

CALIFORNIA COASTAL COMMISSION

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 Commission Action:

STAFF REPORT: PERMIT AMENDMENT**AMENDMENT****APPLICATION NUMBER:** 5-98-345-A1**APPLICANT:** Gerson Bakar & Associates**AGENT:** John Ko, LSA Associates**PROJECT LOCATION:** 1 Park Newport, City of Newport Beach, County of Orange

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Bluff stabilization to protect existing development consisting of construction of two caisson retaining walls at two bluff top locations. The first retaining wall will have twenty three caissons, placed about 3 feet landward of the top of slope, and will be approximately 150 feet long. Drilling for the caissons will excavate 300 cubic yards of soil. In addition, minor surficial grading, approximately 45 cubic yards of cut, is proposed to improve drainage. The second retaining wall will have six caissons placed about 3 feet landward of the top of slope, resulting in a 40 feet long structure. Drilling for this structure will excavate 165 cubic yards of soil. No surficial grading is proposed at this site. All soils excavated by drilling or drainage improvements will be exported and legally disposed or reused outside the coastal zone. No major earthwork is proposed and neither caisson retaining wall will extend above grade.

DESCRIPTION OF AMENDMENT: Removal of landslide debris previously left in place on the bluff face above the Upper Newport Bay Ecological Reserve. Removal involves excavation and disposal of 2,500 cubic yards of soil and contouring the slope to match adjacent topography. In addition, the removal of landslide debris will result in impacts to 0.25 acres of coastal sage scrub habitat. The applicant is proposing replacement of coastal sage scrub at a ratio of 2.5:1 (i.e. 0.625 acres) through on-site restoration. Finally, the applicant is proposing to construct an approximately 180 foot long, 4' 6" high cable rail fence three feet landward of the bluff edge along the top of the bluff and a 115 foot long 2'8" high concrete barrier "type 50" debris wall along the base of the bluff and the edge of Back Bay Drive.

SUMMARY OF STAFF RECOMMENDATION:

The major issue of this staff report is the proposed removal of coastal sage scrub on a bluff face and proposed activity next to the Upper Newport Bay Ecological Reserve, a sensitive habitat area. Staff is recommending approval of the proposed coastal development permit amendment with eight special conditions. Special Condition 1 carries forward the previously imposed special conditions. In order to address the issue that the proposed project will not render the bluff face surficially or grossly stable, Special Condition 2 requires the applicant to

execute and record an assumption-of-risk deed restriction. In order to address some elements that were not included in the proposed coastal sage scrub restoration plan, Special Condition 3 requires the applicant to submit a final coastal sage scrub restoration and monitoring plan which requires the applicant to supply certain maps and submit copies of the monitoring reports to the ED. The applicant must implement the ED approved restoration plan. In order to avoid impacts to the light footed clapper rail and the California gnatcatcher, Special Conditions 4 and 5 limit the period when construction can occur. The special conditions include exceptions to the period of exclusion if the USFWS and CDFG approve the deviation, subject to ED written review and approval. While the applicant has proposed measures to address construction related impacts to water quality, these measures have not been reviewed and approved by the RWQCB. Special Condition 6 requires the applicant to submit evidence of the review and approval. In order to avoid adverse visual impacts related to the proposed debris wall, Special Condition 7 requires the applicant to submit a color and texture plan for review and approval of the ED. The applicant is proposing to stage construction of the project on Back Bay Drive. In order to ensure that the applicant has the legal ability to undertake this work, Special Condition 8 requires the applicant to submit evidence of such ability. Finally, Special Condition 9 requires the applicant to adhere to certain construction related responsibilities including using fencing to exclude any activity within sensitive habitat areas not explicitly authorized by this permit and to utilize erosion control best management practices.

LOCAL APPROVALS RECEIVED: City of Newport Beach approval-in-concept 6180-99 dated December 8, 1999.

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach certified Land Use Plan; Coastal Development Permit 5-97-250 (Park Newport Apartments); 5-98-345 (Gerson, Bakar & Associates); 5-99-036 (Gerson, Bakar & Associates); 5-95-048 (Irvine Company); 5-95-058 (Irvine Company); *Mitigated Negative Declaration* for Slope Stability/Repair Work (Grading Permit) – Park Newport Apartments (SCH# 99101045) dated November 18, 1999; *Park Newport Apartments Slide Habitat Restoration Plan and Specifications* (Project No. PNP830) dated July 30, 1999, prepared by LSA Associates, Inc. of Irvine, California; Letter from the U.S. Fish and Wildlife Service to the California Coastal Commission dated December 7, 1999 regarding *Park Newport Apartments Slope Stability Project and Associated Mitigated Negative Declaration (SCH# 99101045), Newport Beach, Orange County, California*; *Review of Site Conditions, Portions of the West Facing Slope Adjacent to the Clubhouse* (Project No. 3137.2/Log No. 02796) dated December 15, 1998, prepared by Hetherington Engineering, Inc. of Carlsbad and San Juan Capistrano, California; *Geotechnical Comments – Clubhouse Landslide* (Project No. 3137.2/Log No. 02938) dated April 16, 1999 prepared by Hetherington Engineering, Inc. of Carlsbad and San Juan Capistrano, California; *Updated Geotechnical Comments – Clubhouse Landslide* (Project No. 3137.2/Log No. 03061) dated August 18, 1999 prepared by Hetherington Engineering, Inc. of Carlsbad and San Juan Capistrano, California; *Geologic Comments – Response to Coastal Commission, Clubhouse Landslide* (Project No. 3137.2/Log No. 03159) dated December 20, 1999 prepared by Hetherington Engineering, Inc. of Carlsbad and San Juan Capistrano, California.

PROCEDURAL NOTE

A. Coastal Development Permit Amendments

The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

The subject application is being forwarded to the Commission because the Executive Director has determined that the proposed amendment is a material change and affects conditions required for the purposes of protecting coastal resources or coastal access.

I. **STAFF RECOMMENDATION, MOTION AND RESOLUTION OF APPROVAL**

Staff recommends that the Commission make the following motion and adopt the following resolution to APPROVE the amendment application with special conditions.

MOTION

I move that the Commission approve CDP Amendment #5-98-345-A1 pursuant to the staff recommendation.

Staff recommends a YES vote. Passage of this motion 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 OF APPROVAL WITH CONDITIONS

The Commission hereby APPROVES the amendment to Coastal Development Permit 5-98-345, subject to the conditions below, for the proposed development on the grounds that the development would be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, would 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 would not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. STANDARD CONDITIONS:

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

III. SPECIAL CONDITIONS

1. PRIOR CONDITIONS

Unless specifically altered by this amendment, all regular and special conditions attached to coastal development permit 5-98-345 remain in effect.

2. ASSUMPTION OF RISK, WAIVER OF LIABILITY AND INDEMNITY

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from landslide/slope destabilization; (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**, the 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. The deed restriction shall include a legal description of the applicant's entire parcel. The 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. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

3. **FINAL COASTAL SAGE SCRUB RESTORATION AND MONITORING PROGRAM**

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for review and approval of the Executive Director, a final revised Coastal Sage Scrub Restoration and Monitoring Program that substantially conforms with the restoration and monitoring program submitted to the Commission titled *Park Newport Apartments Slide Habitat Restoration Plan and Specifications* (Project No. PNP830) dated July 30, 1999, prepared by LSA Associates, Inc. of Irvine, California, except that it shall be revised to:

1. provide a site survey including a map to quantify the take and re-vegetation amounts of coastal sage scrub;
2. provide a re-vegetation plan detailing the timing of planting, species to be planted, plant size (seed or container stock), and plant location;
3. include a provision indicating that the annual mitigation monitoring reports prepared pursuant to the Park Newport Slide Habitat Restoration Plan & Specifications prepared by LSA Associates and dated July 30, 1999 shall be submitted to the Executive Director within 30 days of the date the report is completed.

- B. 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 legally required.

4. **TIMING OF CONSTRUCTION – LIGHT FOOTED CLAPPER RAIL**

To avoid adverse impacts on the light footed clapper rail (*Rallus longirostris levipes*), construction shall not occur between March 15 through August 15 of any year. However, the permittee may undertake construction during this period upon obtaining a written statement of the Executive Director authorizing construction on specified dates. To obtain such a statement, the permittee must submit a declaration from the U.S. Fish and Wildlife Service

and California Department of Fish and Game stating that construction on the specific dates proposed will not cause adverse impacts to any sensitive or endangered species. The declaration must contain an assessment of the foraging, breeding, and nesting of the light footed clapper rail found in the area and a statement that the construction activity on the specific dates proposed will not interfere with the foraging, breeding, and nesting of the light footed clapper rail.

5. TIMING OF CONSTRUCTION – CALIFORNIA GNATCATCHER

To avoid adverse impacts on the California gnatcatcher (*Poliophtila californica californica*), construction shall not occur between February 15 through August 15 of any year. However, the permittee may undertake construction during this period upon obtaining a written statement of the Executive Director authorizing construction on specified dates. To obtain such a statement, the permittee must submit a declaration from the U.S. Fish and Wildlife Service and California Department of Fish and Game stating that construction on the specific dates proposed will not cause adverse impacts to any sensitive or endangered species. The declaration must contain an assessment of the foraging, breeding, and nesting of the California gnatcatcher found in the area and a statement that the construction activity on the specific dates proposed will not interfere with the foraging, breeding, and nesting of the California gnatcatcher.

6. REGIONAL WATER QUALITY CONTROL BOARD APPROVAL:

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, applicant shall provide to the Executive Director a copy of a permit issued by the Regional Water Quality Control Board, or letter of permission, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the Regional Water Quality Control Board. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

**7. REQUIREMENTS TO MINIMIZE VISUAL IMPACTS –
COLOR AND TEXTURE PLAN**

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a plan demonstrating that the color and texture of the proposed debris wall will be compatible with the adjacent bluff face and native vegetation. The plan shall demonstrate that:

1. the structure will be constructed with concrete that has been colored with earth tones that are compatible with the adjacent bluff face and vegetation,
2. white and black tones will not be used,
3. the color will be maintained through-out the life of the structure,

4. the structure will have a non-reflective texture to match the adjacent bluff face;
5. a row of native vegetation will be planted in front of the debris wall to obscure the wall from view.

B. 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.

8. LEGAL INTEREST

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, written documentation demonstrating that it has the legal ability to undertake the proposed development as conditioned herein.

9. CONSTRUCTION RESPONSIBILITIES AND DEBRIS REMOVAL

The permittee shall comply with the following construction-related requirements:

- (a) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave erosion and dispersion;
- (b) At least one lane of Back Bay Drive passable by vehicles, pedestrians, and cyclists shall remain open at all times;
- (c) Temporary protective fencing shall be installed during construction to exclude any activity not authorized by this permit in sensitive habitat – the location of the fencing shall be installed consistent with the recommendations of a qualified biologist;
- (d) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control sedimentation impacts to sensitive habitat areas, during construction, to include the following, at minimum: placement of sand bags (2 bags high) at the perimeter of construction areas and along Back Bay Drive; temporary barrier fencing around the limits of construction areas; pre-construction meeting to review procedural and BMP guidelines;
- (e) construction equipment, materials, and debris shall be removed at the conclusion of construction;
- (f) Construction debris and excavation spoils shall be disposed of at a legal disposal site outside the coastal zone.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. PROJECT LOCATION, BACKGROUND, AND AMENDED PROJECT DESCRIPTION

The applicant is proposing to remove landslide debris previously left in place on the bluff face above the Upper Newport Bay Ecological Reserve (Exhibit 1). Removal involves grading an area of bluff face approximately 120 feet wide by 110 feet long on a 90 foot high bluff with a gradient varying between 1:1.4 to 1:1.25 and contouring the graded slope to match adjacent topography. The grading will involve the excavation and disposal of 2,500 cubic yards of soil. In addition, the removal of landslide debris will result in impacts to 0.25 acres of coastal sage scrub habitat. The applicant is proposing replacement of coastal sage scrub at a ratio of 2.5:1 (i.e. 0.625 acres) through on-site restoration. Finally, the applicant is proposing to construct an approximately 180 foot long, 4' 6" high cable rail fence three feet landward of the bluff edge along the top of the bluff and a 115 foot long 2'8" high concrete barrier "type 50" debris wall (i.e. K-barrier) along the base of the bluff/edge of Back Bay Drive.

The subject site is located at 1 Park Newport in the City of Newport Beach, west of Back Bay Drive at the northwest corner of San Joaquin Hills Road and Jamboree Road (Exhibit 1). The development proposed under this amendment will occur on the bluffs along the western property boundary. The applicants' property is developed with a large apartment complex on the bluff top west of Upper Newport Bay and the Upper Newport Bay Ecological Reserve (UNBER). Back Bay Drive demarcates the western boundary of the applicants' property and separates it from Upper Newport Bay and UNBER. UNBER is owned by the California Department of Fish and Game (CDFG). Except for construction staging, all proposed work will occur solely on the applicants' property.

The development is proposed to occur outside the California gnatcatcher nesting season (February 15 through August 15) and light-footed clapper rail nesting season (March 15 through August 15). The proposed landslide removal is anticipated to require 10 working days to complete. Construction staging will occur at the bottom of the bluff on Back Bay Drive. During construction one lane of Back Bay Drive will be closed. However, one lane will remain open to traffic and pedestrian use at all times. Landslide debris will be loaded into trucks staged on Back Bay Drive. Once full, trucks will depart the site via San Joaquin Hills Road which will dispose the landslide debris outside the coastal zone. The City of Newport Beach has approved this project in concept and has submitted a letter indicating that they wish the project to move forward as soon as possible. However, the applicant has not submitted evidence that they have permission to stage the project on Back Bay Drive. Therefore, Special Condition 8 requires the applicant to submit evidence of their legal ability to undertake this aspect of the proposed development, as conditioned herein.

The applicant is proposing several measures to avoid impacts to sensitive habitat, water quality, and visual resources. During construction orange snow fencing will be placed at the limits of construction to demarcate work areas from areas which are not to be disturbed. During construction a concrete barrier will be placed in the middle of Back Bay Drive in order to catch any loose debris and to prevent it from encroaching into the pedestrian and traffic lane as well as to prevent movement of soil or other debris into the Upper Newport Bay Ecological Reserve. The applicant is proposing to re-vegetate the site with native plants

following disturbance. This re-vegetation will serve as erosion control and habitat restoration. Finally, the applicant is proposing to place the proposed K-Barrier debris wall such that a row of native plants may be grown in front of it to shield it from view.

B. OTHER COMMISSION ACTION ON PROJECT SITE

Coastal Development Permit 5-98-345

The proposed bluff face grading and habitat restoration follows work previously constructed on the site under Coastal Development Permit 5-98-345, approved October 13, 1998 (Exhibit 2). The work previously approved was a bluff stabilization project consisting of construction of two subsurface caisson retaining structures. The first retaining structure consisted of twenty three 36-inch diameter caissons, placed 7 feet apart and a minimum of 3 feet landward of the top of slope. The total length of the subsurface structure was 150 lineal feet. This retaining structure was constructed adjacent to an existing clubhouse building. The landslide debris which is the subject of this coastal development permit amendment is on the bluff face below and bayward of the caissons installed at this location.

A second subsurface retaining structure consisted of six 48-inch diameter caissons. This structure was constructed along the top of the slope adjacent to apartment building Unit No. 4570 approximately 550 feet south of the caissons installed along the bluff at the clubhouse.

Several issues were raised in the Commission's review of Coastal Development Permit application 5-98-345 including impacts upon sensitive habitat and geologic hazards. Five special conditions were imposed including (Exhibit 2, Pages 1 through 4): 1) a requirement for approval from the California Department of Fish and Game to proceed with work adjacent to an environmentally sensitive habitat area; 2) demonstration of compliance with geotechnical recommendations; 3) demonstration of an assumption of risk deed restriction; 4) requirements for avoidance of sensitive habitat and implementation of erosion control/sedimentation best management practices during construction; and 5) an informational special condition stating that any addition or change to the proposed project may require an amendment to the permit or a new coastal development permit. These conditions remain in effect, as noted in Special Condition One.

These stabilization projects were constructed in response to bluff failures consisting of a landslide, adjacent to the clubhouse, and a rockfall, adjacent to apartment unit 4570, that occurred during the winter of 1997-1998. This proposed amendment will remove the landslide debris below the clubhouse but will not result in any work in the location of unit 4570. The rockfall debris below unit 4570 was previously removed.

Coastal Development Permit 5-97-250

On September 9, 1997, the California Coastal Commission granted Coastal Development Permit 5-97-250 for development at the subject property which included the construction of a caisson retaining wall, excavation and recompaction of 52 cubic yards of soil, and repair/replacement of a damaged drainage pipe. The approved development occurred along bluffs adjacent to Big Canyon, on the northern side of the property, approximately 800 feet north of the development proposed under this coastal development permit amendment (5-98-345-A1). This work occurred to protect apartment unit 3160, an existing structure.

Special conditions included obtaining permission from CDFG for the proposed work and incorporation of the geotechnical recommendations made by the geotechnical consultant.

Coastal Development Permit 5-99-036

On July 13, 1999, the California Coastal Commission granted Coastal Development Permit 5-99-036 for development at the subject property which included bluff stabilization to protect existing development through the addition of slope drainage improvement structures at two bluff top locations facing the Upper Newport Bay Ecological Reserve (See Exhibit 1, Page 2). The approved development included repair to the eroded bluffs including 100 cubic yards of grading, installation of two concrete interceptor ditches (Sites A and B), connection of the interceptor ditches to an existing 15" storm drain via a 12" corrugated steel pipe, installation of one retaining wall to support the drainage ditch, and concrete encasement of a concrete-filled sand bag retaining structure to reduce water infiltration and direct runoff into the interceptor ditches.

The development proposed under this coastal development permit amendment (5-98-345-A1) is located on the bluff face approximately 50 feet north of the concrete interceptor ditch installed at the area identified as Site B in Coastal Development Permit 5-99-036.

C. HAZARD

Section 30253 of the Coastal Act states, in part:

New development shall:

(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.

Geologic conditions at the Park Newport Apartments site have been the subject of at least 59 geologic reports since 1968. These reports have examined slope stability and documented ongoing bluff erosion, sloughing, and landsliding at the larger site occupied by the Park Newport Apartments complex as well as at the subject site. A slope monitoring program was in place sporadically between 1978 and 1994. Since 1994, monitoring has occurred more continuously on at least an annual basis.

During the winter of 1997-1998, the subject landslide occurred on the bluff adjacent to the existing clubhouse. Based upon the geologic reports provided as part of the application materials for Coastal Development Permit 5-98-345, the landslide is relatively shallow, approximately 10 to 15 feet thick, with a scarp 120 feet long and 17 feet high. The geotechnical reports state that the slide is likely an ancient, eroded landslide reactivated by hydrostatic pressure caused by heavy rainfall.

In order to protect the existing clubhouse at the top of the bluff a subsurface caisson retaining wall was constructed. The caisson wall was designed to isolate the structures on the landward side of the bluff from continued surficial sloughing and landsliding that was

anticipated to continue on the face of the bluffs. The landslide material below the clubhouse was left in place because it was not identified as a hazard.

A subsequent geologic reconnaissance documented in a letter dated December 15, 1998, by Hetherington Engineering revealed that the landslide debris on the face of the bluff is a hazard to Back Bay Drive and the adjacent Upper Newport Bay Ecological Reserve. Accordingly, the applicant is proposing to remove the landslide debris.

Hetherington Engineering provided an evaluation of the proposed project in their letters dated December 15, 1998, April 16, 1999, August 18, 1999, and December 20, 1999. Several options were explored for remediating the hazard caused by the presence of the landslide debris.

