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CALIFORNIA COASTAL COMMISSION

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



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Staff: Betz - V
Staff Report: October 17, 1997
Hearing Date: November 5, 1997

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-97-136

APPLICANT: James & Barbara Gauthier AGENT: Nashat & Crowley, Architects

PROJECT LOCATION: 29317 Cliffside Drive, Malibu, Los Angeles County

PROJECT DESCRIPTION: Construct 2 story, 24 ft. high, 6,105 sq. ft. single family residence with septic tank, swimming pool, driveway, and decomposed granite block wall. Grading of 937 cu. yds. (299 cu. yds. cut and 638 cu. yds. fill).

Lot area:	40,001 sq. ft.
Building coverage:	4,343 sq. ft.
Pavement coverage:	7,630 sq. ft.
Landscape coverage:	28,028 sq. ft.
Parking spaces:	2 covered, 2 uncovered
Plan Designation:	Residential I, 1 du/ac
Project Density:	1 du/ acre
Ht abv fin grade:	22 ft.

LOCAL APPROVALS RECEIVED: Approval in Concept, City of Malibu Planning Department, dated 6/20/97; In Concept Approval for Sewage Disposal System, Department of Environmental Health, City of Malibu, dated January 20, 1997.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan; Coastline Geotechnical Consultants, Inc.: Geotechnical Engineering Update Report Proposed Residence Development, October 11, 1996 and Engineering Geologic Report, October 3, 1996; Clay Singer, Archaeological Mitigation Plan, February 19, 1997.

STAFF NOTE: This item was removed from the consent agenda at the September, 1997 meeting and placed on the regular calendar due to the Commission's concern with information on ownership of the road right-of-way, which related to parking to serve coastal access and recreation needs in the Pt. Dume area.

SUMMARY OF STAFF RECOMMENDATION: The project site is located within a developed subdivision on the inland side of the first public road in the Pt. Dume area of Malibu. Staff recommends approval of the proposed project with four (4) Special Conditions addressing plans conforming to the consulting geologist's recommendations, wild fire waiver of liability, landscape and erosion control plans, and archaeological mitigation.

I. STAFF RECOMMENDATION

Approval with Conditions

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that, as conditioned, the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions

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

III. Special Conditions

1. Plans Conforming to Geologic Recommendation

Prior to the issuance of the permit the applicant shall submit, for the review and approval by the Executive Director, evidence of the geology consultant's review and approval of all project plans. All recommendations contained in the Coastline Geotechnical Consultants, Inc.: Geotechnical Engineering Update Report Proposed Residence Development, October 11, 1996 and Engineering Geologic Report, October 3, 1996 including issues related to foundations, drainage, and grading, shall be incorporated in the final project plans. All plans must be reviewed and approved by the geologic 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. Landscape and Erosion Control Plans

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

- a) All graded and 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 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 receipt of final certificate of occupancy from the City of Malibu. Such planting shall be adequate to provide ninety (90) percent coverage within two (2) year and shall be repeated, if necessary, to provide such coverage.

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.

4. 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. In the event that an area of intact buried cultural deposits are discovered during the operations, grading work in this area shall be halted and an appropriate data recovery strategy consistent with CEQA Guidelines shall be developed by the qualified archaeologist(s) and Native American consultant(s), as reviewed by the City of Malibu archaeologist, subject to review and approval of the Executive Director.

Any substantial changes to the project which may result from the mitigation measures pursuant to this condition shall require an amendment to this permit.

IV. Findings and Declarations.

A. Project Location, Description, and Background

The applicants propose to construct a 2 story, 24 ft. high, 6,105 sq. ft. single family residence with septic tank, swimming pool, driveway, decomposed granite block wall, and grading of 937 cu. yds. (299 cu. yds. cut and 638 cu. yds. fill).

The 40,000 sq. ft. site is located overlooking the ocean in a developed residential neighborhood on the inland side of Cliffside Drive (the first public road) in the Point Dume area. The project site is located across the street from State Park land and near the southernmost point of residential development. The project site is vacant and contains ruderal vegetation, mostly grasses, and a chain link fence. The Land Use Plan, used as guidance in the City of Malibu, designates the lot as Residential I, 1 du/ac. The property is gently sloping ranging from the 97 ft. to 107 ft. elevation. Drainage trends toward the street and then to the ocean.

The project site fronts upon Cliffside Drive. Cliffside Drive was recently the subject of a cease and desist order (CCC-97-002, City of Malibu) on the August 13, 1997 Coastal Commission agenda. The Commission decided to require the City of Malibu to cease and desist from engaging in any further development (e.g. erection of regulatory signs, installation of boulders, etc.) on the south side of Cliffside Drive without obtaining a coastal development permit. The location of the presently proposed single family residence and related improvements is outside the right-of-way of Cliffside Drive and on the north side of the street, and consequently is not affected by this decision.

