

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
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**ITEM: TU-5k**

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Staff: MH-V *jc*  
Staff Report: 11/03/98  
Hearing Date: 12/08/98  
Commission Action:

**RECORD PACKET COPY****STAFF REPORT: CONSENT CALENDAR****APPLICATION NO. 4-98-274****APPLICANTS: Drs. Ronald and Angelita Feinstein****AGENT: John Kilbane****PROJECT LOCATION: 27457 Latigo Bay View Drive, City of Malibu, Los Angeles County**

**PROJECT DESCRIPTION:** Construct a 5,873 sq. ft., two story, 27 foot high, single family residence, including an attached 420 sq. ft., single-story cabana, an attached 645 sq. ft., three-car garage, a swimming pool, driveway, patios and landscaping, and excavate 121 cu. yds. of cut material (for construction of swimming pool) to be disposed of at the Calabasas Landfill.

Lot Area: 1.31 acres/57,063 sq. ft.  
Building Coverage: 3,895 sq. ft.  
Pavement Coverage: 7,843 sq. ft.  
Landscaped Area: 15,000 sq. ft.  
Parking Spaces: 3 (garage)  
Plan Designation: Residential I  
Zoning: One du/1 acre  
Project Density: One du/1 acre  
Ht. abv ext grade: 27 feet maximum.

**LOCAL APPROVALS RECEIVED:** Approval in Concept, City of Malibu Planning Department, dated 10/22/98; City of Malibu, Notice of Decision, Site Plan Review Number 980-33, dated October 9, 1998; In Concept Approval (Septic System), City of Malibu Environmental Health Department, dated August 3, 1998; Los Angeles County Fire Department, Preliminary Approval, dated October 13, 1998; Approval in Concept, City of Malibu Geology and Engineering Review, dated August 31, 1998; City of Malibu Archaeological Review Phase I Report, dated August 14, 1998.

**SUBSTANTIVE FILE DOCUMENTS:** Malibu/Santa Monica Mountains Land Use Plan, Coastal Development Permit 5-89-1149 (Thorne); 4-97-157 (Malibu Investors);

4-97-189 (Segal); 4-97-120 (Malibu Investors); 4-97-121 (Malibu Investors).

**SUMMARY OF STAFF RECOMMENDATION:** Staff recommends approval of the project with special conditions addressing: **Landscape and Erosion Control Plan; Plans Conforming to Geologic Recommendations, Wildfire Waiver of Liability, Future Improvement, Design Restrictions, and Swimming Pool Drainage.** The subject 1.31-acre parcel is Lot 14, Tract 46851, of the 19-lot "Malibu Pacifica" subdivision located west of Latigo Canyon Road, in Malibu, approximately one mile north of Pacific Coast Highway (Exhibits 1-12). Lot 14 contains an 11,700 square foot level pad area previously graded pursuant to the underlying permit for the subdivision (CDP 5-89-1149 (Thorne)).

The site is located four lots west of Latigo Canyon Road, which is designated in the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) as a scenic highway. In addition, the site is visible from designated scenic viewing areas along the adjacent portions of Latigo Canyon Road (Exhibit 4). No designated environmentally sensitive habitat areas have been identified on or adjacent to Lot 14.

The Commission has approved four other coastal development permits for the development of single family residences on lots within this subdivision during the past year (see Section IV(A) of this report). Three other applications proposing residential development of Malibu Pacifica lots are also scheduled for Commission consideration on the November hearing agenda (Application Nos. 4-98-275, 4-98-276, and 4-98-277).

### **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. Landscape Plan and Fuel Modification
  - A. Prior to the issuance of the coastal development permit, the applicant shall submit landscaping and fuel modification plans prepared by a licensed landscape architect for review and approval by the Executive Director. The plans shall incorporate the following criteria:
    - (1) All disturbed areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes within sixty (60) days of receipt of the Certificate of Occupancy from Los Angeles County. To minimize the need for irrigation and to screen or soften the visual impact of development, all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plant species that tend to supplant native species shall not be used. Such planting shall be adequate to

provide ninety (90) percent coverage within two (2) years and shall be repeated, if necessary, to provide such coverage. This requirement shall apply to all disturbed soils including the existing graded pad. Plantings shall include vertical elements to screen and soften the visual impact of the residence and garage as seen from Latigo Canyon Road.

- (2) Vegetation within 50 feet of the proposed house may be removed to mineral earth or planted in a zone of irrigated lawn or similar ground cover. Selective thinning, for purposes of fire hazard reduction shall be allowed in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The applicant shall submit evidence to the satisfaction of the Executive Director that the fuel modification plan required herein has been approved by the Los Angeles County Forestry Department.
- (3) All 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.
- (4) All development approved herein shall be undertaken in accordance with the final approved plans. Any proposed changes to the approved final landscape or fuel modification 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.
- (5) Should grading 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 grading operations and maintained through the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an approved dumping location.

**B. Monitoring Plan**

- (1) Five years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

- (2) If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

2. Plans Conforming to Geologic Recommendations

- (a) All recommendations contained in the Building Plan Review, Lot 14, Tract 46851, dated July 13, 1998, prepared by Geosystems, Environmental and Geotechnical Consultants, shall be incorporated into all final design and construction including recommendations concerning foundations, grading, drainage, erosion control, retaining walls (new and existing), site preparation, friction piles, general construction specifications and precautions, floor slabs, pavement, swimming pool, and sewage disposal. All plans must be reviewed and approved by the geotechnical consultants. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval of the Executive Director, evidence of the consultants' review and approval of all project plans. Such evidence shall include affixation of the consulting geologists' stamp and signature to the final project plans and designs.
- (b) The final plans approved by the geotechnical 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 geotechnical consultant shall require an amendment to the permit or a new coastal permit. The Executive Director shall determine whether required changes are "substantial."

3. Wild Fire Waiver of Liability

Prior to the issuance of the coastal development permit, the applicants 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.

#### 4. Future Improvements

Prior to issuance of a coastal development permit, the applicants as landowners shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide that Coastal Development Permit 4-98-274 is only for the proposed development and that any future additions or improvements to the permitted structures, or property, including but not limited to clearing of vegetation and grading, other than as provided for in the approved landscape plan prepared pursuant to Special Condition 1, that might otherwise be exempt under Public Resource Code Section 30610 (a), will require a permit from the Coastal Commission or the affected local government authorized to issue such coastal development permits. The deed restriction shall specify that clearance of vegetation consistent with the fuel modification plan approved by the Los Angeles County Fire Department pursuant to Special Condition 1(A)(2) above 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 changes without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

#### 5. Design Restrictions

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, which restricts the color of the subject residence, garage, and roofs to colors compatible with the surrounding environment. White tones shall not be acceptable. All windows shall be of non-glare glass. The document shall run with the land for the life of the structures approved in this permit, 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. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this permit, unless the Executive Director determines that no amendment is required.

#### 6. Swimming Pool Drainage Plan

Prior to the issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, a swimming pool drainage plan prepared by a licensed engineer that connects the swimming pool drain directly to the previously-constructed storm drain system. The swimming pool drainage plan shall certify that the proposed drainage system is adequate to drain the subject pool's volume of stored water at full capacity and shall specify that swimming pool drainage shall not be accomplished by pumping the drained effluent onto adjacent open areas or slopes.

#### **IV. Findings and Declarations.**

The Commission hereby finds and declares:

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

The proposed project site is located at 27457 Latigo Bay View Drive (APN 4460-034-004), about one mile inland (north) of the Pacific Ocean and west of Latigo Canyon Road (see Exhibits 1-12). The subject parcel is one of nineteen lots created by a subdivision approved by the Commission in 1990 (CDP 89-1149(Thorne)). Many of the parcels in the subdivision, which is now known as "Malibu Pacifica" are subject to extensive open space deed restrictions, and a geologic restricted use area affects Lots 7 and 8. The subject parcel, Lot 14, is not affected by these restrictions, however.

The building site on the subject 57,063 square foot parcel is an 11,720 square foot graded pad situated on a buttress fill slope that ascends to the next lot (Lot 15) and totals approximately 75 feet in height. The fill slope receives significant support from a retaining wall on the southwestern quadrant of the site.

