

CALIFORNIA COASTAL COMMISSION

TH CENTRAL COAST AREA
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Commission Action:



STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-01-131

APPLICANT: B.J. & Sarah Chaney

AGENT: Jaime Harnish, J. Scott Carter

PROJECT LOCATION: 24330, 24334, 24338 & 24342 Malibu Rd., Malibu (Los Angeles Co.)

APN NOS.: 4458-011-014, 4458-011-015, 4458-011-016 & 4458-011-017

PROJECT DESCRIPTION: Proposal to: merge four lots into one; partially demolish two existing two story 2,128 sq. ft. and 2,812 sq. ft. single family residences (4,940 sq. ft. total), remodel and combine into one two story 4,400 sq. ft. single family residence; partially demolish a third existing two story 2,725 sq. ft. single family residence and convert into a 589 sq. ft. pool house with a new wood deck that connects the structures with retractable wood stairs to beach; remodel an existing 466 sq. ft. guest house with an attached 98 sq. ft. storage closet and three 2-car garages including a 313 sq. ft. 1-car carport addition to a 448 sq. ft. garage; construct a new pool & spa with terraces, a new seawall, retaining and decorative walls, privacy walls, walkways; install a new alternative septic system; remove an existing steel/plywood groin, gunite atop rip rap and debris from sandy beach area; construct six parallel public parking spaces and a 4 ft. wide walkway along frontage of new lot; place new sign on existing stone wall; and perform 1,174 cu. yds. of grading (695 cu. yds. cut and 479 cu. yds. fill, 216 cu. yds. export). Easternmost lot contains existing 154 sq. ft. greenhouse, walkways, a terrace and landscaping to remain. Proposal also includes a request for after-the-fact approval of a cobblestone and cement veneer over an existing rock wall at the toe of the slope on the eastern lot, and a vertical stone wall with wooden gate along the top of the rock wall. A portion of the vertical stone wall and wooden gate are proposed to be relocated 1 ft. landward of existing location. Proposal also includes an offer to dedicate public lateral access easement along seaward edge of new lot.

Lot area	26,650 sq. ft.
Building coverage	6,011 sq. ft.
Pavement coverage	6,716 sq. ft.
Landscape coverage	9,263 sq. ft.
Height Above Finished Grade	28 ft.
Parking spaces	11

LOCAL APPROVALS RECEIVED: City of Malibu Planning Department, Approval in Concept, June 21, 2001; City of Malibu Environmental Health, Approval in Concept, January 24, 2001; County of Los Angeles Fire Department, Fire Prevention Engineering Approval, October 23, 2001; City of Malibu Public Works, Approval in Concept, October 30, 2001.

SUBSTANTIVE FILE DOCUMENTS: "Update Engineering Geologic Report," Pacific Geology Consultants, Inc., November 5, 1999; "Update Engineering Geologic Report," Pacific Geology Consultants, Inc., September 14, 2001; "Rubble and Masonry Bulkhead," Coastline Geotechnical Consultants, Inc., September 29, 1998; "Supplemental Geotechnical Engineering Investigation Report," Coastline Geotechnical Consultants, Inc., December 13, 1999; "Update Geotechnical Engineering Report," Coastline Geotechnical Consultants, Inc., September 13, 2001; "Seawall Location," Coastline Geotechnical Consultants, Inc., January 9, 2002; "Wave Uprush Study and Coastal Effects of Existing Concrete and Rock Wall," Pacific Engineering Group, September 22, 1998; "Wave Uprush Study (24334 Malibu Rd)," Pacific Engineering Group, December 13, 1999; "Wave Uprush Study (24338 Malibu Rd)," Pacific Engineering Group, December 13, 1999; "Wave Uprush Study (24342 Malibu Rd)," Pacific Engineering Group, December 13, 1999; "Proposed Concrete Bulkhead," Pacific Engineering Group, April 17, 2001; "Stonewall and Gate Repositioning," Pacific Engineering Group, December 20, 2001; "Stonewall Repositioning," Pacific Engineering Group, March 21, 2002; "Coastal Development Project Review for Retention of Existing Rock Seawall," California State Lands Commission, July 21, 1999; "Coastal Development Project Review for Groin Removal and Remodel of Three Existing Homes," California State Lands Commission, October 16, 2001; "Coastal Development Project Review for Groin Removal and Remodel of Three Existing Homes," California State Lands Commission, January 9, 2002.

Summary of Staff Recommendation

Staff recommends **approval** of the proposed project with **fourteen (14) special conditions** regarding (1) geologic, geotechnical, and coastal engineering recommendations, (2) drainage and polluted runoff, (3) landscaping and erosion control, (4) assumption of risk, (5) offer to dedicate lateral public access, (6) limited term for shoreline protective device, (7) lot merger, (8) future improvements, (9) sign restriction, (10) lighting restriction, (11) pool maintenance, (12) removal of groin and rip rap, (13) construction responsibilities and debris removal, and (14) construction of public walkway and parking spaces.

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-01-131 pursuant to the staff recommendation.*

Staff Recommendation of Approval:

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

Resolution to Approve the Permit:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **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. ***Plans Conforming to Geologic, Geotechnical and Coastal Engineering Recommendations***

All recommendations contained in the Update Engineering Geologic Report dated November 5, 1999 prepared by Pacific Geology Consultants, Inc., Supplemental Geotechnical Engineering Investigation Report dated December 13, 1999 prepared by Coastline Geotechnical Consultants, Inc., and Wave Uprush Study (24334 Malibu Rd), Wave Uprush Study (24338 Malibu Rd) and Wave Uprush Study (24342 Malibu Rd) dated December 13, 1999, Proposed Concrete Bulkhead dated April 17, 2001 and Stonewall Repositioning dated March 21, 2002 prepared by Pacific Engineering Group shall be incorporated into all final design and

construction including *foundations, grading, sewage disposal and drainage*. Final plans must be reviewed and approved by the consultants. Prior to issuance of the ~~coastal~~ development permit, the applicant shall submit, for review and approval by the Executive Director, two sets of plans with evidence of the consultants' review and approval of all project plans.

The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, sewage disposal and drainage. Any substantial changes in the proposed development approved by the Commission that may be required by the consultants shall require an amendment to the permit or a new coastal permit.

2. *Drainage and Polluted Runoff Control Plans*

Prior to the Issuance of the Coastal Development Permit, the applicants shall submit to the Executive Director for review and written approval, two sets of final drainage and runoff control plans, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting geotechnical engineer and geologist to ensure 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 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs.
- (b) Runoff shall be conveyed off site in a non-erosive manner.
- (c) Energy dissipating measures shall be installed at the terminus of outflow drains.
- (d) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to the onset of the storm season, no later than September 30th each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

3. *Landscaping and Erosion Control Plans*

Prior to issuance of a coastal development permit, the applicant shall submit two sets of a landscaping plan, prepared by a licensed landscape architect 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:

A. Landscaping Plan

- (1) The portion of the subject site that is not sandy beach (or subject to wave action) and the portion of the site between the proposed residence and Malibu Road shall be planted within sixty (60) days of receipt of the certificate of occupancy for the residence. Any portion of the site that is subject to wave action shall be maintained as sandy beach area. To minimize the need for irrigation, all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled *Recommended List of Plants for Landscaping in the Santa Monica Mountains*, dated February 5, 1996. 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 that 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.

B. Interim Erosion Control

- (1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, 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 specify that should grading take place during the rainy season (November 1 – March 31) the applicant shall install or construct temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, silt fencing, stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes and close and stabilize open trenches as soon as possible. These erosion measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained through out the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.
- (3) 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 geotextiles 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.

C. Monitoring

Five years from the date of the receipt of the Certificate of Occupancy for the residence the applicants 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 onsite 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.

4. Assumption of Risk/Shoreline Protection

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.
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.
5. No future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protective device approved pursuant to Coastal Development Permit 4-01-131 shall be undertaken if such activity extends the seaward footprint of the subject shoreline protective device. By acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to such activity that may exist under Public Resources Code section 30235.

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 and an exhibit showing the location of the shoreline protective device approved by this permit. 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.

5. Offer to Dedicate Lateral Public Access

To implement the applicant's proposal of an offer to dedicate an easement for lateral public access and passive recreational use along the shoreline as part of this project, the applicant

agrees to complete the following prior to issuance of the permit: the landowner shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an easement for lateral public access and passive recreational use along the shoreline. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use that may exist on the property. Such easement shall be located along the entire width of the property (Assessor's Parcel Nos. 4458-011-014, 4458-011-015, 4458-011-016 & 4458-011-017) from the ambulatory mean high tide line landward to the seawardmost approved structure (i.e., deck dripline, seawall, rock wall) as illustrated on Exhibit 4.

The document shall be recorded free of prior liens which the Executive Director determines may affect the interest being conveyed, and free of any other encumbrances which may affect said interest. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording. The recording document shall include legal descriptions and a map of both the applicant's entire parcel 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.

6. Limited Term for Shoreline Protective Device

Prior to the issuance of the coastal development permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide that:

- A. The applicant acknowledges that the purpose of the shoreline protective device authorized by this permit is solely to protect the septic system on site and that no shoreline protective device is required to protect the residence authorized by this permit. If the proposed septic system is replaced or abandoned for any reason (including the installation of a new sewer system along Malibu Road) then a new coastal development permit for the shoreline protective device authorized by Coastal Development Permit 4-01-131 shall be required. If a new coastal development permit for the shoreline protective device is not obtained in the event of replacement or abandonment of the septic system, then the shoreline protective device authorized by this permit shall be removed. Removal of the shoreline protective device shall require a coastal development permit or other authorization under the Coastal Act.
- B. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

7. Lot Merger

Prior to the issuance of the Coastal Development Permit, the applicant as landowner shall execute and record a Lot Merger Document that merges Assessor Parcel Nos. 4458-011-014,

4458-011-015, 4458-011-016 & 4458-011-017, in a form and content acceptable to the Executive Director and provide evidence of such recordation to the Executive Director.

8. Future Improvements Deed Restriction

This permit is only for the development described in Coastal Development Permit No. 4-01-131. Pursuant to Title 14 California Code of Regulations §13250 (b)(6) and §13253 (b)(6), the exemptions otherwise provided in Public Resources Code §30610 (a) and (b) shall not apply to the entire parcel. Accordingly, any future structures, signs, future improvements, or change in intensity of use to the permitted structures approved under Coastal Development Permit No. 4-01-131 shall require an amendment to Permit No. 4-01-131 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 descriptions of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

9. Sign Restriction

One 2' x 2' max. sign posted on the rock wall on the east end of the property, as shown in Exhibit 28, displaying the language described in this staff report shall be authorized by Coastal Development Permit 4-01-131. Approved language is as follows:

<p style="text-align: center;">CAUTION – STAY OFF ROCKS</p> <p style="text-align: center;">The rocky slope adjacent to the residence is private property. Climbing on rocks may be dangerous.</p> <p style="text-align: center;">THE BEACH IS FOR PUBLIC USE</p>
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Any changes to the approved sign language shall be reviewed and approved by the Executive Director. No other signs shall be posted on the property subject to this permit unless authorized by a coastal development permit or an amendment to this coastal development permit.

10. Lighting Restriction

A. The only outdoor, night lighting that is allowed on the site is the following:

- 1) The minimum necessary to light walkways used for entry and exit to the structures, including parking areas, on the site. This lighting shall be limited to fixtures that do not exceed two feet in height, are directed downward, and use bulbs that do not exceed 60 watts, or the equivalent, unless a higher wattage is authorized by the Executive Director.
- 2) Security lighting attached to the residence that is controlled by motion detectors and is limited to 60 watts, or the equivalent.

- 3) The minimum lighting necessary for safe vehicular use of the driveway. The lighting shall be limited to 60 watts, or the equivalent.

No lighting around the perimeter of the site and no lighting for aesthetic purposes shall be allowed.

- B. Prior to issuance of Coastal Development Permit No. 4-01-131, the applicant shall execute and record a deed restriction reflecting the above restrictions. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

11. 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. The plan shall at a minimum: 1) identify a non-chlorine based system, such as an ozone treatment system or other similar cleansing system to be used, 2) provide a separate water meter for the pool to allow monitoring of water levels for the pool, 3) identify the materials, such as plastic linings or specially treated concrete to be used to waterproof the underside of the pool to prevent leakage, and information regarding past success rates of these materials, and 4) identify methods to control pool drainage and to control infiltration and run-off resulting from pool drainage and maintenance activities. 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.

12. Removal of Seawall, Groin, Rip-Rap and Debris

The applicant shall remove the existing seawall, steel/plywood groin, and any riprap, concrete or debris located on the sandy portion of the subject site prior to the construction of the proposed residence and dispose of such material according to the terms in Special Condition No. Thirteen.

13. Construction Responsibilities and Debris Removal

The applicant shall, by accepting this permit, agree: a) that no stockpiling of dirt shall occur on the beach; b) that all grading shall be properly covered and sand bags and/or ditches shall be used to prevent runoff and siltation; and, c) that measures to control erosion must be implemented at the end of each day's work. In addition, no machinery will be allowed in the intertidal zone at any time. The permittee shall remove from the beach any and all debris that result from the construction period.

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 debris/excavated material from the site. Should the dumpsite be located in the Coastal Zone, a Coastal Development Permit shall be required.

14. Construction of Public Walkway and Parking Spaces

In order to implement the applicant's proposal to construct a four foot wide public walkway and six public parallel parking spaces between the proposed development and Malibu Road, the applicant agrees to construct the walkway and parking spaces as shown on the proposed project plans no later than 60 days after the issuance of the certificate of occupancy. No encroachments, such as planters, vegetation, or other structures or obstacles, including signs that would affect the public's ability to use the entire walkway and parking areas shall be constructed or placed.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND BACKGROUND

The applicant is proposing to merge four lots into one; partially demolish two existing two story 2,128 sq. ft. and 2,812 sq. ft. single family residences (4,940 sq. ft. total), remodel and combine into one two story 4,400 sq. ft. single family residence; partially demolish a third existing two story 2,725 sq. ft. single family residence and convert into a 589 sq. ft. pool house with a new wood deck that connects the structures with retractable wood stairs to beach; remodel an existing 466 sq. ft. guest house with an attached 98 sq. ft. storage closet and three 2-car garages including a 313 sq. ft. 1-car carport addition to a 448 sq. ft. garage; construct a new pool & spa with terraces, a new seawall, retaining and decorative walls, privacy walls, walkways; install a new alternative septic system; remove an existing steel/plywood groin, gunite atop rip rap and debris from sandy beach area; construct six parallel public parking spaces and a 4 ft. wide walkway along frontage of new lot; place new sign on existing stone wall; and perform 1,174 cu. yds. of grading (695 cu. yds. cut and 479 cu. yds. fill, 216 cu. yds. export) (Exhibits 4-25). Easternmost lot contains existing 154 sq. ft. greenhouse, walkways, a terrace and landscaping to remain. Proposal also includes a request for after-the-fact approval of a cobblestone and cement veneer over an existing rock wall at the toe of the slope on the eastern lot, and a vertical stone wall with wooden gate along the top of the rock wall (Exhibit 28). A portion of the vertical stone wall and wooden gate are proposed to be relocated 1 ft. landward of existing location (Exhibit 4). Proposal also includes an offer to dedicate public lateral access easement along seaward edge of new lot (Exhibit 4).

The project site consists of four contiguous beachfront parcels totaling 26,650 sq. ft. (0.61 acre) on Amarillo Beach east of Point Dume between Malibu Road and the Pacific Ocean (Exhibit 1 & 2). The subject parcels are located at 24342, 24338, 24334 and 24330 Malibu Road, respectively from west to east. The subject parcel at 24342 Malibu Road is currently developed with a 2,725 sq. ft. two story single family residence, a 404 sq. ft. detached garage and a concrete seawall (Exhibit 7). The subject parcel at 24338 Malibu Road is currently developed with a 2,812 sq. ft. two story single family residence and a 448 sq. ft. detached garage (Exhibit 8). The subject parcel at 24334 Malibu Road is currently developed with a 2,128 sq. ft. two story single family residence, a 395 sq. ft. detached garage and a 466 sq. ft. guest house with a 93.5 sq. ft. attached storage closet (Exhibit 9). The subject parcel at 24330 Malibu Road contains a 154 sq. ft. greenhouse, stone walkways and a terrace, landscaping, and a stone wall with wooden gate atop a rock buttress (Exhibit 3).

The four subject parcels are proposed to be merged to create one parcel. On the westernmost parcel at 24342 Malibu Road, the existing 2,725 sq. ft. two ~~story single family residence~~ shall be partially demolished and converted into a 589 sq. ft. pool house with a new wood deck that connects the pool house and residence with retractable wood stairs down to the beach, a new pool & spa with terraces will be constructed in the location of the eastern portion of the residence to be demolished, the existing 404 sq. ft. detached garage will be remodeled, the concrete seawall will be removed and replaced with a seawall constructed along the three westerly parcels with a return wall that extends seaward to the neighboring stone patio (Exhibits 4, 5 & 10). On the parcel at 24338 Malibu Road, the existing 448 sq. ft. detached garage will be remodeled and a new 313 sq. ft. 1-car carport will be constructed adjacent to the garage (Exhibits 4 & 16). On the parcel at 24334 Malibu Road, the existing 395 sq. ft. detached garage will be remodeled, the existing 466 sq. ft. guest house with 93.5 sq. ft. attached storage closet will also be remodeled including 17 sq. ft. of additions (Exhibits 12 & 16). The two existing residences totaling 4,940 sq. ft. located on the two parcels at 24338 & 24334 Malibu Road will be partially demolished, structurally connected and remodeled to create one 4,400 sq. ft. two story single family residence (Exhibits 11-14). The subject parcel at 24330 Malibu Road will remain as existing with the exception of the relocation of the stone wall and wooden gate and the placement of a sign on the stone wall. The existing septic systems will be abandoned and a new alternative secondary treatment septic system will be installed on the two center lots (Exhibit 5). The entire project requires 1,174 cu. yds. of grading (695 cu. yds. cut and 479 cu. yds. fill, 216 cu. yds. export) (see Exhibit 25). In addition, the proposal includes the construction of six parallel public parking spaces and a 4 ft. wide walkway along frontage of new lot and an offer to dedicate public lateral access easement along seaward edge of new lot (Exhibits 4).

A rock and cement wall exists at the toe of the slope on the easternmost parcel. The base of the wall is essentially a natural rock outcropping, however, rock and cement have been added to this natural feature to create a protective structure. Aerial photos show that the rock and cement wall existed in approximately the same footprint as it currently exists prior to the Coastal Act. Subsequently, an artificial cobblestone and cement veneer has since been added to the exterior surface along with a vertical stone wall and wooden gate on top of the rock wall without the benefit of a CDP. This development was the subject of an enforcement action. The current property owner, Chaney, responded to a Notice of Violation dated April 16, 1998 with a CDP application received on November 20, 1998 (App. No. 4-98-321). Subsequent to a Staff site visit on October 5, 1999, the Chaney's requested a nine month extension of time in order to submit a CDP application to incorporate the unpermitted development into a development proposal for all four lots, so that the Commission could consider it in light of the overall project. The applicant is including the unpermitted development as a part of this application in order to resolve the violation. The consulting geotechnical and coastal engineers assert that the rock wall serves as a buttress to protect the toe of the southeast portion of the landslide onsite and that removal of the buttress would likely cause additional land movement when the toe of the slide is exposed to seasonal beach scour during winter storm conditions. According to the consultants, this land movement could likely cause damage to the subject property, adjacent properties and Malibu Road. The addition of the veneer and stone wall do not present adverse impacts to shoreline processes or coastal resources. The applicants also propose to place a new sign on the existing stone wall, not to exceed 2' x 2' in size, to warn the public about the danger of climbing on the rocky structure and advise that the beach in front is for public use.

The area surrounding the project site is characterized as a built-out portion of Malibu consisting of residential development. A shoreline protective device is necessary to protect the proposed

development from land movement and wave uprush on the project site. The protective seawall will be located in the most landward position feasible. The proposed return wall along the western property line is necessary to protect the neighboring property from wave uprush and beach scour around the end of the seawall. The residences along this stretch of beach are for the most part pile supported residences situated on the seaward edge of a bluff that was formed by the construction and excavation of Malibu Road. Most of the residences constructed on this section of the coast have a shoreline protective structure including concrete walls, rock revetments and timber bulkheads to provide protection from erosion of the bluff during storms. The construction of the proposed development will be consistent with the visual character of the surrounding area and will not result in any adverse effects to the visual quality of the Malibu Road/Amarillo Beach area (Exhibit 27).

Further, the applicant has submitted evidence of review of the proposed project by the California State Lands Commission (CSLC) dated January 21, 1999, October 16, 2001 and January 9, 2002, which indicate that the CSLC presently asserts no claims that the project is located on public tidelands and has no objection to the Coastal Commission processing the coastal permit application with the caveat that the applicants remove the steel/plywood groin located several feet seaward of the residence on the beach, which was agreed to in writing by the Chaney's and is part of the development proposal. The CSLC does, however, reserve the right to any future assertion of state ownership or public rights should circumstances change (Exhibits 26a,b,c).

B. SHORELINE PROCESSES, SHORELINE PROTECTIVE DEVICES AND SEAWARD ENCROACHMENT

The proposed project includes the construction of a 155 foot long seawall and a 8 foot long return wall with a maximum height of approximately ten and a half feet. The proposed seawall will be located approximately 98 feet seaward of the Malibu Road right-of-way/property line. The proposed seawall will be located entirely beneath the proposed structures, 7-21 feet landward of the deck dripline.

Past Commission review of shoreline residential projects in Malibu has shown that such development results in potential individual and cumulative adverse effects to coastal processes, shoreline sand supply, and public access. Shoreline development, if not properly designed to minimize such adverse effects, may result in encroachment on lands subject to the public trust (thus physically excluding the public), interference with the natural shoreline processes necessary to maintain publicly-owned tidelands and other public beach areas, overcrowding or congestion of such tideland or beach areas, and visual or psychological interference with the public's access to and the ability to use public tideland areas.

As described in the discussion below, there is evidence that the proposed development along this section of Amarillo Beach will require a shoreline protective device and that such development has the potential to adversely impact natural shoreline processes. Therefore, it is necessary to review the proposed project for its consistency with Sections 30235, 30250(a), and 30253 of the Coastal Act and with past Commission action.

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 that new development shall:

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

Section 30250(a) of the Coastal Act states, in part:

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

To accurately determine what adverse effects to coastal processes may result from the proposed project, it is necessary to analyze the proposed project in relation to characteristics of the project site shoreline, location of the development on the beach, and wave action.

Site Shoreline Characteristics

The proposed project site is located on Amarillo Beach in the City of Malibu. Amarillo Beach is characterized as a relatively narrow beach that has been developed with numerous single family residences located to the east and west of the subject site (Exhibit 27). The Malibu/Los Angeles County Coastline Reconnaissance Study by the United States Army Corp of Engineers, dated April 1994, indicates that residential development on Amarillo Beach is exposed to recurring storm damage because of the absence of a sufficiently wide protective beach. The applicant's coastal engineering consultant has indicated that Amarillo Beach is an oscillating (equilibrium) beach that experiences seasonal erosion and recovery. The Wave Uprush Study by Pacific Engineering Group dated December 13, 1999 further indicates that the width of the beach changes seasonally and that the subject beach experiences a seasonal foreshore slope movement (oscillation) by as much as 80 feet.

Stringline

As a means of controlling seaward encroachment of residential structures on a beach to ensure maximum public access and minimize wave hazards, as well as minimize adverse effects to coastal processes, shoreline sand supply, and public views, the Commission has, in past permit actions, developed the "stringline" policy. As applied to beachfront development, the stringline limits the seaward extension of a structure to a line drawn between the nearest corners of adjacent structures and limits decks to a similar line drawn between the nearest corners of the adjacent decks. The Commission has applied this policy to numerous past permits involving infill on sandy beaches and has found it to be an effective policy tool in preventing further encroachments onto sandy beaches.

