CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
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Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-95-176

APPLICANT: Buddy and Sherry Hackett AGENT: Lisa Hackett

PROJECT LOCATION: 32232 P. C. H., City of Malibu, Los Angeles County

PROJECT DESCRIPTION: The installation of an approximate 125 ft. long (43 ft. high) soldier-pile wall and grade beams into a coastal bluff with 245 cu. yds. of grading (125 cu. yds. of cut and 120 cu. yds. of fill) for purposes of stabilizing the eroding bluff and the foundation of an existing single family residence with the replacement of the patio located seaward of the house. The project also includes the construction of two rip rap energy dissipators: 250 sq. ft. and 20 sq. ft. in size with improvements to the existing drainage system. The project also includes the repair and replacement of the bluff face stairs and gang plank ramp structure.

Lot area:	2.25 acres
Building coverage:	2,699 sq. ft.
Pavement coverage:	7,850 sq. ft.
Landscape coverage:	2,500 sq. ft.
Ht abv fin grade:	N/A

LOCAL APPROVALS RECEIVED: City of Malibu Planning Department "Approval in Concept" and City of Malibu Geology Approval.

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit Applications G4-95-176 (Hackett), 4-95-110 (Nichols), and 4-93-095 (Berwald). Geotechnical Engineering and Geologic Investigation by RJR Engineering, dated June 19, 1995. Septic System Investigation Report, dated October 20, 1995. The Certified Malibu Land Use Plan.

SUMMARY OF STAFF RECOMMENDATION:

The proposed project is intended to stabilize a coastal bluff and the foundation of an existing single family residence that was built in the

1950s. The approximate 125 ft. long soldier pile wall will be constructed subsurface (43 ft. in height) approximately 5 ft. back from the face of the bluff and will not be visible for some time well into the future (approximately 150-200 years based on 1/4 in. yearly erosion rate). As set forth in the applicant's geotechnical report, the consultants' performed an analysis of three different alternatives. The proposed soldier-pile wall represents the preferred alternative providing that the recommendations pertaining to drainage and landscaping are incorporated into the project. The existing single family residence is located on the bluff face at an 84 ft. elevation. Three additional single family homes with landscaping are located on the top of the bluff and as stated in the geotechnical report contribute to the bluff's stability problems. The subject site is located adjacent to the west of El Matador State Beach. However, no portion of the project is located on state or public lands, as the entire bluff face is in private ownership. The project also includes the construction of two rip rap energy dissipators: 250 sq. ft. and 20 sq. ft. in size with improvements to the existing drainage system. The 20 sq. ft. system will be located adjacent to the state beach and the pipes associated with the system as well as the rip rap structure itself, may be visible from the beach area. The applicant is also proposing the retention of a wooden counterfort retaining walls located on the upper southwest portion of the bluff face. In addition, the placement of 120 cu. yds. of fill (in this same area on an existing flat area adjacent to the counterfort walls) is proposed. Lastly, the project includes the repair and replacement of the bluff face stairs and gang plank ramp structure. The applicant has submitted evidence that these stairs were constructed in the 1960's and that the footpath were in existence in the 1950s. Given the applicant is proposing to replace the stairs as they existed (wooden), the Commission notes that this activity is considered repair and maintenance under the Coastal Commisison's Administrative Regulation guidelines. Staff recommends that the Commission approve the project subject to conditions for the submittal of a landscaping and bluff restoration plan, the recordation of an assumption of risk deed restriction, the agreement to construction responsibilities and debris removal, the conformance of the project to the geologic recommendations, the agreement to maintain the drainage structures, the submittal of evidence that the septic system is adequate and the recordation of a color restriction for the drainage pipes.

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 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 development during construction, 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. Landscaping Plans

Prior to the issuance of the permit the applicant shall submit, for the review and approval of the Executive Director, two sets of a landscaping plan prepared by a licensed landscape architect or resource specialist for review and approval by the Executive Director. The applicant shall also submit evidence to the satisfaction of the Executive Director that the landscaping and irrigation plan, including the amount of water to be delivered to the bluff surface, has been reviewed and found acceptable and consistent with the recommendations to ensure slope stability set forth by the geologic engineering consultant. The plans shall include the following:

a) All non-native plants on the bluff face below the existing residence approved under Coastal Development Permit 4-95-176 shall be removed and replaced by native, drought resistant plants, endemic to coastal bluffs, as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Native Plants for Landscaping in the Santa Monica Mountains, dated October 4, 1994. The plan shall be designed to minimize the need for irrigation and to screen

or soften the visual impact of development. Species which require artificial irrigation beyond that necessary to establish new plantings, shall not be used. The plan shall include the removal of all invasive plant material currently on site, such as Castor Bean (Ricinus communis) and Iceplant (Carpobrotus edulis). The applicant shall use a mixture of seeds and plants to increase the potential for successful slope stabilization. The restoration plan may be done in several phases to minimize destablization of the site. Such planting shall be adequate to provide 90 percent coverage within 3 years and shall be repeated, if necessary, to provide such coverage. This time period may be extended by the Executive Director for good cause.

b) Bluff restoration of disturbed slopes shall include a planting plan, for erosion control, habitat protection and visual enhancement purposes, which may include hydroseeding, hand seeding, planting or any combination of planting and seeding on all disturbed portions of the bluff face, including the location of the proposed drainage improvements. The disturbed slopes shall be planted immediately to minimize destabilization of the bluff face. No hydroseeding shall occur in areas of the bluff where native plant material is already established. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.

c) If jutte netting is to be placed on site, it must be of a type that is biodegradable and can only be used in conjunction with the planting or seeding of an area. Furthermore, the applicant shall be responsible for the continued removal of all non-native invasive plant material from the site until the establishment of the area. Establishment is recognized as 90% germination of the seeding, or 90% coverage of the site if a mixture of plants and seeds are used.

d) Any sprinkler irrigation system presently used on the bluff face shall be removed and a temporary, drip irrigation system shall be implemented to water the new plantings. As an alternative, hand watering may be carried out to establish the landscaping, provided that only the minimum amount of water necessary to establish the plantings is applied. No permanent irrigation of the slope shall be permitted. The plan shall include a note to this effect and shall provide detailed watering requirements and scheduling to ensure plant survival. The plan shall set forth the weekly quantities of total water delivery to the slope surface deemed necessary to ensure plant survival during establishment. Irrigation must be above ground and used on a supplemental basis for a period not to exceed two years from the commencement of the project. At the end of the two year period, the applicant must remove all irrigation material from the bluff face. This time period may be extended by the Executive Director for good cause.

e) The removal of all tarps from the site at the commencement of development on site. No tarps may be used on site during revegetation of the bluff face.

2. Bluff Restoration Plan

Prior to the issuance of the permit, the applicant shall submit, for the

review and approval of the Executive Director, restortation plans prepared by a qualified professional consistent with the Landscaping Plans requiried in Special Condition #1, which exhibits the recontoured portions of the bluff where the compacted fill will be placed and where rounding and cleaning of the bluff face on the west side of the property will occur (See Exhibit 3, for approximate location). Consistent with Special Condition #1, these sections of the bluff face shall be planted and maintained for erosion control and visual enhancement purposes.

3. Assumption of Risk Deed Restriction

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: (a) that the applicant understands that the site may be subject to extraordinary hazard from during storms and from erosion or slope failure 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 and its advisors 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.

4. Construction Responsibilities and Debris Removal

The applicant agrees not to store any construction materials or waste where it is subject to wave erosion and dispersion. In addition, no machinery will be allowed in the intertidal zone at any time. The permittee shall remove from the bluff face and beach area any and all debris that result from the construction period.

