

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
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Filed: May 7, 1996
49th Day: June 25, 1996
180th Day: November 3, 1996
Staff: John T. Auyong *JAM*
Staff Report: May 17, 1996
Hearing Date: June 11-14, 1996
Commission Action:

STAFF REPORT: CONSENT CALENDAR

Th8i

APPLICATION NO.: 5-96-087

APPLICANT: Paul Casanova

PROJECT LOCATION: 4533 Brighton Road, Corona del Mar, City of Newport Beach, County of Orange

PROJECT DESCRIPTION: Demolition of an existing one-story, 3,752 square foot single-family residence with detached 580 square foot two-car garage, and construction of a new one-story, 4,569 square foot, 13'6" high single-family residence with attached 962 square foot three-car garage.

Lot area:	23,000 square feet
Building coverage:	5,531 square feet
Parking spaces:	Three
Plan designation:	Single-Family Detached Residential
Height above grade:	13'6"

LOCAL APPROVALS RECEIVED: City of Newport Beach Approval-in-Concept 581-96

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permits A-80-6552 (Thompson/Sork), 5-83-175 (Sork), 5-95-200 (Casanova); Emergency Permit 5-82-853G (Sork); Geotechnical Investigation dated April 30, 1996 prepared by Geofirm (Project No. 70651-00, Report No. 6-2221); City of Newport Beach Certified Land Use Plan

SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending approval of the proposed development with special conditions regarding conformance to geotechnical recommendations and 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, 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. Assumption-of-Risk

Prior to issuance of the coastal development permit, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director and shall provide written evidence of the recordation of said deed restriction. Said deed restriction shall provide that (1) the landowner understands that the site may be subject to extraordinary hazards

from wave action and geologic instability, and the landowner assumes the liability from such hazards, and (2) the applicant unconditionally waives any claims of liability against the Coastal Commission and its successor agency for damage from such hazards, and agrees to indemnify and hold harmless the Coastal Commission, its officers, agents, and employees for any damage resulting from the Coastal Commission's approval of the project. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free and clear of all liens and encumbrances.

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 revised grading and foundation plans signed and stamped by the geotechnical consultant which incorporate the recommendations in the geotechnical investigation dated April 30, 1996 prepared by Geofirm (Project No. 70651-00, Report No. 6-2221). The approved development shall be constructed in accordance with the final revised plans approved by the Executive Director. Any deviations from said plans shall require an amendment to this permit or a new coastal development permit, or written concurrence from the Executive Director that the deviation is not substantial and therefore a permit amendment or new permit is not needed.

3. Proof-of-Ownership

Prior to issuance of the coastal development permit, the applicant shall submit written evidence, for the review and approval by the Executive Director, that the applicant has completed the purchase of the subject site.

IV. Findings and Declarations.

A. Project Description / History

1. Proposed Project

The applicant is proposing to demolish an existing one-story, 3,752 square foot single-family residence with detached 580 square foot two-car garage, and construct a new one-story, 4,569 square foot, 13'6" high single-family residence with attached 962 square foot three-car garage. The subject site is a coastal blufftop lot with an altered bluff face. The existing home contains a swimming pool on the landward side of the property. This pool will be removed and filled in as part of the proposed project.

2. Previous Commission Action

The Commission approved permit A-80-6552 (Thompson, Sork) for the replacement of a damaged wooden seawall with a 6 foot high reinforced concrete wall and the recontouring of the existing slope behind the wall at the subject site and the adjacent site at 4527 Brighton Road. The permit had a special condition requiring an offer-to-dedicate a lateral access easement. The approved development apparently was not undertaken.

Subsequently, emergency permit 5-82-853G (Sork) was issued for the fill of the area immediately adjacent and inland of the existing damaged wooden seawall, and the installation and anchoring of new footings to bedrock, immediately adjacent to and inland of the seawall, to stabilize the seawall.

