

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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Long Beach, CA 90802-4302
(562) 590-5071

Request Filed: 2/20/98
Staff: Padilla-LB
Staff Report: 3/13/98
Hearing Date: 4/7-10/98
Commission Action: 2/3/98

STAFF REPORT: REQUEST FOR RECONSIDERATION

APPLICATION NO.: 5-97-300R

APPLICANT: Dr. Mohamed Nasr

AGENT: Mr. Vahram Jebejian

PROJECT LOCATION: 2273 Warmouth Street, San Pedro

PROJECT DESCRIPTION: Construct a 12-foot high, 70-foot long retaining wall on the bluff face; deposition of fill on the bluff; extension of cement patio over the bluff face to the wall; and stepped side walls running perpendicular to the retaining wall. Construction also includes an approximately 720 square foot wood deck with wooden stairway leading from the patio down to the deck; 450 square foot lawn area located at the base of the wall; planter; approximately 3.5 foot high retaining wall on the bluff immediately seaward of the deck and lawn area; and pipe and board retaining structures seaward of the lower retaining wall, on a 10,220 square foot lot currently improved with an existing 2,665 square foot single-family residence with attached 693 square foot garage, patio cover, swimming pool and cement patio that covers the majority of the rear yard area.

COMMISSION ACTION AND DATE: Denial. February 3, 1998

PROCEDURAL NOTE:

The Commission's regulations provide that at any time within thirty (30) days following a final vote upon an application for a coastal development permit, the applicant of record may request that the Commission grant a reconsideration of the denial of an application, or of any term or condition of a coastal development permit which has been granted. 14 Cal. Admin. Code 13109.2.

The regulations state further that the grounds for reconsideration of a permit action shall be as provided in Coastal Act Section 30627 which states:

The basis of the request for reconsideration shall be either that there is relevant new evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing on the matter or that an error of fact or law has occurred which has the potential of altering the Commission's initial decision.

APPLICANT'S CONTENTION:

The applicant's representative contends that errors of fact and law occurred at the hearing which have the potential of altering the Commission's initial decision and that there is relevant new information that was not presented at the Commission hearing.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission deny the request for reconsideration.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Denial of Reconsideration

The Commission hereby denies the request for reconsideration of the proposed project on grounds that the applicant has not presented any new relevant evidence, which in the exercise of reasonable diligence could not have been presented at the hearing, nor has there been an error of fact or law which has the potential of altering the Commission's initial decision.

II. Findings and Declarations.

A. The applicant's representative requests a reconsideration of a permit denied by the Commission. At the February 3, 1998, Commission hearing the Commission denied permit 5-97-300 (Nasr). The permit application was described as follows:

Construct a 12-foot high, 70-foot long retaining wall on the bluff face; deposition of fill on the bluff; extension of cement patio over the bluff face to the the wall; and stepped side walls running perpendicular to the retaining wall. Construction also includes an approximately 720 square foot wood deck with wooden stairway leading from the patio down to the deck; 450 square foot lawn area located at the base of the wall; planter; approximately 3.5 foot high retaining wall on the bluff immediately seaward of the deck and lawn area; and pipe and board retaining structures seaward of the lower retaining wall, on a 10,220 square foot lot currently improved with an existing 2,665 square foot single-family residence with attached 693 square foot garage, patio cover, swimming pool and cement patio that covers the majority of the rear yard area.

The project was proposed on a 10,220 square foot lot located on Warmouth Street in the San Pedro area of the City of Los Angeles. The project site was improved with an existing 2,665 square foot single-family residence with attached 693 square foot garage, patio cover, swimming pool, cement patio and side retaining walls. The northern half of the lot, where the existing residence and swimming pool are located, is level. Approximately 62 feet south of the residence the lot begins to slope at a 1:1 gradient. The slope descends for approximately 170 feet down to a rocky beach.

The applicant and applicant's representative were sent and received notice of the scheduled Commission hearing. Staff also talked with the applicant's

representative prior to the hearing and discussed the hearing date. Further, after the applicant's representative requested a postponement from the December 1997 hearing staff informed the applicant's representative that the next available hearing would be in San Diego, February 3-6, 1998. The applicant and applicant's representative were again sent and received notice of the scheduled Commission hearing. Despite the advance notice, the applicant failed to attend the hearing.

B. Applicant's Grounds for Reconsideration

As stated, the applicant's representative is requesting a reconsideration on the grounds that there is relevant new evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing on the matter and that errors of fact and law had occurred which have the potential of altering the commission's initial decision. Listed below are summaries of the applicant's contentions and Commission's staff responses (see representative's letter for a complete written description of each of the applicant's contentions. Exhibit #1).

1. Applicant's Contention

Error of law or fact: Approval of project would not set a dangerous precedent inasmuch as the enclosed stringline Map demonstrates that the neighboring properties on both sides have fences and retaining walls extending further out on the bluff.

Staff Response

The applicant contends that staff made an error of fact or law in stating that approval of the wall on the bluff face would set a precedent because neighboring properties on both sides have fences and retaining walls extending further on the bluff. The adopted Findings state that the proposed development raises a precedential issue of extending flat bluff top development seaward over natural bluff faces by fill and artificial construction. Such structures are inherently unstable because the underlying bluff is a structure which over time will erode. This is especially true in instances such as this where the bluff is composed mostly of landslide debris. The adopted Findings also acknowledged that there are existing decks and retaining walls built out near or at the edge of the bluff. However, these developments were existing prior to the passage of the Coastal Act and the Commission has never approved any development on the face of the bluff in this area after the Coastal Act was enacted.

The applicant contends that a stringline map would have demonstrated that the neighboring properties' developments extend further seaward than the applicants. A structure stringline map was not presented by the applicant. Furthermore, even if one had been submitted, a stringline map would have only shown the relationship of the proposed structures with the siting of other structures whose existence predates the passage of the Coastal Act. Such a stringline map would not have altered the Commission's decision to deny the requested permit. The Commission denied the project because the project was being built on the bluff face and because of the adverse impacts that would result from this development in particular. The siting of other structures

prior to the passage of the Coastal Act would not affect this analysis. Therefore, there was no error of fact on the part of the Commission that would have altered the Commission's initial decision.

Finally, although not alleged by the applicant, the Commission also finds that even if the applicant had presented a structure stringline map at the hearing, such map would not constitute relevant new evidence for the reasons stated above. Therefore, the applicant's reconsideration request must be denied.

2. Applicant's Contention

The existing retaining wall has been legalized by the City of Los Angeles Department of Building and Safety as of 5/17/96.

Staff Response

This assertion is not an assertion of an error in fact or law that would have had the potential of altering the Commission's initial decision. Nor is it relevant new information which could not have been presented at the hearing. The findings adopted by the Commission indicate that the project was reviewed by the City and that the City issued an Approval in Concept for the proposed plans, reviewed the applicant's geologic report, and required as a condition that the applicant record a Covenant and Agreement Regarding Maintenance of Building. (These City approval documents were presented to staff by the applicant). Moreover, local actions by the City of Los Angeles' Department of Building and Safety are not relevant to determining the project's consistency with Chapter 3 of the Coastal Act. Therefore, there was no error in fact or law on the part of the Commission that would have altered the Commission's initial decision nor is the applicant's assertion relevant new information. Therefore, the applicant's reconsideration request must be denied.

3. Applicant's Contention

A Safety Factor of 1.5 was demonstrated by a geologic report prepared by Technosoil, dated 10/7/97.

Staff Response

The applicant contends that there is information that indicates that the project could be constructed to meet the City's minimum factor of safety of 1.5. The applicant did not submit a geologic report prepared by Technosoil dated 10/7/97. The applicant submitted a geologic report prepared by Technosoil, dated July 11, 1997. This is not new information. Moreover, the submitted July 1997 report included a statement that stated that based on a stability analysis the slope's factor of safety exceeds the City's normally accepted value of 1.5. Since the information that the applicant is referring to was included in another geologic report that was submitted by the applicant and this information was included in the record before the Commission, there is no new information which could not have been presented at the hearing, or an error of fact or law which has the potential of altering the Commission's initial decision. Therefore, the applicant's reconsideration request must be denied.

4. Applicant's Contention

The County's Department of Beaches and Harbors inspected and concluded that the structures are not detrimental to the beach below.

Staff Response

This statement is an assumption on the applicant's part. The County's beaches and Harbors Planning department staff inspected the site and submitted a letter to Commission staff regarding their investigation. The letter was attached as Exhibit No. 8 of the staff report. The County determined that the structures may have encroached onto County property, however, given its location the structure would not impact public access or recreational use since there were no trails along the bluff. The letter does not state that the County found the structure not to be detrimental to the beach below. And as stated above, the letter was included in the record before the Commission. Thus, this is not relevant new information which could not have been presented at the hearing. Further, the County's action on the project is irrelevant to whether the proposed project is consistent with Chapter 3 of the Coastal Act. Therefore, there is no error of law or fact which has the potential of altering the Commission's decision. Therefore, the applicant's reconsideration request must be denied.

5. Applicant's Contention

The applicant states that any change to the existing physical condition at the top of the subject bluff would affect the stability and structural integrity of the existing home and drainage. Furthermore, restoration of the bluff could not approach original condition.

Staff Response

First, it must be emphasized that removal of unpermitted structures and/or restoration of the impacted site is not a basis for determining a proposed project's consistency with Chapter 3 of the Coastal Act. In deciding whether to approve development, the Commission considers the project as proposed. The proposed project did not include restoration or removal. Thus, the Commission reviewed the proposed construction for consistency with Chapter 3 of the Coastal Act. Therefore, there is no error of law which has the potential of altering the Commission's decision.

In addition, the two geologic reports (Solus Geotechnical Corp, dated November 13, 1995; and Technosoil, Inc., dated July 11, 1997) that were prepared for the applicant's proposed structure and the two geotechnical evaluations (AGRA Earth and Environment, dated August 26, 1994 and December 15, 1994) that were prepared for the applicant's insurance company do not provide any evidence that the proposed structures were necessary for the support of the existing residence or swimming pool. In fact, as reflected in the Commission's findings it was the opinion of the geologist for the insurance company that the structure did not support the swimming pool or residential structure.

Potential restoration of the bluff face was discussed on page 10 of the staff report. The applicant did not provide any evidence that would indicate that restoration of the bluff would be infeasible or would create further slope instability. The information from the geologists indicates that the wall was

not necessary. The aerial photographs indicate that a retaining wall was not previously existing to support the existing swimming pool or residential structure. Thus, even if restoration was relevant to the Commission's action on the proposed development, the evidence indicates that the unpermitted fill could be removed and the slope restored to its predeveloped condition and revegetated with drought tolerant vegetation to protect the restored slope. In addition, since this information was discussed in the staff report and presented to the Commission this is not new information. Therefore, there is also no new relevant information which could not have been presented at the hearing. Therefore, the applicant's reconsideration request must be denied.

Conclusion

Based on the above, the Commission finds that there is no relevant new evidence or information which, in the exercise of reasonable diligence, could not have been presented at the hearing or that errors of fact or law occurred which had the potential of altering the Commission's initial decision. Therefore, the applicant's reconsideration request is denied.

0479F

V. K. JEBEJIAN - ARCHITECT

P. O. BOX 771 TUJUNGA, CA. 91043 - 0771 818 563 0458 FAX 818 352 8865

CALIFORNIA COASTAL COMMISSION
200 OCEANGATE, 10 TH FLOOR
LONG BEACH, CA. 90802
ATTN : AL PADILA

RECEIVED 3 3 98
MAR 6 1998
CALIFORNIA
COASTAL COMMISSION

RE : 5 - 97 - 300 REQUEST FOR RECONSIDERATION OF DECISION TO DENY APPLICATION
BY CCC 2 3 98 AT SAN DIEGO MEETING, SINCE RECENT INSPECTION BY V. K. JEBEJIAN
HAS REVEALED SMALL LANDSLIDES ON NEIGHBOR BLUFF BOTH SIDES, AND NO DAMAGE
TO NASR BLUFF.

DEAR AL,

PLEASE SCHEDULE A RECONSIDERATION HEARING FOR THIS APPLICATION FOR THE
FOLLOWING REASONS :

- 1 ERROR OF LAW OR FACT :
A APPROVAL OF PROJECT WOULD NOT SET A DANGEROUS PRECEDENT
INASMUCH AS THE ENCLOSED STRINGLINE MAP DEMONSTRATES THAT THE NEIGHBORING
PROPERTIES ON BOTH SIDES HAVE FENCES AND RETAINING WALLS EXTENDING OUT
FURTHER ON THE BLUFF THAN THE SUBJECT NASR PROPERTY.
- 2 THE EXISTING RETAINING WALL HAS BEEN LEGALIZED BY THE CITY OF LOS ANGELES
DEPARTMENT OF BUILDING AND SAFETY AS OF 5 17 96.
- 3 1.5 / 1 SAFETY FACTOR WAS DEMONSTRATED BY A NEW SOIL AND GEOLOGY
REPORT AUTHORED BY TECHNOSOIL ON 10 7 97 THAT WAS APPROVED BY THE
GRADING DIVISION OF THE LOS ANGELES CITY DEPARTMENT OF BUILDING AND
SAFETY.
- 4 BEACHES AND HARBORS DEPARTMENT HAS INSPECTED AND CONCLUDED THAT
THE EXISTING IMPROVEMENTS ARE NOT DETRIMENTAL TO THE BEACH BELOW.
- 5 ANY CHANGE TO THE EXISTING PHYSICAL CONDITION AT THE TOP OF THE SUBJECT
BLUFF WOULD AFFECT THE STABILITY & THE STRUCTURAL INTEGRITY OF THE EXISTING
HOME BY UNDERMINING OR WEAKENING THE BLUFF, WHICH IS NOW WELL
PROTECTED AND PROVEN STABLE BY THE ABOVE MENTIONED TECHNOSOIL
REPORT.

