

CALIFORNIA COASTAL COMMISSION

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180th Day: 02-15-99
Staff: RMR/LB
Staff Report: 11-13-98
Hearing Date: 12/ 8-11/1998
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NUMBER: **5-98-262**

APPLICANT: James R. Westling

AGENT: Shellmaker, Inc.

PROJECT LOCATION: 40 Balboa Coves, Newport Beach, Orange County

PROJECT DESCRIPTION: Demolition and removal of an existing damaged concrete seawall and construction of a new 37 foot long concrete seawall and a 15 foot long side wall at the same location. The height of the seawall will be raised to conform with the City of Newport Beach codes.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends the Commission approve the proposed development with a special condition regarding disposal of construction materials and protection of water quality.

ISSUES OF CONTROVERSY:

There are no issues of controversy. The applicant agrees with the special conditions of this staff report and concurs with staff's recommendation that this hearing item be moved to the consent calendar.

LOCAL APPROVALS RECEIVED: Approval in concept from the City of Newport Beach Fire and Marine Department

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach Certified Land Use Plan, Letter of approval from the Regional Water Quality Control Board dated

August 17, 1998, Letter from Marine Consulting & Design dated August 13, 1998,
Letter from Shellmaker Inc. dated August 19, 1998

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, is located between the sea and the first public road nearest the shoreline and in conformance with the public access and public recreation policies 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. Construction Materials

Disturbance to harbor bottom and intertidal areas shall be minimized. Local sand, cobbles, or shoreline rocks shall not be used for back fill or construction material. The applicant agrees not to store any construction materials or waste where it is subject to wave erosion and dispersion. The applicant shall remove from the beach and seawall area any and all debris resulting from construction. In addition, no mechanized equipment, with the exception of the crane/barge, is allowed seaward of the seawall at any time.

IV. Findings and Declarations:

The Commission hereby finds and declares:

A. Project Description

The proposed development consists of the demolition and removal of an existing damaged concrete seawall and construction of a new 37 foot long concrete seawall and 15 foot long side wall at the same location (see Exhibit 3). The height of the seawall will be raised to conform with the City of Newport Beach codes and concrete coping will be placed atop the new wall. Pieces of the old bulkhead will be removed by barge and taken to a site for recycling into road materials.

The project site is located in the private, gated residential community of Balboa Coves in the City of Newport Beach (see Exhibits 1 and 2). The private community is located between Pacific Coast Highway and Newport Harbor north of the intersection of Newport Blvd. bridge. Ingress to the community is provided

from Pacific Coast Highway. The lot in question is situated on a side channel in Newport Harbor.

There is no public access to the harbor across the site, however, there is a public recreational area on the northwestern boundary of Balboa Coves (see Exhibit 2).

There are no sensitive biological resources which would be affected by the proposed development. There are several reasons for this. First, at low tide the old wall will be removed by a crane mounted on a barge. The bulkhead and harbor bottom will be exposed at low tide. No retaining walls or other construction measures are necessary. Then the interlocking panels of the new bulkhead will be installed at the already disturbed footing location of the old bulkhead. The panels will be jetted into place directly against the dirt embankment behind the old bulkhead. Therefore, disturbance to any biological resources would only occur if the resources are directly attached to the bulkhead or immediately in front of it.

B. Shoreline Protective Structures

Section 30235 of the Coastal Act states:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

Section 30253 of the Coastal Act states:

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 proposed development consists of the demolition and removal of an existing damaged bulkhead and construction of a new bulkhead at the same location. The project is located in Balboa Coves which is situated on a side channel of Newport Harbor (see Exhibit 2). The existing seawall consists of a 15 foot long side wall and a 38 foot long

bulkhead on the main channel. The existing bulkhead will be removed entirely and the new bulkhead will be located in the same location as the old bulkhead.

The new bulkhead will be constructed using precast concrete tongue and groove panels with a concrete coping on top of the panels. The existing poured in place concrete wall will be removed in chunks by crane and the debris will be taken to Ewles Materials to be recycled into road base.

Exhibit 5 is a letter from the consulting marine engineer. In this letter the engineer states that the existing bulkhead is failing. Exhibit 4 includes photographs of the bulkhead. Exhibit 5 shows photographs of cracks in the bulkhead. The marine engineer states:

I have examined the subject seawall and found it to be failing from a structural standpoint, i.e., seriously cracked in numerous locations, portions of the wall failing out of plumb in the direction of the waterway due to internal structural failure, exposed and deteriorating reinforcing steel, and flooding over the top of the wall at high tides.

