

Item Three

STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION

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



Filed: 3/18/99
49th Day: 5/6/99
180th Day: 9/14/99
Staff: J. Johnson *JD*
Staff Report: 3/24/99
Hearing Date: 4/13 - 16/99
Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 4-99-008

APPLICANT: David Hockney **AGENT:** Charles Gruen, Gruen Construction Co.

PROJECT LOCATION: 21036 Pacific Coast Highway, City of Malibu; Los Angeles County.

PROJECT DESCRIPTION: Repair to an existing seawall/rockwall and stairs, consisting of cementing a veneer of rock and cement to the face of existing wall and stairs. No seaward encroachment is proposed.

LOCAL APPROVALS RECEIVED: Approval in Concept, dated 12/4/97, by City of Malibu Planning Department.

SUBSTANTIVE FILE DOCUMENTS: "Resurfacing Existing Concrete and Rock Protective Structure", by Pacific Engineering Group, dated May 25, 1998; "Mean High Tide Line Locations", by Pacific Engineering Group, dated June 19, 1998; California State Lands Commission Determination Letter, dated October 2, 1998; Certified Malibu/Santa Monica Mountains Land Use Plan; Coastal Permit No. 4-97-228, Caron; Coastal Permit 4-98-108, Alagem.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed project with **three (3) special conditions addressing the applicant's assumption of risk, maintenance responsibilities, and condition compliance.** The applicant is requesting an "after the fact" approval for the repair to an existing seawall/rockwall and stairs, consisting of a veneer of small rock and cement to the face of an existing rock and concrete wall and stairs to the beach. No development is proposed seaward of the existing wall. The proposed repair is remedial in nature and has been previously constructed without the benefit of a coastal development permit.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, 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, is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and public recreation policies 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. Assumption of Risk, Waiver of Liability and Indemnity

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from waves, storm waves, flooding, and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

2. Maintenance Responsibilities

Any debris, rock or materials which becomes dislodged through weathering, wave action or settlement shall be removed from the beach or redeposited on the seawall/rockwall and stairs as soon as possible after discovery. If after inspection, it is apparent that repair and maintenance is necessary, the applicant shall contact the Commission office to determine whether permits are necessary. Any change in the design of the seawall/rockwall and stairs or future additions and reinforcement of the approved alignment will require a coastal development permit.

3. Condition Compliance

Within ninety (90) days of Commission action on this Coastal Development Permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. Findings and Declarations

The Commission hereby finds and declares as follows:

A. Project Description and Background

The applicant proposes to construct a repair to an existing seawall/rockwall and stairs, consisting of a veneer of small rock and cement to the face of an existing concrete and rock wall and stairs. No development is proposed seaward of the existing wall. The repair consists of cementing a rock veneer (about six inch diameter rocks) founded in a shot-crete mix held in place with steel rebar. The proposed repair or resurfacing of the wall is remedial in nature and has been previously constructed without the benefit of a coastal development permit.

The subject site is a beach front parcel, about 13,807 sq. ft., that has been previously developed with a single family residence, garage and studio, and storage structure, constructed in approximately 1938 according to the applicant's agent (Exhibits 1 - 3). An existing concrete and rock protective structure surrounding the residence, a portion of the storage structure and a concrete patio appear to have existed prior to 1975 according to a review of the Commission's historic aerial photographs. The site is located on Las Flores Beach, a heavily developed residential and limited commercial area of Malibu. The seawall/rockwall on site is an independent shoreline protective device protecting the applicant's property (Exhibits 4 - 7).

The applicant completed this repair project believing that it was exempt from the requirement of obtaining a coastal development permit. Staff received, on 12/4/97, a request from the applicant's agent for an exemption from the requirement of obtaining a coastal development permit. On 12/24/97, Staff informed the applicant by letter that the repair project required a coastal permit. On June 5, 1998, the applicant's agent requested a reconsideration that the maintenance performed on the residence was categorically exempt. On June 16, 1998, Staff again informed the applicant by letter that the maintenance project required a coastal permit. On January 13, 1999, the applicant submitted this application for a coastal permit.

B. Public Access and Seaward Encroachment

Coastal Act Section 30210 states that:

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

Coastal Act Section 30211 states:

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

Coastal Act Section 30212(a) states:

Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources.*
- (2) adequate access exists nearby, or,*
- (3) agriculture would be adversely affected. Dedicated access shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

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 subordinate to the character of its setting.

Finally, 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 Act Sections 30210 and 30211 mandate that maximum public access and recreational opportunities be provided and that development not interfere with the public's right to access the coast. Likewise, Section 30212 of the Coastal Act requires that adequate public access to the sea be provided to allow use of dry sand and rocky coastal beaches. Section 30251 of the Coastal Act requires that the scenic and visual qualities of coastal areas be protected as a resource of public importance and designed to protect views to and along the ocean and scenic coastal areas.

1. Public Access Considerations for Beachfront Projects

All beachfront projects requiring a coastal development permit must be reviewed for compliance with the public access provisions of Chapter 3 of the Coastal Act. In past permit actions, the Commission has required public access to and along the shoreline in new development projects and has required design changes in other projects to reduce interference with access to and along the shoreline. The major access issue in such permits is the occupation of sand area by a structure in contradiction of Coastal Act policies 30210, 30211, and 30212.

Past Commission review of shoreline residential projects in Malibu has shown that individual and cumulative adverse effects to public access from such projects can include encroachment on lands subject to the public trust (thus physically excluding the public); interference with the natural shoreline processes necessary to maintain publicly-owned tidelands and other public beach areas; overcrowding or congestion of such tideland or beach areas; and visual or psychological interference with the public's access to and the ability to use public tideland areas.

