

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
 100 SOUTH CALIFORNIA ST., SUITE 200  
 VENTURA, CA 93001  
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 180th Day: September 10, 1997  
 Staff: Betz-V  
 Staff Report: April 22, 1997  
 Hearing Date: May 13-16, 1997

STAFF REPORT: CONSENT CALENDAR

Tu 4d

APPLICATION NO.: 4-97-037

APPLICANT: Mike Wayne AGENT: Clive Dawson

PROJECT LOCATION: 32852 Pacific Coast Highway, City of Malibu, Los Angeles County.

PROJECT DESCRIPTION: Construct 2 story, 28 ft. high (above natural grade), 5,303 sq. ft. single family residence with attached 3 car garage and septic system. No grading.

Lot Area	35,680 sq. ft.
Building Coverage	3,951 sq. ft.
Pavement Coverage	4,500 sq. ft.
Landscape Coverage	none
Parking Spaces	3 covered
Plan Designation	RR 1, 1 du/ac
Project Density	1.2 du/ac
Ht abv nat grade	28 feet

LOCAL APPROVALS RECEIVED: City of Malibu: Planning Department Approval in Concept, dated 2/25/97; Environmental Health In-concept Approval, dated 12/13/96.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan; Coastal Permits 4-94-145 (Encinal Bluff Partners) and 4-96-165 (Henssey); Mountain Geology, Inc.: Engineering Geologic Memorandum, November 21, 1996; Addendum Engineering Geologic Report, July 19, 1996; Addendum Engineering Geologic Report, June 28, 1996; Update Engineering Geologic Report and Plan Review, April 25, 1996; Addendum Engineering Geologic Report, April 24, 1996; Addendum Engineering Geologic Report, February 29, 1996; Addendum Engineering Geologic Report, September 8, 1995; Addendum Engineering Geologic Report, March 7, 1995; Updated Engineering Geologic Report, revised November 9, 1994; Updated Preliminary Engineering Geologic Report, January 26, 1994; Engineering Geologic Report, January 10, 1990; Coastline Geotechnical Consultants, Inc.: Responses to Geology and Geotechnical Engineering Review Sheet, July 10, 1996; Review and Update Geotechnical Engineering Report, April 22, 1996; Review and Update Geotechnical Engineering Investigation Report, January 16, 1996; Review and Update, August 2, 1993; Miscellaneous Information [reply to Los Angeles County review sheets], February 7, 1991; Reply to Review Sheets, August 16, 1990; Proposal for Professional Services, April 17, 1990; Report Update, January 16, 1990; Baseline Consultants, Inc.: Revised Compaction Report, March 4, 1981; Soils and Geology Investigation, August 6, 1980.

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**SUMMARY OF STAFF RECOMMENDATION:** Staff recommends approval of the proposed project with five (4) Special Conditions addressing landscape and erosion control plans, drainage plans, plans conforming to the consulting geologist's recommendations, assumption of risk, and wild fire waiver of liability.

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**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 this permit is reported to the Commission. 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.

III. Special Conditions.

1. LANDSCAPE AND EROSION CONTROL PLANS

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

- a) All 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 final occupancy of the residence. Such planting shall be adequate to provide ninety (90) percent coverage within two (2) years and shall be repeated, if necessary, to provide such coverage.

2. DRAINAGE PLANS

Prior to the issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, a run-off and erosion control plan designed by a licensed engineer which assures that run-off from the roof, patios, and all other impervious surfaces on the subject parcel are collected and discharged in a non-erosive manner. Site drainage shall not be accomplished by sheetflow runoff. Should the project's drainage structures fail or result in erosion, the applicant/landowner or successor interests shall be responsible for any necessary repairs and restoration.

3. 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 (1) the Coastline Geotechnical Consultants, Inc.: Responses to Geology and Geotechnical Engineering Review Sheet, July 10, 1996; Review and Update Geotechnical Engineering Report, April 22, 1996; and Review and Update Geotechnical Engineering Investigation Report, January 16, 1996; and (2) the Mountain Geology, Inc.: Addendum Engineering Geologic Report, July 19, 1996; Addendum Engineering Geologic Report, June 28, 1996; Update Engineering

Geologic Report and Plan Review, April 25, 1996; Addendum Engineering Geologic Report, April 24, 1996; Addendum Engineering Geologic Report, February 29, 1996; Updated Engineering Geologic Report, revised November 9, 1994; Addendum Engineering Geologic Report, September 8, 1995; including issues related to site preparation, foundations, and drainage, 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.

#### 4. 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.

#### 5. APPLICANT'S ASSUMPTION OF RISK

Prior to issuance of the Coastal Development 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 flooding and the applicant assumes the liability from such hazards; and (b) that the applicant unconditionally waives any claim of liability on the part of the Commission and agrees to indemnify and hold harmless 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 which the Executive Director determines may affect the interest being conveyed, and free of any other encumbrances which may affect said interest.

#### IV. Findings and Declarations.

The Commission hereby finds and declares:

##### A. Project Description

The applicant proposes the construction of a 2 story, 28 ft. high (above average natural grade), 5303 sq. ft. single family residence with septic system and no grading on a .82 acre lot at 32832 Pacific Coast Highway in the City of Malibu.

