

**CALIFORNIA COASTAL COMMISSION**

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

**RECORD PACKET COPY**

Filed: 6/12/00  
49<sup>th</sup> Day: 7/31/00  
180<sup>th</sup> Day: 12/9/00  
Staff: MEB-V *h*  
Staff Report: 10/26/00  
Hearing Date: 11/14-17/00

**STAFF REPORT: PERMIT AMENDMENT**

**APPLICATION NO.:** 4-97-031-A1

**APPLICANT:** Mark Zucker

**AGENT:** Land Design Consultants, Inc.

**PROJECT LOCATION:** 25000 Pacific Coast Highway, City of Malibu (Los Angeles County)

**DESCRIPTION OF PROJECT PREVIOUSLY APPROVED:** Remediation and repair of a landslide on the bluff face requiring 14,020 cu. yds. of grading (2,180 cu. yds. cut, 4,400 cu. yds. fill, and 7,400 cu. yds. of remedial grading); remedial grading of the slope north (inland) of the single family residence of 1,450 cu. yds.; construction of a tennis court and a building containing a 368 sq. ft. guest unit and 368 sq. ft. game room with 1,000 cu. yds. of grading (720 cu. yds. cut and 280 cu. yds. fill).

**PROJECT DESCRIPTION:** Relocation of a previously approved 736 sq. ft. guest house and game room. After-the-fact development consisting of reconfiguration of driveway and grading of 3300 cu. yds. (1,550 cu. yds. cut and 1,750 cu. yds. fill).

**Lot area:** 3.95 acres  
**Building coverage:** 746 sq. ft.  
**Height above finished grade:** 13 feet

**SUMMARY OF STAFF RECOMMENDATION**

The proposed development includes relocation of a 736 sq. ft. guest house and game room, reconfiguration of the driveway, and grading of 3300 cu. yds. (1,550 cu. yds. cut and 1750 cu. yds. fill). The proposed development is all on the landward side of an existing single family residence overlooking a coastal bluff, Malibu Road, residential beachfront development, and the beach. The project location is on the seaward side of Pacific Coast Highway. Staff recommends approval of the project with conditions relative to landscape and erosion control, drainage and polluted control plans, and condition compliance.

**LOCAL APPROVALS RECEIVED:** City of Malibu: Planning Department, Approval In Concept, dated 1/31/00; and Health Department, In-concept Approval dated May 1, 2000.

**SUBSTANTIVE FILE DOCUMENTS:** Malibu/Santa Monica Mountains certified Land Use Plan; GeoConcepts, Inc., Limited Geologic and Soils Engineering Investigation Grading Plan Review, December 15, 1995 and Update Report, September 6, 2000. Coastal development permits 4-97-031 (Anvil Development), and 5-82-370, -84-344, and -86-536 (Siegal).

**PROCEDURAL NOTE:** The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

In this case, the Executive Director has determined that the proposed amendment is a material change. If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

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**I. STAFF RECOMMENDATION**

**MOTION:** I move that the Commission approve Amendment No. 4-97-031-A1 pursuant to the staff recommendation.

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a YES vote. Passage of this motion will result in approval of the amendment and adoption of the following resolution and findings. The motion passes only by an affirmative vote of the majority of the Commissioners present.

**RESOLUTION TO APPROVE THE AMENDMENT:**

The Commission hereby approves an amendment to the coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and 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. Approval of the permit

complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

All conditions of coastal development permit 4-97-031-A1 remain in effect.

## II. Special Conditions

### 7. Landscape and Erosion Control Plan and Fuel Modification

A. Prior to the issuance of the coastal development permit, the applicant shall submit landscaping and fuel modification plans for the area landward of the residence prepared by a licensed landscape architect for review and approval by the Executive Director. The plans shall incorporate the following criteria:

- (1) All disturbed areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes within sixty (60) days of receipt of the final building permit sign-offs from the City of Malibu. To minimize the need for irrigation and to screen or soften the visual impact of development, all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. Invasive, non-indigenous plant species that tend to supplant native species shall not be used. Such planting shall be adequate to provide ninety (90) percent coverage within two (2) years, shall be repeated, if necessary, to provide the required coverage. Vegetation on the site shall be limited to low-lying species that will not block or adversely impact views of the ocean from Pacific Coast Highway.

In no case shall vegetation on the subject site exceed the line of sight to the sea measured from the 172 foot elevation line in height (i.e. the approximate elevation of Pacific Coast Highway) as shown on Exhibit 4, except that the use of any vegetation of greater height than otherwise provided may be allowed only if the Executive Director determines that such landscaping is consistent with the intent of this condition and will serve to minimize adverse effects on public views.

- (2) All plantings shall be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.

- (3) All development approved herein shall be undertaken in accordance with the final approved plans. Any proposed changes to the approved final landscape or fuel modification plans shall be reported to the Executive Director. No changes to said plans shall occur without a Coastal-Commission approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.
- (5) Should grading take place during the rainy season (November 1 – March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an approved dumping location.

**B. Monitoring Plan**

- (1) Five years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit, for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.
- (2) If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

**8. Drainage and Polluted Runoff Control Plans**

Prior to the issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, a drainage and polluted runoff control plan designed by a licensed engineer which minimizes the velocity and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting engineering geologist to ensure the plan is in conformance with the geologists' recommendations. The plan shall include but not be limited to the following criteria:

- (a) Runoff from all roofs, parking areas, driveways and other impervious surfaces shall be collected and directed through a system of filter. The filter elements shall be designed to 1) trap sediment, particulates, and other solids and 2) remove or mitigate contaminants. The drainage system shall also be designed to convey and discharge runoff in excess of this standard from the building site in non-erosive manner.
- (b) The plan shall include provisions for maintaining the drainage and filtration systems so that they are functional throughout the life of the approved development. Such maintenance shall include the following: (1) the drainage and filtration system shall be inspected, cleaned and repaired prior to the onset of the storm season, no later than September 30<sup>th</sup> each year and (2) should any of the project's surface or subsurface drainage/filtration structures fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

**9.                   Removal of Existing Vegetation**

The existing vegetation between Pacific Coast Highway and the residence that exceeds the height limits provided in condition provision A.1. of special condition 6 shall be removed and replaced within 90 days of issuance of Coastal Development Permit 4-97-031-A1 or within such additional time as the Executive Director may grant for good cause.

**10.                  Condition Compliance**

Within 90 days of Commission approval of Coastal Development Permit 4-97-031-A1 amendment 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 amendment. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

### **III. Findings and Declarations**

The Commission hereby finds and declares:

#### **A. Project Description and Background**

##### **1. Project Description**

The proposed development is the relocation of a 746 sq. ft. guest house, reconfiguration of the driveway, and grading of 3300 cu. yds. (1,550 cu. yds. cut and 1750 cu. yds. fill). The guest house was approved under the underlying permit, but has not been constructed. The remainder of the request is for after-the-fact development for reconstruction of the driveway and 3,300 cu. yds. of grading. The purpose of the proposal is to create a circular driveway and relocate the guest house, creating a larger grassy area adjacent to the tennis court.

The project design includes substantial drainage alterations designed to collect water to an existing pipe traveling down the bluff. New drainage improvements include subdrains, swales, splash walls, berms, and catch basins.

The area of disturbance as shown on Exhibit 2, will include the previously approved disturbance of approximate half of the area of the parcel, which is the area inland of the existing residence. In addition, approximately 40 % of the additional area of this portion of the lot will be disturbed, resulting in an alteration of approximately 90 per cent of the portion of the lot inland of the existing residence.

The proposed development has been subject to a geotechnical review by the project consultants on the underlying permit and has been found consistent with their previous recommendations and not to contribute to hazards or instability of the site or the surrounding area.

The proposed development is all on the landward side of an existing single family residence overlooking a coastal bluff, Malibu Road, residential beachfront development, and the beach. The property is located seaward of Pacific Coast Highway, a designated scenic route recognized as a scenic highway in the certified LUP. Surrounding development is single family in character. Land on either side of subject property is vacant.

##### **2. Past Commission Actions**

A one story twenty foot high single family residence was constructed on the site in the early 1980s under coastal development permit 5-82-370 (Siegal). There were three special conditions addressing a future improvements deed restriction, submittal of revised plans to reduce the height of the building to protect coastal views, and

landscaping plans. Under coastal development permit 5-84-344 (Siegal) a previously constructed block wall along Pacific Coast Highway was required to be lowered in height.

Coastal development permit 5-86-536 (Siegal) permitted a driveway with walls and landscaping, additions to the residence, and a swimming pool. The permit was subject to conditions that (1) revised plans be submitted for all structures and landscaping to avoid blocking of views from Pacific Coast Highway and moving the location of the proposed swimming pool and (2) that a deed restriction be recorded providing for a new coastal development permit for future improvements.

Under an immaterial amendment to 5-84-536 (Siegal) a black ornamental iron fence approximately four to five feet high on top of the existing block wall along the Pacific Coast Highway frontage was allowed. The ornamental feature was found to not impede the public view.

The most recent permit for subject property was issued in 1997 (4-97-031[Anvil Development]) for: Remediation and repair of a landslide on the bluff face requiring 14,020 cu. yds. of grading (2,180 cu. yds. cut, 4,400 cu. yds. fill, and 7,400 cu. yds. of remedial grading); remedial grading of the slope north (inland) of the single family residence of 1,450 cu. yds.; construction of a tennis court and a building containing a 368 sq. ft. guest unit and 368 sq. ft. game room with 1,000 cu. yds. of grading (720 cu. yds. cut and 280 cu. yds. fill). The project was approved with special conditions relating to geologist review of final plans, revised development plans relative to edge of bluff, recordation of an assumption of risk condition, landscaping plans for bluff top development, condition compliance, and timing of completion of work.

## **B. Visual Resources and Landform Alteration**

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.***

The proposed development, as noted previously, includes relocation of a 746 sq. ft. guest house, reconfiguration of the driveway, and grading of 3300 cu. yds. (1,550 cu. yds. cut and 1750 cu. yds. fill). The guest house was approved under the underlying

permit but has not been constructed. The remainder of the request is for after-the-fact approval of development which has already taken place.

The proposed project site is located on Pacific Coast Highway, a designated scenic route recognized as a scenic highway in the certified LUP. The Commission has, in past decisions, required that development that may be viewed from scenic highways or other public areas minimize impacts to visual resources. Consequently, the Commission examines the proposed development's impacts on views from Pacific Coast Highway.

The proposal will locate the guest house closer to Pacific Coast Highway. The reconfiguration of the topography under the proposal will create a pad at the base of the relocated guest house, which will be approximately ten feet in elevation higher than the base of the guest house at the previously approved location. The area of disturbance is as shown on Exhibit 2. As noted previously, approximately 90% of the area inland of the residence will be disturbed.

The proposed relocation of the guest unit will not result in intrusion into the visual line of sight extending from Pacific Coast Highway toward the ocean. The highest elevation of the proposed guest unit is below the elevation of Pacific Coast Highway. Therefore, the proposed guest unit will not adversely impact views from Pacific Coast Highway. Consequently, the proposed relocation is consistent with PRC Section 30251 relative to coastal views.

The second visual issue raised by the proposed development relates to the alteration of natural landforms. The landform alteration will consist of four levels connected by the driveway and/or stairways. There will be a level at the driveway entrance, at the guest house, at the tennis court and adjacent lawn, and at the circular driveway and house level. As previously stated, PRC Section 30251 provides that permitted development shall be sited and designed to minimize the alteration of natural land forms.

