

Application for Appeal

Planning and Building Division

County Government Center • 590 Hamilton St. • Redwood City CA 94063
Mail Drop PLN 122 • 415 • 363 • 4161

- To the Planning Commission
- To the Board of Supervisors

1. Appellant Information

Name: Chris Tyler

Phone, W: 415 833 3437 H: 650 728 9601

Address: 2009 Vallemar St
Mass Beach
CA Zip: 94038

2. Appeal Information

Permit Numbers involved:
PLN 2004-00245

I hereby appeal the decision of the:

- Staff or Planning Director
- Zoning Hearing Officer
- Design Review Committee
- Planning Commission

made on 3/23 19 2005 to approve/deny the above-listed permit applications.

I have read and understood the attached information regarding appeal process and alternatives.

yes

no

Appellant's Signature:



Date:

4/11/05

Explanation of grounds for appeal of encroachment permit for the Sanitary Lift Station located at Niagara and The Strand, Moss Beach CA

Appellant:

Christopher Tyler and Amy Tezza
2009 Vallemar St
Moss Beach CA 94038

Grounds for Appeal:

1. County has authorized an encroachment into the right-of-way of The Strand which interferes with the development and/or maintenance of MINIMUM fire protection standards of our home.
 - a. Fire Protection and Emergency access requirements for our home at 2009 Vallemar Street, Moss Beach via Niagara and The Strand is a matter of record and has been settled before the San Mateo County Board of Supervisors (10/29/96) by unanimous vote and is specified in the FINAL NOTICE OF LOCAL DECISION on CDP 95-0046 (Excerpt below in italics.) #/
 - b. The BOS decision was reached after expert testimony by Chief Dave Eufusia and Captain John Ridell of the Montara Fire Protection District.
 - c. Chief Eufusia testified that the required dimensions of the access are as follows:

2. County has authorized an encroachment into the ROW of The Strand without a geotechnical report or proper oversight and review by the county geologist.
 - a. The proposed Lift Station and improvements encroach into the ROW and displace the driven way toward the advancing cliff face.
 - b. The cliff and the existing fire and emergency access are the subject of an extensive geotechnical report and cliff retreat study in connection with CDP 95-0046.
 - c. The cliff retreat study establishes that the cliff's edge will encroach into the 20 foot wide fire access *if* the driven way is forced into the westerly half of the right-of-way by the encroaching lift station.
 - d. Prior to presenting the proposal to the Planning Commission, County staffers and PW made no reasonable effort to review existing geotechnical reports and cliff retreat analysis or to consult the county geologist.
 - e. PW misrepresented the findings of the report immediately before the vote of only 3 Commissioners. Specifically, Mr. Bentley was asked to validate whether the previous geotechnical report addressed the area of the cliff adjacent to the lift station as this appellant had represented in oral and written submissions. Mr. Bentley inexplicably responded 'no.' It clearly does – Mr. Bentley would have known that if he had reviewed the reports.

3. Encroachment into the ROW should be allowed ONLY if it will not interfere with the fire access of our home for the foreseeable future (i.e. 50 years per LCP requirement that no development be allowed within the 50-year coastal retreat zone.)
 - a. County staff should visit the site and stake out the required dimensions of the MINIMUM fire access standards for our home as defined by the SMC BOS on 10/29/96. This exercise will make plainly evident the need for mitigating measures to slow cliff retreat and improve safety.

4. The system of streets (Niagara and The Strand) that form the fire, emergency, and vehicle access of our home have been overburdened by a long series of encroachments approved by the County Planning and Public Works without proper public and/or Coastal Commission review.
 - a. In 1993 the County Planning refused to enforce the limitations placed on a Coastal Development Permit for 101 Niagara by allowing a huge encroachment into the right-of-way.
 - i. Applicant Williams (101 Niagara) made claim to Fee ownership of Niagara St and submitted site plans that falsified the location of the property boundaries. (Attachment to follow)
 - ii. The applicant constructed encroachments 20' into the Niagara ROW and disrupted the grade of the remaining 20'.
 - iii. Public Works found that the construction within the ROW violated the applicants permits and REFUSED to sign off.
 - iv. Rather than requiring the removal of the encroachments, Planning Administrator Terry Burns issued the following order: (12/17/93)
"If any of the reviewing agencies concerned with these issues are reluctant to sign off the final inspections, I am delegating Bill Rozar, Development Review Manager, to do so at the appropriate time."
 - v. After final approvals applicant Williams asserted complete control of the roadway, summoned police to have this appellant arrested for 'trespassing' and barricaded the road with chain posts.
 - vi. Chief David Eufusia, Point Montara Fire Protection District, properly notified Mr. Rozar and the SMC Planning Dept.
"It is no longer possible for our emergency vehicles to pass the point at which the retaining wall extends into the street... The wall and fence must be removed from the street and the

- b. In 1996 the Sanitary District enlarged and/or expanded the size of the lift station encroachment without any notification to this homeowner.
- c. In 2003 Public Works authorized a 6' high, 15' wide, and 100' long encroaching slope into Niagara St. to replace the court-ordered removal of previous encroachments. (Of note, the applicant misrepresented their intention to completely remove all materials within the right-of-way and install a retaining wall to the SMC PC during the public permit processing of a request for a new garage while privately arranging the new encroachment with no retaining wall through closed channels with the Dept. of Public Works.) This new encroachment caused non-centered alignment of the driven way, eliminated all useful roadside for parking or evasive maneuvers and created a dangerous north shoulder. Drainage changes were allowed that discharge surface and foundation drainage from 101 Niagara onto Niagara Street. The current condition of the road AFTER the above work was completed does NOT comply with the fire access standards as defined by the BOS in 1996 (specifically with respect to the dimensions of the hammer-head turn-around and the provision for off-pavement parking.) Planning Staff have conceded to me that the failure to require a CDP for this work was an error.
- d. In 2004 Public Works improperly allowed the Sanitary District to exceed the scope of its permits to install an underground electrical line down the Niagara R.O.W. The re-routed sewer force main up Niagara which is the subject of THIS permit has already been installed during the placement of a permitted electrical service. This permissive violation of the original permit demonstrates the County's willingness to bypass a formal, public and rigorous review process.

6. Sanitary District maintains a hostile attitude towards access rights of this appellant.
 - a. The Sanitary District took an extraordinary stand against our legal access rights during our 1995 permit process.
 - b. The permits should be conditioned with a roadway maintenance agreement and a provision for revocation of the encroachment permit in the event that the Fire Marshall finds the encroachments hinder our fire access consistent with the requirements set forth on 10/29/96 by the BOS.

7. I requested the following considerations to mitigate against the dangers inherent to this encroachment:
 - a. Close proximity of the driven way to the cliff resulting from the encroaching lift station poses a reasonable danger to vehicles or pedestrians: appropriate safety improvements should be installed.
 - b. Reasonable and prudent measures should be taken to slow cliff retreat to reduce future compromise of the fire access if the encroachment is to be allowed.
 - i. Erosion control measures including non-permeable surface and appropriate drainage were required under our permit CDP 95-0046 immediately West of 101 Niagara to address cliff retreat concern of the county Geologist, Jean DeMouthe.
 - ii. The cliff at the base of Niagara is subjected to excessive and unnatural run-off from the roadway: this runoff should be directed elsewhere to slow an excessive erosion stress.
 - iii. The access will eventually require cliff face protective measures (i.e. rip-rap) if measures are not taken to slow retreat to accommodate both fire access and sanitary district encroachment.

