

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA

SOUTH CALIFORNIA ST., SUITE 200

SANTA MONICA, CA 93001

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W3b + W3c
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Staff: JEL-V *for*

Staff Report: 10/10/97

Hearing Date: 11/4-7/97

**STAFF REPORT: CONSENT CALENDAR****APPLICATION NO.:** 4-97-168 and 4-97-169**APPLICANT:** Russ Shears**AGENT:** Barsocchini & Associates**PROJECT LOCATION:****4-97-168** - 26520 Latigo Shore Drive (Lot 3), Malibu (Los Angeles County)**4-97-169** - 26524 Latigo Shore Drive (Lot 2), Malibu (Los Angeles County)**PROJECT DESCRIPTION:****4-97-168** - Construct 3-story, 28 ft. high, 3,406 sq. ft. single family home with 439 sq. ft. garage, driveway and septic system. 100 cu. yds. of grading (100 cu. yds cut, 100 cu yds fill).**4-97-169** - Construct 3-story, 28 ft. high, 3,406 sq. ft. single family home with 439 sq. ft. garage, driveway and septic system. 100 cu. yds. of grading (100 cu. yds cut, 100 cu yds fill).

	<u>Lot 2</u>	<u>Lot 3</u>
Lot area:	8,820 sq. ft.	8,819.5 sq. ft.
Building coverage:	2,116 sq. ft.	2,116 sq. ft.
Pavement coverage:	390 sq. ft.	390 sq. ft.
Landscape coverage:	540 sq. ft.	540 sq. ft.
Parking spaces:	two covered	two covered
Plan designation:	multi-family residential	multi-family residential
Project density:	single family	single family
Ht abv fin grade:	28'	28'

LOCAL APPROVALS RECEIVED: City of Malibu: Planning Department, Approval in Concept, 8/27/97; Geology and Geotechnical Engineering Review, Approved "in-concept", 8/6/97; Environmental Health, In-Concept Approval, 8/4/97; State Lands Commission, Encroachment Review, 3/10/97; Caltrans District 7, Conceptual Approval, 9/26/97**SUBSTANTIVE FILE DOCUMENTS:** Malibu/Santa Monica Mountains (LA County) certified Land Use Plan; Updated Soils and Engineering Geologic Report, Geosystems, 12/17/97; Sewage Disposal System Recommendations, Geosystems, 6/9/97; Wave Uprush Study Update, David Weiss, Structural Engineer & Associates, 3/23/97; Response to Malibu Geology and Geotechnical Engineering Review Sheets, Geosystems, 7/21/97. Coastal Development Permit: 5-88-794 (Lachman)

SUMMARY OF STAFF RECOMMENDATION: Staff recommends approval of the project with a special condition relating to geologic 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 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 Updated Soils and Engineering-Geologic Report, Geosystems, 12/17/96, 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.

IV. Note

The standard and special conditions attached to the Permit for the subdivision which created the subject parcels [5-88-794 (Lachman)] remain in effect and are attached for reference as Exhibit 7.

V. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The applicant proposes to construct two three-story, 28 ft. high, 3,406 sq. ft. single family homes each with a 439 sq. ft. garage, driveway and septic system. The two projects will be identical in architectural design and foundation support systems. The projects are located side-by-side on Latigo Shores Drive between Pacific Coast Highway and the beach. The applicant is proposing to setback the residences 15' seaward of the north property line, which fronts a Caltrans right-of-way. The structures will be constructed on a foundation of caissons which will require approximately 100 cubic yards of cut and 100 cubic yards of fill, per lot.

The proposed lots contains a small amount of level area, a bluff face and sandy beach. The bluff is composed of sandy fill and rises on a 1.7:1 slope, 35 feet above a narrow sandy beach. The lots extend from the edge of the pavement, at the Caltrans encroachment line, to mean high tide. Lot 2 is 8,820 square feet (approximately 61'x 146') and Lot 3 is 8,819.5, based on the latest recorded mean high tide line, from 1928. The properties are two of six privately owned parcels on an eleven acre, 1531 linear foot stretch of beach.

The proposed three level structures rises 43' above the beach and 28' above the finished grade of Latigo Shores Drive, and extend 56' seaward from the Caltrans encroachment line. The structures will be constructed on the top and upper half of the bluff face. The caissons will be located between 41' and 43' from the Caltrans encroachment line, extending seaward to the 21' elevation, 7' feet above and 17' feet inland of the approximate toe of the bluff, at the closest points.

The proposed projects have been significantly redesigned since the original approval of the subdivision permit, 5-88-794 (Lachman). The bulk and mass of the structures have been reduced considerably, as the residences are now stepped back with the third story level almost half the square footage of the second story at the finished grade level. The proposed projects are within a string line drawn from the single family residence to the west across to the first structure to the east, a five unit condominium.

B. Background

On December 13, 1988 the Commission approved the subdivision of an .85 acre parcel into three lots and the construction of three, three-story, single family residences [5-88-794 (Lachman)]. Six months earlier, on June 8, 1988, a previous subdivision request for five units on the same lot was denied by the Commission on the basis that the location on the sea bluff face was inconsistent with the wave hazard and geologic safety policies of the Malibu/Santa Monica Mountains land use plan and Coastal Act.

The special conditions of approval for the parcel subdivision assumption of risk, lateral and vertical access dedications, State Lands determination, storm design certification, construction methods and materials agreement, future improvements agreement, no beach level development agreement and cumulative impacts mitigation, have either been met and/or are still in effect, and are attached for reference as Exhibit 7.

To date, only the western most of the three parcels has been developed, per the design originally submitted with the subdivision application, 5-88-794 (Lachman). At the time the permit was approved, the City of Malibu was not incorporated and thus, Los Angeles County administered the local permit review process.

Several significant coastal issues were reviewed as part of the subdivision permit application, including most significantly, whether the proposed project conformed to standards limiting encroachment on the seaward face of the bluff. Because most of the lot is either bluff face or beach, some encroachment on the bluff face will occur in almost any development on the lot. Of the standards considered, the most relevant to the current proposal relate to wave erosion hazards and the location of the septic system, both of which are discussed below.

The existing bluff was created by Caltrans as a result of the fill material which was placed on top and over the original beach slope in the process of creating the current alignment of Pacific Coast Highway. During the review of the subdivision proposal, the determining factors for establishing the farthest point seaward for the three structures were the toe of the slope, the approximate location of the underlying bluff, and the location of previous wave damage to the slope.

In rejecting the original five unit subdivision request, which located the units further down the bluff than those finally approved, the Commission found that given the bluff is composed of artificial fill constructed out over the sandy beach, the "fill" bluff would be even more subject to wave hazard than a natural bluff. The reasoning being, the toe of a wave cut bluff ordinarily represents the landward limit of storm waves, as most of a sandy beach is subject to inundation. Based on this topographic fact, any structure seaward of the toe of the natural bluff would be well within the area of wave attack during storm events, and subject to more hazard than the original wave cut bluff.

In the revised subdivision request for three units, the applicant proposed to reduce the exposure to wave hazard by siting the project at a higher elevation, moving it so that the floors would be above the area of wave action, and setting the caissons back further into the bluff slope and beneath the wave scour line. Instead of placing the caissons at the toe of the slope, on the landward edge of the sandy beach, the applicant proposed to place the caissons about halfway up the slope, laterally 29'-32' inland of the toe of the slope.

