

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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Filed: 8/5/11
180th Day: Waived
270th Day: 5/1/12
Staff: Meg Vaughn-LB
Staff Report: 3/23/12
Hearing Date: 4/11-13/12
Commission Action:

**Fr 10a****STAFF REPORT: PERMIT AMENDMENT****AMENDMENT****APPLICATION No.:** 5-07-163-A1**APPLICANT:** Mark S. Hammond**AGENT:** Mark Grosher**PROJECT LOCATION:** 58 North La Senda Drive, Laguna Beach, Orange County.

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Remodel and addition to an existing single family residence on an ocean-fronting bluff top lot. Upon completion of the work proposed, the residence will be two levels, 25 feet high, 6,135 square feet with one attached 425 square foot, two car garage and a second 400 square foot, two car garage on an ocean-fronting bluff top lot. Existing walls, patio area and stairs seaward of the residence are proposed to be retained.

DESCRIPTION OF AMENDMENT: Construction of a wood and decomposed granite patio in roughly the same footprint as a previously approved, but never constructed and no longer proposed water feature, seaward of the residence. Also proposed are: construction of concrete stairs at the northwest corner of the site to accommodate fire personnel access; and, at the landward side of the lot near the street, construction of a 185 square foot wood deck and gas fire feature.

LOCAL APPROVALS RECEIVED: City of Laguna Beach Approval in Concept dated 8/2/11.

SUBSTANTIVE FILE DOCUMENTS: 5-07-163 (Hammond); City of Laguna Beach Local Coastal Program (used as guidance only in this area of original jurisdiction).

SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending approval of the proposed amendment request. The project proposed in the amendment request does not raise significant issues with regard to consistency with the Coastal Act.

PROCEDURAL NOTE

The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

I. STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution to **APPROVE** the permit amendment request:

MOTION: *"I move that the Commission approve the proposed amendment to Coastal Development Permit A-5-07-163 per the staff recommendation."*

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment 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 a Permit Amendment

The Commission hereby approves the coastal development permit amendment on the grounds that the development as amended, 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 amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Amended Project Description

The underlying coastal development permit No. 5-07-163 allowed, subject to special conditions, remodel and addition to an existing single family residence on an ocean-fronting bluff top lot resulting in a residence that would be two levels, 25 feet high, 6,135 square feet with one attached 425 square foot, two car garage and a second 400 square foot, two car garage. Existing walls, patio area and stairs seaward of the residence were to be retained.

The applicant has submitted a request to construct a wood and decomposed granite patio in roughly the same footprint as a previously approved, but never constructed and no longer proposed water feature, seaward of the residence. In addition the amendment request includes: construction of concrete stairs at the northwest corner of the site to accommodate fire personnel access; and, at the landward side of the lot near the street, construction of a 185 square foot wood deck and gas fire feature.

The proposed wood deck and gas fire feature are proposed well back from the bluff edge and raise no issue with regard to blufftop setback or bluff stability. The proposed at-grade patio area would be located at the seaward side of the residence, but it is proposed in place of the previously approved water feature and so introduces no new issues. The proposed concrete stairs are no more seaward than the approved residence, are fairly minor in scope, and also introduce no new issues.

The subject site is an oceanfront bluff top lot, located at 58 North La Senda, Laguna Beach (Three Arch Bay), Orange County. At this location the bluff is approximately 60 feet high, the toe of which is subject to marine erosion. There is a narrow, rocky beach located at the toe of the bluff.

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 areas of deferred certification which include the Three Arch Bay community. 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 approval 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.

The underlying permit was approved subject to 10 special conditions which required: 1) that the applicant submit written confirmation from the City of Laguna Beach Building Department of the extent of demolition performed on the residence; 2) that the applicant assume the risk associated with the proposed development; 3) a prohibition on future bluff or shoreline protection device; 4) a requirement that any future development at the site requires approval of a coastal development permit amendment or a new coastal development permit; 5) a prohibition on improvements to the existing non-conforming development seaward of the 10 foot bluff edge setback identified on the project plans; 6) conformance to the approved drainage and runoff control plan; 7) conformance to the approved landscape plan; 8) conformance with the geotechnical recommendations; 9) submittal of a pool protection plan to address issues arising from pool leakage and conformance to the approved plan; and, 10) recordation of a deed restriction recognizing that the subject property is subject to the terms and conditions of the coastal development permit. The special conditions were met, the permit was issued, and development has commenced. All previously imposed standard and special conditions remain in full force and effect for the project as amended.

