

**CALIFORNIA COASTAL COMMISSION**

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Staff: Ryan Todaro-LB  
Staff Report: December 15, 2006  
Hearing Date: January 10-12, 2007  
Commission Action:

**W14e****STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NUMBER:** 5-06-195

**APPLICANT:** Mike Hayden

**PROJECT LOCATION:** 14 South La Senda Drive, Laguna Beach, Three Arch Bay, Orange County

**PROJECT DESCRIPTION:** Demolition of an existing single-family residence and attached garage and construction of a new two-story, 4,200 square foot single-family residence with an attached 550 square foot two-car garage, hardscape improvements, pool, spa and landscaping on a bluff top lot.

**SUMMARY OF STAFF RECOMMENDATION:**

Commission staff is recommending **APPROVAL** of the proposed project with **Eight (8) Special Conditions** regarding: **1)** assumption of risk; **2)** no future blufftop or shoreline protective devices; **3)** additional approvals for any future development; **4)** conformance with submitted drainage and run-off control plan; **5)** conformance with submitted landscape plan; **6)** an existing non-conforming terrace; **7)** conformance with geotechnical recommendations; **8)** a deed restriction against the property, referencing all of the Special Conditions contained in this staff report. The primary issues associated with this development are blufftop development, water quality, landscaping and a non-conforming terrace located in the setback area, which would remain in place.

**SUBSTANTIVE FILE DOCUMENTS:** Preliminary Geotechnical Investigation For Proposed Single-Family Residence 14 South La Senda, South Laguna, California, prepared by GeoFirm, dated September 15, 2004, Geotechnical Review of Lower Patio 14 South La Senda, Three Arch Bay, South Laguna, California, prepared by GeoFirm, dated December 7, 2006, City of Laguna Beach certified Local Coastal Program (as guidance only), Coastal Development Permits 5-05-303, 5-05-459, 5-06-165.

**LOCAL APPROVALS RECEIVED:** City of Laguna Beach Approval in Concept, dated 5/9/06.

**LIST OF EXHIBITS**

1. Location Map
2. Assessor's Parcel Map
3. Site Plan

4. Elevations
5. Geotechnical Review of Lower Patio (letter from applicant's geologist)

**STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolution to **APPROVE** the coastal development permit application with special conditions:

**MOTION:**                    *I move that the Commission approve Coastal Development Permit No. 5-06-195 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.

**I.        Resolution: Approval with Conditions**

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. Assumption of Risk, Waiver of Liability and Indemnity

By acceptance of this permit, the applicant acknowledge and agree (i) that the site may be subject to hazards from bluff and slope instability, erosion, landslides and wave uprush; (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.

#### 2. No Future Blufftop or Shoreline Protective Devices

- A. By acceptance of this Permit, the applicant agrees, on behalf of themselves and all other successors and assigns, that no bluff protective device(s) or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-06-195 including, but not limited to, the residence and hardscape and any future improvements, in the event that the development is threatened with damage or destruction from bluff and slope instability, erosion, landslides, wave uprush, storm conditions or other natural hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of himself 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 himself and all successors and assigns, that the landowner shall remove the development authorized by this permit, including the residence and hardscape, if any government agency has ordered that the structure(s) is/are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.
- C. In the event the edge of the bluff recedes to within ten (10) feet of the principal residence but no government agency has ordered that the structures are not to 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 bluff and slope instability, erosion, landslides or other natural hazards. The report shall identify all those immediate or potential future measures that could stabilize the principal residence without 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. Future Development**

This permit is only for the development described in Coastal Development Permit No. 5-06-195. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by Coastal Development Permit No. 5-06-195. Accordingly, any future improvements to the single-family house authorized by this permit, including but not limited to improvements to the residence, hardscape, change in use from a permanent residential unit and repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-06-195 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

**4. Drainage and Run-Off Control Plan**

- A. The applicant shall conform to the drainage and run-off control plan received on May 23, 2006 showing all roof drainage and runoff directed to area collection drains and sub-drain systems on site for discharge to the street through piping without allowing water to percolate into the ground.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**5. Landscape Plan**

- A. The applicant shall conform to the landscape plan received on May 23, 2006 showing vegetated landscaped areas consisting of native plants or non-native drought tolerant plants, which are non-invasive. Local native plant stock shall be used if available. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property. Existing vegetation that does not conform to the above requirements shall be removed.

- B. No permanent in-ground irrigation systems shall be installed on site. Temporary above ground irrigation is allowed to establish plantings.
- C. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**6. Non-Conforming Terrace**

- A. No maintenance of the existing non-conforming terrace shall be permitted.
- B. The property owner shall be responsible for monitoring the condition of the non-conforming terrace over time. If the monitoring reveals that the terrace poses a threat to public safety or that the terrace can be safely removed without destabilizing the bluff, the applicant shall apply for a coastal development permit to remove the terrace.
- 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 permit unless the Executive Director determines that no amendment is legally required.

