

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NO.: 4-01-163

APPLICANT: Ray Stewart

AGENT: Marny Randall

PROJECT LOCATION: 32802 Pacific Coast Highway, Malibu, Los Angeles County

PROJECT DESCRIPTION: After-the-fact approval to construct one and two-story additions totaling 1,231 sq. ft. to an existing 2,218 sq. ft. single family residence, 24 ft. in height, new septic system, interior remodel, and recordation of an offer to dedicate a lateral public access easement.

Lot area:	30,052 sq. ft.
Building coverage:	1,833 sq. ft.
Pavement coverage:	2,000 sq. ft.
Landscape coverage:	10,200 sq. ft.
Unimproved area:	16,019 sq. ft.
Maximum height:	25 ft.

LOCAL APPROVALS RECEIVED: City of Malibu, Planning Department, Approval In Concept 08/09/01; County of Los Angeles, Fire Department, Preliminary Fuel Modification Plan Approved, 9/27/00; City of Malibu, Environmental Health, In-Concept Approval, 07/05/01; City of Malibu Geology and Geotechnical Engineering Review Sheet, Approved In-Concept, 08/03/01.

SUBSTANTIVE FILE DOCUMENTS: Limited Geologic and Soils Engineering Investigation, GeoConcepts, Inc., 7/10/01; Supplemental Report No. 1, GeoConcepts, Inc., 8/9/01; Bluff Retreat, GeoConcepts, Inc., 12/13/01; Coastal Development Permit P-7535 (Rorick); Coastal Development Permit 5-86-099 (Littlejohn).

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Summary and Staff Recommendation:

Staff recommends approval of the proposed project with **6 Special Conditions** regarding 1) Geologic Recommendations, 2) Assumption of Risk, 3) No Future Bluff or Shoreline Protective Device, 4) Re-Recordation of Offer to Dedicate Lateral Public Access Easement, 5) Landscaping, and 6) Condition Compliance.

The applicant is requesting after-the-fact approval to construct one and two-story additions totaling 1,231 sq. ft. to an existing 2,218 sq. ft. single family residence, 25 ft. in height, installation of a new septic system, and interior remodel of the residence. No grading is proposed.

The project site is a developed bluff top lot in the western area of the City of Malibu. All portions of the proposed development will be constructed landward of the critical surface analyzed for a minimum factor of safety of 1.5 by the project geotechnical consultants, and landward of the estimated 100-year bluff retreat rate, to ensure stability of the development. The proposed project does not include structural improvements on the bluff face or the area at the base of the bluff for the purposes of shoreline or bluff protection.

The area constituting the top of bluff at the project site is mapped as an inland environmentally sensitive habitat area in the certified Malibu/Santa Monica Mountains Land Use Plan. However, Commission staff site visits to the project site confirm that no sensitive habitat area or resources exist on the building pad area as it extends to the bluff edge. Thus, the proposed project will not encroach onto sensitive habitat at the site. Due to the secluded nature of the site on a bluff top the proposed development will not be visible from any inland public viewing area or scenic highway and will not impede public access to or along the beach. As such, the proposed project will not have a significant impact on coastal scenic resources, sensitive habitat or public access.

As conditioned, the proposed project is consistent with all applicable policies of the Coastal Act.

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I. STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-01-163 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE A PERMIT AMENDMENT:

The Commission hereby approves the coastal development permit on the ground that the development, 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 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 CONDITIONS

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

2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

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3. **Interpretation.** Any questions of intent or interpretation of any term or condition will be resolved by the Executive Director or the Commission.
4. **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.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. **SPECIAL CONDITIONS**

1. **Geologic Recommendations**

All recommendations contained in the Limited Geologic and Soils Engineering Investigation prepared by GeoConcepts, Inc., dated 7/10/01 and the Supplemental Report No. 1 prepared by GeoConcepts, Inc., dated 8/9/01 shall be incorporated into all final design and construction including recommendations concerning foundations, drainage, and sewage disposal. Project plans must be reviewed and approved by the geotechnical consultants prior to commencement of development. Prior to issuance of the coastal development permit, the applicant shall submit evidence to the Executive Director of the consultants' review and approval of all final design and construction plans.

The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, 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.

2. **Assumption of Risk**

- A. By acceptance of this permit, the applicant acknowledges and agrees to the following:
 - (1) The applicant acknowledges and agrees that the site may be subject to hazards from liquefaction, storm waves, surges, erosion, landslide, flooding, and wildfire.
 - (2) The applicant acknowledges and agrees to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development.

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- (3) The applicant unconditionally waives any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards.
- (4) The applicant agrees to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- B. *PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT*, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

3. **No Future Bluff or Shoreline Protective Device**

- A. By acceptance of the permit, the applicant agrees, on behalf of itself and all successors and assignees, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to **Coastal Development Permit 4-01-163** in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, or other natural hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such device(s) that may exist under Public Resources Code Section 30235.
- B. By acceptance of this permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this permit if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.
- C. *PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT*, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the above restrictions on

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development. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

4. Re-Recordation of Offer to Dedicate Lateral Public Access Easement

In order to implement the applicant's proposal to re-record an offer to dedicate an easement for lateral public access and passive recreational use along the shoreline as part of this project, the applicant agrees to complete the following prior to issuance of the permit: the landowner shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an easement for lateral public access and passive recreational use along the shoreline. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property. Such easement shall extend from the ambulatory mean high tide line 25 ft. inland, however, in no case shall said dedication be nearer than 5 ft. to the proposed development, as generally illustrated on Exhibit 12.

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

5. Landscaping

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

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Landscaping Plan

- (1) All portions of the site disturbed by construction activities, and all areas of the site which extend from 15 ft. seaward of the proposed structure to the coastal bluff edge shall be planted within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation, 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, and/or plant species appropriate to coastal bluff vegetation communities. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- (2) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.
- (3) The plan shall include specifications for temporary drip or low flow irrigation structures and measures to deliver supplemental watering that may be necessary to establish newly seeded plant stock. The plan shall provide for the removal of all irrigation structures upon successful establishment of the subject plant species.
- (4) Invasive plant species existing at the project site shall be removed and replaced with appropriate native plant species.

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 required.

6. Condition Compliance

Within 120 days of Commission action on this Coastal Development Permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all the requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action with respect to the development approved in this permit under the provisions of Chapter 9 of the Coastal Act.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Background

The applicant is requesting after-the-fact approval to construct one and two-story additions totaling 1,231 sq. ft. to an existing 2,218 sq. ft. single family residence, 25 ft. in height, installation of a new septic system, and interior remodel of the residence (Exhibits 3-7). No grading is proposed.

The project site is a 30,052 sq. ft. bluff top parcel located between Pacific Coast Highway and the Pacific Ocean (Exhibit 2) in the western area of the City of Malibu (Exhibit 1). The subject parcel is an irregular shaped lot which does not front Pacific Coast Highway but is accessed from the highway via a private driveway easement (Exhibit 3). The project site is a 65 ft. wide parcel which predominantly consists of a level building pad located atop of a 120 ft. bluff face. From the building pad the project site descends steeply down the bluff face to a minor, natural terrace positioned at the toe of the bluff just above the beach. Terrain within the adjacent parcel directly upcoast of the subject site also descends abruptly from the building pad area to a coastal canyon containing a USGS designated blueline stream (Exhibit 11).

