

CALIFORNIA COASTAL COMMISSION

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

F4f

Filed: 3/17/98
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 Staff: G. Michitsch
 Staff Report: 3/20/98
 Hearing Date: May 13-15, 1998
 Commission Action:

**RECORD PACKET COPY****STAFF REPORT: CONSENT CALENDAR**

APPLICATION NO.: 4-98-061

APPLICANT: Stanley Beyer

AGENT: Lynn Heacox

PROJECT LOCATION: 6515 Point Lechuza Drive, City of Malibu; Los Angeles County.

PROJECT DESCRIPTION: Addition of a 370 square foot dining room to an existing one-story, beachfronting, 6000 square foot single family residence.

Lot area:	58,800 sq. ft.
Building coverage:	6,370 sq. ft.
Pavement coverage:	5,000 sq. ft.
Landscape coverage:	1,000 sq. ft.
Parking spaces:	5
Ht abv fin grade:	21'-0"

LOCAL APPROVALS RECEIVED: Approval in Concept City of Malibu Planning Department, Approval in Concept City of Malibu Environmental Health Department (Septic), Approval in Concept City of Malibu Geology and Geotechnical Engineering.

SUBSTANTIVE FILE DOCUMENTS: Geologic Investigation Report by California Geosystems (Carnegie, CEG 1608) dated 12/19/97 and 10/2/90. Geotechnical Investigations by California Geosystems (Tsai, RGE 2268) dated 12/19/97 and 10/2/90. Coastal Development Permit Application 5-91-499.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed project subject to two (2) special conditions regarding plans conforming to geologic recommendations and an assumption of risk.

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 the 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. Plans Conforming to Geologic Recommendation

All recommendations contained in both the Geologic Investigation Reports dated 12/19/97 and 10/2/90 by California Geosystems (Carnegie, CEG 1608) and in the Geotechnical Investigations by California Geosystems (Tsai RGE 2268) dated 12/19/97 and 10/2/90 shall be incorporated into all final design and construction including foundations, grading and drainage. All plans must be reviewed and approved by both consultants. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval by the Executive Director, evidence of both consultants' review and approval of all project plans.

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 consultants' shall require an amendment to the permit or a new coastal permit.

2. Assumption of Risk

Prior to permit issuance, applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide that: (a) the applicant understands that the site may be subject to extraordinary hazard from waves, flooding and erosion, and the applicant assumes the liability from such hazards; and (b) the applicant unconditionally waives any claim of liability on the part of the California Coastal Commission and agrees to indemnify and hold harmless the California Coastal Commission, its officers, agents, and employees relative to the California Coastal Commission's approval of the project for any damage from such hazards. 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.

IV. Findings and Declarations.

The Commission hereby finds and declares as follows:

A. Project Description and Background

The applicant is proposing to construct a 370 square foot dining room addition to an existing one-story, beachfronting single family residence. The residence is located on Point Lechuza Drive, City of Malibu, Los Angeles County. The proposed dining room will be located on the east side of the existing residence and behind the building limit line established through the approval of Coastal Development Permit P-2-23-78-2824 on June 29, 1979 (Exhibits 1-4).

The existing 6000 square foot, 21' high single family residence rests on four (4) lots located directly on Lachuza Point. Since the issuance of permit (P-2-23-78-2824) for the construction of a two-story, three-bedroom plus maid's room and study single family residence, this site has been subject to a number of permit actions (5-83-94G, 5-84-295-A, 5-85-744, 5-91-499, and 5-95-060). Coastal Development Permit Applications 5-83-94G and 4-95-060 were for installation and repair/maintenance of shoreline protective devices. Applications 5-84-295-A, 5-85-744, and 5-91-499 were for additions and/or improvements to the existing single family residence. Specifically, Administrative Permit 5-91-499 granted an approval in 1991 for the project which is now proposed. Although Administrative Permit 5-91-499 was granted, no construction ever took place and the permit has since expired.

B. Public Access and Seaward Encroachment

Coastal Act Section 30210 states that:

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 resource areas from overuse.

Coastal Act Section 30211 states:

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.