The site straddles a blue line stream that was filled and diverted into a 48" culvert prior to passage of Proposition 20 and the 1976 Coastal Act. The

stream is in a natural state north and southwest of the project site, where it spills out onto the beach, although it is only designated as blue-line north of the site on the United States Geologic Survey (USGS) map. The applicant's agent indicates that the culvert was constructed in 1966 or 1967. A review of aerial photographs by staff indicates that the backfill covering the culvert existed prior to passage of Proposition 20 and the 1976 Coastal Act. The Public Works Department of the City of Malibu does not show the culvert as a public improvement.

The site is presently improved with fences and partial landscaping, with the remainder of the site remaining cleared. An unpaved private road originating on Pacific Coast Highway traverses the western edge of the property and exits off-site on the beach beyond the southwest corner of the parcel.

There are a number of apparently inoperative motor vehicles on the subject property. According to the applicant's agent, these vehicles are being gradually "parted-out" or moved off-site to Oxnard College or a high school to be used for instruction and training, or are being given to another non-profit organization.

The building site is located in the middle of the pad which consists of approximately five feet or less of fill over natural terrace deposits. The beach front of the site consists of a bluff over an inactive earthquake fault. The bluff is approximately thirty feet high above the rocky and sandy beach and approximately half the thickness of the bluff consists of introduced fill. The submittal materials show that the pad drains predominantly off-site to the southwest and hence to the ocean, rather than across the bluff face.

Surrounding development includes single family residential development, a riparian corridor, a rocky and sandy beach, coastal bluffs, and State Park land. The property is located between the first public road and the ocean, and fronts upon the beachfront. To the north of the site, a canyon contains the referenced blue-line stream as designated by the United States Geologic Survey, which terminates at approximately the inland boundary of the site according to the USGS map. The stream, bluff, beach and offshore area are recognized by the Commission as an environmentally sensitive habitat areas (ESHAs), most recently in Coastal Permits 4-94-145 (Encinal Bluff Partners) and 4-96-165 (Hennesy).

#### B. Environmentally Sensitive Habitat Areas.

Section 30230 of the Coastal Act states that:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

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 30240 of the Coastal Act states that:

(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 degrade such areas, and shall be compatible with the continuance of such habitat areas.

The applicant proposes the construction of a 2 story, 28 ft. high (average natural grade), 5,303 sq. ft. single family residence with septic system on a .82 acre lot with no grading.

The Commission has consistently emphasized the importance placed by the Coastal Act on protecting sensitive environmental resources. As noted above the site contains or is adjacent to several ESHAs. The site drains into the ocean and channelizes a USGS identified blue-line stream. The off shore area and beach has, in past decisions, been designated by the Commission as an environmentally sensitive habitat area (ESHA). The bluff area is also a recognized ESHA. The Commission found, in past decisions (see permit 4-94-145, Encinal Bluff Partners and 4-96-165 (Hennesy)), that the nearby stream, bluff and beach areas and any kelp beds occurring offshore are ESHA areas.

The proposed building site is not within the ESHA. The house site is located approximately 90 ft. south of the stream ESHA and is twenty-five feet inland of the bluff at its closest point. However, development on this site could adversely impact the sensitive habitat resources if not properly designed. Although the applicant proposes no grading, a minor, incidental amount of soil disturbance will result from the construction of the residence.

In addition, the impervious surfaces created will increase both the volume and velocity of storm water runoff from the site. If not controlled and conveyed off-site in a non-erosive manner this runoff would result in increased erosion on and off site. Increased erosion not only destabilizes the the site but may result in deterioration of the bluff and impacts of sedimentation on the nearby stream and ocean. The increased sediments in the water course can adversely impact riparian streams and water quality. These impacts can include:

1. Eroded soil contains nitrogen, phosphorus, and other nutrients. When carried into water bodies, these nutrients trigger algal blooms that reduce water clarity and deplete oxygen which lead to fish kills, and create odors.

2. Erosion of streambanks and adjacent areas destroys streamside vegetation that provides aquatic and wildlife habitats.
3. Excessive deposition of sediments in streams blankets the bottom fauna, "paves" stream bottoms, and destroys fish spawning areas.
4. Turbidity from sediment reduces in-stream photosynthesis, which leads to reduced food supply and habitat.
5. Suspended sediment abrades and coats aquatic organisms.
6. Erosion removes the smaller and less dense constituents of topsoil. These constituents (clay and fine silt particles and organic material) hold nutrients that plants require. The remaining subsoil is often hard, rocky, infertile, and droughty. Thus, reestablishment of vegetation is difficult and the eroded soil produces less growth.
7. Introduction of pollution, sediments, and turbidity into marine waters and the nearshore bottom has similar effects to the above on marine life. Pollutants in offshore waters, especially heavy metals, are taken up into the food chain and concentrated (bioaccumulation) to the point where they may be harmful to humans, as well as lead to decline of marine species.

To ensure that the proposed project minimizes sedimentation of coastal waters and the adjacent stream and minimize erosional impacts the Commission finds it necessary to require the applicant to submit detailed drainage plans which illustrate how runoff will be conveyed off-site in a non-erosive manner. In addition, landscaping of the areas disturbed by construction activities will also serve to minimize erosion, ensure site stability and minimize sedimentation impacts to the nearby ESHAs. Therefore, the Commission finds it necessary to require the applicant to submit a landscape and erosion control plan as a special condition of approval.

These conditions will ensure that all impacts of site disturbance and runoff from increased impervious surfaces resulting from the proposed project are mitigated to the maximum extent feasible, thereby minimizing any adverse affects on the habitat of the designated blue-line stream and offshore kelp beds. Therefore, the Commission finds that only as conditioned will the proposed project be consistent with the policies found in Sections 30230, 30231 and 30240 of the Coastal Act.

