

CALIFORNIA COASTAL COMMISSION

TH CENTRAL COAST AREA
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Filed: 9/14/01
49th Day: 11/2/01
180th Day: 3/13/02
Staff: LKF *MA*
Staff Report: 9/20/01
Hearing Date: 10/9-12/01
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO: 4-97-033-A3

APPLICANT: Albert & Janey Sweet

AGENT: Jaime Harnish

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

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Demolish existing earthquake damaged single family residence and swimming pool inland of residence. Construct new two story, 26 ft. high, 6,662 sq. ft. single family residence with 400 sq. ft. semi-detached gym and 625 sq. ft. detached two car garage. Replace portion of existing paved driveway with grasscrete. Replace septic system. Approval of as-built soldier pile wall with grade beam on bluff face topped by retaining wall, swimming pool, and gazebo. Fill approximately 600 cu. yds. of material behind soldier pile wall and retaining wall.

PREVIOUSLY AMENDED FOR: (A1) Revise building design to eliminate second story, reduce height from 26 ft. to 24 ft., increase bluff top setback from retaining wall to 80 ft., reduce residential buildings to a one story, 5,400 sq. ft. (i.e. a reduction of 1,300 sq. ft.) main residence, with 700 sq. ft. attached garage, and two story, 24 ft. high, 1,120 sq. ft. limousine carport (560 sq. ft.) with second story gymnasium (560 sq. ft.).

PREVIOUSLY AMENDED FOR: (A2) (Immaterial) Remodel existing pool and spa in the approximate same location. Repair front entry gate and wall with 42 inch solid and 30 inch see through wrought iron structure. Install grape arbor around swimming pool.

DESCRIPTION OF AMENDMENT: (A3) Construction of a 732 sq. ft., 17.5 ft. high guest house, including an approximately 255 sq. ft., 4.5 ft. high attic space, two patios totaling approximately 200 sq. ft., and a septic system. The project also includes

remodeling of an existing 181 sq. ft. tennis court gazebo.

LOCAL APPROVALS RECEIVED: City of Malibu Planning Department Approval-in-Concept dated 7/18/01; City of Malibu Geology and Geotechnical Engineering Approval-in-Concept dated 8/18/01; City of Malibu Geology Referral Sheet dated 5/15/01; City of Malibu Environmental Health Approval-in-Concept dated 5/29/01.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan, Coastal Development Permits 4-97-033, 4-97-033-A1, and 4-97-033-A2 (Sweet); Limited Geologic and Soils Engineering Investigation, Proposed Second Story Addition, Guest House, and Garage, 24824 Pacific Coast Highway, Malibu, California, by GeoConcepts, Inc., dated May 17, 1996; Update report, 24824 Pacific Coast Highway, Malibu, California, by GeoConcepts, Inc., dated May 3, 2000; Update Report, Guest House, 24824 Pacific Coast Highway, Malibu, California, by GeoConcepts, Inc., dated June 15, 2001; Septic Report - Guest House, 24824 Pacific Coast Highway, Malibu, California, by GeoConcepts, Inc., dated July 30, 2001; Update Septic Report, Guest House, 24824 Pacific Coast Highway, Malibu, California, by GeoConcepts, Inc., dated August 1, 2001.

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.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material (14 Cal. Code of Regulations Section 13166). In this case, the Executive Director has determined that the proposed amendment is a material change to the project and has the potential to affect conditions required for the purpose of protecting a coastal resource.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission approve the proposed amendment with seven (7) new Special Conditions regarding (1) updated geologic review, (2) revised plans, (3) updated future development, (4) color restriction, (5) landscaping plan, (6) drainage and polluted runoff control, and (7) updated wildfire waiver of liability. In addition, all Standard and Special Conditions imposed under Coastal Development Permit 4-97-033 and 4-97-033-A1 continue to apply.

I. STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

MOTION: *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 4-97-033-A3 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 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 A PERMIT AMENDMENT:

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, 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 amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. STANDARD AND SPECIAL CONDITIONS

Note: Unless specifically altered by the amendment, all standard and special conditions previously applied to Coastal Development Permit 4-97-033 and 4-97-033-A1 continue to apply. In addition, the following new special conditions are hereby imposed as a condition upon the proposed project as amended pursuant to CDP 4-97-033-A3.

SPECIAL CONDITIONS

10. Updated Geologic Review

All recommendations contained in the following geologic reports shall be incorporated into all final design and construction: Limited Geologic and Soils Engineering Investigation, Proposed Second Story Addition, Guest House, and Garage, 24824

Pacific Coast Highway, Malibu, California, by GeoConcepts, Inc., dated May 17, 1996; Update report, 24824 Pacific Coast Highway, Malibu, California, by GeoConcepts, Inc., dated May 3, 2000; Update Report, Guest House, 24824 Pacific Coast Highway, Malibu, California, by GeoConcepts, Inc., dated June 15, 2001; Septic Report - Guest House, 24824 Pacific Coast Highway, Malibu, California, by GeoConcepts, Inc., dated July 30, 2001; Update Septic Report, Guest House, 24824 Pacific Coast Highway, Malibu, California, by GeoConcepts, Inc., dated August 1, 2001. All plans must be reviewed and approved by the consulting geologists.

Prior to issuance of the coastal development permit, the applicant shall submit, for review and approval of the Executive Director, evidence of the consultants' review and approval of all project plans. Such evidence shall include affixation of the consulting geologists' stamp and signature to the final project plans and designs, including the landscaping plan required pursuant to **Special Condition Fourteen (14)**, and the drainage and runoff control plan required pursuant to **Special Condition Fifteen (15)**.

The final plans approved by the consulting geologists shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, drainage, and sewage disposal. Any substantial changes in the proposed development approved by the Commission which may be required by the consultants shall require an amendment to the permit or a new coastal permit. The Executive Director shall determine whether required changes are "substantial."

11. Revised Plans

Prior to issuance of the coastal development permit, the applicant shall submit revised project plans, for the review and approval of the Executive Director, that include structural measures that preclude the use of the guest house attic area as livable space.

12. Updated Future Development

This permit is only for the development described in Coastal Development Permit No. 4-97-033-A3. Pursuant to Title 14 California Code of Regulations Sections 13250 (b)(6) and 13253 (b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) and (b) shall not apply to the entire parcel. Accordingly, any future structures, future improvements, or change of use to the permitted structures approved under Coastal Development Permit No. 4-97-033-A3, including interior remodeling and removal of vegetation, other than as provided for in the approved landscape plan prepared pursuant to **Special Condition Fourteen (14)**, shall require an amendment to Coastal Development Permit No. 4-97-033-A3 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

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 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.

13. Color Restriction

Prior to issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, a color palette and material specifications for the outer surface of the guest house authorized by the approval of coastal development permit 4-97-033-A3. The palette samples shall be presented in a format not to exceed 8½" X 11" X ½" in size. The palette shall include the colors proposed for the roof, trim, and exterior surfaces. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray with no white or light shades and no bright tones. All windows shall be comprised of non-glare glass.

The approved structures shall be colored with only the colors and window materials authorized pursuant to this special condition. Alternative colors or materials for future repainting or resurfacing or new windows may only be applied to the guest house authorized by coastal development permit 4-97-033-A3 if such changes are specifically authorized by the Executive Director as complying with this special condition.

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, that reflects the restrictions stated above on the proposed development. The document shall run with the land for the life of the structures approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances 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.

14. Landscaping Plan

Prior to issuance of the coastal development permit, the applicant shall submit a landscaping and erosion control plan prepared by a licensed landscape architect or qualified resource specialist for review and approval by the Executive Director. The plan shall identify the species, location, and extent of all plant materials. The plan shall incorporate the following criteria:

A. Landscaping Plan

- 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 the receipt of the Certificate of Occupancy for the guest house. To minimize the need for irrigation 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 which tend to supplant native species shall not be used.
- 2) Planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;
- 3) 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.
- 4) The landscape plan shall include a permanent irrigation plan that employs a drip irrigation system. Sprinkler systems may be used to establish turf as authorized by the Executive Director.
- 5) Vegetation within 50 feet of the proposed house may be removed to mineral earth, vegetation within a 200 foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this Special Condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains. Areas of existing native coastal sage scrub and chaparral vegetation within a 200 foot radius of the proposed structures shall be preserved, consistent with fire safety requirements.
- 6) The permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission – approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is necessary.

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.

15. Drainage and Polluted Runoff Control Plans

Prior to issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, two (2) sets of final drainage and runoff control plans, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting geotechnical engineer and geologist to ensure that the plan is in conformance with consultants' recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- a) Selected BMPs (or suites of BMPs) shall be designed to treat or filter stormwater from each runoff event, up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs.
- b) Runoff shall be conveyed off site in a non-erosive manner.
- c) Energy dissipating measures shall be installed at the terminus of outflow drains.
- d) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1)

BMPs shall be inspected, cleaned and repaired when necessary prior to the onset of the storm season, no later than September 30th each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs 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 or BMPs 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.

16. Wildfire Waiver of Liability

Prior to issuance of the coastal development permit, the applicant shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents, and employees against any and all claims, demands, damages, costs, expenses, and liability arising out of the acquisition, design, construction, operations, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wildfire exists as an inherent risk to life and property.

III. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Background

The applicants propose to construct a 732 sq. ft., 17.5 ft. high guest house, including an approximately 255 sq. ft., 4.5 ft. high attic space, two patios totaling approximately 200 sq. ft., and a septic system. The project also includes remodeling of an existing 181 sq. ft. tennis court gazebo. (**Exhibits 5-10**).

The proposed project site is located on a developed 1.62 acre bluff top lot on Pacific Coast Highway in the City of Malibu (**Exhibit 1**). The site has been previously developed with a 26 ft. high, 5,400 sq. ft. single family residence, 700 sq. ft. attached garage, a 24 ft. high, two story 1,120 sq. ft. gym and carport structure, swimming pool, spa, tennis court, and gazebo (**Exhibits 5 and 11**).

From Pacific Coast Highway, the narrow rectangular lot descends approximately 500 feet south to the bluff top, then drops sharply to Malibu Road. The proposed guest house is located in the northern quarter of the property, approximately 350 ft. from the bluff face. The parcel has been significantly graded to create an upper pad for the approximately 7200 sq. ft. tennis court, and a lower pad for the main residence, garage, and carport/gym structure (**Exhibit 5**).

Surface runoff is collected in area drains and piped to the bluff above Malibu Road. Malibu Road is located approximately 150 ft. north of the Pacific Ocean at Puerco Beach. The nearshore marine environment off Puerco Beach contains kelp beds designated as an Environmentally Sensitive Habitat Area (ESHA) in the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) (**Exhibit 3**).

Puerco Canyon, located north and east of the project site, is designated as a Disturbed Sensitive Resource area (DSR) in the Malibu/Santa Monica Mountains LUP (**Exhibit 2**). The 200 ft. brush clearance radius for the project site does not extend into the DSR, but encompasses parts of five adjacent developed properties and Pacific Coast Highway (**Exhibits 2 and 4**). Approval of the project will not result in additional brush clearance in the vicinity of the site.

The lots adjacent to the project site are developed with single family residences of similar size and appearance (**Exhibit 2**). The subject site is located on Pacific Coast Highway, a designated scenic route. The site affords no blue water views from Pacific Coast Highway, and a wrought-iron entry gate, wall and vegetation along the northern property line obscure views of existing structures on the subject site. However, portions of the proposed guest house will be visible above the wall and through the entry gate.

The project site has been the subject of prior Coastal Commission action (**Exhibit 11**). A coastal development permit (CDP 4-97-033) was approved by the Commission in July 1997 to demolish an earthquake damaged single family home and swimming pool and construct a two story, 26 ft. high, 6,662 sq. ft. single family residence with 400 sq. ft. semi-detached gym, 625 sq. ft. detached two car garage, and new septic system. The permit also included replacing the paved driveway with grasscrete, approval of an as-built soldier pile wall with grade beam on the bluff face, and placement of approximately 600 cu. yds. of material behind the soldier pile wall.

In March 2000, the original permit was subsequently amended (CDP 4-97-033-A1) to reduce the main residence to a one story, 24 ft. high, 5,400 sq. ft. structure, increase the bluff top setback, replace the detached garage with a 700 sq. ft. attached garage, and add a two story, 24 ft. high, 1,120 sq. ft. limousine carport with second story gymnasium. In November 2000, a second amendment (CDP 4-97-033-A2) was granted to remodel the existing pool and spa, repair the front entry gate and install a grape arbor around the pool.

B. Geology and Hazards

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

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

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

The proposed development is 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. Wild fires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

1. Geology

Section 30253 of the Coastal Act requires that new development assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic stability, or destruction of the site or surrounding area. The site of the proposed project is a developed 1.62 acre bluff top lot. From Pacific Coast Highway, the narrow rectangular lot descends approximately 500 feet south to the bluff top, then drops sharply to Malibu Road. The parcel has been significantly graded to create an upper pad for the approximately 7200 sq. ft. tennis court, and a lower pad for the 5400 sq. ft. one story main residence, 700 sq. ft. garage, and 1,120 sq. ft. carport/gym. A soldier pile retaining wall is located at northern edge of the bluff and all development is set back at least 80 ft. from this wall. Surface runoff is collected in area drains and piped to the bluff above Malibu Road.

As previously noted, the applicant proposes to construct a 732 sq. ft., 17.5 ft. high guest house, including an approximately 255 sq. ft., 4.5 ft. high attic space, two patios totaling approximately 200 sq. ft., and a septic system. The project also includes remodeling of an existing 181 sq. ft. tennis court gazebo. The proposed development is located in the northern quarter of the subject site, approximately 350 feet north of the bluff face.

As noted above, the applicant has submitted five geotechnical reports for the proposed project: 1) Limited Geologic and Soils Engineering Investigation, Proposed Second Story Addition, Guest House, and Garage, 24824 Pacific Coast Highway, Malibu, California, by GeoConcepts, Inc., dated May 17, 1996; 2) Update report, 24824 Pacific Coast Highway, Malibu, California, by GeoConcepts, Inc., dated May 3, 2000; 3) Update Report, Guest House, 24824 Pacific Coast Highway, Malibu, California, by GeoConcepts, Inc., dated June 15, 2001; 4) Septic Report - Guest House, 24824 Pacific Coast Highway, Malibu, California, by GeoConcepts, Inc., dated July 30, 2001; and 5) Update Septic Report, Guest House, 24824 Pacific Coast Highway, Malibu, California, by GeoConcepts, Inc., dated August 1, 2001. The geology reports make numerous recommendations regarding site preparation, foundations, friction piles, spread footings, lateral loads, floor slabs, drainage, plan review, plan notes, and construction review.

The Limited Geologic and Soils Engineering Investigation, Proposed Second Story Addition, Guest House, and Garage, 24824 Pacific Coast Highway, Malibu, California, by GeoConcepts, Inc., dated May 17, 1996 specifically recommends that

The proposed guest house should be supported on a deepened foundation system extending into bedrock. The guest house should utilize a raised floor.

This report concludes that

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

Subsequent update letters, prepared by GeoConcepts, Inc. on May 3, 2000 and June 15, 2001, state that

...no significant geologic changes were observed. The guest house shall be constructed as previously recommended in our reports.

Based upon the recommendations of the consulting geologists, the Commission finds that the development is consistent with Section 30253 of the Coastal Act so long as the consulting geologists' recommendations are incorporated into the 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 geologists as conforming to their recommendations. **Special Condition Ten (10)** requires that the final plans for the project be in substantial conformance with the geologic recommendations contained in the geologic reports prepared for the project.

2. Erosion

Section 30253 of the Coastal Act requires that new development neither create nor contribute significantly to erosion. As noted above, the proposed development is located on a developed 1.62 acre bluff top lot. From Pacific Coast Highway, the narrow rectangular lot descends approximately 500 feet south to the bluff top, then drops sharply to Malibu Road.

Surface runoff is collected on site in area drains and piped to the bluff above Malibu Road. Malibu Road is located approximately 150 ft. north of the Pacific Ocean at Puerco Beach. The nearshore marine environment off Puerco Beach contains kelp beds designated as Environmentally Sensitive Habitat Area in the certified Malibu/Santa Monica Mountains Land Use Plan.

In total, the project will result in 928 sq. ft. of additional impervious surface area on the site, increasing both the volume and velocity of storm water runoff. As discussed further

in Section C, surface runoff, if not controlled and conveyed off site in a non-erosive manner, may result in erosion and sedimentation on and off site. Accordingly, GeoConcepts, Inc. recommended in their May 17, 1996 report that

All drainage from the site should be collected and directed via non-erosive devices to a location approved by the building official.

Uncontrolled erosion leads to sediment pollution of downgradient water bodies. Surface soil erosion has been established by the United States Department of Agriculture, Natural Resources Conservation Service, as a principal cause of downstream sedimentation known to adversely affect riparian and marine habitats. Suspended sediments have been shown to absorb nutrients and metals, in addition to other contaminants, and transport them from their source throughout a watershed and ultimately into the Pacific Ocean. The construction of single family residences in sensitive watershed areas has been established as a primary cause of erosion and resultant sediment pollution in coastal streams.

In order to ensure that risks from geologic hazard and erosion are minimized, **Special Condition Fifteen (15)** requires the applicant to submit a drainage and polluted runoff control plan that incorporates best management practices (BMPs) designed to control the volume, velocity, and pollutant load of stormwater leaving the site. **Special Condition Fifteen (15)** also requires the applicant to 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.

