

Tu25a

CALIFORNIA COASTAL COMMISSION

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

Filed: 4/24/98
49th Day: 6/12/98
180th Day: 10/21/98
Staff: MB-V *ja*
Staff Report: 9/9/98
Hearing Date: 10/13-16/98

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-97-209

APPLICANT: Gary and Catharine Wonnacott AGENT: Carl Volante

PROJECT LOCATION: 31273 Bailard Road, City of Malibu, Los Angeles County

PROJECT DESCRIPTION: Construct 28 ft. high, 2 story high, 4,537 sq. ft. single family residence with attached two car garage and swimming pool. Convert existing single family residence to guest house with reduction to 665 sq. ft. for living area and conversion of first floor to garage. Upgrade to 2000 gallon septic tank. After-the-fact approval of: water tank; concrete and block wall "bins"; and retaining walls and block walls along existing driveways and an undeveloped residential pad.

Lot Area	89,927 sq. ft.
Building Coverage	3,300 sq. ft. new/proposed
	2,400 sq. ft. existing/retained
Pavement Coverage	13,900 sq. ft.
Landscape Coverage	64,327 sq. ft.
Parking Spaces	2 covered
Plan Designation	Rural Land III, 1 du/2 ac; Rural Land II, 1 du/5 ac; and Rural Land I, 1 du/10 ac
Project Density	.5 du/ac
Height above finished grade	28 feet

LOCAL APPROVALS RECEIVED: City of Malibu: Planning Department, Approval in Concept, dated 9/30/97; Environmental Health Department, In-concept Approval, August 7, 1997.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan; Donald B. Kowalewsky, Preliminary Engineering Geologic Report for Proposed Development of a Single Family Residence at 31273 Bailard Road, November 10, 1990, and Engineering geologic update (letter report), May 1, 1997; Coastal development permits 5-89-319 (Wonnacott), 5-90-921 (Landgate), 4-94-057 (Melchers Limited and Morris), 5-97-179 (De Butts Associates) and 4-95-119 (Chyton).

SUMMARY OF STAFF RECOMMENDATION:

Predating the Coastal Act, the subject property contained two residences which were removed and substantial grading. The Commission approved a 1989 permit for construction of a two story single family residence with attached two car garage, detached garage, and septic system. The present application will bring into conformance all unapproved development since 1989, including a water tank, concrete block "storage bins", and retaining and block walls along existing driveways and a undeveloped building pad; allow conversion of the previously approved single family residence to a guest house and garage; and allow a new single family residence on an existing building pad. Staff is recommending approval subject to special conditions relative to landscaping and erosion control plans, plans conforming to the consulting geologist's recommendations, a wild fire waiver of liability, and a deed restriction on future development.

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 effects 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. LANDSCAPE AND EROSION CONTROL PLANS

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

- a) All disturbed areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes within 60 days of receipt of certificate of final occupancy from the City of Malibu. To minimize the need for irrigation and to screen or soften the visual impact of development all landscaping shall consist primarily of native, drought resistant plants as listed by the California Native Plant Society, Los Angeles - Santa Monica Mountains Chapter, in their document entitled Recommended Native Plant Species for Landscaping in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- b) All disturbed areas shall be stabilized with planting at the completion of 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 2 years and shall be repeated, if necessary, to provide such coverage.
- 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 site preparation 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 disposal location.
- d) Plantings shall be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.
- e) The Permittee shall undertake development in accordance with the

final approved plans. Any proposed changes to the approved final landscape and erosion control plans shall be reported to the Executive Director. No changes to said plans shall occur without a Coastal Commission approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

2. 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 report Donald B. Kowalewsky, Preliminary Engineering Geologic Report for Proposed Development of a Single Family Residence at 31273 Bailard Road, November 10, 1990 and Engineering geologic update (letter report), May 1, 1997 including issues related to site preparation, foundations, and drainage, shall be incorporated in the final project plans. All plans must be reviewed and approved by the geologic consultants.

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

3. 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.

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 subject permit is only for the development described in the Coastal Development Permit No. 4-97-104; and that any future structures, additions or improvements to the permitted structures, including but not limited to clearing of vegetation and grading, that might otherwise be exempt under Public Resources Code Section 30610(a) will require an amendment to this permit or an additional permit from the Coastal Commission or the affected local government authorized to issue such coastal development permits. Removal of vegetation consistent with Los Angeles County Fire Department standards relative to fire protection is permitted.

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 enforceability of the restriction. The deed restriction shall not be removed or changed without a

Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

5. Revised Plans

Prior to the issuance of the Coastal Development permit, the applicant shall submit, for the review and approval of the Executive Director, revised project plans for the guest unit/garage illustrating a second garage door or expanded existing garage door to the first floor garage area, as shown on Exhibit 9.

6. Condition Compliance

Within 90 days from the date of Commission action on this permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to the issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. Findings and Declarations.

A. Project Location and Description

The proposed development is to (1) construct a 28 ft. high, 2 story high, 4,537 sq. ft. single family residence with attached two car garage, (2) convert an existing single family residence to guest house with reduction to 665 sq. ft. and conversion of first floor to a garage, and (3) upgrade to a 2000 gallon septic tank.

Originally staff believed there was substantial unpermitted grading on the subject site which was not shown as part of the 1989 permit and therefore the applicant modified his proposal to include such grading. The applicant was subsequently able to provide extensive documentation to show through previously issued local permits that that a residence and a guest house and associated grading had previously existed on the site prior to effectiveness date of the Coastal Act. Staff found that the grading substantially conformed to that shown in the plans for the present project. The residence and guest house were destroyed many years ago by a fire. Consequently, the project description has been modified to include after-the-fact approval of only a water tank, concrete and block wall "storage bins", and retaining walls and block walls along the driveways and the existing upper residential pad, all of which were constructed since 1989.

Further, in staff review, there was concern relative to the proposed design for the guest house conversion from a single family residence. The design was such that the combined first and second stories could have been used as a much larger two story single family residence. The applicant has responded to these concerns by closing off all internal access from the first to second story, eliminating two first story bathrooms, removing a number of first story walls creating a much larger first story garage, and eliminating the previously existing second story kitchen and replacing it with a bathroom. These modifications ensure that the proposed guest house will be used for its

stated purpose and not converted, when considered in combination with the recommended condition of approval in the form of a deed restriction and revised plans as recommended below.

The project site is a 89,927 sq. ft. lot located above Pacific Coast highway. The new single family residence is proposed on an existing pad constructed at the approximate 240 ft. elevation. Above the pad is a proposed water tank at the approximate 280 ft. elevation. Below the pad is a single family residence, proposed for conversion to a guest house, at the approximate 180 to 190 ft. elevations allowed under the previous coastal development permit 5-89-319 (Wonnacott).

B. Water Quality and Stream Protection

The subject parcel is not located within any Environmentally Sensitive Habitat Area (ESHA). There is a "pocket" wetland area in a barranca downhill and downstream of the property on the inland side of the Pacific Coast Highway, at a distance of approximately 400 ft.. The wetland at the bottom of the barranca is designated as an Inland Environmentally Sensitive Habitat Area on the Sensitive Environmental Resources Map in the certified Malibu/Santa Monica Mountains Land Use Plan (LUP).

