CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
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Commission Action on Findings::	

STAFF REPORT: REVISED FINDINGS

TU22a

APPLICATION NO.: 4-95-110

APPLICANT: Steven and Harriet Nichols AGENT: James Harnish

PROJECT LOCATION: 32588 Pacific Coast Highway, City of Malibu; L.A. County

PROJECT DESCRIPTION: Bluff stabilization and restoration of a coastal bluff face on a developed lot, involving the placement of below grade soldier piles and a cast-in-place retaining wall between soldier piles 16 feet landward of the top of the bluff; replacement of drainage pipes; construction of a drainage swale with 1.5 foot high above ground splash walls and runoff velocity reducing steps; landscaping and temporary irrigation.

COMMISSION ACTION: Approval with changes to the conditions

DATE OF COMMISSION ACTION: August 10, 1995

COMMISSIONERS ON PREVAILING SIDE: Areias, Doo, Flemming, Giacomini, Hisserich, Vincent, Pavley, Rick, Staffel, Vargas and Calcagno.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission adopt the following revised findings in support of the Commission's action on August 10, 1995 approving with conditions the permit for bluff stabilization and restoration of a coastal bluff face involving the placement of below grade soldier piles and a cast-in-place retaining wall between soldier piles, landward of the top of the bluff; replacement of drainage pipes; construction of a drainage swale with 1.5 foot high above ground splash walls and runoff velocity reducing steps; landscaping and temporary irrigation.

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. Revised 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 revised landscaping plan

prepared by a landscape architect or resource specialist for review and approval by the Executive Director. The plans shall include the following:

a) The removal of all invasive plant material currently on site, such as Castor Bean (Ricinus communis) and Iceplant (Carpobrotus edulis).

b) 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 swale. No hydroseeding shall occur in areas of the bluff where native plant material is already established. To minimize the need for irrigation and to screen or soften the visual impact of development all landscaping shall consist of 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 Native Plant Species for Landscaping Wildland Corridors in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.

c) The location of any jutte netting on site. 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) An irrigation plan which shows no irrigation below the 75 foot contour line. 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. Drainage Pipe 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.

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 wave run-up 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.

IV. Findings and Declarations.

A. Project Description and Background

The applicants are proposing to stabilize a coastal bluff and improve the drainage on the face of a coastal bluff on a 1.98 acre developed lot in western Malibu. Specifically, the stabilization and repair work involves the placement of soldier piles and a cast-in-place concrete retaining wall approximately sixteen feet landward of the top of the bluff and across the entire length of the bluff, a drainage swale with splash walls and runoff velocity reducing steps, the replacement of two existing drainage pipes, temporary irrigation, and landscaping.

The applicant asserts that the proposed work is necessary to stabilize the bluff by preventing excess saturation from slope drainage and rain water on the bluff face. Excess saturation is the main reason given by the consulting engineering geologists for on-going slope erosion. Erosion has occurred on the face of the bluff on the west side of the site, which is a result of a concentration of uncontrolled runoff from a broken drainage pipe on the neighboring site. Erosion has also occurred at the top of the bluff on the east side of the property resulting from the previous installation of stairs which were to be removed under a previous coastal development permit to restore the bluff. The consulting engineer states that this erosion has resulted in near vertical scarps at the top of the slope.

The residence is setback 100 feet from the top of the bluff; and the deck for the pool, which is the most seaward development is approximately 50 feet from the top of the bluff. The residence was built with support by conventional and deepened footings as recommended by the consulting geotechnical engineer who prepared the initial geology report for the residence. Observations of the exterior and interior of the residence by one of the applicant's engineering geologists, revealed no distress to the residence or foundation system. The swimming pool, located seaward of the residence, was constructed as required and is not exhibiting any structural distress, cracks, or failures.

The subject property is located approximately 345 feet to the west of La Piedra State Beach, and extends from Pacific Coast Highway to the sandy beach. The subject site was developed with a single family residence, guest house, pool and tennis court in 1988 under coastal development permit 5-88-66 (Zal). Physical relief on the property from Pacific Coast Highway to the sandy beach is approximately 150 feet. Slopes on the site range from nearly horizontal for the residential pad and nearly vertical for the bluff face.

The first application for development on this site was 5-85-765 (Lunsford), for the construction of a single family residence set over 100 feet from the edge of the bluff. This project also included a guest house, tennis court, swimming pool, and a private septic system. This application was approved by the Commission; however, the permit expired before any construction commenced on site.

Later, in 5-88-066 (Zal), the new owner applied for a single family residence with a guest house, a tennis court, a swimming pool, a motor court with a fountain, a septic system, a private driveway, and 156 cubic yards of cut. The Commission approved this project with three special conditions which required revised plans, septic system approval from Los Angeles County Department of Health Services, and a future improvements deed restriction. The revised plans required that no portion of the project's structural height exceed 35 feet, the guest house not exceed 750 square feet and the project not exceed more than 80% of the lineal frontage of the lot. This permit was issued and the residence built.

In 1991, the previous owner illegally graded the top of the bluff and built a stairway down the face of the bluff. The Commission's district staff discovered the violation and pursued an enforcement action against the previous owner. The owner applied for an after-the-fact permit to retain the development [5-91-632 (Zal)]. However, the Commission unanimously denied the stairway on the basis that the stairway caused excessive landform alteration and adverse visual and environmental impacts to the bluff face.

To resolve the outstanding violation, the previous owner then applied for the removal of the stairway and complete revegetation of the bluff face, including the placement of native plants and jutte netting [5-91-775 (Zal)]. Only 12 cubic yards of grading was done to reduce the cut slopes on the bluff face; the main cut slope at the top of the bluff was not to be restored. The applicant was issued a waiver for this development. However, the previous owner did not complete the work as stated on the approved plans at that time. Instead, the previous owner built a series of small crib walls in the location of the stairway and stated that these short crib walls were necessary for erosion and drainage control and to stabilize the bluff. These walls also acted as a stairway for beach access. The applicant then applied for an after-the-fact permit for these drainage devices.