The first option was to perform no project. Under the no project option, the slide debris would continue to move downslope causing closure of Back Bay Drive, sedimentation of the Upper Newport Bay Ecological Reserve (UNBER), and risk to users of Back Bay Drive.

The second option was to retain the slide material in place. This option would require no grading, however, it would require the construction of a 10 to 20 foot high retaining wall at the toe of the slope to prevent the slide material from encroaching onto Back Bay Drive and into UNBER. This option would have large visual and sensitive habitat impacts, therefore it was rejected.

The third option was to stabilize the slide mass through a combination of buttress fills, reinforced earth, caissons and tie backs. This option was rejected due to the large scale landform alteration required and impacts to visual resources and sensitive habitat.

The fourth option is the proposed project which involves removal of the landslide debris and surficial contouring of the graded area to match adjacent slope areas. In addition, a debris wall and zone of accumulation is proposed at the base of the bluff where loose debris from the bluff face may collect and be periodically removed. This proposed project is considered maintenance oriented and is not designed to provide gross stability to the slope. It is anticipated that erosion will continue and that future landslides are possible. The proposed debris wall and accumulation zone is designed to collect debris. Periodic maintenance and removal of debris is expected.

While the geotechnical consultant has found that the proposed project will improve safety by removing slide debris that is unstable, the proposed project is not designed for gross stability. In their letter dated December 20, 1999, Hetherington Engineering states:

By removing a portion of the slide mass and by creating a zone of accumulation at the toe adjacent to [Back] Bay Drive as currently proposed, the potential hazards to life and property (the public using [Back] Bay Drive) are reduced.

Although, the proposed development does not guarantee gross stabilization of the bluff in the project area, the caissons installed at the top of the slope under CDP 5-98-345 will protect the upslope buildings from continued erosion. Based upon the information provided by the applicant, the proposed project is not designed, nor will it provide, surficial or gross stability to the slope. No engineered slope stabilization measures are proposed. Consequently, the

proposed project will not preclude or commit to a particular form of slope remediation in the future. Moreover, while the site may still be subject to damage from surficial or gross slope instability, the proposed development will assure stability of the site consistent with Section 30253 of the Coastal Act by improving the safety of the site.

Although the proposed development will improve safety of the site, the project will not assure gross stability of the site. Accordingly, the Commission requires, as a condition of approval Special Condition Two, which requires that the applicant record an assumption of risk deed restriction acknowledging that landslide/slope destabilization hazards remain, even with implementation of this project, and that the applicant and all landowners waive any claim of liability against the Commission. Given that the applicants have chosen to implement the project despite the risks, the applicant must assume the risks. Therefore, the Commission imposes Special Condition Two. In this way, the applicant is notified that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires the applicant to indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand the hazards. In addition, the condition ensures that future owners of the property will be informed of the risks and the Commission's immunity from liability. As conditioned, the Commission finds the proposed project is consistent with Section 30253 of the Coastal Act. The Commission finds that, as conditioned, the proposed project is consistent with Section 30253 of the Coastal Act.

D. ENVIRONMENTALLY SENSITIVE HABITAT AREA

Section 30240(b) of the Coastal Act states:

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

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

The subject site has sensitive coastal sage habitat on-site and is located adjacent to the Upper Newport Bay Ecological Reserve, an environmentally sensitive habitat area. A biological impact assessment titled *Park Newport Apartments Slide Habitat Restoration Plan and Specifications* (Project No. PNP830) dated July 30, 1999, was prepared by LSA Associates, Inc. of Irvine, California. This assessment determined that coastal sage scrub habitat exists on-site and that 0.25 acres of coastal sage scrub habitat occurs upon the landslide debris which is proposed to be removed under this coastal development permit amendment.

Coastal sage scrub is considered to be a sensitive habitat primarily due to its limited distribution and its importance to wildlife. This vegetative community supports a wide diversity of wildlife because the large diversity of plant species provides ample cover and foraging opportunities. Many species of birds, reptiles, and small mammals utilize coastal sage scrub for both foraging and shelter. In addition to supporting a number of more common

wildlife species, many areas of coastal sage scrub, including habitat on the bluffs at Park Newport Apartments are habitat for the California gnatcatcher.

Coastal sage scrub is found on coastal hills and low elevation mountain sides in Orange and adjacent counties in southern California. Due to rapid development in this region, the coastal sage scrub community, which 13 to 15 years ago was still widespread is today considered threatened according to many biologists. United States Fish and Wildlife Service research indicates that 70-90% of the coastal sage scrub habitat in Orange County has been fragmented and destroyed. Certain of its obligate species, most notably the California gnatcatcher, are listed as endangered. Due to its limited distribution and importance to wildlife certain areas of coastal sage scrub are considered environmentally sensitive habitat.

In addition to on-site habitat, significant sensitive habitat and species are supported in UNBER, adjacent to the subject site. The City's certified Land Use Plan addresses UNBER in the following manner:

The Reserve has been identified by the State Coastal Commission, State Department of Fish and Game, U.S. Fish and Wildlife Service, and the Southern California Association of Governments as a unique and valuable State resource. The upper bay is an integral part of the Pacific Flyway, and the saltwater marsh, bay waters, and upland of upper Newport Bay provide habitat for 158 species of birds, of which 81 species are wading or water-associated birds. Rare or endangered birds utilizing the Reserve include the California Black Rail, which nests in pickleweed, sedges, saltgrass, and bulrush; Belding's Savannah Sparrow, which nests in pickleweed; Light-footed Clapper Rail, which nests in pickleweed and cordgrass; California Least Tern, which lays its eggs in the sand; and California Brown Pelican, which occasionally visits the upper bay for purposes of resting and feeding. Also present in the Reserve are 18 species on the Audubon Blue List, a list of birds not considered rare or endangered, but which are showing evidence of non-cyclic population declines or range contractions. Over 60 species of fish and over 1,000 species of marine invertebrates have been reported in the bay.

The Land Use Plan goes on to state, in part:

Substantial sediment deposition has occurred in upper Newport Bay. Sources of sediment include...landslides, and construction projects. The occurrence of three extremely wet winters (1969, 1978, and 1980) resulted in the major transport of sediment to the bay. The extensive sedimentation that has occurred has adversely affected the Upper Newport Bay Ecological Reserve due to loss of tidal prism. In addition, suspended sediments can lead to reduction of photosynthetic activity and can interfere with filter feeding mechanisms of marine life-forms...the City of Newport Beach has participated in 208 planning studies to develop a solution to this problem. This solution involves utilization of Best Management Practices (BMP's) to retain...construction sediment on-site...

As outlined in more detail in the "Hazards" section of this staff report, the bluffs at the subject site have been subject to ongoing erosion and destabilization. The proposed project is necessary to prevent the encroachment of landslide debris onto Back Bay Drive and into adjacent environmentally sensitive habitat area (i.e. UNBER). In addition, movement of the

landslide debris onto Back Bay Drive or into UNBER would result in elimination of the 0.25 acres of coastal sage scrub which occurs on the slide debris. Furthermore, when the landslide activated in 1997/1998 it eliminated existing coastal sage scrub habitat. Without removal of the slide debris, restoration of the areas buried by the slide or scarified by the slide could not occur. Finally, non-native invasive plant species have begun to occupy bare areas. The proposed slide removal will cause removal of these non-native plant species which could expand and displace existing native habitat.

In order to prevent the deposition of landslide debris into UNBER and to allow the coastal sage scrub area eliminated by the slide to be restored, the applicant is proposing to remove the landslide debris. This slide debris removal will cause direct impacts upon 0.25 acres of coastal sage scrub habitat.

Upon completion of the landslide debris removal, 0.625 acres of coastal sage scrub habitat will be restored to replace the 0.25 acres of coastal sage scrub lost due to the removal. The ratio of restoration proposed is 2.5:1. The restoration will begin immediately upon completion of grading.

Removing 0.25 acres of coastal sage scrub will not result in a significant disruption of habitat values because the coastal sage scrub habitat within the confines of the proposed project have been disturbed by the landslide activity and would continue to degrade and be eliminated by movement of the landslide unless corrective measures are taken. The proposed corrective measure is to remove the landslide mass and restore 0.625 acres of coastal sage scrub habitat in the same location. The proposed restoration will replace the coastal sage scrub impacted by removing the landslide and restore coastal sage scrub areas which were eliminated by the landslide. Accordingly, restoration of the site to coastal sage scrub habitat is dependent upon removal of the landslide damaging coastal sage scrub habitat. Furthermore, restoration of the site will prevent the encroachment of invasive non native plant species which displace coastal sage scrub habitat. Therefore, preventing adverse impacts upon coastal sage scrub adjacent to the landslide area by invasive species is dependent upon restoring the site with coastal sage scrub habitat in the same location.

The proposed landslide mass removal and coastal sage scrub restoration will occur in an area that is adjacent to Back Bay Drive, a popular vehicular and pedestrian recreation-oriented roadway, as well as next to the Upper Newport Bay Ecological Reserve. This proposed project is designed to prevent the landslide mass from depositing onto Back Bay Drive and into UNBER. In addition, the restoration is designed to prevent sedimentation of UNBER caused by an un-vegetated slope. The proposed project includes measures to prevent construction related impacts upon Back Bay Drive and UNBER by keeping at least one lane of the roadway open during construction. The applicant is also proposing to install temporary erosion control fences and proposing to stage equipment to avoid impacts upon UNBER. The Commission finds that these proposed measures are necessary to protect coastal resources. Therefore, Special Condition 9 makes these proposed elements a requirement. Therefore, the proposed project is being sited and designed to prevent impacts upon Back Bay Drive and UNBER and is compatible with the continued use of Back Bay Drive as a recreational feature and continued use of UNBER as habitat for wildlife.

The applicant has provided a restoration plan detailing the proposed restoration effort titled *Park Newport Apartments Slide Habitat Restoration Plan and Specifications* (Project No.

PNP830) dated July 30, 1999, prepared by LSA Associates, Inc. of Irvine, California. The main elements of the restoration plan include: 1) cryptogamic crust salvage prior to grading [to be re-applied to the site during hydroseeding]; 2) use of native container plants and hydroseed comprised of native seed; 3) use of vasicular arbuscular mychorrhizae inoculum to prepare the soil for planting after grading; 4) post-planting maintenance including weeding, erosion control, and hand-applied temporary irrigation; and 5) monitoring until performance standards have been met and implementation of corrective measures for an anticipated duration of three years.

The applicant anticipates that the proposed restoration plan will be successful. The applicant's assertion is based upon similar coastal sage scrub restoration efforts performed on the bluffs adjacent to Upper Newport Bay in the vicinity of the subject site. These restoration sites include the Harbor Cove development which is south of and across the street from the Park Newport Apartments on San Joaquin Hills Road (Coastal Development Permit 5-95-048 (Irvine Company)) as well as a restoration area approximately 800 feet north of the subject site adjacent to the Park Newport Apartments property at the point near Big Canyon (Coastal Development Permit 5-95-058 (Irvine Company)). These restoration areas had similar topography to the subject site and were planted upon subsoil exposed along the bluff similar to the subject site. The applicant has stated that growth is vigorous at these other locations after just 3.5 years. In addition, the applicant reports that the restored habitat at Harbor Cove is occupied by California gnatcatchers, which indicates that such restored habitat is used by sensitive species.

The proposed restoration plan has been reviewed by the U.S. Fish and Wildlife Service. Written comments received from USFWS indicate concurrence with the proposed project including the restoration plan (Exhibit 3). Commission staff have also contacted Mr. Loren Hays with the USFWS regarding this project. Mr. Hays agreed with the applicant's assessment that the proposed restoration plan has a high likelihood of success. However, this concurrence is contingent on the applicant conforming with the mitigation measures outlined in the Mitigated Negative Declaration. These mitigation measures are shown as Exhibit 4. The applicant's proposed coastal sage scrub restoration and monitoring program includes many of the elements required by the mitigation measures outlined in the Mitigated Negative Declaration. However, the restoration plan (a.k.a. restoration document) submitted to Commission staff does not include a site survey in the form of a map showing the location of the coastal sage scrub to be removed and the specific location where restoration will occur. In addition, the restoration document does not include a map detailing the location where specific plants will be planted and where hydroseeding will occur. Finally, the restoration document does not include a provision indicating that a copy of the annual monitoring reports shall be forwarded to the Executive Director of the Commission upon their completion. Therefore, the Commission imposes Special Condition 3 which requires the applicant to submit a final coastal sage scrub restoration and monitoring program which includes these items.

While USFWS is supportive of the concept of the proposed project, USFWS has also indicated that light footed clapper rail (*Rallus longirostris levipes*) were observed within 150 feet of the project area during their field visit on November 18, 1999. In addition, field visits to the subject site by California Department of Fish and Game personnel have shown that California gnatcatchers (*Polioptila californica californica*) have been found in the vicinity of the project.

USFWS has indicated that the proposed construction activity may have adverse effects upon California gnatcatchers and light footed clapper rail if there are nesting birds in the project area during the breeding season. Therefore, the applicant has proposed to avoid construction activity during the breeding season. Since it is important to avoid impacts to sensitive species, Special Conditions 4 and 5 reaffirms the applicant's proposal by requiring that no construction activity occur during the respective breeding seasons of the California gnatcatcher (February 15 through August 15) and the light footed clapper rail (March 15 through August 15) except as specified.

While the light footed clapper rail and California gnatcatcher have been found in the vicinity of the project area there is no evidence that these species occupy or forage within the limits of the proposed project area. The light footed clapper rail observed by USFWS personnel on November 18, 1999, was 150 feet away from the project area, not within the boundary of the project area. In addition, there is no habitat (i.e. salt marsh) for the light footed clapper rail on the project site. In addition, USFWS required the applicant to do a focused gnatcatcher survey to determine whether gnatcatchers were nesting and breeding in the vicinity of the project site when the applicant was processing Coastal Development Permit Application 5-99-036. Six focused surveys were performed during the gnatcatcher breeding season by LSA Associates, Inc. of Irvine, California. LSA Associates' letter report dated May 25, 1999, states that no gnatcatchers were observed in the vicinity of the project site during the protocol survey.

Moving forward with the proposed project as soon as possible would prevent impacts to UNBER which could be caused if the landslide debris falls onto Back Bay Drive and into UNBER. In addition, restoration of the site could occur more rapidly if work were allowed to begin. However, the proposed project would be delayed until after August 15th of this year if no work could occur during the nesting season. If California gnatcatchers and light footed clapper rail are not foraging, breeding, or nesting within the project site or would not be disturbed by construction activity at the site, there would be no impact upon these sensitive species. Consequently, while the applicant is proposing to avoid construction during the gnatcatcher and light footed clapper rail nesting season, USFWS is supportive of allowing work to proceed during the breeding season provided that a biologist is present and a pre-construction survey indicates there are no nesting gnatcatchers or light footed clapper rail in the vicinity which could be disturbed by the proposed project. Therefore, Special Conditions 4 and 5 allow work to occur during the breeding season during certain dates if the applicant submits a declaration from the U.S. Fish and Wildlife Service and California Department of Fish and Game, as appropriate, stating that construction on the specific dates proposed will not cause adverse impacts to any sensitive or endangered species. The declaration must contain an assessment of the foraging, breeding, and nesting of the California gnatcatcher found in the area and a statement that the construction activity on the specific dates proposed will not interfere with the foraging, breeding, and nesting of the California gnatcatcher .

The proposed project is necessary to improve safety of the site and is necessary to prevent impacts to undisturbed coastal sage scrub on the bluffs as well as to avoid impacts to the Upper Newport Bay Ecological Reserve. If left untreated, the slide material would be deposited onto Back Bay Drive and into UNBER. As conditioned, the project will not result in a significant disruption of habitat values and constitutes a use upon which adjacent coastal sage scrub is dependent. Furthermore, as conditioned, the project is designed to avoid

impacts upon Back Bay Drive and UNBER and is a use that is compatible with the continuance of those habitat and recreation areas. The Commission has conditioned the project to avoid construction during sensitive species breeding seasons and conditioned the project to provide measures within the proposed restoration plan to ensure success. Therefore, as conditioned, the Commission finds that the proposed project is consistent with section 30240 of the Coastal Act.

E. WATER QUALITY

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The project site is a partially vegetated and un-vegetated bluff face. If left uncorrected, the slide mass on the bluff face could continue downslope movement, removing vegetation and discharging into the Upper Newport Bay Ecological Reserve. The proposed project would remove the slide mass and re-vegetate the bluff face. By improving vegetative cover of the bluff face through restoration and removing the slide mass, the proposed project decreases potential impacts upon water quality. In addition, the proposed project includes a debris wall and debris collection area. These features of the proposed project will intercept future sloughage from the bluff face and prevent their discharge into UNBER. Upon completion, the proposed project will not change the quantity or quality of water discharged from the project site.

However, construction related impacts to water quality are possible. For instance, the project involves the removal of vegetation and grading of a slope. During storm events, sediment from the un-vegetated slope could be discharged into UNBER causing degradation of water quality. In their comments on the Mitigated Negative Declaration, the Regional Water Quality Control Board (Exhibit 5) stated that certain measures were required to mitigate construction related impacts including the preparation of a storm water pollution prevention plan for review and written approval of the Regional Water Quality Control Board. The proposed development includes best management practices to reduce construction related sedimentation impacts to UNBER, including the placement of a barrier between the project site and adjacent UNBER, to

intercept any soils which may be discharged from the site during construction. However, the applicant has not submitted evidence that this plan has been reviewed and approved by the Regional Water Quality Control Board. In order to ensure that water quality is protected, the Commission imposes Special Condition 6 which requires the applicant to submit written evidence of review and approval of the proposed project from the Regional Water Quality Control Board. As conditioned, the Commission finds the project is consistent with Section 30230 and 30231 of the Coastal Act.

F. VISUAL IMPACTS

Section 30251 of the Coastal Act states, in part:

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...shall be subordinate to the character of its setting.

The proposed development is visible from Galaxy Park, a public coastal view area approximately one half mile west of the site. Galaxy Park is identified in the City of Newport Beach certified Land Use Plan as a significant public view area. In addition, pedestrians and cyclists using Bay Back Drive, presently a recreational thoroughfare which runs along the base of the bluff slope, may observe the project site.

The proposed project involves the installation of a cable rail fence at the top of the bluff and a concrete K-barrier at the base of the slope to form a debris wall. These structures will occur in an area viewable from significant public viewing areas. The applicant is proposing to place native container plants at the top of the slope. These containers plants will grow and obscure the cable rail fence. Therefore, the cable rail fence will not be visible from Back Bay Drive or Galaxy Park.

However, the concrete K-barrier at the base of the bluff would be visible from Back Bay Drive and Galaxy Park. Without appropriate masking, these structures would not be subordinate to the character of their setting. However, the applicant is proposing to set the K-barrier far enough away from Back Bay Drive to allow a row of plants to be planted in front of the K-barrier. These plants would then grown and obscure the K-barrier. However, plans submitted do not demonstrate implementation of the proposed plants. In addition, the typical K-barrier is white in color. If the color of the proposed K-barrier is not compatible with the bluff face, then plants would not be sufficient to mask the structure such that they were subordinate to their setting. Therefore, the Commission imposes Special Condition 7 which requires the applicant to submit revised plans, that show that the proposed structures shall be constructed of materials designed to blend with the color and texture of the existing bluff face and shall be placed such that a row of native vegetation may be planted to obscure them.

As conditioned, the Commission finds that the proposed development is consistent with Section 30251 of the Coastal Act to protect scenic quality in the area.

G. LOCAL COASTAL PROGRAM

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.