Coastal Act Section 30212(a) provides that in new shoreline development projects, access to the shoreline and along the coast shall be provided except in specified circumstances, 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 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 accessway.*

Finally, Section 30251 of the Coastal Act states that:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

All beachfront projects requiring a Coastal Development Permit must be reviewed for compliance with the public access provisions of Chapter 3 of the Coastal Act. The Commission has required public access to and along the shoreline in new development projects and has required design changes in other projects to reduce interference with access to and along the shoreline. The major access issue in such permits is the occupation of sand area by a structure, in contradiction of Coastal Act policies 30210, 30211, and 30212. However, a conclusion that access may be mandated does not end the Commission's inquiry. As noted, Section 30210 imposes a duty on the Commission to administer the public access policies of the Coastal Act in a manner that is "consistent with ... the need to protect ... rights of private property owners..." The need to carefully review the potential impacts of a project when considering imposition of public access conditions was emphasized by the U.S. Supreme Court's decision in the case of Nollan vs. California Coastal Commission. In that case, the court ruled that the Commission may legitimately require a lateral access easement where the proposed development has either individual or cumulative impacts which substantially impede the achievement of the State's legitimate interest in protecting access and where there is a connection, or nexus, between the impacts on access caused by the development and the easement the Commission is requiring to mitigate these impacts.

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 and the ability to use and cause adverse impacts on public access such as above.

As a condition of permit (P-2-23-78-2824) issued on June 29, 1979, the applicant recorded a deed restriction for a lateral public access easement (Exhibits 5-6). The action required under special condition two (2) of permit P-78-2824 states that the applicant will submit a deed restriction:

"...granting lateral public access for the purpose of pass and repass, viewing, picnicking, and other forms of passive recreation in an area measured (a) on Lot 3 from the mean high tide line to the first line of terrestrial vegetation (but not to extend landward of the most seaward extension of the existing rip-rap line); and (b) on Lots 4 and 5 from the mean high tide line to the first line of terrestrial vegetation (but not to extend landward of the seaward side of a line joining the 10-foot contour on the eastern boundary of Lot 3 to the seaward edge of the 20-foot contour through Lots 4 and 5), including access to the rocks and caves making up Lechuza Point. In no case will said dedication be nearer than 5 feet to the proposed structure".

Since an easement for lateral public access has already been established and the proposed addition is located landward of the established lateral public access easement and a structural development line (discussed below), the Commission finds that the proposed project will not interfere with access to and along the shoreline.

The construction of seawalls, bulkheads, revetments and other shoreline protective devices can contribute to beach erosion downcoast of the structure, as well as, adversely impact public access. The applicant indicates that no protective device will be necessary. As such, the proposed project will have no individual or cumulative impacts on public access or beach erosion.

In addition, as a means of controlling seaward encroachment of residential structures on a beach to ensure maximum access, protect public views and minimize wave hazards as required by Coastal Act Sections 30210, 30211, 30251 and 30253, the Commission has developed the "stringline" policy to control the seaward extent of buildout in past permit actions. As applied to beachfront development, the stringline limits extension of a structure to a line drawn between the nearest corners of adjacent structures and limits decks to a similar line drawn between the nearest corners of the adjacent decks.

The Commission has applied this policy to numerous past permits involving infill on sandy beaches and has found it to be an effective policy tool in preventing further encroachments onto sandy beaches. In addition, the Commission has found that restricting new development to building and deck stringlines is an effective means of controlling seaward encroachment to ensure maximum public access as required by Sections 30210 and 30211 and to protect public views and the scenic quality of the shoreline as required by Section 30251 of the Coastal Act.

The establishment of a structural stringline is unique in a case where a structure lies on a point more geographically seaward than either of its two neighboring structures. This project site falls

into that category. Since the positioning of the two neighboring structures relative to the site is non-linear, no line can be drawn between the nearest corners of the adjacent structures and similarly between the nearest corners of the adjacent decks. It is for this purpose that the Commission, in its past permit (P-2-23-78-2824) issued on June 29, 1979, conditioned a deed restriction for the establishment of a building limit line (Exhibit 6). The building limit line prohibits:

"...any structure, stairways, or other alterations of the bluff and any rock extending beyond (seaward of) (a) the seaward edge of the 14-foot contour on Lot 3; (b) a line running from the intersection of the 14-foot contour on the eastern edge of Lot 3 east to its intersection with the seaward edge 22-foot contour to the eastern boundary of Lot 4; and (c) the seaward edge of the 32-foot contour on Lot 5."

In this case, the proposed addition will not extend development any further seaward than the established building limit line, minimizing potential impacts to public access opportunities, public views and the scenic quality of the shoreline.

For all of these reasons, the Commission finds that the project would have no individual or cumulative adverse impacts on public access or visual resources. Therefore, the Commission finds that the project, as proposed, is consistent with Coastal Act Sections 30210, 30211, 30212 and 30251.

