

CALIFORNIA COASTAL COMMISSION

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



Filed: 10/14/04
 49th Day: 12/2/04
 180th Day: 4/12/05
 Staff: MV-LB
 Staff Report: 12/16/04
 Hearing Date: 1/12-14/05
 Commission Action:

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RECORD PACKET COPY

STAFF REPORT: REGULAR CALENDAR

APPLICATION NUMBER: 5-04-368

APPLICANT: Bruce Del Mar

AGENT: Glen Gellatly, Bissell Architects

PROJECT LOCATION: 2471 Riviera Drive, Irvine Cove, Laguna Beach, Orange County

PROJECT DESCRIPTION: Addition of 705 square feet to an existing 5,407 square foot, two level, 14 feet above centerline of frontage road (no change to existing height), single family residence with an existing, attached 720 square foot, three car garage. The subject site is a beach front lot. A portion of the proposed addition would extend approximately 1' 4" seaward of seawardmost portion of existing enclosed living area.

Lot Area:	16,200 square feet
Building Coverage:	6,458 square feet
Pavement Coverage:	6,442 square feet
Landscape Coverage:	3,300 square feet
Parking Spaces:	3
Zoning:	R-1
Ht above frontage street:	14 feet

SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending approval of the proposed project subject to four special conditions which are necessary to assure that the project conforms with Section 30253 of the Coastal Act regarding hazard, and with Section 30251 regarding landform alteration and visual quality. Special Condition No. 1 limits seaward encroachment of proposed development; Special Condition No. 2 prohibits future shoreline/bluff protection devices; Special Condition No. 3 requires that the applicant assume the risk of developing on an oceanfront site; Special Condition No. 4 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 setback.

LOCAL APPROVALS RECEIVED: City of Laguna Beach Approval in Concept, dated 9/3/04; Irvine Cove Community Association Architectural Committee approval, dated 5/26/04.

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit No. P-7068 (Del Mar); 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. 5-04-368 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. No enclosed living area shall extend any further seaward than the seaward extent of existing enclosed living area, as generally depicted on Exhibit F. Development shall be modified as necessary to meet this requirement.
- 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 legally required.

2. 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. 5-04-368 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.

3. **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.

4. 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 addition of 705 square feet to an existing 5407 square foot, two level, 14 feet above centerline of frontage road (no change to existing height), single family residence with an existing, attached 720 square foot, three car garage. The subject site is a sloping, beach front lot. A portion of the proposed enclosed living area addition would extend approximately 1' 4" seaward of seaward extent of existing enclosed living area.

The proposed project is a minor expansion of the existing footprint, so this project will not impact the existing drainage pattern of the site. The Commission approved the existing residence and related patio development pursuant to coastal development permit P-7068.

The subject site is located within the locked gate community of Irvine Cove 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 Irvine Cove 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 Irvine Cove 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 Crystal Cove State Park approximately three quarters of a mile upcoast of the site.

B. Setback

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 a beach front lot. The mean high tide line is located approximately 115 feet seaward of the seaward property line. The lot itself slopes more or less gently from Riviera Drive (elevation approximately 97 feet) to the beach below (elevation at base of property line approximately 63 feet) over a distance of approximately 127 feet (approximate average length of lot). The existing residence is gently terraced down the slope.

The applicant is proposing additions to the existing residence, including additions at the seaward side of the home. An expansion of enclosed living area is also proposed within an existing interior courtyard. The remaining enclosed living area additions are proposed at the seaward side of the existing residence and consist of an approximately 78 square foot addition at the upper level and an approximately 568 square foot addition at the lower level. The proposed upper level addition will be set well back from the existing seaward-most wall (approximately 15 feet). However, the proposed lower level addition will extend approximately 1 foot 4 inches beyond the seaward most extent of existing enclosed living area (see exhibit F).

Section 30253 of the Coastal Act requires that risks and geologic instability be minimized. The subject site is located on a sloping, beach front lot. Presently, there is a wide sandy beach between the subject site and the ocean. This wide sandy beach currently provides homes and other structures in the area some protection against wave uprush and flooding hazards. Setting development back from the beachfront can substantially decrease risk because the further from the beach development is located, the less likely it is that development may become jeopardized. Likewise, setbacks decrease the likelihood of geologic instability. By limiting seaward development, site 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 beach decreases the project's visibility from the beach and as seen from the water. For these reasons, the Commission typically imposes some type of beach front set back.

