CALIFORNIA COASTAL COMMISSION

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

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Item W 8c

STAFF REPORT: REGULAR CALENDAR

APPLICATION NUMBER: 5-09-208

APPLICANT: William de la Pena

AGENTS: Greg Abel Design

PROJECT LOCATION: 111 South La Senda, Laguna Beach (Three Arch Bay) (Orange County)

DESCRIPTION: Substantial demolition, reconstruction and addition to an existing 4,091 sq. ft. single-story single-family residence with attached 2-car garage including 277 cu. yds. cut grading to construct a new semi-subterranean, 813 sq. ft. lower level within the footprint of the existing residence consisting of media room and mechanical room; addition of a lower level bluff-side concrete patio; replacement of existing 218 sq. ft. bluff-side wood balcony deck; replacement of doors and windows, replacement of stucco façade, front courtyard improvements including new courtyard pool; landscape and drainage improvements; and request for after-the-fact approval of substantial demolition of walls, doors, windows, installation of new caisson and grade beam foundation system beneath the residence and grading for courtyard pool.

> Lot Area 54,696 square feet 3,935 square feet **Building Coverage** Pavement Coverage 2,971 square feet Landscape Coverage 1,500 square feet Unimproved Area 46,290 square feet Parking Spaces 2 Zoning Three Arch Bay Planning Designation Low Density Residential Ht above final grade 24.7 feet



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SUMMARY OF STAFF RECOMMENDATION:

Commission staff is recommending <u>APPROVAL</u> of the proposed project with **Ten (10) Special Conditions** regarding: 1) assumption of risk; 2) no future blufftop or shoreline protective devices; 3) future development; 4) submittal of revised final plans; 5) submittal of final drainage plan; 6) submittal of final as-built caisson foundation plans; 7) construction best management practices; 8) landscaping; 9) condition compliance, and 10) a deed restriction against the property; referencing all of the Special Conditions contained in this staff report.

The applicant is proposing a major remodel and semi-subterranean addition to an existing single level single-family residence comprising extensive demolition and re-construction of exterior walls/windows/doors, complete first level remodel, a new 813 sq. ft. lower level/semi-subterranean addition (581 sq.ft. livable space and 232 sq. ft. mechanical room) to the existing structure on the western (bluff side) portion of the lot, drainage improvements, hardscape improvements to both the bluff-side and street facing side of the lot and a request for after-the-fact approval of substantial demolition, grading for a new courtyard pool and installation of a new caisson and grade beam foundation beneath the residence The proposed new construction constitutes new development for the purposes of Sections 30235 and 30253. Because the proposed project includes new development, it can only be found consistent with Section 30253 of the Coastal Act if a shoreline/bluff protective device is not expected to be needed in the future.

The proposed development is located on a bluff top site subject to wave action. The geotechnical study of the site deems the site is grossly stable under current and proposed conditions. The primary issue with the proposed development is conformance with bluff edge setbacks. The existing pre-Coastal Act residence does not conform to the structural or deck stringline of the adjacent structures and does not meet the minimum 25-foot bluff edge setback. The existing secondary structures are also non-conforming with a 0-foot bluff edge setback. The proposed development appears to be safe from erosion on the basis of available information provided by the applicant and is therefore consistent with Coastal Act section 30253(a). Nonetheless, the addition would increase the existing and proposed residence's exposure to threats from erosion by increasing the amount of development close to the bluff edge.

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. The Commission typically applies the "No Future Blufftop/Shoreline Protective Device" Special Condition to both blufftop residential remodel projects and residential demo/rebuild projects in Three Arch Bay in the City of Laguna Beach. In this case, the proposed work includes substantial demolition and reconstruction in all areas of the existing structure and addition of a lower level on the seaward portion of the residence and is, thus, new development for purposes of review under the Coastal Act.

SUBSTANTIVE FILE DOCUMENTS: Geotechnical Feasibility Investigation for Proposed Remodel/Addition to a Single Family Residence, 111 South La Senda, Laguna Beach, CA prepared by Geofirm, dated February 12, 2008; Preliminary Geotechnical Investigation For Proposed Remodel of the Existing Single Family Residence, 111 South La Senda, Laguna Beach, CA prepared by Geofirm, dated October 9, 2008; Geotechnical Review of Foundation Plans prepared by Geofirm, dated October 21, 2008; Geotechnical Recommendations for Additional Underpinning Caissons, 111 South La Senda, Laguna Beach, CA prepared by Geofirm, dated March 25, 2009; Response to California Coastal Commission Notice of

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Incomplete Application, 111 South La Senda, Laguna Beach, CA prepared by Geofirm, dated November 5, 2009; City of Laguna Beach certified Local Coastal Program (as guidance only); Coastal Development Permit 5-95-047(Norberg); 5-02-345(Markland); 5-04-414(Swartz); 5-06-165(Hibbard); 5-06-258(Stranton); 5-07-163(Hammond); 5-99-332 A1(Frahm); P-80-7431(Kinard); 5-93-254-G(Arnold); 5-88-177(Arnold); and 5-09-105(Norberg).

LOCAL APPROVALS RECEIVED: City of Laguna Beach Approval in Concept, dated 10/26/09.

LIST OF EXHIBITS

- 1. Location Map
- 2. Assessor's Parcel Map
- 3. Site Aerial Photographs
- 4. Project Plans
- 5. Site Plan Depicting Bluff Setbacks
- 6. Geologic Plot Plan and Cross-Sections
- 7. On-Site Photographs
- 8. Public Access Map

STAFF RECOMMENDATION:

<u>MOTION</u>: *I move that the Commission approve Coastal Development Permit No. 5-09-208 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. <u>Notice of Receipt and Acknowledgment.</u> 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.

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- 2. <u>Expiration.</u> 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. <u>Interpretation.</u> Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. <u>Assignment.</u> 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. <u>Terms and Conditions Run with the Land.</u> 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 acknowledges and agrees (i) that the site may be subject to hazards from bluff and slope instability, erosion, landslides, waves, and sea level rise; (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. <u>No Future Blufftop or Shoreline Protective Devices</u>

- A. By acceptance of this Permit, the applicant agrees, on behalf of himself and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-09-208 including, but not limited to, the residence, foundations, patios, balconies and any other future improvements in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, sea level rise or other natural coastal hazards in the future. By acceptance of this Permit, the applicant/landowner 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/landowner further agrees, on behalf of himself and all successors and assigns, that the landowner(s) shall remove the development authorized by this Permit, including the residence, foundations, patios, balconies and any other future improvements if any government agency

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has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

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 are not to be occupied, a geotechnical investigation shall be prepared by a licensed coastal engineer and geologist retained by the applicants, 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. <u>Future Development</u>

This permit is only for the development described in coastal development permit 5-09-208. 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 the coastal development permit 5-09-208. Accordingly, any future improvements to the structures authorized by this permit shall require an amendment to permit 5-09-208 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

4. <u>Submittal of Revised Final Plans</u>

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit to the Executive Director for review and written approval, two (2) sets of revised, final construction, grading, drainage, and landscaping plans that substantially conform with the plans with the City's approval in concept dated 10/26/09, and basement foundation plans that substantially conform with the plans dated 10/23/09, but shall be revised to include the following:
 - (a) Removal of all proposed development located seaward of the bluff edge and within 5 feet inland of the bluff edge. The 5-foot setback shall be applied from the bluff edge as identified in Exhibit 4 approximately at the 75-78 foot contour line. All bluff-side ancillary development (balcony deck, concrete patio and grading) as shown on Exhibit 3 shall be removed from the plans and are not authorized through this permit.
 - (b) Depiction of all existing development on a complete project site plan, including, but not limited to, the existing chain link fence on the bluff face as depicted in the

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topographic survey by Toal Engineering dated 9/6/06. The existing chain link fence on the bluff face shall be shaded and clearly marked *"this element not permitted by any coastal development permit"* on the project site plan;

- (c) The applicant shall submit, for the Executive Director's review and approval, evidence that an appropriate certified engineering geologist 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 geologic evaluation approved by the California Coastal Commission for the project site.
- B. The permittee shall undertake the development authorized by 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.

5. <u>Submittal of Final Drainage Plan</u>

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, in a form and content acceptable to the Executive Director, two (2) sets of a final drainage plan prepared by an appropriately licensed professional that has been reviewed and approved by the City of Laguna Beach. The plan shall incorporate the following criteria:
 - Runoff from all roofs, patios, driveways and other impervious surfaces and slopes on the site shall be directed to dry wells, trench drains or vegetated/landscaped areas to the maximum extent practicable within the constraints of City requirements;
 - (b) Where City code prohibits on-site infiltration, runoff shall be collected and discharged via pipe or other non-erosive conveyance to the frontage street to the maximum extent practicable. Runoff from impervious surfaces that cannot feasibly be directed to the street shall be discharged via pipe or other non-erosive conveyance to a designated outlet point to avoid ponding or erosion either on- or off- site;
 - (c) Visual treatment shall be required for all above ground piping along the coastal bluff slope, including, but not limited to, use of earth-tone colorization (no white or bright colors) of the pipe and native vegetation to screen the pipe from view.
 - (d) Runoff shall not be allowed to pond adjacent to the structure or sheet flow directly over the coastal bluff to the beach below; and
 - (e) The functionality of the approved drainage and runoff control plan shall be maintained throughout the life of the development.
- B. The permittee shall undertake development in accordance with the approved plan. 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

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amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

6. <u>Submittal of Final As-Built Caisson Foundation Plans</u>

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, two (2) sets of final asbuilt caisson foundation plans that substantially conform with the plans dated 8/19/09 and evidence that an appropriate certified engineering geologist 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 geologic evaluation approved by the City of Laguna Beach and the California Coastal Commission for the project site.

7. <u>Storage of Construction Materials, Mechanized Equipment and Removal of</u> <u>Construction Debris</u>

The permittee shall comply with the following construction-related requirements:

- (a) No construction materials, debris, or waste shall be placed or stored where it may enter the storm drain system leading to the Pacific Ocean;
- (b) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- (c) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into the storm drain system and a preconstruction meeting to review procedural and BMP guidelines;
- (d) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. Debris shall be disposed of outside the coastal zone, as proposed by the applicant.

8. Landscaping – Drought Tolerant, Non-Invasive Plants

Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<u>http://www.CNPS.org/</u>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<u>http://www.cal-ipc.org/</u>), 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. All plants shall be low water use plants as identified by California Department of Water Resources (See: http://www.owue.water.ca.gov/docs/wucols00.pdf).

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9. <u>Condition Compliance</u>

Within 90 days of Commission action on this coastal development permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit including the recordation of the deed restriction. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

10. 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 landowners have 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. <u>PROJECT DESCRIPTION AND LOCATION</u>

Project Location

The subject site is located within the locked gate community of Three Arch Bay in the City of Laguna Beach (Exhibit #1). The residence is on coastal bluff top lot on a rock promontory. The site is a 1.3 acre property fronting the southern side of the South La Senda cul-de-sac and extends southerly 450 feet to the rear property line located beyond the edge of the rock promontory. The site can be defined by four distinct topographic elements: a gently seaward sloping terrace house pad, an irregularly rocky south, east and westward sloping erosional rocky promontory, steep southern sea cliffs and submerged rocky shoreline (Exhibits 2 and 3).

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

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Project Description

The proposed project involves substantial demolition and re-construction of an existing 3,510 sq. ft. single-family residence with attached 406 sq. ft. garage and 218 sq. ft. balcony deck including 277 cu. yds. cut to construct a semi-subterranean 813 sq. ft. (581 sq. ft. livable space and 232 sq.ft. mechanical room) new lower level within the footprint of the existing residence, resulting in a 4,091 sq. ft., two-level single-family residence with attached 406 sq. ft. garage; addition of a lower level bluff-side concrete patio; replacement of existing 218 sq. ft. rear-yard wood balcony deck, replacement of all doors and windows, replacement of stucco façade, front courtyard improvements including new courtyard pool and landscaping, drainage improvements; and request for after-the-fact approval of demolition work, installation of a new caisson and grade beam foundation under the existing residence and grading for courtyard pool (see Exhibit 4).

B. <u>GEOLOGIC STABILITY</u>

Coastal bluff development is inherently hazardous and poses potential adverse impacts to the geologic stability of coastal bluffs, shoreline processes, and to the stability of residential structures. Bluff stability has been an issue of historic concern throughout the City of Laguna Beach. The Commission has traditionally followed a set of setback and string-line policies as a means of limiting the encroachment of development seaward toward the bluff edges on coastal bluffs and preventing the need for construction of revetments and other engineered structures to protect new development on coastal bluffs. However, the existing single-family residence and balconv deck appear to have been constructed prior to passage of the Coastal Act. The residence is located approximately 4-feet from the bluff edge at the closest point and as much as 12-feet from the farthest point, the approximately 281 sq. ft. balcony deck extends from the residence to the bluff edge. The applicant proposes addition of a new 813 sq. ft. lower level (semi-subterranean) entirely within the footprint of the existing residence, as well as a complete remodel of the existing structure. The project also includes new hardscape improvements consisting of a new rear yard basement level paved patio, replacement of an existing wood raised balcony deck and new front courtyard hardscape improvements consisting of a new pool. landscaping and fencing.