**7. Conformance with Geotechnical Recommendations**

- A. All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with all recommendations contained in the following geologic engineering investigations: Preliminary Geotechnical Investigation For Proposed Single-Family Residence 14 South La Senda, South Laguna, California, prepared by GeoFirm, dated September 15, 2004.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all the recommendations specified in the above-referenced geologic engineering report.
- 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 unless the Executive Director determines that no amendment is required.

**8. 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**

The subject site is an 18,392 square-foot, oceanfront bluff top lot, located at 14 South La Senda, Laguna Beach (Three Arch Bay), Orange County. The land use designation for this lot is Village Low Density and adjacent lots are also developed with single-family residences (Exhibit #2). The applicant proposes to demolish the existing single-family residence and attached garage and construct a new two-story, 4,200 square foot single-family residence with an attached 550 square foot two-car garage, hardscape improvements, pool, spa and landscaping on a bluff top lot (Exhibits #3 & #4).

The height of the new single-family residence would measure 26'10" from the finished grade. However, since the lot slopes away from the frontage road and south towards the ocean, the height of the new single-family residence would only measure 8'1" as measured from the frontage road (South La Senda). The applicant proposes an integrated caisson/shoring foundation system in conjunction with a deepened foundation system along the rear portions of the residential structure near the bluff. Grading will consist of approximately 1,200 cubic feet of cut.

The subject site is located within the locked gate community of Three Arch Bay in the City of Laguna Beach (see Exhibit #1). 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 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.*

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.*

The subject site is an oceanfront bluff top lot that extends south 160 to 245± feet to the rear property boundary located beyond the bluff edge. The property and immediate vicinity consist of three distinct physiographic elements: a gently seaward sloping marine terrace surface, a ragged, steep bedrock sea cliff and a rocky shoreline. The height of the bluff is approximately 70 feet. The top of the bluff is subject to direct attack by waves (i.e. there is no wide sandy beach or other natural protection for the toe of the bluff).

A preliminary geotechnical investigation was prepared for the proposed development by GeoFirm, dated September 15, 2004. The geologic report presents results and recommendations of a preliminary investigation of the property undertaken to relate onsite and certain regional geotechnical conditions to the proposed design and construction of a new single-family residence at the subject site. Analysis for this investigation was based upon the project plans and topographic maps.

**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 edge setback.

In the project vicinity, the Commission typically imposes a minimum bluff edge 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. The setback proposed in this case complies with the minimum setback the Commission typically requires.

Along with a bluff edge setback for enclosed living area, the Commission typically imposes a 10-foot bluff edge 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. The applicant's proposed hardscape/patio improvements comply with this setback. However, there is an existing, non-conforming brick terrace located towards the rear of the property, which partially encroaches into this setback area and extends towards the bluff edge. The applicant does not propose any improvements to this existing terrace. The applicant has provided photographic evidence that this terrace has been in place before the passage of the Coastal Act in 1973. Therefore, a coastal development permit was not required for its original construction. The applicant's geologist reviewed the potential impacts of removing this terrace and in a letter to the Commission dated December 7, 2006, stated that "Given the protection the patio has provided for the last 60 years, it is our opinion a removal and restoration effort could do more to accelerate the retreat and instability of the bluff top than maintaining the feature in its present location and condition." However, the Commission has imposed Special Condition #6, which does not allow maintenance of this existing non-conforming terrace and requires that the property owner shall be responsible for monitoring the condition of the non-conforming terrace over time. In addition, if the monitoring reveals that the terrace poses a threat to public safety or that the terrace can be safely removed without destabilizing the bluff, the applicant shall apply for a coastal development permit to remove the terrace.

The applicant's geologist has made a bluff edge determination (Exhibit #3). The bluff edge is the line of intersection between the steeply sloping bluff face and the flat or more gently sloping bluff top. Defining this line can be complicated for several reasons; by the presence of irregularities in the bluff edge, a rounded stepped bluff edge, a sloping bluff top, or a previous grading or development near the bluff edge. The Commission's geologist has reviewed this bluff edge determination, but has not endorsed it and further investigation, including a site visit by the Commission's geologist, could identify a different alignment. Nevertheless, given the stability of the site, the setback proposed was deemed to be adequate and a bluff edge delineation made with finer precision was found to be unnecessary.

