

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VANDERBILT, CA 93001
(818) 41-0142

Filed: 6/6/97
49th Day: 7/25/97
180th Day: 12/3/97
Staff: S. Hudson *ja*
Staff Report: 5/22/97
Hearing Date: July 8-11, 1997
Commission Action:



STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 4-97-095

APPLICANT: Michael and Barbara Waresch

AGENT: Robert Chersky

PROJECT LOCATION: 22576 Carbon Mesa Road, City of Malibu; Los Angeles County.

PROJECT DESCRIPTION: Construction of a new 5844 sq. ft., 25'-6" in height, 2-story, single family residence (SFR) with an attached two-car garage, pool, septic system, 507 cu. yds. of grading (467 cu. yds. cut and 40 cu. yds. fill) and 370 cu. yds. of grading for recompaction to replace a 3262 sq.ft. SFR with a detached garage destroyed by the 1993 Old Topanga Firestorm.

Lot area:	72,006 sq. ft.
Building coverage:	3,558 sq. ft.
Pavement coverage:	7,370 sq. ft.
Landscape coverage:	9,900 sq. ft.
Parking spaces:	2
Ht abv fin grade:	25'-6"

LOCAL APPROVALS RECEIVED: Approval in Concept City of Malibu Planning Department, Approval in Concept City of Malibu Environmental Health Department (Septic).

SUBSTANTIVE FILE DOCUMENTS: Limited Geologic and Soils Engineering Investigation by GeoConcepts, Inc., dated 9/19/96; Addendum Letter to Limited Geologic and Soils Engineering Investigation by GeoConcepts, Inc., dated 6/4/97; Coastal Development Permit 4-94-220.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed project with six (6) special conditions regarding plans conforming to landscape and erosion control plans, drainage plans, geologic recommendations, removal of excavated material, assumption of risk and wild fire waiver of liability.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

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

II. Standard Conditions.

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

III. Special Conditions.

1. Landscaping and Erosion Control Plan

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

(a) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes. To minimize the need for irrigation and to screen or soften the visual impact of development all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.

(b) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;

(c) Should grading take place during the rainy season (November 1 - March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location.

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 which avoids ponding on the pad area. 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

All recommendations contained in the Limited Geologic and Soils Engineering Investigation by GeoConcepts, Inc., dated 9/19/96; and the Addendum Letter to Limited Geologic and Soils

Engineering Investigation by GeoConcepts, Inc., dated 6/4/97 shall be incorporated into all final design and construction including foundations, grading and drainage. All plans must be reviewed and approved by the geologic consultant. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval by the Executive Director, evidence of the consultant's review and approval of all project plans.

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. Removal of Excavated Material

The applicant shall remove all excavated material from the site and shall provide evidence to the Executive Director of the location of the disposal site prior to the issuance of the permit. Should the dump site be located in the Coastal Zone, a coastal development permit shall be required.

5. Assumption of Risk

Prior to permit issuance, applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide that: (a) the applicant understands that the site may be subject to extraordinary hazard from landsliding and erosion, and the applicant assumes the liability from such hazards; and (b) the applicant unconditionally waives any claim of liability on the part of the California Coastal Commission and agrees to indemnify and hold harmless the California Coastal Commission, its officers, agents, and employees relative to the California Coastal Commission's approval of the project for any damage from such 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.

6. 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, operation, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wild fire exists as an inherent risk to life and property.

IV. Findings and Declarations.

The Commission hereby finds and declares as follows:

A. Project Description and Background

The applicant is proposing the construction of a new 5844 sq. ft., 25'-6" in height, 2-story, single family residence (SFR) with an attached two-car garage, pool, septic system, 507 cu. yds. of grading (467 cu. yds. cut and 40 cu. yds. fill) and 370 cu. yds. of grading for recompaction to replace a 3262 sq.ft. SFR with a detached garage destroyed by the 1993 Old Topanga Firestorm. Pursuant to Coastal Act Section 30610(g)(1) no Coastal Permit is required for the replacement of a structure destroyed by disaster, if the structure(s) does not exceed either floor area, height, or bulk of the destroyed structure by 10%. In this case the proposed structure, to replace the SFR exceeds the previous by 79%, and therefore a Coastal Permit is required.

The area is a built out section of Malibu consisting of numerous single family residences. The site is located along the northern side of Carbon Mesa Ridge. Slopes descend from the existing level building pad to a ravine located approximately 100 ft. below the pad with a general gradient of 1.5:1 (H:V). The ravine contains a tributary which drains to Carbon Canyon Creek. Three different types of landslides have been mapped on site. The proposed project will not be visible from Pacific Coast Highway or any other public areas and will not result in any impacts to visual resources.

The site has been the subject of past Commission action. On February 8, 1995, Coastal Development Permit 4-94-220 was approved for the construction of a new 4451 sq. ft., 24'-0" in height, 2-story, single family residence (SFR) to replace a SFR destroyed by the 1993 Old Topanga Firestorm. The construction approved under this permit was never carried out. The property has since changed ownership and Coastal Development Permit 4-94-220 expired on February 8, 1997.

B. Geologic Stability and Hazards

Section 30253 of the Coastal Act states that new development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The proposed development is located in the Santa Monica Mountains, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all vegetation, thereby contributing to an increased potential for erosion and landslide on the property.

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 as drafted in special condition six (6). Through the wavier 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.

The applicant proposes the construction of a new 5844 sq. ft., 25'-6" in height, 2-story, single family residence (SFR) with an attached two-car garage, pool, septic system, 507 cu. yds. of grading (467 cu. yds. cut and 40 cu. yds. fill) and 370 cu. yds. of grading for recompaction to replace a 3262 sq.ft. SFR with a detached garage destroyed by the 1993 Old Topanga Firestorm. The applicant has submitted a Limited Geologic and Soils Engineering Investigation dated 9/19/96 and an Addendum Letter to the Limited Geologic and Soils Engineering Investigation by GeoConcepts, Inc., dated 6/4/97.

