

**CALIFORNIA COASTAL COMMISSION**

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Staff: MV-LB  
Staff Report: 7/17/03  
Hearing Date: 8/6-8/03  
Commission Action:

**Th 17 d****STAFF REPORT: REVISED FINDINGS****APPLICATION NUMBER:** 5-02-345**APPLICANT:** Donald Markland**RECORD PACKET COPY****AGENT:** C. J. Light Associates**PROJECT LOCATION:** 88 N. La Senda, Laguna Beach, Orange County

**PROJECT DESCRIPTION:** Remodel and net addition of 1,132 square feet of living area to an existing two level (including basement), 7,141 square foot, main residence, resulting in an 8,273 square foot, 3 level, 15 foot high as measured from the centerline of the frontage road, single family residence with an attached 853 square foot, 3 car garage and an attached 732 square foot, 2 car garage. Also proposed is 1,055 square feet of additional living area (including one bedroom and office space) attached to, but not accessible from within, the main residence. Additional development proposed includes a greenhouse, decks, pool, 56 cubic yards of cut and 42 cubic yards of fill. The subject site is an oceanfront, bluff top lot, in Laguna Beach, Orange County.

Lot Area:	28,020 square feet
Building Coverage:	6,920 square feet
Pavement Coverage:	8,555 square feet
Landscape Coverage:	7,295 square feet
Parking Spaces:	5
Zoning:	R-1
Ht above final grade	15 - 29 feet

**COMMISSION ACTION:** June 10, 2003

**COMMISSIONERS ON PREVAILING SIDE:** Desser, Hart, Iseman, Krueer, Peters, Potter, Woolley, and Reilly.

**SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends that the Commission adopt the following revised findings in support of the Commission's action on June 10, 2003, approving the permit, with special conditions.

The major issue raised at the hearing was whether the existing at-grade patio at the seaward side of the residence could be reconstructed within 25 feet from the edge of the coastal bluff. The Commission found that, in this case, reconstruction of the at-grade patio would improve site drainage leading to increased bluff stability. To reflect the Commission's action, Special Conditions 1 and 2 have been modified. In addition, changes to the findings regarding bluff top setback have been changed. The revised language can be found on pages 9 and 10.

Special Condition No. 1 limits development within the blufftop setback area; Special Condition No. 2 requires a revised landscape plan reflecting the limitations on development within the bluff top setback area, requires the use of primarily native and drought tolerant plants, and prohibits permanent irrigation; Special Condition No. 3 requires conformance with the geotechnical recommendations; Special Condition No. 4 prohibits future shoreline/bluff protection devices; Special Condition No. 5 requires that the applicant assume the risk of developing on an oceanfront, blufftop site; Special Condition No. 6 requires the applicant to record a deed restriction against the property, referencing all of the Special Conditions contained in this staff report.

**LOCAL APPROVALS RECEIVED:** City of Laguna Beach Approval in Concept, dated 10/7/02.

**SUBSTANTIVE FILE DOCUMENTS:** Geotechnical Investigation prepared by GeoSoils, Inc., dated June 14, 2002; Response to California Coastal Commission Review Sheet, dated December 13, 2002; Response No. 2 to the California Coastal Commission Review Sheet, dated January 21, 2003; City of Laguna Beach certified Local Coastal Program (as guidance only).

**I. STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the Revised Findings.

**MOTION:**     *I move that the Commission adopt the revised findings in support of the Commission's action on June 10, 2003 concerning approval with conditions of coastal development permit No. 5-02-345.*

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote on the motion. Passage of this motion will result in the adoption of revised findings as set forth in this staff report. The motion requires a majority vote of the members from the prevailing side present at the June 10, 2003 hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings.

**RESOLUTION TO ADOPT REVISED FINDINGS:**

The Commission hereby adopts the findings set forth below for approval with conditions of coastal development permit No. 5-02-345 on the ground that the findings support the Commission's decision made on June 10, 2003 and accurately reflect the reasons for it.

**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. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
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. No Development Within Blufftop Setback**

- A. Prohibit development within 25-feet of the edge of the coastal bluff with the exception of remodeled accessory structures (decks, patios) that significantly reduce square footage within the 25' setback area. Existing development within the blufftop setback may remain, except that if for any reason it is removed, it would prohibit redevelopment within the current footprint of the existing structure.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, revised plans reflecting the requirements of section A above.
- C. The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development unless the Executive Director determines that no amendment is required.

## 2. Revised Landscape Plan

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, a revised landscape plan reflecting the following requirements:
- A.1 Permeable structures may be constructed within 25 feet of the edge of the coastal bluff. All new landscaping shall be primarily native, drought tolerant vegetation. Invasive plants are prohibited. Drainage control within the blufftop setback area is proposed and will minimize erosion and water quality concerns.
  - A.2 All new landscaping shall be primarily native (common to coastal Orange County), drought tolerant vegetation. Invasive plants are prohibited.
  - A.3 No permanent in-ground irrigation systems shall be installed on site. Temporary above ground irrigation is allowed to establish plantings.
- B. The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development unless the Executive Director determines that no amendment is required.

## 3. Conformance of Design and Construction Plans to Geotechnical Information

- A. All final design and construction plans, including grading, foundations, site plans, elevation plans, and drainage plans, shall be consistent with all recommendations contained in the Geotechnical Investigation prepared by GeoSoils, dated June 14, 2002, December 13, 2002, and January 21, 2003. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, evidence that the geotechnical consultant 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 evaluation approved by the California Coastal Commission for the project site.
- B. 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.

**4. No Future Shoreline/Bluff Protective Device**

- A. By acceptance of this permit, the applicant agrees, on behalf of him/herself and all other successors and assigns, that no shoreline/bluff protective device(s) shall ever be constructed to protect the development at the subject site approved pursuant to Coastal Development Permit No. 5-02-345 including future improvements, in the event that the property is threatened with damage or destruction from bluff and slope instability, erosion, landslides or other natural hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of him/herself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
- B. By acceptance of this permit, the applicant further agrees, on behalf of him/herself and all successors and assigns, that the landowner shall remove the development authorized by this permit if any government agency has ordered that the structure is not to be occupied due to any of the hazards identified above. In the event that any portion of the development is destroyed, the permittee 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.

**5. Assumption of Risk, Waiver of Liability and Indemnity**

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards due to bluff and slope instability, erosion, landslides or other natural hazards associated with development on an oceanfront, blufftop, site; (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.

**6. Deed Restriction**

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as

covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

#### **IV. FINDINGS AND DECLARATIONS:**

The Commission hereby finds and declares:

##### **A. Project Description and Location**

The applicant proposes the remodel and net addition of 1,132 square feet of living area to an existing two level (including basement), 7,141 square foot, main residence, resulting in an 8,273 square foot, 3 level, 15 foot high as measured from the centerline of the frontage road, single family residence with an attached 853 square foot, 3 car garage and an attached 732 square foot, 2 car garage. Also proposed is 1,055 square feet of additional living area (including one bedroom and office space) attached to, but not accessible from within, the main residence. Additional development proposed includes reconstruction of a greenhouse, decks, pool, as well as 56 cubic yards of cut and 42 cubic yards of fill. The subject site is an oceanfront, bluff top lot, in the City of Laguna Beach, Orange County.

The subject site is located within the locked gate community of Three Arch Bay in the City of Laguna Beach. Laguna Beach has a certified Local Coastal Program (LCP) except for the four areas of deferred certification: Irvine Cove, Blue Lagoon, Hobo Canyon, and Three Arch Bay. Certification of the Three Arch Bay area was deferred due to access issues arising from the locked gate nature of the community. The proposed development needs a coastal development permit from the Coastal Commission because it is located in the Three Arch Bay area of deferred certification.

Because the site is located within a locked gate community, no public access exists in the immediate vicinity. The nearest public access exists at 1000 Steps County Beach approximately one half mile upcoast of the site.

##### **B. Demolition vs Remodel**

When a demolition and new construction project is reviewed by the Commission, an appropriate bluff top setback is imposed. The bluff top setback is used to address Coastal Act issues including hazards, public views, minimizing the potential need for shoreline and bluff protection devices, and public access. In this case, a bluff top setback would be used

to address the Coastal Act issues of hazards and minimizing the potential need for shoreline and bluff protection devices.

The issue of whether a project constitutes demolition and new construction rather than a remodel of an existing structure becomes significant when an existing non-conformity is proposed to be retained. On bluff top lots the Commission routinely imposes a bluff top setback of either a minimum of 25 feet from the bluff edge or a setback determined by a stringline, whichever is more restrictive. A stringline is determined by drawing a line from the nearest adjacent corners of the adjacent structures. The existing structure at the subject site extends beyond both types of bluff top setback. Thus, the existing residence and deck extend beyond the bluff top setback the Commission would normally impose. The majority of existing development within the bluff top setback area is proposed to remain.

Typically, the Commission has quantified demolition by tabulating the extent of exterior linear walls to be removed compared to the total overall amount of exterior linear walls existing prior to the proposed development. The walls proposed to remain must retain their structural components such as studs. Cosmetic portions of the wall, such as exterior stucco and interior drywall, may be removed. Walls that are to be removed and reconstructed in the same location are included in the "walls to be removed" category, and are considered part of the demolition figure. Likewise any portion of existing deck within the setback area which is to be removed and reconstructed in the same location is considered demolition would constitute new development within the setback.

