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STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
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Filed: August 27, 1996
49th Day: October 15, 1996
180th Day: February 23, 1997
Staff: RMR/LB **RMR**
Staff Report: September 9, 1996
Hearing Date: October 8-11, 1996
Commission Action:



STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 5-96-150

APPLICANT: Frank & Malanie Pritt

AGENT: Brion Jeannette Architect

PROJECT LOCATION: 4621, 4627 and 4633 Brighton Road, Newport Beach,
Orange County

PROJECT DESCRIPTION: Demolition of two single-family residences and construction of a two-story, 20,517 square foot single-family residence on three lots with a bowling alley, movie theater, swimming pools, beach grotto, and a 6,034 square foot garage. Grading consists of 13,500 cubic yards of cut and 200 cubic yards of fill. Landscaping on the bluff edge is limited to native drought tolerant plants.

Lot area:	61,493 sq. ft.
Building coverage:	12,400 sq. ft.
Pavement coverage:	3,788 sq. ft.
Landscape coverage:	18,785 sq. ft.
Parking spaces:	24
Zoning:	R1-B
Plan designation:	Single-Family Detached Residential
Project density:	
Ht abv fin grade:	24

LOCAL APPROVALS RECEIVED: City of Newport Beach Approval-in-Concept

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach Certified Land Use Plan, Coastal Development Permits 5-95-200 (Casanova), 5-96-087 (Casanova)

SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending approval of the proposed development with special conditions regarding assumption of risk, conformance with geotechnical recommendations and disposal of excess dirt.

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, located between the first public road and the sea, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 including the public access and recreation policies of Chapter 3, 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. Removal of Excess Dirt

Prior to the issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, in writing, the location of the proposed dump site for all excess cut material. If the disposal site is within the coastal zone a coastal development permit may be required.

2. Conformance with Geotechnical Recommendations

Prior to issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, grading and foundation plans. The approved foundation plans shall include plans for the basement foundation, retaining walls, subdrains and footings. These plans shall include the signed statement of the geotechnical consultant certifying that these plans incorporate the recommendations contained in the geotechnical investigation prepared by Geofirm for Frank and Melanie Pritt dated August 23, 1996. In addition, the applicant shall agree in writing to comply with Appendix D (Standard Grading Guidelines) of the geotechnical report. The approved development shall be constructed in accordance with the plans 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 are substantial. Any substantial deviations shall require an amendment to this permit or a new coastal development permit.

3. Assumption of Risk

Prior to issuance of the coastal development permit the applicant, as property owner, shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to hazard from bluff erosion and wave attack and the applicant assumes the liability from such hazards; and (b) that the applicant unconditionally waives any claim of liability on the part of the Commission and agrees to indemnify and hold harmless the Commission and its advisors relative to the Commission's approval of the project for any damage due to natural hazards. The document shall run with the land binding all successors and assigns, and shall be recorded free and clear of prior liens and encumbrances which the Executive Director determines may affect the interest conveyed.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The proposed project is located on three coastal bluff-fronting lots in an existing developed residential area in the community of Corona del Mar in the City of Newport Beach, County of Orange (see Exhibits 1 and 3). The project is located three houses north of Little Treasure Cove, which is the northernmost boundary of Crystal Cove State Park. There is a private community beach access way located on the southern boundary of 4633 Brighton Road. Additionally, there is private access to the beach at the applicant's property via an existing staircase at 4621 Brighton Road (see Exhibit 3).

The applicant is proposing to demolish two single-family residences and construct a two-story, 20,517 square foot single-family residence with a 6,034 square foot garage across three lots. Two of the lots have single-family residences. The third lot is vacant because the prior residence and pool were demolished under coastal development permit 5-95-200 (Casanova). Grading for the proposed development consists of 13,500 cubic yards of cut and 200 cubic yards of fill, with the remainder being exported. The applicant is proposing to cut down 16 feet across the three lots to create the basement level and beach grotto. The basement level is 9,385 square feet, the first floor is 11,132 square feet and the garage is 6,034 square feet. Gross square footage of the residence is 26,551 square feet.

