

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA

SOUTH CALIFORNIA ST. SUITE 200

MALIBU, CA 93001

(805) 641-0142



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Staff: MB-V
Staff Report: 11/21/96
Hearing Date: 12/10-13/96

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 4-96-093

Applicant: Danny & Diana Klein Agent: Tony Steenolsen

PROJECT LOCATION: 30760 Broadbeach Rd., City of Malibu, Los Angeles County

PROJECT DESCRIPTION: Construct 594 sq. ft. second story addition to existing detached residential office and a 730 sq. ft. enclosed unimproved "attic space" (without stairway) second story addition to an existing detached garage.

Lot Area	23,000 sq. ft. approximately
Building Coverages	2,700 sq. ft. approximately, existing single family residence
	486 sq. ft. existing office/guest rooms
	748 sq. ft. existing garage
Pavement Coverage	1,738 sq. ft. existing & proposed
Landscape Coverage	6,640 sq. ft. existing & proposed
Parking Spaces	3 covered (existing)
Plan Designation	Recreation Serving Commercial
Project Density	.5 du/a
Ht abv fin grade	24 feet

LOCAL APPROVALS RECEIVED: State Lands Commission project review letter of July 30, 1996; City of Malibu Approval in Concept of May 21, 1996.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan 1986, Coastal Development Permits 4-95-011 (Boscowicz) and 4-96-031 Al (Parmer).

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed improvements and additions to the subject property with a special condition which addresses the cumulative impacts through a future improvements deed restriction prohibiting any future additions, structures or improvements without a coastal development permit.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, 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, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies 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 Condition

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 second story addition to existing detached residential office described in the Coastal Development Permit No. 4-96-093; and that any future structures, additions or improvements to the property, change in use, or conversion to residential use, that might otherwise be exempt under Public Resource Code Section 30610(a), will require a permit from the Coastal Commission or its successor agency. 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.

IV. Findings and Declarations.

A. Project Location and Description

The proposed development is located on a beach-front lot on Trancas Beach, across the highway from commercial development at the intersection of Trancas Canyon Road and Pacific Coast Highway. The project fronts on Broad Beach Road near its eastern junction with Pacific Coast Highway. (see Exhibit I) The proposed development is in an area of residential development extending along Broad Beach Road. Further to the east along the beachfront is Zuma Beach County Park and a drainage swale, a beach club (Malibu Swim Club), and a parking lot. The beach is wide and characterized by natural dunes.

Land use designations in the project area provide for a variety of development types, including recreation-serving and general commercial development. (See Exhibit II) The project site and adjacent properties with single residential development are designated Recreation Serving Development on map for the certified Land Use Plan (LUP) for Los Angeles County, used for guidance only in past Commission decisions since the area is within the City of Malibu.

A seven bedroom single family residence with accessory living quarters was permitted on the site under coastal permit #3511 (Lancer Development Corporation) in 1978 with conditions requiring a deed restriction for a stringline and open space dedication to protect the dune habitat and limitation of development to single family use.

The applicant is proposing to construct a second story addition to an existing 486 sq. ft. detached residential office in a detached building which could function as a residential unit due to the presence of a kitchen and bathroom.

The applicant currently utilizes this office as a film location brokerage office which is an activity which existed prior to creation of the City of Malibu, according to City staff. It presently functions as an office in the first floor of the existing building. This building presently contains a kitchen and is designated on the project plans as "office/guest rooms". (see Exhibit III) As noted on the project plans, the new second story is proposed

as an open floor serving as an "office/storage room 594 sq ft only".

The applicant also proposes an addition over the existing three car garage of an second story attic. The attic is not shown as having any stairway although the applicant has indicated that access is planned through "pull down" stairway which could involve a trap door or open bay. The garage is connected to the office/guest building by a canopy with a two story ornamental tower already existing.

The project site is 23,000 sq. ft. with approximate building coverage of 2,700 sq. ft. for the existing single family residence, 486 sq. ft. existing for office/guest rooms, and 748 sq. ft. for the existing garage.