#### Geotechnical Recommendations

Regarding the feasibility of the proposed project the geotechnical investigation prepared by GeoFirm, dated September 15, 2004 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."*



Specifically regarding bluff slope stability, the geologic consultant concludes in the geotechnical investigation prepared by GeoFirm, dated September 15, 2004:

*“The calculated factors-of-safety meet the normally accepted minimum level of 1.5, and the factor-of-safety under seismic loading also meets the accepted level of 1.1.”*

The geologic consultant has found that the subject site is suitable for the proposed development provided the recommendations contained in the geotechnical investigation prepared by the consultant are implemented in design and construction of the project. Adherence to the recommendations contained in the above-mentioned geotechnical investigation is necessary to ensure that the proposed project assures stability and structural integrity, and neither creates nor contributes significantly to erosion, geologic instability, or destruction of the site or surrounding area. Therefore, Special Condition #7 requires that the applicant conform to the geotechnical recommendations in the above mentioned geotechnical investigation.

#### 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 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. 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.

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:

*“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.”*

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, 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 #2, 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 Special Condition #1, 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. The proposed project’s plans indicate that all roof drainage and runoff will be

directed to area collection drains and sub-drain systems on site for discharge to the street. 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. The applicant's plans also included a landscape plan which shows all vegetated landscaped areas only consisting of native plants or non-native drought tolerant plants, which are non-invasive. Water on site can be reduced by limiting permanent irrigation systems. Consequently, irrigation must be limited to temporary irrigation only as needed to establish plants. Therefore, the Commission imposes Special Condition #5, 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.

In addition, to further decrease the potential for bluff instability, deep-rooted, low water use, plants should be selected for general landscaping purposes in order to minimize irrigation requirements and 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 only includes native plants or non-native drought tolerant plants, which are non-invasive. Therefore, as a condition of approval, the applicant is required to comply with the submitted landscape plan.

#### 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. DEVELOPMENT**

The development is located within an existing developed area and is compatible with the character and scale of the surrounding area. However, the proposed project raises concerns that future development of the project site potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act. To assure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission imposes Special Condition #3, which requires either an amendment or an additional coastal development permit from the Commission for any future improvements to the single-family residence not authorized by this permit.

#### **D. PUBLIC ACCESS**

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 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. As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed

development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

**E. WATER QUALITY**

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act states:

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

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. Due to the potential for increased hazards in blufftop areas, which could be caused by encouraging water infiltration for water quality purposes, maximizing on site retention of drainage is not required. The project plans submitted by the applicant included a drainage and run-off control plan showing all roof drainage and runoff directed to area collection drains and sub-drain systems on site for discharge to the street. As mentioned above, the applicant's plans also included a landscape plan which shows all vegetated landscaped areas consisting of native plants or non-native drought tolerant plants, which are non-invasive. The Commission imposes Special Condition #4, which requires the applicant to conform to the submitted drainage and run-off control plan and Special Condition #5, which requires the applicant to conform to the submitted landscape plan.

The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, the use of non-invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site, and for the use of post-construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms to Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

**F. DEED RESTRICTION**

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes Special Condition #8, which requires that the property owner record a deed restriction against the 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 Property. Thus, as conditioned, this permit ensures that any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development, including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

**G. LOCAL COASTAL PROGRAM**

Section 30604 (a) of the Coastal Act states:

*Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).*

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.

