CALIFORNIA COASTAL COMMISSION

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Staff Report: 06-17-98
Hearing Date: July 7-10, 1998
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 5-98-135

APPLICANT: Charles & Barbara Slack AGENT: Brion Jeannette & Assoc.

PROJECT LOCATION: 3729 Ocean Blvd., Newport Beach, Orange County

PROJECT DESCRIPTION: Demolition of an existing single-family residence and garage and construction of a three-story, 7,501 square foot single-family residence with a 590 square foot garage. Grading consists of 736 cubic yards of cut and 34 cubic yards of fill. Two parking spaces are proposed.

Lot Area	15,991 sq. ft.
Building Coverage	3,612 sq. ft.
Pavement Coverage	480 sq. ft.
Landscape Coverage	2,124 sq. ft.
Parking Spaces	2
Zoning	R1
Plan Designation	R1
Ht abv fin grade	8.18 feet from centerline

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends the Commission approve the proposed development with special conditions regarding conformance with geologic recommendations, assumption of risk, future development, and a landscaping condition. There are no known issues of controversy or unresolved issues.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned,

will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

LOCAL APPROVALS RECEIVED: Approval in Concept from the City of Newport Beach Planning/Building Department

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach certified Land Use Plan, Minutes of the City of Newport Beach Planning Commission dated March 19, 1998, Report to the City of Newport Beach Planning Commission dated March 19, 1998, Geotechnical Report prepared by Geofirm dated February 5, 1998, Coastal Development Permit 5-97-061 (Feldman)

II. Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.

4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.

6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

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

III. Special Conditions

1. Assumption of Risk

Prior to the issuance of the coastal development permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazards from landsliding and coastal bluff erosion and the applicant assumes the liability from such hazards; and (b) that the applicant unconditionally waives any claim of liability on the part of the Commission and agrees to indemnify and hold harmless the Commission, its officers, agents, and employees relative to the Commission's approval of the project for any damage due to natural hazards.

The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens 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. 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 5-98-135 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 5, will 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.

3. Conformance with Geotechnical Recommendations

Prior to the issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, grading, foundation and basement plans. The approved foundation plans shall include plans for the foundation, retaining walls, subdrains and footings. These plans shall include the signed statement of the geotechnical consultant certifying that these plans incorporate the recommendations contained in the geotechnical investigation prepared by Geofirm on February 5, 1998.

The approved development shall be constructed in accordance with the plans approved by the Commission. 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.

4. 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 front yard and encroachment area. The plans shall incorporate the following criteria:

(a) The area between Ocean Boulevard and the bluff edge shall be planted and maintained for erosion control and enhancement of native coastal bluff vegetation. To minimize the need for irrigation and reduce potential erosion and slope failure, 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 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.

(c) Native plants chosen for landscaping adjacent to the park and public viewing area on the south side of the site shall consist of native ground cover and low growing plants in order to prevent adverse visual impacts to public viewing opportunities from Ocean Boulevard.

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

IV. FINDINGS AND DECLARATIONS:

A. Project Description

The proposed development consists of the demolition of an existing single-family residence and garage and construction of a three-story, 7,501 square foot single-family residence with a 590 square foot garage. Grading consists of 736 cubic yards of cut and 34 cubic yards of fill. Two parking spaces are proposed. The excess cut dirt will be taken to a location outside of the coastal zone. The proposed residence extends the footprint of the residence seaward of its present location but within the existing hardscape improvements. The stringline policy is not applicable to this site because there is no adjacent residence to the south. In addition, the site is located entirely on the bluff face, therefore bluff edge setbacks are not applicable either.

The proposed development is located in the community of Corona del Mar, which is in the jurisdiction of the City of Newport Beach. The development is located on a coastal bluff between Little Corona Beach and Corona del Mar State Park beach (see Exhibit 1). There are existing single-family residences to the north and across Ocean Blvd. to the east. Adjacent to the lot on the south is a park and overlook (see Exhibits 2 and 6). The site is the last privately-owned lot on south Ocean Boulevard. The ocean below the site is designated a Marine Life Refuge. In addition, Ocean Boulevard, in Corona del Mar, is designated in the LUP as a coastal view area.

The proposed development conforms with the applicable standards for development in the R-1 District, except for the height of the garage above the top of curb elevation and encroachments into the front yard setback area. The City of Newport Beach approved both of these exceptions because they are consistent with existing development. Encroachments into the front yard setback are necessary for the siting of garages and driveways. The height of the proposed residence will be four feet lower than the roofline of the existing residence.

B. Geological Hazard

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 findings in this section of the staff report include generalized findings regarding the susceptibility of coastal bluffs to erosion and site specific findings from the geological report.

1. General Findings on Bluff Erosion

The proposed development is located on a coastal bluff which is subject to erosion and periodic toppling. Coastal bluffs in California are located at the intersection of land and ocean and are exposed to severe weathering forces. Coastal bluffs in southern California are composed of relatively recent uplifted geologic materials and by virtue of their location and composition, these coastal bluffs are in a continual state of erosion.

Coastal bluff erosion is caused by a combination of inherent environmental factors and erosion caused by man. Environmental factors include gravity, seismicity, wave attack, wetting and drying of bluff face soils, wind erosion, salt spray erosion, rodent burrowing and piping, percolation of rain water, poorly structured bedding, surface water runoff and poorly consolidated soils.

Factors attributed to man include: bluff oversteepening from cutting roads and railroad tracks; improper irrigation practices; building too close to the bluff edge; improper site drainage; use of impermeable surfaces which concentrate runoff; use of water-dependent vegetation; pedestrian or vehicular movement across the bluff top, face and toe, and breaks in irrigation lines, water or sewer lines. In addition to irrigation water or runoff at the bluff top, increased residential development inland leads to increased water percolating beneath the surface soils and potentially outletting on the bluff face along fracture lines in the bluff or points of contact of different geologic formations, forming a potential slide plane.