B. Consistency with Previously Approved Permit

Questions have been raised as to whether the previously approved portion of the project was carried out consistent with the Commission's approval of that project. The findings and special conditions imposed at that time recognized the project as a remodel rather than new construction based on the amount of demolition proposed by the applicant. The findings and special conditions of the Commission's approval required that the structural elements of walls proposed to remain, such as studs and foundations, must be retained (i.e. not demolished). The applicant believes the project was implemented as approved, including the extent of demolition, because all the structural elements required to be retained were retained. However, questions arise as to consistency with the Commission's project approval because, although these structural *elements* were retained, their structural *function* was not. For example, existing studs were retained, but new studs and wall were

constructed around the retained studs such that the structural function was transferred from these retained studs to the newly constructed studs.

In approving coastal development permit No. 5-07-163, the Commission found that imposition of special conditions was necessary to find the project consistent with the Coastal Act. Among them, Special Condition No. 1 required the applicant to submit a certified copy of the City building inspector's report confirming the extent of demolition that occurred at the site (Exhibit 3 – Special Condition 1 of coastal development permit No. 5-07-163). The special condition then required that if the building inspector's report indicated that more demolition had occurred or was needed than was approved under the coastal development permit, then any further work at the site was required to cease and the applicant was required to submit an amendment or new coastal development permit application to address the additional demolition.

Pursuant to this special condition the City conveyed confirmation from the City building inspector that the extent of demolition that occurred on site was consistent with the amount approved under the coastal development permit as reflected in the approved demolition plans. (Exhibit 4- City Building Inspector Demolition Confirmation).

Regarding the significance of the extent of demolition, findings from the Commission's approval of the underlying coastal development permit state:

The Commission has generally found that if less than 50% of the linear feet of the existing exterior walls are removed, the project can be reviewed as a remodel rather than substantial re-development. The significance of this distinction is that existing non-conformities, such as existing development within the setback area, can be considered for retention if such retention would not raise significant inconsistencies with Coastal Act requirements. The 50% demolition threshold provides one consistent and equitable method of dealing with existing non-conformities associated with extensive remodel projects.

The condition compliance associated with this permit highlights, that further clarification and quantification of what constitutes demolition and, therefore, new construction versus remodel is needed. The City of Laguna Beach currently has a Local Coastal Program amendment (LCPA) request scheduled (LGB-MAJ-1-11) before the Commission at this same (April 2012) Coastal Commission hearing which includes a new definition of major remodel proposed by the City. The specificity regarding what constitutes substantial demolition and replacement of the existing structure compared to remodel of the existing residence will be addressed in that LCPA. At this time, the Commission has not initiated an enforcement action on this project given the sign-off by the City inspector appears consistent with the condition of approval of the permit.

Although unpermitted development may have occurred, the Commission's determination that this application could be approved has been based solely upon the Chapter 3 policies of the Coastal Act. Approval does not constitute an admission as to the legality of any development undertaken on the subject site.

C. PUBLIC ACCESS

The proposed development will not affect the public's ability to gain access to, and/or to make use of, the coast and nearby recreational facilities. Therefore, as proposed the development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

