

CALIFORNIA COASTAL COMMISSION

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

Filed: 9/2/98

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Staff: J. Johnson

Staff Report: 11/17/98

Hearing Date: 12/8/98

Commission Action:



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STAFF REPORT: CONSENT**APPLICATION NO.: 4-98-221****APPLICANT: Domenic & Melissa Mastrippolito AGENT: Greg Cahill, Architect,
Robert Chersky****PROJECT LOCATION: 7058 Fernhill Drive, City of Malibu, Los Angeles County****PROJECT DESCRIPTION: Construct one story 750 sq. ft. guest house on lot
with existing 5,808 sq. ft. single family residence.**

Lot area:	45,000 sq. ft.
Building coverage:	6,558 sq. ft.
Pavement coverage:	13,000 sq. ft.
Landscape coverage:	22,942 sq. ft.
Parking spaces:	3 covered spaces
Plan Designation:	Residential I
Zoning:	1 du/acre
Ht. Abv. Fin. grade:	18 ft.

SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending approval, subject to conditions, of the proposed guest house, consisting of a living room, bedroom, bath, bar, and porch. The guest house is located on the north-west portion of the site, within the level front yard area, on a lot with an existing single family residence.

Staff is recommending approval of the proposed project subject to the following special conditions which would bring the project into conformance with the Coastal Act: a future development and improvement restriction; plans conforming to geologist and engineer report recommendations; and a wild fire waiver of liability.

LOCAL APPROVALS RECEIVED: City of Malibu Planning Department Approval in Concept, dated 8/12/98; City of Malibu Environmental Health Department Approval in Concept, dated August 4, 1998; City of Malibu Geology

and Geotechnical Engineering Review Sheet, Approval In Concept, dated 4/16/98; County of Los Angeles, Fire Department, Coastal Commission Approval Only, dated 5/18/98.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan. County of Los Angeles, adopted 12/11/86; City of Malibu General Plan, adopted November 1995; City of Malibu, Article IX Interim Zoning Ordinance adopted 1993; Coastal Permit Waiver No. 4-98-122-W, Matrippolito; Coastal Permit Exemption No. 79, dated 11/17/97; and Coastal Permit No. 4-98-084, Taylor.

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, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies 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. Future Developments and Improvements Restriction

Prior to the issuance of the coastal development permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, stating that the subject permit is only for the development described in Coastal Development Permit No. 4-98-221. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610 (b) shall not apply to the guest house governed by Coastal Development Permit No. 4-98-221. Accordingly, any future structures, additions or improvements related to the guest house on the property that might otherwise be exempt under 30610 (b), shall require an amendment to Coastal Development Permit No. 4-98-221, or an additional permit from the California Coastal Commission, or from the local government certified to issue such permit.

The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and any other encumbrances that the Executive Director determines may affect the enforceability of the restriction. This 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.

2. Plans Conforming to Geologist and Engineer Report Recommendations

Prior to the issuance of the coastal permit, the applicant shall submit for the review and approval of the Executive Director, evidence of the geological and engineering consultant's review and approval of all project plans. All recommendations contained in the reports: Limited Geologic and Soils Engineering Investigation and Supplemental Reports 1, 2, and 3, by

GeoConcepts, Inc., dated October 14, 1997, December 29, 1997, April 1, 1998, and May 19, 1998, respectively. The recommendations identified in these reports address: foundations, drainage and maintenance, and slabs on grade shall be incorporated into all final project design. All final plans must be reviewed and approved by the geologist and engineer consultants.

The final plans approved by the consultants 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 that may be required by the consultants shall require an amendment to this coastal 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.

IV. Findings and Declarations.

A. Project Description and Location

The project site is located within an area known as Point Dume, Malibu. The site is located north of Dume Cove about 1,500 feet on a 1.03 acre lot on the east side of Fernhill Drive (*Exhibits 1, 2, and 3*). The applicant is proposing to construct a new one story guest house (*Exhibits 4, 5, and 6*). No grading other than that required for the foundation of the guest house is proposed. An existing residence is being remodeled and enlarged in phases on the subject lot. The applicant received a coastal permit exemption (1997 # 79), in a letter dated November 17, 1997, to remodel the residence and enclose an existing porch to create a 2,433 sq. ft. residence. A coastal permit waiver was approved July 15, 1998 to construct several one story additions to create a residence and garage totaling 6,558, construct a swimming pool, extend and repave the existing driveway, and construct a new septic system. The applicant is now requesting approval to construct a guest house.