In approving permit 5-88-794 (Lachman) the Commission deliberately chose to use the Caltrans encroachment line on the north property line as the point of reference, given the changing nature of coastal bluffs. The Commission found that for the proposed structures, a distance furthest seaward of 44' from the Caltrans encroachment line (with the caissons at a distance of 33' from the Caltrans encroachment line or 29'-32' landward from the toe of the bluff) would be sufficient to mitigate any wave hazard. In regard to slope elevation, the Commission also found that locating the basement floors at elevation 32', would be well above the area of wave action. Further, under special condition eight, the Commission prohibited any development below the 16 foot elevation.

The Commission also had a concern the septic system not be placed directly on or near the beach, as had previously been proposed, given the possibility of significant odors and loss of recreational use of the beach. The Commission found the proposed location for the septic system, at the top of the bluff between the Caltrans encroachment line and the edge of the structure, would have no significant impact on coastal resources.

After the coastal permit had been issued, construction began on the first unit, located on the western most parcel. Once construction was underway, however, the applicant discovered the septic system legally required a 15' of horizontal distance between the Caltrans encroachment line and the structure, where 5' had been approved. Consequently, the residence on the western parcel was built 10' further seaward, to accommodate the septic system, and without the benefit of Coastal Commission review.

The proposed location for the current application is also 10' beyond the originally approved building footprint, 5-88-794 (Lachman), in order to accommodate the septic system on the bluff top (discussed in detail below; see E. Septic System).

C. Geologic Stability and 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, 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.

1. Geology

The proposed single family residence is to be notched into the descending slope and supported on a deepened friction pile foundation system founded in the underlying bedrock. The bedrock at the site is overlain by a thick layer of artificial fill and beach sand. This material is not considered suitable for foundation support, and piles are to be designed for a creep load of 1000 pounds per linear foot for each foot of shaft exposed to artificial fill. All existing slopes at the site are to be trimmed to 2:1 ratio or retained during site development.

The applicant has submitted a Updated Soils and Engineering Geologic Report, prepared by Geosystems, dated 12/17/97, for the subject site. According to Geosystems Engineering, the general findings and design recommendations of the previously approved development remains applicable to this project. Based on review of all the previous geotechnical reports and the current plans as proposed, the consulting geotechnical engineer states that all recommendations of the referenced geotechnical reports should be incorporated into the final development plans, and further:

It is the finding of this firm that the proposed building and or grading will be safe and that the site will not be affected by any hazard from landslide, settlement or slippage and the completed work will not adversely affect adjacent property in compliance with the City of Malibu, provided our recommendations are followed.

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, as specified in condition one (1).

2. Shoreline Development/Hazards

In discussing the potential hazards of the proposed subdivision in 1988, the Commission reviewed several sections of the Malibu/Santa Monica Mountains Land Use Plan, including P271, which directly addresses the issue of shoreline development within a hazardous area:

P271

New land development in the Malibu Coastal Zone shall be guided by the land use plan map and all pertinent overlay categories. All properties are designated for a specific use. These designations reflect the mandates of the California Coastal Act, all policies contained in this local coastal plan, and constraints and sensitivities of resources present in the coastal zone. All existing zoning categories will be modified as necessary to conform with and carry out the LCP land use plan.

The land use plan map presents a base map land use designation for all properties. onto this are overlaid three resource protection and management categories: (a) significant environmental resource areas, (b) significant visual resource areas, and (c) significant hazardous areas. For those parcels not overlaid by a resource management category, development can normally proceed according to the base land use classification and in conformance with all policies and standards contained herein. Residential density shall be based on an average for the project; density standards and other requirements of the plan shall not apply to lot line adjustments. In those areas in which a resource management overlay applies development of the underlying land use designation must adhere to the special policies, standards, and provisions of the pertinent designation...

Under the land use plan, this property is overlaid by a resource management category, Hazardous Areas. With respect to hazardous areas, the land use plan states:

Hazardous Areas

These areas exhibit conditions which may present significant hazards to land use development. The underlying land use designation can be implemented provided that the effects of the hazard are successfully mitigated, according to prescribed engineering standards, as determined by the County Engineer. Pertinent standards and conditions of development are defined in sections 4.4.4 of this plan. The standards shall apply to the following subcategories:

- Flood Hazard Areas
- Potential Landslide and Unstable Soils
- Fault Areas
- Tsunami Inundation Areas

Consequently, a wave uprush study was conducted by David Weiss, Structural Engineer on November 21, 1988, as part of the subdivision application request, 5-88-794 (Lachman). The wave uprush report recommended the proposed structures be supported by a caisson or pile type foundation and that no finished floor level be placed lower than +17.5' M.S.L. datum. In a recent update to that report, dated March 23, 1997, Mr. Weiss further recommend that:

In order to insure that there is no flooding by waves of magnitude normally considered for design in this geographic area, I recommend that the floor elevation be constructed at +20.0' M.S.L. (consultant's emphasis)

The current proposal would place the structure on a foundation of caissons and construct the lowest finished floor level at an elevation of +22' M.S.L., which would meet the recommendations of the wave uprush study.

Although the current proposed development is well above the wave uprush elevation, the Commission has also limited new infill beachfront development to a stringline between existing structures. At the time of the subdivision approval there was no development immediately to the west of the parcel, and the condominium to the east were under construction. Thus, for the subdivision approval, a stringline determination was not applicable.

The Commission approved the location of the three residential structures on the basis of a reasonably safe distance from the landward property line, finding that the project was removed from the area of constant wave hazard and it was designed to withstand occasional inundation and scour. A building setback line from the landward property line was established at 44' (with caissons between 29'-32' landward from the toe of the bluff).

The two currently proposed structures would be located 56' from the landward property line (with caissons between 17'-22' landward from the toe of the bluff). The proposed projects would be located at the 22' elevation on the bluff, well back from the 16' elevation where no development is permitted in conformance with Coastal Development Permit 5-88-794.,

Currently, there is a single family residence to the west and the five condominiums to the east. The structure to the west was built approximately 10 feet further seaward than the Commission approved plans, under 5-88-794 (Lachman), because of the need to accommodate the required 15' horizontal distance for a septic system, as noted above. The location of this structure, however, is well above the 16' elevation, where no development is permitted. The proposed projects are within a stringline between the single family residence to the west and the five condominiums to the east.

In 1988, the Commission approved the subdivision and construction of the three residences based on the following special conditions to mitigate hazards associated with development of the beach front residences: 1) assumption of risk, 5) storm design certification, 8) no beach level development, and 9) revised plans. These conditions are still in effect and are referenced in Exhibit 7. Therefore, no additional liability waiver or hazard mitigations are necessary under the subject permits.

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 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.

Fire was one of the hazards identified in the special assumption of risk condition for the subdivision, 5-88-794 (Lachman), and is still in effect. See Exhibit 7

Therefore, the Commission finds that only as conditioned, to incorporate the geologic consulting recommendations into the project plans are the proposed projects consistent with Section 30253 of the Coastal Act.

D. Public Access

New development on a beach or between the nearest public roadway to the shoreline and along the coast raise issue with the public access policies of the Coastal Act.

Section 30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resources from overuse.