EXHIBIT NO.

2

Application Number

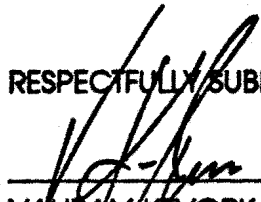
507-300 R

*Letter from Rep
for Reconsideration*
California Coastal Commission

- A DRAINAGE - AT PRESENT ALL SITE WATER AT TOP OF SLOPE IS CONDUCTED
TO THE STREET.
- B SLOPE STABILITY - THE EXISTING WALL HAS SEALED AGAINST WEATHER AND
PROTECTED THE TOP OF THE BLUFF FROM EROSION AND SURFACE
SPAULING.

C RESTORATION OF THE BLUFF TOP COULD NOT APPROACH THE ORIGINAL
CONDITION: THEREFORE IN MY OPPINION IS NOT A REASONABLE SOLUTION
TO THE CCC OBJECTIVES.

RESPECTFULLY SUBMITTED



VAHRAM KEVORK JEBEJIAN - ARCHITECT
CC : D/RANCE CCC ENFORCEMENT
ATTMNT: REVISED STRINGLINE MAP / 3 3 98



EXHIBIT NO.

2 of 2

Application Number

5-97-300R

California Coastal Commission

CALIFORNIA COASTAL COMMISSION 2.3.98

COMMISSIONER ACTION ON

Filed: 9/22/97
 49th Day: 11/10/97
 180th Day: 3/21/98
 Staff: Padilla/LB
 Staff Report: 11/06/97
 Hearing Date: 2/3-6/98
 Commission Action:



EXHIBIT NO.

2

Application Number

5-97-300R

Staff Report

- ☐ Approved as Recommended
☐ Denied as Recommended
☐ Approved with Changes
☒ Denied
☐ Other

California Coastal Commission

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 5-97-300

APPLICANT: Dr. Mohamed Nasr

AGENT: Vahram K. Jebejian

PROJECT LOCATION: 2273 Warmouth Street, San Pedro

PROJECT DESCRIPTION: Construct a 12-foot high, 70-foot long retaining wall on the bluff face; deposition of fill on the bluff; extension of cement patio over the bluff face to the the wall; stepped side walls running perpendicular to the retaining wall. Construction also includes an approximately 720 square foot wood deck with wooden stairway leading from the patio down to the deck; 450 square foot lawn area located at the base of the wall; planter; approximately 3.5 foot high retaining wall on the bluff immediately seaward of the deck and lawn area; and pipe and board retaining structures seaward of the lower retaining wall, on a 10,220 square foot lot currently improved with an existing 2,665 square foot single-family residence with attached 693 square foot garage, patio cover, swimming pool and cement patio that covers the majority of the rear yard area.

| | |
|--------------------|--------------------|
| Lot area: | 10,220 square feet |
| Building coverage: | 3,385 square feet |
| Zoning: | R1-1 |
| Plan designation: | Low Density |

LOCAL APPROVALS RECEIVED: Approval in Concept; Covenant and Agreement Regarding Maintenance of Building; County Beaches and Harbors approval letter, dated December 11, 1996.

SUBSTANTIVE FILE DOCUMENTS: San Pedro certified LUP; Coastal Development Permit: #5-95-140(Nasr), #5-85-460(Dinsmore).

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends denial because the development raises a precedential issue of extending flat bluff top development over a natural bluff face by fill and artificial construction and would substantially alter the natural landform and create geologic instability.

STAFF NOTE: While the applicant contends that the retaining wall is needed to protect the stability of "his property" evidence supplied by the applicant does not support his contention. The applicant has submitted no information showing that the wall is necessary to protect either the pre-existing single-family house, swimming pool, or the slope as it existed prior to the project's construction. Instead, the wall protects the fill placed on the slope behind the wall so that the backyard could be extended seaward artificially and that other amenities could be built over the bluff face. The applicant's initial geologist, from Solus Geotechnical Corp., indicated that the wall supports the fill placed without a permit.

The proposed project was originally scheduled for the January 1997 Commission hearing (application no. 5-95-294). The applicant postponed the hearing to prepare a response to the staff report and recommendation. The project was rescheduled for the April 1997 hearing. At the April hearing the Commission granted a second postponement and the project was rescheduled for the May 1997 hearing. On May 8, 1997, the applicant's representative submitted a letter withdrawing the application. The letter stated that a new application would be submitted within 30 days along with new geotechnical information pertaining to slope stability.

On September 22, 1997, the applicant submitted a new application with a new geotechnical report prepared by Technosoil, Inc., consulting geotechnical engineers (July 11, 1997). The new application was scheduled for the December 1997 hearing. On November 11, 1997, the applicant's representative submitted a letter (fax) requesting a postponement. Due to the request the project was rescheduled for the February 1998 hearing.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

Denial

The Commission hereby denies a permit for the proposed development on the grounds that it would not be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 and would prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of the Coastal Act.

IV. Findings and Declarations.

A. Project Description

The applicant proposes to construct a 12-foot high, 70-foot long retaining wall on the bluff face; deposit fill behind the wall and over the bluff face; extend cement patio by 1,050 square feet over the bluff face; extend side retaining walls down the bluff face running perpendicular to the 12-foot high retaining wall. Construction also includes a 720 square foot wood deck with wooden stairway leading from patio down to the deck; 450 level lawn area on the bluff face and seaward of the retaining wall; lower 3.5 foot retaining wall on the bluff face seaward of the wood deck and lawn area; and a pipe and board retaining structure seaward of the lower wall. The proposed project is located on a 10,220 square foot lot currently improved with an existing 2,665

square foot single-family residence with attached 693 square foot garage, patio cover, swimming pool, cement patio and side retaining walls (see Exhibit #1).

The proposed project was constructed in 1994 without the benefit of a Coastal development Permit nor City permits. Commission staff was notified of the development by one of the applicant's neighbors. After a thorough investigation and search of Coastal Commission and City of Los Angeles' records, staff determined that the development was unpermitted. The Property owner was notified and a Coastal Development Permit was subsequently submitted by the applicant.

The proposed site is a 10,220 square foot lot located on Warmouth Street in the San Pedro area of the City of Los Angeles. The northern half of the lot, where the existing residence and swimming pool are located, is level. Approximately 62 feet south of the residence the lot begins to slope at a 1:1 gradient. The slope descends for approximately 170 feet down to the rocky beach.

The applicant contends that a retaining wall existed in the same location as the new 12-foot retaining wall and the applicant simply improved the wall by increasing the height by approximately 3 feet. The wood deck and stairway was constructed prior to increasing the height of the wall. After the wall was increased in height the applicant deposited fill behind the wall, extended the cement patio slab, added to the wood deck, added landscaping, and constructed a lower retaining wall (See Exhibit #3).

The applicant states that the reason for extending the height of the wall was to address erosion problems caused by water leakage from the previously existing solar panels. The applicant states that the panels were damaged by the November 18, 1994 Northridge earthquake.

The project is sited within the jurisdiction of the City of Los Angeles and the County of Los Angeles. The cement patio extension, 12-foot high retaining wall and approximately 6 feet of the wood deck and lawn area are under the jurisdiction of the City of Los Angeles. The remaining southern (seaward) portion of the applicant's property, which includes the southern 5 to 10 feet of the wood deck and lawn area, and the 3.5 foot retaining wall, lies on property owned by and within the jurisdiction of the County of Los Angeles (see Exhibit #2).

The City of Los Angeles has issued an "approval in Concept" for that portion of the project that lies within the City's jurisdiction. As part of the grading approval the City required that the applicant sign and record a "Covenant and agreement Regarding Maintenance of Building" (see Exhibit #7). The document was recorded by the Los Angeles County Recorder's office on April 12, 1996.

The County of Los Angeles Department of Beaches and Harbors has submitted a letter to the South Coast District office approving that portion of the project that encroaches onto County property (see Exhibit #8).

As show below, the applicant has not demonstrated that the wall is a 3 foot extension atop a pre-existing wall. For purposes of this permit the entire 12-foot wall, backfill, cement patio and other improvements south of the 12-foot wall are before the Commission as new development.

B. Development History

According to City building records, building permits were issued in 1968 for the single-family residence and swimming pool. The single-family residence and swimming pool were completed in October of 1968 based on the issuance of a Certificate of Occupancy. There are no records of retaining walls or cement patio being approved. However, according to the City, the absence of a retaining wall on the building permit is not uncommon for that period since permits routinely did not include details such as retaining wall location. Furthermore, hardscape, such as patios, do not require permits, therefore, there would be no permits on record for the patio.

In 1979, City building records indicate that solar panels, for heating the swimming pool, were added to the site. The building permit indicated that grading would be involved. The type and amount of grading was not specified. The solar panels were installed along the southern portion of the lot. The panels were sited on the descending slope south of the swimming pool and approximately 5 feet beyond (downslope from) the original edge of the cement patio area. The panels extended perpendicularly approximately 40 feet from the western property line. The solar panels were installed by the previous owner of the property. While placement of solar panels would have required a Coastal Development permit, there is no evidence that the owner at that time applied for a permit.

Based on the 1987 and 1993 aerial photographs and building permits the solar panels were placed approximately 5 feet beyond the edge of the original cement patio on the sloping portion of the lot. Aerial photographs clearly show the S-shape edge of the original cement patio. The original patio edge was located approximately 35 to 40 feet from the single-family residence (see Exhibit #4).

Aerial photographs indicate that the wood deck and stairway leading from the level cement pad to the deck were built between 1987 and 1993. The deck was located down slope and adjacent to the solar panels (see Exhibit #5). The stairway was located adjacent to and parallel to the western property line. While placement of the wood deck and stairway would have required a Coastal Development permit, there is no evidence that a permit was applied for. The deck and stairway were constructed by the applicant.

The 12-foot high retaining wall is located a variable distance from 13 to 18 feet seaward (south) of the original cement patio edge or approximately 10 feet seaward from the original bluff edge (see Exhibit #6).

According to the applicant, there was a retaining wall underneath and on the downhill side of the solar panels that supported the panels and cut slope (see drawing submitted by applicant, Exhibit #3). The solar panels were installed on the slope in 1979 by the previous owner. After the panels were removed by the applicant the retaining wall was increased in height to its current height of 12 feet above the slopes grade, and the planter and lower 3.5 foot retaining wall was constructed.

Aerial photographs taken in 1986, 1987, and 1993 show the solar panels. However, it is impossible to determine whether or not a retaining wall or some type of supporting wall existed underneath the solar panels. However, based on the aerial photographs it is evident that if a wall did exist and supported the solar panels the wall did not extend across the entire width of the

property as does the current wall.

Furthermore, after inspecting the wall there is no evidence to support the applicant's contention that there was a previously existing older wall and that new bricks were added onto the existing wall. The entire brick wall appears to be homogenous in appearance. The masonry work (bricks and mortar) appears to be identical or uniform from top to bottom. Therefore, the entire wall appears to be new construction. There is no evidence that would support that construction was repair of an existing wall or refacing of an existing wall.

Based on the information gathered by Commission staff, the 12-foot retaining wall, fill, patio extension, side retaining walls, wood deck, stairs, planter, lawn area, and lower retaining wall all appear to be new development and constructed after the enactment of the Coastal Act and therefore requires a Coastal Development Permit.

In past Commission permit action on the site the Commission, in November 1995, approved a second story addition over the existing single-family residence [5-95-140 (Nasr)]. The second story addition is currently under construction. The proposed project is physically separate from the existing residence and approved second story addition.

C. Geology

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 San Pedro certified LUP designates the bluffs as a Geologically Hazardous Area (Appendix B of the LUP). The LUP states in part that:

New development, including additions to and remodels of existing structures, along coastal bluffs shall not be approved unless it minimizes risk to life and property, assures structural stability and integrity for the economic lifetime of the development...

The existing residential structure, which was constructed in 1968, is located on a bluff top within a level area in the northern half of the lot. The southern half of the lot slopes at a 1:1 gradient down to the rocky beach.

A geologic report prepared for the construction of the existing single-family residence, by Robert Stone and Associates (1968), states that the property is underlain by an ancient landslide. The report further states that the slide-affected bedrock beneath the property showed no significant disruption and concluded that residential construction was feasible and that all

permanent construction should be setback at least "10 feet from the top of the bluff".

Based on the Robert Stone and Associates report the City of Los Angeles' Building and Safety Department granted approval of the original residence with a geologic requirement that stated:

2. The proposed dwelling and swimming pool shall be locate behind a 42 and 31 foot clearance, respectively, from the top of the slope.

Based on site visits and a review of the site plan it appears that the dwelling and swimming pool where constructed consistent with the above City setback requirement.

The proposed development consists of a 12-foot high retaining wall on the bluff face along the entire 70 foot width of the property. The wall has been backfilled and raised to extend the yard area over the bluff face and covered with a concrete slab constructed at grade, level with the pool deck, and extending approximately 12-feet above the bluff face grade. Along the side property lines are stepped walls running perpendicular to the 12-foot high wall. These walls appear to be tied into the main wall. At the base of the 12-high wall, along the western half of the property, is a wood deck. The deck is raised approximately 3 feet above ground level by wood piers. Along the eastern half of the property is an approximately 3 foot high retaining wall that is backfilled and used as a planter. Immediately south of this planter is a level lawn area. An approximately 3.5 foot high block wall, topped with a wrought iron railing, is constructed seaward of the wood deck and lawn area. Pipe and board retaining structures have been constructed downslope of the lower wall.