The Commission has generally found that if less than 50% of the linear feet of the existing exterior walls are removed, the project can be reviewed as a remodel rather than new construction. The significance of this distinction is that existing non-conformities, such as existing development within the setback area, may remain if no work is proposed to occur on them. The Commission finds that application of the 50% demolition threshold provides a consistent and equitable method of dealing with existing non-conformities associated with extensive remodel projects.

The applicant has submitted detailed information about the amount of demolition that would occur with the proposed project. In the case of the proposed project, the total existing linear footage is 8,669 linear feet (this includes 613 linear feet at the upper level, 4,402 at the middle level and 3,654 linear feet at the basement level). Of that amount, 262 linear feet are proposed to be removed. Staff has verified these figures using the plans submitted by the applicant. The applicant, then, is proposing to demolish 3% of the exterior, linear footage of the existing walls (262 linear feet/8,669 linear feet = .03 x 100 = 3%). Therefore, the Commission finds that because the proposed project does not exceed the 50% threshold, it does not constitute demolition and new construction and so the existing non-conforming bluff top setback may remain.

With the exception of the existing at-grade patio, however, no new development (including reconstruction in the same location) may occur within the bluff top setback area. Based on the geologic cross sections and site plan submitted with the Geotechnical Investigation



prepared for the proposed project by GeoSoils, Inc., dated June 14, 2002, the edge of bluff appears to fall roughly along the 79 foot contour elevation (see exhibits C and D). The applicant's plans (Site Plan, page 1) indicate that the edge of bluff is seaward of the 79 foot contour elevation, at approximately the 65 foot contour elevation on the north side of the property, then inland to approximately the 72 foot contour at about 25 feet north of the southern property line, and then back down to approximately the 65 foot contour elevation at the southern property line (see exhibit B2). However, this appears to be based on the City's bluff edge determination standards, which do not take into account the actual break in slope as is required by the definition of bluff edge in Section 13577(h) of the California Code of Regulations. Section 13577(h) of the California Code of Regulations is the standard imposed by the Commission.

The proposed development includes new development within 25 feet of the bluff edge/79 foot contour elevation, including approximately 10 square feet of enclosed living space and approximately 61.5 square feet of deck area, as well as new patio hardscape (see exhibit C). The Commission notes that a greater amount of existing development is being removed from within the setback (approximately 242 square feet of deck area and approximately 20 square feet of enclosed living area). Nevertheless, because existing development extends well into the typically imposed setback, additional new construction cannot be allowed. This is discussed in greater detail below.

### C. Hazard

Section 30253 of the Coastal Act states:

*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.*

Section 30251 of the Coastal Act states that:

*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 subject site is an oceanfront bluff top lot. The height of the bluff is approximately 80 feet. Rocky shoreline exists at the base of the bluff. The existing and proposed development is/will be located on the marine terrace portion of the site.

A Geotechnical Investigation was prepared for the proposed development by GeoSoils, Inc. and is dated June 14, 2002. The Geotechnical Investigation was augmented by a Response to the California Coastal Commission Review Sheet, dated December 13, 2002 responding to questions from Commission staff. In addition, a letter dated January 21, 2003, by GeoSoils, Inc. titled Response No. 2 to the California Coastal Commission Review Sheet. The Geotechnical Investigation included review of available soils and geologic data for the area; excavation of two bucket and two hand auger exploratory borings and collection of subsurface soil samples, and laboratory testing.

#### Setback

The Commission typically imposes a minimum bluff top setback of 25 feet on bluff top development within this area of the Three Arch Bay community. The minimum 25-foot setback from the bluff edge is deemed acceptable based on the relatively stable, underlying San Onofre formation bedrock. The setback is intended to substantially reduce the likelihood of proposed and/or existing development becoming threatened given the inherent uncertainty in predicting geologic processes in the future, and to allow for potential changes in bluff erosion rates as a result of rising sea level. As described previously, the proposed project has been determined to be a remodel rather than demolition and new construction. As such, the Commission does not require the project to be redesigned to eliminate existing development in order to conform to the bluff top setback.

The existing at-grade patio extends to the top of the bluff edge. The at-grade patio is proposed to be removed and replaced with permeable material. Drainage from the patio area is proposed to be collected in new drain pipes beneath the patio and directed into the site's drainage system. The replacement patio will correct the existing patio drainage which currently sheet flows over the bluff. Thus, replacing the existing patio as proposed by the applicant will improve the existing drainage pattern at this site and thus potentially contribute to increased bluff stability at this site.

However, no new development other than the at-grade patio replacement (including, but not limited to, any demolition and reconstruction in the same location) may be allowed within the blufftop setback area. This prohibition includes demolition and reconstruction of enclosed living area and upper level decks, as well as new development.

Regarding structural setback the Geotechnical Investigation prepared for the proposed project states:

*"Per 1997 UBC Section 1806.5.3, the required footings setback for structures at the top of a slope or natural bluff should be one-third of the slope height. The portion of*

*the building encroaching into the setback zone must be supported by deep foundation system in order to comply with the 1997 UBC requirements.*

*Based on the provided improvement plans, the planned additions will be out of the aforementioned zone and as such would not require special foundations. However, the existing residence itself does not meet the most recent building codes or minimum requirements of the 25 feet minimum setback from the top of bluff by the California Coastal Commission of the 1976 Coastal Act."*

Section 30253 of the Coastal Act requires that risks and geologic instability be minimized. Setting development back from the edge of the bluff can substantially decrease risk because the further from the bluff edge development is located, the less likely it is that that development may become jeopardized. Likewise, setbacks decrease the likelihood of geologic instability. The added weight of development, watering or irrigating plants, and human activity closer to the bluff edge can all speed up the rate of erosion and bluff retreat. Thus, by reducing these factors bluff stability can be increased. Therefore, the Commission finds it necessary to impose a minimum bluff top setback of 25 feet from the bluff edge. Further, the Commission finds, based on the standard of Section 13577(h) of the California Code of Regulations, that the bluff edge is coincident with the 79 foot contour elevation as shown on the geologic cross sections and site plan, prepared by GeoSoils, Inc. dated June 14, 2002. As a condition of approval, the applicant shall submit revised plans indicating that no development, other than replacement of the existing at grade patio with permeable material and improved drainage collection, will occur within 25 feet of the bluff edge/79 foot contour elevation as shown on exhibits C and D. Only as conditioned, can the proposed development be found consistent with Section 30253 of the Coastal Act regarding minimizing risks and increasing geologic stability.

#### Geotechnical Recommendations

Regarding the feasibility of the proposed project the Geotechnical Investigation states:

*"It is GSI's opinion that development of the site is feasible from a geotechnical engineering viewpoint, provided that the recommendations presented herein are implemented in project design and construction. Grading and construction plans should be reviewed by the geotechnical consultant."*

Specifically regarding bluff slope stability the geotechnical consultant concludes, in the Response to the California Coastal Commission Review Sheet, dated December 13, 2002:

*"The natural slope consists of well cemented San Onofre Formation and is anticipated to perform well with respect to erosion under normal conditions. In order to enhance surficial stability of the existing natural slope and minimize the potential for erosion, it is important to prevent surface water run off by improving the lot for positive drainage by placement of an area drain system. The pool and spa should have adequate subsurface drainage tied into the site area drain."*

The geotechnical consultant has found that the proposed development is geotechnically feasible provided the recommendations contained in the Geotechnical Investigation prepared by the consultant are implemented in design and construction of the project.

The recommendations contained in the Geotechnical Investigation address site preparations and excavations, compacted fill, benching, backfilling of existing pool, subdrainage, temporary cuts, foundation design, pool design recommendations, and irrigation and landscaping. In order to assure that risks are minimized, the geotechnical consultant's recommendation should be incorporated into the design of the project. As a condition of approval the applicant shall submit plans, including grading and foundation plans, indicating that the recommendations contained in the Geotechnical Investigation prepared for the proposed development by GeoSoils, and dated June 14, 2002 have been incorporated into the design of the proposed project.

#### Future Protective Device

The subject site is a bluff top ocean front lot. In general, bluff top lots are inherently hazardous. It is the nature of bluffs to erode. Bluff failure can be episodic, and bluffs that seem stable now may not be so in the future. Even when a thorough professional geotechnical analysis of a site has concluded that a proposed development is expected to be safe from bluff retreat hazards for the life of the project, it has been the experience of the Commission that in some instances, unexpected bluff retreat episodes that threaten development during the life of a structure sometimes do occur (e.g. coastal development permit files 5-99-332 A1 (Frahm); P-80-7431 (Kinard); 5-93-254-G (Arnold); 5-88-177(Arnold)). In the Commission's experience, geologists cannot predict with absolute certainty if or when bluff failure on a particular site may take place, and cannot predict if or when a residence or property may be come endangered.

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 protection device. A protective device may be a seawall at the base of the bluff or it could also be a caisson system. Although caissons are placed below grade and so may not initially alter natural landforms along bluffs and cliffs nor alter shoreline processes, the bluff could erode to a point were a caisson system is exposed. If that becomes the case, the landform and shoreline processes could be dramatically altered by the presence of the caisson protective system.