The applicants propose to construct a 5,873 square foot, two-story, 27 foot high, single family residence, including an attached 420 square foot, single-story cabana. The applicants also propose to construct a 645 square foot, attached single-story three-car garage, a swimming pool, driveway, patios and landscaping, and 121 cubic yards of grading (all cut) to construct the swimming pool. The excess cut material will be disposed of at the Calabasas Landfill.

There are no United States Geological Survey (U.S.G.S.) designated "blue-line" drainage courses within the subdivision. Escondido Canyon Creek, a U.S.G.S. blue-line stream and Environmentally Sensitive Habitat Area (ESHA), flows roughly parallel to the western and southern site boundaries of the subdivision at distances from 300-700 lineal feet. The subject parcel generally drains toward the south, to the driveway accessing the site off Latigo Bay View Drive and into the previously constructed storm drain system serving the subdivision. Thus, the development of Lot 14 would not affect Escondido Canyon Creek.

Vegetation on the site consists mostly of coastal sage scrub. No environmentally sensitive habitat has been identified on Lot 14.

The proposed building pad on Lot 14 is situated at approximately the 825-foot elevation and is therefore one of the most visually prominent, ridgeline lots in the subdivision. The site is visible from public vistas along Latigo Canyon Road. These sites are designated on the Visual Resources Map of the certified Malibu/Santa Monica Mountains Land Use Plan (see Exhibit 4).

The Commission has approved the development of single family residences on four of the lots in this subdivision within the past year, including:

- Lot 3 (7/8-acre): CDP 4-97-120 (Malibu Investors), for a 4,365 square foot, one story single family residence, etc., at 4765 Latigo Canyon Road.
- Lot 4 (1 acre): CDP 4-97-121 (Malibu Investors), for a 4,356 square foot, one story single family residence, etc., at 4767 Latigo Canyon Road.
- Lot 7 (13.2 acres): CDP 4-97-157 (Malibu Investors), for a 4,351 square foot, two-story single family residence, etc., at 4775 Latigo Canyon Road.
- Lot 11 (4.28 acres): CDP 4-97-189 (Segel), for a 7,102 square foot, two story single family residence, etc., at 4771 Latigo Canyon Road, Malibu.

Three other lots are presently proposed for development in the Malibu Pacifica subdivision pursuant to pending Coastal Development Permit applications 4-98-275 (Lot 16) at 27425 Calicut Road; 4-98-276 (Lot 17) at 27453 Calicut Road; and 4-98-277 (Lot 18) at 27467 Calicut Road.

**B. Geology and Fire Hazards**

Coastal Act Section 30253 provides in pertinent part that:

**Section 30253.**

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 Malibu/Santa Monica Mountains LUP, which the Commission has certified and utilized as guidance in past permit decisions, contains policies applicable to the proposed project:

- P 147 Continue to evaluate all new development for impact on, and from, geologic hazard.**
- P 149 Continue to require a geologic report, prepared by a registered engineer...**
- P 156 Continue to evaluate all new development for impact on, and from, fire hazard.**



The proposed development is located in 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.

### 1. Geology; Site Stability

Section 30253 of the Coastal Act requires that new development assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area. The applicant has submitted a geology report titled Building Plan Review, Lot 14, Tract 46851, dated July 13, 1998, prepared by GeoSystems Environmental and Geotechnical Consultants. The report recommends that all development on Lot 14 be setback a minimum of 14 feet from the existing retaining wall on the southwest portion of the site as shown on the site plan (Exhibit 6), or, if development is proposed less than 14 feet from the wall, that the capability of the wall to adequately support the slope in light of such additional development be reviewed by a structural engineer.

As explained in the excerpts from the report included below, the subject retaining wall is a critical stabilization feature not only for Lot 14, but for the overall constructed slope ascending to Lot 15 as well (see Exhibit 6). The total height of the interrelated, constructed slope is 75 feet. The setback distance from the retaining wall on Lot 14 is specified by the geotechnical consultant as 14 feet because the retaining wall tiebacks extend as far as 14 feet laterally, at varying depths, into the buttress fill slope.<sup>1</sup> With regard to the existing retaining wall, page 3 of the report states:

... According to the final soils engineering report for the Lot by Pacific Soils Engineering, Inc., the steel mats at the top of the wall extend approximately 14 feet into the pad area at the top of the wall. The proposed structures are to be located outside of this area. If future structures are to be located within 14 feet from the top of the existing walls we recommend that the walls be evaluated by a structural engineer to provide foundation design recommendations for the proposed structures which will not adversely affect the existing walls. In this case additional exploratory excavation may be necessary to determine the extent of the steel mats in the retaining wall structure. In any case proposed foundation or pool excavations should not result in damage to the existing retaining wall structure and foundations should not surcharge the existing walls unless approved by the Structural Engineer. (Emphasis added.)

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<sup>1</sup> John Kilbane, applicants' agent, in response to inquiry of Commission staff, November 3, 1998.

**Special Condition 4 (Future Improvements)** requires additional analysis of the retaining wall's support capacity, and any effects upon the wall that future development may have, as recommended by the applicant's geotechnical consultant, should additional development of the site be proposed in the future. This condition requires the applicant to apply for a coastal development permit for additional development of the site in the future that would otherwise be exempt from the requirement of obtaining such permits. Therefore, the Commission finds that the imposition of **Special Condition 4** will ensure that the retaining wall supporting the buttress fill slope of Lot 14 is protected from intrusion by additional development in the future that might undermine the underground tieback system supporting the wall, or that could overload the wall's support capacity.

The Geosystems report also notes that the subdrain system for the swimming pool, which is located immediately adjacent to the critical retaining wall located at the southwestern quadrant of the site, will collect overspillage and discharge it through a drainage system to the slope face about midway down the slope. The applicants' agent, John Kilbane, has confirmed that the subdrain system would only collect minimal amounts of overtopping from the pool and that higher volume maintenance drainage of the swimming pool will be directed into the preconstructed storm drain system commencing at the paved driveway located east of the swimming pool.

The geotechnical report does not state, however, how maintenance drainage of the swimming pool would be managed. Drainage of the swimming pool's full storage capacity onto the adjacent fill slope could lead to slope saturation and/or erosion, with resultant destabilization of the slope and potential slope failure. The applicants' agent states that the subdrain system will not be used to drain the swimming pool for maintenance. To ensure that maintenance or emergency drainage of the pool is directed into the storm drain system, **Special Condition 6** requires the applicant to prepare and submit for the Executive Director's approval a swimming pool drainage plan prepared by a licensed engineer. The plan must specify how swimming pool drainage will be conducted to the storm drain system; drainage to open areas, or onto or within slope areas, is unacceptable. Implementation of the drainage plan required by **Special Condition 6** will ensure that swimming pool drainage is managed in a non-erosive manner consistent with preserving the stability of the site.

The proposed site plan (Exhibit 6) appears to show a swimming pool-related structure extending into the recommended 14-foot setback discussed above and addressed by **Special Condition 4**. The structure in question, however, is a weir, or drainage feature for the pool, and is not part of the actual pool footprint. The weir is situated on the surface of the site and does not require excavated footings, as confirmed by Mr. Kilbane, upon staff request, November 3, 1998. Therefore, this feature of the proposed pool construction will not jeopardize the stability of the retaining wall or interfere with the underground tiebacks supporting the wall.

As stated previously, the applicants propose to construct a 5,873 sq. ft., two story, 27 foot high, single family residence with an attached 645 sq. ft., three-car garage, swimming

pool, driveway, patios and landscaping, and to excavate 121 cubic yards of material (for construction of the swimming pool). The proposed project would be sited on a previously constructed and graded 11,720 square foot pad (CDP 5-89-1149, Thorne). As such, the Commission in previous permit actions has already considered the landform alterations associated with the underlying subdivision. Moreover, minimal additional grading is proposed. The Geosystems report makes numerous recommendations regarding site preparation, foundation and building setbacks, foundation footings, support piles, design requirements, erosion control, retaining walls, drainage protection, sewage disposal, and other considerations potentially affecting site stability. The report of the applicant's geotechnical consultant concludes that:

It is the finding of this firm that the proposed building and or grading will be safe and that the site will not be affected by any hazard from landslide, settlement or slippage and the completed work will not adversely affect adjacent property in compliance with the County Code, provided our recommendations are followed.

