

CALIFORNIA COASTAL COMMISSION

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

Filed: 3/25/98
49th Day: 5/13/98
180th Day: 9/21/98
Staff: JEL-V
Staff Report: 6/18/98
Hearing Date: 7/7-10/98

**STAFF REPORT: REGULAR CALENDAR****APPLICATION NO.: 4-97-202****APPLICANT: Nancy & Benedict FREEDMAN****AGENT: Georgia Meisler****PROJECT LOCATION: 5837 Latigo Canyon Road, Malibu (Los Angeles County)**

PROJECT DESCRIPTION: Construct 2,727 sq. ft., two-story, 24 foot high, single family residence, with 621 sq. ft. attached garage and new septic system, to replace 1,536 sq. ft., one-story, single family residence, destroyed by fire in 1996. 275 cu. yds. of grading (cut only).

Lot area:	87,556 sq. ft. (2 acres)
Building coverage:	1,674 sq. ft.
Pavement coverage:	8,050 sq. ft.
Landscape coverage:	1,000 sq. ft.
Parking spaces:	Two
Ht abv fin grade:	24 feet

LOCAL APPROVALS RECEIVED: City of Malibu: Planning Department, Approval In Concept, 9/12/97; City Geologist, Planning Approval, 8/29/97; Environmental Health, In-Concept Approval, 1/16/97.

SUBSTANTIVE FILE DOCUMENTS: Malibu/Santa Monica Mountains certified Land Use Plan; Geologic and Geotechnical Report, Robertson Geotechnical, Inc., 2/8/96; Addendum Report, Robertson Geotechnical, Inc., 4/4/96; Addendum Report #2, Robertson Geotechnical, Inc., 10/10/96; Plan review and Updated Report, Robertson Geotechnical, Inc., 2/11/98; Coastal Development Permit: 4-95-239-G.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the project with special conditions relating to: ***assumption of risk, conformance with geologic recommendations, landscape and erosion control plan, and wildfire waiver of liability.***

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions

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

III. Special Conditions

1. Assumption of Risk

Prior to issuance of a coastal development permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazard from steep slopes, landsliding and erosion on site, as noted in the Geologic and Geotechnical Report, Robertson Geotechnical, Inc., 2/8/96; Addendum Report, Robertson Geotechnical, Inc., 4/4/96; Addendum Report #2, Robertson Geotechnical, Inc., 10/10/96; Plan review and Updated Report, Robertson Geotechnical, Inc., 2/11/98, and the applicant assumes the liability from such hazards, and (b) the applicant unconditionally waives any claim of liability on the part of the Commission and agrees to indemnify and hold harmless the Commission and/or its officers, agents and employees relative to the 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.

2. Plans Conforming to Geologic Recommendations

Prior to the issuance of 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 Geologic and Geotechnical Report, Robertson Geotechnical, Inc., 2/8/96; Addendum Report, Robertson Geotechnical, Inc., 4/4/96; Addendum Report #2, Robertson Geotechnical, Inc., 10/10/96; Plan review and Updated Report, Robertson Geotechnical, Inc., 2/11/98 shall be incorporated into all final design and construction including grading, foundations, setbacks, retaining walls, temporary cuts, excavations, slabs, sewage disposal, 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. Landscape and Erosion Control Plan

Prior to issuance of the coastal development permit, the applicant shall submit landscape and erosion control plans for review and approval by the Executive Director. The landscape and erosion control plans shall be reviewed and approved by the consulting geologic and geotechnical consultants to ensure that the plans are in conformance with the consultants' geotechnical recommendations. The plans shall incorporate the following criteria:

- (a) All disturbed areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes within (60) days of final occupancy of the residence. 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 which tend to supplant native species shall not be used.
- (b) All disturbed areas, shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;
- (c) 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;
- (d) A run-off and erosion control plan shall be designed by a licensed engineer which assures that run-off from the roof, patios, and all other impervious surfaces on the subject parcel are collected and discharged in a manner which avoids ponding on the pad area. Site drainage shall not be accomplished by sheetflow runoff over any descending slope. Should the project's drainage structures fail or result in erosion, the applicant shall be responsible for any necessary repairs and restoration.
- (e) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

4. 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 2,727 sq. ft., two-story, 24 foot high, single family residence, with a 621 sq. ft. attached garage. The proposed residence is of modular design and construction, supported on cast-in-place friction piles tied with grade beams. The project will require 275 cu. yds. of grading to excavate a notch into the ridge in order to accommodate the backside or south elevation of the structure. A ten foot high retaining wall is proposed along this rear portion of the structure. The existing sewage system shall be abandoned and a new septic system shall be installed to serve the development.