Section 30211

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 30212

(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,
- (2) adequate access exists nearby, or,
- (3) agriculture would be adversely affected. Dedicated access way shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the access way.

The Commission's experience in reviewing shoreline residential projects in Malibu indicates that individual and cumulative impacts on access of such projects can include among others, encroachment on lands subject to the public trusts thus physically excluding the public; interference with natural shoreline processes which are necessary to maintain publicly-owned tidelands and other public beach areas; overcrowding or congestion of such tideland or beach areas; and visual or psychological interference with the public's access to an ability to use and cause adverse impacts on public access such as above.

In approving the subdivision for the underlying parcel in 1988, 5-88-794 (Lachman), the Commission found the proposed project interfered with access along the bluff and across the bluff at two established pathways and "innumerable pioneered scrambledways". As mitigation for the interference, vertical and lateral access dedications were required as special conditions of approval. Both of these dedications were recorded prior to the issuance of the coastal development permit

for the subdivision and the construction of the first residence. The lateral and vertical access conditions are still in effect and are referenced in Exhibit 7. Therefore, the proposed projects will not adversely impact access to and along the shoreline.

In order to avoid negative impacts on public access, the project must also not be located on public lands. Pursuant to Public resources Code Sections 30401 and 30416, the State Lands Commission is the agency entrusted with management of all state lands, including tide and submerged lands; the Commission is compelled to both respect the State Lands Commission assertion of jurisdiction over this area and to also avoid issuing a permit for the project which the Lands Commission has indicated could not be permitted. The project was reviewed by the State Lands Commission on March 10, 1997. The State Lands Commission asserts no claim that the project intrudes onto sovereign lands or that it would lie in an area that is subject to the public easement in navigable waters.

Therefore, for the reasons cited above, the Commission finds the proposed development consistent with sections 30210, 30211 and 30212 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 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 location of the proposed septic system on the parcel is of concern given the need to avoid locating the system on the seaward side of the structure, as specified in the subdivision permit, 5-88-794 (Lachman). To locate the system on the landward side of the residence, Los Angeles County Regulations require 15 horizontal feet, as noted by Geosystems:

Seepage pits may be constructed between the road and break in slope provided the space meets the Los Angeles County Health Department "daylight" criteria. The soil and beach sand provides adequate permeability to percolate sewage effluent. In accordance with Los Angeles County Regulations, seepage pits must be a minimum of 8 feet from piles and 15 horizontal feet to a descending slope face.

The proposed seepage pits thus require a 15' minimum front yard setback from the Caltrans encroachment line. In order to accommodate this legal requirement, the previously approved front yard setback must be extended seaward from 5' to 15', which in turn will shift the location of the entire structure approximately 10' seaward of the approved subdivision permit location. In fact, this was the very reason the structure to the west, the first of the three lots/residences approved

under subdivision 5-88-794 (Lachman), was shifted seaward approximately 10 feet. However, as noted earlier, the residence to the west is still well above the 16 foot elevation where all development is prohibited under special condition eight of permit 5-88-794 (Lachman).

The proposed septic system for each project includes a septic tank and seepage pits, and is the environmentally preferred sewage treatment alternative for this site, given the limited area for leaching on the north end of the parcel. The system design was reviewed, and found to be adequate, by the Geotechnical consultant, Geosystems, on June 9, 1997. A percolation test was performed on the subject property dated July 18, 1997. The test indicated that the percolation rate meets Uniform Plumbing Code requirements for a four bedroom residence and is sufficient to serve the proposed single family residence.

On August 4, 1997, the City of Malibu completed a review of, and approved, the proposed septic system with a 1500 gallon septic tank and seepage pits. 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, given that the proposed sewage treatment systems and locations are the environmentally preferred alternative, the Commission finds that amending the location of the front yard from 5' to 15', in order to permit the development of a single family residence, is consistent with section 30231 of the Coastal Act.

F. Environmentally Sensitive Habitat Area

Section 30240 of the Coastal Act requires:

- a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.
- b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly such areas, and shall be compatible with the continuance of such habitat areas.

The subject property is located adjacent to a designated environmentally sensitive habitat area on state lands. This is a relatively undisturbed intertidal area and an offshore area marked by rocks and a kelp bed. As discussed at the time of the subdivision request, the development could have the following potential impacts on the intertidal resources: 1) impacts during construction 2) reduction of intertidal bird habitat due to increased traffic by foot and increased number of dogs and cats; 3) run off from the project.

In 1988 the Commission found that any beach level development was not appropriate here and the permit was conditioned to prohibit beach level development. The Commission also found that construction practices can be similarly controlled, but there is no way to mitigate the impacts of an increased permanent population of humans and domestic pets on the beach which will result from the proposed development. Further, citing the adverse impacts of siltation on the nearby intertidal zone and offshore kelp beds, due to construction practices from the nearby projects, the

Commission found it necessary to mitigate this potential impact through a special condition on construction methods and materials. This condition ensures construction activity and site disturbance will not adversely impact the environmentally sensitive intertidal and offshore subtidal areas. This condition is still in effect and is referenced in Exhibit 7.

Therefore, the Commission finds the proposed projects are consistent with section 30240 of the Coastal Act.

G. 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 original subdivision permit request was proposed as five, four level, attached units. The approved subdivision was for three, three level detached units. The current proposal is a three level, stepped back, single family residence, with 5' side yards. The proposed project will be 28' above finished grade, as measured from Latigo Shores Drive, which fronts Pacific Coast Highway. Pacific Coast Highway runs east to west and slopes eastward past Latigo Shores Drive. At the time the application was reviewed, the applicant erected poles to simulate the height and visual impact on the ocean and the horizon. As one drives along Pacific Coast Highway, the proposed structure will not block the view of the horizon and glimpses of the ocean will be preserved by the 10' side yard gaps.

The proposed developments, together with the existing five unit condominium to the east, and the first of the approved subdivision to the west, will cumulatively create a visual impact from the beach. This particular impact was reviewed by the Commission as part of the subdivision request under Coastal development Permit 5-88-794. The Commission found that the visual barrier of development is mitigated by three vertical access points within this stretch of beach: one provided by Dan Blocker County beach; one built as part of the five unit condominium project; and one dedicated as mitigation for the proposed three unit subdivision.

Therefore, given the project specific impacts are not significant and the cumulative impacts have been mitigated, the Commission finds that the proposed project is consistent with Section 30251 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.

There 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.

