CALIFORNIA COASTAL COMMISSION

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

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Hearing Date:	December 11-14, 2001
Commission Action:	

STAFF REPORT: REGULAR CALENDAR

RECORD PACKET COPY

APPLICATION NO.:	5-01-080
APPLICANTS:	Sal Palmero
AGENT:	William Peters, Cook/Peters Associates
PROJECT LOCATION:	3317 Ocean Boulevard, City of Newport Beach, County of Orange
PROJECT DESCRIPTION:	Construct a pool house, pool, spa and exercise room on a lower portion of the bluff face down to the toe of the bluff. Construction also includes retaining walls, fences, a BBQ, trellis, iron gate, glass railing, drainline, concrete paving, steps, including the repair and modification of the existing stairs. A total of 120 cubic yards of grading will take place. Grading will consist of 60 cubic yards of cut and 60 cubic yards of fill. Footings, slab on grade and a caisson foundation system will support the proposed structures.

SUMMARY OF STAFF RECOMMENDATION:

The applicant proposes to construct a pool house, pool, spa and exercise room on the lower portion of a coastal bluff face immediately inland of a public beach. Associated construction includes retaining walls, fences, a BBQ, trellis, iron gate, glass railing, drainline, concrete paving, steps, including the repair and modification of the existing stairs. The proposed project is located along a lower portion of the bluff face and at the toe of the bluff immediately inland of Corona Del Mar State Beach, which is a public beach. The primary issue before the Commission is the appropriateness of approving the project given landform alteration, the importance of preserving scenic resources, the seaward encroachment of the development, the community character, and impacts to public access. Staff recommends that the Commission **DENY** the proposed project.

As submitted, the proposed project is primarily inconsistent with the Sections 30240, 30251 and 30253 of the Coastal Act and the City of Newport Beach Land Use Plan (LUP) regarding coastal bluff sites. The pattern of development along this segment of Ocean Boulevard is such that structures are sited at the top of the coastal bluff, while the bluff face remains largely undisturbed and vegetated. Although several lots have stairways traversing the bluff face and some have unpermitted development at the toe of the bluff (currently under investigation by the Commission's Enforcement staff), the overall appearance of the bluff in this area is natural and undeveloped. Additionally, the toe of the bluff is immediately inland of Corona Del Mar State Beach, which is a public beach. The project site is consequently highly visible from the public beach. In addition, the proposed development is inconsistent with Sections 30240, 30251 and 30253 in that the proposed development constitutes new development seaward of the existing line of development, alters a largely undeveloped vegetated coastal bluff through grading, utilizes retaining walls and caissons to support the proposed development, and will have an adverse impact on public use of a public beach.

Furthermore, alternatives to the proposed project exist. For example, the existing house could be remodeled to provide some of the recreational amenities that are part of the current proposed project by the applicant. Such an alternative would be consistent with the existing pattern of development, would preserve the integrity of the coastal bluff and would avoid the seaward encroachment of development and the creation of a six foot high retaining wall and approximately 5 foot high fence immediately inland of a public beach. Therefore, staff recommends that the project be denied, as it would have adverse impacts on the natural landform and a cumulative adverse impact on visual and public access coastal resources.

LOCAL APPROVALS RECEIVED: Approval In Concept from the City of Newport Beach dated July 13, 2000.

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach Certified Land Use Plan; Coastal Development Permits 5-01-199 (Butterfield), 5-00-452 (Cowan), and 5-00-228 (Hopkins); *Geotechnical investigation for Pool and Pool House Additions, 3317 Ocean Boulevard, Corona Del Mar, California.* prepared by Petra (Project No. J.N. 475-00) dated March 9, 2001; Letter from William Peters dated May 3, 2001; Letter from William Peters dated October 1, 2001; and *Wave Runup Study, 3317 Ocean Boulevard, Corona Del Mar, CA* prepared by Skelly Engineering dated October 2001.

EXHIBITS

1. Vicinity Map
2. Assessor's Parcel Map
3. Assessor's Parcel Map
4. Site Plan
5. Elevation Plans
6. Landscape Plans
7. Hardscape Plan

STAFF RECOMMENDATION:

I. STAFF RECOMMENDATION OF DENIAL

Staff recommends that the Commission adopt the following resolution to deny the coastal development permit application. The motion passes only by affirmative vote of a majority of the Commissioners present.

A. Motion

I move that the Commission approve Coastal Development Permit No. 5-01-080 for the development proposed by the applicant.

B. Staff Recommendation of Denial

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

C. Resolution to Deny the Permit

The Commission hereby **DENIES** a coastal development permit for the proposed development on the ground that the development will not conform with the policies of Chapter 3 of the Coastal Act and will 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. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

II. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. Project Location, Description and Background

1. Project Location

The proposed project is located at 3317 Ocean Boulevard in Corona Del Mar, City of Newport Beach, County of Orange (Exhibits #1-3). The subject site is immediately inland of Corona Del Mar State Beach, a public beach. The subject property cascades down a bluff face. The bluff is approximately 50 feet high and is composed of sandstone bedrock of the Monterey Formation. The upper half of the bluff is near vertical and exposes sandstone, while the lower half is mantled with a moderately inclined talus slope that consists of a sand matrix with numerous cobbles and boulders. The site is currently developed with a single family residence located at the top of the bluff. To the north, at the top of the bluff is Ocean Boulevard. To the northwest and southeast are existing residential development. To the southwest of the project site is the Breakers Drive street end and further southwest is the Corona Del Mar State Beach Parking Lot. To the south, at the toe of the slope is a sandy beach, and further south of the project site property line is a quarry stone revetment with vegetation and a normally 200 foot wide sandy public beach. The bluff face remains relatively undisturbed and vegetated, with exception of an existing wooden stairway located along the southeastern property line. At the bottom of the bluff is an existing wooden fence, which is located on the sandy beach. The pattern of development along this segment of Ocean Boulevard primarily consists of structural development sited at the top of the bluff with minimal disturbance of the bluff face (i.e. stairways only) and the toe (unpermitted development, which is under investigation by the Commission) of the bluff.

2. Project Description

The subject site is currently developed with a single-family residence at the level pad atop the bluff. The applicant proposes to construct a pool house, pool, spa and exercise room on a lower portion of the bluff face down to the toe of the bluff (Exhibits #4-7). Construction also includes retaining walls, fences, a BBQ, trellis, iron gate, glass railing, drainline, concrete paving, steps, including the repair and modification of the existing stairs (Exhibits #4-7). Two retaining walls are proposed, one located along the western perimeter of the swimming pool and the other (considered the "northeasterly" retaining wall) at the rear of the pool house immediately beneath the bluff (Exhibit #5, page 2 of 2). These walls will vary from approximately 6 to 12 feet in height. The approximately 6 foot high retaining wall located along the western perimeter of the swimming pool will raise the proposed pad grade elevation to approximately 17 feet above mean sea level (6 feet above grade) in order to support the above ground swimming pool (Exhibit #5, page 2 of 2). Also, an approximately 5 foot high fence will be located at the southern property line.

A total of 120 cubic yards of grading will take place. Grading will consist of 60 cubic yards of cut and 60 cubic yards of fill. This will be accomplished by grading the lower portion of the bluff and the toe of the bluff. The cut will be used as backfill to establish a building pad for the pool and associated hardscape (Exhibit #5, page 2 of 2).

Footings, slab on grade and a caisson foundation system will support the proposed structures.

3. Prior Commission Action at Subject Site

On November 15, 1988, the Commission approved De Minimus Waiver 5-88-798 (Benedict) for the remodel and addition of 493 square feet of living area to a single family dwelling located at 3317 Ocean Boulevard. No increases in height, or construction beyond the existing structural stringline were proposed.

4. Prior Commission Action in Subject Area

On May 7, 2001, the Commission approved Coastal Development Permit 5-00-452 (Cowan) for the construction of a residential development stepped up into the bluff at 3030 & 3030 ½ Breakers Drive, approximately 500 feet northwest of the project site. The project site is well setback from the ocean by a public sandy beach, an approximately 200 foot wide parking lot for Corona Del Mar State Beach, vegetation, a wall, and Breakers Drive. The Commission found that the specific location of the proposed development is in a limited area where bluff face development already exists and has been allowed by the Commission, but development on the bluff face is not routinely approved by the Commission because it raises concerns with Section 30251 and Section 30253 of the Coastal Act. Section 30251 of the Coastal Act states that permitted development should minimize landform alteration and visual impacts. Section 30253 of the Coastal Act states that new development should not contribute significantly to erosion and geologic instability. In addition, the Commission evaluated the cumulative adverse impact of the proposed project.

Coastal Development Permit 5-00-452 (Cowan) allowed the demolition of an existing two (2) story duplex with a two (2) car garage and construction of a four (4)-story, 6,073 square foot residential duplex, stepped up the hillside to a maximum height of 55.5 ft above the base of the hillside, with two (2) attached two (2) car garages totaling 840 square feet. Retaining walls would be constructed along the west and portions of the east property lines and along the concrete deck on the 4th floor. Also, a caisson and grade beam foundation system supporting front portions of the residence would be utilized. The permit was approved with special conditions, which required the following: 1) adherence to the geotechnical consultant's recommendations; 2) submittal of a drainage and runoff control plan; and 3) submittal of a landscaping plan. The primary issue addressed by the staff report was consistence with the geologic hazard policies of the Coastal Act.