5. Geologic Recommendations

All recommendations contained in the Geotechnical Engineering and Geologic Investigation by RJR Engineering, dated June 19, 1995 shall be incorporated into all final design and construction plans including surficial stability, foundations, landscaping and drainage. Prior to the issuance of the permit the applicant shall submit for the review and approval of the Executive Director, evidence of the consultant's review and approval of all project plans.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to slope stabilization and erosion. Any substantial changes in the proposed development approved by the Commission which may be required by the consultant shall require an amendment to the permit or a new coastal permit.

6. Drainage Structure Maintenance Responsibility

The applicant agrees that should the project drainage structure fail or result in any erosion of the bluff, the applicant shall be responsible for any necessary repairs or restoration of the eroded areas.

7. Septic System Approval

Prior to the issuance of the permit, the applicant shall submit, for the review and approval of the Executive Director, evidence that an evaluation of the existing system by a registered sanitary engineer has occurred and a report that confirms the system's serviceability and overall integrity. In addition, the applicant shall submit an approval of the proposed development relative to its impact on the existing private sewage disposal system from the City of Malibu, Environmental Health Department. Any substantial changes in the proposed development approved by the Commission which may be required by the consultant shall require an amendment to the permit or a new coastal permit.

8. Drainage Structures Color

Prior to issuance of the Coastal Development Permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which restricts the color of the drainage pipes to earth tone colors compatible with the surrounding environment. White and black tones shall not be acceptable. The document shall run with the land for the life of the structure approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens.

IV. Findings and Declarations.

A. Project Description and Background

The applicants are proposing to stabilize a coastal bluff, improve the drainage and repair and replace the existing staircase on the face of a coastal bluff on a 2.25 acre developed lot in western Malibu. Specifically, the project involves the installation of an approximate 125 ft. long (43 ft. high) soldier-pile wall and grade beams into a coastal bluff with 125 cu. yds. of grading (cut) for purposes of stabilizing the eroding bluff and the foundation of the existing single family residence. Additionally, the applicant is proposing the replacement of the patio located seaward of the house. The project also includes the construction of two rip rap energy dissipators: 250 sq. ft. and 20 sq. ft. in size with improvements to the existing drainage system. The applicant is also proposing the placement of 120 cu. yds. of fill on the bluff face, to be located on an existing flat area on the southwest side of the upper portion of the bluff. The project also includes the repair and replacement of the bluff face stairs and gang plank ramp structure.

The subject site is located adjacent to the west of El Matador State Beach. The bluff face is part of the applicant's property and no portion of the proposed work is located on State or public lands.

The property is an irregularly flag shaped lot with a long driveway that descends from PCH as an elevation of 170 ft. to the building pad at an elevation of 84 ft. As stated in the site conditions of the geotechnical investigation report, the building pad is developed at approximately the mid-elevation level of the ocean bluffs in this area. It is estimated that

the original bluff face had an inclination of approximately 1.5:1 and a height of 100 ft. The bluff face was graded to create the building pad area and presently is above a near vertical sea cliff that averages approximately 30 ft. in height. The bluff face is fronted by a narrow beach which is estimated to be approximately less than 50 ft. in width. A prominent gully which is approximately 80 feet in depth with a 5 ft. wide channel bottom borders the site to the west.

The site is developed with a two story 2,700 sq. ft. house, a driveway, a septic system, two wooden counterfort retaining walls, other concrete block walls and wooden walls, drainage improvements, landscaping, a partially destroyed stairway, a gangplank to the beach and various footpaths. As submitted by the applicant, the residence was built in the 1950s and the two wooden counterfort walls were built approximately in winter of 1974. On October 12, 1995, the applicants were authorized under a coastal development emergency permit (G4-95-176) to construct the soldier pile wall only. The basis for this emergency was the occurance of increased retaining wall failure which provides support fir the existing home's foundation. Staff investigation has not evidenced any other coastal development permits issued for development on this site.

B. Geologic Stability

Section 30253 of the Coastal Act mandates that new development provide for geologic stability and integrity and minimize risks to life and property. Section 30235 of the Coastal states that construction which alters natural shoreline processes shall be permitted only when required to protect existing structures from erosion, and only when when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Likewise, Section 30250(a) of the Coastal Act states that new development not adversely affect, either individually or cumulatively, coastal resources. Section 30240 of the Coastal Act calls for the protection of environmentally sensitive habitat areas, and Section 30251 calls for the protection of visual resources and mandates the restoration and enhancement of visual qualities when feasible. Any development on a coastal bluff will affect coastal resources.

Coastal bluffs, such as this one, are unique geomorphic features that are characteristically unstable and have significant environmental and visual value. This coastal bluff is a designated environmentally sensitive habitat area. Any development on a coastal bluff will have adverse impacts to the environmental and visual qualities of the bluff, and natural shoreline processes. Therefore, it is necessary to review any proposed project first for the necessity of the project and compliance with Section 30253 of the Coastal Act.

Section 30253 states in part:

> 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.

Section 30235 of the Coastal Act states:

> Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

To assist in the determination of the consistency of a project with Section 30253 and 30235 of the Coastal Act, the Commission has, in past permit actions, looked to the Malibu Land Use Plan (LUP) for guidance. The LUP has been found to be consistent with the Coastal Act and provides specific suggests for development along the Malibu coast. Policy 147 suggests that development be evaluated for impacts on and from geologic hazards. Policy 148 suggests that development be limited on unstable slopes to assure that development does not contribute to slope failure. Policies 163 and 164 suggest that development on bluff top lots be setback from the bluff and that geologic reports be prepared to address the geologic issues. Finally, Policy 165 suggests that no permanent structures be permitted on bluff faces.

Erosion on coastal bluffs is expected to occur. Coastal bluffs are unstable and erosional by nature. The residence on site was built on the bluff face by grading a flat pad area at an 84 ft. elevation. Investigation of aerial photos taken in the 1950s (after the residence was built) was performed by the applicant's consulting engineer. However, estimates as to the home's setback from the bluff face were not be made. Therefore information as to whether the residence was constructed with the expectation that the bluff face would erode and retreat cannot be determined.

In order to find any development on this bluff consistent with Section 30253 and 30235 of the Coastal Act, the applicant must provide ample, conclusive evidence, that there is a current geologic hazard that has put the residence in danger and that the proposed development is the minimum development for remediating the hazard. The applicant has submitted a "Geotechnical Engineering and Geologic Investigation Report" prepared by RJR Engineering Group, and dated June 19, 1995. The purpose of this report was to evaluate the stability of the site and the geologic structure of the site with respect to stabilization of the bluff.

With respect to site stability the report stated that, "The overall gross and pseudo-static analysis for the site, indicates the slopes are generally stable." The report further stated that based on the geomorphology of the site and on surficial analysis a continuation of slope retreat and erosion would occur as a result of common bluff type processes.

The site is presently developed and improvements relative to stabilizing the site include wooden and concrete block retaining walls along with two counterfort retaining walls. As submitted by the applicant the other wooden retaining walls that are located on the site were constructed to repair soil slumps in late 1974. The retaining wall adjacent to the southwestern side of

the residence has failed and resulted in significant cracks in the patio slabs which at the time of the geologic investigation were "slowly enlarging". Erosion on the southeast side of the residence has resulted in bluff retreat within 15 ft. from the residence.

