

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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Filed: 8/8/97
49th Day: 9/26/97
180th Day: 2/24/98
Staff: MV-LB
Staff Report: 8/21/97
Hearing Date: 9/9-12/97
Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 5-97-250

APPLICANT: Park Newport Apartments

AGENT: Bagahi Engineering; California Civil, Inc.;
Gerson Bakar & Associates

PROJECT LOCATION: 1 Park Newport, Newport Beach, Orange County

PROJECT DESCRIPTION:

Bluff stabilization consisting of construction of caisson retaining wall, grading of 52 cubic yards of cut and 52 cubic yards of fill, and repair/replacement of damaged drainage pipe.

Lot area:	n/a
Building coverage:	n/a
Pavement coverage:	n/a
Landscape coverage:	n/a
Parking spaces:	n/a
Zoning:	n/a
Plan designation:	n/a
Project density:	n/a
Ht abv fin grade:	n/a

LOCAL APPROVALS RECEIVED:

City of Newport Beach Approval in Concept No. 1420-97

SUBSTANTIVE FILE DOCUMENTS:

City of Newport Beach certified Land Use Plan

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed project with two special conditions. The first special condition requires that, prior to issuance of the permit, the applicant submit written evidence that the California Department of Fish and Game has 1) reviewed and approved the proposed project and, 2) given permission for development to occur on property owned by CDFG. The development proposed on CDFG property consists of replacement of a damaged drainage pipe and minor grading. The second special condition requires adherence to the geotechnical consultant's recommendations.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development 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. Standard Conditions.

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. 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 condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, 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.

III. Special Conditions.

1. Permission from the California Department of Fish and Game

Prior to issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, written evidence that the California Department of Fish and Game (CDFG) has 1) reviewed and approved the proposed project and, 2) given permission for development described in this permit to occur on property owned by California Department of Fish and Game. If CDFG requires any substantial changes to the project as approved by the Commission, the changes shall be submitted to the Executive Director for a determination as to whether the changes require an amendment to this permit. Any changes that require an amendment shall not occur without an amendment to this permit.

2. Geotechnical Recommendations

Prior to issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, final grading plans, including plans depicting the caisson wall. These plans shall include the signed statement of the geotechnical consultant certifying that these plans incorporate the recommendations contained in the Supplemental Geotechnical Investigation prepared by Bagahi Engineering, (Proposal No. 78o-200-00) for Gerson, Bakar, & Associates dated November 14, 1996. The approved development shall be constructed in accordance with the final revised plans as approved by the Executive Director. Any deviations from said plans shall be submitted to the Executive Director for a determination as to whether the changes require an amendment to this permit. Any deviations that require an amendment shall not occur without an amendment to this permit.

IV. Findings and Declarations.

A. Project Description

The applicant is proposing a bluff stabilization project consisting of construction of a caisson retaining wall, grading of 52 cubic yards of cut and 52 cubic yards of fill, and repair/replacement of a damaged drainage pipe. The proposed caisson retaining wall will consist of 24 inch diameter caissons placed 8 feet on center, and emplaced to a minimum depth of 15 feet into competent bedrock. The caisson wall will not extend above grade. The grading is proposed to clear debris and loose material from the path of the new drainage pipe and to provide support fill material beneath the existing drainage pipe which is to remain.

The stabilization project is proposed as a result of bluff failure that occurred in December of 1994. The subject site is adjacent to Big Canyon and Upper Newport Bay. Upper Newport Bay is located within the Upper Newport Bay Ecological Reserve (UNBER). The UNBER is owned by the California Department of Fish And Game (CDFG). Big Canyon is located between UNBER, Jamboree Road, East Bluff, and Park Newport Apartments and is owned partially by the City of Newport Beach and partially by the California Department of Fish and Game. Portions of the slide effected property are owned by the California Department of Fish and Game (CDFG). The applicant's property is developed with a large

apartment complex on the bluff top above the bay. The caisson wall is proposed on the applicant's property. However, the drainage pipe replacement and related grading is located on property owned by the CDFG.

