

CALIFORNIA COASTAL COMMISSION

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



Filed: 11/27/96
49th Day: 1/15/97
180th Day: 5/26/97
Staff: MHC *WJL*
Staff Report: 12/18/96
Hearing Date: 1/9/97
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-96-184

APPLICANT: Jim Reich

AGENT: Land & Water Co.

PROJECT LOCATION: 31869 West Sea Level Drive, Malibu

PROJECT DESCRIPTION:

Lot area: 3249 sq. ft.
Building coverage: 1194 sq. ft.
Pavement coverage: 75 sq. ft.
Landscape coverage: 1980 sq.ft.
Parking spaces: 2
Zoning: Single Family Medium
Plan designation: SFM
Project density: 4 du/ac
Ht abv fin grade: 28 ft.

LOCAL APPROVALS RECEIVED: Site Review Plan (9/26/96), Septic System Approval in Concept, Negative Declaration, City of Malibu

SUBSTANTIVE FILE DOCUMENTS: Geosystems: Addendum to Preliminary Soils and Geologic Investigation and Response to City Review of Malibu Geology for Proposed Single Family Residence, 31869 W. Sea Level Drive, Malibu (5/21/93); ERA: A survey of Cultural Resources of a Portion of Lot 51 Located at 31869 Sea Level Drive, Malibu; ERA: Test Phase (Phase 2) Cultural Resources Evaluation of Lot 51 located at 31869 Sea Level Drive, Malibu, California (1/5/96); ERA: A Proposed Program for A Test Phase (Phase 2) Archaeological Evaluation at 31869 Sea Level Drive, Malibu, California (2/12/96); ERA: A Test Phase (Phase 2) Cultural Evaluation of a Portion of Lot 51 Located at 31869 Sea Level Drive, Malibu, California (4/96).

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed project with four (4) Special Conditions addressing the protection of archaeological resources, landscaping and erosion control, waiver of liability, and plans conforming to the consulting geologist's recommendations.

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 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. ARCHAEOLOGICAL RESOURCES

By acceptance of this permit the applicant agrees to have a qualified archaeologist(s) and appropriate Native American consultant(s) present on-site during all grading, excavation and site preparation that involve earth moving operations. The number of monitors shall be adequate to observe the activities of each piece of active earth moving equipment. Specifically, the earth moving operations on the project site shall be controlled and monitored by the archaeologist(s) with the purpose of locating, recording and collecting any archaeological materials. In the event that an area of intact buried cultural deposits are discovered during operations, grading work in this area shall be halted and an appropriate data recovery strategy be developed, subject to the review and approval of the Executive Director, by the the applicant's archaeologist, the City of Malibu archaeologist and the Native American consultant (Cultural Resource Manager) consistent with CEQA guidelines.

Additionally, the applicant shall implement the specific recommendations contained in the archaeological report dated April 1996. A report shall be prepared describing any recovered materials or other cultural remains. Artifacts and other remains shall be catalogued and curated at a responsible institution.

2. LANDSCAPING AND EROSION CONTROL

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

- a) All graded 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, Los Angeles - Santa Monica Mountains Chapter, in their document entitled Recommended Native Plant Species 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 disturbed areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes according to the approved landscape plan within thirty (30) days of final occupancy of the residence.

3. PLANS CONFORMING TO GEOLOGIC RECOMMENDATION

All recommendations contained in the "Preliminary Soils and Engineering Geological Investigation for Proposed Single-Family Residence 31869 W. Sea Level Drive, Malibu California" (5/21/93) by California Geo/Systems shall be

incorporated into the final plans. All plans must be reviewed and approved by the geologic consultant. Prior to the issuance of the permit the applicant shall submit, for the review and approval by the Executive Director, evidence of the consultant's 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, operations, 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:

A. Project Description and Location

The site is located on Sea Level Drive off of Broadbeach Road on the seaward side of Pacific Coast Highway. The lot is an interior lot within a partially developed single family residential subdivision. (See Exhibits 1 through 3.) The City of Malibu designates the zoning on the lot as Single Family, Medium with an allowable density of 4 units per acre. The lot is presently undeveloped. As note below the parcel is located on or near an identified archaeological site.

The applicants propose to construct a two story, 1,198 sq ft. single family residence with an attached 3369 sq ft garage, 660 ft basement, permeable driveway, and private septic system. The residence will be 28 ft above average finished grade. Approximately 97 cubic yard of grading will be required, including excavation of approximately 11 feet (9 feet under the residence). (See Exhibits 4 through 9.)

B. Archaeological Resources

PRC Section 30244 of the Coastal Act provides that:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Archaeological resources are significant to an understanding of cultural, environmental, biological, and geological history. The Coastal Act requires

the protection of such resources to reduce potential adverse impacts through the use of reasonable mitigation measures. Archaeological resources can be degraded if a project is not properly monitored and managed during earth moving activities conducted during construction. Site preparation can disturb and/or obliterate archaeological materials to such an extent that the information that could have been derived would be lost. As so many archaeological sites have been destroyed or damaged as a result of development activity or natural processes, the remaining sites, even though they may be less rich in materials, have become increasingly valuable.

