

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
 200 Oceangate, Suite 1000
 Long Beach, CA 90802-4302
 (562) 590-5071



FR 7c

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Commission Action:	

STAFF REPORT: REGULAR CALENDAR**APPLICATION NUMBER:** 5-98-273**APPLICANT:** Mike McKinley and John Bass **AGENT:** None**PROJECT LOCATION:** 327 and 327 ½ Paseo de Cristobal, City of San Clemente, Orange County**PROJECT DESCRIPTION:** To permanently authorize the construction allowed under emergency permit 5-98-273-G for a new 110 foot long by twenty foot tall retaining wall with sixteen caissons on a coastal bluff and backfilling the area between the retaining wall and the landslide scarp with approximately 1600 cubic yards of material. Re-landscaping the bluff below the retaining wall with native vegetation and the construction of new backyard hardscape.**LOCAL APPROVALS RECEIVED:** City of San Clemente Rough Grading Permit issued August 28, 1998 and Construction Inspection Permit issued August 28, 1998.**SUBSTANTIVE FILE DOCUMENTS:** Geotechnical Investigation for Slope Repair at 327 and 327 ½ Paseo de Cristobal, San Clemente, California (PN 11575-00) by Stoney-Miller Consultants, Inc. dated May 21, 1998. Coastal development permits: 5-93-243 (City of Dana Point), A5-DPT-93-275 (City of Dana Point), 5-94-256 (City of San Clemente), and 5-98-493 (Vaughn). City of San Clemente Certified Land Use Plan.**SUMMARY OF STAFF RECOMMENDATION:**

This permit application is the follow-up permit application for an emergency permit (5-98-273-G) to construct a 110 foot long by 20 foot high retaining wall with sixteen caisson soldier piles and backfilling the area between the new retaining wall and the landslide scarp. Additional development that was not part of the emergency permit, but is now before the Commission includes landscaping, applying wall treatments to minimize the visual impact of the retaining wall, and installing new hardscape in the backyard. Commission staff recommends that the

Commission approve the proposed project with six special conditions. These special conditions relate to: a future improvements deed restriction, assumption of risk deed restriction, conformance with the geotechnical recommendations, submission and implementation of a landscaping plan, submission and implementation of a drainage plan, and the submission and implementation of a design for the retaining wall.

The City of San Clemente does not have a certified Local Coastal Program (LCP). Accordingly, the Commission will review this application for consistency with Chapter 3 of the Coastal Act. The City of San Clemente certified Land Use Plan (LUP) recognizes that coastal bluffs contain important habitat and can be considered as an environmentally sensitive habitat area (ESHA). Consistent with Section 30240 of the Coastal Act, the certified LUP mandates that development occurring on the coastal bluffs and adjacent to the coastal bluffs enhance habitat value. In addition, the coastal bluffs in San Clemente are considered to be a valuable scenic and natural feature. In recognition of this, the San Clemente LUP restricts development in the vicinity of coastal bluffs to preserve their natural and scenic character. This LUP policy is consistent with Section 30251 of the Coastal Act regarding the protection of scenic resources. Consequently, the major Coastal Act issues raised by the retaining wall is its consistency with Sections 30240 and 30251 of the Coastal Act in terms of enhancing the habitat values of the coastal bluff, minimizing natural land form alteration, and protecting the visual qualities of coastal bluffs.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. APPROVAL WITH CONDITIONS

The Commission hereby **GRANTS** a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, is between the first public road and the sea and is consistent with the access and recreation policies of the Coastal Act, 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 effects on the environment within the meaning of the California Environmental Quality Act.

II. STANDARD CONDITIONS:

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

- A. This permit is only for the development described in coastal development permit No. 5-98-273. Pursuant to Title 14 California Code of Regulations section 13253(b)(6), the exemptions otherwise provided in Public Resources Code section 30610 (b) shall not apply to the subject parcels. Accordingly, any future improvements, including

but not limited to repair and maintenance identified as requiring a permit in Public Resources section 30610(d) and Title 14 California Code of Regulations sections 13252(a)-(b), which are proposed within either of the parcels shall require an amendment to Permit No. 5-98-273 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** each applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restrictions on development within the subject parcels. Each deed restriction shall include a legal description of the applicant's entire parcel. Each deed restriction 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. The deed restrictions shall not be removed or changed without a Commission amendment to this coastal development permit.

2. ASSUMPTION OF RISK, WAIVER OF LIABILITY, AND INDEMNITY

- A.** By acceptance of this permit, the applicants acknowledge and agree that: (i) the site may be subject to hazards from landslide, bluff retreat, erosion, and earth movement; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** each applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. Each deed restriction shall include a legal description of the applicant's entire parcel. Each deed restriction 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. The deed restrictions shall not be

removed or changed without a Commission amendment to this coastal development permit.

3. CONFORMANCE OF DESIGN AND CONSTRUCTION PLANS WITH GEOTECHNICAL RECOMMENDATIONS

- A. All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with all recommendations contained in the Geotechnical Investigation for Slope Repair by Stoney-Miller Consultants, Inc. (PN 11575-00) dated May 21, 1998. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit, for the Executive Director's review and approval, evidence that an appropriate licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the recommendations specified in the above-referenced geologic evaluation approved by the California Coastal Commission for the project site.
- B. The permittees shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. Landscape Plan

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit, for the review and written approval of the Executive Director, a landscaping plan to minimize the visual impact of the retaining wall and to enhance the habitat values of the coastal bluff fronting 327 and 327 ½ Paseo de Cristobal. The plan shall be prepared by a licensed landscape architect.
1. The plan shall demonstrate that:
- a. all vegetation planted on the bluff face shall consist of native, drought-tolerant plants and all non-native plants on the bluff face within the applicants property lines shall be eradicated.
 - b. Landscaped areas in the front and side yards can include non-native potted ornamental plants provided that they are non-invasive, are placed on drained hardscape, and do not

allow water to percolate into the soil. Vegetation installed in the ground shall consist of native drought tolerant plants.

- c. No permanent irrigation system shall be allowed within either property. Temporary above ground irrigation to allow the establishment of the plantings is allowed.
- d. Plantings shall be undertaken using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide ninety (90%) percent coverage within ninety (90) days and shall be repeated, if necessary, to provide such coverage.
- e. all required plantings will be maintained in good growing conditions through-out the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan, and

2. The plan shall include, at a minimum, the following components:

- (a) a map showing the type, size, and location of all plant materials that will be on the developed site, topography of the developed site, and all other landscape features, and,
- (b) a schedule for installation of plants.

B. The permittees shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

5. **DRAINAGE AND RUNOFF CONTROL**

Prior to issuance of this permit, the applicant shall submit for the review and approval of the Executive Director a drainage and runoff control plan with an evaluation of the existing system's compliance with this special condition. The drainage and runoff control plan shall show that all roof drainage, including roof gutters, collection drains, and sub-drain systems for all landscape and hardscape improvements for the residence and all yard areas, shall be confined on site. The purpose of such a system will be to collect and discharge all site drainage to the street through piping without allowing

water to percolate into the ground. If such a system for conveying site drainage to the street currently does not exist, the applicant shall be responsible for installing a drainage and runoff control system which conforms to the plan as approved by the Executive Director within ninety (90) days of issuance of this permit. The applicant shall maintain the functionality of the approved drainage and runoff control plan to assure that water is collected and discharged to the street without percolating into the ground.

6. RETAINING WALL DESIGN

Prior to issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director final plans for the retaining wall. To minimize the visual impact of manmade structures on the natural bluff, the retaining wall shall blend in with the color and texture of the surrounding terrain. The retaining wall shall also be screened through the placement of planting pockets on the face of the wall and the use of vegetation that can cascade down the face of the wall.

The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description and Location

The project site is located at 327 and 327 1/2 Paseo de Cristobal in the City of San Clemente, which is in Orange County (Exhibits 1,2 and 3). The project site consists of two legal parcels each developed with a single-family residence. Paseo de Cristobal is the first public road inland of the Pacific Ocean. The project site is on the seaward side of Paseo de Cristobal, consequently the proposed project is between the first public road and the sea. Moreover, the project site is located at the top of a one hundred-foot high coastal bluff overlooking the Pacific Ocean.

According to the applicants a landslide occurred on March 1, 1998. The applicants received on July 22, 1998 an emergency permit (Exhibit 10) to construct a 110-foot long by 20-foot high concrete retaining wall. The area between the retaining wall and the landslide scarp was backfilled with approximately 1600 cubic

yards of fill. According to the geotechnical consultants the purpose of the backfill was to restore the backyards to pre-slide ground levels. No landscaping or concrete wall face treatments were proposed or authorized under the emergency permit. The emergency permit was reported to the Commission on August 13, 1998. This permit application requests that work approved under the emergency permit be permanently authorized. Additionally, this permit application proposes new hardscape to replace damaged hardscape, and concrete wall treatments and landscaping to mitigate the adverse impacts of the new retaining wall.

B. Geologic Hazards

The subject site consists of two legal parcels, which are each developed with single-family residences. The project site is located on a coastal bluff overlooking the Pacific Ocean. The bluff at the subject site is one-hundred feet high. Though the subject site is on a coastal bluff, the base of the bluff is not directly subject to wave attack due to the presence of railroad tracts at the base of the bluff. The base of the bluff is also protected through a wood debris wall immediately inland of the railroad tracks (Exhibit 3).

Though the base of the bluff is not subject to direct wave attack, the coastal bluff at the project site is nevertheless still subject to other processes (manmade and natural) which can induce the bluff to fail such as water induced erosion, seismicity, wind induced erosion, rodent burrowing, percolation of rainwater or irrigation into the bluff, poor drainage, over steepened bluff faces, and weak geomorphology. Evidence that bluff instability is a problem is evidenced by two major coastal bluff stabilization projects in the City of San Clemente (La Ventana and Colony Cove) where residences on coastal bluffs have either been destroyed or endangered by bluff failure [5-93-243 (City of Dana Point), A5-DPT-93-275, 5-DPT-93-275A (City of Dana Point)].