There is a wealth of information in technical periodicals and books concerning coastal bluff erosion. Selected portions of relevant articles by experts in the field are included in this staff report to support the Commission's findings and special conditions.

F.B. Leighton wrote a chapter on "Landslides and Urban Development" in Engineering Geology in Southern California, 1969. In this chapter Leighton writes:

> Landsliding is responsible for the bulk of the material moved from valley sides and from sea cliffs in southern California. Its importance as a sculpturing process exceeds that of direct erosion of these areas by running water and the waves.

In his article entitled "Mass Movement and Sea Retreat along the Southern California Coast" published in the Bulletin of the Southern Academy of Science, Antony Orme writes:

> Seacliff retreat is a natural process which, if unheeded, threatens human life and livelihood, and which can be aggravated by human activity. It will continue to occur and therefore responsible coastal management must require that human activity be set back an appropriate distance from cliff tops and diverted from unstable and potentially unstable terrain.

Ernest R. Artim, in an article entitled "Erosion and Threat of Sea Cliffs, San Diego County, California," discusses the factors leading to bluff retreat. He states:

> Man has introduced into the coastal region a series of erosion accelerating agents, such as uncontrolled foot traffic and irrigation. Uncontrolled runoff from structures built on top of cliffs often results in channeling and erosion.

The coastal bluffs at the proposed development site are subject to wave attack and erosion caused by the environmental factors mentioned above. However, the geotechnical report notes that the rate of erosion is slow because the bedrock is composed primarily of resistant cemented sandstone. Nonetheless, the site is eroding and the rate of erosion can be accelerated by heavy rainfall, storm surges, and poor landscaping, irrigation and maintenance practices.

2. Certified LUP Hazard Policies

The City of Newport Beach certified Land Use Plan includes policies regarding the development on coastal bluffs. Pages 25-27 of the LUP contain policies regarding definition of a bluff, grading, provision of geologic reports, setbacks and building in hazardous areas.

The site is a coastal bluff according to the definition which requires that a landform have an average slope of 26.6 degrees (50%) or greater, with a vertical rise of 25 feet or greater. The policy on grading requires that the alteration of natural coastal landforms be minimized and that waivers of liability are required in areas of geologic hazard. Another LUP requirement is the submittal of a site specific geologic report to assess areas of potential geologic instability.

The certified LUP includes a discussion of hazard areas, which it defines as areas where natural processes can pose a threat to the public health, safety, and welfare. It further defines specific geologic hazards as earthquake faults, existing or potential landslides, areas with expansive or collapsible soil, excessive settlement and subsidence, flood hazard areas, and areas subject to potential erosion and siltation. Coastal bluffs qualify as areas of geologic hazard.

The certified LUP also contains a discussion of bluff top setbacks. However, the setback policies pertain only to all new tracts and subdivisions, residential developments greater than four residences, and commercial development. This policy states:

> As a general guideline, the property line setback from the edge of a bluff should be no closer to the edge of the bluff than the point at which the top of the bluff is intersected by a line drawn from the solid toe of the bluff at an angle of 26.6 degrees to the horizontal.

The intent of this policy section, as stated in the certified LUP, is to require setbacks in new subdivision development for public access purposes. Because the proposed development is a single-family residence it would appear to be exempt from this policy. Therefore, there are no specific LUP policies which would provide guidance as to bluff setbacks in this instance.

Approximately 800 cubic yards of grading will be required to deepen the footprint of the residence. Although not a minimal amount of grading, neither is the amount excessive and does not result in substantial landform alteration. There is an existing single-family residence on the site and grading will be contained within the footprint of the existing building. As per the LUP requirements, an assumption of risk special condition is being required and a comprehensive geological report was supplied with the application. Therefore, the proposed development is consistent with the certified LUP policies.

3. Site Specific Bluff Information

The proposed development consists of the demolition of an existing single-family residence and garage which was constructed in 1947. Exhibit 4 is a photograph of the homes along Ocean Boulevard, including the one proposed in this permit for demolition. The existing development includes retaining walls on the bluff supporting patios and decks. The perimeter retaining walls are not proposed for demolition.

The site includes 100 feet of frontage along Ocean Boulevard. Maximum relief across the site is approximately 80 feet. The lower sea cliff portion forms a small point which descends steeply to the west and south from the existing decks and retaining wall.

The Assessment and Atlas of Shoreline Erosion along the California Coast describes the coastline at the site as having:

> Narrow sandy pocket beaches confined by rock protrusions with rock reef and offshore rocks with arches backed by wave cut low cliffs with frequent sea caves and extreme undercutting.

The assessment characterizes development in this area as potentially dangerous.

The applicant submitted a geotechnical investigation prepared by Geofirm on February 5, 1998. The scope of the investigation included: a review of geotechnical literature, reconnaissance of the property, geologic mapping of the sea cliff at the rear of the property, laboratory testing of site materials, preparation of cross-sections and analysis of subsurface conditions.

The geotechnical report states that the bedrock in the sea cliff is composed of thickly bedded cemented sandstone and thinly bedded siltstone. The headland below the rear patio is composed of the cemented sandstone. The base of the sea cliff is protected from wave erosion by large boulders and offshore rocks. The sea cliff is also protected from westerly swells and windwaves by the Newport Harbor jetties.

The geologic report addresses the subject of slope stability. The report notes that the sea cliff is composed of resistant cemented sandstone which has largely favorable bedding. The southern portion of the seacliff is subject to piecemeal rock toppling caused by erosion at the base of the sea cliff. The report also notes that there is minor instability of the marine terrace deposits which mantle the bedrock.

