

**CALIFORNIA COASTAL COMMISSION**

1000 SOUTH CENTRAL COAST AREA  
1000 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 641-0142



Filed: 9/8/97  
49th Day: 10/27/97  
180th Day: 3/7/98  
Staff: JEL-V *jd*  
Staff Report: 9/18/97  
Hearing Date: 10/7-10/97

**STAFF REPORT: CONSENT CALENDAR**

**APPLICATION NO.:** 4-97-164

**APPLICANT:** Aquareal Holding Corp.; David W. H. Tong

**AGENT:** Georgia R. Meisler

**PROJECT LOCATION:** 6040 Cavalleri Road, City of Malibu, Los Angeles County

**PROJECT DESCRIPTION:** Construct 6,237 sf two-story 28 ft high single family residence, with three car garage, septic system, swimming pool, landscaping. 600 cu. yds. of grading (600 cu. yds. of cut and 150 cu. yds. of fill; 450 cu. yds. net export), excess fill to be exported to an appropriate disposal site outside the coastal zone.

<b>Lot area:</b>	1.06 acre (41,044 sf net)
<b>Building coverage:</b>	3,751 sf
<b>Pavement coverage:</b>	6,566 sf
<b>Landscape coverage:</b>	30,727 sf
<b>Parking spaces:</b>	3 covered
<b>Project density:</b>	1 du/ac
<b>Ht abv fin grade:</b>	28 ft

**LOCAL APPROVALS RECEIVED:** City of Malibu: Planning Department, Approval in Concept, dated 7/30/97; Environmental Health, In-Concept Approval, dated 7/25/97.

**SUBSTANTIVE FILE DOCUMENTS:** Certified Malibu/Santa Monica Mountains Land Use plan; RJR Engineering Group, Inc.: Geotechnical and Geology Report, February 21, 1997; Eduardo Jarquin, P.E., Inc., Grading and Drainage Plan, August 30, 1996. Coastal Development Permit 5-89-1227 (Cavalleri)

**SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends approval of the proposed project with special conditions relating to conformance with geologic recommendations, landscape and erosion control plans, and fire waiver of liability.

**STAFF RECOMMENDATION:****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, 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. Plans Conforming to Geologic Recommendation

Prior to the issuance of permit the applicant shall submit, for review and approval by the Executive Director, evidence of the consultants' review and approval of all project plans. All recommendations contained in RJR Engineering Group, Inc.: Geotechnical and Geology Report, February 21, 1997 shall be incorporated into all final design and construction including slope stability, pools, foundations and drainage. All plans must be reviewed and approved by the consultants.

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.

#### 2. Landscaping and Erosion Control Plan

Prior to issuance of the coastal development permit, the applicant shall submit landscaping and erosion control plans for review and approval by the Executive Director. The landscaping and erosion control plans shall be reviewed and approved by the consulting geologic and geotechnical consultants to ensure that the plans are in conformance with the consultants' geotechnical recommendations. The plans shall incorporate the following criteria:

- (a) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes within (60) days of final occupancy of the residence. To minimize the need for irrigation and to screen or soften the visual impact of development all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- (b) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;
- (c) Should grading take place during the rainy season (November 1 - March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location.

### 3. Waiver of Liability

Prior to the issuance of the coastal development permit, the applicant shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wild fire exists as an inherent risk to life and property.

## IV. Findings and Declarations

The Commission hereby finds and declares:

### A. Project Description

The applicant proposes to construct a 6,237 sf two-story 28 ft high single family residence, with three car garage, septic system, swimming pool, landscaping. The applicant also proposes 600 cubic yards of grading of which 600 cubic yards will be cut, 150 cubic yards will be used as fill on site, for a net export of 450 cubic yards, which shall be exported to an appropriate disposal site outside the coastal zone.

The parcel is located in a developed area of single family residences on the coastal terrace near the intersection of Gayton Place and Cavalleri Road, a private street. The Malibu/Santa Monica Mountains Land Use plan (LUP) designates the parcel as Residential I (1 du/acre); the proposed project conforms to the LUP density limit. The northwestern two thirds of the property is gently sloping, while the remaining southeastern third of the site contains slopes in excess of 25% gradient. The property is covered with native grasses and chaparral. There are no environmentally sensitive resources on or immediately adjacent to the subject property.