The only changes that the applicant is making is to raise the height of the bulkhead to +9.68 feet from +8.60 feet in conformance with City of Newport Beach Code requirements and to install a concrete coping or cap on top of the new bulkhead in conformance with accepted bulkhead design.

The existing wall is in place and was constructed prior to the Coastal Act. In addition, the site is located on a side channel of Newport Harbor and the development will not have an adverse impact on shoreline processes. Additionally, the bulkhead will be replaced in the same location so there will be no additional adverse impacts.

The proposed development does not increase the length, size, or location of the existing wall. The height will be increased to bring the development in conformance with City of Newport Beach codes. The proposed development is designed to protect the soils behind the seawall from eroding and undermining the primary residence and accessory residential development.

Section 30253 of the Coastal Act requires that new development minimize risks to life and property in areas of high geologic, flood and fire hazard, assure structural stability and neither create nor contribute significantly to erosion. The proposed development consists of the replacement of a failing concrete bulkhead with a new concrete bulkhead at the same location. The bulkhead is designed to prevent bay water from infiltrating under the wall footing, eroding soils and undermining a rear yard deck and possibly the residence.

Section 30235 of the Coastal Act stipulates that shore protection structures which alter shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion. The existing

wall does not serve a coastal-dependent use but is necessary to protect an existing structure, i.e., patios, rear-yard decks and ultimately the residence.

The proposed development will protect existing property and will not create nor contribute significantly to erosion, geologic instability or destruction of the site or surrounding area. Any adverse effects would have been created during the original construction of the bulkhead. No additional adverse impacts would be created by replacing the bulkhead in the same location. There is no seaward expansion. Therefore, the Commission finds that the proposed development conforms with Section 30253 and 30235 of the Coastal Act.

C. Coastal Access and Recreation

Section 30212 of the Coastal Act states in 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:
 - (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,
 - (2) adequate access exists nearby, or,
- (b) For purposes of this section, "new development" does not include:
 - ...
 - (4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not seaward of the location of the former structure.
 - ...

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 on the water in the Balboa Coves area of Newport Harbor. Balboa Coves is a private, gated subdivision. The development consists of the replacement of a concrete seawall with a new concrete seawall at the same location. The existing seawall is damaged and evidencing large cracks.

The closest public access point is located at Channel Place and River Ave to the west of the the Balboa Coves community (see Exhibit 2).

In this situation, the development is located between the sea and the first public road, however, the proposed seawall does not impact access either directly or indirectly to the ocean. The project site remains a single-family residence use and will not result in an intensification of use.

The applicant is proposing to remove the damaged bulkhead and replace it with a new bulkhead at the same location. The new development will not extend seaward. Therefore, under 30212(b)(4) the development is not considered "new development" and not required to provide access as per 30212(a). Therefore, the Commission finds that the proposed development is consistent with the public access and recreation policies of the Coastal Act.

D. Water Quality

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The proposed development consists of the demolition and removal of an existing concrete bulkhead and the construction of a new concrete bulkhead at the same location. The process for removing the wall and installing the new wall is simple. At low tide, the bulkhead panels are removed by a crane mounted on a barge. Once the panels are removed, the new panels are jettied at about 7 or 8 feet below bay grade. The panels are 15 feet high, are interlocking and are secured with grout. No mechanized equipment or other construction is necessary. The barge then takes the old panels, loads them onto trucks which taken them to a site to be recycled for road base.

However, with any construction there is the potential that some materials will be left or end up in the bay. For this reason, the Commission finds that the applicant shall comply with a special condition which requires that all debris and construction materials be removed from the construction site. In addition, no mechanized equipment, other than the crane mounted on the barge, be used seaward of the existing seawall.

Only as conditioned, does the Commission find that the proposed development conforms with the water quality provisions of Section 30231 of the Coastal Act.

E. Land Use Plan

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. As conditioned, the proposed development is consistent with the policies contained in the certified Land Use Plan. Therefore, approval of the proposed development will not prejudice the ability of the City of Newport Beach to prepare a Local Coastal Program [Implementation Plan] that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

F. 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 water quality protection policies of the Coastal Act. A mitigation measure; a special condition requiring removal of all construction debris and materials 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.

