

**CALIFORNIA COASTAL COMMISSION**

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

Filed: 6/30/99  
49th Day: 8/18/99  
180th Day: 12/27/99  
Staff: MH-V  
Staff Report: 8/26/99  
Hearing Date: 9/14/99  
Commission Action:



## STAFF REPORT: CONSENT CALENDAR

**APPLICATION NO.:** 4-98-316

**APPLICANT:** A.C. Warnack

**AGENT:** Charles Beck

**PROJECT LOCATION:** 27078 Malibu Cove Colony Drive, Malibu, Los Angeles Co.

**PROJECT DESCRIPTION:** Construct 480 sq. ft. addition to landward side of existing 1,320 sq. ft., 2 story, single family residence on a beachfront lot, and install new septic disposal seepage pit, with no grading, minor removal of non-native landscaping, and no changes to existing seawall.

<b>Lot area:</b>	5,000 sq. ft.
<b>Building coverage:</b>	2,328 sq. ft.
<b>Pavement coverage:</b>	60 sq. ft.
<b>Landscape coverage:</b>	540 sq. ft.

**LOCAL APPROVALS RECEIVED:** City of Malibu Planning Approval in Concept dated November 17, 1998; City of Malibu Department of Environmental Health Approval in Concept for septic disposal system, dated September 10, 1998.

**SUBSTANTIVE FILE DOCUMENTS:** Certified Malibu/Santa Monica Mountains Land Use Plan; State Lands Commission letter of review dated March 8, 1999; Limited Geologic and Soils Engineering Investigation, prepared by GeoConcepts, Inc., dated May 5, 1998.

### SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval of the proposed project with Special Conditions regarding Geologic Recommendations and Assumption of Risk. The proposed project is located in an area that has generally been the subject of heightened concern about potential landslides. The applicant's geotechnical consultant has addressed the related concerns in the report referenced above, and investigated the available monitoring data from the slope movement indicators installed by CALTRANS (study area shown in Exhibit 8). As the result, the geotechnical consultant found the project to be feasible and safe provided the recommendations of the report are followed. Though the project is located on a beachfront lot, the addition is landward of the existing residence and bulkhead and poses no additional impacts to public coastal views, access, or recreation.

## **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 effects 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 term or 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. Geologic Recommendations**

All recommendations contained in the report titled "Limited Geologic and Soils Engineering Investigation for Proposed Room Addition," prepared May 5, 1998 by GeoConcepts, Inc., shall be incorporated into the final project plans and designs and implemented during construction, and all plans must be reviewed and approved by the consulting engineering geologist prior to the commencement of construction. Prior to the issuance of the coastal development permit, the applicant shall submit evidence to the Executive Director's satisfaction that the consulting geotechnical engineer has reviewed and approved all final project plans and designs and construction procedures, thereby confirming that the recommendations of the report referenced herein have been adequately incorporated into the final project plans. The engineering geologist shall stamp and sign each page of the final project plans and designs.

The final plans approved by the consulting engineering geologist shall be in substantial conformance with the plans approved by the Commission. Any substantial changes in the proposed development approved by the Commission which may be required by the consultants shall require an amendment to the permit or a new coastal development permit. The Executive Director shall determine whether any changes to the plans approved by the Commission constitute a "substantial change."

#### **2. Assumption of Risk**

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from landslides, storm waves, erosion, or flooding; (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.

#### **IV. Findings and Declarations**

The Commission hereby finds and declares:

##### **A. Project Description**

The subject site is a beachfront lot located at 27078 Malibu Cove Colony Drive, in Malibu. The applicant proposes to construct a 480 sq. ft. addition to the landward side of an existing 1,320 sq. ft., 2 story, single family residence, for a finished structure totaling 1,800 sq. ft, 2 story, 24 ft. above grade, and install a new septic disposal seepage pit, with no grading, minor removal of non-native landscaping, and no changes to existing seawall. The project will not affect public coastal views, access, or recreation. The new development will extend landward only and will not require changes to the existing seawall or extend development of the subject site seaward.

##### **B. Geology; Hazards**

Coastal Act Section 30253 states that:

##### **Section 30253**

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.

##### **Geologic Stability**

The applicant has submitted a report titled "Limited Geologic and Soils Engineering Investigation, Proposed Room Additions," prepared by GeoConcepts, Inc., dated May 5, 1998. The report notes that the general area of Malibu Cove Colony Drive has been the subject of landslides near Pacific Coast Highway, and between Malibu Cove Colony

Drive and Sea Vista Drive. The geotechnical consultant notes that CALTRANS recently regraded a portion of Pacific Coast Highway and Sea Vista Drive due to landsliding. The geotechnical consultant reviewed the data available from slope indicators placed by CALTRANS and concluded that the indicators show that all direction of movement in properly monitored indicators is not toward the subject site. The report contains additional recommendations regarding foundations, construction, drainage and erosion control and other concerns and concludes that the proposed remodeling is feasible from an engineering geologic standpoint, provided the applicable recommendations are incorporated into the final project plans and designs. The report states:

Based on the results of this investigation and a thorough review of the proposed development, as discussed, the site is suitable for the intended use providing the following recommendations are incorporated into the design and subsequent construction of the project.

Therefore, the Commission finds that the proposed project will be consistent with the geologic stability requirements of Coastal Act Section 30253 provided that the recommendations of the consultant are incorporated into the project description pursuant to Special Condition 1.

#### Assumption of Risks from Natural Hazards

The Malibu coast has been subject to substantial damage as a result of storm and flood occurrences, geological failures and firestorms. Due to its beachfront location, the proposed project site is subject to flooding and/or wave damage from storm waves and storm surge conditions. Past occurrences have resulted in public costs (through low-interest loans for home repairs and/or rebuilding after disasters) in the millions of dollars in the Malibu area alone.

Along the Malibu coast, significant damage has also occurred to coastal areas from high waves, storm surge and high tides. In the winter of 1977-78, storms triggered numerous mudslides and landslides and caused significant damage along the coast. The "El Nino" storms in 1982-83 caused additional damage to the Malibu coast, when high tides over 7 feet combined with surf between 6 and 15 feet. These storms caused over \$12 million in damage. The El Nino storms of 1987-88, 1991-92, and 1997-1998 did not cause the far-reaching devastation of the 1982-83 storms; however, they too were very damaging in localized areas and could have been significantly worse except that the peak storm surge coincided with a low tide rather than a high tide.

