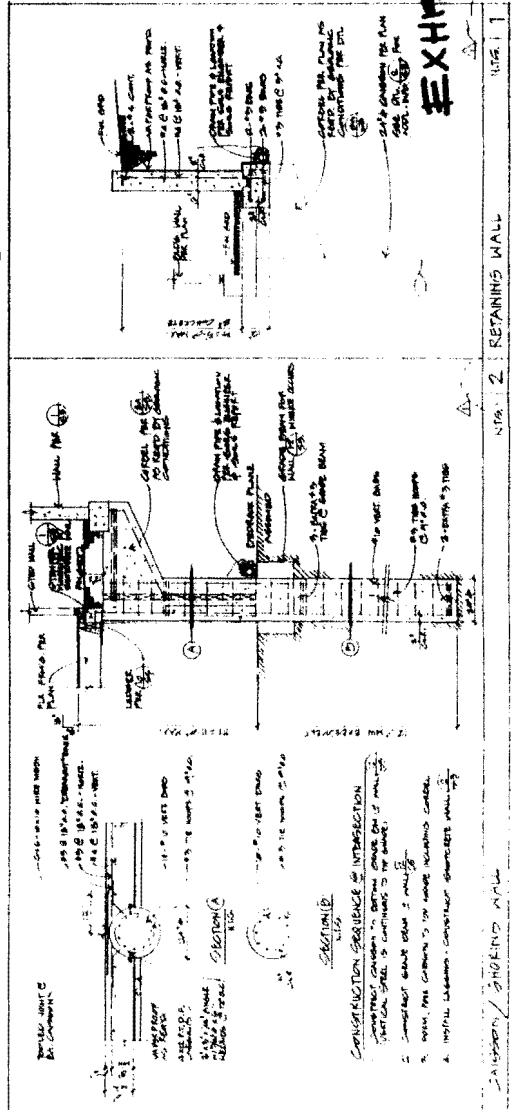


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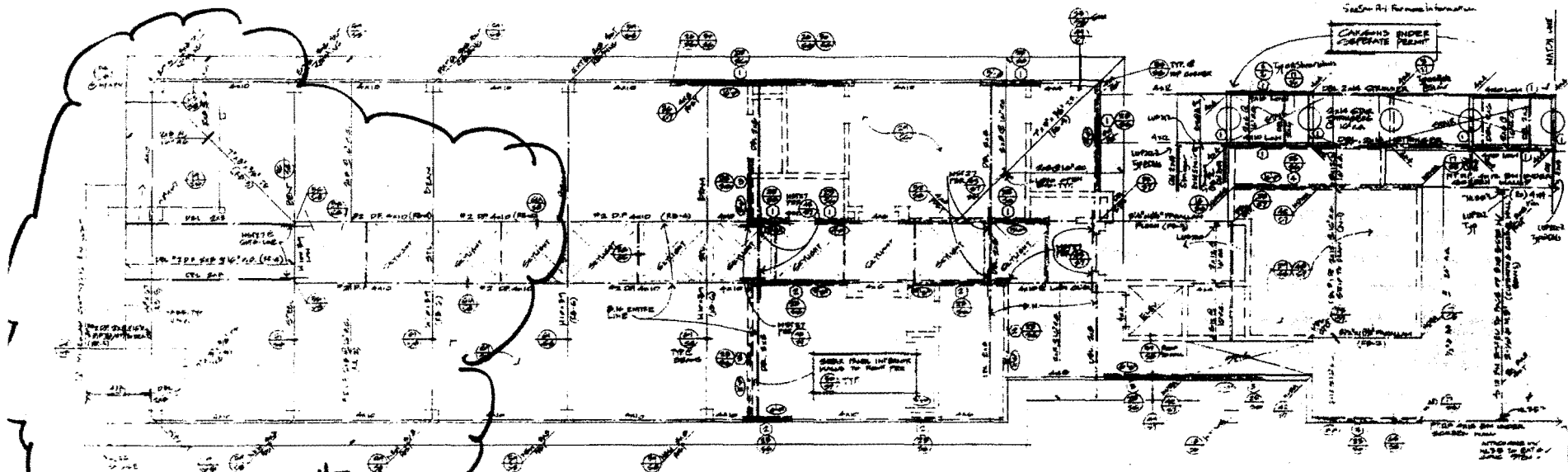
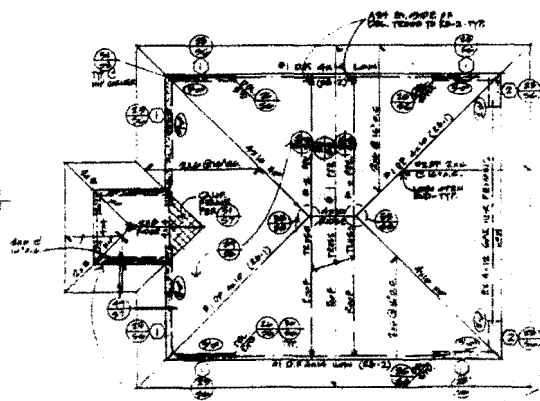
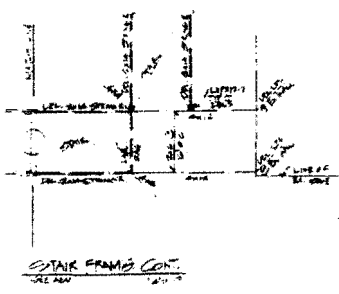


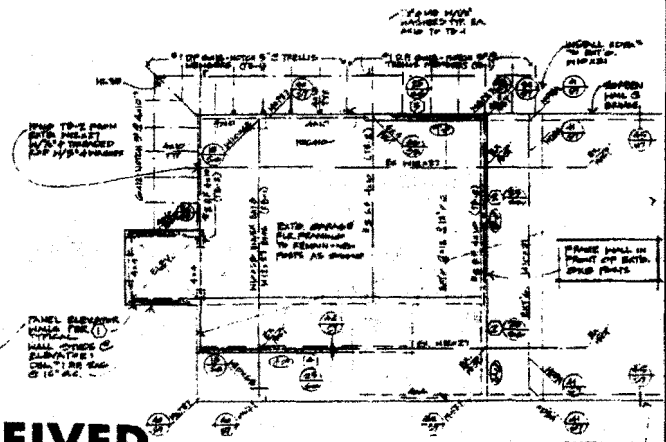
EXHIBIT #2

ROOF FRAMING/SPA FLOOR FRAMING PLAN

NOTE: REFER TO SHEET 0-2 FOR STANDARD SCHEDULE & NOTES.
VOL. JUST OF DEL. BLDG. & MAINT. NEW RES. TYP.



GARAGE ROOF FRAMING PLAN



GARAGE/BRIDGE FLR. FRAMING

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harold larsen structural design
1437 Alameda Laguna Beach, CA 92651
949 437 5205 fax 949 437 4071

BOEHRINGER RESIDENCE
21 DAY DRIVE
LAGUNA BEACH, CALIFORNIA

ROOF FRAMING PLAN/SPA
FLOOR FRAMING
GARAGE/BRIDGE FLR. FRMG

SHEET

S-4

COASTAL COMMISSION
5-98-251-A1
EXHIBIT # 2
PAGE 10 OF 12

[illegible]

A

LEFT SIDE-EAST

EXHIBIT # 3

EXTERIOR GARAGE ELEVATIONS

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5-98-251-A

EXHIBIT # 12
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ELEVATIONS
1999

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EXHIBIT # 12
PAGE 12 OF 12

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ELEVATIONS
1999

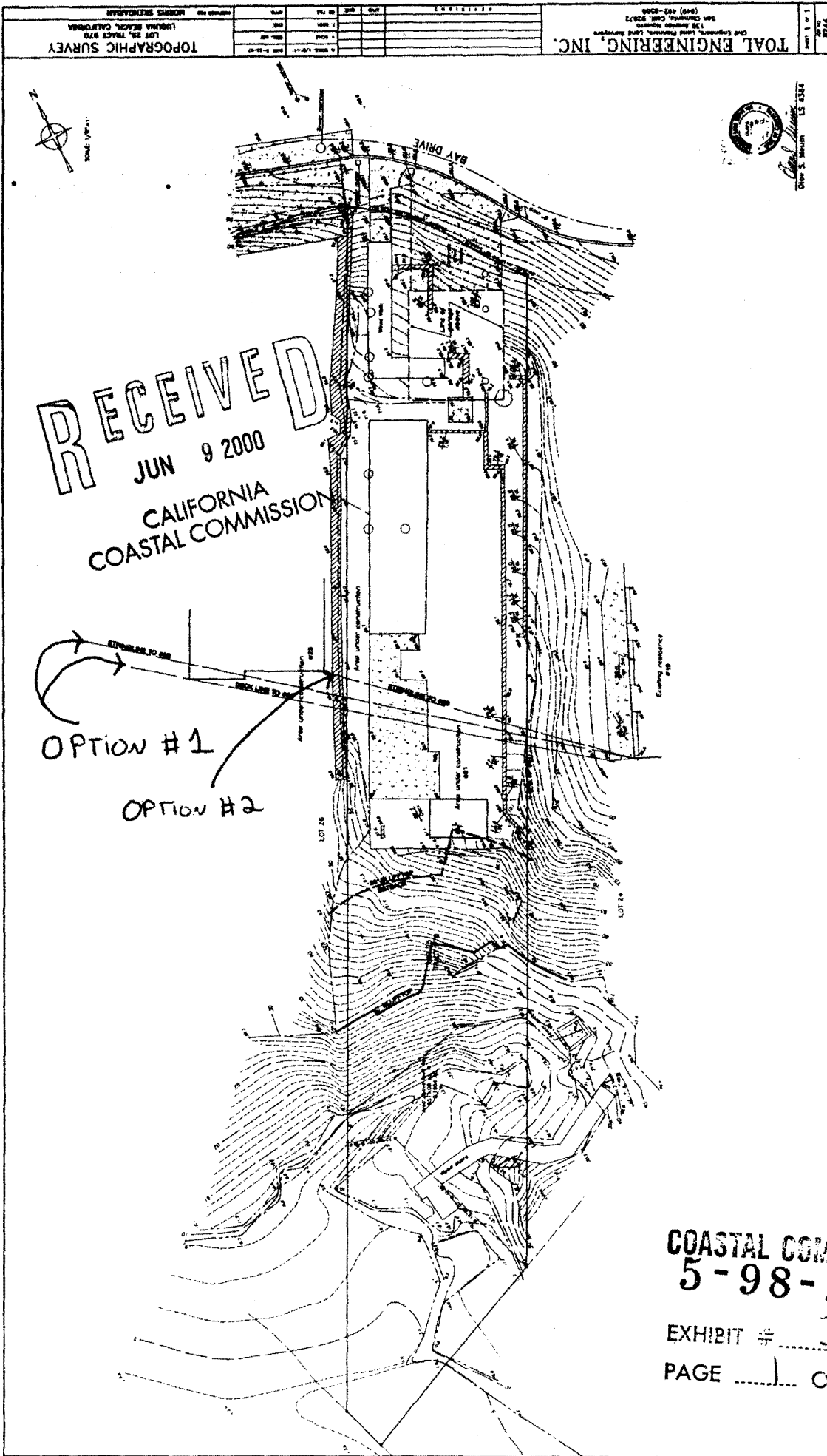
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EXHIBIT # 12
PAGE 12 OF 12

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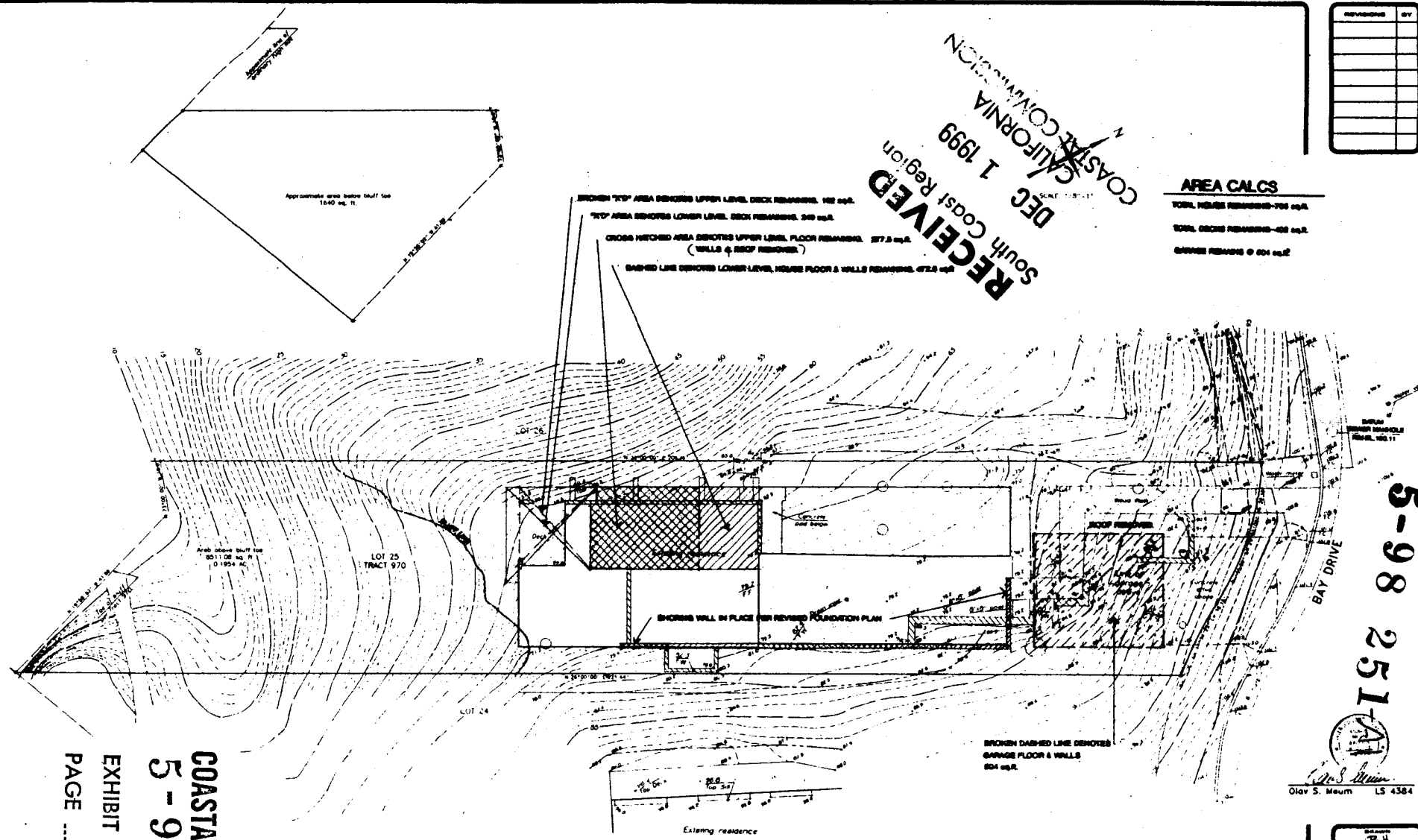
OPTION #1
OPTION #2

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EXHIBIT # 3
PAGE 1 OF 2

REVISIONS	BY

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 DEC 1 1999
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AREA CALCS
 TOTAL HOUSE REMAINS-705 sq.ft.
 TOTAL DECK REMAINS-452 sq.ft.
 GARAGE REMAINS @ 804 sq.ft.



