

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
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**RECORD PACKET COPY**

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Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NO.:** 4-00-15

**APPLICANT:** Albert Sandy Gallin

**AGENTS:** J. Harnish; S. McCabe

**PROJECT LOCATION:** 21970 Pacific Coast Highway, Malibu, Los Angeles County

**PROJECT DESCRIPTION:** Construct a 1,448 sq. ft., 24.5 ft. high, two story addition and remodel existing beachfront 5,382 sq. ft., two story single family residence, and install new septic disposal system. No seawall required, no grading, and no seaward expansion of structural building envelope. Project includes applicant's offer to dedicate a lateral public access easement.

**LOCAL APPROVALS RECEIVED:** City of Malibu, Planning Approval in Concept, January 12, 2000; Environmental Health Department Approval (septic), 12/21/99.

**SUBSTANTIVE FILE DOCUMENTS:** Limited Geologic and Soils Engineering Investigation for Proposed Addition, prepared by GeoConcepts, Inc., dated November 8, 1999; Addendum Report No. 1 to previous report, dated December 21, 1999; Coastal Engineering Report, prepared by David C. Weiss, Structural Engineer & Associates, Inc., dated October 29, 1999; Letter of Review by California State Lands Commission dated February 9, 2000; Coastal Development Permits 4-96-031 (Parmer); 4-99-185 (Broad).

**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends **approval** of the proposed project with nine (9) special conditions addressing: Revised Plans; Maintenance of Public View Corridor; Sidewalk Construction; Sign Restriction; Geology; Assumption of Risk; No Future Shoreline Protective Device, Drainage Management, and Lateral Access.

The subject site is a beachfront lot on Carbon Beach, within the City of Malibu. The proposed project is a landward-side, 24.5 ft. high, two story addition to an existing two story single family residence with detached garage and guest unit (the guest unit will be absorbed into the addition, tied to the main residence, and eliminated as a separate structure), with no seaward expansion of the structural footprint, and is located within the applicable stringlines. The applicant proposes to replace the existing septic disposal system with a new bottomless sand filter system, which will not require construction of a shoreline protective device according to the applicant's consulting coastal engineer.

## **I. STAFF RECOMMENDATION:**

**MOTION:**        *I move that the Commission approve Coastal Development Permit 4-00-015 pursuant to the staff recommendation.*

The staff recommends that the Commission adopt the following resolution:

### **STAFF RECOMMENDATION OF APPROVAL:**

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

### **RESOLUTION TO APPROVE THE PERMIT:**

The Commission hereby approves a 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.

## **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. Revised Plans.**

Prior to the issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, revised project plans which show that a) the fence and wall along the property boundary bordering Pacific Coast Highway have been revised to incorporate visually permeable designs and materials within the existing sideyard setbacks, and that b) the project plans have been revised to incorporate a six foot wide sidewalk along the front of the parcel bordering Pacific Coast Highway. Fencing within the sideyard setbacks, which comprise the view corridor toward the ocean from Pacific Coast Highway, shall be limited to no more than six (6) feet in height. All beams, bars, or other non-visually permeable materials used in the construction of the proposed fence shall be no more than one (1) inch in thickness/width and shall be placed no less than twelve (12) inches apart. Alternative designs for the fence and sidewalk may be allowed only if the Executive Director determines that such alternatives are consistent with the intent of this condition and serve to minimize adverse effects upon public views from Pacific Coast Highway to the ocean.

#### **2. Maintenance of Public View Corridor.**

Prior to the issuance of the coastal development permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, which provides that:

a) the sideyard setbacks presently existing on the subject site, and totaling a minimum of ten linear feet, shall be maintained as a public view corridor from Pacific Coast Highway to the Pacific Ocean;

b) As consistent with Special Condition One, fencing within the public view corridor shall be limited to visually permeable designs and materials (e.g. wrought iron or non-tinted glass materials), except for the first two feet of such fencing as measured from the ground level. The first two feet so measured may be constructed of stone. Fencing shall be limited to no more than six (6) feet in total height. All bars, beams,

and other non-visually permeable materials used in the construction of fencing within the public view corridor shall be no more than one (1) inch in thickness/width and shall be placed no less than 12 inches in distance apart. Alternative designs may be allowed only if the Executive Director determines that such designs are consistent with the intent of this condition and serve to minimize adverse effects upon public views.

- c) No structures, vegetation, or obstacles, whether temporary or permanent, shall be placed within the setback areas/view corridors, with the exception of landscape plants less than two (2) feet high above ground level at maturity.

The document 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 Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

### **3. Sign Restriction.**

No signs shall be posted on the property subject to this permit which (a) explicitly or implicitly indicate that the portion of the beach on the subject site located seaward of the residence and deck to which the addition that is the subject of this permit shall be attached is private or b) contain similar messages that attempt to prohibit public use of this portion of the beach. In no instance shall signs be posted which read "Private Beach" or "Private Property." To effectuate the above prohibitions, the permittee/successor interests shall obtain the permission of the Executive Director prior to the placement of any sign on the subject parcel. The content and dimensions of any sign proposed for posting on the subject parcel shall be submitted to the Executive Director for review and approval.

### **4. Construction of Sidewalk.**

Prior to the issuance of the coastal development permit, the applicant shall provide submit plans for the review and approval of the Executive Director for construction of a six (6) foot wide sidewalk between Pacific Coast Highway and the existing single family residence proposed for addition and remodeling pursuant to Coastal Development Permit No. 4-00-15. The sidewalk shown on the proposed plan shall be constructed no later than sixty (60) days after the issuance of the certificate of occupancy. No encroachments, such as planters, vegetation, or other structures or obstacles, whether permanent or temporary, shall be constructed or placed within the sidewalk or allowed to adversely affect the public's ability to use the entire sidewalk area.

### **5. Geology.**

All recommendations contained in the Limited Geologic and Soils Engineering Investigation for Proposed Addition, prepared by GeoConcepts, Inc., dated November 8, 1999, and in the Addendum Report No. 1 to said report, dated December 21, 1999;

prepared by GeoConcepts, Inc., shall be incorporated into all final design and construction including recommendations concerning foundation, drainage, and septic system. Final project plans must be reviewed and approved by the consultants prior to commencement of development. Prior to issuance of the coastal development permit, the applicant shall submit evidence to the satisfaction of the Executive Director of the consultants' 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 construction, grading 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.

**6. Assumption of Risk.**

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

**7. No Future Shoreline Protective Device.**

- A. By acceptance of the permit, the applicant agrees, on behalf of itself and all successors and assignees, that no shoreline protective devices shall ever be constructed to protect the development approved pursuant to Coastal Development Permit 4-00-15 including, but not limited to, the construction of the residence as remodeled to incorporate the addition authorized by this coastal development permit, garage, uncovered parking area, stairways, decks, terraces, landscaping, septic system and any other future improvements in the event that the development

is threatened with damage or destruction from waves, erosion, storm conditions, landslides, or other natural hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.

- B. By acceptance of this permit, the applicant further agrees, on behalf of himself and all successors and assigns, that the landowner shall remove the development authorized by this permit, including but not limited to, the residence, garage, uncovered parking area, septic system, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.
- C. Prior to issuance Coastal Development Permit 4-00-215, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director which reflects the above restrictions on development. The deed restriction shall include a legal description of the applicant's entire parcel(s). 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.

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

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 structural and/or non-structural filtration system. The filter elements shall be designed to trap and remove sediment, particulates and other solids from runoff. The drainage system shall also be designed to convey and discharge runoff 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. Offer to Dedicate Lateral Public Access and Declaration of Restrictions**

In order to implement the applicant's proposal of an offer to dedicate an easement for lateral public access and passive recreational use along the shoreline as part of this project, the applicant agrees to complete the following prior to issuance of the permit: the landowner shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an easement for lateral public access and passive recreational use along the shoreline. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property. Such easement shall be located along the entire width of the property from the ambulatory mean high tide line landward to the dripline of the seawardmost deck on the subject property.

The document 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. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording. The recording document shall include legal descriptions and a map of both the applicant's entire parcel(s) and the easement area. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

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

The Commission hereby finds and declares:

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

The applicant proposes to construct a 1,448 sq. ft., 24.5 ft. high, two story addition to landward side of existing beachfront 5,382 sq. ft., two story single family residence, to undertake remodeling of the existing residence, and to install a new, bottomless sand filter septic disposal system. No seawall is proposed, and the applicant's consulting coastal engineer states that no shoreline protective device is required for the remodeled

residence or for the proposed new septic disposal system. No grading is proposed, and the project will not extend the seaward footprint of development on the subject site. The proposed addition does not extend seaward of the applicable stringlines.

The proposed project is situated on a beachfront parcel along Carbon Beach, between Pacific Coast Highway and the Pacific Ocean, within the City of Malibu. The area surrounding the site is a built-out residential portion of Malibu. In November, 1999 the Commission approved the demolition of two existing single family residences on the adjacent, downcoast lots and the construction of a new 4,690 sq. ft. single family residence with detached 510 sq. ft. garage and second story, 440 sq. ft. guest unit (CDP 4-99-185 (Broad)). In 1996 the Commission approved a 2,281 sq. ft. second story addition to an existing two story single family residence at 22012 Pacific Coast Highway, upcoast of the subject site (CDP 4-96-031). Thus, the proposed project is generally consistent with the scale of adjoining development along this portion of Carbon Beach.

The applicant has submitted evidence of review of the proposed project by the California State Lands Commission (CSLC) dated February 9, 2000, which indicates that the CSLC presently asserts no claim that the project is located on public tidelands. As noted previously, the proposed addition is located generally within the footprint of the existing structures, and will tie together a separate existing guest unit with the main structure, thereby eliminating the second unit.

## **B. Shoreline Processes and Seaward Encroachment**

Section 30235 of the Coastal Act states:

***Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.***

Section 30251 of the Coastal Act states that:

***The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by***



***the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.***

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

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

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

Past Commission review of shoreline residential projects in Malibu has shown that such development results in potential individual and cumulative adverse effects to coastal processes, shoreline sand supply, and public access. Shoreline development, if not properly designed to minimize such adverse effects, may result in 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. In order to accurately determine what adverse effects to coastal processes will result from the proposed project, it is necessary to analyze the proposed project in relation to characteristics of the project site shoreline, location of the development on the beach, and wave action.

#### **Site Shoreline Characteristics**

The proposed project site is located on Carbon Beach in the City of Malibu. Carbon Beach is characterized as a relatively narrow beach which has been developed with numerous single family residences located to the east and west of the subject site. The Malibu/Los Angeles County Coastline Reconnaissance Study by the United States Army Corp of Engineers dated April 1994 indicates that residential development on Carbon Beach is exposed to recurring storm damage because of the absence of a sufficiently wide protective beach. The applicant's coastal engineering consultant has indicated that Carbon Beach is an oscillating (equilibrium) beach which experiences seasonal erosion and recovery. The Wave Uprush Study by David C. Weiss dated October 29, 1999 further indicates that the width of the beach changes seasonally and that the subject beach experiences a seasonal foreshore slope movement (oscillation) by as much as 40 ft.

#### **Stringline**

As a means of controlling seaward encroachment of residential structures on a beach to ensure maximum public access and minimize wave hazards, as well as minimize adverse effects to coastal processes, shoreline sand supply, and public views, the

Commission has, in past permit actions, developed the "stringline" policy. As applied to beachfront development, the stringline limits the seaward extension of a structure to a line drawn between the nearest corners of adjacent structures and limits decks to a similar line drawn between the nearest corners of the adjacent decks. The Commission has applied this policy to numerous past permits involving infill on sandy beaches and has found it to be an effective policy tool in preventing further encroachments onto sandy beaches.

