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## CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA

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LONG BEACH, CA 90802-4416

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 49th Day: 10/18/96  
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 Staff: MV-LB  
 Staff Report: 10/24/96  
 Hearing Date: 11/12-15/96  
 Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 5-96-156  
 APPLICANT: DAFA Equity Corporation  
 AGENT: Donald C. Stine, Architect  
 PROJECT LOCATION: 4601 Brighton Road, Corona del Mar (Newport Beach)  
 Orange County

## PROJECT DESCRIPTION:

Demolition of existing single family residence and construction of a new 5,446 square foot, single story, 14 foot high, single family residence with attached one car and two-car garages. The subject site is an oceanfront, bluff top lot.

Lot area:	12,596 square feet
Building coverage:	6,162 square feet
Pavement coverage:	1,500 square feet
Landscape coverage:	2,000 square feet
Parking spaces:	3
Zoning:	R-1
Plan designation:	Single Family Detached Residential
Ht abv fin grade:	14 feet

## LOCAL APPROVALS RECEIVED:

City of Newport Beach Approval in Concept No. 1047-96

## SUBSTANTIVE FILE DOCUMENTS:

City of Newport Beach certified Land Use Plan

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed project subject to two special conditions: 1) adherence to the geologic consultant's recommendations; and 2) recordation of an assumption of risk deed restriction.

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, is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and recreation policies of Chapter 3 of the Coastal Act, 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 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. 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. Geologic Recommendations

Prior to issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, foundation and drainage plans. These plans shall include the signed statement of the geotechnical consultant certifying that these plans incorporate the recommendations contained in the Geotechnical and Engineering Geologic Report prepared by Petra Geotechnical, Inc. (J.N. 349-96) for DAFA Equity Corporation dated August 30, 1996. The approved development shall be constructed in accordance with the final 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 are substantial. Any substantial deviations shall require an amendment to this permit or a new coastal development permit.

#### 2. Assumption of Risk Deed Restriction

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

#### A. Project Description

The applicant is proposing to demolish an existing single family residence and construct a new 5,446 square foot, single story, 14 foot high, single family residence with attached one car and two-car garages. Also proposed are a swimming pool and spa. An existing turf area will remain. The subject site is an oceanfront, bluff top lot in the Corona del Mar area of the City of Newport Beach. The land use designation at the subject site is Single Family Detached Residential.

#### B. 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.

The subject site is a bluff top lot. The sea bluff is approximately 25 feet high, and descends at a near vertical gradient. The majority of the site is relatively level and lies approximately 33 to 34 feet above mean sea level. There are two existing low-height masonry block walls near the top of the sea bluff which step down from an elevation of 33 feet within the rear yard area to an elevation of 30 feet at the top of the bluff.

An Geotechnical and Engineering Report was prepared for the subject site by Petra Geotechnical Inc. on August 30, 1996. The report includes findings on subsurface conditions, faulting, seismicity, and sea bluff stability. The report also includes conclusions and recommendations. The report concludes that "From a soils engineering and engineering geologic point of view, the subject property is considered suited for the proposed construction provided the following conclusions and recommendations are incorporated into the design criteria and project specifications."

The Geotechnical and Engineering Geologic Report specifically addresses the stability of the sea bluff on site. The report concurs with the Commission's 25 foot bluff top setback recommended in the adopted Regional Interpretive Guidelines. The report also finds that the sea bluff will undergo typical erosion processes including minor surficial slope failure or rock topples, gullying, possible seepage from irrigation water, and minor erosion due to wave action. The report also finds however, that the severity of these processes over the next 50 years should not be any greater than in the past and should actually decrease with implementation of the recommendations contained in the report.

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. 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 includes recommendations pertaining to foundation and slab design, earthwork, and site drainage. Incorporation of the geological consultant's recommendations into the foundation and drainage plans will ensure structural integrity, geologic stability, and minimize risks from geologic hazards.

Therefore, the Commission finds that it is necessary to impose a special condition requiring the submittal of foundation and drainage plans which have been reviewed and signed by the consulting geologist. Only as conditioned for conformance with geologic recommendations and assumption of risk 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 proposed residence will be set back 25 feet from the bluff edge along the entire bluffward edge. Therefore the proposed development does conform with a 25 foot setback.

Therefore, the Commission finds that the proposed residence conforms with the geologic and visual protection policies of the Coastal Act.

### D. 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 an existing single-family residence and the construction of a new single-family residence.

The proposed project is located on a coastal bluff just north of Crystal Cove State Park. Access from the State Park to the shore in front of the subject site is difficult because of intervening rock outcroppings which extend into the ocean. There is a private community access at the southern end of Brighton Road. 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 residential use and will not result in an intensification of use.