On November 13, 1995, a geologic report was prepared for the applicant by Solus Geotechnical Corp. The report indicates that the site is situated within the confines of a known ancient, inactive landslide, as indicated in the Robert Stone and Associates, March 14, 1968 report. The Solus report also indicates that the landslide was inactive and stable and concludes that there are no known active landslides or significant or potentially active faults in the surrounding area.

With regards to the proposed development the Solus report indicates that the:

... 12 foot high retaining wall... appears to be in good condition... plumb, and free of cracks or other evidence of deterioration... The block cells [of the 3 foot high retaining wall (planter)] are not grouted and the wall exhibits cracking, rotation, and disrepair... The block cells of [the lower 2 foot high block wall] are not grouted... [The] stepped block wall [that] runs perpendicular to the main wall [has experienced a] large separation crack... between this wall and the main wall. The southerly end of this wall appears to be settling and creeping toward the bluff face. The pipe and board structures are constructed with plumbing pipe, rebar, fence stakes, and household lumber. They are in disrepair.

The Solus report concludes that:

The [larger] wall appears to have been properly constructed and is in good repair. It shows no evidence of cracks, rotation, settlement, slippage or creep. The wall appears to be stable. The wall is considered an

important part of the development, and is providing support for the rear yard area.

The Solus report further concludes that:

Removal of the wall could create a hazard for the structures and could create adverse drainage conditions on the bluff face... The lesser retaining walls, the pipe and board structures, and the wood deck... do not appear to have been properly constructed. These improvements should be removed from the site...

In response to an insurance claim by Mr. Nasr, a geotechnical evaluation was conducted for Allstate Insurance. The report for Allstate was prepared prior to the Solus report. The geotechnical evaluation was conducted by AGRA Earth and Environment. The evaluation produced two reports. The first report was dated August 26, 1994 and the second was December 15, 1994.

AGRA drilled three geotechnical borings on the property. Two borings were drilled adjacent to the house. The third, boring B-1, was drilled approximately 6 feet behind the large retaining wall. The report indicates that from the boring (B-1) it was determined that:

... the upper 3 feet of backfill materials were found to be compacted to only 69 percent of the maximum dry density [Los Angeles City guidelines require fill to be compacted to at least 90 percent], and the consolidation test-pressure curve shows that the material at 2 feet below the surface may continue to consolidate under normal loads; therefore, further distress associated with settlement may be expected. Downslope adjustment may also continue due to the naturally dynamic nature of near surface soils on the shorecliff.

The report further states that:

The surficial stability of the seabluff was observed to be affected by erosional and slope-creep [processes]... In this area, both soils and landslide "float" outcrops were observed to be loose and unstable.

The backyard improvements within the influence of the steep seacliff should be considered to be temporary and subject to ongoing creep and potential downslope failure.

The Solus report did not conduct any subsurface excavations and according to the geologist for Solus, Solus did not review the reports prepared by AGRA.

As part of the City of Los Angeles' geotechnical review of the project the City reviewed the Solus report. The City did not have the opportunity to review the AGRA reports. However, because the wall was already constructed, the City's grading department could not determine if the wall's design pressures were adequate for the area since geologic information of material behind the wall was not provided. Therefore, since the wall was already constructed and necessary geotechnical information was not available to determine if the wall was constructed properly the City decided to waive geotechnical approval upon the applicant's recordation of a "Covenant and agreement Regarding Maintenance of Building". The document, which has been recorded by the applicant, states in part that the applicant is aware that:

design pressures may not be appropriate and/or adequate since the geologic information of material behind the wall is not provided by our design consultant. We also recognize that the wall does not conform to code requirement in regard to the setback distance between the wall footing and the descending slope surface... Furthermore, based on field observations... rebar placement in the wall is less than that required by design calculation.

Based on the Solus and AGRA geotechnical reports it is evident that the bluff area is unstable and subject to surficial creep and erosion. Aerial photographs show that the natural slope lies 10 to 15 feet further inland from where the large retaining wall and other structures currently exist. Therefore, the improvements proposed by this permit application are located seaward and downslope of what was once the original or natural bluff edge and in an area designated in the San Pedro Land Use Plan as a geologically hazardous area. Based on the geologic reports and the City's review, this area is considered as a geologically hazardous area. Further compounding the potential hazard is the fact that the large retaining wall, lower walls, wood patio are not constructed properly, as stated in the Solus report and applicant's recorded "Covenant and Agreement" document. Such construction can add additional weight to the unstable slope and exacerbate erosion.

Although the Solus report states that the mesa area at the top of the bluff is considered stable for construction the report states that the bluff is not believed to possess a factor of safety of 1.5. The Solus report states that the geotechnical factor of safety for the slope was not determined because:

the data required to perform the analysis is off-site, and could only be acquired by very deep (170+ feet) borings.

Subsequent to the geotechnical report prepared by Solus the applicant submitted a new soil and geology investigation report. The report was prepared by Technosoil, Inc., on July 11, 1997. The report states that:

... Based on a stability analysis, the factor of safety with respect to gross stability of the portion of the slope analyzed exceeds the normally accepted value of 1.5.

The Technosoil report appears to base their stability analysis on one 64-foot deep boring located approximately 20-feet behind the large retaining wall. The report states that the stability analysis only pertains to that portion of the slope where the boring was taken. The analysis does not include the portion of the slope where the retaining walls are located and the area immediately downslope of the walls which would indicate the stability of the area immediately behind and in front of the wall.

The Technosoil, Inc. report concludes that in order to comply with the current setback requirement for the foundations located adjacent to an existing slope, it is recommended that the existing large retaining wall be underpinned by 2-foot diameter friction piles in terrace deposits and bedrock underlying the subject site. The foundation of the wall is located seaward of the geologic setback line drawn from the toe of the bluff to the top of the bluff which indicates a plane of stability. To comply with the setback requirements the friction piles must be drilled below this line and into bedrock, as proposed by Technosoil, Inc. The City of Los Angeles' Department of Building and Safety (Letter dated October 24, 1997. See Exhibit #9) has reviewed the

recent report by Technosoil, Inc. and based on the report's calculations have determined the report is acceptable for the proposed underpinning of the existing large wall.

Based on the conclusion and recommendations made by Technosoil, Inc., it is evident that the large wall is not constructed properly and additional protective and stability measures are necessary to ensure that the wall will be constructed properly and geologically safe. None of the geologic reports submitted contend or represent that the wall is necessary for the stability of the house or the former sloping backyard area. The reports indicate that the retaining walls support the fill and cement patio extension and that additional measures are necessary for wall stability.

Major Issues

The proposed development raises a precedential issue of extending flat bluff top development seaward over natural bluff faces by fill and artificial construction. Such structures are inherently unstable because the underlying bluff is a structure which over time will erode. This is especially true in instances such as this where the bluff is composed mostly of landslide debris.

In past permit actions the Commission has found that development on steep bluffs have been found to have the potential to significantly exacerbate the natural process of erosion in conjunction with erosion caused by wave action on coastal bluffs. In Coastal Development Permit application 5-85-460 (Dinsmore) the Commission denied the development of a stairway down a coastal bluff due to the potential erosion and landform alteration that would be caused by the construction and placement of the stairway. Erosion rates are greater when structures are built on the bluff face. Rain water running off such structures over time tend to undercut and erode the area of the bluff immediately behind the structure. Additionally, the loss of vegetation through the altering of the natural landforms would increase the erosion potential. Moreover, the planting of ornamental landscaping, that may require frequent watering, will also increase the erosion potential.

Furthermore, the placement of structures on the bluff face could necessitate the placement of protective measures, such as gunite or additional retaining structures to protect the encroaching structures if and when they begin to fail. Technosoil report recommends that the retaining wall be underpinned by 2 foot diameter friction piles. The Solus report also recommends that the wood deck and lower retaining structures be removed and that remedial measures may be necessary to protect the main wall from adverse geologic conditions. Such measures, as proposed by both geotechnical reports would result in further alteration of the natural landform and lead to further instability of the bluff face.

Even though the geologist (Solus) states that removal of the main wall would create a hazard for the structures there is no evidence provided by the applicant that subsurface exploration was conducted by or reviewed by Solus that would substantiate the statement that the main wall is necessary to protect the house and pool. Moreover, in a telephone conversation with the geologist from AGRA, who was involved with inspecting the site, the geologist stated that it was his opinion that the wall does not support the existing swimming pool and residence.

If the unpermitted fill is removed and slope restored to its predeveloped condition and revegetated with drought tolerant vegetation the removal of the wall should not create a hazard to the development or property. There is evidence that the bluff face is geologically unstable. Because the walls and fill do not support the bluff or structures removal of the walls will not create a hazard. Additional drilling for pilings, however, will penetrate unstable material and if not carried out properly could cause further slope stability problems. The placement of the proposed structures, as currently designed and constructed, will contribute to the existing hazard and will cause further erosion due to additional water runoff or failure of the wall. As stated in the geotechnical reports submitted for this project the retaining walls are not constructed properly and will require additional protective measures on the bluff. Although the Technosoils Inc. report states that the large wall could be structurally strengthened, the retaining walls and backfill alter the natural bluff face and there will still remain a possibility that the structures will fail and pose a hazard to the public down on the rocky beach below the walls.

Therefore, the Commission finds that the proposed project will adversely impact the stability and structural integrity of the bluff, will contribute to erosion, will alter the natural landforms along the bluff and will likely require construction of protective devices that will substantially alter the bluff. The Commission, therefore, finds that the proposed project is inconsistent with Section 30253 of the Coastal Act and denies the proposed project.

C. Visual Resources

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

In addition, the certified LUP states in Part that:

...A primary concern of the Specific Plan is to protect ocean and coastal view as seen from public areas such as highways, roads, beaches, parks, trails... It is intended that development be designed and sited to protect views to and along the ocean and scenic coastal areas, to minimize alteration of natural landforms, to be visually compatible with the character of surrounding areas, and to restore and enhance visual quality to the extent feasible.

The subject property and surrounding area is designated residential. The surrounding area consists of single-family residences that were constructed in the late 1950's and 1960's. All blufftop lots are developed with single-family residences. Some of the lots have decks and retaining walls

built out near or at the edge of the bluff. These structures were built prior to the Coastal Act. With regards to Commission permit action for this area there are no records of any permits being granted in the area, except for the applicant's second story addition (CDP 5-95-140).

At the foot of the 120 foot high bluffs is a rocky beach and Royal Palms Beach Park. The area is designated as a Recreational Area in the San Pedro certified LUP. From the beach one can see a number of the residential decks, walls, and fences along the bluff. Visibility of the proposed development is limited. However, all existing development along the bluff has existed prior to the Coastal Act and is located atop the bluff and does not extend down the bluff face as in this case.

The proposed project is visible from the public beach. Although the proposed project and other structures are visible along the top of the bluffs from the public beach, the majority of the bluffs are undeveloped and remain in their natural state. The approval of development on the bluff face may lead to additional homeowners constructing or applying for permits for similarly placed development. Such development will have an individual and cumulative adverse visual impact from the beach below. Section 30251 of the Coastal Act states in part that views to and along the ocean and scenic coastal areas shall be protected and to minimize the alteration of natural land forms. The San Pedro coastal bluffs are a scenic and visual resource and should be protected as a resource of public importance. Although development exists and is currently limited in public visibility, the construction of additional structures on the bluff face would individually and cumulatively degrade the unique scenic and visual quality of this coastal area and further alter the natural landform along the bluff. Therefore, the Commission finds that the proposed project is not consistent with Section 30251 of the Coastal Act.

D. Local Coastal Program

(a) Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

On September 12, 1990, the Commission certified, with suggested modifications, the Land Use plan portion of the San Pedro segment of the City of Los Angeles' Local Coastal Program. The certified LUP contains policies to guide the types, locations and intensity of future development in the San Pedro coastal zone. Among these policies are those specified in the preceding section regarding geology and visual resources. Currently, an implementation plan for the San Pedro area has not been submitted. Therefore, there are no specific policies as to bluff top development.

As stated in the preceding sections the proposed project is inconsistent with all relevant policies of the LUP. The Commission, therefore, finds that the proposed project is inconsistent with the LUP and with the Chapter 3 policies of the Coastal Act and will prejudice the ability of the City to prepare a Local Coastal Program implementation program consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

E. Unpermitted Development

Recent site improvements include two bluff face retaining walls, fill, stairs, a wood deck and a cement patio extension, along the upper portions of the descending slope, south of the existing residence. These recent improvements are physically separate from the existing residence and the proposed second story addition. There are no records of permits issued for this recent development. Therefore, the Commission finds that the existing development was placed without a coastal development permit, thus it is unpermitted. and staff is currently investigating this development as unpermitted development. As demonstrated in the preceding sections the CCC has found the proposed project to be inconsistent with Sections 30251 and 30253(b) of Chapter 3 of the Coastal Act. The project is already built and is causing ongoing adverse impact on the coastal resources of the area where it is located. The existing structures are contributing to the hazardous nature of an identified unstable bluff area.

Although unpermitted development has taken place elsewhere on the property prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Action on of the permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a Coastal permit.

F. CEQA

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. There are negative impacts caused by the proposed development which have not been adequately mitigated. Therefore, the proposed project is found inconsistent with CEQA and the policies of the Coastal Act.

