

## CALIFORNIA COASTAL COMMISSION

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

Filed: 9/5/95  
49th Day: 10/24/95  
180th Day: 3/3/96  
Staff: R. Richardson  
Staff Report: 10/30/95  
Hearing Date: Nov. 14-17, 1995  
Commission Action:



## RECORD PACKET COPY

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-95-165

APPLICANT: Tushita Trust AGENT: Oscar McGraw/Jonathan Kaufelt

PROJECT LOCATION: 27834 P. C. H., City of Malibu, Los Angeles County

PROJECT DESCRIPTION: Construction of an 884 sq. ft. exercise room addition to the second floor of a detached 440 sq. ft. maids quarter and 608 sq. ft. garage, remodel and addition of 549 sq. ft. to an existing 3,352 sq. ft. single family residence, addition of a 136 sq. ft. first level deck, 216 sq. ft. second level deck and a 430 sq. ft. garage addition to one of two existing garages.

Lot area:	98,455 sq. ft.
Building coverage:	7,274 sq. ft.
Pavement coverage:	27,182 sq. ft.
Landscape coverage:	44,689 sq. ft.
Parking spaces:	10
Plan designation:	Rural Land III (one dwelling per two acres) & Residential II (two dwellings per acre)
Ht abv fin grade:	22 ft.

LOCAL APPROVALS RECEIVED: City of Malibu Planning Department "Approval in Concept" and City of Malibu Environmental Health Department "Approval in Concept"

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan, Coastal Development Permits: 4-95-043 (Rotter); 4-95-054 (SAM Trust); A-81-7742 (Kraft); 5-81-400A (Kraft).

SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending approval of the proposed improvements and additions to the subject property with special conditions which address the cumulative impacts associated with the proposed development and geologic stability. More specifically, the applicant is required to record a future improvements deed restriction, a deed restriction prohibiting continuous residential use of several ancillary structures located on the site, and to incorporate all recommendations of the geotechnical report relative to the proposed development into final design and construction.

I. STAFF RECOMMENDATION

Approval with Conditions

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that, as conditioned, 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 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 development during construction, 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

#### 1. Future Development:

Prior to the issuance of a coastal development permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, stating that the subject permit is only for the development described in the Coastal Development Permit No. 4-95-165; and that any future structures, additions or improvements to the property, including but not limited to clearing of vegetation and grading, that might otherwise be exempt under Public Resource Code Section 30610(a), will require a permit from the Coastal Commission or its successor agency. Removal of vegetation consistent with L. A. County Fire Department standards relative to fire protection is permitted. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed.

#### 2. Second Structures

Prior to the issuance of the Coastal Development Permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, stating that for the structures illustrated on Exhibit 3: (a) 720 sq. ft. beach cabana; b) 832 sq. ft. guest unit; c) 720 sq. ft. tennis cabana; d) 440 sq. ft. maid quarters; and, e) 884 sq. ft. exercise room), the following activities shall be prohibited: continuous occupancy by persons including but not limited to guests or tenants whether compensation be direct or indirect.

In addition, the document shall state that the detached second floor, 884 sq. ft. exercise room and the 440 sq. ft. maid quarters, (as shown in floor plans, dated May 17, 1993, coastal development permit 4-95-165) shall at no time be combined into one connected structure by any method, including but not limited to construction of a doorway within the northern wall of the maid quarters allowing for the connection of a staircase for the second floor exercise room to the first floor maid quarters. Further, this document shall state that construction and/or use of kitchen facilities shall be prohibited for the exercise room and maid quarters.

The deed restriction shall be recorded with the deed to the parcel APN 4460-032-007 as a covenant running with the land and shall bind all successors and assignees of the permit. Any change in use of either of these accessory structures shall require a separate coastal development permit or an amendment to coastal development permit 4-95-165.

#### 3. Plans Conforming to Geologic Recommendation

All recommendations contained in the Engineering Geologic Report by Geoplan, Inc., dated December 14, 1993, the Engineering Geologic Memorandum by Geoplan, Inc., dated August 18, 1994 and the Response to Geology and Geotechnical Engineering Review Sheet by Strata-Tech, Inc., dated January 13, 1995 shall be incorporated into all final design and construction plans including surficial stability, foundations and

drainage. All plans must be reviewed and approved by the consultants. Prior to the issuance of the permit the applicant shall submit, for review and approval by the Executive Director, evidence of the consultants' review and approval of all project plans.

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 in the proposed development approved by the Commission which may be required by the consultant shall require an amendment to the permit or a new coastal permit.

#### IV. Findings and Declarations.

The Commission hereby finds and declares:

##### A. Project Description

The applicant is proposing to construct a second floor 884 sq. ft. exercise room over an existing detached 440 sq. ft. maid quarters and 608 sq. ft. existing 3 car garage and laundry room. As proposed, the garage would be increased by 430 sq. ft. In addition, the project involves a second floor 549 sq. ft. addition to the existing 3,352 sq. ft. existing single family residence with a first level 136 sq. ft. deck addition and a second level 216 sq. ft. deck addition. Both deck additions conform to a stringline drawn between the nearest adjacent deck corners of residential structures on either side of the subject residence. The project would not require any grading or changes to the three existing septic systems. The approximate 2 acre site is presently developed with the following: 3,352 sq. ft. single family residence; 720 sq. ft. beach cabana (with kitchen facilities); 832 sq. ft. guest house (with kitchen facilities); 720 sq. ft. tennis cabana (with plumbing and no kitchen facilities); 440 sq. ft. maid's quarters (with plumbing and no kitchen facilities); 608 sq. ft. garage; 400 sq. ft. garage; pool, tennis courts, 3 (three) septic systems, driveway and landscaping. The bluff top site is located between Paradise Cove and Escondido Beach in the City of Malibu. The existing beach cabana is visible from the beach and the main residence and ancillary structures are not visible from Pacific Coast Highway. Under the current Malibu LUP, which the Commission considers as guidance, the site is designated as a combination of Rural Land III (one dwelling per two acres) and Residential II (two dwellings per acre). The site is accessed from Pacific Coast Highway. Parking for the Winding Way trail head is located near the intersection of Winding Way and Pacific Coast Highway, which is across the highway from the subject property.