The single family residence is presently protected from wave attack by an existing bulkhead under the house that has been evaluated by the applicant's geotechnical consultant and found adequate to protect the remodeled structure with no additional improvements. Nevertheless, despite the existence of the shoreline protective device, all structures on the parcel will continue to be subject to wave attack, flooding, and

erosion hazards that in the past have caused significant damage to development along the California coast, including the Malibu coastal zone. The Coastal Act recognizes that new development, such as the proposed remodel addition, may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to determine who should assume the risk.

Therefore, the Commission finds that due to the unforeseen possibility of wave attack, erosion, landslides and flooding to which the subject site and surrounding area is exposed, the applicant shall assume these risks as a condition of approval. Because this risk of harm cannot be eliminated or fully mitigated, Special Condition 2 requires the applicant to waive any claim of liability against the Commission, and its agents and employees, 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 also show that the applicant is aware of and appreciates the nature of the hazards which exist on the site, and which may adversely affect the stability or safety of the proposed development.

The Commission finds, therefore, for all of the reasons cited above, that as conditioned by Special Conditions 1 and 2, the proposed project is consistent with the applicable requirements of Coastal Act Section 30253.

**C. Public Access**

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) provides that in new shoreline development projects, access to the shoreline and along the coast shall be provided except in specified circumstances, 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.

Finally, 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.

#### Public Access Considerations for Beachfront Projects

The Commission has established a policy that 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 which posed adverse impacts upon public access 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, or impacts of a proposed shoreline protective device on beach profiles, 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 public access impacts of 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.

#### "Stringline" Policy--(control of seaward extent of buildout)

As a means of controlling seaward encroachment of residential structures on a beach to ensure maximum 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" analysis to control the seaward extent of buildout. As applied to beachfront development, the stringline limits 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 analysis 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.

Consistency with Public Access Policies: Conclusion

The proposed project does not invoke the restrictions of the stringline policy because the proposed project will not exceed either the first or second floor stringlines as measured from adjacent development. The entire footprint of the proposed addition is landward of the applicable stringlines and will not result in additional development on or adjacent to the sandy beach. The proposed project would 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 project would have no individual or cumulative adverse impacts 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.

**D. Septic**

The Commission recognizes that the potential build-out of lots in Malibu, and the resultant installation of septic systems, may contribute to adverse health effects and geologic hazards in the local area. Section 30231 of the Coastal Act states that:

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

The applicant proposes to construct a new seepage pit for the existing septic disposal system. The existing septic tank will remain in use. The applicant has submitted an



Approval-in-Concept from the City of Malibu Department of Environmental Health for the proposed project, dated September 10, 1998. The City's septic approval for the proposed project confirms that the sewage disposal system for the project in this application complies with all minimum requirements of the Uniform Plumbing Code.

The Commission has found in past permit actions that compliance with the health and safety codes will minimize any potential for wastewater discharge that could adversely impact coastal waters, and that the relevant codes take into consideration the percolation capacity of soils along the coastline, the depth to groundwater, etc. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30231 of 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 Chapter 3 (commencing with Section 30200) 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 Chapter 3 (commencing with Section 30200). A denial of a coastal development permit on grounds it would prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for that conclusion.

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 conform 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 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).

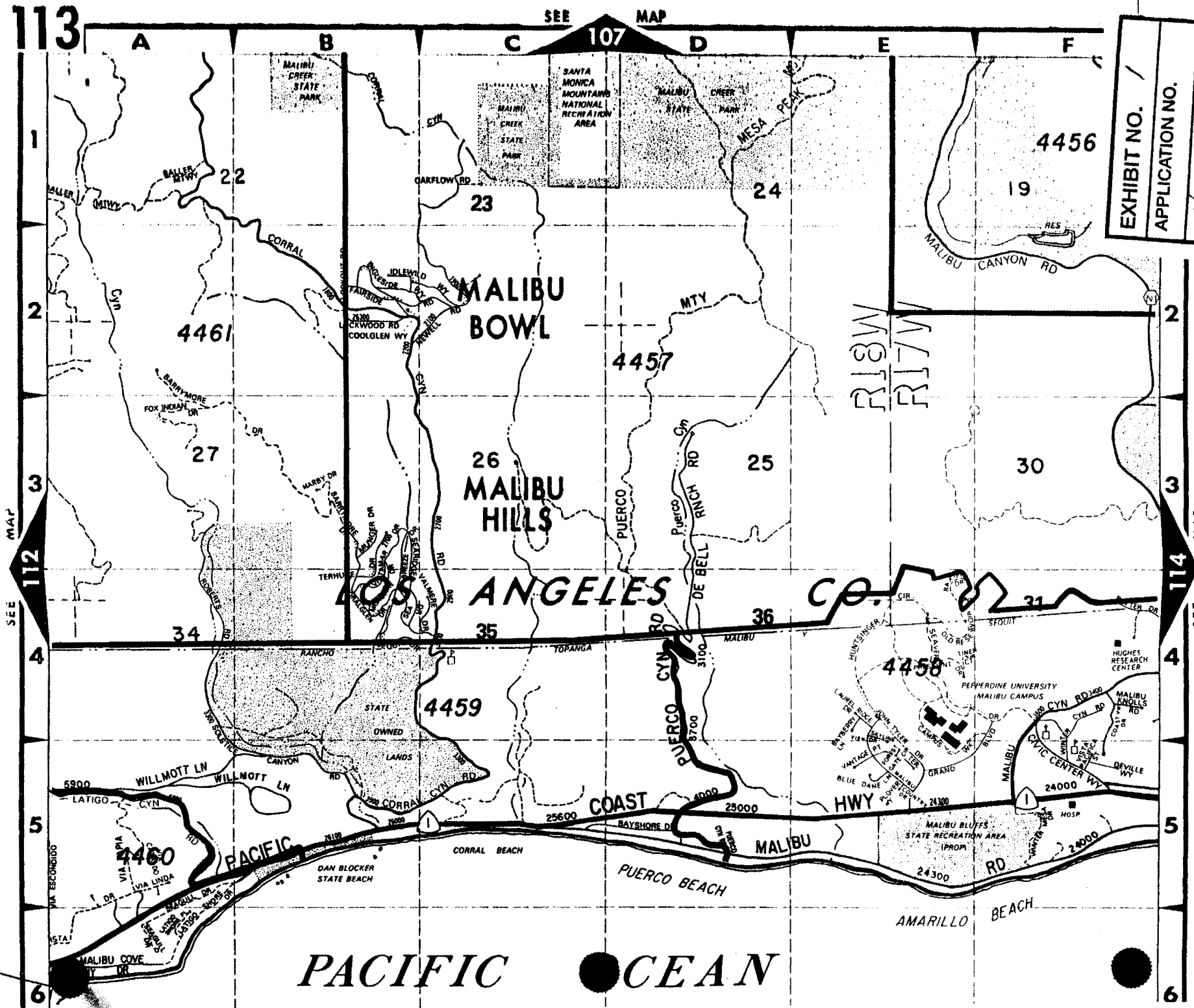
**F. CEQA**

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section

21080.5(d)(2)(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 would have on the environment.

