

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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 Staff: JEL-V
 Staff Report: 4/23/98
 Hearing Date: 5/12-15/98

STAFF REPORT: CONSENT CALENDAR**APPLICATION NO.: 4-97-208****APPLICANT: Felisa Vanoff****AGENT: Appleton & Associates****PROJECT LOCATION: 27832 Pacific Coast Highway, Malibu (Los Angeles County)**

PROJECT DESCRIPTION: Construct 506 sq. ft., 17 1/2 foot high, single-story guest house, convert existing 518 sq. ft. guest house to non-habitable cabana, and expand existing septic system. No grading is required and no changes proposed to existing single family residence.

Lot area:	98,634 sq. ft. (2.26 acres)
Building coverage:	7,478 sq. ft.
Pavement coverage:	4,700 sq. ft.
Landscape coverage:	85,016 sq. ft.
Parking spaces:	Three covered
Ht abv fin grade:	17 1/2 feet

LOCAL APPROVALS RECEIVED: City of Malibu: Planning Department, Approval In Concept, 7/3/97; Geology, Planning Approval, 6/30/97; Environmental Health, In-Concept Approval, 10/14/97.

SUBSTANTIVE FILE DOCUMENTS: Malibu/Santa Monica Mountains Certified Land Use Plan; Soils Engineering Investigation, Subsurface Designs, 12/22/97; Coastal Development Permits: P-2160 (Vanoff), 5-84-63 (Vanoff); 4-95-165 (Tushita Trust).

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, 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 impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions

1. **Notice of Receipt and Acknowledgment** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Compliance** All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. **Interpretation** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. **Inspections** The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. **Assignment** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. **Terms and Conditions Run with the Land** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions

1. Future Improvements

Prior to the issuance of a coastal development permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, stating that the subject permit is only for the development described in the Coastal Development Permit No. 4-97-208; 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(a), will require a permit from the Coastal Commission or its successor agency. Removal of vegetation consistent with L. A. County Fire Department standards relative to fire protection is permitted. In addition, the pool cabana described in CDP 4-97-208 shall not be used as or converted into habitable space or a second residential unit.

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, Subsurface Designs, 12/22/97 shall be incorporated into all final design and construction including, foundations, settlement, slabs, erosion and drainage. All plans must be reviewed and approved by the consultants.

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

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 506 sq. ft., 17 1/2 foot high, single-story guest house as an addition to the existing guest house structure. The existing 518 sq. ft. guest house would then, in turn, be converted into a non-habitable, exercise/pool cabana. The proposed addition will require expansion of the septic system which serves the guest house. No grading is required and no changes are proposed to existing single family residence.

The existing detached guest house is located towards the north end of the lot, in between a tennis court and a swimming pool (see Exhibit 2). Access to the existing guest house is provided through a single doorway on the north, and a set of French doors on the south side which open onto a patio and the swimming pool. The proposed guest house would be an addition to this detached structure, constructed in the courtyard between the existing guest house and the tennis court to the north. The proposed guest house and cabana would have no direct communication, via the common wall, as the existing doorway and window on the north would be eliminated.

The proposed project site is located on a bluff top lot between the sea and the Pacific Coast Highway, in the Escondido Beach area of Malibu. Access to the subject site is provided directly off the Pacific Coast Highway. The proposed project is located on a gently sloping, rectangular parcel, adjacent to similar single family residences to the east, west and north. The guest house addition would be screened from the Pacific Coast Highway by existing fencing, vegetation, and the tennis court, and would not be visible from any public park or trail. Therefore, the proposed guest house would not have any visual impact.

B. Background

The applicant first applied for a coastal development permit, P-2160 (Vanoff), in 1977 to construct a single family residence into the bluff face, a guest house on the sandy beach, a tramway to the beach and a walkway to the beach. The Regional Commission conditioned the approval of the project to require the house be relocated at least 25 feet back from the bluff edge, the guest house be removed from the beach and limited to 500 sq. ft. in size, and the tramway and walkway be eliminated. On appeal to the State Commission, no substantial issue was found. Permit P-2160 was never exercised.