The proposed residence is considerably larger than surrounding single-family residences. Other single-family homes on single lots in this area have averaged about 5,000 square feet. However, the size of this house is achieved because it is built across three lots and because the basement will extend across the footprint of the residence. The height of the residence conforms with applicable community standards. The proposed design of the house is innovative and non-traditional (see Exhibit 6). The house undulates in and out and does not utilize straight lines in its design. The proposed amenities for the house include a bowling alley, movie theater, wine cellar, billiard area, diner, several pools, an auto lift, and an open-to-the-sky beach grotto.

There have been single family residences along the coastal bluffs for at least 30 years. The remaining two single-family houses destined for demolition have rear yard green grass lawns along with other non-native species landscaping, including ice plant. The bluffs themselves do not contain much vegetation cover due to the rocky nature of the substrate. The applicant is proposing to install a bluff-top path and landscaping. The residence at 4621 Brighton Road has an existing staircase to the beach which will remain in place. All other existing structural blufftop improvements existing at the site will be removed.

The landscape plans (see Exhibit 5) for the proposed residence show that there will be a stone patio and a gravel or stone blufftop walkway going to within five feet of the bluff edge. Hardscape improvements on the bluff consist of the walkway, an overlook, and stone patios which are connected with the residence. Bluff edge landscaping will consist of native, drought tolerant plants.

The project site is located on a small cove separated from the State Park by a ridge of rock extending into the ocean. The beach is not accessible by the public by land. The residences along this stretch of bluff are not visible from the nearby state parks. Although the amount of cut is large, 13,000 cubic yards, grading will not affect the coastal bluff. The purpose of the grading is to excavate a full basement and minimize visual impacts.

B. Geologic Safety

The proposed residence is located on three coastal bluff-fronting lots in the community of Corona del Mar. 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.

The applicant has submitted a geotechnical report for the project site prepared by Geofirm on August 23, 1996. In addition, the applicant submitted the geotechnical report prepared February 1, 1996 by Geofirm for Mr. Casanova at 4627 Brighton Road (5-95-200). The geotechnical review at 4627 Brighton Road included a field site review, observation of two exploratory pits, and preparation of topographic-geologic cross-sections. The consulting geologist (August 1996 geological report) notes that no additional sub-surface tests were conducted across the site because the testing at 4627 Brighton Road and the sea cliff exposures were adequate for making geologic assessments.

The proposed residence consists of a two-level residence with full basement extending across 4627 and 4633 Brighton Road and utilizing the bluffward portion of 4621 Brighton Road. The landward portion of 4621 Brighton Road will be utilized for an open air beach grotto, which includes three swimming pools at different levels, a sandy beach, beach patio, and perimeter ridge and walkway.

The coastal bluff averages approximately 20 feet in height and is punctuated by sea cliffs. The August 1996 geologic report notes that the rate of erosion of the coastal bluff is low (less than 1 inch per year) because the bedrock materials are hard and cemented. In addition, the geologist notes that the potential for deep-seated transitional landsliding is low due to the highly folded structure of the underlying materials.

The geologist addresses the stability issue of the proposed residence relative to coastal bluff erosion. The geologist states that the proposed basement of the residence will be set back a minimum of 35 feet from the toe of the sea cliff. In addition, nearly all of the site drainage will be directed away from the coastal bluff back to Brighton Road. The geologist concludes:

Development of the property for proposed construction is geotechnically feasible and safe provided the recommendations of this report are followed in design, construction, and long-term maintenance of the property. The proposed development should not adversely affect adjacent properties.

and,

Sea cliff erosion is anticipated to occur as localized episodic piecemeal wedge and block failures due to wave action along the base of the sea cliff. The rate of bluff retreat is probably very slow due to the hard and cemented character of bedrock materials which back the sea cliff face. Sea cliff retreat is not anticipated to affect the proposed house, the foundation of which is set back 35 to 100+ feet from the toe of the sea cliff.

