# CALIFORNIA COASTAL COMMISSION

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Filed: 06-03-98 49th Day: 07-22-98 180<sup>th</sup> Day: 11-30-98 Staff: RMR-LB RMR

Staff Report: Sept. 18, 1998

Hearing Date: October 13-16, 1998

Commission Action:

# STAFF REPORT: REGULAR CALENDAR

APPLICATION NUMBER: 5-98-227

APPLICANT: Ernest A. and Christi Genovese

AGENT: Louis Glasbrenner

PROJECT LOCATION:

324 Boca del Canon, San Clemente, Orange County

PROJECT DESCRIPTION: The applicant is proposing to remodel an existing 2,123 square foot residence and 457 square foot garage by adding an 825 square foot addition under the residence. Grading consists of 296 cubic yards of cut for the subterranean addition. Also proposed are a rear yard concrete patio and a six foot high wall. The proposed addition does not extend seaward of the existing footprint of the residence.

Lot Area:

6004.3 sq. ft.

Building Coverage: Pavement Coverage: 719 sq. ft.

2580 sq. ft.

Landscape Coverage: 2,705 sq. ft.

Parking Spaces:

Land Use Designation: Residential Low

Ht above final grade: NA

LOCAL APPROVALS RECEIVED: Approval in Concept from the Community Development Department of the City of San Clemente

SUBSTANTIVE FILE DOCUMENTS: City of San Clemente Certified Land Use Plan, Coastal Development Permit 5-96-194 (Woodbridge), Preliminary Geotechnical Exploration by William R. Munson, Inc. dated July 17, 1998

## SUMMARY OF STAFF RECOMMENDATION

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

The applicant's agent has been informed of the special conditions and did not object to them. There are no unresolved issues of controversy.

#### 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 A of 1976, is located between the sea and the first public road nearest the shoreline and is in conformance with public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse effects 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. <u>Expiration.</u> 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. <u>Compliance.</u> 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. <u>Interpretation.</u> Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 5. <u>Inspections.</u> The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
- 6. <u>Assignment.</u> 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

#### 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 or an amendment to this permit may be required.

# 2. Conformance with Geotechnical Recommendations

Prior to the issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, grading, foundation and basement plans. The approved foundation plans shall include plans for the 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 by William R. Munson, Inc. dated July 17, 1998

The approved development shall be constructed in compliance with the final 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.

# Assumption of Risk

Prior to the issuance of the coastal development permit the applicant and all landowners 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 the applicant assumes the liability from such hazards; (b) that the applicant agrees that no bluff protective devices shall be constructed on the parcel; (c) the applicant accepts sole responsibility for the removal of any structural debris resulting from landslides, slope failures or erosion on this site; and (d) 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 enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

## IV. Findings and Declarations:

The Commission hereby finds and declares:

### A. Project Description

The applicant is proposing to remodel an existing 2,123 square foot residence with a 457 square foot garage by adding an 825 square foot addition under the residence. Grading consists of 296 cubic yards of

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cut for the subterranean addition. Also proposed are a rear yard concrete patio and a six foot high wall seaward of the residence and proposed addition. The proposed addition does not extend seaward of the existing footprint of the residence.

The proposed development is located on a low coastal bluff top at elevation 25 at the rear of the residence and elevation 27 at the front. The site is located at the mouth of a canyon drainage which was filled and graded for pads in the early 1960s. East of the gated community at the mouth of the canyon is the historic coastal bluff. At the property boundary there is a maintenance road and a concrete drainage swale and then the right of way for the Orange County Transportation Authority railroad line. West of the railroad tracks are the beach and ocean. The railroad tracks are protected by rip-rap.

The proposed development is located in the "La Ladera" gated community. The tract was graded on or before 1963, when fill was placed at the site. The subdivision or tract is separated from the public path and drainage swale by a line of tall bushes which effectively screen the subdivision from the beach.

There is no public beach access across the site.

The seaward limit of the residence is located 17 feet from the seaward property line. Exhibit 7 shows the proposed development and the rear elevation cross section prepared by the architect. The section shows that there is an existing second story deck which extends 7 feet seaward of the seaward footprint of the residence. The applicant is proposing to cut into the slope and install a concrete patio slab. This slab would extend 14 feet seaward of the residence to within 3 feet of the property boundary, at which point a 6 foot wall would be constructed. This development is consistent with the adjoining development. The houses along this road are built out to the property boundary. Development at the property boundary is obscured by vegetation and is not visible from the beach. Even if the vegetation did not exist, the rear yard development would not be visible from the beach because of the rip-rap slope and berm which protects the railroad tracks. Therefore, this development would have no adverse visual impacts on views from the beach and is consistent with existing development.

# B. Geologic Stability

The proposed residence is located on a low-lying, manufactured coastal bluff in the city of San Clemente. Section 30253 of the Coastal Act states in part:

New development shall:

- 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 William Munson, Inc. dated July 17, 1998. Geotechnical studies conducted in association with the report included a field investigation, a limited sub-surface investigation via borings, laboratory testing of boring samples and an engineering and geologic evaluation and analysis of the findings.

The site is an 84 foot wide by 72 foot deep level lot with a descending 18 foot high 1.5:1 slope at the rear one-third portion of the lot. The toe of the slope is the site property line with an existing fence and vegetation. Beyond the fence is a public walkway and concrete drainage swale. Beyond the swale is the right-of-way of the OCTA railroad, a rip-rap revetment and the beach.