Based on the recommendations of the consulting geologists, therefore, the Commission finds that the proposed development, as conditioned herein, minimizes risks to life and property from geologic hazards and assures stability and structural integrity, as required by Section 30253 of the Coastal Act, so long as these recommendations 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 soils engineer and geologist as conforming to their recommendations. (**Special Condition 2**).

Section 30253 of the Coastal Act states that new development shall not create or contribute significantly to erosion, in addition to other site stability issues addressed above. As noted, the existing building pad is located mid-slope on a buttress fill slope. The stability of the fill slope affects not only the safety of the development proposed for Lot 14 herein, but the stability of the adjacent Lot 15 situated on the ascending constructed slope which totals 75 feet in height.

Commission staff determined during a site visit in November, 1998 that the existing graded pad and constructed slope areas of this lot and others in the Malibu Pacifica subdivision have not been successfully landscaped and that replanting and other erosion control measures will be necessary to achieve the degree of site stability required by Coastal Act Section 30253. The landscape and erosion control requirements of **Special Condition 1** are applicable to the entire parcel and require continued replanting and application of erosion control measures until successful results are achieved in accordance with the requirements of that condition.

The presence of extensive, constructed fill slopes therefore underscores the importance of erosion control in protecting future site stability. **Special Condition 1** requires the applicant to submit for Executive Director approval landscape and fuel modification plans incorporating erosion control measures and providing for landscaping with suitable,

locally native plant species. Established native plants, particularly chaparral shrub species, have deep root systems that hold soil in place and thereby inhibit erosion. Therefore, implementation of **Special Condition 1** will reduce or eliminate erosion and protect the integrity of the fill slope upon which the building pad is placed by requiring the use of native plants for all erosion control and general landscaping purposes on site.

The applicants propose to excavate 121 cubic yards of material to construct a swimming pool. Although the total volume of grading required to construct the swimming pool is minimal, the applicants' consulting geologist states that temporary vertical excavations for the pool walls are anticipated to be up to 8 feet in height and are expected to expose firm compacted fill. The report states that temporary excavations may be subject to local raveling and sloughing and recommends timely site stabilization and the prohibition of ponding water on the excavated area. The implementation of the plans required pursuant to **Special Condition 1** will prevent erosion by wind or rainwater runoff during pool construction. The landscape plan required by that condition must specify that disturbance caused by grading and/or excavations will be immediately stabilized and planted for erosion control with approved, locally native plant species. Temporary measures that may also be implemented during the rainy season to control erosion during construction include, but are not limited to: covering stockpiled soils and exposed graded areas with weighted plastic coverings, constructing siltation and debris basins, and strategically placing sandbags, haybales, or geotextiles as necessary to provide adequate protection of soils.

Native plants provide superior erosion control to that obtained through more commonly planted materials on disturbed sites. Native shrub species common to the chaparral vegetation that characterizes much of the Santa Monica Mountains are more deeply rooted than annual grasses, and thus provide superior long-term slope stability and erosion control. Other landscape plantings, such as hydroseeding with annual grasses after site disturbance, may provide a quicker flush of vegetation, or "greening" effect, but non-native grasses provide a relatively shallow layer of growth and quickly deplete the soil of available nutrients. Annual grasses out-compete slower-growing native plant seedlings, and potentially preclude the establishment of native shrub species. The native shrubs are deeply rooted once established and therefore provide superior erosion control. For this reason, the retarding effect of annual grasses upon native shrubs reduces the successful post-disturbance establishment of superior plant materials.

Non-native annual grasses, on the other hand, are shallow-rooted and tend to attract foraging by pocket gophers. Gopher tunnels provide conduits for rainwater intrusion and resultant slope loading, which may result in washouts and gullying as rainwater is funneled into burrows. Gross slope failure may eventually result. Even minor slope failures and resultant erosion further deplete the topsoil layer and exacerbate the difficulty in establishing vegetation. Thus, a negative "feedback loop" can easily become established when site disturbance is not controlled by adequate stabilization methods and by planting disturbed areas with appropriate native species.

All of these factors underscore the importance of relying on appropriate, locally native species for erosion control and landscaping on the subject site. Therefore, the Commission finds it necessary to impose **Special Condition 1** as a condition of approval of the proposed development, thereby ensuring that erosion is successfully controlled and that native plants are utilized for slope stabilization and landscaping.

Therefore, for all of the reasons cited above, the Commission finds that the proposed project as conditioned by **Special Conditions 1, 2 and 4** will be consistent with the requirements of Coastal Act Section 30253 applicable to geology and site stability.

## 2. Wild Fire

Section 30253 of 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.

Much of the Malibu Pacifica subdivision, including the applicants' parcel, burned during the 1993 Malibu Fire. 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 applicants assume the liability from these associated risks. Through **Special Condition 3**, the wild fire waiver of liability, the applicants acknowledge the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. Moreover, through acceptance of **Special Condition 3** the applicants agree to indemnify the Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses or 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.

In addition, **Special Condition 1** requires the applicants to submit landscape and fuel modification plans. These plans require the use of locally native plant species while

incorporating the fuel modification requirements of the Los Angeles County Fire Department, thus reducing the threat of wildfire to the proposed residence that might otherwise exist.

The Commission finds that only as conditioned by **Special Conditions 1 and 3** is the proposed project consistent with Section 30253 of the Coastal Act applicable to hazards from wildfire.

**C. Visual Resources**

Section 30251 of the Coastal Act states:

**Section 30251.**

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 reservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

In addition, the certified Malibu/Santa Monica Mountains LUP contains numerous policies regarding the protection of visual resources. The Coastal Commission has utilized these policies as guidance in past permit decisions. LUP policies particularly applicable to the proposed project include:

- P 91 All new development shall be designed to minimize impacts and alterations of physical features, such as ravines and hillsides, and processes of the site (i.e., geological, soils, hydrological, water percolation and runoff) to the maximum extent feasible.**
- P125 New development shall be sited and designed to protect public views from LCP-designated scenic highways to and along the shoreline and to scenic coastal areas, including public parklands.**
- P129 Structures should be designed and located so as to create an attractive appearance and harmonious relationship with the surrounding environment.**
- P130 In highly scenic areas and along scenic highways, new development (including buildings, fences, paved areas, signs, and landscaping) shall:**

- ❑ Be sited and designed to protect views to and along the ocean and to and along other scenic features, as defined and identified in the Malibu LCP.
- ❑ Minimize the alteration of natural landforms.
- ❑ Be landscaped to conceal raw-cut slopes.
- ❑ Be visually compatible with and subordinate to the character of its setting.
- ❑ Be sited so as to not significantly intrude into the skyline as seen from public viewing places.

**P134 Structures shall be sited to conform to the natural topography, as feasible. Massive grading and reconfiguration of the site shall be discouraged.**

**P135 Ensure that any alteration of the natural landscape from earthmoving activity blends with the existing terrain of the site and the surroundings.**

**1. Visual Resources**

Section 30251 of the Coastal Act requires scenic and visual qualities to be considered and protected. The subject site is located within a rural area characterized by expansive mountain vistas. The site is visible from some public vistas along the Escondido Falls Trail to the west of the subdivision, and from Latigo Canyon Road, a designated scenic highway in the LUP, on the eastern side of the subdivision. The subject parcel will also be visible from designated scenic public vistas to the east of the project site, along Latigo Canyon Road (see Exhibit 4).

As stated previously, the applicant proposes to construct a 5,873 sq. ft., two story, 27 foot high, single family residence with an attached 645 square foot, three-car garage, swimming pool, driveway, patios and landscaping, and to grade 121 cubic yards of cut material (for construction of swimming pool). The approved pad area faces south/southwest and is located at approximately an 830-foot elevation. The nearest designated scenic public vista along Latigo Canyon Road is situated at approximately a 650-foot elevation to the south and east of the site. While the fill slope supporting the pad may be blocked somewhat from public view by the an intervening ridge with a maximum elevation of approximately 670 feet at the estimated line-of-sight, there will still be some potential viewshed impacts due to the topography of the site and the visual prominence of the 75-foot constructed slope containing the building pad.