#### C. Geologic Stability.

Section 30253 of the Coastal Act states, in part, that:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along

bluffs and cliffs.

As previously noted, the applicant proposes the construction of a 2 story, 28 ft. high (average natural grade), 5,303 sq. ft. single family residence with septic system and no grading on a .82 acre lot at 32852 Pacific Coast Highway in the City of Malibu. The bluff seaward of the house site is located over an east-west trending inactive fault.

The applicant has submitted numerous geotechnical reports for the proposed project, as noted above under Substantive File Documents. The large number of reports relates to the history of proposed development since 1980 and geologic problems associated with the parcel and two more inland sites, including the site addressed in the permit 4-96-165 (Hennesy). These reports respond to repeated concerns of the City of Malibu Building Department in their review of proposed development as shown by their Geology and Geotechnical Engineering Review Sheets.

The geotechnical report, Mountain Geology, Inc., Updated Engineering Geologic Report, revised November 9, 1994 states that::

... construction of a single family residence is considered feasible from an engineering geologic standpoint provided the following recommendations are made a part of the plans and are implemented during construction.

The consultant then concludes that:

Based upon our investigation, the proposed development is free from geologic hazards such as landslides, slippage, active faults, and undue differential settlement provided the recommendations of the Engineering Geologist and Geotechnical Engineer are complied with during construction. The proposed development and installation of the private sewerage disposal system will have no adverse effect upon the site or adjacent properties.

The engineering geology report also includes a recommendation to remove uncertified materials and to strip vegetation, debris, existing fill and soft or disturbed soils. However, removal of fill and recompaction is not proposed as part of the present application. Therefore, if additional substantial grading (in excess of  $\pm$  50 cu. yds.), is necessary to comply with the geologists recommendation, an amendment to this permit is required.

Based on the recommendations of the consulting engineer and geologist the Commission finds that the development is consistent with Section 30253 of the Coastal Act and applicable LUP policies so long as the geologic consultant's geologic recommendations are incorporated into project plans. Therefore, if 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 conforming to their recommendations.

The landscape/erosion control plan and a drainage plan, required above, are also needed to minimize erosion from the project site and potential sedimentation onto the beach and offshore area. The Commission finds it necessary to require the applicant to submit landscape and erosion control and drainage plans to minimize erosion and to provide plantings primarily of native species.



Additionally, due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant assumes the liability from 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.

Lastly, as previously noted, the project site is overlaid with a 48 " inch culvert which collects a blue-line stream and conveys it under the property. At one time there was also an earthen dam on the site to catch high level flows. This culvert drains approximately one-third square mile, including the portion of the coastal canyon inland of Pacific Coast Highway. According to the applicant's agent, this culvert was found as adequate by the City because it could convey the equivalent of 100 year storms as shown by the high rainfall in recent years without causing any adverse impact. Furthermore, the culvert has been in place for 30 years and has not been damaged or overtopped by flood water including the 1982-83 floods. Given the large size of the culvert and small drainage area of the stream, the culvert appears to be of an adequate size to convey flood flows. However, there is always the potential that the culvert could be blocked by debris and flood the building site. In order to ensure that the applicant understands that a potential flood hazard exists, the Commission can only approve the project if there is a deed restriction noting the extraordinary flood hazard and that the applicant unconditionally waives any claim of liability against the Commission.

For the above reasons, the Commission finds that the proposed development, as conditioned, is consistent with Section 30253 of the Coastal Act and applicable portions of the Malibu LUP.

#### D. Septic System.

The proposed development includes the installation of an on-site septic system to provide sewage disposal. The Commission has recognized, in past permit actions, that the potential build-out of lots in the Malibu area and the resultant installation of septic systems may contribute to adverse health effects. 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.

The applicant proposes the construction of a on-site septic system which consists of a septic tank and seepage pits located near Pacific Coast Highway. The system is located uphill and inland of the residence. The system will drain downhill in a subterranean manner without intersecting the stream which is within a culvert across the property as previously noted. The referenced November 21, 1996 geological memorandum found that "... the

proposed leach field will have no adverse effect upon the stability of the site or the adjacent properties."

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.

#### E. Public Access

The proposed development is between the first public road and the ocean, and is located on the beachfront. The Coastal Act requires the Coastal Commission to ensure maximum public access for every project. Applicable sections of the Coastal Act provide:

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 resource areas 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 accessway 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 accessway. ...

Projects requiring a Coastal Development Permit must be reviewed for compliance with the public access provisions of Chapter 3 of the Coastal Act. The Commission has required public access to and along the shoreline in new development projects and has required design changes in other projects to reduce interference with access to and along the shoreline. The major access issue in such permits, i.e. the occupation of sand area by a structure, in

contradiction of Coastal Act policies 30210, 30211, and 30212, is not applicable in the case of this project.

However, a conclusion that access may be mandated does not end the Commission's inquiry. As noted, Section 30210 imposes a duty on the Commission to administer the public access policies of the Coastal Act in a manner that is "consistent with ... the need to protect ... rights of private property owners..." The need to carefully review the potential impacts of a project when considering imposition of public access conditions was emphasized by the U.S. Supreme Court's decision in the case of Nollan vs. California Coastal Commission. In that case, the court ruled that the Commission may legitimately require a lateral access easement where the proposed development has either individual or cumulative impacts which impede the achievement of the State's legitimate interest in protecting access and where there is a connection, or nexus, between the impacts on access caused by the development and the easement the Commission is requiring to mitigate these impacts.

