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STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION

1000 SOUTH CENTRAL COAST AREA
1000 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142

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STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-97-033

APPLICANT: Albert Sweet AGENT: Robert Chersky

PROJECT LOCATION: 24824 Pacific Coast Highway, City of Malibu; Los Angeles County

PROJECT DESCRIPTION: Demolish existing earthquake damaged single family residence and swimming pool inland of residence. Construct new two story, 26 ft. high, 6662 sq. ft. single family residence with 400 sq. ft. semi-detached gym and 625 sq. ft. detached two car garage. Replace portion of existing paved driveway with grasscrete. Replace septic system. Approval of as-built soldier pile wall with grade beam on bluff face topped by retaining wall, swimming pool, and gazebo. Fill approximately 600 cu. yds. of material behind soldier pile wall and retaining wall.

Lot area:	70,736 cu. yds.
Building coverage:	5,442 cu. yds.
Pavement coverage:	7,584 sq. ft. (additional)
Landscape coverage:	54,210 sq. ft.
Parking spaces:	two covered, six open (existing)
Plan designation:	1 du/acre
Project density:	.6 du/acre
Ht abv fin grade:	26 feet

LOCAL APPROVALS RECEIVED: City of Malibu: Approval in Concept (building plans), dated 2/24/97; Approval in Concept, Geology and Geotechnical Review Sheet, dated 11/11/96 [for residence additions and pool abandonment only]; Neighborhood Standards and Site Plan Review [for new single family residence], Resolution No. 97-007, dated January 6, 1996.; In-concept approval, Environmental Health, dated 2/24/97. County of Los Angeles: Fire Department, approval in concept dated 2/24/97.

SUBSTANTIVE FILE DOCUMENTS:

- (1) Malibu/Santa Monica Mountains Land Use Plan.
- (2) GeoConcepts, Inc.: Supplemental Report No. 3, March 17, 1997; Limited Geologic and Soils Engineering Investigation, May 17, 1996; Existing Rear Yard Retaining Wall (letter report), April 17, 1997; Supplemental Report No. 1, October 8, 1996.

- (3) California Geo/Systems, Inc.: Preliminary Engineering Geologic Assessment, September 16, 1988; Letter-Report of Exploration Findings at Rear Yard, October 5, 1988; Soils and Engineering Study, October 10, 1988; Soils and Engineering Geologic Study, November 14, 1988; Proposed Rear Retaining Wall, December 13, 1988; Geotechnical Report for Proposed Grade Beam Retaining Wall, January 18, 1989; Design Recommendations for Proposed Retaining Wall, May 26, 1989; Addendum to Soils and Engineering Study, July 13, 1989.
- (4) Niver Engineering: Sweet Retaining Walls, Revised January 1989; Sweet Retaining Walls, November, 1988.
- (5) Coastal development permits Transfer T 77-147, 5-87-185 (Doerken), 5-85-239 (Tuchman), 4-96-176 and -176A (Sasco Pacific), and 4-97-031 (Anvil Development).

SUMMARY OF STAFF RECOMMENDATION:

The proposed project originated as a repair to an existing residence, but further investigation indicated that demolition and replacement was necessary. The project plans propose replacement and expansion of the residence at the same approximate location. The application includes after-the-fact approval of an engineered soldier pile wall with a retaining wall, 600 cu. yds. of backfill, pool, and gazebo as constructed in 1989. Staff recommends approval of the project with special conditions requiring the geologist to review plans, revised development plans eliminating the gazebo, deck and pool seaward of the 25 ft. setback from the edge of the bluff or relocation behind the 50 ft. setback line, the recordation of an assumption of risk condition, wild fire waiver of liability, future improvements deed restriction, condition compliance and timing of completion of work.

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 this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions.

1. Plans Conforming to Geologic Recommendations

All recommendations contained in the GeoConcepts, Inc., Supplemental Report No. 3, March 17, 1997, Limited Geologic and Soils Engineering Investigation, May 17, 1996 and Supplemental Report No. 1, October 8, 1996 shall be incorporated into all final design and construction including grading, drainage, foundations, and landscaping. All plans must be reviewed and approved by the consultants prior to commencement of development. Prior to the issuance of the coastal development permit, the applicant shall submit evidence for the review and approval of the Executive Director of the consultant's review and approval of all final design and construction plans.

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

2. Revised Development Plans

Prior to the issuance of the coastal development permit, the applicant shall be required to submit, for the review and approval of the Executive Director, two sets of revised plans which demonstrate that all portions of the existing deck, gazebo and pool are removed within the area measured 25 feet inland from the edge of the retaining wall, or are set back 25 feet from the edge of the retaining wall as shown in Exhibit 6.

3. Assumption of Risk Deed Restriction

Prior to the issuance of the coastal development permit amendment, 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 erosion or slope failure and the applicant assumes the liability from such hazards; and (b) that the applicant unconditionally waives any claim of liability on the part of the Commission and agrees to indemnify and hold harmless the Commission and its advisors relative to the Commission's approval of the project for any damage due to natural hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens which the Executive Director determines may affect the interest being conveyed, and free of any other encumbrances which may affect said interest.

4. Wild Fire Waiver of Liability

Prior to the issuance of the coastal development permit, the applicants 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, operation, 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.

5. Future Improvements

Prior to the issuance of a coastal development permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, stating that any future structures, additions or improvements related to the gym, approved under coastal development permit number 4-96-033, will require a permit 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.

6. Condition Compliance

The requirements specified in the foregoing special conditions that the applicant is required to satisfy as a prerequisite to the issuance of this permit must be fulfilled within 120 days of Commission action. Failure to comply with such additional time as may be granted by the Executive Director for good cause will terminate this permit approval.

7. Timing

The applicant shall remove the gazebo, deck and pool within the twenty-five foot setback area and restore the site within 120 days of the issuance of the permit. Failure to comply with such additional time as maybe granted bythe Executive Director for good cause will terminate this permit.

IV. Findings and Declarations.

The Commission hereby finds and declares:

A. Project Description and Background

1. Project Description

The proposed development is located on a coastal bluff overlooking a public street and seaward of Pacific Coast Highway southwest of Pepperdine University in the City of Malibu. (Exhibit 1) The project site is located inland of Malibu Road, single family residences along the beachfront, and Puerco Beach (Exhibit 2)

The proposed project originated as a repair to an existing earthquake damaged residence, but further investigation indicated that demolition and replacement was necessary. The project plans propose replacement and expansion of the residence at the same approximate location with no seaward encroachment.

The existing 5,092 sq. ft. residence of a Modern Shed style has experienced extensive damage and will be replaced by a larger residence of Neo-Mediterranean style. Exhibit 3 compares the building layout and site plan for the existing and proposed improvements. Exhibit 4 shows the floor plan and elevations for the proposed residence.

The new design will eliminate an existing swimming pool now located to the inland side of the residence and a pool house/office located adjacent and west of the pool. In the pool location, the applicant proposes a 400 sq. ft. semi-detached gym, 625 sq. ft. detached two car garage, and an expanded parking area.

Generation of additional impervious surfaces by structures was a concern raised by the City of Malibu. The application proposes to replace portions of the existing paved driveway, as well as the new parking area next to the house, with grasscrete. To the rear of the residence, approximately two-thirds of the building site will remain the same and consist of a tennis court, grass area, and parking area, except for the replacement of hardscape with grasscrete in this area as well.