The Commission also finds that landscaping of disturbed areas on the subject site will reduce erosion and serve to enhance and maintain the geologic stability of the site, provided that minimal surface irrigation is required. Therefore, **Special Condition Fourteen (14)** requires the applicant to submit landscaping plans, including irrigation plans, certified by the consulting geologists as in conformance with their recommendations for landscaping of the project site. **Special Condition Fourteen (14)** also requires the applicant to utilize and maintain native and noninvasive plant species compatible with the surrounding area for landscaping the project site.

Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foliage weight. The Commission finds that non-native and invasive plant species with high surface/foliage weight and shallow root structures do not serve to stabilize slopes and that the use of such vegetation results in potential adverse effects to the stability of the project site. Native species, alternatively, tend to have a deeper root structure than non-native, invasive species and therefore aid in preventing erosion.

In addition, the use of invasive, non-indigenous plant species tends to supplant species that are native to the Malibu/Santa Monica Mountains area. Increasing urbanization in this area has caused the loss or degradation of major portions of the native habitat and loss of native plant seed banks through grading and removal of topsoil. Moreover,

invasive groundcovers and fast growing trees that originate from other continents that have been used as landscaping in this area have invaded and seriously degraded native plant communities adjacent to development. Such changes have resulted in the loss of native plant species and the soil retention benefits they offer. Therefore, the Commission finds that in order to ensure site stability and erosion control, the disturbed areas of the site shall be landscaped with appropriate native plant species, as specified in **Special Condition Fourteen (14)**.

Finally, in order to ensure that future site development, including additional vegetation clearance, is reviewed for its potential to create or contribute to erosion, the Commission finds it necessary to impose **Special Condition Twelve (12)**, which requires the applicant to obtain a coastal development permit for any future development on the site, including improvements that might otherwise be exempt from permit requirements.

For the reasons cited above, the Commission finds that the proposed project as conditioned by **Special Conditions Ten (10), Twelve (12), Fourteen (14), and Fifteen (15)** will be consistent with the requirements of Coastal Act Section 30253 applicable to geology and site stability.

3. Wild Fire

Section 30253 of the Coastal Act also requires that new development minimize the risk to life and property in areas of high fire hazard. The Coastal Act recognizes that new development may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to 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 an individual's property rights.

Vegetation in the coastal areas of the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which are highly flammable substances (Mooney in Barbour, Terrestrial Vegetation of California, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for, frequent wild fires. The typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wild fire damage to development that cannot be completely avoided or mitigated.

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant acknowledges the liability from these associated risks. Through **Special Condition Sixteen (16)**, the applicant

acknowledges the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development.

The Commission finds that only as conditioned by **Special Condition Sixteen (16)** is the proposed project consistent with Section 30253 of the Coastal Act applicable to hazards from wildfire.

In summary, the Commission finds that, as conditioned by **Special Conditions Ten (10), Twelve (12), Fourteen (14), Fifteen (15), and Sixteen (16)**, the proposed project will be consistent with the requirements of Coastal Act Section 30253 applicable to geology, site stability, and hazards.

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, and 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:

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 construction of a 732 sq. ft., 17.5 ft. high guest house, including an approximately 255 sq. ft., 4.5 ft. high attic space, two patios totaling approximately 200 sq. ft., and a septic system. The project also includes remodeling of an existing 181 sq. ft. tennis court gazebo.

The proposed project site is located on a developed 1.62 acre bluff top lot that descends approximately 500 feet south to the bluff top, then drops sharply to Malibu Road. The proposed guest house is located in the northern quarter of the property, approximately 350 ft. from the bluff face. The parcel has been significantly graded to create an upper pad for the approximately 7200 sq. ft. tennis court, and a lower pad for the main residence, garage, and carport/gym structure.

On-site surface runoff is collected in area drains and piped to the bluff above Malibu Road. Malibu Road is located approximately 150 ft. north of the Pacific Ocean at Puerco Beach. The nearshore marine environment off Puerco Beach contains kelp beds designated as Environmentally Sensitive Habitat Area in the certified Malibu/Santa Monica Mountains Land Use Plan.

In total, the project will result in 928 sq. ft. of additional impervious surface area on the site. An increase in impervious surface decreases the infiltrative function and capacity of existing permeable land on site. The reduction in permeable space therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Further, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides, and pesticides; and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

Therefore, in order to find the proposed development consistent with the water and marine resource policies of the Coastal Act, the Commission finds it necessary to require the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. Critical to the successful function of post-construction structural BMPs in removing pollutants in stormwater to the Maximum Extent Practicable (MEP), is the application of appropriate design standards for sizing BMPs. The majority of runoff is generated from small storms because most storms are small. Additionally, storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small, more frequent storms, rather than for the large infrequent storms, results in improved BMP performance at lower cost.

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on

design criteria specified in revised **Special Condition Fifteen (15)**, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

Finally, the applicant proposes to construct a new 1500-gallon septic tank and disposal system with effluent filter and effluent pump as shown on the plans approved "In-Concept" by the City of Malibu Department of Environmental Health on May 29, 2001. The conceptual approval by the City indicates that the sewage disposal system for the project in this application complies with all minimum requirements of the Uniform Plumbing Code. The Commission has found the City of Malibu's minimum health and safety standards for septic systems to be protective of coastal resources and to take into consideration the percolation capacity of soils, the depth to groundwater, and other pertinent information. Therefore the Commission further finds that project compliance with the City's standards for septic disposal will minimize any potential for wastewater discharge that could adversely impact coastal waters.

In summary, the Commission finds that, as conditioned by **Special Condition Fifteen (15)**, the project is consistent with Section 30231 of the Coastal Act.

D. Cumulative Impacts

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

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Section 30252 of the Coastal Act states:

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

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

Based on these policies, the Commission has limited the development of second dwelling units (including guest houses) on residential parcels in the Malibu and Santa Monica Mountain areas. The issue of second units on lots with primary residences has been the subject of past Commission action in the certification of the Santa Monica Mountains/Malibu Land Use Plan (LUP). In its review and action on the Malibu LUP, the Commission found that placing an upper limit on the size of second units (750 sq. ft.) was necessary given the traffic and infrastructure constraints which exist in Malibu and given the abundance of existing vacant residential lots. Furthermore, in allowing these small units, the Commission found that the small size of units (750 sq. ft.) and the fact that they are likely to be occupied by one or at most two people would cause such units to have less impact on the limited capacity of Pacific Coast Highway and other roads (including infrastructure constraints such as water, sewage, electricity) than an ordinary single family residence. (Certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29 and P.C.H. (ACR), 12/83 page V-1 - VI-1).

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

The Commission has previously examined the cumulative impacts of development on the project site and has acted to limit the size and use of accessory structures. In February 2000, the Commission rejected a proposal for a two story, 1,030 sq. ft. second residential unit attached to the garage. The applicant redesigned the unit as a 560 sq. ft. gymnasium above a 560 sq. ft. carport and received Commission approval in March 2000. In approving the development, the Commission required the applicants to submit revised plans for the gymnasium showing only one large room and a restroom, as is typical for such facilities, and to record a deed restriction requiring a coastal development permit for any future improvements to the gym/carport structure.

As proposed, the 732 sq. ft. second residential unit (guesthouse) conforms to the Commission's past actions allowing a maximum of 750 sq. ft. for a second dwelling unit in the Malibu area. However, the Commission notes that the proposed 255 sq. ft. attic space in the guest house, if converted to livable space, would increase the size of the structure beyond the accepted standard. Therefore, the Commission requires the applicants to submit revised plans that include structural measures precluding the use of the attic as livable space, as detailed in **Special Condition Eleven (11)**. Additionally, the Commission notes that any future improvements or additions to the structure could increase the size of the guest unit beyond the maximum of 750 sq. ft. and constitute a violation of this coastal development permit. Therefore, **Special Condition Twelve (12)** has been required to ensure that any additions or improvements to the guesthouse, including interior remodeling, will be reviewed by the Commission.

Therefore, the Commission finds that, as conditioned, the proposed development is consistent with Sections 30250 and 30252 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 subordinate to the character of its setting.

To assess potential visual impacts of projects to the public, the Commission typically investigates publicly accessible locations from which the proposed development is visible, such as beaches, parks, trails, and scenic highways. The Commission also examines the building site and the size of the proposed structure(s).

The applicants propose to construct a 732 sq. ft., 17.5 ft. high guest house, including an approximately 255 sq. ft., 4.5 ft. high attic space, two patios totaling approximately 200 sq. ft., and a septic system, and remodel an existing 181 sq. ft. tennis court gazebo.

The proposed project site is located on a developed bluff top lot on Pacific Coast Highway in the City of Malibu. The proposed guest house is located in the northern quarter of the property, approximately 350 ft. from the bluff face. The site has been previously developed with a 26 ft. high, 5,400 sq. ft. single family residence, 700 sq. ft. attached garage, a 24 ft. high, two story gym and carport structure, swimming pool, spa, tennis court, and gazebo.

The lots adjacent to the project site are developed with single family residences of similar size and appearance. The subject site is located on Pacific Coast Highway, a designated scenic route. The site affords no blue water views from Pacific Coast Highway, and a wrought-iron entry gate, wall and vegetation along the northern property line obscure views of existing structures on the subject site. However, portions of the proposed guest house will be visible above the wall and through the entry gate.

Because the proposed project is visible from viewing areas along Pacific Coast Highway, the Commission finds it necessary to impose design restrictions to minimize the intrusion of the project into public views from the recreational trails. Accordingly, **Special Condition Thirteen (13)** restricts the use of colors to an earth-toned palette and requires the use of non-glare glass.

In addition, to ensure that future development of the site is reviewed for potentially adverse effects on coastal visual resources, the Commission finds it necessary to impose **Special Condition Twelve (12)**, which requires the applicant to obtain a coastal development permit for any future development of the site, including improvements that might otherwise be exempt from coastal permit requirements.

For the reasons set forth above, the Commission finds that the proposed project, as conditioned by **Special Conditions Twelve (12)** and **Thirteen (13)**, is consistent with Section 30251 of the Coastal Act.

F. Local Coastal Program

Section 30604 of the Coastal Act states, in part, 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 will not prejudice the City's ability to prepare a Local Coastal Program which is also consistent with the policies of Chapter 3 of the

Coastal Act as required by Section 30604(a).

G. 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)(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 effect which the activity would have on the environment.

The proposed development would not cause significant, adverse environmental effects that would not be adequately mitigated by the conditions imposed by the Commission. Therefore, the proposed project, as conditioned, is found consistent with CEQA and with the policies of the Coastal Act.

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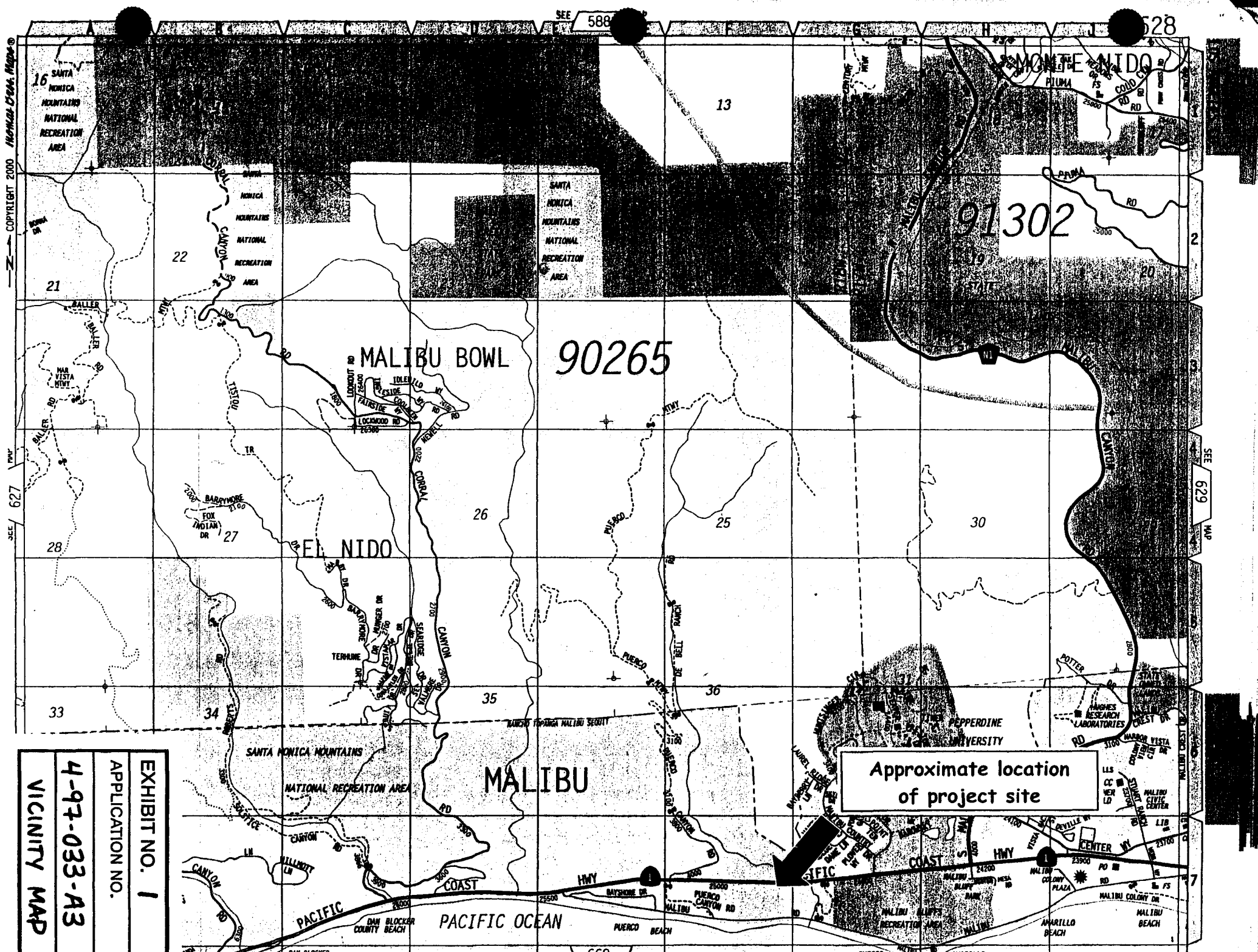
SEE 627

SEE 588

SEE 528

SEE 629

EXHIBIT NO. 1
APPLICATION NO.
4-97-033-A3
VICINITY MAP



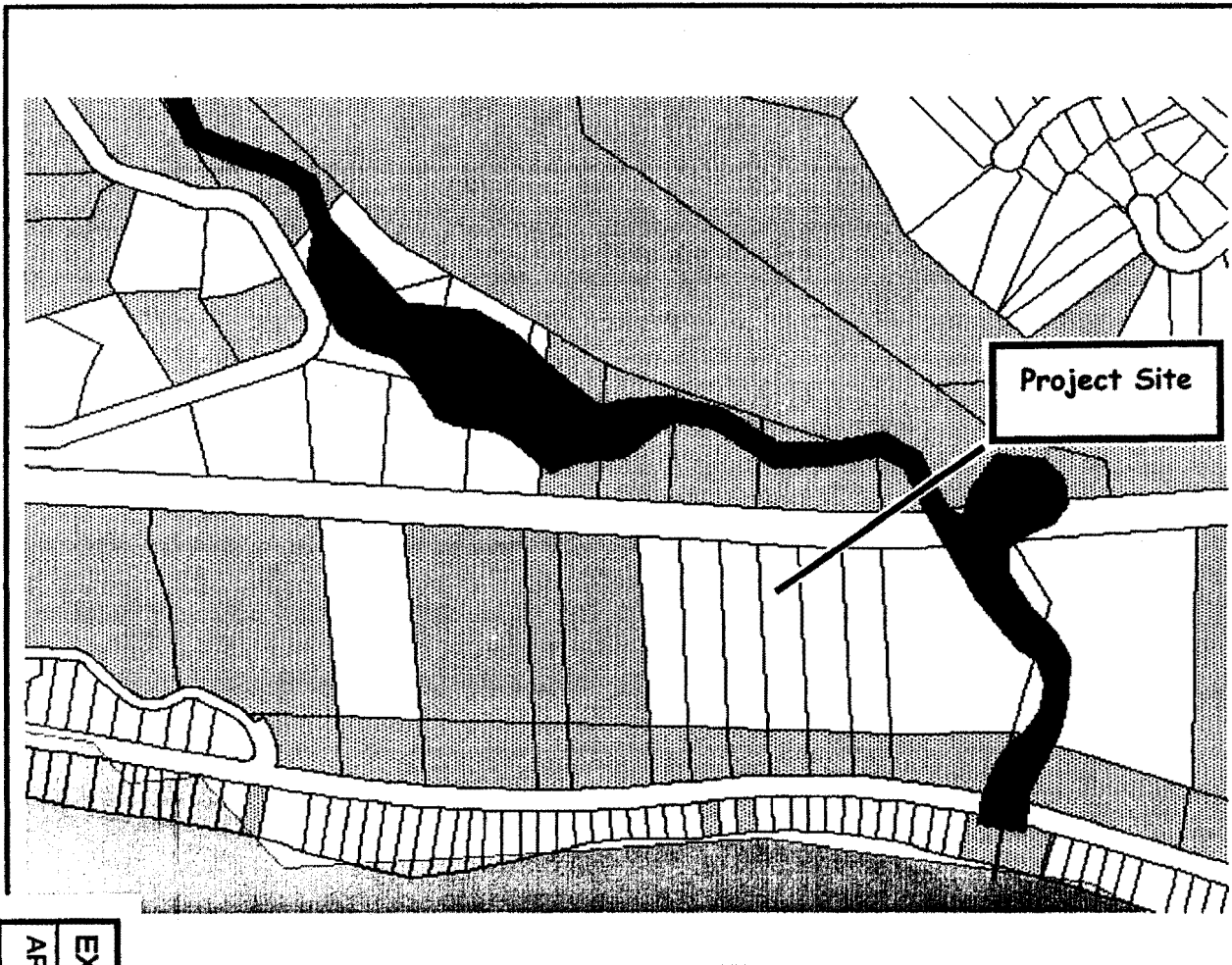
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Approximate location
of project site