B. Environmentally Sensitive Habitat Area

Section 30240(b) of the Coastal Act states:

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The subject site is located adjacent to the environmentally sensitive habitat areas of the UNBER and Big Canyon. A portion of the project is proposed to occur on land owned by CDFG. Because of the past slope failure at the site, no sensitive habitat is expected to exist currently on the subject site. However, UNBER and Big Canyon do support significant sensitive habitat and species. Regarding UNBER, the City's certified Land Use Plan states:

The Reserve has been identified by the State Coastal Commission, State Department of Fish and Game, U.S. Fish and Wildlife Service, and the Southern California Association of Governments as a unique and valuable State resource. The upper bay is an integral part of the Pacific Flyway, and the saltwater marsh, bay waters, and uplands of upper Newport Bay provide habitat for 158 species of birds, of which 81 species are wading or water-associated birds. Rare or endangered birds utilizing the Reserve include the California Black Rail, which nests in pickleweed, sedges, saltgrass, and bulrush; Belding's Savannah Sparrow, which nests in pickleweed; Light-footed Clapper Rail, which nests in pickleweed and cordgrass; California Least Tern, which lays its eggs in the sand; and California Brown Pelican, which occasionally visits the upper bay for purposes of resting and feeding. Also present in the Reserve are 18 species on the Audubon Blue List, a list of birds not considered rare or endangered, but which are showing evidence of non-cyclic population declines or range contractions. Over 60 species of fish and over 1,000 species of marine invertebrates have been reported in the bay.

And regarding the mouth of Big Canyon, the City's certified Land Use Plan states:

The outstanding feature of the mouth of Big Canyon is a lush riparian growth which dominates much of the canyon bottom. The sides of the canyon are covered largely by southern coastal sage scrub vegetation with some disturbed grasslands.

The proposed project is necessary to stabilize the existing unstable slope. Upslope advance of the slide is expected, threatening the apartments on the bluff top. Currently, the top of the slide area is within about 30 to 50 feet of the apartment units. If left untreated, the apartments would be jeopardized.

An alternative to the proposed project was considered. The alternative considered was the construction of a shear key at the toe of the slide and benching the slope into the landslide debris. This alternative would have

required considerably more grading than is required under the proposed alternative. The entire slope would have been reconfigured. The proposed alternative will require only 52 cubic yards of cut and 52 cubic yards of fill.

The proposed project includes the replacement of a drainage pipe which was sheared off in the scarp area of the slide. Drainage for the apartment complex is directed down the subject pipe. The undamaged portion of the drainage pipe will remain and new pipe will be placed in the downslope area. In addition, rock will be placed at the pipe outlet to dissipate the energy of the water outlet. If left as is, the drainage pipe would outlet into the slide area, increasing destructive erosion and further decreasing slope stability.

The proposed project is necessary to control the landslide and drainage as well as to minimize risk to the existing apartment complex. If left untreated, landsliding and uncontrolled drainage would continue. Continued landsliding and uncontrolled drainage into Big Canyon and UNBER would not prevent impacts which would significantly degrade the adjacent sensitive areas. Therefore the Commission finds the proposed project is necessary to protect the adjacent sensitive habitat area.

However, the proposed project has not yet received review from CDFG, nor has permission been received from CDFG as the landowner, for the work to occur on CDFG property. Although the overall project will enhance the site by stabilizing the slope and controlling drainage, minor refinements to the proposed project may be appropriate to assure that the project will not significantly degrade the adjacent environmentally sensitive habitat area. The refinements may include upgrades in the proposed project to reflect current drainage standards.

Further, pursuant to Section 30601.5 of the Coastal Act, the Commission cannot authorize development on property without permission of the property owner, unless the applicant has demonstrated a legal right, interest, or other entitlement to use the property for the proposed development. The applicant for the proposed project has not yet demonstrated that permission from CDFG as the landowner has been received. In a letter dated August 4, 1997, the applicant's agent has indicated that approval from CDFG is in progress (see exhibit E).