The proposed residence will replace a 1,536 sq. ft. one-story, single family residence, also of modular design, burned in the October 1996 firestorm. Pursuant to P.R.C. Section 30610(g)(1) no Coastal Permit is required for the replacement of a structure destroyed by disaster, if the structure(s) does not exceed either floor area, height, or bulk of the destroyed structure by 10%. In this case, the proposed replacement structure exceeds the previous floor area by 44%, and increases the height from one story to two story, and therefore a Coastal Permit is required.

The proposed building pad has been carefully sited to establish the most geotechnically stable and environmentally sound location, given the number of siting constraints associated with this particular parcel. The proposed building site is located on the north side of an east-west trending ridge, 100 feet south of a blue line stream, just to the south of a disturbed oak woodland, 50 feet west of the Malibu Coast fault line, and 80 feet north of an active landslide.

Similarly, the proposed septic system location has also been carefully selected to balance geotechnical constraints with the protection of the environmentally sensitive resources. Accordingly, the leachfield is setback 50 feet from the blue line stream and at least 5 feet from the nearest oak tree canopy.

B. Background

The subject property consists of a partially graded lot on the south side of Latigo Canyon Road, south and adjacent to Latigo Canyon, north of Via Escondido Road and Escondido Canyon, in the City of Malibu. The subject parcel includes several distinct topographic features including a blueline stream running parallel to the Latigo Canyon Road, an approximately 100 foot wide disturbed oak woodland south of the stream, an east-west trending ridge, and a steep slope, south of the east-west ridge, which drops down to Escondido Canyon and provides a view of the Pacific Ocean.

Access to the site is from Latigo Canyon Road via an asphalt driveway that extends south across the stream and up the western knoll. Residential developments exist along Via Escondido Road to the south and along the ridge to the west. The properties to the north and east are vacant hillside terrain.

A single family residence was originally constructed on the subject parcel approximately 35 years ago and was destroyed by fire. In 1978, the County of Los Angeles issued a building permit for the installation of a modular home located on the western portion of the ridgeline, south of the driveway looking down Escondido Canyon. In February 1995, following the February 19 magnitude 4.3 Leo Carrillo earthquake, a large, massive slump slide occurred below the southern edge of the residence. Subsequent failure of the slide occurred in March 1995, following heavy rainfalls. The slide resulted in a steep scarp along the south edge of the house and across the ridge crest to the west.

Following the landslide, in December 1995, the applicant was issued an emergency coastal development permit, 4-95-239-G, to relocate the modular home to a safer site on the parcel. In the process of attempting to relocate the home, the structure cracked in half. While a new relocation strategy was being developed, the structure was destroyed by the October 1996 Malibu fire.

C. 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 in 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.

1. Geology

The applicant proposes to create a new building pad on the eastern portion of the east-west trending ridge, which reads more like a knoll on the parcel's topography. This site will require a small amount of grading, 275 cu.yds of cut, to notch the structure into the north face of the knoll. The applicant has submitted a Geologic and Geotechnical Report dated 2/8/96, prepared by Robertson Geotechnical, Inc., and two Addendum Reports, dated 4/4/96 and 10/10/96, and a Plan Review and Updated Report, dated 2/11/98, also prepared by Robertson Geotechnical, Inc., for the subject site.

The geologic structure is favorably oriented for the gross stability of the site, and the underlying alluvial deposits adjacent to the stream do not contain significant planes of weakness, according to the geotechnical consultant. The primary geotechnical concerns for the proposed project site are slope stability, seismic activity and erosion.

Landslides have been mapped on the south facing slopes north and west of the subject property. Of greater concern, however, is the active slide on the southern portion of the property, noted above. The geotechnical consultant has evaluated the potential for headward enlargement of the slide, north towards the proposed building site, through slope stability calculations.

Numerous sets of calculations were performed in order to establish a safe foundation setback location for the building. Calculations 5 and 6 evaluated a failure surface which begins at the top of the driveway slope at the northern end of the proposed building pad site. These calculations established factors of safety of about 1.5 and about 1.1 under pseudostatic and seismic conditions, with the assumption the landslide has moved from the slope face. A factor of safety of about 1.5 or above is generally considered safe.

In regard to seismic safety, the geotechnical consultant indicates that a trace of the Malibu Coast fault may cross the property and provides recommendations to mitigate a seismic event, as well as a disclaimer:

It is the opinion of the undersigned that there is a moderate risk of ground rupture associated with a seismic event on the Malibu Coast fault zone. In addition, differential settlement, residence distress, lurching, liquefaction of the alluvium and seismically induced slope failure could occur. Advice presented in the referenced report is intended to mitigate the risk of damage to the relocated residence due to a moderate or

large earthquake. However, the risk cannot be eliminated and appropriate insurance is recommended. In the event of distortion to the relocated home, the modular home is a suitable type of improvement for leveling and repair after a seismic event.

Further, the consulting geologist recommends that their reports and addendum be filed with a deed to the property so as to inform future purchasers of site geologic conditions and the risks associated with the relocated residence.