Coastal Act Policies

Section 30251 of the Coastal Act states, in pertinent part:

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...

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

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along bluffs and cliffs.

The subject site is an irregular rectangular-like shaped 1.3 acre oceanfront bluff top lot. The southern side of the lot fronts the S. La Senda cul-de-sac and extends southerly 450 feet to the rear property boundary extending to the rocky promontory. The site can be defined by four distinct topographic elements: a gently seaward sloping terrace house pad, an irregularly rocky south, east and westward sloping erosional rocky promontory, steep southern sea cliffs and submerged rocky shoreline. The bluff has an overall maximum relief of 81+/- feet from the shoreline to S. La Senda, the frontage road (See Exhibit 6). The toe of the bluff is subject to marine erosion. Offsite within the rocky shoreline inlet, a sea cave extends northward into the erosional surface from below the western edge of the lot. The site is underlain by thickly interbedded cemented bedrock strata which is overlain by marine terrace deposits, non-marine terrace and possibly thin fill. No exposures of weakened siltstone or claystone beds occur within the sea cliff.

Project Site Geotechnical Report

The applicant submitted numerous geotechnical studies from 2008 conducted by Geofirm. The geotechnical investigation consisted of the review of available geologic literature, maps, aerial photographs, geotechnical reports and other geotechnical data for the site and surrounding area; geotechnical analysis of subsurface conditions as related to slope stability, foundation design, and construction recommendations.

Based on the results of stability analyses provided by Geofirm in the October 9, 2008 geologic report, the site is considered to be grossly stable, with a 1.5 factor of safety. Wave erosion along the base of the slope and lateral retreat of the bedrock seacliff was considered unlikely over the next 75 years and no faults were located on the property. The report states that due to the hard and cemented character of the bedrock materials of the bluff face the rate of surface erosion is very slow and it appears that little or no retreat or reduction in the promontory has occurred since 1947. No measureable retreat could be observed from the photographs reviewed and an estimation of the long term bluff retreat could not be established with meaningful accuracy. Geofirm suggests it is conservative to assume the development is adequately setback for the 75 year anticipated life span of the proposed development and that shoreline protection of the sea cliff is not anticipated during the life span of the residence.

Foundation Repair/Caisson Installation

The applicant is requesting after-the-fact approval for foundation "repair" comprising of the installation of 13 caissons and approximately 77 linear feet of grade beams. Regardless of the applicant's characterization, this is new development, not repair and maintenance. The October 9, 2008, Geofirm report states, "The bottom of all footings should be set back a minimum of H/3 from the slope face, where H is the slope height, with a minimum setback of 10 feet. Underpinning of existing footings along the bluff edge is anticipated." An October 21, 2008 letter report from Geofirm confirms their review of foundation plans and that they are considered geotechnically acceptable for the proposed construction. The caissons were not recommended for stability considerations, but rather to satisfy the 2007 California Building Code required footing setbacks which requires that footings adjacent to descending slopes be set back a distance of H/3. As the existing footings were inadequate to meet current Code requirements, caisson underpinning with new grade beams was recommended as part of the overall residence remodel. A second letter from Geofirm dated March 25, 2009 recommended additional underpinning caissons at the northwesterly side of the residence. The submitted site plan (Exhibit 4, page 1)

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depicts the location of the 13 caissons along bluff-facing portion of the residence. **Special Condition 6** requires submittal of final as-built caisson foundation plans.

Site Drainage

Regarding drainage on the site, the geotechnical report states, "Natural sheet flow runoff occurs throughout the erosional surface on the promontory. No evidence of significant uncontrolled, concentrated, erosive runoff onto or from the pad area of the property has been observed. Surface drainage from the site is generally directed toward the bluff top. Proposed development may modify future discharge which must be controlled and conducted offsite by appropriate engineering design to preclude bluff erosion or soil saturation."

The applicant is proposing engineered drainage improvements consisting of a new trench drain at the garage driveway, new deck drains within the interior courtyard, new pipe drain system around the bluff perimeter of the single-family residence, a 24" sq. drain box with filter insert and a 6" onslope pipe attached to the bluff face with concrete slope anchors discharging to the beach below. The proposed drainage plan is included as Exhibit 4, page 16). The drainage plan was reviewed the Commission's staff geologist and deemed to be the most feasible design for the site. **Special Condition 5** requires submittal of final drainage plans, and as the pipe is proposed to be anchored on the bluff face, as opposed to drilled into the bluff and out of view, the condition requires colorizing the pipe and/or hiding it with vegetation.

Bluff Setbacks

In the project vicinity, the Commission typically imposes either 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) and minimum 5 to 10 foot setback for secondary structures (e.g., patios, decks, garden walls) or requires conformance with the stringline setbacks. Consistently applying an appropriate bluff edge setback provides equitability for developments within the same general area. A stringline is the line formed by connecting the nearest adjacent corners of the adjacent residences. A stringline setback allows an applicant to have a setback that averages the setback of the adjacent neighbors provided it is otherwise consistent with Coastal Act policies. This allows equity among neighbors and recognizes existing patterns of development. The structural stringline setback applies to enclosed structural area and the deck stringline applies to minor development such as patios and decks. These setbacks are deemed acceptable within the Three Arch Bay community based on the relatively stable, underlying 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 applicant identified a bluff edge generally located approximately along the 75-78 foot elevation contour line (see Exhibit 5) providing the existing residence with as little as a 4-foot setback from the bluff edge at the closest point and as much as a 12-foot setback at the farthest point (also see Exhibit 6). The bluff edge drawn was based on the bluff edge 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"*; the Commission agrees with the applicant's bluff edge determination that is based on the definition contained in Section 13577 of the regulations. Some drawings provided by the applicant also

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depict a more seaward 'bluff edge' that is based on the City's definition of bluff edge; the Commission does not concur with that bluff edge characterization.

The existing residence was built in the 1950's and does not meet the structural stringline setback, nor is it setback 25 feet from the bluff edge. The proposed subterranean room additions (entirely within the footprint of the existing residence) also would not comply with the minimum 25 foot bluff edge setback for structures. However, as the proposed project is a substantial demolition (approximately 48% demolition), remodel and addition and not a complete demolition and rebuild, at this time there isn't an opportunity to apply the typical minimum 25 foot setback from the edge of bluff to the entire development.

Due to the geologic stability present on-site, the submitted geotechnical report indicates the existing residence will be safe and not require shoreline protection in a projected 75 year lifespan. The proposed development is essentially a new home no further seaward than the existing structure; therefore, the Commission finds that a minimal geologic setback for the new development is acceptable in this particular case. Applying a stringline setback (Exhibit #4) would require demolition of the existing structure which could be required if it were not in a safe location today; however, in this particular case, substantial renovation of the home and perpetuation in the non-conforming location, as conditioned, will not result in the need for future shoreline protective devices and is consistent with Section 30253 of the Coastal Act. The existing residential structure at the location of the proposed subterranean addition has approximately a 9-foot setback from the bluff edge.

Additionally, 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, therefore, required setbacks for that development is usually less than for the primary structure. The proposed development includes approximately 83 cubic yards of cut/grading for construction of a new concrete slab patio below the existing 218 sq. ft. wood balcony deck. The exact dimensions of the proposed new concrete slab patio are not clear from the project plans. As proposed, the grading activities to construct the new concrete patio would extend grading over the bluff edge as identified along the 75-78 foot elevation contour line. The existing wood balcony deck a zero (0) setback from where the Commission has identified the bluff edge.

While the rate of erosion is minimal at this site, a zero foot setback would not be adequate to accommodate even the minimal erosion rate. In Three Arch Bay, the Commission has found that in some cases a 5-foot bluff edge setback is the minimum necessary for accessory development (e.g., CDP 5-04-414 [Swartz]); typically a 10-foot bluff edge setback is applied for accessory development.

Given the minimal rate of erosion, the overall site stability, and the unusually large distance between the bluff edge and the water at this site, the Commission is requiring the smaller minimum 5-foot bluff edge setback for accessory development. The proposed grading for the concrete patio should meet the minimum 5-foot bluff setback for hardscape/secondary improvements. Additionally, the applicant is seeking after-the-fact approval of the demolition and partial reconstruction of the 281 sq. ft. wood balcony deck, the deck currently has a zero bluff top setback and would also be required to be brought into conformance with the minimum 5-foot bluff setback. Therefore, the Commission imposes **Special Condition 4** requiring revised final plans bringing all proposed ground level patio improvements as well as the wood balcony deck above,

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into conformance with the minimum 5-foot bluff setback for accessory structures. Additionally, revised project plans are required to addresses an existing chain link fence around the rock promontory depicted on the topographic survey but not on the applicant's partial site plans. The chain link fence is depicted on the topographic survey of the site prepared by Toal Engineering and dated 9/6/06. As the existing chain link fence has not received Commission approval, Special Condition 4 requires submittal of revised plans depicting the fence and requires the fence be shaded and clearly marked *"this element not permitted by any coastal development permit."*

Future Bluff and Shoreline Protection

The subject site is a bluff top oceanfront lot. In general, bluff top lots are inherently hazardous. It is the nature of bluffs to erode. Bluff failure can be episodic, and bluffs that seem stable now may not be so in the future. Even when a thorough professional geotechnical analysis of a site concludes 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 permits 5-99-332 A1(Frahm); P-80-7431(Kinard); 5-93-254-G(Arnold); 5-88-177(Arnold)) (all of which are examples in Three Arch Bay). 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 threatened by natural coastal processes.

Section 30253 of the Coastal Act requires that new permitted development shall not require construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The proposed development could not be recommended for approval and deemed consistent with Section 30253 of the Coastal Act *if* projected bluff retreat would affect the proposed development and necessitate construction of a protection device. A protective device may be a seawall at the base of the bluff, or a rock anchor system, or shotcrete wall on the bluff face. If new development necessitates future protection, the landform and shoreline processes could be dramatically altered by the presence of the protective system.

The Coastal Act limits construction of these protective devices because they have a variety of negative impacts on coastal resources including adverse affects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beach. Under Coastal Act Section 30235, a shoreline protective structure must be approved if: (1) there is an existing principal structure in imminent danger from erosion; (2) shoreline altering construction is required to protect the existing threatened structure; and (3) the required protection is designed to eliminate or mitigate the adverse impacts on shoreline sand supply.

The Commission has generally interpreted Section 30235 to require the Commission to approve shoreline protection for residential development only for existing principal structures. The construction of a shoreline protective device to protect a new residential development would not be required by Section 30235 of the Coastal Act. In addition, the construction of a shoreline protective device to protect new residential development would conflict with Section 30251 of the Coastal Act which states that permitted development shall minimize the alteration of natural land forms, including coastal bluffs which would be subject to increased erosion from such a device.

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The proposed development includes substantial demolition and replacement of exterior walls/windows/doors, complete first level interior remodel, new caisson and grade beam foundation, re-roofing, new electrical, new front courtyard hardscape and landscape, and new 813 sq. ft. lower level/semi-subterranean addition within the footprint of the existing structure. In effect, the project results in a new single-family residence within the footprint of the previously pre-Coastal Act structure. The proposed new expansion area and substantial upgrades constitute new development for the purposes of Sections 30235 and 30253. Because the proposed project includes new development, it can only be found consistent with Section 30253 of the Coastal Act if a shoreline/bluff protective device is not expected to be needed in the future. The applicant's geotechnical consultant has indicated that the site is grossly stable, that the project should be safe for the life of the project (75 years), and that no shoreline protection devices will be needed. If not for the information provided by the applicant that the site is safe for development, the Commission could not conclude that the proposed development will not in any way "require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs." The proposed development appears to be safe from erosion on the basis of available information and is therefore consistent with Coastal Act section 30253(a). Nonetheless, the addition would increase the existing residence's exposure to threats from erosion by increasing the amount of development close to the blufftop edge (i.e., lower level addition). 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. To minimize the project's potential future impact on shoreline processes, **Special** Condition 2 prohibits construction of any future bluff or shoreline protective device(s) to protect the development if approved pursuant to Coastal Development Permit No. 5-09-208 including, but not limited to, the residence, foundations, patios, balconies and any other future improvements in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, sea level rise or other natural coastal hazards in the future. Special Condition 2 prevents the construction of future blufftop or shoreline protective devices such as revetments, seawalls, caissons, cliff retaining walls, shotcrete walls, and other such construction that armors or otherwise substantially alters the bluff face. Special Condition 2 does not preclude the applicant from applying for future coastal development permits for maintenance of existing development or future improvements to the site (other than blufftop or shoreline protective devices) including landscaping and drainage improvements aimed to prevent slope and bluff instability. The Commission would determine the consistency of such proposals with the Coastal Act in its review of such applications.