The stringline policy does not apply in this case as the existing structures are being retained and are undergoing partial demolition and remodel to create the proposed residence and pool house while maintaining the existing piles to serve as the structural support. The existing residence on the westernmost parcel will undergo 60% demolition and the pool will be constructed in the former location of the eastern wing, while the western wing will be converted into the pool house. In addition, the seawardmost structural edge of the pool house will be located 14.5 feet further landward than the existing edge of the residence and the deck will terminate 4 feet further landward than the existing deck. The existing residences on the two center parcels will undergo 30% and 28% demolition and will be structurally linked to create the main residence, which will retain the existing seaward edge of the residence and terraces. Since the existing structures and piles are substantially being preserved, the proposed project does not invoke the restrictions of the stringline policy. Further, the proposed structures will be located in approximately in the same footprint, with the seaward edge of the pool house located slightly further landward than the existing structure (Exhibits 7, 10 & 15). The proposed seawall will also be located 9 feet landward of the existing seawall on the western parcel (Exhibit 5). As such, the Commission finds that the proposed project will not result in the seaward encroachment of development on Amarillo Beach and will serve to minimize adverse effects to coastal processes.

Location of Proposed Shoreline Protective Device in Relation to the Mean High Tide Line & Wave Action

The Commission notes that many studies performed on both equilibrium and eroding beaches have concluded that loss of beach occurs on both types of beaches where a shoreline protective device exists. In order to determine the impacts of the proposed seawall on the shoreline, the location of the proposed protective device in relationship to the expected wave runup, as calculated by the location of the Mean High Tide Line, must be analyzed.

1. Mean High Tide Line

The Wave Uprush Study prepared by Pacific Engineering Group dated December 13, 1999 represents that based on a list of historical mean high tide lines, the most landward known measurement of the ambulatory mean high tide line on the project site was approximately 120 feet seaward of the Malibu Road right-of-way line, in 1997, 1998. The seawardmost extension of the proposed development (the dripline of the deck/terrace) will be located approximately 121 feet seaward of the Malibu Road right-of-way line and approximately 1 foot seaward of the 1997, 1998 mean high tide line. Based on the submitted information, the Commission notes that the proposed development will be located seaward of the mean high tide line. However, the portion of the development that extends seaward of the mean high tide line is an existing structure which is merely undergoing a partial demolition and remodel to combine it with the adjacent existing structure to form the new residence, it is not a new structure. Moreover, the portion of the residence that lies 1 foot seaward of the mean high tide line is a terrace on the main level (21.1' MSL, approx. 15 feet above grade), and thus, does not present an impediment to public access on the beach. The shoreline protective device will be located 22 feet landward of the mean high tide line. Furthermore, the location of the mean high tide line is ambulatory in nature. Additionally, the California State Lands Commission states in their letter dated July 21, 1999:

Based on our review...a portion of the existing residence and rock seawall encroach over two historical mean high tide lines... That same map shows a mean high tide line surveyed on March 10, 1997 that at one point intersects with the most easterly corner of the existing

deck. CSLC staff presently has no additional information regarding the location of the boundary between state and private property in this area.

Based on the foregoing, we do not at this time have sufficient information to determine whether the subject project intrudes upon state sovereign lands or interferes with other public rights.

Thus, the State Lands Commission does not presently assert that the proposed project involves state property.

2. Wave Uprush

The residence will be located just seaward of the 1997, 1998 mean high tide line. Further, the Wave Uprush Study prepared by Pacific Engineering Group dated December 13, 1999 indicates that the maximum wave uprush at the subject site will occur approximately 54 feet seaward of the Malibu Road right-of-way line (landward of the proposed residence). This wave uprush analysis was based on the "use of +0.6 foot storm surge and a sealevel rise of +0.4 feet (100-year projection) resulting in a still water line (SWL) at the elevation of +7 feet MLLW datum." The applicant's engineering consultant has indicated that although the existing residences are located seaward of the maximum wave uprush limit, the residences are constructed such that they will not require any form of shoreline protection to ensure structural stability.

The proposed project includes the installation of a new secondary treatment septic system, which uses a MicroFast secondary treatment tank. The Commission notes that the proposed septic system is located as landward as feasible. However, the seaward extent of the septic system and leachfield (located 93 feet seaward of the Malibu Road right-of-way line) will still be located within the wave uprush zone and will require a shoreline protection device to ensure the stability of the system. The Commission notes that due to the geologic constraints of the site, it is not possible to construct any type of septic system that would not be subject to periodic wave action without the construction of some form of shoreline protection. Therefore, the Commission notes that the proposed seawall is necessary to protect the proposed septic system and leachfield from wave uprush and erosion.

Based on the above discussion, the Commission finds that the proposed seawall is required to protect the septic system for the proposed residential development. The Commission further finds that the proposed seawall, which will be located as far landward as feasible, will be subject to wave action during storm and high tide events. Therefore, the following discussion is intended to evaluate the impacts of the proposed concrete seawall on the beach, based on the above information which identified the specific structural design, location of the structure, and shoreline geomorphology.

Effects of Shoreline Protective Device on Beach

It is important to accurately calculate the potential of wave runup and wave energy to which the shoreline protection device will be subjected. Dr. Douglas Inman, renowned authority on Southern California beaches finds that, "the likely detrimental effect of the seawall on the beach can usually be determined in advance by competent analysis." Dr. Inman further explains the importance of a seawall's design and location as it relates to predicting the degree of erosion that will be caused by the shoreline protection device. He states:

While natural sand beaches respond to wave forces by changing their configuration into a form that dissipates the energy of the waves forming ~~them~~, seawalls are rigid and fixed, and at best can only be designed for a single wave condition. Thus, seawalls introduce a disequilibrium that usually results in the reflection of wave energy and increased erosion seaward of the wall. The degree of erosion caused by the seawall is mostly a function of its reflectivity, which depends upon its design and location.¹

In past permit actions, the Commission has found that one of the most critical factors controlling the impact of a shoreline protection device on the beach is its position on the beach profile relative to the surf zone. Generally, the further seaward that a shoreline protective device is located, the more frequently and more vigorously waves will interact with it. If a shoreline protective device is in fact necessary, the best location for it is at the back of the beach, where it may provide protection from the most severe storms. In contrast, a shoreline protective device constructed too close to the mean high tide line may constantly create problems related to frontal and end scour erosion, as well as upcoast sand impoundment.

Although the precise impacts of a structure located on the beach are a continual subject of debate within the discipline of coastal engineering, particularly between coastal engineers and marine geologists, it is generally agreed that a shoreline protective device will affect the configuration of the shoreline and beach profile, whether it is a vertical bulkhead or a rock revetment seawall. The main difference between a vertical bulkhead and rock revetment seawall is their relative physical encroachment onto the beach. It has been well documented by coastal engineers and coastal geologists that shoreline protective devices and structures, in the form of either a rock revetment or vertical bulkhead, will adversely impact the shoreline as a result of beach scour, end scour (the beach areas at the end of the seawall), retention of potential beach material behind the wall, fixing of the back beach, and interruption of alongshore processes. In order to evaluate these potential impacts relative to the proposed structure and its location on Amarillo Beach, each of the identified effects will be evaluated below.

1. Beach Scour

Scour is the removal of beach material from the base of a cliff, seawall, or revetment due to wave action. The scouring of beaches as a result of seawalls is a frequently observed occurrence. When waves impact a hard surface such as a coastal bluff, rock revetment, or vertical bulkhead, some of the energy from the wave will be absorbed, but much of it will be reflected back seaward. This reflected wave energy in conjunction with incoming wave energy, will disturb the material at the base of the seawall and cause erosion to occur in front and down coast of the hard structure. This phenomenon has been recognized for many years and the literature on the subject acknowledges that seawalls affect the supply of beach sand.

The Wave Uprush Study prepared by Pacific Engineering Group dated December 13, 1999 indicates that the proposed seawall will be located seaward of the maximum wave uprush limit and will, therefore, periodically be subject to wave action. In past permit actions, the Commission has found that shoreline protective devices that are subject to wave action tend to exacerbate or increase beach erosion. The following quotation summarizes a generally accepted opinion within the discipline of coastal engineering: "Seawalls usually cause accelerated erosion of the beaches fronting them and an increase in the transport rate of sand

¹ Letter from Dr. Douglas Inman to California Coastal Commission staff member and senior engineer, Lesley Ewing, February 25, 1991.

along them."² In addition, experts in the field of coastal geology, who view beach processes from the perspective of geologic time, signed the following succinct statement regarding the adverse effects of shoreline protective devices:

These structures are fixed in space and represent considerable effort and expense to construct and maintain. They are designed for as long a life as possible and hence are not easily moved or replaced. They become permanent fixtures in our coastal scenery but their performance is poor in protecting community and municipalities from beach retreat and destruction. Even more damaging is the fact that these shoreline defense structures frequently enhance erosion by reducing beach width, steepening offshore gradients, and increasing wave heights. As a result, they seriously degrade the environment and eventually help to destroy the areas they were designed to protect.³

The above statement, which was made in 1981 and signed by 94 respected coastal geologists, indicates that sandy beach areas available for public use can be harmed through the introduction of seawalls. Thus, in evaluating an individual project, the Commission assumes that the principles reflected in that statement are applicable. To do otherwise would be inconsistent with the Commission's responsibilities under the Coastal Act to protect the public's interest in shoreline resources and to protect the public's access along the ocean and to the water.

The impact of seawalls as they relate to sand removal on the sandy beaches is further documented by the State of California, Department of Boating and Waterways, which stated:

While seawalls may protect the upland, they do not hold or protect the beach which is the greatest asset of shorefront property. In some cases, the seawall may be detrimental to the beach in that the downward forces of water, created by the waves striking the wall, rapidly remove sand from the beach.⁴

Finally, Robert G. Dean underscored this observation more recently in 1987 in "Coastal Sediment Processes: Toward Engineering Solutions:"

Armoring can cause localized additional storm scour, both in front of and at the ends of the armoring . . . Under normal wave and tide conditions, armoring can contribute to the downdrift deficit of sediment through decreasing the supply on an eroding coast and interruption of supply if the armoring projects into the active littoral zone.⁵

Dr. Craig Everts found that on narrow beaches where the shoreline is not armored, the most important element of sustaining the beach width over a long period of time is the retreat of the back beach and of the beach itself. He concludes:

Seawalls inhibit erosion that naturally occurs and sustains the beach. The two most important aspects of beach behavior are changes in width and changes in the position of the beach. On narrow, natural beaches, the retreat of the back beach, and hence the beach itself, is the most important element in sustaining the width of the beach over a long time

² "Saving the American Beach: A Position Paper by Concerned Coastal Geologists," Skidaway Institute of Oceanography, March 1981, page 4.

³ "Saving the American Beach: A Position Paper by Concerned Coastal Geologists," Skidaway Institute of Oceanography, March 1981, page 4.

⁴ "Shore Protection in California," State Department of Boating and Waterways (formerly Navigation and Ocean Development), 1976, page 30.

⁵ "Coastal Sediment Processes: Toward Engineering Solutions," Robert G. Dean, 1987.

period. Narrow beaches, typical of most of the California coast, do not provide enough sacrificial sand during storms to provide protection against scour caused by breaking waves at the back beach line. This is the reason the back boundary of our beaches retreats during storms.⁶

Dr. Everts further asserts that armoring in the form of a shoreline protection device interrupts the natural process of beach retreat during a storm event and that, "a beach with a fixed landward boundary is not maintained on a recessional coast because the beach can no longer retreat."

The Commission has observed this phenomenon up and down the California coast, where shoreline protection devices have successfully halted the retreat of the shoreline, at the cost of usurping the beach. For example, at La Conchita Beach in Ventura County, placement of a rock revetment to protect an existing roadway has caused narrowing of the existing beach. Likewise, at beaches in the City of Encinitas, in San Diego County, construction of vertical seawalls along the base of the bluffs to protect existing residential development at the top of the bluffs has resulted in preventing the bluffs' contribution of sand to the beaches. This has resulted in a narrowing of those beaches.

As set forth previously, the subject site is located on Amarillo Beach, a narrow, oscillating (equilibrium) beach that experiences seasonal erosion and recovery. The applicant's coastal engineering consultant has indicated that the proposed seawall and return wall will be acted upon by waves during storm conditions. The applicant's consultant has also indicated that seasonal foreshore slope movement can be as much as 80 feet. In addition, if a seasonal eroded beach condition occurs with greater frequency due to the placement of a bulkhead and return wall on the subject site, then the subject beach would also accrete at a slower rate. The Commission notes that many studies performed on both oscillating and eroding beaches have concluded that a loss of beach occurs on both types of beaches where a shoreline protective device exists. Therefore, the Commission notes that the proposed seawall, over time, will result in potential adverse effects to the beach sand supply, resulting in increased seasonal erosion of the beach, and longer recovery periods.

In addition, the impacts of potential beach scour are important relative to beach use for two primary reasons. The first reason involves public access. The proposed project is located approximately 60 feet west (upcoast) of the nearest open public vertical coastal accessway. If the beach scours at the base of the bulkhead, even minimal scouring in front of the 155 foot long seawall or along the 8 foot long return wall will translate into a loss of beach sand available through erosion than would otherwise occur under a normal winter season if the beach were unaltered. The second impact relates to the potential turbulent ocean condition that may be created. Scour at the face of a seawall will result in greater interaction with the wall and, thus, make the ocean along Amarillo Beach more turbulent than it would be normally be along an unarmored beach area. Thus, the Commission has ordinarily required that shoreline protection devices be located as far landward as possible, in order to reduce adverse effects from scour and erosion. In the case of this project, the Commission notes that the applicant revised the proposed seawall location in response to Staff's request to ensure that the proposed seawall will be located as far landward as feasible in order to provide protection for the proposed septic system, which has also been located as far landward as feasible, in order to minimize adverse effects from scour and erosion.

⁶ Letter Report from Dr. Craig Everts, Moffatt and Nichol Engineers, to California Coastal Commission staff member and senior engineer, Lesley Ewing, March 14, 1994.

As discussed above, the Commission notes that the new seawall and septic system will be located as far landward as possible. However, the Commission further notes that the purpose of the shoreline protective device authorized by this permit is solely to protect the septic system on site and that no shoreline protective device is required to protect the residence authorized by this permit. If the septic system approved under this permit were replaced or abandoned, however, then the seawall approved under this permit to protect the septic system might no longer be necessary and the adverse impacts of the shoreline protective device on public access could be eliminated through its removal or by locating the shoreline protective device further landward. Additionally, any future improvements to the proposed seawall that might result in the seaward extension of the shoreline protection device would result in increased adverse effects to shoreline sand supply and public access.

Therefore, to ensure that the proposed project does not result in new future adverse effects to shoreline sand supply and public access and that future impacts are reduced or eliminated, **Special Condition No. Six (6)** requires the applicant to record a deed restriction which provides that a new coastal development permit for the shoreline protective device authorized this permit shall be required if the proposed septic system is replaced or abandoned for any reason, including the installation of a new sewer system along Malibu Road, and that if a new coastal development permit for the shoreline protective device is not obtained in the event of replacement or abandonment of the septic system, then the shoreline protective device authorized by this permit shall be removed. **Special Condition No. Four (4)** also prohibits any future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protective device approved pursuant to this permit, if such activity extends the seaward footprint of the subject shoreline protective device. This will prevent adverse impacts to shoreline processes from seaward extensions of the seawall.

In addition, in past permit actions, the Commission has required that new development on a beach, including the construction of new single family residences or shoreline protection devices, provide for lateral public access along the beach in order to mitigate adverse effects to public access from increased beach erosion. In this case, the Commission notes that the applicant is proposing to dedicate a lateral public access easement that would provide for public access along the entire beach under all tidal conditions, as measured seaward from the seawardmost approved structure (i.e., deck dripline, seawall, rock wall) as shown on Exhibit 4. The Commission notes that the lateral public access easement, which the applicant has offered to dedicate as part of this project, will be consistent with other lateral public access easements that have been recorded on properties along Amarillo Beach and in the Malibu area.

In order to conclude with absolute certainty what adverse effects would result from the proposed project in relation to shoreline processes, a historical shoreline analysis based on site specific studies would be necessary. Although this level of analysis has not been submitted by the applicant, the Commission notes that because the applicant has proposed, as part of the project, an offer to dedicate a lateral public access easement along the entire southern portion of the new lot, as measured from the seawardmost approved structure to the ambulatory mean high tide line, it has not been necessary for Commission staff to engage in an extensive analysis as to whether the imposition of an offer to dedicate would be required here absent the applicant's proposal. As such, **Special Condition No. Five (5)** is required in order to ensure that the applicant's offer to dedicate a lateral public access easement is transmitted prior to the issuance of the coastal development permit.

2. End Effects

End scour effects involve the changes to the beach profile adjacent to the shoreline protection device at either end. One of the more common end effects comes from the reflection of waves off of the shoreline protection device in such a way that they add to the wave energy which is impacting the unprotected coastal areas on either end. In addition, the Commission notes that the literature on coastal engineering repeatedly warns that unprotected properties adjacent to any shoreline protective device may experience increased erosion. Field observations have verified this concern. Although it is difficult to quantify the exact loss of material due to end effects, in a paper written by Gerald G. Kuhn of the Scripps Institute of Oceanography, it is concluded that erosion on properties adjacent to a rock seawall is intensified when wave runup is high.⁷

An extensive literature search on the interaction of seawalls and beaches was performed by Nicholas Kraus in which he found that seawalls will have effects on narrow beaches or beaches eroded by storm activity. His research indicated that the form of the erosional response to storms that occurs on beaches without seawalls which are adjacent to beaches with seawalls is manifested as more localized toe scour, with end effects of flanking and impoundment at the seawall.⁸ Dr. Kraus' key conclusions were that seawalls could be accountable for retention of sediment, increased local erosion and increased end erosion. Kraus states:

At the present time, three mechanisms can be firmly identified by which seawalls may contribute to erosion at the coast. The most obvious is retention of sediment behind the wall which would otherwise be released to the littoral system. The second mechanism, which could increase local erosion on downdrift beaches, is for the updrift side of the wall to act as a groin and impound sand. This effect appears to be primarily theoretical rather than actualized in the field, as a wall would probably fail if isolated in the surf zone. The third mechanism is flanking i.e. increased local erosion at the ends of walls.

In addition, preliminary results of researchers investigating the length of shoreline affected by heightened erosion adjacent to seawalls concluded that:

Results to date indicate that erosion at the ends of seawalls increases as the structure length increases. It was observed in both the experimental results and the field data of Walton and Sensabaugh (1978) that the depth of excess erosion is approximately 10% of the seawall length. The laboratory data also revealed that the along-coast length of excess erosion at each end of the structure is approximately 70% of the structure length.⁹

A more comprehensive study was performed over several years by Gary Griggs, which concluded that beach profiles at the end of a seawall are further landward than natural profiles.¹⁰ This effect appears to extend for a distance of about six-tenths of the length of the seawall and represents both a spatial and temporal loss of beach width directly attributable to seawall construction. These end effects would be expected only when the bulkhead was

7 "Coastal Erosion along Oceanside Littoral Cell, San Diego County, California," Gerald G. Kuhn, Scripps Institute of Oceanography, 1981.

8 "Effects of Seawalls on the Beach," Nicholas Kraus, Ph.D., Journal of Coastal Research, Special Issue #4, 1988.

9 "Laboratory and Field Investigations of the Impact of Shoreline Stabilization Structures on Adjacent Properties," W. G. McDougal, M. A. Sturtevant, and P. D. Komar, Coastal Sediments, 1987.

10 "The Interaction of Seawalls and Beaches: Seven Years of Field Monitoring, Monterey Bay, California," G. Griggs, J. Tait, and W. Corona, Shore and Beach, Vol. 62, No. 3, July 1994.

exposed to wave attack. Under equilibrium or accreting beach conditions, this scour will likely eventually disappear during post-storm recovery. The Commission notes that end effect erosion may be minimized by locating a proposed shoreline protection device as far landward as possible in order to reduce the frequency that the seawall is subject to wave action. In the case of this project, the Commission notes that the proposed seawall will be located as far landward as feasible in order to minimize adverse effects to shoreline sand supply from end effects.

3. Retention of Potential Beach Material

A shoreline protective device's retention of potential beach material inherently impacts shoreline processes. One of the main functions of a bulkhead or revetment is upland stabilization, protecting upland sediments from being carried to the beach by wave action, and prevention of bluff retreat. In the case of Amarillo Beach, which is located in the Malibu-Santa Monica Cell, the back of the beach is fixed at Malibu Road. One of the main sources of sediment for beaches are the bluffs themselves, as well as the material that has eroded from inland sources and is carried to the beach by coastal streams. The National Academy of Sciences found that retention of material behind a shoreline protective device may be linked to increased loss of material in front of that device. The net effect is documented in "Responding to Changes in Sea Level, Engineering Implications," which provides:

*A common result of sea wall and bulkhead placement along the open coastline is the loss of the beach fronting the structure. This phenomenon, however, is not well understood. It appears that during a storm the volume of sand eroded at the base of a sea wall is nearly equivalent to the volume of upland erosion prevented by the sea wall. Thus, the offshore profile has a certain "demand" for sand and this is "satisfied" by erosion of the upland on a natural beach or as close as possible to the natural area of erosion on an armored shoreline...*¹¹

As explained, the proposed seawall and return wall will protect the secondary treatment septic system from continued loss of sediment. However, the result of this protection, particularly on a narrow beach, is a loss of sediment on the sandy beach area that fronts the seawall. Furthermore, as explained previously, this loss of sediment from the active beach leads to a lower beach profile, seaward of the protective device, where the seawall will have greater exposure to wave attack.

In past permit actions, the Commission has required new development on a beach, including the construction of new single family residences or shoreline protection devices, provide for lateral public access along the beach in order to mitigate adverse effects to public access from increased beach erosion. The applicant is proposing to dedicate a lateral public access easement which would provide for public access along the entire beach under all tidal conditions as measured seaward from the deck dripline, seawall and rock wall to the mean high tide line, as illustrated on Exhibit 4. The Commission notes that the lateral public access easement, which the applicant has offered to dedicate as part of this project, will be consistent with other lateral public access easements that have been recorded on properties along Amarillo Beach and in the Malibu area.

¹¹ "Responding to Changes in Sea Level: Engineering Implications," National Academy of Sciences, National Academy Press, Washington D.C., 1987, page 74.

As stated previously, in order to conclude with absolute certainty what adverse effects would result from the proposed project in ~~relation to shoreline processes~~, a historical shoreline analysis based on site specific studies would be necessary. Although this level of analysis has not been submitted by the applicant, the Commission notes that because the applicant has proposed as part of the project an offer to dedicate a lateral public access easement along the entire southern portion of the lot, as measured from the seawardmost approved structure, it has not been necessary for Commission staff to engage in an extensive analysis as to whether the imposition of an offer to dedicate would be required here absent the applicant's proposal. As such, **Special Condition Five (5)** has been required in order to ensure that the applicant's offer to dedicate a lateral public access easement is transmitted prior to the issuance of the coastal development permit.

Past Commission Actions on Residential Shoreline Development

Many portions of the Malibu coastline are intensely developed with single family residences. The eastern portion of the Malibu coastline, including Las Tunas, Big Rock, La Costa and Carbon beaches form an almost solid wall of residential development along a five mile stretch of the shoreline. This residential development extends over the sandy and rocky beach in many areas and most of the residences have shoreline protective devices such as rock revetments and concrete or timber seawalls. This residential development and their associated protective devices prevent access to the coast, obscure the views to the beach and water from Pacific Coast Highway, interrupt shoreline processes, and impact the fragile biological resources in these areas.

Given Malibu's close proximity to the Los Angeles metropolitan area, it is understandable why the Malibu coastline has experienced such intensive development of its coastline over the past 50 years. The vast majority of this development took place prior to the passage of Proposition 20, which established the Coastal Commission and the Coastal Act of 1976. As stated previously, Section 30235 of the Coastal requires the Commission to approve construction of protective devices if the device serves to protect coastal dependent uses, or to protect existing structures or public beaches in danger from erosion. The alternative septic system is necessary to support the existing and proposed residential development described above and requires some type of shoreline protective device in order to be developed, however. Therefore, it is safe to assume under this policy and the other resource protection policies of the Coastal Act, that this type of development along Malibu's coastline would either not have been approved or would be developed in a much different configuration or design than it is today.

