

CALIFORNIA COASTAL COMMISSION

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Filed: 03-27-98
49th Day: 05-15-98
180th Day: 09-23-98
Staff: RMR/LB *RMR*
Staff Report: 05-20-98
Hearing Date: June 8-11, 1998
Commission Action:



W9i

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 5-98-106

APPLICANT: Bruce Wachtler

AGENT: None

PROJECT LOCATION: 222 Trafalgar Lane, San Clemente, Orange County

PROJECT DESCRIPTION: Construction of a 2,077 square foot single-family residence with a 3-car 628 square foot garage and 863 square feet of exterior deck. Grading consists of less than 50 cubic yards of cut.

Lot area:	7,439 sq. ft.
Building coverage:	1,956 sq. ft.
Pavement coverage:	387 sq. ft.
Landscape coverage:	1,107 sq. ft.
Parking spaces:	3
Zoning:	Residential Low
Plan designation:	RL
Project density:	
Ht abv fin grade:	20

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends the Commission approve the proposed development with special conditions regarding future improvements, disposal of excess cut dirt, conformance with geotechnical recommendations, and submittal of a drainage plan and rear-yard landscaping plan.

SUMMARY OF UNRESOLVED ISSUES:

Staff contacted the applicant and informed of staff's recommendations and the special conditions. The applicant has no objection to the special conditions. There are no unresolved issues regarding this development.

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

SUBSTANTIVE FILE DOCUMENTS: City of San Clemente Certified Land Use Plan, Preliminary Geotechnical Investigation by Ian S. Kennedy, Inc., dated March 20, 1998, Coastal Development Permit 5-89-091 (Real Estate Investments), Coastal Development Permit G5-93-337 (City of San Clemente), 5-93-337 (City of San Clemente)

STAFF RECOMMENDATION:

Staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that, as conditioned, the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions

1. Future Development

Prior to the issuance of the coastal development permit, the applicant shall record a deed restriction, in a form and content acceptable to the Executive Director, which provides that Coastal Development Permit 5-98-106 is for the approved development only and that any future improvements or additions on the property, including, but not limited to, installation of hardscape improvements, grading, vegetation removal, landscaping and structural improvements not permitted in this permit or allowed in special condition 3, shall require a coastal development permit or permit amendment from the Coastal Commission or its successor agency.

The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior lines that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Removal of Excess Cut Material

Prior to the issuance of the Coastal Development Permit, the applicant shall submit in writing for the review and approval of the Executive Director, the location of the proposed disposal site for all excess cut material. If the disposal site is within the coastal zone a coastal development permit may be required.

3. Landscaping Plan

Prior to the issuance of the Coastal Development Permit the applicant shall submit, for the review and approval of the Executive Director, landscaping plans for the rear yard setback area. The plans shall incorporate the following criteria:

- (a) Any construction or disturbed areas at the rear of the residence at grade shall be planted and maintained for erosion control and enhancement of native vegetation. This includes the area between the residence and the caissons or supporting columns and any areas beyond the caissons which are disturbed during construction. To minimize the need for irrigation and reduce potential erosion and slope failure, development landscaping shall consist of native, drought-tolerant or fire resistant plants. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- (b) All graded areas in the rear of the residence shall be stabilized with planting at the completion of the project. Planting shall be of native plant species indigenous to the area using accepted planting procedures, adequate to provide 70% coverage within one year, and shall be repeated, if necessary, to provide such coverage.

The approved landscape plan shall be carried out as approved by the Executive Director.

4. Conformance with Geologic Recommendations

Prior to the issuance of the Coastal Development Permit, the applicant shall submit, for the review and approval of the Executive Director, grading, foundation and drainage plans. The approved foundation plans shall include plans for the foundation, retaining walls, and caissons. These plans shall include the signed statement of a geotechnical consultant certifying that these plans incorporate the recommendations contained in the geotechnical investigation prepared by Ian S. Kennedy, Inc., dated March 20, 1998.

The approved development shall be constructed in accordance with the plans approved by the Executive Director. Any deviations from said plans shall be submitted to the Executive Director for a determination as to whether the changes are substantial. Any substantial deviations shall require an amendment to this permit or a new coastal development permit.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The applicant is proposing to construct a 2,077 square foot single-family residence with a 3-car 628 square foot garage and 863 square feet of exterior deck. Grading consists of less than 50 cubic yards of cut.

The proposed development is located on Trafalgar Canyon, one of seven coastal canyons in San Clemente designated as Environmentally Sensitive Habitat Area (ESHA). The site is located seaward of Ola Vista in a stretch of Trafalgar Canyon where the canyon flow has been contained in a 72 inch storm drain pipe. Therefore, the slopes are not subject to erosion by concentrated stream channel runoff.

There are two prior permits approved by the Commission and the Executive Director for this site. First, Coastal Development Permit 5-89-091 (Real Estate Investments) for a 4,000 square foot single-family residence was approved on the administrative calendar with no special conditions at the March 1989 hearing. The permit was extended twice and then expired.

