

CALIFORNIA COASTAL COMMISSION

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Filed: 8/11/04
49th Day: 9/29/04
180th Day: 2/7/05
Staff: MV-LB
Staff Report: 9/23/04
Hearing Date: 10/13-15/04
Commission Action:

STAFF REPORT: REGULAR CALENDAR**APPLICATION NUMBER:** 5-04-205**APPLICANT:** Dr. & Mrs. Richard Paicius**AGENT:** David Frith, Powell Dudley Frith Architects**PROJECT LOCATION:** 6 So. La Senda, Laguna Beach, Orange County

PROJECT DESCRIPTION: Demolish existing single family residence and construct new, 3,100 square foot, two story, 25 foot high from existing and finished grade (14 feet as measured from centerline of frontage road), single family residence with attached 438 square foot, 2 car garage, on an oceanfront, bluff top lot.

Lot Area:	8,148 square feet
Building Coverage:	2,858 square feet
Pavement Coverage:	1,450 square feet
Landscape Coverage:	515 square feet
Parking Spaces:	4
Zoning:	R-1
Ht above final grade	25 feet

SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending approval of the proposed project subject to six special conditions which are necessary to assure that the project conforms with Section 30253 of the Coastal Act regarding geology and hazard, with Section 30251 regarding landform alteration and visual quality, and with Section 30231 regarding protection of water quality. Special Condition No. 1 limits development within the blufftop setback area; Special Condition No. 2 requires a revised landscape plan which requires the use of native and drought tolerant plantings, and prohibits permanent irrigation and invasive plants; 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.

At the time of this staff report, the applicant disagrees with Special Condition 1, regarding the imposition of a revised blufftop setback.

LOCAL APPROVALS RECEIVED: City of Laguna Beach Approval in Concept, dated 5/28/04; Design Review Approval 04-126, dated 5/18/04.

SUBSTANTIVE FILE DOCUMENTS: Preliminary Geotechnical Investigation, prepared by Geofirm, dated 3/23/01; Update Report of Preliminary Geotechnical Investigation, prepared by Geofirm, dated 10/1/03; Response to Geotechnical Report Review Checklist dated 12/3/03, prepared by Geofirm, dated 12/9/03; Response to California Coastal Commission Review dated 6/30/04, prepared by Geofirm, dated 7/26/04; City of Laguna Beach certified Local Coastal Program (as guidance only).

I. APPROVAL WITH CONDITIONS

STAFF RECOMMENDATION:

Staff recommends that the Commission **APPROVE** the permit application as conditioned.

MOTION: *I move that the Commission approve Coastal Development Permit No. 5-04-205 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and 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. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

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 Setback**

- A. All primary structures, including but not limited to, the enclosed living area of the residential structure (including cantilevered living area), shall be set back a minimum of 25' from the bluff edge, as generally depicted on Exhibit C. Development shall be modified as necessary to meet this requirement.
- B. All hardscape improvements shall be set back a minimum of 5' from the bluff edge, as generally depicted on Exhibit C. Development shall be modified as necessary to meet this requirement.
- C. **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 Sections A and B above.
- D. 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 legally required.

2. Revised Landscape Plan

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, two (2) full sized sets of a revised planting plan prepared by an appropriately licensed professional which demonstrates the following:
- (1) The subject site will be planted and maintained for slope stability and erosion control. To minimize the need for irrigation, landscaping shall consist of native and/or drought tolerant non-invasive plant species;
 - (2) All planting will be completed within 60 days after completion of construction;
 - (3) All required plantings will be maintained in good growing condition through-out the life of the project, and whenever necessary, will be replaced with new plant materials to ensure continued compliance with the landscape plan;
 - (4) No permanent in-ground irrigation systems will be installed on site. Temporary above-ground irrigation is allowed to establish plantings;
- B. The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan 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 legally 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 Update Report of Preliminary Geotechnical Investigation, prepared by Geofirm, dated 10/1/03; Response to Geotechnical Report Review Checklist, prepared by Geofirm, dated 12/9/03; Response to California Coastal Commission Review, prepared by Geofirm, dated 7/26/04 (revised 8/10/04); Preliminary Geotechnical Investigation, prepared by Geofirm, dated 3/23/01;
- B. **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.
- 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.

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. 5-04-205 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.
- C. In the event the edge of the bluff recedes to within five (5) 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 applicant, 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. The report shall be submitted to the Executive Director and the appropriate local government official. If the geotechnical report concludes that the residence or any portion of the residence is unsafe for occupancy, the permittee shall, within 90 days of submitting the report, apply for a coastal development permit amendment to remedy the hazard which shall include removal of the threatened portion of the structure.

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, bluff top, 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 to demolish an existing single family residence and construct new, 3,100 square foot, two story, 25 foot high from existing and finished grade (14 feet as measured from centerline of frontage road), single family residence with attached 438 square foot, 2 car garage, on an oceanfront, bluff top lot.

The upper level of the proposed residence would cantilever up to approximately 15 feet beyond the seaward extent of the lower level (see exhibit B6). Portions of the upper level would extend into a 25 foot setback from the bluff edge. The lower level of the existing residence (proposed to be demolished) currently extends into the 25 foot setback from the bluff edge. The applicant is proposing to relocate the seaward edge of the lower level back (landward) to conform to the 25 foot setback from the bluff edge. In addition, 49 cubic yards of excavation is proposed to move the landward-most wall of the lower level back to a position landward of the existing lower level landward wall.

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. Blufftop Development

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 lot slopes gently seaward between the road and the bluff edge, and then slopes to the rocky beach below. The bluff has an overall height of 80+/- feet, consisting of a moderately sloping upper bluff which is backed by terrace deposits, and a steep, locally vertical, lower sea cliff which is backed by bedrock materials.

An Update Report of Preliminary Geotechnical Investigation for the proposed development was prepared by Geofirm, and is dated 10/1/03; in addition the following geotechnical documents have been prepared for the proposed development: Response to Geotechnical Report Review Checklist dated 12/3/03, prepared by Geofirm, dated 12/9/03; Response to California Coastal Commission Review dated 6/30/04, prepared by Geofirm, dated 7/26/04. The geotechnical review included review and analysis of pertinent reports, maps, and published literature for the site and nearby area, revisions of geotechnical maps and cross-sections relating site conditions to proposed construction, reconnaissance of the property and surrounding areas and geologic mapping of the sea cliff at the rear of the site, excavation and logging of two exploratory borings; geotechnical analysis of data, and preparation of conclusions and recommendations.

Setback

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 increase the rate of erosion and bluff retreat. Thus, by reducing these factors bluff stability can be increased. In addition, Section 30251 of the Coastal Act requires that scenic and visual qualities of coastal areas be protected. Setting development further back from the edge of the coastal bluff decreases the project's visibility from the beach below and as seen from the water. For these reasons, the Commission typically imposes some type of bluff top set back.

In the project vicinity, the Commission typically imposes a minimum bluff top setback of 25 feet from the edge of the bluff for primary structures (e.g. the enclosed living area of

residential structures). The minimum 25 foot setback from the bluff edge is deemed acceptable within the Three Arch Bay community based on the relatively stable, underlying San Onofre formation bedrock. The intent of the setback is to substantially reduce the likelihood of proposed 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.

Another method of bluff top setback the Commission sometimes employs is a method known as a stringline set back. A stringline is the line formed by connecting the nearest adjacent corners of the adjacent residences. In the case of the subject site and proposed development, application of a stringline would be a more restrictive setback than the 25 foot setback (see exhibit G). In the case of the subject site, due to the undulating nature of the bluff, application of a stringline setback would be unusually large compared with adjacent development.

The applicant's geologic consultant has determined that the edge of the bluff is generally located along the 85 foot contour elevation (see exhibit C). Commission staff has reviewed the applicant's bluff edge determination and concurs. The bluff edge determination is based on the definition contained in Section 13577 of the California Code of Regulations which states, in part: "...the edge shall be defined as that point nearest the cliff beyond which the downward gradient of the land surface increases more or less continuously until it reaches the general gradient of the cliff."

