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STATE OF CALIFORNIA -- THE RESOURCES AGENCY GRAY DAVIS, *Governor*

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
[redacted]SOUTH CALIFORNIA ST., SUITE 200
[redacted]TURA, CA 93001
[redacted]5) 585-1800

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Commission Action:	

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-01-146

APPLICANT: Robert Brown and Mary Whitney-Brown

PROJECT LOCATION: 32311 Pacific Coast Highway, City of Malibu

PROJECT DESCRIPTION: Construction of a two-story, 22' high, single family residence with attached 2-car garage for a total of 5,044 sq. ft., pool, spa, septic system, driveway and turnaround, retaining walls, and landscaping. The project proposes 3,031 cu. yds. of grading (2,239 cu. yds. of cut, and 792 cu. yds. of fill).

Lot area:	104,853	sq. ft. (2.4 ac.)
Pad size:	approx. 9,100	sq. ft.
Building coverage:	3,044	sq. ft.
Pavement coverage:	13,300	sq. ft.
Landscape coverage:	20,403	sq. ft.
Unimproved area:	68,896	sq. ft
Parking spaces:	4	
Ht abv ext. grade:	22'0"	

LOCAL APPROVALS RECEIVED: Approval in Concept, City of Malibu Planning Department, dated 8/14/2001; Approval in Concept (Septic System), City of Malibu Environmental Health Department, dated 2/20/2001; Approval in Concept, City of Malibu, Geology and Geotechnical Engineering, dated 12/26/2000; City of Malibu Geology Review Referral Sheet, dated 2/8/01; Approval in Concept, Los Angeles County Fire Department, Fire Prevention Bureau, dated 7/30/2001.

SUBSTANTIVE FILE DOCUMENTS: *Geologic and Soils Engineering Investigation for Proposed Single-Family Residence, 32311 Pacific Coast Highway, Malibu, California*, by Alpine Geotechnical Inc., dated June 22, 2000; *Addendum Letter, Revised Plans, Proposed Single-Family Residence, 32311 PCH,* by Alpine Geotechnical Inc., dated September 29, 2000; City of Malibu, Biological Review, dated December 4, 2000; City of Malibu Planning Commission Resolution No. 01-018A, dated June 4, 2001.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed project with **nine (9)** special conditions regarding Color Restriction, Conformance with Geologic Recommendations, Drainage and Polluted Runoff, Landscaping and Erosion Control, Removal of Natural Vegetation, Removal of Excavated Material, Wildfire Waiver of Liability, Future Improvements Deed Restriction, and Lighting Restriction.

I. STAFF RECOMMENDATION

1. **Motion:** *I move that the Commission approve Coastal Development Permit No. 4-01-146 pursuant to the staff recommendation.*

2. **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.

3. **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. Color Restriction

Prior to the issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, a color palette and material specifications for the outer surface of all structures authorized by the approval of coastal development permit 4-01-146. The palette samples shall be presented in a format not to exceed 8½" X 11"X ½" in size. The palette shall include the colors proposed for the roof, trim, exterior surfaces, driveways, retaining walls, or other structures authorized by this permit. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray with no white, pink, or light shades and no bright tones. All windows shall be comprised of non-glare glass.

The approved structures shall be colored with only the colors and window materials authorized pursuant to this special condition. Alternative colors or materials for future repainting or resurfacing or new windows may only be applied to the structures authorized by coastal development permit 4-01-146 if such changes are specifically authorized by the Executive Director as complying with this special condition.

Prior to the issuance the coastal development permit, *the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the restrictions stated above on the proposed development. The document shall run with the land for the life of the structures approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances 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.*

2. Plans Conforming to Geologic Recommendations

a) All recommendations contained in the *Geologic and Soils Engineering Investigation for Proposed Single-Family Residence, 32311 Pacific Coast Highway, Malibu, California*, by Alpine Geotechnical Inc., dated June 22, 2000, shall be incorporated into all final design and construction including **site preparation**, **subdrainage**, **foundation and building setback**, **foundations**, **lateral design**, **retaining walls**, **foundation settlement**, **floor slabs**, **temporary excavation slopes**, **pavement**, **drainage**, **sewage disposal**, and **grading**. All plans must be reviewed and approved by the geologic / geotechnical consultant. Prior to issuance of the coastal development permit, the applicant shall submit, for review and approval of the Executive Director, evidence of the consultants' review and approval of all project plans. Such evidence shall include affixation of the consulting geologists' stamp and signature to the final project plans and designs.

b) The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and

drainage. Any substantial changes to the proposed development approved by the Commission which may be required by the consultants shall require an amendment to the permit or a new coastal permit. The Executive Director shall determine whether required changes are "substantial."

3. Drainage and Polluted Runoff Control Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, 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 engineering geologist to ensure the plan is in conformance with geologist'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 the amount of stormwater runoff produced by all storms 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 (i.e., 2 or greater), 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.

4. Landscape and Erosion Control Plan and Fuel Modification

Prior to issuance of a coastal development permit, the applicant shall submit landscaping and erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The landscaping and erosion control plans shall be reviewed

and approved by the consulting engineering geologist to ensure that the plans are in conformance with the consultants' recommendations. The plans shall incorporate the following criteria:

A) Landscaping Plan

(1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. Invasive, non-indigenous plan species which tend to supplant native species shall not be used.

(2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;

(3) Vertical landscape elements shall be included in the landscape plan that are designed, upon attaining maturity, to soften the views of the residence, retaining walls, and driveway from Pacific Coast Highway, and Encinal Canyon Road;

(4) 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;

(5) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

(6) Vegetation within 50 feet of the proposed house may be removed to mineral earth; vegetation within a 200-foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel

modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover planted within the fifty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

(7) Fencing of the property shall be of a design and color that is visually compatible with the surrounding environment.

B) **Interim Erosion Control Plan**

(1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, 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 applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape

Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

5. **Removal of Natural Vegetation**

Removal of natural vegetation for the purpose of fuel modification within the 50 foot zone surroundings the proposed structure(s) shall not commence until the local government has issued a building or grading permit for the development approved pursuant to this permit. Vegetation thinning within the 50-200 foot fuel modification zone shall not occur until commencement of construction of the structure(s) approved pursuant to this permit.

6. **Removal of Excavated Material**

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

7. **Wildfire Waiver of Liability**

Prior to issuance of the coastal development permit, the applicant shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents, and employees against any and all claims, demands, damages, costs, expenses, and liability arising out of the acquisition, design, construction, operations, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wildfire exists as an inherent risk to life and property.

8. **Future Development Deed Restriction**

This permit is only for the development described in Coastal Development Permit No. 4-01-146. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6) the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the residence. Accordingly, any future structures, additions, or improvements related to the residence approved under Coastal Development Permit No. 4-01-146 will require a permit from the California Coastal Commission or its successor agency.

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

9. Lighting Restriction

A. The only outdoor, night lighting allowed on the site shall be 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, that 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.

(4) No lighting around the perimeter of the site and no lighting for aesthetic purposes is allowed.

B. Prior to the issuance the coastal development permit, *the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the restrictions stated above on the proposed development. The document shall run with the land for the life of the structures approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances 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.*

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. Project Description and Background

The applicant is proposing construction of a two-story, 22' high, single family residence with attached 2-car garage for a total of 5,044 sq. ft.; pool, spa, septic system, driveway and turnaround, retaining walls, and landscaping. The project includes a total of 3,031 cu. yds. of grading (2,239 cu. yds. of cut, and 792 cu. yds. of fill).

The subject site is a 104,853 sq. ft. (2.4 ac.) parcel located in the western portion of the City of Malibu, north of Pacific Coast Highway, and east of Encinal Canyon Road. The present legal lot was created in February of 1972, through the issuance of a Certificate of Exception from the County of Los Angeles, which recognized the division of one lot into four separate properties (Exhibit 2). In October 2000, the City of Malibu issued a Certificate of Compliance for the property recognizing the legitimacy of the Certificate of Exception and the legality of the lot.

The project site is visible from both Pacific Coast Highway and Encinal Canyon Road, two designated scenic highways in the certified Malibu/Santa Monica Mountains Land Use Plan. The property consists of a steep southern facing coastal slope with natural vegetation consisting of primarily coastal sage scrub and grasses. The first 100 feet of the site adjacent to Pacific Coast Highway has been previously disked in conjunction with weed abatement activities for the highway, which borders the property on the south.

