

CALIFORNIA COASTAL COMMISSION

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

Filed: 3-6-96
49th Day: 4-24-96
180th Day: 9-2-96
Staff: SPF-VNT *see*
Staff Report: 3-19-96
Hearing Date: April 9-12, 1996
Commission Action:



STAFF REPORT: CONSENT CALENDAR

W12f

APPLICATION NO.: 4-96-037

APPLICANT: Seastar Estates Homeowners Association AGENT: Plus Architects

PROJECT LOCATION: 6393 Seastar Drive, City of Malibu; Los Angeles County

PROJECT DESCRIPTION: Construction of two tennis courts with nine and twelve foot high fencing and no lighting; an 800 sq. ft., 18 ft. high ancillary structure (clubhouse) with restrooms, showers, and an open bar area; retaining walls not to exceed six feet in height; a monument wall not to exceed 3.5 feet in height; landscaping; and 765 cubic yards of grading (465 cu. yds. cut, 300 cu. yds. fill)

Lot Area	1.5 acres
Building Coverage	800 sq. ft.
Pavement Coverage	17,987 sq. ft.
Landscape Coverage	10,300 sq. ft.
Parking Spaces	0
Zoning	Recreational Lot
Plan Designation	Recreation
Project Density	0 dua
Ht abv fin grade	18 feet

LOCAL APPROVALS RECEIVED: Approval in concept from the City of Malibu.

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit Applications 5-90-327 (Javid) and 4-95-074 (Javid).

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. Excess Cut Material Disposal Site

Prior to the issuance of the permit the applicant shall submit, for the review and approval of the Executive Director, the location of the disposal site of all cut material. If the site is located within the Coastal Zone, the site must have a valid coastal development permit.

2. Revised Landscaping Plan

Prior to the issuance of the permit the applicant shall submit, for the review and approval of the Executive Director, two sets of a revised landscaping plan which incorporate the following criteria:

- (a) No invasive non-native plants. All landscaping shall consist of native, drought resistant plants as listed by the California Native

Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended Native Plant Species for Landscaping Wildland Corridors in the Santa Monica Mountains, dated January 20, 1992. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.

- (b) The removal of the Ficus trees from Seastar Drive and the replacement of those trees with trees endemic to the Santa Monica Mountains.
- (c) Landscaping for the retaining walls to screen and soften the visual impacts from Pacific Coast Highway.
- (d) Elimination of all landscaping, grading, vegetation clearance, path, and viewing platform from the northern portion of the site. No development north of the 80 foot contour line, as shown in Exhibit 4, shall occur with the exception of the thinning of vegetation necessary for the protection of the ancillary structure for fire hazard as noted in 1(d).
- (e) Vegetation within 50 feet of the ancillary structure may be removed to mineral earth; the area may be landscaped if desired. Selective thinning, for purposes of fire hazard reduction, shall be allowed in accordance with an approved long-term fuel modification plan which shall indicate all vegetation currently on site and what vegetation shall be removed or reduced in height or bulk to reduce the fuel load. The applicant shall be prohibited from clearing all vegetation further than 50 feet from the ancillary structure, and in no case should vegetation thinning occur in areas greater than a 200' radius of the ancillary structure.
- (f) All disturbed soils shall be stabilized with planting at the completion of final grading. Such planting shall be adequate to provide 100 percent coverage within 2 years and shall be repeated, if necessary, to provide such coverage.
- (g) 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 run-off waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location.

3. Future Improvements

Prior to issuance of the Coastal Development Permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide that Coastal Commission permit 4-96-037 is only for the proposed development and that any future development, additions, or improvements to any portion of the property, made for any purpose, including clearing of vegetation and grading, will require a permit from the Coastal Commission or its successor agency. Vegetation clearance consistent with special condition 1(d) above is permitted. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens.

4. Geologic Recommendations

All recommendations contained in the Geologic and Soils Engineering Investigation dated May 1, 1995, prepared by Alpine Geotechnical shall be incorporated into all final design and construction including foundations, retaining walls, the septic system and drainage; and all plans must be reviewed and approved by the consultants prior to commencement of development. Prior to issuance of the coastal development permit the applicants shall submit evidence to the Executive Director of the Consultant's review and approval of all final design and construction plans.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, 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.