D. 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, 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.

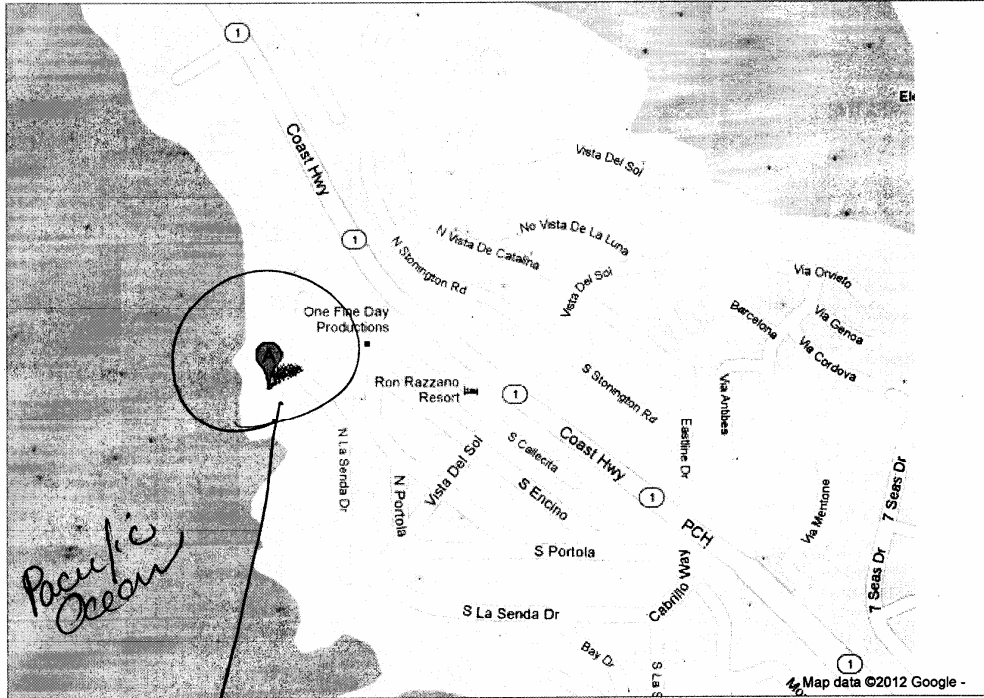
E. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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.

Google

To see all the details that are visible on the screen, use the "Print" link next to the map.