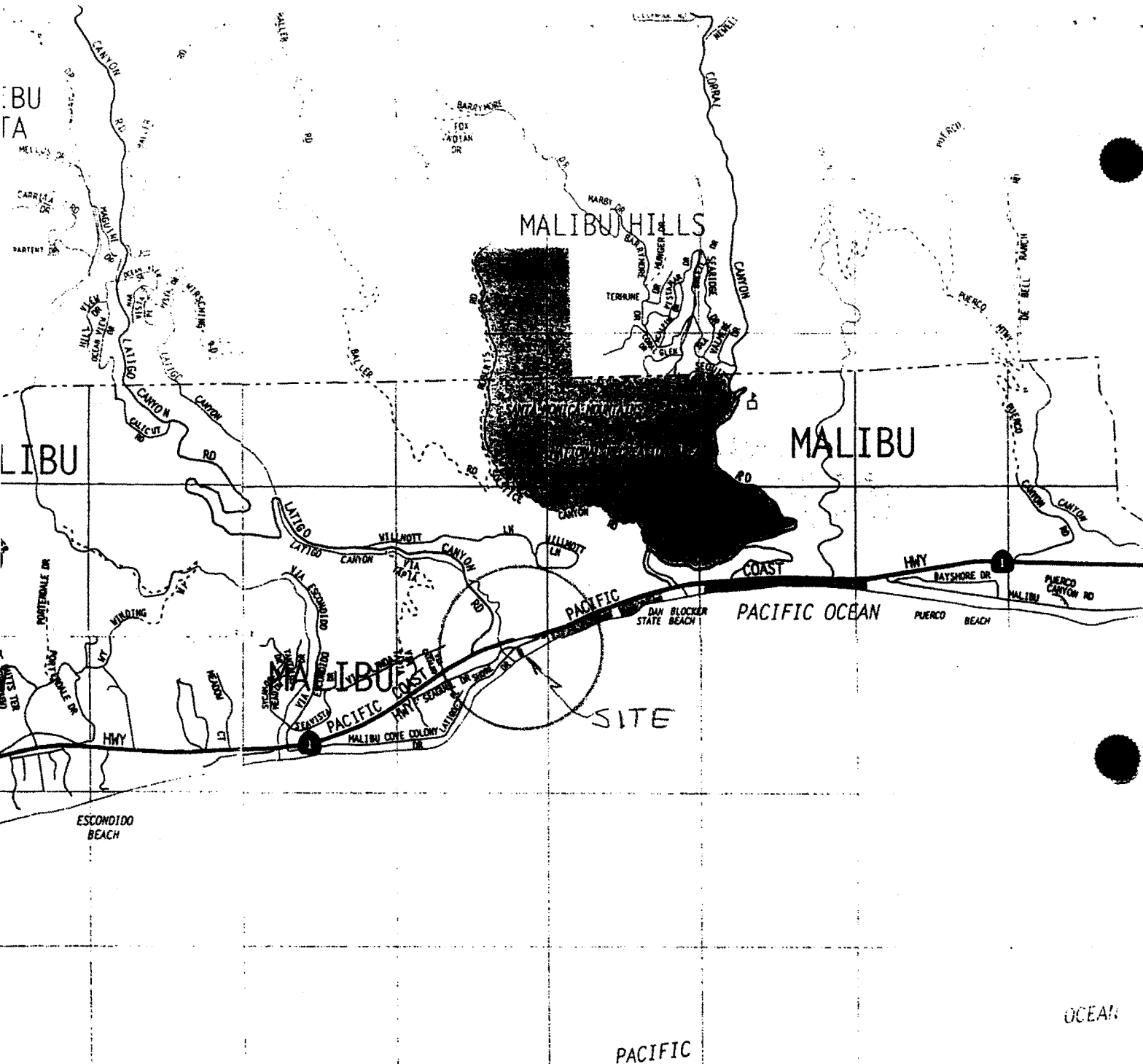


EXHIBIT NO. 1

APPLICATION NO.

4-97-169 (Shears)

Vicinity Map



California Coastal Commission

A Single Family Residence For:

Shears & Perrillo

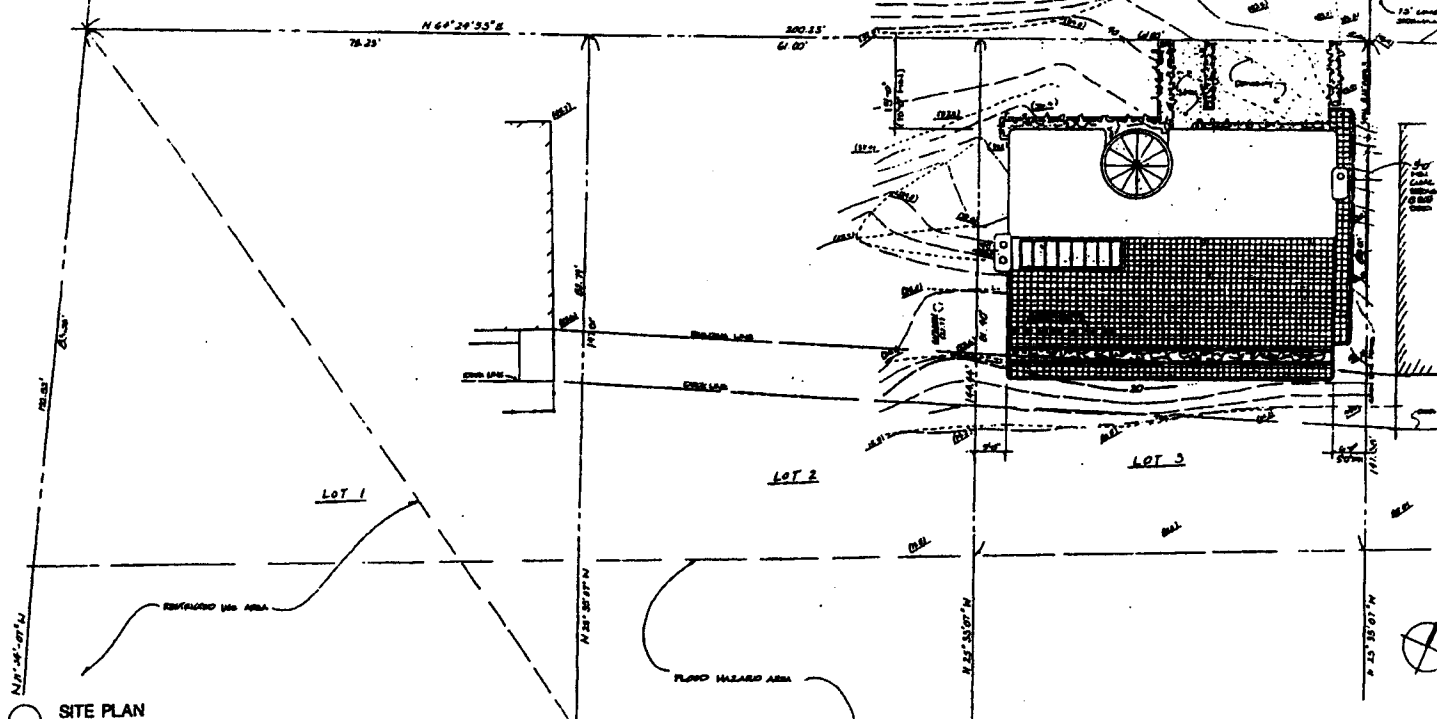
26520 Latigo Shore Drive (4-97-168)

Malibu, CA 90265

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SITE PLAN

RECEIVED

AUG 27 1997

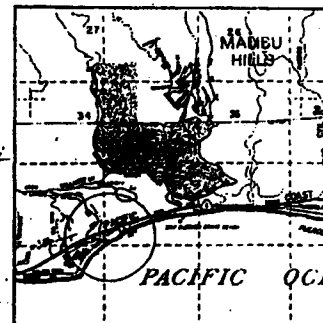
CALIFORNIA
COASTAL COMMISSION
WITH CENTRAL COAST DISTRICT

SCALE: 1/8" = 1' - 0"