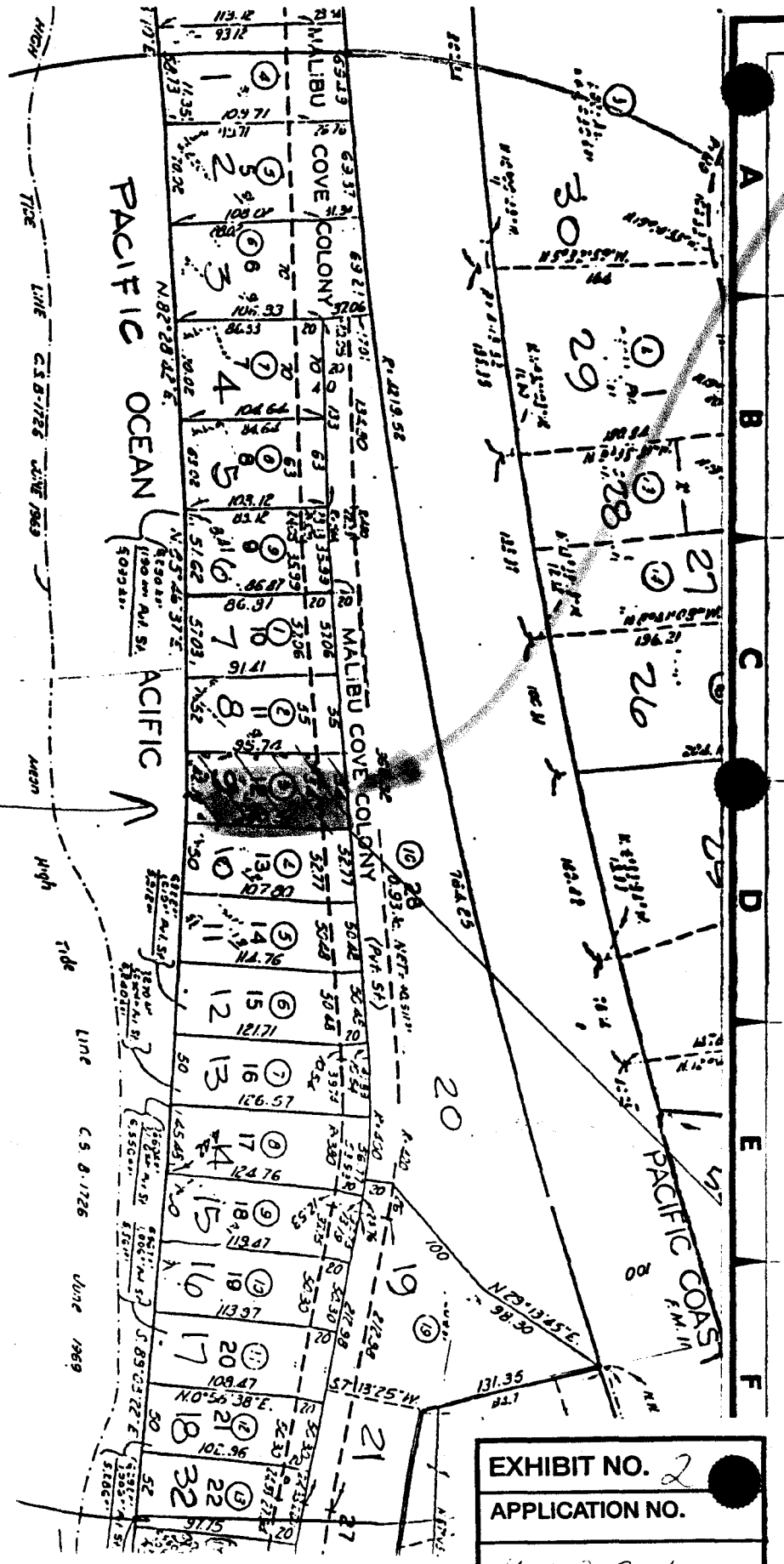
The Commission finds that the proposed project, as conditioned, will not have any significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is consistent with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