The September 19, 1996, report states:

Landslides

Three types of landslides were mapped on the subject site. the larger landslide (Qls) is classified as a rotational slide, the moderate size landslide (Qls1) is classified as a slump failure and the smaller landslide is classified as a soil slip scar...Slope instability of landslide Qls is attributed to a combination of support loss at the slope toe along the canyon bottom, groundwater levels and tectonic activity of folding and faulting in the local area. Based on the subsurface evidence, and review of the photographs, the landslide appears to be prehistoric to recent.

Landslide Qls1, is depicted as a slump landslide moving in to the canyon which will not adversely affect the proposed dwelling.

The soil slope scar depicted on the geologic map may have been triggered by the adjacent sprinkler.

In addition, the June 4, 1997, Addendum Letter also states:

Landslide debris blankets the east portion of the property below the pad area. the landslide has been reported active as recently as 1980. Movement of the landslide is away from the building pad area...Stability analysis...indicates that the pad area is grossly stable (factor of safety in excess of 1.5) with no lateral support from the existing landslide.

The pad area is expected to maintain a factor of safety in excess of 1.5 in the future. Movement of the landslide east of the pad may continue in the future, but will not adversely affect the pad area provided that the recommendations provided in Reference 1 are followed.

The September 19, 1996, report concludes that:

Conclusions

Based on the results of this investigation and a thorough review of the proposed development, as discussed, the site is suitable for the intended use provided the following recommendations are incorporated in to the design and subsequent construction of the project.

Section 30610(g)(1) of the Coastal Act provides for the replacement of structures destroyed by a disaster without a coastal development permit.

Section 30610

Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas:

(g)(1) The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure.

Under the provisions of section 30610(g)(1) any residential structure destroyed by the Old Topanga Fire Storm is exempt from a coastal development permit requirements regardless of the existing geologic conditions so long as the replacement structure does not exceed the original by more than 10% either in the floor area, height, or bulk, and no new additional structures are added to the subject property. The applicant would therefore be entitled to develop a \pm 3588 sq. ft. home on the site without commission review or a coastal permit. However, as the applicant is proposing the construction of a larger house, a coastal development permit is required to ensure that the new proposed structure is consistent with all Chapter Three policies of the Coastal Act. For this particular site, the consulting geologist has concluded that with regard to potential geologic hazards, the proposed project will cause no significant change in the geological character of the site. Therefore, the Commission finds that approval of this permit application for the reconstruction of a larger residence on the site will not result in any additional geologic hazards than what previously existed.

Further, the consulting geotechnical consultant has included a number of geotechnical recommendations which will increase the stability and geotechnical safety of the site. To ensure the recommendations of the geotechnical consultant are incorporated into the project plans, the Commission finds that it is necessary to require the applicant, as required by special condition three (3), to submit project plans certified by the consulting geotechnical engineer as conforming to all recommendations.

Due to the potential hazardous geologic conditions on this site, and the proximity of the site to mapped landslides, the Commission can only approve the project if the applicant assumes the

liability from the associated risks as required by special condition five (5). This responsibility is carried out through the recordation of a deed restriction. The assumption of risk deed restriction, when recorded against the property, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site and which may adversely affect the stability or safety of the proposed development and agrees to assume any liability for the same.

It should be noted that an assumption of risk deed restriction for hazardous geologic conditions is commonly required for new development throughout the greater Malibu/Santa Monica Mountains region in areas where there exist potentially hazardous geologic conditions, or where previous geologic activity has occurred either directly upon or adjacent to the site in question. The Commission has required such deed restrictions for other development throughout the Malibu/Santa Monica Mountains region.

The Commission also finds that minimization of site erosion will add to the stability of the site. Erosion can best be minimized by requiring the applicant to landscape all disturbed areas of the site with native plants, compatible with the surrounding environment. Therefore special condition number one (1) is required to ensure that all proposed disturbed areas are stabilized and vegetated. In addition, the applicant's Limited Geologic and Soils Engineering Investigation by GeoConcepts, Inc., dated 9/19/96 states:

Positive pad drainage should be incorporated into the final plans. All drainage from the roof and pad should be directed so that water does not pond adjacent to the foundation or flow toward them. All drainage from the site should be collected and directed via non-erosive devices...Care should be taken not to saturate soils...

To ensure that adequate drainage is incorporated into the project plans, the Commission finds that it is necessary to require the applicant, as required by special condition two (2), to submit drainage plans certified by the consulting geotechnical engineer as conforming to their recommendations.

In addition, the amount of cut proposed by the applicant is substantially larger than the amount of fill to be placed. Excavated materials that are placed in stockpiles are subject to increased erosion. Staff also notes that additional landform alteration would result if the excavated material were to be retained on site. In order to ensure that excavated material will not be stockpiled on or off site, and that landform alteration be minimized, special condition four (4) requires the applicant to remove all excavated material from the site to an appropriate location and provide evidence to the Executive Director of the location of the disposal site prior to the issuance of the permit. Should the dump site be located in the Coastal Zone, a coastal development permit shall be required.

The Commission finds that based on the findings of the geologic and geotechnical reports, and as conditioned to incorporate the recommendations of the geologic consultants, the proposed project is consistent with Section 30253 of the Coastal Act.

C. Septic System

The Commission recognizes that the potential build-out of lots in the Santa Monica Mountains, 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 has submitted approval from the City of Malibu Environmental Health Department stating that the proposed septic system is in conformance with the minimum requirements of the City of Malibu Uniform Plumbing Code. The City of Malibu's minimum health code standards for septic systems have been found protective of coastal resources and take into consideration the percolation capacity of soils along the coastline, the depth to groundwater, etc. Therefore, the Commission finds that the proposed project is consistent with Section 30231 of the Coastal Act.