MECHANICAL / PLUMBING NOTES

BUILDING & SAFETY NOTES

Site Plan	EXHIBIT NO. 2
	APPLICATION NO.
	4-97-168 (Shears)



VICINITY MAP

PROJECT DESCRIPTION

ADDRESS: 26520 Latigo Shore Dr
 LEGAL: 4 Sq Ft
 LOT AREA: IV
 FIRE ZONE: IV
 SEISMIC ZONE: V(M)
 CONST. TYPE: R3/U
 NO. OF STORIES: 2
 OCCUPANCY: LACO 11.02 UBC 1994
 CODE:

SHEARS / PERRILLO RESIDENCE
26520 Latigo Shore Drive
Malibu, CA 90265

RABOCCHINI & ASSOCIATES, INC.
ARCHITECTS
10011 LINDSEY AVE., SUITE 100
MALIBU, CA 90265

SITE PLAN

A-1

A Single Family Residence For:

Shears / Perrillo

House Two

26524 Latigo Shore Drive (4-97-169)
Malibu, CA 90265

SHEET INDEX

ARCHITECTURAL

- A-1 TITLE SHEET / SITE PLAN
- A-2 GROUND & UPPER LEVEL FLOOR PLANS
- A-3 ROOF PLAN & BASEMENT FLOOR PLAN
- A-4 EXTERIOR ELEVATIONS
- A-5 INTERIOR ELEVATIONS
- A-6 SECTIONS
- A-7 DETAILS
- A-8 DETAILS
- A-9 TITLE 24 & SCHEDULES
- A-10 SPECIFICATIONS
- A-11 SPECIFICATIONS

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COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

PROJECT DESCRIPTION

ADDRESS: 26524 Latigo Shore Dr
LEGAL: +/- Bq Pl
LOT AREA: +/- Bq Pl
FIRE ZONE: IV
SEISMIC ZONE: IV
CONST. TYPE: V/M1
NO. OF STORIES: 2
OCCUPANCY: RD, U
CODE: LACO 1802 / UBC 1994

② SITE PLAN

SCALE: 1/8" = 1'-0"




California Coastal Commission

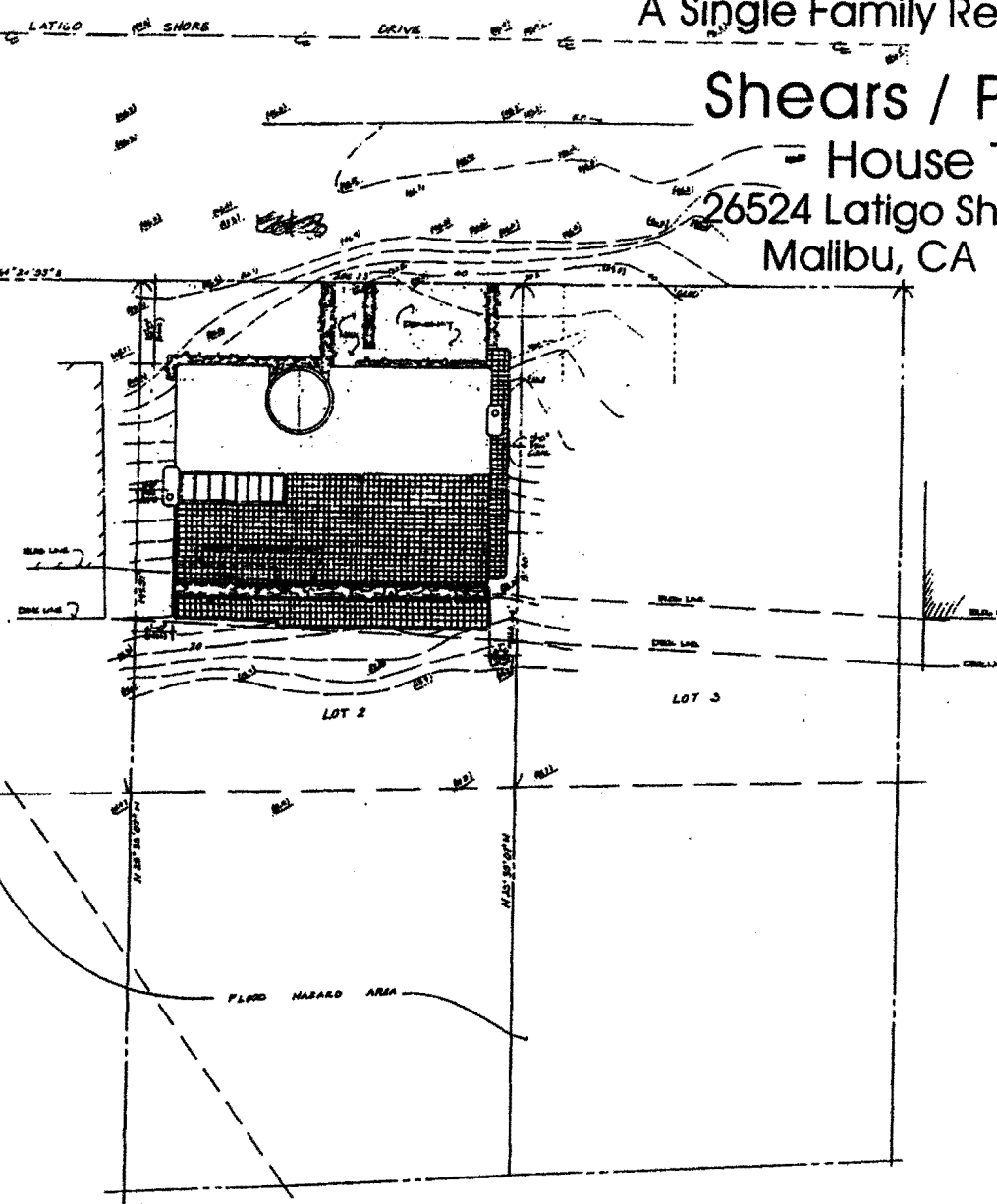
EXHIBIT NO. 3

APPLICATION NO.
4-97-169 (Shears)

Site Plan



MALIBU HILLS
FIG 002



SHEARS / PERRILLO: HOUSE TWO
26524 Latigo Shore Drive
Malibu, CA 90265

BARSOCCINI & ASSOCIATES, INC.
ARCHITECTS
MICHAEL E. BARSOCCINI, AIA, FRCG, AIA, FRCG
1000 S. MAIN ST., SUITE 200
MALIBU, CA 90265