Given that a trace of the Malibu Coast fault line is located approximately 50 feet to the east of the proposed building pad, an active slide is located 80 feet to the south, and the consultant's recommendations regarding the above mentioned deed restriction, the Commission can only approve the project if the applicant assumes the liability from the associated risks of developing this site. This responsibility is carried out through the recordation of a deed restriction, as noted in *special condition one (1)*.

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 includes references to the geotechnical report and associated addendum, as noted above.

Based on the site observations, sampling, laboratory testing, evaluation of previous research, analysis and mapping of geologic data, the geotechnical engineers have provided recommendations to address the specific geotechnical conditions related to grading, foundations, setbacks, retaining walls, temporary cuts, excavations, slabs, sewage disposal, and drainage. Robertson Geotechnical Inc. engineers then concludes:

It is the opinion of the undersigned, based on the findings of this engineering geologic and geotechnical engineering exploration, and the referenced reports, that provided our recommendation are followed and barring a major earthquake exceeding historic shaking at the site, the proposed relocation will have no adverse affect on the geologic stability of the property outside the building site.

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 geologist and geotechnical engineer as conforming to their recommendations, as noted in *special condition number two (2)* for the final project plans for the proposed project.

2. Drainage and Erosion

a. Septic System: In the 4/4/96 Geotechnical Addendum Report, the geotechnical consultant identified a leachfield filtration design and location, which required special approval from the City of Malibu, to address the significant geologic and environmental resource constraints. The recommended location appears to be the only feasible alternative on the site:

"It is our opinion that the private sewage system has not contributed to the headward enlargement of the landslide, but could be effected by headward enlargement of the slide. Ideally seepage pits should not be located near the scarp of a slide as effluent discharge could contribute to water within the slide mass, aggravating movement.

The high ground water, clayey alluvium, and proximity of the natural drainage course in the northern portion of the site limit the suitability of utilizing a conventional drainfield north or east of proposed relocation site no. 1 (for the building pad). However, it may be possible to construct a drainfield in this area utilizing select fill. Clayey alluvium could be removed to the water table and select silty sand placed to provide safe and effective effluent filtration prior to encountering the ground water underlying this area.

...Constructing a drainfield area within imported select fill may require special approval from the City of Malibu Health department. Based on the results of the exploration, creating such a system may be the only feasible alternative location for the private sewage disposal system on site."

In the 10/10/98, Addendum Report No. 2, Robertson Geotechnical indicates the proposed location in alluvium is sufficiently setback from the landslide at 100 feet and therefore will not adversely affect the stability of the site or adjoining properties. However, given the proposed location within what appears to be the historic flood plain of the blueline stream, the consulting geologist recommends protection measures against erosion due to flooding:

"The blueline stream can potentially overflow its banks and result in flooding the proposed leachfield areas. The proposed leachfield should be protected against erosion due to flooding. Protection methods can consist of rip rap or other non-erosive surface. The protection method should be incorporated into the design of the sewage disposal system."

The proposed leachfield, as submitted, will be 18' by 18' extending about 6' below grade. The base of the drainfield is to include about 24 inches of sand covered by 36 inches of 3/4 inch to 2 inch gravel into which the perforated pipe for the drainfield will be placed. The area will be covered with 12 inches of backfill, compacted to the existing grade.

At the request of staff, the proposed leachfield was reviewed by Robertson Geotechnical to ensure the filtration and erosion protection measures, as proposed,

are feasible. The geotechnical engineer states, in a letter dated 5/29/98, that as designed the compacted fill will sufficiently decrease the potential for erosion and thus, the drainfield will not require the installation of rip-rap that could potentially obstruct the flow of the creek.

b. Site Drainage: The consulting geotechnical engineers feel it is imperative that improved drainage control for continued site stability be incorporated with any repair scheme for the property. Their drainage control recommendations include providing roof gutters, sealing cracks in paved surfaces, providing berms and drainage control at the tops of all slopes, and repairing all leaking utility lines. In their most recent addendum of 2/11/98, Robertson Geotechnical Inc., a comprehensive drainage plan be prepared by a qualified design professional is recommended.

The proposed project will be subject to further erosion and undermined site stability without appropriate drainage control measures. Thus, in order to ensure that runoff from the residential building pad is conveyed from the site in a non-erosive manner, and erosion is controlled and minimized during construction, the Commission finds it necessary to require the applicant to submit a drainage and erosion control plan, as required by *special condition number three (3)*. This condition requires the drainage and erosion control plan to be completed by a licensed engineer.

3. Fire

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

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

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant assumes the liability from these associated

risks. Through the waiver of liability, the applicant acknowledges and appreciates the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development, as incorporated by *special condition number four (4)*.