B. Development Requiring Protective Devices

Section 30253 of the Coastal Act states, in pertinent part:

New development shall:

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

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

Development on a bluff is inherently risky due to the potential for bluff failure. Bluff development poses potential adverse impacts to the geologic stability of bluffs and the stability of residential structures. In general, bluff instability is caused by environmental factors and impacts caused by man. Environmental factors include seismicity, wave attack, drying and wetting of soils, wind erosion, salt spray erosion, rodent burrowing, percolation of rain water, poorly structured bedding, and soils conducive to erosion. Factors attributed to man include bluff oversteepening from cutting roads and railroad tracks, irrigation, over-watering, building too close to the bluff edge, improper site drainage, use of impermeable surfaces to increase runoff, use of water-dependent vegetation, pedestrian or vehicular movement across the bluff top and toe, and breaks in water or sewage lines.

1. Site Conditions and Geotechnical Recommendations

To address site-specific geotechnical issues, the applicant has submitted a *Geotechnical Investigation for Pool and Pool House Additions, 3317 Ocean Boulevard, Corona Del Mar, California.* prepared by Petra (Project No. J.N. 475-00) dated March 9, 2001. The primary objectives of the *Geotechnical Investigation* were: "*...to determine the nature of surface and subsurface soil and bedrock conditions, evaluate their in-place characteristics, and then provide geotechnical recommendations with respect to site grading, and for design and construction of building foundations and associated site improvements.*" The *Geotechnical Investigation* consisted of: a limited subsurface exploration, sampling of earth materials, lab testing and engineering analysis.

The *Geotechnical Investigation* states that the proposed development is located along the lower portion of the bluff and the toe of a coastal bluff that is situated on the northwestern margin of the San Joaquin Hills. The existing single family residence that is located at the top of the bluff is underlain by marine terrace deposits that overlie bedrock of the Miocene-age Monterey Formation. At the toe of the bluff, are mantled talus deposits that consist of a silty, fine-grained sand matrix with approximately 10 percent of cobbles and boulders. Relatively loose beach sand underlie the talus deposits. This beach layer overlies dark gray siltstone of the Monterey Formation.

With regards to slope stability, the *Geotechnical Investigation* states: "*Considering the overall favorable geologic conditions of the bluff, the consistency and density of the bedrock and the recommended installation of a permanent shoring system for the retaining wall proposed along the toe of the bluff* [to be discussed later], *it is our opinion that the proposed construction will not adversely affect the temporary or the long-term stability of the bluff. The well-cemented sandstone and favorable bedding conditions of the Monterey Formation exposed on the bluff face suggest that deep-seated failure of the bluff is unlikely.*" Consequently, the *Geotechnical Investigation* concludes: "*From a soils engineering and engineering geologic point of view, the subject property is considered suitable for the proposed construction provided the following conclusions and recommendations are incorporated into the design criteria and project specifications. Provided that grading and construction within the site are performed in accordance with the recommendations of this report, the proposed improvements are not expected to adversely impact the stability of the adjacent properties.*"

Although the *Geotechnical Investigation* states that the proposed project is feasible from an engineering perspective, the report discussed some major concerns of the proposed project. These concerns deal with the condition of the talus and beach sand deposits, the temporary and long term stability of the bluff and the structural clearance from the toe of the northeasterly retaining wall and the proposed pool house.

In regards to the talus and beach sand deposits and the temporary and long term stability of the bluff, the *Geotechnical Investigation* states that: "*The talus and beach sand deposits are unconsolidated and are not considered suitable for the support of the proposed foundations. Moreover, the talus deposits contain an excessive amount of oversized materials (e.g., boulders) that are unlikely to provide a uniform bearing surface. Foundations for the proposed structures should therefore be supported on bedrock or compacted fill.*" In addition, due to the poor bearing conditions of the underlying talus and beach sand deposits and the lack of adequate work space for the complete removal of talus deposits that are located behind the proposed northeasterly retaining wall without compromising the temporary stability of the bluff, the need for a permanent shoring system consisting of caissons along the toe of the bluff to provide greater flexibility to the site development is considered likely. This shoring system will consist of soldier piles made up of Steel "I" beams and wood or concrete laggings. The investigation goes on to say that such a shoring system can be incorporated into a permanent retaining structure.

The *Geotechnical Investigation* states that the structural clearance from the toe of the northeasterly retaining wall to the proposed pool house is not adequate. The clearance area does not conform to setback stipulations of the 1997 UBC. Furthermore, the report states: "*...the pool*

house may need to be relocated such that a minimum of one-half the total slope height (to a maximum of 15 feet) is maintained between the pool house and the toe of the proposed retaining wall. If this cannot be achieved, the owner of the property must apply for a waiver from the governing agency or responsible official." The applicant's agent has stated that this requirement does not pertain to the proposed development and that he would provide documentation that this requirement is not needed. No such documentation has been provided.

Although the *Geotechnical Investigation* stated that the condition of the talus and beach sand deposits, were major concerns with the proposed project, the *Geotechnical Investigation* still concluded that the construction of the proposed structures is feasible from the engineering perspective provided the applicant complies with the recommendations contained in the report. Recommendations include drainage facilities designed to intercept and collect surface flows that should be incorporated into final grading plans for the northeasterly retaining wall and the exterior concrete flatwork surrounding the pool and the pool house and all low density surficial deposits of beach sand and talus deposits within the building pad areas and within other areas to receive new fill will require removal to underlying competent bearing materials and replacement as properly compacted fill. Additional recommendations include those related to, site preparation, site drainage, structural design of foundation. In addition, the proposed project will consist of retaining walls and caissons. These retaining walls and caissons will serve as protective devices for the bluff (landform) and for the proposed structures.

Additionally, the consultant states that there are no known active faults or projections of active faults transecting the site and indicates that groundwater was observed on site. In response to groundwater observed on site as discussed in the *Geotechnical Investigation,* staff requested from the applicant review of the proposed project by the Regional Water Quality Control Board (RWQCB). The agent had stated that no such review is necessary because only loose dirt at the toe of the bluff is being disturbed. Thus, no review by the RWQCB has been submitted to staff.

2. Wave Uprush and Flooding Hazards

The subject site is located on a beachfront parcel in Corona Del Mar. Presently, there is sandy beach, a quarry stone revetment with vegetation and a wide sandy beach between the subject development and the ocean. According to the Wave Runup Study prepared by *Skelly Engineering* dated October 2001, the mean high tide line is approximately 250 feet from the seaward edge of the subject property. The shoreline fronting the site is located just to the east of the east jetty at the entrance to Newport Bay. The south jetty at the entrance of the bay acts to hold the beach in place, while the pair of jetties shelter the area from wave energy from the north and the west. There is little if any up coast and down coast movement of sand along the shoreline because the beach is isolated by the rocky headland to the southeast and the jetty to the northwest. There is little if any long term beach erosion at the site. The site is sheltered from waves arriving from the north and west by the jetties, but some wave energy from the south does reach the beach. The sandy beach in front of the subject site is normally 200 feet wide. The wide sandy beach and the revetment have protected the project site for the last several decades from wave uprush and flooding hazards.

To further analyze the suitability of the site for the proposed development relative to potential wave hazards, Commission staff requested the preparation of a wave run-up, flooding, and erosion hazard analysis, prepared by an appropriately licensed professional (e.g. coastal engineer), that anticipates wave and sea level conditions (and associated wave run-up, flooding, and erosion hazards) through the life of the development. For a 75 to 100 year structural life, the hazard analysis would need to take the 1982/83 storm conditions (or 1998 conditions) and add in 2 to 3 feet of sea level rise in order to determine whether the project site would be subject to wave run-up, flooding, and erosion hazards under those conditions. The purpose of this analysis is to determine the potential for future storm damage and any possible mitigation measures, which could be incorporated into the project design.

The applicant provided the *Wave Runup Study* prepared by *Skelly Engineering* dated October 2001 which addresses the potential of hazard from flooding and wave attack at the subject site. The report concludes the following:

"...[W]ave runup and overtopping will not significantly impact this property over the life of the proposed improvement. The proposed development will neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or adjacent area. There are no recommendations necessary for wave or wave runup protection. No shore protection is proposed or is necessary. The proposed project minimizes risks from flooding."

Although the applicant's report indicates that the site is safe for development at this time, beach areas are dynamic environments, which may be subject to unforeseen changes. Such changes may affect beach processes, including sand regimes. The mechanisms of sand replenishment are complex and may change over time, especially as beach process altering structures, such as jetties, are modified, either through damage or deliberate design. Therefore, the presence of a wide sandy beach and a revetment at this time does not preclude wave uprush damage and flooding from occurring at the subject site in the future. The width of the beach may change, perhaps in combination with a strong storm event like those which occurred in 1983, 1994 and 1998, resulting in future wave and flood damage to the proposed development.

3. Conclusion

Although the *Geotechnical Investigation* concludes that the proposed project is feasible from the engineering perspective, the Commission notes that, given sufficient engineering, virtually any project can be constructed. However, the requirements of Section 30253 of the Coastal Act establish the standard for evaluating the proposed development. Section 30253 prohibits new development that requires the use of protective devices that would substantially alter natural landforms along bluffs and cliffs. Consequently, the fact that a project could technically be built at this location is not sufficient to conclude that it is consistent with Section 30253 or that it *should* be undertaken. This proposed project would be incompatible with Section 30253 as it has **not** been sited and designed to prevent the use of protective devices (such as retaining walls and caissons), which would alter natural landforms. In fact the proposed development depends on grading the undeveloped slope and the use of protective devices for its construction. The impact of the proposed development on Scenic Resources will be discussed in the following Section.