In the case of this project, the proposed development will be located landward of the appropriate stringline and will not result in the seaward encroachment of residential development on Carbon Beach. As such, the Commission finds that the proposed project will not result in the seaward encroachment of development on Carbon Beach and will serve to minimize adverse effects to coastal processes.

### Wave Uprush and Mean High Tide Line

The Wave Uprush Study prepared by David C. Weiss dated October 29, 1999 includes an analysis of several different measurements of the location of the ambulatory mean high tide line on the subject site between 1966 and 1999. The report represents that the most landward measurement of the ambulatory mean high tide line on the project site occurred in January 1966 when the mean high tide line on site was located approximately 120 ft. seaward of the Pacific Coast Highway right-of-way line. The seaward most extension of the existing single family residence, including the seawardmost deck, is approximately 90 feet seaward of the PCH right-of-way line. As noted, the proposed addition will be located entirely within the first floor footprint of the existing structure and will not extend further seaward. Therefore, based on the submitted information, the Commission notes that the proposed development will be located landward of the January 1966 mean high tide line and should not extend onto public tidelands under normal conditions.

Although the proposed structure will be located landward of the January 1966 mean high tide line, the Wave Uprush Study prepared by David C. Weiss dated October 29, 1999 indicates that the maximum wave uprush at the subject site will occur approximately 33 feet seaward of the Pacific Coast Highway right-of-way line. The proposed new septic disposal system will be located approximately 40 feet seaward of the right-of-way. The coastal engineer determined, nevertheless, that a shoreline protective device would not be needed to protect the septic disposal system because a) the plots of the design beach profile are conservative, b) the calculations assume that the wave advances from the point of breaking without loss of energy, which is not the case, c) the curves used in calculating the elevation of the maximum uprush are derived from laboratory tests and are based on slopes with smooth, impermeable surfaces, which is not the actual field condition, and d) in the consulting coastal engineer's best professional judgement, and observation of beach profiles during the severe storms of 1983, 1988, 1992 and 1998, the beach scour never reached the limits of the septic disposal system proposed location. In addition, the coastal engineer has determined that the lower elevation of the existing structure and proposed addition will be higher than the maximum design wave elevation. Thus, the coastal engineer concludes that

the existing development and the additional development proposed in this application will not require the construction of a shoreline protective device. The Wave Uprush Report dated October 29, 1999 states that:

***Based on the mathematical plots and my thirty-five years of experience with this type of construction, it is my recommendation that no protective wall is required for the proposed sewage disposal system.***

### **Future Shoreline Protective Devices**

In the case of the proposed project, the applicant does not propose the construction of any shoreline protective device to protect the proposed development. However, as discussed above, areas of Carbon Beach have experienced extreme erosion and scour during severe storm events, such as El Nino storms. It is not possible to completely predict what conditions the proposed residence may be subject to in the future. The Commission notes that the construction of a shoreline protective device on the proposed project site would result in potential adverse effects to coastal processes, shoreline sand supply, and public access.

Interference by shoreline protective devices can result in a number of adverse effects on the dynamic shoreline system and the public's beach ownership interests. First, changes in the shoreline profile, particularly changes in the slope of the profile which results from a reduced beach berm width, alter the usable area under public ownership. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines. This reduces the actual area in which the public can pass on their own property. The second effect on access is through a progressive loss of sand as shore material is not available to nourish the bar. The lack of an effective bar can allow such high wave energy on the shoreline that materials may be lost far offshore where it is no longer available to nourish the beach. This effects public access again through a loss of area between the mean high water line and the actual water. Third, shoreline protective devices such as revetments and bulkheads cumulatively affect shoreline sand supply and public access by causing accelerated and increased erosion on adjacent public beaches. This effect may not become clear until such devices are constructed individually along a shoreline and they reach a public beach. As set forth in earlier discussion, Carbon Beach is a narrow oscillating beach. The applicant's consultant has also indicated that seasonal foreshore slope movement on the subject site can be as much as 40 feet. The Commission notes that if a seasonal eroded beach condition occurs with greater frequency due to the placement of a shoreline protective device on the subject site, then the subject beach would also accrete at a slower rate. The Commission also notes that many studies performed on both oscillating and eroding beaches have concluded that loss of beach occurs on both types of beaches where a shoreline protective device exists. Fourth, if not sited landward in a location that ensures that the seawall is only acted upon during severe storm events, beach scour during the winter season will be accelerated because there is less beach area to dissipate the wave's energy. Finally, revetments, bulkheads, and seawalls interfere directly with public access by their occupation of beach area that will

not only be unavailable during high tide and severe storm events but also potentially throughout the winter season.

The adverse effects of shoreline protective devices are greater the more frequently that they are subject to wave action. In order to minimize adverse effects from shoreline protective devices, when such devices are found to be necessary to protect existing development, the Commission has required applicants to locate such structures as far landward as is feasible. In addition, since shoreline protective devices are most often required to protect existing septic systems, the Commission has also required applicants to locate septic systems as far landward as feasible [4-97-191 (Kim)]. The Commission has also required the utilization of alternative technologies for sewage disposal such as bottomless sand filter systems because they are able to be designed to occupy less area on the beach and, therefore, be located further landward than a standard system. In the case of the proposed project, the proposed septic system will be of a bottomless sand filter design and will be located as landward as feasible. As noted previously, the applicant's coastal engineering consultant has confirmed that no shoreline protective device is required to protect either the proposed addition to the existing single family residence (which will be constructed entirely on an engineered friction pile foundation able to withstand wave action, and with a lower finished elevation above the maximum breaking wave elevation) or to protect the septic system (which will be located a minimum of approximately 7 ft. landward of the maximum wave uprush limit deemed likely by the consulting coastal engineer).

In addition, the Commission notes that Section 30235 of the Coastal Act allows for the construction of a shoreline protective device when necessary to protect existing development or to protect a coastal dependent use. The Commission further notes that the approval of a shoreline protective device to protect new residential development, such as the proposed project, would not be required by Section 30235 of the Coastal Act. The construction of a shoreline protective device to protect a new residential development would conflict with Section 30253 of the Coastal Act which states that new development shall neither create nor contribute to erosion or geologic instability of the project site or surrounding area. In addition, the construction of a shoreline protective device to protect new residential development would also conflict with Section 30251 of the Coastal Act which states that permitted development shall minimize the alteration of natural land forms, including sandy beach areas which would be subject to increased erosion from such a device. To ensure that the proposed project is consistent with Sections 30251 and 30253 of the Coastal Act, and to ensure that the proposed project does not result in future adverse effects to coastal processes, Special Condition Seven (7) requires the applicant to record a deed restriction that would prohibit the applicant, or future land owner, from constructing a shoreline protective device for the purpose of protecting any of the development proposed as part of this application including the residence, septic system, driveway, etc.

### Sea Level Rise

Sea level has been rising slightly for many years. In the Santa Monica Bay area, the historic rate of sea level rise has been 1.8 mm/yr. or about 7 inches per century<sup>1</sup>. Sea level rise is expected to increase by 8 to 12 inches in the 21<sup>st</sup> century.<sup>2</sup> There is a growing body of evidence that there has been a slight increase in global temperature and that an acceleration in the rate of sea level can be expected to accompany this increase in temperature. Mean water level affects shoreline erosion several ways and an increase in the average sea level will exacerbate all these conditions.

On the California coast the effect of a rise in sea level will be the landward migration of the intersection of the ocean with the shore. On a relatively flat beach, with a slope of 40:1, every inch of sea level rise will result in a 40-inch landward movement of the ocean/beach interface. For fixed structures on the shoreline, such as a single family residence, pilings, or seawalls, an increase in sea level will increase the inundation of the structure. More of the structure will be inundated or underwater than are inundated now and the portions of the structure that are now underwater part of the time will be underwater more frequently.

Accompanying this rise in sea level will be increased wave heights and wave energy. Along much of the California coast, the bottom depth controls the nearshore wave heights, with bigger waves occurring in deeper water. Since wave energy increases with the square of the wave height, a small increase in wave height can cause a significant increase in wave energy and wave damage. So, combined with the physical increase in water elevation, a small rise in sea level can expose previously protected back shore development to both inundation and wave attack, and those areas that are already exposed to wave attack will be exposed to more frequent wave attack with higher wave forces. Structures that are adequate for current storm conditions may not provide as much protection in the future.

A second concern with global warming and sea level rise is that the climatic changes could cause changes to the storm patterns and wave climate for the entire coast. As water elevations change, the transformation of waves from deep water will be altered and points of energy convergence and divergence could shift. The new locations of energy convergence would become the new erosion "hot spots" while the divergence points may experience accretion or stability. It is highly likely that portions of the coast will experience more frequent storms and the historic "100-year storm" may occur every 10 to 25 years. For most of California the 1982/83 El Niño event has been considered the "100-year storm." Certain areas may be exposed to storms comparable to the 1982/83 El Niño storms every few decades. In an attempt to ensure stability under such conditions, the Commission has required that all new shoreline structures be designed to withstand either a 100-year storm event, or a storm event comparable to the 1982/83 El Niño. Also, since it is possible that storm conditions may worsen in the future, the Commission has required that structures be inspected and maintained on a

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<sup>1</sup> Lyles, S.D., L.E. Hickman and H.A. Debaugh (1988) Sea Level Variations for the United States 1855 – 1986. Rockville, MD: National Ocean Service.

<sup>2</sup> Field et. al., Union of Concerned Scientists and the Ecological Society of America (November 1999) Confronting Climate Change in California, [www.ucsusa.org](http://www.ucsusa.org).

regular basis. The coast can be altered significantly during a major storm and coastal structures need to be inspected on a regular basis to make sure they continue to function as designed. If storm conditions worsen in future years, the structures may require changes or modifications to remain effective. In some rare situations, storm conditions may change so dramatically that existing protective structures may no longer be able to provide any significant protection, even with routine maintenance.

Therefore, if new development along the shoreline is to be found consistent with the Coastal Act, the most landward location must be explored to minimize wave attack with higher wave forces as the level of the sea rises over time. Shoreline protective devices must also be located as far landward as feasible to protect public access along the beach as discussed further below. In the case of this project, the proposed development will be located as landward as feasible and will not require the construction of a shoreline protection device.

### Conclusion

The proposed residence will be located landward of the August 1951 mean high tide line and landward of the landwardmost mean high tide line referenced by the applicant and designed to eliminate the necessity for a shoreline protective device. The septic system for the proposed residence will be located as landward as feasible, will not be subject to wave uprush, or require the construction of a shoreline protective device. Further, the proposed development will be located landward of the appropriate stringline and will not result in the seaward encroachment of residential development on Carbon Beach.