Chester King, the City of Malibu's Archaeologist conducted an Archaeological Phase 1 field study and found as stated in his letter dated, March 19, 1998, no evidence of a prehistoric site on the subject parcel. The proposed project is located about 200 feet north of a designated Disturbed Significant Oak Woodland. The Woodland is located along a drainage, that is not a designated blue-line stream, leading to a beach just northeast of Dume Cove. The subject

site drains to Fernhill Drive and will not affect the Woodland. Although the subject site is located between the first public road paralleling the coast and the coast, the site is located about 1,500 feet inland along an existing road, Fernhill Drive. The subject site is located inland of Cliffside Drive; the fifth lot inland from the intersection of Cliffside and Fernhill Drives, thus, the project does not affect public access to or along the beach. Further, the Los Angeles County Malibu Land Use Plan has designated the site as Residential I that allows 1 dwelling unit per acre and one guest house with an interior floor space not to exceed 750 gross sq. ft., not including garage space. The existing residence and proposed guest house are therefore, considered conforming to the Land Use Plan.

B. Cumulative Impacts

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 area shall be permitted only where 50 percent of the useable parcel 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 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 disposal, 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 (such as the proposed 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 certifying the Los Angeles County 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 disposal, 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). Therefore as a result, the Commission has found that guest houses, pool cabanas, or second units can intensify the use of a site and impact public services, such as water, sewage disposal, electricity, and roads.

The applicants propose to construct a detached 750 sq. ft., one story, 18 foot high, habitable guest house connected to the existing septic system serving the single family residence on the site. The guest house consists of a living room, bedroom, bathroom, bar, entry and exterior porch of about 143 sq. ft. (Exhibits 4, 5, and 6). Therefore, the proposed maximum 750 sq. ft. habitable guest house, with a non-habitable, porch complies with the Commission's size limit of 750 sq. ft. of habitable space and the guidance provided in the LUP.

The Commission has many past precedents on similar projects that have established a maximum of 750 sq. ft. habitable space for development that may be considered a secondary dwelling unit. To ensure that no additions or improvements are made to the guest house and the non-habitable square footage that may further intensify the use without due consideration of the potential cumulative impacts, the Commission finds it necessary to require the applicants to record a future improvements deed restriction, which will require the applicants to obtain an amended or new coastal development permit if additions or improvements to the proposed guest house are proposed in the future as required by Special Condition Number One (1). For these reasons, the Commission finds, as conditioned, that the proposed project is consistent with Sections 30250 and 30252 of the Coastal Act.

C. Geologic Hazards

The Coastal Act includes a policy to protect existing and proposed development from 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, nor destruction of the site nor 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 within the Point Dume plateau south of the Santa Monica Mountains on the seaward side of Pacific Coast Highway, an area which is generally considered to be subject to a high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains area include soil stability concerns, landslides, and erosion. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all vegetation, thereby contributing to an increased potential for erosion and landslides on property. The applicant submitted a geology and geotechnical engineering report and three supplemental reports titled, Limited Geologic and Engineering Investigation, by GeoConcepts, Inc., dated October 14, 1997, and Supplement Report Nos. 1, 2, and 3, dated December 29, 1997, April 2, 1998, and May 19, 1998, respectively.

These reports review the proposed site for the single family residence, guest house, and pool. The reports indicated that the site is underlain by marine

sedimentary rock, bedrock, terrace deposits, and fill. The Report dated October 14, 1997 concludes that:

Based on the results of this investigation and a thorough review of the proposed development, as discussed, the site is suitable for the intended use providing the following recommendations are incorporated into the design and subsequent construction of the project. Also, the development must be performed in an acceptable manner conforming to building code requirements of the controlling governing agency. ... Based upon field observations, laboratory testing and analysis, the terrace deposits found in the explorations should possess sufficient strength to support the room additions and guest house.