Infill development

The Commission has previously permitted a number of new residential developments with protective devices on the Malibu coast, but only when that development was considered infill development. The developed portions of the Malibu coastline include a number of vacant parcels between existing structures. Typically, there are no more than one or two vacant lots between existing structures.

The term "infill development," as applied by the Commission in past permit decisions, refers to a situation where the construction of a single family residence (and in limited situations a duplex) on a vacant lot or the demolition of an existing single family residence and construction of a new single family residence is proposed in an existing geographically definable residential

community which is already largely developed or built out with similar structures. When applied to beachfront development, this situation typically is applied to an existing linear community of beachfront residences where the majority of lots are developed with single family residences and relatively few vacant lots exist. In other words, within the linear stretch of developed beachfront lots, there is an occasional undeveloped lot or two that one may expect to be developed in a similar fashion. By nature of this description, an infill development situation can occur only in instances where roads and other services are already existing and available within the developed community or stretch of beach. Typically, the term infill development would not be applied to a large or long stretch of undeveloped beach (i.e., several lots or a large lot that is not similar in size and character to developed lots in the community or areas which do not contain existing roads and infrastructure).

Another characteristic of largely developed beachfront communities is that many, but not all, existing single family residences have some form of shoreline protective device. In Malibu, all beachfront homes utilize a septic system which, when determined to be subject to wave uprush by a coastal engineer, are required to have a shoreline protective device to protect the system. This requirement of assessing the wave uprush applies to all new development, extensive remodels, reconstruction, as well as any changes to an existing septic system or proposals for a new septic system.

In infill development situations only, as described above, the Commission has found in past permit actions in Malibu that, if it is consistent with Section 30253 of the Coastal Act, seawalls, revetments, or other types of shoreline protective devices can be permitted to protect existing structures or new structures which constitute infill development and when designed and engineered to eliminate or mitigate adverse impacts on the shoreline. The Commission has also found, in past permit actions in Malibu, that in beach areas largely committed to residential development having shoreline protective devices, the construction of shoreline protective devices should tie into adjacent seawalls where appropriate or possible.

The Commission recognized that the infilling of residential development between existing structures would not result in significant adverse effects to coastal resources within these existing developed shoreline areas. The Commission has approved infill development through permit actions on beachfront lots in Malibu. The Commission has found that infilling these gaps would not cause significant further impacts on shoreline processes or adverse impacts on other coastal resources given the prevailing development pattern along these sections of the Malibu coast.

The Commission notes that the area surrounding the subject site is characterized as a substantially developed beach. In the case of the proposed development, the remodel of existing structures, new septic system and new seawall tying into adjacent protective structures can clearly be considered as infill development within an existing developed area (Exhibit 27).

Conclusion

In past permit actions, the Commission has approved the construction of shoreline protection devices in conjunction with new development only when: (1) such development is consistent with the Commission's treatment of infill development, and (2) the shoreline protection device is required to protect a septic system (no feasible alternatives exist), and (3) the shoreline protection device is located as far landward as possible in order to minimize any adverse effects to shoreline sand supply and public access.

The Commission notes that the proposed project constitutes infill development as previously defined in the preceding sections. In addition, the applicant's ~~engineering~~ consultant has indicated that although the proposed residence will not require a shoreline protection device to ensure stability, a seawall and return wall will be required to protect the proposed septic system. The Commission notes that the proposed secondary treatment septic system has been designed to minimize both the size and seaward extent of the system. However, the seaward extent of the septic system and leachfield, located approximately 93 feet seaward of the Malibu Road right-of-way line, will still be located within the wave uprush limit and will require a shoreline protection device to ensure the stability of the system. Further, the Commission notes that it is infeasible to construct any type of septic system that would not be subject to periodic wave action without the construction of some form of shoreline protection. Therefore, the Commission notes that the proposed seawall and return wall are necessary to protect the proposed septic system and leachfield from wave uprush and erosion as indicated in the Wave Uprush Study.

As discussed above, the Commission notes that the new seawall and septic system will be located as far landward as possible. However, the Commission further notes that the purpose of the seawall and return wall authorized by this permit is solely to protect the septic system on the subject site and that no shoreline protective device is required to protect the residence authorized by this permit. However, if the septic system approved under this permit were replaced or abandoned, then the seawall and return wall approved under this permit to protect the septic system might no longer be necessary and the adverse impacts of the shoreline protective device on public access could be eliminated through its removal or by locating it further landward. Additionally, any future improvements to the proposed seawall that might result in the seaward extension of the shoreline protection device would result in increased adverse effects to shoreline sand supply and public access.

Therefore, to ensure that the proposed project does not result in new future adverse effects on shoreline sand supply and public access and that future impacts are reduced or eliminated, Special Condition No. Six requires the applicant to record a deed restriction which provides that a new coastal development permit for the shoreline protective device authorized this permit shall be required if the proposed septic system is replaced or abandoned for any reason, including the installation of a new sewer system along Malibu Road, and that if a new coastal development permit for the shoreline protective device is not obtained in the event of replacement or abandonment of the septic system, then the shoreline protective device authorized by this permit shall be removed. Likewise, Special Condition No. Four prohibits any future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protective device approved pursuant to this permit, if such activity extends the seaward footprint of the subject shoreline protective device.

In past permit actions, the Commission has required that new development on a beach, including the construction of new single family residences or shoreline protection devices, provide for lateral public access along the beach in order to mitigate adverse effects to public access from increased beach erosion. As stated previously, in this case, the applicant is proposing to dedicate a lateral public access easement, which would provide for public access along the entire beach under all tidal conditions as measured seaward from the seawardmost approved structure. The Commission notes that the lateral public access easement that the applicant has offered to dedicate as part of this project will be consistent with other lateral public access easements that have been recorded on properties along Amarillo Beach and in the Malibu area.

In order to conclude with absolute certainty what adverse effects would result from the proposed project in relation to shoreline, a historical shoreline analysis based on site specific studies would be necessary. Although this level of analysis has not been submitted by the applicant, the Commission notes that because the applicant has proposed as part of the project an offer to dedicate a lateral public access easement along the entire southern portion of the lot, as measured from the seawardmost approved structure to the mean high tide line, it has not been necessary for Commission staff to engage in an extensive analysis as to whether the imposition of an offer to dedicate would be required here absent the applicant's proposal. As such, Special Condition No. Five has been required in order to ensure that the applicant's offer to dedicate a lateral public access easement is transmitted prior to the issuance of the coastal development permit.

As stated previously, the proposed project includes the removal of the existing seawall, steel/plywood groin, gunite atop rip-rap and any debris located on the subject site. The Commission notes that such removal, as proposed, will serve to minimize adverse effects to shoreline sand supply and coastal processes. Therefore, in addition, in order to ensure that the existing seawall, steel/plywood groin, gunite atop rip-rap and any debris are removed as proposed by the applicant in a timely manner, **Special Condition No. Twelve (12)** requires the applicant to remove the existing seawall, steel/plywood groin, gunite atop rip-rap and any debris prior to the construction of the proposed residence.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30235, 30250, and 30253 of the Coastal Act.

C. HAZARDS AND GEOLOGIC STABILITY

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

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

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

The applicant has submitted the following documents: Update Engineering Geologic Report dated November 5, 1999 prepared by Pacific Geology Consultants, Inc.; Supplemental Geotechnical Engineering Investigation Report dated December 13, 1999 prepared by Coastline Geotechnical Consultants, Inc.; and Wave Uprush Study (24334 Malibu Rd), Wave Uprush Study (24338 Malibu Rd) and Wave Uprush Study (24342 Malibu Rd) dated December 13, 1999, Proposed Concrete Bulkhead dated April 17, 2001 and Stonewall Repositioning dated March 21, 2002 prepared by Pacific Engineering Group. These reports include a number of geotechnical and engineering recommendations to ensure the stability and geotechnical

safety of the site. The consultants have determined that the proposed development will serve to ensure geologic and structural stability on the ~~subject site~~. ~~The Update~~ Engineering Geologic Report dated November 5, 1999 prepared by Pacific Geology Consultants, Inc. concludes:

Providing the recommendations contained in this report, in addition to those of the Geotechnical Engineer are followed, the pool will be safe from landslide hazard, settlement or slippage. Furthermore, the proposed construction will not adversely affect off-site properties. All specific elements of the City of Malibu Building Code shall be followed in conjunction with design and future construction work.

To ensure that the recommendations of the geologist, geotechnical and coastal engineering consultants have been incorporated into all proposed development, **Special Condition No. One (1)** requires the applicant to submit project plans certified by the consulting geotechnical and geologic engineer and the coastal engineering consultants as conforming to all recommendations to ensure structural and site stability. The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission. Any substantial changes to the proposed development approved by the Commission, which may be recommended by the consultants, shall require an amendment to the permit or a new coastal permit.

As discussed above, the Commission notes that the applicant's engineering consultants have indicated that the proposed development will serve to ensure relative geologic and structural stability on the subject site. The Supplemental Geotechnical Engineering Investigation Report dated December 13, 1999 prepared by Coastline Geotechnical Consultants, Inc. indicates that the existing structures as well as the proposed pool have been designed to allow for a sliding mass of soil while keeping the structures intact. In the Update Engineering Geologic Report dated November 5, 1999 prepared by Pacific Geology Consultants, Inc., however, it is stated that a large prehistoric landslide complex exists in the vicinity of the project site extending 1,500 feet to the west, 3,000 feet to the east and several hundred feet north of the site. The active portion of the prehistoric landslide underlies the majority of the subject property. The upper portion of the active slide extends 350 feet northerly of Malibu Road and the lower portion extends to the beach area. The eastern limit of the active slide extends through the northeast corner of 24334 Malibu Road. The Supplemental Geotechnical Engineering Investigation Report dated December 13, 1999 prepared by Coastline Geotechnical Consultants, Inc. states that there is slow intermittent southerly movement of the slide mass, which may activate during heavy or prolonged rains. As a result, the Commission notes that there remains some inherent risk in building on sites located on an identified active landslide.

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

In the winter of 1977-1978, storm waves, storm-triggered mudslides and landslides caused extensive damage along the Malibu coast. According to the National Research Council,

damage to Malibu beaches, seawalls, and other structures during that season caused damages of as much as almost \$5 million to private property alone.

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

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

The Commission finds that due to the possibility of liquefaction, storm waves, surges, erosion, landslide, flooding, and wildfire, the applicant shall assume these risks as conditions of approval. Because this risk of harm cannot be completely eliminated, the Commission requires the applicant to waive any claim of liability against the Commission for damage to life or property that may occur as a result of the permitted development. The applicant's assumption of risk, as required by Special Condition No. Four, when executed and recorded on the property deed, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site, and that may adversely affect the stability or safety of the proposed development.

In addition, the Commission notes that the proposed development includes the partial demolition of three existing residences, the removal of an existing bulkhead, conversion of two residences into one residence and the third residence into a pool house, and construction of a new seawall on the beach. The Commission further notes that construction/demolition activity on a sandy beach, such as the proposed project, will result in the potential generation of debris and or presence of equipment and materials that could be subject to tidal action. The presence of construction equipment, building materials, and excavated materials on the subject site could pose hazards to beachgoers or swimmers if construction site materials were discharged into the marine environment or left inappropriately/unsafely exposed on the project site. In addition, such discharge to the marine environment would result in adverse effects to offshore habitat from increased turbidity caused by erosion and siltation of coastal waters. To ensure adverse effects to the marine environment are minimized, **Special Condition No. Thirteen (13)**, requires the applicant to ensure that stockpiling of dirt or materials shall not occur on the beach, that no machinery will be allowed in the intertidal zone at any time, all debris resulting from the construction period is promptly removed from the sandy beach area, and that sand bags and/or ditches shall be used to prevent runoff and siltation.

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

D. PUBLIC ACCESS AND RECREATION

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

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Coastal Act Section 30211 states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Coastal Act Section 30212(a) provides that in new shoreline development projects, access to the shoreline and along the coast shall be provided except in specified circumstances, when:

- (1) It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources.***
- (2) adequate access exists nearby, or,***
- (3) agriculture would be adversely affected. Dedicated access shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.***

Section 30220 of the Coastal Act states:

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

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

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

The major access issue in this permit application is the occupation of sandy beach area by a structure and potential effects on shoreline sand supply and public access in contradiction of Coastal Act policies 30211 and 30221. As stated previously, no shoreline protective device is

required, or proposed, to protect the proposed residence. The proposed project is located on Amarillo Beach, approximately 60 feet west (upcoast) of the nearest open public vertical coastal accessway. Further, there are several existing and potential lateral public access easements across several lots near the project site.

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

Where development is proposed that may impair public use and ownership of tidelands, the Commission must consider where the development will be located in relation to tidelands. The legal boundary between public tidelands and private uplands is relation to the ordinary high water mark. In California, where the shoreline has not been affected by fill or artificial accretion, the ordinary high water mark of tidelands is determined by locating the existing "mean high tide line." The mean high tide line is the intersection of the elevation of mean high tide with the shore profile. Where the shore is composed of sandy beach whose profile changes as a result of wave action, the location at which the elevation of mean high tide line intersects the shore is subject to change. The result is that the mean high tide line (and therefore the boundary) is an "ambulatory" or moving line that moves seaward through the process known as accretion and landward through the process known as erosion.

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

The Commission must consider a project's direct and indirect effect on public tidelands. To protect public tidelands when beachfront development is proposed, the Commission must consider (1) whether the development or some portion of it will encroach on public tidelands (i.e., will the development be located below the mean high tide line as it may exist at some point throughout the year) and (2) if not located on tidelands, whether the development will indirectly affect tidelands by causing physical impacts to tidelands. In the case of the proposed project, the State Lands Commission presently does not assert a claim that the project intrudes onto sovereign lands (Exhibits 26a,b,c).

Even structures located above the mean high tide line, however, may have an adverse effect on shoreline processes as wave energy reflected by those structures contributes to erosion and steepening of the shore profile, and ultimately to the extent and availability of tidelands. That is why the Commission also must consider whether a project will have indirect effects on public ownership and public use of shorelands. The applicants seek Commission approval of a remodel of three existing residences into one residence and a pool house among other

improvements discussed above in detail. As previously discussed, although the proposed project will not include ~~the construction of a shoreline protection device to protect the~~ residence, the direct occupation of sandy area by the proposed residence, will result in potential adverse effects to public access along the sandy beach.

The Commission notes that a shoreline protective device is proposed as a part of this project to protect the proposed septic system. The Commission further notes that interference by a shoreline protective device has a number of adverse effects on the dynamic shoreline system and the public's beach ownership interests. First, changes in the shoreline profile, particularly changes in the slope of the profile, which results from reduced beach width, alter the usable area under public ownership. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines. This reduces the actual area of public property available for public use. The second effect on access is through a progressive loss of sand as shore material is not available to nourish the bar. The lack of an effective bar can allow such high wave energy on the shoreline that materials may be lost far offshore where it is no longer available to nourish the beach. The effect of this on the public is again a loss of area between the mean high water line and the actual water. Third, shoreline protective devices such as revetments and bulkheads cumulatively affect public access by causing accelerated and increased erosion on adjacent public beaches. This effect may not become clear until such devices are constructed individually along a shoreline and they eventually affect the profile of a public beach. Fourth, if not sited landward in a location that insures that the revetment is only acted upon during severe storm events, beach scour during the winter season will be accelerated because there is less beach area to dissipate the wave' energy. Finally, revetments and bulkheads interfere directly with public access by their occupation of beach area that will not only be unavailable during high tide and severe storm events but also potentially throughout the winter season.

In past permit actions, the Commission has required new shoreline protection devices to be located as far landward as possible in order to reduce adverse effects on sand supply and public access from the development. In the case of this project, the Commission notes that the new seawall and septic system will be located as far landward as possible. However, the Commission further notes that any future improvements to the proposed seawall that might result in the seaward extension of the shoreline protection device would result in increased adverse effects to shoreline sand supply and public access. Therefore, to ensure that the proposed project does not result in new future adverse effects to public access, Special Condition No. Four requires the applicant to record a deed restriction that would prohibit any future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protective device approved pursuant to this permit if such activity extends the seaward footprint of the subject shoreline protective device.

Likewise, the Commission further notes that the purpose of the shoreline protective device authorized by this permit is solely to protect the septic system on the subject site and that no shoreline protective device is required to protect the residence authorized by this permit. If the septic system approved under this permit were replaced or abandoned, then the seawall approved under this permit to protect the septic system might no longer be necessary and the adverse impacts of the shoreline protective device on public access could be eliminated through its removal or by locating it further landward. As a result, Special Condition No. Six requires the applicant to record a deed restriction which provides that a new coastal development permit for the shoreline protective device authorized this permit shall be required if the proposed septic

system is replaced or abandoned for any reason (including the installation of a new sewer system along Malibu Road) and that if a new coastal development permit for the shoreline protective device is not obtained in the event of replacement or abandonment of the septic system, then the shoreline protective device authorized by this permit shall be removed.

The Commission notes that removal of the existing seawall, steel/plywood groin, gunite atop rip-rap and any debris, as proposed, will serve to minimize adverse effects to shoreline sand supply and coastal processes. Therefore, in addition, in order to ensure that the existing seawall, steel/plywood groin, gunite atop rip-rap and any debris is removed as proposed by the applicant in a timely manner, Special Condition No. Twelve requires the applicant to remove the existing seawall, steel/plywood groin, gunite atop riprap and any debris prior to the construction of the proposed residence.

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

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

The beaches of Malibu are extensively used by visitors of both local and regional origin and most planning studies indicate that attendance of recreational sites will continue to increase significantly in the future. The public has a right to use the shoreline under the public trust doctrine, the California Constitution, and State common law. The Commission must protect those public rights by assuring that any proposed shoreline development does not interfere with or will only minimally interfere with those rights. In the case of the proposed project, the potential for the permanent loss of sandy beach as a result of the change in the beach profile, steepening from potential scour effects, and presence of a residential structure out over the sandy beach do exist.

In past permit actions, the Commission has required that all new development on a beach, including the construction of new single family residences or shoreline protection devices, provide for lateral public access along the beach in order to mitigate adverse effects to public access from increased beach erosion. The applicant is proposing to dedicate a lateral public access easement, which would provide for public access along the entire beach under all tidal conditions as measured seaward from the seawardmost approved structure to the mean high tide line. The Commission notes that the lateral public access easement that the applicant has offered to dedicate as part of this project will be consistent with other lateral public access easements that have been recorded on properties along Amarillo Beach and in the Malibu area.

In order to conclude with absolute certainty what adverse effects would result from the proposed project in relation to ~~shoreline, a historical shoreline analysis based on~~ site-specific studies would be necessary. Although the applicant has not submitted this level of analysis, the Commission notes that because the applicant has proposed as part of the project an offer to dedicate a lateral public access easement along the entire southern portion of the new lot it has not been necessary for Commission staff to engage in an extensive analysis as to the adequacy of the original easement or whether the imposition of an offer to dedicate would be required here absent the applicant's proposal. As such, Special Condition No. Five has been required in order to ensure that the applicant's offer to dedicate a lateral public access easement is transmitted prior to the issuance of the coastal development permit.

In addition, the Commission notes that chronic unauthorized postings of signs illegally attempting to limit, or erroneously noticing restrictions on, public access have occurred on beachfront private properties in the Malibu area. These signs have an adverse effect on the ability of the public to access public trust lands. The applicant has requested approval for a sign no more than 2' x 2' in size to be located on the rock wall on the easternmost lot to serve as a warning to the public about the dangers of climbing on the rocks and also to inform the public about the public access to beach area seaward of the development. The submitted language for the sign is as follows:

<p>CAUTION – STAY OFF ROCKS</p> <p>The rocky slope adjacent to the residence is private property.</p> <p>Climbing on rocks may be dangerous.</p> <p>THE BEACH IS FOR PUBLIC USE</p>

Staff noted that the language as submitted is protective of the applicant's rights as well as the public's right of access. The Commission has determined, however, that to ensure that the applicants clearly understand that any modification of the approved language, size or location of the sign according to **Special Condition No. Nine (9)** would require a coastal development permit or amendment to this coastal development permit. Special Condition No. Nine will also ensure that any other signs in addition to the one specifically described in this staff report are not posted on or near the ~~proposed project site and that a coastal development permit or~~ amendment to this coastal development permit shall be required prior to the posting of signs on the subject property. The Commission finds that if implemented, Special Condition No. Nine will protect the public's right of access to the sandy beach below the mean high tide line.

In past permit actions regarding new development on the sandy beach, the Commission has typically allowed exterior lighting for the purpose of illuminating deck and other outdoor structural areas. However, the Commission notes that "beach lighting" flood lamps for the sole purpose of illuminating the sandy beach and not for illumination of the actual deck and flood lamps directed towards the public portion of the sandy beach from a private residence results in adverse effects to public views to beachgoers during evening hours. Further, the Commission also notes that flood lamp lighting intentionally directed towards the public portion of the sandy beach from a private residence also results in potential adverse effects to public access along the beach due to the creation of the appearance of an exclusive private use area seaward of the actual residence. Therefore, in order to ensure that adverse effects to public access along the beach are minimized, **Special Condition No. Ten (10)** limits the location and intensity of exterior lighting near sandy beach areas on the subject site.

The proposed project includes construction of a four foot wide public walkway and six public parallel parking spaces along the frontage of the new lot along Malibu Road as part of the proposed project. The Commission notes that members of the public must utilize the shoulder areas of Malibu Road in order to reach many public vertical beach accessways. An existing vertical accessway from Malibu Road to the beach is located 60 feet to the east of the subject property. In past permit actions, the Commission has found that new residential development, fences, walls, and landscaping, in addition to use of the road shoulder for residential parking, results in potential adverse effects to public beach access when such development is located along the shoulder of the road in a manner which precludes a pedestrian's ability to utilize the road shoulder where no sidewalk exists. In the case of the proposed project, the applicant is proposing the construction of a walkway and six parking spaces for use by the public to mitigate any adverse effects to public access from the proposed development. As such, **Special Condition No. Fourteen (14)** has been required in order to ensure that the applicant's offer to construct the four foot wide public walkway and six public parallel parking spaces between the proposed development and Malibu Road is implemented. All proposed public improvements will be located within the Malibu Road easement and are subject to review and approval by the City of Malibu Public Works Department. The City of Malibu Public Works Department has reviewed and approved the project in concept.

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

E. WATER QUALITY

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

Section 30231 of the Coastal Act states:

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

As described above, the proposed project site is proposed to contain a two story single family residence, a pool house, a guest house, a greenhouse, three garages, a carport, decks and terraces, walkways, driveways, etc. The site is considered a beachfront development, as is located between Malibu Road and the Pacific Ocean on Amarillo Beach, with a sandy beach area that is susceptible to erosion.

The proposed development may result in an increase in impervious surface, which in turn may decrease 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 such as oil and grease from vehicles, heavy metals, synthetic organic chemicals such as paint and household cleaners, soap and dirt from the washing of vehicles, dirt and vegetation from yard maintenance, litter, fertilizers, herbicides, pesticides, and bacteria and pathogens from animal waste. The discharge of these pollutants into 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; 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 (BMPs) 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 (filter or treat) the runoff from the 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e., the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the Commission requires the selected post-construction structural BMPs to be sized based on design criteria specified in **Special Condition No. Two (2)**, 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 measure implemented during construction and post construction landscaping will serve to minimize the potential for adverse impacts to water quality resulting from drainage runoff during construction and in the post-development stage. Therefore, the Commission finds that **Special Condition No. Three (3)** is necessary to ensure the proposed development will not adversely impact water quality or coastal resources.

As stated previously, the proposed project includes a swimming pool. There is the potential for swimming pools to have deleterious effects on aquatic habitat if not properly maintained and drained. In addition, chlorine and other chemicals are commonly added to pools and spas to maintain water clarity, quality, and pH levels. Further, 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, adversely

impacting intertidal and marine habitats. In order to minimize potential adverse impacts from the proposed swimming pool, the Commission requires the applicant to submit a pool drainage and maintenance plan, as detailed in **Special Condition No. Eleven (11)**. The pool shall be maintained with a non-chlorine based system, such as an ozone treatment system or other similar cleansing system. The plan shall include a separate water meter for the pool and spa, which will serve to monitor water levels of the pool 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 30230 and 30231 of the Coastal Act.