The proposed septic system improvements including a new 1500 gallon septic tank for the single family residence and has received local Health Department approval.

A gymnasium, as noted above, is now proposed in place of the previously existing pool/office. The gym presently proposed has an open 400 sq. ft. room which does not resemble a prospective guest house and was not considered as such by the City (Neighborhood Standards and Site Plan Review, Resolution No. 97-007, dated January 6, 1996).

The applicant also proposes after the fact construction of improvements seaward of the residence consisting of a soldier pile wall with grade beam on bluff face topped by retaining wall (Exhibit 5), swimming pool, deck, gazebo, and landscaping (Exhibit 6), and fill of approximately 600 cu. yds. of material (Exhibit 7).

Prior to construction of the soldier pile/retaining wall, the bluff edge was closer to the residence. The soldier pile/retaining wall was constructed to remediate slumping and erosion of the bluff which was endangering the residence.

The soldier pile wall and retaining wall were given a building permit by the County of Los Angeles in 1989. A fifteen inch pipe drain was constructed from the wall and down the bluff to a storm drain. The development proposed for approval after the fact also includes a portion of the deck, topped by a gazebo, which projects out 12 ft. beyond the retaining wall, overhanging the bluff.

The project site contains a coastal bluff which is now defined by the soldier pile and retaining wall, as noted. The site ranges from an elevation of 33 ft. to 110 to 114 ft. behind the wall. The site then rises in elevation to 126 ft. at the house site and a high point of 150 ft. before dropping down to Pacific Coast Highway.

The coastal bluff in the project area has been subject to geologic problems, which vary in type and intensity on a parcel-by-parcel basis. The geologic problems are discussed in detail below.

The site is located in an area which is considered a significant scenic view corridor. The residence is below the centerline of Pacific Coast Highway and because of intervening walls and topography does not block bluewater or horizon views of the ocean.

2. Background

The existing residence was constructed under an early coastal development permit. The earliest record available shows it as being transferred in 1977 (77-147, dated February 1, 1977).

A coastal development permit was processed for the site adjacent and downcoast (east) of the proposed development in 1987, permit 5-87-185 (Doerken), for construction of a 10,106 sq. ft. two story single family residence with swimming pool, tennis court, addition to and remodel of an existing garage, installation of a septic tank/leachfield and rerouting or improving the existing driveway. The proposed development was landward and set back twenty feet or more from the edge of the bluff. However, the proposed pool and approximately two-thirds of the house were located seaward of an imaginary stringline between the closest corners of adjacent structures.

The development was approved with special conditions requiring prior to transmittal (1) septic system testing for potential effects on subject and adjacent properties and geologic approval from the County, (2) assumption of risk for fire, landslide and erosion, and (3) a percolation test. The Commission found that in the project area, however, the stringline was not necessary to protect public views and that, based on supplemental soils and engineering geologic report prepared for the applicant, that both shallow sliding and deep-seated sliding could be avoided if the pool and portion of the residence were constructed over drilled cast-in-place piles.

A coastal development permit was processed for the site adjacent and upcoast (west) of the proposed development in 1985, permit 5-85-239 (Tuchman), for construction of a 7,620 sq. ft. two story single family residence with guest house, stable, garage, tennis court, swimming pool, two septic systems, and minor grading. The proposal was originally for a pile/retaining wall located two-thirds of the way to the base of the bluff with grading off of the crest of the bluff, filling in the area behind the wall with the graded material, and location of a pool and other backyard improvements in this area. The Commission found that the pile/retaining wall was proposed for extension of the yard rather than protection of the residence. The Commission required the proposed wall system to be sited at the top of the bluff.

The permit was subject to prior to transmittal conditions requiring (1) revised plans showing drainage, deletion of a proposed pile/retaining wall and backfill, and revised treatment of the slope treatment and pool placement, and (2) an assumption of risk for slope failure.

B. Geologic 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.

Coastal bluffs, such as this one, are unique geomorphic features that are characteristically unstable. By nature, coastal bluffs are subject to erosion from sheet flow across the top of the bluff and down the bluff face and wave action at the base of the bluff. However, in this case intervening development of roadway (Malibu Road) and single family residences along the beach, and related shoreline protection, precludes wave action on the base of the bluff in this section of the coast. Also, due to the geologic structure and soil composition, these bluffs are susceptible to failure, especially with excessive water infiltration.

Malibu Road and single family residences on the seaward side of the road separate the bluffs from the shore. Prior to the construction of Malibu Road, these bluffs were a part of the shoreline habitat. These bluffs still retain native vegetation and are habitats for many shore animals. As such, they provide nesting, feeding, and shelter sites and remain a part of the shoreline ecosystem.

Section 30253 of the Coastal Act mandates that new development provide for geologic stability and integrity and minimize risks to life and property. Due to the geologic instability of bluffs and their continuing role in the ecosystem, the certified Los Angeles County Malibu/Santa Monica Mountains Land Use Plan contains a number of policies regarding development on or near

coastal bluffs. Although the City of Malibu is now incorporated, these policies are still used as guidance by the Commission in order to determine the consistency of a project with Section 30253 of the Coastal Act.

The LUP policies suggests that geology reports be required for development in unstable areas, and that development minimize both grading, landform alteration and other impacts to natural physical features. The LUP suggests that new development be set back a minimum of 25 feet from the top of the bluff or a stringline, whichever distance is greater, but in no case less than would allow for a 75-year useful life for the structure. The LUP also suggests that no permanent structures be permitted on a bluff face.

The coastal bluff along Malibu Road is unstable in many areas and there have been several slumps and landslides in the area. Bluff instability in this area is exacerbated by poor site drainage and high ground water levels. On-going sloughing and erosion of the bluff face results in erosion of the edge of the bluff landward. The coastal bluff in the project area has had failures which resulted in excessive material on Malibu Road.

The applicants are proposing to demolish the existing single family residence on site and construct a new residence in the same location. The proposed residence is located 93 feet from the edge of the coastal bluff which is defined by an unpermitted soldier pile/retaining wall. This wall was constructed by a previous landowner in 1989 without benefit of a coastal development permit. The soldier pile/retaining wall was constructed to remediate erosion and slumping of the bluff which was advancing landward toward the residence and encroaching into the fill pad supporting the residence.

The consulting geologist provided the Commission staff with a review of potential alternatives to the proposed soldier pile/retaining wall project with an analysis of the feasibility of each of these proposed alternatives to remediate the erosion problem on-site. The GeoConcepts, Inc. letter report entitled Existing Rear Yard Retaining Wall, April 17, 1997 assessed the stability of the site in 1988 relative to the need for the soldier pile/retaining wall which is subject to the present application. The report found that a 1988 study by GeoConcepts, Inc.:

... indicted that the rear yard was underlain by fill, soil and weak siltstone to a depth of (28) feet overlying competent basalt bedrock. ...the fill, soil and siltstone bedrock are prone to creep and slumping during heavy rain periods. A row of soldier piles was recommended near the top of the bluff to support the plane projected up from the toe of the slope. A retaining wall was constructed on the soldier piles and backfilled to support to [sic] the fill and soil. ...

A row of soldier piles was considered as an alternative to be placed further to the north, i.e. closer to the house and further away from the bluff. The exact location of this alternative relative to the edge of the bluff is not indicated. The consultants found that this alternative would have required less grading of the rear yard area, but:

... would not have supported all the fill and soil subject to creep and slumping. Slumping and or debris flow of the fill and soil below the wall would adversely affect Malibu Road and possible residences along Malibu Road.