### B. Background

The subject parcel is the result of a lot split, approved under coastal development permit 5-89-1227 (Cavalleri) on March 15, 1990. The original 3.25 acre parcel (3.06 acres net) was split into three lots (1.02, 1.02, and 1.20 acres gross) and received approval for 5, 200 cubic yards of grading (2,600 cu. yds. cut, 2,600 cu. yds fill) to create two individual driveways and building pads on proposed lots two and three. There was, and remains, an existing single family residence on lot one. The proposed project is the first of the two vacant lots to be developed.

The currently proposed volume of grading, 650 cubic yards, is a significant reduction from the previously approved amount of 2,600 cubic yards of cut and fill per lot.

As part of the original County approval for the lot split, the applicant agreed to dedicate all building and grading rights to the County of Los Angeles for all slopes over 25%. These restrictions have since been delineated on the final map and encompass approximately one third of the proposed project site.

The Commission approved the three lot subdivision (5-89-1227) subject to four special conditions: 1) a cumulative impact mitigation measure, 2) conformance to geologic recommendations, 3) a future development requirement and 4) a trail dedication. The cumulative impact mitigation, to extinguish development rights for two residential buildings sites in the Santa Monica Mountains Coastal Zone, has been executed and the final map for the lot split has been recorded.

The trail easement condition was also met prior to the issuance of the coastal development permit, although the easement was subsequently removed through an immaterial permit amendment (5-89-1227A). The Los Angeles County Department of Parks and Recreation had re-routed the Coastal Slope Trail onto National Park Service property, located near the subject site, and consequently no longer required the easement.

All remaining conditions of approval related to the original permit for the subdivision of the property (5-89-1227) remain in full effect.

C. Geologic Stability and Hazards

1. Geology

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, 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 has submitted a Geotechnical Engineering Geology Report, dated February 21, 1997, prepared by RJR Engineering Group, Inc., for the subject site. The primary geotechnical concerns for the proposed project are the location of the residence, with respect to the mapped trace of the fault zone, and surficial stability. The project site is located across a splay fault of the Malibu Coast fault system. According to RJR Engineering, a 25 foot setback from the fault zone is considered sufficient based on the lack of shearing and fracturing away from the zone. The proposed residence will be located outside of a 25 foot setback zone from the splay fault.

In regard to surficial stability, a surficial stability analysis was performed for the existing slope gradient of 3:1, which indicated the surficial slopes up to soil thickness' of 3 feet have a factor of safety in excess of 1.5. However, in the opinion of RJR Engineering:

In general, the surficial soils may be prone to future erosion and slumping and steps should be taken to minimize the future potential. We recommend that all slopes be vegetated and/or constructed with an erosion control mat as soon as possible, and a through maintenance plan be implemented at the end of construction.

In conclusion, the geological investigation states that:

The proposed project is considered feasible from a geotechnical engineering and geological standpoint. It is the opinion of RJR Engineering Group, that the proposed project will be safe from the hazards of landsliding, excess settlement, soil settlement, soil slippage and other geologic hazards and will not adversely off-site property provided the recommendations presented in this update report are incorporated into the design and construction of the project.

Based on the recommendations of the consulting geologists, the Commission finds that the development is consistent with Section 30253 of the Coastal Act so long as the geologic consultant's geologic recommendations 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 Engineering Geologist.

## 2. Erosion

Minimizing erosion of the site is important to reduce geological hazards on the site and minimize sediment deposition into drainages. In addition, as mentioned above, the engineering geologist recommends that all slopes be vegetated as soon as possible and a thorough maintenance plan be implemented at the end of construction. The applicant did submit a conceptual landscape plan. However, these plans do not specify details regarding use of native plant materials, irrigation, landscape coverage requirements, maintenance, and interim erosion control.

Therefore, the Commission finds it necessary to require the applicant to submit detailed landscape and erosion control plans for the proposed development. Special condition number three provides for such a landscape/erosion control plan prepared by a licensed landscape architect. Furthermore, given that the consulting engineer specifically recommended landscaping to minimize erosion of potentially erosive soils on site, the Commission finds that the landscape plans must be reviewed and approved by the consulting engineering geologist.