Finally, the proposed development includes the installation of a new septic system that includes a 5,000 gallon MicroFast treatment tank, a 5,000 gallon dosing tank, and a leachfield to serve the residence that will be located no further than 93 feet seaward of the Malibu Road right-of-way line. The proposed secondary treatment septic system will provide for secondary treatment of the sewage effluent. Further, as proposed, the septic system will be located as landward as possible. The applicants' geologic and environmental health consultants performed percolation tests and evaluated the proposed septic system. The report concludes that the site is suitable for the septic system and there would be no adverse impact to the site or surrounding areas from the use of a 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 to incorporate and maintain a drainage and polluted runoff control plan, is consistent with Section 30231 of the Coastal Act.

F. VISUAL RESOURCES

Section 30251 of the Coastal Act states that:

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

Section 30251 of the Coastal Act requires public views to and along the ocean and scenic coastal areas to be considered and protected when siting new development. As mentioned above, the proposed project site is proposed to contain a two story single family residence, a pool house, a guest house, a greenhouse, three garages and a carport with an overall maximum height of 28 feet. As previously noted, the proposed project is located on Malibu Road between Malibu Road and the ocean and will be constructed at an elevation well below Pacific Coast Highway. As such, the project will not obstruct scenic views from Pacific Coast Highway to and along the coastline. Additionally, the proposed project constitutes infill development in a built-out section of coastline in Malibu and as such, will not obstruct visual

resources along the shoreline. However, the Commission has found that night lighting of areas in the Malibu/Santa Monica Mountains ~~and creates a visual impact to nearby scenic~~ beaches, scenic roads, parks, and trails. Therefore, the Commission limits the nighttime lighting of the property and residence to that necessary for safety as outlined in Special Condition No. Ten, which restricts night lighting of the site in general; limits lighting to the developed area of the site; and specifies that lighting be shielded downward. Thus, the Commission finds that the project, as conditioned, will not significantly impact public views to or along the beach and is consistent with Section 30251 of the Coastal Act.

G. CUMULATIVE IMPACTS

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

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

Section 30252 of the Coastal Act states:

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

Section 30105.5 of the Coastal Act defines the term "cumulatively," as it is used in Section 30250(a), to mean that:

the incremental effects of an individual project shall be reviewed in conjunction with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

Pursuant to Coastal Act §30250 and §30252 cited above, new development raises issues relative to cumulative impacts on coastal resources. The construction of a second unit on a site where a primary residence exists intensifies the use of the subject parcel. The intensified use creates additional demands on public services, such as water, sewage, electricity, and roads. Thus, second units pose potential cumulative impacts in addition to the impacts otherwise caused by the primary residential development.

Based on the requirements of Coastal Act §30250 and §30252, the Commission has limited the development of second units on residential parcels in the Malibu and Santa Monica Mountain areas to a maximum of 750 sq. ft. In addition, the issue of second units on lots with primary residences has been the subject of past Commission action in certifying the Malibu Land Use Plan (LUP). In its review and action on the Malibu LUP, the Commission found that placing an upper limit on the size of second units (750 sq. ft.) was necessary given the traffic and infrastructure constraints which exist in Malibu and given the abundance of existing vacant residential lots. Furthermore, in allowing these small units, the Commission found that the small size of units (750 sq. ft.) and the fact that they are intended only for occasional use by guests, such units would have less impact on the limited capacity of Pacific Coast Highway and other roads (as well as infrastructure constraints such as water, sewage, and electricity) than an ordinary single family residence or residential second units. Finally, the Commission has found in past permit decisions that a limit of 750 sq. ft. encourages the units to be used for their intended purpose— as a guest unit- rather than as second residential units with the attendant intensified demands on coastal resources and community infrastructure.

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

The site contains three existing garages, a guest house with an attached storage closet, a greenhouse and three residences (Exhibit 3). The applicant is proposing to convert two of the residences into one single family residence, partially demolish the third residence and convert the west wing into a pool house, remodel the three garages and the guest house including minor additions and retain the greenhouse as it exists. The 478 sq. ft. guest house consists of a guest room and a bathroom (Exhibit 16). The 589 sq. ft. pool house consists of a dressing room, storage areas, a bathroom, a pool room with wet bar, and an outdoor terrace area (Exhibit 15). The garage on the lot at 24338 Malibu Rd also contains a half bathroom (Exhibit 16). The Commission notes that the 478 sq. ft. guest house conforms to the Commission's past actions in allowing a maximum of 750 sq. ft. for second dwellings in the Malibu area and that the other structures are not intended to be habitable spaces. However, the Commission notes that additions or improvements to the guest house, pool house, or garage could easily convert to additional habitable square footage, beyond that approved by the Commission, therefore increasing the potential to use the proposed structure as a second residential unit.

The Commission has many past precedents on similar project proposals that have established a 750 sq. ft. maximum of habitable square footage for development of detached units that may be considered a secondary dwelling. The Commission finds that the proposed 750 sq. ft. guest unit conforms to the 750 sq. ft. allowed by the Commission in past permit action. The Commission also notes that the applicants are not proposing to utilize the greenhouse, garages, or pool house as a guest unit or secondary dwelling, therefore those structures may be reviewed as accessory buildings to the proposed single family residence, non-inhabitable, and therefore not subject to the 750 sq. ft. limitation for detached units. However, the

Commission finds it necessary to ensure that no additions or improvements are made to the guest house, greenhouse, garages, or pool house in the ~~future that may enlarge~~ or further intensify the use of any of these structures without due consideration of the cumulative impacts that may result. Thus, the Commission finds it necessary to require the applicant to record a future development deed restriction, as specified in **Special Condition No. Eight (8)**, which will require the applicant to obtain an amended or new coastal permit if additions or improvements to the structures are proposed in the future.

In addition, the Commission notes that the new residence will structurally link the two existing adjacent residences on the center lots across the lot line between the two parcels. The applicant has proposed to merge all four lots into one. In order to implement the applicant's proposal to merge the subject lots, **Special Condition No. Seven (7)**, is imposed to ensure that the lots are merged.

As conditioned to minimize the potential for cumulative impacts resulting from the proposed development, the Commission finds that the proposed project is consistent with §30250 and §30252 of the Coastal Act.

H. LOCAL COASTAL PROGRAM

Section 30604(a) of the Coastal Act states:

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 to 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 project will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3 of the Coastal Act. 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 consistent with the policies of Chapter 3 of the Coastal Act as required by §30604(a).

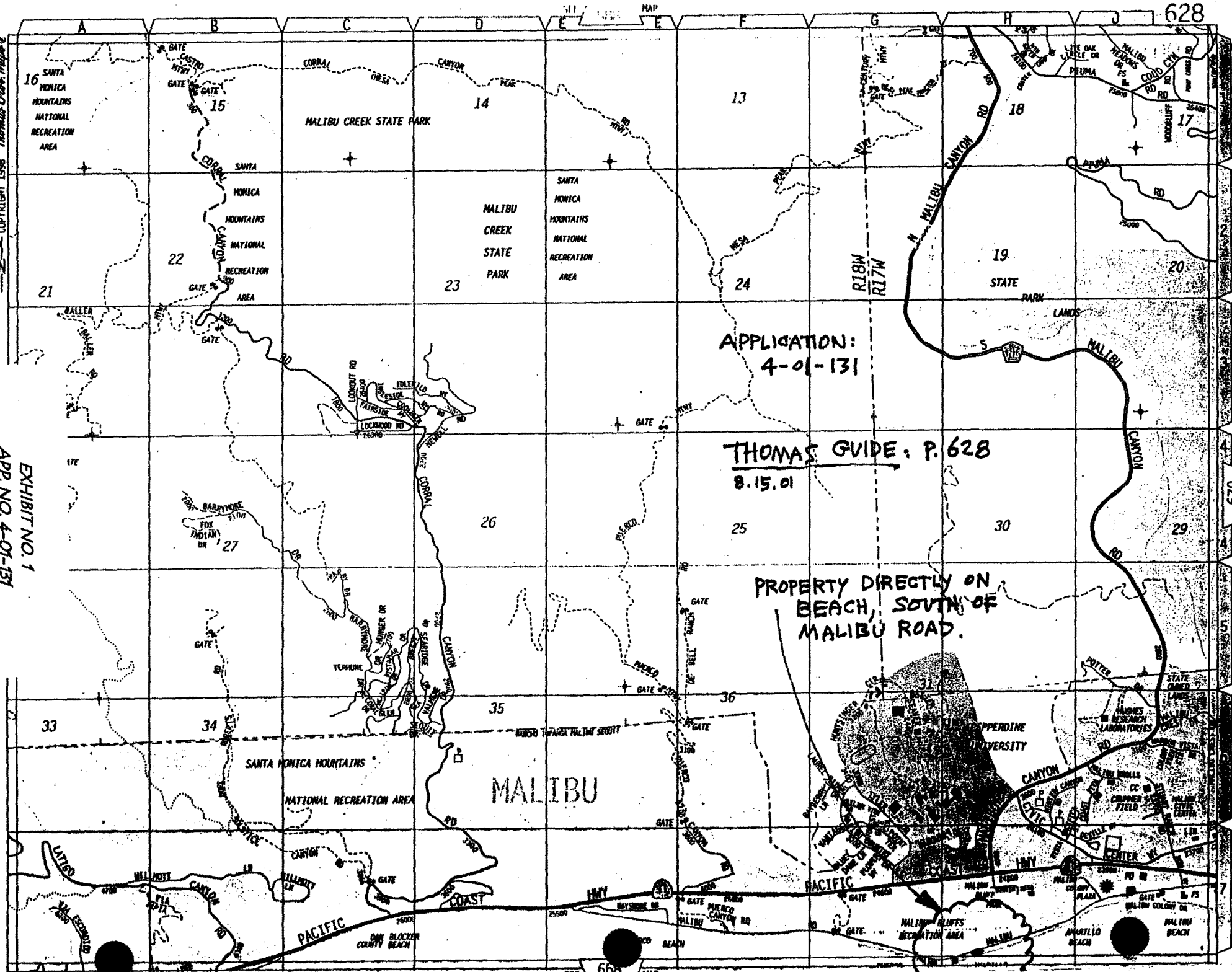
I. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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 by any conditions of approval, to be consistent with any applicable requirements of the California Environmentally Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

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

COPYRIGHT 1998 Thomas Bros. Maps

EXHIBIT NO. 1
APP. NO. 4-01-131
VICINITY MAP

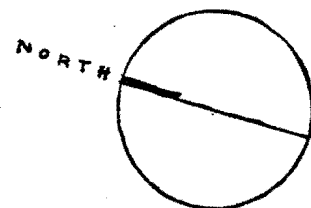
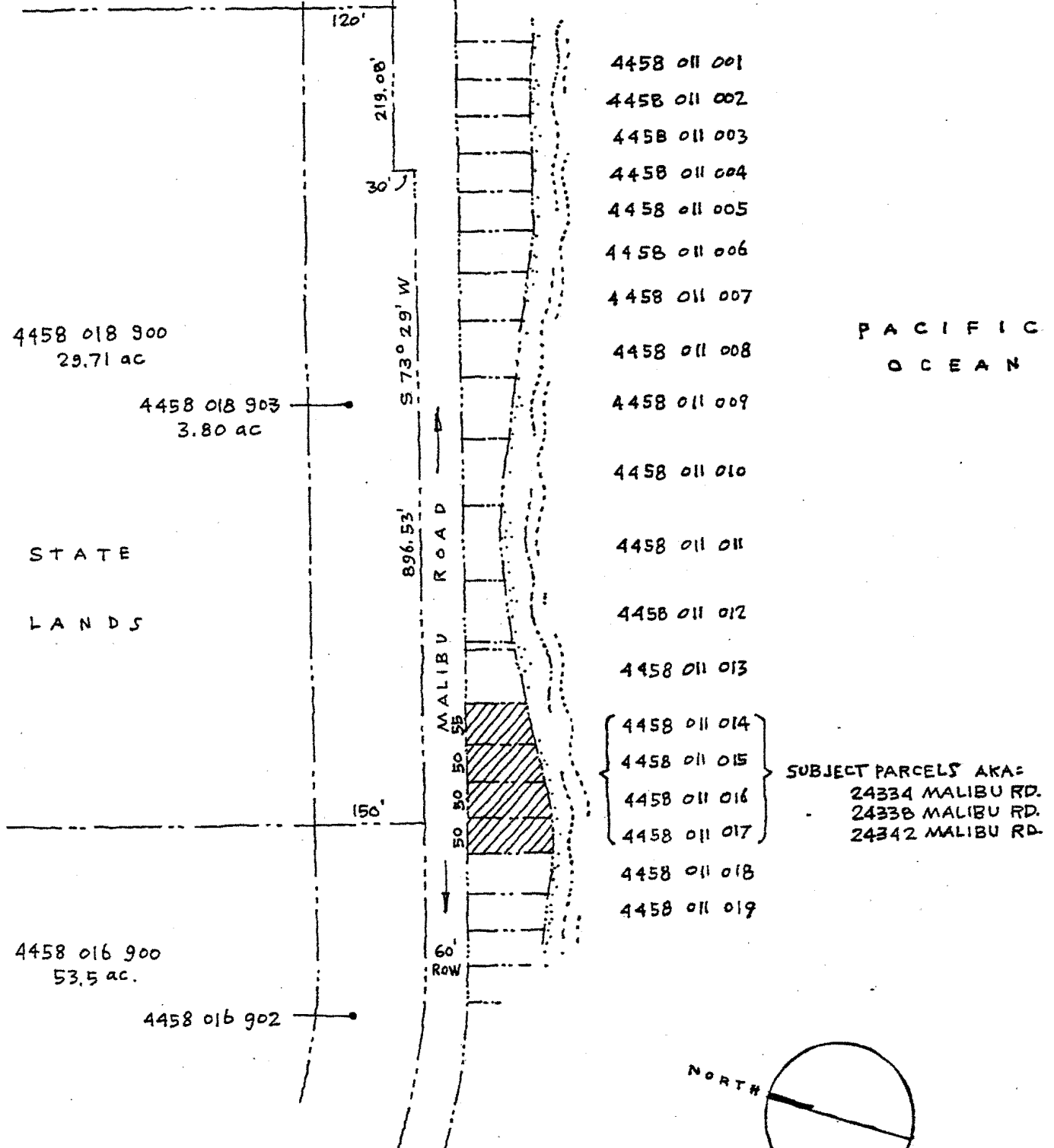




1.12.99

9802

LANDS OF
SARAH AND B.J. CHANEY



1" = 200'

EXHIBIT NO. 2
APP. NO. 4-01-131
PARCEL MAP

EXHIBIT NO. 3
APP. NO. 4-01-131
TOPO SURVEY,
EXISTING SITE PLAN

WYLLIE
CARTER

16114
Northfield
Street

Pacific
Palladium
Corporation
002774-4262

310
489-7989
Fax:
310-489-7292

Chaney House
24334 Malibu Road
Malibu, California

Architectural drawings and site plans are prepared by the firm of Wyllye Carter, Inc., a professional architectural firm, for the purpose of illustrating the proposed development. The drawings are not to be used for any other purpose without the written consent of the firm. The drawings are not to be used for any other purpose without the written consent of the firm. The drawings are not to be used for any other purpose without the written consent of the firm.

Site Plan

JOB NO. 100
SCALE: 1/2" = 1'-0"
DRAWN BY: JCS
DATE: 12/25/88
REVISIONS:
12/25/88
BY: JCS
REV: 01/10/89
REV: 03/15/89
REVISIONS:

A1.02

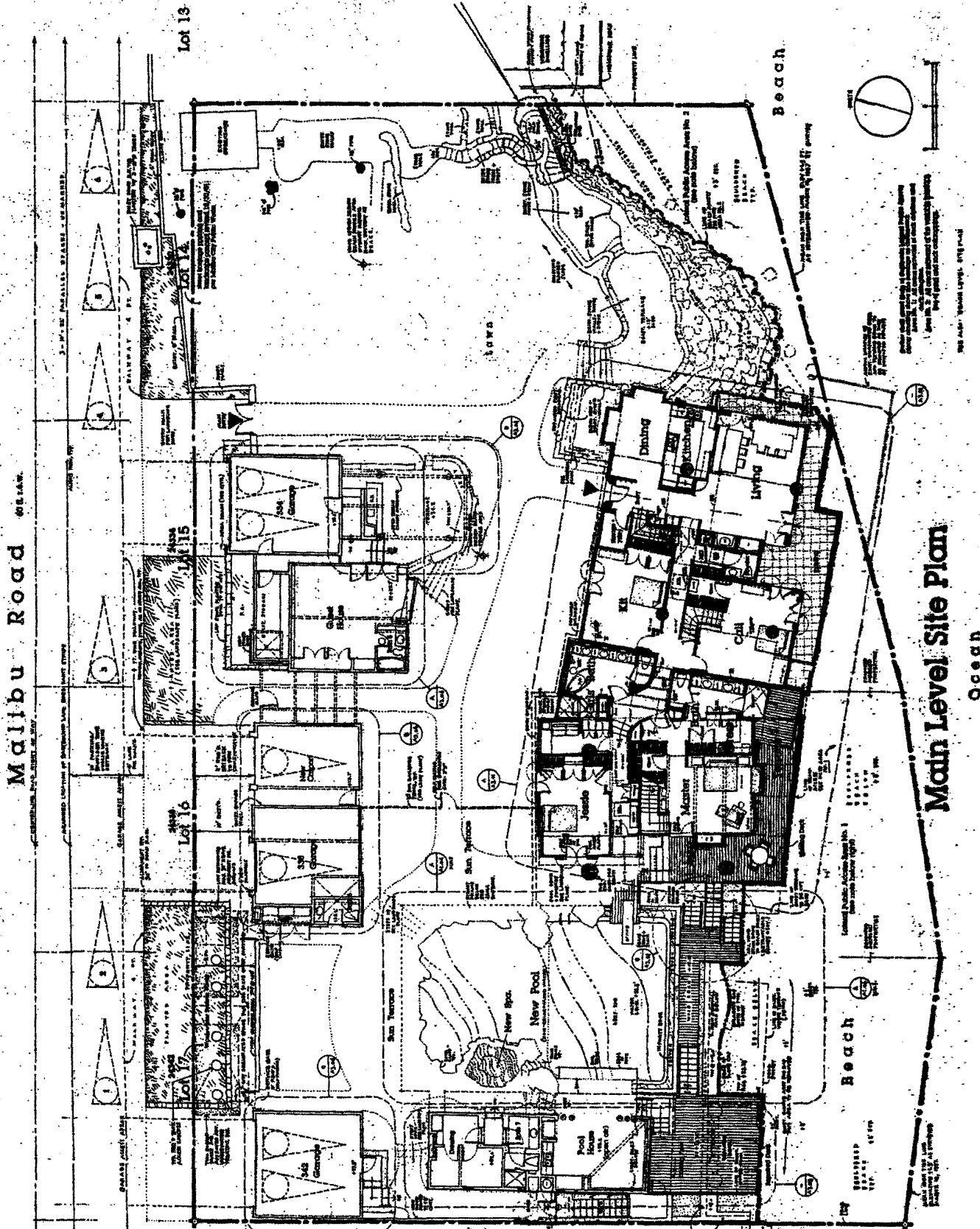


EXHIBIT NO. 4
APP. NO. 4-01-131
PROPOSED SITE PLAN:
MAIN LEVEL

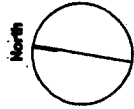
WYLIE
CARTER

14114
Northfield
Street
Pacific
Palisades
California
90273-4262
310
489-1799
310.656.7292

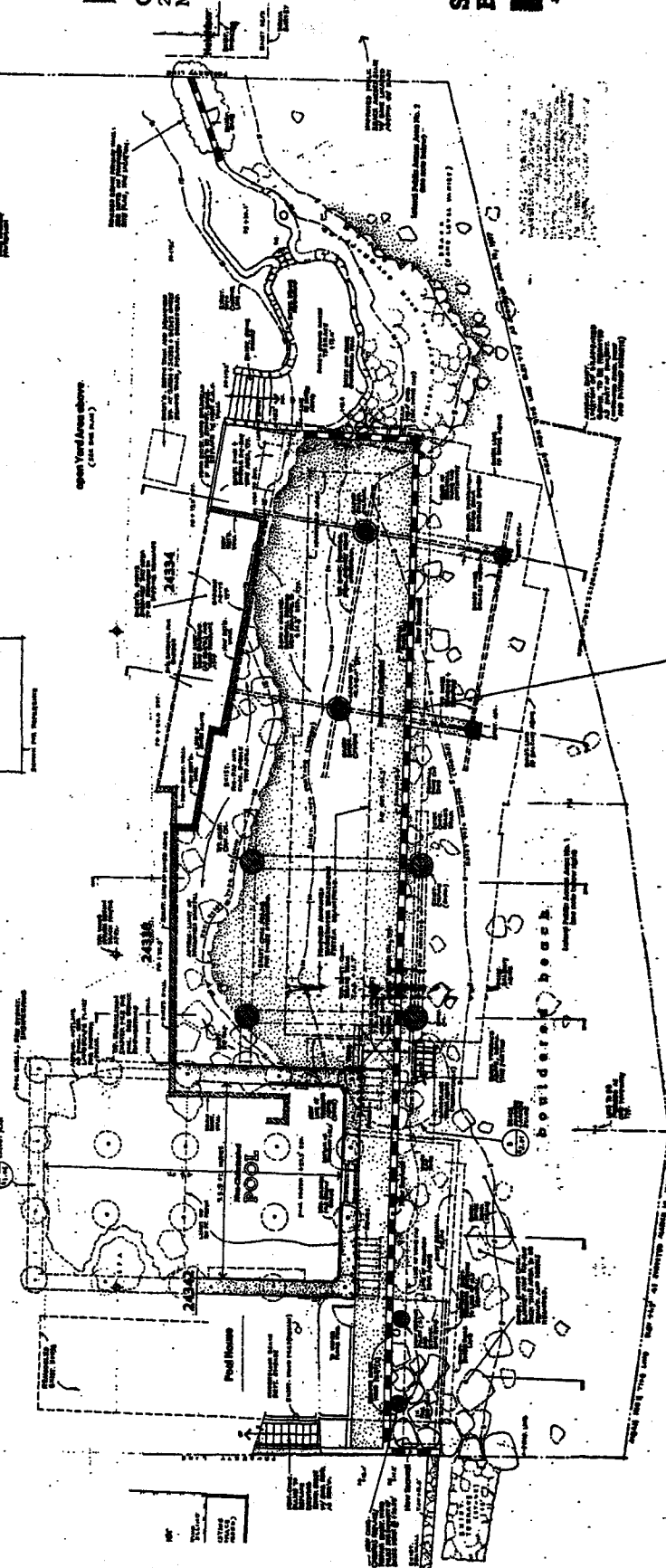
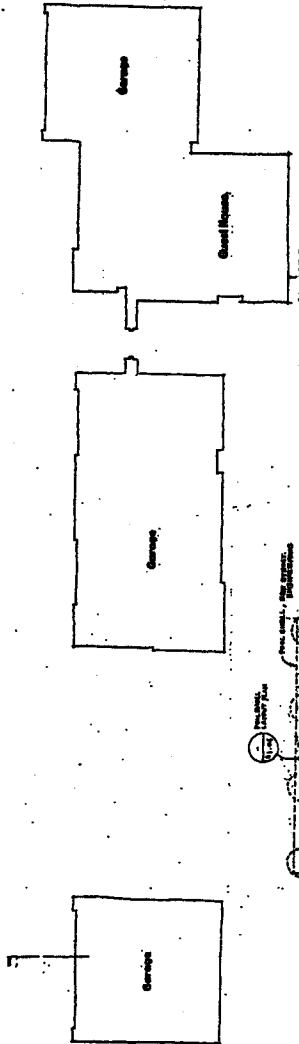
Chaney House
24334 Malibu Road
Malibu, California

Site Plan
Beach Level

A1.03



Malibu Road



Beach Level
Site Plan

EXHIBIT NO. 5
APP. NO. 4-01-131
PROPOSED SITE PLAN:
BEACH LEVEL

These shall show the layout of the proposed beach level. The plan shall show the location of the pool, pool house, and other structures. The plan shall also show the location of the existing structures and the proposed improvements. The plan shall be submitted to the local planning commission for review and approval.

