

CALIFORNIA COASTAL COMMISSION

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

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Filed: 9/15/97
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Staff: S. Hudson *for*
Staff Report: 9/18/97
Hearing Date: October 7-10, 1997
Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 4-97-111

APPLICANT: Richard and Patti Marin

AGENT: Land and Water Company

PROJECT LOCATION: 32020 Pacific Coast Highway, City of Malibu; Los Angeles County

PROJECT DESCRIPTION: The applicant is requesting "after the fact" approval for a 242 sq. ft. addition to an existing 468 sq. ft. guest unit and the replacement of an existing septic system with a larger septic system.

Lot area:	38,330 sq. ft.
Building coverage:	3,093 sq. ft.
Pavement coverage:	2,500 sq. ft.
Landscape coverage:	2,000 sq. ft.
Parking spaces:	2

LOCAL APPROVALS RECEIVED: County of Los Angeles Building Permit; Approval in Concept City of Malibu Health Department

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permits 5-87-907, A-79-5287, P-4720 and P-4583.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed project with three (3) special conditions regarding future development, septic system, and wildfire waiver of liability. The applicant is requesting "after the fact" approval for a 242 sq. ft. addition to an existing 468 sq. ft. guest unit and the replacement of an existing septic system with a larger septic system. The guest unit is located above an existing garage/storage area and has been structurally connected (no interior access between structures) on the second level to the existing adjacent two-story office/exercise room. Staff notes that access to the second-level guest unit is from an exterior stairway only with no interior access between levels or structures. To ensure that the downstairs portion of the structure, as well as the adjoining structure, shall not be converted to habitable space, or connected to the upstairs guest unit by an interior accessway, any additions or improvements that could further intensify the use of this guest unit or second residential unit will be reviewed by the Commission as

summary continued

required by condition number one (1). In addition, the proposed improvements to the existing structures include the addition of two bathrooms. The City of Malibu Health Department has indicated that the present 750 gallon septic system is not adequate to service the structures with the proposed improvements. The applicant has proposed to replace the existing septic system with a new 1,000 gallon septic system in order to comply with the City of Malibu Health Department Standards.

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 the first public road nearest the shoreline and is conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions.

1. Future Improvements

Prior to the issuance of a coastal development permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, stating that the downstairs portion of the structure (designated as garage/storage) and the connecting two-story structure (designated as exercise room and study/office) shall remain non-habitable space with no interior access between the portion of the structure designated as "caretaker's quarters" and either the downstairs level of the structure (designated as garage/storage) or the connecting two-story structure (designated as exercise room and study/office). Any future structures, additions or improvements related to the above mentioned structures, including the caretaker's quarters/garage/storage and office/exercise room, approved under coastal development permit number 4-97-111, will require a permit from the Coastal Commission or its successor agency. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest conveyed.

2. Septic System

With acceptance of this permit, the applicant agrees to replace the existing 750 gallon septic system with a new 1,000 gallon septic system within 120 days of the issuance of this permit. The applicant shall submit, for the review of the Executive Director, evidence of final approval from the City of Malibu Health and Building Departments for the new septic system. The time period to replace the septic system may be extended by the Executive Director for good cause.

3. 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 Background

The applicant is requesting "after the fact" approval for a 242 sq. ft. addition to an existing 468 sq. ft. guest unit and the replacement of the existing septic system with a larger septic system. The guest unit is located above an existing garage/storage area and has been structurally connected (no interior access between structures) on the second level to an adjacent two-story office/exercise room. Although the two structures are now connected on the second level, they are separated by a breezeway on the ground level. No interior access exists between the two structures on the first or second level or between the ground level garage/storage area and the second level guest unit. The subject site is a 38,830 sq. ft. lot located on the seaward side of Pacific Coast Highway.

Past Commission action on this site included Coastal Development Permit A-79-5287 which was issued for the construction of a fire destroyed two-story garage/storage area with upstairs guest unit and a two-story pottery studio. Between 1979 and 1997, the applicant constructed a 242 sq. ft. addition to the second level guest unit, effectively connecting the two originally separate structures, and added two bathrooms (one located in the guest unit and one located in the downstairs portion of the adjacent office/exercise room structure. The proposed addition of a new bathroom in each structure requires the replacement of the existing 750 gallon septic system with a new larger 1,000 gallon septic system in order to comply with the City of Malibu Health Department's standards. The proposed project will not increase the footprint of either structure. The 242 sq. ft. addition to the existing guest unit is not visible from either Pacific Coast Highway, the beach, or any other public areas and will not result in any adverse impacts to visual resources.