Maximum topographic relief on-site is approximately 130 vertical feet, with slopes up to 2:1 across many of the northern portions of the site. Drainage from the property is by sheetflow to the drainage located on eastern portion of the site, and from there directly to the Pacific Ocean. There are no designated environmentally sensitive habitat areas (ESHA) on the site; however, a heavily vegetated drainage channel bisects the site from the northwest to the southwest. This drainage empties directly into the Pacific Ocean several hundred feet downstream, near El Matador State Beach. The shoreline of this section of the coast is a designated environmentally sensitive marine habitat. During the course of the City of Malibu's initial review of this project, the City Biologist recommended alterations to the project in order to minimize impacts to this drainage/habitat area and downstream marine ecosystem. The applicant subsequently revised the project accordingly by resiting the residence lower on the site and utilizing a driveway from Pacific Coast Highway rather than the existing unimproved dirt road/easement (Exhibit 3) which crosses the northern portion of the property. This resulted in the current proposal the residence being sited approximately 200 feet from Pacific Coast Highway, on the more gently sloping portions of the site. Additionally, this relocation allowed the residence to be set further back from the drainage channel resulting in less fuel modification within this drainage area.

As part of the proposed project, the applicant proposes revegetation and landscaping of portions of the property (Exhibit 4), including the existing access easement to the north of the proposed residence. The property to the east of the subject site, though currently vacant, also has rights of access across this easement. As such, the property owners of the affected parcel have been notified of this development pursuant to section 30601.5 of the Coastal Act, which states:

> ***"All holders or owners of any interests of record in the affected property shall be notified in writing of the permit application and invited to join as co-applicant."***

These property owners were notified of the pending permit action under Section 30601.5. As of the date of this report, no response was received. If any response to this letter is received by staff prior to the Commission's March 5-8, 2001 meeting, it will be reported to the Commission at the public hearing.

B. 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.***

The subject site is visible from two Malibu / Santa Monica Mountains Land Use Plan (LUP) designated scenic highways, Pacific Coast Highway to the south and Encinal Canyon Road to the north. To assess potential visual impacts of projects to the public, the Commission typically investigates publicly accessible locations from which the proposed development is visible, such as beaches, parks, trails, and scenic roads. The Commission also examines the building site and the size of the proposed structure. Staff visited the subject site and found the proposed building location to be appropriate and feasible, given the terrain and the surrounding existing development. In its review, Staff explored the possible alternative locations for siting the residence.

Siting the residence further north (upslope) on the site would lessen the visual impact of the development as seen from Pacific Coast Highway, and access for the residence could be taken from the existing 30 foot wide easement which accesses both this property and the adjoining property to the east. This configuration, however, would require improvements (widening, and culverting of the stream drainage) to the existing easement which would seriously impact the downslope watershed/drainage area (Exhibits 3 and 4). Due to the potential impacts required to improve the access road, the steep slopes (2:1), and proximity of the residence to the drainage channel, the City of Malibu Biologist recommended that the residence be sited lower on the site, and access taken from a driveway off of Pacific Coast Highway. As currently proposed, the residence is sited in the middle of the property, approximately 200 feet from Pacific Coast Highway and utilizes such a driveway. This proposal will require a longer driveway (approximately 400 feet), and involves approximately 1410 cu. yds of cut and 792 cu. yds. of fill, however, the grading will not be located within the drainage and will take place on the more gently sloping portions of the property. Therefore, the Commission finds that the proposed location of the residence and driveway are appropriate given the topographic and habitat constraints of the site.

The residence is to be located on a south-facing slope approximately 200 feet from Pacific Coast Highway. The finished project will be highly visible from the surrounding area including Pacific Coast Highway, thereby requiring mitigation of visual impacts as discussed below. Nearby residences are of a similar massing, character, and location to be similarly visible, and the proposed building plans are substantially in character with the type and scale of development in the surrounding area.

For this project, the applicant is proposing construction of a two-story, 22' high, single family residence with attached 2-car garage for a total of 5,044 sq. ft.; pool, spa, septic system, driveway and turnaround, retaining walls, and landscaping. The project includes a total of 3,031 cu. yds. of grading (2,239 cu. yds. of cut, and 792 cu. yds. of fill. Grading of 821 cu. yds. of cut is primarily for the notching of the residence, garage, and swimming pool area into the hillside. The remaining grading (1410 cu. yds of cut and 792 cu. yds. of fill) proposed is for the completion of the approximately 400 ft. long

driveway access driveway which will be the primary access to this residence. This driveway will take access directly from Pacific Coast Highway.

A series of retaining walls is proposed in conjunction with the residence and driveway to minimize the amount of grading necessary, and build the structures into the hillside. The walls are a maximum of 6 feet in height. In order to minimize the visual impact of these walls from Pacific Coast Highway and Encinal Canyon Road, the walls can be finished in a color and texture compatible with the surrounding native stone. In addition to the use of color and texture treatments, the visibility of these walls can be further mitigated through the use of landscaping elements, which will screen and soften the visual impact of the walls as seen from Pacific Coast Highway. Due to the project's location and visibility from public resources, the Commission finds it necessary to require mitigation measures, as discussed below, to minimize visual impacts as seen from nearby scenic areas.

The proposed project's impact on public views can be mitigated by requiring the residence and retaining walls to be finished in a non-obtrusive manner (i.e.: in a color compatible with the surrounding natural landscape and with non-reflective windows). The Commission therefore finds it necessary to minimize the visual impact of the project by requiring the applicant to use colors compatible with the surrounding environment and non-glare glass, as required by **Special Condition One**. In addition, future construction on the property has the potential to negatively affect the visual character of the area as seen from the scenic highway. To insure that no additions or improvements are made to the property that may affect visual resources on-site without due consideration of the potential cumulative impacts, the Commission finds it necessary to require the applicant to record a future development deed restriction, which will require the applicant to obtain an amended or new coastal permit if additions or improvements to the site are proposed in the future, as required by **Special Condition Eight.**

In addition, visual impacts associated with grading and the structure itself can be further reduced by the use of adequate and appropriate landscaping. A landscape plan relying principally on native, non-invasive plant species will ensure that the vegetation on-site remains visually compatible with the native flora of surrounding areas. In addition, vertical screening elements added to the landscape plan can soften views of the proposed residence and retaining walls from public areas such as Pacific Coast Highway and Encinal Canyon Road. The Commission therefore finds it necessary to ensure that the final approved landscaping plans are successfully implemented to partially screen and soften the visual impact of the development, and retaining walls, as required by **Special Condition Four**.

The Commission has also found that night lighting of areas in the Malibu / Santa Monica Mountains area creates a visual impact to nearby scenic beaches, scenic roads, parks, and trails. In addition, night lighting may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. Therefore, in order to protect the night time rural character of this portion of the Santa Monica Mountains, consistent with the scenic and visual qualities of this coastal area, the Commission limits the nighttime lighting of the property and residence to that necessary for safety as outlined in **Special Condition Nine**. Additionally, fencing of the property has the potential to reduce the scenic quality of the region as seen from public viewing areas. Limiting fencing of the property to the area delineated as Zone A on the approve fuel modification plan, prohibiting any perimeter fencing of the property, and restricting fencing to a form that is visually compatible with the surrounding environment, as required by **Special Condition Four**,

will further minimize the visual impact of the development as seen from the Pacific Coast Highway, Encinal Canyon Road, and nearby ridges.

Therefore, the proposed project, as conditioned, will not result in a significant adverse impact to the scenic public views or character of the surrounding area in this portion of the Santa Monica Mountains. Thus, the Commission finds that the proposed project is consistent, as conditioned, with Section 30251 of the Coastal Act and the policy guidance contained in the certified Malibu / Santa Monica Mountains LUP.

C. Geologic Stability and Hazards

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...***

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

> ***New residential, ... development, ... shall be located within, contiguous with, or in close proximity to existing developed areas able to accommodate it ... and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.***

The proposed development is located in the Santa Monica Mountains, an area which 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, flooding, and earth movement. In addition, fire is a persistent threat due to the indigenous chaparral community of the coastal mountains. Wildfires can denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides.

The applicant is proposing construction of a two-story, 22' high, single family residence with attached 2-car garage for a total of 5,044 sq. ft.; pool, spa, septic system, driveway and turnaround, retaining walls, and landscaping. The project includes a total of 3,031 cu. yds. of grading (2,239 cu. yds. of cut, and 792 cu. yds. of fill). The site is a southern facing moderately sloping hillside with an overall elevation change of approximately 130 vertical feet over a total of 600 horizontal feet as the property descends to Pacific Coast Highway. The prominent geomorphic features in the area are the Santa Monica Mountains to the north, the Pacific Ocean and El Matador State Beach to the south, and Encinal Canyon to the east. The proposed residence is to be sited on the lower portion of the property and accessed directly from Pacific Coast Highway in order to minimize the impacts of the development to the drainage located on the eastern portion of the property. The lower portions of the site have been previously disked for weed abatement along Pacific Coast Highway (Exhibit 4).