The consultants examined a second alternative which was trimming the slope back to a less steep slope angle. Such trimming was found to not remove the problem materials i.e.:

all the fill, soil and weak siltstone [but] would require extensive grading. In addition, northward movement of the top of slope would remove lateral support from the existing residence.

The letter report concludes that:

In summary, the repair recommended and implemented under the review of GeoSystems, Inc. is the most effective measure, with the least amount of land modification, to mitigate the adverse affects that creep and slumping of the fill and soil would have on the existing residences along Malibu and the subject site.

Based on this information, the Commission recognizes that there was a geologic hazard on site which needed to be remediated in order to prevent damage to either the subject residence, or the residences below the site on Malibu Road. Further, the consultant's recommendations show that the applicant has considered project alternatives and that the development minimizes landform alteration and does not, either individually or cumulatively, create adverse impacts on coastal resources and is the preferred project alternative. The proposed design, if carried out as recommended by the consulting geologist, should provide geologic stability and eliminate or reduce the erosional hazards to the subject residence, Malibu Road and the residences along Malibu Road.

The Commission has recently approved two other landslide and bluff erosion remediation projects on Malibu Road which involve construction of walls and grading to protect existing residences.

In permit 4-92-176-A (Sasco Pacific), the project was located nearby at 24860 Pacific Coast Highway, upcoast and west of the proposed Sweet project. The site had experienced a recent landslide, had several prior landslides, and a deep seated ancient landslide. The Commission permitted moving of a considerable amount of soil to construct a broad buttress support on the bluff face. In 4-92-176-A the Commission permitted an amendment to an earlier permit to reflect additional grading actually carried out (44,530 cu. yds.), changes to certain wording of special conditions, and allow a permanent irrigation system and stairs on the bluff face. The original permit allowed 42,400 cu. yds. of grading (21,400 cu. yds. cut and 21,000 cu. yds. fill) for overexcavation, removal and recompaction of fill, construction of buttress key, installation of subdrains and hydraugers, perforated pipe, trench and surface drains on a lot with a single family residence. The original permit was subject to conditions relative to a landscaping plan for erosion control and visual mitigation (limited to not allow a permanent irrigation system to protect the slope), incorporation of all geology recommendations, on-site geology inspections during construction, assumption of risk, regulation of soil stockpiling, winterization of the site, and prohibition of development on fill slopes.

Permit 4-97-031 (Anvil Development) at 25000 Pacific Coast Highway allowed remediation and repair of a landslide on the bluff face and to remediate a

drainage problem. The applicant proposed to remove slough material on the bluff face which remained after a landslide and engineer the slope to prevent future landslides. The project required 14,020 cubic yards of grading (2,180 cubic yards cut, 4,440 cubic yards fill, and 7,400 cubic yards of remedial grading), remedial grading of the slope north of the residence, construction of a tennis court with a guest house and game room, and 1,000 cubic yards of grading. The permit was subject to special conditions regarding incorporation of geologic recommendations, relocation of the pool and deck at least 25 feet from the edge of the bluff and removal of all development which encroaches within this 25 foot setback area, an assumption of risk for erosion or slope failure, landscaping and erosion control, condition compliance and timing of completion of work.

With regard to the construction of the new residence the consulting geologist has concluded (Geoconcepts, Inc., Limited Geologic and Soils Engineering Investigation, May 17, 1996):

It is the findings of this corporation, based upon the subsurface data, that the proposed project will not be adversely affected by excessive settlement, landsliding, or slippage and will not adversely affect adjacent property, provided this corporation's recommendations and those of the Los Angeles County Code are followed and maintained.

The project was reexamined as a replacement, rather than repair, of the existing damaged residence, in the GeoConcepts, Inc., Supplemental Report No. 3, March 17, 1997. This report found that report and recommendations as cited in the earlier report remain valid except that some minor changes were recommended on the order of recompaction under slabs, base under slabs, vapor barriers, shrinkage control joints, etc.

Based on the recommendations of the consulting geologist, the Commission finds that the development should be free from geologic hazards so long as all recommendations regarding the proposed development are incorporated into project plans. Therefore, the Commission finds it necessary to require the applicant to submit project plans that have been certified in writing by the consulting geotechnical engineers, GeoConcepts, Inc. as conforming to their recommendations.

The Commission has long determined that in order to provide the maximum amount of geologic stability and ensure, to the maximum extent feasible, the life of a structure, all development shall be set back from coastal bluffs by 25 feet or a stringline, whichever is greater. The top of the bluff has been fixed since 1989 by the soldier pile/retaining wall. The ground level of the wall ranges from 110 feet at the west end to 120 feet at the east end.

The proposed project includes a request for after the fact approval for construction of improvements consisting of a soldier pile wall with grade beam on the bluff face topped by a retaining wall, and a swimming pool, deck, gazebo, and landscaping, and fill of approximately 600 cu. yds. of material (Exhibit 7). The Commission must examine such development, based on past Commission actions, to provide the maximum amount of geologic stability.

Although a stringline between existing residences, decks or pools may be used to determine this setback, this is inappropriate in this case. The alternative of a 25 foot setback is appropriate in this case. The use of a

stringline based on the location of existing development and adjacent properties is inappropriate. The subject site indents significantly compare to the sites on either side, where the buildable portions of the sites on either side extend significantly seaward.

The 25 foot setback recognizes the unique geomorphology of the site. The location and direction of slumping or failure is confined to an indentation in the bluff on this specific site due to folding and tilting of the bedrock, which dips 40 to 45 degrees to the north. (See May 17, 1996 geologic report) Failure and erosion on the site trend across a portion of the site seaward of the residence from the northwest to the southeast, while on the sites to the immediate east and west there are separate trends of erosion and failure which trend across the whole of the bluff front and trend south, toward Malibu Road. At the same time, these sites have been more resistant to failure, which causes the flat portion above the bluff to extend further seaward. When considered in combination with the soldier pile/retaining wall, discussed above as establishing the present edge of the bluff, the 25 foot setback is found appropriate to establish the appropriate setback in this case.

Exhibit 6 shows the current configuration of the gazebo, pool, and related improvements relative to the 25 foot setback line. As built, the pool, deck, and gazebo encroach within 25 feet of the edge of the coastal bluff, inconsistent with the Commission's long-time practice as noted above. The deck and gazebo, further, extend seaward of the edge of the coastal bluff as fixed by the wall. These improvements are behind the soldier pile/retaining wall, with the exception of the gazebo and deck intrusion of twelve feet over the edge.

This development is beyond the twenty-five foot setback which is a commonly accepted standard used by the Commission in past decisions to ensure geologic safety and minimize visual impacts. The standard suggests that new development be set back a minimum of 25 feet from the top of the bluff or a stringline, whichever distance is greater, but in no case less than would allow for a 75-year useful life for the structure. In this case, the appropriate setback is 25 feet from the edge of the bluff as defined by the soldier pile/retaining wall. Therefore, the Commission finds it necessary to require the applicant to submit revised plans which either remove these structures within the setback area or move the structures back to a minimum distance of 25 feet from the top of the bluff edge as noted in special condition two (2).

Further, requirement of a setback in condition two (2) protects the bluff's native vegetation which, as noted, is a habitat for many shore animals, providing nesting, feeding, and shelter sites and as part of the shoreline ecosystem. The value of the bluff as ecosystem was also noted in permit 4-97-031 (Anvil Development).