The development will not create adverse impacts, either individually or cumulatively on existing public access and will not block existing 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 which conforms with the Chapter 3 policies of the Coastal Act.

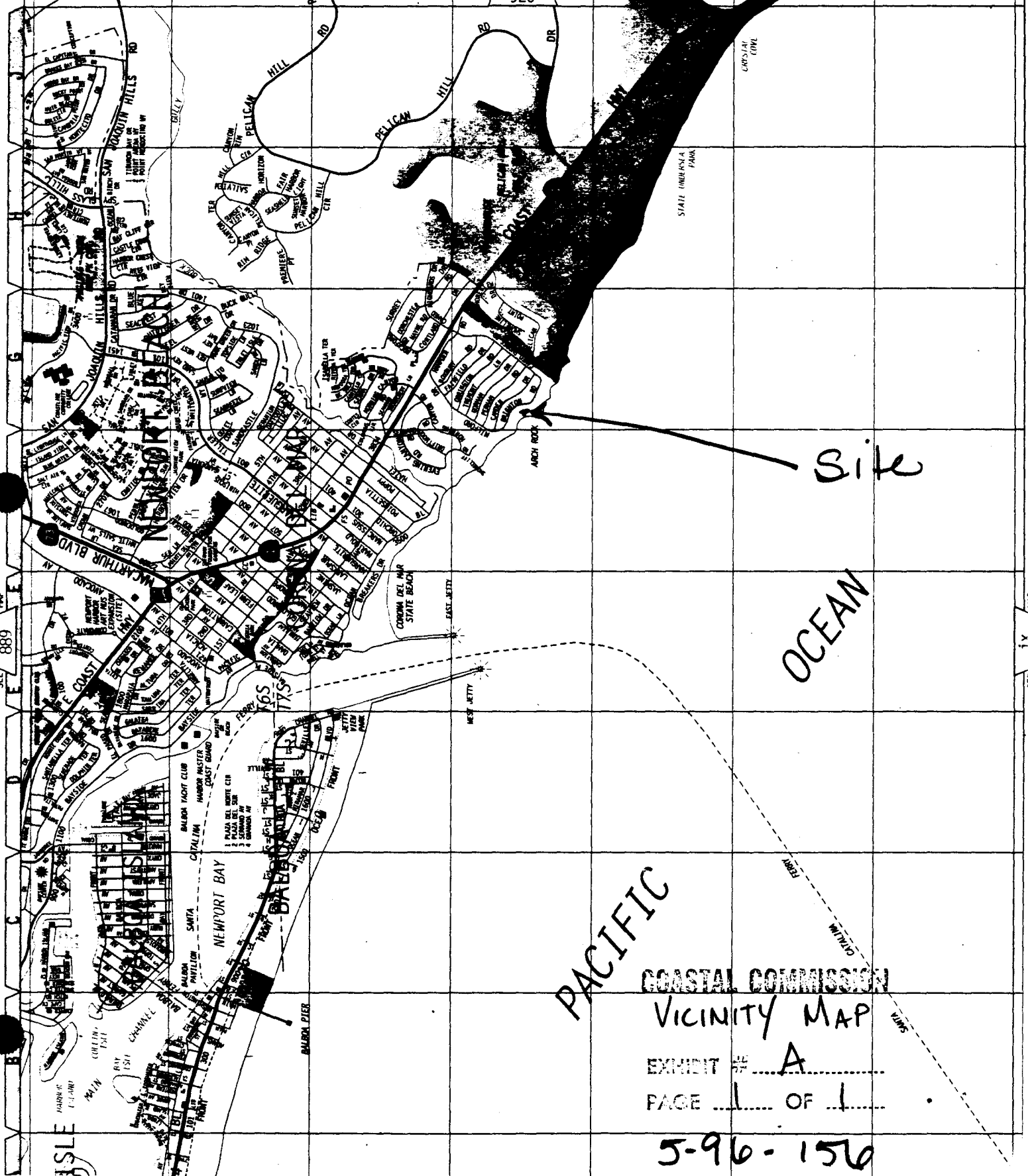
The Newport Beach Land Use Plan was certified on May 19, 1982. The City currently has no certified implementation plan. Therefore, the standard of review for a coastal development permit application in the City is conformance with the Chapter 3 policies of Coastal Act, and the LUP is used only for guidance. However, proposed development in the City should also be consistent with the LUP so as not to prejudice the City's ability to prepare an LCP as described above.

