

**CALIFORNIA COASTAL COMMISSION**  
 SOUTH CENTRAL COAST AREA  
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## RECORD PACKET COPY

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Staff Report:	8/23/01
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### STAFF REPORT: REGULAR CALENDAR

**APPLICATION NO:** 4-99-017-A2

**APPLICANT:** Peter Smillie      **AGENT:** Fred Dean

**PROJECT LOCATION:** 28830 Bison Court, City of Malibu, Los Angeles County

**DESCRIPTION OF PROJECT PREVIOUSLY APPROVED:** Remodeling and addition of 3,736 sq. ft. to the first and second story of an existing 2-story, 3,155 sq. ft. single family residence, removal of 3<sup>rd</sup> story loft area, and no grading.

**PREVIOUSLY AMENDED FOR:** (A1) Reconfiguration of the floor plan of the single family residence, with a resulting increase in the floor area of 90 sq. ft. and 273 cu.yds. of grading (236 cut, 37 fill). All excess cut material will be disposed of at an appropriate location outside of the coastal zone.

**DESCRIPTION OF AMENDMENT:** Demolition of old swimming pool and construction of new swimming pool, construction of two 6 ft. high, approximately 80 ft. long retaining walls, concrete stairs, planters, and an approximately 600 sq. ft. deck to a previously approved single family residence. The proposal also includes 400 cu. yds. of grading (215 cu. yds. cut, 185 cu. yds. fill).

**LOCAL APPROVALS RECEIVED:** City of Malibu Planning Department Approval-in-Concept dated 7/25/01; City of Malibu Geology and Geotechnical Engineering Approval-in-Concept dated 1/02/01; City of Malibu Biological Review dated 7/24/01.

**SUBSTANTIVE FILE DOCUMENTS:** Certified Malibu/Santa Monica Mountains Land Use Plan, Coastal Development Permit 4-99-017 (Jackson & Terranova), Coastal Development Permit 4-99-017-A1 (Smillie).

**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 six (6) Special Conditions regarding (1) revised landscaping and erosion control, (3) revised drainage and polluted runoff control, (4) pool maintenance and management, (5) future development, (6) revised plans and (7) removal of excavated material.

#### **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. 4-99-017-A2 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 4-99-017 and 4-99-017-A1 continue to apply. In addition, the following revised and additional special conditions are hereby imposed as a condition upon the proposed project as amended pursuant to CDP 4-99-017-A2. Additions to Special Condition 1 and Special Condition 3 are underlined; deletions to these Special Conditions are ~~stricken through~~.**

### SPECIAL CONDITIONS

#### 1. Revised Landscaping and Erosion Control

Prior to issuance of a 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 be reviewed and approved by the consulting engineering geologist and engineer to ensure that the plans are in conformance with the consultants' recommendations. The plan shall identify the species, location, and extent of all plant materials and shall include specific performance standards to judge the success of the canyon restoration effort. The plan shall incorporate the following criteria:

##### A. Landscape and Fuel Modification Plans

- 1) All graded and 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 residence. 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 ~~October 4, 1994~~ February 5, 1996. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- 2) All graded and disturbed slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety

requirements. Such 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) Should grading take place during the rainy season (November 1-March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be placed on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location.
- 5) The applicant shall submit a Fuel Modification Plan, reviewed and approved by the Forestry Department of Los Angeles County. The Fuel Modification Plan shall clearly delineate each Fuel Modification Zone A, B, and C, and shall include details regarding the types, sizes and location of plant materials to be removed, how often thinning is to occur, and irrigation and maintenance requirements. Irrigated lawn, turf and ground cover planted within the fifty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.
- 6) Invasive and non-native plants species on the canyon slopes of the property and within and immediately adjacent to the canyon bottom shall be removed. The canyon bottom and slopes at the subject property shall be restored and revegetated, to the maximum extent feasible, with appropriate native plant species as listed by the California Native Plant Society, Santa Monica Mountains Chapter, *Recommended List of Plants for Landscaping in the Santa Monica Mountains*, dated February 5, 1996, consistent with the Forestry Department of Los Angeles County fuel modification requirements.
- 7) 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 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.

**C. Interim Erosion Control Plan**

- 1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, construction trailer site, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.
- 2) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geo-textiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume

**3. Revised Drainage and Erosion Polluted Runoff Control Plans**

Prior to the issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, a run-off and erosion control plan designed by a licensed engineer which assures that run-off from the road, driveways, pads, and all other impervious surfaces on the subject parcel are collected and discharged in a non-erosive manner which avoids ponding. Site drainage shall not be accomplished by sheetflow runoff. Should the project's drainage structures fail or result

in erosion, the applicant/landowner or successor interests shall be responsible for any necessary repairs and restoration.

The plan 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 the plan is in conformance with consultant's 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 85<sup>th</sup> 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) Vegetated and/or gravel filter strips must be appropriately sized, properly designed and engineered to: 1) trap sediment, particulates and other solids and 2) remove or mitigate contaminants through infiltration and/or biological uptake. Vegetated filter strips shall consist of native 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. Filter elements shall be designed to intercept and infiltrate or treat the runoff volume from a 25-year, 24-hour runoff event.
- e) 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 30<sup>th</sup> 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.

#### **4. Pool Drainage and Maintenance**

Prior to the issuance of the Coastal Development Permit, the applicant shall submit, for review and approval of the Executive Director, a written plan to mitigate the potential for leakage and discharge from the proposed swimming pool and spa. The plan shall at a minimum: 1) provide a separate water meter for the pool and spa to allow monitoring of water levels for the pool and spa, 2) identify the materials, such as plastic linings or specially treated concrete to be used to waterproof the underside of the pool and spa to prevent leakage, and information regarding past success rates of these materials, 3) identify methods to control pool and spa drainage and to control infiltration and run-off resulting from pool and spa drainage and maintenance activities, 4) identify methods for periodic disposal of pool and spa water for maintenance purposes outside designated Significant Watersheds or Environmentally Sensitive Habitat Areas. The Permittee shall undertake development and maintenance in compliance with the mitigation plan approved by the Executive Director. No changes shall be made to the plan unless they are approved by the Executive Director.

#### **5. Future Development**

This permit is only for the development described in Coastal Development Permit No. 4-99-017-A2. 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. 4-99-017-A2, including the residence and any fencing, grading, landscaping, clearing or other disturbance of vegetation, other than as provided for in the approved fuel modification/landscape plan prepared pursuant to Special Condition 3, shall require an amendment to Permit No. 4-99-017-A2 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

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 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.

## 6. Revised Plans

Prior to the issuance of the coastal development permit, the applicant shall submit revised project plans. The plans shall show all new development relocated north of a line consisting of the southernmost line of the previously approved residence and extending from the southeast corner of said residence to the southwest corner of the existing pool house, as depicted in **Exhibit 7**. The line shall not be construed to extend to the southwest corner of the existing wood deck attached to the pool house. The plan shall also provide detailed grading information, including cross-sections and revised grading totals. Grading totals shall not exceed 400 cu. yds. (cut and fill).

## 7. Removal of Excess Graded Material

The applicant shall remove all excavated material to an appropriate disposal site located outside of the Coastal Zone. Prior to the issuance of the coastal development permit, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excess excavated material from the site. Should the dumpsite be located in the Coastal Zone, a coastal development permit shall be required.

## III. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

### A. Project Description and Background

The applicants propose to demolish an old swimming pool and construct a new swimming pool, two 6 ft. high, approximately 80 ft. long retaining walls, concrete stairs, planters, and add an approximately 600 sq. ft. deck to a previously approved single family residence. The proposal also includes 400 cu. yds. of grading (215 cu. yds. cut, 185 cu. yds. fill) (**Exhibits 3-6**).