EXHIBIT NO. /
APPLICATION NO.
4-98-316
Warwick



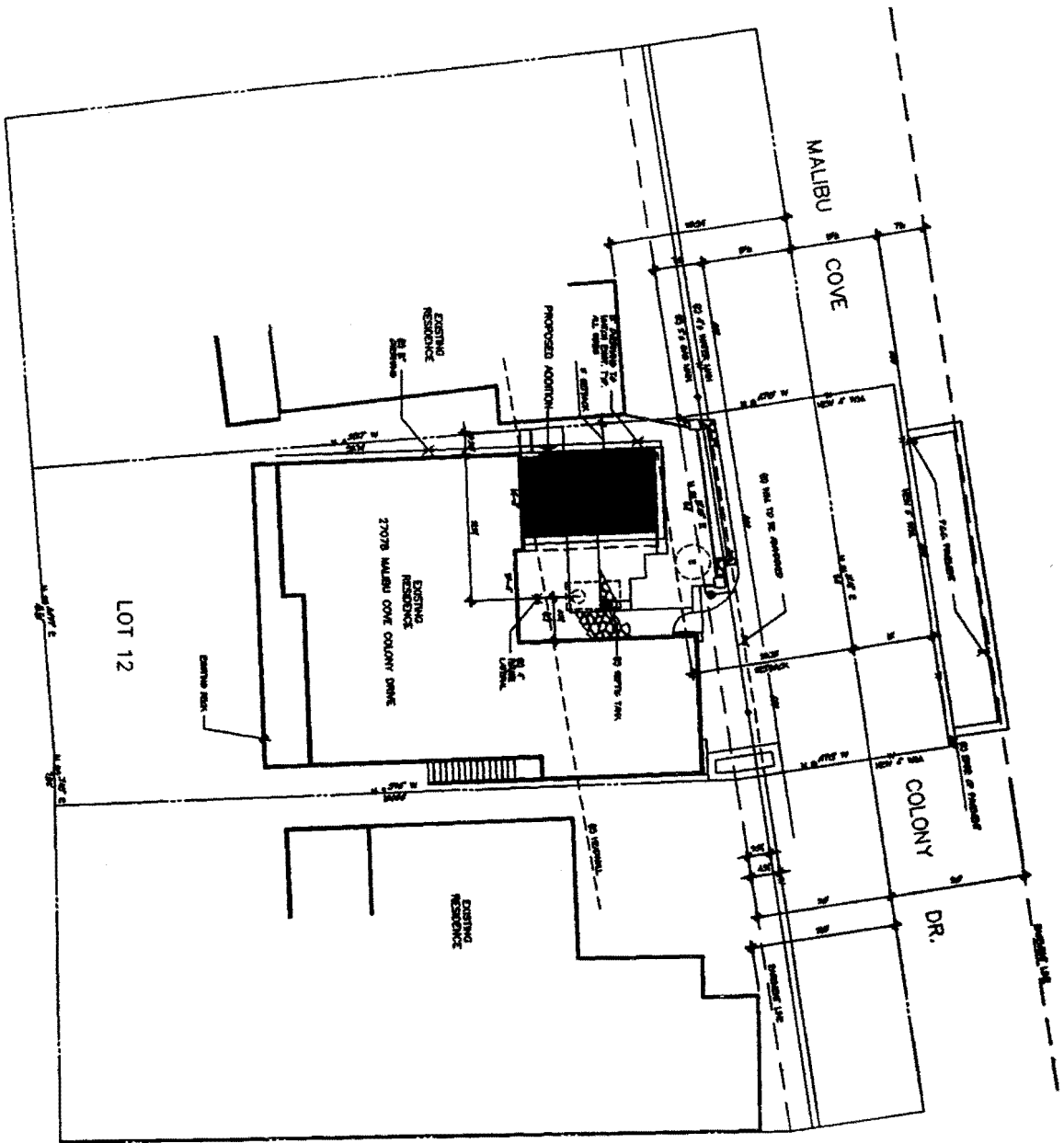
Site

PACIFIC CEAN



Proposed Site

EXHIBIT NO. 2
APPLICATION NO.
4-98-316
Warrack



SITE PLAN

Scale 1/8" = 1'-0"



GENERAL NOTES

1. ALL DR-BIT UTILITIES TO BE INSTALLED UNDERGROUND.
2. FOUNDATION FOR EXISTING AND PROPOSED STRUCTURES TO BE CONCRETE ON GRADE.
3. EXISTING AND PROPOSED STRUCTURES TO BE CONCRETE ON GRADE.
4. ALL CONCRETE TO BE FINISHED TO FINISH OF CURB.

LEGEND

PROPOSED ADDITION LOT NO. 12, A.C. W. P. 22  
 OCCUPANCY: RESIDENTIAL  
 TYPE OF CONSTRUCTION: S.F. 1.0

BUILDING CODE DATA

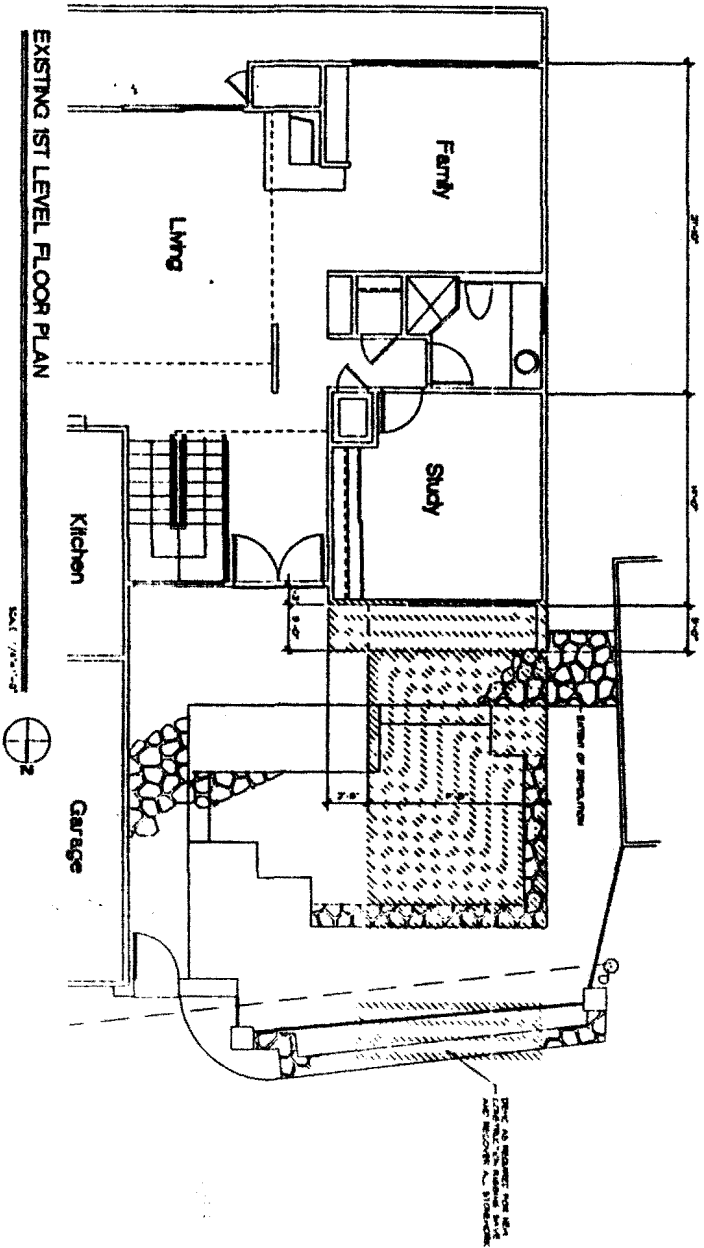
OCCUPANCY: RESIDENTIAL  
 TYPE OF CONSTRUCTION: S.F. 1.0  
 ADDED BUILDING CODES: S.F. 1.0  
 YEAR: 1991  
 YEAR: 1991

