

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
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**RECORD PACKET COPY**

Filed: October 1, 1999  
49th Day: November 19, 1999  
180th Day: March 29, 2000  
Staff: KFS-LB *[Signature]*  
Staff Report: December 16, 1999  
Hearing Date: January 11-14, 2000  
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NUMBER:** 5-99-289

**APPLICANT:** Newport-Mesa Unified School District (NMUSD)  
Eric Jetta, Director of Maintenance and Operations

**PROJECT LOCATION:** 1327 W. Balboa Blvd., Newport Beach, Orange County

**PROJECT DESCRIPTION:** Construction of a 3 foot high perimeter wall on three sides of an existing grass recreational field. The perimeter wall will be approximately 528 linear feet with two 10 foot wide walk-through openings within the wall on the seaward side.

**LOCAL APPROVALS RECEIVED:** City of Newport Beach approval dated June 23, 1999.

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**SUMMARY OF STAFF RECOMMENDATION:**

Staff is recommending **APPROVAL** of the proposed project with one special condition regarding the function of the proposed wall. The major issue of this staff report concerns access conditions in the area and the construction of a structure on the beach.

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## **STAFF RECOMMENDATION:**

Staff recommends that the Commission APPROVE the permit application with special conditions.

## **MOTION**

*I move that the Commission approve CDP #5-99-289 pursuant to the staff recommendation.*

Staff recommends a YES vote. This will result in adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

## **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 located between the nearest public road and the sea and is in conformity with the public access and public 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. Function of Wall

The proposed perimeter wall is an appurtenant structure designed to function as a sand fence only.

### IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

#### A. Project Location and Description

The subject site is located at 1327 W. Balboa Boulevard, on the Balboa Peninsula within the City of Newport Beach (Exhibits 1 and 2). The subject site is the recreational area of the Newport Elementary School which is located seaward of the Ocean Front walkway (a paved beachfront public lateral accessway). The property is owned by the City of Newport Beach and is leased to the Newport-Mesa Unified School District. The subject site is between the first public road and the sea and is located on the beach.

Newport Elementary School was constructed in 1933. The school grounds are surrounded by residential development on three sides and the beach on the seaward side. In 1960, since there were limited locations where the school district could locate a recreational area for the school, the school district leased the beach area adjacent to the school and seaward of the Ocean Front walkway. Documents submitted by the applicant indicate the recreation area, including paved areas for basketball, other hard court games, and playground equipment were constructed in the early 1960's.

The applicant is proposing to construct a 3 foot high perimeter wall (i.e. sand fence) on three sides of an existing grass recreational field. The wall will have two 120 foot lengths and one 288 foot length for a total length of 528 linear feet. There will be two 10 foot wide openings in the wall within the 288 foot length of wall in order to allow persons to pass through the grass field and wall.

The applicant is proposing the wall primarily to prevent the encroachment of wind blown sand from the adjacent beach onto the grass field. Since the site is surrounded on three sides by existing residential development, the grass field could not be relocated to avoid the wind

blown sand. The wall is not intended to function as a seawall or other protective device. Special Condition 1 clarifies the function of the wall.

**B. Public Access**

Section 30211 of the Coastal Act states:

*Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

The proposed perimeter wall will enclose a grass field on three sides. The grass field is part of the recreational area for the adjacent Newport Elementary School. The field is on the seaward side of Ocean Front walkway, an improved lateral public walkway which runs the length of the Balboa Peninsula and the beach in this area of the City of Newport Beach. The walkway separates the school structures which are on the landward side of the walkway and the recreational areas for the school which are located on the seaward side of the walkway. The grass field is bounded by the public walkway on the landward side, a black top playground on the seaward side, paved basketball courts on the east side and a sandy play area with playground equipment on the west side. An approximately 400 foot wide sandy beach occurs seaward of the black top playground. In addition, approximately 800 foot wide sandy beach areas flank the paved recreational areas.

The proposed wall includes two 10 foot wide openings for access through the wall on the seaward side of the wall. In addition, no wall will be constructed along the perimeter flanked by the Ocean Front walkway. Therefore, a person wishing to traverse the grass field from the public walkway to the beach could do so unobstructed by using the 10 foot wide openings. The applicant states that the wall has been designed so that the wall will not adversely impact the public's use of the area and so that there isn't the appearance that the grass recreation area is private. In addition, while there are other structures surrounding the grass field, such as the existing black top playground, existing paved basketball courts, and miscellaneous playground equipment, these structures do not obstruct public access. In addition, there are no gates surrounding the recreational area. Therefore, when the area is not in use by the school, the public can use the recreational area. Therefore, the proposed sand fence will benefit the public's ability to use the grass field by minimizing the encroachment of sand onto the grass. It should also be noted that there is a paved vertical accessway, approximately 70 feet west of the grass field which extends from the end of 14<sup>th</sup> Street onto the wide sandy beach. This vertical accessway provides another method for the public to access the most seaward areas of the wide sandy beach in this area.