The previously approved project resulted in the alteration of landform in the project area, inland of the residence as noted above. This included remedial grading of the slope north (inland) of the single family residence of 1,450 cu. yds. and, for construction of the existing tennis court and proposed guest house, an additional 1,000 cu. yds. of grading (720 cu. yds. cut and 280 cu. yds. fill). As noted in the findings for the 1997 permit, fill was necessary to improve the drainage on the site inland of the residence. Due to the previously existing contours, low points collected drainage and over saturated the site. The geologist found that correcting this drainage problem would reduce oversaturation of the soil and the potential for landslides on the bluff. In summary, the underlying 1997 permit allowed 2,450 cu. yds. of grading.

Although the project will result in a grading total of 3300 cu. yds. of cut and fill, the change in landform is not significant for several reasons. The natural landform had been disturbed by the previous grading. The proposed landform alteration will create a land configuration between the residence and Pacific Coast Highway that is similar in form to the previously created artificial slope. The exact volumes moved on the site are



difficult to determine because soil was moved several times and soil from on site that was moved inland of the residence as a result of landslide remediation and the pathway appoved on the bluffs seaward of the residence. At that location, imported soil and soil from the landslide remediation were mixed. Additional soil importation was necessary, of approximately 375 cu. yd.s, to remediate drainage problems along Malibu Road. In addition, soil was moved to ensure that the slope of the driveway was changed to insure proper drainage and provide access for heavy equipment.

According to the project applicant, the changes in vertical elevation range from .5 to 3 ft. in small, select areas with an average of less than one half to one foot disturbance for the entire site. For these reasons, the proposed design will minimize the alteration of natural land forms by blending with the terrain on the site and surroundings. Consequently, the project's alteration of natural landform is consistent with PRC Section 30251.

A third visual quality issue is the impact of landscape vegetation of views from Pacific Coast Highway. As noted previously, previous permits for the project site raised the issue of view impact and required that vegetation not impede views toward the ocean. The area between Pacific Coast Highway and the ocean in the project vicinity has been subject to development of large single family residences which together with accessory structures, walls and landscaping have impeded views.

The Commission addresses such visual impacts through Special Condition 8, which requires that existing and new plantings shall be limited vegetation which does not intrude into the viewshed. This is necessary to ensure the availability of views of the ocean from Pacific Coast Highway. Special Condition 8 also requires the applicant to submit for the Executive Director's approval landscape and fuel modification plans incorporating erosion control measures and providing for landscaping primarily with suitable, locally native plant species. Use of such revegetation will stabilize the site immediately after disturbance and additionally protect against long-term site erosion. Temporary erosion control measures for implementation during the rainy season must also be incorporated into the landscape plan to protect excavated soils from erosion while construction is in progress. Approval with this condition will, for these reasons, ensures consistency with PRC Section 30251.

### **C. Water Quality.**

The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources, as well as effluent from septic systems. 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.***

As described above, the proposed project includes the relocation of a proposed 746 sq. ft. guest house and after-the-fact development consisting of reconfiguration of driveway and grading of 3300 cu. yds. (1,550 cu. yds. cut and 1,750 cu. yds. fill). The proposed development includes grading, drainage improvements, and an increase in the impervious surfaces that will increase the volume and velocity of runoff. The runoff will include pollutants associated with residential development such as petroleum, household cleaners, fertilizers, pesticides, as well as other accumulated pollutants from driveways, parking areas, and other impervious surfaces.

To ensure that runoff is conveyed from the site in a non-erosive manner and is properly filtered to remove "first flush" pollutants from runoff, the Commission finds that it is necessary to require the applicant to submit a detailed drainage/polluted runoff plan. The plan shall include filter elements that intercept and treat the runoff from the site. Such a plan will allow for the filtering of runoff from the developed areas of the site, most importantly capturing the initial, "first flush" flows that occur as a result of the first storms of the season. This flow carries with it the highest concentration of pollutants that have been deposited on impervious surfaces during the dry season. The drainage plan will also ensure that risks from geologic hazards are minimized and that erosion and sedimentation is minimized. Additionally, the applicant must monitor and maintain the drainage and polluted runoff control system to ensure that it continues to function as intended throughout the life of the development.

Therefore, the Commission finds that the proposed project, as conditioned to incorporate and maintain a drainage and polluted runoff control plan, is consistent with Section 30231 of the Coastal Act.

#### **D. Violation**

As noted under project description, unpermitted grading and reconfiguration of the driveway has taken place on the site without the benefit of a coastal 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 unpermitted grading and driveway reconfiguration is in an area where clearance of vegetation can cause sedimentation and drainage problems until the project is completed.

Consequently, special condition 9 is necessary to ensure that revegetation takes place in a timely manner.

## **E. Local Coastal Program**

Section 30604(a) of the Coastal Act states (in part):

***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 program that is in conformity with Chapter 3 (commencing with Section 30200). ...***

Section 30604(a) of the Coastal Act stipulates 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 amendment 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 amendment, 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. California Environmental Quality Act**

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned, 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 amendment, as conditioned, will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified effects, is consistent with the requirements of CEQA and the policies of the Coastal Act.