There is no corresponding blue line stream designation for the watercourse flowing into the wetland on the USGS map, even though there is riparian vegetation located along the watercourse. Because of the habitat value evident by the presence of riparian vegetation along the stream, the watercourse qualifies as an ESHA with habitat resources protected under LUP and Coastal Act policies, regardless of the absence of a blue line designation.

Section 30250(a) of the Coastal Act provides that new development be located within or near existing developed areas able to accommodate it, with adequate public services, where it will not have significant adverse effects, either individually or cumulatively, on coastal resources:

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.

Sections 30230 and 30231 of the Coastal Act are designed to protect and enhance, or restore where feasible, marine resources and the biological productivity and quality of coastal waters, including streams:

Section 30230

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy

populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231

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.

In addition, Section 30240 of the Coastal Act states that environmentally sensitive habitat areas must be protected against disruption of habitat values:

Section 30240

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

The Malibu/Santa Monica Mountains Land Use Plan is used as guidance in Commission permit decisions in the City of Malibu. In its findings regarding the Land Use Plan, the Commission emphasized the importance placed by the Coastal Act on protecting sensitive environmental resources. The Commission found in its action certifying the Land Use Plan in December 1986 that:

...coastal canyons in the Santa Monica Mountains require protection against significant distribution of habitat values, including not only the riparian corridors located in the bottoms of the canyons, but also the chaparral and coastal sage biotic communities found on the canyon slopes.

The Certified Malibu/Santa Monica Mountains Land Use Plan also contains a number of policies aimed at the protection of resources and stream protection and erosion control: P68 Protection of environmentally sensitive habitat areas (ESHAs) against significant disruption of habitat values, and allow only uses dependent on such resources, excluding residential uses; P82 Grading minimized to ensure the potential negative effects of runoff and erosion; P84 Landscape plans balancing long-term stability and minimization of fuel load and use native plant species consistent with fire safety requirements; P96 Avoid degradation of the water quality of groundwater basins, nearby streams, or wetlands.

In this case, the proposed project will significantly increase the amount of impervious surfaces on the subject site to cover a cumulative total of 18,577 sq. ft.. The impervious surfaces created by the building and other covered surfaces will increase both the volume and velocity of storm water runoff from

the site. If not controlled and conveyed off-site in a non-erosive manner this runoff will result in increased erosion on and off site.

Increased erosion in addition to raising issues of runoff may also result in sedimentation of the nearby stream. The increased sediments in the water course can adversely impact riparian systems and water quality. These impacts include:

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

Most drainage is toward the street and away from the ESHA, with only a portion draining into the barranca i.e. the area south of the driveway leading up to the new pad, estimated at 2000 sq. ft..

In the case of this project, the applicant has provided a grading and drainage plan which includes a bench drain, conventional drains with interconnected drainage pipes, curbs and retaining walls. This plan will minimize erosion by slowing down and deflecting the flow from the impermeable surfaces on the site including roofs, driveways, walkways, etc.. These measures are adequate to ensure that runoff will be conveyed off-site in a non-erosive manner and minimize erosion on and off site. Consequently, the grading and drainage plan controls sedimentation and hydrological impacts, to protect against disruption of habitat values and protect biological productivity.

The site has been cleared of native vegetation and extensively landscaped with non-native vegetation. In conformance with past Coastal Commission decisions, it is necessary to require the applicant to submit landscape plans for areas disturbed by grading operations and development activities. These plans must

incorporate native plant species and illustrate how these materials will be used to provide erosion control to those areas of the site disturbed by development activities, to specify plant materials, plant coverage and replanting requirements, and additional measures if grading extends into the rainy season. Replacement of existing plants with native vegetation is necessary for the approximate two-thirds of the site which was shown as undisturbed at the time of the previous permit. The remediation of disturbed areas, if provided in a landscape plan, will minimize and control erosion, as well as screen and soften the visual impact of the proposed development.

Special condition number one (1), recommended above, provides for such a landscape/erosion control plan prepared by a licensed landscape architect. The Commission finds that only as conditioned will the proposed project be consistent with the policies found in Sections 30231 and 30250(a) of the Coastal Act.

Further, future developments or improvements to the property normally associated with a single family residence, which might otherwise be exempt from coastal development permit requirements, have the potential to impact these sensitive environmental resources noted above. Therefore, it is necessary to ensure that future developments or improvements normally associated with a single family residence, which might otherwise be exempt from permit requirements, is reviewed by the Commission for compliance with the coastal resource protection policies of the Coastal Act. Condition number four (4), the future improvements deed restriction, will ensure the Commission will have the opportunity to review future projects for compliance with the Coastal Act. Thus, the Commission finds that as conditioned, the proposed project is consistent with Sections 30231, 30240, and 30250(a) of the Coastal Act.

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.

In addition, the certified Los Angeles County Land Use Plan includes the following policies regarding hazards, which are applicable to the proposed development. These policies have been applied by the Commission as guidance in the review of development proposals in the Santa Monica Mountains (paraphrased): P147: evaluate impact on, and from, geologic hazard; P 149: require a geologic report prior to approval; P 154: not generate excessive runoff, debris, and/or chemical pollution that would impact on the natural hydrologic system; and P 156: evaluate impact on fire hazard.

The proposed development is located in the Santa Monica Mountains area which is generally considered to be subject to an unusually high number of natural

hazards. Geologic hazards common to the 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. The Commission reviews the proposed project's risks to life and property for development such as proposed in this application in areas where there are geologic, flood and fire hazards.

Minimizing the erosion of the site is important to reduce geological hazards and minimize sediment deposition in nearby stream course. The proposed project will significantly increase the amount of impervious surfaces on the subject site, as discussed previously. The impervious surfaces created by the residence will increase both the volume and velocity of storm water runoff from the site. If not controlled and conveyed off-site in a non-erosive manner this runoff will result in increased erosion on and off site.

As noted above, the applicant has provided a grading and drainage plan which is adequate to ensure that runoff will be conveyed off-site in a non-erosive manner and minimize erosion on and off site. Further, as noted, a condition is necessary to require the applicant to submit landscape plans for areas disturbed by grading operations and development activities, to provide erosion control, as well as screen and soften the visual impact of the proposed development. Consequently, the grading and drainage plan controls sedimentation and hydrological impacts, to protect against disruption of habitat values and protect biological productivity, and ensure geologic stability and minimize risk.

The applicant has submitted reports -- Donald B. Kowalewsky, Preliminary Engineering Geologic Report for Proposed Development of a Single Family Residence at 31273 Bailard Road, November 10, 1990, and Engineering geologic update (letter report), May 1, 1997 -- which note that:

From an engineering geologic standpoint, construction of a single family residence is feasible provided the following recommendations are incorporated in the design. As previously indicated, there are no apparent geologic hazards on the site that will affect proposed development.

Based on this investigation, provided the recommendations in this report are followed, the proposed building site will be safe from geologic hazards and development will not adversely affect geologic stability of adjacent property.

Based on the findings and recommendations of the consulting geologist, the Commission finds that the development is consistent with PRC Section 30253 so long as all recommendations regarding the proposed development are incorporated into project plans as noted in condition two (2).

Additionally, due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant assumes liability from the associated risks through condition three (3). 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.