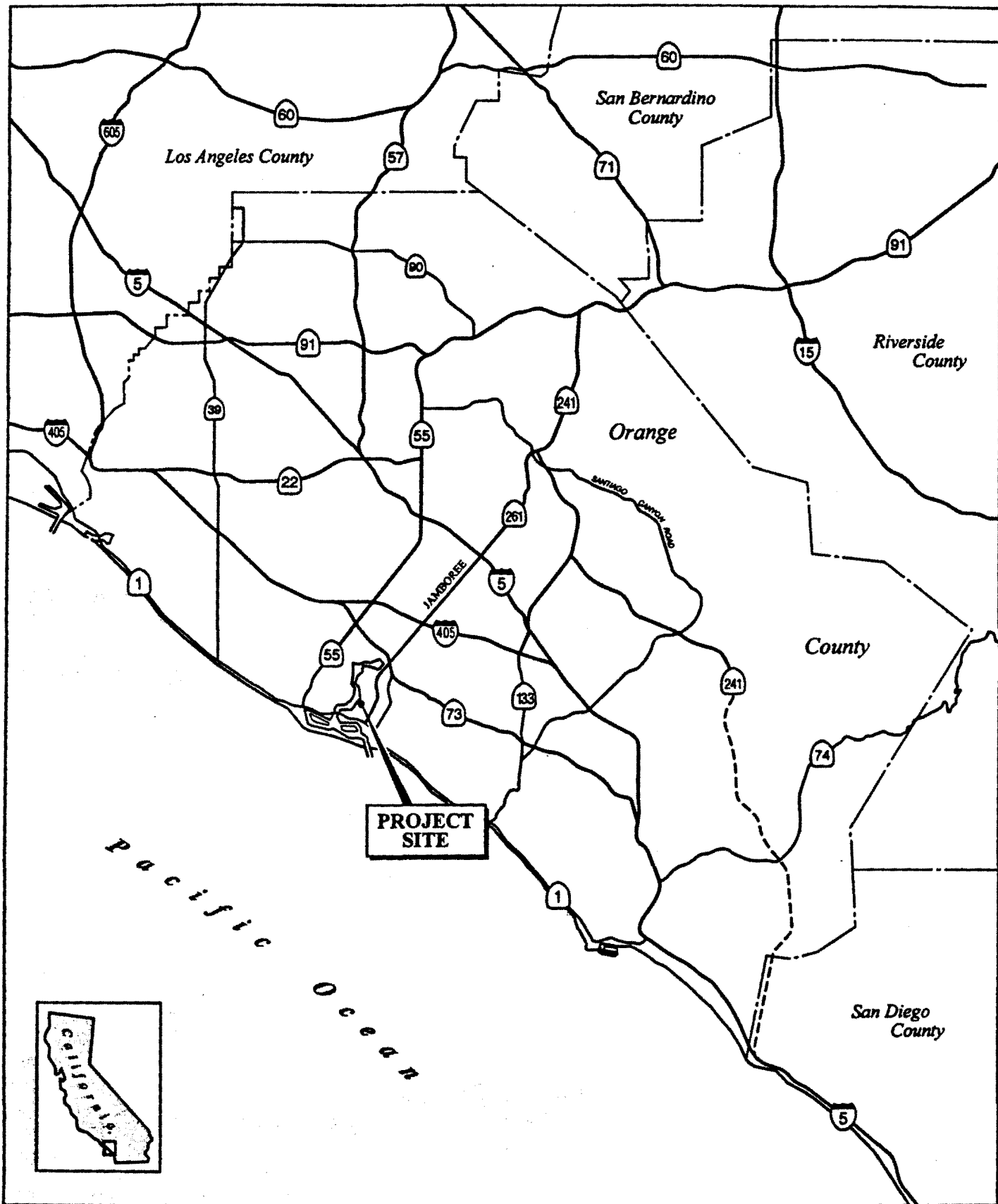
The Newport Beach Land Use Plan was effectively certified on May 19, 1982. The proposed development is consistent with the policies of the certified Land Use Plan. Therefore, the Commission finds that approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal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

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(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 on a bluff face that is immediately adjacent to sensitive habitat area. The proposed development has been conditioned, as follows, to assure the proposed project is consistent with the resource protection policies of the Coastal Act: notation that previously imposed special conditions remain in effect; assumption-of-risk deed restriction; requirements to change and provide a final coastal sage scrub restoration and monitoring program; avoidance of impacts to sensitive species by limiting the construction period; Regional Water Quality Control Board approval; and color and texture requirements of the proposed structures. As conditioned, no feasible alternatives or feasible mitigation measures are known, beyond those required, which would substantially lessen any identified significant effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with CEQA and the policies of the Coastal Act.



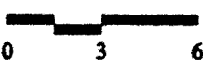


8/13/99(PNP830)



LSA

Scale in Miles



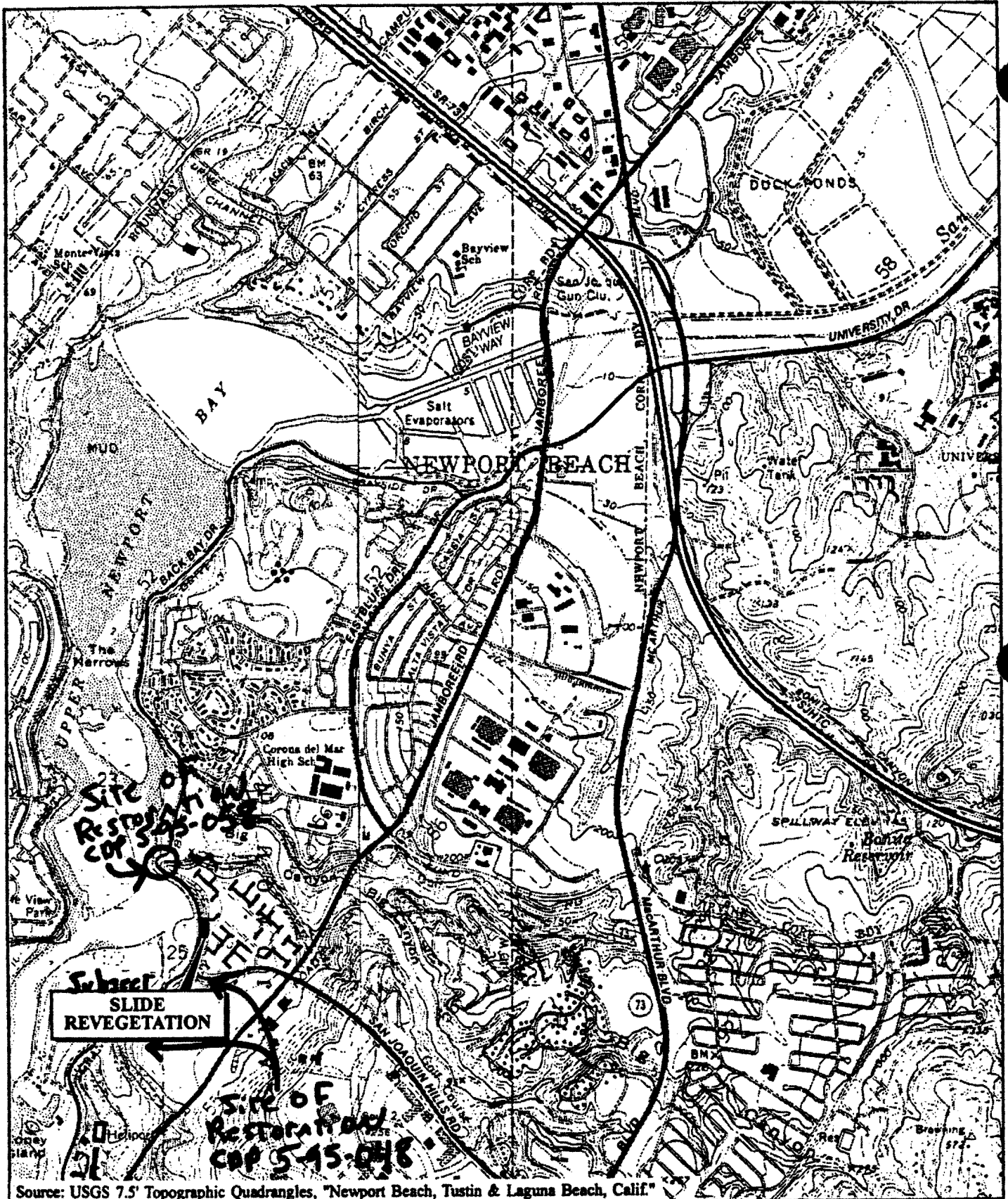
COASTAL COMMISSION

5-98-345-A1

EXHIBIT # 1

PAGE 1 OF 8

Regional Location



7/28/99(PNP830)

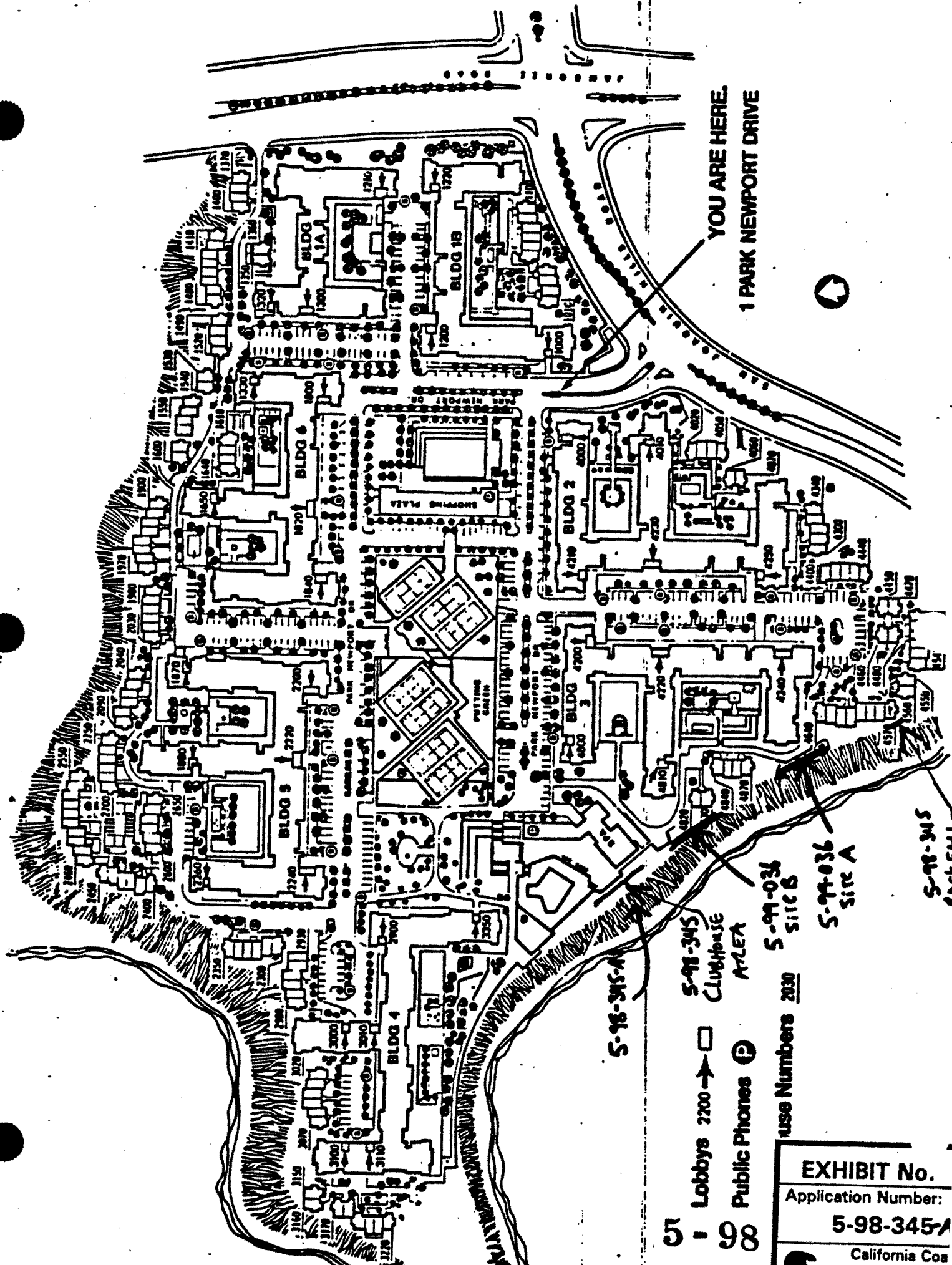


LSA



COASTAL COMMISSION
5-98-343-A1

EXHIBIT # 1
 PAGE 2 OF 8

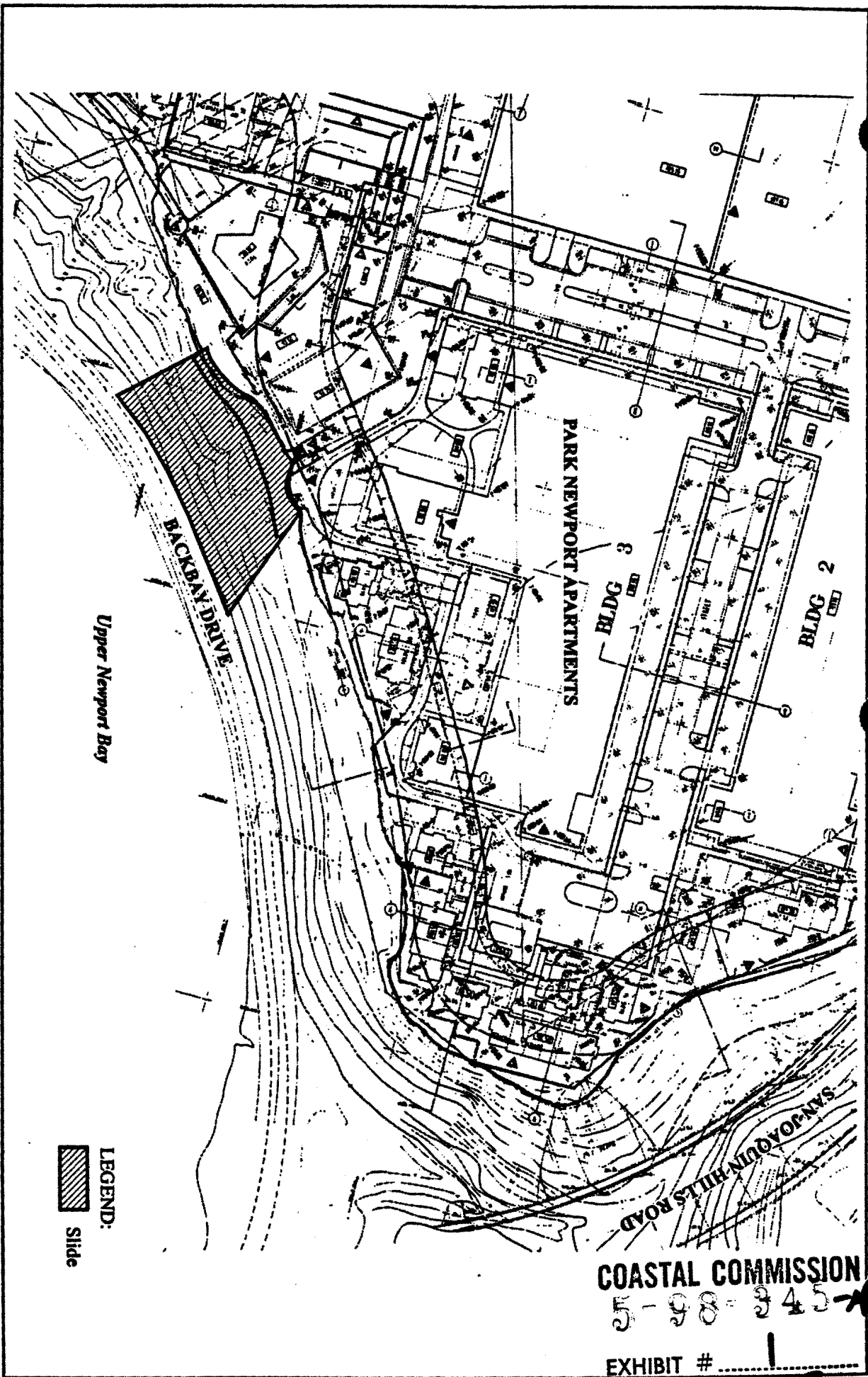


YOU ARE HERE.
1 PARK NEWPORT DRIVE

- 5 - Lobbys 2200 →
- 98 - Public Phones ⊕
- 5-98-345 Clubhouse
- 5-99-036 SITE B
- 5-98-345 SITE A
- 5-98-345 ROCK-FALL

Use Numbers 2030

EXHIBIT No.
Application Number:
5-98-345A
California Coa



8/13/99 (PNP830)

EN

ISA
Scale In Feet
0 75 150

LEGEND:
Slide

Figure 3

Slide Removal and Habitat Restoration
Project Site

COASTAL COMMISSION
5-98-345
EXHIBIT # 1
PAGE 4 OF 8

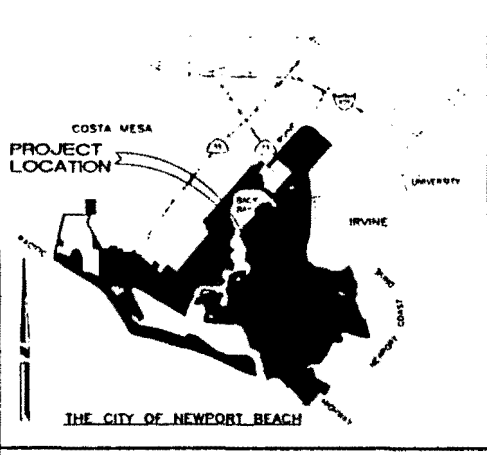
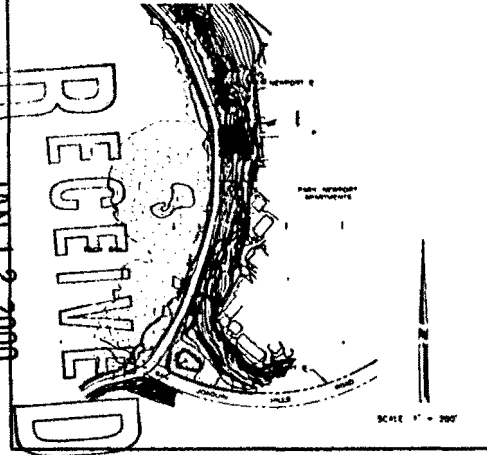
THE CITY OF NEWPORT BEACH



PARK NEWPORT APARTMENTS CLUBHOUSE SLIDE MODIFICATION GRADING PLAN

CALIFORNIA COASTAL COMMISSION

RECEIVED
JAN 12 2000



VICINITY MAP

LOCATION MAP

GENERAL NOTES

1. ALL WORK SHALL CONFORM TO CHAPTER 15 OF THE NEWPORT BEACH MUNICIPAL CODE EXCEPT TO THE PROJECT SPECIFIC WORK AND EXCEPT WHERE SHOWN TO THE CONTRARY.
2. THE SITE IS TO BE CONTROLLED BY WATERING AND DUST SUPPRESSION.
3. ALL EXISTING UTILITIES SHALL BE MAINTAINED TO THE EXTENT POSSIBLE AND TO THE DEPTH OF THE SUBGRADE.
4. ALL WORK SHALL BE LIMITED FROM 7:00 AM TO 5:00 PM MONDAY THROUGH FRIDAY, 8:00 AM TO 5:00 PM SATURDAY, AND NO WORK ON SUNDAY OR PUBLIC HOLIDAYS EXCEPT TO THE DEPTH OF THE SUBGRADE.
5. EXISTING UTILITIES, INCLUDING BUT NOT LIMITED TO WATER, GAS, AND SANITARY, SHALL BE MAINTAINED TO THE EXTENT POSSIBLE AND TO THE DEPTH OF THE SUBGRADE.
6. THE EXISTING UTILITIES SHALL BE MAINTAINED TO THE EXTENT POSSIBLE AND TO THE DEPTH OF THE SUBGRADE.
7. ALL EXISTING UTILITIES SHALL BE MAINTAINED TO THE EXTENT POSSIBLE AND TO THE DEPTH OF THE SUBGRADE.
8. ALL EXISTING UTILITIES SHALL BE MAINTAINED TO THE EXTENT POSSIBLE AND TO THE DEPTH OF THE SUBGRADE.
9. ALL EXISTING UTILITIES SHALL BE MAINTAINED TO THE EXTENT POSSIBLE AND TO THE DEPTH OF THE SUBGRADE.
10. ALL EXISTING UTILITIES SHALL BE MAINTAINED TO THE EXTENT POSSIBLE AND TO THE DEPTH OF THE SUBGRADE.
11. ALL EXISTING UTILITIES SHALL BE MAINTAINED TO THE EXTENT POSSIBLE AND TO THE DEPTH OF THE SUBGRADE.
12. ALL EXISTING UTILITIES SHALL BE MAINTAINED TO THE EXTENT POSSIBLE AND TO THE DEPTH OF THE SUBGRADE.