The Coastal Act limits construction of these protective devices because they have a variety of negative impacts on coastal resources including adverse affects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beach. Under Coastal Act Section 30235, a shoreline protective structure must be approved if: (1) there is an existing principal structure in imminent danger from erosion; (2) shoreline altering construction is required to

protect the existing threatened structure; and (3) the required protection is designed to eliminate or mitigate the adverse impacts on shoreline sand supply.

The Commission has generally interpreted Section 30235 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 a new residential development would not be required by Section 30235 of the Coastal Act. In addition, the construction of a shoreline protective device to protect new residential 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.

No shoreline protection device is proposed. No caisson system is proposed either. The applicant is proposing a deepened footings foundation system. The Geotechnical Investigation prepared for the subject development does not anticipate the need for a future shoreline or bluff protection device based on the presence of the "well cemented and erosion resistant San Onofre Formation."

The proposed development includes partial demolition and new expansion of the portion of the structure to remain. The proposed new expansion area constitutes new development for the purposes of Sections 30235 and 30253. Because the proposed project includes new development, it can only be found consistent with Section 30253 of the Coastal Act if a shoreline/bluff protective device is not expected to be needed in the future. The applicant's geotechnical consultant has indicated that the site is stable, that the project should be safe for the life of the project (75 years), and that no shoreline protection devices will be needed. If not for the information provided by the applicant that the site is safe for development, 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, as stated above, the record of coastal development permit applications and Commission actions has also shown that geologic conditions change over time and that predictions based upon the geologic sciences are inexact. Even though there is evidence that geologic conditions change, 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 protective devices. Therefore, the Commission imposes special condition 4 which prohibits the applicant and their successors in interest from constructing shoreline/bluff protective devices to protect the proposed development and requiring that the applicant waive, on behalf of itself and all successors and assigns, any right to construct protective devices for that portion of the expansion area that may exist under 30235.

#### Assumption of Risk

Although adherence to the geotechnical consultant's recommendations will minimize the risk of damage from erosion, the risk is not eliminated entirely. The site is an oceanfront, bluff top lot, which is inherently hazardous. Given that the applicant has chosen to implement the project despite potential risks from bluff erosion and landslide, the applicant

must assume the risks. Therefore, the Commission imposes special condition 5, requiring the applicant to assume the risk of the development. In this way, the applicant is notified that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires the applicant to indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand the hazards. In addition, because this condition will be recorded against the property in a deed restriction, pursuant to special condition 6, it ensures that future owners of the property will be informed of the risks and the Commission's immunity from liability. As conditioned, the Commission finds the proposed project is consistent with Section 30253 of the Coastal Act.

#### Drainage and Landscaping

Another factor that can minimize the hazards inherent to bluff development is limiting the amount of water introduced to the bluff top area. In order to maximize bluff stability the amount of water introduced to the site should be minimized. Water on site can be reduced by proper drainage and by limiting landscaping which requires irrigation. The applicant has submitted a drainage plan which indicates that all drainage will be collected in area drains in the landscaped and hardscaped areas, that roof gutters will tie into the area drain system, and then be directed toward the existing outlet, which is cantilevered over the bluff edge. The proposed drainage plan concept is adequate to assure proper site drainage.

In addition, to further decrease the potential for bluff instability, deep-rooted, low water use, plants, native to coastal Orange County, should be selected for general landscaping purposes in order to minimize irrigation requirements and consequent saturation of underlying soils. Low water use, drought tolerant, native plants require less water than other types of vegetation, thereby minimizing the amount of water introduced into the bluff top. Drought resistant plantings and minimal irrigation encourage root penetration which increases bluff stability. The applicant has submitted a landscape plan that includes plants that are not deep rooted, low water use plants such as Camellia, Jasmine, and various lilies, as well as a permanent irrigation system. Irrigation anywhere on the site would be detrimental to bluff stability. Consequently, irrigation must be limited to temporary irrigation only as needed to establish plants. Moreover, the landscape plan, as proposed, includes new hardscape within the 25-foot bluff top setback, inconsistent with the Commission's setback requirement. Therefore, a revised landscape plan must be submitted.

As a condition of approval, the applicant shall submit a revised landscape plan that indicates no hardscape will be constructed within the 25 foot bluff top setback, no permanent irrigation on the site, and the use of only low water use, drought tolerant, non-invasive plants, primarily natives to coastal Orange County. The landscaping plan as conditioned will reduce the amount of water introduced into the bluff top area and so would not contribute to instability of the bluff. Thus, only as conditioned, is the landscape plan consistent with Section 30253 of the Coastal Act.

## Conclusion

The Commission finds that only as conditioned as described above, can the proposed development be found to be consistent with Sections 30251 and 30253 of the Coastal Act which require that landform alteration be minimized and geologic stability be assured.

### **D. Water Quality**

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 residential development has impervious surfaces, such as roofs where pollutants such as particulate matter may settle, as well as driveways where pollutants such as oil and grease from vehicles may drip. In addition, landscaped areas may contain fertilizers and pesticides. During storm events, the pollutants which have collected upon the roof and upon other impervious surfaces created by the proposed project may be discharged from the site into the storm water system and eventually into coastal waters which can become polluted from those discharges. Water pollution results in decreases in the biological productivity of coastal waters.

Typically, adverse water quality impacts to coastal waters can be avoided or minimized by directing storm water discharges from roof areas and other impervious surfaces to landscaped areas where pollutants may settle out of the storm water. In addition, reducing the quantity of impervious surfaces and increasing pervious water infiltration areas can improve water quality.

However, these common techniques of addressing water quality problems, by design, result in increased infiltration of water into the ground. However, as noted in the hazard section of these findings, the infiltration of water into the bluff is a primary potential source of bluff instability at the project site. Therefore, increasing the quantity of pervious areas, directing runoff to those pervious areas, and encouraging water infiltration for water quality purposes could have adverse impacts upon bluff stability.

There are measures, however, that would contribute to increased water quality that could feasibly be applied even to bluff top lots such as the subject site without increasing instability. In general, the primary contributors to storm drain pollution stemming from single family residential development are irrigation, fertilizers, swimming pool discharges, and pet waste. These can be eliminated or significantly reduced even on bluff top lots.



For example, permanent, in-ground irrigation tends to result in over-watering, causing drainage to run off site. Irrigation runoff carries with it particulates such as soil, debris, and fertilizers. Limiting irrigation to that necessary to establish and maintain plantings reduces the chance of excess runoff due to over-irrigation. Permanent, in-ground irrigation, in general, is set by timer and not by soil moisture condition. Thus, the site is irrigated on a regular basis regardless of the need, resulting in over-saturation and run off. The run off, carrying soil, fertilizer, etc, is then directed either to the storm drain system (which then enters the ocean) or directly over the bluff to the rocky beach and ocean below. This can be avoided by limiting irrigation on bluff top lots.

Another way to improve water quality on bluff top lots without jeopardizing stability is the use of native/drought tolerant plantings. Low water use, drought tolerant, native plants require less water than other types of vegetation, thereby minimizing the amount of water introduced into the bluff top. As these plantings use less water than ornamental plants, incidents of over-watering, causing saturation and excess runoff, is substantially reduced. As previously stated, reducing site runoff reduces the extent of pollutants carried into the storm drain system and into the ocean.

Due to the potential for increased hazards in bluff top areas which could be caused by encouraging water infiltration for water quality purposes, maximizing on site retention of drainage is not required. However, the measures described above including no permanent irrigation and the use of native/drought tolerant plants, can help to increase water quality in the area. Special condition 2 requires primarily native and drought tolerant vegetation and prohibits permanent irrigation. Therefore, the Commission finds that the proposed project is consistent with Section 30231 of the Coastal Act regarding enhancing water quality.

#### **E. Public Access & Recreation**

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

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



**F. Local Coastal Program**

Section 30604(a) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified local coastal program. The permit may only be issued if the Commission finds that the proposed development will not prejudice the ability of the local government to prepare a Local Coastal Program which conforms with the Chapter 3 policies of the Coastal Act.