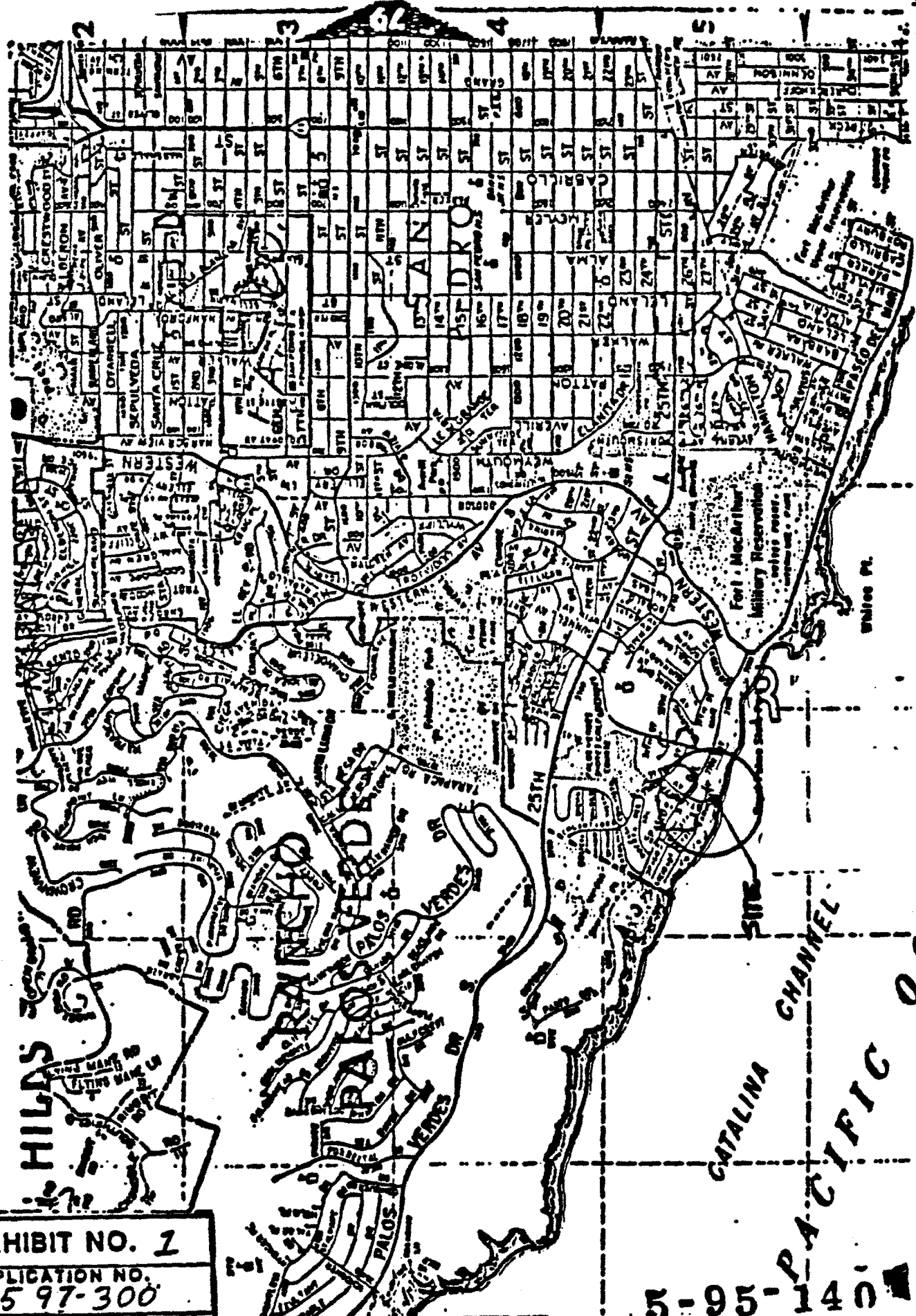
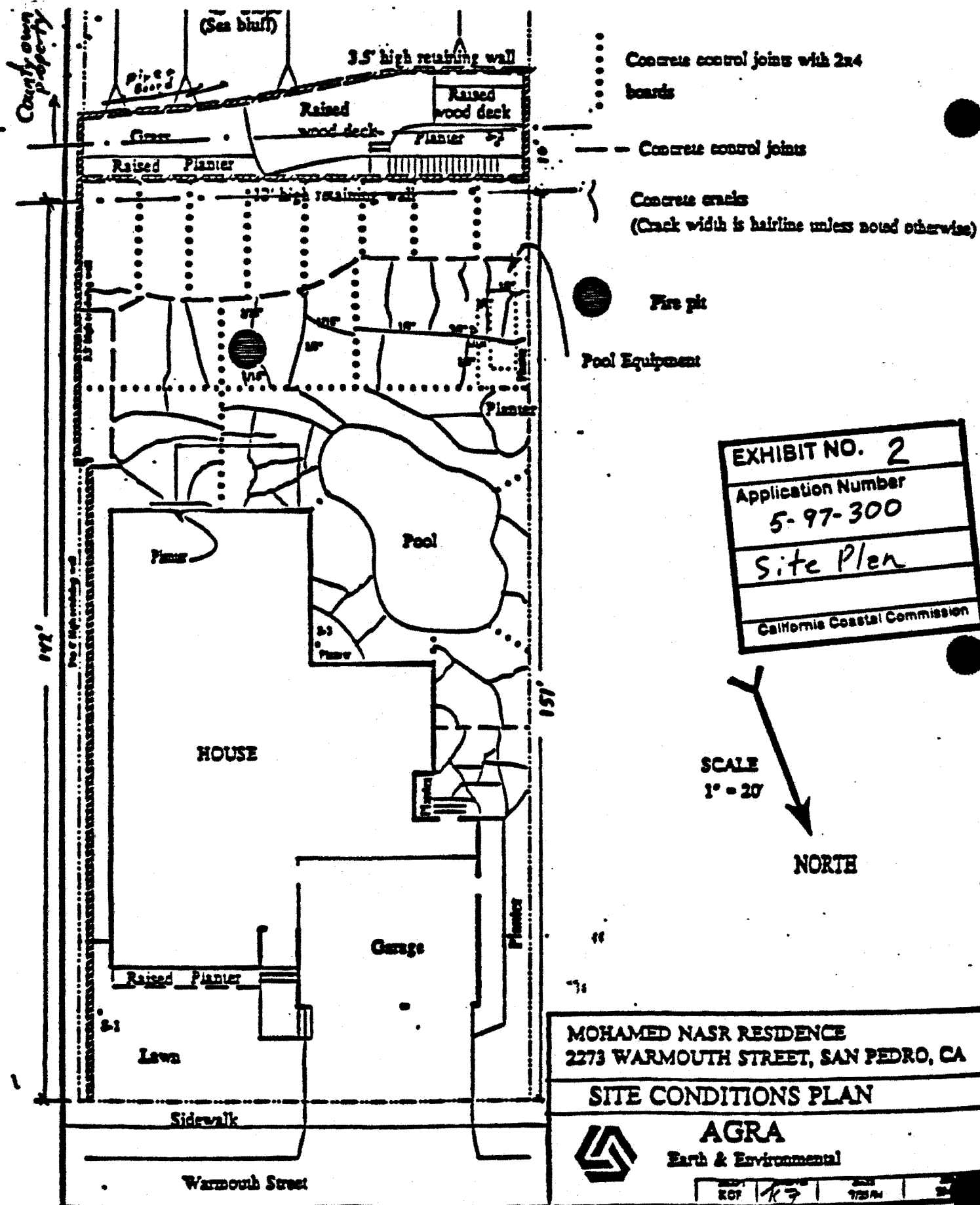


EXHIBIT NO. 1
APPLICATION NO.
597-300
Vicinity Map
California Coastal Commission

VICINITY MAP

5-95-140



FROM:

V.K. JEBETIAN

PHONE 818.352.3503

PAGER 563.0458

FAX 352.8865

NOTED V.P. JEBETIAN

Application Number

5-97-300

Applicant's Suba

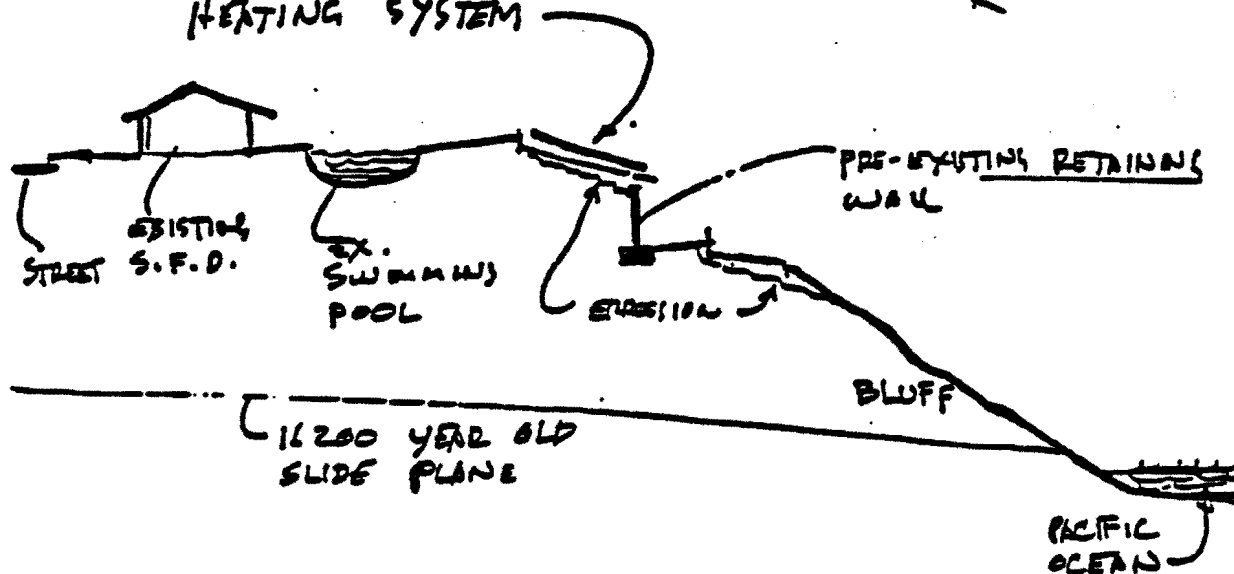
Diagram

California Coastal Com

PRIOR TO 2/10/94

SUBSEQUENT TO 1/94 EARTHQUAKE

- ① DR NASR, WHO LIVES FULL TIME @ ILL. & PART TIME IN CALIFORNIA, WAS NOTIFIED BY HIS GARDNER OF EQ DAMAGE TO HIS SWIMMING POOL SOLAR HEATING SYSTEM



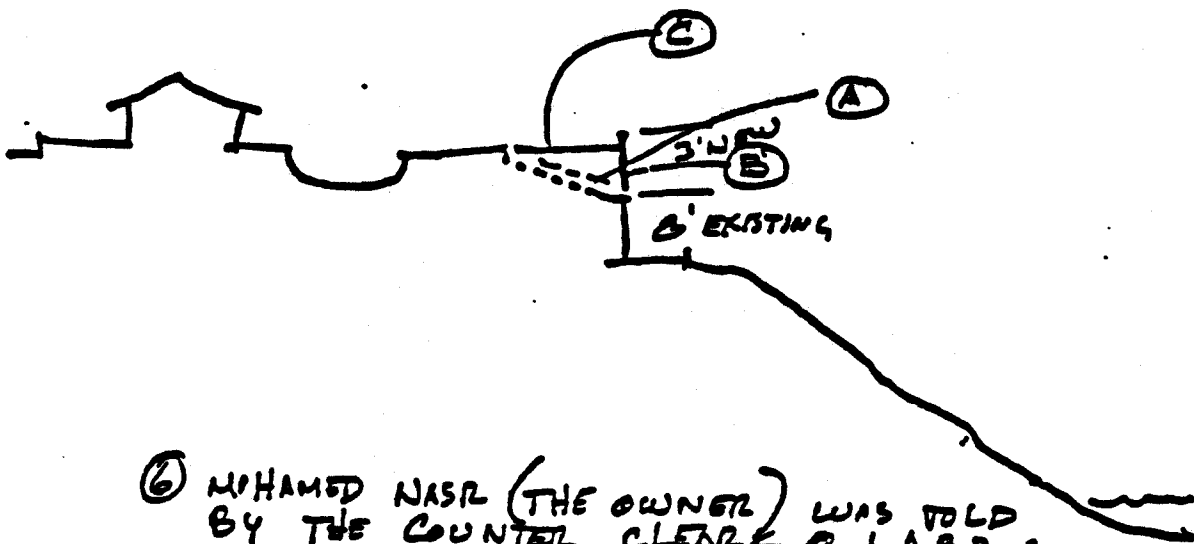
- ② HE TOLD GARDNER TO SHUT OFF POOL EQUIPMENT WHICH HAD EMPTIED WATER FROM POOL TO SLOPE & BLUFF CAUSING EROSION NEAR THE CENTER OF HIS PROPERTY.
- ③ SHORTLY THEREAFTER HE RETURNED TO HIS CALIFORNIA HOME (SUBJECT PROPERTY @ 2273 WARMOUTH ST. SAN PEDRO CA 90732)
- ④ HE THEN VISITED LOS ANGELES DEPARTMENT OF BUILDING & SAFETY TO REQUEST BLDG PERMITS TO DO REPAIR WORK NECESSARY TO PREVENT FURTHER DAMAGE TO HIS PROPERTY.