The proposed project must be judged against the public access and recreation policies of the State Constitution, Sections 30210, 30211, and 30212 of the Coastal Act. Along the California coast, the line between land and ocean is complex and constantly moving. This dynamic environment has introduced uncertainty into questions about the location of public and private ownership as well as rights of public use. It is generally accepted that the dividing line between public tidelands and private uplands, or the tidal boundary, in California is the mean high tide line (MHTL), essentially the same as the ordinary high water mark or line.

The courts have not fully resolved the question of the extent to which the location of the tidal boundary in California changes as the profile of the shoreline changes. Where there has not been a judicial declaration of a reasonable definite boundary based upon evidence in a specific case, or where the upland owner has not entered into an agreement with the state fixing the boundary, uncertainty remains.

Nevertheless, despite this legal uncertainty, as a practical matter the actual dividing line between sea and land moves constantly, and this gives rise to issues involving protection of public rights based on use, rather than ownership. These use rights arise as the public walks the wet or dry sandy beach below the mean high tide plane. This area of use, in turn moves across the face of the beach as the beach changes in depth on a daily basis. The free movement of sand on the beach is an integral part of this process, and it is here that the effects of structures are of concern.

The beaches of Malibu are extensively used by visitors of both local and regional origin and most planning studies indicated that attendance of recreational sites will continue to significantly increase over the coming years. While the Commission cannot determine if prescriptive rights exist on the subject property, it must protect those potential public rights by assuring that any proposed shoreline development does not

interfere with or will only minimally interfere with those rights. Presently, this shoreline remains open and can be used by the public for access and general recreational activities.

Regarding vertical public access from Pacific Coast Highway to the beach, the project site is located within two miles of two vertical public accessways located to the west and east of the subject site (owned and operated by the County of Los Angeles since the 1960's) that has historically been used by the public to access La Costa Beach to the west and Las Flores Beach to the east of the subject site. Therefore, vertical access to the beach exists nearby.

Regarding lateral public access and state tidelands ownership, the State Lands Commission, in a letter dated October 2, 1998, reviewed the proposed project (Exhibit 8). The State Lands Commission staff noted that they do not have sufficient information to determine whether the project intrudes upon state sovereign lands or interferes with other public rights. The applicant's engineer, Pacific Engineering Group, submitted in a letter dated June 19, 1998 titled: Mean High Tide Line Locations. The letter has identified the Mean High Tide Lines (MHTL) as of 1928, 1961, 1967, and 1969 to be located no closer than the most landward MHTL dated 1928 which is about 21 to 23 feet seaward of the seaward base of the rockwall (Exhibit 9). The more recent MHTL's are located seaward of the 1928 MHTL. The base of the existing rockwall is located as far seaward as about 88 feet from the Pacific Coast Highway. Assuming these MHTL's are accurate, there is between about 21 to 23 feet of beach seaward of the base of the rockwall until the Mean High Tide Line is reached. It is important to note that although the MHTL is ambulatory there is no evidence that the proposed repair, rock veneer, or stairs will extend to the MHTL or onto state sovereign lands. According to the Commission's access records, there are no existing offers to dedicate public access easements recorded on the applicant's property.

The analysis cited in the preceding section indicates that the proposed project will not have any new impacts on the shoreline processes. Further, because the proposed repair, rock veneer, and stairs are sited as far back on the beach as feasible, the Commission finds that there will be no new impacts on the beach which would affect lateral access along the beach. Therefore, there is no basis to require a condition to establish a lateral access easement across the applicant's property.

2. Seaward Encroachment of Development

As a means of controlling seaward encroachment of residential structures on a beach to ensure maximum public access, protect public views, and minimize wave hazards as required by Coastal Act Sections 30210, 30211, 30251, and 30253, the Commission has, in past permit actions, developed the "stringline" policy. As applied to beachfront development, the stringline limits the seaward extension of a structure to a line drawn between the nearest corners of adjacent structures and limits decks to a similar line drawn between the nearest corners of the adjacent decks.

The Commission has applied this policy to numerous past permits involving infill on sandy beaches and has found it to be an effective policy tool in preventing further encroachments onto sandy beaches. In addition, the Commission has found that restricting new development to building and deck stringlines is an effective means of controlling seaward encroachment to ensure maximum public access as required by Sections 30210 and 30211 and to protect public views and the scenic quality of the shoreline as required by Section 30251 of the Coastal Act.

In this case, the proposed project does not invoke the restrictions of the stringline policy because the project will only involve the repair and refacing of an existing structure (i.e. the existing rockwall and stairs). Further, all proposed repair and replacement will be located landward of the existing toe of the rockwall. No development is proposed to extend seaward of the existing rockwall and, thus, the proposed project has no potential to exceed the applicable stringline setback.

Further, in review of past permit actions, the Commission has found that shoreline protective devices, such as rockwalls, result in adverse effects to shoreline processes and beach profile due to increased scour and erosional end effects. However, in this case, the applicant is proposing to repair an existing rockwall by constructing a rock veneer or reface its seaward surface. All of the proposed rock veneer or refacing will be located landward of the existing toe of the rockwall and will not result in any intensification of the interaction between the existing shoreline protective device, the rockwall, and wave uprush. Therefore, the Commission notes that the proposed repair project will not result in any new adverse effects to shoreline processes, the beach profile, or public access along the beach.

And lastly, pursuant to Section 30251 of the Coastal Act, the Commission reviews the publicly accessible locations along adjacent public roads and the sandy beach where the proposed development is visible to assess visual impacts to the public. The Commission examines the proposed construction site and the size of the proposed project. The existing residence and solid wall along Malibu Road already blocks public views from the highway to the beach and ocean. Although the repair to the rockwall and stairs will be visible from the public sandy beach, the visibility of the repair is limited particularly when sand covers the beach and the base of the rockwall during the majority of the year. The rockwall and stairs will be visible from the beach during the winter months when sand level is lower as a result of scour. However, the more scenic inland views of the Santa Monica Mountains as viewed from the beach and water are well above these proposed replacement developments. Thus, the proposed repair of the rockwall and stairs will not adversely affect existing public views.

