

**CALIFORNIA COASTAL COMMISSION**

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

**W19a****ADDENDUM**

August 12, 2013

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: ADDENDUM TO **ITEM W19a**, COASTAL COMMISSION PERMIT  
AMENDMENT APPLICATION #**5-84-329-A1** FOR THE COMMISSION  
MEETING OF **August 14, 2013**.

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**Recommended Corrections and Changes to Special Conditions and Exhibits**

1. On page 7 of the staff report, revise Special Condition #4 to strike the reference to Exhibit #6 and replace it with a reference to Exhibit #5, page 5.
2. In the exhibits to the staff report, replace Exhibit 6, page 1 of 3 with the attached Exhibit 6, page 1 of 3. The new exhibit accurately depicts the revisions to the proposed additions to the existing residence as revised by the applicant July 2013 on the site plan which indicates the bluff edge as agreed upon by the applicant and Commission staff.
3. On Page 8 of the staff report, revise Special Condition #6 as follows:

(new language is in underlined text)

**6. Submittal of Revised Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit, for review and approval of the Executive Director two (2) sets of final architectural plans, grading plans, drainage and run-off control plans, and landscaping plans that substantially conform with the site plan submitted to the Commission on July 22, 2013, prepared by Mark Singer Architects but which are modified, as necessary, to comply with the special conditions as amended by 5-84-329-A1 and shall include the following:

- a. The proposed spa shall be on shallow footings (no caisson/deepened foundation system is permitted) and shall be located a minimum of 10 ft. from the bluff edge as shown on the above referenced plans;
- b. Proposed additions to the existing residence shall be located no closer to the bluff edge than any adjacent portion of the existing residence and shall be a minimum of 25 ft. from the bluff edge depicted on Exhibit 6 of the staff report.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

## Recommended Additions to Staff Report Findings

On Page 16, revise the first full paragraph and add the following:  
(deleted language is in ~~strike-out text~~, new language is in underlined text)

As demonstrated on Exhibit #4, the lowest level of the existing residence was sited 25' from the bluff edge identified in 1984 with upper level interior space and upper level decks cantilevered into the 25' setback. However, the bluff edge as currently identified results in a portion of the existing residence on the southern end to be located within the 25' bluff edge setback and therefore is non-conforming with the 25' bluff edge setback policy (Exhibit #5). The applicant has modified the project to ensure that all of the proposed additions to the existing residence meet the updated 25' bluff edge setback. Furthermore, no demolition/reconstruction of existing walls that no longer conform to the 25' bluff edge setback are proposed. Therefore, no portion of the proposed ground floor additions will extend any closer to the bluff edge than the existing ground floor of the residence as permitted by the Commission in 1984. In addition, the proposed additions constitute slightly more than a 10 % increase to the floor area of the existing residence (574 sq.ft. added to existing 4,592 sq.ft. structure is 12.5% increase).

As the proposed, the remodel results in 33%-35% demolition of exterior walls (less than 50% demolition of exterior walls), and, although extensive interior remodeling is proposed, there is not more than 50% alteration to major structural components such as the foundation, floor and roof structure. For instance, the applicant is only proposing to add shallow conventional footings to support the new additions to the living space and garage (no caisson/deepened foundation system is proposed); the remainder of the foundation will remain as is (i.e. no reinforcement or augmentation of any kind is proposed). Furthermore, the applicant is proposing only to re-tile the roof; no structural elements of the roof will be replaced. and is only a minor 10% addition, it is Therefore, the proposed renovation is considered a minor remodel and therefore, non-conforming aspects may be retained, per City of Laguna Beach Certified LUP Policy 7.3, Action 7.3.10. When future improvements are reviewed as required by Special Condition No. 11, it will be important to analyze over time when, cumulatively, more than 50 % of the existing residence is replaced. If the remodel were a major remodel<sup>1</sup>, qualifying the entire structure as new development, the resulting non-conformities caused by the change in bluff edge determination would be required to be demolished and brought into conformance with the 25' bluff edge setback. The proposed remodel and additions have also been reviewed against the pending more specific definition of 'major remodel' currently undergoing review by the City and Commission staff as a future LCP amendment to the Implementation Plan and does not result in demolition,

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<sup>1</sup> The term 'major remodel' is defined in the certified Laguna Beach Land Use Element as "alteration of or an addition to an existing building or structure that increases the square footage of the existing building or structure by 50% or more; or demolition, removal, replacement and/or reconstruction of 50% or more of the existing structure; greater specificity shall be provided in the Laguna Beach Municipal Code."

removal, replacement and/or reconstruction of 50% or more of the existing residence, thus, existing non-conformities, which in this case are minor, may be retained.

The proposed development is determined to be safe from erosion without requiring protective devices which alter the natural landform of the bluffs on the basis of available information provided by the applicant and is therefore consistent with Coastal Act section 30253(a). However, 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 bluff or shoreline protective devices and their inherent impacts to bluffs and beaches. The Commission typically applies a “No Future Blufftop/Shoreline Protective Device” Special Condition to both bluff top residential remodel projects and residential demo/rebuild projects in Three Arch Bay in the City of Laguna Beach. However, in this particular case, proposed additions and renovation will not increase the existing residence’s exposure to threats from erosion because there will be no new development closer to the bluff edge than the existing structure. While the proposed improvements are substantial and clearly go beyond minor repair and maintenance, they are not greater in scope than often occurs over the life of a residence, are not greater than a 50 % addition or replacement, and do not result in a greater risk to the existing residential structure over that which currently exists. Therefore, the proposed improvements to the existing home will not result in the need for shoreline protection to any greater degree than presently exists with the existing home. The applicant’s right to any such protection shall be determined if and when there is a proposal for shoreline protection in the future.

COASTAL COMMISSION

EXHIBIT # 6  
PAGE 1 OF 3



**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
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**W19a**

Filed:	1/2/13
180th Day:	7/1/13
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Staff:	L. Roman-LB
Staff Report:	8/2/13
Hearing Date:	8/14/13

**STAFF REPORT: PERMIT AMENDMENT****Amendment**

**Application No.:** **5-84-329-A1**

**Applicants:**

**Gaurav Garg and Komal Shah**

**Agent:**

Sherman Stacey  
Mark Singer Architects, Inc.

**Project Location:**

56 N. La Senda, Laguna Beach, Orange County

**Description of Previously  
Approved Project:**

Construction of a 3 story single family dwelling on a coastal promontory in Three Arch, South Laguna, Orange County

**Description of Amendment:**

Request to modify bluff edge setback requirements established in a previously imposed special condition and to authorize a remodel an existing 38' tall, 4,592 sq. ft. single-family residence including a 458 sq.ft. living space addition and 116 sq.ft. garage addition; reconfiguration of decks resulting in a 160 sq.ft. second story deck and 225 sq.ft. third story deck; hardscape improvements including demolition of spa and construction of new spa in different location, demolition of unpermitted 4 ft.-tall screen wall along bluff edge and re-construction with a 5' bluff edge setback; and landscaping on 11,238 sq.ft. coastal bluff lot.

## SUMMARY OF STAFF RECOMMENDATION

The Commission approved Coastal Development Permit P-78-2994(Craig) in 1978 for the subdivision of one parcel into three. The Commission then approved CDP 5-84-329(Hodges) for the construction of a three story single family residence on parcel 3, of the approved subdivided vacant bluff top lots in 1984. CDP 5-84-329 for the original development on the vacant lot included a three story residence with cantilevered decks, outdoor spa and concrete patio and was approved subject to four special conditions including Special Condition 4 which language prohibited the construction of private stairways, structures, or alterations on or down the bluff *or within 25 feet of the bluff face* and required a deed restriction to inform future property owners of all conditions of approval. An unpermitted 42” tall screen wall, additional paved patio area and lawn was constructed within the 25 foot bluff edge setback it appears in the late 1980s when the original residence was constructed, in violation of Special Condition 4 which restricted development within 25 feet of the bluff face.

The current property owners/applicants submitted a CDP application in January 2013 for a complete interior remodel, garage addition, minor additions to the residence, re-configuration of balcony decks, demolition of existing spa and new spa in new location, partial replacement of screen wall fence along bluff edge, and landscape improvements allegedly unaware of the underlying CDP conditions of approval. The proposed project included improvements within 25 feet of the bluff face. Upon learning of the underlying 1984 permit and the restrictions imposed by the permit, the applicants withdrew the CDP application and applied for a request to remove the original CDP 5-84-329 Special Condition #4 in order to allow for secondary type of development (i.e., patios, fencing, landscaping) within 25 feet of the bluff face.

The existing residence is on a bluff promontory and does not meet current City of Laguna Beach LCP policy regarding string line setbacks for decks/patios and for the primary residential structure. The non-conformity to stringline was recognized in the 1984 approval, but the Commission found that the 25-foot setback would be more appropriate and equitable given the widely undulating bluff edge in this area. The applicant is proposing to demolish the existing unpermitted 42” tall screen wall built along the bluff edge and propose a 5’ bluff edge setback (as defined/determined by Commission staff) for proposed new accessory development.

Instead of deleting **Special Condition 4** as requested by the applicants, Commission staff recommends **Special Condition 4** be modified to reflect a 25’ bluff setback for principal structures and major accessory structures such as guesthouses and pools or any such structures that require anything more than a shallow on grade foundation and any accessory structures such as decks, patios and walkways that do not require anything more than a shallow on-grade foundations shall be setback no less than 5 feet from the bluff edge, consistent with the applicant’s proposal. The applicant is proposing a spa on the bluff side of the lot, according to a geotechnical report letter by Borella Geology dated September 14, 2012, the proposed spa will not require caissons or any type of deepened foundation; therefore the proposed spa may be permitted where it is proposed, which in this case would have a 10’ bluff edge setback.

The City of Laguna Beach has a certified Local Coastal Program (“LCP”). However, the proposed project is located in the gated community of Three Arch Bay. Therefore, pursuant to

Section 30519 of the Coastal Act, the standard of review is the Chapter 3 policies of the Coastal Act. The certified LCP may be used for guidance in evaluating the proposed project for consistency with the Chapter 3 policies of the Coastal Act.

Commission staff recommends **approval** of coastal development permit application amendment 5-84-329-A1 with no modification to Special Conditions 1-3, new language for Special Condition 4: Bluff Alteration and new Special Conditions concerning: 5) continued conformity with prior conditions; 6) Submittal of Revised Final Plans; 7) Conformance with Geotechnical Recommendations; 8) Landscaping – Drought Tolerant, Non-Invasive; 9) Erosion and Drainage Control Plan; 10) Spa Protection Plan; 11) Future Improvements; 12) Condition Compliance; and 13) Generic Deed Restriction.

## **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.

The subject application is being forwarded to the Commission because the Executive Director has determined that the proposed amendment is a material change and affects conditions required for the purposes of protecting coastal resources or coastal access.

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### **APPENDICES**

Appendix A – Substantive File Documents

### **EXHIBITS**

Exhibit 1 – Location Map

Exhibit 2 – Aerial Photographs

Exhibit 3 – CDP 5-84-329 and Staff Report

Exhibit 4 – Originally Approved Plans for CDP 5-84-329

Exhibit 5 – Proposed Amendment and Proposed Amendment Project Plans

Exhibit 6 – Geologic Cross-sections

Exhibit 7 – Site Photographs



## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** the proposed amendment to Coastal Development Permit No. 5-84-329-A1 pursuant to the staff recommendation.*

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 a Permit Amendment:

*The Commission hereby approves the Coastal Development Permit Amendment on the grounds that the development as amended and subject to conditions, 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 development on the environment, or 2) there are no further feasible mitigation measures or alternatives that will substantially lessen any significant adverse impacts of the development on the environment.*

## II. STANDARD CONDITIONS

This permit amendment is granted subject to the following 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 on which the Commission voted on the application. 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

#### **A. UNMODIFIED SPECIAL CONDITIONS UNDER ORIGINAL PERMIT (Note: These conditions have already been satisfied and the required documents have already been recorded)**

1. **Archeological Resources.** Prior to issuance of the permit the applicant shall submit a complete mitigation plan subject to the review and approval of the Executive Director, prepared by a qualified archaeologist, that provides at a minimum, for: intensive surface collection, under controlled grid conditions of the entire property; and at least a ten percent scientifically excavated sample calculated from the surface footage of the undisturbed concentrated midden deposit and adjoining area subject to disruption due to proposed construction. One additional pit shall be excavated in accordance with the recommendations prepared by Jean and Lewis Tadlock in “Archaeological Element of an Environmental Impact Report for Tentative Tract Map No. 9440” for the subject property. The selection of the archaeologist retained by the applicant shall be subject to the approval of the Executive Director.

The following conditions shall be applied to all permits for archaeological investigations:

- a. The archaeologist in direct charge of field work, or a qualified designee, shall be on site at all times when work is in progress.
- b. Archaeological excavations not a permanent part of permitted construction shall be restored by back filling the excavation and otherwise leaving the area in as near to original condition as possible.
- c. All operations shall be conducted in a manner to prevent the erosion of land, pollution of water resources, and damage to the tidelands below, and to prevent or reduce to the fullest extent the scarring of lands.
- d. Within six weeks of the conclusion of field work, a synopsis of the new materials found and their archaeological significance shall be provided to the State Historical Preservation Office and the Commission.
- e. No later than one year after completion of field work a final report on the excavation and analysis shall be submitted to the State Historic Preservation Office and the Commission.