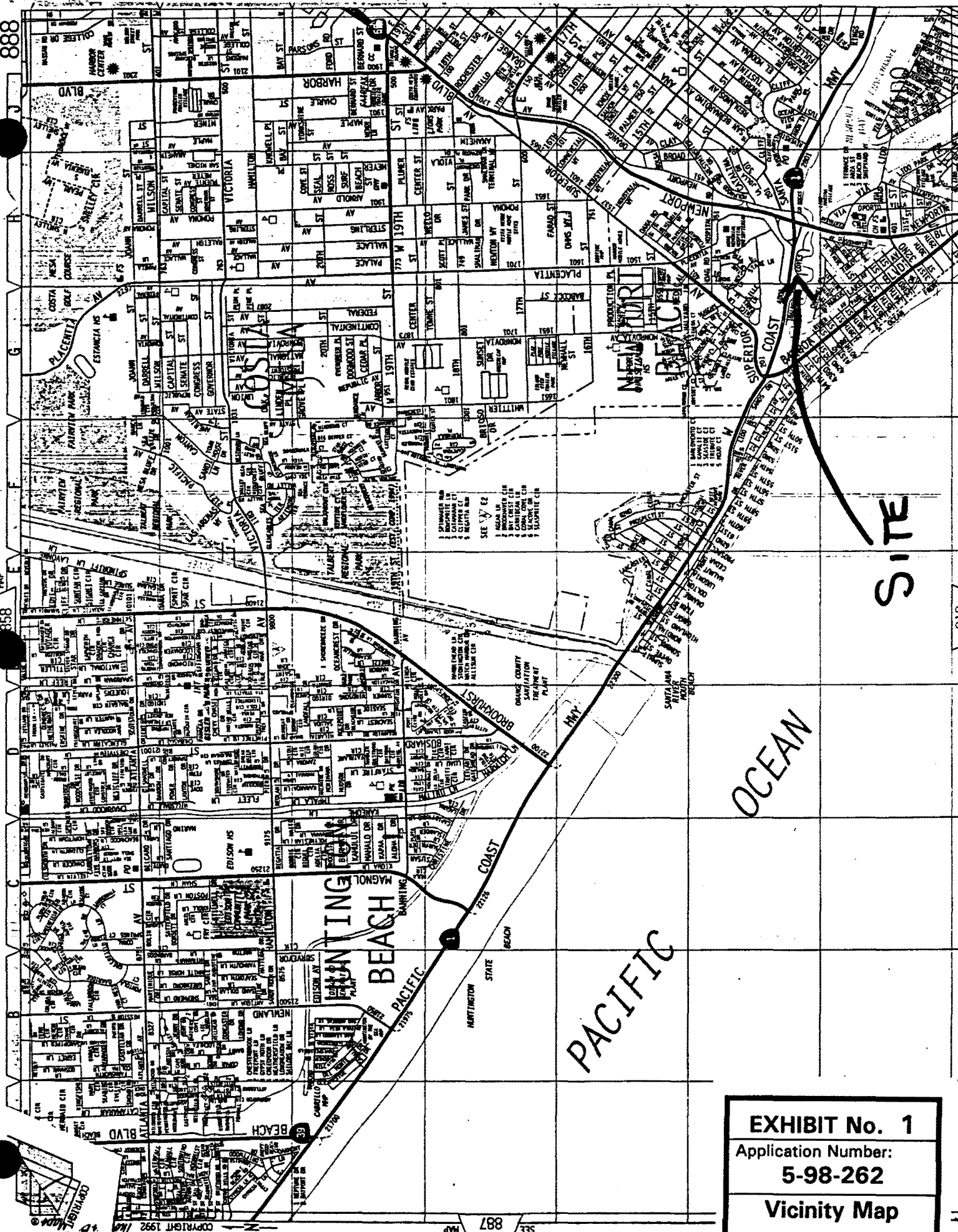



EXHIBIT No. 1
Application Number: 5-98-262
Vicinity Map
 California Coastal Commission

