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**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
 SOUTH CALIFORNIA ST., SUITE 200  
 VENTURA, CA 93001  
 (805) 641-0142



Filed: 12/3/97  
 49th Day: 1/21/98  
 180th Day: 6/1/98  
 Staff: JEL-V *ja*  
 Staff Report: 12/13/97  
 Hearing Date: 1/12-16/98

**STAFF REPORT: CONSENT CALENDAR****APPLICATION NO.: 4-97-219****APPLICANT: Lisa Pioerron de Mondesir****AGENT: Octavio Rezende****PROJECT LOCATION: 20670 Rockpoint Way, Malibu**

**PROJECT DESCRIPTION:** Construct 3,375 sq. ft., 28 foot high, two-story single family residence, with attached 435 sq. ft. garage to replace a 1,964 sq. ft. one-story residence destroyed by fire. No grading proposed, existing building pad and septic system will be utilized.

<b>Lot area:</b>	41.382 sq. ft. (.95 acre)
<b>Building coverage:</b>	2,440 sq. ft.
<b>Pavement coverage:</b>	3,476 sq. ft.
<b>Landscape coverage:</b>	10,630 sq. ft.
<b>Parking spaces:</b>	two covered
<b>Ht abv fin grade:</b>	28 feet

**LOCAL APPROVALS RECEIVED:** City of Malibu: Planning Department, Approval In Concept, 11/5/97; City Geologist, Planning Approval, 11/5/97; Environmental Health, In-Concept Approval, 6/16/97.

**SUBSTANTIVE FILE DOCUMENTS:** Malibu/Santa Monica Mountains Certified Land Use Plan; Geotechnical Evaluation, Evans, Colbaugh & Associates, 10/23/97; Geotechnical and Geologic Evaluation, Evans, Colbaugh & Associates, 6/24/94; Tree Removal Report, Evans, Colbaugh & Associates, 6/13/94.

**SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends approval of the project with special conditions relating to conformance to geologic recommendations, assumption of risk, and waiver of liability.

**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 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 Recommendations

Prior to the issuance of permit the applicant shall submit, for review and approval by the Executive Director, evidence of the consultants' review and approval of all project plans. All recommendations contained in the Geotechnical Evaluation, Evans, Colbaugh & Associates, 10/23/97; and the Geotechnical and Geologic Evaluation, Evans, Colbaugh & Associates, 6/24/94, shall be incorporated into all final design and construction including slope stability, pools, foundations and drainage. All plans must be reviewed and approved by the consultants.

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

#### 2. Assumption of Risk

Prior to issuance of 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 erosion, and landsliding on site and the applicant assumes the liability from such hazards, and the (b) applicant unconditionally waives any claim of liability on the part of the Commission and agrees to indemnify and hold harmless the Commission and or its officers, agents and employees relative to the 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 and any other encumbrances which the Executive Director determines may affect the interest being conveyed.

#### 3. 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:

##### **A. Project Description and Background**

The applicant proposes to construct a 3,375 sq. ft., 28 foot high, two-story single family residence, with an attached 435 sq. ft. garage. No grading is proposed, as the existing building pad and footprint will be utilized. Likewise, the existing septic system will serve the proposed replacement structure. The proposed project will replace a 1,964 sq. ft. one-story, single family residence with an attached 441 sq. ft. garage, a 500 sq. ft. artist studio and a 300 sq. ft. guest cottage, (for a total floor area of 3,205 sq. ft), all of which were destroyed in the 1993 Malibu Firestorm.

Pursuant to P.R.C. 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 floor area (3,375 sq. ft.) does not exceed 10% of the previous total floor area (3,205 sq. ft.). However, the proposed 28 foot high two-story replacement structure will exceed the previous single story structure in both height and bulk, and therefore, a Coastal Permit is required.

The proposed reconstruction site is an irregular shaped parcel on the downhill side of Rockpoint Way, located in a built-out section of the Big Rock Mesa area of Malibu. The property is bounded on the north by Seaboard Road and on the north and west by Rockpoint Road. To the south and east, the property is bounded by five developed residential lots, one of which is burned out. In this particular section of Big Rock, residences destroyed by the fire seem to have been struck randomly, as numerous homes surrounding the subject site pre-date the firestorm. Four years after the fire, much of the vegetation does not appear to have even been affected, with the exception of the subject site.