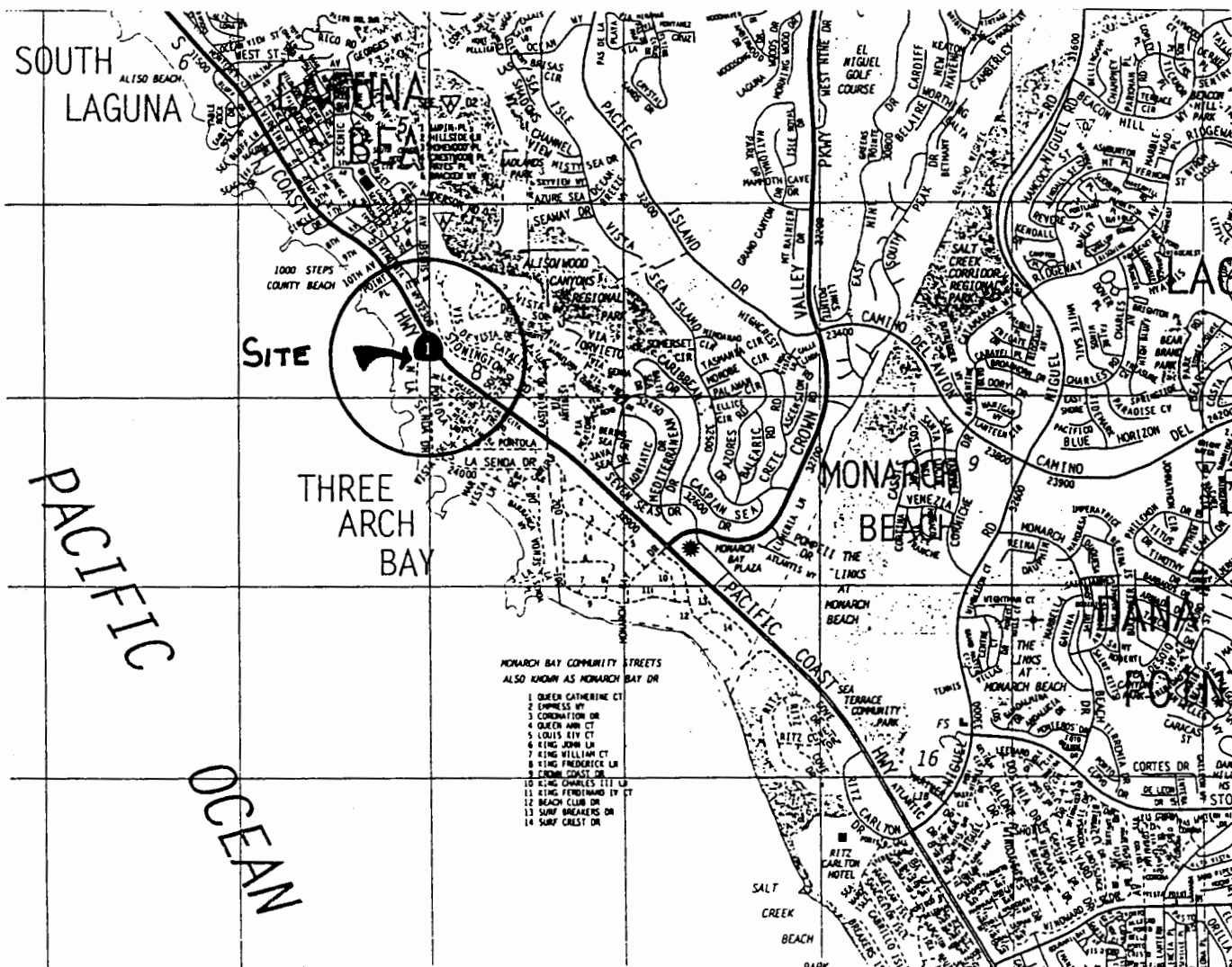
The City of Laguna Beach Local Coastal Program was certified with suggested modifications, except for the areas of deferred certification, in July 1992. In February 1993 the Commission concurred with the Executive Director's determination that the suggested modification had been properly accepted and the City assumed permit issuing authority at that time.

The subject site is located within the Three Arch Bay area of deferred certification. Certification in this area was deferred due to issues of public access arising from the locked gate nature of the community. However, as discussed above, the proposed development will not further decrease or impact public access within the existing locked gate community. Therefore the Commission finds that approval of this project, as conditioned, will not prevent the City of Laguna Beach from preparing a total Local Coastal Program for the areas of deferred certification that conforms with and is adequate to carry out the Chapter 3 policies of the Coastal Act.

**G. California Environmental Quality Act**

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

The proposed project as conditioned has been found consistent with the hazard, visual, landform alteration, and public access policies of the Coastal Act. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.



COASTAL COMMISSION

5-02-345

EXHIBIT # A

PAGE 1 OF 1

Markland Residence

Vicinity Map

88 North La Senda Drive • Three Arch Bay • Laguna Beach • California



## C

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# Markland Residence

This drawing is for the 2nd floor  
 of the Markland Residence.

Notes:  
 1. See also 1st floor plan for details.  
 2. See also 3rd floor plan for details.  
 3. See also 4th floor plan for details.



LA SENDA

B2





Proposed Lower Floor Plan (3)

Revised July 18 1972 Scale 1/4" = 1' (7)

