

## CALIFORNIA COASTAL COMMISSION

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

TH 156

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Staff Report: 7-23-96  
Hearing Date: August 13-16, 1996  
Commission Action:



## RECORD PACKET COPY

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 4-96-020

APPLICANT: Juan Tyberg

AGENT: Plus Architects

PROJECT LOCATION: 6295 Seastar Avenue, City of Malibu; Los Angeles County

PROJECT DESCRIPTION: Construction of a two story, 7,840 sq. ft. single family residence with an attached four car garage, with a private septic system, a pool, and 640 cubic yards of grading (380 cu. yds. cut, 260 cu. yds. fill)

Lot Area	70,967 sq. ft.
Building Coverage	6,700 sq. ft.
Pavement Coverage	12,087 sq. ft.
Landscape Coverage	20,640 sq. ft.
Parking Spaces	7
Plan Designation	19 du/ 45 ac.
Project Density	1 du
Ht abv fin grade	28 feet

LOCAL APPROVALS RECEIVED: Approval in Concept from the City of Malibu, Planning Department; approval in concept from City of Malibu Geology Department.

SUBSTANTIVE FILE DOCUMENTS: Malibu/Santa Monica Mountains Land Use Plan; Coastal Development Permit Applications 5-90-327 (Javid), 5-90-327A (Javid), 4-94-101 (Poplar Corporation), 4-95-074 (Javid) and 4-96-037 (Seastar Homeowners); Geologic and Soils Engineering Investigation prepared by Alpine Geotechnical dated April 8, 1995; and Additional Comments prepared by Alpine Geotechnical dated September 13, 1995.

SUMMARY OF STAFF RECOMMENDATION:

The applicant is proposing the construction of a residence on a lot created under a previously approved subdivision. The site will be adjacent to an open space lot and visible from Pacific Coast Highway, NPS property and nearby trails. To protect the coastal resources in the area, staff is recommending that the Commission approve the project with special conditions regarding landscaping and fuel modification plans, a color restriction deed restriction, a future improvements deed restriction, a wild fire waiver of liability and incorporation of geologic recommendations.

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 this permit is reported to the Commission. 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 in the application for permit, subject to any special conditions 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 project during its development, 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 Fuel Modification Plans

Prior to the issuance of a coastal development permit, the applicant shall submit two sets of a revised landscaping, erosion control and fuel

modification plan prepared by a licensed landscape/architect for review and approval by the Executive Director. The plans shall incorporate the following criteria:

- (a) All 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 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 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 may not be used.
- (b) 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.
- (c) Cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native species using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within one year and shall be repeated, if necessary, to provide such coverage. This requirement shall apply to all disturbed soils.
- (d) Vegetation within 50 feet of the proposed house may be removed to mineral earth. Selective thinning for a maximum radius of 200 feet from the residence, for purposes of fire hazard reduction, shall be allowed in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall indicate all vegetation currently within 200 feet of the structure and shall identify those plants to be removed or reduced in size. The applicant shall be prohibited from clearing all vegetation further than 50 feet from the residence, and in no case should vegetation thinning occur in areas greater than a 200' radius of the main structure.
- (e) The plan shall include vertical elements which break-up the line of the proposed structure and screens the structure from Pacific Coast Highway and the adjacent trails.

## 2. Color Restriction.

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 restricts the color of the subject structure and roof to colors compatible with the surrounding environment. White tones shall not be acceptable. All windows shall be of non-glare glass. The document shall run with the land for the life of the structure approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens.

### 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 4-96-020 is only for the proposed development and that any future additions or improvements to the property, including clearing of vegetation and grading, will require a permit from the Coastal Commission or its successor agency. The removal of vegetation for fire protection, pursuant to special condition 1(d) 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 Geotechnical and Soils Engineering Investigation dated April 8, 1995, and the Additional Comments dated September 13, 1995, both prepared by Alpine Geotechnical shall be incorporated into all final design and construction including foundations, driveway, 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.