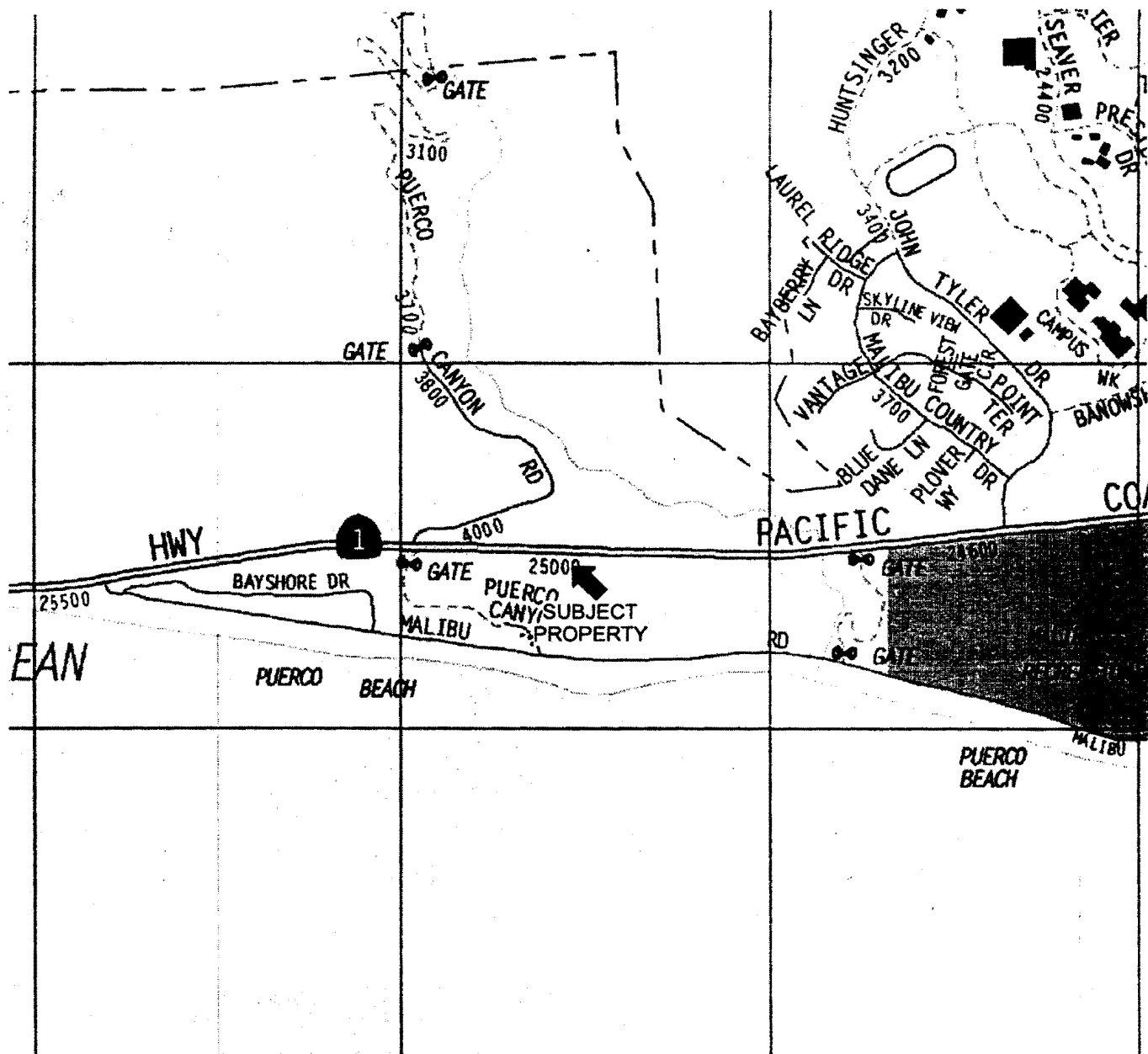


EXHIBIT NO.	1
APPLICATION NO.	
4-97-031-A1	
(Zucker)	
Project Location	

## VICINITY MAP

Not to Scale  
Source: The Thomas Guide-  
County of Los Angeles  
Page 628, F-7

Pacific Coast Highway

Relocated Guest Unit

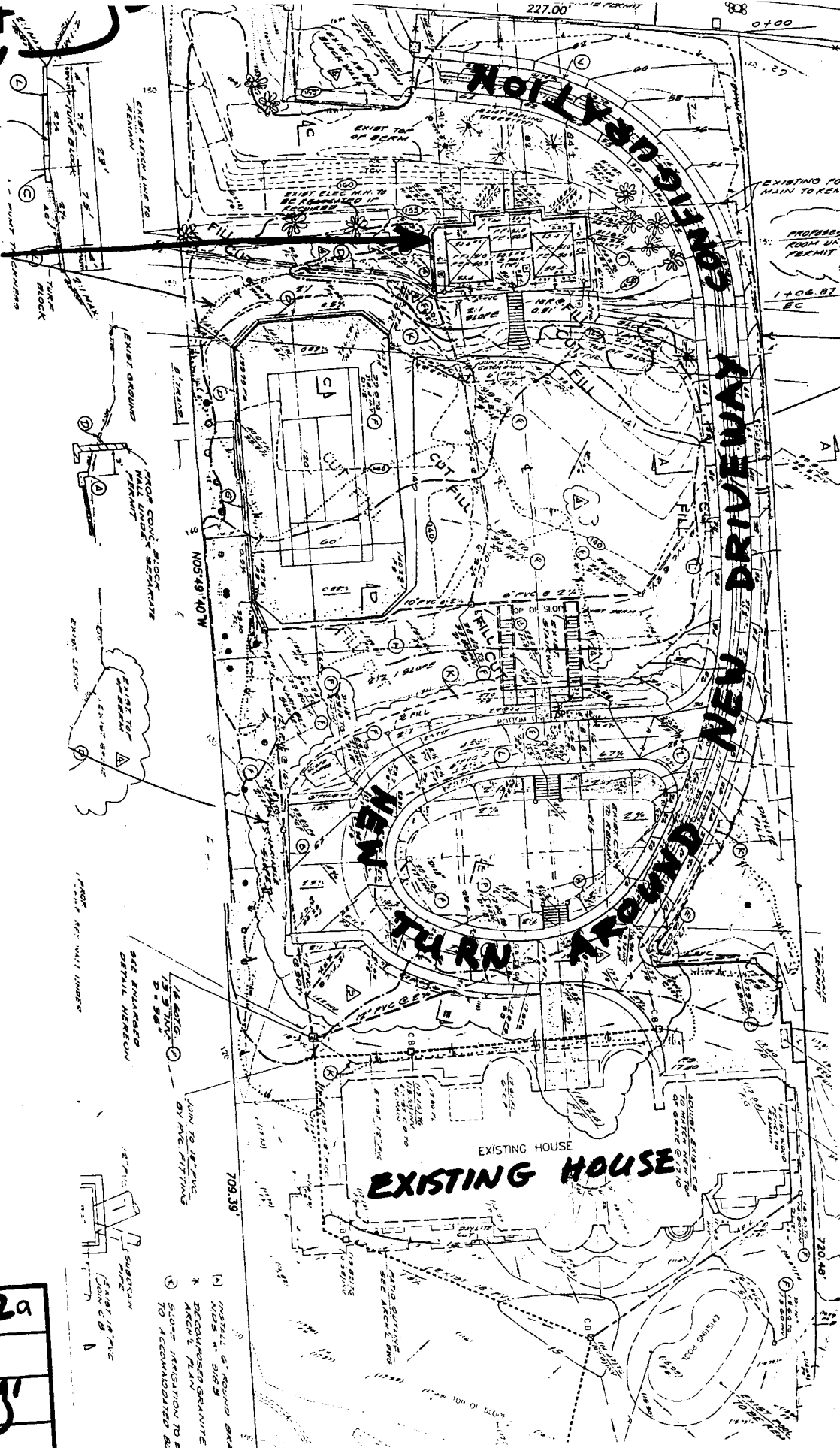


EXHIBIT NO.	2a
APPLICATION NO.	
	4-97-031-11
	(246666)
Site Plan	

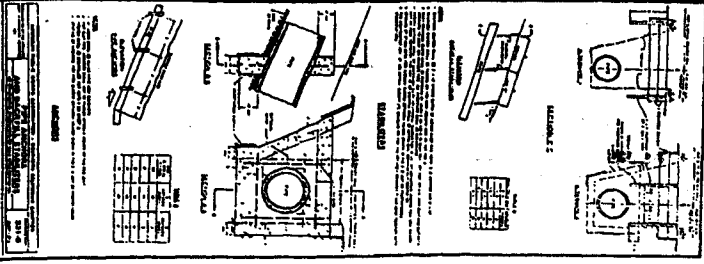
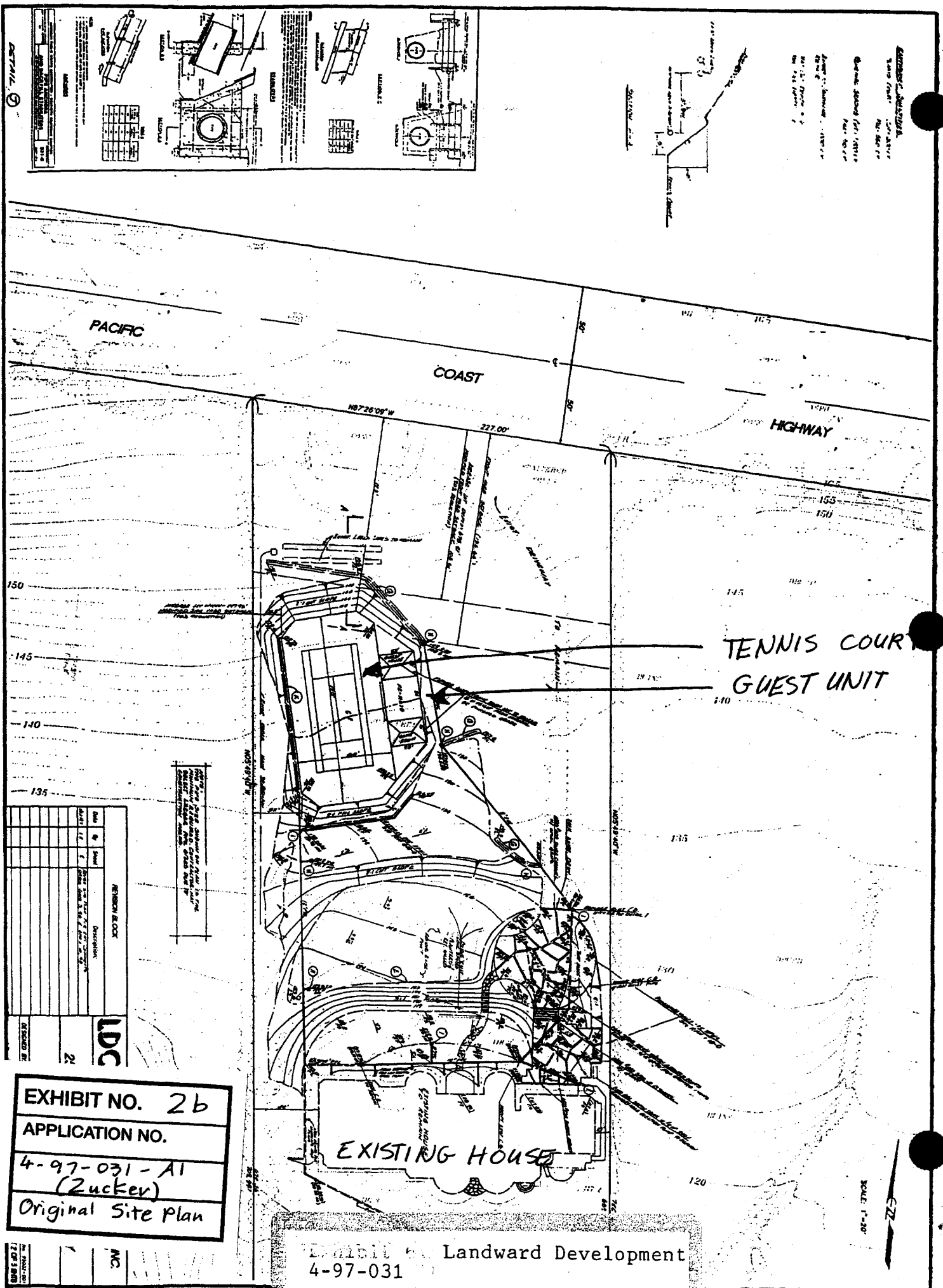


EXHIBIT NO. 26  
 APPLICATION NO. 4-97-031-A1  
 (Zucker)  
 Original Site Plan

REVISION & DATE	DESCRIPTION
1	Initial Design
2	Revised Design
3	Final Design
4	As Built

EXHIBIT NO. 26  
 APPLICATION NO.  
 4-97-031-A1  
 (Zucker)  
 Original Site Plan

EXHIBIT NO. 26  
 APPLICATION NO. 4-97-031  
 Landward Development

**CALIFORNIA COASTAL COMMISSION**

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

Filed: 4-10-97  
49th Day: 5-29-97  
180th Day: 10-7-97  
Staff: SPF-VNT  
Staff Report: 4-23-97  
Hearing Date: May 13-16, 1997  
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-97-031

APPLICANT: Anvil Development

AGENT: Jaime Harnish

PROJECT LOCATION: 25000 Pacific Coast Highway, City of Malibu; Los Angeles County

PROJECT DESCRIPTION: Remediation and repair of a landslide on the bluff face requiring 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 single family residence with 1,450 cubic yards of grading; construction of a tennis court with a 368 sq. ft. guest house and a 368 sq. ft. game room, and 1,000 cubic yards of grading (720 cu. yards cut, 280 cu. yards fill).

Lot area:	3.95 acres
Building coverage:	736 new sq. ft.
Pavement coverage:	3,800 new sq. ft.
Landscape coverage:	14,300 sq. ft.
Parking spaces:	0 new
Plan designation:	1 du/acre
Project density:	1 dwelling
Ht abv fin grade:	18 feet

LOCAL APPROVALS RECEIVED: Approval in Concept from the City of Malibu

SUBSTANTIVE FILE DOCUMENTS: Malibu/Santa Monica Mountains Land Use Plan. Limited Geologic and Soils Engineering investigation Dated December 15, 1995 by GeoConcepts, Inc.. Update Geologic Reports by GeoConcepts, Inc. dated March 19, 1997 and April 3, 1997. Coastal Development Permit Applications 5-82-370 (Siegal), 5-84-344 (Siegal), 5-86-536 (Siegal), 4-92-176 (Sasco Pacific), 4-92-176A (Sasco Pacific), and 4-88-918-A2 (Haagen).

SUMMARY OF STAFF RECOMMENDATION:

The proposed project is required to remediate a landslide and drainage problem on a bluff-top lot. Failure of the bluff face creates a potential hazard to the subject residence, Malibu Road, and residents on the seaward side of

EXHIBIT NO. 3
APPLICATION NO.
4-97-031-A1 (2nd tier)
Original Permit

Malibu Road. The improvements to the landward side of the residence will not create adverse environmental or visual impacts. Staff recommends approval of the project with special conditions requiring the geologist to review plans, revised development plans, the recordation of an assumption of risk condition, landscaping plans for the bluff top development, condition compliance and timing of completion of work.

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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 Limited Geologic and Soils Engineering Investigation, dated December 15, 1995 and prepared by GeoConcepts, Inc. as well as all Update Engineering Geologic Reports and addendum 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 the pool and deck are located at least 25 feet from the edge of the bluff. The plans shall show the removal of all development which encroaches within this 25 foot setback area, as shown in Exhibit 5.

#### 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. Landscaping and Erosion Control Plans

Prior to the issuance of a coastal development permit, the applicant shall submit a landscaping and erosion control plan for all grading and disturbed areas landward of the bluff edge, prepared by a licensed landscape/architect or other qualified professional, for review and approval by the Executive Director. The plans shall incorporate the following criteria:

- (a) All disturbed areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes. To

minimize the need for irrigation and to screen or soften the visual impact of development all landscaping shall consist primarily of native, drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended Native Plant Species for Landscaping Wildland Corridors in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.

- (b) Cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native species using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two years and shall be repeated, if necessary, to provide such coverage. This requirement shall apply to all disturbed soils.
- (c) Should grading take place during the rainy season (November 1 - March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location.
- (d) The landscaping plan, and any attached irrigation plans, shall be reviewed by the consulting geologist to ensure that no adverse conditions related to overwatering or design are proposed which would be detrimental to the geologic conditions on site.

#### 5. 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.

#### 6. Timing of Completion of Work

The applicant shall be required to implement the proposed landscaping plan for the bluff face within 60 days of the completion of grading on the bluff face. Temporary erosion control devices, such as jute netting or sandbags may be put on the bluff face in the interim period after grading and before landscaping.

The applicant shall also be required to implement the revised development plan in conjunction with the remedial grading of the bluff. The removal of all development encroaching within 25 feet of the bluff shall be removed within 60 days of the completion of grading of the bluff.

#### IV. Findings and Declarations.

The Commission hereby finds and declares:

##### A. Project Description and Background

The applicant is proposing remediation of a landslide on a bluff face as well as improvements on the top of the bluff. Specifically, the applicant is proposing to remove slough material on the bluff face which remains after a landslide and engineer the slope to prevent future landslides. This development requires a total of 14,020 cubic yards of grading. 7,400 cubic yards of grading is to remove the loose material and recompact the same material in the slope. The remaining 6,620 cubic yards of grading is to replace the slope at its original 1.5:1 (H:V) slope and provide a buttress fill. The 6,620 cubic yards of grading, in addition to the recompaction material, consists of 2,180 cubic yards of cut and 4,440 cubic yards of fill. Some of the additional fill needed for this slope repair will be taken from the cut material at the top of the slope; the remainder will be imported. Exhibits 3 and 4 illustrate the finished slope with required benches and drains for slope stability.

The first of two developments on the top of the bluff, landward of the residence, is remedial grading to change the slope of the site. Currently the site is sloped to the east side of the property. The low portion of the site is in the area of the garage. Both subsurface and sheet flow runoff collects at the east side of the site. The excessive water which inundates this portion of the site is causing damage to the residence. Changing the drainage on site will correct this problem and aid in correcting the landslide problem on the slope as described in more detail in the following section. Grading for this portion of the development involves 1,050 yards of cut; 400 cubic yards of fill. The existing driveway and turnaround area subject to this remedial grading will be reduced in size from 13,600 square feet to 8,000 square feet. Exhibit 6 shows the proposed site plan.