The grading of the lower portion of the bluff and the toe of the bluff and installation of a subterranean caisson foundation system and retaining walls to serve as protective devices for the proposed structures at the subject site would result in substantial disturbance of the existing coastal bluff landform and would consist of protective devices in the bluff inconsistent with Section 30253 of the Coastal Act. Two retaining walls are proposed, one located along the western perimeter of the swimming pool and the other (considered the "northeasterly" retaining wall) at the rear of the pool house immediately beneath the bluff (Exhibit #5, page 2 of 2). These walls will vary from approximately 6 to 12 feet in height. The approximately 6 foot high retaining wall located along the western perimeter of the swimming pool will raise the proposed pad grade elevation to approximately 17 feet above mean sea level (6 feet above grade) in order to support the above ground swimming pool. Also, an approximately 5 foot high fence will be located at the southern property line. In addition, due to the poor bearing conditions of the underlying talus and beach sand deposits and the lack of adequate work space for the complete removal of talus deposits that are located behind the proposed northeasterly retaining wall without compromising the temporary stability of the bluff, anticipation of a permanent shoring system serving as a protective device consisting of caissons along the toe of the bluff to provide greater flexibility to the site development is considered likely. This shoring system will consist of soldier piles made up of Steel "I" beams and wood or concrete laggings and can be incorporated into a permanent retaining structure. New development requiring these construction features would thus be inconsistent with Section 30253 of the Coastal Act.

Due to the project's impact on coastal views and the alteration of natural land forms, possible project alternatives were requested from the applicant in order to find an approvable project that would limit impact on coastal views and alteration of natural landforms. No project alternatives by the applicant have been submitted to staff. An alternatives analysis conducted by staff has been provided on page 13 of this staff report.

Therefore, the Commission finds that the current proposed project is considered new development which is dependent on protective devices and landform alteration that is inconsistent with Section 30253 of the Coastal Act and must therefore be denied.

C. Scenic Resources

Section 30251 of the Coastal Act states, in relevant 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...

Section 30253 of the Coastal Act states, in relevant part:

5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

The City of Newport Beach Land Use Plan (LUP) was certified on May 19, 1982. Since the City only has an LUP, the policies of the LUP are used only as guidance. The Newport Beach LUP includes the following policies that relate to development at the subject site:

Development of Coastal Bluff Sites, Policy 2 (b) states,

Grading, cutting and filling of natural bluff face or bluff edges shall be prohibited in order to preserve the scenic value of bluff areas, except for the purpose of performing emergency repairs, or for the installation of erosion-preventive devices or other measures necessary to assure the stability of the bluffs.

The proposed project is located along a lower portion of a bluff face and the toe of a bluff immediately adjacent to Corona Del Mar State Beach. Because of its' location, the project site is highly visible from the sandy public beach. The pattern of development along this segment of Ocean Boulevard is such that structures are sited at the top of the bluff, while the bluff face remains largely undisturbed and vegetated. Although several lots have stairways traversing the bluff face and some have unpermitted development at the toe of the bluff (currently under investigation by the Commission's Enforcement staff), the overall appearance of the bluff in this area is natural and undeveloped. Development at this site, if approved, must be sited and designed to be visually compatible with the undisturbed character of the surrounding area. It is also necessary to ensure that new development be sited and designed to protect views to and along the beach area and minimize the alteration of existing landforms and seaward encroachment of development. The proposed project, as submitted, would be a significant new development encroaching seaward. This seaward encroachment also raises the concern over cumulative impacts if others propose to develop the coastal bluff face.

1. Landform Alteration & Community Character

The applicant is proposing to construct a pool house, pool, spa and exercise room on a lower portion of the bluff face down to the toe of the bluff. Construction also includes retaining walls, fences, a BBQ, trellis, iron gate, glass railing, drainline, concrete paving, steps, including the repair and modification of the existing stairs. Two retaining walls are proposed, one located along the western perimeter of the swimming pool and the other (considered the "northeasterly" retaining wall) at the rear of the pool house immediately beneath the bluff (Exhibits #4-7). These walls will vary from approximately 6 to 12 feet in height. The approximately 6 foot high retaining wall located along the western perimeter of the swimming pool will raise the proposed pad elevation to approximately 17 feet above mean sea level (6 feet above grade) in order to support the above ground swimming pool. Also, an approximately 5 foot high fence will be located at the southern property line. A total of 120 cubic yards of grading will take place. A total of 120 cubic yards of grading will take place. Grading will consist of 60 cubic yards of cut and 60 cubic yards of fill. This will be accomplished by grading the lower portion of the bluff and the toe of the bluff.

The cut will be used as backfill to establish a building pad for the pool and associated hardscape. Footings, slab on grade and a caisson foundation system will support the proposed structures. The proposed project will affect public views of the vegetated bluff from the adjacent public beach (Corona Del Mar State Beach), inconsistent with the pattern of development in the subject area. The Commission finds that the proposed project does not minimize alteration of natural landforms, is not visually compatible with the character of surrounding development and will affect the scenic and visual qualities of the subject area. As such, the proposed project is inconsistent with Section 30251 of the Coastal Act and the City's LUP policy regarding coastal bluff sites as discussed below.

a. Landform Alteration

The Coastal Act also requires new development to be sited to *"minimize the alteration of natural land forms."* The *Geotechnical Investigation* indicates that the proposed project would be located on a lower portion of the bluff face down to the toe of the bluff. The existing bluff is a natural landform visible from public vantage points such as the beach (Corona Del Mar State Beach) and Inspiration Point. Any alteration of this landform would affect the scenic views of the coastline when viewed from the State Beach and Inspiration Point. Also, the proposed project would have an adverse visual impact because instead of a natural vegetated bluff seen on the bluff face from the beach, an approximately 6 foot high retaining wall and an approximately 5 foot high fence would be visible along the lower portion of the bluff and the toe of the bluff from the beach. As such, new development at the subject site must be appropriately sited to minimize adverse effects to existing scenic resources. Thus, the proposed project is inconsistent with Section 30251 of the Coastal Act regarding scenic resources.

The City's LUP policy regarding coastal bluffs states that grading, cutting and filling of natural bluff face or bluff edges is prohibited in order to preserve the scenic value of the bluff area. Grading, cutting and filling are allowed though if it is for the purpose of performing emergency repairs or for the installation of erosion-preventive devices to assure the stability of the bluffs. The existing condition of the bluff is such that no protective devices are needed to secure the stability of the existing bluff, but the proposed project would necessitate the need for these protective structures that would then alter the natural land form and thus be inconsistent with the City LUP policy regarding coastal bluff sites. The proposed project would cause the alteration of natural land forms and would impact the coastal scenic views of the area thus violating the City's LUP policy on coastal bluff sites.

b. Stringline Analysis

Seaward encroachment of new development can often have adverse impacts on a variety of coastal resources. For example, the seaward encroachment of private development onto a beach can discourage public utilization of the beach. The seaward encroachment of structures can also have adverse visual impacts. In addition, the seaward encroachment of structures can increase the hazards that the new development will be subject to. Therefore, the Commission has often used either 1) City setbacks from the seaward property line; or 2) a string line evaluation to review seaward encroachment of development. If a stringline is used, two types of string lines are applied to evaluate a proposed project—a structural string line and a deck string line. A structural string line refers to the line drawn from the *nearest* adjacent corners of adjacent structures. Similarly, a deck string line refers to the line drawn from the nearest adjacent corners of adjacent decks. Setbacks and string lines are applied to limit new development from being built any further seaward than existing adjacent development. If not properly regulated the continued seaward encroachment of development can have a significant cumulative adverse impact on coastal resources.

The project site is located in a developed area where the overall appearance of the bluff is natural and undeveloped. Section 30251 of the Coastal Act states that permitted development shall be designed "*to be visually compatible with the character of the*

surrounding area." Therefore, proposed development must be compatible with its' surroundings. The plans submitted by the applicant show that the project conforms to the City zoning setback requirement of 10 feet, but conformance to the City required setback however does not address the potential impacts that the seaward encroaching development will have on the project site. Adhering to the City setback of 10 feet for development located at the toe of the bluff would not achieve the objectives of Coastal Act Section 30251. Section 30251 of the Coastal Act states that permitted development should minimize landform alteration, visual impacts and the cumulative adverse impact that would occur if other lots develop the bluff face.

Since the City's setback cannot be used to evaluate the potential impacts that the seaward encroaching development will have on the project site, the applicability of the structural and deck stringlines will be evaluated.

The existing home is located at the top of the bluff and is not part of the proposed project, therefore application of the structural stringline is unnecessary. Additionally, the homes adjacent to the northwest and southeast do not appear to have any decks which precludes establishment of a deck stringline. Also, the structure located at the toe of the bluff to the adjacent northwest appears to be unpermitted development that the Commission's Enforcement Staff is currently investigating. In addition, at the toe of the bluff to the southeast is unpermitted development. Unpermitted development cannot be used in order to conduct a proper stringline analysis. Therefore, the deck stringline cannot be applied with this project.

