

Tu Si

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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VENTURA, CA 93001
(805) 641-0142



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Filed: 10/16/98
49th Day: 12/4/99
180th Day: 4/14/99
Staff: MHC-V
Staff Report 11/16/98
Hearing Date: 12/8-10/98

STAFF REPORT: CONSENT CALENDAR**APPLICATION NO.: 4-98-256****APPLICANT:** Dona Mazilu**AGENT:** Karen Dianella**PROJECT LOCATION:** 30188 Morning View, Malibu (Los Angeles County)

PROJECT DESCRIPTION: Construct 750 sq. ft. foot single-story second unit/senior residence, 800 sq. ft. deck, 400 sq. ft. garage, and 750 gallon septic tank. No grading is required and no changes are proposed to the existing single family residence.

Lot area:	12,850, sq. ft. 2.985 acres)
Building coverage:	3,000 sq. ft. (existing) 2,000 sq. ft. (proposed)
Pavement coverage:	6,000 sq. ft. (existing) 2,000 sq. ft. (proposed)
Landscape coverage:	80,000 sq. ft. (existing) 20,000 sq. ft. (proposed)
Parking spaces:	3 covered, 2 carport (existing); 2 covered (proposed)
Ht abv fin grade:	18 feet

LOCAL APPROVALS RECEIVED: City of Malibu: Planning Department, Approval In Concept, 9/14/98; Geology, Planning Approval, 8/6/98.

SUBSTANTIVE FILE DOCUMENTS: Malibu/Santa Monica Mountains Certified Land Use Plan; Preliminary Geologic Investigation, 7/5/98; Percolation Test Report, 4/7/98.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the project with special conditions relating to: *future improvements restriction, conformance to geologic recommendations, and wavier of wildfire 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 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 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. 4-98-256; and that any additions to permitted structures, change of use, future structures or improvements to the property, including but not limited to clearing of vegetation and grading, that might otherwise be exempt under Public Resource Code Section 30610(b), will require a permit from the Coastal Commission or the affected local government authorized to issue coastal development permits. Removal of vegetation consistent with L. A. 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 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 Geologic Recommendations

Prior to the issuance of a coastal development permit the applicant shall submit, for review and approval by the Executive Director, evidence of the geology and geotechnical consultants' review and approval of all project plans. All recommendations contained in Soils Engineering Investigation, by Oro Engineering Corporation, dated 7/5/98 (and related geotechnical reports) shall be incorporated into all final design and construction plans including recommendations concerning, foundations, settlement, slabs, erosion and drainage. All plans must be reviewed and approved by the consultants as conforming to these recommendations.

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. 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

The applicant proposes to construct a detached 750 sq. ft., 18 foot high, single-story second unit/senior housing unit on a parcel with an existing 3,000 sq. ft. single family residence. The proposed second unit will require the addition of septic tank. No grading is required and no changes are proposed to existing single family residence.

The existing detached second unit is located towards the southeast end of the lot, to the east of the existing residence and swimming pool. (See Exhibits 1 through 6.) The proposed second unit would have no direct connection or communication with the existing single family residence.

The proposed project site is located on an interior lot off of Morning View landward Pacific Coast Highway in the Malibu area. Access to the subject site is provided directly off of Morning View. The proposed project is located on a gently sloping, rectangular parcel, adjacent to similar single family residences to the east, west and east. The second unit addition would be not be visible from Pacific Coast Highway because of an intervening developed lot, and would not be visible from any public park or trail. Therefore, the proposed second unit would not have any visual impact.

B. Background

The issue of second units on lots with primary residences has been the subject of past Commission action in the certification of the Malibu/Santa Monica Mountains Land Use Plan (LUP), which has served as guidance to the Commission for the Malibu area. In its review and certification of the 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 given the small size of the units, and the fact that they are likely to be occupied by one or at the most two people, such units would have less impact on the limited capacity of the area's infrastructure, including Pacific Coast Highway, than an ordinary single family residence.

This 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 may serve a variety of different functions which frequently consist of: 1) a second unit, with kitchen facilities (includes a "granny unit", caretaker's unit and farm labor unit); and 2) a guest house, without separate kitchen facilities. Past Commission action has consistently found that both second units and

guesthouses inherently have the potential to cumulatively impact coastal resources. Consequently, conditions on coastal development permits and standards within LCPs have been required to insure consistency with the Chapter 3 policies of the Coastal Act.