Thus, the Commission finds that only as conditioned to require a landscape and erosion control plan, incorporate all recommendations by the applicant's consulting geologist, and provide a wild fire waiver of liability, will the proposed project be consistent with Section 30253 of the Coastal Act.

D. Visual Impacts

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 of 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 proposed development is located in the City of Malibu. However, the Commission has used the certified Los Angeles County Land Use Plan as guidance in past Commission decisions. These policies protecting visual resources have been applied by the Commission in the review of development proposals in the Santa Monica Mountains (paraphrased): P 91: minimize impacts and alterations of physical features; P 129: attractive appearance and harmonious relationship with the surrounding environment; P 130: conceal raw-cut slopes, not significantly intrude into the skyline as seen from public viewing places; P 134: conform to the natural topography, as feasible, massive grading and reconfiguration discouraged.

The project site overlooks the coastline to the southeast, although views from the beach are for the most part blocked by intervening topography. The project will be visible from Pacific Coast Highway looking toward the project in a northerly direction up the previously mentioned barranca.

In general, the appearance or visual impact will result from that of a 28 ft. high, two story residence visible from surrounding areas. Because such new development is proposed, analysis is necessary relative to the visual quality policies of the Coastal Act.

The proposal will result in a 28 foot high, two story 4,537 sq. ft. residence located on a preexisting building pad in an area visible from Pacific Coast Highway, as noted above. Pacific Coast Highway is a designated scenic highway in the certified Malibu/Santa Monica Mountains LUP, used as guidance only in the City of Malibu. The project site is located on the terrace area of Malibu in an area developed with single family residences. The proposed residence is no more visually intrusive than other residences which exist or may be built as infill in this single family residential area on the north side of Pacific Coast Highway. This includes existing development at higher elevations than the proposed project. Therefore, the proposed development is consistent and compatible with the existing character of the area.

The proposed building site is not located on a significant ridgeline and will not adversely impact views of the Santa Monica Mountains as seen from Pacific Coast Highway. In addition, because the proposed residence is sited on a preexisting building pad only minor finish grading is necessary. There is a unpermitted approximately 200 foot long 6-4 foot high retaining wall in a half circle configuration on the building pad to support the uphill and downhill slopes of the pad. These walls for the most part will not be visible from Pacific Coast Highway because the proposed residence will block views of the walls. Therefore, the proposed project will not result in any significant landform alteration or adverse visual impacts. However, construction activities will result in soil disturbance which could adversely impact views from Pacific Coast Highway. Thus, the Commission finds that it is necessary to require a landscaping plan, that utilizes native plant species, to screen and soften the appearance of the proposed development.

In summary, the proposed development is compatible with the surrounding area and as conditioned to landscape the site with native plants the project can be found consistent with Section 30251 of the Coastal Act.

E. 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. The Coastal Act includes policies to provide for adequate infrastructure including waste disposal systems. Section 30231 of the Coastal Act states that:

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

Section 30250(a) of the Coastal Act states in part that:

New residential, ... development, ... shall be located within, ... existing developed areas able to accommodate it ... and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

The proposed development includes constructing an upgraded septic tank. The proposal was approved in concept by the City of Malibu Environmental Health Department. This approval indicates that the sewage disposal system for the project in this application complies with all minimum requirements of the City of Malibu Plumbing Code. The Commission has found in past permit actions that such compliance with the City of Malibu health and safety codes and will minimize any potential for waste water discharge that could adversely impact coastal waters and streams. Therefore, the Commission finds that the proposed septic system is consistent with Sections 30231 and 30250 of the Coastal Act.

F. Cumulative Effects of Development

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 on-site recreational facilities to serve the new development.

New development raises coastal issues related to cumulative impacts on coastal resources. The applicant proposes to change the existing primary residence on the site to a guest unit on the second story only with an external stairway. The interior stairway to the first floor would be closed off. The first floor interior walls will be removed to create a first floor garage. The new 750 square foot second floor guest unit would then consist of a living room with fireplace, walk-in closet and restroom. The applicant has also eliminated the previously existing second story kitchen.

The applicant originally proposed to maintain the original first floor plan and just convert the rooms into storage areas, a work shop and retain two first floor bathrooms. In response to Commission staffs concerns relative to conversion of these spaces into habitable space the applicant modified the floor plan as described above. Because of the redesign, the project does not raise the same concern as the previously proposed design relative to potential future conversion of the guest house/former single family residence back into a second primary unit on the site where a primary residence exists (i.e. the proposed 4,537 sq. ft. residence). As expressed in past Commission actions, there is concern where the design shows a potential intensification in use of a parcel, in turn creating potential impacts on public services, such as

water, sewage, electricity and roads, as well as maintaining and enhancing public access to the coast.

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. The proposed new guest unit at 665 sq. ft. would be consistent with this standard. The Commission found that small units (i.e. under 750 sq. ft.) are likely to be occupied by one or at most two people, and 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, caretakers 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).

The proposed conversion of the existing single family residence into a 750 sq. ft. second floor guest unit and a first floor garage is consistent with the Commission's 750 sq. ft. maximum guest unit limitation and past Commission permit actions relative to guest units in the Malibu/Santa Monica Mountains Coastal Zone. However, even though the applicant has converted the first floor into a garage there is only one garage door space which was for the original garage. The front door to the first floor and exterior facade remain the same. This type of design could encourage conversion of the first floor back into habitable space. Therefore, the Commission finds that the applicant must submit revised plans, as specified in special condition No. 5, for the guest unit/garage that include a second garage door or expanded existing garage door space, as shown in Exhibit 9.

In addition, even as modified above there remains a concern that the first floor garage could be converted into habitable space. Therefore, in order to ensure that no conversion or additions are made without due consideration of the potential cumulative impacts, the Commission finds it necessary to require the applicant to record a future improvements deed restriction, which will require the applicant to obtain a new permit if additions or changes to the site are proposed in the future.

The Commission finds that as condition above the proposed development is consistent with Section 30250 and 30252 of the Coastal Act.

G. Violation

The applicant is requesting after-the-fact approval for a water tank, concrete block storage bins and block retaining walls. All work was carried out without a coastal development permit and constitutes a violation of the Coastal Act. To ensure that this violation is resolved in a timely manner, special condition (6) requires the applicant to satisfy all conditions of this permit which are prerequisite to the issuance of this permit within 90 days of Commission action.

Consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

H. 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 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 and the Santa Monica Mountains which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

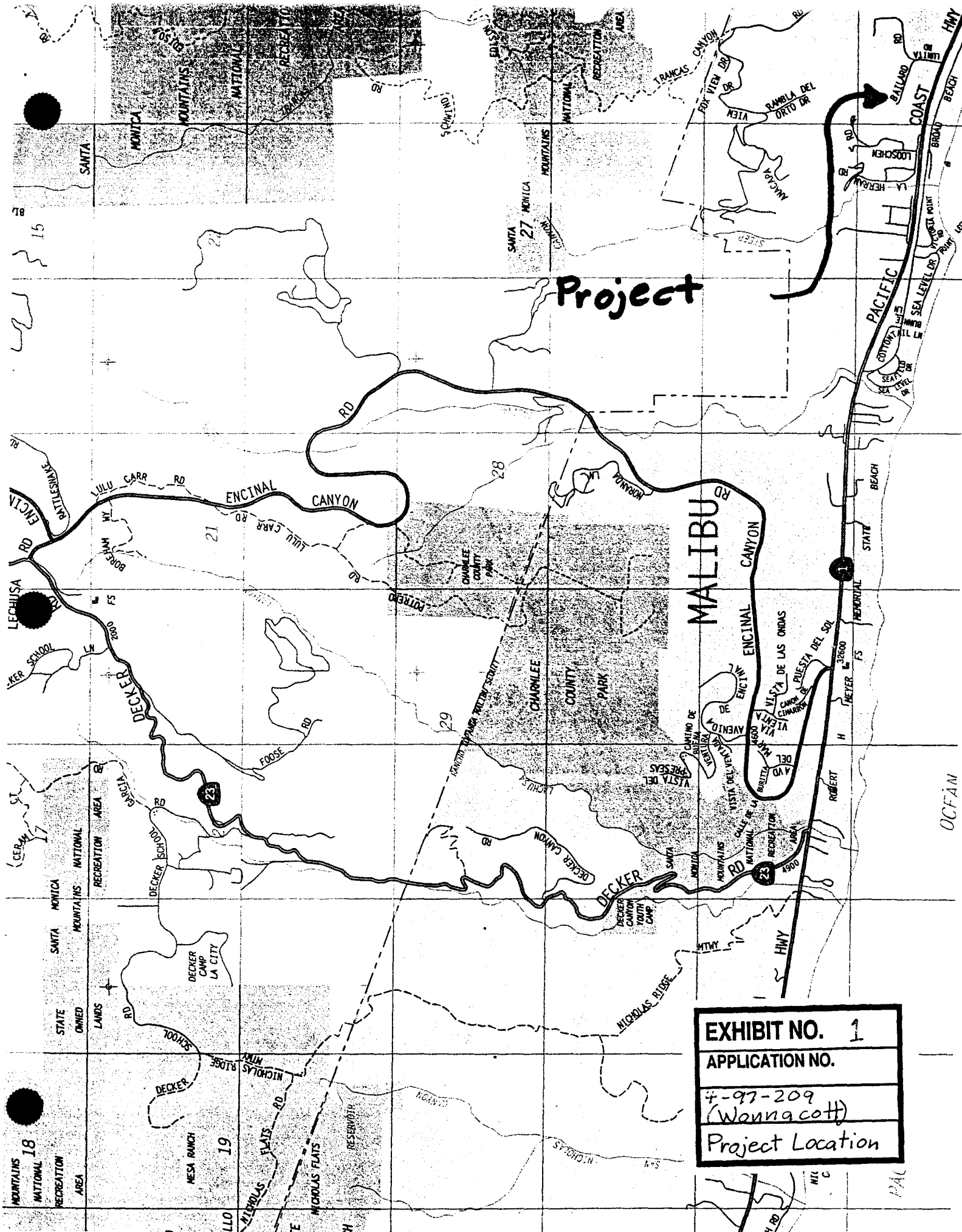
I. California Environmental Quality Act

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 by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) 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 effects which the activity may have on the environment.

The proposed development would cause no adverse environmental effects which would not be adequately mitigated by the project conditions required herein. Therefore, the proposed project, as conditioned, is found to be consistent with CEQA and the policies of the Coastal Act.

8429A



Project

EXHIBIT NO.	1
APPLICATION NO.	
4-97-209 (Wannacott)	
Project Location	

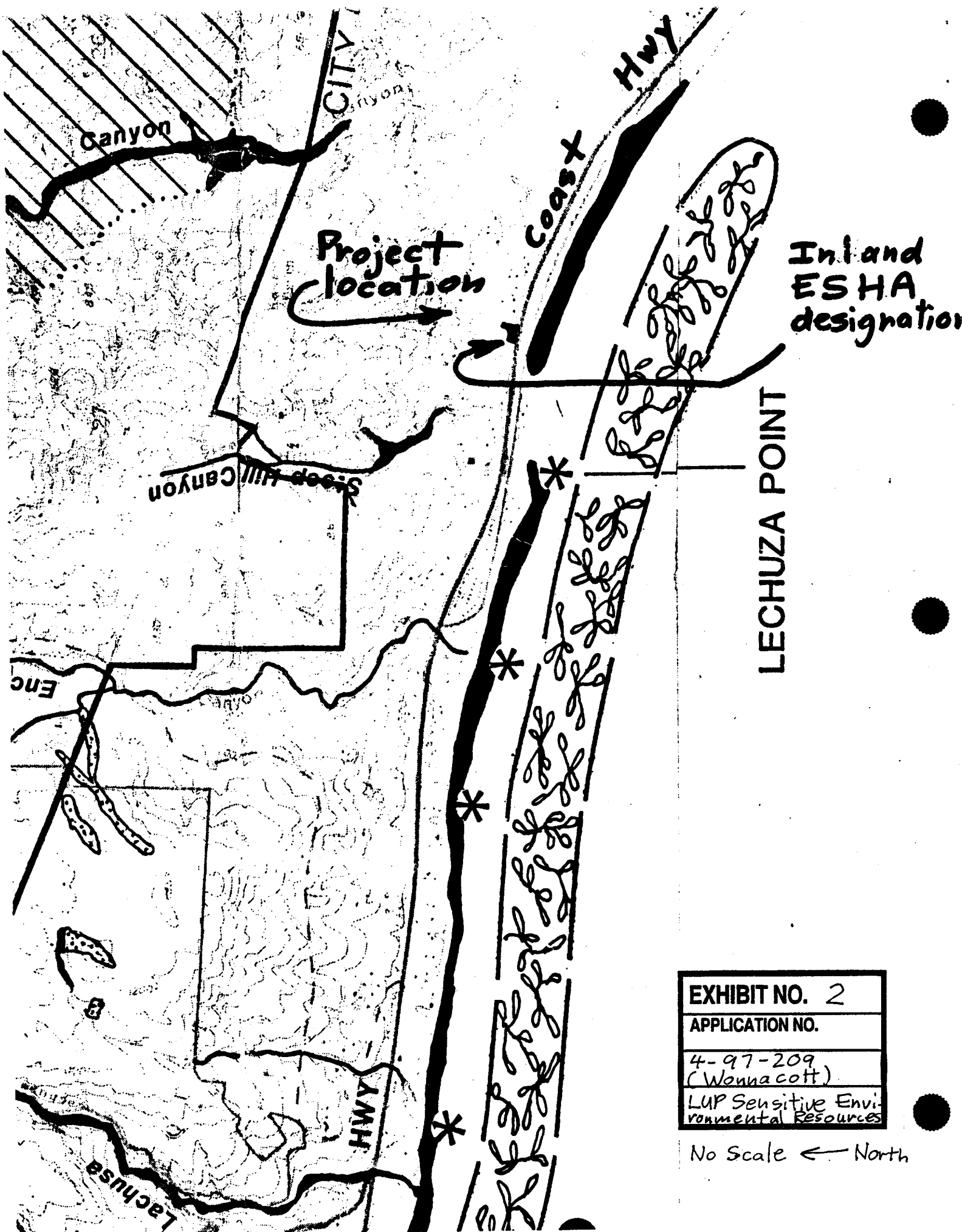
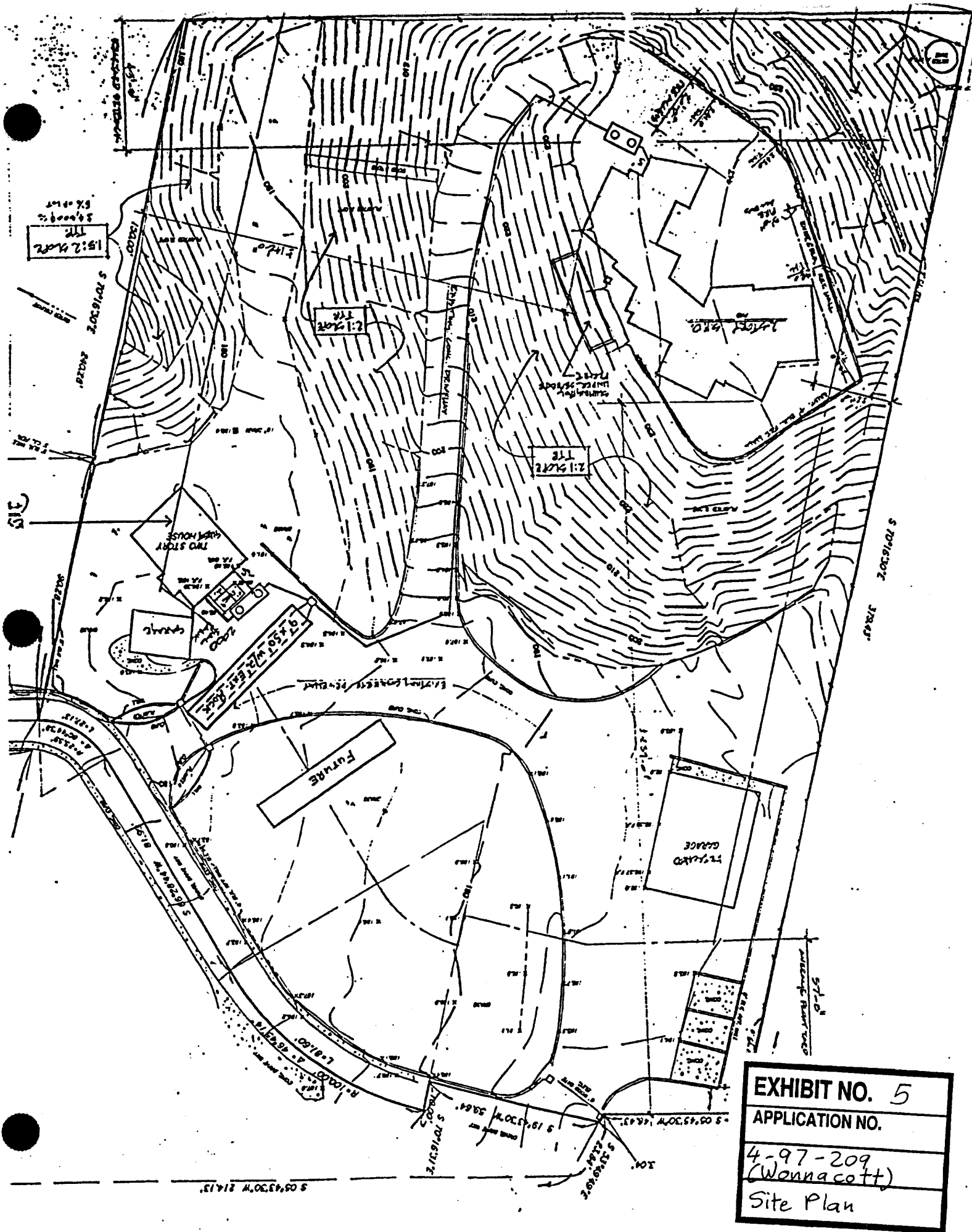


