

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Hearing Date: April 9-12, 1996
Commission Action:



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STAFF REPORT: REGULAR CALENDAR

W15a

APPLICATION NO.: 4-95-162

APPLICANT: Michel Arbaut

AGENT: None

PROJECT LOCATION: 5970 Ramirez Canyon Road, City of Malibu; Los Angeles County

PROJECT DESCRIPTION: Construction of a 72 foot long 4.5 foot high concrete retaining wall at the base of a slope in Ramirez Creek, with backfilling of the slope between the retaining wall and Ramirez Canyon Road.

Lot Area	4.97 acres
Building Coverage	0 new sq. ft. (%)
Pavement Coverage	0 new sq. ft. (%)
Landscape Coverage	0 new sq. ft. (%)
Parking Spaces	0 proposed
Project Density	1 dua (existing)
Ht abv fin grade	4.5 feet

LOCAL APPROVALS RECEIVED: "Approval in concept" from the City of Malibu and a streambed alteration agreement from the California Department of Fish and Game

SUBSTANTIVE FILE DOCUMENTS: Channel Study for 5970 Ramirez Canyon by Hovell and Pilarski Engineers dated December 19, 1995. Structural Calculations by the Rolin Partnership dated September 21, 1995. Coastal Development Permit Applications 4-95-252 (Ca. Dept. of Parks and Rec), 4-95-188 (County of Santa Barbara), 4-92-206 (Tahmasebi), 4-92-202 (Allen), 4-92-127 (Kleinman), 5-91-646 (Kleinman), and 5-91-328 (Contis).

SUMMARY OF STAFF RECOMMENDATION:

This is an after-the-fact coastal development permit application for the placement of a cement wall in a blueline stream which is recognized as an environmentally sensitive habitat area (ESHA). The applicant constructed the wall at the base of the slope to prevent the undermining of Ramirez Canyon Road. No alternatives for the stabilization or protection of Ramirez Canyon Road were studied prior to the installation of this wall. Staff has reviewed this project and studied available information regarding alternatives and finds that there are project alternatives which are feasible and would be less environmentally damaging. Since the wall is in place, the applicant is unwilling to propose any alternative to this project. Because this project is inconsistent with Sections 30236, 30231, 30240, and 30250 of the Coastal Act with regards to mitigation practices, environmental protection, water quality, and cumulative impacts, staff recommends that the Commission deny this project as proposed. If denied resolution and/or restoration of the site will be resolved through enforcement action.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Denial

The Commission hereby denies a permit for the proposed development on the grounds that it would not be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 and would prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of the Coastal Act.

II. Findings and Declarations.A. Project Description and Background

This after-the-fact application is for the placement of a 72 foot long 4.5 foot high concrete retaining wall at the base of the stream bank in Ramirez Creek. The applicant also plans to backfill this wall between the wall and Ramirez Canyon Road, and vegetate this area. The amount of fill required to back fill this wall is minimal (less than 50 cubic yards). At the northern end of the wall, the wall is four feet away from the edge of Ramirez Canyon Road. This is the closest the wall is to Ramirez Canyon Road. Since Ramirez Creek curves away from Ramirez Canyon Road at the applicant's property, the distance between the road and the creek increases from north to south (See Exhibit 5). At its maximum distance, the wall is over 11.5 feet from the edge of the road.

The applicant states that construction of this wall was done in response to concerns raised by the homeowners association. In letters from the Ramirez Homeowners Association (Exhibits 9 and 10), the homeowners cited that the stream is eroding the bank of the stream which is close to the road. The natural erosion of the bank occurred during the heavy rains in the winter of 1993, and eroded the bank of the stream to no closer than four feet from the shoulder of the road. This erosion only occurs at the curve in the road; upstream and downstream from this curve, the edge of the stream is over ten feet from the edge of the road.

The applicant received an after-the-fact streambed alteration agreement from the California Department of Fish and Game (DFG). DFG allowed the wall to remain since it was already built, but required the applicant to backfill behind the wall and vegetate this fill area. Further work in the stream would require a new streambed alteration agreement from DFG.

The width and the slopes of Ramirez Creek vary from property to property. At the applicant's site, the width of the channel is six to nine feet at the bottom and 20 to 30 feet at the top of the channel. The slope is gentle on the eastern side (away from the road) and steeper on the western side of the creek (adjacent to the road). Ramirez Canyon Creek runs begins north of the subject property and meanders from the west to the east side of Ramirez Canyon Road, eventually leading to the ocean. In various places the stream banks have been channelized with small rock retaining walls. Most of these walls support existing driveways or bridges which pre-date the Coastal Act. No additional channeling of the stream has been approved by the Commission since the January 1, 1977 effectiveness date of the Coastal Act.

Ramirez Creek is a recognized blueline stream on the U.S.G.S. maps (Exhibit 4). Furthermore, Ramirez Creek is recognized as an environmentally sensitive habitat area by the Commission (Exhibit 3). This portion of Ramirez Canyon is considered to be a disturbed sensitive resource as the creek has been partially channelized, is crossed by Ramirez Canyon Road in several locations, and has some non-native vegetation. However, recent site visits by staff has confirmed that the creek still maintains its ecological function and contains numerous oaks and other riparian dominant habitat.

The project site was developed with a single family residence prior to the January 1, 1977 effectiveness date of the Coastal Act; no coastal development permits have been applied for or issued for any other development on this site. The site is located north of Pacific Coast Highway on the east side of Ramirez Canyon Road.

B. Environmentally Sensitive Habitat Areas and Stream Alteration Devices

This project is located within Ramirez Creek. This creek is a recognized blueline stream with regular water flows to the ocean. The mouth of the creek is just west of Paradise Cove. The Commission recognized the importance of this creek when certifying the Malibu/Santa Monica Mountains Land Use Plan and identified it as an environmentally sensitive habitat area (ESHA). However, because of the pre-existing disturbance to this creek (which pre-dates the coastal act), the lower portion of the creek as it runs through this residential area is identified as a disturbed resource. The Coastal Act provides for the strictest protection of water quality and environmentally sensitive habitat areas, such as this stream, as essential for the protection of coastal resources. The Coastal Act sections applicable to this project are as follows:

Section 30231

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, and minimizing alteration of natural streams.

Section 30240

(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 30236

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be

limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

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.

As stated in the previous section, this project calls for the construction of a 72 foot long retaining wall between Ramirez Canyon Road and the center line of Ramirez creek. The applicant asserts that this wall is necessary for the protection of Ramirez Canyon Road. According to an exhibit submitted by the applicant (Exhibit 7), during the winter rains of 1993, some of the slope along the stream eroded. This eroded portion constitutes approximately four feet of the bank which in some places is about half of the width of the existing bank. Thus, at least four feet of bank exist along the stream and this bank acts as a natural protection of the road which is upslope from the streambed.

Since this development involves the alteration of a blue-line stream which is a recognized EHSA, the project must be reviewed for compliance with Sections 30236, 30250, 30231 and 30240 of the Coastal Act. Section 30236 mandates that the channelization of streams include the best mitigation measures and only be allowed if required for the protection of, among other things, public safety. Section 30250 of the Coastal Act mandates that new development not have individual or cumulative effects on coastal resources. Section 30240 of the Coastal Act calls for the preservation of ESHAs, and finally Section 30231 of the Coastal Act mandates that development minimize the alteration of natural streams and protect the biological productivity and quality of coastal waters. The proposed project is not in compliance with these Sections of the Coastal Act as explained below.

