

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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RECORD PACKET COPY

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Staff: S. Hudson
Staff Report: 5/22/97
Hearing Date: July 8-11, 1997
Commission Action:

**STAFF REPORT: REGULAR CALENDAR****APPLICATION NO.:** 4-96-211**APPLICANT:** Donald Felder**AGENTS:** Mike Osbun**PROJECT LOCATION:** 6300 Ramirez Canyon Road, City of Malibu; Los Angeles County

PROJECT DESCRIPTION: Construction of a tennis court, pavilion, 1602 sq. ft. barn/tackroom/gardener's shed, retaining walls, and 1000 cu. yds. of grading on site (286 cu. yds. cut and 714 cu. yds. fill).

Lot area:	195,149 sq. ft.
Building coverage:	8,897 sq. ft.
Pavement coverage:	15,847 sq. ft.
Landscape coverage:	40,000 sq. ft.
Parking spaces:	10
Ht abv ext grade:	18 ft.

LOCAL APPROVALS RECEIVED: City of Malibu Approval in Concept, Approval in Concept City of Malibu Health Department.

SUBSTANTIVE FILE DOCUMENTS: Preliminary Soils and Engineering Geologic Investigation dated 11/3/87 by California Geosystems; Supplemental Soils and Engineering Geologic Report dated 10/22/90 by California Geosystems; Preliminary Soils and Engineering Geologic Investigation dated 8/20/96 by Miller Geosciences, Inc.; Coastal Development Permit 5-88-683.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed project with five (5) special conditions regarding landscaping and erosion control, fuel modification, drainage and erosion control, plans conforming to geologic recommendations, future improvements, and wildfire waiver of liability.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions.

1. Landscaping and Erosion Control Plan

Prior to issuance of the coastal development permit, the applicant shall submit landscaping and erosion control plans for review and approval by the Executive Director. The landscaping and erosion control plans shall be reviewed and approved by the consulting geologic and geotechnical consultants to ensure that the plans are in conformance with the consultants' geotechnical recommendations. The plans shall incorporate the following criteria:

(a) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes. To minimize the need for irrigation and to screen or soften the visual impact of development all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.

(b) All disturbed areas and cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;

(c) Should grading take place during the rainy season (November 1 - March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location.

(d) The plan shall include vertical elements in the landscaping plan to screen and soften the visual impacts of the proposed development.

(e) The plan shall include filtering elements in the landscaping plan to be located around all drainage dispersal points in order to reduce the non-point source pollution impacts of the proposed development.

(f) The plan shall include a long-term fuel modification plan that includes the radii of the required fuel modification zones along with notations showing what work is required in each zone (i.e. clearing, trimming, removal of dead vegetation) and how often thinning is to occur. Vegetation clearance within the riparian corridor of the stream channel shall be minimized to the greatest extent feasible and shall be limited to hand clearance and thinning only. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County.

2. Drainage and Erosion Control Plans

Prior to the issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, a run-off and erosion control plan designed by a licensed engineer which assures that run-off from the roof, patios, and all other impervious surfaces on the subject parcel are collected and discharged in a non-erosive manner which avoids ponding on the pad area. Site drainage shall not be accomplished by sheetflow runoff. Should the project's drainage structures fail or result in erosion, the applicant/landowner or successor interests shall be responsible for any necessary repairs and restoration.

3. Plans Conforming to Geologic Recommendation

All recommendations contained in the Preliminary Soils and Engineering Geologic Investigation dated 8/20/96 by Miller Geosciences, Inc., shall be incorporated into all final design and construction including foundations, grading and drainage. All plans must be reviewed and approved by the consultant. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval by the Executive Director, evidence of the consultant's review and approval of all project plans.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultants' shall require an amendment to the permit or a new coastal permit.