##### B. Background

The main residence, beach cabana, guest house, maid quarters, garages, driveway and landscaping were constructed in the 1950s. Since then the site has been the subject of past coastal development permits. In 1981, the Commission approved the construction of an approximate 700 sq. ft. recreational building, swimming pool and additions to the existing single family residence [Coastal Development Permit A-81-7742 (Kraft)]. The approval was subject to special conditions regarding lateral access and relocation of the swimming pool landward of the existing residence.

Previously, the Commission concurred with the Executive Director's determination to authorize a 258.5 sq. ft. addition to the existing single family residence on the landward side of the home [Coastal Development Permit 5-81-400A (Kraft)].

C. Cumulative Impacts of New Development.

The proposed project involves the construction of a second story exercise room above a detached garage and maids quarters which is defined under the Coastal Act as new development. New development raises issues with respect to cumulative impacts on coastal resources. In particular, the construction of an additional structure with plumbing facilities on a site where a primary residence and several other accessory structures exist intensifies the use of a site and impacts public services, such as water, sewage, electricity and roads. Sections 30250 of the Coastal Act addresses the cumulative impacts of new development.

Section 30250(a) of the Coastal Act states:

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

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

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

In addition, the certified Malibu LUP, which the Commission considers as guidance for implementing the Chapter 3 policies of the Coastal Act, contains policy 271 which states:

"In any single-family residential category, the maximum additional residential development above and beyond the principal unit shall be one guesthouse or other second unit with an interior floor space not to exceed 750 gross square feet, not counting garage space."

The issue of second units on lots with primary residences consistent with the new development policies of the Coastal Act has been a topic of local and statewide review and policy action by the Commission. These policies have been articulated in both coastal development permit conditions and policies and implementing actions of LCPs. Further, the long-time Commission practice in implementing has upheld the policies, for example 750 sq. ft. size limit in

the City of Malibu. Staff notes that this 750 sq. ft. maximum guest house/second unit size is only imposed where units are intended as habitable structures and not on such uses as garages, exercise rooms, art studios, etc.

With respect to past permit conditions on second units and guesthouses, Commission action has varied based upon such factors as the types of units proposed, the differences in conditions (or lack thereof) attached by local governments, and differences in the characteristics of the communities where such units are proposed. Limiting the size of second residential units, guest houses and other appurtenant structures generally results in a smaller number of occupants which also reduces the impacts on services such as roads, water and sewage disposal. Further, smaller second units and guesthouses reduces the potential for these structures to become separate, permanent dwelling units.

The Coastal Act requires that new development, including second units and other accessory structures, be permitted only where public services are adequate and only where public access and coastal resources will not be cumulatively affected by such development. The Commission has repeatedly emphasized the need to address the cumulative impacts of new development in the Malibu/Santa Monica Mountains area in past permit actions. The cumulative impact problem stems from the existence of thousands of undeveloped and poorly sited parcels in the mountains along with the potential for creating additional parcels and/or residential units through subdivisions and multi-unit projects. Because of the large number of existing undeveloped lots and potential future development, the demands on road capacity, services, recreational facilities, and beaches could be expected to grow tremendously. In addition, the presence of second units on each existing lot within the Coastal Zone would create adverse cumulative impacts on coastal resources and public access.

Although the new development proposed is for the construction of an exercise room addition to a detached structure the project raises issue relative to the cumulative impacts associated with the construction of second units due to the existence of several detached structures on the site which contain plumbing, electrical and/or kitchen facilities. In the case of this project, the applicant is proposing (in part) the construction of a detached second floor 884 sq. ft. exercise room. As stated in the project description section, the site is presently developed with the following accessory structures:

- 720 sq. ft. beach cabana (with kitchen facilities)
- 832 sq. ft. guest unit (with kitchen facilities)
- 440 sq. ft. maid quarters (kitchen facility removed in 1995)
- 720 sq. ft. tennis cabana (no kitchen facility)
- 608 sq. ft. garage
- 400 sq. ft. garage

The proposed second floor exercise room would be located above the existing 608 sq. ft. garage and the 440 sq. ft. maid's quarters and would be accessed by a staircase adjacent to the north wall of the maid quarters. As described above, the exercise room would be one of five ancillary structures (see Exhibit 3). Further, all of the structures, with the exception of the 720 sq. ft. tennis cabana, were constructed prior to the adoption of the Coastal Act.

As such, cumulative impacts on public access and coastal resources were not addressed in the review and approval of the majority of the existing development on the site. The issue of continual occupancy in any one of these structures is a topic of concern given the potential impacts on increased residential density along the coast.

The Commission notes that concerns about the potential future impacts on coastal resources and coastal access might occur with any further development of the subject property because of the extensive development already on the site. Impacts such as traffic, sewage disposal, recreational uses, visual and scenic quality and resource degradation would be associated with the development of any additional units in this area. Therefore, the Commission finds it is necessary to require the applicant to record a future improvements deed restriction. Thus the findings and special conditions attached to this permit will serve to ensure that the proposed development results in the development of the site that is consistent with and conforms to the Chapter 3 policies of the Coastal Act.