#/

Excerpt:

NOTICE OF FINAL LOCAL DECISION

*Coastal Development Permit (File No. CDP 95-0046)
2009 Vallemar Street, Moss Beach (APN 037-085-060)*

Based on the information provided by staff and evidence presented at this hearing, the Board of Supervisors upheld your appeal and approved the Coastal Development Permit (CDP 95-0046) by making the findings and subject to the conditions which follow:

Department of Public Works

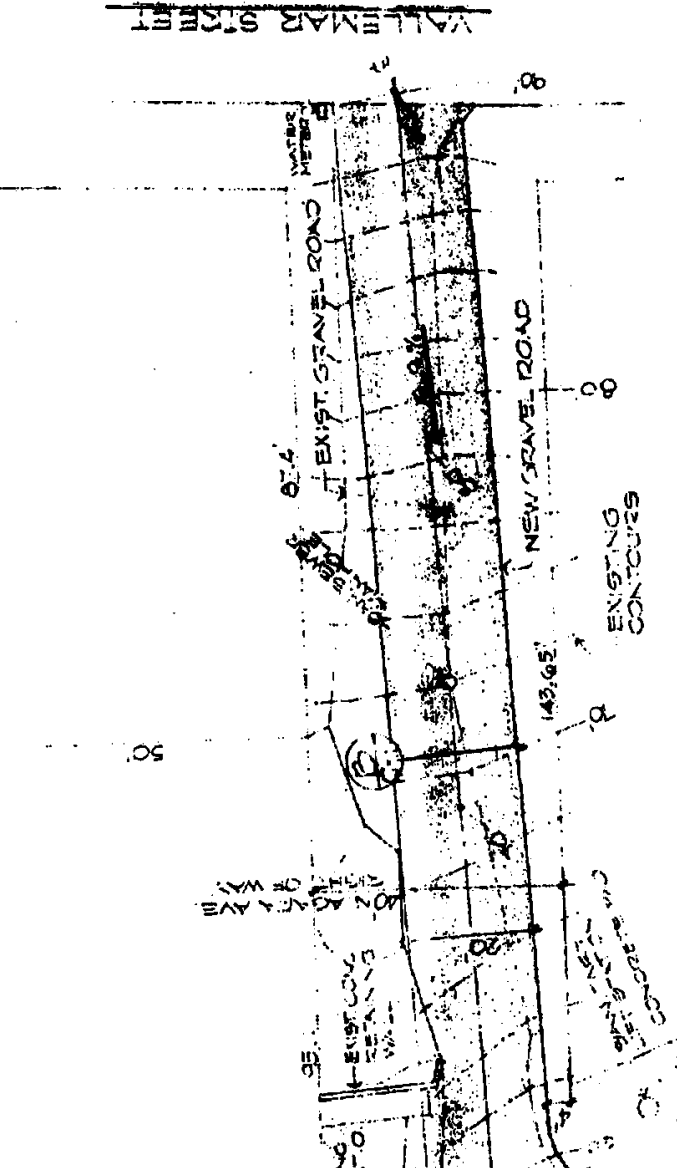
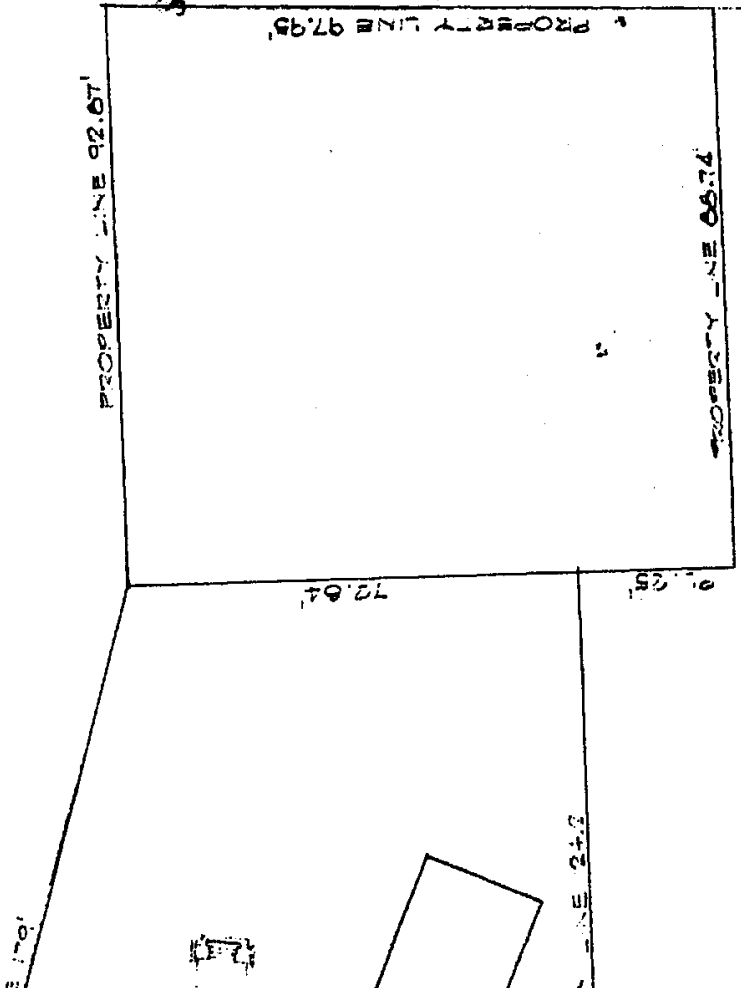
17. The applicant shall demonstrate, to the satisfaction of the Department of Public Works and the appropriate Fire District or Fire Marshal, that the existing road access from the nearest "publicly" maintained roadway to the building site meets or exceeds the County's or Fire District's minimum standards (whichever is more stringent) for an "access roadway," including provisions for handling both the existing and the proposed drainage. The applicant must also demonstrate that an appropriate turnaround, meeting Fire Marshal's requirements, exists or can be provided.

18. Should the above plan for access not meet the County's or Fire Marshal's minimum standard for "safe and adequate," the applicant shall have designed, by a registered civil engineer, and the applicant shall construct or upgrade the existing access to meet this standard. Said roadway shall be a minimum of 20 feet wide and shall show specific provisions and details for handling both the existing and the proposed drainage. Roadway grades shall not exceed 15%. These plans for access shall also meet all conditions and requirements of the appropriate fire jurisdiction, including, but not limited to, the construction of a turnaround.



NEW ACCESS ROAD PLAN
 1" = 20'

JOB COPY
 TO REMAIN ON
 SITE AT ALL TIMES



VALENTINAR STREET

Geotechnical Consultant to observe and approve all applicable work.



