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CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA

SOUTH CALIFORNIA ST., SUITE 200

TURA, CA 93001

(805) 641-0142



Filed: 5/15/97
49th Day: 7/16/97
180th Day: 11/24/97
Staff: Betz-V
Staff Report: 6/18/97
Hearing Date: 7/8-11/97

STAFF REPORT: CONSENT CALENDAR

APPLICATIONS NO.: 4-97-106

APPLICANT: David Lambert & Patti Tolliver AGENTS: Ed Niles & Lisa Niles McCarthy

PROJECT LOCATION: 28918 Verde Mesa Lane, City of Malibu, Los Angeles County.

DESCRIPTION: Construct 1606 sq. ft., two story, 24 ft. high single family residence, with garage and septic system. 249 cu. yds. of grading (189 cu. yds. cut and 60 cu. yds. fill).

Lot Area	1 acre
Building Coverage	1296 sq. ft.
Pavement Coverage	2918 sq. ft.
Landscape Coverage	3000 sq. ft.
Parking Spaces	2 covered, 2 open
Project Density	1 du/ac
Ht abv fin grade	24 ft.

LOCAL APPROVALS RECEIVED: City of Malibu: Planning Department Approval in Concept, dated 2/11/97; Environmental Health, In-concept Approval, dated 3/31/97.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan; Harrington Geotechnical Engineering, Inc.: Geotechnical Investigation Report, November 22, 1996; Partial Response to Geology & Geotechnical Review Sheet, March 5, 1997. Coastal Development Permits 5-86-106 (Idler), 5-90-769 (Ming Fang), and 4-96-147 and -148 (Sobel).

SUMMARY OF STAFF RECOMMENDATION: The project site is within a previously approved subdivision with existing graded building pads and street improvements and storm drains. The subdivision was approved in 1990 under coastal development permit 5-90-769 (Ming Fang) for creation of seven lots, construction of residences, and related improvements subject to special conditions regarding geology, future improvements, and grading and landscaping plans. Staff recommends approval of the proposed project with two (2) Special Conditions addressing conformance to the consultant's geotechnical recommendations and wild fire waiver of liability.

I. STAFF RECOMMENDATION

Approval with Conditions

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

II. Standard Conditions

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

III. Special Conditions

1. Plans Conforming to Geologic Recommendation

Prior to the issuance of the permit the applicant shall submit, for the review and approval by the Executive Director, evidence of the geology consultant's review and approval of all project plans. All recommendations contained in

the Harrington Geotechnical Engineering, Inc.: Geotechnical Investigation Report, November 22, 1996 and Partial Response to Geology & Geotechnical Review Sheet, March 5, 1997 including issues related to foundations, drainage, and grading, shall be incorporated in the final project plans. All plans must be reviewed and approved by the geologic consultants.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultant shall require an amendment to the permit or a new coastal permit.

2. 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.

IV. Findings and Declarations.

A. Project Background, Location and Description

The project site is a one acre lot in an area of ridges and natural swales on the side of a secondary ridge located inland of Pacific Coast Highway and west of Kanan Dume Road. (Exhibit 1). The applicant proposes to construct a 1606 sq. ft., two story, 24 ft. high single family residence, garage, septic system, with 249 cu. yds. of grading (189 cu. yds. cut and 60 cu. yds. fill). (Exhibits 2 and 3) A discernable pad does not exist on the site, although the residence is proposed in a previously disturbed area. This disturbed area is in the approximate location of the residence proposed under the earlier permit [5-90-769 (Ming Fang)]. The site appears to have been previously disced and contains ruderal vegetation, primarily grasses.

The proposed building site is located below street level on the northern slope of a swale which enters a second swale, which in turn drains into the blue line stream and stream habitat area. The unnamed blueline stream drains into Walnut Canyon which drains into the ocean between Paradise Cove and Dume Cove.