In order to remediate the site's stability, the report analyzes three alternatives. The first involves the construction of a series of 6 ft. high walls beginning at the toe of the bluff, with 2:1 slopes between the walls. This alternative would necessitate the slope to be rebuilt with compacted fill. As proposed under this alternative, the remediation would be visible from the adjacent public beach and the amount of grading required would be significantly more. The second alternative would require the applicant to construct a three tiered wall system beginning at the top portion of the bluff face. As with the first alternative, this too would be visible.

The third alternative, most closely represents the project proposed. The only deviation to the described project in the geologic report, is that the proposed soldier pile wall as designed will be located approximately 5 ft. landward of the slope face. As proposed, the wall will be constructed at an underground at a height of approximately 43 ft. Staff inquired as to the rate of erosion of the bluff face to determine if a portion of the wall would be visible from the public beach at some future date. The applicant's consulting geotechnical engineer, Mr. Rob Anderson, stated that the rate of bluff retreat would be significantly minimized if the proposed recommendations relative to drainage and landscaping were incorporated into the project plans. Based on those assumptions, Mr. Anderson estimated that the bluff would retreat approximately 1/4 of an inch per year. Mr. Anderson estimated that in this area of the coast an undeveloped bluff, where drainage is not diverted and where non-native landscaping exists the erosion rate would potentially range for 1/2 to 2 inches per year. Thus, based on the estimates made by the consulting engineer, bluff retreat would be significantly reduced if the recommendations made in the geotechnical report were incorporated into the project. In addition, the design coupled with the drainage and landscape conditions would ensure a reduced amount of landform alteration and would eliminate the wall's visibility from the beach area.

With respect to landscaping, the geologic report states that, "After the walls have been constructed we recommend that the lower slope face be cleaned and thoroughly vegitated with native vegetation. . ." The report further identifies that vegetating the site with native drought tolerant vegetation is considered a high priority and that irrigation at the top of the slope should cease to insure maximum site stability. Given that the top of the bluff is developed with three single family residences which are not owned by the applicant, the Commission recognizes and notes that the project cannot require any reduction in irrigation of landscaping on these properties.

Further, according to the consulting engineer, an increase in saturation on the bluff from rain water, drainage and irrigation largely contribute to destablizing the bluff and endangering the existing structure. As stated, the top of the bluff is developed with three single family homes which all have landscaping and irrigation and thereby increase the amount of water on the slope. These facts combined with the fact that the design of the residence which exists on the bluff face and was constructed in accordance with building standards of the 1950s underscores the need for minimization of slope

saturation. As such any increase in water on the bluff face increases the precipitation and saturation rates, and thereby increases the potential for slope or surficial failures to occur on already unstable bluffs. Therefore, in order to reduce irrigation and minimize the saturation of the soil, special condition #1 has been crafted to ensure that the bluff face is revegetated with drought tolerant natives and that the placement of geotextiles, such as jutte netting are utilized to minimize further erosion. (Discussed further in the following section regarding Environmentally Sensitive Habitat Areas and Visual Resources.)

With respect to the existing wooden counterfort retaining walls located on the southwestern side of the site, the applicant has indicated that they will remain in place. In addition, the applicant has proposed to place 120 cu. yds. of recompacted fill atop the flat area that is located at the base of this wall. Given that the proposed soldier pile wall will, once constructed, effectively serve to remediate any slope failure, staff has discussed the removal of the existing counterfort walls with the applicant's consulting engineers. The engineers asserted that keeping these retaining walls in place would serve only to ensure that erosion of surficial soil does not occur. However, the consulting engineers agreed that a similar result of reduced erosion of surficial soil would result if the southwestern section of the upper bluff face were to be recontoured and vegetated with native drought tolerant vegetation. The engineers suggested that one alternative would be to keep the walls in tact and restore that segment of the bluff with the fill that is proposed to be located on the area below the walls. Given that the wood is pressure treated the bluff could be restored back to its natural contour over the wall and significantly minimize any impacts that would occur from not removing the wall. Therefore, special condition #2 has been crafted to ensure, in part, that this restoration occur in a manner consistent with the consulting engineers' recommendations and such that the bluff face will restored to a more natural state.

In addition to constructing the soldier pile wall to stabilize the site, the applicant is proposing three main drainage improvements that as designed will redirect water away from the bluff face. First, located on the west side of the property, a rip rap energy dissipator that is approximately 250 sq. ft. in size will be constructed. As stated previously, the main drainage of this site is presently fed by a culvert at street grade on PCH and flows to the western channel via a deeply eroded channel below the southwest end of the driveway. This drainage pattern has caused a scouring of the western slope below the driveway. Staff investigated potential alternatives to remediate this erosion. As stated by the applicant's consulting engineer, this area will continue to erode if the slope face is not rounded and cleaned of loose debris and if vegetation is not re-established. The estimated removal of loose debris would be approximately 10 to 15 cu. yds. of material. The proposed rip rap energy dissipator will ensure that no further erosion of the slope occur. The second drainage improvement involves the construction of a 20 sq. ft. system. on the eastern side of the residence. As stated in the geologic report, drainage flow on this side of the property and a deeply eroded gully on State land has scoured a considerable area at the southeast corner of the property between the base of the terrace bluff face and the top of the sea cliff. The third improvement involves the replacement of the patio located seaward of the house, which as designed will include subdrains and surface gradients of at least 2% along principal directions of drainage to

ensure protection of the foundation. Special condition #6 requires that the applicant agree that should the project drainage structure fail or result in any erosion of the bluff, that they will be responsible for any necessary repairs or restoration of the eroded areas.

The revegetation of the site in combination with the control of runoff over the bluff edge should significantly reduce erosion on this bluff. Based on the recommendations of the consulting geologist the Commission finds that the development will be free from geologic hazards so long as all the recommendations made by the geologic consultants are incorporated into the project plans. Therefore, the Commission finds it necessary to require the applicant to submit project plans that have been certified in writing by the consulting Soils and Engineering Geologists as conforming to their recommendations.

The Coastal Act recognizes that new development, such as a soldier pile wall to stabilize the bluff face and existing residence, may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to determine who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property.

The Commission finds that due to the unforseen possibility of wave attack, erosion, and flooding, the applicant shall assume these risks as a condition of approval. Because this risk of harm cannot be completely eliminated, the Commission is requiring the applicant to waive any claim of liability on the part of the Commission for damage to life or property which may occur as a result of the permitted development. The applicant's assumption of risk, when executed and recorded on the property deed, will show that the applicant is aware of and appreciated the nature of the hazards which exist on the site, and which may adversely affect the stability or safety of the proposed development.

Therefore, the Commission finds, that pursuant to Sections 30253 and 30235 of the Coastal Act, the proposed project could be found feasible with the required special conditions relative to landscaping, drainage, construction responsibility and debris removal and the recordation of an assumption of risk deed restriction. Only as conditioned is the project consistent with the Coastal Act sections relating to geologic stability and shoreline processes.

C. Environmentally Sensitive Habitat Areas and Visual Resources

Section 30230 of the Coastal Act states:

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

Section 30240 of the Coastal Act states:

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

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

Section 30250(a):

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30230 of the Coastal Act mandates that marine resources be maintained, enhanced and when feasible restored. Areas, such as ESHAs, are to be given special protection to provide to sustain their habitat. Likewise, Section 30240 of the Coastal Act mandates that only resource dependent uses be allowed in ESHAs. Such uses could include a fish ladder in a stream, a public trail in parkland, or restoration. These are uses which would enhance or restore an ESHA. Section 30251 of the Coastal Act suggests that development restore or enhance an area, and mandates the minimization of landform alteration and the protection of public views. Finally, Section 30250 of the Coastal Act calls for new development to not contribute, individually or cumulatively, to the degradation of coastal resources.