**POINT MONTARA
FIRE PROTECTION DISTRICT**

501 Stetson, Moss Beach, California 94038 • (415) 728-3022 • FAX (415) 728-1823

January 23, 1995

Mr. Bill Rozar
Development Review Manager
San Mateo County Environmental Management
Planning and Building Division
County Office Building
590 Hamilton Street
Redwood City, CA 94063

Dear Mr. Rozar:

Recently I became aware of changes Mr. Dell Williams made to Niagara Street in Moss Beach. We use that street for emergency access to properties on both sides of the street and to the property on the Strand just north of the Williams' property, 101 Niagara Street. The property just north of 101 Niagara Street, to my knowledge, has an address of 2009 Vallemar.

Mr. Williams has built or extended a wall approximately 20 feet into Niagara Street and

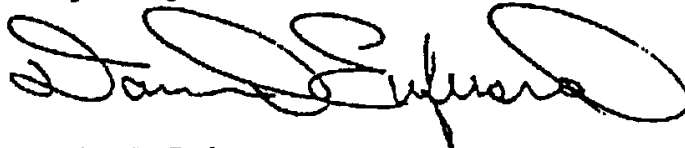
Mr. Bill Rozar
January 23, 1995
Page Two

In any case, roadway changes that affect our access must be approved by the Fire District. We have not received nor approved any plans for the changes that have occurred to Niagara Street.

I understand that your office has the responsibility and authority to affect the changes the Fire District needs to Niagara Street.

Please contact me as soon as possible so that we may resolve this problem.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "David Eufusia". The signature is fluid and cursive, with a large loop at the end.

David Eufusia
Chief



POINT MONTARA
FIRE PROTECTION DISTRICT

501 Stetson, Moss Beach, California 94038 • (415) 728-3022 • FAX (415) 728-1823

March 20, 1995

Mr. Del Williams
101 Niagara Street
Box 598
Moss Beach, CA 94038

RE: Emergency Vehicle Access on Niagara Street

Dear Mr. Williams:

Counsel has advised me that the hearing on March 15, 1995, did not produce a resolution in your case with Mr. Tyler over Niagara Street and the Strand. In fact the case has been continued for one year. As you know, emergency access to the area is of prime concern to the Fire District.

Regardless of the outcome of the lawsuit something must be done now to improve emergency vehicle access on Niagara.

While a permanent solution is preferable, a temporary solution is necessary so that we have vehicle access to the end of Niagara Street. I am aware of your concerns and I appreciate your willingness to work with the District, as stated in your letter of February 5, 1995, and our phone conversation.

MONTARA SANITARY DISTRICT

of San Mateo County • Montara - Moss Beach

A Public Agency

P.O. Box 370131
Montara, CA 94037

(415) 728-3545

FAX (415) 728-8556

February 5, 1996

Andy Gustavson
Planning Section
Environmental Services Agency
COUNTY OF SAN MATEO
County Government Center
Redwood City, CA 94063

RE: CDP 95-0046, 2009 Vallemar, Moss Beach

Dear Andy,

We have reviewed our previous comments to the "Referral of Planning Permit Application for Review and Recommended Conditions of Approval" dated November 10, 1995 and would like to add some additional concerns. There is a high potential of accelerated damage or giving way of the cliff caused by construction vehicles traveling within the Strand area and later use of that area by regular access coming from and leaving the residence as well as the danger of loss of life caused by vehicles driving over the cliff. Therefore, access of construction vehicles and a driveway entrance should not be allowed on the Strand area.

The District has a sewer pipe that extends from the Niagara Pump Station to the Montara Pump Station along the Stand. Any damage to this pipe caused by or accelerated by allowing vehicles to drive over it should be paid by the property owner. The District's easement for this pipe should be recognized as a condition to granting access to that area if the County, against District request, allows the Stand to be used for access to the property. A \$50,000 bond should be required to insure that any damage caused to the District's underground force main or electrical service caused during construction would be paid for by the property owner. In addition, if the District constructs a sewer

Memorandum to Andy Gustavson dated February 5, 1996

Page 2

In summary, the following additional conditions should be placed on this proposed development:

a. Owner clearly assumes any liability resulting from using the Stand area during construction or as access to the property.

b. A \$50,000 bond is required during construction and for one year thereafter to pay the District for any damage done to District sewer lines or electrical service.

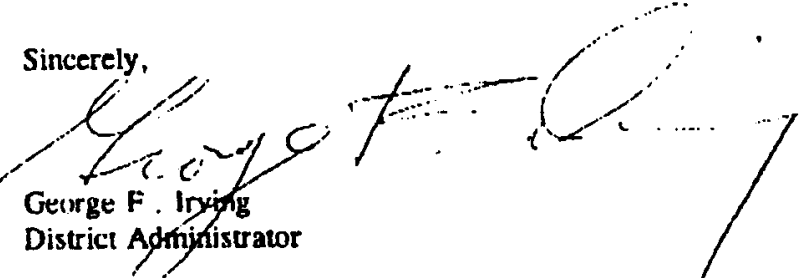
c. Property owner must recognize and/or provide an easement to the District's sewer line, electrical service and other District property in the Stand area.

d. If in the future the District constructs a sewer line along Vallemar, the owner must agree to connect into that line at their own expense and pay for and maintain any pumping system required by the District to use said sewer line.

e. In the event the owner does not obtain a Remodel Permit from the District prior to demolition, subject property will be assigned a fixture unit count of five (5).

If you have any questions please contact me at 728-3545.

Sincerely,



George F. Irving
District Administrator

San Mateo County Environmental Services Agency

Planning and Building Division

County Government Center - 590 Hamilton St. - Redwood City CA 94063
Mail Drop 55RC1-00 - 415 - 363 - 4161

Application for Appeal

- To the Planning Commission
- To the Board of Supervisors

FAX 363-4849
Per Terry Burnes on 8/12, 1993,
No Fee Required on this Appeal

1. Appellant Information

Name: Montara Sanitary District

Address: 8888 Cabrillo Highway

Phone, W: 728-3545 H: _____

~~Post Office Box 370131~~
Montara California Zip: 94037

2. Appeal Information

Permit Numbers involved:

VAR 92-0004, CDP 92-0018,

DSR 92-0049

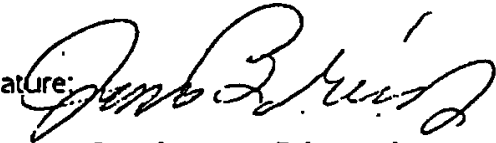
i have read and understood the attached information regarding appeal process and alternatives.