The subject site is presently developed with a two-story, 25 ft. high, 2,218 sq. ft. single family residence with attached garage, driveway, swimming pool, and a wood picket fence located at the bluff edge. The project site has been subject to past Commission actions relative to development proposed under Coastal Development Permit P-7535 (Rorick-1976) and Coastal Development Permit 5-86-099 (Littlejohn-1986). On October 12, 1976 the Commission approved Coastal Development Permit P-7535 (Rorick) for construction of a two-story single family residence, (exact square footages not specified in permit record), and a swimming pool on the building pad, and approved a flat wood deck on the terraced area at the toe of the bluff (Exhibit 8). The Commission approved the original development pursuant to four special conditions relative to 1) a requirement to install solar heating or no heating system for the proposed pool, 2) no bluff face development, 3) drainage, and 4) granting of a lateral public access easement measured from the ambulatory mean high tide line 25 ft. inland. All special conditions were fulfilled and the permit was issued. However, the property owner built out only a small portion (exact square footage unknown) of the approved residence and a swimming pool (Exhibits 8,9).

On April 8, 1986 the Commission approved Coastal Development Permit 5-86-099 (Littlejohn) for a 200 sq. ft. addition to the original residence pursuant to one special condition which required recordation of a new offer to dedicate a lateral public access easement which would include the entire width of land as measured from the mean high

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tide line to the toe of the coastal bluff. Recordation of the lateral public access easement dedication was not completed and the permit never issued. However, the 200 sq. ft. addition approved pursuant to the coastal permit was constructed absent the permit's final issuance. The applicant has included the 200 sq. ft. addition as part of this coastal permit application 4-01-163.

In constructing a portion of the development approved pursuant to the original Coastal Development Permit P-7535 (Rorick) the permit was vested, thus all special conditions imposed on the property by means of the permit run with the land and are binding on all present and future property owners. As such, the lateral public access easement required and recorded pursuant to P-7535, and subsequently accepted for opening, continues to apply to the subject site. In reviewing documents submitted by the applicant for the subject permit application staff became aware that the title documents for the subject site do not currently reflect the existing lateral public access easement recorded under permit P-7535. The applicant does not dispute the existing lateral public access easement along the beach on the subject site recorded under permit P-7535, as measured from the ambulatory mean high tide line 25 ft. inland. For the purpose of updating the appropriate legal documents which apply to the subject site such that the documents appropriately reflect the existing lateral public access easement, the applicant is proposing to record a new offer to dedicate a lateral public access easement as along the beach on the subject site as measured from the ambulatory mean high tide line 25 ft. inland. The Commission therefore finds that **Special Condition Four (4)** is necessary to ensure that the applicant's proposal to record a new offer to dedicate a lateral public access easement is transmitted prior to the issuance of the coastal development permit.

Due to the location of the proposed residential additions the proposed project will result in minimal (approximately 5 ft.) seaward extension of development at the site (Exhibit 3). The most seaward extent of the proposed residential additions at the site is located approximately 64 ft. from the bluff edge. The location of the proposed residential additions is consistent with previous permit actions on similar bluff top projects in Malibu where the Commission has required a minimum set back for development of 25 ft. from the seaward edge of the top of bluff. Additionally, the most seaward location of the proposed septic system, including seepage pits, is approximately 50 ft. from the top of bluff. All portions of the proposed development will be constructed landward of the critical surface analyzed for a minimum factor of safety of 1.5 by the project geotechnical consultants, and the estimated 100-year bluff retreat rate, to ensure stability of the development (Exhibit 10). The proposed project does not include structural improvements on the bluff face or the area at the base of the bluff for the purposes of shoreline or bluff protection.

Vegetation at the project site consists predominantly of ornamental landscaping. The area constituting the top of bluff at the project site is mapped as an inland environmentally sensitive habitat area in the certified Malibu/Santa Monica Mountains Land Use Plan (Exhibit 11). However, a staff site visit to the project site confirmed that

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no sensitive habitat area or resources exist on the building pad as it extends to the bluff edge. Natural vegetation does, however, exist on the steep bluff face and within the coastal canyon upcoast and adjacent to the site, beyond the developable area of the site. The proposed development will be setback from the top of bluff a minimum of approximately 64 ft. and the project does not include development within the adjacent coastal canyon. Therefore, the proposed development will not encroach into the sensitive vegetation established on the bluff face or coastal canyon. Additionally, the applicant has submitted a Preliminary Fuel Modification Plan Approved 9/27/00, illustrating that, due to the location and minor nature of the proposed additions, the proposed project will not require a significant increase in fuel modification requirements than that presently required for the existing, approved residential structure. As such, the proposed project will not result in significant removal of natural vegetation or adversely impact sensitive habitat area.

The area surrounding the project site is characterized as a built-out portion of Malibu consisting of numerous single-family residences. Due to the secluded nature of the site, the proposed development will not be visible from any inland public viewing area or scenic highway and will have a sufficient setback from the bluff face so as not to be visible from the beach below. As mentioned, the project site is located on a steep bluff top lot above the sandy beach, therefore, the proposed project will not impede public access to or along the beach. As such, the proposed project will not have a significant adverse impact on coastal scenic resources or public access.

B. Bluff Top Development and Hazards

Section 30235 of the Coastal Act states:

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

Section 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.

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

Section 30253 of the Coastal Act requires that new development minimize risk to life and property in areas of high geologic, flood, and fire hazard, and to assure stability and structural integrity. Section 30235 of the Coastal Act mandates that shoreline protective devices be permitted only where necessary to serve coastal dependent uses or to protect existing development.

The proposed development is located on a bluff top along the Malibu coastline, an area that is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Malibu/Santa Monica Mountains area 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. Coastal bluffs, such as the one located at the subject site, 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 from wave action at the base of the bluff. In addition, due to their geologic structure and soil composition, these bluffs are susceptible to surficial failure, especially with excessive water infiltration.

Due to the geologic instability of coastal bluffs and their integral role in maintaining the ecosystem and shoreline processes, new development on bluff top lots may be found consistent with Sections 30235 and 30253 of the Coastal Act only when the development is sited to ensure geologic stability, and not to require construction of protective devices which may potentially alter natural landforms and geomorphic processes of coastal bluffs. The certified Malibu/Santa Monica Mountains LUP 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 Sections 30235 and 30253 of the Coastal Act. The Malibu/Santa Monica Mountains LUP has been found to be consistent with the Coastal Act and provides specific standards for development along the Malibu coast and within the Santa Monica Mountains. For instance, Policy 164, in concert with the Coastal Act, provides that new development shall be set back a minimum of 25 feet from the seaward edge of the top of the bluff or a stringline drawn between the nearest corners of the adjacent structures, *whichever distance is greater*, but in no case less than would allow for a 75-year useful life for the structure. Policy 165, in conjunction with the Coastal Act, provides that no new permanent structures be permitted on a bluff face.

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In the case of the proposed project, the applicant is proposing new residential additions and a portion of the septic system (seepage pits only) at the seaward side of the residence. The undulating character of the bluff edge adjacent to the subject site combined with the variation in existing development on adjacent lots renders a strict application of a stringline analysis impractical. However, the Commission notes that, though the adjacent parcel upcoast of the site is undeveloped, the proposed additions will be located well landward of development located on the adjacent lot directly downcoast of the site (Exhibit 3). Additionally, project plans illustrate that the proposed residential additions will be located directly adjacent to the existing residence resulting in only a 5 ft. seaward extension of structural development at the site, which will be located a minimum of 64 ft. landward of the bluff edge. The most seaward extent of the proposed septic system (seepage pits) will be located approximately 50 ft. from the bluff edge. As such, all portions of the proposed development will be setback a minimum of 50 ft. from the bluff edge and will be located landward of the critical surface analyzed by the project's geotechnical consultants for a minimum factor of safety of 1.5 (Exhibit 10).