Most of the proposed development will extend no further seaward than existing development on the subject site. The proposed patio development, including the jacuzzi terrace, will be landward of other, existing patio development at the site. In addition, the majority of the proposed enclosed living area additions will be landward of existing development at the project site. The proposed development is typical of development in the surrounding area. However, a small portion of the proposed lower level addition would extend approximately one foot, four inches beyond the existing limits of seaward development. The Commission typically imposes setbacks on beach fronting lots in order to minimize risks and visual impacts, as well as to provide consistency between neighboring developments. In this case, if the lower level addition were reduced by one foot, four inches on the seaward side, these typical setback requirements would be met. The applicant would still be able to add 13 feet seaward at the lower level. This would allow approximately 519 square feet of enclosed living area to be added to the lower level (proposed lower level addition is 568 square feet). Thus the lower level addition, as conditioned, would still provide viable living area.

Therefore, as a condition of approval, the project shall be modified such that the enclosed living area addition shall extend no further seaward than existing enclosed living area at the site (as depicted on Exhibit F).

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 scenic coastal views be protected and geologic stability be assured.

C. Future Protective Device

Development adjacent to the ocean is inherently hazardous. Development which may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon, among other things, public access, visual resources and shoreline processes. To minimize the project's impact on shoreline processes, and to minimize risks to life and property, the development has been conditioned to: comply with an appropriate set-back from the water; prohibit construction of protective devices (such as

a seawall) in the future; and to require that the landowner and any successor-in-interest assume the risk of undertaking the development. As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

D. Deed Restriction

To ensure that any prospective future owners of the residential property that is the subject of this permit are made aware of the applicability of the conditions of this permit, the Commission imposes one additional condition requiring that the property owner record a deed restriction against the residential property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the residential property. Thus, as conditioned, any prospective future owner of the residential property will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

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, additions to an existing 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

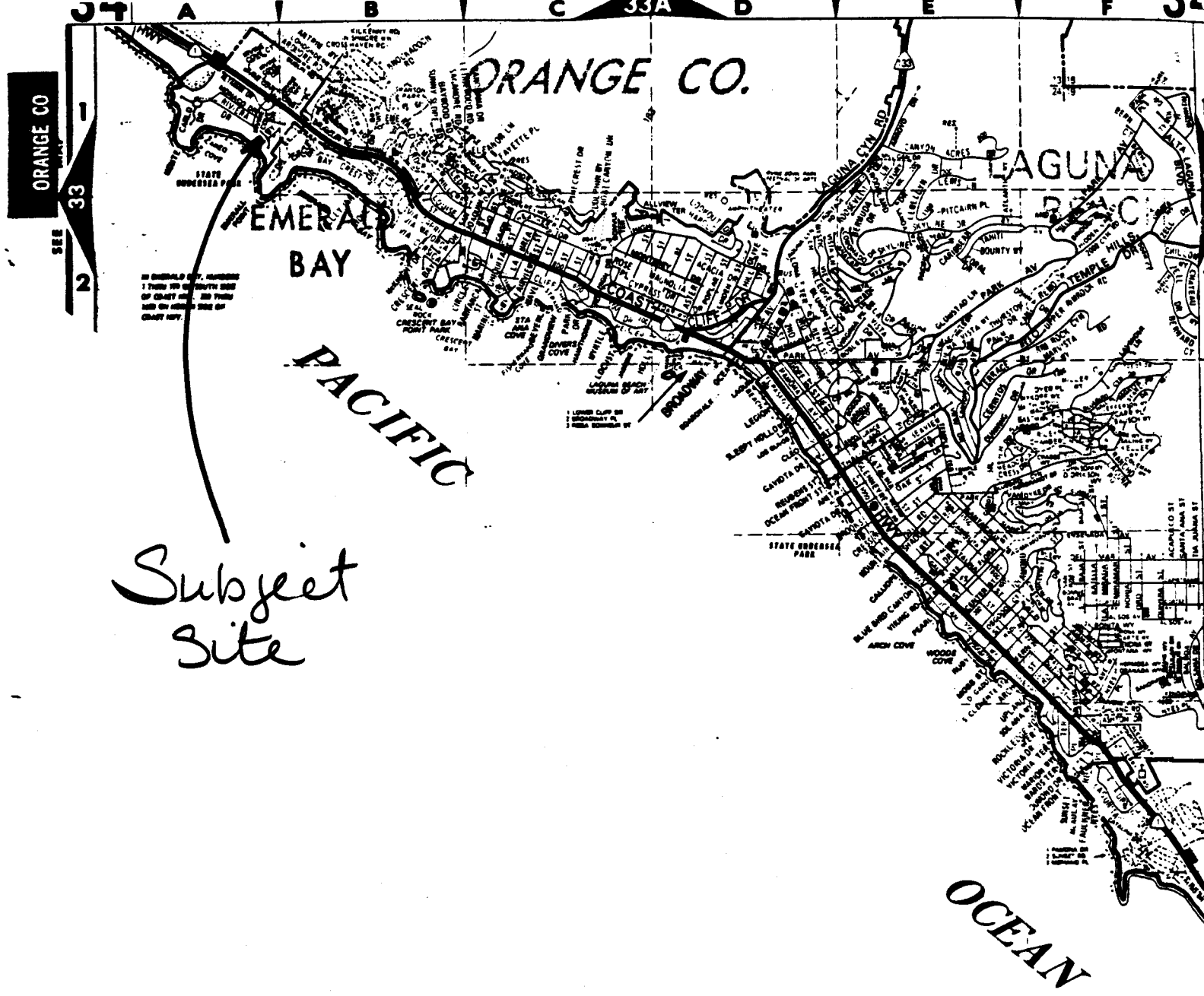
modification had been properly accepted and the City assumed permit issuing authority at that time.