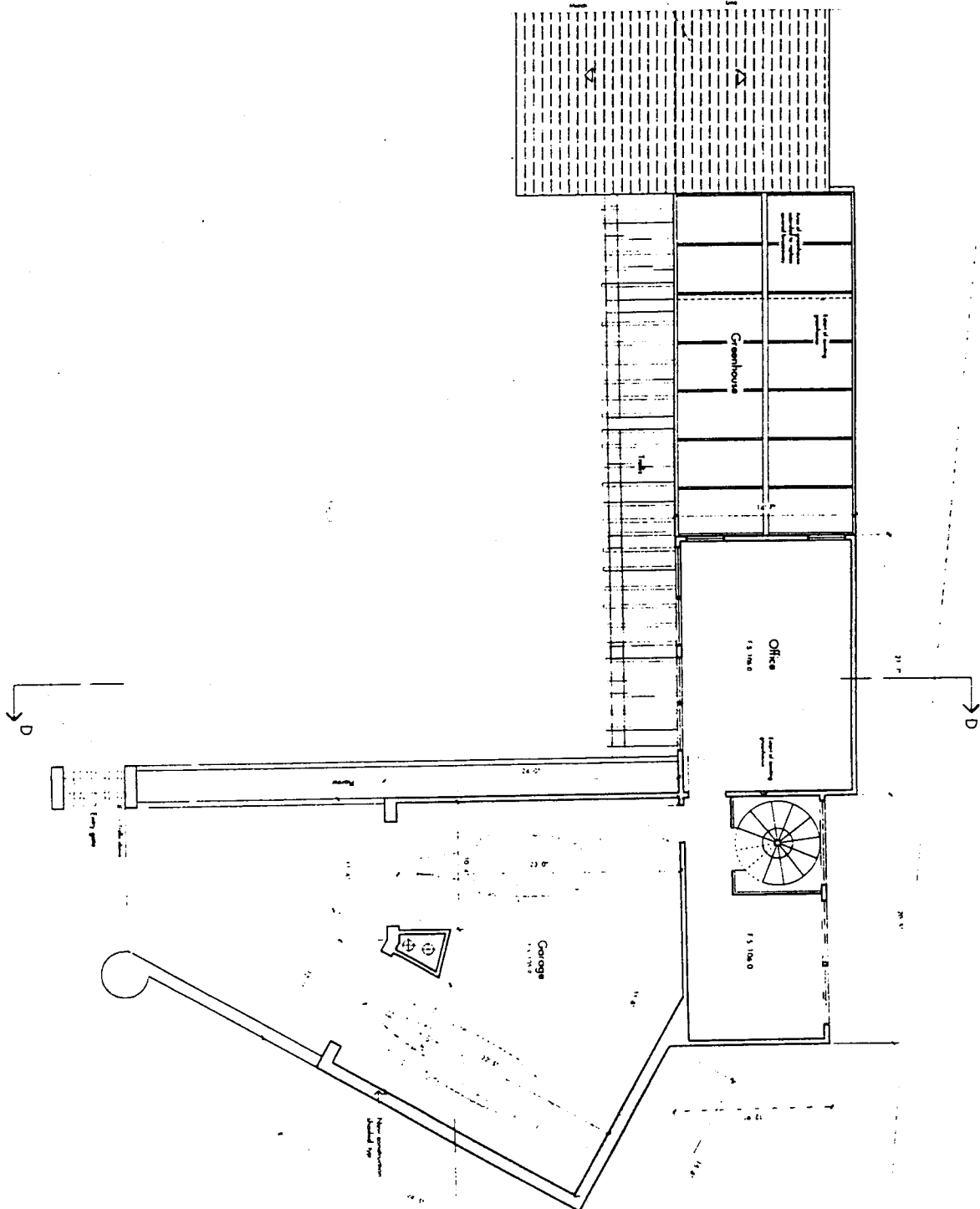




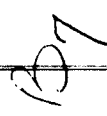


# Markland Residence

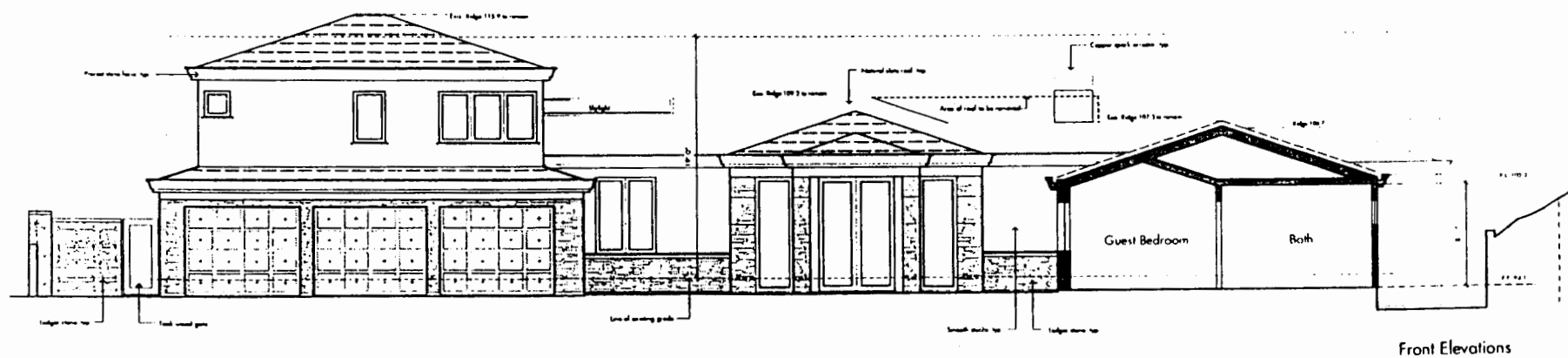
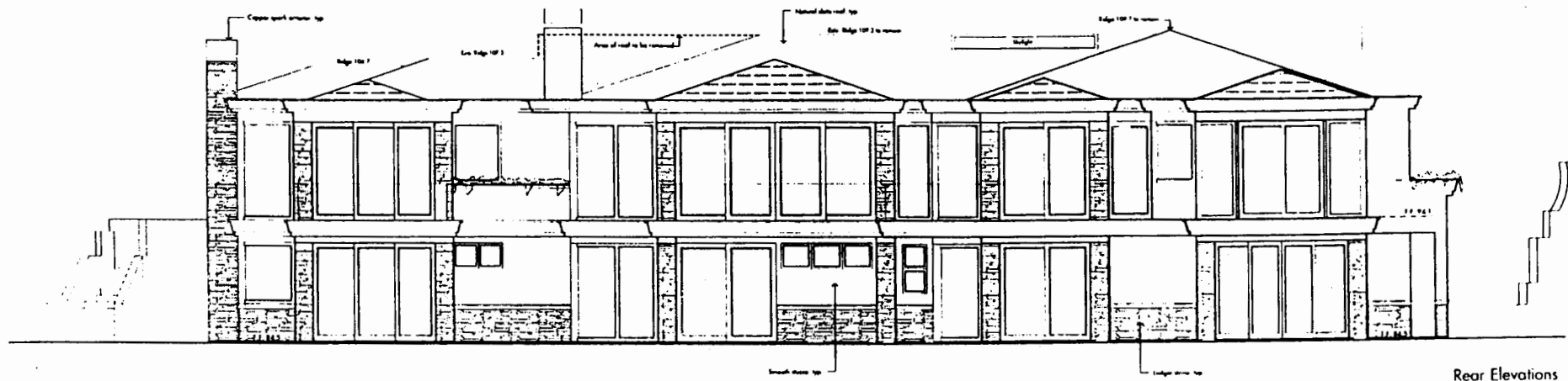
88 North Lo Senda Drive • Three Arch Bay • Laguna Beach • California



B4



B8



# Markland Residence

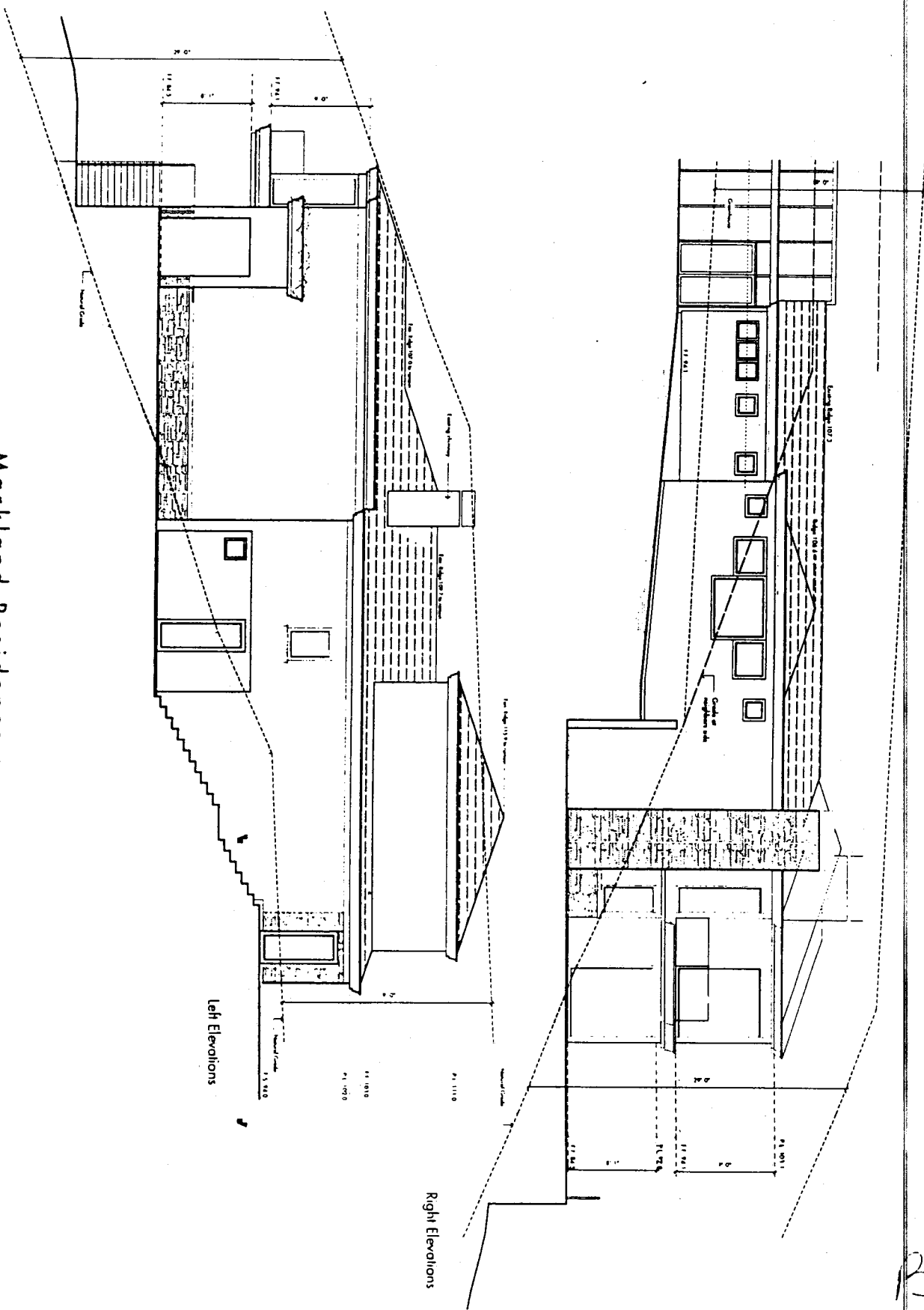
88 North La Senda Drive • Three Arch Bay • Laguna Beach • California



Proposed Elevations 7

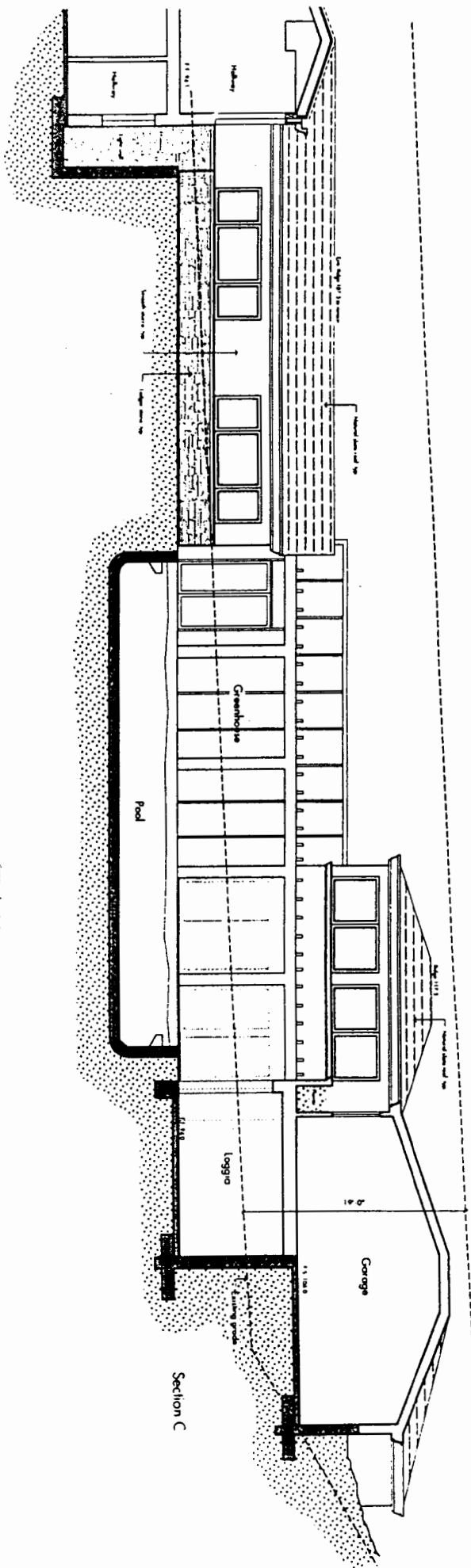
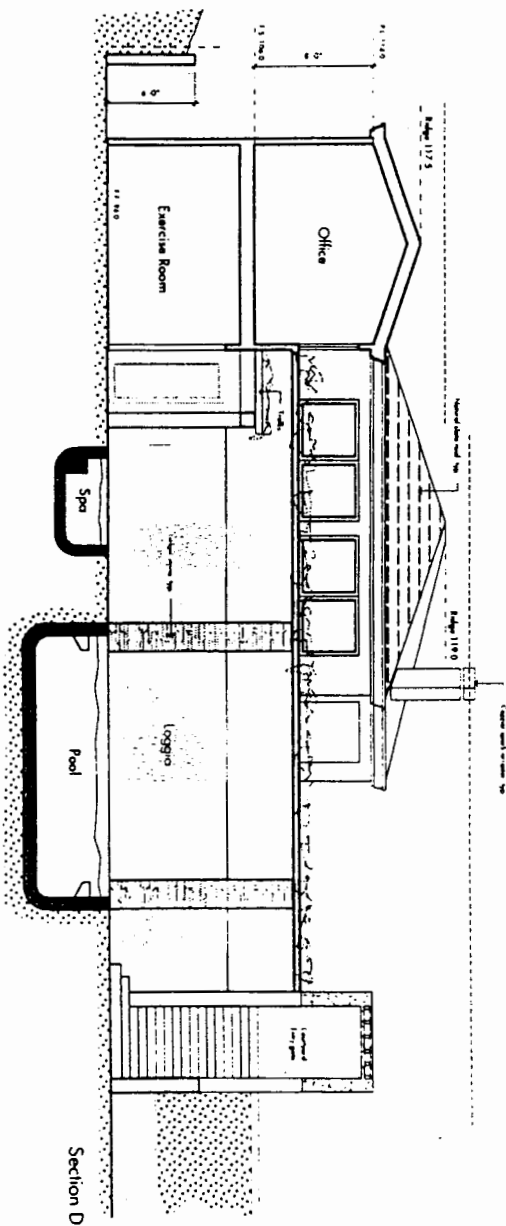
Scale 1/4" = 1' 0"