The proposed development is located on a coastal bluff adjacent to the ocean. The beach at the foot of the bluff is a cobble beach and the bluff is subject to wave attack and evidences signs of erosion, as well as the presence of sea caves. Therefore, although the sea bluff is apparently stable and the

residence is set back 25 feet, the bluff is subject to erosion by wave, wind, salt spray, runoff, breaks in water lines and sprinkler systems. Therefore, the Commission is requiring that the applicant comply with an assumption of risk deed restriction which advises this and future potential homeowners of the risks of development on the coastal bluff and holds the Commission harmless for approving the development.

The consulting geologist also states that the conclusions and recommendations of the geologic report are preliminary because of the absence of foundation plans, which are dependent upon the consulting geologist's recommendations. Therefore, the consulting geologist includes recommendations pertaining to grading, foundation and slab design, design of retaining walls and site drainage. Incorporation of these recommendations into the foundation plans will ensure structural integrity, geologic stability, and minimize risks from geologic hazards. Finally, in order to ensure that the excess cut dirt will not be disposed of improperly or be placed elsewhere in the coastal zone, the applicant has been conditioned to provide, in writing, a statement of where the excess dirt will be deposited.

Therefore, the Commission finds that it is necessary to impose a special condition requiring the submittal of foundation, grading and drainage plans which have been reviewed and stamped by the consulting geologist. Only as conditioned for conformance with geologic recommendations, assumption of risk and disclosure of the disposal site for the excess cut dirt does the Commission find that the proposed development conforms with geologic safety provisions of Section 30253 of the Coastal Act.

C. Blufftop Development

The policies of Section 30253 of the Coastal Act, are designed to ensure the safety of residences from geologic hazards. In support of Section 30253 and the visual protection policies of Section 30251 of the Coastal Act the Commission has adopted the Regional Interpretive Guidelines for Orange County, which include the blufftop setback standards.

On blufftop, ocean-fronting parcels the Commission typically applies a 25 foot setback from the top of bluff or a stringline. The setback is applied for a number of reasons, including geologic stability, visual impacts, and the adverse cumulative effects of moving development closer to the bluff edge.

The Commission's adopted Regional Interpretive Guidelines for Orange County provide guidelines for blufftop development. The Interpretive Guidelines recommend that "proposed development be setback at least 25 feet from the edge of any coastal bluff." The residence will be set back at least 25 feet from the bluff edge along the entire bluffward edge of the residence and in some cases is 80 feet away. Therefore the proposed development does conform with a 25 foot setback.

Therefore, the Commission finds that the proposed residence conforms with the regional interpretive guideline policies concerning blufftop development and also conforms with the geologic and visual protection policies of the Coastal Act.

C. Coastal Access and Recreation

Section 30212(a)(2) of the Coastal Act states:

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

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,
- (2) adequate access exists nearby, or,
- (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Section 30604(C) of the Coastal Act requires that permit applications between the nearest public road and the shoreline of any body of water within the coastal zone shall include a public access and recreation finding. The proposed development is located between the sea and the first public road. The proposed project consists of the demolition of two existing single-family residence and the construction of a new single-family residence across three lots.

The proposed project is located on a coastal bluff just north of Crystal Cove State Park. Access to the State Park is difficult because of intervening rock outcroppings which extend into the ocean. The project site does provide private access to the ocean by the applicant at 4621 Brighton Road. There is also a private community access adjacent to the residence at the southern property boundary. Crystal Cove State Park provides multiple accessways to the beach several hundred feet to the south. Corona del Mar State Beach provides access to the beach to the north of the project site.

A public access dedication can be required pursuant to section 30212 only if it can be shown that the development either individually or cumulatively directly impacts physical public access, i.e., impacts historic public use, or impacts or precludes use of Public Trust Lands. In this situation, the development is located between the sea and the first public road, however, it does not impact access either directly or indirectly to the ocean. The project site will remain a single-family residence use and will not result in an intensification of use.

