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CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Filed: 6/5/97
 49th Day: 7/24/97
 180th Day: 12/2/97
 Staff: MHC
 Staff Report: 8/20/97
 Hearing Date: 9/9-12/97
 Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 4-97-097

APPLICANT: Robert Newlon

AGENT: Robert Newlon

PROJECT LOCATION: 3550 Las Flores Canyon Road, Malibu

PROJECT DESCRIPTION: Repair existing concrete/gabion bank protection along Las Flores Canyon Creek.

Lot area: 2.7 acres
 Building coverage: 0.02 acre
 Pavement coverage: 0.10 acres
 Landscape coverage: 0.30 acre
 Zoning: Residential
 Plan designation: Residential
 Ht abv natural grade: 8 feet

LOCAL APPROVALS RECEIVED: City of Malibu Geology and Environmental Health Review (4/15/97)

SUBSTANTIVE FILE DOCUMENTS: Application File 4-97-097

SUMMARY OF STAFF RECOMMENDATION: Staff is recommending approval of the proposed project with four (4) special conditions addressing (1) waiver of liability; (2) receipt of a permit from the U.S. Army Corps of Engineers; (3) receipt of a California Department of Fish and Game stream alteration agreement; and (4) revised plans providing for a bank stabilization design which incorporates a combination of post-and-wire gabion and native plant materials.

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 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 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 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. Assumption of Risk

Prior to the issuance of the coastal development permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (1) that the applicant understands that the site may be subject to extraordinary hazard from land slides, erosion, or flooding and the applicant assumes the liability from such hazards; and (b) that the applicant unconditionally waives 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. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens which the Executive Director determines may affect the interest being conveyed, and free of any other encumbrances which may affect said interest.

2. U.S. Army Corps of Engineers 404 Permit

Prior to the issuance of the permit for the project, the applicant shall provide the Executive Director of the Commission with a valid 404 Permit from the U.S. Army Corps of Engineers for the proposed project.

3. California Department of Fish and Game Stream Alteration Agreement

Prior to issuance of the permit for the project, the applicant shall provide the Executive Director of the Commission with a copy of a valid 1600 stream alteration agreement between the applicant and the California Department of Fish and Game for the proposed project.

4. Bio-engineered Plans

Prior to the issuance of a coastal development permit for the project, the applicant shall provide for the review and approval of the Executive Director, a set of revised plans that provide for the stabilization of the to-be-protected bank of Las Flores Creek which incorporates bio-engineering techniques. This plan shall use a combination of post and wire gabion, in lieu of shot-crete, and native riparian plant materials.

IV. Findings and Declarations.

A. Project Location and Description

The proposed project would be located along the east bank of Las Flores Canyon Creek approximately one mile upstream of the mouth of the creek. The site is developed with a single family residence situated approximately 100 feet above the creek bed and is threatened by the continued lateral erosion of the creek channel which has the potential to reduce the size of the buildable portion of the lot and undermine the foundations of the residence. (See Exhibits 1 through 4.)

The east bank has stabilized with a combination of a grouted rip-rap at the creek channel bottom, and a second tier of post-and-wire gabion filled with rock from the local area. As a result of channel degradation, the grouted rip-rap has been undermined and is threatened by continued erosion. (See Exhibit 5)

The applicant originally proposed to fill in the eroded cavity at the base of the existing grouted rip rap with small boulders and shot-crete the surface. After consultation with the Commission staff, the applicant has agreed to revise his original plan to reduce the intrusion of the existing bank slope protection, and to incorporate bio-engineering techniques to stabilize the erodible bank and provide additional aesthetic and biological benefits.

The revised project project elements consist of: (1) trimming the existing grouted rip-rap back to reduce the existing intrusion into La Flores Creek; (2) establishing a post and wire gabion along the full length of the rip rap; (3) back filling the post and wire gabion with a combination of rock, willow cuttings, and other bio-degradable materials; (4) refurbishing the existing post and wire gabion which is situated on top of the rip rap by removing the rock and dirt material, and back filling the post and wire gabion with a combination of rock, willow cuttings, and other bio-degradable materials.