5. Wild Fire Waiver of Liability

Prior to the issuance of the coastal development permit, the applicants 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.

A. Project Description and Background

The applicant is proposing the construction of two tennis courts and an 800 sq. ft., 18 ft. high ancillary structure (clubhouse) with restrooms, showers, and a wet bar (See Exhibit 3). The tennis courts will have nine and twelve foot high fencing around the courts. The fencing along the property lines, which is visible from the trails, will be nine feet in height. The remainder of the fencing will be 12 feet high. Furthermore, the tennis courts will not be lighted. There will be small retaining walls creating benches between the two tennis courts and retaining walls, not to exceed six feet in height, upslope from the tennis courts and the clubhouse. A total of 765 cubic yards of grading (465 cu. yds. cut, 300 cu. yds. fill) is proposed for this project.

The subject site is located north of Pacific Coast Highway and east of Trancas Canyon. This site is a part of a larger subdivision. The original 45 acre lot is located approximately 1,500 to 2,000 feet above Pacific Coast Highway, west of the intersection of Morningview Drive and Guersney Drive. The northern boundary of the site approximates the break in the slope between the steeper mountain terrain to the north and the moderate gradient of the coastal terrace foothills on the subject site. The mountainous terrain north of the site consists of slopes 1.5:1 or steeper while the on-site topography generally descend gently from approximately 350 feet above sea level to approximately 30 feet above sea level.

This lot is the designated recreational lot for the 19 residential lots of the subdivision. The subdivision, approved under coastal development permit 5-90-327 (Javid) allowed for the subdivision of a 45 acre lot into 19 residential lots, one open space lot and one recreational lot. In August of 1990, the Commission approved this subdivision request with ten special conditions. Special condition 10 required the recordation of a deed restriction limiting the subject lot as a low intensity community center/recreational lot which minimizes grading and landform alteration. The exact language is noted below:

10. Recreational Lot

Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director a deed restriction for recording free of prior liens, except for tax lines, and free of prior encumbrances, that binds the applicant and any successors in interest. The form and content of the deed restriction shall be subject to the review and approval of the Executive Director. The deed restriction shall provide that lot 23, as shown on the Tentative Tract Map No. 45585, shall be restricted for use as a low intensity community center/recreation lot, which minimizes grading and landform alteration, for use by members of the homeowners' association. Such uses include, but are not limited to, swimming pools and tennis courts.

B. Landform Alteration and Visual Impacts

Section 30251 of the Coastal Act states:

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.

Pursuant to this Section of the Coastal Act, the 1986 certified Malibu Land Use Plan (LUP) contains a number of policies regarding the protection of scenic views and the minimization of landform alteration. Although no longer legally effective in the City of Malibu, the LUP is continued to be used as guidance by the Commission. The LUP suggests that grading should minimize cut and fill and the alteration of physical features such as hillsides to the maximum extent feasible (P90 and P91). The LUP also suggests that cut and fill slopes be landscaped at the completion of grading to minimize erosion, and protect views from scenic highways (P84 and P130). Finally, the P125 suggests that new development be sited and designed to minimize visual impacts and protect public views.

This site is highly visible from Pacific Coast Highway. There are also public trails located on this property and on the National Park Service property to the north. As such, in the underlying subdivision permit, the Commission found that the protection of the views from these areas must be protected.

The Commission required in the subdivision permit that grading be minimized for the residential and recreational lots, that residences conform to the topography to the greatest extent feasible and that disturbed areas be landscaped to reduce the visual impact.

The proposed project is for the construction of two tennis courts and an ancillary structure which is not to exceed 18 feet in height. The applicant has designed this project so that the tennis courts are sited on previously graded areas. The applicant is also proposing the use of retaining walls to minimize the grading for the tennis courts and the ancillary unit. No retaining wall will be higher than six feet. The applicant is proposing only 765 cubic yards of grading (465 cu. yds. cut, 300 cu. yds. fill). The Commission finds that this amount of grading is minimal; however because the grading is not balanced on site, there is excess cut material which must be removed from the site. If the excavated material is left on site there is the potential for significant landform alteration and sedimentation from the site which leads to pollution and siltation of nearby Trancas Creek which drains directly into the ocean. In order to minimize or altogether eliminate any potential adverse visual or environmental impacts on Trancas Creek, the Commission finds it necessary to require the applicant to remove all excavated material from the site in a timely manner, as noted in special condition 1. The applicant shall be prohibited from storing or stockpiling the fill on site. Furthermore, the applicant shall be required to notify the Executive Director of the location of the excess material disposal site. If this site is located within the Coastal Zone, the site must have a valid coastal development permit for the importation of the fill.