4. Future Improvements

Prior to the issuance of the coastal development permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, stating that: 1) any additions or improvements to the barn/tackroom/gardener's shed approved under coastal development permit number 4-96-211; 2) any change in use of the barn/tackroom/gardener's shed to a residential unit; or 3) the installation of a corral, pasture, riding ring or other accessory horse/animal facility on the property will require a permit, or permit amendment, from the Coastal Commission or its successor agency. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest conveyed.

5. Wild Fire Waiver of Liability

Prior to the issuance of the coastal development permit, the applicant shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses, of liability arising out of the acquisition, design, construction, operations, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wild fire exists as an inherent risk to life and property.

IV. Findings and Declarations.

The Commission hereby finds and declares:

A. Project Description and Background

The applicant proposes to construct a tennis court, pavilion, 1602 sq. ft. barn/tackroom/gardener's shed, retaining walls, and 1000 cu. yds. of grading on site (286 cu. yds. cut and 714 cu. yds. fill). A 7425 sq. ft. single family residence, 736 sq. ft. guest house and swimming pool currently exist on site. In addition, the proposed retaining wall with associated grading has been previously constructed without the benefit of coastal development permit and therefore the applicant is requesting an "after the fact" approval for this development.

The subject site is a 4.48 acre lot located near the base of Ramirez Canyon. Slopes ascend some 30 ft. from Ramirez Canyon to the eastern property line at slope ratios ranging from nearly level to 2.5:1 (H/V). Ramirez Canyon Creek (designated by the United States Geologic Service as a blueline stream) runs through the southwestern corner of the property approximately 45 ft. from the proposed project site. Although riparian vegetation is present along Ramirez Canyon Creek up and downstream from the project site, minimal riparian vegetation is present along the portion of stream nearest the project. A trail easement runs along the property lines along the northern and western property boundaries.

The project site has been the subject of past commission action. Coastal Development Permit 5-88-683 was issued for the construction of the single family residence, guest house and swimming pool. This permit was subject to four (4) special conditions requiring plans conforming to the geologist's recommendations and that a deed restriction be recorded for future development, assumption of risk and dedication of the trail easement. Two amendments to this permit were approved by the Commission; however, only Amendment 5-88-683A2 for reducing the size of the guest house from 744 sq. ft. to 736 sq. ft. was issued. This amendment was considered immaterial and no special conditions were included. Coastal Development Permit Application 5-90-798 for the subdivision of the 4.46 acre lot into two lots was approved but never issued.

This application was previously presented to the Commission at the hearing of June 12, 1997, as a Consent Calendar item. At the Commission's request, this item has been rescheduled to be heard as a Regular Calendar Item.

B. Grading and Hazards

Section 30253 of the Coastal Act states in part that new development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The proposed development is located in the Santa Monica Mountains, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission will only approve the project if the applicant assumes liability from the associated risks. Through the waiver of liability, the applicant acknowledges and appreciates the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development, as incorporated by condition number five (5).

The applicant proposes to construct a tennis court, pavilion, 1602 sq. ft. barn/tackroom/gardener's shed, retaining walls, and 1000 cu. yds. of grading on site (286 cu. yds. cut and 714 cu. yds. fill). A 7425 sq. ft. single family residence, 736 sq. ft. guest house and swimming pool currently exist on site. The applicant's geologic and engineering consultant has determined that the proposed project site is suitable from a soils and engineering standpoint for construction of the proposed project. The applicant's Preliminary Soils and Engineering Geologic Investigation dated 8/20/96 by Miller Geosciences, Inc., states that:

Based on the findings of our investigation, the site is considered to be suitable from a soils and engineering geologic standpoint for construction of a tennis court, a pavilion and a barn provided the recommendations included herein are followed and integrated into the grading and building plans.

Further, the geologic and engineering consultant has included a number of geotechnical recommendations which will increase the stability and geotechnical safety of the site. To ensure that the recommendations of the geotechnical consultant are incorporated into the project plans, the Commission finds that it is necessary to require the applicant, as required by special condition three (3), to submit project plans certified by the consulting geotechnical engineer as conforming to their recommendations.