The Commission approved without special conditions permit 5-83-175 (Sork), the follow-up permit to emergency permit 5-82-853G. Permit 5-83-175 was for the reconstruction of the damaged seawall in the same alignment. The new seawall was 4 feet high and 58 feet long on a poured-in-place, reinforced concrete footing anchored to bedrock.

B. Geologic Hazards

Section 30253 of the Coastal Act states, in relevant 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 30 foot high coastal blufftop lot with an altered bluff face. The bluff has been terraced midway (see Exhibit B), and stairs exist down to the terraced area. The bluff below the terrace has a 2:1 (horizontal to vertical) slope, while the slope for the portion above the terrace varies from 1.5:1 to 2:1 (horizontal to vertical). A retaining wall which exists slightly beyond the bluff edge, and another retaining wall on the terraced portion of the bluff face, would be kept as part of the proposed development. The proposed development would not encroach further seaward than the existing home to be demolished. Storm activity damaged the seawall at the base of the subject site which has since been repaired pursuant to permit 5-83-175 (Sork).

A geotechnical report dated April 30, 1996 was prepared by Geofirm (Project No. 70651-00, Report No. 6-2221) for the proposed development. Regarding bluff stability, the report states:

The modified bluff slope is considered grossly stable due to the hard, cemented character of the bedrock and absence of observed weak planar surfaces. The potential for deep-seated translational bedrock landsliding extending landward beneath the site is considered very low due to the highly folded structure of the bedrock strata, which precludes continuous weak planar features extending beneath the site.

The report also indicates that "[b]luff retreat is not anticipated to affect the proposed house." Further, the report indicates that minor surficial sloughing of fill material at the top of the bluff would not adversely affect the proposed residence or bluff stability. The report concludes that the

"proposed development will not adversely affect, and improved site drainage may improve bluff stability on the site and adjacent properties" and "[d]evelopment 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 report's recommendations include standards for site preparation, foundation and slab design including criteria for bearing capacity and settlement as well as lateral loads, type of concrete to be used, and hardscape design and construction. Incorporation of these recommendations would assure structural integrity and geologic stability and minimize risks from geologic hazards. Therefore, the Commission finds that it is necessary to impose a special condition requiring the submission of final revised plans which have been approved by the geotechnical consultant and incorporate the recommendations of the consultant. The draft plans already submitted do not have evidence of the approval of the report's authors.

Because of the previous damage to the seawall on the subject site and the potential for minor surficial sloughing at the blufftop, the Commission finds that it is also necessary to impose a special condition requiring an indemnity/assumption-of-risk deed restriction. This is necessary because geologic conditions cannot be predicted with certainty, so the applicant and future owners must be put on notice that the Coastal Commission is not liable for damages resulting from geologic conditions. This would also be consistent with the Commission's action on permit 5-95-200 (Casanova) for similar development nearby at 4627 Brighton Road. Therefore, only as conditioned does the Commission find the proposed project to be consistent with Section 30253 of the Coastal Act regarding geologic hazards.

C. Public Access/Recreation

Section 30212 of the Coastal Act states, in relevant part:

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

(2) adequate access exists nearby . . .

The subject site is located between the nearest public roadway and the shoreline. Adequate access and public recreation opportunities exist nearby at Little Corona Beach to the northwest and Crystal Cove State Beach and Park to the southeast. The proposed development would provide adequate parking based on the Commission's regularly used standard of two parking spaces per individual dwelling unit. Therefore, the Commission finds that the proposed development would be consistent with Section 30212 of the Coastal Act regarding public access.

D. Proof-of-Ownership

Section 30601.5 of the Coastal Act requires, in part, that the applicant provide evidence of legal ability to undertake the proposed development. The applicant is in escrow on the subject site. Until the sale closes, the applicant would not have full legal ability to undertake the proposed

development. Therefore, the Commission finds it necessary to impose a special condition requiring the applicant to submit written evidence, for the review and approval by the Executive Director, that the applicant has completed the purchase of the subject site. Thus, only as conditioned can the Commission find that the requirements of Section 30601.5 would be met.