ESRI ArcExplorer 1.1

4-97-033-A3 (Sweet) 24824 Pacific Coast Highway



- Blue Line Streams
- vacant parcels
- laprcls
- esha
- Ocean

Project Site



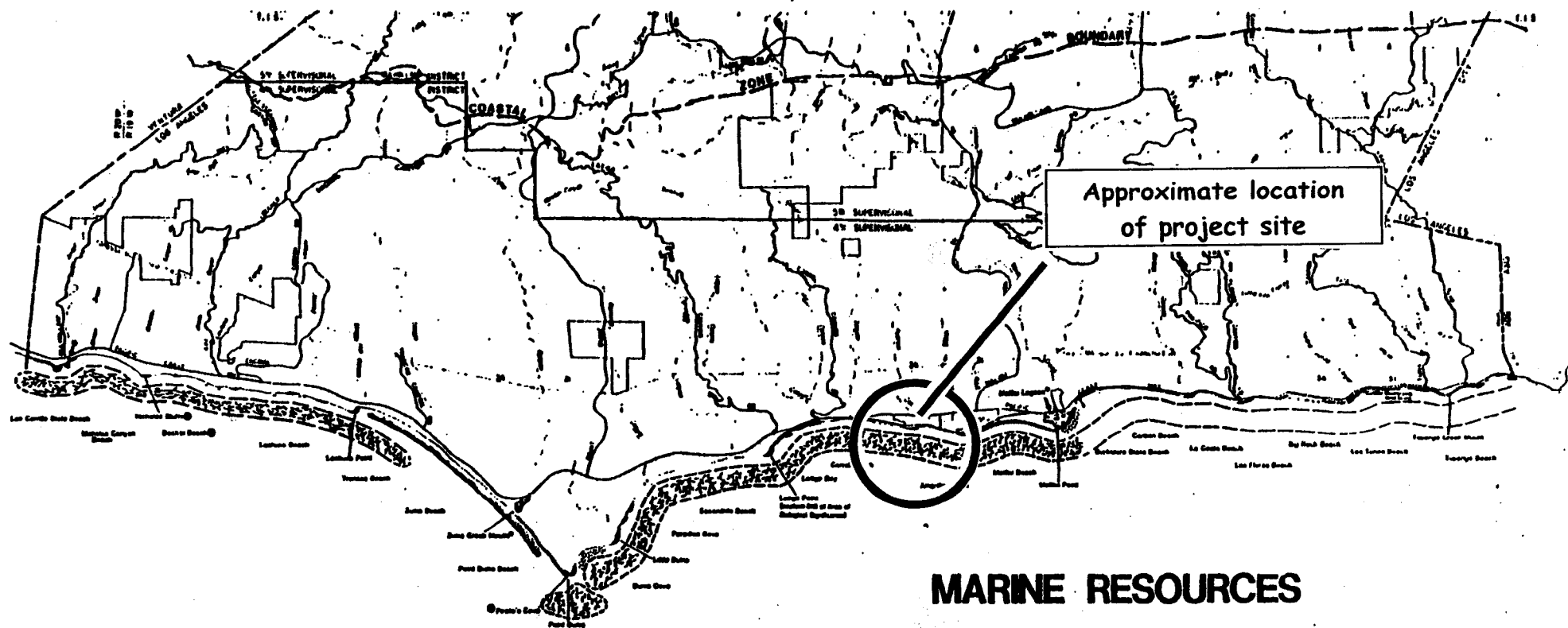
Friday, Sep 14 2001

EXHIBIT NO. 2

APPLICATION NO.

4-97-033-A3

COASTAL RESOURCES



MARINE RESOURCES

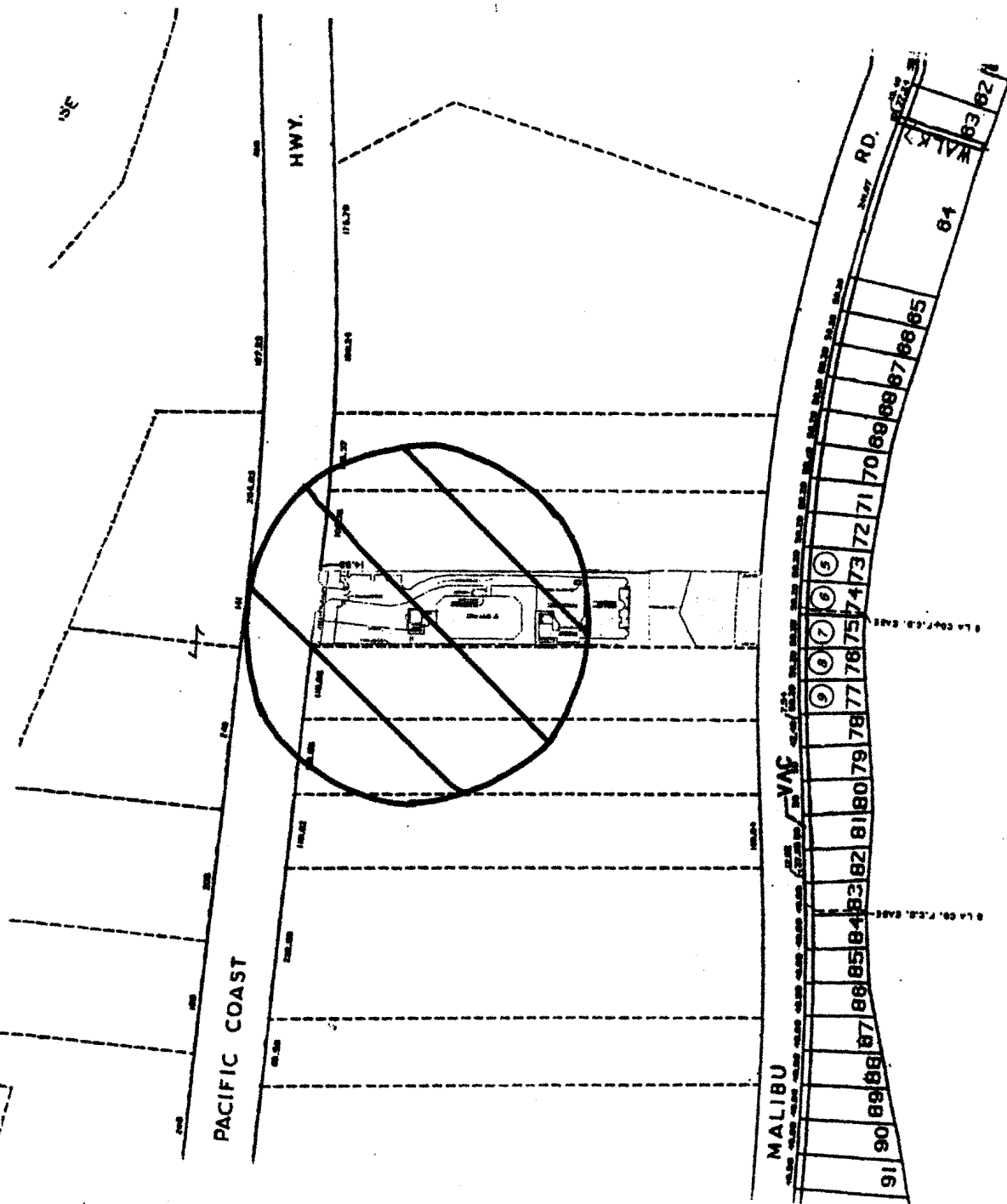
FIGURE 7

EXHIBIT NO. 3

APPLICATION NO.

4-97-033-A3

MARINE RESOURCES



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CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

BRUSH CLEARANCE
RADIUS

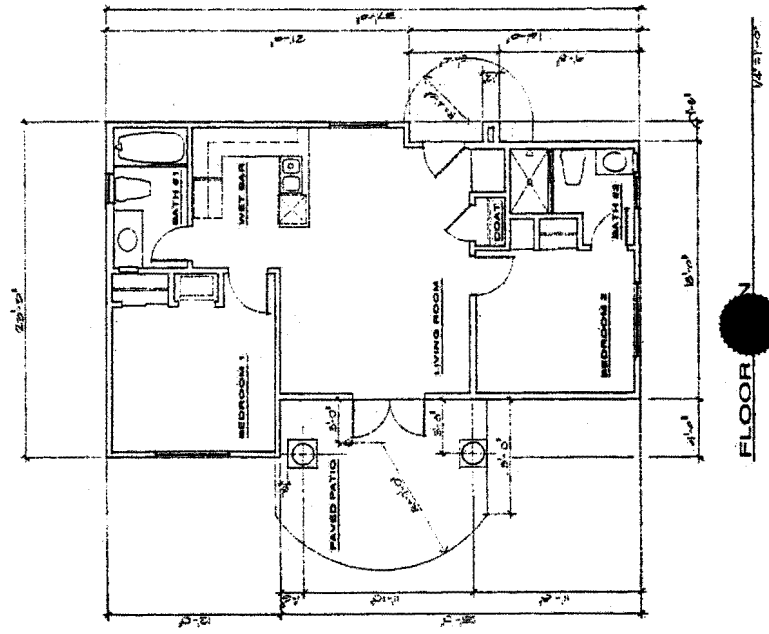
Heron Maps
(310) 317 1515
201/46: Seaboard Road
Malibu CA 90263

EXHIBIT NO. 4
APPLICATION NO.
4-97-033-A3
BRUSH CLEARANCE

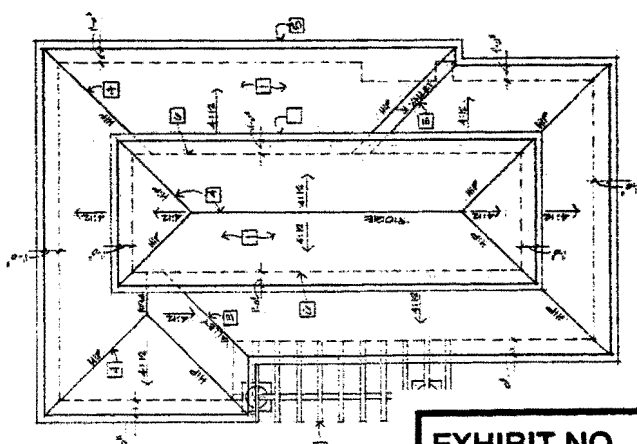
1" = 200'

ROOF PLAN NOTES

- 1. RUMBLE STRIPS SHALL BE INSTALLED UNDER ALL ROOFING.
- 2. FLASHING SHALL BE INSTALLED TO MATCH EXISTING ROOFING. DETAILS SHOWN AS NOTED OR TO MATCH EXISTING ROOFING.
- 3. COPPER SHEET METAL SHALL BE USED FOR ALL ROOFING.
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FLOOR PLAN



ROOF PLAN

EXHIBIT NO. 6
 APPLICATION NO.
 4-97-033-A3
 ROOF PLAN/FLOOR PLAN

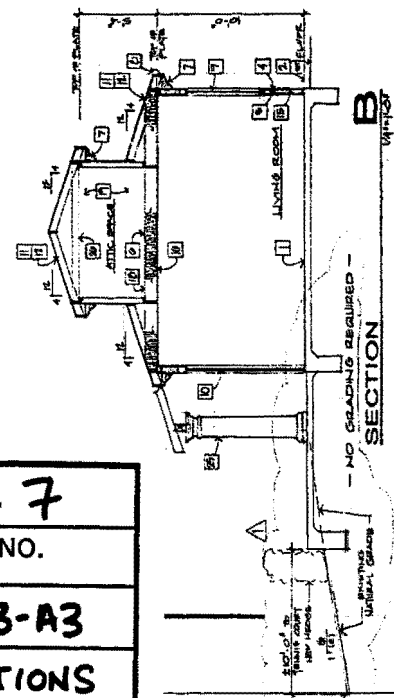
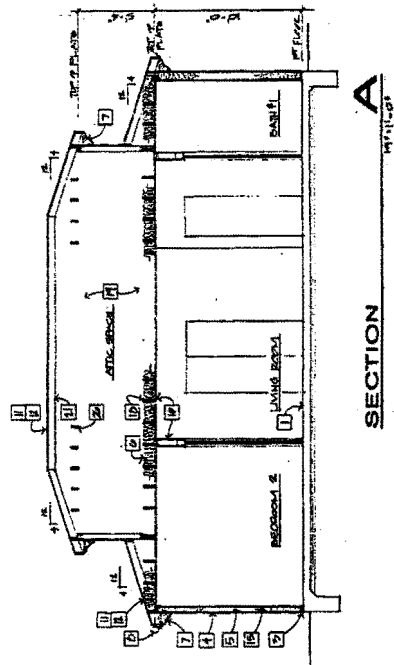


EXHIBIT NO. 7
APPLICATION NO.
4-97-033-A3
CROSS SECTIONS

SECTION NOTES

1. TYPICAL THROUGHBOLTS, 4" CONCRETE SLAB, SEE FOUNDATION PLAN FOR EMBEDMENT, CONCRETE PUMP AND WATERPROOF MEMBRANE.
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UNIT NO

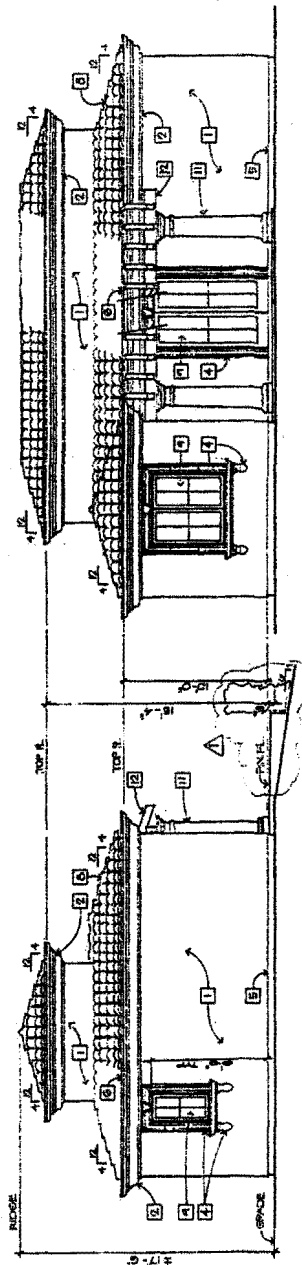
CUSTOM RESIDENCE
MR. & MRS. ALBERT SWEET
24824 Pacific Coast Highway
Malibu, California

SHEET
TITLE
BUILDING SECTIONS
JOB NO. 2234
DATE: 7-25-07
DRAWN: A
REVISIONS

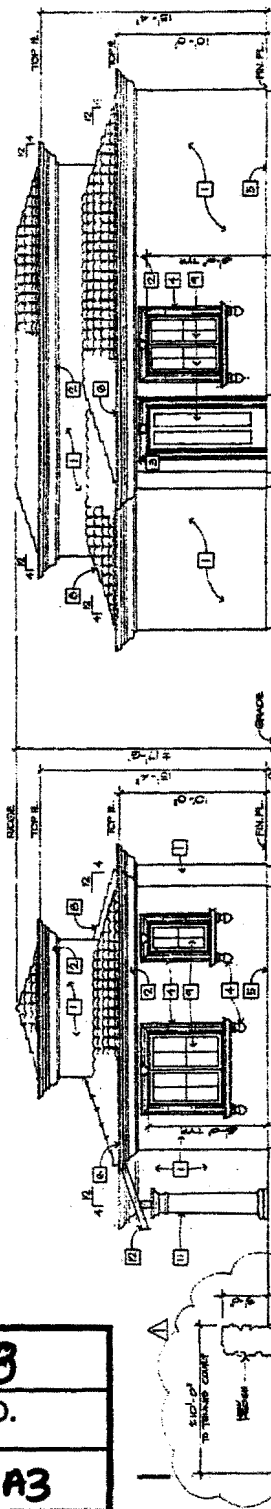
LESLIE LIPPICH ARCHITECT & ASSOCIATES
ARCHITECTURE
DESIGN
PLANNING
PHONE (818) 591-2633
FAX (818) 591-2729
4788 PARK CANYON, SUITE 210
CALABASAS CALIFORNIA 91302

EXTERIOR ELEVATION NOTES

- [illegible]



REAR ELEVATION



FRONT ELEVATION

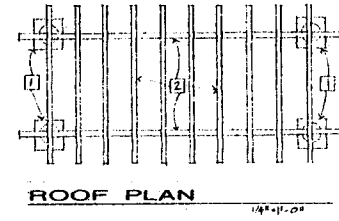
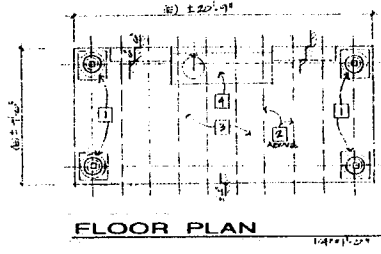
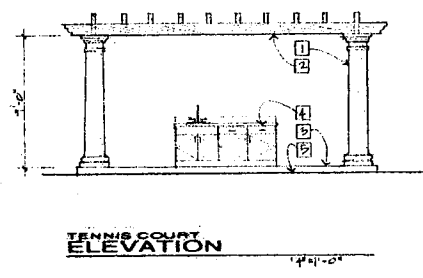
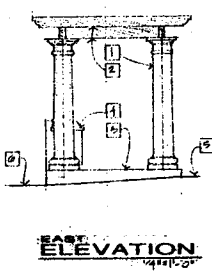
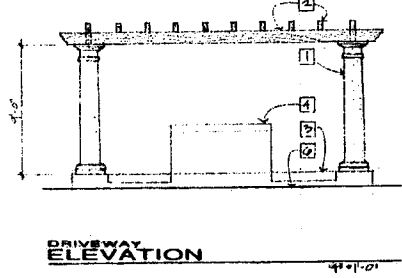
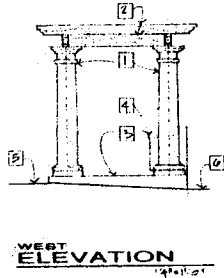
LEFT SIDE ELEVATION

EXHIBIT NO. 8
APPLICATION NO.