C. Cumulative Impacts of New Development/Second Units

The proposed project involves the construction of a 750-sq. ft. second unit, which is defined under the Coastal Act as new development. New development raises issues with respect to cumulative impacts on coastal resources. In particular, the construction of a second unit on a site where a primary residence exists intensifies the use of a site and impacts public services, such as water, sewage, electricity and roads. Sections 30250 and 30252 of the Coastal Act address the cumulative impacts of new development.

Section 30250(a) of the Coastal Act states:

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 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 the surrounding parcels.

Section 30105.5 of the Coastal Act defines the term "cumulatively," as it is used in Section 30250(a), to mean that:

the incremental effects of an individual project shall be reviewed in conjunction with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

Section 30252 of the Coastal Act discusses the requirement that the location and amount of new development maintain and enhance public access to the coast. This section enumerates methods that would assure the protection of access and states that such maintenance and enhancement could be achieved, in part, by

"...providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads... and by, assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by..."

The certified Malibu/Santa Monica Mountains LUP, which the Commission considers as guidance for implementing the Chapter 3 policies of the Coastal Act, contains Policy 271 which states:

"In any single-family residential category, the maximum additional residential development above and beyond the principal unit shall be one guest house or other

second unit with an interior floor space not to exceed 750 gross square feet, not counting garage space."

As noted above, Coastal Act consistency determinations in relation to new development and second units has been the subject of Commission review and policy action at both the local and statewide levels. The resultant policy determinations have been articulated through both coastal development permit conditions and LCP implementation actions. In particular, the Commission has upheld the 750 sq. ft. second unit size limit in the Malibu Coastal Zone, in accordance with policy guidance from the Malibu/Santa Monica Mountains certified LUP, through its review and approval of coastal development permits.

1. Past Permit Conditions and Action

The Coastal Act requires that new development be permitted only where public services are adequate and only where public access and coastal resources will not be cumulatively affected by such development. The Commission has repeatedly emphasized the need to address the cumulative impact of new development in the Malibu/Santa Monica Mountains area in past permit actions. The cumulative impacts problem stems from the existence of thousands of undeveloped and poorly sited parcels in the mountains along with the potential for creating additional parcels and/or residential units through subdivisions and multi-unit projects.

Because of the large number of existing undeveloped lots and potential future development in the Malibu/Santa Monica Mountains area, the demands on road capacity, services, recreational facilities, and beaches are expected to grow tremendously. In addition, the presence of second units on each existing lot within the Coastal Zone would create adverse cumulative impacts on coastal resources and coastal access.

Commission action on second units and guest houses on a statewide level has varied based upon such factors as the types of units proposed, differences (or lack thereof) in conditions attached by local governments, and the differences in the characteristics of the communities where such units are proposed. In the case of second units/ guesthouses in Malibu and the unincorporated Santa Monica Mountains a 750-sq. ft. size limitation has been placed on second unit development.

A second unit is normally characterized as a self contained dwelling unit with kitchen facilities on a parcel developed with a single-family residence. In areas such as Malibu, public service capacities are constrained and thereby regulated to support Coastal Act priority land uses (i.e. commercial visitor serving) and public access to the coast. One means of regulating service capacities is to limit the size of the second units in order to reduce the potential number of occupants. A second unit sized for one to two persons ensures a limited impact on both traffic and sewage disposal. Also, the smaller sized second unit/guest houses reduce the likelihood that these structures will become long-term dwelling units.

2. Local Coastal Programs

Other cities and counties have strictly defined the size, location and use of second units in their Local Coastal Programs (LCP) and subsequent amendments that have been certified by the Commission. Staff review of various LCP implementation policies indicates that typical limitations placed on second unit development include: a maximum size restriction; the allowance of no more than one second unit; the location within less than 250 ft. of the primary residence; a conditional use permit requirement; the use of sewer rather than septic system; and, the assurance that parking and circulation will not be adversely impacted.

The issue of second units relative to coastal zone resources and public access is unique to each coastal community, as evidenced in other certified LCPs. In the City of Malibu and the unincorporated portions of the Santa Monica Mountains within the Coastal Zone, the certified Land Use Plan (LUP) serves as a guidance document, since a Local Coastal Program has not been certified for the area.

In certifying the Malibu/Santa Monica Mountains LUP in 1986 the Commission found the existing capacity of Pacific Coast Highway creates significant constraints on new development. Policy 274 of the LUP includes a cap on the number of residential units and commercial square footage which may be approved prior to Pacific Coast Highway improvements; under Policy 274, second units are assigned a half residential unit allocation based on the limited size and occupancy. Policy 274 was based on a Caltrans capacity study, as cited in the certified Malibu/Santa Monica Mountains LUP, pg. 29. However, to date, no improvements to the existing infrastructure have occurred and, therefore, there is no basis to alter these limits on development, as specified in the LUP.