This item was removed from the consent agenda at the September, 1997 meeting and placed on the regular calendar due to the Commission's concern with information on ownership of the road right-of-way. The Commission was concerned with this as it related to the issue of parking to serve coastal access and recreation needs in the Pt. Dume area. Staff has since obtained information relative to permit 5-86-574 (Alan Lithograph, Inc.) for a land

division which includes subject property. The Tentative Minor Land Division Map No. 17344 of the County of Los Angeles in that file indicates that the parcel in the present application 4-97-136 does not include the road right-of-way, i.e. the paved road or the adjacent shoulder. The proposed development does not include this area. For these reasons, the proposed development does not raise any issue relative to parking needs or availability in the Pt. Dume area.

B. Hazards and Geologic Stability

PRC Section 30253 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 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 Commission reviews the proposed project's risks to life and property in areas where there are geologic, flood and fire hazards. The proposed development, and review at the local level, raise no new issues relative to major geologic or flood hazards. Regarding the geologic hazards, the applicant submitted reports by Coastline Geotechnical Consultants, Inc.: Geotechnical Engineering Update Report Proposed Residence Development, October 11, 1996 and Engineering Geologic Report, October 3, 1996 report. The report indicates that:

... Based upon review of available public documents and field reconnaissance, and provided the recommendations of this report are followed, and the designs, grading, and construction are properly and adequately executed, it is our opinion that construction within the building site would not be subject to geotechnical hazards from landslides, slippage, or excessive settlement. Further, it is our opinion that the proposed building and anticipated site grading would not adversely effect the stability of the site, or adjacent properties, the the same provisos listed above.

The geotechnical/geology reports note that the site has experienced some fill in the past, possibly in connection with development of an adjacent property, and the some removal and recompaction of soils is necessary. Such removal and recompaction has been included with the project description and addresses concerns, indicated below, relative to protection

of archaeological resources. The consultants recommend that they review and acknowledge project plans prior to construction and observe subsurface drainage, grading, cuts, and foundation excavations.

Based on the findings and recommendations of the consulting engineering geologist and geotechnical engineer, the Commission finds that the development is consistent with PRC Section 30253 so long as all recommendations regarding the proposed development are incorporated into project plans as required by special condition number one (1).

The Commission also finds that minimization of site erosion will add to the stability of the site. Erosion can best be minimized by requiring the applicant to landscape all disturbed areas of the site with native plants compatible with the surrounding environment. Therefore, the Commission finds that it is necessary to require the applicant to submit landscaping plans for all disturbed areas of the site as required by special condition two (2).

Additionally, because 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).

The Commission finds that only as conditioned to incorporate the geology recommendations, landscape plan, and wild fire waiver of liability will the proposed project be consistent with Section 30253 of the Coastal Act.

C. Visual Impacts

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 proposal will result in a large, bulky residential unit in an area visible from Pacific Coast Highway from a distance of three or miles to the east i.e. locations east of Escondido Beach. (An example is the stretch of Pacific Coast Highway descending westbound from the vicinity of Pepperdine University.) Pacific Coast Highway is a designated scenic highway in the certified LUP, used as guidance only in the City of Malibu. Because such new development is proposed, analysis is necessary relative to the visual quality policies of the Coastal Act.

The project site is located in an area is characterized by lower intensity residential development. The proposed residence is no more visually intrusive than other residences which exist or may be built as infill in this designated single family residential area on the north side of Cliffside Drive. The proposed redevelopment is consistent with the character of the area and will not adversely impact visual resources from any public view area or road. The site is not visible from public beaches in the project area. Any impact on views from Pacific Coast Highway is from a distance of several miles away where this particular site is not discernable relative to other development.

For these reasons, the Commission does not find that it is necessary to impose any conditions relative to visual quality and that the proposed development as proposed is consistent with Section 30251 of the Coastal Act.

D. Archaeological Resources

Section 30244 of the Coastal Act states that:

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

The greater province of the Santa Monica Mountains is the focus 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. 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.

An Archaeological Assessment of the project site was prepared by Clay Singer, a professional archaeologist. Singer found that:

... Plans for systematic sampling of the deposits and expansion of archaeological evaluation have now been abandoned. Instead, an archaeological monitoring and reporting plan has been developed. Systematic collection of additional archaeological samples, processing of samples, and further analyses of collected material, will not be done at this time. ... By now, all the prehistoric sites in the Pt. Dume area have been damaged, and some have disappeared completely. Although damaged, site CA-LAN-454 retains it's overall significance because of it's

historical and spiritual association with contemporary Chumash culture, and because it has the potential to add substantial new knowledge [to] the prehistory of the region.