- yes
- no

I hereby appeal the decision of the:

- Staff or Planning Director
- Zoning Hearing Officer
- Design Review Committee
- Planning Commission

Appellant's Signature: _____



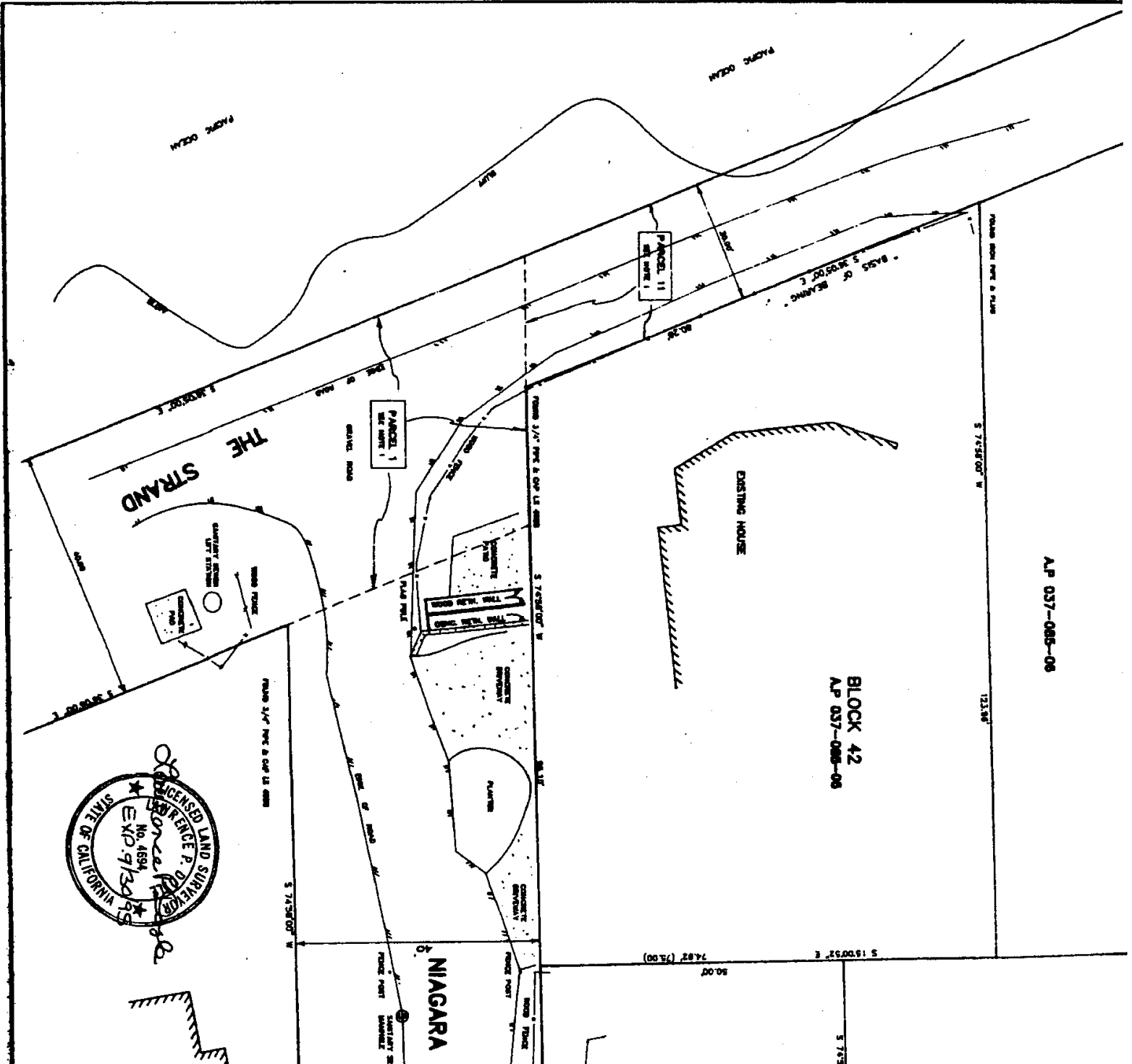
For Montara Sanitary District

Date: August 12, 1993

made on August 5, 1993 to approve/~~deny~~
the above-listed permit applications.

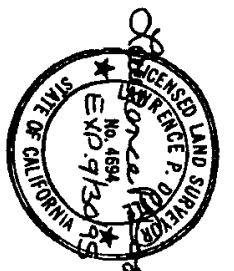
3. Basis for Appeal

Planning staff will prepare a report based on your appeal. In order to facilitate this, your precise objections are needed. For example: Do you wish the decision reversed? If so, why? Do you object to certain conditions of approval? If so, then which