In 1984, the applicant submitted a new application, 5-84-63 (Vanoff), to construct a single family residence, guest house, garage with studio above, tennis court, swimming pool, pathway down the bluff and beach cabana. The Commission approved the permit subject to the following special conditions: 1) a lateral access deed restriction; 2) an assumption of risk deed restriction; and 3) revised plans which a) limit the size of the guest house to 500 sq. ft., b) prohibit kitchen facilities in the studio above the garage, c) require a drainage plan, and d) reduce the size of the cabana to 100 sq. ft., on open pile construction and limit the location no farther seaward than 50' of the 30' elevation line. In 1992, the applicant complied with all special conditions and the permit was issued.

C. Second Residential Unit

The proposed project involves the construction of a 506 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 new development requiring that the location and amount of new development should maintain and enhance public access to the coast. The section enumerates methods that would assure the protection of access and states that such maintenance and enhancement could be received by (in part),

"...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..."

In addition, the Coastal Act requires that new development, including second units and other accessory structures, 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, the demands on road capacity, services, recreational facilities, and beaches could be 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.

The issue of second units on lots with primary residences consistent with the new development policies of the Coastal Act has been a topic of local and statewide review and policy action by the Commission. These policies have been articulated in both coastal development permit conditions and implementing actions of LCPs. Further, the long-time Commission practice of reviewing coastal development permits and the implementation actions of LCPs has upheld policies such as the 750 sq. ft. size limit in the Malibu Coastal Zone.

The certified Malibu 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."

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 also reduces the impacts on services such as roads, water and sewage disposal. Further, smaller second units and guest houses reduces the potential for these structures to become separate, permanent dwelling units.

As noted above, the underlying permit for the existing residential development, 5-84-63 (Vanoff), had required, under special condition number three, the submittal of revised plans which limited the size and use of the proposed accessory structures. As constructed to date, the guest house is 518 sq. ft. in size; the 713 sq. ft. studio above the garage contains no kitchen facilities; the lap pool is located to the north of the residence

and well back from the edge of the bluff; and the beach cabana is no larger than 100 sq. ft. and eight feet high.

The applicant is now proposing to remove the kitchen facilities from the existing guest house and convert the use of the structure to an exercise/pool cabana. The applicant has explicitly stated in a letter to the Commission that the converted space will not be used as sleeping quarters, i.e. it will be "non-habitable". Therefore, the converted pool cabana, as a non-habitable structure without kitchen facilities, would be considered a detached, accessory use to the existing single family residence, rather than a guest house or self-contained residential unit.

The proposed new construction of a 506 sq. ft. guest unit would be 12 sq. ft. smaller than the existing guest house, and would include kitchen facilities. Thus, the net effect of the proposed project is not a second guest unit, but rather an additional accessory building to be used as a pool cabana and exercise room.

Although the net effect of the project is to add an cabana/exercise room to a detached guest house structure, potentially significant cumulative impacts could occur due to the creation of two attached structures which contain plumbing, electrical and/or kitchen facilities. These two structures could easily be converted into one large, or two separate, permanent residential units, with associated cumulative impacts to traffic, sewage disposal, recreational uses and resource degradation.

The proposed 506 sq. ft. detached, second dwelling unit conforms to the Commission's past actions allowing a maximum of 750 sq. ft. for a second dwelling unit in the Malibu area. However, the Commission notes that concerns about the potential future impacts on coastal resources might occur with any further development of the subject property, because of the existing and proposed level of development. 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 limits future development subject to the Commission's review, and further, prohibits the pool cabana to be converted or used as habitable space or a second residential 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 extreme southern flank of the Santa Monica Mountains, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

The subject site descends, from the driveway, at an average gradient between three and five degrees to the main residence. Beyond the building pad of the main residence, the property continues to descend at gradients from 2:1 to 1 1/2:1, eventually descending to the beach.