## 3. Fire

The Coastal Act also requires that new development minimize the risk to life and property in areas of high fire hazard. The Coastal Act also recognizes that new development may involve the taking of some risk. Coastal Act policies require the Commission to establish the

appropriate degree of risk acceptable for the proposed development and to establish the appropriate degree of risk acceptable for the proposed development and to establish who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property.

Vegetation in the coastal areas of the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which are highly flammable substances (Mooney in Barbour, Terrestrial Vegetation of California, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for frequent wild fires. The typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wild fire damage to development that cannot be completely avoided or mitigated.

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 these 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.

The Commission finds that only as conditioned above is the proposed project consistent with Section 30253 of the Coastal Act.

#### D. Visual Resources

Section 30251 of the Coastal Act states that:

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.

The building site is situated at approximately the 360 ft elevation. The proposed structure is located below street level, on the side of a minor ridge, and will blend with existing residences already developed or approved for development. These elements will also mitigate views of the site from the nearby Coastal Slope Trail route. The Los Angeles County Department of Parks and Recreation reviewed the site in conjunction with the original subdivision and concluded:

With regard to visual impact, the project will not be incompatible with the surrounding area and there will be not substantial visual impact on trails.

The Commission has found the visual impact of disturbed and graded slopes can be softened with native plants, as well as minimize erosion. Therefore, the Commission finds that special condition number one is necessary to minimize the visual impacts of the proposed development.

Regarding landform alteration, the amount of final grading to prepare the building site is minimal, comprising 600 cubic yards of cut, and 150 cubic yards of fill. The excess cut material will be exported to an appropriate disposal site located outside the coastal zone. The applicant's project will minimize grading and will not significantly alter the existing landform on the property, thus, the proposed project is consistent with the Coastal Act.

Therefore, for the above reasons the project, as conditioned, is consistent with Section 30251 of the Coastal Act.

#### G. Septic System

The Commission recognizes that the potential build-out of lots in Malibu, 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 septic system includes septic tanks with seepage pits. A percolation tests were performed on the subject property dated April 27, 1989, and was included in the RJR Engineering Group, Geotechnical and Geology Report, February 21, 1997. The test indicated that the percolation rate meets Uniform Plumbing Code requirements for a five to six bedroom residence and is sufficient to serve the proposed single family residence. The City of Malibu has completed a review of the proposed septic system with a 1,500 gallon septic tank and drain field. The City of Malibu's minimum health code standards for septic systems have been found protective of coastal resources and take into consideration depth of groundwater, etc.

Therefore, the Commission finds the proposed residence is consistent with section 30231 of the Coastal Act.