SITE PLAN

A-1
1-1

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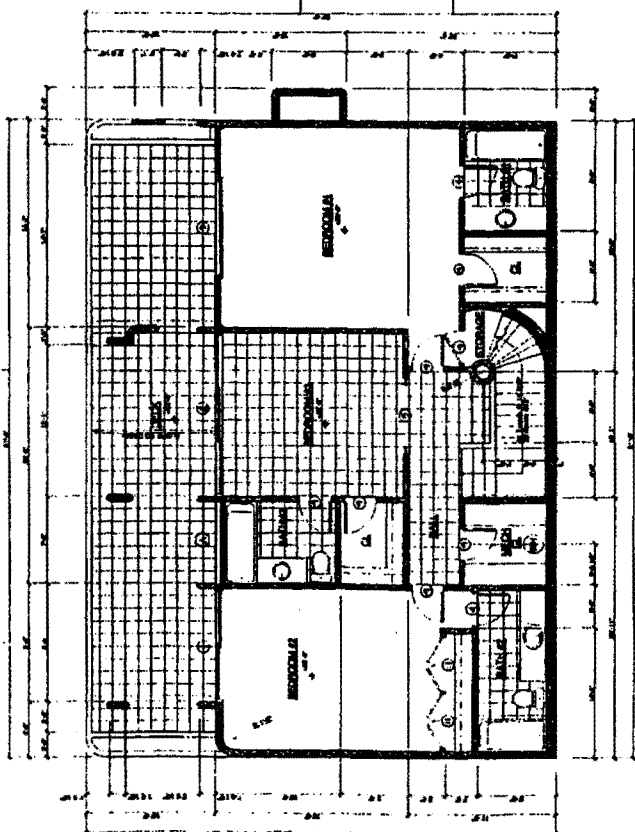
ALABAMA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

SHEARS / PERILLO RESIDENTIAL
28524 Latigo Shore Drive
Malibu, CA 90265

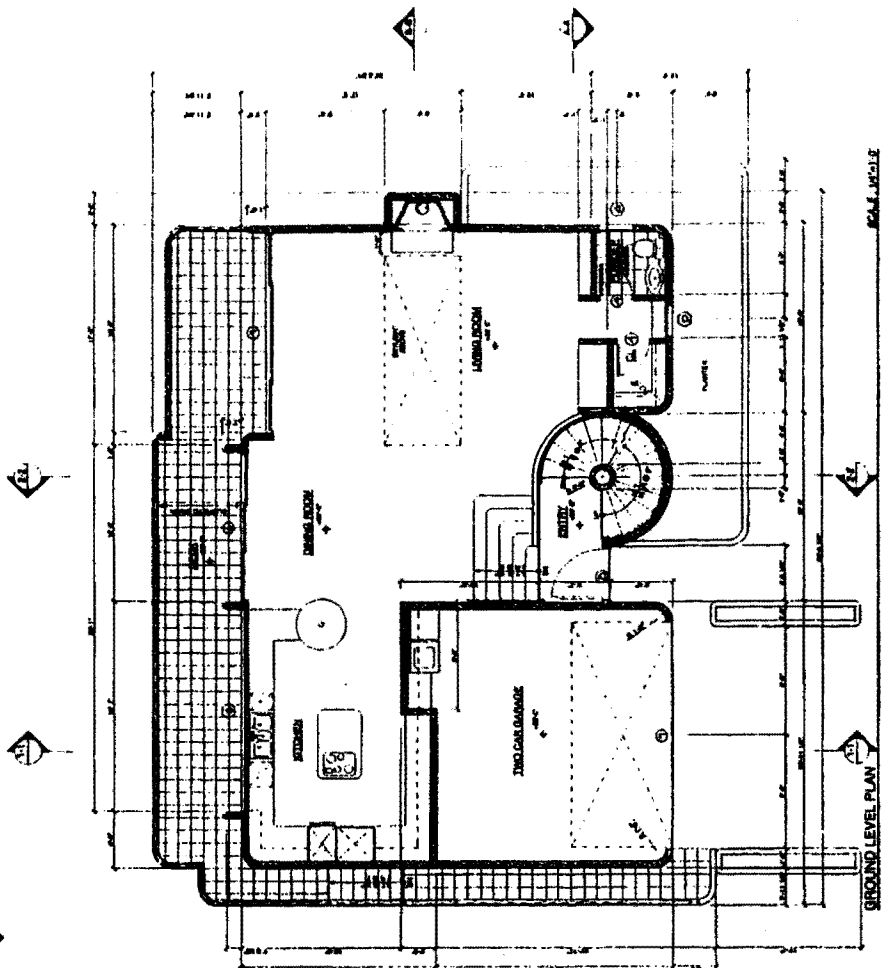
BARSOCCCHINI & ASSOCIATES, INC.
ARCHITECTS
MICHAEL E. BARSOCCCHINI, AIA (1910) AND 3025
3002 COAST VIEW DRIVE - MALIBU, CA 90265

BASEMENT LEVEL PLAN
GROUND LEVEL PLAN

A-2



BASEMENT LEVEL PLAN



GROUND LEVEL PLAN

EXHIBIT NO. 4
APPLICATION NO.
4-97-168 +
4-97-169 (Shears)
Floor Plan

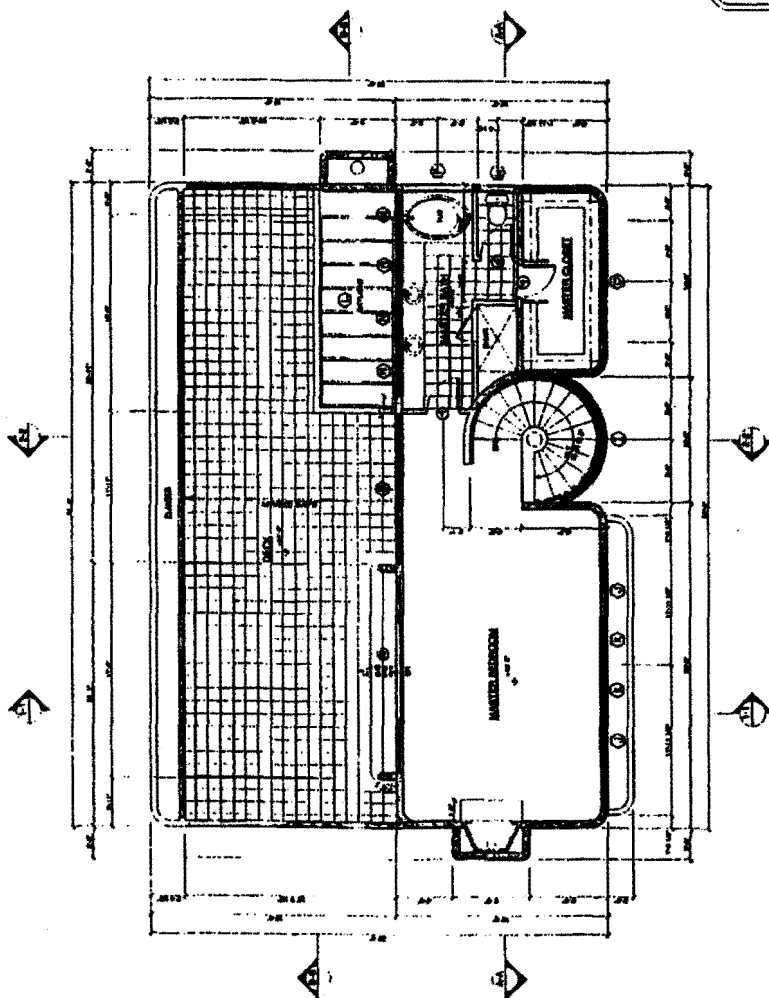
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SHEARS / PERRILLO RESIDENCE
 26520 Lagon Shore Drive
 Malibu, CA 90265

