

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
100 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

Filed: 5/12/2003
49th Day: 6/30/2003
180th Day: 11/8/2003
Staff: CP-LB
Staff Report: 8/20/2003
Hearing Date: September 11, 2003
Commission Action:

**Th 5b****RECORD PACKET COPY****STAFF REPORT: CONSENT CALENDAR****APPLICATION NUMBER:** 5-03-136**APPLICANTS:** Daniel & Melinda Berman**AGENT:** Eric Charles Parlee, Architect**PROJECT LOCATION:** 607 Muskingum Avenue, Pacific Palisades, City of Los Angeles, Los Angeles County.**PROJECT DESCRIPTION:** Construct a 6-foot high, 68-foot long retaining wall (with 11 caissons) along rear property line of a 7,766 square foot lot with an existing single family residence.

Lot Area	7,766 square feet
Building Coverage	2,591 square feet
Pavement Coverage	2,061 square feet
Landscape Coverage	3,114 square feet
Parking Spaces	2
Zoning	R1-1
Plan Designation	Single Family
Ht above final grade	6 feet (retaining wall)

LOCAL APPROVALS:

1. City of Los Angeles Planning Department Approval in Concept, Case No. ZA2003-2344-AIC, 4/3/2003.
2. City of Los Angeles Department of Building & Safety, Approval Letter dated 6/27/2002 (Log No. 36387-01), for Geology/Soil Report by Ninyo & Moore Geotechnical and Environmental Services Consultants, 10/24/2001.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission grant a coastal development permit for the proposed development with special conditions relating to permit compliance, protection of the adjacent stream course, water quality, and assumption of risk. The applicants agree with the recommendation. **See Page Two for Motion.**

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution to **APPROVE** the coastal development permit application with special conditions:

MOTION: *"I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations."*

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

I. Resolution: Approval with Conditions

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 of the Coastal Act. 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 this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any 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. Permit Compliance

All development must occur in strict compliance with the proposal as set forth in the application, subject to any special conditions. Any deviation from the approved plans must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations.

2. Protection of Stream Course - Construction Staging Plan

This coastal development permit does not permit any disturbance or alteration of the stream course that exists west (behind) of the project site. To this end, the permittees shall stage and complete the construction of the approved development consistent with the proposed "Construction Staging Plan" attached as Exhibit #6 to the **Staff Report dated August 20, 2003**. In the event that any soil or other matter falls into the stream course during construction of the approved development, the permittees shall immediately remove such material from the stream course using non-mechanized equipment.

3. Protection of Marine Resources

The storage or stockpiling of soil, silt, other organic or earthen materials, or any materials and chemicals related to the construction shall not occur where such materials/chemicals could pass into the water. Any spills of construction equipment fluids or other hazardous materials shall be immediately contained on-site and disposed of in an environmentally safe manner as soon as possible. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than fifty feet away from all stormdrains, open ditches and surface waters. All floatable debris and trash generated by construction activities within the project area shall be disposed of at the end of each day, or as soon as possible. All grading and excavation areas shall be properly covered and sandbags and/or ditches shall be used to prevent runoff from leaving the site, and measures to control erosion must be implemented at the end of each day's work.

4. Assumption of Risk

By acceptance of this coastal development permit, the applicants/landowners acknowledge and agree: (i) that the site may be subject to hazards from seismic events, floods and surficial failure; (ii) to assume the risks to the permittee and the property that is the subject of this permit of injury and damage from such hazards and/or injuries in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards and/or injuries; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit a written agreement, in a form and content acceptable to the Executive Director, accepting all of the above terms of this condition.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The applicants propose to extend the flat part of their rear yard about eight feet westward by constructing a four-to-six-foot high, 68-foot long retaining wall between the existing swimming pool and the rear (western) property line (Exhibit #3). Eleven two-foot diameter caissons would provide the structural support for the proposed project (Exhibit #5). A 36-inch high guardrail is proposed along the top of the proposed retaining wall. The sloping site is already developed with an existing two-story single family residence, patio and swimming pool (Exhibit #4). The existing house, built in the 1950s, is situated on the uphill (eastern) portion of the 7,766 square foot lot.

The project site is situated on the eastern side of Las Pulgas Canyon in the Pacific Palisades area of the City of Los Angeles (Exhibits #1&2). A running stream exists on the canyon floor below the applicant's property, but the proposed project does not include any alteration or disturbance of the stream course. The proposed retaining wall would be situated entirely on the applicants' property, approximately thirty feet east of the stream course. In order to prevent any disturbance of the stream course, the applicants have submitted a proposed "Construction Staging Plan" which is attached as Exhibit #6 to this report (Exhibit #6). As part of the proposed project, the applicants would erect a temporary debris fence to prevent any matter from falling into the stream.