The Commission hereby finds and declares as follows:

### A. Project Description and Background

The applicant is proposing the construction of a two story, 28 foot high, 7,840 sq. ft. single family residence with an attached four car garage. Also proposed is a private septic system, a private driveway and motorcourt, and a swimming pool. The project requires a total of 640 cubic yards of grading (380 cu. yds. cut, 260 cu. yds. fill). The site is visible from Pacific Coast Highway, a portion of the Zuma Ridge Trail, and from adjacent National Park Service property. In addition, the site is immediately adjacent to a vacant lot which will be transferred to the National Park Service in the future.

The subject site is located on Seastar Drive, north of Pacific Coast Highway and east of Trancas Canyon. This site is one of 21 lots created from the subdivision of a 45 acre lot, approved in coastal development permit 5-90-327 (Javid). 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. The subject lot is one of the northernmost lots, with the exception of the open space lot which borders the subdivision on the north and west sides.

The subject vacant lot was previously graded in conjunction with the 19 residential lot subdivision. The grading for this site resulted in the creation of a driveway leading from Seastar Drive, and a relatively flat pad. The grading for the driveway was approved under the original subdivision; the unpermitted grading on this lot resulted in a slight change to the site which lowered and leveled out the building area on the site. The additional grading and remedial work on these lots was denied by the Commission in coastal development permit amendment 5-90-327A (Javid). The applicant of the original subdivision subsequently received approval for restoration of many of the lots in the subdivision. The restoration application, 4-95-074 (Javid), did include "restoration" work on this lot which proposed filling in a natural drainage course. The current applicant has agreed to retain the drainage course in its original condition and is not proposing any grading in the drainage course. Thus, no "restorative" work is occurring or recommended on this lot.

The previous subdivision approved under 5-90-327 (Javid) allowed for the subdivision of a 45 acre lot into 19 residential lots, one recreational lot, and one open space lot, which is proposed to be dedicated to the National Park Service. Currently two lots (lots 1 and 2) have been approved for single family residences; the residence on lot 2 has been constructed. In addition, development has been approved on the recreational lot (lot 21) under coastal development permit 4-96-037 (Seastar Homeowners).

The subject lot is adjacent to the dedicated open space lot (lot 20). This open space lot is scheduled to be transferred to the National Park Service upon completion of some restoration work approved in coastal development permit 4-95-074 (Javid). This open space lot was required as a condition of approval under the original subdivision permit 5-90-327. An open space dedication was required to preserve the integrity of the lot for open space, view protection, and habitat protection.

#### B. Grading 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 area such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The proposed project is located on lot 6 of the subdivision approved under coastal development permit 5-90-327 (Javid Development). This subdivision was approved for the division of a 45 acre parcel into 19 residential lots, one recreational lot and one open space lot. Prior to construction of the site, the hillside of the subject subdivision was undeveloped and offered unobstructed views to the mountainous terrain in the background. Extensive landform alteration of the site would not be consistent with the area and would have created the appearance of an engineered hillside and landscape. The Commission found that development of the hillside between Pacific Coast Highway and the mountainous terrain should preserve the views by developing houses which blend with the terrain and do not require flat pads.

Do to concerns regarding visual impacts from Pacific Coast Highway, National Park Service Property and nearby trails, the Commission imposed several conditions on the original subdivision to protect and enhance the visual resources of the site. Special condition 9 of 5-90-327 (Javid) stated that the applicant shall record a deed restriction which required that all single family residences conform to the natural contours of the site and that grading for the development of residences shall be limited to the minimum amount necessary for driveway access. The document further stipulated that no grading for tennis courts or other ancillary uses which require level pads shall be permitted. This condition was imposed to require residences to be notched into the hillside and thus reduce the amount of landform alteration the site. Likewise, special condition 7 of the coastal development permit of the underlying subdivision, limited grading to a total of 69,500 cubic yards. This restriction of grading was required to reduce the visual impacts associated with landform alteration which results in the formation of flat pads on hillside sloping lots. Finally, landscaping of the initially graded site was required to mitigate visual impacts, and an open space dedication on one lot was required to further mitigate visual impacts and habitat disturbance.