Landsliding of coastal bluffs in the City of Dana Point on its border with the City of San Clemente in January and February 1993 resulted in the destruction of five homes along La Ventana Street (which is in the City of San Clemente), the closure of Pacific Coast Highway and the temporary closure of the railroad tracks at the base of the bluff. Landsliding of the bluffs below Colony Cove resulted in the undermining of terrace walls and patio structures. The primary cause of the La Ventana Landslide was water infiltration into the bluff along a deep-seated slope failure line. The geotechnical report stated that water seepage onto the bluff face was longstanding and that landscaping on the rear yards of some bluff top homes may have contributed to the accumulation of water in the slopes.

The Colony Cove, La Ventana, and Marblehead bluff stabilization projects demonstrate that bluff stability is an issue along the entire stretch of San

Clemente's coastal bluffs. Besides these large scale bluff restoration projects, the Commission has received many individual application requests to protect single family residences (5-99-351-G (McMurray) was just received in September 1999) on coastal bluffs and coastal canyons in San Clemente. Many of the requests to protect the homes and to conduct slope repairs were due to inadequate drainage systems, i.e., broken irrigation lines, over-watering, directing uncontrolled runoff to the bluff slopes, and differential settling due to improper compaction of fill. Additionally, much of the development on coastal bluffs prior to the Coastal Act was constructed too close to the bluff top edge and later required support systems for failing patios, decks and other improvements.

According to the applicant's geologic consultant, Stoney-Miller Consultants, Inc. a bluff failure occurred on March 1, 1998 and the failure was the result of temporary oversaturation. The bluff failure resulted in the loss of significant portion of the rear yard at 327 Paseo de Cristobal which is the McKinley residence. As a result of this failure rear yard improvements such as the patio slab and deck were lost, and the foundation of the McKinley residence was exposed. The rear yard of 327 ½ Paseo de Cristobal, which is the Bass residence, was not as adversely impacted (Exhibit 4).

The number of permit applications for bluff stabilization and bluff repair in San Clemente demonstrates that the bluffs are geotechnically active. Development on coastal bluffs is inherently risky, Section 30253 of the Coastal Act states, in relevant 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.*

To evaluate the site's stability and to recommend a solution for repairing the rear yards Stoney-Miller Consultants, Inc conducted a geotechnical evaluation. The report included subsurface exploration, logging, soil sampling, and laboratory testing to determine the existing soil conditions at the site and to provide data and specific recommendations relative to the design for the proposed development. As previously summarized, the geotechnical report attributed the rear yard slope failure to temporary oversaturation. The boring logs, however, indicate that groundwater was not present. To assure bluff stability on the subject property and to protect the subject property from further bluff failure Stoney-Miller Consultants, Inc. recommended the installation of a retaining wall system founded on caisson soldier

piles embedded into underlying bedrock. Though the geotechnical evaluation by Stoney-Miller Consultants, Inc. concluded that the project can be undertaken, the geotechnical consultant has made recommendations which must be complied with by the applicant to assure that the project will minimize risks to life and property, and will assure structural integrity. Specific recommendations made by the geotechnical consultant include: 1) that the caissons system should be imbedded by at least fifteen feet into bedrock; 2) surface drainage should be conveyed to the street or the toe of the bluff; and 3) that a subdrain system be installed at the base of the retaining wall to prevent the accumulation of water behind the new retaining wall.

Though the geotechnical report did not mention landscaping, landscaping can also promote bluff stability by withdrawing water from bluffs through evapotranspiration and a root system, which holds the soil in place. To provide plantings, which promotes bluff stability, the applicant proposes to install native plants on the bluff slope. A proposed landscaping plan was submitted for the bluff face. The submitted landscaping plan specifically identifies those native plants that are to be placed on the bluff face. The plan, however, does not show landscaping on the remainder of the lot and identifies the installation of a drip irrigation system for the bluff face. To assure that a landscaping is undertaken which promotes native vegetation and bluff stability, the Commission finds it necessary to impose a special condition to require that a final landscaping plan be prepared which minimizes the potential of water infiltrating into the ground.

The slide, which occurred, was caused, in part, due to the presence of water and the applicant's geotechnical firm has made recommendations that the infiltration of water shall be minimized. Therefore, the applicant shall submit for the review and approval of the Executive Director a revised landscaping plan. The Commission imposed a similar requirement for a landscaping plan under coastal development permit 5-98-493 (Vaughn) for the construction of a new home at 2815 La Ventana. The landscaping plan for 5-98-493 (Vaughn) required primarily native plants though drought tolerant non-native plants were allowed in the front and sideyards if they were noninvasive.

The landscaping plan, to minimize the potential for future bluff failure, shall be prepared by a licensed landscape architect and shall incorporate the following criteria: 1) to minimize the introduction of water into the ground, no permanent in-ground irrigation shall be permitted on either property, temporary above ground irrigation to establish the plantings is permitted; 2) landscaping installed in the ground shall consist of native plants. The side yards and front yards can contain non-native drought tolerant plants provided that the plants are in pots and are placed on drained hardscape which does not allow water to percolate into the soil, and 3) Invasive, non-indigenous plant species which tend to supplant native species shall not be used. Additionally, the landscaping plan shall show the existing plants

and irrigation system. Any existing irrigation shall be capped and disconnected. Through this special condition, one of the contributing factors to bluff failure, the introduction of water into the ground, will be minimized.

As previously mentioned, the slide was caused, in part, due to the presence of water and the applicant's geotechnical firm has made recommendations that the infiltration of water shall be minimized. To minimize the infiltration of water into the bluff the Commission has imposed a special condition to minimize the introduction of water by restricting irrigation. Restricting irrigation by itself is not enough as rainwater can infiltrate into the bluff. The infiltration of water into the bluff, however, can be further minimized through a drainage system, which collects water and conveys it to the street. Therefore, the Commission is imposing a special condition to require that a drainage and runoff control plan be submitted for the review and approval of the Executive Director prior to issuance of this coastal development permit. The drainage and runoff control plan shall depict that all drainage from roofs will be collected and discharged into pipes which convey it to the street and that area drains be placed to collect water and convey the water through pipes to the street. The drainage and runoff control plan shall also evaluate the effectiveness of the existing on site drainage. If the existing on-site drainage is not consistent with the requirements of this condition, the applicant shall be responsible for installing a drainage and runoff control system, which conforms to this condition within ninety days of issuance of this permit.

Although adherence to the geological consultant's recommendations will minimize the risk of damage, the risk is not eliminated entirely. The coastal bluffs in San Clemente have been prone to bluff failures on a consistent base. Therefore, the standard waiver of liability condition has also been attached as a special condition. By this means, each applicant is notified that the lot is in an area that is potentially subject to bluff failure, which could damage the applicant's property. Each 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 future owners of each property will be informed of the risks and the Commission's immunity of liability. This special condition was imposed on development located at 2815 La Ventana under coastal development permit 5-98-493 (Vaughn).

Since the bluffs adjacent to Paseo de Cristobal are active, future development adjacent to the bluffs could have an adverse impact on bluff stability if not properly evaluated. For this reason, the Commission is imposing a special condition for a deed restriction which states that any future development or additions on either of the parcels, including but not limited to hardscape improvements, grading, landscaping, vegetation removal and structural improvements, requires a coastal development permit from the Commission or its successor agency. This condition ensures that any future development on coastal bluffs, which may affect the

stability of the bluff and residential structures, receives review by the Commission. The Commission imposed a similar future improvements deed restriction as a special condition for development occurring at 2815 La Ventana under coastal development permit 5-98-493 (Vaughn).

The plans submitted with the application have not been certified as incorporating the recommendations of the geotechnical reports prepared by Stoney-Miller Consultants, Inc. To ensure that the geotechnical consultant's recommendations are instituted, it is necessary to impose a special condition requiring verification that the project plans are in compliance with the recommendations of Stoney-Miller Consultants, Inc. Accordingly, the applicant must submit prior to issuance of the permit, for the review and approval of the Executive Director, plans (drainage, retaining wall, and caisson plans) signed by a certified geotechnical engineer which incorporate the recommendations made by Stoney-Miller Consultants, Inc. in their geotechnical investigation (PN 11575-00) of May 21, 1998.

Therefore, the Commission finds that the project conforms with the requirements of Section 30253 of the Coastal Act as conditioned for: an assumption of risk deed restriction, future improvements deed restriction, the implementation of a landscaping plan, conformance with the geotechnical recommendations, and the submission and implementation of a drainage and runoff control plan.

C. Environmentally Sensitive Habitat

The proposed development is located at the top of a coastal bluff. Coastal bluffs are considered ESHA in the certified LUP for the City of San Clemente. The site of the retaining wall, however, is not an ESHA as defined in Section 30107.5 of the Coastal Act since the retaining wall will be located on the remains of the failed bluff. The purpose of the retaining wall is to restore the applicants' rear yards to their pre-slide ground levels and to restore the applicants' ability to use their rear yards. Consequently, the ESHA area subject to Section 30240(b) of the Coastal Act is located adjacent to the proposed development on the bluff face seaward of the retaining wall. Section 30240(b) of the Coastal Act states:

- (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.

Section 30107.5 states:

“Environmentally sensitive area” means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

The City of San Clemente certified Land Use Plan recognizes that the coastal bluffs contain important natural habitat. Though the coastal bluffs contain natural habitat, the land use plan notes that the coastal bluffs represent remnants of what was once a much larger habitat zone. The tops of the coastal bluffs, in many cases, have been developed with single family homes and associated improvements such as lawns, decks, and hardscape. Consequently the habitat quality of the coastal bluffs have been affected by adjacent urban development. The vegetation along the coastal bluffs is a mixture of native and introduced non-native plants and trees.