Moreover, Staff notes that the maid quarters and exercise room could potentially be combined into one room by construction of a doorway within the northern wall of the first floor maid quarters for example. Special condition #2 has been crafted to ensure that this building will not be combined into one connected structure by any method in the future. Further, the condition restricts the construction and/or use of kitchen facilities within the exercise room and maid quarters. The Commission finds that as conditioned, the proposed project is consistent with Section 30250(a) and with all the applicable policies of the Coastal Act.

#### D. Geologic Stability

Section 30253 of the Coastal Act states:

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, instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Section 30253 requires that new development minimize risk to life and property in areas of high geologic, flood and fire hazard, and assure stability and structural integrity. The applicant is proposing the construction of an 884 sq. ft. addition to the second floor of a 440 sq. ft. maids quarter and 608 sq. ft. garage, remodel and 549 sq. ft. addition to an existing 3,352 sq ft. single family residence, addition of a 136 sq. ft. first level deck, 216 sq. ft. second level deck and the 430 sq. ft. garage addition to one of two existing garages.

The applicant has submitted an approved Geologic Review Sheet from the City of Malibu, dated 8/14/95, which indicates that the proposed project is consistent with the safety standards and building codes. In addition, the applicant has submitted an Engineering Geologic Report, prepared by Geoplan, Inc., dated 12/14/93, an Engineering Geologic Memorandum, prepared by Geoplan, Inc., dated 8/14/94 and a Response to Geology and Geotechnical Engineering Review Sheet, prepared by Strata-Tech, Inc., dated 1/13/95. As stated in the Geologic Report, the site contains an existing landslide which is attributed to failure of the undercut seacliff. Based on subsurface exploration and testing, the landslide is no longer active and the slope stability analysis has determined the factor of safety to above the minimum code standards. The Geologic Report states that, "appropriate drainage control elements should be incorporated on additions with runoff being directed to the existing drainage control system which conducts all storm water safely to the beach."

Based on the recommendations of the consulting geologist the Commission finds that the development will be free from geologic hazards so long as all the recommendations made by the geologic consultants are incorporated into the project plans. Therefore, the Commission finds it necessary to require the applicant to submit project plans that have been certified in writing by the consulting Soils and Engineering Geologists as conforming to their recommendations. Only as conditioned is the proposed project consistent with Section 30253 of the Coastal Act.

#### E. Septic System

The Commission recognizes that the potential build-out of lots in Malibu, and the resultant installation of septic systems, may contribute to adverse health effects and geologic hazards in the local area. Section 30231 of the Coastal Act states that:

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

The applicant is not proposing the installation of any new septic system. However, the existing development is presently supported by three septic systems which consist of one 1500 Gallon tank and two 750 Gallon tanks with the necessary seepage pits. The applicant's Geologist has considered the existing septic systems relative to site stability given the existing ancient landslide located on the bottom of the bluff face. Given the capacity of the septic systems and intensity of use on the site as proposed by the additions, the applicant's Geologist has asserted that the three septic systems in their present capacity will not impact the stability of the site.



In addition, the applicant has submitted an "Approval" from the City of Malibu Department of Environmental Health. As reviewed by the City, the proposed project is consistent with the City's plumbing code and will not adversely impact the biological productivity and quality of the coastal waters located south of the subject site. The Commission notes that any change in the level of use by way of permanent occupancy of any of the ancillary structures could potentially impact overall site stability due to an increase in subsurface water. Therefore, as set forth in the preceding section regarding cumulative impacts of development, the applicant is required to restrict the use of the ancillary structures from permanent occupancy. As stated in special condition #2, any change in use of these structures will require either an amendment to this permit or a new coastal development permit. At that time, further analysis and testing by a qualified professional regarding an increase to the capacity of effluent disposal on this site relative to overall site stability should be considered as well as consistency with any other applicable Coastal Act policies. Therefore, only as conditioned, the Commission finds that the proposed project is consistent with Section 30231 of the Coastal Act.

#### F. Local Coastal Program

Section 30604 of the Coastal Act states that:

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

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

#### G. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of 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)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives

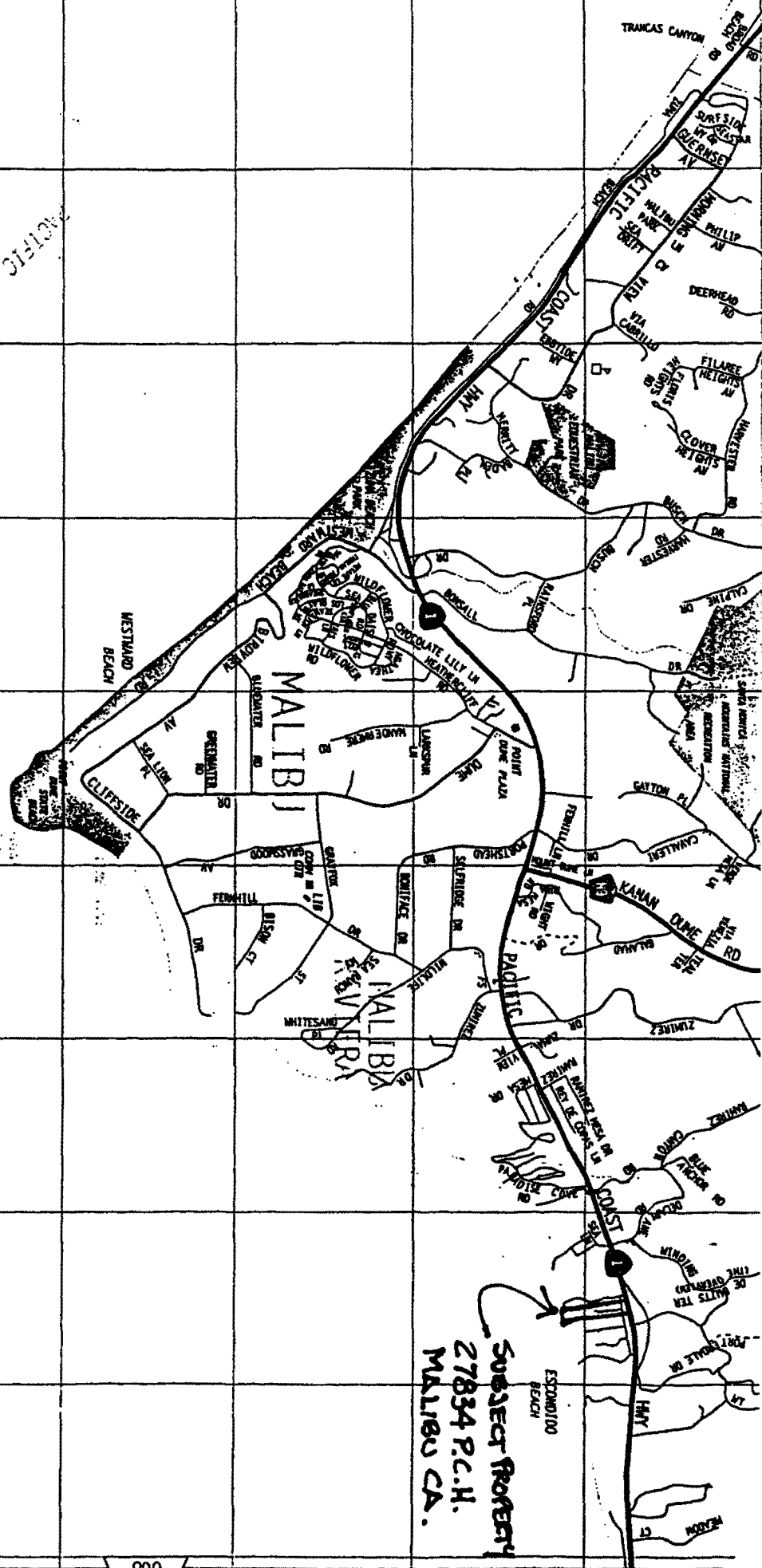
or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. The proposed project, as conditioned will not have significant adverse effects on the environment, within the meaning of the California Environmental 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.

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4-95-165

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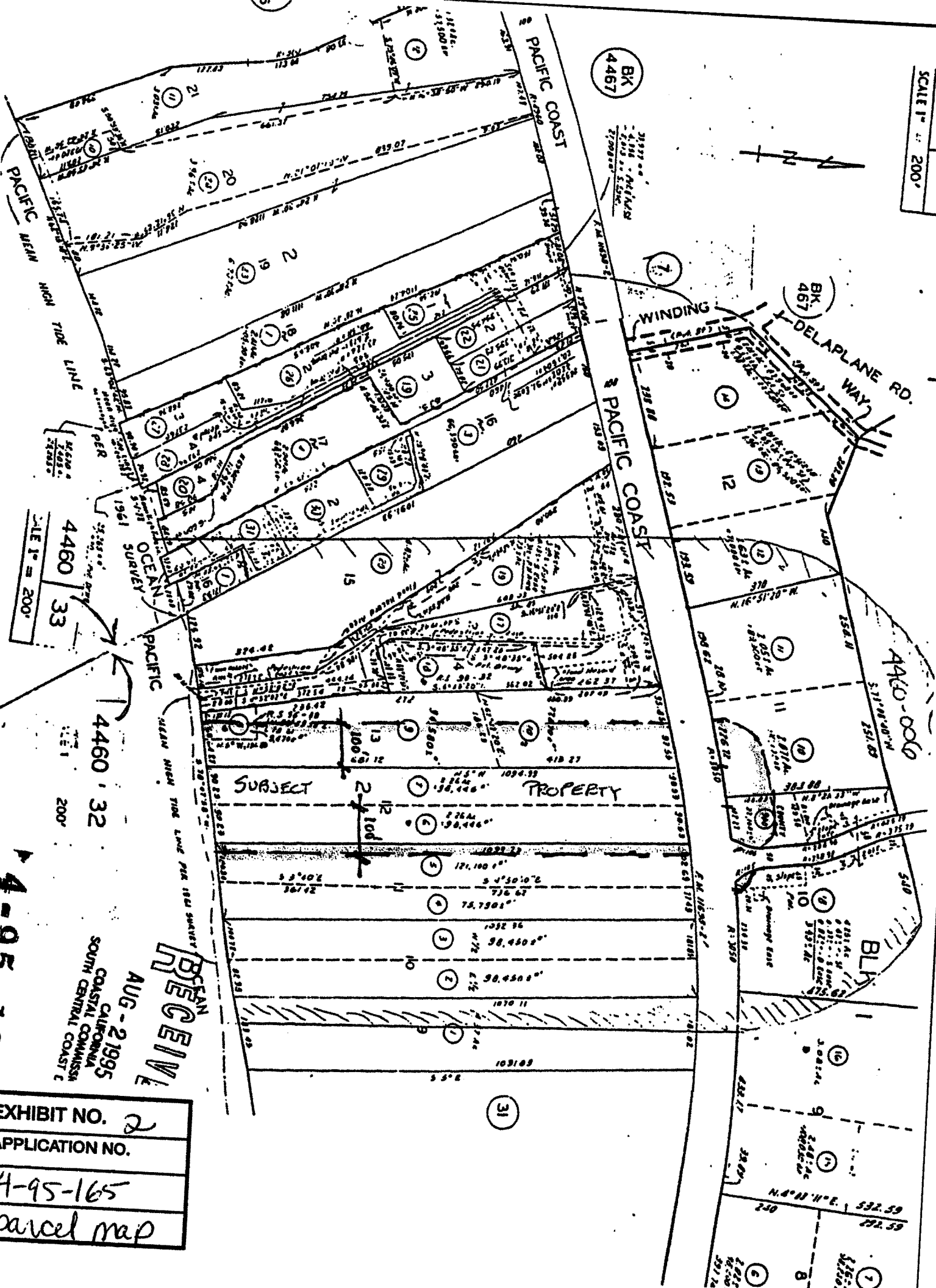
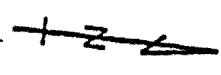