Two of the residential lots and the recreation lot have all been approved for development by the Commission. In each case the Commission found that the visual resources of the area should be preserved and when necessary protected through special conditions to the project. For example, in 4-94-101 (Poplar Corporation) the Commission required that the site be landscaped to mitigate the impacts associated with the construction of a residence. The applicant was also required to record both a future improvements deed restriction and a color restriction to require further development to be reviewed by the Commission to address visual impacts and to prohibit white and non-natural coloring of the building, respectively. Lot 1, approved for development in 4-94-101, is located to the immediate west of the subject lot, and was considered to be highly visible from Pacific Coast Highway, NPS property, and nearby trails.

The subject lot is located in the northernmost portion of the subdivision. The site is highly visible from Pacific Coast Highway, NPS property and nearby trails. The development of this site will be visible from these locations. Moreover, the site is adjacent to the open space lot which will be deeded to the NPS. To protect the scenic quality and environmental resources of lot 20,

the Commission required, in the original subdivision, that development of these sites conform to the natural topography and reduce grading.

In this case, the applicant is only proposing 640 cubic yards of grading (380 cu. yds. cut, 260 cu. yds. fill). This is the grading necessary for the completion of the driveway, the construction of a motorcourt, or turn around area, site preparation and pool excavation. However, the applicant is also proposing the construction of a series of retaining walls to support the upslope side of the hill and reduce grading on the site. The retaining walls on the north, or east, side of the road will not exceed six feet in height. These walls will, for the most part, be screened from Pacific Coast Highway by the residence. However, they will be visible from the adjacent National park Service property. Likewise, there are two foot high retaining walls required on the south, or west, side of the road for drainage control. These walls, although small in nature will be visible from Pacific Coast Highway. The applicant has submitted a letter from the consulting geologist who has verified that these small walls which will not be screened by the residence are necessary for site drainage control and to mitigate erosion from the driveway.

Originally, the applicant proposed eight foot high retaining walls and a pool which was located at the edge of the building site. The original location for the pool resulted in extending out the building pad, contradicting the requirements set forth in the original subdivision. Due to the staff's concerns, the applicant relocated the pool to a maximum distance of 20 feet from the residence. No decking or other structures are proposed west of the pool and thus, the extension of the building pad has been significantly reduced.

Although the impacts of the site have been reduced by relocating the pool and reducing the size of the retaining walls, the project still calls for a large residence on a relatively flat pad. In order to soften the impacts of development as seen from the nearby trails and parkland, as well as from Pacific Coast Highway, the Commission finds it necessary to place several restrictions on this site. These restrictions were also imposed by the Commission on the residences approved on lots 1 and 2 under coastal development permit applications 4-4-062 (Rodanne) and 4-94-101 (Poplar Corp.) respectively.

To begin with, the applicant shall be required to submit revised landscaping plans. The applicant has submitted a landscaping plan which does include some trees along the perimeter of the property. However, no trees are proposed adjacent to the resident, and no screening of the retaining walls is shown. Therefore, the applicant shall be required to submit two sets of a revised landscaping plan which includes vertical elements closer to the residence to screen the residence and landscaping, including native vines or shrubs along the retaining walls to screen these walls. The landscaping plans are also required to include erosion control measures to mitigate erosion and prevent runoff during grading and construction.