The proposed site is located approximately one tenth mile north, and at the 400 foot elevation above, Pacific Coast Highway from which the site is only slightly visible, given the steep gradient of the slope, the intervening structures and mature landscape. The replacement structure will not create any visual impact.

The subject parcel is located within the "westerly extension" of the Big Rock Mesa landslide, and within, or adjacent to, two other landslides.

### C. Geologic Stability and Hazards

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

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

The proposed 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.

#### 1. Geology

The applicant has submitted two geotechnical and geologic reports, dated 10/23/97 and 6/24/94, prepared by Evans, Colbaugh & Associates for the subject site. The primary geotechnical concern at the proposed site is the potential for landslides.

The subject site is located within the "western extension" of the Big Rock landslide which was last active in the early 1980's. Following movement of the slide in the 80's, Los Angeles County conducted an geologic investigation and found the relative factor of safety for soil stability to be between 1.2 and 1.3. Subsequently, Los Angeles County constructed a dewatering system which according to Evans and Colbaugh:

*"...essentially arrested ground movement. Currently the City of Malibu maintains the dewatering system and monitors ground movement in the landslide area." ..."Finally, there is no evidence that the historic movement of the Big Rock Mesa landslide resulted in observable distress to your property."*

The subject site is also part of the "Love landslide", a much smaller landslide than the Big Rock Mesa landslide, which previous studies have found to be historically active and characterized by a relative safety factor of 1.1 in a dewatered condition. The consulting geologist, however, does not believe this landslide is a threat to the property given the lack of evidence of historic movement, another study which found a relative soil stability factor of 1.5, and the unlikelyhood of a catastrophic failure due to rising groundwater levels.

Evans and Colbaugh also identify the historic "Kubek landslide", located approximately 100 feet upslope from the subject site, which occurred in 1978. In regards to the relationship to the Love landslide and the subject property, the geologists found:

*"There is no evidence that the instability which led to the Kubek failure is either related to the Love slide or indicative of instability at 20670 Rockpoint Way. Rather there is evidence that it is not."*

In conclusion, the geological investigation states that:

*In our opinion, the residence, studio and cottage are suitable for restoration. This is based on the apparent lack of instability of interslide features within the Big Rock Mesa landslide and the beneficial effects of dewatering the Big Rock Mesa landslide. ...In our opinion, the restoration will not cause any significant change in the geological character of the site or the local environment from that existing prior to the loss."*

Nevertheless, given the proximity of the three landslides and varying opinions as to the relative stability of the soil, noted above, there remains a level of risk. Therefore, the Commission can only approve the project if the applicant assumes the liability from the associated risks of developing this site. This responsibility is carried out through the recordation of a deed restriction, as noted in special condition two (2). 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.

Based on the evaluation of previous research, subsurface exploration of the site and observations, the consulting geologist has provided a set of recommendations to address the specific geotechnical conditions related to foundation design, pad drainage design and the need to "monitor the proposed swimming pool and all drainage facilities to eliminate water infiltration into the ground."

Based on the findings and recommendations of the consulting geotechnical engineer, the Commission finds that the development is consistent with Section 30253 of the Coastal Act so long as all recommendations regarding the proposed development are incorporated into the project plans. Therefore, the Commission finds it necessary to require the applicant to submit project plans that have been certified in writing by the consulting geotechnical engineer as conforming to their recommendations, as noted in condition number one (1) for the final project plans for the proposed project.

## 2. Fire

The Coastal Act also requires that new development minimize the risk to life and property in areas of high fire hazard. The Coastal Act recognizes that new development may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to establish who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property.

Vegetation in the coastal areas of the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which are highly flammable substances (Mooney in Barbour, Terrestrial Vegetation of California, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for frequent wild fires. The typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wild fire damage to development that cannot be completely avoided or mitigated.

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 these 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 four.

The Commission finds that only as conditioned above is the proposed project consistent with Section 30253 of the Coastal Act.