SEE MAP VIII

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COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

EXHIBIT NO. 1
APPLICATION NO.
4-95-165
area map

SCALE 1" = 200'



BK 4467

BK 4467

4460-006

BLK 1

31

SUBJECT PROPERTY

4460 33

4460 32

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SOUTH CENTRAL COAST C

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4-95-165

EXHIBIT NO. 2
APPLICATION NO.
4-95-165
parcel map

S.F.D.:	4 Br. - 4 Br. (Remodel)
SEPTIC TANK:	1500 Gallon (E)
PRESENT:	2 - 5' X 40' BI (E)
FUTURE:	100X
PERC RATE:	Unknown
GUEST HOUSE:	1 Bedroom (E)
SEPTIC TANK:	750 Gallon (E)
PRESENT:	1 - 5' X 40' BI (E)
FUTURE:	100X
CABANA:	1 Bedroom (E)
SEPTIC TANK:	750 Gallon (E)
PRESENT:	1 - 10' X 30' Drainfield (E)
FUTURE:	100X
PERC RATE:	Unknown

**NOTES:**

1. This approval is for a 4 bedroom to 4 bedroom single family dwelling remodel. No renovation of the private sewage disposal system is required.
2. This approval only relates to the minimum requirements of the City of Malibu Uniform Plumbing Code and does not include an evaluation of any geological, or other potential problems, which may require an alternative method of wastewater disposal.
3. This approval is valid for one year or until City of Malibu Uniform Plumbing Code and/or Administrative Policy changes render it noncomplying.

CITY OF MALIBU  
ENVIRONMENTAL HEALTH  
IN-CONCEPT APPROVAL  
SIGNATURE L. Young  
APPROVAL IS REQUIRED  
TO THE ISSUANCE OF  
INSTRUCTION PERMITS.