5-98 251-A1
 Olaf S. Meun LS 4384

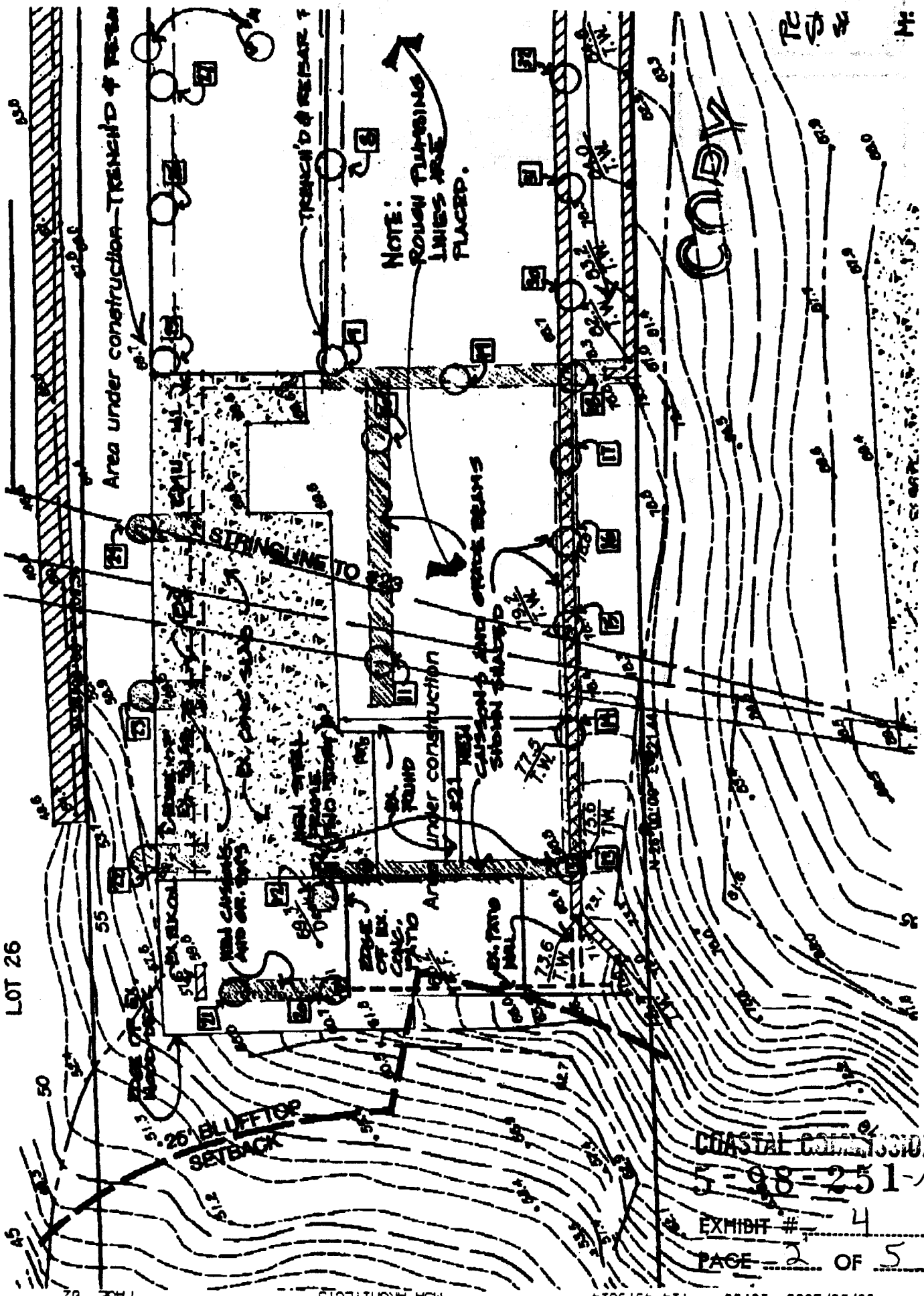
DEMOLITION PLAN

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					V SCALE	DRN 100'	
					F BOOK	CHK	
		REVISIONS	APPROVED	DATE	BY FILE	APPROVED	PREPARED FOR MORRIS SKENDARIAN

DESIGNED	TSK
CHECKED	
DATE	12-1-97
PROJECT	16-10-103
SHEET	9221
D-1	

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 EXHIBIT # 4
 PAGE 1 OF 5

LOT 26



COASTAL COMMISSION
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EXHIBIT # 4
PAGE 2 OF 5

EXHIBIT # 4
PAGE 3 OF 5

EXHIBIT # 4
PAGE 3 OF 5

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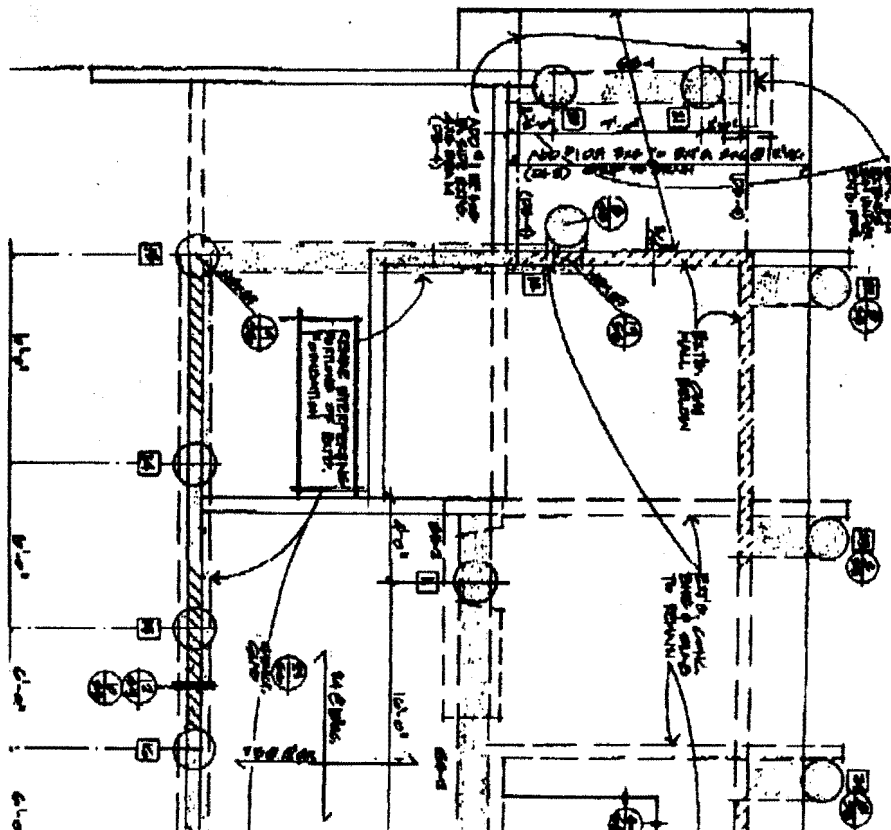
MSA 6-13-88

00-24-0 VSA

MEMO 6-13-00

COASTAL COMMISSION
5-98-251-A1

EXHIBIT # 4
PAGE 5 OF 5





Former Site Conditions
Center Photo

EXHIBIT No. 5

Application Number:

5-98-251-A1

Page 1 of 3



California Coastal
Commission



Existing Site
Conditions
Oblique A6K

EXHIBIT No. 5

Application Number:

5-98-251-A1

Page 2 of 3

California Coastal
Commission

Subject Site ↓ C.D. ↓ 33 Bar Dr. ↓



Existing Site
Conditions
Plan View

EXHIBIT No. 5

Application Number:

5-98-251-A1

Page 3 of 3

California Coastal
Commission

South Coast Region

DEC 1 1999

CALIFORNIA
COASTAL COMMISSION

Attachment to Amendment Request Form

City of Laguna Beach Permit #B97-2052

Coastal Commission Permit # 5-98-251

MSA
Morris Skenderian
& Associates, A.I.A.
ARCHITECTS

The foundation deviates from the original documents with the construction of a shoring wall in lieu of deepened conventional footings as originally designed. This 50 foot long wall is located adjacent to the easterly property line and is constructed of caissons spaced 8'-0" on center with poured in place concrete infill. See "Exhibit 1". The caisson designed shoring wall was necessary due to unanticipated footing depth to daylight limits based on field inspection of in situ conditions as required by the geology report employing U.B.C. practices and requirements. This alternative method does not increase the footprint or floor area and does not effect the architectural appearance. This design does provide a substantially superior structural solution for both our site conditions and the stability of the neighboring property. The Laguna Beach building department approved this foundation "Revision 1" dated 3/8/99.

The removal of existing floor framing and wall columns within the blufftop setback was brought about in part by common sense reasoning. The removal was deemed necessary for the construction and continuation of the above-mentioned shoring wall, it allowed for accessibility and maneuverability of construction equipment and facilitated placement of the rigid steel shear frame. Finally, the condition of the existing floor joist was structurally compromised by dry rot and termite infestation discovered during the process of construction. As a result of these considerations, the determination was made by the construction foreman, based on prudent craftsman like practices of carpentry, to remove the wall and columns. The footprint and/or floor area does not increase, nor is architectural intent or appearance effected by this decision. The whole of the architectural/structural elements described in the construction documents (dated 2/27/98) remain in like and kind. See "Exhibit 2."

Removal of the garage roof structure was once again consideration in discovery of dry rot and termite infestation compromising the structural integrity of those framing members. Appropriate to these findings, Mr. Boehringer has elected to reconstruct the garage in a manner, which is consistent with T.A.B. & Laguna Beach zoning and building department regulations and considerate of adjacent neighbors' views. The proposed garage would lower the floor to an elevation of 100.7: (1.5 ft. lower than existing) and reduce the roof pitch to 3:12. The otherwise level driveway would then incur a reverse slope. The proposed would bring this garage structure in conformance with current allowable height limits and results in no increase of footprint or floor area and its architectural appearance is changed little except for the more desirable low profile and improvement of neighbors' ocean views. See "Exhibit 3."

Please note Items 2 and 3 await concept approval by the City of Laguna Beach. Item 1 has been approved administratively, as previously mentioned.

COASTAL COMMISSION

5-98-251-A

EXHIBIT # 6

PAGE 1 OF 10

2094 S. Coast Highway
Laguna Beach, CA 92651
Tel.: 949-497-3374
Fax: 949-497-9814

**Hillstrom Contracting, Inc.**P.O. BOX 1345 • LAKE ELSINORE, CA 92531 • PH: (909) 674-9236 • FAX: (909) 674-8154
L.C. NO. 434435 B-1 C-8 C-29

November 2, 1999

Rand Hughes
Morris SkendarianRe: 21 Bay Drive
Three Arch Bay
South Laguna, CARECEIVED
JAN 18 2000CALIFORNIA
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fax 949-497-9814

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EXHIBIT # 6

PAGE 2 OF 10

Prior to beginning construction and prior to demolition I walked the site with Bill Boehringer and Mike Bell. This was in late November, 1998.

Among other things, Bill Boehringer was concerned about water flowing through the east entry patio wall and especially about water flowing through the east side stair well wall.

I noticed a trench system below the stairs had been chiseled into the concrete to direct the water into a storage room on the south side of the stair well. This storage room also had water flowing through the east side retaining wall. A sump pit had been chiseled and dug into the storage room floor and a small sump pump was in the bottom of it. Efflorescence was present on all concrete and masonry surfaces and mold was present on the small earthen slope between the storage room floor and the easterly retaining wall. The pump was rusted beyond use and the water was flowing south via a small trench and disappeared in some loose earth at the south wall of the storage room wall. All of the framing in the vicinity of east retaining wall was moist to saturated. The stair landing framing was wet. The stair treads were teak and showed no signs of rot, but much of the untreated framing in this area showed various degrees of rot, termite damage and mold.

The east side retaining walls were constructed of 8" concrete block. The interior faces of the masonry in the south east areas were spalled with aggregate exposed, especially in the areas of free flowing water.

Bill Boehringer felt it was necessary to replace these walls as they seemed to have little remaining structural integrity. Indeed, the new foundation plan had made allowances for a new retaining wall on caissons at the easterly wall of the master bath and patio and new stair well. We talked about devising a plan to shore and separate the floor above from the wall to be demolished and how to drill the caissons in that area.