In reviewing the consistency of this project against the Chapter Three policies of the Coastal Act, the Commission must consider 1) the asserted necessity for a protection device to protect Ramirez Canyon Road, 2) the individual impacts this wall has on the stream hydrological and habitat functions, 3) the cumulative impacts of stream channelization on Ramirez Creek and 4) whether this project is the least environmentally damaging feasible alternative.

The first test is whether a protection device is necessary at all. Section 30236 of the Coastal Act restricts stream alteration projects to those which are necessary for flood control where no other method for protecting existing

structures in the floodplain is feasible and where such protection is required for public safety. Stream channels naturally meander through a larger floodplain area; thus the actual stream channel, if left undeveloped, will naturally change and modify itself through time. However, once development occurs within a floodplain it often becomes necessary to install protective devices which will channelize the stream channel within the floodplain and protect the developments.

Staff has visited this site and reviewed pictures of the site prior to the placement of the wall. During high water flows, the stream channel does encroach near the road; however the stream channel does not reach the shoulder of the road. From the pictures submitted by the applicant, compared with the site plans, the stream during the winter rains of 1993 encroached within four feet of the shoulder of the road. The consulting engineers have concluded that additional erosion will occur if no protective device is constructed. When this erosion will occur can not be computed as erosion of stream banks often occurs in single large events. Thus, it is not possible to determine when the erosion of the streambank will endanger the stability of the road. However, it is possible to conclude, as the consulting engineers have, that this erosion is inevitable if no protective device is constructed.

The applicant submitted a letter dated January 3, 1994 (Exhibit 11) from a registered civil engineer which stated that:

It appears that future erosion will cause damage to the street if protective measures are not provided.

In addition, the consulting engineer submitted a letter to staff, dated March 19, 1996, which also states that erosion protection is required (Exhibit 12). Finally, the applicant submitted two letters from residents on Ramirez Canyon whom represent the homeowners association. These letters cite that the creek is undermining the shoulder of the road and therefore protection is needed.

In this specific case, Ramirez Canyon Road was built within the floodplain. In several places, the stream actually passes over the road. Because of the close proximity of the road to the stream, protection of the road will be necessary if the stream undermines the road. During the 1993 storms, the stream did not undermine the road; however the consulting engineers are stating that if no protective devices are installed undermining and continued erosion will occur. Thus, the project meets the first criteria of the Chapter Three policies: a protection device is necessary for the protection of the road.

The second criteria is the impacts this project will have on the functions of the creek. These functions include the habitat value and use for feeding, nesting, protection and shelter, as well as the hydrological functions such as water flow, capacity, and quality. The Chapter Three policies of the Coastal Act mandate the protection of streams and their functions. Section 30240 of the Coastal Act mandates the protection of ESHAs such as streams, and mandates that only resource dependant uses be allowed in such an area; Section 30231 of the Coastal Act mandates the protection of water quality and the minimization of alteration of natural streams.

Pursuant to these Sections, the Malibu Land Use Plan contains several policies which further address the protection of streams. These policies have been

used as guidance by the Commission in past permit actions and continue to provide it for new development. Policy 91 suggests that new development be designed to minimize alteration of physical features and functions including streams and other watercourses. Consistent with Section 30240 and 30231 of the Coastal Act, the LUP also contains the Table 1 standards for all development with ESHAs, watersheds and wildlife corridors. These policies are used for guidance by the Commission and have directed numerous developments in past actions. The Table 1 standards for ESHAs suggest that only resource dependent uses, such as nature observation, research and passive recreation, be allowed. In ESHAs and disturbed sensitive resource areas streambeds should not be altered except where consistent with Section 30236 of the Coastal Act.

Ramirez Creek is a designated ESHA in the LUP which is identified as a disturbed sensitive resource area (DSR). The Commission, in certifying the LUP found that these DSRs to be:

...riparian and oak woodlands which have been modified by fairly intensive residential development. In many instances, the stream channel and associated streamside vegetation in these areas have been retained in a natural or near natural condition. Large native trees restricted in distribution, particularly sycamores and coast live oaks, still dominate these areas despite the introduction of exotic landscaping....The DSRs continue to sustain large native wildlife populations, particularly birds.

Coastal Act Sections 30236, 30231 and 30240 mandate that the development not adversely affect coastal resources and that the development implement the best mitigation measures. Contrary to these mandates, the proposed wall negatively affects the habitat value of this stream. The habitat values of a stream include providing an accessible water source with banks which provide fauna, in part, food, shelter, nesting, and protection from the sun. Moreover, the bank provides the necessary substrate for plant growth.

A vertical wall at the toe of the slope eliminates access for wildlife from the top of the bank, and eliminates an area, along the side of the creek, for wildlife in the water to gain access to soil. Moreover, a vertical wall eliminates a place for native vegetation to grow and as such eliminates the area from use by wildlife for such activities as feeding and nesting. Although the bank, prior to the construction of the wall was not completely vegetated with native vegetation, there was some vegetation for wildlife to use. With a wall there is no place for plant growth as well as wildlife useage. A vertical wall eliminates the environmental functions and values of a stream, and thus the wall negatively impacts the habitat value of the stream.

The proposed wall is located in the creek between the center line of the stream and the road which is at the top of the bank. According to the drawings submitted by the applicant (Exhibits 6 and 7) the wall is not located within the streambed but rather where the bank used to be. In fact, the cross-section shows that the wall is set slightly back for the original toe of the bank but is still within the streambed. The streambed is the area where the water flows. As stated previously, streams meander through a larger floodplain, widening and narrowing, and turning at different places over time, which in turn changes the location of the streambed. Water flow in this channel occurred where the wall is now located, and thus the wall is located within the streambed.

As proposed, and existing, the wall forces the stream channel to maintain a certain width; widening of the stream channel can not occur with the wall in place. When a solid wall is placed along a stream channel, the smoothness and flatness of the wall tends to increase the speed the velocity of water. When a bank is left natural, the vegetation and rough composition of the dirt bank will slow water velocity. Similarly, when a vertical wall is placed in lieu of a sloping bank, the amount of water in the stream channel is affected as there is no longer a sloping bank which allows for more water in the channel.

The consulting engineer for this project has conducted a hydrological study of the wall to determine how this wall affects the water velocities and capacities of the stream. Based on this study, the consulting engineer has concluded that the wall will not significantly alter the flow rates and capacity of the creek. According to the consulting engineer this occurs because the wall is located at a bend in the stream. Where there is a natural bend in the stream channel, water flows will naturally slow down as the water turns and changes direction. Thus, since the water flow is already impacted by the change in direction, the placement of this wall does not individually significantly increase the water flow or velocity. With regards to the water capacity, the consulting engineer compared water capacity of this area with other portions of the stream and concludes that the wall will not significantly alter the water capacity of the stream channel.

The Commission's staff engineer has also reviewed this project and concluded that based on the information presented by the consulting engineer, the wall individually will not significantly affect the water flow as the water does change direction, and still has the other side of the creek and the creek bottom to slow down he water flows. Moreover, although the wall does not significantly reduce the bottom of the channel, the size of the channel has been reduced by placing a vertical wall where a sloping bank previously occurred. Thus, the wall will reduce the capacity of the stream channel. Based on the information submitted by the consulting engineer it appears that the wall is increasing the flow velocity and decreasing the stream channel capacity of the stream but not significantly. Therefore the individual hydrological impacts of this wall are not significant.