THESE SHOWN SHALL BE THE PROPOSED BEACH LEVEL. THE PLAN SHALL SHOW THE LOCATION OF THE POOL, POOL HOUSE, AND OTHER STRUCTURES. THE PLAN SHALL ALSO SHOW THE LOCATION OF THE EXISTING STRUCTURES AND THE PROPOSED IMPROVEMENTS. THE PLAN SHALL BE SUBMITTED TO THE LOCAL PLANNING COMMISSION FOR REVIEW AND APPROVAL.

WYLLIE
CARTER

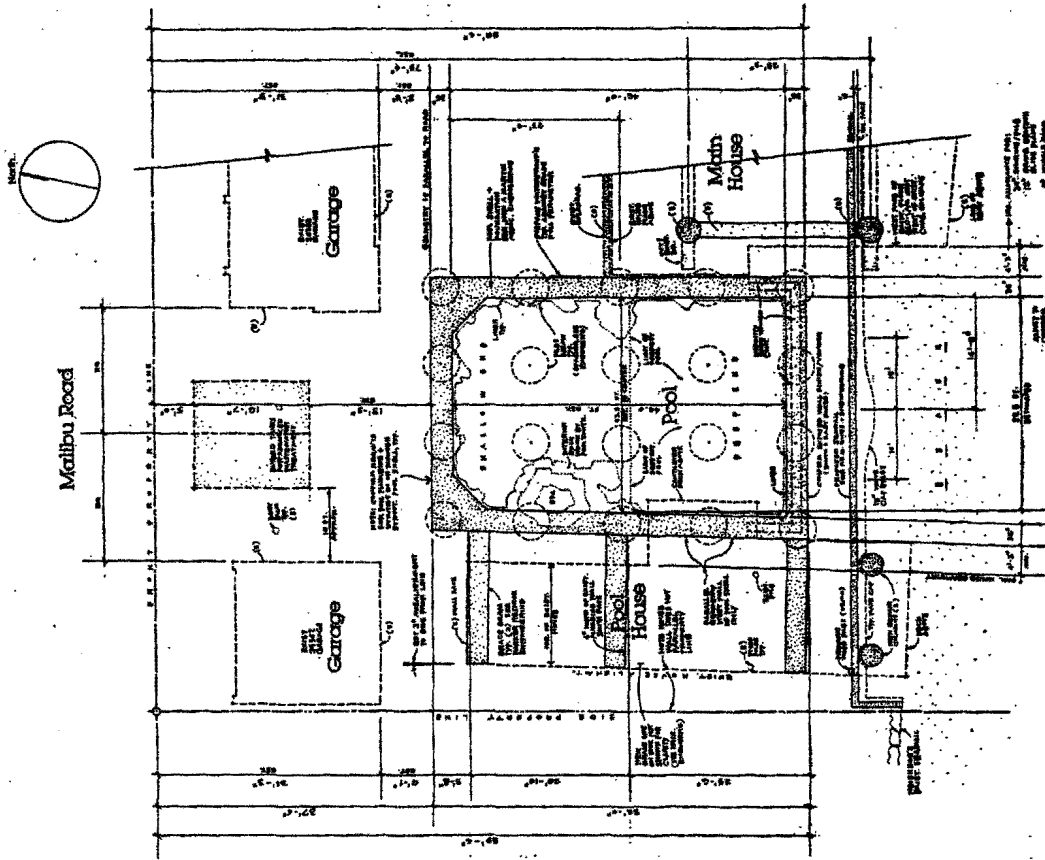
16116
Northfield
Street
Pacific
Palmdale
California
90272-4262
310
489.7989
310.459.7272

Cheney House
24334 Malibu Road
Malibu, California

Pool Shell
Layout Plan

JOB NUMBER: 9602.2
SCALE: 1/8" = 1'-0"
DRAWN BY: SCB
DATE: 3/14/02
REVISION: REV. 4/15/02
DESIGNED BY: J.C. JORDAN

A1.04



Pool Shell Layout Plan A

WYLLIE
CARTER

16116
Northfield
Street
Pacific
Palisades
California
90271-4202
310
489.7989
Fax:
310.469.7292

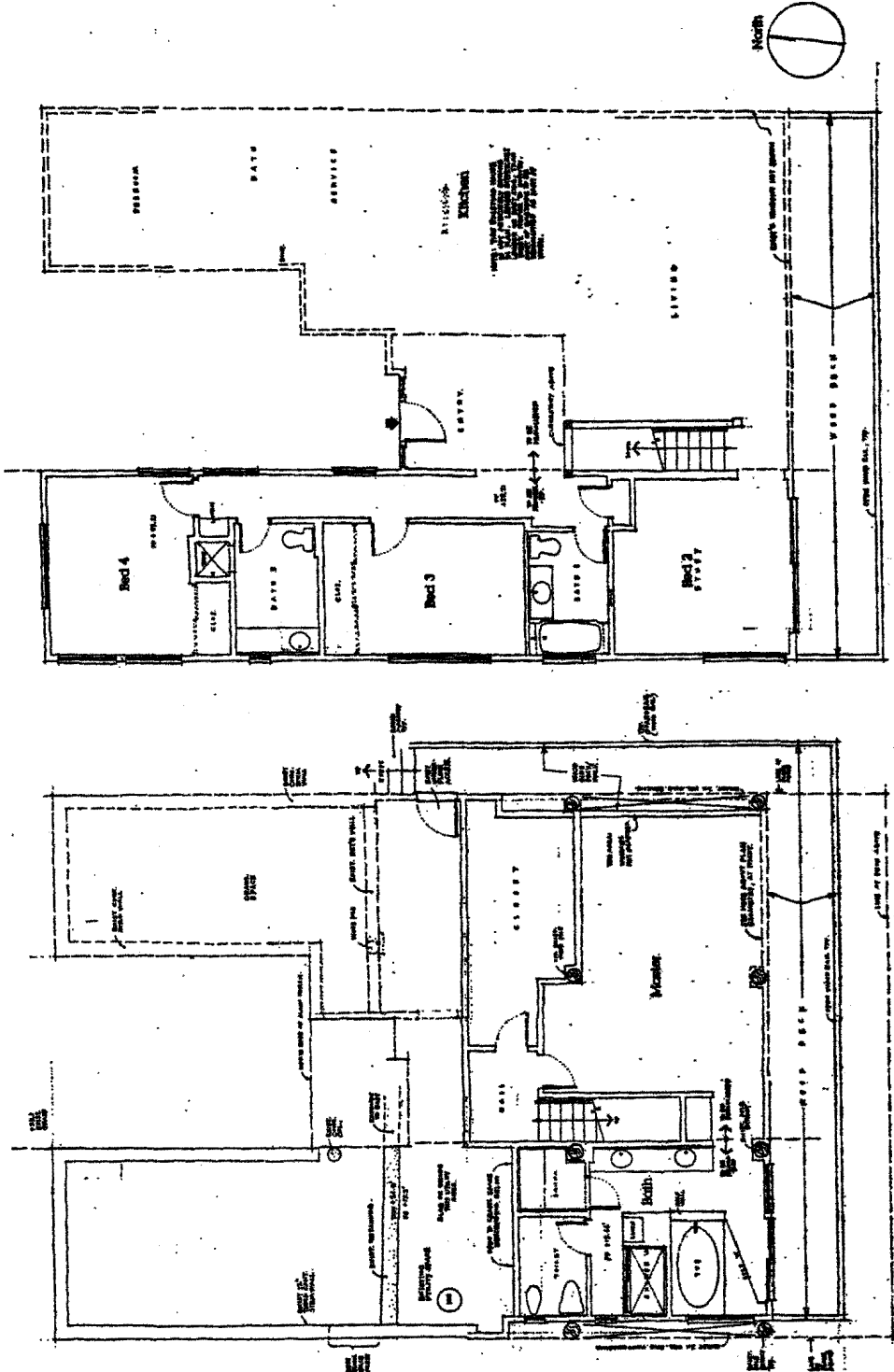
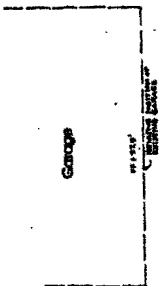
Chaney House
24342 Malibu Road
Malibu, California

Existing Plans
24342 Malibu Rd

JOB NUMBER: 10-118
SCALE: 1/8"=1'-0"
DRAWN BY: ECH
DATE: 8-1-81
REVISIONS:
BY: ECH
DATE: 8-1-81

A2.01

NOTES:
1. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
2. ALL WALLS ARE 1/2" THICK UNLESS NOTED OTHERWISE.
3. ALL DOORS ARE 3'0" WIDE UNLESS NOTED OTHERWISE.
4. ALL WINDOWS ARE 6'0" WIDE UNLESS NOTED OTHERWISE.
5. ALL FLOORS ARE 4" THICK UNLESS NOTED OTHERWISE.
6. ALL CEILINGS ARE 8'0" HIGH UNLESS NOTED OTHERWISE.
7. ALL ROOFS ARE 12/12 UNLESS NOTED OTHERWISE.
8. ALL EXTERIOR FINISHES ARE TO BE DETERMINED BY THE ARCHITECT.
9. ALL INTERIOR FINISHES ARE TO BE DETERMINED BY THE ARCHITECT.
10. ALL MECHANICAL SYSTEMS ARE TO BE DETERMINED BY THE ARCHITECT.



Main Level A

24342

Lower Level B

EXHIBIT NO. 7
APP. NO. 4-01-131
EXISTING SITE PLAN:
24342 MALIBU RD

**WYLLIE
CARTER**

16126
Northfield
Street
Pacific
Palisades
California
90272-4892
310
489.7989
fax:
310.489.7292

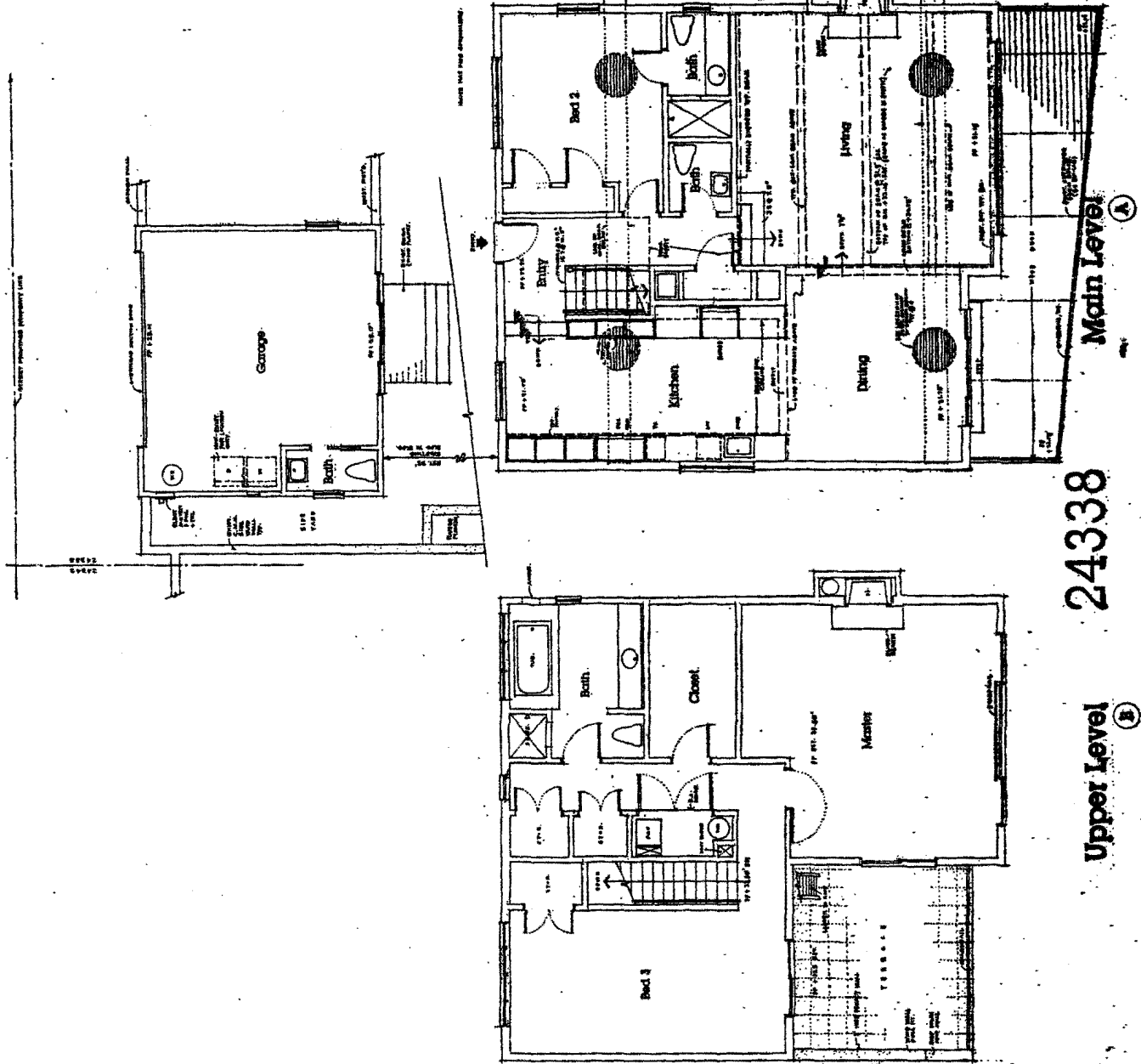
Chaney House
24334 Malibu Road
Malibu, California

Existing Plans
24338 Malibu Rd

FOR REVISION
SCALE: 1/8" = 1'-0"
DATE: 1/7/15
BY: WYLLIE
PC: CHL/108

A2.02

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24338

Upper Level

Main Level

WYLLIE
CARTER

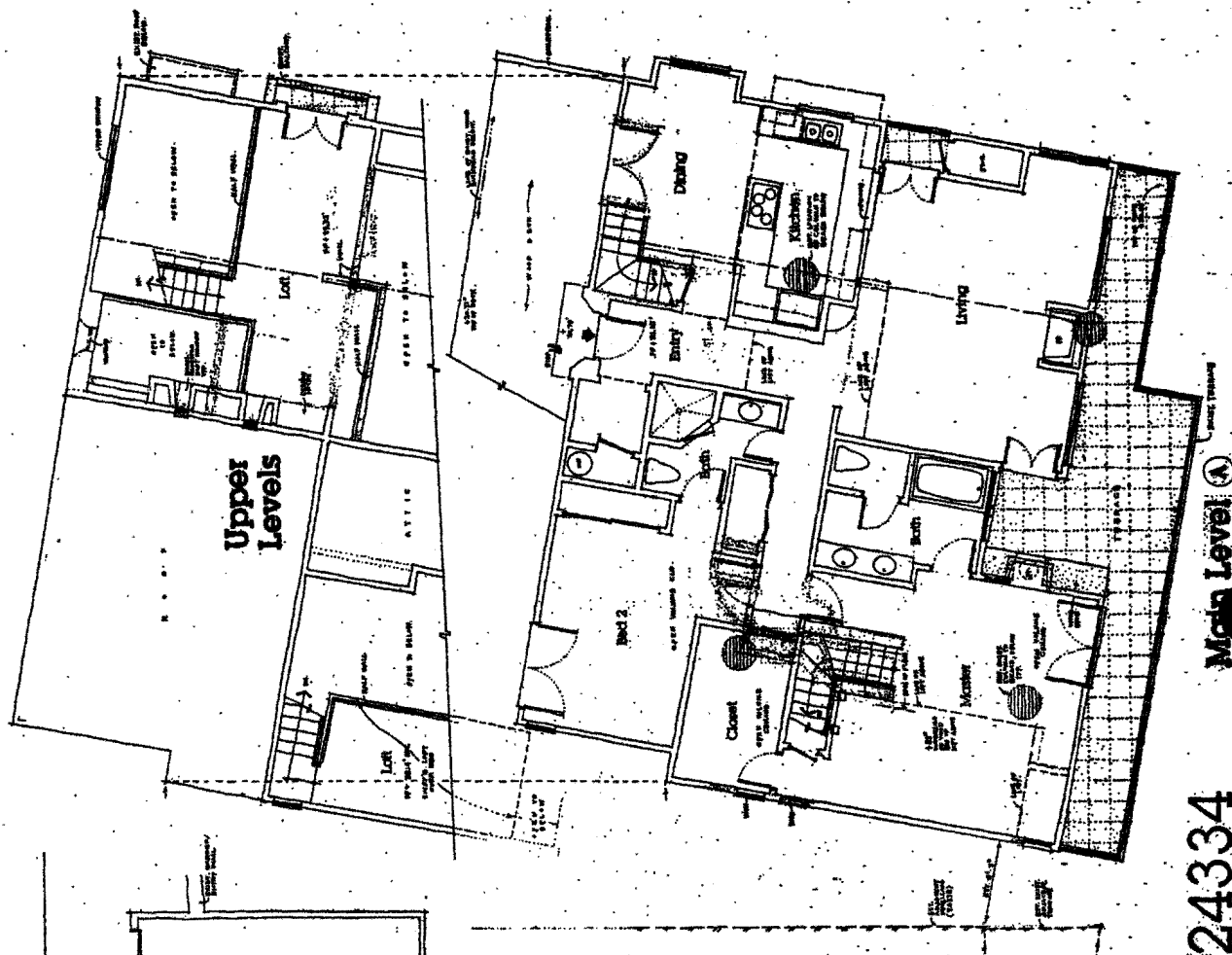
18114
Northfield
Street
Pacific
Palmdale
California
90373-4262
310
489.7789
310.489.7292

Chaney House
24334 Malibu Road
Malibu, California

Existing Plans
24334 Malibu Rd

JOB NUMBER: 000
SCALE: 1/4" = 1'-0"
DRAWN BY: JWC
DATE: 1-1-81
REVISIONS:
BY: JWC
DATE: 1-1-81

A2.03



24334

Main Level (A)

EXHIBIT NO. 9
APP. NO. 4-01-131
EXISTING SITE PLAN:
24334 MALIBU RD

**WYLIE
CARTER**

14116
Northfield
Street
Pacific
Belmont
California
90272-4342
310
489-9989
310-467-7792

Chaney House
24342 Malibu Road
Malibu, California

Coastal Commission
Application 4-01-131
Special Calculations

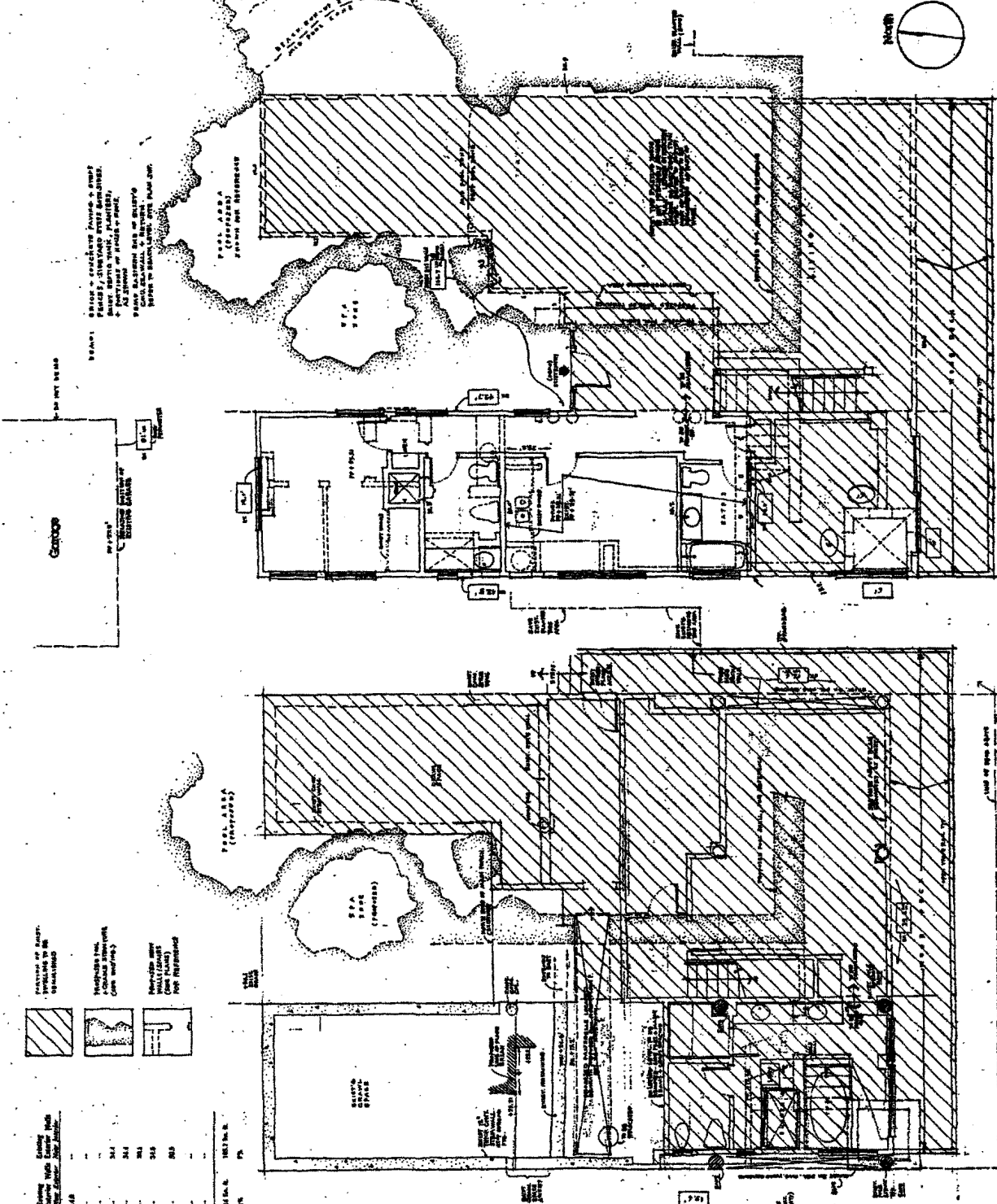
**Demolition
Plan /**

Existing Plans
24342 Malibu Rd

JOB NUMBER:	100
SCALE:	1/8" = 1'-0"
DRAWN BY:	WJC
CHECKED BY:	WJC
DATE:	4-11-81
REVISION:	1.0
PROJECT:	24342
LOCATION:	Malibu

A2.04

10



Room	Area	Volume	Weight	Notes
Living Room	100.0	100.0	100.0	
Kitchen	100.0	100.0	100.0	
Bedroom	100.0	100.0	100.0	
Bathroom	100.0	100.0	100.0	
Garage	100.0	100.0	100.0	

Room	Area	Volume	Weight	Notes
Living Room	100.0	100.0	100.0	
Kitchen	100.0	100.0	100.0	
Bedroom	100.0	100.0	100.0	
Bathroom	100.0	100.0	100.0	
Garage	100.0	100.0	100.0	

Room	Area	Volume	Weight	Notes
Living Room	100.0	100.0	100.0	
Kitchen	100.0	100.0	100.0	
Bedroom	100.0	100.0	100.0	
Bathroom	100.0	100.0	100.0	
Garage	100.0	100.0	100.0	