The subject site is located inland of the beach southwest of the intersection of Encinal Canyon Road and Pacific Coast Highway and between segments of Robert H. Meyer Memorial State Beach. As such, development in the project area has been reviewed on many occasions with respect to Coastal Act sections relative to access and recreation. 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 and the ability to use and cause adverse impacts on public access such as above.

In the case of the proposed project, however, the construction would be a single family residence located one hundred feet inland of the mean high tideline, approximately forty feet above the beach level, and twenty-five feet landward of the edge of the coastal bluff. The Commission regularly uses the stringline concept to determine the allowable seaward extent of development and the related impact on coastal access. However, the scattered development character in the area, changes in topography, and the irregular and concave nature of the shoreline make use of a stringline between existing development of limited use in evaluating new development. The project cannot be found to affect the stringline or include any shoreline protective devices. Thus, the project will have no individual or cumulative impacts on public access. In addition, the site is located within approximately 500 ft. of two State beaches which provide vertical access to the beach.

In addition, the project will not blocked any vertical accessways where the public has acquired use. Review of aerial photographs indicates that either the connector road to the beach has not existed and/or that access from the Coast Highway has been blocked by private fences since passage of Proposition 20 and the 1976 Coastal Act.

In summary, the project will have no individual or cumulative impacts on public access. Therefore, the Commission finds that the proposed project is consistent with sections 30212, 30211, and 30212 of the Coastal Act.

F. Visual Quality

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 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.

Section 30251 of the Coastal Act requires that development 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 surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

The proposed project site is located seaward of the Pacific Coast Highway (PCH), a Commission designated scenic highway. The building site is located below PCH. Although there is heavy existing landscaping, the site would not be visible from Pacific Coast Highway even without this vegetation due to the elevation difference. There is no continuity of view from Pacific Coast Highway due to the meandering of the canyon and the drop-off in topography.

The proposed residence is sited on an existing sloping pad approximately 40 feet above the beach. The design of the residence includes an approximately 28 foot high two story section set back 25 ft. from the edge of the bluff on a gently sloping portion of the site. Closer to the beach, the slope increases to the southwest or increases steeply along the bluff.

The proposed location of the residence is the preferred building site on the property by being approximately the same distance from the bluff and the stream, as previously noted. The building will only have limited visibility from the beach because of the bluff and a small knoll to the southwest. A location further inland would have the decrease in visual benefit because of distance offset by the increase in elevation. The impact of views along the coast is further mitigated because the building site is tucked into a coastal canyon opening up into a concave coastline.

There are several significant view corridors within 200 to 500 feet of this property. Immediately to the east, within 200 feet, there is a small canyon which affords a view of the ocean. In addition, within 500 feet east and west of the property there are two state beach areas (La Piedra and El Pescador) which also afford large scenic view corridors.

Therefore, the Commission finds that the proposed project as conditioned will not adversely impact visual resources and is consistent with Section 30251 of the Coastal Act.

G. Local Coastal Program.

Section 30604(a) 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 coastal 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. 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).

H. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

As conditioned, there are no negative impacts caused by the proposed development which have not been adequately mitigated. Therefore, the proposed project as conditioned is found consistent with CEQA and the policies of the Coastal Act.

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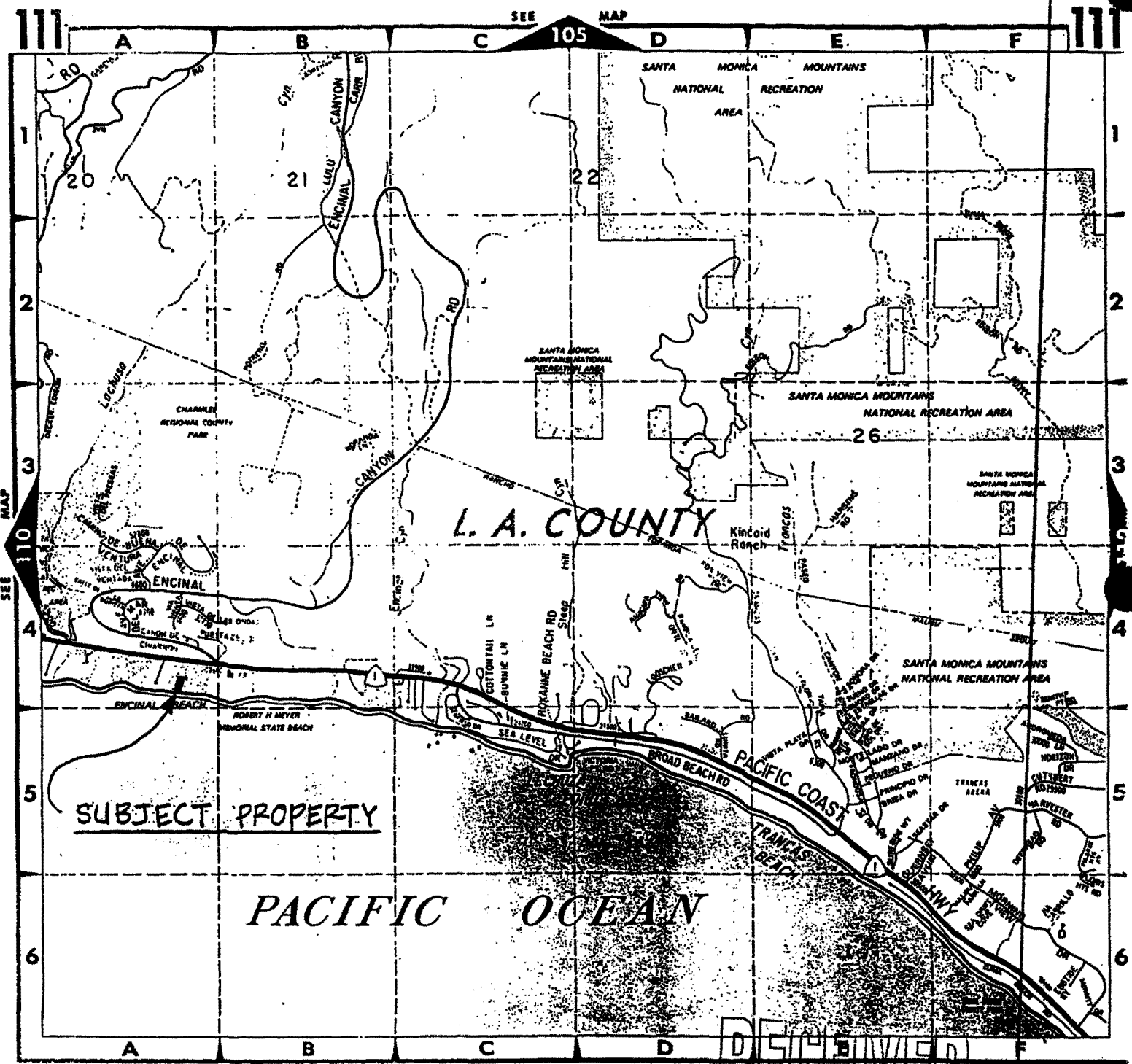