Approximately sixty cubic yards of grading (cut) is necessary for the proposed project. Approximately 32 cubic yards of the cut material would be used as backfill, and 28 cubic yards would be exported to Potrero Canyon, an approved disposal site (for clean fill only) located about two miles from the project site. Although some surficial slope failure is evident on the site, no major landslides are known to exist on the project site. The City of Los Angeles Department of Building and Safety has reviewed and approved the geotechnical evaluation for the site and the proposed project [Approval Letter dated 6/27/2002 (Log No. 36387-01) for Geology/Soil Report by Ninyo & Moore Geotechnical and Environmental Services, 10/24/01].

Will Rogers State Beach is located one-half mile south of the project site, where Las Pulgas Canyon meets the shoreline (Exhibit #1). The proposed project, however, would not be visible from the shoreline, the state beach, Pacific Coast Highway or any other public area. The proposed project is not located on a coastal bluff. Therefore, the proposed retaining wall will not have a significant negative effect on public views to or from the ocean or any other public area. The proposed project conforms to the existing pattern of development in the area, is consistent with community character, and will have no negative effects on visual resources or coastal access. The project is consistent with Chapter 3 policies of the Coastal Act and previous Commission approvals, and will not prejudice the City's ability to prepare an LCP.

B. Public Access

The proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

C. Public Recreation

The proposed development does not interfere with public recreational use of coastal resources. The proposed development protects coastal areas suited for recreational activities. Therefore, the Commission finds that the proposed development is in conformity with Sections 30210 through 30214 and Sections 30220 through 30223 of the Coastal Act regarding the promotion of public recreational opportunities.

D. Marine Resources and Water Quality

The proposed work will be occurring in a location where there is a potential for a discharge of polluted runoff from the project site into coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be carried into coastal waters would result in an adverse effect on the marine environment. To reduce the potential for construction and post-construction related impacts on water quality, the Commission imposes special conditions requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and for the use of on-going best management practices following construction. As conditioned, the Commission finds that the development conforms with Sections 30230 and 32031 of the Coastal Act.

E. Development

The development is located within an existing developed area and, as conditioned, will be compatible with the character and scale of the surrounding area, has been designed to assure structural integrity, and will avoid cumulative adverse impacts on public access. Therefore, the Commission finds that the development, as conditioned, conforms with Sections 30250, 30251, 30252, 30253 and the public access provisions of the Coastal Act.

F. Environmentally Sensitive habitat Areas (ESHA)

As conditioned, the development will not result in significant degradation of adjacent habitat, recreation areas, or parks and is compatible with the continuance of those habitat, recreation, or park areas. Therefore, the Commission finds that the project, as conditioned, conforms with Section 30240(b) of the Coastal Act.