The Commission also finds that minimization of site erosion will add to the stability of the site. Erosion can best be minimized by requiring the applicant to landscape all disturbed areas of the site with native plants, compatible with the surrounding environment. Therefore special condition number one (1) is required to ensure that all proposed disturbed areas are stabilized and vegetated.

In addition, the applicant's geologic consultant has recommended that drainage not be allowed to pond on the pad or against any foundation or retaining wall but should be collected and distributed in a non-erosive manner. To ensure that adequate drainage is incorporated into the project plans, the Commission finds that it is necessary to require the applicant, as required by special condition two (2), to submit drainage and erosion control plans conforming to the recommendations of the consulting geotechnical engineer for review and approval by the Executive Director.

The Commission finds that based on the findings of the geologic and geotechnical reports and other available evidence, and as conditioned to incorporate the recommendations of the geologic consultant, the proposed project is consistent with Section 30253 of the Coastal Act.

C. Environmentally Sensitive Habitat Areas

Section 30231 of the Coastal Act states that:

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

The intermittent blue-line stream which traverses the site is located within a disturbed riparian corridor which has been denuded of vegetation along the section nearest the proposed project site. Riparian vegetation is present up and downstream from the project site. The Commission in the Certified Malibu/Santa Monica Mountains Land Use Plan, which is still used as guidance in the City of Malibu in evaluating a project's consistency with Coastal Act Policy, and through past permit actions has designated the developed portion of Ramirez Canyon and its riparian corridor as a disturbed sensitive resource area. Existing residential developments and their appurtenant structures and landscaping adjacent to the creek have resulted in the disturbance of the riparian corridor through this portion of the canyon. In several areas, the creek has been channelized and extensively modified by landowners in the canyon. Although this disturbed riparian corridor does not meet the technical definition of an environmentally sensitive habitat area, Section 30231 of the Coastal Act requires that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through among other means, minimizing adverse effects of waste water discharge and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The proposed wall is setback from the centerline of the creek approximately 20 to 45 ft. at different points while all other proposed structures are setback approximately 50 ft. or more from the centerline of the stream. The Commission has in past actions, required a minimum 50 ft. setback from the riparian canopy of streams in order to provide adequate protection of the riparian habitat. Staff notes that the riparian habitat located within 50 ft. of the proposed development has been previously disturbed and that a 50 ft. setback from the centerline of the stream for structures is sufficient to provide an adequate buffer zone from the proposed development provided that the intensity of use of the structure and area remains the same.

The Commission also finds that the minimization of non-point source pollutants from new development will help to maintain and enhance the quality of coastal waters, streams, wetlands, estuaries and lakes. Non-point source pollution is the pollution of coastal waters (including streams and underground water systems) which enters the waterway from numerous sources which

are difficult to identify on an individual basis. Non-point source pollutants include suspended solids, coliform bacteria and nutrients. These pollutants can originate from many different sources such as overflow septic systems, storm drains, runoff from roadways, driveways, rooftops and horse facilities. Horse facilities are one of the most recognized sources of non-point source pollutants since these types of developments entail large areas which are cleared of vegetation and have concentrated sources of animal wastes. Horse wastes contain nutrients such as phosphorous and nitrogen, as well as, microorganisms such as coliform bacteria. Excessive levels of nutrients can cause eutrophication and a decrease of oxygen levels in water ultimately resulting in clouding, algae blooms, fishkills/diseases, alteration of aquatic species composition and size, and destruction of benthic habitats.