4-97-033-A3

ELEVATIONS

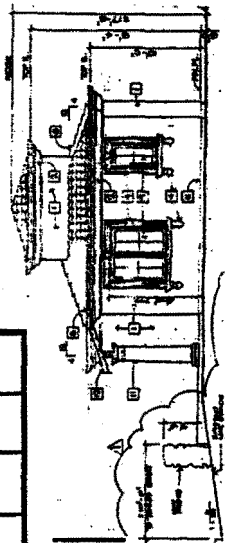
EXHIBIT NO. 9
APPLICATION NO.
4-93-033-A3
TENNIS COURT GAZEBO



GAZEBO PLAN & ELEVATION NOTES

- 1 PRECAST CONCRETE COLUMNS BY 12" X 12" (12" X 12" FLUSH), AT OR EQUAL TO MATCH EXISTING AT RESIDENCE. NON-STRUCTURAL.
- 2 STAINED 4x TRELLIS BEAMS TO MATCH EXISTING RESIDENCE TRELLIS.
- 3 EXISTING CONCRETE SLAB / DECK TO REMAIN AS IS. PAVERS AT DECK AND BETWEEN PAVERS AT SIDES OF DECK. PAVERS TO MATCH EXISTING RESIDENCE.
- 4 EXISTING CEMENT TO BE REMOVED & NEW TO BE REPLACED.
- 5 EXISTING FINISH MATERIAL AT TENNIS COURT.
- 6 EXISTING FINISH MATERIAL AT DRIVEWAY.

LESIE LIPPICH ARCHITECT & ASSOCIATES PLANNING ARCHITECTURE DESIGN PHONE (818) 591-2655 4788 PARK CANYON, SUITE 210 CALABASAS, CALIFORNIA 91302	
SHEET TITLE GAZEBO PLANS & ELEVATIONS	REVISIONS JOB NO. 1244 DATE 12-21-01 DRAWN
CUSTOM RESIDENCE for MR. & MRS. ALBERT SWEET 24824 Pacific Coast Highway Malibu, California	
SHEET NO. 4	



TSIDE ELEVATION

EXHIBIT NO. 10
APPLICATION NO.
4-97-033-A3
LANDSCAPE PLAN

CALIFORNIA COASTAL COMMISSION

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



NOTICE OF PROPOSED PERMIT AMENDMENT

TO All Interested Parties
FROM Peter Douglas, Executive Director
DATE November 2, 2000
SUBJECT Permit No: 4-97-033-A2
Granted to: Albert Sweet

DESCRIPTION OF PROJECT: Demolish existing earthquake damaged single family residence and swimming pool inland of residence. Construct new two story, 26 ft. high, 6,662 sq. ft. single family residence with 400 sq. ft. semi-detached gym and 625 sq. ft. detached two car garage. Replace portion of existing paved driveway with grasscrete. Replace septic system. Approval of as-built soldier pile wall with grade beam on bluff face topped by retaining wall, swimming pool, and gazebo. Fill approximately 600 cu. yds. of material behind soldier pile wall and retaining wall.

DESCRIPTION OF PREVIOUS AMENDMENT: Revise building design to eliminate second story, reduce height from 26 ft. to 24 ft., increase bluff top setback from retaining wall to 80 ft., reduce residential buildings to a one story, 5,400 sq. ft. (i.e. a reduction of 1,300 sq. ft.) main residence, with attached garage, two story, 24 ft. high, 1,030 sq. ft. maid's quarters, and 700 sq. ft. garage.

At: 24824 Pacific Coast Highway, City of Malibu (Los Angeles County)

The Executive Director of the Coastal Commission has reviewed a proposed amendment to the above referenced permit, which would result in the following changes:

Remodel existing pool and spa in the approximate same location. Repair front entry gate and wall with 42 inch solid and 30 inch see through wrought iron structure. Install grape arbor around swimming pool.

FINDING

Pursuant to Title 14, Section 13166(a)(2) of the California Code of Regulations this amendment is considered to be **IMMATERIAL** and the permit will be notified accordingly if no written objections are received within ten working days of the date of this notice. This amendment has been considered **IMMATERIAL** for the following reason(s):

The design does not have significant impacts on visual quality and alteration of natural landform. The proposed amendment will not have an adverse effect on coastal resources or coastal access.

If you have any questions about the proposal or wish to register an objection, please contact Merle Betz at the South Central Coast Area office.

EXHIBIT NO. 11**APPLICATION NO.****4-97-033-A3****PRIOR STAFF REPORTS**



CALIFORNIA COASTAL COMMISSION

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



Filed:	9/24/99
49th Day:	11/12/99
180th Day:	3/22/00
Staff:	mb-V
Staff Report:	2/24/00
Hearing Date:	3/14-17/00

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 4-97-033-A1

APPLICANT: Albert Sweet **AGENT:** Jaime Harnish

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

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Demolish existing earthquake damaged single family residence and swimming pool inland of residence. Construct new two story, 26 ft. high, 6,662 sq. ft. single family residence with 400 sq. ft. semi-detached gym and 625 sq. ft. detached two car garage. Replace portion of existing paved driveway with grasscrete. Replace septic system. Approval of as-built soldier pile wall with grade beam on bluff face topped by retaining wall, swimming pool, and gazebo. Fill approximately 600 cu. yds. of material behind soldier pile wall and retaining wall.

DESCRIPTION OF AMENDMENT: Revise building design to eliminate second story, reduce height from 26 ft. to 24 ft., increase bluff top setback from retaining wall to 80 ft., reduce residential buildings to a one story, 5,400 sq. ft. (i.e. a reduction of 1,300 sq. ft.) main residence, with 700 sq. ft. attached garage, and two story, 24 ft. high, 1,120 sq. ft. limousine carport (560 sq. ft.) with second story gymnasium (560 sq. ft.).

SUMMARY OF STAFF RECOMMENDATION

The proposed amendment replaces the previously proposed two story house with a single story, 5,400 sq. ft. residence. The proposed design has been revised after the February, 2000 Commission meeting to modify a two story "maid's quarters" attached to the garage to be designated as a first story "limousine carport" below a second story gymnasium. The recommendation is for approval with special conditions relative to a deed restriction on future development of the limousine carport and gymnasium and a redesign of the second story gymnasium with all previous conditions remaining in effect.

LOCAL APPROVALS RECEIVED: City of Malibu, Approval in Concept dated 9-1-99.

SUBSTANTIVE FILE DOCUMENTS: Malibu/Santa Monica Mountains certified Land Use Plan; GeoConcepts, Update Report, January 10, 2000; Coastal development permit 4-97-033 (Sweet); Coastal development permits, 4-99-010 (McNicholas), 4-98-331 (Brown), and 4-98-265 (White).

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.

I. STAFF RECOMMENDATION

MOTION: I move that the Commission approve Amendment No. 4-97-033-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 20 there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Special Conditions

All conditions of the original permit remain in effect.

8. Future Development Deed Restriction

- a. This permit is only for the development described in coastal development permit No. 4-97-033-A1. Pursuant to Title 14 California Code of Regulations Sections 13250 (b)(6), the exemptions otherwise provided in Public Resources Code Section 30610 (a) shall not apply to the proposed limousine garage and gymnasium. Accordingly, any future improvements to the permitted limousine garage and gymnasium building shall require an amendment to Permit No. 4-97-033-A1 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.
- b. Prior to the 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, reflecting the above restrictions on development. The deed restriction shall include legal descriptions 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.

9. 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 plans for the second floor gymnasium which indicate that there is only one large room and a restroom.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The applicant proposes to amend the coastal development permit relative to the main residence to revise the building design to eliminate the second story, reduce the floor

area by 1,300 sq. ft., reduce height from 26 ft. to 24 ft., and increase the bluff top setback from retaining wall to 80 ft.. The application also includes a reduction showing a reconfiguration of the two story building west of the garage. This building previously had a configuration and floor plan which could be used as two single family units. The previous design has been replaced with an approximate 560 sq. ft. first floor limousine carport and an approximate second story 560 sq. ft. gymnasium. The gymnasium is a second story facility with an exterior stairway, two rooms and a restroom. The first floor is a large parking bay labeled as a "limousine carport". A separate 30 sq. ft. bathroom is shares common walls with the first floor, with no connection except for the shared walls, and an exterior entrance.

The original project was to demolish an existing earthquake damaged single family residence and construct a new two story, 26 ft. high, 6,662 sq. ft. single family residence with 400 sq. ft. attached gym and 625 sq. ft. detached two car garage; replace a portion of an existing paved driveway with grasscrete, replace the septic system; and after the fact approval of an as-built soldier pile wall with grade beam on bluff face topped by a retaining wall, swimming pool, and gazebo. Fill was approved of approximately 600 cu. yds. of material behind a soldier pile wall and a retaining wall. The project was approved subject to special conditions requiring geotechnical review, revised development plans relative to elimination of the gazebo, setback from the bluff line (revised plans), recordation of assumption of risk, wild fire waiver of liability, future improvements deed restriction, condition compliance, and timely completion.

The project site is in an area of developed single family residences on a coastal bluff overlooking Malibu Road. The site is located in an area seaward of Pacific Coast Highway, which is a significant view corridor. Because of the intervening development and topography, the proposed project will not block views of the ocean from Pacific Coast Highway.

The application previously included a detached two story guest house near Pacific Coast Highway in addition a large attached maid's quarters/guest house. The attached guest house has changed in design, after discussion with staff and in response to concerns raised during the February, 2000 Commission meeting. The proposed two story building includes the previously mentioned first story "limousine carport" below a second story gymnasium.

B. Cumulative Impacts

Section 30250 (a) of the Coastal Act states:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have

significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

The proposed amendment raises Coastal Act issues related to cumulative impacts on coastal resources. The proposed "limousine carport" and two room gymnasium with a restroom and two rooms could easily be converted into a second residential unit, as discussed in greater detail below, on a site where a large primary residence is proposed. A second residential unit would intensify the use of a parcel, resulting in potential impacts on public services, such as water, sewage, electricity and roads. Development of a second unit would raise issues regarding the location and amount of new development and maintaining and enhancing public access to the coast, potentially increasing demand for public utilities and facilities or impeding their use.

Based on the above Coastal Act policies, the Commission has limited the development of second dwelling units on residential parcels in the Malibu and Santa Monica Mountain areas. In addition, the issue of second units on lots with primary residences has been the subject of past Commission action and in certifying the Malibu Land Use Plan (LUP). In its review and action on the Malibu LUP, the Commission found that placing an upper limit on the size of second units (750 sq. ft.) was necessary given the traffic and infrastructure constraints which exist in Malibu and given the abundance of existing vacant residential lots. Furthermore, in allowing secondary units, the Commission has found that the small size of units (750 sq. ft.), and the fact that they are likely to be occupied by one or at most two people, such units would have less impact on the limited capacity of Pacific Coast Highway and other roads (as well as infrastructure constraints such as water, sewage, electricity) than an ordinary single family residence. (certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29 and P.C.H. (ACR), 12/83 page V-1 - VI-1).

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

can intensify the use of a site and impact public services, such as water, sewage, electricity, and roads.

The proposed building containing a limousine carport and gymnasium with two rooms and a bathroom. As noted previously, there is a separate first floor half bath with an exterior entrance. The structure is located on the north side of the garage and is connected to the garage by a partial shared wall on one side. There is no through passage directly to the living area of the principal residence. The distance from the main living area is thirty feet. The second story gymnasium with a bathroom, two main rooms, and a separate exterior entrance, and a stairway, could easily be converted to a second story second residential unit.

To ensure that no additions or improvements are made to the residence, which further intensifies the use, without due consideration of the potential cumulative impacts, it is necessary to require the applicant to record a future development deed restriction. The deed restriction requires that the applicant obtain an amended or new coastal permit if additions or improvements to the development or convert the proposed limousine and gymnasium area to a guest house as required by special condition eight (8).

In addition, as previously noted, the proposed design of the second story includes an exterior entrance, stairway, restroom, and two main rooms which is of a design which is not the typical open floor plan of a gymnasium and could easily be converted to a second unit. Therefore, condition nine (9) is necessary to ensure that the design remains such that it is not suitable for residential use.

Through approval of the amendment with these conditions, the project is found consistent with PRC Section 30250 (a) because it will not raise an issue relative to cumulative residential development.

C. Local Coastal Program

Section 30604(a) of the Coastal Act states that:

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

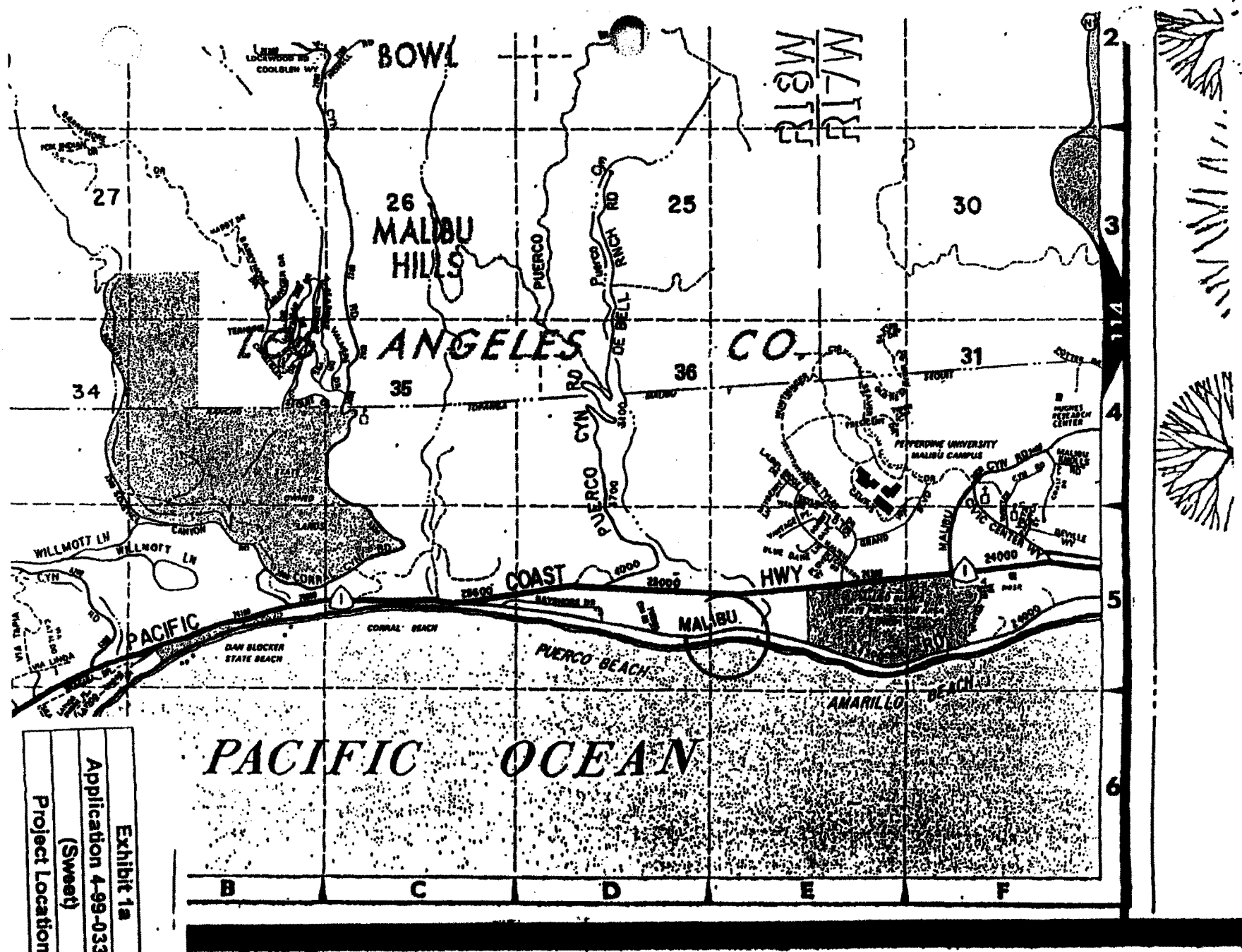
incorporated into the project and accepted by the applicant. As conditioned, the proposed amendment will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3.