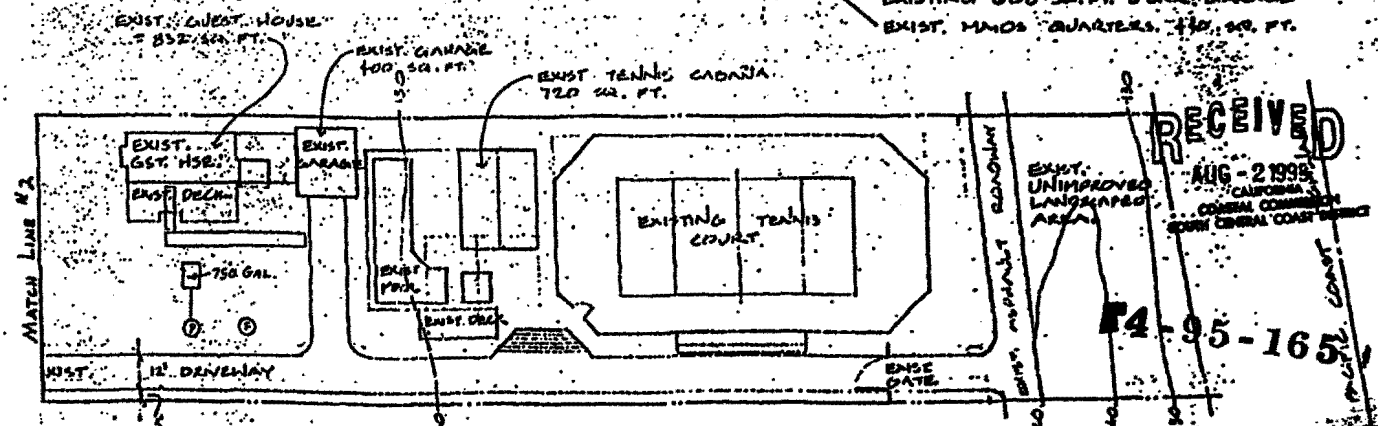
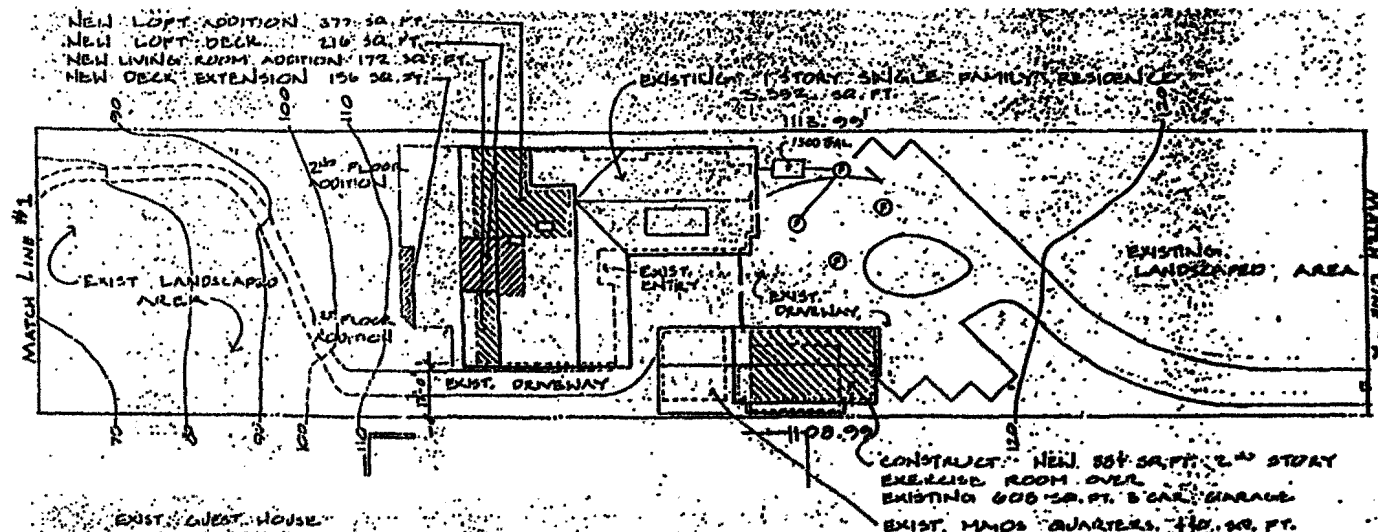
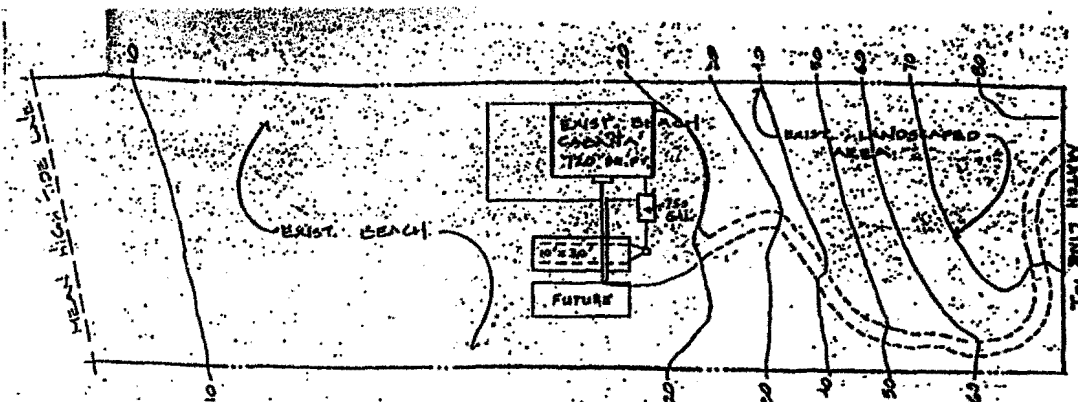
APPROVAL IS REQUIRED  
TO THE ISSUANCE OF  
INSTRUCTION PERMITS

EXHIBIT NO. 3

APPLICATION NO.

4-95-165

Sit plan/septic

 $1^{\circ} = 60'$ 

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SOUTH CENTRAL COAST DISTRICT