This application 4-93-057 (Zal), was later withdrawn by the applicant. The withdrawal of the application occurred after staff informed the applicant that he had not presented sufficient evidence to show that the residence was in any danger of failure from slope erosion or retreat. The purpose of the crib walls, as noted by the previous owner's geologist was to stabilize the bluff and act as drainage control devices; the work would also result in a walkway down the bluff. Since bluffs are, by nature, unstable and there was no evidence that the residence was in any danger from bluff retreat, staff was recommending denial of the application. The removal of all man-made materials from the bluff and revegetation of the slope was completed in late 1993, and the violation case was closed. However, it appears that after the enforcement staff confirmed that the steps had been removed and revegetation was taking hold, the stairs at the top of the bluff were again installed. These stairs, which traverse approximately the first thirty feet of the bluff are located at the cut slope, just above the slope failure on the east side of the property.

B. Geologic Stability

As stated in the previous section, this project involves the placement of soldier piles with a cast-in-place retaining wall between the soldier piles, across the entire width of the property, approximately sixteen feet landward of the top of the bluff. The soldier piles and retaining wall encroach within twelve feet of the bluff at one point. The project also involves a drainage swale with steps and two bench drains in the location of a previous, unpermitted stairway; the replacement of two 12 inch flex drainage pipes with CMP drainage pipes in the same location; irrigation on the entire bluff face; and hydroseeding of the entire bluff face. This work is required, according to West Coast Geotechnical Engineers, for "protection of the subject site and public beach from future and continued erosion and degradation of the slope bluff face." The resulting project will stabilize the bluff and provide on-slope drainage devices to collect sheet-flow, according to the consulting geologist.

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 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 could 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 policies 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 blufftop 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.

The applicant has submitted two geology reports with the application. The first report is a "Preliminary Engineering Geologic Reconnaissance Report" prepared by Mountain Geology, Inc., and dated May 12, 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. The second geotechnical engineering report, dated May 10, 1995 by West Coast Geotechnical consulting engineers and geologists contained opinions regarding the site conditions and how those conditions affect the proposed developments. This second report contained copies of the original geotechnical and soils reports prepared for the construction of the residence. The reports state that bluff retreat has occurred with failures up to fifteen feet wide at the top of the bluff. Without this repair work, there will be a significant loss of property, according to the consulting geologist. The consulting geologist has concluded that

> ...the earth materials at the top of the slope are unstable and subject to (sic) degradation. This instability represents a hazard to the subject property, improvements, and public whom are utilizing the beach immediately downslope to the south.

In the original geotechnical engineering report prepared for the single family residence in 1985, dated August 13, 1985, the consulting geologist, Tucker Incorporated stated that no groundwater was observed in exploratory drill holes; however a spring was noted near the toe of the bluff. No active ground water or adverse moisture which could adversely affect construction was anticipated. And finally, the report notes that:

> Runoff in the past has not created any significant adverse erosional conditions on the site.

The consulting engineer concluded that much of the precipitation that falls directly on the top of the bluff would percolate on site and sheet-flow off the bluff. The consulting engineer, in 1985, found that no adverse evidence of past bedrock instability was present on the subject or adjacent sites, and concluded that continued gross stability of the subject site was favorable.

One of the recommendations of this consulting engineer was to preclude concentrated runoff over the southerly descending slope. All drainage was to be directed to non-erosive devices.

Likewise, the soils report prepared in 1985 by Baseline consultants concluded that slope stability of the bluff exceeds the normally accepted factor of safety for "stable" slopes. The soils engineer recommended that no water shall be allowed to pond or drain down the slope in a concentrated and uncontrolled manner. At more than 100 feet from the edge of the bluff, the setback of the residence is more than adequate for structural protection from the natural hazards stated in the reports.

Erosion on coastal bluffs is expected to occur. Coastal bluffs are unstable and erosional by nature. The residence on site was purposely setback over 100 feet from the edge of the bluff because it is expected that erosion and bluff retreat will occur on this bluff. In order to find 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.

In this case, erosion of the bluff has been exaggerated by the unpermitted placement of a stairway which resulted in a steep cut on the east side of the bluff and a broken drain pipe which resulted in significant erosion on the west side of the bluff. The circumstances in this case are unique, as the instability of the slope appears to have been increased by previous unpermitted developments on the bluff face. The consulting geologist has stated that because of these adverse geologic conditions, erosion control devises are now necessary to protect the bluff from an increase in bluff retreat and thereby protect the subject property, residence and backyard amenities from damage.

The current consulting geotechnical engineer has stated that two sections of the bluff failed after the rains of 1995. The first failure occurred on the west side of the property when the drainage pipe on the neighboring lot failed directing increased amounts of water onto the subject site. The second failure, on the east side of the lot occurred in the vicinity of the old stairway, just below the cut slope at the top of the bluff which could not be restored. Treated wood posts acting as erosion control devices were allowed to be placed in this portion of the bluff, under coastal development permit 5-91-775 (Zal). Below this area is where the slope failure occurred. To prevent any further erosion, the applicants placed tarps on the bluff face.

These failures of the slope resulted from uncontrolled drainage and an intrusion of water both from the broken drainage pipe and rainfall, according to the consulting geotechnical engineer. However, because of these failures, the site is now susceptible to erosion from surface runoff. The engineer states that the slope failures represent an extremely dangerous condition which will result in continued failures and degradation of the slope without the placement of erosion control devices. As a result of the recent minor failures the slope's stability has decreased leaving the near-vertical slopes more susceptible to failure. The consulting engineer has stated that up to fifteen feet of bluff has been lost from these recent slope failures. The rate of bluff retreat is expected to increase from the recent slope failures which resulted from the illegal stairway and broken drainage pipe. The

consulting geologist indicates there are deep seated failures which will occur, causing a significant loss of the bluff face. When these failures are expected to occur was not provided by the consulting geologist. The geologist has also stated that there is a fissure on the top of the bluff on the adjacent property which could continue onto the subject lot. In order to provide for a long term protection of the residence with the least amount of disturbance to the bluff, the consulting geologist is proposing to construct a soldier pile wall at the top of the bluff. The concrete swales on the bluff face are proposed to collect surface runoff and reduce erosion.

The City of Malibu has reviewed this project. The initial geology and geotechnical review sheet prepared by the City of Malibu found the project not approved in the building stage. In order to approve the plan the City of Malibu required the consulting geologist discuss the effects of continued bluff erosion and surficial instability on the face of the piles and retaining walls, and comment on potential damage to the drainage system as a result of bluff erosion and surficial instability. The City also stated that the concrete drainage swale must be periodically cleared of all loose soil, and that erosion control measures on the bluff face following construction of the improvements be provided. The City required this modification and the engineers recommendations to be shown on stamped plans.