Consistent to Section 30240 of the Coastal Act, Policy 98 of the LUP suggests that development should have no adverse impacts on sensitive marine and beach

habitat areas, and Policy 99 of the LUP suggests that development in areas adjacent to sensitive beach and marine habitat areas be designed and sited to prevent impacts which could degrade the environmentally sensitive habitats. Policy 101 suggests that only resource dependent uses be permitted in sensitive marine and beach habitats. And finally, Policy 104 of the LUP suggests that the restoration of damage to habitats, when possible, be required as a condition of permit approval. These policies, used by the Commission in guidance in numerous past permit actions, offer specific guidance to carry out Sections 30240 and 30250 of the Coastal Act.

In addition, the LUP contains a number of policies regarding viewsheds and the protection of unobstructed vistas from public roads, parks and beaches consistent with Section 30251 of the Coastal Act. These policies have been used as guidance by the Commission in numerous past permit actions in evaluating a project's consistency with Section 30251 of the Coastal Act. Policy 129, for example, suggests that structures should be designed and located so as to create an attractive appearance and harmonious relationship with the surrounding environment. Policy 128 suggests further setbacks, then required for safety, from bluffs to minimize or all together avoid impacts on public views from beaches. And finally, Policy 130 suggests that in highly scenic areas new development, which includes fences, landscaping and drainage devices, be sited and designed to protect views along the coast, minimize alteration of the natural landforms, be visually compatible with and subordinate to the character of the area and be sited so as to not significantly intrude in to the skyline.

The subject site is located adjacent to the west of El Matador State Beach. The bluff face is part of the applicant's property and no portion of the proposed work is located on State or public lands. The proposed project which is intended to stabilize a coastal bluff, involves improving the drainage and repair and replace the existing staircase on the face of a coastal bluff on a 2.25 acre developed lot in western Malibu. The approximate 125 ft. long (43 ft. high) soldier-pile wall and grade beams into a coastal bluff will be located below ground and as explained in the preceding section will not be visible for some time well in to the future (approximately 150-200 years based on 1/4 in. yearly erosion rate). The project also includes the construction of two rip rap energy dissipators: 250 sq. ft. and 20 sq. ft. in size with improvements to the existing drainage system. The 20 sq. ft. system will be located adjacent to the state beach and the pipes associated with the system as well as the rip rap structure itself, may be visible from the beach area. The applicant is also proposing the retention of a the wooden counterfort retaining walls located on the upper southwest portion of the bluff face. In addition, the placement of 120 cu. yds. of fill (in this same area on an existing flat area adjacent to the counterfort walls) is proposed. As explained in the preceding section, special condition #2 was required to ensure that this fill material was recontoured to re-establish the natural contour of the bluff face and to eliminate the visibility of the existing wall. Special condition #2 further requires that the gully located on the western side of the property is recontoured as well to minimize erosion and visual impacts associated with the scarp of the slope failure. Lastly, the project includes the repair and replacement of the bluff face stairs and gang plank ramp structure. The applicant has submitted evidence that these stairs were constructed in the 1960's and that the footpath were in existence in the 1950s. Given the applicant is proposing to replace the stairs as they existed

(wooden), the Commission notes that this activity is considered repair and maintenance under the Coastal Commisison's Administrative Regulation guidelines.

Further, as proposed this projects calls for significant development on a coastal bluff. Any development on the bluff removes vegetation and therefore removes nesting, feeding, and shelter habitat for marine animals. This would result in a loss or change in the number and distribution of species. These marine species which utilize the bluffs are an important component in the ecology of marine life, including invertebrates and large maine mammals. Policy 108 and 116 of the LUP suggest that development be designed as to not disturb sensitive marine mammal habitats. Although the bluff itself will not have direct impacts on marine mammals, it will have indirect impacts through habitat loss and increased erosion. The cumulative effect of increased development on coastal bluffs would further degrade the marine habitat as well as the bluff habitat.

As discussed in the preceding section regarding geologic stability, landscaping and irrigation on the bluff would have adverse effects on the bluff if the planting plan called for the placement of non-native vegetation, for example. Likewise, planting only portions of the bluff would not maximize the erosion control. The retention of non-native vegetation would diminish the habitat value on site, and the placement of jutte netting without plantings would not be beneficial to a successful project and would cause adverse visual impacts. Irrigation of the bluff face would add more water thereby reducing the stability of the slope; thus, water usage should be monitored. Thus, the required landscaping and restoration of the site will serve two purposes. First, it will implement the consulting engineers' recommendations regarding site stability; and, second, it will serve to enhance the sensitive coastal bluff habitat recognized as sensitive habitat.

Additionally, to protect the visual views of the site, the drainage pipes, which are necessary for control of runoff, should be of a natural earth tone color. Bright, white or black colors are noticeable and break up the pristine bluff views. This color restriction is noted in special condition 8. The Commission finds that only as conditioned, is the proposed project consistent with Sections 30230, 30231, 30240, 30250, and 30251 of the Coastal Act.

D. Septic System

The Commission recognizes that the potential build-out of lots in Malibu, and the resultant installation of septic systems, may contribute to adverse health effects and geologic hazards in the local area. Section 30231 of the Coastal Act states that:

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

The applicant is not proposing to expand their existing septic system. However, the existing system is located at a 50 ft. elevation, below the existing residence. As stated in the geotechnical report, "The leach field appears to have been compromised by the same erosion and slumping processes active on the bluff face." The report further concludes that, "The private sewage disposal system should be evaluated by a registered sanitary engineer for serviceability." Given that the project itself is proposed for the purpose of stabilizing the site, where instability exists in part because of slope saturation, staff required the applicant to perform the above analysis prior to completion of the report's analysis. The applicant subsequently submitted a letter by Mr. Richard Sherman, Topanga Underground, general contractors, dated October 20, 1995. Mr. Sherman states that, "The check of the system reflected that the system was operating properly." and that, "There is no evidence that the piping is leaking, that the tank is not working properly or that the leachfield has failed."

Staff discussed the assertions made by Mr. Sherman with the applicant's consulting engineers. The consulting engineers underscored the importance of having a qualified sanitarian engineer investigate the existing system. Therefore, special condition #7 has been drafted and requires the applicant to submit evidence that an evaluation of the existing system by a registered sanitary engineer has occurred and a report that confirms the system's serviceability and overall integrity. In addition, the applicant is required to submit an approval of the proposed development relative to its impact on the existing private sewage disposal system from the City of Malibu, Environmental Health Department. As stated in the condition, any substantial changes in the proposed development approved by the Commission which may be required by the consultant would require an amendment to the permit or a new coastal permit.

As stated above, the required review will ensure that the City and a sanitarian engineer performed the necessary geologic analysis of the septic system and that the proposed project will not adversely impact the biological productivity and quality of the coastal waters located south of the subject site. Therefore, as conditioned, the Commission finds that the proposed project is consistent with Section 30231 of the Coastal Act.

E. Public Access

New development on a beach or between the nearest public roadway to the shoreline and along the coast raise issue with the public access policies of the Coastal Act.

Section 30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resources from overuse.