D. 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 of Malibu's ability to prepare a Local Coastal Program which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

E. CEQA

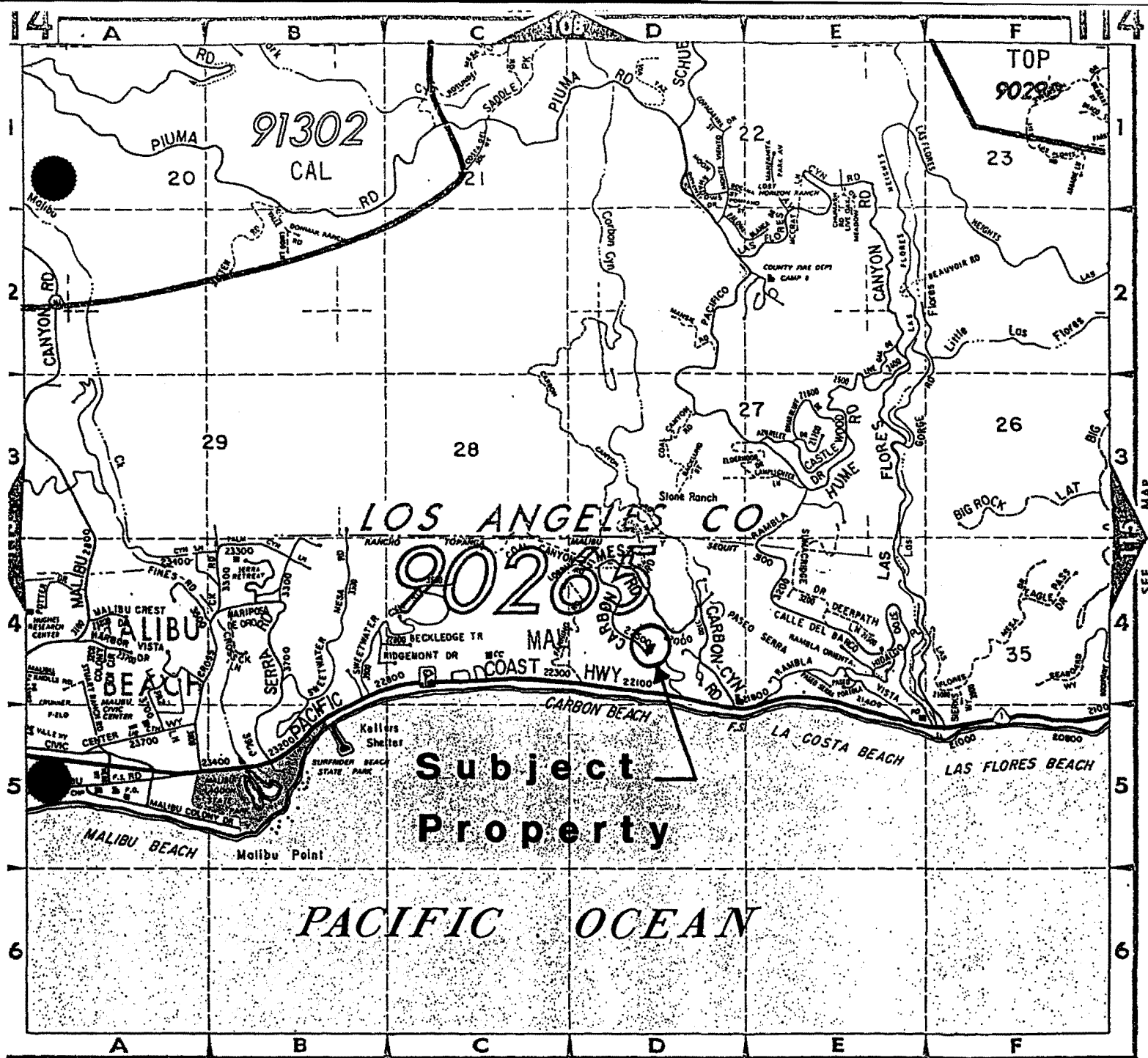
Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as

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.

The proposed project, as conditioned will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