Site Plan



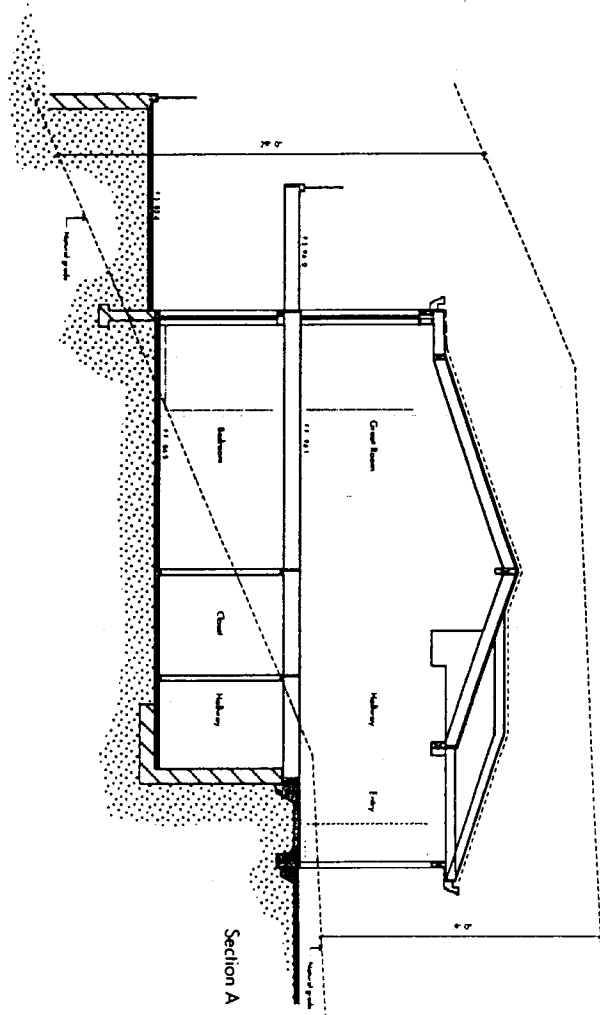
# Markland Residence

88 North La Senda Drive • Three Arch Bay • Laguna Beach • California



B10

Markland Residence  
 88 North La Senda Drive • Three Arch Bay • Laguna Beach • California



B11

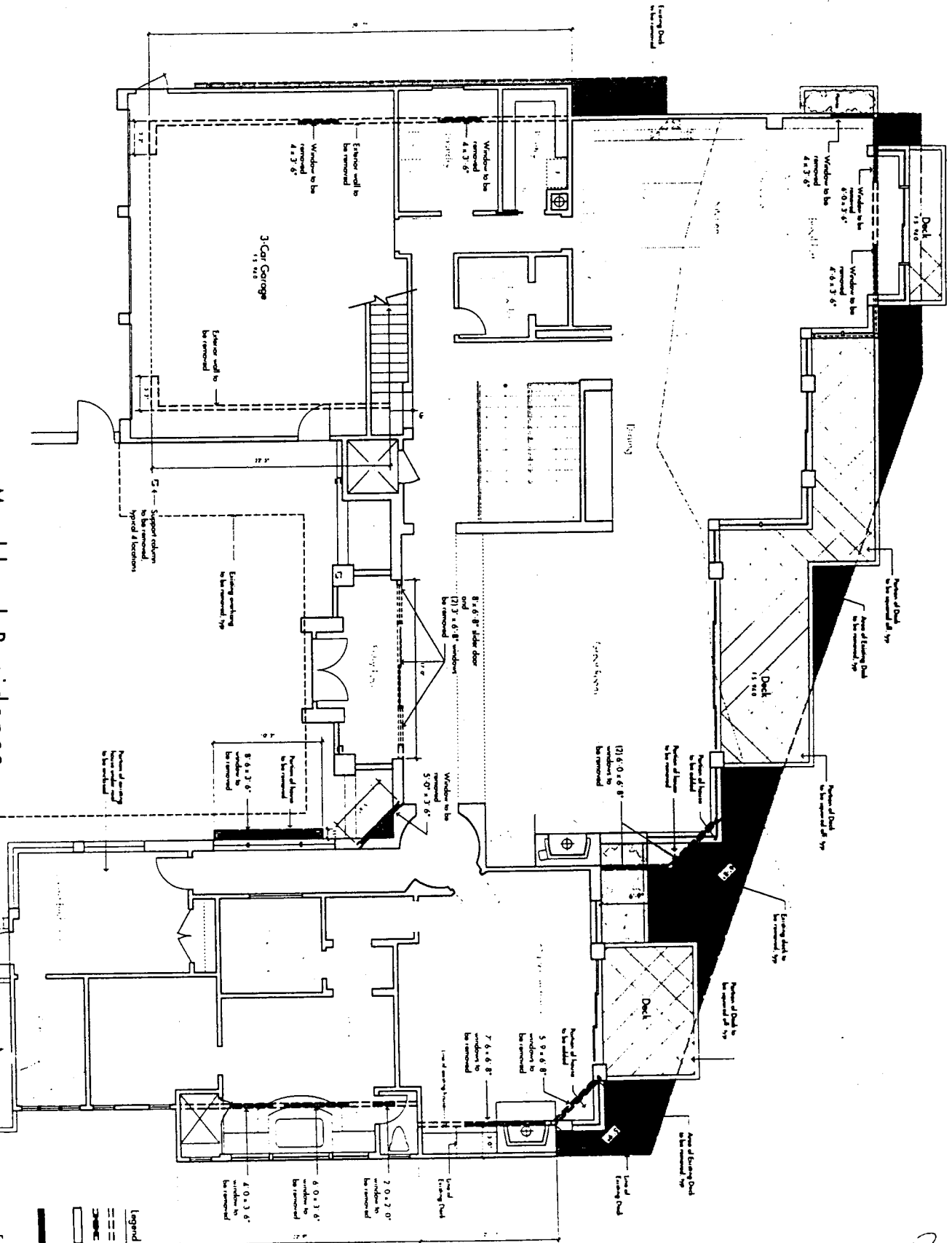
# Markland Residence

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Entry Floor Demolition Plan (11)

Revised: 10/2007 Scale: 1/8" = 1'-0"