Following the severe winter rains of 1993 the Executive Director approved an Emergency Permit and the Commission approved a follow-up permit for the removal and replacement of a catch basin and storm drain pipe. The follow-up permit included landscaping with native plants. The City of San Clemente holds a drainage easement along the southwestern property boundary of the site. The existing drainage pipe had broken and stormwater runoff was eroding the slope.

B. Environmentally Sensitive Habitat Area

Section 30240 of the Coastal Act states:

- a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

San Clemente's certified land use plan discusses the importance of coastal canyons and states:

In most cases, coastal canyons are designated for natural open space, which limits potential development and helps to ensure preservation.

The policy in the certified LUP concerning setbacks on coastal canyons is found in Chapter 3, Section 302 G, policy VII.15, and states:

New development shall not encroach into coastal canyons and shall be set back either:

- a. a minimum of 30% of the depth of the lot, and not less than 15 feet from the canyon edge; or
- b. a minimum of 30% of the depth of the lot, and set back from the line of native vegetation (not less than 15 feet from coastal sage scrub vegetation or not less than 50 feet from riparian vegetation); or
- c. in accordance with house and deck/patio stringlines drawn between the nearest corners of the adjacent structures.

The development setback shall be established depending on site characteristics.

In addition, policy VII.12 of the certified LUP states:

Encourage activities which improve the natural biological value, integrity and corridor function of the coastal canyons through vegetation restoration, control of alien plants and animals, and landscape buffering.

Coastal Canyon Setbacks

The site is an irregularly shaped parcel (see Exhibits 2 and 3). The top of slope of the coastal canyon varies from 16 to 30 feet from the property boundary adjacent to Trafalgar Lane (see Exhibit 3). There are existing single-family residences on either side of the proposed development. On the northeastern property boundary the lot extends approximately 84 feet into the canyon. On the southwestern property boundary the lot extends 144 feet into the canyon. There is a 10 foot wide drainage easement held by the City of San Clemente on the southwestern property line. Prior to passage of the Coastal Act the section of Trafalgar Canyon seaward of Ola Vista was graded and the flowline contained in a 72 inch pipe.

Development on coastal canyons is reviewed according to the three setback policies in the certified LUP. Two of the policies regard setbacks according to specific resource criteria, i.e., 30% of the depth of lot and setbacks from vegetation or setbacks from the canyon edge. The third criteria is setbacks in accordance with a stringline. The setback policies contain flexibility as

to the choice of a specific policy. For instance, in a situation where a legal lot is entirely slope, neither the 15 foot from canyon edge nor 15 foot from native vegetation setbacks are practicable. In these instances, the stringline policy would be appropriate.

In this case, although the development plan for the site does conform with the 30% depth of lot line, using the edge of canyon or line of native vegetation as a setback line would in effect prohibit development on the site. However, because the property boundary is situated 16 to 24 feet from Trafalgar Lane, applying the 15 feet from the canyon edge setback policy would be prohibitive of development. Likewise, the criteria for setting development back 15 feet from the line of native vegetation is prohibitive of development because of the presence of native vegetation on the slope below the canyon edge.

Therefore, the City of San Clemente has determined that the appropriate coastal canyon setback is the stringline, i.e., that development be placed landward of a line drawn between the nearest corners of the adjacent residences. The stringline indicated on the plans submitted by the applicant (see Exhibit 6) is consistent with the stringline policy and also consistent with the stringline of the previous permit (5-89-091) approved by the Commission. The development approved by the Commission in 1989 was approved via the stringline canyon setback policy.

Therefore, the Commission finds that the proposed development conforms with the appropriate canyon setback policy established in the certified Land Use Plan.

Enhancement of Native Vegetation

As stated previously, the Coastal Act requires the preservation of ESHA and the certified LUP includes policies calling for the preservation and enhancement of native vegetation in coastal canyons.

In order to minimize grading the proposed residence will be tiered down the canyon slope with the rear portion of the residence being supported by five caissons which are exposed for 12-20 feet above grade. The applicant has not submitted landscape plans for the rear yard portion of the development on the coastal canyon slope. In prior permits for development on coastal canyons the Commission has an established history of requiring the submittal of landscape plans composed of native plants. There are several reasons for this policy. First, native plants common to coastal canyons are predominantly deep rooted and drought tolerant. Therefore, use of native, drought-tolerant plants minimizes irrigation, percolation and saturation of soils from over-watering. Because the plants are drought-tolerant they establish extensive root systems which help hold the soil and prevent soil erosion and landsliding, both of which are common to coastal canyons. Finally, planting with native vegetation helps preserve native plant and animal communities, both of which are diminishing in the City of San Clemente.

The geologic report states that the canyon slope descends at a ratio of 1.5:1 for approximately 55 feet to a natural ravine bottom. The report also indicates that the El Nino rains have caused some surficial slumping. Development of the site will of necessity involve some vegetation removal and grading. If these cleared areas are not replanted then erosion will continue, leading to potential resource damage. Further, a standard recommendation of geologic reports is that any cleared areas be planted with drought-tolerant vegetation and that any and all drainage be kept away from foundations and slopes.