### D. Septic System

The Commission recognizes that the potential build-out of lots in Malibu, and the resultant installation of septic systems, may contribute to adverse health effects and geologic hazards in the local area. Section 30231 of the Coastal Act states that:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, minimizing alteration of natural streams.*

The applicant proposes to use the existing septic system which includes a 1,000 gallon septic tank. The existing system meets Uniform Plumbing Code requirements for a three bedroom residence and is sufficient to serve the proposed single family residence.

The City of Malibu has completed a review of, and approved-in-concept, the proposed septic system. The Commission has found in past permit decisions that approval in concept by the City of Malibu will ensure that discharge of septic effluent from a proposed project will not have adverse effects upon water resources and other coastal resources. Therefore, the Commission finds the proposed residence is consistent with section 30231 of the Coastal Act.

#### E. Local Coastal Program

Section 30604(a) of the Coastal Act states that:

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

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

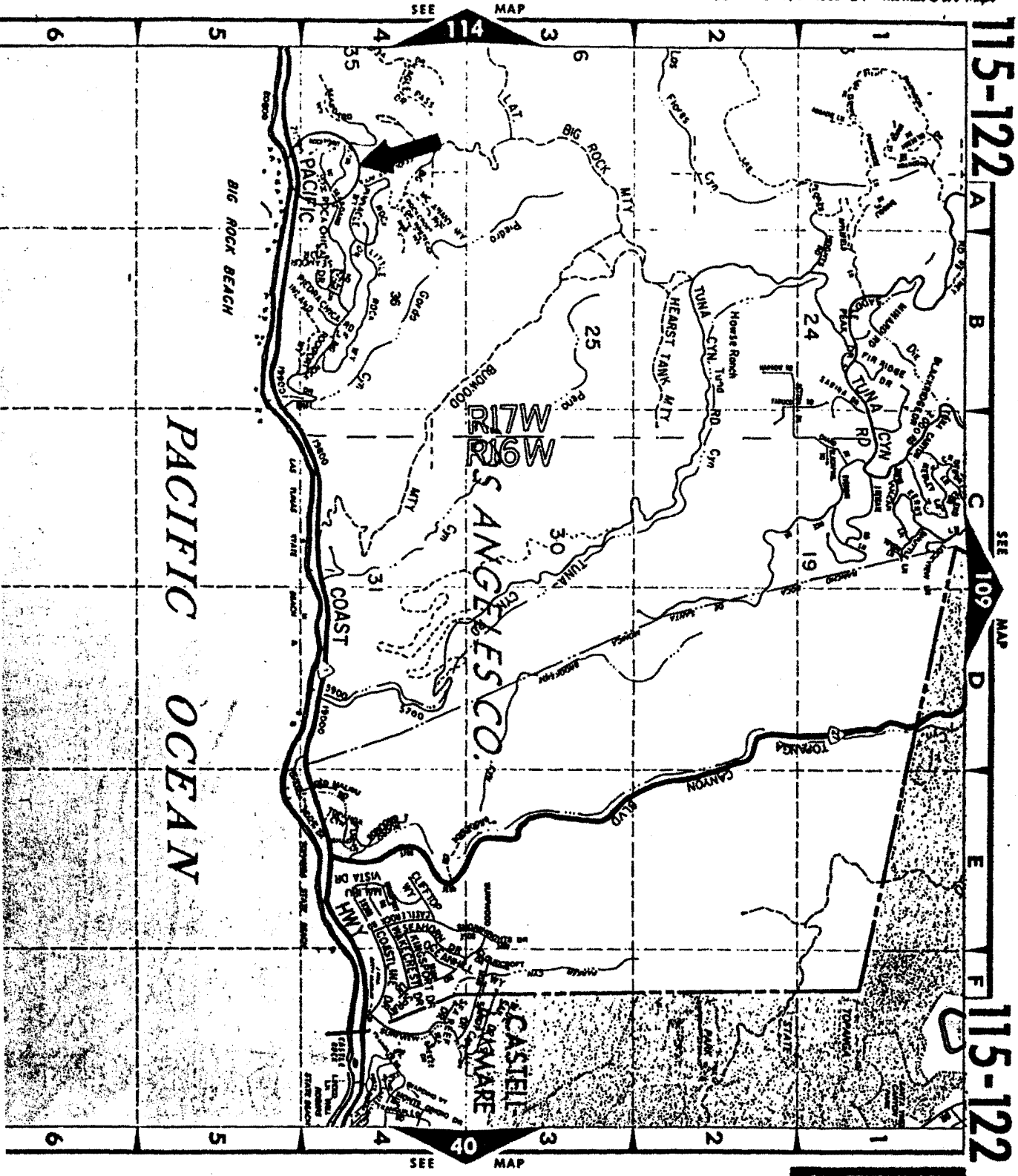
Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program for Malibu which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