In addition, the project's geotechnical consultants have indicated that the proposed 50 ft. setback for the proposed seepage pits and the 64 ft. setback for the proposed additions is adequate to protect the development from the hazards of future natural coastal bluff erosion. The Bluff Retreat report prepared by GeoConcepts, Inc., dated 12/13/01 concludes, in part, that the proposed development is setback sufficiently to ensure that bluff erosion will not jeopardize the development during its 75-100 year useful life without the need to construct protective devices:

The estimated bluff retreat rate is based on past experience with bluff slope properties, geologic conditions, aerial photographs, topographic maps and research. Generally, bluff slopes are subject to natural weathering due to rainfall, groundwater, and wind and other lesser elements. It is thought that the additions to the dwelling will not require shoreline protective devices in the future for the life of the structure.

Based on the above data, generally consisting of the terrace deposits thickness relative to its strengths, slope angle of the bluff, annual rainfall and bedrock, the bluff retreat rate is estimated to be about three to four inches per year. A setback line depicting (100) years of bluff retreat at a rate of three and four inches per year are depicted on the attached geologic map. (Exhibit 10)

Based on the analysis and conclusions of the project's geotechnical consultants, the Commission finds that the proposed project will be setback so as not be subject to hazards associated with future coastal bluff erosion. The Commission further finds that, based on the findings of the applicant's consulting geologist, the proposed development will not require construction of a shoreline protective device at the site to ensure geologic stability of the proposed development. Therefore, the Commission finds that the proposed development is sited to provide sufficient setbacks to minimize risk and facilitate geologic stability.

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In addition, the applicant has submitted a Limited Geologic and Soils Engineering Investigation prepared by GeoConcepts, Inc., dated 7/10/01, and a Supplemental Report No. 1, prepared by GeoConcepts, Inc., dated 8/9/01 which evaluate the geologic stability of the subject site in relation to the proposed development. The consultants have found that the project site is adequate for the proposed development given that their recommendations are incorporated into the proposed project. The Limited Geologic and Soils Engineering Investigation prepared by GeoConcepts, Inc., dated 7/10/01 concludes:

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

The Commission notes that excess water infiltration into the bluff top from effluent of the proposed septic system could potentially result in bluff instability if the system is not designed and located to ensure that effluent will not saturate the bluff, thereby creating the potential for subsurface failure. In the case of the proposed project, the proposed septic pits represent the most seaward portion of the proposed septic system, which will be located approximately 50 ft. landward of the top of bluff at the site. The location of the proposed septic pits has been reviewed by the project's geotechnical consultants which have concluded that the designed septic system will not adversely affect the proposed structure or daylight on descending slopes. The Limited Geologic and Soils Engineering Investigation prepared by GeoConcepts, Inc., dated 7/10/01 states:

The sewage pit is located on near-level topography. The geologic structure is massive. The hydraulic gradient is away from the proposed structure. There is no evidence of near-surface ground water nor did the subsurface exploration encounter groundwater. Water infiltration from irrigation and sewage disposal should not significantly raise the groundwater table. Based on the above data, it is thought that the private sewage disposal system will not adversely affect the proposed structure or daylight on descending slopes provided the system is constructed in conformance with the controlling governing agency.

Based on the findings of the project's geotechnical consultant, the Commission finds that the proposed septic system is located and designed to minimize potential adverse impacts on the stability of the subject site. Further, the consultants have concluded that the proposed septic system will be adequate to serve the development and will not result in adverse geologic impacts on or adjacent to the site. The Limited Geologic and Soils Engineering Investigation prepared by GeoConcepts, Inc., dated 7/10/01 states:

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It is the finding of this corporation, based upon the subsurface data that the proposed seepage system will be safe from landslide, settlement or slippage and will not adversely affect adjacent property, provided this corporation's recommendations and those of the City of Malibu and Uniform Building Code are followed and maintained

The Limited Geologic and Soils Engineering Investigation prepared by GeoConcepts, Inc., dated 7/10/01, and a Supplemental Report No. 1, prepared by GeoConcepts, Inc., dated 8/9/01 include a number of recommendations to ensure the stability and safety of the proposed development. Therefore, to ensure that the recommendations of the consulting geologist have been incorporated into all proposed development, **Special Condition One (1)** requires the applicant to submit project plans certified by the consulting geologist as conforming to all recommendations regarding structural and site stability. The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, design, sewage disposal, and drainage. Any substantial changes to the proposed development approved by the Commission which may be recommended by the consultants shall require an amendment to the permit or a new coastal permit.

The Commission finds that potential risks associated with excessive water infiltration from development on a bluff causing destabilization can be minimized by limiting irrigation seaward of the residence. Percolation of irrigated water into the bluff can lead to destabilization of the bluff, and consequently pose a significant risk to existing and proposed development. There have been incidents where irrigation lines have burst, saturating the bluff and thereby subjecting bluff top development to hazardous conditions. To minimize potential geologic risks caused by excess water infiltration associated with maintaining landscaping on the bluff, **Special Condition Five (5)** requires the applicant to submit Landscaping Plans, for review and approval of the Executive Director, which illustrate that all portions of the site disturbed by construction activities, and all areas of the site which extend from 15 ft. seaward of the proposed structure to the coastal bluff edge are vegetated with native, drought tolerant vegetation.

The Commission finds that invasive and non-native plant species are typically characterized as having a shallow root structure in comparison with their high surface/foliage weight and/or require a greater amount of irrigation and maintenance than native vegetation. The Commission notes that non-native and invasive plant species with high surface/foliage weight and shallow root structures do not serve to stabilize steep slopes, such as the slopes on the subject site, and that such vegetation results in potential adverse effects to the geologic stability of the project site. In comparison, the Commission finds that native plant species are typically characterized not only by a well developed and extensive root structure in comparison to their surface/foliage weight but also by their low irrigation and maintenance requirements.

As such, Special Condition Five (5) also requires that exotic, invasive plant species be removed, and that supplemental watering features necessary to establish appropriate

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restorative vegetation will be removed from the bluff and that only drip or low flow irrigation will be permitted on the site seaward of the proposed residence. The Commission finds that implementing a landscaping plan that requires removal of non-native and invasive plant species, which generally require large quantities of water for maintenance, and replacement of these species with native and drought tolerant vegetation, will assist in reducing risks associated with excessive water infiltration into the bluff top and aid in stabilizing the site.

The proposed project is conditioned to incorporate the recommendations of the project's consulting geologists to assure stability of the site and adjacent properties. Notwithstanding the project's consistency with adequate setbacks, and the Special Conditions imposed on this permit which will serve to minimize potential hazards, the Commission nevertheless finds that coastal bluff erosion is a dynamic, long-term process and that no structure situated on a coastal bluff can be completely free of hazard. Thus, the Commission finds that there remains an inherent risk in building on the subject site with the geologic conditions and constraints described in this section, and due to the fact that the project site is located in an area subject to an extraordinary potential for damage or destruction from wildfire. Typical vegetation in the Santa Monica Mountains consists predominantly 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. Additionally, 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.