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).

D. 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 effects which the activity would have on the environment.

The proposed amendment would not cause significant, adverse environmental effects, which would not be adequately mitigated by the conditions imposed by the Commission. Therefore, the proposed project, as conditioned, is found consistent with CEQA and with the policies of the Coastal Act.



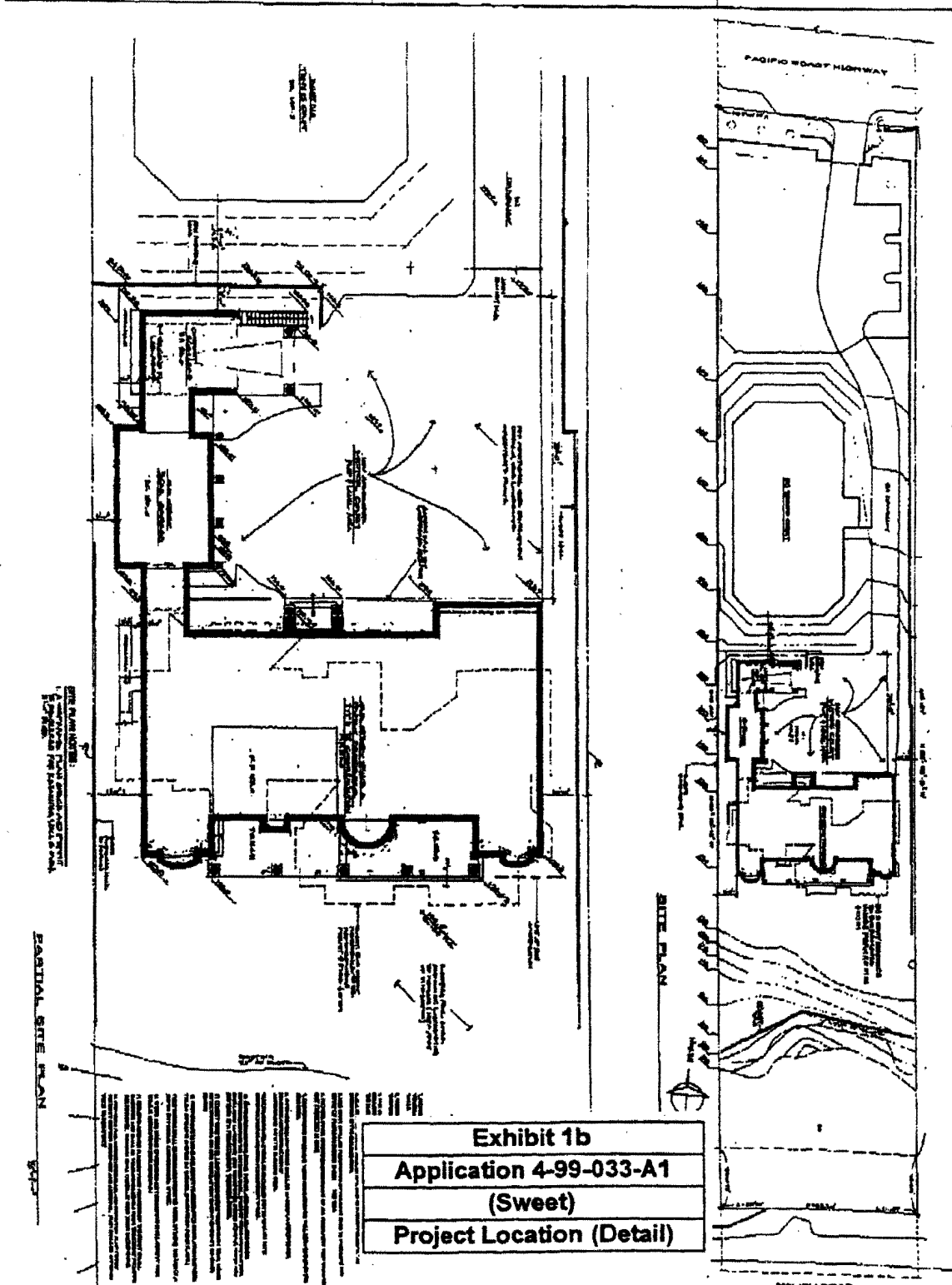
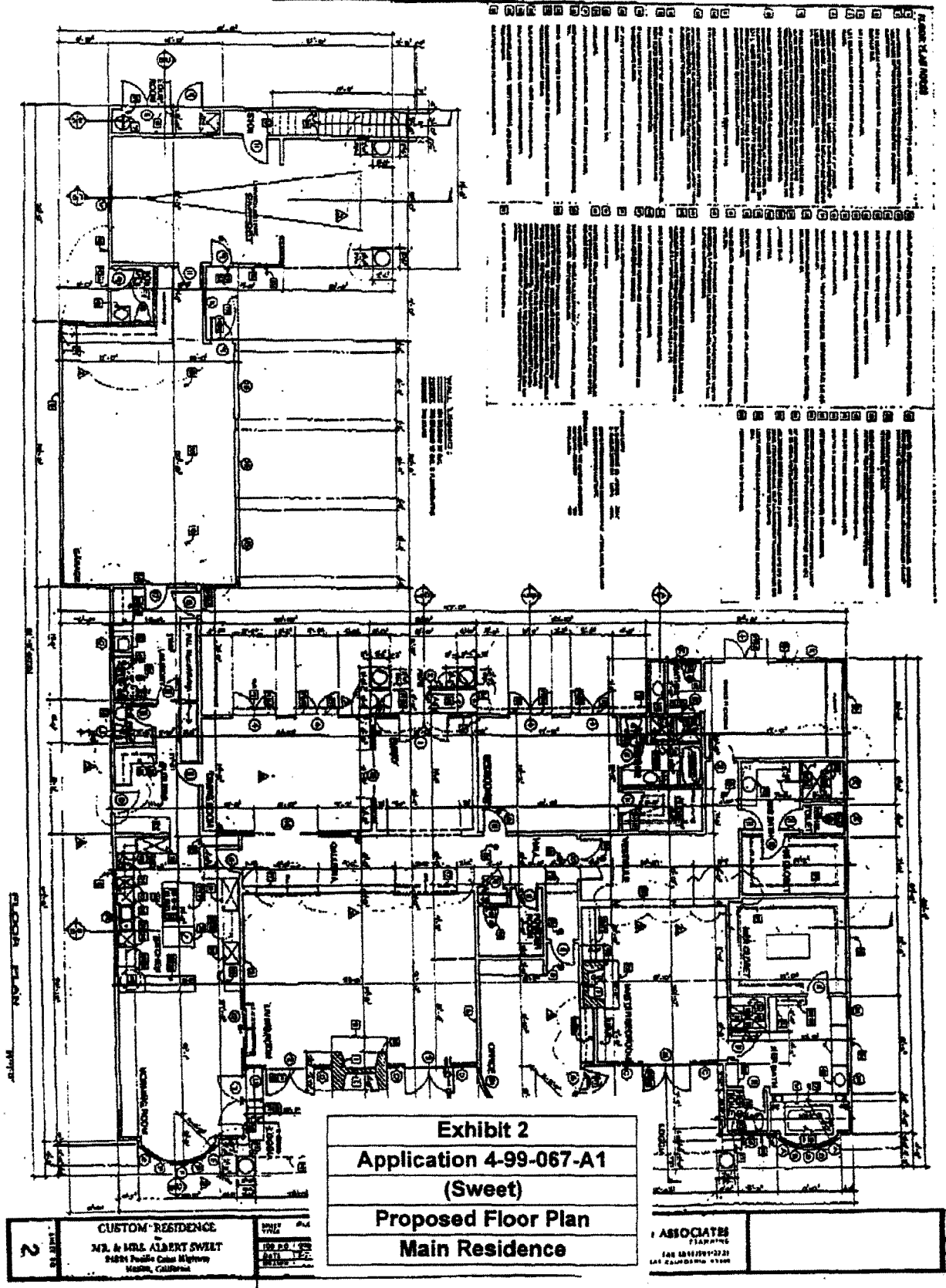
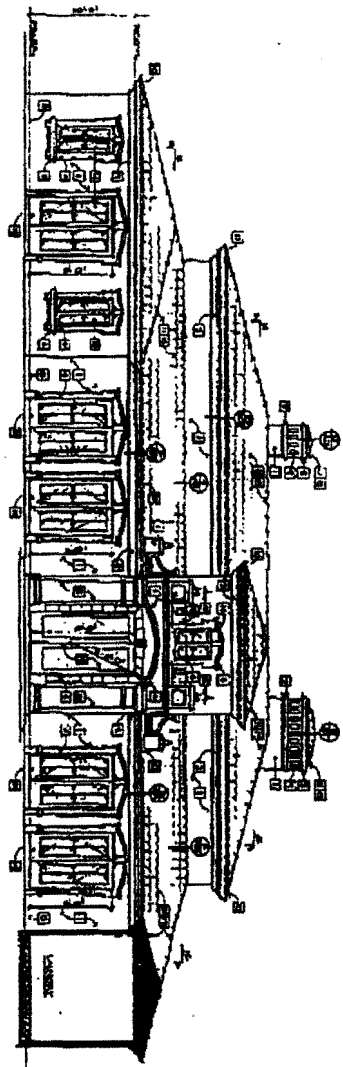


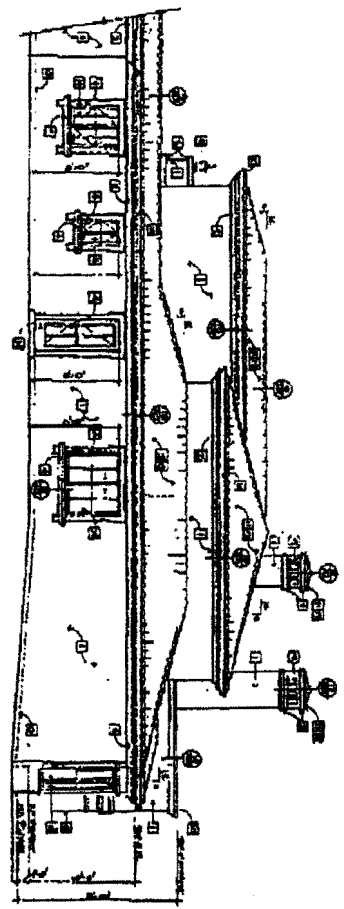
Exhibit 1b
Application 4-99-033-A1
(Sweet)
Project Location (Detail)

1	CUSTOM RESIDENCE MR. & MRS. ALBERT SWEET SANTA PUEBLO DRIVE HIGHWAY MILWAUKEE, CALIFORNIA	DATE	2/21/00	BY	ALB	LINDIE LIPPICH ARCHITECT & ASSOCIATES ARCHITECTS PHONE (916) 331-1000 FAX (916) 331-1001 2140 YORK STREET, SUITE 110 CALABASAS, CALIFORNIA 91301
		TITLE	SITE PLAN	DATE	2/21/00	





FRONT ELEVATION



RIGHT SIDE ELEVATION

Exhibit 3a
Application 4-99-067-A1
(Sweet)
Elevation

REVISION NOTES

1	REVISION	DATE
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3	REVISION	DATE
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4 SHEET NO.	CUSTOM RESIDENCE FOR MR. & MRS. ALBERT SWEET 2700 Franklin Canyon Highway Malibu, California	EXTERIOR ELEVATIONS		LESLIE LIPPICH ARCHITECT & ASSOCIATES ARCHITECTS 12001 CANTONMENT BLVD. SUITE 210 CANTONMENT, CALIFORNIA 90241	(SEE EXHIBIT 3-B) (SEE EXHIBIT 3-C)
		DRAWN BY DATE	CHECKED BY DATE		
		DESIGNED BY DATE	REVIEWED BY DATE		
		SCALE	DATE		

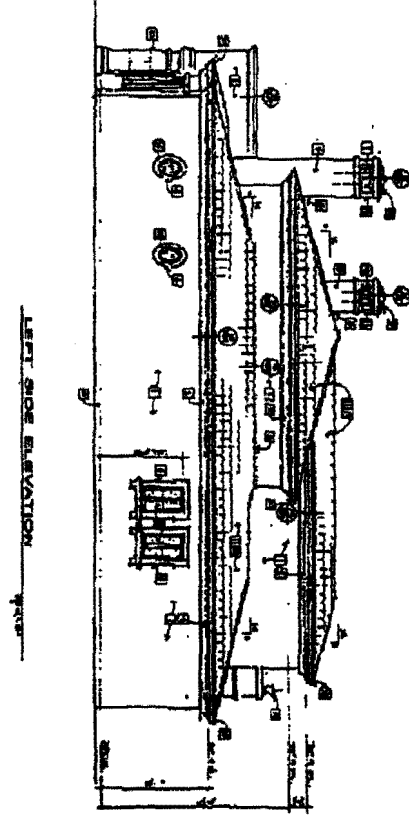
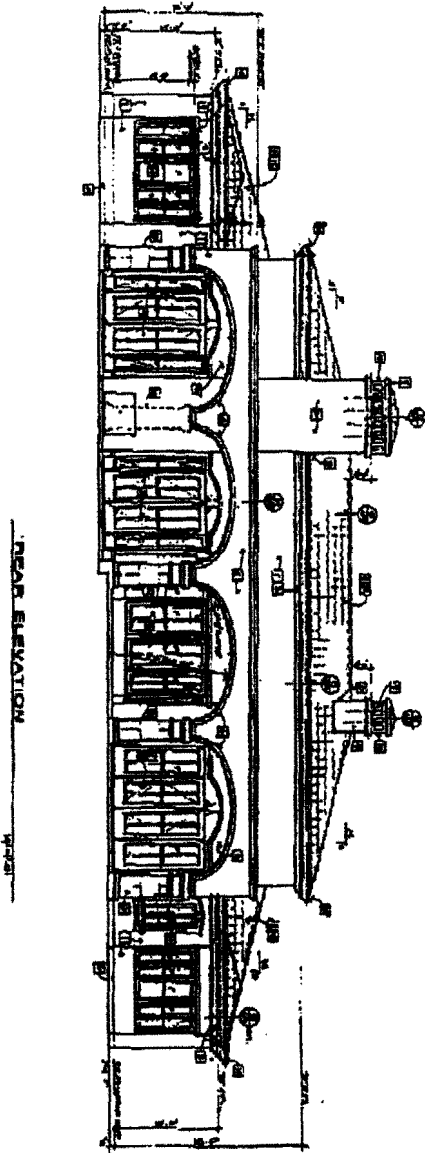


Exhibit 3b
Application 4-99-067-A1
(Sweet)
Elevation

1. The following information is provided for your information and is not to be used for any other purpose.
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10. The information is provided for your information and is not to be used for any other purpose.

5	CUSTOM RESIDENCE MR. & MRS. ALBERT SWEET 24854 Puffer Creek Highway MADRID, CALIFORNIA	TITLE: EXTERIOR ELEVATIONS		LESLIE LIPPICH ARCHITECT & ASSOCIATES 12 LUTHER LANE PO BOX 1010000 70500 1714 PAUL SEPAREDA, SUITE 200 GALVESTON, CALIFORNIA 77550	FEB-23-00 WED 01:29 PM LESLIE LIPPICH ARCHITECT 818 5912729
		DATE: 1-20-00	BY: [signature]		