The geotechnical report notes that fill was brought in and the site was graded early in 1963. The site was indicated on the grading map as 100 percent fill. The geotechnical report states that fill placed prior to 1963 and fill placed during 1963 are indicated as "undifferentiated fill". The geotechnical consultant assumes that the fill was placed without engineering control, i.e, compaction and testing.

An area topographic map is included as Exhibit 4. The 1963 topography map is included as Exhibit 5. A current geologic cross-section map is included as Exhibit 6. Exhibit 6 also shows the proposed addition and rear yard improvements.

Construction of the subterranean addition involves excavating under the existing residence, building a new foundation retaining wall and foundation slab with deepened footings or caissons. Grading consists of 296 cubic yards of cut. The borings revealed that water was found at a depth of 9 to 11 feet and caving resulted. The borings also found that the percentage of compaction for the site soils was below the current recommendations of 90%.

The geotechnical report concludes that the proposed development is feasible provided the report recommendations are complied with. The report notes that the site exhibits no evidence of major instability. However, the report notes that the site is susceptible to possible liquefaction during seismic events.

The report includes recommendations concerning excavation of soils, compaction of new soils, foundations, and design of slabs. Therefore the Commission finds that the applicant shall submit, for the review and approval of the Executive Director, foundation plans signed and stamped by a consulting engineer.

Coastal bluffs in the City of San Clemente are inherently unstable. In the past several years there have been massive bluff failures in the City of San Clemente, one of which destroyed five houses at La Ventana Street. There have also been recurrent bluff failures along El Camino Real at Marblehead and the Colony Cove subdivision. In addition, the increased rainfall of recent years has contributed to slope failure up and down the coast in San Clemente, leading to increased requests for foundation stabilization systems. Although not directly subject to wave attack, the coastal bluffs in San Clemente are composed of poorly bedded and fractured soils and are susceptible to erosion by salt spray, wind, rain, wetting and drying, and gravity. Unpredictable events like broken water lines can also cause site instability.

In addition, the site specific geotechnical report notes that the site is composed of fill which was not properly engineered when the grading was done in 1963. The report also notes that groundwater was encountered at depths of 9-11 feet and that the site soils may be subject to liquefaction during a seismic event. Therefore, the Commission finds that the applicant shall submit an assumption of risk deed restriction which puts existing and future residents on notice as to the risks of

development at this location and also waives Commission liability for permitting the proposed development. Only as conditioned does the Commission find that the proposed project is consistent with Section 30253 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:
  - (I) 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.

The proposed development consists of the addition of a subterranean room and rear yard improvements an existing residence. The addition to the residence will not extend beyond the footprint of the existence, however the applicant is proposing to install rear yard improvements seaward of the footprint of the existing residence. Beach-goers can park outside of the La Ladera private community on public streets, walk through the subdivision and obtain beach access. However, there is no formal beach access across the site. Boca del Canon is located between two public beach access locations, "T" Street to the north and Lost Winds to the south.

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.

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 instance the development is located between the sea and the first public road but does not directly or indirectly impact access to the ocean or directly impact the beach or rocky shore. The proposed development does 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.

# D. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal 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 Chapter 3 policies of the Coastal Act.

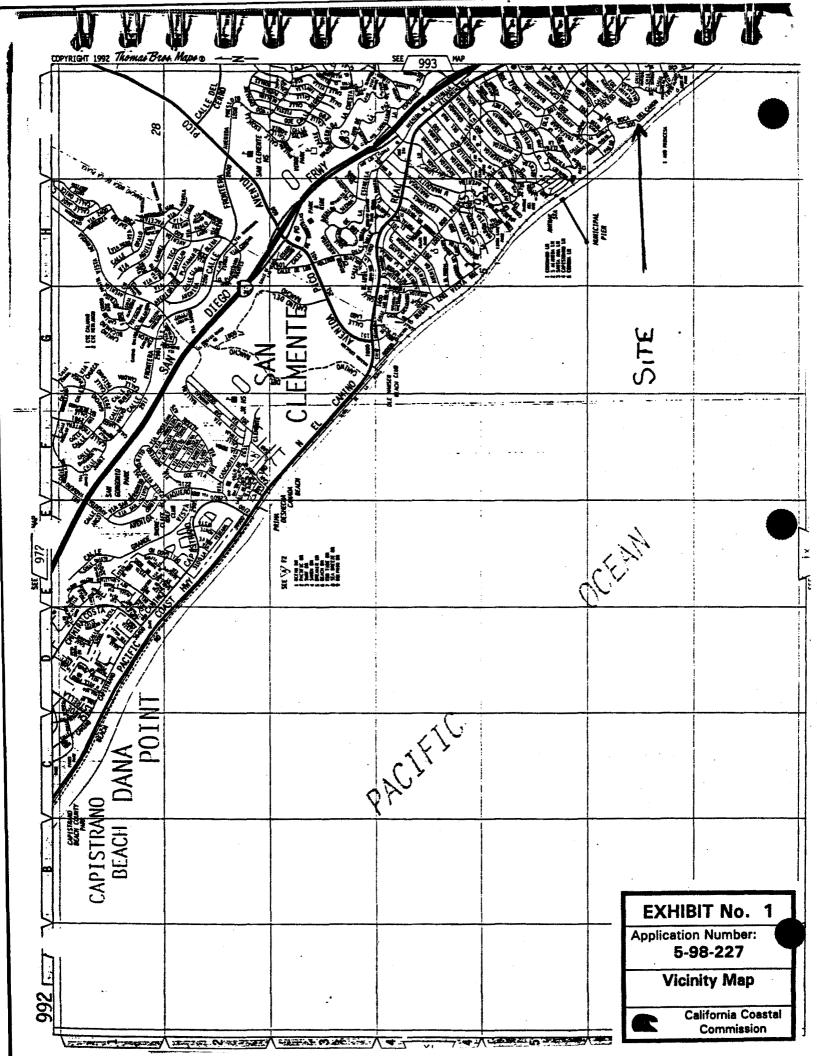
The Commission certified the Land Use Plan for the City of San Clemente on May 11, 1988, and certified an amendment approved in October 1995. On April 10, 1998 the Commission certified with suggested modifications the IP portion of the Local Coastal Program. The City Council has until October 10, 1998 (six months from Commission approval of the IP) to adopt the suggested modifications. Therefore, the City does not have a certified LCP. As conditioned, the proposed development is consistent with the policies contained in the certified Land Use Plan regarding public access and geological stability. Therefore, approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program for San Clemente that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

