

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
SOUTH CALIFORNIA ST., SUITE 200
SANTA ANA, CA 92701
(805) 641-0142

Filed: 5/13/97
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Staff: S. Hudson
Staff Report: 5/20/97
Hearing Date: July 8-11, 1997
Commission Action:



STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-97-084

APPLICANT: Maria Andrade Trust

AGENTS: Cary Gepner
Terry Valente

PROJECT LOCATION: 32433 Pacific Coast Highway, City of Malibu; Los Angeles County

PROJECT DESCRIPTION: Construction of a 22 ft. high, 854 sq. ft. gym and 572 sq. ft. guest unit above gym, 4 ft. high slough wall and septic system.

Lot area:	5.21 acres
Building coverage:	9,726 sq. ft.
Pavement coverage:	40,156 sq. ft.
Landscape coverage:	137,028 sq. ft.
Parking spaces:	5
Ht abv ext grade:	22 ft.

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

SUBSTANTIVE FILE DOCUMENTS: Archaeological Reconnaissance Report dated 4/1/97 by Chester King, Supplemental Soils and Engineering-Geologic Report dated 2/12/97 by California Geosystems, Soils and Engineering Geologic Investigation Report dated 11/11/88 by California Geosystems; Coastal Development Permits 5-88-511 and 5-89-497.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval of the proposed project with the following conditions:

1. The project shall be developed in accordance with the approved site plan and the approved engineering and geologic reports.

2. The project shall be developed in accordance with the approved site plan and the approved engineering and geologic reports.

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. Archaeological Resources

By acceptance of this permit the applicant agrees to have a qualified archaeologist(s) and appropriate Native American consultant(s) present on-site during all grading, excavation and site preparation that involve earth moving operations. The number of monitors shall be adequate to observe the earth moving activities of each piece of active earth moving equipment. Specifically, the earth moving operations on the project site shall be controlled and monitored by the archaeologist(s) with the purpose of locating, recording and collecting any archaeological materials. In the event that any significant archaeological resources are discovered during operations, grading work in this area shall be halted and an appropriate data recovery strategy be developed, subject to review and approval of the Executive Director, by the applicant's archaeologist, the City of Malibu archaeologist and the native American consistent with CEQA guidelines. Additionally, the applicant shall implement all recommendations contained in the archaeological report dated 4/1/97 by Chester King.

2. 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 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 disturbed areas shall be stabilized with planting at the completion of final construction. 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 construction 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 construction 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.

3. Plans Conforming to Geologic Recommendation

All recommendations contained in the Supplemental Soils and Engineering-Geologic Report dated 2/12/97 by California Geosystems., shall be incorporated into all final design and construction including foundations, grading and drainage. All plans must be reviewed and approved by the 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 consultants' shall require an amendment to the permit or a new coastal permit.

4. Future Improvements

Prior to the issuance of a coastal development permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, stating that the downstairs portion of the structure (designated as gymnasium) shall remain non-habitable space with no interior access between the first and second levels of the structure and that any future structures, additions or improvements related to the guest house/gym or second unit, approved under coastal development permit number 4-97-084, will require a permit from the Coastal Commission or its successor agency. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest conveyed.

5. 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.

The Commission hereby finds and declares:

A. Project Description and Background

The applicant proposes to construct a 22 ft. high, 854 sq. ft. gym and 572 sq. ft. guest unit above gym, 4 ft. high slough wall and septic system. The subject site is a 5.21 acre lot located on the

landward side of Pacific Coast Highway. Past Commission action on this site has included Coastal Development Permit 5-88-497 which was issued for the construction of a 35 ft. high, 9450 sq. ft. single family residence with 4400 cu. yds. of grading. The proposed gym/guesthouse is to be located on a previously graded terrace approximately 220 ft. north of the existing residence. Portions of the proposed building site are covered with asphalt that remains from an abandoned driveway. The building pad was graded prior to construction of the existing single family residence resulting in an ascending 2:1 (H/V) gradient cut slope to the north and a 2.5:1 (H/V) gradient fill slope to the south. 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.

This application was previously presented to the Commission at the hearing of June 12, 1997, as a Consent Calendar item. At the Commission's request, this item has been rescheduled to be heard as a Regular Calendar Item.