I didn't see the site again until early spring, 1999, perhaps late January, early February. Some minor demolition had begun. All stucco and siding and much of the vegetation had been removed. Bill Boehringer, Mike Bell and I again walked the site. It was apparent that the house had had significant termite infestation. Dry rot was visible where floor joists attached to the retaining walls below the old guest room and old kitchen and especially in the previously mentioned easterly storage room and stair well. The area to the west of the entry (guest service and kitchen) was to be demolished anyway. It was determined

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to remove as much of the old floor between the old entry and the old master suite as possible while shoring the walls and the roof.

I visited the site frequently in early spring while the demolition and rough grading were being done. The grading contractor had cut a road by removing the old entry stairs (west of the garage) and the old guest room and kitchen foundations. (These were to be replaced by a new caisson and grade beam system.) He had removed the easterly low old entry patio retaining wall and cut the required new slope to the new bedroom 3 and hall foundations. He had worked his way over to the old stair well and old storage room retaining walls and was demolishing them with a small crawler loader. I observed that none of these walls had been adequately waterproofed and much of the wall rebar at the base of the walls was corroded.

In removing the old walls at the east side, a type of subdrain was exposed. It consisted of a randomly dug ditch (varying in depth and width) directly behind the old walls, lined with what appeared to be approximately 6 mil. black visqueen. Within the ditch was a 3" perforated plastic pipe and the ditch had been filled with pea gravel. It originated some where near the east garage wall and seemed to terminate in the vicinity of the previously mentioned storage room wall. It had no apparent outlet that I could see. Water was flowing through this ditch (perhaps as much as 1/2 gal. per minute more or less) however approximately an equal amount was exiting the new cut slope below this ditch as well.

After a few days the grading contractor had succeeded in removing the masonry retaining walls and had begun to make the vertical cut for the new walls. It was apparent that further grading would endanger the property above. The ground water was visibly eroding the slope above. I told him to buttress the cut with excavation spoil and compact it as best he could and stop work until the geologist could look at it. I called Mike Bell and told him what I had done.

The next day Mike Bell, Brandon Bokaw (Coastal Geo) and I met at the site. Brandon Bokaw suggested redesigning the walls in this area and at the sloping subfloor area as it was clear that the bedrock was incapable of adequately supporting the foundation system as currently designed. He suggested a caisson type shoring wall.

Harold Larson redesigned the walls and permit was issued on March 19, 1999.

Miscellaneous demolition and excavation was completed with east side grading to be done as the caissons were completed.

April 16, 1999 began drilling at south east wall through April 20, 1999. Late in the day on April 20th we noticed spalling of the uphill slope, stopped work and buttressed hillside. As best I recall, this slope failure undermined shoring of walls and roof at easterly property line. Emergency slope shoring needed to be installed in place of shoring for walls and roof, therefore necessitating additional demolition of walls and roof. Remaining roof portions were now unstable and could not be shored. April 20th began emergency shoring. April 21st finished shoring. April 22nd through April 27th installed a deep subdrain at east property line to remove as much upstream ground water as possible.



January 13, 2000

California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, Calif. 90802-4302

Attention: Karl Schwing

Subject: CDP 5-98-251 @ #21 Bay Drive, Laguna Beach, Ca.

Dear Mr. Schwing,

In response to your letter of December 20, 1999, I am providing you with the following responses. In addition, I would like to make a correction to your letter which states that we are requesting "the removal of all freestanding walls on the existing residence". Only those portions facilitating the construction of the deepened foundations on the east side of the property and lowering of the garage are modified.

Item 1: Stringlines

A drawing is attached indicating the stringlines of the adjacent structures as requested and the proximity of our project to the 25 foot bluff top setback.

Item 2: Design Alternatives

In order to comply with the current stringline criteria, approximately 25 feet of the seaward portion of the existing residence would have to be demolished and relocated elsewhere. In order to comply with the 25 foot bluff top setback, approximately 15 foot of the remaining residence would have to be demolished.

As identified in the attached floor plans of both levels of the design, a major redesign of the residence would be necessary in order to comply with the current requirements and yet maintain a viable floor plan layout. Hence, it is critical to the project that the design remain as originally approved without relocating rooms that are currently legal but non-conforming with regard to setbacks.

Item 3: Site drainage

Attached is the approved drainage plan indicating that the roof, deck and site drainage will be channeled through non-erosive devices to an existing 6" diameter cast iron pipe. This pipe currently handles the site water and is the City and geologist approved method to continue the use of this device.

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Item 4: Geology

In addition to the geological response attached, I wish to add that this residence was originally constructed around 1966. Over a period of years, water originating from the adjacent property to the east (#19 Bay Drive) flowed underground and contributed to the settlement of the foundations on our project.

As a part of the remodel, the existing foundation system had to be reinforced, caissons added and the overall structure laterally reinforced to prevent further movement to the west. Certain foundation work was initiated by the previous owner and is being completed by the current owner. All work was completed under the supervision of qualified professionals and in accordance with all applicable codes.

No seaward protective devices are planned nor deemed necessary for the stability of this project. According to our engineers and geologist, the existing living and master bedroom area (currently remaining), although located in the most western portion and within the bluff top setback area, appears to be the most geologically stable area of the site and required the least amount of reinforcement. The majority of the remedial foundation work occurs landward of the stringlines and the 25 foot bluff top setback.

In summary, page 5 of the staff report accurately describes the project. Other than the current request for an amendment for the lowering of the garage (per neighbor requests), no other changes have been made or are requested.

The primary issues are with regard to 1), the removal of the portion of the structure within the 25 foot bluff top setback on the east side of the property and 2), the removal of portions of the residence on the west side of the property of the original building area. Each of these removals were carried out in order to construct the additional foundation supports per the approved plans (see geological response letter).

Alternate means of construction in order to preserve and maintain such portions of the residence were considered. However, these alternatives could not be implemented on the east side of the property because it required construction of the wall from the adjacent property (#19 Bay Drive) and had significant liability issues and topographical constraints associated with that alternative. The west side of the property was therefor the only site access point to the required wall from Bay Drive which required the removal of portions of the structure in this area.

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EXHIBIT # 6
PAGE 5 OF 10

This project was approved by the Commission in November of 1998. It has received all City and Three Arch Bay approvals. The project has been under construction for over a year and has been suspended for over six months. It is critical that the project be allowed to proceed as soon as possible to minimize any potential and unforeseen problems associated with the delay.

We appreciate your concerns and wish to accommodate the Commission in any way to insure the proper execution of this project. Please make every effort to review our application so that we may proceed in a timely fashion. If you have any questions or need additional information, please contact me.

Sincerely,


Morris Skenderian

Enclosures: HCI correspondence dated November 2, 1999
Coastal Geo correspondence dated January 14, 2000
Aerial Photographs
Stringline Plan
A-1/A-2 Floor Plans

COASTAL COMMISSION
5-98-251-1

EXHIBIT # 6
PAGE 6 OF 10



February 2, 2000

California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, Calif. 90802-4302
Attention: Karl Schwing

RECEIVED
South Coast Region

FEB - 7 2000

CALIFORNIA
COASTAL COMMISSION

Subject: CDP 5-98-251 @ Remodel @ #21 Bay Drive, Laguna Beach, Calif.

Dear Mr. Schwing:

The letter is in response to your inquiry regarding the foundations within the bluff top setback.

Existing nonconforming encroachments within the 25 ft. bluff top setback:

The original home was built in 1965. After thirty five years, the house was in need of repair, reconstruction and additions.

Our intent throughout the approval process has been to allow the existing nonconforming portions of the house in the bluff top setback to remain while reinforcing and enhancing those portions of the structure. Both the City and the Coastal Commission approvals support this in concept. The approved construction documents indicate this in detail.

On the ground floor, within the 25 ft. setback, there existed portions of the master bath, master bedroom, a wood deck, and an on grade concrete patio (see Exhibits C attached). On the second level, there existed a portion of the family room, living room, and a wood deck. (See Exhibit D attached). Above the second floor was the wood frame roof. As you can discern from the drawings, the upper floor protruded further oceanward than the ground floor.

Foundations within the 25 ft. bluff top setback:

The footprint of the completed structure within the 25 ft. bluff top setback will be identical to the existing structure. Enhancements will include new glass, flooring, roofing, and foundations.

The new foundations (see Exhibit B attached) are intended to reinforce the existing foundations and correct a subsurface water condition from the south side that has undermined and leaked into the existing structure for several years. A new waterproofed retaining wall was designed and installed to support the property uphill from the subject property and to redirect the water around our structure.

In order to install these foundations, portions of the existing residence that encroached into the bluff top were required to be removed. **The new foundations and retaining walls are now in place.** Portions of the existing framed structure within the 25 ft. bluff top setback will remain.

2094 S. Coast Highway
Laguna Beach, CA 92651
Tel.: 949-497-3374
Fax: 949-497-9814

COASTAL COMMISSION
3-98-251-21

EXHIBIT # 6

PAGE 7 OF 10

Removal of the structure within the 25 ft. bluff top:

Removal of the new and previously existing foundation system and the related framing would, in my opinion, be detrimental not only to the stability of the bluff but would necessitate redesign of the remaining portion of the residence. (See attached letter from Coastal Geotechnical: Exhibit E)

The construction of the project has now been suspended for seven months and with the revisions required to remove the bluff top encroachment would undoubtedly require a suspension of an additional 1 year in order to redesign, engineer and obtain the approvals of the affected agencies. Needless to say, it would again burden neighbors with lengthy hearing processes since any new modifications to this design would likely have adverse affects on neighboring properties not previously anticipated

Conclusion:

The cost, time and efforts put toward this project have been enormous. We have inherited a site that had subsurface water and geological stability issues. The previous owners had made efforts to rectify the problems but to no avail.

We have hired the best available consultants to analyze the issues in detail and complied with their recommendations to insure the future stability of the site and its structures. We have had the project reviewed and approved by three different agencies, two independent geologists and complied with conditions and concerns of neighboring properties placed upon the project by these approvals.

The final design respects the site, its constraints and challenges, is view sensitive to neighboring properties and will insure future owners and agencies that previous problems have been rectified and that the project now complies with all codes and policies in force at the time. With these new foundations to stabilize the residence, no sea walls or other bluff protecting devices will be necessary.

I hope that the above additional information is helpful in your evaluation and that you see fit to support our amendment to the permit as approved by the City of Laguna Beach and allow us to proceed with the construction. If you have additional questions, please contact me.

Sincerely,


Morris Skenderian, Architect

Enclosures: Exhibits A-D and letter from Geologist

COASTAL COMMISSION

5-98-251-A1

EXHIBIT # 6

PAGE 8 OF 10



April 3, 2000

California Coastal Commission
200 OceanGate, Suite 1000
Long Beach, Calif. 90802-4302
Attention: Karl Schwing

RECEIVED
APR 07 2000

CALIFORNIA
COASTAL COMMISSION

Subject: CDP 5-98-251 @ Remodel @ #21 Bay Drive, Laguna Beach, Calif.

Dear Mr. Schwing:

The geologist for the project, Mark Hetherington, apparently has forwarded to you, additional copies of all the geological investigations done on this project for your review. He is in process of developing a synopsis of the information specifically addressing the issues of overall site stability and the issue regarding any ocean protective devices.

For a more current status of the site, I have had the project aerial photographed in its current state.

I have also had the surveyor, Toal Engineering, resurvey the site with emphasis on the bluff area and the existing structures. As a result of the new information, I'm indicating on the enclosed survey a new bluff top line and the 25 ft. bluff top setback line. This is based on the strict interpretation of the City code regarding definition of a bluff top. That interpretation is basically that the bluff top is that point where the grade breaks upward from a slope of 45 degrees or greater to a slope of less than a 45-degree angle. Although this is a simpler definition than the language of the Coastal Act, my belief is that it follows the intent and spirit of the law.

The enclosed plan also indicates the stringlines you requested from the home at #19 to the south and to the home at #33 to the north. This stringline was never required or used in our original design application since our intent was to preserve the footprint of the original residence. In fact, Coastal approval for the Conrad project immediately to the north, #23, was based on a stringline from #33 to the present location on our structure. The rationale for the preservation of our existing footprint is based on our existing permits and that our present footprint location was used to establish the location of the structure at #23. Our rationale for the preservation of the existing footprint was clearly outlined in my letter of February 3, 2000 and remains the same.

Obviously, from viewing the stringline drawing, you can see that application of the string line at this point in the process would have a dramatic impact on our project.

2094 S. Coast Highway
Laguna Beach, CA 92651
Tel.: 949-497-3374
Fax: 949-497-9814

5-98-251-A
EXHIBIT # 6
PAGE 9 OF 10

Hopefully your visit to the site with me on March 16, 2000 gave you a clearer understanding of the site topography, surrounding conditions and the status of our new construction as well the extent and nature of the remaining structures.

If you need additional information please contact me as soon as possible. Obviously we seeking to expedite the project in any way possible in order to proceed with construction.

Sincerely, 
Morris Skenderian

Enclosures:

Revised survey with bluff setback

Stringline map

Aerial photos

Excerpt from City code re: blufftop setbacks.