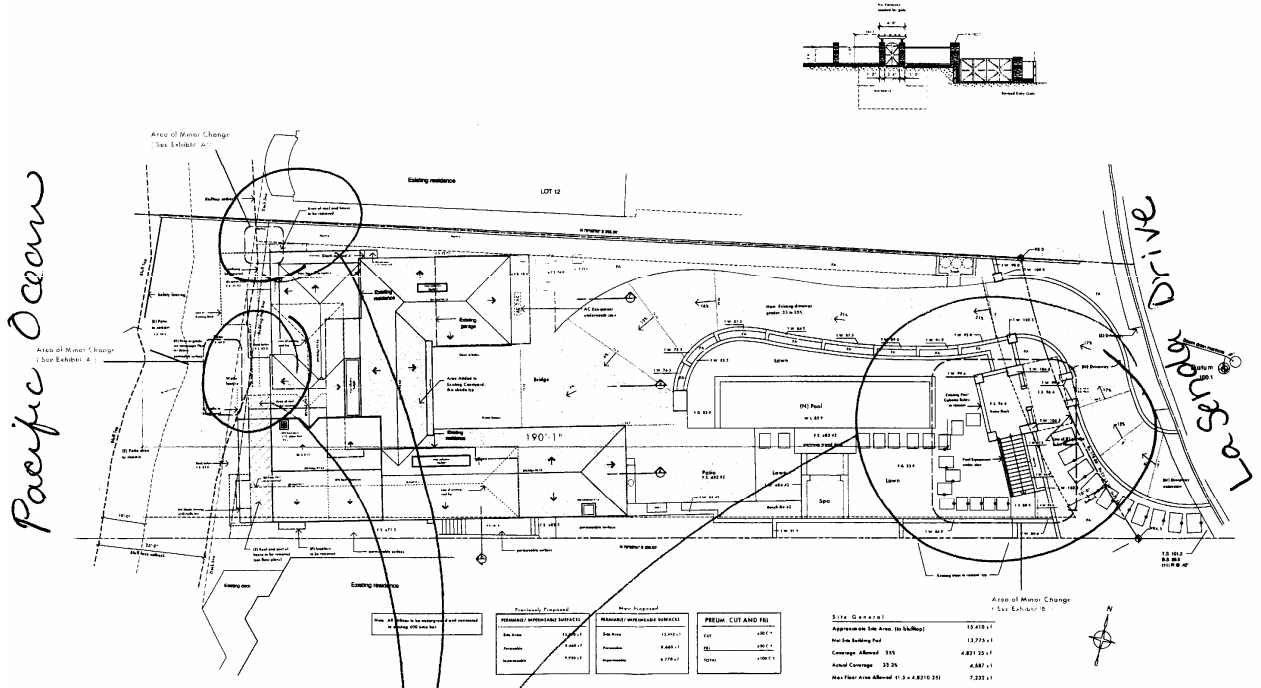


Pacific Ocean

*58 No. La Senda
Subject Site*

VICINITY MAP

COASTAL COMMISSION
5-07-163-A1
EXHIBIT # 1
PAGE 1 OF 1



Pacific Ocean

La Senda Drive

Proposed	Previously Proposed		New Proposed		PRELIM. CUT AND FILL	SITE CHARACTERISTICS
	Area (sq. ft.)	Volume (cu. yd.)	Area (sq. ft.)	Volume (cu. yd.)		
