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**CALIFORNIA COASTAL COMMISSION**

1000 SOUTH CENTRAL COAST AREA  
1000 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(905) 641-0142

**RECORD PACKET COPY**

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Staff: JEL-V *ja*  
Staff Report: 10/10/97  
Hearing Date: 11/4-7/97

**STAFF REPORT: CONSENT CALENDAR****APPLICATION NO.:** 4-97-175**APPLICANT:** Allan and Kelly Brown**AGENT:** Jamie Harnish**PROJECT LOCATION:** 29020 Cliffside Drive, Malibu, Los Angeles County

**PROJECT DESCRIPTION:** Construct 1,830 sq. ft. second story addition, 88 sq. ft. first story addition, for a finished total of 6,578 sq. ft., replace septic system, remove unpermitted planter, stairs, deck and realign an existing fence 10' from the bluff edge.

<b>Lot area:</b>	48,838 sq. ft.
<b>Building coverage:</b>	4,748 sq. ft.
<b>Pavement coverage:</b>	3,000 sq. ft.
<b>Landscape coverage:</b>	1,748 sq. ft.
<b>Parking spaces:</b>	three covered (existing)
<b>Ht abv fin grade:</b>	25'

**LOCAL APPROVALS RECEIVED:** City of Malibu: Planning Department, Approval-in-Concept, 9/4/97; Environmental Health, In-Concept Approval, 5/2/97, City Geologist, planning approval, 4/4/97

**SUBSTANTIVE FILE DOCUMENTS:** Malibu/Santa Monica Mountains certified Land Use Plan; Geologic and Geotechnical Engineering Investigation, C.Y. Geotech, 2/24/97; Coastal Development Permits: P-6997 (Tiffany), 5-81-287 (Burns)

**SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends approval of the project with special conditions relating to plans conforming to geologic recommendations, removal of unpermitted structures, demolition and bluff restoration plan, condition compliance.

**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 Geologic and Geotechnical Engineering Investigation, C.Y. Geotech, 2/24/97 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. Removal of Unpermitted Structures**

With acceptance of this permit, the applicant agrees that the unpermitted planter structure, steps and wooden deck, located within 25 feet of the bluff, and as shown on Exhibit One, shall be demolished and/or removed from the site to an approved location within 90 days of Commission action.

#### **3. Demolition and Bluff Restoration Plan**

Prior to issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, a demolition plan of the unpermitted structures and a detailed bluff restoration plan prepared by a qualified Landscape Architect, resource specialist or biologist. The plans shall be reviewed and approved by the geotechnical consultant to ensure that the plans are in conformance with the consultants' geotechnical recommendations. The plans shall include, but not be limited to, the following criteria:

(a) Provisions and specifications for demolition and/or removal of all unpermitted structures and all non-native plants within 25 feet of the bluff, with the exception of the existing chain link fence. Said fence shall, after demolition and/or removal of all unpermitted structures, be realigned at a uniform distance of at least ten feet from the top of the slope. An unpaved footpath of no more than three (3) ft. in width may be retained for the purpose of landscape and slope maintenance.

(b) Bluff revegetation program which utilizes only native drought resistant plants, endemic to coastal bluffs. The revegetation program shall use a mixture of seeds and container plants to increase the potential for successful revegetation. No hydroseeding shall occur in areas of the bluff where native plant material is already established. A temporary irrigation system may be used until the plants are established, as determined

by the consulting landscape architect or resource specialist, but in no case shall the irrigation system be in place longer than three (3) years.

(c) The bluff restoration plan shall be implemented within 30 days of the demolition of all unpermitted development encroaching within 25 feet of the bluff to minimize erosion and bluff instability. Temporary erosion control devices, such as jute netting or sandbags may be put on the bluff face in the interim period after demolition and before landscaping.

(d) Two year monitoring and maintenance program to ensure the successful revegetation of the bluff. The bluff restoration plan shall be implemented within 30 days of the unpermitted demolition and/or removal. However, the removal of exotic vegetation and revegetation with native species may be carried out in several phases to minimize bluff disturbance. The applicant may request an extension of time in order for revegetation to coincide with the 1997-1998 rain season. In no event, should the planting occur later than March 1, 1998. Revegetation shall provide 90 percent coverage within two (2) years and shall be repeated, if necessary, to provide such coverage. This time period may be extended by the Executive Director for good cause

#### 4. Condition Compliance

The requirements specified in the foregoing special conditions that the applicant is required to satisfy, as a prerequisite to the issuance of this permit, must be fulfilled within 60 days of Commission action. Failure to comply, with such additional time as may be granted by the Executive Director for good cause, will terminate this permit approval.