The proposed project is located on lot 7 of an earlier subdivision on a cul-de-sac connected only to Cavalleri Road. Cavalleri Road is a subdivision with a private street. There are gates at each end (north and south), the southernmost which was locked at the time of the staff site visit.

The subdivision [5-90-769 (Ming Fang)] is improved with graded pads, streets, and storm sewers. The underlying subdivision, coastal development permit 5-90-769 (Ming Fang), was approved in 1990 for creation of seven single family residences on seven lots with septic systems, utilities, access road, storm drains and 16,060 cu. yds. of grading. The permit was issued and improvements have been completed, except for construction of the residences. The permit

was subject to special conditions regarding geology, future improvements, and a grading and landscaping plan.

The findings indicated that the principal issues for the project related to other lots in the proposed subdivision, not the lot 7 subject to the present application. There was concern that portions of lots 2 and 3 had unsuitable fill and that protective measures were needed because a blueline stream crossed parcels 3, 4, and 5. (Exhibit 4) These parcels are on the opposite side of the subdivision. A 50 foot buffer had been required to protect the stream, as measured from the edge of the bank, in an earlier permit for the same location [5-82-106 (Idler)]. To ensure stream protection the Ming Fang permit required a deed restriction so that the Commission could review all further development.

The proposed residence differs from that previously proposed on lot 7 in that the previous residence was 6,259 sq. ft. in size and 35 ft. high from existing grade, while the proposed residence is approximately one-fourth the size at 1606 sq. ft. and is 24 ft. above finished grade.

The proposed development and density is consistent with the certified Land Use Plan for the Malibu/Santa Monica Mountains area which is used as guidance only in the City of Malibu.

B. 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 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 building site is situated at approximately the 320 ft. elevation. The location below street level, intervening topography, and existing and approved construction of new residences in the project area block views of the site from the nearby Coastal Slope Trail route, which traverses east to west north of the site along Cavalleri Road. The project site visibility from Kanan Dume Road, a LUP designated scenic highway east of and above the site, is limited. Kanan Dume Road travels along a ridge line, in the vicinity of Galahad Drive. Because the ridge is wide, and there is intervening above ground improvements and vegetation, any view of the proposed residence would be incidental. Further, the proposed residence is on the side of a minor ridge and will blend and merge with existing residences already developed or approved for development in the area.

While the use of earth tones for buildings and roofs minimizes the visual impact of structures to blend in with the natural setting, this has not been an issue in coastal permits for similar development in the project area, such as the underlying subdivision [5-90-769 (Ming Fang)].

For these reasons, the Commission finds no restriction is necessary on the proposed residence to avoid impacts on surrounding views. The project as proposed is consistent with PRC Section 30251.

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

The Commission reviews the proposed project's risks to life and property in areas where there are geologic, flood and fire hazards. The proposed development, and review at the local level, raise no new issues relative to major geologic or flood hazards compared to the underlying subdivision. The Harrington Geotechnical Engineering, Inc., Geotechnical Investigation Report, November 22, 1996, found that:

...Based upon the findings and results of the investigation, construction of the project as presently proposed is considered feasible from a geotechnical viewpoint provided that the recommendations presented herein for design and construction are implemented.

Further, relative to the septic system, the consultants found in subject report that:

[the] on-site sewage disposal system located in the area and designed and constructed in accordance with applicable codes will not, in our opinion, adversely affect the stability of the site and/or the adjacent properties, not will effluent surface on the slope down gradient of the seepage pits.

The proposed grading is incidental to placement of the residence, involving such measures as compacting topsoil, scraping off the area for the driveway surface, and installation of footings.

The Commission finds that minimization of site erosion has been adequately addressed by the grading, drainage, and landscape plans previously reviewed and implemented for the underlying land division. Therefore, the Commission finds that it is not necessary to require the applicant to submit further landscaping or erosion control plans.