1. Geology

The applicant has submitted a Soils Engineering Investigation, dated 12/22/97, prepared by Subsurface Designs for the subject site. Given the limited amount of additional improvements proposed for this developed site, the evaluation and subsurface exploration was limited to the area of the guest house addition. 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:

"Based upon our field observations, laboratory testing, and analyses, the terrace deposits found at depths of three to four feet (3-4") in our explorations should possess sufficient strength to support the proposed addition. ...The proposed development is feasible provided that the recommendations contained herein are followed".

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 condition number three (3) for the final project plans for the proposed project.

4. Fire

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

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

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through the waiver of liability, the applicant acknowledges and appreciates the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development, as incorporated by condition number four.

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

E. Public Access

New development on a beach or between the nearest public roadway to the shoreline and along the coast raise issue with the public access policies of the Coastal Act.

Section 30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resources from overuse.

Section 30211

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

- (1) It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources;***
- (2) adequate access exists nearby, or;***
- (3) agriculture would be adversely affected. Dedicated access way shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the access way.***

The Commission's experience in reviewing shoreline residential projects in Malibu indicates that individual and cumulative impacts on access of such projects can include among others, encroachment on lands subject to the public trusts thus physically excluding the public; interference with natural shoreline processes which are necessary to maintain publicly-owned tidelands and other public beach areas; overcrowding or congestion of such tideland or beach areas; and visual or psychological interference with the public's access to an ability to use and cause adverse impacts on public access such as above.

In approving the residence and guest house for the underlying parcel in 1984, 5-84-063 (Vanoff), the Commission found that sufficient vertical access exists nearby, approximately 2,000 feet upcoast at Paradise Cove and within 400 feet downcoast via a dedicated vertical accessway that was required in coastal application P-2707 (Chiate). Horizontal access was found necessary and was required under special condition of approval #1; this dedication was recorded prior to the issuance of the permit in 1992. Therefore, the proposed project will not adversely impact access to and along the shoreline.

The proposed development is located on a bluff, and setback approximately 468 feet from the edge of the bluff top and 333 feet behind the main residence. Thus, the proposed addition will not adversely impact public access. Therefore, for all the reasons cited above, the Commission finds the proposed development consistent with sections 30210, 30211 and 30212 of the Coastal Act.

F. 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 proposed septic system is comprised of the existing 750 gallon septic tank, servicing the existing guest unit, and two new seepage pits. The applicant has submitted a conceptual 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 waste water 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.