The imposition of a "no future shoreline protective device" condition to new substantial development on bluff tops, for new residential construction projects and for projects consisting of additions to existing residences in Three Arch Bay is fairly typical. For example, in Three Arch Bay, the following actions in the last decade have included such conditions: CDP 5-02-345 at 88 N. La Senda, remodel and addition of 1,132 sq ft to an existing two-level (including basement) single family residence; CDP 5-04-414(Swartz) at 1 Barranca Way, substantial demolition and reconstruction resulting in a 2,925 sq ft, two-story, 22 ft high, single family residence; CDP 5-06-165(Hibbard) at 36 N. La Senda Dr, remodel and 586 sq ft addition to an existing 2,015 sq ft, single-family residence and ancillary improvements; CDP 5-06-258(Stranton) at 50 N. La Senda Dr., remodel and 1,021 sq ft addition to an existing two-story, 2,701 sq ft single-family residence, new pool, spa, hardscape improvements and landscaping;

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CDP 5-07-163(Hammond) at 58 N. La Senda Dr., remodel and addition to an existing single family residence resulting in a two level, 25 feet high, 6,135 sq ft residence with one attached 425 sq ft, 2-car garage and a second 400 sq ft 2-car garage; and CDP 5-09-105 (Norberg) at 86 S. La Senda, for substantial addition to an existing single-story single-family residence consisting of 307 cu. yds. cut/fill grading to construct a semi-subterranean, 860 sq. ft. new lower level within the footprint of the existing residence.

In this instance, the proposed semi-subterranean basement addition, although no further seaward than the existing residence, if threatened at a future date from the previously mentioned hazards, would be threatened at the same time as the existing residence. It is not possible to only provide protection (by way of bluff/shoreline armoring) for the existing portion of the residence and not the proposed addition. Section 30251 of the Coastal Act requires that permitted development be sited and designed to minimize the alteration of natural land forms. 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, visual resources and shoreline processes. Therefore, only as conditioned does the project conform to Sections 30253 and 30251(2) of the Coastal Act.

Future Development

The proposed development is located within an existing developed area and is compatible with the character and scale of the surrounding area. The proposed addition is entirely within the footprint of the existing residence. However, the proposed project raises concerns that future development at the project site potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act. In order to ensure that development on the site does not occur which could potentially adversely impact the geologic stability concerns expressed in this staff report, the Commission imposes **Special Condition 3**. This condition informs the applicant that future development at the site requires an amendment to this permit (5-09-208) or a new coastal development permit. Future development includes, but is not limited to, structural additions, landscaping, fencing and shoreline protective devices.

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 10** requiring 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.

As conditioned, the project is required to provide an appropriate set-back from the bluff edge; prohibit construction of protective devices (such as blufftop or shoreline protective devices) in the future; and to require that the landowner and any successor-in-interest assume the risk of undertaking the development. Only as conditioned, does the Commission find that the development conforms to the requirements of Section 30253 of the Coastal Act regarding the siting of development in a hazardous location.

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C. <u>PUBLIC ACCESS</u>

Section 30212(a)(2) of the Coastal Act states, in pertinent part:

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

The 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 locked gate community does not currently exist in the immediate vicinity of the project site. The nearest public access exists at 1000 Steps County Beach (Exhibit 6). The proposed development, basement level addition and remodel to 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. 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. <u>UNPERMITTED DEVELOPMENT</u>

Development has occurred on the subject site without benefit of the required coastal development permit, including installation of a caisson and grade beam foundation system beneath the residence, demolition of approximately 48% of exterior walls, grading for foundation work, grading for the proposed courtyard pool, demolition and partial re-construction of a 281 sq. ft. balcony deck, and structural wood re-framing. All work occurred on the bluff face or within 50 feet of the edge of a coastal bluff. Consequently, even though considered to be improvements normally associated with a single-family residence, due to the proximity to the coastal bluff, the work that was undertaken constitutes development that requires a coastal development permit.

Special Condition 4 requires submittal of final revised plans providing a minimum 5-foot bluff setback for proposed bluff-side grading and bluff-side secondary structures (wood balcony deck and proposed new concrete patio). Additionally, **Special Condition 4** addresses a chain link fence around the rock promontory depicted on the topographic survey but not on the applicant's partial site plans which haven't received Commission approval by requiring the fence be shaded and clearly marked "this element not permitted by any coastal development permit." **Special Condition 6** requires submittal of final as-built caisson foundation plans per geotechnical report requirements. **Special Condition 10** is imposed to require the applicant to record a deed restriction against the property so as to notify all prospective future property owners of the terms and conditions of approval to which they will also be required to adhere. It thus ensures that future owners of the property will be informed of the conditions as well as of the risks and the Commission's immunity for liability.

Additionally, to ensure that the unpermitted development components of this application are resolved in a timely manner, **Special Condition 9** requires that the applicant satisfy all conditions of this permit which are prerequisite to the issuance of this permit within 90 days of Commission action. The Executive Director may grant additional time for good cause.

Consideration of the permit application by the Commission has been based solely on the consistency of the proposed development with the policies of Chapter 3 of the Coastal Act. The certified Laguna Beach LCP was used as guidance by the Commission in reaching its decision. Approval of this permit does not constitute a waiver of any legal action with regard to the alleged unpermitted development, nor does it

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constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit. The Commission's enforcement division will evaluate further actions to address unpermitted development not resolved under this permit.

D. LOCAL COASTAL PROGRAM

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3.

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.

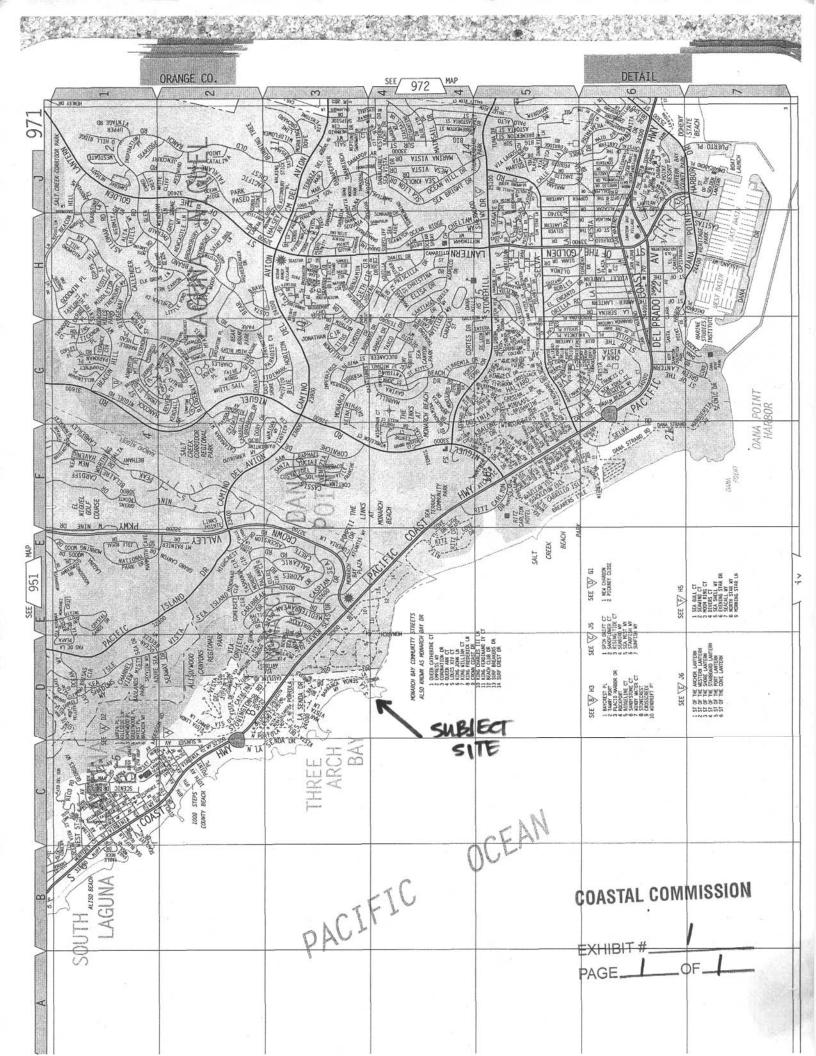
The subject site is located within the Three Arch Bay area of deferred certification. Certification in this area was deferred due to issues of public access arising from the locked gate nature of the community. However, as discussed above, the proposed development will not further decrease or impact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

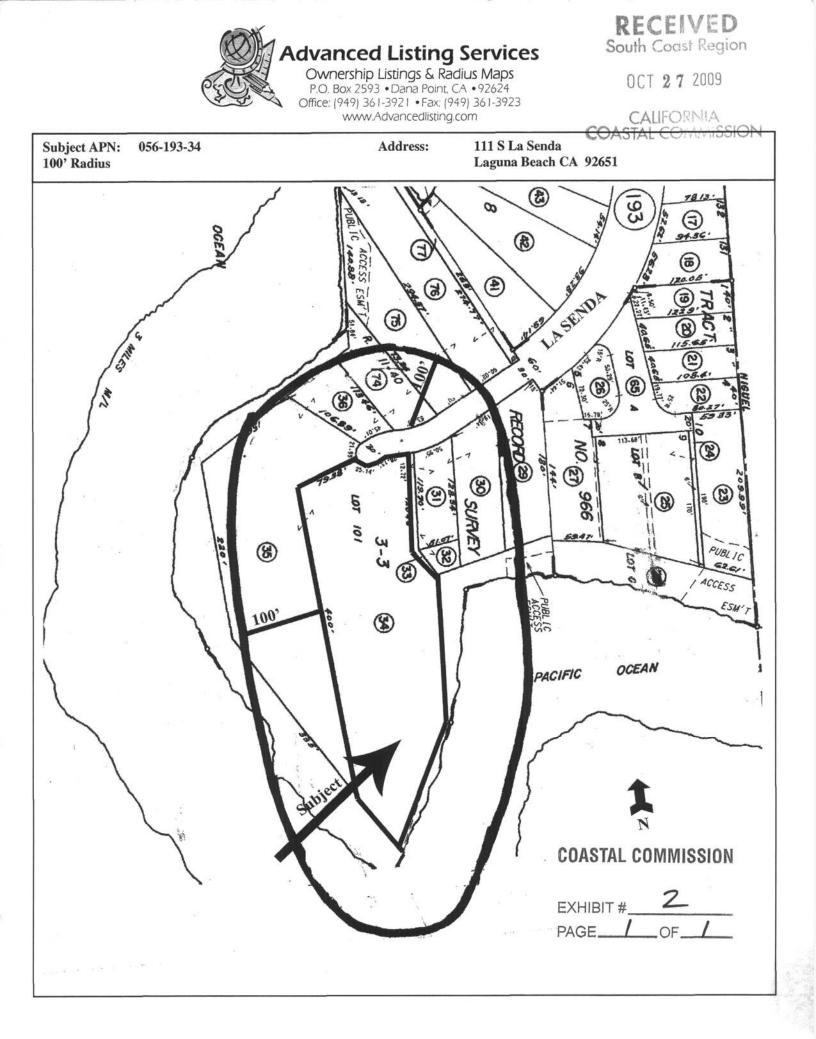
E. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

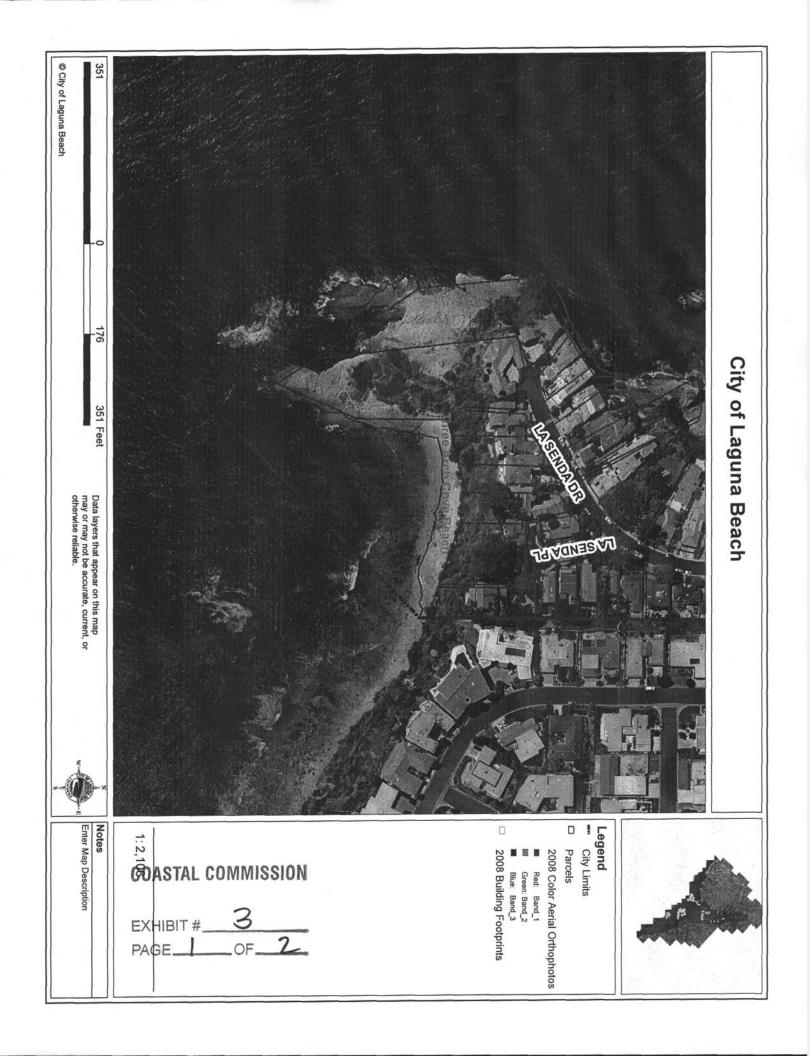
Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental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