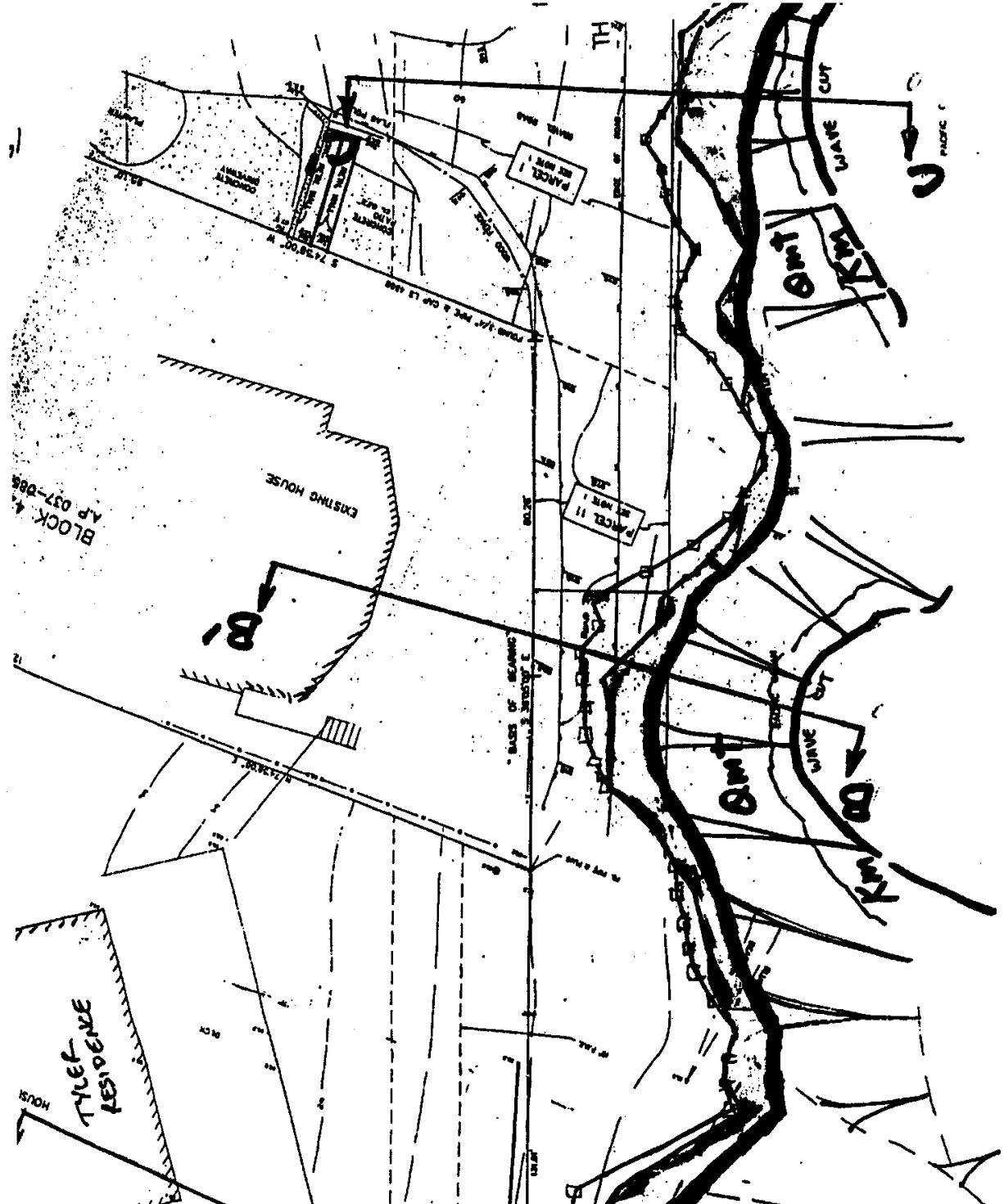


A.P. 037-086-06

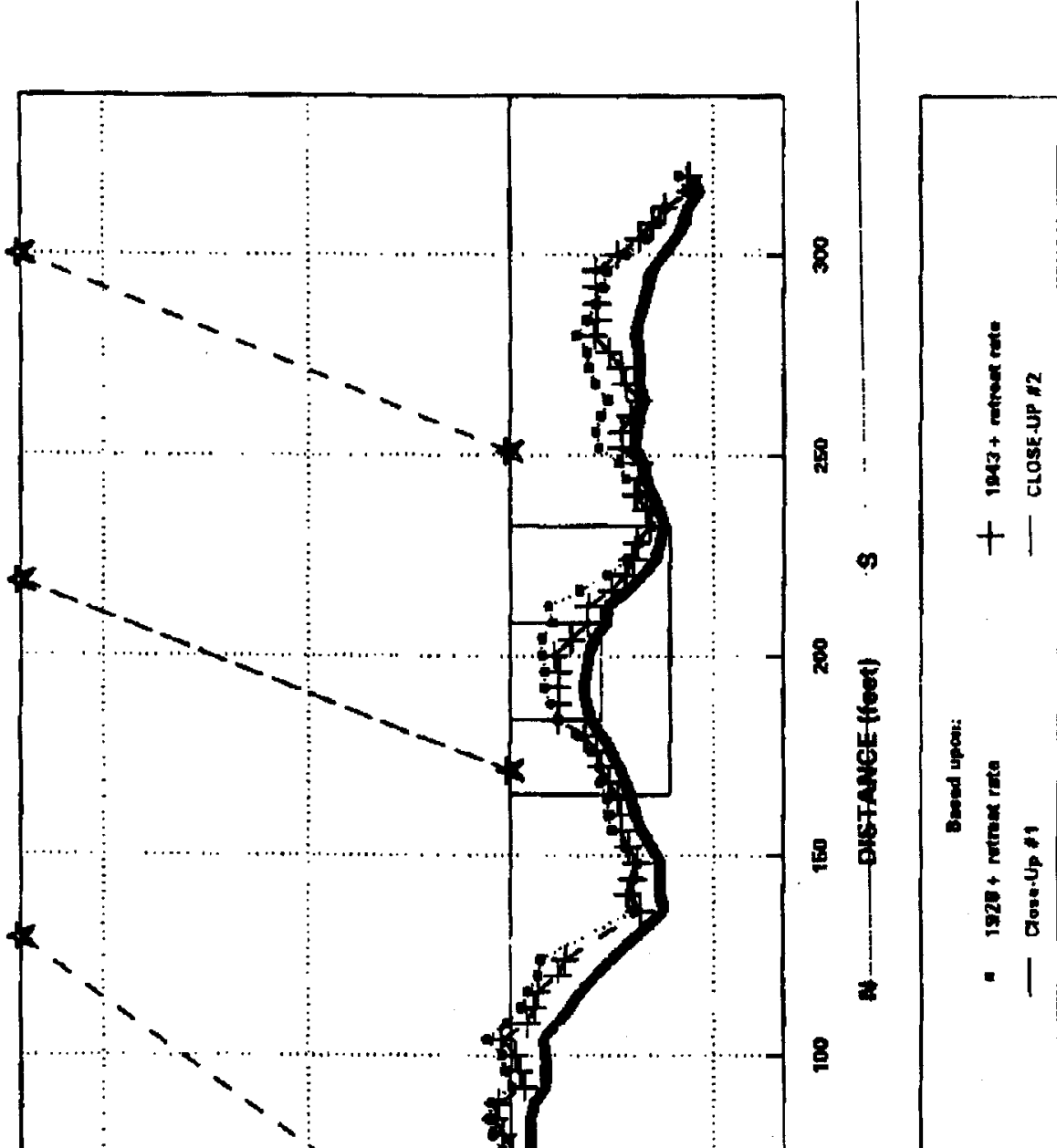
BLOCK 42
A.P. 037-086-06



NIAGARA



SHOWING PROJECTED TOP OF SEA CLIFF IN 50 YEARS (Year 2045) along The Strand (INDEX OF CLOSE-UPS)