The applicant has submitted reports indicating that the geologic stability of the site is favorable for the project and that no potentially active faults, adversely oriented geologic structures, or other hazards were observed by the consultants on the subject property. Based on site observations, slope stability analysis, evaluation of previous research,

analysis and mapping of geologic data, and limited subsurface exploration of the site, the engineering geologists have prepared reports addressing the specific geotechnical conditions related to the site.

The *Geologic and Soils Engineering Investigation for Proposed Single-Family Residence, 32311 Pacific Coast Highway, Malibu, California*, by Alpine Geotechnical, dated June 22, 2000, in evaluating the various engineering geologic factors affecting site stability and the existing site conditions, states:

> ***Base upon the exploration performed for this investigation it is our finding that construction of the proposed project, as described is feasible from a geologic and soils engineering standpoint, provided our advice and recommendations are made a part of the plans and are implemented during construction. The subject property is considered a suitable site for the proposed development from a geologic and soils engineering standpoint. It is the opinion of the undersigned that the proposed development and private sewage disposal system will be safe against hazards from landslide, settlement or slippage, and that the proposed grading, development and septic system will not have an adverse affect on the geologic stability of the property or the adjacent properties provided our recommendations are followed...***

The Commission notes that the geologic and engineering consultants have included a number of recommendations regarding **site preparation**, **subdrainage**, **foundation and building setback**, **foundations**, **lateral design**, **retaining walls**, **foundation settlement**, **floor slabs**, **temporary excavation slopes**, **pavement**, **drainage**, **sewage disposal**, and **grading** which will increase the stability and geotechnical safety of the site. To ensure that these recommendations are incorporated into the project plans, the Commission finds it necessary to require the applicant, through **Special Condition Two**, to submit project plans certified by the geologic / geotechnical engineering consultant as conforming to their recommendations.

The project will increase the amount of impervious coverage on-site which may increase both the quantity and velocity of stormwater runoff. If not controlled and conveyed off-site in a non-erosive manner, this runoff may result in increased erosion, affect site stability, and impact downslope water quality. The applicant's geologic / geotechnical consultant has recommended that site drainage be collected and distributed in a non-erosive manner. Interim erosion control measures implemented during construction will minimize short-term erosion and enhance site stability. However, long-term erosion and site stability must be addressed through adequate landscaping and through implementation of a drainage and runoff control plan. To ensure that runoff is conveyed off-site in a non-erosive manner, the Commission finds it necessary to require the applicant, through **Special Conditions Two, Three, and Four**, to submit drainage / erosion control plans conforming to the recommendations of the consulting geotechnical engineer for review and approval by the Executive Director, to adequately control runoff from impervious surfaces, and to assume responsibility for the maintenance of all drainage devices on-site.

Erosion and sedimentation can also be minimized by requiring the applicant to remove all excess dirt from cut / fill / excavation activities. The applicant has estimated that a total of 2,239 cu. yds. of grading will be necessary for the proposed development. 821 cu. yds. of cut are proposed for the siting of the residence, while the remaining 1,410 cu. yds. of cut and 792 cu. yds. of fill will be necessary for the creation of the driveway. The Commission has found that minimization of grading and exposed earth on-site can reduce the potential impacts of sedimentation in nearby creeks, stormwater conveyances, and the ocean. Therefore, **Special Condition Six** has been required to

ensure that all excavated or cut material in excess of material proposed to be used for fill on the project site be removed and properly disposed of.

In addition to controlling erosion during grading operations, landscaping of the graded and disturbed areas of the project will enhance the stability of the site. Long-term erosion can be minimized by requiring the applicant to revegetate the site with native plants compatible with the surrounding environment. Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface / foliage weight. The Commission has found that such plant species do not serve to stabilize slopes and may adversely affect the overall stability of a project site. Native species, alternatively, tend to have a deeper root structure and aid in preventing erosion. Invasive, non-indigenous plant species tend to supplant species that are native to the Malibu / Santa Monica Mountains area. Increasing urbanization in this area has already caused the loss or degradation of major portions of native habitat and native plant seed banks through grading and removal of topsoil. Moreover, invasive and fast-growing trees and groundcovers originating from other continents which have been used for landscaping in this area have seriously degraded native plant communities adjacent to development. Therefore, the Commission finds that in order to ensure site stability, all disturbed, graded, and sloped areas on-site shall be landscaped with appropriate native plant species, as specified in **Special Condition Four.**

The Commission requires that new development minimize the risk to life and property in areas of high fire hazard while recognizing that new development may involve the taking of some risk. Vegetation in the coastal areas of the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral, communities which have evolved in concert with, and continue to produce the potential for frequent wildfires. The warm, dry summer conditions of the local Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wildfire damage to development that cannot be completely avoided or mitigated. When development is proposed in areas of identified hazards, 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 property.

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wildfire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through the wildfire waiver of liability, as incorporated in **Special Condition Seven**, the applicant acknowledges and appreciates the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. For fire suppression, and to protect residences, the Fire Department requires the reduction of fuel through the removal and thinning of vegetation for up to 200 feet from any structure. The applicant has submitted a Fuel Modification Plan with final approval by the Los Angeles County Fire Department Fuel Modification Unit for this project (Exhibit 4). This plan delineates the extent of fuel modification that will be required for the proposed development and addresses the impacts of fuel modification into the drainage located on the eastern portion of the parcel. Therefore, Commission finds that the proposed project, as conditioned, is consistent with Sections 30250 and 30253 of the Coastal Act.

D. Water Quality and Sensitive Resources

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. Sections 30230 and 30231 of the Coastal Act require the protection of coastal waters and aquatic ecosystems, through, among other means, controlling runoff (drainage management and erosion control, for example) and limiting the removal of natural vegetation that serves to buffer adverse impacts upon these resources.

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act states that:

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

As described above, the proposed project includes the construction of a two-story, 22' high, single family residence with attached 2-car garage (for a total of 5,044 sq. ft.), pool, spa, septic system, driveway and turnaround, retaining walls, and landscaping. The project proposes a total of 3,031 cu. yds. of grading (2,239 cu. yds. of cut, and 792 cu. yds. of fill). The conversion of the project site from its natural state will increase the amount of impervious coverage and reduce the naturally vegetated area on-site which may increase both the quantity and velocity of stormwater runoff. If not controlled and conveyed off-site in a non-erosive manner, this runoff may result in increased erosion, affect site stability, and impact downslope water quality. Further, use of the site for residential purposes will introduce potential sources of pollutants such as petroleum, household cleaners and pesticides, as well as other accumulated pollutants from rooftops and other impervious surfaces which will impact the adjacent drainage.

The conversion of the project site from its natural state will result in an increase in impervious surface, which in turn decreases the infiltrative function and capacity of existing permeable land on site. The reduction in permeable space therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Further, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides, and pesticides; and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the

alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

Such cumulative impacts can be minimized through the implementation of drainage and polluted runoff control measures. In addition to ensuring that runoff is conveyed from the site in a non-erosive manner, drainage and water pollution control measures should also include opportunities for runoff to infiltrate into the ground. Methods such as vegetated filter strips, gravel filters, and other media filter devices allow for infiltration. Because much of the runoff from the site is returned to the soil, overall runoff volume is reduced. Slow surface flow of runoff allows sediment and other pollutants to settle into the soil where they can be filtered. The reduced volume of runoff takes longer to reach streams and its pollutant load is greatly reduced.

Therefore, in order to find the proposed development consistent with the water and marine resource policies of the Coastal Act, the Commission finds it necessary to require the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. Critical to the successful function of post-construction structural BMPs in removing pollutants in stormwater to the Maximum Extent Practicable (MEP), is the application of appropriate design standards for sizing BMPs. The majority of runoff is generated from small storms because most storms are small. Additionally, storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small, more frequent storms, rather than for the large infrequent storms, results in improved BMP performance at lower cost.

The project is conditioned, by **Special Condition Three**, to implement and maintain a drainage plan designed to ensure that runoff rates and volumes after development do not exceed pre-development levels and that drainage is conveyed in a non-erosive manner. This drainage plan is required in order to ensure that risks from geologic hazard are minimized and that erosion, sedimentation, and polluted runoff are minimized to reduce potential impacts to coastal streams, natural drainages, and environmentally sensitive habitat areas. Such a plan will allow for the infiltration and filtering of runoff from the developed areas of the site, most importantly capturing the initial "first flush" flows that occur as a result of the first storms of the season. This flow carries with it the highest concentration of pollutants that have been deposited on impervious surfaces during the dry season. Additionally, the applicant must monitor and maintain the drainage and polluted runoff control system to ensure that it continues to function as intended throughout the life of the development.