B. Second Residential Unit

Sections 30250 and 30252 of the Coastal Act address the cumulative impacts of new developments. Section 30250 (a) of the Coastal Act states:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of

coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

New development raises coastal issues related to cumulative impacts on coastal resources. The construction of a second unit on the site where a primary residence exists intensifies the use of a parcel raising potential impacts on public services, such as water, sewage, electricity and roads. New development also raises issues regarding the location and amount of new development maintaining and enhancing public access to the coast.

Based on these policies, the Commission has limited the development of second dwelling units (the guest house) on residential parcels in the Malibu and Santa Monica Mountain areas. In addition, the issue of second units on lots with primary residences has been the subject of past Commission action in the certifying the Malibu Land Use Plan (LUP). In its review and action on the Malibu LUP, the Commission found that placing an upper limit on the size of second units (750 sq. ft.) was necessary given the traffic and infrastructure constraints which exist in Malibu and given the abundance of existing vacant residential lots. Furthermore, in allowing these small units, the Commission found that the small size of units (750 sq. ft.) and the fact that they are likely to be occupied by one or at most two people, such units would have less impact on the limited capacity of Pacific Coast Highway and other roads (as well as infrastructure constraints such as water, sewage, electricity) than an ordinary single family residence. (certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29 and P.C.H. (ACR), 12/83 page V-1 - VI-1).

The second unit issue has also been raised by the Commission with respect to statewide consistency of both coastal development permits and Local Coastal Programs (LCPs). Statewide, additional dwelling units on single family parcels take on a variety of different functions which in large part consist of: 1) a second unit with kitchen facilities including a granny unit, caretaker's unit, and farm labor unit; and 2) a guesthouse, without separate kitchen facilities. Past Commission action has consistently found that both second units and guest houses inherently have the potential to cumulatively impact coastal resources. As such, conditions on coastal development permits and standards within LCP's have been required to limit the size and number of such units to ensure consistency with Chapter 3 policies of the Coastal Act (Certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29).

As proposed, the 710 sq. ft. guest unit above the garage/storage area conforms to the Commission's past actions allowing a maximum of 750 sq. ft. for a second dwelling unit in the Malibu area. The Commission notes that any use of the downstairs portion of the proposed structure (designated as garage/storage) or the adjacent connecting structure (designated as office/exercise room) as habitable space, or the installation of any interior accessway between either the first and second levels of the guest unit/garage/storage structure, or between the two adjoining structures would increase the size of the guest unit beyond the maximum of 750 sq. ft. and constitute a violation of this coastal development permit. As proposed, access to the second-

level guest unit is from an exterior stairway with no interior access between levels or structures. To ensure that the downstairs portion of the structure, as well as the adjoining structure, shall not be converted to habitable space or connected to the upstairs guest unit by an interior accessway, any additions or improvements that could further intensify the use of this guest unit or second residential unit will be reviewed by the Commission as required by condition number one (1). Therefore, the Commission finds that, as conditioned, the proposed development is consistent with Sections 30250 and 30252 of the Coastal Act.

C. 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 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.

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 three (3).

D. Septic System

The Commission recognizes that the potential build-out of lots in Malibu and 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 proposed development includes the "after the fact" addition of two bathrooms which have been previously constructed and a new 1,000 gallon septic system to replace an existing 750 gallon septic system for the guest unit/garage/storage area and office/exercise room structures to provide for adequate sewage disposal. Although the proposed development was constructed with approval from Los Angeles County before the incorporation of the City of Malibu and does not require further local approval for the proposed structural additions, the bathroom/plumbing additions were installed without the benefit of a County Permit and now require approval by the City of Malibu Health Department. The applicant has submitted approval from the City of Malibu Environmental Health Department stating that the proposed 1,000 gallon septic system will conform with the minimum requirements of the City of Malibu Uniform Plumbing Code.

However, Staff also notes that the City of Malibu Health Department has indicated that the existing 750 gallon septic system is not adequate to service the structures with the proposed improvements and that the replacement of the septic system with a new larger septic system is necessary to comply with the City of Malibu Uniform Plumbing Code. In order to ensure that the proposed septic system is installed, special condition two (2) requires that the applicant replace the existing septic system with a new 1,000 gallon septic system within 120 days of the issuance of this permit. This condition will ensure that coastal waters and human health are protected from inadequately treated waste water discharge. 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, as conditioned, is consistent with Section 30231 of the Coastal Act.