The final proposed development on this site involves the construction of a tennis court, guest house and game room. These developments are located landward of the existing single family residence. A total of 1,000 cubic yards of grading is required to level an area for the tennis court, game room and guest house. The tennis court will have a twelve foot high fence. The guest house and game room will be fifteen feet from finished grade; eighteen feet from original grade. Due to the contours of the site, the tennis court and guest house/game room will be below the centerline of Pacific Coast Highway.

The one-story, twenty foot high, and approximately 9,000 square foot single family residence on this site was constructed in the early 1980s under coastal development permit 5-82-370 (Siegal). The coastal development permit for the residence was approved by the Commission with three special conditions requiring the recordation of a future improvements deed restriction, revised plans to reduce the height of the residence to protect views of the ocean from Pacific Coast Highway, and landscaping plans.

During construction of the residence, the previous owner constructed a block wall around the perimeter of the property. Under coastal development permit

5-84-344, the Commission approved the wall at a lower height. The previous applicant was required to lower the height of the wall to protect the ocean views across the site from Pacific Coast Highway. An amendment was later granted (5-86-536) which allowed for the placement of a rod-iron fence on top of the block wall. Finally, under coastal development permit 5-86-536, the previous property owner received approval for the construction of a driveway with walls and landscaping, additions to the residence, and a swimming pool. The permit was approved with two special conditions requiring the recordation of a future improvements deed restriction and revised plans showing that the pool did not encroach within 25 feet of the edge of the bluff.

The site is located on the seaward side of Pacific Coast Highway, west of Malibu Canyon Road and just east of Puerco canyon. The 3.5 acre site is gently sloping from Pacific Coast Highway to the edge of the bluff. The coastal bluff extends vertically to Malibu Road below. The residence is below the centerline of Pacific Coast Highway and does not block bluewater or horizon views of the ocean. As such, the site is located in an area which is considered a significant scenic view corridor. The residence is visible from portions of Pacific Coast Highway; however, as noted above, through special conditions, the height of the residence was restricted to prevent adverse impacts to the significant view along Pacific Coast Highway.

#### B. Geologic Hazards

The development on this site can be divided into three developments: 1) repair and remediation of the bluff at the southern end of the site, 2) remedial grading to change the slope and drainage of the site landward of the residence, and 3) construction of a tennis court with a guest house and game room. All three of these developments include grading and require changes to the existing drainage and water patterns on site. Grading and landform alteration can create potential adverse, either individual or cumulative geologic impacts. As such, each portion of the proposed development must be reviewed for compliance with Sections 30250 and 30253 of the Coastal Act.

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.

Section 30250(a) of the Coastal Act states:

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.

1. Remediation and repair of the bluff

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. The bluffs along this stretch of the coast are not subject to erosion from wave action because of intervening residential development with shoreline protective devices and Malibu Road. However, due to the geologic structure and soil composition, these bluffs are susceptible to failure, especially with excessive water infiltration. In addition, these bluffs are subject to erosion from runoff at the top of the slope. Finally, since these bluffs are highly erodible and geologically unstable, the Commission, in past permit actions, has consistently required a 25 foot setback or compliance with a stringline, whichever is greater, for development located at the top of the bluff.

Malibu Road and single family residences on the seaward side of the road separate these bluffs from the shore. However, 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, these bluffs still provide nesting, feeding, and shelter sites and remain a part of the shoreline ecosystem.

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. As noted above, Section 30253 of the Coastal Act mandates that new development provide for geologic stability and integrity and minimize risks to life and property. The LUP policies suggest 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. Finally, 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 proposed project does include repair and remediation of the coastal bluff at the southern side of the applicant's property. This coastal bluff has had failures which resulted in excessive material on Malibu Road. The failures on the bluff have resulted in Malibu Road being closed until this material can be removed by City crews. The City of Malibu did previously declare this site a public nuisance due to the amount of slough material deposited on the road from this slope (See Exhibit 9). Exhibit 10 is a copy of the letter from the City of Malibu to the previous owner regarding repair of this slope. In the

past, repair work on this site, has consisted of removing slough material at the base of the bluff which falls on the road and tarping the bluff face. Sandbags have been placed at the base of the bluff to deter further material from encroaching onto Malibu Road.

The remediation work involves the removal of landslide material and the rebuilding of the slope of this bluff. A total of 7,400 cubic yards of material will be removed and recompactd. An additional 4,440 cubic yards of material will be added to the slope as a buttress fill; 2,180 cubic yards of cut is also required. The proposed grading will result in three terraces on this slope with drainage swales. Drainage is proposed to directed off the bluff face in a non-erosive manner. A stairway is proposed on the west side of the slope to aid in access to the drainage devices on the slope for maintenance. The applicant has also submitted a detailed replanting plan which consists of native vegetation and a temporary drip irrigation system. The proposed plans have been reviewed and approved by the City biologist and received the City of Malibu's "Approval in Concept."

According to the consulting geologist, the landslide of the bluff was triggered by poor site drainage and excessive seepage on the descending slope. Due to the poor drainage at the top of the bluff, there is excessive amount of water which infiltrates the site. On-going sloughing and erosion of the bluff face will allow further creep of the edge of the bluff landward toward the pool deck and eventually the residence.

The bluff is affected by both ancient and recent landslides. An older landslide was mapped by a previous geologist under a separate study of the site. The recent landslide involved two separate slides on the rear slopes. The landslides are classified as "debris flow" and resulted in the deposition of debris on Malibu Road, as noted above. The landslides also resulted in damage to a drainage pipe at Malibu Road.

The Commission recognizes that there is a geologic hazard on site which needs to be remediated or corrected in order to prevent damage to either the subject residence through landward creep of the top the bluff, or the residences on Malibu Road as a result of landslide debris and mudflows. However, pursuant to sections 30250 and 30251 of the Coastal Act, the Commission must also ensure that the development minimizes landform alteration and visual impacts and does not, either individually or cumulatively, create adverse impacts on coastal resources. Therefore, the Commission must review and analyze alternatives to the proposed project. The consulting geologist provided the Commission staff with a review of potential alternatives to the proposed project with an analysis of the feasibility of these proposed alternatives.

The first alternative was to eliminate the grading and only replant the slope. The replanting of the slope will provide surficial stability and aid in the reduction of surface runoff and erosion down the bluff. However, such an alternative will not provide for any subsurface drainage of the site. The consulting geologist has concluded that the landslide was caused by poor subsurface drainage conditions, not surface drainage conditions. Without removal of the landslide and correction of the subsurface drainage problem, the movement of the landslide will not cease. Landscaping the site will not stop the landslide from moving. Thus, the residence on site and the residences along Malibu Road would still be in danger from this landslide. Therefore, enlargement of the landslide would continue if only the surface erosion as controlled through no grading and replanting.

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A second alternative involve recontouring the slope and replanting the slope without removing the landslide material. The recontouring of the slope and landscaping, as noted above, will improve surface stability and decrease surface erosion. However, without the removal of the landslide and correction of the water infiltration, further enlargement of the landslide can not be prevented.

Another alternative is to construct a soldier pile wall along the top of the slope. While this will prevent landward creep of the slide to the residence at the top of the bluff it will not stop the movement of the existing landslide. Further debris flows ~~from the slope onto~~ Malibu Road would occur. Protection of the residences on Malibu Road from debris flow would be necessary as this alternative does not ensure protection of these homes.

Thus, in order to protect the residence at the top of the bluff and prevent debris flows which could adversely affect the residences on Malibu Road the only reasonable solution is to remove the landslide and recontour the bluff face. The consulting geologist has indicated that the grading required for this remedial work is the minimal amount possible. The end result of this grading will return the slope to its original 1.5:1 slope. The grading that is required includes removing the landslide material and recompacting it, and created a terraced, slope with bench keys and subdrains. The proposed design, if carried out as recommended by the consulting geologist should provide geologic stability and eliminate the debris low and enlargement of the landslide which endangers the subject residence, Malibu Road and the residence along Malibu Road.

The consulting geologist has concluded that:

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.

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 (Special Condition 1 ). These plans shall incorporate all three aspects of the proposed development.

The applicant has included a replanting plan with this application. The plan does call for the use of native vegetation and drip irrigation on a temporary basis. The implementation of this planting plan will mitigate any surface erosion and provide additional stability to the bluff face. Failure to implement this plan will leave the slope barren of vegetation. Such a barren slope is subject to erosion from rain and runoff. Increased surface erosion on the site can contribute to the destabilization of the site and endanger the residences on the seaward side of the road. Finally, the barren slope is not visually attractive, contradicting section 30251 of the Coastal Act which

requires the maintenance or enhancement of coastal resources. Therefore, the Commission finds it necessary, as outlined in special condition 7, to require the applicant to implement the replanting plan within 60 days of the completion of the grading on the slope.

The Commission has long determined that in order to provide the maximum about 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. In coastal development permit 5-86-536 for the construction of the swimming pool, the applicant was required to submit plans which showed that the pool was 25 feet from the edge of the deck. The top of the bluff was identified to be at approximately the 110 foot contour line as shown in Exhibit 11. The current plans still recognize the approximate location of the top of the bluff at the 110 foot contour line (See Exhibit 5). The permit 5-86-536 was issued and the developments, subsequently constructed. However, the pool and deck were built within 25 feet of the edge of the proposed bluff edge. The seawardmost edge of the deck encroaches within 10 feet of the top of the bluff. Exhibit 5 shows the current configuration of the pool and the 25 foot setback line. As built, the pool and deck encroach within 25 feet of the edge of the coastal bluff, inconsistent with the Commission's long-time practice. Therefore, the Commission finds it necessary to require the applicant to submit revised plans which will move the pool and deck back to a minimum distance of 25 feet from the top of the proposed bluff edge as noted in special condition 2. Since the relocation of the pool 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 60 days of the completion of remedial grading (Special condition 6).

The Coastal Act recognizes that development on a coastal bluff, which has been subject to landsliding, 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.



## 2. Slope Repair on the landward side of the residence

The second element of development is the recontouring of the site landward of the residence to change the existing drainage pattern with a total of 1,450 cubic yards of grading (1,050 cu. yds. cut, 400 cu. yds. fill). The subject site is a gently sloping lot from north to south. Runoff sheet flows from the north end of the site toward the coastal bluff. In addition, there is drainage on the site which flows from the west side of the site to the east side. Moreover, drainage from the adjacent lot to the west also contributes runoff to the east side of the subject lot. Due to the existing contours of the site, there are low points on the east side of the property which collect drainage and oversaturate the site. This condition is contributing to the landslide failures on the bluff face, and causing damage to the east side of the residence. The constructing geologist has indicated that correcting this drainage problem will reduce oversaturation of the soil and reduce the potential for landslides on the bluff.

In order to prevent further exacerbation of the landslide, the drainage problem on the bluff as well as on the top of the bluff must be corrected, according to the consulting geologist. The proposed grading to contour the site landward of the residence will reduce subsurface seepage on the east side of the property and eliminate water damage to the residence from over saturation. The consulting geologist would not recommend repairing the landslide without also repairing the contours landward of the residence.

One alternative to regrading this portion of the site, is to leave the grade and install series of catch basins and drainage swales. Such a project would require continual maintenance and is unlikely to support the water capacity during heavy storms. Above grade drainage devices will not have any affect on subsurface conditions either. Thus, the geologist concludes that the proposed project is the best alternative with the least environmental impact.