Pool	1,200	1,200	1,200	1,200	0	15,000 sq. ft.
Deck	1,000	1,000	1,000	1,000	0	12,000 sq. ft.
Other	1,000	1,000	1,000	1,000	0	10,000 sq. ft.
Total	3,200	3,200	3,200	3,200	0	37,000 sq. ft.



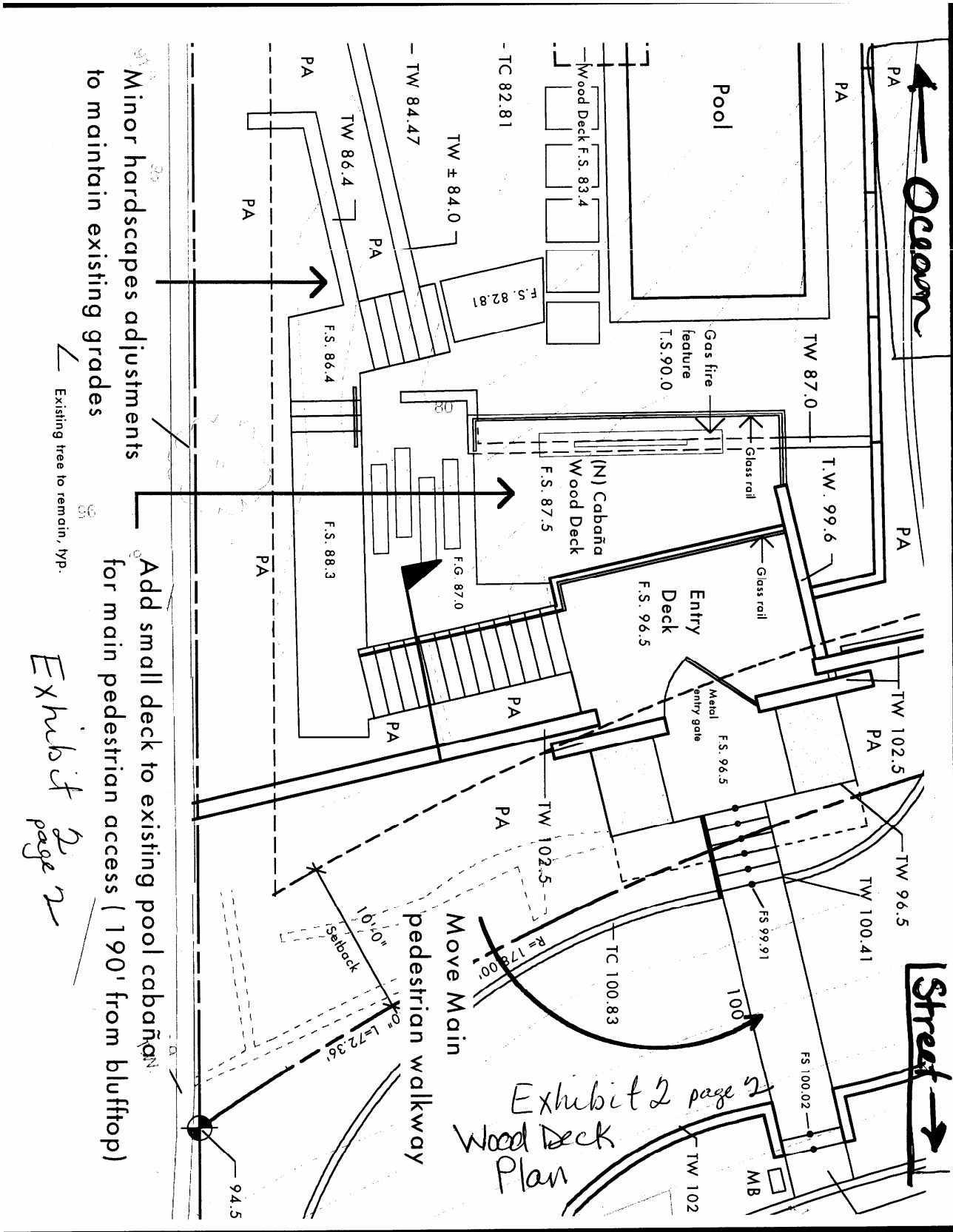
Hammond Residence
58 North La Senda Drive • Three Arch Bay • Laguna Beach • California