In response to this geologic review sheet, the consulting geologist submitted an addendum to the geology report which stated that the final plans will be reviewed for compliance with their recommendations, and that a comprehensive landscape and irrigation plan will be prepared for the City's review, and that the soldier pile and retaining wall will provide stabilization needed in the future from the deep-seated failures. The consulting geologist also noted that the soldier piles and retaining walls are founded deep enough not to be affected, and that the concrete drainage swale will be maintained to insure adequate performance. Upon submittal of the addendum report, the City of Malibu approved the project with regards to geology. The City of Malibu views this development as feasible to stabilize the bluff.

Upon receipt of this application staff was concerned over the placement of the soldier piles at the edge. In response to staff's concerns, the applicant redesigned the project by moving the location of the soldier piles and retaining wall to a location which is approximately 16 feet landward of the top of the bluff. The consulting geologist stated that due to the geologic hazards on the site, the wall can not be moved any further landward. In order to be effective in retarding bluff retreat, the soldier piles and the wall must be located within the zone of failure. At its proposed location, 16 feet from the edge of the bluff, the soldier pile wall is not expected to interfere with the natural processes of bluff erosion and will not exacerbate the current conditions. Since protection of the residence and hardscaping will be necessary at some point in the future, the Commission finds that as proposed, the placement of the soldier piles landward of the edge of the bluff is consistent with Section 30235 and 30253 of the Coastal Act. Similarly, the repair and replacement of the drainage pipes on the bluff are consistent with Section 30235 and Section 30253 of the Coastal act as they provide erosion control in a non-erosive manner and do not adversely impact the natural beach or bluff processes.

The final development proposed to reduce runoff and hence erosion from the bluff is a drainage swale located on the bluff face with two smaller bench

drains. In this case, the engineer designed the drainage swale to follow the direction of the previous unpermitted stairway. The drainage swale also contains velocity reducers, called "steps." Given the steepness of the bluff face, erosion will occur, even with the drainage swale. The swale will need to be constantly maintained to be effective. The consulting geologist has stated that the drainage swale and associated structures are required to catch rain water and prevent further erosion of the bluff which will be exacerbated by the recent slope failures. The Commission finds that this situation is unique and that erosion control measures are required to reduce the erosion which has been exaggerated by the previous unpermitted developments on site.

Along with the placement of the drainage swale to catch runoff, the reduction of the erosion of the bluff through revegetation of the bluff and placement of geotextiles, such as jutte netting is critical. These measures in combination with the control of runoff over the bluff edge should significantly reduce erosion on this bluff. It should also be noted that there is very little erosion occurring at the toe of the bluff because the base of the bluff is primarily a very hard bedrock layer. Therefore, the combination of erosion control measures mentioned above should provide adequate erosion control to stabilize the bluff.

The applicant has provided a landscaping plan which incorporates these erosion control measures. However, in order for the landscape plan to be effective in mitigating erosion, the plan must comply with certain parameters. To begin with, the plan should include coverage of all exposed areas. Next, the plan should use the minimal amount of irrigation to minimize the amount of water on the bluff face. An increase in saturation of the soil will lead to further failures. Finally, the plan should use native vegetation endemic to bluffs; these endemic plant species are more likely to survive because their morphology and growth behavior is adapted to steep bluffs. The plan submitted by the applicant does not contain these parameters. Therefore the Commission finds it necessary to require the applicant to submit revised landscaping plans, as outlined in special condition 1.

Finally, the Coastal Act recognizes that development on a coastal bluff may involve the taking of some risk. The proposed measures can not completely eliminate the hazards associated with bluffs such as bluff erosion and failure. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to establish 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 erosion, bluff retreat, and slope failure, the applicant shall assume these risks as a condition of approval. Because this risk of harm cannot be completely eliminated, the Commission must require 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 appreciates the nature of hazards which exist on the site, and which may adversely affect the stability or safety of the proposed development.

The Commission finds that only as conditioned is the project consistent with the Coastal Act sections 30235 and 30253..

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 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 into the skyline.

As proposed this projects calls for 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 marine 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.

In this case, there is little vegetation on the upper portions of the bluff due to the extensive erosion and slope failures. The placement of erosion

control devices, in this case, would not adversely affect habitat areas if the surrounding bluff is revegetated and restored. The applicant is proposing to restore the vegetation on the bluff in locations where vegetation was lost. However the submitted landscaping plans include non-native vegetation and an extensive irrigation system. Landscaping and irrigation on the bluff will have adverse effects on the bluff if the planting plan calls for the placement of non-native vegetation which requires extensive irrigation. Likewise, planting only portions of the bluff would not maximize the erosion control or provide the maximum amount of habitat areas. 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. The applicant has stated that the irrigation is only temporary; however, this is not stated on the plans. Finally, the applicants are proposing to irrigate the entire bluff; however, the lower portion of the bluff, below the 75 foot contour line is well vegetated with native plant species such as Tree Coreopsis (Coreopsis Gigantea), and therefore no irrigation is required.

In order for the landscaping to be beneficial to the environment, and as such consistent with Sections 30240, 30231 and 30230 of the Coastal Act, the applicant shall be required to submit revised landscaping plans which incorporate the removal of non-native, invasive plants; the removal of irrigation below the 75 foot contour line, since this area is already naturally vegetated; place jutte netting on site only in conjunction with the placement of plants; state on the plans that the irrigation will be removed within two years of the commencement of the project; and remove the tarps from the site.

Section 30251 of the Coastal Act mandates the preservation of scenic views from public beaches and other public locations, such as public highways. Coastal Bluffs are considered a scenic element, and development should be minimized or eliminated in order to mitigate any adverse visual impacts from public beaches. In this case, The soldier piles, as proposed, will not be visible from the public beaches below the subject site, and as such is consistent with Section 30251 of the Coastal Act. The landscaping of the bluff, in addition to benefiting the environmental value of the bluff, also enhances the public view. The landscaping also screens the drainage swale, which will be at least partially visible, from the public beaches. As stated above, the placement of the drainage swale is necessary and landscaping will mitigate the visual impacts of the drainage swale. Finally, the project calls for the replacement of the drainage pipes on the bluff face. To protect the visual views of the site, the drainage pipes and swale, 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 3.

The Commission finds that only as conditioned for landscaping and color restricting the drainage pipe, is the proposed project consistent with Sections 30230, 30231, 30240, 30250, and 30251 of the Coastal Act.