The proposed development was reviewed and "approved in concept" by the City of Malibu. The City indicated on the project plans that the addition over the office/guest building was not to exceed 1200 sq. ft. in combination with the existing first story use, and that the attic over the garage was not to exceed 750 sq. ft.. The City indicated in response to a Coastal Commission staff inquiry that there was no objection to office use of a building even though it may have been originally constructed as a guest house. The applicant has further clarified the intended use through a letter to the Coastal Commission indicating that the use is for a private business and not for guest house purposes.

B. Cumulative Impacts of New Development.

The proposed project as new development raises issues with respect to cumulative impacts on coastal resources. In particular, the construction of an addition to an accessory structure with plumbing facilities on a site with a primary residence and another 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, long-term Commission practice has upheld the policies, for example 750 sq. ft. size limit for guest houses in the Malibu/Santa Monica Mountains Coastal Zone. 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, offices, 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 addition to a detached office and not a second residential unit, the project raises issue relative to the cumulative impacts associated with the construction of second residential units due to the potential for the structure's conversion into a second unit or guest unit.

The Commission notes that there is a concern relative to the potential conversion of the office use or unimproved "attic space" into a second

residential unit or guest unit which would be inconsistent with section 30250 of the Coastal Act and past Commission actions relative to the size of second residential units in Malibu. Therefore, the Commission finds that it is necessary to require a future improvements deed restriction to ensure there is no change in use of the office, additions or modifications to the structure without Commission review and approval. 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.

C. Public Access

The Coastal Act requires the Coastal Commission to ensure that each project provides maximum public access for every project. Applicable sections of the Coastal Act provide:

Section 30210: In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211: Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30251: The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30253 (in part): New development shall: (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard. (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. ...

Projects requiring a Coastal Development Permit must be reviewed for compliance with the public access provisions of Chapter 3 of the Coastal Act. The Commission has required public access to and along the shoreline in new development projects and has required design changes in other projects to reduce interference with access to and along the shoreline.

The major access issue in such permits is the occupation of sand area by a structure, in contradiction of Coastal Act policies 30210, 30211, and 30212. However, a conclusion that access may be mandated does not end the

Commission's inquiry. As noted, Section 30210 imposes a duty on the Commission to administer the public access policies of the Coastal Act in a manner that is "consistent with ... the need to protect ... rights of private property owners..." The need to carefully review the potential impacts of a project when considering imposition of public access conditions was emphasized by the U.S. Supreme Court's decision in the case of Nollan vs. California Coastal Commission. In that case, the court ruled that the Commission may legitimately require a lateral access easement where the proposed development has either individual or cumulative impacts which impede the achievement of the State's legitimate interest in protecting access and where there is a connection, or nexus, between the impacts on access caused by the development and the easement the Commission is requiring to mitigate these impacts.

The subject site is located in the area of beachfront residential development in Malibu known as Broad Beach. As such, development of this site has been reviewed on many occasions with respect to Coastal Act sections relative to access and recreation. The Commission's experience in reviewing shoreline residential projects in Malibu indicates that individual and cumulative impacts on access of such projects can include, among others: encroachment on lands subject to the public trusts thus physically excluding the public; interference with natural shoreline processes which are necessary to maintain publicly-owned tidelands and other public beach areas; overcrowding or congestion of such tideland or beach areas; and visual or psychological interference with the public's access to and the ability to use and cause adverse impacts on public access such as above.

In the case of the proposed project, however, the construction would be second story additions to existing buildings on the inland side of the existing residence. The project would not affect the seaward extension of the existing residence and impact upon the the stringline or include any shoreline protective devices. Thus, the project will have no individual or cumulative impacts on public access. Therefore, the Commission finds that a condition to require lateral access is not appropriate.

D. 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 of Malibu's ability to prepare a Local Coastal Program for this area of Malibu that is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

E. CEQA

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

As discussed above, the proposed project has been mitigated to limit the cumulative impact of new development. As conditioned, there are no feasible alternatives or mitigation measures available, beyond those required, which would lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and is found consistent with the requirements of CEQA and the policies of the Coastal Act.