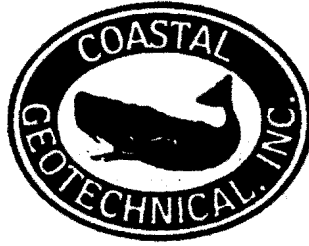
Copy of letter February 2, 2000, MSA to K. Schwing

COASTAL COMMISSION

5-98-251-1

EXHIBIT # 6

PAGE 10 OF 10



SOIL & FOUNDATION ENGINEERING
ENGINEERING GEOLOGY • HYDROGEOLOGY

5-98 251-A1
September 2, 1999
Project No. 171.1
Log No. 1159

Mr. Bill Boehringer
3535 E. Pacific Coast Hwy, Suite 307
Corona Del Mar, CA 92625

RECEIVED
South Coast Region

Subject: GEOLOGIC CONDITIONS BENEATH RETAINING
WALL ALONG SOUTHEAST PORTION OF SITE
21 Bay Drive
Three Arch Bay
South Laguna Beach, California

DEC 1 1999

CALIFORNIA
COASTAL COMMISSION

Dear Mr. Boehringer:

In accordance with the request of Mr. Rand Hughes of Morris Skenderian and Associates AIA, we are providing this letter addressing the geologic conditions beneath the area of the recently constructed property line retaining wall and adjacent building wall along the southeast portion of the property. The geology along this portion of the site consists generally of a variable thickness of landslide debris, Pleistocene terrace deposits, and middle Miocene sedimentary bedrock assigned to the San Onofre Breccia. The San Onofre Breccia appears to have been intensely faulted, with the observed high-angle faulting trending essentially parallel to the property boundary and dipping to the west. The pre-historic faulting, coupled with groundwater conditions, resulted in an unstable geologic condition as it pertained to the construction of the walls as originally contemplated using conventional continuous footings. The site is further impacted by an existing landslide to the west. In order to facilitate construction of the building and retaining walls along the southeast property boundary, the walls were re-designed by the Structural Engineer in accordance with our recommendations as drilled pier supported walls. The unstable geologic conditions along the southeast portion of the site also necessitated the use of temporary shoring during construction.

COASTAL COMMISSION
5-98-251-A1

EXHIBIT # 7
PAGE 1 OF 13

**GEOLOGIC CONDITIONS BENEATH RETAINING
WALL ALONG SOUTHEAST PORTION OF SITE**

Project No. 171.1

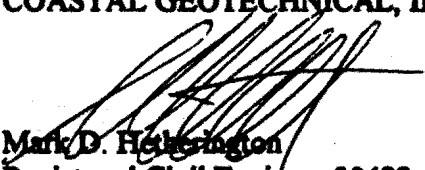
August 24, 1999

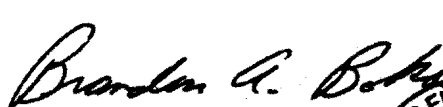
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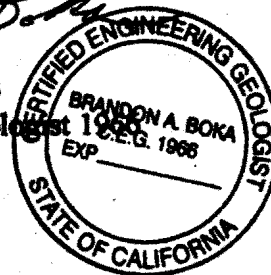
This opportunity to be of service is appreciated. If you have any questions, please call.

Sincerely,

COASTAL GEOTECHNICAL, INC.

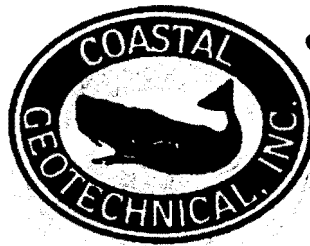

Mark D. Hetherington
Registered Civil Engineer 30488
Geotechnical Engineer 397
(expires 3/31/00)


Brandon A. Boka
Registered Geologist 5913
Certified Engineering Geologist 1066
(expires 3/31/00)



COASTAL COMMISSION
5-98-251-11

EXHIBIT # 7
PAGE 2 OF 13



5-98 251-A1

SOIL & FOUNDATION ENGINEERING
ENGINEERING GEOLOGY • HYDROGEOLOGY

Mr. Bill Boehringer
3535 E. Pacific Coast Hwy, Suite 307
Corona Del Mar, CA 92625

November 10, 1999
Project No. 171.1
Log No. 2002

COASTAL COMMISSION
5-98-251-A1

Subject: GEOLOGIC CONDITIONS
21 Bay Drive
Three Arch Bay
Laguna Beach, California

EXHIBIT # 7
PAGE 3 OF 13

- References:
- 1) "Geotechnical Recommendations for New Foundations for Support of Proposed Remodel, 21 Bay Drive, Laguna Beach, California," by Specialty Construction Design, dated September 24, 1997.
 - 2) "Geologic Conditions Beneath Retaining Wall Along Southeast Portion of Site, 21 Bay Drive, Three Arch Bay, South Laguna Beach, California," by Coastal Geotechnical, Inc., dated September 2, 1999.

Dear Mr. Boehringer:

In accordance with the request of Mr. Rand Hughes of Morris Skenderian and Associates, AIA, we are providing this additional correspondence to clarify comments made in our previous letter, "Geologic Conditions Beneath Retaining Wall...", (see Reference 2). Geologic descriptions of the property presented in Reference 2 were intended to pertain to essentially the entire east to southeast portion of the site, including the seaward portion of the lot. The geologic conditions encountered during construction necessitated the structural design changes described in Reference 2.

This opportunity to be of service is appreciated. If you have any questions, please call our office.

RECEIVED
South Coast Region

Sincerely,

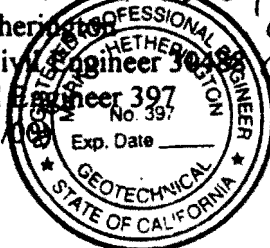
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COASTAL GEOTECHNICAL, INC.

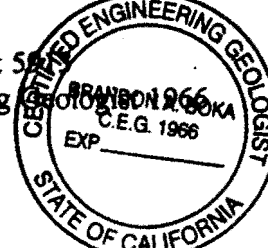
CALIFORNIA
COASTAL COMMISSION

Mark D. Hetherington

Mark D. Hetherington
Registered Civil Engineer 397
Geotechnical Engineer 397
(expires 3/31/00)



Brandon A. Boka
Brandon A. Boka
Registered Geologist 5066
Certified Engineering Geologist
(expires 3/31/00)





SOIL & FOUNDATION ENGINEERING
ENGINEERING GEOLOGY • HYDROGEOLOGY

5-98 251-A1

November 11, 1999
Project No. 171.1
Log No. 2002

Mr. Bill Boehringer
3535 E. Pacific Coast Hwy, Suite 307
Corona Del Mar, CA 92625

Subject: GEOLOGIC CONDITIONS
21 Bay Drive
Three Arch Bay
Laguna Beach, California

- References:
- 1) "Geotechnical Recommendations for New Foundations for Support of Proposed Remodel, 21 Bay Drive, Laguna Beach, California," by Specialty Construction Design, dated September 24, 1997.
 - 2) "Geologic Conditions Beneath Retaining Wall Along Southeast Portion of Site, 21 Bay Drive, Three Arch Bay, South Laguna Beach, California," by Coastal Geotechnical, Inc., dated September 2, 1999.

Dear Mr. Boehringer:

In accordance with the request of Mr. Rand Hughes of Morris Skenderian and Associates, AIA, we are providing this additional correspondence to clarify comments made in our previous letter, "Geologic Conditions Beneath Retaining Wall....," (see Reference 2). Descriptions of the adverse geologic features impacting the property presented in Reference 2 were intended to pertain to essentially the entire east to southeast portion of the site, including the seaward portion of the lot near the existing structure. The adverse conditions are further expanded on in our previous letter (Reference 2), but consist generally of intensely faulted bedrock materials, landslide debris, and a prevalent groundwater condition. The problematic geologic conditions encountered during construction necessitated the structural design changes described in Reference 2; and, we understand through conversation with the contractor, required demolition of portions of the existing structure.

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South Coast Region

DEC 1 1999

CALIFORNIA
COASTAL COMMISSION

COASTAL COMMISSION
5-98-251-A1

EXHIBIT # 7
PAGE 4 OF 13

GEOLOGIC CONDITONS

November 10, 1999

Project No. 171.1

Page 2

This opportunity to be of service is appreciated. If you have any questions, please call our office.

Sincerely,

COASTAL GEOTECHNICAL, INC.

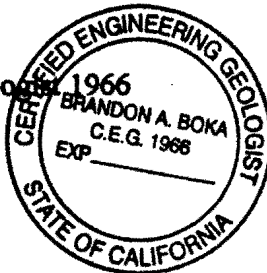
Brandon A. Boka

Brandon A. Boka

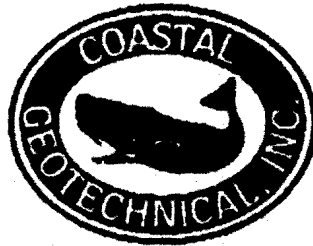
Registered Geologist 5913

Certified Engineering Geologist 1966

(expires 3/31/00)



COASTAL COMMISSION
5-98-251-A
EXHIBIT # 7
PAGE 5 OF 13



SOIL & FOUNDATION ENGINEERING
ENGINEERING GEOLOGY • HYDROGEOLOGY

January 14, 2000
Project No. 171.1

Mr. Bill Boehringer
3535 East Pacific Coast Highway, Suite 307
Corona Del Mar, California 92625

Subject: GEOTECHNICAL RESPONSE TO
NOTICE OF INCOMPLETE APPLICATION
Coastal Development Permit Application 5-98-251-A1
21 Bay Drive
Laguna Beach, California

COASTAL COMMISSION
5-98-251-A1

References: Attached

EXHIBIT # 7
PAGE 6 OF 13

Dear Mr. Boehringer:

In accordance with the request of Mr. Rand Hughes of Morris Skenderian and Associates AIA, we are providing this response to geotechnical related issues noted in Item Nos. 3 and 4 of the "Notice of Incomplete Application, Coastal Development Permit Application 5-98-251-A1, Site: 21 Bay Drive, Laguna Beach, Orange County, California" prepared by the California Coastal Commission (Reference 5).

Item 3

- In conjunction with the construction of the drilled pier supported retaining wall along eastern property line, a backdrain was provided behind the wall and an interceptor subdrain was provided in front of the wall. These drains are directed to the 6-inch diameter cast iron pipe at the southeast corner of the site as shown on the Site Plan, prepared by MSA, dated February 27, 1998.

Item 4

- The geologic conditions underlying the subject lot can be summarized generally as a variable thickness and local deposit of landslide debris, Pleistocene regressive marine and continental terrace deposits, and ultimately middle Miocene marine sedimentary bedrock assigned to the San Onofre Breccia. The San Onofre Breccia appears to have been intensely faulted locally, with an observed prominent high-angle and west dipping fault trending essentially sub-parallel to the easterly property boundary. The pre-historic faulting, coupled with a prevalent groundwater condition, would have resulted in an unstable temporary construction slope during construction of the retaining wall along the easterly property line and deeper than anticipated footings.

GEOTECHNICAL REPONSE

Project No. 171.1

January 13, 2000

Page 2

- The re-design of the retaining wall accomplished two objectives from a geotechnical standpoint: a) provided the necessary embedment of the retaining wall foundation into competent bearing materials, and b) served the dual purpose of both shoring during construction of the wall as well as becoming a permanent part of the finished wall. The use of the drilled pier supported retaining wall eliminated unnecessary risks of temporary slope instability and possible negative impacts on the neighboring property to the east during construction and enhanced permanent slope stability as intended.
- The property is considered safe for development as intended from a geotechnical standpoint.
- There is no need for the placement of any "protection devices" as a consequence of the construction of the drilled pier retaining wall.
- The options available for construction of the retaining wall along the east property boundary included: a) make the required vertical cut as originally contemplated and risk the likely failure of the adjacent ascending slope and possible distress to the neighboring residence, and deepened the footings; b) provide temporary shoring along the property boundary to enable construction of the wall and deepened the footings; and c) re-design the wall as a drilled pier supported wall that would extend the foundation elements to competent bearing materials as well as act as shoring in order to facilitate the construction in a safe manor. The option utilized of the drilled pier supported retaining wall accomplished both geotechnical objectives in a safe and efficient manner.
- Relocating the residence landward of its present location serves no benefit with respect to the geologic conditions encountered during the construction of the drilled pier retaining wall.

COASTAL COMMISSION
5-98-251-AEXHIBIT # 7
PAGE 7 OF 13

GEOTECHNICAL REPONSE

Project No. 171.1

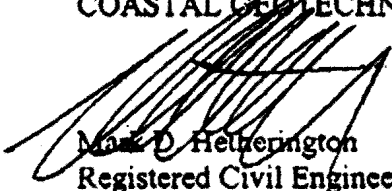
January 13, 2000

Page 3

This opportunity to be of service is appreciated. If you have any questions, please call.

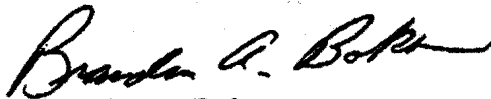
Sincerely,

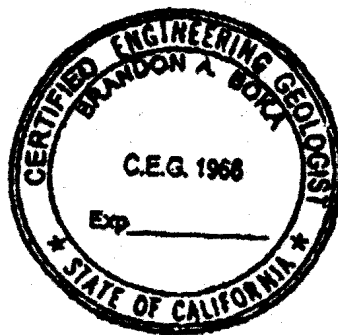
COASTAL GEOTECHNICAL, INC.


Mark D. Hetherington
Registered Civil Engineer 30488
Geotechnical Engineer 397
(expires 03/31/00)

MDH/ dkw




Brandon A. Boka
Registered Geologist 5913
Certified Engineering Geologist 1966
(expires 03/31/00)



COASTAL COMMISSION
5-98-251-A1

EXHIBIT # 7
PAGE 8 OF 13

2-02-2000 12:00PM

FROM HETHERINGTON ENG.