The existing single-family residence includes retaining walls supporting bluff top patios. The applicant is not proposing to expand development seaward of the existing perimeter bluff-top improvements (see Exhibits 3 and 5). The new residence will be supported by caissons and deepened footings. Extending from the seaward extent of the residence will be cantilevered decks. These cantilevered decks will be supported by the foundation system of the proposed residence and will not be reliant upon the existing perimeter retaining wall for support. The geologic cross sections show that the deepened foundation footings will be landward of the 5:1 structural setback plane recommended by the consulting geologist.

No improvements are proposed to reinforce the existing perimeter retaining wall and the perimeter retaining wall will not be structurally tied to any of the proposed development.

The report concludes that the proposed development is considered feasible and safe from a geotechnical viewpoint provided the recommendations of the report are followed regarding design, construction and maintenance. The report also notes that construction of the proposed development will not have an adverse impact on adjoining development. The geotechnical report includes recommendations regarding grading, construction of retaining walls, shoring, footings, caissons and drainage.

4. Conclusions and Special Conditions

In his article "Some Techniques for Reducing Landslide Hazards", William Kockelman, U.S. Geological Survey, discusses several ways to minimize landslide hazards, including:

1. Require a permit prior to scraping, excavating, filling, or cutting any lands.
2. Prohibit, minimize, or carefully regulate the excavating, cutting and filling activities in landslide areas.
3. Provide for the proper design, construction, and periodic inspection and maintenance of weeps, drains, and drainage ways, including culverts, ditches, gutters, and diversions.

4. Regulate the disruption of vegetation and drainage patterns.
5. Provide for proper engineering design, placement, and drainage of fills, including periodic inspection and maintenance.

Kockelman also discusses the option of disclosure of hazards to potential buyers by the recordation of hazards in public documents. The recordation of hazards via the assumption of risk is one means the Commission utilizes to inform existing and future buyers of property of the potential threat from soil erosion and slope failure (landslide) hazards. Several of these recommendations are routinely required by local government, including requiring permits for grading, minimizing grading, and requirements for proper engineering design.

The Commission has incorporated many of these same recommendations, including requiring the consulting geologist to review foundation and drainage plans, minimizing grading, and requiring applicants to provide landscape and drainage plans which provide for native drought-tolerant plants. In fact, although the consulting geologists routinely make recommendations concerning landscaping and site drainage, geologists do not review landscaping plans. In this respect the Commission fills an important role in minimizing landsliding and erosion and also ensuring the continuance of native plants.

Because of the fragile nature of coastal bluffs and their susceptibility to erosion, the Commission requires a special condition regarding the types of vegetation to be planted or removed and also requires a special condition that future development, including grading and vegetation removal, requires a coastal development permit.

The findings in the staff report regarding the general causes of bluff erosion and the specific findings from the geotechnical report and photographs confirm that the coastal bluff at this location is eroding and that measures to minimize bluff erosion are necessary. The following special conditions will help mitigate the impacts of the proposed development on bluff erosion and instability, and help prevent the necessity for bluff protective structures, as required by Section 30253 of the Coastal Act.

a. Future Development

Special condition 2 of the permit requires the applicant to record a deed restriction on the property placing the applicant and their successors in interest on notice that any development on the rear yard top of bluff, including grading, vegetation removal, structural improvements, accessory structures, or bluff protective measures, requires a coastal development permit from the California Coastal Commission.

The proposed development consists of the demolition of an existing single-family residence and the construction of a single-family residence on a coastal bluff. The coastal bluff is subject to wave attack and is undergoing erosion and sloughing on the southwestern portion of the site. The findings in sections 1-4 above, including site specific geologic information, support the contention that development on coastal bluffs involves risks and that structural engineering can minimize some of the risk but cannot eliminate it entirely.

b. Landscaping Special Condition

In approving development on a coastal bluff the Commission must condition the applicant to minimize potential erosion or, as it is stated in Section 30253 "...to neither create nor contribute significantly to erosion...".

Artim, see page 6, discusses the impact of man on coastal bluffs and the adverse impact of non-native vegetation. He states:

> Man often replaces native vegetation on the cliff surface with exotic vegetation. This creates an environment more conducive to rodents, depletes the existing natural, fragile cementation, and, when coupled with uncontrolled runoff, produces a greater erosive agent than existed naturally. Exotic vegetation often competes with the natural growth and tends to kill the native plants which have, in the past, adapted to and partially stabilized the bluff surfaces.

Griggs, Pepper and Jordan wrote a paper, "California's Coastal Hazards Policies: A Critique" which was presented at the California Coastal Zone Experience, 1991. In this paper they discuss the role of irrigation water in landsliding.

> Along the urbanized seacliffs of southern California, geologic instability has been increased through the addition of large volumes of irrigation water required to maintain lawns and non-native vegetation in the yards of cliff top homes. Landscape irrigation alone is estimated to add the equivalent of 50 to 60 inches of additional rainfall each year to garden and lawn areas. This irrigation has led to a slow, steady rise in the water table that has progressively weakened cliff material and lubricated joint and fracture surfaces in the rock along which slides and block falls are initiated. In addition to these effects, surface runoff discharged through culverts at the top or along the face of the bluffs leads to gullying or failure of weakened surficial materials.

The role of water/percolation in association with water-dependent vegetation is documented in this staff report. The Commission has also acted on many coastal development permits in which an applicant has applied for bluff protective measures following the failure of irrigation lines, water or sewer lines which then cause slope failure. It is extremely difficult to discover breaks in in-ground irrigation lines until after a certain period of time passes and plants start to die. By then the slope may have become saturated. It is also difficult to assess the longterm damage caused by the accumulation of water on bluff top soils due to watering of lawns and other water intensive vegetation. It is estimated that watering a lawn on a regular basis is the equivalent of 60 inches of rainfall a year. The average rainfall in southern California is 12 to 20 inches per year.