B. Coastal Issues

1. Hazards

PRC Section 30253 provides, in part, that:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The proposed project would be located along the east bank of Las Flores Creek which is subject to periodic flood and debris flows. The site is developed with a single family residence situated on a ridge approximately 100 feet above the creek bed and is threatened by the continued lateral erosion of the creek channel which has the potential to reduce the size of the buildable portion of the lot and undermine the foundations of the residence.

The east bank has been previously stabilized with a combination of a grouted rip-rap at the creek channel bottom, and a second tier of post-and-wire gabion filled with rock from the local area. As a result of channel degradation, the grouted rip-rap has been undermined and is threatened by continued erosion.

After consultation with the Commission staff the applicant is proposing to repair the existing bank protection using bio-engineering techniques. This approach is intended to provide longer term bank stabilization as well as reduce the biological and visual impacts of the existing grouted rip-rap protection.

The revised project elements consist of: (1) trimming the existing grouted rip-rap back to reduce the existing intrusion into La Flores Creek; (2) establishing a post and wire gabion along the full length of the rip rap; (3) back filling the post and wire gabion with a combination of rock, willow cuttings, and other bio-degradable materials; (4) refurbishing the existing post and wire gabion which is situated on top of the rip rap by removing the rock and dirt material, and back filling the post and wire gabion with a combination of rock, willow cuttings, and other bio-degradable materials.

The project will effectively arrest lateral bank erosion and reduce the likelihood of failure of the adjacent slope which supports the building site on top of the subject property.

Because the proposed bank stabilization and related residential development remain subject to damage from potential catastrophic flooding of Los Flores Creek, it is necessary to ensure that the applicant acknowledges the hazards associated with the project site, and hold the Commission and its agents harmless in the event of a catastrophic failure of the bank protection.

Special Condition #1 requires the applicant to acknowledge the potential for damages related to the bank stabilization project and to hold the Commission and its officers, agents, and employees harmless against all claims of liability arising out of the construction and maintenance of the project.

The Commission finds that the proposed project, as revised and conditioned, is consistent with the provisions of Section 30253 of the Coastal Act.

2. Biological Resources

PRC Section 30236 provides that:

Channelization, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, (3) developments where the primary function is the improvement of fish and wildlife habitat.

PRC Section 30231 provides, in part, that:

The biological productivity and quality of coastal waters, streams, . . . shall be maintained and, where feasible, restored through, among other means, . . . preventing . . . substantial interference with surface waterflow, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

PRC Section 30240 provides, in part, that:

- (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 with those areas.

The proposed project would be located along the east bank of Las Flores Creek which is subject to periodic flood and debris flows. Las Flores Canyon Creek contains year round flows, and supports a typical riparian plant and animal community for short coastal streams. The riparian corridor along Las Flores Creek is a designated Environmentally Sensitive Habitat in the Malibu-Santa Monica Local Coastal Program Land Use Plan. This creek, however, has been substantially and adversely affected by the development in Las Flores, including Las Flores Canyon Road, and substantial residential development on steep slopes which has removed riparian vegetative cover and increased erosion rates. Recent wildfires have also contributed to the degradation of the habitat in Las Flores Creek. Despite these human modifications, Las Flores Creek, because of its year-round flows, continues to provide valuable habitat for riparian species of plant and animals. The portion of the creek where the project is proposed has a typical cobble channel bed, bordered by willow (Salix sp.) and some scattered cottonwoods (Populus Trichocarpa), and sycamore (Platanus racemosa).

