

CALIFORNIA COASTAL COMMISSION

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

Filed: 12/7/96
 49th Day: waived
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 Staff: J. Johnson
 Staff Report: 2/20/97
 Hearing Date: 3/13/97
 Commission Action:
 7805A



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STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 5-84-610-A-2

APPLICANT: Ron Goldman

AGENT: Goldman, Firth, Boccato, Architects

PROJECT LOCATION: 24955 Pacific Coast Highway, City of Malibu, Los Angeles County

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construct three, two and three story commercial office buildings totalling 19,000 sq. ft. of commercial office space which includes 3,000 sq. ft. of basement storage in the three story office building 'C', and construct 64 parking spaces.

DESCRIPTION OF AMENDMENT: Convert existing 3,000 sq. ft. of basement storage to commercial office and storage uses within one of three existing office buildings, totalling 19,000 sq. ft.. Construct 22 additional parking spaces to an existing 70 space parking lot, providing a total of 92 parking spaces by grading 231 cubic yards and constructing a retaining wall. There are no exterior changes to the building. This application includes 'as built' developments.

Lot area:	1.51 acres
Building coverage:	9,024 sq. ft.
Pavement coverage:	26,799 sq. ft.
Landscape coverage:	32,955 sq. ft.
Parking spaces total:	92
Plan designation:	General Commercial
Ht abv fin grade:	35 feet

LOCAL APPROVALS RECEIVED: City of Malibu Planning Department, Approval in Concept dated 1/14/97, 8/7/96, 5/8/94, 5/5/94.

SUBSTANTIVE FILE DOCUMENTS: Coastal Permit 5-84-610, Goldman; Coastal Permit Amendment 5-84-610-A, Goldman; Coastal Permit 5-96-152, Domingue; Coastal Permit 5-90-571, 22619 Partners; Coastal Permit 5-90-571-A, 22619 Partners; Coastal Permit 5-88-840, Michael Katz Enterprises, Inc.; Coastal Permit 5-89-013, Michael Katz Enterprises, Inc..

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission determine that the proposed development with the proposed amendment is consistent with the requirements of the Coastal Act.

PROCEDURAL NOTE: The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) the proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

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

II. Standard Conditions.

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date 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. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.

6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions.

None

IV. Findings and Declarations.

The Commission hereby finds and declares as follows:

A. Project Description and Location:

The project site includes an existing 19,000 sq. ft., three story, commercial office building with an approved 3,000 sq. ft. office storage area located in the basement of Building C. The applicant requests approval to convert the 3,000 sq. ft. of office storage space to allow for professional office and interior tenant improvements. (Exhibits 3 and 4) The applicant also requests approval of 22 additional parking spaces and a six foot high (about 200 foot long) retaining wall along the northern boundary of the parking lot. These developments are 'as built' and have been completed without benefit of a coastal development permit. Currently, a physical therapist and therapy gym occupies 1,500 sq. ft., while an architect occupies about 1,000 sq. ft. with another 500 sq. ft. of office storage. There are no changes to the exterior building footprint or elevations; no new commercial office space is proposed to be constructed.

The project site is located on the inland side of Pacific Coast Highway west of Pepperdine University and the Civic Center, and immediately east of Puerco Canyon Road. (Exhibits 1 and 2) The commercial office building is part of a three building complex located between a commercial nursery on the west and a residence, vacant lot, and a religious facility to the east.

B. Background and Permit History

The Commission approved the construction of three buildings totalling 16,000 square feet of commercial office space with 64 parking spaces on the subject site in October 1984 (Coastal Permit No. 5-84-610). After the project was constructed, the Commission approved an Immaterial Amendment (No. 5-84-610-A) to construct an addition to one of the buildings. The addition consisted of enclosing a large open area beneath the two story structure to create a basement. This basement area became an enclosed storage area of 3,000 sq. ft. Sometime after the construction of the buildings, six additional parking spaces were provided on site by restripping the parking lot. In 1994, the applicant received approval from the City of Malibu to construct 22 additional parking spaces by grading the site and constructing a retaining wall. In August 1996, the applicant received approval from the City of Malibu to convert the storage space for commercial use by approving tenant interior improvements. The City of Malibu issued building permits to the applicant without the benefit of coastal development permits. The applicant now proposes to apply for a coastal permit to convert this basement storage to 'as

built' commercial office and storage uses, and construct 22 additional parking spaces and a retaining wall to resolve the unpermitted status of these improvements.