B. Archaeological Resources

PRC Section 30244 of the Coastal Act states that:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Archaeological resources are significant to an understanding of cultural, environmental, biological, and geological history. The proposed development is located in a region of the Santa Monica Mountains which contains one of the most significant concentrations of archaeological sites in southern California. The coastal act requires the protection of such resources to reduce the potential adverse impacts through the use of reasonable mitigation measures.

Degradation of archaeological resources can occur if a project is not properly monitored and managed during earth moving activities and construction. Site preparation can disturb and/or obliterate archaeological materials to such an extent that the information that could have been derived would be permanently lost. In the past, numerous archaeological sites have been destroyed or damaged as a result of development. As a result, the remaining sites, even though often less rich in materials, have become increasingly valuable as a resource. Further, because archaeological sites, if studied collectively, may provide information on subsistence and settlement patterns, the loss of individual sites can reduce the scientific value of the sites which remain intact.

The applicant is proposing the construction of a 22 ft. high, 854 sq. ft. gym and 572 sq. ft. guest unit above gym, 4 ft. high slough wall and septic system. Although little or no grading is proposed, excavation for grade beams, septic tank, sewer line and utility trenches will be necessary for construction. Archaeological site CA-LAN-217 was recorded on May 13, 1967 as existing on the subject site. Artifacts that were found included mano fragments, core tools, flake scrapers and a piece of shell on the surface of the site. Much of these resources were graded away when the residence and driveway were constructed in 1988-89. However, the applicant's Supplemental Soils and Engineering-Geologic Report dated 2/12/97 by California Geosystems and Soils and

Engineering Geologic Investigation Report dated 11/11/88 by California Geosystems indicates that intact soil is present under fill in the area of the proposed guesthouse/gym. Soil borings within the project area have not indicated the presence of artifacts; however, an area of shell midden has been identified approximately 50 ft. to the east of the proposed structure. The applicant's Archaeological Reconnaissance Report dated 4/1/97 by Chester King states:

It is possible that the midden extends into the project area...The northern edge of the midden observed east of the proposed structure is bounded by bedrock that was exposed when grading was conducted for the existing residence...The midden soil probably extends under fill to the west and south where the grading plan indicates the presence of fill. The boundaries of the shell midden have not been determined...The project has potential to disturb buried archaeological remains.

The consulting archaeologist has advised that a Phase 2 archaeological evaluation is not necessary provided that a monitoring program is carried out during construction. To ensure that this recommendation is carried out, and that impacts to archaeological resources are minimized, special condition one (1) requires that the applicant have a qualified archaeologist(s) and appropriate Native American consultant(s) present on-site during all grading, excavation and site preparation in order to monitor all earth moving operations. In addition, if any significant archaeological resources are discovered during construction, work shall be stopped and an appropriate data recovery strategy (including, but not limited to, a Phase 2 archaeological evaluation) shall be developed by the City of Malibu archaeologist and the Native American consultant consistent with California Environmental Quality Act (CEQA) guidelines. The Commission further finds that it is necessary to require the applicant to implement all other recommendations contained in the Archaeological Reconnaissance Report dated 4/1/97 by Chester King.

Thus, the Commission finds that based on the findings of the archaeological report and other available evidence, the proposed development, as conditioned to monitor the site during earth moving activities and to incorporate the recommendations of the archeological consultant to mitigate any adverse impacts on archaeological resources, is consistent with Section 30244 of the Coastal Act.

C. Geology 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, 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 existing vegetation, thereby contributing to an increased potential for erosion and landslides on 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 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 five (5).

The applicant is proposing the construction of a 22 ft. high, 854 sq. ft. gym and 572 sq. ft. guest unit above gym, 4 ft. high slough wall and septic system. The applicant's geologic and engineering consultant has determined that the proposed project site is suitable from a soils and engineering standpoint for construction of the proposed project. The applicant's Supplemental Soils and Engineering-Geologic Report dated 2/12/97 by California Geosystems, states that:

Based on the findings of our investigation, the site is considered feasible from a soils and engineering geologic standpoint for construction of the proposed accessory building, providing the recommendations included herein are followed and integrated into the building or grading plans.

Further, the geologic and engineering consultant has included a number of geotechnical recommendations which will increase the stability and geotechnical safety of the site. To ensure that 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 their recommendations.

The Commission also finds that the minimization of site erosion will add to the stability of the site in regards to the proposed increase in grading. 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 two (2) is required to ensure that all proposed disturbed areas are stabilized and vegetated.