In addition, no shoreline protective device is proposed as part of the development. The applicant's coastal engineering consultant has confirmed that no shoreline protective device is required to protect either the proposed addition to the existing residence or the proposed new septic system. However, as previously discussed, areas of Carbon Beach have experienced extreme erosion and scour during severe storm events, such as El Nino storms. It is not possible to completely predict what conditions the proposed residence may be subject to in the future. As discussed in detail above, the construction of a shoreline protective device to protect new residential development would result in potential adverse effects to coastal processes, shoreline sand supply, and public access and would not be consistent with Sections 30235, 30251, or 30253 of the Coastal Act. Therefore, to ensure that the proposed project is consistent with Sections 30235, 30251, and 30253 of the Coastal Act, and to ensure that the proposed project does not result in future adverse effects to coastal processes, as noted above Special Condition Seven (7) requires the applicant to record a deed restriction that would prohibit the applicant, or future land owner, from constructing a shoreline protective device for the purpose of protecting any of the development proposed as part of this application including the residence, septic system, driveway, etc.

Therefore for all of the reasons set forth above, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Sections 30235, 30251, and 30253.

### **C. Hazards and Geologic Stability**

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

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.***
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.***

The proposed development would be located in the Santa Monica Mountains, an area that is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Even beachfront properties have been subject to wildfires. Finally, beachfront sites are subject to flooding and erosion from storm waves.

The applicant has submitted a Limited Geologic and Soils Engineering Investigation for Proposed Addition, prepared by GeoConcepts, Inc., dated November 8, 1999; and an additional report, Addendum Report No. 1 to previous report, dated December 21, 1999. The consultants have determined that the proposed development will serve to ensure geologic and structural stability on the subject site. The concludes that:

***It is the finding of this corporation, based upon the subsurface data, that the proposed project will be safe from landslide, settlement, or slippage and will not adversely affect adjacent property, provided this corporation's recommendations and those of the Los Angeles County Code are followed and maintained.***

The referenced reports include a number of geotechnical and engineering recommendations to ensure the stability and geotechnical safety of the site. To ensure that the recommendations of the geotechnical consultants have been incorporated into all proposed development, Special Condition Five (5) requires the applicant to submit project plans certified by both the consulting geotechnical and geologic engineer as conforming to all recommendations to ensure structural and site stability. The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission. Any substantial changes to the proposed development approved by the Commission which may be recommended by the consultants shall require an amendment to the permit or a new coastal permit.

As discussed above, the Commission notes that the applicant's engineering consultants have indicated that the proposed development will serve to ensure relative geologic and

structural stability on the subject site. However, the Commission also notes that the referenced addendum explains that although no landslides are located on the project site itself, a large landslide complex is located on the steep bluff slopes on the opposite (north) side of Pacific Coast Highway. The geotechnical reports prepared for the adjacent property (CDP 4-99-185 (Broad), evaluating the same slide mass, further indicate that although the potential for the properties south of the landslide to be affected by debris flows from an offsite landslide is considered to be negligible; the potential does exist that the southerly properties would be adversely impacted by mudslide debris if the large landslide located on the opposite (north) side of the highway is activated.

Further, the proposed development is located on a beachfront lot in the City of Malibu and will be subject to some inherent potential hazards. The Commission notes that the Malibu coast has historically been subject to substantial damage as the result of storm and flood occurrences--most recently, and perhaps most dramatically, during the 1998 severe El Nino winter storm season. The subject site is clearly susceptible to flooding and/or wave damage from storm waves, storm surges and high tides. Past occurrences have caused property damage resulting in public costs through emergency responses and low-interest, publicly-subsidized reconstruction loans in the millions of dollars in Malibu area alone from last year's storms.

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

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

Thus, ample evidence exists that all beachfront development in the Malibu area is subject to an unusually high degree of risk due to storm waves and surges, high surf conditions, erosion, and flooding. The proposed development will continue to be subject to the high degree of risk posed by the hazards of oceanfront development in the future. The Coastal Act recognizes that development, even as designed and constructed to incorporate all recommendations of the consulting coastal engineer, may still involve the taking of some risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use the subject property.

The Commission finds that due to the possibility of liquefaction, storm waves, surges, erosion, landslide, flooding, and wildfire, the applicant shall assume these risks as



conditions of approval. Because this risk of harm cannot be completely eliminated, the Commission requires the applicant to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development, and to indemnify the Commission and its employees against any claim of liability that may arise as the result of Commission approval of the applicant's proposal. The applicant's assumption of risk, as required by Special Condition Six (6), when executed and recorded on the property deed, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site, and that may adversely affect the stability or safety of the proposed development.

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

#### **D. Public Access**

The Coastal Act mandates the provision of maximum public access and recreational opportunities along the coast. The Coastal Act contains several policies which address the issues of public access and recreation along the coast.

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.***

Section 30220 of the Coastal Act states that:

***Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such use.***

Coastal Act sections 30210 and 30211 mandate that maximum public access and recreational opportunities be provided and that development not interfere with the public's right to access the coast. Likewise, section 30212 of the Coastal Act requires that adequate public access to the sea be provided to allow use of dry sand and rocky coastal beaches.

All projects requiring a coastal development permit must be reviewed for compliance with the public access and recreation provisions of Chapter 3 of the Coastal Act. Based on the access, recreation and development sections of the Coastal Act, the Commission has required public access to and along the shoreline in new development projects and has required design changes in other projects to reduce interference with access to and along the shoreline.

The major access issue in this permit application is the occupation of sandy beach area by a structure and potential effects on shoreline sand supply and public access in contradiction of Coastal Act policies 30211 and 30221. As stated previously, no shoreline protective device is required, or proposed, to protect the proposed development. The proposed project is located on Carbon Beach, less than 1 mile east (downcoast) of the nearest open public vertical coastal accessway and only 340 feet east of a vertical accessway which has been offered for dedication by the landowner for public use. Further, there are several existing and potential lateral public access easements across several lots near the project site.

The State owns tidelands, which are those lands located seaward the mean high tide line as it exists from time to time. By virtue of its admission into the Union, California became the owner of all tidelands and all lands lying beneath inland navigable waters. These lands are held in the State's sovereign capacity and are subject to the common law public trust. The public trust doctrine restricts uses of sovereign lands to public trust purposes, such as navigation, fisheries, commerce, public access, water oriented recreation, open space, and environmental protection. The public trust doctrine also severely limits the ability of the State to alienate these sovereign lands into private ownership and use free of the public trust. Consequently, the Commission must avoid decisions that improperly compromise public ownership and use of sovereign tidelands.

Where development is proposed that may impair public use and ownership of tidelands, the Commission must consider where the development will be located in relation to tidelands. The legal boundary between public tidelands and private uplands is relation to the ordinary high water mark. In California, where the shoreline has not been affected by fill or artificial accretion, the ordinary high water mark of tidelands is

determined by locating the existing "mean high tide line." The mean high tide line is the intersection of the elevation of mean high tide with the shore profile. Where the shore is composed of sandy beach whose profile changes as a result of wave action, the location at which the elevation of mean high tide line intersects the shore is subject to change. The result is that the mean high tide line (and therefore the boundary) is an "ambulatory" or moving line that moves seaward through the process known as accretion and landward through the process known as erosion.

Consequently, the position of the mean high tide line fluctuates seasonally as high wave energy (usually but not necessarily) in the winter months causes the mean high tide line to move landward through erosion, and as milder wave conditions (generally associated with the summer) cause the mean high tide line to move seaward through accretion. In addition to ordinary seasonal changes, the location of the mean high tide line is affected by long term changes such as sea level rise and diminution of sand supply.

The Commission must consider a project's direct and indirect effect on public tidelands. To protect public tidelands when beachfront development is proposed, the Commission must consider (1) whether the development or some portion of it will encroach on public tidelands (i.e., will the development be located below the mean high tide line as it may exist at some point throughout the year) and (2) if not located on tidelands, whether the development will indirectly affect tidelands by causing physical impacts to tidelands. In the case of the proposed project, the State Lands Commission presently does not assert a claim that the project intrudes onto sovereign lands.

Even structures located above the mean high tide line, however, may have an adverse effect on shoreline processes as wave energy reflected by those structures contributes to erosion and steepening of the shore profile, and ultimately to the extent and availability of tidelands. That is why the Commission also must consider whether a project will have indirect effects on public ownership and public use of shorelands. The applicant seeks Commission approval of a remodeled beachfront residence, including an approximately 1,400 sq. ft. two story addition. The residence (including the addition) are supported on a friction pile foundation. As previously discussed in detail, the proposed project will not include the construction of any shoreline protection device, nor will the proposed addition within the footprint of the existing single family residence occupy additional sandy beach area. Thus, no direct, adverse effects to public access along the sandy beach will result from the proposed construction.

Although no shoreline protective device is proposed as part of this project, the Commission notes that interference by a shoreline protective device has a number of adverse effects on the dynamic shoreline system and the public's beach ownership interests. First, changes in the shoreline profile, particularly changes in the slope of the profile, which results from reduced beach width, alter the usable area under public ownership. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines. This reduces the actual area of public property available for public use. The second effect on access is through a progressive loss of

sand as shore material is not available to nourish the bar. The lack of an effective bar can allow such high wave energy on the shoreline that materials may be lost far offshore where it is no longer available to nourish the beach. The effect of this on the public is again a loss of area between the mean high water line and the actual water. Third, shoreline protective devices such as revetments and bulkheads cumulatively affect public access by causing accelerated and increased erosion on adjacent public beaches. This effect may not become clear until such devices are constructed individually along a shoreline and they eventually affect the profile of a public beach. Fourth, if not sited landward in a location that insures that the revetment is only acted upon during severe storm events, beach scour during the winter season will be accelerated because there is less beach area to dissipate the wave' energy. Finally, revetments and bulkheads interfere directly with public access by their occupation of beach area that will not only be unavailable during high tide and severe storm events but also potentially throughout the winter season.

As previously discussed in detail, the applicant's coastal engineering consultant has indicated that no shoreline protective device is required to protect either the proposed addition to the existing residence, or to protect the proposed new septic system. Therefore, to ensure that the proposed project does not result in future adverse effects to public access, and in reliance upon the professional representations of the applicant's consulting coastal engineer, David C. Weiss, Special Condition Seven (7) requires the applicant to record a deed restriction that would prohibit the applicant, or future land owner, from constructing a shoreline protective device for the purpose of protecting any of the development proposed as part of this application including the existing residence enlarged and remodeled in accordance with this permit proposal, the new septic system, sidewalk, driveway, garage, etc.

In addition, the Commission must also consider whether a project affects any public right to use shorelands that exist independently of the public's ownership of tidelands. In addition to a new development's effects on tidelands and on public rights protected by the common law public trust doctrine, the Commission must consider whether the project will affect a public right to use beachfront property, independent of who owns the underlying land on which the public use takes place. Generally, there are three additional types of public uses identified as: (1) the public's recreational rights in navigable waters guaranteed to the public under the California Constitution and state common law, (2) any rights that the public might have acquired under the doctrine of implied dedication based on continuous public use over a five-year period; and (3) any additional rights that the public might have acquired through public purchase or offers to dedicate.

These use rights are implicated as the public walks the wet or dry sandy beach below the mean high tide plane. This area of use, in turn moves across the face of the beach as the beach changes in depth on a daily basis. The free movement of sand on the beach is an integral part of this process, and it is here that the effects of structures are of concern.

The beaches of Malibu are extensively used by visitors of both local and regional origin and most planning studies indicate that attendance of recreational sites will continue to increase significantly over the coming years. The public has a right to use the shoreline under the public trust doctrine, the California Constitution and California common law. The Commission must protect those public rights by assuring that any proposed shoreline development does not interfere with or will only minimally interfere with those rights. In the case of the proposed project, the applicant has offered to dedicate a public lateral access easement, thereby mitigating any adverse affect upon public access that might be found to result from the proposed project and terminating the need for the development of more extensive analyses, including shoreline surveys, that might otherwise be required to evaluate the project's potential impacts. Special Condition Nine (9) implements the applicant's offer to dedicate the lateral public access easement.