#### IV. Findings and Declarations

The Commission hereby finds and declares:

##### A. Project Description

The applicant proposes to construct a 1,830 sq. ft. second story addition and add 88 sq. ft. to the ground floor of the home, for a finished total of 6,578 sq. ft. The existing septic system will be replaced with a larger unit to accommodate the additional living space. The second story addition will be stepped back from all sides of the existing building footprint and will reach a maximum height of 25 feet. The applicant has also agreed to remove all unpermitted structures within 25 feet of the bluff, which include a concrete planter, steps and a wooded deck cantilevered over the bluff.

The proposed development is located on the south side of Cliffside Drive, on a rectangular-shaped parcel, which is essentially flat in the foundation pad and yard areas. A sea cliff of approximately 100 feet high descends from the south side of the property, with a slope gradient of approximately 1/2:1. The site is currently occupied with a 4,660 sq. ft. one story, single family residence with attached garage, gazebo, swimming pool, and walkways. Also, within 25 feet of the bluff is a four

foot chain link fence which varies in distance between approximately 5' to 10' from the top of the slope, a concrete planter, set of steps, and a wooden deck cantilevered over the bluff.

#### B. Background

The construction of the existing single family residence was approved under a regular coastal development permit, P-6997 (Tiffany), on January 15, 1976.

On October 21, 1981 the Commission approved the construction of a swimming pool, spa and gazebo, 5-81-287 (Burns). At the time of said approval, the Commission required three special conditions related to: a lateral access easement dedication; conformance to geologic recommendations; and the submittal of revised plans which indicate no development shall be located within 25 feet of the bluff.

Between October 1981 and the present, an unpermitted four foot high chain-link fence, a concrete planter, and a set of steps connected to a cantilevered deck, were constructed within 25 feet of the bluff and in violation of the terms and conditions of permit 4-81-287 (Burns).

The property has since changed ownership, and on September 4, 1997 the current property owner, and applicant, submitted plans to the Commission for the construction of a second story addition. Commission staff then discovered the unpermitted structures within 25 feet of the bluff on performing a routine site visit. After being informed of the violations, the applicant agreed to amend the application to include the removal of the unpermitted structures with the exception of the chain link fence to maintain a safety barrier between the pool and the face of the bluff.

#### C. 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 subject property is located in an established residential subdivision, with immediately adjacent homes to the east and west. The properties to the north, across Cliffside Drive, are sited on the up slope of their respective properties and will perceive a visual change as a result of the project. During the City's review of the application, there was some concern expressed by the neighbors about the potentially significant visual impact of the original proposal. In response, the applicant reduced the square footage and massing of the proposal, and subsequently gained local approval from the City.

Any potentially significant visual impact from the 25 foot second story addition will be mitigated by the stepped-back design and the significantly mature trees and vegetation on three sides of the structure. In addition, the proposed additions will not be visible from any public view points or scenic roadways and is compatible with surrounding development.

The applicant also proposes to retain the unpermitted chain link fence as a safety measure between the pool and the bluff. The four foot high fence is relatively low, see-through by nature and painted green to minimize its appearance. The fence is not visible from the beach or the bluffs of Point Dume to the west. This low profile fence is compatible with other fencing associated with residential development along the seaward side of Cliffside Drive. Furthermore, the Commission has through past permit actions approved similar low profile fencing near the bluff edge as a safety measure where the fencing did not present any adverse visual, geological or hazard impact.

Finally, once the planter, steps and deck are removed the bluff area disturbed by the demolition will be revegetated, per condition three. The revegetation of the bluff ten feet back from the edge with native, drought tolerant plants will mitigate or minimize any potential visual impacts associated with disturbance of the bluff.

Therefore, the Commission finds that the proposed project is consistent with Section 30251 of the Coastal Act.

#### D. 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.

The proposed second story addition will be constructed within the existing 4,600 sq. ft. building footprint. The ground floor addition will add a relatively small amount, 88 sq. ft. or less than 2%, to the existing footprint. Given the applicant has agreed to remove all the unpermitted structures within 25 feet of the bluff, all potentially significant bluff related hazards will be removed. The exception being, the chain link fence which will not pose any significant hazard, as discussed below.

##### 1. Geology

The applicant has submitted a Geologic and Geotechnical Engineering Investigation, dated 2/24/97, prepared by C.Y. Geotech for the subject site. There are no significant geotechnical concerns for the proposed project. The consulting geologist noted that the occurrence of geologic hazards within the site such as earthquake-induced ground rupture, landslide, spreading, settlement and liquefaction is not likely.