C. Public Access / Development

The following Coastal Act policies are relevant:

Section 30211 of the Coastal Act 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.

Section 30212.5 of the Coastal Act states:

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30250 of the Coastal Act states:

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

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by, ... (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation...

The Commission has relied on the certified Malibu / Santa Monica Mountains Land Use Plan (LUP) for guidance in past permit decisions. Development is guided by the Land Use Plan map and associated development standards. The subject site is designated for general commercial land uses.

The General Commercial designation allows as "principal permitted (land) use(s), commercial business uses with an emphasis on retail stores to serve local needs. However, this general category does not preclude a full range of local and regional business uses including retail stores, office buildings, service businesses, government facilities, and other similar non-residential uses."

The Malibu Land Use Plan also recognizes that general commercial development has cumulative impacts on public recreational opportunities to access the beach by developing land that could otherwise be used for recreation-oriented development, and by increasing traffic and parking demand in areas near the beach. The LUP contains a policy to ensure that such development help mitigate

impacts on public recreation and access by contributing to a special fund established for the purpose of increasing access opportunities in the Malibu area:

P54 To help finance the construction and maintenance of new vertical access points, a fund shall be established by the County of Los Angeles to accept reasonable and equitable user fees, franchise fees, and other appropriate revenue. In particular, a one-time fee based on the gross square footage of the structure shall be required of new non-visitor serving commercial (that is, uses other than hotels, motels, restaurants, and similar uses intended primarily for patronage by visitors) and general office uses approved on the coastal terrace in the Malibu coastal zone for deposit into the fund described herein. (emphasis added)

The Commission has in past actions required applicants to participate in a fund for public access improvements in Malibu as provided in Policy 54. For example, in Coastal Development Permit No. 5-88-840 (Michael Katz Enterprises) for the construction of a second story addition to an existing commercial building and construction of a new commercial building, the Commission required the applicant to contribute to the Malibu Beach Access Fund for the new non-visitor serving commercial uses. In Coastal Development Permit No. 5-90-571 for the demolition of three commercial buildings and construction of a new commercial office complex, the Commission also required the applicant to contribute to the Malibu Beach Access Fund for the new non-visitor serving commercial uses.

The subject commercial office building was approved by the Commission in October 1984 before the Malibu LUP was certified in December 1986. In this subject application, no new construction of commercial office space is proposed. The applicant proposes to convert 3,000 sq. ft. of office storage space to allow for professional office and tenant improvements. There are no changes to the exterior building footprint or elevations. Because no new commercial office space is proposed to be constructed, participation in a fund for public access improvements is not warranted in this case. For these reasons, the Commission finds that Policy 54 of the Malibu LUP does not apply as guidance to this project.

Further, the Malibu LUP includes the following policy:

P55c Parking lots for general office buildings shall be designed with the goal of serving not only the office development during ordinary working hours, but also public beach parking during weekends and holidays, in conjunction with public transit or shuttle buses serving beach recreation areas.

The applicant proposes to construct an additional 22 parking spaces to an existing 70 space parking lot and construct a six foot high (about 200 foot long) retaining wall along the northern boundary of the parking lot. The location of the additional parking spaces limits the amount of grading need for the spaces. (Exhibit 3) The site location requires the removal of 231 cubic yards of the sloping hillside at the rear or northern boundary of the parking lot. As proposed by reducing the grading necessary, the additional parking spaces will be the first and blockable space of tandem or a dual parking area. These additional spaces will be located behind and north of the existing spaces.