The development will not create adverse impacts, either individually or cumulatively on public access and will not block public access from the first public road to the shore. Therefore, the Commission finds that the proposed development is consistent with the public access and recreation policies of the Coastal Act.

E. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a local coastal program ("LCP") which conforms with the Chapter Three policies of the Coastal Act.

The City of Newport Beach Land Use Plan (LUP) was originally certified on May 19, 1982. As conditioned, the proposed development is consistent with the hazards policies of Chapter Three of the Coastal Act. Therefore, approval of the proposed development as conditioned would not prejudice the City's ability to prepare a local coastal program consistent with the Chapter Three policies of the Coastal Act.

F. 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 development is located in an urban area. Development already exists on the subject site. All infrastructure necessary to serve the site exist in the area. The proposed project has been conditioned in order to be found consistent with the development policies regarding hazards of Chapter Three of the Coastal Act. Mitigation measures requiring an assumption-of-risk deed restriction, disposal of cut dirt and the incorporation of geotechnical recommendations into the design plans will minimize all significant 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.

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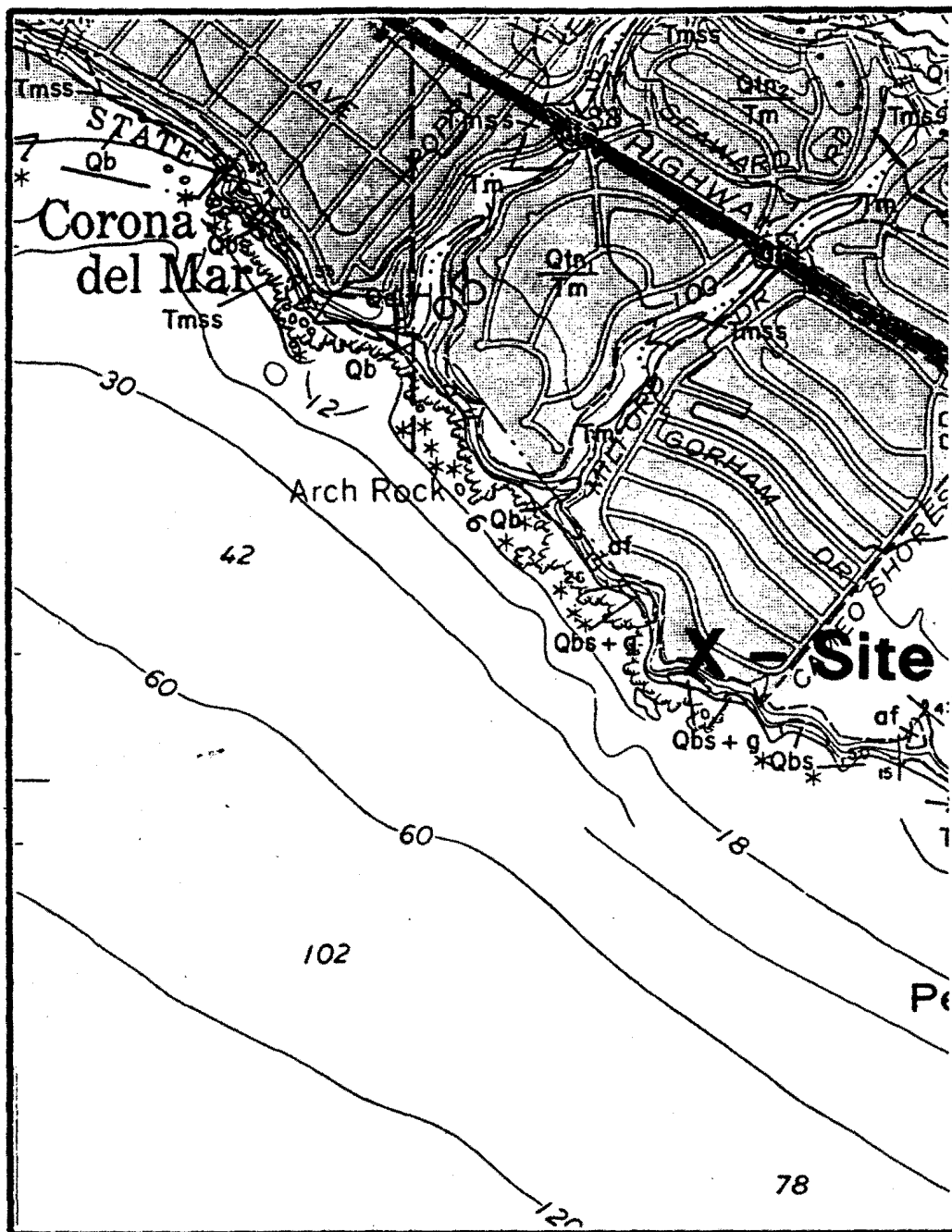