Circular slope stability analyses were also performed to evaluate the static and seismic stability conditions of the rear yard bluff area using the shear strength parameters of rock samples obtained from the bluff face. The slope stability analyses indicated factors of safety greater than minimum Code requirements for static and seismic slope stability conditions.

C.Y. Geotech Engineering makes five recommendations relating to footings, temporary excavation, slabs-on-grade, drainage and fill placement, and concludes:

Based on the findings of this investigation, it is our opinion that the proposed development will be safe from geologic hazards such as landslide, settlement, and slippage, and will not adversely affect the stability of adjacent properties provided that the recommendations of this report are properly incorporated into final design and implementation during construction.

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).

The applicant had originally had the geologic investigation include the review of a glass wind-shield along the bluff, which was never included in the application. However, the review of that structure provides evidence the proposed retention of the chain link fence would not present a significant geologic hazard within 25 feet of the bluff.

In the opinion of C.Y. Geotech Engineering :

The height of the sea cliff is approximately 100 feet. Therefore, the code minimum setback for the footings of the glass wind-shield is 33 feet. It is the opinion of C.Y. Geotech, Inc. that the required footing setback for the proposed glass wind-shield can be reduced to 5 feet horizontally from the slope face of the sea cliff. This opinion is based on the facts that the sea cliff has a factor of safety greater than 1.5 for gross stability and the proposed wind-shield is not for human habitation.

In Malibu the Commission typically requires a 25' development setback from a bluff edge or a stringline whichever is greater. In this case the proposed realignment of the existing chain link fence will be at a location of at least 10' from the top of the slope and will not require the significant footings as would the above mentioned wind-shield. The proposed fence in this location would not pose a significant hazard if the bluff did fail or erode, given that it does not have substantial footings and would not result in a adverse visual impact. In addition, the Commission has approved, through past permit actions, similar fencing along the bluffs in this area as a safety measure.

Therefore, the Commission finds that relocation of the fence 10' from the bluff edge would not pose a geologic hazard or adverse visual impact and is consistent with sections 30253 of the Coastal Act.

## 2. Erosion

The 100 foot coastal bluff presents a potentially significant erosion hazard, particularly as it is now being irrigated to support a lawn area which extends, at points, approximately 10 feet beyond the fence. Should the bluff erode under the planter and deck, the release of the poured concrete planter and deck/bench seating down the cliff could produce a life threatening hazard to beachgoers.

Given the applicant is proposing to remove the unpermitted structures, the only potential impact relates to erosion control during removal and/or demolition and, during the following period necessary for the revegetation of the slope to re-establish itself.

Therefore, in order to minimize bluff erosion the Commission finds it necessary to require the applicant to submit detailed demolition and bluff restoration plan. Special condition number three (3) provides for such a plan to be prepared by a licensed landscape architect, resource specialist or biologist. Furthermore, given the removal and demolition work will disturb an area on and adjacent to the coastal bluff the Commission finds that the landscape plans must be reviewed and approved by the consulting engineering geologist.

The Commission finds that only as conditioned above is the proposed project consistent with Section 30253 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 applicant proposes to replace the existing 1,200 gallon septic tank and seepage pit with a 1,500 gallon tank and two seepage pits. The City of Malibu has completed a review of, and approved-in-concept, the proposed septic system, finding that the proposed design meets the minimum Uniform Plumbing Code requirements for a four to seven bedroom residence and is sufficient to serve the proposed single family residence. The City of Malibu's minimum health code standards for septic systems have been found protective of coastal resources and take into consideration percolation capacity of soils, depth of groundwater, etc.

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



#### F. Unpermitted Structures

As noted above, Commission staff discovered the unpermitted development of a fence, a planter, a set of stairs and a deck constructed within 25 feet of the bluff. Development within the 25 feet of the bluff was specifically prohibited 1981 on the site as a special condition of approval, permit 5-81-287 (Burns). As part of this application, the applicant has agreed to remove the planter, stairs and deck. Therefore, in order to ensure these violations are rectified in an appropriate and timely fashion, the Commission finds its necessary to require a removal agreement and a condition of compliance, as specified in conditions two (2) and four (4).

Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to any violation of the Coastal Act that may have occurred.