EXHIBIT NO. 3  
 APPLICATION NO. 4-98.316  
 Warnack

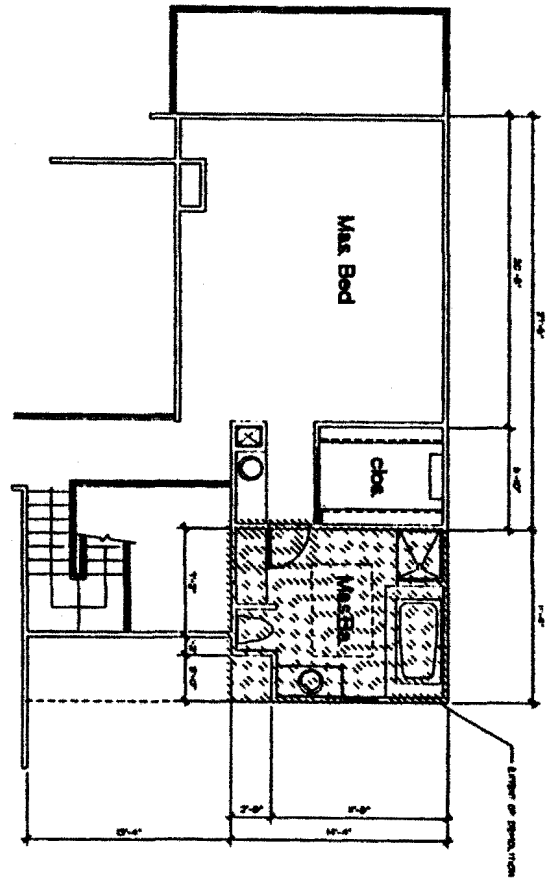
PLANS PREPARED BY:	SHEET TITLE	PROJECT	OWNER
 120 WEST FONDURA STREET LANCASTER, CA. 93534 (805) 945-0880	SITE PLAN	ADDITION TO RESIDENCE	MR. & MRS. A.C. WARNACK 2707B MALIBU COVE COLONY DRIVE MALIBU, CA. PHONE: (310) 457-9644

DATE: 6-98	DATE: 6-98
DR. 98-004	DR. 98-004
SHEET: 1	SHEET: 1


EXISTING 1ST LEVEL FLOOR PLAN



EXISTING 2ND LEVEL FLOOR PLAN



DATE	1-31
BY	3

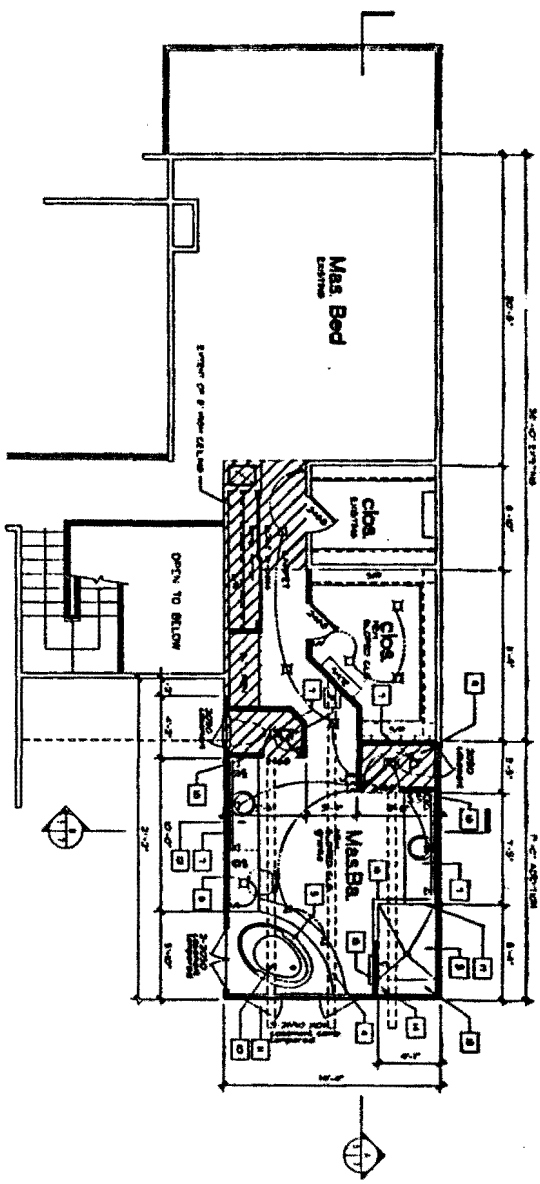
PLANS PREPARED BY:  
  