The report found that the predominant concern on the project site was protecting layers of soil where archaeological materials may be found, albeit no such resources were evident. The project plans carry out the recommendations of the archaeological consultant in that development is predominantly on removed and recompacted soils rather than the underlying potential archaeological deposits. The redeposited materials will serve as a cap for these deposits. In addition, both the septic system and the swimming pool will be located to avoid potential archaeological deposits. He recommended that a monitoring program and report be undertaken involving an archaeologist and Chumash consultant to add to the general information base in the project area. Further, monitoring of all excavations was a condition of approval of the City of Malibu.

The Commission has, through past permit actions, required on-site archaeologists and Native American consultants to monitor grading and site preparation operations in areas where cultural resources are or may be present. The Commission finds that, based on the review by the project archaeologist, it is necessary to require monitors to be on-site during all excavation or construction operations. Therefore, the Commission finds that it is necessary to require the applicant to have qualified archaeologist(s) and appropriate Native American consultant(s) present on site during all grading, excavation, and site preparation that involve earth moving operations. If cultural deposits are discovered, all grading operations shall be halted and an appropriate data recovery strategy or protection plan shall be developed by the archaeological and/or Native American consultants.

The Commission finds that the proposed project, as conditioned, is consistent with Section 30244 of the Coastal Act.

E. 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. 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.

The proposed development includes constructing a septic tank and seepage pit to provide for adequate sewage disposal. The applicant's geology reports indicate that the percolation rate is adequate to absorb effluent for the project. 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.

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 plans conforming to the consulting geologist's recommendations, wild fire waiver of liability, landscape and erosion control plans, and deed restriction on future development. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is consistent with the requirements of CEQA and the policies of the Coastal Act.

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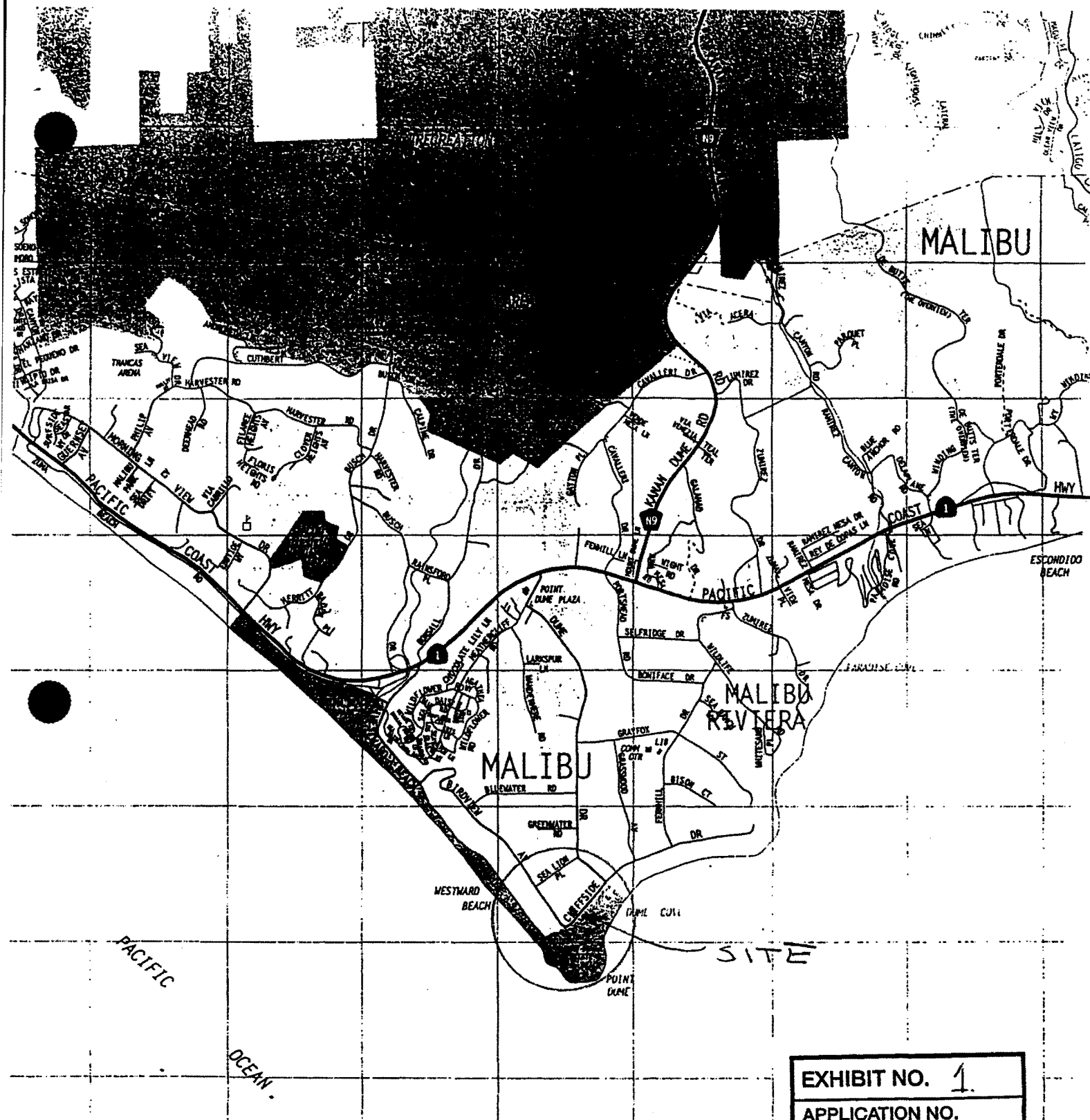