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 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.

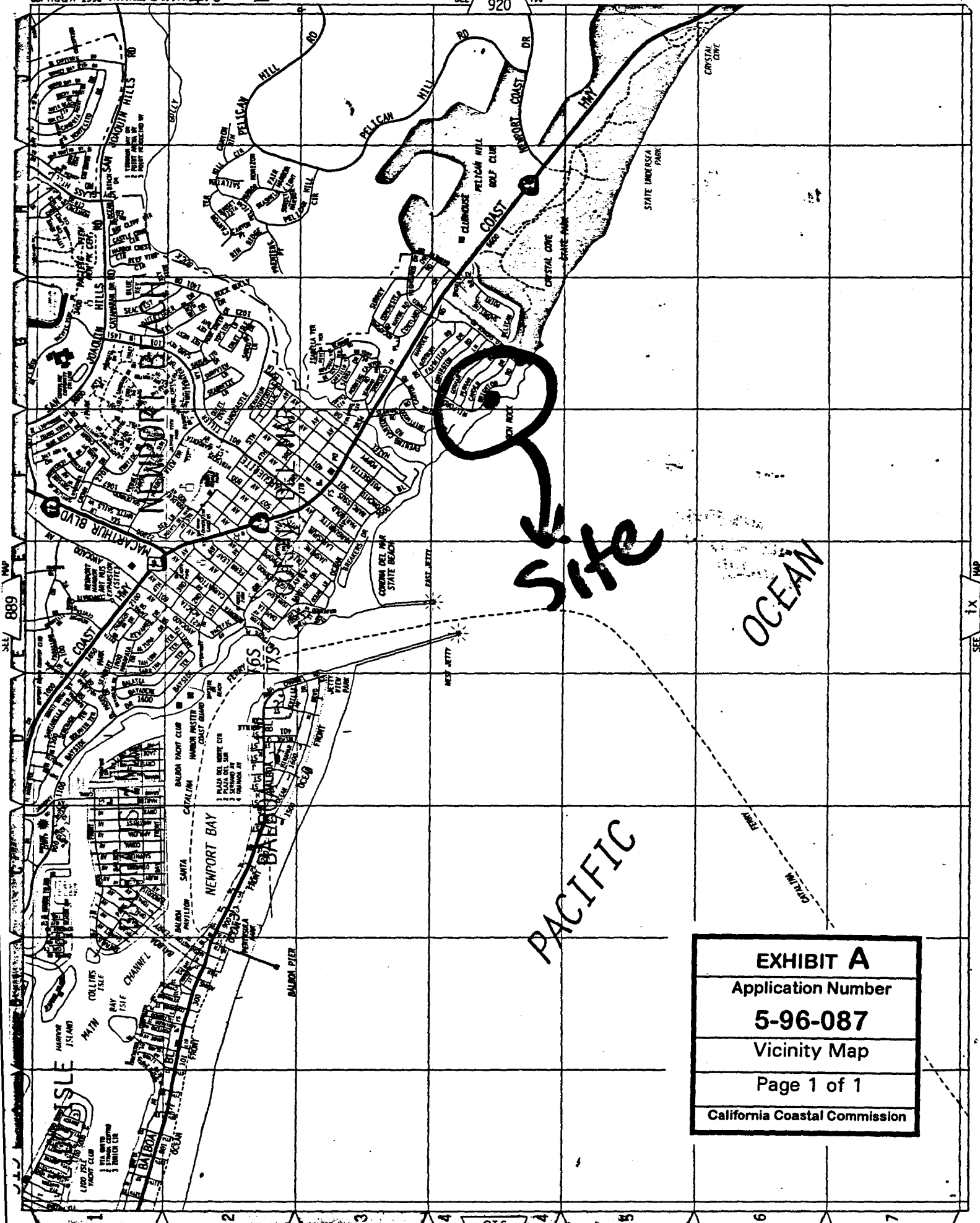
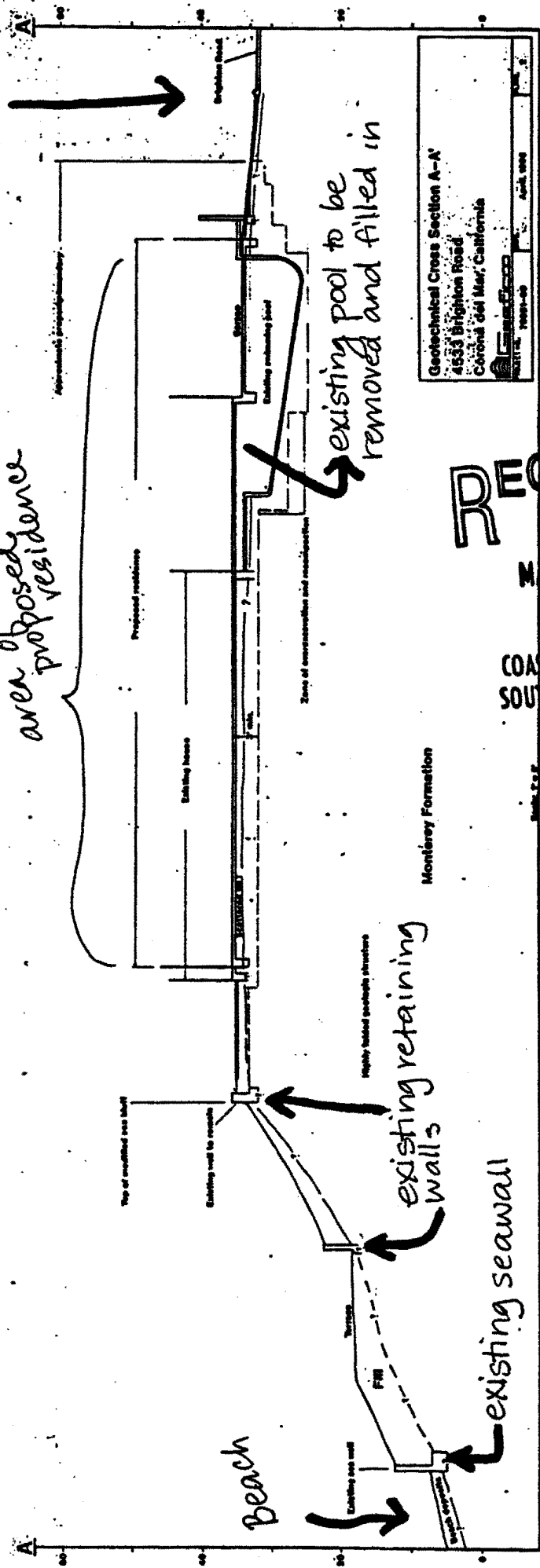