For these reasons, the Commission finds that the applicant shall submit a landscaping plan for any disturbed areas of the rear yard portion of the lot. The landscaping plan shall be composed of native, drought-tolerant plants sufficient to establish a 70% cover within one year and shall be carried out as approved by the Executive Director.

As conditioned to supply and implement a native landscaping plan for graded and disturbed areas the Commission finds that the proposed development will result in the enhancement of native plant resources and conforms with Section 30240 of the Coastal Act.

In the past development has taken place on coastal canyons without benefit of coastal development permits. Unauthorized development in coastal canyons can result in the loss of native vegetation and coastal resources, by outright vegetation removal or by installation of invasive plants which tend to supplant native species. Therefore, it is the practice of the Commission to require the applicants developing on coastal canyons to comply with a future development deed restriction. The deed restriction simply requires that any future improvements, i.e., landscaping, hardscape, structures, require either a new coastal development permit or a coastal development permit amendment. Only as conditioned for the imposition of the future development deed restriction does the Commission find that the proposed development is consistent with the ESHA protection policies of the Coastal Act.

The applicant is proposing to excavate 50 cubic yards of dirt. The applicant indicated in the application that the cut would be exported to an Orange County landfill or other approved area. To ensure that there are no adverse impact to sensitive coastal resources from dumping of excess cut dirt, the Commission finds that the applicant shall submit a letter for the review and approval of the Executive Director, indicating where the excess cut dirt will be disposed. If the disposal location is within the coastal zone, a coastal permit or coastal development permit amendment may be required. As conditioned, the proposed development is consistent with Section 30240 of the Coastal Act.

C. Geologic Stability

Section 30253 of the Coastal Act states in part:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The applicant submitted a geotechnical report prepared by Ian S. Kennedy, Inc. on March 20, 1998. The scope of work of the geotechnical investigation included: a reconnaissance of the site, review of previous investigations, exploratory trenches, core and soil sampling, and laboratory testing of earth materials.

The subject site is 7,439 square feet and is 142 feet deep by 69 feet wide. There is a small level portion of the site adjacent to Trafalgar Lane which then descends 55 feet to the ravine bottom on a 1.5:1 slope gradient. Unlike other coastal canyons in San Clemente, the flowline of the canyon drainage is contained in a 72 inch drainage pipe. Therefore, the slopes are not subject to erosion by concentrated stormwater runoff. However, as indicated in the geologic report, the slopes are still subject to erosion by rainfall runoff. The lot is undeveloped, although previous permits approved by the Commission allowed the repair and replacement of an existing storm drain along the southwestern property boundary. The storm drain had broken and was spilling concentrated water runoff onto the slope, creating erosional problems.

The proposed development consists of a two-story wood framed residential structure extending over the slope. The rear of the structure will be supported on columns from 12-20 feet above grade (see Exhibit).

The geotechnical report concludes that the proposed development will be feasible and safe and will not impact adjoining properties if it is constructed in accordance with the conclusions and recommendations of the geotechnical report.

The geotechnical report includes recommendations for the installation of caissons, foundation elements, and surface drainage. However, the geotechnical report notes that all surface drainage be taken via pipes to the bottom of the ravine. The plans submitted by the applicant do not include drainage plans. The placement and installation of drainage pipes down the slope have potential to impact natural vegetation. For this reason, the Commission finds that the applicant shall submit a drainage plan for the review and approval of the Executive Director. In order to minimize vegetation disturbance the drainage pipes should be placed on the slope grade, as opposed to subterranean, and should be situated to minimize visual impacts.

The recommendations of the geotechnical report concern grading, the foundation and footings, site drainage, and subgrade slabs. Therefore, the Commission finds that only as conditioned to provide project plans reviewed and signed by the consulting geotechnical experts and drainage plans is the proposed development consistent with Section 30253 of the Coastal Act regarding geological stability.

D. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act.