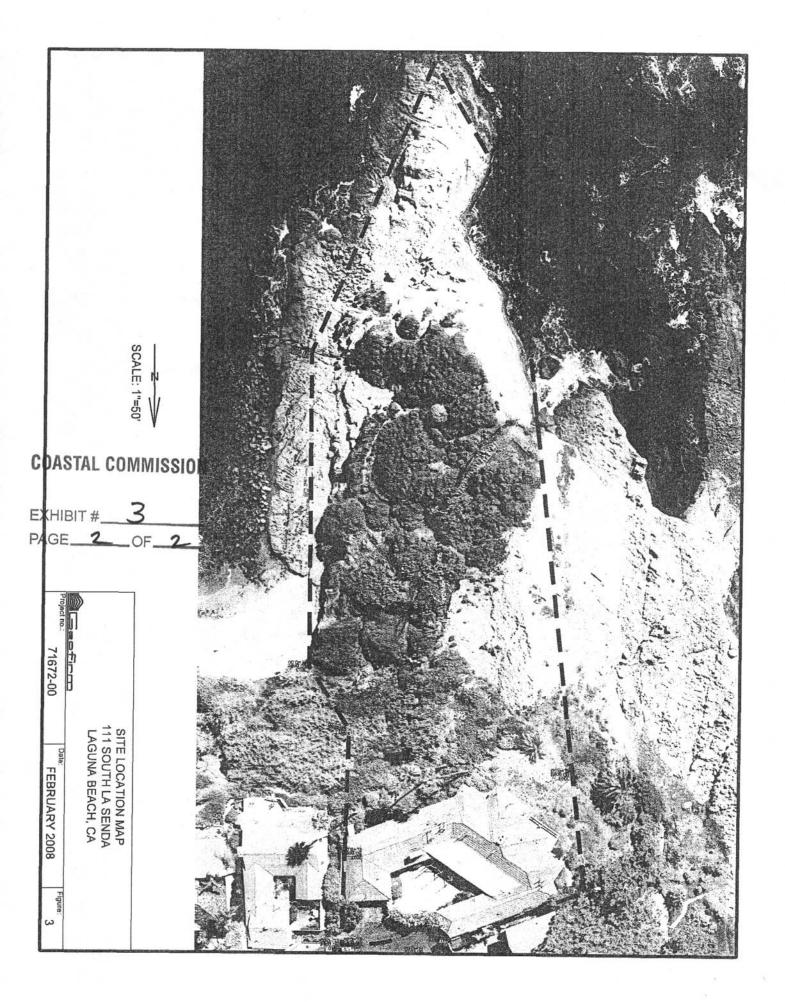
The City of Laguna Beach is the lead agency for purposes of CEQA compliance. As determined by the City, this project is categorically exempt from CEQA as a Class 3-A (construction of single-family residence) and Class 5-A (minor alteration of land-use limitations) exemption. As such, the project is exempt for CEQA's requirements regarding consideration of mitigation measures and alternatives. The Commission, however, has conditioned the proposed project in order to ensure its consistency with Coastal Act requirements regarding geologic hazards. These special conditions require: 1) assumption of risk; 2) no future blufftop or shoreline protective devices; 3) future development; 4) submittal of revised final plans; 5) submittal of final drainage plan; 6) submittal of final as-built caisson foundation plans; 7) construction best management practices; 8) landscaping; 9) condition compliance, and 10) a deed restriction against the property; referencing all of the Special Conditions contained in this staff report.

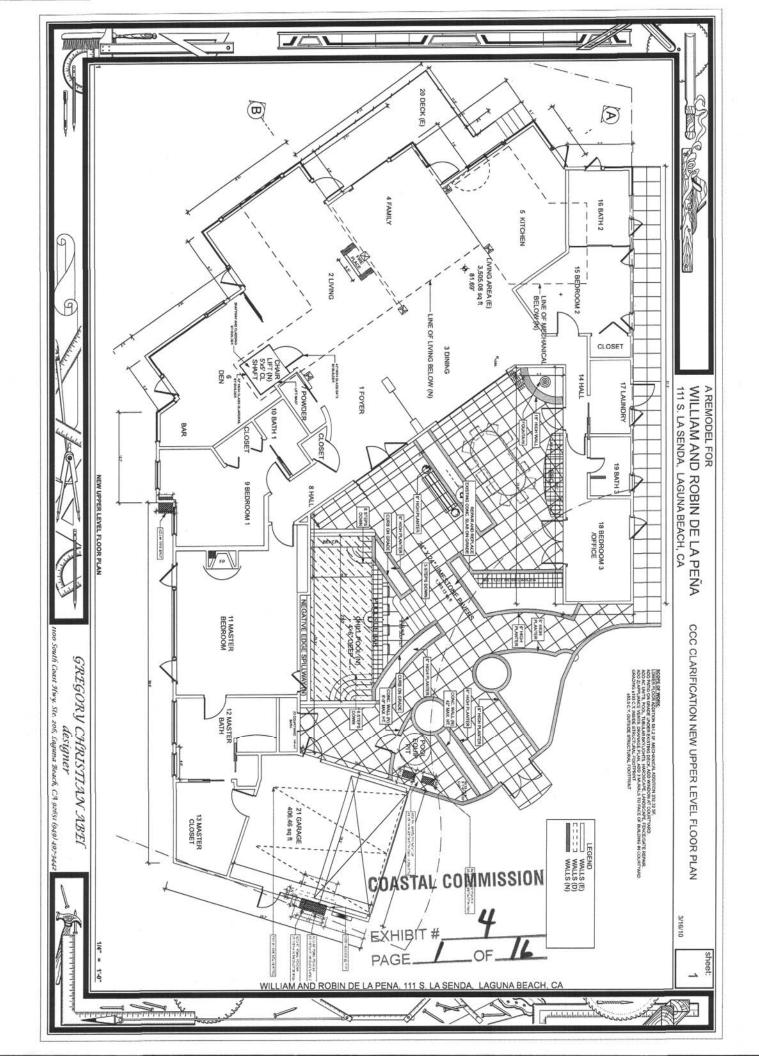
As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project is consistent with the requirements of the Coastal Act and CEQA.