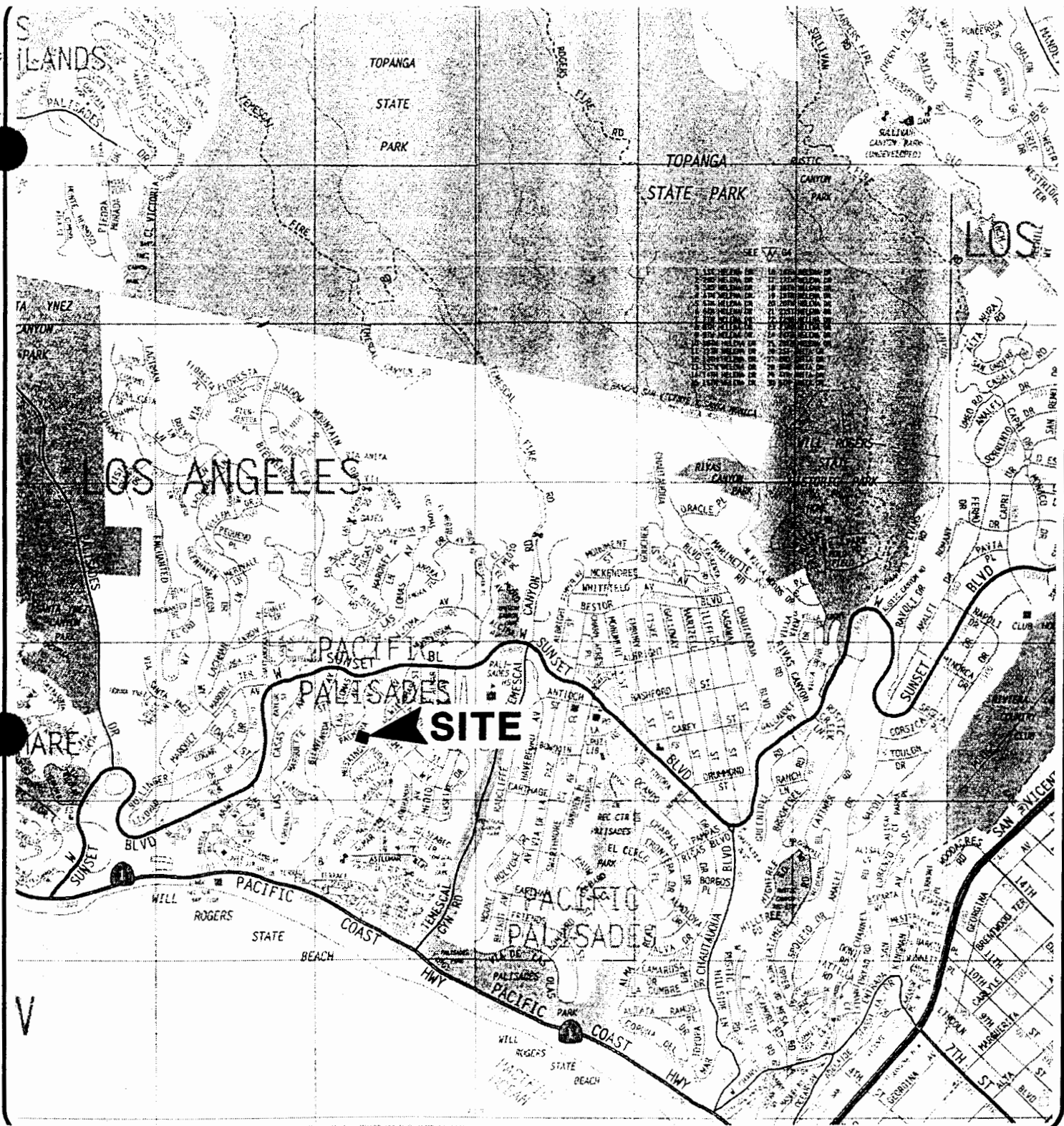
G. Local Coastal Program

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act

H. California Environmental Quality Act (CEQA)

As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

End/cp



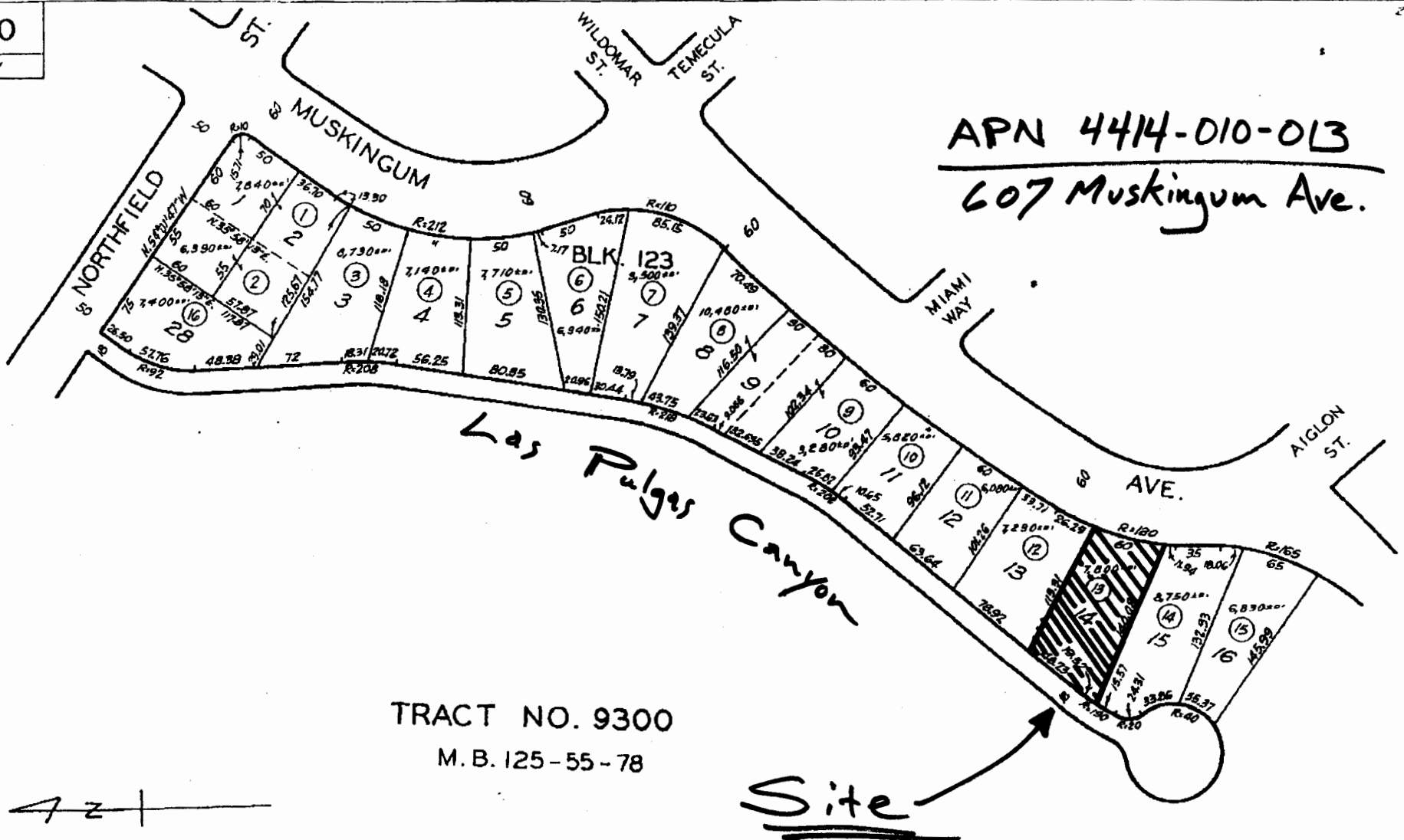
Site: 607 Muskingum Avenue
 Pacific Palisades
 City of Los Angeles