BAKER - CEG

Consulting Engineering Geology

2768 Longford Drive

San Jose, California 95132-2235

(408) 272-4054 FAX (408) 272-4094

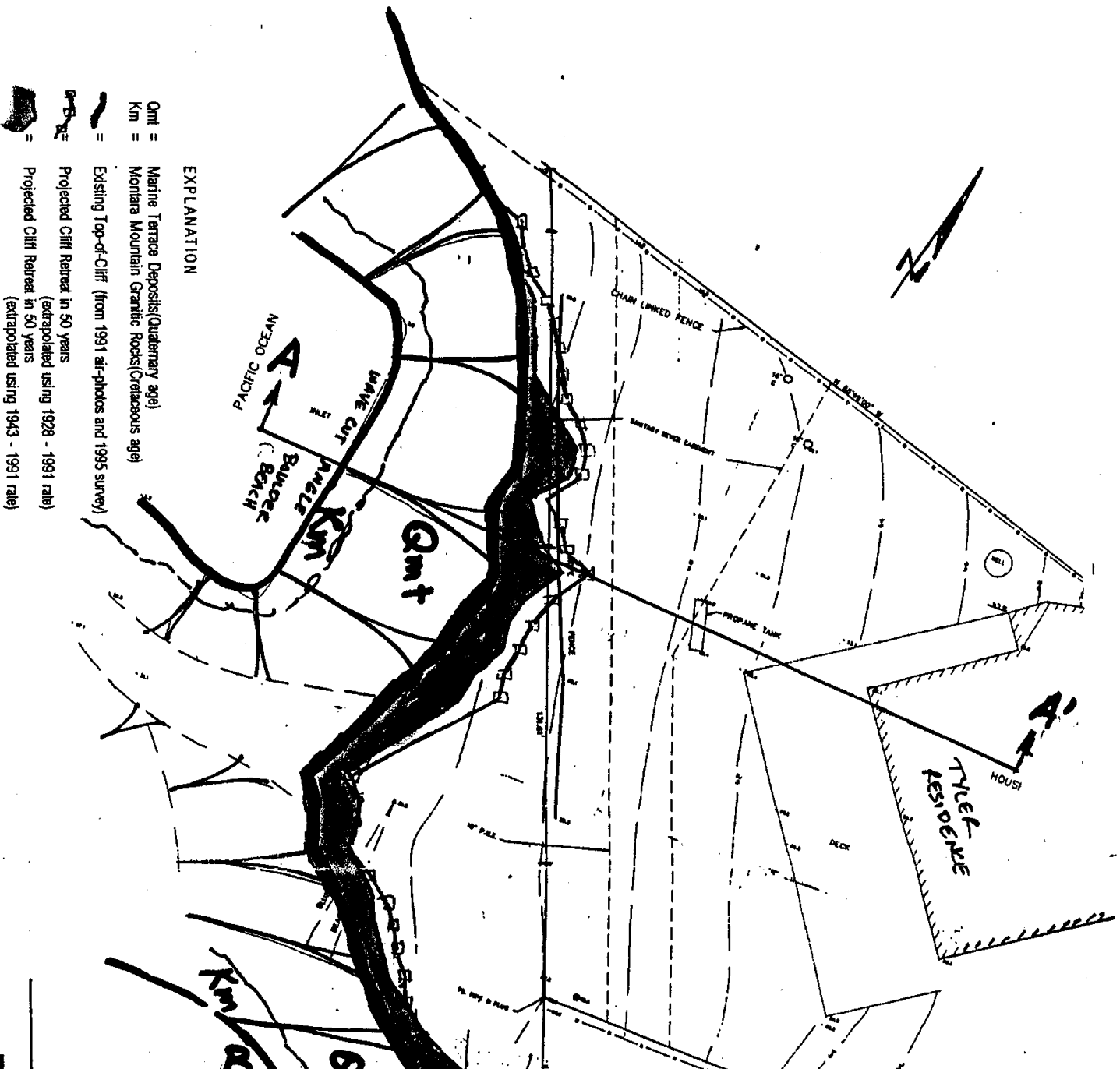
MEMORANDUM

DATE: December 2, 1995

TO: Dr. Chris Tyler and Dr. Amy Tezza
 199 Quintara Drive
 San Francisco, CA 94116

Subject: **ADDENDUM TO GEOLOGIC EVALUATION OF SEA CLIFF RETREAT**
 (Correction/Revision of Plots and New Figures)
 Potential Effects on Proposed Residential Access
 2009 Vallemar Street
 (at The Strand and near Niagara Avenue)
 between Moss Beach and Montara
 San Mateo County, California

Via this memorandum, I am reissuing all of the figures that are in Appendix B of my report dated November 27, 1995. In addition, I have prepared four new figures (a site map and 1)

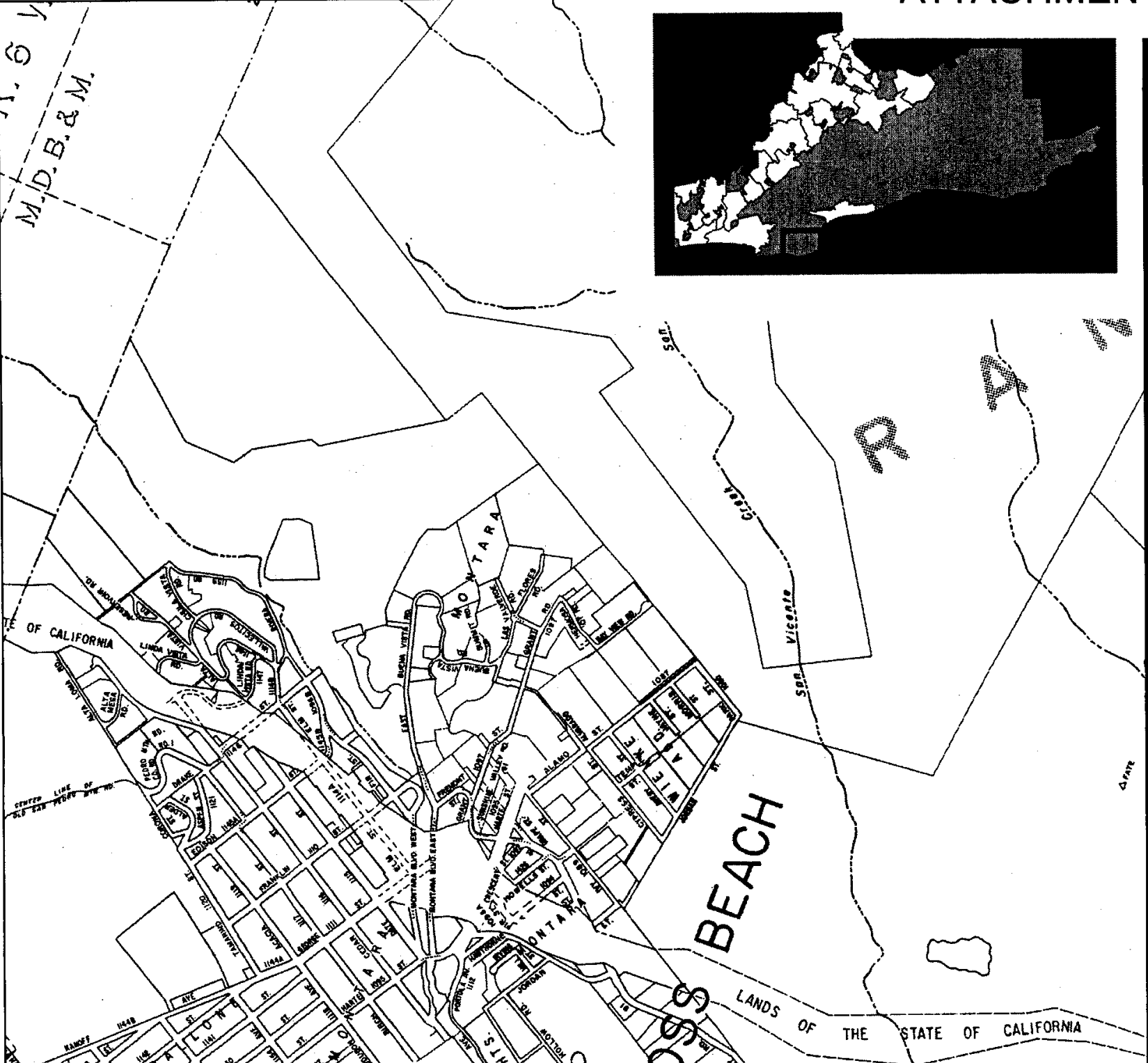
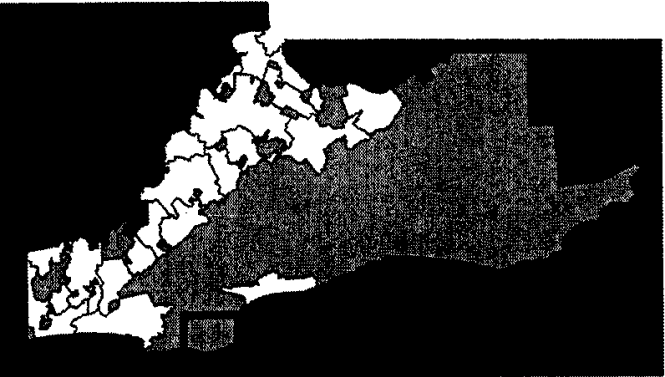