The proposed project site is located on Bison Drive on Point Dume in the City of Malibu (**Exhibits 1 and 2**). The area surrounding the project site is developed with numerous single family residences and the project site is not visible from any designated scenic highway or scenic public viewing area.

The 1.54 acre lot slopes southward from the street towards a canyon at the rear. From the 100 foot contour line, the lot descends at increasing gradients, then descends steeply to the canyon bottom at elev. 56. An intermittent stream runs along the canyon bottom and outlets to the Pacific Ocean, approximately 1500 feet downstream. While the stream is not designated as a blue-line stream on the U.S.G.S Map for the area, the canyon has been recognized as a Disturbed Sensitive Resource Area (DSR) in the certified Malibu/Santa Monica Mountains Land Use Plan (**Exhibits 2 and 9**). In addition,



the stream outlets into an area that contains an Offshore Kelp Bed Environmentally Sensitive Habitat Area, as designated in the certified Malibu/Santa Monica Mountains Land Use Plan (**Exhibit 9**).

The project site has been the subject of prior Coastal Commission action. A previous coastal development permit (CDP 4-99-017) was approved by the Commission in April 1999 for remodeling and addition of 3,736 sq. ft. to the first and second story of an existing 2-story, 3,155 sq. ft., single family residence, removal of a third story loft, and no grading. The permit was subsequently amended to include minor reconfiguration of floor plans. The project, as amended, is currently under construction. An additional amendment proposal, for minor changes to the main residence, is being reviewed by Commission staff.

Development approved under CDP 4-99-017 filled in the footprint on the canyon side of the house, and extended it to include four 4 ½ foot wide, 9 ½ foot long concrete porches, each attached to a bedroom, on the lower level of the canyon side of the house. However, amended plans, approved under CDP 4-99-017-A1, eliminated the four porches and added a 4 ft. wide, 15 ft. long deck on the first floor of the canyon side of the house. As amended, the project minimized the extension of the footprint toward the canyon to an approximately 60 sq. ft. area. The current project, as proposed, includes an approximately 600 sq. ft. (8 ft. wide, 75 ft. long) wood deck along the canyon side of the residence, and an enlarged swimming pool complex. As proposed, the project extends the footprint of development approximately 4-10 feet into the canyon. To prevent encroachment into the canyon, and associated impacts to coastal resources, **Special Condition Six (6)** requires that all development be removed north of a line that marks the approximate divide between existing graded and developed areas and undeveloped canyon slopes (**Exhibits 7 and 8**).

## **B. Environmentally Sensitive Habitat Areas**

Section 30230 of the Coastal Act states that:

*Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Section 30231 of the Coastal Act states that:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be*

*maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Section 30240 of the Coastal Acts states:

*(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

*(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

Sections 30230 and 30231 of the Coastal Act require that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through means such as minimizing adverse effects of waste water discharge and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural buffer areas that protect riparian habitats, and minimizing alteration of natural streams. In addition, Section 30240 of the Coastal Act states that environmentally sensitive habitat areas must be protected against disruption of habitat values.

In addition, Section 30253 of the Coastal Act states that new development shall:

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

Section 30253 mandates that new development neither create nor contribute significantly to erosion.

As described above, the proposed project includes demolition of an old swimming pool and construction of a new swimming pool, construction of two 6 ft. high, approximately 80 ft. long retaining walls, concrete stairs, planters, and an approximately 600 sq. ft. deck to a previously approved single family residence. The proposal also includes 400 cu. yds. of grading (215 cu. yds. cut, 185 cu. yds. fill) (Exhibits 3-6).

The project site is a hillside parcel that descends toward a canyon at the rear. An intermittent stream runs along the canyon bottom and outlets to the Pacific Ocean, approximately 1500 feet downstream. While the intermittent stream is not designated as a blue-line stream on the U.S.G.S Map for the area, the canyon has been recognized as

a Disturbed Sensitive Resource Area (DSR) in the certified Malibu/Santa Monica Mountains Land Use Plan (**Exhibits 2 and 9**). In addition, the stream outlets into an area that contains an Offshore Kelp Bed Environmentally Sensitive Habitat Area, as designated in the certified Malibu/Santa Monica Mountains Land Use Plan (**Exhibit 9**).

The DSR designation indicates that the canyon is an Environmentally Sensitive Habitat Area (ESHA) that has been disturbed by the encroachment of development, and therefore no longer retains the seamless habitat value and diversity of more remote and less disturbed habitat areas. DSR areas are frequently invaded by non-native, invasive exotic plant species that escape from nearby ornamental gardens, and are subject to increased volume and velocity of runoff and resultant erosion from the increased impervious surfaces of upslope development. In addition, DSR areas of Point Dume are often subject to increased disturbance of natural vegetation and habitat resulting from fuel modification requirements associated with upslope development. These new impacts may further reduce what remains of these canyon habitats, which are remnant ESHAs. Therefore, in order to protect what remains of the canyon habitats of Point Dume, the Commission must consider all new potential adverse impacts to the sensitive habitat areas of the canyon slopes and riparian corridors that may result from approving new development in the Point Dume area.

The Commission must also consider potential impacts to the Offshore Kelp Bed ESHA. Kelp beds provide valuable habitat for a variety of marine life and serve as fish nurseries. Coastal streams transport sediment and polluted runoff downstream and discharge them into offshore habitats. These pollutants can damage the productivity of kelp beds and the species that depend upon them.

In past permit actions involving new development adjacent to DSRs and offshore ESHAs, the Commission has required that new development be sited to protect such sensitive habitats. In addition, the Commission has regularly required that grading and landform alteration be reduced to ensure that the potential negative effects of run-off and erosion on watersheds, streams, and sensitive habitat areas are minimized.

In the area of the proposed project site, the canyon is well vegetated, both with native and exotic species (**Exhibit 8**). The previously approved residence is located approximately 52 feet from the centerline of the creek at its nearest point. The proposed deck extends the house footprint 8 feet into the canyon along the entire length of the house, excepting the 4ft. by 15 ft. area containing the previously approved first floor deck (the proposed deck extends the footprint in this area 4 feet). The existing swimming pool is located approximately 85 feet from the creek at its nearest point. The proposed additions, which extend the pool area both southerly and westerly, would result in the pool area extending to within 70 feet of the creek at its nearest point. While the proposed swimming pool expansion would not affect existing fuel modification plans, the addition of the proposed wood deck would extend the zones of intensive fuel modification approximately 8 feet further into the canyon.

The proposed development also involves 400 cu. yds. of grading (215 cu. yds. cut, 185 cu. yds. fill) including grading on steep slopes that descend into the canyon and form the canyon walls. The Commission has found in past decisions, that development projects, particularly those involving grading and landform alteration, can adversely impact sensitive resource areas through increased erosion and runoff. In addition, site preparation and drainage associated with the proposed development can contribute to erosion and water quality problems that can adversely impact riparian areas.

In order to prevent encroachment into sensitive habitat areas, minimize grading and landform alteration, and reduce the potential for erosion and transport of sediments into coastal waters and offshore ESHA, the Commission finds it necessary to require revised plans that remove all new development out of the canyon, as detailed in **Special Condition Six (6)**. **Special Condition Six (6)** requires revised plans that relocate all new development north of a line consisting of the southernmost line of the previously approved residence and extending from the southeast corner of said residence to the southwest corner of the existing pool house. This line marks the approximate divide between existing graded and developed areas and undeveloped canyon slopes (**Exhibits 7 and 8**).