Therefore, the Commission can only approve the project if the applicant assumes the responsibility and liability from the risks associated with developing the project as required by **Special Condition Two (2)**. This responsibility is carried out through the recordation of a deed restriction. The assumption of risk deed restriction, when recorded against the property, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site that may adversely affect the stability or safety of the proposed development and agrees to assume any liability for the same. Moreover, through acceptance of Special Condition Two (2), the applicants agree to indemnify the Commission, its officers, agents, and employees against any and all claims, demands, damages, costs, expenses, or 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 from geologic and wildfire hazard exists as an inherent risk.

The assumption of risk deed restriction for hazardous geologic conditions and danger from wildfire is often required by the Commission for new development throughout the greater Malibu/Santa Monica Mountains region in areas where there exist either hazardous wildfire and geologic conditions, or where previous geologic activity has

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occurred either directly upon or adjacent to the site in question, and may thereby pose concern of geologic hazard to the subject site.

While the applicant does not propose construction of any shoreline protective device to protect the proposed development, and the location of the proposed structures on the subject site may presently be feasible from a geologic standpoint, further improvements such as concrete block walls and/or other protective structures may eventually be proposed by the applicant to ensure slope stability and maintain the development which may possibly be threatened by natural coastal bluff erosion in the future. Though the project's consulting geologists find that the proposed setbacks will protect the development from the hazards of future natural bluff erosion for the next 75-100 years without a shoreline protective device, many beach areas of Malibu have experienced extreme erosion and scour during severe storm events, such as El Nino storms. The California Coast is a physically dynamic system, therefore it is not possible to completely predict what conditions the proposed residence may be subject to in the future.

No shoreline protective device is proposed as part of this project, however, the Commission finds that future construction of a shoreline protective device on the proposed project site would result in potential adverse effects to coastal processes, shoreline sand supply, the public's beach ownership interests, public access, and scenic resources. Shoreline protective devices alter and fix the shoreline slope profile, which in turn alters beach width and the usable area under public ownership. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines. This reduces the actual area of public property available for public use. Additionally, such protective devices fix the shoreline and reduce the amount of natural shoreline retreat causing a progressive loss of sand and beach area, as shore material is not available to nourish adjacent beaches and the offshore sand bar. The lack of an effective bar can allow such high wave energy on the shoreline that materials may be lost far offshore, where they are no longer available to nourish the beach. This affects public access by resulting in a loss of area between the mean high water line and the actual water. Shoreline protective devices, such as revetments and bulkheads, also cumulatively affect public access by causing accelerated and increased erosion on adjacent public beaches. This effect may not become clear until such devices are constructed individually along a shoreline, eventually affecting the profile of a public beach. Furthermore, if not sited landward in a location that insures that the shoreline protective device is only acted upon during severe storm events, beach scour during the winter season will be accelerated because there is less beach area to dissipate the wave's energy. Finally, revetments and bulkheads interfere directly with public access by their occupation of beach area that will not only be unavailable during high tide and severe storm events but also potentially throughout the winter season.

In addition, Section 30235 of the Coastal Act allows for the construction of a shoreline protective device only when necessary to protect existing development or to protect a

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coastal dependent use. The Commission further notes that the approval of a shoreline protective device to protect new residential development, such as the proposed project, would not be consistent with Section 30235 of the Coastal Act. The construction of a shoreline protective device to protect a new residential development would also conflict with Section 30253 of the Coastal Act which states that new development shall neither create nor contribute to erosion or geologic instability of the project site or surrounding area. Construction of a shoreline protective device to protect new residential development would also conflict with Section 30251 of the Coastal Act, which states that permitted development shall minimize the alteration of natural land forms, including sandy beach areas which would be subject to increased erosion from such a device. Thus, the Commission can only find the proposed project consistent with the applicable sections of the Coastal Act if the development as proposed, and the site as predicted to perform, (as determined by the project's consulting geologists), during the project's useful life will not require the construction of a shoreline protection device. Therefore, to ensure that the proposed project is consistent with Sections 30235, 30251 and 30253 of the Coastal Act, and to ensure that the proposed project does not result in future adverse effects to coastal processes, **Special Condition Three (3)** requires the applicant to record a deed restriction that would prohibit the applicant, or future landowners, from constructing a shoreline protective device for the purpose of protecting any of the development proposed as part of this application including the residential addition, septic system, driveway, patios or any other structure on the subject site.

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

C. Septic System

The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality from septic system effluent. Section 30231 of the Coastal Act states that:

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

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As described above, the proposed project includes construction of one and two-story additions totaling 1,231 sq. ft. to an existing 2,218 sq. ft. single family residence, 24 ft. in height, a new septic system, and interior remodel. The proposed development includes the installation of an on-site septic system with a 2,500 gallon septic tank to serve the existing residence and new additions. The applicant's geotechnical consultants performed infiltration tests and evaluated the proposed septic system. The report concludes that the site is suitable for the septic system and that no adverse impacts to the site or surrounding areas will result from the use of the septic system. Finally, the City of Malibu Environmental Health Department has given in-concept approval of the proposed septic system, determining that the system meets the requirements of the plumbing code. The Commission has found that conformance with the provisions of the plumbing code is protective of resources.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

D. Violations

Unpermitted development has taken place prior to submission of this permit application, including construction of one and two-story additions totaling 1,231 sq. ft. to an existing 2,218 sq. ft. single family residence, and installation of a new septic system. The applicant is seeking authorization of unpermitted development at the site as part of this permit application. In order to ensure that the matter of unpermitted development is resolved in a timely manner, **Special Condition (Six) 6** requires that the applicant satisfy all conditions of this permit which are a prerequisite to the issuance of this permit within 120 days of Commission action, or within such additional time as the Executive Director may grant for good cause.

Consideration of this 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 the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

E. Local Coastal Program

Section 30604 of the Coastal Act states that:

a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will

not prejudice the ability of the local government to prepare a local program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

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

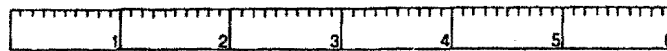
F. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit Amendment application to be supported by a finding showing the application 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. Therefore, the proposed amendment is found consistent with CEQA and with the policies of the Coastal Act.