The applicant will be required to conduct vegetation thinning for a 200 foot radius around the residence for fire protection purposes. However, because the residence is located within 200 feet of future NPS property, the thinning of vegetation will occur on this future NPS property. In order to ensure that vegetation clearance on NPS property does not create adverse visual impacts, as well as adverse environmental impacts, the applicant shall include in this

revised landscaping plan, a long term fuel modification plan. This plan shall detail the species currently present within a 200 foot radius of the residence, and shall indicate which plants are to be removed and/or reduced in size. Finally, as the project is located adjacent to NPS property, the applicant shall be prohibited from using invasive plant species which tend to supplant native plants species. The applicant shall use primarily native plant species 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.

Next, the applicant shall be required to record a color restriction deed restriction. This deed restriction limits the colors of the residence to those natural colors compatible with the surrounding environment. White tones are not be permitted as these tones will increase the visibility of the residence. Likewise, the applicant shall be required to use non-glare glass.

Finally, because of the location of the residence adjacent to parkland, trails and Pacific Coast Highway, the Commission finds it necessary to require the applicant to record a future improvements deed restriction for any future additions which would otherwise be exempt from permit requirements. Without this condition, future development may encroach closer to NPS property increasing the vegetation clearance on NPS property, or the future improvements, such as additions to the residences, or additional structures, will create adverse visual impacts. To ensure that any future development of the site is consistent with Section 30251 of the Coastal Act and the past coastal development permit for the subdivision, the recordation of the future improvements deed restriction shall be required.

The Commission finds that only as conditioned is the proposed project consistent with Section 30251 of the Coastal Act and the Commissions past permit action in this subdivision.

### C. Geologic Hazards

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 existing vegetation, thereby contributing to an increased potential for erosion and



landslides on property. The applicant is proposing to construct a single family residence. The applicant's geotechnical consultant has reviewed the property and concluded that:

Based upon the exploration performed for this investigation, it is our finding that construction of the proposed project is feasible from a geologic and soils engineering standpoint, provided our advise and recommendations are made a part of the plans and are implemented during construction.

The consulting geologist also prepared a second report titled Additional Comments which contains responses to the City's concerns regarding geology. The changes stated in the Additional Comments report restrict development from occurring within the restricted use area. Based on the recommendations of the consulting geologist, the Commission finds that the development should be free from geologic hazards so long as all recommendations regarding the proposed development 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, Alpine Geotechnical, 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 wavier 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 above is the portion of the project involving the construction of a residence 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 engineering geologist has reviewed the site and performed percolation testing which resulted in favorable percolation for a sewage disposal system on this site. It has been concluded that a septic system could be constructed which will not adversely affect water quality on or off site provided the system is constructed in conformance with recommendations of the consulting engineer. The applicant is already required to follow all

recommendations of the consulting geologist, as stated in special condition 3, which was required in the preceding section. In addition, the applicant has received an approval in concept for the proposed septic system from the City of Malibu's Health Department. The Commission has found in past permit actions that conformance with the City's Health and Safety codes will minimize any potential for waste water discharge that could adversely affect coastal waters and streams. The Commission therefore finds that the project is consistent with Sections 30240 and 30251 of the Coastal Act and policy 217 of LUP.

E. Local Coastal Program.

Section 30604(a) of the Coastal Act states that:

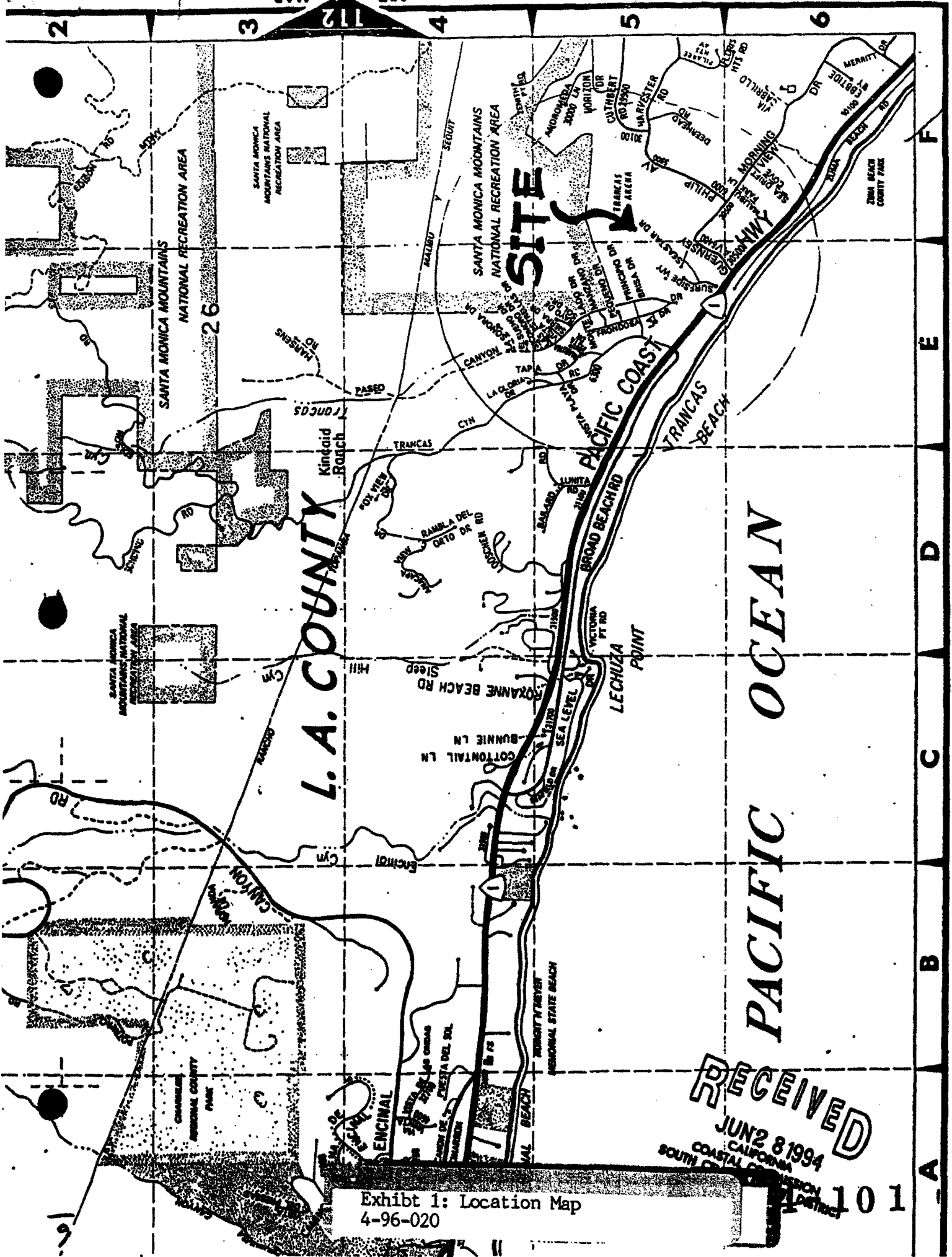
(a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the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

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, 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.

There are no negative impacts caused by the proposed development which have not been adequately mitigated. Therefore, the proposed project is found consistent with CEQA and the policies of the Coastal Act.



L.A. COUNTY

SITE

PACIFIC OCEAN

RECEIVED JUN 28 1994

CALIFORNIA COASTAL COMMISSION SOUTH COAST DISTRICT

Exhibit 1: Location Map 4-96-020

101

PORTION OF LA TAX ASSESSOR'S MAP BOOK 4469, PAGE 47  
THIS MAP IS NOT TO SCALE.