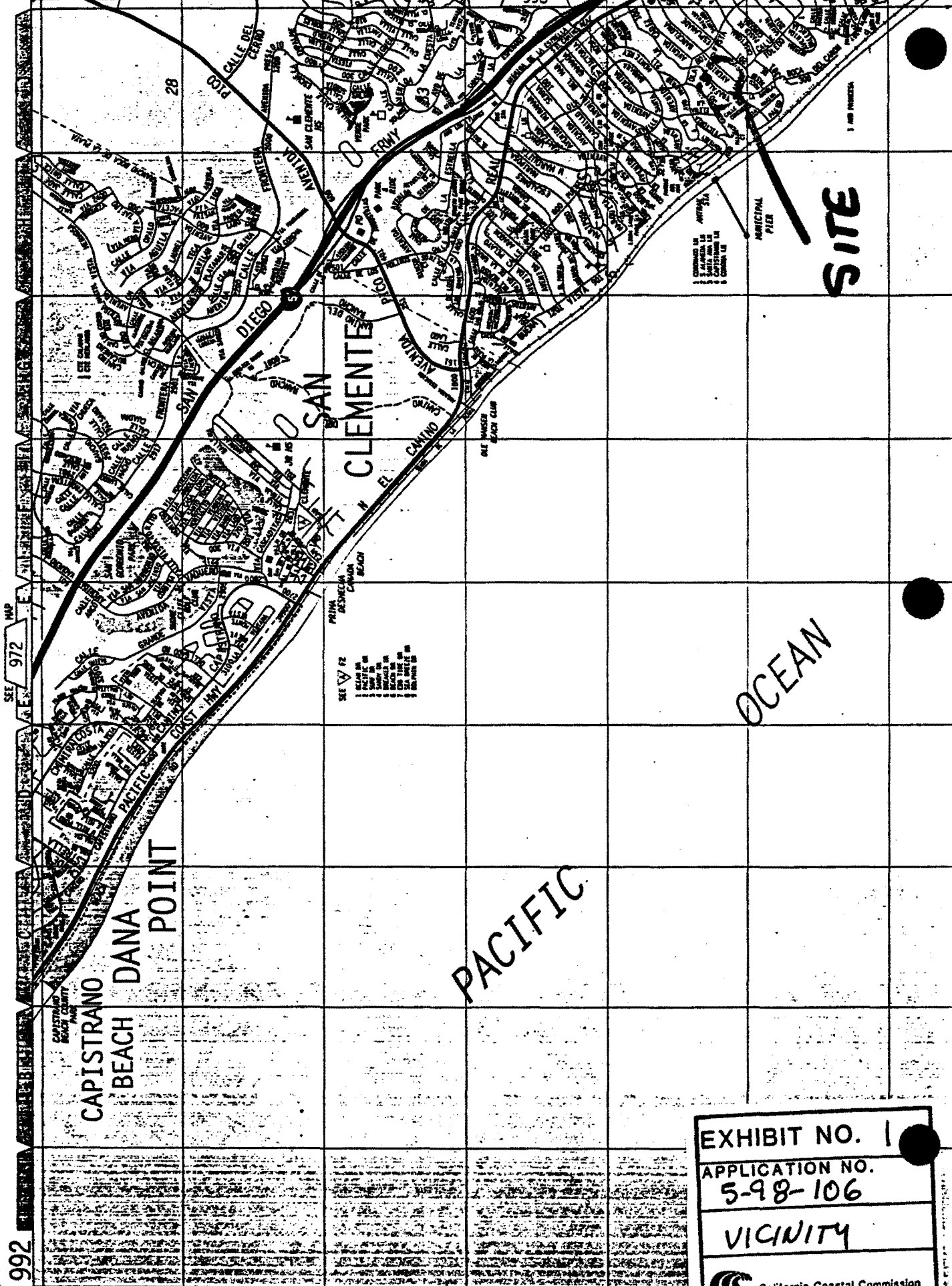
The Commission certified the Land Use Plan for the City of San Clemente on May 11, 1988, and certified an amendment approved in October 1995. On April 10, 1998 the Commission certified with suggested modifications the IP portion of the Local Coastal Program. As conditioned, the proposed development is consistent with the policies contained in the certified Land Use Plan regarding coastal canyon setbacks, enhancement of native vegetation, and geological stability. Therefore, approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program for San Clemente that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

E. Consistency with the California Environmental Quality Act

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5 (d) (2) (A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the resource protection policies of the Coastal Act. Mitigation measures to conform to the consultant's geology/soils recommendations, record a future improvements deed restriction, submit drainage plans, submit a landscaping plan and disclose the destination of excess cut dirt are required to minimize potential adverse effects of development. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.

0722G



SEE 972 MAP

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EXHIBIT NO. 1
APPLICATION NO. 5-98-106
VICINITY
 California Coastal Commission

FIGURE 1 - SITE LOCATION MAP

Scale 1" = 100'