D. 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 coastal 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. As conditioned, the development will not create adverse impacts and is consistent with the applicable sections of the Coastal Act. Therefore, th Commission finds that approval of the proposed development, as conditioned, will not prejudice the ability of the City of Malibu to prepare a certifiable Local Coastal Program that is consistent with the policies of Chapter 3 of the Coastal Act.

E. 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, 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.

As conditioned, there are no negative impacts caused by the proposed development which have not been adequately mitigated. Therefore, the proposed project, only as conditioned, is found consistent with CEQA and the policies of the Coastal Act.

1807M

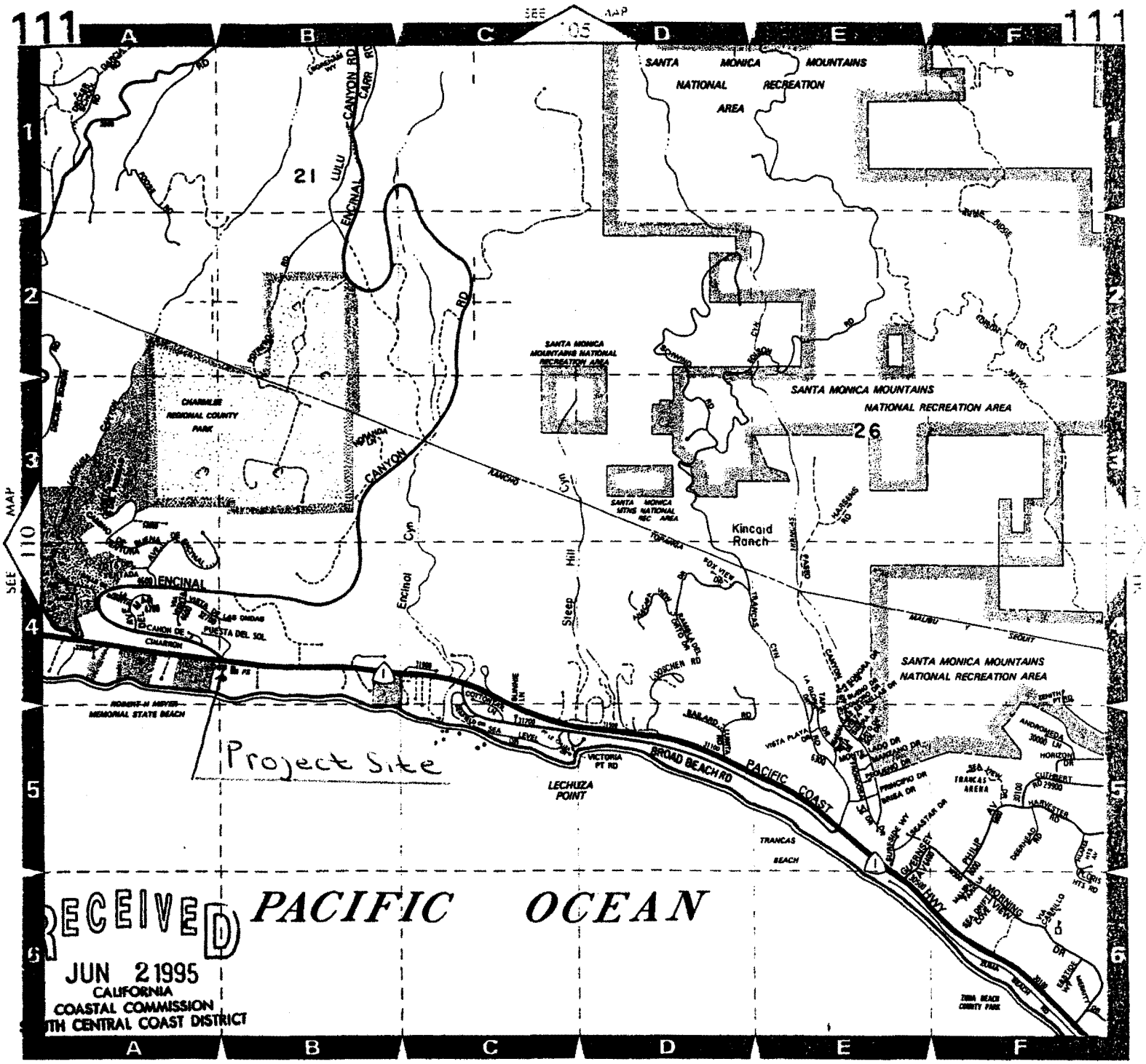

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Exhibit 1: Location Map
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TRW·REDI

1-800-

4473 | 15

SCALE 1" = 100'

1992

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ENCINAL CANYON RD.