In past Commission actions, the Commission has required shared use of the parking for beach users during periods when the approved uses are not open for business to enhance public access and coastal recreation opportunities. In Coastal Permit No. 5-88-840 the Commission approved the project and the applicant's proposal to make available 126 new parking spaces for public beach use during non-office hours on weekday, weekends, and major holidays, and that the parking fees would not exceed those rates charged at nearby public beach parking lots. The existing 106 parking spaces in the original Coastal Permit No. P-78-3423 were conditioned to require a deed restriction that all parking be available to the public during weekends and holidays. In effect, the applicant for Coastal Permit No. 5-88-840 proposed to add new spaces to those already available for shared public use.

There are several public stairways to Puerco Beach along Malibu Road with limited parking in the vicinity of the project site. However, the project site is located on the inland side of Pacific Coast Highway over 1,000 feet from the beach. The site is situated on the coastal terrace and is separated from the coast by intervening private property, a coastal bluff and Malibu Road. Therefore, there is no direct access to the coast from this location.

In this application, the Commission originally approved the construction of 16,000 square feet of commercial office space in three separate buildings with 64 parking spaces in Coastal Permit No. 5-84-610. In March 1986, the Commission approved an Immaterial Amendment No. 5-84-610-A to allow the use of 3,000 sq. ft. of an open basement area for tenant storage. The basement area was substantial in size beneath the existing building and was open in the front. Sometime after the construction of the buildings and parking lot, six additional spaces were provided by re-striping the parking lot. To require the applicant to provide shared public parking use of the now proposed 22 tandem spaces located in a place that can be blocked by a second tandem parked vehicle is problematic at best. Considering the fact that public use of such 22 parking spaces is not possible for self parking, as a valet would be required to access tandem parked cars, it is not feasible to require shared use for this portion of the parking lot. In addition, access from this site to the coast is constrained by distance, private property and topography, as noted above. Further, the Commission has already approved a permit amendment to create the storage space. This application is merely to convert tenant storage space to tenant occupancy. For these reasons, the Commission finds that policy P55c of the Malibu LUP does not apply as guidance to this project and therefore a condition for shared public beach parking is not appropriate in this case.

Coastal Act Section 30252 requires that development maintain and enhance public access to the coast by providing adequate parking facilities. The Malibu Land Use designation for the project site is General Commercial. Parking standards for office land uses are identified in the Land Use Plan and used as guidance in this case. For General Office and other business or professional offices, one space for each 250 square feet of gross floor area is required as off-street parking. For Professional Offices for Doctors or similar Professions, one space for each 150 square feet of gross floor area is required. As proposed, a total of 80 off-street parking spaces are required as guidance for the entire 19,000 square foot commercial buildings on the site. With this application to increase the number of parking spaces, the applicant proposes to provide a total of 90 spaces, which is ten more spaces than the Land Use Plan requires as guidance. Therefore, the Commission finds that the proposed project is consistent with Section 30252 of the Coastal Act.

Therefore, for the reasons noted above, the Commission finds that the proposed project is consistent with the public access and development policies of the Coastal Act including Sections 30211, 30212.5, 30250, and 30252.

D. Violation

Although development has taken place prior to submission of this permit application (Convert existing 3,000 sq. ft. of basement storage to commercial office and storage uses, construct 22 additional parking spaces, grade 231 cubic yards, and construct a retaining wall), consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to any violation of the Coastal Act that may have occurred.

E. Local Coastal Program

Section 30604 of the Coastal Act states that:

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

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

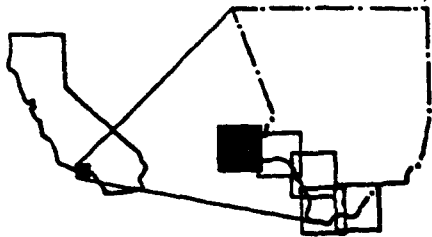
F. California Environmental Quality Act

The Coastal Commission's permit process has been designated as the functional equivalent of CEQA. Section 13096(a) of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5 (d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse impacts that the activity may have on the environment.

