

## CALIFORNIA COASTAL COMMISSION

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



Filed: 1/18/96  
49th Day: 2/2/96  
180th Day: 7/8/96  
Staff: IAD-VNI  
Staff Report: 1/19/96  
Hearing Date: February 6-9, 1996  
Commission Action:

STAFF REPORT: CONSENT CALENDAR

W209

APPLICATION NO.: 4-95-249

APPLICANT: Joey &amp; Georgia Goodman AGENT: Oscar W. McGraw

PROJECT LOCATION: 3824 Paseo Hidalgo, City of Malibu, Los Angeles County.

PROJECT DESCRIPTION: Construction of a new 3,208 sq. ft. single family residence (SFR) to replace a 2,340 SFR destroyed by the 1993 Old Topanga Firestorm.

Lot area:	5,730 sq. ft.
Building coverage:	1,694 sq. ft.
Pavement coverage:	1,852 sq. ft.
Landscape coverage:	1,857 sq. ft.
Parking spaces:	2
Ht abv fin grade:	14'-0"

LOCAL APPROVALS RECEIVED: City of Malibu: Planning Department Approval in Concept, Environmental Health Department Septic Approval in Concept, Building Department Geotechnical Approval in Concept.

SUBSTANTIVE FILE DOCUMENTS: California Coastal Act of 1976, as of January 1995, Geotechnical Investigation Report, dated October 13, 1994, prepared by Harrington Geotechnical Engineering, Inc., and Revised City of Malibu Restoration Classification, dated October 20, 1995, by Harrington Geotechnical Engineering, Inc.

---

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having

jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

## II. Standard Conditions.

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth 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. Landscaping and Erosion Control Plan

Prior to issuance of the coastal development permit, the applicant shall submit landscaping and erosion control plans prepared for review and approval by the Executive Director. The plans shall incorporate the following criteria:

- (a) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes. To minimize the need for irrigation and to screen or soften the visual impact of development 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 October 4, 1994. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.

- (b) 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. This requirement shall apply to any disturbed soils;
- (c) Should grading take place during the rainy season (November 1 - March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location.

## 2. Assumption of Risk

Prior to permit issuance, applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide that: (a) the applicant understands that the site may be subject to extraordinary hazard from landsliding and erosion, and the applicant assumes the liability from such hazards that; (b) the applicant hereby unconditionally waives any future claims of liability on the part of the California Coastal Commission and agrees to indemnify and hold harmless the California Coastal Commission, its officers and employees relative to the California Coastal Commission's approval of the project for any damage from such hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens.

## 3. Plans Conforming to Geologic Recommendation

All recommendations contained in the Geotechnical Investigation Report, dated October 13, 1994, and the Revised City of Malibu Restoration Classification, dated October 20, 1995, by Harrington Geotechnical Engineering, Inc., shall be incorporated into all final design and construction including foundations, grading and drainage. All plans must be reviewed and approved by the consultants. Prior to the issuance of the coastal development 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.

## 4. Wild Fire Waiver of Liability

Prior to the 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 of liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wild fire exists as an inherent risk to life and property.

#### IV. Findings and Declarations.

The Commission hereby finds and declares as follows:

##### A. Project Description and Background

The applicant is proposing the construction of a new 3,208 sq. ft., 14'-0", 1 story, single family residence (SFR), to replace a 2,340 sq. ft. SFR destroyed by the 1993 Old Topanga Firestorm. Pursuant to P.R.C. Section 30610(g)(1) no Coastal Permit is required for the replacement of a structure destroyed by disaster, if the structure(s) does not exceed either floor area, height, or bulk of the destroyed structure by 10%. In this case the proposed structures to replace the SFR exceeds the previous by 37%, and therefore a Coastal Permit is required. The project site is located within the La Costa area of Malibu. This area is a built out section of Malibu, consisting of a few hundred SFRs. The area is located directly to the west of the Rambla Pacifico Landslide, which is a major active landslide.

##### B. 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, 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.

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, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all vegetation, thereby contributing to an increased potential for erosion and landslide on the property. The applicant has submitted a Geotechnical Investigation Report, dated October 13, 1994, and the Revised City of Malibu Restoration Classification, dated October 20, 1995, by Harrington Geotechnical Engineering, Inc.

The October 13, 1994 report states:

##### Landslide Deposits

Numerous small, intermediate, and large landslides have occurred in areas proximal to the site. Most of the slides appear to be block-glide type slides derived of Topanga Formation bedrock materials. No landslides are known to exist under or immediately adjacent to the subject site. However, a very large ancient landslide has been postulated by Weber and Wils, 1983. The nearest mapped landslide is located approximately 300 feet east of the site.