The applicant is not proposing any development, including grading or vegetation removal, beyond the existing patio improvements in the rear yard. The applicant is proposing to increase viewing opportunities at the southern street level by cutting down the existing vegetation (see Exhibit 7). The plans submitted by the applicant indicate that the landscaping in two areas between the proposed residence and the street will be modified.

The applicant has not submitted a landscaping plan detailing what these landscaping improvements involve. Therefore, in order to ensure that landscaping does not increase the potential for site erosion, the Commission is requiring that the applicant submit a landscaping plan for the review and approval of the Executive Director. This landscaping plan shall detail proposed landscaping for view improvements and indicate where vegetation is proposed for removal, whether that vegetation is native or non-native, and what new landscaping is proposed. The special condition requires that all proposed landscaping be of native, drought-tolerant plants similar to that found on existing coastal bluffs in the site area.

c. Assumption of Risk

Any development on an eroding coastal bluff involves some risk. The geology report states that the sea cliff is composed of resistant cemented sandstone with favorable bedding planes, except in the southern part of the bluff. The southerly facing sea cliff has unfavorable bedding and is subject to erosion and toppling.

Although adherence to the geotechnical consultant's recommendations will minimize the risk of damage from erosion, the risk is not entirely eliminated. Therefore, the standard waiver of liability condition has been attached via special condition number 1. By this means, the applicant and future buyers are notified that the proposed development is located in an area that is potentially subject to bluff erosion that can damage the applicant's property. The applicant is also notified that the Commission is not liable for such damage as a result of approving the permit for development. In addition, the condition insures that the Commission does not incur damages as a result of its approval of the Coastal Development Permit. Finally, recordation of the condition insures that future owners of the property will be informed of the risks and the Commission's immunity for liability.

d. Conformance with Geologic Recommendations

The geotechnical consultant has found that the proposed development is feasible provided the recommendations contained in the geotechnical report prepared by the consultant are implemented as regards the design and construction of the project. The geotechnical recommendations address foundations, excavation, retaining walls, and footings. In order to insure that risks of development are minimized, as per Section 30253, the geotechnical consultant's recommendations should be incorporated into the design of the project. As a condition of approval the applicant shall submit for the review and approval of the Executive Director foundation plans reviewed and signed by a consulting geologist.

e. Findings of Coastal Act Consistency

The Commission has attached several special conditions which are required to bring the proposed development into conformance with Section 30253 of the Coastal Act. These special conditions include: assumption of risk, future development, conformance with geologic recommendations, and landscaping. Only as conditioned to comply with the provisions of these special conditions does the Commission find that the proposed development conforms with Section 30253 of the Coastal Act.

C. Visual Resources

The visual resource protection policies of the Coastal Act are found in Section 30251 of Chapter 3.

Section 30251

> 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.

The certified LUP contains policies pertaining to protection of specific view areas in the City of Newport Beach, including views along Ocean Boulevard. On page 28 of the LUP it states:

> Where coastal views from existing roadways exist, any development on private property within the sight lines from the roadway shall be sited and designed to maximize protection of the coastal view. This policy is not intended to prohibit development on any site.

The proposed development is the southernmost developed lot along Ocean Boulevard in Corona del Mar. Ocean Boulevard terminates approximately at the southern property boundary of the site. There is a small public park adjacent to the end of Ocean Boulevard (see Exhibits 4 and 6). The walkway at this park goes from Ocean Boulevard down to Little Corona beach, a small pocket beach at the terminus of Buck Gully. Further north along Ocean Boulevard (several hundred feet) is Corona del Mar State Park beach, a large, popular beach destination point. Exhibit 6 shows the site in relation to the adjacent park and the park further north overlooking Corona del Mar State Beach. The two parks have different viewsheds. The park north of the site is a north and west viewing overlook. The park adjacent to the site has a viewshed out to the ocean and south.

Exhibit 7 contains two photographic portrayals of the site showing existing and proposed development. Exhibit 8 shows the roof line of the proposed residence and the roof line of the existing residence. The proposed roof line will be four feet lower than the existing roof line.

The proposed development will not interfere with the view from the park. The view analysis exhibit shows that the proposed development will increase the viewshed from the public sidewalk by cutting back the height of existing vegetation. This exhibit also shows that the roofline of the proposed development is lower than the existing structure and the structures to the north.

The applicant has proposed to remove existing vegetation on the south part of the site which will also increase the viewing opportunities from the road. In order to ensure that this public view area is not obstructed, the Commission is requiring the applicant to submit a landscape plan which includes

low-growing native plants for this portion of the site. Only as conditioned does the Commission find that the proposed development conforms with Section 30251 of the Coastal Act and the view policies of the certified LUP.

D. Public Access and Recreation

Section 30604(c) of the Coastal Act requires that every coastal development permit issued for any development between the nearest public road and the sea includes a specific finding that the development is in conformance with the public access and recreation policies of Chapter 3 of the Coastal Act. The proposed development is located between the sea and the first public road.

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

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

(2) adequate access exists nearby.

The proposed development is located between two park overlooks along Ocean Boulevard. Access is to Little Corona beach is provided by a trail at the terminus of Ocean Boulevard. To the west is Corona del Mar State Beach which also provides beach access and recreation opportunities.

Therefore, the Commission finds that adequate public access exists in proximity to the proposed development and that the proposed development does not pose significant adverse impacts on public access and recreation and is consistent with Section 30212 of the Coastal Act.