The project will not preclude public access to any presently existing vertical or lateral public access easements or rights or adversely affect public coastal views. For all of these reasons, the Commission finds that the proposed project will have no individual or cumulative adverse effects on public access. Therefore, the Commission finds that a condition to require lateral access is not appropriate and that the project, as proposed, is consistent with Coastal Act Sections 30210, 30211, 30212, and 30251.

C. Geologic Stability

Section 30253 of the Coastal Act states in pertinent 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.

Section 30253 of the Coastal Act mandates that new development provide for geologic stability and integrity and minimize risks to life and property in areas of high geologic, flood, and fire hazard. In addition to Section 30253 of the Coastal Act, the certified Malibu/Santa Monica Mountains LUP includes several policies and standards regarding hazards and geologic stability. These policies have been certified as consistent with the Coastal Act and used as guidance by the Commission in numerous past permit actions in evaluating a project's consistency with Section 30253 of the Coastal Act. For example, Policy 144 of the LUP, suggests that the Commission continue to provide information concerning hazards and appropriate means of minimizing the harmful effects of natural disasters on persons and property.

1. Storm, Wave and Flood Hazard

The Malibu coast has been subject to substantial damage as a result of storm and flood occurrences, geological failures and firestorms. Therefore, it is necessary to review the proposed project and project site against the area's known hazards. The proposed project involves the repair of an existing rockwall and stairs to the beach, on a lot developed with a residence, studio and garage, and storage structure located on a developed stretch of Las Flores Beach.

The site is susceptible to flooding and/or wave damage from storm waves and storm surge conditions. Past occurrences have resulted in public costs (through low-interest loans) in the millions of dollars in the Malibu area alone. Along the Malibu coast, significant damage has occurred to coastal areas from high waves, storm surge and high tides.

The applicant has submitted plans prepared by Gruen Construction Company and certified by Louis Zehfuss Licensed Land Surveyor for the 'elevations established'. The proposed repair to an existing seawall/rockwall and stairs, consisting of a veneer of small rock and cement to the face of an existing rock and concrete wall and stairs to the beach. In addition, the applicant has submitted a letter report addressed to Mr. Gruen, the applicant's agent, titled: Resurfacing Existing Concrete and Rock Protective Structure, by Pacific Engineering Group, dated May 25, 1998. This letter report states that:

The subject protective structure is located in front of an existing residence on Las Flores Beach in the City of Malibu. This structure is located on the back shore beach, and protects an existing residence. According to you (Mr. Gruen) the original un-resurfaced protective wall has been in place for many years. As of the above-mentioned visit by this office, the wall had already been resurfaced with concrete and rock by the Gruen Construction as directed by the owner. The rocks average about six inches in diameter and are founded in a concrete matrix on the face of the wall. As mentioned by you, the original face of the wall was surfaced with a similar matrix surface but was in a deteriorated condition. It should be noted that this wall and the existing residence structurally survived the February 1998 storms.

Structural Conditions and Coastal Effects

It is the professional opinion of this office that the resurfacing of the existing wall is considered maintenance only and will not affect the wall from a structural engineering perspective. From the structural sections you have provided this office (enclosed), this wall is considered a "gravity" type wall. The additional weight of the new concrete and rock will have a negligible effect on the soil bearing from previous conditions, while providing some increase in the resisting overturning moment for the wall.

From a coastal engineering perspective, the resurfacing of the wall will have an insignificant effect on coastal processes as compared with the un-resurfaced wall. ... Protection of the residence and foundation has not changed from the previous conditions due to the resurfacing of the wall. The useable life of the wall has only been extended.

Thus, the applicant's consulting engineer has concluded that resurfacing of the existing wall is considered maintenance only and will not affect the wall from a structural engineering perspective. Therefore, the Commission notes that the proposed development, as submitted, is consistent with the requirements of Coastal Act Section 30253 that require the assurance of the structural integrity of proposed development.

However, the Commission further notes that the proposed development is located on a beachfront lot in the City of Malibu. The Malibu coast has historically been subject to substantial damage as the result of storm and flood occurrences--most recently, and perhaps most dramatically, during the past 1998 El Nino severe winter storm season.

The subject site is clearly susceptible to flooding and/or wave damage from storm waves, storm surges and high tides. Past occurrences have not only damaged the subject bulkhead and threatened the existing teahouse, but have caused property damage resulting in public costs through emergency responses and low-interest, publicly-subsidized reconstruction loans in the millions of dollars in Malibu area alone from last year's storms.

In the winter of 1977-1978, storm-triggered mudslides and landslides caused extensive damage along the Malibu coast. According to the National Research Council, damage to Malibu beaches, seawalls, and other structures during that season caused damages of as much as almost \$5 million to private property alone.

The El Nino storms recorded in 1982-1983 caused high tides of over 7 feet, which were combined with storm waves of up to 15 feet. These storms caused over \$12.8 million to structures in Los Angeles County, many located in Malibu. The severity of the 1982-1983 El Nino storm events are often used to illustrate the extreme storm event potential of the California, and in particular, Malibu coast. The 1998 El Nino storms also resulted in widespread damage to residences, public facilities and infrastructure along the Malibu Coast, the specific damage is still being assessed.

Thus, ample evidence exists that all beachfront development in the Malibu area is subject to an unusually high degree of risk due to storm waves and surges, high surf conditions, erosion, and flooding. The existing development on site, even after the completion of the remedial repair work, will continue to be subject to the high degree of risk posed by the hazards of oceanfront development in the future, as will the existing single family residence that the bulkhead helps to protect. The Coastal Act recognizes that development, such as the proposed repairs and new underpinning to the bulkhead and teahouse, even as designed and constructed to incorporate all recommendations of the consulting coastal engineer, may still involve the taking of some 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 the subject property.