The Commission finds it necessary to require through Special Condition number one (1) that the applicant submit project plans that have been certified in writing by the consulting geology consultant as conforming to their recommendations, for the final project design, grading and drainage plans for the residence.

Based on the above findings and recommendations of the consulting geologist, the Commission finds that the development is consistent with PRC Section 30253 relative to geologic hazards.

Additionally, because the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission will only approve the project if the applicant assumes liability from the associated risks. Through the waiver of liability, the applicant acknowledges and appreciates the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development, as incorporated by condition number two (2). The Commission finds that only as conditioned to incorporate wild fire waiver of liability will the proposed project be consistent with Section 30253 of the Coastal Act.

D. Septic System

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 septic system includes septic tanks with seepage pits. A percolation test was performed on the subject site dated 10/29/96 and included in the Harrington Geotechnical Engineering, Inc., Geotechnical Investigation Report, November 22, 1996. The test indicated the site can accommodate the proposed septic system in compliance with uniform plumbing code requirements. The Commission has found in past permit actions that compliance with the uniform plumbing code will minimize the potential for waste water discharge which could adversely impact coastal streams and waters. Therefore, based on the above information, the Commission finds that the proposed project is consistent with Section 30231 of the Coastal Act.

E. Local Coastal Program

Section 30604 of the Coastal Act states that:

(a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice the ability of the local government to

prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200).

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project, as conditioned, will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As conditioned, the proposed development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the City of Malibu's ability to prepare a Local Coastal Program for this area of Malibu that is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

F. California Environmental Quality Act

The Coastal Commission's permit process has been designated as the functional equivalent of CEQA. Section 13096(a) of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of CEQA. Section 21080.5 (d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse impacts that the activity may have on the environment.

As discussed above, the proposed project has been mitigated to incorporate plans subject to the consulting geologist's recommendations and a wild fire waiver of liability. The proposed development, as conditioned, will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is consistent with the requirements of CEQA and the policies of the Coastal Act.