Though the application of the stringline cannot be applied with this project, the basis of the stringline is to prevent seaward encroachment of new development that can often have adverse impacts on a variety of coastal resources and the proposed project would encroach seaward. The existing homes at the top of the bluff form a line of development which establishes the community character and for limiting seaward encroachment. The proposed project would result in seaward encroachment and also a visible intensification of use of the site, inconsistent with the surrounding undeveloped area. Thus, the proposed project must be denied because it consists of seaward encroachment which would have adverse impacts on coastal resources and would violate Section 30251 of the Coastal Act.

c. Community Character

The proposed project would be incompatible with the surrounding development. Although several lots adjacent to the proposed project have stairways traversing the bluff face and some have unpermitted development at the toe of the bluff (currently under investigation by the Commission's Enforcement staff), the overall appearance of the bluff in this area is natural and undeveloped. The project site and the six (6) lots located (3329-3431 Ocean Boulevard) to the southeast and six (6) lots (3207-3309 Ocean Boulevard) to the northwest have bluff faces that are principally covered with vegetation (Exhibit #3).

Following the line of residential development further to the northwest along Breakers Drive are an additional thirteen (13) homes, which take their addresses from Breakers Drive. Of the thirteen (13) homes on Breakers drive, six (6) of the homes in the northwestern most stretch (3002-3036 Breakers Drive) constitute the limited area where development occurs over the majority of the bluff face (Exhibit #3). The Commission has recently approved Coastal Development Permit 5-00-452 (Cowan) for a residential development located at 3030 & 3030 ½ Breakers Drive, which is located within these six (6) homes where development occurs over the majority of the bluff face. Unlike the proposed development, which is immediately inland of the public beach, the Cowan (5-00-452) project is well setback from the ocean by a public sandy beach, an approximately 200 foot wide parking lot for Corona Del Mar State Beach, vegetation, a wall and Breakers Drive. The four (4) residential developments that are to the northwest of 3030 & 3030 ½ Breakers Drive and the one lot immediately southeast, consist of residential structures which start at beach level (toe of bluff) and cascade up the bluff face. Thus,

the new residential development at 3030 & 3030 ½ Breakers Drive would be in-fill development similar to the existing development in this limited area. The Commission approved Coastal Development Permit 5-00-452 (Cowan) and found that the specific location of the proposed development is in a limited area where bluff face development already exists and has been allowed by the Commission, but development on the bluff face is not routinely approved by the Commission because it raises concerns with Section 30251 and Section 30253 of the Coastal Act. Section 30251 of the Coastal Act states that permitted development should minimize landform alteration, visual impacts and the cumulative adverse impact that would occur if other lots develop the bluff face. Section 30253 of the Coastal Act states that new development should not contribute to significant erosion and geologic instability. Therefore, the Commission finds that the proposed project does not minimize alteration of natural landforms, is not visually compatible with the character of surrounding development and will affect the scenic and visual qualities of the subject area, which is inconsistent with Sections 30251 and 30253 of the Coastal Act.

The remaining seven (7) homes on Breakers Drive (3100-3200 Breakers Drive) are constructed at the toe of the bluff with only limited portions recessed into the bluff face (Exhibit #3). The bluff face above the residential units is principally covered with vegetation in contrast to the developments located along the bluff face to the northwest. In addition, these homes do not terrace up the bluff like the developments located to the northwest. As such, the proposed project would result in a visible intensification of use of the site, inconsistent with the surrounding undeveloped area.

The project site is immediately inland of Corona Del Mar State Beach. Corona Del Mar State Beach is a public beach, which serves as a very popular visitor destination point for recreational uses. Further southeast of the project site is a bluff park known as Inspiration Point and there is a public access way from Inspiration Point to the beach (Corona Del Mar State Beach) consisting of a concrete pathway, retaining wall and a grouted rock revetment. The location of the beach, bluff park and public access way makes this project area a unique and distinctive area in Newport Beach. The proposed project as stated previously is inconsistent with the surrounding undeveloped area. The proposed project is inconsistent with Section 30253 (5) of the Coastal Act because it does not protect the unique characteristics of the project area. By not protecting the unique characteristics of the project area, the proposed project is altering and adversely impacting the community character.

d. Cumulative Impacts

The proposed project does not conform to the existing pattern of development located on the bluff face, if allowed it would set a precedent for future development to encroach seaward in the subject area. Over time, incremental impacts can have a significant cumulative adverse visual impact. Applicants could begin to request construction on the bluff face and the site could eventually become a wall of buildings located on the bluff face, thus causing significant, cumulative adverse visual impacts. Currently, there are two additional applications for development in the subject area that are on the bluff face or toe of bluff that are seaward encroaching. An application has been submitted for the development of a residential structure on the bluff face on a lot that is approximately 200 feet southeast. Another application has been submitted for the after-the-fact-approval for a "sand pit" cut –out at the base of the bluff on private property on a lot that is approximately 60 feet southeast of the project site. The proposed project is located along a lower portion of a bluff face and the toe of a bluff immediately inland of Corona Del Mar State Beach, a public beach. The site is highly visible from the sandy beach. The pattern of development along this segment of Ocean Boulevard is such that structures are sited at the top of the bluff, while the bluff face remains largely undisturbed and vegetated. Although several lots have stairways traversing the bluff face and some have unpermitted development at the toe of the bluff (currently under investigation by the Commission's Enforcement staff), the overall appearance of the bluff in this area is natural and undeveloped. Approval of the proposed project would set a precedent for the construction of other development in the future along the bluff face and the toe of the bluff

that would significantly alter the natural land form and cause adverse visual impacts and encroach seaward. Scenic resources would not be preserved. Development at this site must be sited and designed to be visually compatible with the undisturbed character of the surrounding area. Therefore, the Commission cannot allow the proposed project to be constructed as submitted.

2. Conclusion

The Commission finds that the proposed project, as currently proposed, is not sited and designed to protect scenic and visual qualities of coastal areas. Denial of the proposed project would preserve existing scenic resources and would be consistent with preserving the existing community character where development occurs at the top of the coastal bluff. The alteration of the bluff would result in an adverse visual effect when viewed from public vantage points such as the beach and Inspiration Point. Allowing the proposed project would also lead to seaward encroachment of new development in an area where extensive unpermitted development has occurred that has encroached seaward and affected the community character. The Commission finds that the proposed project would result in the alteration of natural landforms and would not be visually compatible with the character of the surrounding area. Consequently, the proposed project would increase adverse impacts upon visual quality in the subject area. Therefore, the Commission finds that the proposed project is inconsistent with Section 30251 and Section 30253 of the Coastal Act and with the City's LUP policy regarding coastal bluff sites and must be denied.

D. Public Access

Section 30240 (b) of the Coastal Act states:

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 project site is located along a lower portion of a bluff face and the toe of a bluff on the seaward side of Ocean Boulevard, which is the first public road immediately inland of Corona Del Mar State Beach. The project site is highly visible from the sandy public beach. The pattern of development along this segment of Ocean Boulevard is such that structures are sited at the top of the bluff, while the bluff face remains largely undisturbed and vegetated. Although several lots have stairways traversing the bluff face and some have unpermitted development at the toe of the bluff (currently under investigation by the Commission's Enforcement staff), the overall appearance of the bluff in this area is natural and undeveloped. Public access is available directly seaward of the toe of the bluff at Corona Del Mar State Beach. Development at this site, if approved, must be sited and designed to be compatible with Section 30240 (b) of the Coastal Act. Section 30240 (b) of the Coastal Act states that development in areas adjacent to parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas. It is necessary to ensure that new development be sited and designed to prevent seaward encroachment of development that would impact public access to coastal resources. The proposed project, as submitted, would be a significant new development encroaching seaward.

The proximity of the proposed project to Corona Del Mar State Beach, a public beach, raises Coastal Act concerns, as it would be new seaward encroaching development that would discourage use of the public beach. South of the project site, at toe of the slope is a sandy beach, and further south of the project site property line is a quarry stone revetment with vegetation and a normally 200 foot wide sandy public beach. The proposed project would diminish the value of the beach for public use by discouraging public access to the beach through the presence of a six foot high retaining wall and approximately 5 foot high fence located at the southern end of the property, which is immediately inland of Corona Del Mar State Beach. The proposed wall and fence would be imposing structural features that would affect public use of the beach by discouraging the public from using the public beach area intended for public use adjacent to the retaining wall and fence. This would force the public to move more seaward and thus have an impact on public use of the beach. Thus, the proposed project would adversely impact public access to the public beach.

The Commission finds that the proposed project, as currently proposed, is not sited and designed to protect public access to coastal resources. Denial of the proposed project would preserve existing public access resources and would be consistent with preserving the existing community character where development occurs at the top of the coastal bluff. Allowing the proposed project would also lead to seaward encroachment of new development in an area where extensive unpermitted development has occurred that has encroached seaward and affected the community character. The Commission finds that the area in front of the development is a recreation area and that the proposed project would degrade that area and, by discouraging public use of the area, would be incompatible with Section 30240 (b) of the Coastal Act. Therefore, the Commission finds that the proposed project is inconsistent with Section 30240 (b) of the Coastal Act and must be denied.