Special condition two (2) requires elimination of such development beyond the wall edge and within the twenty-five foot setback to ensure that geologic stability during the life of the structure. Only as conditioned relative to the elimination of the deck, pool and gazebo constructed without a permit in the setback area, or relocation to a minimum distance of 25 feet from the bluff edge, can the project be found consistent with Section 30251.

The Coastal Act recognizes that development on a coastal bluff, which has been

subject to landsliding and erosion, 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 unforeseen possibility of erosion, bluff retreat, and slope failure, the applicant shall assume these risks as a condition of approval, as outlined in special condition 3. 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.

Requirement of landscaping and erosion control plans is frequently a condition of approval when the Commission allows development on coastal bluffs, such as the recent coastal development permit 4-97-031 (Anvil Development). In the present project, in comparison, there is no development proposed on the bluff face. The geotechnical reports for the project do not recommend any further revegetation of the bluff face. The bluff edge has been fixed by the soldier pile/retaining wall and no further development seaward is needed to protect the existing residence or replacement residence. The bluff is vegetated with a combination of native and introduced vegetation and any revegetation efforts may increase the instability of the face. In addition, as noted, the soldier pile/retaining wall includes a drainage system to collect and convey water to the toe of the bluff. Further, no sliding or slumping has been observed on the project site. Therefore, additional landscaping is not required in this case. In summary, for these reasons the project is consistent with Section 30253 of the Coastal Act.

C. Visual Impacts

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.

The proposed development is located on a blufftop lot between Pacific Coast Highway, a designated scenic highway, and Malibu Road. The proposed residence is set back 90 feet from the bluff edge, so that it is not visible from the beach or Malibu Road.

In the immediate project vicinity, view impact of the project from Pacific Coast Highway, is limited by the built-out nature of the surroundings, consisting of berms, walls, and landscaping. Houses in the immediate project vicinity reviewed by the Commission have not raised any visual quality issue, whereas visual quality has been an issue in other projects on the same bluff further to the west such as 4-97-031 (Anvil Development) which are more visible.

A raised berm is located along Pacific Coast Highway, containing a wall and landscaping, beyond which the site slopes gradually to the top of the bluff. If these improvements along Pacific Coast Highway were removed, only a few feet of the residence would intrude into the view of the Pacific Ocean because of the decline in elevation and height of the residence of 26 ft.. The impact on visibility across the site from Pacific Coast Highway while traveling in either direction would be momentary and not be significant.

This bluff face is visible from Malibu Road. Malibu Road is a public road which contains several vertical accessways to provide the public access to the ocean. The bluff is notched in between promontories on adjoining lots, so that the view is only momentary for a individual traveling along Malibu Road who is looking away from the ocean. Native and introduced vegetation on the bluff face soften the impact on the view towards the site from the beach and Malibu Road.

The gazebo intrudes beyond the edge of the bluff as defined by the soldier pile/retaining wall. This creates an adverse visual intrusion on the bluff looking landward from Malibu Road and is out of character with surrounding development. Further, such development is beyond the twenty-five foot setback, a commonly accepted standard used by the Commission in past decisions to protect visual quality and ensure proper geologic safety.

The Commission has consistently required through permit actions that new development be set back a minimum of 25 feet from the top of the bluff or a stringline, whichever distance is greater, but in no case less than would allow for a 75-year useful life for the structure. As noted above, the stringline between existing residences is not an appropriate standard in this case because of the geomorphology unique to the site. The 25 foot minimum recognizes that the bluff edge is established by the soldier pile/retaining wall.

Elimination of both development beyond the wall edge and within the twenty-five foot setback area or relocation of development behind the 25 foot setback will address this geologic stability concern. It will also avoid the impact on views, protect views along the ocean, and ensure a character visually compatible with the surrounding area. Consequently, only as conditioned relative to the removal or relocation of the deck, pool and gazebo constructed without a permit in the setback area and beyond the edge of the wall, can the project be found consistent with Section 30251.

Section 30251 of the Coastal Act requires the minimization of landform alteration as well as the protection of visual resources. This project includes grading for 600 cu. yds. of fill. The grading is minimal and will not be in an area subject to public view and will not alter the character of the bluff face. The fill will be behind the wall. This wall fixes the edge

of the bluff and, hence, the landform configuration, in a location similar to surrounding properties.

For these reasons, the proposed development as conditioned is consistent with PRC Section 30251.

D. Cumulative Effects of Development

Sections 30250 and 30252 of the Coastal Act address the cumulative impacts of new developments. Section 30250 (a) of the Coastal Act states:

(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 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of on-site recreational facilities to serve the new development.

New development raises coastal issues related to cumulative impacts on coastal resources. The construction of a second unit on the site where a primary residence exists intensifies the use of a parcel raising potential impacts on public services, such as water, sewage, electricity and roads. New development also raises issues regarding the location and amount of new development maintaining and enhancing public access to the coast.

In addition, the issue of second units on lots with primary residences has been the subject of past Commission action in the certifying the Malibu Land Use Plan (LUP). In its review and action on the Malibu LUP, the Commission found that placing an upper limit on the size of second units (750 sq. ft.) was necessary given the traffic and infrastructure constraints which exist in Malibu and given the abundance of existing vacant residential lots. Furthermore, in allowing these small units, the Commission found that the small size of units (750 sq. ft.) and the fact that they are likely to be occupied by one or at most two people, such units would have less impact on

the limited capacity of Pacific Coast Highway and other roads (as well as infrastructure constraints such as water, sewage, electricity) than an ordinary single family residence. (Certified Malibu/Santa Monica Mountains Land Use Plan 1986, page 29 and P.C.H. (ACR), 12/83 page V-1 - VI-1).

The second unit issue has also been raised by the Commission with respect to statewide consistency of both coastal development permits and Local Coastal Programs (LCPs). Statewide, additional dwelling units on single family parcels take on a variety of different functions which in large part consist of: 1) a second unit with kitchen facilities including a granny unit, caretaker's unit, and farm labor unit; and 2) a guesthouse, without separate kitchen facilities. Past Commission action has consistently found that both second units and guest houses inherently have the potential to cumulatively impact coastal resources. As such, conditions on coastal development permits and standards within LCP's have been required to limit the size and number of such units to ensure consistency with Chapter 3 policies of the Coastal Act (Certified Malibu/Santa Monica Mountains Land Use Plan 1986, page 29).

Based on these policies, the Commission has limited the development of second dwelling units or those that appear to be a second dwelling unit. The proposed gym is two stories in height and could internally accommodate a second story.

Through hearing and voting on past permit actions, the Commission has established a maximum size of 750 sq. ft. for guest houses. As proposed, the 400 square foot gym is consistent with past Commission decisions. However, in order to ensure that no additions are made without due consideration of the potential cumulative impacts, the Commission finds it necessary to require the applicant to record a future improvements deed restriction, which will require the applicant to obtain a new permit if additions or changes to the development are proposed in the future. As conditioned by special condition five (5), the gym will be in conformance with Section 30250 of the Coastal Act.

For these reasons, the Commission finds that, as conditioned, the proposed project is consistent with Sections 30250 and 30252 of the Coastal Act.

E. Violation

Staff became aware in late March, 1997 after the application was filed that the site contained extensive development constructed without benefit of a coastal development permit including a soldier pile wall with grade beam on bluff face topped by retaining wall, swimming pool, deck, gazebo, and landscaping, and fill of approximately 600 cu. yds. of material. Such development was not in conformance with the approved permits for the site.