As a condition of approval the applicant shall submit written evidence that CDFG has reviewed the proposed project and approves of the proposed development. In addition, the applicant shall submit written evidence that CDFG as landowner has given permission for the proposed development to take place on CDFG property. The Commission finds that only as conditioned is the proposed project consistent with Section 30240 of the Coastal Act which requires that development in areas adjacent to environmentally sensitive habitat areas (such as UNBER and Big Canyon) be sited and designed to prevent impacts which would significantly degrade those areas, and that such development be compatible with the continuance of those habitat areas.

C. Hazard

Section 30253 of the Coastal Act states, in part:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

In December 1994, a shallow slope failure was reported on a pre-existing landslide below a portion of the Park Newport Apartment Complex. The slide took place on a descending north-facing natural slope and is about 110 feet wide at the toe and about 90 feet long. An existing corrugated steel storm drain pipe was sheared off in the scarp area of the slide. The top of the slide area is within about 30 to 50 feet of the subject units.

The intent of the proposed project is to isolate the apartment complex from the slide prone slope area by installing a caisson wall near the top of the slope. The geotechnical consultant states that the proposed caisson wall system would not only serve as a barrier to the slide, but also improve the stability of the upper portion of the slope. In addition, replacement of the drainage pipe will prevent outflow from the sheared drainage pipe onto the landslide area. Instead drainage will be contained to the toe of the slope and outlet onto an energy dissipation device. Thus, the drainage pipe repair and replacement will minimize destructive erosion.

Regarding the proposed development, the geotechnical consultant states:

Based on our geotechnical evaluation, engineering analysis, experience and judgment, it is our opinion that the upslope advance of the existing slide can be mitigated by installation of a caisson wall near the top of slope between the subject units and the slide area.

The geotechnical consultant has found that the proposed project is a feasible solution to the landslide at the subject site. The geotechnical consultant has made recommendations addressing the design of the caissons, lateral loading, type of cement, type and location of the drainage pipe, slope planting, and slope irrigation. In order to insure stability and to minimize risks to life and property, the geotechnical consultant's recommendations should be incorporated into the design of the proposed project. As a condition of approval, the applicant shall submit grading plans, including plans depicting the caisson wall, indicating that the recommendations contained in the Supplemental Geotechnical Investigation For A Slope Wall prepared by Bagahi Engineering, dated November 14, 1997, have been incorporated into the design of the proposed project. Therefore, the Commission finds that, as conditioned, the proposed project is consistent with Section 30253 of the Coastal Act which requires that risks to life and property be minimized and that stability and structural integrity be assured and neither create nor contribute significantly to erosion or destruction of the surrounding site.

D. Local Coastal Program

Section 30604(a) of the Coastal Act provides that a coastal development permit shall be issued only if the proposed development would not prejudice the ability of the local government having jurisdiction to prepare a local coastal program (LCP) which conforms with, and is adequate to carry out, the Chapter 3 policies of the Coastal Act.

The Newport Beach LUP was certified on May 19, 1982. The proposed development has been conditioned to conform to the environmentally sensitive habitat and hazard policies of the Coastal Act. Therefore, the Commission finds that the proposed development, as conditioned, would not prejudice the ability of the City of Newport Beach to prepare a local coastal program consistent with the Chapter 3 policies of the Coastal Act.

E. California Environmental Quality Act

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of coastal development permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) 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 impact which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the environmentally sensitive habitat and geologic hazard policies of the Coastal Act. Mitigation measures including review and approval of the project by the CDFG and review and approval of the final grading plans by the geotechnical consultant, will minimize all adverse impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.

A black and white map of Newport Beach, California, with a grid overlay. The map shows streets, landmarks, and a large handwritten number '92660' in the center. A circular stamp with the number '14' is visible in the lower right quadrant.