Proposed enclosed living area would extend into the 25 foot set back by a range of approximately 3 feet to 10 feet (see exhibit E). It should be noted that the area of enclosed living area that would encroach into the setback would be a portion of the proposed cantilevered upper level. However, although no at grade or subgrade support is proposed, the intent of the bluff top setback is to substantially reduce the likelihood of proposed 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. Another basis for imposing a bluff top setback is to avoid the need for a future shoreline protection device. Although the geotechnical consultant has indicated that the need for shoreline protection is not anticipated, if the bluff were to retreat at a rate higher than anticipated, the enclosed living area could be threatened, even though it is cantilevered. In addition, cantilevered development would be as visible from the ocean as would at-grade development. Because cantilevered living area could potentially be threatened, and because it will be as visible as at grade development, it is appropriate to apply the same setback standard to cantilevered enclosed living area as to at grade enclosed living area. The proposed lower level is consistent with the 25 foot set back from the bluff edge.

In order to reduce risk and the likelihood of geologic instability, and reduce the potential need for shoreline protection in the future, as well as to protect scenic coastal views and provide equity among bluff top development in the project area, the Commission finds that a 25 foot setback from the edge of the bluff (see exhibit C) for enclosed living area is most appropriate. Therefore, as a condition of approval, the project shall be redesigned to

eliminate enclosed structural area seaward of the 25 foot setback from the bluff edge. The 25 foot setback approved by the Commission is depicted on exhibit C.

Along with a bluff top setback for enclosed living area, the Commission typically imposes a setback for hardscape/patio type development. Hardscape/patio type improvements can be moved away from hazards more readily than primary structures. In addition, consistently applying an appropriate bluff edge setback provides equitability for developments within the same general area. In this case, the Commission finds that a minimum 5 foot bluff edge setback is appropriate for these ancillary improvements. No development, including minor hardscape improvements and grading, may be allowed seaward of the 5 foot bluff edge setback or beyond the bluff edge.

At the subject site, an at grade patio currently exists very near to the edge of the bluff (see exhibit F). An existing approximately 3 foot high wall along the bluff edge is proposed to be removed. The existing patio area located 10 feet landward of the bluff edge is proposed to be removed and replaced. However, existing patio development within 5 feet of the edge of the bluff is proposed to be retained in place. The existing patio development to be retained extends up to within approximately 1 to 3 feet of the bluff edge. Surficial erosion could quickly erase this setback and provides little margin for error relative to hazards. As proposed, only an approximately 1 to 2 foot wide arc of existing patio would remain within 5 feet of the bluff edge. The proposed development includes replacement of most of the existing patio. Thus, the current project provides a suitable opportunity to bring the remainder of the existing patio development into conformity with a 5 foot setback from the edge of the bluff. Therefore, as a condition of approval, the project shall be redesigned to eliminate all development, including existing patio development, within 5 feet of the edge of the bluff.

Only as conditioned can the Commission find that the proposed development is consistent with requirements of Sections 30251 and 30253 of the Coastal Act which require that hazards be minimized and that coastal views be protected.

Geotechnical Recommendations

Regarding the feasibility of the proposed project the Update Report of Preliminary Geotechnical Investigation, prepared by Geofirm, dated 10/1/03 states:

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

Specifically regarding bluff slope stability the geotechnical consultant concludes:

"The prognosis for the site is that it is grossly stable but that erosion of the upper bluff slope will occur at a slow rate that is episodically promoted by heavy rainfall and saturated conditions. Significant erosion of the bedrock sea cliff is considered

highly unlikely over the next 75 +/- years. Proposed improvements along the bluff top should not be affected by the expected slow progressive retreat of the present bluff top assuming appropriate foundation design as recommended herein. Shoreline protection of the sea cliff is therefore not anticipated during the life span of proposed improvements. Design of the bluff top improvements should consider erosion of the upper bluff slope due to subaerial erosional processes."

The geotechnical consultant has found that the subject site is suitable for the proposed development provided the recommendations contained in the geotechnical information prepared by the consultant are implemented in design and construction of the project.

The recommendations contained in the Update Report of Preliminary Geotechnical Investigation, prepared by Geofirm, dated 10/1/03 address site preparation and grading, structural setback requirement, structural design of retaining walls, slabs-on-grade, concrete, hardscape design and construction, structural design of swimming pool, seismic structure design, utility trench backfill, finished grade and surface drainage, foundation plan review, observation and testing, and jobsite safety. 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 Update Report of Preliminary Geotechnical Investigation, prepared by Geofirm, dated 10/1/03 and related reports dated 12/9/03, and 7/26/04 (revised 8/10/04) 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, and especially ocean bluffs, to erode. Bluff erosion 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 erosion 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.

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. The geologic consultant for the subject development does not anticipate the need for a future shoreline or bluff protection device, and states:

"Shoreline protection of the sea cliff is [therefore] not anticipated during the life span of proposed improvements."

The proposed development includes demolition of the existing residence and construction of a new single family residence, which constitutes new development for the purposes of Sections 30235 and 30253. Because the proposed project is 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, 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 a special condition 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 the proposed project 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 a special condition 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, the condition 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

One factor that can minimize the hazards inherent to blufftop development is proper collection of site drainage. Piping drainage down the bluff face and outletting at the base of the bluff will not minimize hazards. Outletting at the base of the bluff can cause erosive scour, and lead to undermining of bluff stability. In addition, the bluff face drainpipe could break or crack, which could cause immediate damage or could lead to damage over time.

The proposed project's plans indicate that all drainage will be collected in area drains, and then be directed toward the street. Drainage from the seaward side of the property is proposed to be collected and pumped to the street. The proposed drainage plan is consistent with Section 30253 of the Coastal Act which requires that hazards be minimized.

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 limiting permanent irrigation systems. The proposed landscaping plan includes permanent, in-ground irrigation. Irrigation anywhere on the site would be detrimental to bluff stability. The geotechnical consultant, regarding site drainage recommends that "concentrated surface discharge onto the rear bluff slope must be avoided." Consequently, irrigation must be limited to temporary irrigation only as needed to establish plants. Therefore, the Commission imposes a special condition which prohibits permanent irrigation on the site. Temporary irrigation may be allowed to establish plantings. Only as conditioned can the Commission find the proposed development consistent with Section 30253 of the Coastal Act which requires that hazards be minimized.

Furthermore, any plants in the landscaping plan should be drought tolerant to minimize the use of water. The term drought tolerant is equivalent to the terms 'low water use' and 'ultra low water use' as defined and used by "A Guide to Estimating Irrigation Water Needs of

Landscape Plantings in California" prepared by University of California Cooperative Extension and the California Department of Water Resources dated August 2000 available at <http://www.owue.water.ca.gov/landscape/pubs/pubs.cfm>.

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 planting plan that includes plants that are not primarily low water use and that are not primarily natives to coastal Orange County. The Commission typically requires that applicants utilize native plant species, particularly along coastal bluffs. Native plants species should be used adjacent to the bluff and non-invasive, drought-tolerant plants may be used elsewhere on the site.

As a condition of approval, the applicant shall submit a revised landscape plan that indicates no permanent irrigation on the site, and the use of plants that are low water use, drought tolerant, non-invasive plants, primarily native 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 consistent with Sections 30251 and 30253 of the Coastal Act which require that landform alteration be minimized, scenic coastal views be protected, and geologic stability be assured.

C. 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 decreases 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. 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 to the storm drain system, which then enters the ocean. 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, as conditioned, the proposed project is consistent with Section 30231 of the Coastal Act regarding protection and enhancement of water quality.

D. Public Access & Recreation

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

The proposed 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, demolition and construction 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.