The Commission, in granting the original permit (CDP 4-99-017) required the applicant to submit landscaping, erosion control, and drainage plans to minimize potential impacts on coastal resources. In the case of the proposed project, the Commission notes that the project, as conditioned by **Special Condition Six (6)**, will serve to minimize encroachment into the sensitive resource area, and reduce associated impacts on coastal resources. Even as conditioned, however, the proposed project will alter drainage and landscaping conditions, and introduce new potential for erosion on site. Specifically, the proposed pool area will require elimination of previously approved landscaping, planting of grass decking, an increase in impermeable surfaces, and additional grading.

The Commission finds that the use of non-native and/or invasive plant species for residential landscaping results in both direct and indirect adverse effects to native plant species indigenous to the Malibu/Santa Monica Mountains area. Adverse effects from such landscaping result from the direct occupation or displacement of native plant communities by new development and associated non-native landscaping. Indirect adverse effects include offsite migration and colonization of native plant habitat by non-native/invasive plant species (which tend to outcompete native species) adjacent to new development. The Commission notes that the use of exotic plant species for residential landscaping has already resulted in significant adverse effects to native plant communities in the Malibu/Santa Monica Mountains area. Therefore, in order to minimize adverse effects to the indigenous plant communities of the Malibu/Santa Monica Mountains area, revised **Special Condition One (1)** requires that all landscaping consist primarily of native plant species and that invasive plant species shall not be used. In addition, revised **Special Condition One (1)** contains revisions that require invasive and non-native plant species on the canyon slopes and within and

immediately adjacent to the canyon bottom be removed. It also requires that the canyon bottom and slopes be revegetated with native plant species. **Special Condition One (1)**, as revised, also requires the applicant to submit a Fuel Modification Plan, reviewed and approved by the Forestry Department of Los Angeles County, that incorporates the revised conditions.

The Commission notes that seasonal streams and drainages, such as the intermittent stream located within the subject site, in conjunction with primary waterways, provide important habitat for sensitive plant and animal species. Section 30231 of the Coastal Act provides that the quality of coastal waters and streams shall be maintained and restored whenever feasible through means such as: controlling runoff, preventing interference with surface water flows and alteration of natural streams, and by maintaining natural vegetation buffer areas. In past permit actions the Commission has found that new development adjacent to coastal streams and natural drainages results in potential adverse impacts to sensitive habitat and marine resources from increased erosion, contaminated storm runoff, introduction of non-native and invasive plant species, disturbance of wildlife, and loss of riparian plant and animal habitat.

In the case of the proposed project, the Commission notes that the project, as conditioned by revised **Special Condition One (1)** and **Special Condition Six (6)**, will serve to minimize potential adverse impacts on the sensitive resource area. However, the Commission finds that the value and quality of the sensitive habitat at the subject site is directly related to the water quality of the coastal stream that sustains the habitat. As such, the Commission finds that potential adverse effects of the proposed development on sensitive habitat at the site may be further minimized by maintaining good water quality through the implementation of a drainage and polluted runoff control plan, which will ensure that erosion is minimized and polluted run-off from the site is controlled and filtered before it reaches the natural drainage. Therefore, the Commission finds it necessary to require the applicants to incorporate appropriate drainage devices and Best Management Practices (BMPs), as detailed in revised **Special Condition Three (3)**, to ensure that run-off from the proposed structures and impervious surfaces is conveyed off-site in a non-erosive manner and is treated/filtered to reduce pollutant load before it reaches coastal waterways. The Commission also finds it necessary to require the applicants to submit a pool drainage and maintenance plan, as detailed in **Special Condition Four (4)**, in order to further minimize the potential for excess runoff, erosion, and transport of chemicals into sensitive habitat areas. (See **Section C. Water Quality** for a more detailed discussion of coastal water quality). The Commission finds that controlling and treating run-off from the site as described will reduce potential adverse impacts on water quality and will therefore prevent impacts that would significantly degrade the identified sensitive habitat, as well as sensitive resources located downstream of the project site.

The Commission further finds that interim erosion control measures implemented during construction and post construction landscaping will serve to minimize the potential for erosion and adverse impacts to water quality resulting from drainage runoff during

construction and in the post-development stage. Therefore, the Commission finds it necessary to require the applicants to submit an interim erosion control plan, as detailed in revised **Special Condition One (1)**. In addition, the Commission finds that stockpiling excavated material may contribute to increased erosion at the site. Furthermore, the Commission notes that additional landform alteration would result if the excavated material were to be collected and retained on site. In order to ensure that excavated material will not be stockpiled on site and that landform alteration is minimized, **Special Condition Seven (7)** requires the applicant to remove all excavated material from the site to an appropriate location and provide evidence to the Executive Director of the location of the disposal site prior to the issuance of the permit.

Finally, the Commission finds that the amount and location of any new development that may be proposed in the future on the subject site is significantly limited by the unique nature of the site and the above mentioned environmental constraints. Therefore, in order to ensure that any future structures, additions, change in landscaping or intensity of use at the project site, that may otherwise be exempt from coastal permit requirements, are reviewed by the Commission for consistency with the resource protection policies of the Coastal Act, the Commission requires the applicant to record a future development deed restriction, as detailed in **Special Condition Five (5)**.

For the reasons set forth above, the Commission finds that the proposed project, as conditioned by revised **Special Condition One (1)**, revised **Special Condition Three (3)**, **Special Condition Five (5)**, **Special Condition Six (6)**, and **Special Condition Seven (7)**, is consistent with Sections 30230, 30231, 30240, and 30253 of the Coastal Act.

### **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, the proposed project includes demolition of an old swimming pool and construction of a new swimming pool, two 6 ft. high, approximately 80 ft. long retaining walls, concrete stairs, planters, and addition of an approximately 600 sq. ft. deck to a previously approved single family residence. The proposal also includes 400 cu. yds. of grading (215 cu. yds. cut, 185 cu. yds. fill) (**Exhibits 3-6**).

The project site is a 1.54 acre parcel located on relatively level to steeply sloped terrain that descends to an intermittent stream. The stream runs along the canyon bottom and outlets to the Pacific Ocean, approximately 1500 feet downstream. While the stream is not designated as a blue-line stream on the U.S.G.S Map for the area, the canyon has been recognized as a Disturbed Sensitive Resource Area (DSR) in the certified Malibu/Santa Monica Mountains Land Use Plan (**Exhibits 2 and 9**). In addition, the stream outlets into an area that contains an Offshore Kelp Bed Environmentally Sensitive Habitat Area, as designated in the certified Malibu/Santa Monica Mountains Land Use Plan (**Exhibit 9**).

The proposed development will result in an increase in impervious surface, which in turn 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 85<sup>th</sup> 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 Three (3)**, 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.

Furthermore, interim erosion control measures, as detailed in revised **Special Condition One (1)**, will serve to minimize the potential for adverse impacts to water quality resulting from runoff during construction and in the post-development stage. In addition, **Special Condition Six (6)**, which requires revised plans that remove new development back from the stream corridor, and **Special Condition Seven (7)**, which requires removal of excess graded material, will further reduce the potential for transport of sediment into coastal waters. Therefore, the Commission finds that revised **Special Condition One (1)**, **Special Condition Six (6)**, and **Special Condition Seven (7)** are necessary to ensure the proposed development will not adversely impact water quality or coastal resources.