SMH-VNT

File: SMH/4-97-095



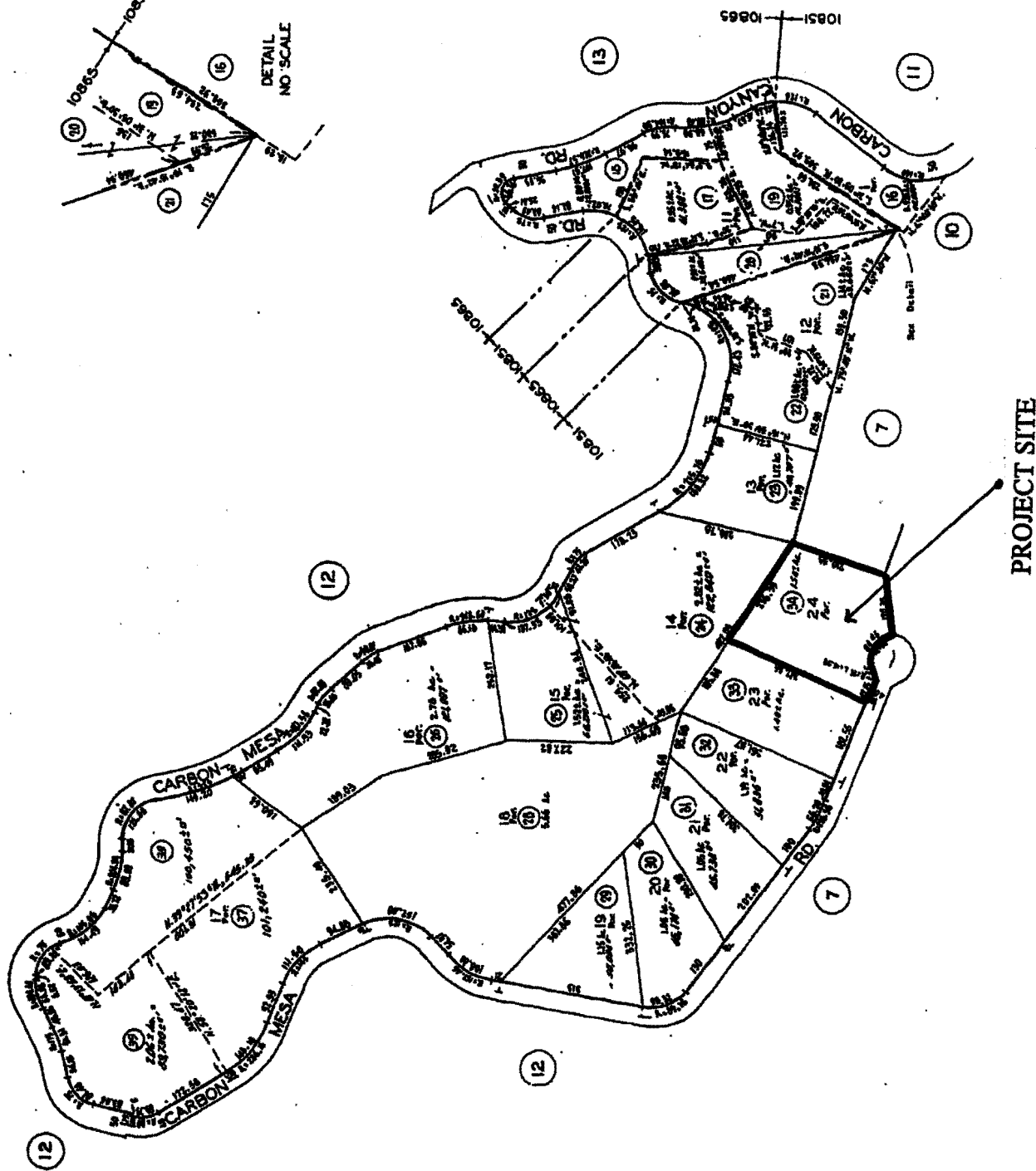
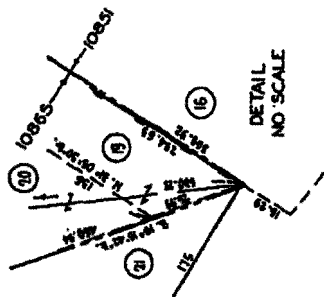
VICINITY MAP

Wares Residence

22576 Carbon Mesa Road

Exhibit No. 1: (4-97-095 Location Map)

4451 9
SCALE 1" = 200'



GRABINGS:

REMOVED CUTS.

RETAINING WALL CUT ALONG WEST FL. - 0 CUTS

BOULDER RATIO FILL CUT - 11 CUTS

EMMENTINE TANK CUT PERIMETER - 1 CUT

DRAINWAY CUT - 91 CUTS

TOTAL CUT - 102 CUTS

REMOVED FILL - 0 CUTS

CONCRETE - RET. WALL BACKFILL - 0 CUTS

BOULDER RATIO FILL SHAPE - 40 CUTS

TOTAL FILL - 40 CUTS

REMOVING RECONSTRUCT THE FOLLOWING:

COURTSEY - 0 CUTS

BOULDER RATIO AREA - 310 CUTS

DRIVEWAY - 0 CUTS

TOTAL - 310 CUTS

TOTAL GRABINGS: CUT - 402 CUTS

FILL - 40 CUTS

44% - 310 CUTS

5% - 40 CUTS

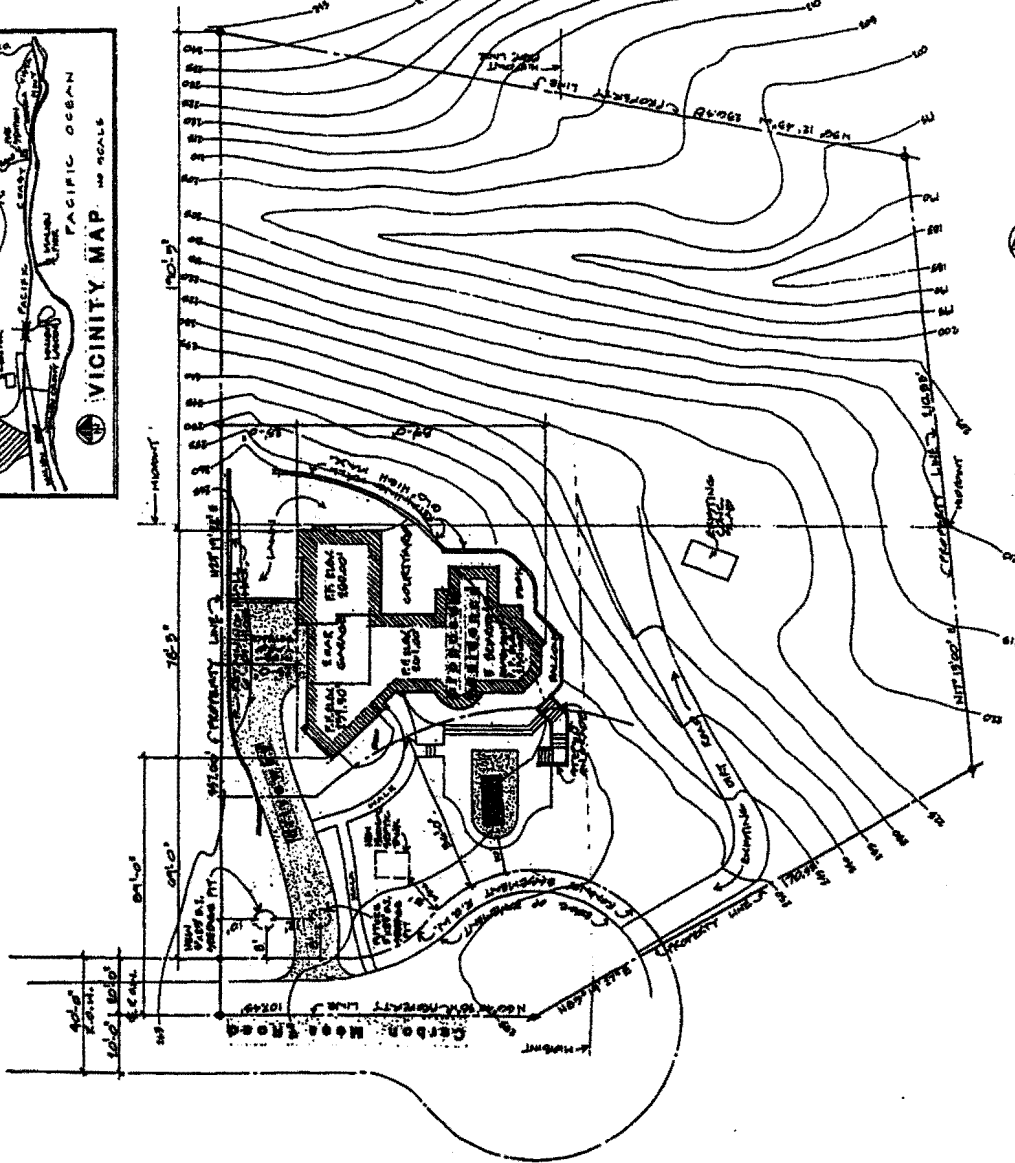


Exhibit No. 3: (4-97-095) Site Plan

22578 CARBON MESA ROAD, MALIBU, CA. 90265