COASTAL COMMISSION
 5-03-136

EXHIBIT # 1
 PAGE 1 OF 1

4414 10

1" = 80'

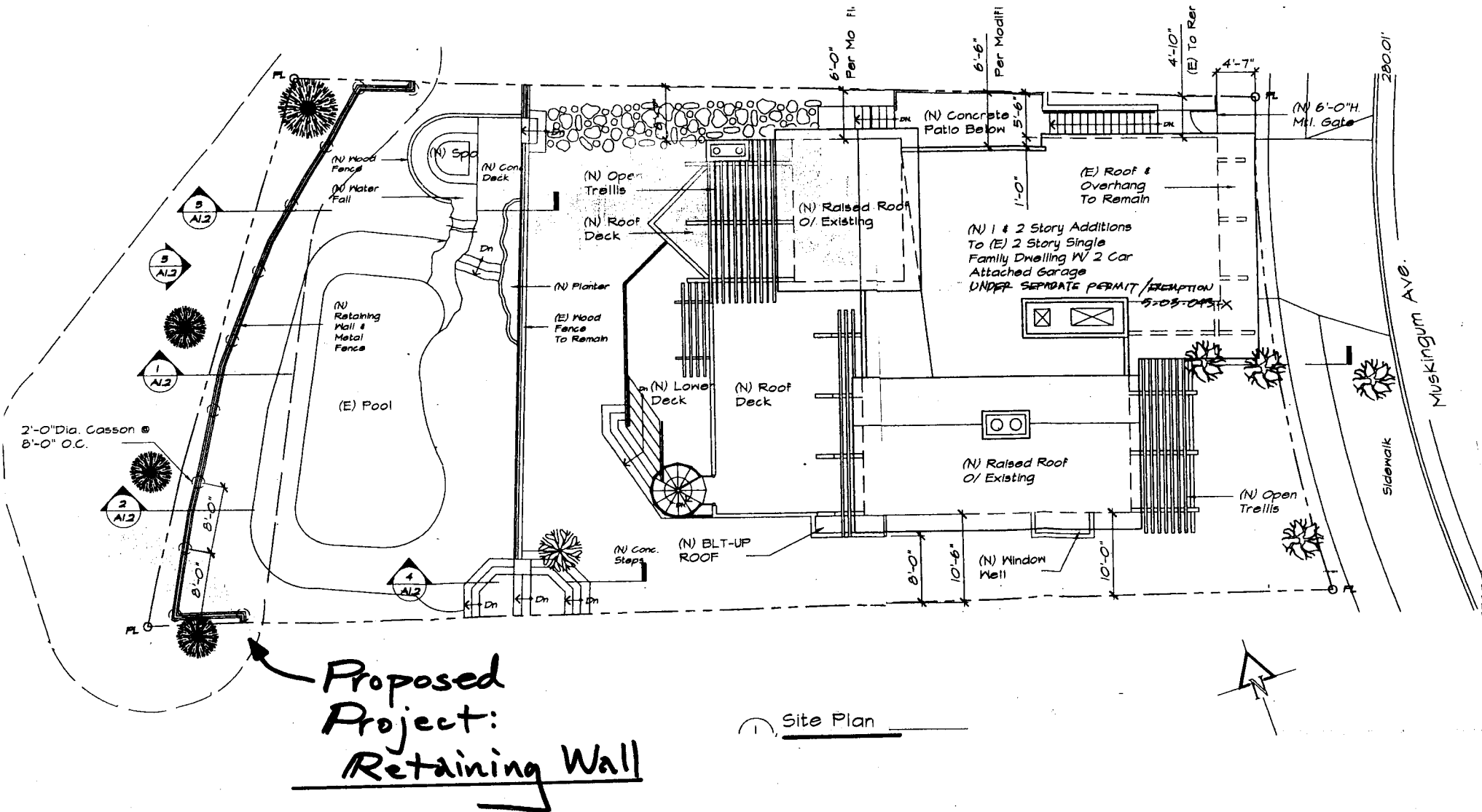


CODE
67

COASTAL COMMISSION
5-03-136

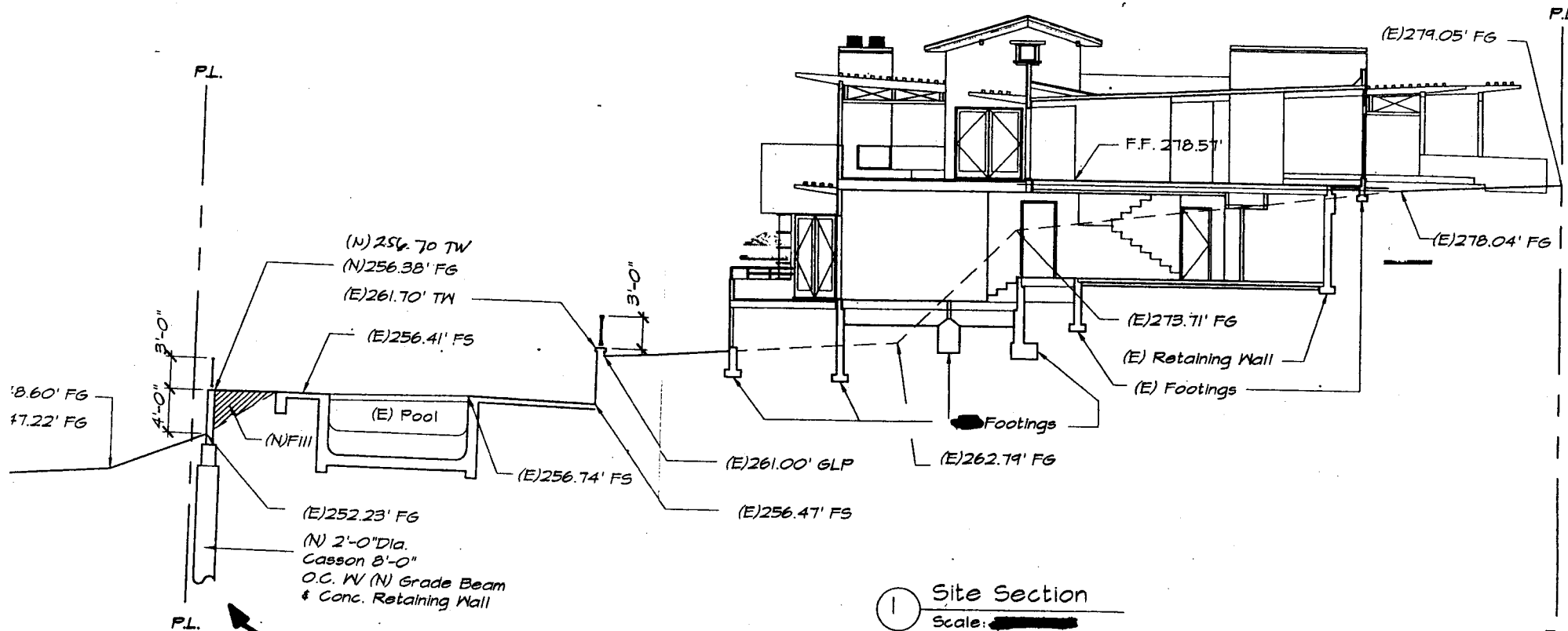
EXHIBIT # 2

PAGE 1 OF 1



COASTAL COMMISSION
5-03-136

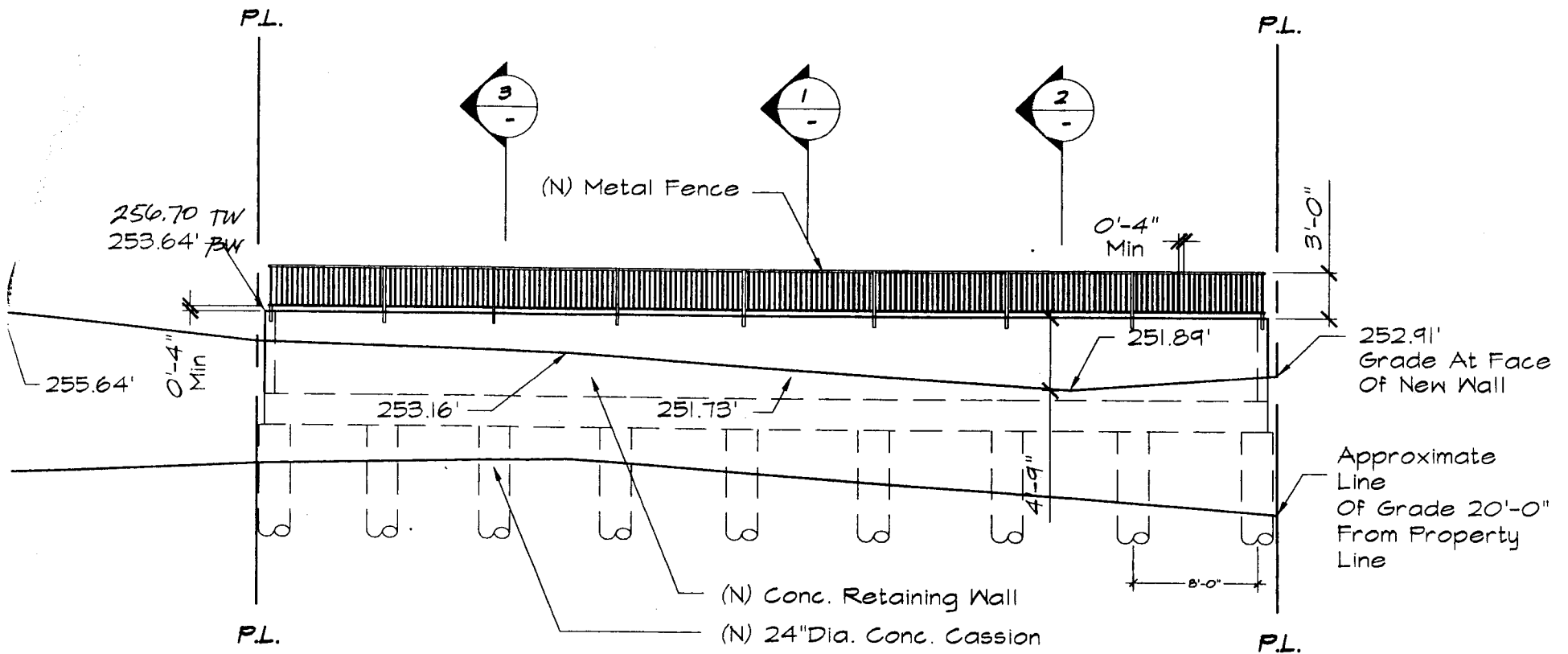
EXHIBIT # 3
PAGE 1 OF 1



Proposed Project:
Retaining Wall & Fill

COASTAL COMMISSION
 5-03-136

EXHIBIT # 4
 PAGE 1 OF 1



5 (N) Retaing Wall & Guardrail Elevation - West

COASTAL COMMISSION
5-03-136

EXHIBIT # 5
PAGE 1 OF 1

tru

ERIC
CHARLES
PARLEE

RECEIVED
South Coast Region

JUL 29 2003

July 28, 2003

California State Coastal Commission
South Coast Area

CALIFORNIA
COASTAL COMMISSION

200 Oceangate, 10th Floor
Long Beach, CA 90802-4325

Re: Berman Residence
607 Muskingum Avenue
Pacific Palisades, CA 90272
Coastal Application 5-03-B6