NASR P I 1/2

| | |
|-------------------------------|----------|
| EXHIBIT NO. | 3 |
| | P92 |
| Application Number | 5-97-300 |
| | |
| California Coastal Commission | |

⑤ THE REPAIR WORK MOHAMED FELT NECESSARY WAS :

- A REMOVE SOLAR PANELS (DAMAGED BY EQ 94 TO ELIMINATE FURTHER POTENTIAL HAZARD)
- B BUILD ~ 3' OF RETAINING WALL
- C PAVE AREA ABOVE WALL & DRAIN TO STREET TO REDUCE SURFACE DRAINAGE TO THE BLUFF & NEGATE FUTURE EROSION TO BLUFF.



⑥ MOHAMED NASR (THE OWNER) WAS TOLD BY THE COUNTER CLERK @ L.A.B.D. :

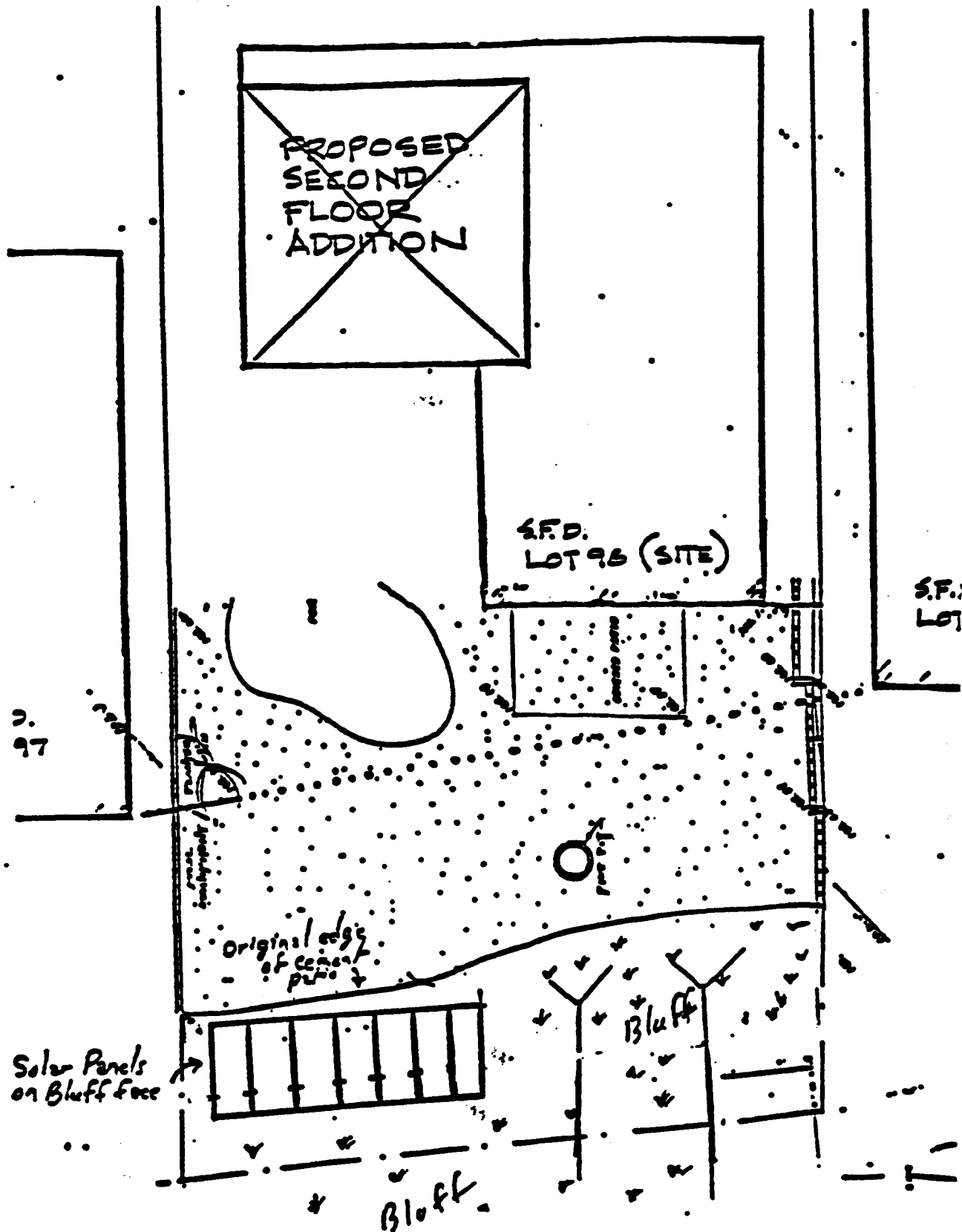
A "PERMITS FOR WALLS LESS THAN 3' ARE NOT REQUIRED"

B "PAVING ON GRADE DOES NOT REQUIRE PERMIT"

⑦ ∴ MOHAMED RETURNED TO WARMOUTH & COMMENCED CONSTRUCTION W/ WORKERS.

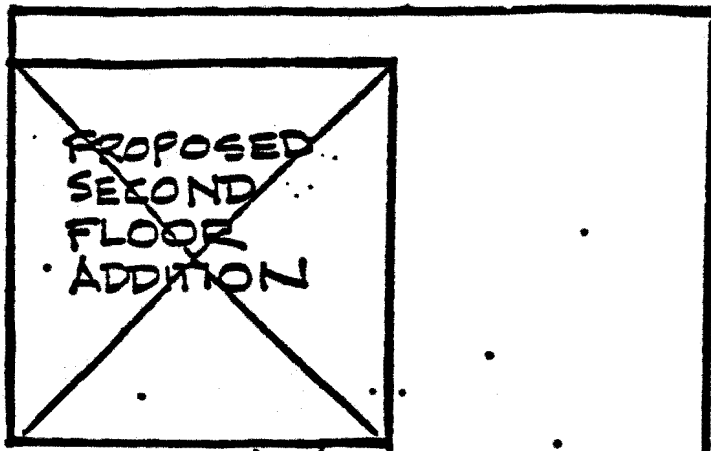
⑧ HIS NEIGHBOR TO THE EAST, CALLED ALL PARTIES INVOLVED & COMPLAINED OF HIS ACTIVITIES.

⑨ BEGIN NOW THE CHAIN OF DOCUMENTS & ACTIVITIES PERTINANT TO THE COASTAL COMMISSION FILE 5-94-94 & L.A.B.D ORDER TO COMPLY # 75174 / ROBERT GARTH (SUBSEQUENTLY REPLACED BY HUANG) NEW ORDER TO COMPLY # 88293
NASR P. 3/2



| |
|---------------------------------------|
| EXHIBIT NO. 4 |
| Application Number 5-97-300 |
| Site Plan for Development in 1979 |
| California Coastal Commission |

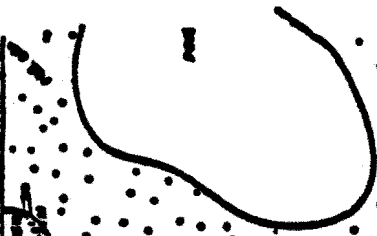
Site Plan
for
1979



S.F.D.
LOT 9B (SITE)

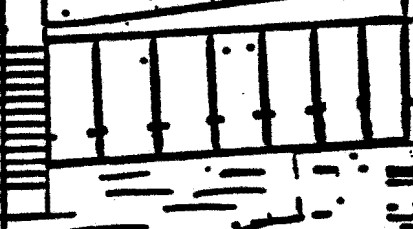
S.F.I.
LOT

2.
97



Original edge
of cement
pave +

Solar Panels
on Bluff face

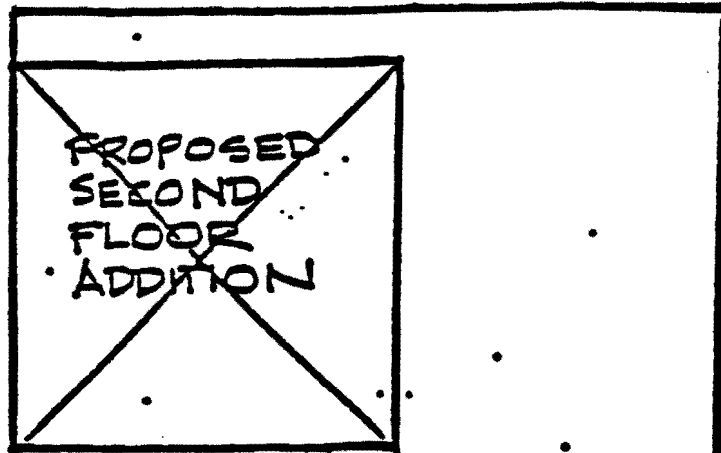


Wood Deck

Bluff

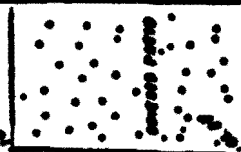
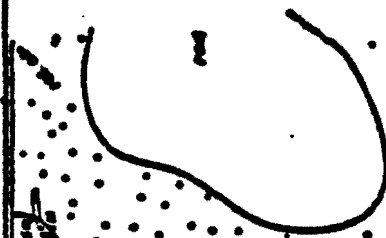
| | |
|-------------------------------|----------------------|
| EXHIBIT NO. | 5 |
| Application Number | 5-97-300 |
| Site Plan for | Development in 87-93 |
| California Coastal Commission | |

Site Plan
for
1987-1993



S.F.D.
LOT 96 (SITE)

D.
97



S.F.
96

Proposed
Access
Road

Backfill

12' High Retaining Wall

Raised
Planter

Wood Deck

Grass

Lower Retain.
wall

Bluff

| | |
|--------------------------------------|-----------|
| EXHIBIT NO. | 6 |
| Application Number | -5-97-300 |
| Site Plan for Development in 1996 | |
| California Coastal Commission | |

Site Plan
for
1996 - Present

Recorded in the presence of and with me:
Los Pedro
2900 Orange St
LA CASTLETON CA 91214

RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA
9:41 AM APR 12 1996

CALIFORNIA
COASTAL COMMISSION
97B 510 DISTRICT
DAF S2
C-20

SPACE ABOVE THIS LINE FOR RECORDER'S USE

COVENANT AND AGREEMENT NCPE Code 19 8.6
REGARDING MAINTENANCE OF BUILDING

The undersigned hereby certify that we are the owners of the hereinafter legally described real property located in the City of Los Angeles, State of California.

LEGAL DESCRIPTION: Lot 98 of Tract No. 22374, in the City of Los Angeles, in the county of Los Angeles, State of California, per map

as recorded in Book 606, Page 1-7, Records of Los Angeles County, which property is located and known as (ADDRESS): 2273 Warmouth St., San Pedro, Ca. 90734

And in consideration of the City of Los Angeles showing the continual maintenance of a 12' high x 40' long wall built without permit and inspection, at the rear yard of this property.

On said property, we do hereby covenant and agree to and with said City to We hereby acknowledge that the approximately 12ft. high by 40ft. long retaining wall at the rear of the property was constructed in 1994 without permits and City inspections. Furthermore, we concede that though the wall was designed for 30 pcf. equivalent fluid pressure and 1500psf soil bearing pressure in accordance with report prepared by Solis dated December 12, 1995, these design pressures may not be appropriate and/or adequate since the information of material behind the wall is not provided by our design consultant. We also recognize that the wall does not conform to code requirement in regard to the setback distance between the wall footing and the descending slope surface.

CONTINUED ON PAGE 82

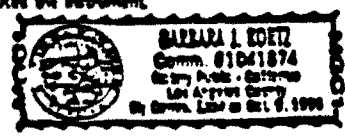
This Covenant and agreement shall run all of the above described land and shall be binding upon ourselves, and future owners, successors, heirs or assigns and shall continue in effect until released by the authority of the Superintendent of Building of the City of Los Angeles upon submission of request, applicable fees and evidence that this Covenant and agreement no longer required by law.

SIGNATURES Owner's Name (Please type or print) Enghard Meyer
Signature of Owners Melanie Meyer (Sign)
MUST BE Two Officer's Signatures Required for Corporations (Sign)
NOTARIZED Name of Corporation _____
Dated this 9th day of April 1996

STATE OF CALIFORNIA, COUNTY OF Los Angeles

On April 9 1996 before me, Barbara J. Edetz, personally appear Melanie Meyer (for proof to me the basis of satisfactory evidence) to be the person(s) whose name(s) was subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument (person(s)), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Signature Barbara J. Edetz

FOR DEPARTMENT USE ONLY:
MUST BE APPROVED BY Dep. of Building & Safety prior to recording
APPROVED BY [Signature]
District Map 951PS Branch SP
APPROVAL NUMBER _____
Recorded on 4/12/96 DATE _____

EXHIBIT NO. 7
Application Number
5-97-300
Applicant's Covenant
and Agreement
California Coastal Commission

Recorded at the request of and mail to:

(Name)

(Address)

APR 12 1996

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

SPACE ABOVE THIS LINE FOR RECORDER'S USE

COVENANT AND AGREEMENT REGARDING MAINTENANCE OF BUILDING

The undersigned hereby certify that we are the owners of the hereinafter legally described real property located in the City of Los Angeles, State of California:

LEGAL DESCRIPTION: Lot 98 of Tract No. 22374, in the City of Los Angeles, in
the county of Los Angeles, State of California, per map

as recorded in Book 606 Page 1-7 Records of Los Angeles County, which property is located
and known as (ADDRESS): 2273 Warmouth St., San Pedro, Ca. 90734

And in consideration of the City of Los Angeles allowing

Continue from page 1

We agree to disclose the above information to future buyers of this property and to hold the city harmless from any liability resulted from problems caused by this wall. Furthermore, based on field observations and performed by Smith Emery, rebar placement in the wall is less than that required by design calculation.

on said property, we do hereby covenant and agree to and with said City to

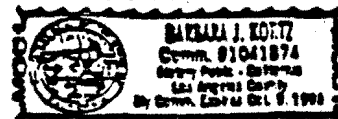
This Covenant and agreement shall run all of the above described land and shall be binding upon ourselves, and future owner, encumbrancers, their successors, heirs or assigns and shall continue in effect until released by the authority of the Superintendent of Building of the City of Los Angeles upon submittal of request, applicable fees and evidence that this Covenant and agreement is no longer required by law.