Further, because archaeological sites, if studied collectively, may provide information on subsistence and settlement patterns, the loss of individual sites can reduce the scientific value of the sites which remain intact. The greater province of the Santa Monica Mountains is the locus of one of the most important concentrations of archaeological sites in Southern California. Although most of the area has not been systematically surveyed to compile an inventory, the sites already recorded are sufficient in both number and diversity to predict the ultimate significance of these unique resources.

The project site is identified as being within the boundaries of known archaeological site CA-LAN-114. Accordingly, the applicant undertaken an archaeological investigation of the site. The applicant submitted three archaeological reports for the proposed project on the parcel.

The first report is a surface survey of the project site dated 5 January 1996 which indicated that no cultural data was observed on the site. However, a subsequent site inspection located some shell fragments and a chert flake of prehistoric cultural origin. Based upon this finding a second archaeological report dated February 12, 1996 was prepared proposing a phase 2 sub-surface investigation of the site. The third report dated April 1996 reported the results of this subsurface investigation and made recommendations for the protection of potential cultural materials during project construction.

The sub-surface investigation revealed additional cultural artifacts, primarily shell fragments, and a few chert flakes. Additionally, the sub-surface investigation revealed several worked pieces, and a number of bone fragments from fish vertebrates and a fragment of a Pacific Dolphin. No human burials were discovered on the project site during the sub-surface investigations.

Based upon the surface and sub-surface investigation, the third report made four recommendation to ensure protection of any archaeological resources which could be disturbed during project construction: (1) no further exploratory excavation (or mitigation excavation for Phase 2) be performed given the small size of the parcel and the previous Phase 2 sub-surface investigations; (2) additional Cultural Resources Management work on the parcel be performed in view of previously discovered human burials in the vicinity of the parcel; (3) redesign of the proposed leach line trenches be made to minimize the number of trenches in the area as much as possible; (4) all excavations and sub-surface disturbance of the project site (including leach lines and the basement) be monitored by qualified Cultural Resource Management specialists.

Because of the presence of archaeological resources on the project site and within close proximity to it, it is necessary to require the applicant to comply with condition number one (1). This condition requires the applicant to agree to have a qualified archaeologist(s) and appropriate Native American consultant(s) present on-site during all grading, excavation and site preparation that involve earth moving operations. The number of monitors will be adequate to observe the activities of each piece of active earth moving equipment. Additionally, the applicant shall implement the specific recommendations contained in the archaeological report dated April 1996.

Specifically, the earth moving operations on the project site shall be controlled and monitored by the archaeologist(s) with the purpose of locating, recording and collecting any archaeological materials. In the event that an area of intact buried cultural deposits are discovered during such operations, grading work in this area will be halted and an appropriate data recovery strategy be developed by the City of Malibu archaeologist and the Native American consultant (Chumash cultural resource manager) consistent with California Environmental Quality Act (CEQA) guidelines. A report will be prepared describing and recovered materials and observations concerning changes in artifacts and other remains. Artifacts and other remains will be catalogued and curated at a responsible institution.

Thus, the Commission finds that the proposed project, as conditioned, mitigates any adverse impacts on archaeological resources and therefore, the proposed development is consistent with Section 30244 of the Coastal Act.

C. Geologic and Fire Hazards

Section 30253 of the Coastal Act states, in part, that 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 Malibu area which is generally considered to be subject to an unusually high number of natural hazards. Geologic hazards common to the Malibu area 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 submitted a soils and engineering-geologic investigation titled: "Preliminary Soils and Engineering Geological Investigation for Proposed Single-Family Residence 31869 W. Sea Level Drive, Malibu California" (5/21/93). The report made the following general findings regarding the physical suitability of the project site for the proposed residential development:

Based on the findings of our investigation, the site is considered to be suitable for a soils and engineering-geologic standpoint for construction of a single-family residence provided the recommendations included herein are followed and integrated into the building plans.

The recommendations in the Geotechnical report address the following issues: site preparation, suitability of materials, shrinking/bulking, expansive soils, foundations, lateral design, temporary excavation slopes, foundation settlement, retaining walls, waterproof seal, subdrains, retaining wall backfill floor slabs, foundation and building setback, and drainage protection.

Condition number three (3) provides for final review and approval by the consulting geologist of the final project design, grading and drainage plans for the residence prior to the issuance of the permit. The above geology report includes recommendations regarding surface drainage which will be applied as appropriate by the consulting geologist when the final plans are reviewed and approved by the consulting geologist.

Additionally, 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 will only approve the project if the applicant assumes 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, as incorporated by condition number four (4). Finally, the addition of condition number two (2) regarding the incorporation of native landscaping will reduce the likelihood of destabilization of the site through erosion or slope failure.

The Commission finds that only as conditioned to incorporate all recommendations by the applicant's consulting geologist and the wild fire waiver of liability, will the proposed project be consistent with Section 30253 of the Coastal Act.