Section 30211

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

A conclusion that access may be mandated by Section 30212 does not end the Commission's inquiry. As noted, Section 30210 imposes a duty on the Commission to administer the public access policies of the Coastal Act in a manner that is "consistent with ... the need to protect ... rights of private property owners..." The need to carefully review the potential impacts of a project when considering imposition of public access conditions was emphasized by the U.S. Supreme Court's decision in the case of Nollan vs. California Coastal Commission. In that case, the court ruled that the Commission may legitimately require a lateral access easement where the proposed development has either individual or cumulative impacts which substantially impede the achievement of the State's legitimate interest in protecting access and where there is a connection, or nexus, between the impacts on access caused by the development and the easement the Commission is requiring to mitigate those impacts.

The Commission's experience in reviewing shoreline residential projects in Malibu indicates that individual and cumulative impacts on access of such projects can include among others, encroachment on lands subject to the public trusts thus physically excluding the public; interference with natural shoreline processes which are necessary to maintain publically-owned tidelands and other public beach areas; overcrowding or congestion of such tideland or beach areas; and visual or psychological interference with the public's access to and ability to use and cause adverse impacts on public access such as above.

In the case of this project, all development is located on the face of the bluff on the applicant's property. A vertical access by way of El Matador State Beach is located approximately 1/4 mile to the east of the subject site. Vertical access opportunities does not exist through the project site and there is no evidence of any public precriptive access that exists on the site. Therefore, the proposed development will have no adverse impact on public access and is consistent with the relevant public access sections of the Coastal Act.

E. 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 the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local program that is in conformity with the provisions of 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 Malibu which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

F. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) 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 impact which the activity may have on the environment. The proposed project, as conditioned will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

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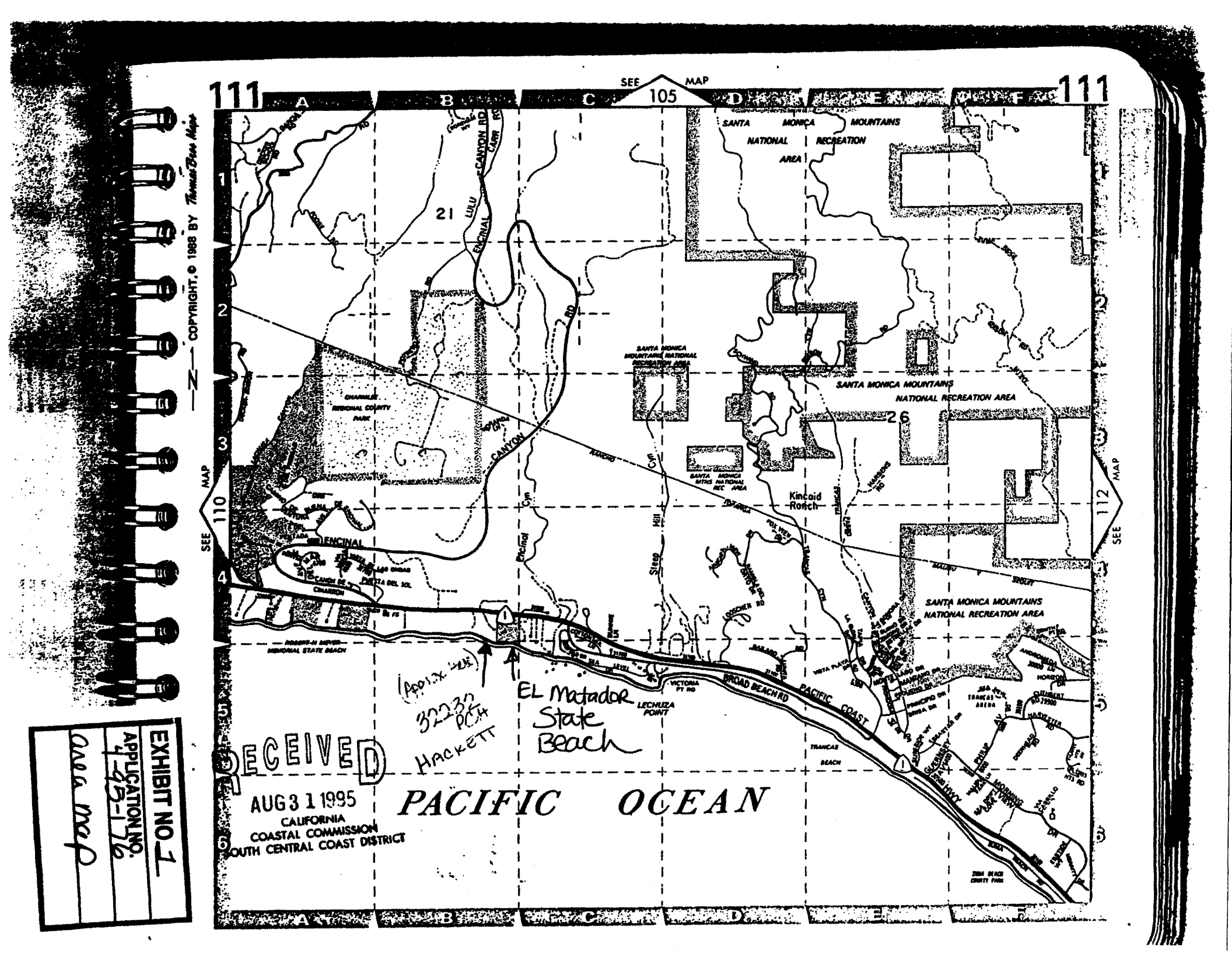

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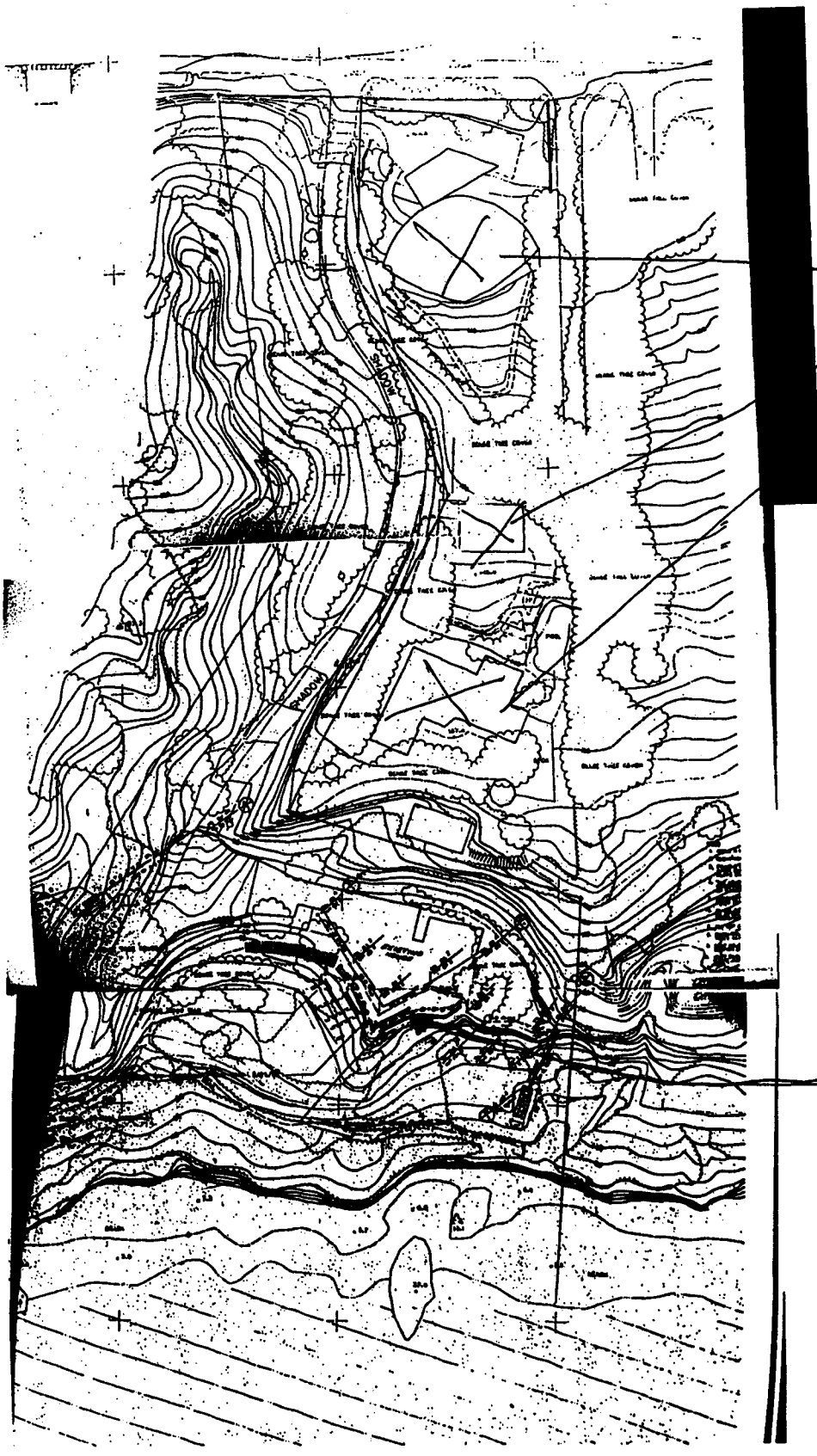
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