EXHIBIT A
Application Number
5-96-087
Vicinity Map
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California Coastal Commission

Brighton Road

area proposed residence

Beach



existing pool to be removed and filled in

existing retaining walls

existing seawall

Geotechnical Cross Section A-A'
 4533 Brighton Road
 Corona del Mar, California
 DATE: 1995-09
 APR 1996

RECEIVED

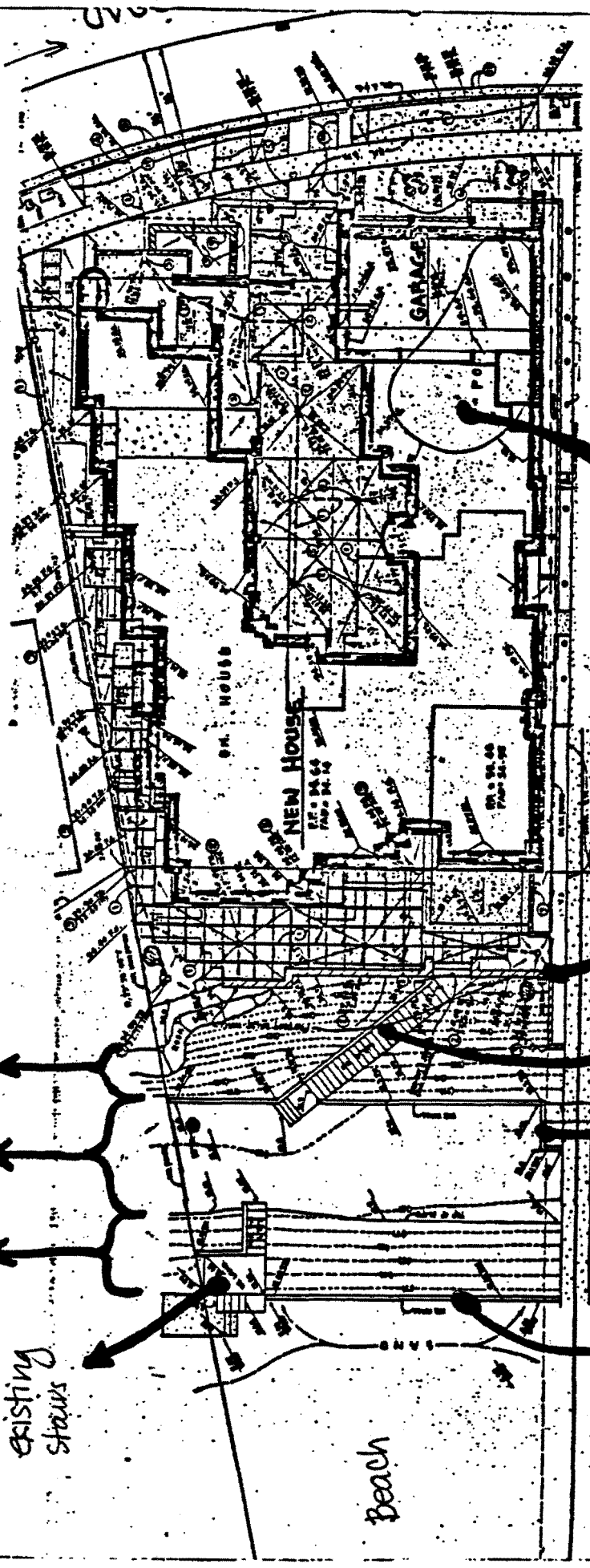
MAY 7 1996

CALIFORNIA COASTAL COMMISSION SOUTH COAST DISTRICT

NOTE

EXHIBIT B
Application Number
5-96-087
Site Cross-Section
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California Coastal Commission

Brighton Road



area of existing pool to be filled in and removed

existing stairs
existing retaining walls

seawall (existing)

UPPER BLUFF TERRACE
LOWER BLUFF

existing stairs

Beach

EXHIBIT C
Application Number 5-96-087
Site Plan
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California Coastal Commission

HOLDEN ARCHITECTS
 A CALIFORNIA CORPORATION
 4222 MONTELEONE AVENUE SUITE A PALM BEACH, CALIFORNIA 92262
 PH: (619) 434-4222 FAX: (619) 434-4222