Though the overall habitat quality of the coastal bluffs has been adversely impacted by adjacent urban development, the City of San Clemente has policies in its certified Land Use Plan to promote habitat restoration of the coastal bluffs. Policy XV.2 and Policy XV.3 of the City’s certified LUP restate Section 30240 of the Coastal Act.

Consistent with Section 30240(b) regarding development adjacent to environmentally sensitive habitat areas and the requirements of the City’s certified land use plan the Commission finds it necessary to impose special conditions which will enhance the biological habitat values of coastal bluff. First, the Commission is imposing a special condition to require a future improvements deed restriction to assure that future development in this particular portion of Paseo de Cristobal can be adequately evaluated to promote habitat values. Second, the Commission will be imposing a special condition for a landscaping. The landscaping plan shall be prepared by a licensed landscape architect that shall show the area on the bluff face as planted with native vegetation and that all non-native vegetation be removed. Temporary irrigation necessary for establishing the plantings will be allowed. Additionally, the plants that are allowed on the remainder of the property shall be non-invasive as a means of protecting the native vegetation on the bluff face. Both the future improvements deed restriction and the landscaping plan shall be subject to the review and approval of the Executive Director.

The proposed development will restore a degraded habitat area (which was further harmed by the landslide) through the planting of native vegetation. This will restore and enhance the functionality of the habitat of the bluff face. The Commission has conditioned the applicant for a future improvements deed restriction and to develop and implement a landscaping plan composed of native vegetation. Therefore, the

Commission finds that the project, as conditioned, is consistent with section 30240(b) of the Coastal Act.

D. VISUAL RESOURCES

The proposed development consists of the construction of a retaining wall on a failed coastal bluff. The retaining wall allowed under the emergency permit, which has been constructed, is approximately 20 feet high and is approximately 110 feet long. The portions of the retaining wall that are exposed would adversely change the visual character of the natural bluff through the introduction of a manmade structure when viewed by the public from the public beach below. 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.

The coastal bluffs in San Clemente constitute a scenic coastal area. The new retaining wall will significantly adversely impact the scenic coastal views from the public beach below. As a new manmade structure the retaining wall would not be compatible with the character of the surrounding area since it should be preserved in its natural form and the proposed development has not restored the bluff to its pre-existing condition. The retaining wall was constructed under an emergency permit to protect the existing single family residences.

Under this permit application the applicants have proposed the use of two wall treatments to reduce the visual impact. The two wall treatments proposed are the use of color and vegetation. Since the retaining wall has been completed, Commission staff visited the project site to examine the visual impact of the wall. Even though the wall was colorized to match the ground color, the wall was highly visible from the public beach below. Additionally the height, of the wall (20 feet) limits the ability to screen the wall through vegetative means. To address this concern the City of San Clemente submitted a letter (Exhibit 11) dated September 21, 1999 requesting that the wall have planting pockets and that planting at the top of wall be designed to cascade down the face of the retaining wall. Furthermore, a third method exists to reduce the visual impact by sculpting the wall to match the texture and grain of the bluff. Sculpting the wall to match the terrain of the bluff has not been proposed.

Therefore, the Commissions finds that, as constructed, the 20 foot high retaining wall is not consistent with Section 30251 of the Coastal Act since it will not protect public views inland from the public beach below the project site and that is a significant landform alteration not compatible with the character of the surrounding area. However, if the project is modified to require that the retaining wall be screened through vegetation and that it be textured and colorized to match the surrounding terrain the project can be found consistent with Section 30251 of the Coastal Act regarding the protection of scenic resources and compatibility with the character of the surrounding area.

The Commission has approved two coastal development permits, which required visual screening, colorization, and texturizing to minimize the visual impact of a retaining wall. The Commission approved bluff slope repairs for the La Ventana slide under coastal development permit A5-DPT-93-275 (City of Dana Point) which included using vegetative screening, colorization, and texturization to camouflage the wall. The retaining wall approved under A5-DPT-93-275 (City of Dana Point) is similar in height to the retaining wall under consideration for this permit. The La Ventana retaining wall was 25' high; the retaining wall under this permit is 20' high. In terms of length, the La Ventana retaining wall was 300' long versus this wall's 110'. The La Ventana wall treatment was quite successful at minimizing the visual impacts of the retaining wall. Under coastal development permit 5-94-256 (City of San Clemente) the Commission approved slope repairs for Colony Cove which is a residential development above Coast Highway between San Clemente between Camino San Clemente and the Marblehead bluffs in the City of San Clemente. This project included the use of vegetative screening, colorization, and texturizing to minimize the visual impacts of the retaining wall.

Because of the retaining wall's height and length, the Commission requires that all three treatment styles are necessary to minimize the adverse visual effects of this man made structure. For example, the retaining wall constructed under the emergency permit, even though it has been colorized to match the ground is highly visible as a man made structure due to the lack of vegetative screening and the lack of three dimensional texture to match the grain and geomorphology of the bluff face. Therefore, the Commission is imposing a special condition to require that the applicant submit plans, for the review and approval of the Executive Director, for minimizing the visual impacts of the retaining wall through landscaping, colorization and texturization.

The special condition shall require that the applicant submit, for the review and approval of the Executive Director, a landscaping plan, which shall screen the proposed retaining wall. Landscape screening shall include the placement of planting pockets on the face of the retaining wall and the use of plants at the top of the slope, which can cascade down the face of the retaining wall. The landscaping plan (for the portion on the bluff face) shall consist of native plants commonly

found on coastal bluffs in the general vicinity of the project site. The landscaping plan shall be prepared by a licensed landscape architect. Furthermore, the retaining wall, to minimize, visual impacts shall be colorized and texturized to match the existing terrain. Therefore, as conditioned, to submit a landscaping plan to screen the wall, to colorize and texturize the wall, the Commission finds that the project is consistent with Section 30251 of the Coastal Act regarding the protection of public views.

E. PUBLIC ACCESS

The project site is on the seaward side of Paseo de Cristobal, which is the first public road immediately inland of the Pacific Ocean. 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 include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3. The proposed development is located between the sea and the nearest public road.

The proposed development is located on a lot with an existing single family dwelling. The proposed development will not change the use nor intensity of use of the site. Public access opportunities exist from Paseo de Cristobal to the beach through an overpass, which takes pedestrians over the railroad tracks. The proposed development, as conditioned, will not result in any adverse impacts to existing public access or recreation in the area. Therefore, the Commission finds that the project is consistent with the public access and recreation policies of the Coastal Act.

F. Land Use Plan

Section 30604 of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified local coastal program. The permit may only be issued if the Commission finds that the proposed development will not prejudice the ability of the local government to prepare a Local Coastal Program, which conforms with the Chapter 3 policies of the Coastal Act.

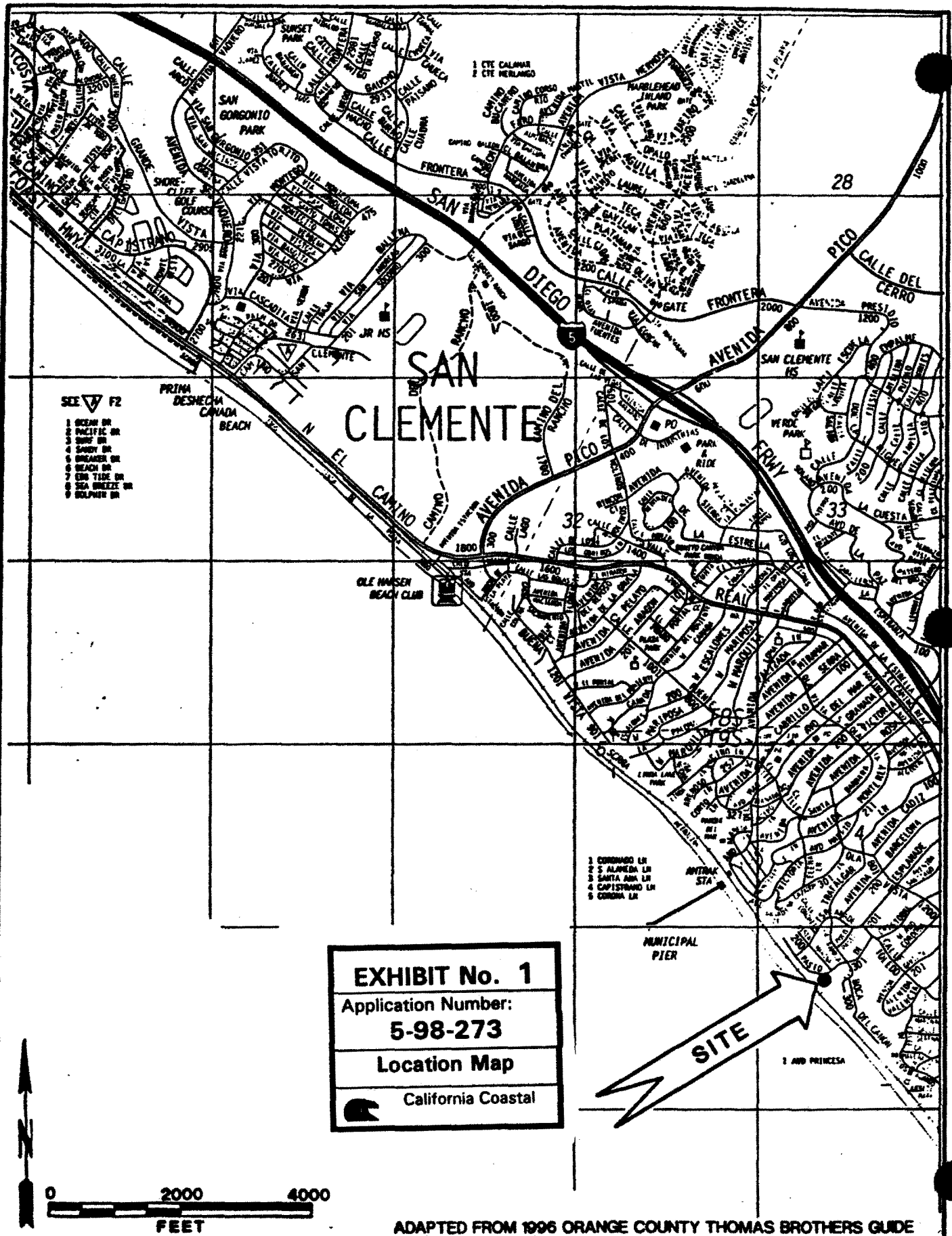
The Commission certified the Land Use Plan for the City of San Clemente on May 11, 1988, and certified an amendment approved in October 1995. On April 10, 1998, the Commission certified with suggested modifications the IP portion of the Local Coastal Program. The suggested modifications expired on October 10, 1998. As conditioned, the proposed development is consistent with the Chapter 3 of the Coastal Act. 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).