**F4-95-165**

Subject  
SIR

5 = Rural Land III

1 du / 2 acres

7 = Residential II

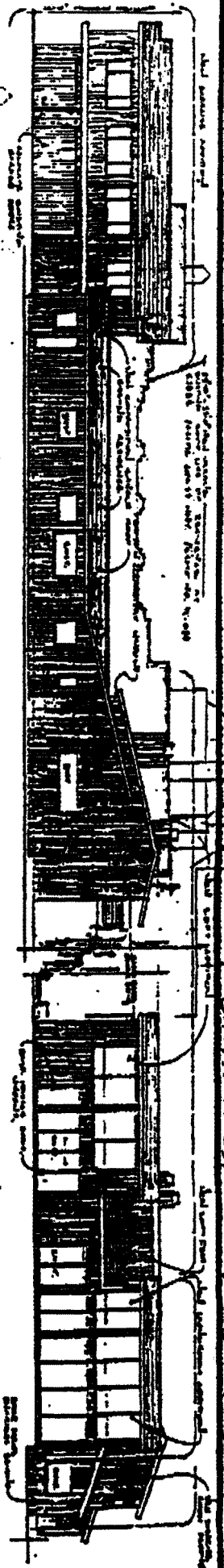
1 du / acre

EXHIBIT NO. 4

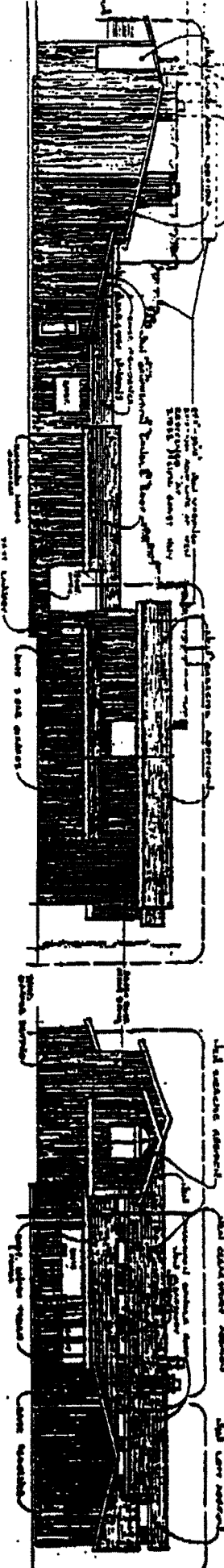
APPLICATION NO.  
4-95-165

Malibu LUP (Guidance)  
Land Use Designation

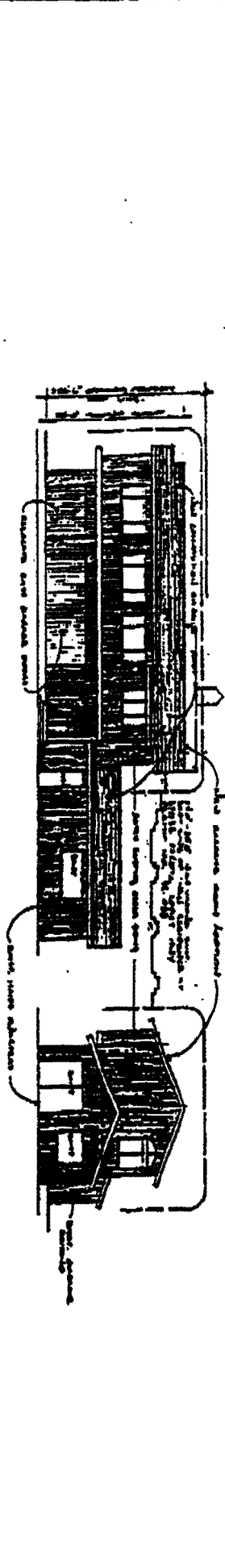