E. Local Coastal Program

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

The Newport Beach Land Use Plan was certified on May 19, 1982. As conditioned, the proposed development is consistent with the policies contained in the certified Land Use Plan. Therefore, approval of the proposed development will not prejudice the ability of the City of Newport Beach to prepare a Local Coastal Program [Implementation Plan] that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

F. Consistency with the California Environmental Quality Act (CEQA).

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

The proposed project has been conditioned in order to be found consistent with the geologic hazards policies of the Coastal Act. Mitigation measures; special conditions requiring conformance with geologic recommendations, submittal of an assumption of risk deed restriction, future improvements deed restriction, and landscaping plan, will minimize all adverse effects. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified effects, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

0761G

EXHIBIT NO. 1
APPLICATION NO. 5-98-135
VICINITY

5-98-135

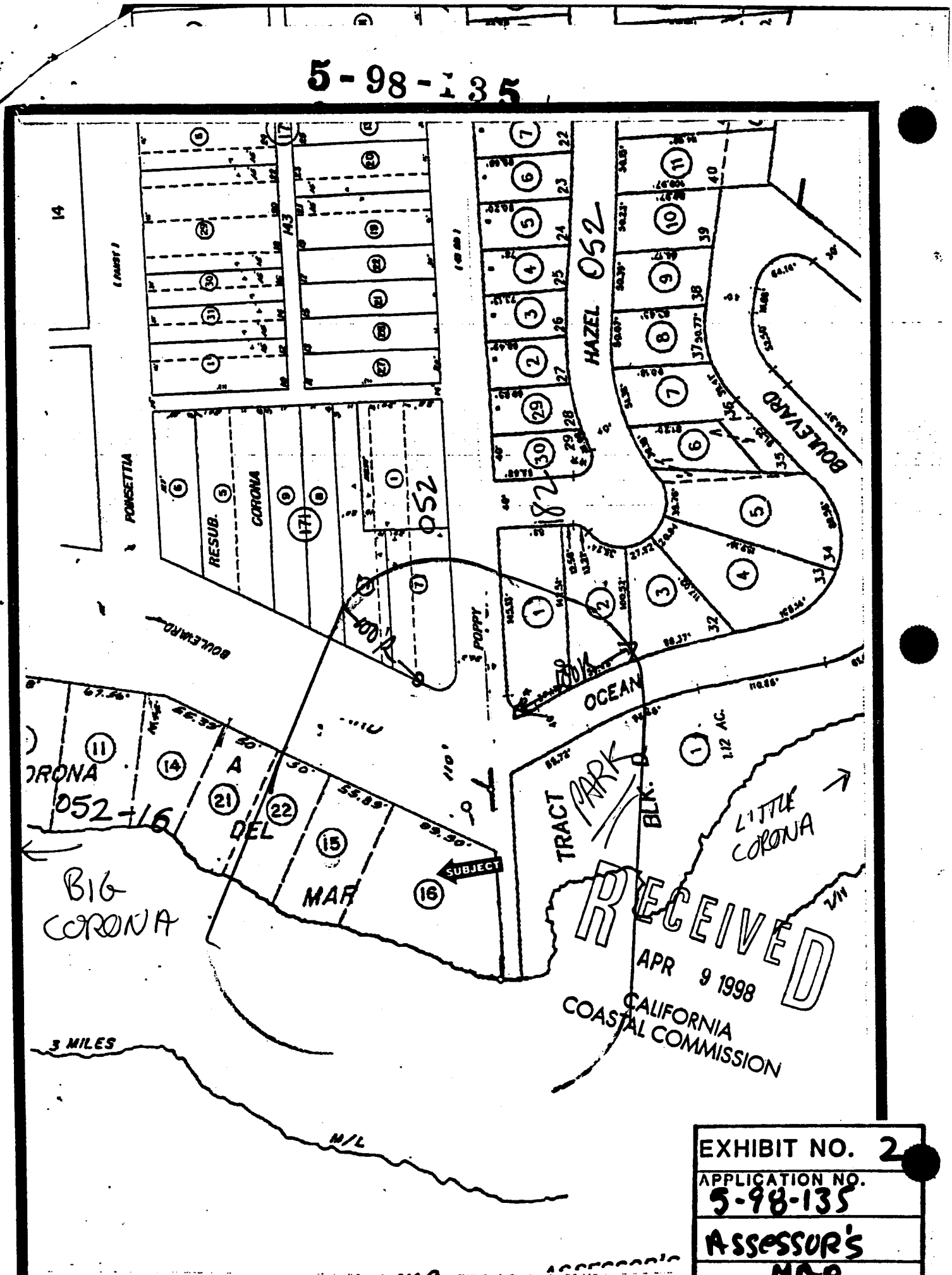


EXHIBIT NO. 2

APPLICATION NO. 5-98-135

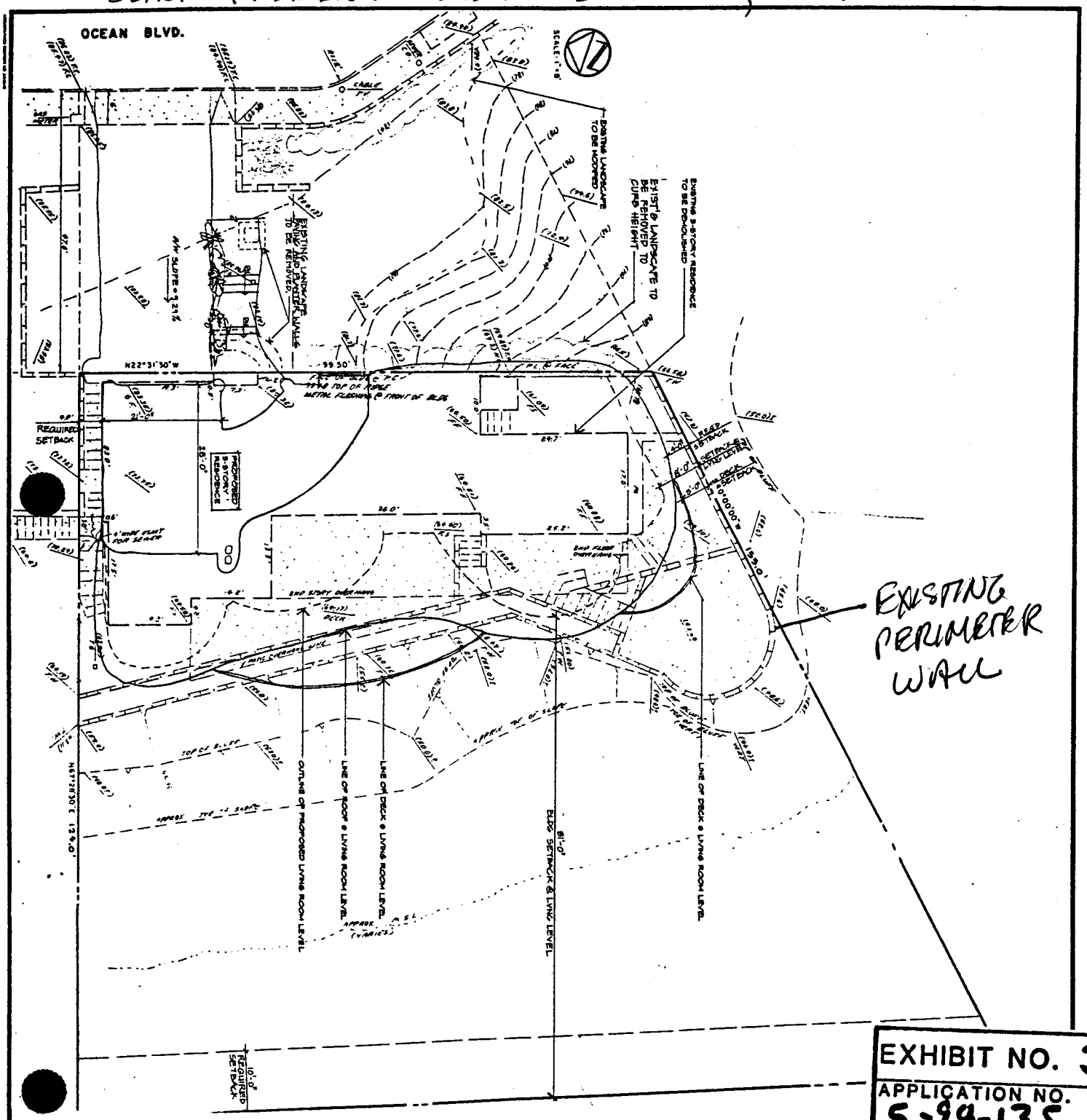
ASSESSOR'S MAP

California Coastal Commission

RECEIVED
APR 9 1998
CALIFORNIA
COASTAL COMMISSION

5-98-135

SLACK RESIDENCE: 3729 OCEAN BLVD., C.D.M.