However, Section 30250 of the Coastal Act mandates that new development have neither individual or cumulative adverse (emphasis added) effects on coastal resources. Although the channelization of one side of one portion of a creek may not have significant impacts, the large scale channelization of the stream would have significant impacts on the flow and capacity of the stream, and would result in increased erosion of the stream banks and channel scour. These impacts would adversely impact the riparian habitat and biological productivity of the stream. Large sections of this stream are already channelized; most of this channelization occurred prior to the January 1, 1977 effectiveness date of the Coastal Act.

With the channelization of the stream, through the construction of the wall, the bank can not rebuild itself and vegetation can not establish. Dirt and debris that would accumulate at that curve and recreate the bank lost during the heavy rains will be forced further down stream. Where it accumulates downstream, it will change that portion of the stream, by narrowing the stream channel or building the bank larger. Thus, the construction of this wall will change the stream channel downstream.

These changes will lead to either an increase in stream velocities or erosion at another point along the stream. The erosion that has occurred in this case, could be the result of such channelization upstream. Erosion downstream will lead to the construction of additional walls along the streambank. Additional channelization of this stream which results in the reduction of the size of the stream channel will continue to increase velocities and reduce capacities of the stream. This domino effect was recognized in the letter by the civil engineer (Exhibit 11). Thus, the wall negatively affects stream processes and lead to further channelization of the stream.

If further channelization occurs on this stream there will be increased runoff velocities which result in erosion and scouring of the stream channel. Erosion of streambanks and adjacent areas destroys streamside vegetation that provides aquatic and wildlife habitats. Erosion of the stream channel increases sedimentation of the stream. Excessive deposition of sediments in streams blankets the bottom fauna and destroys fish spawning areas. Turbidity from sediments reduces instream photosynthesis which leads to reduced food supply and habitat values. Suspended sediments coats aquatic organisms and thus kills these organisms. In conclusion, this erosion negatively affects the functions of the stream and decreases the habitat value of such streams.

Finally, as sediments are deposited along the banks of streams, natural and unnatural debris, pollutants and other wastes are trapped in the sediments. This process cleans the water as it passes through a stream into the ocean. By placing a wall and removing the natural vegetated bank, there is less area available for these components to be collected. Pollutants and wastes which are not trapped within the streambed are carried out to the ocean, leading to non-point source pollution of the ocean. This activity is inconsistent with Section 30231 of the Coastal Act which mandates the protection of water quality.

Continued channelization of Ramirez Creek will create adverse impacts on the hydrology as well as adverse impacts on the environmental value and function of this creek, and reduce water quality. These actions are inconsistent with Sections 30231, 30240 and 30250 of the Coastal Act which mandate the protection of stream resources and functions. As such, only a project that would not create adverse cumulative or individual impacts could be found consistent with the applicable Chapter Three policies of the Coastal Act. Section 30236 requires the project to use the best mitigation practices; CEQA requires the Commission to review alternatives and recommend the best alternative to the project. In this case, there are feasible alternatives to this project.

Due to concerns for public safety on Ramirez Canyon Road, it would appear that some sort of protection of the road from the stream is warranted. However, the storm flows, as evidenced in the 1993 winter storm, did not reach the road. Therefore, a protective device could be setback to avoid construction in the stream channel and thereby minimize alteration of the stream channel.

One such alternatives is the construction of a gabion wall within the bank face which could be vegetated with native riparian vegetation. This will protect the shoulder of the road from erosion and recreate the bank of the stream. The recreated bank with rock and soil could be vegetated to provide habitat value to the stream. This alternative would not negatively affect the

width of the stream channel or minimize the water capacity. As such it would not adversely affect the stream processes or lead to changes downstream which lead to either increased erosion or the need for further channelization. Moreover, this alternative would provide habitat and be of environmental value to the stream.

Another similar alternative would be the use of bio-engineering techniques which, similar to a gabion wall, will use natural materials to recreate the bank and provide for both stability and a habitat area. Again, this type of alternative would not negatively affect stream processes and would provide an increase in the habitat value. An example of this type of project can be found in the Commission approved project for the reconstruction of 200 feet of a bank along Gavoiita Creek. This project (Coastal Development Permit Application 4-95-252) uses geotextile fabric, rock, soil and native vegetation to reestablish the bank and offer protection of a road.

Other alternatives include the placement of a crib wall at the shoulder of the road which would be setback from the center line of the creek to the greatest extent feasible. This crib wall could be planted; however, this alternative would still result in a vertical slope which would provide only minimal habitat value unless a bank was created in front of the wall. This alternative would not adversely impact the stream functions such as water flow or capacity because the wall would be out of the stream channel bottom.

Still another alternative would be to place rock rip-rap to recreate the bank, place soil over and within the spaces between the rocks and plant vegetation over the rip-rap. This bio-engineering technique is commonly utilized to enhance the habitat value where rock rip-rap is used along streams. The Commission approved the use of such a technique in coastal development permit 4-95-188 (County of Santa Barbara). In this project, the applicant was bridging a portion of Gaviota Creek and using rock rip-rap to protect the bridge abutments. This protective device was setback from the present creek banks, largely buried by back-fill material and planted with native riparian vegetation. This technique provided erosion control and a habitat and did not create adverse environmental or visual impacts.

The consulting engineer addressed two alternatives in the report and found neither alternative to be feasible. The first alternative was to remove the wall, rebuild the slope with dirt and vegetate this slope. The engineer rejected this alternative stating that erosion would occur again which would erode the toe of the slope. The second alternative was to rebuild the slope and place rip-rap on the slope to provide for protection from erosion. This alternative was rejected stating that it would cause adverse visual impacts for Ramirez Canyon Road. However, rock rip-rap can be vegetated and thus any visual impact can be screened. A vertical wall can not be as easily vegetated. Moreover, the Commission notes that the wall as it currently exists is visible from Ramirez Canyon Road, and Ramirez Canyon Road is not a scenic highway, the visual impacts of this project are not as significant an impact as the water and habitat functions.

The proposed project does not provide for maintaining or enhancing the environmental value of the stream and does adversely impact the stream processes. Alternatives, such as those sited above, will result in enhancing the environmental value by providing a habitat area and will also not result in changes to the stream process. As these alternatives encompass techniques

to recreate the bank and stay out of the stream channel, they do not create the above mentioned cumulative adverse impacts and can be found consistent with the Chapter Three policies of the Coastal Act. Therefore, the proposed project is not the least environmentally damaging alternative and is not consistent with the Chapter Three policies of the Coastal Act.

In previous permit action, the Commission has denied projects which adversely effect the functions and value of stream, or approved only the minimal amount of work necessary to protect existing structures or roads. In 4-95-252 (California Department of Parks and Recreation), the Commission approved the stabilization of 200 feet of a bank along Gaviota Creek with the use of a bio-engineering technique as noted above. In 4-92-202 (Allen) the Commission approved the placement of a culvert and the minimal amount of fill in a drainage course after denying previous projects which significantly altered the stream channel. In that case, approval of the project was allowed after it was shown that some protection of the residence, from the high water table, was necessary.

The Commission has also denied projects which involved work in or adjacent to streams based on adverse environmental impacts which led to changes in the water quality, stream habitat and water functions. For example, the Commission denied 5-91-646 (Kleinman) for grading a road to Topanga Stream. The project did not involve work in the stream, only adjacent to the stream. The Commission later approved 4-92-127 (Kleinamn) for the restoration of this stream bank area. In 5-91-328 (Contis) the Commission approved the removal of a culvert and restoration of a stream channel. This proposal by the applicant occurred after being notified that Commission staff was recommending denial of the project to retain the culvert and fill. Finally, in 4-92-206 (Tahmasebi), the Commission denied the applicant's proposal to culvert and fill a tributary to a blueline stream finding that the project would create adverse environmental impacts and negatively affect the water quality of the downslope blueline stream.