E. 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.

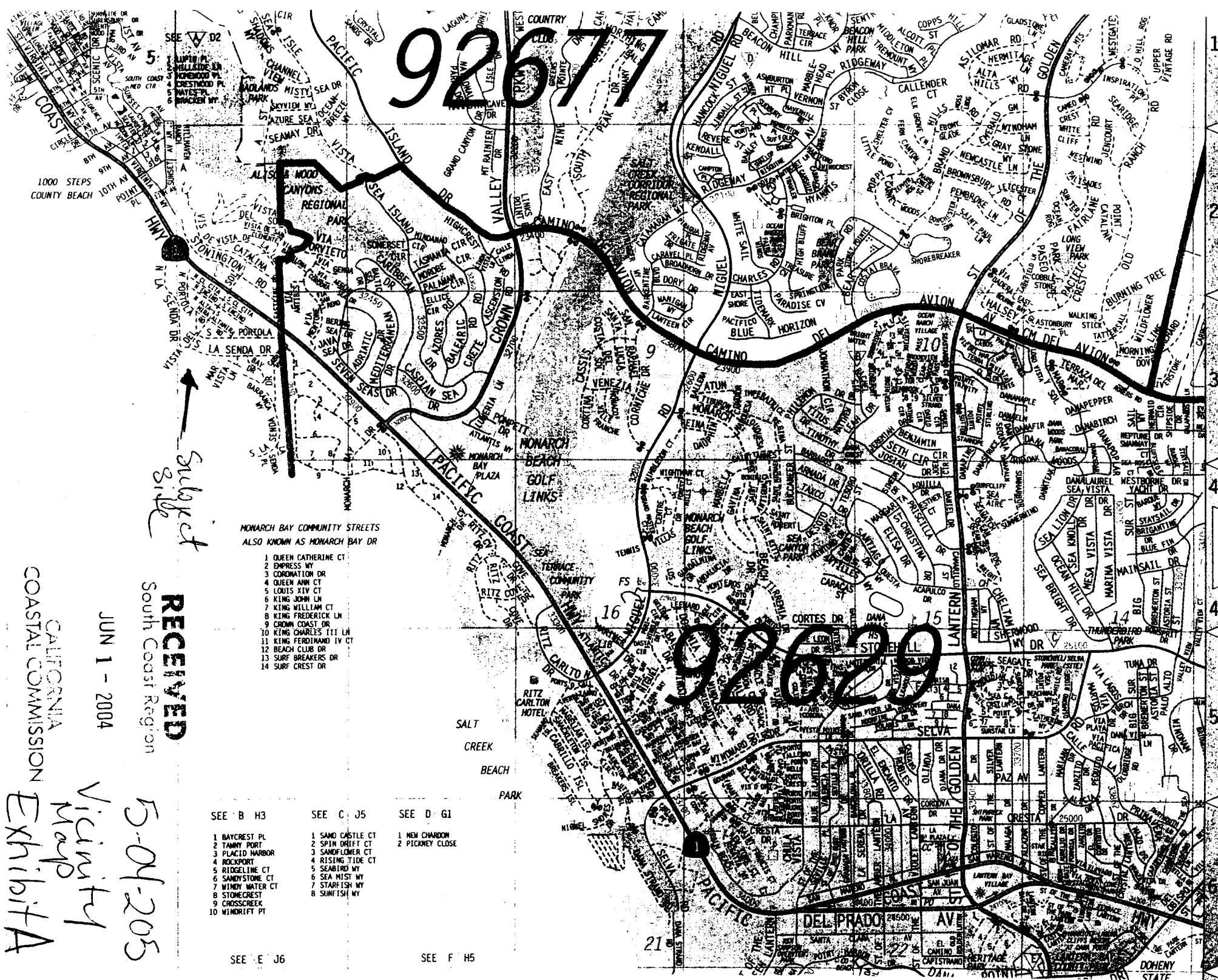
The City of Laguna Beach Local Coastal Program was certified with suggested modifications, except for the areas of deferred certification, in July 1992. In February 1993 the Commission concurred with the Executive Director's determination that the suggested modification had been properly accepted and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

F. 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.



Subject
Side

MONARCH BAY COMMUNITY STREETS
ALSO KNOWN AS MONARCH BAY DR

- 1 QUEEN CATHERINE CT
- 2 EMPRESS WY
- 3 CORDONATION DR
- 4 QUEEN ANN CT
- 5 LOUIS XIV CT
- 6 KING JOHN LN
- 7 KING WILLIAM CT
- 8 KING FREDERICK LN
- 9 CROWN COAST DR
- 10 KING CHARLES III LN
- 11 KING FERDINAND IV CT
- 12 BEACH CLUB DR
- 13 SURF BREAKERS DR
- 14 SURF CREST DR

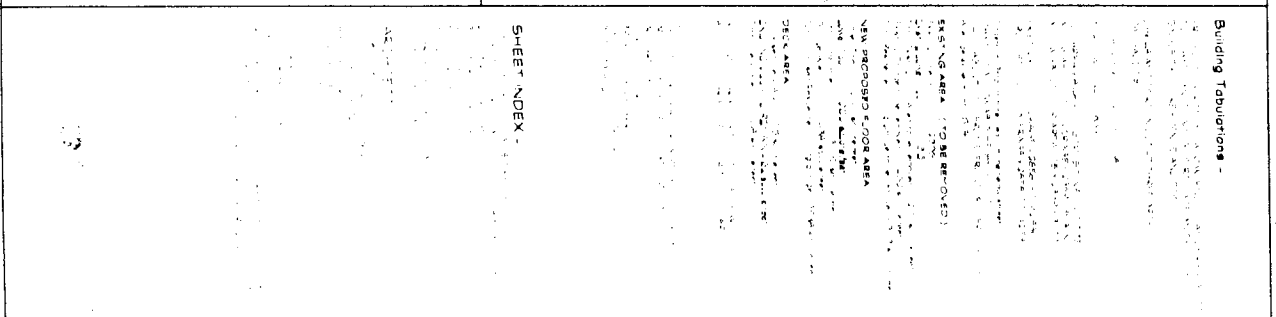
- | | | |
|------------------|------------------|-----------------|
| SEE B H3 | SEE C J5 | SEE D G1 |
| 1 BAYCREST PL | 1 SAND CASTLE CT | 1 NEW CHARDON |
| 2 TANNY PORT | 2 SPIN DRIFT CT | 2 PICKNEY CLOSE |
| 3 PLACID HARBOR | 3 SANDFLOWER CT | |
| 4 ROCKPORT | 4 RISING TIDE CT | |
| 5 RIDGELINE CT | 5 SEABIRD WY | |
| 6 SANDSTONE CT | 6 SEA MIST WY | |
| 7 WINDY WATER CT | 7 STAFFISH WY | |
| 8 STONECREST | 8 SUNFISH WY | |
| 9 CROSSCREEK | | |
| 10 WINDLIFT PT | | |