EXHIBIT NO. 1
APPLICATION NO. 4-95-176
area map

EXHIBIT NO. 2
APPLICATION NO. 4-95-176
site plan



Other SFR located on Bluff Top

Location of soldier-pile WALL

A+B are approximate locations of Bluff Restoration Areas

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COASTAL COMMISSION

EXHIBIT NO. 3
APPLICATION NO. 4-95-176
site plan
Bluff Restoration Area

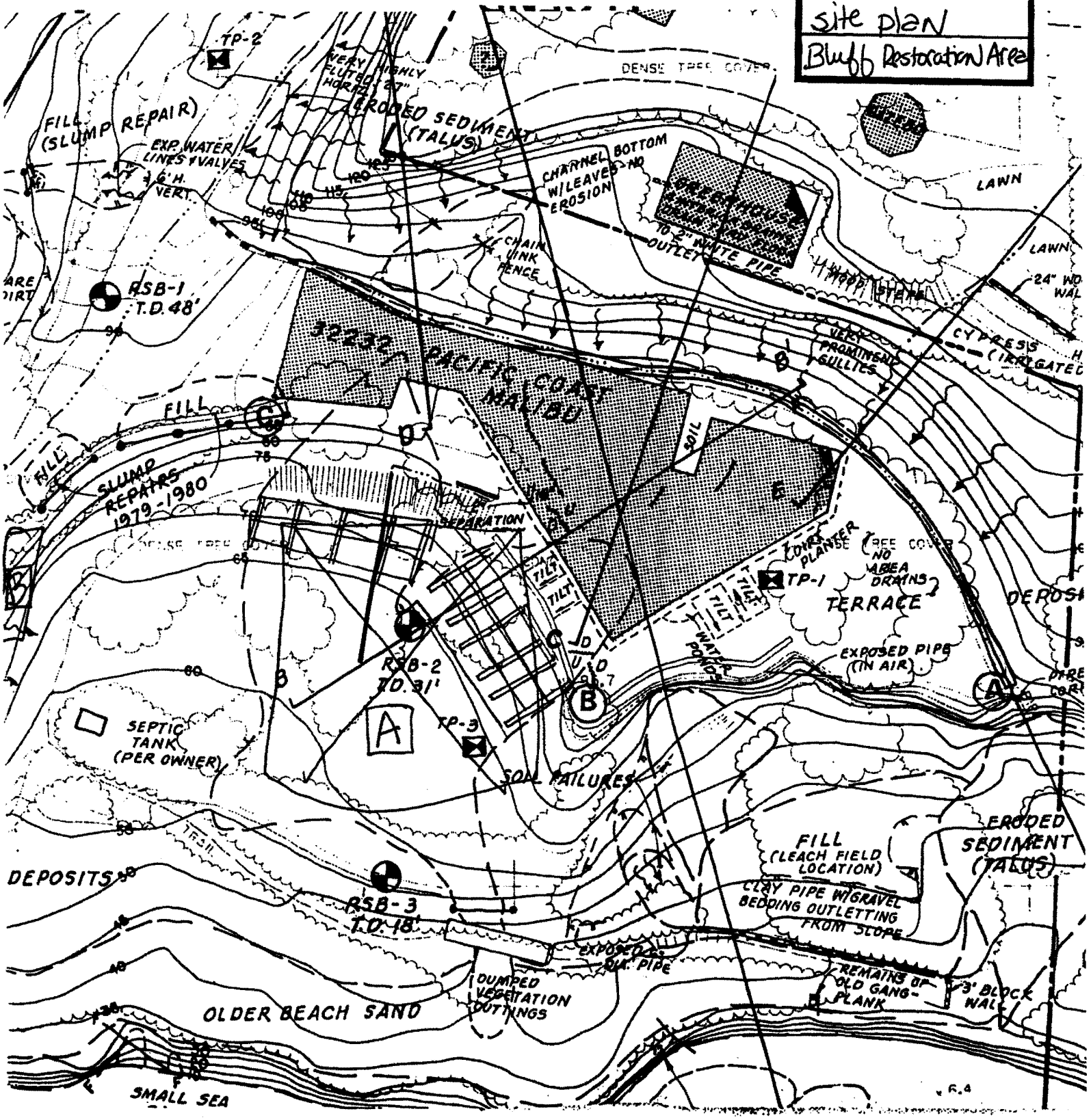
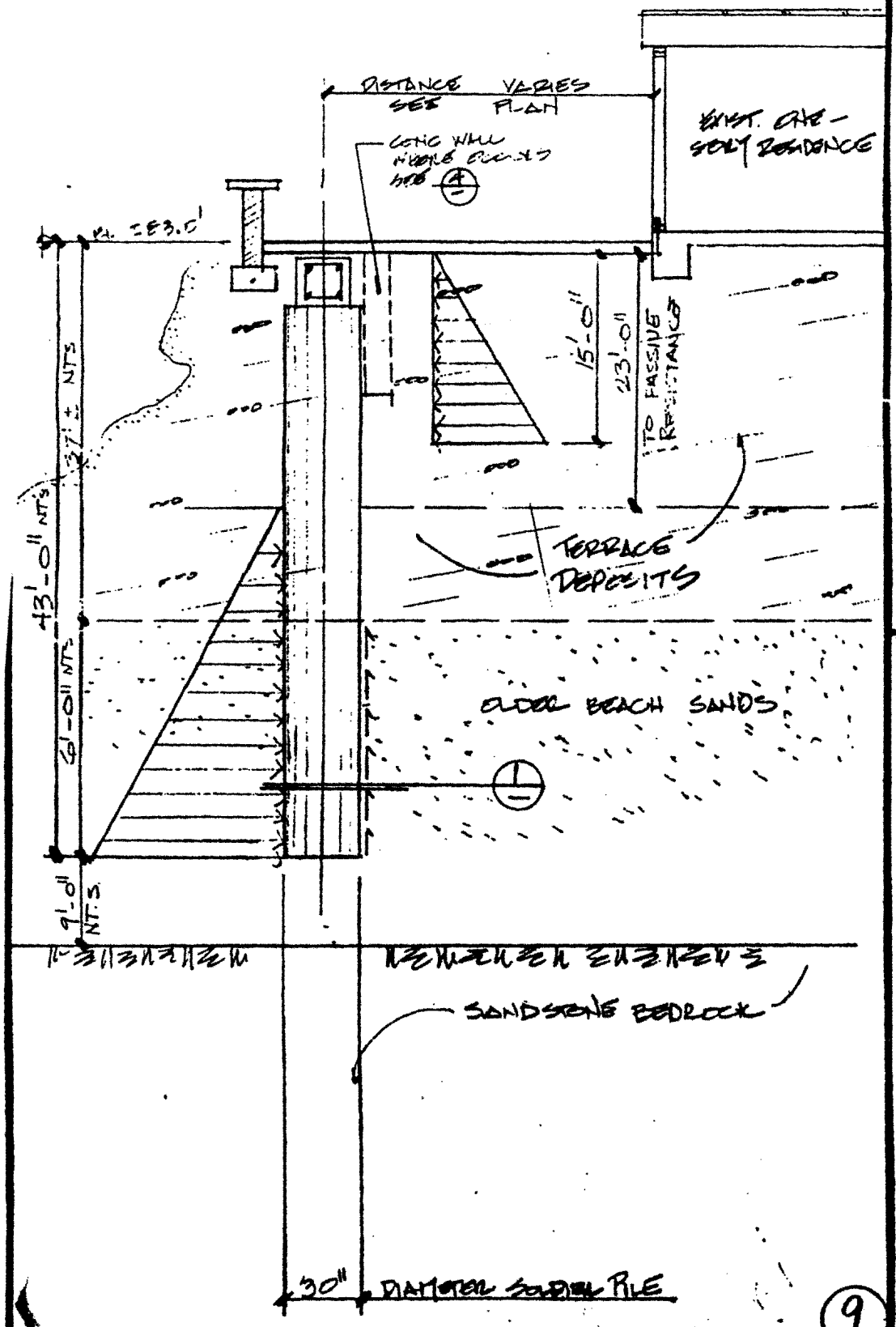