The traffic capacity studies for Pacific Coast Highway are just one example of technical services capacity studies that need to be updated, reviewed and certified by the Commission. The Commission finds that an expansion of the second unit size limitation beyond 750 sq. ft. in Malibu is not in order, given that the applicant has not produced any updated technical studies or new information which might demonstrate adequate public service capacities, such as Pacific Coast Highway, to accommodate the potential increased cumulative impacts of new development.

Further, staff has no evidence the required infrastructure improvements are no longer necessary. Where modifications to the 750 sq. ft. second unit size limit are proposed, it is incumbent upon the City of Malibu to provide such evidence and to outline some sort of "performance standards" to ensure second units would not do the following: 1) significantly crowd out Coastal Act priority land uses; 2) increase the demand on existing infrastructure in away that would impact coastal resources; or 3) inhibit public access to the coast.

Thus, absent updated public service capacity studies relative to the City of Malibu, the Commission cannot approve a second residential unit greater than 750 sq. ft. on a single family residential site as defined by the Malibu LUP land use designation. The Commission underscores that the construction of two full residential units, where each unit is larger than 750 sq. ft., on any existing single family residential lot located within the Coastal Zone would potentially necessitate a lot split and would have to conform to all applicable Chapter 3 policies including Section 30250.

The Commission notes that concerns about the potential future impacts on coastal resources and coastal access might occur with any further development of the subject property. Impacts such as traffic, sewage disposal, recreational uses, visual scenic quality and resource degradation would be associated with the development of the additional unit in this area. Limiting the size of second residential units, guest houses and other appurtenant structures generally results in a smaller number of occupants which reduces the impacts on services such as roads, water and sewage disposal. Further, smaller second units and guesthouses reduce the potential for these structures to become separate, permanent dwelling units.

The applicant has proposed the construction of a detached second unit structure, with 750-sq. ft. of living space to provide a senior housing.

The net effect of the project is to add a second living unit to the subject parcel. As noted above, Policy 274 of the certified Malibu/Santa Monica Mountains LUP limits the interior floor space of a detached, second unit structure to 750 sq. ft. The proposed development is consistent with this limitation.

The Commission also notes that concerns about the potential future impacts on coastal resources might occur with any further development of the subject property, because of the extensive development already on the site. Impacts such as traffic, sewage disposal, recreational uses, and resource degradation would be associated with the further intensification or continuous residential use of the additional unit in this area.

Therefore, the Commission finds it is necessary to require the applicant to include a future improvements deed restriction that specifically limits the size of the second unit. Thus, the findings attached to this permit and *Special Condition number one (1)* will serve to ensure that the proposed development results in the development of the site that is consistent with and conforms to the Chapter 3 policies of the Coastal Act. The Commission finds that as conditioned, the proposed project is consistent with Section 30250(a) and with all the applicable policies of the Coastal Act.

D. 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 on the southern flank of the Santa Monica Mountains, an area that 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.

The subject site is on a relatively gently sloping lot with an average gradient between three and five degrees on the site of the proposed second unit addition.

1. Geology

The applicant has submitted a Soils Engineering Investigation, dated 7/5/98, prepared by Oro Engineering Corporation for the subject site. The consulting geotechnical engineer conducted research of previous reports, performed a field investigation, sampled the soil, conducted laboratory testing and performed analyses.

Following a summary of findings regarding the soil conditions of fill, soil, and bedrock, the geological investigation concludes that the site is suitable for the proposed development providing the site specific engineering recommendations are incorporated into the project.

Based on their evaluation of previous research, site observations, excavation, laboratory testing, and analysis, the geotechnical engineer has provided recommendations to address the specific soil conditions related to the design of the building foundation, settlement, slabs, erosion and drainage.

Thus, 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 *special condition number three (2)* 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 special condition number three (3).

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

E. 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 entertainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, minimizing alteration of natural streams.

The proposed septic system is comprised of the existing 750-gallon septic tank. The applicant has received approval for the sewage disposal system from the City of Malibu Department of Environmental Health, based on a one bedroom single family residence. This approval indicates that the sewage disposal system for the project in this application complies with all minimum requirements of the 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. Therefore, the Commission finds that the proposed septic system is consistent with Section 30231 of the Coastal Act.

F. 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).

G. 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)(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 effect which the activity would have on the environment.

There proposed development would not cause significant, adverse environmental effects 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.