SEE E J6 SEE F H5

RECEIVED
South Coast Region
JUN 1 - 2004
CALIFORNIA
COASTAL COMMISSION

15-04-205
Vicinity
Map
Exhibit A

5-04-205
MAP

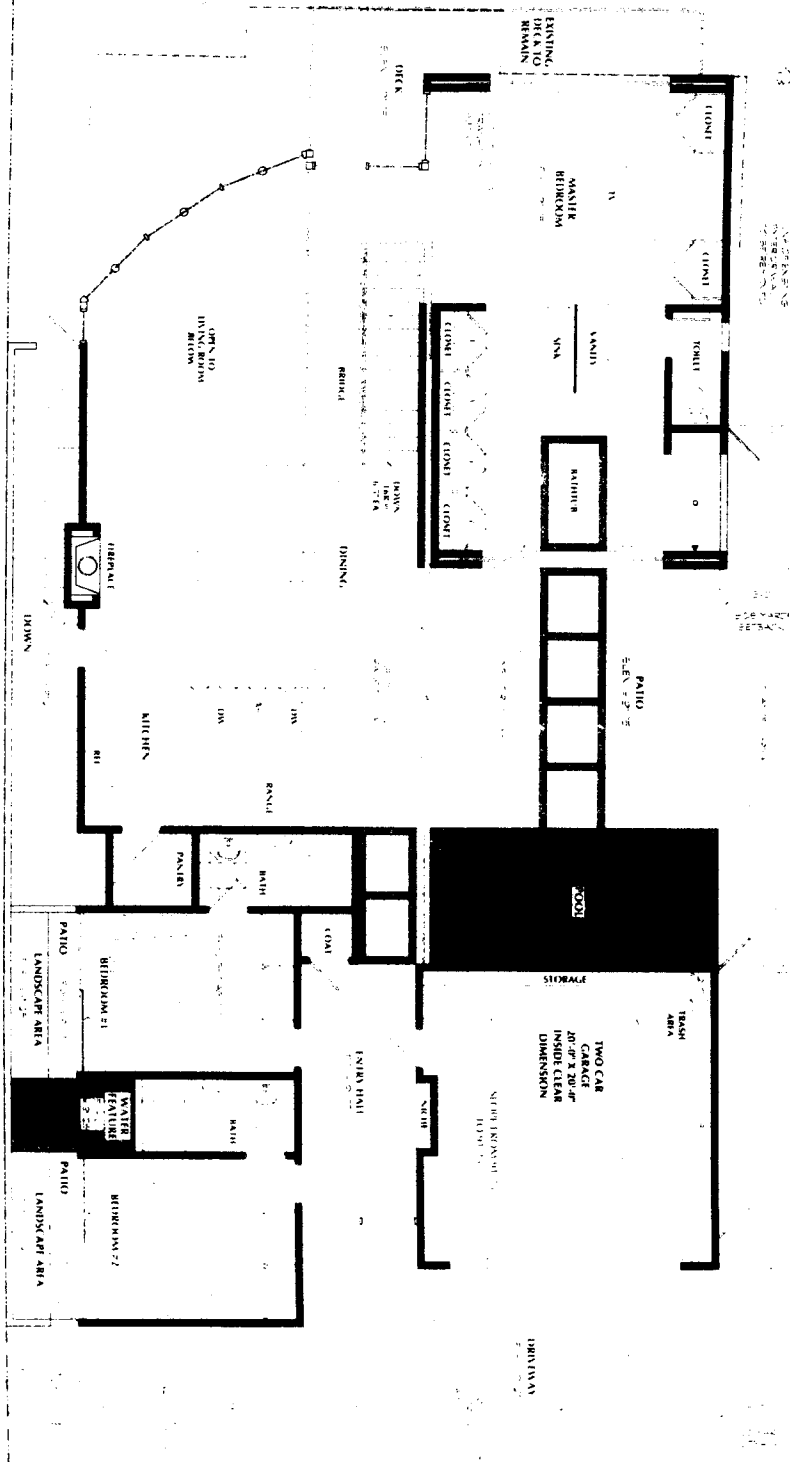


B
1 of 2

5-04-205
project plans

SITE PLAN

**SITE PLAN AND
COVER SHEET**



Upper Level

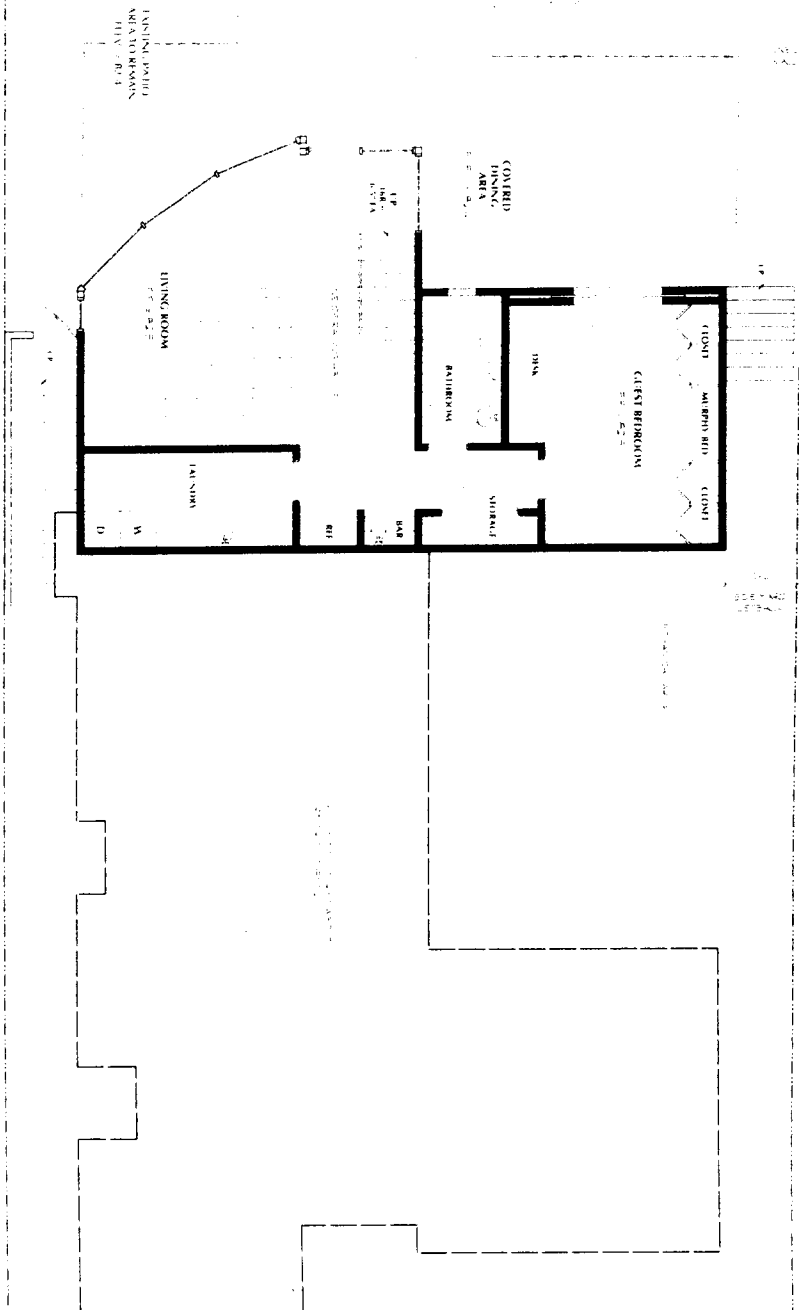
B2

PERMIT
DUDLEY
IRWIN
ARCHITECTS

A PROFESSIONAL FLOOR PLAN
DRAWN BY
RICK AND ROBIN
PAICUS
6 SOUTH LA SALLE

DRAWING NO. 1001-1001

UPPER LEVEL
FLOOR PLAN



Lower Level

B3

PAWELL
DUEY
FRITH
ARCHITECTS

A REFINISHED TOWN
HOUSE FOR
RICK AND ROBIN
PACIUS

6 SOUTH LA SINDA

TRAVELING, DON LINDEN

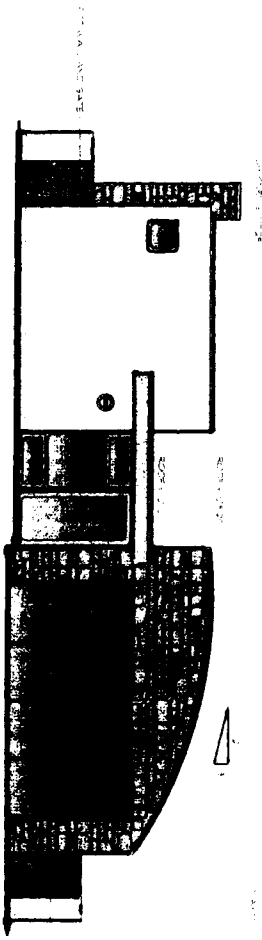
PROJECT IN ARCHITECTURE
LOWER LEVEL
FLOOR PLAN

B5

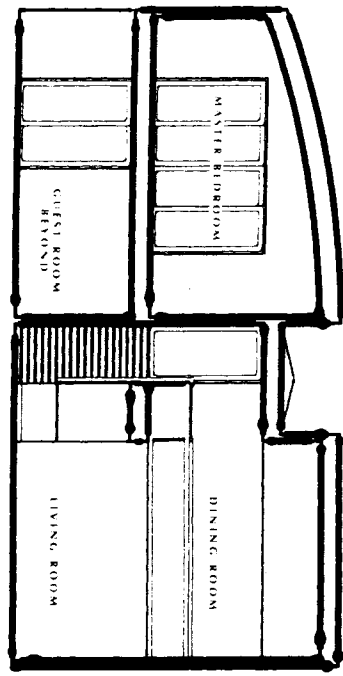
POWELL
DUDLEY
FRITH
ARCHITECTS

1000 AVENUE 100
SUITE 100
SAN FRANCISCO, CALIFORNIA 94103