# E. Consistency with the California Environmental Quality Act (CEQA).

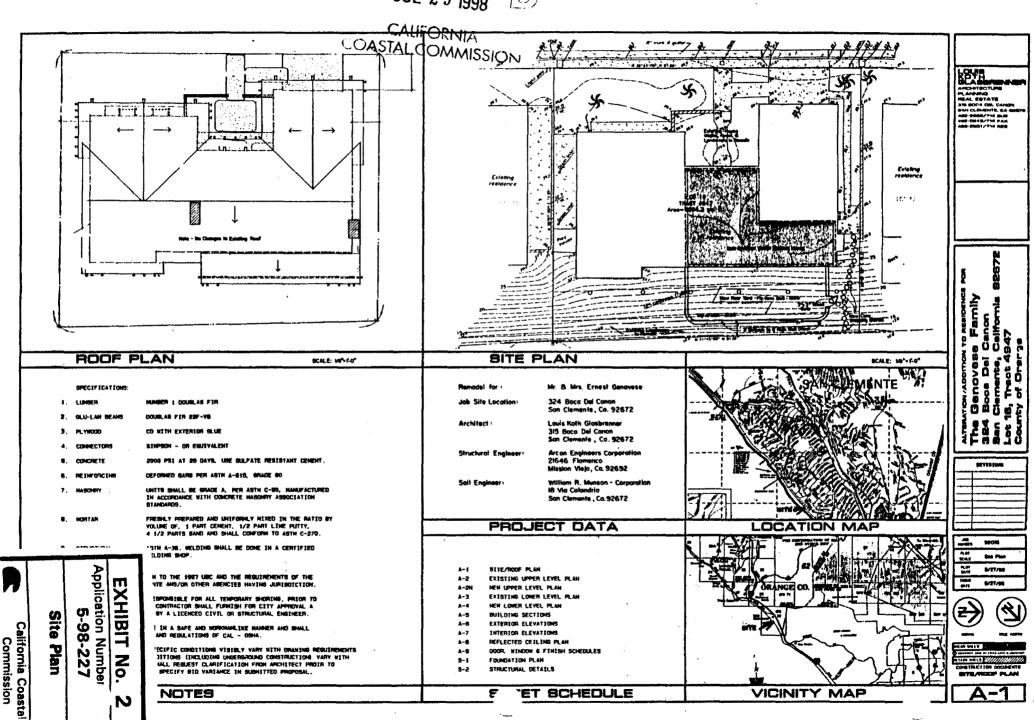
Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental 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.

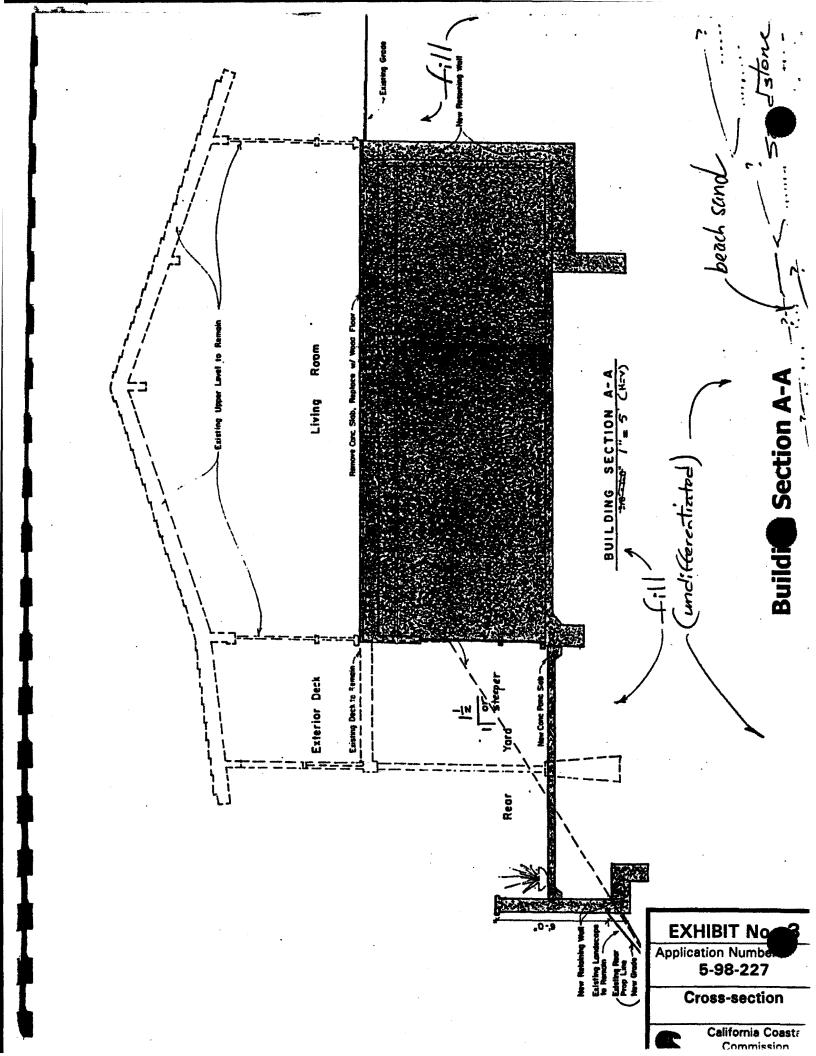
The proposed project has been conditioned in order to be found consistent with the geologic hazards policies of the Coastal Act. Mitigation measures include special conditions requiring conformance with geologic recommendations, export of cut dirt, and assumption of risk will minimize all adverse effects.