EXHIBIT NO. 1

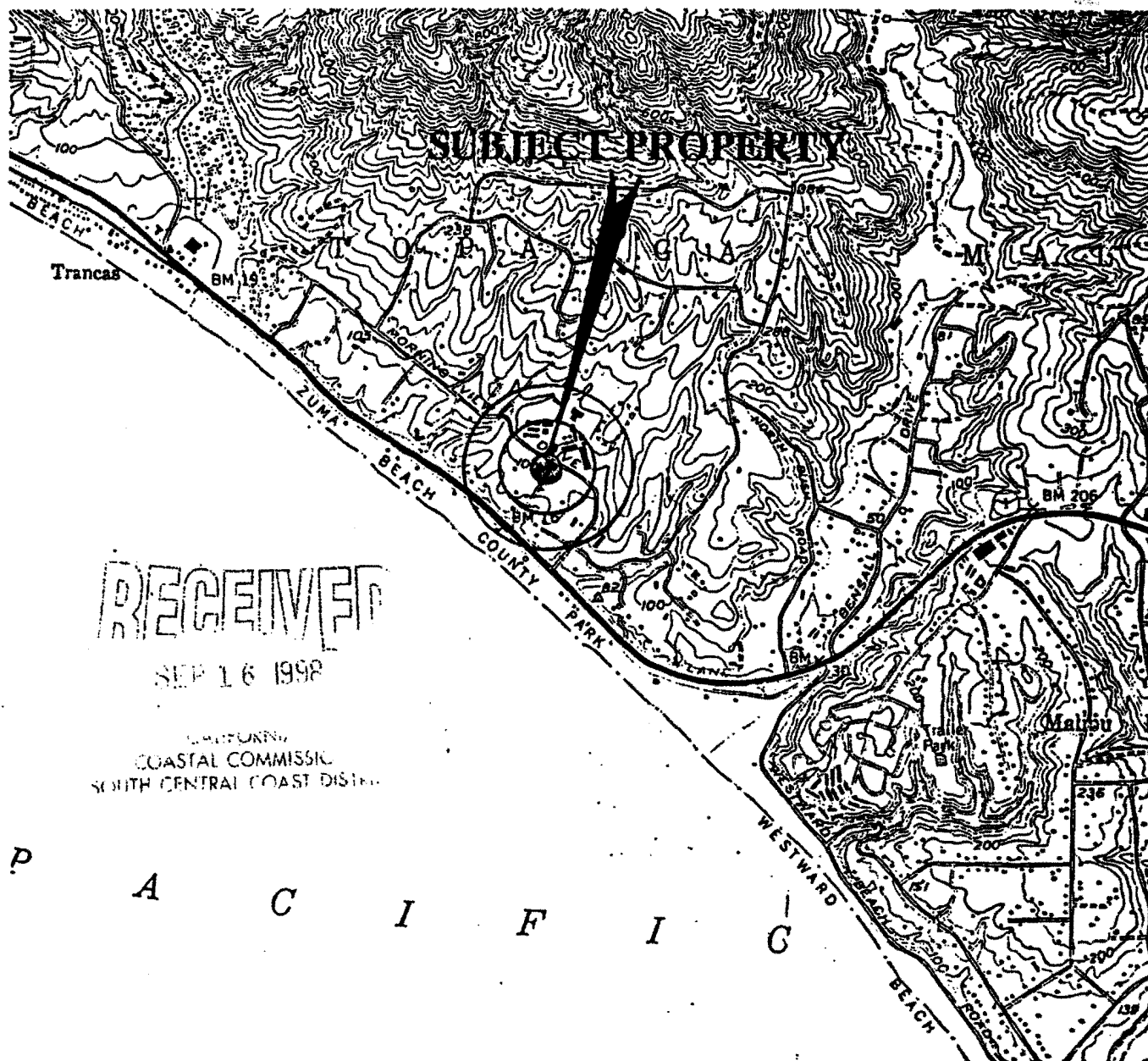
APPLICATION NO.

4-98-256

Mazilu

CONSULTING ENGINEERING GEOLOGISTS

REFERENCE: U.S.G.S. TOPOGRAPHIC MAP, POINT DUME QUADRANGLE

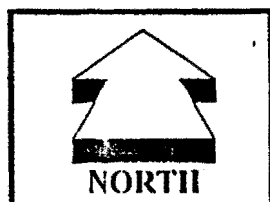


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P A C I F I C



SCALE



PLATE 2

MAZILU
JH 3428

VICINITY MAP

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COASTAL COMMISSION
CENTRAL COAST DISTRICT

PROJECT LOCATION
30188 MORNING VIEW DR
MALIBU CAL.

Zuma Beach County Park

Mag 16.00
Tue Apr 15 17:19 1997
Scale 1:7,812 (at center)

500 Feet

200 Meters

EXHIBIT NO. 2

APPLICATION NO.