As noted above, the site is developed with a single family residence situated approximately 100 feet above the creek bed and is threatened by the continued lateral erosion of the creek channel which has the potential to reduce the size of the buildable portion of the lot and undermine the foundations of the residence. The east bank has been previously stabilized with a combination of a grouted rip-rap at the creek channel bottom, and a second tier of post-and-wire gabion filled with rock from the local area. As a result of channel degradation, the grouted rip-rap has been undermined and is threatened by continued erosion.

Alternatives to the initially proposed project included complete removal of the grouted rip-rap and replacement with a post-and-wire gabion structure. However, complete removal of the existing grouted rip-rap would require the use of heavy equipment and because of the restricted accessibility of the site would entail substantial disturbance of the adjacent creek habitat. Additionally, removal of the rock rip-rap could destabilize the east bank along this section of Las Flores Creek. After consultation with the Commission staff the applicant is proposing to repair the existing bank protection using bio-engineering techniques. This approach is intended to provide longer term bank stabilization as well as reduce the biological and visual impacts of the existing grouted rip-rap protection.

The revised project elements consist of: (1) trimming the existing grouted rip-rap back to reduce the existing intrusion into La Flores Creek; (2) establishing a post and wire gabion along the full length of the rip rap; (3) back filling the post and wire gabion with a combination of rock, willow cuttings, and other bio-degradable materials; (4) refurbishing the existing post and wire gabion which is situated on top of the rip rap by removing the rock and dirt material, and back filling the post and wire gabion with a combination of rock, willow cuttings, and other bio-degradable materials.

The project will effectively arrest lateral bank erosion and reduce the likelihood of failure of the adjacent slope which supports the building site on top of the subject property. The modification of the project to include the use of willow and other native riparian cutting in the behind the post and wire gabion will allow the existing grouted rip-rap to be covered with a native vegetative cover, as well as increase the stability of the east bank.

The proposed bank stabilization falls within the jurisdiction of both the U.S. Army Corps of Engineers and the California Department of Fish and Game. Special Conditions #2 and #3 are necessary to ensure that the regulatory requirements of these agencies is met consistent with those of the California Coastal Commission. Finally, although the applicant has proposed to incorporate post-and-wire gabion, in lieu of shot-crete, and willow cuttings into the project plans, he has not provided revised plans which specify these features. Therefore, Special Condition #4 requires that the applicant submit revised plans that provide for the stabilization of the to-be-protected bank of Las Flores Canyon which incorporate bio-engineering techniques noted above.

The Commission finds that the proposed project, as revised and conditioned, is consistent with the provisions of Sections 30231, 30240, and 30236 of the Coastal Act.

C. Local Coastal Program

Section 30604 of the Coastal Act states that:

(a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200).

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As conditioned, the proposed development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program for the area of Malibu that is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

D. California Environmental Quality Act

The Coastal Commission's permit process has been designated as the functional equivalent of CEQA. Section 13096(a) of the California Code of 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 CEQA. Section 21080.5 (d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse impacts that the activity may have on the environment.

The proposed development would cause no adverse environmental impacts which would not be adequately mitigated by the project conditions required herein. Therefore, the proposed project, as conditioned, is found to be consistent with CEQA and the policies of the Coastal Act.

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EXHIBIT NO. 1
APPLICATION NO.
4-97-097
Newlon