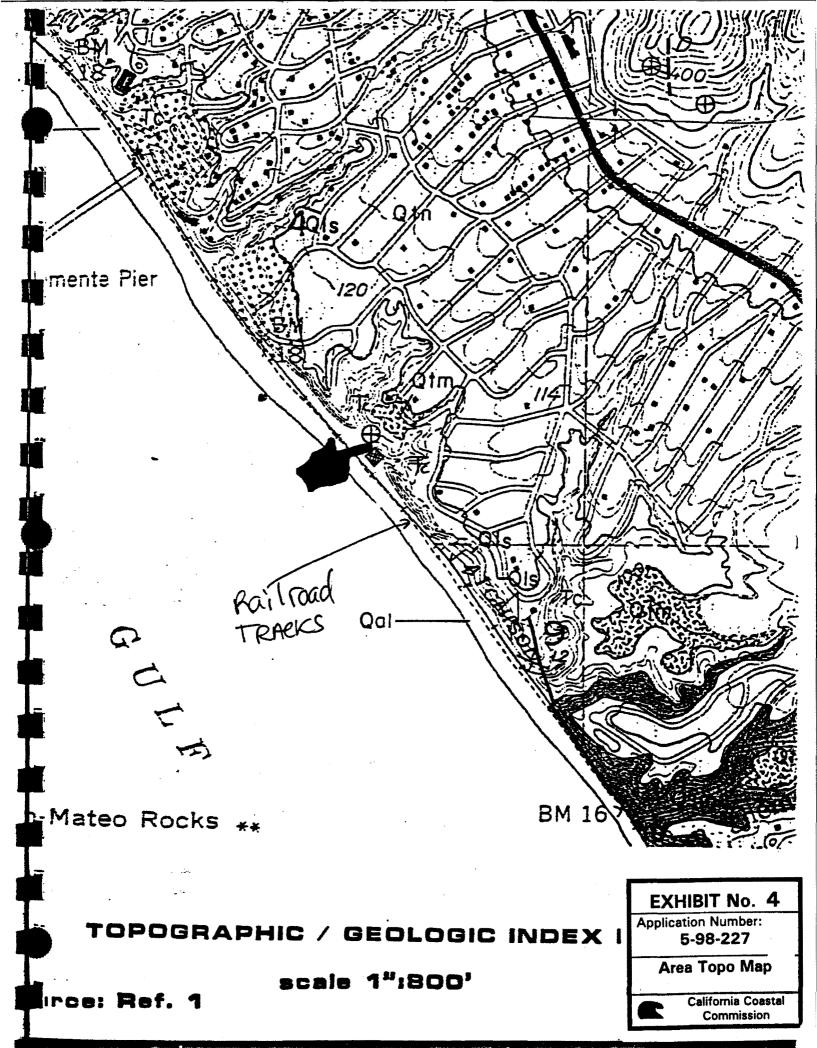
As conditioned there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified effects, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA..