EXISTING PERIMETER WALL

EXHIBIT NO. 3
APPLICATION NO. 5-98-135
SITE PLAN
California Coastal Commission

Cover home presented by Coast Newport Properties

EXHIBIT NO. 4

APPLICATION NO. 5-98-135

AERIAL PHOTO

California Coastal Commission

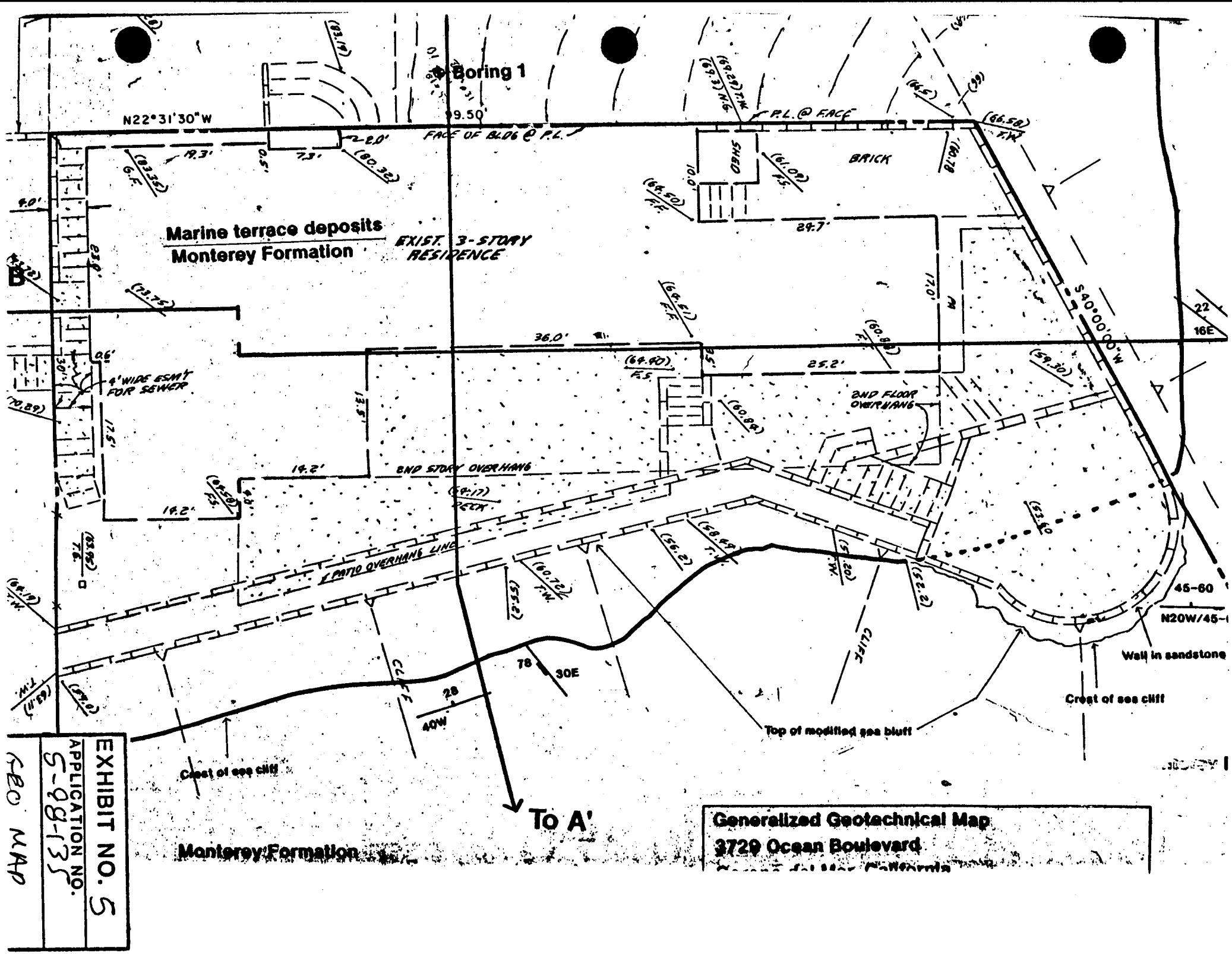


EXHIBIT NO. 5
APPLICATION NO. 5-98-135
GEO MAP

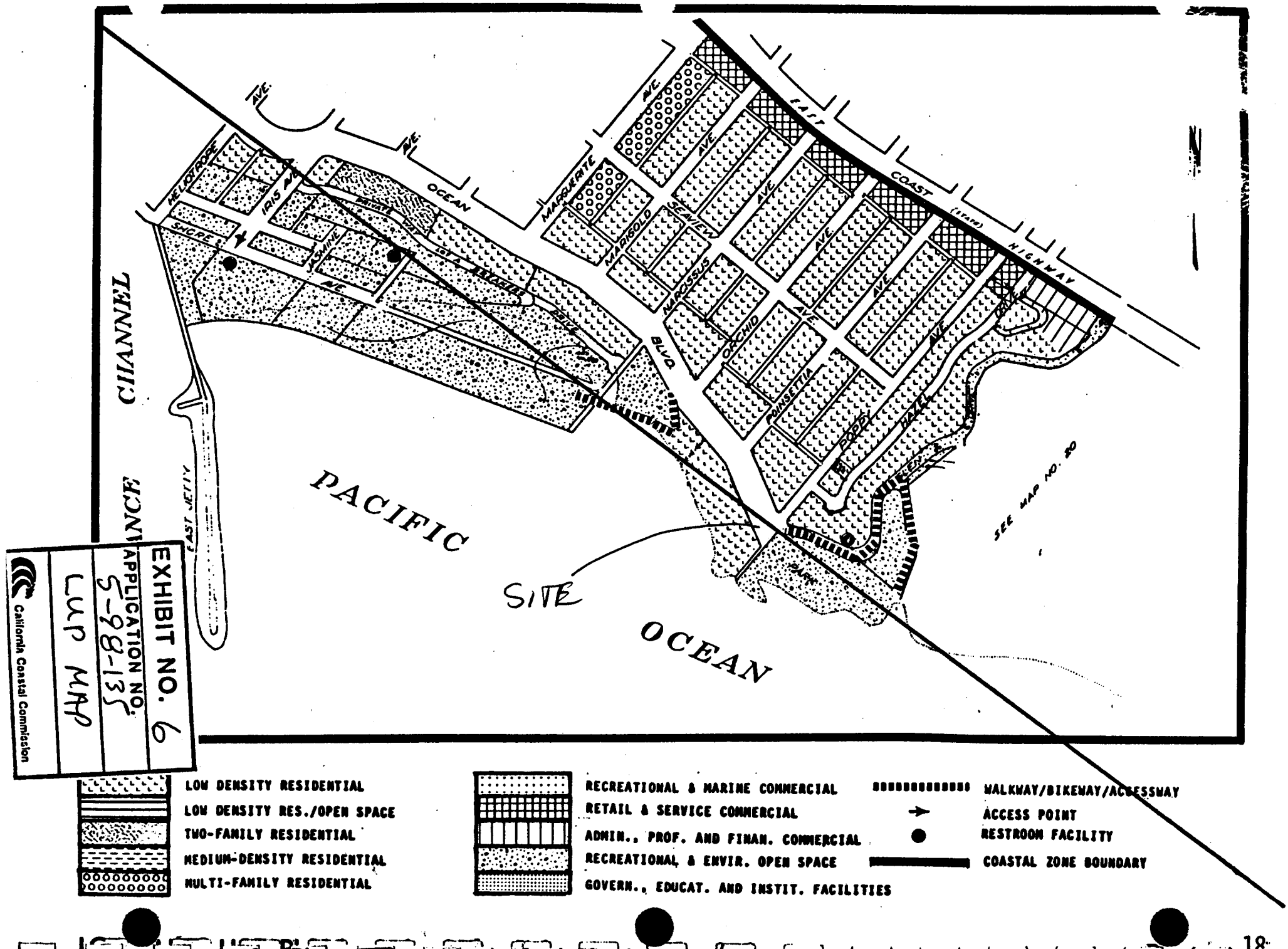


EXHIBIT NO. 9
APPLICATION NO. 5-88-135
LUP MAP
California Coastal Commission
CHANNEL
PACIFIC
OCEAN
SITE
EAST JETTY
OCEAN AVE.
MARGUERITE
MARIGOLD
SEAVIEW AVE.
COAST (STATE) HIGHWAY
HELIOTROPE
IRIS AVE.
SHORE
JASMINE AVE.
PRIVATE ROAD
LOT A
NARCISSUS
ORCHID
POINSETTIA
POPPY
BLVD.
SEE MAP NO. 8D
LOW DENSITY RESIDENTIAL
LOW DENSITY RES./OPEN SPACE
TWO-FAMILY RESIDENTIAL