#### H. 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



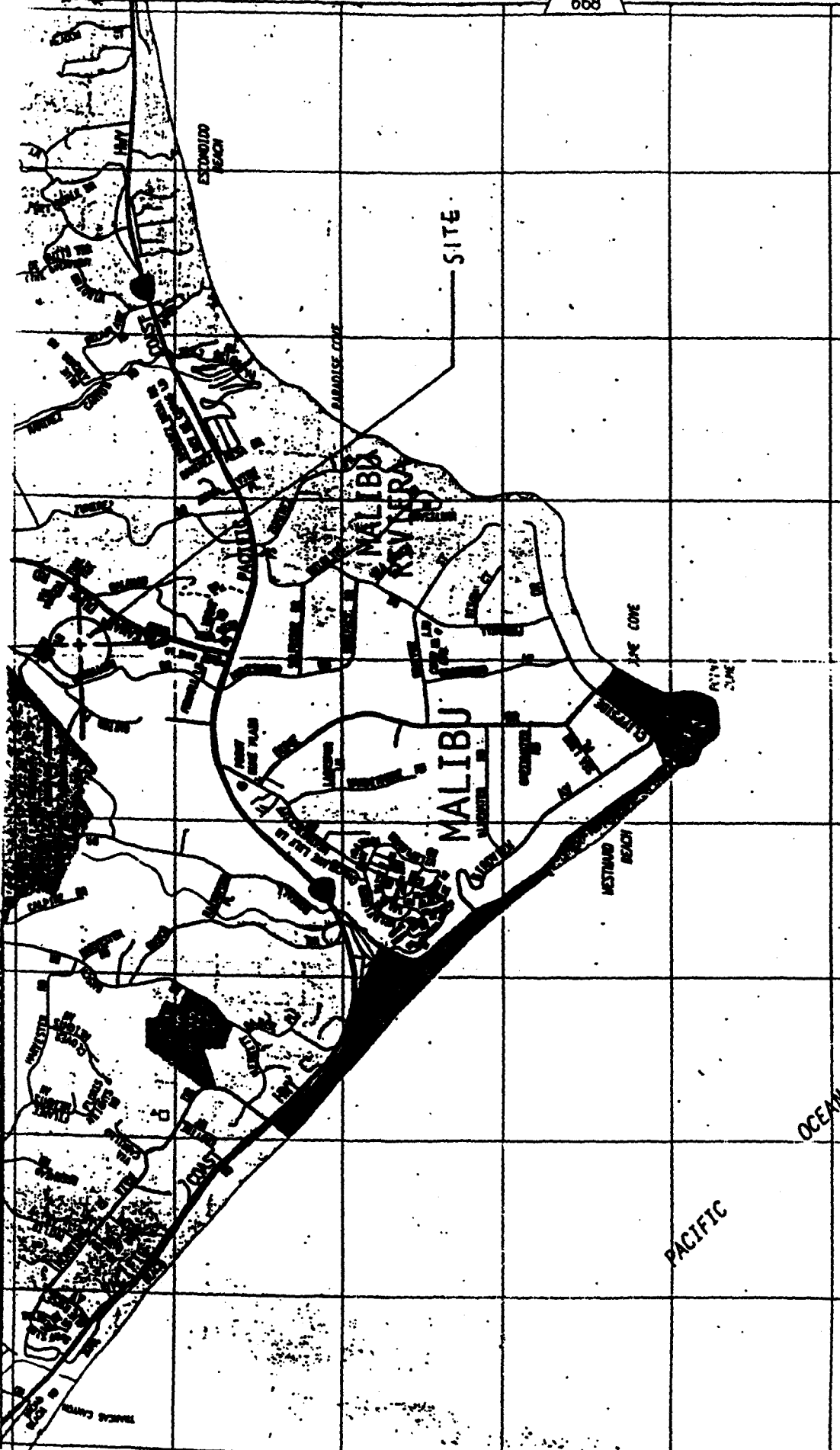
development will not prejudice the ability of the local government to prepare a local program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

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).


I. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a 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 would have on the environment.

The proposed development would not cause significant, adverse environmental impacts which would not be adequately mitigated by the conditions imposed by the Commission. Therefore, the proposed project, as conditioned, is found consistent with CEQA and with the policies of the Coastal Act.



RECEIVED

EXHIBIT NO. 1
APPLICATION NO. 4-97-164 Tong
Project Location
 California Coastal Commission

# RECEIVED

AUG 11 1997

COASTAL COMM.  
SOUTH CENTRAL COAST DIST.

## INDEX TO DRAWINGS

- ARCHITECTURAL
  - A-1 SITE AND FLOOR PLANS
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  - A-4 SECTIONS
  - A-5 DETAIL FLOOR PLANS
- LANDSCAPE
  - L-1 LANDSCAPE CONCEPT PLAN
  - L-2 IMPERMEABLE AREA CALCULATION



CAVALIERI RESIDENCE  
MALIBU, CALIFORNIA

OWNER: HONG SA  
42 WEST 8th  
SANTA MONICA, CALIFORNIA 90405  
310/379-0000 T  
310/379-0110 F

Developer:  
Agarwal Holding Co.  
770 Western Avenue  
Santa Monica, California 90405  
310/379-0000 T  
310/379-0110 F

Engineer and Geotechnical:  
Bentley-Jensen P.E. Inc.  
4000 Lincoln Boulevard #100  
Santa Monica, California 90405  
310/379-0000 T  
310/379-0110 F

Slopes in  
excess of 25%

SITE PLAN WITH FIRST FLOOR PLAN

## SQUARE FOOTAGES

FIRST FLOOR: 2,833 S.F. 435 (INCLUDING 115 S.F. OF COVERED PATIOS)  
GARAGE: 918 S.F. 136  
SECOND FLOOR: 2,498 S.F. 368  
TOTAL: 5,339 S.F. 1008

BASEMENT (NOT INCLUDED): 331 S.F.  
CEILING HEIGHT OVER 10': (N/A) 0 S.F.