The applicant proposes the construction of a 1602 sq. ft. barn/tackroom/gardener's shed as part of the project, but did not identify any corral or pasture areas for animals. The Commission notes that the proposed structure will have the capability to house confined animals and that corrals and pasture areas are normally associated with structures of this nature. The Commission also notes that the location of any such future horse/animal facilities will have the potential to increase the levels of pollutants that are introduced to the nearby stream. In order to ensure that these issues are addressed by any future development, related to the proposed development, including, but not limited to, horse/animal facilities; special condition four (4) requires that the applicant record a future improvements deed restriction that any additions or improvements to the barn/tackroom/gardener's shed including, but not limited to, a change in use of the structure to a residential unit or the installation of a corral, pasture, riding ring or other accessory horse/animal facility on the property will require a permit from the Coastal Commission or its successor agency.

Non-point source pollution resulting from new development can best be minimized by requiring the applicant to include the use of "filter strips" in their landscape plan. Filter strips are strips or areas of vegetation planted between the development and a drainage course which utilize the ability of plants to slow runoff flow rates, effectively increasing percolation, and to collect nutrients such as phosphorus and nitrogen effectively reducing the amount of pollutants which reach the drainage course. The use of filter strips is essential for new development which is located near drainage courses such as Ramirez Canyon Creek in order to minimize the project's individual contribution to the cumulative impact of non-point source pollution within the Santa Monica Mountains watershed. In this case, vegetative filter strips are necessary to ensure animal wastes and other pollutants in the runoff from the barn/tackroom/gardener's shed area are filtered out before runoff enters the stream. Therefore, in order to ensure that the proposed project is consistent with Section 30231 of the Coastal Act, the landscape plan mentioned in the previous section, and required by special condition one (1), shall also include filtering elements to be located around all drainage dispersal points in order to reduce the non-point source pollution impacts of the proposed development.

In addition, fire department fuel modification requirements for the proposed development requires that vegetation be thinned around the proposed structures with allowances made to minimize clearance in and around the riparian corridor. In order to ensure that vegetation clearance within the riparian corridor is minimized, a fuel modification plan has been included as part of special condition one (1) which requires the applicant to submit a fuel modification plan approved by the

forestry department for the review and approval of the staff. The Commission finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

D. Visual Impacts

Section 30251 of the Coastal Act states that:

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 subordinated to the character of its setting.

The applicant proposes to construct a tennis court, pavilion, 1602 sq. ft. barn/tackroom/gardener's shed, retaining walls, and 1000 cu. yds. of grading on site (286 cu. yds. cut and 714 cu. yds. fill). A 7425 sq. ft. single family residence, 736 sq. ft. guest house and swimming pool currently exist on site. Although the development is not visible from Pacific Coast Highway or any other scenic highways, it is visible from a portion of the public trail easement which runs along the northern and western boundaries of the project site. In order to minimize erosion and to soften and screen visual impacts resulting from development, the landscaping plan required by special condition one (1) shall include adequate vertical elements to screen the proposed development from the public trail. The Commission finds that the proposed development, as conditioned, is consistent with Section 30251 of the Coastal Act.

E. Violations

This application includes the after-the-fact request for the construction of a four-foot high retaining wall located approximately 20 ft. to 45 ft. along different points from the centerline of the stream and is considered to be inherently related to the proposed development. In addition, other violations have been discovered on the applicant's property which are not included in, nor to be considered as approved by, this permit including, but not limited to, the construction of a trash enclosure, fence and gate within the trail easement. All violations not included as part of this permit application shall be resolved through a separate enforcement action.

Although construction of the unpermitted wall 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. Approval of this permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

F. Local Coastal Program.

Section 30604 of the Coastal Act states that:

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

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

G. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

The proposed project, as conditioned will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