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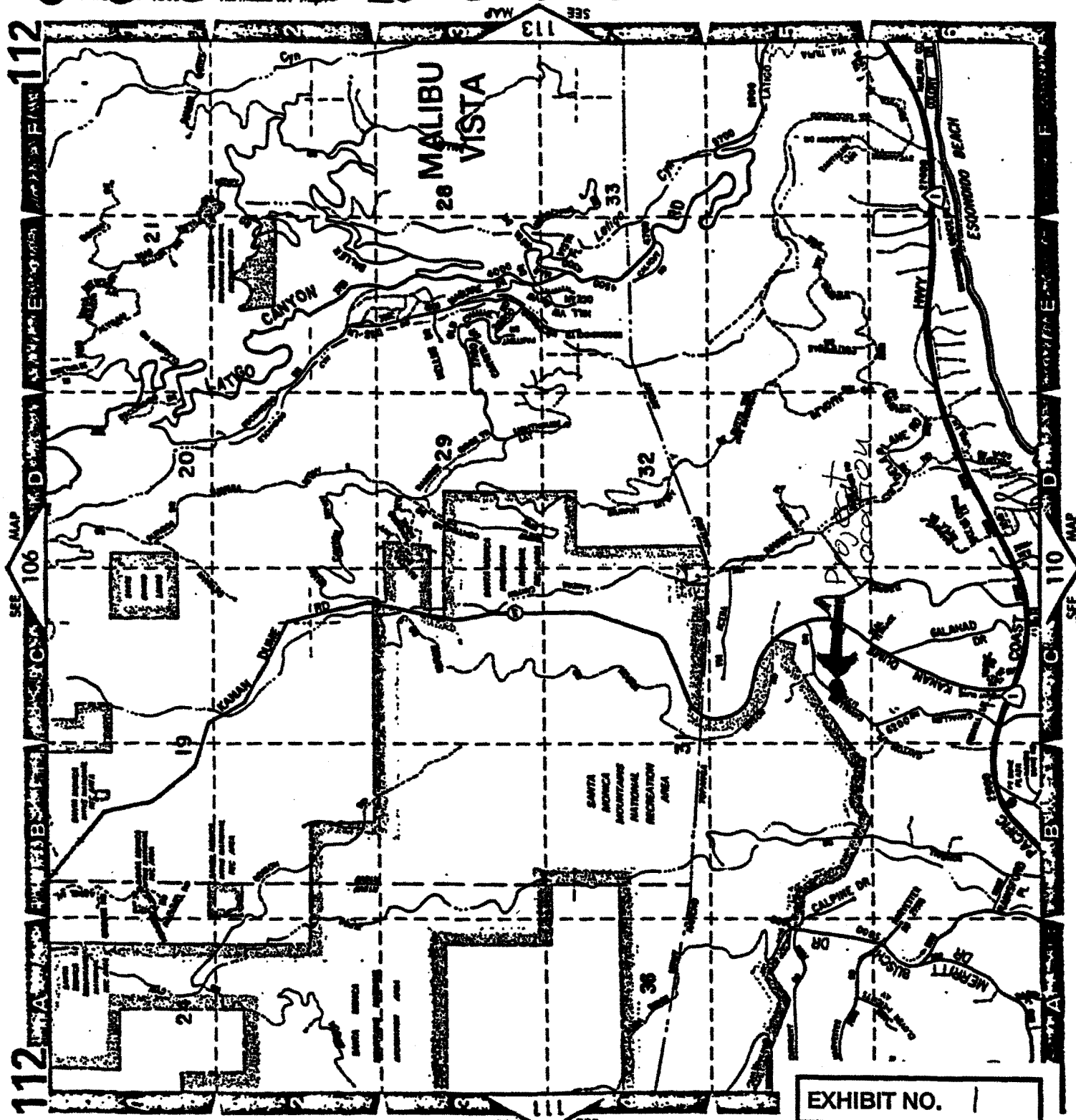
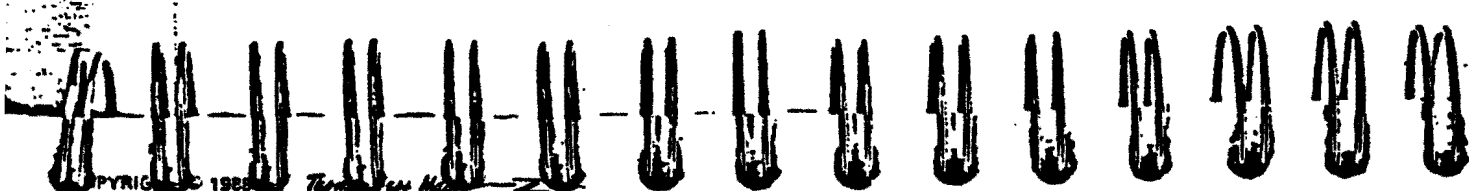
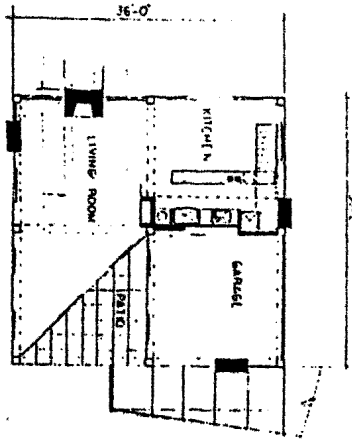
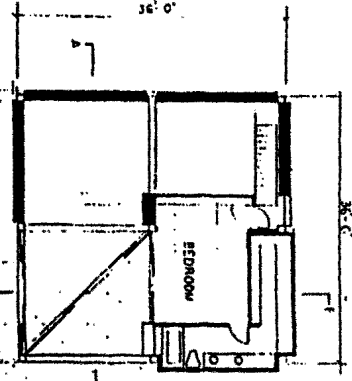