E. Alternatives

Denial of the proposed project will neither eliminate all economically beneficial or productive use of the applicant's property, nor unreasonably limit the owner's reasonable investment backed expectations of the subject property. The applicant already possesses a substantial residential development of significant economic value covering much of the property. In addition, the applicant was requested to provide an alternatives analysis to find an approvable project that would limit impact on coastal views and alteration of natural landforms, but the applicant did not provide one. However, several alternatives to the proposed development exist. Among those possible alternative developments are the following (though this list is not intended to be, nor is it, comprehensive of the possible alternatives):

1. No Project

   The proposed pool is an accessory structure that is not necessary for full use of the property. No changes to the existing site conditions would result from the "no project" alternative. As such, there would be no disturbance of the bluff face or the toe of the bluff and no seaward encroachment of development. The bluff face would remain as an undeveloped vegetated slope and would be consistent with community character as development occurs at the top of the coastal bluff. The proposed six foot retaining wall and approximately 5 foot high fence, which would diminish the value of the public beach by discouraging public usage would not be built. This alternative would result in the least amount of effects to the environment and also would not have any adverse effect on the value of the property.

2. Remodeling of the Existing Home

   The proposed project entails construction of recreation facilities located on a lower portion of the bluff face down to the toe of the bluff. An alternative to the proposed project would be remodeling of the existing home located at the top of the bluff to allow for recreational facilities, such as an exercise room. This would accommodate the applicant's interest in adding these elements, but there would be no disturbance of the bluff face or the toe of the bluff. The bluff face would remain as an undeveloped vegetated slope and would be consistent with community character as development occurs at the top of the coastal bluff. The proposed six foot retaining wall and approximately 5 foot high fence, which would diminish the value of the public beach by discouraging public usage would not be built.

3. Demolishing and Rebuilding the Existing Home

   The proposed project entails construction of recreation facilities located on a lower portion of the bluff face down to the toe of the bluff. An alternative to the proposed project would be demolishing and rebuilding the existing home, consistent with the structural stringline, located at the top of the bluff to allow for recreational facilities, such as an exercise room. This would accommodate the applicant's interest in adding these elements, but there would be no disturbance of the bluff face or the toe of the bluff. The bluff face would remain as an undeveloped vegetated slope and would be consistent with community character as development occurs at the top of the coastal bluff. The proposed six foot retaining wall and approximately 5 foot high fence, which would diminish the value of the public beach by discouraging public usage would not be built.

F. Local Coastal Program

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

The City of Newport Beach Land Use Plan (LUP) was certified on May 19, 1982. Since the City only has an LUP, the policies of the LUP are used only as guidance. The Newport Beach LUP includes the following policies that relate to development at the subject site:

Public Access, Policy 4 states,

> *Public access in coastal areas shall be maximized consistent with the protection of natural resources, public safety, and private property rights.*

Development of Coastal Bluff Sites, Policy 2 (b) states,

> *Public Views. The location and design of a proposed project shall take into account public view potential.*

Development of Coastal Bluff Sites, Policy 2 (b) states,

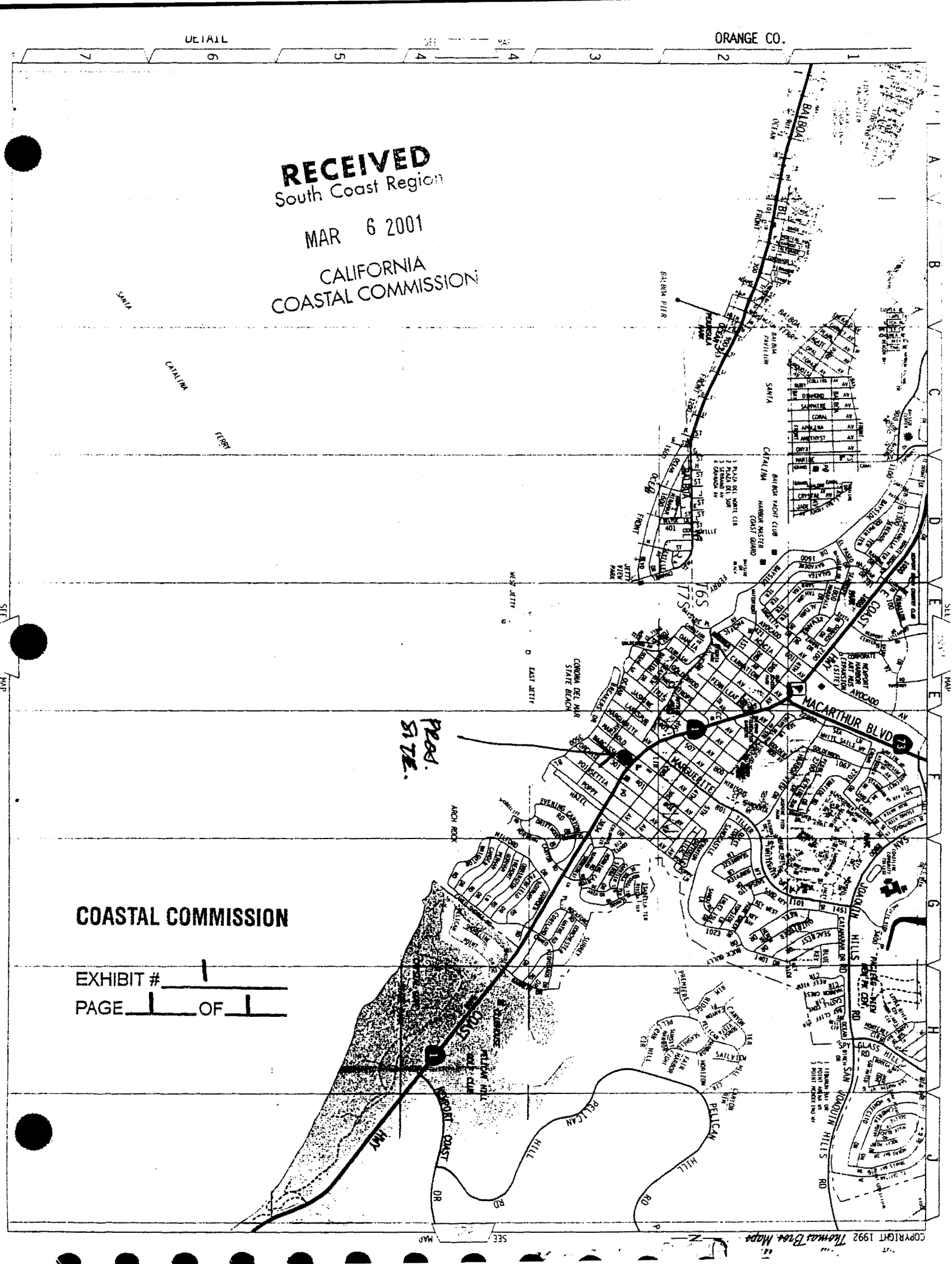
> *Grading, cutting and filling of natural bluff face or bluff edges shall be prohibited in order to preserve the scenic value of bluff areas, except for the purpose of performing emergency repairs, or for the installation of erosion-preventive devices or other measures necessary to assure the stability of the bluffs.*

The construction of the proposed project is inconsistent with the policies in the City's certified LUP as well as the Chapter 3 policies of the Coastal Act discussed previously, specifically Sections 30240, 30251 and 30253 of the Coastal Act. Development on the lower portion of the bluff face and the toe of the bluff would cause adverse impacts to the natural landform, the coastal scenic resources and public access, which is inconsistent with Sections 30240, 30251 and 30253 of the Coastal Act. Section 30240 of the Coastal Act states that development in areas adjacent to parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas and be incompatible with their recreational use. Section 30251 of the Coastal Act states that permitted development should minimize landform alteration, visual impacts and the cumulative adverse impact that would occur if other lots develop the bluff face. Section 30253 of the Coastal Act states that new development should not contribute to significant erosion and geologic instability. The proposed development would prejudice the City's ability to prepare a Local Coastal Program for Newport Beach that is consistent with the Chapter 3 policies of the Coastal Act, as required by Section 30604(a). Therefore, the project is found inconsistent with the policies in the City's certified LUP and the Chapter 3 policies of the Coastal Act and must be denied.

G. California Environmental Quality Act

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned 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.

As described above, the proposed project would have adverse environmental impacts. There are feasible alternatives or mitigation measures available, such as remodeling of the existing home to include recreational facilities that would substantially lessen any significant adverse impacts the activity may have on the environment. Therefore, the proposed project is not consistent with CEQA or the policies of the Coastal Act because there are feasible alternatives, which would lessen significant adverse impacts, which the activity would have on the environment. Therefore, the project must be denied.