The Commission notes that chronic unauthorized postings of signs illegally attempting to limit, or erroneously noticing restrictions on, public access have occurred on beachfront private properties in the Malibu area. These signs have an adverse effect on the ability of the public to access public trust lands. The Commission has determined, therefore, that to ensure that applicants clearly understand that such postings are not permitted without a separate coastal development permit, it is necessary to impose Special Condition Three (3) to ensure that similar signs are not posted on or near the proposed project site. The Commission finds that if implemented, Special Condition Three (3) will protect the public's right of access to the sandy beach below the MHTL.

The Commission further notes that the increased size of the proposed project poses the potential to increase parking demand of residents and guests along Pacific Coast Highway. Parking along the spatially constrained highway edge forces pedestrians to "slalom" between parked cars and to enter the margins of the road corridor, often at a considerable risk to public safety due to the high speed and volume of traffic on Pacific Coast Highway. To ensure that pedestrians may safely traverse the beach side of Pacific Coast Highway and thereby safely access the opened and offered easements for public vertical accessways, Special Conditions One (Revised Plans) and Four (Construction of Sidewalk) require the applicant to construct a 6 ft. wide public sidewalk between Pacific Coast Highway and the residence. The Commission notes that members of the public must utilize the shoulder areas of Pacific Coast Highway in order to reach many public vertical beach accessways. As noted, in past permit actions, the Commission has found that new residential development, fences, walls, and landscaping, in addition to use of the road shoulder for residential parking, results in potential adverse effects to public beach access when such development is located along the shoulder of Pacific Coast Highway in a manner which precludes a pedestrian's ability to utilize the road shoulder where no sidewalk is located. Implementation of Special Conditions One and Four will result in the construction of a public sidewalk, and the mitigation of any adverse effects upon public access that may result from the intensified development of the subject site

For all of these reasons, therefore, the Commission finds that as conditioned, the proposed project is consistent with Sections 30210, 30211, 30212, and 30220 of the Coastal Act.

### **E. Visual Resources**

Section 30251 of the Coastal Act states that:

***The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinated to the character of its setting.***

Coastal Act Section 30251 requires that visual qualities of coastal areas shall be considered and protected, landform alteration shall be minimized, and where feasible, degraded areas shall be enhanced and restored. In addition, to assist in the determination of whether a project is consistent with Section 30251 of the Coastal Act, the Commission has, in past Malibu coastal development permit actions, looked to the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) for guidance. The LUP has been found to be consistent with the Coastal Act and provides specific standards for development along the Malibu coast and within the Santa Monica Mountains. For instance, in concert with Section 30251 of the Coastal Act, Policy 138 of the LUP provides that "buildings located on the ocean side of and fronting Pacific Coast Highway shall occupy no more than 80% of the lineal frontage of the site." Policy 141 of the LUP provides that "fencing or walls to be erected on the property shall be designed and constructed to allow for view retention from scenic roadways."

The project site is located on Carbon Beach, a built-out area of Malibu primarily consisting of residential development. The Commission notes that the visual quality of the Carbon Beach area in relation to public views from Pacific Coast Highway have been significantly degraded from past residential development. Pacific Coast Highway is a major coastal access route, not only utilized by local residents, but also heavily used by tourists and visitors to access several public beaches located in the surrounding area which are only accessible from Pacific Coast Highway. Public views of the beach and water from Pacific Coast Highway have been substantially reduced, or completely blocked, in many areas by the construction of single family residences, privacy walls, fencing, landscaping, and other residential related development between Pacific Coast Highway and the ocean. Specifically, the Commission notes that when residential structures are located immediately adjacent to each other, or when large individual residential structures are constructed across several contiguous lots, such development creates a wall-like effect when viewed from Pacific Coast Highway. This

type of development limits the public's ability to view the coast or ocean to only those few parcels which have not yet been developed. The Commission notes that the construction of large individual residential structures, or large residential projects including one or more structures, extending across multiple beachfront parcels, similar to the proposed project, is becoming increasingly common in the Malibu area and that several applications for similar development have recently been submitted. As such, the Commission notes that such development, when viewed on a regional basis, will result in potential cumulative adverse effects to public views and to the visual quality of coastal areas.

In this case, the proposed project will involve the construction of a two story addition to an existing single family residence, tying together the presently separate guest unit and residential areas into a single continuum, within the existing building footprint. The subject lot is approximately sixty (60) feet wide, thus the necessary view corridor would be twelve (12) feet, or 20 percent of the linear lot frontage. The existing pre-Coastal Act residence encroaches somewhat into the setback areas that would otherwise be applicable, reducing the available view corridor to approximately ten (10) feet. The proposed addition, however, would not intrude further into the sideyard setbacks/view corridor.

As stated above, Coastal Act Section 30251 requires that new development be sited and designed to protect views to and along the ocean and scenic coastal areas and, where feasible, to restore and enhance visual quality in visually degraded areas. The Commission notes that the construction of new residential development which extends over multiple lots also provides for the opportunity to enhance public views, where such views have been significantly degraded by past development, through the creation and maintenance of public view corridors, consistent with Section 30251 of the Coastal Act. In addition, Policy 138 of the LUP, as consistent with Section 30251 of the Coastal Act, provides that new development on a beachfront property located on the seaward side of Pacific Coast Highway, such as the subject site, should reserve 20% of the linear frontage of the lot as visually open area to provide and maintain adequate public coastal views. Further, in past permit actions, in order to protect public views of the ocean from public viewing areas and to enhance visual quality along the coast, the Commission has required that large residential projects, such as the proposed project, be designed to provide for a public view corridor of no less than 20% of the width of the lineal frontage of the subject site to provide for views of the beach and ocean from Pacific Coast Highway [Saban (4-99-146), Broad (4-99-185)].

In the case of the proposed project, the Commission notes that the subject site is 60 feet in width and that a public view corridor of no less than 20% of the width of the site's lineal frontage would be 12 feet in width. As noted, the first floor footprint of the existing single family residence occupies a small portion of the view corridor that would otherwise be reserved if the site were under consideration for construction of a new residence. Therefore, the total sideyard setbacks, and by extension, the available view corridor is approximately ten linear feet of lot line frontage along Pacific Coast Highway.

In addition, the Commission also notes that the proposed project includes the construction of a six ft. high fence with over three feet of stonework at the base of the fence and wrought ironwork above the stone portion. Although the wrought iron portion of the gate and fence would be visually permeable the overall design and dimensions of the wall/gate would diminish the public's ability to utilize the public view corridor to view the ocean and beach and would not be consistent with either Policy 138 of the LUP or with past Commission action regarding the provision of a public view corridor for new development on beachfront lots. The Commission finds that if the lower, stone portion of the gate/fence design is restricted to no more than the first two feet above ground level, the design will not affect the public coastal views available either to pedestrians or vehicle occupants. Therefore Special Condition One (1) requires the applicant to submit, for the review and approval of the Executive Director, revised project plans which show that, as consistent with Special Condition Two (2) the gate/fence designs and materials have been revised to incorporate the specified requirements.

Further, to ensure that public coastal views will be protected, Special Condition Two (2) requires the applicant to execute and record a deed restriction which provides that no less than the existing approximately ten linear feet of Pacific Coast Highway lot frontage shall be maintained a public view corridor. Development within the public view corridor shall be limited to fencing of visually permeable designs and materials (e.g. wrought iron or non-tinted glass materials), except for the first two feet of fence above ground level, which may, as noted, be constructed of stone. Vegetation and landscaping within the public view corridor, as consistent with Special Condition Two (2), shall be limited to low-lying vegetation of no more than 2 ft. in height.

Therefore, the Commission finds that the proposed project, as conditioned above, is consistent with Section 30251 of the Coastal Act.

#### **F. Septic System and Wastewater Runoff**

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.***



As described above, the applicant proposes to install a new septic system which incorporates a 1,500 gallon septic tank and a bottomless sand filter system that will be located no further than 40 ft. seaward of the Pacific Coast Highway right-of-way line. In order to reduce the size of the required leachfield for the proposed septic system and to allow the system to be located as far landward as possible, the applicant is proposing to install a bottomless sand filter septic system which is designed to produce treated effluent with reduced levels of organics, biochemical oxygen demand (BOD) and total suspended solids (TSS) while occupying only 50 percent of the area required for a conventional septic system and leachfield. As proposed, the septic system will be located as landward as possible.

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.

The substantial residential addition proposed by the applicant will result in an increase in the amount of impervious surface associated with the subject site. Further, the continued and expanded use of the site for intensified residential purposes will introduce potential sources of pollutants such as petroleum, household cleaners and pesticides, as well as other accumulated pollutants from rooftops and other impervious surfaces.

The placement of impervious surfaces allows for less infiltration of rainwater into the soil, thereby increasing the rate and volume of runoff, causing increased erosion and sedimentation. Additionally, the infiltration of precipitation into the soil allows for the natural filtration of pollutants. When infiltration is prevented by impervious surfaces, pollutant concentrations in runoff are increased, and flushed more rapidly and intensively into coastal streams and to the ocean.

Such cumulative impacts can be minimized through the implementation of drainage and polluted runoff control measures. In addition to ensuring that runoff is conveyed from the site in a non-erosive manner, such measures should also include opportunities for runoff to infiltrate into the ground. Methods such as vegetated filter strips, gravel filters, and other media filter devices allow for infiltration.

As described above, the project is conditioned through Special Condition Eight (8) to implement and maintain a drainage plan designed to ensure that runoff rates and volumes after development do not exceed pre-development levels and that drainage is conveyed through a filtration system before final discharge into beach sands. This drainage plan is required to ensure that adverse impacts to coastal water quality do not result from the proposed project. Special Condition Eight (8) requires the applicant to incorporate filter elements that intercept and infiltrate or treat the runoff from the site. Such a plan will allow for the infiltration and 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. 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.

Finally, as noted above, the proposed development includes the installation of an on-site, bottomless sand filter septic system to serve the remodeled and enlarged residence. The City of Malibu Environmental Health Department has given in-concept approval of the proposed septic system, determining that the system meets the requirements of the plumbing code. The Commission has found that conformance with the provisions of the plumbing code is protective of resources and 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 to incorporate and maintain a drainage and polluted runoff control plan, is consistent with Section 30231 of the Coastal Act.