C. Hazards and Geologic Stability

Section 30253 of the Coastal Act states that new development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

The proposed development is located in the City of Malibu, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the City of Malibu include landslides, wave hazards, 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 vegetation, thereby contributing to an increased potential for erosion and landslide on the property. The applicant has submitted a Geologic/Geotechnical Investigation Report dated December 19, 1997 by Vincent J. Carnegie for California Geosystems, Inc. updating the original Geologic/Geotechnical Investigation Report dated October 2, 1990.

The October 2, 1990 report states:

"It is the finding of this firm that the proposed building and/or grading will be safe and that the property will not be affected by any hazards 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."

The updated December 19, 1997 report states:

"The site was observed on December 3, 1997 to verify the original conditions and evaluate the proposed development. Site and geologic conditions at the site were essentially the same as those described in the referenced reports. No geologic or geotechnical hazards were observed to affect the area of the proposed addition."

And

"Based on the findings of our updated investigation, the site is considered to be suitable from a soils and engineering geologic standpoint for construction of the proposed dining room addition provided the recommendations included herein are followed and integrated into the building and drainage plans."

The consulting geotechnical consultants have included a number of geotechnical recommendations which will increase the stability and geotechnical safety of the site. To ensure the recommendations of the geotechnical consultants are incorporated into the project plans, the Commission finds that it is necessary to require the applicant, as required by special condition one (1), to submit project plans certified by the consulting geotechnical engineer as conforming to their recommendations.

The proposed development consists of a 370 square foot addition to an existing beachfronting residence. The Malibu shoreline is characterized as an eroding shoreline on which hazards from high-energy wave action and flooding are extremely high. The Commission cannot absolutely acknowledge that the proposed development and existing single family residence will be safe during all future storms or be constructed and maintained in such a way as to eliminate all risks to the beach going public. The Commission acknowledges that beachfronting homes in the Malibu area are susceptible to and in the past have been subject to periods of extreme flooding and wave action resulting in damage in the millions of dollars. This was the case in the winters of 1982-83 and recently in 1997-98 where storms severely damaged existing residences, bulkheads, patios, decks, and windows.

Due to the potentially hazardous conditions on this site, the Commission can only approve the project if the applicant assumes the liability from the associated risks as required by special condition two (2). This responsibility is carried out through the recordation of a deed restriction. The assumption of risk deed restriction, when recorded against the property, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site and which

may adversely affect the stability or safety of the proposed development and agrees to assume any liability for the same. It should be noted that an assumption of risk deed restriction for hazardous geologic conditions is commonly required for new development throughout the greater Malibu/Santa Monica Mountains region in areas where there exist potentially hazardous geologic conditions, or where previous geologic activity has occurred either directly upon or adjacent to the site in question. The Commission has required such deed restrictions for other development throughout the Malibu/Santa Monica Mountains region.

The Commission finds that based on the findings of the geologic and geotechnical reports, and as conditioned through the recordation of an assumption of risk deed restriction and incorporation of the recommendations of the geologic consultants, the proposed project is consistent with Section 30253 of the Coastal Act.

D. Local Coastal Program.

Section 30604 of the Coastal Act states that:

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

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

E. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible

mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

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 proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