1-800-345-7334



SCALE IN 1/10 OF AN INCH

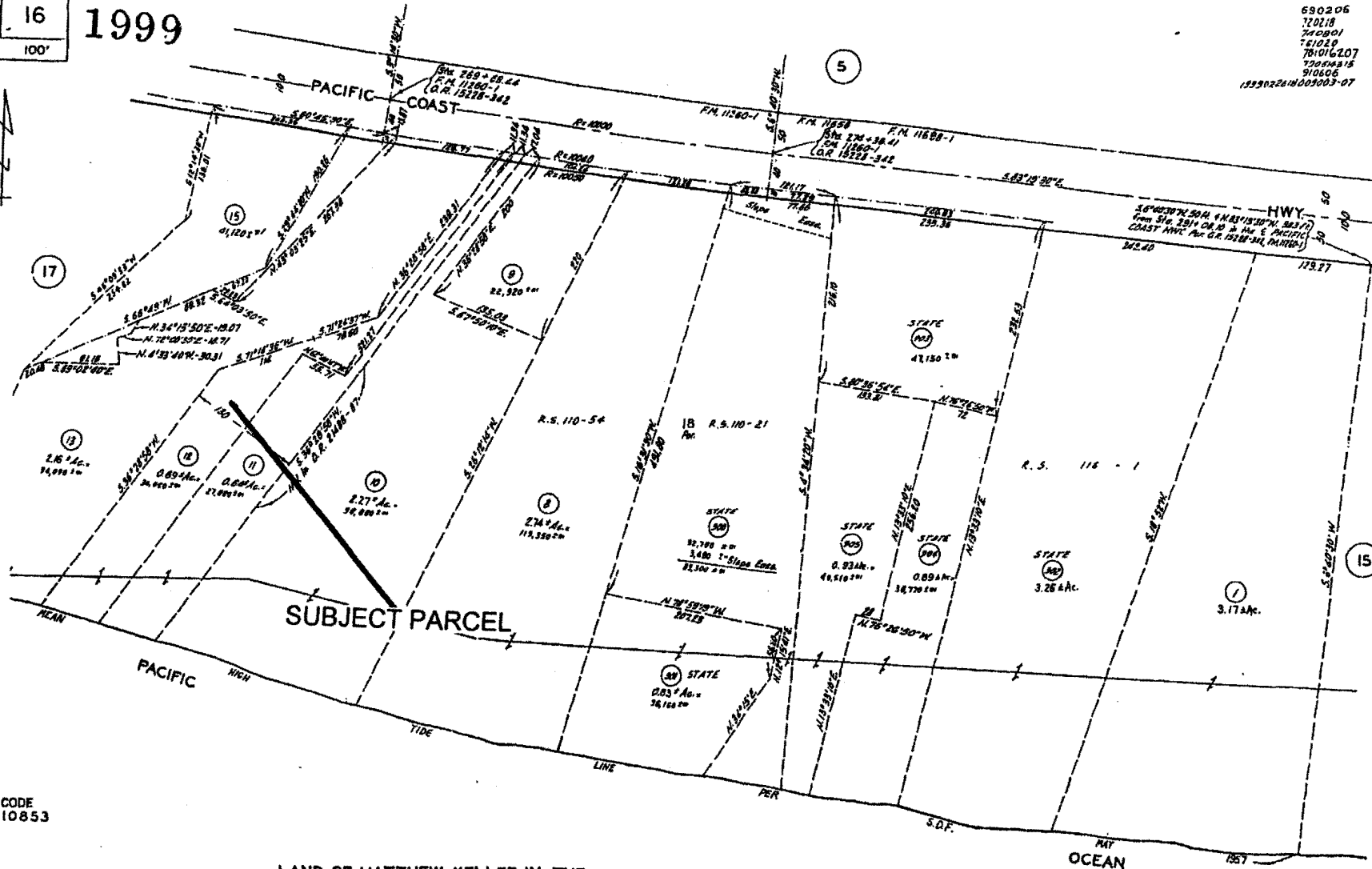
4473 16

1999

SCALE 1" = 100'

690206
70118
700901
701029
701016207
70084815
910606
133902261005003-07

Exhibit 2
4-01-163
Parcel Map



CODE
10853

FOR PREV. ASSMT SEE:
4470-17, 32, 33

LAND OF MATTHEW KELLER IN THE
RANCHO TOPANGA MALIBU SEQUIT

R.F. 534

ALL ACREAGES ON
THIS PAGE ARE NET

ASSESSOR'S MAP
COUNTY OF LOS ANGELES, CALIF.

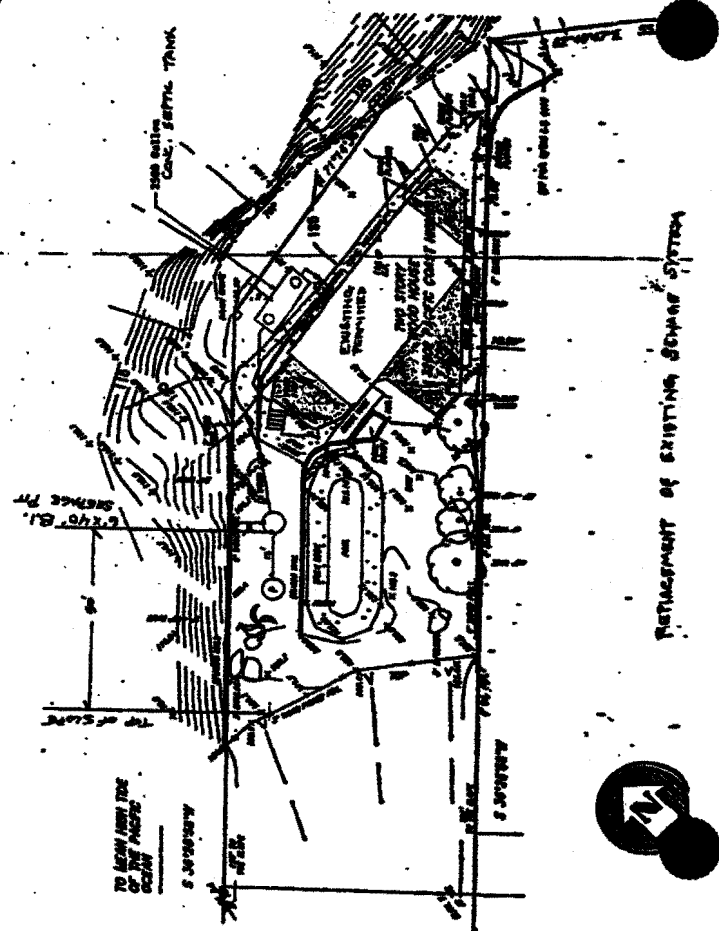
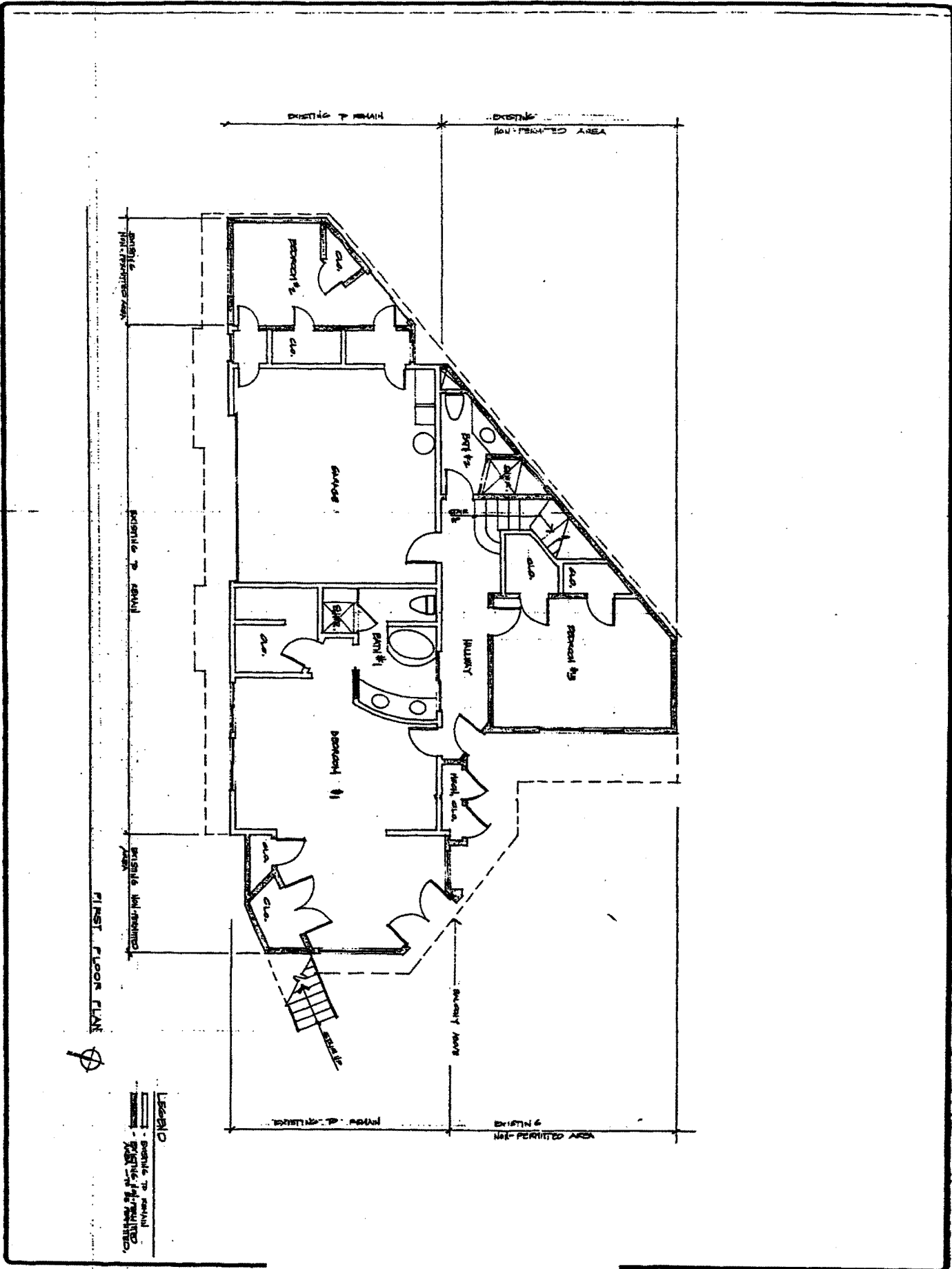