This site, although low on the hillside and minimizing grading, is still visible from Pacific Coast Highway, adjacent trails and National Park Service parkland. The construction of two tennis courts, with nine and twelve foot high fencing around the courts, and an ancillary unit will be visible from Pacific Coast Highway as well as the adjacent trails and adjacent NPS parkland. In order to screen and soften the visual impacts, the applicant has submitted a landscaping plan which incorporates the use of native plants. This plan shows the planting of disturbed soils and provides for vertical elements to screen the fencing of the tennis courts. However there is no landscaping provided for the upper retaining wall for the northernmost tennis court. Thus, the Commission finds it necessary to require the applicant to submit revised landscaping plans which incorporate landscaping of all retaining walls to screen their view from Pacific Coast Highway and adjacent trails.

The landscaping plan also calls for the disturbance of native chaparral areas with the construction of a path, viewing platform and the planting of oak trees. The placement of oak trees to create an oak woodland is not appropriate in this area as the area is composed of chaparral vegetation. Since this site is located adjacent to parkland and is highly visible from Pacific Coast Highway and trails, any disturbance of the site, including landscaping should be minimized to minimize any adverse visual impacts. The minimization of site disturbance will also reduce the sedimentation and erosion off the site into adjacent Trancas Creek. Moreover, this site is adjacent to the open space lot which NPS will be taking title to once the lot is restored pursuant to coastal development permit 4-95-074 (Javid). This open space lot was required as a condition of approval in the original

subdivision permit 5-90-327 (Javid) for visual preservation and habitat protection to mitigate the visual impacts created by placing residences on a previously undisturbed hillside facing Pacific Coast Highway.

To clear the native chaparral on the northern portion of this lot is inconsistent with the finding and previous actions of the Commission with regards to this subdivision. The applicant has agreed to remove the path, viewing platform and landscaping plan from this portion of the lot. Therefore, the Commission finds it necessary to require the applicant to include in the revised landscaping plan the deletion of these developments. No development shall be proposed north of the 80 foot contour line as shown in Exhibit 4. Only vegetation clearance for the purposes of fire protection, in accordance with a long-term fuel modification plan shall be allowed in this area.

Next, the landscaping plan shows the placement of Ficus Trees along Seastar Drive. No Ficus trees were permitted under the original subdivision permit. Moreover, in coastal development permit application 4-95-074 (Javid) the applicant is required to remove the Ficus trees and replace these trees with trees endemic to the Santa Monica Mountains. Therefore the Commission finds it necessary to require the applicant to show the removal of the Ficus trees and placement of native trees or other native vegetation along the road.

Finally, the proposed development includes the construction of an 18 foot high ancillary unit with restrooms, showers, and a wet bar. As proposed, the development is comparably small and the visual impacts, once screened with landscaping, will be minimal. However, should this structure be enlarged, the visual impacts would be increased. In order to allow the Commission review of any additions to the structure to determine if adverse visual impacts are associated with enlarging the structure in height or bulk, the Commission finds it necessary to require the applicant to record a future improvements deed restriction. The deed restriction will require the applicant to obtain a coastal development permit for any additions or improvements to the site.

The Commission finds that only as conditioned for revised landscaping plans, the removal of excess material and the recordation of a future improvements deed restriction is the project consistent with Section 30251 of the Coastal Act and the Commission's previous permit action on this lot.

C. Geologic Hazards

Section 30253 of the Coastal Act states 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.

The proposed development includes grading for the tennis courts and the construction of an 800 square foot structure. 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 existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

The applicant's geotechnical consultant has reviewed previous geology reports for the site and conducted additional testing on the site. The consulting geotechnical engineer has concluded based on these studies that:

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 will be safe against hazards from landslide, settlement or slippage, and that the proposed grading and development will not have an adverse effect on the geologic stability of the property outside the building site provided our recommendations are followed during construction.