PACIFIC COAST

F.M. 11660-1 F.M. 11658 F.M. 11698-1

S 83°19'30" E

Sta 281 + 09.10
F.M. 11660-1
O.R. 15228-342

COUNTY 900 0.43±Ac. 18,730±□

18 Par.

17 Par.

R. S. 106-80

N 6°40'30" E

N 6°57'46" E

S 6°51'02" W

S 6°46'30" W

S 6°18'30" W

S 62°59'04" E 100.95

N 86°45' E 35

S 84°53'12" W

2 2.35±Ac. 41,305±□

3 0.86±Ac. 41,820±□

10 1.34±Ac. 84,510±□

9 1.96±Ac. 85,380±□

8 1.98±Ac. 86,250±□

7 1.87±Ac. 85,810±□

13 1.52±Ac. 66,210±□

5 2.72±Ac. 118,480±□

3 2.01±Ac. 87,560±□

2 1.76±Ac. 76,610±□

4 0.63±Ac. 27,440±□

PER CODE 10853 PACIFIC HIGH TIDE LINE PER MAY 1957 SDC OCEAN

Exhibit 2: Parcel Map
4-95-110

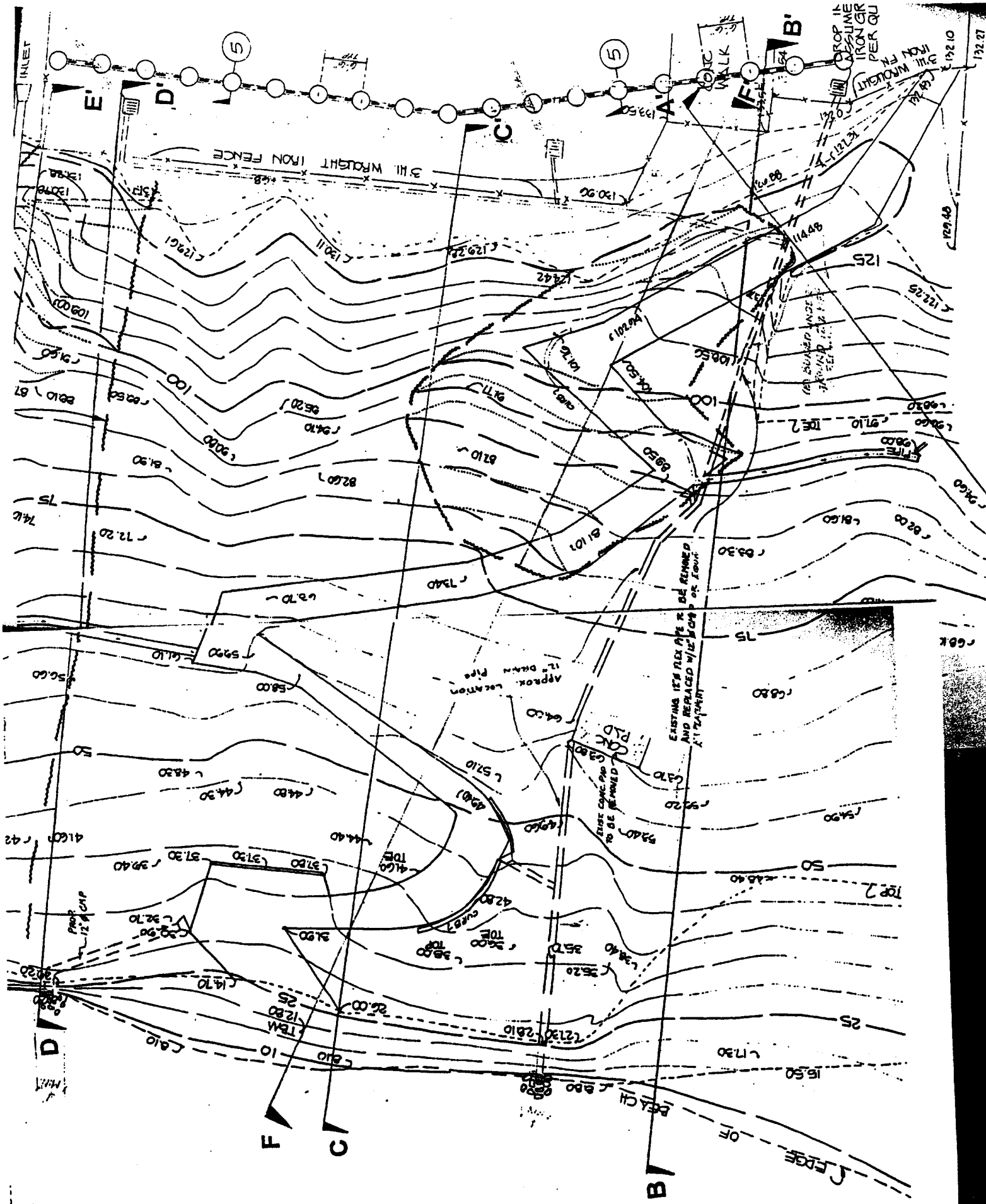


Exhibit 3: Site Plan

4-95-110

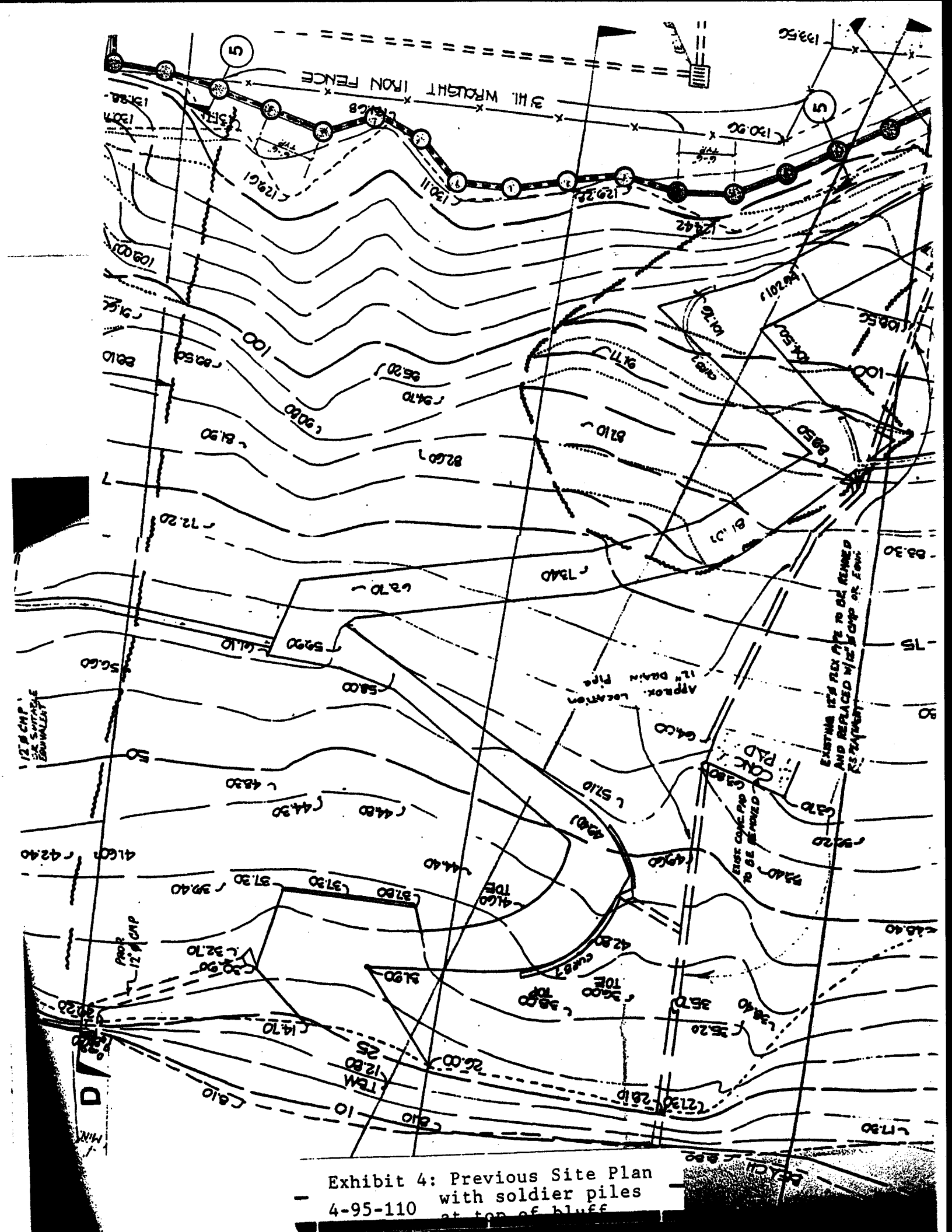