G. 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).

H. 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.

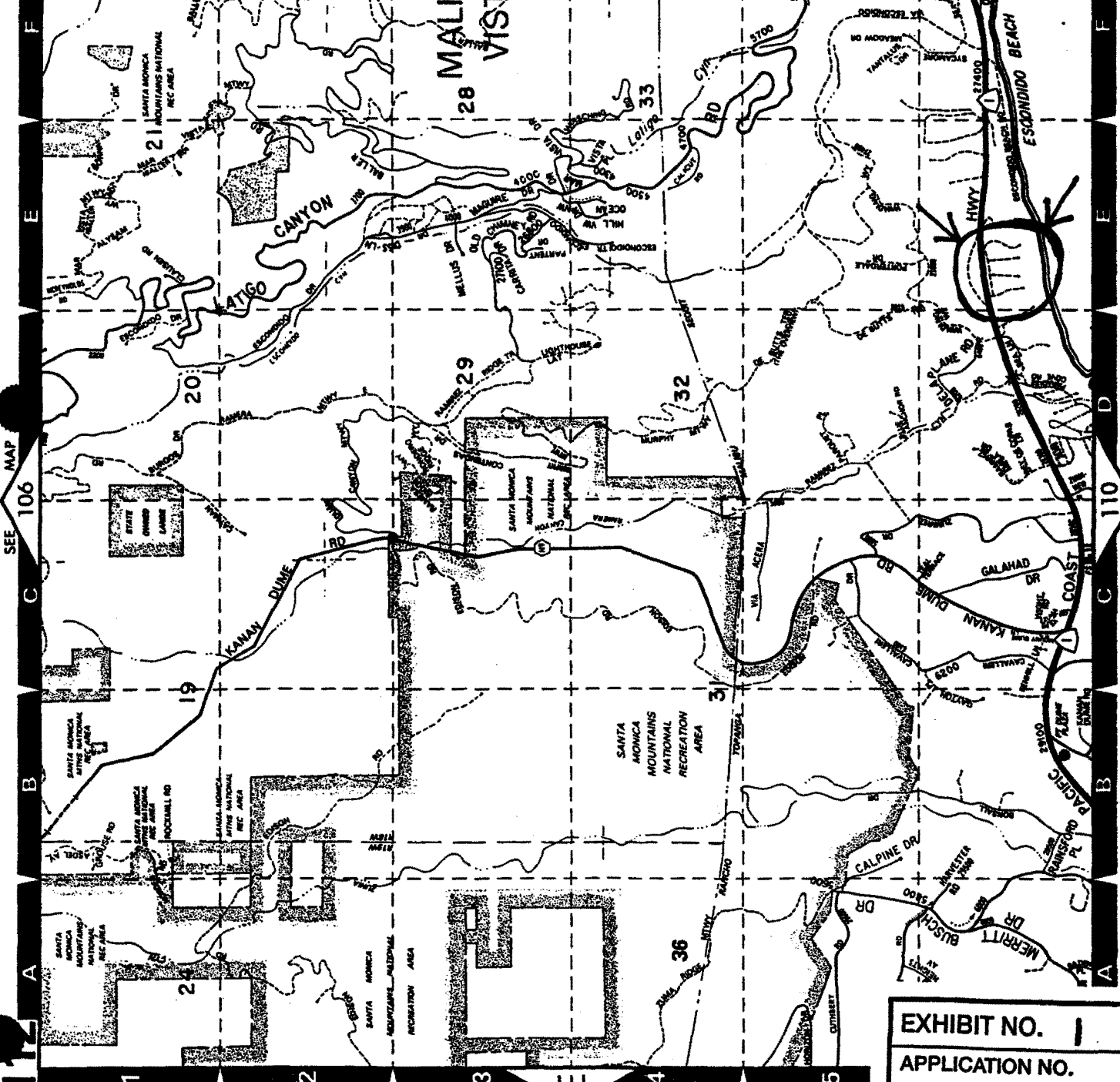
113

1 2 3 4 5 6

SEE MAP 112 - COPYRIGHT © 1989 BY Thomas Bros Maps

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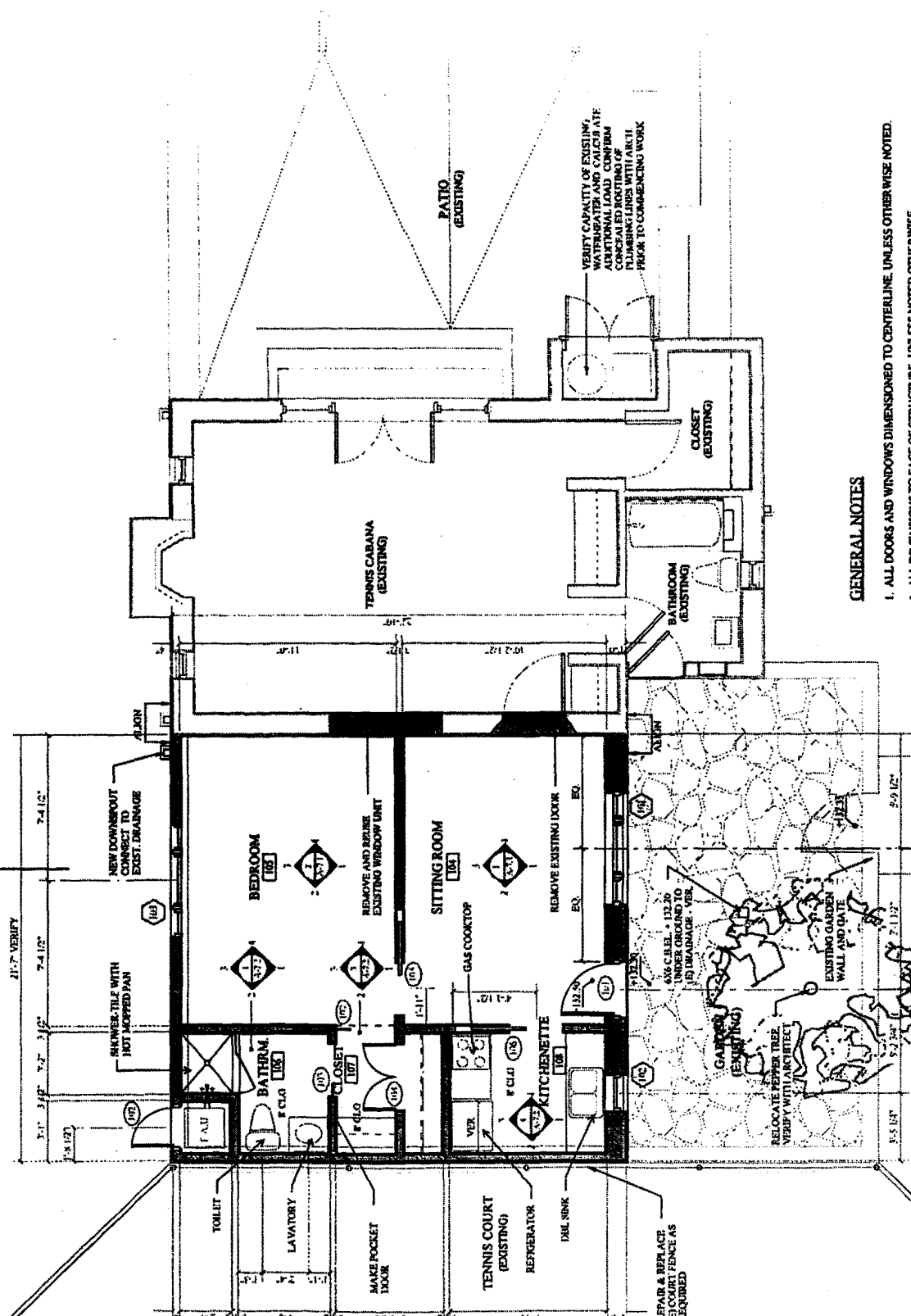