The Commission finds that in order to ensure that the project plans conform with the recommendations of the geologist, the geologist shall review and certify, in writing, that the plans conform and include all recommendations, as noted above. Finally, the Commission notes, that although a detailed planting plan was submitted for the bluff, no planting plan has been submitted for the recontoured area landward of the residence. Likewise, as noted below, no landscaping plan has been submitted for the areas disturbed with the construction of the tennis court, guest house and game room. As noted above, landscaping a site is necessary to mitigate potential surface erosion. Therefore, the Commission finds it necessary to submit two sets of a detailed landscaping plan for all other disturbed areas on the site (Special Condition 4). This plan shall incorporate the use of native vegetation which requires little water. The landscaping and any attached irrigation plans shall be reviewed by the consulting geologist to ensure that no adverse conditions related to overwatering or design are proposed which would be detrimental to the geologic conditions on site.

## 3. Tennis court and guest house

The final phase of development proposed for this project is the construction of a tennis court with a guest house and game room. This portion of the

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development requires only 1,000 cubic yards of grading. This portion of the development is located landward of the residence and as such, is not in close proximity to the bluff face. The geologist has reviewed this portion of the development from a geologic standpoint. No known faults are known to be beneath the tennis court. The Commission finds, that as noted previously, the geologist shall be required to certify, in writing, that the proposed plan, conforms with the recommendations of the geologist regarding grading, foundation, and drainage.

The Commission finds that as conditioned for geologist recommendations, revised plans, the recordation of an assumption of risk deed restriction, implementation of the landscaping and revised development plan, landscaping for all other disturbed areas, and condition compliance, the project is consistent with Section 30250 and 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 the seaward side of Pacific Coast Highway at the top of a bluff top property. The site slopes gradually from Pacific Coast Highway to the top of the bluff. Due to the natural topography of the site the centerline of Pacific Coast Highway is higher than the top of most of the development. Due to the views offered from Pacific Coast Highway, this lot is one of many located in a significant scenic view corridor.

As constructed, the one-story residence is visible from Pacific Coast Highway while traveling in both directions along the highway. With the development restrictions limiting the height of the residence, wall, and landscaping, there are clear bluewater and horizon views of the ocean from Pacific Coast Highway. Thus, as constructed, the developments on site do not significantly adversely impact the view along the horizon line. Thus, there are still clear ocean and horizon line views from Pacific Coast Highway.

The proposed tennis court will have 12 foot high fences surrounding it. The proposed guest house and game room will have a maximum height of 18 feet. At Pacific Coast Highway and on the east property line, there are a number of trees which inhibit clear views of the ocean; however there are still some views of the ocean from east of the site. The most significant views of the horizon and the ocean are from the west side of the site. As proposed the top of the tennis court fence and the proposed structures will not be higher than the top of the existing residence. There will not be a significant visual impact from the construction of this development, as proposed. However, should a taller fence be installed on the tennis court, or other additions

occur to the structures which would increase their height, the development would inhibit the significant views of the ocean from Pacific Coast Highway. To prevent adverse visual impacts to the area, the Commission, in past permit actions, has required applicants to record a future improvements deed restriction which requires any improvement or addition to be reviewed by the Commission for compliance with the Chapter Three policies of the Coastal Act. However, in this case, a future improvements deed restriction was recorded against the entire property under the coastal development permit 5-82-370 for the original construction of the residence. Since this restriction runs with the land, binding all future successors in interest in the property, there is no need to require the current land owner, and applicant, to record another future improvements deed restriction.

The proposed project also involves the grading and landscaping of the coastal bluff. 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. As noted in the previous condition, without landscaping of the bluff, the remedial grading will leave the slope barren. This would create an adverse visual impact and degrade the scenic views along Malibu Road. Therefore, the Commission finds it necessary to require, as noted in the previous section, that the applicant implement the landscaping plan within 60 days of the completion of grading to mitigate potential adverse visual impacts.

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 the tennis court, front yard, and the bluff face. The grading for the tennis court is minimal, requiring only 1,000 cubic yards. The 720 cubic yards of cut for the tennis court will be used as fill for the bluff face. The grading for the tennis court will not be visible from Pacific Coast Highway and does not result in significant landform alteration. Similarly, the remedial grading for the front yard to correct the drainage pattern, will not result in a significant landform alteration. Landscaping of this area will mitigate any potential adverse impact caused by the grading.

Finally, the remedial work on the bluff face does requires a significant amount of grading. However, the majority of the grading (7,500 cubic yards) is for over-excavation and recompaction of the bluff face. The additional 6,620 cubic yards of grading is to return the slope to a more natural topography. The grading for the bluff face is the minimal amount possible to remove the landslide and provide a stable slope. The Commission finds, that the grading for this project does not result in adverse visual impacts and includes mitigation through landscaping. Thus, as conditioned, this project is consistent with Section 30251 of the Coastal Act.

#### D. Cumulative Impacts

Section 30250 of the Coastal Act states, in part:

- (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 a significant adverse effects, either individually or cumulatively, on coastal resources.

Sections 30250, 30251 and 30252 of the Coastal Act address the cumulative impacts of new development. Based on these policies the Commission has limited the development of second units on residential lots in Malibu. The Commission has found that guest houses or second units can intensify the use of a site and impact public services, such as water, sewage, electricity, and roads.

Policy 271 of the certified Malibu Land Use Plan states:

In any single family residential category, the maximum additional residential development above and beyond the principal unit shall be one guest house or other second unit with an interior floor space not to exceed 750 gross square feet, not counting garage space.

In this case the applicant is proposing a 368 sq. ft. guest house and a 368 square foot game room adjacent to the proposed tennis court. The guest house and game room are separated by a courtyard. The applicant is not proposing to connect the two structures with walls or a roof. As proposed, the guest house does not exceed the 750 square foot maximum square footage allowed for a second unit. The two structures do not create any adverse impacts with respect to visual impacts, landform alteration, water quality or environmental resources. As proposed, this portion of the development can be found consistent with the Coastal Act.

However, if the game room was connected to the guest house, or other additions to the guest house occurred, the size of the guest house could exceed the maximum 750 square foot allowed. In order to insure that future development does not occur which would be inconsistent Sections 30250, 30251 and 30252 of the Coastal Act, a special condition requiring the Commission's review and approval of proposals for future development on the site is necessary. However, as noted in the preceding section, a future improvements deed restriction has already been recorded against the entire property under the coastal development permit 5-82-370. Since this restriction runs with the land, binding all future successors in interest in the property, there is no need to require the current land owner, and applicant, to record another future improvements deed restriction.

The Commission therefore finds that it is necessary to require the applicant to record a deed restriction requiring that any future improvements to the lot shall require an amendment to this permit, or a new coastal development permit. Only as conditioned, does the Commission find the proposed development consistent with Section 30250, 30251 and 30252 of the Coastal Act.

#### E. Violation

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. Approval 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.

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.

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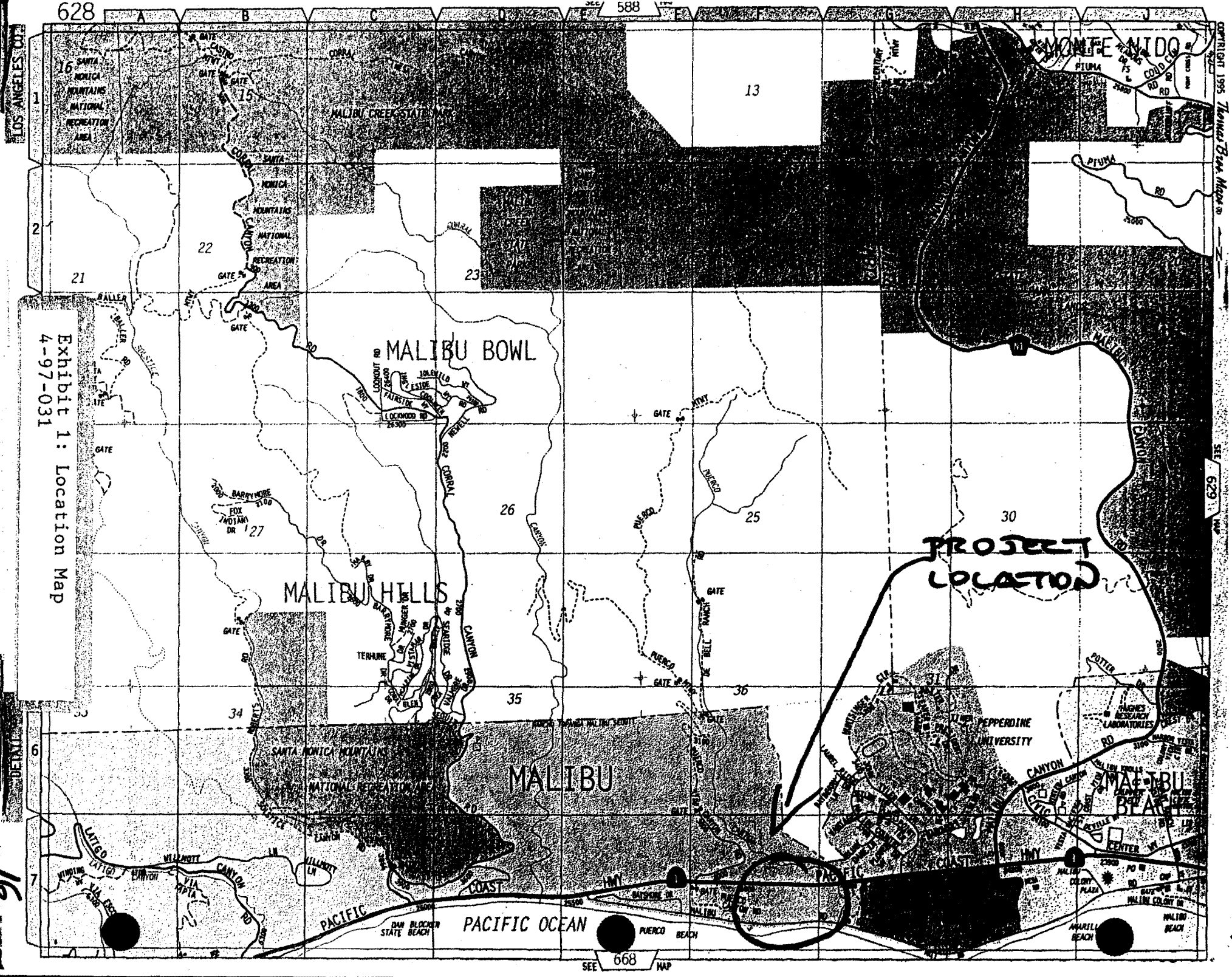
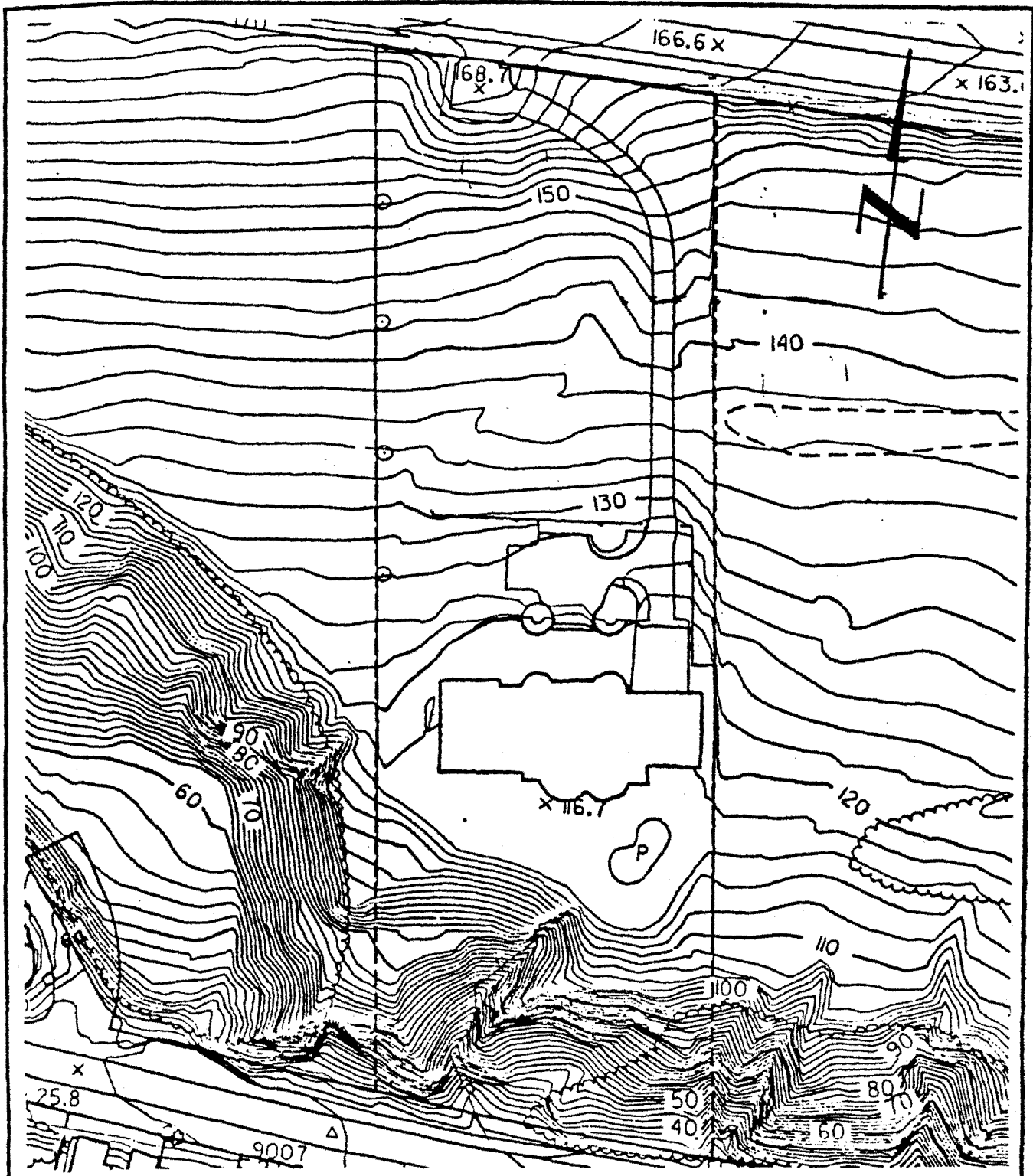