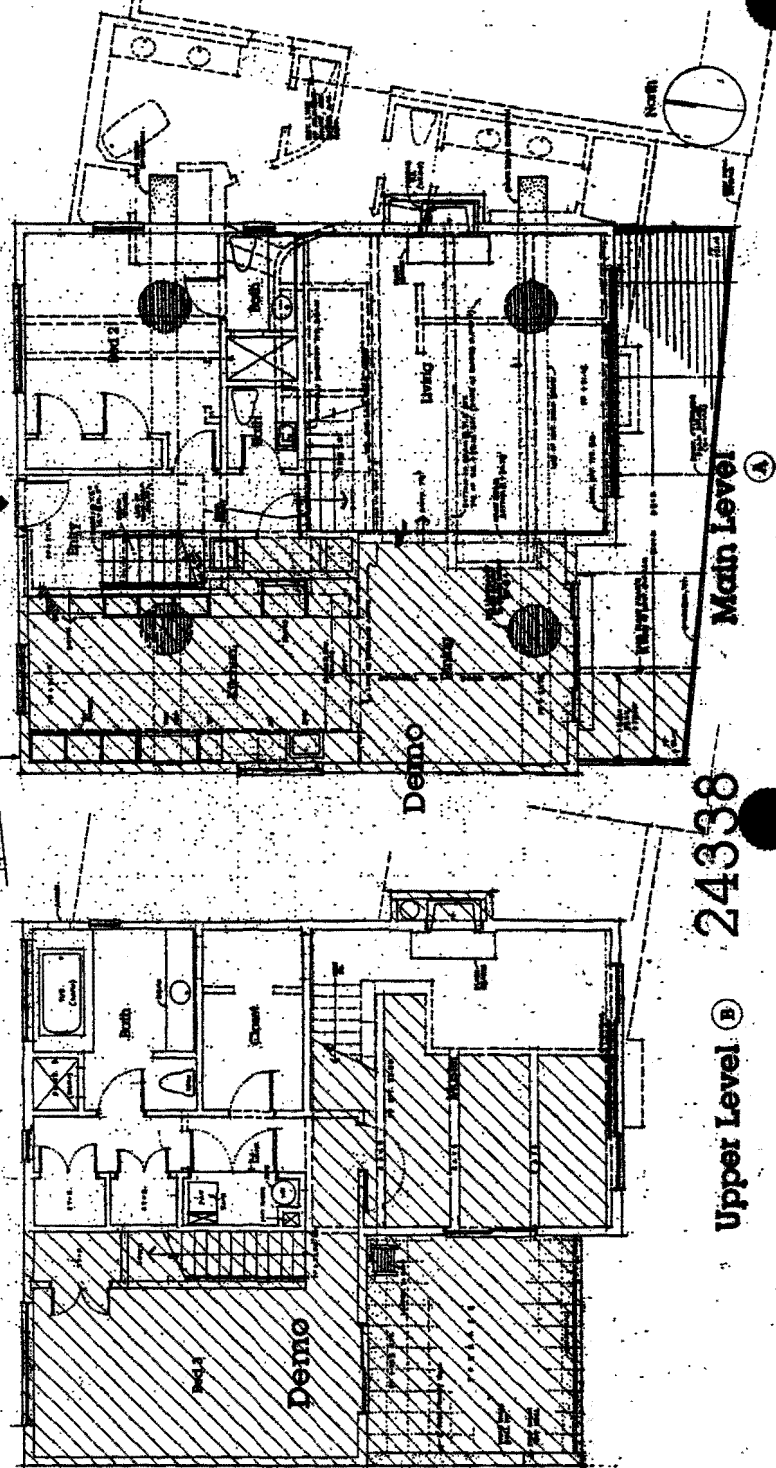
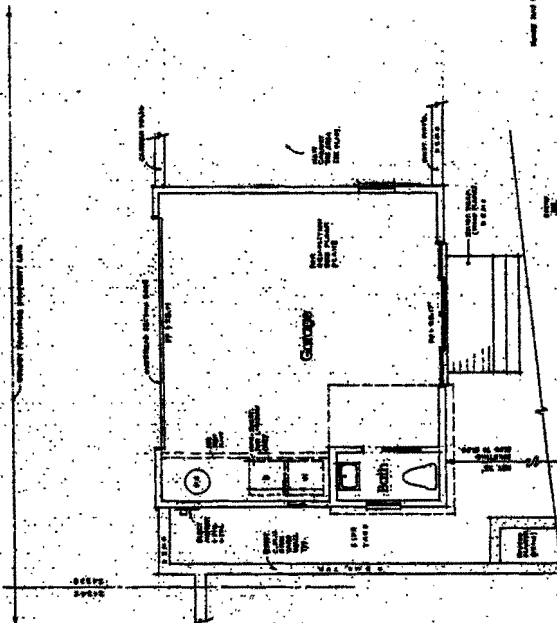
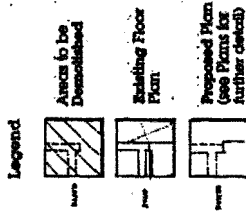
EXHIBIT NO. 10
APP. NO. 4-01-131
DEMO PLAN:
24342 MALIBU RD

Lower Level
24342
Main Level

WYLLIE
CARTER

16114
Northfield
Street
Pacific
Palisades
California
90272-4062
310
489.7989
Fax
310.489.7272

Cheney House
24334 Malibu Road
Malibu, California



Demo,
New &
Existing Plans
24338 Malibu Rd

DATE	10/1/88
SCALE	1/4" = 1'-0"
DESIGNED BY	WYLLIE CARTER
DRAWN BY	WYLLIE CARTER
CHECKED BY	WYLLIE CARTER
APPROVED BY	WYLLIE CARTER
PROJECT NO.	24338
CLIENT	CHENEY HOUSE
LOCATION	24338 MALIBU RD
CITY	MALIBU, CA
STATE	CA
ZIP	90272

A2.05

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Upper Level (B) 24338 Main Level (A)

**WYLIE
CARTER**

16116
Northland
Street
Pacific
Palisades
California
90272-4252
310
459.7989
Ext:
310 459.7992

Chaney House
24334 Malibu Road
Malibu, California

**Demo,
New &
Existing Plans**
24334 Malibu Rd

DATE	10/1/80
BY	W.C.
FOR	W.C.
PROJECT	24334 Malibu Rd
DATE	10/1/80
BY	W.C.
FOR	W.C.
PROJECT	24334 Malibu Rd

A2.06

13

Legend

Areas to be Demolished

Existing Floor Plan

Proposed Plan: (See Plans for further detail)

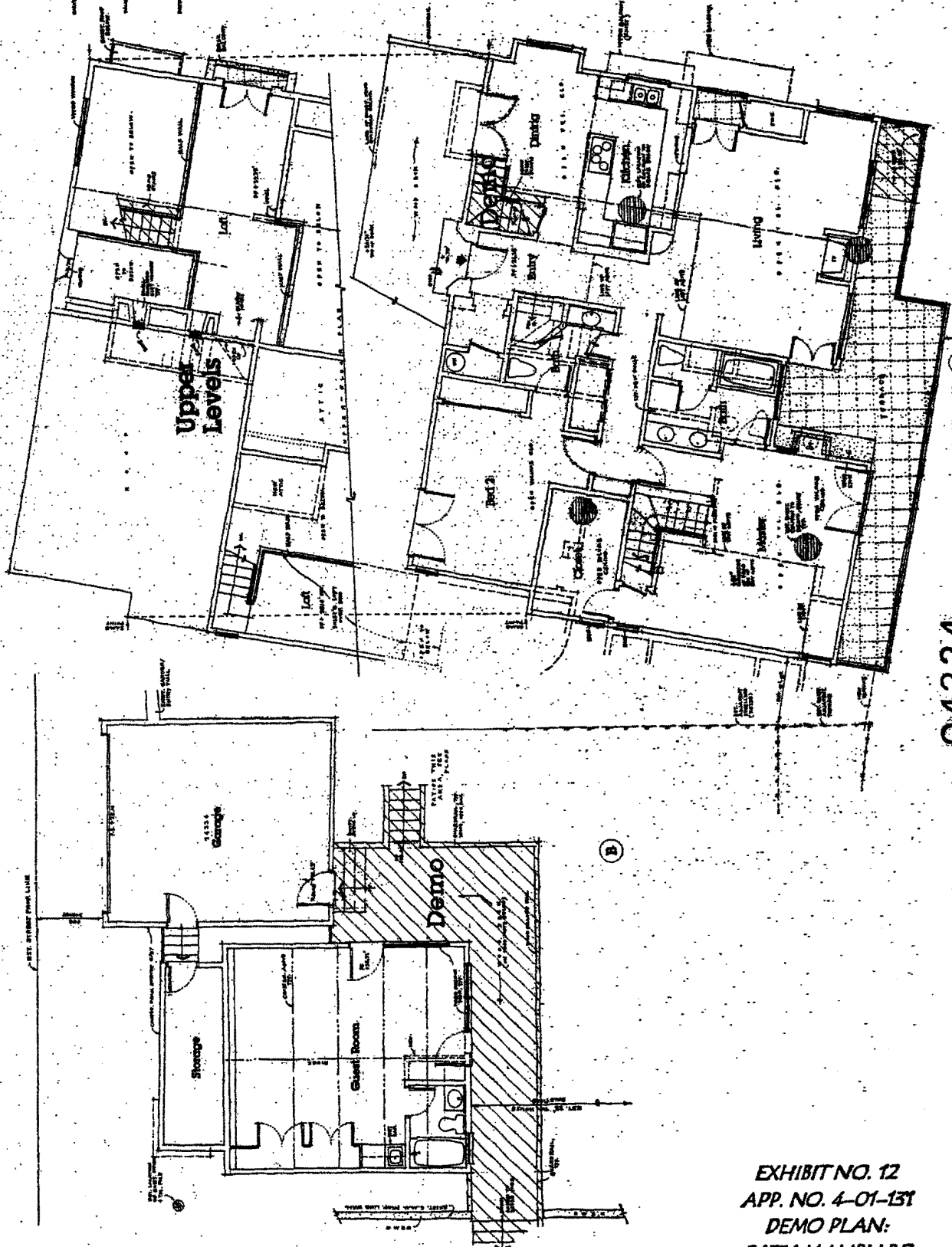


EXHIBIT NO. 12
APP. NO. 4-01-131
DEMO PLAN:
24334 MALIBU RD

EXHIBIT NO. 13
APP. NO. 4-01-131
RESIDENCE FLOOR PLAN:
MAIN LEVEL

**WYLIE
CARTER**

16114
Northfield
Street
Pacific
Palisades
California 90272-4262
310
489-7989
310-489-7292

Chaney House
24334 Malibu Road
Malibu, California

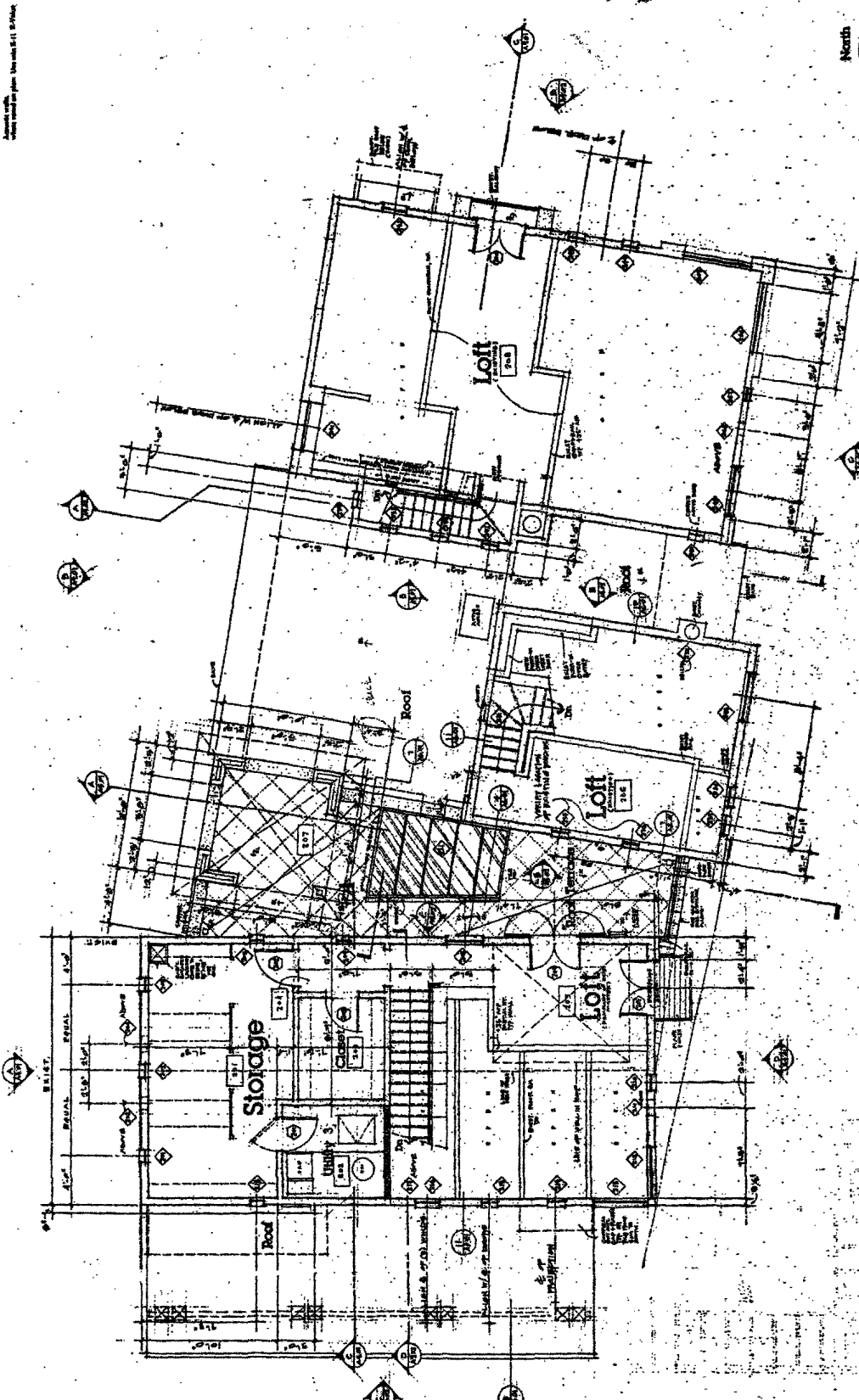
**Upper
Floor Plan**

JOB NUMBER: 9027
SCALE: 1/4" = 1'-0"
DRAWN BY: JWC
DATE: 12/22/88
PROJECT: 24334 MALIBU ROAD
FLA. 1102

A3.02

15

Insulation Schedule
R-15 in exterior walls, R-19 in
attic, R-30 in roof, R-10 in
floor over crawlspace, R-5 in
ceiling over crawlspace, R-5 in
basement floor, R-5 in
basement ceiling.



Main House, Upper Floor Plan

EXHIBIT NO. 14
APP. NO. 4-01-131
RESIDENCE FLOOR PLAN:
UPPER LEVEL

16116
Northfield
Street
Pacific
Patterson
California
90272-4262
310
459.7999 fax:
310.459.7292

Chaney House
24334 Malibu Road
Malibu, California

North Elevation of West A

North Elevation **B**

North/South Elevations

A4.01

South Elevation ©

South Elev. (o) West (D)

EXHIBIT NO. 17
APP. NO. 4-01-131
RESIDENCE NORTH & SOUTH

Chaney House
94334 Malibu Road
Malibu, California

17

A3.04

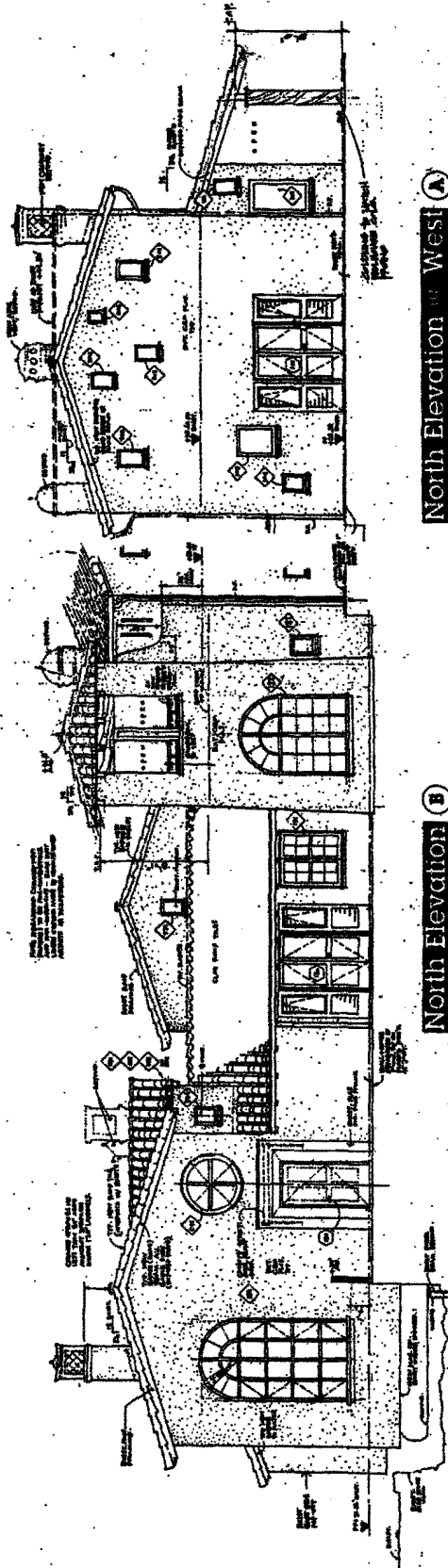
Architectural floor plan of the East Trolley car. The plan shows a rectangular layout with various interior features and dimensions. Key areas include a 'SEAT' area on the left, a 'TOILET' area at the top center, and a 'CLOSET' area at the top right. Dimensions are provided for various sections: 10'-0" for the main body, 6'-0" for the toilet area, and 6'-0" for the closet area. A scale bar at the bottom indicates 0', 6'-0", and 12'-0". A north arrow is located in the bottom right corner.

EXHIBIT NO. 16
APP. NO. 4-01-137
GUEST HOUSE, GARAGES, CARPORT

WYLLIE
CARTER

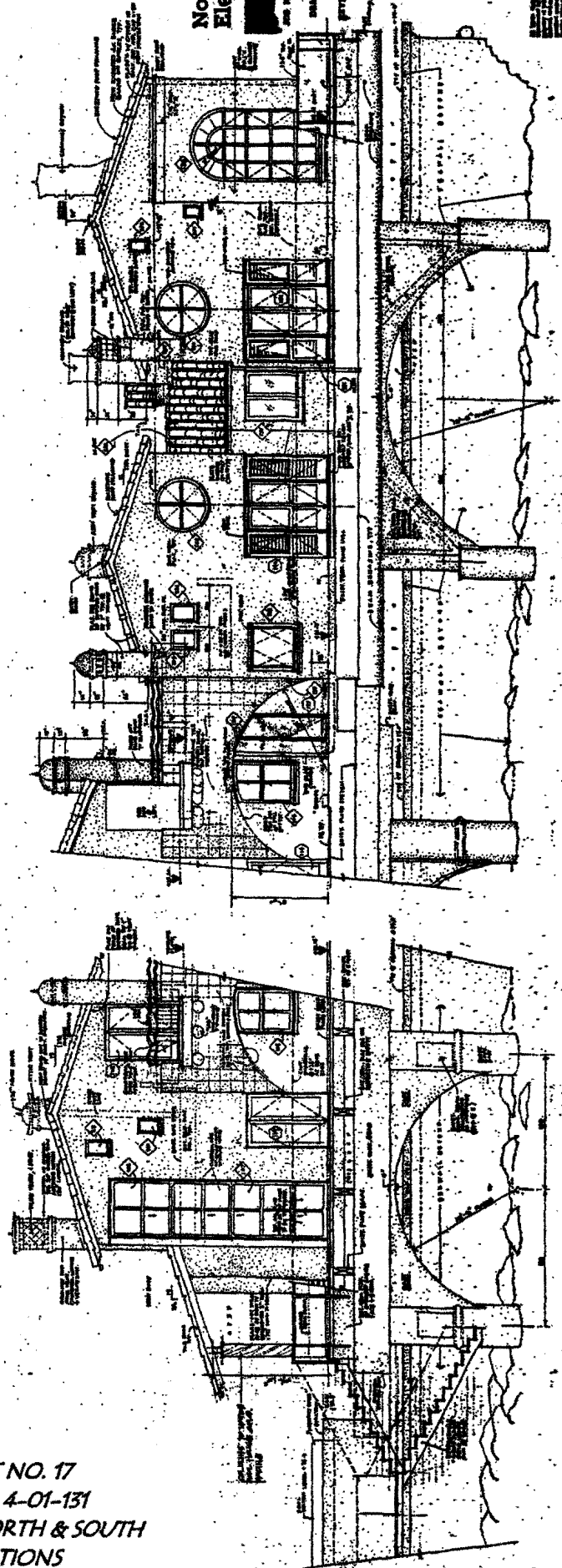
16116
Northland
Street
Pacific
Palmbeach
California
90777-4305
310
489-7999
Fax
310-489-7992

Chamey House
24334 Malibu Road
Malibu, California



North Elevation West A

North Elevation B



South Elevation C

South Elev. West D

North/South
Elevations

DATE: 1/11
DRAWN BY: [illegible]
CHECKED BY: [illegible]
PROJECT: [illegible]

A4.01

**WYLIE
CARTER**

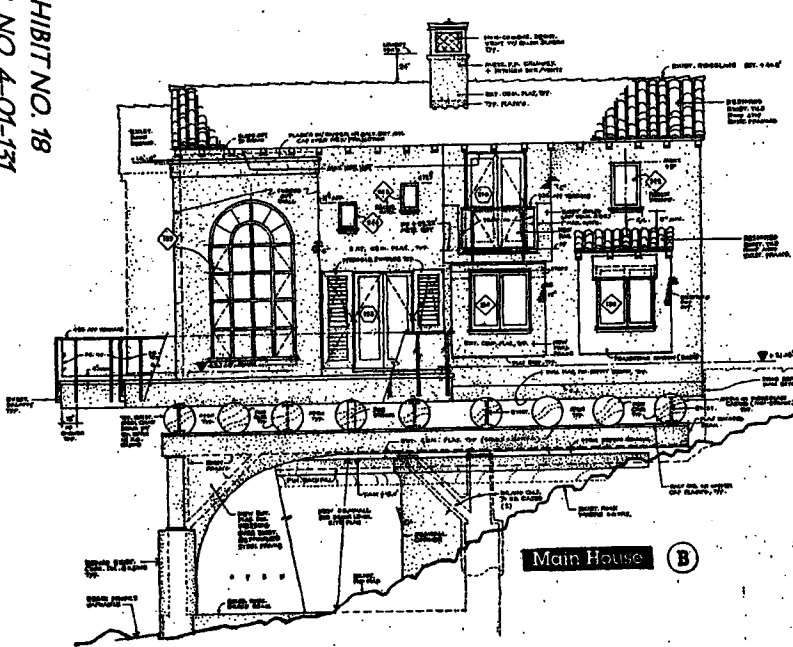
14114
Northfield
Street

Pacific
Pallades
California
90272-4262

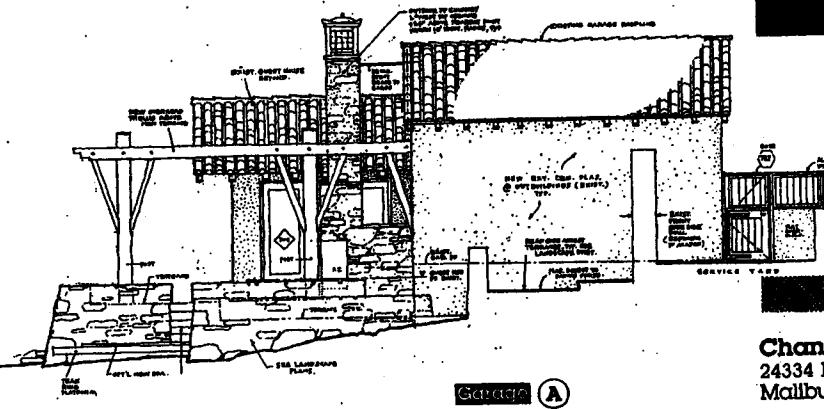
310
459.7989
Fax:
310.459.7292

Chaney House
24334 Malibu Road
Malibu, California

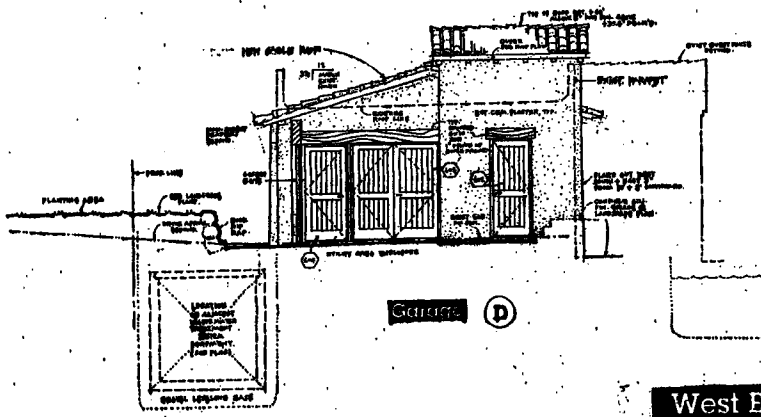
EXHIBIT NO. 18
APP. NO. 4-01-137
RESIDENCE EAST & WEST
ELEVATIONS