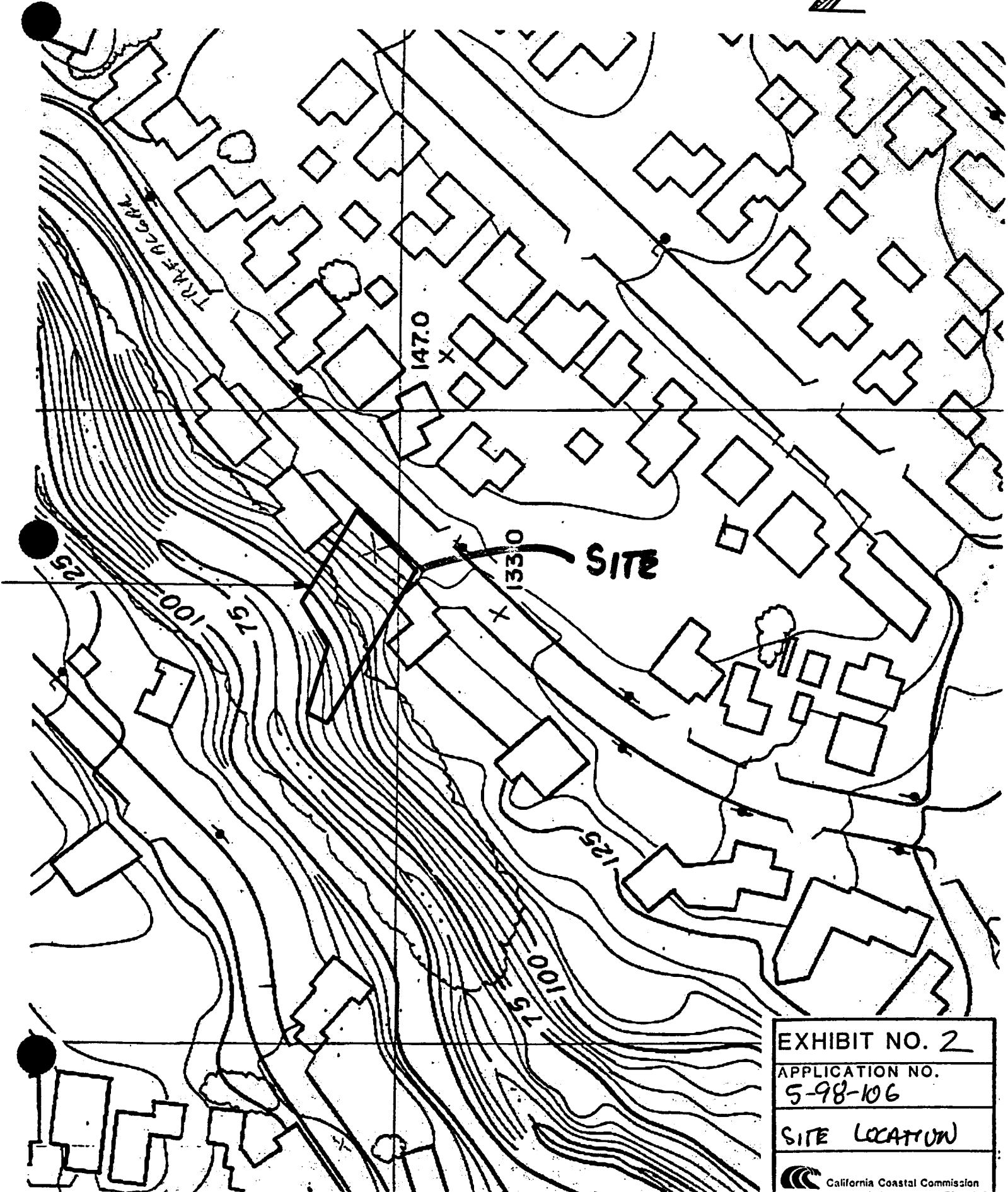



EXHIBIT NO. 2
APPLICATION NO. 5-98-106
SITE LOCATION
 California Coastal Commission



5-98-106
RECEIVED
MAR 27 1998

CALIFORNIA
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9.7m
Drain
Easement