E. Violations

The applicant is requesting "after the fact" approval for a 242 sq. ft. addition to an existing guest unit structurally connecting the guest unit to an adjacent structure (no interior access between structures) on the second level and expansion of the existing septic system including the addition of two bathrooms. All work was carried out without the benefit of a coastal development permit and constitutes a violation of the Coastal Act.

Consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

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 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).

G. 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.

SMH-VNT

File: SMH1/4-97-111

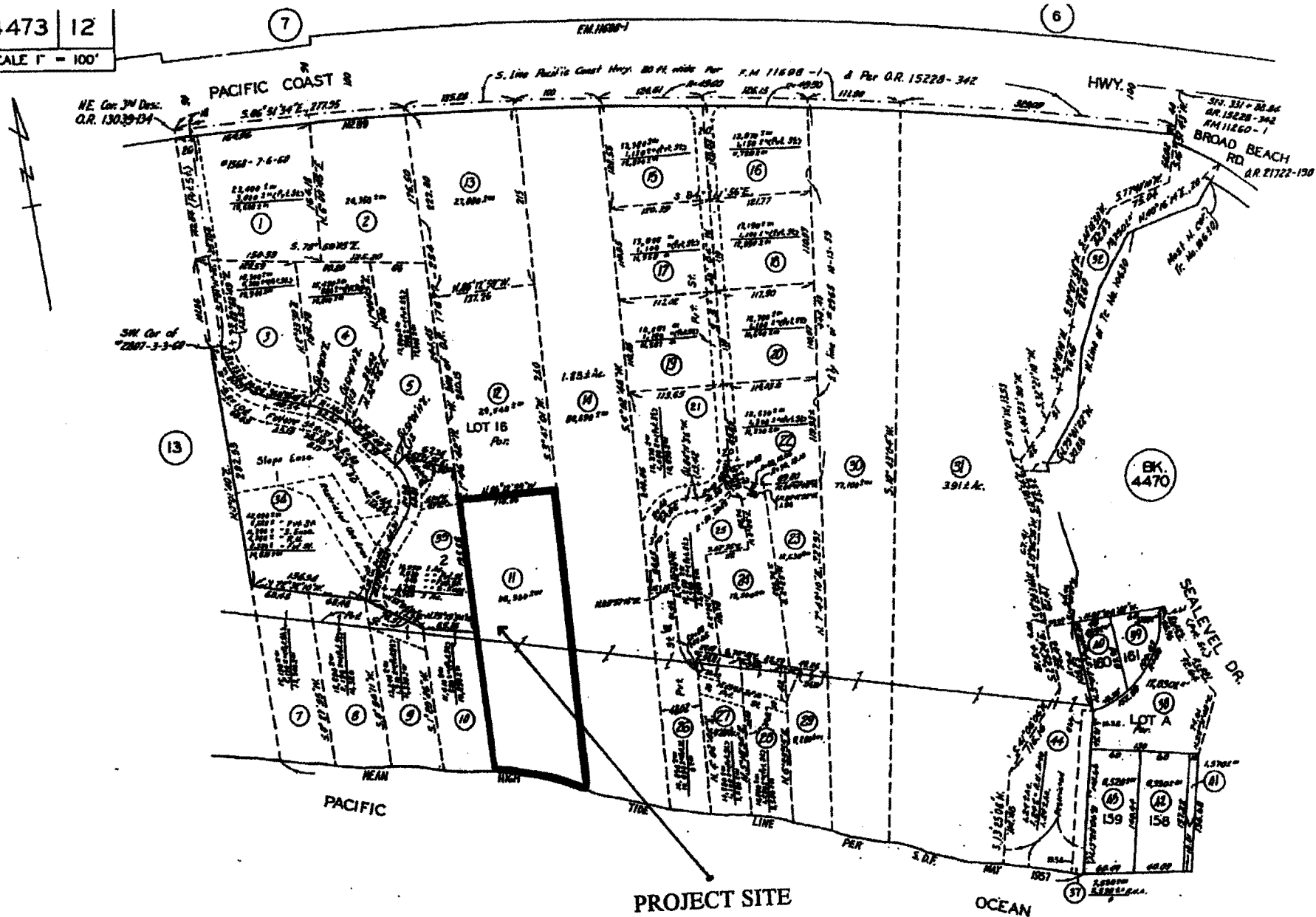
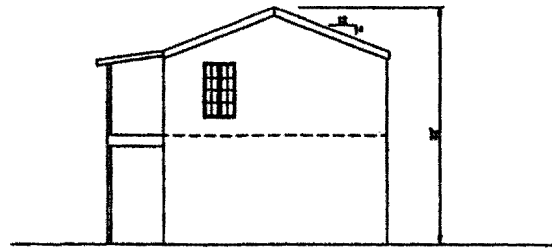
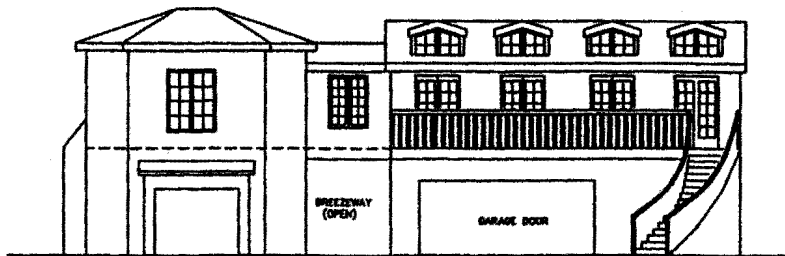