# EXHIBIT #2

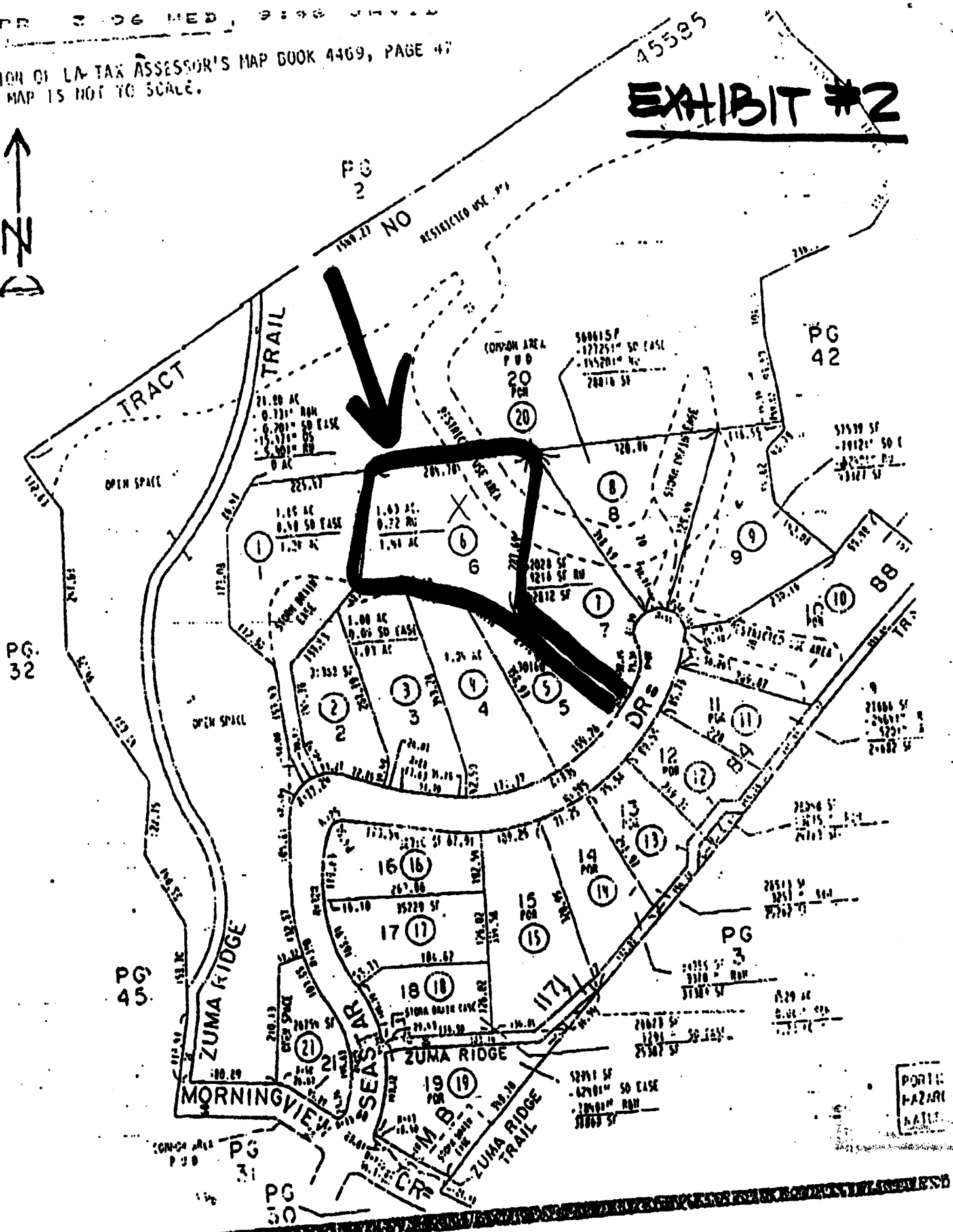


Exhibit 2: Parcel Location  