An underlying open space easement for the preservation of views and sensitive habitat areas was required by the Commission as a condition of approval of the subdivision (CDP 5-89-11249, Thorne). That easement traverses the majority of the nineteen parcels in the subdivision, but the subject lot, Lot 14, is not one of those parcels. Nevertheless, the subject site is visible from public viewing locations and therefore the Commission finds it necessary to require the proposed home to be constructed in accordance with specific design restrictions that limit the color of the proposed residence, garage, and associated roofs to colors compatible with the surrounding environment, and to require non-glare glass only for windows. These requirements are contained in **Special**

**Condition 5**, above, and will ensure that the effects on public coastal views from Latigo Canyon Road and associated vista points that may be caused by the proposed development are minimized.

In addition, **Special Condition 1**, discussed in Section B above, requires immediate stabilization and planting of all disturbed areas with native plant species. The condition requires the applicant to prepare a landscape plan that draws upon a palette of locally native plants for the landscape design of the subject parcel. The appropriate use of native plant materials will not only minimize the potential for erosion (as discussed previously) and resultant adverse visual impacts, but will ensure that any residual visual effects of the proposed project are minimized. To further mitigate any residual impacts on public views that may be caused by the proposed development, the **Special Condition 1** further requires that the approved planting plan include vertical elements to screen and soften the visual impact of the residence and garage as seen from Latigo Canyon Road to the east and the south, and the Latigo Canyon Road vista point to the south.

The Commission finds that the proposed project, as conditioned to incorporate the specified design restrictions and landscaping plans, is consistent with Section 30251 of the Coastal Act.

## **2. Landform Alteration**

As stated previously, the proposed site has already been graded to construct the existing 11,720 square foot lot pursuant to the underlying coastal development permit authorizing the nineteen-lot subdivision. The applicant proposes a minor amount of excavation (121 cubic yards of cut) to construct a swimming pool. The applicants state that the graded material will be disposed of at a site in Calabasas, outside of the coastal zone, that is authorized to receive the cut. **Special Condition 1**, as discussed above, requires immediate stabilization of the excavated area and replanting of residual disturbed areas after swimming pool installation with locally native plant species. Additionally, the applicants' consulting geologist has addressed measures needed to prevent erosion in the report cited above, and **Special Condition 2** requires the applicants to submit evidence that the final project plans and designs incorporate all of the recommendations provided by the consultants and referenced herein.

The Commission finds that as conditioned by **Special Conditions 1, 2, and 5**, the proposed project minimizes impacts to public views to and along the coast and thus is consistent with the requirements of Coastal Act Section 30251.

## **D. Septic System**

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



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

The applicant proposes to construct a new 1,500 gallon septic system with a drain field as shown on the plans approved by the City of Malibu, August 3, 1998. The conceptual approval by the City of Malibu Environmental Health Department 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. In addition, the applicants' geologist has made specific recommendations for the sewage disposal system that will be incorporated into the final project plans and designs as required by **Special Condition 2**. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

**E. Local Coastal Program**

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

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

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

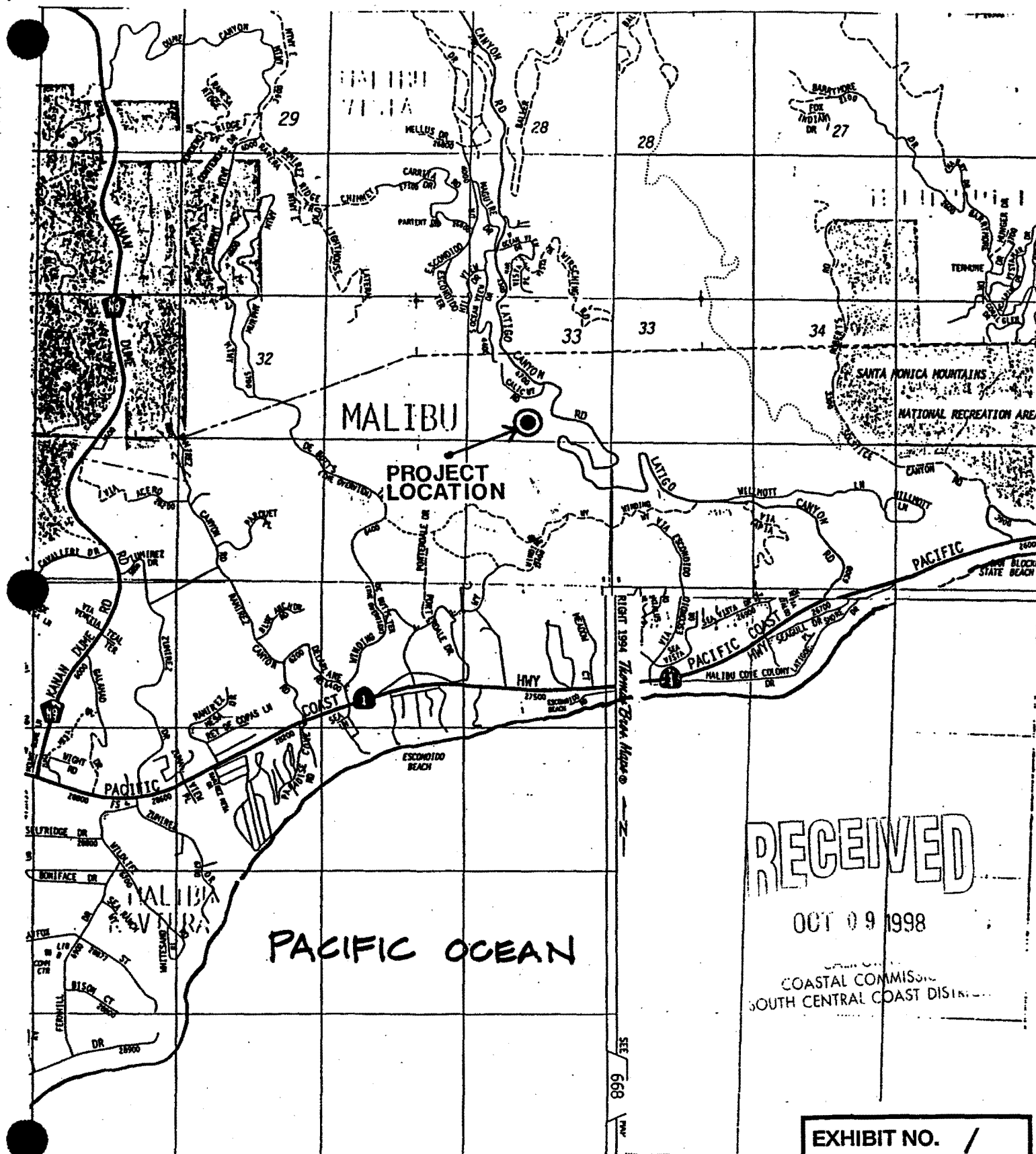
consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

**F. California Environmental Quality Act**

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(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.

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.