EXHIBIT NO.	1
APPLICATION NO.	4-97-106 Lambert Tolliver
Project Location	

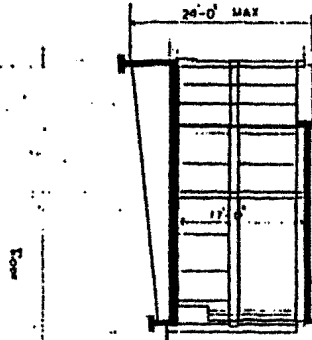
FIRST FLOOR PLAN
1164 SQ. FT.



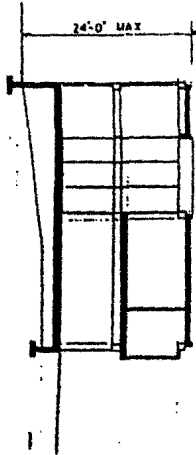
SECOND FLOOR PLAN
425 SQ. FT.



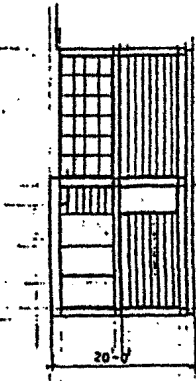
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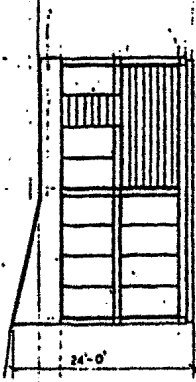
SECTION (B)