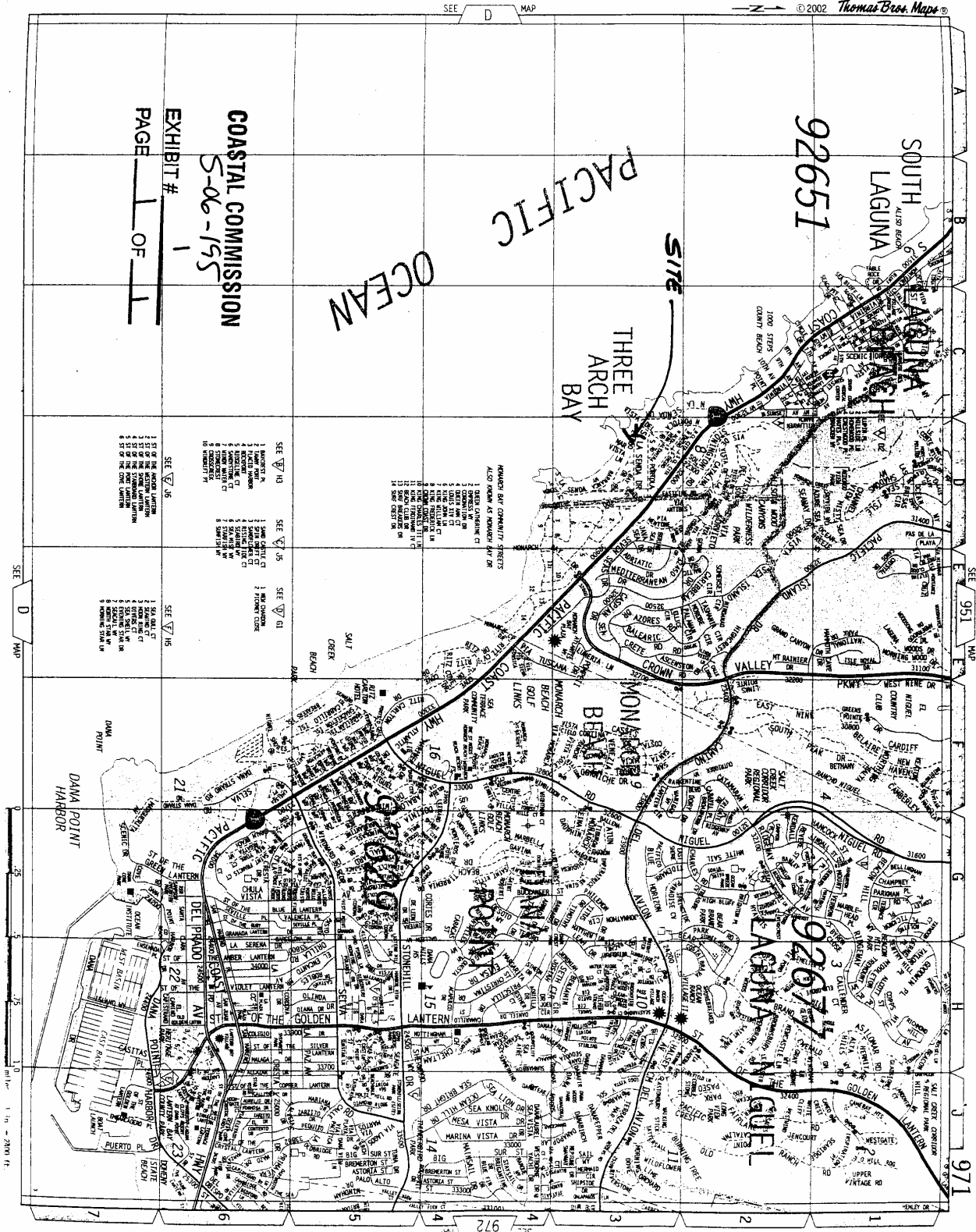
The subject site is located within the Three Arch Bay area of deferred certification. Certification in this area was deferred due to issues of public access arising from the locked gate nature of the community. However, as discussed above, the proposed development will not further decrease or impact 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.

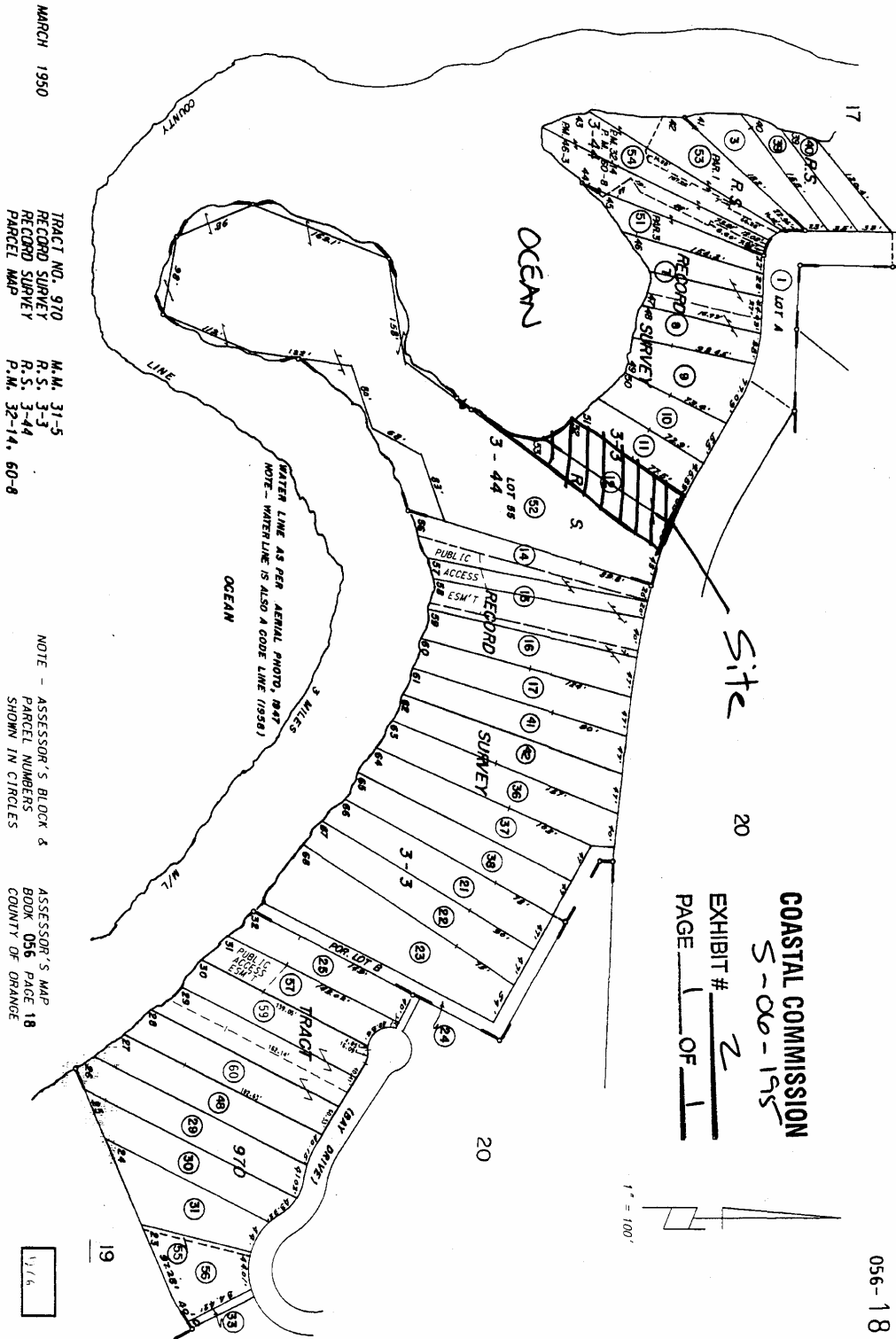
**H. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