EXHIBIT NO. 1
APPLICATION NO.
4-97-037 Wayne
Project Location

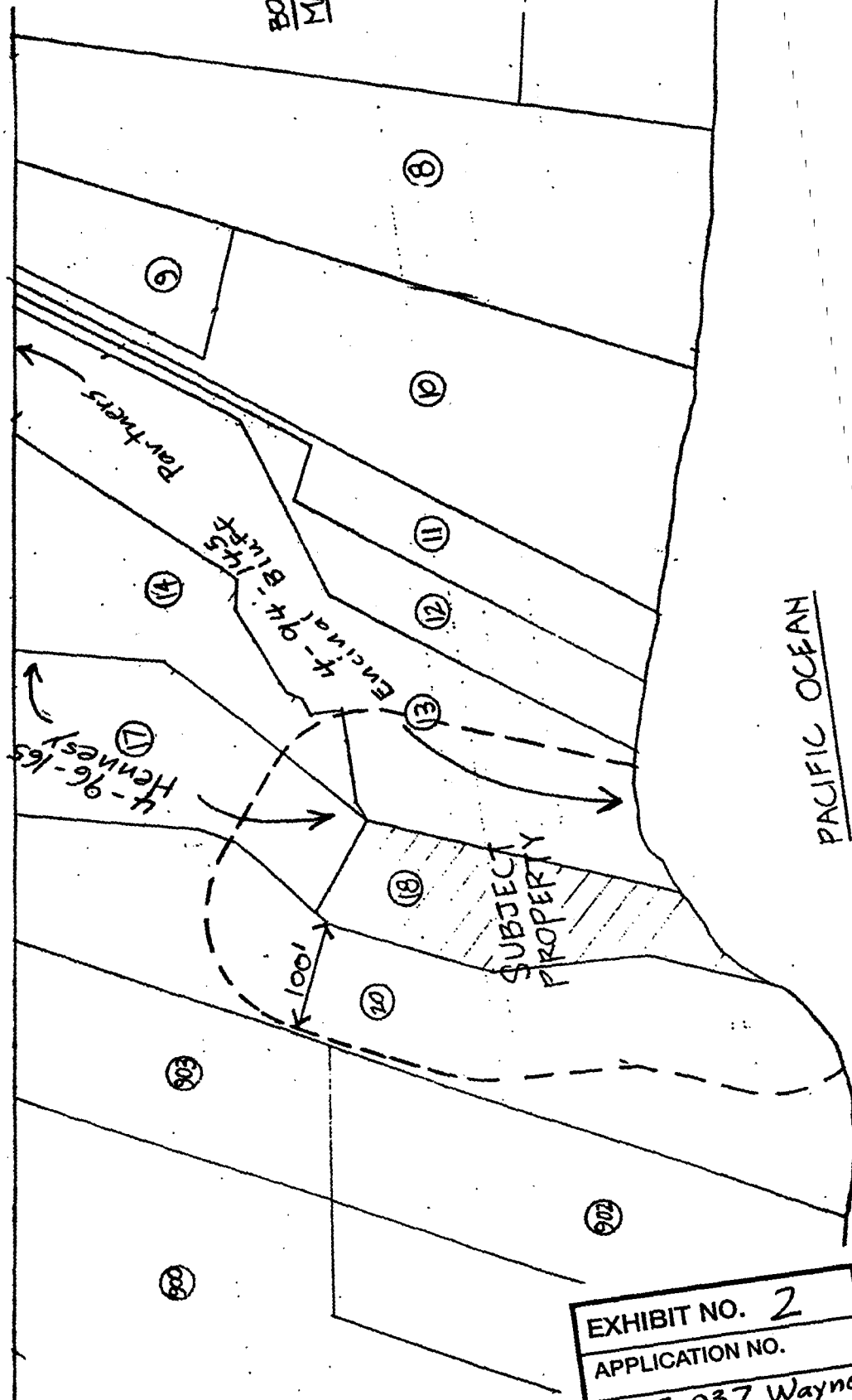
MARIBOU

BOOK 4473  
MAP 5

BOOK 4473  
MAP 16

(4)

PACIFIC COAST HWY.