Construction management practices for proposed retaining wall and backfill

Attn: Charles Posner
Brentwood/Palisades

Dear Charles:

Following up on our last conversation, this letter is to clarify some important aspects of the means and methods of construction of the proposed retaining wall. In order to prevent any damage farther down the slope from where the wall is to be located and to prevent any slough or debris from excavation spilling out into the canyon a temporary 4 foot high post and plywood fence will be constructed four to five feet down the slope from the face of the proposed wall location. The ivy vine and any other brush currently growing over the existing fence will be removed along with the existing fence. The trees shall remain undisturbed, and on the downslope side of the temporary debris fence. Some of the caissons may possibly be hand dug, but the contractor is proposing the use of a compact limited access drill rig that can maneuver in areas less than 5 feet wide for those that must be drilled. All the machine work will be done from above the proposed wall and not in the downslope area. No other construction debris such as excess concrete will be allowed to flow into the canyon. The project will require a grading permit from the City of Los Angeles, and the necessary Storm water Development Pollution Prevention program (SWPP) will apply. A copy of these measures is enclosed with this letter for reference. After completion of the wall, the exposed downslope area will be seeded and planted with compatible ground cover to prevent unnecessary erosion in the interim that the natural vegetation will recover. I will be happy to answer any questions concerning this proposal.