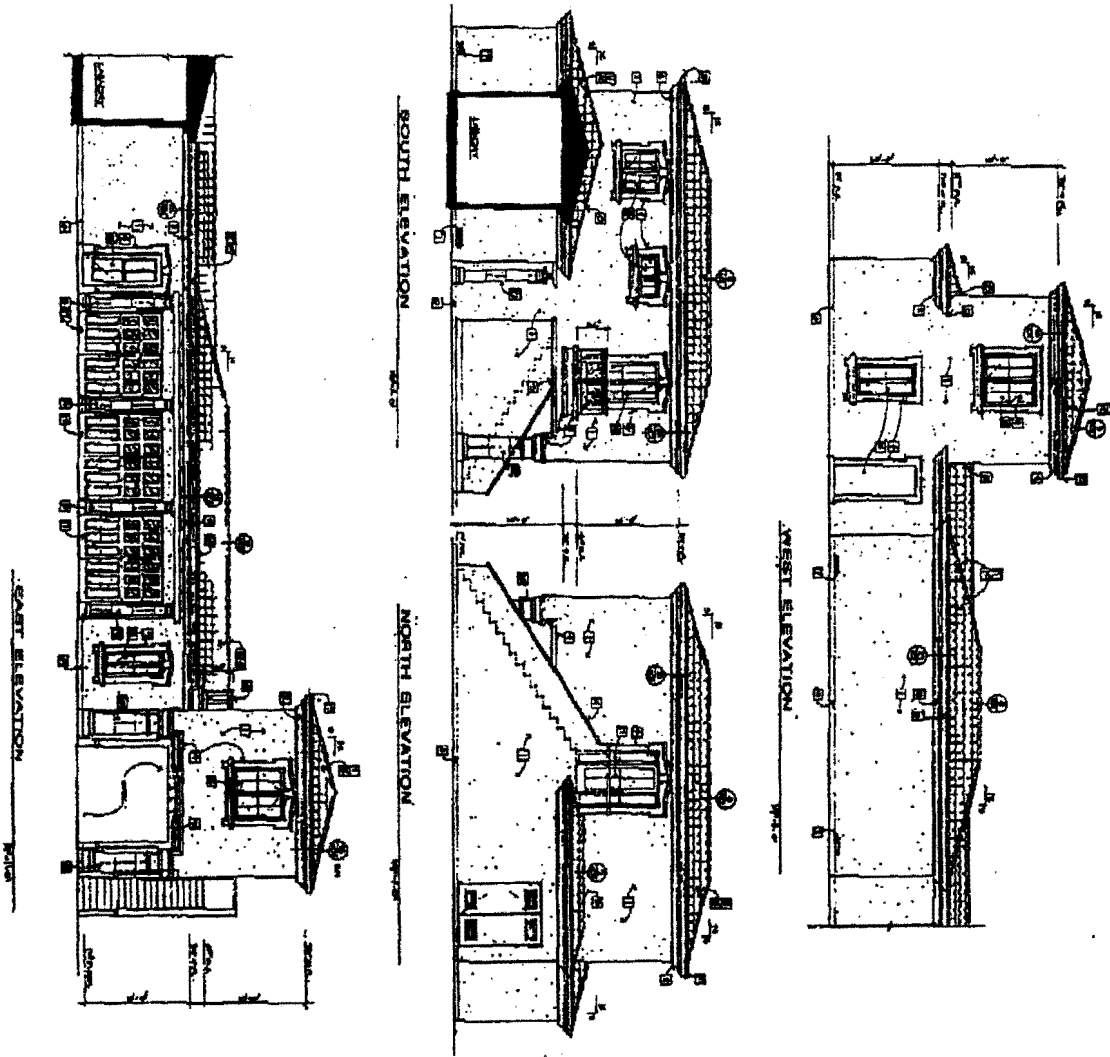
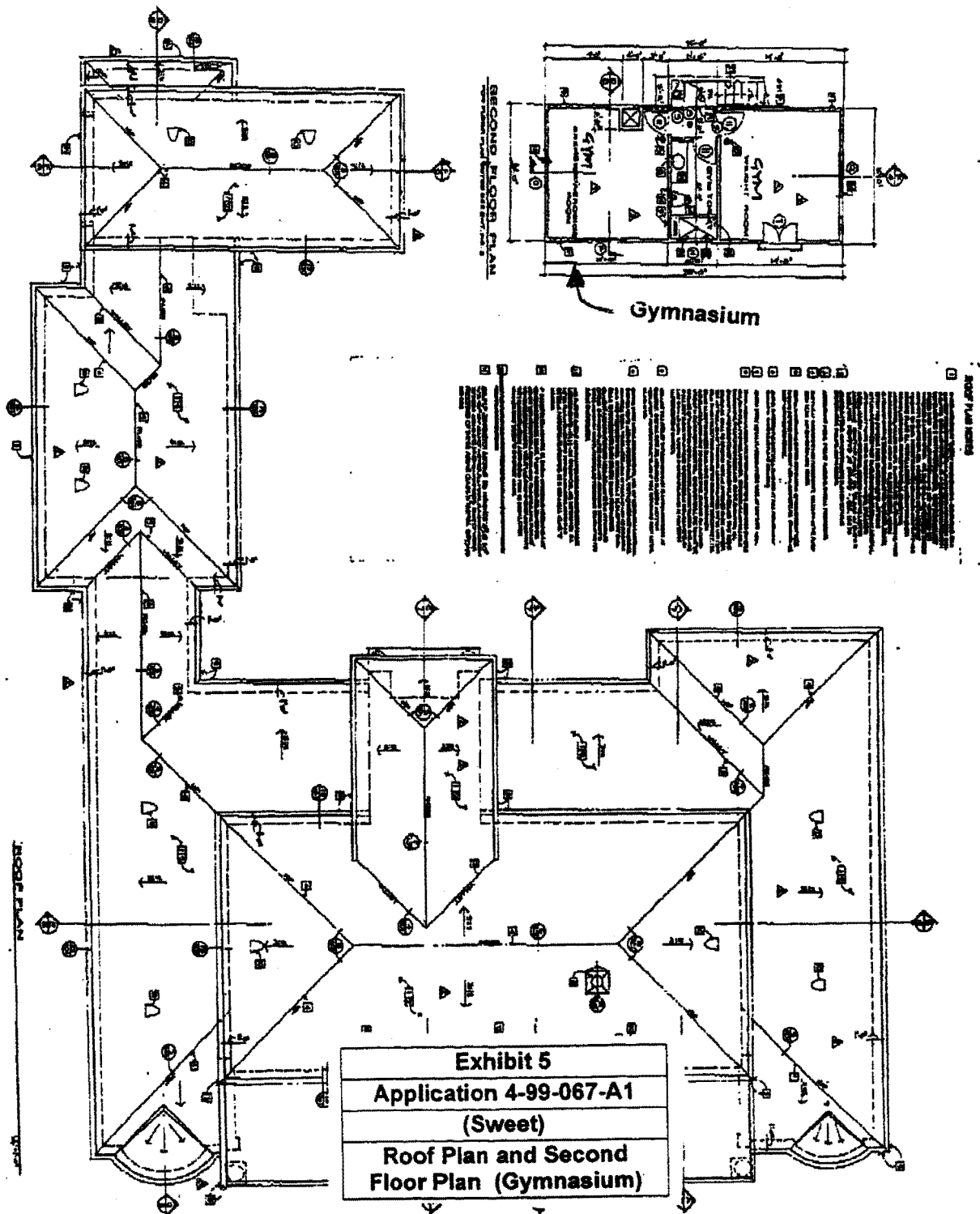


Exhibit 4
Application 4-99-067-A1
(Sweet)
Elevation
Garage/Gymnasium

PERMITS
 The following information is for the purpose of providing a general overview of the project and is not intended to be a substitute for the detailed information provided in the permit application. The information is subject to change without notice and is not to be used for any other purpose.

	CUSTOM RESIDENCE MR. & MRS. ALBERT SWLET 14001 Pacific Coast Highway Malibu, California	LESLIE LIPPICH ARCHITECT & ASSOCIATES ARCHITECTS 14001 PACIFIC COAST HWY., SUITE 200 MALIBU, CALIFORNIA 90262 TEL: (310) 316-1111 FAX: (310) 316-1112	DATE: 02-23-00 SCALE: 1/8" = 1'-0"
	PROJECT NO: 4-99-067-A1 REVISION: 1		



3	CUSTOM RESIDENCE MR. & MRS. ALBERT SWIFT 1845 Pacific Coast Highway Malibu, California	SWIFT ROOF PLAN	LESLIE LIPPICH ARCHITECT & ASSOCIATES
		JOB NO. - 4-99-067-A1 DATE - 10/1/99 DRAWN BY - [blank] CHECKED BY - [blank]	PROJECT NO. - 4-99-067-A1 1710 10th AVENUE, SUITE 210, BERKELEY, CALIF. 94710 TEL: (415) 841-1111 FAX: (415) 841-1112

WIZC

CALIFORNIA COASTAL COMMISSION

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

Filed: 3-25-97
49th Day: 4-24-97
180th Day: 9-2-97
Staff: Betz-VNT *ja*
Staff Report: 6-20-97
Hearing Date: 7-10-97

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-97-033

APPLICANT: Albert Sweet AGENT: Robert Chersky

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

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

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

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

SUBSTANTIVE FILE DOCUMENTS:

- (1) Malibu/Santa Monica Mountains Land Use Plan.
- (2) GeoConcepts, Inc.: Supplemental Report No. 3, March 17, 1997; Limited Geologic and Soils Engineering Investigation, May 17, 1996; Existing Rear Yard Retaining Wall (letter report). April 7, 1997; Supplemental Report No. 1, October 8, 1996.

Exhibit 6
Application 4-99-067-A1
(Sweet)

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

SUMMARY OF STAFF RECOMMENDATION:

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

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions.

1. Plans Conforming to Geologic Recommendations

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

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

2. Revised Development Plans

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

3. Assumption of Risk Deed Restriction

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

4. Wild Fire Waiver of Liability

Prior to the issuance of the coastal development permit, the applicants shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wild fire exists as an inherent risk to life and property.

5. Future Improvements

Prior to the issuance of a coastal development permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, stating that any future structures, additions or improvements related to the gym, approved under coastal development permit number 4-96-033, will require a permit from the Coastal Commission or its successor agency. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest conveyed.

6. Condition Compliance

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

7. Timing

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

IV. Findings and Declarations.

The Commission hereby finds and declares:

A. Project Description and Background

1. Project Description

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Background

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

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

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

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

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

B. Geologic Hazards

Section 30253 of the Coastal Act states in part that :

New development shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The letter report concludes that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

subject to landsliding and erosion, may involve the taking of some risk. The proposed measures can not completely eliminate the hazards associated with bluffs such as bluff erosion and failure. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to establish who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property.

The Commission finds that due to the unforeseen possibility of erosion, bluff retreat, and slope failure, the applicant shall assume these risks as a condition of approval, as outlined in special condition 3. Because this risk of harm cannot be completely eliminated, the Commission must require the applicant to waive any claim of liability on the part of the Commission for damage to life or property which may occur as a result of the permitted development. The applicant's assumption of risk, when executed and recorded on the property deed, will show that the applicant is aware of and appreciates the nature of hazards which exist on the site, and which may adversely affect the stability or safety of the proposed development.

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

C. Visual Impacts

Section 30251 of the Coastal Act states:

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

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

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

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

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

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

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

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

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

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

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

D. Cumulative Effects of Development

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

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the ~~usable~~ parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Section 30252 of the Coastal Act states:

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

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

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

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

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

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

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

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

E. Violation

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

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

Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to any violation of the Coastal Act that may have occurred.

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

F. Local Coastal Program

Section 30604(a) of the Coastal Act states:

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

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

G. CEQA

Section 13096 of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(1) 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.

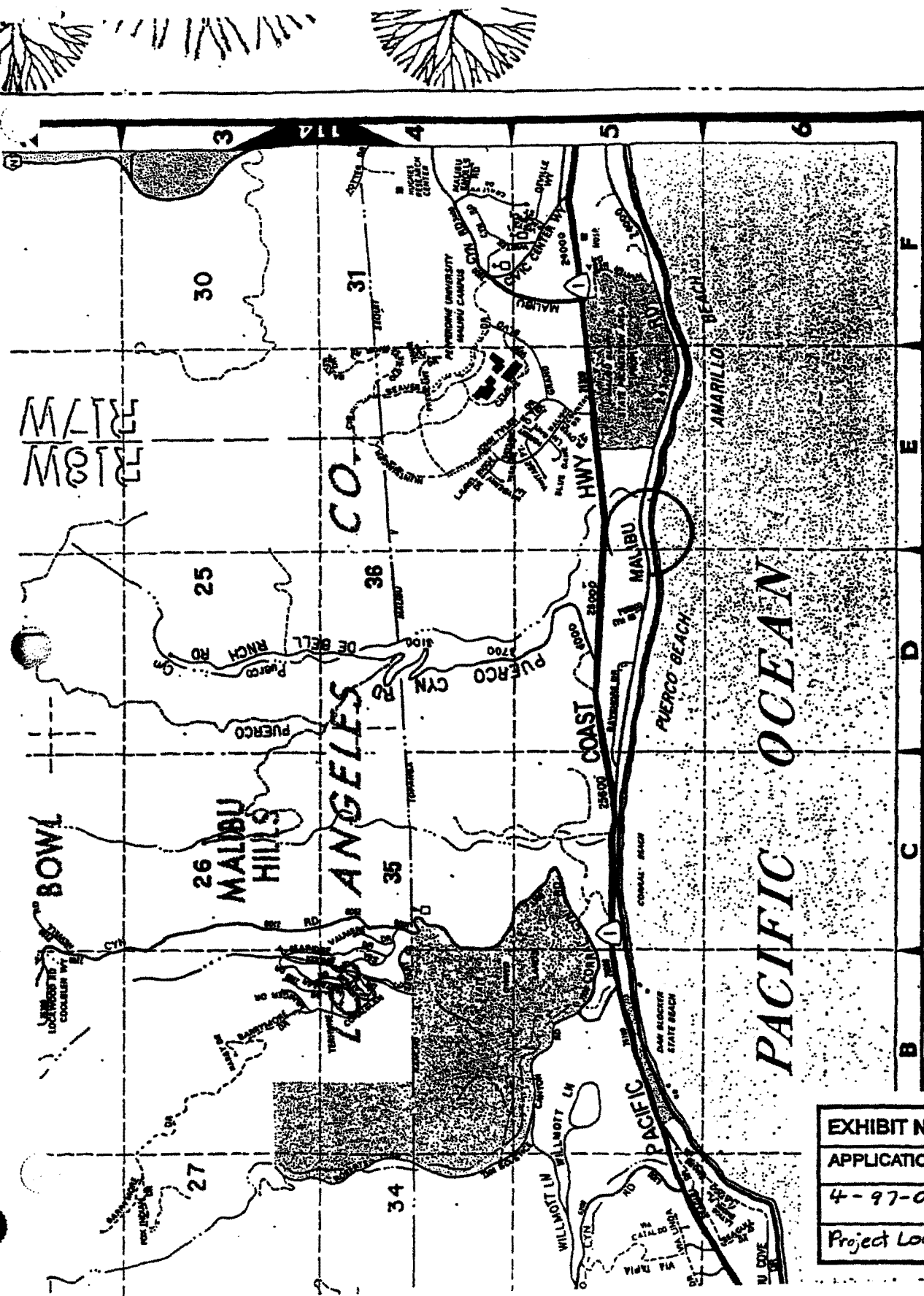


EXHIBIT NO.	1
APPLICATION NO.	4-97-033 (Sweet)
Project Location	

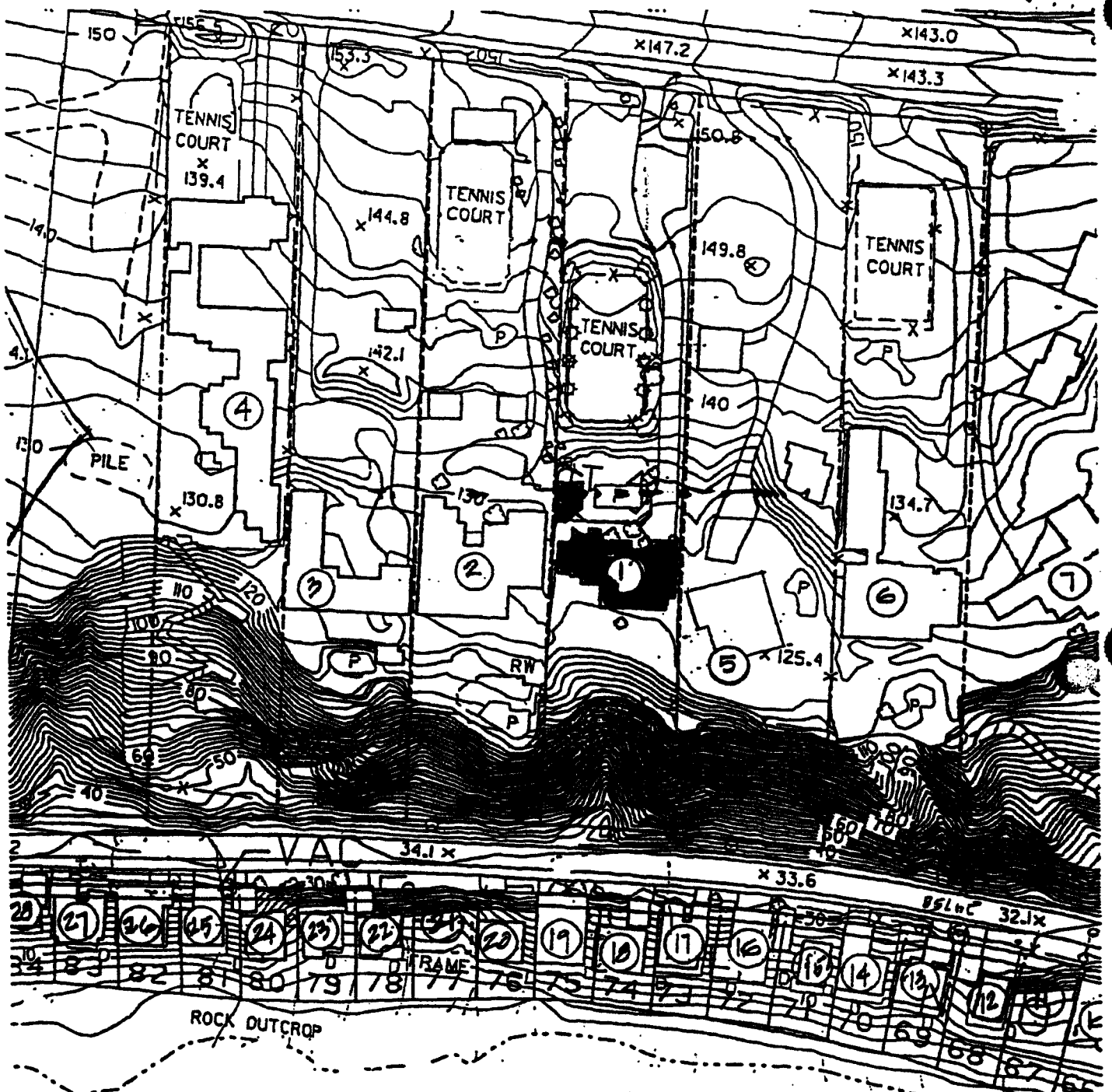
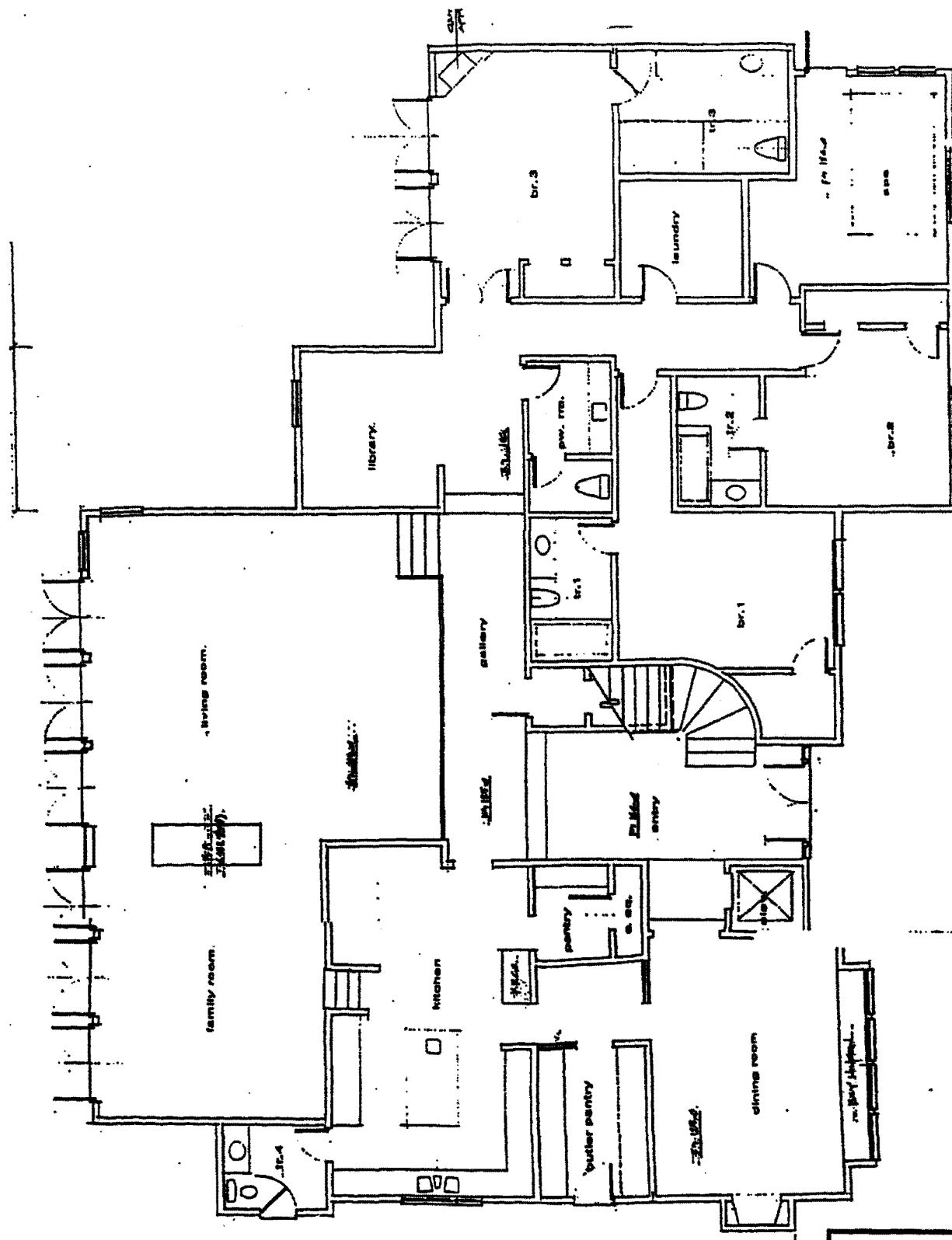