EXPLANATION

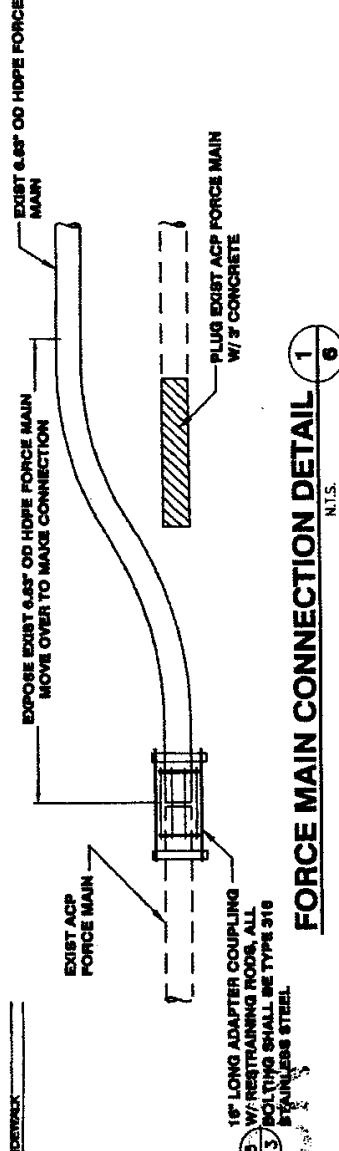
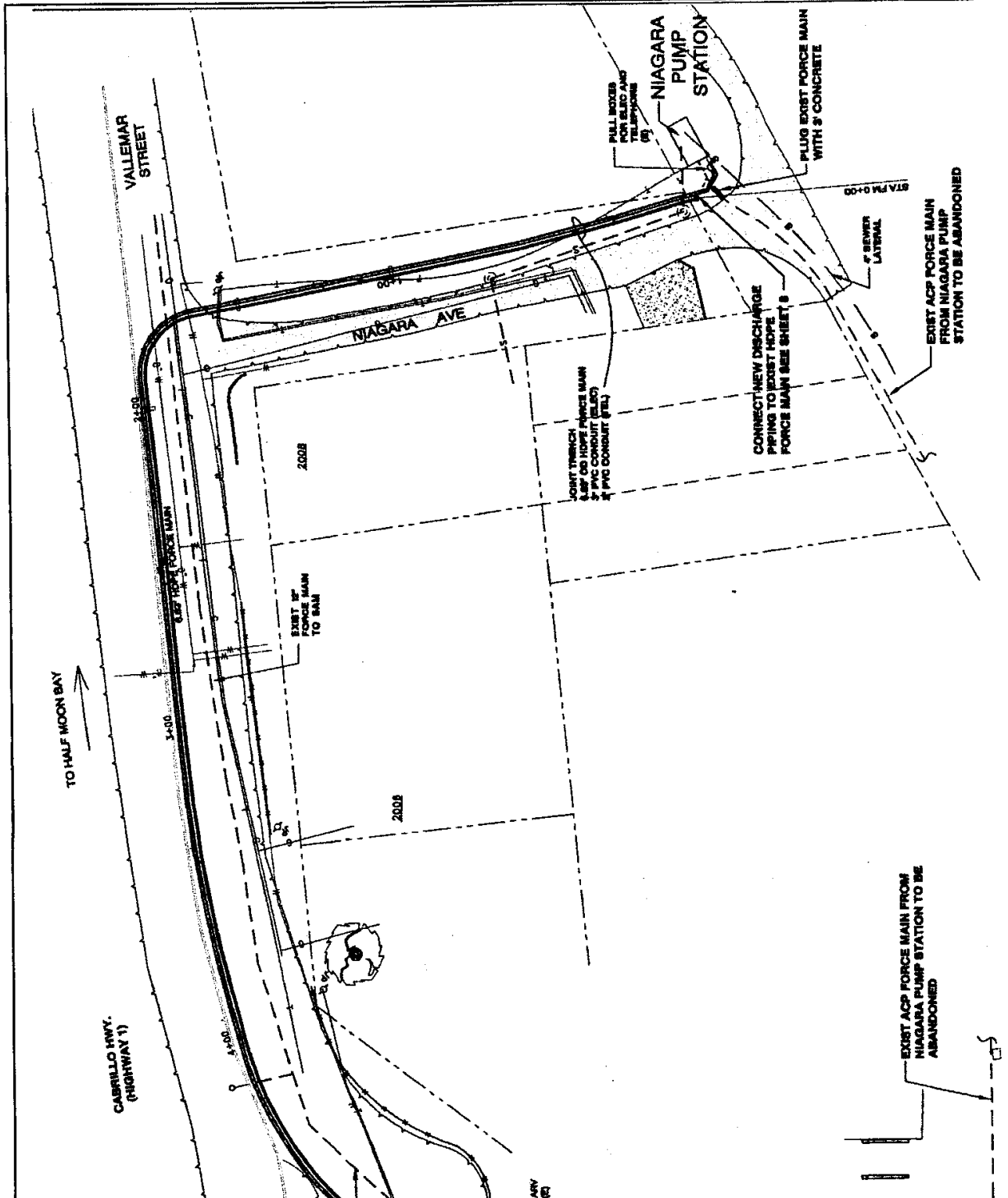
- Qmt = Marine Terrace Deposits(Quaternary age)
- Km = Montana Mountain Granitic Rocks(Cretaceous age)
- = Existing Top-of-Cliff (from 1991 air-photos and 1995 survey)
- = Projected Cliff Retreat in 50 years (extrapolated using 1928 - 1991 rate)
- = Projected Cliff Retreat in 50 years (extrapolated using 1943 - 1991 rate)

SCALE: 1" = 20'
 SOURCE: Anrig-Doyle; 1994 and 1995

ATTACHMENT D



Public Works Meeting
City Council District



FORCE MAIN CONNECTION DETAIL 1
N.T.S.