GROSS LOT AREA: 46,351 S.F.  
NET LOT AREA: 41,044 S.F.  
MINIMUM FLOOR AREA ALLOWED: 6,781 S.F.  
FLOOR AREA RATIO: 498% (2,498 S.F./3,791 S.F.)  
IMPERMEABLE SURFACE AREA: 10,317 S.F. (SEE SHEET L-2)  
MINIMUM IMPERMEABLE SURFACE AREA: 12,513.2 S.F.

EXHIBIT NO. 2

APPLICATION NO.

4-97-164 Tong

Site Plan



California Coastal Commission

DATE	DESCRIPTION	APPROVED

PROJECT: CAVALIERI RESIDENCE  
DESCRIPTION: SITE PLAN  
DATE: 7 DECEMBER 1995

FILE NO: CDB-95-01290

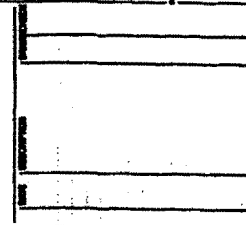
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A-1



CAVALLERI RESIDENCE  
MALIBU, CALIFORNIA

APPROVED FOR THE  
STATE OF CALIFORNIA  
BY THE BOARD OF PUBLIC HEALTH  
JANUARY 1977



PROJECT: CAVALLERI RESIDENCE  
DESIGNER: J. R. TONG  
DATE: FEBRUARY 1977

PROJECT: CAVALLERI RESIDENCE  
DESIGNER: J. R. TONG  
DATE: FEBRUARY 1977

A-6

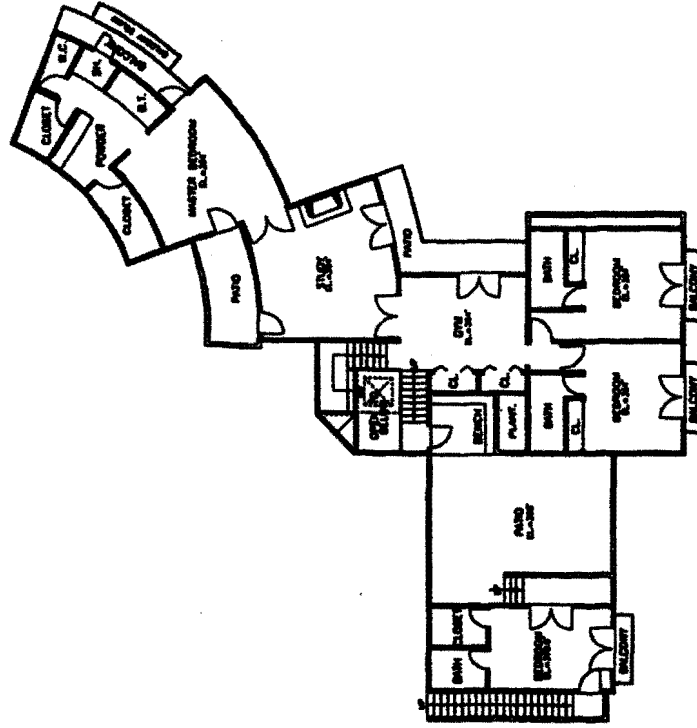
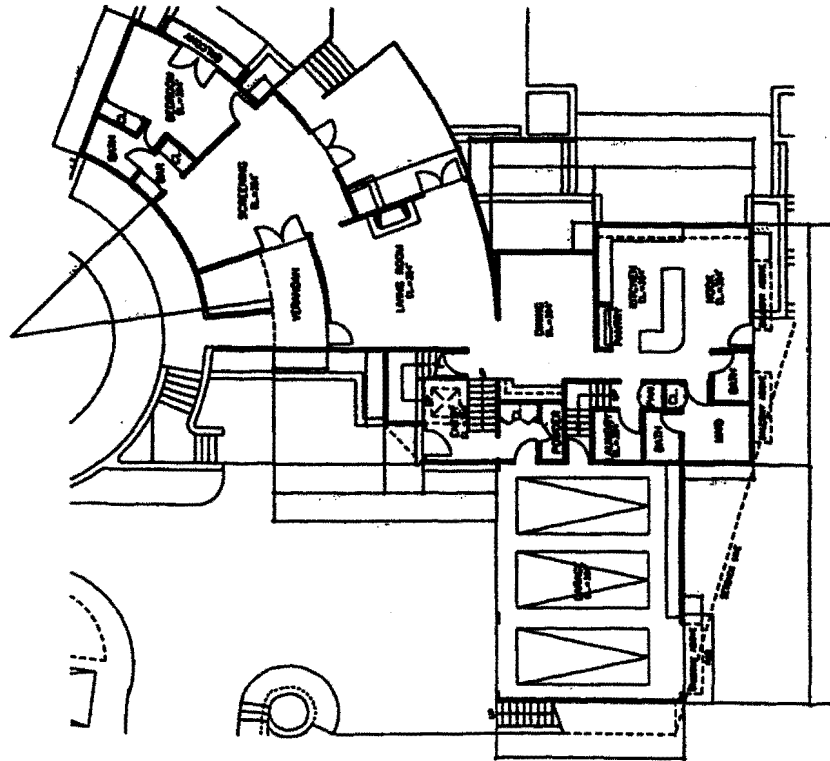