# I. PROJECT LOCATION MAP



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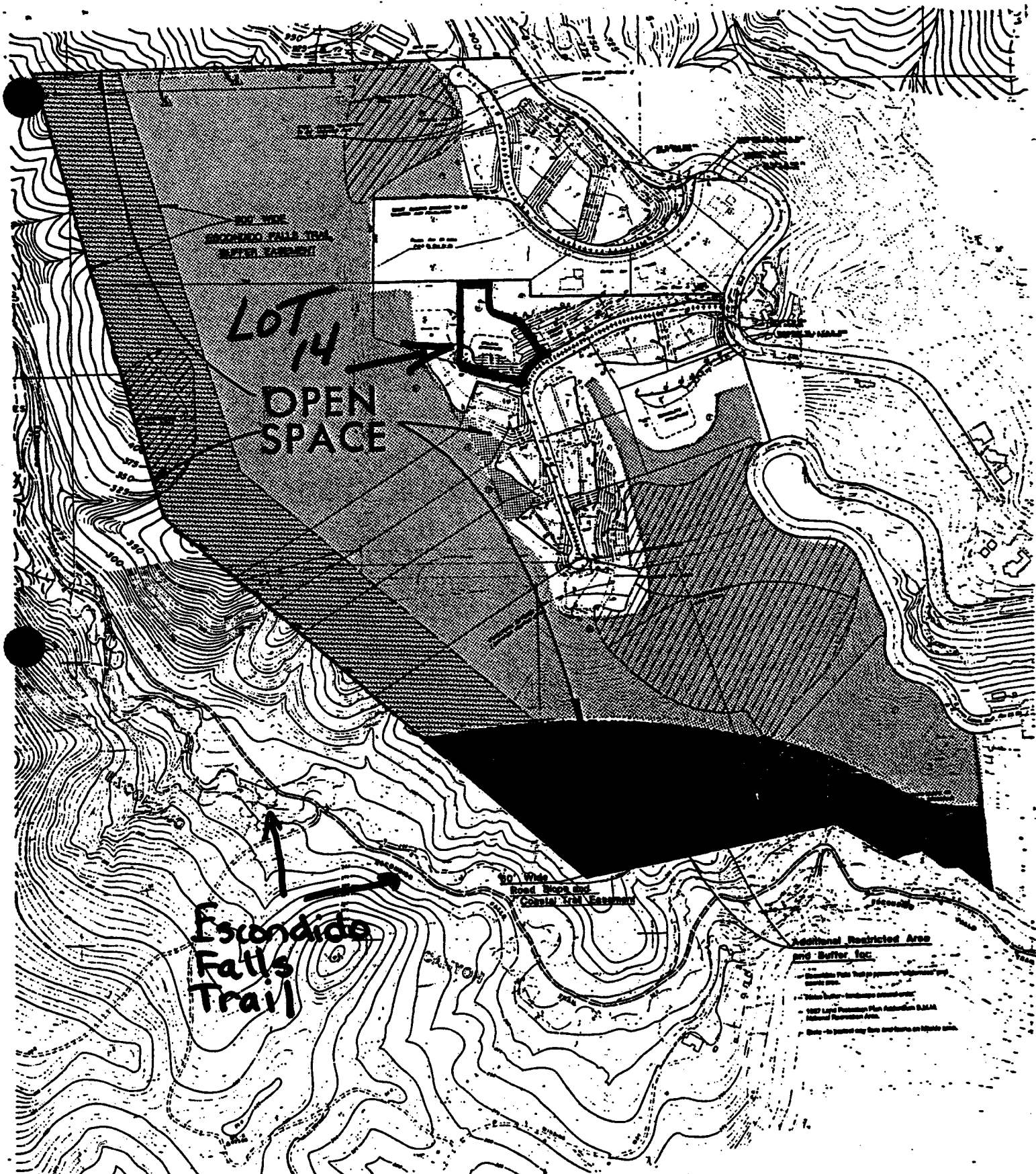
OCT 09 1998

COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

VICINITY MAP

EXHIBIT NO. /
APPLICATION NO. (Feinskin)
4-98-274
Vicinity Map A





5-89-1149

EXHIBIT 4

OPEN SPACE E

VEST. TENT

CSOO ENGINEERING

EXHIBIT NO. 3
APPLICATION NO. Feinskin
4-98-274
Subdivision Trails

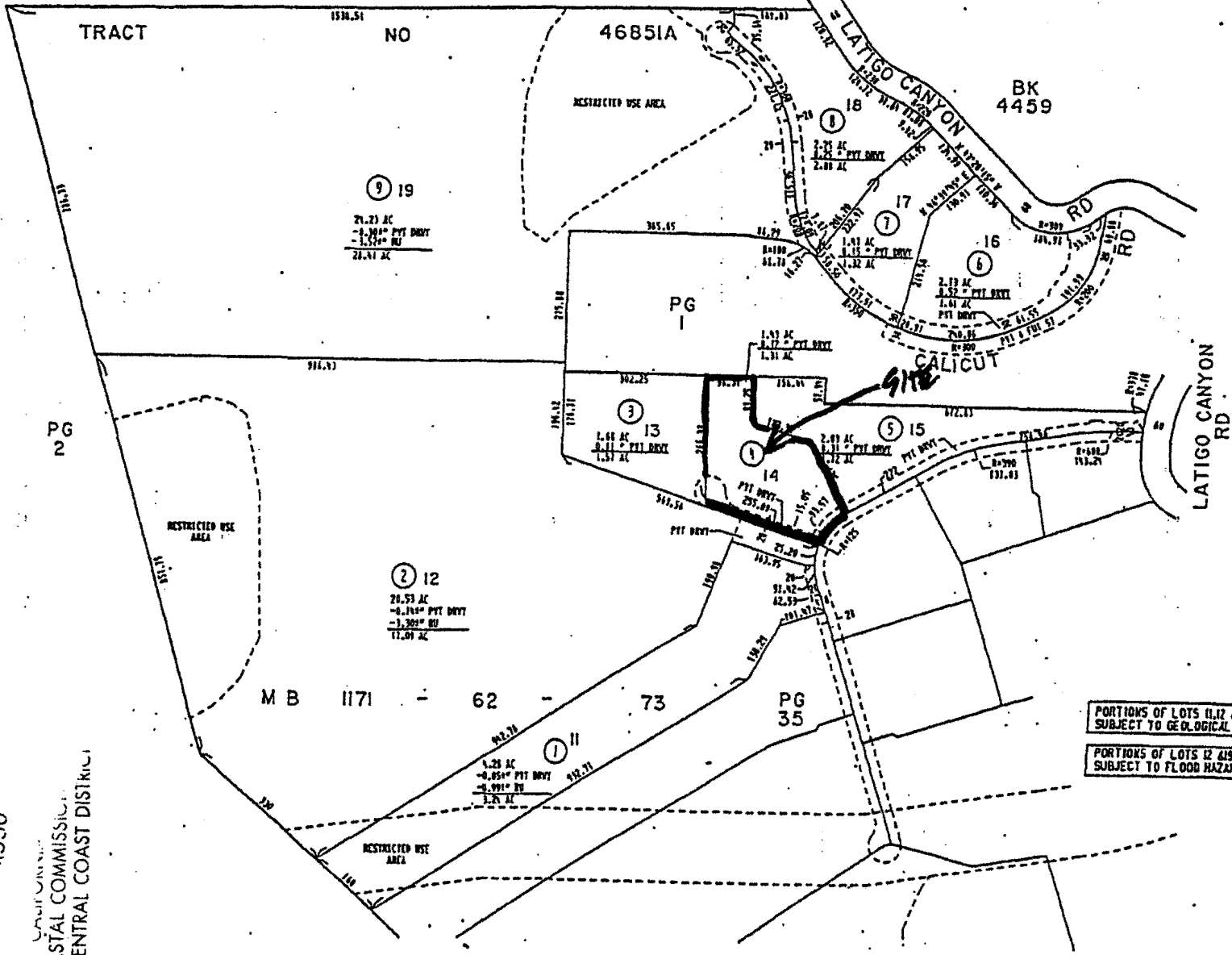




BK 4461

BK 4459

EXHIBIT NO. 5
APPLICATION NO. <i>Reinstein</i>
4-98-274
Parcel Map



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SOUTH CENTRAL COAST DISTRICT

PORTIONS OF LOTS 11, 12 & 15 ARE  
SUBJECT TO GEOLOGICAL HAZARD.

PORTIONS OF LOTS 12 & 19 ARE  
SUBJECT TO FLOOD HAZARD.

THIS PLAN IS FOR YOUR USE IN LOCATING YOUR LAND WITH REFERENCE TO  
STREETS AND OTHER PARCELS. IT IS NOT A SURVEY. WHILE THIS PLAN IS  
BELIEVED TO BE CORRECT, THE COMPANY ASSUMES NO LIABILITY FOR ANY  
LOSS OCCURRING BY REASON OF RELIANCE THEREON.