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Exhibit
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CONSTRUCTION NOTES:

- ① — CONST. 24" DIA. CORRUGATED STEEL PIPE, 16 GA., WITH REROLLED ANNULAR ENDS CONNECTED WITH CONTECH HUGGER BANDS.
- ② — JOIN EXISTING 24" CSP PIPE WITH CONTECH HUGGER BANDS.
- ③ — FURNISH AND INSTALL CSP PIPE ANCHORS WITH PIPE DOWN DRAIN ANCHORS, ALHAMBRA FOUNDRY A-4022 FOR 24" DIAMETER PIPE WITH 6' LONG PIPE STAKES.
- ④ — FURNISH AND INSTALL 24" CSP PIPE FLARED END SECTION.
- ⑤ — CONST. 18" THICK ROCK RIP PER OCEMA STD. PLAN # 1809.
- ⑥ — REMOVE INTERFERING PORTION OF EXIST CSP DRAIN PIPE.
- ⑦ — DRILL AND CONST. 24" DIAMETER CONCRETE CAISSON PER DETAILS AND SPECIFICATIONS (BY SEPARATE PERMIT)

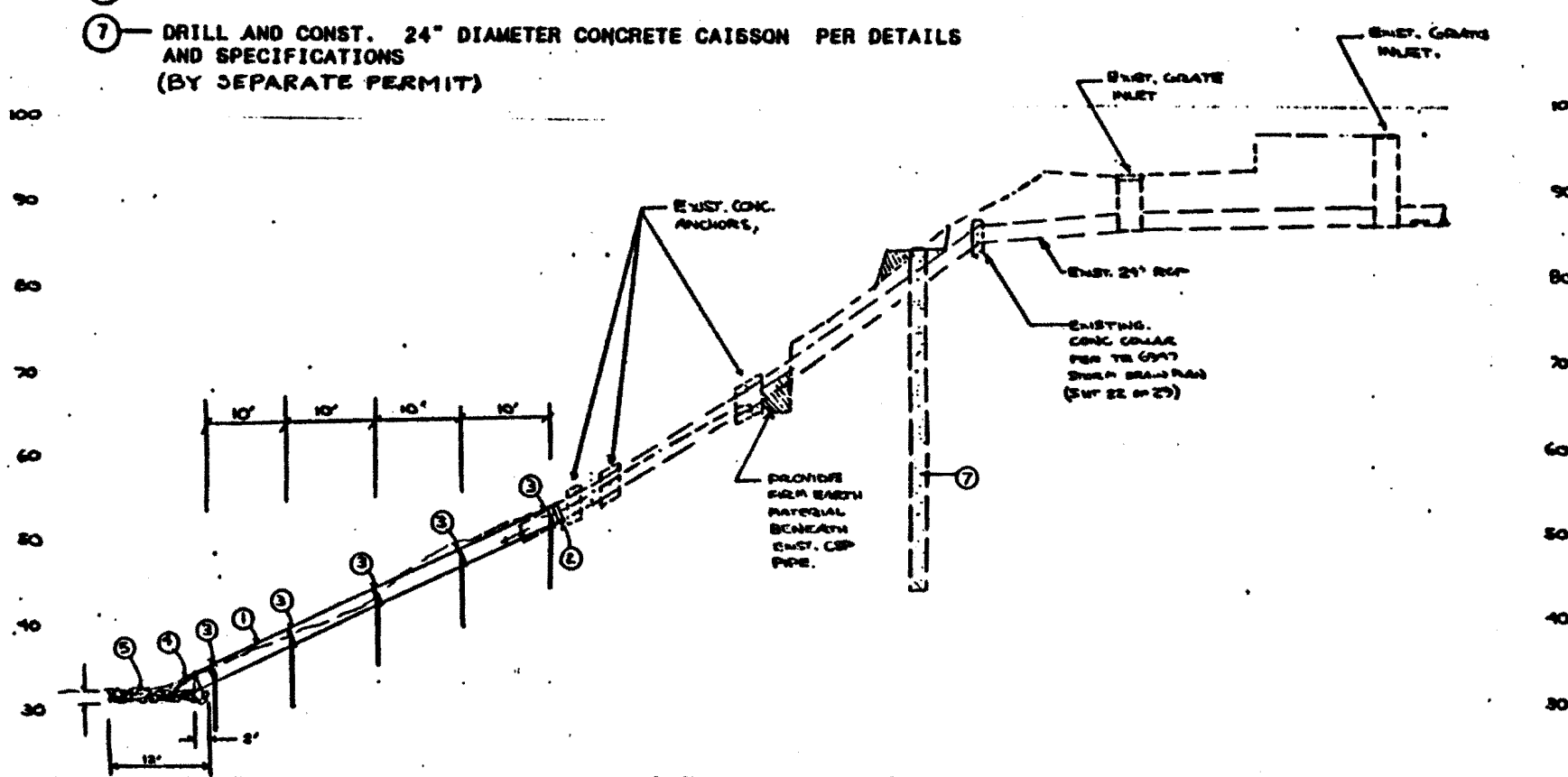


Exhibit C
5-97-250

Cross
Section

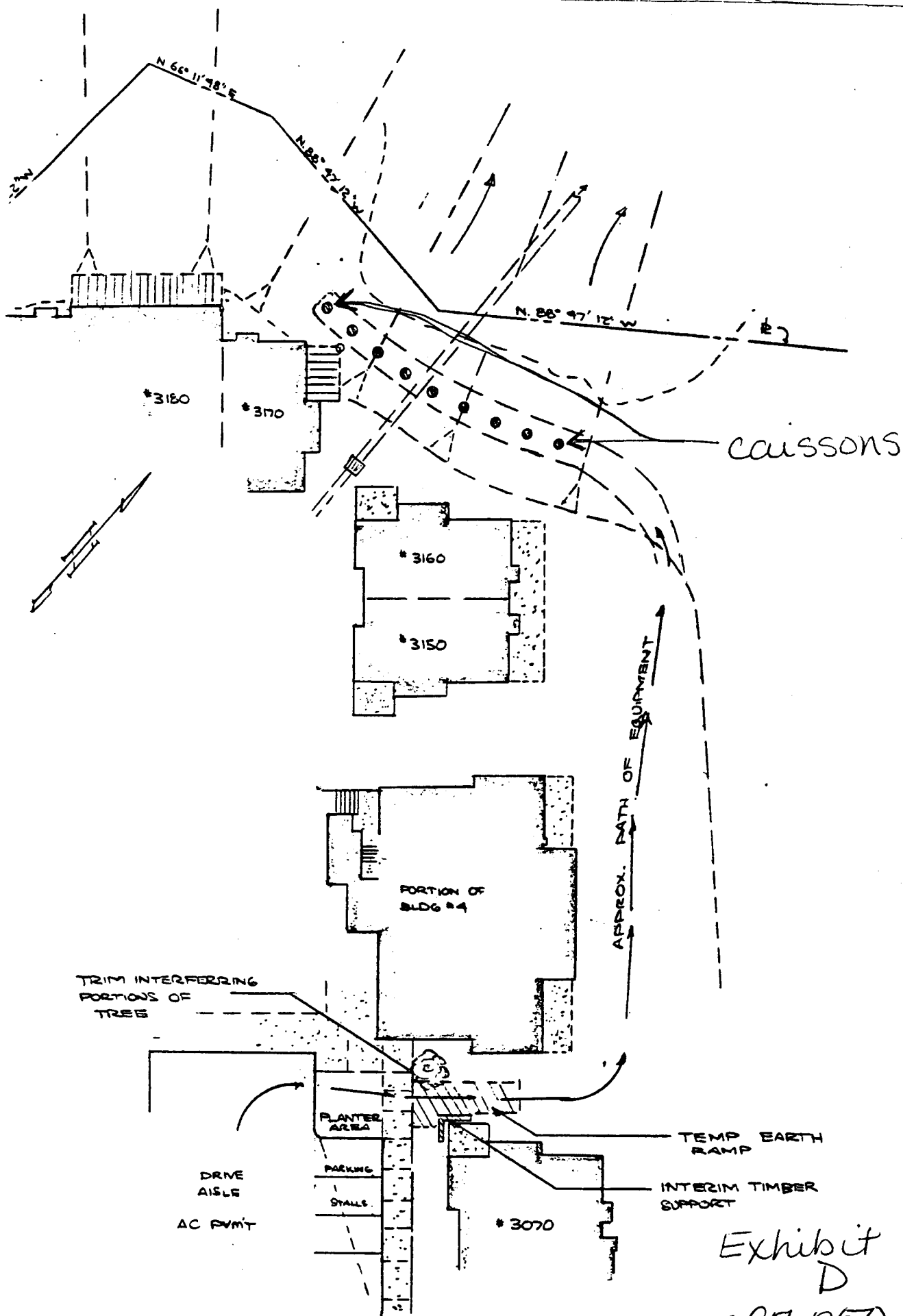


Exhibit
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5-97-250



BAGAH ENGINEERING

GEOTECHNICS & FOUNDATIONS

TEL (714) 252-8292 FAX (714) 252-8293

3901 Westerly Place, Suite 109
Newport Beach, California 92660

August 4, 1997

5-97-250
Job No. 780-200-00

GERSON BAKAR & ASSOCIATES
201 Filbert Street
San Francisco, CA 94133

RECEIVED
AUG 8 1997

Attention: Mr. Richard Ellis

CALIFORNIA
COASTAL COMMISSION

SUBJECT: RESPONSE TO COASTAL COMMISSION
Park Newport Slope Repair
One Park Newport
Newport Beach, CA

- REFERENCES:
1. California Coastal Commission, Park Newport Apartment Slope Repair, letter dated July 31, 1997.
 2. BAGAH ENGINEERING, "Supplemental Geotechnical Investigation for a Slope Wall, Park Newport Apartments, One Park Newport, Newport Beach, CA", dated November 14, 1996.
 3. LAW/CRANDALL, "Report of Geotechnical Investigation, Existing Landslide, Park Newport Apartments,..." dated May 31, 1996.

Dear Mr. Ellis:

In accordance with your request, we have prepared the following responses to the California Coastal Commission Letter dated July 31, 1997 (Reference #1) regarding back-up information for the permit application. The items requested are presented first followed by our response.

1. "A geology report that includes an assessment of the site, the cause of slope failure, and

Exhibit E

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an evaluation of the proposed work". Such a report was prepared (see Reference #2) and is attached for your consideration. The report focuses mainly on the site assessment and the proposed remedial work. Details of the cause of slope failure may be found in Reference #3 which is also attached for your convenience.

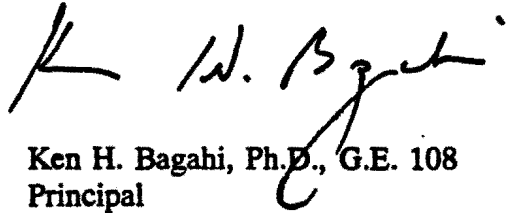
2. "An alternatives analysis including an assessment of other methods of stabilizing the slope and an explanation of why the proposed method was chosen. The alternatives analysis should evaluate the environmental impacts of each alternative." An alternative analysis to the proposed method is presented in Reference #3. It consists of removal of the landslide, installation of a 30-foot wide key at the toe of slope and reconstruction of the slope. This method involves significantly more earthwork activity including excavations, removals, and disturbance to adjacent slope areas, particularly the toe of slope.
3. "Permission from the adjacent property owner (California Department of Fish and Game) to perform the work proposed on their property." The proposed caisson wall will be totally within the property limits of the subject site. The storm drain repair work will also be totally within the existing limits of the storm drain path. No new addition to the line is proposed.
4. "Because the project is located in and adjacent to the Upper Newport Bay Ecological Reserve, review and approval of the proposed project by the California Department of Fish and Game is necessary." We understand approval from California Department of Fish and Game is in progress.

Mr. Richard Ellis
Job No. 780-200-00 / August 4, 1997

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If you have any questions or we can be if further assistance, please do not hesitate to contact us.

Very truly yours,
BAGAHİ ENGINEERING



Ken H. Bagahi, Ph.D., G.E. 108
Principal
let-780.1

Bagahi Engineering

Exhibit E
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