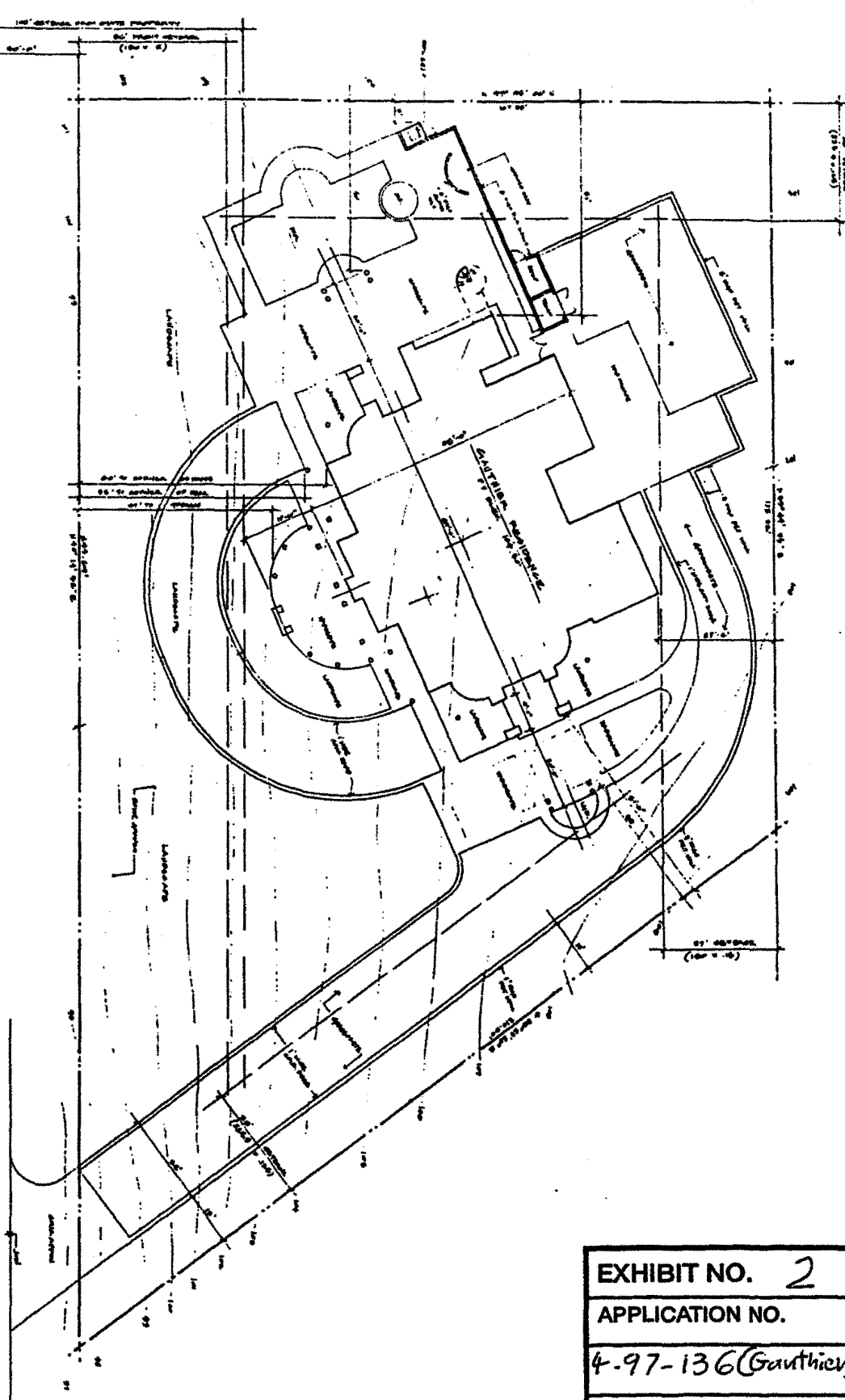
EXHIBIT NO. 1.