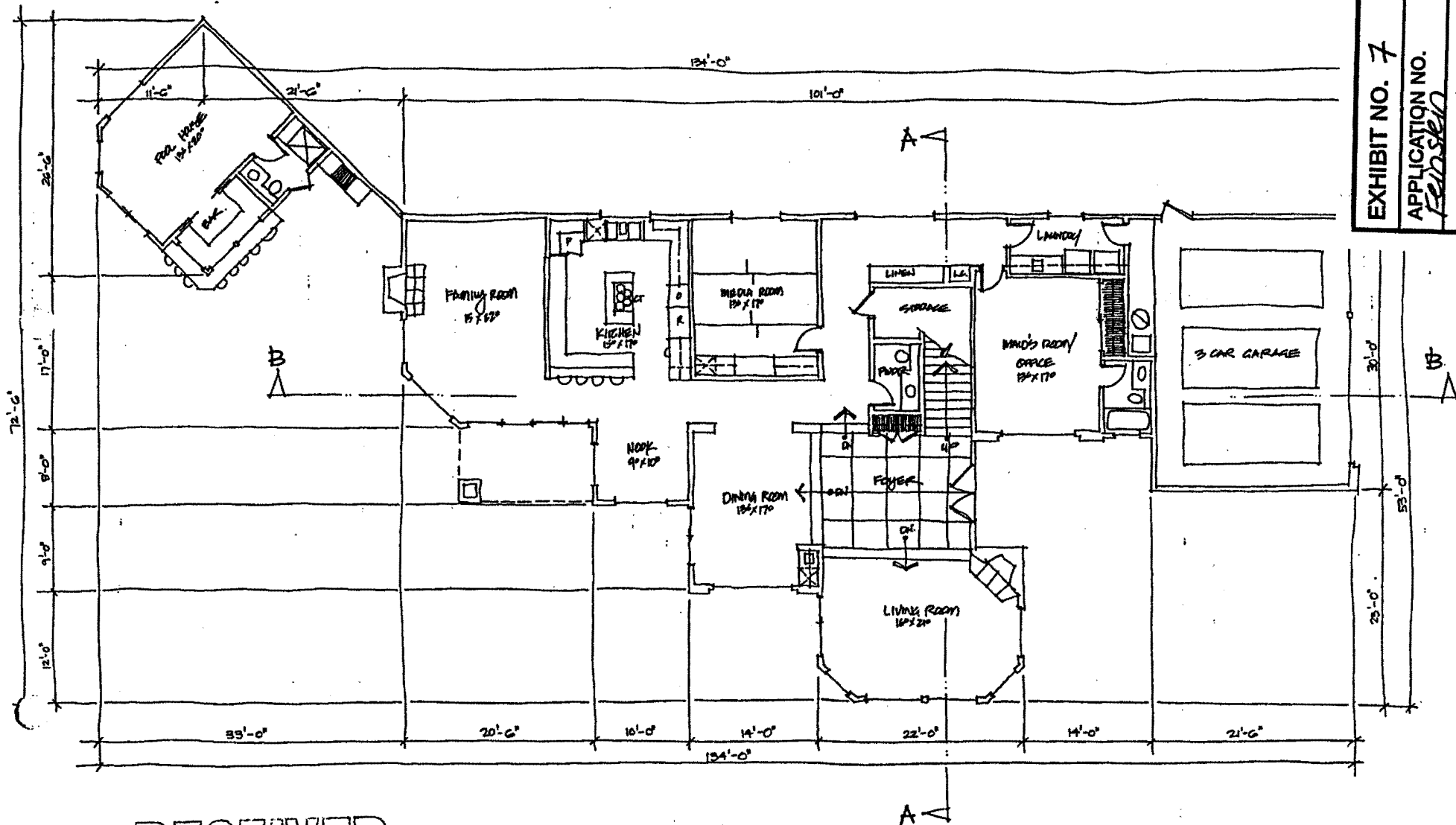


EXHIBIT NO. 7
APPLICATION NO. FEINSTEIN
498-274
First Floor Plan

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COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

FIRST FLOOR PLAN • 1/4" = 1'-0" SCALE

PROJECT OWNER  
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ARCHITECT:  
ARCHWEST DEVELOPMENTS, INC.  
4747 LATIGO CANYON ROAD, MALIBU, CA 90265  
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PROJECT  
MALIBU PACIFICA, LOT 14  
27457 LATIGO BAY VIEW DRIVE  
MALIBU, CA 90265

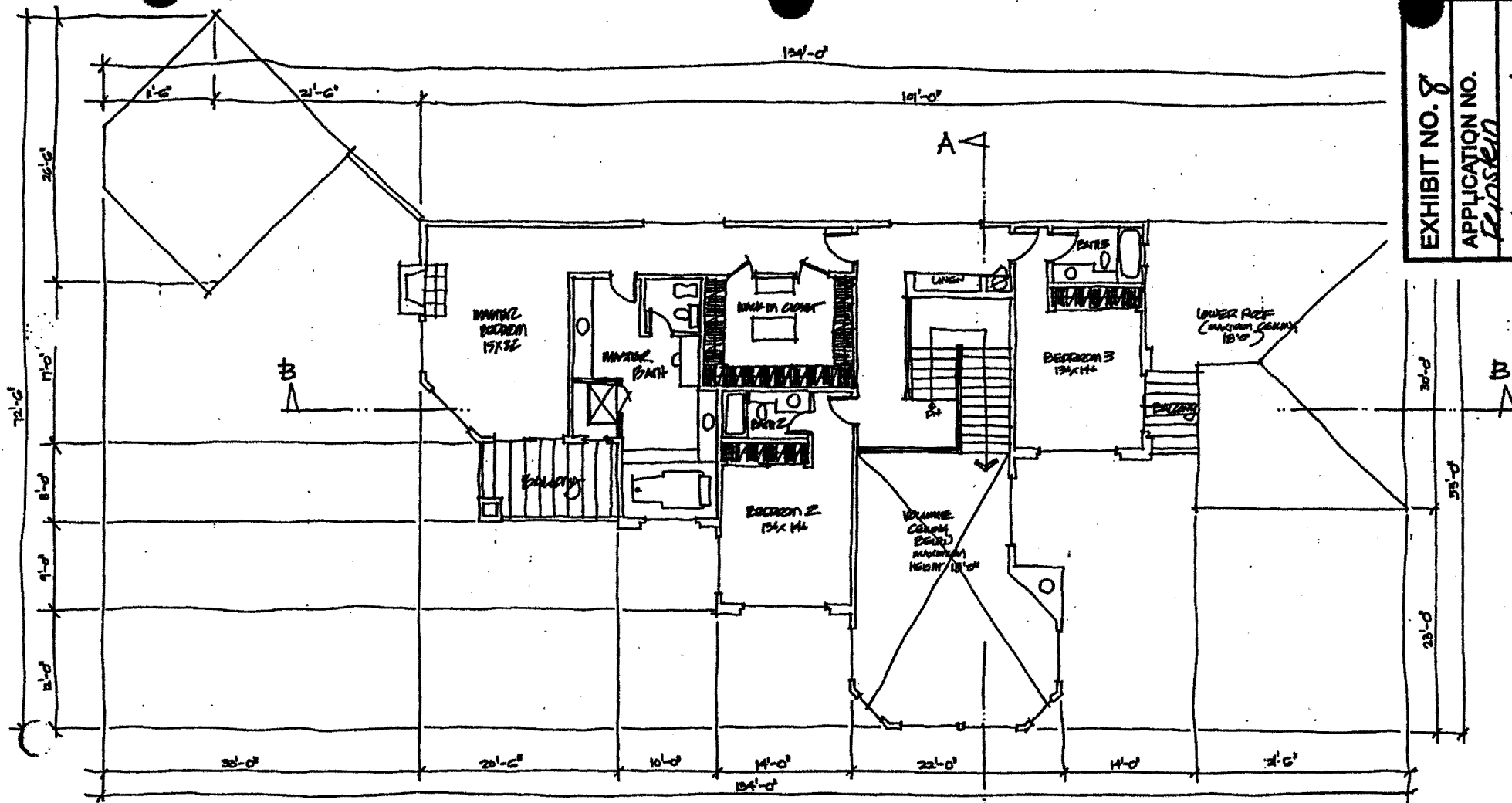


EXHIBIT NO. 8  
APPLICATION NO.  
PENNSKY  
4-98-274  
Second Floor Plan

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SOUTH CENTRAL COAST DISTRICT

SECOND FLOOR PLAN • 1/4" = 1'-0" SCALE

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PROJECT  
MALIBU PACIFICA, LOT 14  
27457 LATIGO CANYON ROAD  
MALIBU, CA 90265