TELEPHONE (415) 774-1000
FAX (415) 774-1001

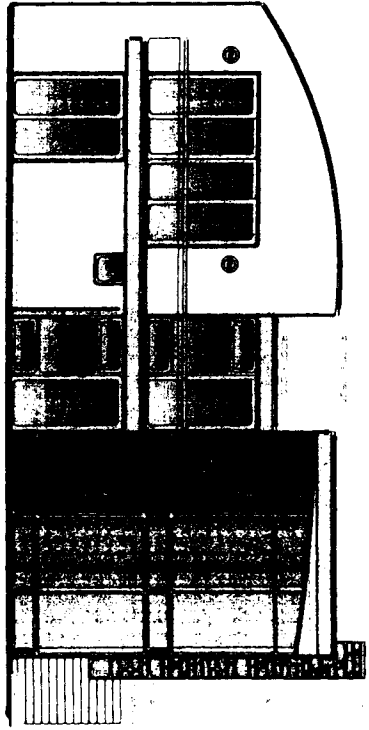
CONCEPTUAL NORTH ELEVATION



SECTION A - THRU LIVING ROOM



CONCEPTUAL SOUTH ELEVATION

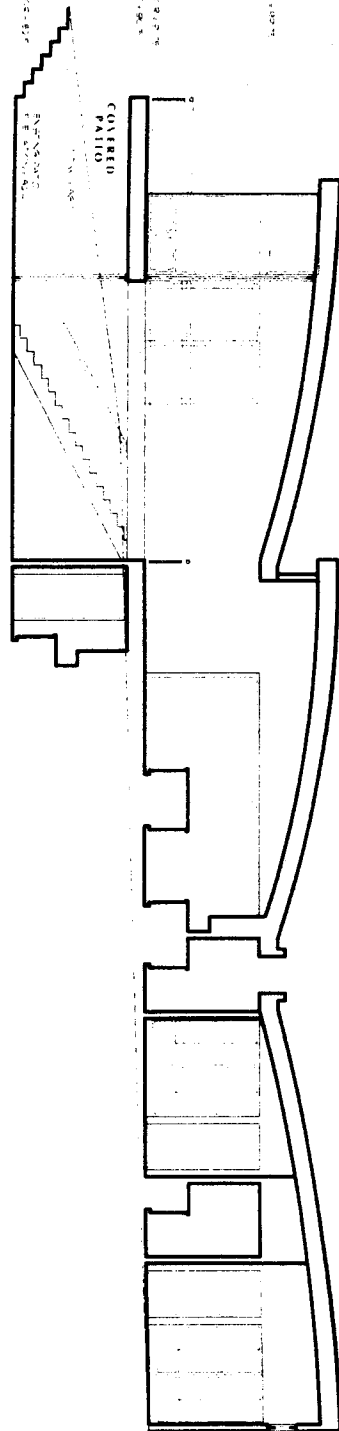


A PROPOSED FAMILY
RESIDENCE FOR
**RICK AND ROBIN
PAICUS**
IN SOUTH AFRICA

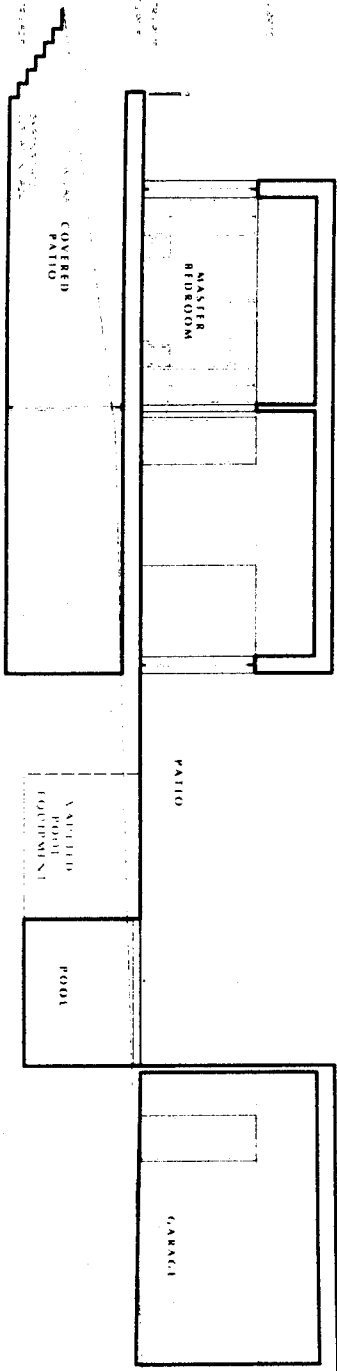
ORANGE COUNTY, CALIFORNIA

SECTION A - THRU LIVING ROOM
EXTERIOR
BUILDING
ELEVATIONS

SECTION B - THROUGH LOT MIDPOINT



SECTION C - THROUGH POOL AND PATIO



POWELL
DUDLEY
FRITH
ARCHITECTS

A PREPARED FOR
RICK AND ROBIN
PAICUS
6 SOUTH LA SENDA

SITE
SECTIONS

POWELL
DUDLEY
FRITH
ARCHITECTS

200 SOUTH COAST HWY., SUITE 200
LA JOLLA BEACH, CALIFORNIA 92037
TEL: 619.576.3076 FAX: 619.576.3078

h
STUDIO

LANDSCAPE
ARCHITECTURE
STUDIO

A PROPOSED SINGLE FAMILY
RESIDENCE FOR:

**RICK AND ROBIN
PAICIUS**

6 SOUTH LA SENDA

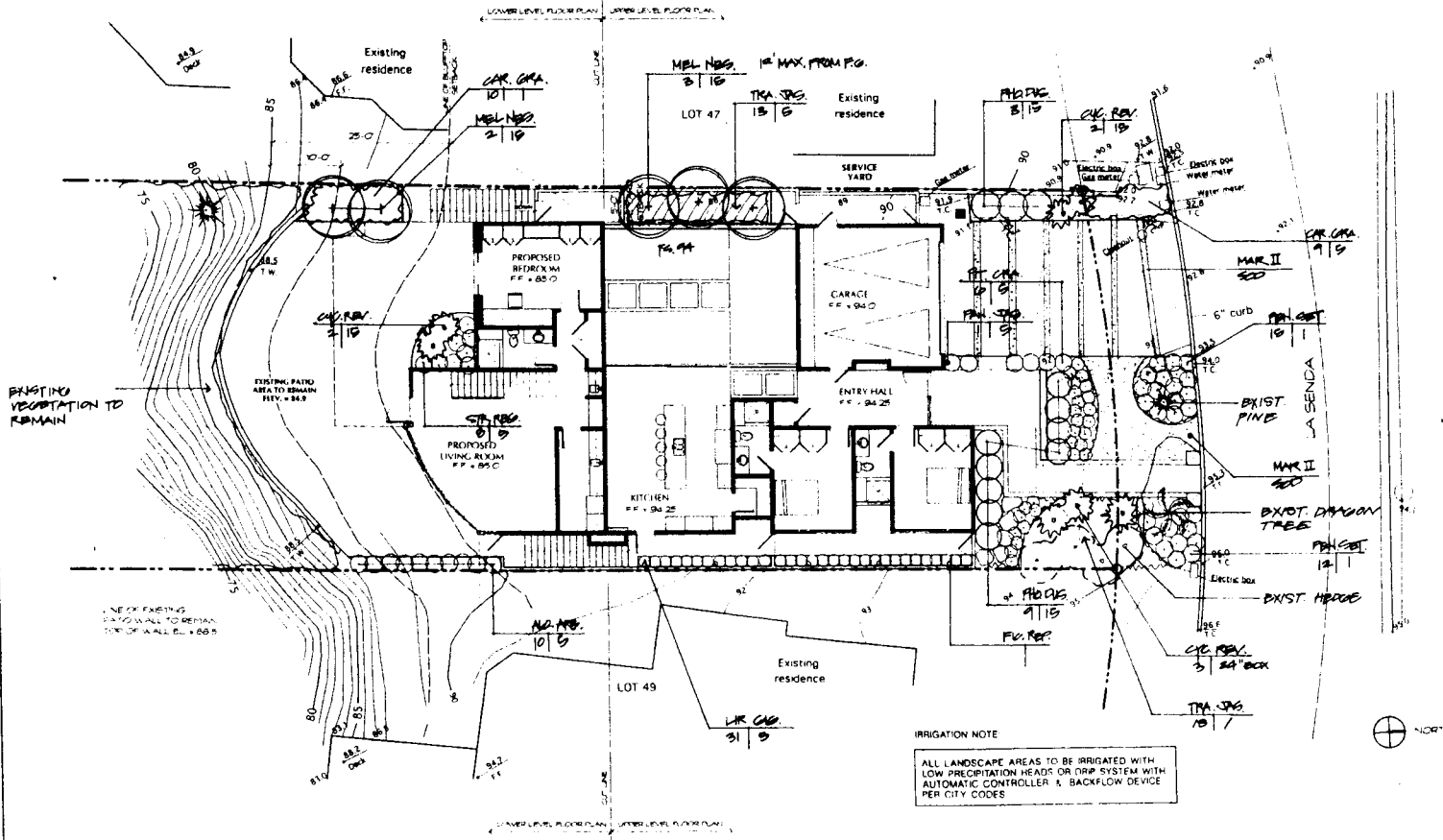
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2/28/05 PRELIMINARY 2/28/05