COPYRIGHT 1992
MAP

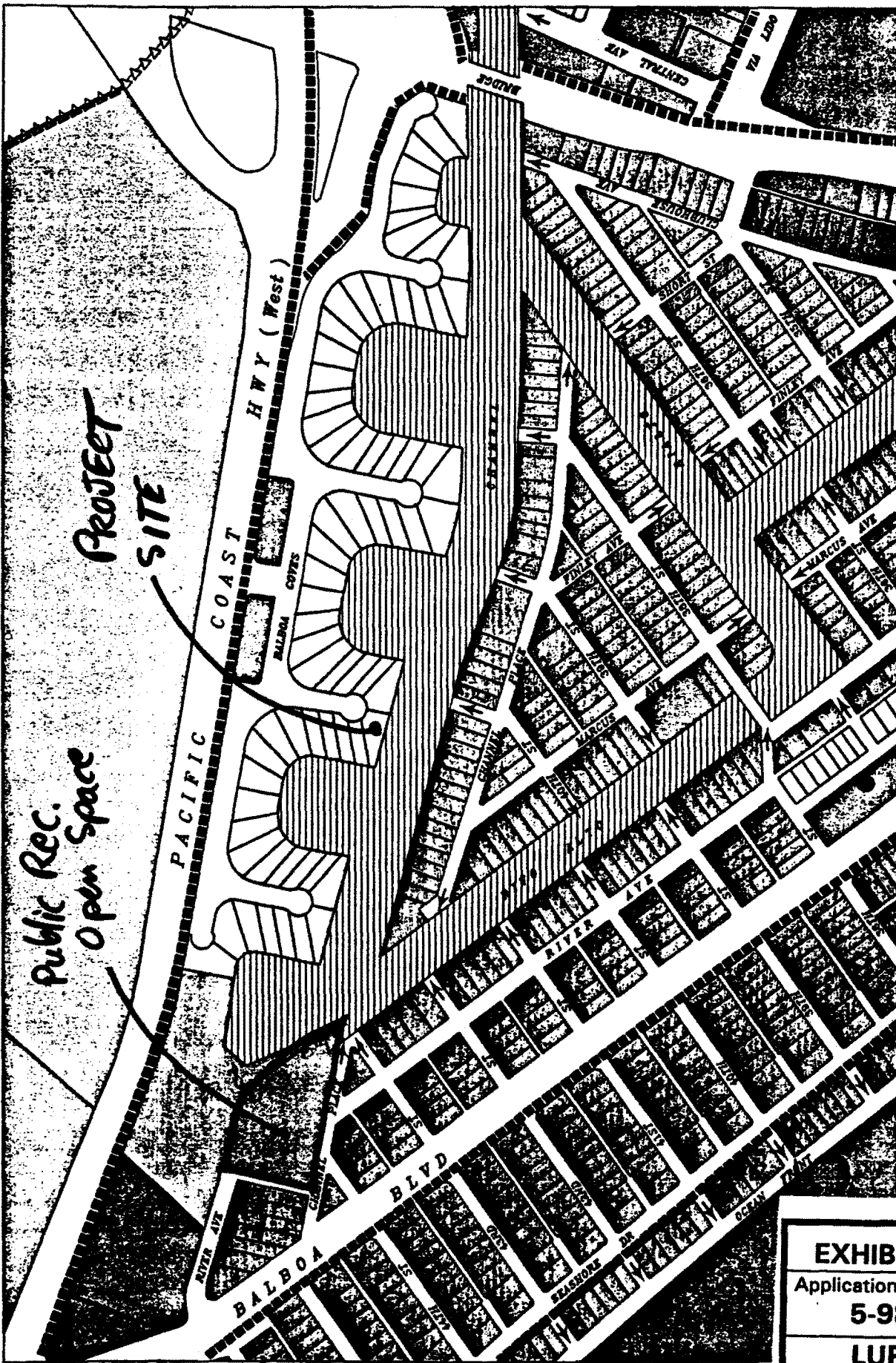

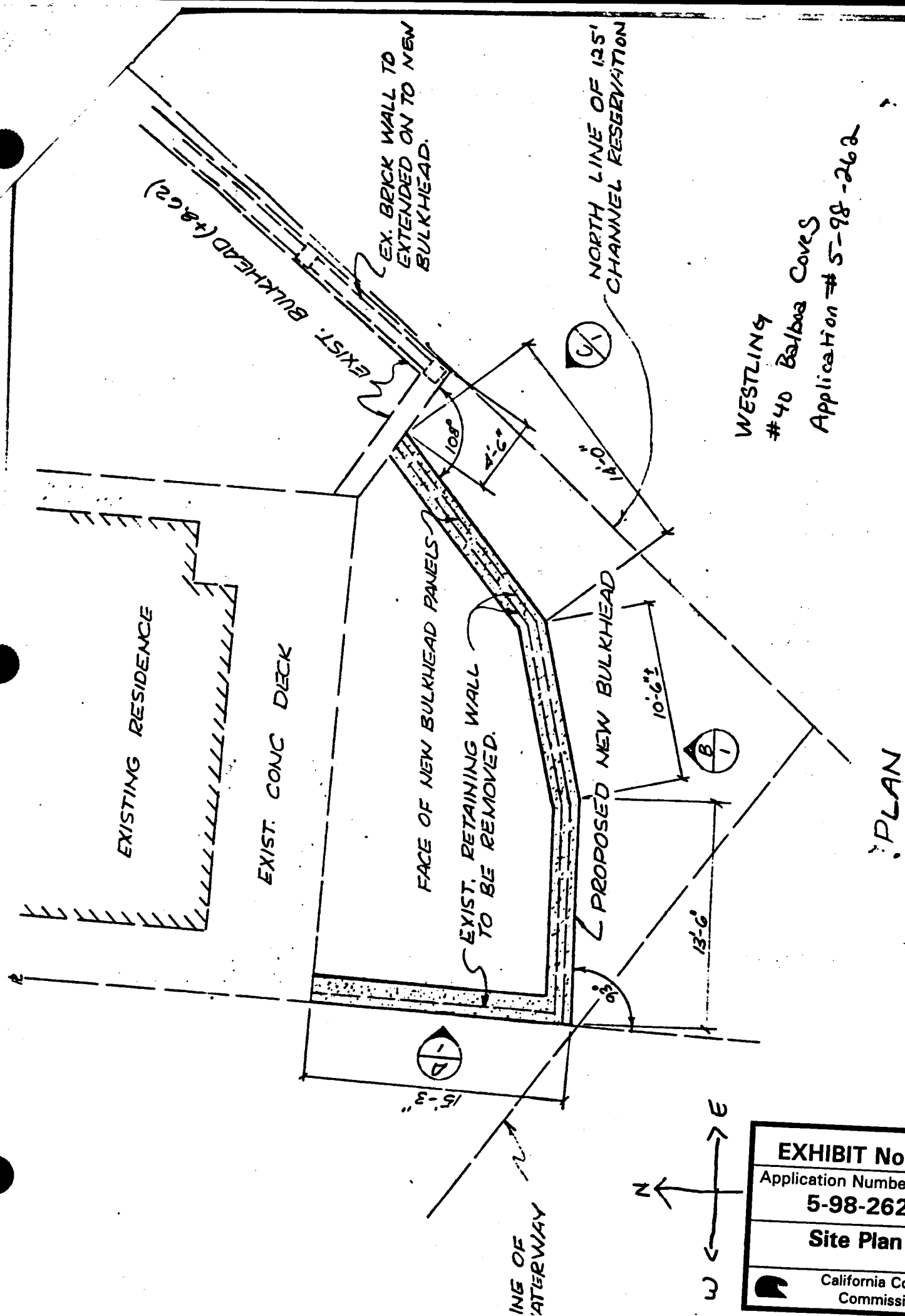


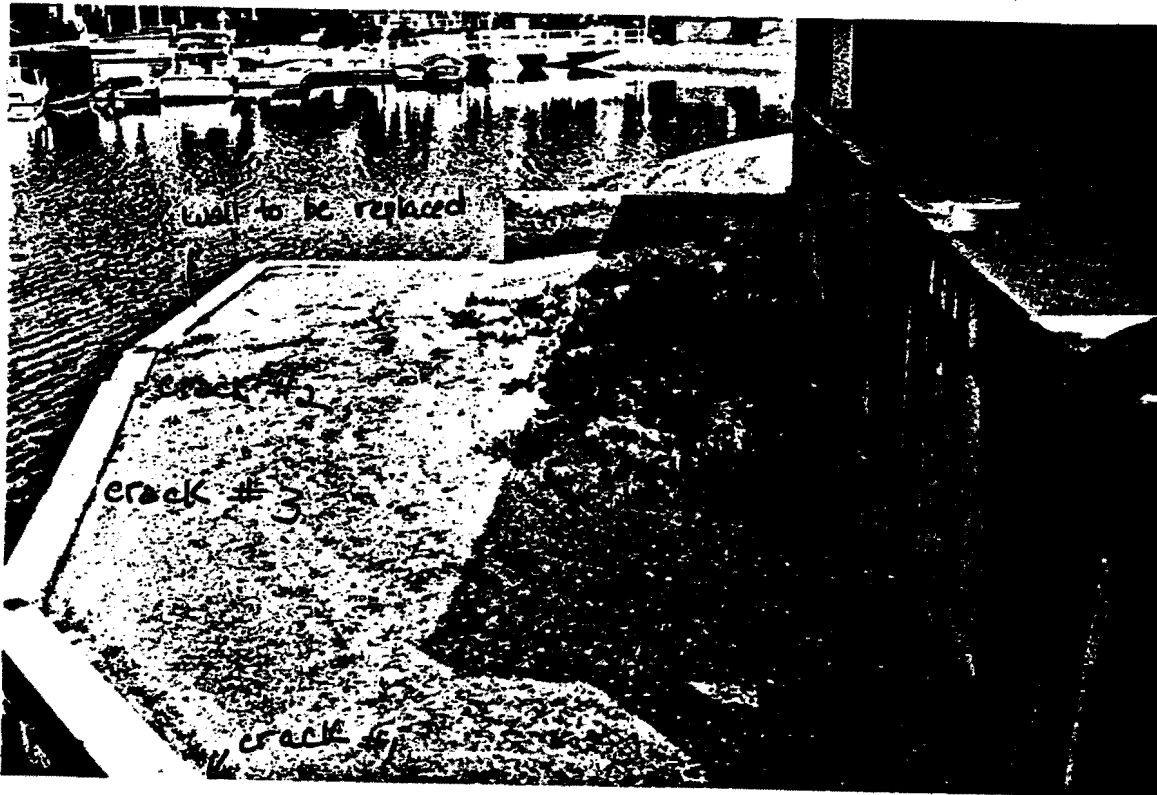
EXHIBIT No. 2
Application Number: 5-98-262
LUP Map
 California Coastal Commission



WESTLING
 #40 Balboa Cove
 Application # 5-98-262

EXHIBIT No. 3	
Application Number: 5-98-262	
Site Plan	
	California Coastal Commission

WESTLING RESIDENCE
#40 BALBOA COVES



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VIEW OF FAILING SEAWALL TO BE REPLACED