G. California Environmental Quality Act

Section 13096 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 27380.5(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.

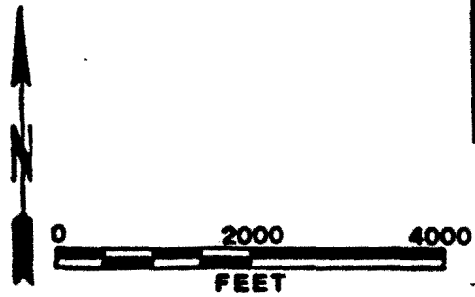
The project site is located at the top of a coastal bluff. The face of the coastal bluff is an environmentally sensitive habitat area. The proposed development has been conditioned to assure that the project will not have a significant adverse impact on coastal resources and has been conditioned to: record an assumption of risk deed restriction, develop and implement a landscaping plan, record a future improvements deed restriction, conformance with the geotechnical recommendations, submission and implementation of a drainage and runoff control plan, and for submission and implementation of a plan to minimize the visual impacts of the retaining wall. The proposed development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. There are no feasible alternatives or mitigation measures available, which would substantially lessen any significant adverse impact, which the activity may have on the environment. Therefore, the Commission finds that the proposed project is consistent with CEQA and the policies of the Coastal Act.



- SEE ∇ F2
- 1 BEACH DR
 - 2 PACIFIC DR
 - 3 SHIP DR
 - 4 SANDY DR
 - 5 BREAKER DR
 - 6 BEACH DR
 - 7 SEA TIDE DR
 - 8 SEA BREEZE DR
 - 9 SOLPHER DR

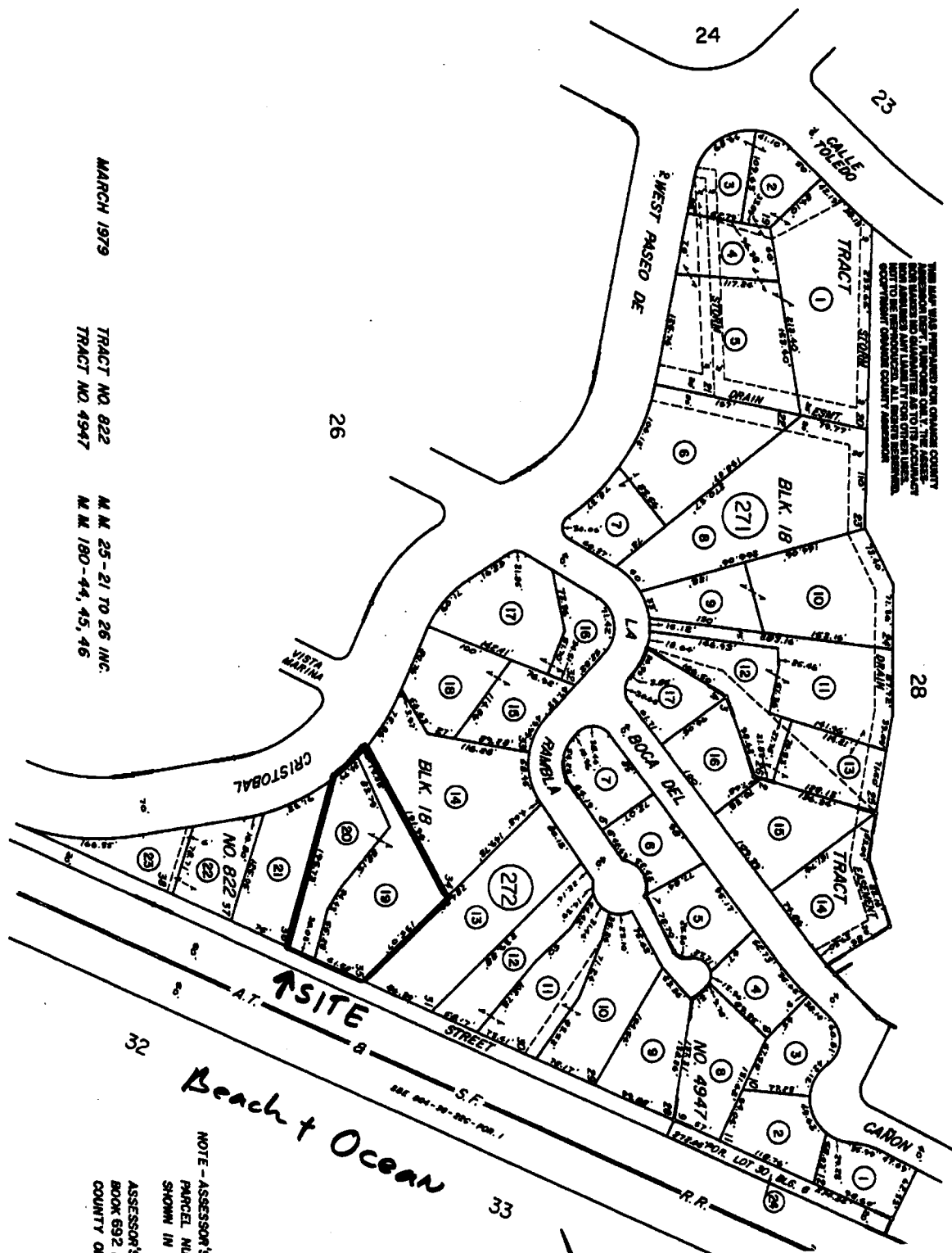
- 1 CORDON RO DR
- 2 S ALAMEDA DR
- 3 SANTA ANA DR
- 4 CAPITAN DR
- 5 CORONA DR

EXHIBIT No. 1
 Application Number:
5-98-273
 Location Map
 California Coastal



ADAPTED FROM 1996 ORANGE COUNTY THOMAS BROTHERS GUIDE

SMC	LOCATION MAP		
	JOB NO.: 11575-00	DATE: MAY 1998	FIGURE: 1

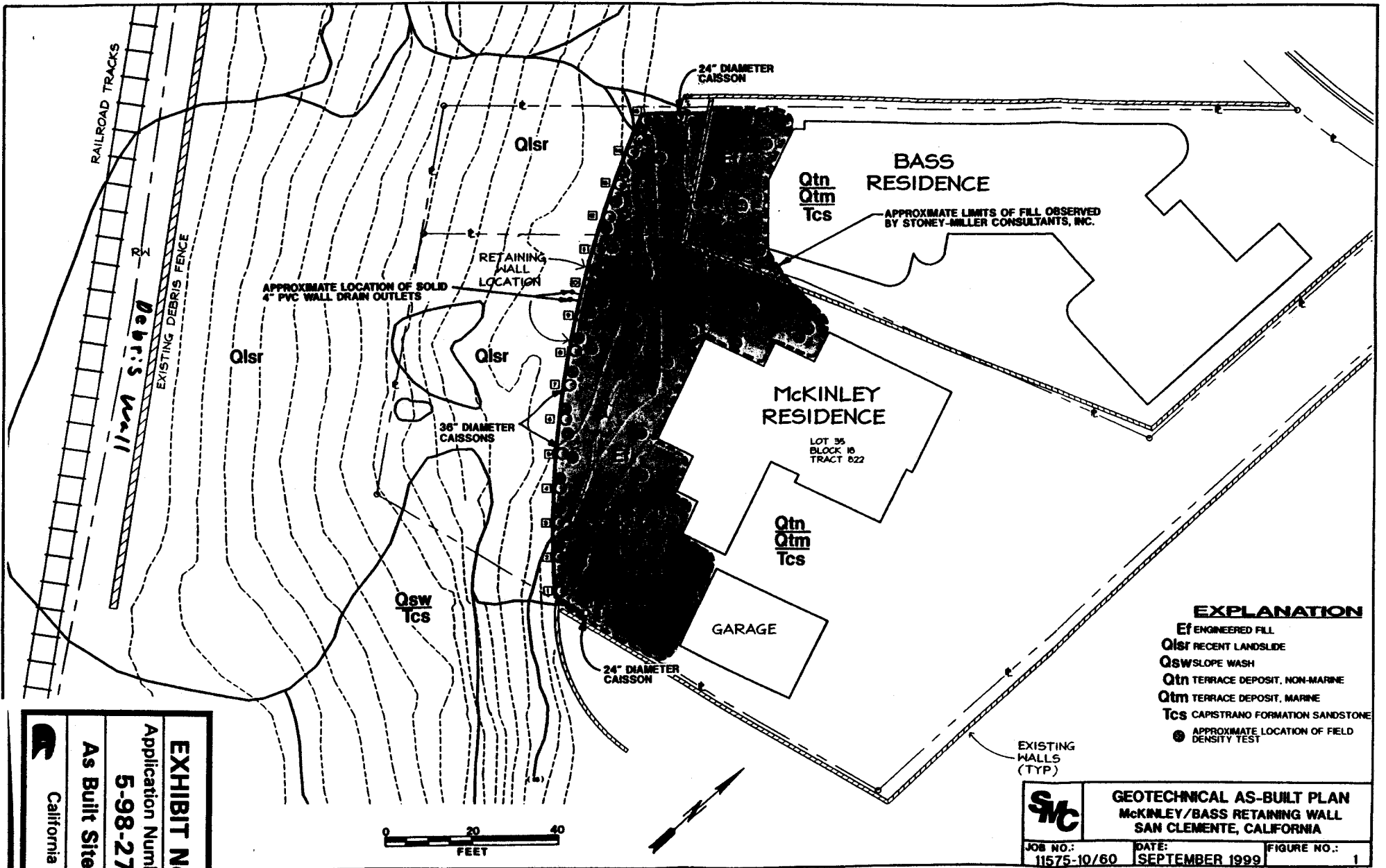


THIS MAP WAS PREPARED FROM ORANGE COUNTY RECORDS BOOK 7, PAGE 2089 CAL. V. THE ASSESSOR'S MAPS ARE NOT TO BE REPRODUCED OR COPIED WITHOUT THE WRITTEN CONSENT OF ORANGE COUNTY ASSESSOR.