The Commission finds that the applicant has shown that a protective structure is warranted to protect Ramirez Road; however, the applicant has not provided a project which is the least environmentally damaging alternative, includes the best mitigation measures and assures no adverse individual or cumulative impacts to the environmental and biological quality of the water. As there are alternatives which are more feasible and would mitigate adverse environmental and water quality, and cumulative impacts, the Commission finds that this project is inconsistent with Sections 30231, 30236, 20340, and 30250 of the Coastal Act. As such, this project is denied.

C. Violation

The construction of this wall occurred after the winter rains of the 1993/1994 rainy season without the benefit of a coastal development permit or an emergency coastal development permit. The wall has been in place nearly two and a half years. No additional backfilling of the wall has occurred and no native vegetation has been planted or established itself behind the walls. As it exists, the wall continues to create negative impacts by removing a place for accumulation of sedimentation and debris, by removing a habitat value from this portion of the stream, increasing the sedimentation of the stream, and negatively affecting the quality of the water in the stream and ocean. Moreover, the placement of this wall affects the downstream portions of this

stream and will create adverse impacts leading to the necessity for further channelization of the stream. The cumulative and individual effects of this channelization which reduces the quality of water and habitat in the area is a serious problem in the Santa Monica Mountains as development pressures and the encroachment into streams for the protection of existing developments increases.

Finally, the Commission notes that although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to any violation of the Coastal Act that may have occurred.

D. Local Coastal Program

Section 30604(a) of the Coastal Act states that:

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).

On December 11, 1986, the Commission certified the Land Use Plan portion of the Malibu/Santa Monica Mountains LCP. The Certified LUP contains policies to guide the types, locations and intensity of future development in the Malibu/Santa Monica Mountains area. Among these policies are those specified in the preceding sections regarding geologic stability and environmentally sensitive habitat areas. As proposed, the project will create adverse impacts and will be inconsistent with the policies contained in the LUP. On March 28, 1991, the City of Malibu incorporated and the project site is within the City boundaries. Therefore, the County of Los Angeles certified Malibu Land Use Plan is no longer legally effective for this area. However, it does still provide guidance on the implementation of the Coastal Act policies. Therefore, the Commission finds that approval of the proposed development will prejudice the City of Malibu's ability to prepare a Local Coastal Program implementation program for Malibu and the Santa Monica Mountains consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a), therefore, the project is denied.

E. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a 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 Malibu Land Use Plan provides that:

P67 Any project or use which cannot mitigate significant adverse impacts as defined in the California Environmental Quality Act on sensitive environmental resources (as depicted on Figure 6) shall be denied,

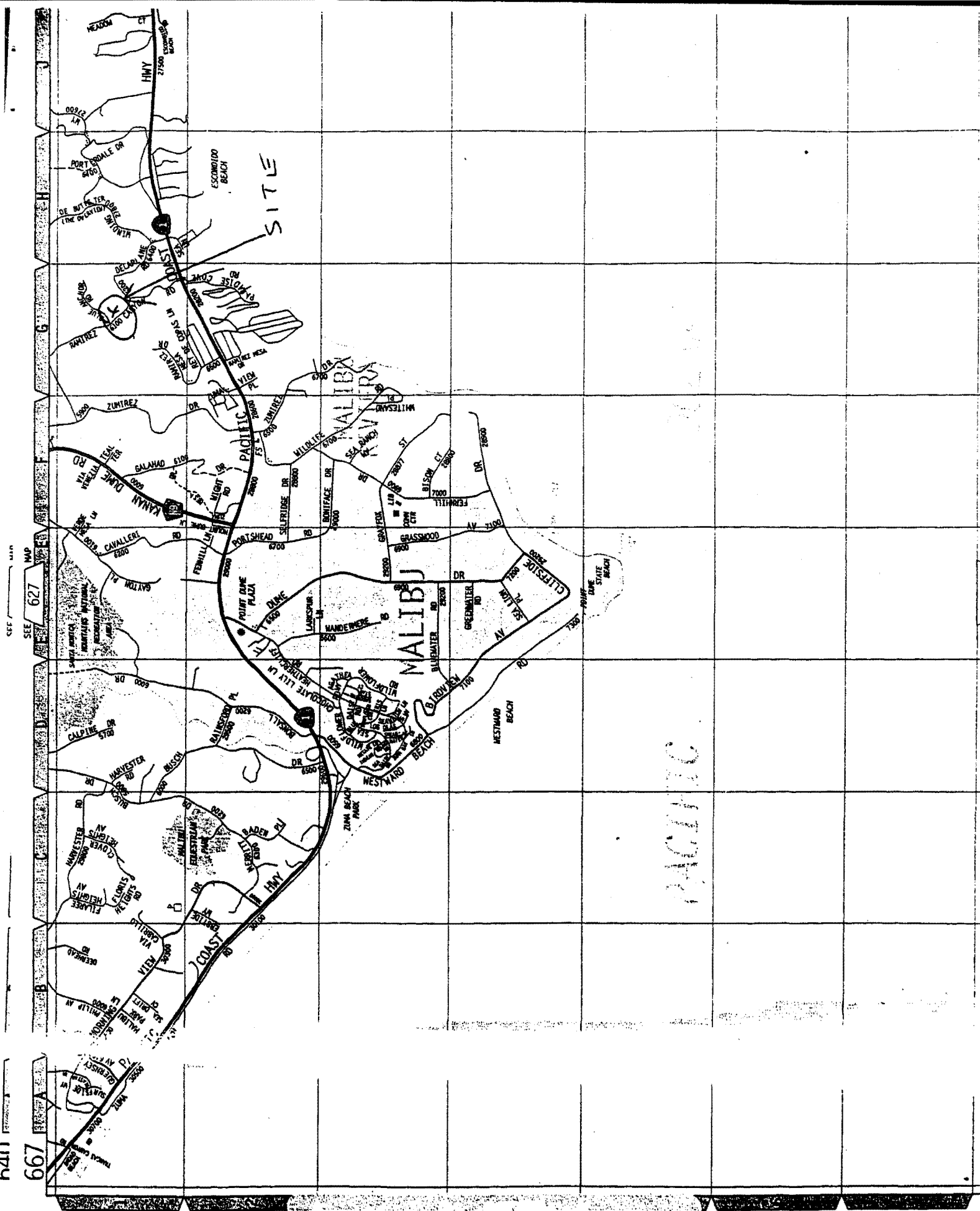
and asserts in the general goals and objectives that the intention is to follow the policy that is most protective of resources. As discussed in the preceding sections, there are feasible alternatives to the proposed development to lessen the impact on the environment. Such alternatives include the construction of a gabion wall within the bank face which would be vegetated with native riparian vegetation, the construction of a retaining wall or crib wall at the shoulder of the road setback from the bank of the creek, rock rip-rap along the bank of the creek which could then be vegetated, or the use of natural materials to recreate the bank slope and vegetate with native vegetation. These alternatives would provide for the stabilization of the road and the minimization of disturbance to the riparian corridor. The Commission, therefore, finds that the proposed project is not the least environmentally damaging feasible alternative and can not be found consistent with the requirements of the Coastal Act to conform to CEQA.