Exhibit 3
4-01-163
Site Plan

[illegible]

APPROVAL	IS REQUIRED
Lyong	SUANCE OF
	NON PERMITR.



NO.	DATE	BY	CHKD.
1	12/1/83	ASO	

STEWART REED
2000 PACIFIC CO
SALINAS, CA

Exhibit 4
4-01-163
First Floor Plan

LUCAS BUILDING CORPORATION
P.O. BOX 998
CALABASAS, CA 91301

NO.	DATE	BY	CHKD.
1	12/1/83	ASO	

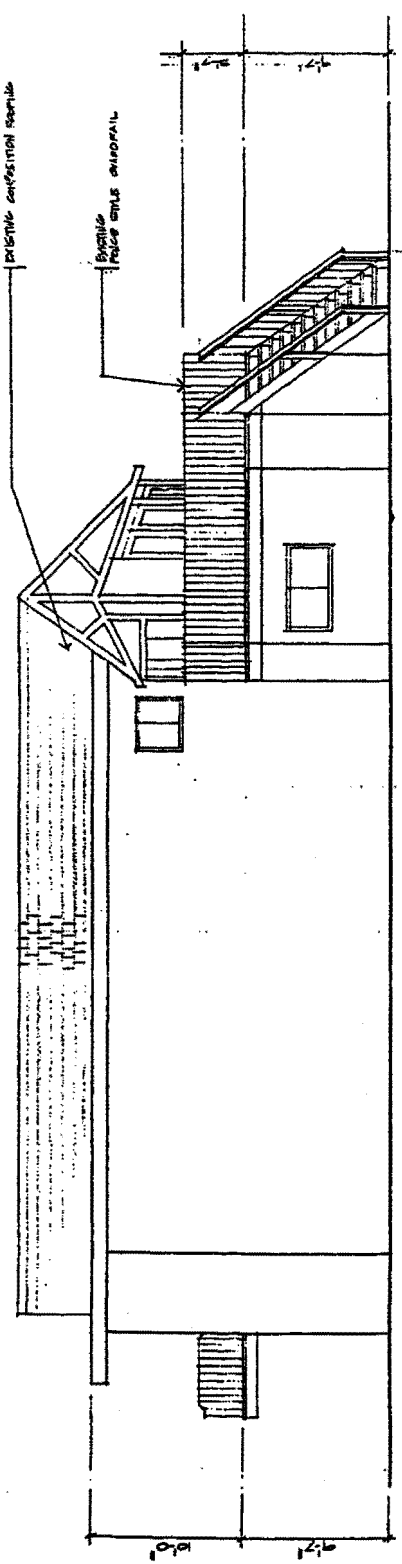
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LYCAS BUILDING CORPORATION
P.O. BOX 988
CARLSBAD, CA 92008

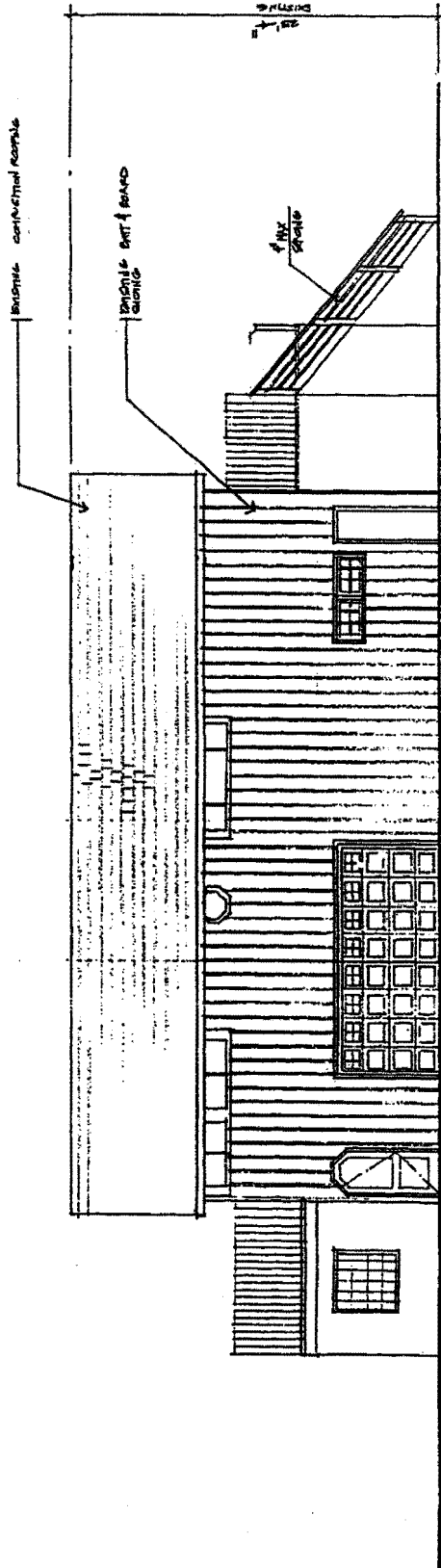
STEWART RESIDENCE
2000 PACIFIC COAST HIGHWAY
MALIBU, CA

DATE: 10/10/88
DRAWN BY: J. H. HILL
CHECKED BY: J. H. HILL
SCALE: 1/8" = 1'-0"