PROJECT NUMBER 03104

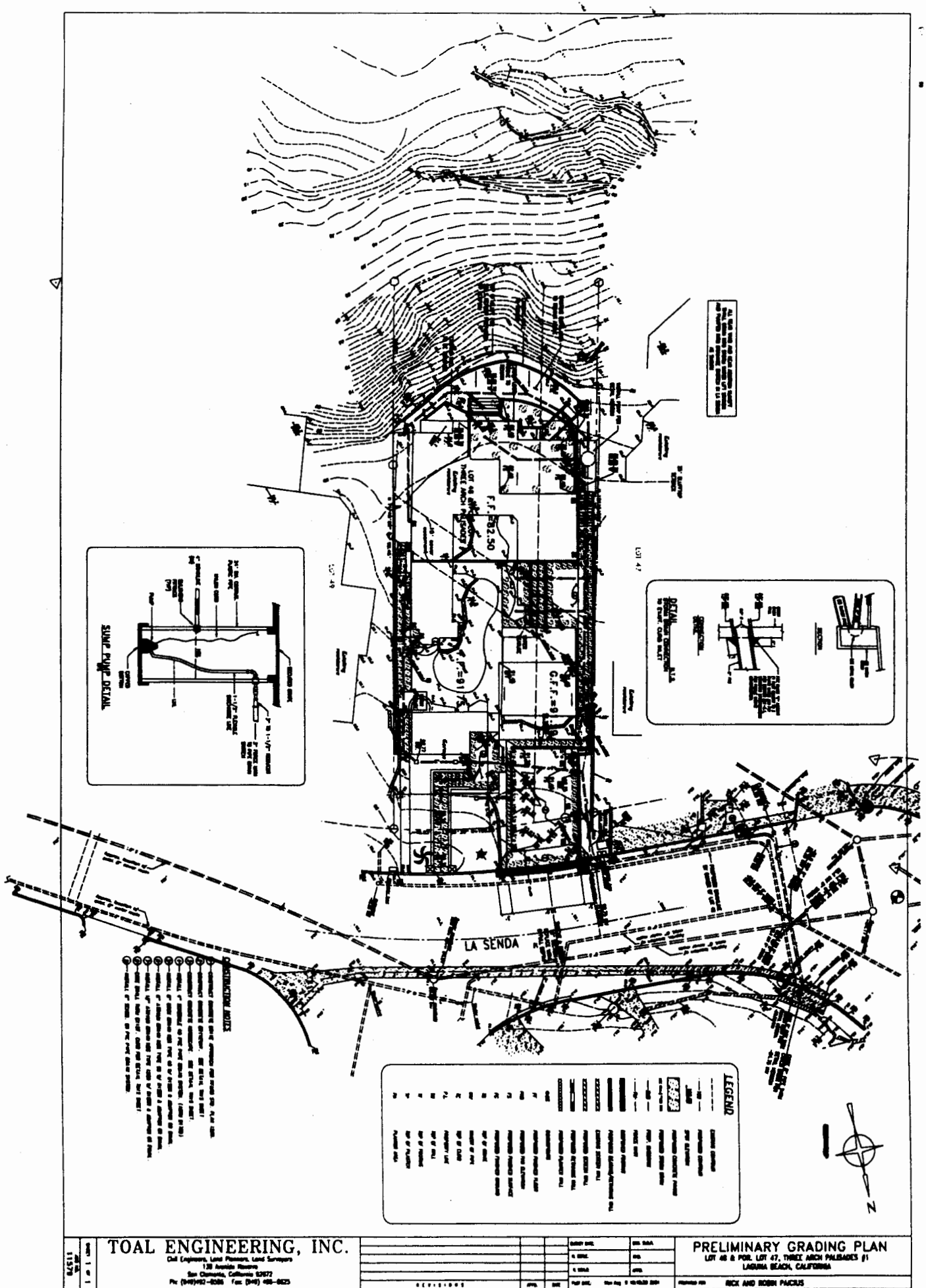
CONCEPTUAL
LANDSCAPE PLAN

8

Landscape Plan

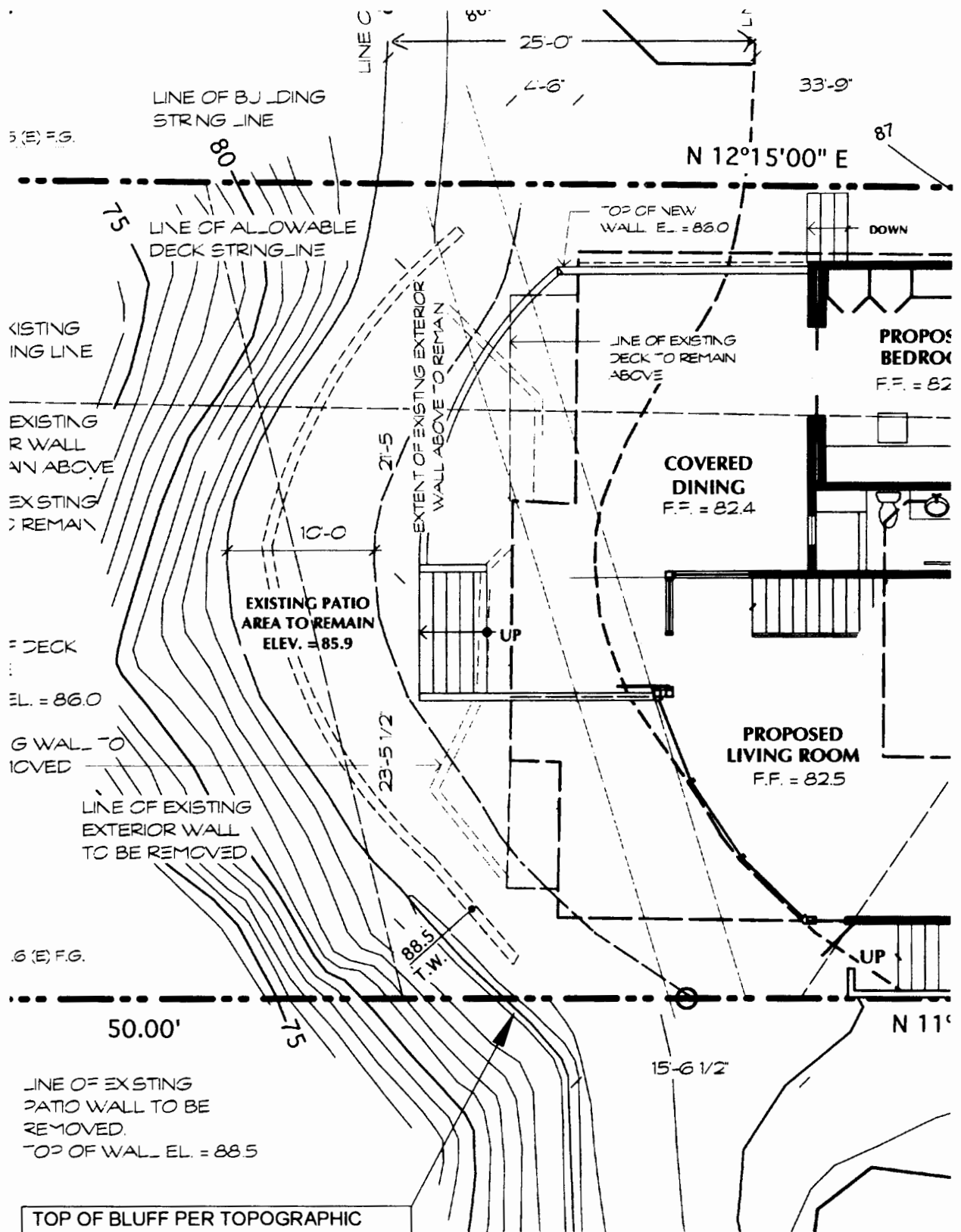


NOTE:
THIS SITE PLAN WAS CREATED WITH NINE (9) TOTAL
REVISIONS BY A SURVEY DATED 6/1/00
PREPARED BY:
TOTAL ENGINEERING, INC.
330 AVENIDA NAVARRO
SAN Geronimo, CA 92072
(619) 495-0825



Drainage Plan

B 8



SCALE: 1"=10'

COASTAL COMMISSION

5-04-205

EXHIBIT # C
PAGE 1 OF 1

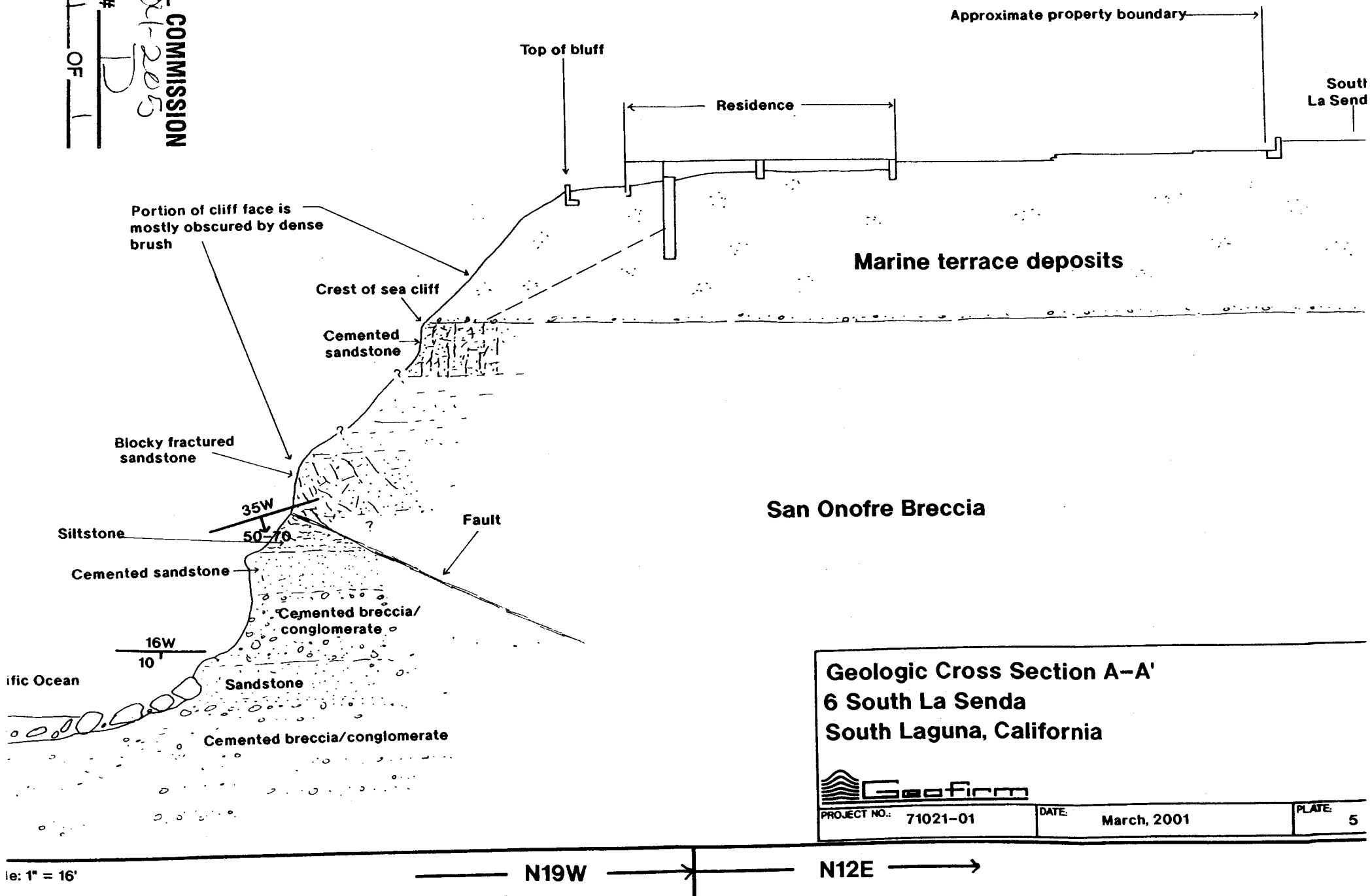
TOP OF BLUFF SETBACK
6 SOUTH LA SENDA
LAGUNA BEACH, CA



Project no: 71415-01

Date: AUGUST 2004

Figure: 1



Upper Level Floor Plan

EXISTING
ING LINE

LINE OF EXISTING
DECK WALL
TO REMAIN

LINE OF EXISTING
EXTERIOR WALL
TO REMAIN

21'-5"
EXTENT OF EXISTING
EXTERIOR WALL TO REMAIN

approximate
location of 25'
setback from
bluff edge

4'-0"

19'-5 1/2"