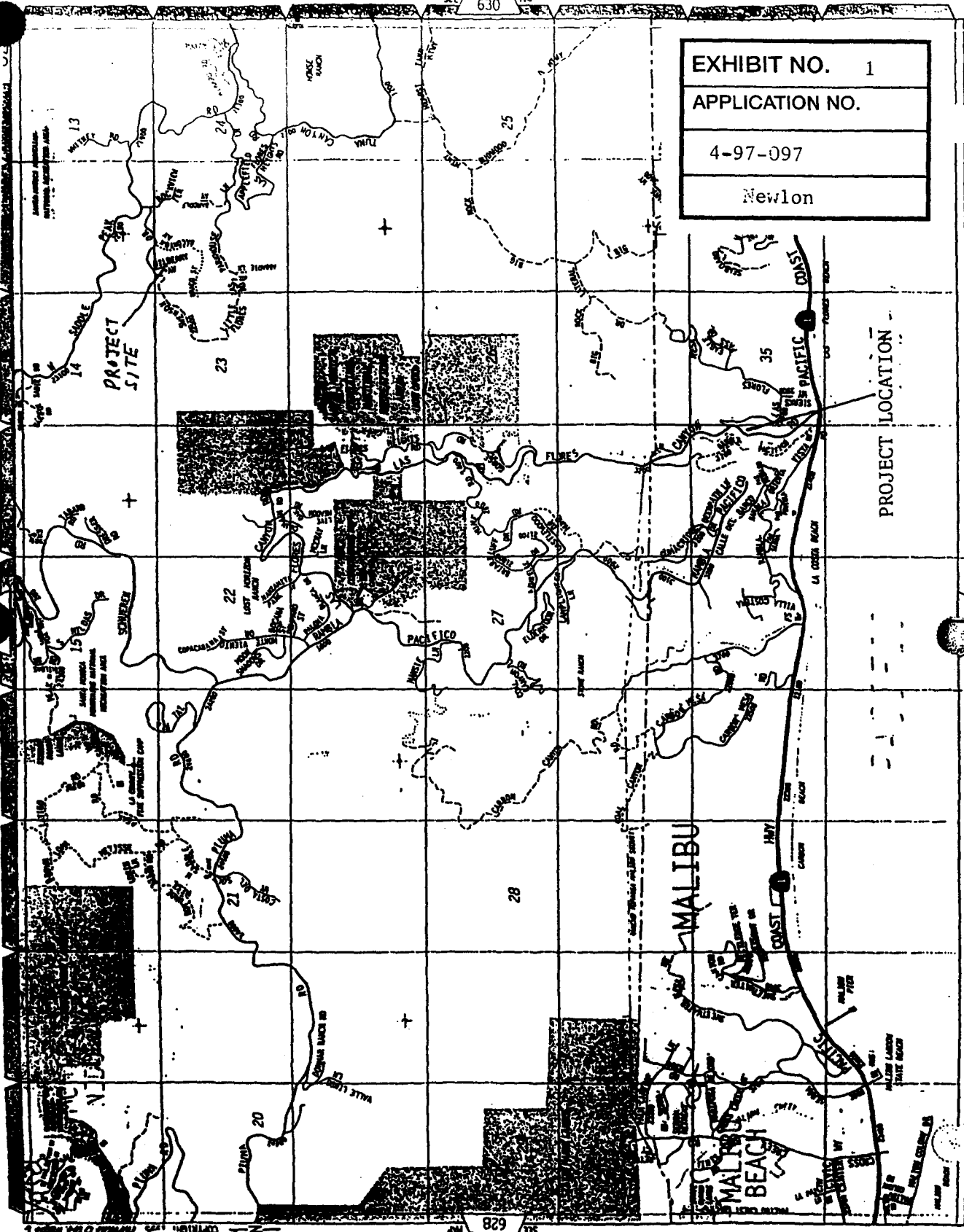


EXHIBIT NO. 3
APPLICATION NO.
4-97-097
Newlon

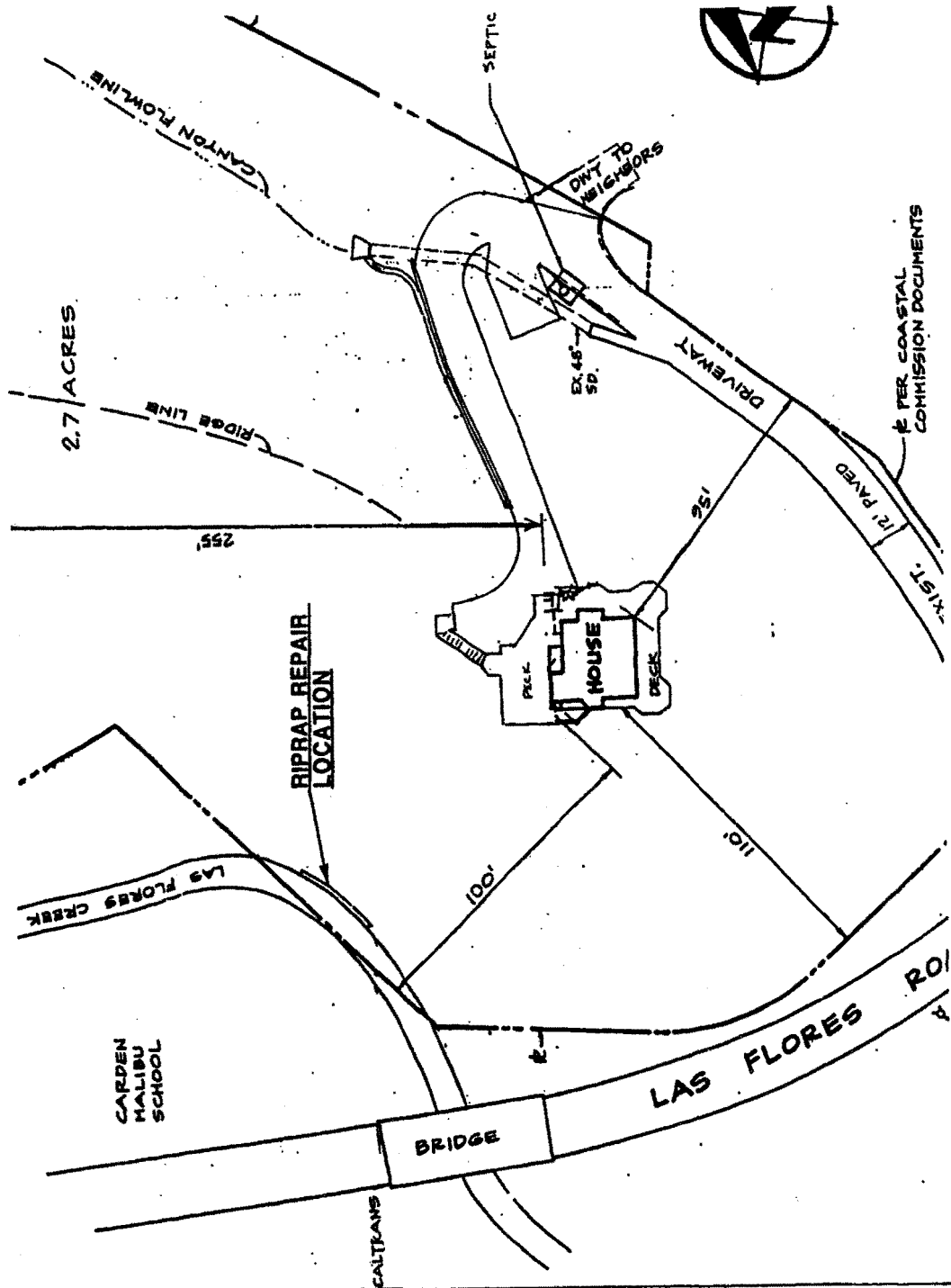