D. Septic System

The Coastal Act includes policies to provide for adequate infrastructure including waste disposal systems. 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.

Section 30250(a) of the Coastal Act states in part that:

New residential, ... development, ... shall be located within, ... existing developed areas able to accommodate it ... and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

Preliminary soils and engineering geological investigation prepared for the project also included an assessment of the geological considerations on the site with respect to private sewage disposal. The report found that the soils on the project site were suitable for the installation and operation of a private septic system.

The applicant has submitted a conceptual approval for the sewage disposal system from the Department of Environmental Health Services, City of Malibu. This approval indicates that the sewage disposal system for the project in this application complies with all minimum requirements of the City of Malibu Plumbing Code. The Commission has found in past permit actions that compliance with the health and safety codes will minimize any potential for waste water discharge that could adversely impact coastal waters. Therefore, the Commission finds that the proposed septic system is consistent with Sections 30231 and 30250 of the Coastal Act.

E. Public Access

PRC Section 30211 provides that:

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 30211 provides, in part, that:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

The proposed residence will be built on the seaward side of Pacific Coast Highway, which in this area is the first road paralleling the coast. The proposed residence will be located on the Sea Level Drive, which is a private road which dead-ends in the residential subdivision. As noted above, the proposed project is within a partially developed residential subdivision, and constitutes an infill between existing single family residences. The infill development of this lot with a private residential development will not directly block or impeded access or contribute significantly to any cumulative impact to beach access in this area.

The Commission finds therefore that the proposed project, as conditioned is consistent with the access policies of Chapter 3 of the Coastal Act as required by Section 30604(c).

F. Local Coastal Program

Section 30604 of the Coastal Act states that:

(a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with Chapter 3 (commencing with Section 30200) 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 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).

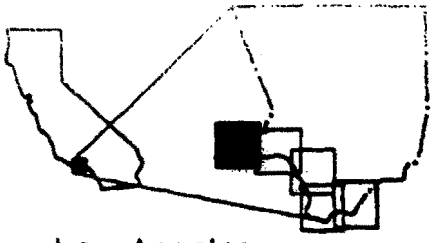
G. California Environmental Quality Act

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 incorporate the protection of archaeological resources, landscaping and erosion control, the recommendations by the consulting geologist, and a wild-fire waiver of liability. 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.

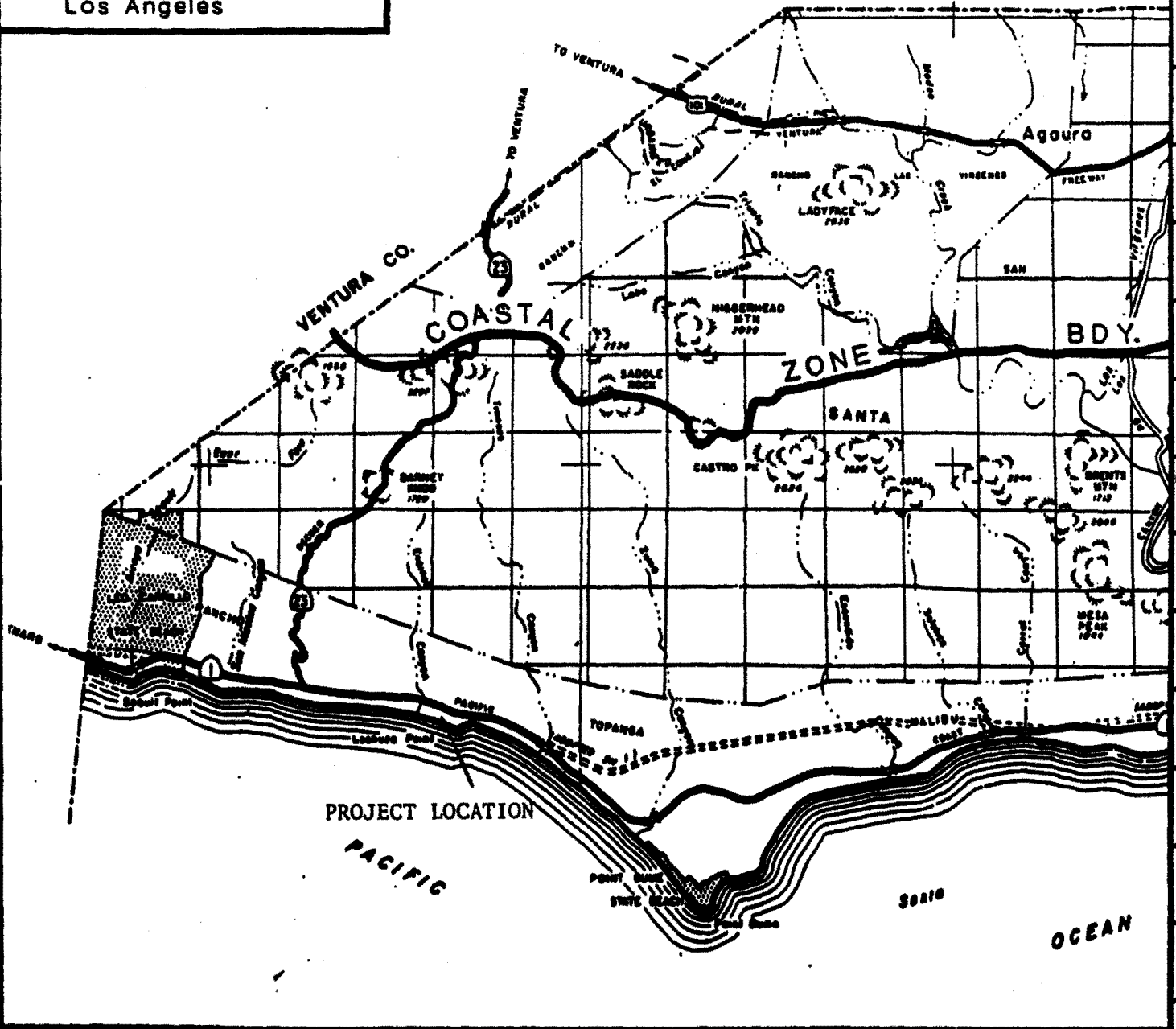
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Los Angeles