The recommendations of the consulting geologist and engineer conclude that the development of the site as presently proposed is considered feasible from a geology and engineering viewpoint provided that the recommendations for design and construction are implemented. The consultants provided a number of recommendations addressing: foundations, drainage and maintenance, settlement, slabs on grade, and sewage disposal. In addition, the City of Malibu Geologist has reviewed the proposed project and recommended "Approval In Concept" in the planning stage in a Geology and Geotechnical Engineering Review Sheet, dated 4/16/98. Based upon the findings and recommendations of these consultants, the Commission finds that the development is consistent with Section 30253 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 final project plans that have been certified in writing by the applicant's geologist and engineer consultants as conforming to their recommendations, as noted in Special Condition Number 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 the liability from the associated risks. Through the waiver of liability, as required by Special Condition Number Three (3), the applicants acknowledge and appreciate the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development.

Therefore, the Commission finds that the proposed project, as conditioned to address geologic and fire hazards, is consistent in 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.

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

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 current sewage disposal system includes a 2,000 gallon septic tank, a drainfield, and a future drainfield located in the backyard to the east of the existing residential structure. The applicants have submitted a conceptual approval for the sewage disposal system from the City of Malibu Department of Environmental Health, based on a five bedroom single family residence and a one bedroom guest house. This approval indicates that the sewage disposal system for the project in this application complies with all minimum requirements of the City of Malibu Uniform Plumbing Code.

The Commission has found in past permit actions that compliance with the health and safety codes will minimize any potential for wastewater discharge that could adversely impact coastal waters. As reviewed by the City and as set forth in the geology and engineering analysis of the septic system, the proposed project will not adversely impact the biological productivity and quality of the coastal waters. Therefore, the Commission finds that the proposed project is consistent with Sections 30231 and 30250 of the Coastal Act.

E. Local Coastal Program

Section 30604 of the Coastal Act states that:

a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with 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 effects 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).

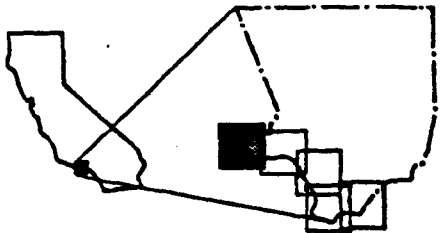
F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Coastal Commission's permit process has been designated as the functional equivalent of CEQA. Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of 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 Commission finds that, 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 Commission finds that the proposed project, as conditioned to mitigate the identified effects, is consistent with the requirements of CEQA and the policies of the Coastal Act.