The subject site is located within the Irvine Cove 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 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.

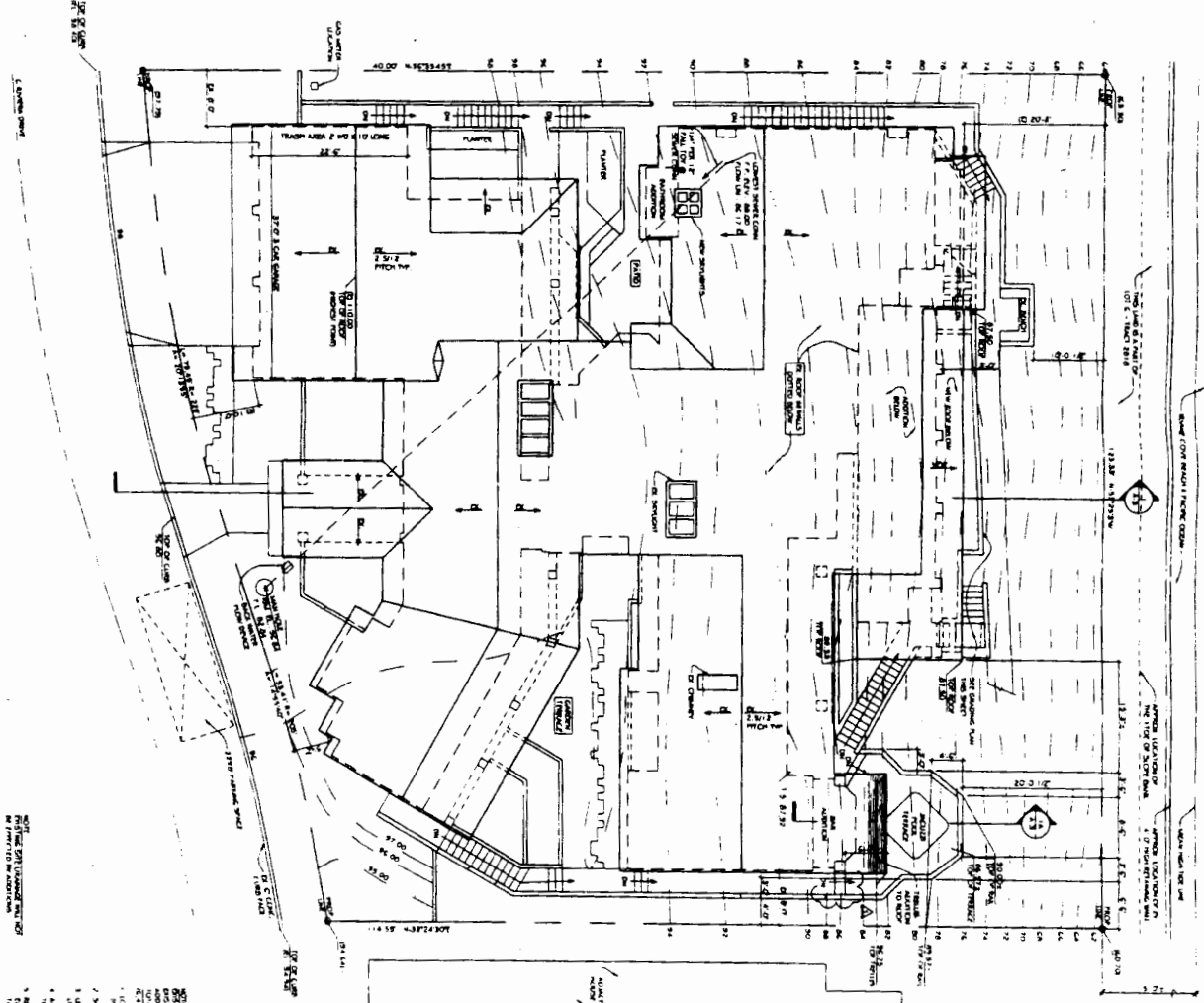


Subject Site

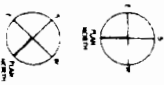
EXHIBIT NO. A
APPLICATION NO.
5-04-368
California Coastal Commission

VICINITY MAP

SITE PLAN W/ EXISTING ROOF PLAN AND ADDITIONS SHOWN



1. EXISTING ROOF PLAN
 2. PROPOSED ADDITIONS
 3. EXISTING POOL
 4. PROPOSED POOL
 5. EXISTING DRIVEWAY
 6. PROPOSED DRIVEWAY
 7. EXISTING PATIO
 8. PROPOSED PATIO
 9. EXISTING PORCH
 10. PROPOSED PORCH
 11. EXISTING STAIRS
 12. PROPOSED STAIRS
 13. EXISTING WALKWAYS
 14. PROPOSED WALKWAYS
 15. EXISTING FENCES
 16. PROPOSED FENCES
 17. EXISTING UTILITY LINES
 18. PROPOSED UTILITY LINES
 19. EXISTING LANDSCAPE
 20. PROPOSED LANDSCAPE
 21. EXISTING SIGNAGE
 22. PROPOSED SIGNAGE
 23. EXISTING DRIVEWAY
 24. PROPOSED DRIVEWAY
 25. EXISTING PATIO
 26. PROPOSED PATIO
 27. EXISTING PORCH
 28. PROPOSED PORCH
 29. EXISTING STAIRS
 30. PROPOSED STAIRS
 31. EXISTING WALKWAYS
 32. PROPOSED WALKWAYS
 33. EXISTING FENCES
 34. PROPOSED FENCES
 35. EXISTING UTILITY LINES
 36. PROPOSED UTILITY LINES
 37. EXISTING LANDSCAPE
 38. PROPOSED LANDSCAPE
 39. EXISTING SIGNAGE
 40. PROPOSED SIGNAGE