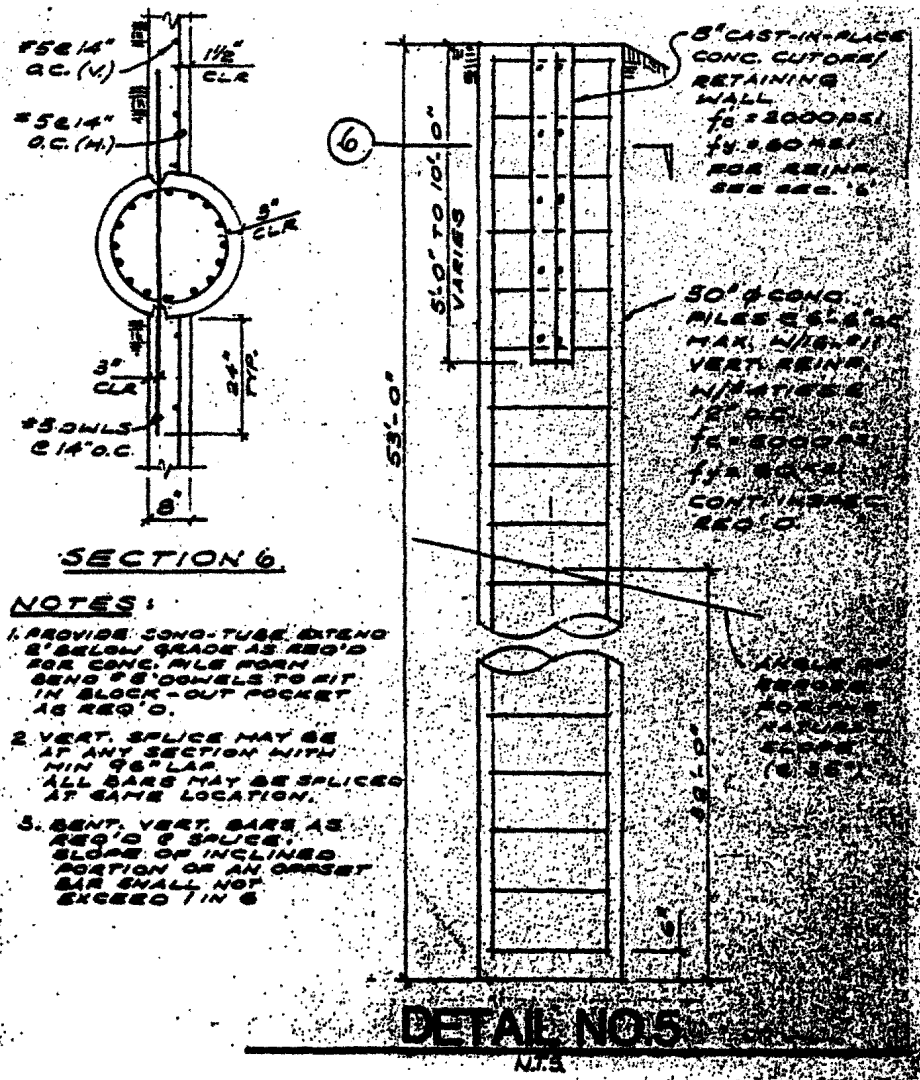


Exhibit 4: Previous Site Plan with soldier piles at top of bluff

4-95-110

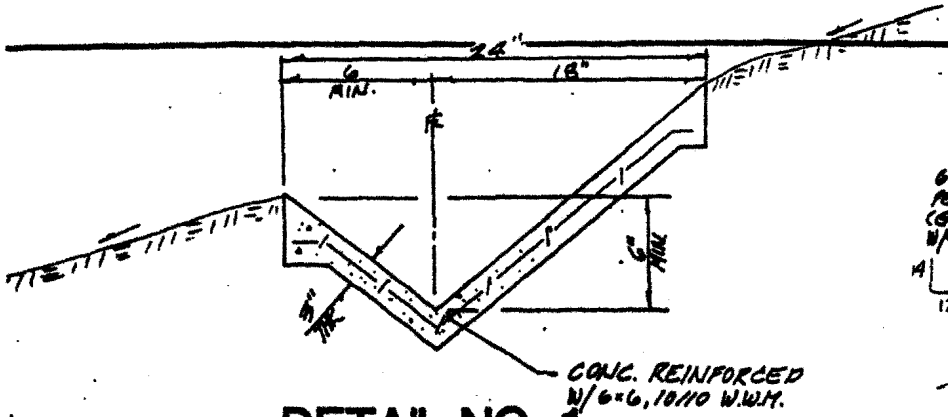
- PORTLAND CEMENT SHALL BE TYPE II, LOW ALKALI, CONFORMING TO U.B.C. STD. 26-1
- AGGREGATE FOR HARDROCK CONCRETE SHALL CONFORM TO ASTM C 33.
- BEFORE CONCRETE IS PLACED CHECK WITH ALL TRADES TO ENSURE PROPER PLACEMENT OF ALL OPENINGS, SLEEVES, CONDUITS, CURBS, ETC., RELATING TO THE WORK.
- ALL WATER SHALL BE REMOVED FROM FOUNDATION EXCAVATIONS PRIOR TO PLACING CONCRETE.
- BAR SPLICES IN CONCRETE SHALL LAP 30 BAR DIAMETERS MINIMUM AND MAY BE WIRED TOGETHER, UNLESS OTHERWISE NOTED ON PLANS.
- NO MORE THAN ONE GRADE OF CONCRETE SHALL BE ALLOWED ON THE JOBSITE AT ANY TIME.