Exhibit 1: Location Map  
4-97-031

COPYRIGHT 1995 Thomas Data Maps & Maps  
6291 MAP

SEE 668 MAP

# LOCATION



Reference: County of Los Angeles, Lateral Sewer System Layout - Malibu Area

Project No.: 1135

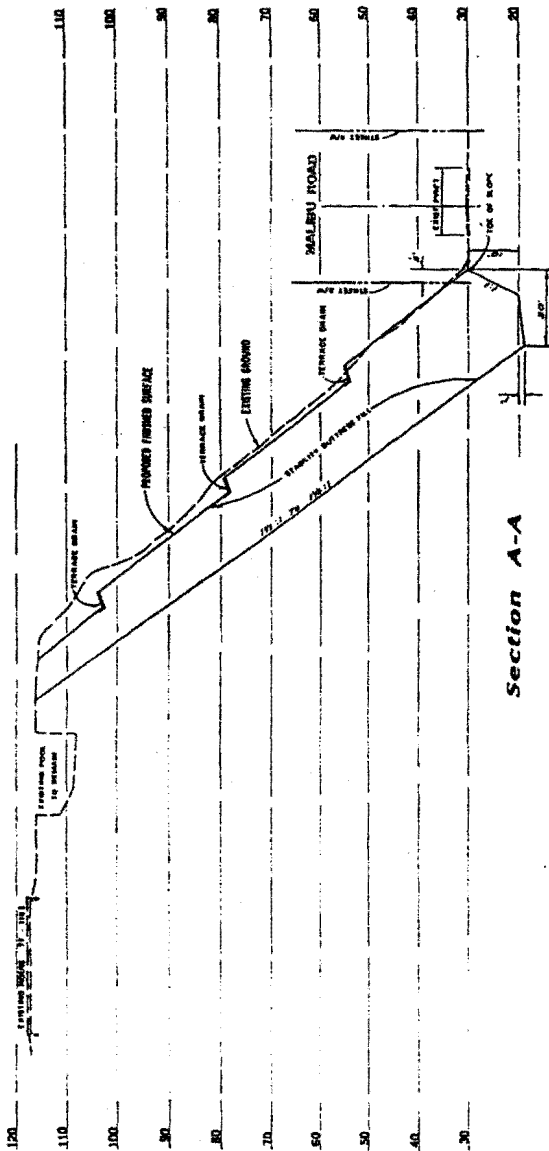
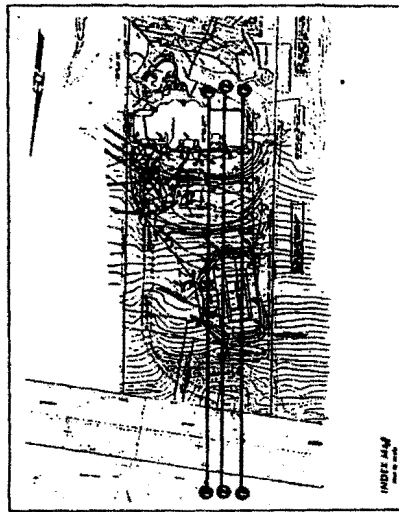
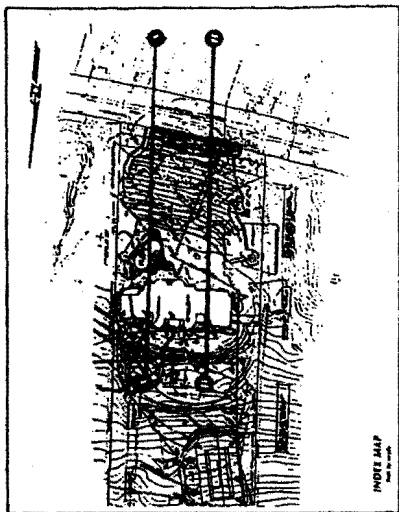
Scale 1" = 100'

Project: 25000 Pacific Coast Highway  
Malibu, California

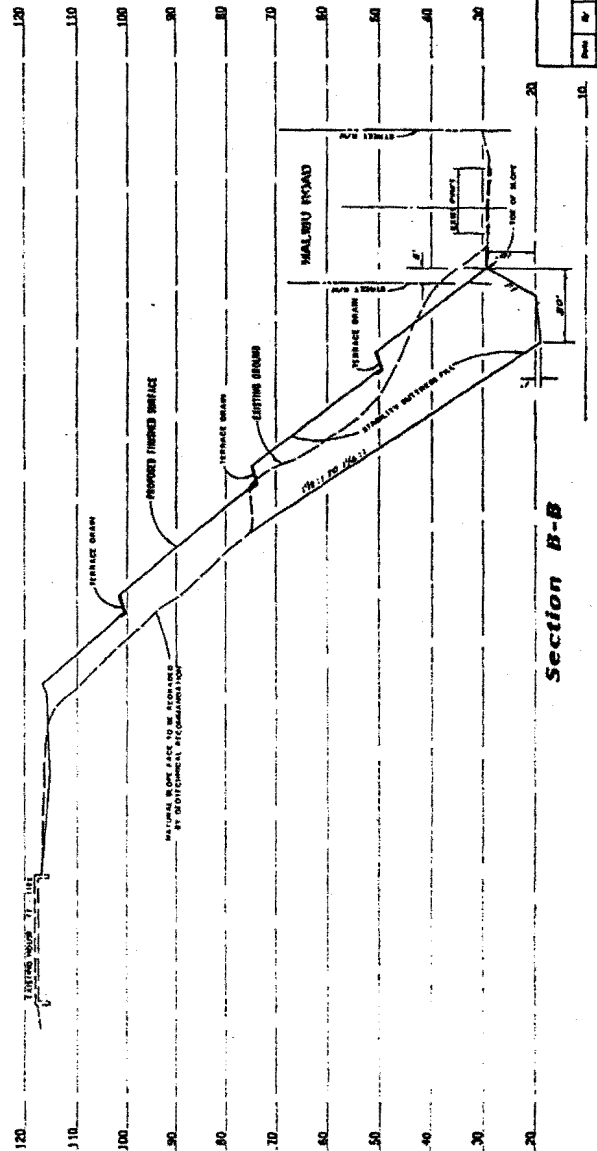








Section A-A



Section B-B

SCALE:  
HORIZONTAL 1" = 20'  
VERTICAL 1" = 10'

REWORK BLOCK

DATE

SCALE

REWORK BLOCK

DATE

SCALE

REWORK BLOCK

DATE

SCALE

REWORK BLOCK

DATE

SCALE

REWORK BLOCK

LAND DESIGN CONSULTANTS INC.

GRADING CROSS SECTIONS

25000 PACIFIC COAST HIGHWAY

ANNE DEVELOPMENT, INC.

DESIGNED BY DATE SCALE REWORK BY DATE

HOUSE  
MAIN.