GM-VNT

File: GM/98-061

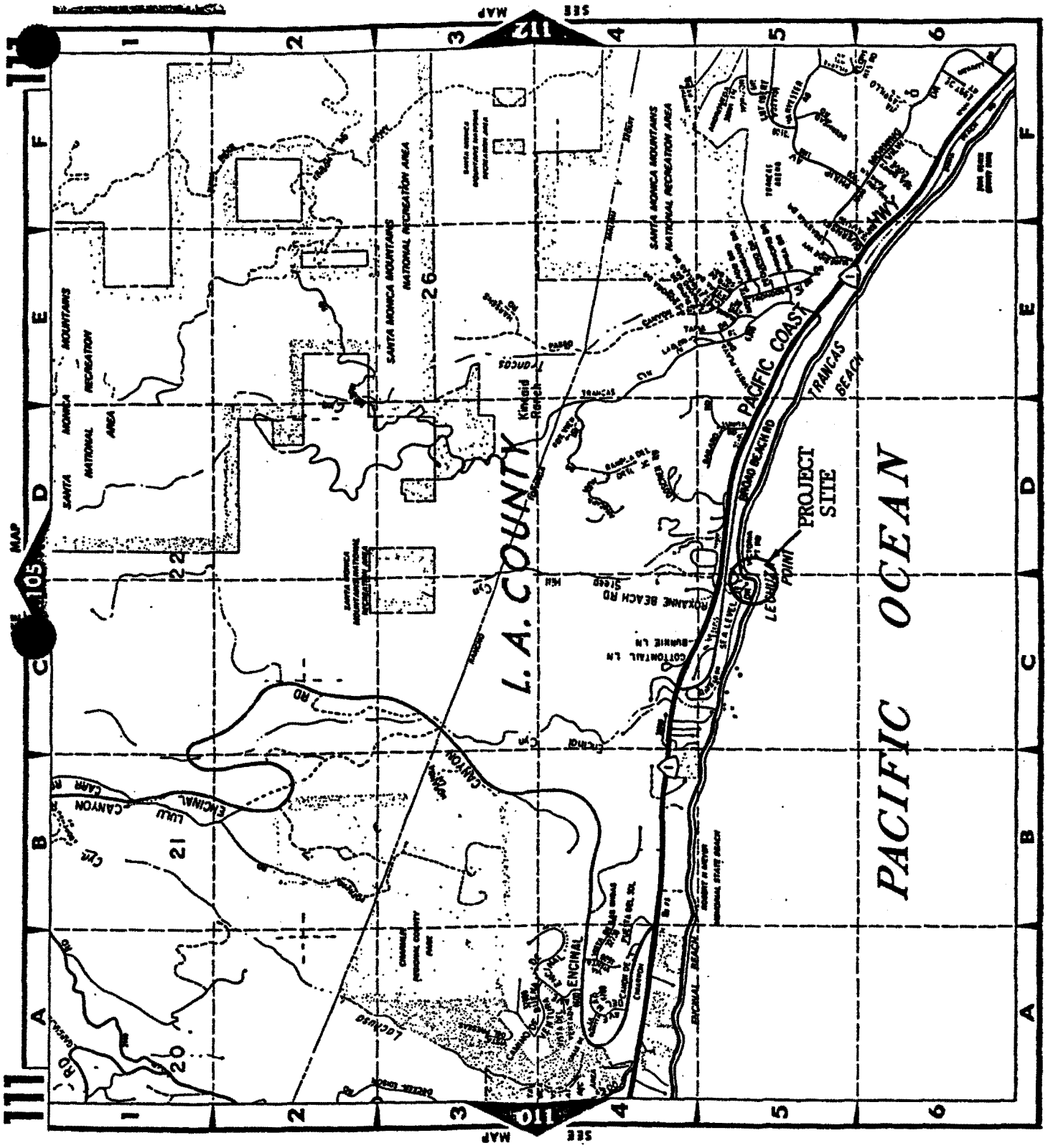