INLET
NED ELEVATION
GRATE 132.10
QUIROS SURVEY

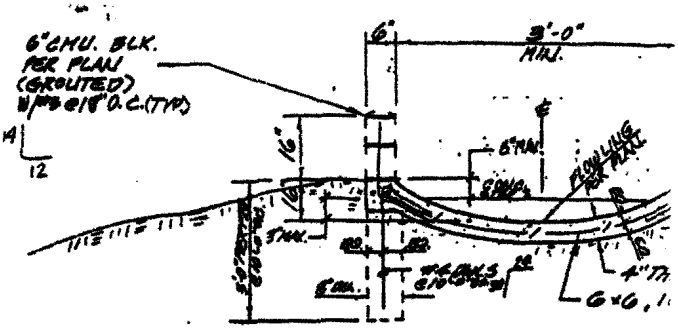
Exhibit 5: Soldier Pile Detail

4-95-110



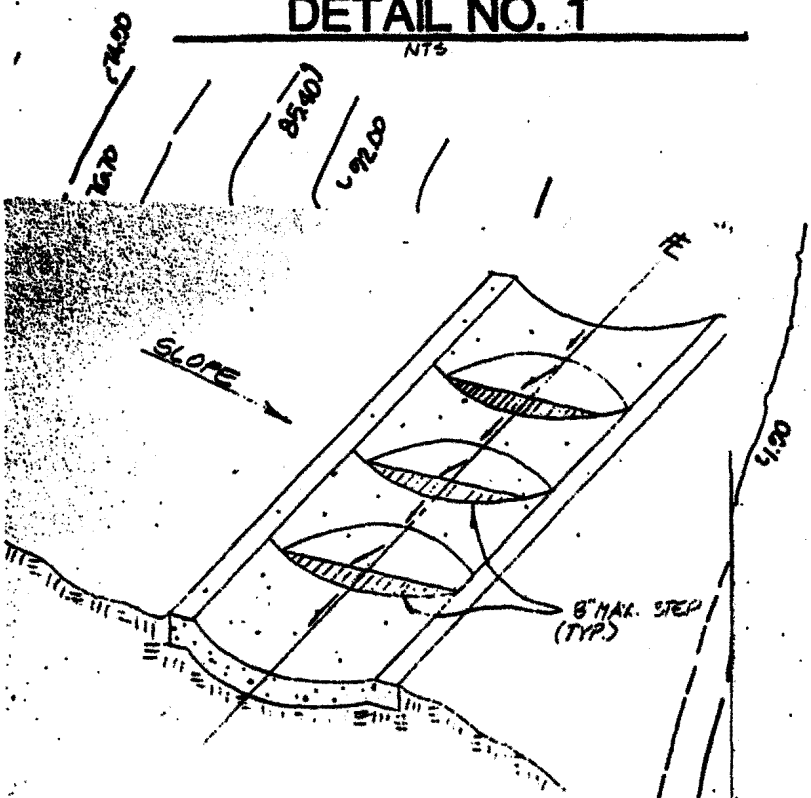
DETAIL NO. 1

NTS

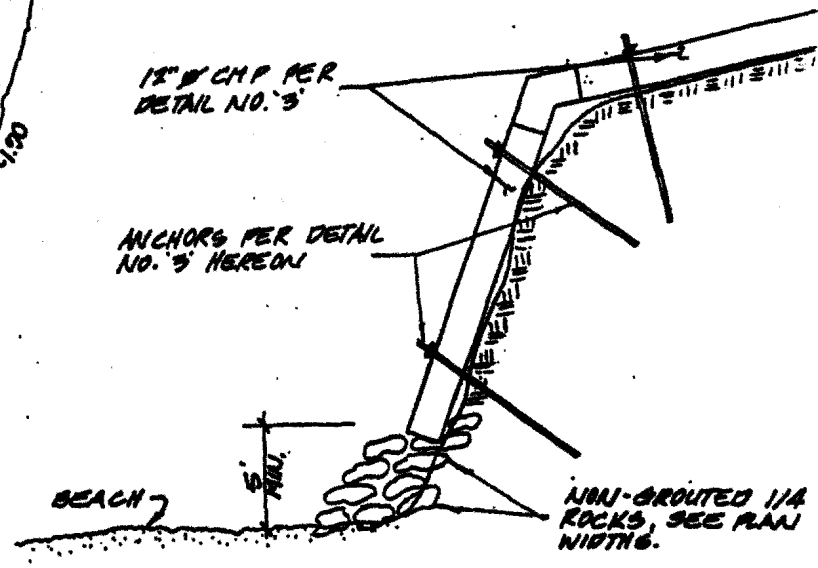


DETAIL NO. 2

ACCESS FOR SLOPE MAIN



ISOMETRIC DRAINAGE DETAIL



DETAIL NO. 4

NTS

APHY SUPPLIED BY:

BETZ SURVEYORS

Exhibit 6: Drainage Details

4-95-110

GEOLOGY REFERRAL SHEET

TO: City Geologist

FROM: Planning Department - Case Planner S. Nystrom

DATE: 5/15/95

PROJECT #: PPR 95-077

JOB ADDRESS: 32588 PCH

PROJECT DESCRIPTION:

Coastal Bluff Slope Repair

X The project requires Califronia Coastal Commission review.

____ The project previously received a Coastal Commission Develpment permit but because of revisions needs to obtain a waiver, amendment, or immaterial amendment from the Coastal Commmission.

____ The project does not require Coastal Commission review.

TO: Malibu Planning Department and/or Applicant

FROM: City Geologist

DATE: 5-18-95

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SOUTH CENTRAL COAST DISTRICT

✓ The project is geologically feasible and can proceed through the planning process. *

____ The project cannot proceed through planning until geological feasibility is determined. A geology review deposit of $625.00 will be required. In addition, geology and geotechnical (soils) reports may be required which evaluate the site conditions, factor or safety, and potential geologic hazards. All reports should conform to report guidelines established by the City. An additional $625.00 deposit may be required for review by the City's geotechnical consultant.

Signature 5-18-95 Date

NOTE: Determination of geologic feasibility for planning should not be construed as approval of building and/or grading plans which need to be submitted for Building Department approval. At that time, those plans may require approval of both the City Geologist and Geotechnical Engineer. Additional requirements/conditions may be imposed at the time building and/or grading plans are submitted for review, including requiring geology and geotechnical reports.