EXHIBIT NO. 1
APPLICATION NO.
4-96-184
Reich



California Coastal Commission

LOCATION MAP



County of Los Angeles

Sheet 1 of 5

VICINITY MAP

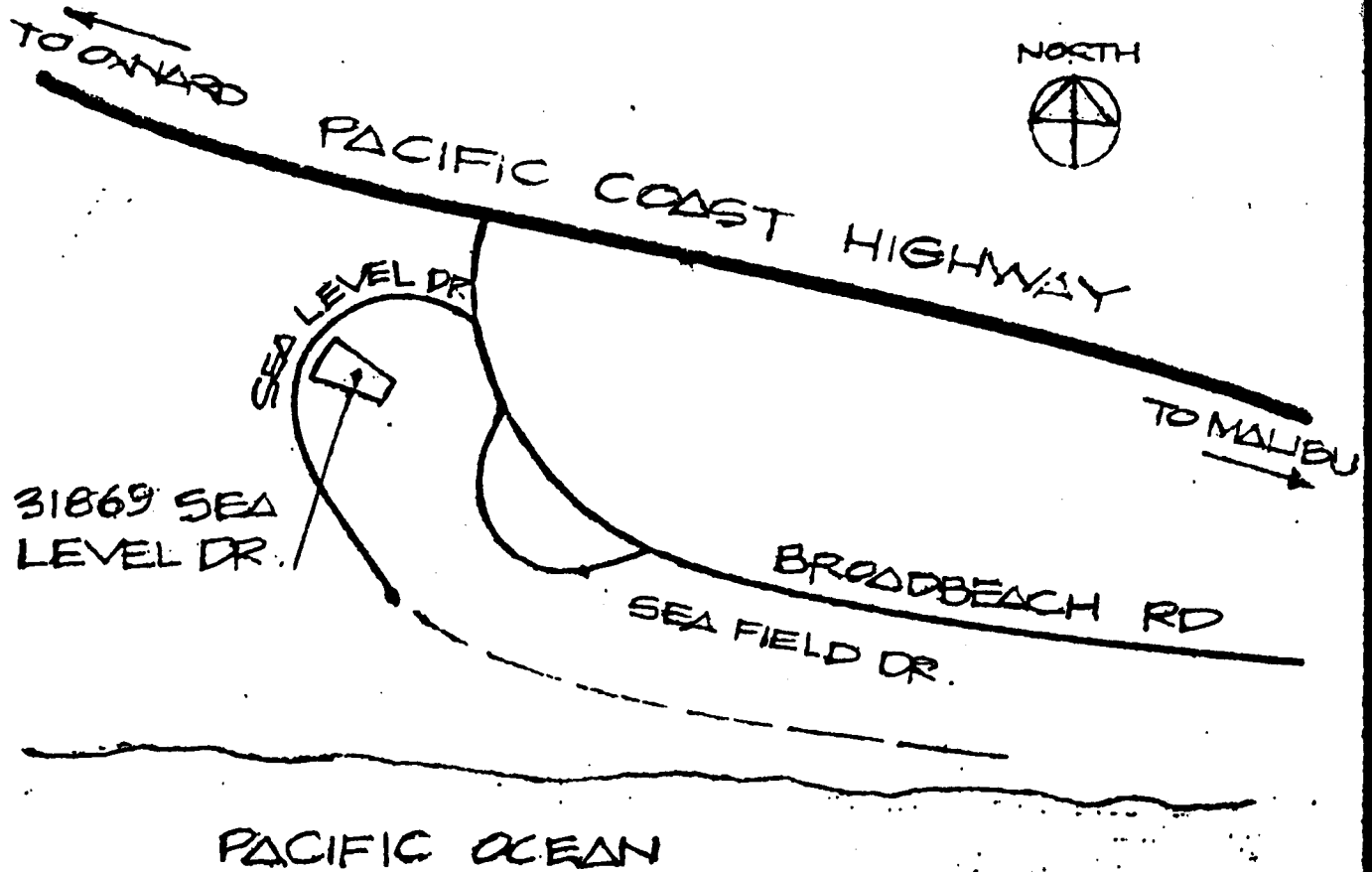
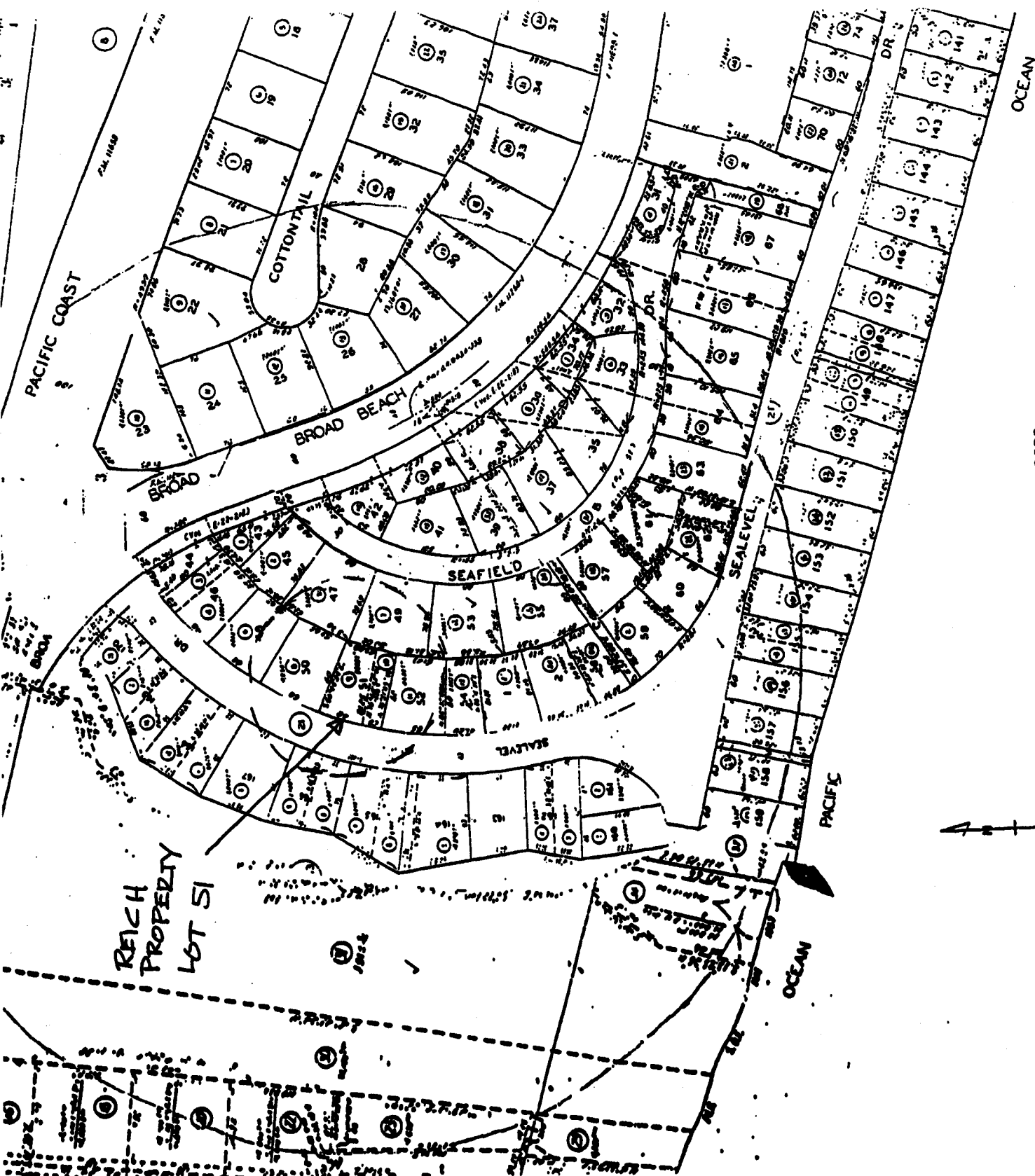