The proposed project includes an approximately 20 foot wide and 50 foot long swimming pool. Swimming pools can have deleterious effects on aquatic habitat if not properly maintained and drained outside of the watershed. Chlorine and other chemicals are commonly added to pools and spas to maintain water clarity, quality, and pH levels. The Commission notes that both leakage and periodic maintenance of the proposed pool, if not monitored and/or conducted in a controlled manner, may result in excess runoff and erosion potentially causing instability of the site and adjacent properties and may result in the transport of chemicals, such as chlorine, into coastal waters. In order to minimize adverse impacts from the proposed pool on the DSR, the Commission requires the applicant to submit a pool maintenance plan, as detailed in **Special Condition Four (4)**. The plan shall include a separate water meter for the pool and spa which will serve to monitor water levels of the pool and spa and identify leakage. The plan shall also include a description of the materials to be utilized to prevent leakage of the pool and spa shell and shall identify methods to control infiltration and run-off from periodic pool and spa drainage and regular maintenance activities. The Commission finds that, as conditioned to minimize potential impacts of the proposed pool and spa, the project is consistent with Sections 30231, 30240, and 30253 of the Coastal Act.



In summary, the Commission finds that, as conditioned by revised **Special Condition One (1)**, revised **Special Condition Three (3)**, **Special Condition Four (4)**, **Special Condition Six (6)**, and **Special Condition Seven (7)**, the project is consistent with Section 30231 of the Coastal Act.

#### **D. 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).

#### **E. 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.

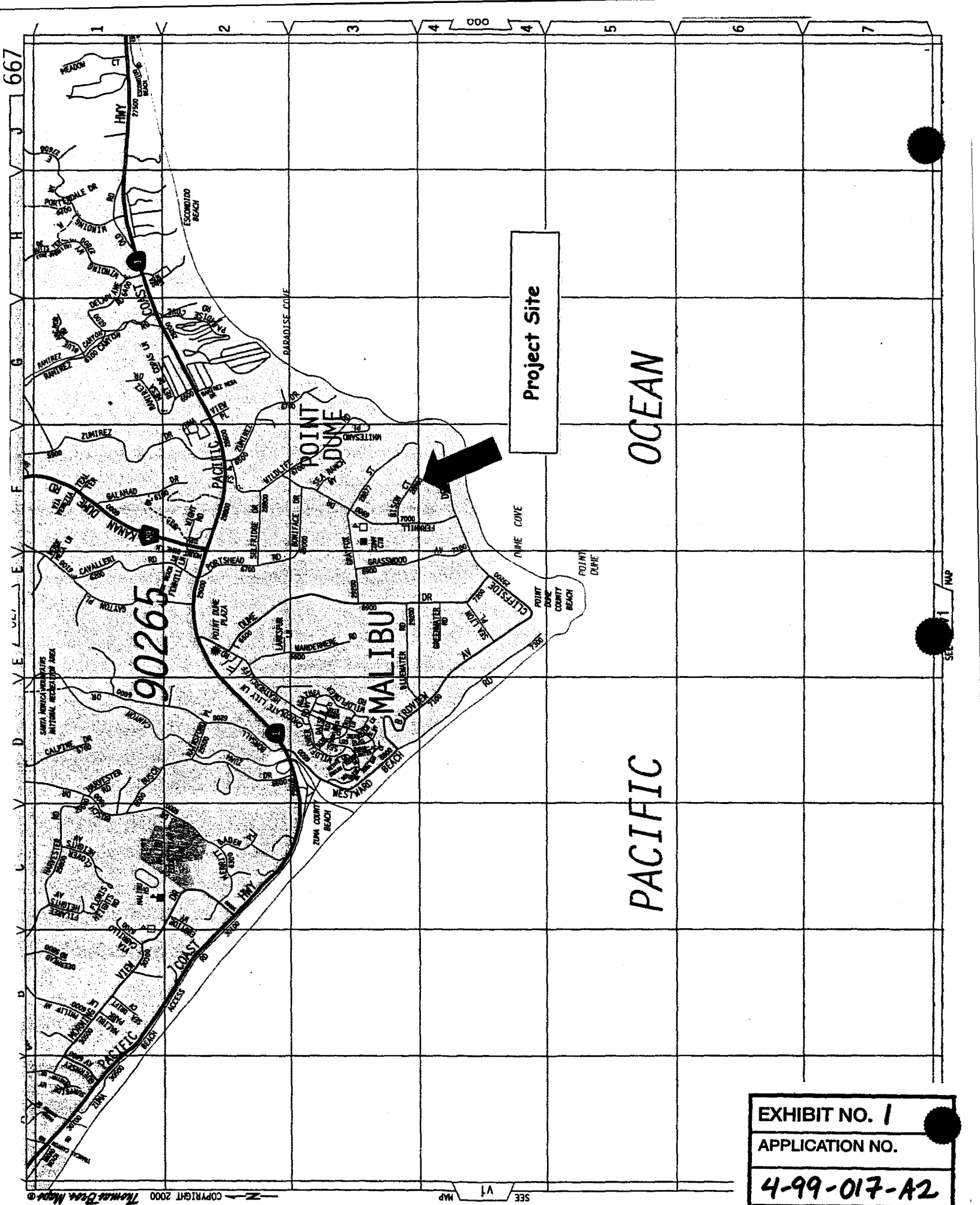
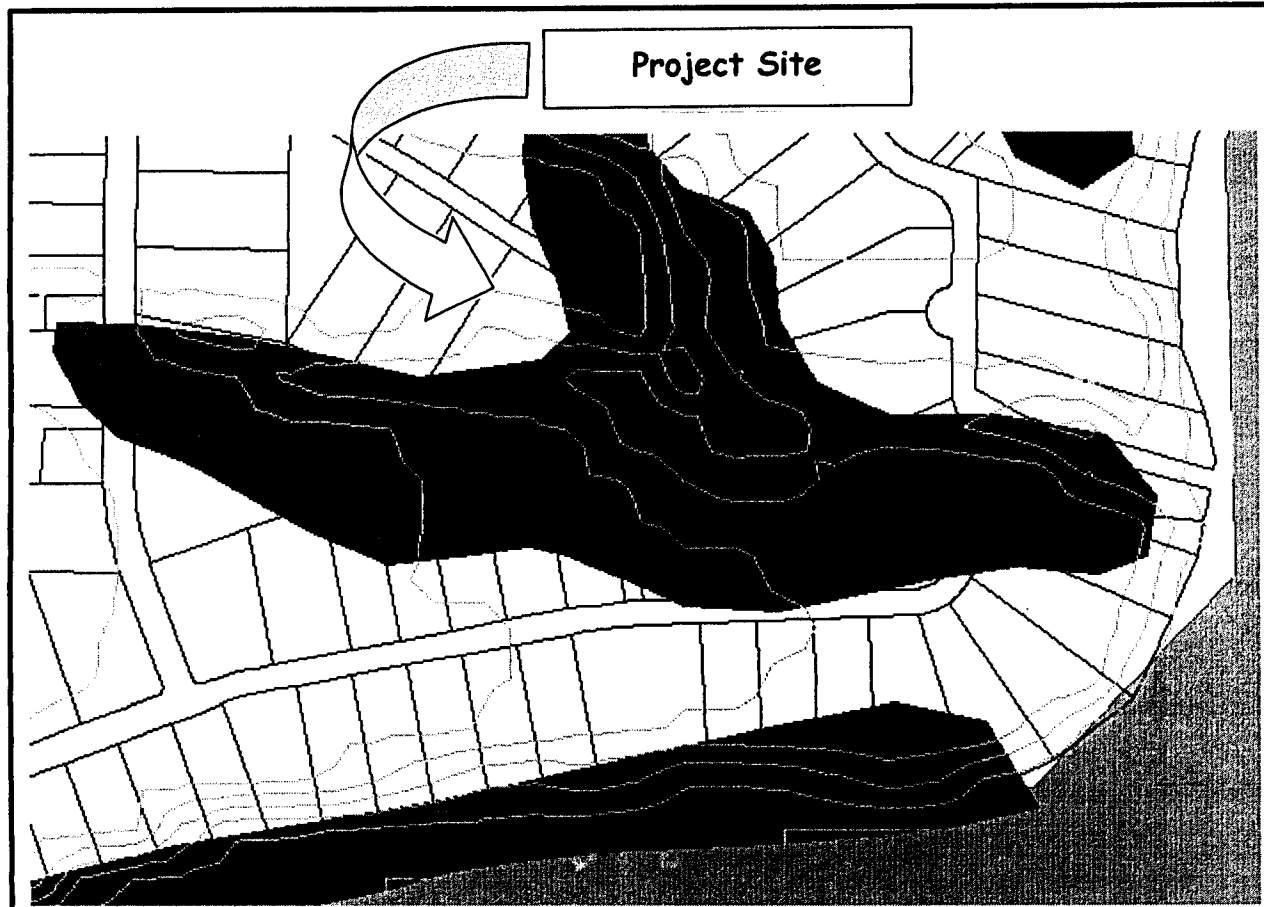