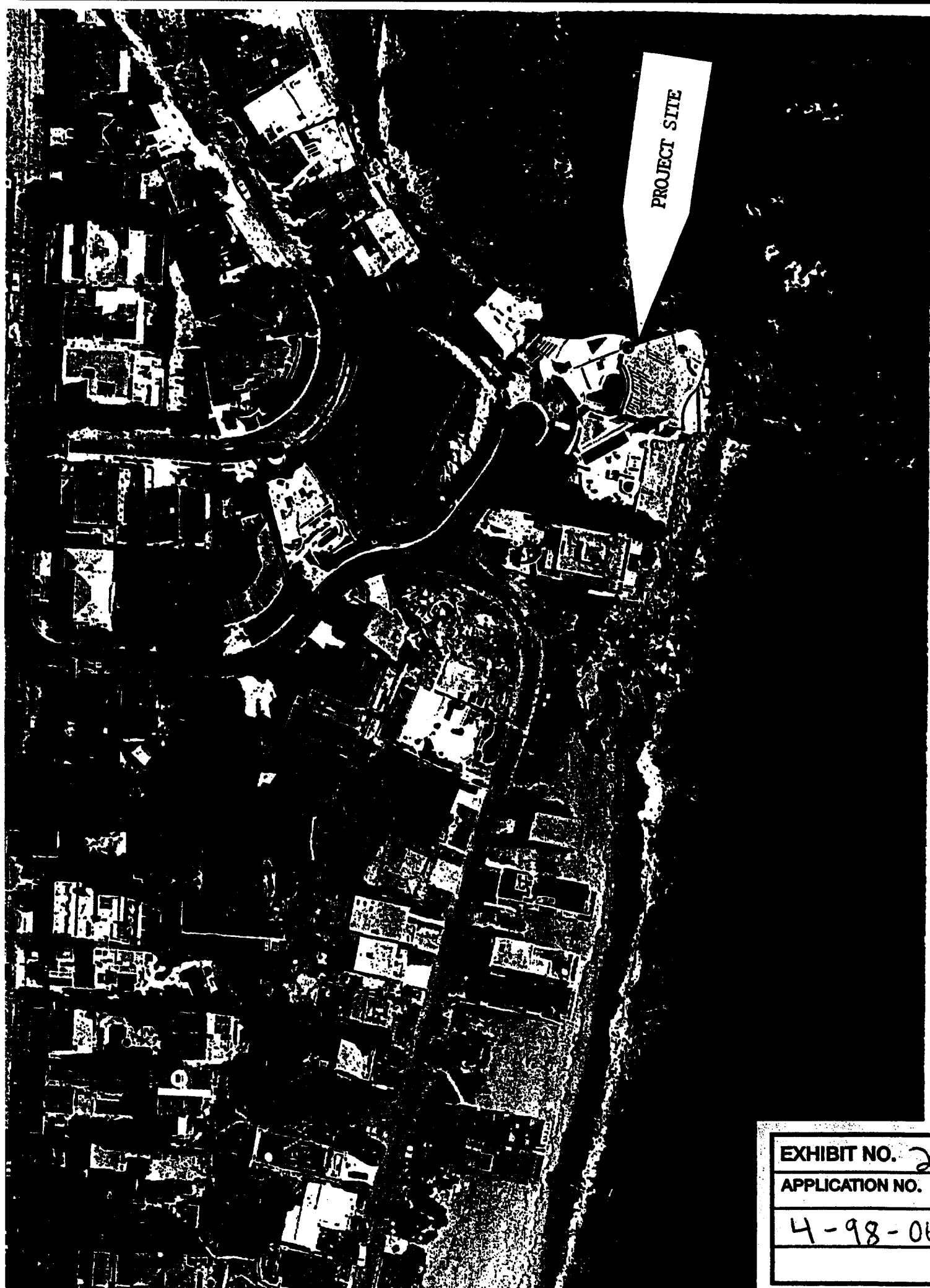
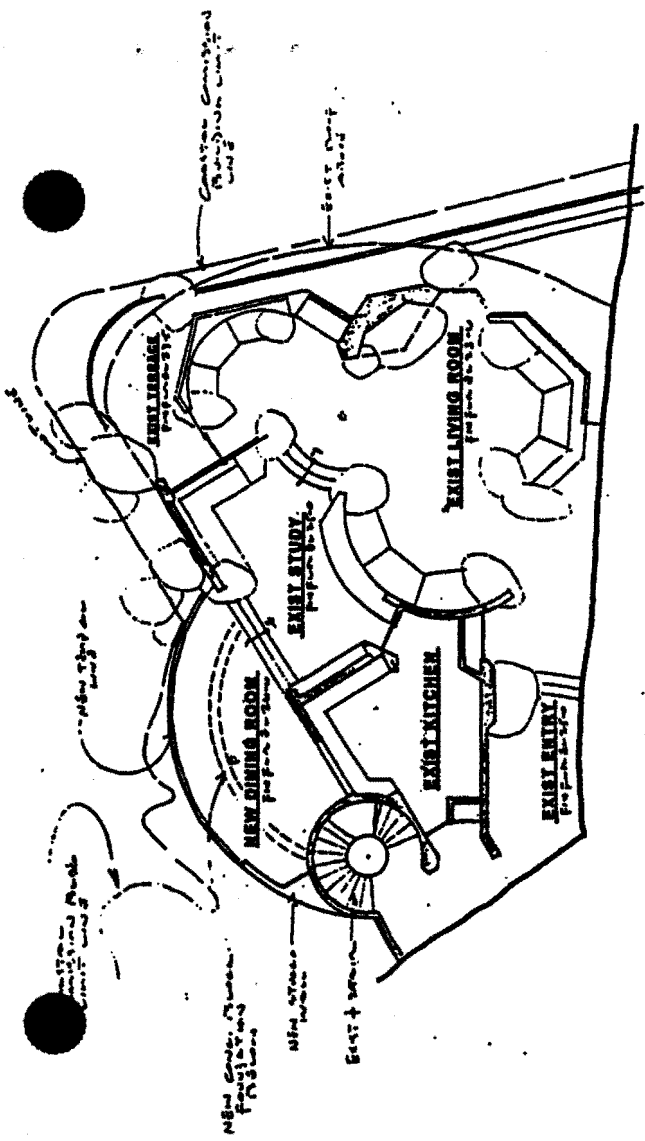