780 9310545

P. 2



Geology Studies/Soil & Rock
327 Third Street, Laguna Beach, California 92651

EXHIBIT E

February 2, 2000
Project No. 171.1

Morris Skenderian and Associates, A.I.A.
2094 South Coast Highway
Laguna Beach, California 92651

Attention: Mr. Morris Skenderian

Subject: REMODEL AT 21 BAY DRIVE


Dear Mr. Skenderian:

In response to your inquiry regarding construction within the bluff top setback, we are providing the following comments:

- 1) Under no circumstances should the portion of the recently constructed retaining wall between 21 Bay Drive and the adjacent upslope property, which extends seaward of the bluff top setback, be removed. The construction of this retaining wall has enhanced the stability of the upslope property over pre-construction conditions and removal of the retaining wall would compromise the stability of the upslope property.
- 2) Removal of the recently constructed new residential foundations consisting of deep caissons seaward of the bluff top setback would be detrimental to bluff top stability due to disturbance to the bluff top from demolition activities and would eliminate the beneficial effects of the caissons on bluff top stability.
- 3) Relocation of the residential structure behind the bluff top setback serves no benefit on bluff top stability and may, in fact, be detrimental to surficial stability since it will now expose to erosion those portions of site previously covered by structures above.

If you have any questions please call.

COASTAL GEOTECHNICAL, INC.


Mark D. Hetherington
Civil Engineer 30488
Geotechnical Engineer 397
(expire 3/31/00)



COASTAL COMMISSION
5-98-251-A1

EXHIBIT # 7
PAGE 9 OF 13



RECEIVED

APR 11 2000

CALIFORNIA
COASTAL COMMISSION

SOIL & FOUNDATION ENGINEERING
ENGINEERING GEOLOGY • HYDROGEOLOGY

April 5, 2000
Project No. 171.1
Log No. 6094

Mr. Morris Skenderian, Architect
Morris Skenderian & Associates, A.I.A.
2094 South Coast Highway
Laguna Beach, California 92651

Subject: GEOTECHNICAL REPONSE TO CALIFORNIA COASTAL
COMMISSION LETTER DATED FEBRUARY 15, 2000
21 Bay Drive
Three Arch Bay
Laguna Beach, California
CDP 5-98-251-A1

COASTAL COMMISSION
5-98-251-A1

EXHIBIT # 7

PAGE 10 OF 13

Dear Mr. Skenderian:

We have previously provided a package of historical geological work with respect to the subject property to Carl Schwing of the California Coastal Commission. The package included a thorough description of geologic conditions of the site, a geologic map of the site and cross-sections showing site geology. Additional geologic information with respect to the subject property is contained within the "Supplemental Geotechnical Investigation, Proposed Residential Development, Lots 26, 27, 28, 29 and 30 of Tract 970, Three Arch Bay, South Laguna Beach, California", dated January 26, 1998, by Hetherington Engineering, Inc. This report was prepared for the property presently under construction (CDP R-5-97-371) immediately west of the subject property. A copy of the report will be provided to Carl Schwing with a copy of this letter.

As can be gleaned from review of the historical geologic documents, the primary geologic hazard impacting the subject property is landsliding. The construction of the shoring system, and removal of landslide debris and reconstruction as compacted fill on the property to the west has stabilized (F.S.>1.5) the landslide on the subject property. Slope stability calculations are included in the attached report (Appendix C, Section E, Cross Section A-A'). To minimize the risk of damage to new construction due to possible differential movement of remaining landslide debris on the subject property, new foundations consisting of drilled piers have been designed for lateral earth pressures and have been extended into undisturbed bedrock.

The issue of the long term effects of erosion on the site was previously addressed by Fred Pratley in his "Engineering Geologic Review, Coastal Commission Letter, dated July 14, 1998", dated July 19, 1998. No shore protection devices are necessary on this property.

GEOTECHNICAL REPONSE TO CALIFORNIA COASTAL COMMISSION LETTER
DATED FEBRUARY 15, 2000.

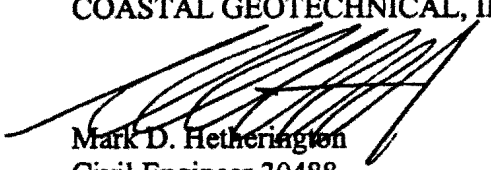
Project 171.1

Page 2

If you have any questions please call.

Yours truly,

COASTAL GEOTECHNICAL, INC.



Mark D. Hetherington
Civil Engineer 30488
Geotechnical Engineer 397
(expire 3/31/04)

MDH/ dkw

CC: Mr. Carl Schwing

COASTAL COMMISSION

5-98-251-A1

EXHIBIT # 7

PAGE 11 OF 13



SOIL & FOUNDATION ENGINEERING
ENGINEERING GEOLOGY • HYDROGEOLOGY

May 16, 2000
Project No. 171.1
Log No. 7038

Morris Skenderian & Associates
2094 South Coast Highway
Laguna Beach, California 92651

Attention: Mr. Morris Skenderian

Subject: RESPONSE TO REQUEST FOR ADDITIONAL INFORMATION
21 Bay Drive
Laguna Beach, California
CDP 5-98-251-A1

COASTAL COMMISSION
5-98-251-A1

Reference: Attached

EXHIBIT # 7

Dear Mr. Skenderian:

PAGE 12 OF 13

We are providing the additional information requested by Mr. Mark Johnsson, Senior Geologist, California Coastal Commission in his letter dated May 9, 2000. Our numbering corresponds to that used by Mr. Johnsson.

1. A Site Plan and the requested Geologic Cross-Section 1-1' accompany this letter as Figures 1 and 2.
2. Geologic structure observed in drilled pier excavations is shown on the attached Site Plan, Figure 1. Boring logs of the drilled pier excavations were not made.
3. The requested static and pseudo-static stability analyses for Geologic Cross-Section, 1-1' are attached as Figure 3. Direct shear strength data supporting the values utilized in the analyses is included in Reference 26, which was previously provided to the California Coastal Commission.
4. The requested pseudo-static stability analysis for Geologic Cross-Section A-A' (from Reference 26) is attached as Figure 4. The current grade and the proposed finished grade are the same.
5. Based on our review of the available aerial photographs and plans for the site vicinity along with the "Coastal Engineering Assessment" for the Conrad property immediately to the north (see References), it is our opinion that the likelihood for significant coastal retreat within the confines of the site is low. The bluff toe of the

RESPONSE TO REQUEST FOR ADDITIONAL INFORMATION

Project No. 171.1

May 16, 2000

Page 2

subject property fronting the beach is densely vegetated, oriented obliquely to the ocean, and is set back landward from the adjacent ocean front properties to the northwest and southeast. Interpretation of the aerial photographs and comparison of available maps or plans (see References) indicates no appreciable net erosion of the site during the period 1939 to the present. Additionally, information presented in the "Coastal Engineering Assessment" for the Conrad property indicates that predicted average annual recession rates for this stretch of coastline range from 0.1 to 0.2 feet per year (Everts, 1997), and are episodic in nature. It is our opinion that the physiographic orientation and location of the bluff toe is essentially beyond the zone of influence of direct wave attack and thus erosion rates should be considered significantly lower than those predicted for the Conrad property.

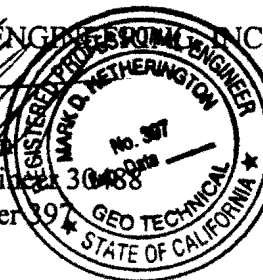
6. Conservative groundwater levels based on subsurface exploration were assumed for our slope stability analysis. An extensive system of subdrains has been installed on the adjacent Conrad site and a backdrain was installed behind the retaining wall constructed on the subject site. In our opinion these measures adequately address groundwater conditions from a slope stability point of view.
7. Faults observed during construction within the subject site and the neighboring Conrad project to the north are not considered active based on the lack of evidence that the features extend into or offset the Pleistocene regressive marine terrace deposits associated with the stage 5e sea level stand (approximately 125,000 years before present). As such, the potential for movement of the mapped faults underlying the property is considered low. However, due to the geologic nature of the region, ground cracks are considered possible during future seismic events throughout Southern California.

If you have any questions, please do hesitate to call.

Respectfully submitted,

HETHERINGTON ENGINEERING, INC.

Mark D. Hetherington
Registered Civil Engineer No. 30488
Geotechnical Engineer 197
(expires 03/31/04)



Brandon A. Boka
Registered Geologist
Certified Engineering Geologist 1966
(expires 03/31/02)



MDH/ dkw

COASTAL COMMISSION
5-98-251-A1

EXHIBIT # 7
PAGE 13 OF 13

TV 17d

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceanside, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

COMMISSION ACTION ON 10.13.98

- ☒ Approved as Recommended - See addendum
☐ Denied as Recommended dated 10/10/98
☐ Approved with Changes
☐ Denial
☐ Other

Filed: September 9, 1998
49th Day: October 28, 1998
180th Day: March 8, 1999
Staff: John T. Auyong-LB *John*
Staff Report: September 24, 1998
Hearing Date: October 13-16, 1998
Commission Action:

STAFF REPORT: REGULAR CALENDAR**APPLICATION NUMBER: 5-98-251****APPLICANT: Bill Boehringer for 21 Bay Drive LLC****AGENT: Morris Skenderian and Associates****PROJECT LOCATION: 21 Bay Drive, Three Arch Bay, City of Laguna Beach, County of Orange****PROJECT DESCRIPTION:** Addition of 1,790 square feet of living area and 309 square feet of deck area to an existing single-family residence. Also proposed is the installation of caissons for foundation support.

Lot Area	10,151 square feet
Building Coverage	2,185 square feet
Pavement Coverage	820 square feet
Landscape Coverage	300 square feet
Unimproved area	6,846 square feet
Parking Spaces	Four
Height above final grade	34'-0" at top of elevator roof

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PAGE 1 OF 22

LOCAL APPROVALS RECEIVED: City of Laguna Beach Variance 6509 and Design Review 98-115**SUBSTANTIVE FILE DOCUMENTS:** City of Laguna Beach Certified Land Use Plan; Coastal development permit 5-97-371 (Conrad); "Engineering Geologic Investigation - 21 Bay Drive, Laguna Beach, prepared for Gerald Raymond by Coastal Geotechnical dated August 8, 1992; August 27, 1997 letter to Bill Boehringer from Soil Engineering Construction, Inc.; September 24, 1997 letter from Specialty Construction Design to Morris Skenderian; July 19, 1998 letter from Coastal Geotechnical to Skenderian Architects**SUMMARY OF STAFF RECOMMENDATION:**

Staff is recommending approval of the proposed project with special conditions regarding: 1) and assumption-of-risk deed restriction, 2) conformance with geotechnical recommendations, 3) the use of drought-tolerant, primarily native landscaping, 4) prohibiting the staging and storage of construction materials and equipment on the beach, and 5) conveying drainage

away from the bluff edge/face, or, if that's not possible, over the bluff in a controlled, non-erosive manner.

Issues to be resolved include whether the special condition language in the assumption-of-risk deed restriction shall include a provision that no seawall can be built on the parcel. The Commission at the August 1998 hearing added this language to coastal development permits 5-98-020 (Conrad), 5-98-064 (Barnes), 5-98-165 (Danninger/Tassin), and 5-98-178 (McMullen), for new homes in Three Arch Bay. The proposed development involves additions to an existing home. Further, the subject site is located adjacent to the shoring wall stabilization project approved by coastal development permit 5-97-371 (Conrad). This project, also approved at the Commission's August 1998 hearing, involves the placement of tiebacks on the subject site. Staff is recommending that any changes to the plans for the proposed project which may result because of changes to the stabilization project shall require an amendment to this permit or a determination by the Executive Director that no permit amendment is needed.

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, locate between the first public road and the sea, 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 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.

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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. Assumption-of-Risk. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant and all landowners 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 entire site may be subject to extraordinary hazards from landslides/slope failure and wave attack, and the applicant assumes the liability from such hazards; (b) that 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 due to the natural hazards, (c) that the applicant agrees that no shoreline protective devices shall be constructed on the parcel, and (d) the applicant accepts sole responsibility for the removal of any structural debris resulting from landslides, slope failures or erosion on the site. 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. Geotechnical Recommendations. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, two sets of final revised site plans, floor plans, elevations, grading, drainage, foundation, and engineering plans for all the development, including the proposed caisson shoring system, approved by this permit. These final revised plans shall be consistent with the preliminary plans dated March 31, 1998, prepared by Soil Engineering Construction, Inc. (Job No. 98-050), except that these plans shall incorporate the recommendations pertaining to the development contained in: 1) the "Engineering Geologic Investigation - 21 Bay Drive, Laguna Beach, prepared for Gerald Raymond by Coastal Geotechnical dated August 8, 1992; 2) the August 27, 1997 letter to Bill Boehringer from Soil Engineering Construction, Inc.; and 3) the September 24, 1997 letter from Specialty Construction Design to Morris Skenderian. These final revised plans shall clearly show the final depth of soil to be removed.

proposed caissons, as well as the final number, locations, and dimensions of all proposed tie-backs.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the Executive Director's review and approval, evidence that the appropriate licensed professional has reviewed and approved the final revised plans described above and certified that each of those final revised plans incorporates all of the recommendations specified in the above referenced documents.

The approved development shall be constructed in accordance with the final revised plans as approved by the Executive Director. Any proposed deviations from said plans, including any proposed changes which may be required because of the design of the shoring system on the adjacent property at 23 Bay Drive on the upcoast side of the subject site, shall require a Coastal Commission-approved amendment to this permit, unless the Executive Director determines a permit amendment is not needed.

3. Landscaping. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, revised landscaping plans. The revised landscaping plans shall: 1) be consistent with the preliminary landscaping plans dated June 18, 1998 prepared by Studio Landscape Architecture, 2) be prepared by a licensed landscaped architect, and 3) incorporate the following criteria: (a) planting shall be of drought tolerant plants (native, non-invasive drought tolerant plants are preferred), and (b) only temporary irrigation to help establish new landscaping shall be allowed in addition to any existing irrigation systems currently used for existing landscaping. The applicant shall comply with the plans approved by the Executive Director.