TOSHITA TEST 7-12-107



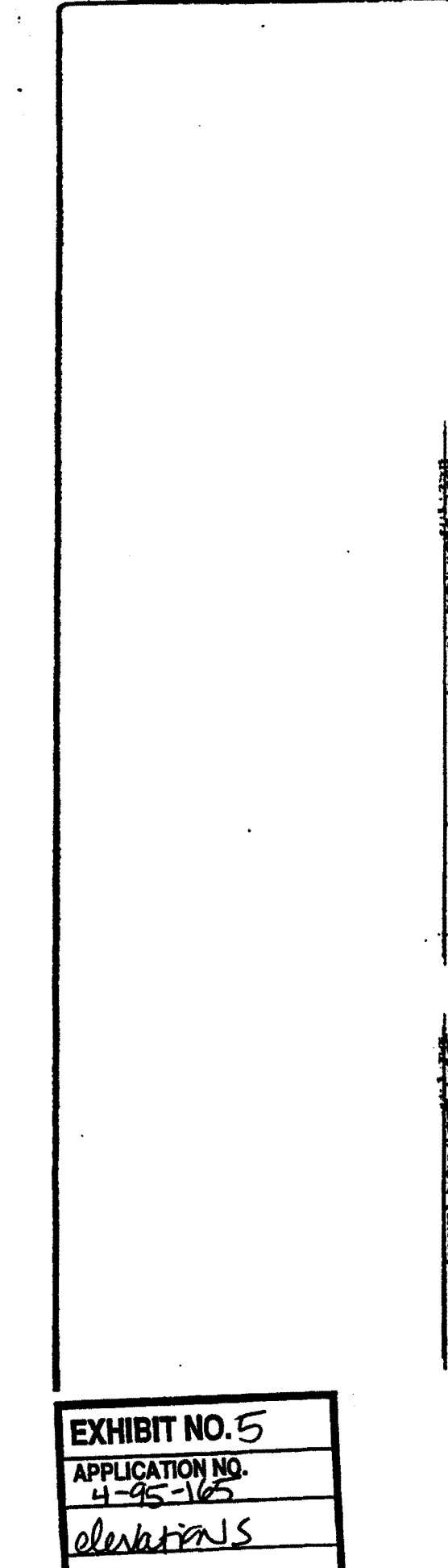
FRONT ELEVATION



SIDE ELEVATION



REAR ELEVATION



FRONT ELEVATION

EXHIBIT NO. 5  
APPLICATION NO.  
4-95-165  
elevations



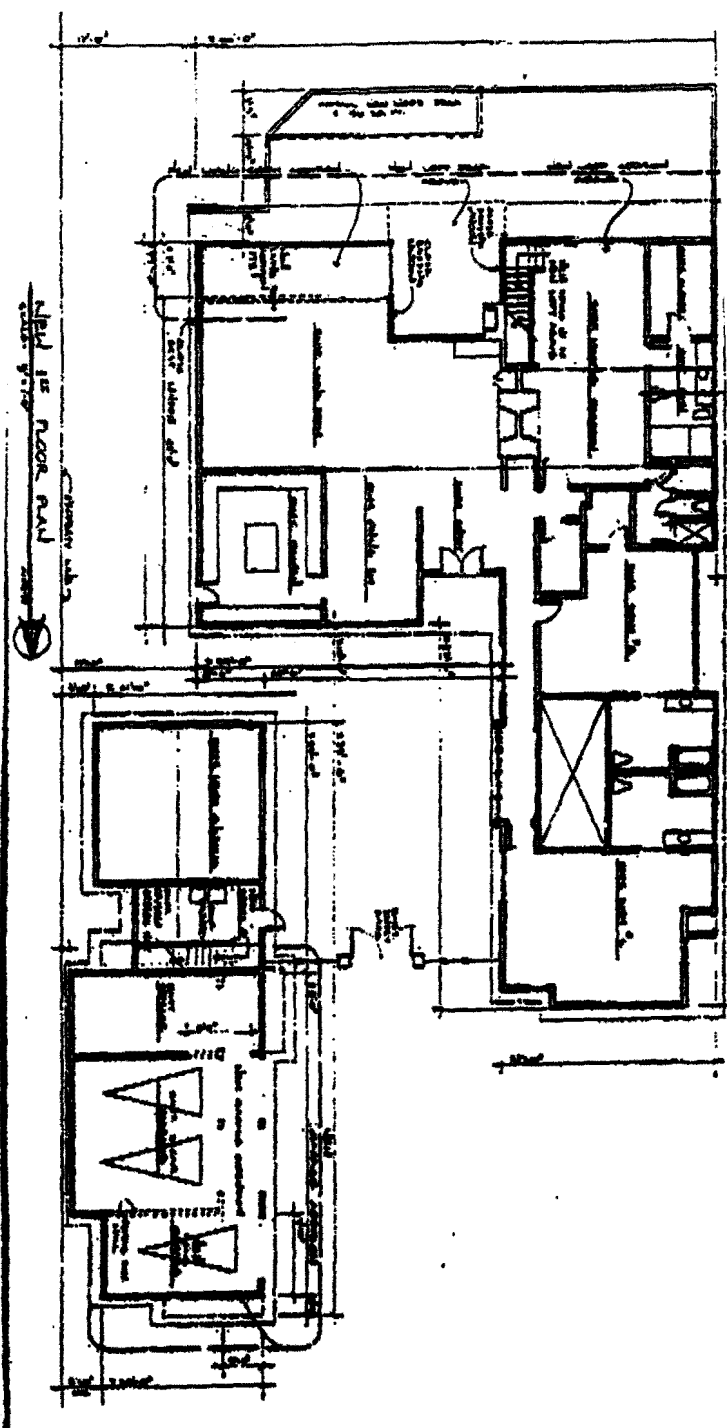
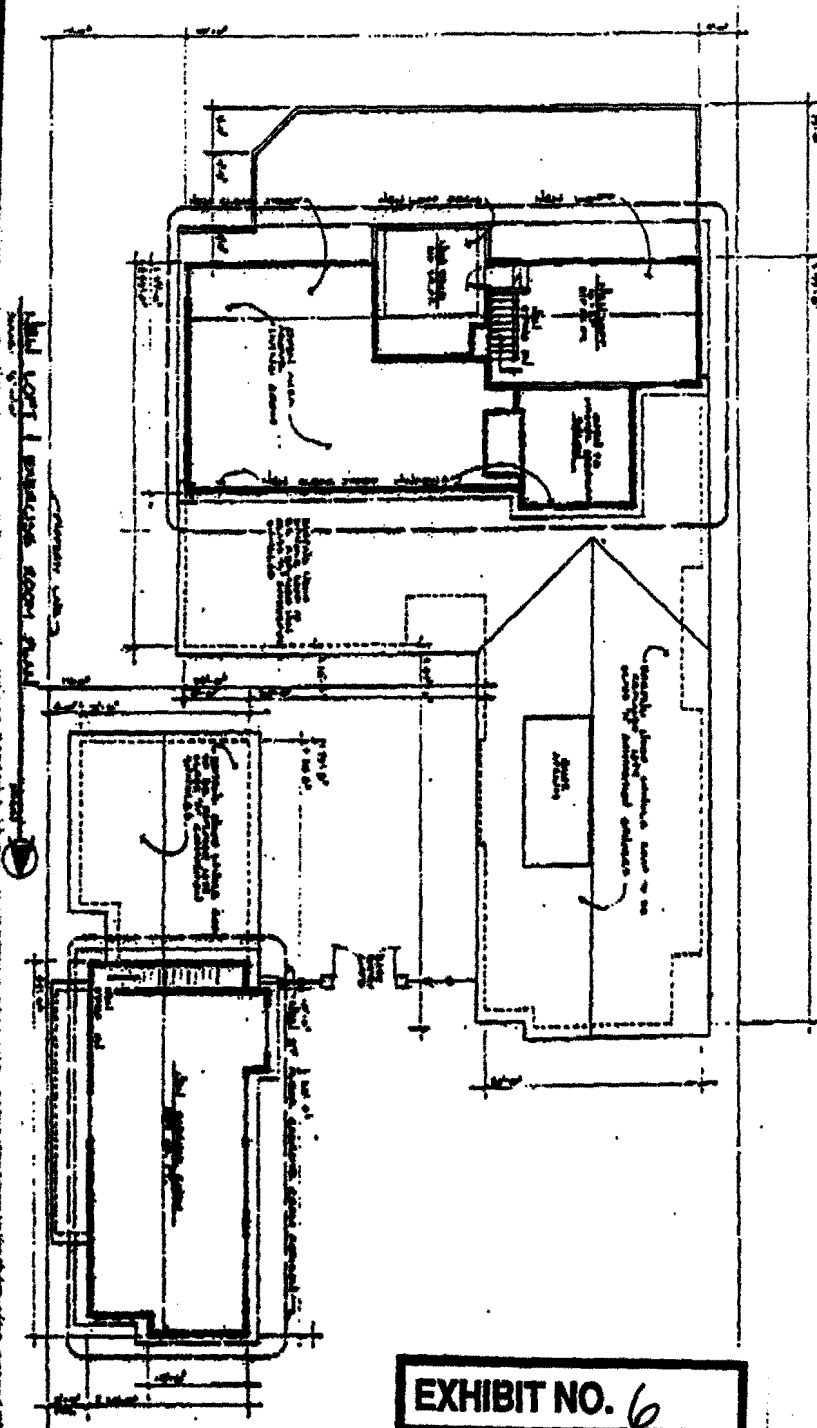


EXHIBIT NO. 6
APPLICATION NO.
4-95-165
site plan