SMH-VNT

File: SMH1/4-96-211

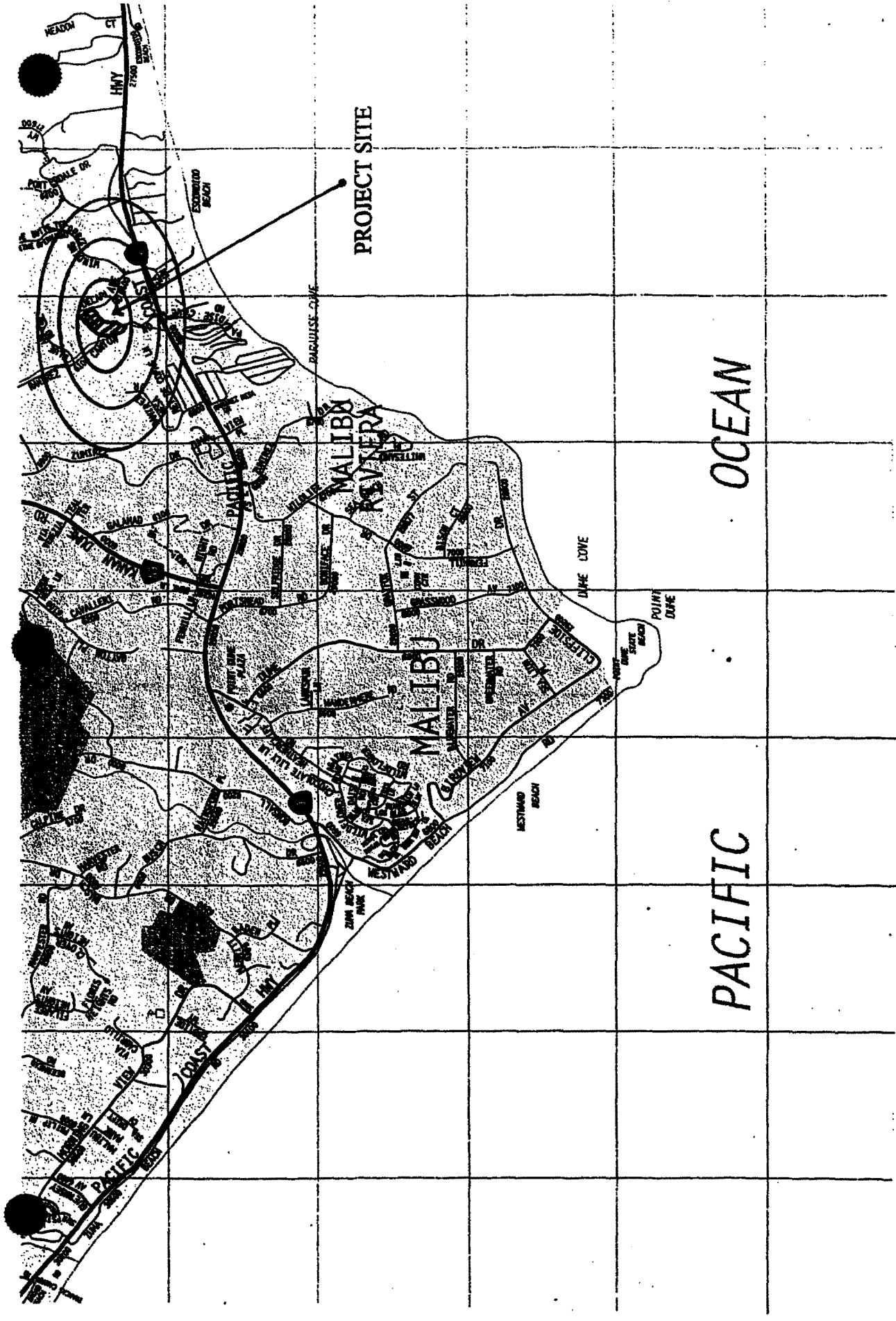


Exhibit No. 1: (4-96-211) Location Map