Based on the findings and recommendations of the consulting geotechnical engineer, the Commission finds that the development is consistent with Section 30253 of the Coastal Act so long as all recommendations for the construction of the proposed project are incorporated into 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 geotechnical consultant as conforming to their recommendations.

Finally, 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. Only as conditioned is the proposed project consistent with Section 30253 of the Coastal Act.

D. Septic Systems

The proposed development includes the installation of an on-site septic system to provide sewage disposal. 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, and minimizing alteration of natural streams.

The consulting engineer has performed percolation tests which resulted in favorable percolation. The applicant has also received an "Approval in Concept" from the Department of Health Services for the proposed septic system. The City of Malibu's minimum health code standards for septic systems has been found protective of coastal resources. Therefore, the Commission finds that the septic system is consistent with Sections 30231 of the Coastal Act.

E. Local Coastal Program

Section 30604 of the Coastal Act states that:

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

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.

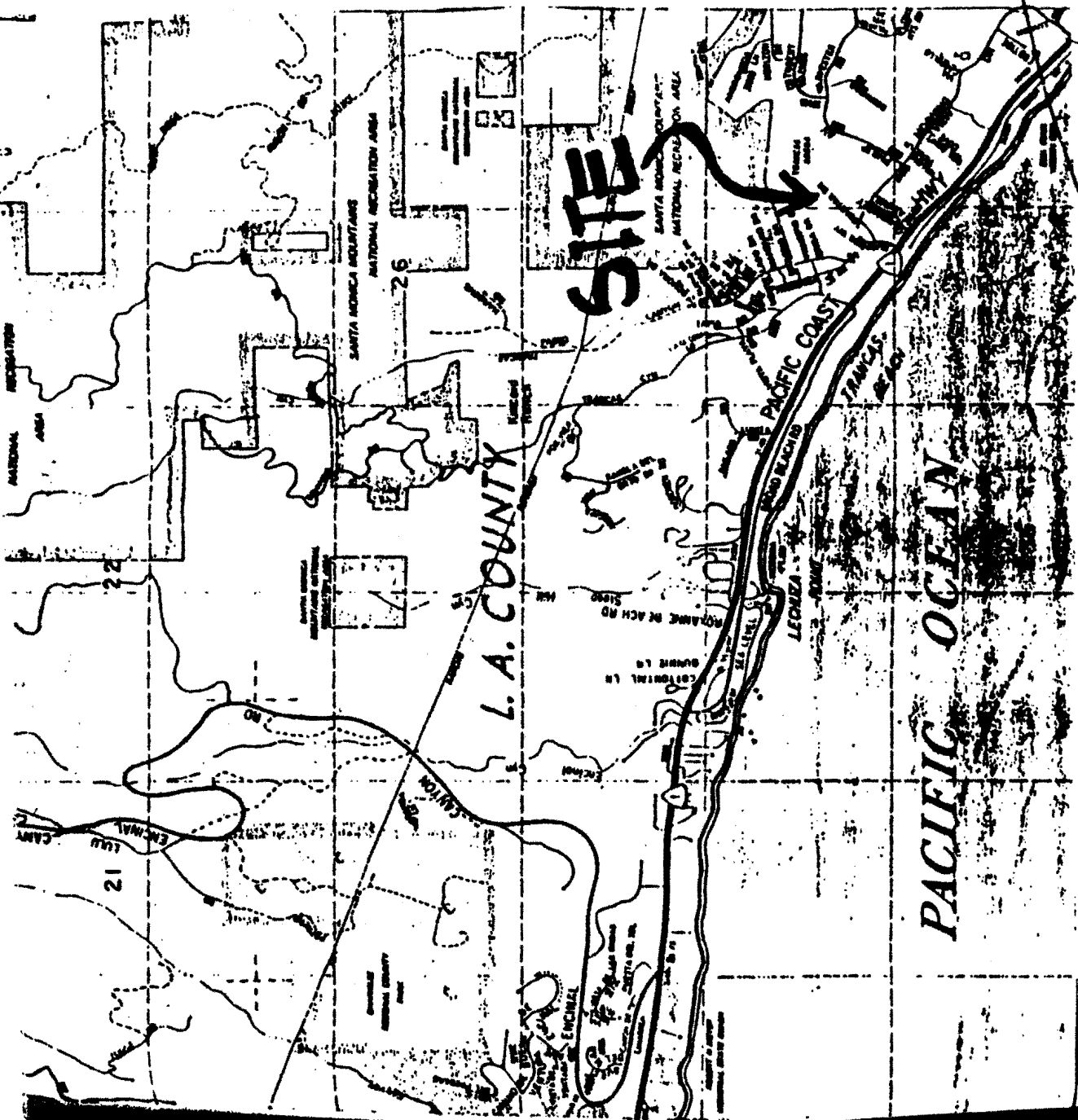
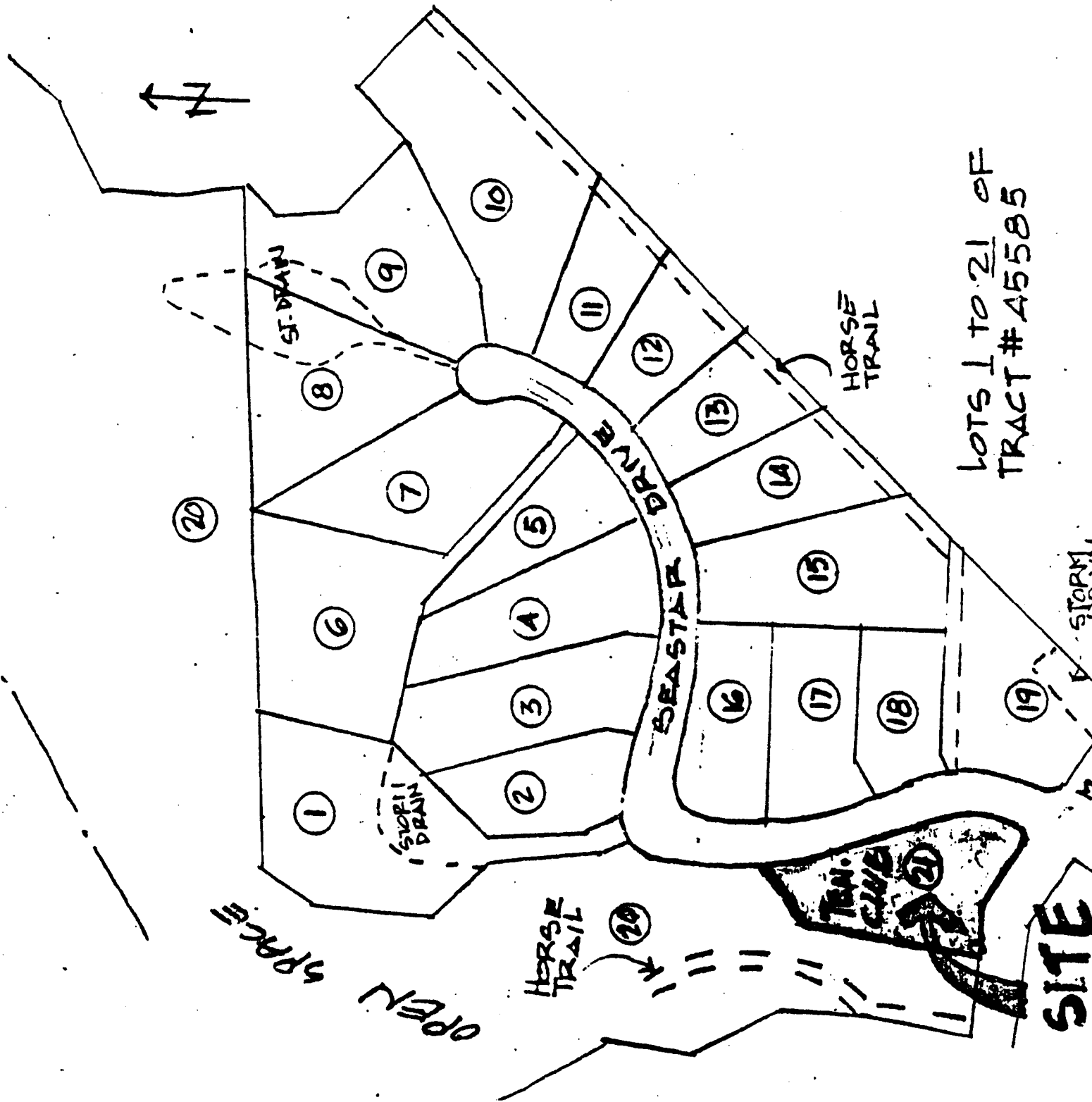
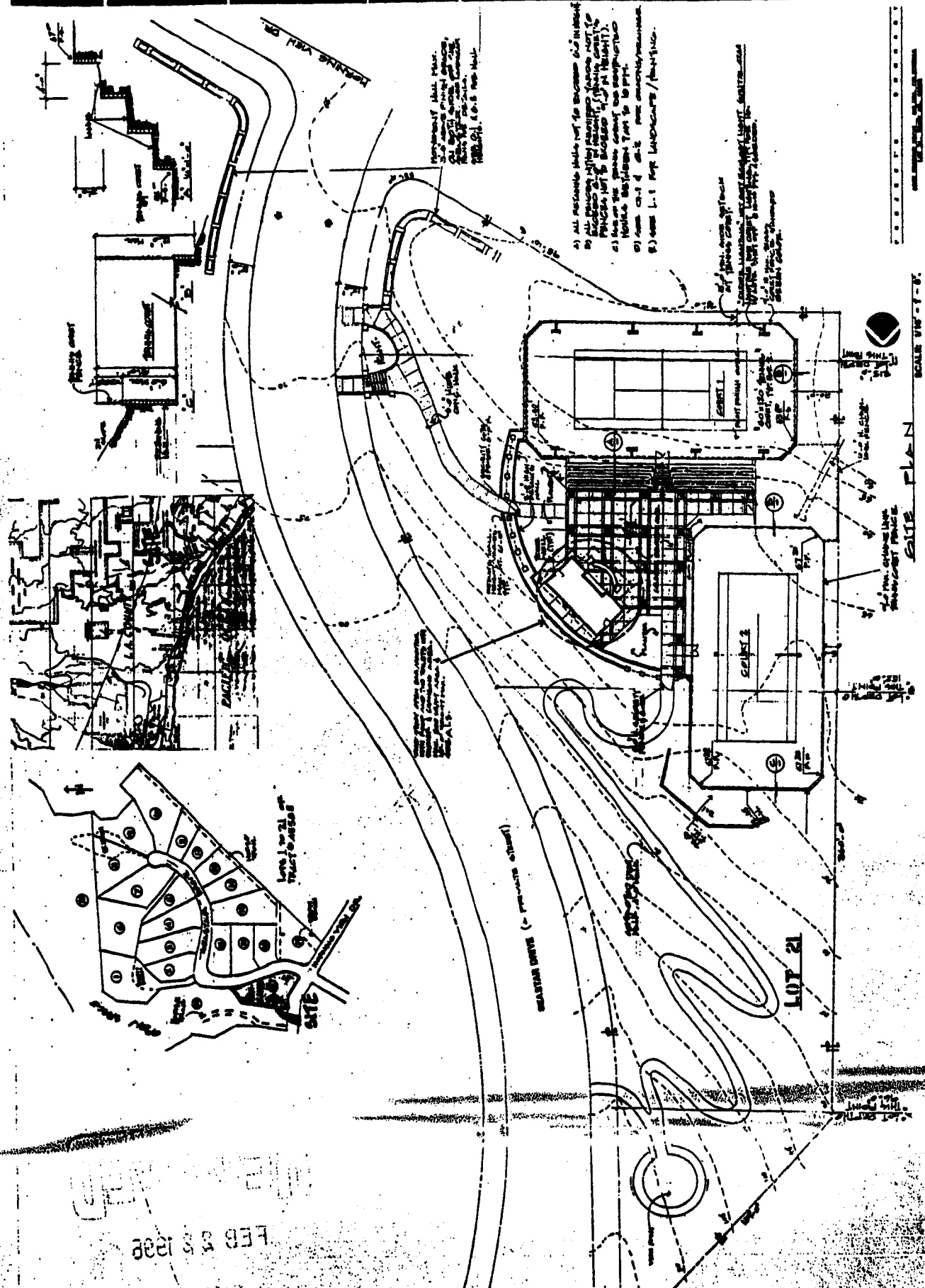