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.

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to

mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.





TRACT NO. 970  
 RECORD SURVEY  
 RECORD SURVEY  
 PARCEL MAP

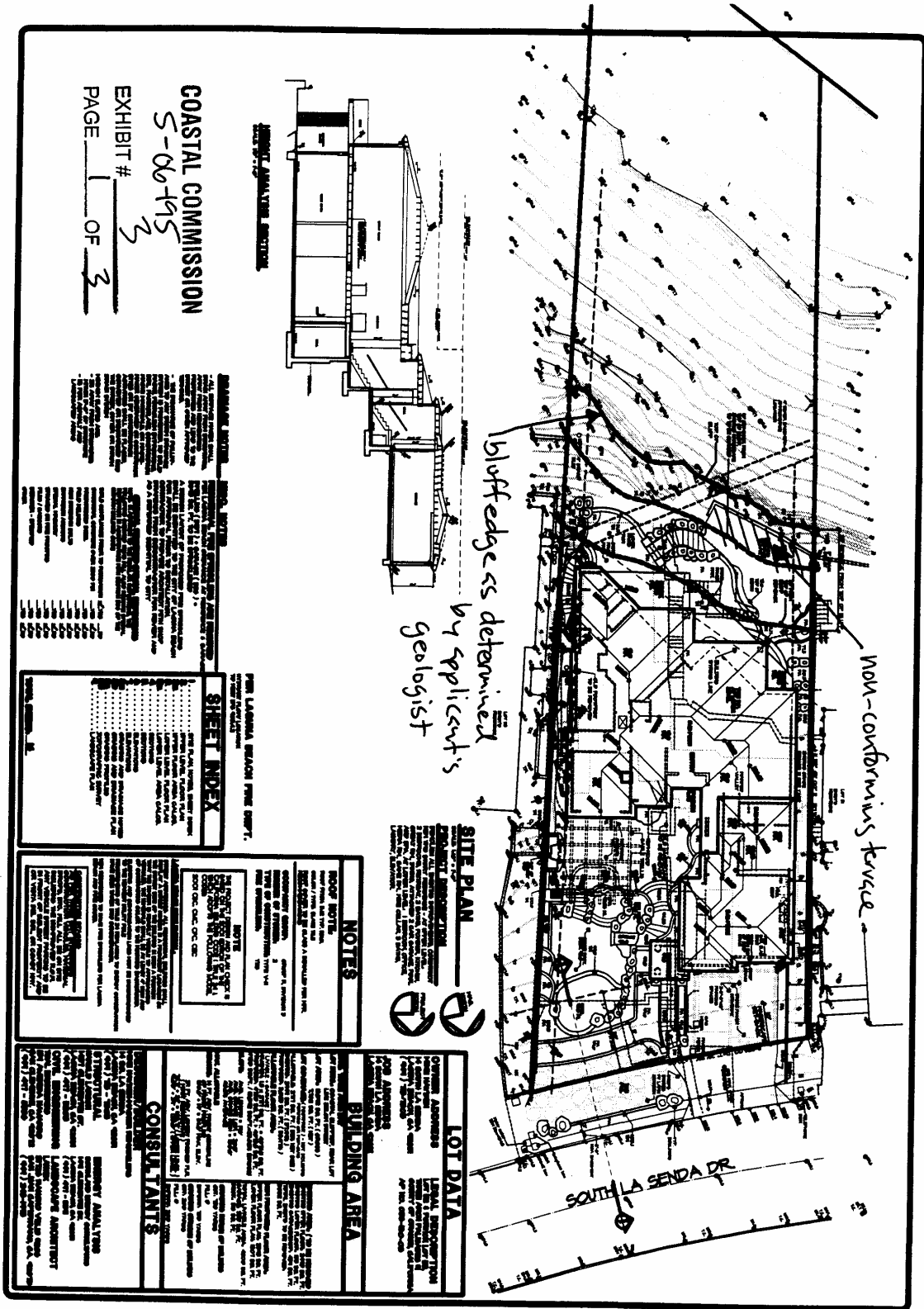
M.M. 31-5  
 R.S. 3-3  
 R.S. 3-44  
 P.M. 32-14, 60-8