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Los Angeles

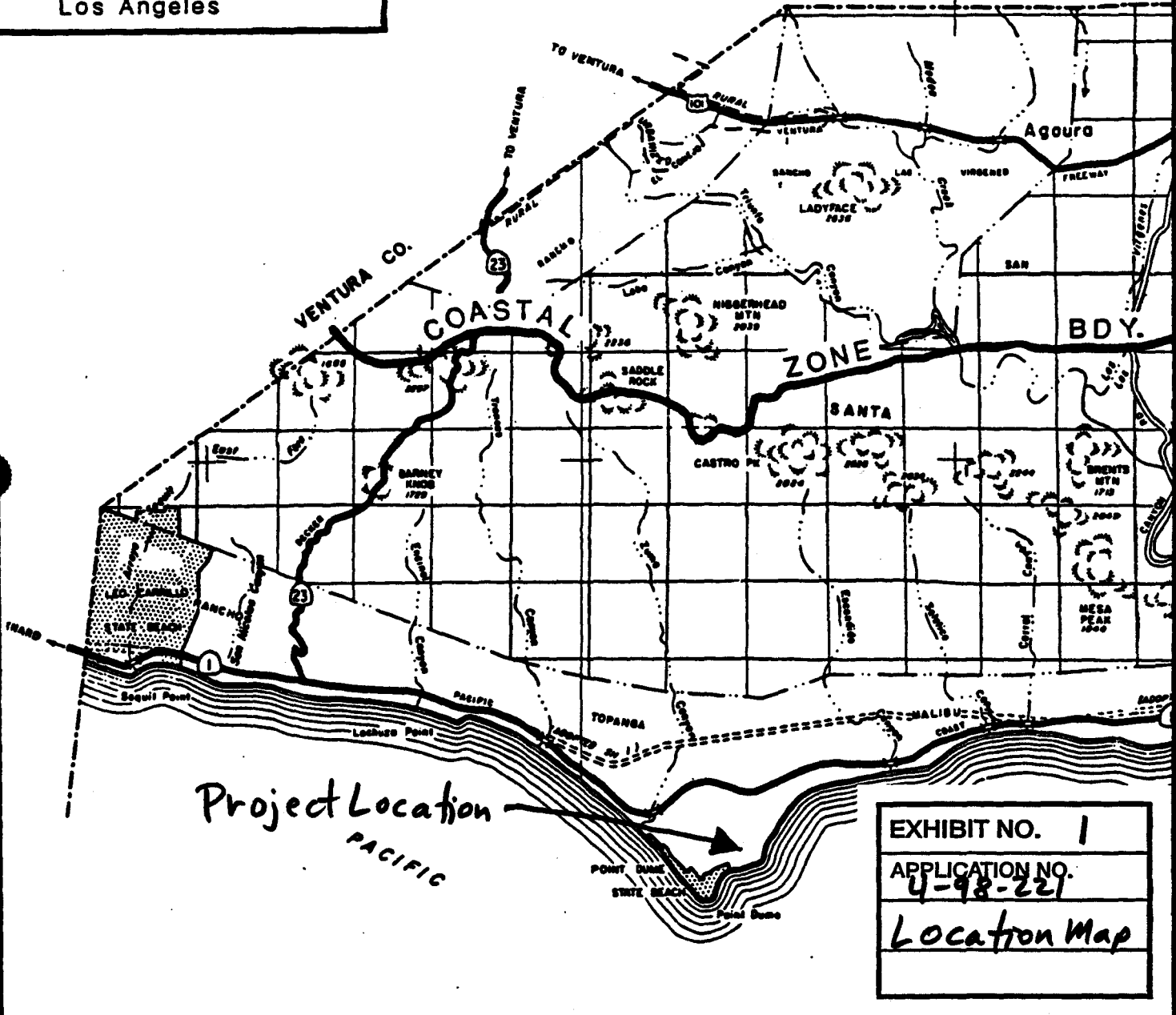
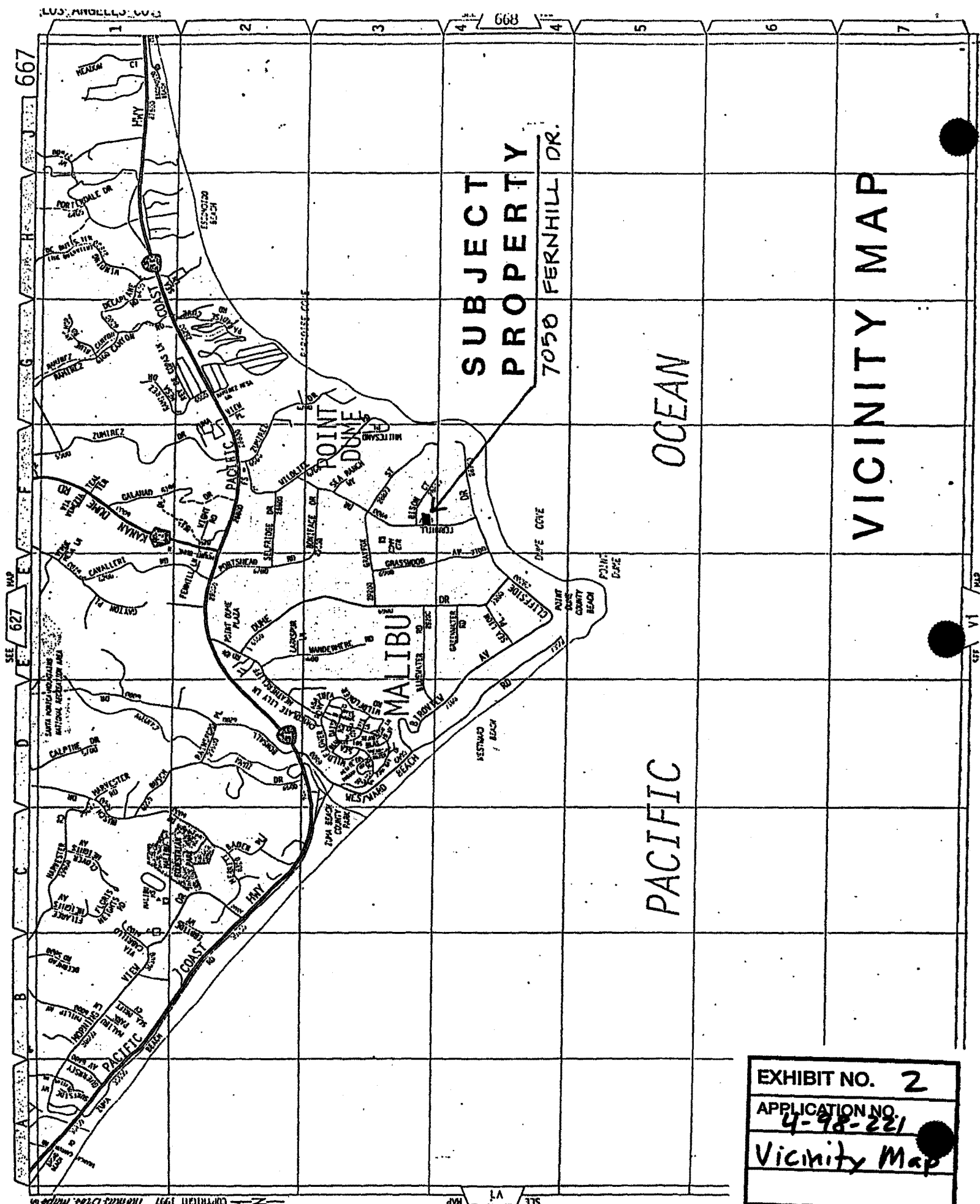