The applicant has included the unpermitted development on the site to resolve these violations. The Commission has consistently required blufftop construction to provide setbacks from the edge, to protect visual resources, to protect development from erosion and geologic instability and to preserve the habitat values of bluff areas. As noted by the above findings, the developments constructed without a coastal development permit are consistent with geologic stability policies of the Coastal Act, based on the applicant's geologic and geotechnical analysis, if the deck, pool and gazebo are reconstructed to intrude no closer than twenty-five feet inland of the soldier pile/retaining wall. Further, this condition will eliminate adverse visual impacts, as discussed in greater detail above.

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.

Since the relocation of existing improvements constructed without benefit of a permit is necessary to bring the site into compliance with past Commission action and the Chapter Three policies of the Coastal Act, the Commission finds it necessary to require compliance with all special conditions within 120 days of Commission action (Special condition 5), and complete the work proposed under the revised plans within 120 days of the completion of remedial grading (Special condition 6).

F. Local Coastal Program

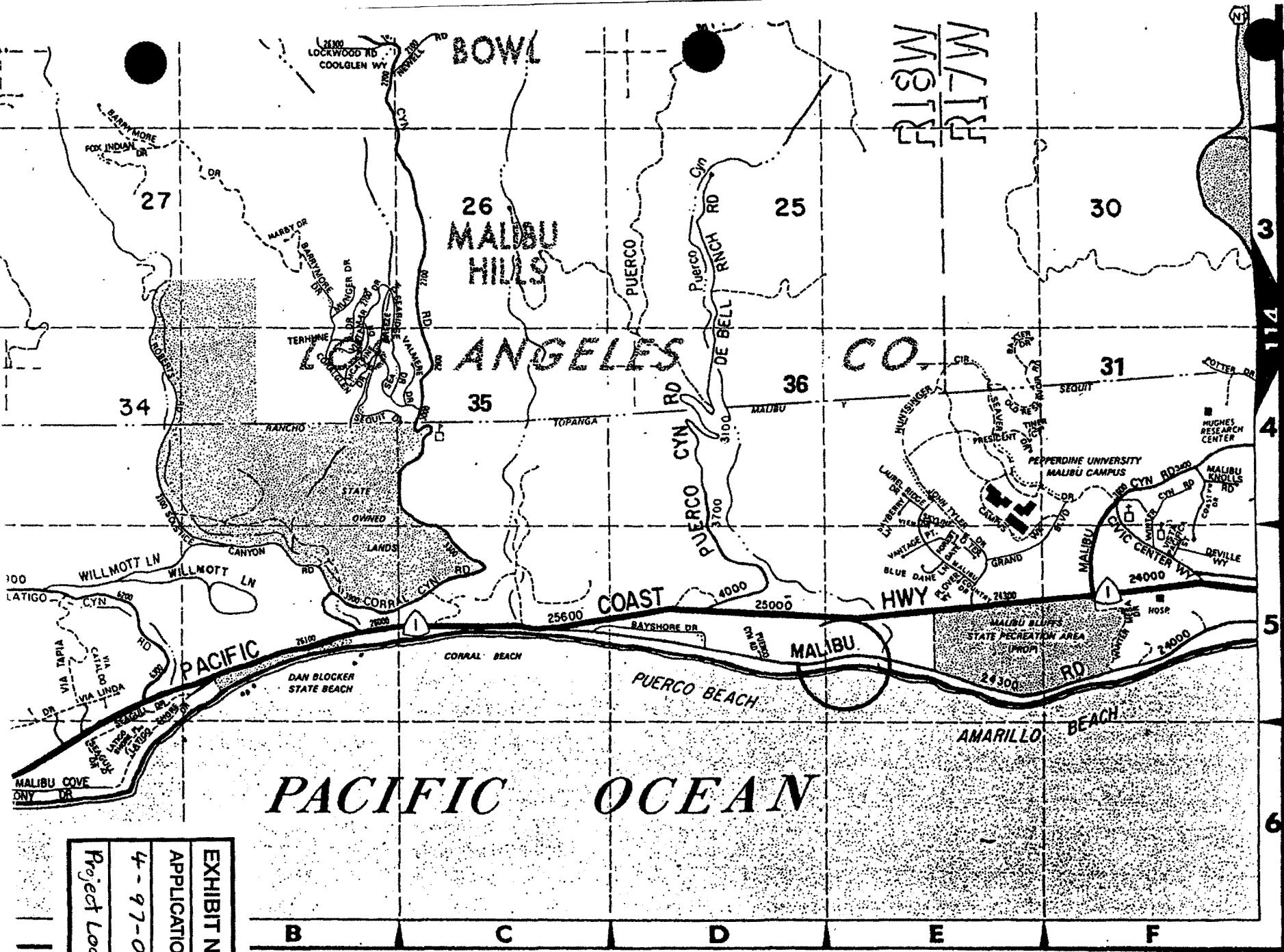
Section 30604(a) of the Coastal Act states:

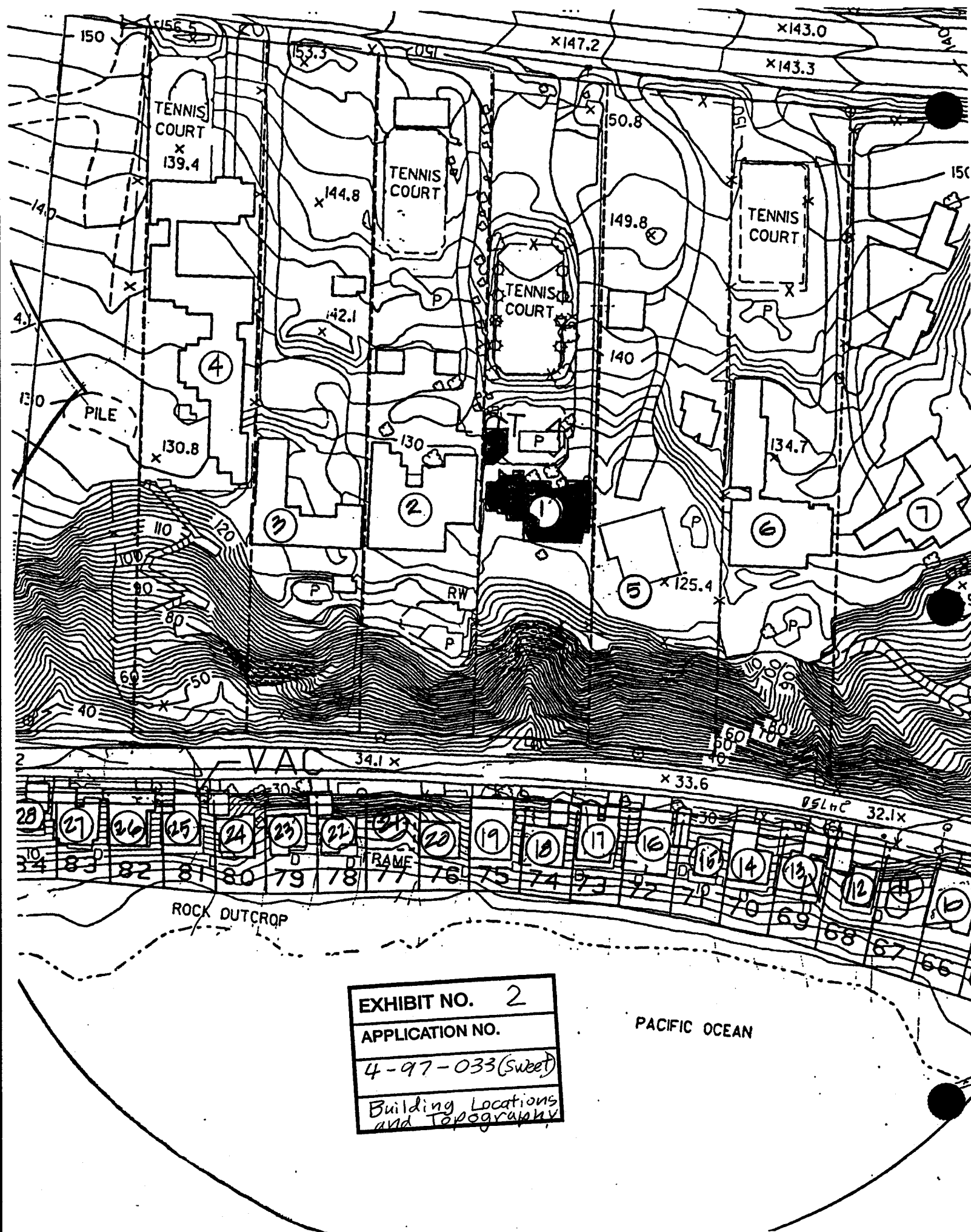
- (a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200 of the division and that the 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).