Prior to any site preparation, grading, or construction for the proposed development, the applicant shall complete any and all mitigation measures identified in the aforementioned approved plan.

2. **Applicant’s Assumption of Risk.** Prior to issuance of the coastal permit, the applicant shall submit to the Executive Director an executed deed restriction for

recordation free of prior liens and encumbrances, except for tax liens, that bind the applicant and all successors in interest. The form and the content of the deed restriction shall be subject to the review and approval of the Executive Director. The deed restriction shall provide (a) that the applicant understands that the site may be subject to the extraordinary hazards from waves and/or geologic conditions, and that the applicant shall assume the liability from those hazards; (b) the applicant unconditionally waives any claim of liability on the part of the Commission or any other regulatory agency for damage from such hazards, as a consequence of approval of the project; and (c) the applicant understands that construction in the face of these known hazards may make him ineligible for public disaster funds or loans for repair, replacement, or rehabilitation of the property.

3. **Lateral Access.** Prior to transmittal of the permit, the Executive Director shall certify in writing that the following condition has been satisfied. The applicant shall execute and record a document, in a form and content approved in writing by the Executive Director of the Commission irrevocably offering to dedicate to a public agency or private association approved by the Executive Director, an easement for public access and passive recreational use along the shoreline. The easement shall be from the mean high tide line to the toe of the bluff, measured at the 15 foot elevation. Such easement shall be recorded free of prior liens except for tax liens and free of prior encumbrances which the Executive Director determines may affect the interest being conveyed.

The offer shall run in favor of the People of the State of California, binding successors and assigns of the applicants or landowners. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of recording.

## **B. SPECIAL CONDITION OF ORIGINAL PERMIT MODIFIED HEREIN**

Deletions Shown in ~~Strike-Out~~, Insertions Shown in **Bold Italic Underline**

4. **Bluff Alteration.** Prior to issuance of the permit **amendment 5-84-329-A1**, the applicant(s) shall submit a deed restriction for recording, subject to the approval of the Executive Director, prohibiting the **an amended and restated deed restriction, which amends and restates a deed restriction recorded as document number 84-430138 on October 23, 1984 in the Official Records of Orange County, in a form and content acceptable to the Executive Director, which reflects the following restrictions: prohibition of the** construction of private stairways, structures, or alterations on or down the bluff face **or toe or on the bluff top within 5 feet of the bluff edge (as depicted on Exhibit #6 of the staff report dated August 2, 2013)** or within 25 feet of the bluff edge. **Principal structures and major accessory structures such as guesthouses and pools or any other such structure that requires anything more than a shallow on grade foundation shall be setback no less than 25 feet from the bluff edge. This amended and restated deed restriction shall include a legal description and a graphic depiction of the applicant's entire parcel with a depiction of the setback area and bluff edge prepared by a licensed surveyor as exhibits to the**

**amended deed restriction. The amended and restated deed restriction shall run with the land binding all successors and assigns, and shall be recorded free of prior liens, except tax liens, and any encumbrance that the Executive Director determines may affect the enforceability of the restriction. This amended and restated deed restriction shall not be removed or changed without Commission approval of an amendment to this Coastal Development Permit or approval of a new permit if legally required.**

## **C. ADDITIONAL SPECIAL CONDITIONS**

5. **Prior conditions.** Unless specifically altered by this amendment, all regular and special conditions attached to coastal development permit 5-84-329 remain in effect.
6. **Submittal of Revised Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit, for review and approval of the Executive Director two (2) sets of final architectural plans, grading plans, drainage and run-off control plans, and landscaping plans that substantially conform with the site plan submitted to the Commission on July 22, 2013, prepared by Mark Singer Architects but which are modified, as necessary, to comply with the special conditions as amended by 5-84-329-A1.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

7. **Conformance with Geotechnical Recommendations.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, 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 including foundation and grading/drainage plans and certified that each of those final plans is consistent with all the recommendations contained in the geologic engineering investigations. 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 legally required.
8. **Landscaping – Drought Tolerant, Non-Invasive Plans.** Vegetated landscaped areas adjacent to the bluff shall only consist of drought tolerant plants native to coastal Orange County and appropriate to the habitat type. Native plants shall be from local stock wherever possible. No permanent in-ground irrigation systems shall be installed on the bluff-facing portion of the site. Temporary above ground irrigation is allowed to establish plantings. Vegetated landscaped areas on the street-side of the residence are encouraged to use native plant species, however, non-native drought tolerant non-invasive plant species may also be used in that area. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council

(formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), 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 (<http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>).

**9. Erosion and Drainage Control.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit, for review and approval of the Executive Director, a plan for erosion and drainage control of hardscape and landscaped areas.

(a) The erosion and drainage control plan shall demonstrate that:

- During construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties.
- The following temporary erosion control measures shall be used during construction: temporary sediment basins (including debris basins, de-silting basins or silt traps), temporary drains and swales, sand bag barriers, silt fencing, stabilizing any stockpiled fill with geofabric covers or other appropriate cover, installing geotextiles or mats on all cut or fill slopes, and closing and stabilizing open trenches as soon as possible.
- Following construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and streets.
- Permanent erosion and drainage control measures shall be installed to ensure the stability of the site and adjacent properties.
- All drainage from the lot shall be directed toward the street and away from the bluff slope.

(b) The plan shall include, at a minimum, the following components:

- A narrative report describing all temporary run-off and erosion control measures to be used during construction and all permanent erosion control measures to be installed for permanent erosion control.
- A site plan showing the location of all temporary erosion control measures.
- A schedule for installation and removal of the temporary erosion control measures.
- A site plan showing the location of all permanent erosion and drainage control measures.
- A schedule for installation and maintenance of the permanent erosion and drainage control measures.
- A written review and approval of all erosion and drainage control measures by the applicant’s engineer and/or geologist
- A written agreement indicating where all excavated material will be disposed and acknowledgement that any construction debris disposed within the coastal zone requires a separate coastal development permit.

- (c) These erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from the runoff waters during construction. All sediment shall be retained on-site unless removed to an appropriately approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

- 10. Water Feature/Spa Protection Plan.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicants shall submit, for review and approval of the Executive Director two (2) full size sets of spa protection plans prepared by an appropriately licensed professional that incorporates mitigation of the potential for geologic instability caused by leakage from the proposed bluff-side water feature/spa. The spa protection plan shall incorporate and identify on the plans the follow measures, at a minimum: 1) installation of a spa leak detection system such as, but not limited to, leak detection system/moisture sensor with alarm and/or a separate water meter for the spa which is separate from the water meter for the house to allow for the monitoring of water usage for the water feature and spa, and 2) use of materials and spa design features, such as but not limited to double linings, plastic linings or specially treated cement, to be used to waterproof the undersides of the pool and spa to prevent leakage, along with information regarding the past and/or anticipated success of these materials in preventing leakage; and where feasible 3) installation of a sub drain or other equivalent drainage system under the water feature/spa that conveys any water leakage to an appropriate drainage outlet.

The applicants shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

- 11. Future Improvements.** This permit amendment is only for the development described in Coastal Development Permit Amendment 5-84-329-A1 Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply to this development governed by the Coastal Development Permit Amendment 5-84-329-A1. Accordingly, any future improvements to the structures authorized by this permit amendment, including but not limited to, 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 Amendment 5-84-329-A1 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

12. **Condition Compliance.** Within 90 days of Commission action on this coastal development permit amendment application, or within such additional time as the Executive Director may grant in writing 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 amendment 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.
13. **Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicants 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 new Special Conditions of this permit amendment 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 amendment. 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 amendment shall continue to restrict the use and enjoyment of the subject property so long as either this permit amendment 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:**

##### **A. PROJECT LOCATION, PROJECT DESCRIPTION, AND AMENDMENT DESCRIPTION**

The subject site is located at 56 N. La Senda within the locked gate community of Three Arch Bay in the City of Laguna Beach (see Exhibit 1). The residence is on an oceanfront, bluff top lot. 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. Therefore, the standard of review for this project is Chapter 3 of the Coastal Act.

The subject site is an 11,237 sq. ft. lot irregular in shape. The western property line extends down to the mean high tide line below a steep coastal bluff. North La Senda Drive is located to the east and single family residences border the property to the north and south (Exhibits 1 and 2). The land use designation for these lots is Village Low Density (City land use designation/not certified by the Commission). The nearest public access exists at 1000 Steps County Beach approximately one half mile upcoast of the site.

The Commission approved P-78-2994(Craig) in 1978 for the subdivision of one parcel into three. The Commission then approved CDP 5-84-329(Hodges) (Exhibit #3) for the construction of a three story single family residence on a vacant bluff top lot at its July 1984 hearing. CDP 5-84-329 was approved subject to four special conditions pertaining to: 1) Archeological Resources – Requiring a mitigation plan; 2) Assumption of Risk – Requiring a deed restriction providing the applicant waives any claim to liability from coastal and geologic hazards; 3) Lateral Access – Requiring an offer to dedicate an easement for public access and passive recreational use along the shoreline from the mean high tide line to the toe of the bluff; and 4) Bluff Alteration – Requiring a deed restriction prohibiting the construction of private stairways, structures, or alterations on or down the bluff or within 25 feet of the bluff face. Exhibit #4 provides a site plan of the residence, balcony decks, spa, concrete patio approved under CDP 5-84-298(Hodges). As approved, the original development consisting of the residence, patio hardscape and spa were all setback 25 feet from the bluff edge as that bluff edge was identified in 1984 at approximately the 68' contour line. As explained further on in the report (Hazards section) and based on the information available today, Commission staff now identify the bluff edge at the 73' to 75' contour lines.

The current property owners/applicants propose an amendment to CDP 5-84-329 for 1) deletion of Special Condition #4; 2) demolition of existing ground level curbs, fencing, walks and landscaping within 5' feet of the bluff edge as currently identified by Commission staff and construction of new walks, curbs and landscaping not less than 5' feet from the bluff edge; and 3) complete interior remodel of the existing 4,592 sq. ft. single family residence with 458 sq. ft. interior living space addition and 116 sq.ft. garage addition; reconfiguration of decks resulting in a 160 sq.ft. second story deck and 225 sq.ft. third story deck and demolition of existing spa and new spa in a different location. Proposed plans are included as Exhibit #5.

Grading is proposed consisting of 70 cubic yards of cut and 65 cubic yards of fill for the garage addition on the inland (street facing) portion of the site. The proposed additions will not affect the height of the existing structure which is 38' above finished grade.

No changes are proposed to the other three underlying special conditions: 1) Archeological Resources – Requiring a mitigation plan; 2) Assumption of Risk – Requiring a deed restriction providing the applicant waives any claim to liability from coastal and geologic hazards; 3) Lateral Access – Requiring an offer to dedicate an easement for public access and passive recreational use along the shoreline from the mean high tide line to the toe of the bluff. The original applicant satisfied the prior to issuance special conditions including deed restrictions.

However, it appears that the original property owner in the mid-1980s during construction of the original development did not adhere to the restrictions imposed under Special Condition 4 and constructed a 4' tall screen wall along the bluff edge, additional paved patio areas and a sod lawn within the 25' setback area. This 25' bluff edge setback area was intended to remain a natural undeveloped bluff edge buffer. The patio and spa approved under CDP 5-84-329 conformed to a 25' bluff edge setback.



**Special Condition 4** as currently worded prohibits the construction of private stairways, structures, or alterations on or down the bluff or *within 25 feet of the bluff face*. No such structures were included in the plans approved by the Commission under CDP 5-84-329 (Exhibit #4). Nevertheless, a prior property owner constructed a 4' tall screen wall along the bluff edge, additional paved patio areas and a sod lawn within the 25' setback area. The new owners and current applicants propose to demolish this unpermitted development and request to strike-out the language of **Special Condition 4** from the CDP and replace it with a new bluff setback condition. The applicants propose a 5' bluff edge setback for accessory development.

The City of Laguna Beach has a certified Local Coastal Program (LCP). However, there are four areas of deferred certification: Irvine Cove, Blue Lagoon, Hobo Canyon, and Three Arch Bay due to access issues arising from the locked gate nature of these communities. The subject site is located within the locked gate community of Three Arch Bay in the City of Laguna Beach (see Exhibit 1) and therefore, requires a coastal development permit from the Commission. Because the site is located within a locked gate community, no vertical public access exists to the shoreline in the immediate vicinity. However, there are a few lateral public access areas in Three Arch Bay, such as the one on the subject site between the toe of the bluff and the ocean.