 126 WEST BONNER STREET  
 CARLETON, CA 91534  
 (916) 448-0991

SHEET TITLE  
**Existing Floor Plan**

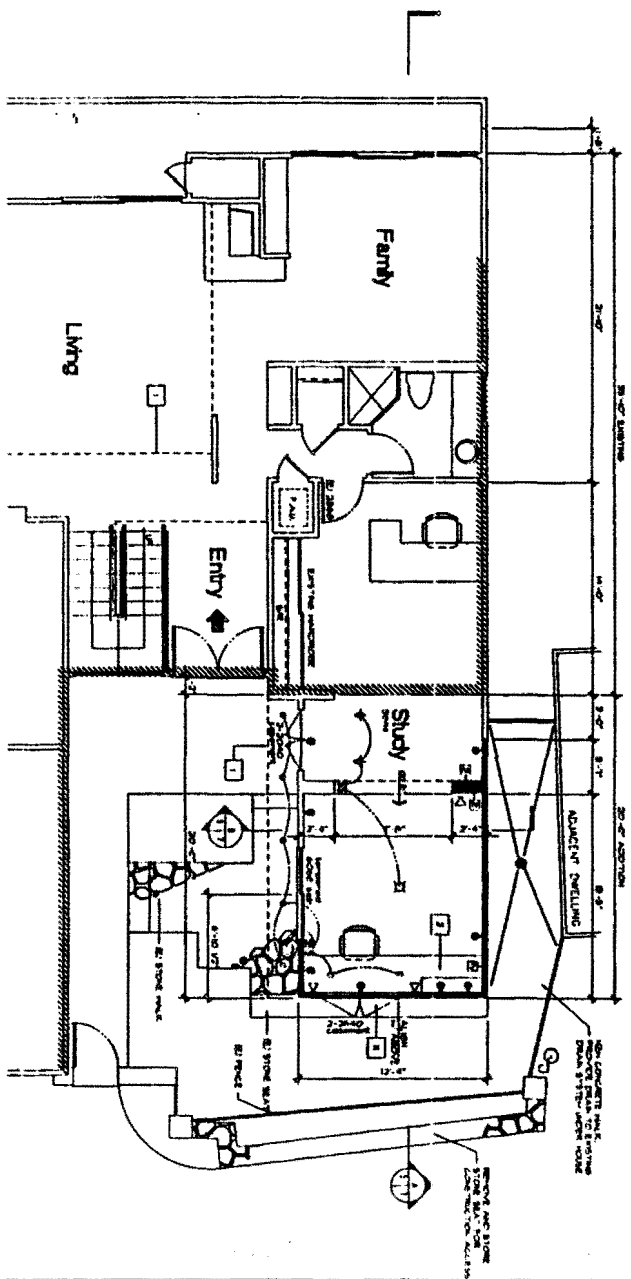
PROJECT  
 ADDITION TO RESIDENCE

OWNER  
 MR. & MRS. A.C. WARNACK  
 27078 MALIBU COVE COLONY DRIVE  
 MALIBU, CA.  
 PHONE: (310) 457-9644

EXHIBIT NO. 4  
 APPLICATION NO.  
*Existing Floor Plan*  
 4-98-316  
 Warnack



2ND LEVEL FLOOR PLAN



1st LEVEL FLOOR PLAN

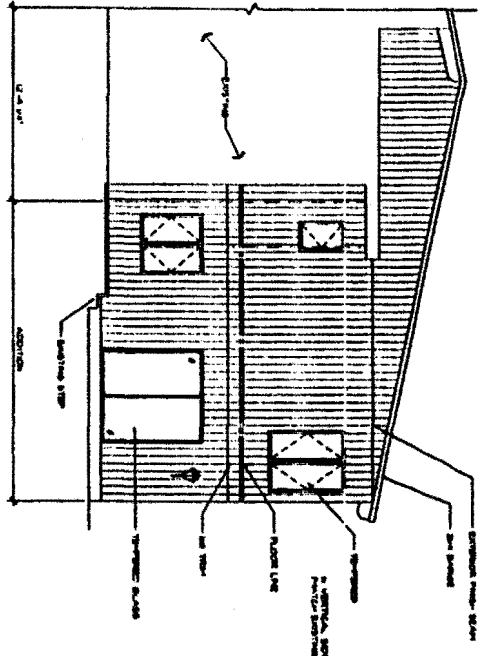
NOTES

- 1. 10'0" of 2nd floor above
- 2. 1/2" x 1/2" x 1/2" of cabinets above
- 3. 1/2" x 1/2" x 1/2" of cabinets above
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- 19. 1/2" x 1/2" x 1/2" of cabinets above
- 20. 1/2" x 1/2" x 1/2" of cabinets above

EXHIBIT NO. 5  
 APPLICATION NO.  
*Proposed Floor Plan*  
 4-98-316  
 W Warnack

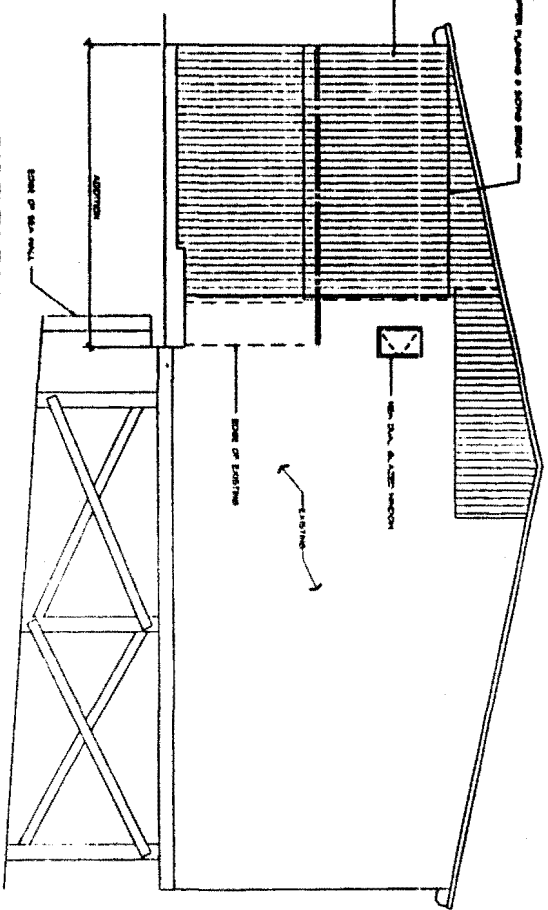
PLANS PREPARED BY:  Antelope Valley Engineering, Inc. 120 WEST PINEA STREET LANCASTER, CA 93534 (805) 948-0000	SHEET TITLE <b>Proposed Floor Plans</b>	PROJECT ADDITION TO RESIDENCE	OWNER MR & MRS A.C. WARNACK 27078 MALIBU COVE COLONY DRIVE MALIBU, CA PHONE: (310) 457-9844
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EAST ELEVATION



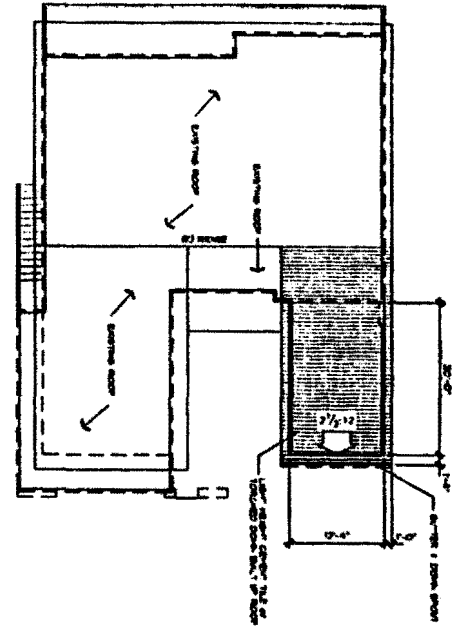
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WEST ELEVATION