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

D. Second Residential Unit

Sections 30250 and 30252 of the Coastal Act address the cumulative impacts of new developments. Section 30250 (a) of the Coastal Act states:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses,

outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

New development raises coastal issues related to cumulative impacts on coastal resources. The construction of a second unit on the site where a primary residence exists intensifies the use of a parcel raising potential impacts on public services, such as water, sewage, electricity and roads. New development also raises issues regarding the location and amount of new development maintaining and enhancing public access to the coast.

Based on these policies, the Commission has limited the development of second dwelling units (the guest house) on residential parcels in the Malibu and Santa Monica Mountain areas. In addition, the issue of second units on lots with primary residences has been the subject of past Commission action in the certifying the Malibu Land Use Plan (LUP). In its review and action on the Malibu LUP, the Commission found that placing an upper limit on the size of second units (750 sq. ft.) was necessary given the traffic and infrastructure constraints which exist in Malibu and given the abundance of existing vacant residential lots. Furthermore, in allowing these small units, the Commission found that the small size of units (750 sq. ft.) and the fact that they are likely to be occupied by one or at most two people, such units would have less impact on the limited capacity of Pacific Coast Highway and other roads (as well as infrastructure constraints such as water, sewage, electricity) than an ordinary single family residence. (certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29 and P.C.H. (ACR), 12/83 page V-1 - VI-1).

The second unit issue has also been raised by the Commission with respect to statewide consistency of both coastal development permits and Local Coastal Programs (LCPs). Statewide, additional dwelling units on single family parcels take on a variety of different functions which in large part consist of: 1) a second unit with kitchen facilities including a granny unit, caretaker's unit, and farm labor unit; and 2) a guesthouse, without separate kitchen facilities. Past Commission action has consistently found that both second units and guest houses inherently have the potential to cumulatively impact coastal resources. As such, conditions on coastal development permits and standards within LCP's have been required to limit the size and number of such units to ensure consistency with Chapter 3 policies of the Coastal Act (Certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29).

As proposed, the 572 sq. ft. guest unit above the gym conforms to the Commission's past actions allowing a maximum of 750 sq. ft. for a second dwelling unit in the Malibu area. The Commission notes that any use of the downstairs portion of the proposed structure (designated as gymnasium) as habitable space, or the installation of any interior accessway between the first and second levels of the structure would increase the size of the guest unit beyond the maximum of 750 sq. ft. and constitute a violation of this coastal development permit. As proposed, access to the second-level guest unit is from an exterior stairway with no interior access between levels. To ensure that the downstairs portion of the structure shall not be converted to habitable space or connected to the upstairs guest unit by an interior accessway, any additions or improvements that could further intensify the use of this guest unit or second residential unit will be reviewed by the Commission as required by condition number four (4). Therefore, the Commission finds that, as conditioned, the proposed development is consistent with Sections 30250 and 30252 of the Coastal Act.

E. Septic System

The Commission recognizes that the potential build-out of lots in Malibu and 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 proposed development includes constructing a septic system for the second unit to provide for adequate sewage disposal. 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.