### **G. Local Coastal Program**

Section 30604 of the Coastal Act states that:

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

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

### **H. CEQA**

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

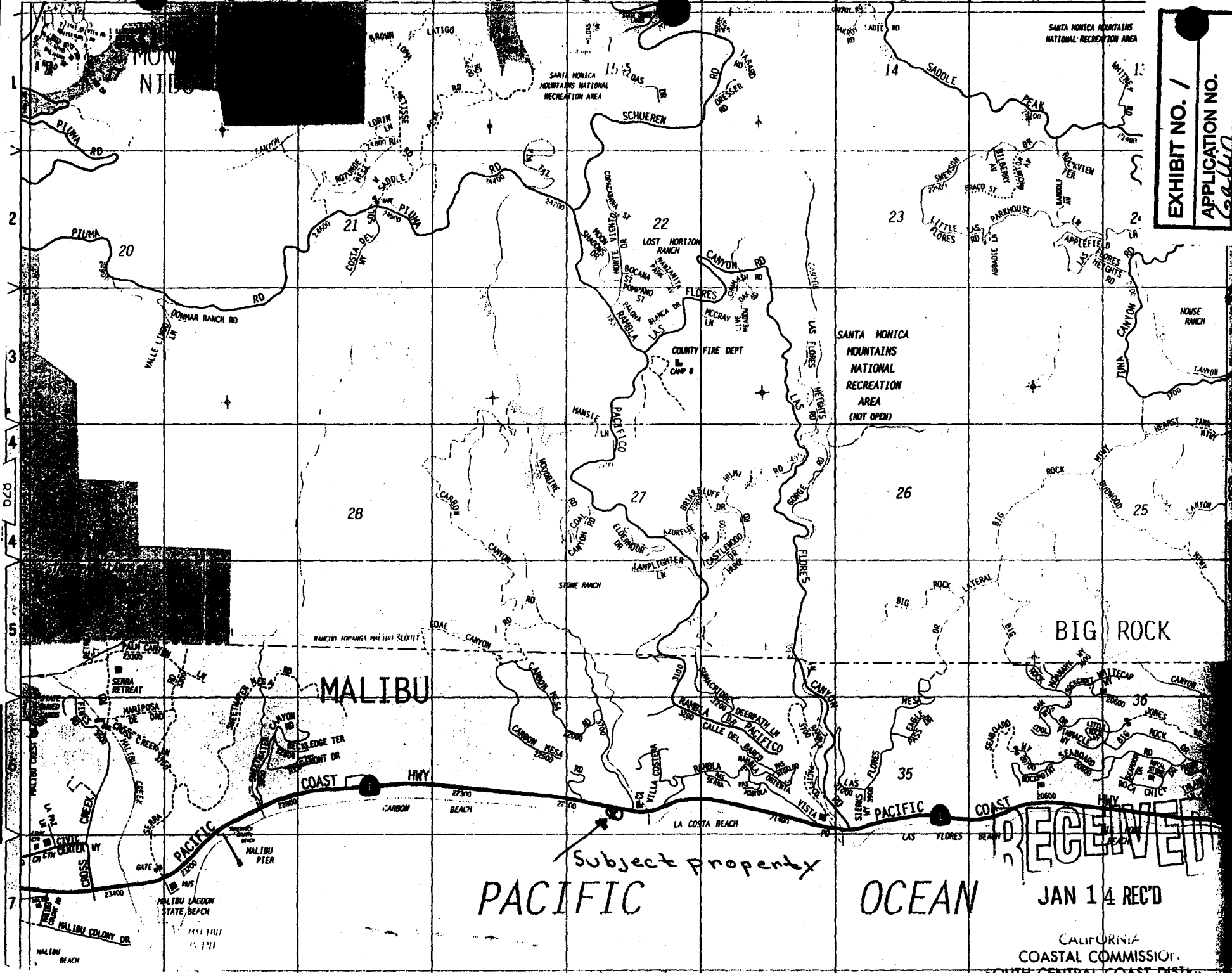
Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

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

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EXHIBIT NO. 1
APPLICATION NO. <i>Gallin</i>
4-00-15
<i>Area Map</i>



*Subject property*

PACIFIC

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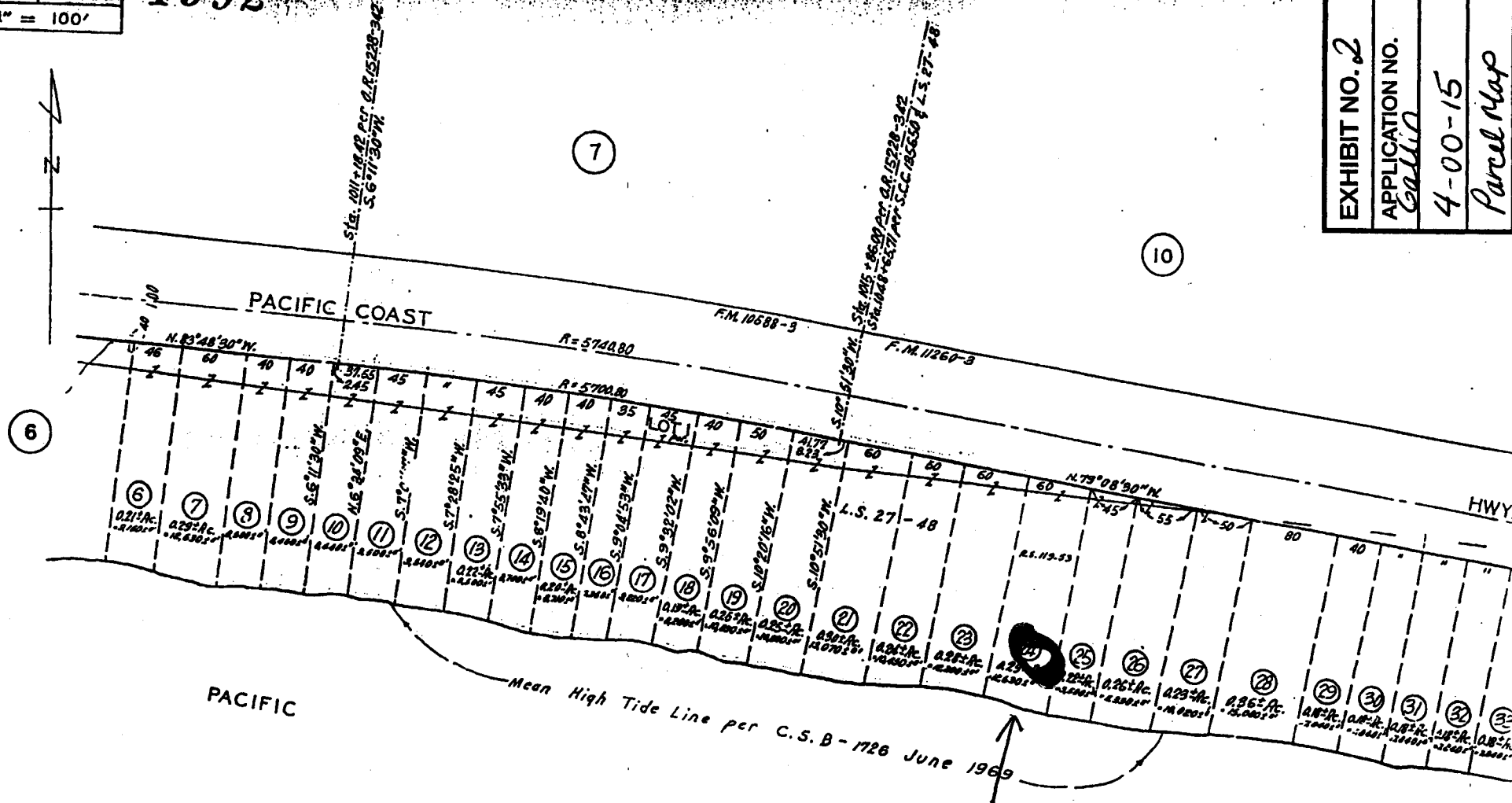
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 COASTAL COMMISSION  
 SOUTH CENTRAL COAST DISTRICT

4451 5  
SCALE 1" = 100'