EXHIBIT NO.	2
APPLICATION NO.	
4-97-033(Sweet)	
Building Locations and Topography	

PACIFIC OCEAN

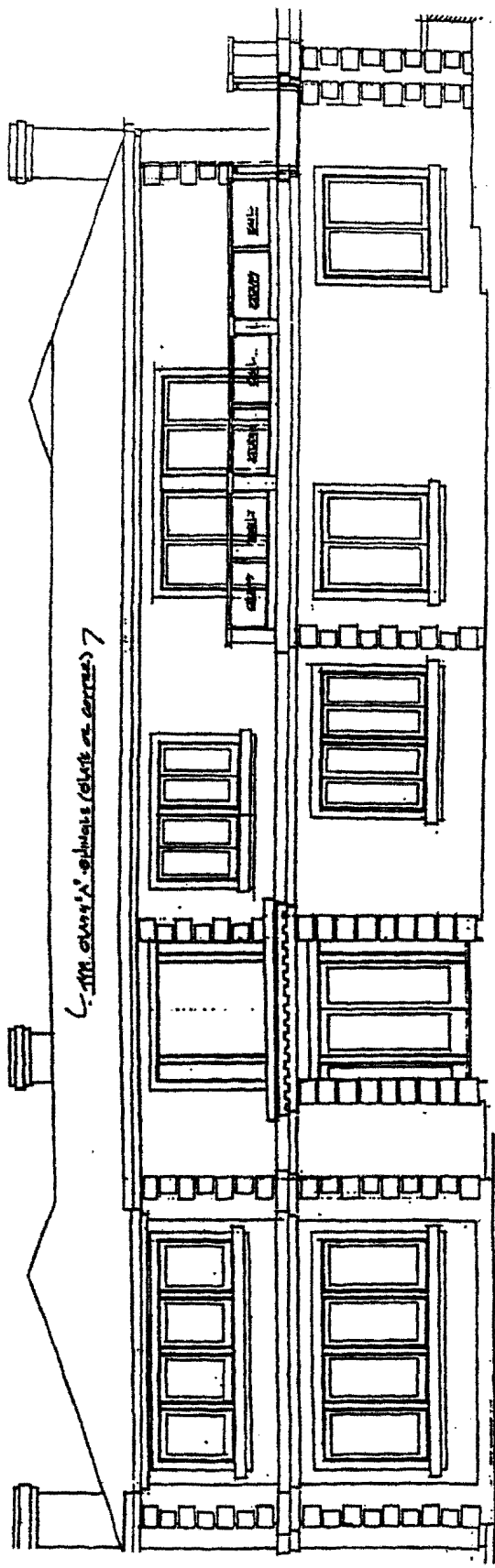


26

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

PROPOSED
SHED LENS

4
1



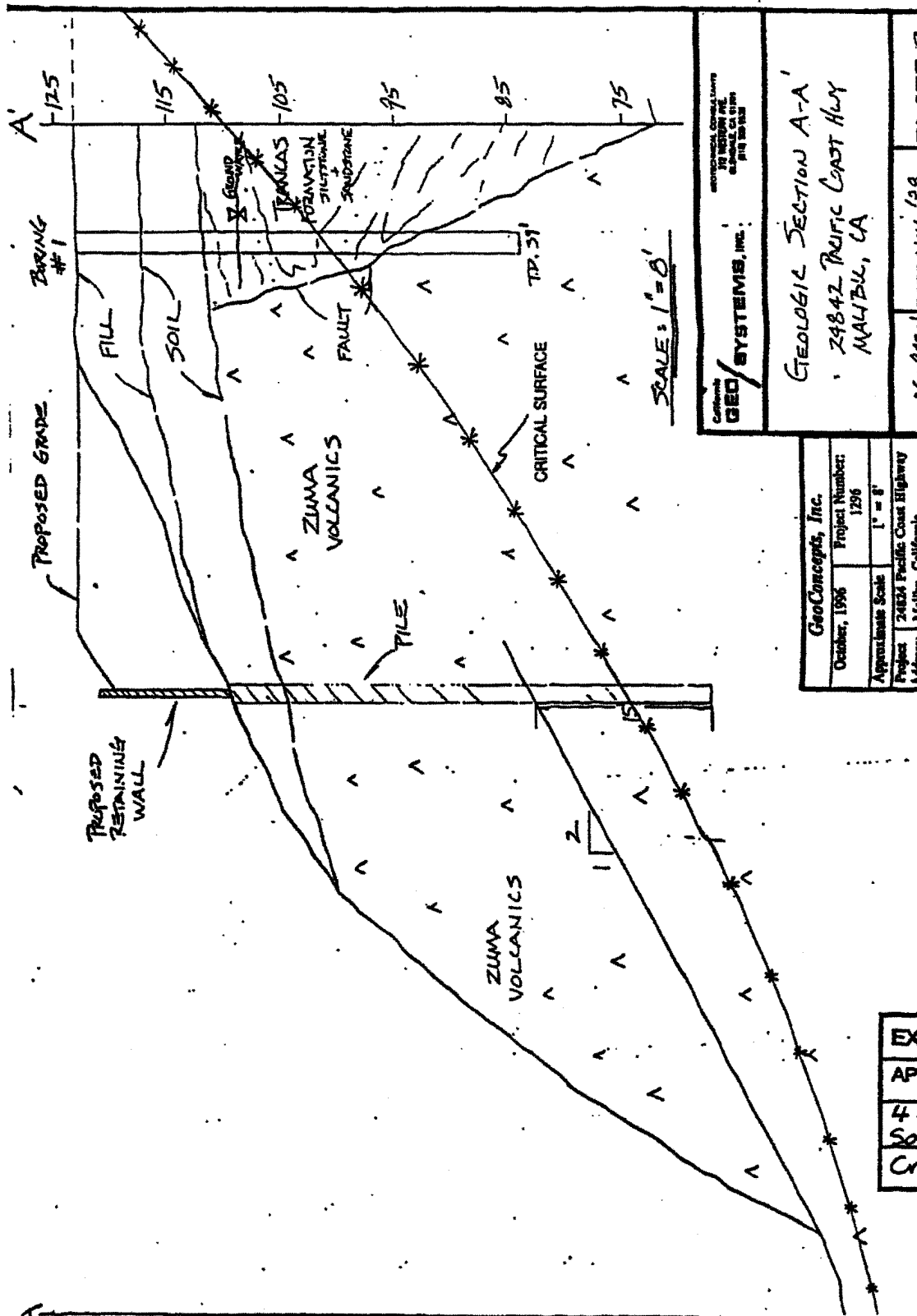
1/4" = 10' - 0"

1/4" = 10' - 0"

1/4" = 10' - 0"

1/4" = 10' - 0"

EXHIBIT NO.	46
APPLICATION NO.	4-97-033 (Sweet)
Elevation Facing PCH	



California
GEO SYSTEMS, INC.
 2500 CENTRAL EXPRESS DRIVE
 2500 CENTRAL EXPRESS DRIVE
 MALIBU, CALIF. 90263

GEOLOGIC SECTION A-A'
 24842 Pacific Coast Hwy
 MALIBU, CA

DATE: 05-04-97
 DRAWN BY: JNL
 SCALE: 1" = 8'

GeoConcepts, Inc.	
October, 1996	Project Number: 1296
Approximate Scale: 1" = 8'	
Project: 24842 Pacific Coast Highway	
Address: Malibu, California	

EXHIBIT NO. 5
APPLICATION NO.
4-97-033(Sweet)
Soldier Pile Retaining Wall
Cross Section

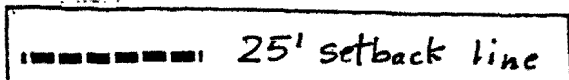
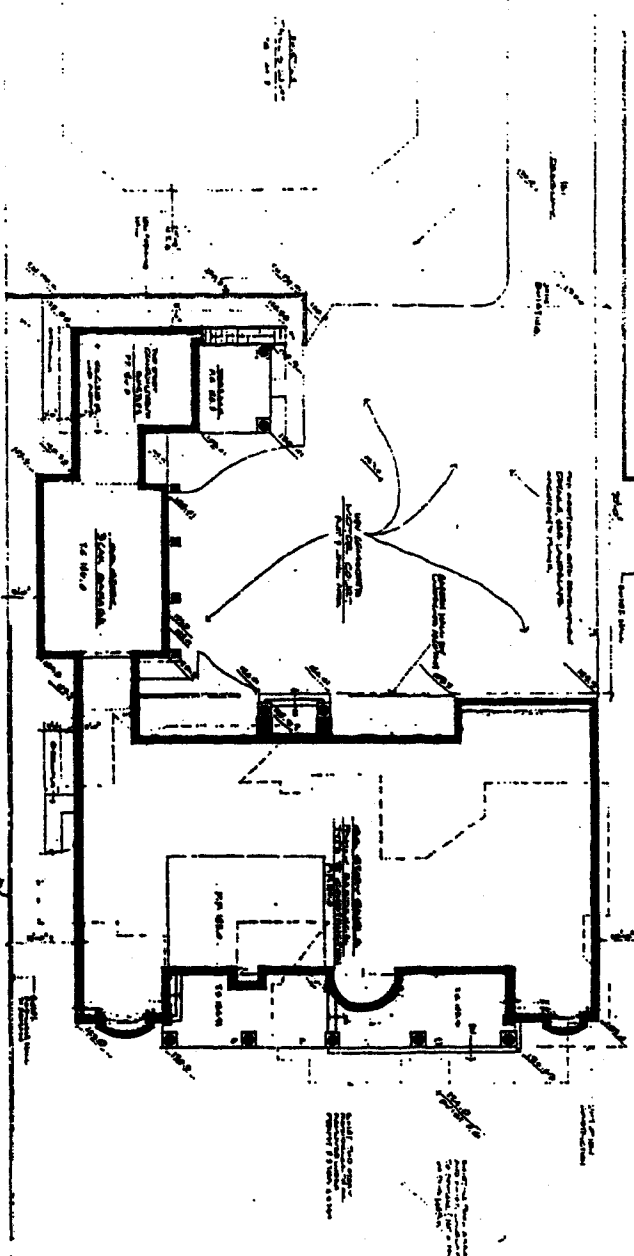


EXHIBIT NO. 6
APPLICATION NO.
4-97-033 (Sweet)
Wall, Gazebo, etc.

SITE PLAN NOTES:
1. A detailed final plan and report
to be prepared for planning board review.