Owner's Name (Please type or print) Mohamed Nassr
SIGNATURES Signature of Owners [Signature] (Sign)
MUST BE Two Officer's Signatures Required for Corporations (Sign)
NOTARIZED Name of Corporation LLC
Dated this 8th day of April 1996

STATE OF CALIFORNIA, COUNTY OF Los Angeles

On April 9, 1996 before me, Barbara J. Kottz, personally appeared [Signature], personally known to me (or proved to me the basis of satisfactory evidence) to be the person(s) whose name(s) were subscribed to the within instrument and acknowledge to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Signature [Signature]

FOR DEPARTMENT USE ONLY:

WHEN BY APPROVED BY Dept. of Building & Safety prior to recording

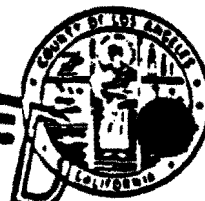
District File _____ Branch Of _____



COUNTY OF LOS ANGELES
DEPARTMENT OF BEACHES AND HARBORS

December 11, 1996

RECEIVED



STAN WISNIEWSKI
DIRECTOR

DEC 12 1996

KERRY GOTTLIEB
DEPUTY DIRECTOR

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

JUDITH KENDALL
DEPUTY DIRECTOR

Mr. Al Padilla
Coastal Program Analyst
California Coastal Commission
245 West Broadway, Ste. 380
Long Beach, California 90802-4416

Dear Mr. Padilla:

COASTAL PERMIT APPLICATION #5-95-294 (Nasr)

This letter is in response to your request for a statement regarding the impact of a possible encroachment on County owned property at Royal Palms Beach. This possible encroachment involves a deck and retaining wall built at the rear of a home, owned by Mr. Mohamed Nasr, at 2273 Warmouth Street, San Pedro. It was apparently discovered because Mr. Nasr has applied for a Coastal Permit to add on to his house.

Our investigation of this matter involved a site visit, on November 5, 1996, by Mr. Greg Woodell, Planning Specialist. In addition, I walked the property boundaries of Royal Palms Beach, as they were described by the California Department of Parks and Recreation, which was the previous owner.

Mr. Woodell met with Mr. Nasr and his architect, V. K. Jebejian. Mr. Woodell reviewed the Coastal Permit Application, Mr. Nasr's improvement plans, as well as a survey and topography map supplied by Mr. Nasr. Although the County's property line cannot be easily identified on the site, it appears that Mr. Nasr's retaining wall and deck may encroach on County property. The extent of the encroachment is approximately 8 feet wide and 70 feet long. (See enclosed photograph.)

My inspection of the County's property line revealed that the County owns a near vertical, undeveloped bluff face, which extends approximately one-half mile up coast from the developed portion of Royal Palms Beach. (See enclosed map and narrative description provided by the California Department of Parks and Recreation.) The property that Mr. Nasr may have encroached on is at the top of the bluff, completely isolated from public access. There is no public access from

EXHIBIT NO. 8

Application Number

5-97-300

County Approved
Letter

Mr. Al Padilla
December 11, 1995
Page 2

Warmouth Street, nor are there any trails up the bluff from the rocky shoreline at the bottom, or across the bluff from either end. In fact, there is no practical recreational use of the bluff. Also, since there are no level areas at the top of the bluff, and because the State Lands Commission owns the tide and submerged lands at the foot of the bluff (there is no "beach"), the County-owned land is not developable for public recreation.

According to Mr. Nasr, the retaining wall, which may be on County property, was built in 1994 to solve an erosion problem caused by an earthquake. The County did not accept title to the property until September 15, 1995. (See enclosed Grant Deed.) When the transfer of the State beaches was negotiated, the County accepted the property with all existing easements and encumbrances. Since Mr. Nasr's wall and deck were built prior to the County's ownership, and because it was not identified as an encroachment by the State, it is a preexisting condition that the County inadvertently accepted.

Given that the extent of the encroachment, if any, would be time consuming and costly to identify, and since it has absolutely no impact on public access or the recreational use of the County's property, we do not believe it is in the public's best interest to pursue the matter further. Mr. Nasr's request for a Coastal Permit should be evaluated on the basis of its other merits alone. However, the County must reserve its right to require Mr. Nasr to remove any development that encroaches on County owned property if it is ever deemed to infringe on the public's right to access and recreational use of the property.

Thank you for bringing this matter to our attention. By copy of this letter, we wish to thank Mr. Nasr and his architect for their cooperation and courtesy. "

If there are any questions regarding this matter, please call me at (310) 305-9573.

Very truly yours,

STAN WISNIEWSKI, DIRECTOR

Dean R. Smith

Dean R. Smith
Executive Assistant

SW:DRS:be
Enclosures
C: Mohamed Nasr

**BLUE SUBJECT ARROWS POINT
TO COUNTY PROPERTY LINE**

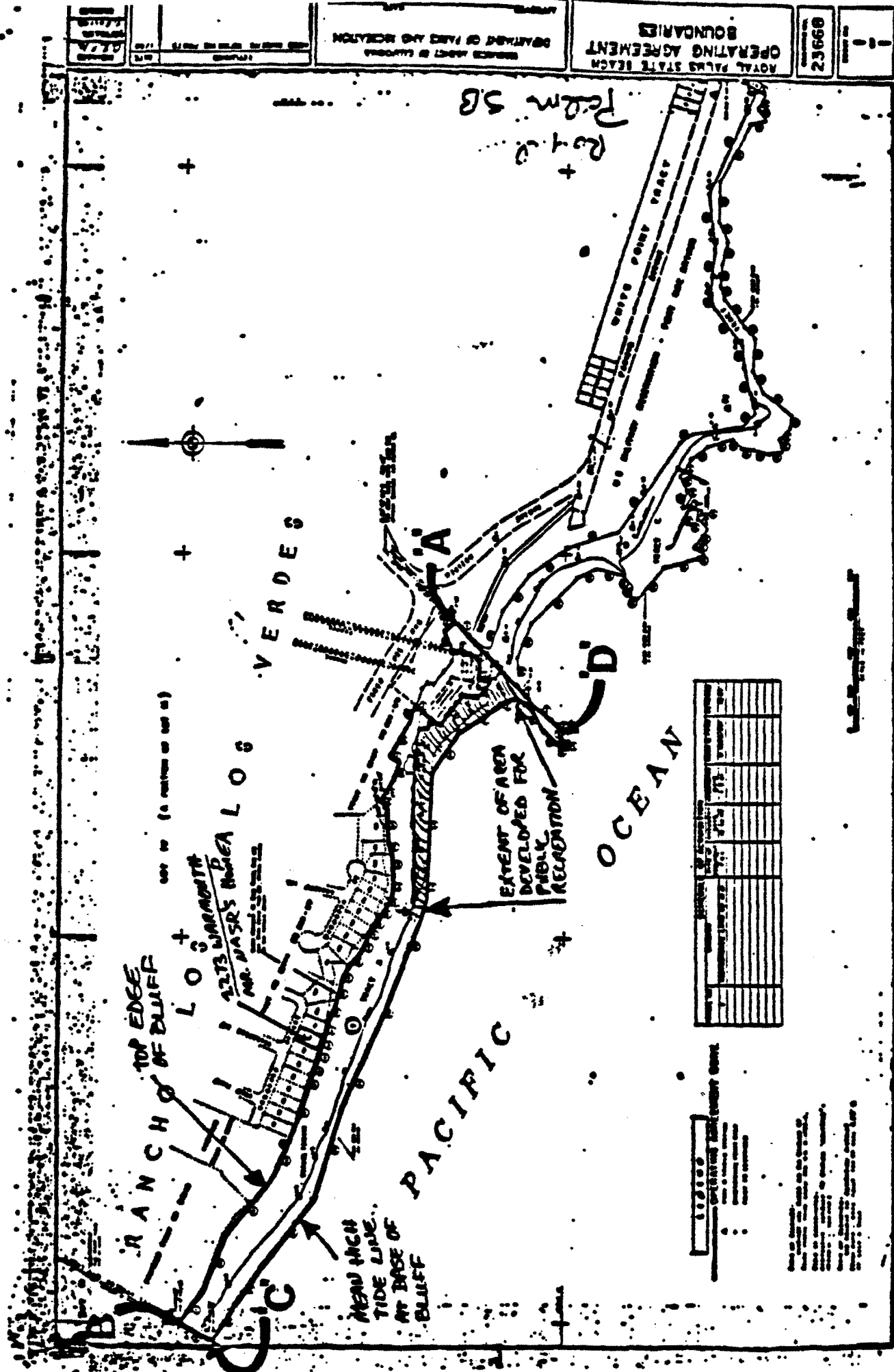
This picture shows the patio of Mohammed & Joan Nasr, 2273 Warmouth St. San Pedro, CA. Mr. Nasr's property abuts Royal Palms County Beach. Mr. Nasr's property is on the left side of the line, with Royal Palms being on the right side.

In the 1994 earthquake, a pool filter ruptured in Mr. Nasr's back yard and thinking that the property line was lower, a retaining wall and a deck were built to stabilize the bluff.

In October, 1996, Mr. Nasr requested a coastal permit to build a second story on his house. It was at that time that he learned his 1994 constructed deck and retaining wall were encroaching on County property an average of 8 feet from one end of his property to the other.

11-6-96/GW:gw





NARRATIVE BOUNDARY DESCRIPTION

Royal Palms State Beach

The area involved in the Operating Agreement between the State of California, Department of Parks and Recreation, and the County of Los Angeles as added to the contract by Amendment No. 1, executed by the State of California on March 22, 1989, is graphically referred to on Royal Palms State Beach Operating Agreement Boundaries Map, Drawing No. 23668 (attached), and verbally described as follows:

Beginning at the point of intersection of the top of the bluff with the southwesterly extension of the centerline of "Western Avenue" (Point "A"); thence northwesterly down the bluff and around the Sanitation District property fence and up the rock wall to a point 65' beyond the end of the wall; thence, westerly, to the northeasterly end of the Sanitation District property fence; thence, continuing up the bluff to a point midway up the bluff in-line with the southeasterly corner of the property on lot 124; thence, westerly, along the bluff, to the end of the cyclone fence surrounding the mobile home park located adjacent to and easterly of the Los Angeles city limits boundary (Point "B"); thence, southwesterly, along the Los Angeles city limits boundary, and down the bluff, approximately two hundred fifty (250) feet to the mean high tide line of the Pacific Ocean (Point "C"); thence, southeasterly along the mean high tide line approximately four thousand (4,000) feet back to, and

around and including, the rock jetty to a point where the southwesterly extension of the centerline of "Western Avenue" intersects the mean high tide line (Point "D"); thence, northeasterly along the easterly side of the rock jetty to Point "A".

Excluded from the above-described area are the fenced-in Los Angeles County Sanitation District pump facilities located approximately two hundred (200) feet northerly of Point "A" on attached map, Drawing No. 2366B.

NOTE:

The foregoing description has been prepared by visual surveillance to be used as an administrative guide and is not intended as a legal survey description.

S-1458Q

When Recorded Mail To:

County of Los Angeles
Dept. of Public Works
880 South Vermont Avenue, 12th Fl.
Los Angeles, CA 90020
Attn: Crystal Sy. Escrow Unit

95 1527008

COPY of Document Recorded

SEP 19 1995

Has not been compared with original.
Original will be returned when
processing has been completed.

A08700 OFFICIAL STATE BUSINESS - DEEDS THIS UNCOPIED COPY IS SUBJECT TO GOVT CODE SECTION 6103
Royal Palms State Beach

STATE OF CALIFORNIA

GRANT DEED

Pursuant to the provisions of Section 5002.6 of the Public Resources Code, the STATE OF CALIFORNIA, through its duly appointed, qualified and acting Director of the Department of Parks and Recreation, hereby grants to the County of Los Angeles, a body corporate and politic, in trust for the people of the State of California, the following described real property in the County of Los Angeles, State of California:

All that real property in the City of Los Angeles, County of Los Angeles, State of California conveyed to the State of California by the Final Order of Condemnation, recorded January 5, 1961, in Official Records Book D1083, Page 201.

EXCEPTING AND RESERVING to the State of California all mineral deposits, not previously reserved in other documents of record, as defined in Section 6407 of the Public Resources Code below a depth of 500 feet, without surface rights of entry.