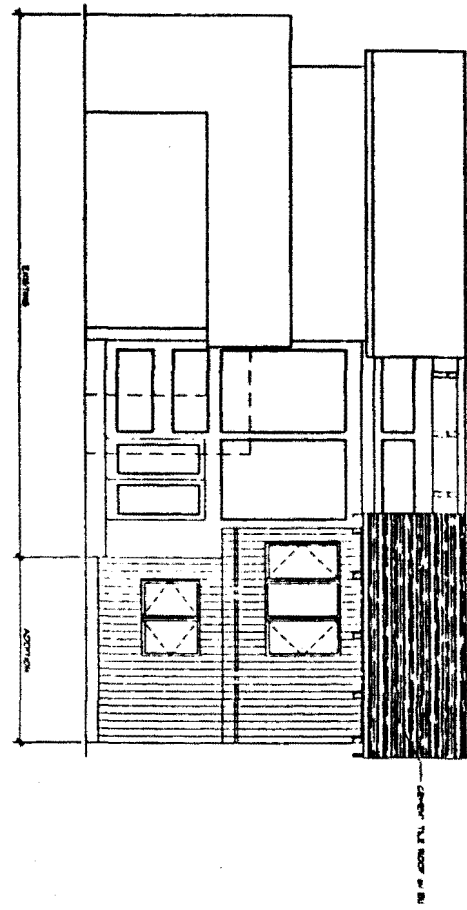
SCALE 1/8\"/>

ROOF PLAN



SCALE 1/8\"/>

NORTH FRONT ELEVATION



SCALE 1/8\"/>

EXHIBIT NO.	6
APPLICATION NO.	Elevations 4-98-316
OWNER	Warnack


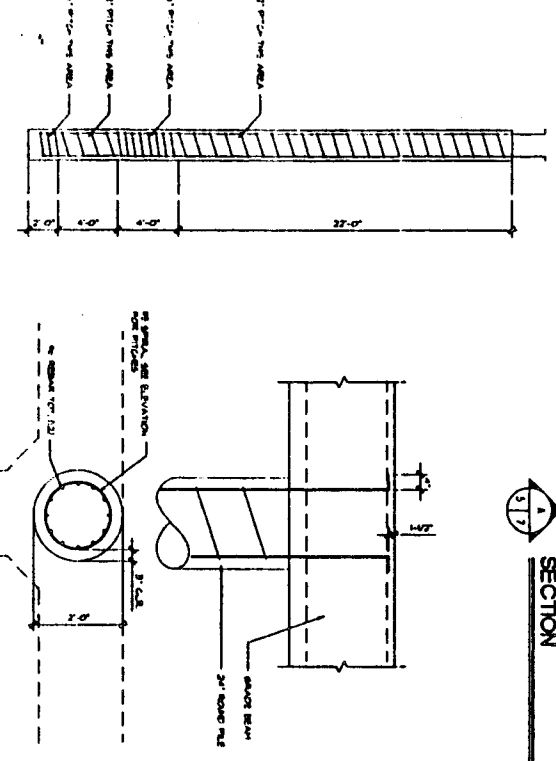
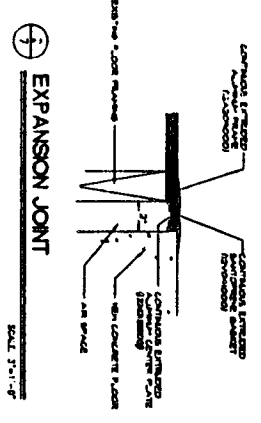
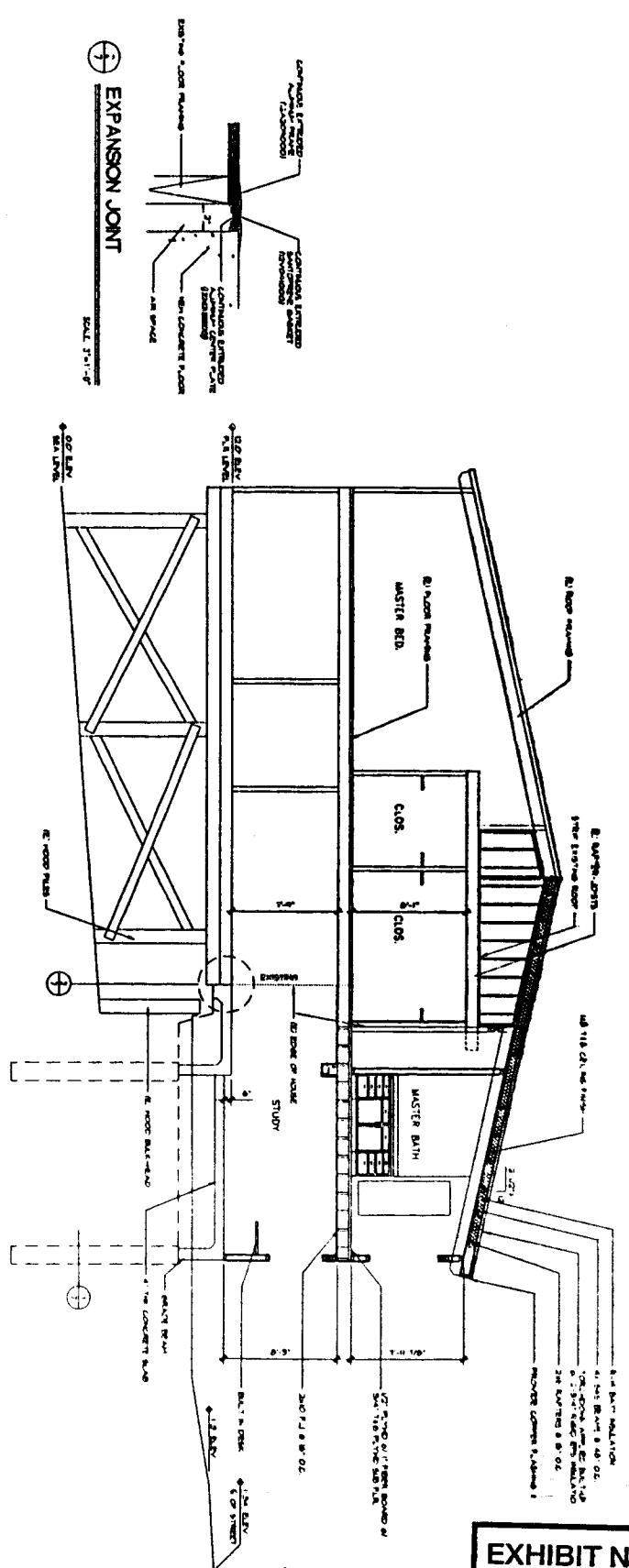
PLANS PREPARED BY:  southlope valley engineering inc. 128 WEST HENRIETTA STREET LAGUNA BEACH, CA 92653 (949) 336-0665	SHEET TITLE Roof Plan Exterior Elevations	PROJECT ADDITION TO RESIDENCE	OWNER MR. & MRS. A.C. WARNACK 27078 MALBU GOVE COLONY DRIVE MALIBU, CA PHONE: (310) 457-9644
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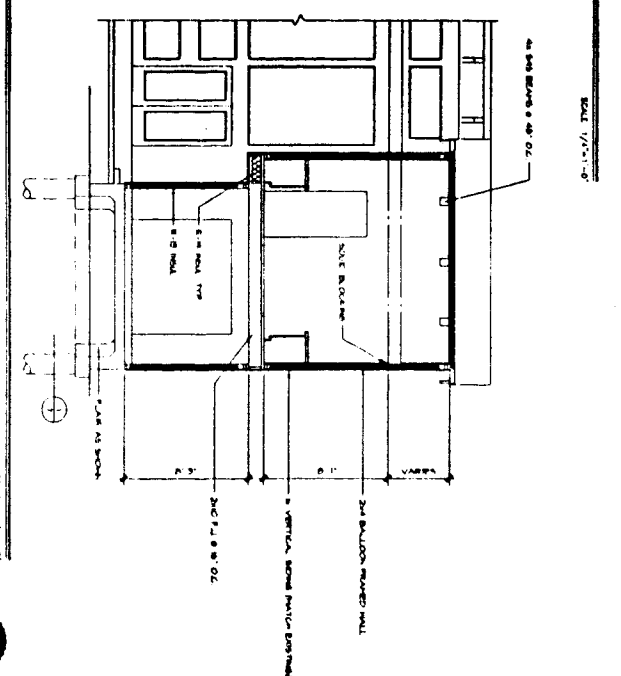