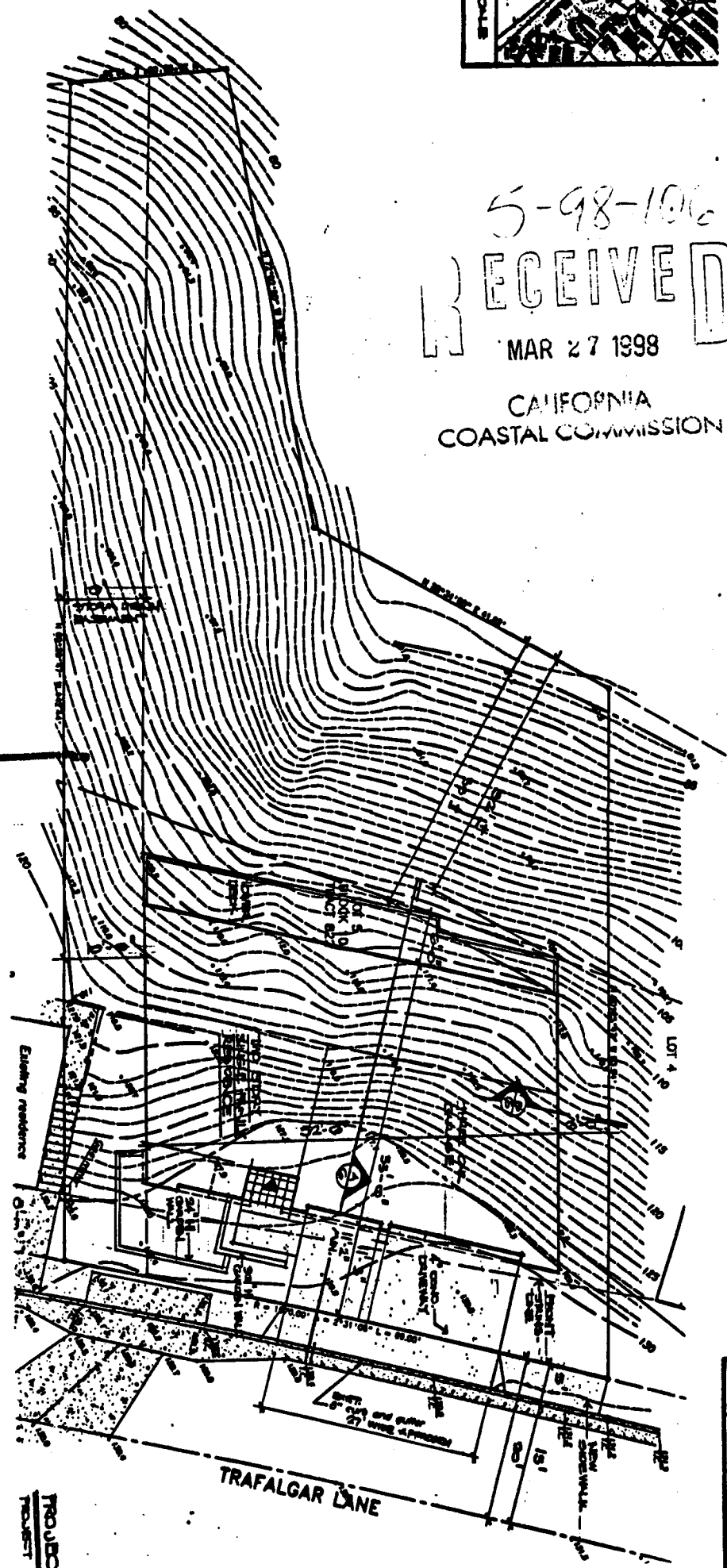

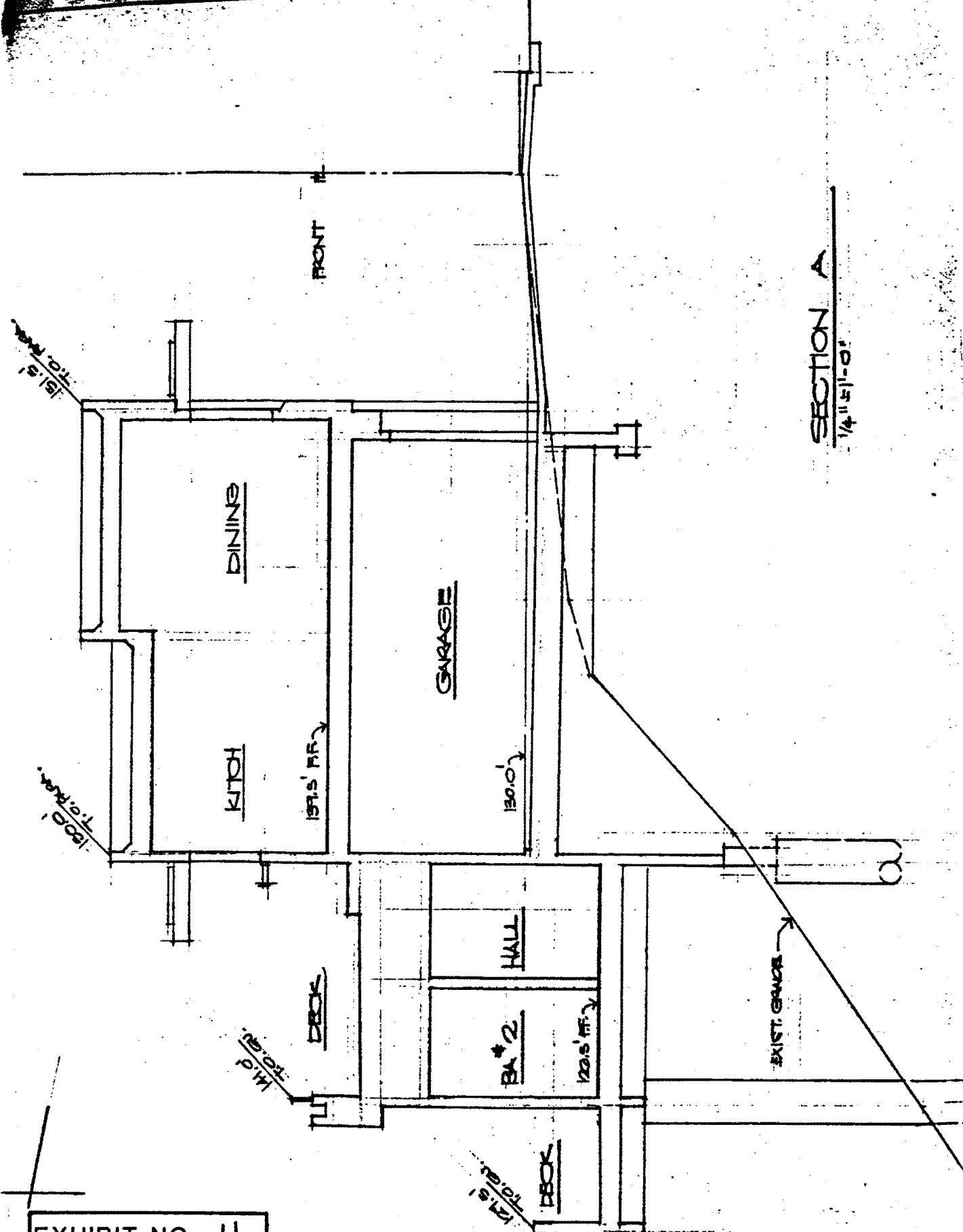


EXHIBIT NO. 3
APPLICATION NO. 5-98-106
SITE PLAN
 California Coastal Commission

PROJECT



SECTION A
1/4" = 1'-0"