The Commission finds that due to the possibility of liquefaction, storm waves, surges, erosion, and flooding, the applicant shall assume these risks as conditions of approval. Because this risk of harm cannot be completely eliminated, the Commission requires the applicant to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development. The applicant's Assumption of Risk, Waiver of Liability and Indemnity, as required by Special Condition One (1), when executed and recorded on the property deed, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site, and that may adversely affect the stability or safety of the proposed development.

The Commission further finds that the project is subject to possible deterioration, such as resulting from the above noted hazards. The proposed development may experience dislodging of materials that move seaward of the seawall/rockwall and stairs and intrude into the area of public access use. Such materials can adversely impact access by blocking or impeding beach users as well as presenting a potential hazard. In order to ensure that such materials are removed and replaced landward in a timely manner, the Commission requires through Special Condition two (2) that the applicant contact the Commission office to determine the necessary resolution. The Commission Staff can determine whether permits are necessary for a new coastal development

permit or repair and maintenance, as provided pursuant to California Code of Regulations Section 13252. Approval with this condition ensures avoidance or interference with public access opportunities, so that the project maximizes public lateral access in a manner consistent with Public Resources Code Sections 30210 and 30211.

The Commission finds, for the reasons set forth above, that the proposed development, as conditioned, is consistent with Section 30253 of the Coastal Act.

D. Violation

Although development has taken place prior to the filing 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.

The proposed repair of the existing rockwall with a veneer of rock, cement and rebar and repair of stairs to the beach all located on a sandy beach requires a coastal permit in order to be in conformance with the Coastal Act. The Commission finds it necessary to require the applicant to fulfill all of the Special Conditions as a prerequisite to the issuance of this permit, as required by special condition number three (3) within a reasonable period of time, within 90 days of Commission action. Only as conditioned is the proposed development consistent with the Coastal Act.

E. Local Coastal Program

Section 30604 of the Coastal Act states that:

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

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

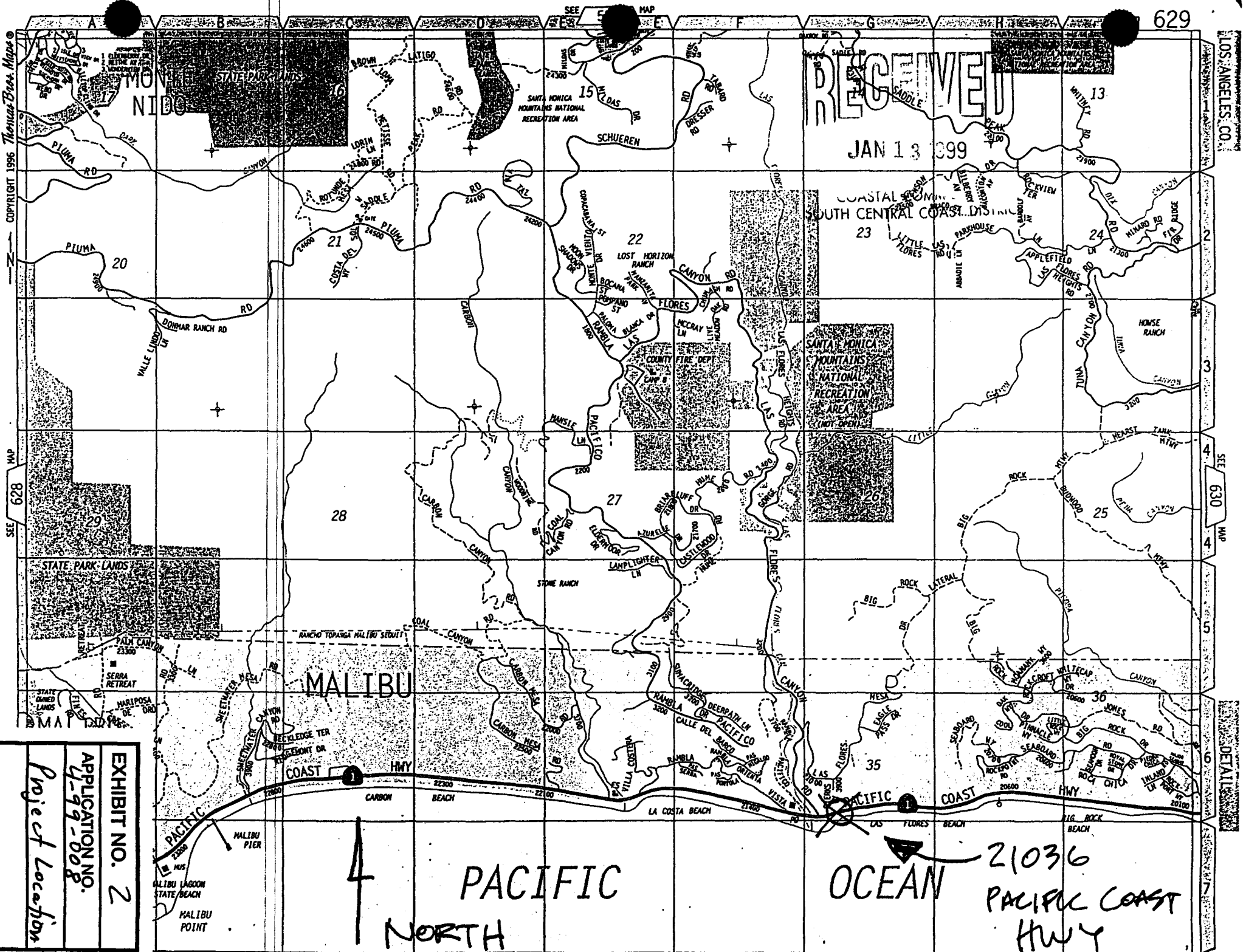
F. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) 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 effect which the activity may have on the environment.

The Commission finds that, 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.

499008hockneyreport





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LOS ANGELES CO.