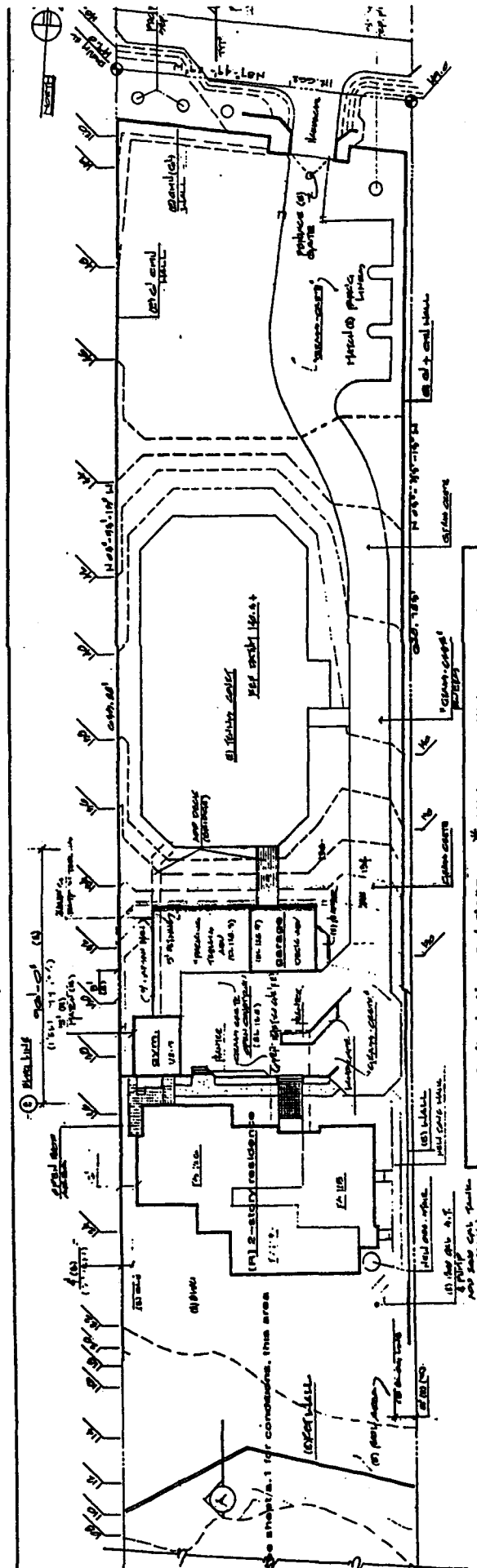
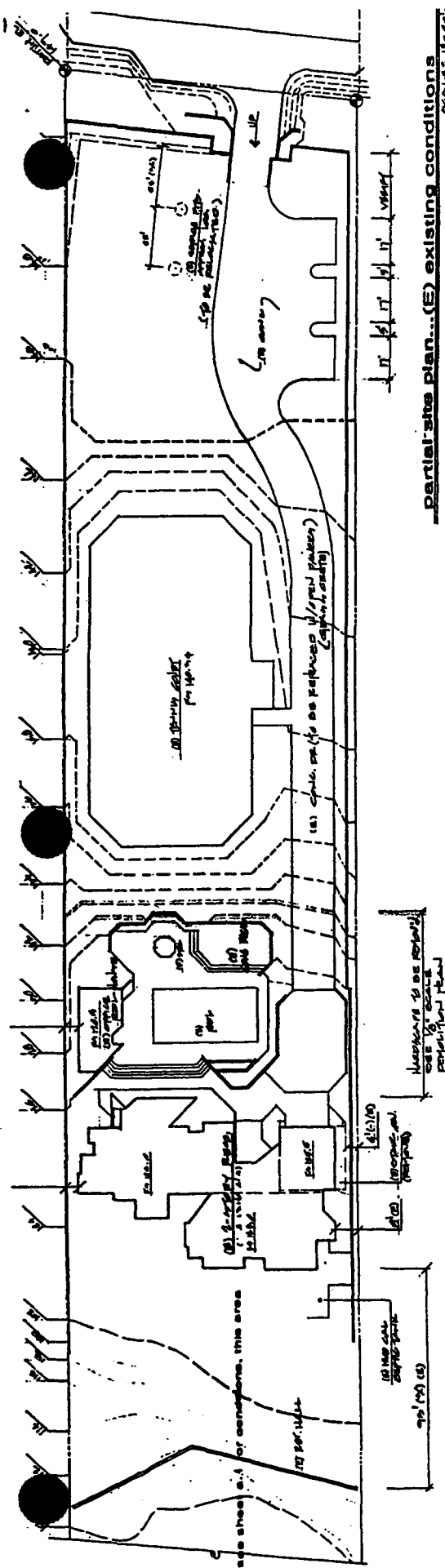
Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections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

G. CEQA

Section 13096 of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of 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 determined to be consistent with CEQA and the policies of the Coastal Act.





[illegible]

CITY OF MALIBU
PLANNING DEPARTMENT
APPROACH IN CONCEPT
DESIGN

IN ASSOCIATION WITH

KEN VORZIMER AND ASSOCIATES
BUSINESS PLANNING AND DESIGN
1510 11th STREET, SUITE 101
SANTA MONICA, CA 90401 (310) 393-2389

EXHIBIT NO. 3
APPLICATION NO.
4-97-033 (Sweet)
Comparative Site Plans

APPLICATION NO.