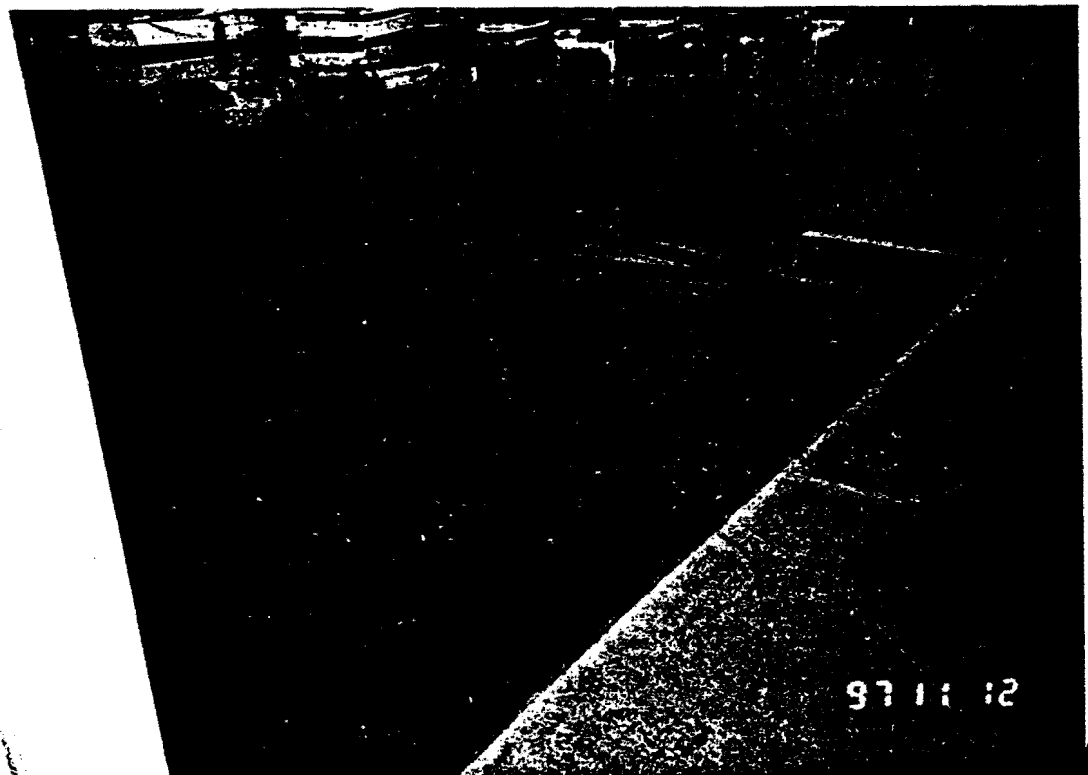


EXHIBIT No. 4

Application Number:

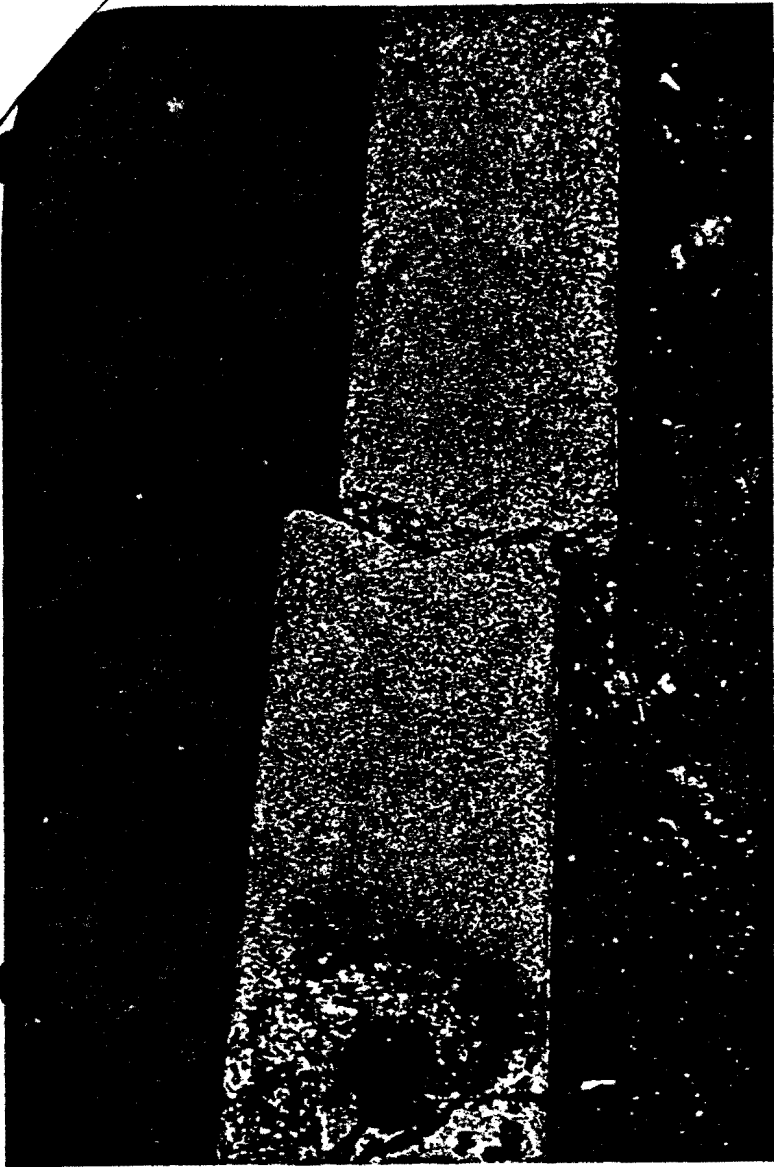
5-98-262

Site Photos

California Coastal
Commission

EXISTING PART OF FAILING SEAWALL AT HIGH
TIDE. NEW REPLACEMENT WILL CONFORM TO
CITY OF NEWPORT BEACH HEIGHT REQUIREMENT OF