4. Staging and Storage of Construction Materials and Equipment. Construction material and equipment shall not be staged or stored on the beach. Any accidental spills of construction equipment fluids shall be immediately contained on-site and disposed of in an environmentally safe manner as soon as possible.

5. Drainage. All runoff and drainage from the site shall be directed to the street except where it is infeasible to do so. Where it is infeasible to direct drainage and runoff to the street, drainage and runoff shall be appropriately collected and conveyed to the beach in a non-erosive manner and discharged at the base of the bluffs with an energy dissipator at the drain outlet. The drainage devices which direct runoff and drainage to the beach shall be below grade unless it is infeasible to do so. If the drainage devices cannot be below grade, they shall be designed to blend in with and maintain the natural character of the bluffs.

IV. Findings and Declarations:

The Commission hereby finds and declares:

A. Project Description and Location

The applicant is proposing additions to an existing 2,199 square foot, single-family residence with 380 square feet of deck area and a detached 504 square foot two-car garage on a

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blufftop lot. The existing home is two stories tall, and is set below the level of the street. The existing garage is at street level. The subject site is located at 21 Bay Drive in the private community of Three Arch Bay in the City of Laguna Beach in Orange County.

The proposed additions consist of 1,790 square feet of habitable area and 309 square feet of deck area. (see Exhibit B) The resultant structure would be four levels, consisting of the two levels of the existing home, the street level garage, and a new spa deck level in between the top of the home and under the garage. The proposed home would be 44 feet high from the finished floor of the lowest level to the top of the roof of the garage. The top of the roof of the garage would extend fourteen feet above the centerline of Bay Drive. The proposed additions would connect the garage with the home and would be located in the middle portion of both levels of the home. The proposed additions would not result in seaward encroachment.

Also proposed are caissons on the upcoast edge of the property. (see Exhibit C) The upcoast side is adjacent to the properties at 23-31 Bay Drive, upon which a landslide has occurred. Thus, the subject site has lost lateral support on its upcoast edge. The proposed caissons are intended to provide lateral support for the property. The proposed caissons are in two basic locations. A line of eight caissons, placed essentially perpendicular to Bay Drive, is proposed to be installed under the general alignment of the stairs which lead from the garage to the home. The caissons will be 24 inches in diameter, drilled to depths between 22 and 27 feet and attached to a grade beam. The line of caissons is setback about eight feet from the upcoast property line. The caissons are spaced 7 feet apart, measured from their centers. Four tiebacks will anchor the proposed caissons. The area between the proposed caissons and existing structures will be chemical grouted. Also proposed is a shallow arc of 11 caissons along the upcoast property line. The caissons are 30 inches in diameter and spaced at varying intervals ranging from 5 to 9 feet. They are anchored by ten tiebacks.

B. Chapter 3 Policy Analysis

1. Geologic Hazards

Section 30253 of the Coastal Act states, in relevant 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 blufftop lot. The upcoast side is adjacent to the properties at 23-31 Bay Drive, upon which a landslide has occurred. Thus, the subject site has lost lateral support on its upcoast edge. The adjacent properties have had a history of landslide episodes. Thus, the

subject site is adjacent to an area of high geologic hazard. At its August 1998 hearing, the Commission approved coastal development permit 5-97-371 (Conrad) for a comprehensive landslide remediation and shoring project at the adjacent site.

The geotechnical reports submitted by the applicant's geotechnical consultant are: 1) "Engineering Geologic Investigation - 21 Bay Drive, Laguna Beach, prepared for Gerald Raymond by Coastal Geotechnical dated August 8, 1992; 2) August 27, 1997 letter to Bill Boehringer from Soil Engineering Construction, Inc.; 3) September 24, 1997 letter from Specialty Construction Design to Morris Skenderian; 4) July 19, 1998 letter from Coastal Geotechnical to Skenderian Architects; and 5) September 23, 1998 letter from Coastal Geotechnical to Morris Skenderian and Associates.

The proposed project needs to be carried out in a manner which meets the minimum factor of safety of 1.5 which is required by the City of Laguna Beach and Orange County. The geotechnical consultant who authored the September 24, 1997 letter determined that the proposed project is able to achieve a minimum factor of safety of 1.5, which was also a part of the stabilization project/shoring wall approved under coastal development permit 5-97-371. The geotechnical consultant who authored the July 19, 1998 letter concluded that erosion of the seaward slope of the subject site is not anticipated because it is composed of resistant San Onofre Breccia. Further, because of the vegetation growth at the base of the bluff, the consultant also determined that wave uprush has not reached the base of the bluff in over 40 years. The geotechnical consultant who authored the September 23, 1998 letter determined that the proposed residential construction is feasible from a geotechnical standpoint, and impacts to the subject site and adjacent properties low, if the geotechnical recommendations are incorporated.

The geotechnical reports contains recommendations that, if incorporated into the proposed project design, would assure stability and structural integrity. The recommendations include, for example: 1) design of groundwater drainage, 2) minimum caisson size, 3) criteria for retaining wall design, 4) criteria for bearing capacities, and lateral loads and resistance, 5) tieback requirements, and 6) the use of Type V concrete.

Therefore, as a condition of approval, to ensure structural stability, the Commission finds that it is necessary to require the applicant to submit final revised plans which include signed statements of the applicant's geotechnical consultants. However, because the bluff repair/slope stabilization project approved under coastal development permit 5-97-371 requires the installation of tiebacks on the subject site, the proposed caisson project may need to be modified. Therefore, as a condition of approval, the Commission finds that modifications to the plans which may be necessary must be approved by an amendment to this permit or by the Executive Director.

Further, because landsliding has occurred several times adjacent to the subject site, and the current adjacent slide is jeopardizing existing development on the subject site, the Commission also finds that, as a condition of approval, the applicant must record an assumption-of-risk deed restriction to inform the applicant and all future owners of the subject site that the site is subject to hazards from landslides and coastal erosion/wave attack.

In addition, because groundwater levels have contributed to the landslide episodes on the subject site, the Commission finds that it is necessary to minimize irrigation on the site and require drought-tolerant landscaping. Minimizing irrigation and use of drought-tolerant landscaping would lessen the amount of water added to the groundwater supply that would cause erosion.

Therefore, as conditioned for: 1) recordation of an assumption-of-risk deed restriction, 2) the incorporation of geotechnical recommendations of the applicant's geologist, 3) the use of drought-tolerant landscaping, 4) prohibiting the staging and storage of construction equipment and material on the beach, and 5) control of drainage, the Commission finds that the proposed development is consistent with Section 30253 of the Coastal Act.

2. Marine Resources/Water Quality

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that would sustain the biological productivity of coastal waters and that would maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

A health risk to marine life and swimmers would be created if toxic substances from construction equipment on the beach were to get on the sand and leak into the ocean. In addition, staging or storing construction equipment and material on the beach would take up beach area needed for grunion spawning, thus resulting in adverse impacts on the grunion.

In order to ensure that adverse impacts to marine resources and water quality are minimized, the Commission finds that it is necessary to require a condition which prohibits the staging or storing of construction equipment or materials on the beach and to minimize and control spillage of toxic substances. Further, the Commission finds that directing runoff from the site to the street rather than the beach and ocean, to the maximum extent feasible, would reduce adverse impacts on the quality of coastal waters. As conditioned, the proposed project is consistent with Section 30231 of the Coastal Act.

3. Public Access

Section 30212 of the Coastal Act states, in relevant part:

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

(2) adequate access exists nearby . . .

The subject site is a beachfront site located between the nearest public roadway and the shoreline in the private community of Three Arch Bay. The beach is a cove beach separated from public beaches by rocky headlands. Thus, the beach is not readily accessible from nearby public beaches. The proposed project would not result in seaward encroachment of the structure. The proposed development would not result in an intensification of use of the site. The proposed development would not result in direct adverse impacts, either individually or cumulatively, on physical vertical or lateral public access, or on sovereign lands seaward of the mean high tide line. Vertical and lateral public access and public recreation opportunities are provided at nearby Salt Creek County Beach Park a mile to the southeast. Therefore, the Commission finds that no public access is necessary with the proposed development. Thus, the Commission finds that the proposed development is consistent with Section 30212 of the Coastal Act.

4. Visual Quality

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The proposed project involves improvements to an existing home. The proposed additions would not result in seaward encroachment of the structure. The existing home is stepped down the hillside, with only the garage located at street level. Thus, when viewed from the level of Bay Drive (a private street), only the garage is visible. This is similar to the character of the existing home nearby at 33 Bay Drive, as well as the adjacent homes approved by coastal development permits 5-98-020 (Conrad), 5-98-064 (Conrad), and 5-98-178 (McMullen), where only the garages of the homes are visible since the remainder of the homes step down the hillside. The proposed additional spa level would be located under the garage and thus not raise the height of the structure.

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In addition, the proposed project is located in a private community. Therefore, the proposed project would not block any public views to the shoreline. Public views along the coast from public trust land seaward of the mean high tide line would be similar to the views which currently exist since the bluffs are altered and developed with homes which step down the bluff face. Further, since the private beach is flanked on either side by rocky headlands which extend several hundred feet into the ocean, it would be difficult for the public to access the part of the beach seaward of the mean high tide line in order to view the bluffs. Even if the public were to be able to view the private bluffs (e.g., from a boat offshore), the proposed development would be consistent with existing or approved homes which are also multi-level and step down the hillside.

Further, the proposed caissons are located on the side property line near the street and would not be visible from the beach because they would be hidden by other structures. In addition, any drainage facilities which direct runoff over the bluff must be buried or otherwise designed to be subordinate to the natural character of the bluffs. Thus, the Commission finds that the proposed project is consistent with Section 30251 of the Coastal Act.

C. Local Coastal Program

The City of Laguna Beach local coastal program ("LCP") is effectively certified. However, several locked-gate beachfront communities are deferred, including Three Arch Bay. The subject site is located in Three Arch Bay. Therefore, the standard of review for the proposed project is conformity with the Chapter 3 policies of the Coastal Act and not the certified LCP. However, Section 30604(a) provides that a coastal development permit should not be approved for development which would prejudice the ability of the local government to prepare an LCP consistent with the Chapter 3 policies.

The proposed project, as conditioned, would be consistent with the geologic hazards, visual, and marine resources policies of Chapter 3 of the Coastal Act. Therefore, the Commission finds that the proposed project would not prejudice the ability of the City of Laguna Beach to prepare an LCP for the Three Arch Bay community, the location of the subject site, that is consistent with the Chapter 3 policies of the Coastal Act.

D. California Environmental Quality Act

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(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.

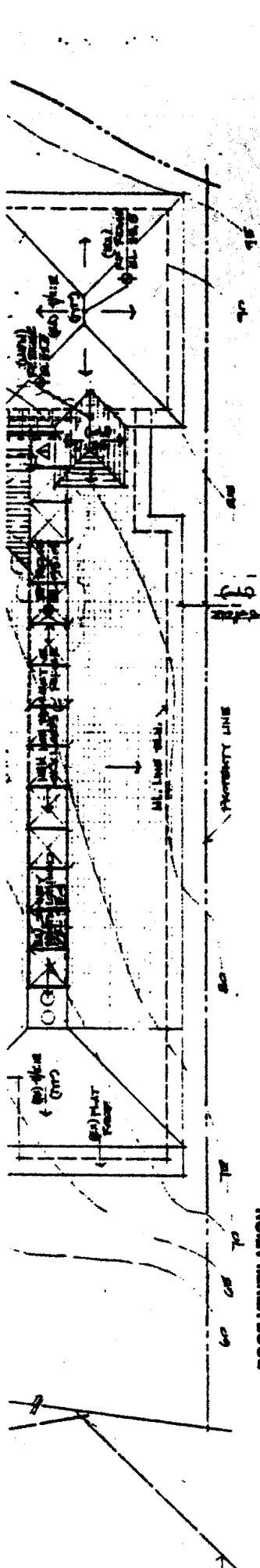
Development exists on the subject site. The proposed project has been conditioned in order to be found consistent with the geologic hazards and marine resources of Chapter Three of the Coastal Act. Feasible mitigation measures requiring: 1) an assumption-of-risk deed restriction, 2) conformance with geotechnical recommendations, 3) landscaping requirements,

4) prohibiting the staging and storing of construction equipment and materials on the beach, and 5) ensuring drainage facilities down the bluff face a visually compatible with the surrounding area; would minimize all significant adverse environmental effects.