The proposed project is consistent with the Chapter 3 policies of the Coastal Act and with the certified Land Use Plan. As conditioned, the proposed development will have no adverse impacts on coastal access or resources. Therefore the proposed development will not prejudice the City's ability to prepare a Local Coastal Program for Newport Beach that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

#### F. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(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 project, as conditioned, will have no adverse impacts on coastal access or resources. The proposed project is the least environmentally damaging alternative. Therefore, the Commission finds that the proposed project is consistent with CEQA and the policies of the Coastal Act.



Site

OCEAN

PACIFIC

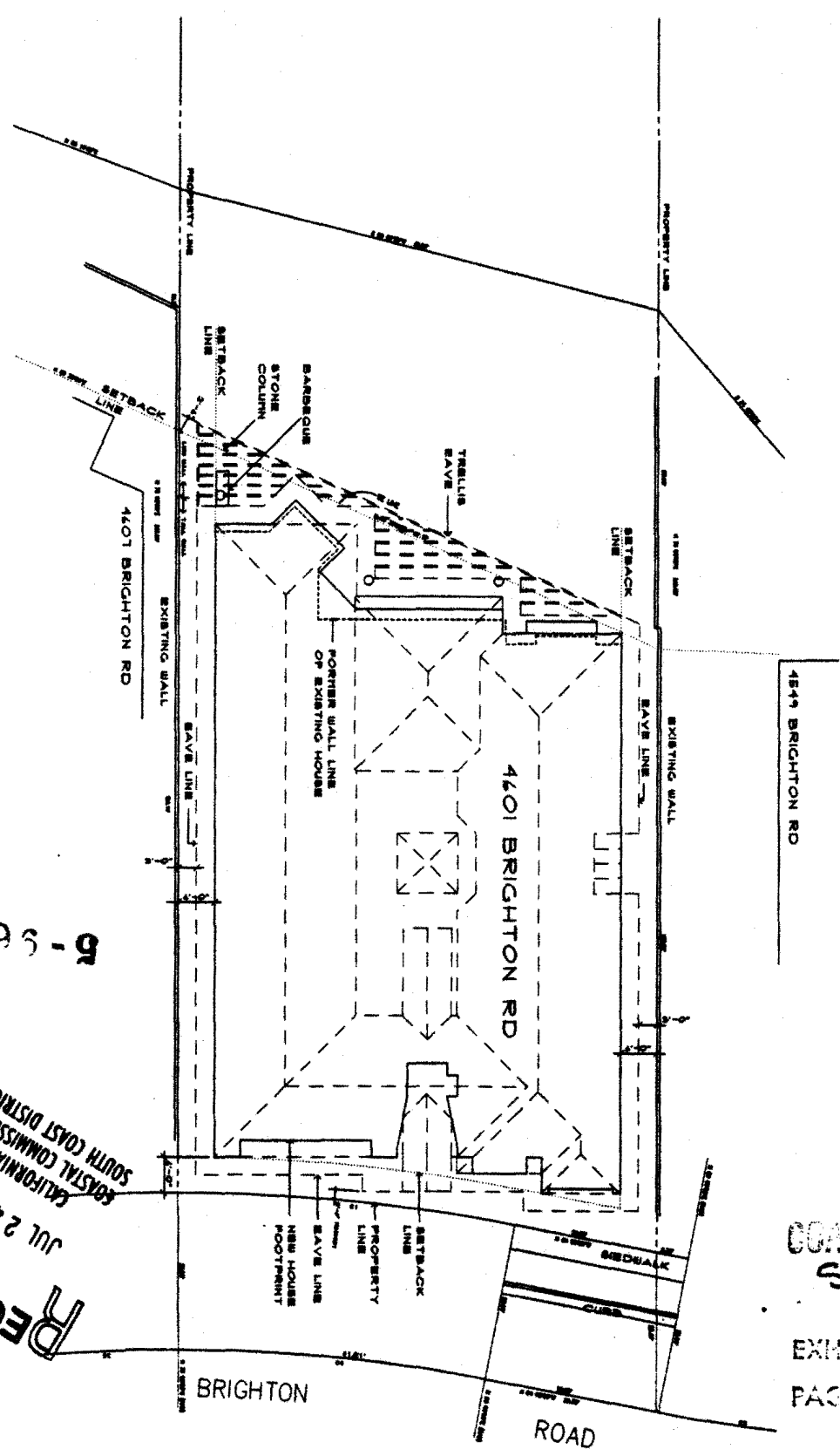
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VICINITY MAP

EXHIBIT # A

PAGE 1 OF 1

5-96-156



5-96-156

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 5-96-156  
 EXHIBIT # B  
 PAGE 1 OF 1