FOR BARBARA & MICHAEL WARESH

2428 BIVERTY AVE., SANTA MONICA, CA. 90403
TEL. (310) 392-9115

CAHILL & LEESE ARCHITECTS
A RESIDENCE

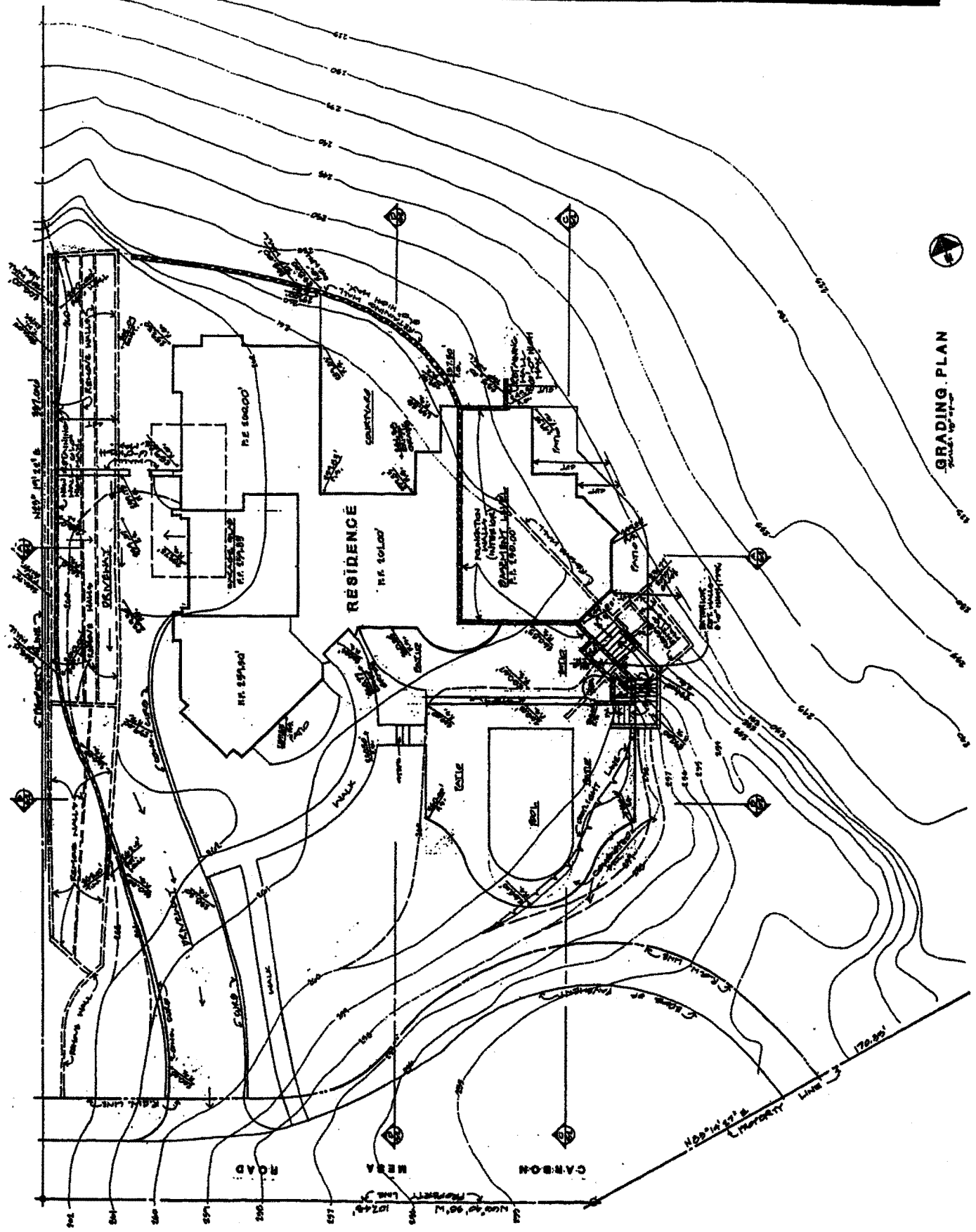
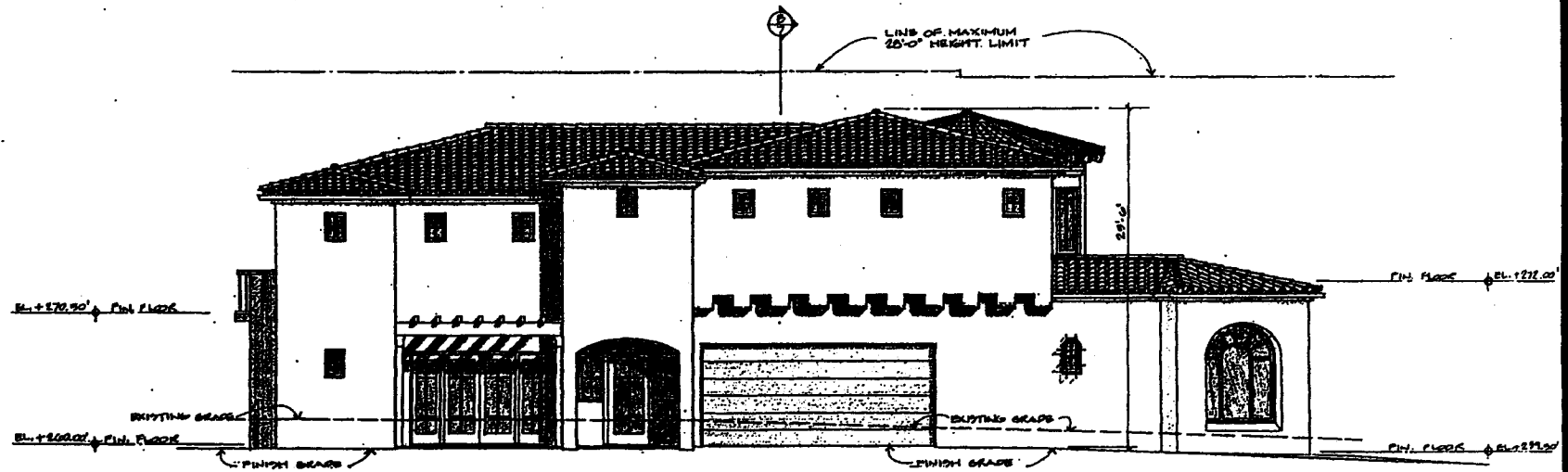
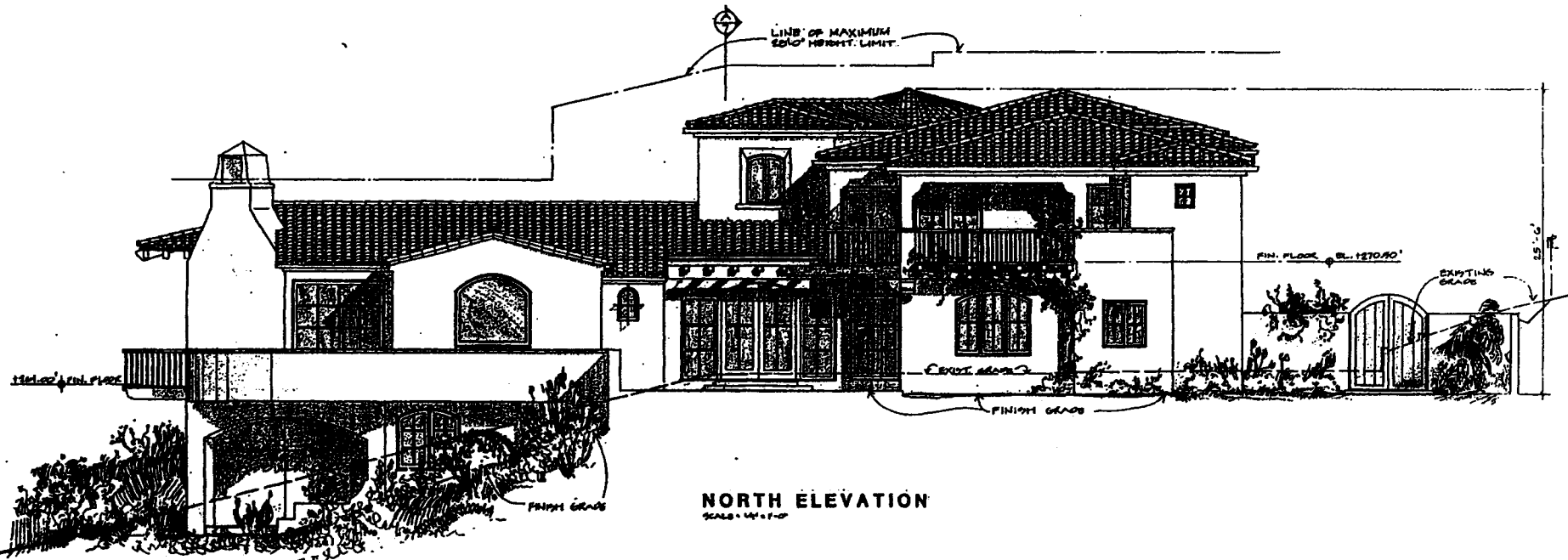