SEE 630 MAP

DETAILS

EXHIBIT NO. 2
APPLICATION NO. 4-99-008
Project Location

21036
PACIFIC COAST
Hwy 1

PACIFIC
NORTH

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JAN 13 1999

COASTAL COMMUNITY
SOUTH CENTRAL COAST DISTRICT

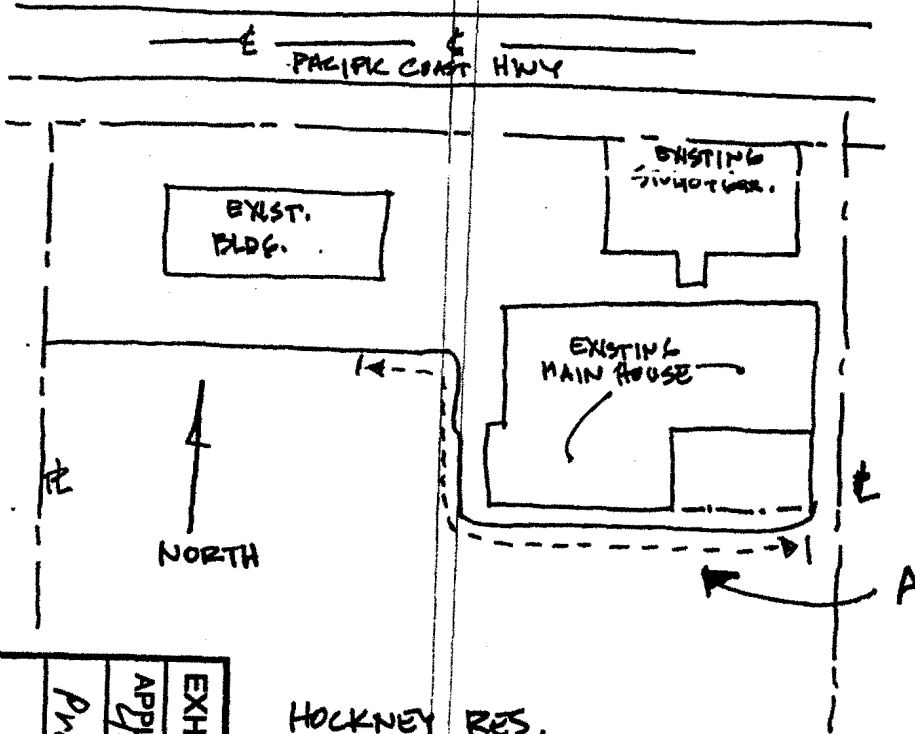
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DEC 04 1997

PLANNING DEPT

Gruen Construction
Company Inc.

HOCKNEY RES.
21036 PACIFIC COAST HWY
MALIBU CA. 90265



HOCKNEY RES.
21036 PACIFIC COAST HWY.
MALIBU CA. 90265

PACIFIC OCEAN

PLOT PLAN

CITY OF MALIBU PLANNING DEPARTMENT	
PLAN CHECK ONLY	
Signature	<i>[Signature]</i>
*Date	12-4-77
Planning Review No.	N/A
This concurrent submission authorization shall not constitute final Planning Department approval until a final coastal development permit has been issued by the California Coastal Commission. *This approval is effective only while the "Approval-in-Concept" is effective	

* repair of existing
sewer

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JAN 13 1999

COASTAL COMMUNITY DISTRICT
SOUTH CENTRAL COAST DISTRICT

PACIFIC COAST HWY

EXISTING
STUDIO + GARAGE

EXIST.
BLDG.

EXIST. WOOD DECK

EXISTING
MAIN HOUSE

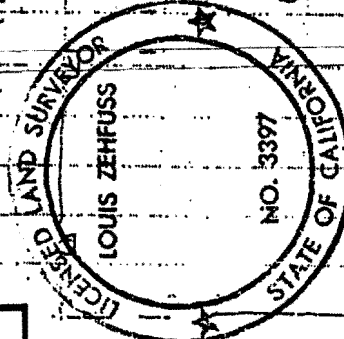
EXIST.
PATIO
EL=13.4

EXISTING "RUBBLE"
BANK

EL=6.3

EL=15.93

+50.0'