WESTLING RESIDENCE
#40 BALBOA COVES



CRACK #1

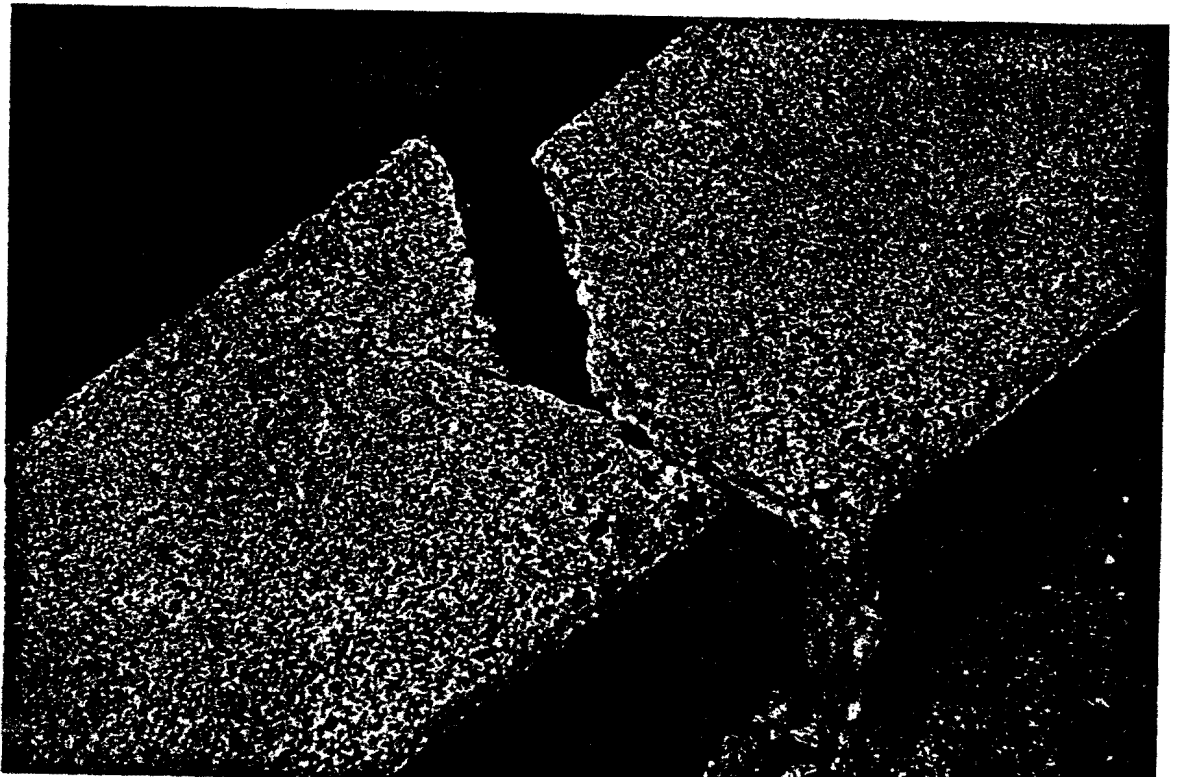


EXHIBIT No. 5

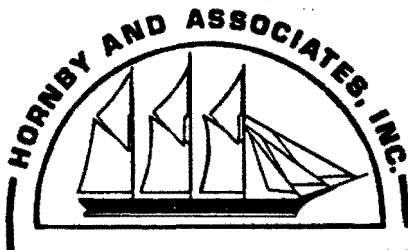
Application Number:

5-98-262

Site Photos



California Coastal
Commission



dba. Marine Consulting & Design

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NEWPORT BEACH, CA 92663 • USA • PHONE (714) 642-2206

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August 13, 1998

CALIFORNIA
COASTAL COMMISSION

Mr. Robin Maloney-Ramos, CPA II
California Coastal Commission
South Coast Area Office
200 Oceangate, 10th Floor
Long Beach, California 90802-4302

Re: Coastal Development Permit Application 5-98-262

I have examined the subject seawall and have found it to be failing from a structural standpoint, i.e. seriously cracked in numerous locations, portions of the wall falling out of plumb in the direction of the waterway due to internal structural failure, exposed and deteriorating reinforcing steel, and flooding over the top of the wall at high tides.

The homeowners have taken it upon themselves to seek approval to replace the wall, in its present location, with a newly engineered, properly constructed seawall built to the City of Newport Beach's height requirement before any further damage to the wall occurs. It is likely that the wall will fail in the future, leading to washout and erosion of the existing retained sand and possibly undermining an existing structural retaining wall at the end of the existing residence.

Sincerely,

Roland S. Hornby
Roland S. Hornby

RSH/bh

EXHIBIT No. 6
Application Number: 5-98-262
LETTER
California Coastal Commission