The proposed wall is designed as a sand fence only. If the fence were utilized to restrict access to the field, such a restriction would result in an adverse impact upon public access to the beach and existing recreational area. Therefore, the Commission imposes Special Condition 1 which clarifies that the function of the wall is as a sand fence only. As conditioned, the Commission finds that the proposed sand fence/wall will not obstruct access to the beach and is consistent with Section 30211 of the Coastal Act.

**C. Land Use Plan**

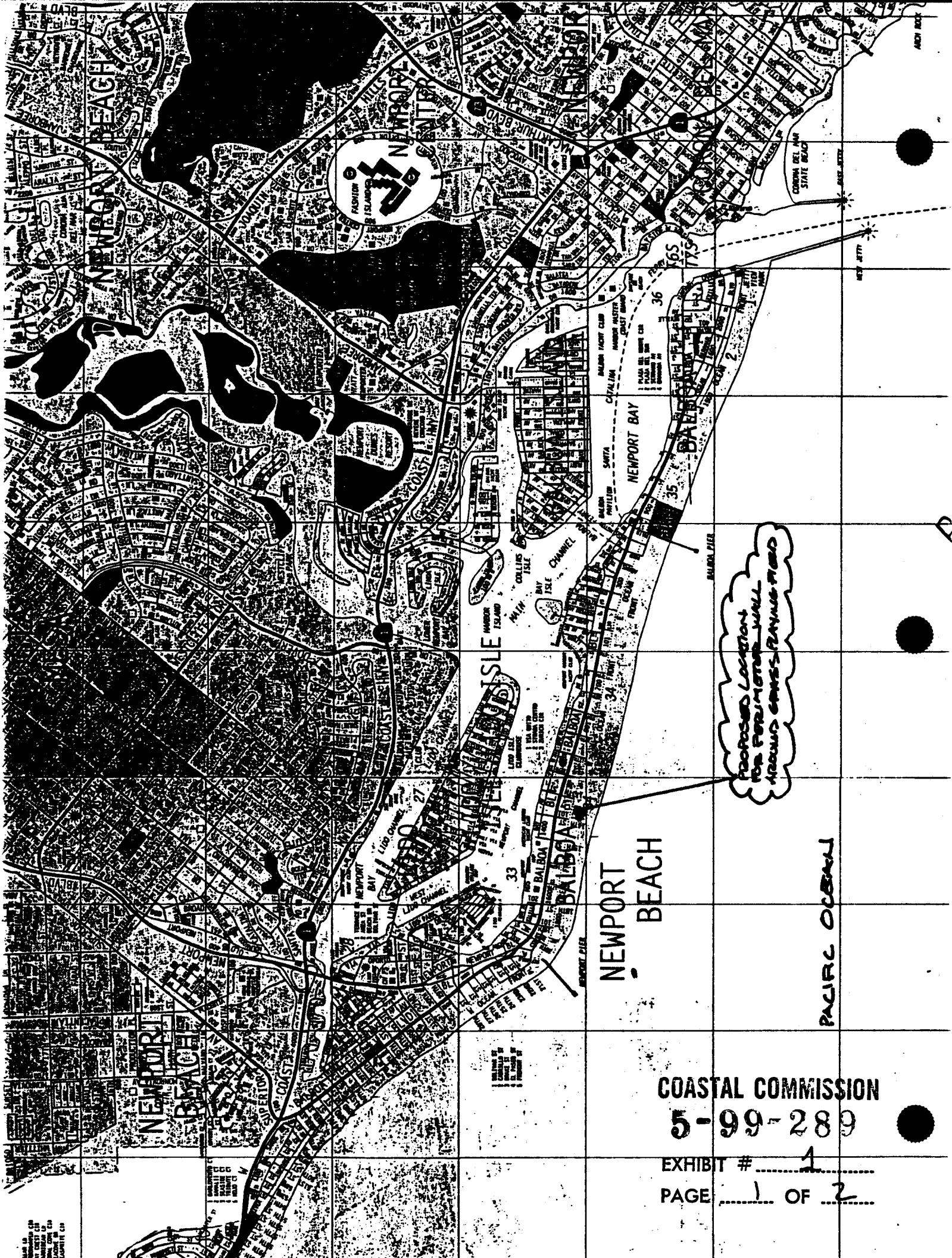
Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act.