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

D. Environmentally Sensitive Resources and Septic System

The Coastal Act defines an Environmentally Sensitive Habitat Area (ESHA) in Section 30107.5 stating that:

Environmentally sensitive area means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

In Section 30240, the Coastal Act also speaks to uses permitted within and adjacent to an ESHA:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The subject property is located upstream from an ESHA, and includes a portion of disturbed oak woodland, identified on the Sensitive Environmental Resources Map from the Malibu/Santa Monica Mountains certified Land Use Plan (LUP). The disturbed oak woodland extends from Latigo Canyon Road south to the existing driveway for approximately 100 feet (see Exhibit 3). While a disturbed oak woodland does not meet the Coastal Act definition of an ESHA, it does retain limited habitat value. Table One from the Malibu/Santa Monica Mountains LUP, sets forth the following development standards and stream protection policies, relevant to this proposal, for Disturbed Sensitive Resource Areas:

- ***In disturbed riparian areas, structures shall be sited to minimize removal of riparian tree;***
- ***In disturbed oak woodland and savannah areas, structures shall be sited in accordance with the Los Angeles County Oak Tree Ordinance;***
- ***Removal of native vegetation and grading shall be minimized;***

- ***site grading shall be accomplished in accordance with the stream protection and erosion policies.***

The disturbed oak woodland on the subject site includes a blueline stream that runs parallel to Latigo Canyon Road, and is geologically comprised of an alluvial bed. There are nine oaks on the property, most of which are clustered just north of driveway terminus and elevated above the alluvial bed, where the riparian zone transitions into a disturbed oak woodland. There are also three sycamores within the riparian zone of the stream. Most of the trees on site were damaged by the 1996 fire but many appear to have survived.

1. Building Site

The proposed building pad site supports non-native grasses and weedy species and no trees. Moderate to steep natural hillsides descend below the building area to a secondary ravine tributary to Escondido Canyon. The slope below the subject parcel supports native grasses and shrubs.

The applicant proposes to relocate the previous building site from the western portion of the knoll to the eastern portion. The proposed building site will partially utilize the existing driveway, terminating the driveway at approximately two thirds of its existing length. The project will not require any new utility hook-ups, with the exception of a new septic system (see below).

The proposed site was chosen in response to both the potential geotechnical hazards, noted above, and concerns related to the blueline stream and disturbed oak woodland. Originally, one other alternative building site was analyzed, located at a lower elevation on the alluvial bed and closer to the blueline stream. The proposed building pad was chosen by the applicant as it is located at the furthest point, 100 feet, from the stream and outside of the disturbed oak woodland. No native trees, and particularly oaks, will need to be modified or removed at the proposed building site.

However, the construction of the proposed project, and particularly the grading during construction, could result in increased runoff, erosion, sedimentation, and thus degradation of the blueline stream. Therefore, in order to minimize any potential sedimentation of the stream during construction, and for the life of the project, the Commission requires the applicant to submit a landscape and erosion control plan, as noted under *special condition number three (3)*.

2. 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 effects on public

health, sensitive environmental resources 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 siting of sewage disposal systems is also guided by the Malibu/Santa Monica Mountains LUP which requires a 50 foot setback from a riparian or oak canopy for leachfields, in order to specifically protect blueline streams:

P80 The following setback requirement shall be applied to new septic systems: (a) at least 50 feet from the outer edge of the existing riparian or oak canopy for leachfields, and (b) at least 100 feet from the outer edge of existing riparian or oak canopy for seepage pits. A larger setback shall be required if necessary to prevent lateral seepage from the disposal beds into stream waters.

The proposed septic system includes a 1,000 gallon septic tank and leachfield, located 50 feet south of the blueline stream, five feet from the canopy of the nearest oak tree, and 100 feet north of the landslide. The proposed location is at the toe of the knoll slope, just north of the driveway, between the riparian canopy and the disturbed oak woodland (Exhibit 4).

The location of the proposed system, and specifically the leachfield, was particularly difficult given: the necessity to relocate the drainfield away from the landslide; the underlying geology and its poor percolation rates; the high groundwater levels; the varied topography of the site; and the presence of the environmentally sensitive resources. The applicant worked closely with the geotechnical consultant, the consulting environmental health specialist, the City of Malibu, Department of Environmental Health, and the City of Malibu Biologist to analyze various alternative leachfield sites and designs prior to the selection of the proposed preferred alternative.

a. Leachfield Protection and Effectiveness: The geotechnical engineer has analyzed the proposed leachfield site(s), provided design recommendations, conducted a site visit during the winter storms, and reviewed the subsequent design of the leachfield developed by the consulting environmental health specialist and the Malibu Department of Environmental Health, in order to ensure adequate filtration and erosion protection, as noted under the geologic hazards section above.

b. Percolation Rates: A series of percolation tests for the subject property, first performed by the consulting geotechnical engineer Robertson Geotechnical on 4/4/96, and then again on 9/15/96 by Barton Slutske, Registered Environmental Health Specialist and subsequently, analyzed by Robertson Geotechnical, on 10/10/96, indicates that in fact, there are no alternatives for relocating the existing seepage pits and very few, if any, alternatives for a leachfield, given, the underlying geology and groundwater levels.