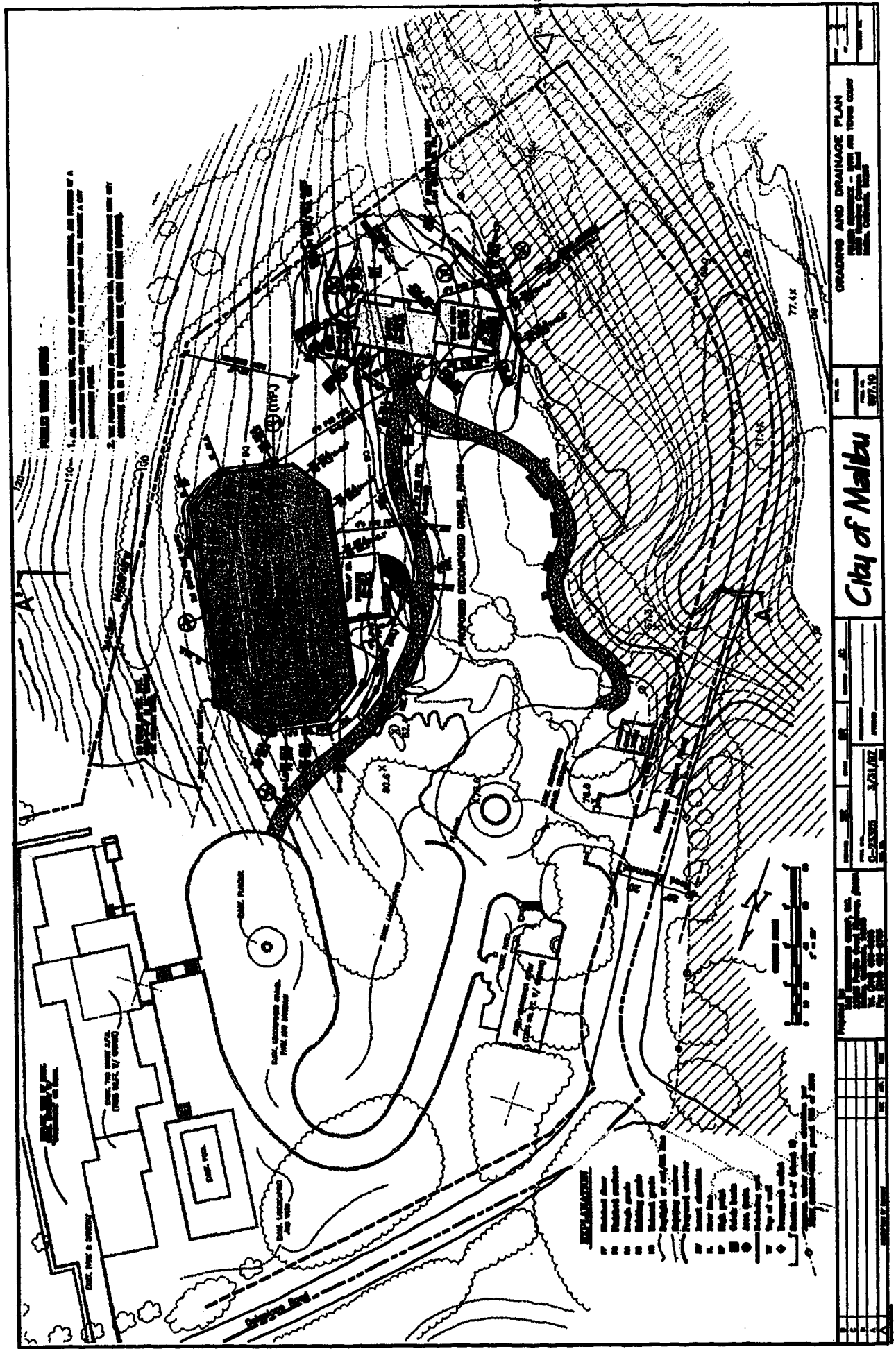


Exhibit No. 3: (4-96-211) Site Plan/Grading and Drainage Plan