#### F. California Environmental Quality Act

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



There proposed development would not cause significant, adverse environmental impacts which would not be adequately mitigated by the conditions imposed by the Commission. Therefore, the proposed project, as conditioned, is found consistent with CEQA and with the policies of the Coastal Act.

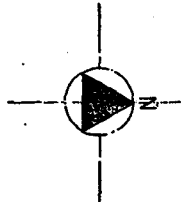
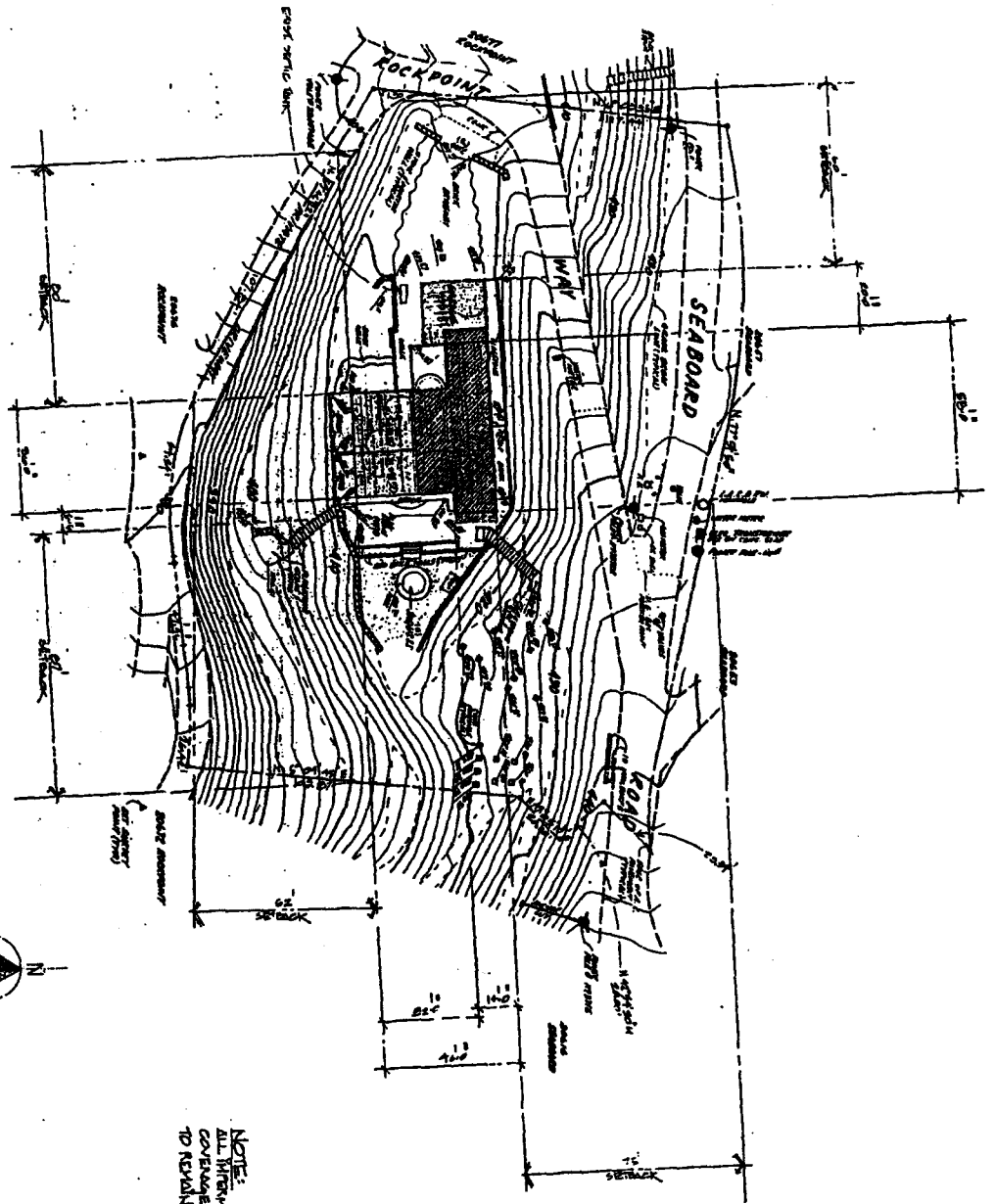