B.M. DY 9074

ELEVATIONS ESTABLISHED
BY LOUIS ZEHFUSS SURVEYOR

L. Zehfuss

EXHIBIT NO. 4

APPLICATION NO.
4-99-008

Plot Plan by

Surveyor

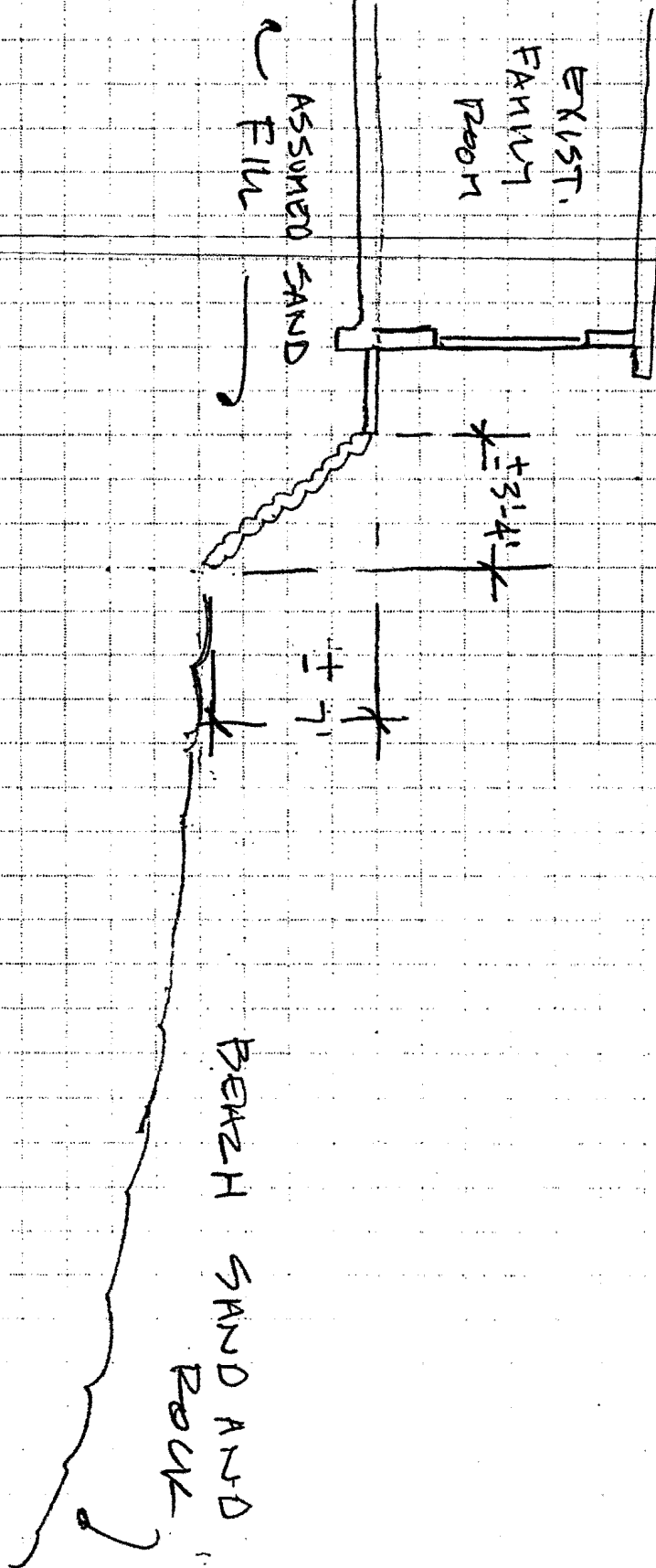
AGORA HILLS, CALIFORNIA 91301
(818) 991-9591 Fax (818) 991-9593

Green Construction Co., Inc.
 License No. 680577
 5210 Lewis Road Suite 2
 AGOURA HILLS, CALIFORNIA 91301
 (818) 991-9591 Fax (818) 991-9593

JOB _____ OF _____
 SHEET NO. _____
 CALCULATED BY _____ DATE _____
 CHECKED BY _____ DATE _____
 SCALE _____

EXHIBIT NO. 5
APPLICATION NO. 4-99-008
Project Section

APPROXIMATE YR. BUILT: 1938



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JAN 13 1999

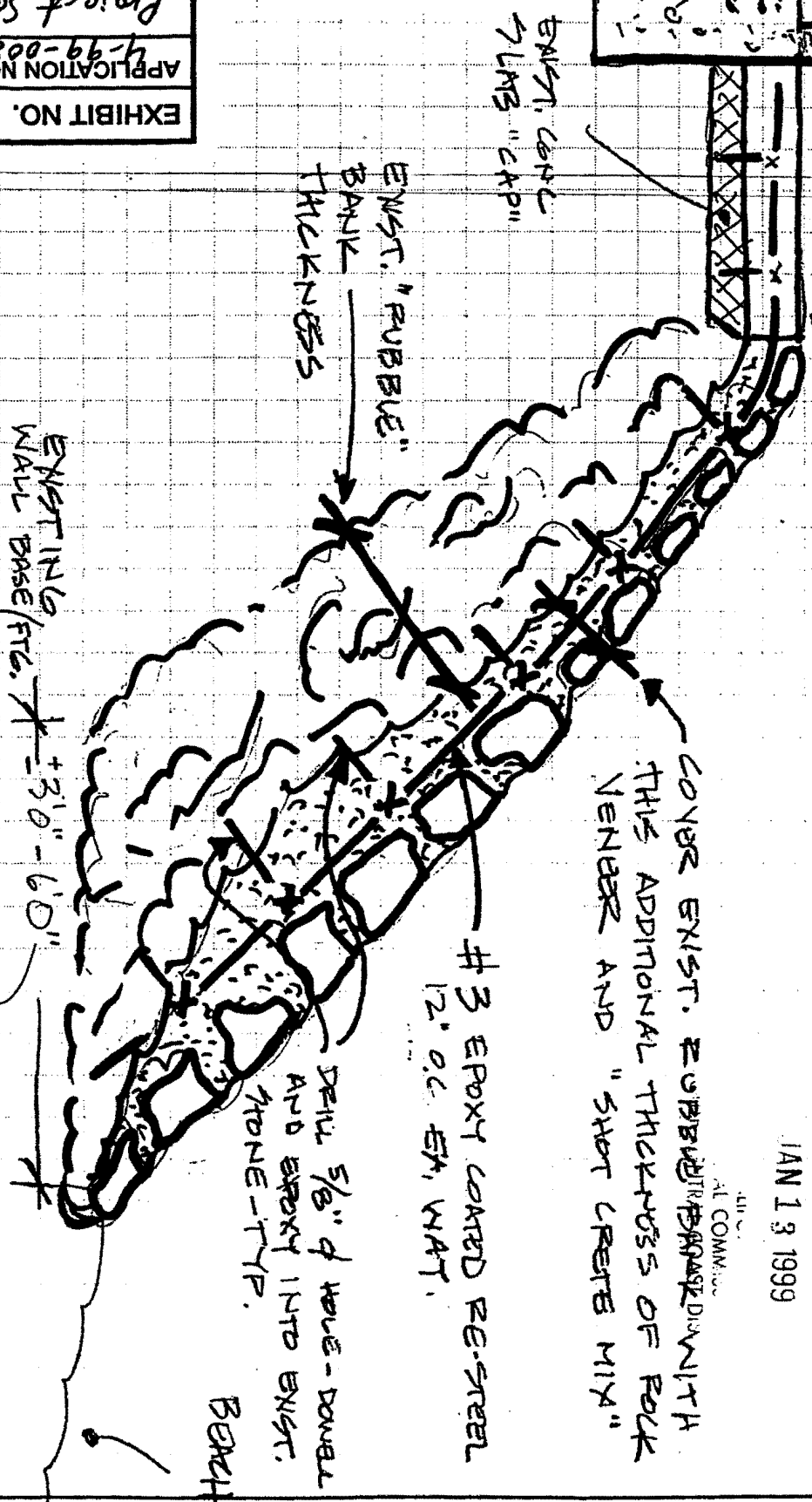
COASTAL COMM.
 SOUTH CENTRAL COAST DISTRICT