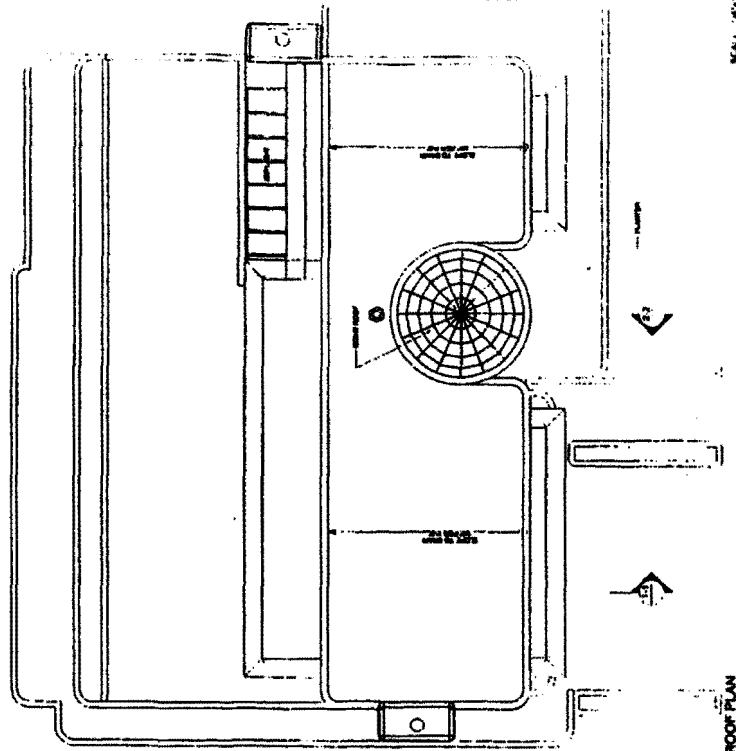
BARSOCCINI & ASSOCIATES, INC.
 ARCHITECTS
 MICHAEL E. BARSOCCINI, AIA • (310) 466-2825
 3902 COAST VIEW DRIVE • MALIBU, CA 90265

UPPER LEVEL PLAN
 ROOF PLAN

A-3



UPPER LEVEL PLAN



ROOF PLAN

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EXHIBIT NO. 5
APPLICATION NO. 4-97-168 +
4-97-169 (Shears)
Floor Plan

CALIFORNIA
 COASTAL COMMISSION
 SOUTH CENTRAL COAST DISTRICT

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SHEARS / PERRILLO RESIDENCE
26520 Lailigo Shore Drive
Malibu, CA 90265

BARSOCCCHINI & ASSOCIATES, INC.
ARCHITECTS
MICHAEL E. BARSOCCCHINI, AIA - (310) 466-3625
3002 COAST VIEW DRIVE - MALIBU, CA 90265

ELEVATIONS

A-5

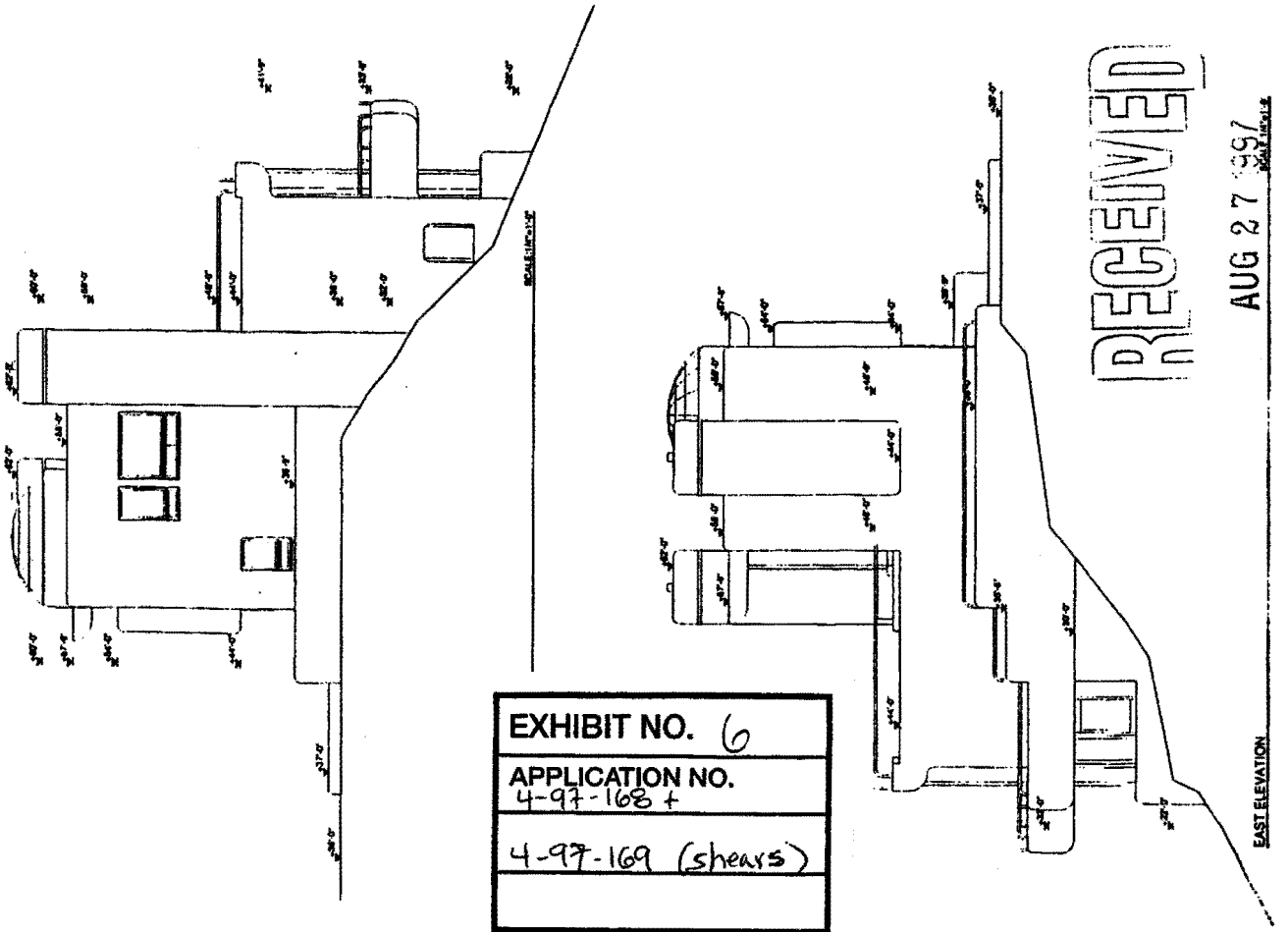


EXHIBIT NO. 6

APPLICATION NO.
4-97-168 +

4-97-169 (shears)

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AUG 27 1997

EAST ELEVATION

SOUTH ELEVATION

WEST ELEVATION

COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

CALIFORNIA COASTAL COMMISSION
SOUTH COAST AREA
245 WEST BROADWAY, SUITE 380
LONG BEACH, CA 90802
(590-5071)

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JUL 3 1990

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT



Page 1 of
Date: June 13, 1990
Permit No. 5-88-794

COASTAL DEVELOPMENT PERMIT

On December 13, 1988, the California Coastal Commission granted to

Jeanette Goldbaum

this permit subject to the attached Standard and Special conditions, for development consisting of:

Subdivision of 35,130 sq. ft. lot into three parcels and construction of three single family houses.

more specifically described in the application file in the Commission offices.