PACIFIC OCEAN

BOOK 4473  
MAP 17

EXHIBIT NO. 2
APPLICATION NO.
4-97-037 Wayne
Adjacent Parcels

32852 PACIFIC COAST HWY.  
MALIBU, CA 90265

S.F.D.:	5 Bedroom (N)
SEPTIC TANK:	1500 Gallon (N)
PRESENT:	1 - 3' X 60' Leach Trench with 2' Extra Rock (N)
FUTURE:	100%
PERC RATE:	15 minutes/inch



CITY OF MALIBU  
ENVIRONMENTAL HEALTH  
**IN-CONCEPT APPROVAL**  
SIGNATURE: *L. Young*  
DATE: DEC 13 1996  
FINAL APPROVAL IS REQUIRED PRIOR TO THE ISSUANCE OF ANY CONSTRUCTION PERMITS.

**NOTES:**

1. This approval is for a new 5 bedroom single family dwelling. A new private sewage disposal system shall be installed, as shown.
2. This approval only relates to the minimum requirements of the City of Malibu Uniform Plumbing Code and does not include an evaluation of any geological, or other potential problems, which may require an alternative method of wastewater disposal.
3. This approval is valid for one year or until City of Malibu Uniform Plumbing Code and/or Administrative Policy changes render it noncomplying.

1" = 30'

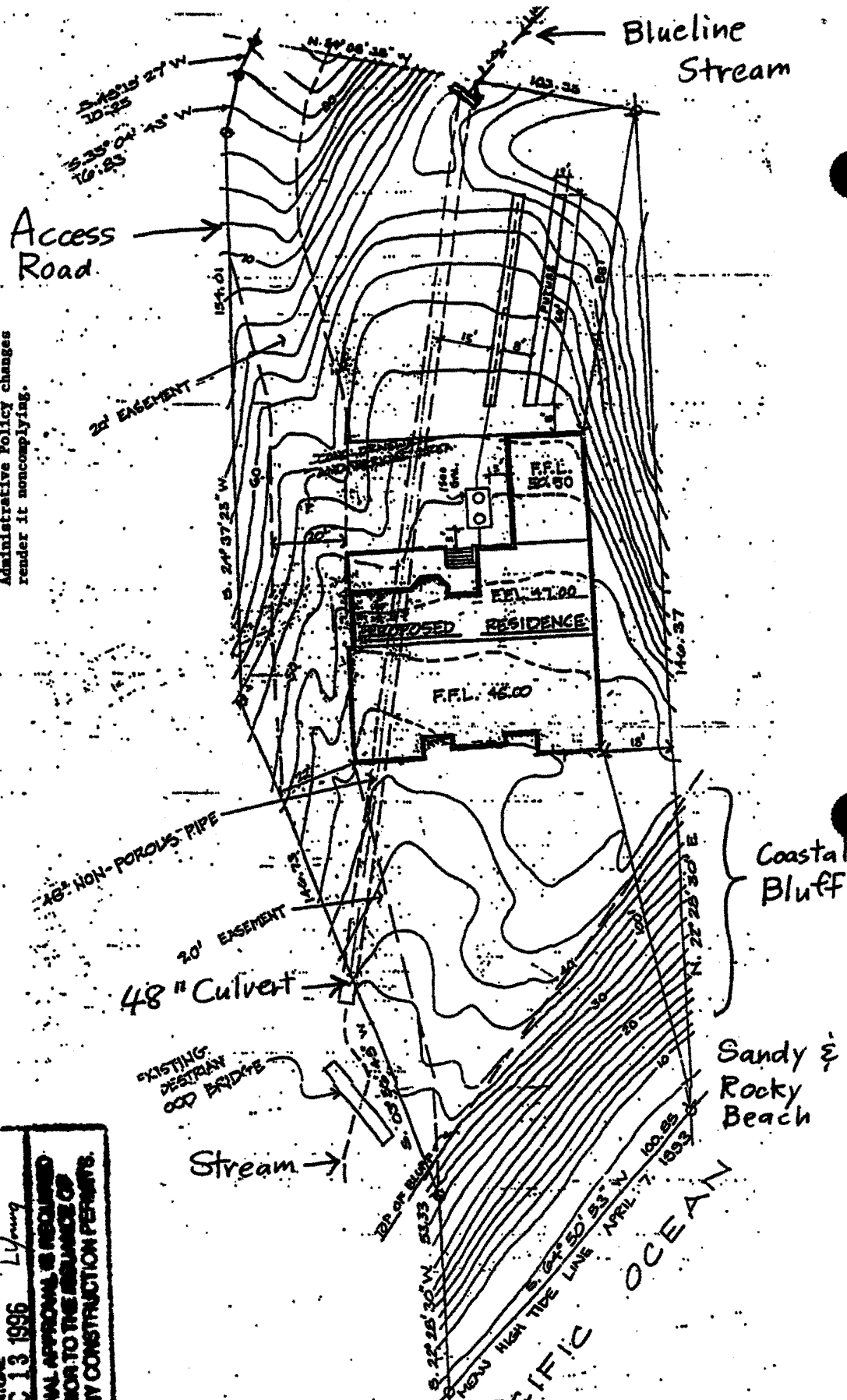
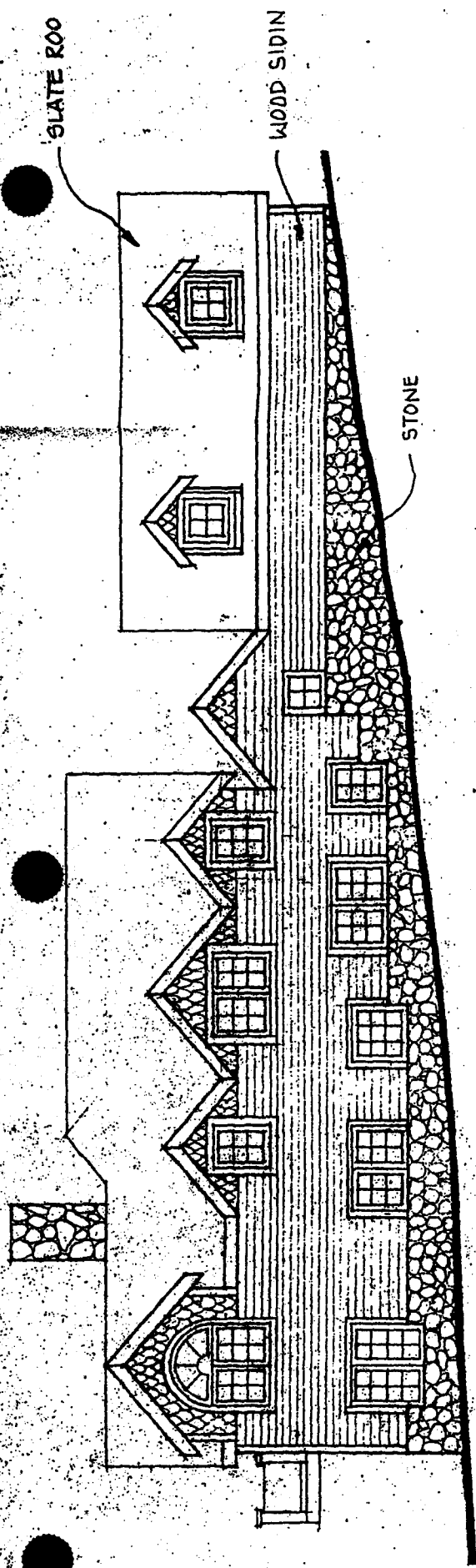