Site Plan (SP1)

area of amendment development

Site Plan

COASTAL COMMISSION
5-07-163-A1
EXHIBIT # 2
PAGE 1 OF 3



Minor hardscapes adjustments to maintain existing grades

Add small deck to existing pool cabana for main pedestrian access (190' from blufftop)

Existing tree to remain, 17p.

Exhibit 2 page 2

Move Main pedestrian walkway

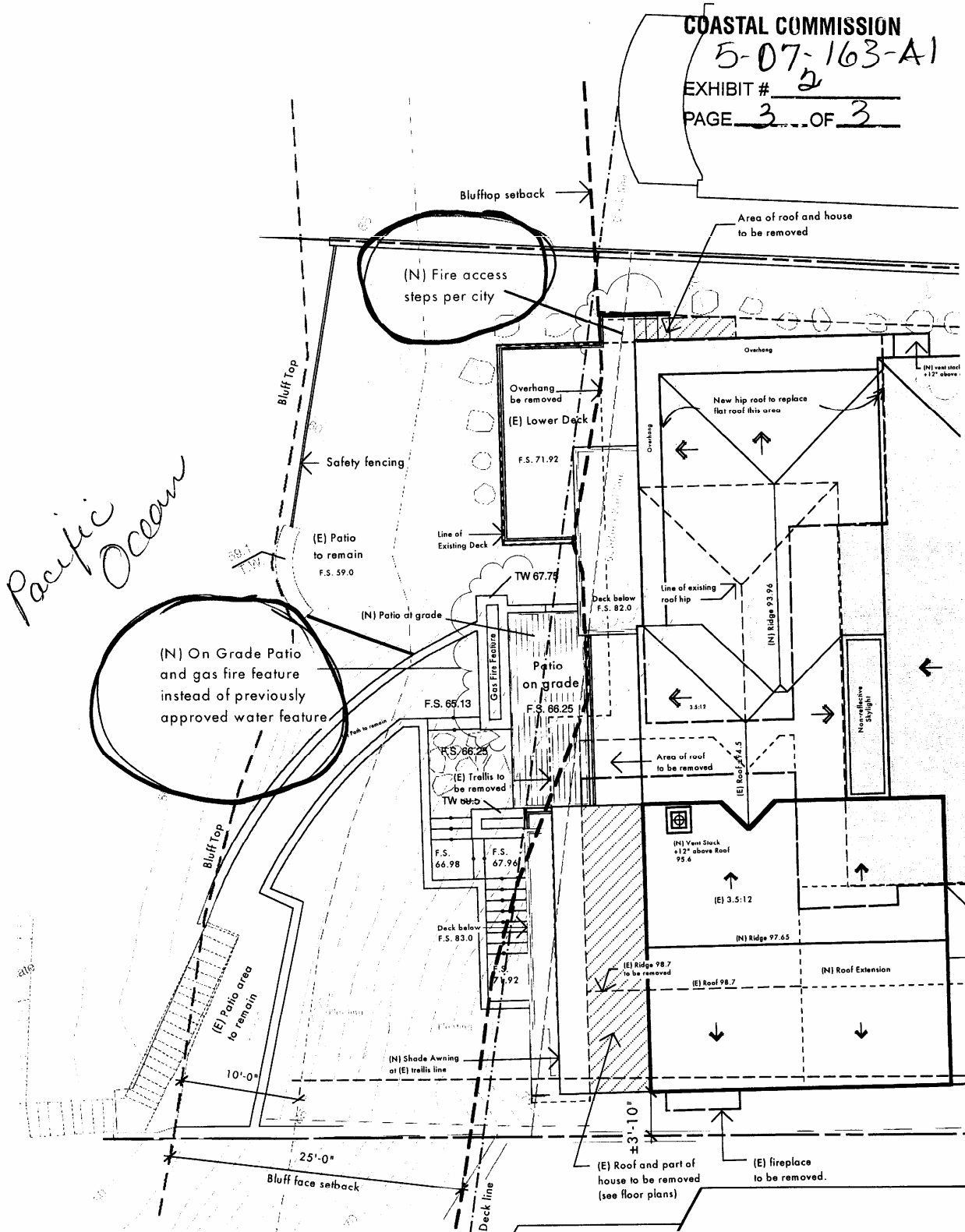
Exhibit 2 page 2 Wood Deck Plan

COASTAL COMMISSION

5-07-163-A1

EXHIBIT # 2

PAGE 3 OF 3



5-07-163 (Hammond)
58 N. La Senda, Three Arch Bay
Page 3

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. **Confirmation of the Extent of Demolition**

After demolition has been completed, and the framing of the walls to remain is exposed pursuant to the demolition plan approved in this permit, but **PRIOR TO ANY NEW CONSTRUCTION**, the applicant shall submit to the Executive Director, via bonded messenger from the City of Laguna Beach Building Department, for the review and approval of the Executive Director, a certified copy of the City building inspector's report which indicates whether any demolition beyond the amount shown on the demolition plan approved by this permit has occurred or would be necessary in order to meet building and safety codes.

If the building inspector's report, accepted by the Executive Director, indicates additional demolition has already occurred or must occur due to the deteriorated state of the walls which were proposed by the applicant to remain, the applicant shall submit a complete amendment request application or a complete application for a new coastal development permit. The application shall address the issue of revisions to the project due to the need for additional demolition. Whether an amendment or a new application is submitted shall be determined by the Executive Director.

No further development may occur until either:

- a) The Executive Director determines, pursuant to the City building inspector's report, that all walls identified as walls to remain are intact and structurally sound; or
- b) the applicant submits an amendment request application if so directed by the Executive Director and the amendment request is subsequently approved by the Coastal Commission and issued by the Executive Director; or
- c) the applicant submits a new coastal development permit application if so directed by the Executive Director and the coastal development permit is approved by the Coastal Commission and issued by the Executive Director.

*Special Condition No. 1
5-07-163*

COASTAL COMMISSION
5-07-163-A1
EXHIBIT # 3
PAGE 1 OF 1



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CALIFORNIA
COASTAL COMMISSION

September 24, 2008

Peter Douglas, Executive Director
California Coastal Commission
South Coast Area Office
200 Oceangate, Ste. 1000
Long Beach, CA 90802-4302

SUBJECT: COASTAL DEVELOPMENT PERMIT #5-07-163 FOR 58 N. LASENDA

Dear Mr. Douglas:

Pursuant to Special Condition #1 on sheet 2 of the subject permit, I certify that the demolition has been completed, and the framing of the walls to remain is exposed per the demolition plan approved in the subject coastal permit. A copy of the City's demolition permit (#BP08-00655) authorizing the demolition is attached. City Building Inspector Chuck Hooton has signed the back of the demolition permit signifying final inspection approval of the demolition. If you have questions regarding this matter, please call me at (949) 497-0336.

Sincerely,

A handwritten signature in cursive script that reads "John Gustafson".

John Gustafson
Building Official

cc: Building Inspector Chuck Hooton

encl.

COASTAL COMMISSION
5-07-163-A1
EXHIBIT # 4
PAGE 1 OF 1