DETAIL
ORANGE CO.
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South Coast Region
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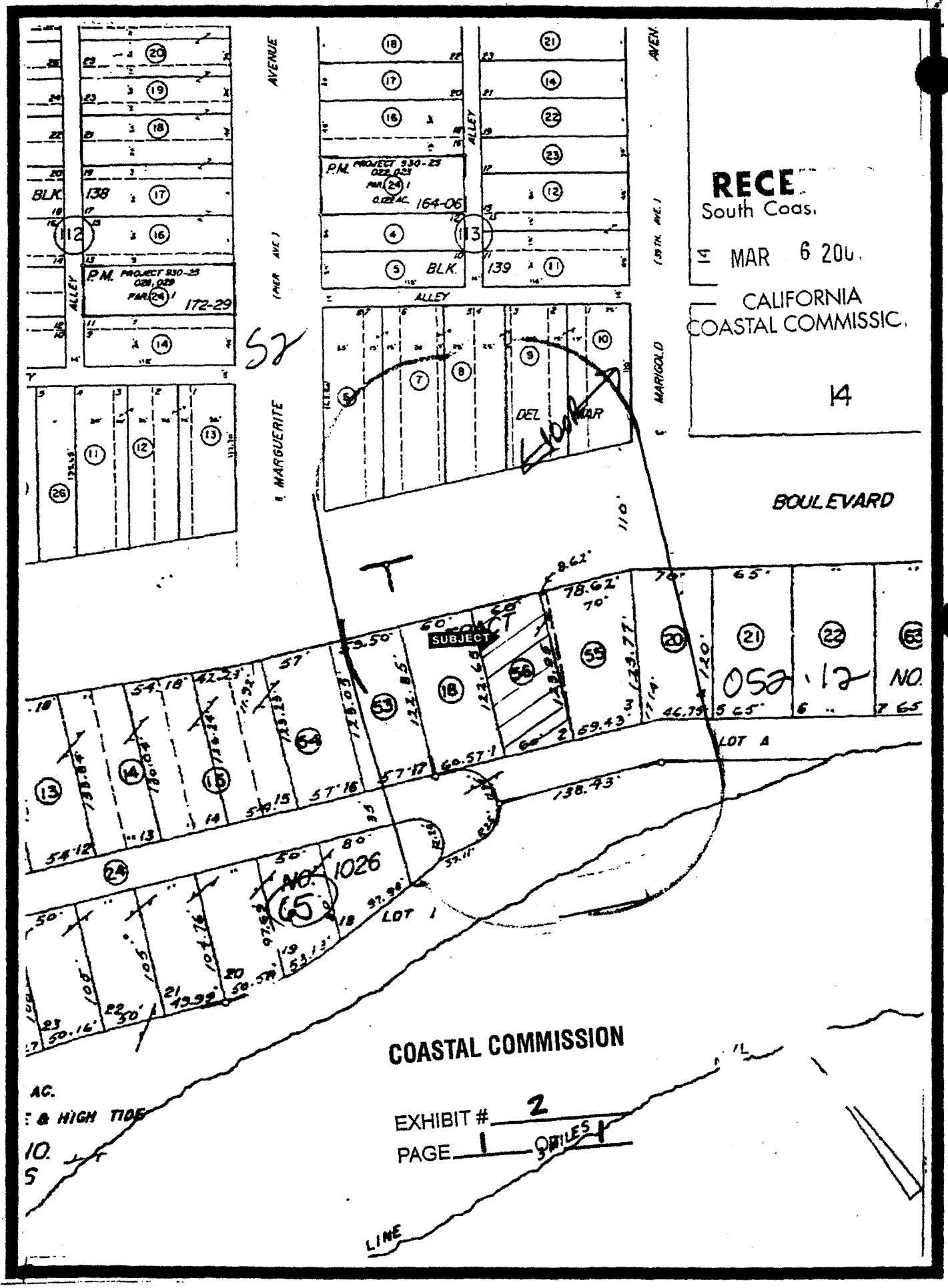
CALIFORNIA
COASTAL COMMISSION
COASTAL COMMISSION
EXHIBIT # 1
PAGE 1 OF 1
Proj. Site
MACARTHUR BLVD
PACIFIC COAST HWY
NEWPORT COAST DR
SAN JOAQUIN HILLS RD
PELICAN HILL RD
CORONA DEL MAR STATE BEACH
BALBOA
CATALINA FERRY
COPYRIGHT 1992 Thomas Bros. Maps



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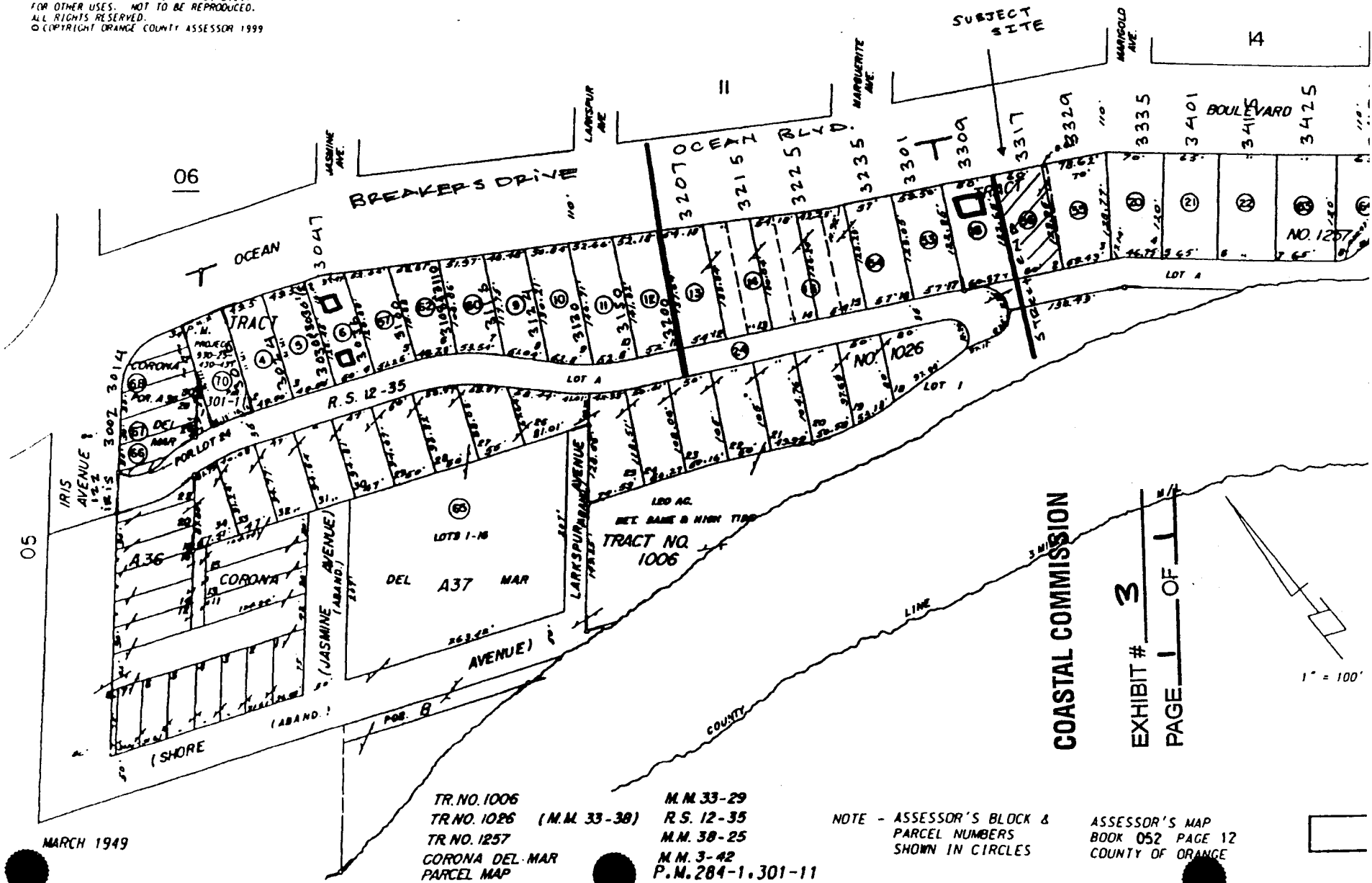
Ownership Map

052



COASTAL COMMISSION

EXHIBIT # 3

PAGE 1 OF 1

TR. NO. 1006
TR NO. 1026 (M.M. 33-38)
TR NO. 1257
CORONA DEL MAR PARCEL MAP

M.M. 33-29
R.S. 12-35
M.M. 38-25
M.M. 3-42
P.M. 284-1, 301-11

NOTE - ASSESSOR'S BLOCK & PARCEL NUMBERS SHOWN IN CIRCLES

ASSESSOR'S MAP
BOOK 052 PAGE 12
COUNTY OF ORANGE

MARCH 1949

JUL 26 2001

JUL 27 2001

F.S.