AS.0



REAR ELEVATION



FRONT ELEVATION

Exhibit 6
4-01-163
Elevations

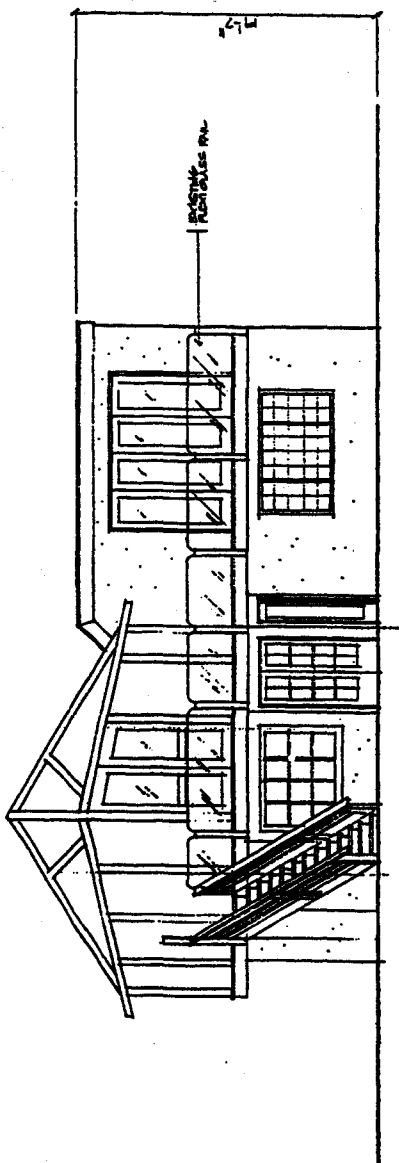
DATE	12/1
BY	ASJ
CHECKED	
APPROVED	

STEWART RESIDENCE
3800 PACIFIC COAST HIGHWAY
MALIBU, CA

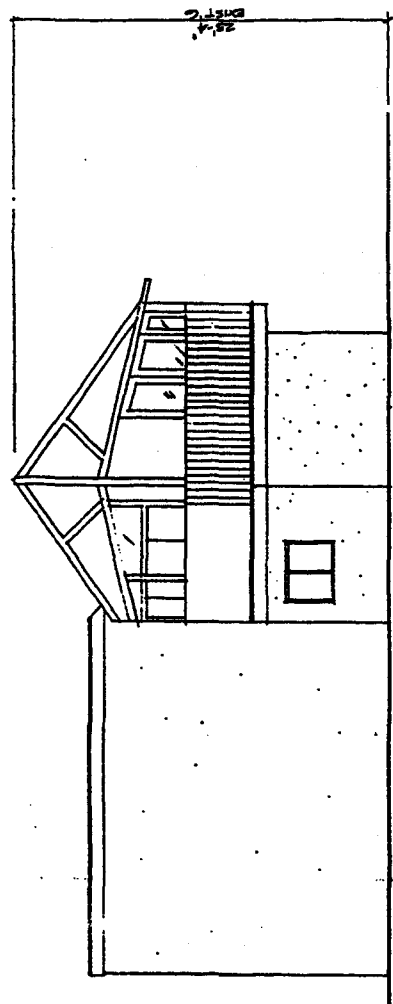
LUCKY BUILDING CORPORATION
P.O. BOX 1888
CALABAS, CA 91301