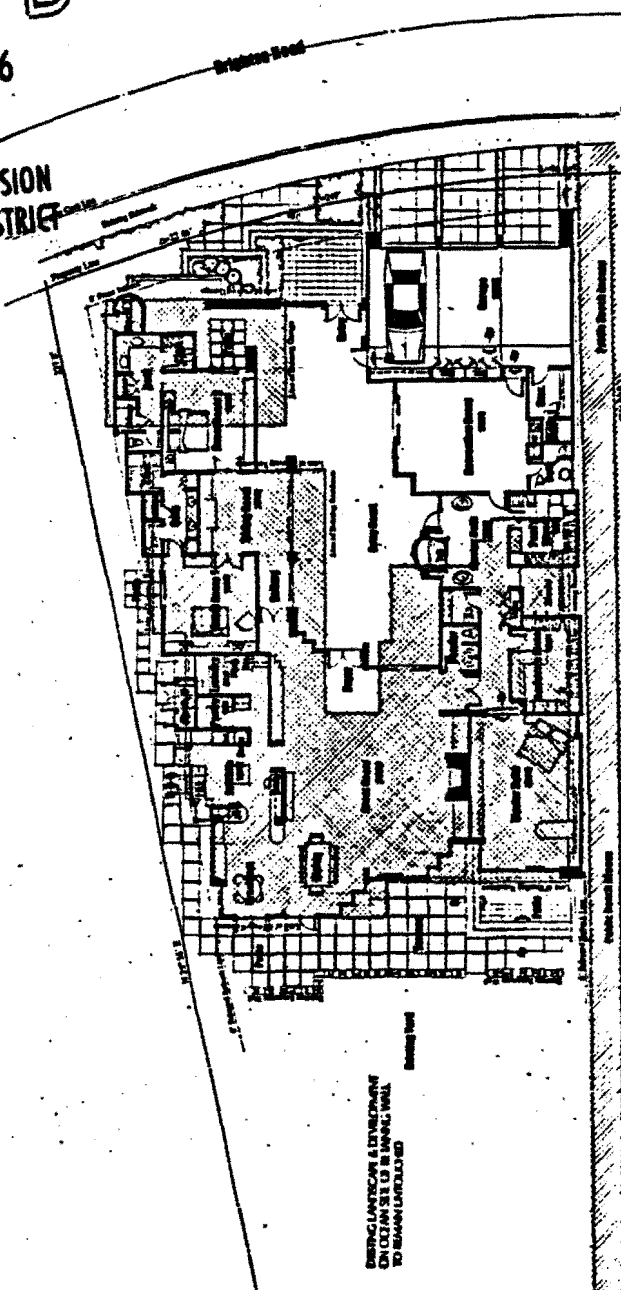
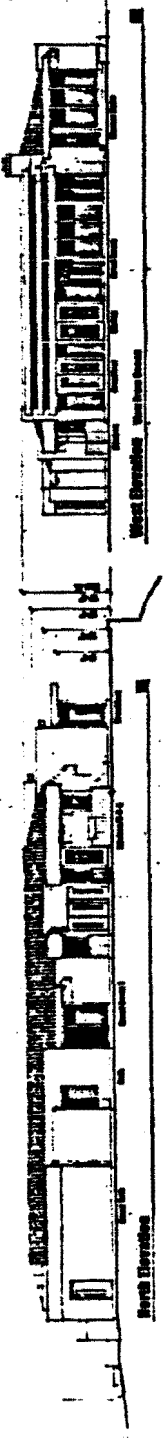
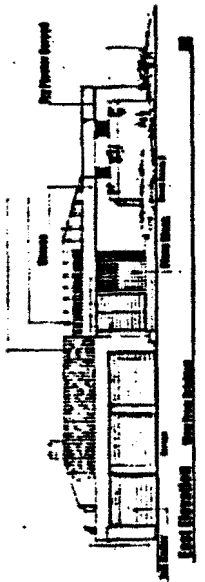
DRAWING
 Schematic Plans

Casanova
Paul & Barbara
 Plans for the residence at
 4222 MONTELEONE AVENUE
 PALM BEACH, CALIFORNIA

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MAY 7 1996

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Site / Floor Plan

NET AREA: 10,930 SQ. FT.
 DISTING. COVERAGE: 24%
 PREPARED COVERAGE: 33%
 EXISTING HOME FLOOR: 147

Estimated Development:
 Single Home: 4,000 sq. ft.
 Duplex Home: 8,000 sq. ft.
 Triplex Home: 12,000 sq. ft.

OVERGLAZING & TREATMENT
 ON OCEAN SIDE TO IMPROVE WALL
 TO REMAIN UNCHANGED

EXHIBIT D
Application Number 5-96-087
Plans and Elevations
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Pacific Ocean