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SEE MAP 109

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EXHIBIT NO.
APPLICATION NO.
4-97-219 (MONDESIR)
VICINITY MAP

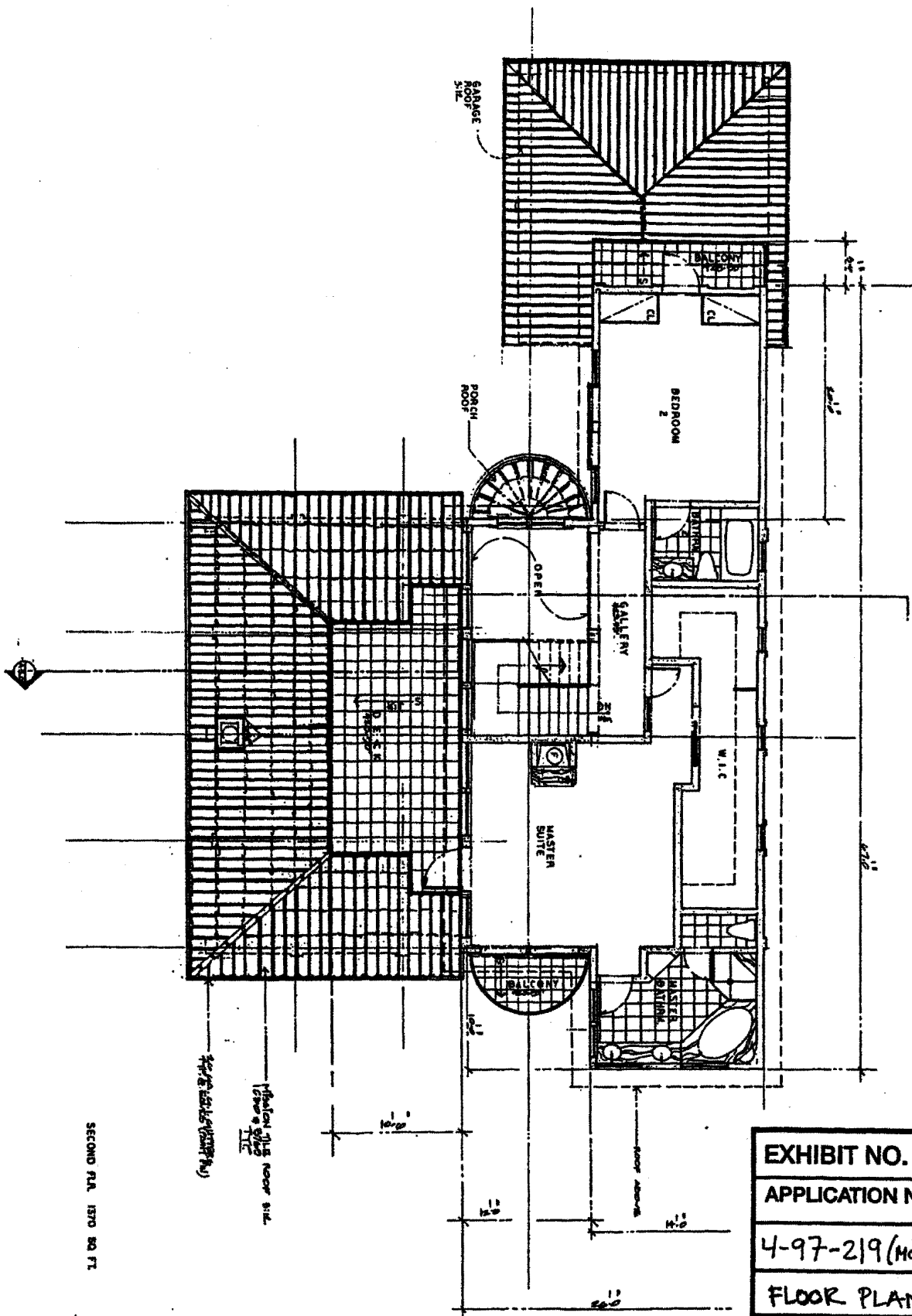


NOTE:  
ALL IRREGULAR LOT  
COVERAGES AND LANDSCAPING  
TO REMAIN AS EXISTING

LEGEND

	REBUILD FIRST FLR. ON EXIST. FOOTPRINT	2005 SQ. FT.
	NEW SECOND FLR.	1370 SQ. FT.
	HOUSE TOTAL	3375 SQ. FT.
	GARAGE	435 SQ. FT.

EXHIBIT NO. 2
APPLICATION NO.