There are no feasible alternatives or mitigation measures available, beyond those required, which would lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project will mitigate the identified impacts, is the least environmentally damaging feasible alternative and is found consistent with the requirements of CEQA and the policies of the Coastal Act.

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Los Angeles

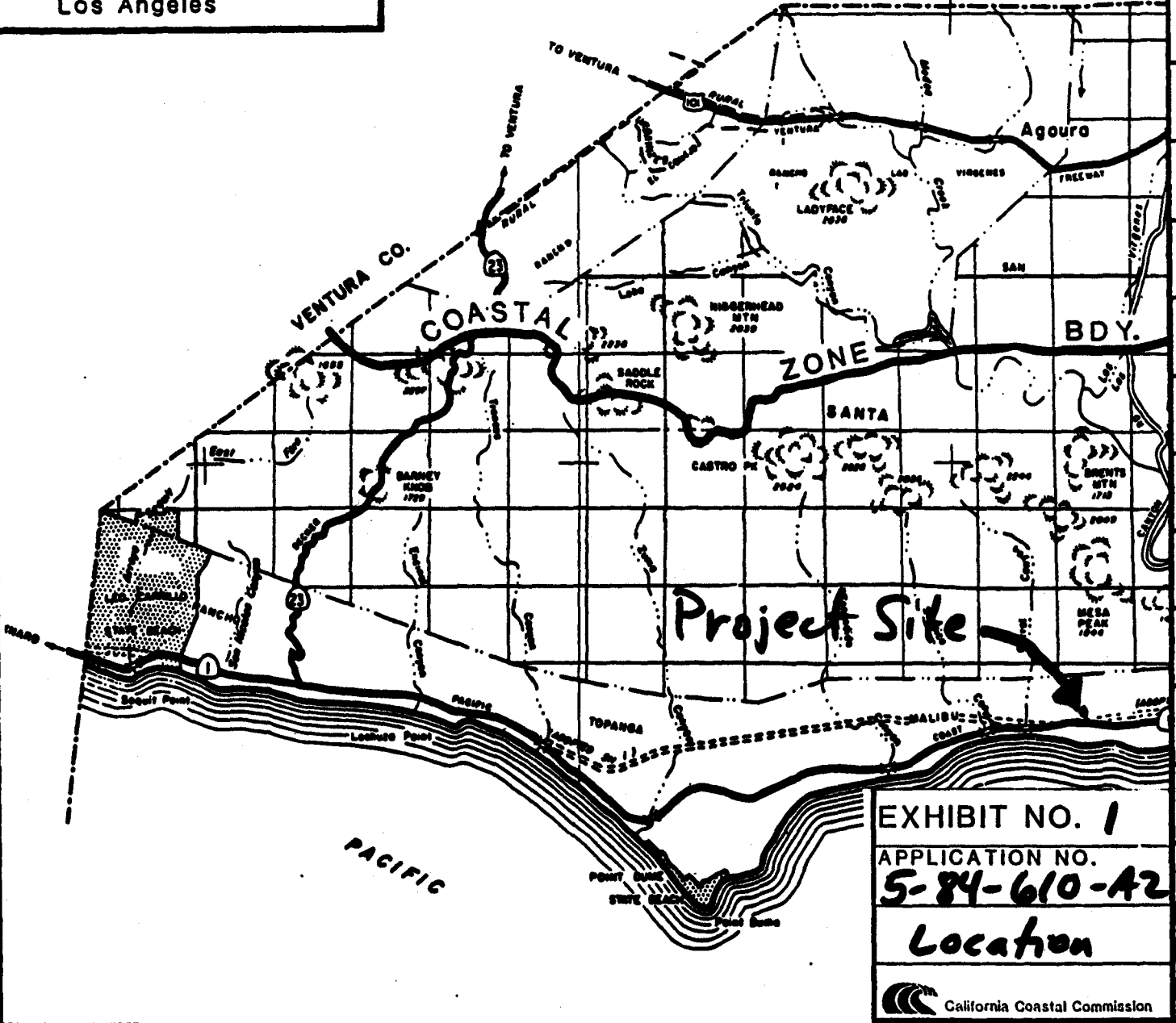


EXHIBIT NO. 1
 APPLICATION NO.
5-84-610-A2
Location
 California Coastal Commission