EXHIBIT NO. 1
APPLICATION NO.
4-99-017-A2
VICINITY MAP

ESRI ArcExplorer 1.1

4-99-017-A2 (Smillie) 28830 Bison Court



contours @ 20ft

laprcls

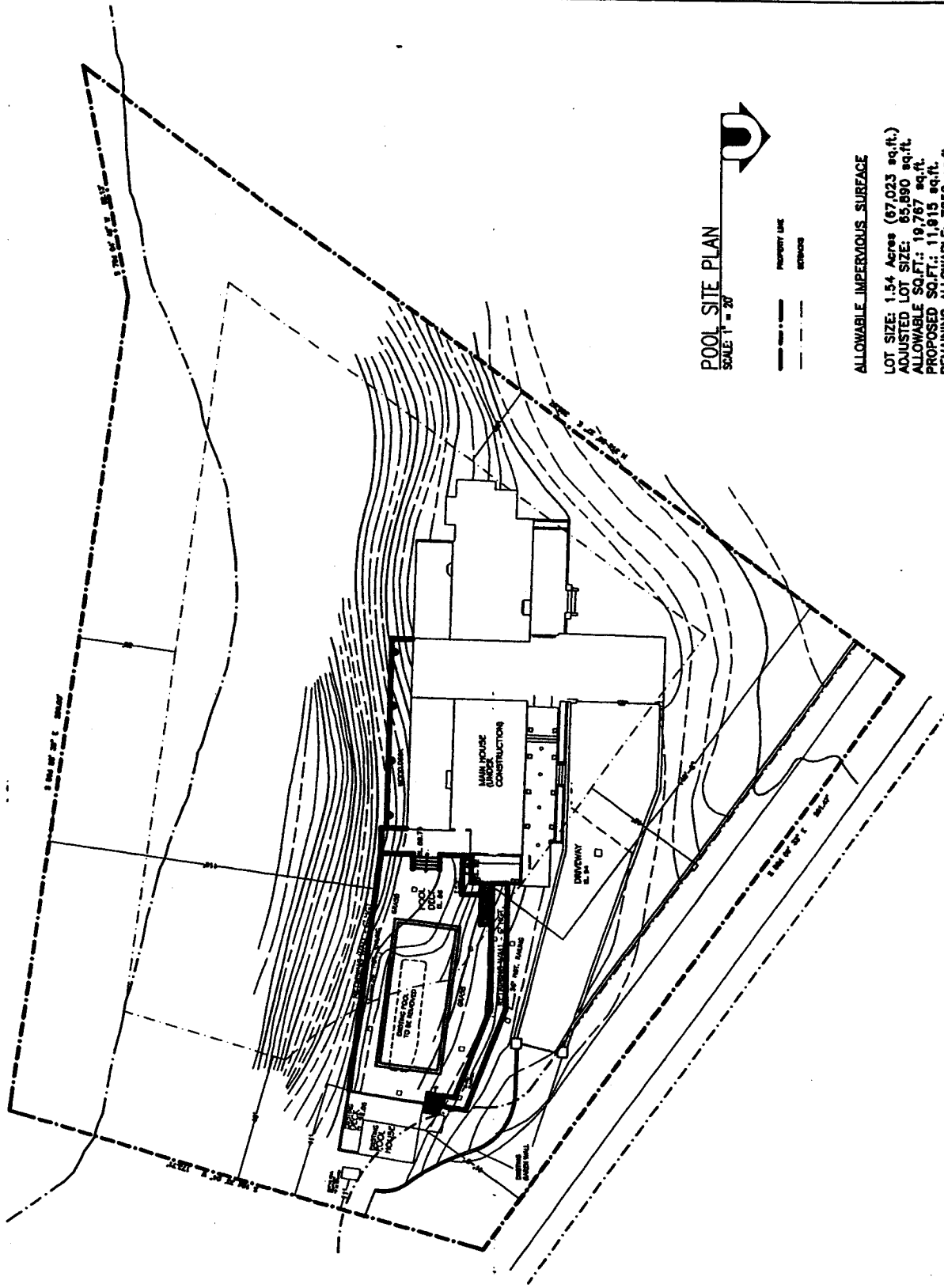
Disturbed Sensitive Resource Area

Ocean



Sunday, Jul 15 2001

EXHIBIT NO. 2
APPLICATION NO.
4-99-017-A2
COASTAL RESOURCES



**POOL SITE PLAN**  
SCALE: 1" = 20'



- PROPERTY LINE
- SETBACK

**ALLOWABLE IMPERVIOUS SURFACE**  
 LOT SIZE: 1.34 Acres (67,023 sq.ft.)  
 ADJUSTED LOT SIZE: 65,890 sq.ft.  
 ALLOWABLE SQ.FT.: 19,767 sq.ft.  
 PROPOSED SQ.FT.: 11,815 sq.ft.  
 REMAINING ALLOWABLE: 7852 sq.ft.