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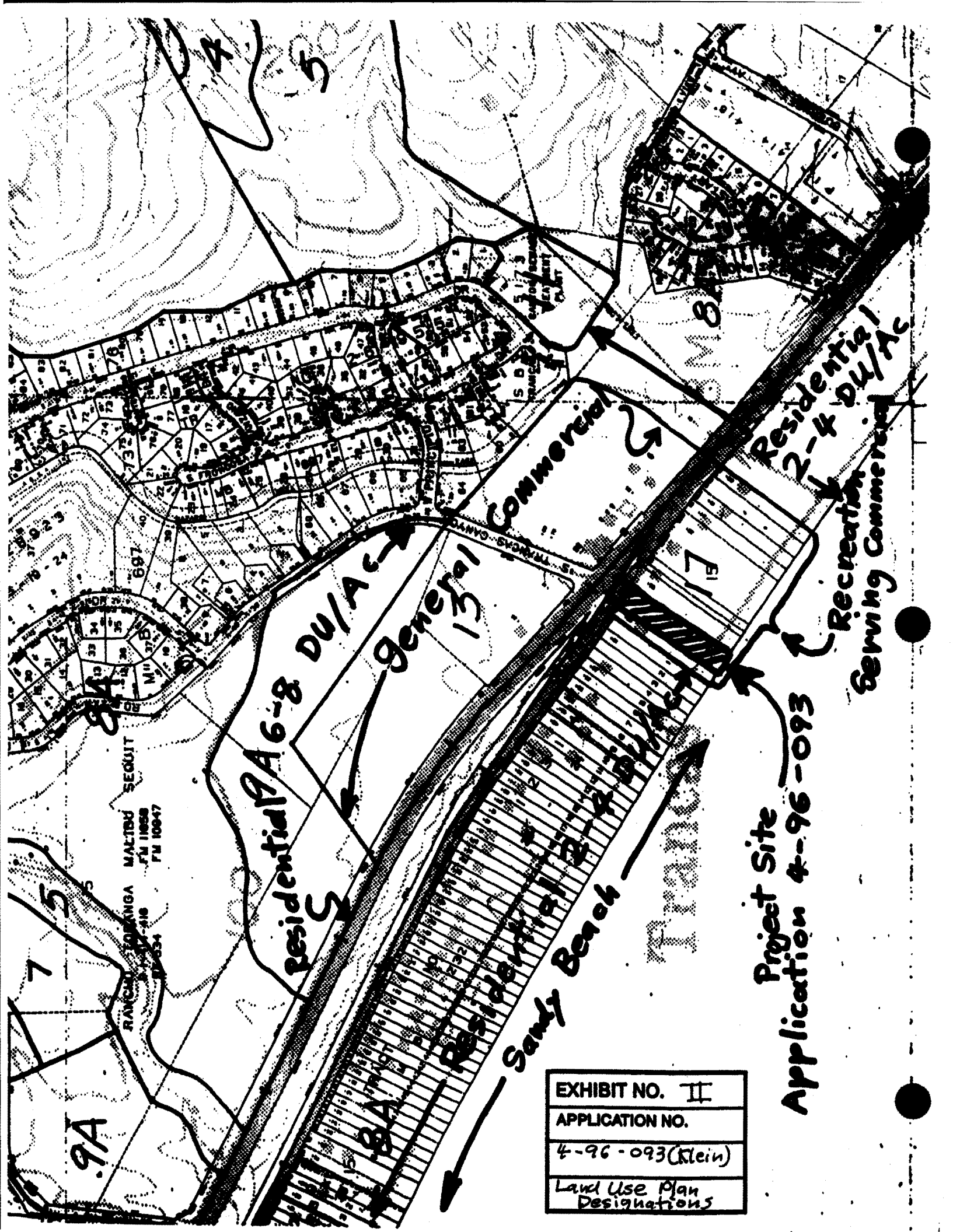