#### G. 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).

#### H. 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.

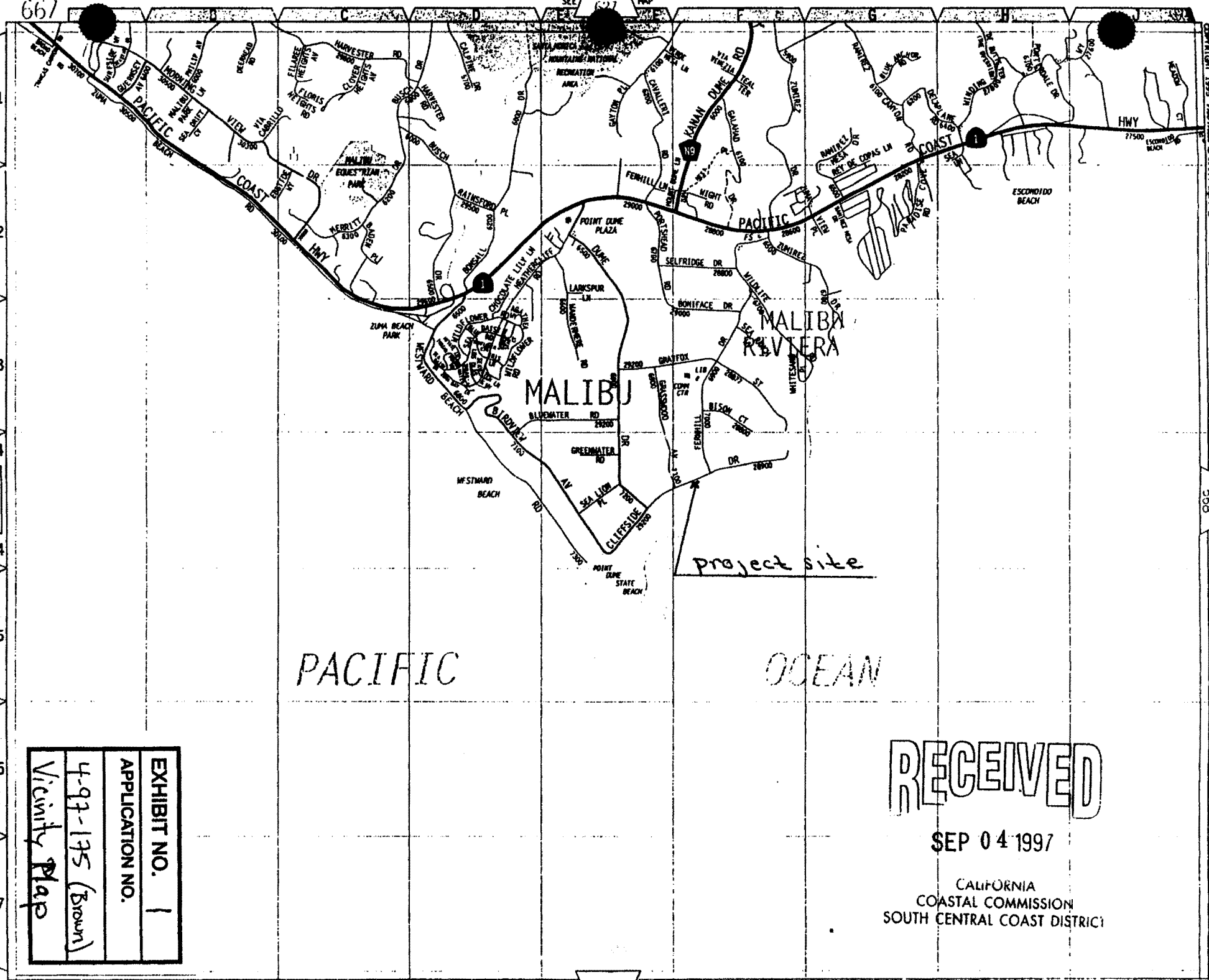


EXHIBIT NO.	1
APPLICATION NO.	
4-93-175 (Brown)	
Vicinity Map	

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CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT



MATERIALS INDEX

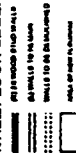


KEY NOTES



CODE NOTES

WALL/FLOOR LEGEND

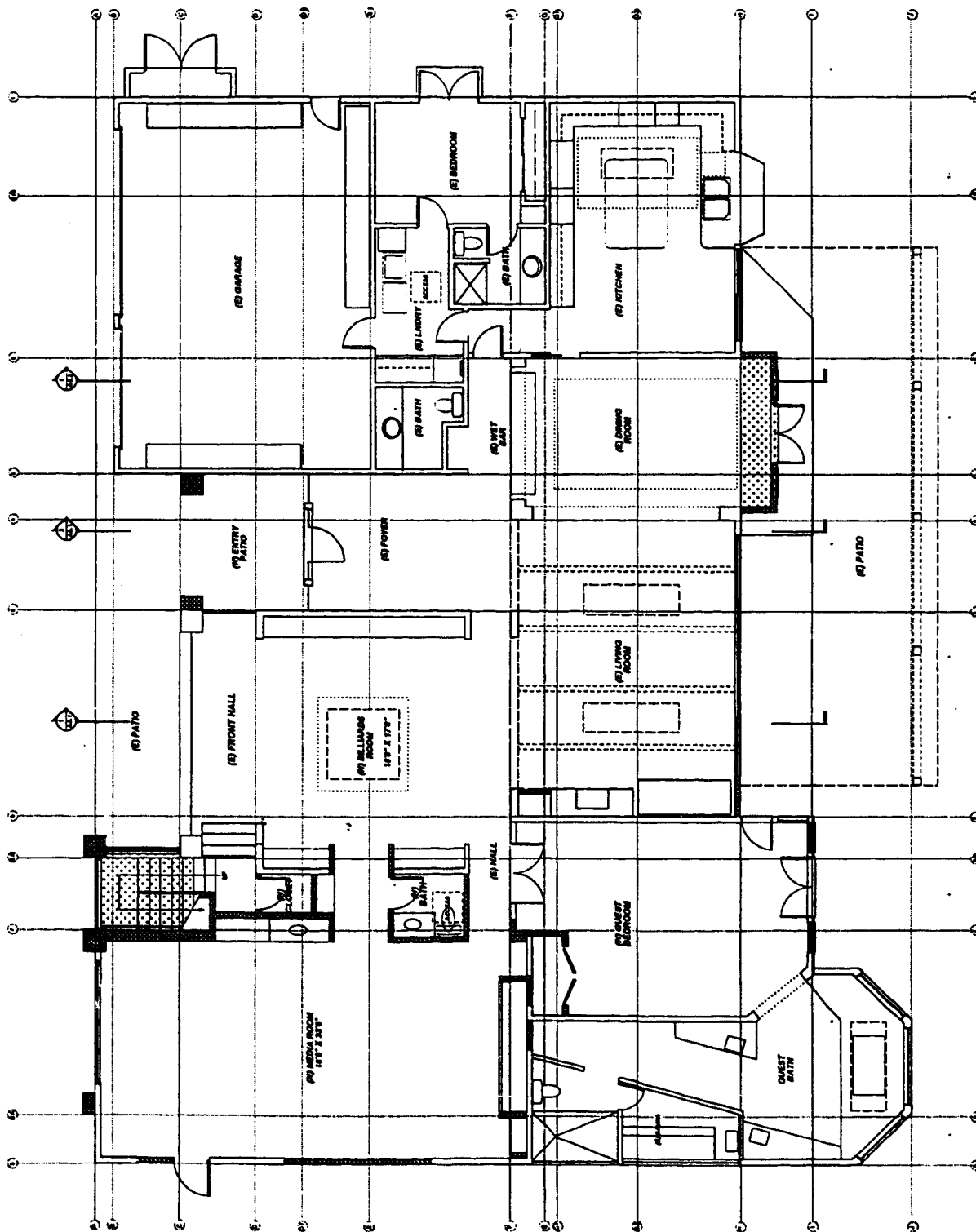


INDIVIDUAL JUNCTION AND FINISHES TO

29020 CLIFFSIDE DRIVE

EXHIBIT NO. 3  
APPLICATION NO.

4-97-175 (Brown)  
1st Floor Plan



FIRST FLOOR PLAN  
SCALE 1/4" = 1'-0"