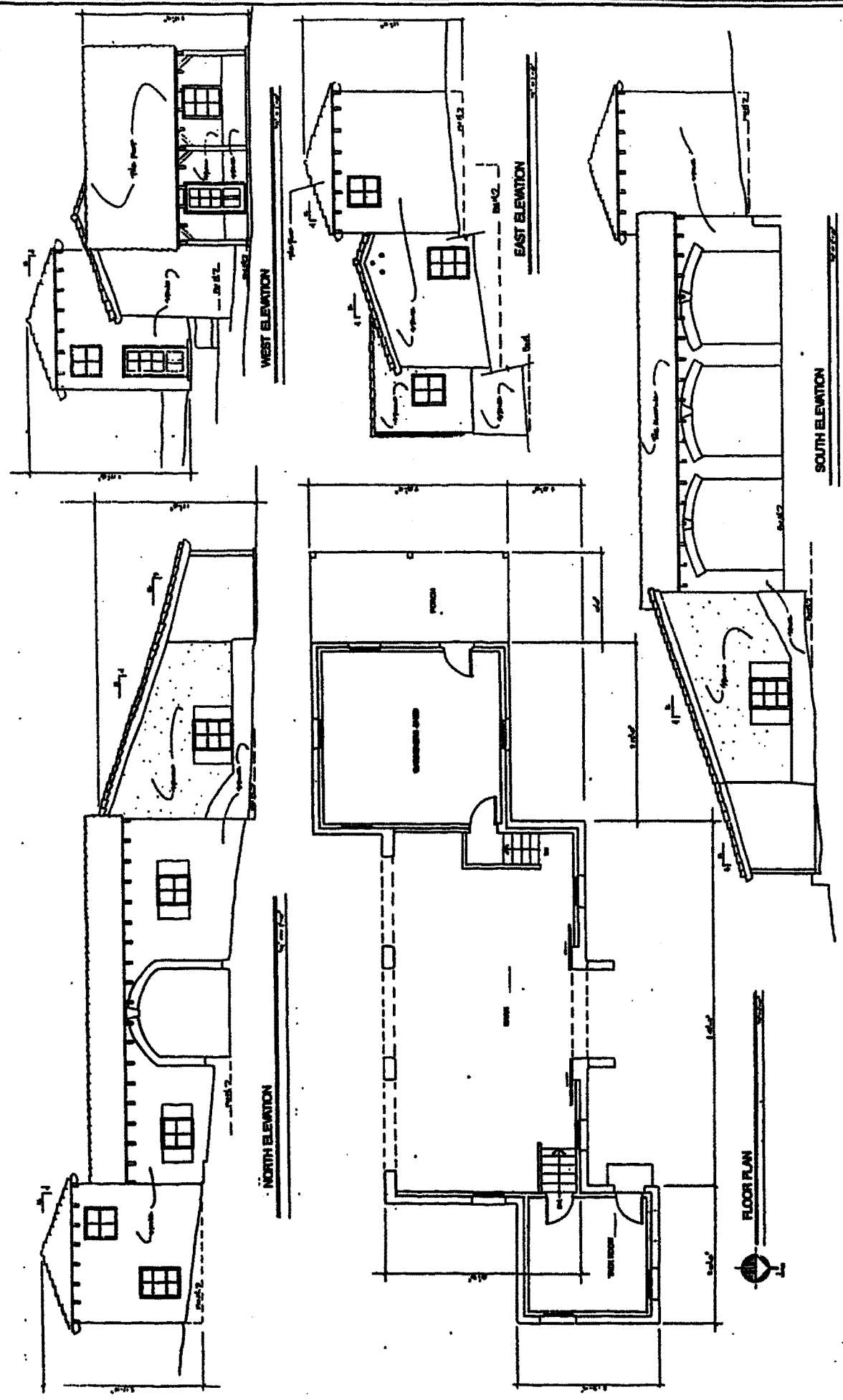


Exhibit No. 4: (4-96-211) Elevations for Proposed Barn/Tackroom/Gardener's Shed