* Based upon West Coast Geotechnical report (5-10-95). Detailed r

Exhibit 7: City Geology Approval
4-95-110

95-110

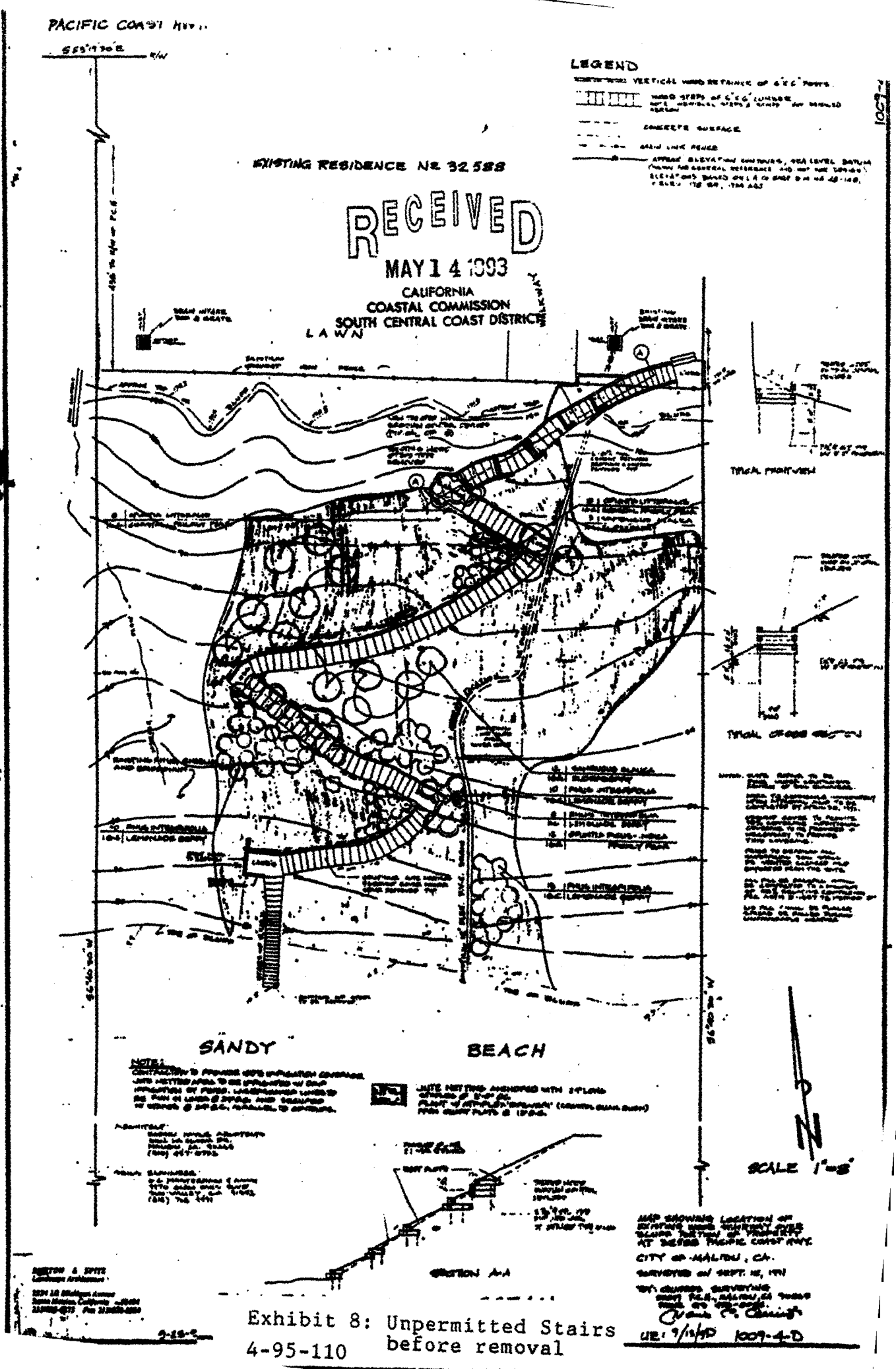

Exhibit 8: Unpermitted Stairs before removal

4-95-110

STATE OF CALIFORNIA—THE RESOURCES AGENCY PETE WILSON, *Governor*

CALIFORNIA COASTAL COMMISSION
SOUTH COAST AREA
245 W. BROADWAY, STE. 380
P.O. BOX 1450
LONG BEACH, CA 90802-4416
(213) 590-5071

Date: December 2, 1991

TO: Hossein Zal
32588 Pacific Coast Highway
Malibu, CA. 90265

SUBJECT: Waiver of Coastal Development Permit Requirement/De Minimis Developments-Section 30624.7 of the Coastal Act

Based on your project plans and information provided in your permit application for the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit pursuant to Section 13238.1, Title 14, California Administrative Code. If, at a later date, this information is found to be incorrect or the plans revised, this decision will become invalid; and, any development occurring must cease until a coastal development permit is obtained or any discrepancy is resolved in writing.

WAIVER # 5-91-775 APPLICANT: Hossein Zal

LOCATION: 32588 Pacific Coast Highway, City of Malibu; Los Angeles County

PROPOSED DEVELOPMENT: Removal of steps, placed without a coastal development permit and denied in coastal development permit application 5-91-632, on a coastal bluff, placement of 5 treated-wood erosion control devises requiring 12 cubic yards of grading, and the revegetation of the bluff with plants endemic to coastal bluffs of the Santa Monica Mountains. All work is to be completed by April 30, 1992; revegetation of the bluff will provide ninety percent coverage of the affected area within ninety days of issuance of the waiver, and, if necessary, replanting will be repeated if the initial planting does not provide adequate coverage.

RATIONALE: The project will resolve an existing violation. It will improve the stability of the site and will have positive environmental impacts by increasing the habitat area and decreasing the amount of disturbed bluff area. In addition, the proposed development will have no adverse impacts on coastal access or resources, is consistent with the County's certified LUP and the Chapter 3 policies of the Coastal Act

This waiver will not become effective until reported to the Commission at their December 10-13, 1991, meeting and the site of the proposed development has been appropriately noticed, pursuant to 13054(b) of the Administrative Code. The enclosed Notice Card shall remain posted at the site until the waiver has been validated and no less than seven days prior to the Commission hearing. If four (4) Commissioners object to this waiver of permit requirements, a coastal development permit will be required.

Charles Damm
CHARLES DAMM
South Coast District Director

by: Gary Jeffries

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CENTRAL COAST DISTRICT

cc: Commissioners/File
2987E

Exhibit 9: Waiver for stair removal
4-95-110