MATERIALS INDEX

KEY NOTES

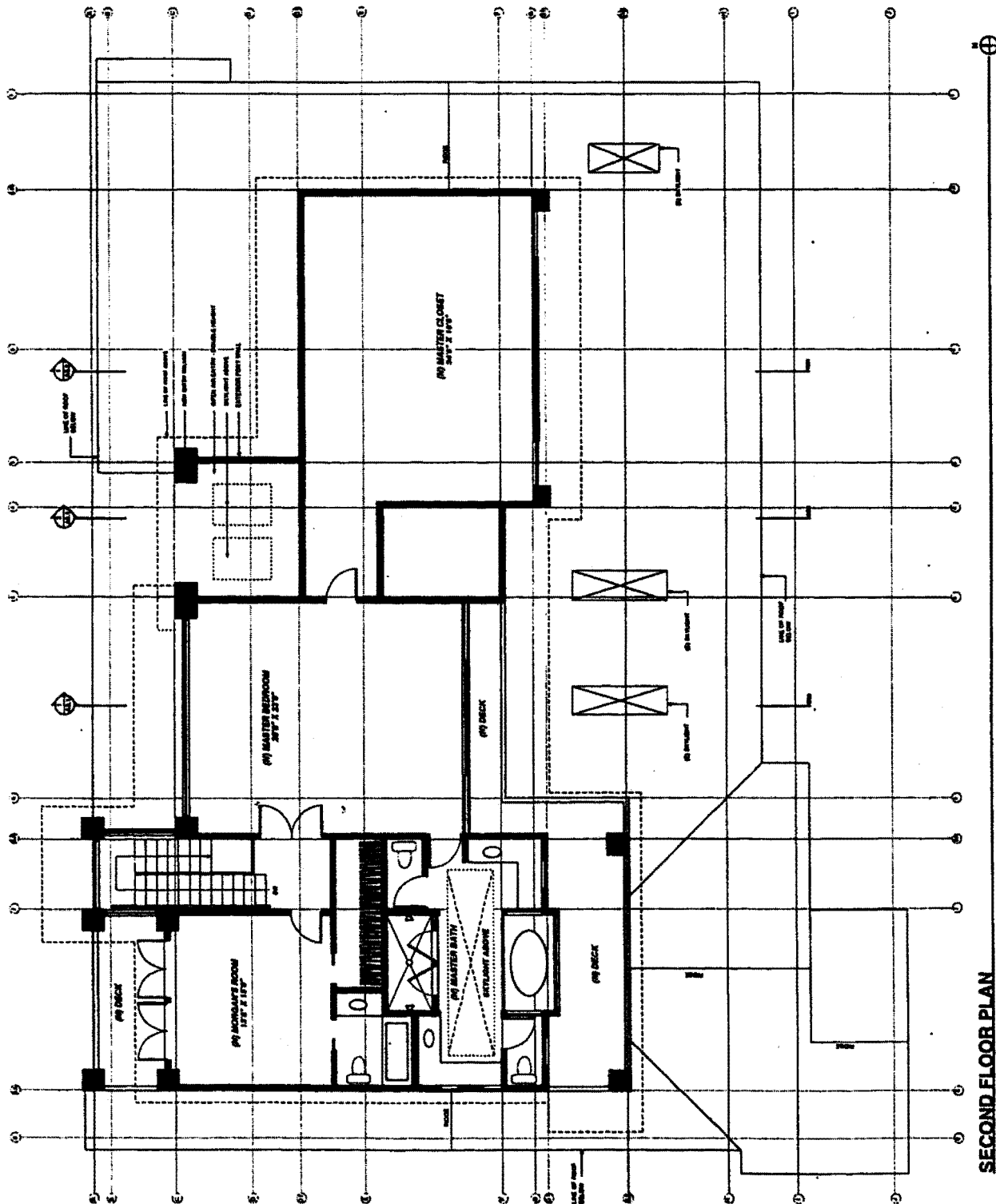
CODE NOTES

ALL FLOOR LEGEND

29020 CLIFFSIDE DRIVE  
NASHVILLE, TN 37204

EXHIBIT NO. 4  
APPLICATION NO.

4-97-175 (Brown)  
2nd Floor Plan



SECOND FLOOR PLAN  
SCALE 1/8" = 1'-0"