EXHIBIT NO. 6
APPLICATION NO. 4-99-008
Project Section
Detail

* EPOXY: SIMPSON EPOXY TYPE ET22C "Cold Formula"

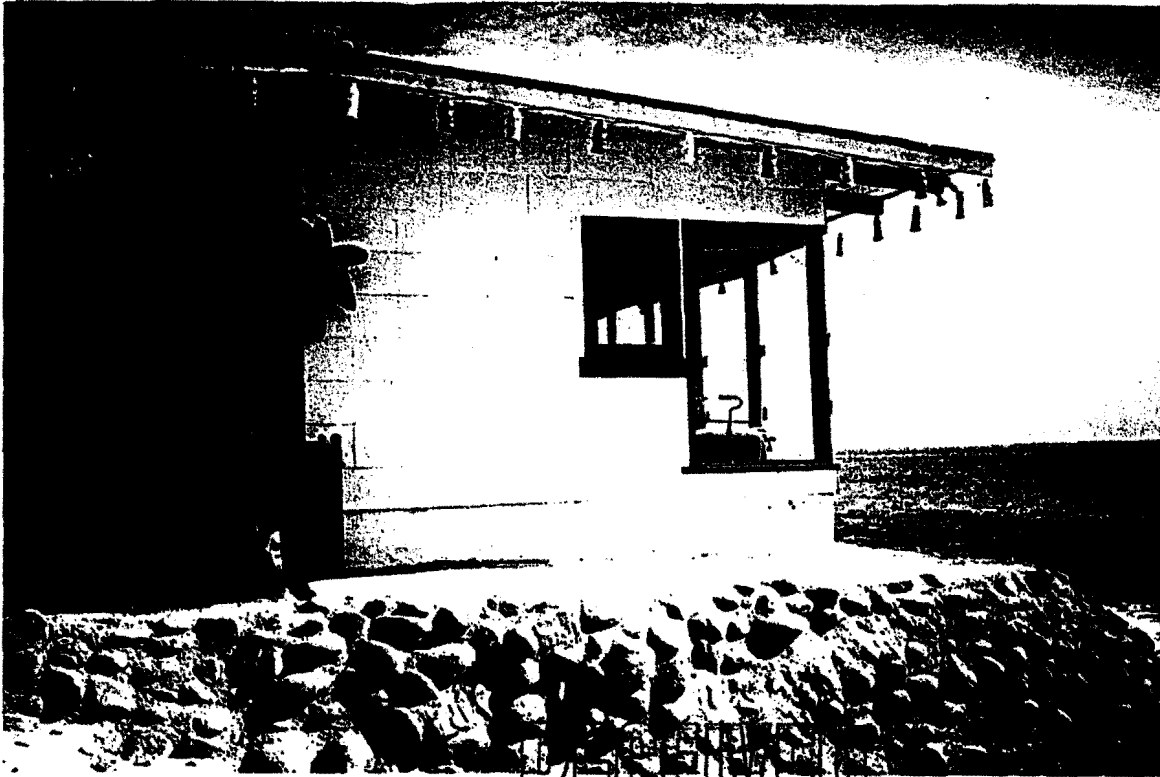
SECTION A

EXISTING WALL BASE/FTG. $\pm 3'0" - 6'0"$
 BASED UPON WHAT WE COULD SEE



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COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