4-97-219 (MONDESIR)
SITE PLAN



SECOND FLA. 1870 SQ. FT.

Position this floor plan  
 (show a side view)  
 1/2" = 1'-0"

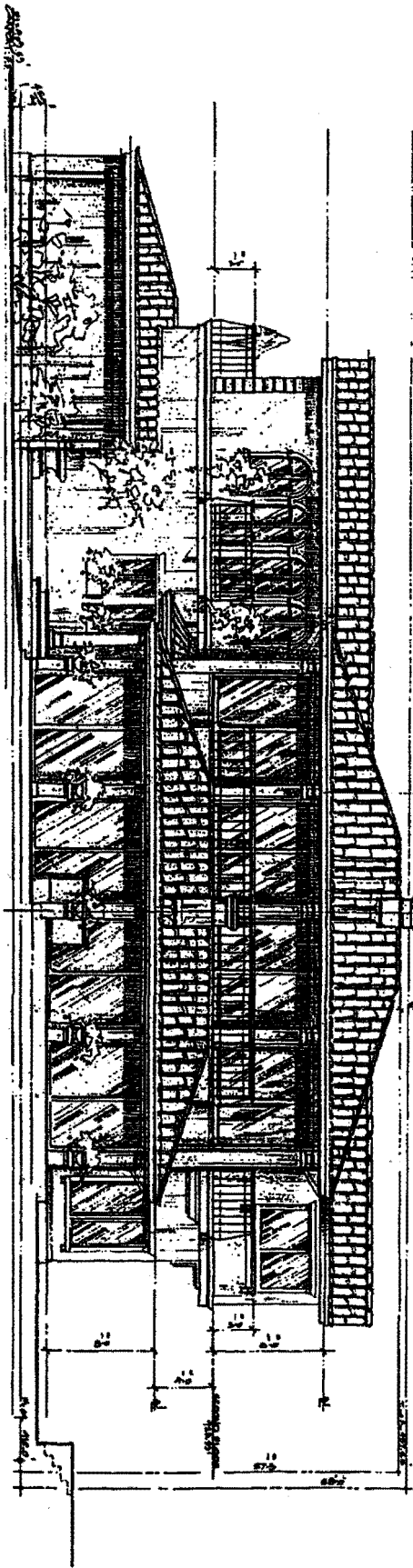
EXHIBIT NO. 4
APPLICATION NO.
4-97-219 (MONDESIR)
FLOOR PLAN (2)

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 A.4.0  
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DE MONDESIR RESIDENCE	SECOND FLOOR	4-97-219 10/10/97
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SOUTH