VICINITY MAP

LOS ANGELES CO.

DETAIL

EXHIBIT NO. 1
APPLICATION NO.
4-97-208 (VANOFF)
VICINITY MAP



GENERAL NOTES

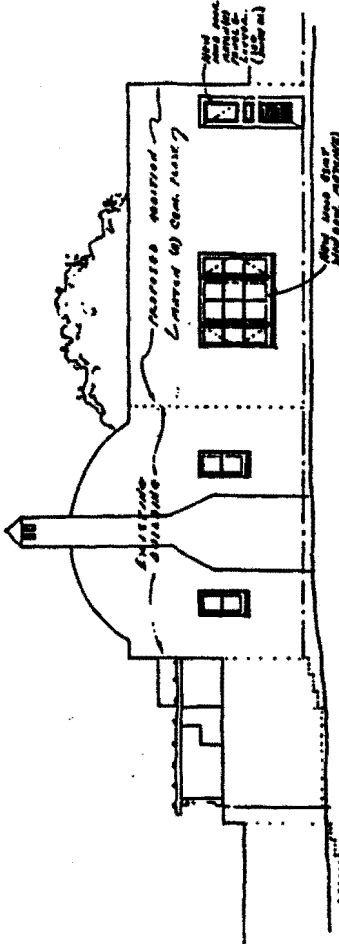
1. ALL DOORS AND WINDOWS DIMENSIONED TO CENTERLINE, UNLESS OTHERWISE NOTED.
2. ALL DIMENSIONS TO FACE OF STRUCTURE, UNLESS NOTED OTHERWISE.