EXHIBIT NO. 2
APPLICATION NO.
4-96-184
Reich

EXHIBIT NO.	3
APPLICATION NO.	
	4-96-184
	Reich



REICH
PROPERTY
LOT 51

TRACT NO. 10630
M.B. 181-8411

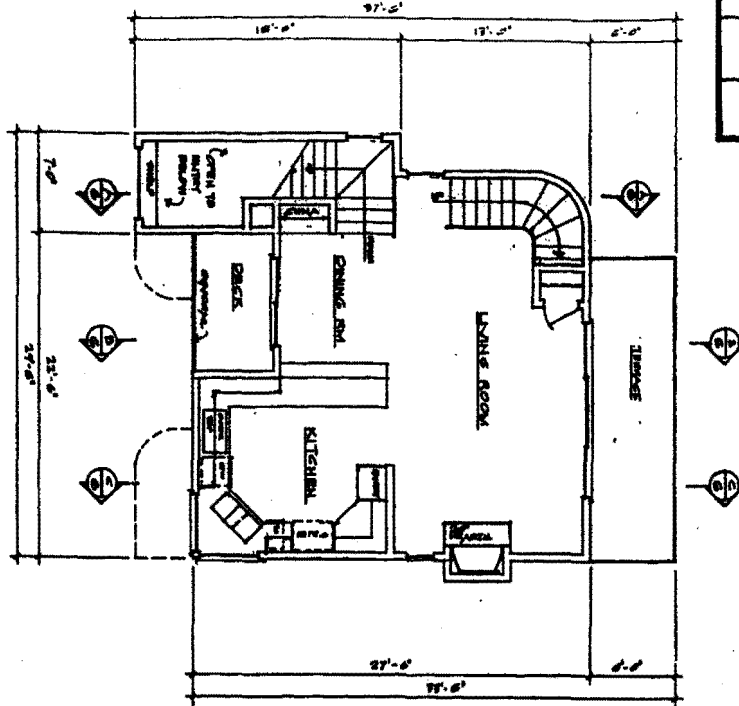
EXHIBIT NO. 5

APPLICATION NO.

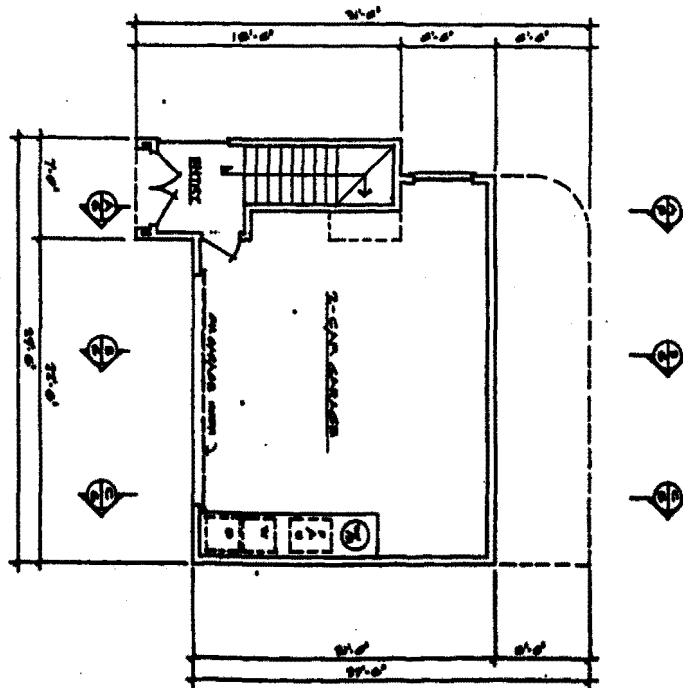
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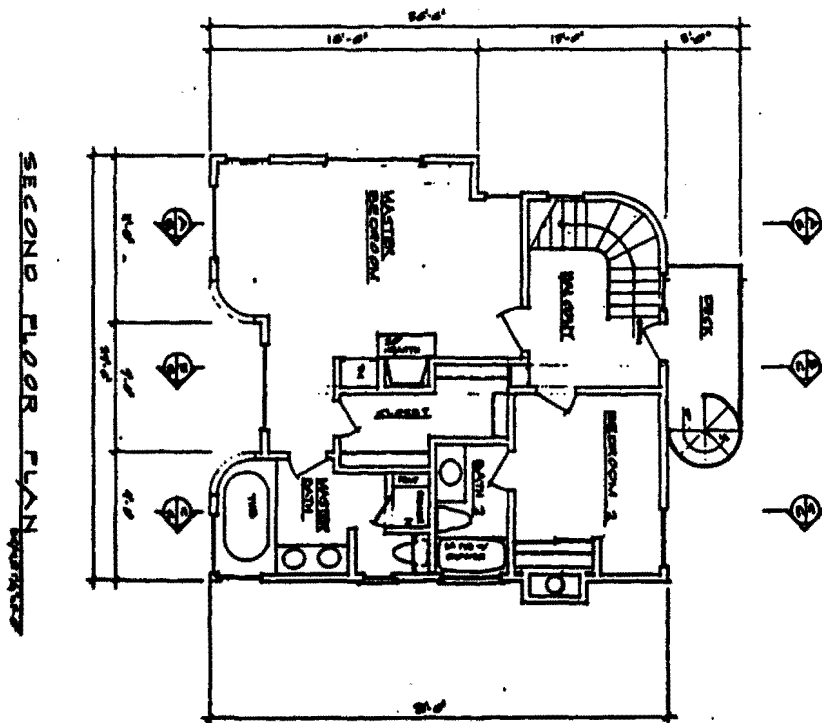
FIRST FLOOR PLAN