TLURF  
EDGE

1. Model 32, 440

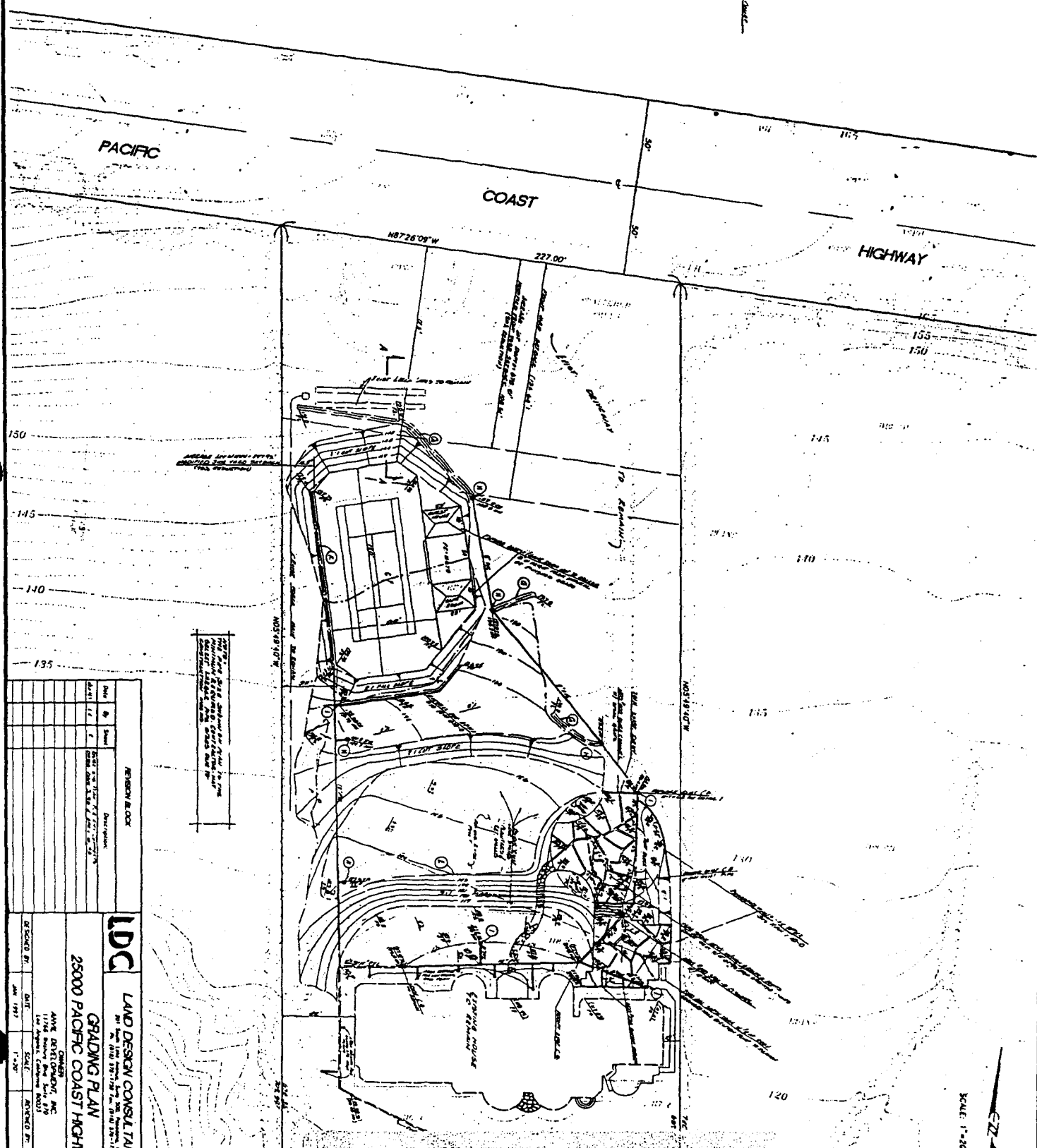
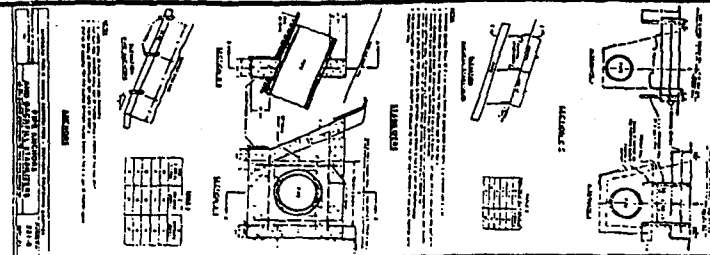
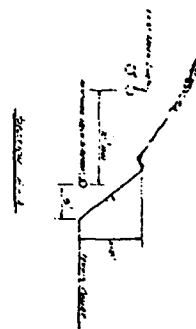
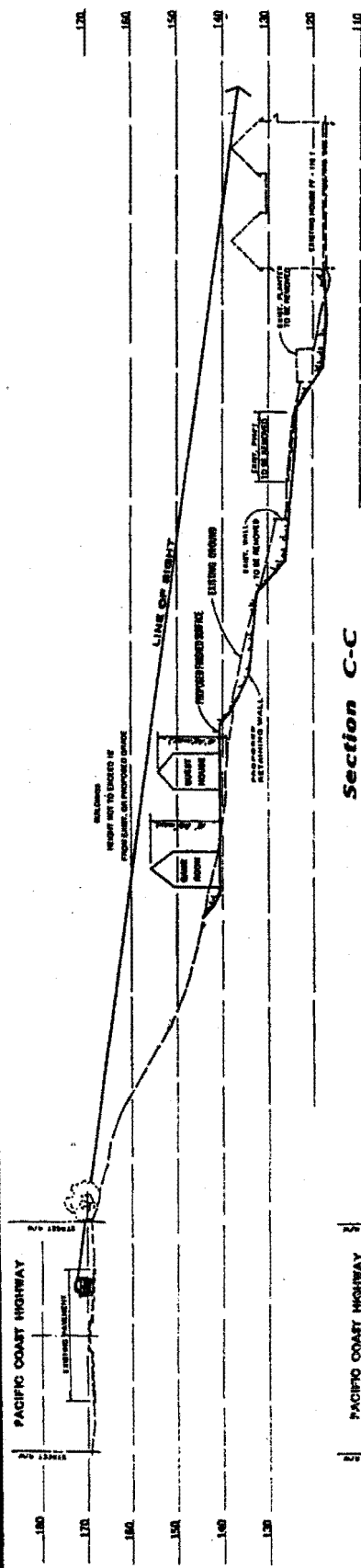
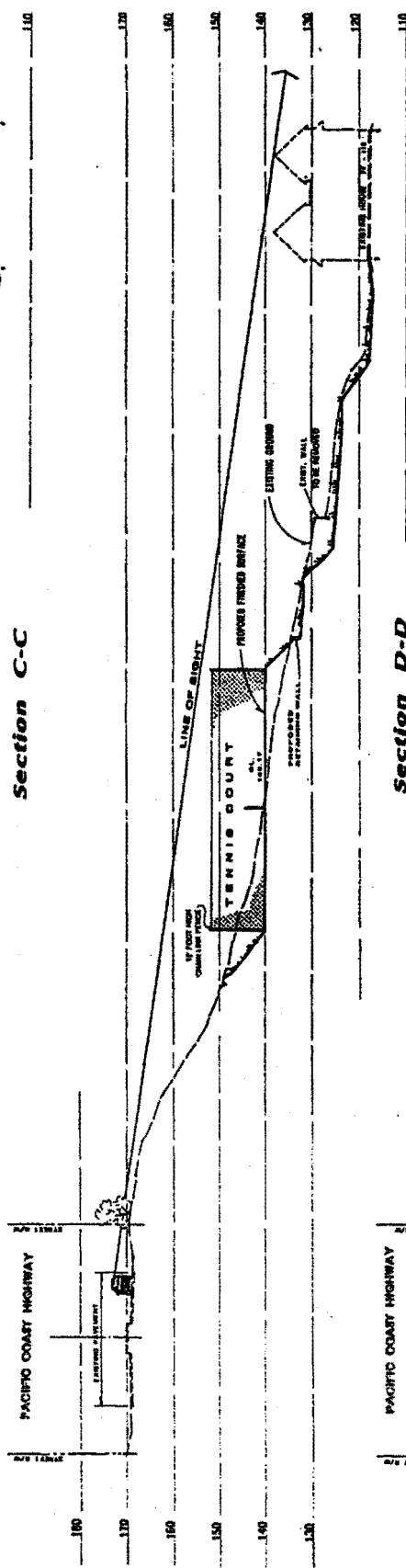


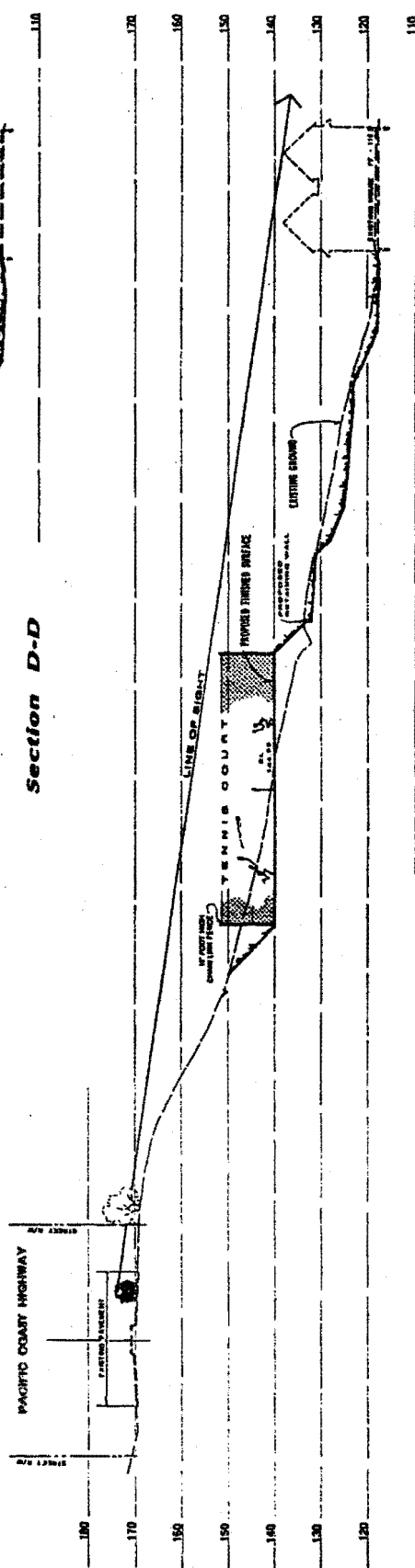
Exhibit 6: Landward Development  
4-97-031



Section C-C

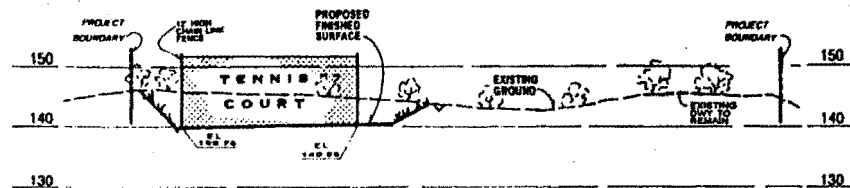


Section D-D

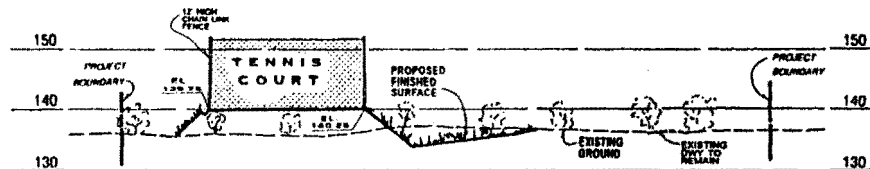


Section E-E

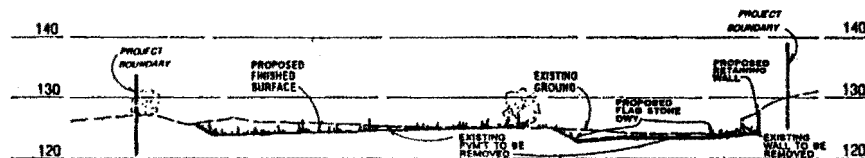
<b>LDG</b> LAND DESIGN CONSULTANTS, INC. 1100 MARKET STREET, SUITE 100 SAN FRANCISCO, CALIF. 94102	
GRADING CROSS SECTIONS 25000 PACIFIC COAST HIGHWAY	
PREPARED BY: DATE: SCALE: SHEET NO.: OF: PROJECT NO.:	CHECKED BY: DATE: SCALE: SHEET NO.: OF: PROJECT NO.:



Section F-F

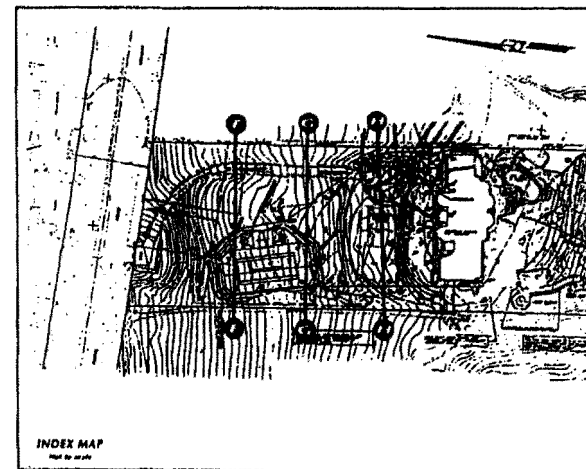


Section G-G



Section H-H

SCALE:  
HORIZONTAL: 1" = 20'  
VERTICAL: 1" = 10'  
DOUBLE VERTICAL SCALE



REVISION BLOCK				LDC	LAND DESIGN CONSULTANTS INC. Land Planning, Civil Engineering, Surveying & Environmental Services	
Date	By	Sheet	Description:		225 South Lake Avenue, Suite 400, Pasadena, CA 91101 Ph. (818) 378-7000 Fax (818) 378-7373	
				GRADING CROSS SECTIONS 25000 PACIFIC COAST HIGHWAY		
				OWNER ANVIL DEVELOPMENT, INC. 11766 Wilshire Blvd, Suite 870 Los Angeles, California 90025		
				DESIGNED BY: DATE: SCALE: REVIEWED BY: Proj. No. 95082-001		
				E.N. APR. 1997 S.M. SHT 3 OF 3 SH-13		

# City of Malibu

23805 Stuart Ranch Road, Suite 245 Malibu, California 90285 (310) 458-CITY Fax (310) 458-3356

## Sent Via Facsimile and Mail

February 15, 1993

Allen and Beatrice Siegal  
12121 Wilshire Blvd., Suite 501  
Los Angeles, CA 90025

RE: Public Nuisance Landslide  
25000 Pacific Coast Highway

Dear Mr. and Mrs. Siegal:

This letter shall serve as notice under City Municipal Code Sections 4302, and Building Code Sections 7004(a), 9904(r), and 9926(b) that the landslide that has occurred at 25000 Pacific Coast Highway is hereby declared a public nuisance. To date, two (2) prior notices dated April 8, 1992, and January 27, 1993 have not been complied with.