Slope Stability

During this investigation, no adverse geologic condition affecting the stability of the site was encountered. Based upon the absence of adverse geology, the past performance of the site and the relatively flat slope inclination across the site, the site is considered to be grossly stable.

The October 20, 1995, report states:

Revised Restoration Classification: As part of the reference geotechnical investigation for the reconstruction of your residence, we assigned a Restoration Classification of 3 to the project based upon the information provided in the City's Guidelines and the proximity of the site to the Rambla Pacifico Landslide. The City's Guidelines for Classification 3 state "the site is located close to or within a landslide area" without defining the term "close to". As a result of the site being approximately 140 feet (inadvertently listed as 300 feet in Ref. 1) we assigned a Classification 3.

Subsequently, as part of our work on an adjacent property (21401 Calle Del Barco) we received from the City's geotechnical consultant a clarification as to the term "close to". In a review sheet for that property we were informed "that the phrase 'close to' in Restoration Classification 3 means that the site is close enough to the landslide that future movement or enlargement of the slide may cause service-related distress to the residence.

As stated in the referenced geotechnical report the site, in our opinion, will not be adversely affected by hazard from landslide (including the Rambla Pacifico Landslide), settlement or slippage.

Section 30610(g)(1) of the Coastal Act provides for the replacement of structures destroyed by a disaster without a coastal development permit.

Section 30610

Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas:

- (g)(1) The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure.

The proposed site, as is noted by the consulting geologist, is located 140 feet from the limits of the Rambla Pacifico Landslide, as is noted by the City of Malibu's Geotechnical Consultant as being "close enough to the landslide that future movement or enlargement of the slide may cause service related distress to the residence". Furthermore, the Rambla Pacifico Landslide became active following the winter rains of 1995 and was recorded at moving approximately 60 feet per year.

Under the provisions of section 30610(g)(1) any residential structure destroyed by the Old Topanga Fire Storm is exempt from a coastal development permit requirements regardless of the existing geologic conditions so long as the replacement structure does not exceed the original by more than 10% either in the floor area, height, or bulk, and no new additional structures are added to the subject property. The applicant is therefore entitled to develop a  $\pm$  2,574 sq. ft. home on the site without commission review or a coastal permit. Commission review for this project is thus effectively limited to the issue of whether the addition of a 868 sq. ft. detached garage, and the relocation of the proposed home, poses hazards beyond that of the  $\pm$  2,574 sq. ft. home allowed as an exemption. Due to the fact that the geologic hazards of this site, as identified by the consulting geologist, remain the same for a structure regardless of whether a structure exceeds the destroyed structure by 10% or 37%, the geologic risks associated with the redevelopment of this site will not be increased, or lessened, by the development as is proposed. Therefore, the Commission finds that approval of this permit application for the reconstruction of a larger residence on the site will not result in any additional geologic hazards than what previously existed. Further, the consulting geotechnical consultant has included a number of geotechnical recommendations which will increase the stability and geotechnical safety of the site. As previously mentioned, the consulting geologist has indicated, based on the recommendations made by the consulting geologist, that the residence will not be adversely affected by hazard from landslide (including the Rambla Pacifico Landslide), settlement or slippage. To ensure the recommendations of the geotechnical consultant's are incorporated into the project plans, the Commission finds that it is necessary to require the applicant to submit project plans certified by the consulting geotechnical engineer as conforming to their recommendations.

Due to the potential hazardous geologic conditions on this site, and the proximity of the site to the Rambla Pacifico Landslide, the Commission can only approve the project if the applicant assumes the liability from the associated risks. This responsibility is carried out through the recordation of a deed restriction. The assumption of risk deed restriction, when recorded against the property will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site and which may adversely affect the stability or safety of the proposed development.

It should be noted that an assumption of risk deed restriction for hazardous geologic conditions is commonly required for new development throughout the greater Malibu/Santa Monica Mountains region in areas where there exist potentially hazardous geologic conditions, or where previous geologic activity has occurred either directly upon or adjacent to the site in question. The California Coastal Commission has required such deed restrictions for other development in the vicinity of the Rambla Pacifico Landslide.

The Commission also finds that minimization of site erosion will add to the stability of the site. Erosion can best be minimized by requiring the applicant to landscape all disturbed areas of the site with native plants, compatible with the surrounding environment. Therefore special condition number one has been drafted to ensure that all proposed disturbed areas are stabilized and vegetated.

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant assumes the liability from the associated risks. Through the waiver of liability 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.