EXHIBIT NO. 4
APPLICATION NO. 4-95-176
subsurface elevation



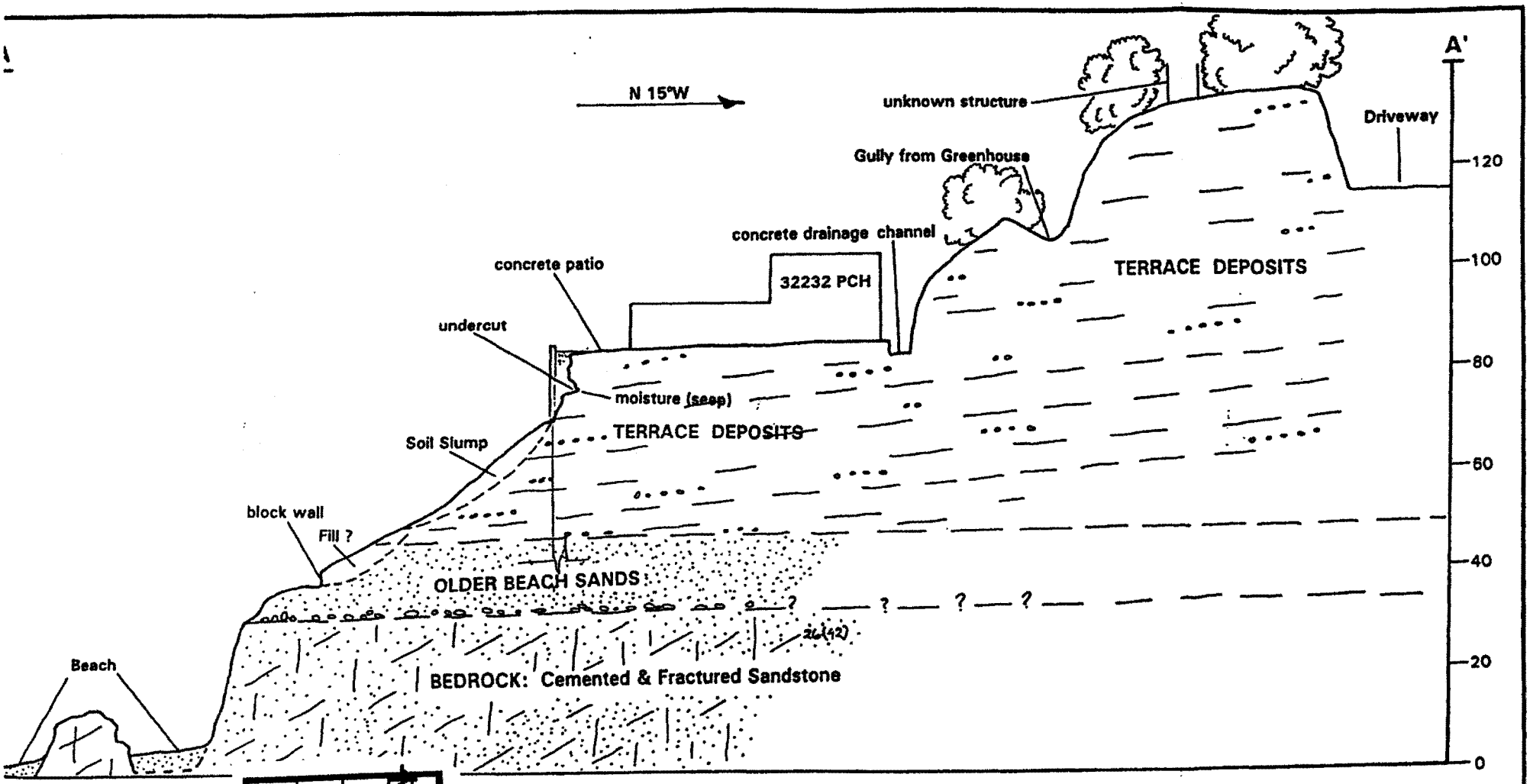


EXHIBIT NO. 5
APPLICATION NO. 4-95-176
Alternative 3
Proposed by Applicant

GEOLOGIC CROSS-SECTION A-A'		
SCALE: 1" = 20'	APPROVED BY:	DRAWN BY JF
DATE: 4/26/95		REVISED
HACKETT/MALIBU		
P.N.759.10-95		DRAWING NUMBER