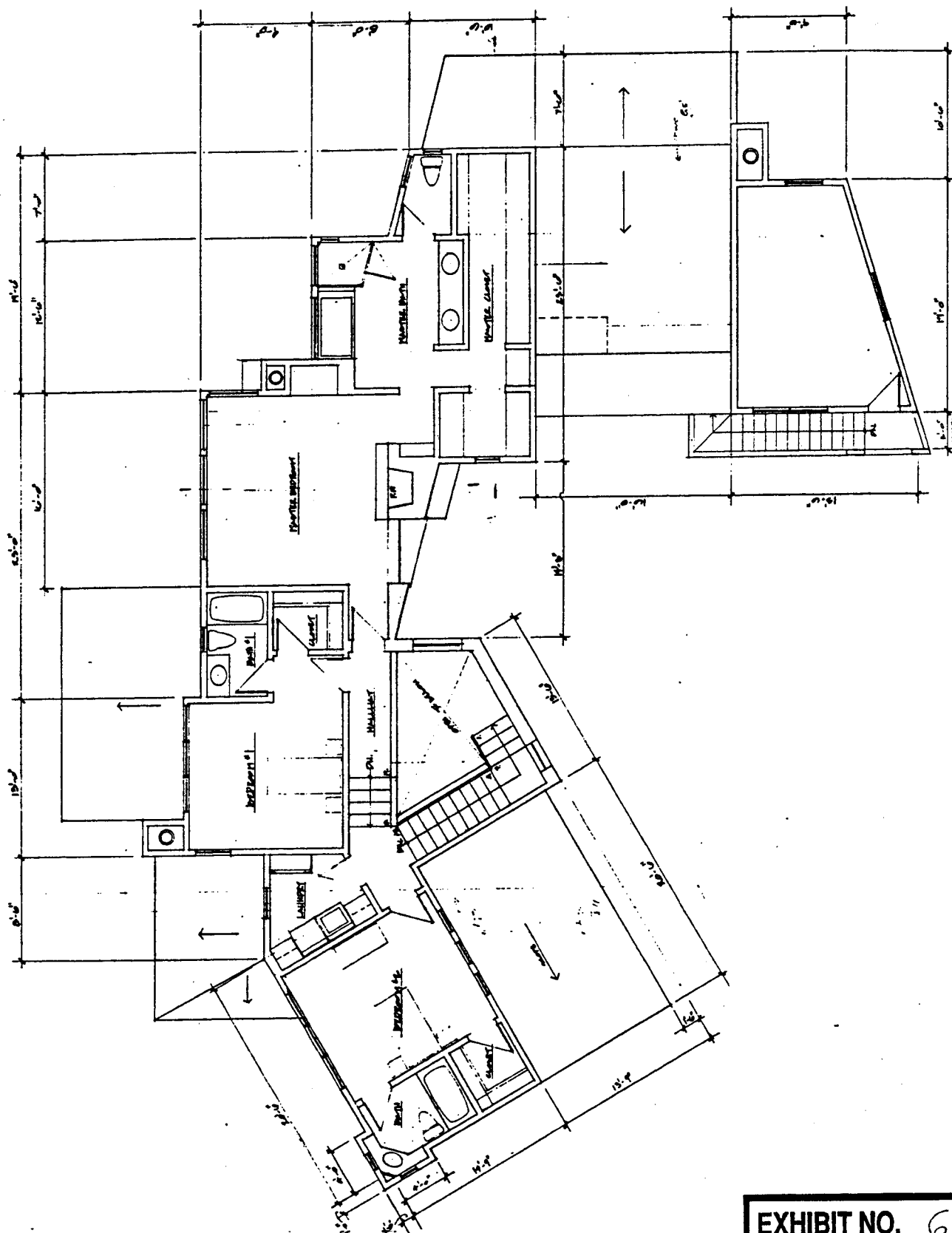
EXHIBIT NO. 2
APPLICATION NO.
4-97-209 (Wonnacott)
LUP Sensitive Environmental Resources