LINE OF EXISTING
EXTERIOR WALL
TO BE REMOVED

EXISTING
DECK TO
REMAIN

CLOSET

CLOSET

TOILET

TV

MASTER
BEDROOM

F.F. = 91.75

VANITY

SINK

LINE OF CEILING
TRANSITION
ABOVE

DECK

ELEV. = 91.75

CLOSET

CLOS

BRIDGE

OPEN TO
LIVING ROOM
BELOW

COASTAL COMMISSION

5-01-205

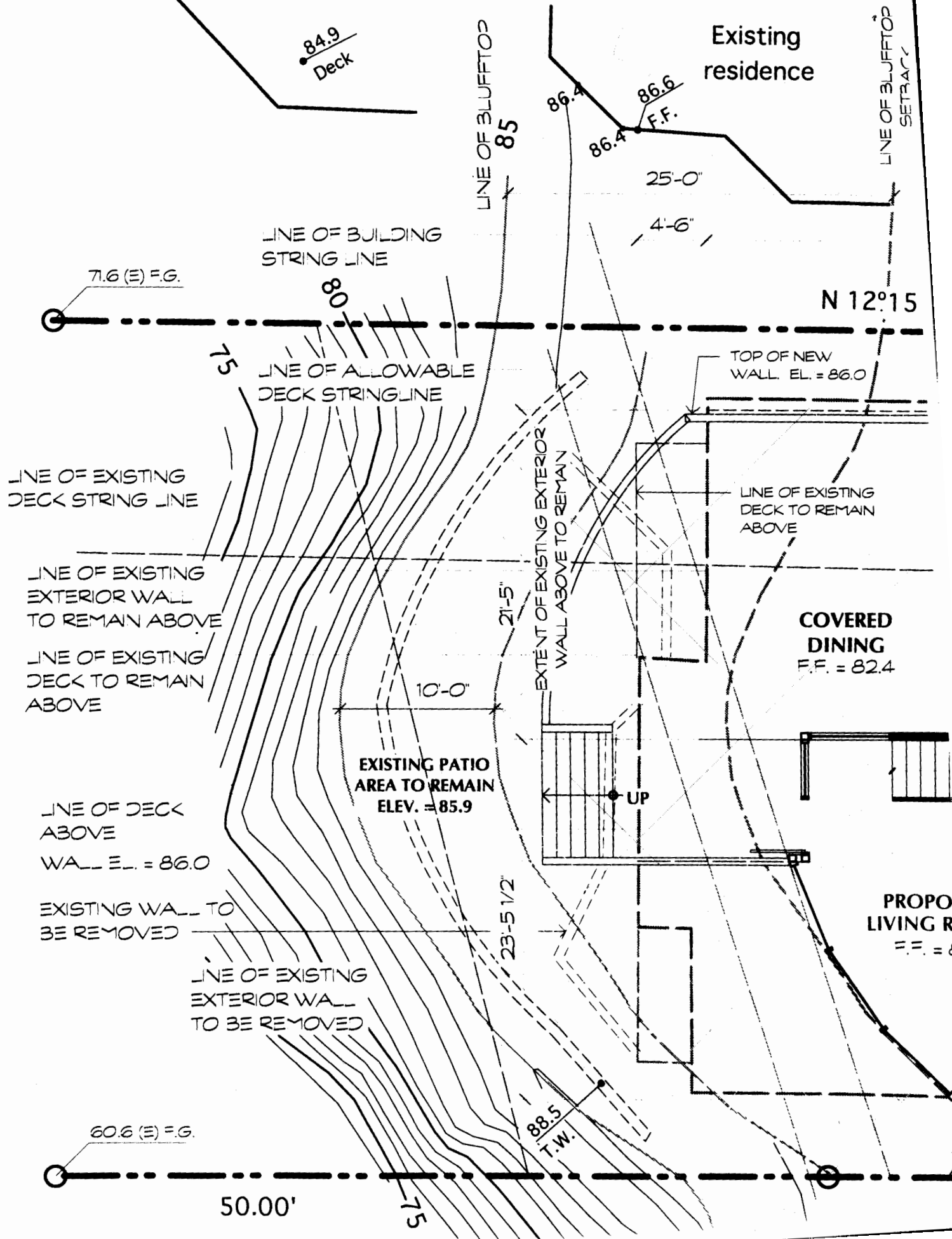
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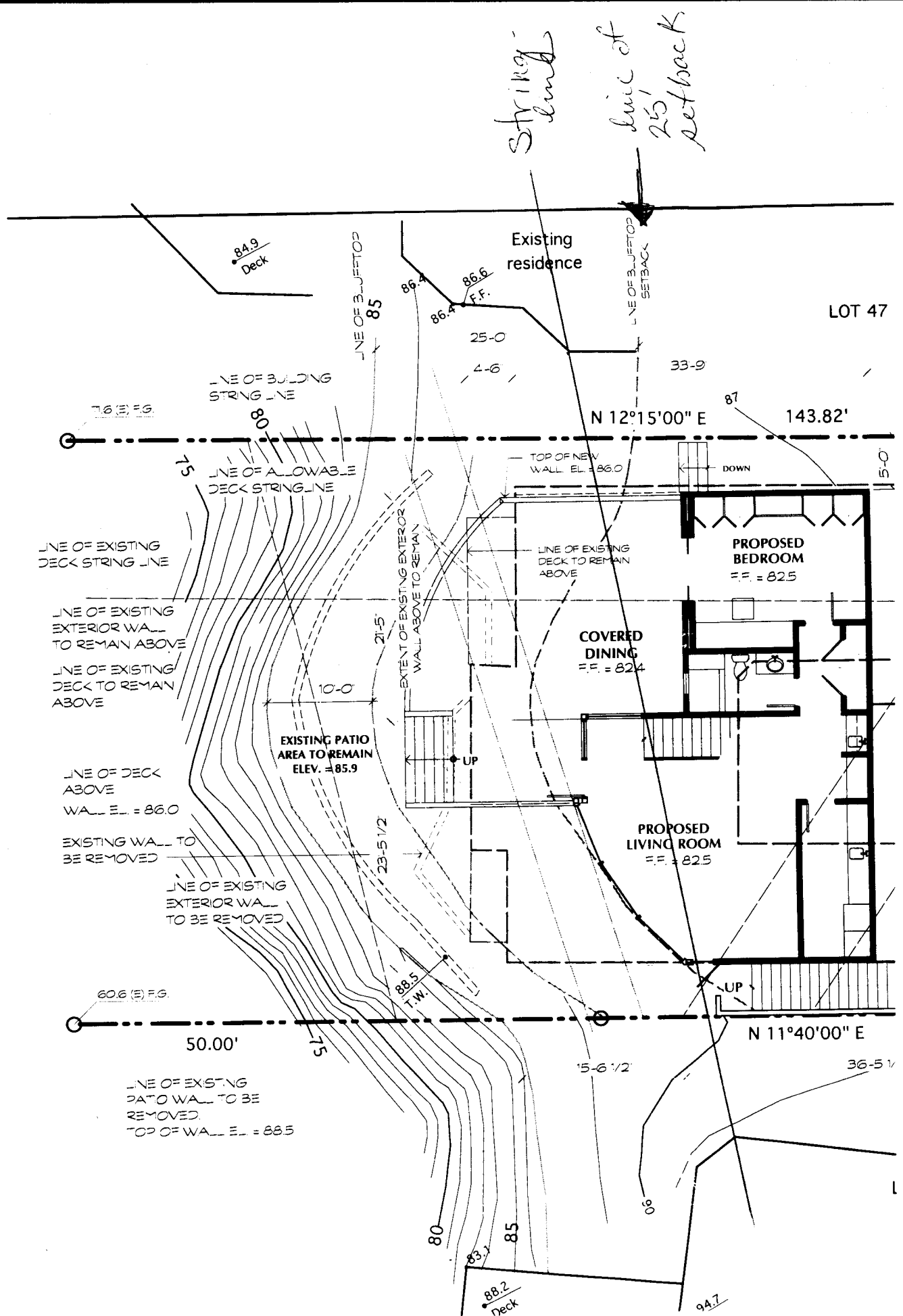
PAGE 1 OF 1

← ocean land →

15-04-2010

Exhibit





15-04-2015

Exhibit G