GRADING NOTES

1. FILL SLOPES SHALL BE CONFINED TO NO LESS THAN 90 PERCENT WEATHERED COMPOSITION SOIL TO THE FINISHED SURFACE.
2. ALL FILLS SHALL BE COMPACTED THOROUGHLY TO A MINIMUM OF 90 PERCENT RELATIVE COMPACTION AS DETERMINED BY ASTM TEST METHOD AND APPROVED BY THE SOILS ENGINEER. COMPACTION TESTS SHALL BE PERFORMED APPROPRIATELY EVERY TWO FEET IN FINISH HEIGHT AND OF SUFFICIENT QUANTITY TO AFFECT TO THE OVERALL COMPACTION EFFICIENCY APPLIED TO THE FILL AREAS.
3. AREAS TO RECEIVE FILL SHALL BE CLEARED OF ALL VEGETATION AND DEBRIS, SCARIFIED AND APPROVED BY THE SOILS ENGINEER PRIOR TO PLACING OF THE FILL.
4. FILLS SHALL BE KEPT OR BLENCHED INTO COMPETENT MATERIAL.
5. ALL EXISTING FILLS SHALL BE APPROVED BY THE SOILS ENGINEER OR REMOVED BEFORE ANY ADDITIONAL FILLS ARE ADDED.
6. ANY EXISTING IRRIGATION LINES AND SYSTEMS SHALL BE REMOVED OR REPAIRED IN PLACE AND BACKFILLED AND APPROVED BY THE SOILS ENGINEER.
7. THE ENGINEERING GEOLOGIST AND SOILS ENGINEER SHALL AFTER CLEARING AND PRIOR TO THE PLACEMENT OF FILL IN CRITICAL AREAS EACH EXAMINE AREAS OF INSTABLE SLOPES AND DETERMINE THE PRESENCE OF OR PROBABILITY OF FUTURE RECALCULATION OF CLASTIC WATER OR SPRING FLOW. IF NEEDED, DRAINAGE WILL BE DESIGNED AND CONSTRUCTED PRIOR TO THE PLACEMENT OF FILL IN EACH CRITICAL ZONE.
8. THE EXACT LOCATION OF THE SLOPES SHALL BE SURVEYED IN THE FIELD FOR LINE AND GRADE.
9. ALL FRENCH DRAINAGE SHALL BE CONFINED TO A MINIMUM OF 18 INCHES RELATIVE COMPACTION AND APPROVED BY THE SOILS ENGINEER. THE BUILDING DEPARTMENT MAY REQUIRE TYPING OF CONCRETE THAT MAY PLACE OVER UNTESTED MATERIALS TO FACILITATE TESTING.
10. THE SLOPINGS OF EXCESS MATERIAL SHALL BE APPROVED BY THE CITY ENGINEERING DEPARTMENT.
11. LANDSCAPING OF ALL SLOPES AND PANS SHALL BE IN ACCORDANCE WITH CHAPTER 15 OF THE MDC.
12. THE ENGINEERING GEOLOGIST SHALL PERFORM PERIODIC INSPECTIONS THROUGHOUT.

DOCUMENTATION

1. AN AS BUILT GRADING PLAN SHALL BE PREPARED BY THE CIVIL ENGINEER INCLUDING ORIGINAL GRADING SURFACE ELEVATIONS, AS GRADED SURFACE ELEVATIONS, LOT DRAINAGE PATTERNS AND LOCATIONS, AND ELEVATIONS OF ALL SURFACE AND SUB-SURFACE DRAINAGE FACILITIES. HE SHALL PROVIDE WRITTEN APPROVAL THAT THE WORK WAS DONE IN ACCORDANCE WITH THE FINAL APPROVED GRADING PLAN AND SHALL THE NUMBER OF YARDS OF CUT/FILL MOVED DURING THE OPERATION.

EROSION CONTROL NOTES

1. TEMPORARY EROSION CONTROL PLANS ARE REQUIRED FROM OCTOBER 15 TO MAY 15.
2. EROSION CONTROL DEVICES SHALL BE MAINTAINED ON SITE BETWEEN OCTOBER 15 AND MAY 15.
3. IN PLACE OCTOBER 15 AND MAY 15, EROSION CONTROL MEASURES SHALL BE IN PLACE AT THE END OF EACH WORKING DAY WHENEVER THE FIVE DAY PROBABILITY OF RAIN EXCEEDS 30 PERCENT DURING THE REMAINDER OF THE YEAR. THEY SHALL BE IN PLACE AT THE END OF THE WORKING DAY, WHENEVER THE DAILY RAINFALL PROBABILITY EXCEEDS 30 PERCENT.
4. LANDSCAPING PLANS SHALL BE SUBMITTED FOR APPROVAL WORK COMPLETED AND A CERTIFICATE OF CONFORMANCE RECEIVED BY THE CITY ENGINEER PRIOR TO CLOSURE OF PERMIT, UNLESS SHOWN BY THE CITY ENGINEER.
5. TEMPORARY DRAINAGE BASINS, WHEN REQUIRED, SHALL BE INSTALLED AND MAINTAINED FOR THE DURATION OF THE PROJECT.

PRIVATE ENGINEERS NOTICE TO CONTRACTORS

1. THE EXISTENCE AND LOCATION OF ANY UNDERGROUND UTILITIES AND/OR STRUCTURES SHOWN ON THESE PLANS WERE OBTAINED BY A SEARCH OF THE AVAILABLE RECORDS. APPROVAL OF THESE PLANS BY THE CITY OF NEWPORT BEACH DOES NOT CONSTITUTE A REPRESENTATION AS TO THE ACCURACY OR COMPLETENESS OF THE LOCATION OR DEPTH OR NON-EXISTENCE OF ANY UTILITIES AND/OR STRUCTURES WITHIN THE LIMITS OF THIS PROJECT. THE CONTRACTOR IS REQUIRED TO TAKE ALL DUE PRECAUTIONARY MEASURES TO PROTECT THE UTILITIES OF RECORD OR NOT OF RECORD (NOT SHOWN ON THESE PLANS) OF THE SITE.
2. RELIANCE ON OR REMOVAL OF ANY EXISTING UTILITIES SHALL BE PERFORMED BY THE RESPECTIVE UTILITY OWNERS, AT THE EXPENSE OF THE DEVELOPER.
3. THE GRADING CONTRACTOR SHALL VERIFY THESE PLANS TO THE GRADING QUANTITY AS SHOWN ON THIS PLAN AS BUILT FOR THE WORK.
4. IT IS REQUIRED THAT THE GRADING CONTRACTOR HIRE A SEPARATE ENGINEER TO CHECK AT LEAST AN HOUR BEFORE COMPLETION OF THE GRADING OPERATION TO CHECK THAT THIS OFFICE HAS PERFORMED A FINAL INSPECTION TO COMPLY WITH OUR GRADING CERTIFICATION COMMITMENT TO THE CITY OF NEWPORT BEACH.
5. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL REQUIRED PERMITS PRIOR TO COMMENCEMENT OF GRADING OPERATIONS.
6. UNAUTHORIZED CHANGES & USES. THE ENGINEER PREPARING THESE PLANS WILL NOT BE RESPONSIBLE FOR CHANGES OR UNAUTHORIZED CHANGES TO OR USES OF THESE PLANS. ALL CHANGES TO THE PLANS MUST BE IN WRITING AND MUST BE APPROVED BY THE PREPARER OF THESE PLANS AND THE CITY OF NEWPORT BEACH.

Underground Service Alert!

Call: TOLL FREE
1-800-422-4133

180 WORKING DAYS BEFORE YOU DIG

EARTHWORK QUANTITIES

ITEM QUANTITIES	CUY	CYL
	2500	0
TOTAL EXPORT:	2500	0

NOTE: QUANTITIES REPORTED HEREON ARE FOR PLAN CHECK PURPOSES ONLY AND DO NOT ACCOUNT FOR SURVEYING/BLANKING OR REVISION GRADING. SEE GEOTECHNICAL REPORT FOR ADDITIONAL PARAMETERS.

PLAN INDEX

SHEET	NO.
TITLE SHEET	1
CONSTRUCTION & NOTIFICATION NOTES, QUANTITIES AND DETAILS	2
CONSTRUCTION DETAILS	2B
GRADING PLAN	3

REQUIRED INSPECTIONS

1. A PRELIMINARY INSPECTION SHALL BE CONDUCTED 48 HOURS PRIOR TO START OF GRADING AND THE FOLLOWING ITEMS MUST BE VERIFIED: GRADING QUANTITIES, LOCATION OF ALL UTILITIES, EXISTING GRADING, EXISTING UTILITIES, EXISTING STRUCTURES, EXISTING SLOPES, EXISTING VEGETATION, EXISTING DEBRIS, EXISTING OBSTRUCTIONS, EXISTING EROSION CONTROL DEVICES, EXISTING DRAINAGE FACILITIES, EXISTING LANDSCAPING, EXISTING FENCES, EXISTING SIGNAGE, EXISTING LIGHTING, EXISTING UTILITIES, EXISTING STRUCTURES, EXISTING SLOPES, EXISTING VEGETATION, EXISTING DEBRIS, EXISTING OBSTRUCTIONS, EXISTING EROSION CONTROL DEVICES, EXISTING DRAINAGE FACILITIES, EXISTING LANDSCAPING, EXISTING FENCES, EXISTING SIGNAGE, EXISTING LIGHTING.
2. A PRELIMINARY MEETING SHALL BE CONDUCTED 48 HOURS PRIOR TO START OF GRADING AND THE FOLLOWING ITEMS MUST BE VERIFIED: GRADING QUANTITIES, LOCATION OF ALL UTILITIES, EXISTING GRADING, EXISTING UTILITIES, EXISTING STRUCTURES, EXISTING SLOPES, EXISTING VEGETATION, EXISTING DEBRIS, EXISTING OBSTRUCTIONS, EXISTING EROSION CONTROL DEVICES, EXISTING DRAINAGE FACILITIES, EXISTING LANDSCAPING, EXISTING FENCES, EXISTING SIGNAGE, EXISTING LIGHTING.

EXHIBIT # 5 of 8

COASTAL COMMISSION

NO. _____

DATE _____

BASE OF BEARING

THAT CERTAIN TRACTS ALONG THE WESTERN LINE OF LOT 3 IN TRACT 2049 IN THE CITY OF NEWPORT BEACH, CALIFORNIA IN BOOK 255, PAGE 8-12 SHOWN AS 1172748 E

DEVELOPER: PARK NEWPORT APARTMENTS CLUBHOUSE
11000 UNIVERSITY DRIVE
NEWPORT BEACH, CA 92660
(714) 720-1200

DESIGNED BY: ROBERT BILLY WILSON FROST & ASSOCIATES
PROFESSIONAL ENGINEERS, PLANNERS & SURVEYORS
1100 UNIVERSITY DRIVE, SUITE 100
NEWPORT BEACH, CA 92660
(714) 422-4133

REVIEWED BY: MICHAEL J. MORSE
DATE: FEB 22, 2000

DATE: FEB 22, 2000

PARK NEWPORT APARTMENTS CLUBHOUSE SLIDE MODIFICATION

TITLE SHEET

CITY OF NEWPORT BEACH

PROJECT NO. **34460**

SHEET **1** OF **3**

SECTION A-A

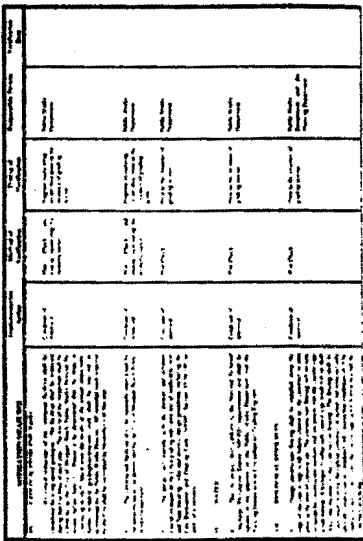
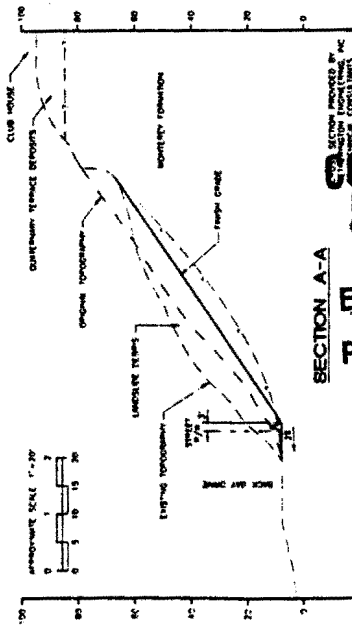


Fig. 1



SECTION A-A

COASTAL COMMISSION
EXHIBIT # 1
PAGE 6 OF 8

SECTION B-B

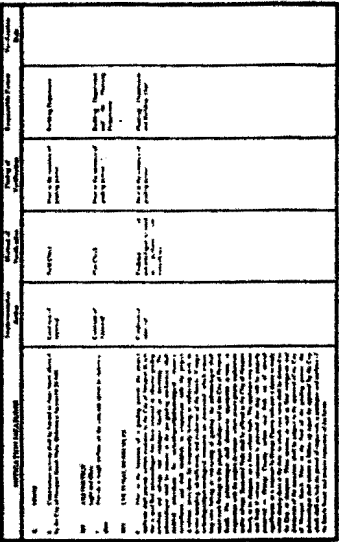
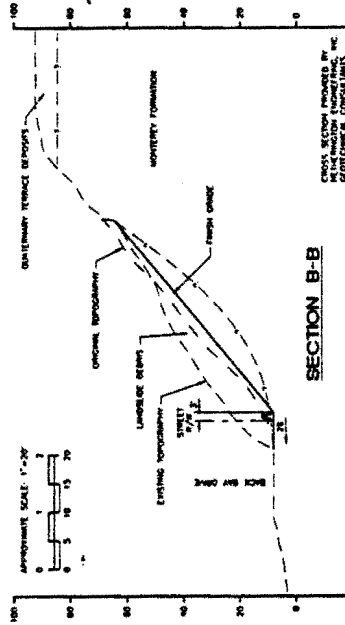


Fig. 2



SECTION B-B

LEGEND

SYMBOL	EXPLANATION
(S)	EXISTING STORM DRAIN
(SD)	PROPOSED STORM DRAIN
(L)	EXISTING LOCATION
(L')	PROPOSED LOCATION
(1)	1" = 10'
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(97)	97" = 10'
(98)	98" = 10'
(99)	99" = 10'
(100)	100" = 10'

CONSTRUCTION QUANTITY SUMMARY

CONSTRUCTION ITEM	QUANTITY
GRAVEL	83 AC
CONCRETE	3,500 CY
STEEL	12,000 LB
WOOD	200 LF
PIPE	120 LF

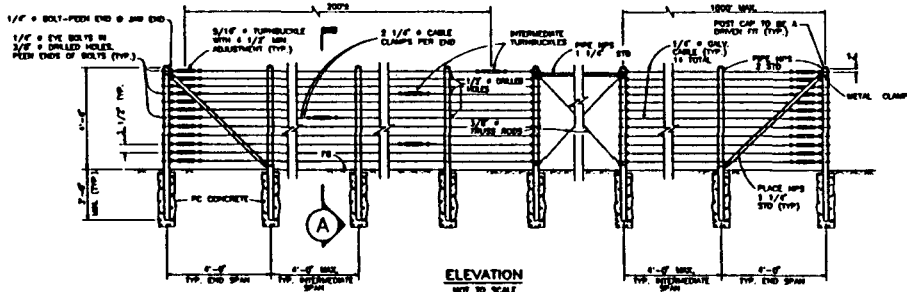
PARK NEWPORT APARTMENTS
SLIDE MODIFICATION PLAN
CONST. & MITIGATION NOTES/QUANTITIES
CITY OF NEWPORT BEACH

PROJECT NO. 34460
SHEET 2 OF 3

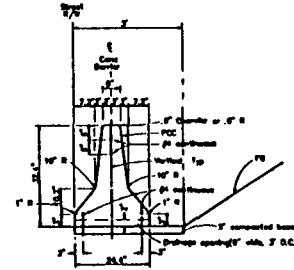
DATE PREPARED BY: CRB Robert B. Williams, Ph.D. & Associates
DATE: 11/15/2011

DESIGNED BY: []
CHECKED BY: []
APPROVED BY: []

SCALE: 1" = 20'

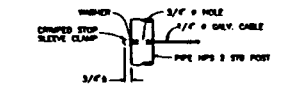


ELEVATION
NOT TO SCALE



NOTES

1. Fastenings acceptable or detailed with 3/8" x 5/8" @ 24"
2. Expansion joints in concrete barrier shall be located at 4' intervals, maximum and provided with joints. Expansion joint like material shall be the same size as joint or 3/4" minimum.



ALTERNATIVE DEAD END ANCHORAGE
NOT TO SCALE



ALTERNATIVE CABLE CONNECTION
NOT TO SCALE

4 Cable Rail Fence Detail
NOT TO SCALE

NOTES

1. MAXIMUM DISTANCE BETWEEN TURNBUCKLES SHALL BE 300 FT.
2. INTERMEDIATE TURNBUCKLES TO BE PLACED IN ADJACENT SPANS.
3. CABLE SHALL NOT BE SPACED BETWEEN INTERMEDIATE TURNBUCKLES AND END POSTS.
4. ALL POSTS, CABLE AND HARDWARE TO BE GALVANIZED.
5. POSTS TO BE VERTICAL.
6. ALIGNMENT OF HOLES IN POSTS MAY VARY TO CONFORM TO SLOPE OF TOP OF RETAINING WALL.
7. THE CONTRACTOR SHALL VERIFY ALL DIMENSIONED DIMENSIONS IN THE FIELD BEFORE ORDERING OR FABRICATING ANY MATERIAL.
8. ALTERNATIVE DETAILS MAY BE SUBMITTED BY THE CONTRACTOR FOR APPROVAL BY THE ENGINEER.
9. LINE POSTS SHALL BE SPACED HORIZONTALLY AND TRIPLED SMOOTHLY IN BOTH DIRECTIONS AT INTERVALS NOT TO EXCEED 1000 FT.
10. TYPICAL END SPANS BRACED IN BOTH DIRECTIONS SHALL BE CONSTRUCTED AT CHANGES IN LINE WHERE THE ANGLE OF DEFLECTION IS 15° OR MORE.
11. PROVIDE TURNBLES AT ALL CABLE LOOPS.
12. PAINT ALL CABLE RAIL COMPONENTS PER THE ARCHITECT'S DIRECTION.
13. CONTRACTOR TO SUBMIT SHOP DRAWINGS TO ENGINEER FOR CABLE RAIL LAYOUT (TURNBUCKLES, POSTS, ETC.) BEFORE ORDERING OR FABRICATING ANY MATERIAL.