MARCH 1979
 TRACT NO. 822
 TRACT NO. 4947
 M.M. 25-21 TO 26 INC.
 M.M. 180-44, 45, 46

NOTE - ASSESSOR'S BLOCK & PARCEL NUMBERS SHOWN IN CIRCLES
 ASSESSOR'S MAP BOOK 692 PAGE 27 COUNTY OF ORANGE

EXHIBIT No. 2
Application Number: 5-98-273
Assessor's Map
California Coastal




EXPLANATION

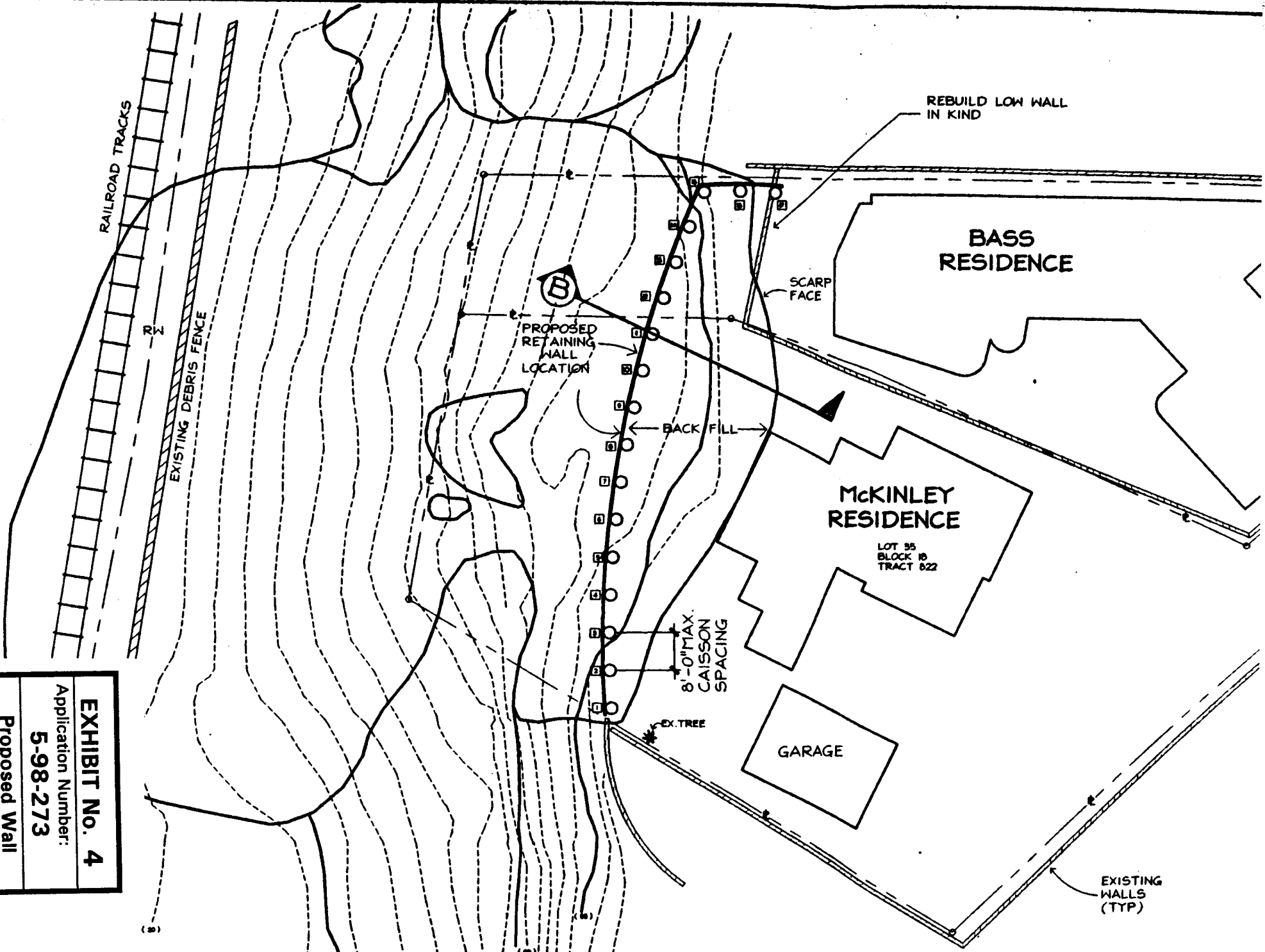
- Ef ENGINEERED FILL
- Qlsr RECENT LANDSLIDE
- Qsw SLOPE WASH
- Qtn TERRACE DEPOSIT, NON-MARINE
- Qtm TERRACE DEPOSIT, MARINE
- Tcs CAPISTRANO FORMATION SANDSTONE
- APPROXIMATE LOCATION OF FIELD DENSITY TEST

EXISTING WALLS (TYP)

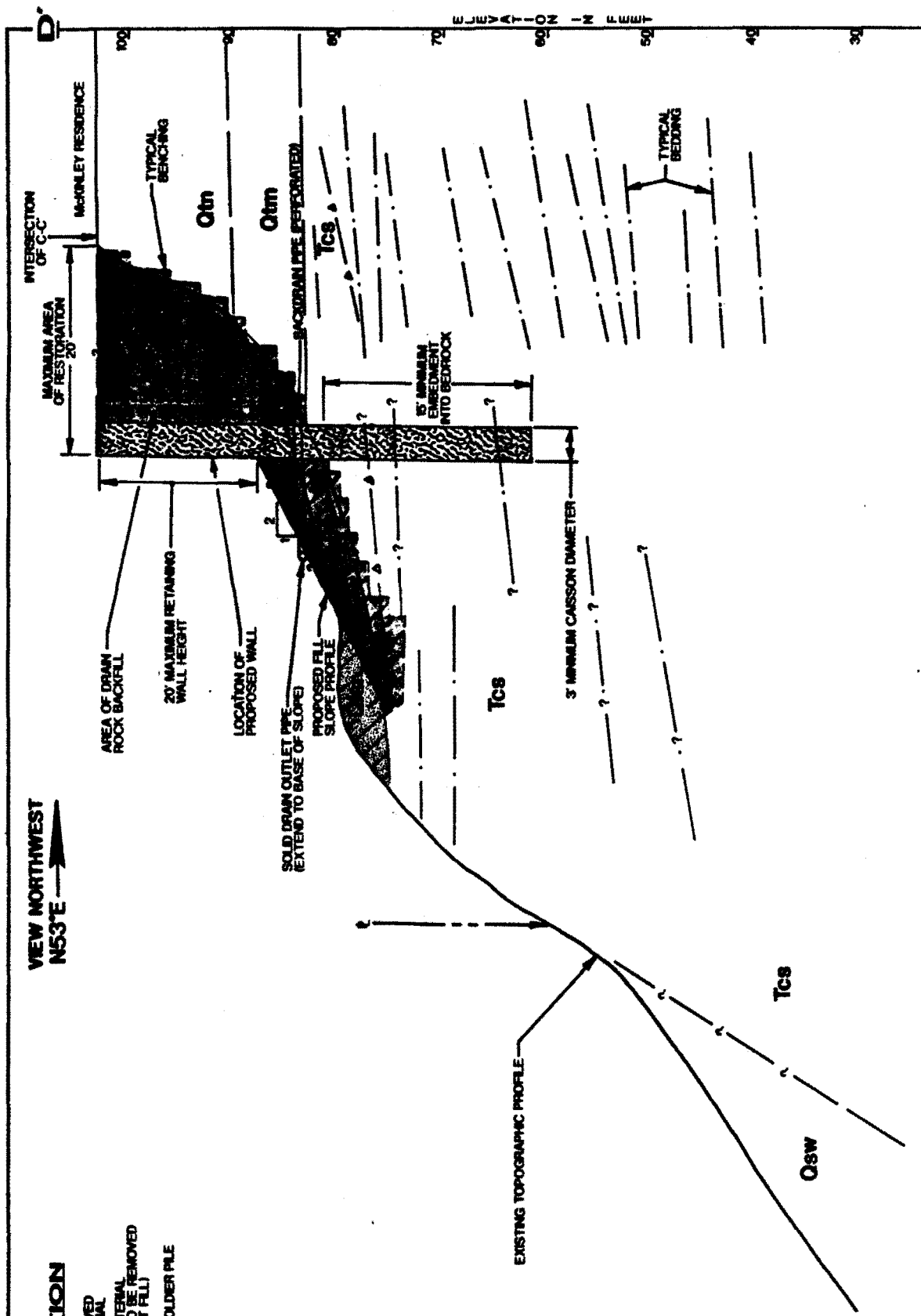
SMC	GEOTECHNICAL AS-BUILT PLAN	
	McKINLEY/BASS RETAINING WALL SAN CLEMENTE, CALIFORNIA	
JOB NO: 11575-10/60	DATE: SEPTEMBER 1999	FIGURE NO.: 1