ors Meeting
tary District

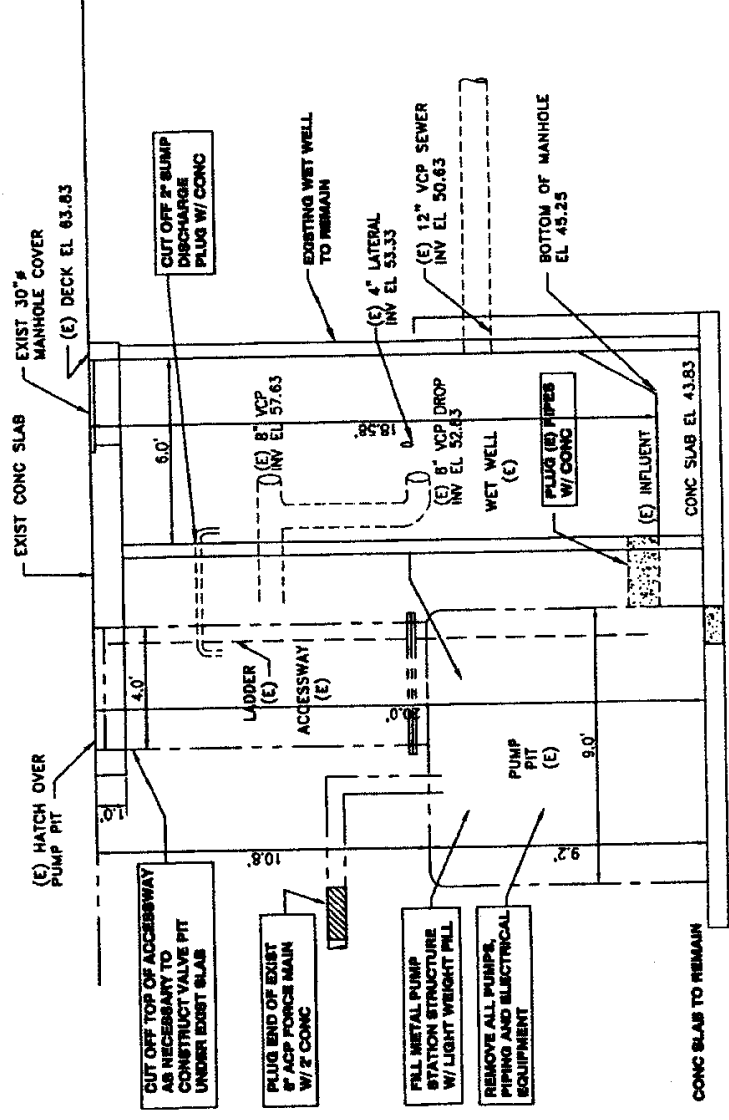
E-1

TEMPORARY PUMPING NOTES - SEE SPECS

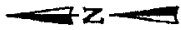
1. SAM WILL OPERATE THE EXISTING PUMP STATION UNTIL THE THIRD PUMP AND ALL PIPING AT THE VALLEMAR PUMP STATION HAS BEEN INSTALLED AND IS IN OPERATION. THE CONTRACTOR MAY THEN COMMENCE CONSTRUCTION OF THE NIAGARA PUMP STATION IMPROVEMENTS. THE CONTRACTOR SHALL ALLOW SAM VEHICLE ACCESS FOR MAINTENANCE WHILE THE EXISTING STATION IS IN OPERATION.
2. THE NIAGARA PUMP STATION SERVES 22 HOMES WITH AN ESTIMATED DAILY FLOW DURING DRY WEATHER OF 4000 GALLONS, PROVIDING FLOW DOES NOT COME IN FROM THE VALLEMAR PUMP STATION. WHEN VALLEMAR PUMP STATION IS OUT OF OPERATION THE FLOW WILL COME THROUGH THE NIAGARA PUMP STATION.
3. IN ORDER TO TAKE THE EXISTING PUMP STATION OUT OF OPERATION OR SEVER ANY UTILITY LINES, THE CONTRACTOR SHALL MAKE TEMPORARY CONNECTIONS FROM THE 4" AND 8" SEWERS TO THE 12" SEWER AND STORE SEWAGE IN THE 12" SEWER FOR PERIODS OF TIME NOT TO EXCEED 8 HOURS. AT THE END OF 8 HOURS THE PLUGS SHALL BE RELEASED AND THE SEWAGE SHALL BE PUMPED OUT, EITHER TO A TANK TRUCK OR THROUGH THE EXISTING FORCE MAIN. DURING WEEKENDS OR DAYS NOT WORKED ALL SEWAGE SHALL BE PUMPED THROUGH THE EXISTING FORCE MAIN.
4. THE CONTRACTOR MAY USE THE ELECTRICAL POWER FROM THE EXISTING UNDERGROUND SERVICE CONDUIT FROM THE MONTARA PUMP STATION FOR ANY TEMPORARY PUMPS. THE CONTRACTOR SHALL NOTIFY SAM 48 HOURS IN ADVANCE OF PLANNED WORK ON THE ELECTRICAL SERVICE.
5. THE CONTRACTOR SHALL INSTALL A HIGH WATER ALARM IN THE MANHOLE WITH THE TEMPORARY PUMPS AND PROVIDE AN AUTOMATIC DIALER WITH A TELEPHONE LINE TO SAM. THE CONTRACTOR SHALL RESPOND TO ALL ALARMS UPON NOTIFICATION BY SAM.
6. IF RAW SEWAGE PUMPING CANNOT BE PROVIDED FOR ANY REASON, THE CONTRACTOR SHALL PROVIDE A TANK TRUCK TO PUMP OUT SEWAGE AND CONTAIN ANY SPILLS (SEE SPECS). DISCHARGE OF ANY RAW SEWAGE TO WATER COURSES OR THE OCEAN IS STRICTLY PROHIBITED.

DEMOLITION NOTES:

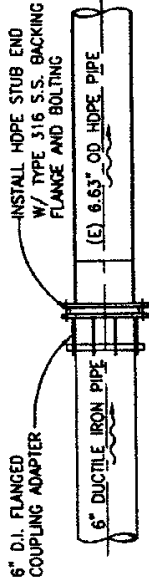
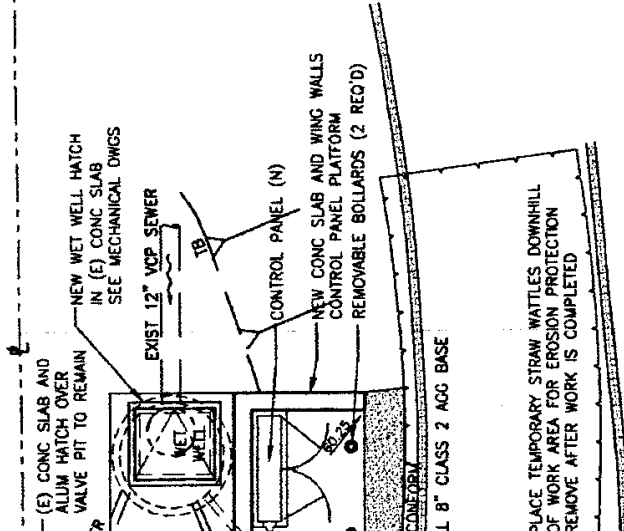
1. THE CONTRACTOR SHALL CAREFULLY REMOVE ALL MOTORS, PUMPS, VALVES AND OTHER ELECTRICAL AND MECHANICAL EQUIPMENT SELECTED BY SAM FOR SALVAGE AND DELIVER THEM TO THE DISTRICT YARD. ALLOW SAM TWO (2) WORKING DAYS TO REMOVE SENSITIVE EQUIPMENT.
 2. ALL UNSALVAGED EQUIPMENT AND DEMOLITION DEBRIS SHU BE DISPOSED OF AT A LEGAL DISPOSAL SITE.
 3. REMOVE ALL METAL BOLTS, ETC., PROJECTING FROM THE REMAINING CONCRETE SLAB AND GRIND SMOOTH.
 4. ANY ACP (ASBESTOS CEMENT PIPE) WHICH IS REMOVED SHU BE PROPERLY DISPOSED OF AT A LEGAL DISPOSAL SITE.
- SAM = SEWER AUTHORITY MID-COASTSIDE
PHONE 800-728-0124.



SECTION A
SCALE: 3/8" = 1'-0"
7



JOINT TRENCH
 6" OD HDPE
 4" E MAIN
 4" PVC CONDUIT
 2" PVC CONDUIT

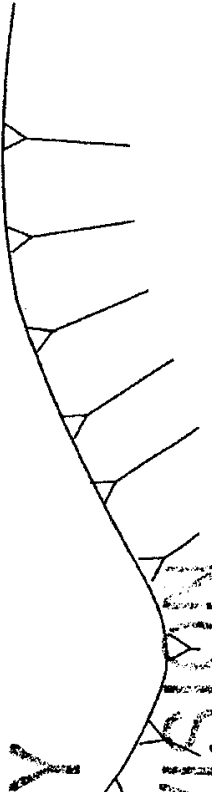


DI - HDPE CONNECTION

N.T.S.

1

B



visors Meeting

itary District

E-3