The percolation test performed at the preferred alternative location did, however, indicate a percolation rate that meets Uniform Plumbing Code requirements for a three bedroom residence and is sufficient to serve the proposed single family residence. The City of Malibu Department of Environmental Health, has issued a conceptual approval for the sewage disposal system including the proposed location for the leachfield, based on a three 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.

c. Riparian/Oak Tree Setbacks: The City of Malibu Biologist, Marti Witter, has also reviewed the proposed project and leachfield location, and visited the site. Ms. Witter has determined that the riparian canopy for the site is confined to the immediate banks of the blueline stream and noted that the majority of oak trees are located at or above the toe of the slope. In order to protect the oak trees on-site, Ms. Witter has recommended a five foot minimum setback from all oak tree canopies, which is reflected in the revised leachfield location (see Exhibit 4). Ms. Witter concludes that the proposed leachfield location at the toe of the slope, 50' from the blueline stream, and at least 5' from the canopy of the adjacent oak trees, will not create a significant adverse impact on the riparian zone or oak trees.

3. Conclusions

The proposed leachfield location will minimize any potential adverse environmental impact on the blueline stream, given the 50' riparian and 5' oak tree setbacks and the unique set of geotechnical circumstances which effect the subject site. Specifically, these constraints include: the southern portion of the parcel which is an inadequate site for seepage pits or a leachfield due to the proximity of the landslide; the proposed building pad location; the unfavorable percolation rates; and the elevated topography.

Given the geotechnical constraints of the subject lot, the proposed building site minimizes any potential environmental impact, and thereby protects the disturbed oak woodland and blueline stream, as evidenced by the location outside the disturbed oak

woodland, the 100 foot distance from the blueline stream, the absence of any native trees, the use of existing utility hook-ups, and the reduction in the length of the driveway.

Similarly, the proposed leachfield site will minimize any potential environmental impact given the leachfield location at a distance of 50 feet from the blueline stream in conformance with Malibu/Santa Monica Mountains LUP Policy 80; the location is setback at least 5' from the canopy of any oak tree, per the recommendation of the City of Malibu Biologist; and the specific design of the leachfield will ensure proper filtration and erosion protection from flooding.

For all the reasons above, the approval of the proposed building site and septic system, as conditioned, will maintain protection of the environmentally sensitive coastal resources to the maximum extent feasible. Therefore, the Commission finds that the proposed building site and septic system, as conditioned, to be consistent with Section 30231 and 30240 of the Coastal Act.

E. Visual Resources

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.

The proposed project will be a relatively modest 2,700 sq. ft., two-story, 24 foot high single family residence with an attached 621 sq. ft. garage, in keeping with the design of the surrounding residences. The structure will be notched into the slope at the first floor/garage level and thus, will require a retaining wall along the entire backside of the first floor which will abut the slope. A section of the retaining wall on the west end of the residence will angle out nine feet, as it reduces in height to grade, in order to provide a window well for the office. The window well will only be slightly visible given the location of the structure and the surrounding vegetation.

The subject parcel is located in the Lower Latigo Canyon Scenic Area, and is partially visible from the Escondido Canyon Viewshed, both of which are identified and defined in the Malibu/Santa Monica Mountains certified Land Use Plan. In addition, the parcel is visible from the Coastal Slope Trail. The existing building site is located on the top of the western end of a knoll, with direct, although distant public views from Escondido Canyon

to the south, and the Coastal Slope Trail from above. Public views from Latigo Canyon Road are mostly screened by trees.

The proposed relocated building site is on the north slope of the eastern end of the knoll, and setback from the southern slope of the knoll by approximately 40 feet. The proposed structure will not be visible from Escondido Canyon given its location on the north slope of the knoll, and only partially visible from the Coastal Slope Trail, given the structure will be notched into the slope. The proposed residence will be visible from the west bound direction of Latigo Canyon Road, but screened from the east bound direction by the mature riparian vegetation.

The proposed structure will not create any significant visual impacts given the site shall be notched into the north slope of the knoll, and setback 40' from the southern slope, thus eliminating public views from Escondido Canyon and minimizing views from the Coastal Slope Trail. Public views from Latigo Canyon Road will be mitigated by the existing vegetation and will be similar to those of the surrounding residential developments.

The Commission has found through past permit action that landscaping softens, screens and mitigates the visual impact of development. Therefore, the Commission finds it necessary to require a landscaping plan in keeping with the native vegetation of the Santa Monica Mountains to mitigate any visual impacts of development on public views from Latigo Canyon Road through the use of native, drought tolerant plantings, as specified in *special condition number three (3)*. Therefore, the Commission finds the proposed project, as conditioned, consistent with Section 30251 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 effects 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.