APPLICATION NO.

4-97-136 (Gauthier)

Project Location

SITE PLAN



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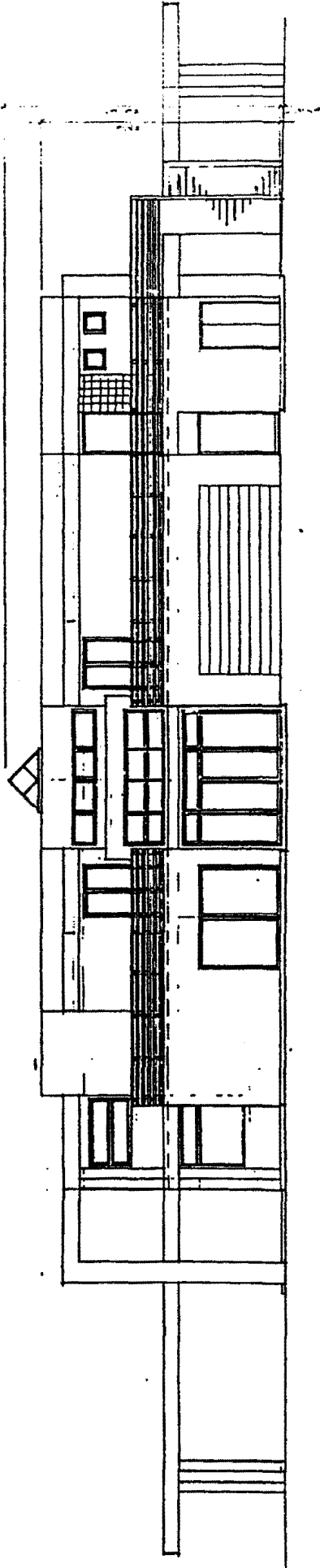
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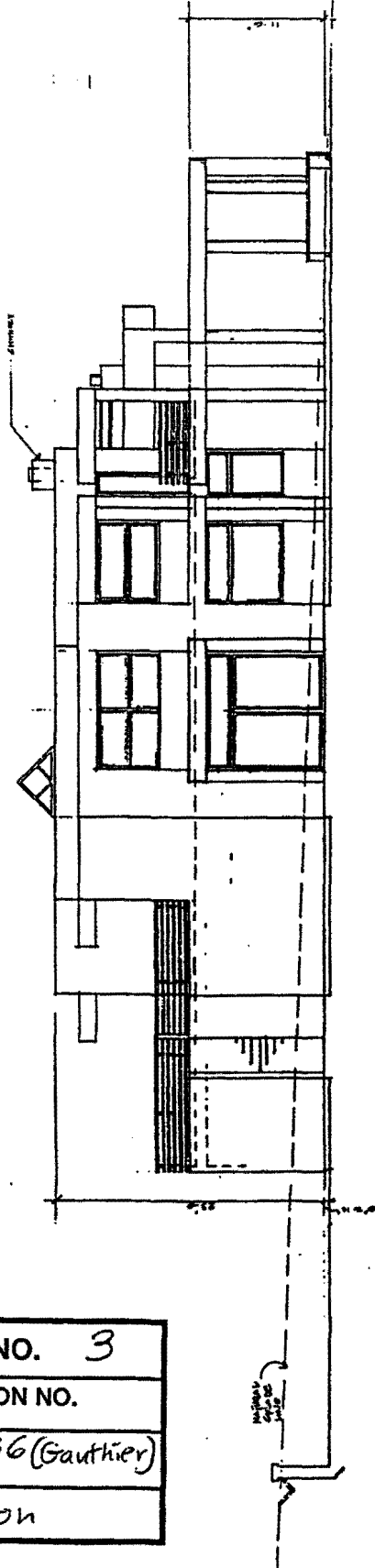
APPLICATION NO.

4-97-136 (Gauthier)

Site Plan



WEST ELEVATION



SOUTH ELEVATION

SITE PLAN

EXHIBIT NO.	3
APPLICATION NO.	4-97-136 (Gauthier)
Elevation	