EXHIBIT NO. 3
APPLICATION NO.
4-97-037 Wayne
Site Plan





**EAST ELEVATION**

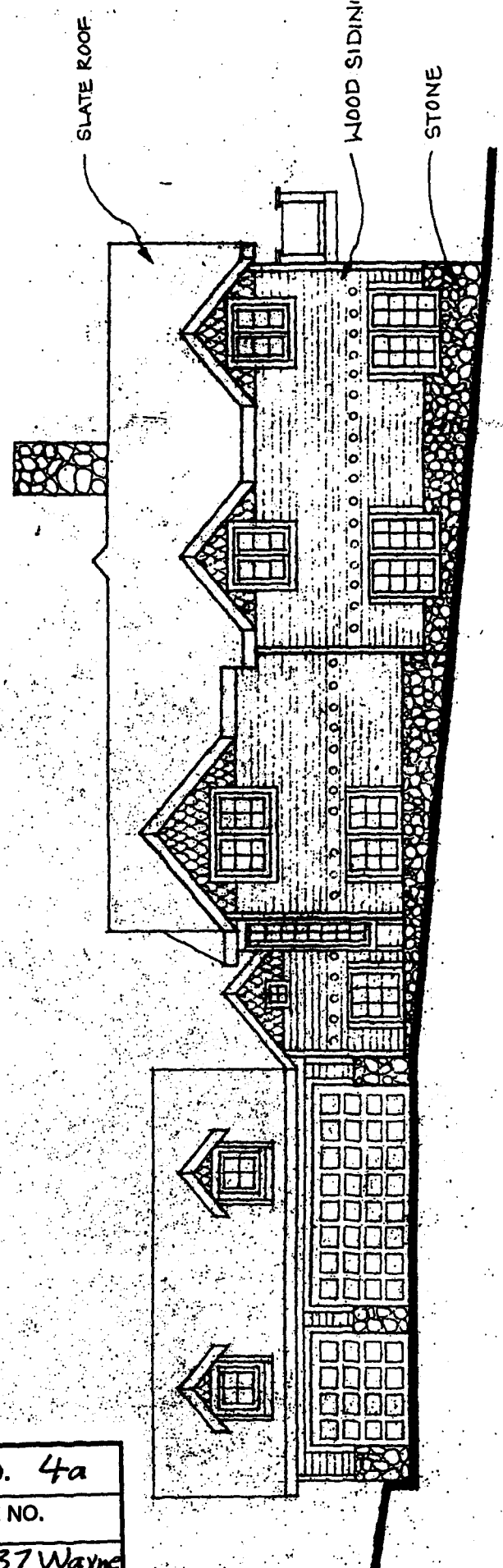
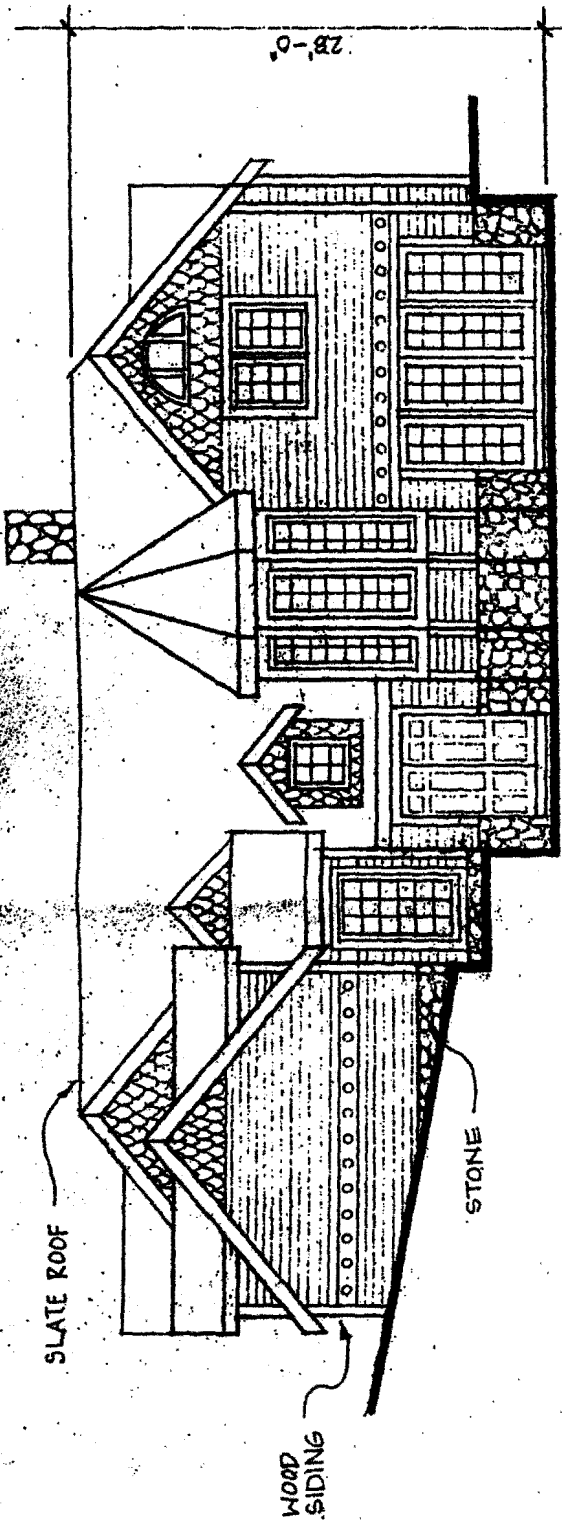