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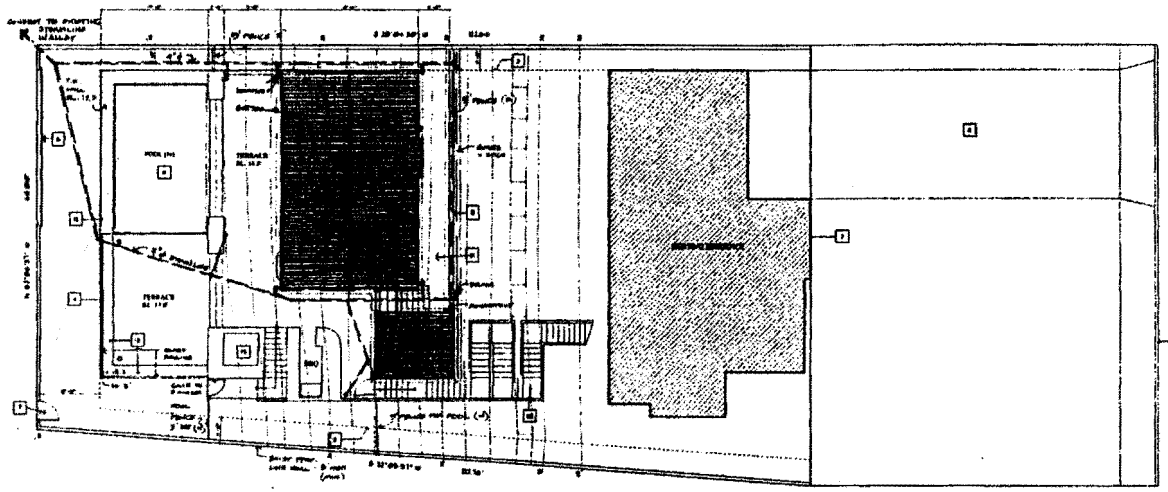
EXHIBIT # 4

PAGE 1 OF 1



SITE PLAN

1/8" = 1'-0"

BUILDING DATA	
EXISTING	3282.75 S.F.
GARAGE	423.00 S.F.
NEW POOLHOUSE	863.64 S.F.
TOTAL	4569.39 S.F.
MAX. BUILDABLE	5774.62 S.F. X 1.5 = 8661.93 S.F.

Site General Notes

Site Keynotes

Architect of Record

COOK/PETERS ASSOCIATES

31681 CAMINO CAPISTRANO, SUITE 104
SAN JUAN CAPISTRANO, CA 92675
949-661-9131 FAX 949-240-3851

Seal / Signature

Project:

POOL AND POOLHOUSE ADDITION TO
THE PALERMO RESIDENCE
3317 OCEAN BLVD.
NEWPORT BEACH
OWNER:
MR. SAL PALERMO

Revisions

No	Date	Revision
1		
2		
3		
4		
5		
6		

Date:

Job No.:

Association Submittal:

Bldg. Dept. Submittal:

Bid Issue:

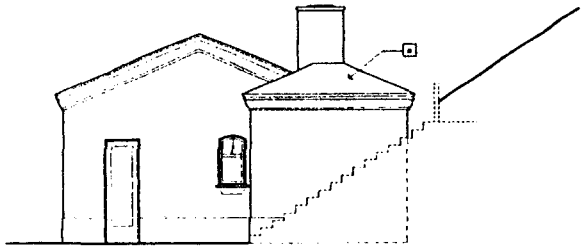
Construction Issue:

Sheet Title:

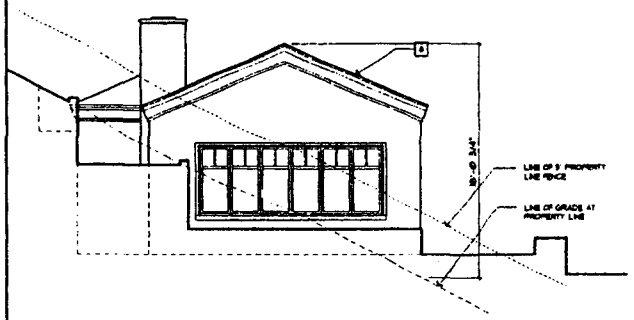
SITE PLAN

Sheet No.:

A - 1



EAST ELEVATION 1/4" = 1'-0"



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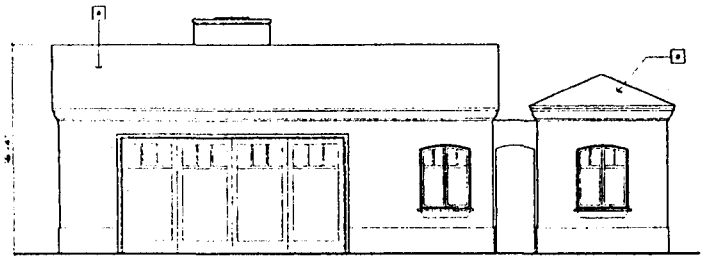
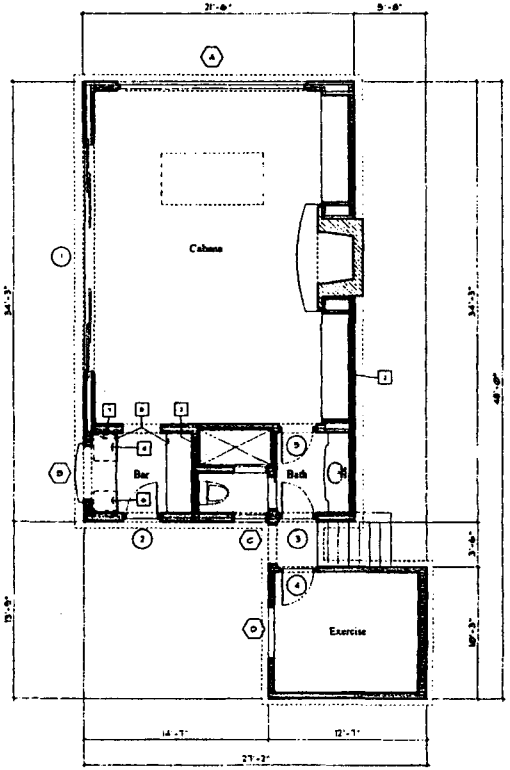


SOUTH ELEVATION 1/4" = 1'-0"



FLOOR PLAN 1/4" = 1'-0"

JUL 27 2001 F.S.

JUL 26 2001

COASTAL COMMISSION

EXHIBIT # 5

PAGE 1 OF 2

Floor Plan Keynotes

Wall Notes

Architect of Record:

COOK/PETERS ASSOCIATES

31681 CAMINO CAPISTRANO, SUITE 104
SAN JUAN CAPISTRANO, CA 92675
949-661-9131 FAX 949-240-3851

Seal / Signature:

Project:

POOL AND POOLHOUSE ADDITION TO

THE PALERMO RESIDENCE

3317 OCEAN BLVD.
NEWPORT BEACH

OWNER:
MR. SAL PALERMO

Revisions

No.	Date	Revisions
1		
2		
3		
4		
5		

Date:

Job No.

Architectural Submittal:

Bldg. Dept. Submittal:

Bid Issue:

Construction Issue:

Sheet Title:

PLANS
ELEVATIONS

Sheet No.

A - 2

CROSS SECTION A - A'

Scale: 1" = 8'