EXHIBIT No. 3
Application Number: 5-98-273
As Built Site Plan
California Coastal

 California Coastal	EXHIBIT No. 4
	Application Number:
	5-98-273
Proposed Wall	



VIEW NORTHWEST
N53°E



EXPLANATION





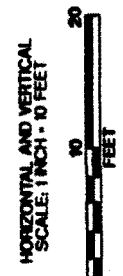

-  MATERIAL TO BE REMOVED TO COMPETENT MATERIAL
-  REPLACEMENT FILL MATERIAL ACROSS HATCH AREA TO BE REMOVED PRIOR TO REPLACEMENT FILL
-  CONCRETE CAISSON/SOLDER PILE

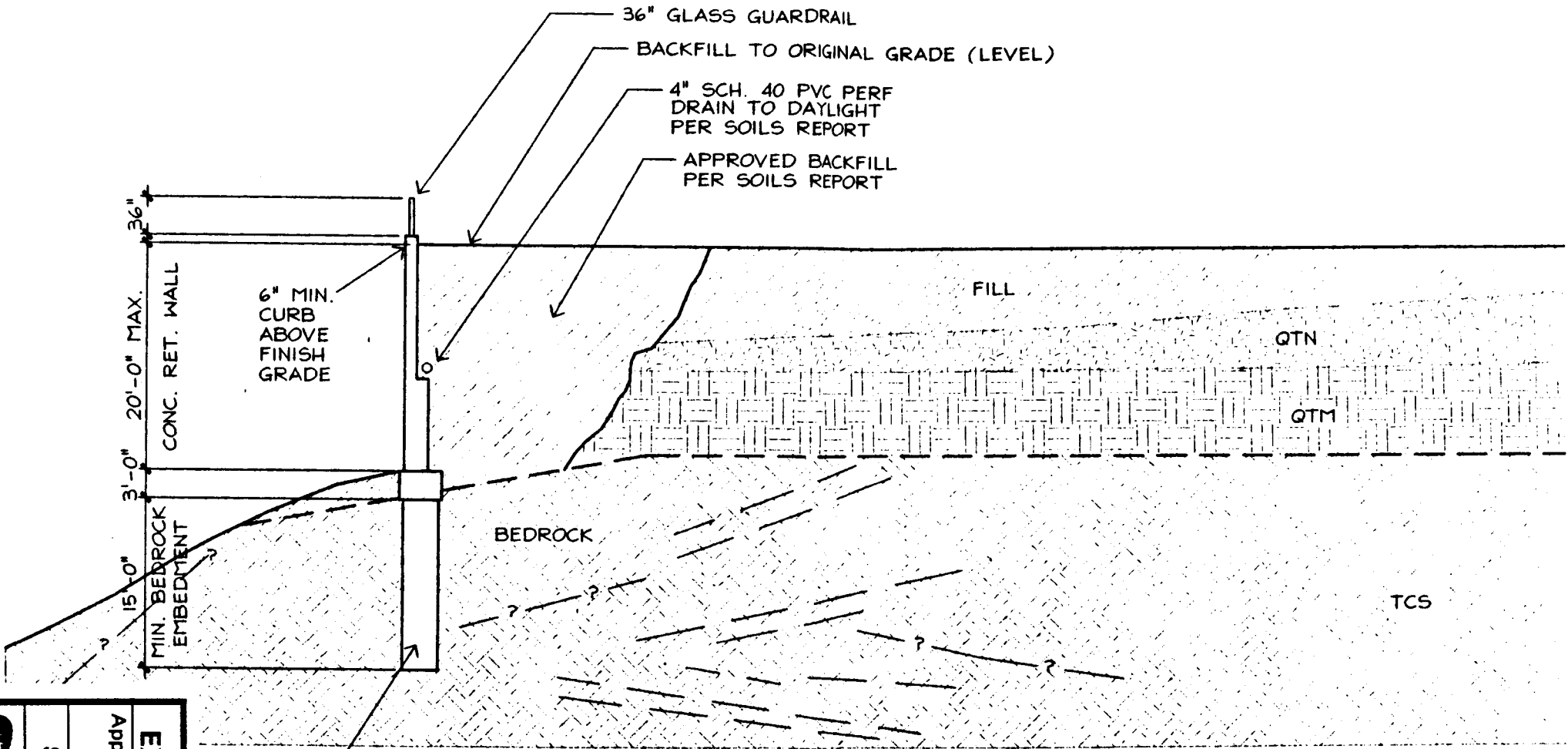
EXHIBIT No. 5	
Application Number:	
5-98-273	
Sectional View	
	California Coastal



	REPAIR CROSS SECTION D-D'	
	327 & 327 1/2 PASEO DE CRISTOBAL SAN CLEMENTE, CALIFORNIA	
JOB NO.: 11575-00	DATE: MAY 1998	FILE NO.: 2

CONSTRUCTION CRITERIA TO BE PROVIDED BY STRUCTURAL ENGINEER.

SCALE 1" = 20'



CAISSON
-0" O/C
PER

(B)

SECTION AT CAISSON / RETAINING WALL

EXHIBIT No. 6

Application Number:

5-98-273

Sectional View

California Coastal

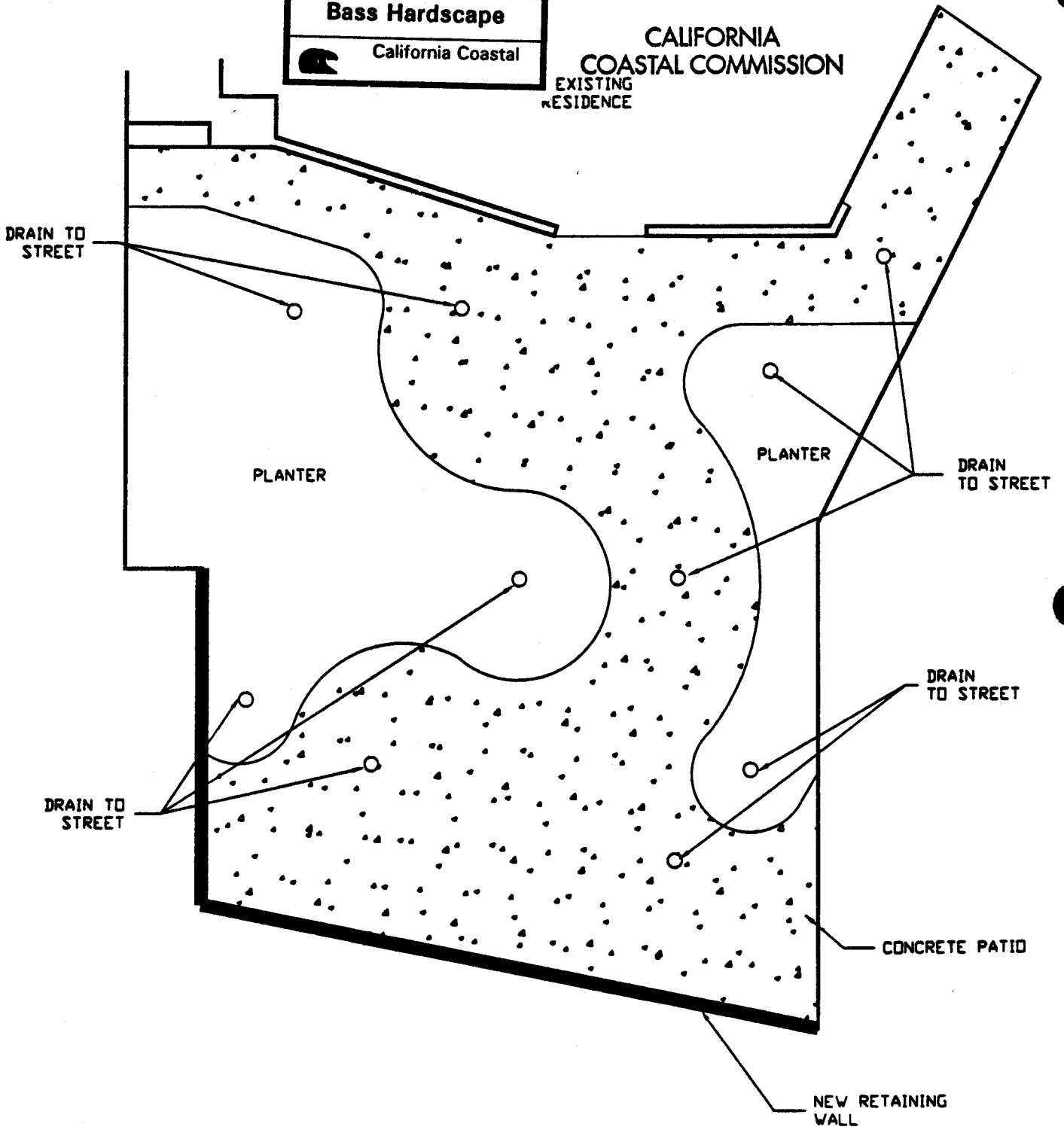
EXHIBIT No. 7
Application Number:
5-98-273
Bass Hardscape
California Coastal