As of this date, the landslide has now encroached in to the middle of Malibu Road fully closing one travel lane. This movement has created an emergency condition endangering motorists and pedestrians which must be abated. You are hereby directed to correct this nuisance immediately.

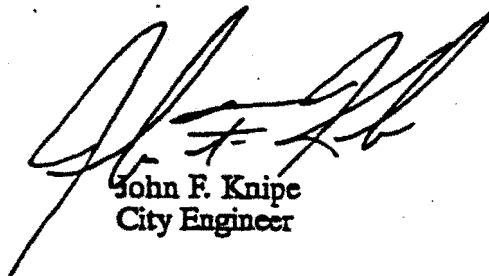
You must contact the City immediately with your specific plans to abate this situation. If you fail to do so, the City will perform the necessary corrective action to abate this nuisance. As owner of the property, you will be responsible for all costs incurred by the City.

Please contact James M. Guerra at (310) 456-2489, or (310) 908-6200, or John F. Knipe at (310) 456-2489, (310) 317-6885, or (805) 653-6597.

Respectfully yours,

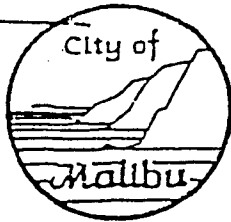


James M. Guerra  
Building Official



John F. Knipe  
City Engineer

cc: David Carmany, City Manager  
Michael Jenkins, City Attorney  
City Council Members



# City of Malibu

23555 Civic Center Way, Malibu, California 90265  
(310) 456-2489 Fax (310) 456-3356

October 13, 1994

DaPeer and Rosenblit  
2770 E. Slauson Avenue  
Huntington Park, CA 90255-3099

Attention: Mr. Ken DaPeer

Subject: 25000 Pacific Coast Highway; Siegal

Dear Mr. DaPeer:

On October 11, 1994, I met briefly with Mr. Robert Swanson, Mr. and Mrs. Siegal's real estate representative. He informed me that Mr. Siegal has experienced another stroke and is not able to participate actively in the resolution of the slope failure. Mrs. Siegal, who is in her 90's, is also not up to the task, so Mr. Swanson stated that he would be able to act as a representative for the Siegals to resolve the landslide.

The slope failure is in an area of Malibu that abuts Malibu Road between Webb Way to the east and Corral Beach to the west. The geology structure and soil composition of this site and many others along this portion of the coast has proven to be extremely susceptible to failure, especially when these slopes experience water infiltration. There is no "cook book" method to remediate the slide without subsurface explorations (borings), site inspection, and professional testing/analysis of raw data, and historical information. This is quite expensive and time consuming.

The scope of the project and proposed remedial work also are a direct factor in the type and amount of analysis/testing reports that need to be done. I do not recommend that the City direct Mr. Siegal or any subsequent owner to do any specific repair to the slope but that he be directed to devise a plan to ensure that:

1. The work be done so as no further encroachment to the public right-of-way occur.
2. The existing catch basin at the west end of the slope failure be repaired and protected from further failures.
3. The 18" to 24" corrugated drain at the headscarpe region of the failure be permanently repaired and connected to an approved drainage receptor downslope.
4. All non-suitable material to be removed from the site and taken to an appropriate area for disposal.
5. The site landscaped with vegetation compatible with native coastal varieties. No mechanical irrigation or maintenance-intensive plant or drainage structures will be permitted.

Any work of this type requires approval of the City of Malibu's Planning, Public Works, City Biologist, and Building and Safety Departments. The California Coastal Commission and Los Angeles County Flood Control District approvals.

If the Siegals act properly and in "good faith," the City is willing to help by accelerating the processing of the applications and working closely with all parties as liaison within the government structure.

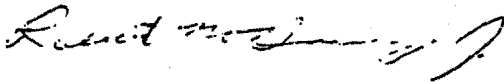
October 13, 1994  
Page 2

Mr. Swanson has mentioned that the owner's may be interested in the installation of a stairway to Malibu Road from the top of the site. It is not outside the realm of possibility; however, the stabilization of the slope and protection of the public right-of-way remains the primary concern of the City.

Please contact me at your convenience. My schedule has now relaxed somewhat where I can devote more effort into resolving this and other pending issues. I thank you.

Sincerely,

CITY OF MALIBU



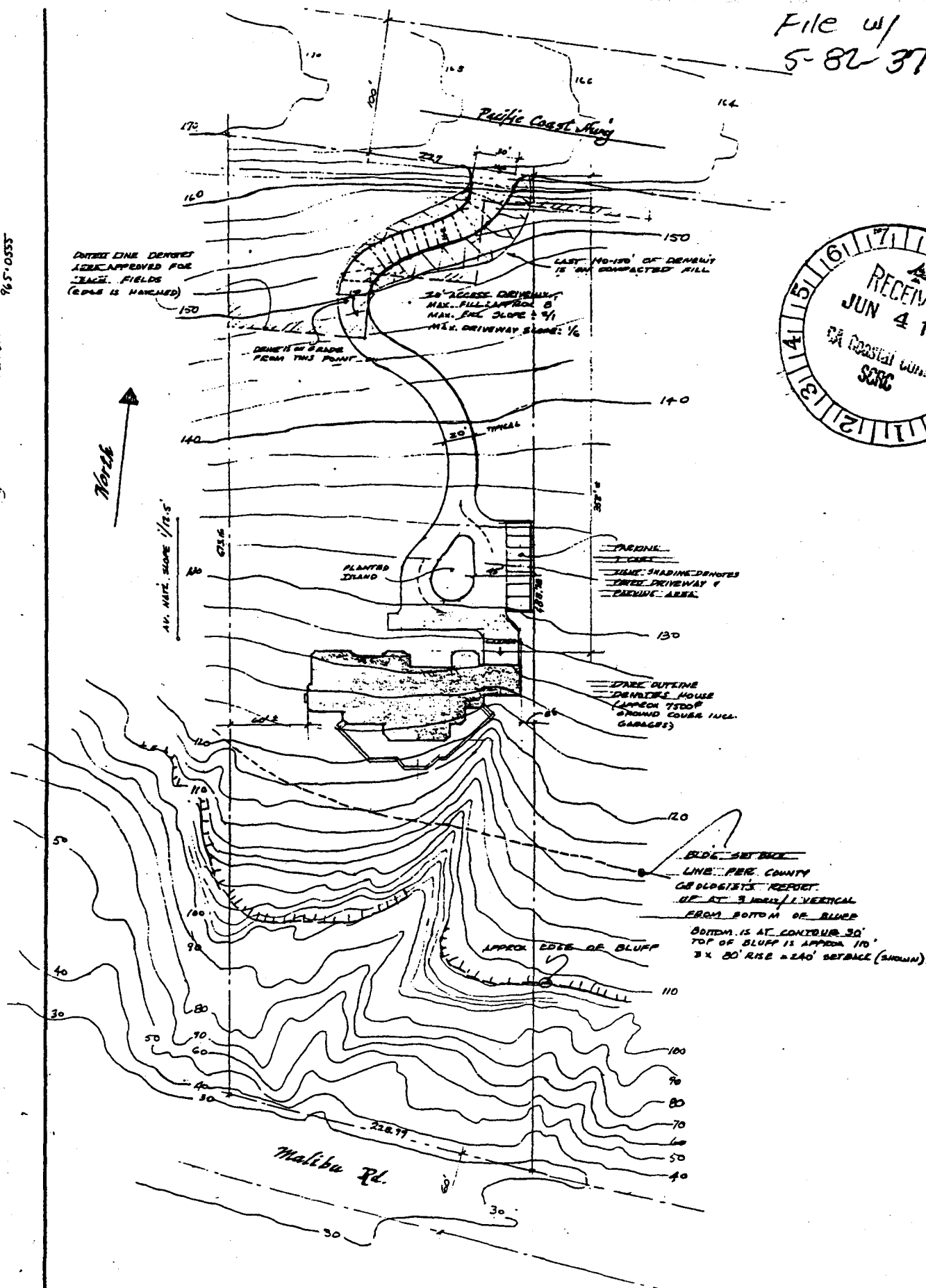
Robert M. Harvey, Jr.  
Deputy Building Official  
Building and Safety and Plan Check Services

RMH:iss  
04752/3013/062  
mal4\117



A circular black and white stamp. The outer ring contains numbers 1 through 12. The center text reads: "RECEIVED" at the top, "JUN 4 1982" in the middle, and "FBI Criminal Div." and "SERC" at the bottom.

872.4534



Plot plan & topography \_\_\_\_\_ 1"=50"  
APPROX. ADDRESS: 25,000 PACIFIC COAST HWY

Exhibit 11: Site Plan from  
4-97-031 CDP 5-82-370

# SECTION B - B

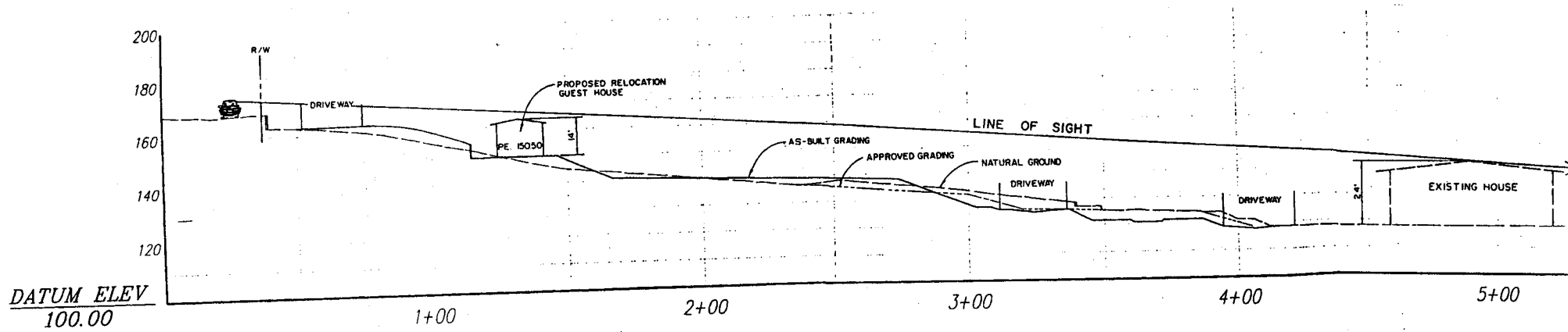


EXHIBIT NO.	4
APPLICATION NO.	
4-97-031-A1	
(Zucker)	
Viewshed Area	