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, 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 be sized based on design criteria specified in **Special Condition Three**, 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 resource protection policies of the Coastal Act.

The proposed development also includes the installation of an on-site septic system with 3000-gallon tank to serve the residence. The Commission recognizes that the potential build-out of lots in the Santa Monica Mountains and the resultant installation of septic systems may contribute to adverse health effects and geologic hazards in the local area. The applicants' geologic 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. The applicant has submitted in-concept approval from the City of Malibu Environmental Health Department stating that the proposed septic system is in conformance with the minimum requirements of the Uniform Plumbing Code. The City of Malibu minimum health code standards for septic systems take into account the percolation capacity of soils, the depth to groundwater, and other considerations, and have generally been found to be protective of coastal resources.

Sensitive Resources

The applicant proposes development of a single-family residence and driveway adjacent to a heavily vegetated drainage which bisects the site from the northwest to the southwest (Exhibits 3-4). While not a designated environmentally sensitive habitat area (ESHA); however, this drainage empties directly into the Pacific Ocean several hundred feet downstream, along El Matador State Beach. The shoreline of this section of the coast is a designated environmentally sensitive marine habitat. During the course of the City of Malibu's initial review of this project, the City Biologist recommended several alterations to the project in order to minimize impacts to this drainage/habitat area and nearby marine ecosystem. The applicant subsequently revised the project to address these concerns: resiting the residence lower on the slope, taking access from Pacific Coast Highway, and incorporating a watershed protection area within the project plans into which no development will encroach. This results in the residence being sited closer to Pacific Coast Highway, but on the more gently sloping portions of the site rather than the 2:1 slopes found on the upper portions of the site. Additionally, this relocation allows the development to be set further back from the drainage, thereby resulting in less fuel modification within the watershed protection area designated on the project plans (Exhibit 4). The Commission finds that this location, though resulting in a longer driveway, is the preferred location for the residence given the topographic constraints of the site.

The implementation of a comprehensive landscaping and erosion control plan, as required by **Special Condition Four**, that incorporates primarily native plant species, which tend to have a deeper root structure than non-indigenous species, and which aid in preventing erosion on slopes such as those associated with the drainage channel, will further reduce the impacts of the development on the drainage channel, and downstream coastal resources. Additionally, restrictions on lighting of the development, as required by **Special Condition Nine**, will preserve the night time rural character of

the area and will minimize the impacts of the development on local wildlife which utilize the drainage channel. Prohibiting perimeter fencing of the property, pursuant to **Special Condition Four**, and restricting the type of fencing to a form which is wildlife permeable, will further serve to reduce the impacts of the development on wildlife which utilize the drainage channel, and will preserve the open, rural character of this scenic portion of western Malibu. Finally, the recordation of a future improvements deed restriction, under **Special Condition Eight**, will ensure that any additions or improvements to the development can be analyzed for their impact on the sensitive resources of the adjacent drainage channel pursuant to the applicable Coastal Act policies.

The Commission therefore finds that the proposed project, as conditioned, is consistent with Therefore, the Commission finds that, as conditioned, the development is consistent with Sections 30230 and 30231 of the Coastal Act, and protective of the habitat and water quality resources of the drainage channel.

G. Local Coastal Program

Section 30604(a) of the Coastal Act states (in part):

> ***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 Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice the ability of the local government to prepare a local program that is in conformity with Chapter 3 (commencing with Section 30200). ...***

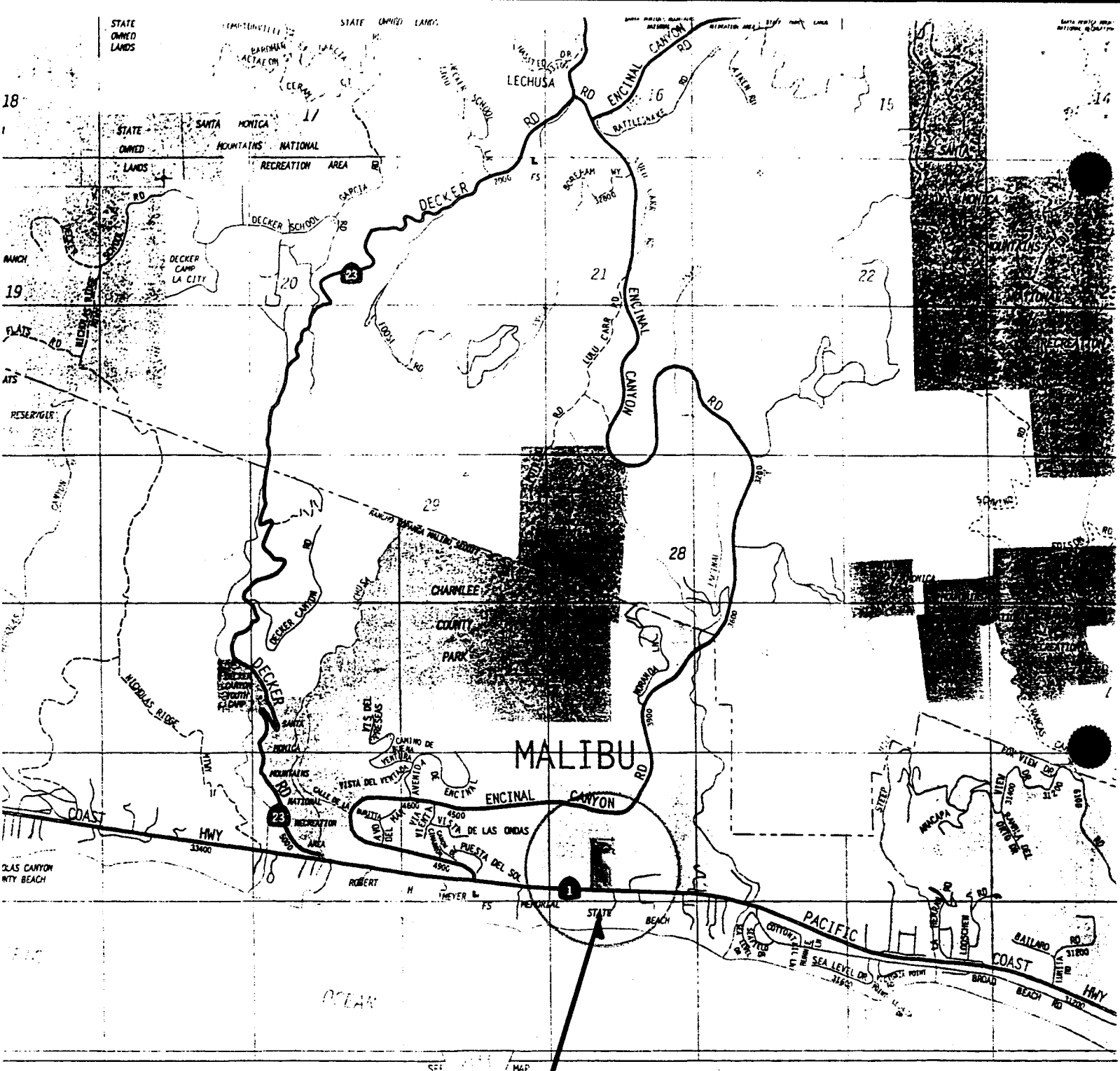
Section 30604(a) of the Coastal Act stipulates that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections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

H. California Environmental Quality Act (CEQA)

Section 13096(a) of the Coastal 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 Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Commission finds that the proposed project, as conditioned, will not have 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.