EXHIBIT NO. 3

APPLICATION NO.

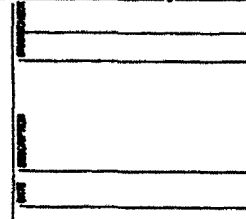
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Floorplan



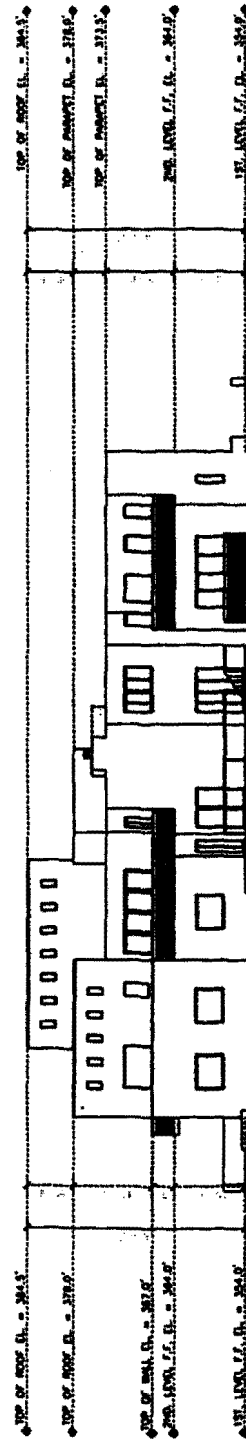
California Department of Public Health

Commission

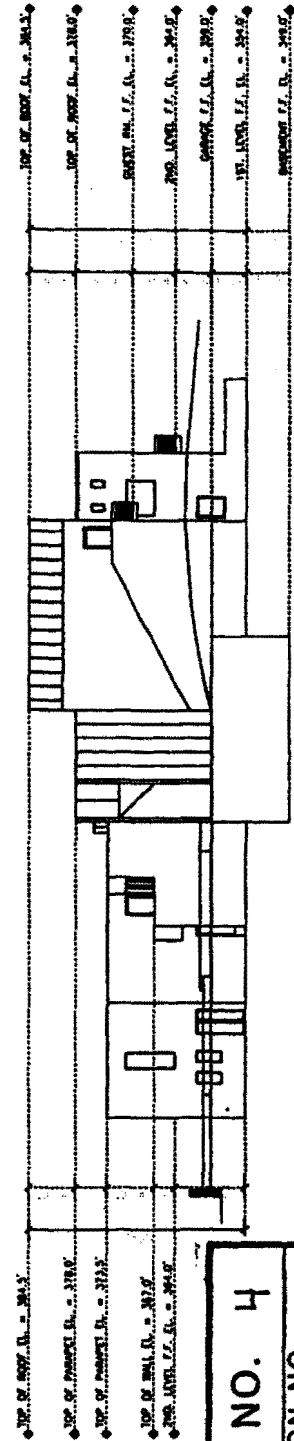


PROJECT: CHALLENGE RESPONSE  
 INFORMATION GAST AND VISIT ALLEGATIONS

FILED 1988 OCTOBER 10 1988  
COURT OF APPEALS  
10



1990



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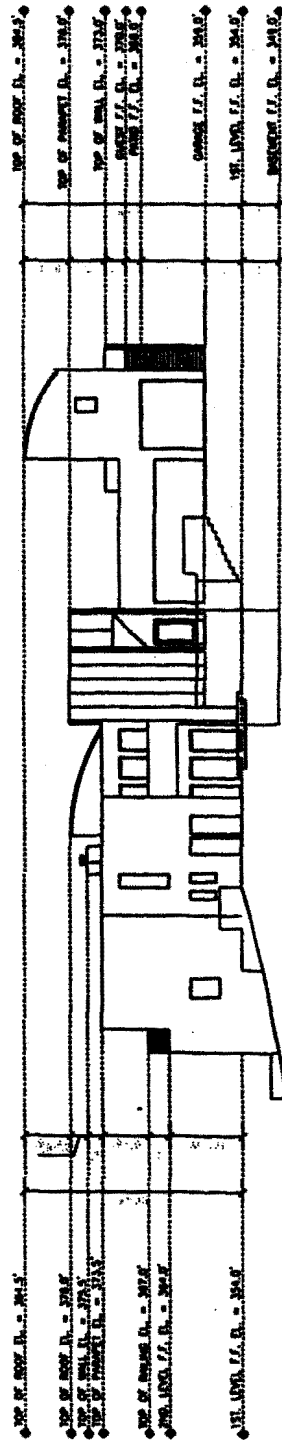
EXHIBIT NO. 4
APPLICATION NO. 4-97-164 Tong
W4E Elevations