**ATTACHMENT 5
VICINITY MAP**

SANTA MONICA MOUNTAINS NATIONAL RECREATION AREA

MALIBU CREEK STATE PARK

MALIBU BOWL

MALIBU HILLS

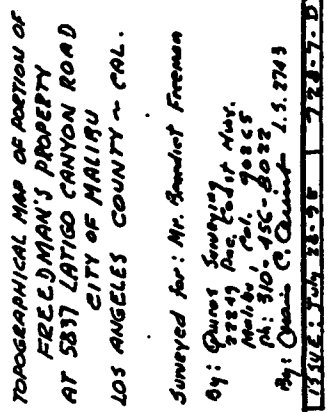
SANTA MONICA MOUNTAINS NATIONAL RECREATION AREA

MALIBU

PACIFIC OCEAN

EXHIBIT NO. 1
APPLICATION NO.
4-97-202 (FREEDMAN)
VICINITY MAP

EXHIBIT NO. 1
APPLICATION NO. [REDACTED]
4-97-202 (FREEDMAN)
VICINITY MAP



Notes

- 1 This is not a map of a boundary survey. The boundary survey has been set in going westward at this point.
- 2 No objection effect, especially at this point.
- 3 Elevation shows house was on opposite from the first survey.

PAUL
LINE

EXHIBIT NO. 2
APPLICATION NO.
4-97-202 (FREEDMAN)
SITE PLAN

5837 LATIGO CANYON RD.
MALIBU, CA 90265

S.F.D.: 3 Bedroom (N)
SEPTIC TANK: 1000 Gallon (N)
PRESENT: 1 - 18' X 18' Drainfield
with 2' Extra Rock (N)
FUTURE: 100Z
PERC RATE: 12 minutes/inch

NOTES:

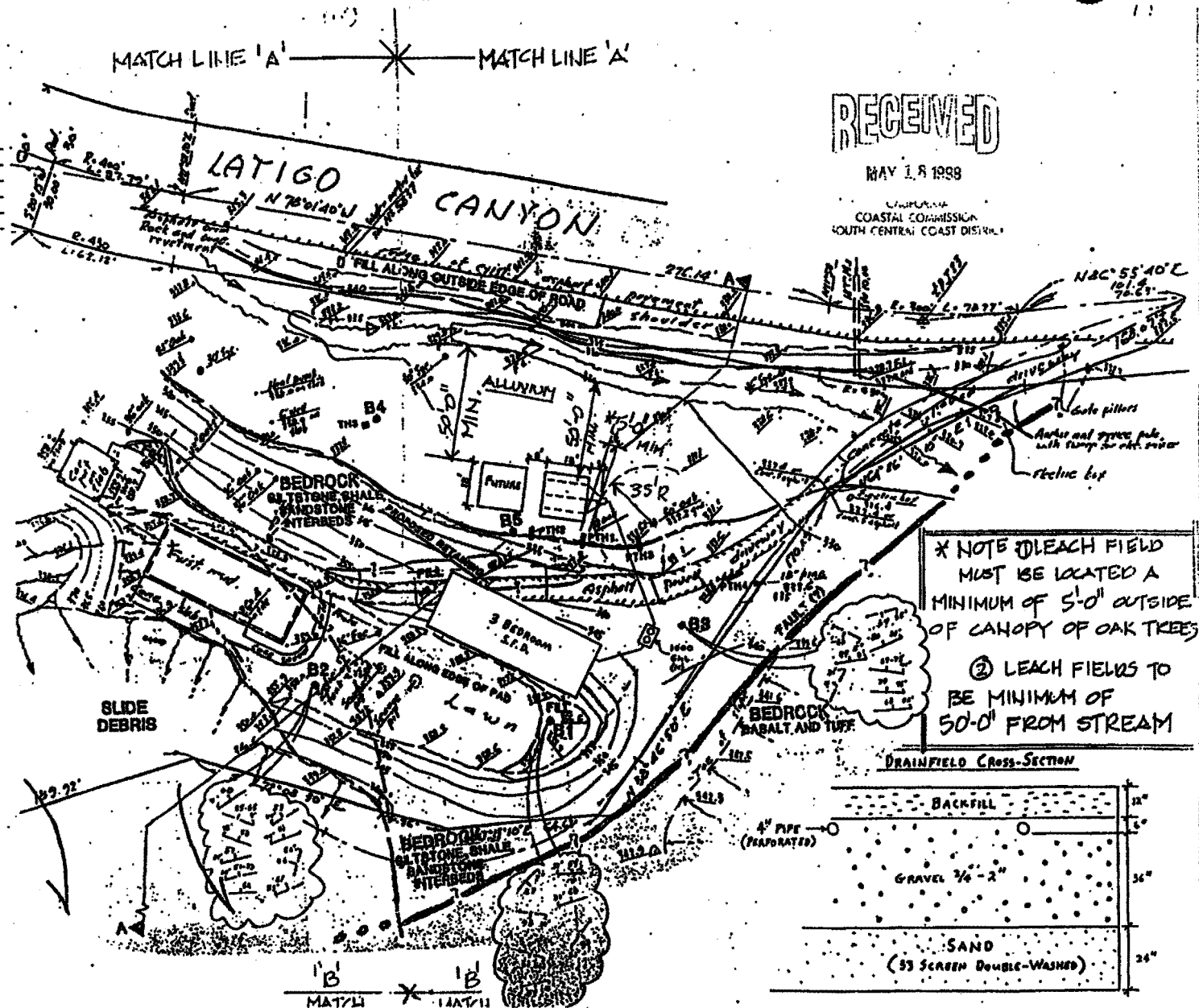
1. This approval is for a new 3 bedroom single family dwelling. A new private sewage disposal system shall be installed, as shown.
2. This approval only relates to the minimum requirements of the City of Malibu Uniform Plumbing Code and does not include an evaluation of any geological, or other potential problems, which may require an alternative method of wastewater disposal.
3. This approval is valid for one year or until City of Malibu Uniform Plumbing Code and/or Administrative Policy changes render it noncomplying.