bkl



Project Site

EXHIBIT NO. 1
APPLICATION NO.
4-01-146
VICINITY MAP

4473 25

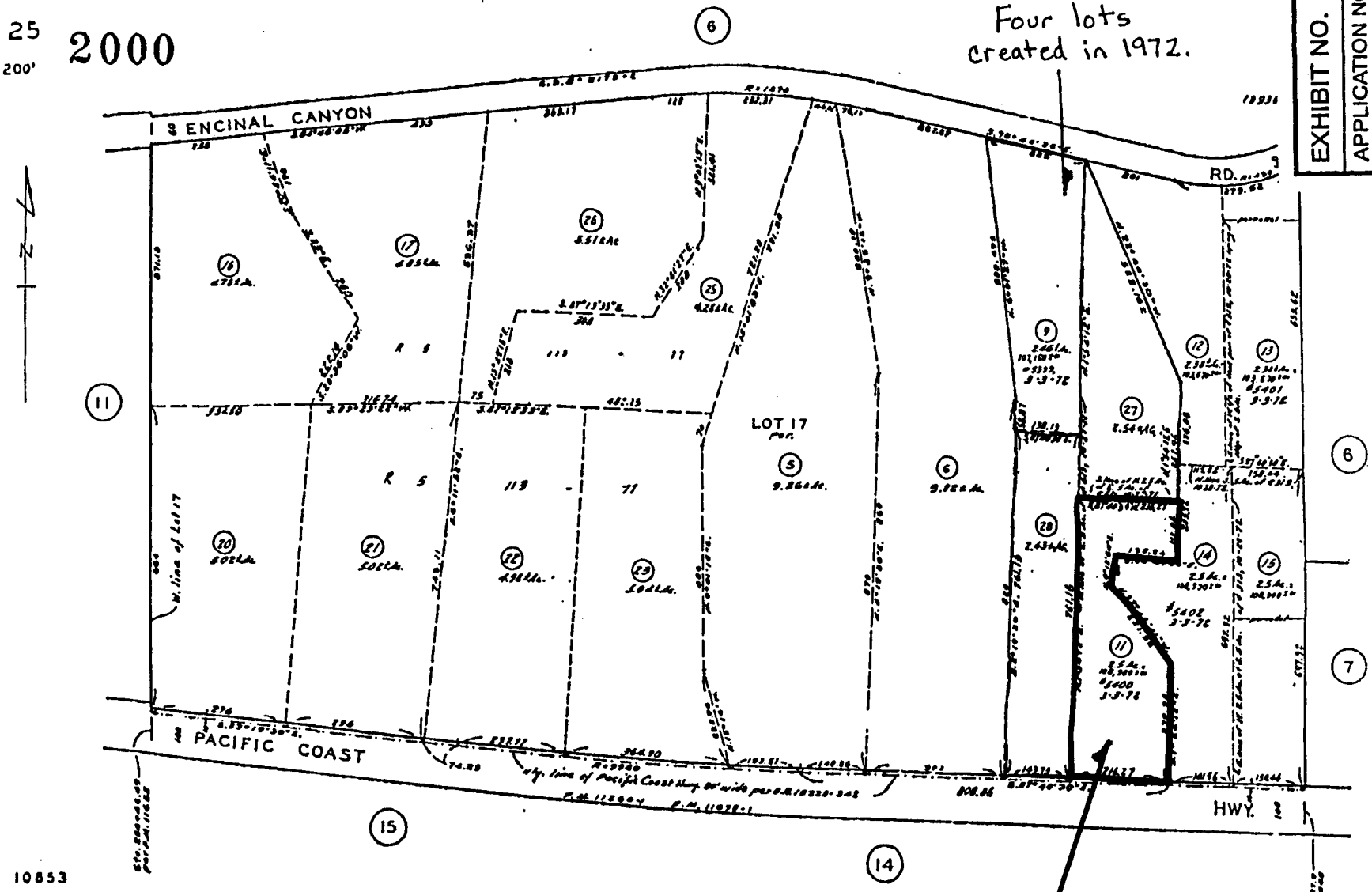
200'

2000

EXHIBIT NO. 2

APPLICATION NO. 4-01-146

PARCEL MAP



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LAND OF MATTHEW KELLER IN THE RANCHO
TOPANGA MALIBU SEQUIT R.F. 534

4473-6

MAP 0 G 1999

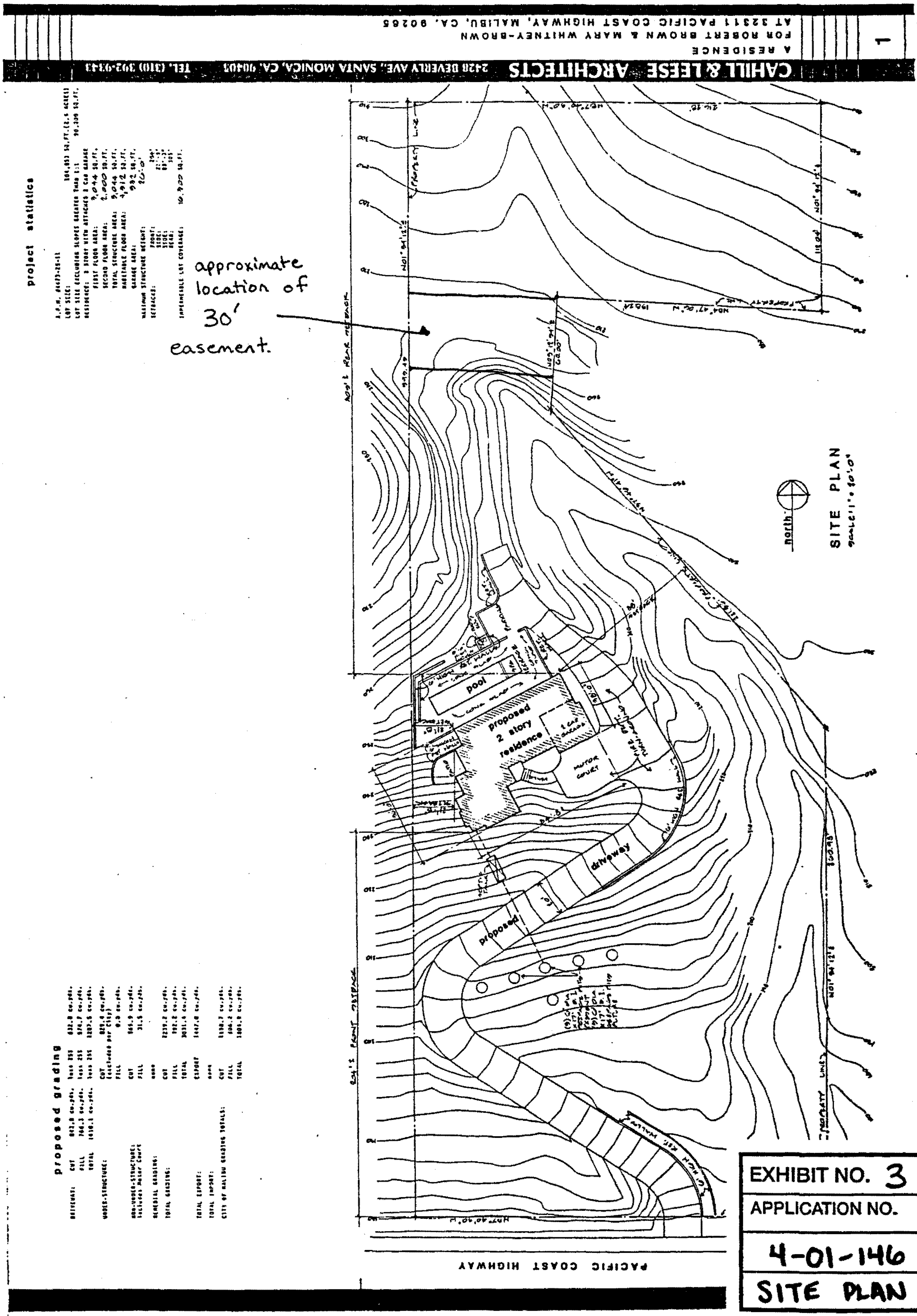


EXHIBIT NO. 3

APPLICATION NO.