THIS DEED IS MADE SUBJECT TO THE FOLLOWING EXPRESS CONDITIONS SUBSEQUENT:

- (1) The real property and improvements herein conveyed shall be used, operated and maintained by the County for public recreation and beach purposes in perpetuity.
- (2) No new or expanded commercial development shall be allowed on the granted real property.
- (3) Any project for new or expanded noncommercial development on the granted real property shall not exceed an estimated cost limitation for each project of two hundred fifty thousand dollars (\$250,000), as adjusted annually to reflect the California Construction Index utilized by the State of California, Department of General Services. Any authorization for new and expanded noncommercial development shall be limited to projects that provide for the safety and convenience of the general public in the use and

enjoyment of, and enhancement of, recreational and educational experiences, and shall be consistent with the use, operation, and maintenance of the granted lands and improvements herein granted in trust. The per-project limitation in this paragraph shall apply in the aggregate, so that not more than the amount specified herein may be expended for the project as a whole, regardless of any division of the project into phases or parts. "Project" means the whole of an action that constitutes the entirety of the particular type of new construction, alteration, or extension or betterment of existing structure.

Notwithstanding the above, the county shall be permitted to implement the state-approved local assistance grant (project number SL-19-003) to the county approved in the Capital Budget Act of 1988 for noncommercial development to rehabilitate the existing park infrastructure at Royal Palms State Beach.

- (4) The granted lands and improvements may not be subsequently sold, transferred, or encumbered. "Encumber" includes, but is not limited to, mortgaging the property, pledging the property as collateral, or any other transaction under which the property would serve as security for borrowed funds. Any lease of the granted lands or improvements shall only be consistent with the public recreation and beach purposes as herein conveyed.

Upon an intentional material breach of any condition, the State will terminate the County's interest in the real property conveyed hereunder pursuant to Civil Code Section 885.010 et sequitur.

Each of the foregoing express conditions subsequent shall also be covenants by the Grantee for use and development of the granted real property, and equitable servitudes upon the interests granted herein, which may be enforced through injunction for specific performance or preventive relief.

THIS DEED IS ALSO MADE SUBJECT TO all valid existing contracts, leases, encumbrances and claims of title which may affect said parcels.

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the within deed or grant to the County of Los Angeles, a governmental agency, is hereby accepted under authority of a resolution adopted by the Board of Supervisors of said County on March 13, 1979, and the Grantee consents to the recordation thereof by its duly authorized officer.

Dated September 15, 1995

By

John E. Anderson

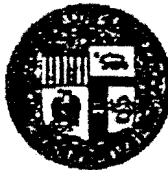
Mapping & Property Management

County of Los Angeles Department of Public Works

COMMISSIONERS

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CITY OF LOS ANGELES
CALIFORNIA

RICHARD J. RIORDAN
MAYOR

EXHIBIT NO.

APPLICATION NO.

5-97-300

LOS AN

G

E

City of Los Angeles
Approval of Under-
California Coastal Commission

plinnings for retaining
wall

October 24, 1997

Log # 22617

C.D. -

SOILS/GEOLOGY FILE - 2

Mohamed Nasr
2273 Warmouth St
San Pedro, CA 90734

TRACT: 22374
LOT: 98
LOCATION: 2273 Warmouth St

| CURRENT REFERENCE REPORT/LETTER(S) | REPORT NO. | DATE(S) OF DOCUMENT | PREPARED BY |
|--|---------------|------------------------|-----------------|
| Soil Report | G-1510-FG | 10/07/97 | Technosoil, Inc |
| PREVIOUS REFERENCE REPORT/LETTER(S) | REPORT NO. | DATE(S) OF DOCUMENT | PREPARED BY |
| Geology/Soil Report | G-1510-FG | 07/11/97 | Technosoil, Inc |
| Request for Modification | 2122 | 12/06/95 | Bldg&Safety |

The current and previous referenced reports concerning underpinning of an existing retaining wall have been reviewed by the Grading Section of the Department of Building and Safety. According to the reports, the descending slope calculates to be grossly stable, however, the site is located on a large prehistoric landslide with questionable stability. Additionally, a 10-inch-wide tension crack was identified beneath the site. It is the opinion of the consultants that this crack was caused by lurching of the slope during an earthquake. The reports are acceptable for underpinning of the existing wall, provided the following conditions are complied with during site development:

1. In order to best inform future owners of the potential for distress and slope movement from the prehistoric landslide and future earthquakes, notice of this letter and the consultant's reports shall be recorded with the Office of the County Recorder. (Note: The standard agreement form must be approved by the Grading Section prior to being recorded.)
2. All conditions of the above referenced Request for Modification shall apply.
3. The geologist and soils engineer shall review and approve the detailed plans prior to issuance

Page 2
2273 Warmouth St

of any permits. This approval shall be by signature on the plans which clearly indicates that the geologist and soils engineer have reviewed the plans prepared by the design engineer and that the plans include the recommendations contained in their reports.

4. All recommendations of the report which are in addition to or more restrictive than the conditions contained herein shall also be incorporated into the plans for the project.
5. The applicant is advised that the approval of this report does not waive the requirements for excavations contained in the State Construction Safety Orders enforced by the State Division of Industrial Safety.
6. A copy of the subject and appropriate referenced reports and this approval letter shall be attached to the District Office and field set of plans. Submit one copy of the above reports to the Building Department plan checker prior to issuance of the permit.
7. The geologist and soil engineer shall inspect the excavations for the footings to determine that they are founded in the recommended strata before calling the Department for footing inspection.
8. Prior to the pouring of concrete, a representative of the consulting Soil Engineer shall inspect and approve the footing excavations. He shall post a notice on the job site for the City Building Inspector and the Contractor stating that the work so inspected meets the conditions of the report, but that no concrete shall be poured until the City Building Inspector has also inspected and approved the footing excavations. A written certification to this effect shall be filed with the Department upon completion of the work.
9. All friction pile or caisson drilling and installation shall be performed under the inspection and approval of the Foundation Engineer.
10. Piles shall be embedded into bedrock a minimum depth of five feet below the bedrock/terrace material contact or the lowest open crack observed in the footing excavation. This shall be determined by down-hole inspection as recommended on page 5 of the July 11, 1997.


DANA PREVOST
Engineering Geologist I


THEO SEELEY
Geotechnical Engineer I

DP/TRS:dp/trs
22617
(213) 485-3435

cc: Technosoil, Inc
Jim Jebejian
SP District Office

Tu 16e

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 OceanGate, 10th Floor
Long Beach, CA 90802-4302
(562) 590-5071



ADDENDUM

DATE: January 29, 1998

To: Commissioners and Interested Persons

FROM: South Coast District Staff

SUBJECT: Commission Meeting of February 3, 1998, Page 6, item 16.e.,
permit no. 5-97-300(Nasr), Los Angeles County.

The South Coast District office has received a letter from the applicant's representative. The letter provides the applicant's responses to the Commission's staff report. The Letter is attached.

0377G

84

To CALIFORNIA COASTAL COMMISSION - Hearing of 2-3-98 10:00 a.m., Item TU 19g

Gentlemen:

Because it is possible applicant (property owner Dr. Nasr by his agent Mr. Jebejian, architect) may only be given five minutes to argue his case, he is submitting his statement in response to staff report dated 11-6-97 re Application #5-97-300 as follows:

Page 1 (last paragraph) of the staff report states the issue before the Commission to be that, to grant applicant a permit for his existing retaining wall and connected incidental construction would create a precedent of allowing the extending of the flat bluff due to alteration of the natural land form and would create geological instability.

The staff report (p. 2, para. 4) says the "proposed" construction mainly consists of an unpermitted retaining wall. Applicant contends that the wall was built prior to his acquisition of the subject property and that he has since done what was necessary to legalize the wall.

Dr. Nasr purchased the subject property in 1984. It is described as a 3-bedroom residence with a pool which overlooks the ocean. Beyond the pool, there was a retaining wall which had solar panels to heat the pool mounted on it. During the January 1994 earthquake, those panels and the wall were damaged. The panels were removed and shortly thereafter, Dr. Nasr visited the San Pedro Los Angeles Building Dept. to request permits to repair the damage and remedial work necessary to protect his property. He was told that he did not need a permit to repair an existing wall or place an on-grade slab (pool decking); nor did he need a permit to build a retaining wall of three feet or less. When he started his repair work, a neighbor called the City complaining of "new construction" which triggered all subsequent events. It may appear at first glance that four years is a long time not to have his problems resolved; however, in an effort to illustrate his diligence in attempting to get his permit, a list of all action taken as evidenced by writings has been attached as Exhibit A. This exhibit clearly shows that over 100 documents were prepared in a series of see-saw efforts to obtain the necessary permits, not to mention innumerable telephone calls and trips to the City. There was something being done at least once, and usually several times, each month.

On page 3 of the staff report, last paragraph, it is argued that applicant has not demonstrated that the wall pre-existed his purchasing of the property. Although no records of a permit could be found, staff concedes (P. 4, para. 1) that this was not uncommon in 1968 when the lot was developed.

Building records reflect that a permit was issued in 1979 for the installation of solar panels and grading in conjunction therewith (Page 4, para 2 to 5). It stands to reason they were installed on the retaining wall where applicant encountered them upon his purchasing the property. If at the time of the issuance of that building permit a CCC permit had been required, surely the City would have insisted upon it and would not have issued its permit in the absence of the latter.

Staff further concedes (P. 4 last para) that aerial photographs of 1986, 1987, and 1992 do show the solar panels but that the wall is not visible; however, because of the sheer size and weight of such panels it is logical to conclude that they were originally installed on the wall. In addition, applicant was told by city officials that it is their interpretation of the aerial photographs that the wall is visible together with the panels.

Reference is made on P. 6, para 6 of the staff report to two geology reports of 1968 and 1995 which conclude that an ancient (16,000+ years!) landslide underlying the property is inactive and stable. Hence, this should not be an issue here. Nevertheless, the question is addressed clearly in the 7-11-97 Technosoil report. Page 5 paragraph 3 of that report reads: "Based on the stability analysis, the factor of safety with respect to the gross stability of the portion of the slope exceeds

the normally accepted value of 1.5". A factor of safety of 1.5/1 means the slope would not fail. This safety factor is extremely conservative and applicant contends that the Technosoli report adequately addresses any doubt about the issue of sufficient slope stability, which was CCC staff's last concern prior to the most recent application.

Staff further makes reference (P. 8, para. 2 and last para, continuing to P. 9, para 1) to other geology reports which conclude that the area is unstable and that the wall should have underpinnings. The City determined this would be acceptable. Apparently, staff believes to permit such underpinnings and allow the wall to remain would set an undesirable precedent. (P. 10, para 2). The fact is there are other retaining walls, decks, etc., in applicant's neighborhood; and that no previous permit for a retaining wall can be found in the records is not to unusual as to be proof in and of itself the wall was built after the passage of the Coastal Act. The fact also remains that the wall either has to be permitted upon compliance with the conditions imposed, or has to be removed. Either action requires a CCC permit. Furthermore, there is no argument that applicant ever refused compliance with any condition or requirement imposed by either the City or CCC staff, but at this time applicant is confused and feels oppressed by the continuous addition of new criteria in order to obtain CCC staff approval.

To an impartial observer, it would appear that the City and CCC were playing ping-pong with Dr. Nasr's applications. During the past four years, he obtained no fewer than three of each of the following: CCC permit applications; City grading permits; City building permits; as well as City CEQA exemptions, each time paying a new fee. Each time, the criteria were changed, requiring him to take new and different mitigation steps. He hired an architect; Solus Geotechnical Consultants; Davis Engineer; Smith-Emery Civil Engineering; Technosoli Consultants; Beryl Lockhart Drilling; Lou Prata Consultants; attorneys; and lastly a planning consultant. The cost? Astronomical - not to mention the mental and emotional stress the applicant has been subjected to because of various discriminating remarks and threats made to him during the course of the events and culminating in certain criminal actions applicant was forced to bring against a neighbor due to trespass onto his property, which was substantiated by third-party witnesses.

In examining Applicant's Exhibit A, a reasonable person could come to the conclusion that Dr. Nasr had every reason to believe on at least seven different occasions that he had completed all the requirements to receive the permits desired. Those dates were as follows (please refer to Exhibit A for the specifics):

1. October 94 - 8 months after original application (City Notice Of Noncompliance released)
2. May 95 - another 7 months thereafter (City says o.k. to get CCC approval)
3. August 95 - another 3 months thereafter (City Affidavit "clears way for CCC permit)
4. October 95 - another 2 months thereafter (CCC recommends approval)
5. December 95 - another 2 months thereafter (City issues CEQA exemption re wall)
6. January 96 - another month thereafter (City issues bldg. permit)
7. May 96 - another 4 months thereafter (City issues notice of compliance and certificate of occupancy for wall)

Each time, he was told that he was "now" in a position to proceed. Each time, someone then came up with a new twist. In the ping-pong game For example, after 2 1/2 years, he was told that since a portion of the property had been deeded to the County, he also needed County approval. Fortunately, the County did not participate in the ping-pong game but gave its blessing.

CCC personnel has in the past alluded that Dr. Nasr has not been diligent in pursuing the necessary permits, when in fact he has taken all the steps outlined in Exhibit A to comply. It is amazing to ponder what hoops CCC staff can make you jump through and still not grant permits for a pre-existing wall; or, for that matter, for a demolition permit.

Staff further concedes (P. 11, para 3) that the project's visibility from the "public beach" is limited. The public beach that is usable is a long way away. The area below applicant's property

is a rocky accumulation which cannot be reached except by boat or by a 3+ mile hike across the rocks from the public beach which is in actual use. It is a rare exception for anyone to be seen in the area below the applicant's property. Therefore, a concern that something might fall from applicant's property and injury someone is misplaced.