4-97-033 (Sweet)

Comparative Site Plans

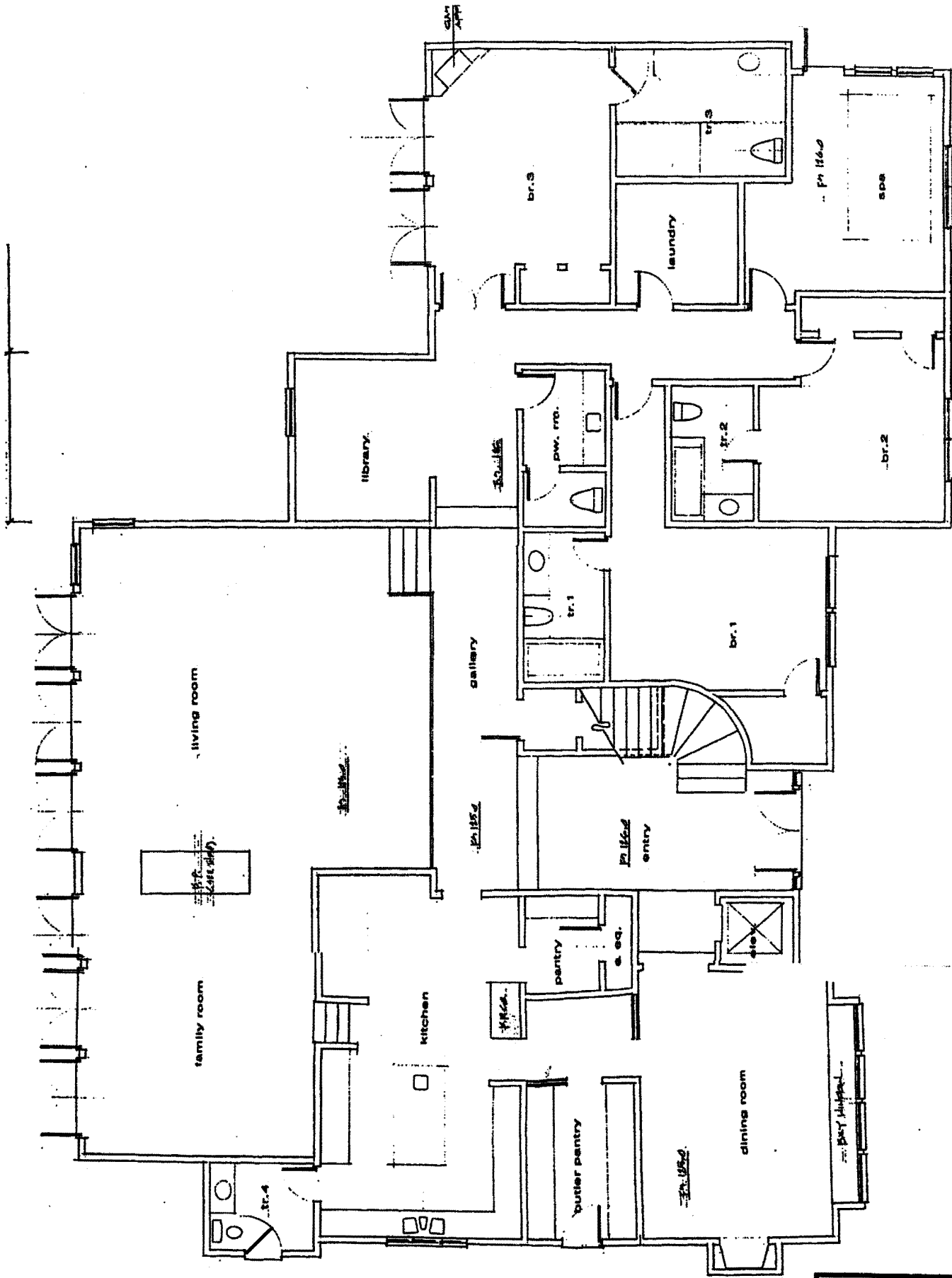
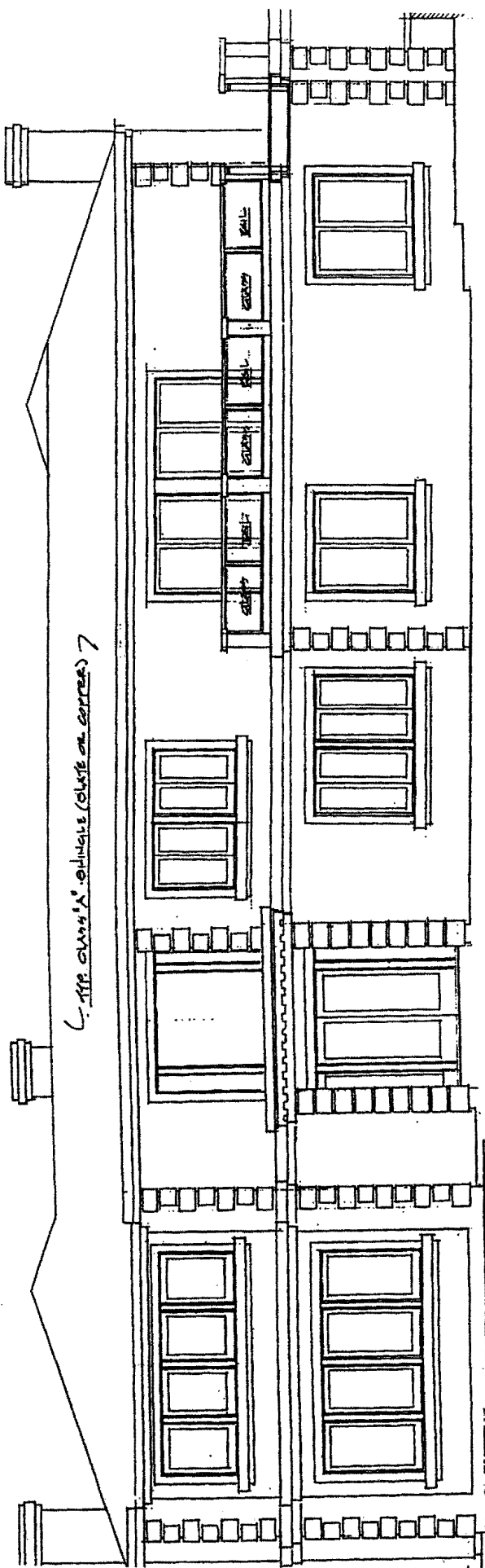


EXHIBIT NO. 4
APPLICATION NO.
4-97-033 (Sweet)
Floor Plan (1st Floor)

PREPARED
BY LINE

24



2 LINE
FROM

MAIN ENTRY

north [front] elevation

SCALE: 1/4"=1'-0"