California Coastal Commission

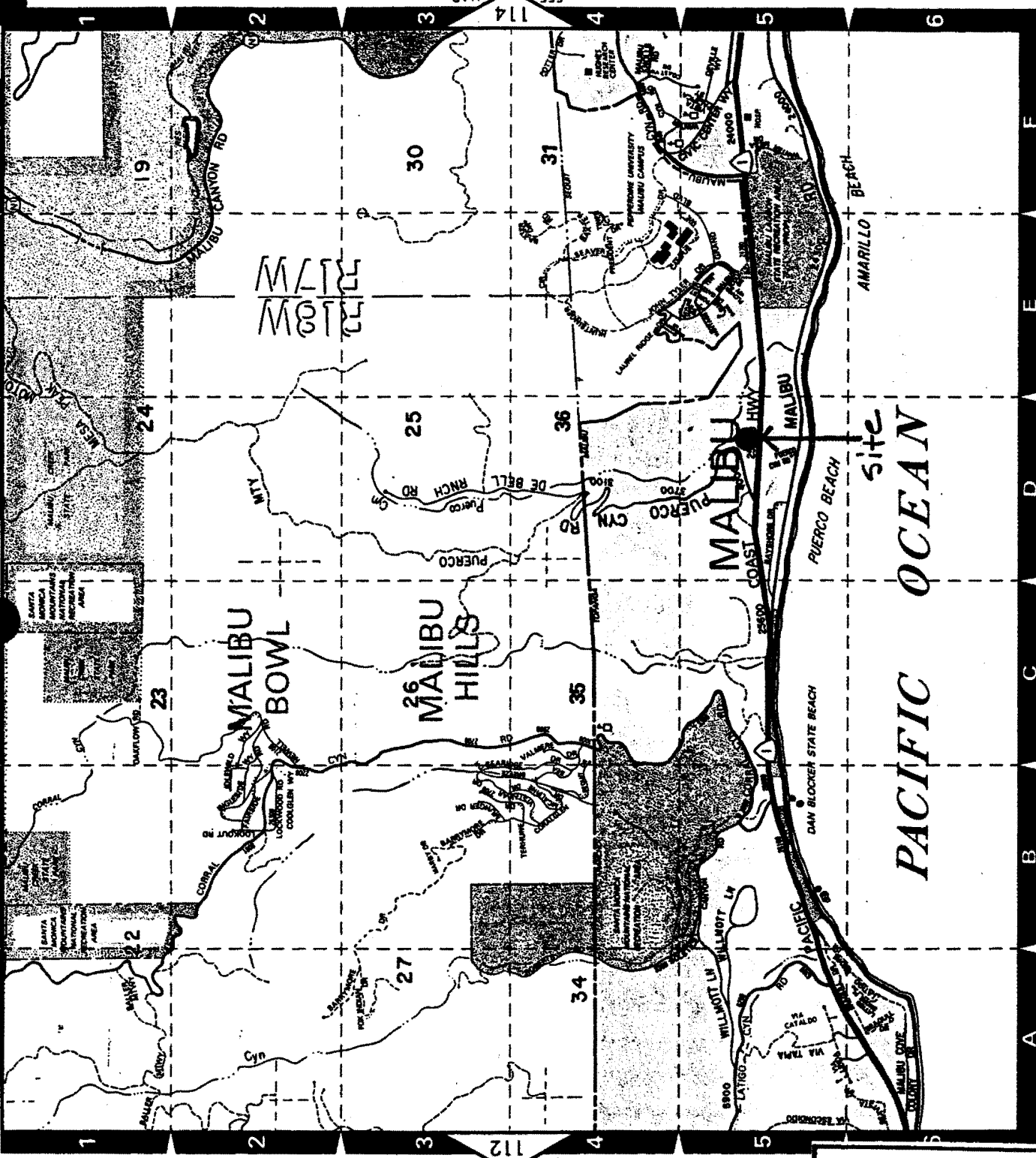
LOCATION MAP



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EXHIBIT NO. 2
APPLICATION NO. 5-84-610-A
Vicinity
California Coastal Commission

232.77'

22 CONTRACT SPACES (FANDED)

'AS BUILT' SPACES & WALL

EXISTING SPACES

26 REGULAR SPACES

21 REGULAR SPACES, 1 HANDICAPPED

HC

BLDG 'C'
8762 S.F.
BASEMENT SITE

BLDG. 'A'
6041 S.F.

BLDG. 'B'
4897 S.F.

21 REGULAR SPACES, 1 HANDICAPPED

HC PATH OF TRAVEL

HC

PRIVATEWAY

230.00'

308.57'

268.41'

SITE PLAN/PARKING PLAN

TOTAL PARKING SPACES:
90 REGULAR
2 HANDICAPPED

24955 PACIFIC CST.
MALIBU, CA
OFFICE BUILDING

PACIFIC CST. HWY.