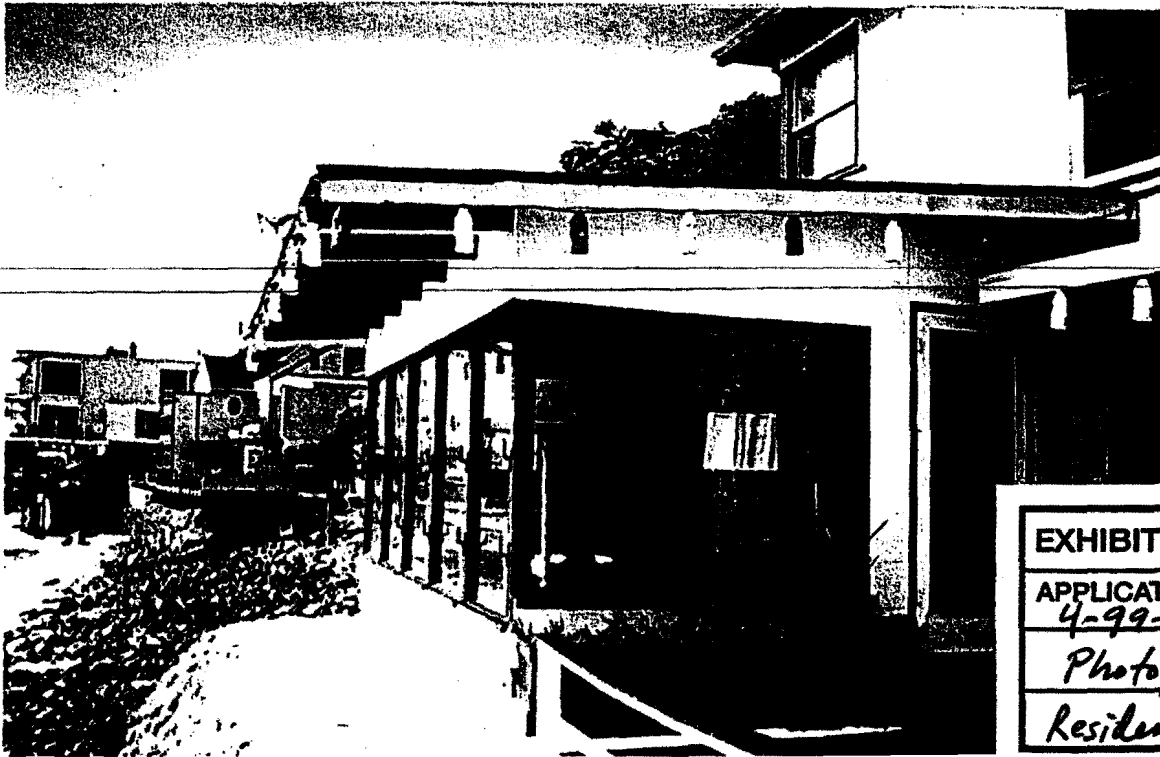


EXHIBIT NO. 7

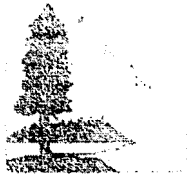
APPLICATION NO.
4-99-008

Photographs

Residence & Rockwall

CALIFORNIA STATE LANDS COMMISSION

100 Howe Avenue, Suite 100 South
Sacramento, CA 95825-8202



ROBERT C. HIGHT, Executive Officer

(916) 574-1800 FAX (916) 574-1810

California Relay Service From TDD Phone 1-800-735-2922

from Voice Phone 1-800-735-2929

RECEIVED

OCT 05 1998

GCC I

October 2, 1998

Contact Phone: <Telephone>

Contact FAX: <Fax>

E-Mail Address: smithj@slc.ca.gov

Chuck Gruen
Gruen Construction Co., Inc.
5210 Lewis Road, Suite 2
Agoura Hills CA 91301

File Ref: SD 98-07-24.2
RECEIVED

JAN 13 1999

COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Dear Mr. Gruen:

SUBJECT: Coastal Development Project Review, After-the-Fact Resurfacing of
Existing Rock/Concrete Seawall, 21036 Pacific Coast Highway,
Malibu

This is in response to your request on behalf of your client, David Hockney, for a determination by the California State Lands Commission (CSLC) whether it asserts a sovereign title interest in the property that the subject project will occupy and whether it asserts that the project will intrude into an area that is subject to the public easement in navigable waters.

The facts pertaining to your client's project, as we understand them, are these:

Your client is requesting after-the-fact review of work that was performed by your company to an existing rock/concrete seawall that protects an existing residence at 21036 Pacific Coast Highway in Malibu. The work involved resurfacing the existing face of the seawall with an additional layer of rocks averaging six inches in diameter and founded in concrete. According to the information submitted by you, the seawall has been in place for many years. From the information submitted, it appears that the seawall protects the existing residence and partially extends further inland in front of an existing storage building. The top and toe of the seawall are shown to be at the 13± foot and 6± foot elevations respectively. This is a well developed stretch of beach with numerous residences built on pilings both up and down coast. You have verbally indicated that the immediately adjacent residences have similar forms of rock seawall protection.

EXHIBIT NO. 8

APPLICATION NO.

4-99-008

State Lands

Letter 1 of 2

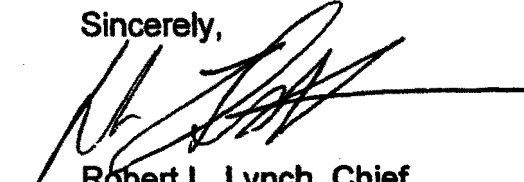
October 2, 1998

We do not at this time have sufficient information to determine whether this project will intrude upon state sovereign lands or interfere with other public rights. Development of information sufficient to make such a determination would be expensive and time-consuming. We do not think such an expenditure of time, effort and money is warranted in this situation, given the limited resources of this agency and the circumstances set forth above. This conclusion is based on the size and location of the property, the character and history of the adjacent development, and the minimal potential benefit to the public, even if such an inquiry were to reveal the basis for the assertion of public claims and those claims were to be pursued to an ultimate resolution in the state's favor through litigation or otherwise.

Accordingly, the C.S.L.C. presently asserts no claims that the project intrudes onto sovereign lands or that it would lie in an area that is subject to the public easement in navigable waters. This conclusion is without prejudice to any future assertion of state ownership or public rights, should circumstances change, or should additional information come to our attention.

If you have any questions, please contact Jane E. Smith, Public Land Management Specialist, at (916) 574-1892.

Sincerely,


For Robert L. Lynch, Chief
Division of Land Management

cc: Art Bashmakian, City of Malibu

EXHIBIT NO.	8
APPLICATION NO.	4-99-008
State Lands	
Letter 2 of 2	

PACIFIC
ENGINEERING GROUP
22440 Clarendon Street #208
Woodland Hills, CA 91367
(818) 225-9400

Project

GRUEN CONSTRUCTION
HOCKEY RESIDENCE
21036 P.C.H.
MALIBU, CA 90265

Job # 98141-020

Engineer ZKB

Date 10-19-98

Sheet#

M1

of 1

PACIFIC COAST HWY

RIGHT OF WAY LINE

(64)

(63)

EXIST
STUDIO
AND
GARAGE

EXIST.
BUILDING

21036
PACIFIC COAST HWY.

EXIST ROAD DECK

EXIST MAIN
RESIDENCE

EXIST
PATIO

EXHIBIT NO. 9

APPLICATION NO.
4-98-008

MHTL'S

Survey

LOS ANGELES COUNTY BEACH CENTER
LINE

21'

23'

1928

1967
1969

1961

MEAN HIGH TIDE LINES
SCALE 1" = 20'-0"

NOT A PROPERTY LINE
SURVEY

1928 AND 1961 FROM STATE LANDS MAP
1967 AND 1969 FROM L.A. COUNTY PROFILE 867+42.20