EXHIBIT NO. 1
APPLICATION NO. 4-98-221
Location Map

LOCATION MAP





SUBJECT
PROPERTY
7050 FERNHILL DR.

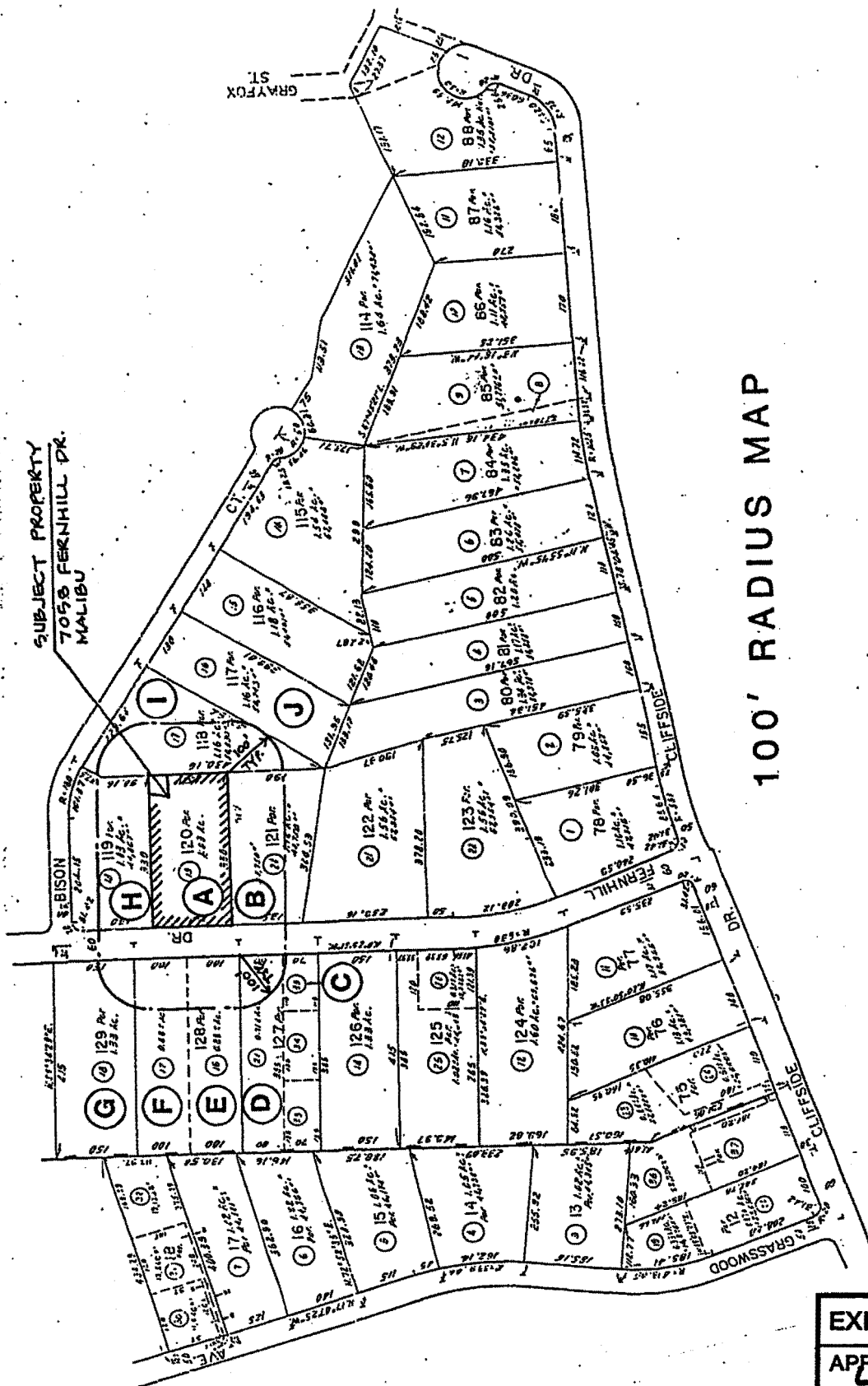
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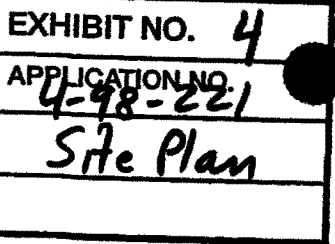
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APPLICATION NO.	4-98-221
Vicinity Map	

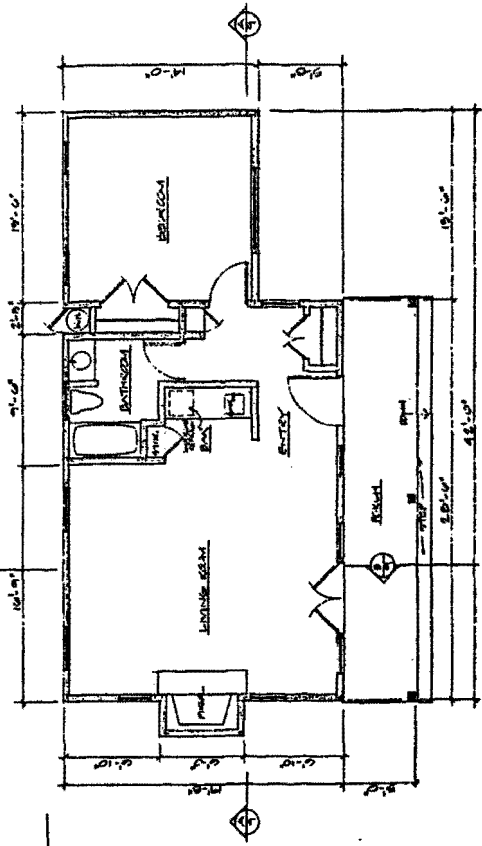
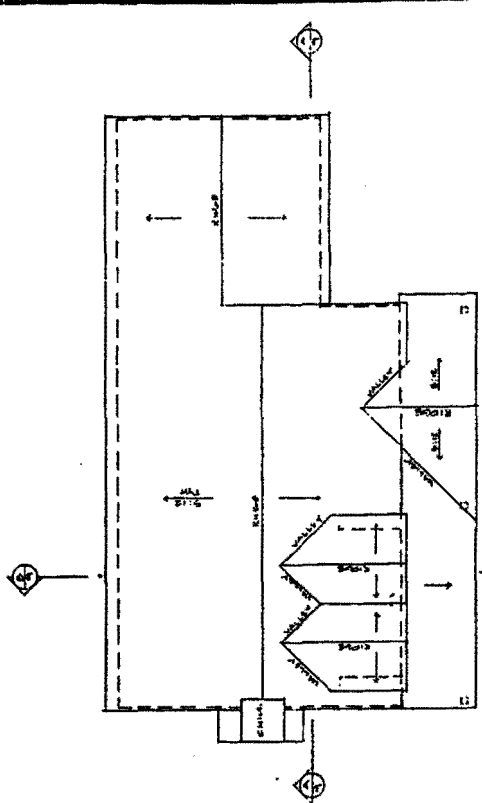