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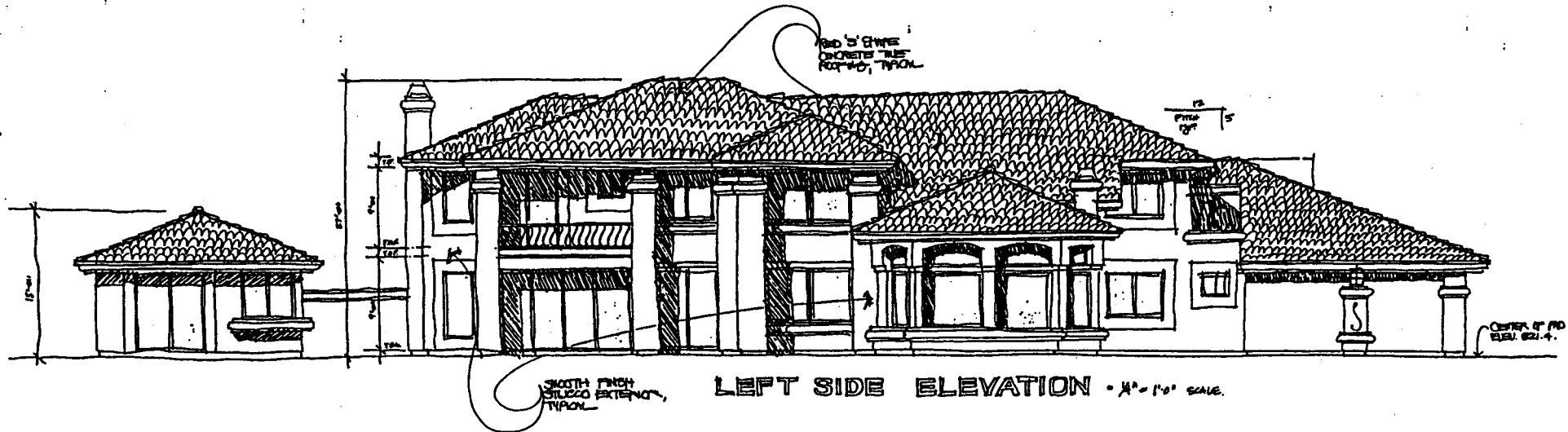
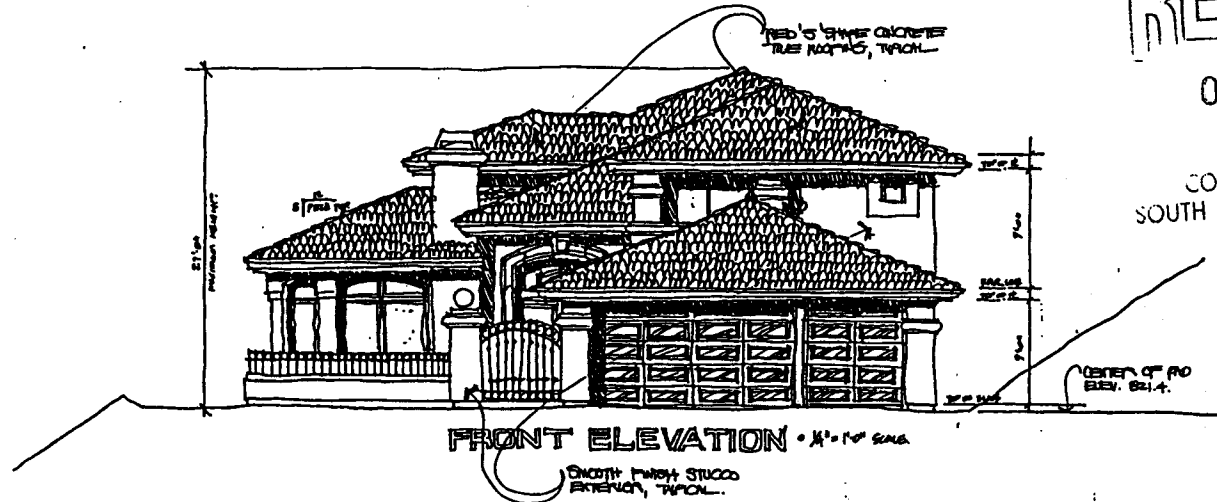
CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST

EXHIBIT NO. 9

APPLICATION NO.  
Feinstein

4-98-274

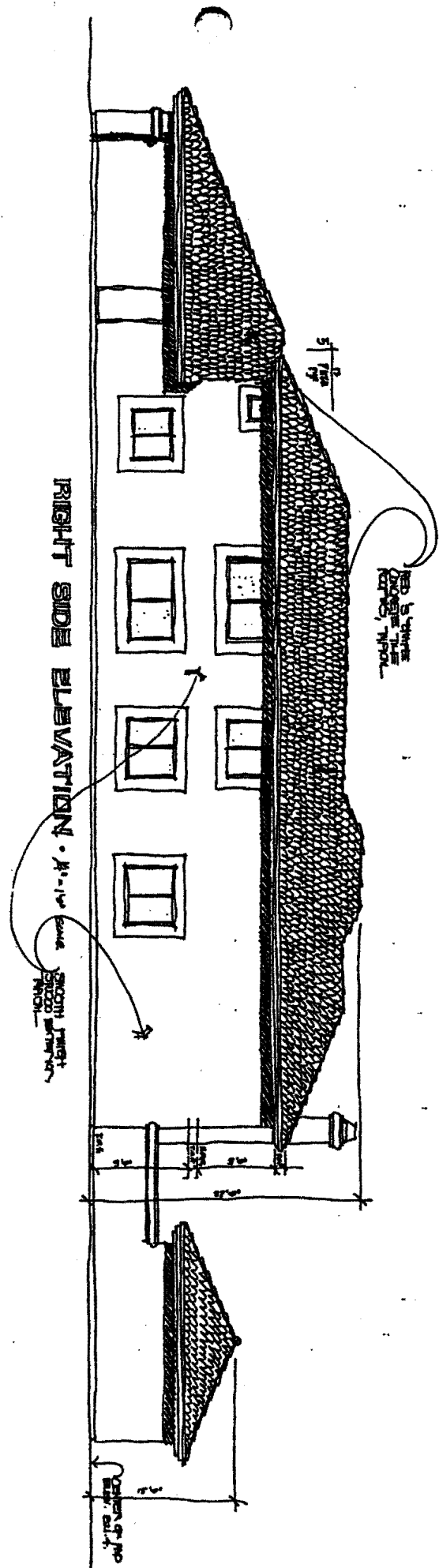
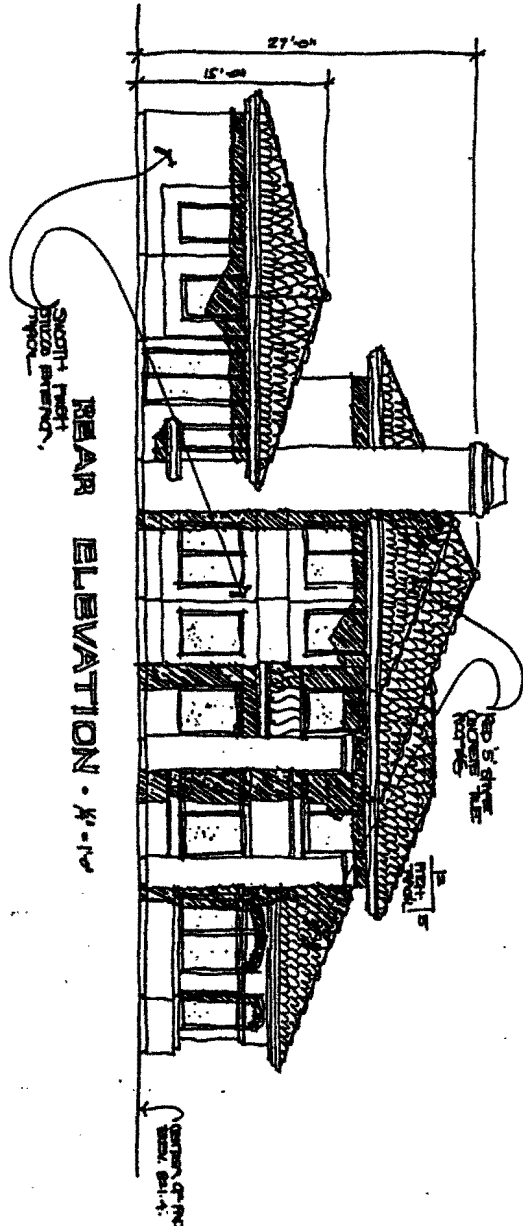
Elevation Map