NO.	1
DATE	
BY	
CHECKED	
APPROVED	

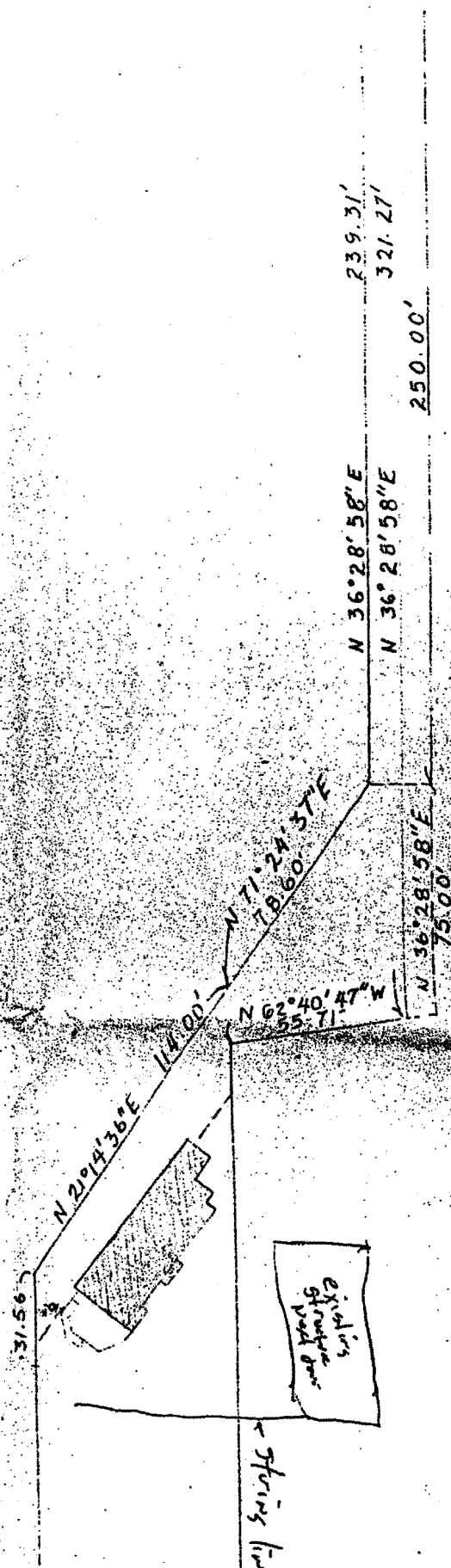
RIGHT SIDE ELEVATION



LEFT SIDE ELEVATION



PACIFIC COAST HIGHWAY



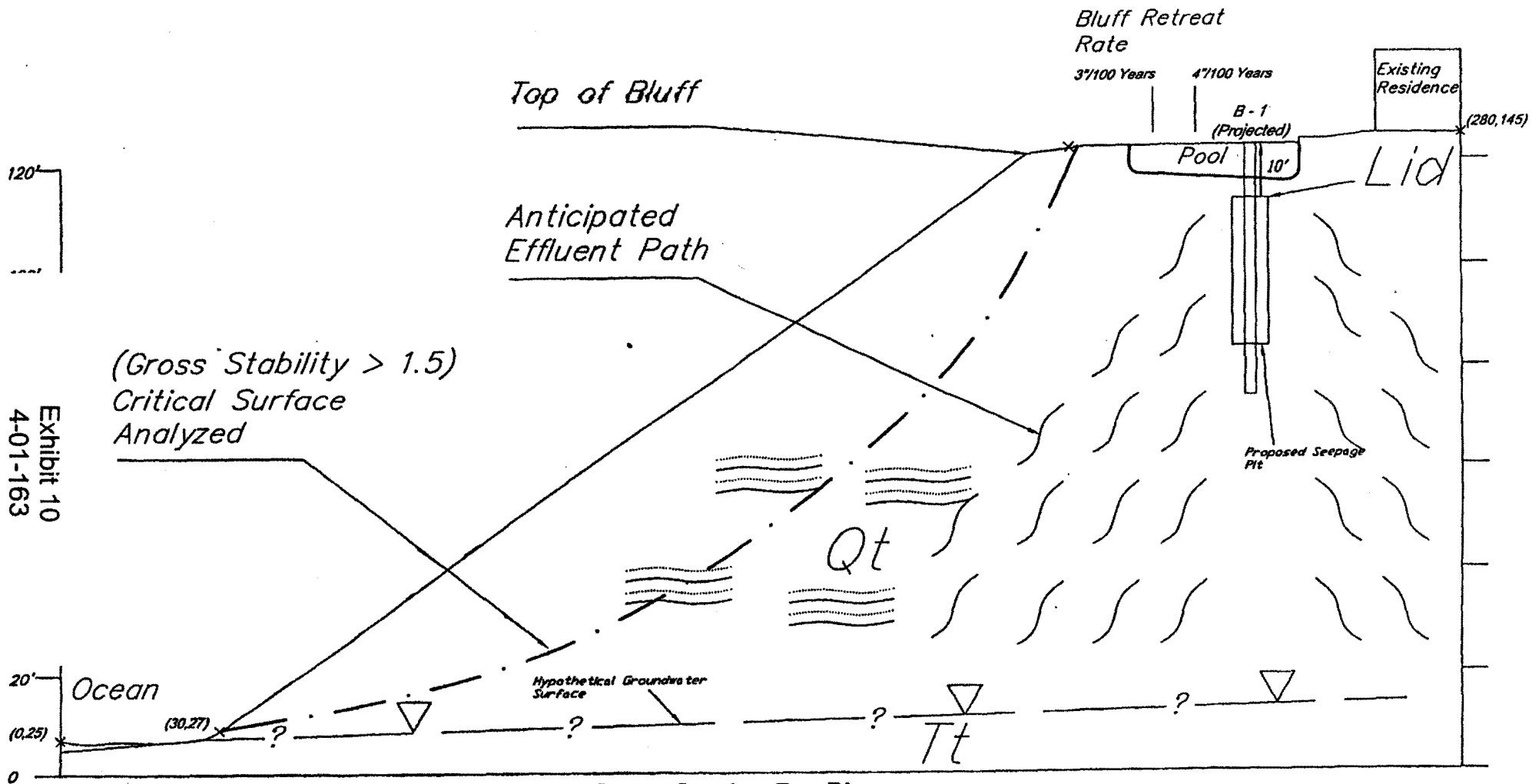
APPROX SCALE 1" = 40'

APPROVAL IN CONCEPT

SUB: Y. M. L. C. D. P.
DATE: 2-11-86
PLAN CHECK NO.

State of Oregon Department of Transportation

STRUCTURE	POSITION
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Cross Section B - B'
Project Number: 2114
Scale: 1" = 20'
GeoConcepts, Inc.
December, 2001

4-01-163 Stewart

- StrmsCCC
- laprcls
- esha (ESHA)
 - Coldcreek management area
 - inland
 - locally disturbed resources
 - oak woodlands and savannahs

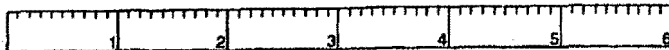
BLUELINE STREAM

PROJECT SITE



Tuesday, Dec 18 2001

1-800-345-7334



SCALE IN 1/10 OF AN INCH

4473 16

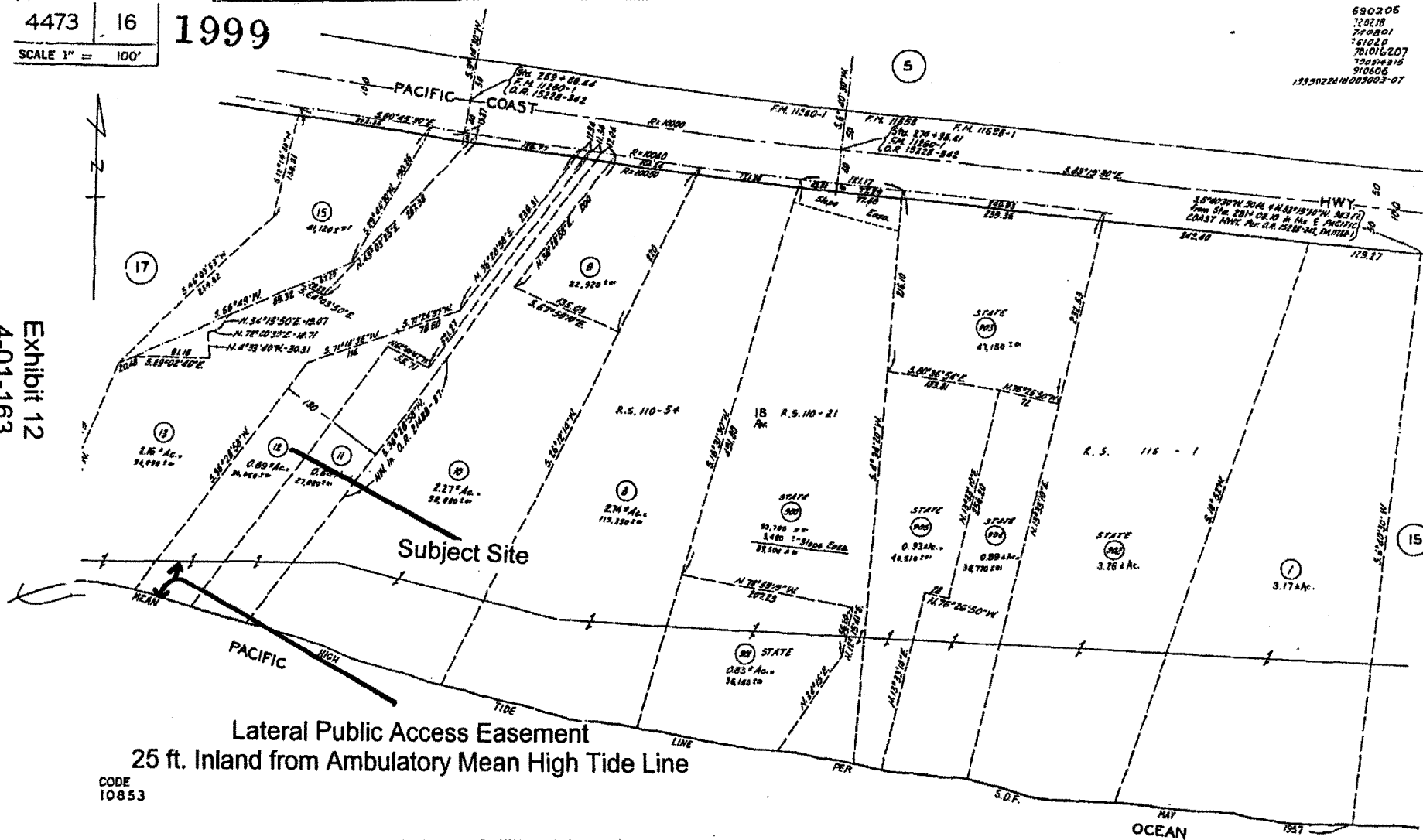
1999

SCALE 1" = 100'

690206
720218
740801
761019
781016207
79054915
910606
129202241003003-07

Exhibit 12
4-01-163

Lateral Public Access



Lateral Public Access Easement
25 ft. Inland from Ambulatory Mean High Tide Line

CODE
10853

FOR PREV. ASSMT SEE:
4470-17, 32, 33

LAND OF MATTHEW KELLER IN THE
RANCHO TOPANGA MALIBU SEQUIT

R.F. 534

ALL ACRES ON
THIS PAGE ARE NET

ASSESSOR'S MAP
COUNTY OF LOS ANGELES, CALIF.