4/4/22 2012 Site Plan



Legend

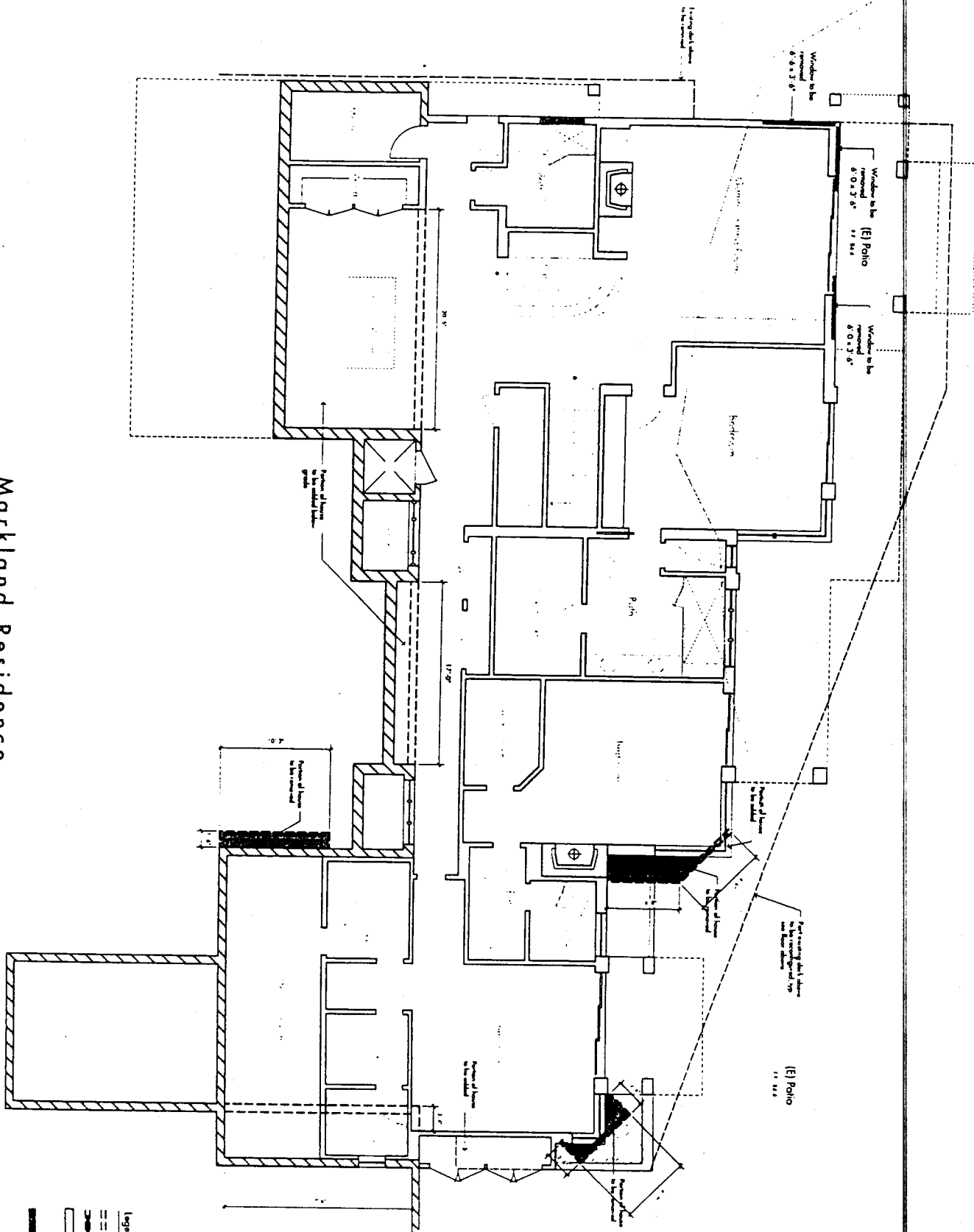
	Walls to be removed
	Windows to be removed
	Other additions
	Existing to remain
	Existing to be removed

B.12

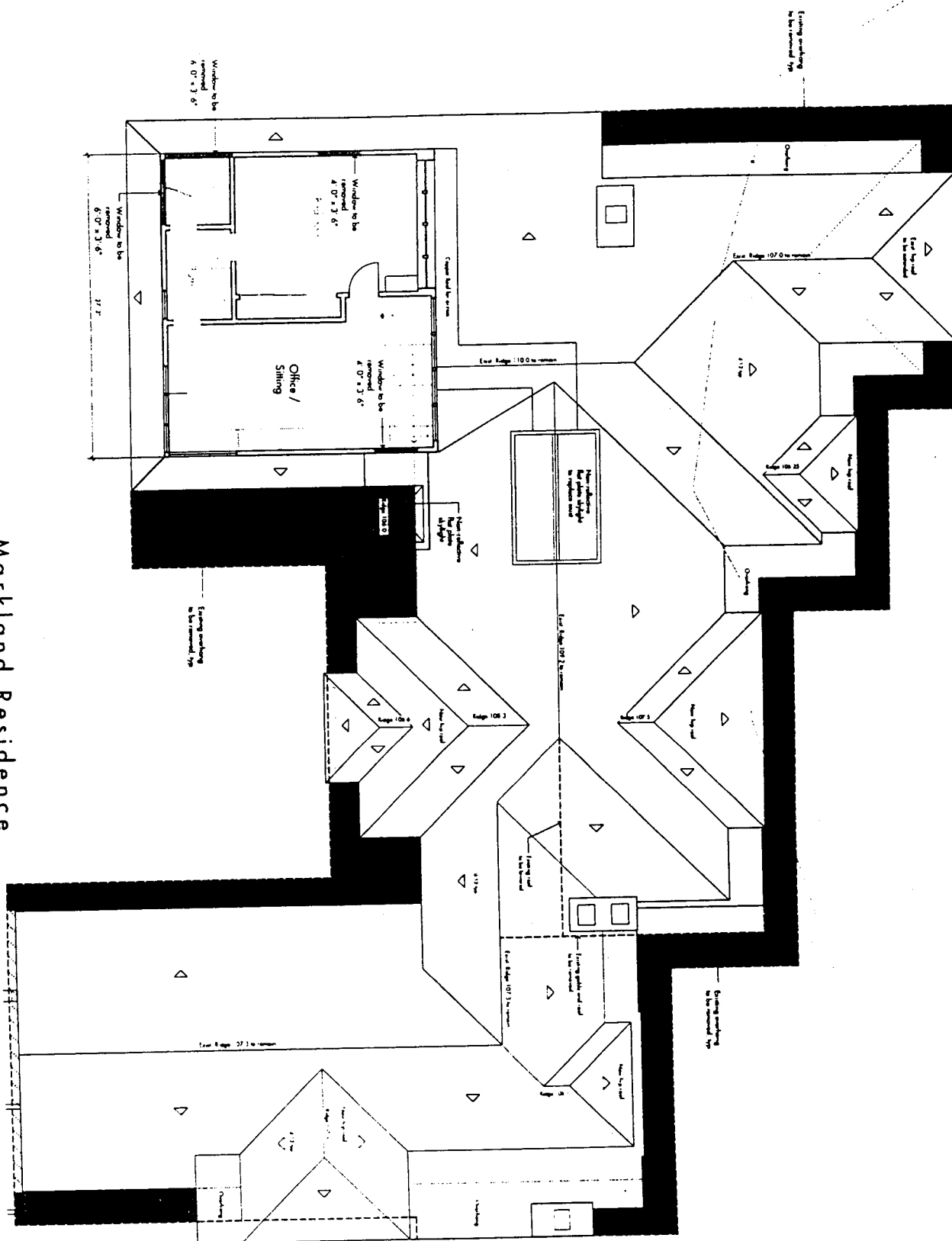


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# Markland Residence



B13



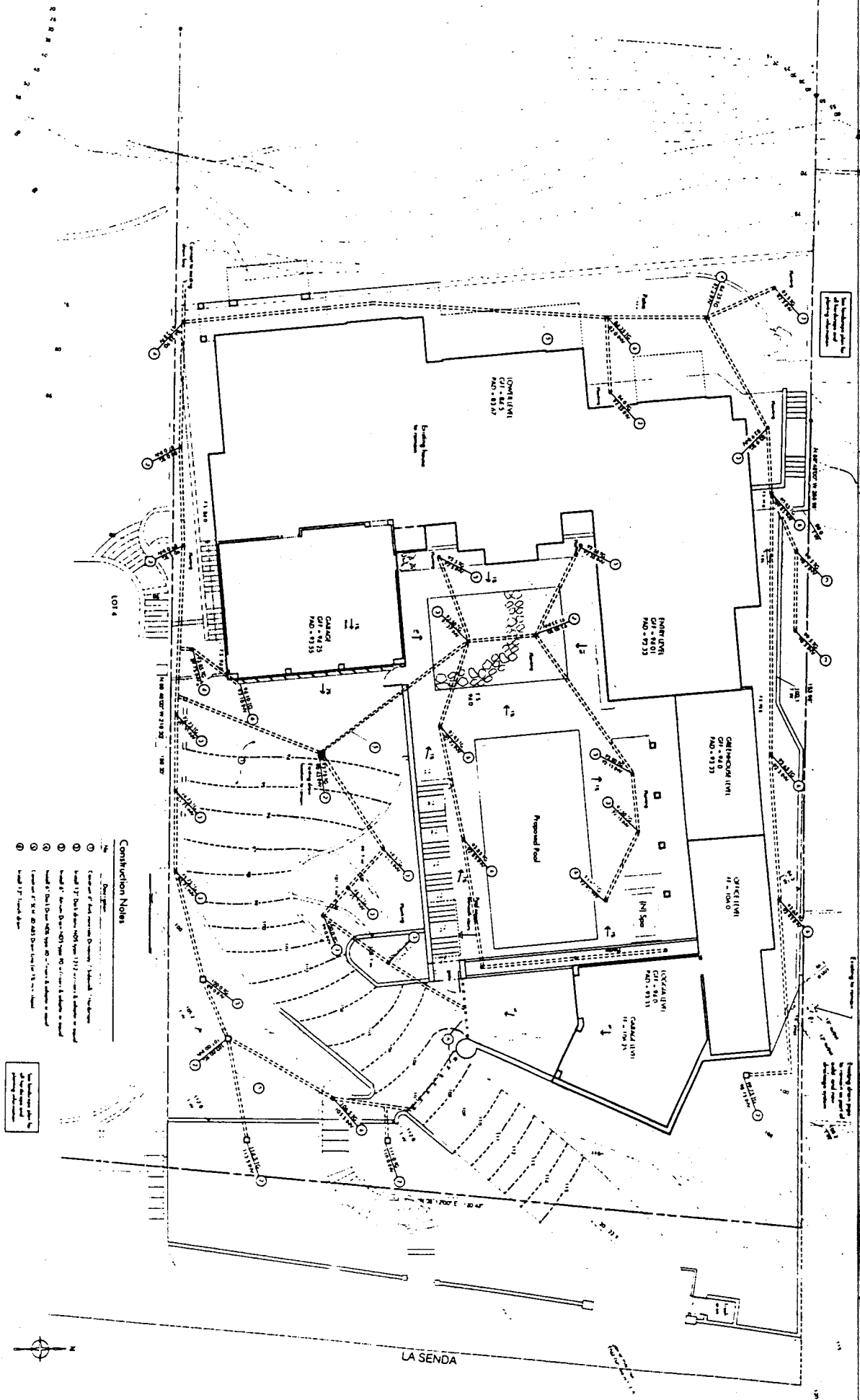
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Markland Residence