No Scale ← North



EXHIBIT NO. 3
APPLICATION NO.
4-97-204 (Wannacott)
LUP land use designations





ASB 10/1/12

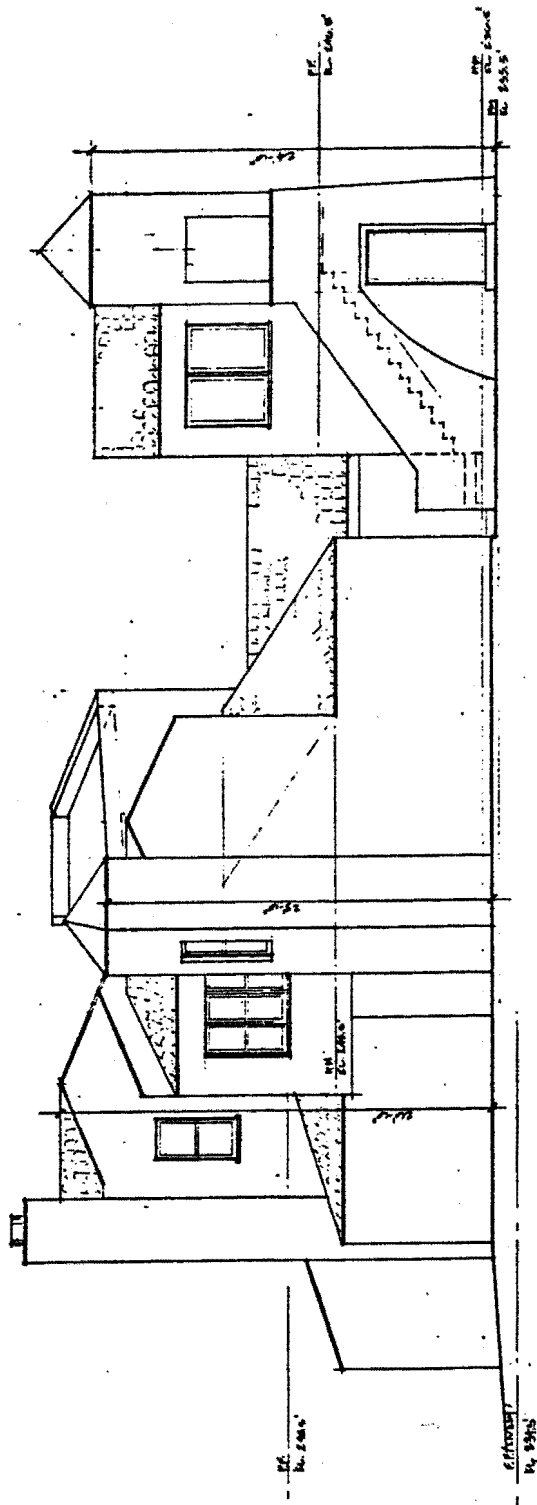
SECOND FLOOR PLAN

EXHIBIT NO. 6b

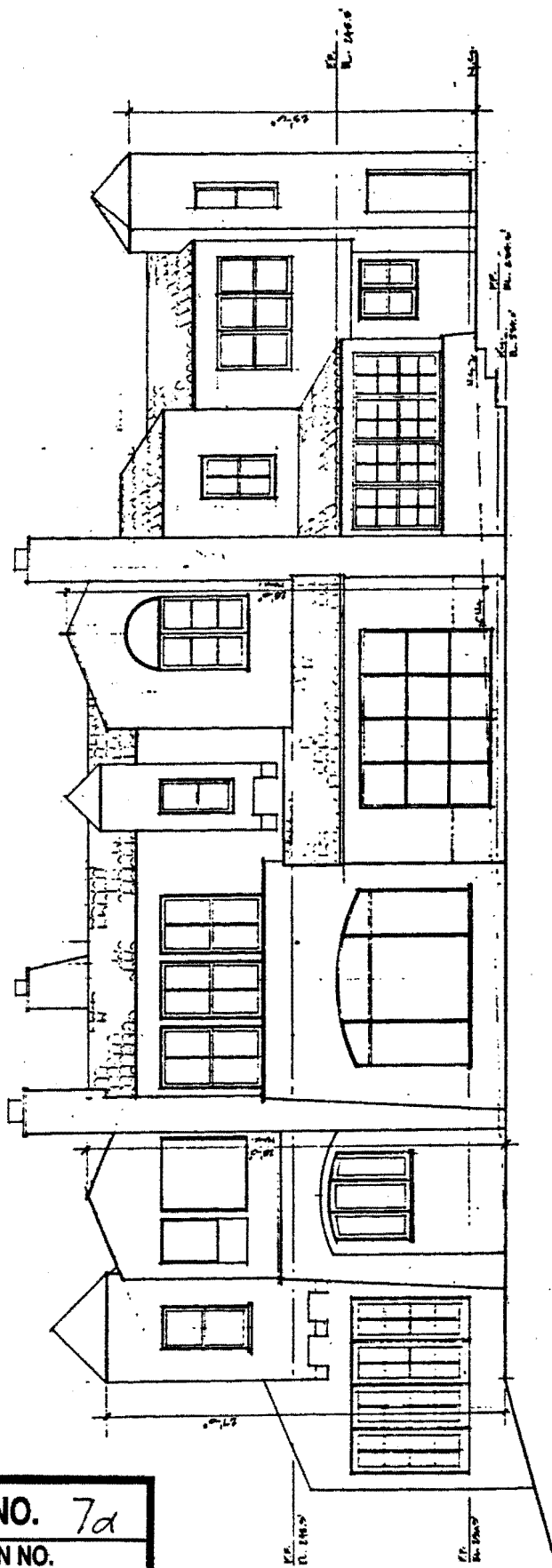
APPLICATION NO.