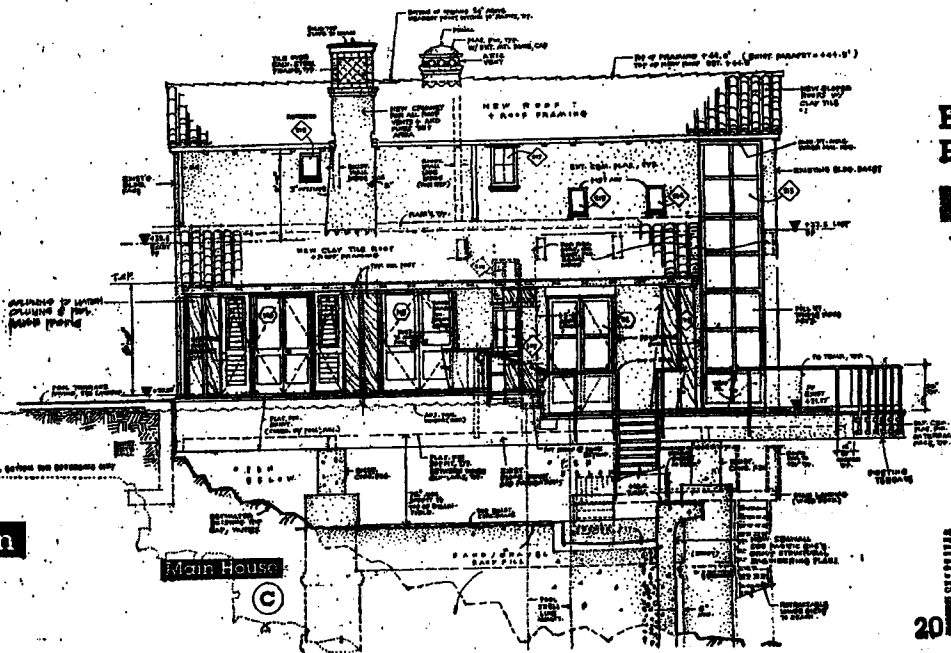
East Elevation



Garage (A)



West Elevation



Main House (C)

**East/West
Elevation**

JOB NUMBER: 9002
SCALE: 1/8" = 1'-0"
DRAWN BY: BOB
DATE: 1/1/82
REVISIONS: 1/1/82

A4.02

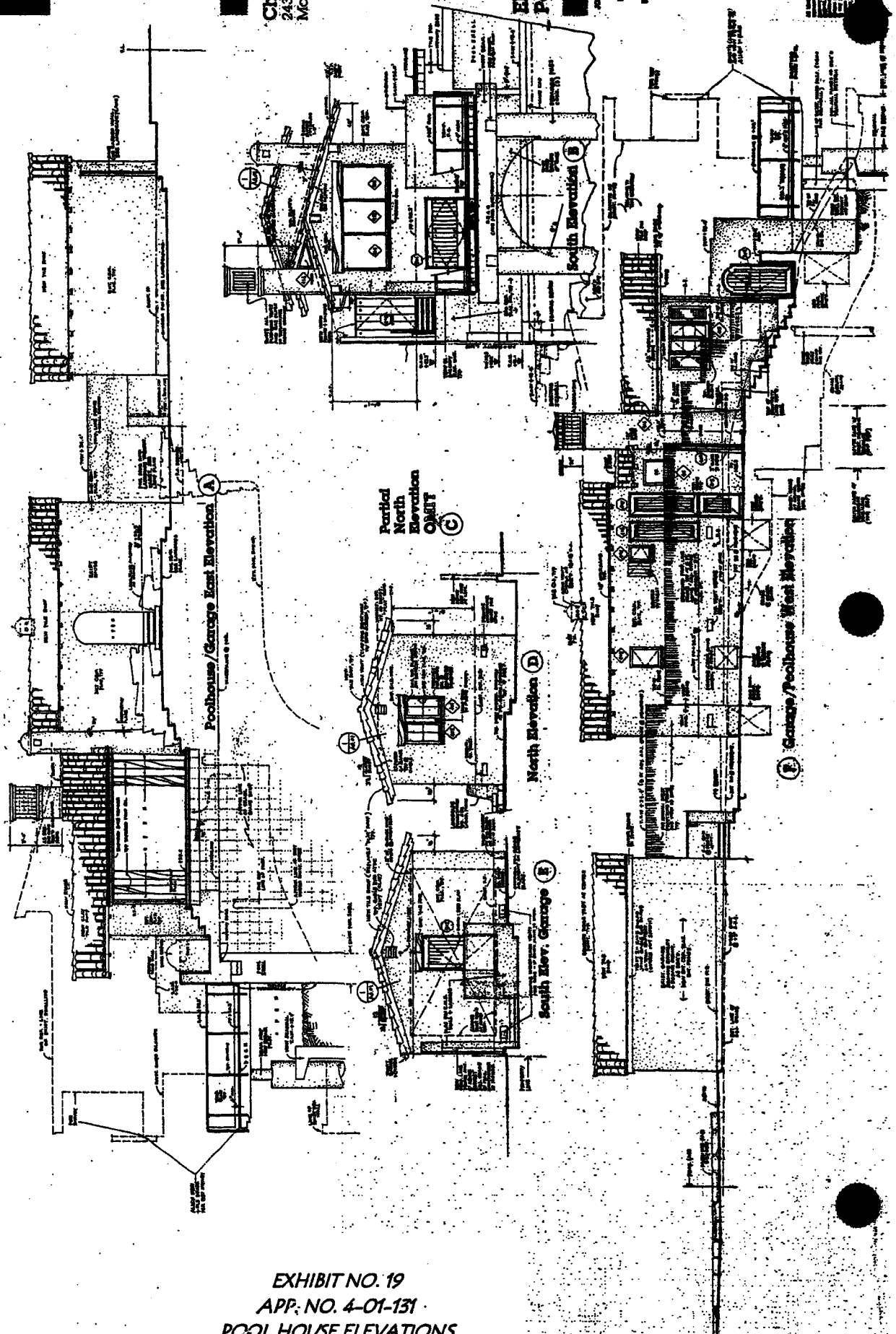
WYLIE
CARTER

16116
Northfield
Street
Pacific
Palmdale
California
90272-4252
310
489.7969
Fax
310.697.7292

Chaney House
24334 Maibu Road
Malibu, California

Elevations
Pool House

A4.03



WYLLIE
CARTER

16116
Northfield
Street
Pacific
Palmdale
California
90272-4262
310
489,799
310.459.7292

Chaney House
24334 Malibu Road
Malibu, California

Elevations Garages

JOB NUMBER: 8-1-1
SCALE: 3/4" = 1'-0"
DRAWN BY: JWC
DATE: 1-26-75
REVISIONS:
BY CH 2-18-75
PCL/MB

A4.04

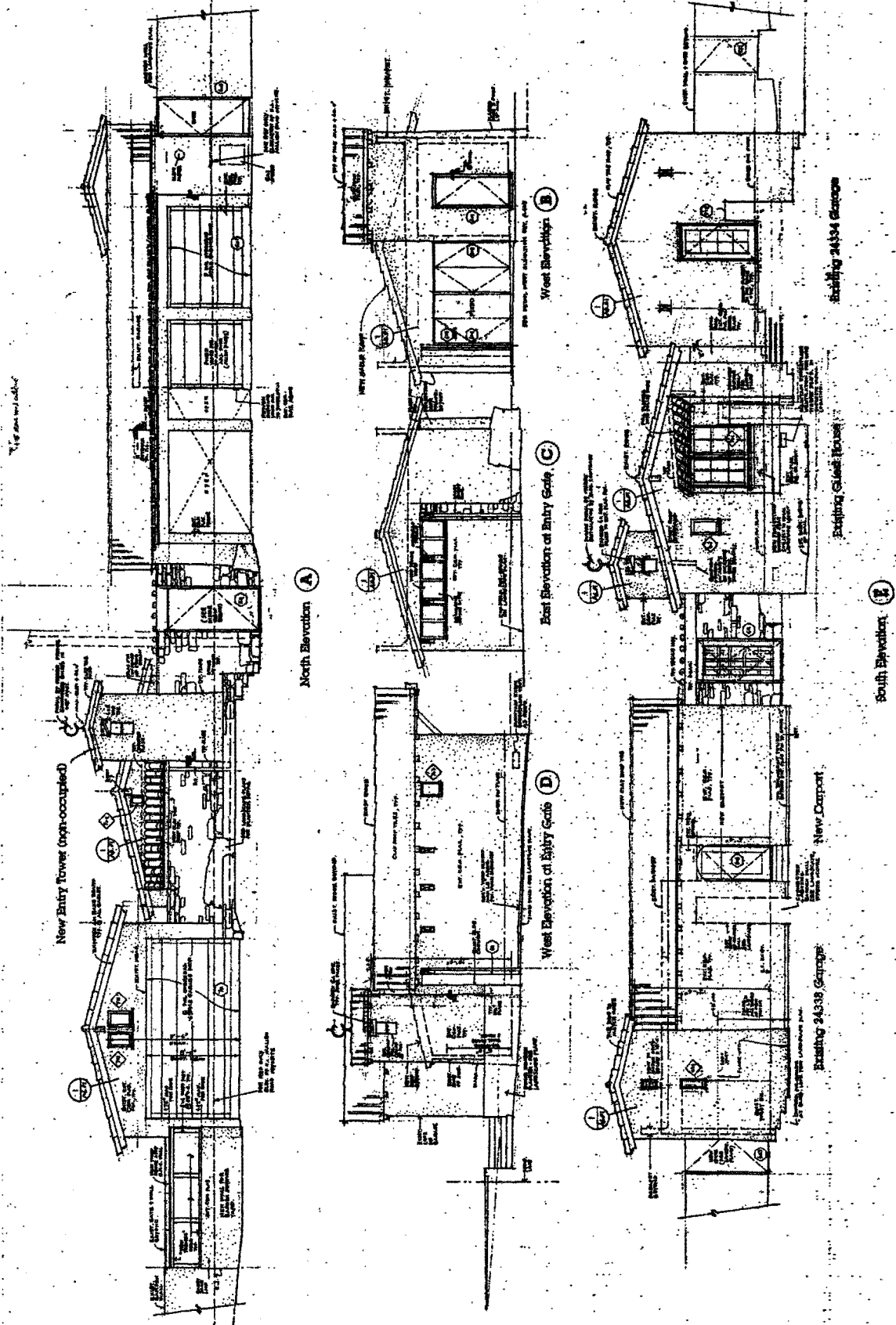
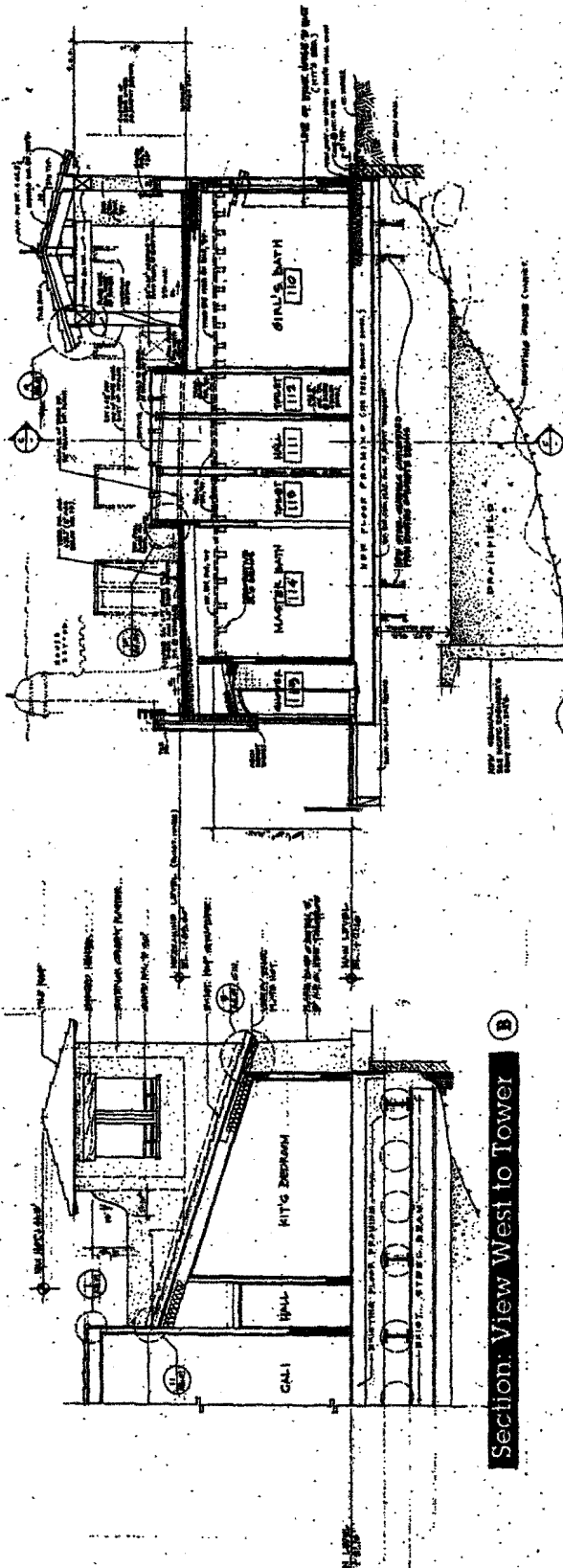


EXHIBIT NO. 20
APP. NO. 4-01-131
GUEST HOUSE, GARAGES ELEVATIONS

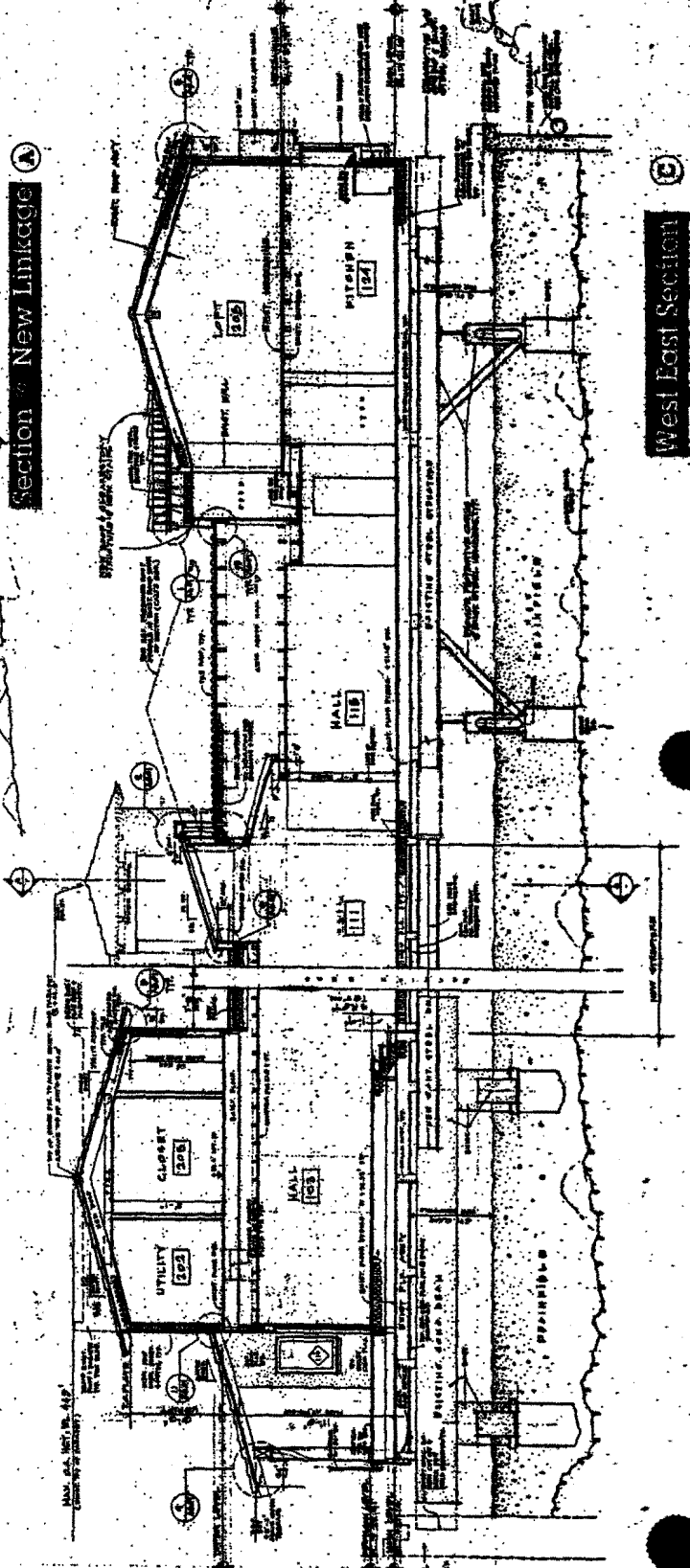
WYLLIE
CARTER

16116
Hortfield
Street
Pacific
Palmdale
California
90172-4552
310
499.7989
DEC
310.497.7292

Chaney House
24334 Malibu Road
Malibu, California



Section: View West to Tower



Section: New Linkage

Section

WALL	1/2" - 1/4"
DOOR	1/2" - 1/4"
CEILING	1/2" - 1/4"
FLOOR	1/2" - 1/4"
STAIRS	1/2" - 1/4"
ROOF	1/2" - 1/4"
FOUNDATION	1/2" - 1/4"
DRAINAGE	1/2" - 1/4"
MECHANICAL	1/2" - 1/4"
ELECTRICAL	1/2" - 1/4"
PLUMBING	1/2" - 1/4"
PAINTING	1/2" - 1/4"
LANDSCAPE	1/2" - 1/4"
INTERIOR	1/2" - 1/4"
EXTERIOR	1/2" - 1/4"
DETAILS	1/2" - 1/4"
NOTES	1/2" - 1/4"

A5.01

West East Section

**WYLIE
CARTER**

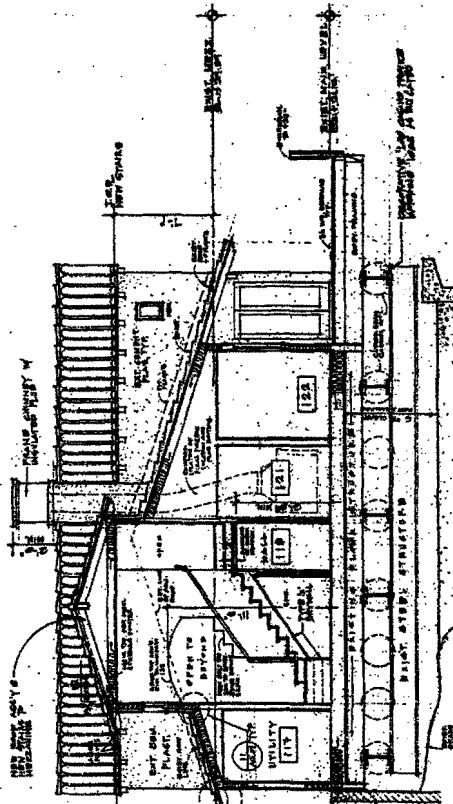
16116
Northfield
Street
Pacific
Palmdale
California
90272-4262
310
489-7989
RCC
310 489-7292

**Section &
Partial
Elevation**

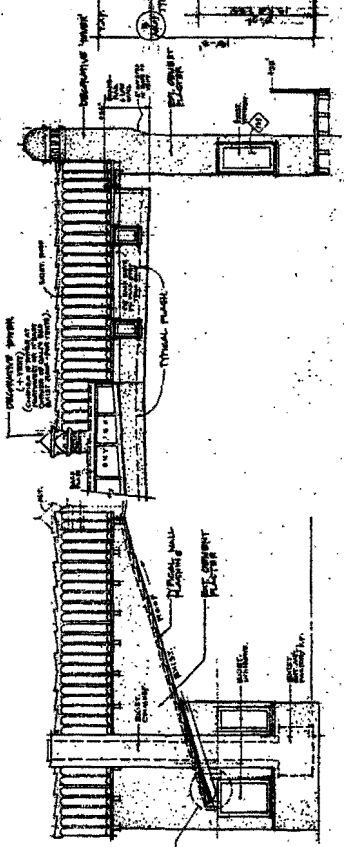
JOB NUMBER: 20022
SCALE: 1/8" = 1'-0"
DATE: 03/07
BY: JLC/SLD
CHECKED: JLC/SLD
413 001 0101
2004/10/02

A5.02

THIS SET OF DRAWINGS IS THE PROPERTY OF WYLIE CARTER ARCHITECTS. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. IT IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF WYLIE CARTER ARCHITECTS.