EXHIBIT NO. 7  
 APPLICATION NO. 5022075  
4-98-316  
Warnack



PILE DETAIL

SECTION

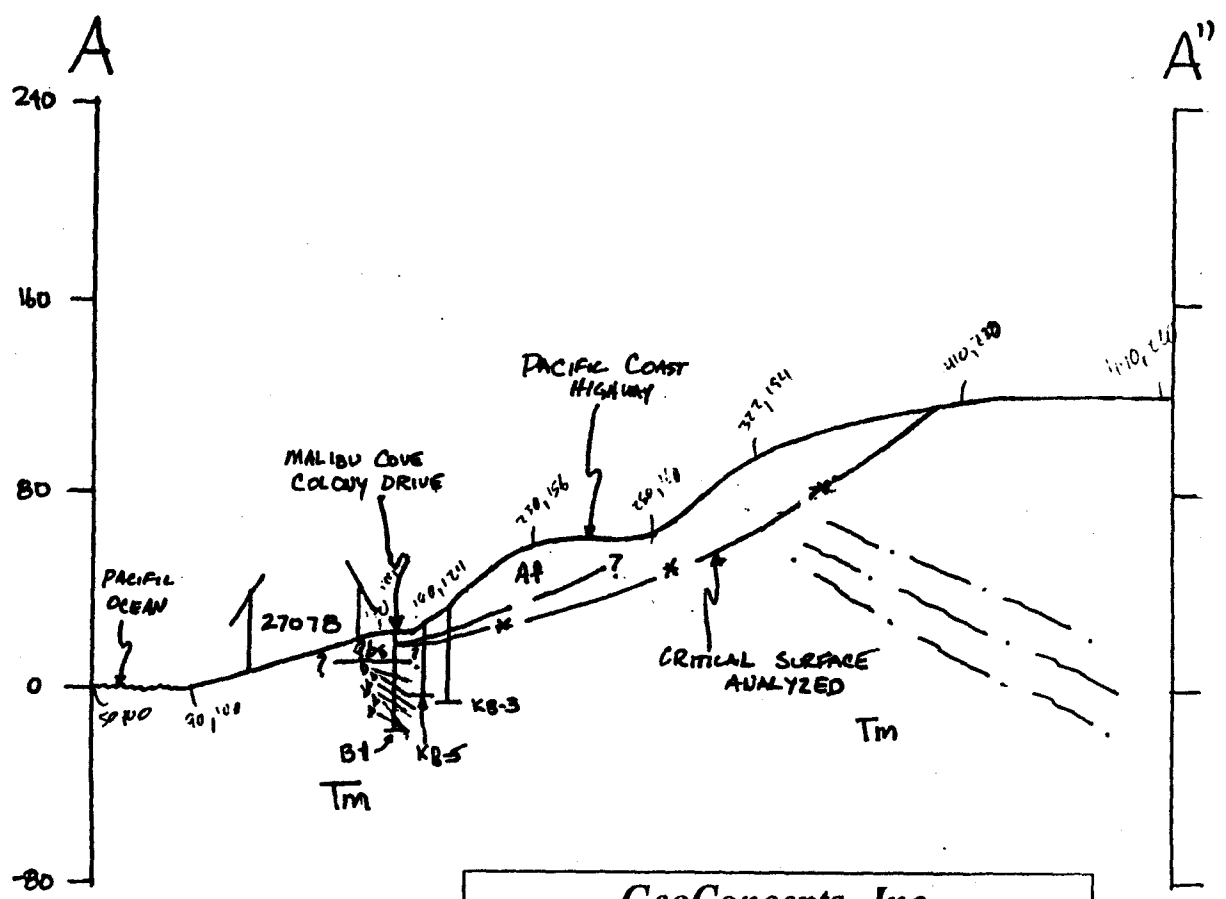


DATE	DESCRIPTION	BY	APP'D
5-82			
86-004			
7			

PLANS PREPARED BY:  Antelope valley engineering inc. 120 WEST HERRING STREET SAN ANGELO, TX 76904 TEL: 361-2211	SHEET TITLE Sections	PROJECT ADDITION TO RESIDENCE	OWNER MR. & MRS. A.C. WARNACK 27078 MALIBU COVE COLONY DRIVE MALIBU, CA PHONE: (310) 457-0644
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EXHIBIT NO. 8
APPLICATION NO.
4-98-316
Warrock



<b>GeoConcepts, Inc.</b>	
May, 1998	Project Number: 1525
Approximate Scale	1" = 10'
Project Address:	27078 Malibu Cove Colony Malibu, California