Figure 1. Geologic Index Map (Edgington & Tan, 1976)

Scale: 1:12,000

EXHIBIT NO. 1
APPLICATION NO. 5-96-150
VICINITY
 California Coastal Commission

 Geofirm

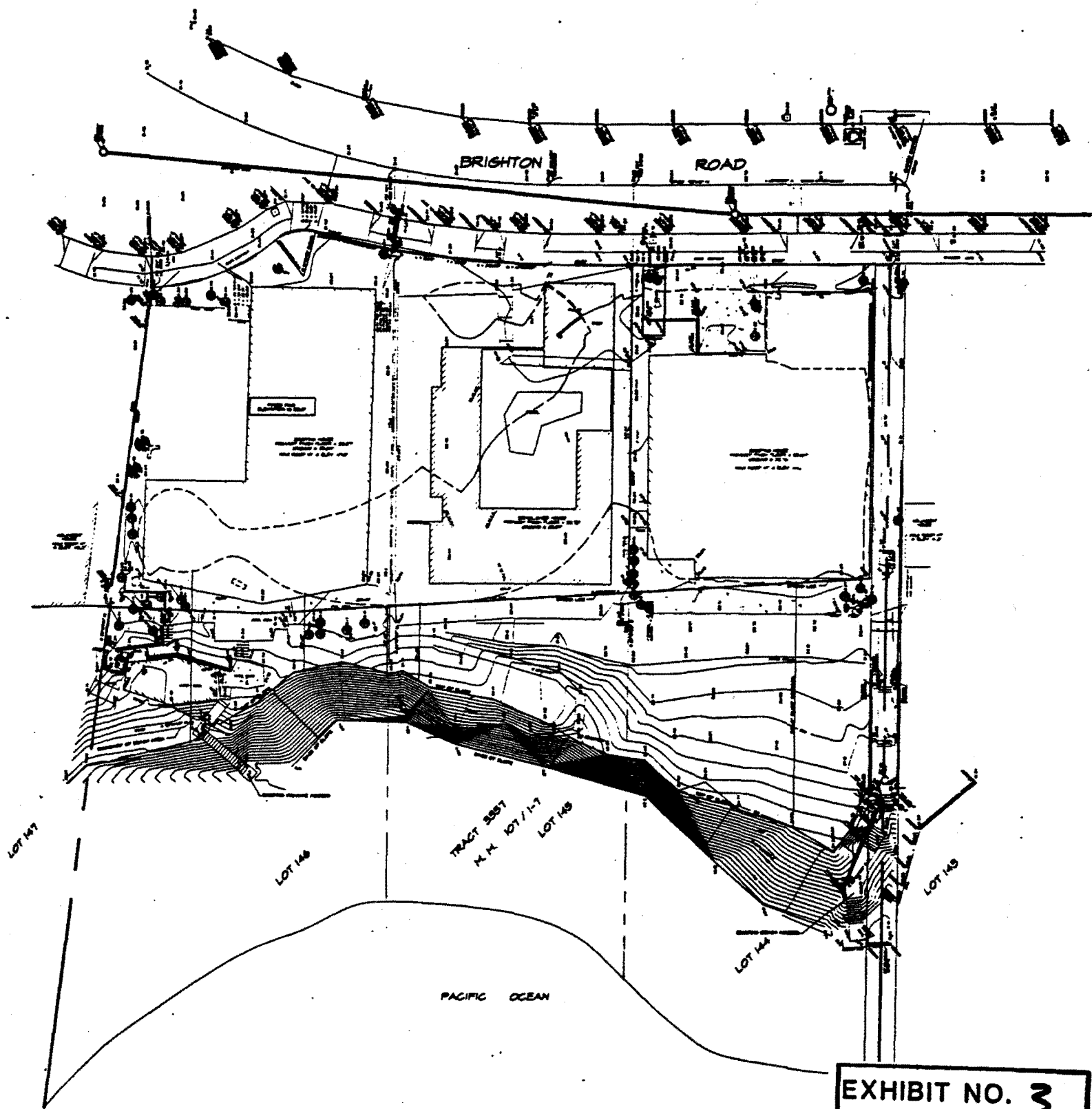


EXHIBIT NO. 3

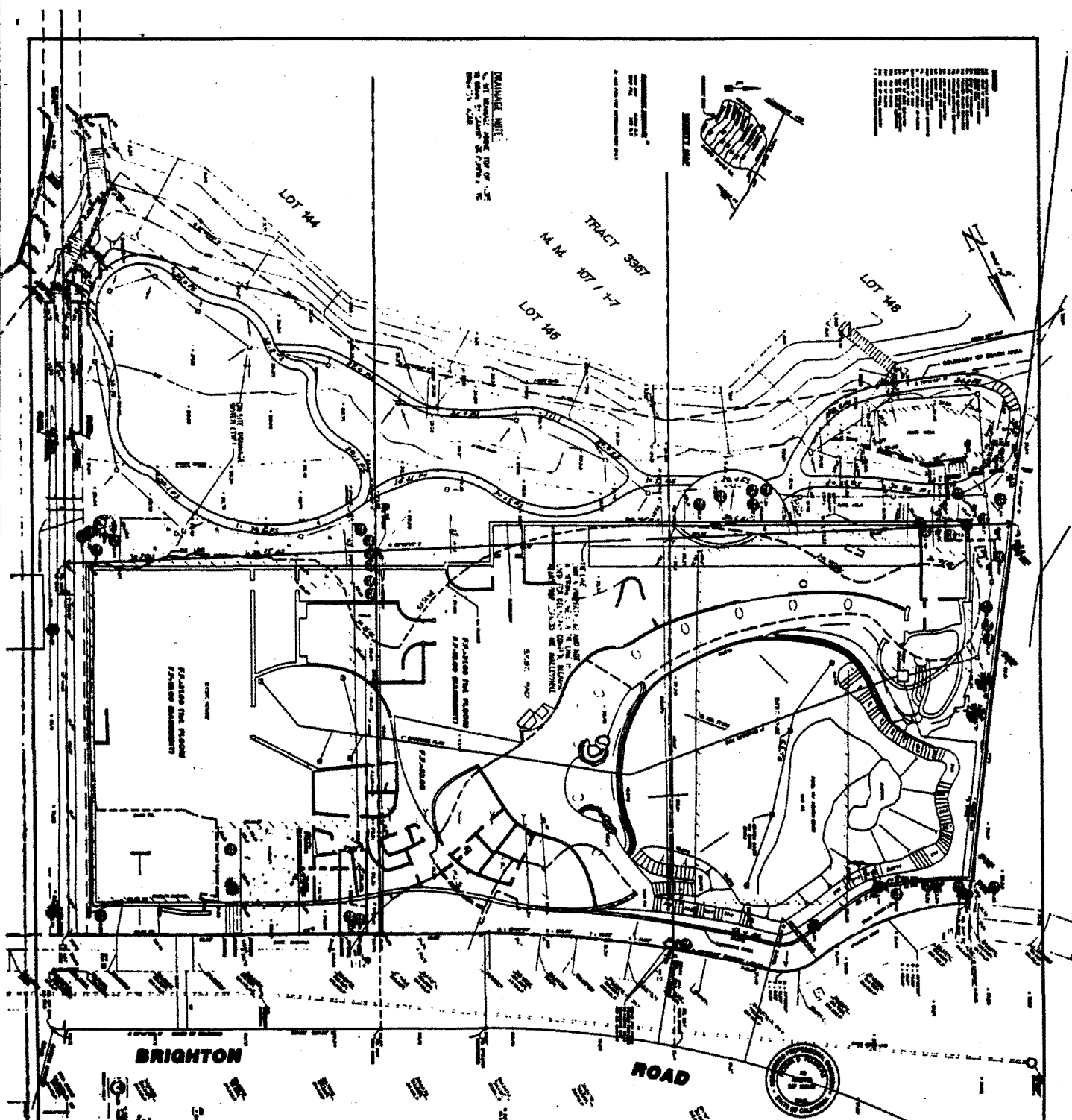
APPLICATION NO.