5 Concrete Barrier Type 50
NOT TO SCALE

COASTAL COMMISSION
5-98-345-A1
EXHIBIT # 1
PAGE 7 OF 8

These plans have been reviewed for conformance with the recommendations of the report(s) dated _____
Hetherington Engineering, Inc.
Date: _____



NO.	REVISIONS	DATE	BY	CHK.

PLAN PREPARED BY: Robert John Wilson Frost & Associates PROFESSIONAL ENGINEERS, ARCHITECTS & SURVEYORS 1114 NE 11th Street, Suite 200 Fort Lauderdale, FL 33304	DATE: 8-99
DRAWN BY: LK DATE: 8-99	CHECKED BY: M.M. DATE: 8-99
CHECKED BY: LKJ DATE: 8-99	DATE: 8-99

PARK NEWPORT APARTMENTS SLIDE MODIFICATION PLAN CONSTRUCTION DETAILS CITY OF NEWPORT BEACH	PROJECT NO. 34460 SHEET 2A OF 3
-----------------------------------------------------------------------------------------------------	---------------------------------------------

PROJECT NO. 34460
SHEET 2A
OF 3

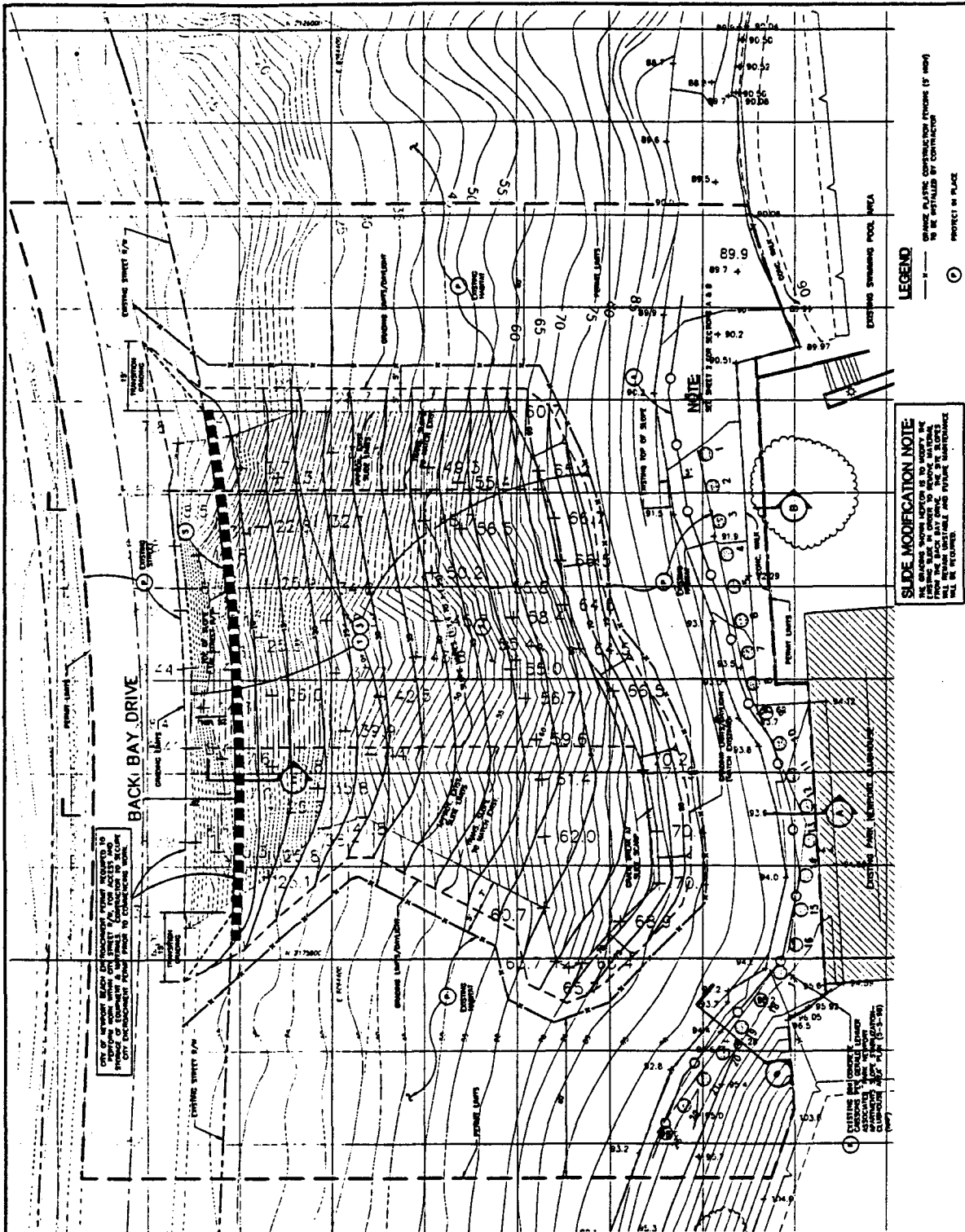
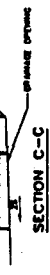
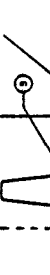
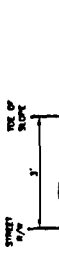
GENERAL NOTES

1. DISTURBANCE TO EXISTING UTILITIES INCLUDING WATER, GAS, SANITARY, AND ELECTRICAL SHALL BE AS SHOWN ON THIS PLAN. THE CONTRACTOR SHALL VERIFY THE LOCATION AND DEPTH OF ALL UTILITIES PRIOR TO CONSTRUCTION AND SHALL BE RESPONSIBLE FOR ANY DAMAGE TO UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY DAMAGE TO UTILITIES AND SHALL BE RESPONSIBLE FOR THE REPAIR OF ANY UTILITIES DAMAGED BY THE CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES AND SHALL BE RESPONSIBLE FOR THE REPAIR OF ANY UTILITIES DAMAGED BY THE CONSTRUCTION.
2. ACCESS TO THE CONSTRUCTION SITE SHALL OCCUR FROM EACH SIDE OF THE STREET.
3. ANY REQUIRED EROSION CONTROL MEASURES SHALL BE INSTALLED AND MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE INSTALLATION AND MAINTENANCE OF ALL EROSION CONTROL MEASURES AND SHALL BE RESPONSIBLE FOR THE REMOVAL OF ALL EROSION CONTROL MEASURES AT THE END OF THE CONSTRUCTION PERIOD.
4. THE CONTRACTOR SHALL MAINTAIN ALL EXISTING UTILITY RECORDS AND SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES AND SHALL BE RESPONSIBLE FOR THE REPAIR OF ANY UTILITIES DAMAGED BY THE CONSTRUCTION.
5. THE CONTRACTOR SHALL MAINTAIN ALL EXISTING UTILITY RECORDS AND SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES AND SHALL BE RESPONSIBLE FOR THE REPAIR OF ANY UTILITIES DAMAGED BY THE CONSTRUCTION.
6. THE CONTRACTOR SHALL MAINTAIN ALL EXISTING UTILITY RECORDS AND SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES AND SHALL BE RESPONSIBLE FOR THE REPAIR OF ANY UTILITIES DAMAGED BY THE CONSTRUCTION.
7. THE CONTRACTOR SHALL MAINTAIN ALL EXISTING UTILITY RECORDS AND SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES AND SHALL BE RESPONSIBLE FOR THE REPAIR OF ANY UTILITIES DAMAGED BY THE CONSTRUCTION.
8. THE CONTRACTOR SHALL MAINTAIN ALL EXISTING UTILITY RECORDS AND SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES AND SHALL BE RESPONSIBLE FOR THE REPAIR OF ANY UTILITIES DAMAGED BY THE CONSTRUCTION.
9. THE CONTRACTOR SHALL MAINTAIN ALL EXISTING UTILITY RECORDS AND SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES AND SHALL BE RESPONSIBLE FOR THE REPAIR OF ANY UTILITIES DAMAGED BY THE CONSTRUCTION.
10. THE CONTRACTOR SHALL MAINTAIN ALL EXISTING UTILITY RECORDS AND SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES AND SHALL BE RESPONSIBLE FOR THE REPAIR OF ANY UTILITIES DAMAGED BY THE CONSTRUCTION.

CONSTRUCTION NOTES

1. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE SPECIFICATIONS AND SHALL BE SUBJECT TO THE SUPERVISION AND INSPECTION OF THE CITY ENGINEER.
2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES AND SHALL BE RESPONSIBLE FOR THE REPAIR OF ANY UTILITIES DAMAGED BY THE CONSTRUCTION.
3. THE CONTRACTOR SHALL MAINTAIN ALL EXISTING UTILITY RECORDS AND SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES AND SHALL BE RESPONSIBLE FOR THE REPAIR OF ANY UTILITIES DAMAGED BY THE CONSTRUCTION.
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10. THE CONTRACTOR SHALL MAINTAIN ALL EXISTING UTILITY RECORDS AND SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES AND SHALL BE RESPONSIBLE FOR THE REPAIR OF ANY UTILITIES DAMAGED BY THE CONSTRUCTION.

CONTRACTOR TO INSTALL CABLE GUARD RAIL PER DETAIL 1 ON SHEET 2A OF THIS SET OF PLANS.



SLIDE MODIFICATION NOTE:
THE GRADING SHOWN HEREON IS TO MAINTAIN THE EXISTING GRADE IN ORDER TO MAINTAIN THE EXISTING UTILITY RECORDS AND SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES AND SHALL BE RESPONSIBLE FOR THE REPAIR OF ANY UTILITIES DAMAGED BY THE CONSTRUCTION.

LEGEND:
① EXISTING UTILITY RECORDS
② PROPOSED UTILITY RECORDS

GRADING SHALL BE AS SHOWN ON THIS PLAN.
THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES AND SHALL BE RESPONSIBLE FOR THE REPAIR OF ANY UTILITIES DAMAGED BY THE CONSTRUCTION.

PROJECT NO. 34460
SHEET 3 OF 3

**PARK NEWPORT APARTMENTS
SLIDE MODIFICATION PLAN**

GRADING PLAN
CITY OF NEWPORT BEACH

DATE PREPARED BY: [Signature]
DATE CHECKED BY: [Signature]
DATE APPROVED BY: [Signature]

SCALE: 1" = 10'

COASTAL COMMISSION

34521

OF 8

CALIFORNIA COASTAL COMMISSION

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

Page 1 of 4
Date: October 30, 1998
Permit No: 5-98-345



10/30/98
COASTAL DEVELOPMENT PERMIT

CALIFORNIA COASTAL COMMISSION

On 13 October 1998, the California Coastal Commission granted to Gerson Bakar & Associates Coastal Development Permit 5-98-345, subject to the attached Standard and Special Conditions, for development consisting of: Bluff stabilization to protect existing development consisting of construction of two caisson retaining walls at two bluff top locations. The first retaining wall will have twenty three caissons, placed about 3 feet landward of the top of slope, and will be approximately 150 feet long. Drilling for the caissons will excavate 300 cubic yards of soil. In addition, minor surficial grading, approximately 45 cubic yards of cut, is proposed to improve drainage. The second retaining wall will have six caissons placed about 3 feet landward of the top of slope, resulting in a 40 feet long structure. Drilling for this structure will excavate 165 cubic yards of soil. No surficial grading is proposed at this site. All soils excavated by drilling or drainage improvements will be exported and legally disposed or reused outside the coastal zone. No major earthwork is proposed and neither caisson retaining wall will extend above grade. More specifically described in the application file in the Commission offices.

The development is within the coastal zone in Orange County at 1 Park Newport, Newport Beach.

Issued on behalf of the California Coastal Commission on October 30, 1998.

PETER DOUGLAS
Executive Director

By: *Paul Shuning*
Title: Coastal Program Analyst

ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part, that: "A public entity is not liable for injury caused by the issuance . . . of any permit . . ." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 CAL. ADMIN. CODE SECTION 13158(a).

COASTAL COMMISSION
5-98-345-71
EXHIBIT # 2
PAGE 1 OF 28

COASTAL DEVELOPMENT PERMIT

No. 5-98-345

Page 2 of 4

Nov. 2, 1998
Date

David B. Keith
Signature of Permittee

Please sign and return one copy of this form to the Commission office at the above address.

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 on which the Commission voted on the application. 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 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.

COASTAL COMMISSION
5-98-345-A1

EXHIBIT # 2
PAGE 2 OF 28

COASTAL DEVELOPMENT PERMIT

No. 5-98-345

Page 3 of 4

SPECIAL CONDITIONS:

1. Permission from the California Department of Fish and Game

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and approval of the Executive Director, written evidence from the California Department of Fish and Game (CDFG) demonstrating that CDFG has reviewed and either approved or has no substantial concerns regarding the proposed project. If CDFG requires any substantial changes to the project, as approved by the Commission, the changes shall be submitted to the Executive Director for a determination as to whether the changes require an amendment to this permit. Any changes that require an amendment shall not occur without an amendment to this permit.

2. Geotechnical Recommendations

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director final revised plans. These plans shall include the signed statement of the geotechnical consultant certifying that the plans incorporate the geotechnical recommendations contained in the geotechnical investigations of May 1, 1998 and August 14, 1998 by Law Crandall, Inc. of Los Angeles (Project No. 70131-4-0896.0009) into the final design of the proposed development.

The approved development shall be constructed in compliance with the final plans as approved by the Executive Director. Any deviations from the plans shall require a Coastal Commission approved amendment to this permit, or written concurrence from the Executive Director that the deviation is not substantial and therefore a permit amendment is not needed.

3. Assumption of Risk

By acceptance of this permit, the applicant acknowledges and agrees that: (a) the site may be subject to extraordinary hazards from landslide/slope failure and the applicant assumes the liability from such hazards, (b) to unconditionally waive 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, and (c) to accept the sole responsibility for the removal of any structural debris resulting from landslides, slope failures or erosion on this site.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute a deed restriction in a form and content acceptable to the Executive Director, reflecting all the above provisions. The deed restriction shall include legal descriptions of the applicant's entire parcel. 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.

Within 90 days of the issuance of the coastal development permit, the deed restriction shall be recorded and the permittee shall provide evidence in a form and content acceptable to the Executive Director, that the above executed and recorded deed restriction runs with the land, binding all successors and assigns, and is clear and clear of prior liens that the Executive Director determines may affect the enforceability of the restriction.

COASTAL COMMISSION
5-98-345-A

EXHIBIT # 2
PAGE 3 OF 28

COASTAL DEVELOPMENT PERMIT

No. 5-98-345

Page 4 of 4

In the interim period, the applicant shall name the Commission, its officers, agents and employees as an additional insured in its commercial general liability policy in the limits not less than \$101 million.

4. Construction Impacts

Disturbance to sensitive habitat, including on-site coastal sage scrub shall be avoided. In order to accomplish this objective the following shall occur: 1) all construction materials and equipment used during construction of the proposed project shall be placed landward of the bluff, in existing improved or ornamentally landscaped areas only, and shall be removed at the conclusion of construction; 2) access to the construction sites shall occur from the top of the slope, through existing improved or ornamentally landscaped areas only. No work shall occur on the bluff face and no equipment access shall be allowed from the bottom of the slope; 3) the proposed bluff edge drainage improvements, which may require work from the bluff face, may commence with the use of hand equipment only; 4) temporary protective fencing shall be installed during construction to exclude any activity in sensitive habitat; 5) erosion control/sedimentation Best Management Practices (BMP's) shall be used to control sedimentation impacts to sensitive habitat areas, during construction, to include the following, at minimum: placement of sand bags (2 bags high) at the edge of slope to prevent runoff/sediment transport over the top of the slope; plastic barrier fencing around the limits of construction areas; pre-construction meeting to review procedural and BMP guidelines; 6) the applicant shall submit final revised plans for the review and approval of the Executive Director which describe in written narrative the erosion control/sedimentation BMP's, with a statement on the plans designating whom is responsible for their implementation; 7) Excavation spoils shall be disposed of at a legal disposal site outside the coastal zone. Any change, including choice of a disposal/reuse site within the coastal zone, may require an amendment to this permit. Any such change shall be identified by the applicant in a written statement submitted to the Executive Director for review and approval and/or a determination as to whether changes are substantive and require a new coastal development permit or an amendment to this permit.

5. Future Development

This coastal development permit 5-98-345 approves only the development, as expressly described and conditioned herein, for the two proposed caisson retaining walls located at 1 Park Newport Drive in the City of Newport Beach. Any future development, per Public Resources Code Section 30106, including the installation of lagging on the proposed caisson structures, shall require an amendment to this permit from the Coastal Commission or a new coastal development permit.

KFS:
5-98-345 permit

Document2 Printed on October 30, 1998

COASTAL COMMISSION
5-98-345-A1
EXHIBIT # 2
PAGE 4 OF 28

Ju 17K

CALIFORNIA COASTAL COMMISSION

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



Filed: September 21, 1998
49th Day: November 9, 1998
180th Day: March 20, 1999
Staff: KS-LB *8*
Staff Report: September 21, 1998
Hearing Date: October 13-16, 1998
Commission Action:

COMMISSION ACTION ON 10-13-98

- Approved as Recommended
- Denied as Recommended
- Approved with Changes *with minor changes*
- Denied
- Other

STAFF REPORT: REGULAR CALENDAR

APPLICATION NUMBER: 5-98-345

APPLICANT: Gerson Bakar & Associates, Inc.

AGENT: Culbertson Adams & Associates, Inc.
Law/Crandall - A Division of Law Engineering and
Environmental Services, Inc.
Gerald Lehmer Associates

PROJECT LOCATION: 1 Park Newport, City of Newport Beach, County of Orange

PROJECT DESCRIPTION: Bluff stabilization to protect existing development consisting of construction of two caisson retaining walls at two bluff top locations. The first retaining wall will have twenty three caissons, placed about 3 feet landward of the top of slope, and will be approximately 150 feet long. Drilling for the caissons will excavate 300 cubic yards of soil. In addition, minor surficial grading, approximately 45 cubic yards of cut, is proposed to improve drainage. The second retaining wall will have six caissons placed about 3 feet landward of the top of slope, resulting in a 40 feet long structure. Drilling for this structure will excavate 165 cubic yards of soil. No surficial grading is proposed at this site. All soils excavated by drilling or drainage improvements will be exported and legally disposed or reused outside the coastal zone. No major earthwork is proposed and neither caisson retaining wall will extend above grade.