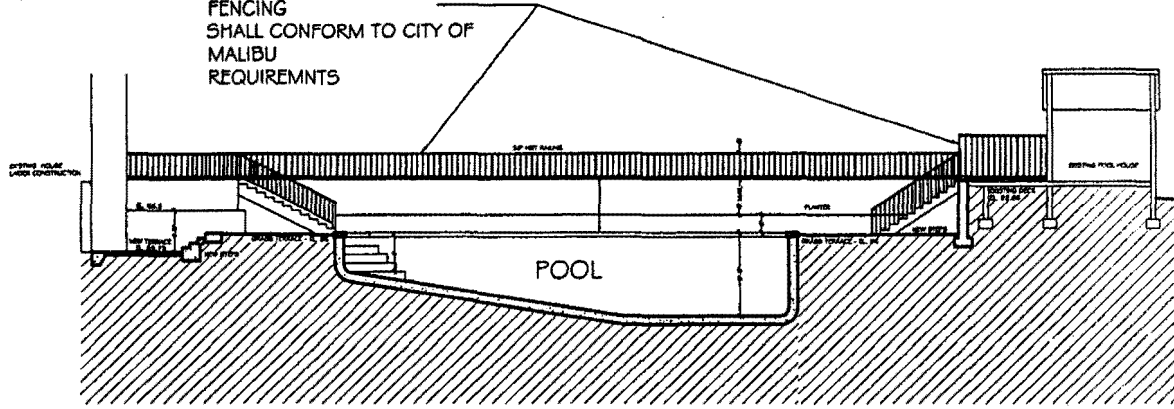
**NOTES:**

APN# 57-8,10-115  
 ZONING: RR1

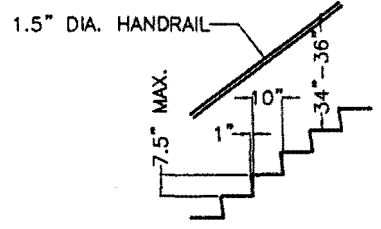
LS

<b>EXHIBIT NO. 3</b>
<b>APPLICATION NO.</b>
<b>4-99-017-A2</b>
<b>SITE PLAN</b>

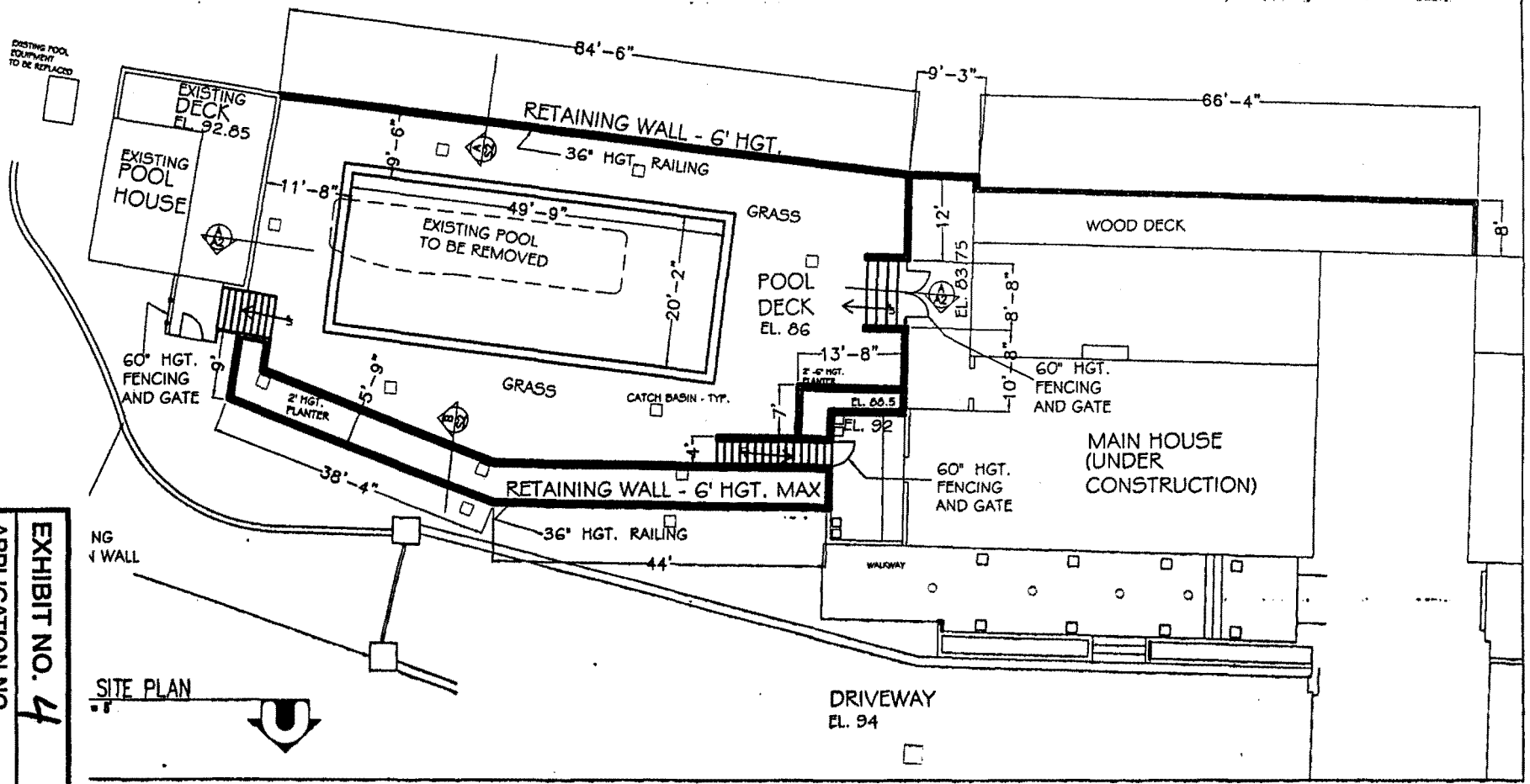
NOTE:  
ALL POOL RAILING AND  
FENCING  
SHALL CONFORM TO CITY OF  
MALIBU  
REQUIREMENTS



POOL SECTION A-A2  
SCALE: 1" = 8'

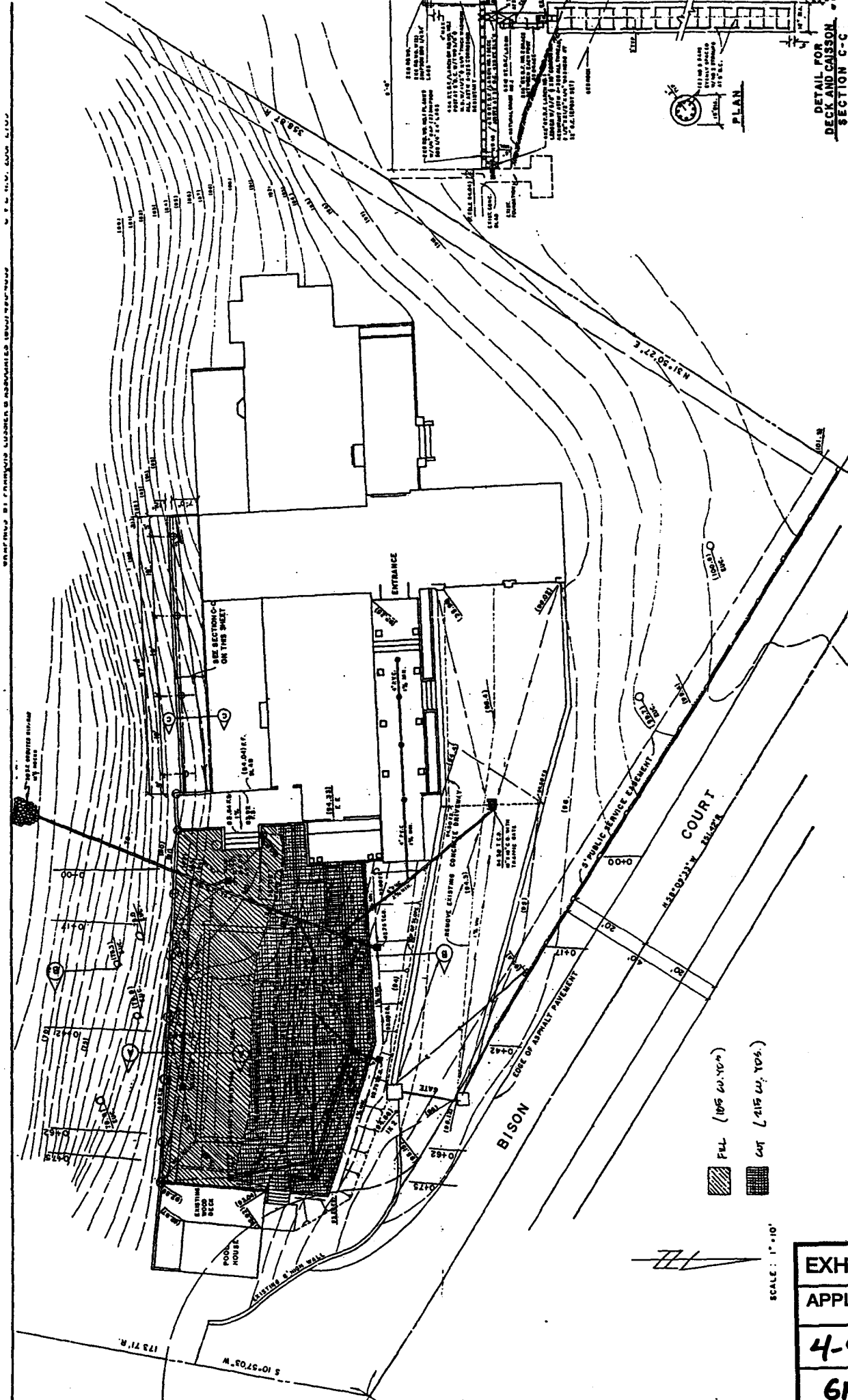


TYPICAL STAIR DETAIL  
SCALE: 1" = 2'