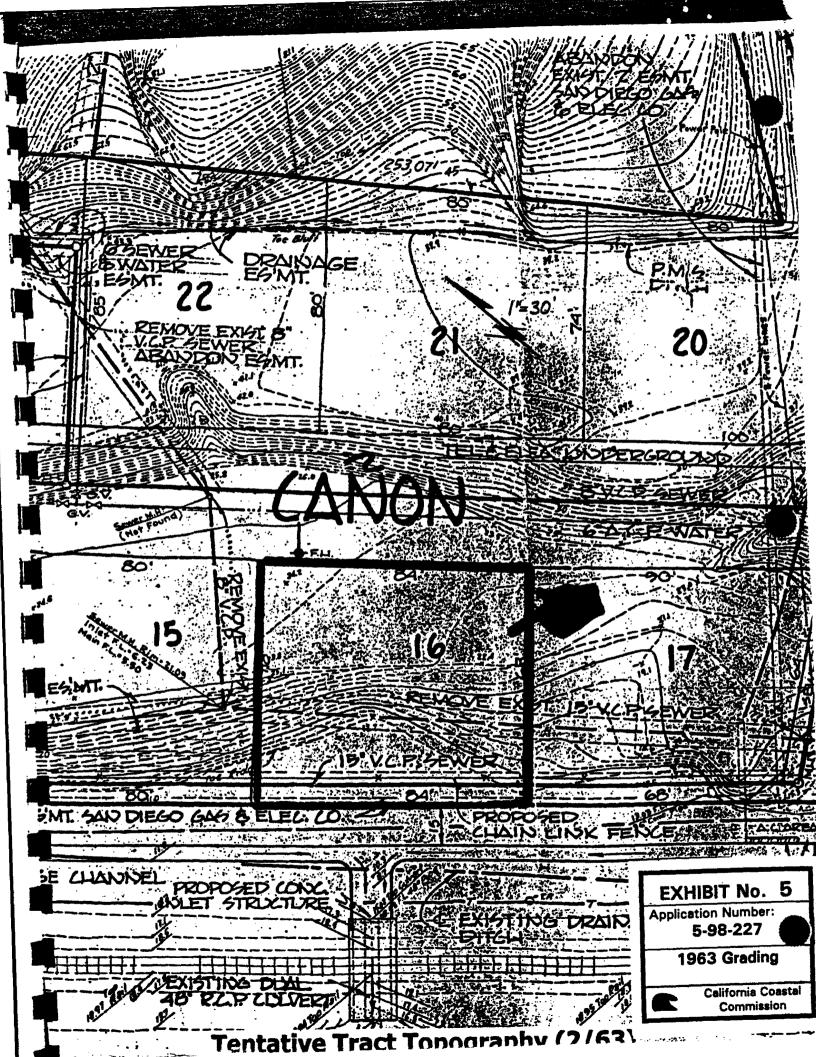


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TITLE: Interpretive

Schematic Geotechnical Section A-A'