LOCAL APPROVALS RECEIVED: City of Newport Beach Approval in Concept #1842-98

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach certified Land Use Plan; Coastal Development Permit #5-97-250 (Park Newport Apartments); *Report of Soil and Foundation Investigation - Phase I, Proposed Headland Apartments, Promontory Point Area, Jamboree Road and San Joaquin Hills Road...dated December 26, 1968 by LeRoy Crandall and Associates (Job No. A-68249), Report of Soil and Foundation Investigation - Phase II, Proposed Park Newport Apartments, Promontory Point Area, Jamboree Road and San Joaquin Hills Road...dated April 17, 1969 by LeRoy Crandall and Associates (Job No. A-68249-B), Report of Slope Stability Study, West Facing Slope Adjacent to Building 4, Park Newport Apartments, San Joaquin Hills Road, Newport Beach...dated June 28, 1979 by LeRoy Crandall and Associates (Job No. AE-79072), Report of Slope Stability Evaluation: West-Facing Slope Adjacent to the Club House, Park Newport Apartments, Newport Beach, California...dated May 1, 1998 and Report of Slope Stability Evaluation: West-Facing Slope Adjacent to the Unit 4570, Park Newport Apartments, Newport Beach, California...dated August 14, 1998 by Law Crandall of Los Angeles (Project No. 70131-4-0896.0009).*

COASTAL COMMISSION
5-98-345-A1

EXHIBIT # 2
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SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed project with five special conditions, as follows: 1) Permission from the California Department of Fish and Game; 2) Incorporation of geotechnical recommendations; 3) Demonstration of an assumption of risk deed restriction; 4) Avoidance of sensitive habitat and implementation of erosion control/sedimentation best management practices during construction; and 5) Notification that any addition or change to the proposed project may require an amendment to this permit or a new coastal development permit.

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, 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

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III. SPECIAL CONDITIONS

1. Permission from the California Department of Fish and Game

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and approval of the Executive Director, written evidence from the California Department of Fish and Game (CDFG) demonstrating that CDFG has reviewed and either approved or has no substantial concerns regarding the proposed project. If CDFG requires any substantial changes to the project, as approved by the Commission, the changes shall be submitted to the Executive Director for a determination as to whether the changes require an amendment to this permit. Any changes that require an amendment shall not occur without an amendment to this permit.

2. Geotechnical Recommendations

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director final revised plans. These plans shall include the signed statement of the geotechnical consultant certifying that the plans incorporate the geotechnical recommendations contained in the geotechnical investigations of May 1, 1998 and August 14, 1998 by Law Crandall, Inc. of Los Angeles (Project No. 70131-4-0896.0009) into the final design of the proposed development.

The approved development shall be constructed in compliance with the final plans as approved by the Executive Director. Any deviations from the plans shall require a Coastal Commission approved amendment to this permit, or written concurrence from the Executive Director that the deviation is not substantial and therefore a permit amendment is not needed.

3. Assumption of Risk

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant and all landowners shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant and all landowners understand that the entire site may be subject to extraordinary hazards from landslide/slope failure, and the applicant assumes the liability from such hazards; (b) that the applicant and all landowners unconditionally waive any claim of liability on the part of the Commission and agree 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 the natural hazards; (c) the applicant accepts sole responsibility for the removal of any structural debris resulting from landslides, slope failures or erosion on this site. 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.

4. Construction Impacts

Disturbance to sensitive habitat, including on-site coastal sage scrub shall be avoided. In order to accomplish this objective the following shall occur: 1) all construction materials and equipment used during construction of the proposed project shall be placed landward of the bluff, in existing improved or ornamentally landscaped areas only, and shall be removed at the conclusion of construction; 2) access to the construction sites shall occur through the slope, through existing improved or ornamentally landscaped areas only. No work shall occur

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on the bluff face and no equipment access shall be allowed from the bottom of the slope; 3) the proposed bluff edge drainage improvements, which may require work from the bluff face, may commence with the use of hand equipment only; 4) temporary protective fencing shall be installed during construction to exclude any activity in sensitive habitat; 5) erosion control/sedimentation Best Management Practices (BMP's) shall be used to control sedimentation impacts to sensitive habitat areas, during construction, to include the following, at minimum: placement of sand bags (2 bags high) at the edge of slope to prevent runoff/sediment transport over the top of the slope; plastic barrier fencing around the limits of construction areas; pre-construction meeting to review procedural and BMP guidelines; 6) the applicant shall submit final revised plans for the review and approval of the Executive Director which describe in written narrative the erosion control/sedimentation BMP's, with a statement on the plans designating whom is responsible for their implementation; 7) Excavation spoils shall be disposed of at a legal disposal site outside the coastal zone. Any change, including choice of a disposal/reuse site within the coastal zone, may require an amendment to this permit. Any such change shall be identified by the applicant in a written statement submitted to the Executive Director for review and approval and/or a determination as to whether changes are substantive and require a new coastal development permit or an amendment to this permit.

5. Future Development

This coastal development permit 5-98-345 approves only the development, as expressly described and conditioned herein, for the two proposed caisson retaining walls located at 1 Park Newport Drive in the City of Newport Beach. Any future development, per Public Resources Code Section 30106, including the installation of lagging on the proposed caisson structures, shall require an amendment to this permit from the Coastal Commission or a new coastal development permit.

IV. Findings and Declarations:

The Commission hereby finds and declares:

A. Project Description and Location

The applicant is proposing a bluff stabilization project consisting of construction of two caisson retaining walls (Exhibits 1 through 5). The first retaining wall will consist of twenty three 36-inch diameter caissons, placed 7 feet apart on center, a minimum of 3 feet landward of the top of slope, and drilled to a minimum depth of 50 feet. The total length of the subsurface structure will be approximately 150 lineal feet (Exhibit 2 and 3). Approximately 300 cubic yards of soil will be excavated with the required drilling. In addition, minor surficial grading, approximately 45 cubic yards of cut, is proposed to improve drainage. This cut will occur along the bluff edge/top of landslide scarp. This retaining wall will be installed adjacent to an existing clubhouse building. The second retaining wall will have six 48-inch diameter caissons, placed 8 feet apart on center and a minimum of 3 feet landward of the top of slope, and drilled to a minimum depth of 60 feet. Approximately 165 cubic yards of soil will be excavated as a result of the required drilling. This structure will be approximately 40 lineal feet in length (Exhibit 4 and 5). No surficial grading is proposed at this site. This smaller retaining wall will be placed adjacent to an existing apartment building (Unit No. 4570). All soils excavated by the drilling and drainage improvement grading process will be exported from the site and disposed at a legal site outside the coastal zone. No other parts of the proposed and neither caisson retaining wall will extend above grade.

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The stabilization project is proposed as a result of bluff failures consisting of a landslide, adjacent to the clubhouse, and a rockfall, adjacent to apartment unit 4570, that occurred during the winter of 1997-1998. The subject site is located at 1 Park Newport in the City of Newport Beach, west of Back Bay Drive at the northwest corner of San Joaquin Hills Road and Jamboree Road. The proposed developments are to occur at the bluffs along the western property boundary. The applicants' property is developed with a large apartment complex on the bluff top west of Upper Newport Bay and the Upper Newport Bay Ecological Reserve (UNBER). Back Bay Drive demarcates the western boundary of the applicants' property and separates it from Upper Newport Bay and UNBER. UNBER is owned by the California Department of Fish and Game (CDFG). All proposed work will occur solely on the applicants' property.

The present application was originally submitted with four stabilization and drainage improvement elements. However, application materials for two of the sites could not be completed in a timely manner. Due to safety concerns related to the timing of project implementation and the forthcoming winter rain, the application was amended, omitting those two sites. Statements were submitted from the geotechnical consultants for each of the sites demonstrating that the projects were separable as they were neither functionally nor structurally related and could be implemented safely as separate phases (Exhibit 6 and 7).

B. Previous Commission Action on Project Site

Coastal Development Permit 5-97-250

On September 9, 1997 the California Coastal Commission granted a permit (5-97-250) for development at the subject property which included the construction of a caisson retaining wall, excavation and recompaction of 52 cubic yards of soil, and repair/replacement of a damaged drainage pipe. The approved development occurred along bluffs adjacent to Big Canyon, on the northern side of the property. This work occurred to protect apartment unit 3160, an existing structure (See Exhibit 1). Special conditions included obtaining permission from CDFG for the proposed work and incorporation of the geotechnical recommendations made by the geotechnical consultant.

C. Environmentally Sensitive Habitat Area

Section 30240(b) of the Coastal Act states:

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

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

The subject site has sensitive coastal sage habitat on-site and is located adjacent to the Upper Newport Bay Ecological Reserve, an environmentally sensitive habitat area. A biological impact assessment titled *Biological Assessment of Proposed Bank Stabilization Project - Park Newport Apartments...* dated June 1998 was performed by J.E. Heppert & Associates of Mission Viejo (Exhibit 8). This assessment determined that coastal sage habitat exists on-site and occurs adjacent to the proposed project element locations. This information was

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corroborated by a mapped coastal sage habitat delineation prepared by R. Mitchel Beauchamp of Pacific Southwest Biological Services (Exhibit 9 and 10).

In addition to on-site habitat, significant sensitive habitat and species are supported in UNBER, adjacent to the subject property. The City's certified Land Use Plan addresses UNBER in the following manner:

The Reserve has been identified by the State Coastal Commission, State Department of Fish and Game, U.S. Fish and Wildlife Service, and the Southern California Association of Governments as a unique and valuable State resource. The upper bay is an integral part of the Pacific Flyway, and the saltwater marsh, bay waters, and upland of upper Newport Bay provide habitat for 158 species of birds, of which 81 species are wading or water-associated birds. Rare or endangered birds utilizing the Reserve include the California Black Rail, which nests in pickleweed, sedges, saltgrass, and bulrush; Belding's Savannah Sparrow, which nests in pickleweed; Light-footed Clapper Rail, which nests in pickleweed and cordgrass; California Least Tern, which lays its eggs in the sand; and California Brown Pelican, which occasionally visits the upper bay for purposes of resting and feeding. Also present in the Reserve are 18 species on the Audubon Blue List, a list of birds not considered rare or endangered, but which are showing evidence of non-cyclic population declines or range contractions. Over 60 species of fish and over 1,000 species of marine invertebrates have been reported in the bay.

The Land Use Plan goes on to state, in part:

Substantial sediment deposition has occurred in upper Newport Bay. Sources of sediment include...landslides, and construction projects. The occurrence of three extremely wet winters (1969, 1978, and 1980) resulted in the major transport of sediment to the bay. The extensive sedimentation that has occurred has adversely affected the Upper Newport Bay Ecological Reserve due to loss of tidal prism. In addition, suspended sediments can lead to reduction of photosynthetic activity and can interfere with filter feeding mechanisms of marine life-forms...the City of Newport Beach has participated in 208 planning studies to develop a solution to this problem. This solution involves utilization of Best Management Practices (BMP's) to retain...construction sediment on-site...

The proposed project is necessary to stabilize the existing unstable slope. In the absence of remedial measures, sloughing and local failures are expected to continue, threatening the bluff top clubhouse and apartment building. Currently, the top of the slide area is within 9 feet of the clubhouse and the rockfall is approximately 14 feet from apartment unit 4570. If left untreated the complex may be jeopardized.

Alternatives to the proposed project included a cribwall, conventional retaining wall, and a tie-back system. These measures were rejected because they would have required demolition of the clubhouse and apartment unit 4570. In addition, these alternatives would have required substantial earthwork, whereas only surficial grading is required under the proposed alternative.

According to documentation submitted by the applicant and their representatives, all proposed work will be staged and implemented from the improved/developed areas landward of the bluff edge. In addition, the biological assessment and coastal sage delineation demonstrate that no work will occur within the on-site coastal sage habitat and no coastal sage habitat will be impacted by the proposed development. As a preventative measure the applicant has proposed installation of temporary plastic barrier fencing to protect existing coastal sage

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habitat. Finally, sedimentation/erosion control Best Management Practices, such as sand bag barriers, will be used to prevent sedimentation impacts to on-site coastal sage habitat and UNBER. These measures are made a part of this permit as special condition number four.

The proposed project is necessary to control the landslide as well as to minimize risk to the existing clubhouse and apartment unit. If left untreated, landslides and rockfalls would continue. Impacts to UNBER would not be prevented by allowing the landslide and rockfall to continue unabated. Therefore the Commission finds that the proposed project is necessary to protect the adjacent sensitive habitat area.

The project applicant has submitted written evidence that CDFG has been contacted for comment and approval of the proposed project, as appropriate. However, at this time the proposed project has not yet received review from CDFG. While the overall project will enhance the site by stabilizing the slope, minor refinements to the proposed project may be appropriate, as defined by CDFG, to assure that the project will not significantly degrade the adjacent environmentally sensitive habitat area. Therefore, as a condition of approval (condition number one) the applicant shall submit written evidence from CDFG demonstrating they have reviewed and approve or have no substantial concerns with the proposed development. If project design changes are required, the applicant shall submit those changes to the Executive Director for a determination as to whether an amendment to this permit is required. No changes that require a permit are to occur without an amendment. The Commission finds that the proposed project, only as conditioned, is consistent with Section 30240 of the Coastal Act.

D. Visual Impacts

Section 30251 of the Coastal Act states, in part:

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...shall be subordinate to the character of its setting.

The proposed development site is visible from Galaxy Park, a coastal view area identified in the City of Newport Beach certified Land Use Plan. In addition, pedestrians and cyclists using Bay Back Drive, presently a recreational thoroughfare, may observe the project site. The proposed project is the installation of subsurface caissons which will not extend above grade immediately following construction. However, over time, erosion or mass wasting of the bluffs is expected to expose the caisson structures. The geotechnical consultant has suggested that the installation of lagging may be required upon the onset of such exposure. Lagging are plates, typically composed of wood or steel, which connect the caissons, forming a solid barrier which retain loose soils occurring between the caissons. Exposure of the proposed structures and the addition of lagging, should it be necessary, may cause impacts to the scenic and visual qualities of this coastal area. However, it is possible to design lagging so that vegetation may be planted which will mute the exposed structures. In order to assure the proposed project remains consistent with the visual resource protection policies of the Coastal Act, the applicant is hereby notified, per special condition number five, that any addition to the proposed structures, including lagging, may require an amendment to this permit or a new coastal development permit. As conditioned, the Commission finds that the proposed development is consistent with Section 30251 of the Coastal Act.

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E. Hazard

Section 30253 of the Coastal Act states, in part:

New development shall:

(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.

During the winter of 1997-1998, a landslide and rockfall occurred adjacent to the existing clubhouse and apartment unit 4570, respectively. The landslide is relatively shallow, approximately 10 to 15 feet thick, with a scarp 120 feet long and 17 feet high. The geotechnical consultant states that the slide is likely the reactivation of an ancient, eroded landslide. The rockfall is approximately 20 feet high by 40 feet wide and likely occurred due to hydrostatic pressure caused by heavy rainfall upon the highly fractured and weathered bedrock material exposed at the bluff.

The intent of the proposed project is to isolate the clubhouse and apartment unit 4570 from the slide and erosion prone slope area by installing caisson retaining walls landward of the top of the slope at the two locations. The geotechnical consultant states that slope retreat affecting the existing structures will be retarded with the installation of a pile retaining wall (caisson retaining wall). The geotechnical consultant also states these structures will "allow the movement of the slope below" the clubhouse and unit 4570 "where future sliding potential exists without adversely affecting the materials beneath" the clubhouse and unit 4570.

The geotechnical consultant has recommended drainage improvements for the clubhouse and apartment unit 4570 sites, as follows: "To reduce water infiltration, we recommend that the drainage adjacent to the building and over the slope is checked and necessary corrections made to prevent any ponding of water." The proposed project includes minor surficial grading, approximately 45 cubic yards of cut, along the bluff edge at the clubhouse location. These improvements include the use of hand tools to round the 90 degree bluff edge/top of scarp now present as a result of landsliding. This grading intends to restore the bluff edge to natural contours and will be designed to prevent the ponding of water and to check the movement of water over the slope. However, according to the civil engineer, Mr. Don Young of Gerald Lehmer Associates of Pasadena, local geologic conditions (surficial bedrock) at apartment unit 4570 location preclude any surficial grading contemplated at this location by the geotechnical consultant. In order to assure the geotechnical consultants' drainage recommendations are appropriately incorporated into the proposed project, condition number two requires the applicant to submit, for the review and approval of the executive director, final revised plans, with a signed statement from the geotechnical consultant certifying their recommendations were incorporated into the final design of the proposed development.

The geotechnical consultant has found that the proposed project is a feasible solution to the landslide and rockfall hazards posed to the subject existing structures. Recommendations have been made by the geotechnical consultant addressing the design of the caissons, lateral loading, construction sequencing, drainage improvements and monitoring. In order to assure stability and to minimize risks to life and property, the geotechnical consultants' recommendations should be incorporated into the design of the proposed project. As a condition of approval (condition number two), the applicant shall submit a signed statement indicating that the recommendations contained in the *Report of Slope Stability Evaluation: West-Facing Slope Adjacent to the Club House, Park Newport Apartments, Newport Beach*.

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California...dated May 1, 1998 and *Report of Slope Stability Evaluation: West-Facing Slope Adjacent to the Unit 4570, Park Newport Apartments, Newport Beach, California...* dated August 14, 1998 by Law Crandall of Los Angeles (Project No. 70131-4-0896.0009), have been incorporated into the design of the proposed project.

While the geotechnical consultant has found that the proposed project will assure stability and structural integrity and will not create erosion, geologic instability, or lead to destruction of the site or surrounding environment along the subject bluff, the proposed project is designed only to retain soils which affect existing structures and not to provide gross stabilization of the entire slope and slide mass. Therefore, the Commission requires, as a condition of approval (condition number three), that the applicant record an assumption of risk deed restriction acknowledging that landslide/slope failure hazards remain, even with implementation of this project, that the applicant and all landowners waive any claim of liability against the Commission, and the applicant and all landowners are responsible for removal of structural debris caused by landslides, slope failure or erosion on this site. The Commission finds that, as conditioned, the proposed project is consistent with Section 30253 of the Coastal Act.