EXHIBIT NO. 1
APPLICATION NO.
4-98-061

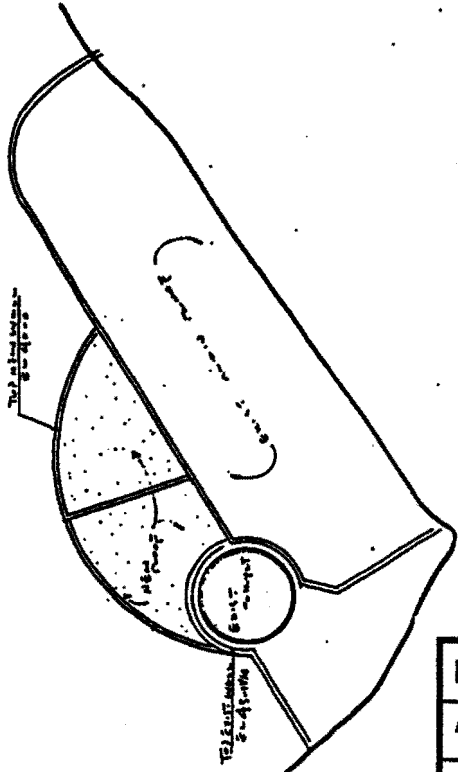


PROJECT SITE

EXHIBIT NO. 2
APPLICATION NO.
4-98-061

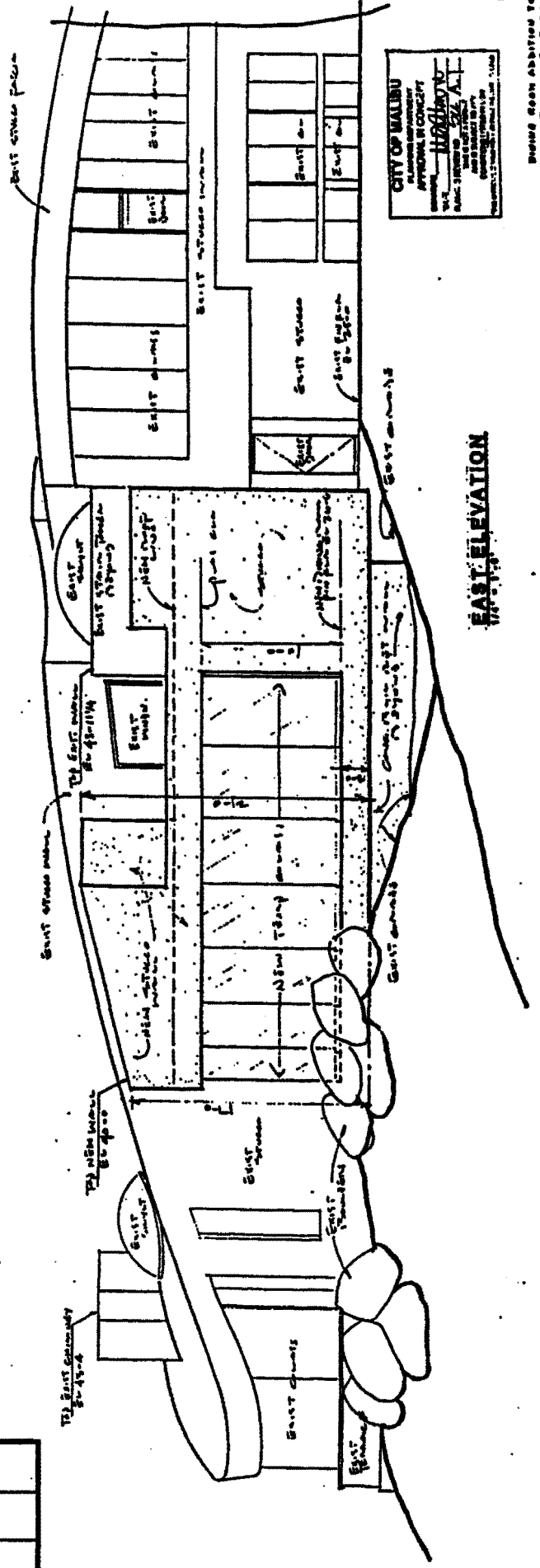


PARTIAL LOWER FLOOR PLAN



PARTIAL ROOF PLAN

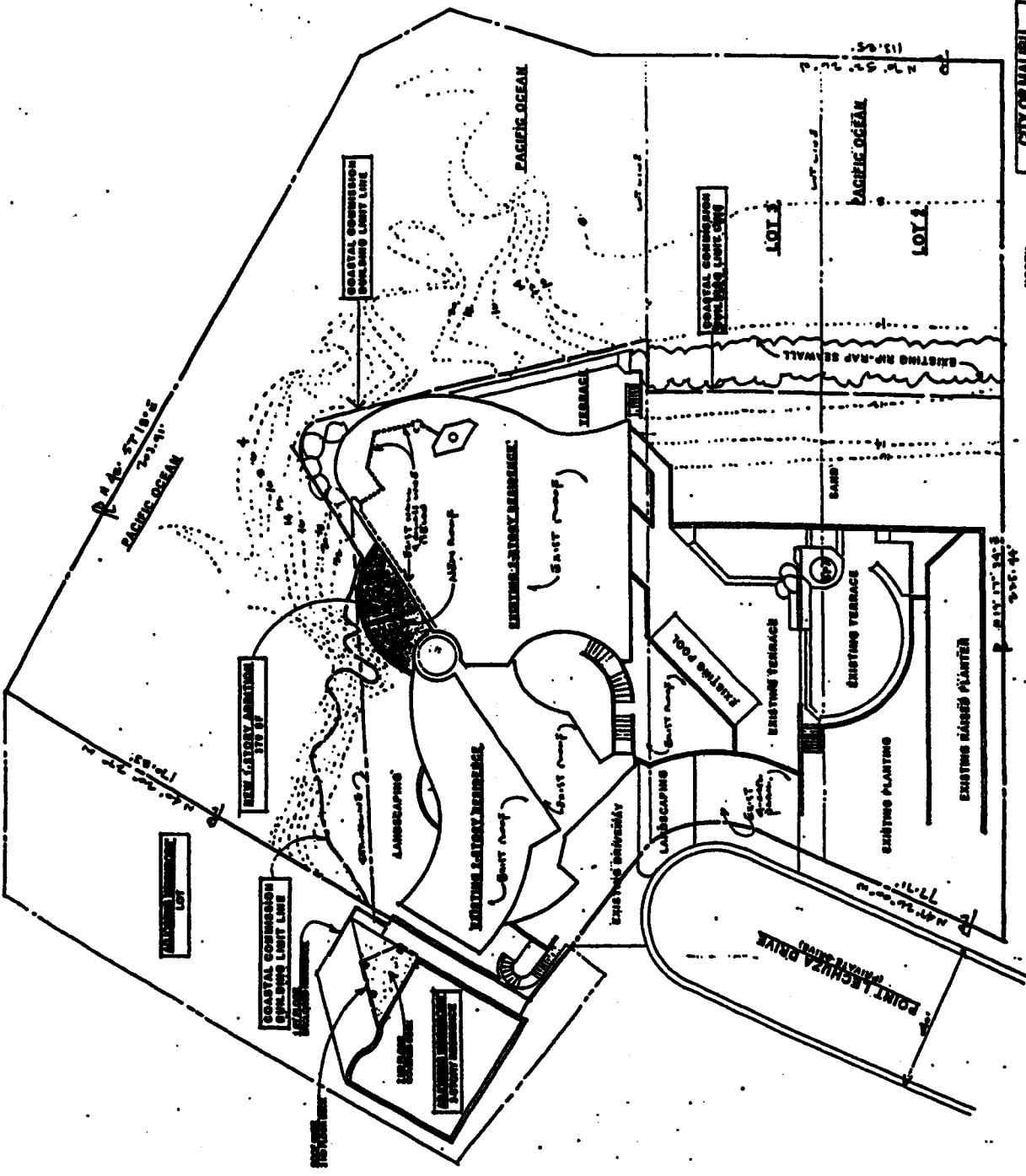
EXHIBIT NO.	3
APPLICATION NO.	4-98-061



EAST ELEVATION

CITY OF MALIBU
 PLANNING DEPARTMENT
 APPROVAL IN CONCEPT
 APPROVED BY: [Signature]
 DATE: 11/15/01
 PROJECT NO. 4-98-061

BEING SUBMITTED TO THE
NEVER RESIDENCE
 CITY OF MALIBU, CALIFORNIA
 PLANNING DEPARTMENT
 111-411211



CITY OF MALIBU
 Planning Department
 APPROVED BY THE CITY
 PLANNING COMMISSION
 ON 08/11/2014
 AT 10:00 AM
 AGENDA ITEM # 11.1
 4 214 0 414 RECEIVED
 FROM ADDRESS
 414 08/11/2014
 414 08/11/2014

NEVER RESIDENCE
 414 08/11/2014
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 414 08/11/2014

SITE PLAN

LEGAL DESCRIPTION
 LOT 1 & 2 of Tract 146, known as per map recorded as book 001, page 18 from 21 to back of map, Los Angeles County Recorder's Office.