Staff also concedes (P. 11, para 5) that the City's LUP Local Coastal Program has as yet no implementation plan submitted for the San Pedro area. Therefore, this is not an issue. Applicant simply fails to understand how the proposed project can be found "inconsistent with CEQA" when no fewer than three CEQA Notices of Exemption have been issued to him by the City. Applicant believes that the real reason for the permit denial is that the above-mentioned neighbor (the same who called the CCC and uttered racial slurs towards applicant) has bragged to him that she has a friend at the CCC who will make sure he never receives any permit. It is Applicant's desire that the Commission earnestly investigate this allegation which, if found true, would raise serious constitutional and other issues. It should not come as a surprise that Dr. Nasr feels oppressed and singled out by the ever-tightening requirements imposed upon him when, as far back as October of 1995, he was led to believe that approval was imminent.

Applicant hereby respectfully requests approval of the pending application by the Commission.

Very truly yours,


V. K. ("Jim") JEJEJIAN, Architect
for Mohamed E. Nasr, M.D.

Exhibit A: Chronology of events Dr. Nasr project

(subsequent to January 94 earthquake and Dr. Nasr being told by San Pedro/L.A. Bldg. & Safety that he does not need a permit)

1. 02-10-94 CCC Hand-delivery of stop work on retaining wall order
2. 02-18-94 City sends official Ntc. To gain entry at 10:00 on 3-14-94
3. 03-23-94 City/Garth Issues Order to Comply H75174: stop work & demol. or submit plans, permit, geol. & soil report
4. 03-30-94 City issues conditions of approval; City circulates memo on approval of retaining walls construction w/o inspections
5. 04-05-94 CCC received permit app., rejected as incomplete
7/20/94 deadline to return executed waiver of legal argument attachment
6. 04-19-94 CCC issues deficiency list for permit; rejects Minasian app.
7. 04-20-94 CCC status ltr. re above; deadline 7-20-94
8. 05-03-94 Jim App to city f extension to 8-1-94 re order to comply of 4/3
9. 06-01-94 Jim/Nasr app f CCC permit w/reference to prev. permit 5-94-94
10. 06-04-94 Jim App to City Bldg. & Safety San Pedro requesting extens. To 1/3/95 (waiting for geol. Report) re 4/3/94 order to comply; pd. \$60
11. 10-31-94 City Ntc. Of non-compliance recorded as 94-2113823 released 5/17/98
12. 02-06-95 CCC returns 4/5/94 Nasr app for permit 5-94-94 as incomplete
13. 02-21-95 City issues first CEQA Notice of Exemption
14. 03-13-95 CCC ltr Nasr re violation V-5-SP-94-002 and stop work order
15. 03-16-95 Solus proposal to Nasr re foundation study for addition
16. 03-22-95 City app f bldg permit wall/add & Cert. Of Occ; fee pd 3,641.55
17. 03-24-95 City memo re necessity to notify neighbors prior to bldg permit
18. 04-04-95 Alleged (in CCC6-18-97 ltr) Nasr signed waiver of legal argument (i.e., S/L; laches; estoppel) form and withdrew App. 5-95-294
19. 04-12-95 City grading pre-inspection report w/cond. + CCC approval need
20. 05-01-95 Solus geotech study re addition
21. 5/5-26-95 Jim: City Grading app. w/plans re import/export routes \$331.30; not approved and conditions imposed (Log #39509)
22. 05-15-95 City approval in concept; and CEQA Ntc. Of exemption issued (Log # 95-0414)
23. 05-31-95 CCC permit fee \$500 receipt for 5-95-140 (addition)
24. 06-19-95 Solus addendum to 5-1-95 report & response to City tech review sheet of 5-5-95 (not approved); Log #15066
25. 06-29-95 CCC deficiency letter requires:
 - a. structural engineering report
 - b. geology report
 - c. plans
 - d. stringline map showing seaward development. Deadline 30 days or proof of wall/deck pre-existing; will split app's for wall and addition
26. 07-17-95 Jim ltr to CCC re proceeding w/add & requ. 60-day ext. f sep app wall/deck
27. 07-18-95 CCC ltr Nasr re permit 5-95-140 and viol. 5SP94-002
28. 08-14-95 Jim Requ. f. modif. Of bldg. Ord. At City w/ list of conditions and special condition to record affidavit owner aware old landslide may cause future slope instability; together w/ City app. f. bldg. permit and certif. Of occupancy; pd. \$75 (Log #1855)
29. 08-29-95 City/Huang issues 2nd Order to Comply H88293 (remove walls or get permits)
30. 08-31-95 Jim ltr CCC end Affid required by City Grading clearing way f. CCC permit
31. 08-31-95 Nasr records affidavit regarding future unstable slope 95-1427204 \$10
32. 10-03-95 CCC Klein/SF ltr to atty Quinn, Illinois notif. Viol. Elevated to SF deadline 12/15/95 for new app & conditions imposed: City approval resolves item 28.; geol/soil; Huang inspection
33. 10-04-95 & 10-10-95 Illinois atty. Forwards letters CCC to Nasr

34. 10-10-95 CCC staff report re 5-95-140/addition recommends approval
35. 10-18-95 Prata note on City/San Pedro app that they have to go downtown
36. 10-26-95 CCC hear'g ntc 11-14-95 re 5-95-140 w/ staff report recommends approval w/spec cond. Re future developmt [apparently subsequently changed to 11-16]
37. 10-31-95 CCC hear'g. ntc. 11-16-95 re 5-95-140; Jim fax Nasr re hearing; also mentions aerial pix of wall 1970&1990 "Date" at City offices has
38. 11-21-95 CCC Ntc. Of intent to issue permit 5-95-140 for entry addition
39. 11-22-95 Nasr executes author. Jim to sign permits at City
40. 11-28-95 Jim City requ.f.modif. of bldg. ord. To waive permit & inspect. Of wall; denied 12-8-95 w/ conditions of approval (Log #2122; pd. \$165)
41. 11-29-95 Nasr executes affidavit re maint. Of prop./disclosure wall
42. 12-05-95 Solus to Nasr addendum to geotech report
43. 12-08-95 Davis Engineering rebar datascan certified test report to Prata
44. 12-13-95 Jim City App grading import/export; fee pd. 149.30; recommend. 40-ft. setback for piles
45. 12-21-95 City CEQA Ntc. Of Exemption re existing retaining wall; Log CE95-1077
46. 12-21-95 City ltr to CCC approving walls/deck in concept w/City land use reg's., entitling applicant to CCC Admin. Coastal Dev. Permit; attached City Planning. Dept. affid. By Jim in conjunction w/planning dept.; City/Gong notes CZCA clearance needed from city
47. 01-04-96 Chicago Title records release of obligation under TD prev. owner 96-15748; also 11/8/90 copy of Titor/Nasr reconveyance and 8/22/84 Titor title lns. Nasr; deed from state of county recorded 95-1527008; and previous owner's agreement to record/done 5-22-88 geol. report of Robert Stone attached
48. 01-16-96 CCC status letter re 5-95-294 notes stringline map deficiency - due 2-28-96
49. 01-25-96 Jim City App.f.bldg. permit and cert. Of occupancy; fees paid 208.40
50. 01-26-96 City issues building permit
51. 01-30-96 CCC Rr Lou Prata re subordination agreement Special Condition I (re future development requiring new permit) remaining unsatisfied on permit 5-95-140
52. 02-16-96 CCC issues coastal dev permit 5-95-140; Nasr acknowledged 7-12-96
53. 03-04-96 Smith-Emery/Civ.Eng. report to Prata verifying size/specing wall reinforcement.
54. 04-02-96 Nasr executes Cov&Agreement re maintenance of bldg pertaining to disclosures re walls; approved by City Bldg&Safety for recording; recorded 96-567763 on 4-12-96
55. 05-06-96 Solus ltr Nasr re wall is needed to provide stability; and is pre-existing
56. 05-17-96 City issues Notice of Compliance
57. 06-02-96 CCC Rr Nasr that wall & deck will be denied unless; see 08-19-96 item
58. 07-22-96 City permit work form signed off at public counter
59. 08-12-96 Solus fax Jim rough draft of report
60. 08-19-96 Solus Geotechnical Report conclusions resolve CCC issues

A. Comment I:

- i. (geol.) wall setback min. 10 ft. (is 14 ft.)
 - ii. (flood) flood/rainfall erosion minimized due to natural lot contours & retaining walls
 - iii. (fire hazard) concrete decking provides fire buffer;
- and B. Comment II: that stability & structural integrity not be affected due to erosion, geol. instability, or destruction of site:
- iv. Original landslide 16,000+ years ago & considered inactive; city issued wall permit. Wall contributes to stability and enhances erosion control; doesn't alter natural appearance because not visible from beach.

Note: paragraph comments referring to reports by "Forcon Internal." And "Agra Earth & Envir." As potential hazard appear to predate bldg. Permit.; paragraph re.

- a. geol. Slope stability assumptions
- b. alternatives for above
- c. explan. F. Solus report that "the wall was constructed concurrently with initial development" : current wall is partial repair of orig. devel. + some new constr.

81. 08-22-96 Jim fax to Al Padilla w/ notes re history 1/84 EQ caused 2/94 removal of damaged solar panels to heat pool; fix wall and cement behind it (walls 3' or less & paving on grade does not require permits); neighbor called & complained, resulting in CCC action
82. 08-24-96 File forwarded to atty. Geo. Deukmejian
83. 10-30-96 CCC Al Padilla ltr Jim notifying encroachment. Onto county prop. & requiring
 - a. survey site plan and
 - b. county review and approval
84. 12-03-96 CCC Staff Report/denial for 1-7-97 hearing on wall app. 5-95-294
85. 12-11-96 County ltr to CCC: wall does not encroach on public access to beach
86. 12-19-96 City Bldg&Safety correction & stop work notice
87. 12-20-96 Jim fax above ntc. To inspector Huang requ. permiss. To proceed
88. 12-20-96 City (Otis Slaughter, insp.) ltr Jim need geol report to inspect footing
89. 12-29-96 Jim/Nasr ltr CCC denial of app request hearing chg fm 11-8-97 to 4/97
90. 01-21-97 Solus Report of re-observation of pad footing underpinnings
91. 02-19-97 Jim fax to Technosoil/Minasian re slope stability for addition
92. 03-06-97 CCC ltr changing hear'g date of 1-8/97 to 4/8/97
93. 03-12-97 Minasian/Technosoil ltr Nasr re scope of work f addition
94. 03-25-97 CCC hear'g ntc 44-8-97 re wall/patio
95. 04-07-97 Nasr-Jim ltr. to CCC requ. Chg. Of hear'g. 4-8-97 to 5-13-97
96. 04-25-97 Beryl Lockhart invoice re drilling
97. 05-02-97 Nasr note to Jim re drilling invoice arrival-departure workers
98. 05-03-97 LAPD report of preliminary investigation neighbor Ms. Weaver trespassing
99. 05-13-97 Nasr narrative to LAPD re trespass
100. 05-07-97 Minasian/Technosoil ltr Jim re drilling prelim findgs
101. 05-08-97 Jim ltr CCC/Padilla requestg reconsid & w/d of app 5-95-294 in anticipation of Technosoil report re slope stability
102. 05-18-97 Jim fax Technosoil/Minasian re conversation with City/Theo that report would have been approved w/o underpinning had it shown some footing of wall; will seek modification
103. 06-16-97 Jim ltr CCC Rance/SF re soil report to be filed w/City grading & new App
104. 06-18-97 CCC Rance/SF ltr Jim re waiver of legal argument viol.5SP94-002 imposing 7/2/97 deadline f. return and submittal timeline (done 8/30/97)
105. 07-11-97 Minasian/Technosoil soil/geol report re existing retaining wall
106. 07-14-97 Jim City App grading import/export review w/above report; \$480.10
107. 07-25-97 Minasian/Technosoil ltr Nasr re wall underpinning considered optional; faxed 11/7/97 to Theo Seeley at City
108. 08-11-97 City soil/geol. Log #21873 ltr Nasr re underpinning requirements wall
109. 09-11-97 Jim fax CCC Rance/SF re deadline extension to 9/19 based City soil/geol
110. 09-22-97 CCC App 5-95-294/wall changed to 5-97-300; second fee of \$500 pd.; Resubmission with new soils report addressing new issues raised
111. 10-07-97 Minasian/Technosoil ltr Nasr commenting on City ltr 8-11-97
112. 10-08-97 Jim City grading app #GL22617 attaching above report
113. 10-24-97 City Soils/Geol log #22617 ltr Nasr requiring recordation of geol./soil report
114. 11-06-97 CCC status ltr scheduling hear'g. 12/8-12/97 S.Francisco & enclosing ntc. Of pending permit 5-97-300 to be posted on property
115. 11-11-97 Jim ltr. CCC to change 12-22-97 S.Francisco meet'g. to 2/3-5.98 San Diego
116. 12-23-97 Jim ltr CCC re 1.5 soil Minasian report delay
117. 12-29-97 Nasr ltr Jim w/ comments re discriminatory treatment
118. 12-29-97 Jim Fax Al Padilla to reschedule w/ 3 attachments (Item 16e)
119. 01-12-98 CCC hear'g. Notice San Diego on new app. Raises new issue of soil stability due to house being enlarged
120. 1-13-98 Jim fax Technosoil re. Retaining wall soils report addendum & report on underpinning for retaining wall
121. 01-15-98 CCC ntc hear'g 2-3-98 San Diego re permit #5-97-300 rec'd.; prep. response

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| Post-It Fax Note | 7671 | Date 1-29-98 | Time 1:24 PM |
| To AL PADILLA | From JIM JEBEJIAN | | |
| Carbon CCC | Ca. | | |
| Phone 5071 | Phone 818 352 3503 | | |
| Fax 562 590 5884 | Fax 8265 | | |