## **B. HAZARDS**

Section 30253 of the Coastal Act states in part:

*New development shall:*

- (1) Minimize the risk 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 coastal bluffs.*

Section 30251 of the Coastal Act states that:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

City of Laguna Beach Certified LUP Policy 7.3 and Policy 10.2 both state, “Design and site new development to protect natural and environmentally sensitive resources, such as areas of unique scenic quality, public views, and visual compatibility with surrounding uses and to minimize natural landform alterations” and includes the following relevant actions to meet this policy:

**Action 7.3.3** *Design and site new development to avoid hazardous areas and minimize risks to life and property from coastal and other hazards.*

**Action 7.3.4** *Require new development to 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.*

**Action 7.3.6** *Require new development on oceanfront blufftop lots to incorporate drainage improvements, removal of and/or revisions to irrigation systems, and/or use of native or drought-tolerant vegetation into the design to minimize threats to oceanfront bluff recession.*

**Action 7.3.8** *On oceanfront bluff sites, require applications where applicable, to identify and remove all unpermitted and/or obsolete structures, including but not limited to protective devices, fences, walkways and stairways, which encroach into oceanfront bluffs.*

**Action 7.3.9** *Ensure that new development, major remodels and additions to existing structures on oceanfront and oceanfront bluff sites do not rely on existing or future bluff/shoreline protection devices to establish geologic stability or protection from coastal hazards. A condition of the permit for all such new development on bluff property shall expressly require waiver of any such rights to a new bluff/shoreline protection device in the future and recording of said waiver on the title of the property as a deed restriction.*

**Action 7.3.10** *Allow oceanfront and oceanfront bluff homes, commercial structures, or other principal structures, that are legally nonconforming as to the oceanfront and/or oceanfront bluff edge setback, to be maintained and repaired; however, improvements that increase the size or degree of nonconformity, including but not limited to development that is classified as a major remodel pursuant to the definition in the Land Use Element Glossary, shall constitute new development and cause the pre-existing nonconforming oceanfront or oceanfront bluffs structure to be brought into conformity with the LCP.*

**Action 10.2.7** *Require all new development located on oceanfront bluffs to be sited in accordance with the stringline but not less than 25 feet from the bluff edge. This requirement shall apply to the principal structure and major accessory structures such as guesthouses and pools that require a structural foundation. The setback shall be increased where necessary to ensure geologic safety and stability of the development.*

**Action 10.2.8** *On oceanfront bluffs, require new minor accessory structures such as decks, patios and walkways that do not require structural foundations to be*

*sited in accordance with stringline but not less than 10 feet from the bluff edge.  
Require accessory structures to be removed or relocated landward when  
threatened by erosion, geologic instability or other coastal hazards.*

### **Geologic Stability**

The proposed development is located on a coastal bluff top lot subject to wave action. There is a steep coastal bluff with an upper slope angle of 33 degrees within the marine terrace sediments and steepens to 45-75 degrees within the lower bedrock unit. Total elevation change on the property from the beach level to North La Senda Drive is approximately 105 feet. The existing residence is approximately 75 feet above sea level.

The applicants submitted a preliminary geotechnical report by Borella Geology, Inc. dated February 7, 2012 which identifies the bluff edge as shown in Exhibit #6. The Commission's staff geologist, Dr. Mark Johnsson reviewed the submitted geotechnical reports, site topographic maps, proposed project plans, and conducted a site visit on June 13, 2013 and concurs with the bluff edge as depicted in the February 7, 2013 Borella Geology report. This bluff edge determination differs from the bluff edge as identified in the 1984 Commission approval; placing the bluff edge further landward at approximately the 73' to 75' contour lines. The topography of the bluff top site has not been altered by natural weather/erosion processes; rather the interpretation of the bluff edge location is different based on updated current topographic maps.

The preliminary geotechnical report by Borella Geology, Inc. dated February 7, 2012 concludes that the project site is grossly stable (no landslides are mapped on the site immediate area and calculated stability analyses, for both static and pseudostatic cases obtain factors of safety in excess of the required 1.5 and 1.1, respectively). The report concludes that the proposed improvements will not adversely affect slope stability. The report contains recommendations to be incorporated into the project plans to ensure stability and geologic safety of the proposed minor additions, the project site, and the adjacent properties. To ensure stability and structural integrity and to protect the site and the surrounding sites, the Commission imposes **Special Condition 7** which requires the applicant to comply with the recommendations contained in the applicable geotechnical reports, to incorporate those recommendations into all final design and construction plans, and to obtain the geotechnical consultant's approval of those plans prior to permit issuance.

### **Bluff Setback – Residential Structure**

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)). 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 become threatened by natural coastal

processes. Given this uncertainty of erosional events, staff recommends two bluff edge setback lines, one for residential structures and one for accessory structures.

As demonstrated on Exhibit #4, the lowest level of the existing residence was sited 25' from the bluff edge identified in 1984 with upper level interior space and upper level decks cantilevered into the 25' setback. However, the bluff edge as currently identified results in a portion of the existing residence on the southern end to be located within the 25' bluff edge setback and therefore is non-conforming with the 25' bluff edge setback policy (Exhibit #5). The applicant has modified the project to ensure that all of the proposed additions to the existing residence meet the updated 25' bluff edge setback. Furthermore, no demolition/reconstruction of existing walls that no longer conform to the 25' bluff edge setback are proposed. As the proposed remodel results in 33% demolition of exterior walls (less than 50% demolition of exterior walls) and is only a minor 10% addition, it is considered a minor remodel and therefore, non-conforming aspects may be retained, per City of Laguna Beach Certified LUP Policy 7.3, Action 7.3.10. If the remodel were a major remodel, qualifying as new development, the resulting non-conformities caused by the change in bluff edge determination would be required to be demolished and brought into conformance with the 25' bluff edge setback.

#### **Bluff Setback – Accessory Structures**

The applicants request to strike-out **Special Condition 4** which prohibits any development within 25' of the bluff edge and instead apply a 5' setback from the bluff edge for accessory structures (fencing, curbs, concrete patio, spa, etc.) and propose to demolish existing unpermitted, non-conforming accessory structures and re-construct them with a 5' bluff setback.

Based on information from the geotechnical reports, results from borings and observations made along the steep ocean bluff suggest bedrock exists at a depth ranging from 20-28.5 feet beneath the site in the area of the proposed residential additions and patio improvements. No adverse fracture planes were observed along the cliff face and no landslides or active faults are mapped near the site.

Per the City of Laguna Beach Certified LUP Policy 10.2, Action 10.2.8, on oceanfront bluffs, new minor accessory structures such as decks, patios and walkways that do not require structural foundations to be sited in accordance with stringline but not less than 10' from the bluff edge. In this case, as the residence is on a promontory a patio/deck stringline with the adjacent residences prohibit the construction of any patio/deck improvements. Instead of using stringline, a minimum setback from the bluff edge for accessory structures may be accommodated. At this site, based on the documented geologic stability throughout Three Arch Bay and specifically at the subject site, the proposed 5' setback is deemed adequate for the proposed accessory structures. Furthermore, accessory structures (fences, hardscape/patio type improvements) do not warrant the construction of shoreline/bluff protection under Chapter 3 of the Coastal Act and can be moved away if threatened by erosion or other coastal hazards more readily than primary structures.

In accordance with favorable geologic conditions and past Commission actions in the surrounding area regarding hardscape improvements along the bluff side of the lot, a 5' bluff setback may be permitted. Therefore, instead of deleting **Special Condition 4** as requested by

the applicants, the Commission recommends **Special Condition 4** be modified to reflect a 25' bluff setback for principal structures and major accessory structures such as guesthouses and pools or any such structures that require anything more than a shallow on grade foundation and any accessory structures such as decks, patios and walkways that do not require anything more than a shallow on-grade foundations shall be setback no less than 5 feet from the bluff edge. The applicant is proposing a spa on the bluff side of the lot, according to a geotechnical report letter by Borella Geology dated September 14, 2012 the proposed spa will not require caissons or any type of deepened foundation and will have a typical mat foundation system founded in competent terrace sediment. As proposed, the spa is set back at least 10' from the bluff edge. This also will be consistent with the setback of the existing spa that was previously approved, but which is now proposed to be removed.

Adequate drainage and erosion control measures are also necessary for bluff top development. In order to achieve these goals, the Commission imposes **Special Condition 9** requiring the applicant to submit drainage and interim erosion control plans. **Special Condition 10** requires the applicant submit a spa protection plan (i.e., leak detection system, double lining or sub drain) that incorporates mitigation of the potential for geologic instability caused by leakage from the proposed bluff-side spa.

The Commission also finds that, for the project to ensure stability and avoid contributing significantly to erosion, landscaping on the bluff top should be primarily with native plants to avoid overwatering and possible slope destabilization. City of Laguna Beach LCP Policy 7.3, Action 7.3.6 also requires new development on oceanfront bluff top lots to incorporate drainage improvements, removal of and/or revisions to irrigation systems, and/or use of native or drought-tolerant vegetation into the design to minimize threats to oceanfront bluff recession. Therefore, the Commission imposes **Special Condition 8** requiring landscaping with native, non-invasive and drought-tolerant vegetation.

Although the conditions described above render the project sufficiently stable to satisfy the requirements of Section 30253, no project is wholly without risks. Due to the fact that the some of the proposed new improvements on the site are proposed on the bluff facing side of the lot (in an area subject to potential damage or destruction from natural hazards, including slope failure), the Commission requires the applicant to assume the liability from these associated risks and therefore, no change is proposed to **Special Condition 2** of the underlying CDP. **Special Condition 5** indicates that all previously imposes special conditions remain in effect, unless specifically modified by this amendment. Through the assumption of risk condition, the applicant acknowledges the nature of the fire and/or geologic hazard that exists on the site and that may affect the safety of the proposed development.

Furthermore, **Special Condition 13** requires the applicant to record a new deed restriction that imposes the terms and conditions of this permit amendment as restrictions on use and enjoyment of the property and thereby provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

To minimize risks to life and property and to minimize the adverse effects of development on areas of high geologic, flood, and fire hazard, the proposed development has been conditioned to

require adherence to the geotechnical recommendations and erosion/drainage control. Therefore, as conditioned, the Commission finds that the development conforms to the requirements of Sections 30251 and 30253 of the Coastal Act regarding the siting of development in areas that minimize landform alteration and addresses hazards.

### **C. 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 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. Other sources of polluted runoff could include runoff from the large amount of impervious surface in the proposed project and over-watering, which sometimes occurs from installation of landscaping with a high water demand (i.e., sod lawn). Plants with a high-water demand are typically not well-suited to the Mediterranean climate of southern California, and therefore often require intense fertilization and application of pesticides/herbicides as a maintenance regime, in addition to regular irrigation. Thus, this type of landscaping can add pollutants to both dry weather and stormwater runoff. Therefore, the use of drought tolerant plants or low-maintenance landscaping is a preferred alternative.

The term “drought tolerant” is equivalent to the terms “low water use” and “ultra low water use” as defined and used by "A Guide to Estimating Irrigation Water Needs of Landscape Plantings in California" prepared by University of California Cooperative Extension and the California Department of Water Resources dated August 2000 and is available for review at <http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>).

Invasive plants can invade an area and displace native plants, impeding restoration and preservation efforts. Seed dispersal can occur via water transport and drainage, wind, and via avian and mammalian species. Invasive plants are generally those identified by the California

Invasive Plant Council (<http://www.cal-ipc.org>) and California Native Plant Society ([www.CNPS.org](http://www.CNPS.org)) in their publications.

Therefore the Commission imposes **Special Condition 6** requires the applicant to submit a revised landscaping plan and **Special Condition 8** requires use of non-invasive drought tolerant plantings. The condition requires the revised landscape plan to include species native to the surrounding local coastal bluff (e.g., coastal sage scrub and chaparral communities) and non-invasive, drought tolerant vegetation on the impervious patios and walkways on site. Native, drought tolerant plants are used because they require little to no watering once they are established (1-3 years), they have deep root systems that tend to stabilize the soil, and are spreading plants that tend to minimize erosion impacts of rain and water run-off.

As conditioned, the Commission finds that the proposed development conforms with 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.

#### **D. UNPERMITTED DEVELOPMENT**

Development has occurred on the subject site without benefit of the required coastal development permit including construction of a bluff screen wall, hardscape and landscaping with zero setback from the bluff edge. Preservation and enhancement of the City's coastal bluffs is a goal supported by both the environmental protection policies of the Coastal Act, and the certified LUP. Consequently, even if it were considered to be the sort of work that is normally associated with a single-family residence, because the work occurred within 50' of the edge of a coastal bluff, the work that was undertaken constitutes development that requires a coastal development permit application. Furthermore, the underlying CDP included a special condition that restricted any development (including fencing, patios and landscaping) within 25 feet of the bluff face.

The applicant proposes to resolve a portion of the unpermitted development on the subject site through this Coastal Development Permit application by proposing the demolition and removal of the majority of the nonconforming unpermitted development. The applicant submitted a CDP amendment request to strike-out the special condition restricting development within 25 of the bluff face and a site plan which proposes all accessory structures be setback 5' from the bluff edge. The proposed home additions are on a section of the lot already developed and comply with the 25' foot bluff edge setback; and therefore will not impact the coastal bluff habitat. Staff recommends a modification to **Special Condition 4** rather than completely striking it out as proposed by the applicant. The modification would allow landscaping and accessory structures with a 5' setback from the bluff edge (consistent with past Commission practice in the area). **Special Condition 6** requires the applicant submit final revised plans, consistent with their preliminary plans, providing a 5' bluff setback for accessory structures.

Additionally, to ensure that the unpermitted development components of this application are resolved in a timely manner, **Special Condition 12** 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 Land Use Plan was used as guidance by the Commission in reaching its decision.

#### **E. 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.

#### **F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 13096 Title 14 of the California Code of Regulations requires Commission approval of a coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The 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. The project consists of a remodel of an existing single family residence and new hardscape and landscape improvements on a coastal bluff top lot in a private gated community. Development exists adjacent to the subject site. The project site does not contain any known sensitive plant or animal species, nor is it considered ESHA, therefore the impacts arising from the proposed project will be minimal. In addition, the proposed development has been conditioned to assure the proposed project is consistent with the resource protection policies of the Coastal Act. The conditions also serve to mitigate significant adverse impacts under CEQA. The conditions are: 1) Archeological Resources; 2) Assumption of Risk; 3) Lateral Access; 4) Bluff Alteration; 5) Prior Conditions; 6) Submittal of Revised Final Plans; 7) Conformance with Geotechnical Recommendations; 8) Landscaping – Drought Tolerant, Non-



Invasive; 9) Erosion and Drainage Control Plan; 10) Spa Protection Plan; 11) Future Improvements; 12) Condition Compliance; and 13) Generic Deed Restriction. There are no other feasible alternatives or mitigation measures available which will lessen any significant adverse impact the activity would 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.