PROPOSED ADDITIONS FOR
BRUCE DEL MAR RESIDENCE

2471 WILSON DR. LAGUNA BEACH, CA 92653
 TEL: 949-491-1111



3000 W. LINDEN AVENUE, SUITE 1000, COSTA MESA, CA 92626
 TEL: 949-440-1111

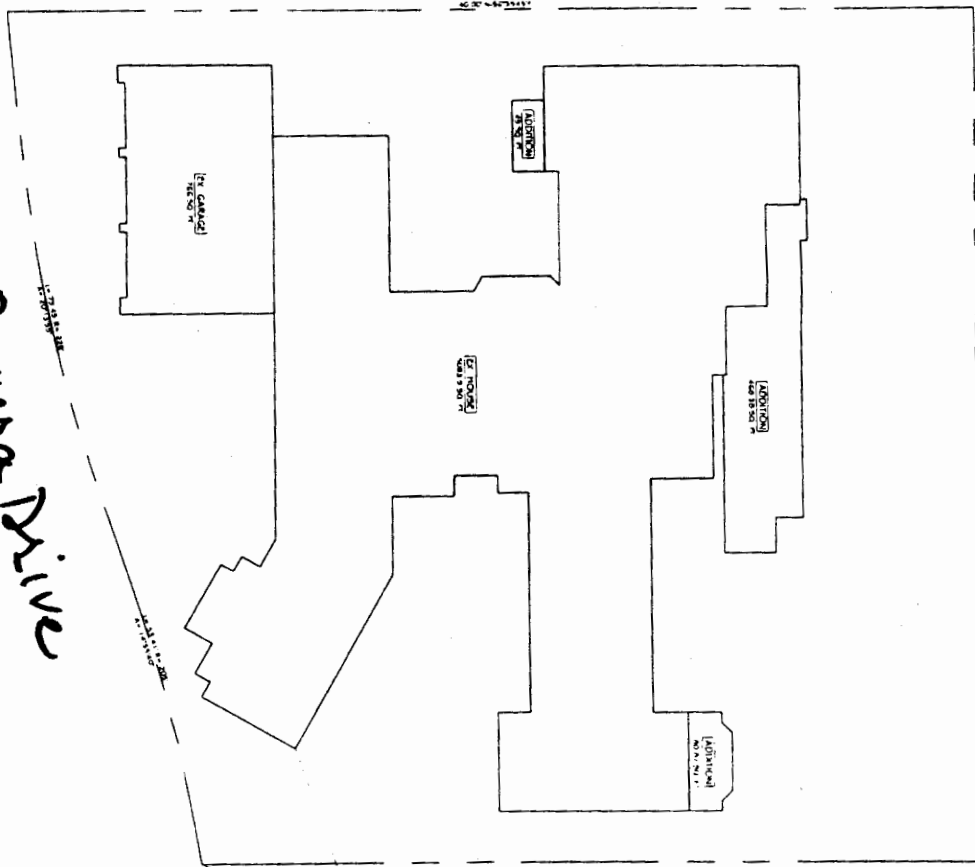
5-04-368

Site Plan

Exhibit B

Rivera Drive

Beach



Site Plan Additions

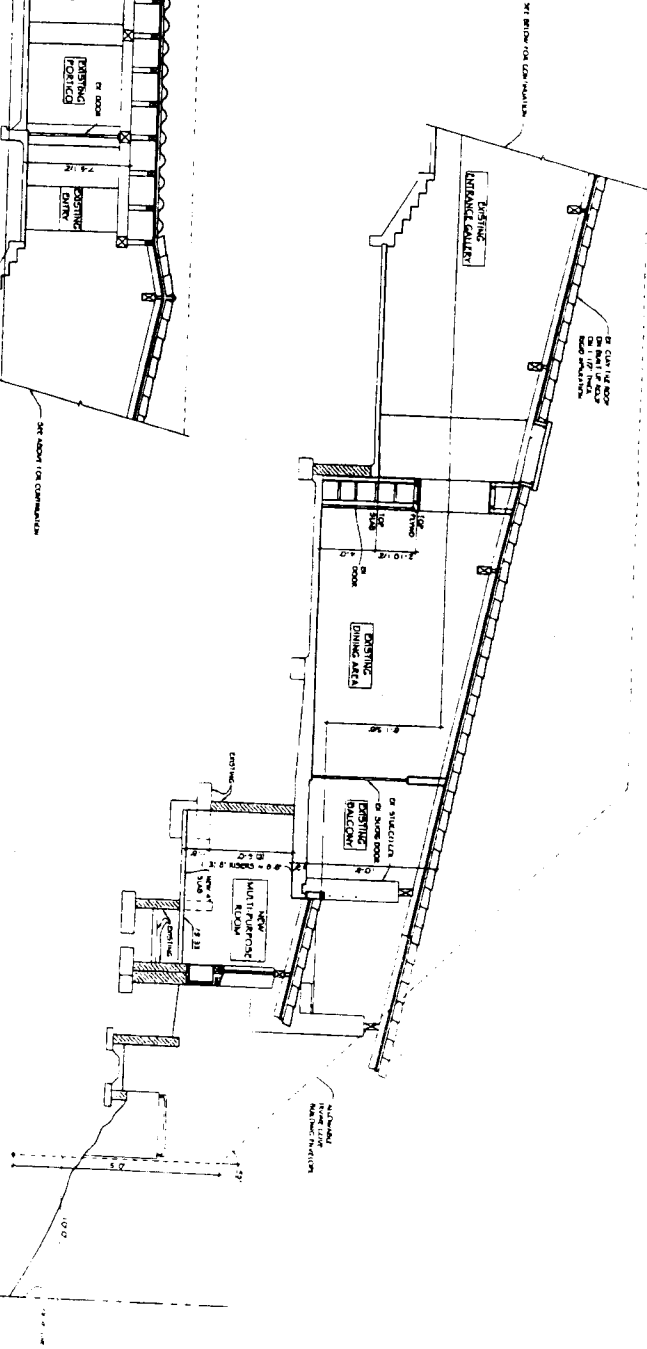
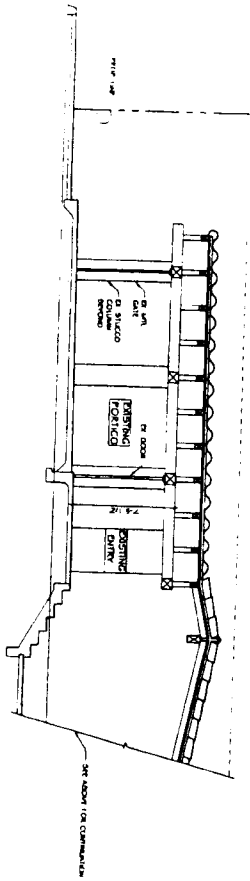
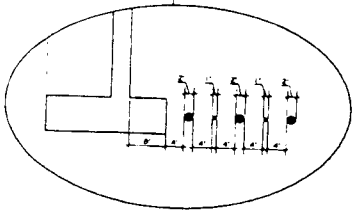
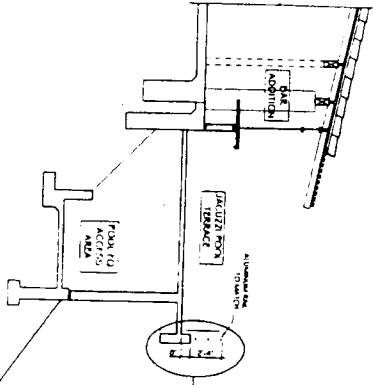
5-04-368

Exhibit C



1. Proposed ADA
 2. Street front edge of driveway (1)
 3. Street front edge of driveway (2)
 4. Street front edge of driveway (3)
 5. Street front edge of driveway (4)
 6. Street front edge of driveway (5)
 7. Street front edge of driveway (6)
 8. Street front edge of driveway (7)
 9. Street front edge of driveway (8)
 10. Street front edge of driveway (9)