The applicant has submitted a Geotechnical Investigation Report, dated October 13, 1994, and Revised City of Malibu Restoration Classification, dated October 20, 1995, by Harrington Geotechnical Engineering, Inc. These reports provide detailed analysis of the geologic and geotechnical conditions related to the subject site, and it is based on the findings and recommendations of the consultant, and the conditions imposed on this permit, that the Commission find that the proposed project is consistent with Chapter 3 policies of the Coastal Act. Only as conditioned is the proposed project consistent with Section 30253 of the Coastal Act.

#### C. Septic System

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. 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 proposing to use the existing private septic system to accommodate the sewage of the proposed development. The applicant has submitted approval from the City of Malibu Environmental Health Department stating that the continued use of this septic system is in conformance with the minimum requirements of the City of Malibu Uniform Plumbing Code. The City of Malibu's minimum health code standards for septic systems have been found protective of coastal resources and take into consideration the percolation capacity of soils along the coastline, the depth to groundwater, etc. Therefore, the Commission finds that the proposed project is consistent with Section 30231 of the Coastal Act.

#### 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 which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

F. 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.

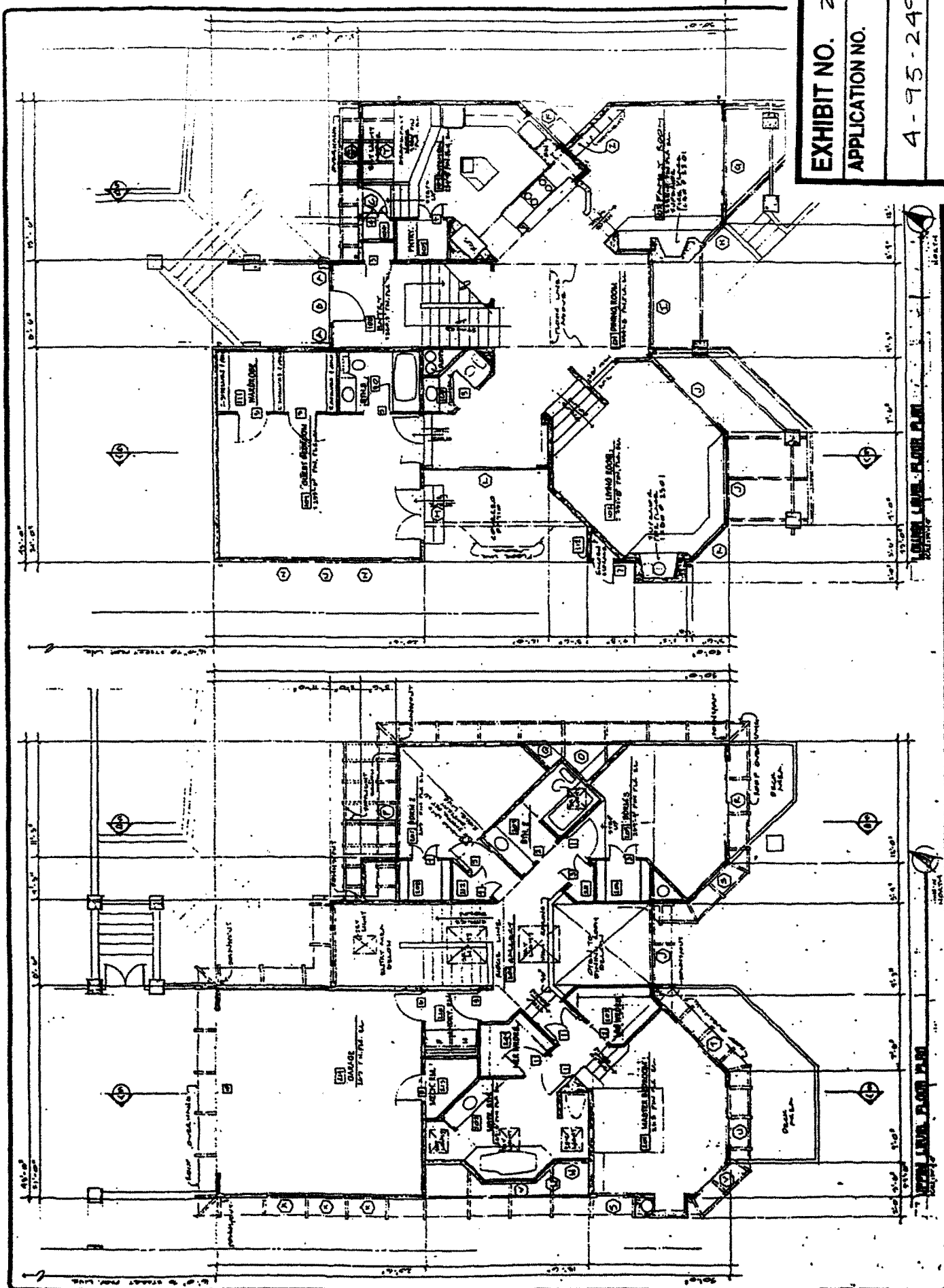
TAD-VNT  
1903M

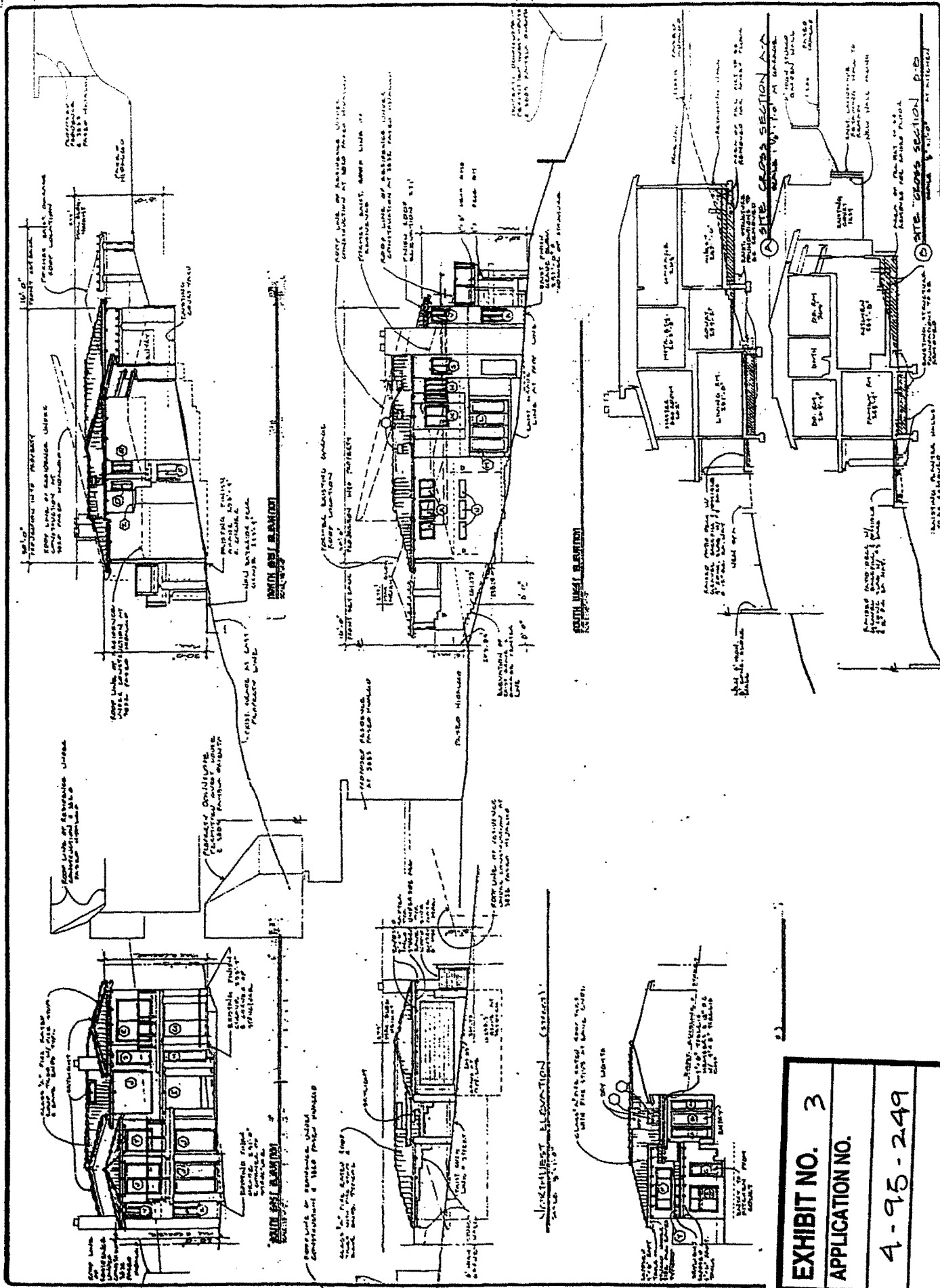


**EXHIBIT NO. 2**

**APPLICATION NO.**

4-95-249





**EXHIBIT NO. 3**

**APPLICATION NO.**

4-95-249