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## **APPENDIX A**

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### **SUNSTANTIVE FILE DOCUMENTS**

Approval-in-Concept from the City Laguna Beach 3/27/12

Revised Preliminary Geotechnical Report for New Additions and Remodel, 56 North La Senda, Laguna Beach, CA, February 7, 2012, prepared by Borella Geology, Inc.

Revised Location for Bluff Edge and Removal of Caissons Beneath Proposed Spa, Garg Property 56 North La Senda Drive, Laguna Beach, CA, September 14, 2012

Coastal Development Permit No.s 5-06-165, 5-06-258, P-78-2994, 5-97-121, 5-89-1015, 5-84-329, 5-07-163, 5-02-007, 5-95-292, 5-08-008, 5-00-223, 5-99-231, 5-02-345

Vista De Catalina

N Serrano Rd

S Coast Hwy

N Portola

N Encino

N Alta Mira Rd

S Encino

S Alta Mira Rd

S Portola

Vista Del Sol

N La Senda Dr

N Serrano Rd

Subject

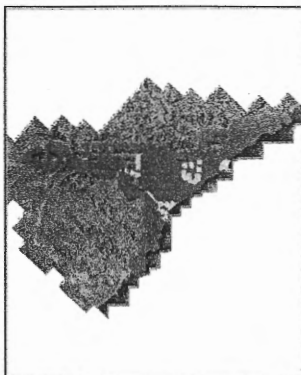
COASTAL COMMISSION

EXHIBIT # 1

PAGE 1 OF 2

EXHIBIT 11  
PAGE 1 OF 2

# City of Laguna Beach



## Legend

City Limits

Parcels

2008 Color Aerial Orthophotos

Red: Band\_1

Green: Band\_2

Blue: Band\_3

2008 Building Footprints

→ SITE

COASTAL COMMISSION

EXHIBIT # 1

PAGE 2 OF 2

1: 1,502

## Notes

Enter Map Description



Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

250 Feet

125

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COASTAL COMMISSION

EXHIBIT #

2

PAGE 1 OF 1

subject  
site



CALIFORNIA COASTAL COMMISSION  
631 Howard Street, San Francisco 94105 - (415) 543-8555

COASTAL COMMISSION

COASTAL DEVELOPMENT PERMIT

EXHIBIT # 3  
PAGE 1 OF 12

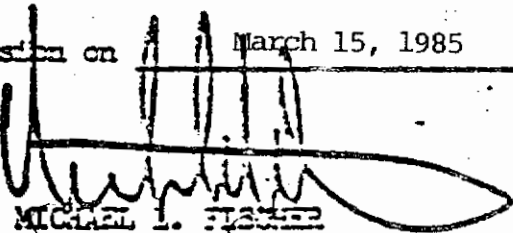
On July 11, 1984, by a vote of 10 to 0, the California Coastal Commission granted to Gilbert C. Hodges  
Permit A- 5-84-329, subject to the conditions set forth below, for development consisting of construction of a 3 story single family dwelling on a  
coastal promontory in Three Arch Bay, South Laguna, Orange County

more specifically described in the application file in the Commission offices.

The development is within the coastal zone in Orange County at  
56 North La Senda, South Laguna

After public hearing held on July 11, 1984, the Commission found that, as conditioned, the proposed development is in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976; will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976; if between the sea and the public road nearest the sea, is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act of 1976; and either (1) will not have any significant adverse impact on the environment, or (2) there are no feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse impact that the development as approved may have on the environment.

Issued on behalf of the California Coastal Commission on March 15, 1985

  
MICHAEL L. FISHER  
Executive Director

By   
Devon Bates  
Coastal Planner

The undersigned permittee acknowledges receipt of the California Coastal Commission Permit A- 5-84-329, and fully understands its contents, including all conditions imposed.

Date

Permittee

EXHIBIT # 3  
PAGE 2 OF 12STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgment. The permit is not valid and construction 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 on which the Commission voted on the application. Construction 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. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any conditions will be resolved by the Executive Director of the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. 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.
7. 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.

SPECIAL CONDITIONS

1. Archaeological Resources. Prior to issuance of the permit the applicant shall submit a complete mitigation plan subject to the review and approval of the Executive Director, prepared by a qualified archaeologist, that provides at a minimum, for: intensive surface collection, under controlled grid conditions of the entire property; and at least a ten percent (10%) scientifically excavated sample calculated from the surface footage of the undisturbed concentrated midden deposit and adjoining area subject to disruption due to proposed construction. One additional pit shall be excavated in accordance with the recommendations prepared by Jean and Lewis Tadlock in "Archaeological Element of an Environmental Impact Report for Tentative Tract, Map No. 9440" for the subject property. The selection of the archaeologist retained by the applicant shall be subject to the approval of the Executive Director.

EXHIBIT # 3  
PAGE 3 OF 12

The following conditions shall be applied to all permits for archaeological investigations:

- a. The archaeologist in direct charge of field work, or a qualified designee, shall be on site at all times when work is in process.
- b. Archaeological excavations not a permanent part of permitted construction shall be restored by back filling the excavation and otherwise leaving the area in as near to original condition as possible.
- c. All operations shall be conducted in a manner to prevent the erosion of land, pollution of water resources, and damage to the tidelands below, and to prevent or reduce to the fullest extent the scarring of lands.
- d. Within six weeks of the conclusion of field work, a synopsis of the new materials found and their archaeological significance shall be provided to the State Historical Preservation Office and the Commission.
- e. No later than one year after completion of field work a final report on the excavation and analysis shall be submitted to the State Historic Preservation Office and the Commission.

Prior to any site preparation, grading, or construction for the proposed development, the applicant shall complete any and all mitigation measures identified in the aforementioned, approved plan.

2. Applicant's Assumption of Risk. Prior to the issuance of the coastal permit, the applicant shall submit to the Executive Director an executed deed restriction for recordation free of prior liens and encumbrances, except for tax liens, that bind the applicant and all successors in interest. The form and the content of the deed restriction shall be subject to the review and approval of the Executive Director. The deed restriction shall provide (a) that the applicant understands that the site may be subject to extraordinary hazards from waves and/or geologic conditions, and that the applicant shall assume the liability from those hazards; (b) the applicant unconditionally waives any claim of liability on the part of the Commission or any other regulatory agency for any damage from such hazards, as a consequence of approval of the project; and (c) the applicant understands that construction in the face of these known hazards may make him ineligible for public disaster funds or loans for repair, replacement, or rehabilitation of the property.

3. Lateral Access. Prior to transmittal of the permit, the Executive Director shall certify in writing that the following condition has been satisfied. The applicant shall execute and record a document, in a form and content approved in writing by the Executive Director of the Commission irrevocably offering to dedicate to a public agency or a private association approved by the Executive Director, an easement for public access and passive recreational use along the shoreline. The easement shall be from the mean high tide line to the toe of the bluff, measured at the 15 foot elevation. Such easement shall be recorded free of prior liens except for tax liens and free of prior encumbrances which the Executive Director determines may affect the interest being conveyed.

EXHIBIT # 3  
PAGE of 4 OF 12

The offer shall run with the land in favor of the People of the State of California, binding successors and assigns of the applicants or landowners. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of recording.

4. Bluff Alteration. Prior to issuance of the permit, the applicant shall submit a deed restriction for recording, subject to the approval of the Executive Director, prohibiting the construction of private stairways, structures, or alterations on or down the bluff or within 25 feet of the bluff face.



State of California, ~~State of California~~  
George Deukmejian, Governor  
California Coastal Commission  
South Coast District  
245 West Broadway, Suite 380  
P.O. Box 1450  
Long Beach, California 90801-1450  
213) 590-5071

## COASTAL COMMISSION

EXHIBIT # 3  
PAGE 5 OF 12

FILED 5-31-84  
49TH DAY 7-19-84  
180TH DAY 11-27-84  
STAFF DB - SF  
EDITED BY \_\_\_\_\_  
STAFF REPORT 6-29-84  
HEARING DATE 7/10-13/84

### STAFF REPORT: CONSENT CALENDAR

APPLICANT: Gilbert C. Hodges

PERMIT NO.: 5-84-329

PROJECT LOCATION: 56 North La Senda, South Laguna

PROJECT DESCRIPTION: Construction of a 3 story single family dwelling on a coastal promontory in Three Arch Bay, South Laguna, Orange County.

LOT AREA 20,994 sq. ft.

ZONING N/A

BLDG. COVERAGE 1942 sq. ft.

PLAN DESIGNATION N/A  
G.P., LUP draft, LUP adopt, LUP cert., LCP  
PROJECT DENSITY N/A

PAVEMENT COVERAGE 2500 sq. ft.

LANDSCAPE COVERAGE 700 sq. ft.

HEIGHT ABV. FIN. GRADE N/A

LOCAL APPROVALS RECEIVED: Orange County EMA

COASTAL ISSUES: Public Access, Hazards, Archaeology, Blufftop Development

SUBSTANTIVE FILE DOCUMENTS: P-78-2994

#### SUMMARY

Staff recommends approval with conditions to protect archaeological resources, to provide for owner's assumption of risks, allow public access and prevent construction on the bluff face.



STAFF RECOMMENDATIONEXHIBIT # 3  
PAGE 6 OF 12

The staff recommends the Commission adopt the following Resolution:

I. APPROVAL WITH CONDITIONS

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, 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 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. RECOMMENDED CONDITIONSA. Standard Conditions: See Attachment XB. Special Conditions

1. Archaeological Resources. Prior to issuance of the permit the applicant shall submit a complete mitigation plan subject to the review and approval of the Executive Director, prepared by a qualified archaeologist, that provides at a minimum, for: intensive surface collection, under controlled grid conditions of the entire property; and at least a ten percent (10%) scientifically excavated sample calculated from the surface footage of the undisturbed concentrated midden deposit and adjoining area subject to disruption due to proposed construction. One additional pit shall be excavated in accordance with the recommendations prepared by Jean and Lewis Tadlock in "Archaeological Element of an Environmental Impact Report for Tentative Tract Map No. 9440" for the subject property. The selection of the archaeologist retained by the applicant shall be subject to the approval of the Executive Director.

The following conditions shall be applied to all permits for archaeological investigations:

- a. The archaeologist in direct charge of field work, or a qualified designee, shall be on site at all times when work is in process.
- b. Archaeological excavations not a permanent part of permitted construction shall be restored by back filling the excavation and otherwise leaving the area in as near to original condition as possible.
- c. All operations shall be conducted in a manner to prevent the erosion of land, pollution of water resources, and damage to the tidelands below, and to prevent or reduce to the fullest extent the scarring of lands.
- d. Within six weeks of the conclusion of field work, a synopsis of the new materials found and their archaeological significance shall be provided to the State Historical Preservation Office and the Commission.
- e. No later than one year after completion of field work a final report on

the excavation and analysis shall be submitted to the State Historical Preservation Office and the Commission.

Prior to any site preparation, grading, or construction for the proposed development, the applicant shall complete any and all mitigation measures identified in the aforementioned, approved plan.

2. Applicant's Assumption of Risk. Prior to the issuance of the coastal permit, the applicant shall submit to the Executive Director an executed deed restriction for recordation free of prior liens and encumbrances, except for tax liens, that bind the applicant and all successors in interest. The form and the content of the deed restriction shall be subject to the review and approval of the Executive Director. The deed restriction shall provide (a) that the applicant understands that the site may be subject to extraordinary hazards from waves and/or geologic conditions, and that the applicant shall assume the liability from those hazards; (b) the applicant unconditionally waives any claim of liability on the part of the Commission or any other regulatory agency for any damage from such hazards, as a consequence of approval of the project; and (c) the applicant understands that construction in the face of these known hazards may make him ineligible for public disaster funds or loans for repair, replacement, or rehabilitation of the property.

3. Lateral Access. Prior to transmittal of the permit, the Executive Director shall certify in writing that the following condition has been satisfied. The applicant shall execute and record a document, in a form and content approved in writing by the Executive Director of the Commission irrevocably offering to dedicate to a public agency or a private association approved by the Executive Director, an easement for public access and passive recreational use along the shoreline. The easement shall be from the mean high tide line to the toe of the bluff, measured at the 15 foot elevation. Such easement shall be recorded free of prior liens except for tax liens and free of prior encumbrances which the Executive Director determines may affect the interest being conveyed.

The offer shall run with the land in favor of the People of the State of California, binding successors and assigns of the applicants or landowners. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of recording.

4. Bluff Alteration. Prior to issuance of the permit, the applicant shall submit a deed restriction for recording, subject to the approval of the Executive Director, prohibiting the construction of private stairways, structures, or alterations on or down the bluff or within 25 feet of the bluff face.

### III. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. Project Description. The proposed development consists of a three story single family dwelling and an approximately 160 foot long driveway on a coastal promontory in Three Arch Bay, South Laguna in Orange County. The site contains dramatic views of the ocean and shoreline to the north and south. An

undisturbed archaeological resource is documented within the area of proposed construction on the applicant's property. The most valuable central portion of the midden is located directly beneath the proposed dwelling. The bluff drops off steeply to rocky tidelands. EXHIBIT 3  
PAGE 8 OF 12

B. Archaeological Resources. The Coastal Act contains two provisions that require protection and mitigation of affects upon archaeological resources.