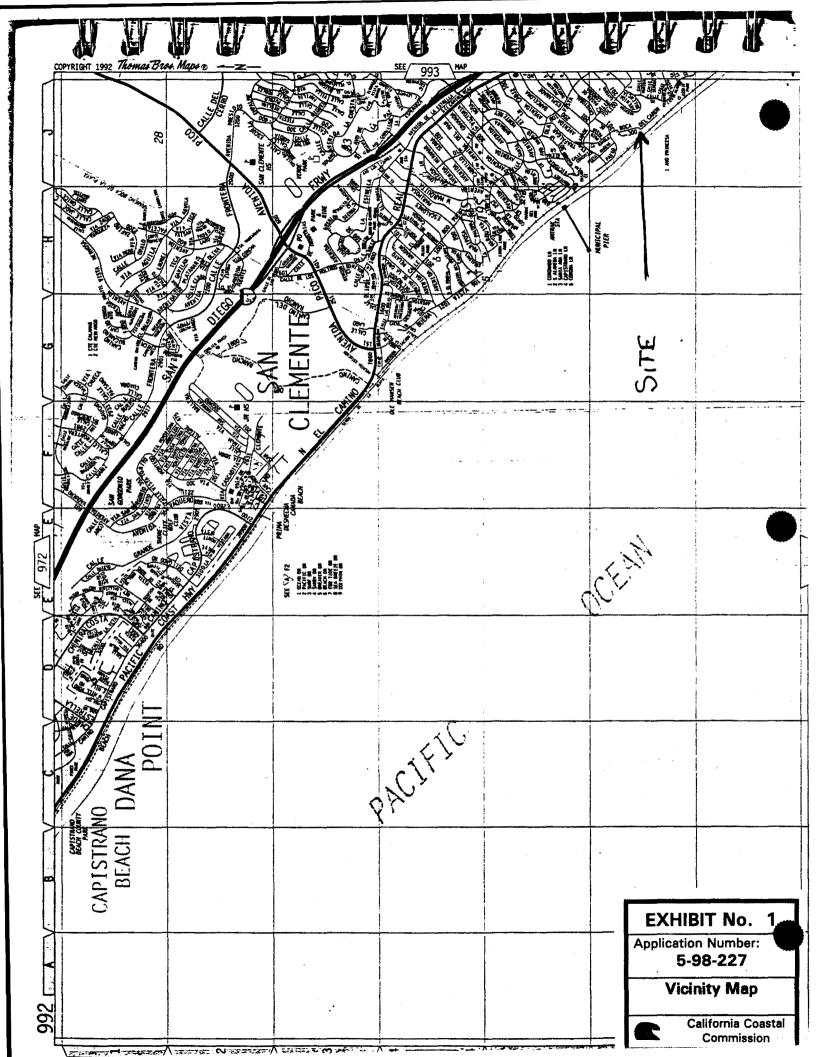
PROJECT: 324 Boca Del Canon

Son Clemente, CA

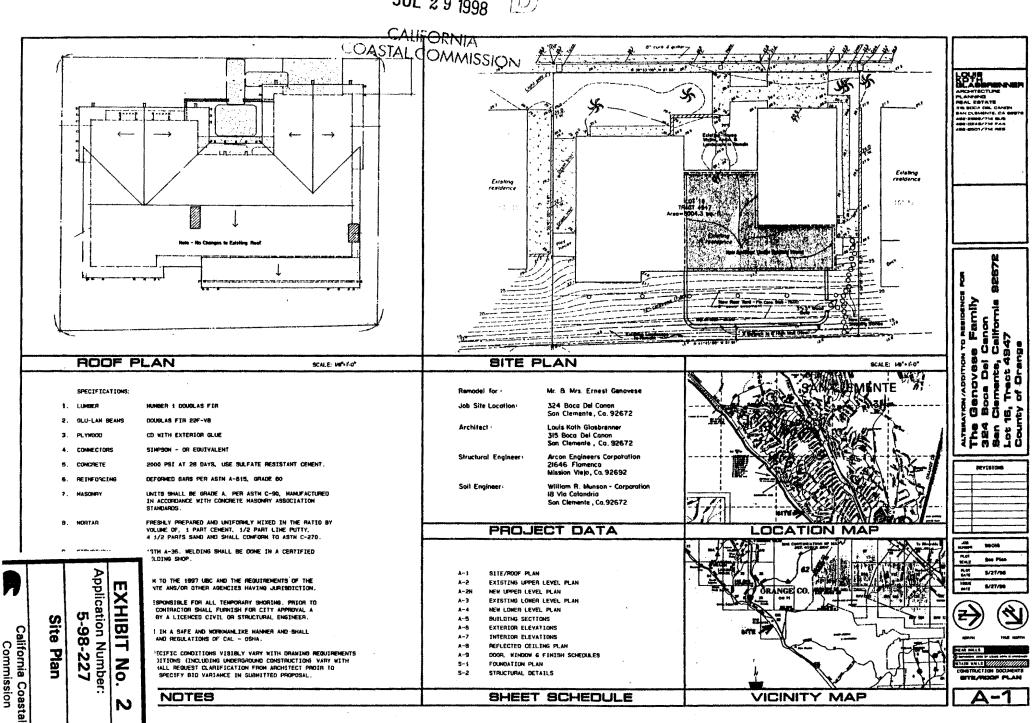
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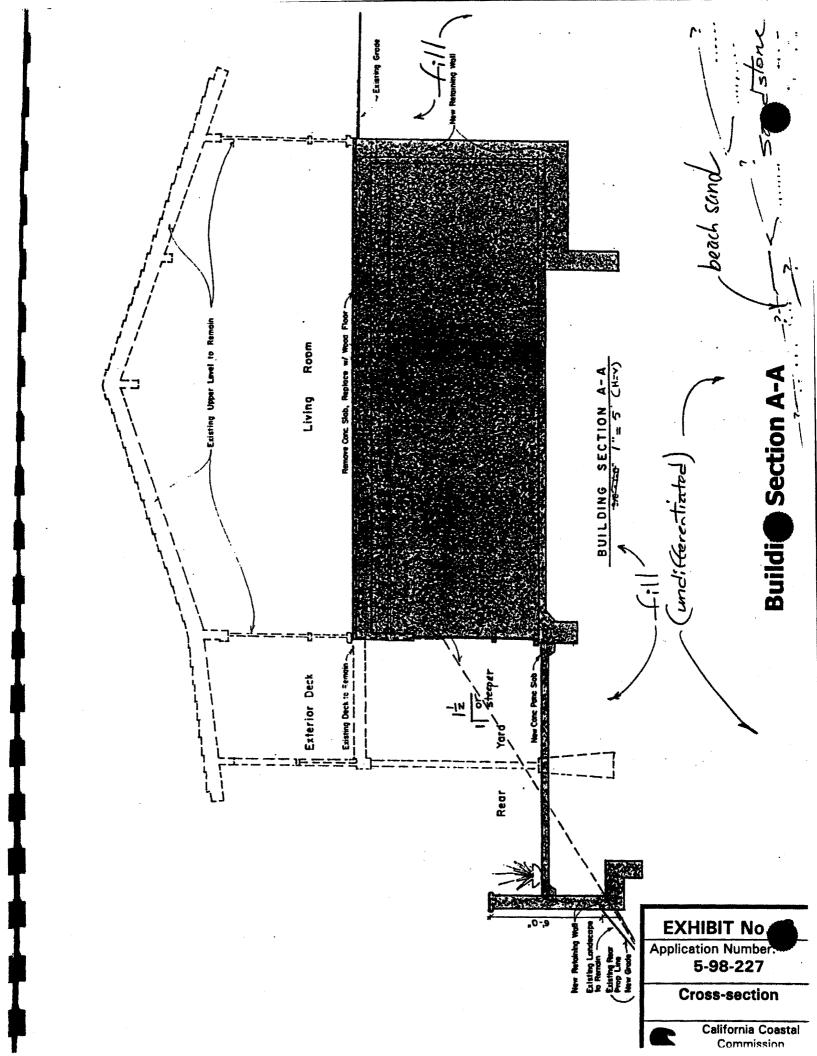
Geologic Section