MATERIALS INDEX



KEY NOTES



CODE NOTES

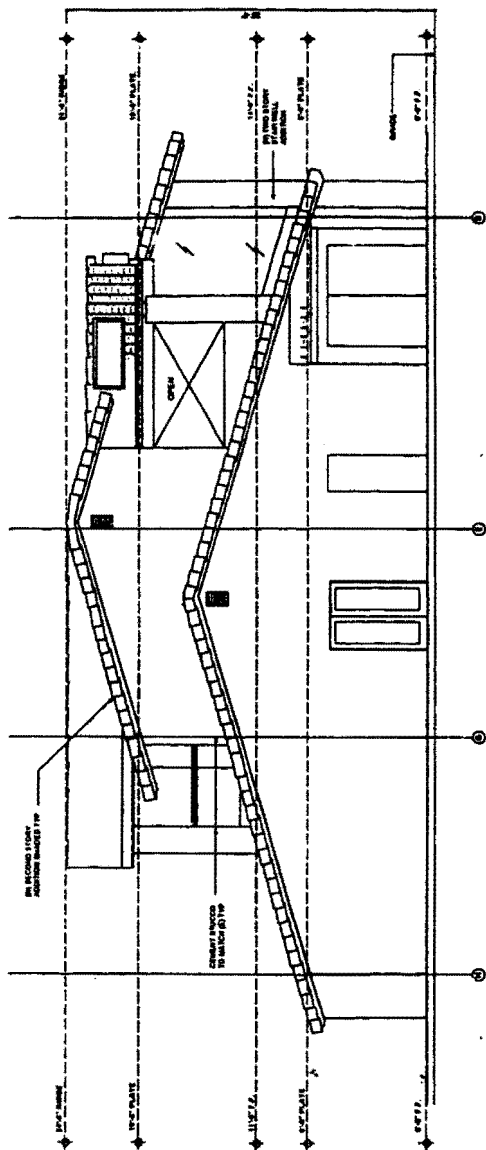
LEGEND



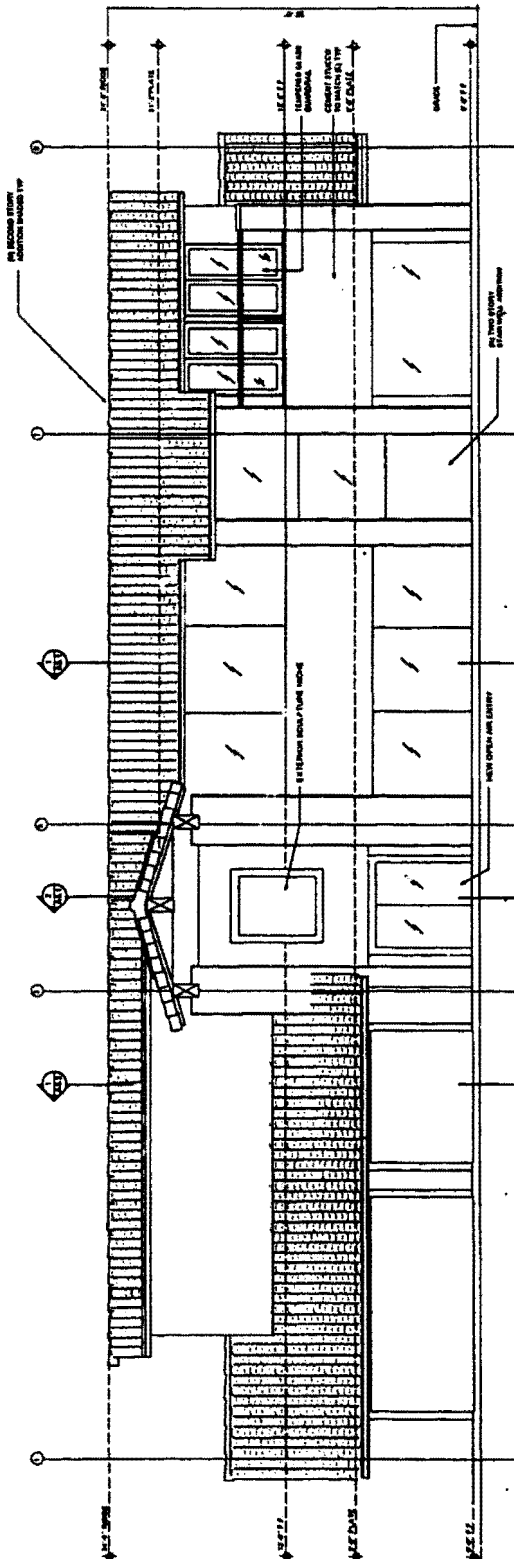
29020 CLIFFSIDE DRIVE  
NASHVILLE, TN 37204

EXHIBIT NO. 5  
APPLICATION NO.

4-97-175 (Brown)  
Elevations



EAST ELEVATION  
SCALE 1/4" = 1'-0"



NORTH ELEVATION  
SCALE 1/4" = 1'-0"