WEST

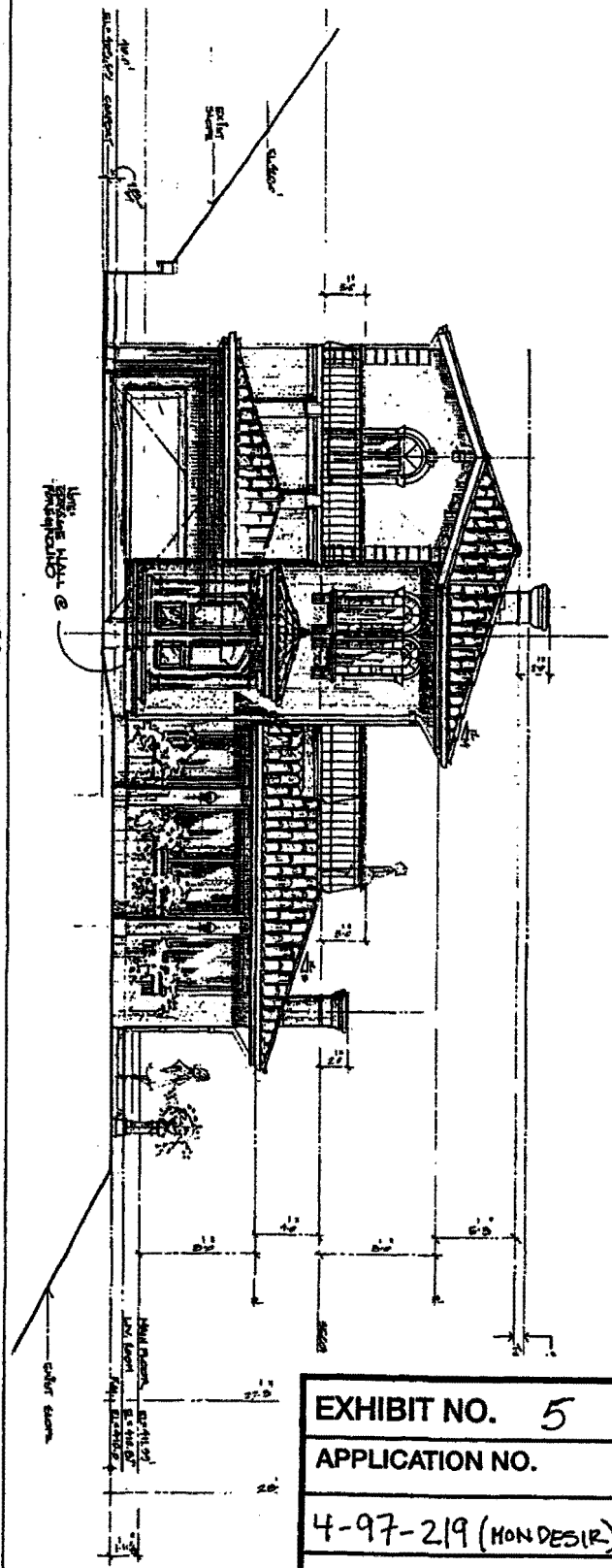


EXHIBIT NO. 5
APPLICATION NO.
4-97-219 (MONDESIR)
ELEVATIONS

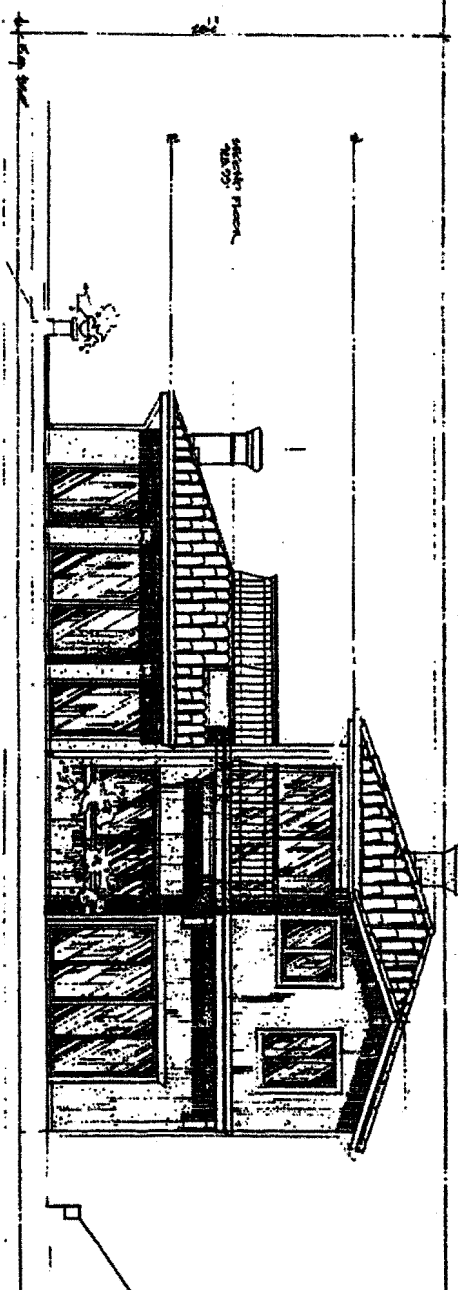
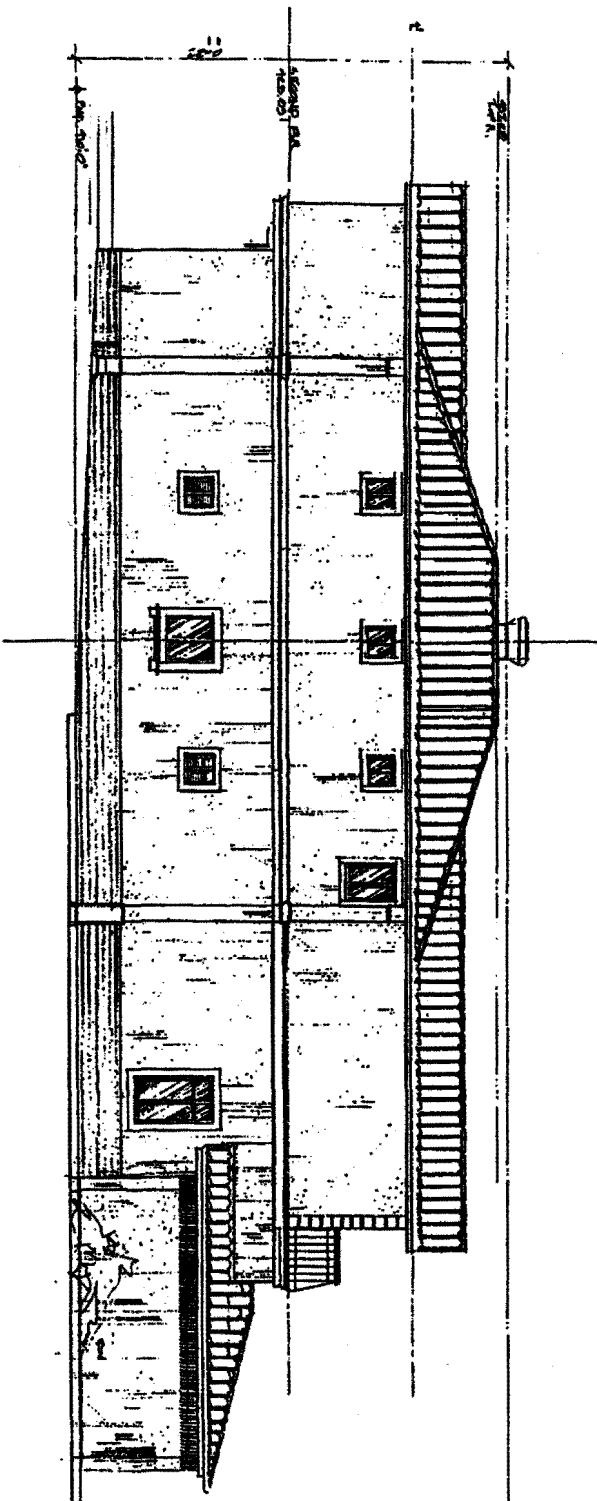


EXHIBIT NO. 6
APPLICATION NO.
4-97-219 (MONDESIR)
ELEVATIONS

A-70  
 9701

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DE MONDESIR RESIDENCE

ELEVATIONS

4-97-219