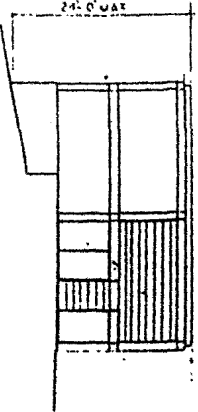
NORTH ELEVATION



SOUTH ELEVATION



EAST ELEVATION



WEST ELEVATION

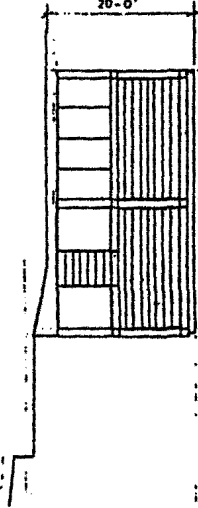
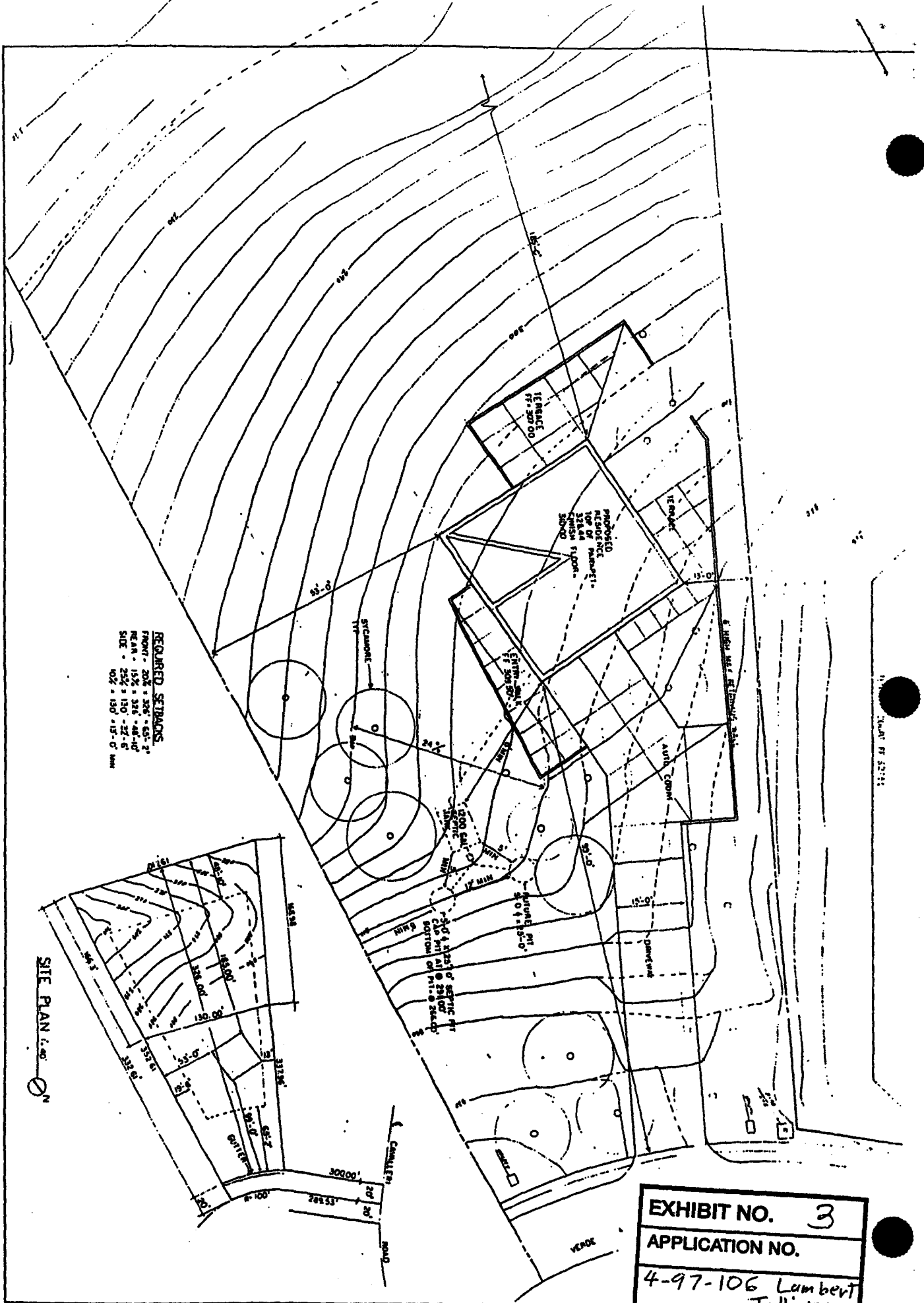


EXHIBIT NO.	2
APPLICATION NO.	
4-97-106 Lambert Tolliver	
Building floor plan and elevations	

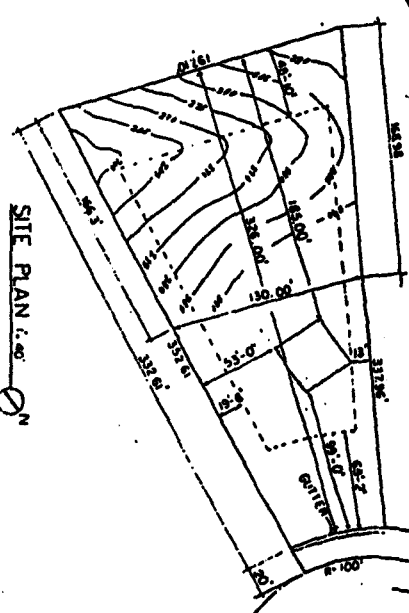
LAMBERT, TOLLIVER RESIDENCE

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NEW Application FOR 1606 S.R. House
 Carriage 324 House = 1282
 24'0" 4'12"



REQUIRED SETBACKS:
 FRONT - 20' ± 20' ± 65'-2"
 REAR - 15' ± 30' ± 44'-0"
 SIDE - 20' ± 130' ± 27'-0"
 10' ± 130' ± 15'-0" (min)



SITE PLAN 1:50' 0"

EXHIBIT NO. 3
APPLICATION NO.
4-97-106 Lambert Tolliver
Site Plan