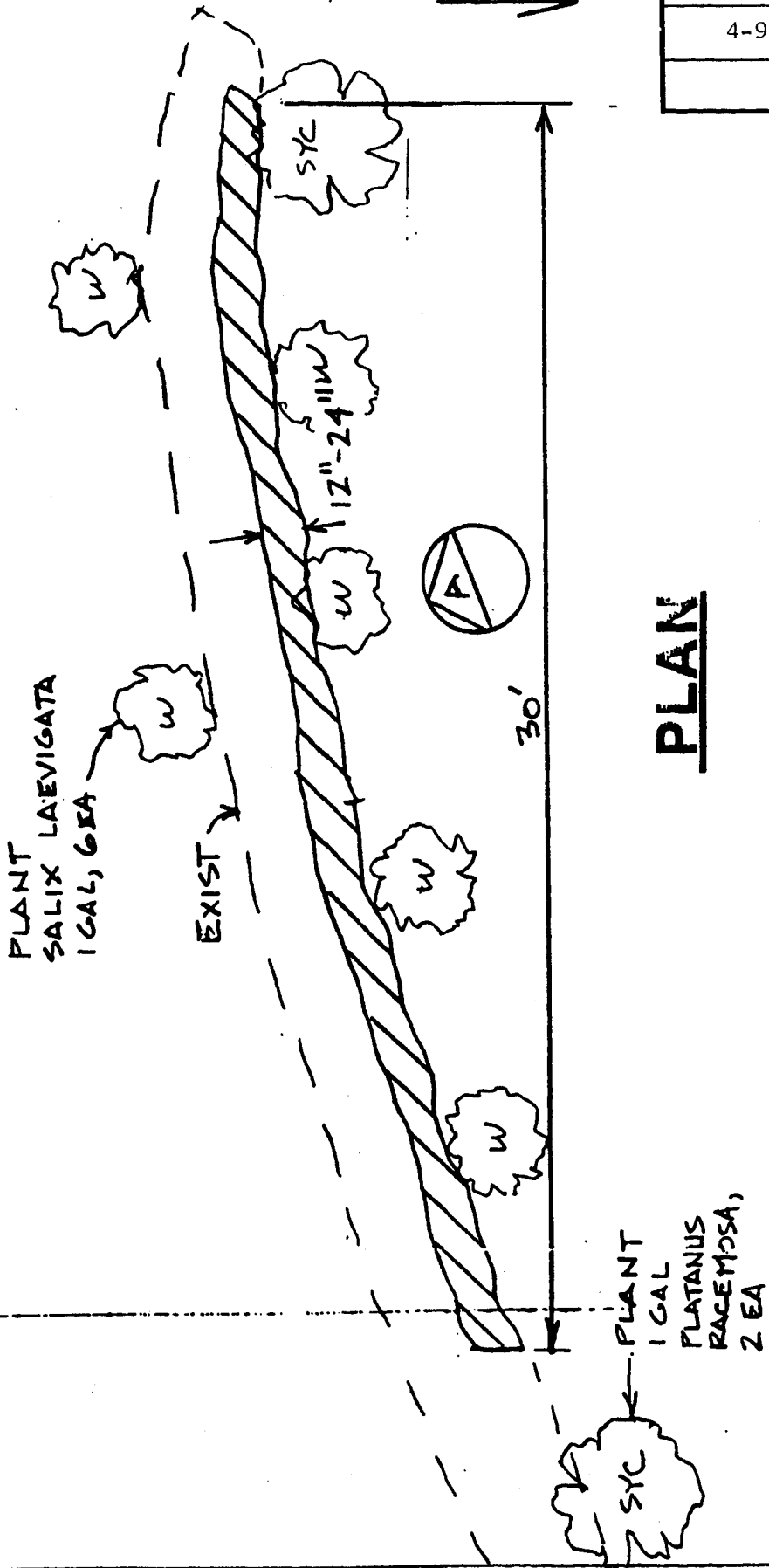
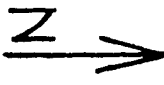


EXHIBIT NO.	4
APPLICATION NO.	
	4-97-097



PLAN

PLANT
SALIX LAEVIGATA
1 GAL, 6 EA

PLANT
1 GAL
PLATANUS
RACEMOSA,
2 EA

SYC

EXIST

SYC

12"-24" W

30'

EXHIBIT NO. 5

APPLICATION NO.

4-97-097