Section 30001.5 states:

The Legislature further finds and declares that the basic goals of the state for the coastal zone are to:

(a) Protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and manmade resources...

Section 30244 states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Coastal Permit P-78-2994 permitted subdivision of one parcel into three by Mr. Burnie Craig. As part of the subdivision process, an Environmental Impact Report was submitted including an Archaeological Element prepared by Jean and Lewis Tadlock. This report identifies an archaeological resource observed to be present in the undisturbed concentrated central portion of the midden located primarily on Mr. Hodges property. The report states that:

...important scientific and historical information may be derived. The disintegration of the shell indicates an early site. Consistent small size of shell may contribute to demographic information as to the subsistence pressures placed on the food resource. Consistency in shell breaks may provide information on shell fish extracting techniques. Analysis of stratified shell samples may provide chronological data as to environmental setting and climatic conditions for the southern portion of the Orange County coastline. Comparison of stratified lithic material for the task site with occupational sites in the vicinity may throw light on behavioral activities and whole social systems in temporal sequences...

The applicant proposes to construct a large single family dwelling directly on top of the observed archaeological resource and although the Commission's Adopted Guidelines on Archaeological Resources identifies relocation of development as the preferred alternative to destruction of these resources, relocation of the house to avoid the midden is not feasible within the current property lines. A sheer bluff drops to the ocean on one side and a 20 foot wide portion of the parcel accommodating the proposed driveway occurs at the opposite end. Likewise, reconfiguration of the proposed dwelling to leave the archaeological resources intact is also not feasible due to the size and topography of the parcel and the location of the resources. Therefore, alternative mitigation measures must be required in order to preserve potentially important scientific and historical information.

Some mitigation measures are recommended in the Tadlocks' report, including surface collection and excavation. However, a detailed mitigation plan is not included in the report and therefore must be prepared prior to any site alteration. The Commission finds the proposed development consistent with Sections 30001.5 and 30244 only with the condition that suitable mitigation measures are identified and carried out to preserve archaeological resources.

**COASTAL COMMISSION**

EXHIBIT # 3  
PAGE 9 OF 12

STANDARD CONDITIONSEXHIBIT # 3  
PAGE 10 OF 12

1. Notice of Receipt and Acknowledgment. The permit is not valid and construction 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 on which the Commission voted on the application. Construction 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. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any conditions will be resolved by the Executive Director of the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. 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.
7. 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.

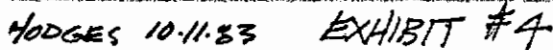
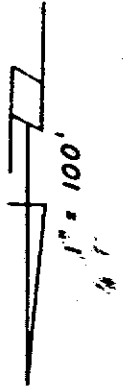


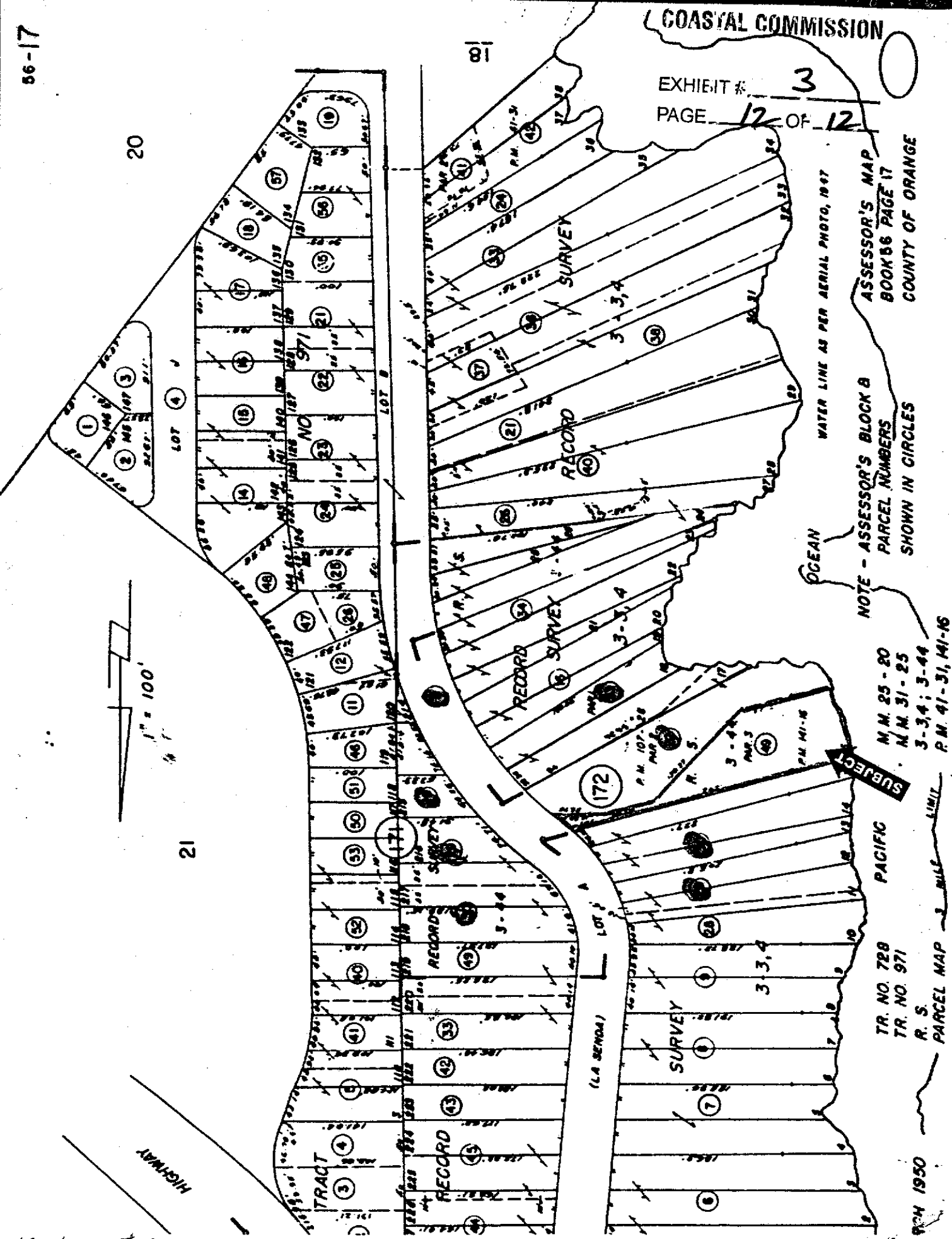
EXHIBIT #1.

HIGHWAY



21

20



COASTAL COMMISSION

EXHIBIT # 3  
PAGE 12 OF 12

WATER LINE AS PER AERIAL PHOTO, 1947

OCEAN

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

N.M. 25-20  
N.M. 31-25  
3-3, 4; 3-44  
P.M. 41-31, 41-16

TR. NO. 728  
TR. NO. 971  
R. S.