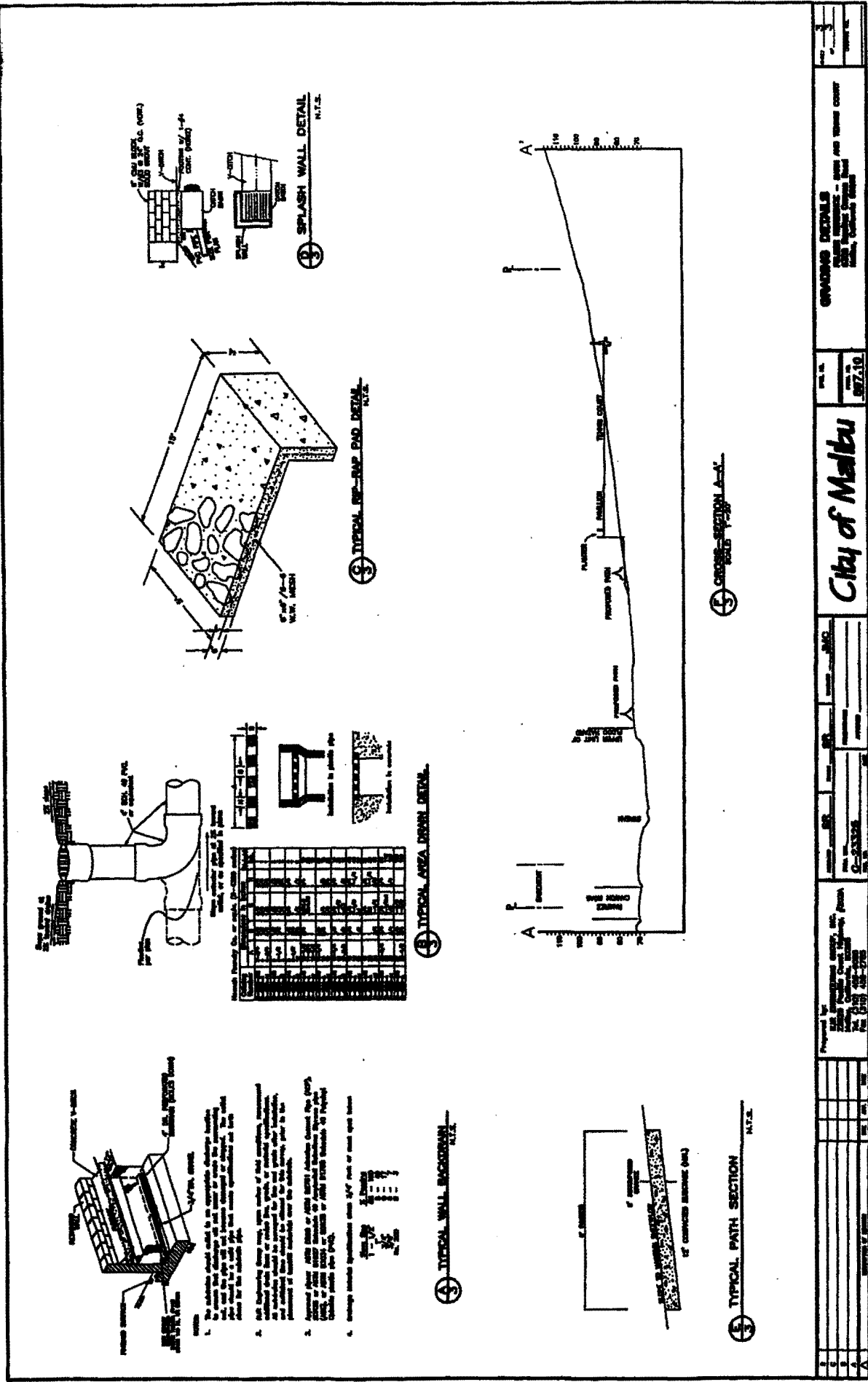


Exhibit No. 5: (4-96-211) Cross Section of Project Site