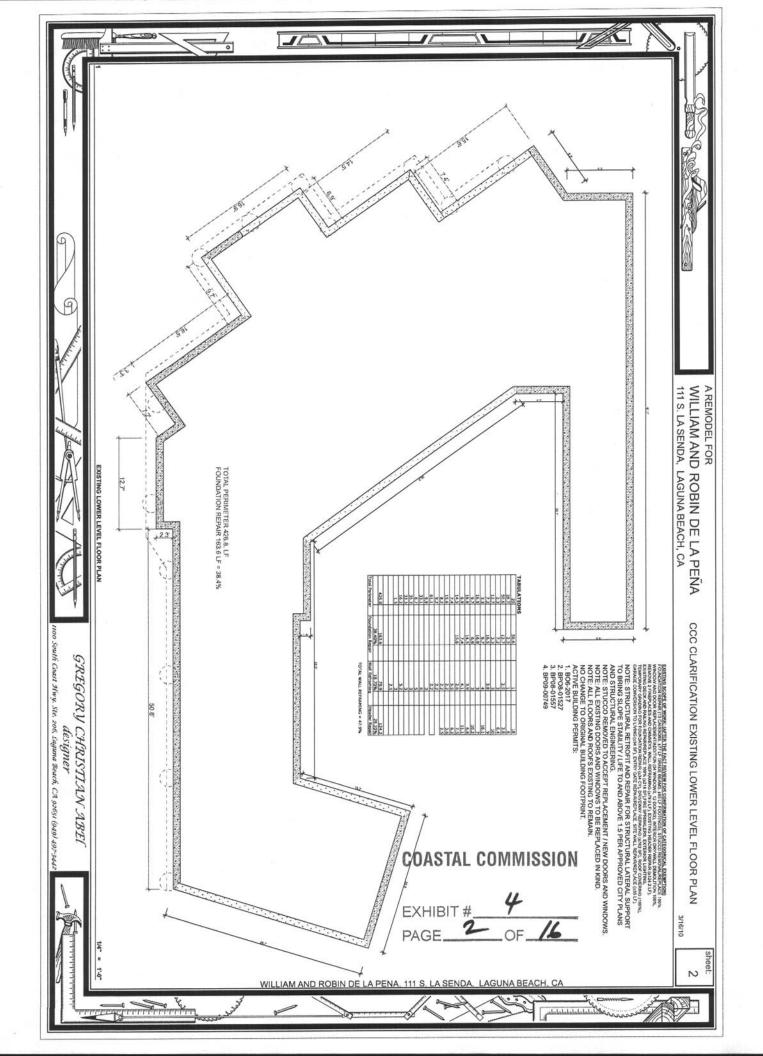


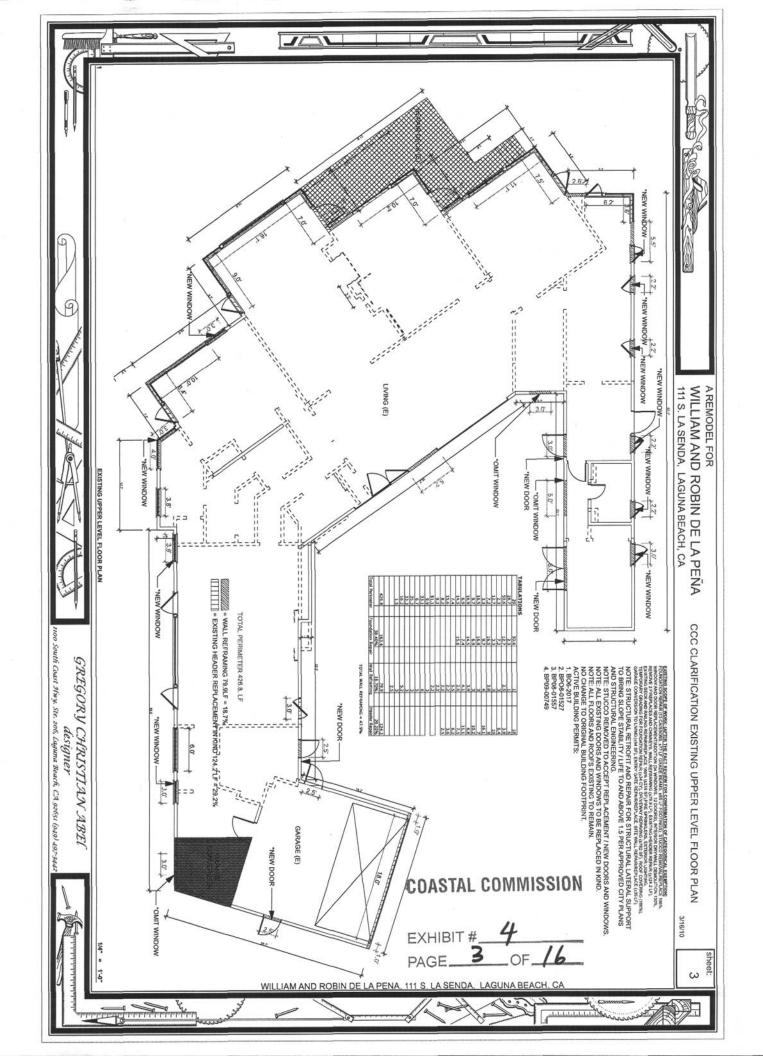


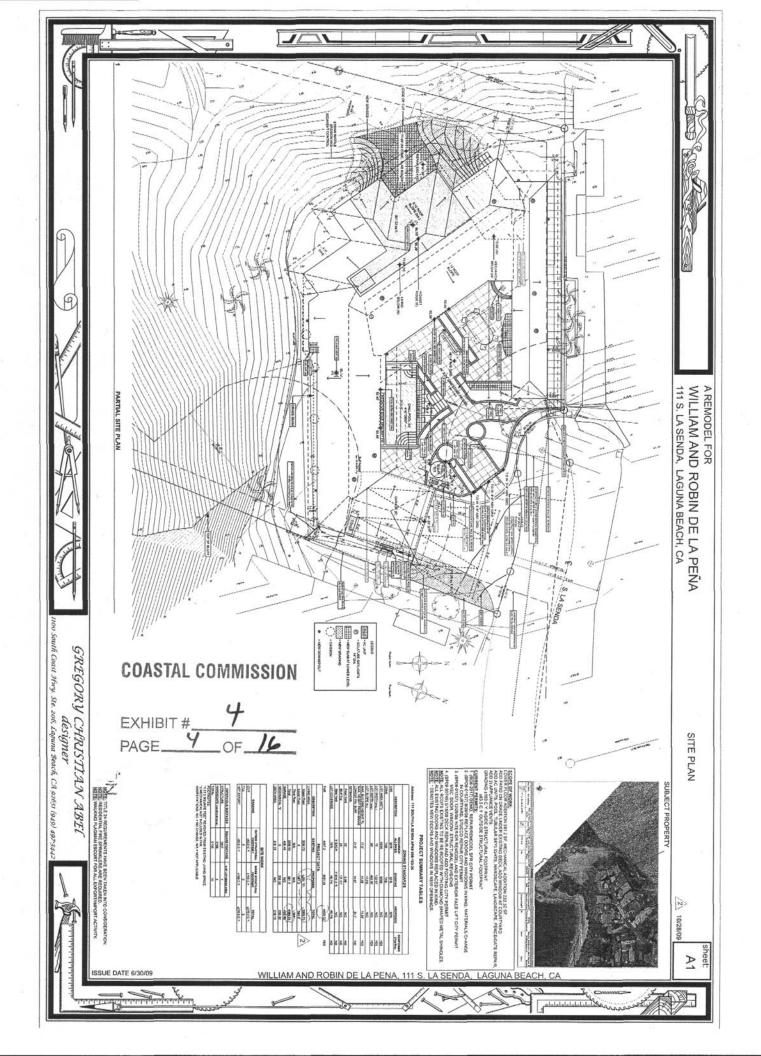


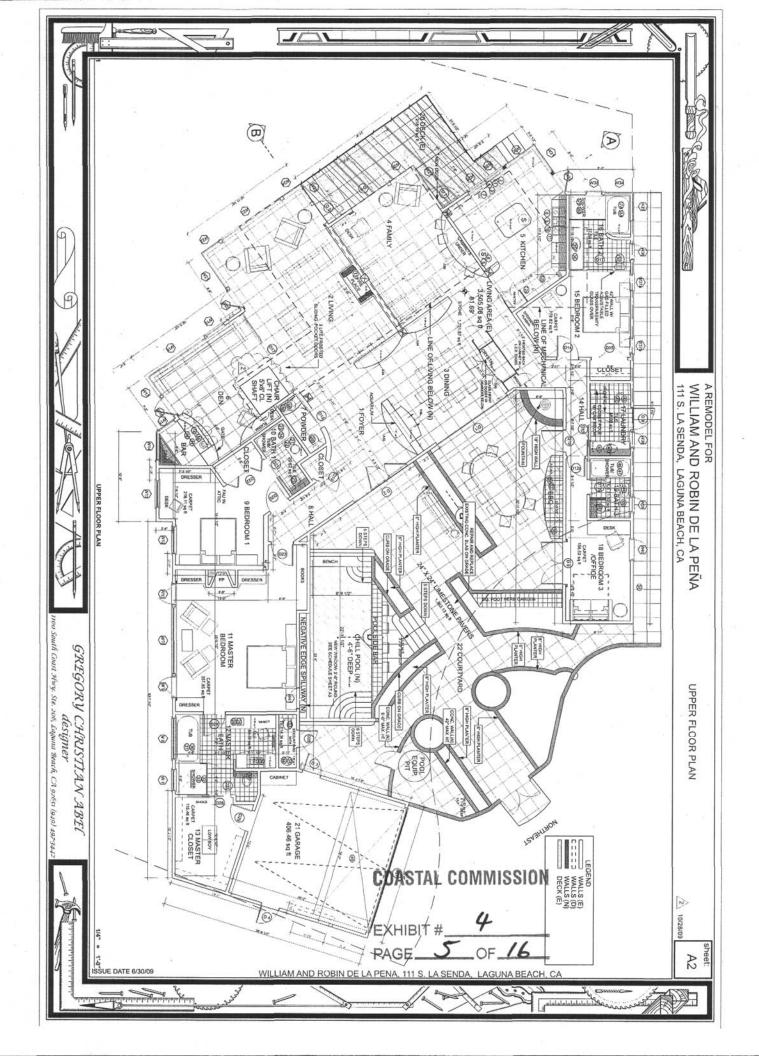


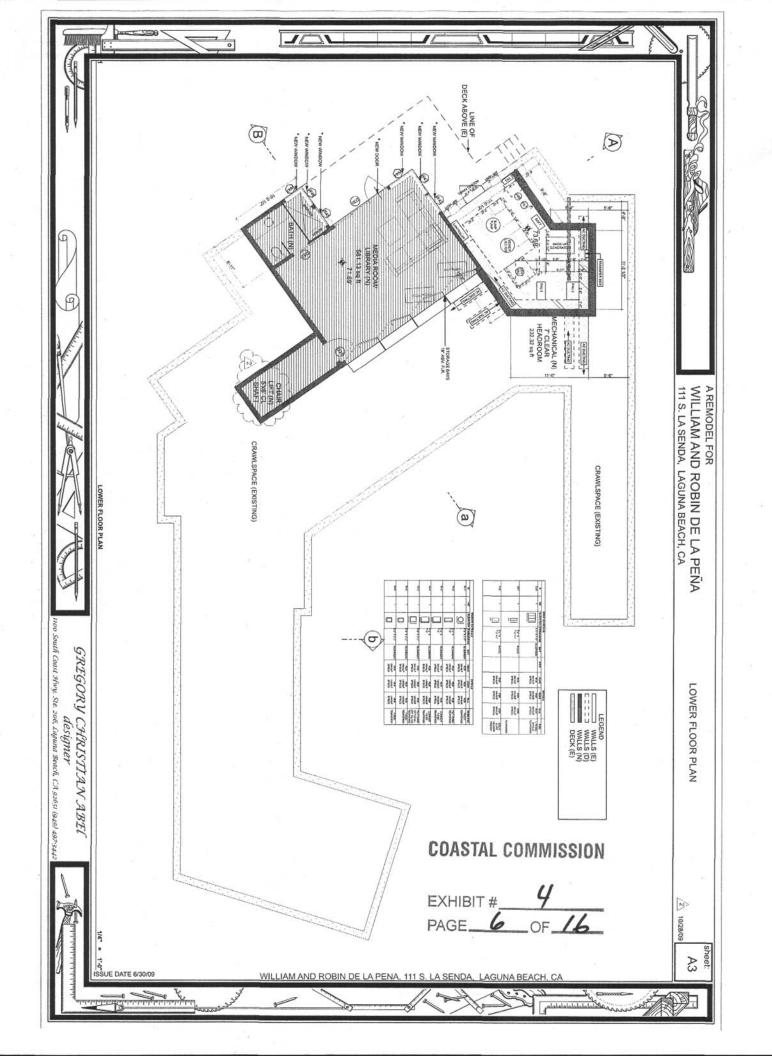


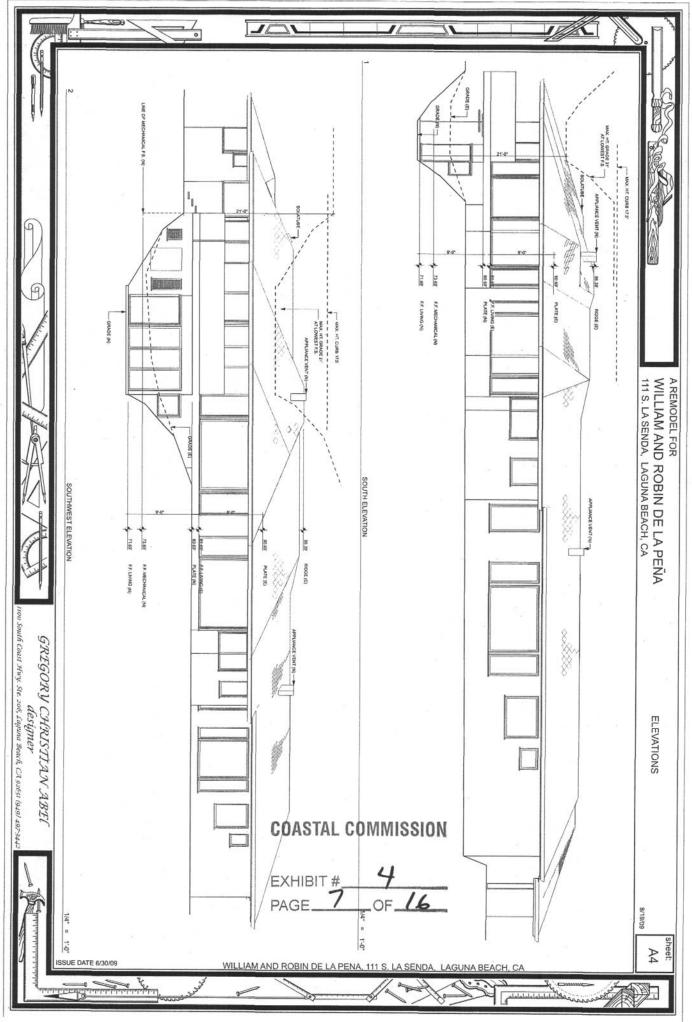


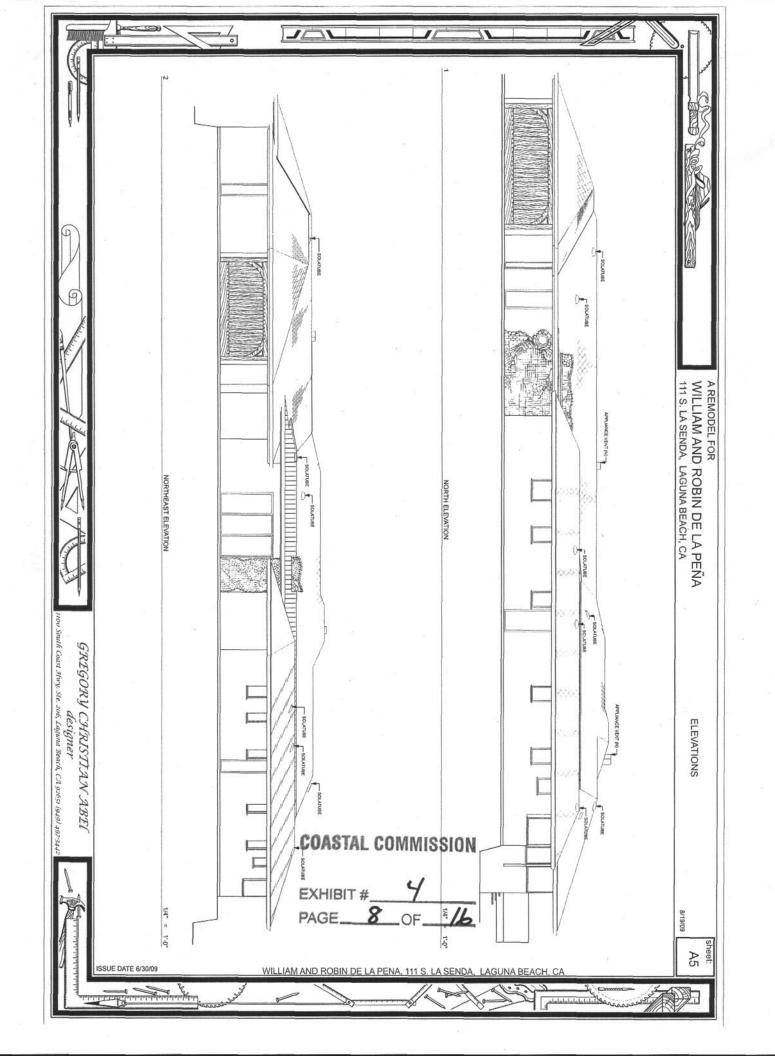


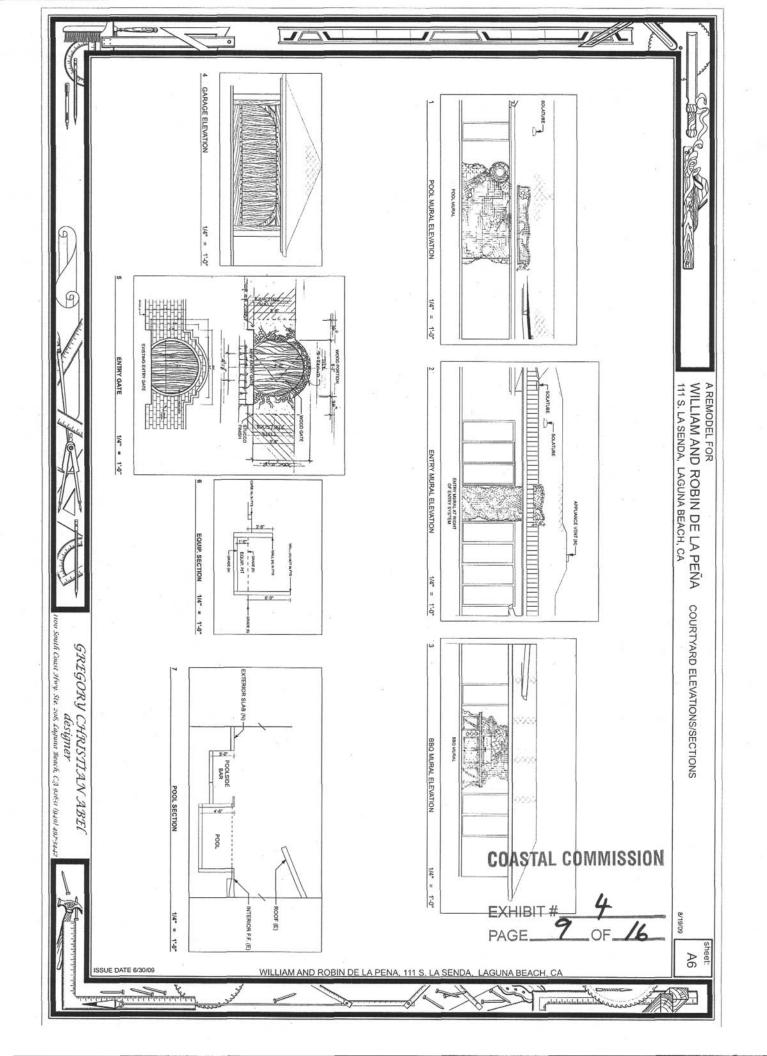


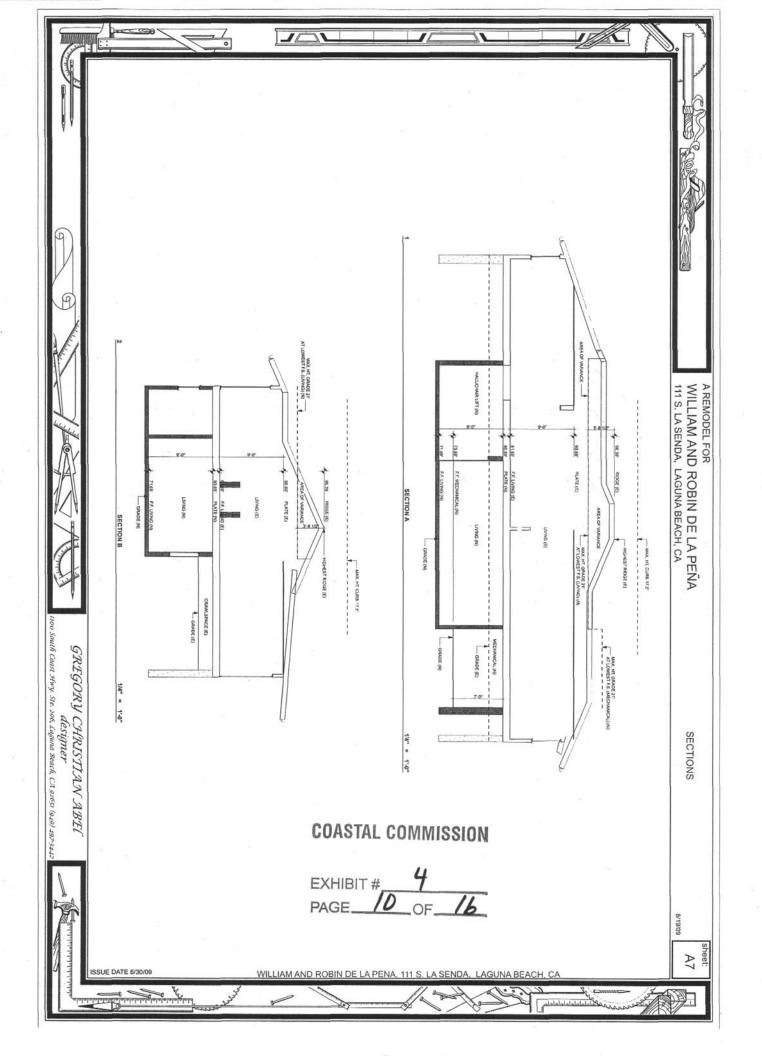


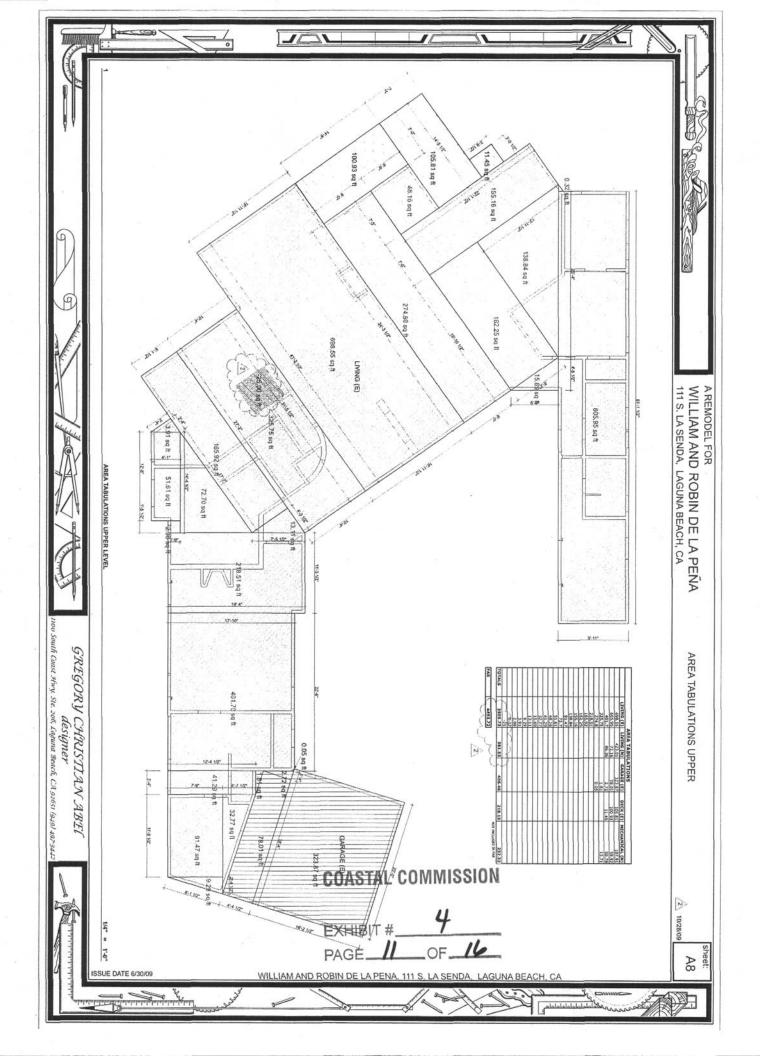


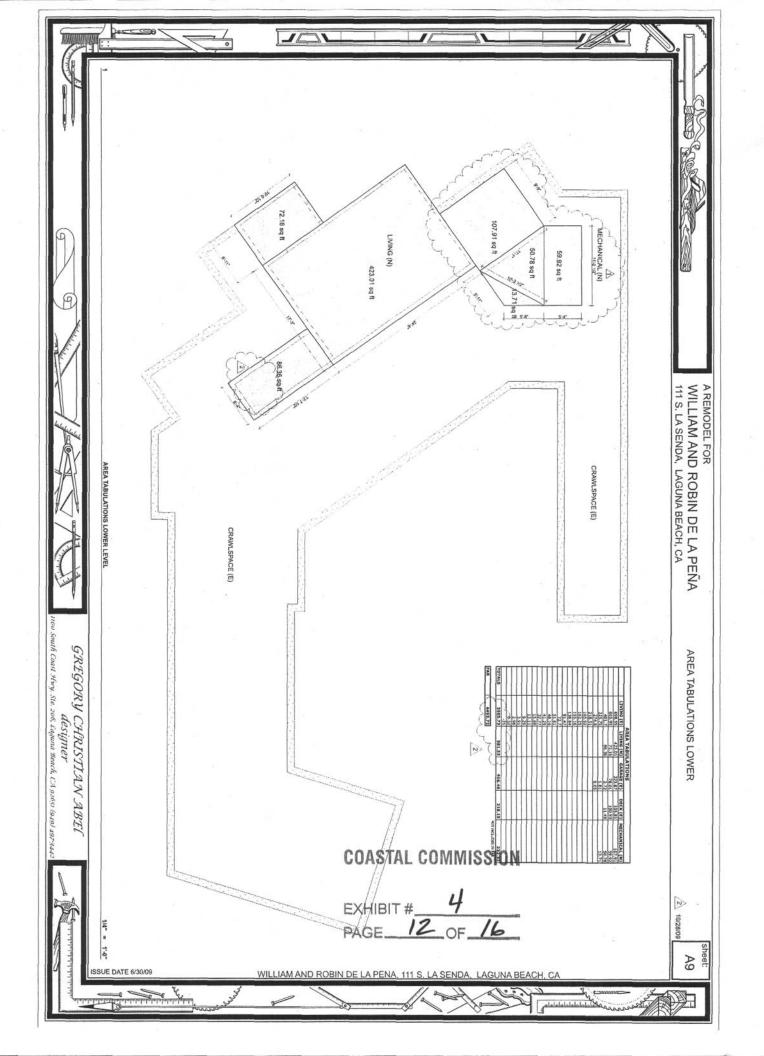