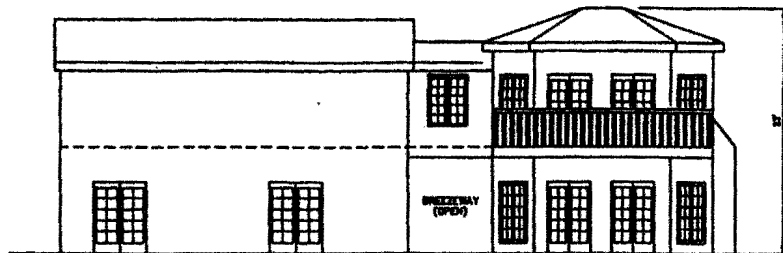
Exhibit No. 2: (4-97-111) Parcel Map for Project Site



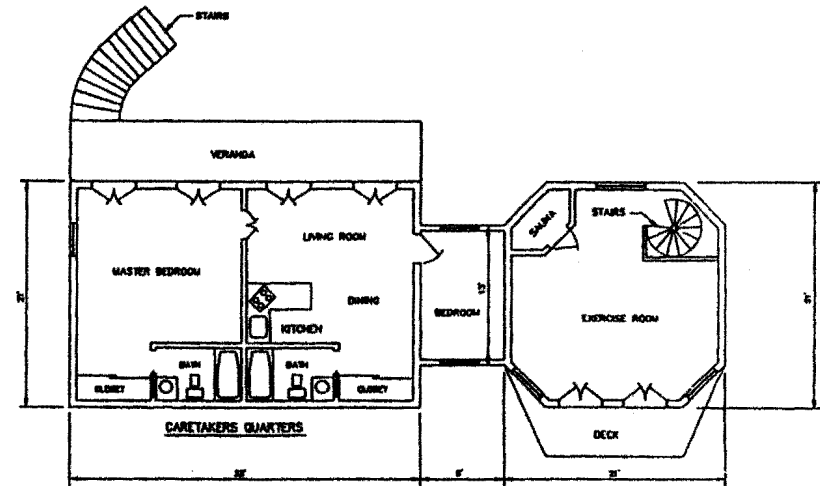
WEST ELEVATION
8/16' - 1'-0"



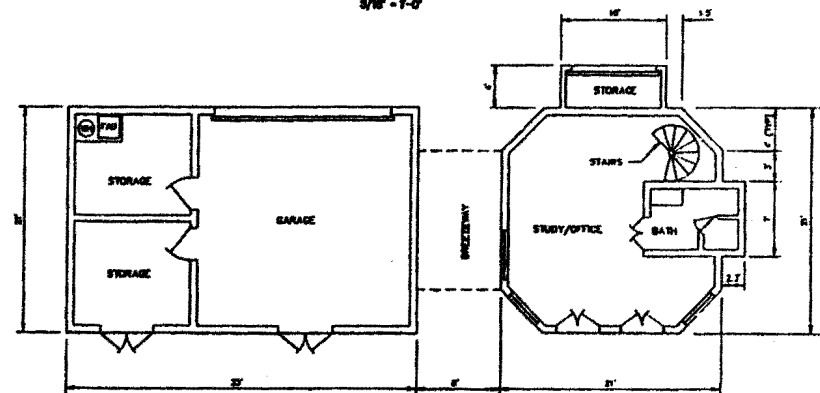
NORTH ELEVATION
8/16' - 1'-0"



SOUTH ELEVATION
8/16' - 1'-0"



SECOND FLOOR
8/16' - 1'-0"



FIRST FLOOR
8/16' - 1'-0"

SQUARE FOOTAGE BREAKDOWN	
GARAGE/STORAGE	733 SQ. FT.
	1663 SQ. FT.
TOTAL	2396 SQ. FT.