FLOOR PLAN
SCALE: 1/8" = 1'-0"

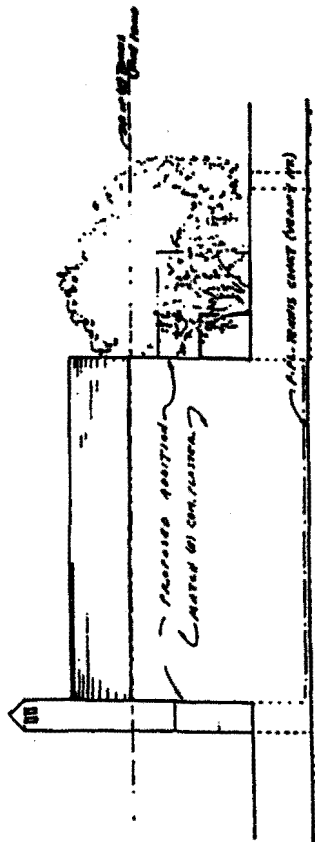
LEGEND

- EXISTING WALLS TO REMAIN
- ▬ NEW WALLS

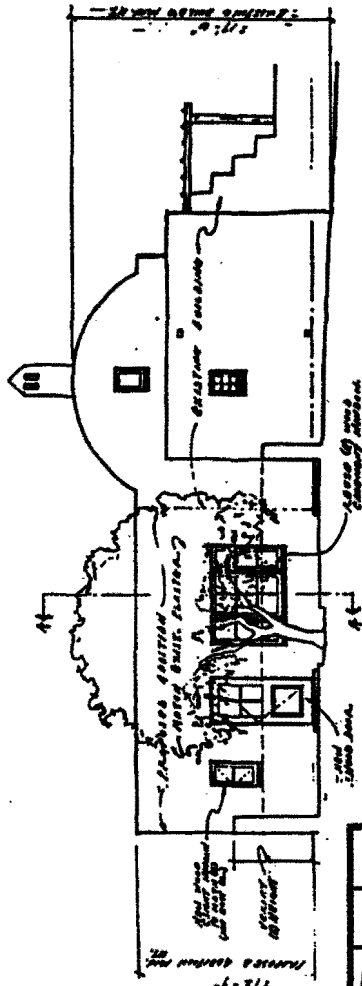
EXHIBIT NO. 3
APPLICATION NO.
4-97-208 (VANOFF)
FLOOR PLAN



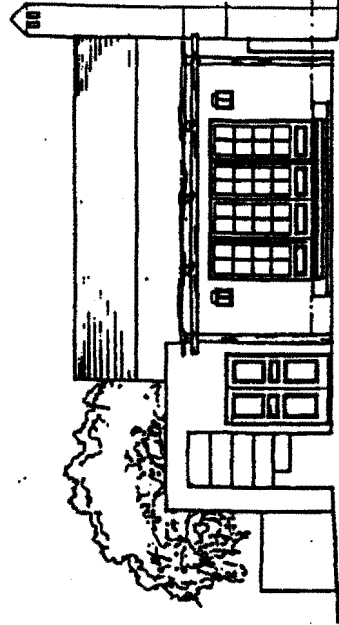
NORTH ELEVATION
SCALE 1/4" = 1'-0"



EAST ELEVATION
SCALE 1/4" = 1'-0"



SOUTH ELEVATION
SCALE 1/4" = 1'-0"



WEST ELEVATION
SCALE 1/4" = 1'-0"

Note: No shadows in this elevation.

EXHIBIT NO. 4

APPLICATION NO.

4-97-208 (VANOFF)

ELEVATIONS