PARTIAL SITE PLAN



SITE PLAN

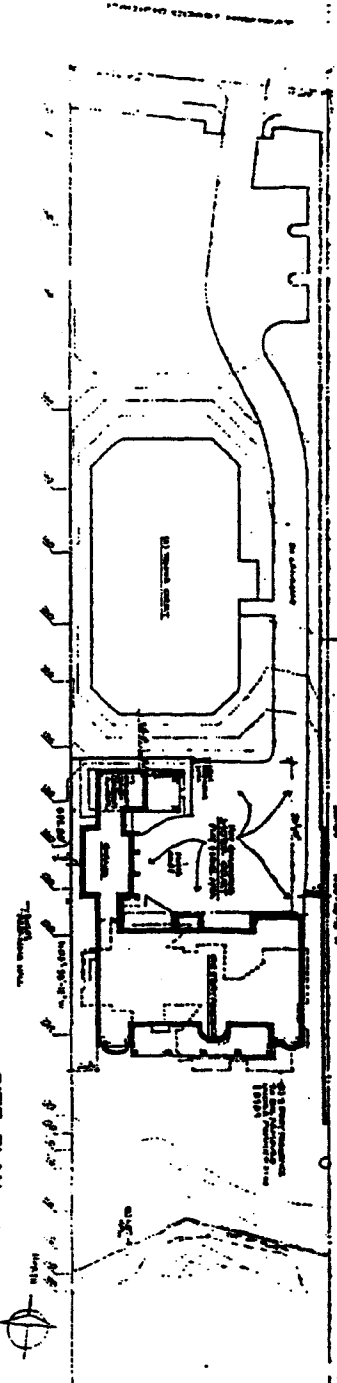


Exhibit 4
Application 4-99-067-A1
(Sweet)
Proposed Site Plan

CUSTOM RESIDENCE
MR. & MRS. ALBERT SWEET
24824 Pacific Coast Highway

SITE PLAN	
DATE	11/11/11
BY	100-100-100
SCALE	1" = 10'-0"
REVISIONS	

LESLIE LIPPICH ARCHITECT & ASSOCIATES
ARCHITECTS
01110
PHONE 310.310.1000 FAX 310.310.1001

1. Subject: Robert Lee Smith, born 1941, male
2. Address: 1000 1st St. N.E., Washington, D.C. 20002
3. Occupation: Student
4. Education: High School Graduate
5. Religion: Methodist
6. Marital Status: Single
7. Parents: Robert Lee Smith, Sr., 1000 1st St. N.E., Washington, D.C. 20002
8. Family: None
9. Other: None
10. Comments: None
11. Signature: Robert Lee Smith
12. Date: 10/10/68
13. Initials: RLS
14. Phone: 202-555-1234
15. Address: 1000 1st St. N.E., Washington, D.C. 20002
16. Occupation: Student
17. Education: High School Graduate
18. Religion: Methodist
19. Marital Status: Single
20. Parents: Robert Lee Smith, Sr., 1000 1st St. N.E., Washington, D.C. 20002
21. Family: None
22. Other: None
23. Comments: None
24. Signature: Robert Lee Smith
25. Date: 10/10/68
26. Initials: RLS
27. Phone: 202-555-1234
28. Address: 1000 1st St. N.E., Washington, D.C. 20002
29. Occupation: Student
30. Education: High School Graduate
31. Religion: Methodist
32. Marital Status: Single
33. Parents: Robert Lee Smith, Sr., 1000 1st St. N.E., Washington, D.C. 20002
34. Family: None
35. Other: None
36. Comments: None
37. Signature: Robert Lee Smith
38. Date: 10/10/68
39. Initials: RLS
40. Phone: 202-555-1234
41. Address: 1000 1st St. N.E., Washington, D.C. 20002
42. Occupation: Student
43. Education: High School Graduate
44. Religion: Methodist
45. Marital Status: Single
46. Parents: Robert Lee Smith, Sr., 1000 1st St. N.E., Washington, D.C. 20002
47. Family: None
48. Other: None
49. Comments: None
50. Signature: Robert Lee Smith
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61. Other: None
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74. Other: None
75. Comments: None
76. Signature: Robert Lee Smith
77. Date: 10/10/68
78. Initials: RLS
79. Phone: 202-555-1234
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82. Education: High School Graduate
83. Religion: Methodist
84. Marital Status: Single
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86. Family: None
87. Other: None
88. Comments: None
89. Signature: Robert Lee Smith
90. Date: 10/10/68
91. Initials: RLS
92. Phone: 202-555-1234
93. Address: 1000 1st St. N.E., Washington, D.C. 20002
94. Occupation: Student
95. Education: High School Graduate
96. Religion: Methodist
97. Marital Status: Single
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99. Family: None
100. Other: None
101. Comments: None
102. Signature: Robert Lee Smith
103. Date: 10/10/68
104. Initials: RLS
105. Phone: 202-555-1234
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107. Occupation: Student
108. Education: High School Graduate
109. Religion: Methodist
110. Marital Status: Single
111. Parents: Robert Lee Smith, Sr., 1000 1st St. N.E., Washington, D.C. 20002
112. Family: None
113. Other: None
114. Comments: None
115. Signature: Robert Lee Smith
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120. Occupation: Student
121. Education: High School Graduate
122. Religion: Methodist
123. Marital Status: Single
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125. Family: None
126. Other: None
127. Comments: None
128. Signature: Robert Lee Smith
129. Date: 10/10/68
130. Initials: RLS
131. Phone: 202-555-1234
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133. Occupation: Student
134. Education: High School Graduate
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138. Family: None
139. Other: None
140. Comments: None
141. Signature: Robert Lee Smith
142. Date: 10/10/68
143. Initials: RLS
144. Phone: 202-555-1234
145. Address: 1000 1st St. N.E., Washington, D.C. 20002
146. Occupation: Student
147. Education: High School Graduate
148. Religion: Methodist
149. Marital Status: Single
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151. Family: None
152. Other: None
153. Comments: None
154. Signature: Robert Lee Smith
155. Date: 10/10/68
156. Initials: RLS
157. Phone: 202-555-1234
158. Address: 1000 1st St. N.E., Washington, D.C. 20002
159. Occupation: Student
160. Education: High School Graduate
161

Exhibit 5
Application 4-99-067-A1
(Sweet)
Proposed First Floor Plan

[illegible]

1. NAME _____

2. DATE _____

3. TIME _____

4. LOCATION _____

5. DESCRIPTION _____

6. REMARKS _____

7. SIGNATURE _____

8. DATE _____

9. TIME _____

10. LOCATION _____

11. DESCRIPTION _____

12. REMARKS _____

13. SIGNATURE _____

14. DATE _____

15. TIME _____

16. LOCATION _____

17. DESCRIPTION _____

18. REMARKS _____

19. SIGNATURE _____

20. DATE _____

21. TIME _____

22. LOCATION _____

23. DESCRIPTION _____

24. REMARKS _____

25. SIGNATURE _____

26. DATE _____

27. TIME _____

28. LOCATION _____

29. DESCRIPTION _____

30. REMARKS _____

31. SIGNATURE _____

32. DATE _____

33. TIME _____

34. LOCATION _____

35. DESCRIPTION _____

36. REMARKS _____

37. SIGNATURE _____

38. DATE _____

39. TIME _____

40. LOCATION _____

41. DESCRIPTION _____

42. REMARKS _____

43. SIGNATURE _____

44. DATE _____

45. TIME _____

46. LOCATION _____

47. DESCRIPTION _____

48. REMARKS _____

49. SIGNATURE _____

50. DATE _____

51. TIME _____

52. LOCATION _____

53. DESCRIPTION _____

54. REMARKS _____

55. SIGNATURE _____

56. DATE _____

57. TIME _____

58. LOCATION _____

59. DESCRIPTION _____

60. REMARKS _____

61. SIGNATURE _____

62. DATE _____

63. TIME _____

64. LOCATION _____

65. DESCRIPTION _____

66. REMARKS _____

67. SIGNATURE _____

68. DATE _____

69. TIME _____

70. LOCATION _____

71. DESCRIPTION _____

72. REMARKS _____

73. SIGNATURE _____

74. DATE _____

75. TIME _____

76. LOCATION _____

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83. DESCRIPTION _____

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86. DATE _____

87. TIME _____

88. LOCATION _____

89. DESCRIPTION _____

90. REMARKS _____

91. SIGNATURE _____

92. DATE _____

93. TIME _____

94. LOCATION _____

95. DESCRIPTION _____

96. REMARKS _____

97. SIGNATURE _____

98. DATE _____

99. TIME _____

100. LOCATION _____

101. DESCRIPTION _____

102. REMARKS _____

103. SIGNATURE _____

104. DATE _____

105. TIME _____

106. LOCATION _____

107. DESCRIPTION _____

108. REMARKS _____

109. SIGNATURE _____

110. DATE _____

111. TIME _____

112. LOCATION _____

113. DESCRIPTION _____

114. REMARKS _____

115. SIGNATURE _____

116. DATE _____

117. TIME _____

118. LOCATION _____

119. DESCRIPTION _____

120. REMARKS _____

121. SIGNATURE _____

122. DATE _____

123. TIME _____

124. LOCATION _____

125. DESCRIPTION _____

126. REMARKS _____

127. SIGNATURE _____

128. DATE _____

129. TIME _____

130. LOCATION _____

131. DESCRIPTION _____

132. REMARKS _____

133. SIGNATURE _____

134. DATE _____

135. TIME _____

136. LOCATION _____

137. DESCRIPTION _____

138. REMARKS _____

139. SIGNATURE _____

140. DATE _____

141. TIME _____

142. LOCATION _____

143. DESCRIPTION _____

144. REMARKS _____

145. SIGNATURE _____

146. DATE _____

147. TIME _____

148. LOCATION _____

149. DESCRIPTION _____

150. REMARKS _____

151. SIGNATURE _____

152. DATE _____

153. TIME _____

154. LOCATION _____

155. DESCRIPTION _____

156. REMARKS _____

157. SIGNATURE _____

158. DATE _____

159. TIME _____

160. LOCATION _____

161. DESCRIPTION _____

162. REMARKS _____

163. SIGNATURE _____

164. DATE _____

165. TIME _____

166. LOCATION _____

167. DESCRIPTION _____

168. REMARKS _____

169. SIGNATURE _____

170. DATE _____

171. TIME _____

172. LOCATION _____

173. DESCRIPTION _____

174. REMARKS _____

175. SIGNATURE _____

176. DATE _____

177. TIME _____

178. LOCATION _____

179. DESCRIPTION _____

180. REMARKS _____

181. SIGNATURE _____

182. DATE _____

183. TIME _____

184. LOCATION _____

185. DESCRIPTION _____

186. REMARKS _____

187. SIGNATURE _____

188. DATE _____

189. TIME _____

190. LOCATION _____

191. DESCRIPTION _____

192. REMARKS _____

193. SIGNATURE _____

194. DATE _____

195. TIME _____

196. LOCATION _____

197. DESCRIPTION _____

198. REMARKS _____

199. SIGNATURE _____

200. DATE _____

201. TIME _____

202. LOCATION _____

203. DESCRIPTION _____

204. REMARKS _____

205. SIGNATURE _____

206. DATE _____

207. TIME _____

208. LOCATION _____

209. DESCRIPTION _____

210. REMARKS _____

211. SIGNATURE _____

212. DATE _____

213. TIME _____

214. LOCATION _____

215. DESCRIPTION _____

216. REMARKS _____

217. SIGNATURE _____

218. DATE _____

219. TIME _____

220. LOCATION _____

221. DESCRIPTION _____

222. REMARKS _____

223. SIGNATURE _____

224. DATE _____

225. TIME _____

226. LOCATION _____

227. DESCRIPTION _____

228. REMARKS _____

229. SIGNATURE _____

230. DATE _____

231. TIME _____

232. LOCATION _____

233. DESCRIPTION _____

234. REMARKS _____

235. SIGNATURE _____

236. DATE _____

237. TIME _____

238. LOCATION _____

239. DESCRIPTION _____

240. REMARKS _____

241

The figure is a detailed architectural floor plan of a building, likely a multi-unit residential structure. The plan is oriented with a north arrow pointing towards the top right. It shows a complex arrangement of rooms, corridors, and service areas. Key features include:

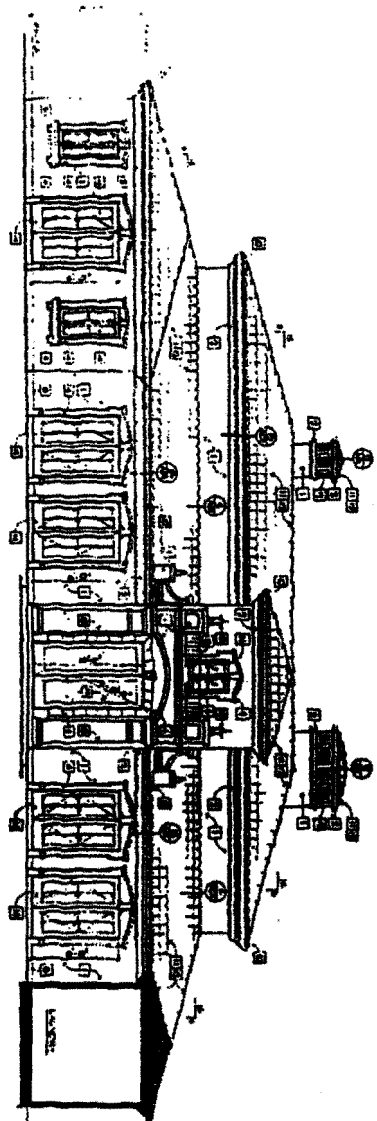
- Second Unit:** Located in the upper left portion of the plan, this unit includes a living area, kitchen, and bathroom. It is labeled "Second Unit" and "Lower Floor".
- Living Room:** A large open area in the lower left, featuring a fireplace and large windows.
- Kitchen:** Located adjacent to the living room, equipped with a sink, stove, and refrigerator.
- Bathroom:** Multiple bathrooms are distributed throughout the plan, including one in the central corridor area.
- Bedroom:** Several bedrooms are shown, some with built-in furniture and windows.
- Hallway:** A central corridor system provides access to all units and common areas.
- Stairs:** Multiple stairwells are indicated, providing vertical circulation within the building.
- Service Areas:** Includes a laundry room, storage areas, and a central utility space.
- Exterior Features:** The plan shows the building's footprint, including a large parking area on the right side and a fenced-in yard area at the bottom.

In the upper right corner, there is a title block with the following text:

Exhibit 5
Application 4-99-067-A1
(Sweet)
Proposed First Floor Plan

The drawing is dated "10/1/99" and includes a scale bar indicating dimensions in feet and inches. The plan is signed by the architect, "J. Sweet", and includes a professional seal. The overall layout is rectangular, with a central corridor running horizontally through the middle of the building.

FRONT ELEVATION



RIGHT SIDE ELEVATION

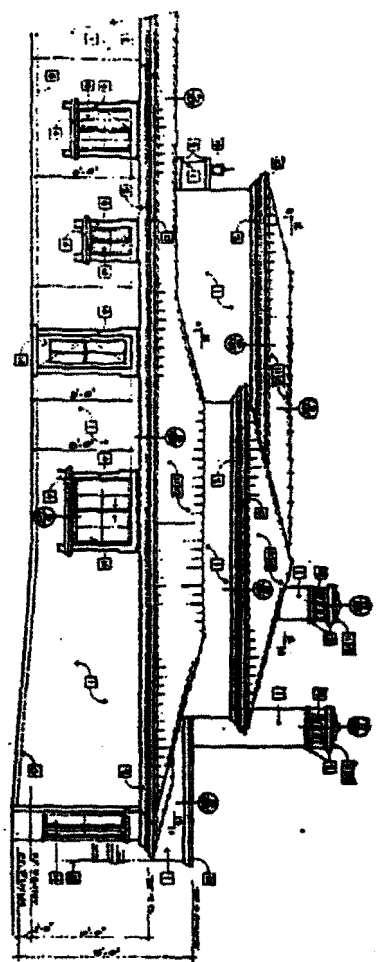


Exhibit 6 a
Application 4-99-067-A1
(Sweet)
Elevation

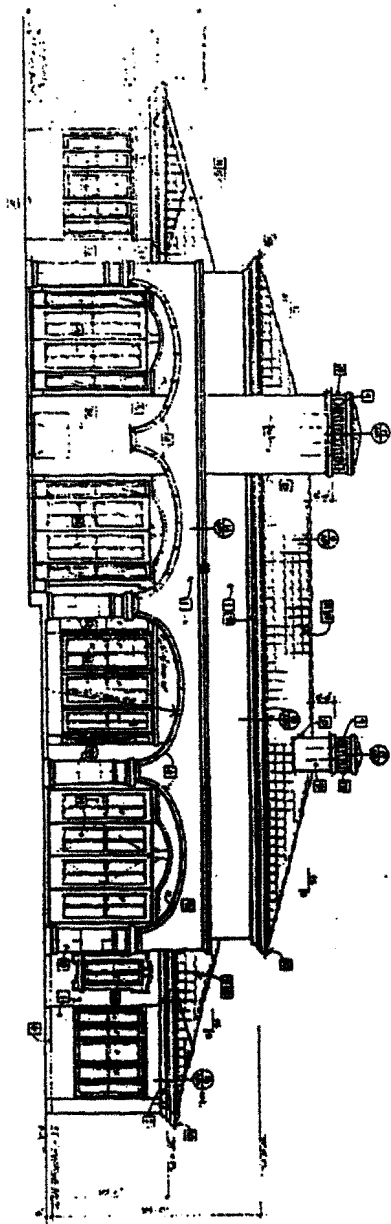
LESLIE LIPPICH ARCHITECT & ASSOCIATES
ARCHITECTS
1000 10TH AVENUE, SUITE 100
DENVER, COLORADO 80202
TEL: 303.733.1111
FAX: 303.733.1112
WWW.LESLIELIPPICH.COM

The image contains two architectural drawings of a building, labeled 'WEST ELEVATION' and 'SOUTH ELEVATION'. The 'WEST ELEVATION' drawing shows a two-story structure with a prominent central entrance featuring a pediment and columns. To the right of the entrance is a large, multi-paned window. The roof is gabled. The 'SOUTH ELEVATION' drawing shows a similar two-story structure, but with a different facade. It features a large, multi-paned window on the left side and a smaller entrance on the right. The roof is also gabled. Both drawings include numerous dimension lines and annotations, indicating the building's size and structural details. A handwritten note 'and units' is visible in the upper right corner of the image.

Second/Quest Units

[illegible]

REAR ELEVATION



LEFT SIDE ELEVATION

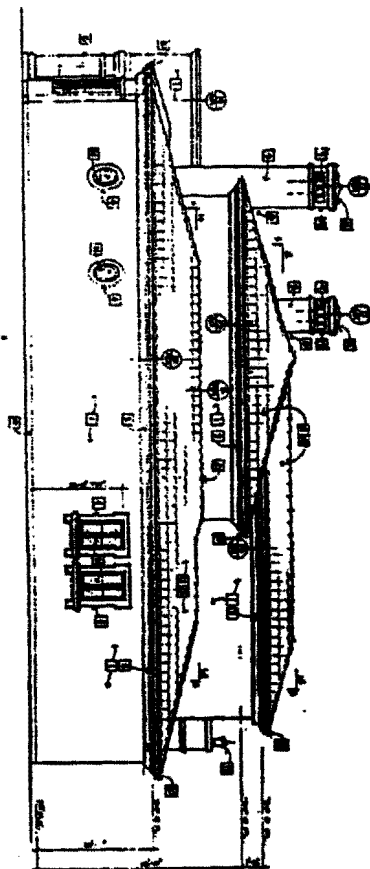


Exhibit 6c
Application 4-99-067-A1
(Sweet)
Elevation

1. The following information is for the use of the architect and is not to be used for any other purpose.
2. The architect is not responsible for the accuracy of the information provided by the client.
3. The architect is not responsible for the accuracy of the information provided by the client.
4. The architect is not responsible for the accuracy of the information provided by the client.
5. The architect is not responsible for the accuracy of the information provided by the client.
6. The architect is not responsible for the accuracy of the information provided by the client.
7. The architect is not responsible for the accuracy of the information provided by the client.
8. The architect is not responsible for the accuracy of the information provided by the client.
9. The architect is not responsible for the accuracy of the information provided by the client.
10. The architect is not responsible for the accuracy of the information provided by the client.

5

CUSTOM RESIDENT
MR. & MRS. ALBERT SWIFT

WEST
2002
EXTERIOR ELEVATIONS
DATE: 12/1/01
BY: [signature]

LESLIE LIPPICH ARCHITECT & ASSOCIATES
ARCHITECTS
1000 N. 10TH AVE.
SUITE 100
DENVER, CO 80202
PHONE: 303.733.1111
FAX: 303.733.1112