EXHIBIT NO. II
APPLICATION NO.
4-96-093 (Klein)
Land Use Plan Designations

Project Site
Application 4-96-093

Residential 2-4 DU/AC
Recreation
Serving Commercial

REAR ELEVATION

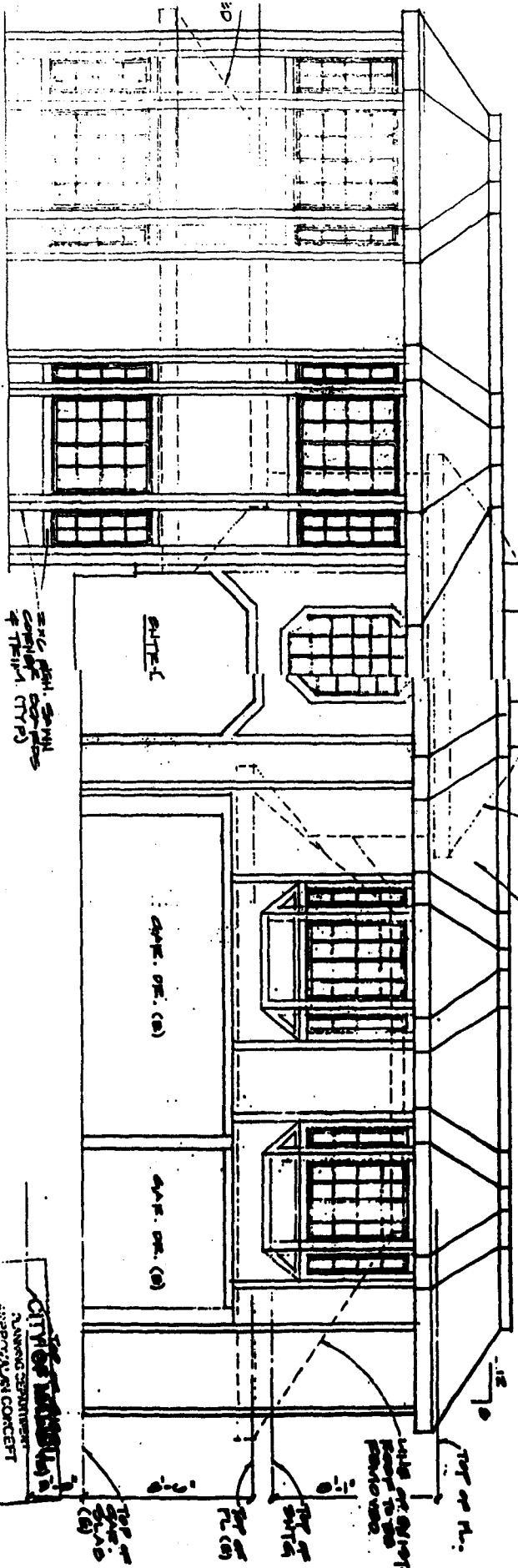
SCALE: 1/4" = 1'-0"

EXISTING SKYLIGHT TO BE REMOVED & PLACED ON NEW BASE.

EXISTING 17' x 17' SKYLIGHT TO BE REMOVED. (POINTS OMITTED FROM AVAILABLE VIEWS)

GLASS IN FIRE DEPARTMENT WALLS TO BE REMOVED. (POINTS OMITTED FROM AVAILABLE VIEWS)