The development is within the coastal zone in Los Angeles County at 26520-26524 Pacific Coast Highway, Malibu CA APN 4460-19-26.

Issued on behalf of the California Coastal Commission by

PETER DOUGLAS
Executive Director

Ry: Pamela D

Title: Staff Analyst

ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part, that: "A public entity is not liable for injury caused by the issuance. . . of any permit. . ." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

Date 6-28-90

Jeanette Goldbaum
Signature of Permittee

EXHIBIT NO. 7

APPLICATION NO.
4-97-168 +

4-97-169 (Shears)

5-88-794 (Lachman)

Conditions of Approval

COASTAL DEVELOPMENT PERMIT

Page 2 of 6
Permit No. 5-88-794

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.

SPECIAL CONDITIONS:

1. Assumption of Risk.

Prior to transmittal of the permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazard from shoreline erosion, flooding, and bluff erosion, and the applicant assumes the liability from such hazards; (b) that the applicant unconditionally waives any claim of liability on the part of the Commission and its advisors relative to the Commission's approval of the project for any damage due to natural hazards.

The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed.

2. Lateral Access

Prior to the transmittal of the permit, the Executive Director shall certify in writing that the following condition has been satisfied. The applicant shall execute and record a document, in a form and content approved in writing by the Executive Director of the Commission irrevocably offering to dedicate to a public agency or a private association approved by the Executive Director an easement for public access and passive recreational use along the shoreline. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property.

The easement shall extend the entire width of the property from the mean high tide line to the line approximating the toe of the bluff, shown as elevation 16 on the maps provided by the applicant. (Exhibit 3)

The easement shall be recorded free of prior liens except for tax liens and free of prior encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding successors and assigns of the applicant or landowner. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of recording.

3. Vertical Access

Prior to the transmittal of the permit, the Executive Director shall certify in writing that the following condition has been satisfied. The applicant shall execute and record a document, in a form and content approved in writing by the Executive Director of the Commission irrevocably offering to dedicate to a public agency or a private association approved by the Executive Director an easement for public access for pass and repass from Pacific Coast Highway to the shoreline. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property.

The easement be described in metes and bounds and shall extend from the Pacific Coast Highway to the ordinary high tide of the Pacific Ocean, generally within the geologic setback along the western property line. The easement shall not be less than 10 feet in width, and shall be sited and designed to accommodate reasonable and safe pedestrian access from the highway to the area along the beach dedicated in condition 2.

A more detailed description may either follow the stairway proposed in Exhibit 3, or otherwise follow a potential switch-back within the general area identified as geologic setback in Exhibit 3 if the stairway cannot be feasibly constructed. The exact configuration of the easement shall be determined by the Executive Director. The easement shall enable a private or public agency accepting maintenance and liability to enter, improve and maintain the access in order to provide pedestrian access to the shoreline.

The easement shall be recorded free of prior liens except for tax liens and free of prior encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding successors and assigns of the applicant or landowner. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of recording.

In addition to all other recording, there shall be an explanatory note on the final parcel map.

If and when a vertical public access way has been constructed within 500 feet of the applicant's property and such accessway has been opened for public use and either a private association acceptable to the Executive Director or a public agency has accepted the responsibility for operation and maintenance of the accessway, the applicant may request an amendment to this permit to remove the recorded easement. Such amendment must be approved by the California Coastal Commission prior to the removal or revision of the recorded easement.

4) State Lands

Prior to the transmittal of a permit the applicants shall obtain a written determination from the State Lands Commission that:

(a) No State lands and/or lands subject to the public trust are involved in the development, or

(b) State lands and/or lands subject to the public trust are involved in the development and all permits that are required by the State Lands Commission have been obtained, or

(c) State lands and/or lands subject to the public trust may be involved in the development, but pending a final determination, an agreement has been made with the State Lands Commission for the project to proceed without prejudice to that determination.

5) Storm Design.

Prior to the transmittal of the Coastal Development Permit, the applicants shall submit certification by a registered civil engineer that the proposed structure is designed to withstand storms comparable to the winter storms of 1982-83.

6) Construction Methods and Materials.

Prior to transmittal of the permit the applicant shall provide subject to the review and approval of the Executive Director 1) revised grading plans with plan notes and 2) an agreement with the Executive Director both of which provide a) that no stockpiling of dirt shall occur on the beach, seaward of elevation 20, b) that all grading shall be properly covered, sand bagged and ditched to prevent runoff and siltation, c) that earth-moving operations shall be prohibited between November 1 and March 31, d) that measures to control erosion must be implemented at the end of each day's work, and e) evidence that plans for this erosion prevention conform to applicable County ordinances, f) entry for excavation shall be from Pacific Coast Highway and Latigo Shores Drive and shall not be from the beach.

Pursuant to this agreement, during construction, disturbance to sand and intertidal areas shall be minimized. Beach sand excavated shall be re-deposited on the beach. Local sand, cobbles or shoreline rocks shall not be used for backfill or construction material. No road or ramp shall be constructed to the beach. The applicant shall prevent siltation or discharge of silt, chemicals or waste concrete on the beach.

7) Future improvements

Prior to transmittal of the permit the applicant shall provide a deed restriction for recording in a form and content acceptable to the Executive Director, which provides that Coastal Development Permit 5-88-794 is for the approved development only, and that any future additions or improvements to the property will require a new Coastal Development Permit from the Coastal Commission or its successor agency. The document should note that no permanent improvements with the exception of one public path or stairway noted on the present plans shall be constructed within the geologic set back area or under the floors or seaward of the existing structures. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed. It shall remain in effect for the life of the development approved in this permit.

8) No beach level development

Prior to issuance the applicant the applicant shall agree that this approval is based upon his assertions that no beach development, including leachfields or seawalls will be necessary to protect the development. Prior to issuance of the permit the applicant shall present final working drawings for an approved approved by Los Angeles County Health department for a septic system that 1) requires no seawall, 2) involves no waivers of the Los Angeles County Plumbing code, 3) is not located on the beach (below elevation 16 as shown on Exhibit 3)

9) Revised plans

Prior to transmittal of the permit the applicant shall submit revised plans that limit the development to three levels. For purposes of this condition a mezzanine and a basement are each levels.

10. Cumulative Impact Mitigation Condition

Prior to issuance of this permit, the applicant shall provide evidence to the Executive Director that development rights for residential use have been extinguished on one building site in the Santa Monica Mountains Coastal zone for each new building site created by the permit. The method used to extinguish the development rights shall be either

a) one of the five lot retirement or lot purchase programs contained in the Malibu Santa Monica Mountains Land Use Plan (policy 272 2-6),

b) a TDC-type transaction, consistent with past Commission actions such as 5-84-789 (Miller),

c) or participation along with a public agency or private nonprofit corporation to retire habitat or watershed land in amounts that the Executive Director determines will retire the equivalent number of potential building sites. Retirement of a site that is unable to meet the County's health and safety standards, and therefore unbuildable under the Land Use Plan, shall not satisfy this condition.

The building site on which residential uses are extinguished must either be a legal lot in a small lot subdivision or a potential building site located in a Significant Watershed. Unsubdivided land within Significant Watersheds may be used to generate building sites in numbers based on densities consistent with the proposed densities of the Land Use Plan; sites that are unable to meet the County's health and safety standards shall not be counted.