SECTION A-31



Cross Section Plan

5-04-368

Exhibit

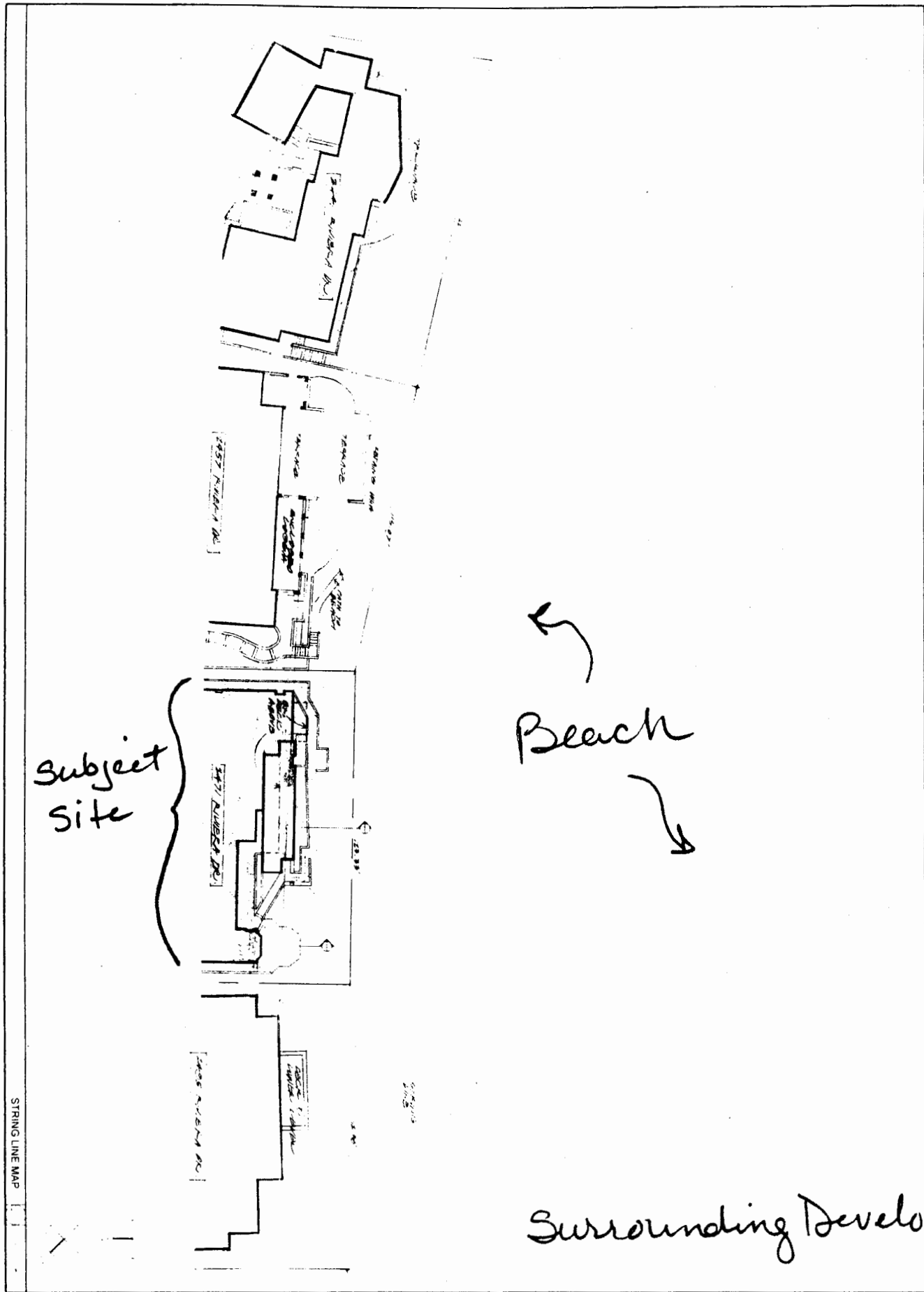
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PROPOSED ADDITIONS FOR
BRUCE DEL MAR RESIDENCE

Bessel Architects

3422 Via Loma, Newport Beach, California 92660 (949) 875-9961 Fax: (949) 477-4792

NO.	DATE	REVISION
1	12/18/88	ISSUED FOR PERMITS
2	01/15/89	REVISED PER COMMENTS
3	02/15/89	REVISED PER COMMENTS
4	03/15/89	REVISED PER COMMENTS
5	04/15/89	REVISED PER COMMENTS
6	05/15/89	REVISED PER COMMENTS
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98	01/15/97	REVISED PER COMMENTS
99	02/15/97	REVISED PER COMMENTS
100	03/15/97	REVISED PER COMMENTS