NOTE - ASSESSOR'S BLOCK & PARCEL NUMBERS SHOWN IN CIRCLES

ASSESSOR'S MAP BOOK 056 PAGE 18 COUNTY OF ORANGE

MARCH 1950





COASTAL COMMISSION  
 EXHIBIT # S-06-195  
 PAGE 2 OF 3

GENERAL NOTES

1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA BUILDING CODE AND ALL APPLICABLE ORDINANCES AND REGULATIONS.

2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.

3. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.

4. THE CONTRACTOR SHALL PROTECT ALL EXISTING UTILITIES AND STRUCTURES.

5. THE CONTRACTOR SHALL MAINTAIN ADEQUATE DRAINAGE AND EROSION CONTROL MEASURES.

6. THE CONTRACTOR SHALL MAINTAIN ADEQUATE ACCESS TO ALL ADJACENT PROPERTIES.

7. THE CONTRACTOR SHALL MAINTAIN ADEQUATE ACCESS TO ALL ADJACENT PROPERTIES.

8. THE CONTRACTOR SHALL MAINTAIN ADEQUATE ACCESS TO ALL ADJACENT PROPERTIES.

9. THE CONTRACTOR SHALL MAINTAIN ADEQUATE ACCESS TO ALL ADJACENT PROPERTIES.

10. THE CONTRACTOR SHALL MAINTAIN ADEQUATE ACCESS TO ALL ADJACENT PROPERTIES.

SHEET INDEX

| SHEET NO. | TITLE           |
|-----------|-----------------|
| 1         | GENERAL NOTES   |
| 2         | FOUNDATION PLAN |
| 3         | FLOOR PLAN      |
| 4         | SECTION         |
| 5         | DETAILS         |

NOTES

1. THE CONTRACTOR SHALL MAINTAIN ADEQUATE ACCESS TO ALL ADJACENT PROPERTIES.

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9. THE CONTRACTOR SHALL MAINTAIN ADEQUATE ACCESS TO ALL ADJACENT PROPERTIES.

10. THE CONTRACTOR SHALL MAINTAIN ADEQUATE ACCESS TO ALL ADJACENT PROPERTIES.

SITE PLAN

PROJECT INFORMATION

PROJECT NO. 5-06-195

DATE 5/6/195

SCALE 1/8" = 1'-0"

DESIGNED BY [Name]

CHECKED BY [Name]

APPROVED BY [Name]

LOT DATA

OWNER [Name]

ADDRESS [Address]

CITY [City]

STATE [State]

ZIP [ZIP]

PLAT NO. [Plat No.]

SECTION [Section]

TOWNSHIP [Township]

RANGE [Range]

BUILDING AREA

FLOOR AREA [Area]

FOUNDATION AREA [Area]

PERMITS [Permits]

APPROVALS [Approvals]

DATE [Date]

BY [Name]

CONSULTANTS

ARCHITECT [Name]