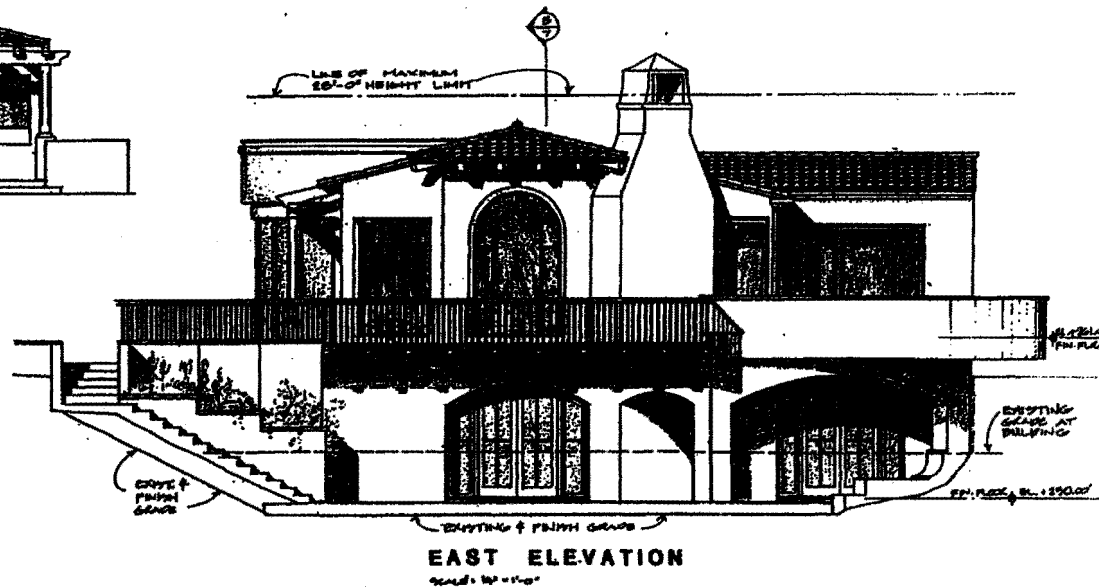
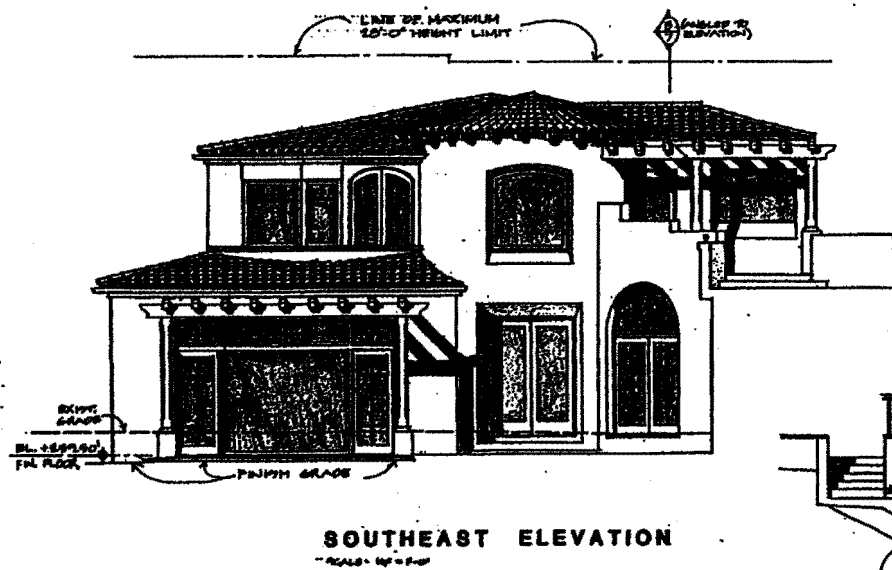
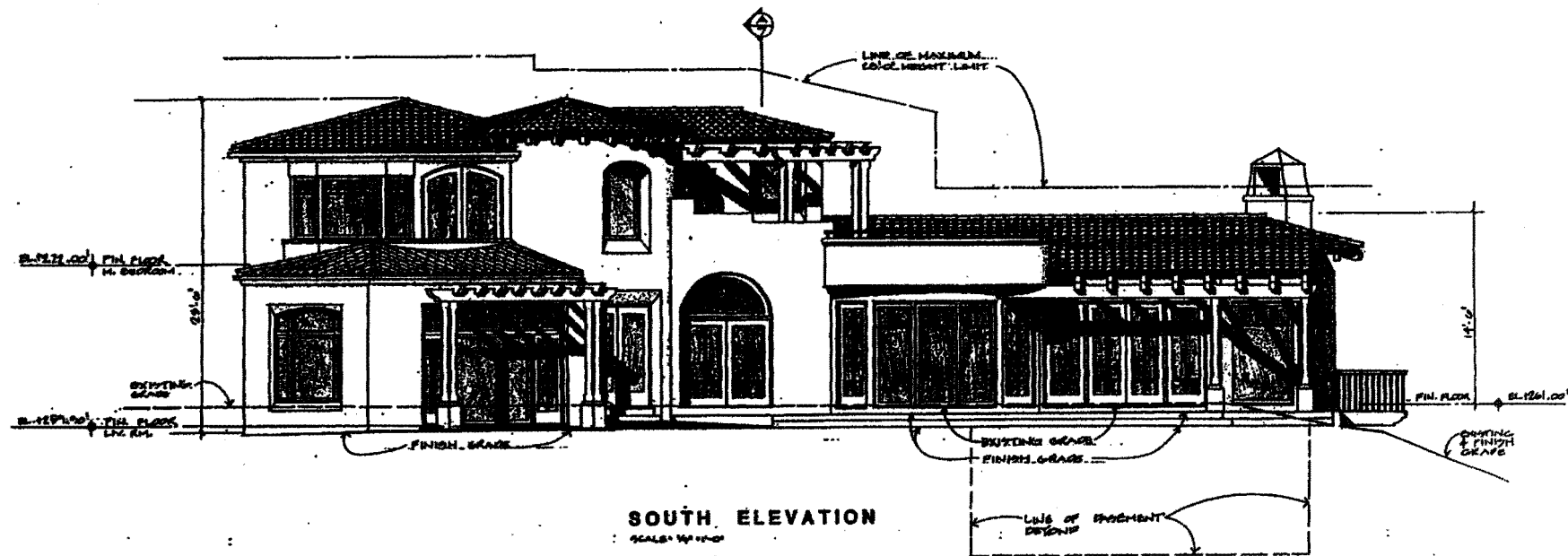
Exhibit No. 4: (4-97-095) Grading Plan for Proposed Project



WEST ELEVATION
SCALE: 1/4" = 1'-0"