4-97-209
(Wonnacott)

Second Floor
Main Residence

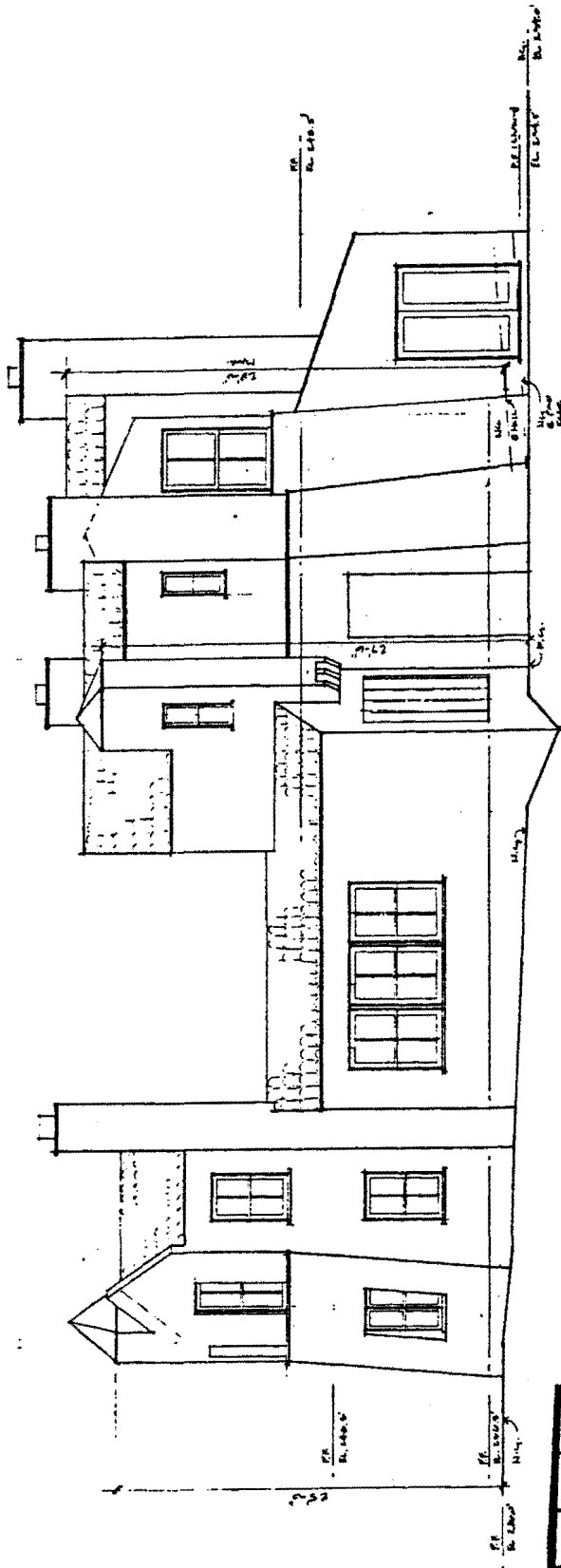


EAST ELEVATION



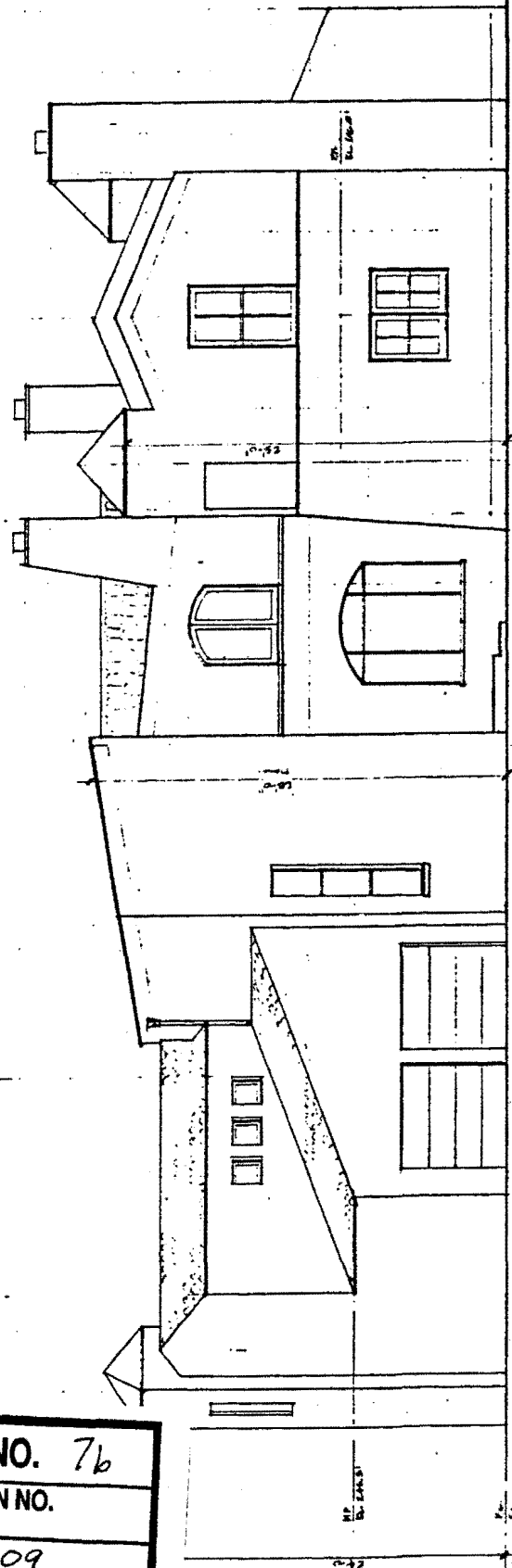
SOUTH ELEVATION

EXHIBIT NO.	7a
APPLICATION NO.	
4-97-209 (Wonnacott)	
Elevation Main Residence	



EAST ELEVATION

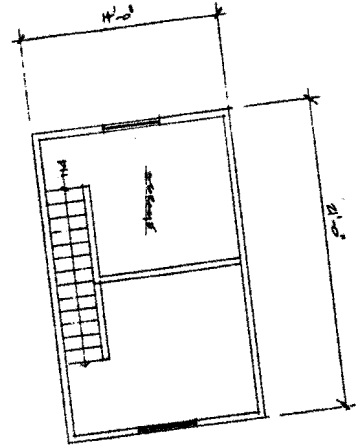
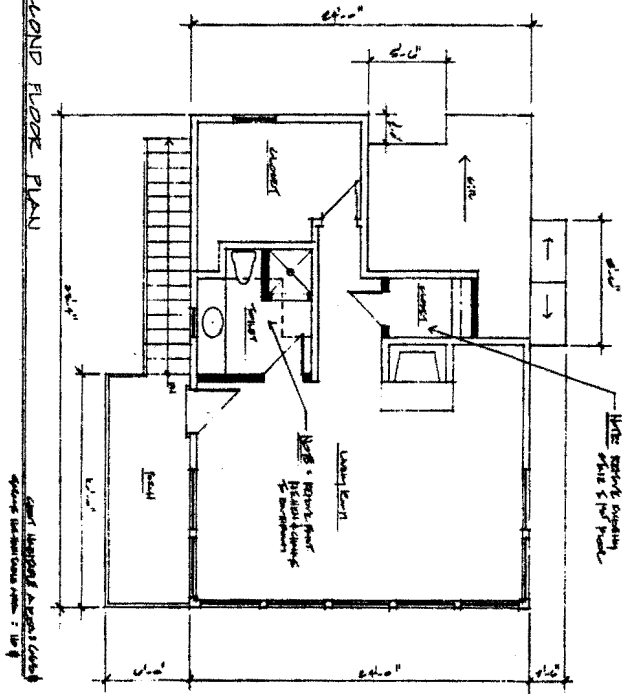
EXHIBIT NO. 7b
APPLICATION NO.
4-97-209 (Wounacott)
Elevation Main Residence