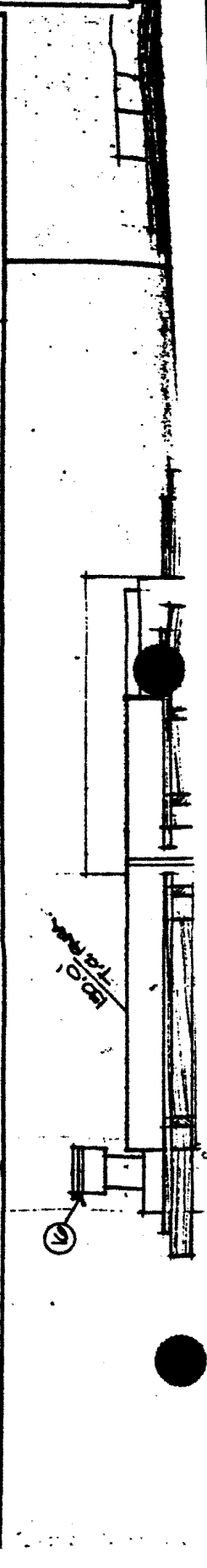
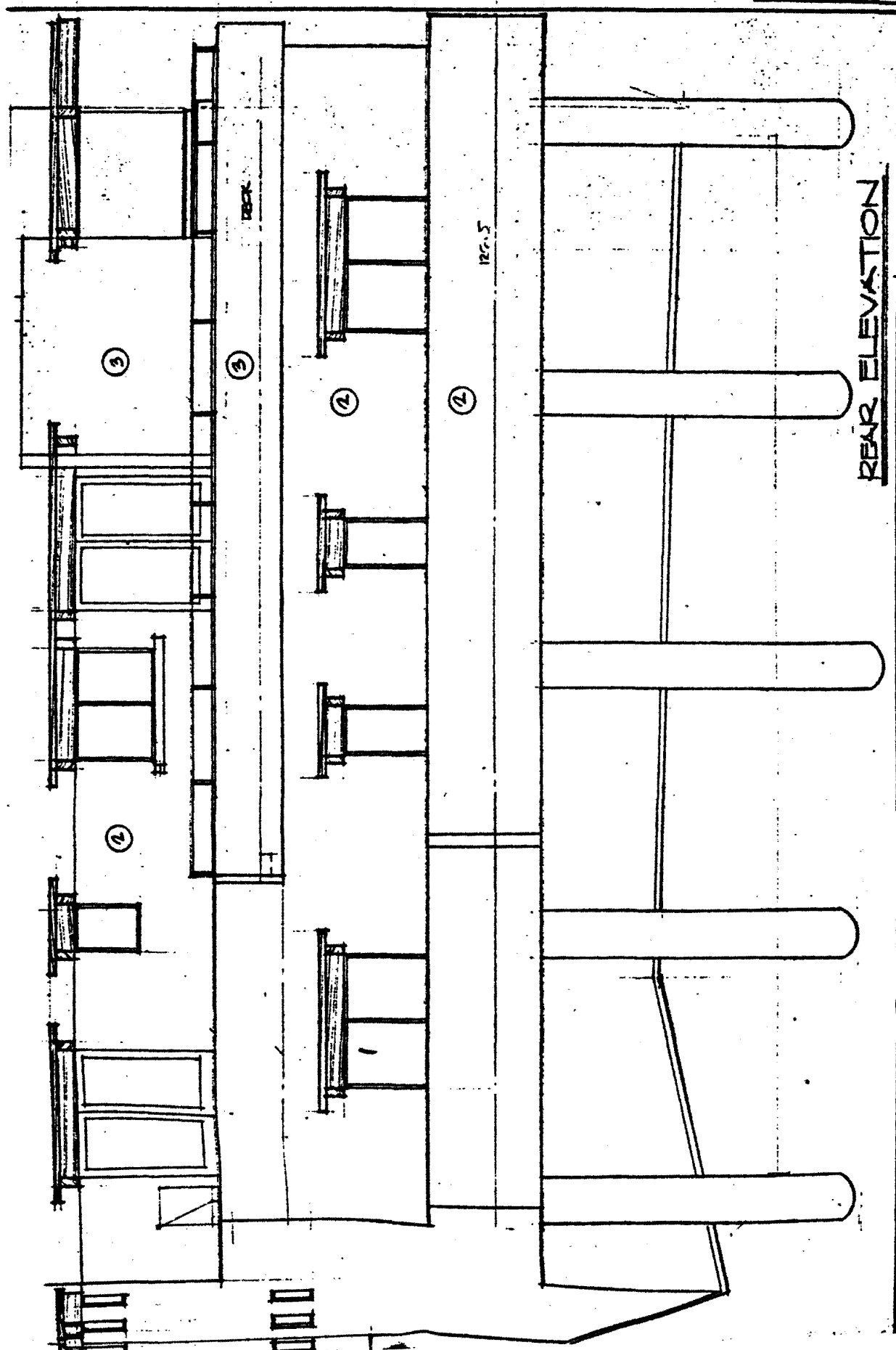
EXHIBIT NO. 4
APPLICATION NO. 5-98-106
CROSS-SECTION
 California Coastal Commission