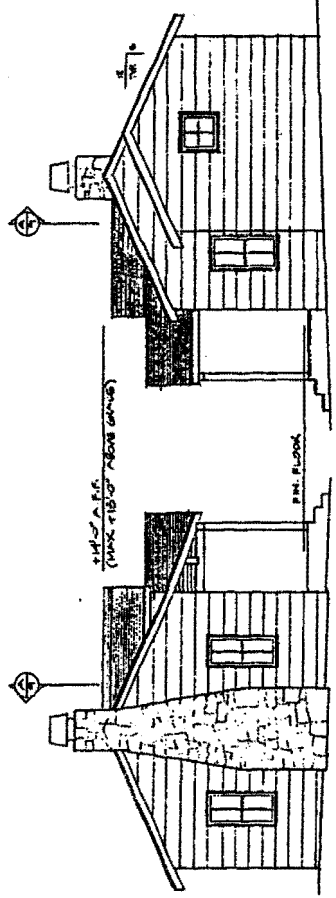
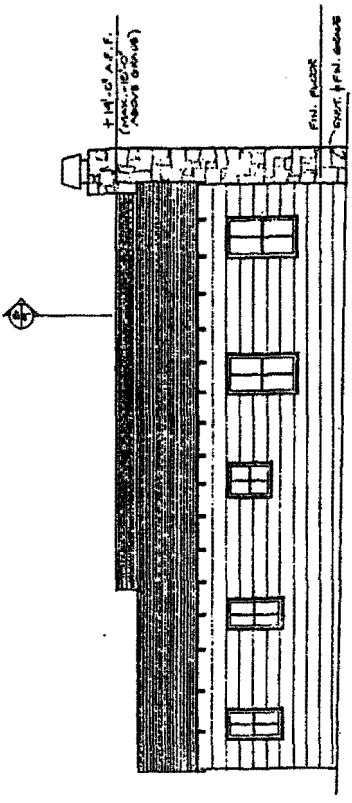
PREPARED BY:
 Cahill-Leese Architects
 2428 Beverly Ave. Unit 8
 Santa Monica, Ca. 90405
 (310) 392-9343

EXHIBIT NO. 3
 APPLICATION NO.
 4-98-221
 Project Lot





(14)



WEST ELEVATION

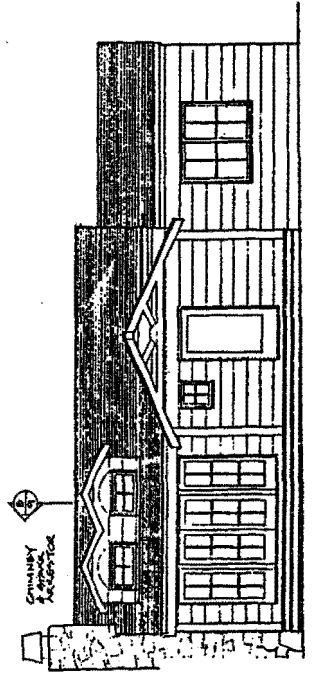


EXHIBIT NO. 5
APPLICATION NO. 4-98-221
Elevations

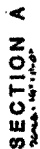


EXHIBIT NO. 6
APPLICATION NO. 4-98-221
SECTION 5