4-01-146

SITE PLAN

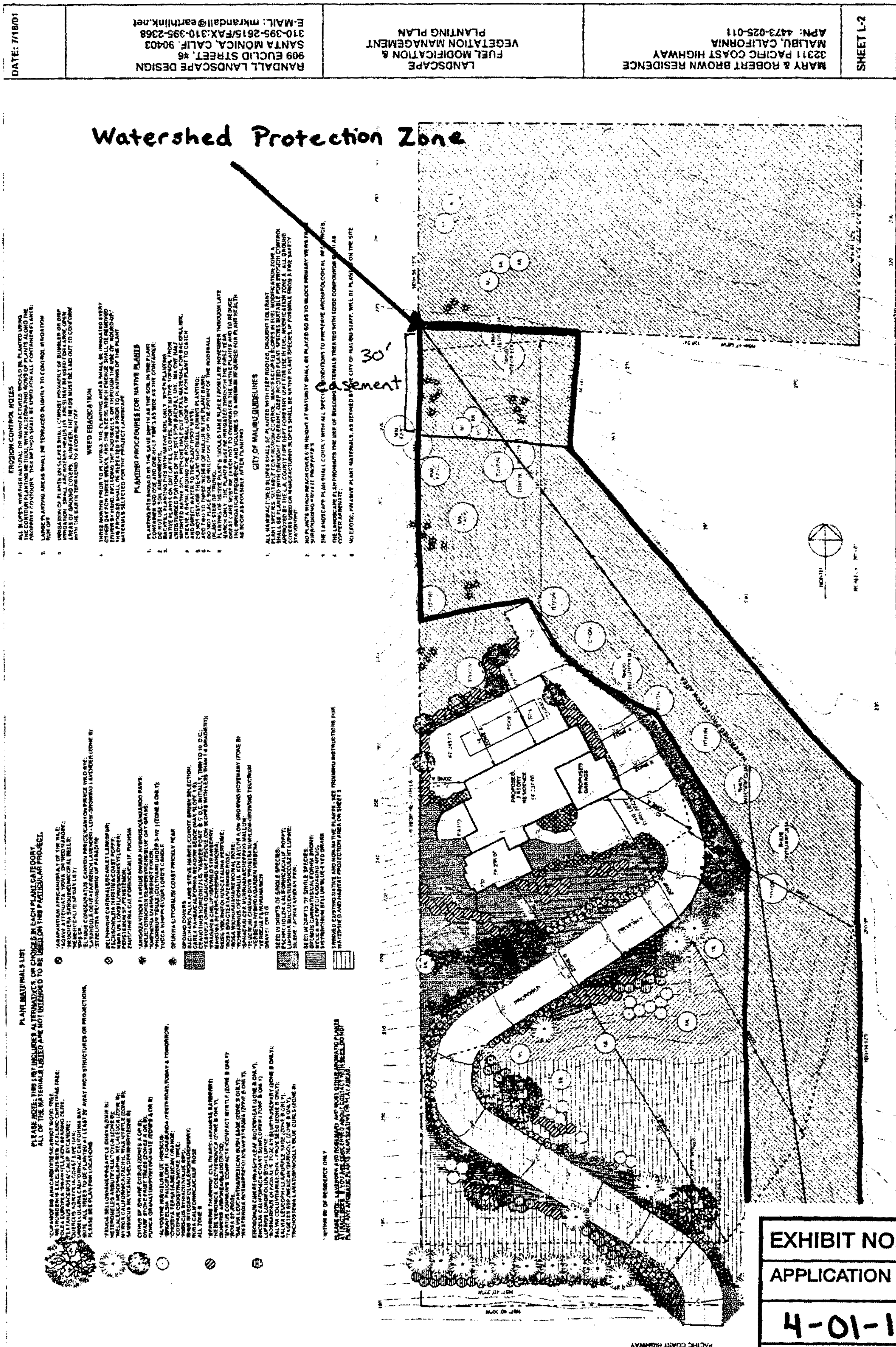
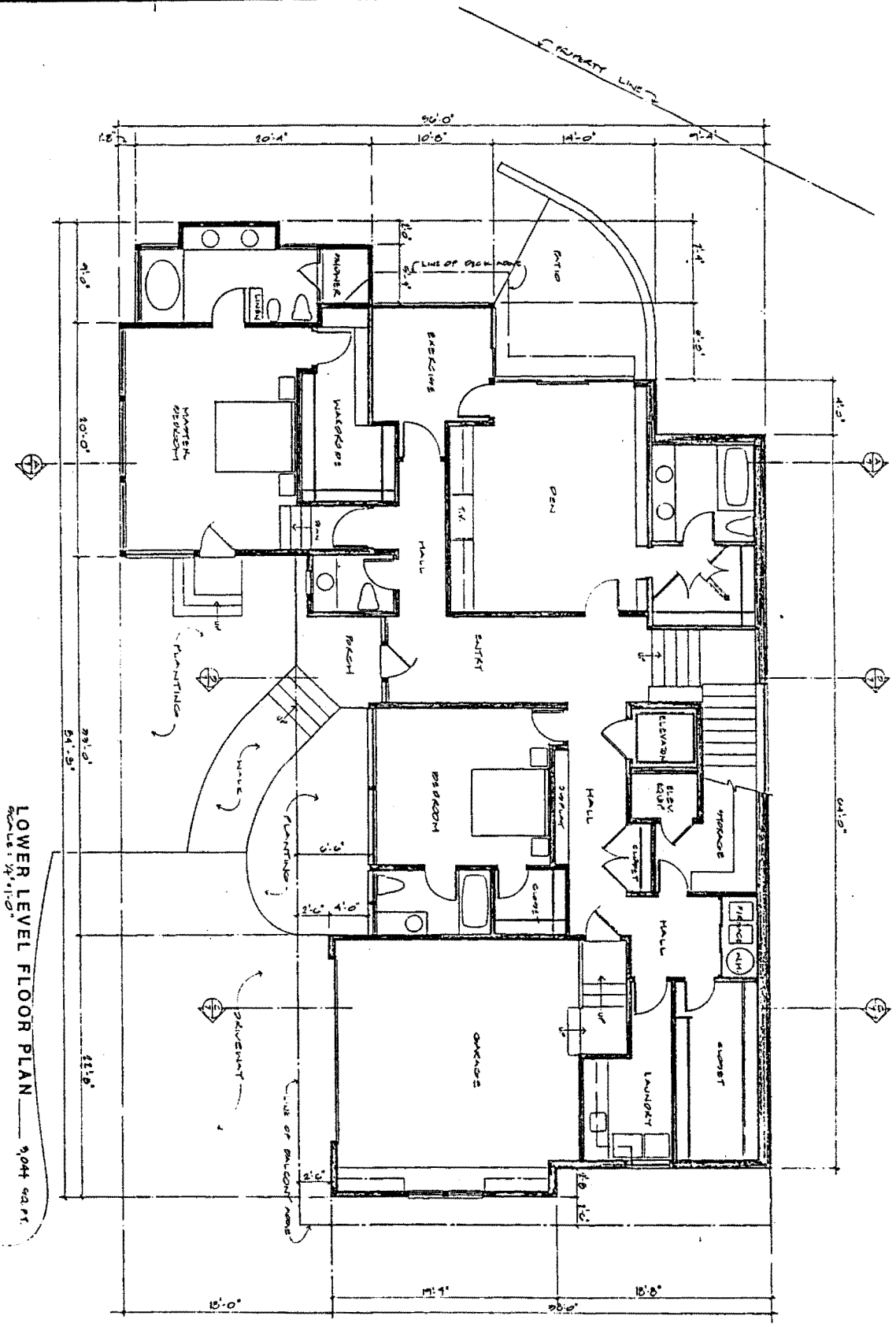


EXHIBIT NO. 4

APPLICATION NO.

4-01-146

SENSITIVE RESOURCE



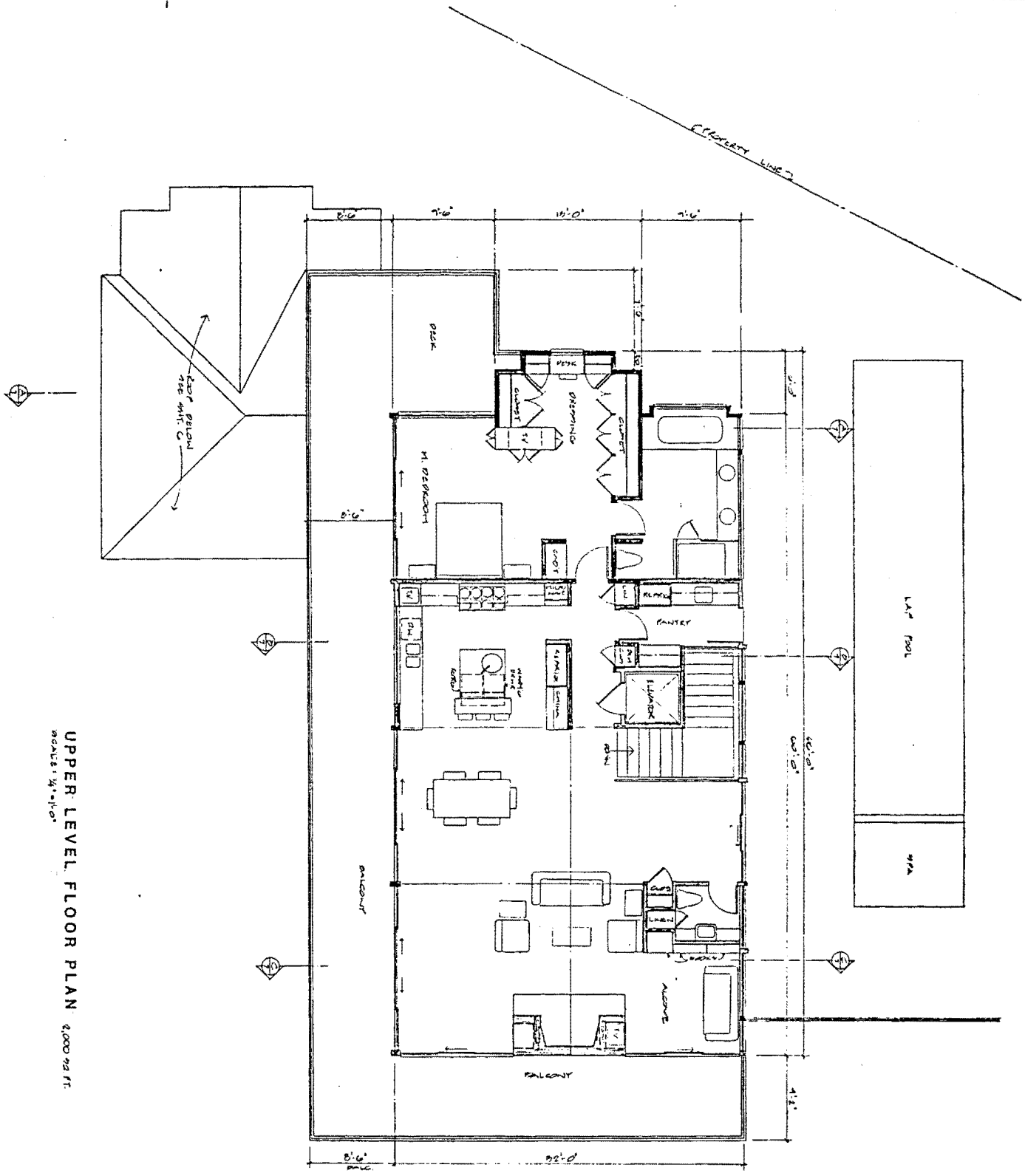
LOWER LEVEL FLOOR PLAN — 3,044 sq. ft.
SCALE: 1/4"=1'-0"