5-96-150

EXISTING DEVEL.



California Coastal Commission



REMARKS: SEE TRACT 3367 FOR THE ENTIRE PROJECT. THIS PLAN IS FOR THE GRADING OF THE LOTS SHOWN HEREON.

NOT TO SCALE
 1" = 40' HORIZONTAL
 1" = 10' VERTICAL

TRACT 3367
 M.M. 107 / 1-7
 LOT 345



BRIGHTON

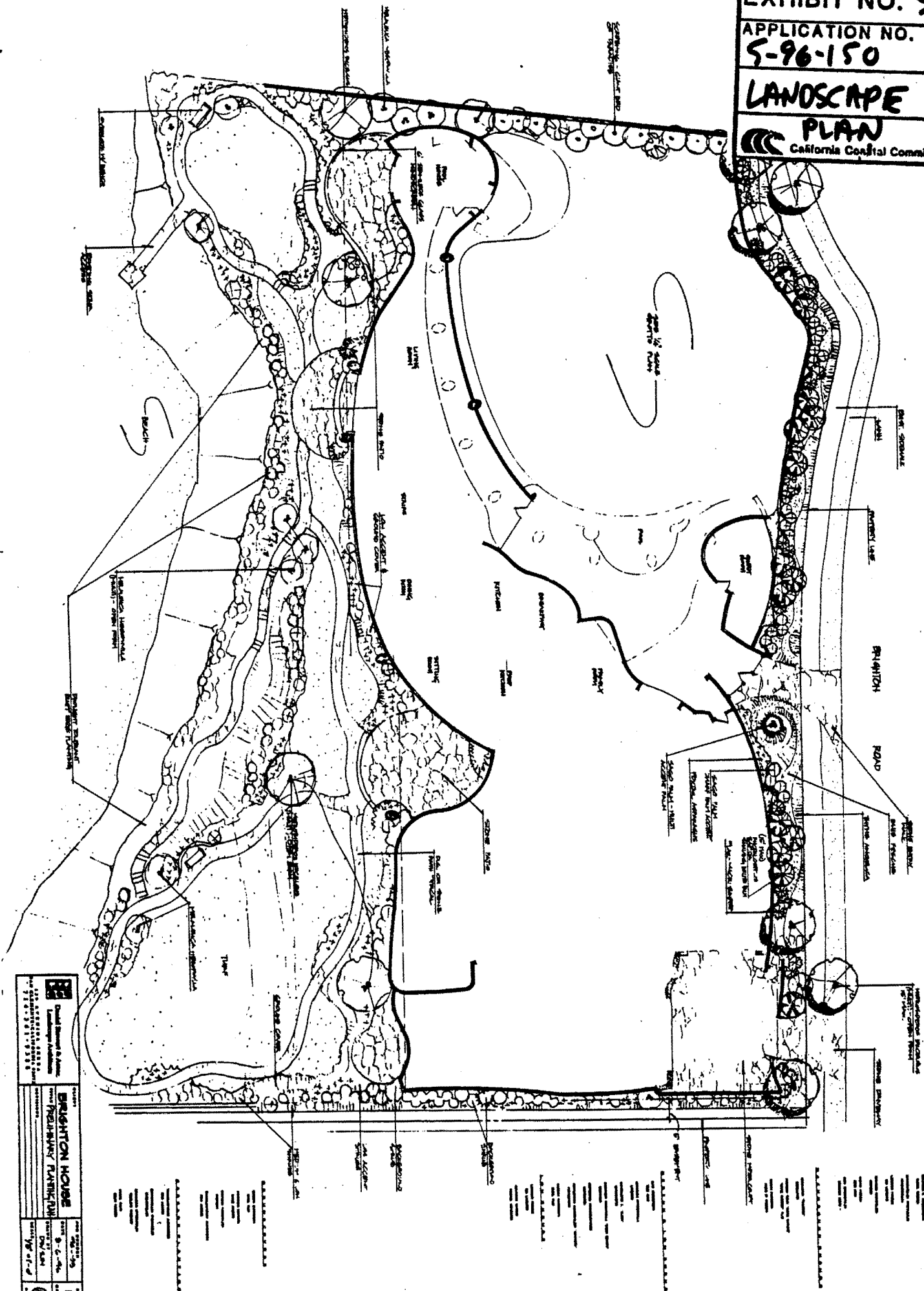
ROAD



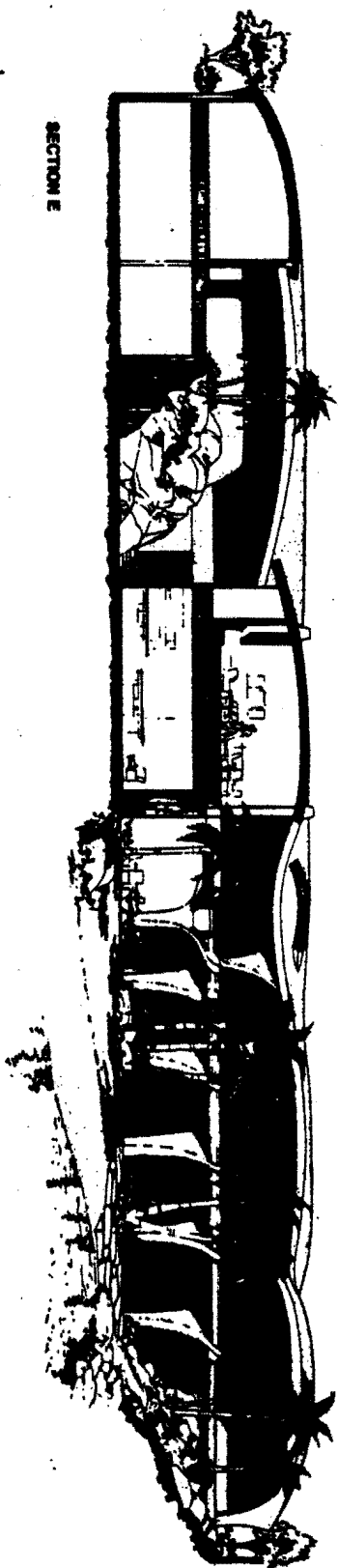
DATE: 10/1/96	PROJECT: PAVY LIMITED 780 N. 17TH STREET, SUITE 100, COSTA MESA, CA 92626	DESIGNER & ENGINEER: A. J. JONES & ASSOCIATES, INC. 1000 N. 17TH STREET, SUITE 100, COSTA MESA, CA 92626
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EXHIBIT NO. 4
APPLICATION NO. 5-96-150
STRINGLINE

California Coastal Commission

[illegible]

SECTION E



EAST ELEVATION



WEST ELEVATION



EXHIBIT NO. 6

APPLICATION NO.

S-96-150

ELEVATION

EXTERIOR ELEVATIONS
& SECTION E

BRON / JENNIFER & ASSOCIATES / INC.
ARCHITECTS / PLANNERS

THE B
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VIEW

California Coastal Commission