As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect 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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PAGE 10 OF 22



ROOF VENTILATION

ALL ROOF VENTILATION
IS TO BE PROVIDED BY
MEANS OF ROOF VENTILATION
UNLESS OTHERWISE NOTED

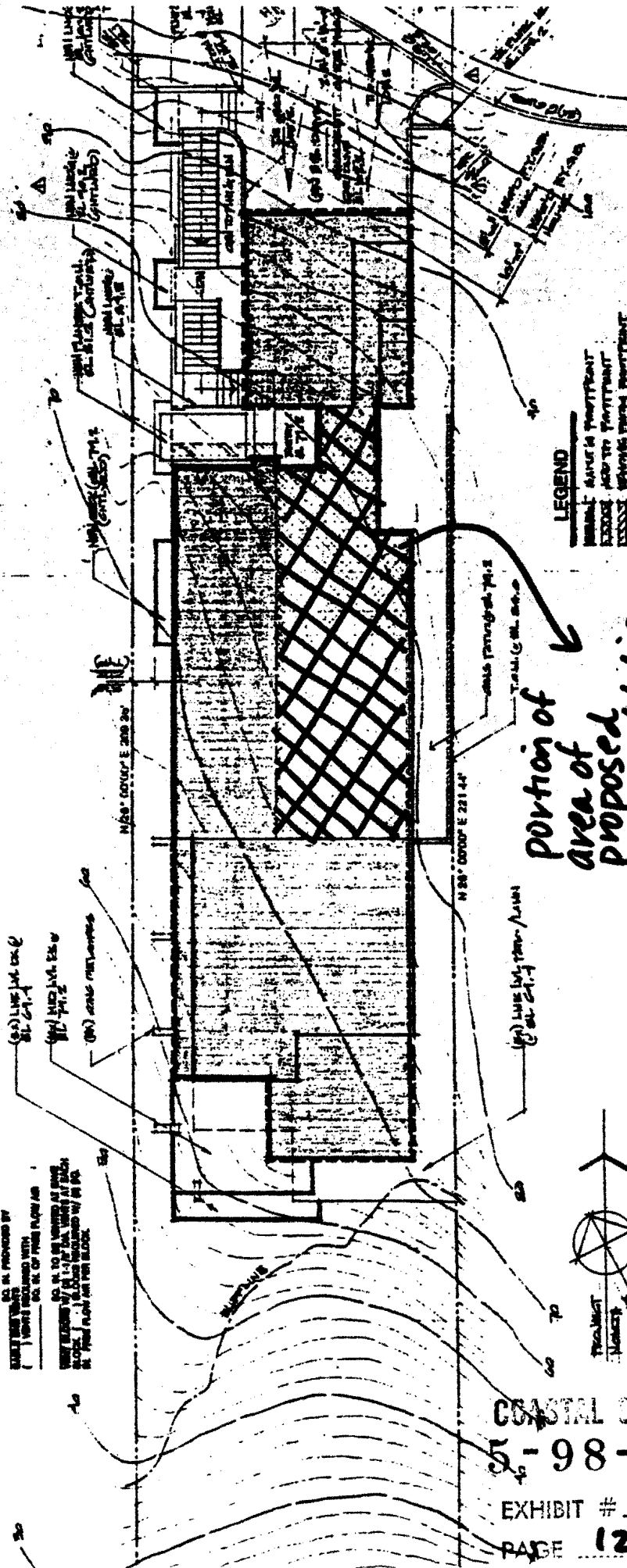
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ALL ROOF VENTILATION
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ROOF PLAN

1/8" = 1'-0"



LEGEND

ALL ROOF VENTILATION
IS TO BE PROVIDED BY
MEANS OF ROOF VENTILATION
UNLESS OTHERWISE NOTED

PLAN NOTES

ALL ROOF VENTILATION
IS TO BE PROVIDED BY
MEANS OF ROOF VENTILATION
UNLESS OTHERWISE NOTED

portion of
area of
proposed
addition

COASTAL COMMISSION SITE PLAN addition

1/8" = 1'-0"

COASTAL COMMISSION
5-98-251: Plans

EXHIBIT # B

JUN 19 1998

COASTAL COMMISSION
5-98-251-A

EXHIBIT # 9

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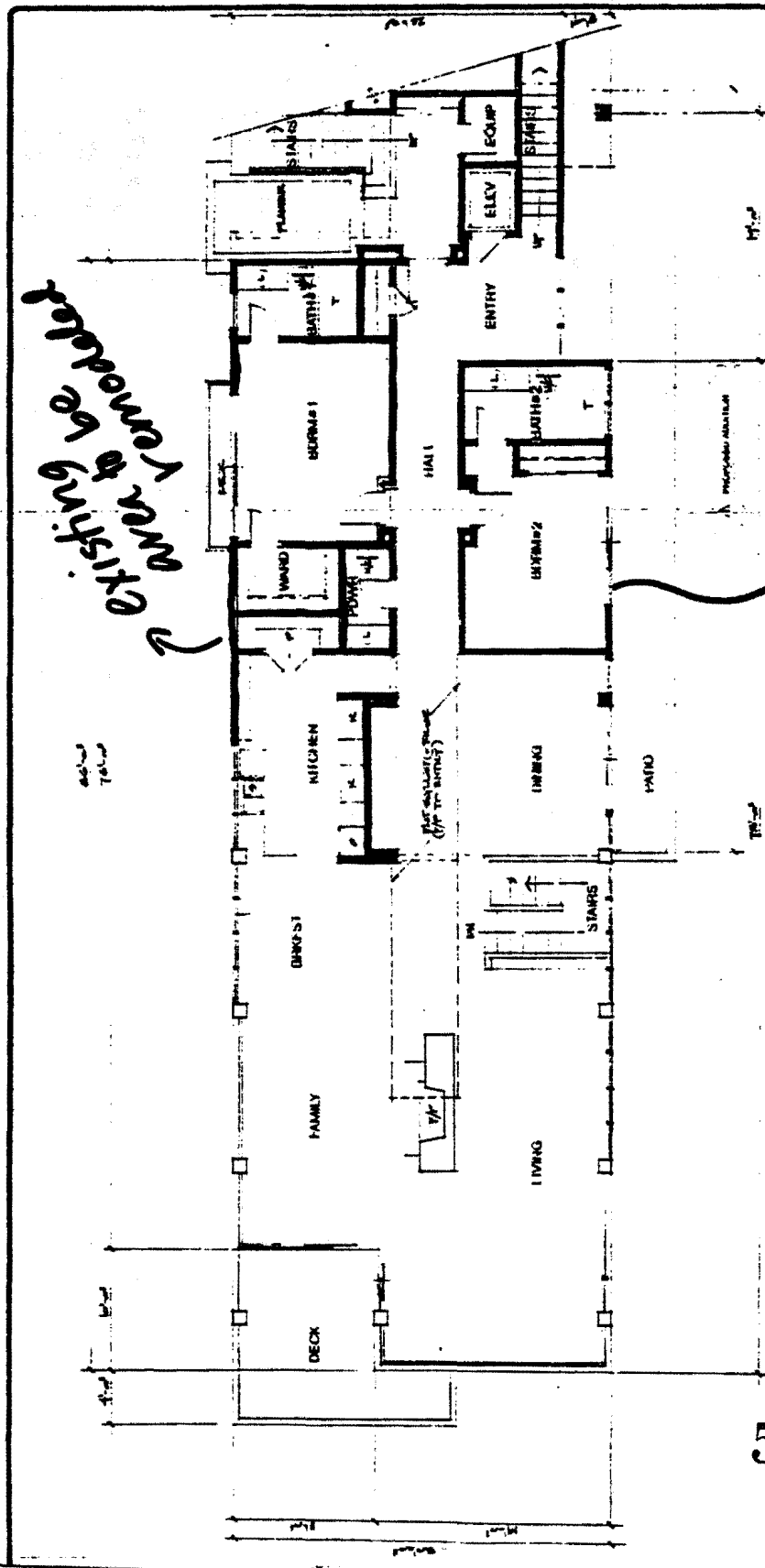
PAGE 1 OF 7

← Beach/Bluff edge

street →

existing to be added
over ramp

new addition



MID LEVEL PLAN

5-98-251
COASTAL COMMISSION
Plans

EXHIBIT # B
PAGE 2 OF 7

COASTAL COMMISSION
5-98-251-M
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NO.	1
DATE	1-10-98
BY	W
REVISION	

WISA

WISCONSIN ARCHITECTS

1000 WISCONSIN AVENUE, SUITE 100
LAKE MICHIGAN, IL 60067
TEL: (708) 439-1100
FAX: (708) 439-1101
WWW.WISA-ARCH.COM



21 BAY DRIVE
THREE ARCH BAY
LAGUNA BEACH, CA

DATE	7/27/98
BY	W
REVISION	

JUL 21 1998

WALL LEGEND:

	EXISTING TO REMAIN
	EXISTING TO BE REMOVED
	NEW WALL



WALL LEGEND:

BY THE ALAN	RECONSTRUCTION
CHANGING IN ON SWELLING	RECONSTRUCTION
REPAIRS ON SWELLING	RECONSTRUCTION

LOWER LEVEL PLAN

EXHIBIT # 3 OF 7

STREET LEVEL PLAN

EXHIBIT # 9

PAGE 15 OF 22

Blubb →

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WILL

21 BAY DRIVE
THREE ARCH BAY
LAGUNA BEACH, CA.

A-4

JUL 21 1998

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COASTAL COMMISSION
Plans

EXHIBIT # **B**
PAGE **5** OF **7**

RIGHT SIDE ELEVATION - WEST

COASTAL COMMUNITY
5-98-251-A1

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A-6

A-6

[illegible]

street →

← Bluff edge

COASTAL COMMISSION
5-98-251: Plans

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LEFT SIDE ELEVATION-EAST

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EXHIBIT = 9
PAGE 17 OF 22

JUL 21 1998

July 19, 1998



GEOLOGY STUDIES • SOIL & ROCK

Skenderian Architects
2094 Pacific Coast Highway
Laguna Beach, CA. 92651

SUBJECT: Engineering Geologic Review, Coastal Commission Letter,
dated July 14, 1998. Re: Improvements to existing residence, 21 Bay
Drive, Laguna Beach, CA.

Dear Mr. Skenderian:

This letter has been prepared after reviewing the letter referenced
above, our file on the project, and ocean engineering texts.

Our response to Coastal Commissions questions are to only
paragraphs 1 and 2 in the referenced letter.

1. The tieback system existing at #21 Bay Drive assumed no
lateral support along the common property line for #21/#23 Bay
Drive. The hard bedrock, beneath the slide at #21 Bay Drive, would
stand unsupported in vertical backcuts proposed by the consultants
for James Conrad Architects.

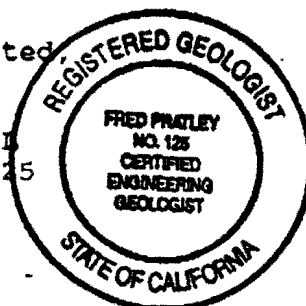
2. Estimated storm wave runup on the natural slopes on #21 Bay
Drive will be at a greater elevation than those calculated for the
engineered fill slope on the adjacent proposed development as the
angle of slope is steeper than 39°. It is estimated runup on the
steeper slope would be to the +17 feet contour on the seaward
facing natural slope. There is no evidence that such an event has
occurred as the coastal sage-type growths have not been disturbed
in 40 years nor is there evidence of a niche point at the base of
the slope.

No erosion is anticipated as the seaward slope is comprised
of bedrock that is part of the San Onofre Breccia. This portion of
the property rests on competent bedrock and it is not involved in
a bedrock landslide.

Please contact this office if there are any questions regarding
this response.

Respectfully submitted,

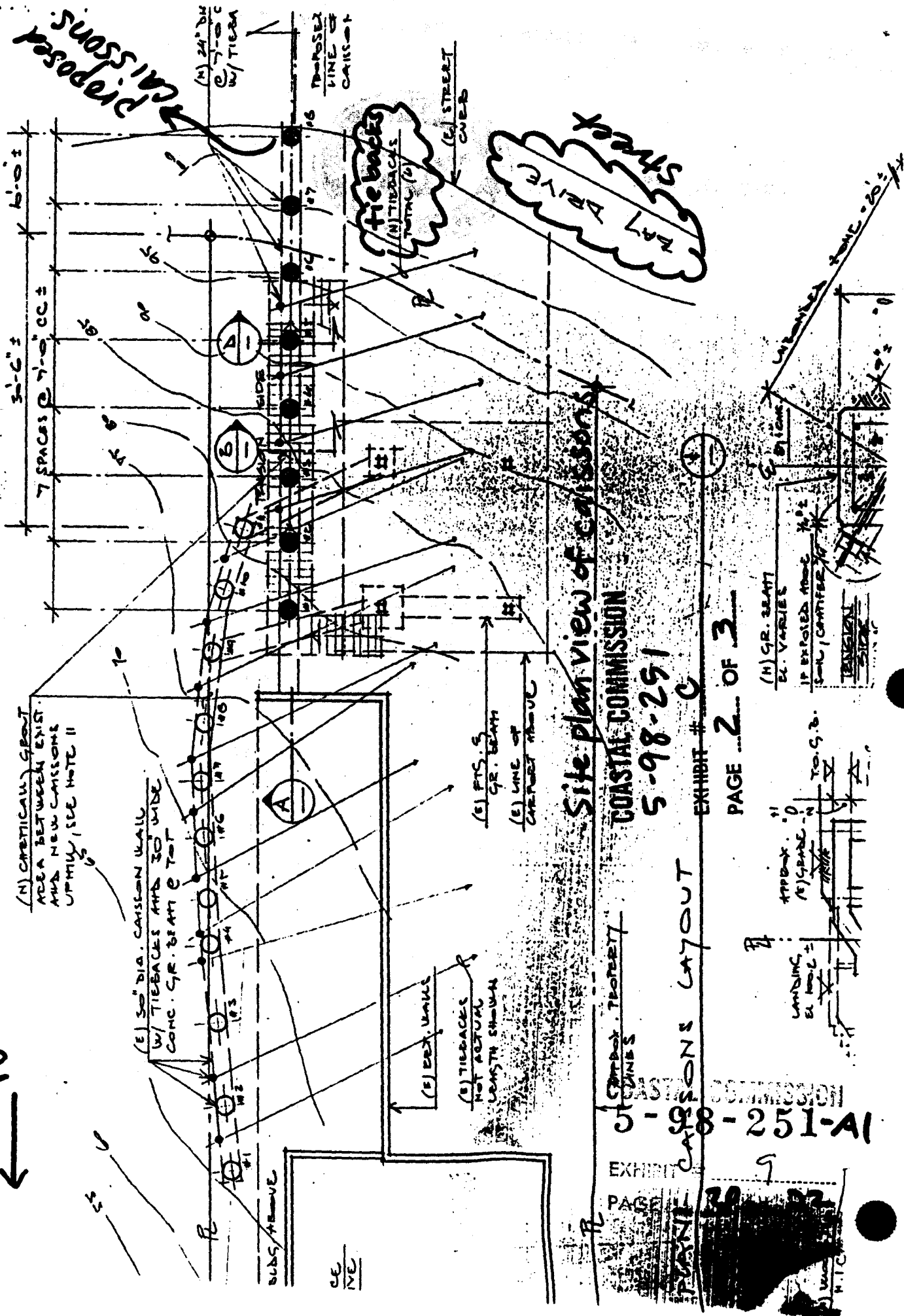
Fred Pratley
COASTAL GEOTECHNICAL
Fred Pratley, CGE 125
Expires 12/31/99