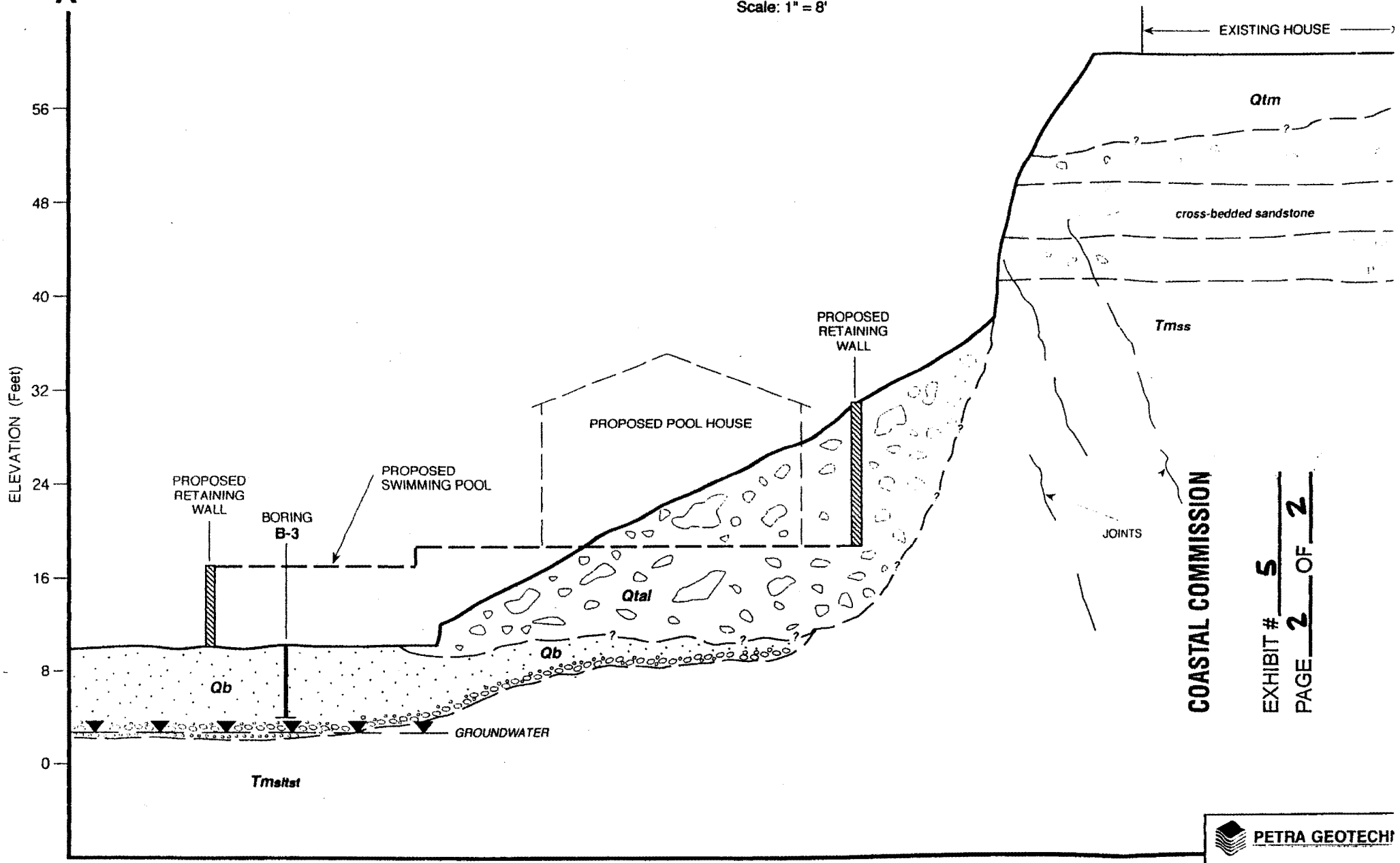


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EXHIBIT # 5

PAGE 2 OF 2

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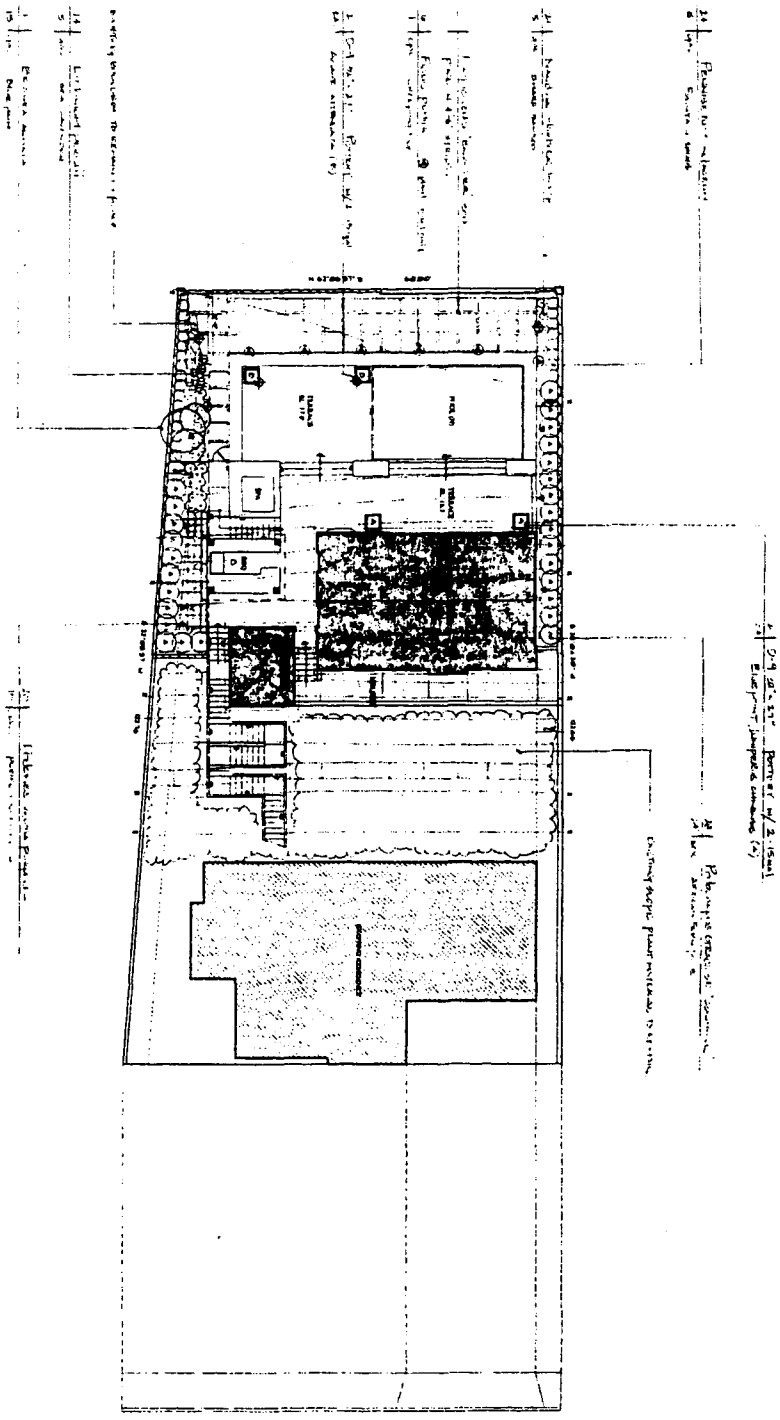
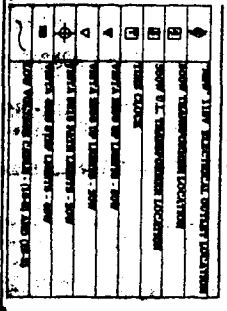


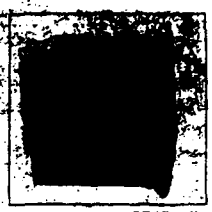
OCEAN BLVD.

LANDSCAPE PLAN

1/8" = 1'-0"

LIGHTING LEGEND





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POOL AND POOLHOUSE ADDITION TO
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NEWPORT BEACH
OWNER:
MR. SAL PALERMO

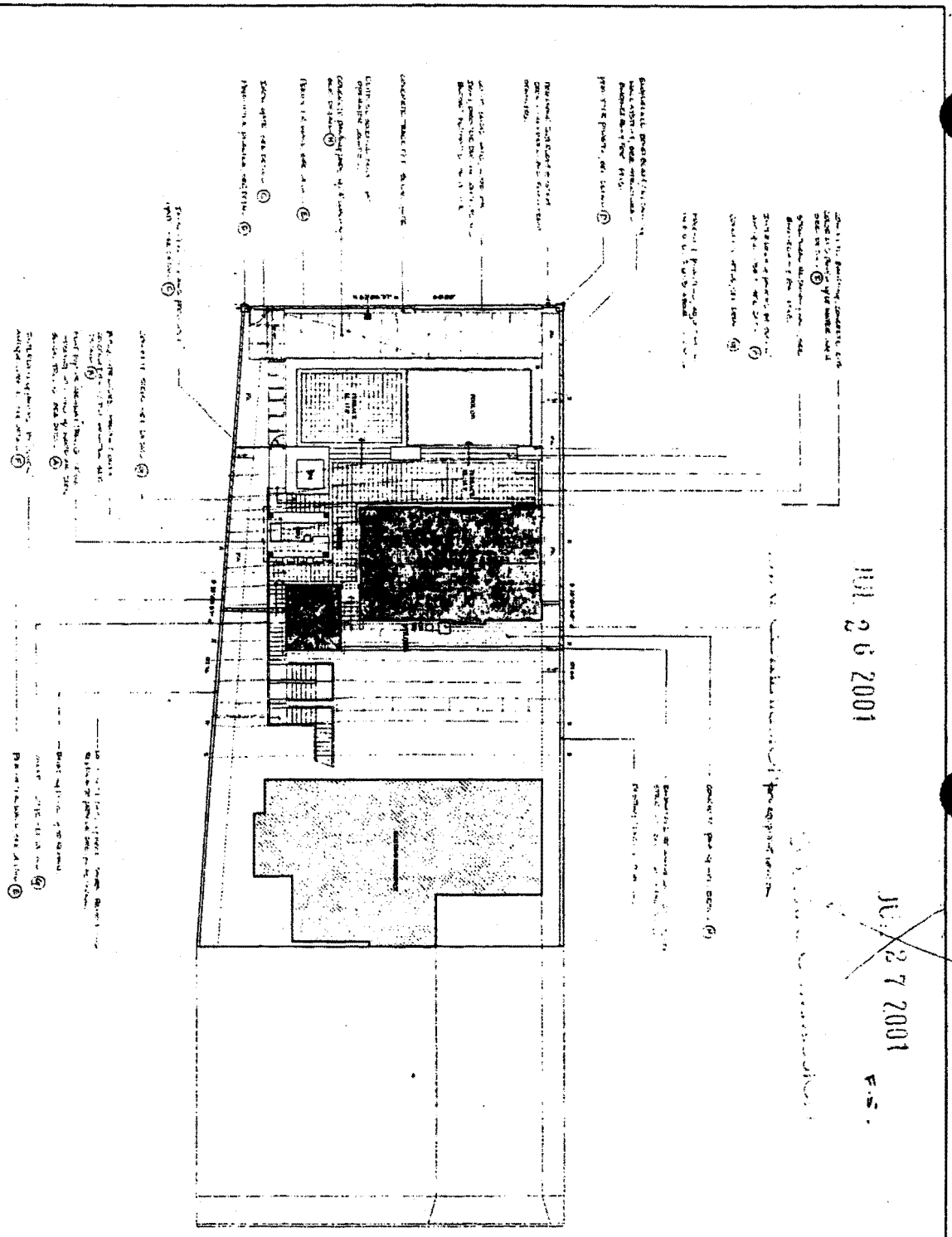
COOK/PETERS ASSOCIATES

LANDSCAPE PLAN

L - 1

HARDSCAPE PLAN

1/8" = 1'-0"



OCEAN BLVD.

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POOL AND POOLHOUSE ADDITION TO

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NEWPORT BEACH

OWNER:
MR. SAL PALERMO

COOK/PETERS ASSOCIATES

HARDSCAPE PLAN

L - 2