STRING LINE MAP

A-12

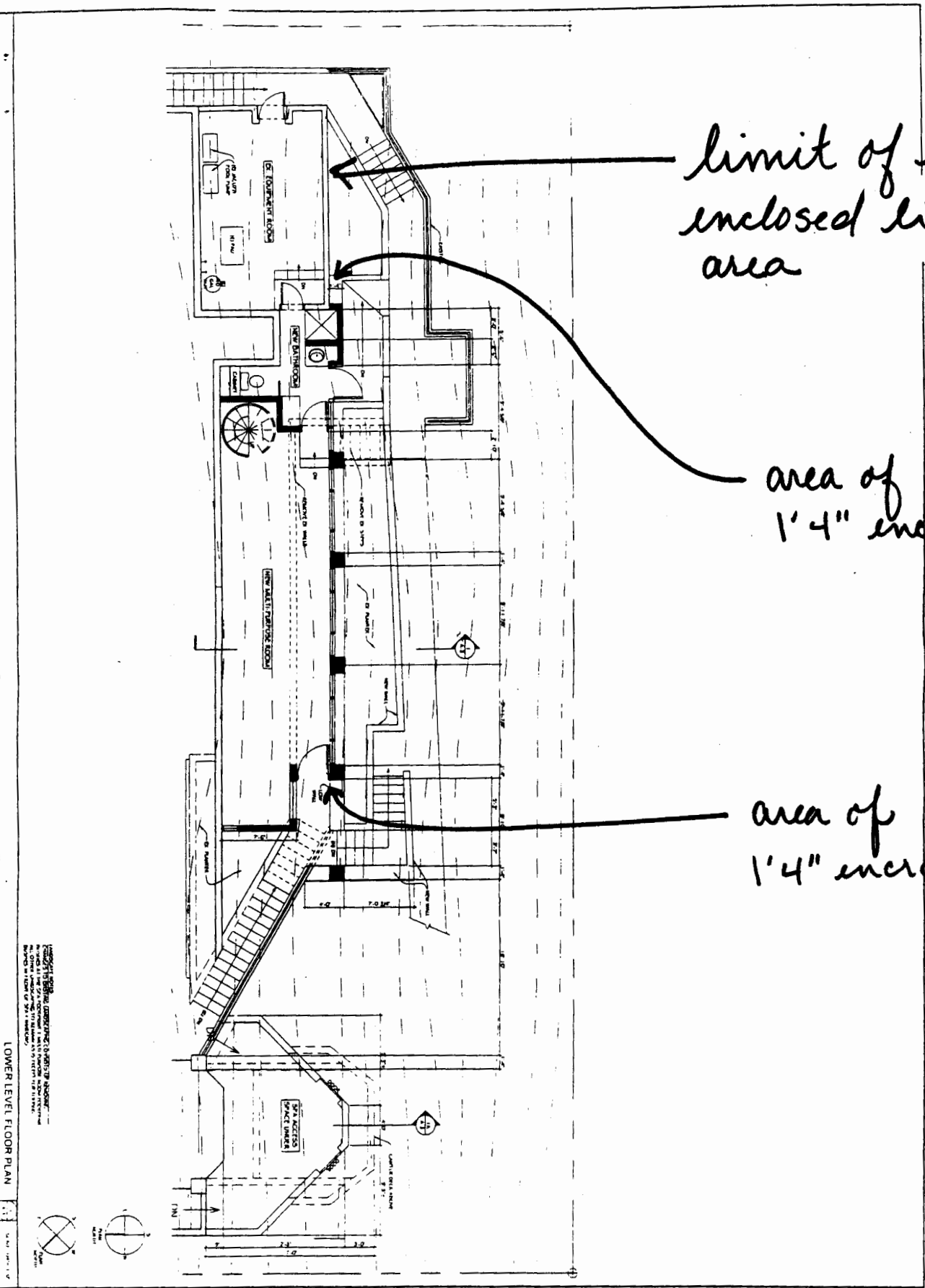
PROPOSED ADDITIONS FOR
BRUCE DEL MAR RESIDENCE

ARCHITECT: [Illegible]
 DATE: [Illegible]

NO.	REVISION

5-04-368

Exhibit E



limit of existing enclosed living area

area of 1'4" encroachment

area of 1'4" encroachment

LOWER LEVEL FLOOR PLAN

A-3 1/8" = 1'-0"	PROPOSED ADDITIONS FOR BRUCE DEL MAR RESIDENCE	2471 PINNACLES ON LASOLLA BEACH, CA 92661 TEL: 949 497-1514	Blesof Architects 1122 THE LANE, ANAHEIM BRANCH, CALIFORNIA 92805 (949) 497-1514 FAX: (949) 497-1514	SHEET NO. 10	TOTAL SHEETS 12
	DATE 08/11/03	DRAWN BY J. B. BLESOF	CHECKED BY J. B. BLESOF	SCALE AS SHOWN	PROJECT NO. 03-01

5-04-368

Exhibit F