4-98-256

Mazilu

- Secondary SR, Road, Hwy Ramp
- Primary State Route
- Geographic Feature
- Park or Reservation
- Population Center
- Lake, Ocean
- Sand

Zuma Canyon

[illegible]

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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DEVELOPED SENIOR RESIDENCE UNIT
 - MR. & MRS. HAZILU
 - 3000 MORNING VIEW DR.
 - 780

2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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EXHIBIT NO.	4
APPLICATION NO.	4-98-256
	Mazilu

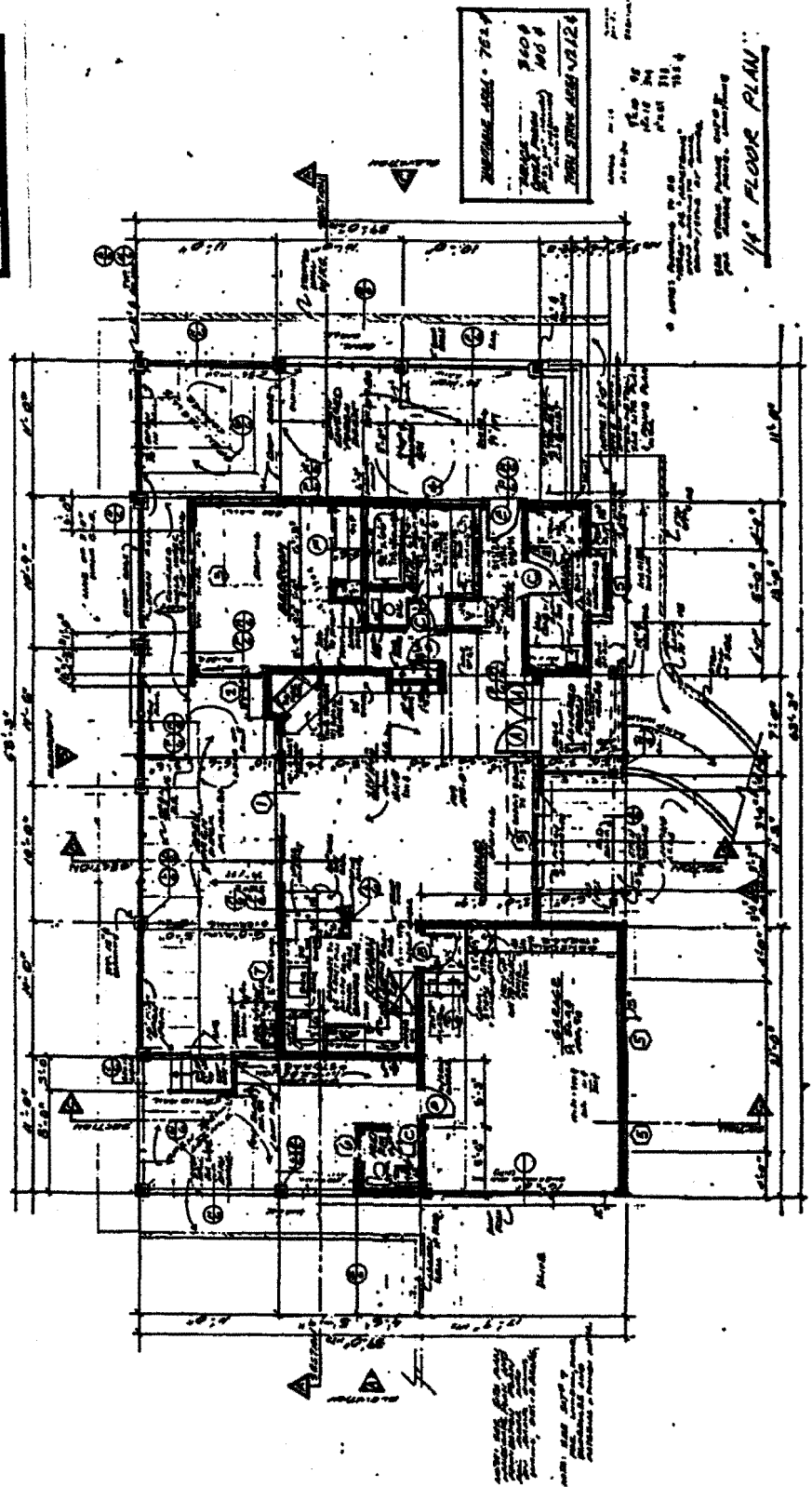


EXHIBIT NO.	5
APPLICATION NO.	
	4-98-256
	Mazilu