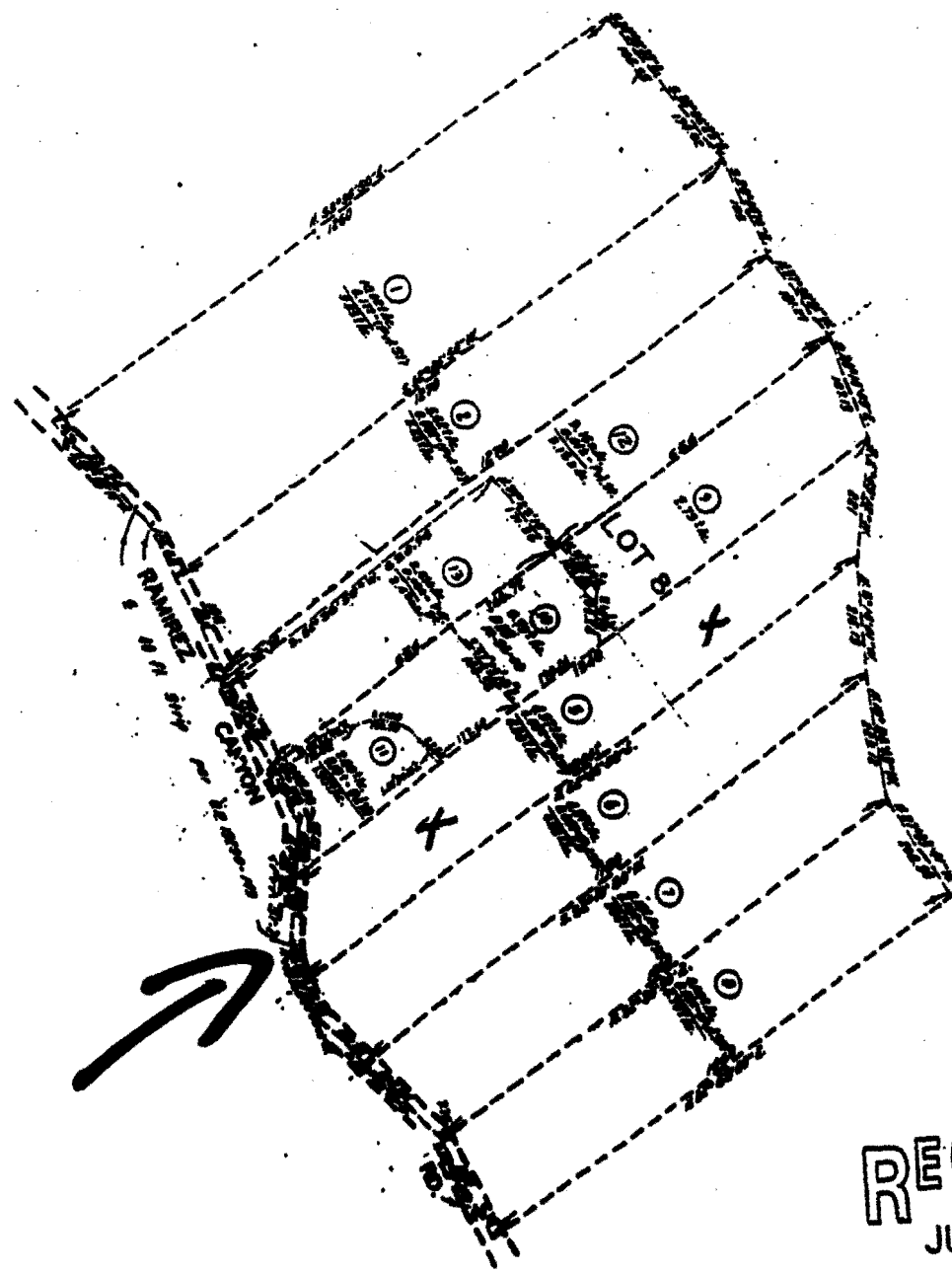
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Exhibit 1: Location Map
4-95-162





RECEIVED
JUL 25 1995
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

LAND OF MATTHEW KELLER

4-95-162

Exhibit 2: Parcel Map
4-95-162

THIS IS NOT A SURVEY OF T

DATA SHOWN BY OFFICIAL RECORDS

THE COUNTY OF LOS ANGELES



Exhibit 3: Resource Map
4-95-162

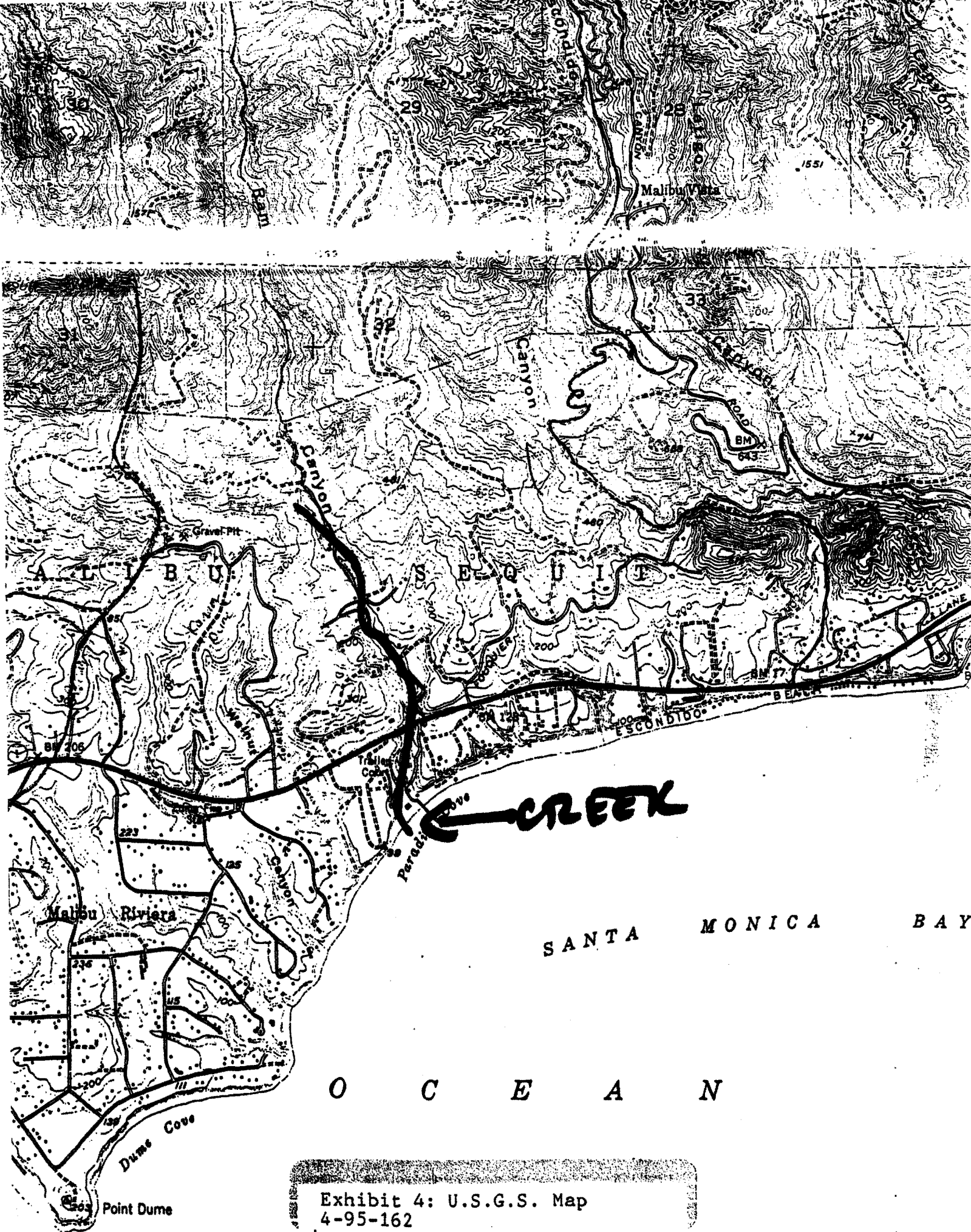
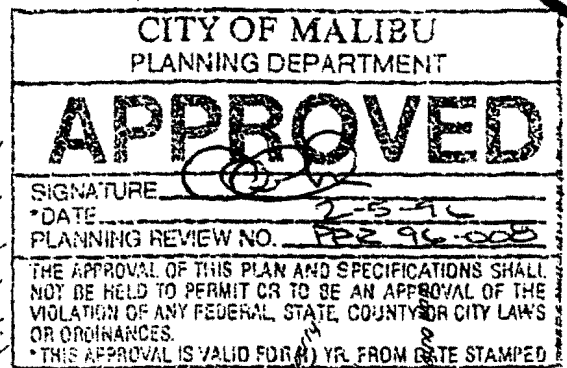
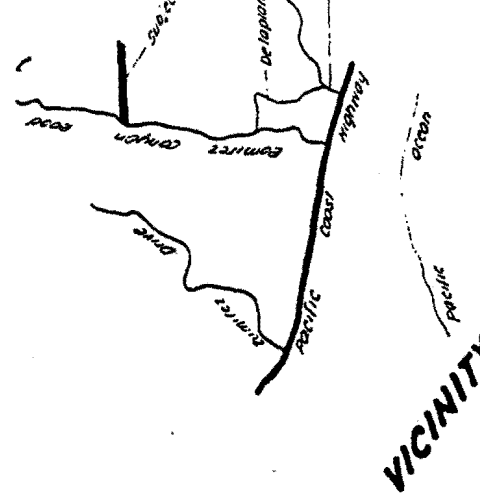