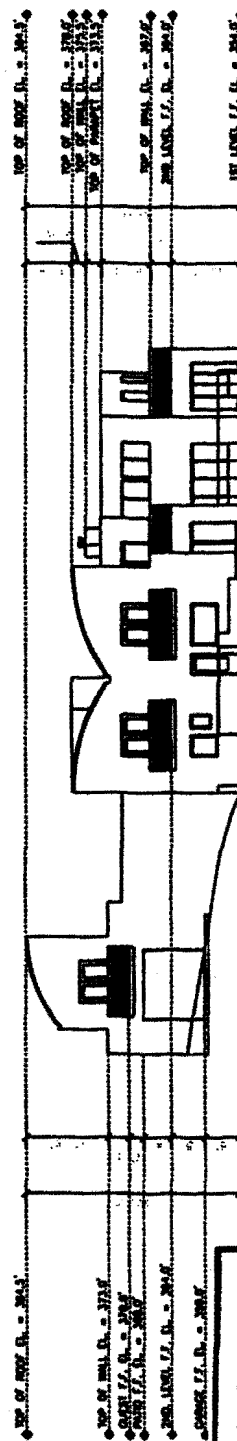


CAVALLERI RESIDENCE  
MALIBU, CALIFORNIA

SCALE: 1/8" = 1'-0"  
DATE: 10/1/87  
DRAWN BY: J. L. HARRIS  
CHECKED BY: J. L. HARRIS



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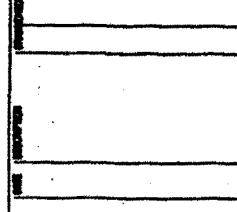
EXHIBIT NO. 5

APPLICATION NO.

4-97-164 Tong

N+S Elevations

California Coastal Commission



SCALE: 1/8" = 1'-0"  
DATE: 10/1/87  
DRAWN BY: J. L. HARRIS  
CHECKED BY: J. L. HARRIS

CAVALLERI RESIDENCE  
MALIBU, CALIFORNIA

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