CONTRACT NO. 448 007 001

EXHIBIT NO. 4
 APPLICATION NO.
 4-98-061

That portion of Lots 3, 4 and 5, Tract No.25166, in the County of Los Angeles, State of California as per Map recorded in Book 695, Pages 29 through 31 inclusive of Maps, Records of said County described as follows:

Beginning at a point on the Northeast line of said Lot 5, distant Northwesterly 110.00 feet from the most Easterly corner of said Lot 5; thence South 6° 07' 25" East 3.02 feet; thence South 29° 01' 46" East 1.53 feet; thence South 38° 25' 49" East 15.01 feet; thence South 36° 02' 00" West 16.98 feet; thence South 40° 20' 22" East 33.00 feet; thence South 76° 10' 28" West 33.82 feet; thence South 6° 20' 27" West 13.59 feet; thence South 26° 20' 06" West 6.50 feet; thence South 41° 02' 42" East 9.00 feet; thence South 76° 34' 57" East 8.60 feet; thence South 57° 42' 04" West 6.58 feet; thence South 17° 04' 57" East 9.85 feet; thence South 34° 38' 38" West 10.11 feet; thence South 68° 50' 50" West 16.16 feet; thence South 45° 29' 12" West 4.87 feet to a point on the Easterly line of said Lot 4 distant Northerly 41.40 feet from the most Easterly corner of said Lot 4; thence South 45° 29' 12" West 8.36 feet; thence North 88° 57' 56" West 13.88 feet; thence South 77° 46' 34" West 23.85 feet; thence South 20° 22' 53" East 18.70 feet; thence South 39° 29' 33" West 3.04 feet; thence North 77° 14' 17" West 25.40 feet; thence South 37° 04' 32" East 24.56 feet; thence South 29° 18' 04" West 2.97 feet; thence North 65° 16' 21" West 10.97 feet; thence North 36° 45' 21" West 40.11 feet; thence North 52° 22' 55" West 25.19 feet to a point on the Easterly line of said Lot 3 distant Northerly 79.27 feet from the Southeasterly corner of said Lot 3; thence North 42° 08' 17" West 5.70 feet; thence North 84° 15' 59" West 10.79 feet; thence North 80° 39' 22" West 14.71 feet; thence North 70° 52' 26" West 20.00 feet to a point on the Westerly line of said Lot 3 distant Northerly 77.00 feet from the Southwest corner of said Lot 3; thence along said Westerly line, South 19° 07' 34" West 77.00 feet; thence along the Southerly and Southeasterly lines of said Lots 3, 4 & 5 the following courses; South 70° 52' 26" East 63.85 feet, South 52° 52' 11" East 42.06 feet, North 82° 33' 40" East 29.07 feet and North 48° 57' 18" East 203.91 feet to the most Easterly corner of said Lot 5; thence North 40° 20' 22" West 110.00 feet to the point of beginning.†

EXHIBIT NO. 5
APPLICATION NO.
4-98-061

Prior to issuance of permit, applicant shall submit a deed restriction for recording:

1. prohibiting any structure, stairways, or other alterations of the bluff and any rock extending beyond (seaward of) (a) the seaward edge of the 14-foot contour on Lot 3; (b) a line running from the intersection of the 14-foot contour on the eastern edge of Lot 3 east to its intersection with the seaward edge 22-foot contour to the eastern boundary of Lot 4; and (c) the seaward edge of the 32-foot contour on Lot 5.

2. granting lateral public access for the purpose of pass and repass, viewing, picnicking, and other forms of passive recreation in an area measured (a) on Lot 3 from the mean high tide line to the first line of terrestrial vegetation (but not to extend landward of the most seaward extension of the existing rip-rap line); and (b) on Lots 4 and 5 from the mean high tide line to the first line of terrestrial vegetation (but not to extend landward of the seaward side of a line joining the 10-foot contour on the eastern boundary of Lot 3 to the seaward edge of the 20-foot contour on the western side of Lot 4 and following the seaward edge of the 20-foot contour through Lots 4 and 5), including access to the rocks and caves making up Lechuza Point. In no case will said dedication be nearer than 5 feet to the proposed structure.

In all cases, the contour line measurements refer to those as shown on the plans submitted by the applicant to the Coastal Commission for this permit.

* * *

EXHIBIT NO. 6
APPLICATION NO.
4-98-061