WALL OF SKYLIGHT TO BE REMOVED



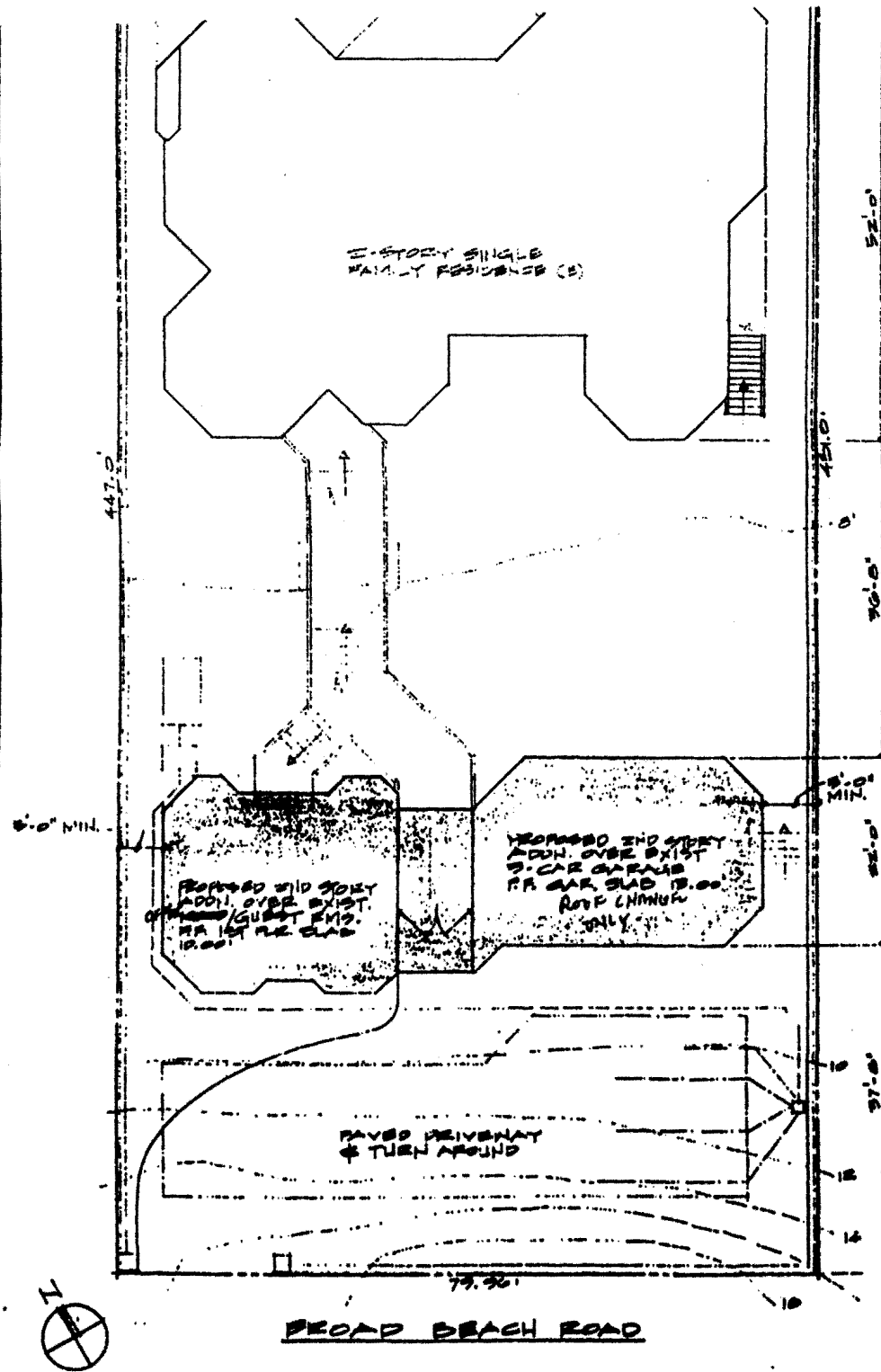
REAR ELEVATION

CITY OF LOS ANGELES
PLANNING DEPARTMENT
APPROVALS CONCEPT
DATE: 12/1/81
BY: [Signature]
THE OFFICIAL RECORD OF THE CITY OF LOS ANGELES

EXHIBIT NO. IV
APPLICATION NO.
4-96-093 (Klein)
Plan View

AN ADDITION TO THE RESIDENCE OF:
DIANE KLEIN
30760 BRENDABACH RD.
MALIBU, CALIFORNIA

DATE	12/1/81
BY	[Signature]
NOTED	
DATE	
BY	



SITE PLAN

EXHIBIT NO. V
APPLICATION NO.
4-96-093(Klein)
Site Plan