Exhibit 1: Location Map
4-96-037



LOTS 1 TO 21 OF
TRACT # 45585

Exhibit 2: Parcel Map
4-96-037



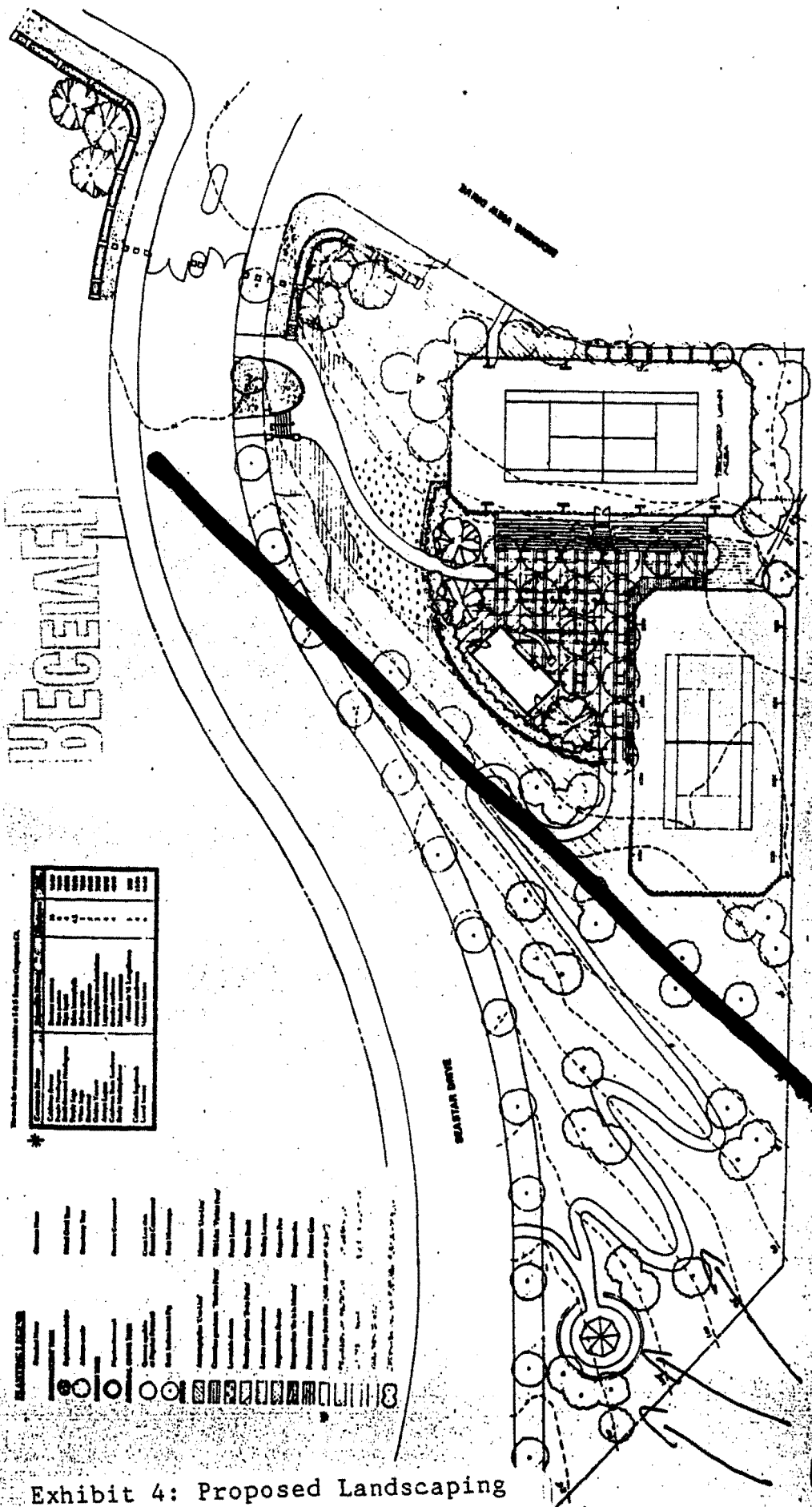
SCALE 1/8" = 1'-0"