CAHILL & LEESE ARCHITECTS 2428 BEVERLY AVE., SANTA MONICA, CA. 90405

A RESIDENCE
FOR ROBERT BROWN & MARY WHITNEY-BROWN
AT 32311 PACIFIC COAST HIGHWAY, MALIBU, CA. 90265

2

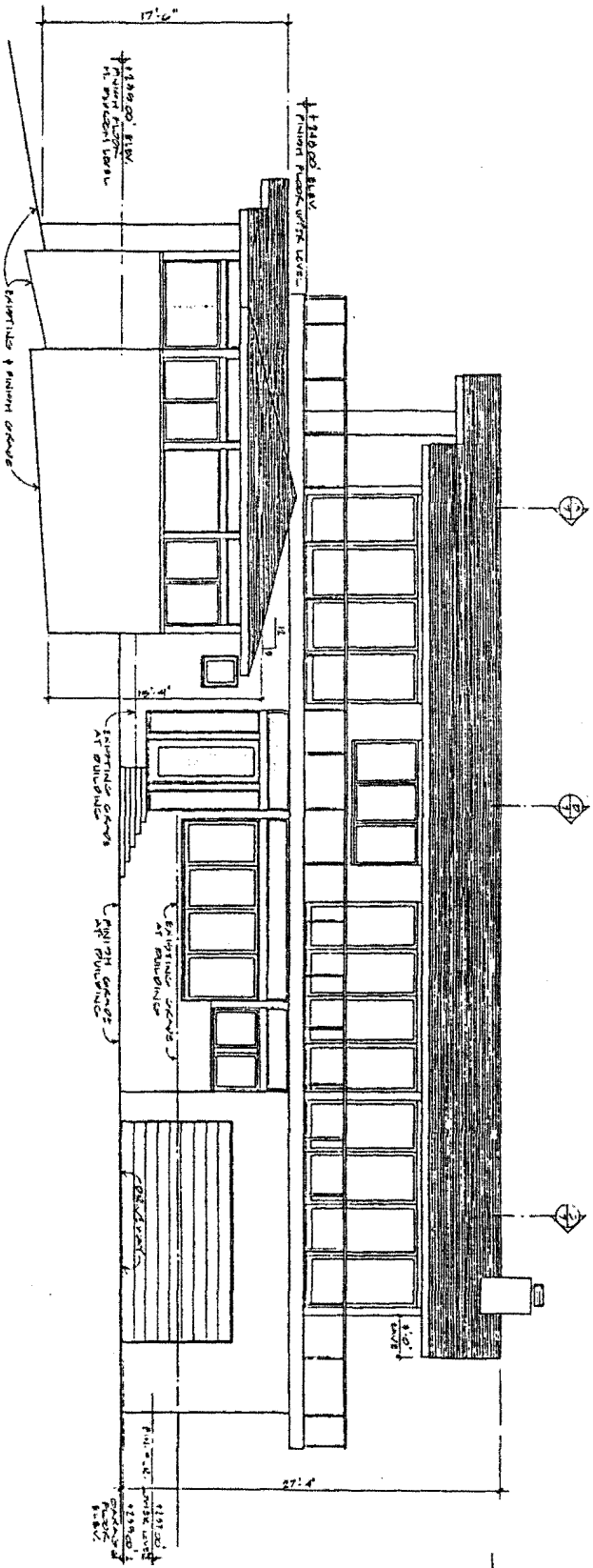
EXHIBIT NO. 5
APPLICATION NO.
4-01-146
FIRST FLOOR PLAN



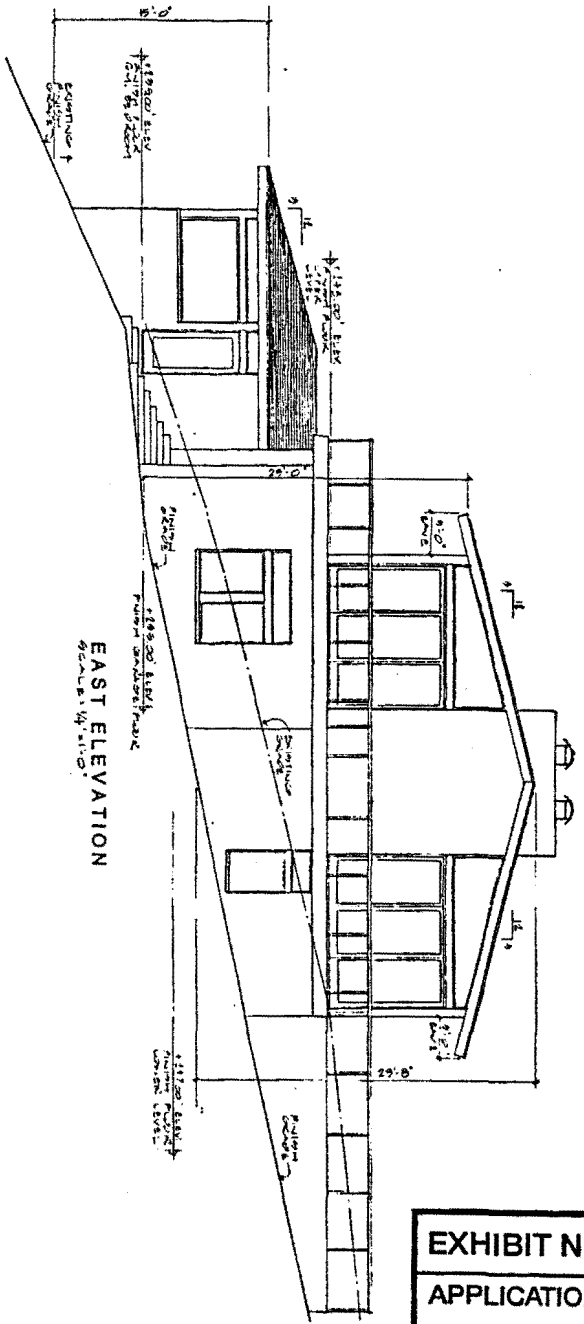
UPPER LEVEL FLOOR PLAN 2,000 SQ FT.
SCALE: 1/4"=1'-0"

3	CAHILL & LEESE ARCHITECTS 2428 BEVERLY AVE., SANTA MONICA, CA. 90405 A RESIDENCE FOR ROBERT BROWN & MARY WHITNEY-BROWN AT 32311 PACIFIC COAST HIGHWAY, MALIBU, CA. 90265