EXHIBIT NO. 5
APPLICATION NO.
5-98-106
REAR ELEVATION
California Coastal Commission



Top

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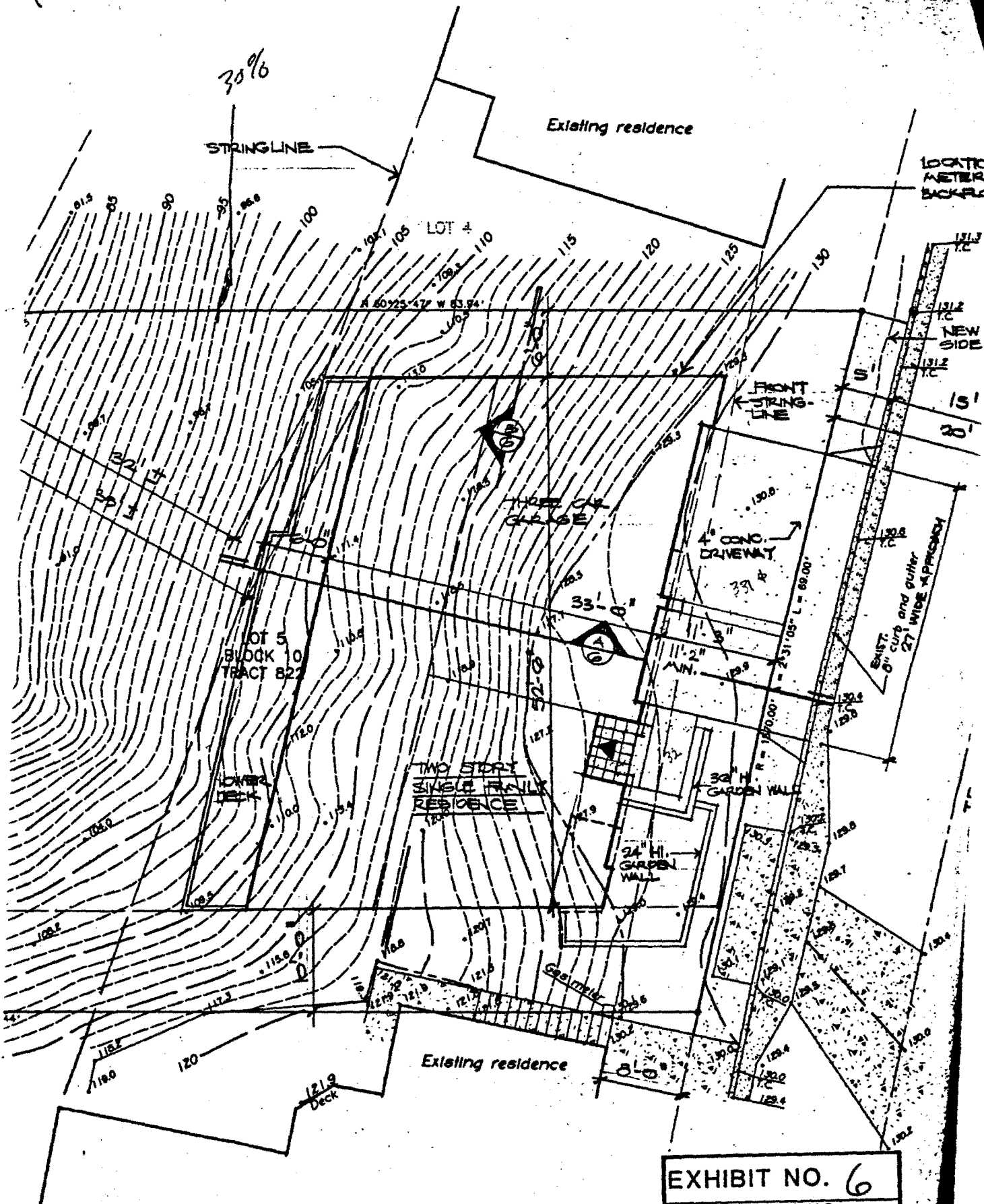


EXHIBIT NO. 6
 APPLICATION NO.
 5-98-106
 STRINGLINE

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