CITY OF MALIBU ENVIRONMENTAL HEALTH	
IN-CONCEPT APPROVAL	
SIGNATURE	L. Young
JAN 16 1997	
FINAL APPROVAL IS REQUIRED PRIOR TO THE ISSUANCE OF ANY CONSTRUCTION PERMITS.	



10'

LEACHFIELD LOCATION	4-99-202 (FREEDMAN)	EXHIBIT NO. 4
		APPLICATION NO.



RECEIVED

MAY 18 1998

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

A2

FREEDMAN RESIDENCE
887 WILLOW CT. HAWAII, CA.

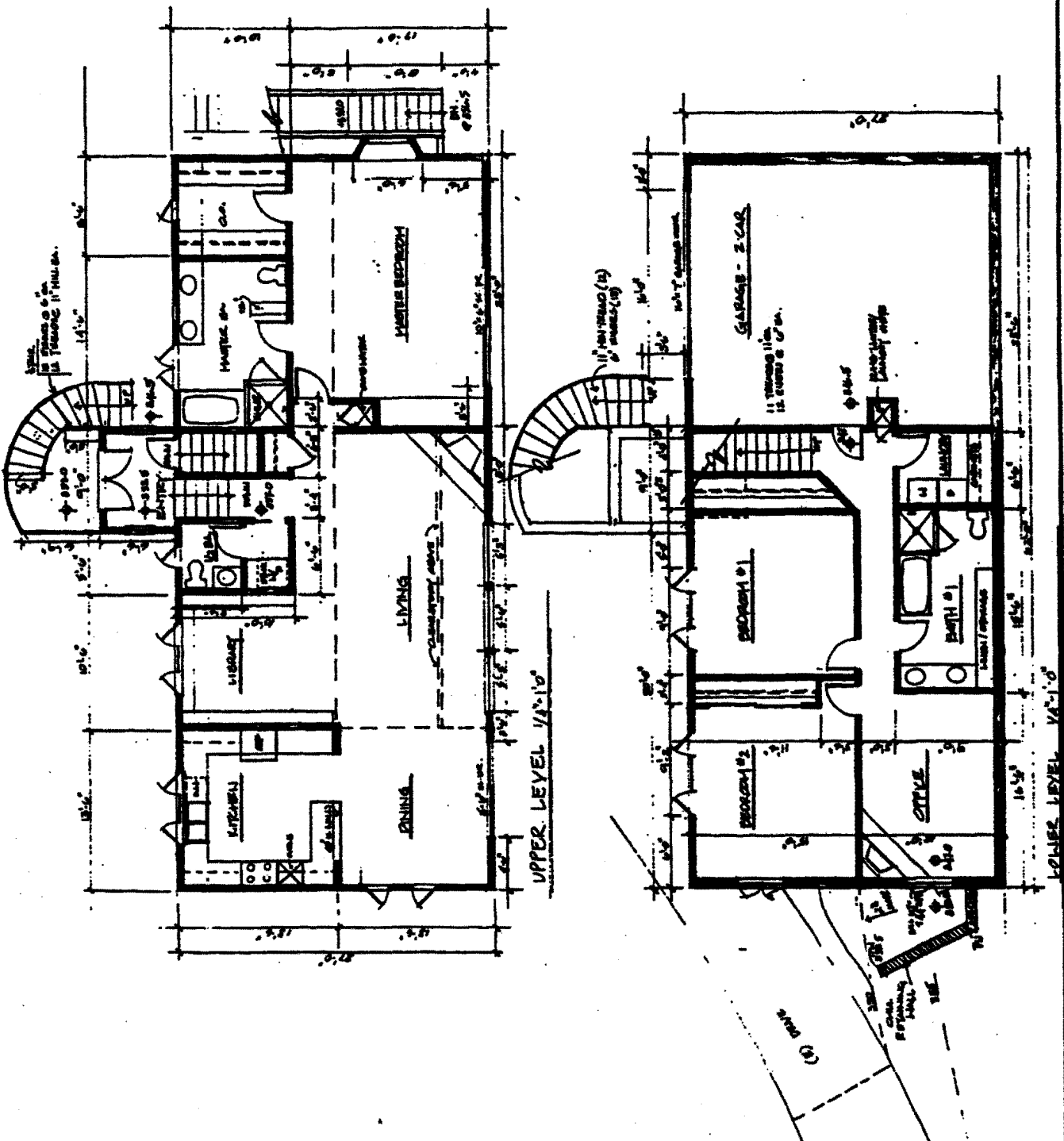


EXHIBIT NO. 5
APPLICATION NO.
4-97-202 (FREEDMAN)
FLOOR PLAN

43

DATE: 9/18/77
BY: [signature]
PROJECT: FREEDMAN RESIDENCE
SHEET: 43

FREEDMAN RESIDENCE
5057 WATSON ON RD., MALIBU, CA.

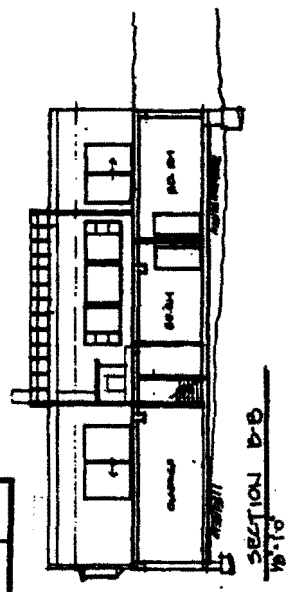
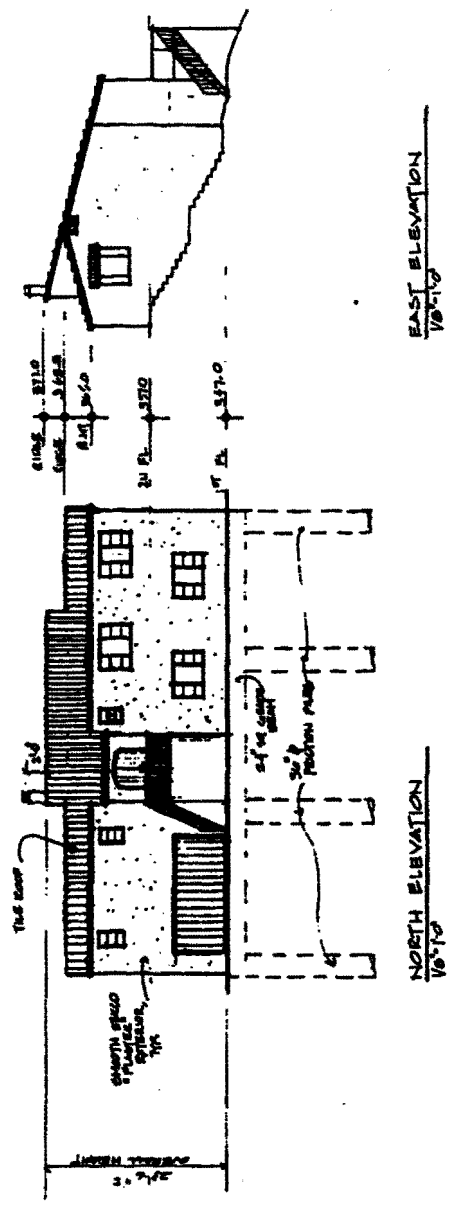
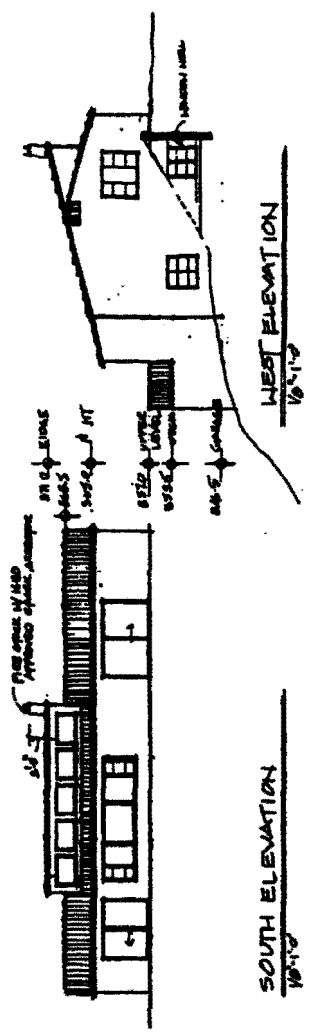


EXHIBIT NO. 6
APPLICATION NO.
4-97-202 (FREEDMAN)
ELEVATIONS