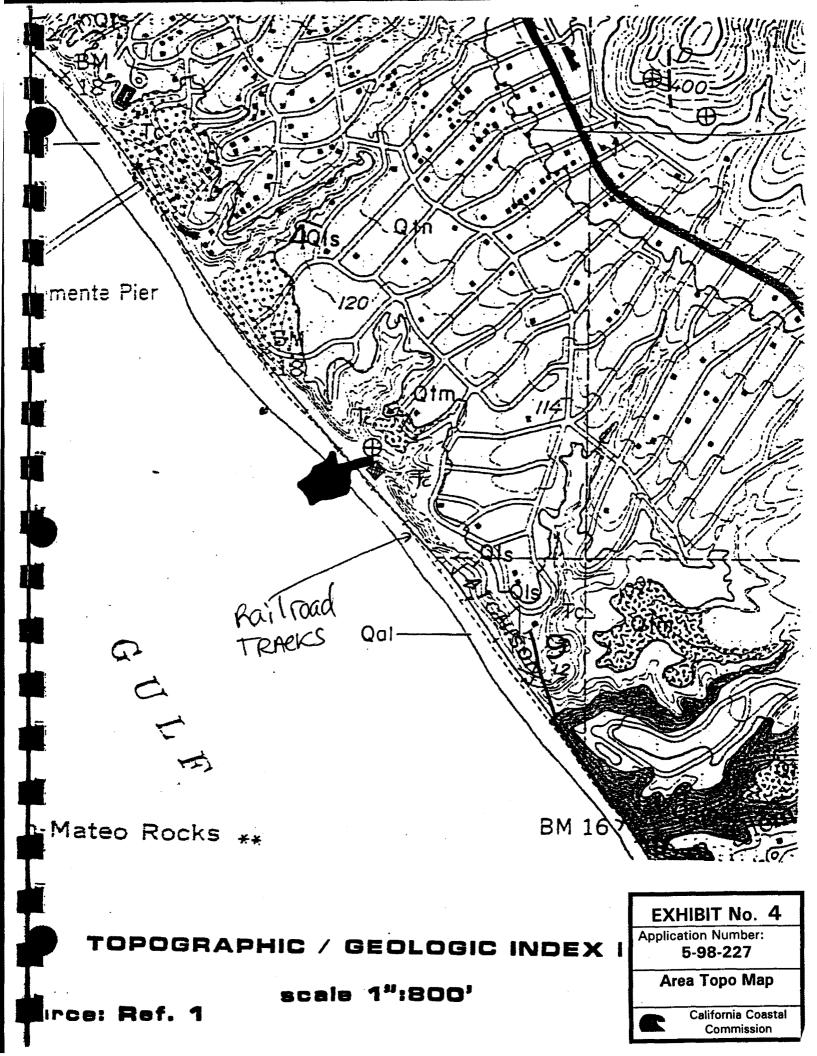
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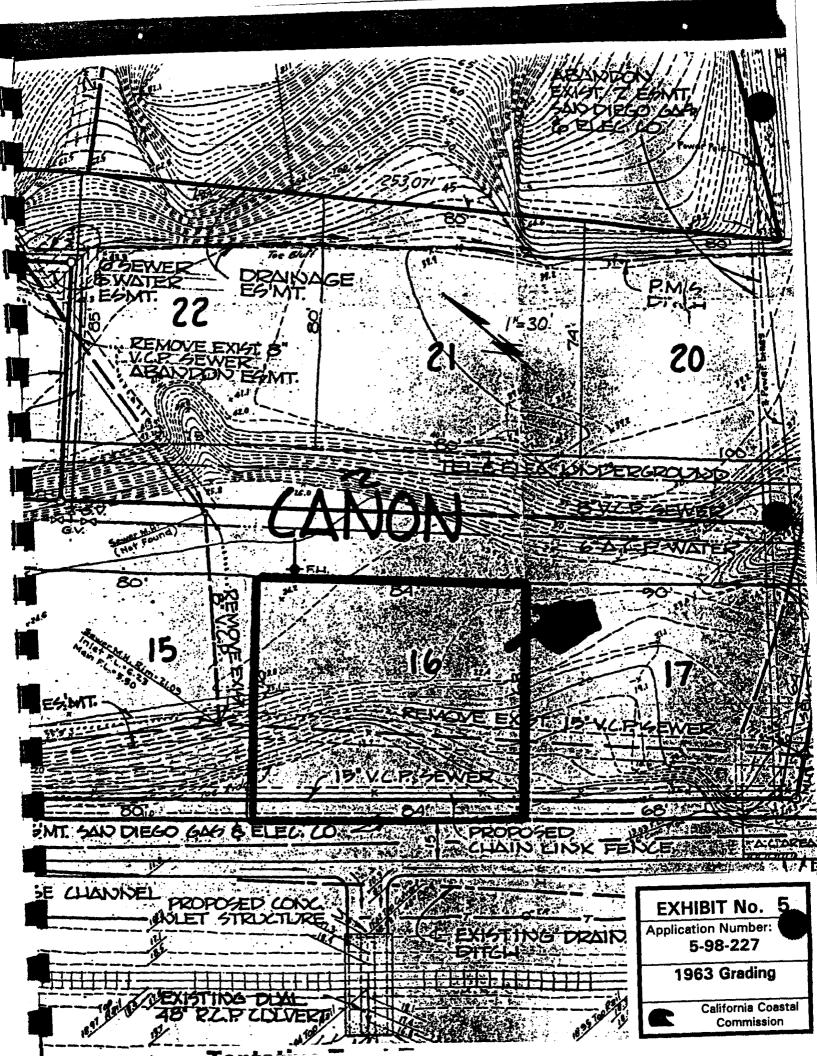