Sincerely,


Eric Charles Parlee
Architect
C 9077

cc Dan and Melinda Berman

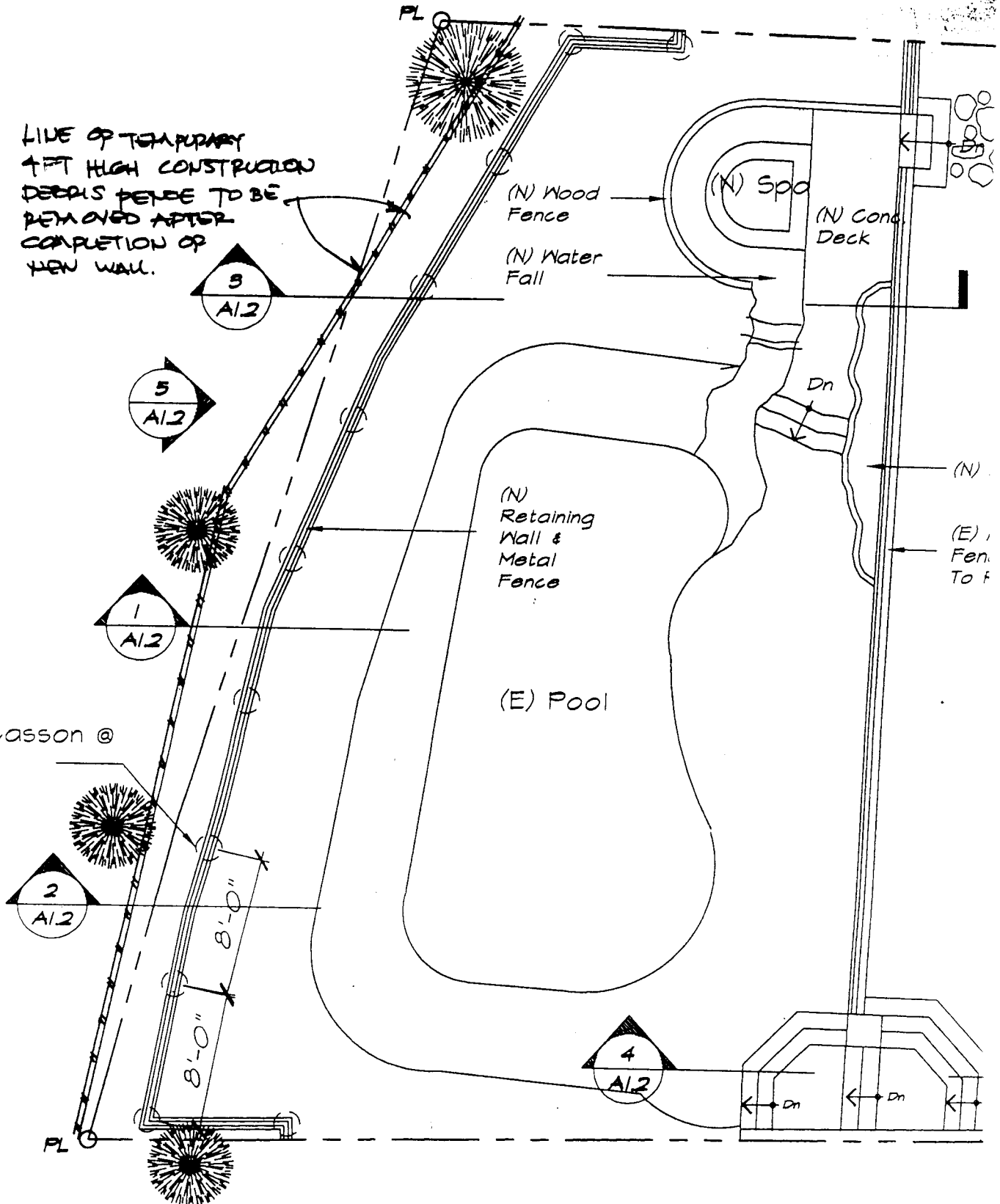
COASTAL COMMISSION

5-03-136

EXHIBIT # 6

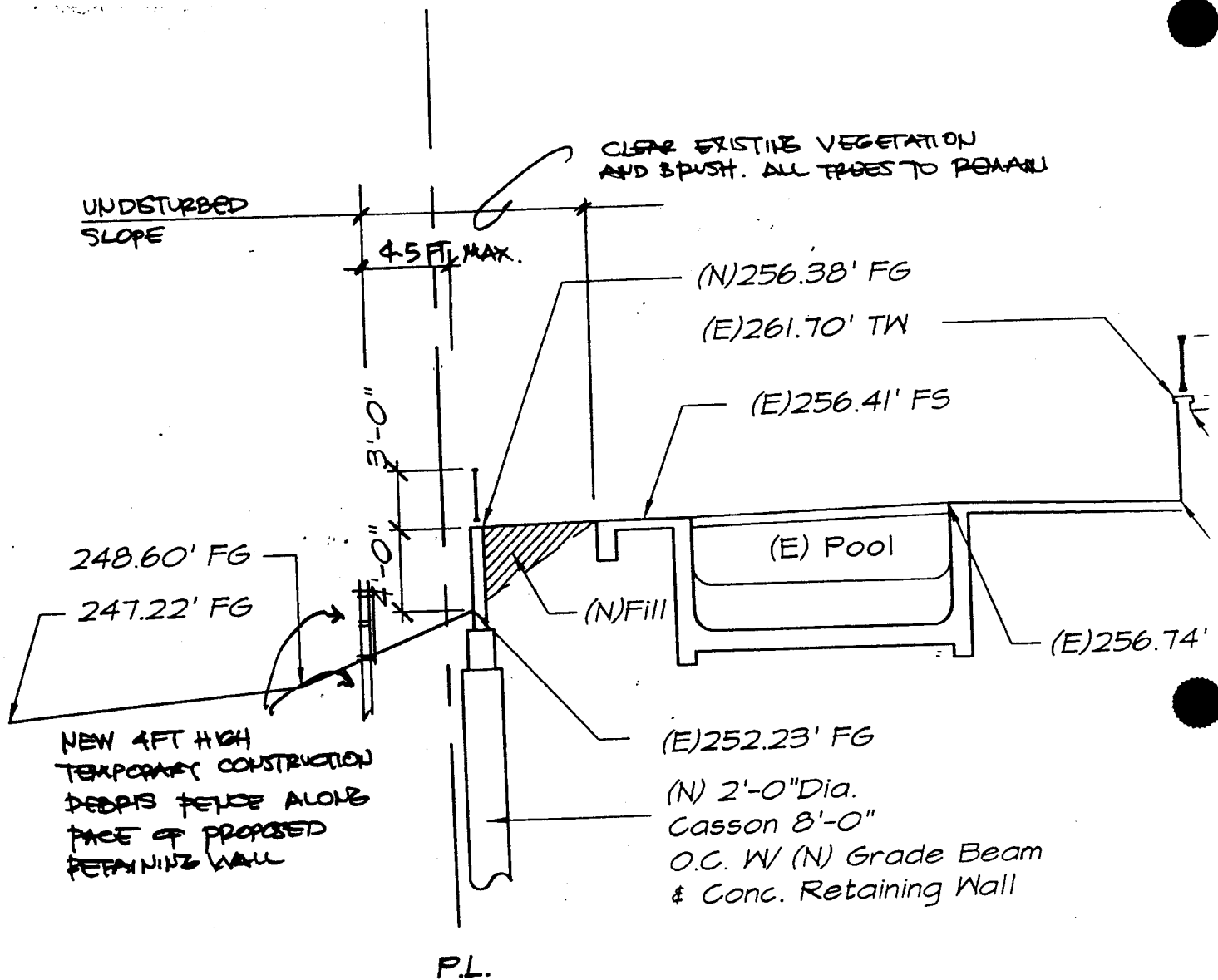
PAGE 1 OF 4

LIVE OF TEMPORARY
4 FT HIGH CONSTRUCTION
DEBRIS FENCE TO BE
REMOVED AFTER
COMPLETION OF
PEN WALL.



COASTAL COMMISSION
5-03-136

EXHIBIT # 6
PAGE 2 OF 4



COASTAL COMMISSION
5-03-136

EXHIBIT # 6
PAGE 3 OF 4

SWPP General notes

Stormwater Development Construction Program

Prior to the issuance of a building or grading permit, a local Storm Water Pollution Prevention Plan (SWPPP) shall be prepared, reviewed and approved by the Bureau of Engineering, Public Works, City of Los Angeles showing all Best Management Practices (BMPs) necessary to control and prevent discharge of pollutants into the storm drain system as generated by construction activities specific to the site. A listing of BMPs is contained in the "Development Best Management Practices Handbook, Part A Construction Activities" published by the Stormwater Management Division, City of Los Angeles.

1. Proper disposal of all wastes will be provided to keep pollutants from the storm water runoff which will be conveyed to the storm drain system.
2. Hazardous materials, fertilizers, pesticides, plasters, solvents, paints, and other compounds will be properly handled in order to reduce the risk of pollution or contamination. Training and information on procedures for the proper use of all materials will be available to the employees that apply such materials.
3. Hazardous materials and wastes will be stored in covered containers and protected from vandalism.
4. Hazardous materials must be disposed of in accordance with State and Federal regulations.
5. Concrete wastes will not be discharged into the storm drain system.