MEDIUM-DENSITY RESIDENTIAL
MULTI-FAMILY RESIDENTIAL
RECREATIONAL & MARINE COMMERCIAL
RETAIL & SERVICE COMMERCIAL
ADMIN., PROF. AND FINAN. COMMERCIAL
RECREATIONAL & ENVIR. OPEN SPACE
GOVERN., EDUCAT. AND INSTIT. FACILITIES
WALKWAY/BIKEWAY/ACCESSWAY
ACCESS POINT
RESTROOM FACILITY
COASTAL ZONE BOUNDARY

EXHIBIT NO. 7
APPLICATION NO. 5-98-135
VISUAL
California Coastal Commission

SITE

EXISTING

PROPOSED

LACK RESIDENCE
729 OCEAN BLVD.
ORONA DEL MAR, CA

CDP # 5-98-135

Brion S. Jeannette &

Revised elevation
Received 3-19-98
Approved P2P

RECEIVED
APR 9 1998
CALIFORNIA
COASTAL COMMISSION

5-98-135

5-98-135

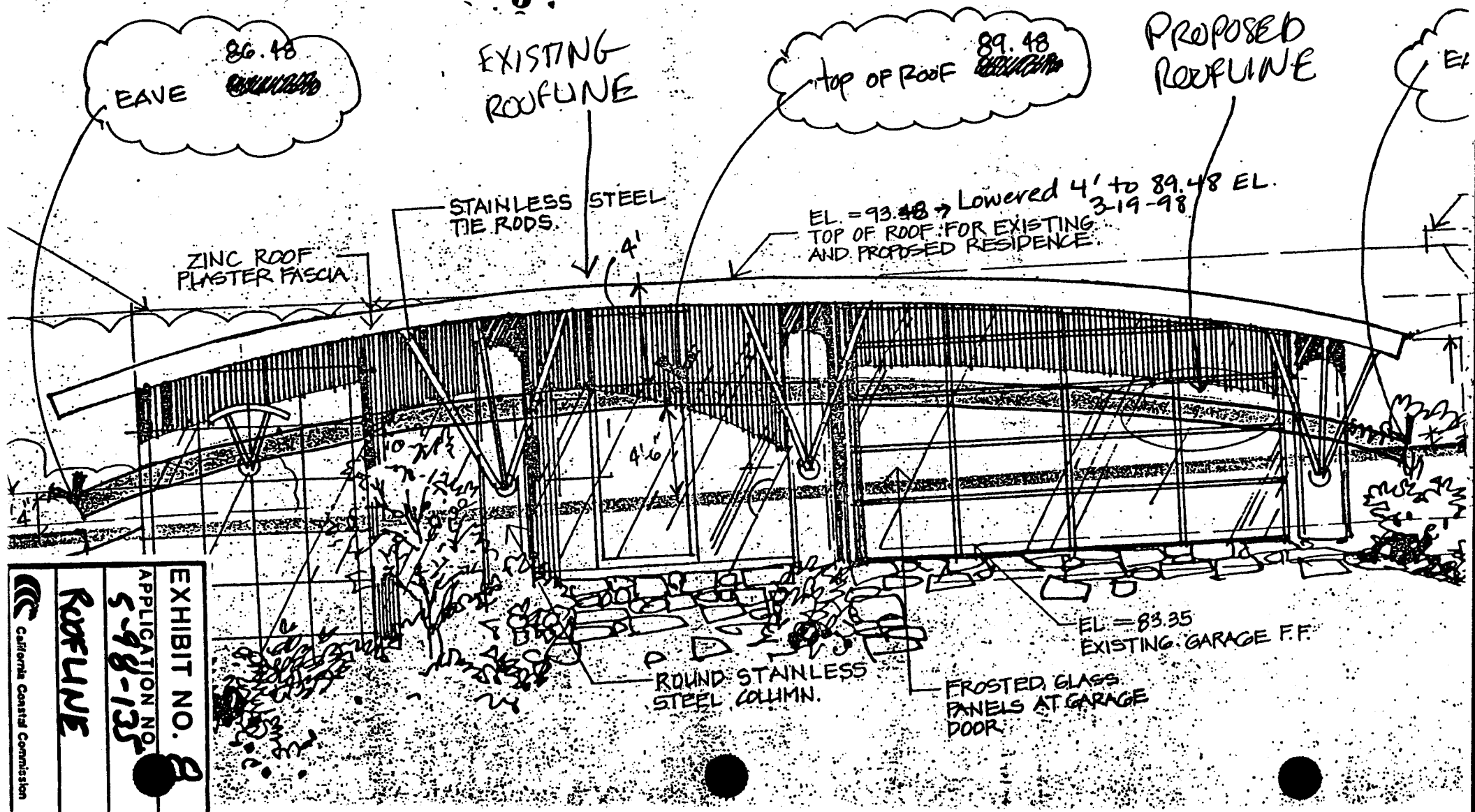


EXHIBIT NO. 8
APPLICATION NO. 5-98-135
ROOFLINE
California Coastal Commission