F. Local Coastal Program

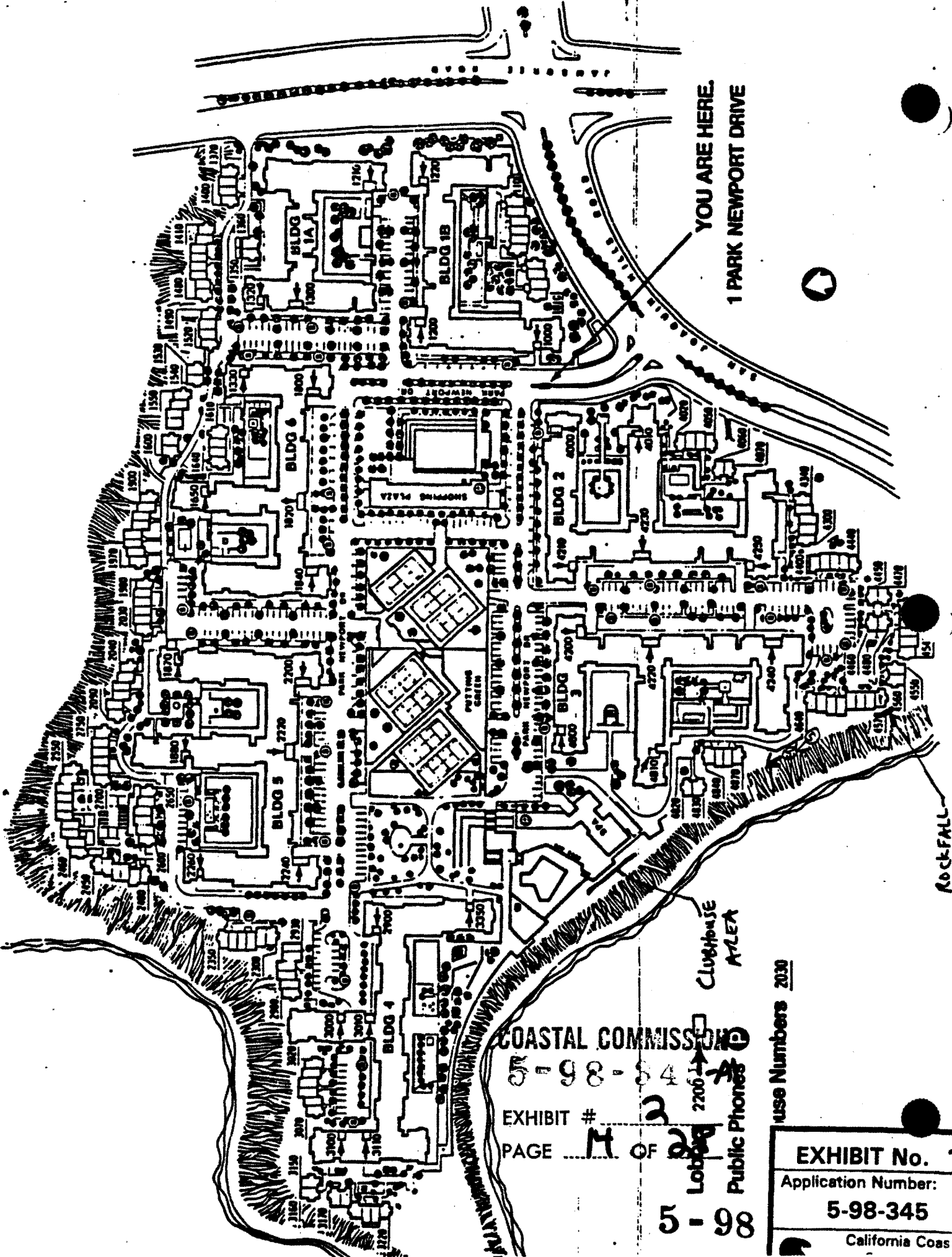
Section 30604 of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified local coastal program. The permit may only be issued if the Commission finds that the proposed development 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 Newport Beach Land Use Plan was effectively certified on May 19, 1982. The proposed development is consistent with the policies of the certified Land Use Plan. Therefore, the Commission finds that approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program (Implementation Plan) for Newport Beach 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(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(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 existing development. In addition, the proposed development has been conditioned, as follows, to assure the proposed project is consistent with the resource protection policies of the Coastal Act: review and permission from CDFG; conformance with geotechnical recommendations; and avoidance of sensitive habitat and implementation of erosion control/sedimentation BMP's. As conditioned, no feasible alternatives or feasible mitigation measures are known, beyond those required, which would substantially lessen any identified significant effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, is the least environmentally damaging feasible alternative and is consistent with CEQA and the policies of the Coastal Act.



YOU ARE HERE
1 PARK NEWPORT DRIVE

ROCK FALL

CLUBHOUSE
M/LEA

COASTAL COMMISSION

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Public Phones

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EXHIBIT No. 1
Application Number:
5-98-345
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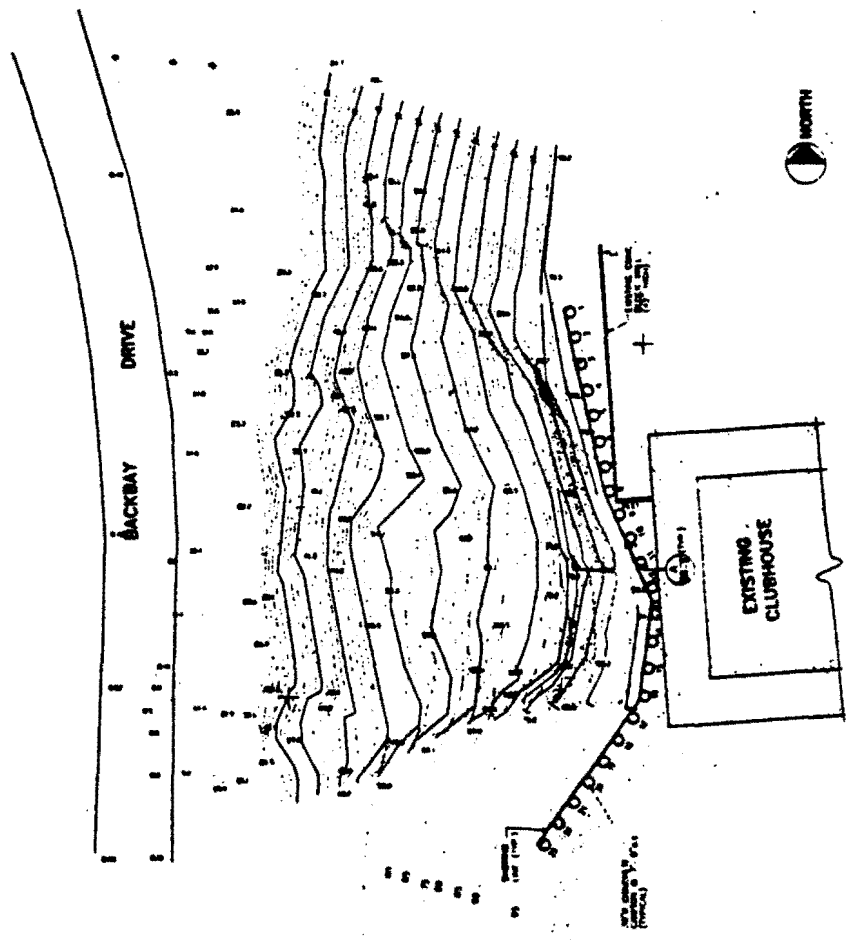


SITE PLAN

LEGEND
 EXISTING GRADE
 PROPOSED GRADE
 PROPOSED SHORING
 PROPOSED DRIVEWAY
 PROPOSED DRIVEWAY
 PROPOSED DRIVEWAY
 PROPOSED DRIVEWAY



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SHORING PLAN
 (A)
 SHEET 28-1

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 Application Number:
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 California Coastal Commission

GENERAL NOTES:

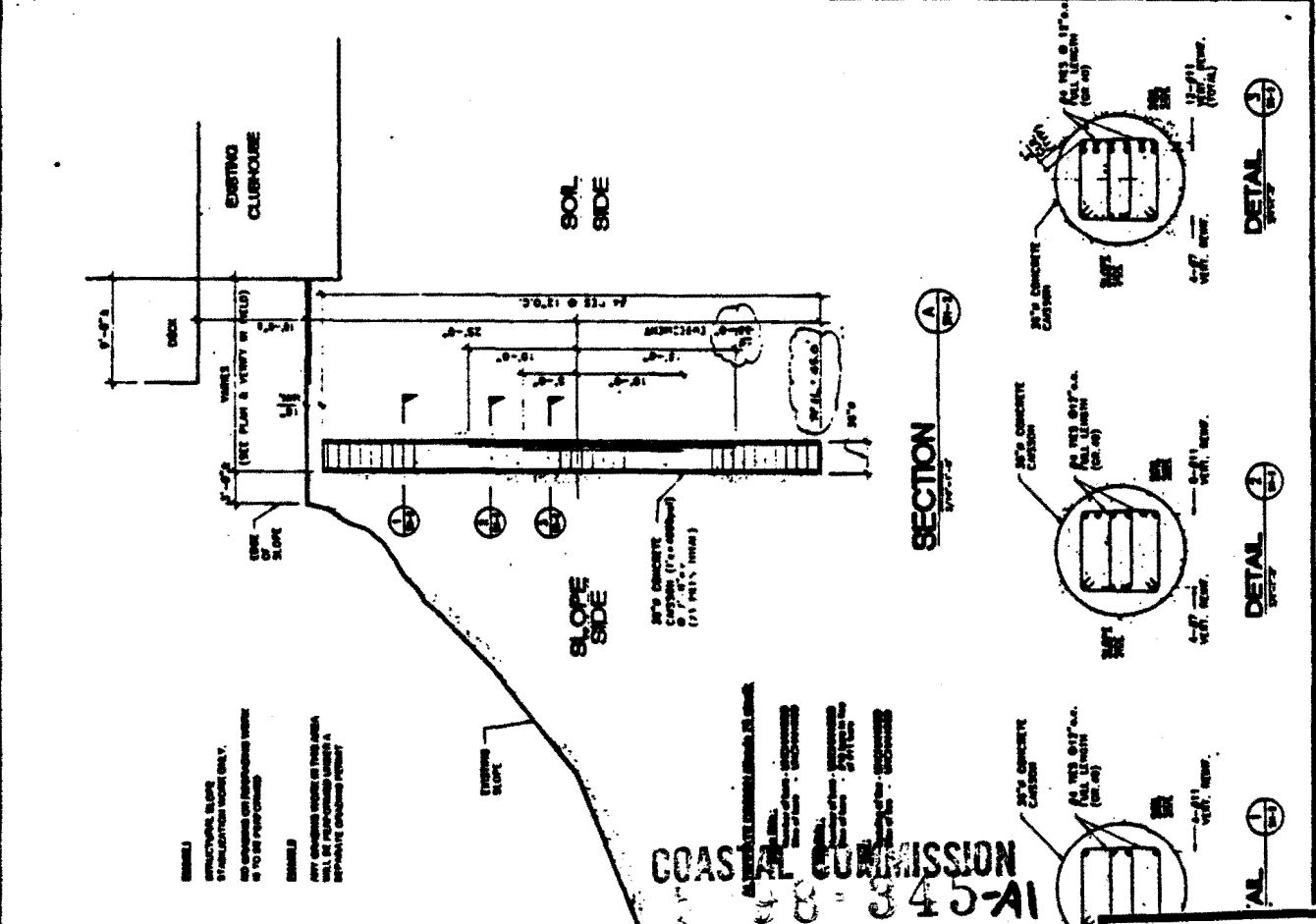
- All construction shall conform to the applicable building codes and all other applicable regulatory agencies.
- Obtain all necessary permits from the appropriate regulatory agencies.
- The design of the slope stabilization shall be based on the geotechnical data provided by the consultant.
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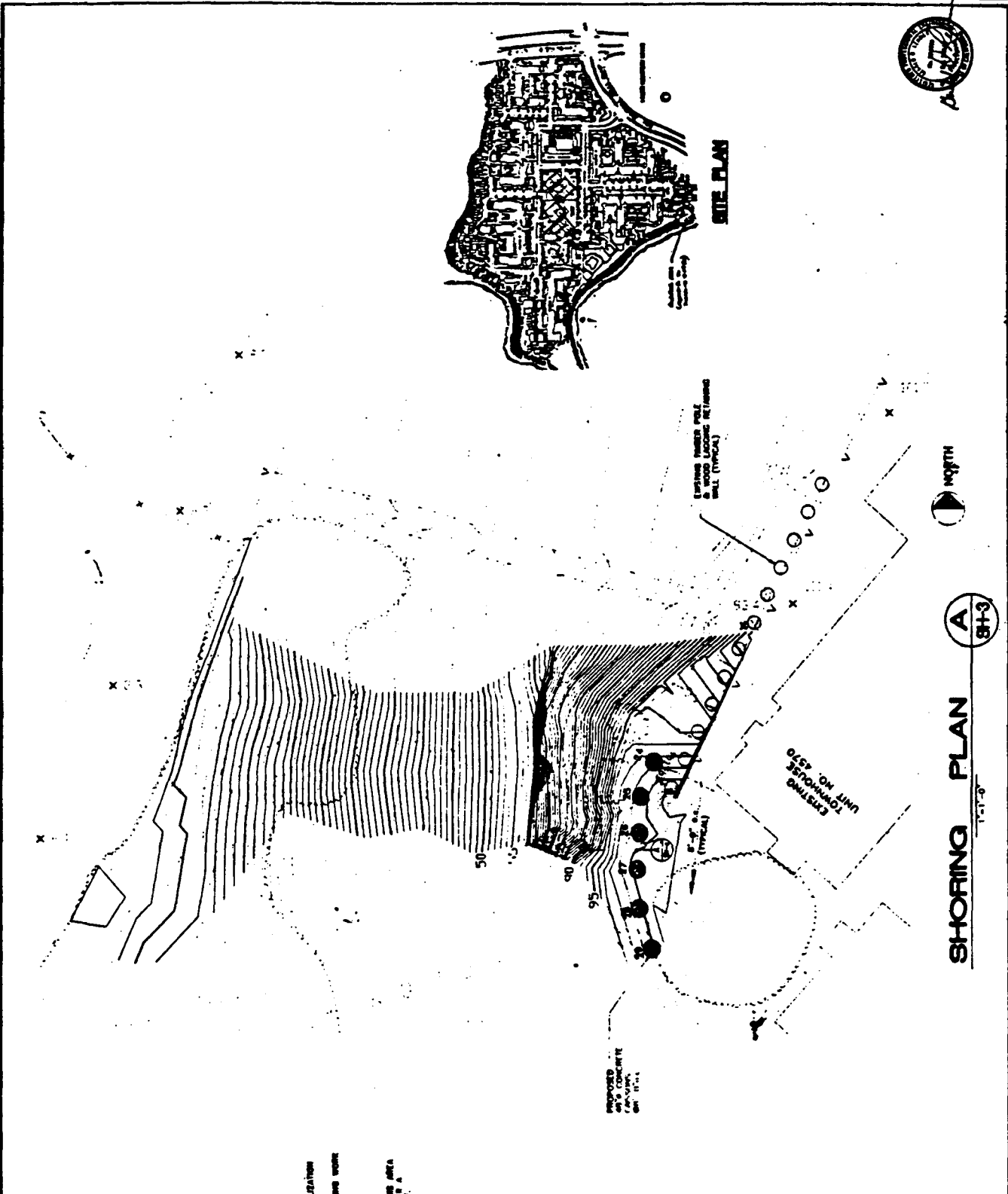
INSTALLATION SPECIFICATIONS:

- The contractor shall be responsible for obtaining all necessary permits.
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ADDITIONAL NOTES:

- The contractor shall verify the geotechnical data provided by the consultant.
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- The contractor shall verify the geotechnical data provided by the consultant.





- (DIMENSIONS)
- STRUCTURAL SLOPE STABILIZATION WORK ONLY.
 - NO GRASSING OR SEEDING WORK IS TO BE PERFORMED.
- (DIMENSIONS)
- ALL GRASSING WORK IN THIS AREA WILL BE PERFORMED UNDER A SEPARATE GRASSING PERMIT.

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EXHIBIT No. 4
 Application Number:
 5-98-345
 California Coastal

GENERAL NOTES, SECTION AND DETAILS.

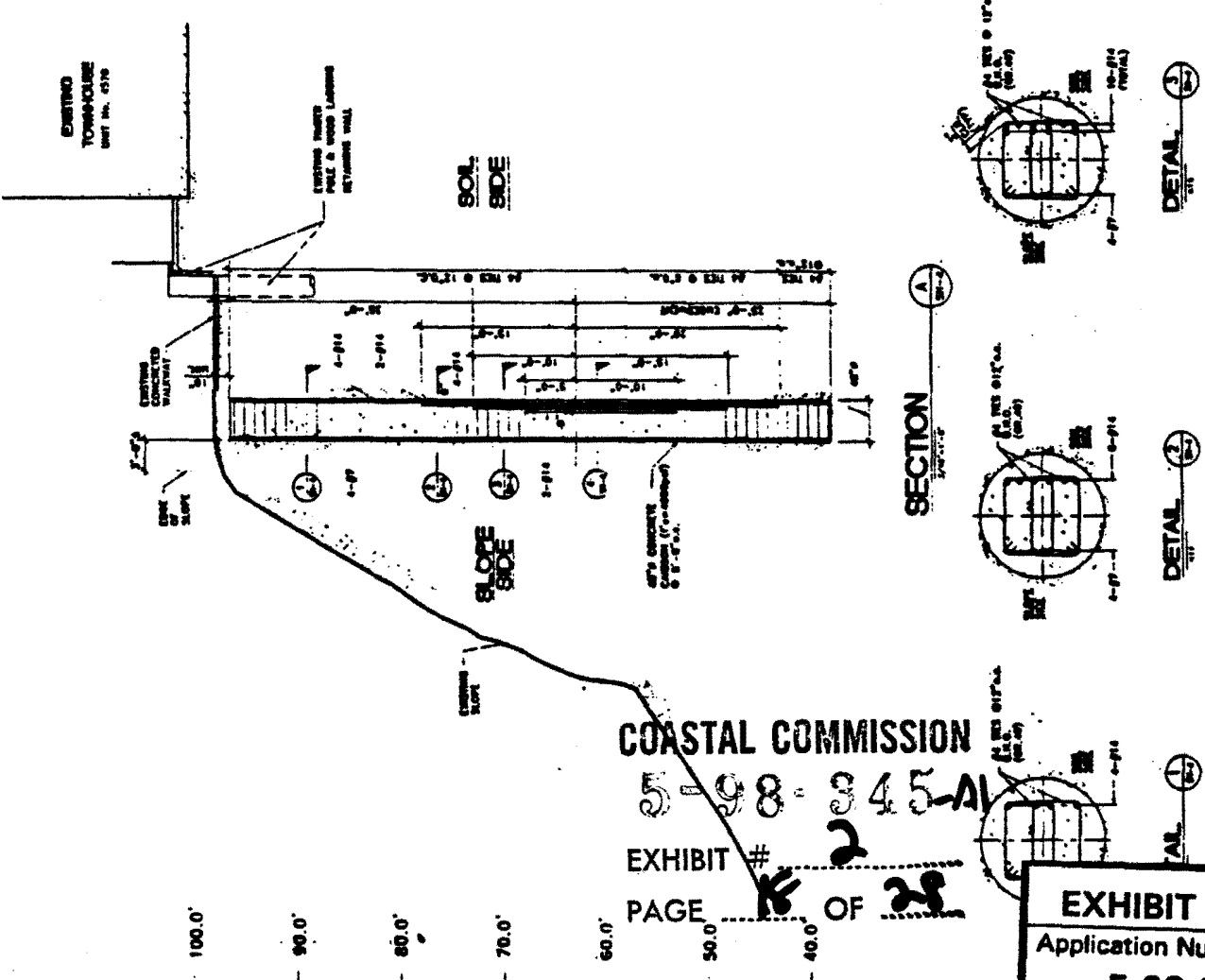
PARK NEWPORT APARTMENTS SLOPE STABILIZATION - ROCKFALL AREA ONE PARK NEWPORT NEWPORT BEACH, CA.

SOLE LAND ASSOCIATES

Table with 2 columns: NO., DESCRIPTION

GENERAL NOTES: 1. All construction shall conform to the City of Newport Beach Building Code and all applicable codes and regulations...

ADDITIONAL NOTES: 1. The contractor shall verify all dimensions before starting work. The Engineer will be notified of any discrepancies...



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EXHIBIT No. 5 Application Number: 5-98-345 California Coast Commission

LAW Crandall
LAWGIBB Group Member ▲

September 21, 1998

Mr. Ken Dressel
Director of Facilities Services
Gerson Bakar & Associates
201 Filbert Street
San Francisco, California 94133-3298

Subject: **Stabilization of West-Facing Slope
Park Newport Apartments Project
1 Park Newport
Newport Beach, California
Law/Crandall Project No. 70131-4-0896.0009**

Dear Mr. Dressel:

As requested by Mr. Kevin Culbertson of Culbertson, Adams & Associates, this letter addresses the stabilization of the west-facing slope at the Park Newport Apartments in Newport Beach, California. The California Coastal Commission has requested supporting documentation regarding the slope stabilization for the west-facing slope in a letter dated September 18, 1998. An application has been submitted as Coastal Development Permit # 5-98-345.

Law/Crandall is the geotechnical engineer of record for the proposed pile retaining wall (or caisson wall) to stabilize the slope adjacent to the Club House and Unit 4570 (Sites 1 and 4, respectively). Law/Crandall's responsibility, as the geotechnical engineering of record for Sites 1 and 4, was to submit the reports of slope stability evaluation addressing the slope adjacent to the Club House and Unit 4570 and to obtain the City of Newport Beach's approval. The results of those evaluations for the Clubhouse and Unit 4570 were presented in our reports dated May 1, 1998 and August 14, 1998, respectively, and have been approved by the City of Newport Beach.