THE LAND & WATER COMPANY (714) 965-1622	
BEDROCK ENGINEERING (714) 375-0877	
DESIGNED BY: [blank]	DATE: 8/16/97
DRAWN BY: [blank]	DATE: 8/16/97
CHECKED BY: [blank]	DATE: 8/16/97
PROJECT NO. 44-210	
PROJECT NAME: 101 BROADWAY	

**GARAGE AND
CARETAKERS QUARTERS**
32020 PACIFIC COAST HIGHWAY

MALIBU

CALIFORNIA

95-178-6



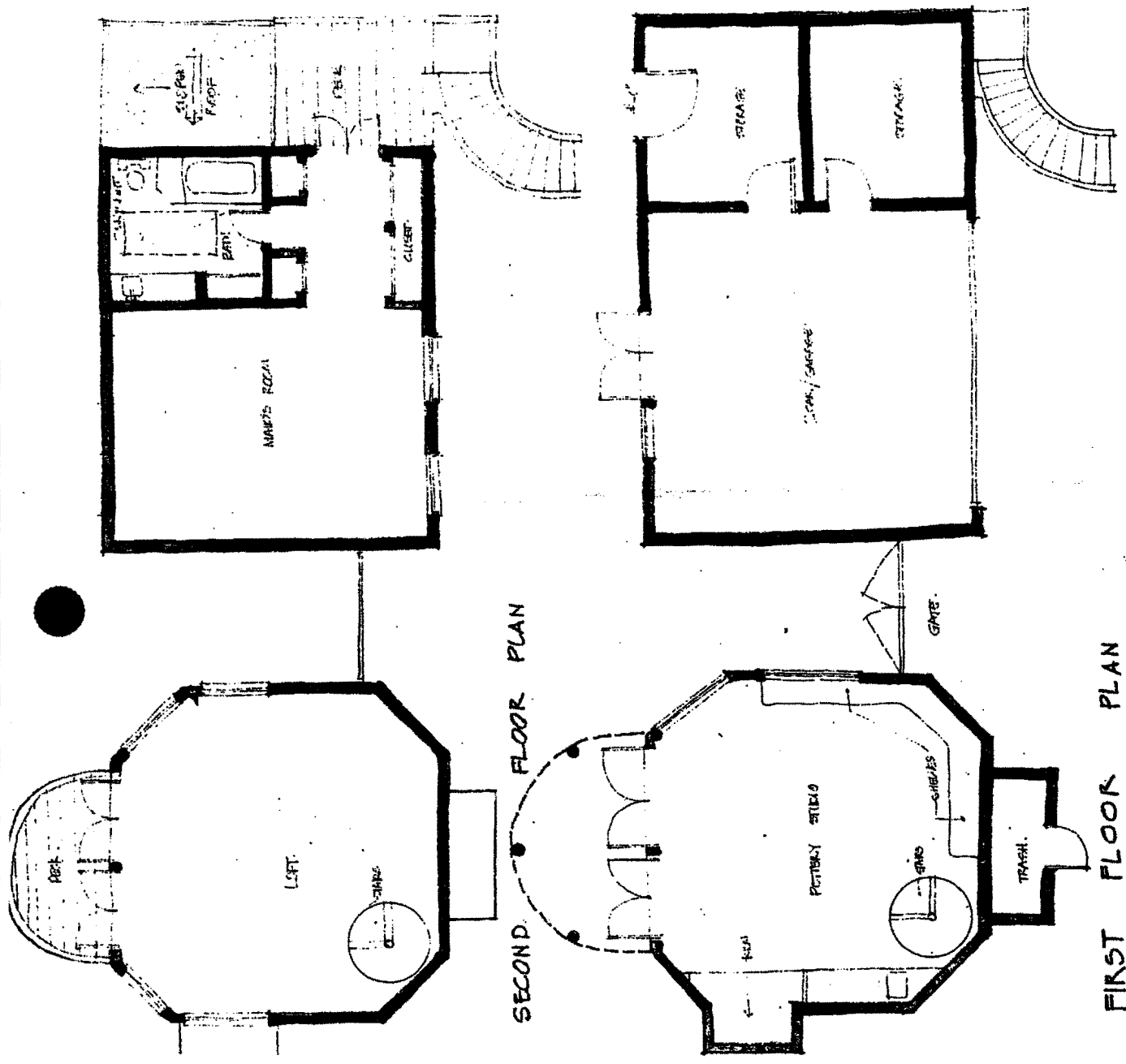


Exhibit No. 5: (4-97-111) Floor Plans for Existing Structures as Previously Approved by CDP 79-5287