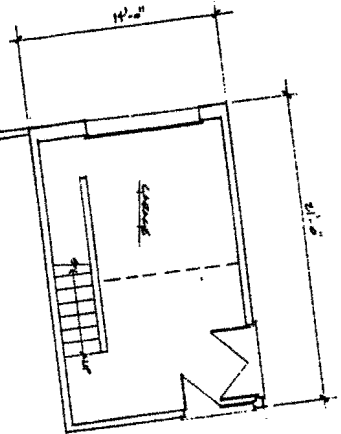
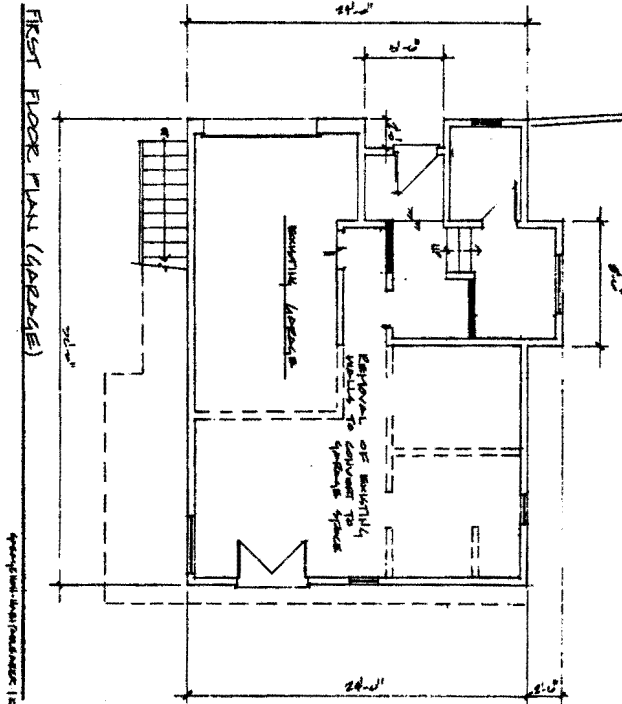
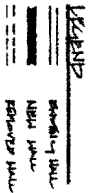
NORTH ELEVATION

EXISTING GUEST HOUSE

SECOND FLOOR PLAN

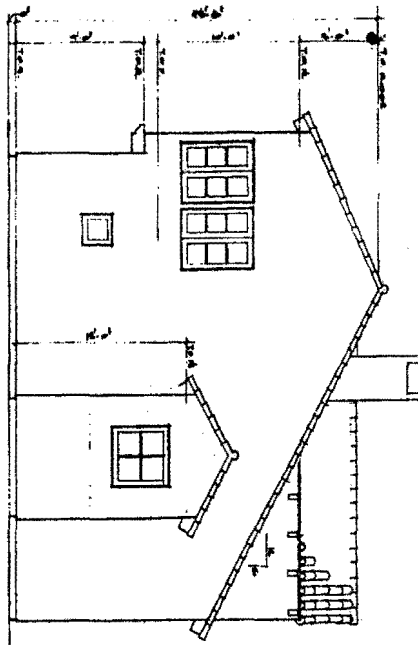


FIRST FLOOR PLAN (GARAGE)

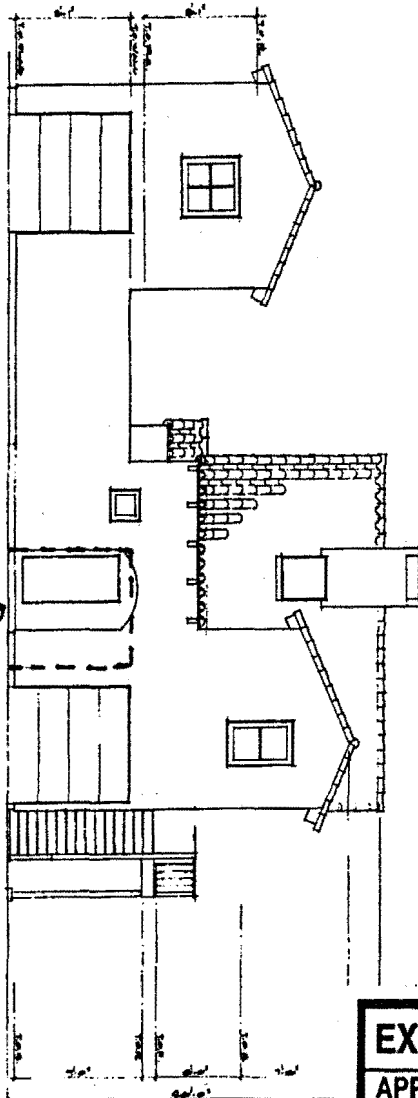


REVISOR GUEST HOUSE PLAN
DATE: 8-10-78

EXHIBIT NO. 8
APPLICATION NO.
4-97-209
GUEST UNIT

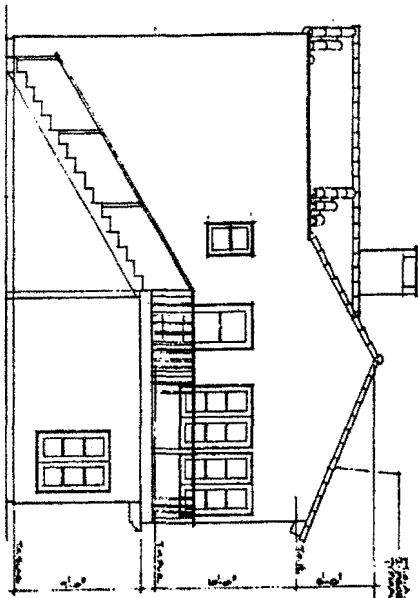


EAST ELEVATION

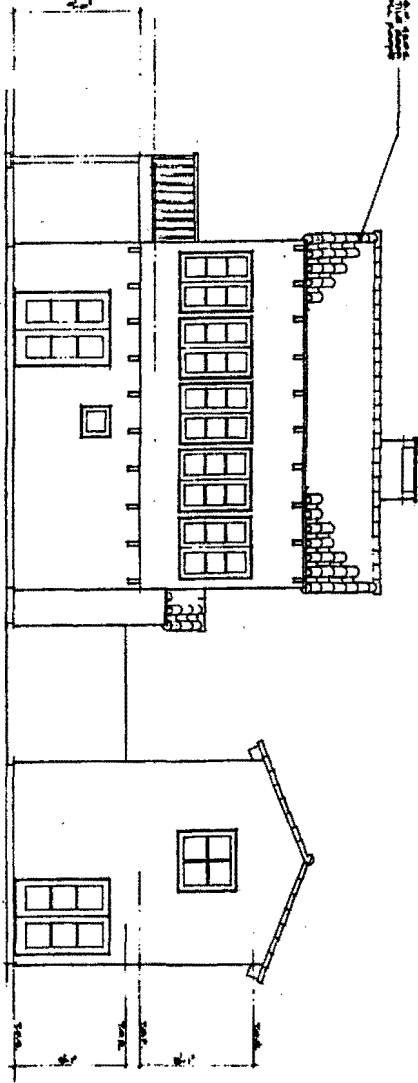


NORTH ELEVATION

NEW GARAGE DOOR



WEST ELEVATION



SOUTH ELEVATION

OLANTE
ARCHITECT AIA

OLANTE AIA
ARCHITECT AIA
1000 10th St. N.
Tomball, TX 77375
281-298-1187

EXHIBIT NO.	9
APPLICATION NO.	
4-97-209 (Wannacott)	
Guest house/locker room/workshop	

EXISTING GUEST HOUSE & WORKSHOP W/REAR PORCH

A-3.3