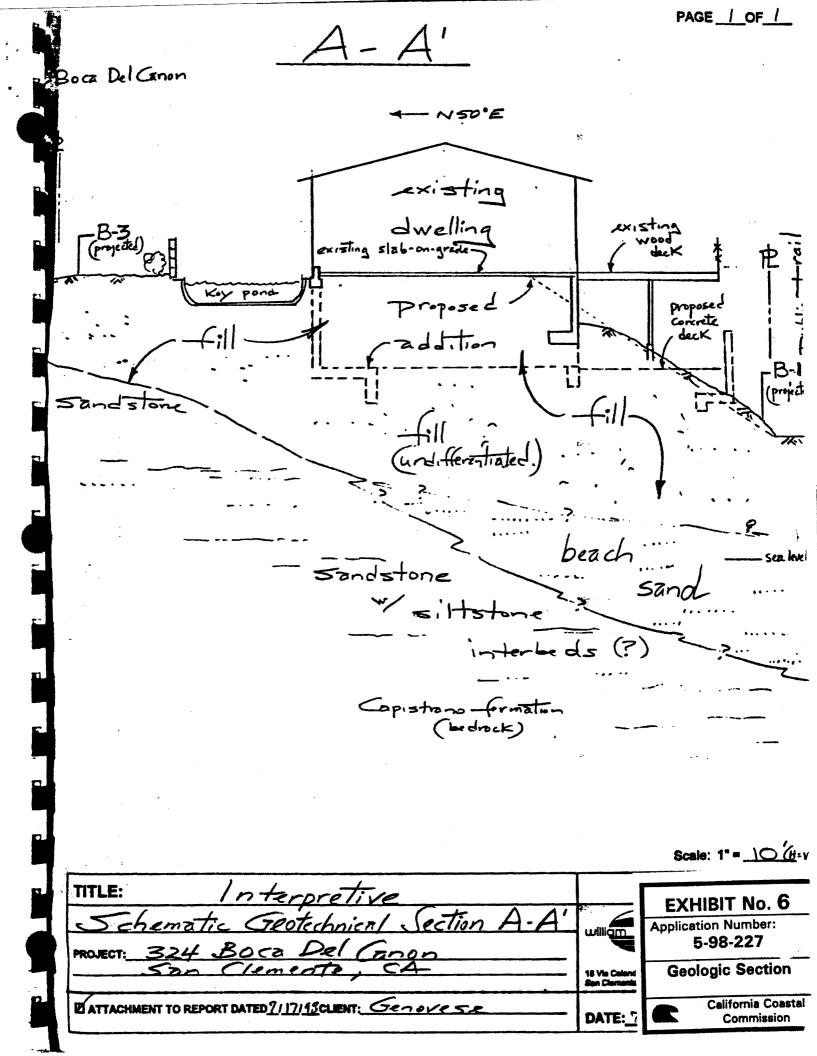
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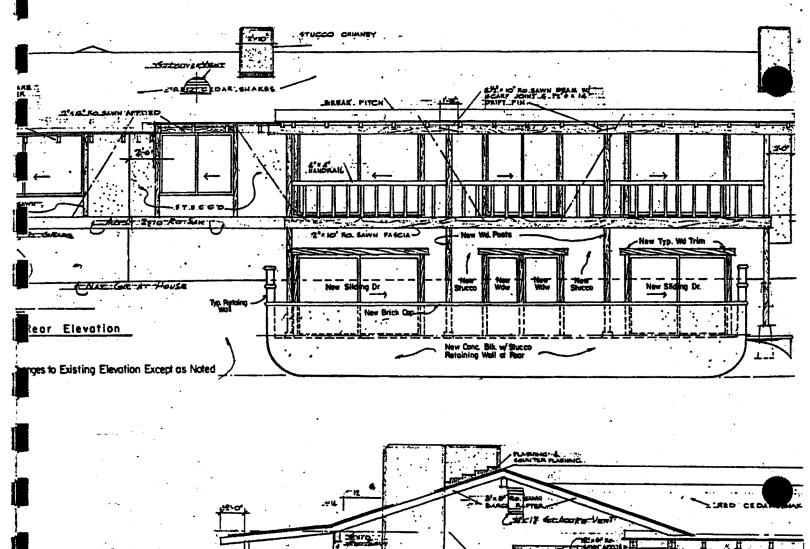


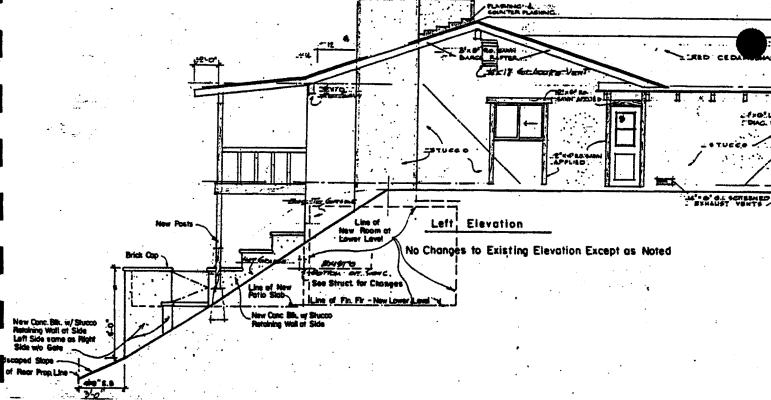












# **Left and Rear Elevations**

Scale: 1=8' (H=V)