9/24 1950

PACIFIC

PARCEL MAP

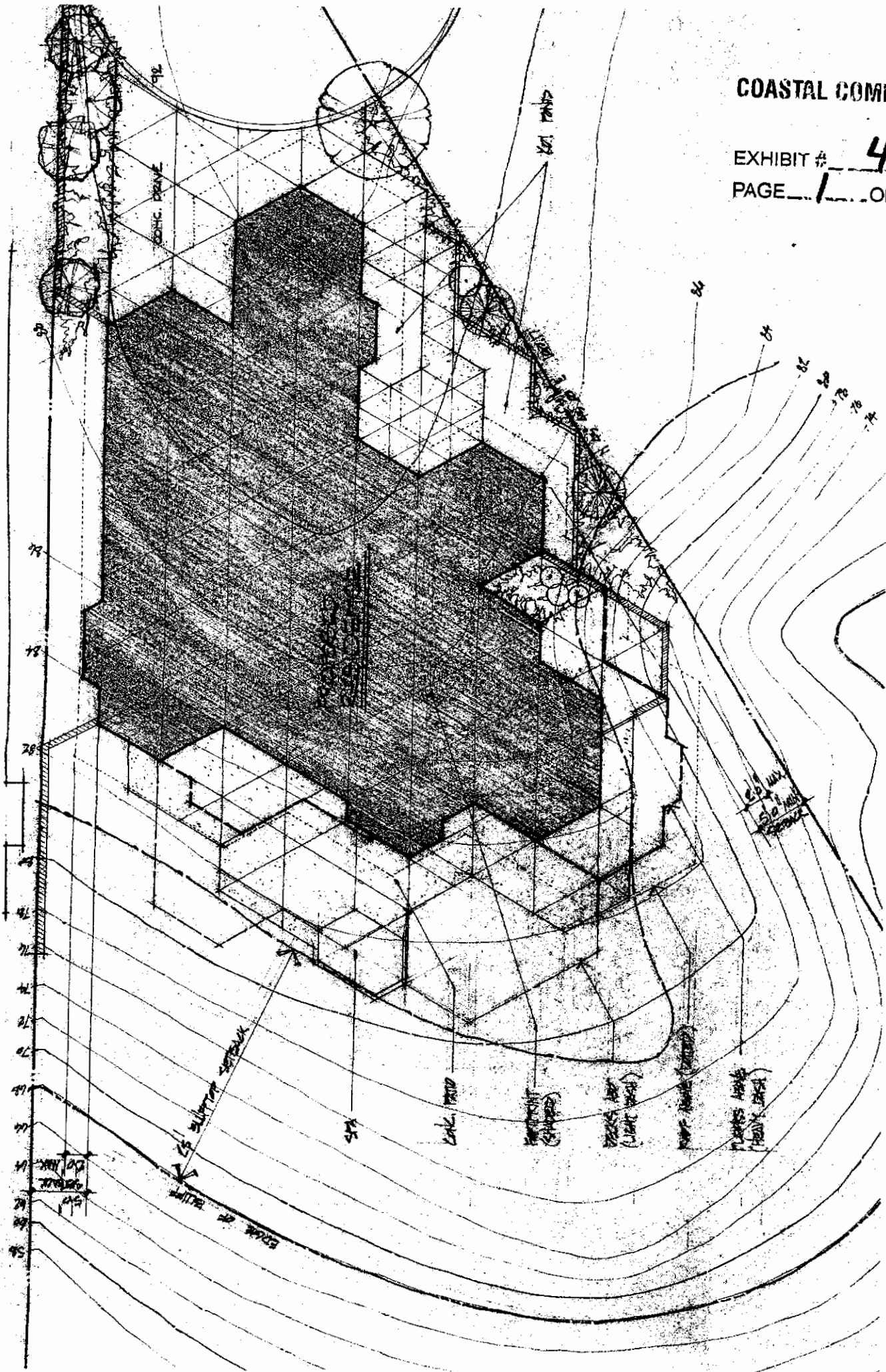
3 MILE LIMIT

SUBJECT



COASTAL COMMISSION

EXHIBIT # 4  
PAGE 1 OF 4

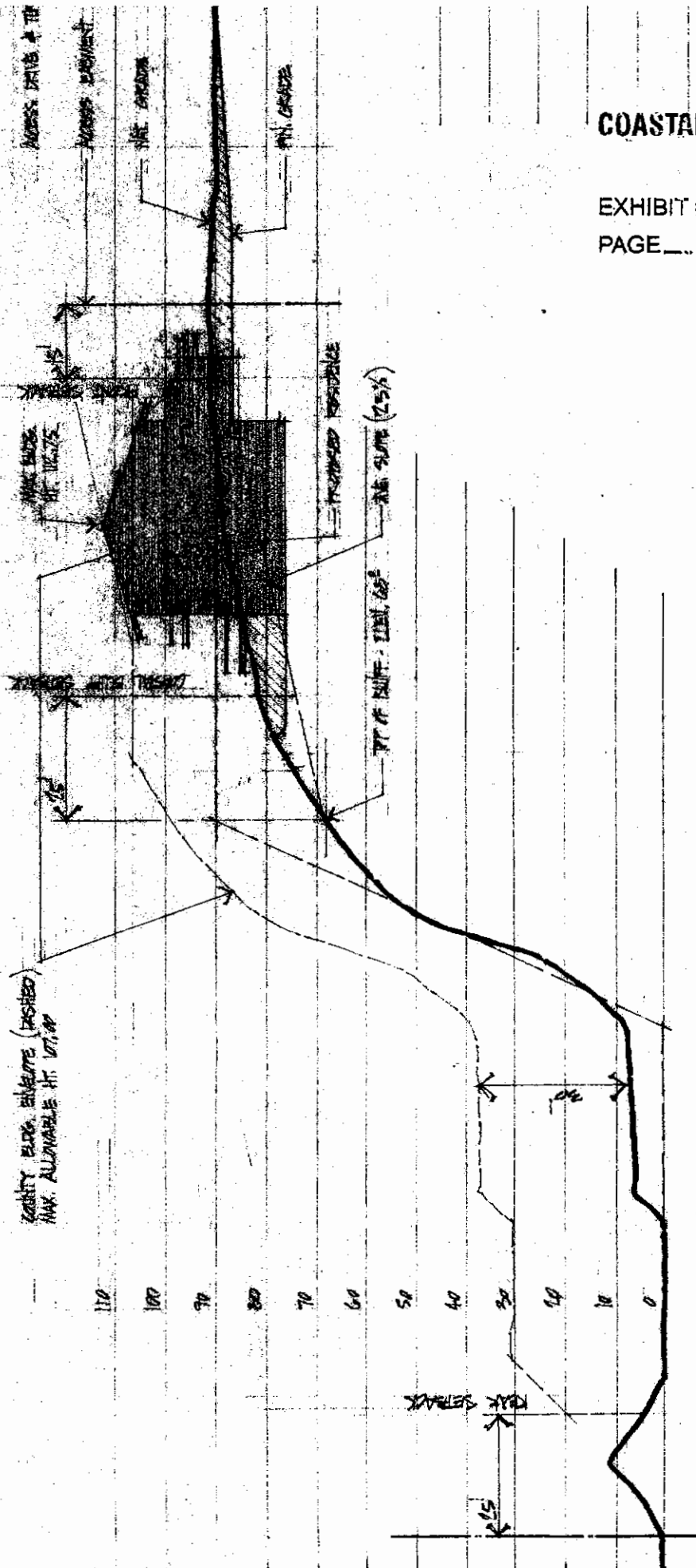




## EXHIBIT #

PAGE

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4 OF 4

2.7.7

**DATE FILED**

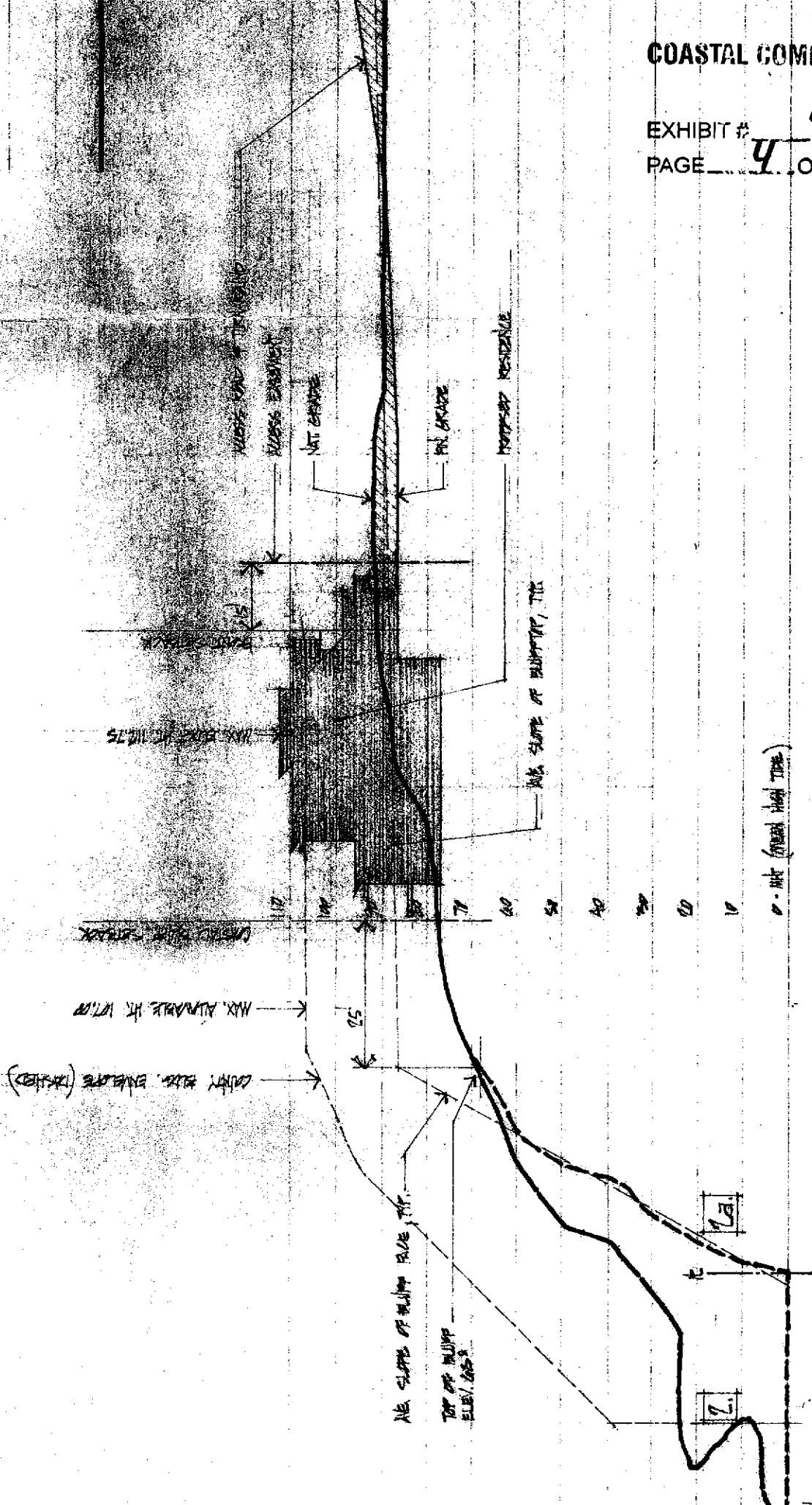


EXHIBIT # 5  
PAGE 1 OF 6  
TELEPHONE  
(949)219-2000  
FAX  
(949)219-9908

FRED GAINES  
SHERMAN L. STACEY  
LISA A. WEINBERG  
REBECCA A. THOMPSON  
NANCI S. STACEY  
KIMBERLY RIBLE

LAW OFFICES OF  
GAINES & STACEY  
1111 BAYSIDE DRIVE, SUITE 150  
CORONA DEL MAR, CALIFORNIA 92625

July 22, 2013

**RECEIVED**  
South Coast Region

JUL 23 2013

CALIFORNIA  
COASTAL COMMISSION

BY EMAIL AND FEDERAL EXPRESS

Ms. Liliana Roman  
California Coastal Commission  
South Coast District  
200 Oceangate, #1000  
Long Beach, CA 90802

Re: Application for Permit No. 5-13-031 (Garg)  
Application for Amendment to Permit No. 5-84-329-A1

Dear Ms. Roman:

On behalf of the Applicants for Coastal Development Permit No. 5-13-031, I am amending the application such that it will constitute an amendment to Coastal Development Permit No. 5-84-329 approved by the Coastal Commission on July 11, 1984. The amendment has three distinct parts. First, the Amendment will allow for the remodeling of the existing approved residential structure in accordance with plans submitted with Application for Permit No. 5-13-031 as modified by revised plans. Revisions on the entry and lower floor plans will be delivered to you under separate cover by Mark Singer. The design remains substantially the same as previously submitted except that (1) on the lower level, south side, a portion that extends beyond the existing walls into the area within 25 feet of the bluff edge, will be brought back into line with the existing approved lower level, and (2) on the entry level, the stair from the outside cantilever deck on the north side to the ground will be removed. All new foundations will be set back 25 feet from the bluff edge as designated by Mark Johnsson. At the north side of the residential structure, a portion of the entry level interior and the entry level deck would be cantilevered into the 25 foot setback area but the foundations would remain outside the setback. Also, roof overhangs will extend into the 25 foot setback as shown on the plot plan submitted with Application No. 5-13-031.

Second, the amendment will authorize the development of ground level outdoor areas which gain access from the lower level to within five (5) feet of the bluff edge. The amendment will also authorize the removal of ground level improvements which were previously constructed by a prior owner that exist within five (5) feet of the bluff edge. As the applicant has not had the

Ms. Liliana Roman  
California Coastal Commission  
July 22, 2013  
Page 2

EXHIBIT # 5  
PAGE 2 OF 6

opportunity to design the modified outdoor improvements, I request that as a special condition to the Amendment that the Applicant be permitted to submit for the review and approval of the Executive Director, final plans for outdoor improvements which do not extend closer than five (5) feet from the bluff edge. The Commission has allowed for setbacks for exterior improvements of 5 feet in prior cases in Three Arch Bay, most recently in Permit No. 5-09-105 (Norberg). We believe that the stability and structural integrity of the outdoor improvements as requested are adequately demonstrated by the geologic reports which have been submitted. We also believe that Mark Johnsson would agree. In any event, his review will be part of the Executive Director's review and approval of the outdoor, ground level improvements.

Third, the Amendment will remove Special Condition No. 4 to Permit No. 5-84-329 which required a specific deed restriction related to development within 25 feet of the bluff face. We would anticipate that the special conditions to the Amendment will require a new deed restriction which would apply all of the new special conditions which is the Commission's practice at the present time. The new special conditions would establish the 5 foot setback for the exterior improvements, and a 25 foot setback for any new foundations for the structure. Since Mark Johnsson's bluff edge designation is landward of the bluff face determination by the Commission in its action on Permit No. 5-84-329, we acknowledge that several portions of the existing improved residence are on foundations which extend into what would be a 25 foot setback from this revised bluff edge. As these foundations are already permitted and there is not intended to be any change to those foundations, the Amendment does not ask to relocate the existing foundations in any manner. It would be our understanding that since the remodel is not a major remodel, there will be no requirement to modify the existing foundations and the 25 foot setback would apply only to any new foundations.

You and I met with Mark Johnsson at the site on June 13, 2013. At that time, Mark indicated that his opinion of the bluff edge that he formed from his review of the surveys was not altered by the site visit. As indicated above, Johnsson has designated the bluff edge in a location more landward than that adopted by the Commission in 1984. Although the Applicant does not agree that the bluff edge should be designated either where the Commission located the bluff edge in 1984 or where Johnsson has located it today, the Applicant is willing to design the home and the exterior improvements to be consistent with the Amendment request described in this letter, provided that the special conditions are acceptable to the Applicant.

I have attached a project description for the Amendment. It is my understanding that the Amendment as described in this letter would be placed on the regular calendar for the August meeting. If we are able to agree on any special conditions which the Executive Director may propose, then it could be moved to the consent calendar. I look forward to the opportunity to review any proposed special conditions.

COASTAL COMMISSION

Ms. Liliana Roman  
California Coastal Commission  
July 22, 2013  
Page 3

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PAGE 3 OF 6

If you should have any questions concerning this matter, please do not hesitate to contact me immediately. I note that I have in my file the notice list and envelopes. Please advise me if you need these envelopes for the hearing notice and I will have them delivered to you with the original of this letter.

Sincerely,

  
SHERMAN L. STACEY

cc: Mr. Gaurav Garg  
Mr. Mark Singer

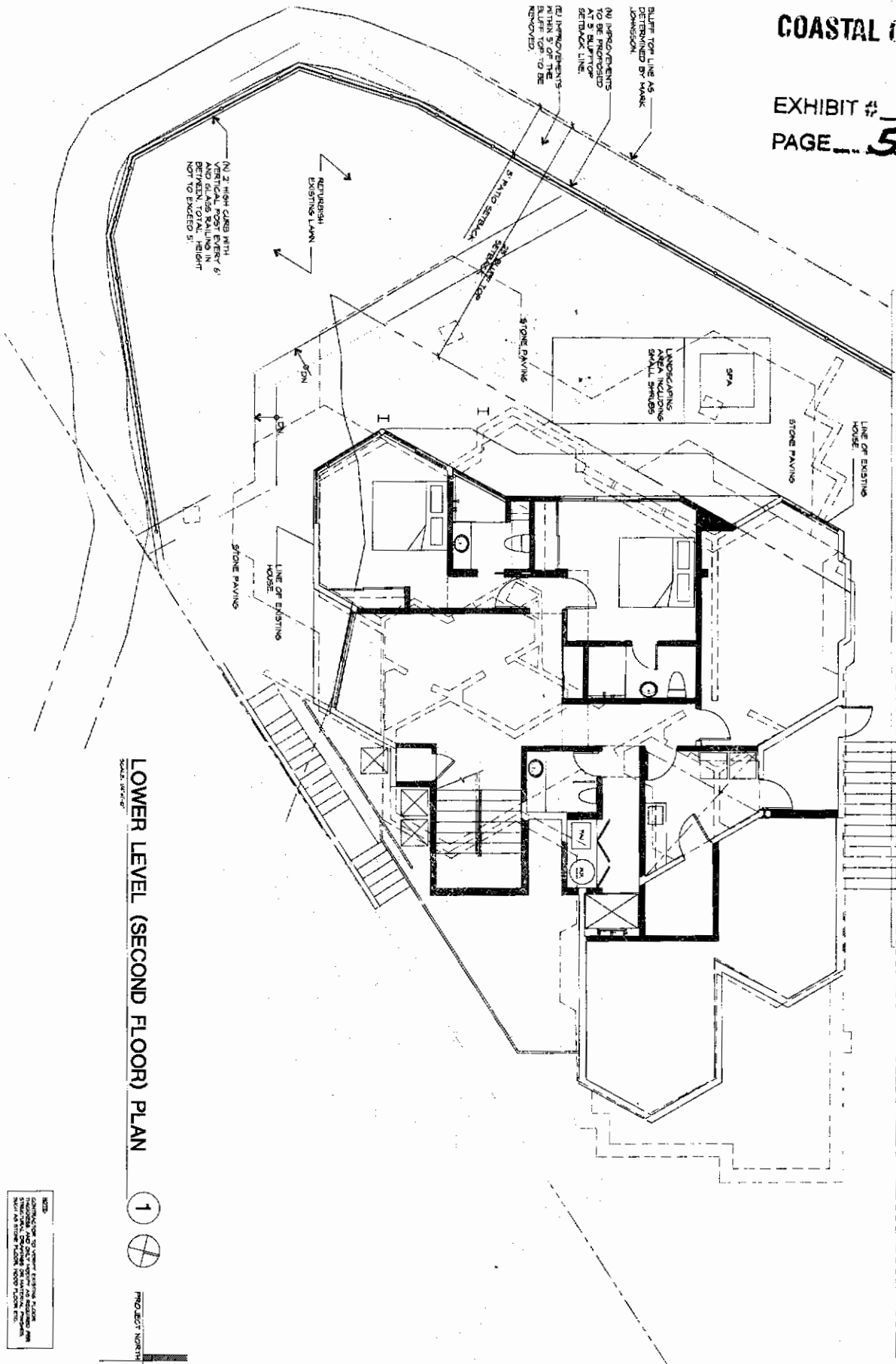
AMENDMENT TO PERMIT NO. 5-84-329 PROJECT DESCRIPTION

- A. Non-major remodel of the existing permitted three story, 4592 SF residence with addition of 458 new square feet. The garage will be reconfigured with the addition of 1 parking space in tandem. No changes to the height of the house. The basic building configuration remains as previously approved with a cantilevered portion of the second (entry level) floor on the north side extending into the 25 foot bluff setback. Any new foundations to be placed beyond 25 foot bluff setback.
- B. The development includes the removal of existing ground level exterior perimeter walks, curbs and landscaping which are within five (5) feet from the edge of the bluff, and the erection of walks, curbs and landscaping which will be not less than five (5) feet from the edge of the bluff. Grading is less than 40 cubic yards.
- C. Remove Special Condition No. 4 to CDP No. 5-84-329.