EXHIBIT NO. 6
APPLICATION NO.
4-01-146
SECOND FLOOR PLAN



SOUTH ELEVATION



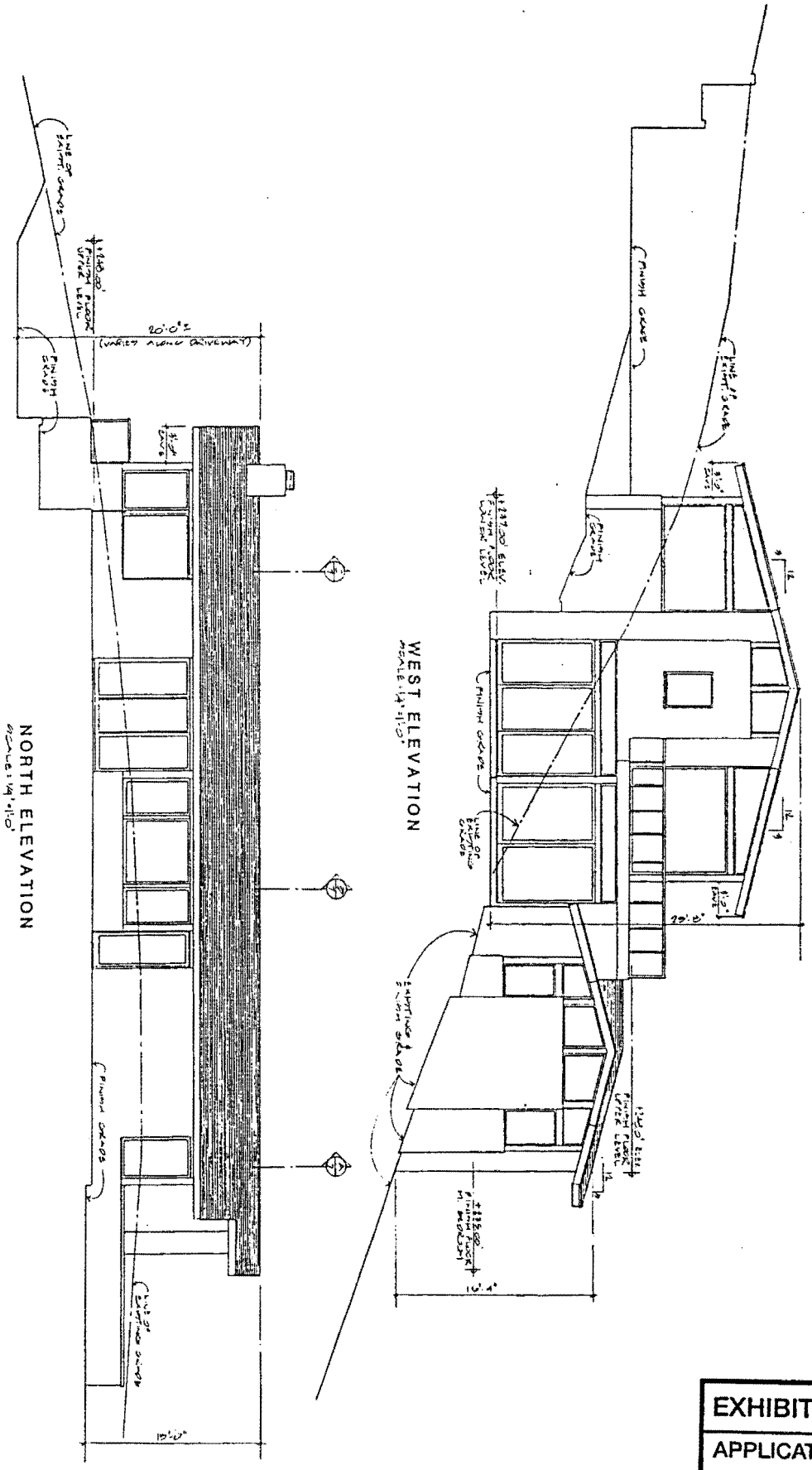
EAST ELEVATION

CAHILL & LEESE ARCHITECTS 2428 BEVERLY AVE., SANTA MONICA, CA. 90405 T

A RESIDENCE
FOR ROBERT BROWN & MARY WHITNEY-BROWN
AT 32311 PACIFIC COAST HIGHWAY, MALIBU, CA. 90265

4

EXHIBIT NO. 7
APPLICATION NO.
4-01-146
ELEVATIONS

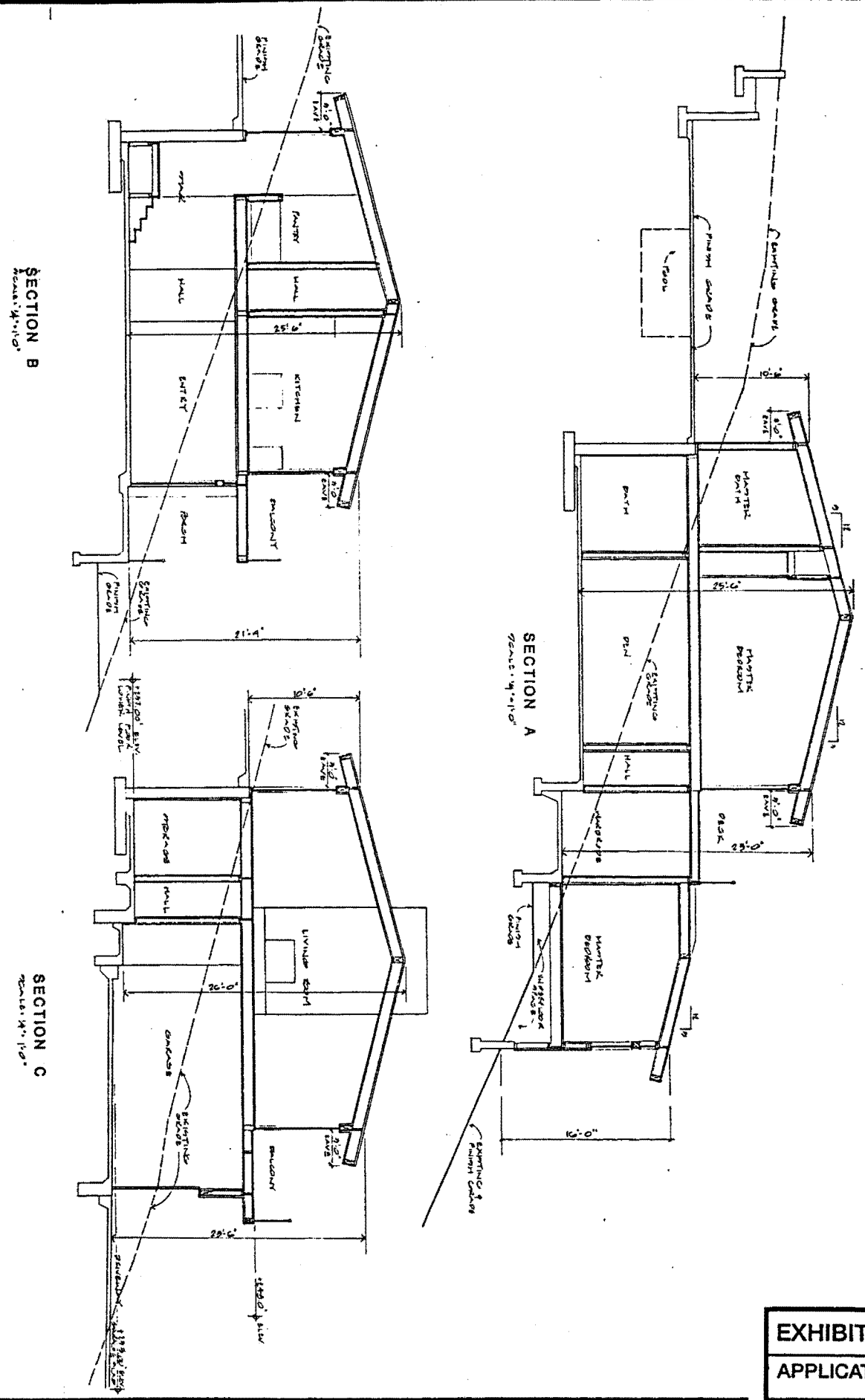


CAHILL & LEESE ARCHITECTS 2428 BEVERLY AVE., SANTA MONICA, CA. 90405

A RESIDENCE
FOR ROBERT BROWN & MARY WHITNEY-BROWN
AT 32311 PACIFIC COAST HIGHWAY, MALIBU, CA. 90265

5

EXHIBIT NO. 8
APPLICATION NO.
4-01-146
ELEVATIONS



CAHILL & LEESE ARCHITECTS 2428 BEVERLY AVE., SANTA MONICA, CA. 90405

A RESIDENCE
FOR ROBERT BROWN & MARY WHITNEY-BROWN
AT 32311 PACIFIC COAST HIGHWAY, MALIBU, CA. 90265

7

EXHIBIT NO. 9
APPLICATION NO.
4-01-146
CROSS SECTIONS