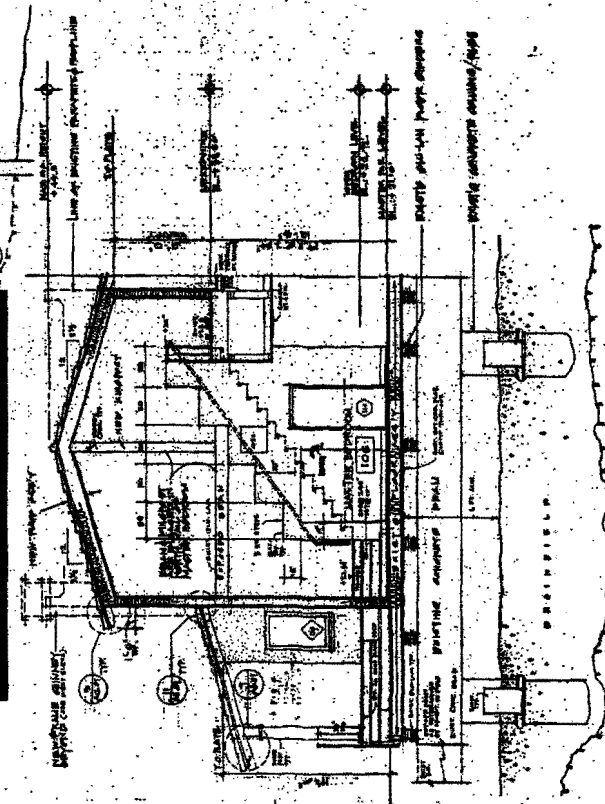


Partial Elevation C

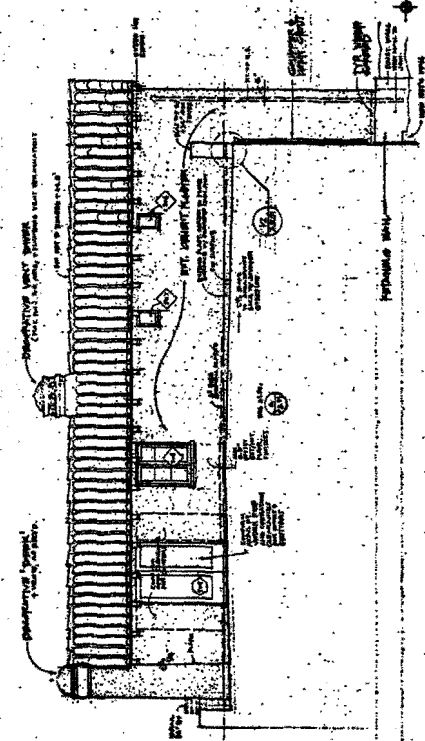


Partial Elevation B

South North Section @ 24338



South North Section @ 24334

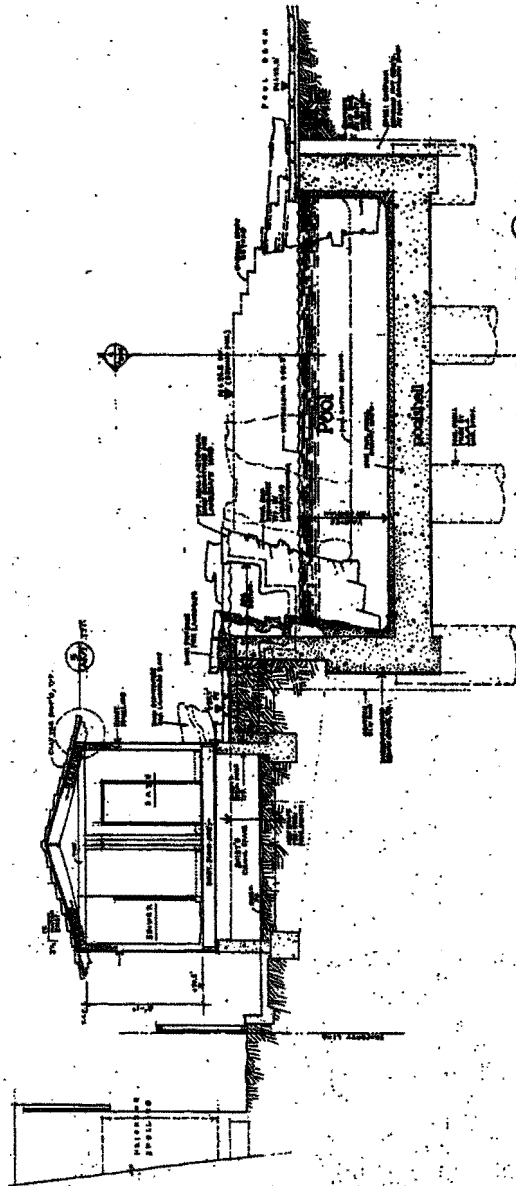


Partial Elevation E

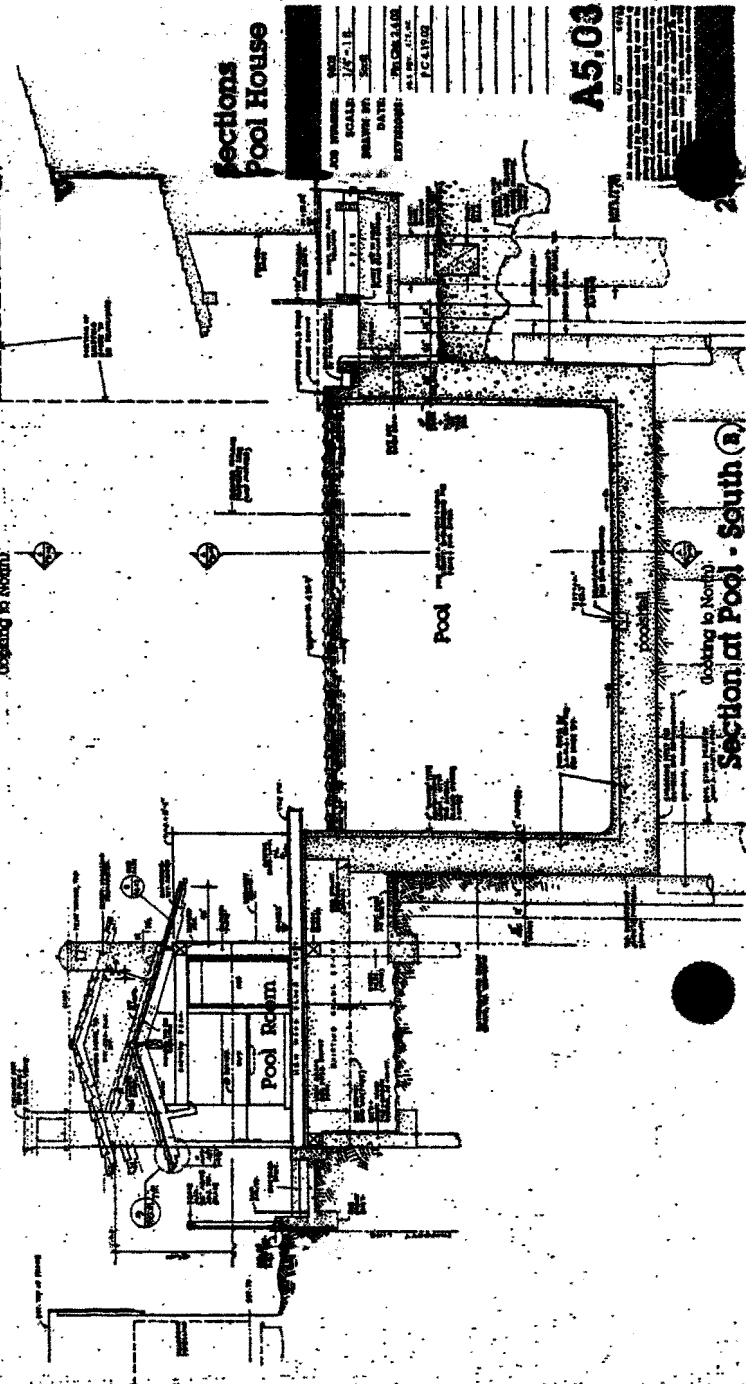
WYLIE
CARTER

14116
Northfield
Street
Pacific
Palmdale
California
90277-4262
310
489-7919
KAC
310-489-7292

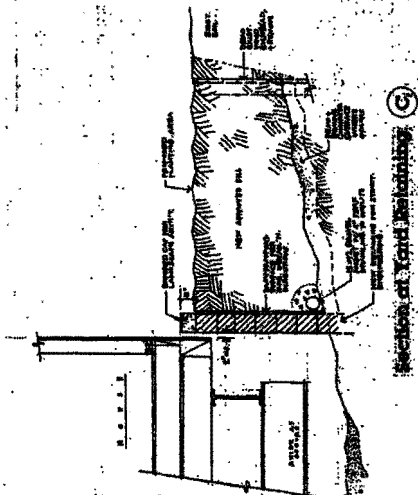
Chaney House
24334 Malibu Road
Malibu, California



Section of Pool - North (Looking to North)



Section of Pool - South (Looking to North)



Section of Pool - East (Looking to East)

WYLIE
CARTER

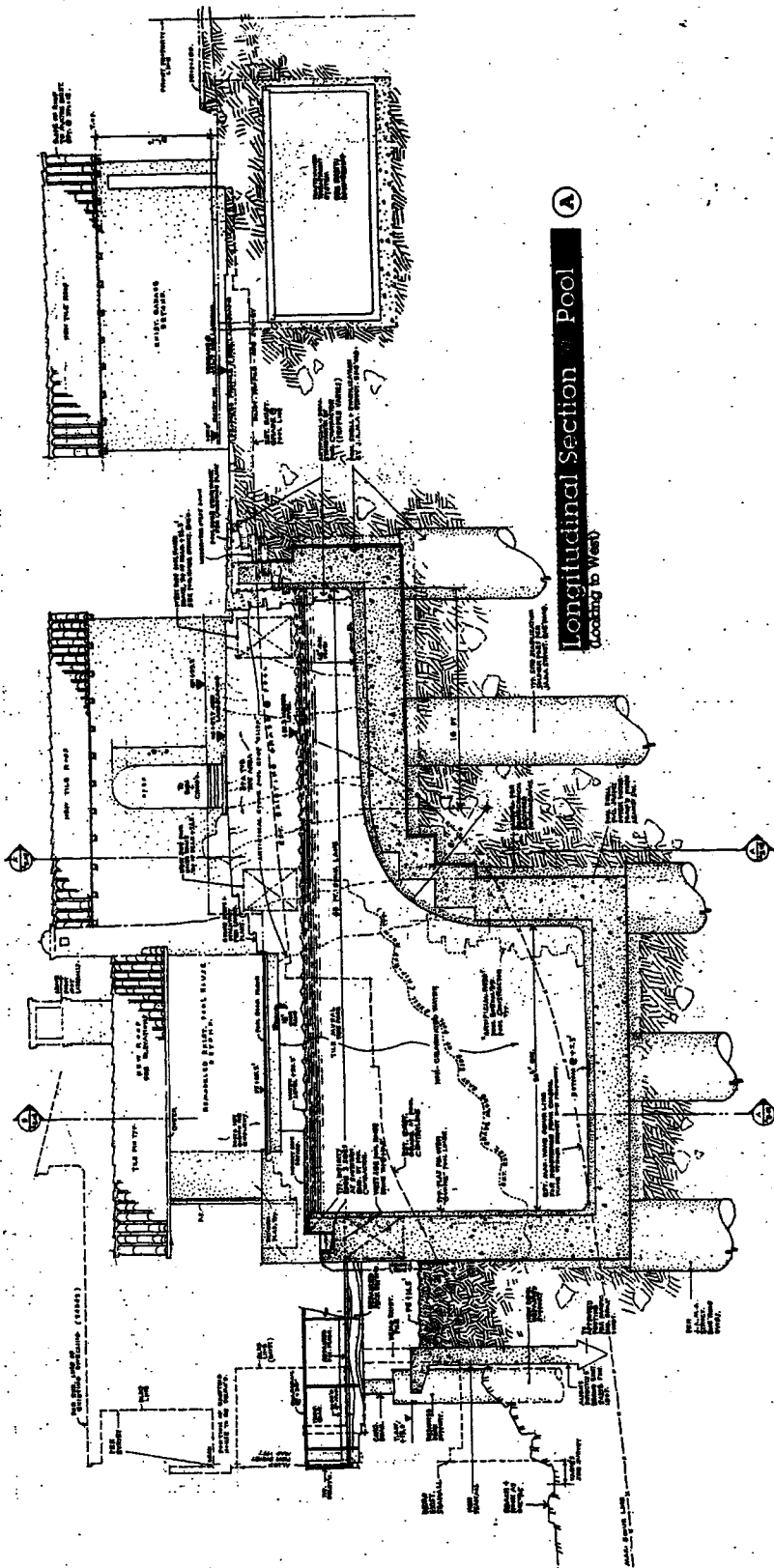
14114
Northside
Street
Pacific
Palisades
California
90272-4262
310
489.7919
Fax
310.459.7292

Chaney House
24334 Malibu Road
Malibu, California

Pool
Longitudinal
Section

JOB NUMBER: 9902.3
SCALE: 1/2"=1'-0"
DRAWN BY: SCS
DATE: 1/1/03
KEYPHONE: 310.459.7919
FAX: 310.459.7292

A5.04





ISSUE DATES	BY	DATE	DESCRIPTION

SHEET TITLE	
GRADING AND DRAINAGE PLAN	
DESIGNED BY	
DRAWN BY	
CHECKED BY	
PROJECT NO.	
C2	

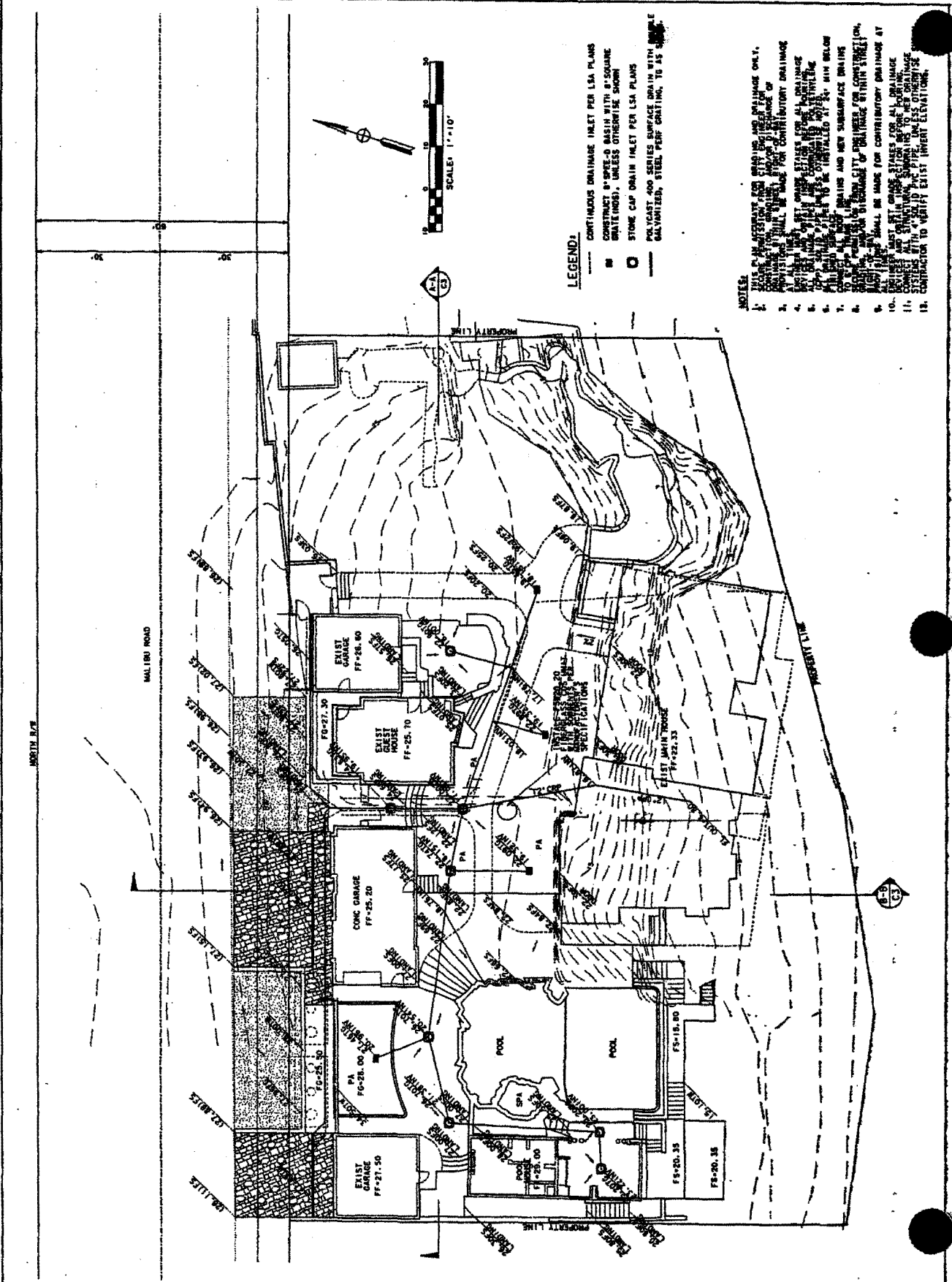


EXHIBIT NO. 25
APP. NO. 4-01-131
GRADING PLAN

CALIFORNIA STATE LANDS COMMISSION
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202



PAUL D. THAYER, Executive Officer
(916) 574-1800 FAX (916) 574-1810
California Relay Service From TDD Phone 1-800-735-2922
from Voice Phone 1-800-735-2929

Contact Phone: (916) 574-1892
Contact FAX: (916) 574-1925

July 21, 1999

File Ref: SD 98-06-22.2

Rec'd: 10.19.01
WCA

Anne E. Mudge
Washburn, Briscoe & McCarthy
55 Francisco Street, Suite 600
San Francisco, CA 94133

Dear Ms. Mudge:

SUBJECT: Coastal Development Project Review for Retention of Existing Rock
Seawall Adjacent to 24330/24334 Malibu Road, Malibu

This is in response to your request on behalf of your clients, Blaine and Sarah Chaney, for a determination by the California State Lands Commission (CSLC) whether it asserts a sovereign title interest in the property that the subject project will occupy and whether it asserts that the project will intrude into an area that is subject to the public easement in navigable waters.

The facts pertaining to your project, as we understand them, are these:

Your clients are seeking after-the-fact approval for repairs to and legalization of an existing rock seawall that was constructed by previous property owners. The rock seawall is located partially underneath the existing residence, extends along the east side beyond the residence, and continues along the adjacent bank slope. Your clients' property extends across Lots 14 and 15 in the Amarillo Beach area at 24330/24334 Malibu Road. This is a well-developed stretch of beach with numerous residences/decks both up and down coast.

Based on our review of the March 19, 1998 Site Plan/Topo Map prepared by Wylie Carter Architects and Larry Pearson, Land Surveyor, a portion of the existing residence and rock seawall encroach over two historical mean high tide lines, one surveyed by the County of Los Angeles in 1928 and the other a July 1945 tract map survey. That same map shows a mean high tide line surveyed on March 10, 1997 that at one point intersects with the most easterly corner of the existing deck. CSLC staff presently has no additional information regarding the location of the boundary between state and private property in this area.

EXHIBIT NO. 26a

APP. NO. 4-01-131

CALIFORNIA STATE LANDS
COMMISSION LETTER, JULY 1999

COPY

July 21, 1999

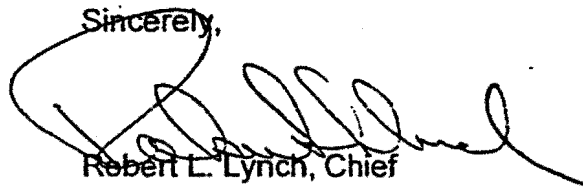
Based on the foregoing, we do not at this time have sufficient information to determine whether the subject project intrudes upon state sovereign lands or interferes with other public rights. Development of information sufficient to make such a determination would be expensive and time-consuming. Given the limited resources of this agency and the circumstances set forth above, we do not think such an expenditure of time, effort and money is warranted in this situation, at this time.

Because your clients are trying to obtain a coastal development permit to legalize the existence of and repairs to an existing rock seawall which has been in place for many years, we do not object to the California Coastal Commission (CCC) proceeding with the processing of the permit application. However, we reserve the right to comment to the CCC and take any other appropriate action involving future assertion of state ownership or public rights on the property. Should it be determined in the future that a portion of the existing improvements involves state property, a lease or possible removal may be required.

On a related matter, CSLC staff observed, on a visit to the site, an existing pipe located underneath the residence and extending seaward several feet onto the beach, as well as what appears to be remnants of a timber bulkhead and steel frame located on the beach several feet seaward of the residence. Pursuant to your phone conversation with Curtis Fossum, Senior Staff Counsel, and Jane Smith, Public Land Management Specialist, and confirmed by the signatures of your clients on your June 10, 1999 letter, these structures will be removed as soon as feasibly possible, but no later than January 1, 2000.

If you have any questions, please contact Jane E. Smith, Public Land Management Specialist, at (916) 574-1892.

Sincerely,



Robert L. Lynch, Chief
Division of Land Management

cc: Craig Ewing, City of Malibu

COPY

CALIFORNIA STATE LANDS COMMISSION
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

RECEIVED

OCT 31 2001

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT



October 16, 2001

PAUL D. THAYER, Executive Officer
California Relay Service From TDD Phone 1-800-735-2922
from Voice Phone 1-800-735-2929

Contact Phone: (916) 574-1892
Contact FAX: (916) 574-1925

REC'D
WCA
10-19-01

File Ref: SD 01-05-08.6

J. Scott Carter
Wylie Carter Architects
16116 Northfield Street
Pacific Palisades CA 90272-4262

Dear Mr. Carter:

SUBJECT: Coastal Development Project Review for Groin Removal and
Remodeling of Three Existing Homes, 24342, 24338, 24334 Malibu
Road, Malibu

This is in response to your request on behalf of your clients, Blaine and Sarah Chaney, for a determination by the California State Lands Commission (CSLC) whether it asserts a sovereign title interest in the property that the subject project will occupy and whether it asserts that the project will intrude into an area that is subject to the public easement in navigable waters.

The facts pertaining to your clients' project, as we understand them, are these:

Your clients propose to remove the remnants of a deteriorated steel and plywood groin from the beach as part of a proposed remodel project involving three lots (Lots 15 16 and 17) containing three existing homes at 24342, 24338 and 24334 Malibu Road in the Amarillo Beach area of Malibu. Your client also owns the adjacent lot (Lot 14) at 24330 Malibu Road, which is vacant other than the seawall that extends across it. The remodel project involves the demolition of two-thirds of the westernmost house at 24342 to construct a swimming pool. The remaining two homes at 24338 and 24334 will be linked and converted into a single home. The project will also involve repairs to an existing seawall that is located in front of the westernmost lots (24342) and construction of a new seawall underneath 24338 and 24334 to protect the new septic system. This is a well-developed stretch of beach with numerous residences both up and down coast.

Our files indicate that in 1999, we reviewed the March 19, 1998 Site Plan/Topo Map developed for after-the-fact approval by the California Coastal Commission for

EXHIBIT NO. 26b
APP. NO. 4-01-131
CALIFORNIA STATE LANDS
COMMISSION LETTER OCT 2001

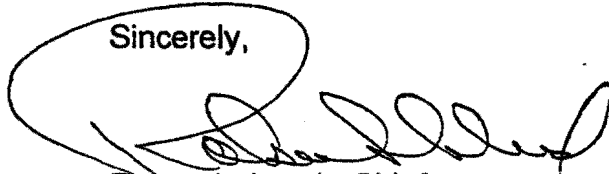
COPY

repairs to and legalization of the existing rock seawall located on Lots 14 and 15. By letter dated July 21, 1999, a copy of which is attached, your clients' attorney was advised that a portion of the existing residence and rock seawall located on Lots 14 and 15 encroach over two historical mean high tide lines, one surveyed by the County of Los Angeles in 1928, and the other the Tract Map of July 1945. The 1998 Site Plan/Topo Map also showed a mean high tide line surveyed on March 10, 1997 that at one point intersects with the most easterly corner of the existing deck.

Your clients were also required, and agreed in writing, to remove an existing pipe and remnants of the groin no later than January 1, 2000. A copy of the June 10, 2001 letter signed by your clients is attached. We would expect, therefore, that your clients will proceed expeditiously to remove these structures.

If you have any questions concerning the CSLC's jurisdiction, please contact Curtis L. Fossum at (916) 574-1828.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert L. Lynch", is written over a large, hand-drawn oval. The signature is fluid and cursive.

Robert L. Lynch, Chief
Division of Land Management

cc: Barry Hogan, City of Malibu

COPY

CALIFORNIA STATE LANDS COMMISSION

10 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

RECEIVED



JAN 14 2002

CALIFORNIA
COASTAL COMMISSION
SOUTHERN CENTRAL COAST DISTRICT

January 9, 2002

File Ref: SD 98-06-22.2/SD 01-05-08.6

PAUL D. THAYER, Executive Officer

(916) 574-1800 FAX (916) 574-1810

California Relay Service From TDD Phone 1-800-735-2922
from Voice Phone 1-800-735-2929

Contact Phone: (916) 574-1892

Contact FAX: (916) 574-1925

Cara Kemmler
California Coastal Commission
89 South California Street, Suite 200
Ventura, CA 93001-2801

Dear Ms. Kemmler:

SUBJECT: Coastal Development Project Review for Groin Removal and
Remodeling of Three Existing Homes at 24342, 24338, 24334
Malibu Road, Malibu, CDP Application No. 4-01-131

This letter will supplement our letter of October 16, 2001, concerning the subject project. Staff of the California State Lands Commission does not have sufficient information to determine whether the subject project intrudes upon state sovereign lands or interferes with other public rights. Development of information sufficient to make such a determination would be expensive and time-consuming. Given the limited resources of this agency and the circumstances set forth in our previous letter, we do not think such an expenditure of time, effort and money is warranted in this situation, at this time.

Therefore, we do not object to the California Coastal Commission (CCC) proceeding with the processing of the permit application. We reserve the right, however, to comment to the CCC and take any other appropriate action involving future assertion of state ownership or public rights on the property. Should it be determined in the future that a portion of the existing improvements involves state property, a lease or possible removal may be required.

Sincerely,

Jane E. Smith
Public Land Management Specialist
Southern California Region

cc: Anne E. Mudge

EXHIBIT NO. 26c

APP. NO. 4-01-131

CALIFORNIA STATE LANDS
COMMISSION LETTER JAN, 2002



PHOTO: View from air. Malibu State Park to the north (top of photo), subject lots in the center of photo (as indicated by arrows) and existing development along Amarillo Beach.



24342 24338 24334 24330

EXHIBIT NO. 27
APP. NO. 4-01-131
AERIAL PHOTO





PHOTO 1: View from beach looking northwest. The three existing residences starting with the brown house on the westernmost lot, in order from left to right, culminating with the pink house: 24342, 24338 & 24334 Malibu Rd.



PHOTO 2: View from beach looking west. Eastern lot with rock and concrete wall, vertical stone wall and wooden gate at 24330 Malibu Rd.

*EXHIBIT NO. 28
APP. NO. 4-01-131
PHOTOS ON BEACH*