SITE PLAN  
SCALE: 1" = 8'

EXHIBIT NO. 4  
APPLICATION NO.  
4-99-017-A2  
SITE DETAILS



DETAIL FOR  
DECK AND GARBAGE  
SECTION C-C  
SCALE: 1/2"=1'-0"

GRADING & DRAINAGE PLAN R  
SMILLIE RES. POOL AT 28830  
BISON COURT, MALIBU, CALIF.  
01/14/91 SHEET A2

SOIL ENGINEER:  
COASTLINE GEOTECHNICAL CONSULTANTS  
INC. PROJECT NO. 19205-110  
2446 W. 178 TH STREET, GARDENA,  
CALIF. 90248 (310) 317-1904

PREPARED BY:  
C.V.E. ENGINEERING INC.  
CIVIL, MECHANICAL, ELECTRICAL,  
LAND SURVEYING, PLUMBING,  
P.O. BOX 7304 THUNDERBOLT GLEN,  
CALIF. 91342 (818) 484-8282



DATE: JAN 25 1991  
DRAWN BY: J. L. JONES  
CHECKED BY: D. S. JONES  
DATE: JAN 25 1991

NO.	DESCRIPTION OF CHANGES	DATE	BY	DATE	BY

FILL (10% MAX. 10%<sup>2</sup>)  
CUT (15% MAX. 10%<sup>2</sup>)

SCALE: 1"=10'

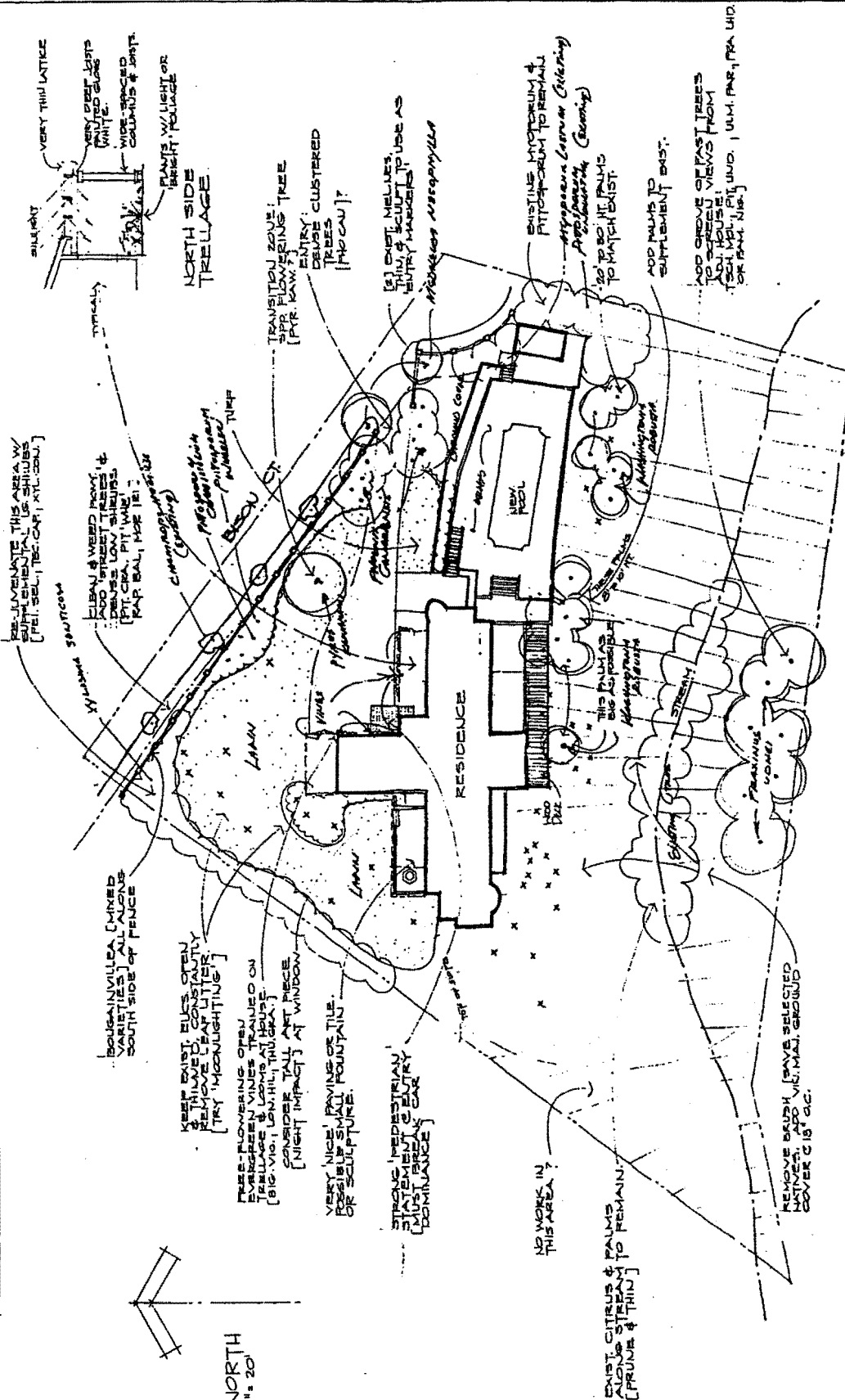
**EXHIBIT NO. 5**

APPLICATION NO.