Robert Bein, William Frost and Associates (RBF) has proposed an erosion repair/interceptor ditch with retaining elements to improve the stability of the slope located west of Building 3 and the slope located south of the spa building and north of the apartment designated 4830 (Sites 2 and 3, respectively). The Sites 2 & 3 are between Sites 1 and 4. The geotechnical engineer of record for Sites 2 and 3 is Hetherington Engineering, Inc. who have reviewed the proposed RBF plan for erosion repair. A report by Hetherington, dated August 25, 1998 regarding Sites 2 and 3 states that the proposed erosion repairs are intended to enhance the surface drainage conditions by intercepting and directing surface water to an existing storm drain. The report further states that the proposed improvements for Sites 2 and 3 "do not render the natural slopes surficially or grossly stable, and as such, the proposed improvements are subject to future damages resulting from gross or surficial stability." We have also reviewed the RBF plan for erosion repair and control and concur with Hetherington's conclusion in that the RBF plan does not address permanent stabilization of the slopes at Sites 2 and 3; however, slope movement in these areas has not occurred recently and the erosion repair and control plan would act to improve the overall stability of Sites 2 and 3.

A Division of Law Engineering and Environmental Services, Inc.
200 Citadel Drive
Los Angeles, CA 90040-1554
323-880-5300 • Fax 323-721-6700

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California Coast
Commission

The California Coastal Commission's letter dated September 18 requests supporting documentation to remove the RBF's erosion repair plan for Sites 2 and 3 from the Coastal Development Permit and to proceed with the implementation of Law/Crandall's recommendation of pile retaining wall for Sites 1 and 4. We support the above separation for the following reasons:

- The RBF plan for Sites 2 and 3 and Law/Crandall's recommendation for Sites 1 and 4 are not functionally related. This is because the RBF plans for Sites 2 and 3 improve the stability of slopes by controlling erosion and protection of the top of the slope. On the other hand, Law/Crandall's recommendations for Sites 1 and 4 stabilizes the slopes by means of a caisson wall.
- The RBF plan for Sites 2 and 3 and Law/Crandall's recommendation for Sites 1 and 4 are not structurally dependent or related, because the sites are geographically separated.
- The RBF plan for Sites 2 and 3 and Law/Crandall's recommendation for Sites 1 and 4 can be implemented in separate phases with safety because they are structurally and functionally independent of each other.
- We strongly believe that Law/Crandall's recommendations for Sites 1 and 4 should be implemented as soon as possible because of the importance to stabilize the slopes before the next winter season.
- Implementation of Law/Crandall's recommendations as soon as possible is necessary due to the extent of the erosion and landslides at Sites 1 and 4 and their proximity to the existing buildings.
- Sites 2 and 3 differ from Sites 1 and 4 in that these areas have not exhibited recent movement or pose an immediate threat to structures.

The professional opinions presented in this letter have been developed using that degree of care and skill ordinarily exercised, under similar circumstances, by reputable geotechnical consultants practicing in this or similar localities. No other warranty, expressed or implied, is made as to the professional advice included in this letter.

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EXHIBIT # 6
PAGE 2 OF 3

It is a pleasure to be of professional service to you on this project. Please call if you have any questions or require additional information.

Sincerely,

LAW/CRANDALL
A DIVISION OF LAW ENGINEERING AND ENVIRONMENTAL SERVICES, INC.

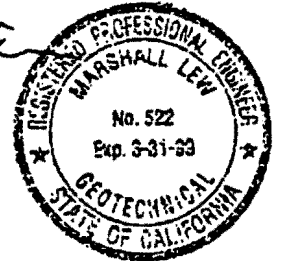
N. Sathialingam

N. Sathi Sathialingam, Ph.D.
Senior Engineer
Project Manager



Marshall Lew

Marshall Lew, Ph.D.
Corporate Consultant
Vice President



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(2 copies submitted)

cc: (1) Mr. Kevin Culbertson
Culbertson, Adams & Associates

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EXHIBIT # 6

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HETHERINGTON ENGINEERING, INC.

SOIL & FOUNDATION ENGINEERING • ENGINEERING GEOLOGY • HYDROGEOLOGY

September 21, 1998
Project No. 3137.2
Log No. 02710

Gerson, Bakar & Associates
201 Filbert Street
San Francisco, CA 94133-3298

Attention: Mr. Richard Ellis

SUBJECT: ADDITIONAL GEOTECHNICAL COMMENTS
Proposed Repairs to Portions of the West Facing Slope
Areas 2 and 3
Park Newport Apartments
Newport Beach, California

Reference: "Application Amendment-Request for Supporting Documentation, Coastal Development Permit # 5-98-345, 1 Park Newport, City of Newport Beach, California", by California Coastal Commission, dated September 18, 1998.

Dear Mr. Ellis:

In accordance with the request of Mr. Kevin Culbertson, we have prepared this letter providing additional geotechnical comments with respect to the proposed erosion repairs for sites 2 & 3 at the subject property. We understand our comments are required by the Coastal Commission in order to consider separating the repairs contemplated for areas 1 and 4 from those contemplated for areas 2 and 3. As it is understood by Hetherington Engineering, Inc., repairs contemplated for sites 1 and 4 are to be drilled pile retaining walls. In areas 1 and 4, recent landslides and rock topples have resulted in the removal of portions of the slope adjacent to existing improvements on the Park Newport property. We understand, the repairs recommended by Law/Crandall are to retain lateral support for improvements that are in jeopardy of potential undermining and direct damage.

The repairs proposed for areas 2 and 3 are intended to enhance existing surface drainage improvements which will reduce the amount of surface waters infiltrating into the hillside and provide for an increased volume of runoff which can be handled by these improvements. These improvements will serve to reduce the potential for future landslides and rock topples such as took place in areas 1 and 4.

These above described repairs are not geotechnically related to each other in any manner and are not geotechnically dependent upon each other in order to perform their respectively intended functions. In my opinion, the repairs intended for areas 2 and 3 could

5245 Avenida Encinas, Suite G • Carlsbad, CA 92008-4369 • (760) 931-1917 • Fax (760) 931-0545
32242 Paseo Adelanto, Suite C • San Juan Capistrano, CA 92675-3610 • (714) 487-8080 • Fax (714) 487 9116

COASTAL COMMISSION
5-98-345-A1

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Application Number: 5-98-345 Page 1 of 2
California Coast Commission

SUPPORTING COMMENTS

Project No. 3137.2
September 21, 1998
Page 2

be deleted in their entirety and not cause any adverse effect to the above repairs to areas 1 and 4. The proposed repairs to areas 2 and 3 could be performed if area 1 and 4 repairs were not performed.

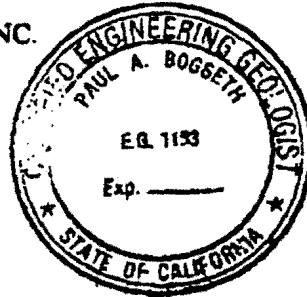
Please call if there are any questions.

Sincerely,

HETHERINGTON ENGINEERING, INC.



Paul A. Bogseth
Certified Engineering Geologist 1153
Registered Geologist 3772
(expires 3/31/00)



Distribution:

- 1-Addressee
- 1-Kevin Culbertson - Culbertson Adams and Associates

HETHERINGTON ENGINEERING, INC.
COASTAL COMMISSION

5-98-245-A1

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BIOLOGICAL ASSESSMENT
of
PROPOSED BANK STABILIZATION PROJECT

PARK NEWPORT APARTMENTS

—City of Newport Beach

County of Orange,
California

5-98-345

Prepared for: Culbertson, Adams, & Associates
85 Argonaut, Suite 220
Aliso Viejo, CA 92656
(949) 581-2888

Prepared by: J. E. Heppert & Associates
Environmental Consulting
P.O. Box 3594
Mission Viejo, CA 92690-1594
(949) 367-0754

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COASTAL COMMISSION June, 1998

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EXHIBIT No. 8

Application Number:

5-98-345

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California Coast
Commission



United States Department of the Interior

Fish and Wildlife Service
Ecological Services
Carlsbad Fish and Wildlife Office
2730 Loker Avenue West
Carlsbad, California 92008



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DEC 07 1999

Karl Schwing
California Coastal Commission
South Coast District Office
200 OceanGate, Suite 1000
Long Beach, California 90802-4302

CALIFORNIA
COASTAL COMMISSION

Re: Park Newport Apartments Slope Stability Project and Associated Mitigated Negative Declaration (SCH# 99101045), Newport Beach, Orange County, California

Dear Mr. Schwing:

We understand that the Park Newport Apartments Slope Stability Project (SCH# 99101045) in Newport Beach, Orange County, California, and the associated mitigated negative declaration ("MND") will be submitted for your consideration in the near future. The project applicant proposes to (1) excavate earthen materials from a coastal bluff slide area immediately adjacent to Back Bay Drive and the Upper Newport Bay Ecological Reserve ("Reserve") and (2) subsequently revegetate the project area with coastal sage scrub to stabilize the slope.

We have met with consultants for proponents of the referenced proposed project on two occasions (most recently on November 18, 1999), and reviewed the MND. As is appropriately disclosed in the MND on page 16, the proposed project would result in the destruction of scattered coastal sage scrub elements on the slopes of the slide. Coastal sage scrub is preferred habitat for the federally threatened coastal California gnatcatcher (*Poliophtila californica californica*, "gnatcatcher"), which is known to occur in appropriate habitats in the Reserve and environs. In addition, the proposed excavation would occur immediately adjacent to salt marsh on the Reserve that is occupied by the federally endangered light-footed clapper rail (*Rallus longirostris levipes*, "rail"). Although no gnatcatchers were detected in the project area and environs during a recent focused survey for that species (MND, page 38) and no salt marsh would be impacted by the project, Loren Hays of my staff most recently detected a pair of calling clapper rails within the Reserve approximately 50 meters from the proposed excavation area on November 18, 1999.

Because of potential impacts to the rail, gnatcatcher, and their associated habitats, the project proponent has agreed to a number of impact avoidance or mitigation measures that have been designed to (1) prevent the unnecessary disturbance or destruction of salt marsh and coastal sage scrub in the project area or environs (MND mitigation measures 1, 4, 5, and 5.2; LSA Associates memorandum dated November 18, 1999); (2) prevent impacts to any gnatcatcher or other listed species or sensitive resources present in the project area and environs (LSA memorandum:

COASTAL COMMISSION

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PAGE 1 OF 2

Karl Schwing

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MND mitigation measure 5.3); and (3) replace any and all coastal sage scrub removed from the site at a ratio of 2½ acres for each acre removed (MND mitigation measure 5.1) per the standards and specifications included in an approved mitigation plan (Park Newport Slide Habitat Restoration Plan and Specifications; LSA Associates; July 30, 1999).

Therefore, given the potential for winter rains to cause the movement of substantial earthen materials from the slide area into rail habitat (i.e. salt marsh) immediately adjacent to the proposed project area, we do not object to the immediate permitting of the proposed project provided that the project proponent is willing and able to fully implement (1) MND mitigation measures 1, 2, 3, 4, 5, 5.1, 5.2, 5.3, and 6; (2) all measures proposed in the aforementioned LSA Associates memorandum dated November 18, 1999; and (3) the aforementioned habitat restoration plan dated July 30, 1999.

Thank you for the opportunity to comment on the Park Newport Slope Stability Project. Please feel free to contact Loren Hays of my staff at 760-431-9440 should you have any questions or comments pertaining to this correspondence.

Sincerely,



Jim A. Bartel
Assistant Field Supervisor

1-6-00-NFTA-91

cc: California Department of Fish and Game, Region 5 (Attn: Theresa Stewart)

COASTAL COMMISSION

5-98-3401

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3. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?

No Impact. The project will consist of excavating the slide to help stabilize the coastal bluff. The proposed project is a corrective measure to stabilize an existing, unstable geologic unit. Therefore, significant impacts related to unstable soil will not result from the proposed project.

4. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

No Impact. The project will consist of excavating the slide to help stabilize the coastal bluff and reduce potential hazards to the public and endangered and threatened species. The slope will be revegetated with coastal sage scrub to restore the site to its natural condition. Buildings or structures will not be placed on the slope. Therefore, the project will have no significant impacts related to expansive soils.

5. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

No Impact. Septic tanks or alternative wastewater disposal systems will not on the subject site. Therefore, there will be no impacts on soils supporting wastewater disposal systems resulting from the project.

The proposed project would be built on a level developed site. Soil contamination is discussed under Hazards (item no. 9). Compliance with the City Excavation and Grading Code (NBMC Sec.15.04.140) would reduce the impacts to an insignificant level.

To reduce potential grading and erosion impacts, the following mitigation measures are recommended:

Mitigation Measure No. 1

That the project shall conform to the National Pollution Discharge Elimination System (NPDES) requirements and shall be subject to the approval of the Public Works Department and the Building Department or City authorized Grading Engineer.

Mitigation Measure No. 2

An annual inspection of the completed facilities shall be completed by a registered geologist. The facilities shall be inspected during April or May of each year. The results of the inspection shall be submitted to the City of Newport Beach Public Works Director for review before June 1. Should it be determined that the slope is continuing to sluff, based upon the results of the annual inspections, further remedial grading/construction work shall be required as determined by the Public Works Director. All remedial work required by the City shall be completed by November 1 of that year.

Mitigation Measure No. 3

The constructed facilities shall be routinely maintained as determined by the City of Newport Beach Public Works Director.

CIVIL ENGINEER
5-98-345-A1
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Mitigation Measure No. 4

The project will comply with the erosion and siltation control measures of the City's grading ordinance and all applicable local and State building codes and seismic design guidelines, including the City Excavation and Grading Code (NBMC Section 15.04.140 or applicable sections). An erosion, siltation and dust control plan shall be submitted prior to issuance of a grading permit and be subject to the approval of the Building Department and a copy shall be forwarded to the California Regional Water Quality Control Board. Prior to issuance of the grading permit the applicant shall provide written approval of the erosion control plan by the Regional Quality Control Board.

5. Hydrology

Would the project:

1. Violate any water quality standards or waste discharge requirements?

No Impact. The project will consist of excavating the slide to help stabilize the coastal bluff. Implementation of the proposed project will adhere to adopted development standards for water quality established by the City of Newport Beach, the State, and the federal government, including the Clean Water Act, NPDES, and the City Excavation and Grading Code. A NPDES permit will be required for the proposed project, which will include provisions to eliminate water quality impacts during and after construction. Compliance with the City Excavation and Grading Code would reduce any impacts to an insignificant level, and potential impacts to surrounding properties from waste discharge during grading operations will be minimized through the Standard Conditions listed in Section 4.6 above.

With implementation of the Standard Conditions described in Section 4 and adherence to the City grading and erosion control standards, impacts related to water quality or waste discharge resulting from the proposed project will be less than significant.

2. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?

No Impact. The proposed project will not increase the amount of impervious surfaces to the project site and, therefore, will not decrease the recharge capability of the site.

No significant changes to the groundwater supplies that would interfere substantially with groundwater recharge are anticipated. Therefore, no significant impacts related to groundwater supplies or recharge will result from the proposed project.

3. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?

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Mitigation Measure No. 5

A certified Ecologist shall oversee the habitat restoration during the revegetating period and monitor maintenance and progress. Orange construction fencing shall be installed along the edge of the coastal sage scrub habitat closest to the construction area prior to the start of construction. The construction fencing will prevent intrusion by construction workers and equipment into the coastal sage scrub habitat. A biologist familiar with coastal sage scrub habitat shall direct the location of the construction fencing. The fencing shall be maintained in place throughout construction period and removed only after all construction is completed. All construction employees shall be instructed not to enter into the coastal sage scrub habitat beyond the construction fencing.

Mitigation Measure No. 5.1

Prior to issuance of the grading permit the applicant shall provide,

- a. a site survey to quantify the take and revegetation amounts of coastal sage scrub involved.
- b. a revegetation plan detailing the timing of planting, species to be planted and their size (seed or container stock) and a multi-year monitoring scheme and a detailed contingency plan in the event the revegetation is not successful.
- c. a plot plan showing the location of fencing (both chain link, orange construction fencing and silt fence), the location of property lines, right-of-way lines and list of ownership of adjacent parcels to the subject location. If any portion of the proposed fencing is located on the State of California Ecological Reserve, the applicant will provide to the City proof of permission from the State for fence placement and construction access to the site and the accompanying certificate of liability as approved by the State in the granting of access.

Mitigation Measure No. 5.2

Prior to the closure of Back Bay drive, the applicant shall coordinate with the City of Newport Beach Public Works Department (Traffic Engineering Division) and the Department of Fish and Game for road closure permit and Haul Route Permit. The closure plan shall include some public relations information or sign program to notify users of Back Bay Drive to inform them ahead of time that the road closure. It should state the reasons why, the suggested time line of the project and when the road may be re-opened for their use. The City shall enforce this closure so that users do not create new trails around the barricades to the detriment of the habitats within the Ecological Reserve. Please coordinate any road closures with the Department of Fish and Game so that they can maintain access on Back Bay Drive for management and emergency purposes during the project's construction.

Mitigation Measure No. 5.3

Prior to removal of any coastal sage scrub habitat, the applicant shall obtain written approvals from the Federal Government (U.S. Fish and Wildlife Service) relative to removal of coastal sage scrub habitat being utilized by the Federally-listed California gnatcatcher. Consultation and ultimate authorization from the Service is a condition of approval of this Negative Declaration.

9. Mineral Resources

Would the project:

- 1. Result in the loss of availability of a known mineral resource that would

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Less Than Significant Impact. The project site is approximately four miles from the nearest airport, John Wayne Airport, and is not within the airport's 60 dBA CNEL impact zone. The project would not expose people residing or working in the project area to excessive noise levels.

6. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

No Impact. The project site is not within the vicinity of a private airstrip and, therefore, would not expose people residing or working in the project area to excessive noise levels.

Existing noise levels are anticipated to be increased during the construction period primarily due to construction related activities. Construction noise is short term and insignificant since construction time is expected to be short due to the scope of the project and construction hours are limited to the hours of operation regulated through the provisions contained in the City Noise Control Regulations (NBMC Chapter 10.28).

Short-Term Construction Noise

The project will have short-term noise impacts during project construction. The noise impacts will be due to the operation of motorized equipment for grading and backfilling of dirt. The greatest potential noise impact will be to on-site residents that live adjacent to the construction area. The existing topography and block walls along the top of slope will serve to attenuate some construction noise reducing some construction noise levels. Limiting the hours of construction will further reduce noise impacts. Restricting construction to the hours allowed by the City of Newport Beach Noise Ordinance Section 10.28.040, which is 7:00 a.m. to 6:30 p.m. Monday through Friday and 8:00 a.m. through 6:00 p.m. on Saturday, will reduce potential short-term noise level impacts to a level of insignificance. Although some residents may be disturbed by construction noise, the noise impacts will be short-term and not last more than a month.

Long-Term Noise

Once the proposed improvements are completed, there are no components associated with the project that will generate any long-term noise impacts. The only activity associated with the improvements after construction will be the routine maintenance of the facilities. The maintenance will consist of removing debris from the interceptor ditch and storm drain inlet pipes and will not generate any increased noise levels. The removal of debris from these facilities can be done by hand and will not require the operation of mechanical equipment. Therefore, there will not be any long-term noise impacts with the project.

Mitigation Measure No. 6

All construction activity shall be limited to those hours allowed by the City of Newport Beach Noise Ordinance Section 10.28.040.

12. Public Services

Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered government facilities, need for new or physically altered government facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public

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Revised November 18, 1999