COASTAL COMMISSION

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PAGE 4 OF 6





LOWER LEVEL (SECOND FLOOR) PLAN

1

PROJECTIONS NORTH

WALL LEGEND	
EXISTING WALL	---
NEW WALL	—
EXISTING WALL TO REMAIN	---

NOTES:  
1. EXISTING WALLS TO REMAIN ARE SHOWN WITH DASHED LINES.  
2. NEW WALLS ARE SHOWN WITH SOLID LINES.  
3. EXISTING WALLS TO BE REMOVED ARE SHOWN WITH DASHED LINES AND AN 'X' MARK.

A4

G A R G residence  
remodel

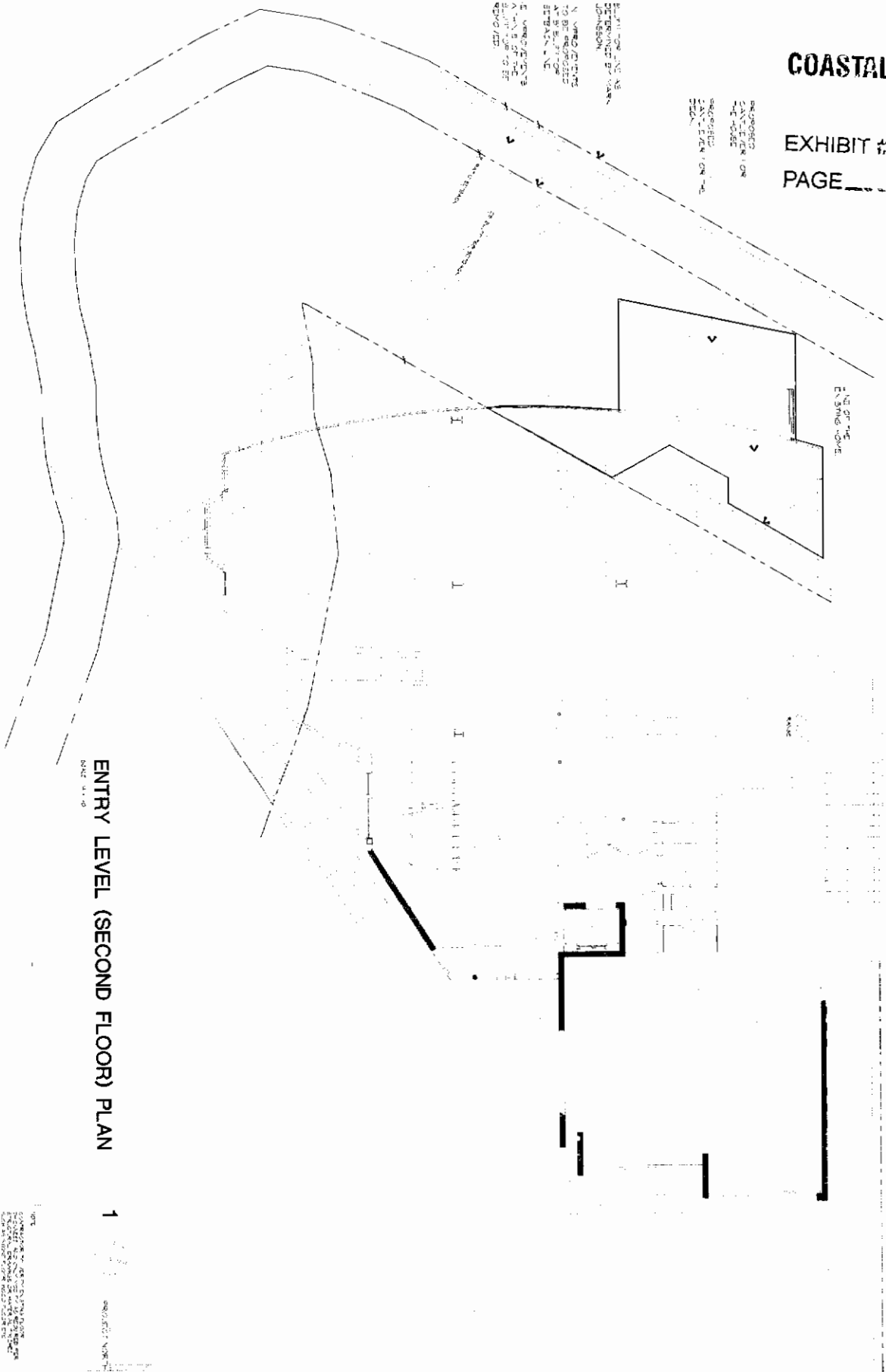
56 NORTH LA BENDA, LANSANA BEACH, GA

MARK SINGER ARCHITECTS, INC.

100 RALPH AVE., LANSANA BEACH, GA 32178  
904-681-8244 PHONE 904-681-8244 FAX 904-681-8244

# COASTAL COMMISSION

EXHIBIT # 5  
PAGE 6 OF 6



ENTRY LEVEL (SECOND FLOOR) PLAN

1

WALL LEGEND



THICK LINE = WALL  
THIN LINE = PARTITION  
DOTTED LINE = GLASS

G A R G residence  
remodel

MARK SINGER ARCHITECTS, INC.