### Upper Floor / Roof Demolition Plan

Exercises 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, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 8

B<sub>14</sub>

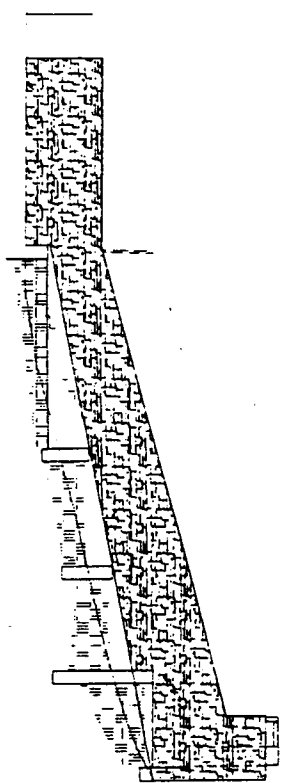


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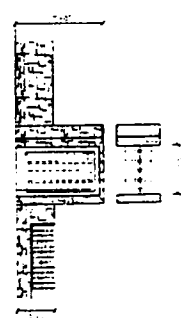




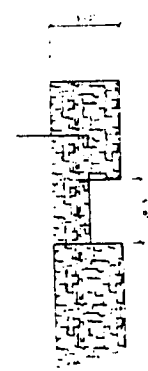
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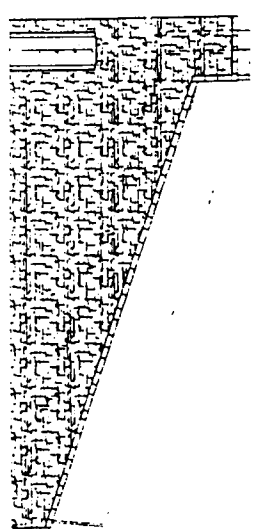
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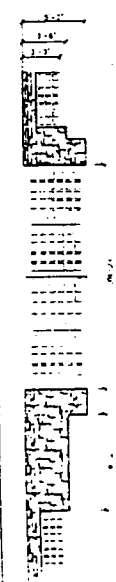
2 ENTRY GATE INTO POOL COURT



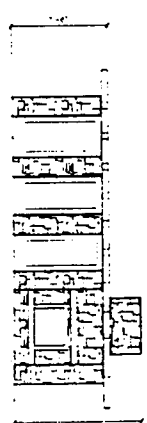
3 WALL ELEVATION AT ENTRY WALK



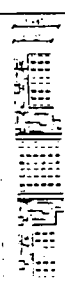
5 ENTRY WALL FACING SWIMMING POOL



4 VEHICLE AB ENTRY GATE



6 IMPACT & WINDSCREEN AT LOWER LEVEL



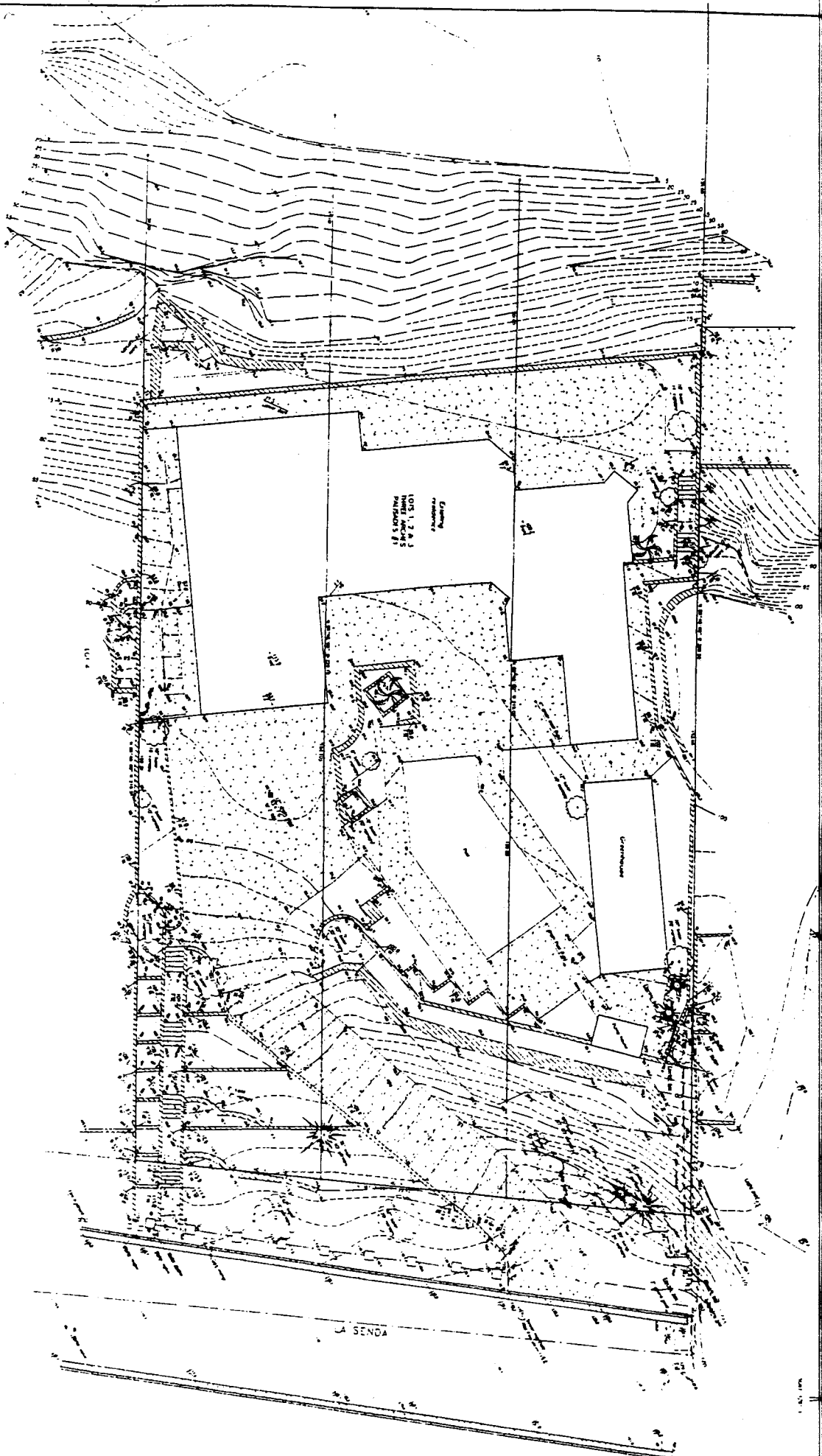
7 PUSHDOWN ENTRY GATE

GENERAL NOTES

1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE INTERNATIONAL RESIDENTIAL CODE (IRC).
2. ALL MATERIALS SHALL BE OF THE HIGHEST QUALITY AND SHALL BE SUBMITTED FOR APPROVAL TO THE ARCHITECT PRIOR TO INSTALLATION.
3. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.

NOT TO SCALE  
 DRAWING NO. B18  
 DATE: 10/10/2023  
 PROJECT: [illegible]  
 CLIENT: [illegible]  
 ARCHITECT: [illegible]  
 ENGINEER: [illegible]  
 LANDSCAPE ARCHITECT: [illegible]

THIS MAP, DRAWING, OR SURVEY WAS MADE BY THE ENGINEER OR SURVEYOR AT THE TIME OF THE SURVEY AND IS NOT TO BE USED FOR ANY OTHER PURPOSE.



1319



TOAL ENGINEERING, INC.

City Engineers, Land Planners, and Surveyors  
1500 Wilshire Blvd., Suite 1000  
San Francisco, CA 94109

TOPOGRAPHIC SURVEY  
LOTS 1, 2 & 3, THREE ARCHES PALISADES #1  
LAGUNA BEACH, CALIFORNIA