Exhibit 4: U.S.G.S. Map
4-95-162



For 4' 8" Ref. 1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 211. 212. 213. 214. 215. 216. 217. 218. 219. 220. 221. 222. 223. 224. 225. 226. 227. 228. 229. 230. 231. 232. 233. 234. 235. 236. 237. 238. 239. 240. 241. 242. 243. 244. 245. 246. 247. 248. 249. 250. 251. 252. 253. 254. 255. 256. 257. 258. 259. 260. 261. 262. 263. 264. 265. 266. 267. 268. 269. 270. 271. 272. 273. 274. 275. 276. 277. 278. 279. 280. 281. 282. 283. 284. 285. 286. 287. 288. 289. 290. 291. 292. 293. 294. 295. 296. 297. 298. 299. 300. 301. 302. 303. 304. 305. 306. 307. 308. 309. 310. 311. 312. 313. 314. 315. 316. 317. 318. 319. 320. 321. 322. 323. 324. 325. 326. 327. 328. 329. 330. 331. 332. 333. 334. 335. 336. 337. 338. 339. 340. 341. 342. 343. 344. 345. 346. 347. 348. 349. 350. 351. 352. 353. 354. 355. 356. 357. 358. 359. 360. 361. 362. 363. 364. 365. 366. 367. 368. 369. 370. 371. 372. 373. 374. 375. 376. 377. 378. 379. 380. 381. 382. 383. 384. 385. 386. 387. 388. 389. 390. 391. 392. 393. 394. 395. 396. 397. 398. 399. 400. 401. 402. 403. 404. 405. 406. 407. 408. 409. 410. 411. 412. 413. 414. 415. 416. 417. 418. 419. 420. 421. 422. 423. 424. 425. 426. 427. 428. 429. 430. 431. 432. 433. 434. 435. 436. 437. 438. 439. 440. 441. 442. 443. 444. 445. 446. 447. 448. 449. 450. 451. 452. 453. 454. 455. 456. 457. 458. 459. 460. 461. 462. 463. 464. 465. 466. 467. 468. 469. 470. 471. 472. 473. 474. 475. 476. 477. 478. 479. 480. 481. 482. 483. 484. 485. 486. 487. 488. 489. 490. 491. 492. 493. 494. 495. 496. 497. 498. 499. 500. 501. 502. 503. 504. 505. 506. 507. 508. 509. 510. 511. 512. 513. 514. 515. 516. 517. 518. 519. 520. 521. 522. 523. 524. 525. 526. 527. 528. 529. 530. 531. 532. 533. 534. 535. 536. 537. 538. 539. 540. 541. 542. 543. 544. 545. 546. 547. 548. 549. 550. 551. 552. 553. 554. 555. 556. 557. 558. 559. 560. 561. 562. 563. 564. 565. 566. 567. 568. 569. 570. 571. 572. 573. 574. 575. 576. 577. 578. 579. 580. 581. 582. 583. 584. 585. 586. 587. 588. 589. 590. 591. 592. 593. 594. 595. 596. 597. 598. 599. 600. 601. 602. 603. 604. 605. 606. 607. 608. 609. 610. 611. 612. 613. 614. 615. 616. 617. 618. 619. 620. 621. 622. 623. 624. 625. 626. 627. 628. 629. 630. 631. 632. 633. 634. 635. 636. 637. 638. 639. 640. 641. 642. 643. 644. 645. 646. 647. 648. 649. 650. 651. 652. 653. 654. 655. 656. 657. 658. 659. 660. 661. 662. 663. 664. 665. 666. 667. 668. 669. 670. 671. 672. 673. 674. 675. 676. 677. 678. 679. 680. 681. 682. 683. 684. 685. 686. 687. 688. 689. 690. 691. 692. 693. 694. 695. 696. 697. 698. 699. 700. 701. 702. 703. 704. 705. 706. 707. 708. 709. 710. 711. 712. 713. 714. 715. 716. 717. 718. 719. 720. 721. 722. 723. 724. 725. 726. 727. 728. 729. 730. 731. 732. 733. 734. 735. 736. 737. 738. 739. 740. 741. 742. 743. 744. 745. 746. 747. 748. 749. 750. 751. 752. 753. 754. 755. 756. 757. 758. 759. 760. 761. 762. 763. 764. 765. 766. 767. 768. 769. 770. 771. 772. 773. 774. 775. 776. 777. 778. 779. 780. 781. 782. 783. 784. 785. 786. 787. 788. 789. 790. 791. 792. 793. 794. 795. 796. 797. 798. 799. 800. 801. 802. 803. 804. 805. 806. 807. 808. 809. 810. 811. 812. 813. 814. 815. 816. 817. 818. 819. 820. 821. 822. 823. 824. 825. 826. 827. 828. 829. 830. 831. 832. 833. 834. 835. 836. 837. 838. 83



CREEK
TPR 96.008

RECEIVED

WALL FEB 21 1996

RECEIVED
JAN 16 1996
CITY OF MALIBU

Exhibit 5: Site Plan
4-95-162

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT



GRAPHIC SCALE
1" = 100'

RECEIVED

JAN 19 1996

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

RECEIVED
JAN 19 1996
OFFICE OF THE DISTRICT ENGINEER

PROJECT INFORMATION		DATE	
PROJECT NAME	PROJECT NUMBER	DATE	DATE
PROJECT LOCATION		PROJECT STATUS	
PROJECT DESCRIPTION		PROJECT COMMENTS	
PROJECT DRAWN BY		PROJECT CHECKED BY	
PROJECT DATE		PROJECT SCALE	
PROJECT SHEET		PROJECT TOTAL	