1992

EXHIBIT NO. 2  
APPLICATION NO.  
Caldin  
4-00-15  
Parcel Map



PACIFIC

Mean High Tide Line per C.S.B-1726 June 1969

site

OCEAN

CODE  
10865

LAND OF MATTHEW KELLER IN THE RANCHO  
TOPANGA MALIBU SEQUIT R. F. 534

RECEIVED

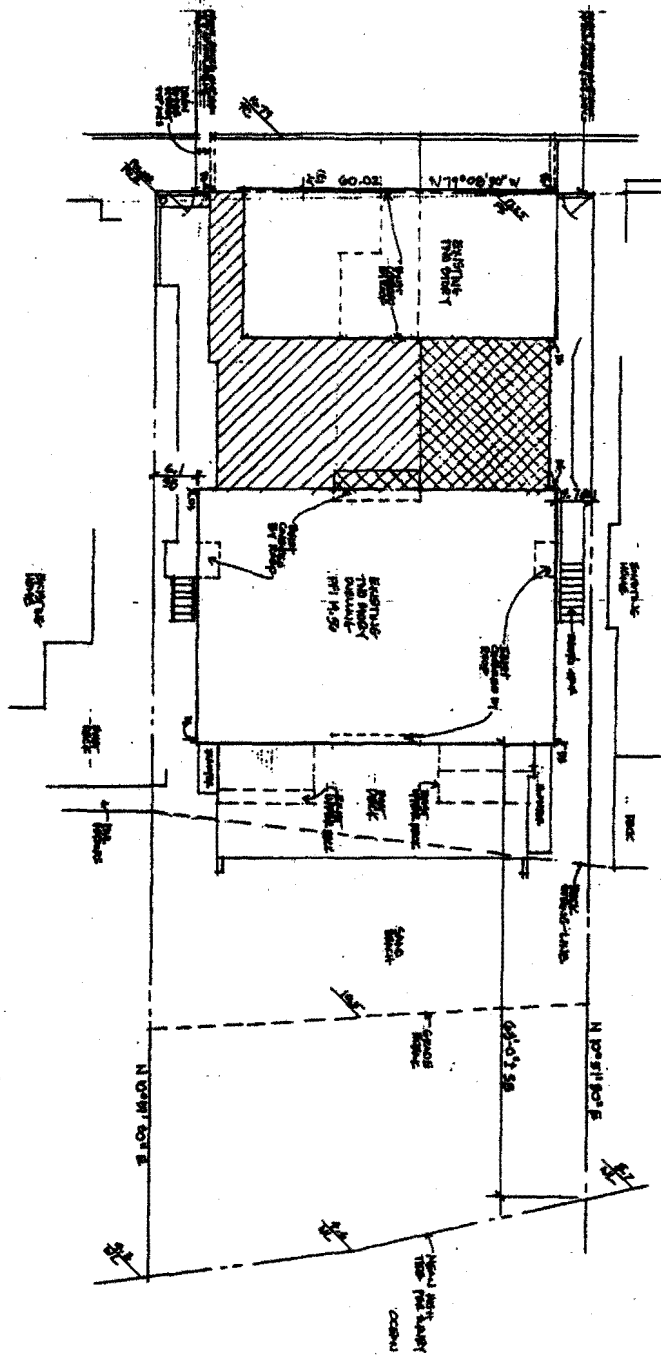
JAN 14 REC'D

FOR PREV. ASSMT SEE:  
4451-41 & 42

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT  
ASS COUNTY OF

PACIFIC COAST HIGHWAY

# Pacific Coast Highway ↑



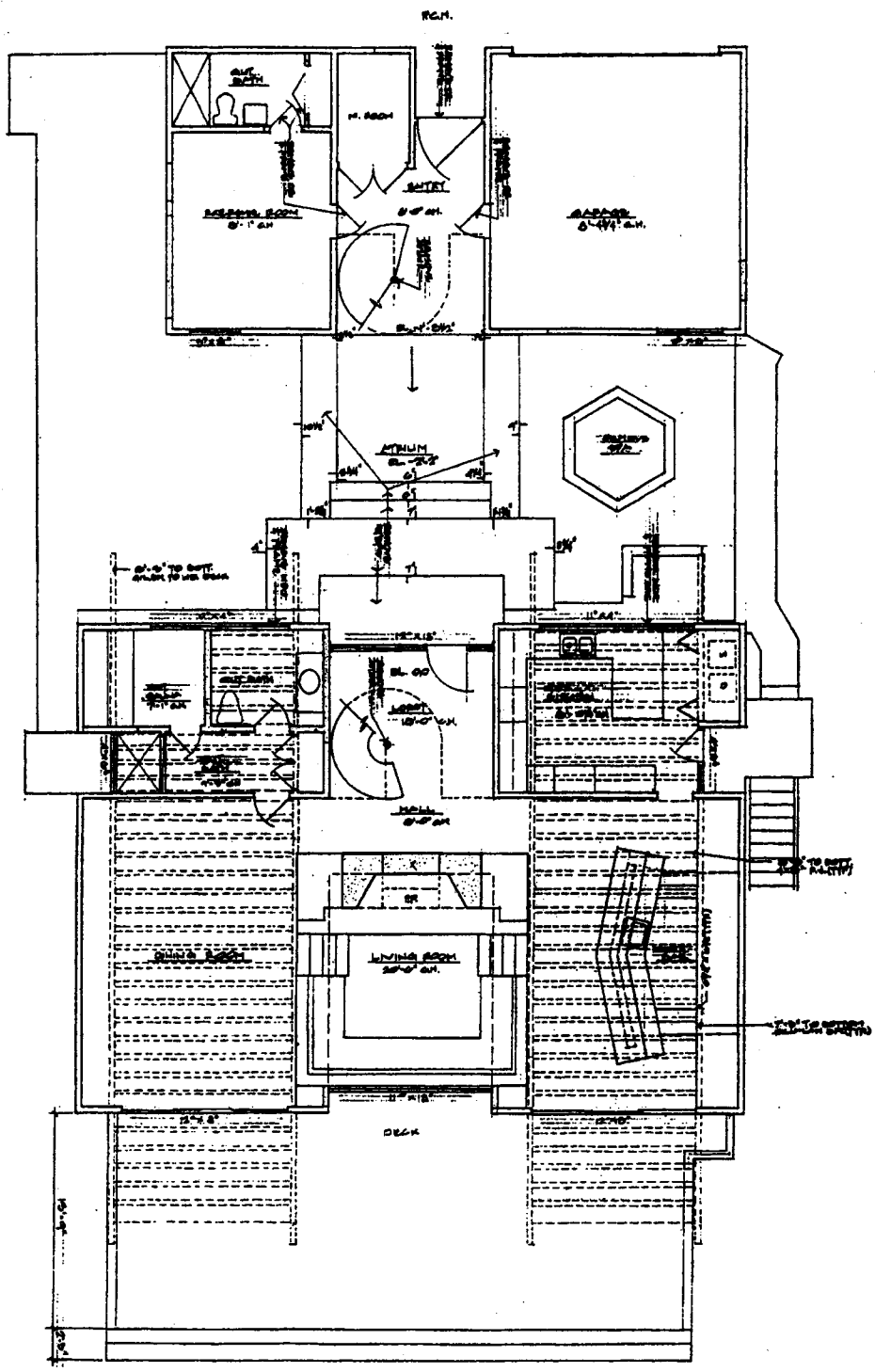
**SITE PLAN** 1/2" = 1'-0"  
 LEGEND:   
 Hatched pattern: EXISTING PATIO  
 Dotted pattern: EXISTING SCREENED PATIO  
 Solid pattern: EXISTING SCREENED PORCH  
 Dashed pattern: EXISTING RESTROOM  
 Solid pattern: EXISTING RESTROOM TO BE ADDED TO EXISTING RESTROOM  
 Solid pattern: EXISTING RESTROOM TO BE ADDED TO EXISTING RESTROOM

**DRAINAGE PLAN**  
 1/2" = 1'-0"  
 1/2" = 1'-0"

## Ocean



<b>EXHIBIT NO. 3</b>
<b>APPLICATION NO.</b> Gallin
4-00-15
Site Plan



**EXISTING/DEMOLITION FIRST FLOOR PLAN**

EXISTING  
 DEMOLITION  
 PROPOSED

**A-21**

EXISTING/DEMOLITION FIRST FLOOR PLAN

Addition and Remodel to the:  
**GALLIN RESIDENCE**  
 22770 Pacific Coast Highway  
 Malibu, California

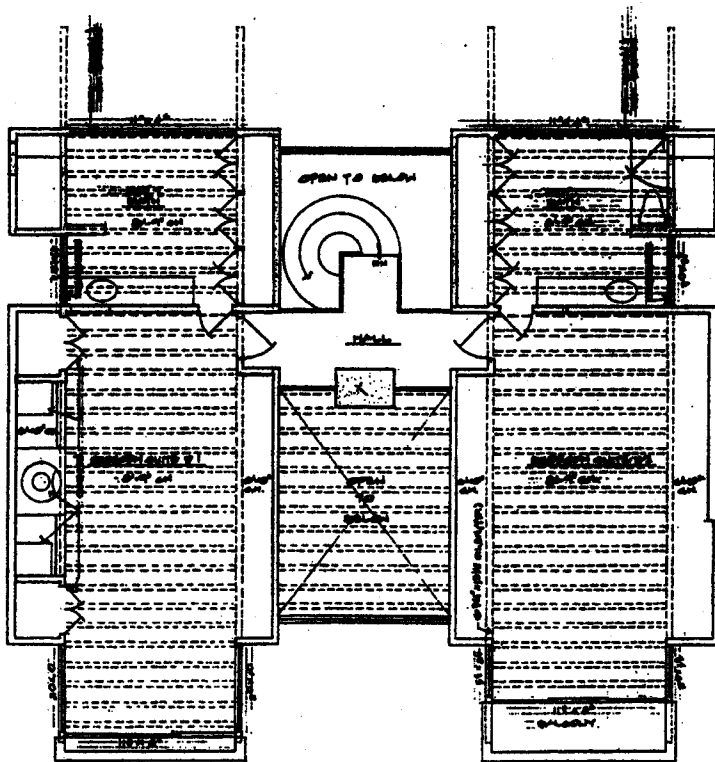
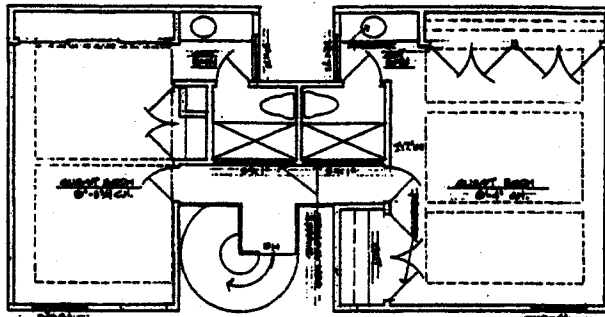
**RICHARD L. BLUMENBERG, AIA**  
 ARCHITECT  
**RLB ARCHITECTURE**  
 12288 BURBANK BLVD., STE. 201  
 PACIFIC PALMSDALE, CA 91377  
 TEL: (714) 444-1111  
 FAX: (714) 444-1112

**EXHIBIT NO. 4**

**APPLICATION NO.**  
*Gallin*

**4-00-15**

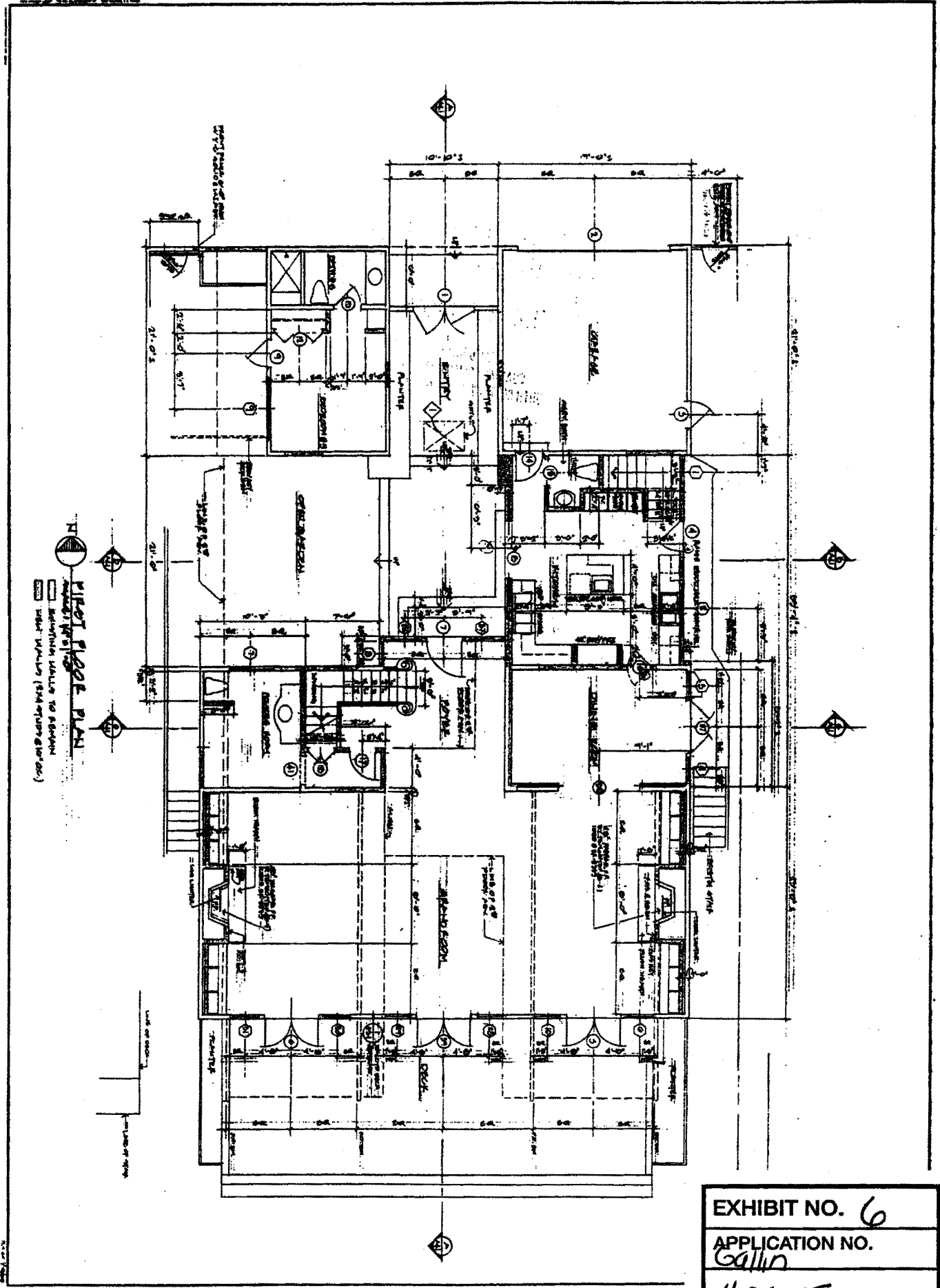
**First Floor**



EXISTING/DEMOLITION RECORD PLAN  
 Hatched walls to remain  
 Dashed walls to be removed