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South Coast Region

SEP 16 1999

CALIFORNIA
COASTAL COMMISSION

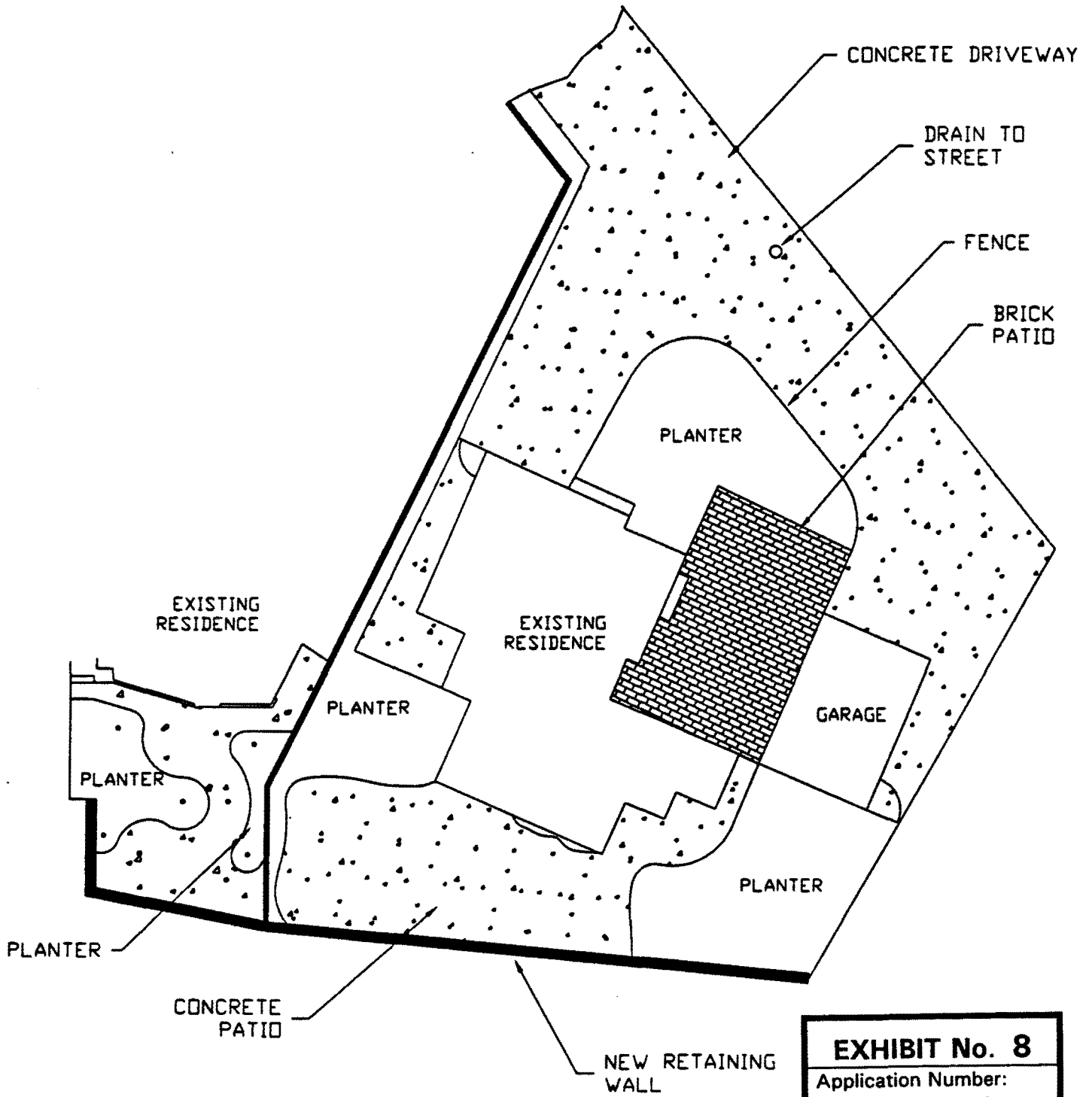
EXISTING
RESIDENCE



BASS RESIDENCE

NOTE:
ALL PLANTS TO BE DROUGHT RESISTANT,
AND NO AUTOMATIC SPRINKLERS WILL BE INSTALLED.

NOTE:
ALL PLANTS TO BE DROUGHT RESISTANT,
AND NO AUTOMATIC SPRINKLERS WILL BE INSTALLED.



BASS/MCKINLEY RESIDENCES

EXHIBIT No. 8
Application Number: 5-98-273
McKinley Hardscape
 California Coastal

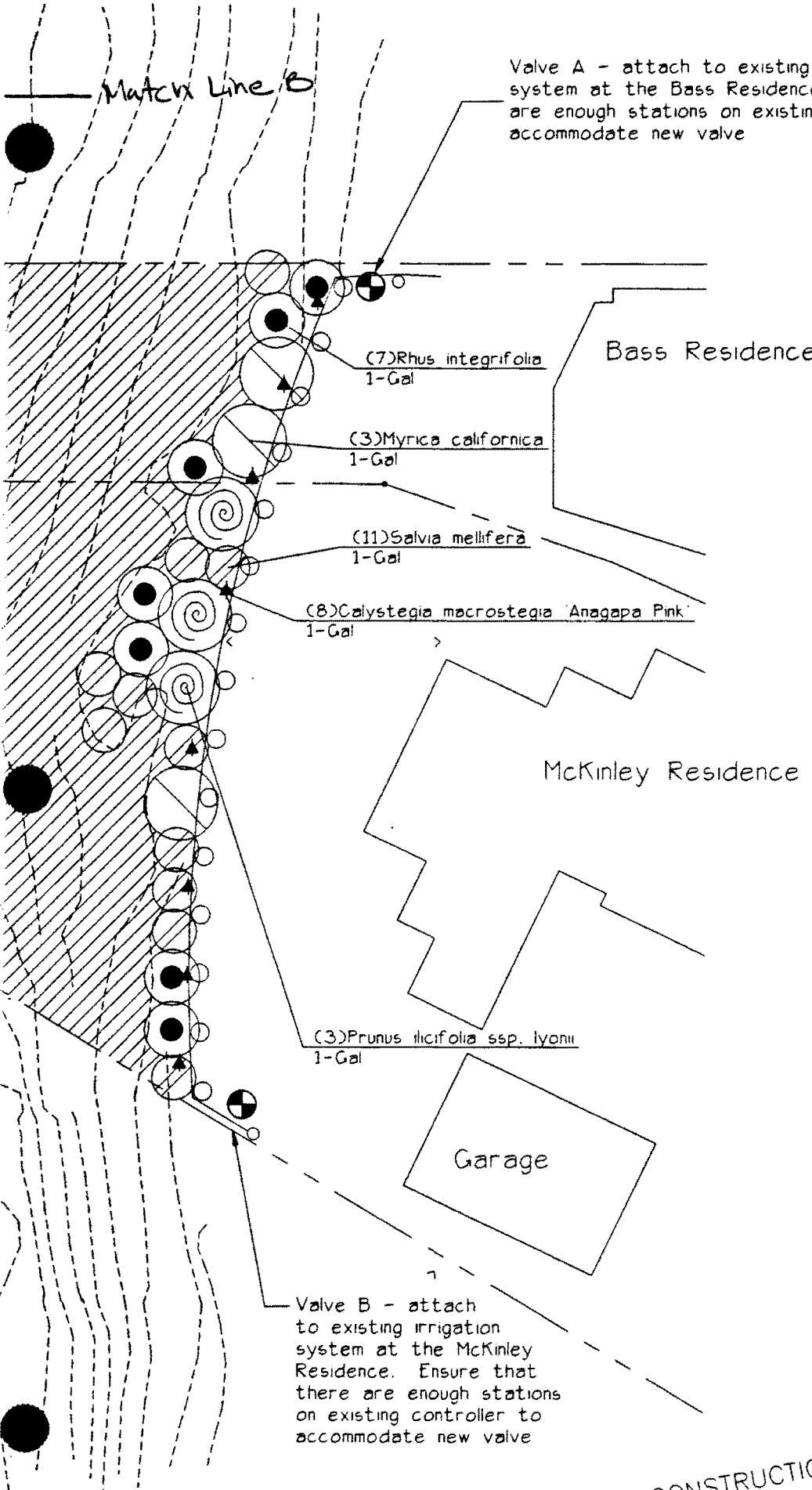
Memorandum

To: Robin Maloney-Rames
From: Naomi Gruenthal *Naomi Gruenthal*
Date: December 23, 1998
Subject: McKinley/Bass Retaining Wall,
327 & 327½ Paseo De Cristobal, San Clemente

Below is a list of plants we wish to use in a seed mix for a slope which collapsed in San Clemente. Please review and add or remove material as you see fit. All of the seeds noted are California Natives and shall do well along the coast. The area to be hydroseeded will not be irrigated and the soil is not compacted in any way. It is the subsidence of the bluff collapse (the owner's are installing a 25' retaining wall above the subsidence). I will be recommending that they do the Hydroseeding in the next few weeks or they will have to wait until next fall.

DESCRIPTION	Lbs/Acre
Abronia maritima / Sand Verbena	4
Ambrosia Dumosa / Beach Bur-Sage	3
Baccharis pilularis / Coyote Bush	3
Camissonia (Oenothera)cheiranthifolia / Beach Evening Primrose	3
Eriogonum parvifolium / Sea Cliff Buckwheat	8
Eschscholzia californica / California Poppy	3
Isocoma menziesii / Coast Goldenbush	4
Limonium californicum / California Statice, Marsh Rosemary	6
Lupinus bicolor / Lupine, Pigmy-leaved Lupine	3
Lupinus succulentus / Arroyo Lupine	4
Phacelia ramosissima / Branching Phacelia	4
Salvia leucophylla / Purple sage	3
Salvia mellifera / Black Sage	5

EXHIBIT No. 9
Application Number: 5-98-273
Landscaping Plan
 California Coastal



IRRIGATION INSTALLATION NOTES:

Contractor shall install all drip irrigation equipment per Manufacturer Recommended installation instructions and in compliance with Local, Municipal and State Codes.

Contractor is responsible to install and have the irrigation equipment run in the most efficient manner possible.

Contractor is responsible to instruct the Owner's in the efficient use of the equipment and any maintenance procedures and scheduling needed for the equipment to function properly.

Install EM-12 Vibra Clean Emmitter Head below ground unless it is determined that there is not enough room or the soil will become less stable due to the extra digging. The goal is to keep animals from chewing on the equipment causing the system to dysfunction and cause possible erosion.

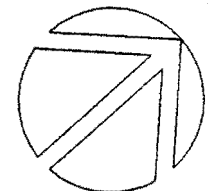
Install a minimum of two (2) emitter outlets with bug caps per plant.