4-96-020

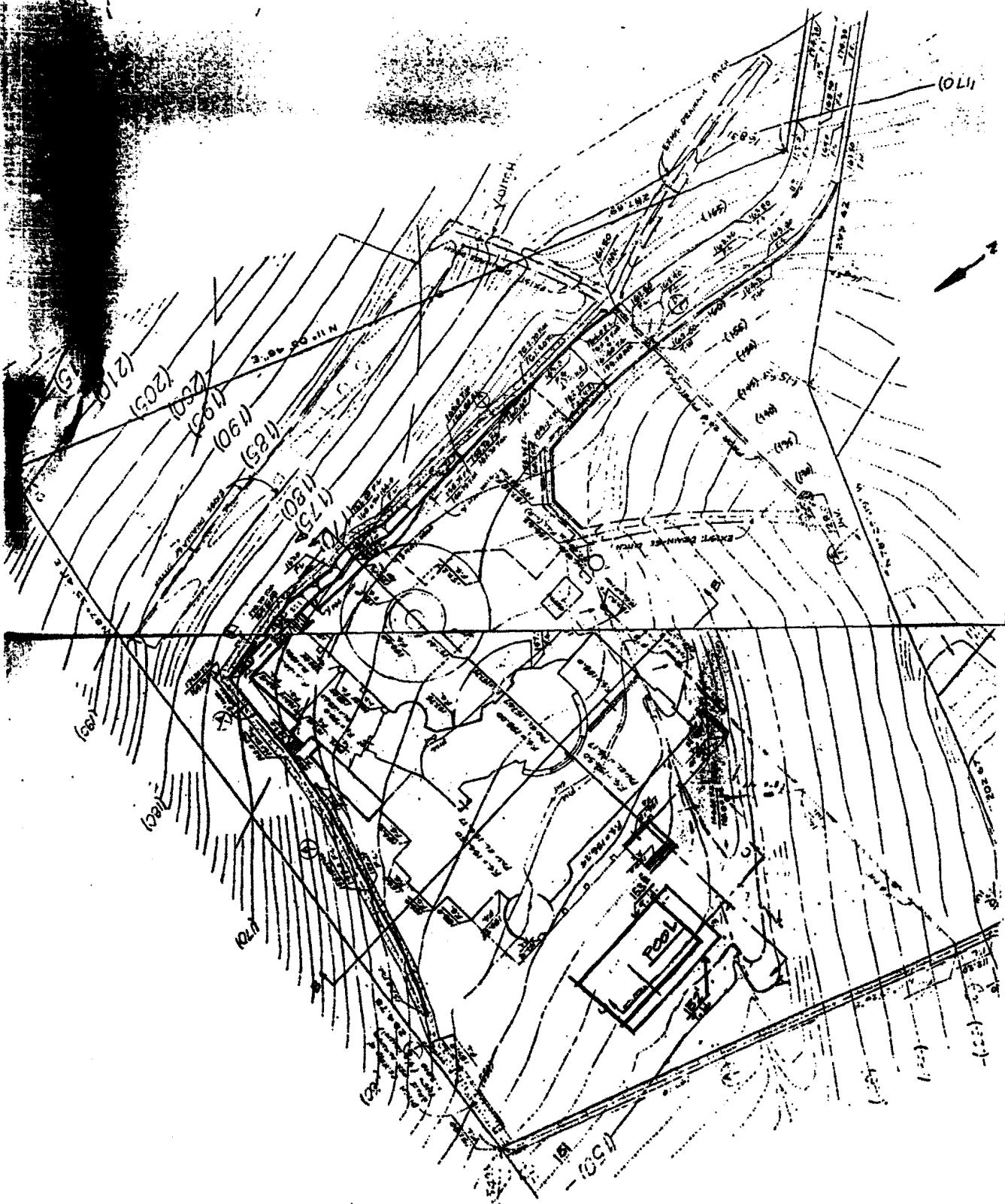
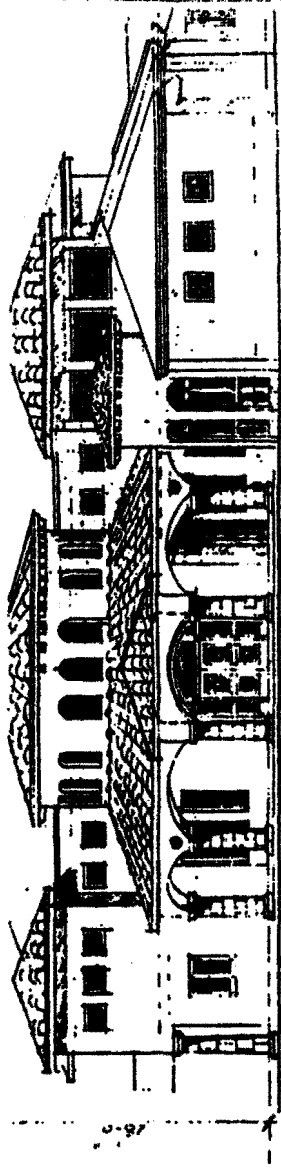