PROJECT INFORMATION
PROJECT NAME: RESIDENCE
PROJECT NUMBER: 4-95-162
PROJECT LOCATION: SAN DIEGO COUNTY - CALIF.
PROJECT STATUS: SITE TOPOGRAPHY
PROJECT DRAWN BY: [Signature]
PROJECT CHECKED BY: [Signature]
PROJECT DATE: [Date]
PROJECT SCALE: [Scale]

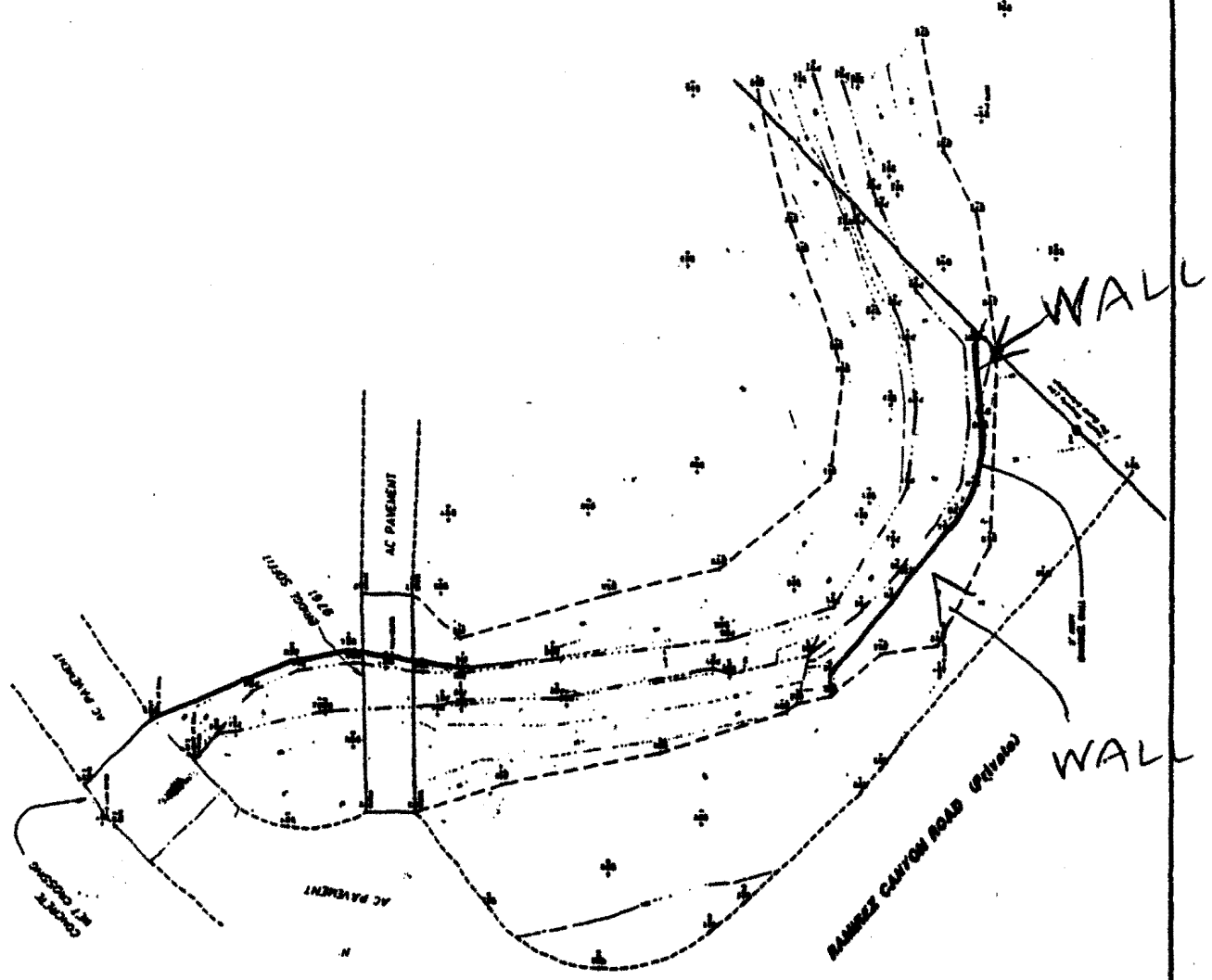


Exhibit 6: Wall Plan in creek
4-95-162

Wall 72' long

New Side
of road
side
creek
storm
side
before
road

creek

4' 6" 11"

Foundation

4' 4"

RECEIVED

JUL 25 1995

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Exhibit 7: Cross Section
4-95-162

ARCHITECTURAL ENGINEERING

560 NO MOORPARK RD #241
THOUSAND OAKS, CA 91360

800 375 - 3741
(FAX) 800 375 - 3749

MICHEL ARBAUT

20 SEPT 95

5970 RAMIREZ CANYA

H. R.

OF

RETAINING WALL

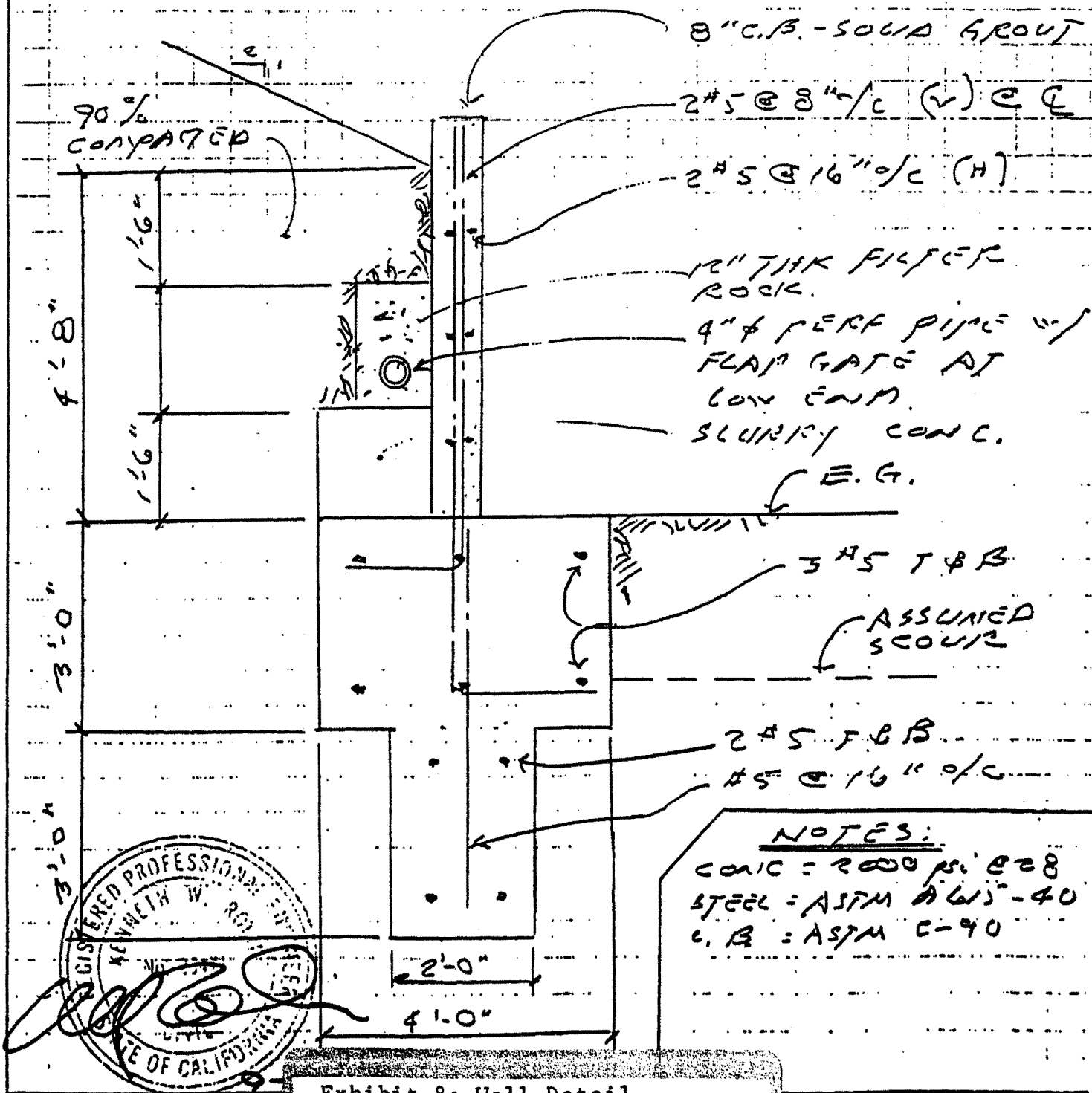
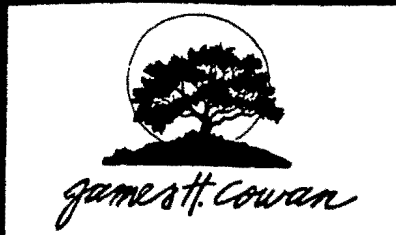