F. 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).

G. CEQA

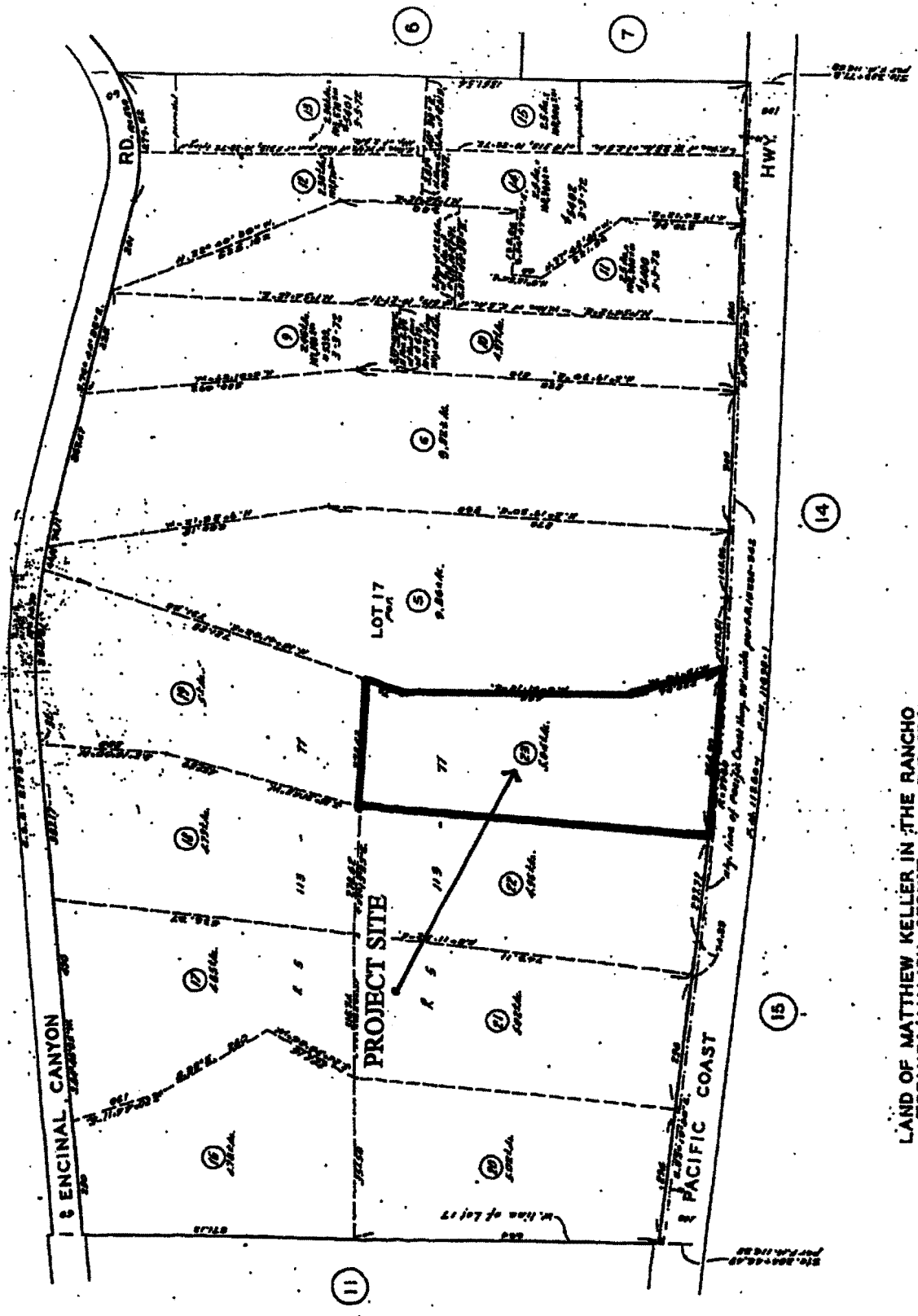
Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California 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