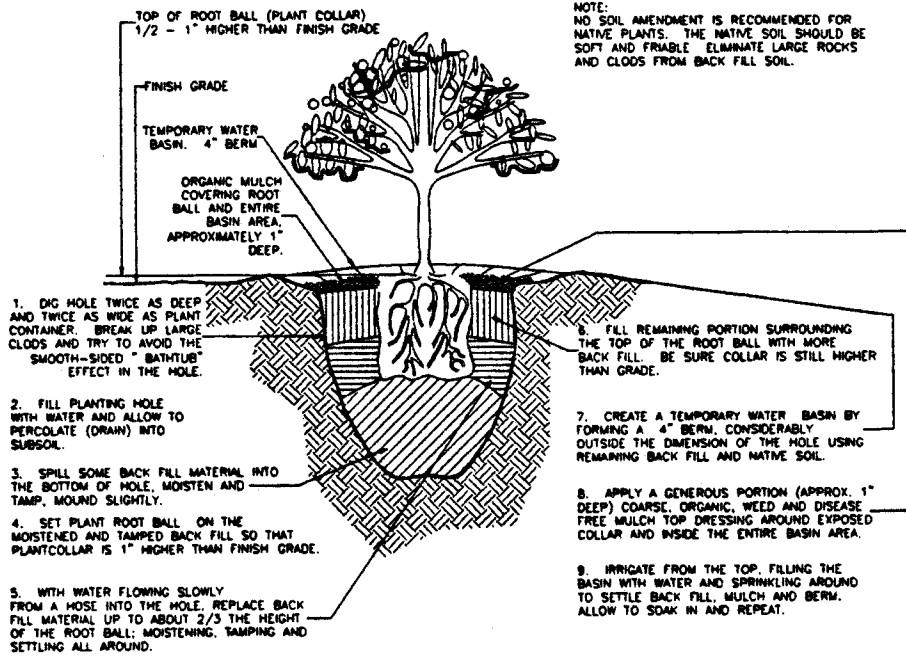
Irrigation Equipment Supplier:
Olson Irrigation Systems
10910 Wheatlands Ave.
Santee, CA 92071
Ph: (619) 562-3100. (800) 770LSON
Fax: (619) 562-2724

No Irrigation is to be installed in the hydroseeded area.



NOT FOR CONSTRUCTION
FEB. 19, 1999
FOR REVIEW PURPOSES





NOTE:
NO SOIL AMENDMENT IS RECOMMENDED FOR NATIVE PLANTS. THE NATIVE SOIL SHOULD BE SOFT AND FRIABLE. ELIMINATE LARGE ROCKS AND CLODS FROM BACK FILL SOIL.

MatchLine B

DETAIL: TREE AND SHRUB PLANTING

PLANT PALETTE

SYMBOL	DESCRIPTION	SIZE	QTY
▲	<i>Calystegia macrostegia</i> 'Anacapa Pink' Island Morning-glory	1-Gal	8
○	<i>Myrica californica</i> Pacific Wax Myrtle	1-Gal	3
◎	<i>Prunus bicifolia</i> ssp. <i>lyonii</i> Holly-leaf Cherry	1-Gal	3
●	<i>Rhus integrifolia</i> Lemonadeberry	1-Gal	7
○	<i>Salvia mellifera</i> Black Sage	1-Gal	11

Above plant material available at Tree of Life Nursery
Phone (949) 728-0685 Fax (949) 728-0509

Hydroseed Mix

DESCRIPTION	Lbs/Acre
<i>Abronia maritima</i> / Sand Verbena	4
<i>Ambrosia dumosa</i> / Beach Bur-Sage	3
<i>Baccharis pilularis</i> / Coyote Bush	3
<i>Camissonia</i> (<i>Oenothera</i>) <i>chelanifolia</i> / Beach Evening Primrose	3
<i>Eriogonum parvifolium</i> / Sea Cliff Buckwheat	8
<i>Eschscholzia californica</i> / California Poppy	3
<i>Isocoma menziesii</i> / Coast Goldenbush	4
<i>Limonium californicum</i> / California Statice, Marsh Rosemary	6
<i>Lupinus bicolor</i> / Lupine, Pigmy-leaved Lupine	3
<i>Lupinus succulentus</i> / Arroyo Lupine	4
<i>Phacelia ramosissima</i> / Branching Phacelia	4
<i>Salvia leucophylla</i> / Purple sage	3
<i>Salvia mellifera</i> / Black Sage	5

Seed and Hydroseed Materials available at S+S Seeds
Phone (805) 684-0436 Fax (805) 684-2798

MatchLine A

CALIFORNIA COASTAL COMMISSION

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

**EMERGENCY PERMIT**TO: W. Michael McKinley/John BassJuly 22, 1998

Date

327 Paseo de Cristobal5-98-273GSan Clemente, CA 92672

(Emergency Permit No.)

327 and 327 1/2 Paseo de Cristobal, San Clemente, Orange County

Location of Emergency Work


Construction of a bluff stabilization structure embedded into bedrock consisting of 16 caisson soldier piles and a 20 foot high, 100 foot long concrete retaining wall. The area between the retaining wall and the landslide scarp will be backfilled with imported dirt. No landscaping or concrete wall face treatment are proposed at this time.

Work Proposed

This letter constitutes approval of the emergency work you or your representative has requested to be done at the location listed above. I understand from your information and our site inspection that an unexpected occurrence in the form of upper coastal bluff failure requires immediate action to prevent or mitigate loss or damage to life, health, property or essential public services. 14 Cal. Admin. Code Section 13009. The Executive Director hereby finds that:

- (a) An emergency exists which requires action more quickly than permitted by the procedures for administrative or ordinary permits and the development can and will be completed within 90 days unless otherwise specified by the terms of the permit;
- (b) Public comment on the proposed emergency action has been reviewed if time allows; and
- (c) As conditioned the work proposed would be consistent with the requirements of the California Coastal Act of 1976.

The work is hereby approved, subject to the conditions listed on the reverse.

EXHIBIT No. 10
Application Number: 5-98-273
Emergency Permit
 California Coastal

Very Truly Yours,

Peter M. Douglas
Executive Director

By: Jeresa HenryTitle: District Manager

CONDITIONS OF APPROVAL:

1. The enclosed form must be signed by the property owner and returned to our office within 15 days.
2. Only that work specifically described above and for the specific property listed above is authorized. Any additional work requires separate authorization from the Executive Director.
3. The work authorized by this permit must be completed within 30 days of the date of this permit.
4. Within 60 days of the date of this permit, the permittee shall apply for a regular Coastal Permit to have the emergency work be considered permanent. If no such application is received, the emergency work shall be removed in its entirety within 150 days of the date of this permit unless waived by the Director.
5. In exercising this permit the applicant agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that may result from the project.
6. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies.

Other Conditions pertaining to this specific project:

7. This emergency permit is for bluff stabilization measures as detailed in the project description above. The final visual treatment of the facing of the retaining wall and any proposed bluff top landscaping are not included in this emergency permit but will be analyzed with the follow-up coastal development permit.
8. The follow up permit shall include a visual analysis of the proposed treatment of the concrete retaining wall facing, including several alternative visual treatments and other measures to blend the concrete wall in with the coastal bluff. A native coastal bluff landscaping plan shall be provided, including use of vegetation to break up the visual impact of the wall.

Condition #4 indicates that the emergency work is considered to be temporary work done in an emergency situation. If the property owner wishes to have the emergency work become a permanent development, a Coastal permit must be obtained. A regular permit would be subject to all of the provisions of the California Coastal Act and may be conditioned accordingly. These conditions may include provisions for public access (such as an offer to dedicate an easement) and/or a requirement that a deed restriction be placed on the property assuming liability for damages incurred from storm waves.

If you have any questions about the provisions of this emergency permit, please call the Commission Area office.

Enclosures: 1) Acceptance Form; 2) Regular Permit Application Form

cc: Local Planning Department
0891G



City of San Clemente Community Development

James S. Holloway, Community Development Director
Phone: (949) 361-6106 Fax: (949) 361-8281

September 20, 1999

Mr. Steve Raynes
California Coastal Commission
South Coast Area
P.O. Box 1450
200 OceanGate, 10th Floor
Long Beach, CA 90802-4416

Subject: Retaining Wall at 327 Paseo de Cristobal, San Clemente
Emergency Coastal Permit, Your File Number 5-98-273-G

Dear Mr. Raynes:

This letter is in response to the recent telephone conversation you had with John Harris, Associate Planner, of the City's Planning Division, regarding a request for City comments concerning the above matter. My understanding is that this matter is scheduled to be heard by the Coastal Commission at their hearing of October 12-15. It is further my understanding that you requested receipt of comments by September 21, 1999 in order for the comments to be considered in the analysis of your staff report. Please consider the comments below in your analysis and as part of your staff report to the Coastal Commission concerning this matter.

As you know the existing retaining wall was constructed as a result of a slide which impacted the homes located at 327 and 327 ½ Paseo de Cristobal on March 1, 1998. The existing retaining wall is approximately 80 feet long and the exposed face measures approximately 20 feet in height. As a result this retaining wall is a very large visible structure along the coastal bluff facing T-Street beach.

The City would like to encourage the Coastal Commission to consider the use of an aggressive landscape-planting program to mitigate the visual impact of this retaining wall. It is my understanding that the applicant's plan proposes native plantings at the base of the wall only. The City would like to encourage the planting at the base of the wall as well as the use of planting pockets within the surface of the wall at the appropriate spacing based on selected plant materials. The City would also encourage planting at the top of the wall to cascade down the

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South Coast Region

SEP 22 1999

CALIFORNIA
COASTAL COMMISSION

EXHIBIT No. 11

Application Number:

5-98-273

City of San Clemente

Letter

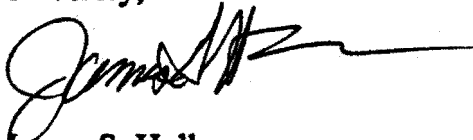


California Coastal
Commission

face of the retaining wall. The planting materials should be drought tolerant and native materials where possible.

Please consider the above in your analysis of the permanent Coastal Development Permit of this project. The City appreciates the opportunity to comment on this important proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "James S. Holloway", with a long horizontal flourish extending to the right.

James S. Holloway
Community Development Director