**4-99-017-A2**

**GRADING PLAN**

# INITIAL LANDSCAPE STUDIES



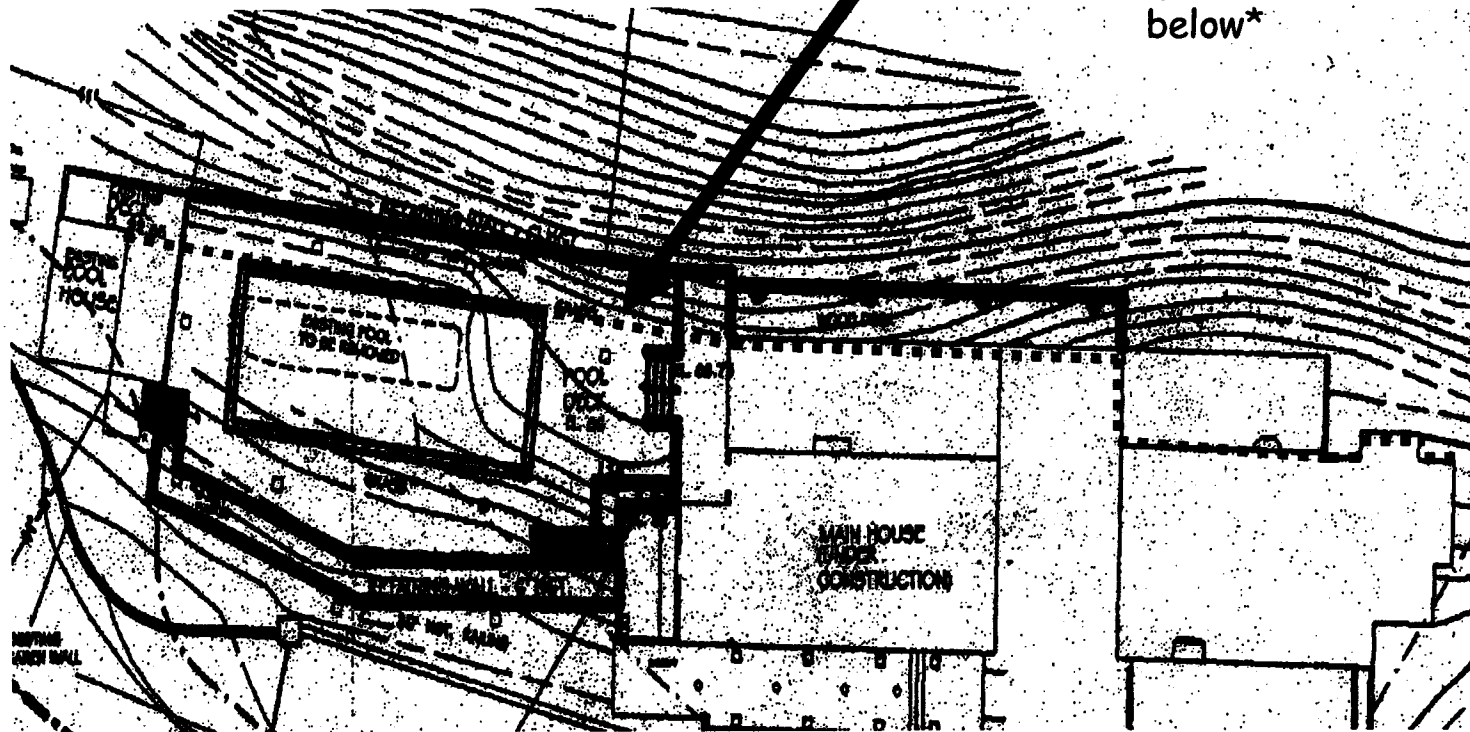
## SMILLIE RESIDENCE

SPR... CALISTO  
1.12.1980

EXHIBIT NO. 6
APPLICATION NO.
4-99-017-A2
LANDSCAPE PLAN

LANDSCAPE PLAN 4/8/81  
SMILLIE RESIDENCE POOL  
20830 BIRTON CT.  
MALIBU CA SHEET LI

Special Condition Six (6)  
requires all new development to  
be removed north of the  
dotted line ( ..... ) shown  
below\*



\*Please note that the outline of the main house in this sketch is approximate, and that the southernmost line of the previously approved residence, for the purposes of Special Condition Six (6), is as shown in plans approved under CDP 4-99-017-A1.

EXHIBIT NO. 7
APPLICATION NO.
4-99-017-A2
LINE OF DEVELOPMENT





Existing swimming pool with pool house on the left and canyon vegetation in the background. View is to the southeast.



Canyon slope below existing pool, with pool house in background. View is to the east.



Canyon slope below existing pool and residence under construction. View is to the west.

EXHIBIT NO. 8

APPLICATION NO.

4-99-017-A2

PHOTOS

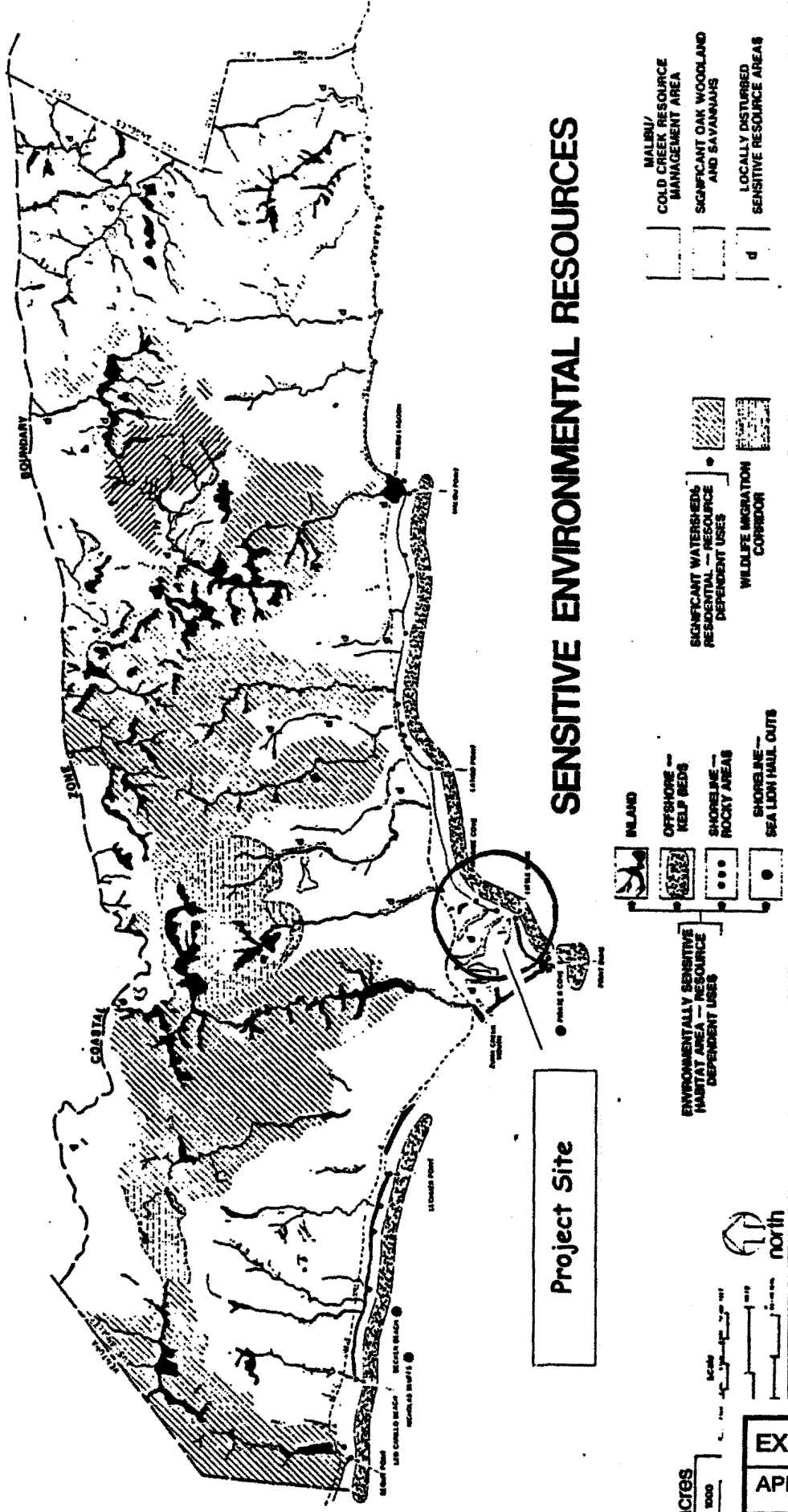


Figure 6

EXHIBIT NO. 9
APPLICATION NO.
4-99-017-A2
ESHA