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100	REVISIONS	1/15/05

FEB 8 1998

SOUTH CENTRAL COMMISSION
LAWRENCE, MISSOURI

Exhibit 3: Site Plan
4-96-037



SCALE: 1/8" = 1'-0"

REVIEWED

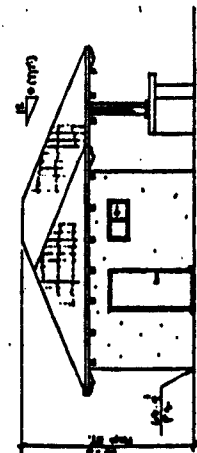
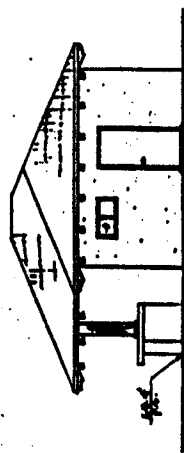
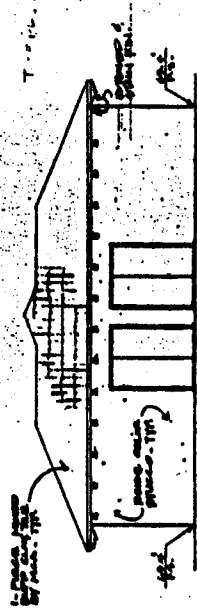
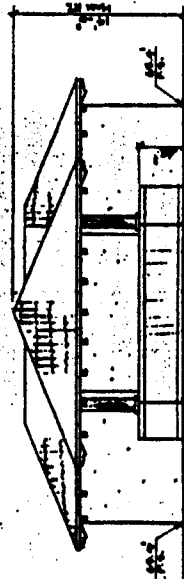
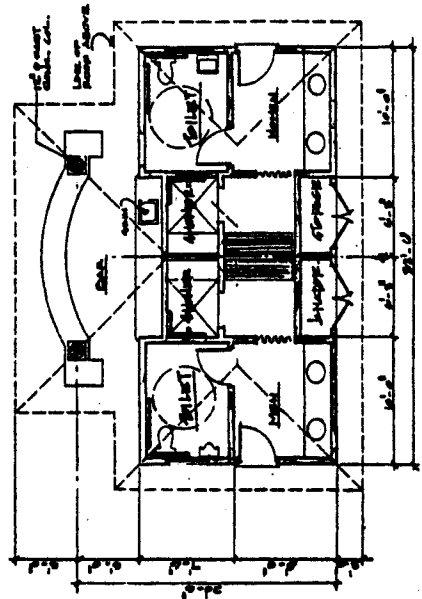
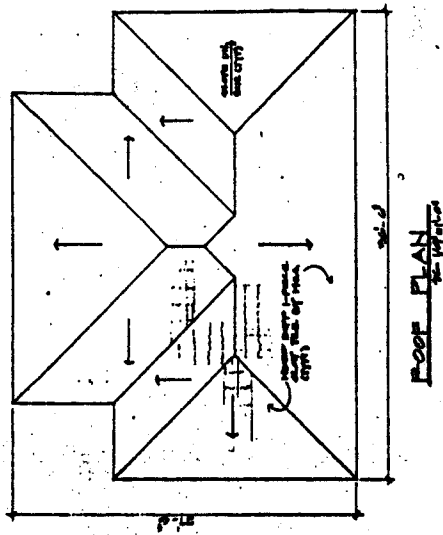
FEB 28 1988

CONTRACT NO. 4-96-037

SYMBOL	DESCRIPTION
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[Symbol]	Proposed Driveways
[Symbol]	Proposed Parking
[Symbol]	Proposed Building Footprints
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[Symbol]	Proposed Access Points
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[Symbol]	Proposed Site Future
[Symbol]	Proposed Site Recommendations
[Symbol]	Proposed Site Notes

WATER DRIVE
 WALKWAY DRIVE
 DEVELOPMENT TO BE REMOVED FROM PLANS

Exhibit 4: Proposed Landscaping 4-96-037



RECEIVED

FEB 8 1970

34TH GENERAL COURT REPORT
CORPORATION
1000 10TH AVENUE
SEATTLE, WASHINGTON

Exhibit 5: Clubhouse Site plan and elevations
4-96-037