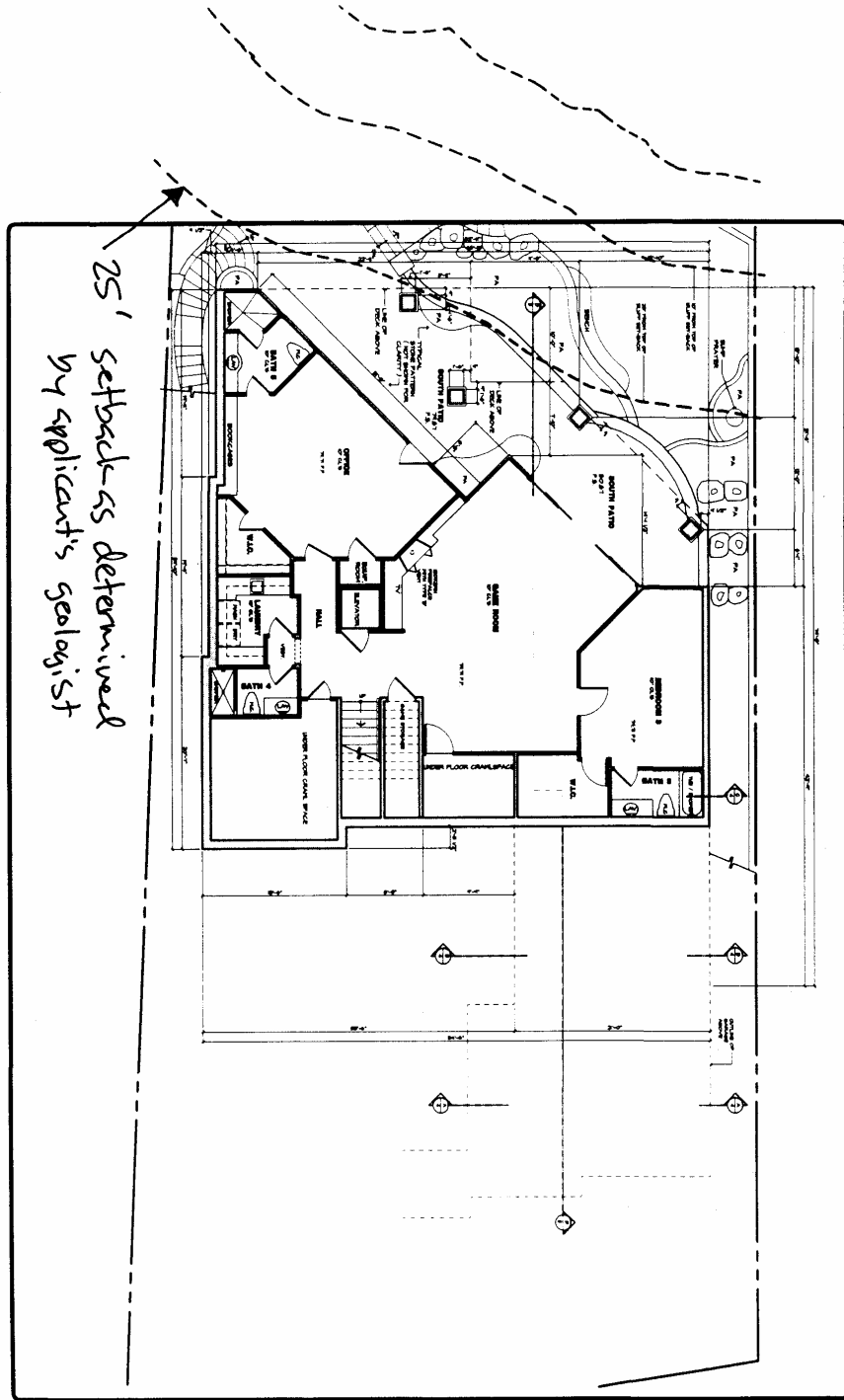
ENGINEER [Name]

GEOLOGIST [Name]

PLANNING [Name]

LANDSCAPE [Name]

CONTRACTOR [Name]



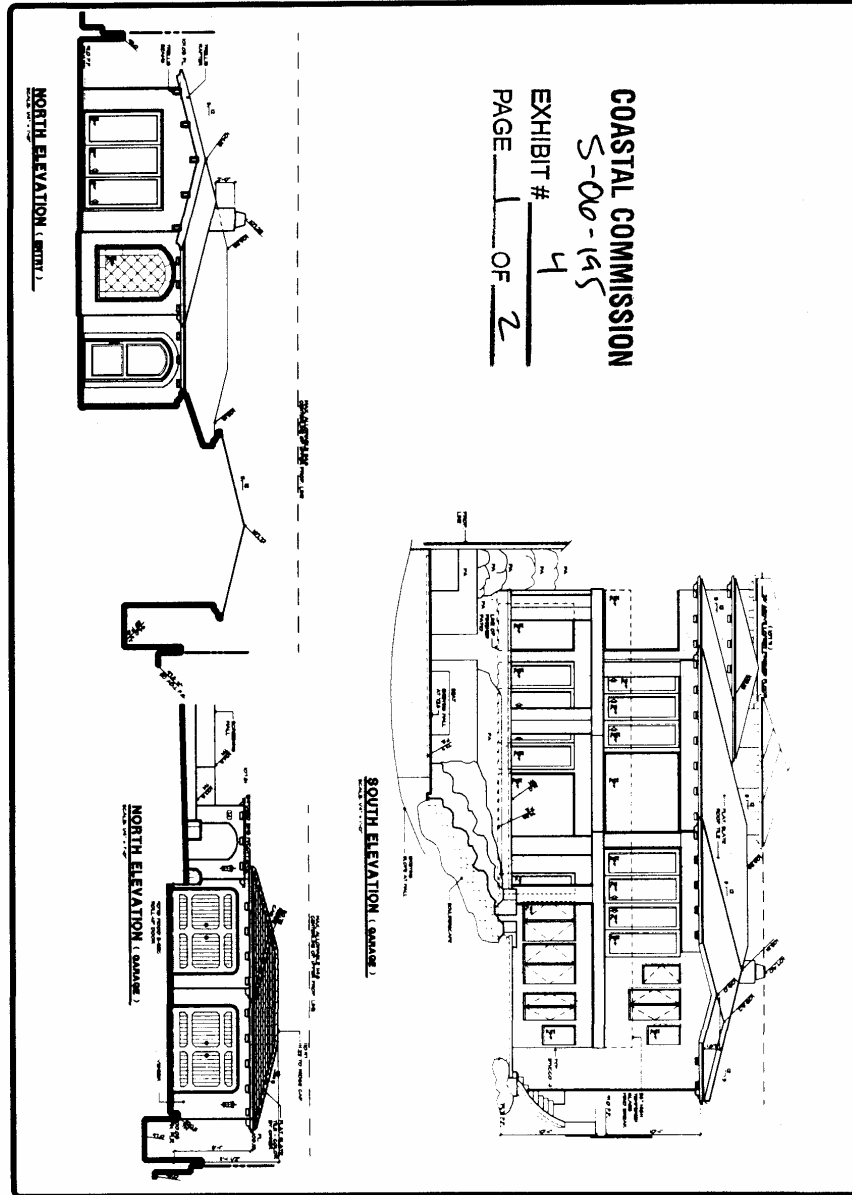
25' setback as determined by applicant's geologist