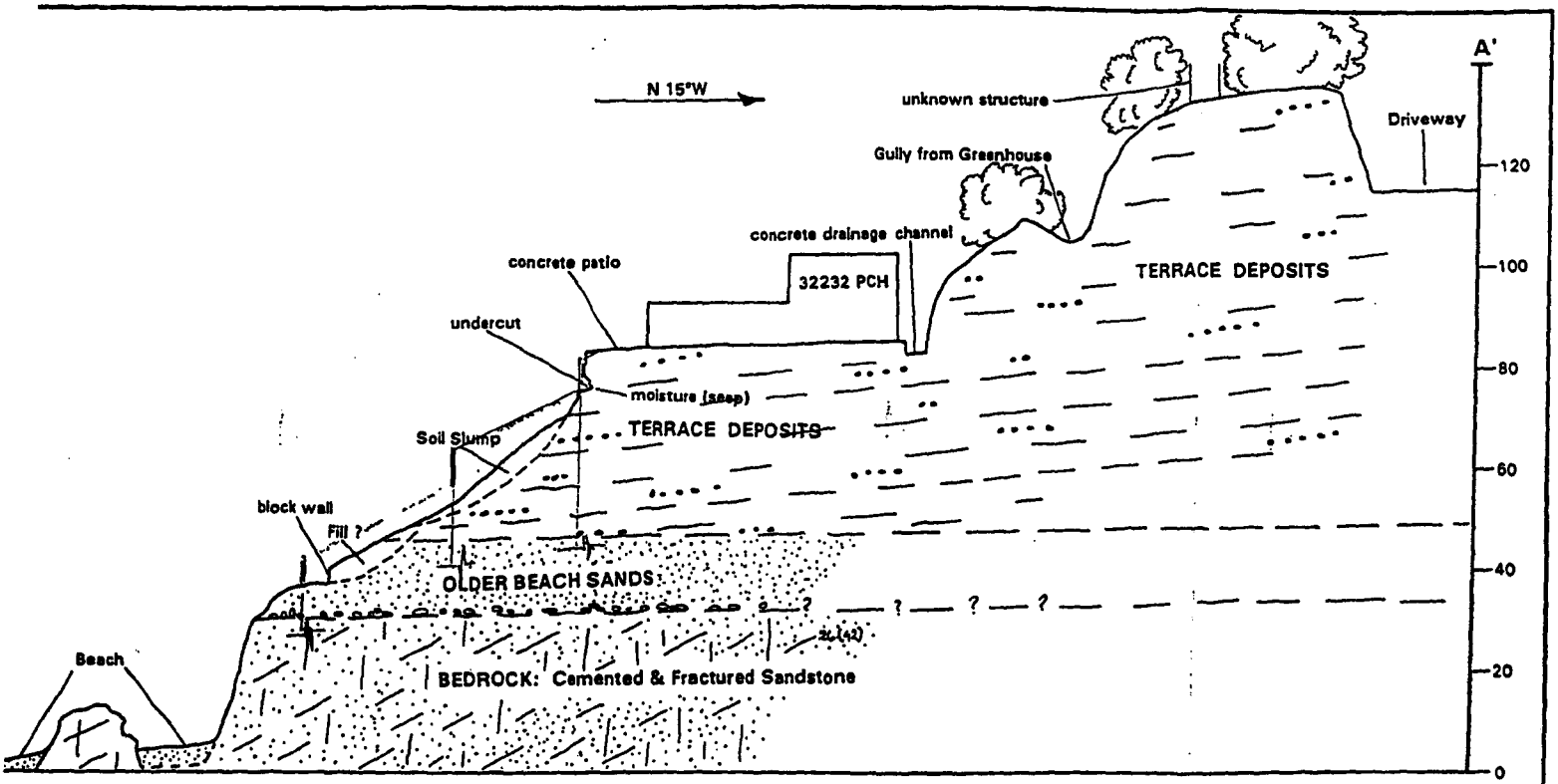
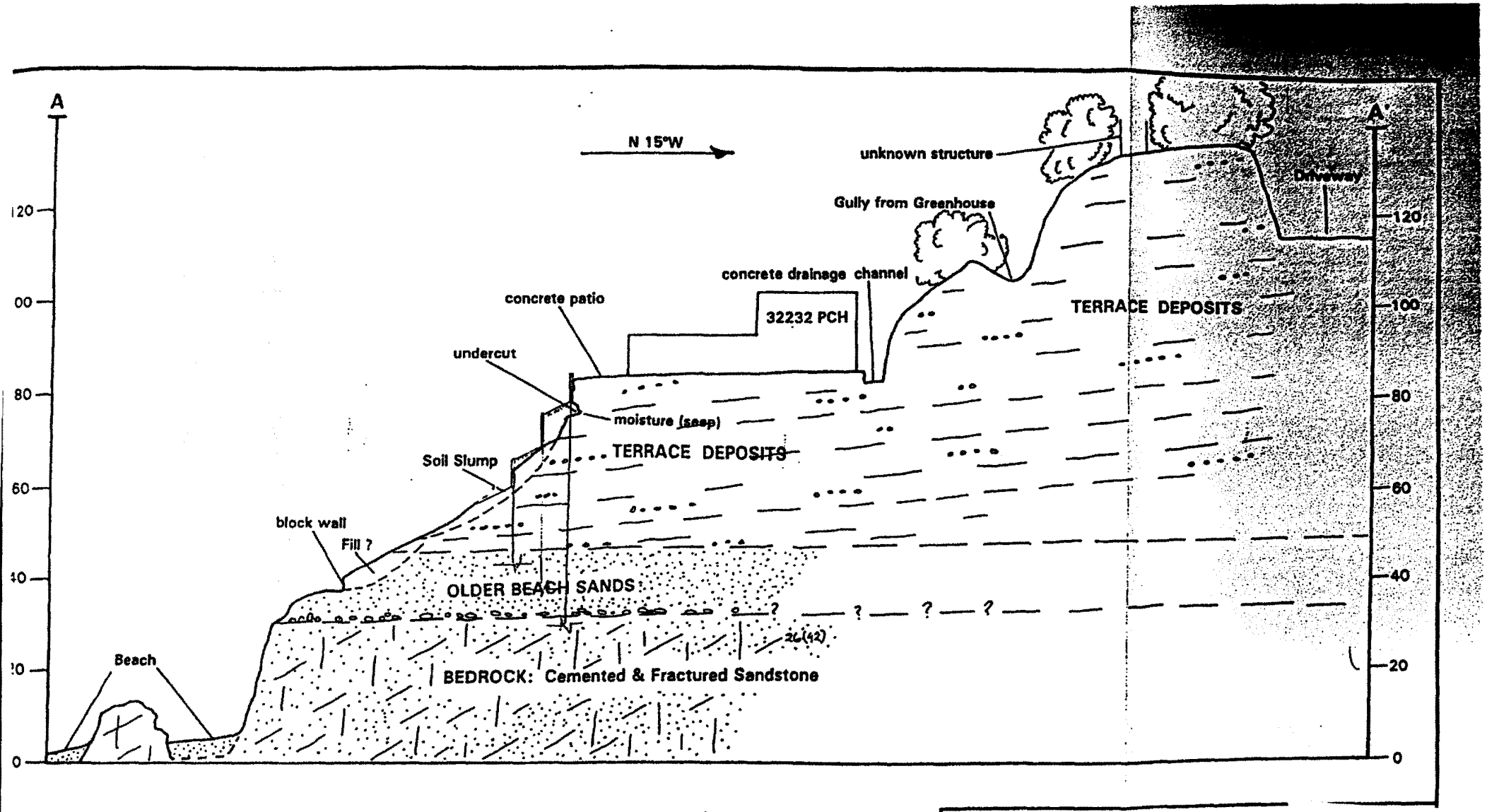


EXHIBIT NO. 6
APPLICATION NO.
4-95-176
Alternative 1

GEOLOGIC CROSS-SECTION A-A'		
SCALE: 1" = 20'	APPROVED BY:	DRAWN BY JF
DATE: 4/26/95		REVISED
HACKETT/MALIBU		
P.N.759.10-95		DRAWING NUMBER



ALTERNATIVE 2

GEOLOGIC CROSS-SECTIO

SCALE: 1" = 20'

APPROVED BY:

DATE: 4/26/95

HACKETT/MALIBU

P.N.759.10-95

EXHIBIT NO. 7
APPLICATION NO. 4-95-176
Alternative 2