EXHIBIT NO. 4a
APPLICATION NO.
4-97-037 Wayne
Elevations



**NORTH ELEVATION**

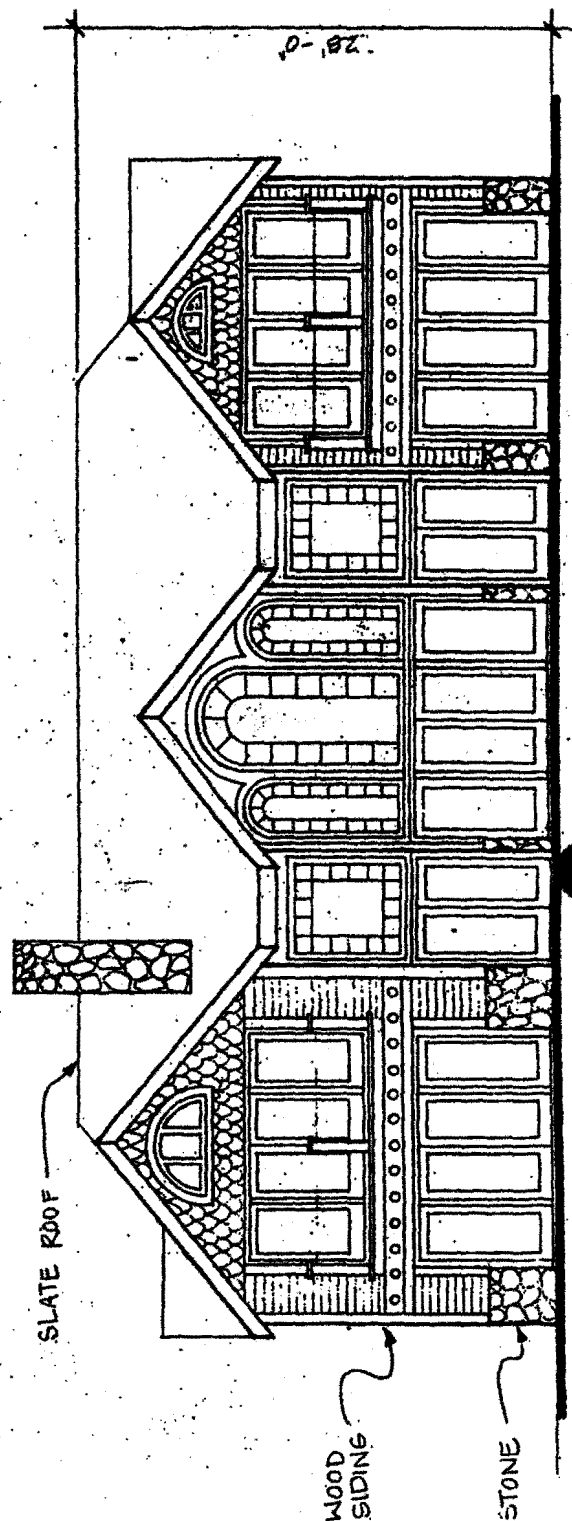


EXHIBIT NO. 4b
APPLICATION NO.
4-97-037 Wayne
Elevations