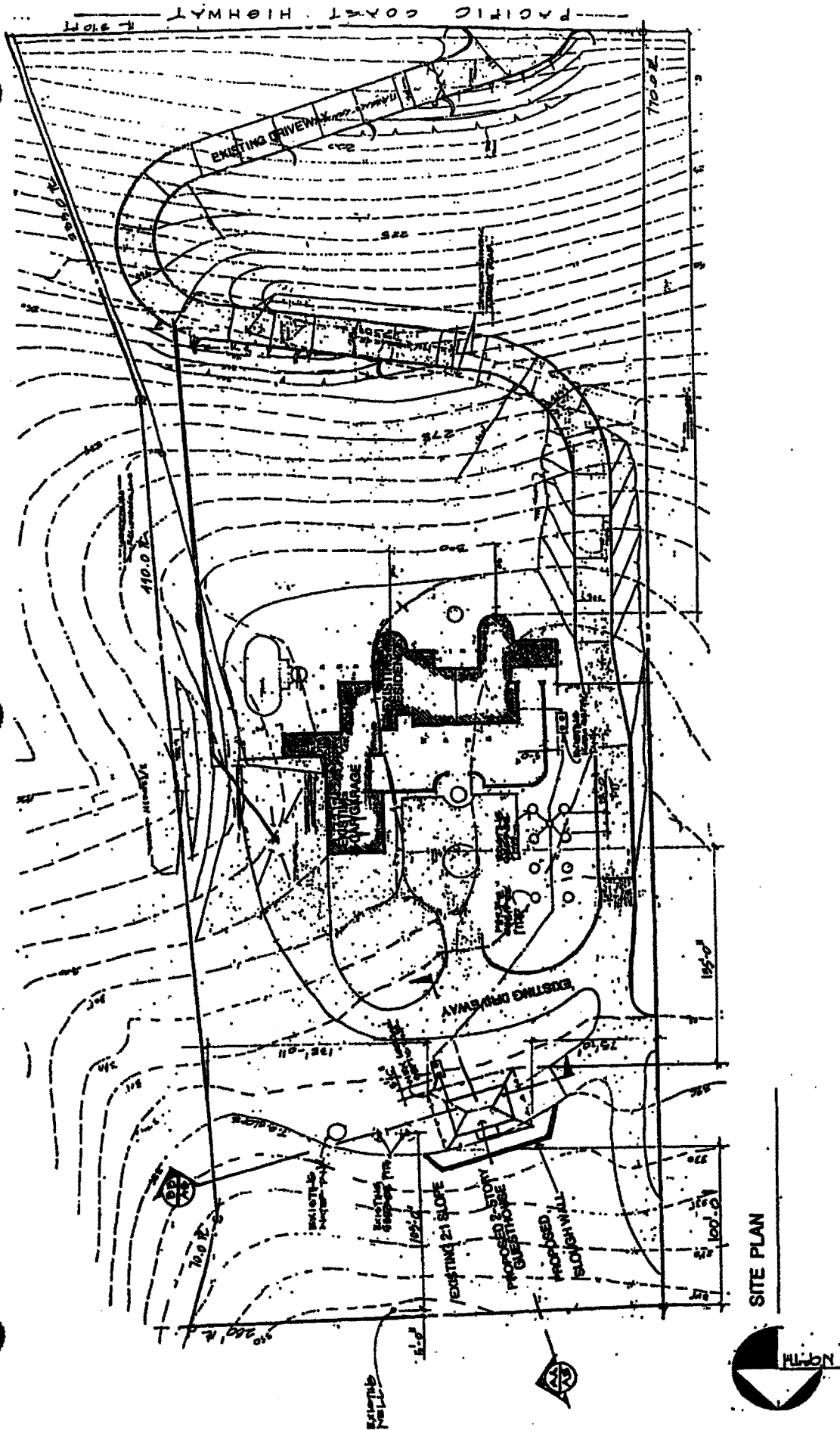
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4473 25
SCALE 1" = 200'



LAND OF MATTHEW KELLER IN THE RANCHO
TOPANGA MALIBU SEQUIT R.F. 534

Exhibit No. 2: (4-97-084) Parcel Map for Project Site



SITE PLAN



Cary W. Geisner & Associates,
Architects
19721 Andover Highway • Suite 112
Woodland Hills • CA 91364
(818) 707-7171 • (818) 707-7172
FAX (818) 707-7173

Sheet Title

SECTIONS

Job Name

ANDRADE
GUESTHOUSE

Date-Revs.