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



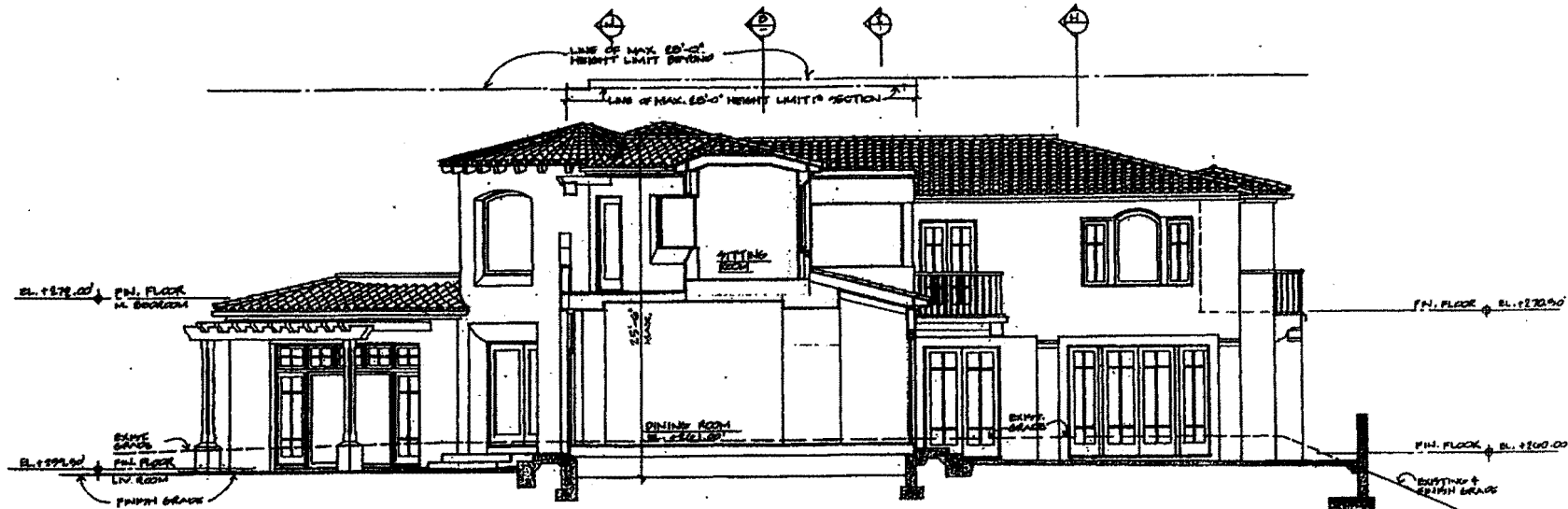
CAHILL & LEESE ARCHITECTS
 2428 BEVERLY AVE., SANTA MONICA, CA 90405
 TEL: 310-310-0011

A RESIDENCE
 FOR BARBARA & MICHAEL WARESH
 22576 CARBON MESA DRIVE, MALIBU, CA. 90265.

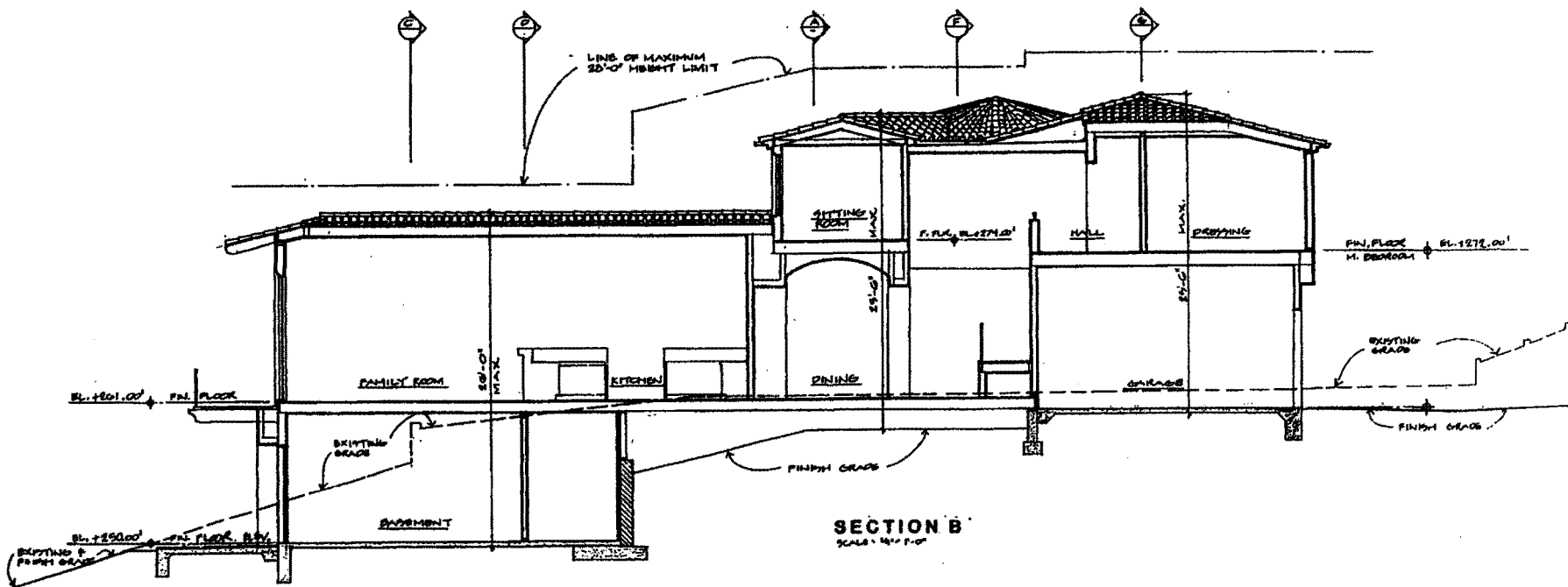
2 MAY '97
 16'-0"

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Exhibit No. 6: (4-97-095) East/South Elevations for Proposed Project



SECTION A
SCALE: 1/4" = 1'-0"



SECTION B
SCALE: 1/4" = 1'-0"