GARAGE PLAN



Reich



SECOND FLOOR PLAN

RESIDENCE FOR:
MR. & MRS. REICH
2809 SEALEVEL ROAD
MALDEN, MA

DESIGN AND PLANS BY
CONSTRUCTION & DESIGNERS, INC.
1004 N. MIDWAY ROAD
THOUSAND OAKS, CA. SUITE 200
TEL: (805) 499-1010



EXHIBIT NO. 7
APPLICATION NO.
4-96-184
Reich

ROOF PLAN

ROOFING MATERIAL:
S.A. THE ON 4447 TWO-PHASE ROOFING SYSTEM TWO.
1400 ML. 8000

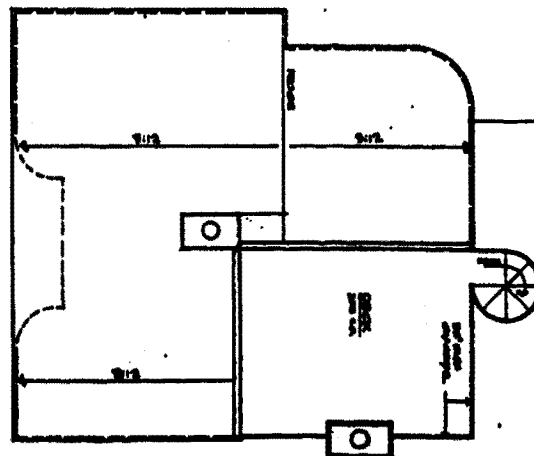
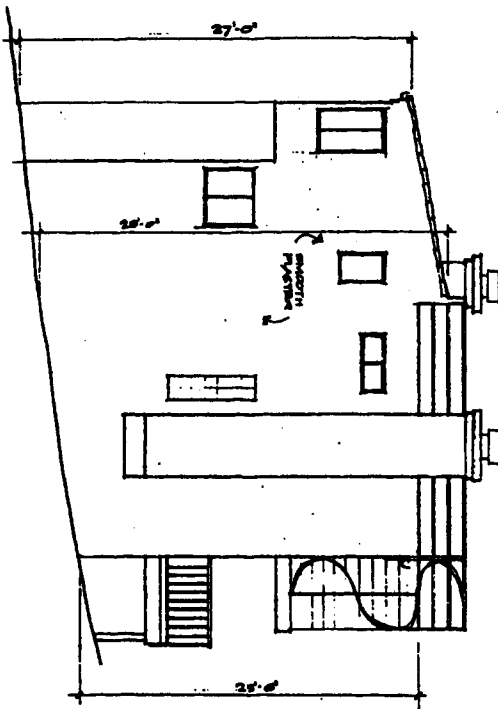
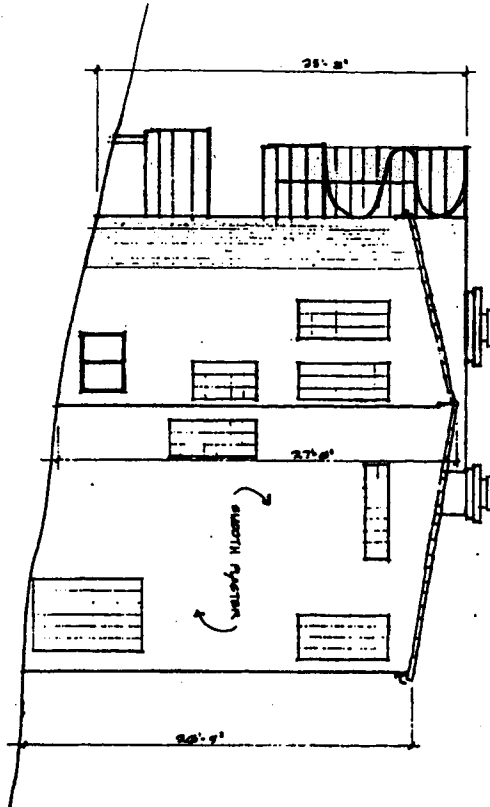


EXHIBIT NO. 8
APPLICATION NO.
4-96-184
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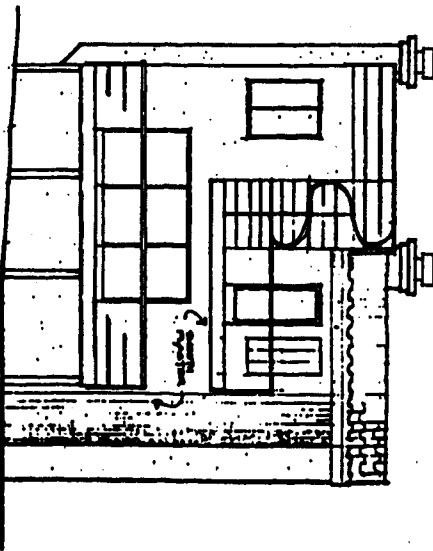
RIGHT SIDE ELEVATION