Exhibit 8: Wall Detail
4-95-162



& Associates, Inc.

LANDSCAPE CONSTRUCTION • SPECIMEN TREES

March 23, 1993

Mr. Michele Arbaut
5970 Ramirez Cyn. Road
Malibu, California 90265

Dear Michele,

We in Ramirez Canyon have become alarmed at the damage to the stream bank, on your property. The stream, as a result of the 30 inch rains, has eroded the bank precariously close to our Ramirez Canyon Road. If the erosion continues the Canyon people may not be able to exit the Canyon Road.

It is imperative that you remedy this dangerous situation. A shoring of the bank with reinforced concrete would be recommended. This Canyon Association would offer any financial or physical assistance that might expedite a satisfactory solution.

Respectfully Yours,

JAMES H. COWAN
RAMIREZ CYN. ASSOC. CHAIRMAN,
ROAD COMMITTEE

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COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

4-95-162

Exhibit 9: Letter from Homeowner
4-95-162

200 CROSS CREEK RD

156-2574 • (310) 456 3104

RAMIREZ CANYON ASSOCIATION, INC.

Ramirez Canyon
Malibu, California 90265

January 8, 1994

CALIFORNIA COASTAL COMMISSION
South Central Coast Area
89 South California St., 2nd Floor
Ventura, CA 93001

ATTENTION: John Ainsworth, Enforcement Supervisor
Susan Friend, Enforcement Officer

RE NOTICE TO MICHEL ARBAUT File #V-4-MAL-93-088

To Whom This May Concern:


During the last major rainstorm in Ramirez Canyon, the water in the Ramirez Canyon stream both rose in height and accelerated to the degree that it tore away the existing stream banks, carrying with it all vegetation. The erosion it caused moved the stream toward the road to the extent that it potentially endangered the traffic on the road and the utility lines between the road and the stream.

The Ramirez Canyon Association recommended that Mr. Arbaut repair the bank erosion before the next rainy season. Mr. Arbaut has been complying with our request at his own expense. We do not feel that this is a development, but emergency repairs that are necessary to correct the situation and prevent further erosion.

We hope that you will grant an administrative permit for the reconstruction of the bank.

Thank you for your kind consideration.

Sincerely,



Ruth S. White
President

CC: Sarah Maurice, City of Malibu.

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JUL 25 1995
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

45-162
Exhibit 10: Letter from Homeowner
4-95-162

Robert Newlon & Associates
Civil Engineering and Landscape Design

January 3, 1994

Michael Arbaut
5970 Ramirez Canyon Road
Malibu, CA 90265

Re: Wall installed along westerly bank of streambed
5970 Ramirez Canyon Road, Malibu

Dear Mr. Arbaut,

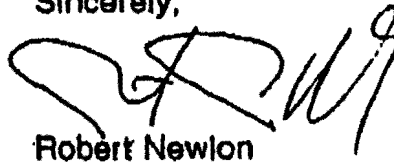
On December 6, 1994, I inspected the wall which was constructed along the westerly bank of the streambed located on your property. It is my understanding that this wall was constructed to protect erosion of the bank and possible future damage to Ramirez Canyon Road.

I noted that erosion, most likely from last year's rains, had caused sloughing of the westerly bank to within a couple of feet of the street pavement. It appears that future erosion will cause damage to the street if protective measures are not provided.

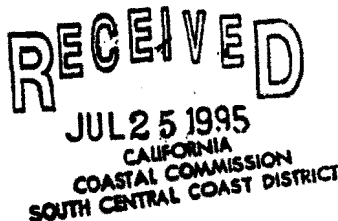
The wall which was constructed follows the existing alignment of the streambed and as such will not alter the direction of flow within the stream. Flow characteristics will be slightly modified in the vicinity of the wall and immediately upstream and downstream of the wall. This modification will cause minor additional flow and associated erosion on the opposite side of the stream. I understand this is also your property. Downstream from the wall the flow will return to its present flow characteristics before it reaches any adjoining properties. As such there will be no impact on any adjoining properties as a result of the construction of this wall.

I noted that grading in the vicinity of the wall was incomplete. A subdrain should be installed behind the wall and soil compacted behind the wall to return the bank to its previous state prior to the erosion. This will insure that the wall functions properly in its intended use.

Sincerely,



Robert Newlon



4-95-162

Exhibit 11: Letter from engineer
4-95-162

441 Puerto de

10) 454-7397

HOVELL & PILARSKI
ENGINEERING

CIVIL ENGINEERING ♦ LAND SURVEYING

March 19, 1996

CALIFORNIA COASTAL COMMISSION
89 South California Street, 2nd Floor
Ventura, CA 93001

ATTENTION: Ms. Susan Friend, Enforcement Officer

SUBJECT: Violation Number V-4-MAL-93-088
Michel Arbaut

Dear Ms. Friend,

This writing is to clarify the concern you raised in a telephone conversation with Debbie Naves, of this office, on the afternoon of March 18, 1996. You wondered about the potential for slope erosion in Ramirez Canyon Channel, near Mr. Arbaut's southwest corner, in the absence of the wall which now protects the slope.

The curve in the channel alignment is about 90° and has a relatively small radius. In the absence of the wall, this condition would subject the curve's outside slope to erosion in a storm condition, as happened in 1993. If the now existing wall were to be removed, the natural slope in the channel curve would continue to erode and Ramirez Canyon Road might be jeopardized. The greater the storm, the greater the damage as a result.

It is the opinion of the undersigned that erosion protection is required, and that the existing wall will provide the best result of the options presented in our report dated December 19, 1995.

I would be happy to address any questions you may have, please feel free to call me.



Sincerely,

HOVELL & PILARSKI ENGINEERING

Gerald F. Hovell
Gerald F. Hovell, RCE
Project Engineer

cc: Michel Arbaut