12-11-96
12-24-96, 07/97
9-27-97, 04/98

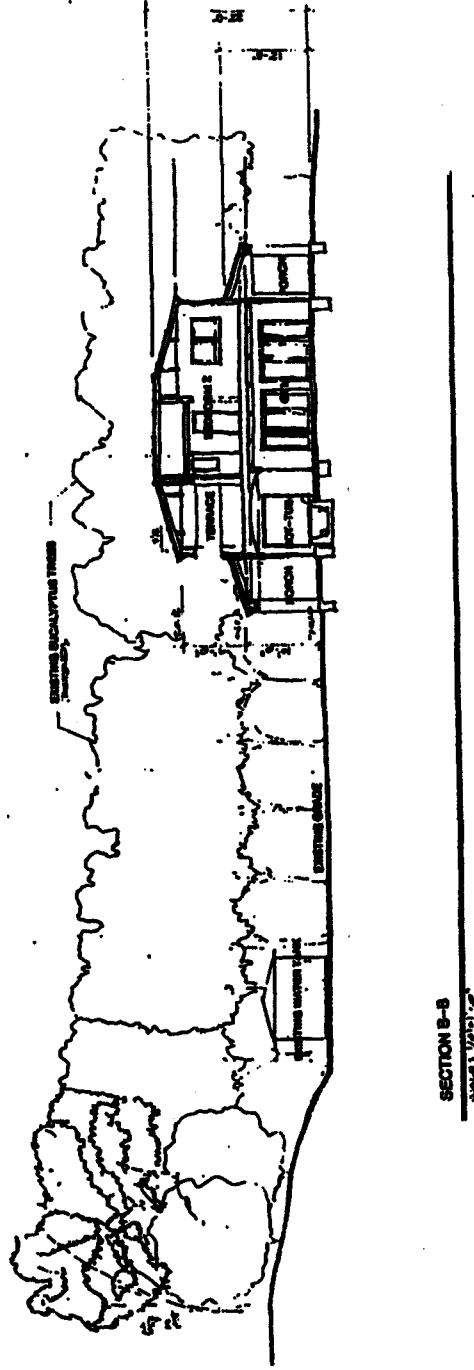
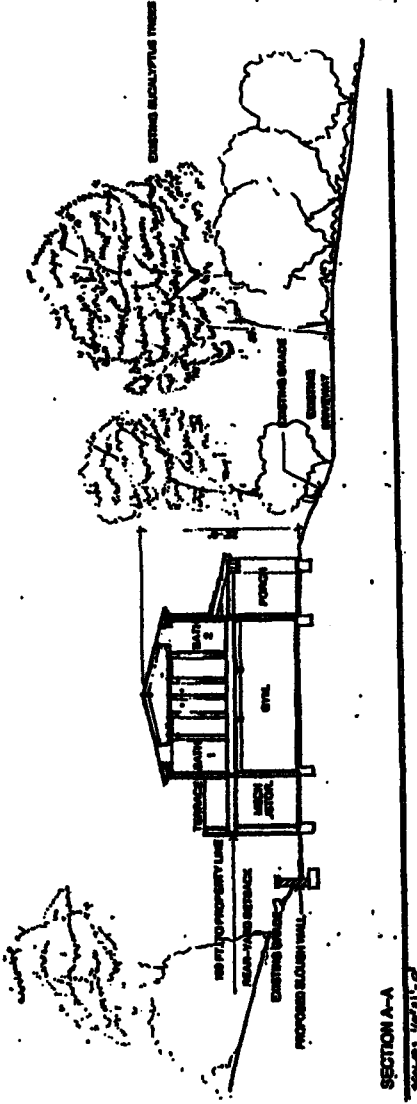
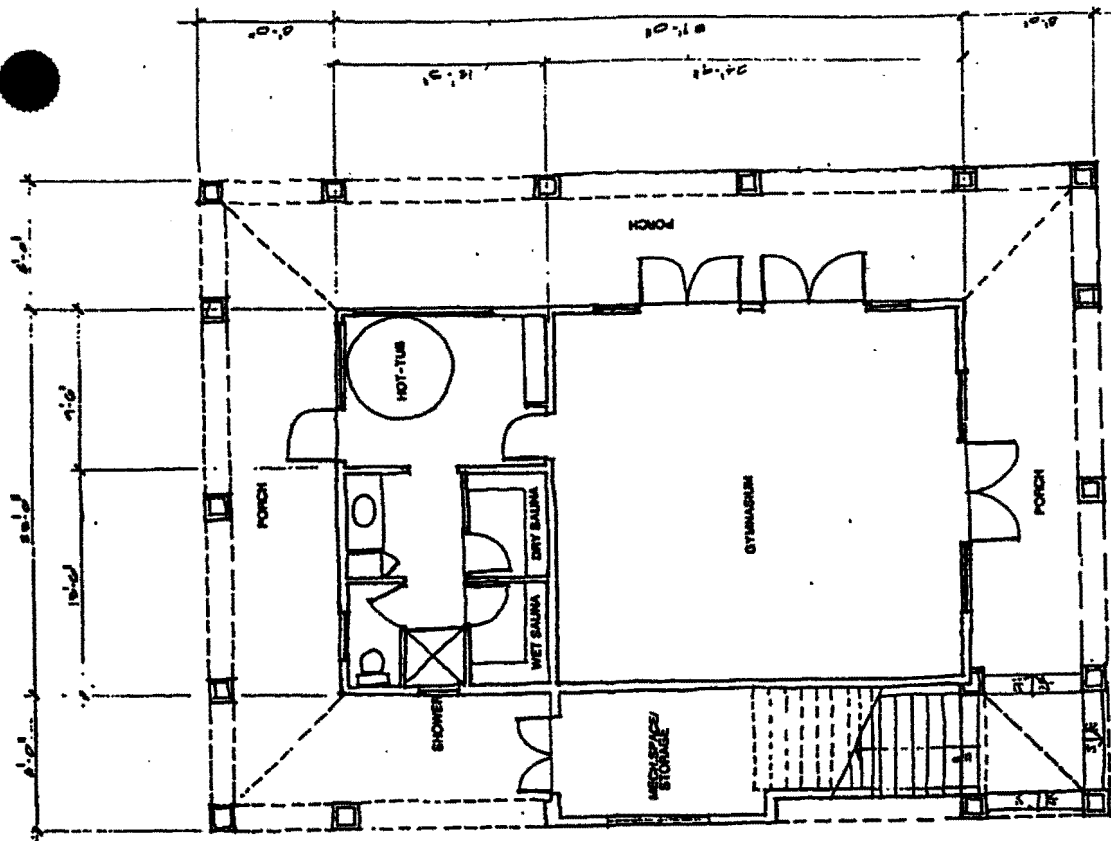
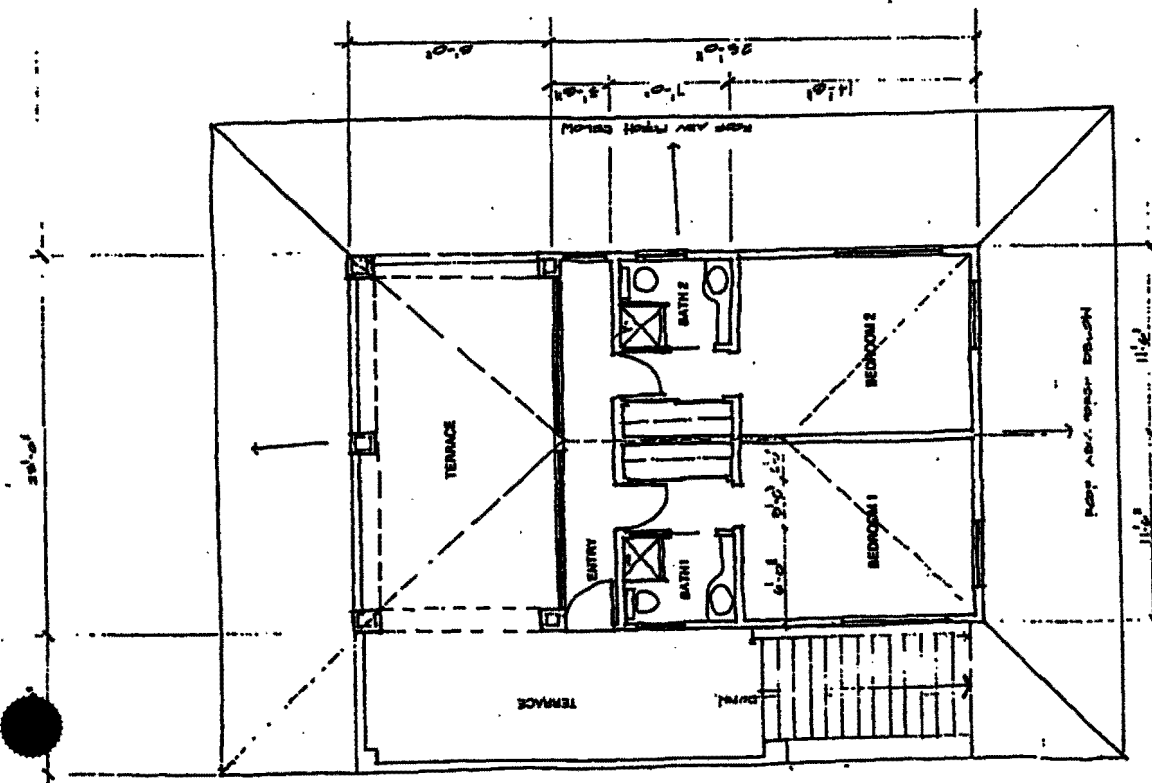


Exhibit No. 4: (4-97-084) Elevations for Proposed Project



FIRST FLOOR

AREA: 004 sq



SECOND FLOOR

AREA: 012 sq

Exhibit No. 5: (4-97-084) Floor Plans for Gym/Guest Unit