EXHIBIT NO. 5  
 APPLICATION NO.  
 Gallin  
 4-00-15  
 Second Floor






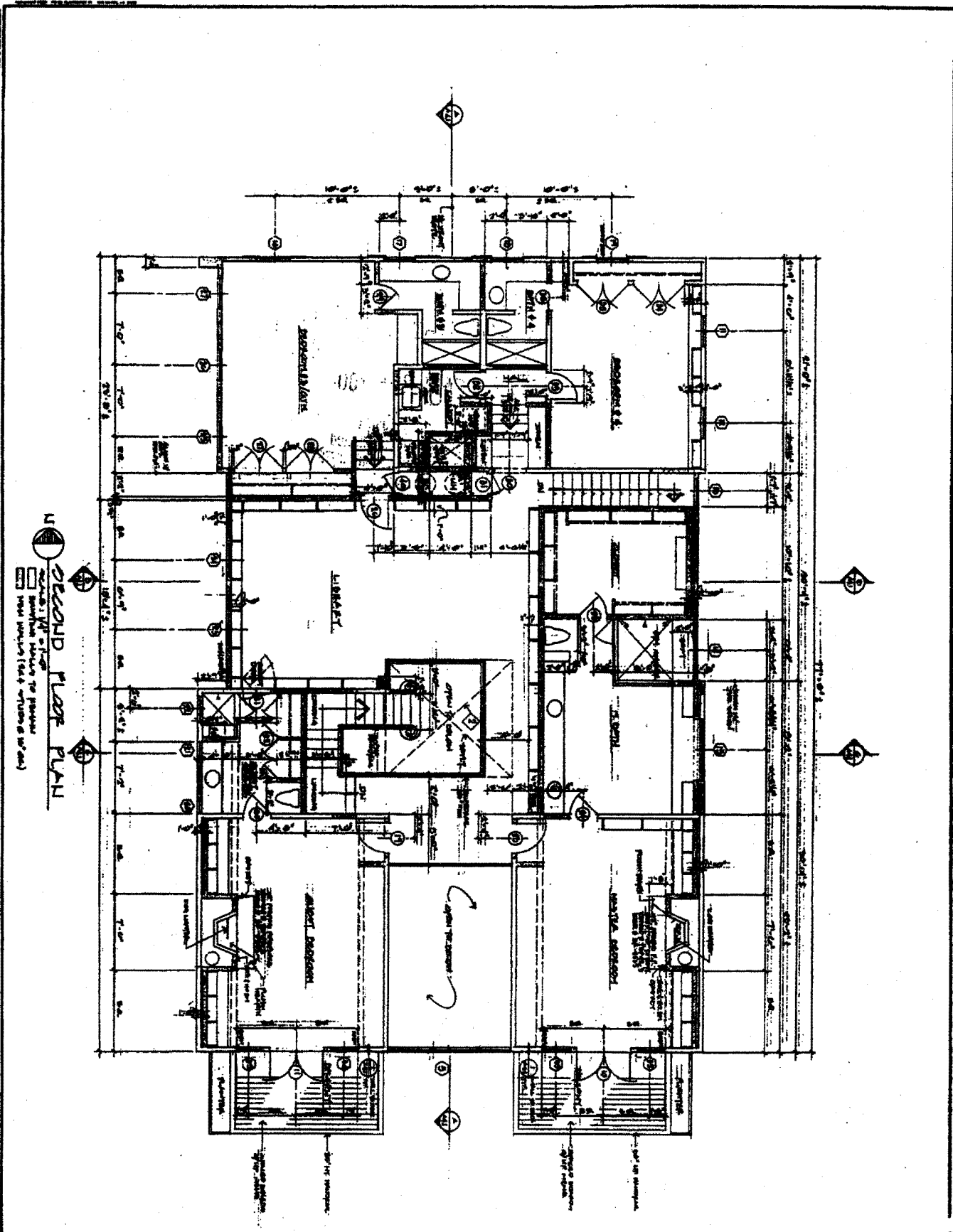

**FIRST FLOOR PLAN**  
 1. REMOVE WALLS TO ADD IN  
 2. ADD WALLS (SEE NOTES)

EXHIBIT NO. 6
APPLICATION NO. Gallin
4-00-15
First Floor Plan

**A-23**  
 FIRST FLOOR PLAN

Addition and Remodel to the  
**GALLIN RESIDENCE**  
 11970 Pacific Coast Highway  
 Malibu, California

RICHARD L. BLUMENBERG, AIA  
 ARCHITECT  
**RLB ARCHITECTURE**  
 1800 BLANNEY BLVD., STE. 201  
 PACIFIC PALMSDALE, CA 92677



**SECOND FLOOR PLAN**
  
 1. New walls (see structure of wall)

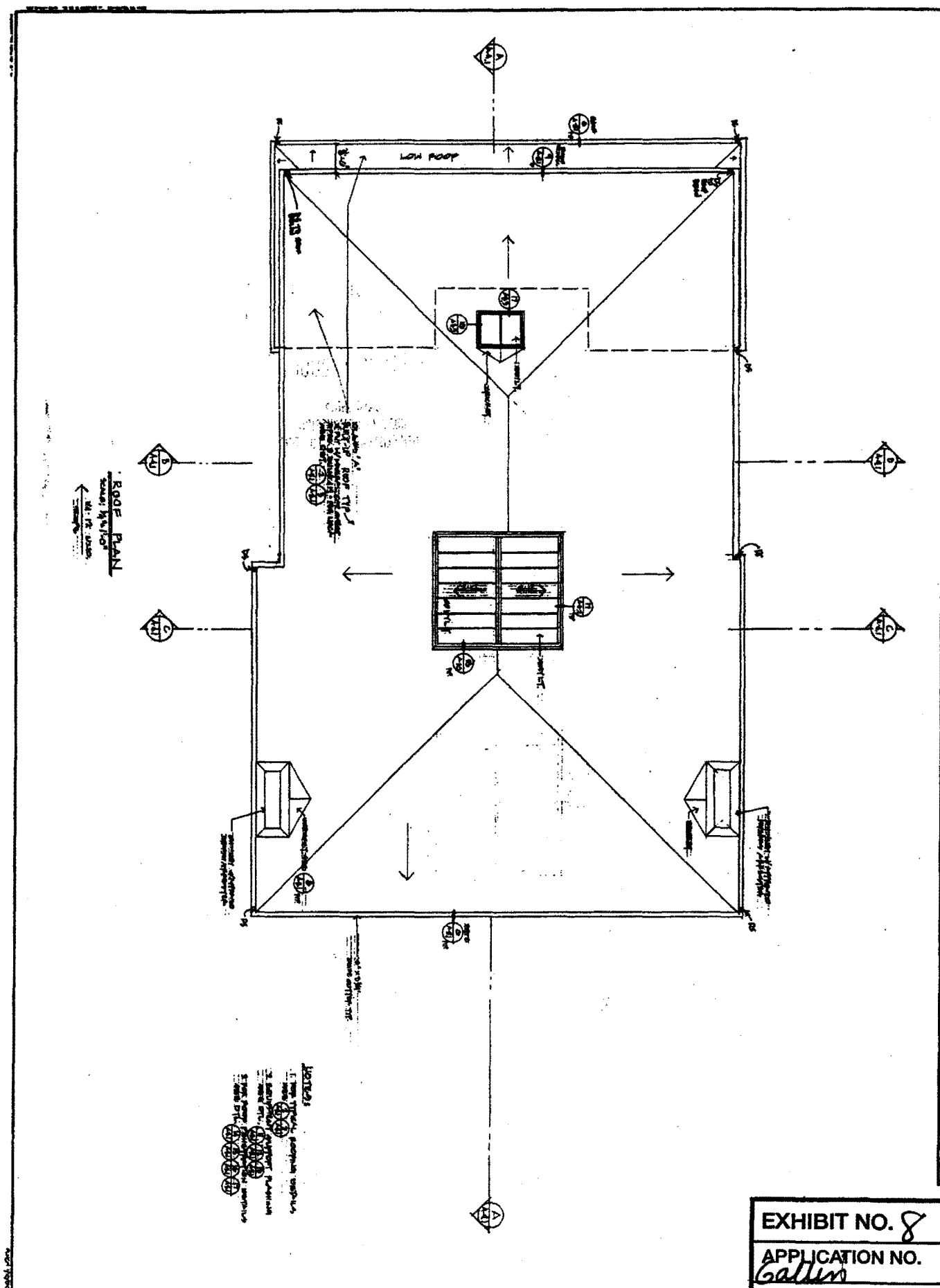
A-24

SECOND FLOOR PLAN

Addition and Remodel to the:  
**GALLIN RESIDENCE**  
 3170 Pacific Coast Highway  
 Malibu, California

RICHARD L. BLUMENBERG, AIA  
 ARCHITECT  
**RLB ARCHITECTURE**  
 1280 MARKET BLVD., STE. 201  
 PACIFIC PALISADES, CA 91023 TEL: (310) 451-1111 FAX: (310) 451-1112

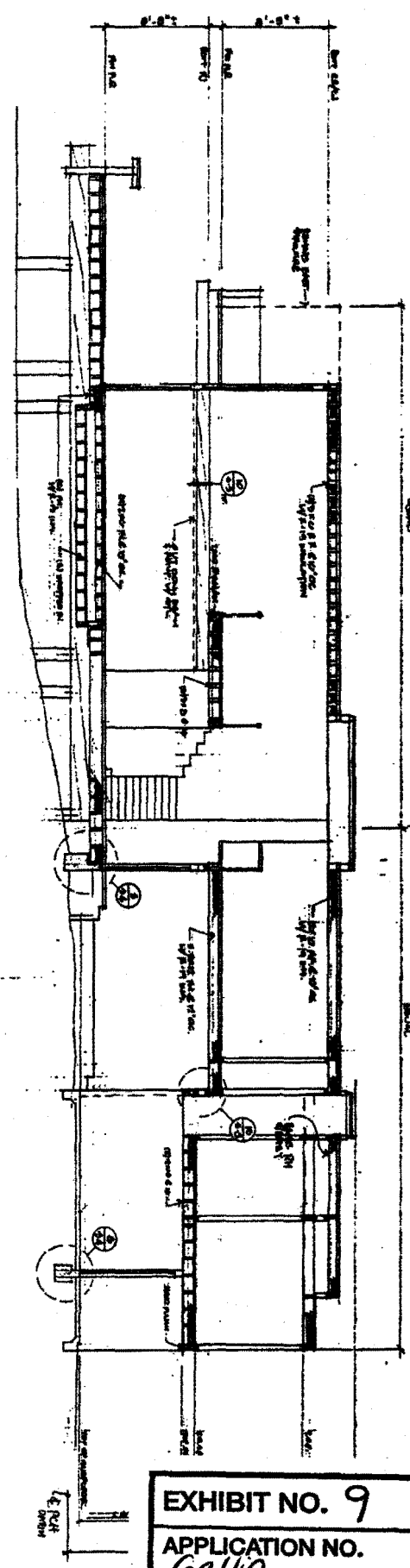
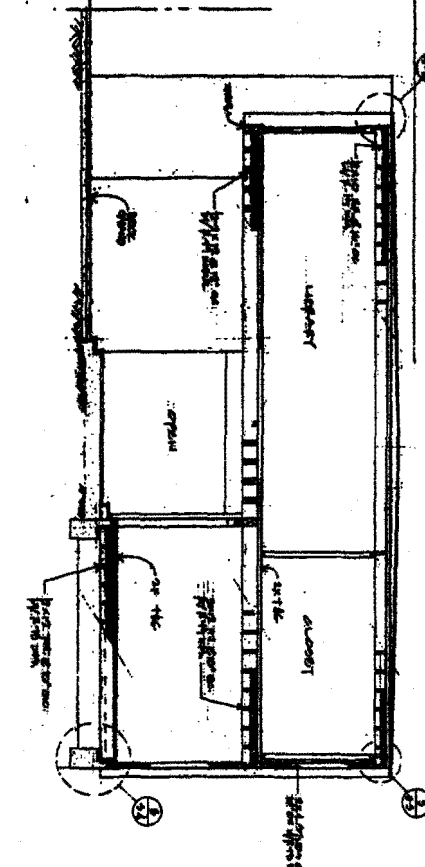
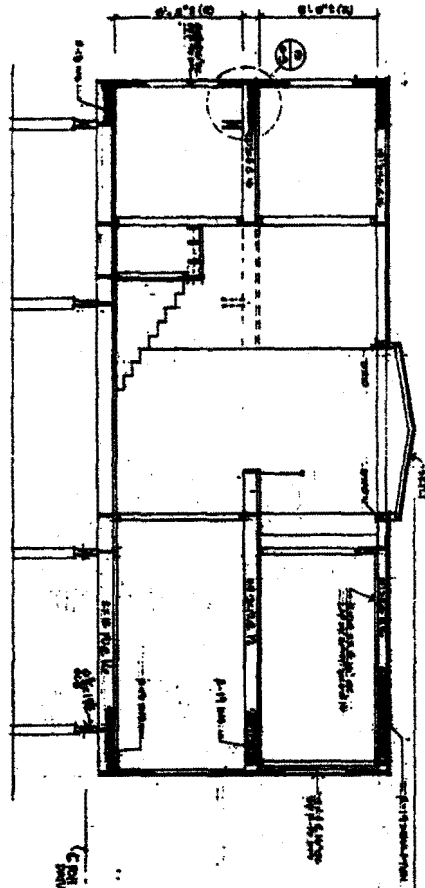
**EXHIBIT NO. 7**  
 APPLICATION NO.  
 Gallin  
 4-00-15  
 Second Floor Plan