30 BALBOA AVENUE, LAGUNA BEACH, CA 92653  
ARCHITECTS: MARK SINGER, PH.D., AIA, NYS; MARK SINGER, PH.D., AIA, NYS

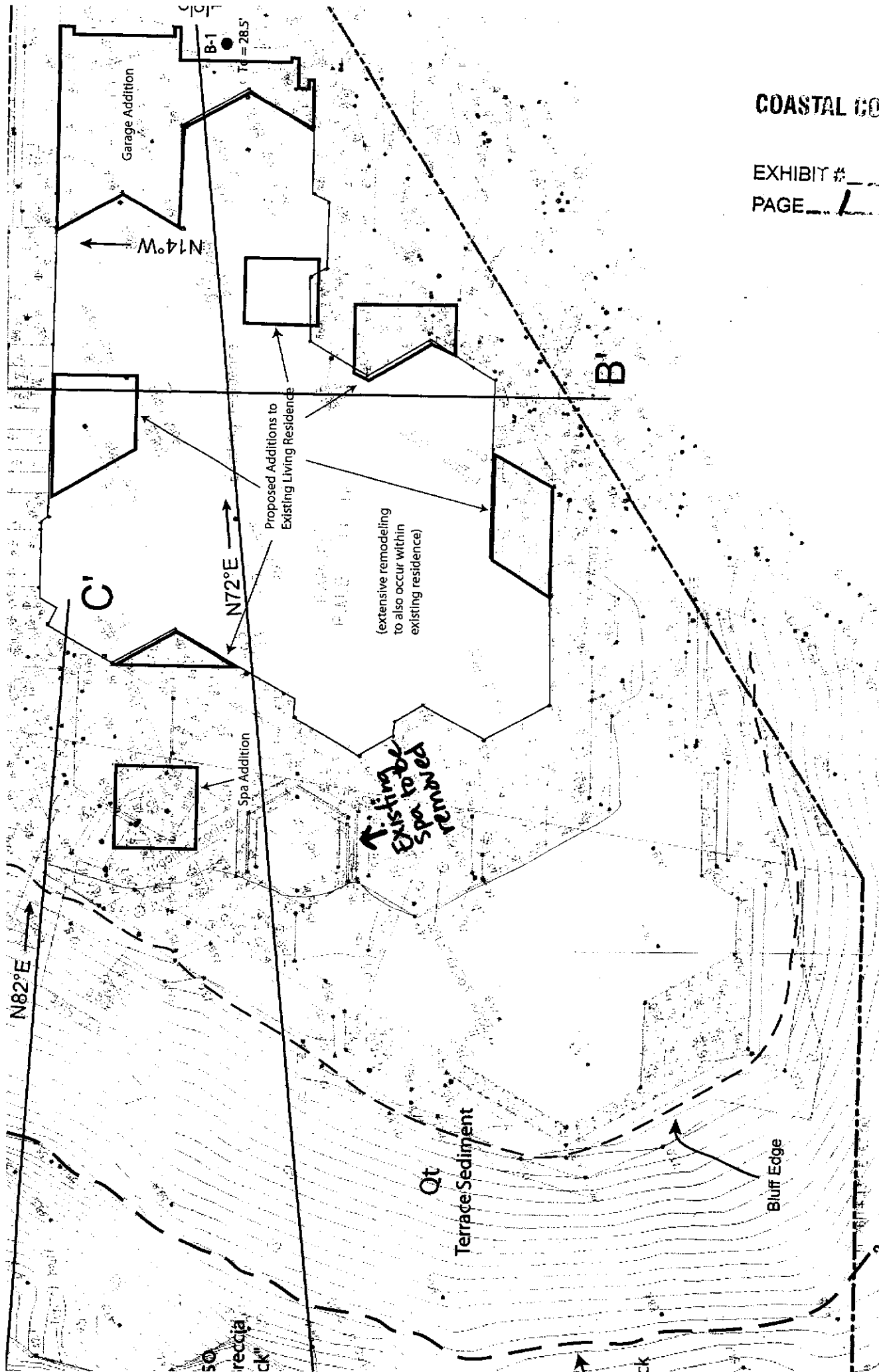
56 NORTH LA BENDA LAGUNA BEACH, CA

entry level (second floor) floor plan

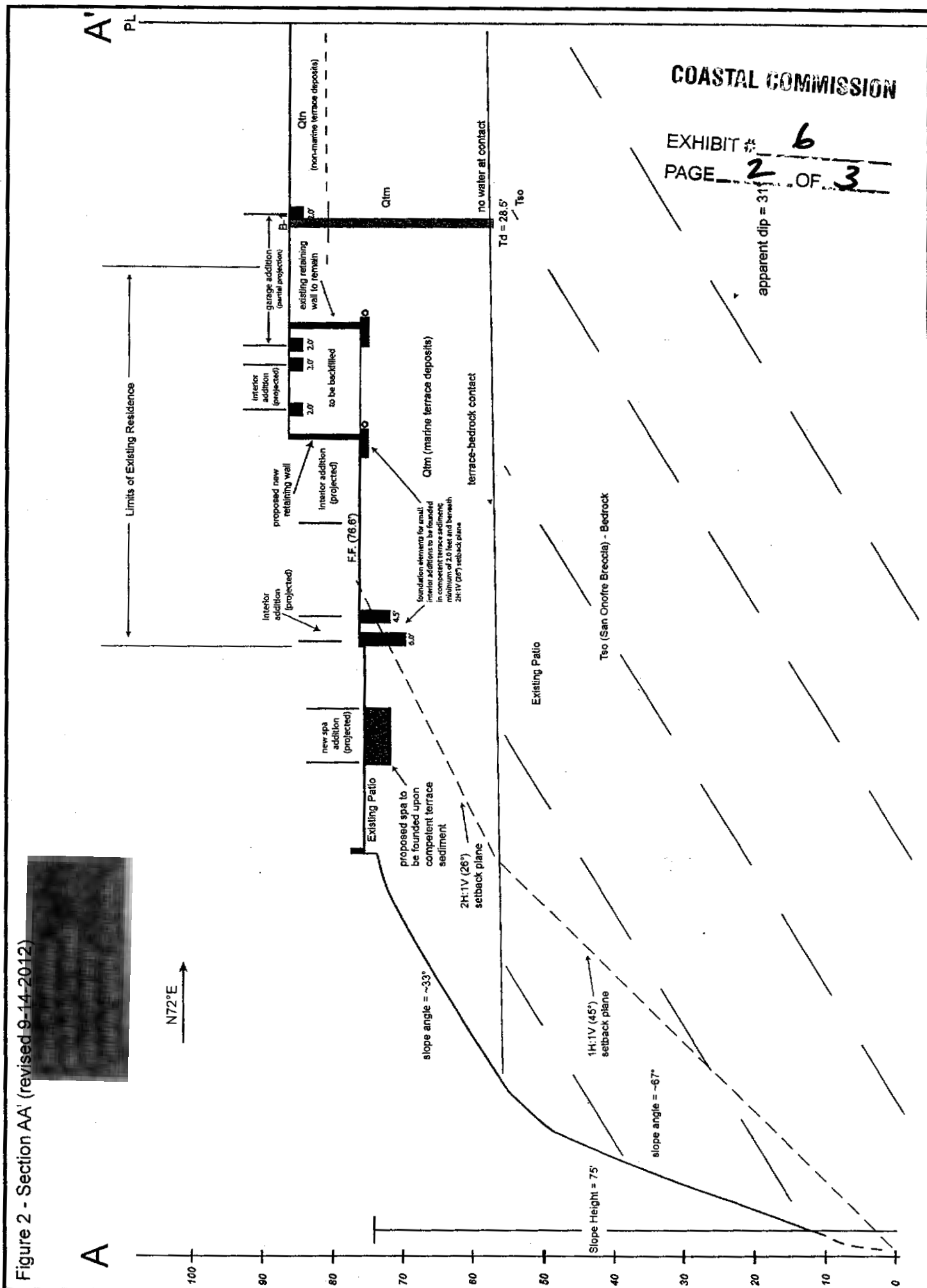
A2

COASTAL COMMISSION

EXHIBIT # 6  
PAGE 1 OF 3



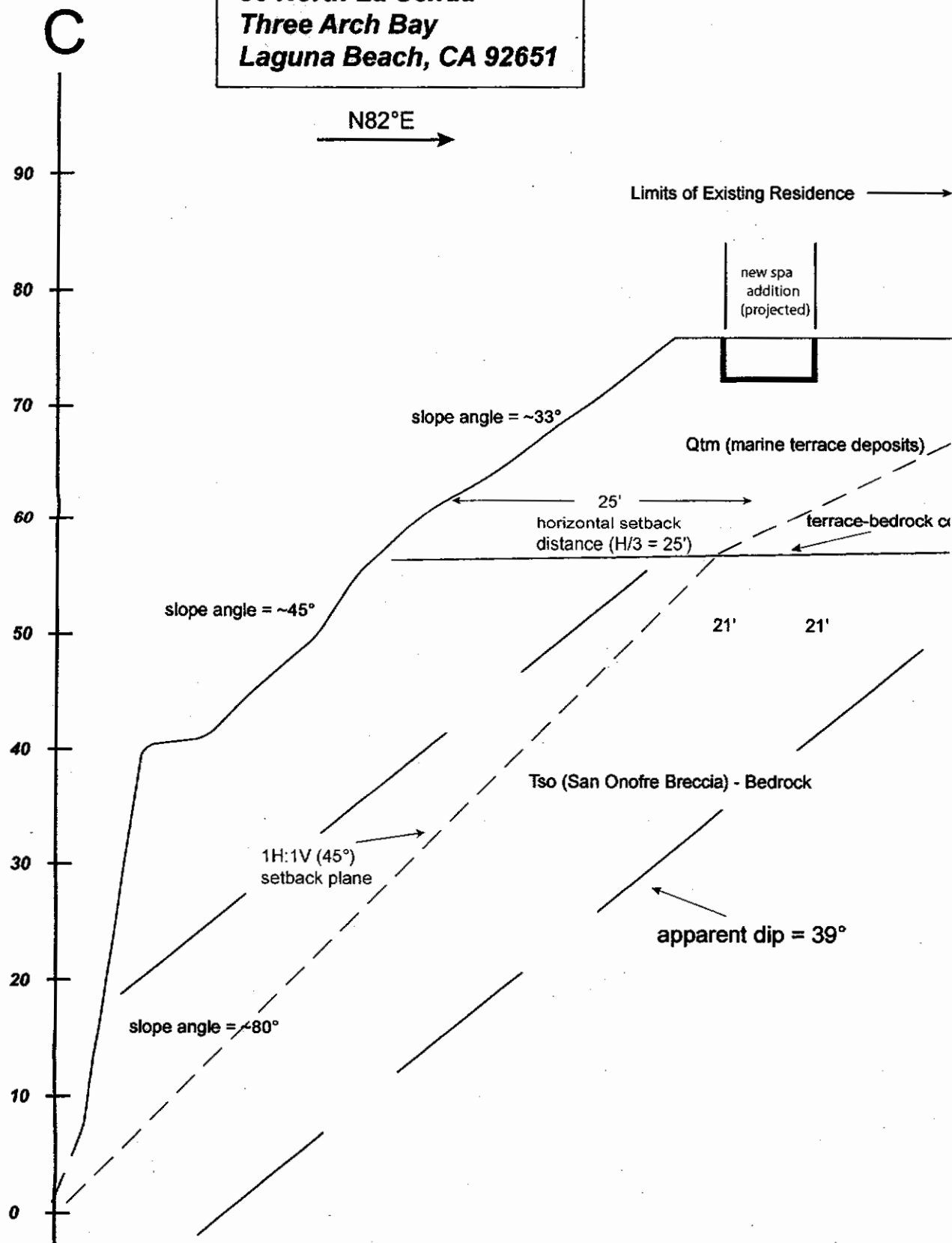
apparent dip = 31°



COASTAL COMMISSION

EXHIBIT # 6  
PAGE 3 OF 3

**Garg Residence**  
**56 North La Senda**  
**Three Arch Bay**  
**Laguna Beach, CA 92651**



COASTAL COMMISSION

EXHIBIT # 7  
PAGE 1 OF 3

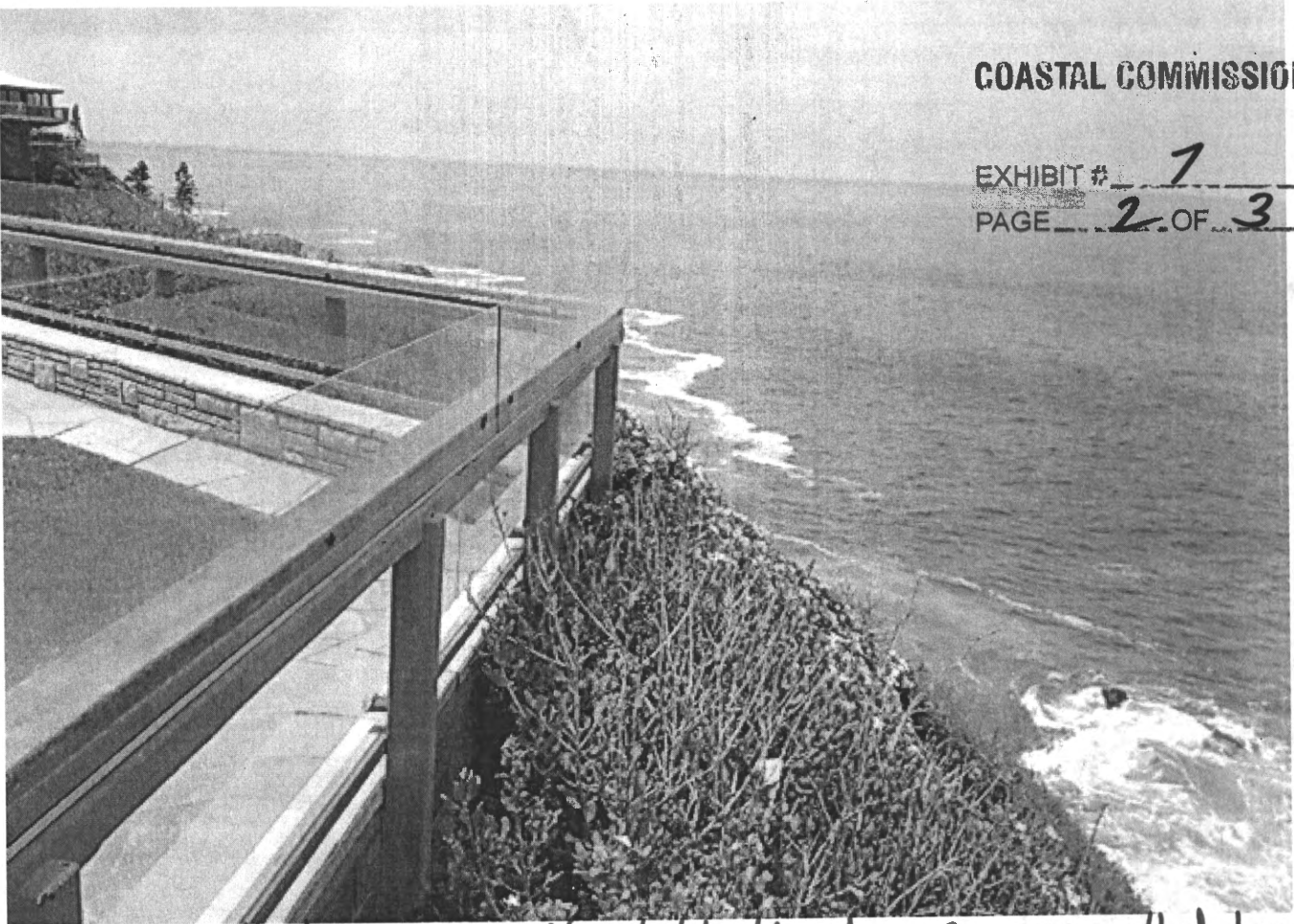


spa, paved patio and  
cantilevered decks  
approved under  
CDP 5-84-329

unpermitted  
screen wall  
patio area  
and lawn  
within 25'  
bluff setback  
per CDP 5-84-329

COASTAL COMMISSION

EXHIBIT # 1  
PAGE 2 OF 3



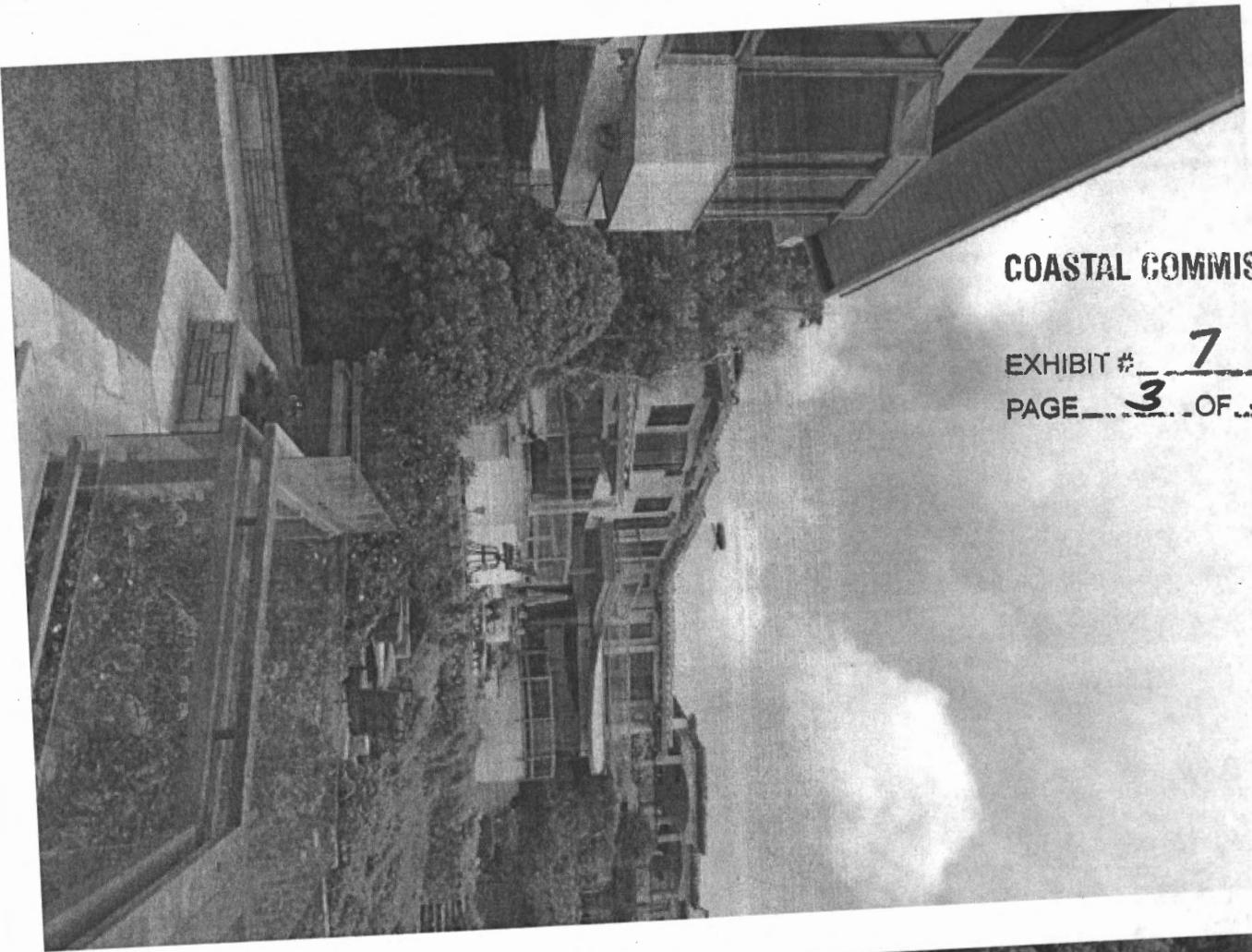
Unpermitted screenwall at bluff edge & unpermitted lawn





COASTAL COMMISSION

EXHIBIT # 7  
PAGE 3 OF 3



unpermitted seawall at bluff edge.