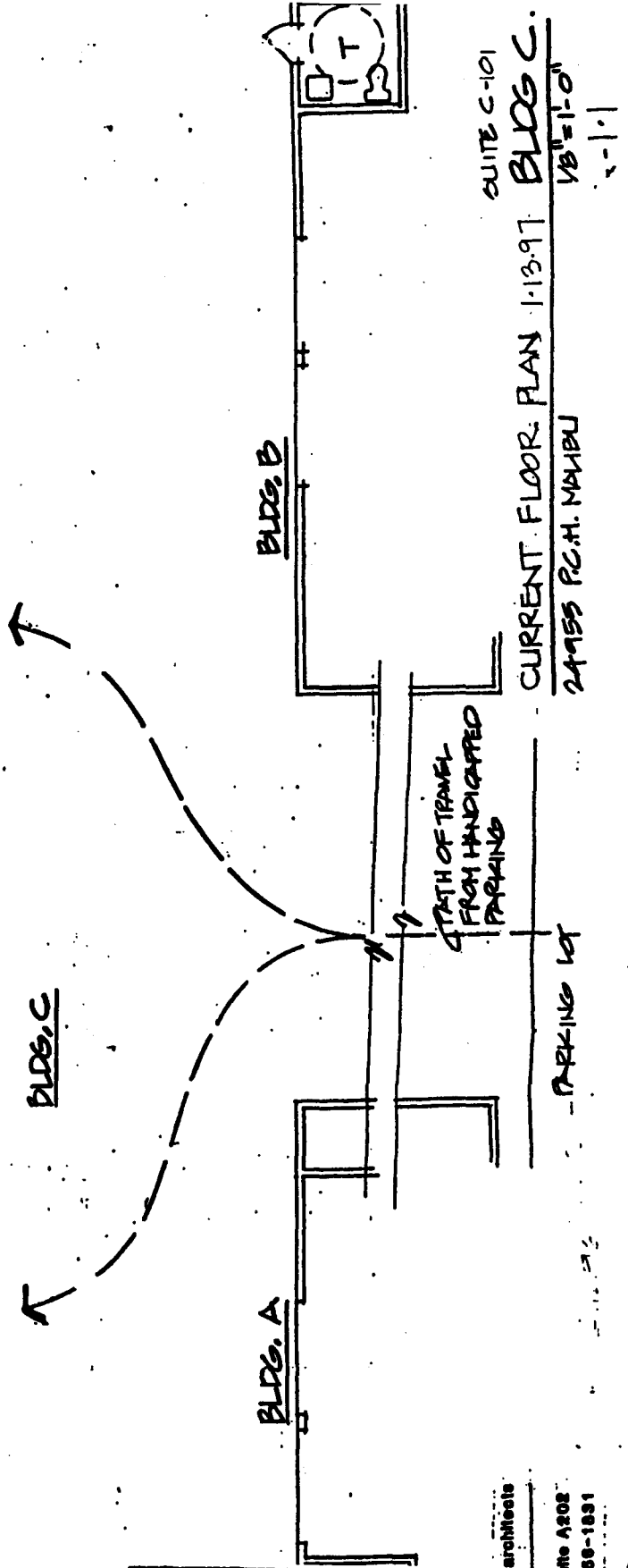
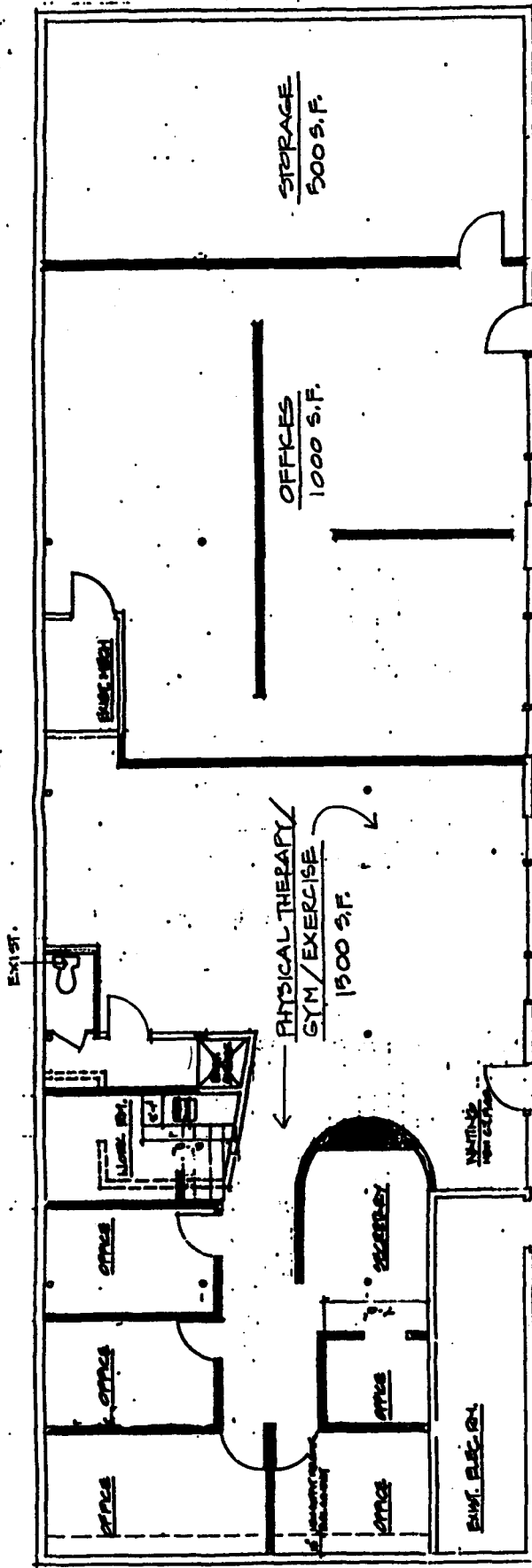
EXHIBIT NO. 3

APPLICATION NO. 5-84-610-A

Site Plan



California Coastal Commission



SUITE C-101
 1/8" = 1'-0"
 2-1-01

CURRENT FLOOR PLAN 1-13-97
 24955 P.C.H. MAHBU

PATH OF TRAVEL FROM HANDICAPPED PARKING

PARKING LOT

EXHIBIT NO. 4
APPLICATION NO. 5-84-610-A2
Floor Plan
California Coastal Commission

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 Malibu, Calif. 97 (310) 466-1831