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PROJECT  
MALIBU PACIFICA, LOT 14  
27457 LATIGO BAY VIEW DRIVE  
MALIBU, CA 90265



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JUTH CENTRAL CO  
COASTAL COMM

EXHIBIT NO. 10
APPLICATION NO. <i>Feinstein</i>
4-98-274
Elevation Map

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PROJECT  
MALIBU PACIFICA, LOT 14  
27337 LATROD CANYON ROAD  
MALIBU, CA 90265



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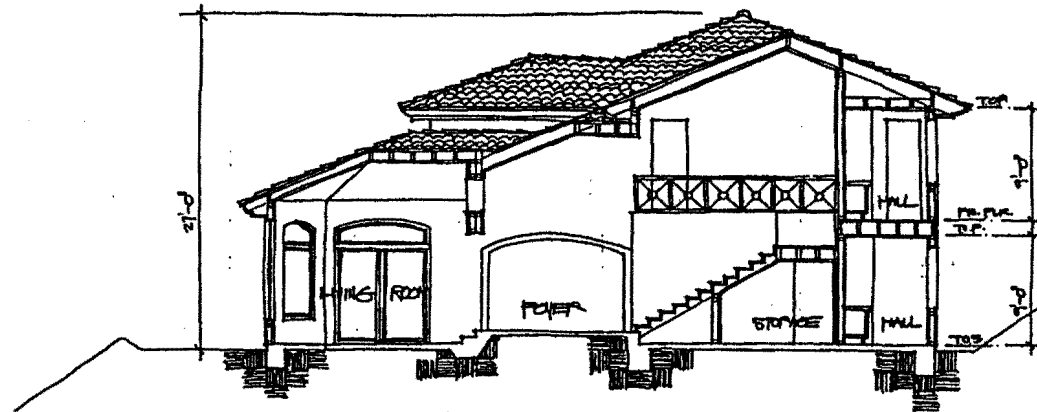
SAN JUAN COASTAL COMMISSION  
SOUTH CENTRAL COAST

EXHIBIT NO. 11

APPLICATION NO.  
*Revised*

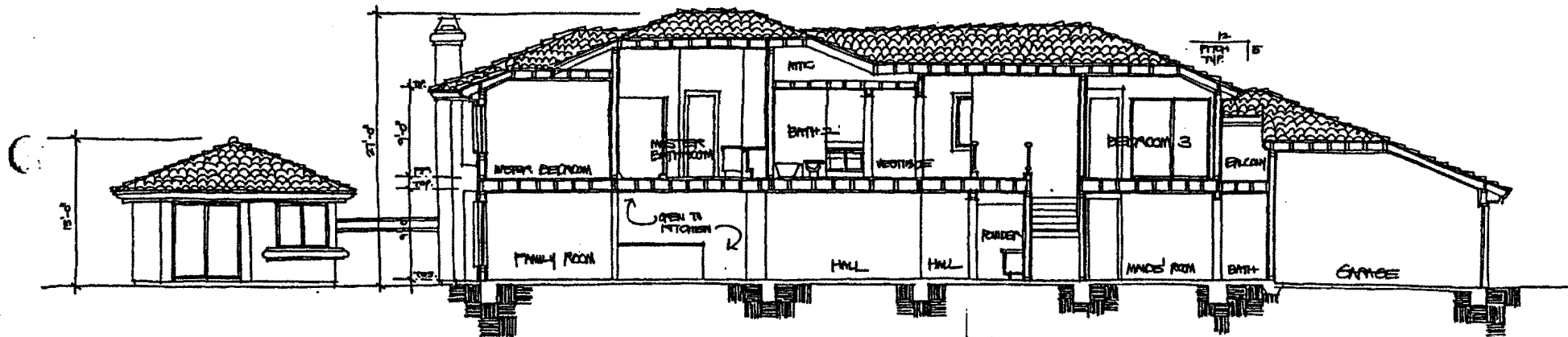
4-98-274

Elevation/Cross section



SECTION A

1/4" = 1'-0" SCALE



SECTION B

1/4" = 1'-0" SCALE

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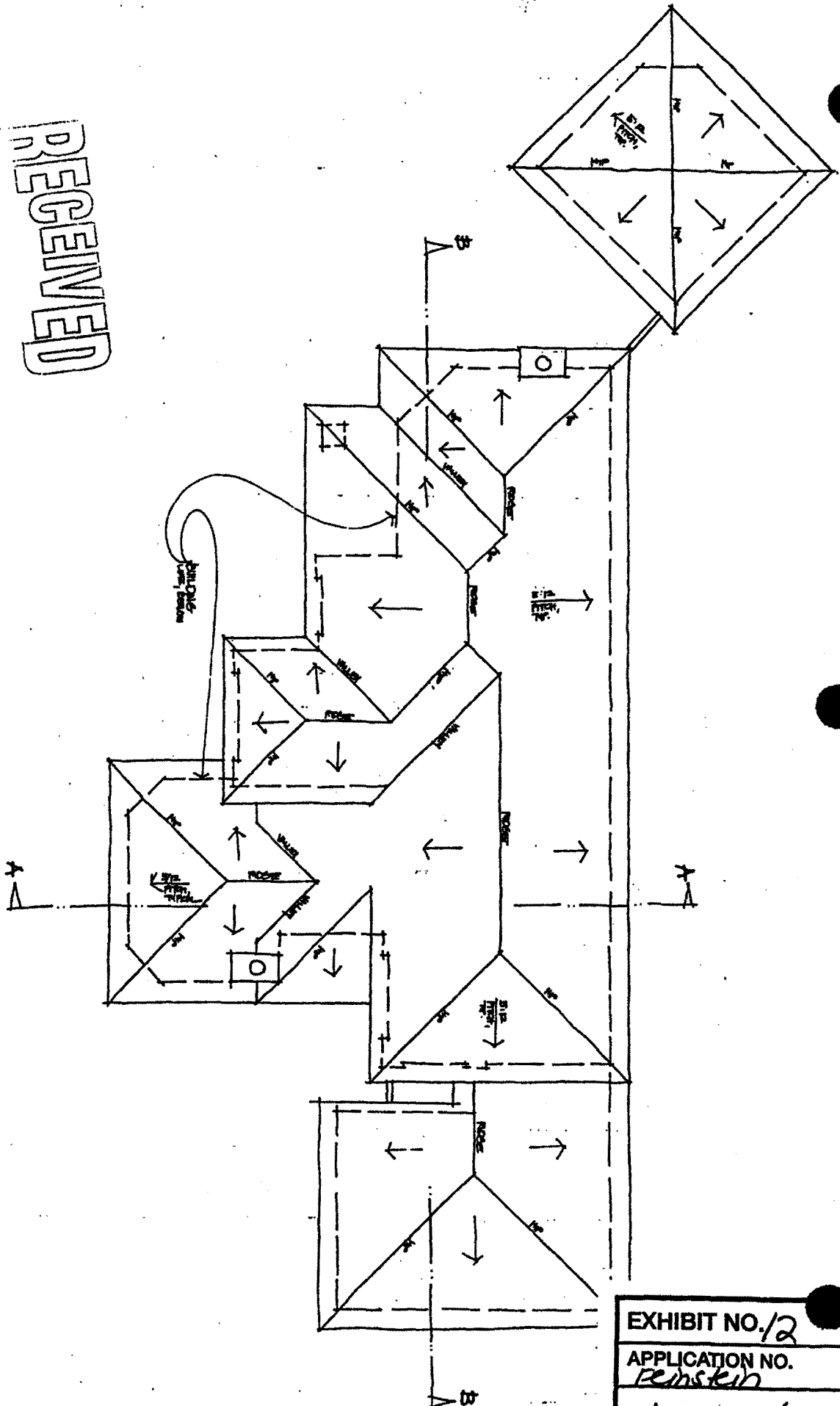
PROJECT  
**MALIBU PACIFICA, LOT 14**  
27457 LATIGO BAY VIEW DRIVE  
MALIBU, CA 90265

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SOUTH CENTRAL  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT



ROOF PLAN - 1/4" = 1'-0" SCALE

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PROJECT  
MALIBU PACIFICA, LOT 14  
27417 LATO BAY VIEW DRIVE  
MALIBU, CA 90265

EXHIBIT NO. 12

APPLICATION NO.

Feinstein

4-98-274

Roof Plan

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