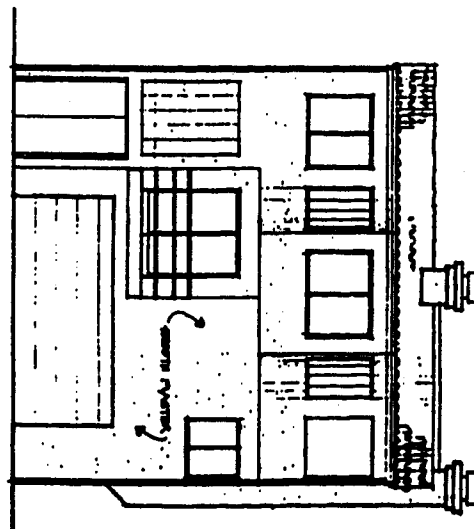
LEFT SIDE ELEVATION



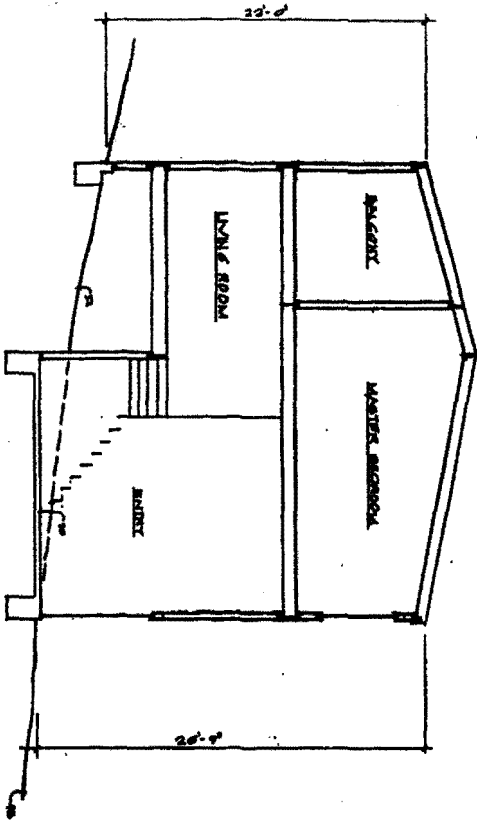
REAR ELEVATION



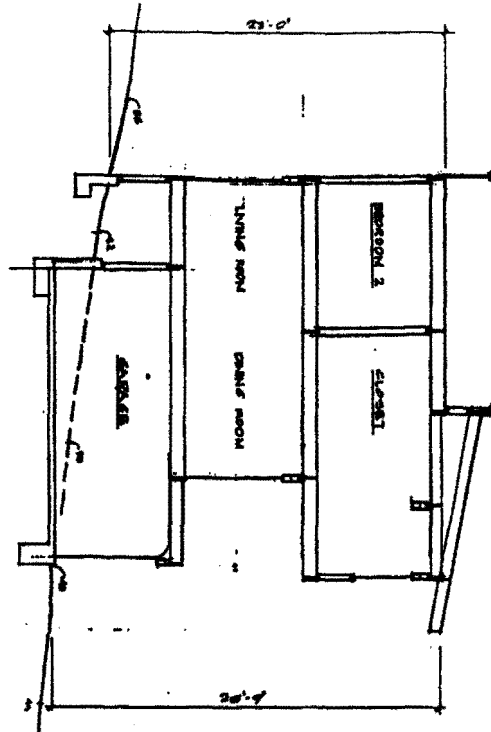
FRONT ELEVATION



SECTION 'A-A'



SECTION 'B-B'



SECTION 'C-C'

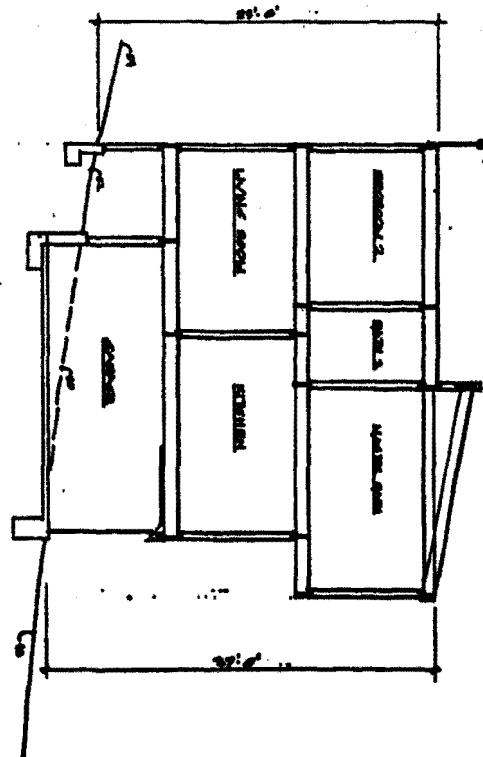


EXHIBIT NO. 9
APPLICATION NO.
4-96-184
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