6. Concrete wastes deposited on site shall set-up, be broken apart, and disposed properly. Sanitary sewer facilities on site are required to be in compliance with local health agency requirements. Sanitary or septic wastes must be treated or disposed of in accordance with state and local requirements.
7. A wet Weather Erosion Control Plan (WWECP) will be required if the project leaves disturbed soil during the rainy season (October 1 to April 15 of the following year). The WWECP must be prepared, for projects that have already broken ground, not less than 30 days prior to the beginning of each rainy season. A copy of the WWECP shall be kept on the project site at all times beginning 30 days prior to the start of the rainy season through the end of the rainy season. For projects that will begin construction during the rainy season, the WWECP must be available 30 days before construction commences. The WWECP shall be submitted to the Bureau of Engineering, Public Works for review and approval.
8. Self inspection shall be performed by developer/contractor to ensure the selected BMPs are properly implemented and functioning effectively, and to identify maintenance and repair. A self-inspection checklist, noting and date, time, conditions and inspections date, will be kept on-site and made available to city inspectors upon request. Self-inspections will be performed according to the following schedule:
 - Before every rainfall event that is predicted to produce observable runoff and after every rainfall event that produces observable runoff, and
 - At 24-hour intervals extended rainfall events (except weekends or holidays when there is no on-going site activity on those days).

COASTAL COMMISSION

3-03-136

EXHIBIT #

6

PAGE 4 OF 4