1st FLOOR
2nd FLOOR
3rd FLOOR

EXHIBIT NO.	4b
APPLICATION NO.	4-97-033 (Sweet)
Elevation Facing PCH	

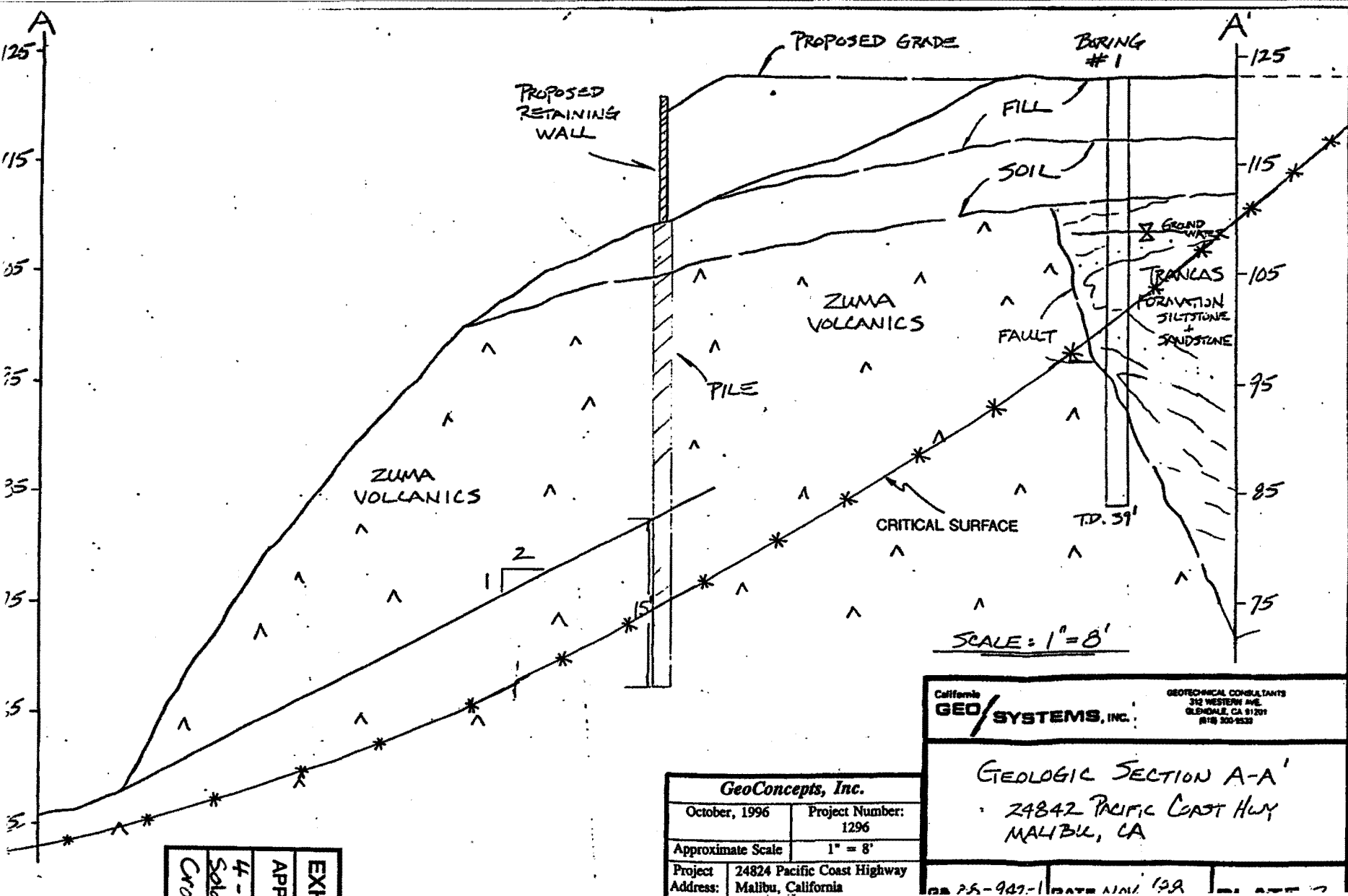


EXHIBIT NO. 5

APPLICATION NO.

4-97-033(Sweet)

Soldier Pile/Retaining Wall

Cross Section

GeoConcepts, Inc.	
October, 1996	Project Number: 1296
Approximate Scale	1" = 8'
Project Address:	24824 Pacific Coast Highway Malibu, California

California GEO/SYSTEMS, INC.		GEOTECHNICAL CONSULTANTS 312 WESTERN AVE. GLENDALE, CA 91201 (818) 300-8530
GEOLOGIC SECTION A-A' 24842 PACIFIC COAST HWY MALIBU, CA		
25-947-1	DATE: 11/1/99	BY: [Signature]

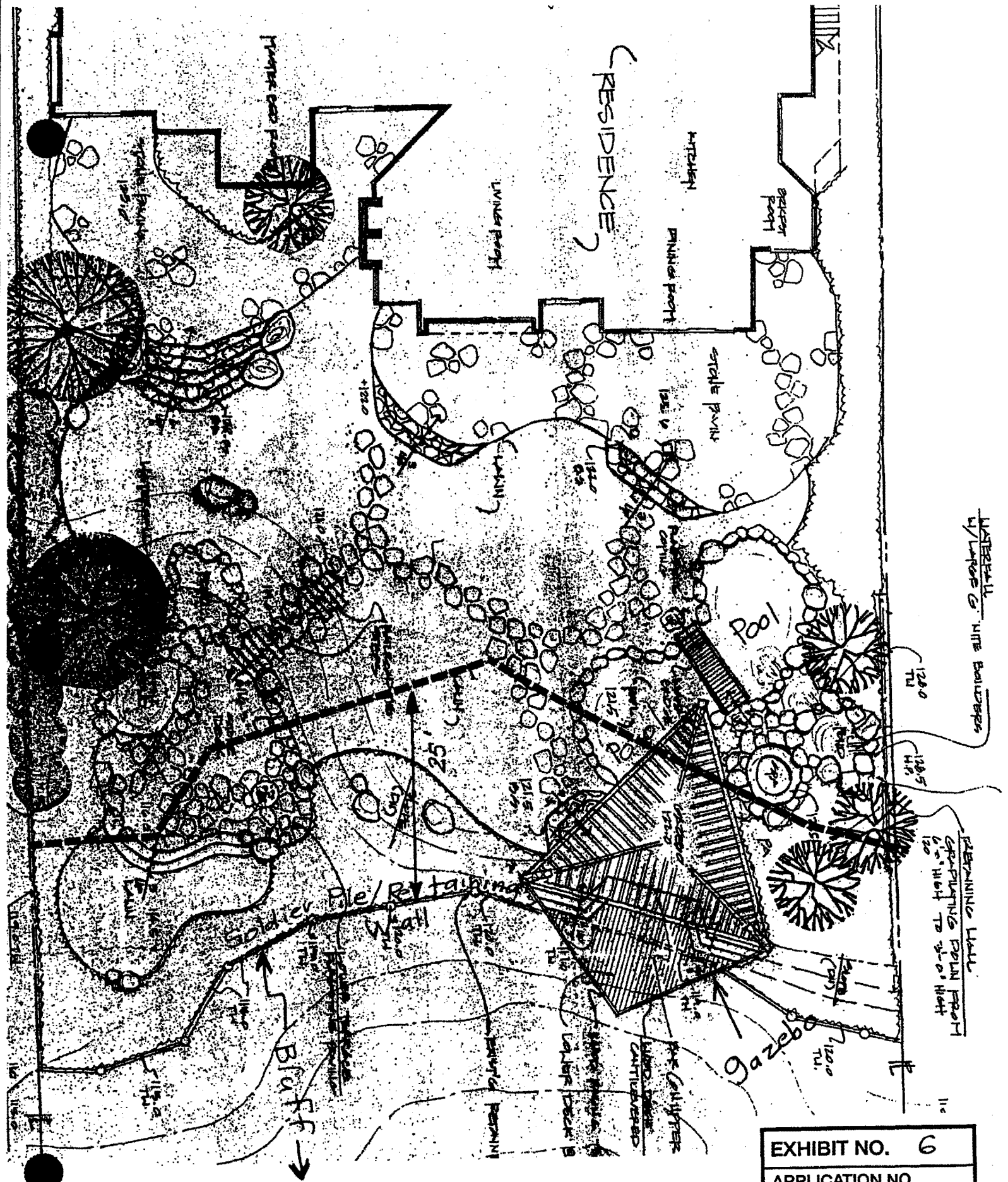


EXHIBIT NO. 6
APPLICATION NO.
4-97-033 (Sweet)
Wall, Gazebo, etc. with 25 ft. setbacks

No Scale