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

**D. California Environmental Quality Act**

Section 13096 of the Commission's regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(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 is located in an urbanized area. Development already exists on the subject site. The development, as proposed, is consistent with the Chapter 3 policies of the Coastal Act. There are no feasible alternatives or mitigation measures available which will lessen any significant adverse impact the activity would have on the environment. Therefore, the Commission finds that the proposed project is consistent with CEQA and the policies of the Coastal Act.



NEWPORT BEACH

PACIFIC OCEAN

COASTAL COMMISSION

5-99-289

EXHIBIT # 1

PAGE 1 OF 2



BLACK TOP PLAYGROUND

288'

30'  
10' OPEN FOR  
WALK THROUGH

RETAINING WALL

GRASS FIELD

SAND  
PLAY AREA

STEPPED  
RETAINING WALL

STEPPED  
RETAINING WALL

CITY SIDEWALK

NEWPORT ELEMENTARY SCHOOL

NOT TO SCALE

COASTAL COMMISSION

5-99-289

EXHIBIT # 2

PAGE 1 OF 3

STEPPED RETAINING WALL  
NORTH AND SOUTH ENDS  
OF GRASS FIELD

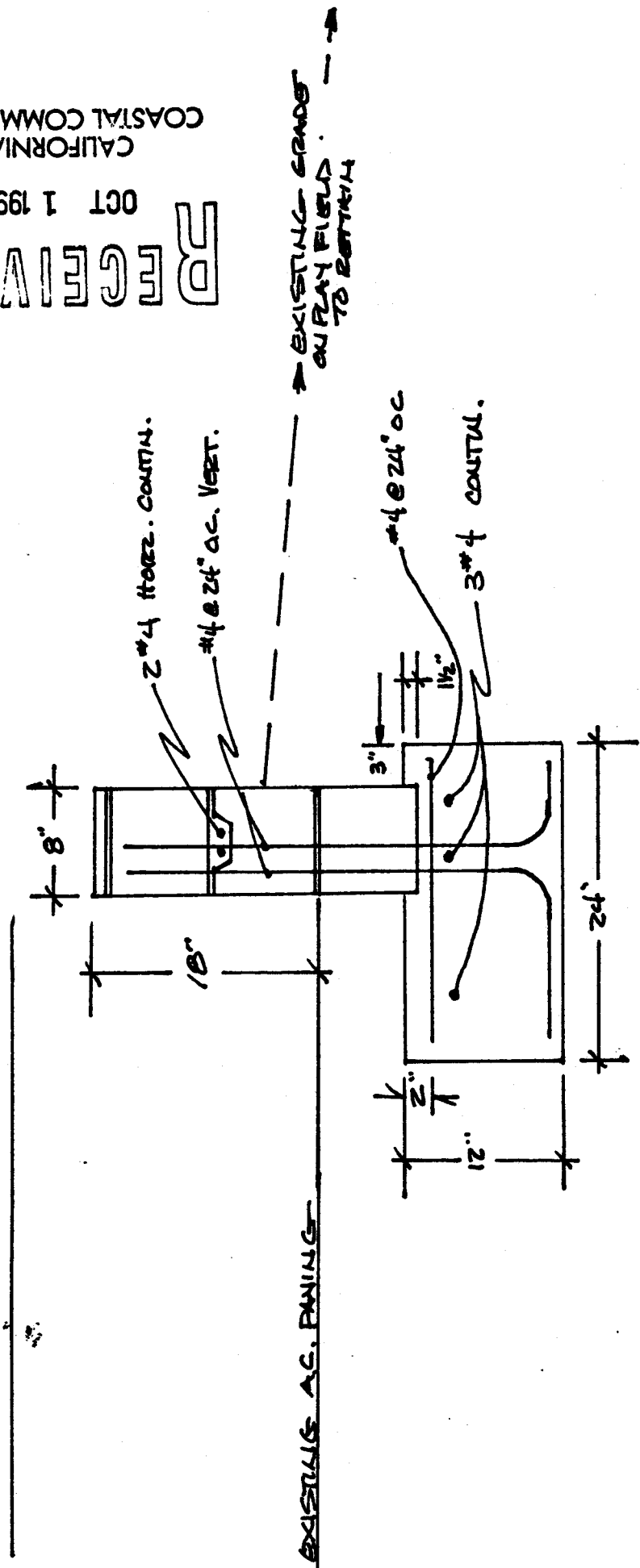
SCALE 3/32" = 1'0"

$$5 - 99 = 289$$

EXHIBIT # 2

PAGE 2 OF 3

RECEIVED  
OCT 1 1999  
CALIFORNIA  
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FOOTING DETAIL - CMU RETAINING WALL

1. ALL CELLS TO BE FILLED  
SOLID WITH GROUT