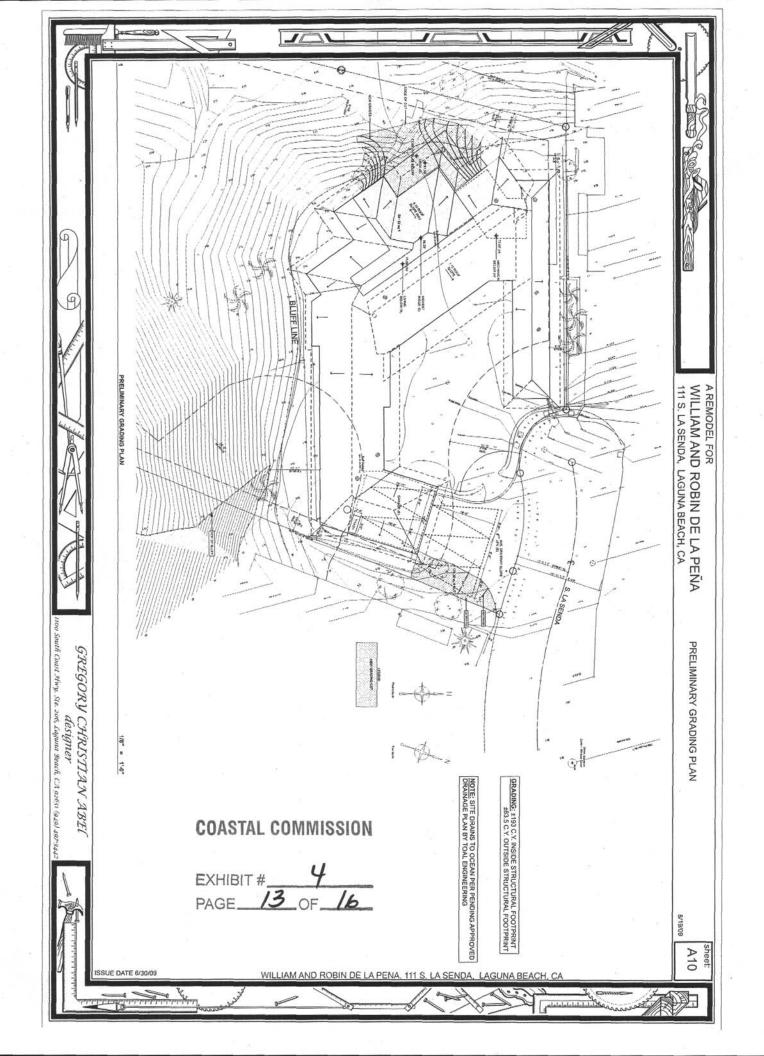


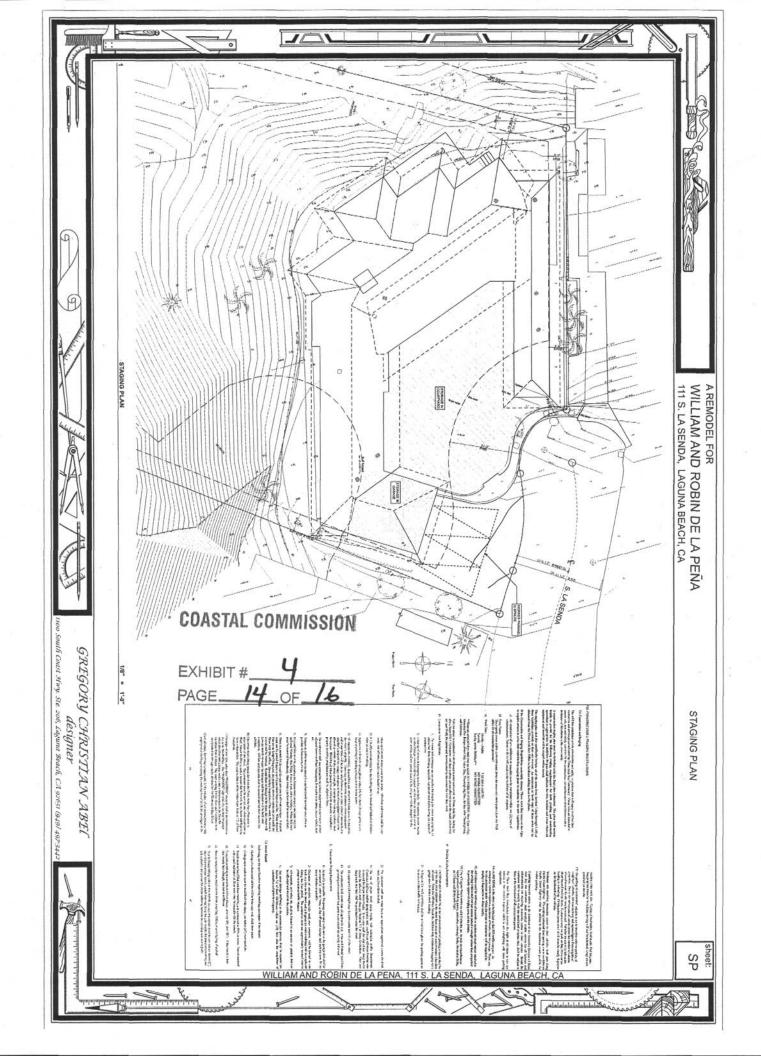


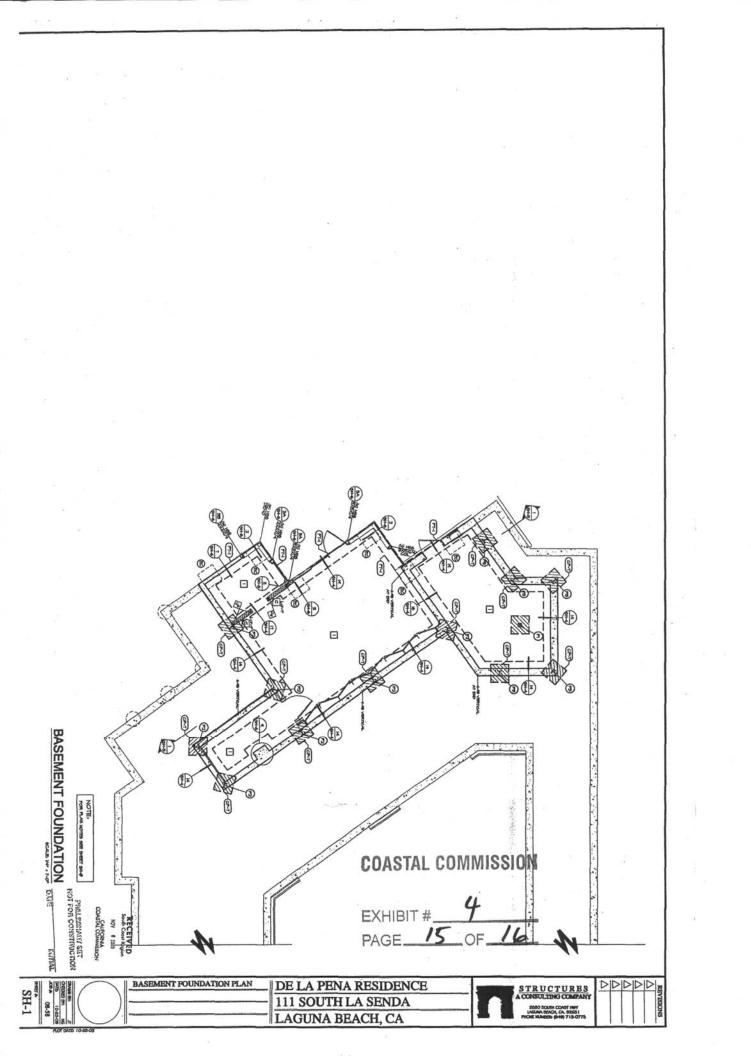


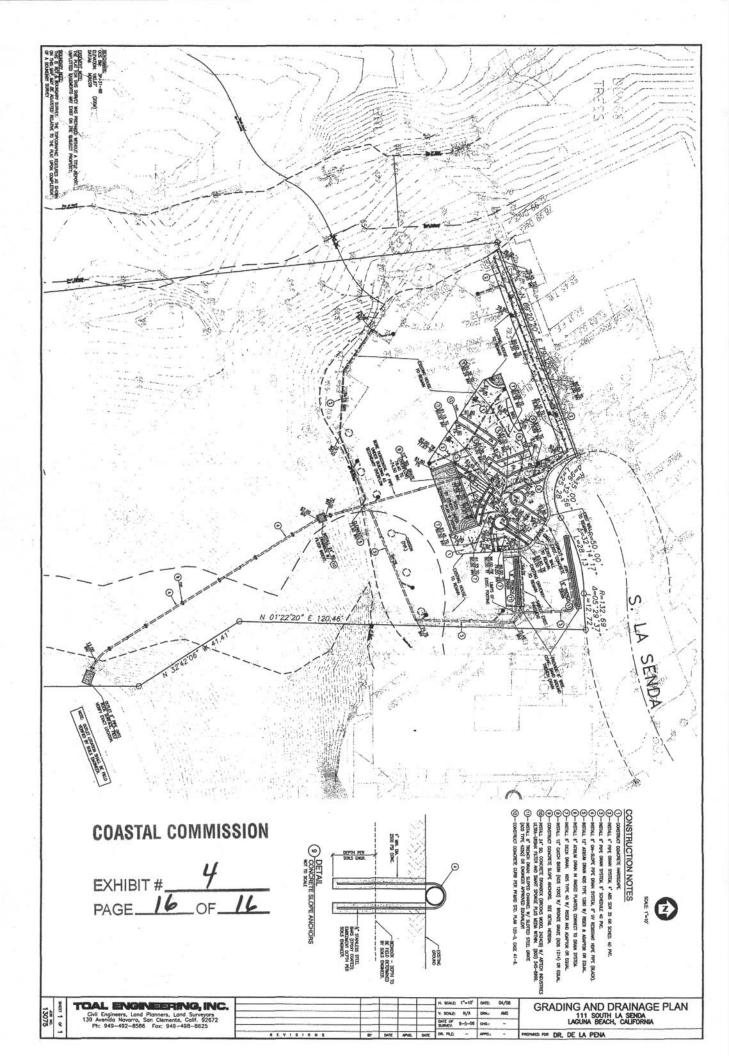


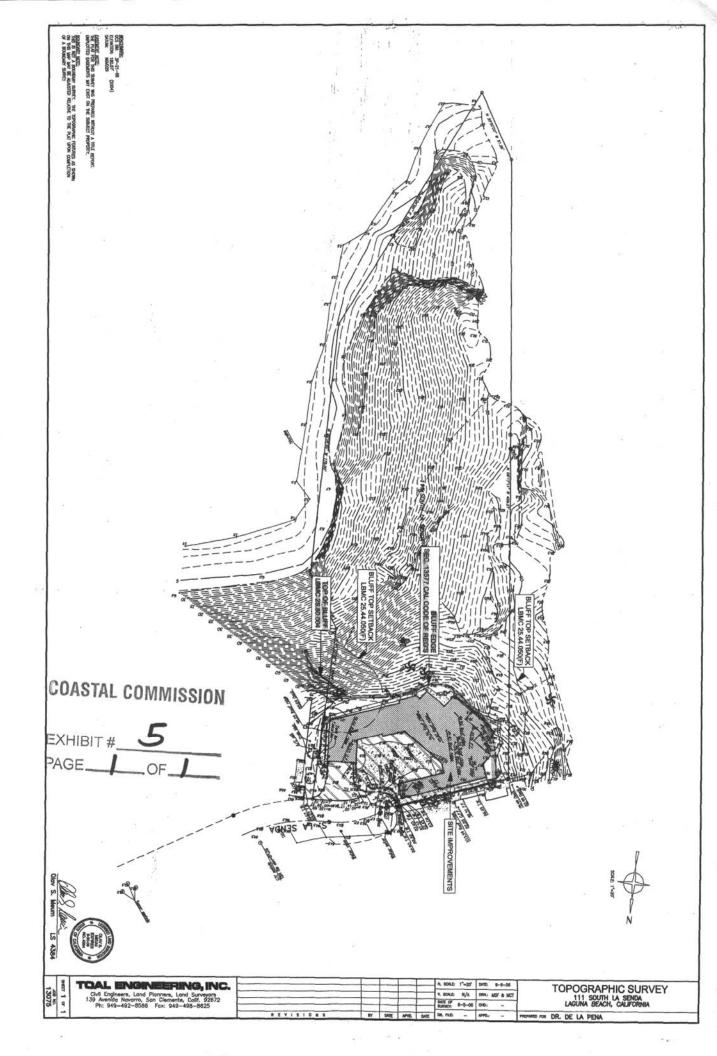


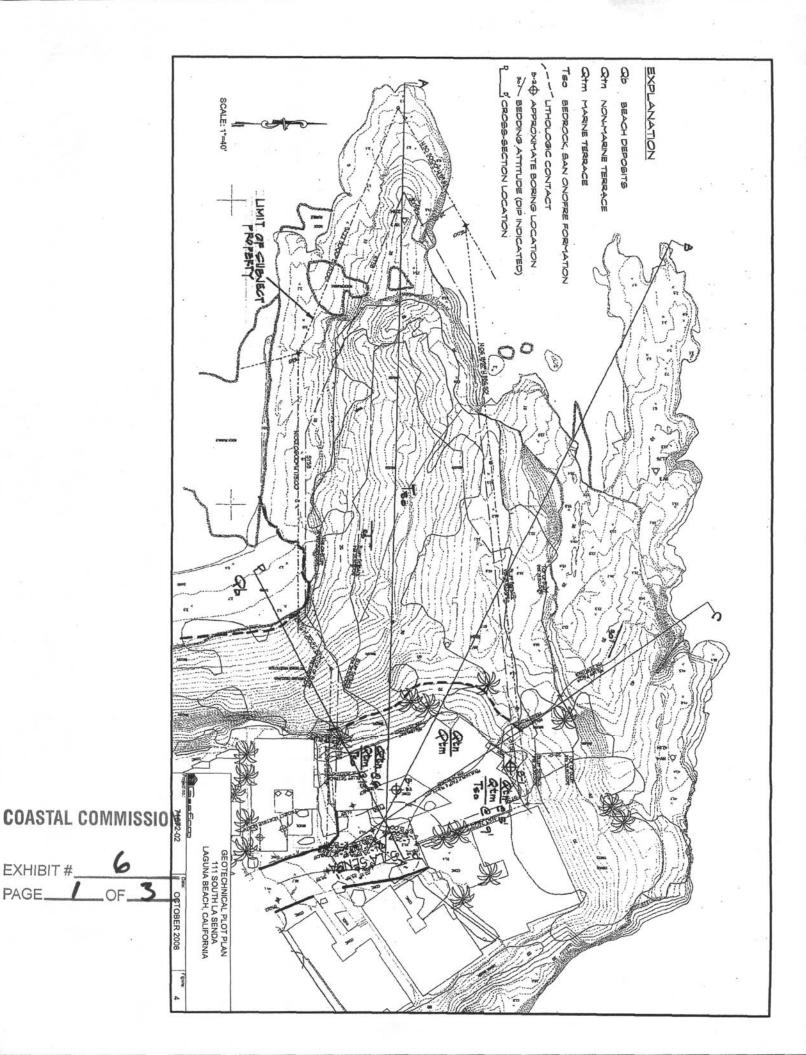


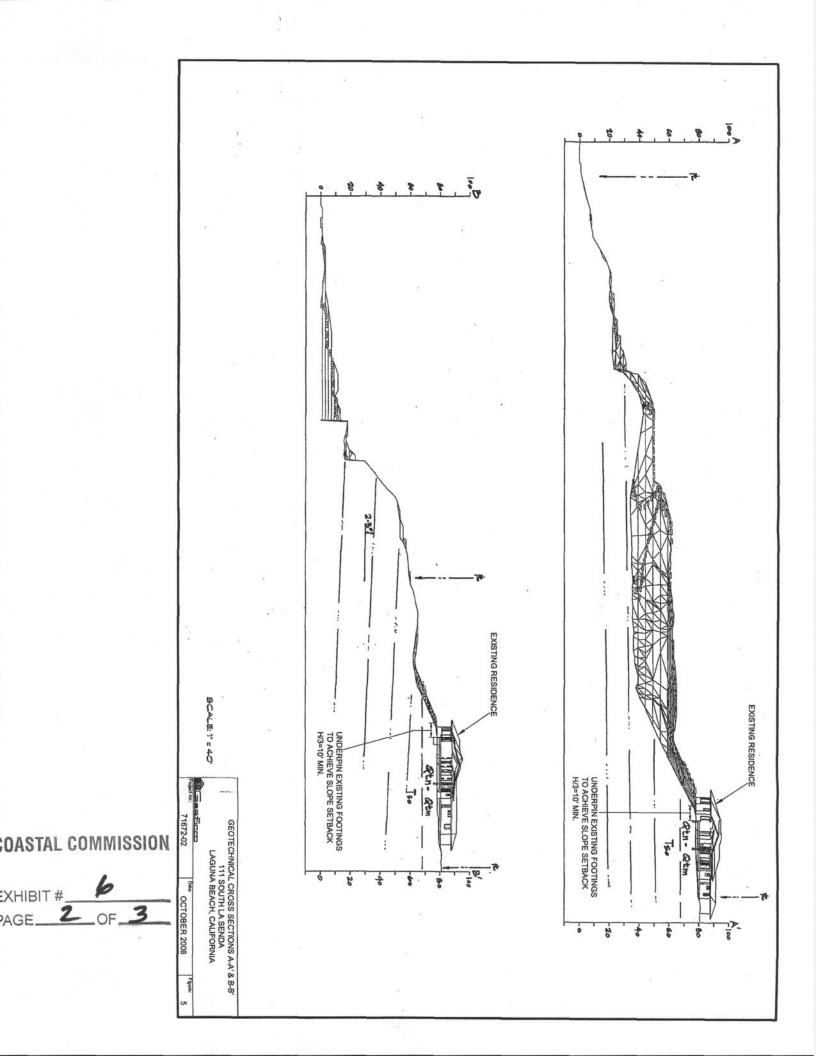


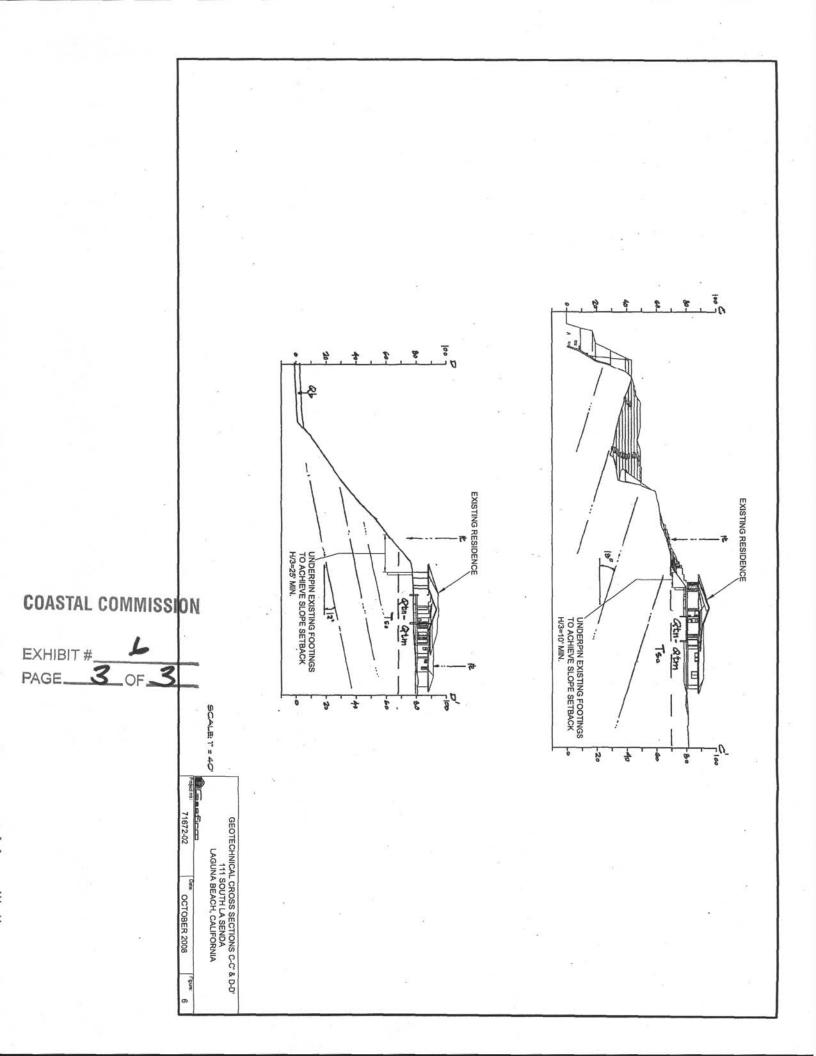


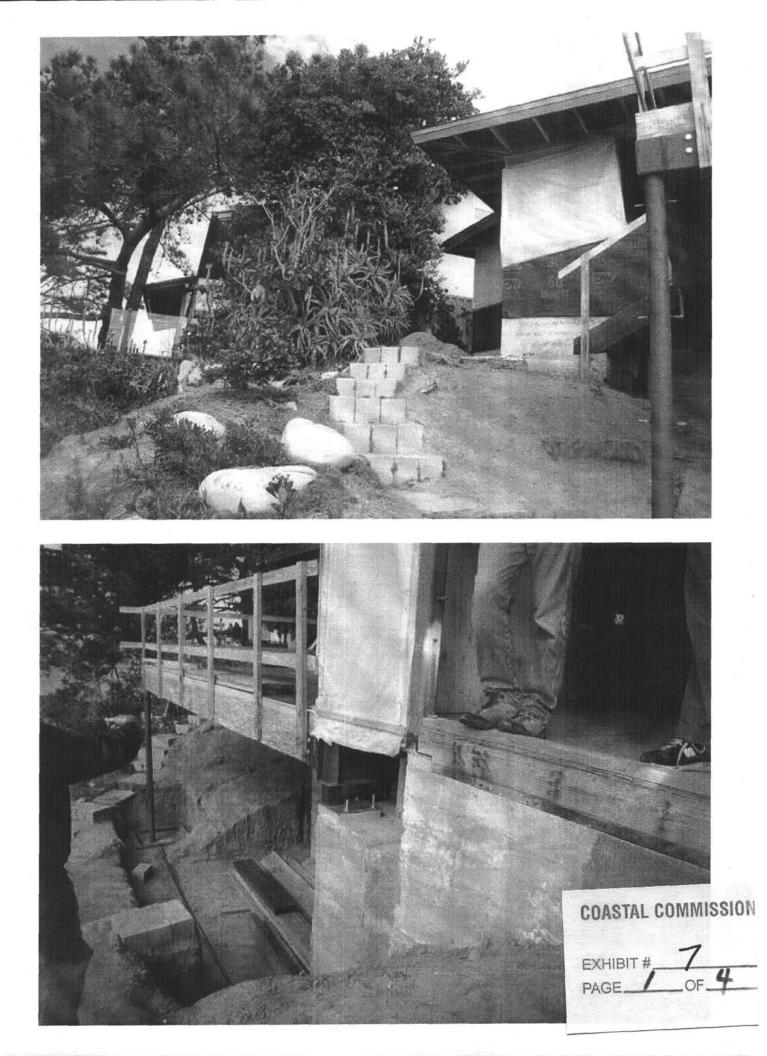


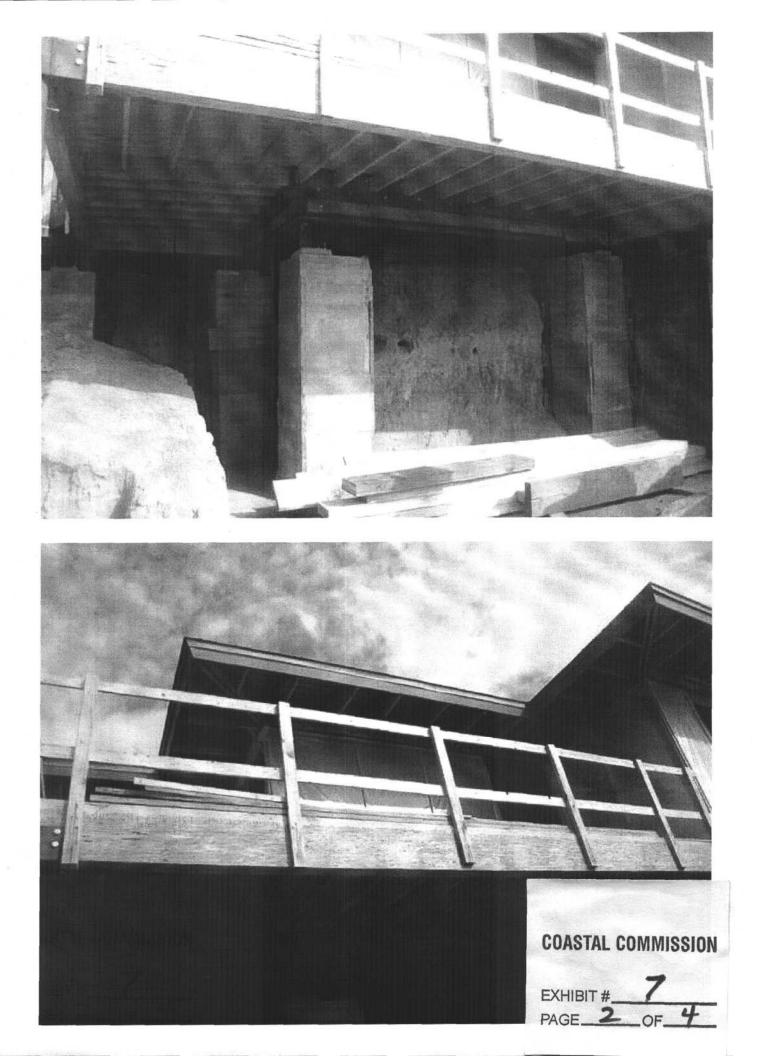


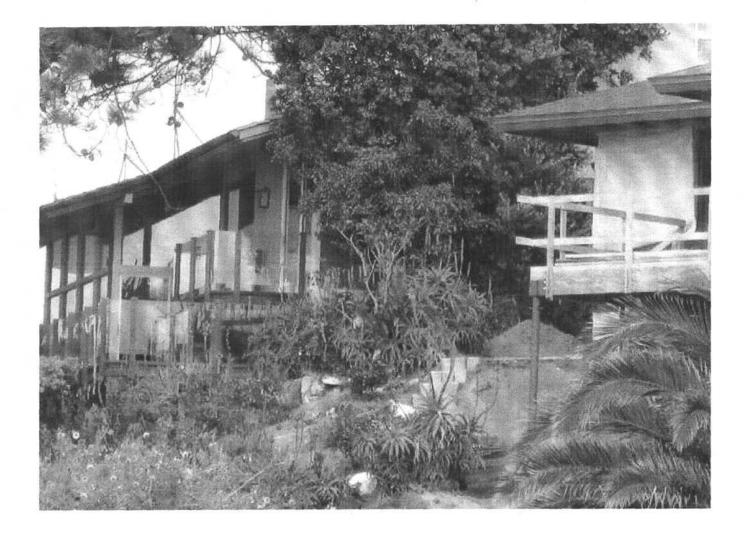












COASTAL COMMISSION

EXHIBIT # 7 PAGE 3 OF 4



COASTAL COMMISSION

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Irvine Cove Crescent Bay Shaw's Cove Boat Canyon entre Coast Hay Diver's Cove Heisler Park (1) A Picnic Beach St Dr > F + Rockpile Coast Huy Sleepy Hollow Main Beach X St. Ann's Beach Cleo St. Beach **Oak Street Beach Brooks Street Beach** Beach Park Thalia Beach Main **Cress Street Beach** Beach Laguna Mountain Road 33 F Agate St. Beach **Bluebird Beach** 5 19800 T Pearl Street MANY Wood's Cove Moss Point Victoria Beach Blueb-d Parl **Christmas** Cove Nearest public beach access point to Three Arch Bay is 1,000 steps Beach in South Laguna Beach Goff Cove Treasure Island Part P e Mar Ave Moulton Caguna Beach Aliso Beach Lottez Avé alifornia BOORD the World 1000 Steps Laguna Meadows Top of O Aapo se sunder end -Beach, Park Aliso South Aliso I COASTAL COMMISSION EXHIBIT # PAGE 0