**MATERIALS INDEX**



**KEY NOTES**



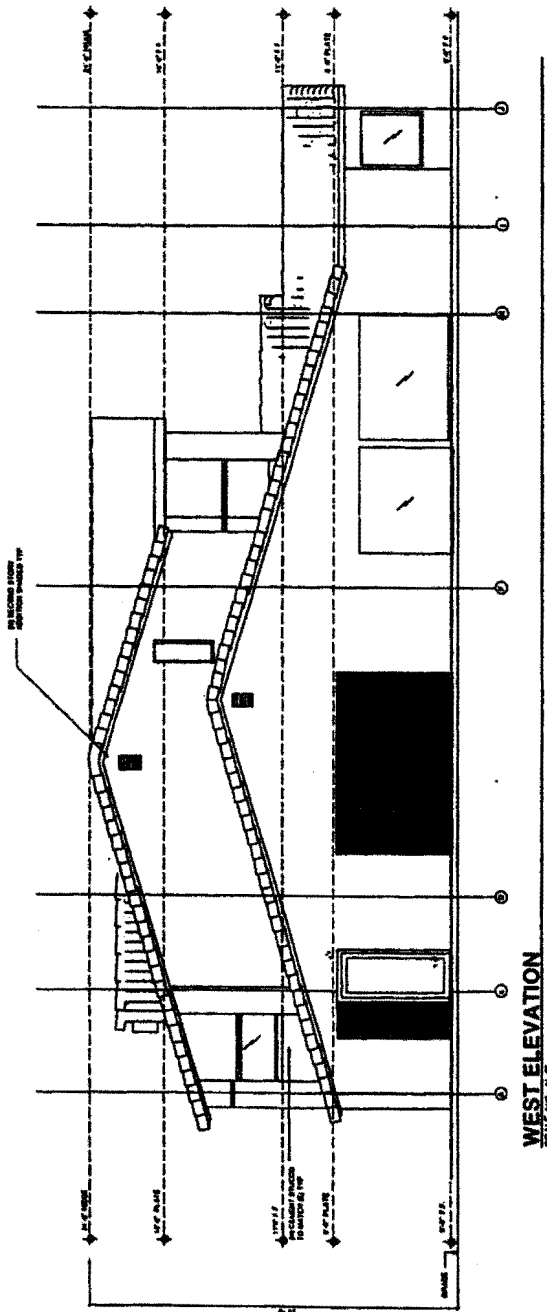
**CODE NOTES**

**LEGEND**

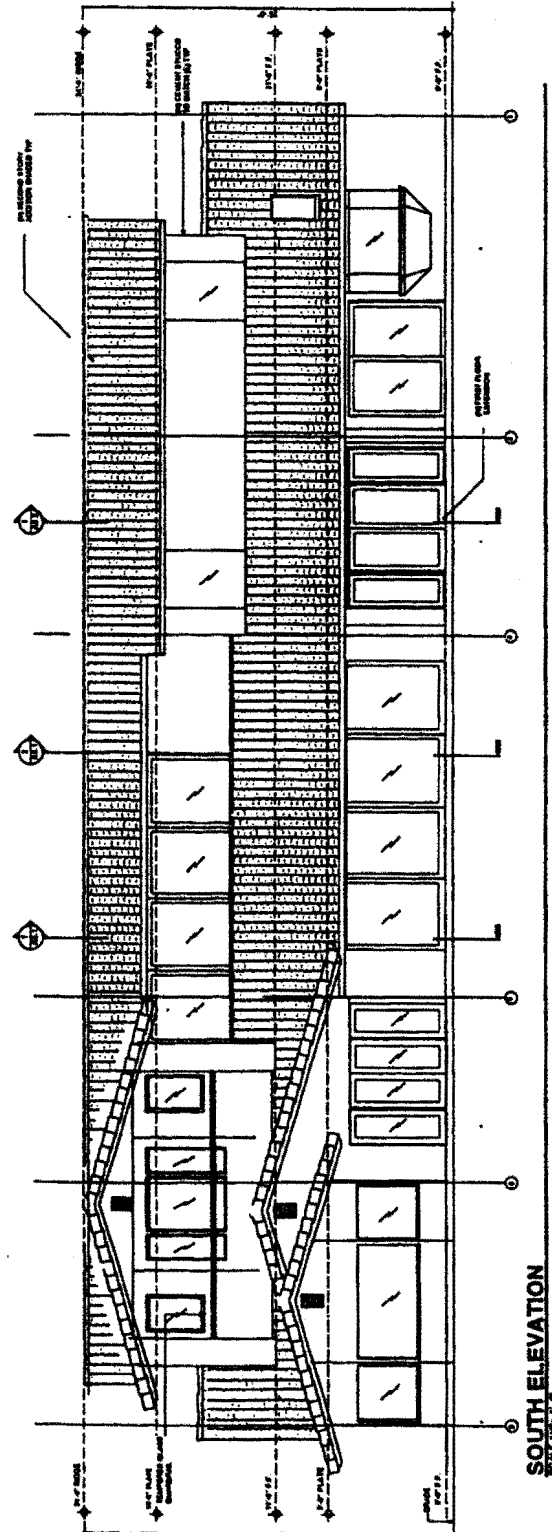


29020 CLIFFSIDE DRIVE  
MILLBURN, N.J. 07041

EXHIBIT NO. 6
APPLICATION NO.
4-97-175 (Brown)
Elevations



**WEST ELEVATION**



**SOUTH ELEVATION**