1st level

COASTAL COMMISSION  
 S-00-195  
 EXHIBIT # 3  
 PAGE 2 OF 3

|   |                  |  |   |  |
|---|------------------|--|---|--|
| 3 | LOWER FLOOR PLAN | THE HAYDEN RESIDENCE<br>14 SOUTH LA BREA<br>LAGUNA BEACH, CA 92651 | <b>MASTER ARCHITECTS</b><br><small>1301 LA BREA<br/>         LAGUNA BEACH, CA 92651<br/>         PHONE (949) 438-1111<br/>         FAX (949) 438-1112<br/>         WWW.MASTARCH.COM</small> |  |
|---|------------------|--|---|--|





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| NO. | DATE | REVISION |
| 0   |      |          |

|            |
|------------|
| ELEVATIONS |
|------------|

THE HAYDEN RESIDENCE  
 14 SOUTH LA BENDA  
 LAGUNA BEACH, CA 92651

**MASTER**  
 ARCHITECTS  
 100 N. BAY  
 LAGUNA BEACH, CA 92653  
 TEL: 714/769-7111  
 FAX: 714/769-7112

|      |    |          |
|------|----|----------|
| DATE | BY | REVISION |
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DEC 11 2006  
CALIFORNIA  
COASTAL COMMISSION

**COASTAL COMMISSION**  
S-06-195  
EXHIBIT # 5  
PAGE 1 OF 1

December 7, 2006

Mr. Mike Hayden  
c/o Master Remodelers  
5 Monarch Cove Drive  
Dana Point, California 92629

Project No: 71499-01  
Report No: 06-5938

**COASTAL COMMISSION**

Subject: **Geotechnical Review of Lower Patio**  
14 South La Senda, Three Arch Bay  
South Laguna, California

EXHIBIT # \_\_\_\_\_  
PAGE \_\_\_\_\_ OF \_\_\_\_\_

**Coastal Development Permit: 5-06-195**

References: Geofirm, 2004, "Preliminary Geotechnical Investigation for Proposed Single-Family Residence, 14 South La Senda, South Laguna, California"; dated September 15, Project No. 71499-00, Report No. 04-5415.

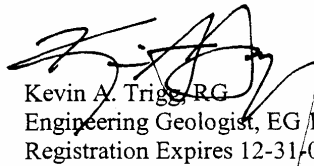
Gentlemen:

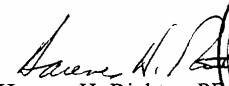
In accordance with your Architect's request, our office has reviewed the potential impacts of removing the lower patio in the blufftop setback area. Given the protection the patio has provided for the last 60-years, it is our opinion a removal and restoration effort could do more to accelerate the retreat and instability of the bluff top than maintaining the feature in its present location and condition.

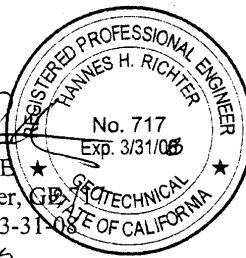
This opportunity to be of service is appreciated. If you have any additional questions, please don't hesitate to call.

Respectfully submitted,

**GEOFIRM**

  
Kevin A. Trigg, RG  
Engineering Geologist, EG 1619  
Registration Expires 12-31-06

  
Hannes H. Richter, PE  
Geotechnical Engineer, GE 717  
Registration Expires 3-31-08  
Signed 12/7/06



KAT/HHR  
Distribution: Addressee (5)