ROOF PLAN  
Scale: 1/8" = 1'-0"

- NOTES
1. See notes on structural supports.
  2. See notes on structural supports.
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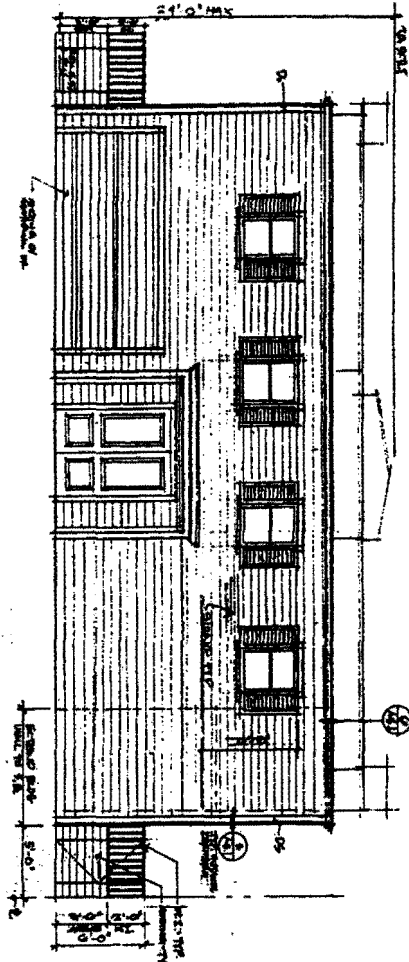
EXHIBIT NO. 8  
APPLICATION NO.  
*Gallen*  
4-00-15  
*Roof Plan*



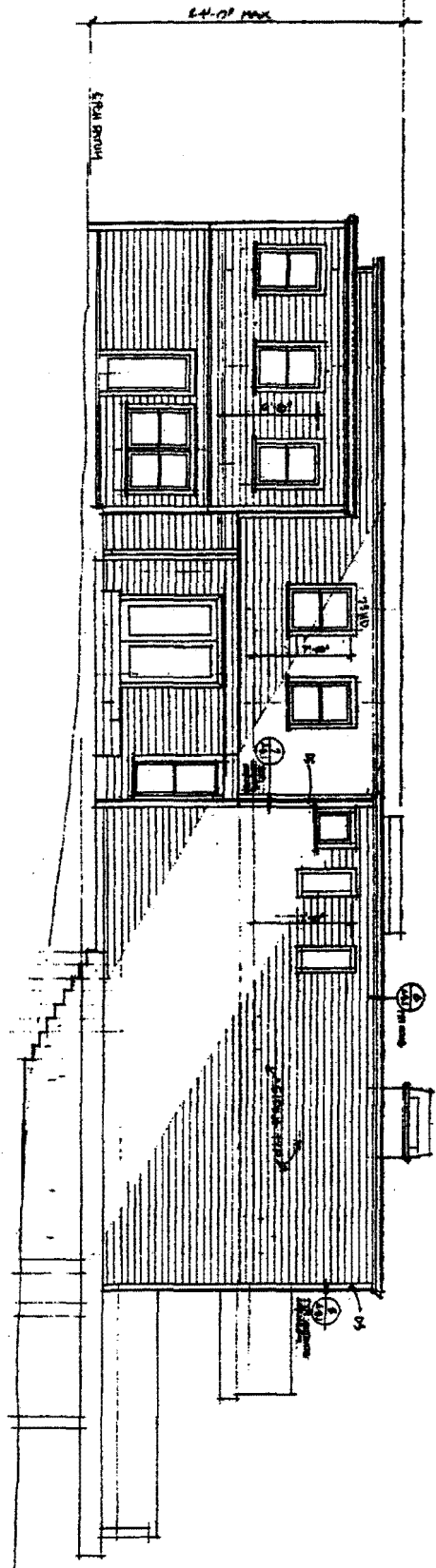
	BUILDING SECTIONS	Address and Remitted to the <b>GALLIN RESIDENCE</b> 21970 Pacific Coast Highway Malibu, California	RICHARD L. BLUMENBERG, AN ARCHITECT <b>RLB ARCHITECTURE</b> 4888 BARBET BLVD. STE. 20 PICO PARKWAY, CA 90230

**EXHIBIT NO. 9**  
**APPLICATION NO.**  
*Gallin*  
**4-00-15**  
*Building Sections*

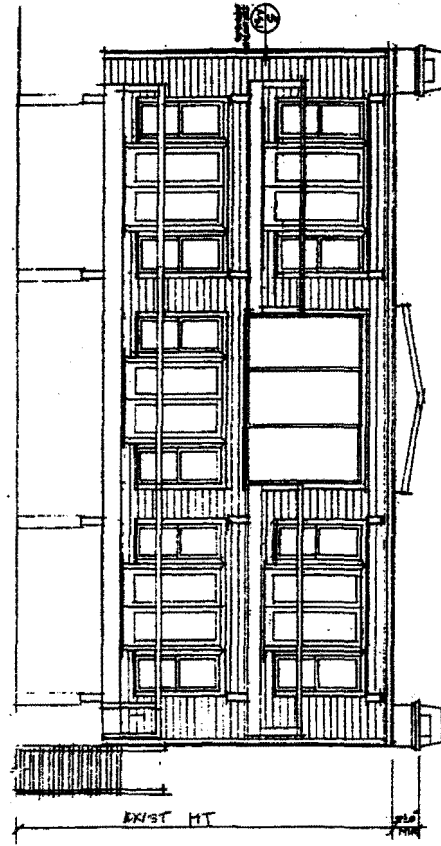
FRONT (NORTH) EXTERIOR ELEVATION  
SCALE: 1/4" = 1'-0"



RIGHT SIDE (EAST) EXTERIOR ELEVATION  
SCALE: 1/4" = 1'-0"



REAR (SOUTH) EXTERIOR ELEVATION  
SCALE: 1/4" = 1'-0"



10417

4-4-2

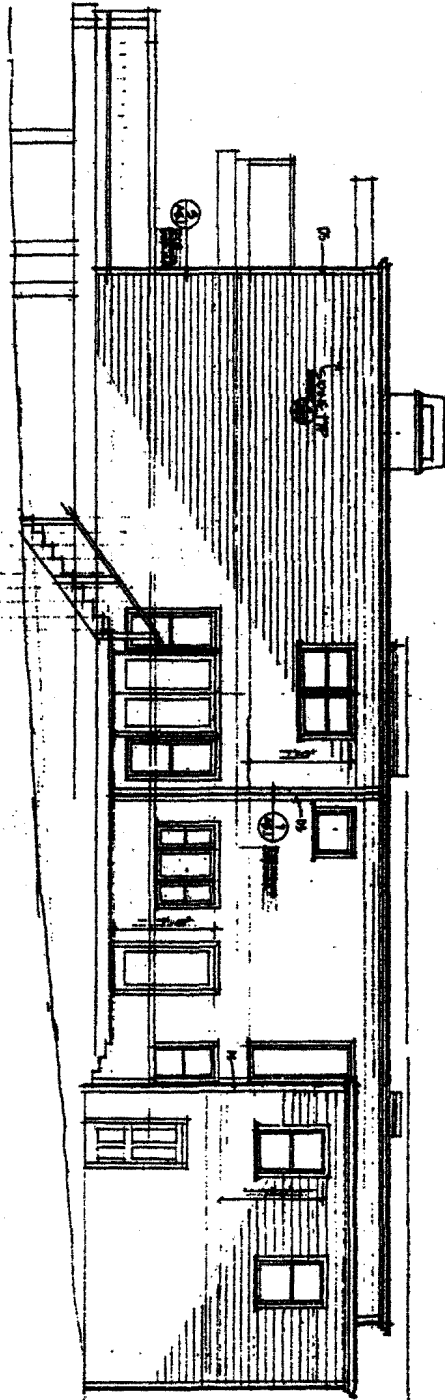
EXTERIOR ELEVATIONS

Additions and Remodel to the  
**GALLIN RESIDENCE**  
21578 Pacific Coast Highway  
Malibu, California

RICHARD L. BLUMENBERG, AIA  
ARCHITECT  
**RLB ARCHITECTURE**  
10050 BLUMHET BLVD., STE. 201 TEL. (310)  
MIRAGE PALMS, CA 90271 FAX. (310)

<b>EXHIBIT NO. 10</b>
<b>APPLICATION NO.</b> <i>Gallin</i>
<b>4-00-15</b>
<b>Elevations</b>

LEFT SIDE (EAST) EXTERIOR ELEVATION



24'-0" MAX

24'-0" MAX

1/2" = 1'-0"

1/4" = 1'-0"

1/8" = 1'-0"

1/16" = 1'-0"

1/32" = 1'-0"

1/64" = 1'-0"

1/128" = 1'-0"

1/256" = 1'-0"

1/512" = 1'-0"

1/1024" = 1'-0"

1/2048" = 1'-0"

1/4096" = 1'-0"

1/8192" = 1'-0"

LEFT SIDE (EAST) EXT ELEV

Added and Revised in this  
**GALLIN RESIDENCE**  
11978 Pacific Coast Highway  
Malibu, California

RICHARD L. BLUMENBERG, AIA  
ARCHITECT  
**RLB ARCHITECTURE**

1600 SANDY BLVD., STE. 201 TEL: (310) 460-8004  
PACIFIC PALMSBEACH, CA 90672 FAX: (310) 460-3100

EXHIBIT NO.

APPLICATION NO.

*Gallin*  
**4-00-15**

*Elevation*