Exhibit 3: Site Plan  
4-96-020



MAY

HIGHEST ELEVATION

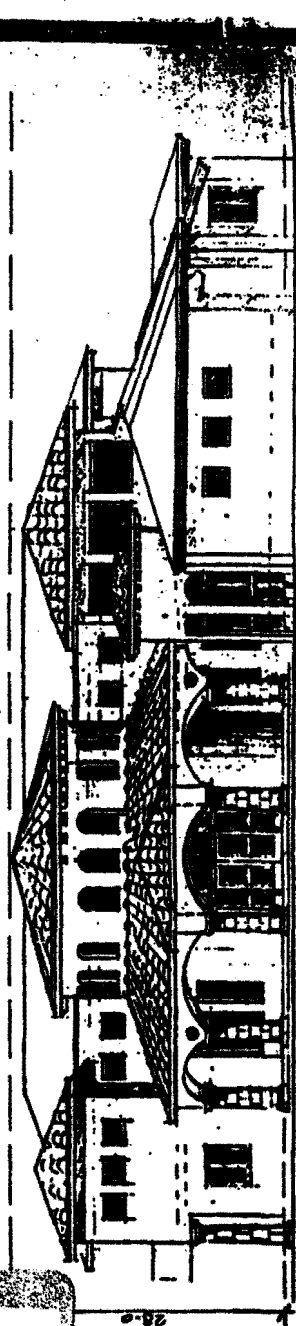
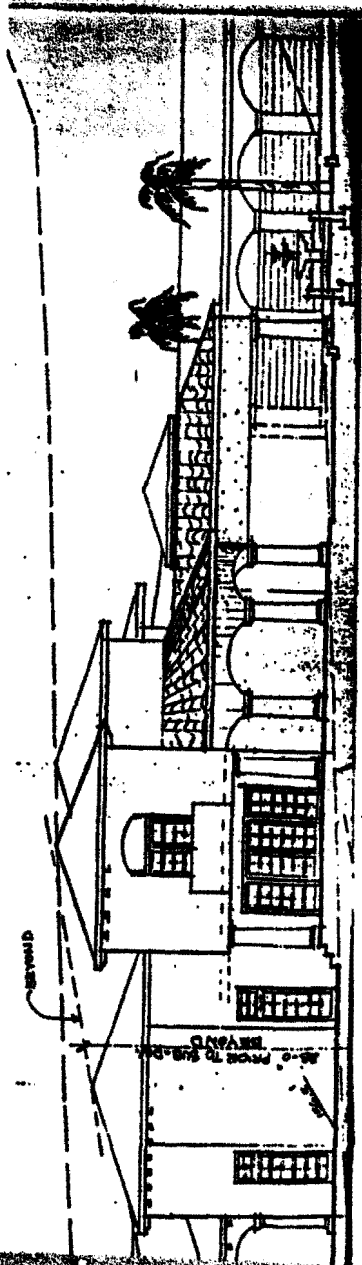


Exhibit 4: Cross Sections  
4-96-020

28-0