5-98-251
COASTAL COMMISSION
Geology

EXHIBIT # C
PAGE 1 OF 3

Proposed
Cassions



Site plan view of caissons

COASTAL COMMISSION

5-98-251

Exhibit

PAGE 2 OF 3

~~PLAIN~~ 920 6700T

COMMISSION
8-251-A1

EXH
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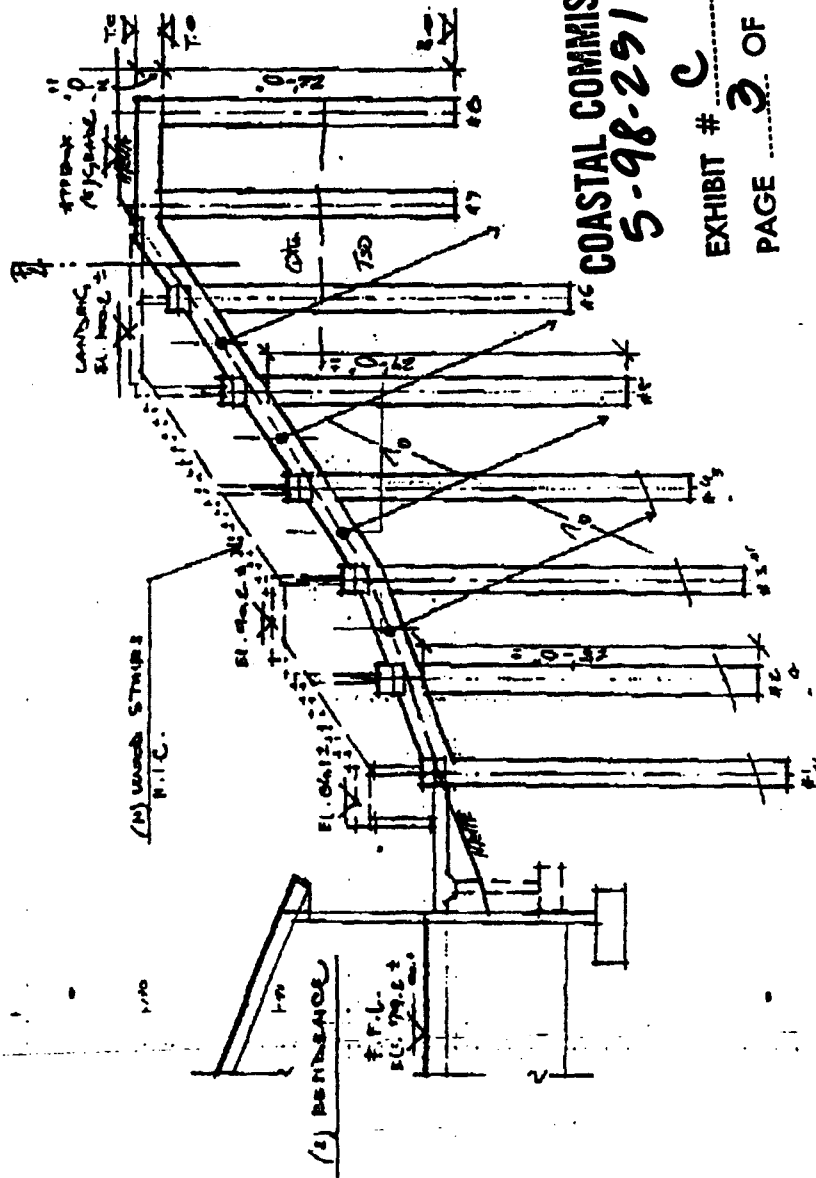
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CROSS-SECTION

PARTIAL PLOT PLAN - CAISSONS LAYOUT

scale 1/8" = 1'-0"



COASTAL COMMISSION
5-98-291

EXHIBIT # C
PAGE 3 OF 3

REVISED CAISSONS SCHEDULE :

CAISSON #	TOTAL DEPTH	WATER TO TOP OF CAISSON	STUD. BEIN'T
#1 5 #2	25' ±	3' ±	(1) 10' EQ. IMOA
#3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100	25' ±	1' ±	(1) 10' TUNING TIE - (1) 10' IMOA
#47 5 #48	25' ±	1' ±	(1) 10' EQ. IMOA

Street →

← Bluff

COASTAL COMMISSION
5-98-251-A1

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CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceanside, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071



October 10, 1998

ADDENDUM

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: *Coastal development permit application 5-98-251 (Bill Boehringer for 21 Bay Drive LLC)*
Coastal Commission hearing of October 13, 1998
Item No. Tu.17.d. (Page 6 of Meeting Notice addendum)
Change to Special Condition #1

Staff recommends that Special Condition No. 1 (Page 3 of the staff report) be modified as follows (deleted language shown in ~~strike through~~ and added language shown in underline):

III. Special Conditions

1. **Assumption-of-Risk.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant and all landowners 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 entire site may be subject to extraordinary hazards from landslides/slope failure and wave attack, and the applicant assumes the liability from such hazards; and (b) that 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 due to the natural hazards, ~~(c) that the applicant agrees that no shoreline protective devices shall be constructed on the parcel, and (d) the applicant accepts sole responsibility for the removal of any structural debris resulting from landslides, slope failures or erosion on the site.~~ 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.

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5-98-251-A

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Former Site Conditions
center of photo

EXHIBIT No. 5

Application Number:

5-98-251-A1

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California Coastal
Commission

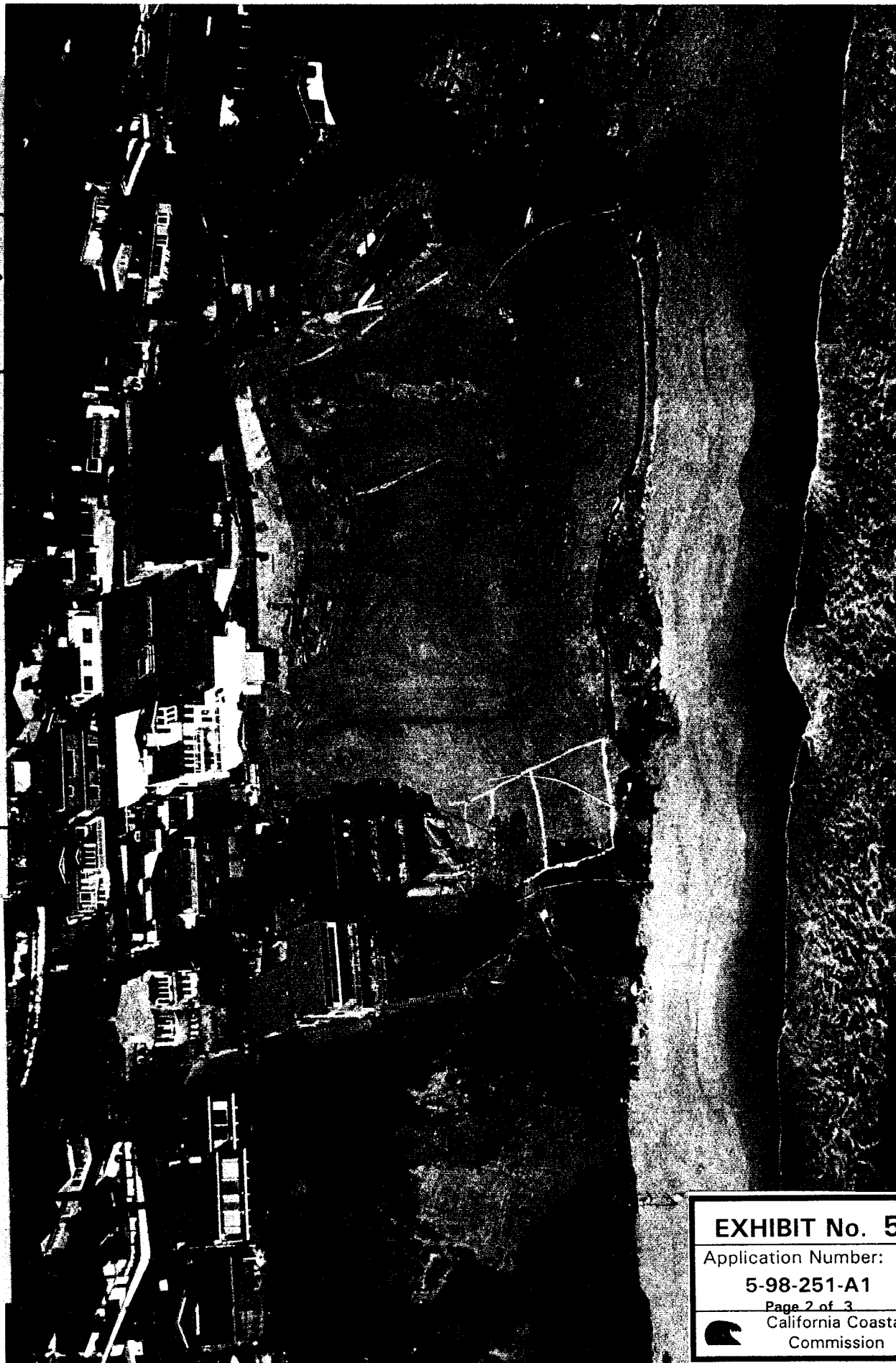
Subject 19 Bay H.

Site

Bay Dr. 31 ← 23

33 Bay Dr.

35 Bay Drive.



Existing Site
Conditions
081100 AUG 64

EXHIBIT No. 5

Application Number:

5-98-251-A1

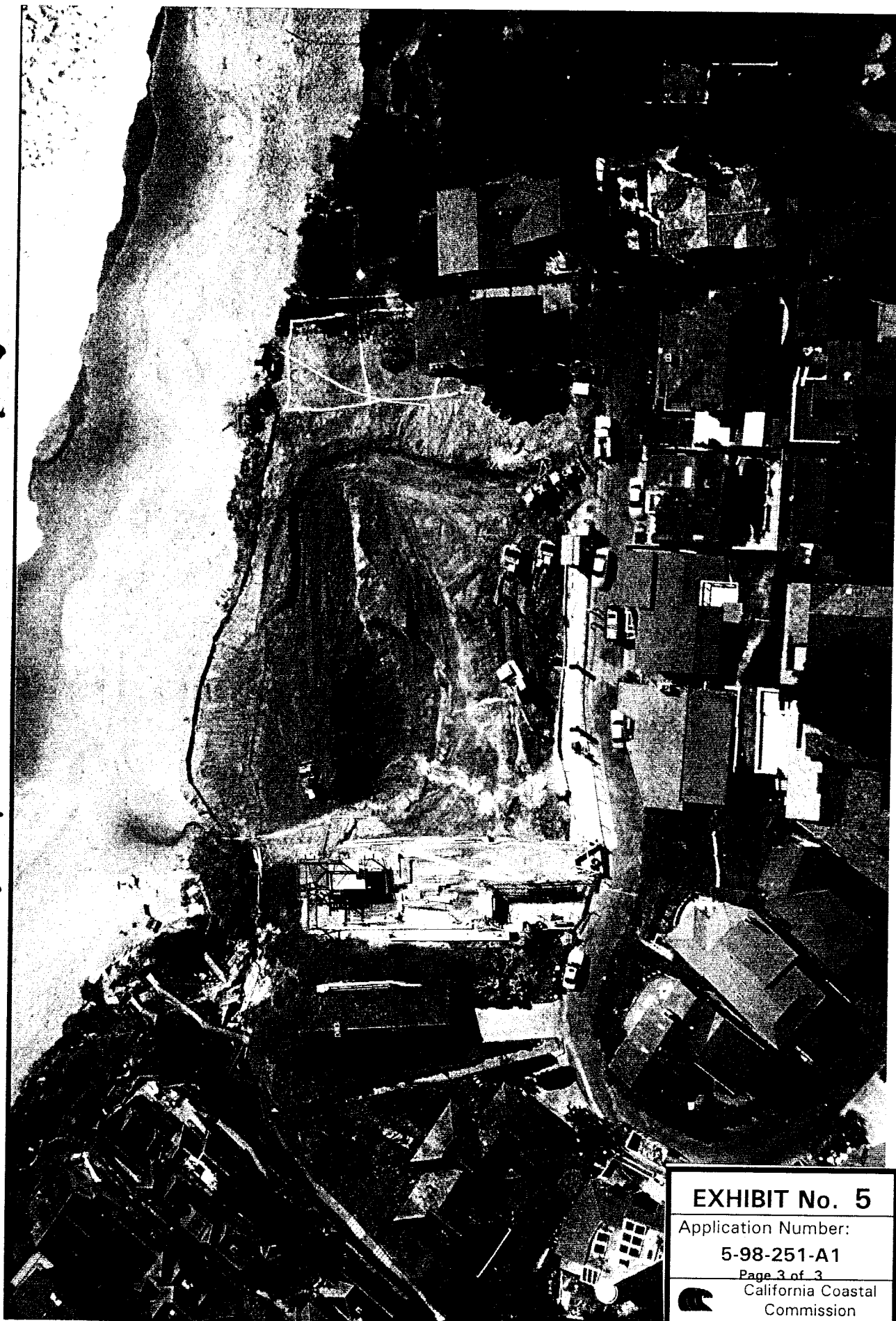
Page 2 of 3

California Coastal
Commission

Subrec
Site
↓

COND

33 Bad
Dr.
↓



Existing Site
Conditions
Plan View

EXHIBIT No. 5

Application Number:

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